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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, SECOND SESSION

SENATE—*Thursday, June 5, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 10:15 a.m., on the expiration of the recess, and was called to order by Hon. DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, our Father, we thank Thee for this new day, fresh with opportunities to serve Thee. We thank Thee for every glimpse of beauty, for every echo of Thy truth, for every kindness we have received, and for any good we are able to do. Give us grace that we may waste none of this day's hours, stain none of its moments, neglect none of its opportunities, fail in none of its duties. Keep us just and fair, true and good. Bring us to evening unstained by temptation, at peace with ourselves, at peace with our fellowmen, and at peace with Thee. We pray in Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 5, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID H. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VETERANS' ADMINISTRATION HEALTH-CARE PROGRAM AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Calendar Order No. 797.

Mr. BAKER. Reserving the right to object, and I will not object, the item identified by the majority leader is cleared on our calendar and I will make a statement in due course.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2534) to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Veterans' Administration's Department of Medicine and Surgery, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Veterans' Administration Health-Care Program Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

SEC. 100. This title may be cited as the "Veterans' Administration Health-Care Personnel Amendments of 1980".

SEC. 101. Section 6(a) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, Public Law 94–123 (89 Stat. 669), is amended by striking out "(1)" and striking out paragraph (2) in its entirety.

SEC. 102. Section 4101 is amended by—

(1) amending subsection (b) by striking out "manpower" and inserting in lieu thereof "personnel" each place it appears; and

(2) adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, physicians, dentists, nurses, and other health-care professionals employed by the Veterans' Administration's Department of Medicine and Surgery and appointed under authority of sections 4103, 4104(1), and 4114 of this title shall not be subject to the provisions of section 413 of the Civil Service Reform Act of 1978, and the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

SEC. 103. Section 4103(a)(6) is amended by inserting at the end the following new sentence: "This position may be filled by a qualified registered nurse serving as an Assistant Chief Medical Director or as a Deputy Assistant Chief Medical Director.".

SEC. 104. Section 4107 is amended by—

(1) amending subsection (a) to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

"SECTION 4103 SCHEDULE

"Chief Medical Director, $73,733.

"Deputy Chief Medical Director, $70,731.

"Associate Deputy Chief Medical Director, $67,747.

"Assistant Chief Medical Director, $65,750.

"Medical Director, $56,099 minimum to $63,759 maximum.

"Director of Nursing Service, $56,099 minimum to $63,759 maximum.

"Director of Podiatric Service, $47,889 minimum to $60,657 maximum.

"Director of Chaplain Service, $47,889 minimum to $60,657 maximum.

"Director of Pharmacy Service, $47,889 minimum to $60,657 maximum.

"Director of Dietetic Service, $47,889 minimum to $60,657 maximum.

"Director of Optometric Service, $47,889 minimum to $60,657 maximum.";

(2) amending subsection (b)(1) to read as follows:

"(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade, $47,889 minimum to $60,657 maximum.

"Executive grade, $44,219 minimum to $57,485 maximum.

"Chief grade, $40,832 minimum to $53,081 maximum.

"Senior grade, $34,713 minimum to $45,126 maximum.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

"Intermediate grade, $29,375 minimum to $38,186 maximum.

"Full grade, $24,703 minimum to $32,110 maximum.

"Associate grade, $20,611 minimum to $26,794 maximum.

"NURSE SCHEDULE

"Director grade, $40,832 minimum to $53,081 maximum.

"Assistant Director grade, $34,713 minimum to $45,126 maximum.

"Chief grade, $29,375 minimum to $38,186 maximum.

"Senior grade, $24,703 minimum to $32,110 maximum.

"Intermediate grade, $20,611 minimum to $26,794 maximum.

"Full grade, $17,035 minimum to $22,147 maximum.

"Associate grade, $14,659 minimum to $19,060 maximum.

"Junior grade, $12,531 minimum to $16,293 maximum.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, $40,832 minimum to $53,081 maximum.

"Senior grade, $34,713 minimum to $45,126 maximum.

"Intermediate grade, $29,375 minimum to $38,186 maximum.

"Full grade, $24,703 minimum to $32,110 maximum.

"Associate grade, $20,611 minimum to $26,794 maximum.";

(3) amending subsection (c) by—

(A) amending the first sentence by—

(i) striking out the comma after "law" and inserting "(1)" in lieu thereof, and

(ii) inserting before the period a comma and "and (2) a physician serving on a full-time basis as a health-care facility director, if assigned significant additional duties of a medical nature by the Chief Medical Director, shall be paid special pay up to the maximum level provided for in section 4118(a)(1)(A) of this title pursuant to an agreement meeting the requirements of section 4118 of this title"; and

(B) striking out "hospital, domiciliary facility, or center" and inserting in lieu thereof "health-care facility" each place it appears;

(4) amending subsection (e) by—

(A) inserting at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, hours of a nurse's officially ordered or approved travel away from such nurse's official duty station shall not be considered hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.";

(B) amending paragraph (8) by inserting "or on a holiday designated by Federal statute or Executive order" after "regular hours"; and

(C) inserting at the end the following new paragraphs:

"(10) The provisions of this subsection shall apply, in lieu of the provisions of sections 5542, 5545 (a) and (b), and 5546 of title 5, with respect to Department of Medicine and Surgery employees (other than administrative, clerical, and physical plant maintenance and protective services employees) who are paid under the General Schedule pursuant to section 5332 of title 5 and who are determined by the Administrator to be providing either direct patient-care services or services incident to such direct services, except as follows:

"(A) The compensatory time off provisions of section 5543 of title 5 shall apply in lieu of the compensatory time off provisions of paragraph (5) of this subsection; and

"(B) The standby premium pay provisions of section 5545(c)(1) of title 5 may be applied in lieu of the on-call pay provisions of paragraph (8) of this subsection. An employee in receipt of such premium pay shall receive such premium pay on an annual basis in lieu of additional pay under this subsection, except that the employee shall receive additional pay as authorized under paragraph (5) of this subsection for overtime service outside the employee's tour of duty (including standby duty).

"(11) Notwithstanding any other provision of law, when the Administrator, after such consultation with the exclusive representatives of employees in appropriate units in the agency as is required under any applicable collective bargaining agreements, determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities)."; and

(5) adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, when the Administrator, after such consultation with the exclusive representatives of employees in appropriate units in the agency as is required under any applicable collective bargaining agreements, determines it to be necessary in order to obtain or retain the services of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, or other health-care personnel determined under section 4107(e)(10) of this title to be providing either direct patient-care services or services incident to such direct services, that would not otherwise be available to provide medical care and treatment for veterans, the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable law and regulation, on a nationwide, local, or other geographic basis, for one or more grades listed in the schedules in subsection (b)(1) of this section, for one or more medical, nursing, or dental fields within such grades, or for one or more grades of the General Schedule under section 5332 of title 5, in order to provide pay competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market, to achieve adequate staffing at particular facilities, or to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding. The amount of any such increase in the maximum rate for any grade may not exceed the amount by which the statutory maximum for such grade exceeds the statutory minimum for such grade, and the maximum rate so increased may not exceed the rate paid for Assistant Chief Medical Director under the 'SECTION 4103 SCHEDULE' pursuant to subsection (a) of this section.".

SEC. 105. (a) In order to evaluate the need for, and the likely impact on the ability of the Veterans' Administration to meet most effectively the personnel needs of the Veterans' Administration health-care system of, the conversion of Veterans' Administration's Department of Medicine and Surgery employees who are providing direct patient-care services or services incident to such direct services, as determined by the Administrator pursuant to paragraph (10) of section 4107(e) of title 38, United States Code (as added by section 104(4)(D) of this Act), to the pay schedules and other administrative provisions of such title, the Administrator shall conduct a study to determine which, if any, of these categories of such employees should be so converted in order to improve patient care, alleviate recruitment and retention problems regarding such personnel, and improve employee morale.

(b) Not later than eighteen months after the date of enactment of this Act, the Administrator shall submit to the Veterans' Affairs Committees of the House of Representatives and the Senate a report on the results of such study, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such study and other pertinent information.

SEC. 106. Section 4108 is amended by—

(1)(A) redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively; and

(B) inserting the following new subsections (b) and (c):

"(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis except that any individual serving on less than a full-time basis as Chief of Staff on the effective date of this subsection may continue to serve in that capacity on such basis in the same manner and under the same terms and conditions of service as are applicable on such effective date but shall not be eligible, so long as such individual continues to so serve on such basis, for any increase in the rates of special pay authorized by amendments to section 4118 of this title made on or after such effective date.

"(c)(1) Except as provided in paragraph (2) of this subsection, any person serving as an Associate Chief of Staff, or Service Chief, or in a position comparable to Service Chief, as determined by the Chief Medical Director, in a Veterans' Administration health-care facility shall be appointed on a full-time basis, except that any person serving on less than a full-time basis as an Associate Chief of Staff, or Service Chief, or in a position comparable to Service Chief, as determined by the Chief Medical Director, on the effective date of this subsection may continue to serve in that capacity on such basis in the same manner and under the same terms and conditions of service as are applicable on such effective date but shall not be eligible, so long as such individual continues to so serve on such basis, for any increase in the rates of special pay authorized by amendments to section 4118 of this title made on or after such effective date.

"(2) The Chief Medical Director, pursuant to regulations which the Administrator shall prescribe and upon finding that it is in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans, may (A) exempt categories of personnel who would otherwise be covered by the provisions of paragraph (1) of this subsection from the application of such provisions, or (B) upon application of the Associate Chief of Staff, Service Chief, or other individual concerned, waive the provisions of such paragraph as to such individual with respect to a category not exempted under clause (A) of this paragraph."; and

(2) inserting at the end the following new subsection:

"(g)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and the health-care personnel education and training mission provided for in section 4101(b) of this title, of assuring an adequate supply of health-care personnel, the Administrator, under regulations which the Administrator shall prescribe, may provide support (including such support described in section 4109 of title 5 as the Administrator determines to be appropriate) for training of selected registered nurses, including nurse practitioners, employed by the Veterans' Administration for a baccalaureate degree in nursing subject to the execution by the employee selected for the training of a written employee agreement conforming to the provisions of section 4108 of title 5.

"(2) The authority granted the Administrator under paragraph (1) of this subsection is in addition to any authority granted the Administrator under chapter 41 of title 5.".

SEC. 107. Section 4109 is amended after the catchline to read as follows:

"(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5.

"(b) Notwithstanding any other provision of law, on and after the effective date of this subsection, a person appointed under this title and serving in the Department of Medicine and Surgery on a less than full-time basis shall accumulate creditable service for the purposes of chapter 83 of title 5 on a proportionate basis equal to the fraction that such person's service after such date is of full-time service.".

SEC. 108. Section 4112 is amended by—

(1) amending subsection (b) by—

(A) inserting "(including appropriate representation from the full-time staff)" after "Veterans' Administration"; and

(B) inserting after the second sentence the following new sentence: "Notwithstanding the recommendations of any such committees, final decisions concerning the provision of health care and employment at the Veterans' Administration facility concerned shall be made by the Administrator and shall not be delegated to any advisory committee or any person other than an employee of the Veterans' Administration."; and

(2) adding at the end the following new subsection:

"(c) In addition to any advisory committee described in subsection (b) of this section, the Administrator shall, in each Veterans' Administration health-care facility providing hospital care, establish a medical center coordinating committee. Each such committee shall advise the medical center management with respect to all matters concerning the provision of health care to eligible veterans and dependents and shall be chaired by the director of the facility. Members of each such committee shall include, pursuant to the regulations which the Administrator shall prescribe, the heads of each major organizational unit of the center, full-time employee representatives from each major patient-care service in the center, a representative from each recognized exclusive representative of employees in the center, and, on a rotating basis, representatives of such veterans' service organizations as the Chief Medical Director shall specify.".

SEC. 109. (a)(1) Section 4118 is amended by—

(A) amending subsection (a)(2) by inserting before the period at the end a comma and "except that special pay may be paid to a reemployed annuitant who was separated involuntarily under section 8335 of title 5, relating to mandatory retirement at age 70";

(B) amending subsection (c) by—

(i) amending the second sentence by inserting a comma and "as applicable," (I) before "to any full-time dentist", and (II) after "to any part-time physician or";

(ii) striking out "and" at the end of clause (1);

(iii) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(iv) inserting at the end the following new clauses:

"(3) for first or specialty board certification of a physician, $2,000; or for subspecialty or secondary board certification of a physician, $2,500; and

"(4) for service by a physician (A) in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified physicians in a specific category of physicians, or (B) in the Central Office of the Department of Medicine and Surgery, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $3,500 and not more than $5,000."; and

(C) amending subsection (d) by striking out paragraph (1) in its entirety, and by striking out "(2)".

(2) The amendments made by paragraph (1) of this subsection shall apply with respect to pay periods beginning after September 30, 1980.

(b)(1) Section 4118, as amended by subsection (a) of this section, is further amended by—

(A) amending subsection (a)(1) by striking out "$13,500 per annum" and "$6,750 per annum" and inserting in lieu thereof "$23,500 per annum (except as otherwise provided in this section)" and "$10,000 per annum (except as otherwise provided in this section)", respectively;

(B) amending subsection (b) by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000";

(C) amending subsections (c) and (d) to read as follows:

"(c)(1) In the case of eligible full-time and part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) of this section and in accordance with regulations prescribed pursuant to subsection (a) of this section, incentive special pay of not more than $16,500 (except as otherwise provided in this section) to any eligible physician. In prescribing regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor, or a proportional amount of three-quarters of the following per annum amounts to any part-time physician to the extent eligible therefor, which proportional amount shall be equal to the fraction which the part-time employment in the Department of Medicine and Surgery of such physician is of full-time employment:

"(A) For—

"(i) full-time status, $6,000;

"(ii) tenure of service within the Department of Medicine and Surgery—

"(I) of three or more years, but less than five years, $1,000;

"(II) of five or more years, but less than eight years, $2,000; or

"(III) of eight or more years, $3,000; and

"(iii) service in a scarce medical specialty, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $4,000 and not more than $16,500.

"(B) For service—

"(i) as a Service Chief, or Associate Chief of Staff (or in a comparable position as determined by the Chief Medical Director), $9,625;

"(ii) as a Chief of Staff or in an Executive grade, $12,250;

"(iii) as a Deputy Service Director or in a Director grade, $12,700;

"(iv) as a Service Director, $13,125;

"(v) as a Deputy Assistant Chief Medical Director, $14,000; and

"(vi) as an Assistant Chief Medical Director or an Associate Deputy Chief Medical Director, $14,875.

"(C) For first or specialty board certification, $2,000; or for subspecialty or secondary board certification, $2,500.

"(D) For service in (i) a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified physicians in a specific category of physicians, or (ii) the Central Office of the Department of Medicine and Surgery, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $3,500 and not more than $5,000.

"(2) In the case of eligible full-time and part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b) of this section and in accordance with regulations prescribed pursuant to subsection (a) of this section, incentive special pay for not more than $7,500 (except as otherwise provided in this section) to any eligible dentist. In prescribing regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor, or a proportional amount of three-quarters of the following per annum amounts to any part-time dentist to the extent eligible therefor, which proportional amount shall be equal to the fraction which the part-time employment in the Department of Medicine and Surgery of such dentist is of full-time employment:

"(A) Form—

"(i) full-time status, $1,000;

"(ii) tenure of service within the Department of Medicine and Surgery—

"(I) of three or more years, but less than seven years, $500; or

"(II) of seven or more years, $1,000;

"(iii) service in a scarce dental specialty, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $2,000 and not more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable postion as determined by the Chief Medical Director), $2,750;

"(ii) as a Chief of Staff or in an Executive grade, $3,500;

"(iii) as a Deputy Service Director or in a Director grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000; and

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) For service in a specific geographic location in which the Chief Medical Director determines, pursuant to regulations which the Administrator shall prescribe, there are extraordinary difficulties in the recruitment and retention of qualified dentists in a specific category of dentists, an amount, as determined by the Chief Medical Director pursuant to regulations which the Administrator shall prescribe, not less than $1,750 and not more than $2,500.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under both clauses (A) and (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under clause (A)(i) and (iii) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to a physician or dentist for the purpose of determining the applicability to such special pay of the limitation specified in subsection (a) of this section on the total amount of such special pay, and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided under subsection (c)(1)(D) or (c)(2)(C) of this section for service in certain geographic locations.";

(D) amending subsection (e)(1) by striking out the third sentence thereof; and

(E) amending subsection (f) to read as follows:

"(f)(1) Any additional compensation provided as special pay under this section shall be considered as basic pay for the purpose of chapter 87 of title 5.

"(2) At the election of any physician or dentist serving on a full-time basis in the Department of Medicine and Surgery who receives additional compensation provided as special pay under this section, such amount of additional compensation may either—

"(A) be considered as basic pay, for the purposes of chapter 83 of such title, and the provisions of section 8334 of title 5 shall apply to the full amount of such additional compensation in accordance with the following schedule:

"(i) effective after September 30, 1981, 20 per centum of such additional compensation shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(ii) effective after September 30, 1984, 40 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(iii) effective after September 30, 1986, 60 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5;

"(iv) effective after September 30, 1988, 80 per centum of such addtiional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5; and

"(v) effective after September 30, 1989, 100 per centum of such additional compensation, which has been received beginning after September 30, 1981, shall be creditable in the computation of average pay as provided in section 8339 of title 5; or

"(B) be used, notwithstanding the prohibition in section 219(b)(2)(A)(i) of title 26, relating to individuals covered by retirement plans established by the United States for its employees, or any other provision of law, to establish, in accordance with section 408(a) of such title, an individual retirement account described in such section. Such amount of additional compensation and such account shall, for purposes of such title, be treated as earned income, to the extent allowable, paid into an account established pursuant to such section and an account so established, respectively.

"(3) Except as otherwise provided in paragraphs (1) and (2) of this subsection, any additional compensation provided as special pay under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55 or chapter 81 of title 5, or for the purposes of other benefits related to basic pay.".

(2) The amendments made by paragraph (1) of this subsection shall apply with respect to pay periods beginning after March 31, 1981.

SEC. 110. (a) Subchapter I of chapter 73 is further amended by adding at the end thereof the following new section:

"§ 4119. Veterans' Administration Physicians' and Dentists' Pay Board

"(a)(1) There is established in the office of the Administrator of Veterans' Affairs a Veterans' Administration Physicians' and Dentists' Pay Board to be composed of five members who shall be appointed from private life as follows:

"(A) three appointed by the Administrator of Veterans' Affairs, to include at least one disabled veteran, one of whom shall be designated by the Administrator to chair the Board;

"(B) one appointed by the President of the Senate upon the joint recommendation of the majority and minority leaders of the Senate; and

"(C) one appointed by the Speaker of the House of Representatives.

"(2) The terms of office of persons first appointed as members of the Board shall be as follows:

"(A) the terms of the members appointed by the Administrator shall expire, as designated by the Administrator at the time of appointment, one on September 30, 1982, one on September 30, 1983, and one on September 30, 1984; and

"(B) the terms of the members appointed under paragraph (1)(B) and (C) of this subsection shall expire on September 30, 1982.

"(3) Beginning with the appointments made following the end of fiscal year 1981 and thereafter, the term of persons appointed as members of the Board shall be for the period of the fiscal year in which such appointment is made and for the two succeeding fiscal years.

"(4) A vacancy in the membership of the Board shall be filled in the manner in which the original appointment was made, and an appointment to fill a vacancy occurring before the expiration of a term shall be for the period ending on the date on which such term expires.

"(5) Upon expiration of a member's term, such member shall continue to serve until such member's successor is appointed and qualified.

"(6) Members of the Board shall receive compensation at the daily rate which may be paid for GS–18 of the General Schedule under section 5332 of title 5, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses, at rates provided for in subchapter I of chapter 57 of such title, incurred by them in carrying out their duties as members of the Board.

"(b) To assist the President in carrying out the congressional policy of assuring that the pay for Veterans' Administration physicians and dentists is fixed at levels reasonably comparable with the total remuneration of physicians and dentists employed elsewhere in the Federal Government and with the income of non-Federal physicians and dentists, so as make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing quality care for all eligible veterans in Veterans' Administration health-care facilities, the Board shall, after such consultation with representatives from each recognized exclusive representative of physicians and dentists employed in the Veterans' Administration's Department of Medicine and Surgery as is required under any applicable collective bargaining agreements—

"(1) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between Veterans' Administration and other Federal sector physicians and dentists and between all Federal and non-Federal sector physicians and dentists;

"(2) obtain measures of income from employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting amounts of special pay for Veterans' Administration physicians and dentists;

"(3) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and biennially thereafter, recommending appropriate amounts of special pay to fulfill the policy set forth in this subsection with respect to Veterans' Administration physicians and dentists; and

"(4) include in such recommendations, when considered appropriate and necessary by the Board, modifications of the special pay levels set forth in section 4118 of this title (A) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because income for non-Veterans' Administration physicians and dentists performing specialized types of duties is substantially in excess of the total pay levels (including basic pay and special pay) for Veterans' Administration physicians and dentists, or (B) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(c) The President shall include, in the budget next transmitted to the Congress after the date of the submission of the report and recommendations of the Board under subsection (b)(3) of this section, recommendations with respect to the exact rates of special pay for Veterans' Administration physicians and dentists pursuant to section 4118 of this title. As used in this subsection, the term 'budget' means the budget referred to in section 11 of title 31.

"(d)(1) Except as provided in paragraph (2) of this subsection, the recommendations of the President transmitted to the Congress in the budget under subsection (c) of this section shall become effective at the beginning of the first pay period which begins after the sixtieth day following the transmittal of such recommendations in the budget, but only to the extent that such recommendations are not inconsistent with either—

"(A) any statute enacted into law between the date of transmittal of such recommendations in the budget and the beginning of such first pay period which establishes rates of pay other than those proposed by all or part of such recommendations; or

"(B) any resolution, approved by either House of the Congress between such date and day, which specifically disapproves all or part of such recommendations.

"(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made effective on a date later than the date on which such recommendations otherwise were to take effect, but on a date not later than the first day of the next fiscal year.

"(e) The recommendations of the President transmitted to the Congress pursuant to subsection (c) of this section which become effective as specified in subsection (d) of this section shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations; and

"(B) any prior recommendations of the President under this section.

"(f) The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

"(g) To assist the Board in carrying out its functions, the Board shall appoint an Executive Director, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia and such additional staff personnel as may be necessary, and fix the compensation of such executive director and additional staff personnel, without regard to chapter 51 and subchapter III of chapter 53 of title 5, but at rates not in excess of the maximum rate which may be paid for GS–18 of the General Schedule under section 4332 of such title.

"(h) The Board may secure from any department or agency of the United States information, estimates, statistics, suggestions, and technical assistance for the purpose of carrying out its functions. Each such department or agency shall furnish to the Board, upon the Board's request, such information, estimates, and statistics as it is otherwise authorized to furnish and as relate to such department or agency, and such suggestions and technical assistance as are within each such department's or agency's capability.

"(i) On request of the Board, the head of any department or agency may detail, on a reimbursable basis, any of its personnel to assist the Board in carrying out its functions.

"(j) The Board may obtain the services of experts or consultants in accordance with section 3109 of title 5, but at rates for individuals not to exceed that which may be paid for GS–18 of the General Schedule under section 5332 of title 5.

"(k) The Board may, for purposes set forth in this section, and notwithstanding any other provisions of law, accept uncompensated services and enter into contracts and agreements with private or public agencies or persons; for such services (including personal services) as the Board may deem necessary.

"(l) The Administrator of General Services shall provide administrative support service for the Board on a reimbursable basis.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4118 the following new item:

"4119. Veterans' Administration Physicians' and Dentists' Pay Board.".

SEC. 111. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel, including licensed practical or vocational nurses and nursing assistants, capable of providing quality care for eligible veterans in Veterans' Administration facilities, the Administrator shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in not less than six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel, and, in the course of such study, shall, after such consultation with the exclusive representatives of employees in appropriate units in the agency as is required under any applicable collective bargaining agreements, take various administrative actions to overcome such difficulties, including, but not limited to, combinations of each of the following actions:

(1) Modification of existing work schedules for nursing personnel so as to allow such nursing personnel to work on a flexitime basis or to work a compressed workweek and other variations in workday and workweek schedules as provided for in the "Federal Employees Flexible and Compressed Work Schedules Act of 1978", Public Law 95–390.

(2) Establishment of onsite child-care centers at Veterans' Administration health-care facilities for the care of the children of nursing personnel and other Federal employees while such personnel are on duty.

(3) Provision of free or subsidized parking for nursing personnel at Veterans' Administration facilities at which personnel are being required to pay for parking.

(4) Enhanced programs of career development for nursing personnel, including support for outside educational opportunities pursuant to the authority provided in section 4108 of this title and section 4109 of title 5 in conjunction with such career development programs, and, as appropriate, academic appointments to the faculty of affiliated institutions.

(b) Not later than forty-two months after the date of enactment of this Act, the Administrator shall submit to the Congress a report on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

SEC. 112. Except as provided in section 109 (a)(2) and (b)(2) of this title, the provisions of this title shall become effective on October 1, 1980.

TITLE II—GERIATRIC RESEARCH AND CARE AMENDMENTS

SEC. 200. This title may be cited as the "Veterans' Geriatric Research and Care Amendments of 1980".

SEC. 201. The purposes of this title are to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological, and social needs of an increasing number of older veterans and to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

SEC. 202. Section 4101 is amended by adding at the end the following new subsection:

"(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate up to fifteen Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and, subject to the appropriation of sufficient funds for such purpose, shall establish and operate such centers at such locations pursuant to the provision of this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator shall, upon the recommendation of the Chief Medical Director—

"(i) designate each facility that, on the date of the enactment of this subsection, is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of clause (iii) of this subparagraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of the Veterans' Geriatric Research and Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future;

"(ii) assure appropriate geographic distribution of such facilities; and

"(iii) limit the designation of any such facility to a facility that (I) is affiliated with an accredited medical school which provides (or which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to develop a program to provide) education and training in geriatrics and with which such facility has (or with which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to develop) an arrangement under which residents receive education and training in geriatrics through regular rotation through such center and nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders, (II) has (or which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to develop) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility, (III) has demonstrated the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts, (IV) has (or which the Administrator, upon the recommendation of the Chief Medical Director, determines may reasonably be anticipated to establish) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and the affiliated school or schools to advise on policy matters pertaining to the activities of such center during the period of the operation of such center, and (V) has demonstrated the capability to conduct effectively evaluation of the activities of such center.

"(C) Prior to providing funds for the operation of any such center at a facility other than one designated pursuant to subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of research, education, and clinical activities.

"(2)(A) Not later than ninety days after the effective date of this subsection, the Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this paragraph referred to as the 'Committee'), the membership of which shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging, and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as are necessary for it to carry out effectively its functions under this paragraph.

"(B) The Committee shall—

"(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

"(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of the Veterans' Geriatric Research and Care Amendments of 1980;

"(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

"(iv) assess the current and projected needs of eligible older veterans for geriatric, extended, and other health-care services from the Veterans' Administration and its activities and plans designed to meet such needs; and

"(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

"(C)(i) Not later than thirty months after the effective date of this subsection, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include (I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established under paragraph (1) of this subsections, (II) assessments of the quality of the operations of such centers, (III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended and other health-care services, (IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers, and (V) recommendations for other geriatric, extended, and other health-care services which are needed to meet the needs of older veterans. Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

"(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

"(3) There are hereby authorized to be appropriated for the basic support of the research and education activities of centers of geriatric research, education, and clinical activities established under paragraph (1) of this subsection $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 for each of fiscal years 1983 and 1984. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

"(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account for research in geriatrics and gerontology.".

SEC. 203. Section 4103(a)(4) is amended by adding at the end the following new sentence: "One Assistant Chief Medical Director shall be a qualified physician trained, or having suitable, extensive experience, in geriatrics who shall be directly responsible to the Chief Medical Director for all geriatric research, education, and clinical health-care policy and evaluation in the Department.".

SEC. 204. The amendments made by this title shall take effect on October 1, 1980.

TITLE III—VETERANS' ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

SEC. 300. This title may be cited as the "Veterans' Administration Health-Care Cost Recovery Provisions of 1980".

SEC. 301. (a) Subchapter III of chapter 17 is amended by adding after section 628 the following new section:

"§ 629. Recovery by the United States of the cost of certain care and services

"(a) In any case in which a veteran is furnished care and services under this chapter for a non-service-connected disability and such disability was incurred—

"(1) incident to such veteran's employment and the disability is covered under a workers' compensation law or plan which provides reimbursement for or indemnification of the cost of health care and services provided to the veteran by reason of the disability,

"(2) as the result of a motor vehicle accident covered under the law of a State which requires the owners or operators of motor vehicles registered in such State to have in force automobile accident reparations insurance, or

"(3) as the result of a crime of personal violence that occurred in a State or subdivision thereof in which a person injured as the result of such crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime, the United States shall have the right to recover, subject to the limitations, condition, and procedures prescribed in subsections (b) and (c) of this section, the reasonable costs of such care and services from the State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations insurance carrier, to the extent that such veteran, or the provider of care and services to such veteran, would be eligible to receive reimbursement or indemnification for such care and services if such care and services had not been furnished by a department or agency of the United States.

"(b) The amount that may be recovered by the United States in exercising the right provided under subsection (a) of this section may not exceed the lesser of (1) an amount equal to the reasonable cost of the care and services furnished such veteran under this chapter, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe after notice and opportunity for public comment, or (2) the maximum amount specified by the law of the State or subdivision thereof concerned or by any relevant contractual provision to which such veteran was a party or was subject.

"(c)(1) The United States shall, as to the right provided in subsection (a) of this section, be subrogated to any right or claim that such veteran or such veteran's personal representative, successor, dependents, or survivors may have against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier.

"(2) In order to enforce any such right or claim to which it is subrogated under paragraph (1) of this subsection—

"(A) the United States may intervene or join in any action or proceeding brought by the veteran or such veteran's personal representative, successor, dependents, or survivors against a State or subdivision thereof, an employer, an employer's insurance carrier, or an automobile accident reparations insurance carrier, or

"(B) if—

"(i) no such action or proceeding has been commenced within one hundred and eighty days after the first day on which care and services for which recovery is sought were furnished to such veteran by the Veterans' Administration under this chapter, and

"(ii) the United States has sent written notice by certified mail to such veteran at such veteran's last-known address, or to such veteran's personal representative or successor, of the United States' intention to institute legal proceedings,

the United States may, sixty days after the mailing of such notice, institute and prosecute legal proceedings against such State or subdivision thereof, employer, employer's insurance carrier, or automobile accident reparations carrier.

"(d) A veteran eligible for care and services under this chapter may not be denied such care and services by reason of this section.

"(e) No law of any State or of any subdivision thereof, and no provision of any contract or agreement entered into, renewed, or modified pursuant to any State law shall operate to prevent recovery by the United States under (1) subsection (a) of this section for care and services furnished under this chapter to any veteran for a non-service-connected disability, or (2) subsection (b) of section 611 of this title for care and services furnished as a humanitarian service in emergency cases under such subsection to any individual.

"(f) Any moneys collected or received by the United States or by the Veterans' Administration on behalf of the United States pursuant to this section shall be deposited in the United States Treasury as miscellaneous receipts.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 628 the following new item:

"629. Recovery by the United States of the cost of certain care and services.".

(c) The amendments made by this section shall be effective with respect to care and services furnished under such chapter after September 30, 1980.

SEC. 302. (a) The Administrator of Veterans' Affairs shall design a protocol for and conduct a study of the extent to which veterans who are recipients of care and services under chapter 17 of title 38, United States Code, for the treatment of non-service connected disabilities would be eligible for or entitled to receive health care and services, reimbursement for the expenses of such care and services, or indemnification for having received such care and services, if not provided in a Veterans' Administration or other United States Government health-care facility, under one or more health plans, including—

(1) a group or individual health insurance policy, including a policy designed to provide coverage only for specific disabilities,

(2) a contract of indemnification,

(3) membership in a health maintenance organization,

(4) title XVIII of the Social Security Act,

(5) a State plan pursuant to title XIX of the Social Security Act, or

(6) a State law or plan providing for workers' compensation, automobile accident reparations, or crime victims' compensation,

regardless of whether any such veteran's eligibility or entitlement arises as a primary beneficiary or as a member of a family in which another person is the primary beneficiary. (For purposes of this section, veterans eligible for or entitled to such care and services, reimbursement, or indemnification, shall hereinafter be referred to as "veterans covered under a health plan," and the extent and applicability of such eligibility or entitlement under such health plans shall hereinafter be referred to as "health plan coverage".) Such protocol shall be designed in consultation with representatives of health insurance carriers, veterans' service organizations, the Library of Congress, the Congressional Budget Office, and the Veterans' Affairs Committees of the Senate and the House of Representatives.

(b) (1) The study shall be conducted in accordance with the protocol and shall examine—

(A) by means of an informational survey of a sampling of veterans that is reasonably representative of all veterans seeking health care and services from the Veterans' Administration for non-service-connected disabilities—

(i) the number of veterans described in the first sentence of subsection (a) of this section who are not veterans covered under a health plan, and

(ii) the number of veterans described in such sentence who are veterans covered under a health plan; and

(B) in the case of veterans described in clause (A) (ii) of this subsection—

(i) the type and source of each such veteran's health-plan coverage;

(ii) all limitations and exclusions in each such veteran's health-plan coverage; and

(iii) the extent to which such veteran's health-plan coverage would be applicable to the costs of the care and services that the veteran is receiving for such disabilities if such care and services were provided by a non-United States Government health-care facility.

(2) (A) If a veteran included in such survey has given voluntary, informed consent in writing to disclosures under this subparagraph, the Administrator shall, to the extent necessary to verify such veteran's health-plan coverage or the lack thereof and to ascertain the limitations and exclusions applicable to such coverage and the estimated amount in which such veteran's employer, an insurance carrier, or a State or subdivision thereof would be liable for the cost of the care and services provided under such chapter if such care and services had been provided by a non-United States Government health-care facility, disclose information pertaining to the identity of such veteran and such care and services to such employer, carrier, or State or subdivision thereof and shall—

(i) request that such veteran's employer, an insurance carrier, any appropriate agency of a State or subdivision thereof, or any other appropriate entity, disclose pertinent information for such verification, state the limitations and exclusions applicable to the coverage concerned, and estimate the amount that its liability for such care and services would have been if such care and services had been provided by a non-United States Government health-care facility, and

(ii) accompany each such request with a copy of such veteran's consent to such disclosures.

(B) Any person of whom a request described in subparagraph (A) of this paragraph is made shall promptly comply with such request.

(C) Notwithstanding any other provision of law, no person shall, by reason of compliance with a request made pursuant to subparagraph (A) of this paragraph, be subject to civil or criminal proceedings under any Federal law or the law of any State or subdivision thereof or regulation prescribed pursuant thereto.

(c) The Librarian of Congress and the Director of the Congressional Budget Office shall jointly, in consultation with appropriate representatives of the health insurance industry, conduct a study of the effect on health insurance premiums and an analysis of administrative costs, both Federal and non-Federal, that would result from the enactment of legislation providing for the right of the United States to recover the cost of care and services furnished to veterans for such veterans' non-service-connected disabilities, pursuant to chapter 17 of title 38, United States Code, from such veterans' health insurers. Such study shall take into account the findings of the study required under subsection (a) of this section.

(d) (1) Not later than one hundred and twenty days after the date of the enactment of this Act, the Administrator shall submit to the Veterans' Affairs Committees the protocol required under subsection (a) of this section.

(2) Not later than ninety days after the date of the submission of such protocol, the Administrator shall submit to the Librarian of Congress, the Director of the Congressional Budget Office, and the appropriate committees of the Congress a report on the study required under subsection (a) of this section.

(3) Not later than sixty days after the date on which the study required under subsection (a) of this section is submitted the Librarian of Congress and the Director of the Congressional Budget Office shall submit to the Congress a report on the study required under subsection (c) of this section.

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. For purposes of section 112 of Public Law 96–86, (1) the term "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government" shall not include the travel of eligible veterans, dependents, and survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, and (2) at no time after April 25, 1980, shall the allocation of the Veterans' Administration of the reduction required by section 112 of Public Law 96–86 be increased more than proportionately to any increase in the total allocation of such reduction to all departments, agencies, and instrumentalities of the executive branch of the Government, as measured by the percentage which the total amount appropriated for fiscal year 1980 to the Veterans' Administration for the travel and transportation of persons, and the transportation of things, of officers and employees of the Veterans' Administration is of the total amount appropriated for such fiscal year for the travel and transportation of persons, and transportation of things, of officers and employees of the executive branch of the Government.

SEC. 402. Section 5093(b) (1) is amended by striking out "and will result" and all that follows through "at such institution" the second place it appears.

SEC. 403. Section 8 of the Veterans' Administration Program Extension Act of 1978, Public Law 95–520 (92 Stat. 1820) is amended by striking out "February 1, 1980" and inserting in lieu thereof "February 1, 1981".

Mr. ROBERT C. BYRD. Mr. President, the chairman of the Veterans' Affairs Committee (Mr. CRANSTON) is necessarily absent and, when he returns on June 10, he will make a statement highlighting and explaining the provisions of this bill. In the meantime, so that all Senators and the public may have an understanding of the provisions of this measure, I ask unanimous consent that excerpts from the committee report setting forth a summary of its provisions be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 2534 AS REPORTED

Basic Purpose

The basic purpose of S. 2534 as reported (hereinafter referred to as "the Committee bill") is to maintain and improve the quality, scope, and efficiency of health-care services provided the Nation's veterans through the Veterans' Administration's health-car-system.

The Committee bill would accomplish this purpose by enhancing the Veterans' Administration's ability to compete effectively with other Federal agencies and private sector entities providing health-care services by improving the agency's recruitment, retention, and personnel management effort; by improving and expanding the capability of Veterans' Administration's health-care facilities to respond to the needs of older veterans and by advancing scientific knowledge about and the methods of meeting such needs; by strengthening and clarifying the Veterans' Administration's authority to recover the cost of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay the costs of health care to victims of crimes of personal violence and by requiring an indepth study of the extent, scope, and duration of veterans' health plan coverage, as well as an analysis of the effect on health-insurance premiums and administrative costs of legislation providing for the Veterans' Administration to recover from veterans' health-insurance carriers the costs of health care rendered to veterans for non-service-connected conditions; and by making various other changes related and adding authorities to the Veterans' Administration's health-care authorities.

Summary of Provisions

The Committee bill has four titles: Title I, Health-care personnel amendments; title II, Geriatric research and care amendments; title III, Veterans' Administration health-care cost recovery provisions; and title IV, Miscellaneous provisions, as follows:

Title I: *Health-care personnel amendments.*—This title would revise, extend, and improve various Veterans' Administration health-care programs designed to recruit and retain sufficient qualified capable health-care personnel, including physicians, dentists, nursing personnel, allied health personnel, and other employees in the Department of Medicine and Surgery and make needed improvements in various aspects of the Veterans' Administration's health-care personnel system. Included in title I are provisions that would:

1. Improve the existing program for special pay for eligible physicians and dentists serving in the Department of Medicine and Surgery title 38 personnel system by increasing the rates of such special pay, by restructuring some of the factors used in computing such pay, and by making the special pay program permanent, replacing the temporary program in current law.

2. Remove top Department of Medicine and Surgery personnel who are hired under the authority of title 38 from coverage by the Senior Executive Service under title 5, United States Code.

3. Authorize the Administrator to appoint the Director of Nursing Service as an Assistant Chief Medical Director or as a Deputy Assistant Chief Medical Director.

4. Amend the schedules of rates of basic pay appearing in present section 4107 for section 4103 employees (Department of Medicine and Surgery employees at the Veterans' Administration's Central Office) and section 4104(1) employees (physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries) to reflect the pay rates set by Executive Order No. 12165 of October 9, 1979.

5. Provide for physicians serving on a full-time basis as Veterans' Administration health-care facility directors to receive special pay if assigned significant additional duties of a medical nature by the Chief Medical Director.

6. Establish a basis for certain Department of Medicine and Surgery title 38 health-care personnel to receive overtime pay in travel situations on the same basis as do other Federal employees.

7. Allow the Administrator to assign title 38 nurses and other specified personnel to on-call duty on a Federal holiday that falls within a regular workweek so that such personnel could remain at home but in an on-call status on such a holiday.

8. Provide for title 38 premium and overtime pay benefits, as now provided to registered nurses and other specified personnel, to be provided to other Department of Medicine and Surgery personnel determined to be providing either direct patient-care services or services incident to such direct-care services.

9. Authorize the Administrator to adjust the rates of premium and overtime pay for service outside of the normal workday or week paid to title 38 nurses and other specified personnel at individual Veterans' Administration health-care facilities when necessary to provide rates competitive with those being paid similar personnel in non-Federal health-care facilities in the same area.

10. Authorize the Administrator to adjust minimum and maximum rates of pay for Department of Medicine and Surgery personnel employed under title 38 as well as any employees under the General Schedule determined to be providing either direct patient-care services or services incident to such direct-care services on a nationwide, local, or other geographical basis when necessary to (1) provide pay competitive with that being paid in non-Federal health-care facilities in the same area, (2) meet the staff needs of a particular Veterans' Administration health-care facility, or (3) recruit individuals with specialized skills.

11. Mandate a study of the need for, and the impact on the personnel needs of the Department of Medicine and Surgery of, converting to the title 38 pay and personnel system various direct-patient-care employees presently employed under title 5, United States Code; and require the report of the study, indicating which, if any, of those personnel should be so converted, to be submitted to the Veterans' Affairs Committees of the House and the Senate within 18 months after the date of enactment.

12. Require a person serving as a Chief of Staff in a Veterans' Administration health-care facility to serve on a full-time basis, except that an individual serving as a Chief of Staff on the effective date of the Act could continue to so serve but would not be eligible for any increase in special pay effective on or after such effective date.

13. Require a person serving in a Veterans' Administration health-care facility as an Associate Chief of Staff, a Service Chief or in a comparable provision as determined by the Chief Medical Director to serve on a full-time basis, except that (1) an individual serving in such a position on the effective date of the Act could continue to so serve but would not be eligible for any increase in special pay effective on or after such effective date, and (2) the Chief Medical Director, on a finding that it is in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans, would be authorized to exempt either (A) categories of personnel who would otherwise be covered or (B) individuals not in exempt categories, upon the request of such individuals, from the full-time requirement, thereby allowing those so exempted to serve on a less than full-time basis and be eligible for increases in special pay.

14. Permit the Administrator to provide certain training support title 38 registered nurses, including nurse practitioners, employed by the Veterans' Administration, who are seeking a baccalaureate degree in nursing.

15. Provide that, after the effective date of the Act, employees serving in the Department of Medicine and Surgery would accumulate civil service retirement credit for such employment at a rate equal to the percentage of their part-time employment for the Veterans' Administration rather than accumulating, as at present, a full-month's retirement credit for each month of part-time service.

16. Clarify that, at Veterans' Administration health-care facilities at which there is an affiliation with an outside entity, such as a medical school, the Veterans' Administration remains responsible for final decisions concerning the provision of health care and employment at the VA facility.

17. Specify that the Administrator's appointments to deans' committees at Veterans' Administration health-care facilities at which there is an affiliation with an outside entity, such as a medical school should include appropriate representation from the full-time staff of the Veterans' Administration facility.

18. Require the establishment of a medical center coordinating committee at each Veterans' Administration health-care facility, each such committee, to be chaired by the facility director with membership drawn from the facility staff and veterans' service organizations to advise facility management with respect to matters concerning the provision of health care.

19. Establish, in the Office of the Administrator of Veterans' Affairs, a five-person "Veterans' Administration Physicians' and Dentists' Pay Board" which would analyze the income of non-Veterans' Administration physicians and dentists and make recommendations for changes in rates of special pay for Veterans' Administration physicians and dentists, when appropriate, to the President for inclusion in the Presidential budget submitted to the Congress; and provide for the operation of such Board.

20. Mandate a pilot program and study of the impact on the Veterans' Administration's recruitment and retention of sufficient qualified nursing personnel of taking various administrative actions—such as modifications of existing work schedules, establishment of onsite child-care centers and other such actions—and require that a report on the results of the pilot program and study be submitted to the Congress not later than 42 months after the date of enactment.

Title II: *Geriatric research and care* amendments.—This title would authorize, subject to the appropriation of sufficient funds, the establishment of up to 15 geriatric research, education, and clinical centers (hereinafter referred to as geriatric centers) at VA health-care facilities. Included in title II are provisions that would:

(1) Require a facility, designated as a geriatric center site—

(a) to be affiliated with an accredited medical school and provide assurances that the school would provide a training program in geriatrics and regularly rotate residents through the center and through one of the facility's long-term care units;

(b) to have an arrangement for a geriatric training program for nursing and allied health personnel in such an extended care unit;

(c) to demonstrate an ability to attract scientists who are capable of ingenuity and creativity in health research;

(d) to have a policymaking advisory committee composed of VA and affiliated school health-care and research representatives; and

(e) to demonstrate an ability to conduct effective evaluation of geriatric center activities.

(2) Require the Administrator to assure appropriate geographic distribution of the geriatric centers.

(3) Require the Administrator to assure, prior to providing funds to VA facilities for establishing new geriatric centers, that the eight existing geriatric centers are receiving adequate funding to function effectively in research, education, and clinical activities.

(4) Mandate the establishment of a geriatrics and gerontology advisory committee (GGAC) to advise the Chief Medical Director on all geriatrics and gerontology matters, to assess the ability of each center to achieve its purpose and the purposes of this title of the bill; and to assess the ability of the VA to provide high quality health-care services to older veterans, the current and projected needs of these veterans for such services, and the VA's plans to meet those needs.

(5) Require the GGAC to submit, 30 months after the effective date of this provision, a report to the Administrator on its findings and conclusions and its recommendations regarding the geriatric center program and VA health care of older veterans; authorize the GGAC to submit such further reports as it considers appropriate; and require, 90 days after receiving any GGAC report, the Administrator to transmit the report and the Administrator's comments and recommendations to the appropriate congressional committees.

(6) Authorize appropriations for the basic support of the research and education activities of geriatric centers—but not the clinical component which would continue, as at the existing centers, to be funded from general medical care appropriations—of $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 for each of fiscal years 1983 and 1984; and direct the Chief Medical Director to allocate to the geriatric centers from other funds appropri-

ated generally for the VA medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate in light of the GGAC report.

(7) Specify that clinical and scientific investigation activities at the geriatric centers shall be eligible to compete for funding from the VA's medical and prosthetics research account and that these geriatric center efforts shall receive priority in the awarding of funding from that account insofar as funding for geriatric and gerontological research is concerned.

(8) Require that one of the eight Assistant Chief Medical Director positions be filled by a physician trained, or having suitable, extensive experience, in geriatrics, who would be responsible to the Chief Medical Director for all geriatric research, education, and clinical health-care policy and evaluation in the Department of Medicine and Surgery.

(9) Provide that the amendments made by this title shall take effect on October 1, 1980.

Title III: *Veterans' Administration health-care cost recovery provisions.*—Included in this title are provisions that would:

1. Amend title 38, United States Code, to strengthen and clarify the VA's authority to recover the cost of veteran's non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for the costs of health care provided to victims of crimes of personal violence.

2. Require an indepth study by the VA of the extent, scope, and duration of the health-plan coverage of veterans admitted to VA facilities for treatment of non-service-connected disabilities, as well as an analysis by the Library of Congress and the Congressional Budget Office of the effect on health insurance premiums and VA and non-Federal administrative costs if legislation to require veterans' private health plan insurance carriers to reimburse the VA for the costs of non-service-connected health care provided to their insureds in VA facilities is enacted.

Title IV: *Miscellaneous amendments.*—This title includes an amendment to exclude the VA's beneficiary travel funds from the general executive branch travel and transportation funds which are to be substantially reduced under the continuing appropriations act for fiscal year 1980, a 1-year extension, to February 1, 1981, of the study being conducted on the provision of hospital and medical care in Puerto Rico and the Virgin Islands by the VA, and a technical amendment to make a correction in the Veterans' Administration Program Extension and Improvement Act of 1979 (Public Law 96–151).

Mr. THURMOND. Mr. President, I rise in support of S. 2534, the "Veterans' Administration Health-Care Program Amendments of 1980." This bill will address several areas of vital concern within the VA health care delivery system.

Title I of S. 2534 is directed toward the resolution of many probems that the VA is experiencing in recruiting and retaining qualified health care personnel. The heart of the VA is its health care system. With 172 hospitals, 282 outpatient clinics and numerous support facilities, the VA has become the largest provider of health care in the world. Since two of its employees have been recent recipients of the Nobel Prize, the VA can boast of being a leader in certain areas of medical care and research.

In an effort to continue the quality work that is being performed in the VA hospital system, it is imperative that the compensation that these highly qualified medical professionals receive is equivalent or competitive with the non-VA sector. Title I would address this issue by establishing a permanent special pay authority for VA physicians and dentists. This authority would replace the stopgap authority which has been in effect since 1975 and should encourage doctors considering the VA service as a career to make their decisions earlier and with some degree of certainty about their future.

Also, title I would exempt top personnel within the Department of Medicine and Surgery who are employed under title 38 from the provisions of title 5 of the United States Code relating to the Senior Executive Service. I believe that it is very important to the integrity of the VA health-care system that its top employees are VA personnel and not subject to the practices of the Office of Personnel Management.

Several issues relating to the appropriate balance between full-time and part-time physicians at VA facilities, improved personnel management relating to the Nursing Service, and other employment benefits issues are authorized by title I of S. 2534.

Mr. President, the importance of the care that the VA renders and is capable of rendering to our older veterans cannot be overemphasized. Title II of S. 2534 will incorporate the major provisions of S. 1523, a bill which I introduced on July 16, 1979, and addresses the long-range care of our Nation's aging veterans population. There are presently 6 million U.S. veterans aged 60 and older. By 1985, this number will increase to 9 million and will eventually reach 11 million by 1995.

Title II will address the problem presented by the phenomenon of the aging veteran by authorizing the institution of a pervasive and intensive program within the VA's Department of Medicine and Surgery to study and do research in the field of geriatrics. Specifically, this legislation would authorize up to 15 VA hospitals as locations for demonstration centers of research, education, and clinical operations in geriatrics. These demonstration centers would be authorized for a period of 4 years and would be supervised by a newly created position of Assistant Chief Medical Director for Extended Care within the VA's Department of Medicine and Surgery.

Mr. President, this provision would significantly enhance the quality of geriatric care now provided in VA hospital facilities and, ultimately, would provide a meaningful effort by our Government to address the needs of the 32 million elderly persons who will live in this country by the year 2000. It is far-reaching and proposes to address a future problem with a view of finding viable solutions now.

Mr. President, I believe S. 2534, as reported, is a reasonable and fair measure that will further our Nation's commitment to veterans by having a quality VA health care delivery system. I urge my colleagues to support S. 2534, as reported.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 845, H.R. 7102, which is the House companion bill to S. 2534.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7102) to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 2534, as amended, be inserted in lieu thereof.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 7102 be printed as passed by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2534 be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that I may reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR GOLDWATER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. GOLDWATER) is recognized for not to exceed 15 minutes.

THE TAIWAN RELATIONS ACT: A FAILURE OF IMPLEMENTATION

Mr. GOLDWATER. Mr. President, in a recent speech, President Carter patted himself on the back for Taiwan's economic progress following his derecognition of the Republic of China Government. His claim is a shameful distortion of the facts.

Whatever success Taiwan has enjoyed since President Carter dropped diplomatic relations with her on January 1 of 1979 is due to the achievements of the Taiwanese people themselves and their government, the Republic of China, with perhaps some help coming from passage of the Taiwan Relations Act as amended by the U.S. Congress.

It is true that great economic progress has been made on Taiwan in the last year. However, this is due to wise government policies of the Republic of China, the skills and dedicated work habits of the Taiwan people, and continued confidence in the stability of Taiwan by the international community.

The critical aspect of this economic development is its dependence upon the political stability and military safety of the island nation. Here is where the Carter administration's policies have been sadly deficient.

In fact, the record of this administration since derecognition of the ROC has been one of consistent antagonism toward the governing authorities on Taiwan, so much so that it seriously threatens to undermine the morale of the people and legal status of the Government on Taiwan.

To give a specific example of one out of a long line of humiliations to which the administration has subjected the Government on Taiwan, the State Department recently pressured the U.S. Customs Service to issue a ruling blocking the entry of goods from Taiwan into the United States after December 1, 1980, if the goods carry the national identity, "Taiwan, ROC" or "Republic of China." This ruling has not been published as yet in the Federal Register, but it has been circulated to all regional commissioners of Customs.

Ironically, this action follows on the heels of a 2-month visit by a procurement mission from the Republic of China during April and May that purchased $1.8 billion worth of American goods. The thanks our President gives Taiwan for making a strong effort to buy American products is a directive barring imports from her country, which bear the self-identity of that nation.

Mr. President, this step, instigated by the State Department, is uncalled for. It is a terrible slap-in-the-face to a nation that is still very friendly to the United States and which is only trying to preserve its self-independence as a separate nation.

From a legal standpoint, I believe the change in practice ordered by the Customs Service is a clear violation of section 4(a) of the Taiwan Relations Act. This provision directs that the absence of diplomatic relations "shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979."

Obviously, if Taiwan is told that she can no longer use the marking "ROC," our laws are not being applied in the same manner as prior to January 1, 1979, because she was then permitted to use such a marking.

Also, section 15(2), the definition section of the Taiwan Relations Act, itself uses the term "Republic of China," and if it is good enough for Congress, surely the Customs Service can allow it.

But beyond the legal points, the tragic thing about the proposed change in the customs ruling is what it means to the morale and international status of Taiwan. It is another step, added to many others by the administration, that is squeezing the life blood out of any separate national identity for Taiwan and which is leaving her more and more isolated and vulnerable in the world.

This is a horrible way to treat a friend of our country. Not even Canada and Japan, which have gone far in establishing relations with Communist China, have refused to allow the Government on Taiwan to use its rightful name on goods entering these countries.

Where will it stop? When will the administration cease catering to the supposed sensitivities of Communist China at the expense of Taiwan?

Unfortunately, the Customs Service ruling is not an isolated event. I have identified at least 14 other serious actions which the administration has taken since derecognition which put the safety and independence of Taiwan at peril.

These actions include:

First. The administration's 1-year moratorium on new arms sales to Taiwan in 1979 has caused delays in processing sales which were previously committed.

Second. Although the moratorium technically has now ended, the administration is still stalling on selling Taiwan the equipment needed for its self-defense, in violation of section 3 of the Taiwan Relations Act. The administration has failed to approve what Taiwan needs most, an enhancement of its air defense and antisubmarine capabilities.

Third. The performance of the administration is so bad that seven members of the Senate Foreign Relations Committee, including the chairman and ranking Republican, joined in a letter on May 7, 1980, urging the administration to allow Taiwan to deal with U.S. contractors for purchase of the FX intermediate fighter. However, even if the administration should approve the sale this year, deliveries could not begin until 1983 or 1984 because the plane has not been developed. The administration's reply to the committee letter was evasive.

Fourth. The administration has not ceased abrogating treaties with the defense treaty. For example, last year the Foreign Relations Committee expressed serious concern about the administration's termination of the 1946 Civil Air Agreement. The State Department has not even agreed on the Chinese text of the unofficial agreement, which replaced it. The status of 48 existing agreements is put in doubt by the administration's policy, although there is no legal reason these agreements could not remain in force and be updated by an exchange of letters between Institutes.

Fifth. Despite repeated assurances, the Congress is not consulted on actions affecting Taiwan. During hearings in February of 1979, State Department witnesses promised all agreements will remain in force, except for the defense treaty and related agreements. Congress was surprised when the administration later terminated the Air Transport Agreement. Also, the administration has failed to provide Congress with information on its future arms sales strategy for Taiwan.

Sixth. Although the Taiwan Relations Act declares that Taiwan shall be allowed "the same number of offices and complement of personnel as were previously operated in the United States," the administration has cut the number of Taiwan offices from 14 to 9.

Seventh. U.S. officials of the American Institute on Taiwan are instructed not to visit government offices and Taiwan officials in the United States are not given access to high officials of the U.S. Government.

Eighth. The administration has not provided security for all Taiwan personnel stationed in the United States, even though some coordination council offices have been bombed or broken into and Taiwan officials have been threatened with death.

Ninth. The American Institute offices on Taiwan are expected to perform the same functions of an embassy, but the administration restricts the Institute to only 55 Americans, half the number formally employed at the U.S. Embassy.

Tenth. The State Department refuses to allow the American Institute on Taiwan use of computer facilities operated by the American Embassy in Thailand, creating serious problems for the Institute's budgeting and accounting operations.

Eleventh. The administration helped to bar Taiwan from the Winter Olympics at Lake Placid. A letter was sent by the State Department to the U.S. Olympic Commission at the 11th hour indicating it would embarrass the President if Taiwan athletes participated under their own flag and anthem, and the Justice Department intervened, and the New York courts at the request of the State Department urging the courts to dismiss a suit by Taiwan athletes as a foreign policy matter.

Twelfth. The administration does not allow Taiwan's military personnel to receive professional training in the United States, and this restriction will have a substantial effect on Taiwan's military capabilities in the future.

Thirteenth. The State Department refuses to allow purchases of explosive materials to be shipped to Taiwan by U.S. military contractors, resulting in a back up of materials in U.S. warehouses.

Fourteenth. The administration refuses to publish new agreements with Taiwan in the official Treaties in Force compilation, placing in doubt the status of Taiwan as a legal state.

Mr. President, these actions represent a massive failure of implementation of the Taiwan Relations Act by the administration. They show almost a total unwillingness by the administration to consult with Congress on actions affecting Taiwan and a refusal to comply with the mandate of the law. A serious commitment to meeting the provisions of this law would counsel the reversal of each of these actions.

A strong and adequately armed Republic of China would reduce the possibilities of conflict in the Taiwan Straits region and reaffirm U.S. faithfulness to its allies and own self-interest.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. GOLDWATER. I yield.

Mr. THURMOND. Mr. President, I wish to commend the able and distinguished Senator from Arizona for the magnificent statement he has made in the Chamber this morning concerning Taiwan and the shabby treatment it has received from our Government.

Mr. President, I ask that I be associated with the remarks of the able Senator from Arizona.

Mr. GOLDWATER. Mr. President, I thank my friend from South Carolina.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe I have a 15-minute special order for this morning. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield control of that time to the distinguished Senator from South Carolina.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I inquire of the Chair, is there a 15-minute order on behalf of the Senator from South Carolina?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, under the present agreement, the Senator from South Carolina will have 30 minutes for his special order remarks this morning. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I thank the Chair very much.

RECOGNITION OF SENATOR THURMOND

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 30 minutes.

PRESIDENT CARTER'S MAY 15, 1980, LETTER TO SENATOR JOHN STENNIS

Mr. THURMOND. Mr. President, President Carter's letter to Chairman STENNIS suggesting that additional hardware procurements are not desirable and that if approved will force offsetting reductions in the operations and maintenance (O. & M.) line item in the budget is beyond belief.

During this administration, the O. & M. budget has been cut every single year. During our recent Armed Services Committee hearings, I personally questioned each of the services regarding the impact of these O. & M. budget cuts on combat readiness. Every witness was seriously concerned that our combat readiness has been jeopardized by these O. & M. reductions.

Mr. President, when not enough resources are requested, not enough authorized, and not enough appropriated, it seems that the O. & M. line item becomes an easy target to make up defense shortfalls. The administration has been repeatedly forcing the armed services to postpone operations and maintenance actions until next year. However, Mr. President, next year, under this administration, has never arrived.

Mr. President, I wish to comment on President Carter's letter, especially from the Navy point of view.

Mr. President, I ask unanimous consent at this time that the letter to which I have made reference be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, with respect to reactivation of the battleship *New Jersey* and the carrier *Oriskany*, President Carter claims:

> It is inefficient to apply hundreds of millions of dollars to resurrect 1940's technology for only a few short years of stretched operation.

The cold facts are that based upon the number of years of active sea duty for each ship, the *New Jersey* has a minimum of 15 "unstretched years" of design life left, while the *Oriskany* has a minimum of 5 "unstretched years" ahead of her. With a prudent overhaul program the life of each ship can be significantly extended.

In response to the comment on 1940 technology—in this instance it works to our advantage. The skill levels required to man these ships is significantly lower than current modern day ships. Given our existing retention problem with experienced middle grade personnel, this will make our job easier. We have a manpower problem in the Navy, as in all of the services, with or without these ships which must be solved. We now have 12 months to prepare for manning the *New Jersey* and 36 months to prepare for the *Oriskany*. During the Vietnam war, about two-thirds of the *New Jersey* crew were volunteers. The Navy expects a similar situation for this reactivation. This is another factor which will ease our manpower situation.

Mr. President, let me broaden the perspective. Today's Navy is only one-tenth as large as it was during World War II. Our fleet is only half as large as during the Korean or Vietnam war. The Soviets meanwhile, have emerged as a maritime superpower They outnumber us 3 to 1. They have shifted their emphasis from coastal defense to a blue water, offensive open-ocean capability. The Soviets currently have under construction four cruisers, five submarines, and two aircraft carriers. Meanwhile, our U.S. fleet has dwindled from 5,700 ships at the peak of World War II to only 462 active ships today. We have halved our number of aircraft carriers, halved our amphibious lift capability, and more than halved our auxiliary and support ships.

Mr. President, just to maintain our current fleet at the 1980 level, we need to procure 17 new ships per year as well as 330 aircraft. However, over the past 10 years we have averaged only 15 ships per year and 247 aircraft. That is an average over 10 years. When you look at the recent years of the Carter administration the numbers are well below average. Our investment in maintaining fleet strength has been insufficient. In terms of constant dollars, the Navy has been level-funded for the past 10 years. As a result of this lack of real growth, we now have a Naval shortfall of $5 billion per year in ships, planes, and weapons. The Air Force and the Army have similar situations.

Mr. President, how can the President of the United States say we do not need to spend more on defense? In the Washington Post, the junior Senator from South Carolina said it very succinctly:

> President Carter does not want a balanced budget, he wants a campaign budget.

Mr. President, I ask unanimous consent that the entire Washington Post article of May 20, 1980, by Helen Dewar be included in this RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. THURMOND. Mr. President, President Carter says we are spending more for defense than is needed and at the expense of social programs that are designed to keep Americans at work. I submit the facts show that we desperately need the defense items and that the money spent in the defense area will keep more Americans working. Every study I have seen shows that a dollar spent in defense gets multiplied throughout the economy some 10 to 13 times, while a dollar spent in social programs gets multiplied only 2 to 3 times.

President Carter is dead wrong on both his premises. We need the hardware and equipment which the House and Senate Armed Services Committees have recommended. Furthermore, more Americans will be kept working through these defense programs than by simply doling the money out through social programs.

EXHIBIT 1

THE WHITE HOUSE,
Washington, D.C., May 15, 1980.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN STENNIS: As the Armed Services Committee continues its consideration of the Department of Defense Authorization Act for Fiscal Year 1981, I want to convey to you and your colleagues my views on several issues.

H.R. 6974, the House Committee version, adds $6.2 billion to my authorization request for various procurement and R&D items. These increases will make it most difficult for the Appropriations Committee to structure a 1981 Defense Appropriations bill consistent with a balanced budget, without severe reductions in operations and personnel areas critical to the readiness and capability of our forces. These areas have been cut most heavily in the past, and can least afford further reductions. Consequently, within anticipated defense budget totals, unrequested increases in R&D and procurement could adversely affect today's military readiness by forcing offsetting reductions in the operations and personnel accounts later in the Congressional process.

I am particularly concerned about the following specific add-ons:

1. $600 million for development and production of the B–1 aircraft as a modified cruise missile launcher. Our long term strategic modernization program includes key enhancements to our B–52 force, and any effort to create a second, extremely costly cruise missile platform is both premature and unnecessarily expensive. While we have not ruled out a B–1 type aircraft as a future cruise missile carrier, it is inappropriate to begin any such major program prior to full determination of the timing and specific form of an appropriate B–52 follow-on.

2. $560 million for the reactivation of two mothballed ships, the aircraft carrier *Oriskany* and the battleship *New Jersey*. Because they require thousands of new crewmembers, both of these ships would aggravate current Navy ship manning problems. Even if we could overcome these constraints, it remains inefficient to apply hundreds of millions of dollars to resurrect 1940's technologies for only a few short years of stretched operation.

3. $492 million for 24 additional F/A–18 aircraft. Given the current development status of this aircraft, the 48 requested in the budget represent an appropriate level of procurement. An increase beyond 48 would likely be done at the expense of funds needed to operate and maintain existing Navy aircraft.

4. $907 million for two additional 688 class submarines and $495 million for two additional guided missile frigates. The Navy's frigate requirement is adequately met by the four ships requested in the basic budget, and we plan to design a new class of submarine to meet future Navy requirements in this area.

I solicit your assistance in making the Senate authorization bill consistent with the most effective allocation of scarce resources to military R&D, procurement, and sustaining the capabilities of today's forces. I urge you to give particular attention to the priority needs of the operations and personnel accounts in the defense budget, and to the Nation's overall budgetary objectives.

Sincerely,

JIMMY CARTER.

EXHIBIT 2

CARTER ACCUSED OF "HYPOCRISY" ON ARMS BUDGET

(By Helen Dewar)

Senate Budget Committee Chairman Ernest F. Hollings (D–S.C.) accused President Carter yesterday of the "height of hypocrisy" and "outrageous, deplorable conduct" for assailing a compromise congressional budget plan as too defense-heavy.

Hollings said the president was trying to have it both ways in "yelling whoopie" for increased military compensation when he welcomed home the aircraft carrier Nimitz on Monday and then telling community leaders on Tuesday that more should be spent on social programs.

"He doesn't want a balanced budget; he wants a campaign budget," said Hollings, in some of the harshest language a Democratic committee chairman has used in speaking of Carter since the start of his term. "It's sad to see a president speaking out [when] he doesn't know what he's talking about," Hollings added.

Hollings' criticism came as the House prepared to vote today on the 1981 spending plan which was put together last week by House and Senate conferees over strong objections from moderate-to-liberal House Democrats who plan to fight it on the floor. The resolution was already in deep trouble, and congressional leaders said Carter's opposition added to its jeopardy.

Hollings was the prime mover in pushing for a big defense-spending increase, prodding the House conferees to accept $153.7 billion in military outlays—far closer to what the Senate wanted than to what the House had approved. This would amount to an increase of $18 billion over anticipated spending for defense this year, with an even larger increase in budget authority for long-term commitments.

The budget is at least nominally balanced for the first time in 12 years, meaning that domestic spending cuts had to be made to offset military outlay increases. Both the defense increase and domestic cuts are prompting the Carter and congressional opposition.

With the fate of the resolution in doubt, along with the viability of the congressional budget process itself, an attempt was under way last night to reach a compromise. Rep. James A. Mattox (D-Tex.), a Budget Committee member, said he was working on a plan to shift between $500 million and $700 million from defense to domestic programs in hopes of winning a majority in both houses and avoiding a return to conference with the Senate.

Meanwhile, skirmishing between the White House and Congress continued.

A House Armed Services subcommittee summoned the Joint Chiefs of Staff to a hearing today to testify on whether they agree with Carter that Congress is proposing to spend too much on the military. Subcommittee chairman Samuel S. Stratton (D-N.Y.) earlier threatened to subpoena them if the Pentagon tried to block their appearance.

At the same time, Carter continued to push for a reshuffling of the budget, telling a group of out-of-town editors that Congress was advocating more money than needed for defense "at the expense of domestic programs that are designed to keep Americans at work."

Added Carter: "We cannot afford to cheat the American people on domestic programs with an unnecessary allocation from domestic programs for defense."

And, in a speech prepared for the Council on Foreign Relations in New York, Deputy Secretary of State Warren Christopher charged that Congress has emphasized defense spending at the expense of foreign aid and other foreign policy instruments. "We have little chance to be positive when we approach the world with empty pockets," he said.

Asked about Carter's stand, Senate Majority Leader Robert C. Byrd (D-W. Va.) said tersely that he was backing the conferees' recommendation. However, Majority Whip Alan Cranston (D-Calif.) is opposing the package as too restrictive toward social programs. Senate Minority Whip Ted Stevens (R-Alaska) sharply criticized Carter and said the whole budget process will be in "serious jeopardy" if Carter persists. House Majority Leader Jim Wright (D-Tex.) questioned "how carefully" Carter analyzed the budget before opposing it.

But it was Hollings who came out swinging hardest. Asked if he isn't backing Carter for reelection, he said he's a pro-Carter convention delegate but added, "At the moment it's a kind of tenuous situation."

He accused Carter of "misleading" people by opposing $153.7 billion for defense when his budget director backed precisely the same figure during maneuvering over amendments on the Senate floor this month. An administration official said that sum was endorsed only to improve bargaining leverage in the conference.

Hollings also said that Carter was defying his own commitment to increased defense spending that he made on the country's behalf to the North Atlantic Treaty Organization (NATO), and said it would take even more money than the conferees approved to make the United States competitive with the Soviet Union.

CUBAN REFUGEE SITUATION

Mr. THURMOND. Mr. President, yesterday morning I was asked to the White House to meet with President Carter and his staff about the Cuban refugee situation. Unfortunately, President Carter was not there long enough for me to express to him my views on this matter. Therefore, I have asked for this time of the Senate to share with my colleagues my views on this most serious situation.

Mr. President, the American people are deeply upset about the events of the last few months with regard to Cuban refugees. There have been riots and fires in and around Fort Chaffee, Ark. The riots in Miami over a week ago have been attributed in part to the tensions in the black community about Cuban refugees. A veterans hospital in Tampa, Fla., treated 13 Cuban refugees for psychiatric care while eligible veterans entitled to such care were turned away. No wonder the American people are up in arms.

This chaotic situation can, for the most part, be placed at the feet of one person—President Jimmy Carter.

When the President made the statement that we would welcome Cuban refugees with "open hearts and open arms," such a statement misled the Cubans and other people to believe that all were free to come here.

There is absolutely no excuse for this situation to have gotten out of hand, as it now has. President Carter has had the authority under the law to act firmly and decisively in this matter. Instead, President Carter has simply winked at the law, and allowed a bad situation to get worse.

Mr. President, as the ranking Republican of the Senate Judiciary Committee, I have had the opportunity to watch this situation develop and to be aware of this administration's repeated failures to act forcefully and directly on the Cuban refugee problem.

On April 17, 1980, the Judiciary Committee held a hearing in response to the administration's request that of the 10,000 Cubans seeking asylum at the American Embassy in Havana, 3,500 of them be permitted to be brought to this country as "political refugees," under the terms of The Refugee Act of 1980, Public Law 96-212. As a result of that hearing, Senator KENNEDY and I sent a letter to the President on April 25, 1980, giving our approval to his request and to implement the terms of the new refugee legislation. Except for my visit to the White House yesterday, that is the last I have heard from the administration about their plans to implement the law.

On May 5, 1980, I sent a wire to the President, which read:

> Mr. President. As you are aware, the Cuban refugee situation in south Florida grows more critical each day. As of today, more than 11,000 Cuban exiles have left Cuba to come to our shores. Although these people are leaving a communist dictatorship, we cannot let this situation escalate at its current rate.
>
> I urge you to ask the U.N. High Commissioner for Refugees to offer his assistance in organizing the orderly flow of Cuban refugees to other Latin American nations and other countries who may indicate a willingness to accept these refugees. All available diplomatic channels should be opened in an effort to solve this problem.
>
> This should not become simply an American-Cuban problem. The sheer numbers of potential refugees that may leave Cuba demand that a worldwide effort be pursued by your Administration. The people of this Country are displeased with this situation and are demanding that immediate action be taken.
>
> STROM THURMOND,
> *U.S. Senator.*

I repeated in the telegram the points I made during the hearing on April 17 that: First, the U.N. High Commissioner for Refugees should be requested to offer assistance, and second, other countries, especially South and Latin American countries, should be persuaded to take a fair number of these refugees. To date, I have seen no significant results or initiatives by this administration in these two areas.

Mr. President, the new law, "The Refugee Act of 1980" was tailor-made for the current situation. Incredibly, President Carter refuses to exercise the clear authority that is provided to him under that law. Section 207(b) provides as follows:

> (b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the National interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection.

What can be more clearly stated? The law gives the President the authority to fix the number of refugees he seeks to admit and, after appropriate consultation with the Congress, may admit them as political refugees.

This procedure is flexible enough to accommodate the process of determining who is a bona fide political refugee and those who may simply want to come to the United States to better themselves economically. In no case is the United States required to take all refugees who reach our shores. Section 207 of the law permits the President to separate those who have criminal records, diseases, psychiatric problems or persons who simply want to come here to better themselves from those who are here because "of persecution or a well-founded fear of persecution."

Mr. President, Jimmy Carter has not yet acted as he is permitted to do under the refugee law. Instead, he has proceded to engage in a series of half-steps and administrative actions that have left everyone confused, including the American citizens, Federal and State officials, and even the Cuban refugees and their families.

Because of the administration's lack of a firm refugee policy, the taxpayers are being called upon to support tens of thousands of Cubans who may never meet the requirement of being political refugees. Federal and State officials potentially responsible for taking care of these refugees do not know exactly what is expected of them. This situation is also the case for the voluntary agencies. All of these problems could have been avoided if the President had acted quickly and decisively under the Refugee Act.

Mr. President, in my opinion, the following steps should be taken to resolve this problem:

First, the President should insist that the U.N. High Commissioner on Refugees assume the responsibility of placing these Cuban refugees in other countries, and enforcing agreements in connection therewith.

Second, the President should make a determination on which refugees are "political refugees," and which are not and should be deported, and then consult with the Congress under the terms of the Refugee Act in regard to such a determination.

Third, any Cubans that are determined not to be "political refugees" or persons who are found to be undesirable or who have come or may come solely for economic reasons should be deported forthwith, or returned to Cuba or to a third country which would agree to return such refugees to Cuba.

Fourth, the Department of Justice should promptly prosecute any persons who have engaged or may engage in bringing Cuban refugees to the United States and have knowingly violated Federal laws or an Executive order in so doing.

Mr. President, I have taken this time to express myself on this issue because I sense great frustration and outrage about this situation among my colleagues, which simply reflects, I am sure, the feelings of all our constituents. People want something done about this pressing problem and want it done now. President Carter has ineptly handled this problem from beginning to end. He cannot now expect the Congress to get him off the hook.

We have been a sympathetic Nation in the past, and we may be compelled to take political refugees in the future; however, we cannot become the home for the millions of people who want to come to America purely for economic reasons.

The manner in which President Carter has mishandled this problem must not become a precedent, and the people of other countries must understand that the refugee laws of the United States must be obeyed. The President and the Justice Department should be the first to see that this is done.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LONG). Without objection, it is so ordered.

RECOGNITION OF SENATOR PRYOR

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Arkansas (Mr. PRYOR).

GOVERNMENT EARNS LOW MARKS ON PROPER USE OF CONSULTANTS

Mr. PRYOR. Mr. President, for the past year I have devoted a great deal of time and energy to investigating the Federal Government's use of "consultant services." My findings in this area have provided me with a continuous source of shock and amazement as more and more waste, abuse, and even fraud is uncovered. I must admit now that I may have been somewhat naive when I first asked my staff to provide me with the number of consultants working for the Federal Government and the amount of tax moneys being spent on consultant services. No one knows that answer, Mr. President. And, recently, my worst fears about consultants have been confirmed. The number of consulting service arrangements the Government has, the cost, and the purposes for which they exist is still not available to even the President, the U.S. Congress, or the American public.

On July 19, 1979, I made a statement on the floor of the Senate first expressing my concern with the Government's growing dependence on contractors and consultants. Little did I know how close to the truth I was when I said I thought that gross abuse existed in the area of consultant services utilized by the Federal Government. Nor could I have guessed that this dependency on outside services is so pervasive that it is involved in every function which the Government is asked to perform.

Today, Mr. President, I would like to present to the Senate a report prepared by the General Accounting Office at my request. The report is entitled "Government Earns Low Marks on Proper Use of Consultants" and represents a summary of the GAO's audit reports during the last 20 years bearing on the issue of the Government's use of consultants and confirms many of my concerns of fraud, waste, and abuse.

The GAO has issued 30 such audit reports since 1961 and the GAO has now concluded that many of the same problems that existed in 1961 still exist today. Practically every major Federal agency has been identified as exhibiting a need to better manage consulting services. Major problems identified by the GAO, congressional committees, and Federal agencies, include:

First, inadequate information on the number and cost of consulting services.

The Government does not know even today how much it spends on consultant services, largely due to an ambiguous OMB definition of consultant and the failure of agencies to identify or justify consultant service expenditures in their annual budget requests.

Second, failure to maximize competition.

The failure to obtain adequate competition in letting contracts has been a recurring theme in GAO reports. While competition is an effective control to minimize costs, it is not used often enough by Federal agencies in this area. Instead, contracts are let on a sole-source basis despite executive mandates to maximize competition.

Third. Excessive rates of pay for consulting services.

Although fees paid to appointed consultants are limited by legislation, fees paid to consultants under a procurement contract have no limit. Instead, such fees are often based solely on a contractor's request. Reports by the GAO and the Department of Energy Inspector General have illustrated the inconsistent and unreasonable fees which can and do result.

Fourth. Consultants performing work of a policymaking or managerial nature.

A total of 11 GAO reports, from 1961 to 1980, have found various agencies using consulting services to perform work that should have been performed by Government employees. A Presidential memorandum of May 1977 directed that the problem of consultants performing work of a policymaking or managerial nature, which should be retained directly by agency officials, be corrected "without delay." Yet subsequent reports continue to find consultant activities involved in policymaking and managerial functions, budgetary activities, program coordination and the establishment of priorities.

Fifth. Potential duplication or overlap of consultant services.

No single repository or clearinghouse currently exists to perform centralized functions, such as checking for duplication or overlap before a contract is awarded. The potential for duplication is further increased because agencies routinely fail to search those facilities that do presently exist.

Sixth. Consultant conflicts of interest are inadequately considered.

Conflicts of interest not only present a potential for diminished capacity to give impartial or objective advice, but also result in giving the consultant an unfair advantage in competing for subsequent contracts. OMB's Bulletin 78–11 requires disclosure of conflicts. However, these measures have proven insufficient and are easily circumvented. The Department of Energy, which has issued regulations on organizational conflict of interest, has been repeatedly criticized by its Inspector General for failing to avoid such conflicts.

Seventh. Disproportionate fourth quarter contract awards.

A disproportionate number of consulting service contracts continue to be awarded in the final quarter of the fiscal year. Such a practice casts doubts on the need for such awards and the rush to award contracts can impair objectivity and thoroughness in the proposal evaluation process.

In recent years the President and the Office of Management and Budget have taken action designed to improve agency management and use of consulting services. The President in a 1977 memorandum to the heads of 89 executive departments expressed his concern and called for the immediate correction and elimination of consultant problem areas, such as: use of consultants to perform work of a policymaking or managerial nature, use of consulting arrangements to bypass personnel ceilings, pay limitations or competitive procedures, intraagency duplication of consulting effort, and consultant conflict of interest affecting objectivity.

Following this action, OMB issued Bulletin 78–11 in May of 1978. This bulletin defined "consultant service" and established a series of management controls and guidelines designed to improve agency management of consultant services. The controls sought to require maximization of competitive procedures, disclosures relative to conflict of interest, specific work statements and periods of performance, written justifications in the contract file and proper contract administration.

In April of this year, OMB issued Circular A–120 which supersedes Bulletin 78–11. The circular is designed to further tighten management controls and to provide additional guidance for interpretation and implementation of the requirements. In conjunction with this circular, a new Bulletin 80–9 was issued which directed the agencies to reduce by 15 percent the amount of funds which they had included in the fiscal year 1981 budget for consulting services.

Despite the memoranda, bulletins, and circulars, GAO's conclusion is, however, that OMB's efforts to date have been unsuccessful. Recognizing that the individual agencies are ultimately responsible for improving management and use of consultants, GAO recommends that oversight of the use of consultant services must be improved. According to GAO, OMB must first resolve the confusion that presently exists in its definition of consulting services. Second, OMB must obtain assurance that all the management controls in the circular have been implemented by the agencies. In addition, improved budget visibility for consultant services is necessary. Without such budget visibility exercises such as the 15-percent reduction for fiscal year 1981 are easily circumvented by reductions in funds for the other types of services included in various accounts.

Mr. President, perhaps the most important parts of this report just issued by the General Accounting Office are the sections entitled "Matters for Consideration by the Congress" and "Recommendations to the Congress." In this report GAO calls for congressional action to deal with the problems involved in the Federal Government's use of consultant services.

I ask unanimous consent that these very important sections of the report be printed in the Record at this point:

There being no objection, the sections were ordered to be printed in the Record, as follows:

Chapter 5: Matters for Consideration by the Congress

Federal agencies have failed to make satisfactory progress to improve their management of consulting services during the past 20 years. OMB's bulletin prescribing controls to improve the management of these services has been in effect for nearly 2 years; however, our March 1980 report found that significant problems still exist. While our work has not specifically pinpointed the underlying causes for agencies' continuing failure to manage consulting services properly, we believe that they are numerous and complex. A major cause could be the arbitrary use of personnel ceilings which force agencies to obtain the services of additional people indirectly through contracts with private firms. Another contributing factor might be the pressure placed on Federal managers to achieve program objectives timely.

Many of the problems we have found during the past 20 years concerning the use of consulting services are not necessarily unique—they are problems that are generally common to procurement. For example, we found similar problems in the past concerning agencies contracting for various goods and services. What is unique, however, is the lack of a commonly understood definition of consulting services, which has resulted in a lack of accountability for the proper use of these services. This lack of accountability is perpetuated by the fact that consulting services cut across program lines and therefore are not subject to normal congressional and executive branch controls for holding managers accountable.

Solutions to assure the Government's proper use of consulting services are long-term and will require the cooperation of the agencies, OMB, and the Congress. A critical first step is to resolve the confusion among the agencies and the Congress surrounding the current OMB definition of consulting services. Until the Congress and the executive branch agree on the definition and the types of services it should include, effective congressional oversight and management accountability will not be realized.

A second major improvement needed is agencies' establishment of more stringent procedures to assure that the policies and management controls prescribed by the new OMB circular are followed.

The third step to make the use of consulting services more effective is already in place but not fully tested; that is, the principle inherent in civil service reform of providing Federal managers with additional flexibility to manage resources while holding them accountable for performance. We believe this basic principle will be fully tested in coming years by agencies' willingness to correct the serious and longstanding problems cited in this report.

In recent years there has been strong congressional and public concern about abuses associated with the Government's use of consulting services. Several congressional committees have imposed restrictions on funds that can be spent for these services. We believe this trend will continue unless action is taken to correct past deficiencies.

It may be several years before the agencies and OMB can complete actions needed to solve the consulting service problem. The Congress can, however, take some interim steps designed to encourage agencies to initiate long-term improvements and to improve its oversight concerning the use of these services. Specifically, the Congress can require each Inspector General to evaluate and report to the Congress the progress made by the agency to (1) accurately and completelv report consulting service expenditures to FPDS and (2) establish and consistently apply procedures to assure effective management control over the use of these services.

A second interim step available to the Congress is to require that agencies identify in their budget justifications sent to the House and Senate Appropriations Committees the amount of funds being requested for consulting services and the major programs that require these services. These budget justifications, if prepared properly, would provide the Congress with the "visibility" necessary to hold agencies accountable for their planned use of consulting services. Once this information is available, the Congress can, during the budget process, evaluate the appropriateness of the funds requested.

If the Congress, in reviewing the budget justifications, determines that the amount of funds requested is excessive and reductions in the funds requested are considered appropriate, such reductions should be tempered by several considerations. Until the Congress and the executive branch can achieve a better and more uniform understanding of the definition of consulting services in terms of coverage and clarity, any congressional reductions in funds will be difficult to monitor. In addition, such reductions in funds address only the quantity of consulting service expenditures, not the quality. Reductions will not assure that agencies manage funds properly. Finally, any reduction in funds should fully recognize that the agencies have a legitimate need for access to the best expertise and advice available from the private sector to assist them in carrying out a growing number of complex Federal programs. Reductions should not be so drastic that they restrict agencies' proper use of consulting services.

Although we recognize that reductions in the amount of funds for consulting services will not assure that agencies manage these services properly, such reductions would draw management's attention to the immediate need to correct the problems that have existed for 20 years.

RECOMMENDATIONS TO THE CONGRESS

We recommend that the Congress take the following interim actions until the executive branch demonstrates that it has implemented solutions to improve the management of consulting services:

"Require each major Federal agency to submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which these funds are located; and a brief description of the need for these services, including a list of those major programs that require consulting services. This information can be used to determine whether the funds requested are appropriate.

"Require each Inspector General to submit to the Congress, along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to FPDS."

We believe it is critical for agencies to be able to intelligently acquire consulting services, monitor performance, and evaluate results. One way to achieve this capability is to have agencies with Government-wide management responsibilities and/or a high level of expertise in particular fields advise and assist other agencies in acquiring and evaluating consulting services. This capability could be used to better define requirements for consulting services to be obtained from the private sector or, where resources permit, to provide consulting services directly to the client agency. In this regard, OPM has established an Office of Consulting Services to advise and assist other agencies in various personnel management areas, such as performance appraisal, general management analysis, and financial management. This office not only assists other agencies in acquiring consulting services from the private sector, it also provides consulting services directly.

While we have not assessed the Office of Consulting Services' performance, it is an encouraging development that merits attention by other agencies having a high level of expertise in other fields. The President's April 1977 directive to all executive branch agencies that they obtain consulting services on zero-based budgeting from OMB rather than from the private sector is an example of this concept's implementation.

Before initiating any consulting service arrangement, Federal managers should make sure they have top management support and a capability for evaluating performance, especially since agencies often acquire these services in fields where they lack expertise. The Office of Consulting Services considers several factors before agreeing to assist an agency. We believe two of these factors are crucial in acquiring, monitoring, and evaluating any consulting service arrangement successfully:

1. The extent to which senior management at the client agency supports the need for the proposed work.

2. Chances of success in formulating practical recommendations to improve agency effectiveness.

If an agency's senior management fully supports the need for the proposed work, the chances for successful competition are enhanced. By the same token, if an agency is capable of assessing the practicality of the consultant's proposed recommendations, it improves the likelihood of their successful implementation.

The commitment and responsibility inherent in these two factors, in our opinion, tend to motivate agencies to manage these services properly and to safeguard the public's interest.

Mr. PRYOR. Mr. President, the subcommittee investigations, hearings, and other activities have focused considerable attention on the issue of the Federal Government's use of consulting services, and have shown that serious problems exist. In my opinion, this process has shown the increasing dependency on outside consulting services and in many cases the outright delegation of policymaking and decisionmaking authority to private industry at excessive costs to the American taxpayer. In addition, we have uncovered blatant examples of circumvention of personnel ceilings and other civil service rules and laws.

According to GAO, the efforts of the Office of Management and Budget have not been effective. Little or no improvement has occurred in agencies' management of consulting services and OMB has provided little real guidance in establishing more rigorous procedures for approving consulting service contracts.

In my opinion, swift and effective action needs to be taken. I intend to continue my investigation into this issue and introduce legislation in the near future. Congressional action is necessary to bring this problem under control. Without action, we could well find a GAO report in the year 2000 saying that the problems found in 1980 still exist just as the problems of 1960 exist today. I urge the attention of my colleagues to this important issue.

Mr. President, I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HEFLIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time under the leadership order.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, House Joint Resolution 521, which the clerk will state by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The Senate resumed consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I support the President's request for a transfer of funds to reinstitute the registration of young men under the Military Selective Service Act as approved by the House of Representatives in House Joint Resolution 521.

The Manpower and Personnel Subcommittee held hearings specifically on registration on March 13, May 21, and July 10, 1979, and March 19 and April 2, 1980. In addition, the need for registration was discussed in other hearings on the defense authorization bill on February 22, March 20 and 27, April 4, 9, and 10, 1979, and February 19, March 12, 17, 18, and 19, and April 2, 1980.

Based on these hearings, both last year and this year, including testimony from a variety of witnesses representing the military and civilian leadership of the armed forces and from other individuals and organizations, the Manpower and Personnel Subcommittee of the Armed Services Committee supports this request for a transfer of funds. This transfer is also consistent with the recommendations made last year by the subcommittee and the full Armed Services Committee on S. 109, a bill to require the reinstitution of registration.

MOBILIZATION PROBLEMS

Testimony before our subcommittee indicates that manpower problems in the event of mobilization are so severe that the military services are not now capable of meeting our national emergency requirements in terms of manpower. Specifically, if an emergency occurred, the Army would not have sufficient combat manpower in combat units. The shortages would be especially acute in the most critical, large combat skills: Infantry, armor, chemical specialists, and artillery.

The results of mobilization exercises conducted last year showed that 90 days after a mobilization occurred, the Army would only be able to fill 52 percent of its infantry positions, leaving a 48 percent shortfall in the infantry; 73 percent of its artillery positions, leaving a 27 percent shortfall in artillery; and 28 percent of its armor positions, leaving a huge 72 percent shortage in manpower in armor.

In sum, we would not have enough people to operate weapons in the most critical, large combat skills. Shortages in combat engineer and enlisted medical skills are similar.

Peacetime registration can make a critical difference at this point. Under the current capabilities of the Selective Service System, these shortages at M+90 would get worse until the first draftees started arriving in combat units at about M+210. The estimates on the amount of time it would take Selective Service to respond vary from about M+185 to M+235.

With peacetime registration, these shortages would still occur, but draftees could start arriving shortly after M+90—assuming a mobilization is declared about a week before an attack by the Warsaw Pact, trained draftees would start arriving in units at M+112. The extent of these shortages and certainly the fact that shortages would get much worse raises the question of whether or not we could continue to wage war at these levels and whether or not a successful defense would rely on the early use of nuclear weapons. Peacetime registration delivers trained individuals to combat units 73 to 120 days earlier than under the current system. This is vitally important because of the shortages in trained manpower that will exist in mobilization.

Senators should realize that the testimony is unanimous that the Selective Service System cannot meet the Department of Defense stated requirements for the delivery of inductees in mobilization in order to provide the needed manpower. This has been the conclusion of the Joint Chiefs of Staff, the Congressional Budget Office, the General Accounting Office, and the House and Senate Armed Services Committees.

What some have suggested instead is that a postmobilization plan could be developed that might be able to meet requirements at some future date. I think we will hear a great deal about that postmobilization plan during the course of this debate. Last year, we reviewed in detail the plan supported by the Acting Director of Selective Service and the Carter administration. That plan was so weak that at best it could be considered wishful thinking, at worst, it was a total hoax.

Now, we hear about a new postmobilization plan contained in the draft working paper by Selective Service this past January. The conclusions by the Director of Selective Service and the Presidential study group that reviewed this plan also concluded that it will not work. This new plan is viewed as "an impossibility" by Army Chief of Staff General Meyer and is not endorsed by any military or civilian administration officials. In fact, I do not know of any organization related to the military, within Government or without Government, that believes this plan can work.

Without peacetime registration, we will face the acute manpower shortages that I have outlined. We know that these shortages will exist, and we must take reasonable steps to address these shortages.

We hope we do not have a war. The purpose of being able to mobilize is to prevent a war. To the extent that we cannot sufficiently mobilize—and we cannot, today—we have a weakened deterrence; and with a weakened deterrence, we have a higher risk of war. We certainly give encouragement to our adversaries, and we give discouragement to our allies.

Statements filled with hope that some future planner may be able to come up with an alternative to peacetime registration that meets the needs are not sufficient. We are in a dangerous period of history now. We cannot wait 2 or 3 years for someone to come up with another plan which, again, may prove to be a hoax.

Those who argue that the plan could work should realize that the plan assumes that within 3 days from the declaration of mobilization, that the Postal Service System could be fully activated, that all registration materials could be distributed, that an effective public information program could be immediately implemented, and that Congress would appropriate needed funds. After all of that is accomplished in 3 days, the plan assumes that on the fourth day, 4 million people would show up at their local post office all across the country to register. If schools are in session, obviously post offices in college towns would be swamped, but we are unlikely to be able to schedule a mobilization only during vacation periods.

In less than 24 hours, 1 million registration forms must be moved—what I am talking about, Mr. President, is the plan that those who oppose the registration that is on the floor are proposing as the alternative to this bill, which is favored and endorsed by the Carter administration. In less than 24 hours, 1 million registration forms under this plan—I call it the hoax plan—must be moved from 34,000 local post offices to 300 regional centers and then be delivered to 13 different Internal Revenue Service and social security keypunch facilities. Another million forms follow within the next 24 hours. All of these forms must be sorted by birth date and by the lottery number assigned to that birth date. Delay in one batch of forms would delay the entire process since all those with lower lottery numbers must be ordered to induction first. Even crediting our postal workers and Government keypunch operators with efficiency, imagine what one good snowstorm could do to this process.

It should be clear that such a plan will not work. The Selective Service, that authored the draft plan, now says it is clear to them based on their experience in preparing for peacetime registration that this plan could not be used to meet mobilization requirements.

According to the Director of Selective Service:

> Our recent experience with the detailed analysis and planning for peacetime registration has shown that in fact the responsiveness of such a registration is significantly improved over a post-mobilization registration. We have adjusted upward our estimates of the lead time necessary to mount an effective public information program, distribute registration materials, register, sort completed forms, and then transport them back to data entry facilities. Perhaps most importantly, a peacetime registration provides a fully operations system for use in an emergency mobilization.

Continuing the quote:

> Only in this way can we achieve the certainty of responsiveness and efficiency crucial in such a situation.

Mr. President, I wish to submit for the RECORD a letter dated June 3, 1980, from John P. White, Deputy Director of the Executive Office of the President, Office of Management and Budget.

The interesting thing about this letter is this letter comes from the same people who stated a year ago that they could make a postmobilization plan work and they were going to make it all happen in an emergency situation, in a very critical period of history, when we would be trying to deter war, when we would be trying to mobilize for war, at the same time when we have decisionmakers in Washington and in the Pentagon, we have hundreds of crucial decisions to make in that situation.

So this letter I wish to have in the RECORD, and I will read it:

JUNE 3, 1980.

Hon. SAM NUNN,
U.S. Senate, Washington, D.C.

DEAR SENATOR NUNN: In response to your recent question, I would like to reaffirm the Administration's intention to proceed with Selective Service registration as soon as the Congress completes action on the supplemental appropriations request. According to our most recent estimates, it will take approximately five weeks after the necessary funds are made available before the actual registration can begin. This period of time is necessary in order to provide notice to prospective registrants, to train Postal Service employees and to distribute the registration materials and forms.

If the appropriation is passed in the next two weeks, and it does not require us to reprint registration forms, we plan to commence registration in mid-July. Should Congressional action be delayed further, the schedule for registration will be pushed back accordingly.

Thank you for your continued interest and support.

Sincerely,

JOHN P. WHITE,
Deputy Director.

It is interesting to note that the draft of the Selective Service System plan indicates that we can have a total postmobilization registration and induction system beginning to deliver draftees within 30 days, and that is the plan that my good friend from Oregon is talking about over and over again. That is the draft plan that has since been rejected by everyone who has testified, by all the military organizations, both in and outside government.

What we have is a notice from the executive branch of Government that if we pass this bill in peacetime in a calm atmosphere it is going to take them 5 weeks to implement the beginning stages of this plan. We are not talking about delivering draftees to basic training. Even beginning the registration will take 5 weeks.

This is no shock to me. It is no new notice. I stated last year very emphatically that the postmobilization plan would not work, could not work, was a farce and was a fraud. And basically it is apparent even to those who last year sincerely supported that plan within the executive branch that it would take them 5 weeks after we pass an appropriation before they could even start, let alone begin to deliver draftees.

Of course, for those who are listening it should be emphasized that what we are talking about on this bill is not a draft; what we are talking about is simply getting the names and addresses of the young men in our society so that we can have an inventory and so that we can, if necessary, respond to an emergency situation without having to either be faced with the very unpleasant choice of capitulation or early resort to nuclear weapons, which is unfortunately the most likely choice we would face today, because of our unpreparedness, lack of any Selective Service System, deficiencies in our Active Forces, deficiencies in our Reserve Forces, and, most importantly, we simply cannot mobilize a large force of manpower today in a short period of time.

It also should be noted that the Department of Defense has never planned to rely on an All-Volunteer Force in case of mobilization and the delivery of inductees under a military draft is an essential part of our mobilization plans and capabilities and always has been.

In a report by the Department of Defense on the All-Volunteer Force on December 31, 1978, the Department states:

> If deterrence fails and a major conventional conflict continues beyond the initial engagements, the ability to rapidly mobilize, train and arm these previously untrained personnel may be the difference between victory and defeat or between staying conventional or being forced to shift to the awful spector of international nuclear war.

That is our current dilemma. That is our current state of preparedness, as unfortunate, as regrettable, and as inexcusable as it may be. That is where we stand today.

One of the basic assumptions of the Gates Commission which recommended the All-Volunteer Force was the existence of an effective standby draft, and that is why I have such great difficulty being able to understand completely those who are so much in favor of the Volunteer Force, those who are so much against the peacetime draft, at the same time being so much opposed to registration which was one of the fundamental assumptions of the Gates Commission that originally proposed the Volunteer Force.

I wish for anyone who is curious about this to go back and read the Gates Commission report. It is absolutely, totally, and completely clear that the Gates Commission never intended that the Selective Service System would be put in a deep freeze without having an effective capability.

The current Department of Defense stated requirements are for the first inductees within the first 30 days, following the decision to mobilize, which again we call M-day for short. M-day is the day we begin mobilizing. The Department of Defense stated requirements are for 100,000 inductees by M-day plus 60 and 650,000 inductees by M-day plus 180.

Currently, the Selective Service System is capable of delivering the first inductee 3 to 4 months after M-day. Less than 60 percent of induction requirements would be met by 6 months after M-day. At M plus 60, when the Defense Department requirements call for 100,000 inductees, the Selective Service System currently will not be able to deliver any and would still be in the process of organization.

Peacetime registration will enable the Selective Service System to meet current stated requirements and to begin induction within 13 days.

That is a minimum savings of 73 days. According to all the testimony we have had before our committee and according to other testimony, the savings could be as much as 135 to 140 days.

It is also important to note that the Army and the Department of Defense have testified that the Army training base is capable of accepting more inductees earlier than had been previously planned.

So our mobilization requirements would be better met with more inductees earlier than the current Department of Defense stated requirements.

Mr. President, peacetime registration is not a cure-all for all the serious mobilization deficiencies we face. The large combat manpower shortages that could be expected in the first 90 days will still occur. Inductees will still have to receive training before assignment. However, peacetime registration assures that these individuals can be assigned to combat units 3 months earlier than under present conditions and thus by taking this step we will be directly enhancing the national security of the United States.

In addition to enhancing the capacity to meet mobilization requirements, some witnesses believe the reinstitution of registration will enhance the vitality of the Volunteer Force by reminding citizens of their basic obligation, providing useful recruiting information to recruiters and increasing Reserve enlistments.

As I have mentioned, the recommendations of the Gates Commission on the Volunteer Force included an effective standby draft. The registration form that will be used by the Selective Service will solicit permission from registrants to be contacted by military recruiters.

Mr. President, it is clear that registration is needed and that this resolution will not permit conscription. If we are going to have any kind of draft in the future it is not being granted under this bill. The President would have to come back and specifically ask for the authority of Congress to go to a draft.

This legislation provides only the money to implement registration, which is to say, to get the names and addresses of young males in this country.

Whether further changes with respect to the All-Volunteer Force will be necessary—and I happen to believe they will be—they must be addressed based on a continuing assessment of manpower requirements, including the effects of registration.

Mr. President, we will spend a lot of time in the next several days debating various points about registration. But for now there are two arguments I would like to discuss that have been made against peacetime registration.

First, my good friend from Oregon, and others, who oppose this measure seem sometimes to believe that our present lack of preparedness will keep us from fighting the wrong war, in the wrong place, at the wrong time. The theory seems to be, and I am sure he can state his own theory better than I, but to me it seems to be the theory that a prepared America is a danger to itself and to the world.

This theory must be rejected. By seeking to protect our young men from the hazard of just signing their names and addresses, our Nation is creating a perception of weakness that could lead to the very war we all seek to prevent.

Second, some oppose peacetime registration because it makes reinstatement of the draft a less formidable task. I will stipulate for the record that indeed that is the case. We need to make reinstatement of the draft a less formidable task in a time of emergency.

The fact that peacetime registration does that is the principal reason why it is needed. If this bill does not make it easier for us to respond to an emergency, if it does not make it easier for us to go to a draft when and if the President of the United States and the Congress of the United States make that specific decision, then we have no business debating this bill.

So to that allegation I would not only say that it is accurate, but it is absolutely essential that we be able to resort to a draft in an emergency if we are going to protect the Nation's security.

Again, Mr. President, this bill does not contain any authority for any draft or any induction in peacetime or in an emergency. That is a matter that would have to be determined by a further specific act of Congress, and I believe that most people who will be hearing this debate before it is over will fully understand and comprehend that.

Mr. President, I know we are going to have plenty of opportunity during the course of the next 3 days to debate all of these issues in detail, as well as many and different amendments, and I look forward to the debates.

I want to state from the very outset that the Senator from Oregon is a dedicated and very competent adversary in this particular matter. He is also a very close friend, and he will be when this debate is concluded.

We differ on this issue, but I think all of us can stipulate that whatever side of this issue we are on we do hope that the action we take will be in the interest of preserving peace in the world and freedom in the world.

Mr. President, at this point I yield the floor. I do not know whether my friend from Oregon wishes to speak.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. NUNN. I would be glad to yield.

Mr. HATFIELD. Did I understand the Senator to indicate his view with respect to the question of a peacetime draft?

Mr. NUNN. My view has been stated many times. I believe at some point in the future we are going to have to face the issue. I plan to have compulsive hearings on military manpower in October.

The present system is not working. The Volunteer Force is not working. We have critical shortages in our Reserve Forces. We have critical shortages in many skills. We are not getting the quality people we need in the military forces. I believe one of the options is to go back to some form of draft. We are doing everything we can in our committee in trying to find other ways of dealing with that problem, including educational incentives.

We have a pilot project this year in the amount of $45 million to give the Secretary of Defense a chance to use educational incentives to get the kind of quality people we need.

We are taking other initiatives with the Reserves. We are doing everything we can to find a way to make a volunteer force work. But I have said many times, and I must say in all candor, that I do not believe we are going to be able to protect this country without going to some form of draft at some point in the future.

I hope I will be proved wrong in that respect. If we do go to a draft I think one of the options that should be seriously considered would be a 6-month program rather than a 2-year or 3-year program, and have people in the Reserves rather than in the Active Forces.

But I repeat, as I mentioned a while ago to my friend from Oregon, those who are most anxious to avoid a draft should logically be those who are most supportive of this registration bill because the original people who proposed the Volunteer Force, the Gates Commission, as the Senator from Oregon, I am sure, knows, one of their fundamental assumptions was that we would always retain a viable Selective Service.

So while I myself am skeptical about the Volunteer Force working in terms of being able to protect our national security, I say in all sincerity that those who are most fundamentally opposed to a peacetime draft should be leading the charge to get this legislation approved because it does complement the Volunteer Force. It is not in any way inconsistent with it, and it is, indeed, one of the fundamental assumptions on which the Volunteer Force was based.

Mr. HATFIELD. Mr. President, will the Senator yield for another question?

Mr. NUNN. I yield.

Mr. HATFIELD. If I understand the Senator correctly, I understand the Senator to say that he does not support a peacetime draft at this particular moment, and that he thinks if we establish the registration now it will be much easier to move to a peacetime draft should the President or Congress decide that that is necessary at a later day.

Mr. NUNN. No, I did not say that. What I said was that I do not believe this bill will have very much effect on whether we go to a peacetime draft. What I said was that I believe if we have an emergency, if we have to mobilize in an emergency, that this measure will make it much easier to mobilize in an emergency, and by mobilizing in an emergency I include the draft. Certainly the purpose of this bill would be so that we would be able to respond to an emergency situation.

If we are going to a nonemergency situation which, I would assume, my friend from Oregon means by peacetime, a nonemergency situation, I believe going to a draft there will not be directly affected by this measure because we are going to have a long, detailed set of hearings. We are going to have, if we ever have that kind of proposal before us—and there is a bill like that on the House side, not on the Senate side—we are going to have a long, long debate on this subject, and I do not believe this particular measure will affect that. But it most definitely will affect the situation if we were to have a war tomorrow morning, because we would not be able to respond to it.

If 4 or 5 months from now this measure has passed, and we then have peacetime registration, and then we have a war it will make a dramatic difference in our ability to be able to respond, to be able to mobilize, to be able to avoid the terrible choice of having to choose between capitulation and going to nuclear weapons in the early stages of a war.

So I would separate those two very distinctly. I do believe this measure will make a tremendous difference in an emergency situation, and I do not believe it will make any material difference in whether we go to a peacetime draft.

(Mr. FORD assumed the chair.)

Mr. HATFIELD. Then, as I understand the Senator, either in a case of emergency or at a time in the future when a peacetime draft may appear to him as necessary, the registration now will facilitate the movement to a draft under either or both conditions.

Mr. NUNN. I think it will be a very real and significant difference in an emergency. I think it will make a very slight almost insignificant, difference in whether we go to the peacetime draft. I distinguished those two very clearly.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. NUNN. I am happy to yield.

Mr. HATFIELD. The Senator recites the various difficulties that the armed services has indicated in meeting their ful complements under emergency circumstances. Does the Senator include in that assessment, or does the Pentagon include in that assessment, the possibility of volunteers?

Mr NUNN. In an emergency?

Mr. HATFIELD. Yes.

Mr. NUNN. We have asked that question, I believe, in the Armed Services Committee and also in the Appropriations Committee. I believe the answer is affirmative, that they do include that.

On page 32 of the Senate hearings in the Appropriations Committee, Senator PROXMIRE states:

> Let me ask Dr. Pirie a question. DOD's 1977 induction requirement, which is the basis for the calculations that have led the administration to call for premobilization registration, is premised on a worst case scenario, according to Dr. Rostker's January 16 draft report. That scenario is that "there are no volunteers or enlistments from the delayed-entry pool, and Selective Service provides the entire DOD requirement for untrained manpower." Isn't that an unrealistic scenario, as Senator Hatfield has so clearly emphasized.
>
> Dr. PIRIE. In fact, Mr. Chairman, that requirement is premised on having both volunteers and individuals available from delayed——
>
> Senator PROXMIRE. I am quoting a scenario——
>
> Dr. PIRIE. Are you quoting a scenario from the draft report of January 16?
>
> Senator PROXMIRE. That is right.
>
> Dr. PIRIE. That is what drafts are all about.
>
> Senator PROXMIRE. Is that report a completely erroneous document?
>
> Dr. PIRIE. In that case it is erroneous.

Then they go into the number of volunteers:

> We also plan to have a number of volunteers in that number.
>
> Senator PROXMIRE. What are your assumptions then?
>
> Dr. PIRIE. The assumption with respect to volunteers is there might be as few as 9,000, which is the average monthly availability for 1979, or as many as 15,000, which reflect earlier recruiting experience.
>
> Senator PROXMIRE. You are shooting for 100,000 inductions within 60 days of mobilization.

From that point on, it goes on to other subjects.

But the answer, according to the Department of Defense, is that volunteers are included.

Mr. HATFIELD. In Dr. Pirie's view, volunteers could average as low as 9,000 during the average month of availability, or as high as 15,000.

The Senator is aware of the 300,000 that were volunteers within the brief period after the beginning of World War II.

Mr. NUNN. I know there was a massive number of volunteers.

Mr. HATFIELD. Three hundred thousand.

I would like to ask the Senator another question. I understand the Senator——

Mr. NUNN. But, on that point, let me say this: I view our military situation as very far from the World War II situation. At that time. we had the oceans of the world to protect us; we had Pearl Harbor. Pearl Harbor was an event that greatly aroused this Nation, as it well should have.

What we may have in the future, I say to my friend from Oregon, is the situation where the President has to mobilize to deter, to prevent a Pearl Harbor or to prevent a war.

Mr. HATFIELD. Is the Senator saying we suggest here preventive war?

Mr. NUNN. To prevent a war. I am in favor of preventing a war.

Mr. HATFIELD. Preventive war?

Mr. NUNN. Preventing. We from the South do not pronounce our g's.

Mr. HATFIELD. I am happy to have the Senator clarify that.

Mr. NUNN. I did not say "preventive." I said "preventing."

Mr. HATFIELD. Did I understand the Senator that he considered the Shuck report as a fraud or a hoax, and likewise, did he list or he has identified the Rostker report as a hoax?

Mr. NUNN. I would say that, at best, the Shuck report was wishful thinking; at worst, it was a hoax. I would say that the new report, the new draft report was, at best, wishful thinking and, at worst, a hoax.

Mr. HATFIELD. A hoax?

Mr. NUNN. We can call it a hoax for short, if the Senator would like.

Mr. HATFIELD. Is the Senator aware of the amount of documentation that is provided with the Rostker report? And, if he is, does the Senator have any corollary documentation for his position?

Mr. NUNN. I just cited statistics, the letter that came from the same people that originally were in favor of that Shuck report. They say that if we pass this measure it will take them 5 weeks to even begin, and this is after 6 months of preparation.

The Shuck report says we could have had a war last fall and, within 30 days, they would have draftees appearing. So I do not think you need much rebuttal to the documentation. It is a hoax on its face.

Mr. HATFIELD. What about the Rostker report?

Mr. NUNN. I did not understand the Senator.

Mr. HATFIELD. Does the Senator have any documentation to compare to the Rostker report? As the Senator knows, the Shuck report was a very brief report. It was a rather cursory review of the situation. But in the Rostker report, there is a great deal of documentation that goes with that report. I wonder what is the corollary documentation the Senator has to refute that.

Mr. NUNN. Well, only a statement from the Secretary of Defense that says it will not work.

Mr. HATFIELD. I see.

Mr. NUNN. The Director of the Selective Service that was in charge of that draft report also says it will not work. General Meyer says it will not work. Everybody that has testified before us says it will not work, including the people who authored it.

When you have everybody rejecting a report, including the author of the report, then, it seems to me that it is not necessary to go into a great deal more detail. I do not think I should read pages of documentation that the authors say will not work.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I am happy to yield for a question. Does the Senator wish the floor?

Mr. HATFIELD. I thought the Senator was finished. I am sorry.

Mr. NUNN. Mr. President, I am happy to yield the floor, if the Senator would like to be recognized.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I think we have had a very, very frank and open expression of viewpoint here by the main advocate of the registration procedure. I am always impressed by the fact that, to put it in the vernacular, the Senator from Georgia is always up front with his views. There was no attempt to camouflage and, obviously, today there is no attempt to camouflage, that he is an advocate of the draft system. The timing may be a question.

I think, from the Senator's statement today, it also is very apparent that he sees this registration as the first step toward that draft program, whether it is through an emergency or through further hearings by the committee that leads to a draft providing the personnel requirements for the military service. The Senator has been very clear. And it comes as no surprise. But I just want to commend the Senator again for being very much in the open as to what both his short-term and the long-term views are concerning the peacetime draft.

I think it is also very important to note that, as we use the Gates Commission for a statement as to what registration was intended to be or not to be, that we must also read the full Gates Commission report, because the Gates Commission also predicated its Voluntary Army recommendation upon a very basic principle and assumption. That assumption is that the Congress and the executive branch of Government, both, would commit themselves to providing a meaningful standard of living and quality of life for the men and women who volunteered for the military service.

Mr. President, as I indicated yesterday, the Congress has failed and the President has failed in fulfilling that assumption made very clear in the Gates Commission report.

Now, having failed to do that, we are now asked to provide some kind of makeshift operation here to respond to the problems of not having a full-time complement and not having the ability to retain personnel by undertaking the draft, or the first step toward the draft.

Mr. President, let me just illustrate my point as to how we have failed to maintain that assumption, a main assumption that was established by the Gates Commission for the Voluntary Army. Since 1972, the Consumer Price Index has risen 75 percent, while the military compensation has risen only 51 percent.

This represents a decline of over 14 percent in purchasing power for all military personnel; a decline approaching 25 percent for some enlistees in the lower grades.

That statistic alone would indicate the failure of the President of the United States and the failure of the Congress to really give a strong commitment to making the Voluntary Army work. Because of that failure, now they are asking us to substitute the so-called quick fix, the easy way, the Prussian way, to recruit and to provide our military services with the adequacy of personnel.

Mr. MATHIAS. I wonder if the Senator would yield to me for 1 minute or less.

Mr. HATFIELD. I am very happy to yield to the Senator from Maryland.

Mr. MATHIAS. I am very grateful to the Senator from Oregon for yielding to me for a very pleasant duty.

VISIT TO THE SENATE BY THE HONORABLE DIEGO C. ASENCIO, U.S. AMBASSADOR TO COLOMBIA

Mr. MATHIAS. Mr. President, I want to call the attention of the Senate to the fact that we are honored by the presence of Ambassador Diego C. Asencio, a distinguished Foreign Service Officer of the United States, the Ambassador who has had an extraordinary experience which has been one of great hardship to him but which, I think, beyond his own difficulties, has illustrated that the Foreign Service of the United States is a job which requires great sacrifice on the part of those who carry out the missions of this country. It is a job which imposes special sacrifices on their families.

We are privileged to have Ambassador Asencio here with us today.

Mr. HATFIELD. Mr. President, I have been very honored to yield to the Senator from Maryland for the purpose of introduction of our distinguished guest. I join the Senator in welcoming him to the Senate.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued with the consideration of the joint resolution (H.J. Res. 521).

Mr. HATFIELD. Mr. President, another example of how we have failed to maintain our commitment to a voluntary army is that the average compensation for enlisted personnel is presently $9,000 per year. This is 17 percent below the lower standard of living for a family of four as calculated by the Bureau of Labor Statistics and, as a result, at least 100,000, and possibly as high as 275,000, military families qualify for welfare payments. I think under the best of circumstance this could only be called a disgrace.

Yes, I would agree with the Senator from Georgia that the Gates Commission was the foundation for our Volunteer Army. I would not necessarily agree that we have to adopt every part of that recommendation. I will be as selective as the Senator from Georgia, but I think the selective part that I emphasize at this moment gives far more credence to the fact that we could have succeeded and will and can succeed with the Volunteer Army without resorting to the draft or the registration program if we would take the real basis of the Volunteer Army as presented by the Gates Commission and recommit ourselves to that objective.

As far as the comments of the Senator from Georgia about the wrong war, the wrong time, and the wrong place, let me just suggest that registration is not going to correct in any way the kind of knee-jerk reactions we usually give as a Nation, particularly in the Congress, to such international crises. I do not think this Congress, or any other Congress, can very well stand up at any time assuming that some one simple act is going to give them greater wisdom than what they demonstrated in the Gulf of Tonkin resolution. There is no way to guarantee that we are going to have any kind of automatic wisdom bestowed upon us by creating a registration system.

I think it is also very important to note that the Senator speaks about the need to get a list of names and addresses which would somehow give us great ability to move, in case of emergency, into a draft.

Let us bear in mind that in a list of names of young people, 19- and 20-year-olds, it has already been estimated by the Selective Service that within 1 year 25 percent of that list will be obsolete and will be inaccurate. There is nothing in the act that will require that person who is required to register to give other than his current address.

It is also estimated that within 2 years, 50 percent of that list will be obsolete.

It seems to me that it is pretty obvious that when we talk about developing some kind of a roster of names and addresses, whether it is 19-year-olds, 20-year-olds, or any other age group in our American society today, that the high mobility of people would make that list very difficult to maintain.

I send out to my constituents a backgrounder on the average of once a month. We get back literally thousands of changes of address. These are people who are not students, by and large. These are people who are rooted into a job, a profession, where they have had at least the time to get on a resident list either with the county clerk, where I secured the list initially through the voter registration, or some other such public list. Every single time I send out that backgrounder, which is frequently, I get back mailbags full of unclaimed, no forwarding address, or some other kind of indication that that person has moved.

Mr. President, if we put that into the area of the 19- and 20-year-old age group we are going to get even a higher rate of mobility. And this is the roster which is somehow going to provide us with ease and quickness to move into an emergency draft. It makes the whole thesis questionable. I will not say it is a hoax, but I will say it is certainly questionable.

I think we have to realize that when we put this kind of power into place, it is one that raises again the question of whether we, the Congress of the United States, are willing to face the ultimate objective of the advocates, and that ultimate objective is the draft; whether we want to place that objective in the hands of President Carter, or President Reagan, if that be the case, or President Anderson, if that be the case, or President Kennedy, if that be the case. Whatever party, it makes no difference. I, for one, am not willing to place that kind of power into the hands of any President.

The Senator from Georgia talks about the difficulty, the delay, and all the other things that are involved in moving into registration, into classification, examination, and induction, all the processes that are embodied in a draft system, under the present circumstances. Let me remind ourselves today that even if we had all 4 million registered in 1 day, and if we were to call them up in an emergency, how would we train them?

It is very obvious that we are not going to be able to train that number of people in one period of time. We are going to have to bring them into the service in incremental form.

The Senator from Georgia realizes, I am sure, that we have limited training facilities. By the time the first recruit is ready, in the next 3 months and the next 6 months, as we now have it planned under the selective service program, it is going to take time to bring these people into the process of training.

Also let us bear in mind that if we put the computer system in place, which I am willing to do, for the selective service, all those horror stories of delay and problems and everything else that we have heard can be eliminated. Therefore, even if a snowstorm occurs in one part of the country—I do not think we have ever had a snowstorm that hit Arizona and Michigan at the same time, the process is not going to stop.

The process will continue in other parts of the country. That process is a long process in terms of getting 4 million people into training—into training.

I am not, in any way, concerned about the ability of this system to work if we have the computer and everything else, and I do not think the Senator from Georgia would really question it, either.

Mr. President, I ask unanimous consent to yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that I be allowed to call for a quorum without the Senator from Oregon losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object, Mr. President.

Mr. President, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

PENSIONS—A CRISIS ABOUT TO OCCUR

Mr. EAGLETON. Mr. President, recently the Kansas City Star published a series of three articles on pensions known as the "pension tangle." These articles lend credence to a statement I made 4 years ago to the New York Society of Security Analysts: The future of our pension systems is extremely grim.

Today, we find ourselves caught in the unhappy situation where many retired Americans receive pensions that diminish in value as inflation continues unabated while working Americans are being asked to contribute greater portions of their salaries to support retirees. Few, if any, economists are predicting that inflation will disappear in the near future. Demographically, we look down the road to the so-called graying of the baby boom—which means that the percentage of elderly in the population will increase while the working population will increase at a lesser rate. According to one of the articles in the Star, there are currently 3.3 workers supporting every retiree but by the year 2040, that ratio will change to two workers supporting one retiree.

As if this report is not pessimistic enough, several actuarial firms interviewed for these articles expressed gloomy sentiments about the volatility of financial markets. The inability to earn a real rate of return on investments does much to undermine the future of many pension plans.

Pension specialists state that enormous stresses are building not only on the pension system for public employees where some States and cities have been forced to cut back on public services in order to finance a burgeoning pension system, but also on the social security system and on private pension plans as well. The question of how much money retirees should receive is creating intergenerational conflicts between the young and the old; retired public employees face additional conflicts between themselves and taxpayers concerning how much they will receive for cost-of-living increases and the like.

The case of State and local pensions is particularly highlighted in this series of articles. According to a Government Accounting Office survey, of 72 State and municipal pension plans reviewed at random last year, 53 were found to require cash infusions to keep from going out of business. Apparently, no one has calculated the total long-term unfounded liability for these programs, but it is sure to be a healthy sum. The pension of workers in private industry is protected by the Employees Retirement Income Security Act of 1974 which exempted public employees based on the assumption that they need not fear that their employers would go bankrupt. Now, amidst complaints that their pension programs are not being funded adequately, some public employee associations are seeking the same type of protection that nongovernmental workers receive.

Pension funds have had another side effect on our economy that was somewhat unanticipated: As more and more retirees are moving to the Sun Belt, there has been a pronounced shift of capital from the Northeast and the Middle West to the South. As a result, more and more investment capital has been channeled from northern industries to southern industries. Critics claim that this transfer of pension funds is systematically undercutting the economies of the northern States where most pension money is generated.

In sum, the future of pension systems and those who will be beneficiaries is troubling. Some Americans will find themselves with pension incomes that are less than adequate to maintain even a reduced standard of living. Others will put off retirement as long as possible—not out of choice, but because they cannot afford to do otherwise.

Several weeks ago, the President's Commission on Pension Policy issued a 51-page interim report to the President offering what a New York Times editorial called the leanest of sketches on the pension system. The Commission offered far-ranging suggestions such as a requirement that all businesses offer at least a minimum pension plan, that new tax breaks be given to encourage low- and moderate-income workers to save for retirement and finally a more controversial suggestion that social security benefits be taxed.

In a speech to the New York Society of Security Analysts in 1976, I stated, "Ever growing unfunded pension obligations need not be 'inevitable' if we commit ourselves now to assuring that this crushing burden of debt will not be a part of our legacy to our children and our children's children." I ask unanimous consent to have printed in the RECORD the articles on pensions from the Kansas City Star, a June 1, 1980, editorial from the New York Times entitled "The Toll of the Pension Clock" and my 1976 speech before the New York Society of Security Analysts. I urge my colleagues to read the Kansas City Star articles carefully. We may no longer delay taking action on this issue—or the future of our retired population may be bleak indeed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Kansas City Times, May 26, 1980]

INFLATION, DROP IN U.S. BIRTH RATE A DOUBLE THREAT TO RETIREMENT PLANS

(By Karen W. Arenson)

NEW YORK.—The persistent high rate of inflation is not only eating away the income of the millions of Americans who draw pensions, it also is threatening the underpinnings of the nation's entire retirement and pension system.

Unless inflation all but disappears—something few economists believe will happen—there is no way the pension fund system can provide adequate retirement income in decades to come, pension experts say.

Even if inflation were controlled, the system would still face a challenge because the nation's birth rate has dropped dramatically and in the next century, there will be fewer workers to support a retired population swelled by the postwar baby boom.

"The pension system in this country is a phony promise," said J. Anthony Forstmann of Forstmann-Leff Associates, a firm that manages about $1.2 billion in pension funds. "You can't run inflation at this order of magnitude and have the promise still survive. The standard of living of retirees has to decline . . ."

Pension funds, as distinguished from pay-as-you-go Social Security, have grown to $500 billion in assets. They make up one of the largest pools of capital anywhere, and they are growing so fast that they are expected to double in five years.

In addition to their impact on retired people, they are a huge force in the nation's economy that affects all segments of the population. They have become a vast presence in the stock and bond markets and are one of the nation's largest sources of investment capital; how this money is invested is a growing source of controversy because of its impact on whole industries and regions.

The President's Commission on Pension Policy issued an interim report Friday that expressed alarm that only half of American workers are covered by pension plans. It called for serious consideration of a requirement that all U.S. businesses offer at least a minimum pension plan to workers.

The commission said the elderly should be allowed to work without losing Social Security benefits and called for new tax breaks to encourage low- and moderate-income workers to save for retirement.

"Pension programs were not designed to provide full protection against inflation," said Thomas C. Woodruff, executive director of the commission. "If you look at the next century, when the baby boom people start to retire, you'll see the potential for intergenerational conflict is very high."

Analysts working on the commission say they think most pension programs for private and public employees are sound as they now stand.

Six years ago, Congress enacted comprehensive legislation that regulates private pension programs to assure workers that they will get the benefits they had been promised. The law also set up a government agency that arranges for other companies to provide the money for pensions of workers whose employers go bankrupt.

State and local governments and taxpayers face the risk of pension plan failure directly, because the guaranteeing legislation only applies to private plans. Further, the cost of most public employee pension plans is rising rapidly because governments tend to offer pensions far more lucrative than those given workers in the private sector. This is partly because many are indexed to increase in step with the cost of living; private plans generally are not. Also, many government employees can retire sooner than their civilian counterparts, meaning they draw pensions longer.

The problems of the Social Security System, which collects money from more than 110 million workers and provides monthly benefits to 35 million people, about one out of seven Americans, have already drawn considerable attention because of the tremendous tax it places on workers. It is likely that the system, despite its $120 billion annual budget (almost 5 percent of the Gross National Product), could run short of funds in the next year or two, particularly if there is a deep recession. This could result in an increase in Social Security taxes or a move to use general tax revenues to pay benefits.

In the longer term, the prognosis is also dismal. Government projections indicate that by the year 2030, the total cost of Social Security could go as high as 25 percent of total salaries. Employers' and employees' contributions together now total slightly more than 10 percent.

Outside of Social Security, the system of private and government pension funds is in the same leaky boat, but few people have noticed yet.

The system has flaws that would cause a huge burden in additional costs if they were eliminated. For one thing, more than half of all Americans are still not eligible for pensions for a variety of reasons. For another, most pensions, unlike Social Security, do not increase in step with inflation.

To remedy either of these shortcomings would burden private pension plans with huge additional costs, perhaps double or triple the sums they now pay, which now amount to 8 percent to 10 percent of a worker's salary.

Many companies have voluntarily increased benefits to retirees in recent years to adjust for inflation, but virtually all have adamantly refused to write in automatic cost-of-living adjustments. Most pension experts argue that the cost of offering full inflation adjustments would be so gargantuan that it cannot be done.

"There is no free lunch," said David Feldman, assistant treasurer at the American Telephone & Telegraph Co. "If pensions were indexed, corporate contributions would have to be increased. The extra money would have to come from the company, which will have to get it from customers."

Paul R. Dean, a member of the presidential commission, has noted that keeping a retiree's pension in step with a mere 1 percent inflation rate costs a company 10 percent more over the life of the pension than if there had been no inflation. If the inflation rate runs at 5 percent, the cost increases by 54 percent.

Further down the road, the eventual graying of the baby boom will also hit pension plans, much as it will hit Social Security. The pain will not be quite so sharp, because unlike the pay-as-you-go Social Security system, pension plans are funded over 30 or 40 years.

But in an inflationary economy, the money that has been set aside over 30 or 40 years to support retired workers will be worth less and less.

At the same time, pensioners will be asking for more and more to support themselves. At a 5 percent annual rate of inflation, the value of a fixed pension would drop by nearly a quarter in only five years. At the 10 percent rate some economists think will not be unlikely for some time, the real value of a pension would decline by more than a third in only five years. After 10 years, the pension would have only 39 percent of its starting value. On the average, a 65-year-old man can expect to live 14 more years, while a 65-year-old woman can expect to live 18 more years, according to the presidential commission.

So, although private pension plans have managed to duck inflation indexing so far, the pressures to change will build.

Of course, should inflation abate and the investment markets return to more placid patterns, the problems for pensioners and pension funds will diminish considerably. That is what most pension industry executives hope for, and even count on. They reason that a continuation of current trends will force the government to right the economy.

Once the baby boom starts reaching the age of 85 in 2010, the question will be how much it will cost to support the elderly, and whether the rest of the population will be able and willing to support them, be it through Social Security, pensions or any other means.

Some take the view, as expressed by Bert Seidman, director of the AFL–CIO's Department of Social Security, that the population's willingness to support the elderly, whatever the price, will not decline.

"Children and grandchildren don't feel their parents and grandparents should suffer huge reductions in living standards," said Seidman. "That's why the issue is so difficult politically. It isn't only the older people who are sensitive to this. Growing old is something that happens to everyone and there is a kind of intergenerational compact."

But in at least a few places, the intergenerational compact appears already to have turned into an intergenerational conflict. Sweden, for example, which has a generous program of providing for its elderly, has recently been caught in an overt battle between workers and retirees.

Ultimately, this is a political question. And it is one that is sure to come up again and again in the next few decades, perhaps with changing answers as the elderly population increases and its political power grows.

Thus, while there are some moves afoot now to reduce Social Security's benefit structure, that could change quickly. In the short term, retirement benefits may suffer. But over the longer term, the answer is likely to be that more money, rather than less, will be paid out.

The Census Bureau projects that, while there are now 3.3 workers supporting every retiree, there will be only about two workers for every retiree by the year 2040.

Dealing with this problem may mean taking steps as drastic as pushing back retirement to age 68, 70 or 75, and perhaps eliminating the present concept of retirement altogether.

The concept of earlier retirement, and of paid leisure, is very much a modern phenomenon, developed mainly during the last 50 years. Before that, families relied primarily on each other and on savings.

This system proved clearly inadequate in the Depression, when the market crash and bank failures depleted lifetime savings overnight. So the concept of Social Security to serve as an economic floor was developed.

The private pension system got its big lift after World War II. When wage increases could not be granted under the wage control program then, unions began to bargain more actively for pensions. Since then, a huge industry has grown around them.

In 1975, private pension plans covered about 38.5 million workers and dispensed about $15 billion in benefits. That is up from coverage of 20.5 million workers and disbursements of $1.7 billion in 1960. But these figures do not truly represent how many Americans will receive private pensions in the future. Many employees will not stay with their jobs long enough to qualify for a pension, in most places a minimum of 10 years.

The system is less a system than a collage of diverse plans—more than 1.1 million in all—offered by employers. The Department of Labor recently reported that more than 3.8 million couples and single persons 65 or older (21 percent of all elderly households) received income from private pension plans in 1978. The average income was $3.150.

No employer is required to offer a pension plan, but those who do must comply with federal regulations governing payouts and investment. For most funds, however, the problems have not been ones of legality but of how to achieve satisfactory investment performance.

Robert DeMichele, a vice president at A.G. Becker Inc., which maintains the most complete data bank of pension fund performance, says pension funds have not met their rate of return assumptions for a decade.

Becker pension fund data show that only one fund in 20 has had average earnings greater than the 7.4 percent average increase in the Consumer Price Index during the last 10 years. And even these few did not outperform the index every year. DeMichele says not a single fund in the Becker data bank of 3.500 pension funds achieved that.

Last year, according to Becker, half of all pension funds earned 13.1 percent or less, while the price index rose by 13.3 percent.

"The median plan in our data bank has had real problems meeting actuarial assumptions," he says. "If they don't close this gap, they will have to come up with large contributions from earnings, and the issue will be how much comes out of the shareholders' pockets."

It is generally conceded that there are fewer aged people living in poverty now than there were 10 or 20 years ago; the Census Bureau says that 15.7 percent of those 65 and older had incomes under the federal poverty level in 1974, compared with 25 percent in 1970 and 35 percent in 1959. But all of those gains could begin to erode under inflationary pressures unless further changes are made in the system.

[From the Kansas City Times, May 27, 1890]

Governments Swamped by Pension Costs

(By Robert Lindsey)

Los Angeles.—The cost of financing pensions for retired and disabled employees is growing so fast for many American cities that some have been forced to curtail public services just to pay for pensions.

In San Francisco, pensions for police and firefighters now consume almost 20 percent of the budget and have forced the city to defer some routine jobs such as street maintenance.

In New Orleans, a retirement program for policemen has grown "into a monster," said Police Lt. Albert Raimer, the administrator.

In Los Angeles, where pensions now account for more than one-sixth of the budget, a citizen's committee has warned that the city faces financial disaster unless pension costs are reduced soon.

"The cost of pensions is rising faster than our ability to pay for them," said City Councilman Ernani Bernardi.

According to specialists on municipal finances, employee pension plans in Boston, Philadelphia, Pittsburgh, Indianapolis, Detroit and many other cities, as well as some statewide pension systems, are in poor financial health because they have not put away enough assets to support retiring employees.

Thanks to reforms made as a result of a fiscal crisis, New York City's pension funds generally are in good shape, city officials say, but the fund covering firefighters will need a cash infusion in the next few years to stay solvent.

The pension squeeze on cities is one dimension of a broad range of problems bedeviling the pension programs on which millions of public employees, including the military and federal civilian workers, are basing their retirement plans.

The problems also affect the public at large because public employees' pensions are paid with tax dollars, and many programs for public employees are far more generous than those for workers in the private sector.

In turn, this is part of a still larger set of problems. With the United States entering an era when fewer young workers will be forced to support a growing population of retired workers, actuaries and other pension specialists say enormous stresses are building not only on the system of pensions for public employees, but also on Social Security and pension funds for workers in the private sector.

Inflation and shifting demographic patterns, they say, are jeopardizing the economic foundations of many private and public retirement programs, threatening to leave many workers with smaller pensions than they now expect and setting the stage for political conflict between young and old.

"I think we'll see a growing intergenerational conflict over pensions in the years ahead," said Thomas C. Woodruff, executive director of the President's Commission on Pension Policy, which on Friday issued an interim report of a two-year study.

The report expressed alarm that only half of American workers are covered by pension plans. It called for serious consideration of a requirement that all U.S. businesses offer at least a minimum pension plan to workers.

The questions of how much money workers should receive after they retire and how these pensions should be financed are creating big divisions—between young and old and between taxpayers and the public employees that work for them, pension specialists say.

The conflict is developing, they say, because a double standard for retirement benefits has evolved. Under this standard, many public employees will receive pensions far greater than those received by people retiring from jobs in private business.

Military personnel, for example, may retire after 20 years with a lifetime pension equivalent to half their base pay, plus free medical care, access to cut-rate food commissaries and military shopping centers, and other benefits not available to the general public.

Under this system, military personnel can retire in their mid-40s, take another job and qualify for a second pension.

Another significant distinction between most private pension benefits and those granted federal employees is that they increase with inflation.

After intense lobbying by advocates of federal civil service and military employees, Congress enacted legislation that raises pensions of retired federal employees twice a year, according to rises in the Consumer Price Index. This sort of clause is almost unheard of in private industry.

The provision has been a boon for ex-military people and former federal employees, and apparently has had some effects that few members of Congress anticipated.

According to a recent federal study, almost 100,000 retired federal workers receive larger monthly checks than they did while working full time. Under the law, their pensions—and those of the 3 million other retired federal workers—will continue to grow as long as inflation continues and they remain alive.

Only a few private pension programs are linked to the Consumer Price Index, and most have a limit on the amount of increase, commonly 3 percent or 6 percent.

During the last decade, pension expenditures for ex-military personnel have quadrupled, to $13.7 billion, and the cost of pensions for non-military former civil servants has increased almost six times, to $17 billion.

With its ability to raise taxes and spend more money than the nation takes in through deficit financing, Congress has been able to keep up with this liability for pensions.

But a different situation faces state and local governments, many of which have promised retirement benefits that are almost as generous as those granted federal workers, but which have not set aside the money to pay for them. As a result, many of these plans are technically bankrupt, some analysts say.

Spending by state and local governments on employee pensions has quadrupled, to $16 billion, during the last four years.

"Two things happened to send the cost of pensions soaring," according to Harold A. Conroy of the New York State Permanent Commission on Public Employee Pension and Retirement Systems. "One was that public employee unions bargained and won sizable pension increases, and the other was the big jump in the number of public employees."

Nationally, between 1965 and 1978, the number of people on state government payrolls jumped to 3.5 million from 2 million, and the number of local government workers increased to 9.2 million from 5.9 million.

The Government Accounting Office reviewed 72 state and municipal pension plans at random last year and found 53 that would require cash infusions to keep from going out of business. No one has calculated the long-term, unfunded liability for these programs, but two examples illustrate the situation: a statewide system for California teachers with an unfunded liability of almost $7 billion, and a statewide system in Michigan with one of $3 billion.

An unfunded liability is the difference between how much money has been put away and the long-term commitment to present and future retired persons.

Pension specialists say states and localities vary widely in the generosity of pension programs and that many programs are far from lucrative. Generally, they say, workers in the nation's largest cities and states have been the most successful in expanding their benefits.

According to persons who have studied the evolution of these programs, the increase in the fiscal load on cities and state governments closely parallels the increase in political sophistication of public employees and their unions, beginning early in the 1960s.

[From the Kansas City Times, May 28, 1980]

Pension Fund Investments Provide Greener Pastures

(By William K. Stevens)

Green Valley, Ariz.—In a pronounced shift of wealth and capital between regions of the United States, billions of dollars in pension benefits and pension fund investments are flowing from North to South and from East to West. The transfer of money is helping to fuel the Sun Belt's growth and development at the expense, some say, of the Northeast and Midwest.

You can see the shift with outstanding clarity in this sunny desert retirement village of 11,000, 35 miles south of Tucson that seemingly sprang from nowhere just yesterday.

The gray-haired emigres from the East who flock to the Green Valley post office the first of each month to pick up pension and Social Security checks, and who then head next door to the Valley National Bank, are only the smallest indications. Far more of the money transfers take place silently. Other pension checks, 2,000 of them at once, come directly to Valley National and are deposited automatically. Most are drawn on Northern banks with names like Mellon or National Bank of Detroit or Manufacturer's Hanover Trust, at the order of United States Steel Corp., General Motors Corp., or the New York State Employees Retirement System.

At the same time, a stream of electronic impulses generated in Washington flashes to Valley National's computer terminal. Converted to a paper printout, the impulses produce a list of automatically credited, individual Social Security deposits that runs more than 20 feet. Other similar impulses arrive periodically, bearing deposits from federal military and Civil Service pension funds.

The "green" in Green Valley might well stand for the estimated $165 million that is on deposit in the town's four banks and three savings and loan associations. Most of it, bankers say, consists of pension money. A place that was little more than sagebrush and mesquite a decade ago is today a town that represents a capital investment estimated conservatively at $200 million.

Green Valley, with its adobe bungalows and villas, represents a new kind of controversy over pension funds. The funds already are a source of questions about how wisely their managers decide how much money to set aside to cover future liabilities and how they will be able to survive persistent high rates of inflation; in recent months, concern has been growing about the effects of the funds' investment decisions and the flow of their benefits from one region to another.

What is happening in Green Valley is also happening across the southern states, from Florida to southern California. As a steadily increasing number of the country's over-65 population moves from North to South, proportionately more pension benefits are coming with them. The money not only enables new retirement communities to develop, but it also pumps new financial blood into larger, longer-established places.

And as the Sun Belt's economy takes on a healthy glow, investment managers in the North apparently channel more money into Southern industries.

"The investment managers have found them"—these Sun Belt opportunities—"by a natural evolutionary process," says Jerry Minton, a vice president of the First National Bank of Fort Worth and a member of the executive committee of the American Banking Association's trust division.

The nation's pension funds are estimated at $500 billion and are expected to double in five years. They are one of the largest sources of investment capital anywhere, and as such, they tend to be invested in the same direction as capital generally—from North to South and West.

The magnitude of the combined shift of pension benefits and pension fund investments cannot be pinpointed. An analysis of available goverment statistics, however, suggests the South and West reaped an estimated net gain of $5 billion to $7 billion a year in pension benefit disbursements in 1979 compared to 1970.

Put another way, $5 billion to $7 billion that would have been spent in the North under the 1970 pattern of allocation was spent in the West or South under last year's pattern. Pension disbursements grew substantially in all sections of the country in the 1970s, reaching an estimated total of $120 billion last year, but they clearly grew faster in the Sun Belt.

No systematic survey of the amount of pension fund assets that have flowed south and west exists. But critics say the use of pension funds in this manner undercuts the economies of the Northern states, where most pension money is generated. Those states still comprise the nation's industrial heartland, fostering strong union pension funds and public employee retirement systems.

The transfer of pension money between regions is part of a more general shift of people and activity from the Northeast and Midwest to the South and West. An analysis of Census Bureau estimates indicates that about 6 percent of Americans aged 65 or older moved in that direction in the 1970s. This is roughly the same percentage of the general population that shifted between the regions, and it amounts to a net gain of 1.5 million elderly persons for the South and West in the course of the decade. The census estimates suggest about half of the nation's elderly now live in the South and West; in 1970, about 45 percent did.

They come for sun and ease, says James W. Abel, who moved to Green Valley from New York with his wife, Mary Elizabeth, after retiring as a professor of phonetics at Brooklyn College in 1973. His monthly pension from the New York City Teachers Retirement System helps sustain the Green Valley economy; as does Joseph F. Byrne's $600 a month earned as a tool-and-die maker for General Motors in Detroit.

Once the elderly arrive in the Sun Belt, they settle in uneven patterns. Their financial impact on a given area therefore varies. For example, California, Florida, North Carolina, Texas and Virginia have the biggest concentrations of military retirees. According to the Pentagon, 44 percent of the $9.8 billion in military pensions paid out in 1979 went to those five states. But the relative impact on California and Texas is far less than in Florida, because California and Texas are huge states with diversified economies that have many sources of wealth and because people of all ages are moving there in search of economic opportunity.

In the 1970s, the elderly population grew at a faster rate in California (29.3 percent) and Texas (31.9 percent) than in the nation as a whole (23.5 percent). This was well ahead of New York's increase of 8.4 percent. But it was far behind that of Florida, with 62.7 percent, and Arizona's 79.5 percent. It is in the latter two states, therefore, that the financial impact of retirement benefits is growing fastest and means most to the economy.

Green Valley is a case in point. Annual retirement incomes of $30,000 a year in pensions, Social Security and interest on personal investments are not uncommon here. That money promotes the community's growth in several ways. Some of it is converted into an estimated $30 million a year in retail sales in the two crowded shopping centers that have sprung up. Some of it finds its way to Tucson, as Green Valley residents drive there to take advantage of cultural offerings. Some end up in Mexico, as Green Valley shoppers make day trips south of the border in search of bargains.

And some winds up in the accounts of the local savings and loan associations. It is almost a ritual for some residents to walk out the back door of Valley National Bank after depositing pension checks and head across the street to transfer some of that money into an account at Pima Savings and Loan. There, the money helps to finance further development in the community.

The geographical flow of investments of pension fund assets is different from that of pension benefits. This cannot be demonstrated directly, but it can be inferred if the national pattern of new capital expenditures in manufacturing, a precisely marked yardstick, is taken as an indication of the overall pattern of economic activity and investment.

From 1972 to 1977, according to the Commerce Department, new capital investment in manufacturing increased by 295 percent in Texas and by 110 percent in California, while growing by 62 percent in Florida and 11 percent in Arizona. Texas, in fact, overtook and pulled far ahead of Michigan in that five-year period as the No. 1 state in new capital expenditures for manufacturing.

Likewise, the South (including Texas) replaced the Midwest for the first time as the region of greatest new investment in manufacturing. In total new capital investment in private enterprise, the South and West achieved a net gain of $17 billion a year more than the Northeast and Midwest in 1977 compared to 1972.

Although this pattern cannot necessarily be related directly to stock and bond investments, it is considered indicative of the general flow of capital.

The shift is likely to be substantial, says economist Randy Barber, because pension funds own 20 to 25 percent of all stocks on the New York and American stock exchanges and 40 percent of the bonds issued by American corporations.

An informal sampling of recent holdings of some selected Northern pension funds, compiled by Corporate Data Exchange Inc. of New York, indicates that investments in companies situated in the Sun Belt are common.

Why don't pension funds restrict their investments to home ground? That question has been debated during the last 18 months, or since Barber and a colleague, Jeremy Rifkin, raised it in a book *The North Will Rise Again: Pensions, Politics and Power in the 1980s*.

Barber and Rifkin argue that those who put their money into private pension funds, workers and companies, should have greater voice in how the money is invested.

A counterargument says that the primary consideration is to secure the worker a maximum return on his money, and that Northern investments are not always the best these days.

Labor unions, state and local government pension funds and investment managers are said to be exploring ways in which the Barber-Rifkin strategy might be worked out.

[From the New York Times, June 1, 1980]

THE TOLL OF THE PENSION CLOCK

Consider:

One of every seven Americans over the age of 65 lives in poverty; 72 percent are unmarried women.

Only half of all working Americans contribute to private pensions, and only about half of that half possess the right to carry the pension to a different job.

About 11 percent of today's population is over 65; when the baby-boom generation has grayed, in 2035, the proportion will be double, approaching 22 percent.

These facts are from a recent study by the President's Commission on Pension Policy—a committee effort that was calculated to offend as few as possible. But they are no cause for cheer or complacency. The burden of supporting retired Americans is growing rapidly. Yet millions are finding that their pensions cannot buy a retirement of comfort and dignity. The commission wisely urges reform of Social Security and fresh incentives for personal retirement savings.

The main weakness of America's central retirement system is its excessive dependence on pay-as-you-go financing. Social Security was originally intended as a backstop to private pensions and personal savings. For many, however, it soon became the only source of retirement income. The Federal Government now pays three out of every four pension dollars.

This heavy reliance on Social Security has disturbing implications. Because its payments are always paid from current revenues, every increase in the number of retirees, or in their benefits, immediately increases the burden on current taxpayers. It also means that the welfare of much of the retired population always turns on the will of Congress and Federal planners. The present benefits, for example, leave millions of widows and divorced women near poverty.

What can be done? The Presidential Commission tentatively recommends making Social Security less dependent on tax revenues. Equally important, it urges tax incentives to promote retirement savings.

As others, too, have urged, the Social Security burden could be reduced by raising the eligibilty age to reflect increasing life expectancy, requiring all workers to contribute, and taxing benefits in the same way as private pensions.

The commission's radical proposal is to set aside in advance at least a portion of the funds for Government-mandated retirement benefits, as is done in private pensions. The commission offers no specific plan but suggests that Washington either run an actuarially sound pension system or write broader regulations that would set higher standards for private pensions and make them portable from job to job.

To encourage personal savings, the commission also urges revamping their tax treatment. Under current law, taxes are generally deferred on contributions to retirement plans, a substantial incentive for those in high tax brackets. But for someone earning $15,000 a year, the tax break is insignificant. The commission would allow a tax credit rather than deduction, thus giving the same dollar value to all income groups.

As the commission was the first to point out, its report is the leanest of sketches. Even its most modest recommendations, like requiring Federal employees to join Social Security, would be resisted in Congress. But the report is a clear warning that change is needed now, before resistance to change becomes even more formidable. To ignore the problem is to condemn the old and the dependent to still greater hardship.

[From the Congressional Record]
Feb. 3, 1976]

GOVERNMENT PENSIONS

Mr. Muskie. Mr. President, I would like to call the Senate's attention to a speech made earlier this month by the Senator from Missouri (Mr. Eagleton) on the subject of public employee pension programs.

Senator Eagleton points out the growing burden that will have to be borne by State and local governments, and indeed by the Federal Government, if present trends are allowed to continue. The call for prompt attention to this problem and for a reassessment of pension funding is long overdue.

Mr. President, I ask unanimous consent that Senator Eagleton's speech to the New York Society of Security Analysts be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

THE CRISIS IN PUBLIC PENSION SYSTEMS

(By Senator Thomas F. Eagleton)

A financial time bomb is ticking away in the obscure inner reaches of government. As each day goes by, the staggering pension obligations of government—federal, state, and municipal—grow and become more burdensome. The point is at hand where governments must consider not only current pension obligations, but also future commitments as they will bear on the ability of governments to meet these obligations, remain viable entities, and not disrupt the national economy.

In recent months, much attention has been focused on the New York City crisis. No one event, no one condition, no one person brought New York City to its knees. Rather, a series of things and individuals interacted to bring about the crisis. One of these was the burgeoning stack of bills for New York City's retirement plans, the cost of which tripled in ten years' time.

The New York experience has moved me to examine this problem in other contexts, both nationally insofar as the U.S. government is concerned, and locally in the District of Columbia in my capacity as Chairman of the Senate D.C. Committee.

We are just beginning to discover the magnitude of the problem. Cities, states, and the federal government have set up a web of retirement obligations that could have negative consequences for our children's standard of living. For states and municipalities, retirement costs may, over the next quarter century, force choices between bankruptcy and crushing tax increases. On the federal level, the alternatives are more taxes on workers and investors, faster money growth, or the postponement of other claims on output such as those for energy, housing, and pollution control.

The national economic resources that we can draw on are limited—a little more plentiful perhaps if we manage the economy wisely, but nevertheless limited. We just cannot continue to increase public pension benefits as we have done and still expect to enjoy rising standards of living in the future. If we want governmental retirees to receive all of the benefits that they now expect, we will have to give up something somewhere along the line—today's consumer spending, tomorrow's consumer spending, capital investment for the nation's future—something must give. The choice will be made for us if we do not act. The problem will not go away. Either, the cost of burying our heads in the sand today will be an even more devastating economic crunch in the years ahead.

Let me discuss briefly the status of the major public employee pension plans. There are approximately 2300 state, county, and municipal retirement programs in the country covering about 9 million workers. Then there are the two major federal retirement systems; civil service and military, covering roughly 7.5 million workers between them. The social security program, of course, also pays benefits to retired citizens. But that system is more one of income transfer than a true pension. The problems of the social security system, moreover, warrant a speech in themselves.

I already mentioned the growth in pension costs for New York City—the payments for retirement plans tripled in ten years; retirement costs will continue to be a major component of the city's operating budget. New York City today is spending $1.2 billion annually on retirement programs, and even at that rate it would cost an additional $400 million to $700 million a year for full funding. By 1985 New York will have at least $3 billion in unfunded pension obligations.

New York is unfortunately not alone. Washington, D.C., with a population a tenth that of New York, already has unfunded pension liabilities exceeding $1 billion. Los Angeles, and perhaps other cities as well, will reach that billion-dollar level in ten years.

The pinch in state and local pension systems is just beginning to be felt. Unlike the federal government, which has printing presses to run off enough money to meet its bills, state and local governments face constitutional requirements to operate on balanced budgets. With many jurisdictions experiencing erosion in their tax bases, needed public services may have to be cut in order to meet obligations to retirees.

Pension benefits are more likely to increase rather than decrease. Expansion in city services nationwide has resulted in a rapid increase in employment and payrolls. Between 1957 and 1972, state and local government employment grew three times as fast as private employment. When this past growth in public employment is coupled with the great improvement in real pension benefits that we have seen, the outlook is for serious difficulties for many state and local governments.

The problem will be particularly acute for older cities of the Northeast and Midwest with declining populations and expanding costs. According to a study by the American Enterprise Institute, full funding would require double the current rate of pension fund contributions under even the most optimistic assumptions.

Many cities have been virtually excluded from the municipal bond market. Interest rates paid by some still able to sell securities are at astronomical levels. Investors are clearly looking at these tremendous pension obligations looming up ahead as they contemplate the purchase of 20-year or 30-year bonds.

A few additional points are worth noting. Big cities are losing population, and the residents who remain are demanding ever increasing levels of service. Higher local taxes are chasing away businesses and property owners. Regressive tax systems fail to produce expected revenues. Where are these jurisdictions going to get the money to pay for police and fire salaries, when huge chunks of the budget are earmarked for retired policemen, firemen, teachers, sanitation workers, and the like? Investors will be reluctant to loan money under these circumstances. That leaves the federal government, which was the unwilling lender of last resort in New York's case.

But the federal government has been setting a bad example itself, and in so doing has made coping even more difficult for state and local governments. Since many state and local jurisdictions take into account salaries and benefits at the federal level, any action taken in Washington is echoed from coast to coast. So the federal government, while able to pay higher benefits itself, may be leading smaller units of government direcly to its door.

The magnitude of the problem on the federal level is even more staggering, despite the obviously greater ability to meet pension costs. The civil service program is partially funded, yet still has an unfunded liability of $100 billion. Military personnel do not contribute to their retirement plan, and that system has $155 billion in unfunded obligations. Moreover, the federal government has been lax in assessing the impact of benefit improvements and the relaxation of eligibility requirements.

A pension benefit that has contributed significantly to the poor fiscal state of the funds has been the lowering of the retirement age. Civil Service employees can retire with a full pension after 30 years of service after they reach the age of 55. Military personnel can retire after 20 years of active duty, regardless of age. According to the Pentagon, the average military retiree can expect to receive in retirement pay an amount equal to more than twice the amount he received while on active duty. Where in the private sector can a worker retire with full benefits at such an early age?

Moreover, after retirement, civil servants may work in private industry long enough to entitle them to collect social security in addition to their pensions. In 1972 the Civil Service Commission discovered that over 40 percent of all civil-service retirees received social security checks as well as their government pensions. Because military personnel contribute to social security, eventually they will receive two retirement checks and if they become civil servants or work in private industry after they retire from military, they could qualify for three pension checks.

Benefits paid under many of these pension plans are automatically increased with inflation, and this provision has contributed to the sharply rising costs. Federal civilian and military pensions are raised automatically when the consumer price index jumps three percent or more and remains up for three consecutive months. To make up for the purchasing power lost during the wait, an additional one percent increase—known as a "kicker"—is tacked on to the pension.

According to various studies, the kicker actually results in overcompensation for inflation. Since 1966, price-related increases have raised pensions by 83 percent, while consumer prices have risen 63 percent. If the cost of living rises at six percent a year, the kicker will give the average retired serviceman a pension 19 percent higher than he needs to keep pace with price increases. The ability of these pension systems to keep up with or ahead of inflation has encouraged workers to retire earlier because their pensions will rise faster than their wages had they opted to continue working.

Another factor that is worrisome as we look toward the next century is the increasing number of retirees and the smaller number of persons entering the labor force. For the rest of this century a large work force resulting from the postwar baby boom will be able to produce benefits for the relatively small retired population. The low birth rate of the 1970's, however, means that when the baby-boom era workers reach retirement age after the turn of the century, there will be a relatively small work force to provide high benefits for a large number of retirees, given the fact that so many of these retirement systems are not adequately funded.

Many funds are operated on a "pay-as-you-go" basis rather than being fully funded; some are completely unfunded.

Eligibility requirements have becomes less stringent, enabling more workers to receive pensions sooner.

Real pension benefits have been improving.

Many pensions are increased as the cost of living goes up.

The number of retirees relative to the number of active workers is increasing.

State and local payrolls have been enlarged.

What can we do about the condition of our public pension systems? The problems are not going to disappear. Yet we do not want to act precipitately to jeopardize the security of our older citizens or to suggest to them that we are going to renege on benefits they have earned. Instead, we must develop a course of action that will place public pensions on a firm footing, and insure that pension promises made now will be honored in the future.

If we do not face up to the problem now, we are headed for trouble. Cities will be unable to meet their unfunded pension commitments without confiscatory taxes. States will have to begin assuming some of the pension burden from their cities. Even the federal government is not immune.

Even absent any inflationary impact, the federal retirement programs will find their annual costs quadrupled in 25 years. Unless the Gross National Product can be counted on to grow commensurately, very serious problems will develop. To pay currently required benefits to future retirees, federal taxes might have to be increased. That could put a heavy drain on the private economy. Alternatively, the government might decide to fund these programs by merely printing money. And the cost in terms of inflation would be great.

Somewhere the money will have to be found, and that may mean cutting into other areas of the federal budget. Let me illustrate what I mean: Each year when the defense budget comes up for review in the Senate, a number of us zero in on various military hardware items that we think are unnecessary and wasteful. We have taken on such things as the C–5A plane, the MBT–70 tank, the Safeguard anti-missile missile, along with a number of other military boondoggles—and we have lost more of these battles than we have won. In the best of years we might slice a few hundred million dollars from the Pentagon's budget.

Those are the fights that get all the public attention, but the fact is that more than half of the $90 billion defense budget is locked in for personnel compensation—paychecks and pension checks—and are largely immune from such cuts. A recent study by the Brookings Institution concluded that the present system, left unchanged, will result in military pension benefits siphoning off funds from the defense budget that are essential for national security.

Unless we act now, in future years, the classic question of economic priorities could become "Guns or pensions?"

As new public employees are hired, there are some actions which could be taken to preserve our rising standards of living and to control the growth of pension costs. If benefit levels for pensions are not changed, then the retirement age could be raised. Some government pensions are payable as early as age 50. The practices of receiving multiple pension checks from different sources should be examined to see if the original intentions of government pensions and social security are being faithfully carried out. A number of other structural changes are possible, and I earlier enumerated some of them.

But there is a more fundamental reform that is urgently needed: fiscal discipline. We could go a long way toward addressing the pension problem if public officials, taxpayers, and public employees were shown the true costs and implications of the pension systems that are being put into place. It is too easy, I think, for a mayor or a governor or even the U.S. Congress to promise lavish future benefits, knowing that the credit will be accorded today while the bills will be paid by the next generation. A greater level of funding, requiring some of the future costs to be paid today as they are incurred, could impose the necessary discipline.

This year, for the first time, workers in private industry will have their pension benefits protected under ERISA, the Employee Retirement Income Security Act of 1974. The law mandates standards for vesting and funding of pension plans and provides for a system of reinsurance.

Public employees were not covered by ERISA, but a little-publicized provision, Section 3031, bears on this issue. That section requires that a study be made of public pension plans by, among others, the Senate Labor Committee, of which I am a member. We have to report our recommendations to Congress no later than the end of this year. The study is mandated to include the adequacy of existing levels of participation, vesting, and financing; existing fiduciary standards; and the necessity for federal legislation or standards. I think as part of that study we should consider the possibility of having the federal government set standards for public as well as private pension plans.

The funding and disclosure requirements of ERISA are designed primarily to protect the employee. Similar requirements for public plans would impose a greater sense of fiscal accountability and be a major protection for the taxpayers. Full actuarial funding, as is required for private plans, may not be appropriate for public pension systems. But advance funding to provide a cushion against lean years of, say, ten years' retirement benefits, would be of tremendous value.

Some believe that because governments have the power to tax and the ability to raise money in the credit markets, funded pension systems are not necessary. I disagree. Reasonable advance funding requirements would insure that enough money will be in the fund to pay employees during their retirement. Advance funding makes the true cost of improved benefits felt immediately, creating fiscal responsibility. And such advance funding would reduce the cost to the taxpayer in the long run because part of the cost of benefits could be provided by investment earnings.

These are the general areas where changes must be made. But I have a few specific suggestions that should be implemented immediately. Before we can decide where to go on pensions, we must know where we are. And that is more difficult to determine than you might imagine.

An accountant can pick up the financial statement of a major corporation and know immediately when that enterprise is healthy or insolvent. Not so with the books and records of States and local governments, or the federal government for that matter. A key to this whole issue is good bookkeeping. Audits keyed to generally accepted accounting principles would show the magnitude of pension debt, the availability of resources, the reliability of revenue and expenditure estimates. The federal government can take the lead in this area, by putting its own books in order and by requiring the large state and local jurisdictions to submit to audits and SEC registration before they go to the bond markets.

Another thing we can do is start telling people that the well is running dry. We must say clearly: if pensions go up, then so do taxes.

Congress can ill afford to ignore the consequences. The magnitude of dollars involved in this pension business is staggering. Civil service and military retirement costs will, without inflation, go from $13 billion now to more than $50 billion by the year 2000. State and local pension plans are paying out $7 billion annually now and in a quarter century they could easily eclipse total active payrolls.

For too long, government at all levels has been quietly committing future generations to paying off enormous pension costs as though that were somehow an inevitable fact of modern life. The late Justice Felix Frankfurter once reminded us that, "There is no inevitability in history except as men make it so."

We have it in our power to—at the least—make a beginning in dealing with this problem. Ever growing unfunded pension obligations need not be "inevitable" if we commit ourselves now to assuring that this crushing burden of debt will not be a part of our legacy to our children, and our children's children.

QUORUM CALL

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued with the consideration of the joint resolution (H.J. Res. 521).

Mr. ARMSTRONG. Mr. President, Senator STENNIS and Senator NUNN have done us a service by bringing to our attention some of the serious military manpower problems which confront our Nation. I say this notwithstanding the fact that I shall speak in opposition to the proposal which is now pending, House Joint Resolution 521, and I intend to associate myself, instead, with the position of the Senator from Oregon (Mr. HATFIELD).

In fact, there have been very few occasions on which I have been more sure of my ground than I am in opposing this particular approach to the Nation's military manpower problems.

I especially compliment and congratulate the Senator from Oregon for his leadership in this matter. I believe he is carrying forward a fight which is important to Americans in every section of this country. He is carrying forward a fight which can affect not only people of draft age at the present time but also generations of youngsters who, at some later time, will reach the age at which they might be subject to the draft. What he is doing here is very important, and I associate myself completely with him in this worthwhile effort.

Just to put the matter in perspective, Mr. President, House Joint Resolution 521, as I understand it, would transfer approximately $13.2 million from the military personnel account of the Air Force to the Selective Service System to implement the premobilization postcard registration system for 19- and 20-year-old men.

It has been argued—and I know there are those who argue seriously—that an effective premobilization draft program could materially enhance this Nation's capability to fight a war if we were forced to do so. While I am not going to discuss at great length today the merits of this particular draft registration proposal as compared with a more comprehensive plan, it is important to distinguish this proposal from the kind of comprehensive mobilization effort that some have argued would be necessary and desirable. I make that distinction because, in my judgment, and while I do not necessarily favor it—in fact, I do not presently favor any kind of draft registration or preparation for draft registration—I would not want anyone in this Chamber to vote for this proposal thinking that it was an effective mobilization plan, because it certainly is not.

Having staked that out, I will state what I think the main effect of adopting House Joint Resolution 521 actually will be.

What we are looking at is not a forerunner of an effective mobilization draft plan to be implemented in time of war. What I fear is that, on the contrary, we have a stalking horse for reinstitution of peacetime conscription.

It has been argued that an effective premobilization draft plan would be a great boon to national security. Such a plan, having provided for examination and classification of draft-age men, could reduce, we are told, by as much as 100 days the time required to produce trained soldiers in the quantity needed to fight a war, particularly to repulse a projected Soviet attack in Western Europe or elsewhere around the globe.

House Joint Resolution 521, in my view, has all the liabilities of a real draft registration plan, without the corresponding advantages.

First of all, this plan requires that all 19- and 20-year-old men register, including those who are obviously physically unqualified. Under this plan, there be no way of knowing which of those young men who were on the list were potentially qualified to serve, in the event they needed to be drafted. We are talking about the creation of a list little more than an address and telephone directory.

President Carter's original draft registration proposal called for the registration of women. This was a mistake, in my judgment. Women are forbidden, properly so, from serving in the combat arms, and it is for the combat arms that a draft is required. However, the absence of women in the draft registration proposal seems likely to me to generate a court suit, which would delay implementation of a draft registration plan, if and when we were to enact such a scheme.

In any event, all this is really beating around the bush of the main issue, because I believe that implementation of any kind of draft registration or predraft plan is inappropriate at this point.

Not even a real draft registration plan would produce trained soldiers fast enough to rapidly reinforce our Active and Ready Reserve Forces. A minimum of 3, and probably 6 to 7, months would elapse before casualties in existing units could be replaced in the new combat formations formed from draftees.

Draft registration, however, it might be conceived, would be of virtually no value in a war of short duration. In a long war, the 7 to 10 days between the premobilization postcard registration plan contemplated here and the postmobilization plan is far less significant than the time which is required to replenish war reserve stocks and to mobilize our industries for defense production.

The fact is that we have let our war mobilization capability deteriorate to such an extent that it is likely to take far longer to produce weapons and uniforms for the draftees and the transport to get them to the battle zone than to produce trained soldiers, even assuming the most pessimistic estimate for a postmobilization registration and draft plan.

Although House Joint Resolution 521 will do little, therefore, to enhance the national security, it may very well undermine the consensus which is now forming about the need to do more to strengthen our national defense.

That, I say to my colleagues, is my most serious reservation about this proposal. Enactment of House Joint Resolution 521 may well give Senators and other Americans the impression that something significant is being done to strengthen our national defense, when, in fact, nothing of the sort is being done.

I fear that this could lead to the postponement, or perhaps even the abandonment, of measures which are urgently required to meet the Soviet threat.

An example of the skewed priorities of House Joint Resolution 521 is the method of funding. The administration is not proposing an increase in defense-related expenditures to finance its draft registration scheme which is now before us. Instead, the administration proposes to transfer the funds required to the Selective Service from the Air Force's military personnel account.

This seems to me to be foolhardy at best.

All of the service chiefs agree that by far the most pressing defense problem is the quantitative and qualitative manpower shortage in the Active Forces. Yet in the proposal we are talking about diverting funds from already grossly inadequate funds for military personnel in order to create a standby draft registration scheme of questionable and dubious value.

I suppose it could be argued that $13.295 million is such a small amount proportionate to total spending for the Defense Department that it will not have much impact one way or another on recruitment and retention of quality personnel. In any event, even though it is proportionately a small amount, we are talking about weakening rather than strengthening our national defense if we devote any amount of funds from a higher priority concern to a lower priority.

In my opinion, we need to get our priorities straight.

Although recent congressional actions have been heartening, Congress and the administration have not yet approved anything approaching the level of defense spending required to meet the ominously growing Soviet threat. In my judgment, it is critical that we spend our defense dollars wisely and with utmost attention to priorities.

A reasonable reordering of spending priorities would place military personnel needs high on the list. In my judgment, our top priority is to retain more of the skilled middle grade officers and noncommissioned officers who have been leaving the service in record numbers as a result of inadequate compensation.

Our top priority has to be to retain more of the skilled middle grade officers and noncommissioned officers who have been leaving the service in droves as a result of inadequate compensation. It is important for us to remember that all the military hardware in the world is only so much icing on a hot cake without the right men and the right numbers of the right kind of men and women to operate this equipment.

Our second priority is also a personnel concern, and that is to attract more high quality young people into the Armed Forces.

Our third priority should be to provide enough funds for operation and maintenance so that we can properly train the soldiers we have and properly maintain the military equipment that is already in use.

Our fourth priority should be to produce new ships and aircraft at a level of production at least high enough to offset losses and obsolescence, and to reduce unit costs to the most economical level.

When we begin to deal with these pressing problems, we should then direct our attention to recruiting, retention, training, and equipping of soldiers in the National Guard and the Ready Reserve.

At that point, it would seem to me appropriate for us to evaluate how can we accomplish these objectives. To what extent, if any, would the draft, let alone the stand-by draft registration program now pending, contribute to these objectives?

In my judgment, neither the draft nor the registration proposal contribute anything to the solution of these problems. A draft can theoretically prevent a shortage of privates and perhaps the existence of a draft can prevent a shortage of second lieutenants, but it cannot provide us with the corporals, the sergeants, the captains, and the majors where the manpower shortages are now most critical. It is not widely appreciated but the Armed Forces were actually overstrengthened last year in the three lowest enlisted and the two lowest officer grades, the only grades which would be directly affected by the resumption of a peacetime draft.

Resumption of the draft perhaps could solve a portion of our recruiting problems but do so less effectively and more expensively than alternative measures consistent with the principle of the All Volunteer Force.

Mr. President, the All Volunteer Force deserves to be strengthened and maintained. It is important to remember there would be no recruiting shortfall at present were it not for the unreasonable demands imposed by our present very low rates of retention.

The present shortage of noncommissioned officers, approximately 70,000, is more than double last year's recruiting shortfall.

Resumption of the peacetime draft might raise the level of aptitude among recruits and make them more representative of society as a whole, but it would do so in an expensive and inefficient manner.

In order to draft the relatively small number of individuals required to bring the Armed Forces up to authorized strengths, and to replace some of the volunteers in the lowest mental category with individuals of greater aptitude, all would have to be registered, classified, and examined. I am told that this would cost upward of half a billion dollars a year.

There is a way that we can raise the level of aptitude in the Armed Forces faster and more cheaply, and that is by restoring the GI bill education benefits for honorable service.

The World War II and successor GI bills have proven to be the most successful social programs ever instituted by the U.S. Government, returning to the Treasury in tax revenues several times their cost as a result of increased earnings by veterans who otherwise would not have been able to afford to continue their education.

More important, the GI bill was the most effective recruiting incentive the Armed Forces have ever had.

In September of 1974, the Army conducted a survey of more than 11,000 recruits at Armed Forces entrance examining stations throughout the United States. Twenty-four percent of those who were surveyed said flatly they would not have enlisted if there had been no GI bill. An additional 36 percent said they were not certain they would have enlisted or not if they had not been made eligible for education benefits.

After factoring out the indifferents, the Army concluded that terminating the GI bill—which Congress did in December 1976—could depress the pool of potential recruits by as much as 36.7 percent.

In addition, the Army said terminating the GI bill would require a 17-percent increase in annual accessions just to offset increased losses due to attrition the Army could expect as a result of drawing a disproportionate number of recruits from the lower mental categories.

The drawing power of the GI bill was amply demonstrated in the 3 months preceding its termination. On October 20, 1976, the Armed Forces announced the GI bill would not apply to those enlisting after December 31 of that year. Approximately 100,000 persons joined the uniformed services during that period, approximately double the normal first-term enlistment rate for that time of year.

Termination of the GI bill has brought about even more dismal results than the Army predicted. The number of those in the highest mental category enlisting in the Army has dropped by nearly two-thirds, and the number of enlistees in the second highest mental category has dropped by more than half. The rate of attrition in the Army has climbed to nearly 40 percent, as contrasted with the 18 percent which the Army predicted would be deemed "unacceptable."

The other services report similar findings. A Center for Naval Analysis study reported termination of the GI bill has caused a 17-percent loss in Marine enlistments, with a 24-percent loss in high school graduate enlistments. The Air Force and Navy report steady drops in enlistees in the highest mental categories.

In my judgment, the best way to solve the problems created by termination of the GI bill is to reinstate the GI bill, certainly not to reinstate some form of peacetime conscription.

Properly tailored educational incentives almost certainly would bring into the Armed Forces at least 50,000 high-quality recruits, enough to resolve present recruiting shortfalls even without addressing the problem of retention, and to replace 15,000–20,000 enlistees from the lowest mental category with volunteers from the highest categories.

An injection of 50,000 high quality recruits each year would raise the aptitude levels of the Armed Forces far faster than would the draft, which would bring in only an average cross section of the youth population. And a GI bill would bring them in at far less initial cost, since there would be no need for registration or classification, and only those volunteering would need to be given medical examinations.

Since a draft is unable to solve the problem of retention, and unneeded to solve the problem of recruitment, supporters of peacetime conscription are forced to rely on the argument that a military draft is somehow a national virtue. It instills patriotism, the work ethic, builds character, and so forth.

In my judgment, there is nothing virtuous in a free society about involuntary servitude, and let us be clear about that—a draft is nothing more nor less than involuntary servitude.

Our forefathers considered peacetime conscription to be absolutely incompatible with the libertarian principles upon which our Republic was founded.

Americans have resisted peacetime conscription throughout our history, and until 1940, when world conditions could scarcely have been called peacetime, even though we were technically not at war, even then Congress, one will recall, approved continuation of the peacetime draft by only a single vote.

Yet in those days and in earlier times, there was no shortage of patriotism, character, or respect for work ethic among Americans.

Supporters of the peacetime conscription concept also talk about making the draft fair.

But let me be equally blunt about whether or not a peacetime draft is fair or a draft even in wartime is fair. There may come a time only in a wartime setting, in my judgment, when a draft may become necessary.

But in my opinion it cannot ever under any circumstances by its very nature be fair.

This in theory we all have the obligation to serve our country in time of need, but in fact only some of us will actually be called upon to make the sacrifices implicit in wartime military service. That sacrifice is enormous.

A soldier in a combat unit can be expected to be hungry, cold, tired, wet, miserable most of the time and facing the daily prospect of death or serious injury.

There can never be anything fair about a system which calls upon some of our young people to make these sacrifices but not others.

I stress such sacrifices on the part of a few may at some point be necessary. But to characterize them as fair or character-building seems to me to be a most improbable characterization.

I am convinced that there are today, as there have been throughout history, sufficient numbers of patriotic young people who are willing to voluntarily run the risk of military service, enough to staff our Armed Forces at peacetime levels if they receive something which approaches fair compensation.

So I would sum up the situation in this way, Mr. President: The draft cannot cure the principal military manpower problems which we face. First of all, on the problem of retention in the NCO and officer grades, in the critical military occupation specialties, there is no way a draft can solve that problem.

Second, the draft is a less effective and more expensive means of solving the recruitment problem in the lower enlisted grades than would be something along the lines of the GI bill education benefits which I have been discussing.

A draft registration plan can do nothing to solve our current military problems except that it might contribute the sense that we are doing something.

This bill that is before us today I think would have the potential of persuading many people that we have taken a step seriously designed to cure the manpower problems which are plaguing all of our services.

For the reasons I have outlined, I do not favor a full-scale draft but, by the same token, the step which we have before us really will not solve any of the problems we face. It lacks the advantages of a full-scale draft and yet really does not come to grips with our manpower problems.

I fear, as I said a moment ago, that it will become a stalking horse for peacetime conscription and, perhaps, my concern about that possibility will not be realized. But in any event, to the extent that it diverts attention from the real problems which I see in military personnel, namely, adequate compensation and the GI bill benefit package to encourage new recruits, I think it heads in the wrong direction.

For these reasons, Mr. President, I shall oppose the passage of this resolution, and in the event that a motion for cloture should be filed I will also vote against cloture and I hope we can lay this bill aside in due course after it has had some days or weeks of debate, that it will be laid aside, and we can move on to other pending business.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course. I yield the floor.

Mr. HATFIELD. I would like to express my deep gratitude to the Senator from Colorado for his very erudite analysis of the issue pending before us, especially because the Senator from Colorado is not standing on the floor today to oppose this without a record of deep concern about the problems of the existing military services.

I recall it was not long ago that the Senator from Colorado stood on this same floor and offered an amendment to enact a substantial across-the-board pay increase for the armed services in order to meet some of the problems of retention and initial enlistments. I indicated earlier this morning that it was one of the assumptions made by the Gates Commission that Congress and the President would undertake as part of their commitment for a volunteer army to mantain a high quality of life for members of the armed services. The President and Congress failed to meet that commitment as assumed by the Gates Commission.

The Senator from Colorado months ago recognized that need. I want to commend the Senator not only for the very excellent comments he has made today, but for his leadership in trying to make the volunteer system work.

I think it is interesting that this amendment came from the floor of the Senate rather than from the Armed Services Committee. I again would like to observe that I am concerned about making a volunteer system work. I know that within the military establishment there is a mixed bag of views on this issue.

(Mr. HUDDLESTON assumed the chair.)

Mr. HATFIELD. There are those who have committed themselves in every way they can to make the Volunteer Army work. But I am also convinced there are those who have done everything they can to sabotage the success of the Volunteer Army because they like the easy way out. They like the easy way of providing manpower through the Prussian-like system of involuntary servitude called Selective Service.

I would also underscore the Senator's comments that this is a peacetime draft we are talking about, a peacetime draft is totally contrary to the whole American tradition. In case of all-out war the draft becomes a rather moot issue.

I had a colleague who indicated to me just this morning that his forefathers came to this country to get away from that kind of Prussian system where autocrats impose coercive policies upon their people to provide them with the human cannon fodder necessary to fight aggressive and offensive wars.

So I am again doubly happy today. The Senator has lent his influence and his commitment to this particular issue, and also sought to give leadership in the area that will make this registration issue today totally irrelevant.

It would be irrelevant if the Volunteer Army had been fully implemented according to the Gates Commission; namely, providing a quality of life commensurate with that which was expected at the time when we instituted the Volunteer Army.

What we are really saying today is that Congress has failed, the President has failed with the volunteer concept. And with registration we are looking for a kind of bandaid, and some kind of a justification, to cover up and camouflage our failure.

If we had been true to the commitment we made to the Volunteer Army, the idea of registration would have been totally unnecessary. Would the Senator agree?

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, I compliment him for his keen analysis of the situation. I think the Senator from Oregon is 100 percent correct.

In my judgment, there are those within the Armed Forces who are looking for the easy way out. There are Senators who are looking for the easy way out, who would rather conscript people than to attract them by offering the kind of pay, benefits, perquisites, and career opportunities and education and status that military personnel deserve and, indeed, which they were promised at the time the volunteer service concept was implemented a few years ago.

I think the most enlightened belief among military leaders and among Senators, however, recognizes that our real choice is not between a volunteer army and a conscript army but between a good volunteer army and an awful volunteer army because over a long period of time this country will not support peacetime conscription.

It is conceivable, not likely, in my judgment, that we might temporarily lapse into the conscription concept during peacetime, but it would not last very long because it would quickly prove very divisive. It would set one group against another, as we saw during the war in Southeast Asia, and it would be unfair and it would quickly be self-defeating. It would produce the kind of internal division in this country which would seem to appear at an early date, in my opinion, if we were foolish enough to go back to it.

Then we would be back in a weakened condition to try to patch up the volunteer service. Rather than let that happen, it seems to me what we ought to do is honor the promises which were made at the time the Volunteer Army was implemented in the first place.

Literally, what we said, as the Senator from Oregon knows so well, we said to the young men and women in the service, "If you will put on a uniform and defend our country, we are going to keep your pay comparable with occupations in the private sector in the civilian government sector." But, instead of doing that, we have done exactly the opposite.

In fact, from 1972 until 1978, the cost of living went up by 59.9 percent. The increases, including all the housing allowances and the other add-ons, in the salaries of armed services personnel went up about 40 percent. And so today, after adjusting for the cost of living, they are making approximately 18 percent less than they were 8 years ago.

I wonder if any Senator can think of an occasion when it had been advocated that we draft people to serve in the post office or in the civilian bureaucracy. Or I wonder if Senators can recall any real shortages in these occupations. I cannot. I think the reason why it is unthinkable, really, for us to be short of personnel in these jobs is because the pay and the benefits are so attractive that people respond to that.

In fact, I will venture to say that if we went into any office building here on Capitol Hill and put up a notice that we had a job opening and described the pay and benefits, that we would probably have from 50 to 100 reasonably qualified applicants for every job that we had open. We do not have to draft people to serve on the staffs of Senators or to deliver the mail or to do any of these other jobs.

Well, the reason is because the pay is so good and because the opportunities are so good. And yet we think we can attract people to do more arduous, more dangerous, more dedicated work at a pay that is from half to two-thirds less than we pay for comparable occupations in the private sector.

In fact, before I yield the floor completely, I would like to point out to the Senator from Oregon that of the 12 marines who are being held hostage in the Embassy in Iran, most of them, 8 of them, in fact, are paid less than $8,000 per year. It just points out that we are not paying very much for these people. There is only one of the dozen marines who are now being held hostage in Iran who makes as much in pay as we are prepared to pay those unemployed automobile workers in the State of Michigan.

There are 100,000 service personnel who are earning so little that they qualify for food stamps. As the Senator from Oregon knows so well, there are hundreds of thousands of service personnel who have part-time jobs and who really are supporting their families by moonlighting rather than by their main occupation in the service. All of which is to say, again, the Senator's observation that this would be irrelevant and perhaps not even under consideration by the Senate if we had fulfilled our obligation under the volunteer service concept is correct.

It is the Congress of the United States that is responsible for the defense of our country. It is the Congress that is responsible for raising the Armed Forces. It seems to me—and I say this in all sincerity to my colleagues—that we have a very special obligation, not only to the defense of our country, but also a special obligation to the men and women who are already in the service.

I happen to believe that it would be wrong in principle for them to form labor unions. They are denied, by the very nature of their service, the opportunity to bargain collectively and to represent their own interests. I think it would be incompatible with defense needs and the needs of the country to suggest that we could let soldiers go on strike.

But, having denied them that, then Senators must be their bargaining representatives. Senators must be concerned about their welfare to an extent and a degree that we really do not show toward any other persons in society, because everybody else is in a position where they can look out for their own interests to a much greater degree than service personnel.

Mr. HATFIELD. Will the Senator yield again for a question?

Mr. ARMSTRONG. Yes.

Mr. HATFIELD. Would the Senator agree that those of us who have opposed the idea of allowing military personnel to join labor unions may have to change our viewpoint? When faced with this kind of lack of leadership on the part of the President and the Congress in providing comparable compensation, that it provides a very strong basis. I am not suggesting that I take that position at this moment. I have not moved that far. I am not that desperate. I still have hope that we can fulfill our obligations to the military service by a more realistic, comparable compensation program.

But it does certainly provide some cause for us to reassess our previous opposition to the military services being permitted to join labor unions.

There may have been people of less commitment to this viewpoint than the Senator from Colorado and the Senator from Oregon.

But for those who were ambivalent or wavering and who landed down on the negative side of this issue in the past, they might end up being on the positive side this time. Would the Senator agree?

Mr. ARMSTRONG. Undoubtedly, the Senator is correct.

However, I am confident that, long before the wavering Senators fall off on the other side, we are going to raise the pay of military personnel.

In fact, in closing, I would just like to share with the Senator from Oregon and other Senators my conviction that Congress is now ready to give a substantial across-the-board pay raise to military personnel.

Mr. HATFIELD. The kind of pay raise they refused when the Senator from Colorado offered it before.

Mr. ARMSTRONG. Precisely so.

And I recall so well, when the Senator from Hawaii, Mr. Matsunaga, and I came in with our amendment, that the Senator from Oregon was among the first to join in sponsoring that proposal. And I would be glad to announce at this time that Mr. Matsunaga and I again would offer our amendment to the defense authorization bill when it comes to the floor within a few days. I would invite the Senator from Oregon to again join us.

To be frank, I have every reason to believe that this time we are going to succeed; that the recognition of the need for a pay raise has now grown to such proportions that it seems most unlikely to me that there will be opposition to this concept sufficient to defeat it. In fact, I think many Senators who initially were skeptical of the need for a pay raise, in light of all that has happened in the last several months, all that has been written in the popular press and military press and elsewhere, will recognize that this is essential. I have a great feeling of confidence that we are going to carry the day when that amendment is again offered.

Mr. HATFIELD. If the Senator will yield, I want to say now that I would be very happy to cosponsor, as the Senator gave me the opportunity to do before, this proposal that he has just described. I commend the Senator for his continued leadership in this vital area.

The Senator pointed out something very interesting in his formal comments. He recognized the negative morale factor that exists today because of the lack of comparable compensation, and poverty-line status of many in our military service.

Obviously, there is an element of discontent as reflected by the failure to reenlist or by the exodus of some of the junior officers and top enlisted personnel.

Would the Senator not agree, that if we coerce our youth into registration, induction, and then, reestablish the draft, that we are going to compound that morale factor? The Senator rightly says it is not a question between a conscripted army and a voluntary army. It is a question of having a good army. With registration we are not correcting a morale problem, we are compounding a morale problem. Coerced people count the days until they get out, and are the cause of high turnover rates. These other things are characteristic of a military system dependent on a draftee who has been conscripted and forced to serve against his will. We are not solving any problems. We are making our problems worse.

Would the Senator agree with that?

Mr. ARMSTRONG. I agree completely with the Senator's observations. I would add to that just this:

There is not really any shortage of dedicated, patriotic people who want to serve this country and wear the uniform of this country as soldiers, sailors, and airmen. I sense that there is a large number of truly outstanding young people who would like that kind of career, but who are dissuaded from doing so because of the low standards of pay; not only because of the economic aspect of it but because of what it says about the status that we accord to people who choose this occupation.

Finally, let me just make this observation, and perhaps as this debate goes on over the next several days and perhaps longer than that I will be back to share some additional thoughts. I do not think we should lose sight of the fact that despite attrition, despite recruiting problems, despite the fact that many of our units are understrength and relatively unprepared, there remains in the service of their country in uniform some people of outstanding quality, outstanding ability, and to them I think the Senate and the Nation owes a great debt of gratitude. When we think about pay and benefits, we ought to evaluate our responsibility in large measure in consideration of their services and dedication.

Again, I thank the Senator from Oregon for his leadership in this matter.

Mr. HATFIELD. I thank the Senator.

Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, today we continue consideration of House Joint Resolution 521, a transfer resolution for fiscal year 1980 providing for revitalization of the Selective Service System.

This measure, as approved by the House and favorably reported out of the Senate Appropriations Committee, will provide $13,295,000 for revitalization of the Selective Service System which includes premobilization registration of all males between the ages of 18 and 20.

IMPROVEMENTS IN THE SELECTIVE SERVICE SYSTEM OR REGISTRATION FOR THE DRAFT?

Mr. President, there is very little doubt in my mind that we face serious problems because of our less than adequate manpower levels in our armed services. Members of this body have long been aware of these and related problems, that is why over the past several years I, along with many of my colleagues, have fought the proposed cutbacks in military manpower, such as the Naval Reserve. Many of us have fought the proposed cutbacks of military benefits, and in general, have opposed the kinds of cutbacks that are primarily responsible for the problems we are now experiencing in recruitment and retention of young people in our armed services.

In 1978, during the consideration of the fiscal year 1979 HUD/independent agencies appropriations bill, I offered an amendment that would have increased funding for the Selective Service System. This increase would have enabled the System to provide adequate manpower in the time of a national emergency. Even though the Senate adopted this amendment as a means to address our mobilization problems, the amendment was, unfortunately, eliminated in conference.

In 1979, during the consideration of the fiscal year 1979 supplemental budget request, I and the distinguished Senator from Maine (Mr. COHEN) offered an amendment to restore the Selective Service System in fiscal year 1979 supplemental budget request to $1,735,000. Mr. President, this amendment would have permitted the SSS to identify the specific computer capability and configuration needed for a rapid input of registrant information and processing of induction orders. This funding would have also permitted the completion of a comprehensive 5-year automated data system plan. Unfortunately, this amendment was also kept from serious consideration by a voice vote to table.

AN EMPTY GESTURE

Mr. President, I am not one to "dream" about what would have happened "if" one of my amendments would have been enacted into law. However, the fact remains that if Congress would have taken some preventive action with one of my amendments in 1978 or 1979, we would most likely not be here today considering House Joint Resolution 521.

Mr. President, advocates of premobilization registration advance the thesis that registration is an important signal to the Soviet Union. The removal of the Selective Service System from deep standby to a functioning mode would indeed be a meaningful gesture.

To take the SSS out of deep freeze is a step in the right direction. However, the additional step of requiring young males to register for the draft is an empty symbol because it adds nothing to the speed of American mobilization in the event of war. It is my conclusion, and that of others of this body, that the questionable benefits of premobilization registration are far outweighed by its disadvantages.

One of the most obvious disadvantages is the fact that pre- or post-mobilization will have no appreciable effect on the personnel needs of the current Volunteer Armed Forces. The central problem faced by the Armed Forces today is the retention of skilled and experienced individuals.

The resolution of this dilemma will not be affected by either plan. The issue of attracting and retaining skilled officers and enlisted personnel revolves around the comparability of military and civilian pay and benefits. Until steps are taken to make military service a more attractive career, the retention of pilots, physicians, and other technically skilled individuals will be problematic.

The Pentagon has acknowledged that they do not have a systematic program to record the inventory of military skills available in the country. The Congress might better serve the Nation by requiring DOD to maintain an inventory of trained military resources than it would registering young people with no prior knowledge of military skills.

SSS SENDING CONFLICTING SIGNALS

Skepticism has spread with respect to the issue of peacetime registration. At first we were asked to believe that the call for revitalization of the Selective Service System would demonstrate our national will, thus sending the Soviets a signal of American determination. At first the idea was applauded. Because the Nation has appeared weary since Vietnam, unwilling even to suppose that it might one day again want to defend a national interest abroad and because this mood might be misinterpreted by other nations as weakness, registering for the military draft would have been a useful diplomatic signal, particularly in an election year.

As we look at the President's proposal today we find it is far from the useful gesture it was designed to be in that the proposal is confined to 19- and 20-year-olds, thus narrowing the field of those it would affect. And after promising the American people that any registration would include women, the President succumbed to pressure which has resulted in registration for males only. In addition to the existing confusion, President Carter's defense experts say that postcard registration might save at most a week in case of a general mobilization. Others insist it could save up to 90 days, but even they do not pretend that the Armed Forces could absorb newcomers at such an accelerated pace. No one contends that registration would stimulate enlistment. About the only thing we hear of this proposal in recent times is that this gesture will somehow cause the Soviet Union to shudder with fear and that any opposition would somehow appear unpatriotic.

In an SSS report dated January 16,

1980, it carefully delineated the case for postmobilization registration. It should be noted that the report followed the Soviet invasion of Afghanistan by almost a month. The Selective Service document describes premobilization registration as "redundant and unnecessary," and concludes that postmobilization registration is the most cost-effective and desirable option available to improve the emergency capability of the Selective Service.

In a report dated February 11, 1980, the President advocated postmobilization, but this report does not provide a data base or a foundation upon which to rebut the conclusions of the January 16 Selective Service document. According to that report, the postmobilization option is capable of delivering the first inductees within 17 days, 100,000 inductees within 33 days, and 650,000 inductees within 124 days. Each of these figures lag behind the premobilization figures by only 7 to 8 days. In essence, both the premobilization and postmobilization registration plans far exceed current DOD requirements. The Selective Service's conclusions regarding postmobilization are paralleled by similar findings by the Congressional Budget Office.

Mr. President, given the enormous complexities in this issue and the invasion of privacy which a mandatory peacetime draft presents, I certainly urge my colleagues to favor this proposal to reconsider. I know we are going to have a lot of debate and I know there are well-intentioned people on both sides of the issue. Certainly, this Senator does not question anyone's motives or anyone's patriotism or, for that matter, anyone's sincere belief that this is the right way to go.

Certainly, this Senator, like many others, was not a victim, but at least in that process prior to World War II—registration, the draft, whatever. Some who are now debating this issue are products of this system, have served our country in time of war and some in time of peace. We understand the need for readiness, we understand the need for strength, we understand the need to be realistic, we understand the need to be objective. We understand the need to eliminate politics from the consideration of this issue. We also understand the feeling of young people—young men and women. Even there, there is disagreement.

REGISTRATION OF WOMEN

Mr. President, as this very sensitive issue of Selective Service registration is being discussed, it is imperative that we look at its many aspects and provide opportunity for thorough debate.

To this end, Mr. President, I would like to focus on the question of registration of women: The background of women in the military, legal restrictions against women in combat, constitutional ramifications, and the effect of the equal rights amendment.

On February 9, 1980, when President Carter proposed that both young men and women be required to register for possible military service, he said:

> My decision to register women is a recognition of the reality that both women and men are working members of our society . . . it confirms what is already obvious—that women are now providing all types of skills in every profession. The military should be no exception.

It should be noted, however, that President Carter said when, and if, a draft should actually become necessary, women would be drafted for noncombat duty only.

The President already has the statutory authority to reinstitute registration for males between the ages of 18 and 26. He has only to come to the Congress for the appropriations needed to begin the male registration procedure. The registration section of the Military Selective Service Act, suspended for the past few years, is the source of the President's authority.

Registration of women, however, is a new legal question. They have never been required by law to register for induction, or to serve involuntarily in the Armed Forces. In November 1942, the War Department considered drafting women because it foresaw a need to relieve the manpower shortage, especially in the Army, during World War II. The War Department proposed to the Congress this inclusion of women in the draft. The proposal was rejected. Therefore, if Congress approves Carter's plan, it will be the first time in American history for women to be subject to draft registration.

BACKGROUND OF WOMEN IN THE MILITARY

The expanding role of women in the Armed Forces is due to two major factors. First, since the end of the draft and the beginning of the All-Volunteer Force in December 1973, the military services have had difficulty in recruiting and retaining enough qualified males, thereby turning attention to recruiting women. Second, the movement for equal rights for women has led to demands for equal opportunity in all fields, including national defense.

Women have been recruited in increasing numbers and assigned to a wider variety of occupations as one method of meeting shortfalls in enlistments by qualified men. The number of women in the Armed Forces has steadily increased from less than 2 percent at the end of fiscal year 1972 to 7 percent on April 30, 1979. At the end of April 1979, of a total strength of 2,022,091 people in the Active Forces, 141,621 were women. The current objective of the Department of Defense is to increase the number of women on active duty to 235,800 (11.5 percent) by 1984. Individual service objectives, both officer and enlisted women for 1984 are: Army, 104,600 (13.5 percent); Navy, 50,000 (9.5 percent); Marines, 9,000 (4.8 percent); and Air Force, 100,200 (17.9 percent).

REMOVAL OF RESTRICTIONS AGAINST WOMEN

Parallel with the increase in the numbers of women in the military services has been a gradual removal of restrictions against them. During World War II, women served in the various services under temporary arrangements and inconsistent policies. The Armed Forces Integration Act of 1948 gave women a permanent place in the military services by authorizing women in the Regular Army, Navy, Air Force, and Marine Corps. However, it limited the number of enlisted women to 2 percent of enlisted strength, the number of female officers, excluding nurses, to 10 percent of enlisted female strength, and the rank a female officer could achieve to lieutenant colonel.

During the 1960's and 1970's, the movement for equal opportunity for women gave new momentum to efforts to eliminate discriminatory treatment of women in the Armed Forces. Changes were brought about by policy directives from the services, court decisions, and legislation. In 1967, Public Law 90-130 repealed the limitation of 2 percent for female enlisted strength. In 1969, by administrative action, the Reserve Officers Training Corps (ROTC) was opened to women for the Air Force, and for the Army and Navy in 1972. In 1973, the Supreme Court ruled in Frontiero against Richardson that spouses of female members of the Armed Forces were to be considered dependents in the same way as spouses of male members of the Armed Forces. In 1974, the age requirement for enlistment of women without parental consent was made the same as for men. In 1976, women were admitted to the three major service academies: Military, Naval, and Air Force; women had already been admitted to the U.S. Coast Guard and Merchant Marine Academies by administrative action.

In 1978, two major steps were taken. Congress passed legislation abolishing the Women's Army Corps as a separate unit and modifying section 6015 of title 10 of the United States Code, which had precluded women from serving on Navy ships. Under the modification, women could be permitted to serve permanent duty on vessels not expected to be assigned combat missions and up to 6 months' temporary duty on other Navy ships. However, they were still prohibited from being assigned to ships or aircraft engaged in combat missions and, under section 8459, to Air Force planes in combat missions.

Moreover, the percentage of women in the higher officer and enlisted ranks continued to be lower than the percentage of women in service. The disparity was much greater if medical officers, which includes nurses, were excluded. For example, of 223 women at the colonel level in all services, only 41 are in line positions.

REMAINING LEGAL RESTRICTIONS

Since the main mission of the Armed Forces is to deter war by being prepared to wage one if it occurs, there is a limit to the extent to which the Armed Forces can increase the number and expand the assignments of women as long as there are restrictions on assigning women to combat posts. In addition to barring women from the combat posts themselves, the restrictions prevent the utilization of women in many noncombat posts which are held for rotation purposes. At the present time, there are legislative prohibitions restricting the assignment of women to vessels and aircraft assigned combat missions for the Navy and aircraft assigned combat missions in the Air Force. While there is no such legislative prohibition for the Army, Army policy imposes similar restrictions on ground combat assignments.

On the basis of the combat restriction, the services bar women from many occupational specialties and assignments. In the Navy, out of 99 ratings, 11 are closed to enlisted women, including fire control technician, gunnersmate, sonar technician, and electronics warfare system technician; 4 of the 230 Air Force specialties are closed: Defense gunner, para rescue recovery, radio operator/maintenance driver, which is located with Army frontline units where Army policy excludes Army women, and security specialist, who guards planes loaded with nuclear weapons.

Army policy prohibits women in 22 occupational specialties and in any infantry, armor, cannon field artillery, combat engineer, and low altitude air defense artillery unit of battalion/squadron or smaller size regardless of the occupational specialty.

Prior to 1978 many more occupational specialties were closed to women. In 1977 in Public Law 95–75 Congress required the Secretary of Defense to submit a definition of the term "combat" together with recommendations on expanding job classifications to which women might be assigned and any changes in law necessary. In his reply on February 14, 1978, Deputy Secretary of Defense Charles Duncan defined combat to mean "engaging an enemy or being engaged by an enemy in armed conflict;" a person to be "in combat" when in a geographic area designated as a combat/hostile fire zone by the Secretary of Defense or other specific circumstances;" and a combat mission as "a mission of a unit, ship, aircraft or task organization which has as one of its primary objectives to seek out, reconnoiter, or engage an enemy." Subsequently, the virtually absolute bar against women on Navy ships was modified and many new jobs in all services were opened to women.

DEFENSE DEPARTMENT OBSERVATIONS

Deputy Secretary of Defense Duncan said the best long-term solution to open still more assignments to women was to repeal both 10 U.S.C. 6015 and 8549. He proposed allowing the Secretaries of the military department to set policy for, monitor, and review the assignment of women within their respective departments, with the Secretary of Defense reviewing the program to insure compatibility among the services. On May 14, 1979, the Department of Defense transmitted to Congress a draft of proposed legislation to repeal the statutory restriction on the assignment of women.

The Defense Department made the following points:

First. Since 1948 when the restrictions were enacted, military personnel policies, the role of women in society, and the nature of warfare have changed dramatically.

Second. Large numbers of women, properly trained and selected, have the physical and mental ability to serve in the entire range of military classifications.

Third. Prohibiting Navy women in seagoing ratings from their fair share of sea duty results in excessive sea duty for men, and inconsistent policies between the Navy and the Coast Guard assignment of women to ships.

Fourth. 10 U.S.C. 8549 permitted female commissioned Air Force officers who were judge advocates, chaplains, or in medical fields to serve aboard aircraft engaged in combat missions while other female officers and enlisted women could not.

Fifth. The legislation had no appreciable budget implications. Ship modifications estimated to cost approximately $10,300,000 over a 5-year period would be required.

WOMEN IN COMBAT

Repeal of these provisions would not necessarily result in assignments of women to all combat units because it would be up to each service Secretary to set policy and assign personnel according to needs and abilities. Hearings held by a subcommittee of the House Armed Services Committee November 12–16, 1979, indicates that the intention was not to put women into combat but to open up new jobs to them. Proponents of repeal believe it would remove a bar to many assignments which women could handle. Opponents feel that the statutory restrictions are the last protection against the services sending women into actual combat.

Those who emphasize equal rights and responsibilities say women in the Armed Forces cannot advance to the top without experience in combat units. Some go even beyond this, and say that women cannot be equal in society as long as they are barred from full participation in all levels of the National Security System. In their view, modern weapons have equalized the potentiality for women in combat since wars are less likely to be fought on a hand-to-hand basis, and have made it impossible to protect women from the destructiveness of combat. In any event, they claim, properly trained women would be able to fight successfully and exempting them from combat is not fair to men.

Those opposed to women in combat contend that the protection of women is a mark of civilization and a method of safeguarding the human race. They point out that countries such as Israel and the Soviet Union, in which women have fought in emergencies, do not now place women in combat positions. This view holds that the national security would be jeopardized because women are not as strong or aggressive as men and their presence would impair the individual and group effectiveness of men. They disagree with the assumption that modern technology has significantly reduced the direct physical nature of combat, especially ground combat. They see permitting women in combat as an extreme deviation from tradition which would detract from the dignity and femininity of women and disturb family cohesion to such an extent that it might make society fall apart.

CONGRESSIONAL REPORT

Despite the decision of President Carter to register women, several Members of Congress expressed doubt that the proposal would pass. On March 6, 1980, the House Armed Services Subcommittee on Military Personnel rejected the proposal by voting to table H.R. 6569, the bill which would authorize registration of women, making it unlikely that further action on the measure would be taken. During 1979, the Senate Armed Services Committee had issued a report stating that the committee felt it was not in the best interest of the national defense to register women for the Military Selective Service Act. The most important reason for not including women in the registration system, in the committee's view, was the policy precluding the use of women in combat, a policy which the committee reaffirmed. It was in infantry and armor skills that manpower was short, the committee stated. Other reasons cited were the need for military flexibility, the additional processing and training problems, and the risk of experimenting with performance of sexually mixed units in war.

In a minority view, Senator COHEN called for the legal views of the Defense Department on whether the constitutionality of the draft might be undermined by a failure to include women and to clarify various issues before a final determination. These issues included:

First. Would one or two pools of eligibles be established if both men and women were registered?

Second. Would women have to be drafted in equal number if conscription were required?

Third. Could women be drafted for those positions for which they are presently eligible and not for the combat-related job specialties from which they are excluded?

Fourth. Could women be excluded from voluntarily registering?

CONSTITUTIONALITY OF REGISTRATION OF WOMEN

The answer to these questions, unfortunately, are not at all clear-cut. In the past, women have not been drafted and this has been upheld by the courts when it was challenged as discriminatory against men. For example, in 1969 in United States against Dorris, the Court held that classifications such as age and sex were not arbitrary or unreasonable but were justified by the interest of providing for the common defense with maximum efficiency and minimum cost. It also held that the qualifications were for the Congress to decide.

VIEWS AND COUNTERVIEWS

At a hearing on January 29, 1979, Secretary of Defense Harold Brown recommended that any new legislation requiring registration for the draft be applied to women as well as men. However, as to whether they should be drafted he said he would have one answer if there were a large additional requirement for noncombat people and another if the need was for combat fillers.

The views of the Joint Chiefs varied somewhat from service to service. On March 13, 1979, Gen. Bernard Rogers, Chief of Staff of the Army, testified that he believed women should be registered in order to have an inventory of available personnel. However, the question of drafting depended upon the skills needed. In his view, the exclusion of women from certain combat skills should remain. Gen.

Lew Allen, Chief of Staff of the Air Force, said the drafting of women would not have any unfavorable effect on the Air Force. Adm. Thomas Hayward, Chief of Staff of the Navy, said that from a military point of view there was no need of drafting women into the Navy, but that he thought it was a political decision. Gen. Louis Wilson, Commandant of the Marine Corps, said he would be willing to have women drafted up to the 5-percent goal of the Marines.

Others, however, have argued against both registering and drafting of women. They contend that registering women would double the number of people requiring registration each year from roughly 2 million males reaching the age of 18 to 4 million males and females, thus increasing the cost. Moreover, some hold, if women were registered they might have to be drafted in equal numbers. In their view this complicates conscription by adding problems such as dealing with pregnancies.

Finally, a few contend that strong feelings on the subject have been used to reduce the likelihood of a draft, on one hand, or the ratification of the equal rights amendment, on the other. Women as well as men are divided on the subject.

CONCLUSION

Mr. President, in view of this relevant evidence and the many coflicting views that have been offered by my distinguished colleagues, it is imperative that discussion be thorough. My distinguished colleague from Kansas, Senator KASSEBAUM, and the Honorable Senator LEVIN from Michigan, intend to offer an amendment to House Joint Resolution 521 that will preclude reinstitution of a male-only registration program. Therefore, it is essential that this topic be defined and analyzed in order that the Members of the Senate are enabled to make a responsible and knowledgeable decision.

Mr. JOHNSTON. Mr. President, in my view, the only things wrong with this draft registration legislation is that it does not go far enough.

One of the problems with democracy—or at least our American democracy—in 1980 is that we in the legislative area, and indeed in all areas of Government, are afraid to do anything to offend the people, afraid to do anything unpopular; and I suppose draft registration, or the draft itself, is unpopular.

However, in my view, this country is going into one of the most perilous times in its history, in this early 1980 situation, a time when we are vulnerable so far as our strategic weapons are concerned, a time when we and our allies collectively are far inferior to the Soviet bloc and their allies in conventional weapons.

Those facts seem to be recognized by most people. The question is, What do we do about it? One of the obvious things is that the All-Volunteer Force has not worked. Everybody knows that. The emperor wears no clothes. In my view, it was never possible for it to work. In my view, it was perfectly predictable as to what was going to happen.

The evidence is overwhelming right now as to what has happened, and what has happened is that the level of education in our Armed Forces has dropped, the level of competency has dropped, and the level of discipline has dropped. It is voluntary in and voluntary out, or so they feel. Consequently, our Reserve Force particularly is exceedingly weak.

I had the honor of going to Fort Polk, La., over the Memorial Day recess and saw the parade down there with the 5th Mechanized Division, 9,000 men. There is a great deal to be said about the way they are running the Army.

I talked to almost every brigade commander there, those with the rank of colonel and below, and I asked them about the draft. To a man, every one of those men, who were doing a good job, said they were for a draft. They are for a draft for the very reasons I stated: Discipline, educational attainment, and overall competency of our Armed Forces; and particularly is that true with the Reserves.

In that particular unit, one of their brigades is a Reserve unit, and the general there told me of his difficulties with the Reserve unit. He said they are doing the best they can—they have some dedicated officers—but they do not have the discipline over the people in the Reserve units because they have no compulsion to get them in.

Mr. President, I hope the distinguished Senator from Georgia and the distinguished Senator from Iowa and other leaders in this area will come up with some legislation to have an actual draft into the Reserve units. We can do that without destroying the careers of young people. We could do it and have them serve 6 months or 3 months, or whatever—3 months perhaps, two summers going—and get their basic training. We then could fill our Reserve units with competent people, people who would represent a cross section of Americana, instead of just predominantly those who cannot get jobs elsewhere, those who are in the lower end of the educational scale.

So, Mr. President, I believe very strongly, and I think the evidence is overwhelming, that we need to go to a limited draft, at least into the Reserve units.

It is true that this draft registration bill can be criticized because it does not go far enough; as some of the critics say, it does not do anything; it does not help with that many days advance, and that may be true. I do know that it does some good. I do know that it is a first step toward the draft.

You cannot have a draft later, unless you first register people. It is commonsense that it would speed that process along, either in time of emergency or in present times.

I am unapologetic in being for the draft, and I am the father of two sons who are prime draft age—19 and 20. But we have to face up to the fact that we have to do some things that are a little unpleasant in this country and a little politically unpopular if we are going to preserve our position of strength. I say "preserve"—recoup our position of strength.

It is time that this country quit being a collection of gutless wonders when it comes to making hard political choices and begin to think of the long term strategy, health, and defense of this country.

I hope this Senate will pass this very modest step of draft registration.

Mr. NUNN. Mr. President, I thank the Senator from Louisiana. I assure him that the Armed Services Committee, No. 1, is doing everything we can to try to make the voluntary system work.

We have a package of educational incentives. We have additional bonuses coming out in this year's authorization bill.

We are going to recommend, in my opinion—the subcommittee has made this recommendation; the full committee has not yet acted—that the people in the military get the full pay raise this year, which would be approximately 11.7 percent.

We are doing what we can to make it work. We have been doing that for the last 4 or 5 years. I am not optimistic about that.

I share the great sense of apprehension about our present posture that the Senator from Louisiana has articulated.

I also believe that one of the options we should look at is the very real option of having a draft into the reserves at some point in the future.

I believe that this particular bill must be viewed as being compatible either with emergency needs that may arise, that cannot now be foreseen in terms of time and place, but it is also compatible with a continuation of the Volunteer Force. If the Volunteer Force is going to work it has to be accompanied with a Selective Service System that is ready to respond to emergencies because you are always going to have a tremendous need for manpower in mobilization. So this bill is compatible either with a continuation of the Volunteer Force or with some future draft, if that is necessary.

I do not believe that we should view this as a measure that is automatically going to lead to the draft because any kind of draft legislation would have to come back and be approved by Congress. So the President would have to in all likelihood recommend it.

I cannot conceive of a draft being passed that the President was opposed to, whoever he may be and whenever. But I do think that as I said earlier this morning this step will make it easier to go to a draft in an emergency.

It does not preclude congressional debate, but at this point in time the Senator alluded to the number of days saved, and there may have been all sorts of facts and figures thrown around on that. The testimony before the Armed Services Committee is that if we had an emergency having registration, having names and addresses would save a minimum of 75 days and possibly as much as 135 days. When people talk about the 7-day savings or the 10-day savings or the 12-day savings, they are talking about a myth because they are talking about a selective service plan that does not now exist, that would provide for the postmobilization registration which we have had testimony from all sorts of experts would never work.

My own opinion is that plan was

simply between wishful thinking and a farce.

I do believe the Senator has a very strong and good perception of the overall problems in the military, the manpower problems in particular. I know he follows this with a great deal of interest, and I can assure him that the Armed Services Committee is, No. 1, trying to do what we can to make the present system work and, No. 2, beginning to look very strongly at other options.

Mr. JOHNSTON. Mr. President, if I may ask the Senator, is it not true that most of our NATO allies have some kind of conscription obligation?

Mr. NUNN. Yes. It is true that with the exception of England and Canada our NATO allies do have conscription.

My friend from Oregon would say that the countries of West Germany and France, and the other countries of NATO, have the Prussian system of conscription, and that is true, and they have relied on it for a long time.

Mr. JOHNSTON. What does that mean—that they draft Germans?

Mr. NUNN. That is a connotation the Senator from Oregon uses to describe conscription. That could also be said that the United States defended our country and freedom in the world in World War I and World War II with the "Prussian method of conscription."

Mr. HATFIELD. Mr. President, if the Senator will yield on that point, let us correct the record. Will the Senator yield to clarify the record?

Mr. NUNN. Certainly, I will yield. The Senator from Louisiana has the floor, but I will yield.

Mr. JOHNSTON. I yield.

Mr. HATFIELD. If the Senator will yield, I wish to make sure the record is amply clear.

Each time I have used the term "Prussian system" it is in reference to peacetime draft. We are talking specifically about a peacetime draft.

To say that I have applied that to the time when we were fighting a world war would be absolutely in error. I have said that in time of all-out war the draft question is moot. We are all in it. That is on the record yesterday. That is on the record today.

It is a Prussian system when it is used in times of peace.

Mr. NUNN. Mr. President, if the Senator will yield for a question, do I understand the Senator to indicate in his statement that he recognizes that this procedure that we are now being asked to vote on is rather meaningless but that the Senator is really committed to a draft?

Mr. JOHNSTON. No.

Mr. HATFIELD. The Senator is really committed to a draft?

Mr. JOHNSTON. No. I said this procedure has been debated as to how far it goes. In my view it does not go far enough. It is a necessary first step.

Mr. HATFIELD. What is the procedure? The Senator outlines all the problems with the Volunteer Army. Will the Senator tell me precisely what procedure is going to do to correct those problems?

Mr. JOHNSTON. First of all, it would help in the event of an emergency.

Mr. HATFIELD. No. I am talking about the problems that the Senator outlined about the Volunteer Army.

Mr. JOHNSTON. There is no question on the Volunteer Army, in my view, we should go to a draft in the Reserves.

Mr. HATFIELD. That is not the question. What would this do to correct the problems that the Senator outlined with the Volunteer Army?

Mr. JOHNSTON. First of all, this would be a necessary first step to a draft, a draft either in peacetime or a draft in time of war, or a draft in time of some other imminent emergency. And in my view we must go to the draft and go to it soon.

If I may ask the Senator from Oregon a question——

Mr. HATFIELD. Yes. But I do not think I had my question answered. The Senator outlined specific problems about the present Volunteer Army being dummies and a few other problems that he outlined and specified.

Mr. JOHNSTON. I did not use that word, but I think that——

Mr. HATFIELD. That is what the Senator alluded to.

Mr. JOHNSTON. Yes.

Mr. HATFIELD. I am asking the Senator—he comes to support this measure that is now pending based upon his thesis that we have problems in the Volunteer Army. How will this precisely solve those problems in the Volunteer Army?

Mr. NUNN. If the Senator from Louisiana will yield, a moment, I would be glad to suggest my view on that subject and that is——

Mr. HATFIELD. I am asking the Senator from Louisiana, if I could have his answer, and then I will ask if the Senator from Georgia will answer.

Mr. JOHNSTON. I am glad to give the Senator my view, and then I will ask my friend from Georgia to chime in on it.

First of all, registration itself, of course, is not going to change the character of the All-Volunteer Army, if we are going to keep it as an All-Volunteer Army.

Mr. HATFIELD. That is the issue that is pending in the Chamber.

Mr. JOHNSTON. Let me finish. Registration, as if that were going to be all we were going to do and not going to use the registration except in time of war, then it is at least useful in time of war. As my friend from Georgia says, we save 75 days. Perhaps the Senator would dispute that. That in itself is more than sufficient reason to have draft registration.

Now I believe additionally that we should go to a draft into the Reserves now or as soon as practicable.

And a draft registration program now would make it easier and faster to go into that because it is a necessary first step.

So I say that as a reason for going to draft registration is for those of us who want to go to the draft and Reserves, it would facilitate that, but there is more than sufficient reason in itself to use it to register now for use in times of an emergency only.

I will ask my friend from Georgia to respond.

Mr. HATFIELD. That is not correct, though. The Senator is saying, if I understand the Senator correctly in answering my question, that this procedure now pending before the Senate has nothing to do with the correction of these problems that he outlined with the All-Volunteer Army. This procedure is only to set forth the groundwork for the draft.

Mr. JOHNSTON. No, I did not say only.

Mr. HATFIELD. What else?

Mr. JOHNSTON. The draft in times of an emergency, which the Senator would also favor, and he does favor a draft in times of an emergency.

Mr. HATFIELD. I am not certain until I find out how many volunteers we would have in such a situation. We had 300,000 volunteers who registered in the first few months after Pearl Harbor. I am not opposed to it, per se. If this is to provide some kind of preliminary for the draft, fine, I agree with the Senator. But what I am trying to determine is what this pending issue has to do with correcting the problems in the All-Volunteer Army? Is there a hidden agenda somewhere that has already been determined which some of us have not heard about, an agenda which states that this is but the first step toward the draft?

Mr. JOHNSTON. There is no hidden agenda. Listen. My support for the draft is very clear. I am saying it publicly every chance I get. I think the country badly needs it and needs it now. Would this be a necessary first step to that? You bet it would. I do not hide that fact, but that is not the only reason.

Let me ask the Senator from Oregon, is the Senator from Oregon saying he is not sure in the event of a national emergency, in the event of war, as to whether he is for the draft, he would want to wait and see how many volunteers come forward?

Mr. HATFIELD. Let me just say this to the Senator. I go back to our past history. I do not have to give an opinion. I can cite the historical evidence and the facts.

First of all, when we went into the Civil War we established our first experience with the draft as the Senator may know. Both the Confederacy and on the Union side as well. We instituted the draft for the first time. We had also experience with the draft in World War I. We had experience with the draft in World War II.

Let me remind the Senator that in 1917 we registered over 10 million men in 1 day. In 1940 we registered 16 million in 1 day. We are talking about 4 million 19- and 20-year-olds as of now with this registration procedure.

Mr. NUNN. Mr. President, if the Senator will yield, it took anywhere from 30 to 90 days after we did the registering to sort through all the names before there could be any kind of lottery. When the Senator cites how long it takes people to go down and put names and addresses down he is right, but he completely ignores the steps necessary before we actually select those who are going to go in, which is a part of the procedure we would use in any kind of registration and induction system.

So we can go through the World War I and World War II charts, and I can demonstrate without any doubt that that experience proves without any doubt whatsoever that we simply cannot do it in the time element that the Senator from Oregon contends we can.

Mr. HATFIELD. The Senator is precisely wrong because of the fact that we did not have the computer system in 1917. We did not have the computer system in 1940. The Senator indicates this morning, and we have also repeated another error of statistics, and that is the Senator from Georgia and the Senator from Louisiana have said why it takes 75 days. That is only partially true. It is true it would take 75 days if we want to grant that point as of the moment. But when we have a beefed up computer system it takes 7 to 8 days, and there is a big difference between 35 days and 7 to 8 days in each incremental group.

Mr. NUNN. That is according to the people who since rejected their own report on that subject.

Mr. HATFIELD. We see enough. In other words, the Senator from Georgia is calling this report a hoax. The Senator has nothing to offer in the case.

(Mr. EXON assumed the chair.)

Mr. NUNN. Except by the Secretary of Defense, and others.

Mr. HATFIELD. Except that the report from Mr. Rostker, who is the Director of Selective Service, is a hoax. If that is so, then why does Mr. Carter keep Mr. Rostker as his Director of Selective Service? Mr. Nunn has said the report last year by Mr. Shuck was a hoax and that the report this year is a hoax. Anything that does not advocate an immediate draft becomes a hoax. So we are to take and reject all of the documentary evidence that has been developed by Mr. Rostker, the head of Selective Service, a man who refused to renege on that report initially, but then, as the political pressures built from the Armed Services Committee, from the White House, and all these other pressure groups, Mr. Rostker had to say, "Yes, perhaps there was an error." But there is no data base provided as an alternative to the data base provided by Mr. Rostker. So I do think we have to look at the data base, rather than simply accept someone's cavalier attitude that it is a hoax because it does not happen to be in accord with his conclusion.

Mr. JOHNSTON. I do not know about Mr. Rostker or——

Mr. HATFIELD. These statistics are what we have to go by. There are no other statistics available except the kind that perpetrate the 75 days illusion. The Senator from Georgia knows that if we had a computer bank we would be able to do it in 7 or 8 days.

Mr. JOHNSTON. Let me suggest that you and the Senator from Georgia argue about that. But I can tell you that this country ought to move to the draft now. The All-Volunteer Force is not working, and I am surprised that the Senator from Oregon, if he does not feel it is not working, first of all, can defend the principle that it represents a cross-section of America. It seems to me that our Armed Forces ought to represent a cross-section of America.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. In just a very few moments, then I will yield.

It does not represent a cross-section. I mean we are letting the low end of the socioeconomic group defend our country, and I think it is an obligation of all Americans, an obligation to be equally shared according to some fair method, to defend our country. We are not getting the quality we need, and the Senator knows that.

I do not know what his solution to it is. I know his question to me is what does this have to do with registration. Well, I say, I will just repeat it very quickly, registration is the first step to the draft either in time of peace or in time of war. It saves time.

I do not know how much time Mr. Rostker says it saves but, listen, it is commonsense that it saves time.

Mr. President, this country had better wake up. We had better stop being content with these soft, easy solutions that do not make anybody uncomfortable. If we do, we are going to find ourselves not only a second-class power but a third-class power with the inability to affect what happens to this country.

Mr. President, I thank the distinguished Senator from Kansas for yielding me some time.

Mr. HATFIELD. Mr. President, I will not engage in further colloquy. I would like to say to the Senator from Louisiana, if he has to leave, that I am going to read into the Record at this point some basic data. I think this will refute this argument we have heard so often that it has reached the status of a fact, the argument that the Volunteer Army is not succeeding. I think we ought to once and for all lay that myth to rest. It is not true.

Mr. JOHNSTON. Mr. President, let me say that I will read that information.

Mr. HATFIELD. I would like to read into the Record the statistics. But first let me ask the Senator then if he would like the floor, to tell me upon what basis he says the All-Volunteer Army is not functioning? What are his data?

Mr. JOHNSTON. I do not have the data available here, but I can tell you that the number of high school graduates has gone down since the All-Volunteer Force has been put in; the racial balance does not reflect the balance in the country. Well, I do not have the figures here with me.

Mr. HATFIELD. Mr. President, will the Senator wait just a few moments then to let me provide him with the figures?

Mr. JOHNSTON. As I say, I must go. I was just telling the Senator that I will read the Record.

Mr. HATFIELD. Will the Senator read the Record?

Mr. JOHNSTON. I will definitely read the Record.

Mr. HATFIELD. I would like to have the Senator read the Record because, Mr. President, it seems to me that we are using the Army as a whipping boy to try to justify the reinstitution of this Prussian system of recruitment. And I think it is an unfair attack upon the Army.

I really find myself in a very interesting paradoxical position. I stand here on the floor of the Senate to defend the Army against the so-called military supporters, who stand here demeaning the Army. We have heard such phrases as "its intelligence has been dropping," as if we had a bunch of dummies in the Army out there defending our country.

Mr. NUNN. Mr. President, will the Senator yield just for a brief moment? I want the Record to reflect that the only person on the floor who used the word "dummies" was the Senator from Oregon.

Mr. HATFIELD. Perhaps there is a more precise term. I only apply it to the illusion that intelligence is dropping to the point where we are not being adequately defended. Let us say then we have an unintelligent Army, if that is the phraseology that is more precise.

Mr. NUNN. Mr. President, the Record should also reflect that the Senator from Oregon is the only one using that term.

Mr. HATFIELD. I think it is very interesting that when the term is used by someone who is supporting registration it is perfectly legitimate. If the same concept is raised by someone who is opposing registration, it is interpreted as an insult to the Army. We are in a question of semantics. The people who are saying the All-Volunteer Army has not succeeded, cite the belief that intelligence quotients have dropped in the Army. Let me just quote from the Defense Department:

> In fact, even if these allegations prove entirely correct, intelligence levels still remain at least as high as they were during the peak strength years of the Vietnam war under the draft.

I also want to read into the Record this fact. The Senator from Louisiana has raised the racial question, that somehow there is the fear that an all-black Army is going to descend upon us and that somehow an all-black Army is a danger for America.

Well, I want to say that is not a completely racist comment, but I certainly think it ought to be carefully analyzed as to the racial implications.

What if we had an all-black Army, which we do not have and will not have? Is there some implication of a lack of capability or that someone is not as patriotic who is black as one who is white? I resent the implication that somehow an all-black Army is going to be great danger against this country, and that we must not stand for that.

Let me say this:

> Whereas unemployment rates for black youth have historically averaged about 10 points above those of white youth, this difference jumped to 18 percentage points in 1974. Thus, the changing ratio composition of the enlisted force is not attributable to the volunteer force but rather to changing demographic and economic variables.

Let me point out also that there are more black officers today in the U.S. military because of our move to remove discrimination than there were, and that part of that increase in the percentage of blacks in the military is precisely directly due to the fact that we have less discrimination and, therefore, we have more persons in the officer class who are black.

Now, though the black participation in the armed services has, in fact, risen significantly during the past 15 years, this increase is largely unrelated to the volunteer character of the Army per se.

The rising proportion of blacks in the forces, instead, is due mainly to the increased number of blacks found eligible—eligible—initially for enlistment or otherwise for military service. And, although blacks continue to score more poorly on mental aptitude screening tests than whites, the proportion of blacks who fail to qualify for military service has decreased significantly over the past 20 years. I think that is the significance.

Now, one other thing, and then I will be happy to yield, is this question about the diminishing status or the failure of the All-Volunteer Army. Let me just remind ourselves that this is a statistical base that is provided for us from the military itself.

From 1974 to 1979, in that period of time, we have had a drop in violence of 25 percent. We have a drop in the desertion rate of 56 percent. We have had a drop in AWOLs of 71 percent. We have had a drop in the use of marihuana by 16 percent; of other drugs, by 21 percent; a drop of 58 percent in courts-martial; a drop of 9 percent in nonjudicial cases; separations other than honorable, a drop by 31 percent; adverse honorable and general separations, a drop of 17 percent.

I think these are pretty hard examples of evidence so we can say that, we do not have the base upon which to stand here on the floor of the Senate to demean and denigrate the Volunteer Army that we have today. Especially this is true when we have to stand responsible for not having provided the kind of incentives and the comparable pay that Senator MATSUNAGA, Senator ARMSTRONG and others have proposed to keep trained people in our military service.

I am happy to yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I thank the Senator from Oregon for yielding. I commend him for the leadership he has played in fighting what I, myself, feel is absolutely unnecessary.

Mr. President, I rise in strong opposition to House Joint Resolution 521, the House-passed resolution, which would transfer $13,295,000 from the fiscal year 1980 defense budget to the Selective Service System to enable that agency to begin registration of young men for a possible future peacetime draft.

Mr. President, I had fully intended to join the Senator from Oregon in the debate yesterday, but I fell victim to the seemingly perennial and uncontrollable nuisance of mankind, the common cold. I found myself without voice yesterday. And, although I am not a strong voice still, I could not resist in taking part in the debate because of the strong feelings I have which coincide with those of the Senator from Oregon.

Mr. President, at the very outset, let me say, as I know others have said before me, that I share President Carter's concern that the Soviet invasion of Afghanistan poses a very serious threat to our vital interests and that the United States must react in a firm and decisive manner. I have strongly supported the initiatives taken by the President, which, of course, include economic sanctions against the Soviet Union, the American-led boycott of the summer Olympic games in Moscow, and substantial increases in our defense spending, because I am convinced that they are the right steps our Nation must take in order to deter any further Soviet aggression.

In my judgment, the Congress and the American people have likewise supported these initiatives, at great sacrifice for some, because the administration has demonstrated that they will, indeed, be effective in response to the Soviet invasion of Afghanistan.

However, the administration's call for premobilization registration, which has been billed as a strengthening of our manpower mobilization capability and a signal of our resolve to oppose the Soviets, has been received by the Congress and the American people with uncertainty, with skepticism, and, in some cases, with protests and demonstrations.

The reason for this is undeniably clear: The administration has just not demonstrated, beyond a reasonable doubt, that the reinstatement of draft registration, prior to the declaration of a national emergency, is necessary at this time.

Having considered very carefully the arguments that we must improve our ability to mobilize manpower in the event of an emergency and send a strong signal of our resolve to the Soviets, it is my conclusion that the evidence shows a need for the revitalization of the Selective Service System only to the extent that it will have the capability of registering young men after an emergency mobilization is declared.

The evidence does not, however, support the assertion that premobilization registration is necessary at the present time and under the present circumstances.

Mr. President, it is abundantly clear to me that premobilization registration will not accomplish what President Carter intended to accomplish when he proposed the plan in response to the Soviet invasion of Afghanistan. The fact of the matter is that premobilization registration will be a less than meaningful gesture in terms of improving our mobilization capability. And in putting the Nation through what may well be a divisive and, perhaps, worthless postcard registration later this summer, we will be sending nothing more than a weak and mixed signal of our resolve to the Soviets. I believe, Mr. President, that we can substantially and adequately improve our manpower mobilization capabilities and send an appropriate signal of our determination to back up our policies against Soviet aggression by means other than the reinstatement of draft registration.

As the coauthor with the late William A. Steiger of Wisconsin in the House of Representatives of the legislation which established the All-Volunteer Force (AVF), I know very well that the volunteer military concept was predicated on the maintenance of an adequate manpower mobilization capability in the case of a national emergency which precipitates an immediate return to the draft. The All-Volunteer Force was never intended to meet full military mobilization requirements in the event of our entry into war. To be sure, we must move promptly to improve our mobilization capabilities, but as we look at the evidence, it is clear the premobilization registration is not the answer.

The administration has been telling us that its premobilization registration plan will expedite the registration process in a national emergency situation; that is, it will get recruits trained and to the war zone faster. However, there is serious question as to whether or not the administration's plan will really make this happen. In fact, there has been strong indication that premobilization registration may well slow down the process because orders may be sent to men whose addresses may be months or years out of date. While I believe that it is widely recognized that the 18- to 20-year-old population is among the most mobile in the Nation, it is my understanding that the Selective Service System, under the premobilization registration plan, has no plan to insure that addresses remain current and accurate.

But assuming, for the moment, that premobilization registration will actually speed up registration in a military emergency, there is every indication that it will not provide a significant improvement in meeting the Defense Department's strict requirements in terms of numbers of recruits and time deadlines.

Of course, Mr. President, we have all heard the argument that premobilization registration will save some 72 or more days in getting recruits to the front. But Senators should understand that this argument fails to take into consideration the planned revitalization of the Selective Service System, which would be accomplished by appropriating $4.7 million.

By improving the infrastructure and computer capabilities of the Selective Service System, and implementing a proven postmobilization registration plan, most of the critical 72 days will be made up. As a matter of fact, virtually all of the expert testimony I have reviewed dealing with the two registration plans has indicated that premobilization registration would save only between 5 and 14 days in getting inductees into the system.

Mr. President, I am sure that most of my colleagues are now familiar with the Selective Service System's January 16 draft report which described premobilization registration as "redundant and unnecessary," and concluded that the postmobilization option would be the most cost-effective and desirable option available to improve the emergency capabilities of the Selective Service System.

According to the draft report, the postmobilization option would be able to produce its first inductions within 17 days after mobilization, 100,000 inductions within 35 days, and 650,000 inductions within 125 days after a war begins. It is very important to note that these figures lag behind the induction figures for premobilization registration by only 7 to 8 days and far exceed current Defense Department manpower mobilization requirements.

Moreover, this relatively minor savings in time provided by the premobilization plan may be more than offset by the fact that the military services will have, at most, only 70,000 to 80,000 training slots available for new soldiers, 30 days after mobilization. The Defense Department testified before both the House and Senate Appropriations Committees that both the pre- and post-mobilization options will, in fact, produce more inductees than the military services will be able to absorb in the first months after a war has begun. Consequently, the 7- or-8 day difference in the two registration plans would appear to be wholly insignificant.

I might further point out that the training slots that the military services will have available within 30 days after mobilization are for both draftees and volunteers. The administration's premobilization plan does not account for the large number of volunteers that can be expected in a wartime emergency. It should be emphasized that at the very beginning of World War II, we had over 16 million men registered for the draft. However, we only drafted 29,000 at the outset of the war because there were 111,000 volunteers crowding the available training slots. In Hawaii, for example, when a call for 1,500 volunteers was issued by the War Department, within 10 days, 10,000 strong had volunteered, 10,000 in 10 days in the small State of Hawaii. This experience, coupled with the knowledge that the All-Volunteer Force currently draws 30,000 volunteers per month, leaves no doubt in my mind that a sufficient number of young Americans will volunteer for military service when a national security emergency demands such a response.

In view of these circumstances, it is apparent that under either the pre- or post-mobilization registration plans, the combination of draftees and volunteers would produce more recruits than the military services could possibly train. Hence, it can be said that the speed at which mobilization proceeds will not be determined by pre- or post-mobilization registration, but by the availability of adequate training facilities, training staffs, and stockpiled equipment. I might add that it is my understanding that the administration and the Pentagon have not, as yet, asked the Congress for additional funds with which to expand the training capabilities of the military services.

In this connection, here is another important point that we should take into consideration, as we debate the premobilization registration plan. It is a fact that the need which will arise if there is an outbreak of hostilities will be for pretrained manpower, readily available, to be transported to the war zone immediately. The Defense Department has determined that the most demanding situation that is likely to face the United States would be an outbreak of hostilities in Europe between NATO forces and those of the Warsaw Pact. It is expected that such an event will be preceded by little or no warning at all. In this worst case scenario, there will be an immediate need for trained personnel to replace early casualties, which, it is anticipated, will be extremely heavy. Under the total force concept, our Reserve and National Guard Forces are supposed to provide the necessary replacements until the first inductees are trained and sent to the war zone. It should be clearly understood that inductees cannot be made available to field commanders for at least 3 full months, given the fact that the Military Selective Service Act requires a full 12 weeks of training for draftees. Therefore, it is inconceivable that the 7 or 8 days saved as a result of premobilization registration will be decisive in the event of an outbreak of hostilities.

Mr. President, in view of the critical importance of our reserves in a future war, what appears to be necessary at this point in time, rather than premobilization registration, is an immediate strengthening of our reserve forces, which have, during the volunteer era, experienced severe manpower problems. As the Defense Department's annual report for fiscal year 1981 states: "Maintaining personnel levels in the reserve forces continues to be one of the most difficult aspects of total force readiness."

Although there has been a recent leveling off of the steep decline in reserve enlistments, the Defense Department has indicated that it expects to continue to be short of its peacetime manning goals for the Reserves.

Mr. President, the reality of this situation is this: we can register people from now until the year 2000, but it is a fact that no amount of registration is going to get trained personnel to the war zone in the early stages of a future war. We will have to depend on our reserve forces to replace our early casualties; we should make no mistake about that.

In the face of this cold reality, it is clear that the Congress must take steps to solve the recruiting and retention problems in our Reserves, as well as the operational and administrative problems that have come to light recently which may be rendering our reserve forces ineffective. We need to redouble our efforts to provide additional flexibility in reserve enlistment alternatives. We must provide more attractive enlistment and reenlistment bonuses in cash and in educational benefits to recruit and retain greater numbers of critical skills and experienced personnel. And, finally, we should accelerate management improvements in the Reserves and the National Guard.

Mr. President, it has been argued by the proponents of registration that the most compelling reason for its reinstatement is the need to send the Soviets a strong signal that the United States is prepared to back up its defense commitments in the face of the new challenge to our vital interests in the Persian Gulf. But the fact of the matter is that by implementing a premobilization registration plan which clearly does little to improve our overall military preparedness, we will only be sending a very weak signal of our resolve to the Soviets.

We must not underestimate the intelligence of the Soviet leaders. We must remember that they read the same public military reports as we do. Surely, they know the current state of our military preparedness and what we will need in terms of manpower in the event of an outbreak of hostilities. Consequently, there is every reason to believe that the Soviets know, as we do, that our greatest military weakness lies not in our mobilization capabilities, but in our recruitment and retention of skilled personnel to man both the active and reserve segments of our peacetime All-Volunteer Force.

The Soviets also know that registration will do nothing to solve our manpower problems. Even the resumption of a full-fledged draft will not provide all of the personnel the military services need to fill critical skills positions. There must not be any misunderstanding about this: We cannot draft experienced combat pilots; we cannot draft to fill empty spaces for specialists to operate highly technical weapons and other systems; and we cannot draft sergeants and petty officers with 8, 9, or 10 years of critical military leadership experience.

Mr. President, the sooner we accept the fact that registration and even the draft will not solve our peacetime military manpower problems, the better off our Nation will be from a military standpoint.

I am convinced, and I have been for some time, that the single most important signal we should be sending to the world, in response to the Soviet invasion of Afghanistan and their challenge to our interests in the Persian Gulf, is that we are going to begin now to solve the manpower problems of the All-Volunteer Force which have placed it in an alarming state of declining readiness. This can only be accomplished by the Congress taking the necessary steps to reachieve and maintain pay comparability for all military personnel and restoring to them important educational and other benefits which have been reduced or terminated over the past several years.

Every report I have seen, including the Pentagon's comprehensive pay adequacy study completed last November, and a Congressional Budget Office report just released this week, has concluded that the manpower problems being experienced by the All-Volunteer Force are not being caused by any conceptual failure, but are directly attributable to what has been a steady erosion of military pay and benefits since the establishment of the All-Volunteer Force in 1973.

I am, therefore, planning to offer, along with the Senator from Colorado (Mr. ARMSTRONG), an amendment to the defense authorization bill for the coming fiscal year which will provide service men and women with full comparability pay increases by lifting the pay increase cap which has been placed on both Federal and military salary hikes by the President in his fiscal year 1981 budget.

I would also like to say that besides a pay increase, I strongly believe that a prompt review by the Congress of our past decision to terminate the GI bill is imperative. From the evidence I have seen to date, there appears to be no question that the Veterans Educational Assistance Program (VEAP), which replaced the GI bill beginning in 1977, has proven to be far less attractive as an educational benefit to potential recruits than was the GI bill. As a member of the Veterans' Affairs Committee, which will conduct a hearing later this month on educational incentives and the All-Volunteer Force, I plan to support a new, peacetime GI bill educational assistance program.

Mr. President, before I conclude, I wish to comment on an argument that has been made by some of the proponents of registration which deeply disturbs me. It has been argued that, because the President already has the authority to reinstate draft registration, the Congress should, without question or delay, appropriate the necessary funds. From this Senator's standpoint, to make such an argument does a disservice to what many of us in the Congress and many people across this country tried to accomplish prior to the end of our involvement in the Vietnam War—to place a check on the war-making powers of the President of the United States.

Mr. President, those of us who were serving in the Congress in 1964 remember far too well the debate that took place here over the Gulf of Tonkin Resolution. At that time, the President was making an argument which is very similar to the one we are confronted with today; that is, that approval of the Gulf of Tonkin Resolution was necessary as a signal that the United States would not stand for any further Communist expansion in Southeast Asia. We are all painfully aware that we went ahead and gave the President the broadbased authority he needed to commit American combat troops to the Vietnam conflict. The result of that unfortunate and, perhaps, misguided action was the deaths of thousands of our young men and divisiveness here at home which threatened to tear apart the very fabric of American society.

In the final years of the war, I joined many of our colleagues in vowing never again to let our Nation slide into such a tragic and disastrous situation. To accomplish this, the Congress enacted, over President Nixon's veto, the War Powers Act of 1973, which is intended to prevent the involvement of U.S. military forces in a war situation which does not reflect the vital interests of the United States or, as in the case of Vietnam, is not supported by the Congress and the American people. We also acted to remove the President's authority to conscript, thereby ending the draft, and went on to establish the All-Volunteer Armed Forces. We took this action with the intention of taking away from the President the unlimited military manpower which enabled him, without accountability, to involve our Nation deeper and deeper into the Vietnam War.

Mr. President, if we in Congress are really serious about the war powers of the President; if we are really serious about maintaining the coequal relationship with the Chief Executive that we fought so hard during the last decade to attain; then I say to Senators that we must take a long, hard, and objective look at just what is at stake in reinstating draft registration.

We must recognize that there is a preponderance of evidence to show that premobilization registration will not improve our military preparedness to any significant degree.

We must recognize that registration will only send a weak and mixed signal of our resolve to the Soviets and to our allies, because we will continue to neglect our greatest military weakness—the manpower problems we are now facing in our Active and Reserve Forces.

We must recognize that the reinstatement of peacetime draft registration, without proper justification, would be to disregard the lessons we learned, at such a great and tragic expense, from the Vietnam war; that unless the young people of this Nation have a clear perception that our Nation's interests and, indeed, their interests, require registration and, possibly, the draft itself, enactment of measures such as these by the Congress is sure to produce another era of division and alienation among the American people.

Mr. President, I simply do not believe that America is ready for another era of divisiveness and unrest; the wounds of the Vietnam war have not yet fully healed.

Finally, Mr. President, we must recognize that no matter how the argument is framed, the fact remains that the reinstatement of draft registration is the first major step toward the resumption of the draft during peacetime. It will no doubt provide those in the Congress who have consistently opposed the All-Volunteer Force and who have consistently neglected the real causes of the manpower problems in the All-Volunteer Force, with the momentum necessary to bring before us in the very near future the issue of a return to the draft itself. They would like the Congress and the American people to believe that the All-Volunteer Force has failed and that registration and the draft will be the ultimate solutions to our manpower preparedness problems. We know that nothing could be further from the truth.

Let me say that I fully understand that it may trouble many Senators to vote against the administration on something as important as this registration plan. However, we must not, in light of the facts, neglect our responsibility to the American people to vote for what is best for the Nation.

We must not return the Congress to its former role, which amounted to not much more than a "rubber stamp" of the foreign policy decisions of the administration. We must, during this debate in the Senate, bring to the attention of the American people the many reasons why the reinstatement of draft registration is unnecessary.

In the final analysis, the administration has just not presented the Congress and the American people with a convincing argument for the reinstatement of draft registration. We, therefore, cannot and should not vote to approve this resolution and this registration plan which will, in effect, permit the draft to hang over the heads of our young people in peacetime, only for the purpose of sending to the Soviet Union a shallow and symbolic gesture of our resolve. We should, instead, vote to revitalize the Selective Service System for an effective implementation of a postmobilization plan, and to take such steps as are necessary to solve the manpower problems now facing the All-Volunteer Force.

Mr. President, I urge my colleagues, in the strongest of terms, to oppose premobilization registration.

Mr. NUNN. Will the Senator yield for one question?

Mr. MATSUNAGA. I am happy to yield to the Senator from Georgia if my voice holds up.

Mr. NUNN. I thank the Senator from Hawaii.

Mr. President, there is just one point the Senator made about the number of volunteers that took place. I did not understand what that surge was in reference to. Was that in reference to the attack on Pearl Harbor, or was it at the time we implemented the draft, before Pearl Harbor?

Mr. MATSUNAGA. This was after the attack on Pearl Harbor. I can understand the position taken by the Senator from Georgia, which he stated earlier on the floor, that such an emergency would naturally awaken the patriotic instincts of many citizens, who would volunteer under such circumstances. The fact is that in an emergency, we do have hundreds of thousands of willing citizens who would not serve in peacetime, but would serve as volunteers in case of an emergency.

Mr. NUNN. Of course, the object of our military budget and all the things we do in national security is to do everything possible to avoid another Pearl Harbor. None of us wants that. If it happens this time, if it is a sneak attack, a bolt out of the blue—and I think that is unlikely, but if it happens—it would in all likelihood not be with conventional weapons.

I am not sure conventional forces can deter that kind of situation.

The point I wanted to make was that the draft in World War II that took place was before Pearl Harbor. The Senator is not relating the number of volunteers to that draft, but, rather, to the attack on Pearl Harbor?

Mr. MATSUNAGA. After the attack, the call for volunteers was issued and in Hawaii alone, as I said, in 10 days' time, 10,000 had volunteered and the call was for only 1,500.

Mr. NUNN. I know the Senator would agree with me that the purpose of being able to have a strong military force and the purpose of being able to mobilize, hopefully, is not just to be able to fight a war if one occurs. Of course, that is part of it, an essential part of it. Hopefully, it would be to prevent the kind of thing that happened in World War II, that led to World War II in terms of the Pearl Harbor attack, as far as American involvement is concerned.

I know the Senator would agree with me that one element of our national security and one element of our ability to mobilize is to prevent that very kind of thing from occurring.

Mr. MATSUNAGA. I agree with the Senator from Georgia that the building of our own military strength should be primarily to prevent a war. But I cannot see how a premobilization registration would be more effective in doing that as compared to a postmobilization registration, because as has been demonstrated, there is little difference in mobilization capability between the two plans.

I am unalterably opposed to a peacetime draft because it does more harm to the Nation than good. Divisiveness in our country the likes of which we have not yet seen, even during the decade of the 1960's, will come about, I predict, if this registration proposal becomes law, and if we move, subsequently, to resume the peacetime draft.

Mr. NUNN. I just say to the Senator that the draft in World War II occurred before Pearl Harbor. The Senator says he is totally opposed to a peacetime draft. I think everyone should recognize that this bill does not provide for a draft. But it is interesting that if we carry the Senator's theory backward to the World War II era and the Senator had been on the floor of the House at that time, he would have voted against the draft at that time. That was a peacetime draft.

Mr. MATSUNAGA. Yes, I would have voted against the draft because there were sufficient volunteers and the draft was the most inequitable thing that was visited upon the American people. The rich got away by sending their children to school; the poor had to serve. Of course, the Senator has heard the other inequities that came about through that peacetime draft.

Mr. NUNN. The Senator would have opposed the World War II draft, then?

Mr. MATSUNAGA. I would have opposed the draft prior to the war. I am not opposed to a draft in case of an emergency, where manpower requirements falter.

Mr. NUNN. The problem with the Senator's theory is that the emergency is much more likely to occur under the Senator's theory. Some of us are doing everything we can to try to get the country into a position where we can avoid having our young people go across the seas to die or die at home. We are trying to avoid a war but if one takes the position that we are never going to do anything about mobilization until it occurs, you are saying, "Give us a war and then we will show you how to do it."

Mr. MATSUNAGA. If the Senator from Georgia will yield——

Mr. NUNN. The purpose of being able to mobilize is to send some word to your adversaries that you can respond to an emergency and, therefore, hopefully, avoid the emergency. God forbid that we have to have another Pearl Harbor in order to alert this country to the position where we are going to be able to respond.

Mr. MELCHER. Will the Senator yield?

Mr. MATSUNAGA. If I may respond to the Senator from Georgia while I still have the floor, the Senator has a clever way of twisting things around and, of course, he is a formidable debater. But if the Senator from Georgia is inferring from what the Senator from Hawaii has said that I would in a way be encouraging a war by being opposed to a peacetime draft——

Mr. NUNN. Not intentionally. I certainly would not say he would do so intentionally. I know this is not the Senator's motive.

Mr. HATFIELD. Will the Senator yield?

Mr. MATSUNAGA. At any rate, I wish to say that I am against war, that I feel that we can avoid war through peaceful negotiations. I reject the idea that war is inevitable, even under existing circumstances. We must in every way strive to settle our differences among nations by peaceful means.

Mr. NUNN. I could not agree more with the Senator on that. I do believe, however, that one element of preventing war and deterring war is to make it clear, and abundantly clear, to your adversary that you are willing and capable of responding in emergency situations. I do not in any way want to imply that the Senator from Hawaii is intentionally taking a position that would more likely lead to war.

What I am saying is that our present inability to mobilize creates a dangerous vacuum in our national security capability and that vacuum encourages risks by adversaries.

We see it around the world today. If we do not begin to do something about it, the war we all hope will be avoided is more likely to occur.

Mr. MATSUNAGA. I wholly agree with the Senator from Georgia. As the Senator knows, I was the coauthor of the All-Volunteer Force and a cosponsor of the Armstrong-Matsunaga amendment which, I would emphasize to the Senate, would do something about the serious recruiting and retention problems facing our active and reserve forces. Rather than resort to premobilization registration, I believe we ought to create incentives for the retention of those already in the service, who are skilled and who can perform much more efficiently than draftees to carry on the military functions of this Nation.

Several Senators addressed the Chair.

Mr. MATSUNAGA. The Senator from Oregon has been seeking the floor. I yield to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Hawaii for his very outstanding presentation.

I want to add to the RECORD, on the questioning put to him by the Senator from Georgia (Mr. NUNN). I have heard some specious arguments before, but I think I have heard the greatest today, somehow that we are going to have a draft that will prevent war.

Let me remind us for the record that the draft passing in 1940 by one vote in the House of Representatives. Our preparation for World War II was not the draft that was enacted in 1940. It was the Federalization of our National Guard.

The Senator from Georgia is intimating here somehow that the draft is the back-up position for an emergency. That is truly specious for the simple reason the Senator from Georgia has totally ignored the role of the Reserves in our whole military program.

We have a standing military. That is our standing active military. Therefore, we should maintain it at the highest level, in the best equipment, at the best pay scales and comparable compensation to make it worthwhile and workable.

Mr. NUNN. Will the Senator yield?

Mr. HATFIELD. In the case of emergency, we then have the Reserve program, 1.3 million that we call in to meet that emergency. Not a draft.

If we have to use the argument that the draft is the best preventive measure, let us read our history again. I say to my dear friend from Georgia, the European wars that were fought over centuries were because they had a Prussian system in which they were able to maintain the large reserves.

The reason we got into Vietnam and were sustained there was not because of the fact that we had no draft, but it was because we had a draft.

Mr. NUNN. I understand the Senator's position.

Mr. HATFIELD. Because we had a draft. And three Presidents in a row could not have sustained that unpopular policy in Vietnam if they had had to call up the Reserves, because the Reserves were people of influence in the local communities.

The reason we were in Vietnam as long as we were was because three Presidents had that unlimited manpower supply of 18-year-olds that they could pump into that quicksand in Southeast Asia.

I say that both the cause for peace and the cause for preparation for war are served best by a voluntary system rather than a Prussian system in peacetime.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, just a brief word here.

It is interesting to me that the opponents of this measure ignore everything about the statistics and the analysis that shows that this country cannot mobilize under the present conditions.

The Senator from Hawaii said a minute ago he had cosponsored the Armstrong amendment. I happen to have favored a slightly different approach. But I also favor a beefing up for the career force, and the substitute was passed, which I think was preferable.

I commend the Senator in that respect. We do need improvements for the career force, to have a better Active Force, better quality, better service. We need more Reserves.

But even if we had all our Reserves, which we do not, even if we had every skilled position in the U.S. Army, Navy, Marine Corps filled, which we do not, the statistics show and the tests conducted in the last 1½ years show that within 90 days after we get in any kind of war we will have a 48-percent shortage in infantry positions, we will have a shortage of something like 27 percent in artillery positions, and we would have a shortage of 72 percent in armored positions.

We can pass all the bills we want on pay, we can triple the pay, and we will not be able to get an individual Ready Reserve in a pretrained manpower pool, and not be able to get a Selective Service System, unless we are willing to have some form of registration.

We are going to have to have some form of fallback. We are at least 275,000 people short in the individual Ready Reserve now.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. NUNN. I will yield in a moment.

We are at least 275,000 people short in our ability to mobilize.

Registration does not solve all these problems. It is not going to solve the active duty problem, the Reserve problem.

What it does do, though, is that it would give us some place to fall back on if we have an emergency, after we have called in the Reserves, after we have called on our active duty people.

The Senator from Oregon makes a strong point about not calling the Reserves in Vietnam. I could not agree with him more. I think that was one of the tragedies of that war. If we have Reserve Forces, they should be called.

When I first came to the Senate, I found a great deal of skepticism, which was understandable, among active military duty military people because they said privately, not on the record, "Why should we advocate programs for the Reserve, give them equivalence, when the political leaders of this country do not have enough courage to call them. They did not call them in Vietnam."

So the Senator from Oregon and I will disagree a lot during the course of this debate. We will not disagree on that.

The Reserves ought to be the first line of defense. They ought to be the first source of mobilization manpower.

I trust we would have enough courage in our political leadership, if we ever do get in another conflict, to be able and willing to do that.

But the fact remains, after we call up our Reserves, after we call up all our units, after we call up the Individual Ready Reserve, after we call up everyone we have on active duty now, if we had any kind of scenario in Europe, we would have a 48-percent shortage in infantry, a 27-percent shortage in artillery, and a 72-percent shortage in armor.

This measure, this registration measure, will not cure all those shortages. What it will do is provide the capability to start people in the system who are trained about 75 days earlier. That means we will be able to have some recourse.

I would be the first to admit we have to do something about the first 90 days. We have to do something about the first 90 days of any war. We are not prepared for that, either.

But I do not think we ought to logically, or can logically, take the position that because we are not solving all these problems now that we should not solve any of them now.

I do not think that is a logical position.

I believe we ought to solve this problem while we can. I think it is something that will contribute to our national security.

I would not agree with the implication that the Senator from Oregon keeps making, that out of Vietnam we should draw the lesson that if we have a draft we will have a war, that we are going to have a war because we have 18-year-olds to feed into the system.

I agree with him, the Reserves should have been called. But I would totally and completely reject any implication that a prepared America is a danger to itself and to the world.

That is where the Senator from Oregon's argument leads. His argument leads to that conclusion, that the way we prevent war is to keep our Nation unprepared.

That is not the way we prevent war. That is what we have done. That is what we have done since Vietnam.

Look at what is happening in the world. The world is becoming more dangerous as America becomes weaker, vis-a-vis the Soviet Union, and we are becoming weaker and weaker vis-a-vis the Soviet Union. We are seeing challenges all over the world. We are seeing Soviet action closing in on the Persian Gulf. We are seeing one step after another.

It is not a coincidence. This country has created vacuum after vacuum after vacuum. This measure is not going to solve all that. It is going to take a firm foreign policy. It is going to take 5 to 10 years. We must exhibit our determination and our willingness to begin to correct these problems.

The Senator from Oregon and I agree on the Reserves and the fact that they should be utilized, they should be beefed up, they should be called in an emergency, and I will work with him to try to strengthen the Reserves. I believe we have a fundamental disagreement, if I hear the Senator from Oregon correctly, because he seems to believe that the way you prevent war is to make sure America is too weak to fight one. I do not go along with that theory.

I believe that is exactly what is creating the danger in the world today—the fact that we are becoming weaker and the Soviets are becoming stronger. Our allies recognize it; our adversaries recognize it; the people in between recognize it. If we keep going down that line, the very danger all of us hope to avoid is more likely to take place.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. NUNN. I yield.

Mr. HATFIELD. I want to clarify my own understanding.

The Senator cites statistics of shortages we may face in case of an emergency. Does the Senator base those figures on the current system of Selective Service? If so, do those figures change under a beefed up program of Selective Service, including a computer?

Mr. NUNN. That is based on 90 days; and under the current system, after 90 days they would get worse and worse and worse. Under a Selective Service that is beefed up, you would still have the problem after 90 days, but then it would begin to get better and better and better.

Mr. HATFIELD. So we should clearly understand that the statistics the Senator is quoting are based upon the current system; but under a beefed up program, that picture does change, as the Senator has indicated.

Mr. NUNN. When the Senator says, "beefed up," I understand the Senator from Oregon to mean under this registration proposal. If the Senator is referring to what I call the hoax plan, it is very questionable that that is going to do it. It would do something.

Mr. HATFIELD. I understand.

As the Senator knows, the Congressional Office of the Budget also supports the hoax plan in terms of its ability to expedite the program.

Mr. NUNN. I understand that.

Mr. HATFIELD. Is that a hoax, too?

Mr. NUNN. That does not change my description of it.

Mr. HATFIELD. Is it a hoax for the Congressional Office of the Budget report, too?

Mr. NUNN. The Congressional Office of the Budget agrees with my analysis of the present system. They seem to find that some form of postmobilization registration might work. I think they are absolutely dead wrong on that point. I do not think they are trying to kid anybody; they are just wrong.

Mr. HATFIELD. The Senator understands that the Shuck report is a hoax in his view, the Rostker report is a hoax in his view, and the Congressional Office of the Budget report is a hoax in his view. So all three of these happen to disagree with the Senator's position. But I do not see him proposing any alternative study or any alternative data base.

Mr. NUNN. I do not see the need for stating something at great length and having a great analysis of it when it already has been rejected by its authors.

Mr. HATFIELD. I should like to disabuse the Senator of another misunderstanding about my view, which he interprets as being that, "America is going to stay out of war if it is too weak to fight one or is ill prepared."

I say, out of hand, that the Senator knows me better than to really believe that I am for other than a strong America that could be defended and that could defend itself. To believe otherwise of anyone would be to cast a very serious doubt upon his patriotism, upon his integrity, upon his intellect, upon whatever else we consider as being virtuous in this life.

What I am trying to put forth here is that I am not willing to make the trade off. The Senator from Georgia wants to institute a system that is going to create a divisiveness in this country that is more weakening than anything I can think of.

The Shah of Iran thought his hardware was going to save him, and he had some of the most sophisticated and some of the greatest quantities of military hardware and military establishment in the Middle East. That did not save him. It weakened him, because at the same time that he created the illusion that he was safe and secure because of his hardware, he neglected the other areas and the other components that make up the national security of any nation.

I am suggesting that we need to forge a new national consensus, a national will, and national purpose today. That is as important as hardware. America won a revolution against the No. 1 power of the world, not because we had a superiority of hardware but because we had a superiority of cause and purpose and will. Those are components of national security as much as is military hardware.

I want to support the proper level of military hardware. I want to support all the areas of our military establishment as part of our national security. But I reject the "Shah of Iran" mentality and the simplistic approach that that alone is our national security, when we are neglecting the economic front, the social front, the political front, the spiritual front, and all these other parts of our national security to which we must attend.

I am saying that I want a strong America, but I am not going to follow this kind of foolish mentality that says America is strong only by the way we measure our megatons. We are strong if we have spiritual strength. We are strong if we have economic strength. We are strong if we have political and social institutional strength and family life. These are as important as the adequacy of our military hardware.

That is why I say to the Senator that he is committing himself to a bad tradeoff. He thinks he is strengthening the military establishment by this instrument and vehicle that would divide this Nation at a time when we should be uniting this Nation and making it strong.

Mr. NUNN. Mr. President, I understand the Senator's statements, and I agree with him that we need a strong economy, a strong spiritual life, a strong moral life. We can stipulate all those things for the record. But I do not understand why the Senator keeps saying that we are talking about megatons or hardware here.

We are talking about manpower. We have not been debating megatonnage and hardware. I have not mentioned megatonnage and hardware. I am talking about the ability to mobilize. I believe we also need some hardware, but I have not been talking about it.

How we get from a debate on the subject of having the young men of America sign their names and addresses to the subject of the Shah of Iran's hardware and the revolution in Iran—talking about a specious analogy, that is the biggest leap in logic I have witnessed in a long time.

What does the Shah of Iran have to do with the registration of males in the United States?

Mr. HATFIELD. I will tell the Senator, if he gives me an opportunity. The Senator from Georgia raised the question——

Mr. NUNN. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Georgia has the floor.

Mr. HATFIELD. Mr. President, will the Senator yield for a question, to clarify something?

Mr. NUNN. I yield for a question.

Mr. HATFIELD. I just want to clarify this.

The Senator asked me why the Shah of Iran, megatons and military hardware have some implication in this discussion. I was trying to respond to the Senator's charge that I was standing for a weak, unprepared America.

I was trying to respond to the Senator's charge or his impression by stating that when we talk about an unprepared and weak America, we certainly have to consider in our national defense the megatons and the hardware as well as the manpower, the person power. I was trying to indicate to the Senator that the preparedness of America depended more upon a barter base than just upon the kind or amount of hardware we had or the number of men under arms or the number of men in reserves.

I was merely responding to the Senator's observation that I was standing for an unprepared, weak America.

Mr. NUNN. No, I did not mean to say that the Senator stood for an unprepared, weak America. I heard the Senator in his statement a moment ago saying that the reason we wanted registration was to have some form of draft. The reason we wanted the draft was to feed 18 year olds into the war machine so we could fight wars. That is how it sounded to me, as if the Senator is saying that the way to basically avoid war is to deny registration. That the way to avoid war is to avoid a draft and then we do not have the means to fight a war; therefore, we will not fight one. That is the logic I heard from the Senator.

I am glad to yield for a response to that.

I am saying whatever the Senator's view is, my strong view is that we do not prevent a war, we do not deter a war by taking steps and not taking steps, refraining from taking steps that lead to a weak America.

I believe there are people in this town, a lot of people in this town—and I do not believe there are many in this whole country—but there are a lot in this town who have had the theory since Vietnam that the way to keep America out of the war is to keep America weak, and that automatically means the world will be safer. Whoever has that view——

Mr. HATFIELD. Does the Senator think that the Senator from Oregon has that view?

Mr. NUNN. The Senator from Georgia totally and completely and absolutely rejects that.

Mr. HATFIELD. Does the Senator from Georgia think the Senator from Oregon has that view? Does he put me in that classification?

Mr. NUNN. When the Senator says we are going to put people in the war machine and that the reason we want registration is to have a draft so we can have a draft and have war.

Mr. HATFIELD. I indicted that was the case in the Vietnam war. That was an observation that the draft was the reason we were able to stay in the Vietnam war.

Mr. NUNN. The Senator has made that as an analogy to this debate over and over again.

Let me read what the Senator said yesterday. This is from the CONGRESSIONAL RECORD, page 13279. I quote the Senator from Oregon:

> So here we find, again, an emerging picture of something that is not quite clear today—that is, we begin to see some reason for the registration as the first step toward the draft, in order to get a large manpower pool, in case we unilaterally have to go into the Persian Gulf. I see no other justification.

Mr. HATFIELD. Yes.

Mr. NUNN. Let me continue to quote, and then I will give the Senator a chance to respond:

> Therefore, Mr. President, we are talking today about something of great significance to the American people and to the world at large.
>
> It appears to me that this may be the basic step that we would look back upon and say, as in the Gulf of Tonkin. . . .

This is not the Senator from Georgia saying this. This is the Senator from Oregon saying this.

Mr. HATFIELD. Oh, yes.

Mr. NUNN. The Sentaor is saying that registration is likely to be looked back on as the Gulf of Tonkin resolution. The Senator is saying we are about to go to war in the Persian Gulf, as I read his statement, if we pass the registration bill.

I do not believe I am the one who is conjuring up this notion. I think the Senator from Oregon is.

Frankly, as much as I respect the Senator from Oregon, I fundamentally disagree with those implications.

Before the President said one word on registration, before the Russians invaded Afghanistan, before we had the American Embassy taken over in Iran, our subcommittee had hearing after hearing on this subject. We concluded over a year ago that we needed to go to registration. We brought out a report in the Senate. We related it to the Warsaw Pact-NATO scenario, which is our most severe challenge.

I really reject the notion that those of us supporting registration are somehow asking the Senate to pass a Gulf of Tonkin resolution. I fundamentally reject that.

I think that is misleading the American people, and I say it with all sincerity.

I do not believe anyone supporting registration on either side of the aisle would, in any way, first of all, try to slip anything through. If there has ever been a subject we debated and talked about and had hearings on, this is it.

When I hear the Senator saying that we are about to unilaterally go into the Persian Gulf, the implication being because of registration or that this is going to be looked back on as a Gulf of Tonkin resolution, I say to my friend those are very strong words.

Mr. HATFIELD. They are very strong words. I wish to give a response to them because I repeat them again today. If the Senator will only go back a few paragraphs, instead of taking out of context the quotation which he just rendered, he would understand fully, precisely, and exactly what I intended to convey and communicate.

Last October, as the Senator well remembers, after he attempted to bring up the registration issue in the Chamber late one evening the President declared himself opposed to registration.

Then I indicated throughout the full context of the statement which the Senator has extrapolated that the President came to Congress in a joint session and delivered his state of the Union message in early February this year. In that message he issued what has come to be recognized as the Carter doctrine. The Carter doctrine, as it applied to the Persian Gulf, was that we would extend our military shield, our shield of protection, across the Persian Gulf and we would be willing to defend it with force if necessary.

In the same state of the Union message he took a 180 degree turnaround on the question of registration which he had only a few moments previously opposed and he called for registration.

In the entire context of that statement, I was speculating as to whether or not there was a relationship between the two. It appeared that we were asked for a draft registration program to provide him with implementation for that commitment, to defend the Persian Gulf by force if necessary. I suggested that this might be that situation upon which we would look back as having provided the President again with that kind of manpower pool that we had in Vietnam which provided three Presidents with the opportunity to engage us in the longest war in American history. I will stand by that position. I think it is a valid position.

But I also say that in no case does it in any way demean or denigrate the preparation or preparedness of America or the strength of America to call upon the voluntarism of this country as we have for 167 years of our history.

The Senator seems to have lost faith in this country to respond to our needs. Voluntarism has provided us with manpower for 167 years. The Senator from Georgia has joined with others in this Chamber, including Senator MATSUNAGA in supporting the Volunteer Army. Although I might say that the Senator's proposal was watered down when he offered it in the Chamber. It did not come out of the Armed Services Committee—it came out as a counteraction to Senator ARMSTRONG and Senator MATSUNAGA's program to try to raise these to comparable compensation levels. What we finally adopted in the Nunn Proposal was a watered-down version.

But I join with the Senator to strengthen the Armed Forces today, to retain those people that we need to be strong and to attract others into the Armed Forces. That to me does give us the answer rather than following this bankrupt policy of saying because we have an unpopular policy in the country today, we have to then use the Prussian system to fill the ranks of our military. That I reject.

Mr. NUNN. Mr. President, I have to confess to my friend from Oregon that I still do not understand the analogy between this and the Gulf of Tonkin. I know he explained it, and I will certainly try to pay attention, but I do not recognize any similarity between the two at all. I for one am not giving the President permission by implication or by vote or by handling this bill of any kind whatsoever, except on the matter of registering 18 year olds, 19 year olds, and 20 year olds, which he already has the authority to do under the law.

So I think that is a very, very strained analogy under any kind of explanation whatsoever, and I do find many of the Senator's statements, and I know he is sincere in them, and I completely recognize his tremendous patriotism, his dedication to this country, but I do believe that it must be recognized the Senator from Oregon has a fundamentally different view of national security than the Senator from Georgia, and I believe that the Senator from Oregon——

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. NUNN. Not at the moment. I will in a moment.

I do believe that the Senator from Oregon in his statements when he talks about the Gulf of Tonkin, when he talks about the fact by implication we are about to go to war in the Persian Gulf, and that this is some form of that kind of procedure, when he talks about the fact that the reason we have a registration is to have a draft. the reason we have a draft is to give the President 18 year olds to feed into the war machine, and so forth and so on, I deduce from all of that that the Senator is certainly of a different philosophy regarding our national security than the Senator from Georgia.

That is all I am saying, but in no way questioning the Senator's patriotism. I do believe and I repeat that there are many people in this town who have felt for a long time since Vietnam that a prepared America was a danger to the world. I believe that has been the case. I believe those numbers are diminishing. Thank God for that.

I believe the country has not had that position ever. I do not believe this country has ever had that position.

But I think it is a very dangerous view, and I make no apologies to anyone for rejecting the view and for combatting it at every turn.

Does the Senator desire to ask a question?

Mr. MELCHER. No. I wish to make a comment if the Senator will yield.

Mr. NUNN. I will yield, but I had promised other Senators I would yield to them to make statements on this. I do not know whether the Senator from Iowa wishes to make a statement at this time or not.

Mr. MELCHER. I will be delighted, if that is the case, I will be delighted to propound a couple of questions then in order to get a few comments in about something that has been going on that the Senator from Georgia has raised in this Chamber for the past half-hour or 45 minutes that I think is fictitious.

Mr. President, will the Senator yield for that purpose?

Mr. NUNN. I would be glad to yield for a question or whatever you want to ask.

Mr. MELCHER. All right. I want to state, first of all, before I ask a question—I want to make a statement to you based on what you have said.

Mr. NUNN. Go right ahead.

Mr. MELCHER. All right.

I would like to say that I share the Senator from Georgia's philosophy on almost all things on national defense. I am proud of that. I do not happen to share the Senator from Georgia's view on the neutron warhead. I differ on that. We have discussed that earlier, I think it was a year or so ago.

But I do believe we are going to have to spend a lot of money for our armed services, for our Navy, for our Air Force, for our Army.

I think I have been voting pretty much the way the Senator from Georgia has been recommending on those things, so I think I happen to share your philosophy in general.

But I will not participate in or be linked to that philosophy in any charade that somehow tries to say that this time of 1980 is something like 1941 and Pearl Harbor. The Senator from Georgia made the point that he did not want to be caught like we were caught at Pearl Harbor.

He asked the Senator from Hawaii whether he would have voted for the draft at that time, I believe it was October, November, or December of 1941.

I can tell you, contrary to what the Senator from Hawaii answered, I think if I had been in the House at that time and the situation was the way it was, I would have voted for the draft at that time.

World War II had started in 1939 and this was 1941. We had all kinds of participation with the allies in their efforts. We were very skeptical of what Japan was going to do. We had mobilized the National Guard——

Mr. NUNN. Mr. President, will the Senator pause at that point——

Mr. MELCHER. Things are not the same right now.

Mr. NUNN. Mr. President, if the Senator will pause on that right now and yield——

Mr. MELCHER. All right, I am glad to yield.

Mr. NUNN. If the Senator is stating that the Senator from Georgia is saying we are about to have another Pearl Harbor, he misunderstood. The Senator from Hawaii said he was against any form of peacetime draft or peacetime registration, and he made the analogy, he talked about the fact that we had 10,000 volunteers after Pearl Harbor.

The Senator from Georgia asked the Senator from Hawaii if that was after the draft was passed or if it was after Pearl Harbor, and the Senator from Hawaii said it was after Pearl Harbor.

The Senator from Georgia then asked the question, if the Senator from Hawaii had been in the House at the time before Pearl Harbor what would he have done on the question of the draft when we had all that tension, we had all that buildup, we had the war in Europe, and he said he would have voted against it.

The Senator from Georgia then said the purpose of being prepared and the purpose of being able to mobilize is to prevent any form of Pearl Harbor. We want to prevent any form of war today, and that is the purpose of being prepared.

If the Senator will go back and look at the record he will see that I have not said we are about to have another Pearl Harbor. I have not predicted another Pearl Harbor. The Senator may have gotten in at the tail end of the colloquy, and if he can find it in the RECORD I would like for him to read it back to me. I never said that.

I think we are in a period of great tension and I think we are in a period of great danger in the world, and I do not think we are going to have another type of conventional Pearl Harbor attack on the United States.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. NUNN. Yes.

Mr. MELCHER. Would the Senator advocate mobilizing the National Guard today?

Mr. NUNN. Mobilizing the National Guard?

Mr. MELCHER. Calling them in to active duty today.

Mr. NUNN. No, I would not.

Mr. MELCHER. Then the situation is not nearly as tense as it was in 1940.

Mr. NUNN. I will tell you what I would do. I would say that if we do not do something about the deficiencies in the Navy we may have to call some of the Naval Reserve because we do not have enough people in the Navy to man the fleet.

Mr. MELCHER. And we had better attack that problem, had we not?

Mr. NUNN. That is exactly right. I will assure you that the committee I serve on, the Armed Service Committee, is attacking that problem.

Mr. MELCHER. And what do we really need for the Navy? If we call up the Naval Reserve would we not be getting some experienced people and putting them on those ships? Is that not what we really need, as opposed to draftees?

Mr. NUNN. That is exactly right. We are not talking about going to the draft either. We are talking about registering people so we can respond in an emergency.

But we can go back and forth on this. I just want to make it clear to the Senator, and then I will yield for any other comments he may have or questions, that I have not predicted another Pearl Harbor. I have alluded to Pearl Harbor only in the historical context in the debate on the draft, the whole question of the peacetime draft, and if the Senator thinks we are not in a period of tension, if he thinks we are not in a period of danger, then I would disagree with the Senator, respectfully.

Mr. MELCHER. I do disagree about the level of tension. If the Senator from Georgia was not implying it and did not mean it, I am glad to hear that. But he seemed to be saying that the dangers are like they were in 1940 and 1941. If the tensions are that great, and the Senator from Georgia is an expert on this, and if he recommends the same sort of actions that were taken in 1940 and 1941 to mobilize, I will take his recommendation very seriously because I have a high regard for the Senator from Georgia's judgment on such matters. But I do not believe the Senator from Georgia really likens this to the tension and to the dangers this country faced in 1940 and 1941 with the proximity of war upon us.

Mr. NUNN. I think we are more like in the 1938 and 1939 period than in the 1940 period. But we are definitely in a period of great danger and considerable appeasement around the world. We have just seen the Soviet Union invade Afghanistan, we have seen them close in on the jugular vein of the Western world; they are in South Yemen, they are in Ethiopia, in Angola, and I think it is not something to be taken lightly.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. NUNN. I do not want to interrupt my friend from Montana.

Mr. MATSUNAGA. Since my name was used here, just to complete the record, let me interject the fact that I would have opposed the draft had I been a Member of the House of Representatives prior to Pearl Harbor. I might say that it is my understanding that the House of Representatives, in 1940, approved the institution of the draft by very slim margin. But I want you to know, just to complete the record, that although I would have opposed the peacetime draft, I myself volunteered for active service 6 months before Pearl Harbor. I want the RECORD to so show that while I would not vote to have others drafted during peacetime, I would be more than willing to volunteer for active military service myself.

Mr. NUNN. I know about the Senator's record, and I certainly commend him for it, and I would agree with that.

I would be glad to yield to the Senator from Montana for questions or further comment.

Mr. MELCHER. I just want to make this comment. Let us not kid ourselves that what the armed services need most is retaining the experienced and highly motivated people—soldiers, sailors, marines, and Air Force personnel. That is really our need.

I think this registration, if the administration bill passes, may speed up mobilizing in case of an emergency by 13 days if we want to believe the CBO; it may speed it up 75 days if we want to believe some of the figures the Senator from Georgia has cited for the RECORD, or perhaps somewhere in between. But I think it is a very specious, dangerous argument to say that what is going to make America strong is passing the registration bill leading to enactment of the draft.

I do not think you can look at this as a panacea for making America strong. I think it would be most dangerous if we do. The crisis we have had in Iran and the Russian invasion of Afghanistan has started what appears to be sort of a bandwagon approach back to the draft.

The House of Representatives spent only 1 day. That means they spent about 2 or 3 hours debating this resolution before they approved it.

The plan now before us calls only for a peacetime draft registration, but it is clearly the first step toward a peacetime draft. Nobody that really wants to have this registration very badly would avoid voting for renewing the draft in peacetime.

Well, that capability then would give us 200,000 or 300,000 or 400,000 draftees in a year's time. Would that make America strong? No way. No way. We would have draftees all right, but I think we would be sort of kidding the American public that this put us back into shape and we were doing what we were supposed to do.

Before starting down that road, we ought to take a careful look at all of the pros and cons of the All-Volunteer Force versus peacetime draft registration in meeting our national military manpower needs.

I think we owe it to the American public to make a very careful comparison, a very careful study of what we have in the All-Volunteer Force right now and what we can do with it, as compared to renewing the draft and taking 200,000 or 300,000 or 400,000 draftees a year.

I think we owe it to the American public to do that, because when you have a peacetime draft, you are telling some citizens of this country to do something that they will not want to do—be drafted. After all, if they wanted to be drafted, they could volunteer.

So let us review just what we have in the case of the All-Volunteer Force. First of all, can the All-Volunteer Force attract enough recruits to meet our military needs without the threat of the draft? Second, has there been a significant decline in the quality of our military manpower under the All-Volunteer Force? Third, is peacetime draft registration the best way to meet current military manpower needs?

Well, let us look at an important study called "Military Manpower and the All-Volunteer Force," which was done on the first 3 years of the All-Volunteer Force from 1973 to 1976. The study was made by Richard V. L. Cooper for the Rand Corp. For the period of this study, Mr. Cooper found that the services cumulatively recruited 99 percent of their manpower goals. Moreover, his data shows that the Armed Forces substantially exceeded their enlistment quotas for higher quality recruits during the first 3 years of the All-Volunteer Force.

In short, Mr. Cooper found that, for the period of his study, overall force strengths of the All-Volunteer Force were virtually 100 percent of the stated objectives; and that overall, looking at both mental categories and educational background, the mental capabilities of those entering the All-Volunteer Force was significantly higher than that of those who were drafted.

Well, that was the years 1973 to 1976. And I respect Mr. Cooper's study.

But I wonder what has gone astray since then. Because, assuredly, we do not have the type of people that we want in our armed services now in terms of the experience and in terms of know how and, in fact, in terms of morale.

But what has happened since 1976? Well, in-house Department of Defense studies support the findings of Mr. Cooper and show that the trends he found has continued on through fiscal year 1979.

Well, there may be something a little bit wrong with the Department of Defense's assessment of just what shape we are in. But the question we have right now is, if we are not in the shape that we feel comfortable with and feel satisfied with, will this registration bill leading to a peacetime draft correct that? I do not think so.

The Department of Defense Annual Report for Fiscal Year 1981 reports that fiscal 1979 Active Force end strength stood at 2,024,400, or 99 percent of the Department of Defense goal of 2,050,000.

The Army end strength for the year stood at 98 percent for stated objectives, the Navy at 100 percent, the Marine Corps at 98 percent, and the Air Force at 99 percent. Most of this shortfall came in 1979, which was a difficult recruiting year. It was the first year since the end of the draft that each service failed to meet its recruiting goal. In that year, the Army had 90 percent of their recruiting goal, the Navy had 94 percent, the Marine Corps had 98 percent, and the Air Force had 98 percent. However, this trend has reversed itself and the initial figures show that there has been a definite upturn in the recruiting success in recent months.

Now, who do you think they are recruiting? Are they getting the recruits they want? Or is their judgment wrong? Their judgment may well be wrong, but what does draft registration or the draft itself do to help? It is just an extension of their judgment.

They tell us they are going to meet their goals as they stand right now. I do not think they want to draft 150,000 draftees a year. I suspect, if they had it and they had the money to pay these people, they would go up to 300,000, 400,000. I cannot imagine the military, if they have the money, not filling up more slots.

I think there is something haywire in the whole system here. I do not think it is going to be answered by this resolution nor a peacetime draft. I do not think anybody in this country believes it, either.

I think if there was any doubt among the America public that we are not really as prepared as we should be, that those doubts were erased in the fiasco in Iran during the aborted effort to get our hostages out.

What do you think that told us? The equipment did not work; it could not even get to the first base.

Why did not the equipment work? Is there something wrong with Sikorsky, something wrong with those helicopters? There must have been. They did not work.

There was something wrong with the military's judgment. There was something wrong with the ability of those taking care of the helicopters.

What good would it have been to have had the draft? Do you think they are going to draft somebody who knows how to take care of the Sikorsky helicopter? They probably have never used those Navy Sikorskys flying over a desert for 500 miles. Is the draft going to correct that?

We have got a lot more wrong with our military, a lot more wrong with our armed services than this little resolution is ever going to correct. In fact, all this resolution does is try to get a draft, to draft 150,000 to 200,000 draftees a year. And, having done that, I suppose the attitude of the public is supposed to change in America that we are somehow making America strong again.

Basically, we are not really addressing the problems of what is wrong with our armed services in this resolution, nor will a peacetime draft address those. Those problems go to what kind of people you have in your armed services, what kind of equipment you have available. And it really costs a lot more money than we have been spending. It costs a lot of money to have those Sikorskys and have the type of people that keep those Sikorskys in tip-top shape. We do not have it right now.

We are going to have to correct that. We are wasting our time, we are spinning our wheels if we are going to try to make the case, as the Senator from Georgia did earlier this afternoon, that this is the first step to get America strong again. It is not the first step to get America strong again.

Our first step we kind of muffed when we did not make a better arrangement a few months ago for paying the people we now have in the armed services adequately and making it attractive for them to stay there.

That will be the first step we have to take. I think when we take that first step we ought to recognize other needed steps, too, as in the case of the Reserve forces.

In the case of the strength of the Reserve forces, it is certainly a mixed bag. While the fiscal 1979 end strength for the Naval Reserve stood at 101 percent of objectives, the Marine Corps Reserve at 99 percent, the Air National Guard at 100 percent, and the Air Force Reserve at 101 percent, the end strength of the Army National Guard and the Army Reserve stood at only 75 percent of the war-required strength, according to the Department of Defense.

When it comes to the quality of our current military personnel, the Department of Defense report states:

> The quality of our recruits, in terms of their ability to learn military skills and perform successfully as members of military units, has been roughly comparable to what we experienced in the pre-Vietnam draft period.

I do not know whether that was good enough, and I do not know whether going back to the draft is going to make it any better. I doubt it.

They go on to say:

> The proportion of the enlisted active duty force with a high school education or equivalent remains at 88 percent and represents a significant increase over the 73 percent proportion in 1964.

We had the draft in 1964. Continuing:

> And over the 81 percent proportion existing in December of 1972.

That is when the draft ended, in December of 1972.

Another way of measuring the quality of military manpower is to look at the "mental category" of new recruits.

While the Department of Defense reports that there has been a decline from 38 percent in 1964 to 29 percent in 1979 for those nonprior service recruits in the highest mental categories, their data also shows that there has been a significant decline from 15 percent in 1964 to 5 percent in 1979 in those recruits testing in the lowest mental category.

There has been, at the same time, a significant increase in the new recruits who qualify in the average mental category. The number of recruits in this category has increased from 47 percent in 1964 to 66 percent in 1979. While these trends span all the services, there are some individual differences. I ask unanimous consent, Mr. President, that a table showing the figures for the individual services be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DOD ANNUAL REPORT FOR FISCAL YEAR 1981—MENTAL CATEGORY OF NONPRIOR SERVICE ENLISTED ACCESSIONS

Mental category	Population percentile	DOD			Army			Navy			Marine Corps			Air Force		
		1964	1972	1979	1964	1972	1979	1964	1972	1979	1964	1972	1979	1964	1972	1979
I and II	65-100	38	35	29	34	34	20	42	37	35	38	25	24	51	43	40
III	31-64	47	48	66	45	48	70	48	43	62	53	55	72	46	49	60
IV	10-30	15	17	5	21	18	9	11	20	4	9	20	4	4	8	0

Note: Percentage totals may not add due to rounding.

Mr. MELCHER. This data supports the conclusion that the overall mental quality of new recruits has not suffered under the all-volunteer force when compared to the mental quality of those entering the service under the draft. The Department of Defense annual report also reaches this conclusion, stating:

> In general, then, the active forces are obtaining enlistees with mental ability sufficient to meet force requirements.

All this is not to say that there are not problems in our military manpower position. Indeed, I believe there are great problems with our military personnel. As several recent exercises, including Nifty Nugget—I think Nifty Nugget is about the most unmilitary term I have ever heard, but that is what the Department of Defense termed one of their recent exercises.

Well, that pointed out we would have problems mobilizing a large number of trained troops to meet an all-out conventional military threat from the Soviet Union. However, the question that should be asked is whether or not returning to draft registration is the best solution to this problem. I do not think it is. I do not think that is the best solution at all. A draft in such a situation is virtually useless, and reliance on it could actually place us in real danger.

The danger is that you get the public to believe we have really done something and then the people here in Congress are afraid to appropriate the dollars to buy what is needed, whether it is a truck or a Sikorsky helicopter, or to pay the personnel who are there to take care of those trucks, Sikorsky's and airplanes.

Mr. COHEN. Will the Senator yield?

Mr. MELCHER. I yield to the Senator from Maine.

Mr. COHEN. The Senator has hit upon an important point. The term "Nifty Nugget" has been dragged out here for several days, and last year, during a debate on this issue. I think we have to clarify for the record that registration has absolutely nothing to do with the problems associated with Nifty Nugget. Nifty Nugget pertains to mobilization and the use of pretrained personnel. Draft registration has nothing to do with pretrained personnel. Under the best estimates we are telling about, if you put somebody on that list, you are still talking about at least 16 weeks of training, assuming you go to mobilization and the invocation of the draft.

So we should not confuse draft registration as somehow enhancing our mobilization capacity or our ability to mobilize, as we failed to do during Nifty Nugget. We have serious problems with our mobilization capacity.

I have sat here for the last 15 or 20 minutes. or so, and I was intrigued with the exchange back and forth between the Senator from Montana and the Senator from Georgia. because I think both Senators have the same objective in mind. That is to correct the inadequacies that we presently have with our military services. But I join with the Senator from Montana in coming to the conclusion that this proposal now before us will be an unnecessary and wasteful diversion of our resources that have to be devoted to that end. I want to associate myself with his remarks when he suggests that we are going to be sending the wrong signal to the American people.

I think one of the objectives of President Carter in submitting this proposal as he did in his state of the Union message was to send a signal to the Soviet Union that the United States was going to get tough again. Well, this in my judgment, is one of the most empty and hollow signals we could possibly send, this one right here, because it might, as the Senator from Montana has suggested, deceive or mislead the American people into believing we are actually doing something to correct the deficiencies that we currently have.

I would suggest to the Senator from Montana, and I am sure he concurs, that it will do nothing to deceive the Soviet Union as to what our state of readiness and mobilization capacity really are.

I commend him for pointing out there is a host of things for us to do that would truly improve our mobilization and readiness capacity, and registration is not one of them.

I must say that I do not completely share the views of the Senator from Oregon in terms of whether we should have draft registration at some point in time, if ever. I could be supportive of going into a draft registration if I thought it was necessary. But I have now sat for 2 years on the Armed Services Committee. I have listened to the evidence and the witnesses and I am unpersuaded that this is the most efficient, the most effective way to go about correcting the serious deficiencies we have. We have had Admiral Hayward come into the committee and say, "I have a hemorrhage in the Navy, and I would be prepared to take fewer ships, hardware, if you will give me the personnel to man the ships that I do not have manned right now, if you will give me the trained people who will stay in the service and not bail out in their mid-career levels."

I think what we have to do is have a significant pay raise for our personnel. I think we have to do as the Senator suggested, start devoting more and more to improving our hardware, our planes, our tanks, and our ships. But the last thing we want to do is say that this is going to cure our manpower problems, because if we go to a draft program—if we do go to a draft program—that is going to line these 150,000 or 200,000 young people up on that draft day. It is going to do nothing to correct their exodus on the other end 2 years later.

We can talk about the need to have a ready pool of manpower, but if we are simply putting them in for 2 years and not doing the things necessary to keep them there—I am talking about 100,000 families who are now on food stamps or qualify for food stamps, I am talking about people who are moonlighting, I am talking about that level of personnel, that quarter of personnel, who are earning less than the minimum wage—which I find shocking under most circumstances.

Those are the problems we should be addressing ourselves to. Then, if we try those and they fail to stop the hemorrhage that Admiral Hayward is talking about, then we can always go to a draft registration proposal.

I was going to take the time to go through and point out the inconsistency on the part of the administration's proposal. For 2 years, better than 2 years, the administration was fundamentally opposed to a draft registration proposal. Then suddenly, there was a complete reversal—as Senator HATFIELD has suggested, a complete 180-degree turnabout—when the President came forward and called for the draft registration proposal.

Last year, we debated this matter and said, let us have a study by the Selective Service System as to what is the best means of improving our manpower capacity. Prior to that study being completed, the President changed his mind. Apparently, that was precipitated by the Soviet invasion into Afghanistan. But the fact of the matter is that his Selective Service appointee had a study underway at that time, which concluded—although he now finds it a preliminary finding, a preliminary study—that draft registration would be redundant and unnecessary.

I might, in fairness, point out that Dr. Bernard Rostker has since disowned that preliminary report, following the President's decision to impose draft registration. But just several days, a few weeks, before the President made his declaration, the report had concluded preliminarily that it would be unnecessary and redundant. So I think that the evidence is rather clear that this proposal was put together hastily. It was not well thought out.

I shall not go into the women's issue; I think Senator NUNN has raised here and did raise legitimate questions before the hearings in the Committee on Armed Services whether or not, if we had a draft registration proposal and we went to a draft, we would have to draft women on a 50–50 basis. The Defense Department indicated that that would not be a desirable allocation of manpower, but they had not thought it through.

I think, if that was significant, it was endemic to the whole draft registration proposal itself, that they had not thought it through clearly.

I think before we send a signal to the Soviet Union that we are getting tough and tell our allies that we are once again reviving the strength of the military, we really ought to do it in a substantive way rather than an empty, symbolic way.

I know the administration has been successful in some cases in using symbols to its advantage, but this is one symbol that I think would be a great deception upon the American people. It will not deceive the Soviet Union or our allies if we fail to take those measures necessary to rehabilitate, in a substantive way, our military services. It will mislead the American public into thinking that we have done something to correct our manpower problems.

I want to join in the remarks expressed so eloquently by the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I thank the Senator from Maine for his comments. They are very appropriate, very apt, very profound, his having reviewed this whole subject matter for the past 2 years, as he has stated, and serving on the Committee on Armed Services.

I do concur very much with the Senator's comments. This is not going to fool the Soviet Union. They know very well what 150,000 or 200,000 inductees mean to the Armed Forces. What they are really concerned about is whether there is performance. That is what sends a signal to the Soviets, whether you really can perform. We send them a signal by showing them that the Sikorsky works, can fly across the desert instead of failing, as they did in the abortive effort at rescuing the hostages in Iran.

We send a signal by showing that the equipment that we have is ready, that it is being effectively operated, and that the people who are operating it are experienced. That is the kind of signal that means something. This whole situation we are in does not lead to that type of signal. That is a rather false signal.

Now, if we are going to draft somebody for military service, it takes weeks. At a time when hundreds of thousands are required; it is going to take even more time. Then after we have them drafted and trained them a little bit, as the Senator from Maine just pointed out, what will we have? Somebody who has had basic training—generally 12 weeks, sometimes 16 weeks, 20 weeks? Someone who is really unskilled.

By the time the draftee is in a year, most draftees only stay 2 years, he or she is spending most of their time wondering how quickly they are getting out.

Mr. President, the question that should be asked is whether or not returning to draft registration is the best solution to our manpower problems. I think it is not. A draft in such a situation is virtually useless and reliance on it could actually place us in real danger. Drafting a man for military service takes weeks and at a time when hundreds of thousands are required, it is likely to take many months. And even after you have accomplished this, you would have a large group of hastily trained, inexperienced, unskilled men who could not meet our needs in an emergency military situation.

What is required in times of extreme, sudden emergency is a large, active ready Reserve force, composed of experienced, skilled, well-trained people who can be mobilized quickly and effectively. Unfortunately, it is exactly our Reserve forces that have most fallen into disarray in recent years. This is because the maintenance of a quality Reserve has been low on the Government's priority list for a long time—both during the draft and afterward.

We do not pay them very much, they do not have many advantages and they do not have very good equipment, either. If you doubt that, if any of us doubts that, visit the reserve forces in your own State; make your own judgment.

If we are serious about upgrading our military manpower position to meet possible threats from the Soviet Union in Southwest Asia, Europe, or elsewhere around the world, or if we want to meet threats from anybody, we should be concentrating our resources on upgrading the quality and size of our Reserve Forces, rather than wasting our time and resources reinstituting a policy of registering a large number of 18-, 19- and 20-year-olds for a possible emergency draft.

Mr. President, the 1981 DOD annual report states very clearly:

> Peacetime conscription is by no means an obvious solution to our current personnel problems. These problems have more to do with the retention of skilled and experienced personnel who already have six to twelve years of service, than with recruits. We need accordingly, to expand current efforts to improve our recruiting and retention performance.

Mr. President, I read a lot of reports from Government agencies, but I think whoever put that sentence, or that three or four sentences, in the Department of Defense annual report ought to be commended—he or she, whoever wrote it.

I wish the public would pay some attention to it because it is exactly what the public and America must understand.

We have to retain these skilled and experienced personnel who already have 6 to 12 years of service that are more important than recruits, much more important.

It is not hard to see why the services are having problems in retaining trained people. February 1980 Congressional Research Service study on DOD manpower costs found that, if manpower costs are viewed in their per capita form—as compensation and benefits for individual members of the military forces—the pay and benefits of active duty military personnel in constant dollars have in fact declined since fiscal year 1964.

Imagine that. Is that not nice? Why do we not retain the experienced and trained personnel? Their patriotism goes so far. But they get poor in the service, financially poor.

I have a rather interesting preparation in my hand right now. It shows the relative change in buying power during the past several years.

From 1972 to 1979, in the military, considering their basic pay and allowances and their tax advantage, considering all that, from 1972 to 1979 it actually decreased about 12 percent.

How do you like that?

1972 to 1979, in years of inflation their relative change in buying power, considering everything they get, the whole ball of wax, and that is not just their pay, but it is their allowances and their tax advantage, all considered, it declined about 12 percent.

Now, what happened on the outside, the outside being in private life, out of the Armed Forces?

White-collar people did not do very well compared to the base line during that same year, but they almost stayed even. They did not decline 12 percent. They declined about 1 percent. Union workers and blue-collar workers increased in relative change in buying power in those years, somewhere between 7 percent and 5 percent.

So that is why it is very difficult to retain military personnel. We just do not pay them enough, for one thing. It is not the only thing. I will not try to cover all the ills of how we have not provided our military personnel with career opportunities, attractive conditions for a family, decent living conditions, and attractive opportunities for education. We just have not followed through, and we should—we should.

Those are the things we have to correct to retain within the armed services those experienced and highly-motivated and highly-trained personnel we really depend upon for our national defense.

According to a 1979 Pentagon study, it would take about $5.5 billion in pay hikes right now to "reestablish the relative positions which existed at the end of 1971 between the military and the civilian power—people in the military as compared with civilians—to purchase goods and services." The pay raise called for in the Nunn-Warner bill that has been endorsed by the administration would provide only $3.5 billion over the next 5 years.

I do not think that will do very much. That is spread out over 5 years.

If we are serious about correcting the problems we face in military manning, we should spend what is necessary to really retain the kind of trained and experienced people we need in today's armed services. That is going to cost a great deal more than $3.5 billion spread out over the next 5 years. That simply will not do it.

None of these problems are really resolved at all with this registration resolution now before us. It will take a lot more. We will really have to make some changes.

I cannot leave this discussion without touching on one final issue. That is personal freedom. The draft constitutes 2 years of involuntary servitude to the country. This is inimical to the basic principles of freedom and in the past has been tolerated only because it was absolutely necessary to have a military draft to maintain the national security of the United States.

Surely, we all owe this country a great deal. But I do not personally believe the draft is the way to exact what a young person should be doing for his or her country. I think it is the wrong attitude. It flies in the face of our philosophy of self-determination of how we each best serve our country, in making that decision and following through with it.

I do not think the draft leads us in the right direction at all. It only affects a certain number of people.

We all—all of us—owe a great deal to our country. We know that. I believe we better serve our interests in this country by correcting what is wrong with the All-Volunteer Force system and that in doing that we strengthen not only the Armed Forces, but we strengthen the attitude of all Americans, all the public, all the people of this country, because we continue to follow the dictates of our conscience and our best judgment and each of us decide in peacetime how we best serve our country.

Just to impose a draft and say to a few people, "We want you and we will take you regardless of how you feel about it," is contrary to the basic beliefs of individuals and the private freedom we all so zealously guard here in the United States.

This proposition, registration first and then renewing the peacetime draft, is just contrary to the basic principles of freedom, and in the past has been tolerated only because it was thought—that it was absolutely necessary to have a military draft to maintain the national security of the United States.

I do not think that is the case today.

Some may still feel that an All-Volunteer Force is a "luxury." No, it is not. It would be saying that freedom is a luxury. To me, the All-Volunteer Force is a necessity of a free society.

We can pay what it takes to make service for an individual in the armed services attractive, make a career out of it, or make a partial career out of it, spend those 10, 12, 15 years, or spend 25 or 30 years in a total career. We should take that step.

To me, the All-Volunteer Force is a necessity for a free society.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MITCHELL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, at this time, I wish to make an observation or two and to commend the Senator from Montana (Mr. MELCHER) for his contribution to this debate.

Early on, when this issue was announced, I made a statement that in my opinion it deserved far more time than the 1-day short shrift given it by the House of Representatives and, that, if necessary, I would engage in the extended debate system which we refer to as a filibuster, in order to make sure that proper time was allocated and there was an opportunity to comment on such a profound and meaningful question as is presently before the Senate.

I also indicated that, in my opinion, it would not turn out to be a telephone book filibuster because many people felt strongly on both sides of the issue and had indicated to me that they wished to be heard on it.

Senator MELCHER, today, has affirmed that earlier observation. He has affirmed it not only in the time and energy he has given to this subject, but also, the research, the data, and the information he has placed in the RECORD. This is an indication of his commitment, his concern, and his interest.

Second, this discussion has been carried on on a level of high quality. The Senate frequently has lost its great, rich heritage of quality level debate. We have engaged in much quantity of debate from time to time, but not always at the highest level of quality. Senator MELCHER has renewed that tradition of quality debate here today, which was the Senate's, particularly in the 1850's.

I am especially glad that the Senator from Montana has pointed up the issue that is probably the bottom line and the real gut issue of this whole question: Does the action of the Senate in either accepting or rejecting the measure pending before us address itself to the real needs of this Nation's military service? The Senator has well pointed out that it in no way does address itself to, nor does it resolve or correct any of those problems.

Yesterday, I indicated that we hang labels on people rather carelessly at times—simplistic labels, superficial labels—and that I suppose my own reputation and background would give some superficial impression that I have not been an enthusiastic supporter of military preparation or military defense. I believe in my heart that the contrary is true, that I am very strongly committed to the defense of this Nation. But when the Senator speaks as one who probably has been in more agreement with the Senator from Georgia in matters of national defense than he has been in disagreement, as he indicated in the earlier remarks he made today, he illustrates the fact that whatever point you are coming from, whatever background may be a part of each of our lives, whether we are on that side of the aisle or this side of the aisle, whether we are for this issue or against this issue, we do have one common objective, one common goal, and that is that we want the best for our Nation.

I believe that sometimes we are guilty of a charade—perhaps not by design; perhaps more by backing into that kind of activity but a charade nonetheless. It is an imitation of action when there is an absence of real action relating to the problem. It is a charade in that we are going through motion. It is a silent, nonverbal charade. And, when the charade is over, we will not have corrected the problem, for the simple reason that the charade is only a charade. It is motion without meaning or without action.

Consequently, it seems to me that not only has the Senator from Montana maintained a high level of debate, but also, very carefully and with good scholarship and with a heart of patriotism, he has addressed the fundamental question, the fundamental issue, and the fundamental problem—namely, what are we going to do not only to attract qualified, able people to serve our country in a military role, but also what are we going to do to retain such personnel?

We can have all the hardware the world can buy, and we can have the most sophisticated hardware, but there is always the human factor in every activation or implementation of hardware. There is always the human factor. We have to pay far greater attention to that human factor than we have, because the sophistication of this hardware demands a higher level of competency, training, skill, intelligence, and so forth.

Sometimes perhaps we are out of balance. We have the hardware but we do not really have the kind of personnel we need, in depth and breadth and diversity, to sustain the hardware system or the weapons system.

I feel strongly that in this debate we have maintained one other factor. When we look at those who have involved themselves thus far in the debate, we have not let this divide into the simplistic thing of hawks and doves, antimilitary and promilitary, but we have the diversity of people such as the Senator from Montana, the Senator from Oregon, the Senator from Colorado, the Senator from Maine, the Senator from Georgia, the Senator from Louisiana, and other Senators who have participated.

In that diversity, we have found what the casual observer might say was interesting if not unbelievable alliances or associations of viewpoints on the same side of the issue.

I just wanted to make that observation in expressing my appreciation to the distinguished Senator from Montana, because I have the privilege of serving with him on two committees. I know the kind of homework he does. I know the preparation he makes for those sessions. I know of his ability to analyze and evaluate and to make an assessment of propositions, ideas, and concepts. That is why I believe he adds a great deal of weight to the position I have been advocating on this floor, and I am proud to be associated on the same side of the issue with the Senator from Montana.

Mr. NUNN. Mr. President, before the Senator from Montana leaves let me thank him for being here and for contributing to this debate.

I know the Senator is on a different side of this issue than I am, but I wish to make it abundantly clear that I think Senators can be on a different side of this issue or any other issue with me and still be very strong for national security because the Senator from Montana always has been and I am sure will be in the future.

I feel this is a very important issue for national security. But Senators of good will can certainly differ on this and I simply wish to thank my friend from Montana for his participation in this debate and his consistent support, overall support, for national security.

Mr. MELCHER. Mr. President, I thank both my friend, the Senator from Georgia (Mr. NUNN) and my friend, the Senator from Oregon (Mr. HATFIELD) for their very kind comments.

I also express my appreciation for their viewpoint and strong presentation of the facts and judgments that they render. Although they do differ. The Senator from Oregon and myself basically agree on this proposition before us on draft registration. The Senator from Georgia disagrees with us, and we have a somewhat different view at times on just where we are going with national defense. Perhaps my views in most instances more coincide with the Senator from Georgia on those aspects, and I do respect his judgment in those cases where we hammer out decisions on various aspects of military armament.

I thank both Senators very much.

Mr. HATFIELD. I suggest the absence of a quorum.

Mr. NUNN. Mr. President, could we vote on this measure any time my friend wants?

Mr. HATFIELD. What?

Mr. NUNN. I am ready to vote any time my friend from Oregon wishes.

Mr. HATFIELD. Mr. President, the Senator from Oregon is not ready to vote. There are many who at least wish to express their positions and views on this side of the issue.

I realize that perhaps the Senator from Georgia has rather thin ranks of those who wish to appear here in the Chamber on behalf of his position, but we have very deep ranks of those who wish to appear and who will.

Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, as we come to the close of the second day of debate on this question of registration for the draft, I think that matters have tended to sift down to certain fundamental points that have emerged, especially today.

Yesterday the day was taken up primarily with a monolog on my part in outlining the issue, as I understood it and my attempt to set forth for the record both the history and the background of the draft, some of the causes that have led to the institution of the draft in the past, and why I found it objectionable to reinstitute the draft or any process or procedure which would lead to that system of involuntary servitude at this time.

I think today, as various Senators have engaged in this discussion, it has been very obvious that every Senator has very deep, and very sincere viewpoints and strong feelings about this matter. And I think that if one were to seek out the common denominator of each of the presentations that have been made today and expressions of viewpoint, one would find in that common denominator a simple proposition: The welfare of this Nation.

I would in no way raise any kind of cloud over any Senator's patriotism or his commitment to the welfare of the Nation. And I do not think if one reads the record of today's debate very carefully that it is possible to find a point where any one Senator has raised a question concerning any other Senator's patriotism, integrity, or intelligence. But I think it does show in the debate of today that there has been clearly established a variation of philosophy or of methodology as to how we achieve that assurance of national security and national defense.

I think we have had fairly clear evidence today that there are those who see our national security and our national defense primarily in terms of military might, weapons systems, and personnel, and view this as the primary source of the Nation's security.

There are others who have taken the position as expressed by the recent Secretary of Defense, Robert McNamara, who indicated at one time that he felt the national security could not be reduced simply to that as a question of military hardware or military power.

When Secretary McNamara made this statement, of course, it came as a surprise to many of his listeners, who, because of his previous role as our Nation's Secretary of Defense, thought perhaps he was, in a sense, turning his back on the Military Establishment.

And yet, as one listened to Secretary McNamara, you could not help but be impressed by the fact that he was very comprehensive and very profound in his analysis. His analysis simply stated that there are many components that make up our national security and our national defense and it is something beyond the Military Establishment and the role that it plays. Consequently, we do have varying philosophies of national defense and national security.

Of course, I like to think, and am persuaded that, our history is sufficient evidence to prove the point that security and national defense is truly far more comprehensive than that which is measured purely in megatons or in numbers of a standing army. In our analysis of our defense posture, it is legitimate to look at the quality of our life in this Nation, the quality of our institutions, the quality and the commitment in our families. We have to look at the quality and the spiritual sinew of this Nation and recognize that they all contribute to our national security and that sometimes we can reach a point where our seeking security can lead us into a thicket.

I am mindful of President Eisenhower, our five-star general who led the allied effort in World War II, who observed upon an occasion that there comes a time where an additional dollar expended for military purposes will weaken our national defense rather than strengthen it. He said that every dollar that is spent for a rocket or a ship or a plane, in the final sense, is a theft from those who are hungry and are not fed, from those who are cold and are not clothed. And, therefore, instead of strengthening our national security and defense, at that point in time, additional appropriations may actually weaken our national security and defense.

So I think, here again, America has been blessed with great material wealth and great political power and great military institutions. Not one but all of these factors combined have played a significant role in the composition of our national security.

Now, when we look at this history, we also are very much aware that America has been established and founded and has has survived against overwhelming odds on a voluntary military basis.

I have called the Selective Service or the so-called draft system a European-Prussian kind of system. I have called it that a number of times today and yesterday. But I am only repeating a phrase that has been used frequently in American history. Many of our forefathers escaped such systems in order to find the freedom in America and the voluntarism that has been so characteristic of the real American character. Voluntarism has sustained our formidable Military Establishment for 167 out of over 200 years of our Republic's history.

So we are not talking about theory or doctrine or unproven thesis, we are talking about solid evidence based upon experience and upon 167 years of history.

I am pleased that we have been able to maintain the focus of this issue. The quality of the debate, I think, has been outstanding, as I indicated earlier in reference to the contribution made by Senator MELCHER. And I certainly would apply that same accolade to all those who have participated in the debate thus far.

Early on I indicated that this would not be a telephone book kind of debate or filibuster, if we reached the point of filibuster, but it would be on target and it would be substantive. I think any fair, objective analysis of the debate thus far in two entire legislative days would have to agree with that assessment.

I note my colleague and cohort on this effort, the Senator from Wisconsin, Mr. PROXMIRE, is on the floor. I would be very happy to yield the floor to him if he wishes at his time.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, first I want to commend the remarkable job being done by the distinguished Senator from Oregon, Senator HATFIELD. He has done, I think, a superb job, whether you agree with him or disagree with him, in alerting this body and alerting the country as to what the issue is here.

I hope he continues to speak out on this, because I think we need a great deal of education on this matter.

This body, I am sure, really does not understand, and certainly the country does not understand, that this draft proposal that we have before us will not, as the Senator from Oregon so well states, strengthen this country overall, and, of course, a strong country economically and socially is vital to a strong country militarily. But it will not strengthen us militarily.

I think that case is a very powerful case, a case, as the Senator from Oregon has pointed out, which is not simply espoused by a few of us in the Senate. It was espoused by former President Gerald Ford. There has been no President who wanted to provide for greater strength, but he opposes the registration which is before the Senate as being ineffective.

I think a very powerful case has been made by the Senator from Oregon yesterday and today. We will have a weaker military force, not a stronger military force, if we go ahead with this registration. There are all kinds of reasons for it. A principal reason is what we need is a combat ready, lean, mean, military operation, and not another 300,000 or 400,000 raw recruits. What we need is to have morale improved in the military force. How do you improve morale?

I served in a peacetime Army from March 1941 until December 1941, after which, of course, it was a wartime military force, but it was a draft force. I happened to go in as a volunteer. But I can tell you even though that was a far more disciplined American society at that time it was a disaffected military force. They did not want to be there. We had problems with absences without leave, we had problems with alcoholism, with, as we used to say, goldbricking, goofing off. I am sure if we institute the draft now, the problems would be far worse.

So I think that from that standpoint our military force would be weaker, and certainly we do not strengthen our reserve forces and National Guard forces by introducing registration. What we need to do is to pay them well enough so they will stay in, so they will develop the kind of training and the kind of pride in their career that will give us a military force of which we can be rightfully proud.

Mr. President, I am going to speak on another issue. I understand the Pastore rule is no longer applying. Believe me, this is not a fiibuster in the sense I am trying to delay this, but, as the Senators well know, I usually at this hour give a speech on genocide. I intend to do that tonight, a brief speech.

GENOCIDE AND INTERNATIONAL ACCORDS

Mr. PROXMIRE. Mr. President, on June 16 we will mark the 31st anniversary of the introduction of the Genocide Convention. For nearly 31 years the Senate has considered this treaty and failed to act. This is unacceptable.

In the same time period we have consented to conventions on whaling, oil pollution, narcotics, and hijacking. Clearly, we can act. We have been able to act successfully to counter other international crime.

Let us look at a concrete example. The United States cooperates on international hijacking. Even though Federal law already prohibits hijacking, it has been in our interest to get international consent and cooperation on this issue.

This has had a positive effect. Most hijackers have, since the 1970 agreement, been caught and punished. The skies are safer for all of us thanks to this international accord. A question seems obvious: Why cannot America move on an issue of ever greater national and global importance? That issue is the Genocide Convention.

Some have said that since the United States already outlaws genocide, an international agreement is unnecessary. But if the same had been said for hijacking we would all be worse off today. Of course, there are tremendous differences between the two crimes. But if we can have an agreement on the relatively complicated issue of hijacking, then why not do the same for the most basic issue of preventing and punishing genocide?

After all, the more countries that agree to a law, the more likely the world community as a whole will obey it. We have seen this in the case of hijacking.

Is the right to live any less important? Mr. President, we can strengthen American law with an international agreement on this fundamental and terrible crime. We have nothing to lose. And everything to gain.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued with the consideration of the joint resolution, House Joint Resolution 521.

Mr. PROXMIRE. Mr. President, to revert very briefly to the bill which is before us, I happen to be the chairman of the subcommittee that reported the bill, and I understand my job is to manage the bill on the floor. I am opposed to that bill. I do think that that bill deserves much greater discussion on the floor of the Senate. I have a considerable amount of material here for discussion. Unfortunately, I am in a position where I would prefer to postpone that discussion until somewhat later. I can talk on it if necessary, however.

Mr. COHEN. Mr. President, it is essential that the Nation improve its mobilization capability. The information available to the Armed Services Committee, and the testimony presented by Defense Department witnesses, indicates clearly that the United States, at this time, lacks the ability to respond adequately in time of national emergency. The proposed institution of peacetime draft registration, in my judgment, is an unfortunate diversion of resources from this important task.

When he called for peacetime draft registration, President Carter said the action would enhance our military preparedness and would be a signal of our resolve to the Soviets.

Peacetime registration, as the President proposes it, is an empty signal, one which could do more harm than good. The American people could be misled into believing that we truly would be enhancing our military readiness; the Soviets; I fear, will know better.

The registration proposal is marked by uncertainty and confusion.

It has been clear in the hearings the Armed Services Committee has held that the administration's peacetime registration proposal has been hastily conceived and haphazardly developed. Administration witnesses have been vague, woefully short on details, and totally unprepared to explain how various aspects of a registration plan would be implemented.

While administration officials agree that it would not be desirable to draft women on a 50–50 basis with their male counterparts, as the law would seem to require, they acknowledged that they had not given serious thought to changes in the draft law that would be necessary if we were to draft women on any basis other than a 50–50 ratio. They appeared to be unaware of the implications of draft registration regulations and procedures which would be implemented within months under the President's plan. And they admitted that issues such as compliance procedures, training of registration personnel, and other elementary aspects of registration have not been thought through adequately.

A top quality mobilization plan is like a piece of fine machinery. All the internal workings must mesh if that machine is to function at peak efficiency. If one thing is clear from the hearings we have held since President Carter first announced his peacetime registration plan, it is that the people who are supposed to implement that plan have very little idea of how they intend to do so. In other words, they really do not even know how the machine will be put together, let alone how it will work.

How will the training of the postal personnel be handled to insure that the registration is administered properly? What will be done about those individuals who fail to register? What about those who register, then fail to notify the Selective Service System when they move? How big an enforcement mechanism will be established, and what sort of compliance procedures will be employed? What will happen to the computerized registration lists when the Selective Service System transfers to a new computer within a year? Just how helpful will lists of names and addresses of 19-year-olds and 20-year-olds, the most mobile segment of our population, be even 6 months after they are recorded? What good will such limited information be if we really do have to mobilize?

I can only conclude that the President's plan, as now formulated, is as hollow a "signal" as could possibly be sent. Significant questions have been raised about just what this step would accomplish. The answer thus far, even from administration witnesses, appears to be—very little.

There is one simple reason for the confusion. The decision to go to peacetime registration was hastily reached—and it was done without full participation by top defense advisors. The President's peacetime registration announcement came after months of assurances to Congress that peacetime registration was not required—and that, in fact, it was an unnecessary burden to place on our young people.

Last year, knowledgable officials from the Pentagon explained that the problem with our mobilization potential resulted from the outmoded and underfunded state of the Selective Service System. If appropriate modernization actions were undertaken, Congress was assured, registration would not appreciably add to our mobilization capability.

We were further informed that registration would not add a single soldier to our combat capacity at the time of mobilization; instead, the draftees produced by a registration system would not complete their training until at least 4 months after mobilization began. Any savings in time produced by registration would not accrue until after that 4-month period.

Administration witnesses added that it was unlikely that any savings could be achieved even at the end of the 4-month period, because the Army did not have the training base—including equipment, uniforms, ammunition, and training personnel—capable of in-processing large numbers of accessions, whether they were volunteers or draftees. Without substantial improvements in the training base, we were told, even the 7- to 14-day projected savings from registration—a savings that would not accrue until at least 4 months after mobilization—would not be achieved.

Finally, we were reminded that the Nation had activated selective service in 1917 in only 17 days after the enabling legislation was passed. Surely, we were told, that record could be improved upon substantially in today's era of computerization, mass communications, and modern technology.

Congress did not order registration in 1979. Instead, in the Department of Defense authorization act, we called for a Presidential study of a variety of mobilization issues. At the time of the state of the Union address (at which President Carter announced peacetime registration), that study has been completed. Senior Pentagon and Selective Service officials had concluded, preliminarily at least, that registration was unnecessary, because the Selective Service System, with proper additional resources, could exceed DOD's mobilization requirements without advance registration.

The reversal of policy is not based on changed circumstances.

Selective Service Director Bernard Rostker, in a report he has since disowned in order to remain consistent with the President's pronouncement, had recommended a postmobilization registration plan. Peacetime registration, said Dr. Rostker, would be "redundant and unnecessary." A postmobilization plan, he suggested would be preferable for two reasons—it would cost less, and it would substantially exceed Defense Department requirements. Although he now states that he supports the President's plan, Dr. Rostker still maintains that his postmobilization plan would exceed the DOD requirements.

The responses to questions I raised in committee hearings indicated that President Carter had not seen Dr. Rostker's recommendations. Those responses also brought out that Dr. Rostker and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics were not even consulted prior to the President's decision. It is widely known that the decision came as a complete surprise to manpower experts in the Department of Defense and Selective Service System.

President Carter, of course, need not be bound by the views of his subordinates, but a hastily drawn proposal of the sort brought before this committee is hardly the right kind of signal to put before the Soviets. The Soviets read our hearings, and they will have no trouble in discerning that the witnesses in favor of registration have not effectively refuted any of the arguments presented last year about the inability of registration to significantly enhance our mobilization capacity. A cosmetic registration plan which embodies no realistic steps to improve that capacity only signals to them that this Nation is not serious in its mobilization planning.

I think it is time for realistic steps to improve our mobilization capacity.

I am unconvinced that asking 19- and 20-year-olds (18-year-olds beginning next year) to go to their local post offices and put their names and addresses on postcards is preferable in any way to a sound postmobilization plan. I am convinced that this approach is not as essential as enhancing the Selective Service System's support structure and its computer capability.

The President has done virtually nothing to strengthen our mobilization capacity. The budget for improvements in the training base remains palpably inadequate. Reasonable airlift and sealift capacity is lacking. Retention of mid-level personnel is in poor shape, and morale has been seriously eroded as service members increasingly turn to food stamps and moonlighting in an effort to survive in an inflationary economy. Presidential pay caps have resulted in junior service members earning less than the minimum wage, and even senior enlisted personnel face real hardships.

An accelerated ability to deliver new recruits will do us little good if we do not take the steps necessary to train—and retain—them. We could send a truly meaningful signal to the Soviets if we provided the funds, people, and materiel needed to bring our training base up to a higher level of readiness.

Probably the biggest problem facing our armed services today is their inability to retain the top quality people who are leaving the military at midcareer because they cannot afford service life. Pay and benefits should be improved immediately, and educational incentives for service should be provided. Peacetime registration does nothing to respond to this point. In fact, according to some reports President Carter has instructed Defense Secretary Brown and the service secretaries not to lobby for improved pay and benefits for those in the service. Furthermore, he has threatened to veto any bill which provides a pay increase or improvements in variable housing allowance. He has already vetoed a military doctors pay bill.

Registration will bring no people into the service, and a draft itself would bring them in for only a 2-year obligation. The "hemorrhage" which Admiral Hayward, Chief of Naval Operations, has spoken of can be stemmed only by improving incentives to stay in. Quality noncommissioned officers are the lifeblood of a good military force. By chipping away at military benefits—allowing pay to fall below the minimum wage and benefits to drop below civilian levels, by taking away education benefits, by telling our service personnel they must serve extended tours away from their families under inadequate conditions—we engage in the dubiously desired process of exsanguination.

Registration also does nothing to reduce our large reserve shortfalls. Providing adequate incentives for joining and staying in the Reserves and taking actions to improve reserve readiness are imperative if we are to strengthen mobilization capability. Problems with pretrained manpower were perhaps the biggest flaw pointed out in the Nifty Nugget exercise.

The most advanced weapons systems in the world will do us little good if we do not have the top quality personnel to operate them. The most streamlined and efficient Selective Service System in the world will do us little good if we do not have the capability to train those who are brought into the service. The best training system in the world will be useless if we are unable to deliver personnel and equipment to the front. And that delivery system will be of no consequence if our reserve structure is too weak to carry the load until the fresh personnel are ready to fight.

Specific steps should be taken now.

My analysis is that the soundest, most effective course we could take at this point is to provide the Selective Service System with the resources it needs to establish its necessary mobilization systems, including the data processing capability and support structure, but to postpone implementation of the post office registration plan put forward by the President. Selective Service could then test its new system in a Nifty Nugget scenario (as is planned for later this year) and make corrections which are required. Once those elements are in place and working well, it would be appropriate to evaluate whether peacetime registration would significantly enhance our mobilization capability.

Last year's debate over unresolved issues caused necessary resources for establishing a mobilization base to remain unfunded. This had the direct effect of postponing efforts to establish a viable mobilization base for another 12 months. Since Selective Service cannot meet present DOD mobilization requirements under its current capabilities, it would appear advisable to approach the problem in this manner:

The Selective Service System must be brought out of deep standby. There must be no delay in establishment of a strong Selective Service base from which all systems will have to operate. The Selective Service ADP systems and their interface with the Military Enlistment Processing Command (MEPCOM) systems must be established, the plans developed, the postal personnel trained, the reserve and Selective Service personnel prepared, the local boards established and trained, and the system tested in Nifty Nugget 80.

This could be done without unnecessarily diverting the attention of Congress and manpower experts on the question of peacetime registration. Failure to separate the issues could result in a second year in which the basic capabilities of Selective Service to meet mobilization requirements would be eliminated because of debate on the highly charged registration issue.

● Mr. STEWART. Mr. President, first I would like to voice my full support of reinstating the draft registration process. We must make every effort to improve our military readiness, not only so that we are firmly prepared to meet whatever challenges await us but also so that we can display a well of strength that will make any would-be aggressors think long and hard before they dare to confront the United States.

A strong and prepared military is our best and, indeed, our only means of insuring our democracy's future in this turbulent world.

But, while I support draft registration, I must also warn that this is just a first step toward full preparedness. If we allow the reinstatement of the registration process to soothe our concerns for the state of our Armed Forces, then I fear we will be following a pied piper's pathway to a devastating conclusion. The ability to more quickly call forth new manpower in the time of crisis must not camouflage the critical need to recruit and especially retain more personnel in all the branches of our services.

Earlier we passed, by an overwhelming vote of support, the Nunn-Warner amendment that will address some of the retention problems that plague our forces. I hope that the majority in this body agrees with me that this step is only the first we must take to meet our military manpower needs. To forsake our military would be to foreclose on our national security.

Frankly, a look at the financial facts of military life in the United States paints a crystal clear picture of why we are neither attracting the new recruits we need nor retaining the experienced troops we require. Today in this country somewhere between 100,000 and 300,000 military families are eligible for food stamps and other forms of welfare assistance. This is a deplorable and intolerable situation. We are actually placing the safety of our Nation on the backs of military personnel whom we so neglect that they must spend a portion of their time off collecting food stamps in the welfare lines. We ask our soldiers, pilots, and sailors to pledge their lives to keeping the flame of freedom protected, then shuffle them off to the welfare lines to feed their families. Are we truly surprised then to learn that some of our brightest and our best are choosing to leave the military? Many of these returning to civilian life are doing so not because they prefer to leave the military, but because they are forced to if they want to support their families in the tradition that built this country.

When we decided to move to the All-Volunteer Army, we supposedly did so with a commitent to make that concept work. Where is that commitment today? Base pay has fallen relative to inflation every year since the All-Volunteer Force was created. It does not take a genius to know we are not going to have a full military force as long as we continue to allow military pay to erode in this country. Military buying power has fallen from 7 to 20 percentage points behind that of civilian counterparts. In effect, we are asking our servicemen to sacrifice the lifestyles we civilians enjoy so that they can stick it out on substandard military pay to protect the rest of us. Statistics show our military forces are no longer willing to buy this kind of distorted philosophy.

Last year for the first time each of the services failed to meet their recruitment goals. At the same time, the retention of our forces continued to drop, and all branches felt the loss of skilled and experienced personnel.

Undoubtedly, many of you share my concern with the meaning of this continuing drain on our military. We cannot expect to counter threats to our national security with undermanned and experience-lacking troops.

Nor can we afford to fall into the trap of believing that the capability to speed the draft process in a time of emergency solves the manpower problems plaguing our military.

Frankly, I believe it is up to us to initiate the kind of improvements our services desperately need to continue to protect our shores from foreign aggressors. Today, we are acting to better our capability to respond in time of war. But, we must do more, far more. We have also taken a healthy step in voting for the military benefits and pay improvements in the Nunn-Warner amendment. Again, we must not be lulled into believing we have done enough, for the very future of this Nation depends on our responsiveness to the crucial needs of our military. We must be prepared to act now to improve military readiness in this country and to bring our manpower and our weaponry to the level needed to insure the future of our country. Our answer to the threat of Communist domination must come from a position of unqualified strength, from a military proud and prepared, and from a military equipped with the most modern and advanced conventional and strategic weaponry known to man.●

LONGSHOREMEN'S ACT REFORM IS NEEDED

Mr. MORGAN. Mr. President, last year Senator NELSON introduced S. 1511, a needed reform of the Longshoremen's and Harbor Workers' Compensation Act. This bill has widespread support, and rapid action by the Congress on this matter is a necessity.

Mr. President, if Congress needs a sign as to how important action in this area is, one need only look at the recent action by the District of Columbia's City Council. Workers in the District have been covered by this very same law, but with the advent of home rule several years back, responsibility was shifted to the District government. Never noted for its frugality and fiscal responsibility, the City Council recently approved legislation trimming workmen's compensation benefits in the District.

This action was taken by the Council because it was necessary to prevent more and more businesses within the District from either going bankrupt or from moving to the suburbs. One illustration makes this point quite well. Because of the excessive benefits provided by this law, it cost $5,000 more to build a $95,000 house in the District of Columbia as opposed to the Maryland and Virginia suburbs.

Congress must now have the courage to do the same for the remaining workers covered under the Longshoremen's Compensation Act. Failure to act will hasten the flight of jobs from American stevedores to Canadian stevedores, from domestic shipbuilders to foreign shipbuilders.

Mr. President, an ad hoc committee which was formed to help rewrite the Longshoremen's Act has prepared an excellent summary of the problems with the present law. I would like to bring it to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

A FEDERAL PROGRAM IN CRISIS

Runaway costs for employers, inadequate response to employee medical needs, and unpredictability of the insurance risk exposures involved have brought the workers' compensation program established under the Longshoremen's and Harbor Workers' Compensation Act to an operational crisis.

Enacted in 1927 and administered by the Department of Labor, the Longshore Act provides for payment of medical expenses and wage replacement benefits for employment-related injuries. As presently interpreted, the law covers more than one million employees. The beneficiaries include, not only longshoremen and harbor workers, but also workers in the shipbuilding, ship repair, marina, construction, boatyard and offshore drilling industries; some U.S. personnel overseas; private employees in the District of Columbia, and many others.

Geography—a work site over navigable waters or out of the country—prevents many workers from qualifying for protection under state workers' compensation systems. But many employees who could receive state workers' compensation benefits are covered by the Longshore Act because Congress, the Department of Labor and the courts have extended jurisdiction of the federal law unnecessarily and in a confusing pattern. In fact, coverage has been expanded to such an extent that construction and other activities remote from the longshore and harbor workers' industries are caught under the umbrella.

Problems with the law stem from the Congressional amendments to the Act passed in 1972. Technical omissions and unspecific language, combined with generous interpretations of the revised law, have moved the program well beyond medical benefits, rehabilitation, and income replacement into life insurance, pension benefits, and other supplemental income.

Compensation benefits, for instance, are often awarded when workers continue to work at full pay, and survivors' benefits are payable even when the death is unrelated to the deceased's employment injury. Such coverage was never intended by those who drafted the original law and does not belong in any workers' compensation program.

The generous benefits provided by the 1972 amendments and the jurisdictional confusion arising from them have created a legal and financial nightmare for employers and insurers. The Longshore Act today is virtually uninsurable because it is impossible to predict the degree of risk exposure. As a result, the number of insurance companies willing to underwrite this line of protection has dwindled.

Because of the generous benefits available under the law, the companies which will still underwrite the coverage are forced to charge extremely high rates for it. Similarly, self-insured employers must incur and finance exorbitant costs.

Because the expense of workers' compensation insurance is usually passed through the distribution system, the high cost of Longshore coverage creates additional pressure on the present inflationary economy. For example, in the case of stevedoring companies, much of the cost is transferred to shipowners, then to their customers, and ultimately to consumers of the products involved. Shipyards also must pass the high price of Longshore coverage through to shipowners.

The high cost is passed along, to the detriment of American industry and the number of jobs it can provide. At the point the cost is reflected in the price which those buying shipping services must pay, American ships and ports become less competitive in the market for handling world trade, and business can be lost.

The cost, as it affects the non-commercial consumer, can clearly be seen in the District of Columbia, where, through an anomaly, all private sector employees are covered under the Longshore and Harbor Workers' Compensation Act. The District, which rates as one of the safest jurisdictions in the nation in terms of incidence of work-related injuries and illnesses, has workers' compensation insurance rates which are three to four times higher than those in the neighboring jurisdictions of Maryland and Virginia. This translates directly into higher consumer costs. For example, a new $95,000 town house in the District of Columbia, would sell for $5,000 less if workers' compensation insurance costs were equivalent to those in Maryland or Virginia.

There is another price the nation as a whole is paying—in the area of affirmative action and opportunity for all citizens regardless of background or handicaps. Since the generous benefits paid under the Act are tax-free, many individuals receive awards approaching or exceeding pre-injury take-home pay. This constitutes a negative work incentive which has had the effect of unnecessarily prolonging disabilities and inviting claims for conditions more serious than they really are.

The Longshore Act has thus effectively discouraged rehabilitation, and return to work within reasonable time—concepts fundamental to all workers' compensation programs.

THE ILL-CONCEIVED AMENDMENTS OF 1972

Mystery surrounds the origin of some of the troublesome provisions of the 1972 amendments. Those who hammered out the changes during the last days of the 92nd Congress lacked and failed to seek cost studies and other hard data as a basis for their decisions. It is doubtful that anyone understood the full implications of the revisions made.

The 1972 amendments were enacted to remedy two situations: the low weekly benefit level being offered at the time, and the loss—through judicial interpretations—of employers' "exclusive remedy" protection under the Act. Over the years, the Supreme Court had interpreted the law to permit third party liability and indemnification actions in which an injured longshoreman could sue a shipowner for damages. The shipowner could, in turn, sue the employer of the longshoreman to recoup those damages, thus indirectly allowing the employee to sue his employer. This had eliminated the fundamental no-fault principle of workers' compensation.

The 1972 amendments seemingly struck a balance among labor, management and government concerns. Through specific new language in the law eliminating employer liability in third-party suits, workers' compensation was re-established as the exclusive remedy employees have under the Longshore program. In return, compensation benefits were substantially increased.

Far from achieving balance, however, the 1972 amendments removed controls which provided balance and left other intentions unclear. The effect in a few short years was to make compensation under the Longshore Act an inordinately generous and expensive program. Maximum disability benefits have increased from $70 a week in 1972 to $426 a week in 1979, and are automatically escalated annually.

The built-in generosity has been compounded by galloping inflation and by the liberal interpretations of the Act which enable many workers having marginal eligibility or marginal claims to qualify for benefits.

DIMENSIONS OF THE CRISIS

Problems under the Longshore Act were graphically described by stevedores, shipbuilders, small boat builders and repairers, marinas, port authorities, insurers, state insurance funds, and many others at hearings before the House Subcommittee on Compensation, Health and Safety in 1977–78.

The same groups appeared, joined by a growing number of others affected by the Act, for additional hearings in late 1979 before the House Labor Standards Subcommittee, which now has jurisdiction. All pointed to 1972 as the year trouble began.

By vastly expanding the opportunities to receive high tax-free benefits, and lacking counterbalancing controls, the 1972 amendments triggered a surge in utilization of the program. According to Department of Labor statistics, injuries reported under the Act (excluding those for private employees in the District of Columbia) rose from 72,087 in 1972 to 105,384 during 1973, and to 151,274 during 1974. In 1977, the number was 205,584.

This is an increase of 185% in only 5 years. Conversely, during the period immediately preceding the amendments, reported claims had dropped steadily—from 96,944 in 1969 to the 72,087 in 1972, a decrease of 25% in three years. The 1972 amendments emphatically and expensively reversed the downward trend of compensation claims.

Besides the stimulus to increased utilization which the amendments provide, the ambiguity of the revised law leaves great latitude to the Labor Department review process and the courts to rule in favor of claimants whether grounds for the awards are justified or not.

The problems with the Longshore program today are even worse than they were at the time of the original hearings in 1977–78:

Jurisdiction

Before passage of the 1972 amendments, the concept of "water's edge" clearly prevailed. Employees who worked seaward of the water's edge were covered under the Act. Those landward were covered under the applicable state system. The 1972 amendments extended the coverage landward but left doubts about how far and to whom.

No one today can say with assurance where Longshore coverage ends and where state workers' compensation jurisdiction begins. This has encouraged employees to "migrate" from state programs if there is the possibility of qualifying for the higher Longshore benefits. It has also created extensive litigation and caused all reviewing courts to complain about the lack of clarity in the amendments and their legislative history.

Benefits escalation (indexing)

The 1972 amendments quadrupled the weekly benefit level and pegged it permanently to two-thirds of the worker's income, not to exceed 200 percent of the national average weekly wage. This means that there is an open-ended annual tax-free increase in benefits—both for those who will have claims in the months and years ahead and for those with claims in the process of being paid.

The increase is determined by the Secretary of Labor each October 1 based on the percentage increase during the previous year in the national average weekly wage. For example, the increase was 8.05 percent for 1978 and 7.5 percent for 1979, bringing the maximum benefits for disability to the current $426 a week.

These are quantum jumps. Inability to project the increases gives employers and insurers their greatest risk assessment problems. The adjustments are also a major factor in employers' escalating premium costs.

Insurability

Insurance companies and their reinsurers are retreating from the Longshore market because of its unpredictability. Not knowing clearly who is covered under the Act, and how inflation will affect future benefits, both insurance companies and self-insurers cannot project their risk exposure and claims losses. A one percentage miscalculation of inflation rates for the year ahead can literally make millions of dollars' difference in the cost of claims.

As Longshore insurance has become less available, many employers have had to turn reluctantly to self-insurance, if they are large enough to afford the bonding, or to more costly and less effective assigned risk coverage. However, for both self-insurers and insurance companies, the same problem then looms: reinsurance. Reinsurers are reluctant to accept unlimited escalation when there is no possibility of obtaining adequate rates.

Ultimate losses simply cannot be predicted when future claims payments are linked to inflationary factors which make it impossible to collect or set aside reserves adequate to protect both insurers and their reinsurers.

Predictability is essential to retain the involvement of companies still voluntarily underwriting or reinsuring Longshore risks, and to attract others back into the market.

Cost

Because benefits are high and continually escalating, opportunities to qualify are many, and administration of the program has been generous, insurance premiums and self-insurance costs have soared. In New York, the employers' rate for general stevedoring coverage runs $363 per employee per week or $18,872 a year. For many employers under the Act, workers' compensation is the second greatest cost after direct payroll.

The effects of the generous program must also be assessed in terms of disincentive to return to work and the loss of productivity this involves.

Evidence even has emerged suggesting that the volume of trade and number of jobs at American ports is being affected. During 1974–1976, more than $1 billion in cargo was exported by land and loaded for shipment overseas at Canadian ports where Longshore rates are much lower. If the trend continues and is positively linked to Longshore rates, the greatest cost—lost jobs and pay—could be experienced by the very people the program is designed to protect.

Unrelated Death Benefits

The Longshore Act is the only workers' compensation law paying death benefits to survivors of permanently disabled employees when the death was not employment or employment-injury related, such as by murder or suicide. This costly form of life insurance was not contemplated when the Act was originally passed, and it further complicates the matter of risk predictability.

Maximum Death Benefits

Through a quirk in the law upheld by the Supreme Court, death benefits to surviving spouses can be tremendous since they are granted tax-free at half the actual gross income the deceased was earning, subject to no maximum. Additional benefits are paid to surviving children. Not only that, all death benefits are escalated annually.

This interpretation literally puts a premium on death. The surviving spouses of high-paid workers can collect benefits at a higher rate than the workers would have received in disability compensation had they lived—benefits which can total millions of dollars tax-free over the spouses' lifetime.

"Unscheduled Injury" Awards

In the case of unscheduled injuries—primarily back and head injuries and occupational disease—employees can receive permanent partial disability payments, unqualified, for a lifetime. An employee can thus resume work at full pay, with the permanent partial benefits serving, in effect, as supplemental income.

Administration

The most frustrating administrative practices for both employers and employees are found in the Labor Department's review process. Creation of the Benefits Review Board by the 1972 amendments as the top layer of the process has slowed procedures considerably and made contested cases more difficult to close.

Approximately two years is required for review—first by a Deputy Commissioner, then by an Administrative Law Judge, and finally by the Board. If the case is appealed further, it takes another year-and-a-half at least for a decision from the appropriate federal appeals court. Prior to 1972, decisions of the Deputy Commissioner could be appealed directly to the U.S. District Court.

Members of the Board are appointed by the Secretary of Labor, for an indefinite term, without Congressional review of their credentials or appropriateness. With no Departmental guidelines and an ambiguous law, the Board's judgments, along with those of the Administrative Law Judges, have favored claimants whether for good cause or not.

MEDICAL TREATMENT

The medical service provision in the 1972 amendments is interpreted by the Department of Labor to allow any physician to treat and evaluate Longshore injuries instead of only those doctors experienced in industrial medicine and willing to cooperate with the Longshore program. As a result, many employees receive incompetent medical care.

Besides the failure to exercise supervisory authority over medical treatment given to employees, the opportunities for rehabilitating the disabled have also been overlooked. Practical rehabilitation efforts which fit the aspirations and remaining abilities of those disabled to jobs where they can truly be productive have been neither developed nor encouraged under the Longshore Act. The situation stands out as one of the most tragic indictments of the program.

THE SPECIAL FUND

By limiting the liability an employer has under workers' compensation for an employee who at the time of hiring had a disability, the Special Fund is designed to encourage employment of the handicapped. If a work accident occurs and the employer can show that previous disability existed, his liability for the accident is limited to payment of the first 104 weeks of compensation. The Special Fund pays the rest of the claim.

The Special Fund is administered by the Department of Labor, and claims payments made by the Fund are financed through annual assessments on insurers and self-insurers. The cost of these usually open-ended claims is thus spread among all those underwriting the Longshore program.

Absence of administrative safeguards for the Fund creates the temptation to use it in cases which may not be justified—to encourage the development of a record in such cases which would establish both total disability and pre-accident disability.

During the period 1972–75, claims payments by the Special Fund increased from $42,000 to $2,200,000, a jump of 388 percent. Claims currently being paid by the Fund are increasing at the rate of an additional $10 million in liability each month. Even greater increases are expected.

To complicate matters, the Fund is not subject to reserving practices and other insurance procedures to assure that claims obligations can be met. Concern is spreading over the escalating liability and the need for a realistic plan to handle the cases involved.

SOLUTION TO THE LONGSHORE DILEMMA

The 1972 amendments to the Longshoremen's and Harbor Workers' Compensation Act have created many more problems than they solved. Designed to provide a balanced trade-off of increased benefits for re-establishment of the "exclusive remedy" principle, they have instead produced excessive costs, uninsurability, more administrative delays, court confusion, and an unnecessary additional need for legal services.

These results have had adverse effects for both employers and employees. Society as a whole also suffers because the consumer ultimately pays for the additional costs in the price of products and services.

The only effective cure is to start at the core of the dilemma, the law itself. The Longshoremen's and Harbor Workers' Compensation Act cries out for revision. Even the Supreme Court has noted that it is about as unclear as any statute could conceivably be.

Legislation—not simply renovation of administrative and operational procedures under the Longshore Act—offers the only hope for true reform.

TAXING AMERICANS WORKING OVERSEAS

Mr. LONG. Mr. President, at a time when the U.S. economy is suffering from what appears to be a deepening recession, we should be doing everything we can to stimulate U.S. exports.

Perhaps the most important step we in Congress could take would be to change the way U.S. employees working abroad are taxed. The report of the President's Export Council Task Force on the Tax Treatment of Americans Working Overseas contains important recommendations for action in the foreign tax area.

I commend the report to my colleagues for close reading, and I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S EXPORT COUNCIL'S SUBCOMMITTEE ON EXPORT EXPANSION

TASK FORCE TO STUDY THE TAX TREATMENT OF AMERICANS WORKING OVERSEAS

I. The situation

Despite the enactment of the Foreign Earned Income Act of 1978, Americans are still being taxed out of competition in overseas markets. The result is a sharp loss in the United States' share of overseas business volume in vital economic sectors. The current situation contributes to our negative balance of payments, a loss of U.S. jobs to our competitors, and the decline in U.S. presence and prestige abroad.

II. Task force recommendations

Americans working overseas are essential to a viable export program. An increase in the number of Americans assigned abroad can increase our exports, reduce the negative balance of payments, enhance our country's image, and raise employment in the U.S.

Recognizing that it is in the best interest of our nation to encourage Americans to work overseas, the Task Force recommends the adoption of tax policies that are comparable to those of major competing industrial nations, none of which now taxes citizens who meet overseas residency tests. We urge the development and enactment of new legislation to put Americans who work in the private sector overseas on the same tax footing as citizens of competing industrial nations. In the interim, the following remedial actions should be taken.

1. Regulations and interpretations in force under the current tax law concerning Americans living in camps in hardship areas (Section 911) should be simplified and made less restrictive, in keeping with the intent of Congress.
2. The current tax law concerning allowances to employees for excess living costs incurred while working abroad (Section 913) should be interpreted in the least restrictive and simplest manner.
3. Work should begin immediately to encourage enactment of a new tax law to put Americans working overseas on the same tax footing as citizens from competing industrial nations.

III. Background

Foreign Trade Encouraged

Beginning in the 1920's, after the U.S. emerged from World War I as a major exporting nation, the income earned by Americans at work in foreign countries was virtually exempt or excluded from U.S. taxes, as a matter of public policy and by specific acts of Congress. The purpose was to encourage foreign trade. It was recognized that the export of U.S. goods and services depended, in large measure, on the presence of Americans in overseas markets.

The U.S. tax policy was not unique. All of our trading partners, and certainly all of the world's major producing nations, had long excluded income earned by citizens at work overseas from taxation.

In the early 1950's some revisions were made in the tax treatment of U.S. citizens working overseas. The principal aim was to halt abuses by highly paid movie stars. These revisions altered foreign residency tests and placed a ceiling on the amount of foreign-earned income that could be excluded. The income and allowances of most Americans working overseas was below the $20,000 limit, so they were not affected. They were not meant to be.

Additional technical adjustments were made during the 1960's in foreign residency tests and in the sums that could be excluded. By the mid-1970's, the effects of inflation—rising living costs and rising salaries and benefits for overseas American workers—had overtaken the amount of foreign-earned income that could be excluded from U.S. taxes.

Policy Shifts in 1976

Responding to misguided arguments that Americans overseas were being granted preferential tax treatment, Congress in 1976 reduced the exclusion to $15,000 and changed the manner in which it was computed so its maximum practical effect became about $3,000. The philosophy behind these provisions was directly contrary to the principles which had guided the United States' tax treatment of overseas Americans for more than 50 years. Instead of encouraging Americans to work overseas, the 1976 amendments actually discouraged such employment. In fact, even before the 1976 amendments, it was becoming less attractive to work overseas. Inflation was running at between 50 percent and 300 percent higher than domestic inflation, a fact that should have been recognized by increasing the $20,000 exclusion rather than decreasing it.

Further, the Tax Court ruled in 1976 that employer furnished housing was taxable to employees at full local rental value, rather than the value of similar housing in the United States. These rulings were interpreted as a strong indication that employer contributions to offset extraordinary overseas living expenses—or so-called "keep whole" contributions—were taxable to overseas employees, whereas such amounts often may have gone unreported up to that time.

These rulings, when combined with the 1976 tax code revisions, produced effects that Congress and the Tax Court did not foresee. For example, in the oil-rich Middle East, the costs to an employer of maintaining an American worker at something approximating the standard of living he or she would have enjoyed at home could exceed the actual salary paid to that worker by three or four times. As a result, some Americans overseas became liable for more taxes than they received in real income.

The 1976 tax policy shifts on foreign-earned income actually amounted to a substantial tariff on our own goods and services by our own government.

Foreign Earned Income Act of 1978

After belatedly postponing the effective date of the tax code revisions, Congress moved in 1978 to remedy the devastating mistakes of 1976 with the Foreign Earned Income Act. Unfortunately, the 1978 Act is inadequate. The House of Representatives had passed a realistic bill, but the law that was eventually enacted represents a compromise with a more restrictive Senate version. Section 911 of the Act provides a $20,000 exclusion for overseas Americans living in qualified camps in remote hardship areas. Section 913 provides deductions for certain allowances for extraordinary overseas living expenses under fairly strict qualifications. Both Sections 911 and 913 are very complex. Moreover, regulations drafted by the Internal Revenue Service under the new law effectively reverse the intent of Congress by compounding the complexities beyond reason.

Even if the Foreign Earned Income Act of 1978 is interpreted in the least restrictive way possible, it is clear that overseas Americans are not currently competitive with citizens of other nations in terms of taxes.

IV. Rationale for recommendations

Americans at work overseas direct business to our domestic economy. If we are to increase exports in order to bring our trade accounts into balance, we must encourage more U.S. citizens to accept assignments with American business overseas. Concurrently, we must continue to be sensitive to the geo-political ramifications of having more Americans working abroad. Overseas employees of American business are seen as representatives of our country. Through their participation and visibility in international business affairs, they can function as goodwill ambassadors whose work exemplifies America's ideals and values.

To achieve these benefits will require, among other things, that current tax laws bearing on foreign-earned income be changed. At present, our nation's tax policies discourage the employment of Americans overseas. Many American companies doing business overseas, especially in the manpower-intensive service industries, are sending American employees home in order to keep some vestige of market share. For example:

Recruiting firms in France, Germany, Italy and the United Kingdom report they are swamped with requests for qualified citizens of their respective countries to replace Americans who are being forced home by U.S. tax policies.

Several leading U.S. contractors in the Middle East have reduced their American staffs by more than half, and adopted hiring policies overseas that specifically exclude Americans on future work.

The University of Petroleum and Minerals in Saudi Arabia says Americans now make up less than 30 percent of its teaching staff, compared to more than 80 percent several years ago.

Replacing American employees with citizens of other countries is the only way American companies can remain competitive. This means that as U.S. companies operating overseas "de-Americanize," sales of goods and services move away from this country and toward the competing industrial nations.

A report by the General Accounting Office suggested that the impact of current U.S. tax policies for overseas Americans might be very significant—with a reduction of 5% or more of total exports or a loss in overseas sales of at least $6 to $7 billion, based on available data. And the GAO report cautioned that its projections might well prove conservative.[1]

The Commercial Counselor of the Embassy of Saudi Arabia recently observed:

"U.S. tax treatment of American companies doing business in foreign countries makes them less competitive *vis a vis* European and Japanese (and other) companies, which receive better tax treatment from their governments.

"In the case of Saudi Arabia, it is noticed that American companies, in order to overcome the higher costs resulting from the unfavorable tax treatment, have tended to hire non-American engineers and other skilled personnel.

"Naturally, these prefer equipment and specifications originating in their countries (European or Japanese, etc.), which represent a loss in American exports to Saudi Arabia. Thus, the end result of U.S. tax treatment of American personnel working abroad has been a net loss of American sales abroad."

That means a loss of jobs in our economy. Estimates vary. Using the low end of the Department of Commerce estimate that for every $1 billion in new economic activity between 40,000 and 70,000 jobs are created, a loss of 5% of our current overseas export volume—or about $7 billion in economic activity—would produce a job loss of 280,000.

Using the same Department of Commerce figures, if the U.S. decided on policies to increase exports by at least $30 billion annually as a means of bringing the trade accounts into balance, at least 1.2 million new jobs would result.

If we increase our nation's exports we will increase job opportunities for Americans at home and abroad. In order to achieve such improvements, we must re-assess our tax policies. We also must write new tax laws directed at placing Americans on a competitive footing with other nationals in overseas markets. (See Chart Below)

V. Conclusion

The principle underlying the taxation of Americans working in other countries should be to encourage, rather than discourage, employment with U.S. business overseas. The implementation of this principle through changes to the Internal Revenue Code will increase the number of U.S. citizens who are willing to work overseas, resulting in an increase in American exports.

Respectfully submitted,

Robert Dickey III.
John Wood Brooks.
D. L. Commons.
Maurice Sonnenberg.

December 5, 1979.

COMPARISON OF TAX POLICIES FOR OVERSEAS EMPLOYEES

Country	Tax on salary	Tax on incentives/bonuses	Tax on benefits (retirement, Health, insurance, etc.)	Tax on cost of living allowances	Tax on additional income earned out of home country	Notes	Government subsidies (to individual
United States	Yes[1]	Yes	Yes	Yes[2]	Yes	[1] 20,000 exclusion under sec. 911 for those in qualified camps. [2] Certain deductions permitted under complex sec. 913 tests.	No.
Japan	No	No	No	No	No[1]	[1] Rental, interest, etc., on off-shore investments totally exempt from taxation during non-residence status only.	Yes.
Italy	No[1]	No	No	No[2]	Complex formulas to discourage foreign investments.	[1] Complex non-residency requirements [2] Limitation placed on daily expenses for home leave and R. & R.	Government owned companies.
France	No[1 2]	No	No	No	Complex formulas	[1] Assumes accompanied tour/rules for dual residency—unaccompanied—very complex. [2] Recent government policy aimed to encourage more French engineers to accept overseas work.	Government owned companies.
Korea	No	No	No	No	No	[1] Most liberal policies with respect to individuals—Korea committed to exports of domestic unemployment.	Yes.
Germany	No[1]	No[2]	No	No[3]	Some limitations; generally liberal.	[1] Complex nonresidency requirements aimed at tours of less than 6 mo. [2] Complex definitions. [3] Some limitations designed to reduce excesses.	Few.

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[1] Impact on Trade of Changes in Taxation of U.S. Citizens Employed Overseas, Report to the Congress, Comptroller General, February 21, 1978, page 10.

COMPARISON OF TAX POLICIES FOR OVERSEAS EMPLOYEES—Continued

Country	Tax on salary	Tax on incentives/bonuses	Tax on benefits (retirement, Health, insurance, etc.)	Tax on cost of living allowances	Tax on additional income earned out of home country	Notes	Government subsidies (to individual)
Canada	No[1]	No	No	No	No	[1] Accompanied tour only. If family of head of household remains in Canada all worldwide earnings subject to full taxation.	No.
Sweden	No	No	No	No	No	[1] Recently liberalized tax policies in order to encourage acceptance of overseas assignments.	Few.
United Kingdom	No	No[1]	No[2]	No	Complex requirements	[1] United Kingdom recently liberalized tax policies in order to encourage. [2] Some limitations.	Few.

Source: Compiled from data provided in "Worldwide Projects" and Business International S.A./Consultex S.A., a multiclient study, "The Expatriate Employee," 1979.

NATIONAL EXPORT POLICY ACT

Mr. HELMS. Mr. President, I commend my able colleagues, Senator STEVENSON and Senator ROTH, for their efforts to organize the Senate Export Caucus to draft the National Export Policy Act of 1980, and to focus attention on this country's woeful performance in international trade.

I applaud the attempt to pull together, in one bill, all of the proposals to promote U.S. exports. I am particularly pleased to note that a number of my colleagues in the Senate—across the political spectrum—share my interest in establishing certain trade-related tax provisions, clarifying antitrust exemptions, reforming the Foreign Corrupt Practices Act, strengthening our agricultural export marketing programs, and emphasizing the need to enforce our rights under multilateral trade agreements.

While I support many of the provisions of the National Export Policy Act, I have major reservations with respect to a number of the bill's proposals. Therefore, I feel it important to consider the strengths and weaknesses of the National Export Policy Act and what I consider to be the main issues affecting our international trading position.

The era of Fortress America—policeman of the world, benefactor of the oppressed, mainstay of the global economy—is no longer.

We look on helplessly as religious fanatics in Iran poke among the charred remains of U.S. servicemen who died in a misbegotten effort to free their fellow citizens from captivity. Our response to the unwarranted Soviet invasion of Afghanistan is limited to grain embargoes and Olympic boycotts because we lack the capability to respond militarily. We are dependent upon the whims of Arab nations for 50 percent of our oil supply. We stand transfixed as a flood of Japanese imports threatens our auto industry. We acquiesce as the European Community employs predatory export subsidies to rob us of markets for our wheat and wheat flour. In short, we are almost as supplicants before the international community—stripped of our pride, our self-esteem, our determination, and our commitment.

This slide from international ascendancy is nowhere better illustrated than in our imbalance of trade with the rest of the world.

In 1971 the United States ran its first trade deficit in 50 years. Between 1971 and 1976 we managed to accumulate a negative trade imbalance of $13.3 billion. Then in 1977, in the course of 1 year, we doubled the total deficit of the previous 5 years—to a startling $26.5 billion level. In 1978, our trade deficit ballooned to a single year record of $28.5 billion. In 1979, the deficit declined slightly to $25 billion. However, in 1980, with slower world growth, higher energy costs, and intensified competition from other countries, we could very well realize a $40 billion trade deficit.

The tragedy of all this is not that we have lost our international trade supremacy but rather that this Nation's political and business leaders seem to have forgotten how to go about regaining that supremacy. Had our leaders retained the fierce individualism and determination of the frontier settler and the resourcefulness and daring of the free-wheeling entrepreneur, the prospect of having to compete in the international market would not be so disturbing. These characteristic responses to adversity, however, have been dropped from our national repertoire.

Because our commitment to long range research and development has taken a back seat to our shortsighted preoccupation with immediate returns, we are losing our technological edge over other developed countries. In 1964, 3 percent of our GNP was devoted to research and development. By 1978, this share had decreased to 2.1 percent. Over the same period of time, West Germany's R. & D. spending as a share of GNP increased from 1.6 to 2.3 percent; Japan's funding of R. & D. grew from 1.5 to 1.9 percent; the Soviets increased their R. & D. related expenditures from 2.4 to 3.1 percent.

The slower growth rate of productivity in the United States has also contributed to our lack of competitiveness in international trade. While average output per worker in the United States grew at only 2.6 percent per year between 1960 and 1978, the corresponding figure for West Germany was 5.5 percent, for France, 5.6 percent and for Japan, 8.5 percent.

Clearly, the United States is being "outhustled" by the other major developed countries for a share of the world market and, as a result, the United States is confronted with the double specter of inflation and economic stagnation.

Two prerequisites must be satisfied before we can hope to recapture our prominence in world trade.

First, we must undergo a greening of our collective memory. We must search among our instincts and discover anew the special traits and talents that have long been the hallmarks of the American people—vitality, competitiveness, ingenuity, perseverance, and a vision of a better tomorrow.

Perhaps nowhere in American society have these traits and talents hung on more tenaciously than down on the farm. For that reason, it behooves us to reflect upon the advancements of American agriculture.

Gains in output per man-hour in agriculture have been more rapid than in the nonfarm sector. The average annual rate of increase in output over the last decade was 5.1 percent in agriculture compared to only 1.6 percent in the nonfarm sector. Increased crop yields have made farm labor more productive. The increased yields realized by the American farmer have occurred as a result of greater use of fertilizer, improved seed varieties, better insect and weed control, more efficient farm machinery, and stepped up use of land and water conservation practices.

Today one farmworker produces farm products for 59 persons compared to 26 persons in 1960. Because of the American farmer's efficient output, the agriculture sector produces not only enough for domestic consumption, but also enough to make large quantities of agricultural commodities available to the rest of the world. Consequently production from one out of every three harvested acres is shipped overseas.

In 1969 total U.S. agricultural exports amounted to $5.7 billion. In 1979, U.S. agricultural exports hit a record $32.5 billion. That is over five times what our farm exports were just 10 years ago. This phenomenal rise is directly attributable to the American farmer's enhanced productivity and his aggressive marketing talents. And it is good news for the rest of the country because this record setting level of agricultural exports translates into added national income, more jobs for American workers, a substantial contribution to this Nation's balance of trade, and a stronger dollar abroad. Were it not for our efficient and aggressive agricultural sector, the United

States would be faced with an international trade deficit upward of 50 percent larger than the wrenching deficit we face today.

What is most remarkable about U.S. agriculture's success in world trade is that it has been spawned through the efforts of private enterprise. Unlike their European, Canadian, and Australian counterparts who depend upon centralized government entities to manage the marketing of farm commodities, American farmers, shippers, and traders, have not relied upon big Federal bureaucracies to do their jobs for them. They have recognized the profits to be had and have taken it upon themselves to put together the most efficient production, marketing, and distribution system on the face of the Earth. Meanwhile, the Canadian producer suffers under the direction of the Canadian Wheat Board whose managerial inadequacies and logistical shortcomings have resulted in the failure to fill a huge backlog of foreign orders for grain.

It is important that those of us in Government and those of us in industry take note of the lessons our rural neighbors have to offer. We cannot hope to reverse our slide into economic paralysis by looking to someone else to solve our problems. We must depend in large part on our own resourcefulness.

The multilateral trade negotiations recently concluded in Geneva will not erase our international trade deficit. The upshot of those negotiations is to establish a forum in which our leaders may enforce our rights as parties to multilateral trade agreements. But if our leaders fail to put the cosignatories on notice that the United States will not succumb to their use of unfair trading practices and if our leaders are hesitant to defend our international rights in an aggressive fashion, then all of the formal mechanisms for dispute settlement ever conceived of by man will not provide even a token measure of relief from our trade woes.

Likewise, if we attempt to ease our frustrations by seeking out scapegoats and harnessing them with the full blame for our international misfortunes, we will surely be inviting a further deterioration of our balance of trade. Japan presents an inviting target for such treatment. During the period 1968–78 the United States experienced a total trade deficit of $54.3 billion, $40.8 billion of it—or 75 percent—with Japan.

It is claimed that much of our huge trade deficit with Japan is a direct result of the vast array of nontariff barriers and export subsidies that Japan provides to discourage imports and encourage exports. Japan's 350-percent markup on American cigarettes, the $30 per pound price of high quality beef in Tokyo restaurants, and the curious arrangement that allows an American customer to buy a Japanese television for half of what it costs his Japanese counterpart are testimony to the substance of such claims.

However, it needs to be pointed out, Mr. President, that while we groan and complain about the hardships of trading with Japan, our international competitors are actually increasing their shares of the Japanese market. This suggests that we are not putting forth the kind of unilateral effort required to penetrate Japan's markets. Without such an effort our attempts to address the asymmetry of United States-Japan trade will be doomed to failure.

Once we have adopted the proper set of attitudes, it remains for us to fulfill a second prerequisite before we can begin to reassert ourselves in international trade. We must equip ourselves with the tools necessary to attain our stated objective of increased exports. Some of those tools are contained in the National Export Policy Act of 1980.

The sheer volume of the National Export Policy Act of 1980 prevents a detailed analysis of the bill's many provisions. However, certain provisions merit special notice inasmuch as they would make significant contributions toward erasing our trade deficit.

As ranking minority member of the Senate Agriculture Committee, I have particular interest in the provisions of title VII dealing with agricultural exports.

The centerpiece of title VII is the proposed "Agricultural Export Credit Revolving Fund"—a $6 billion fund to be established over a 3-year period for purposes of financing commercial export sales of U.S. agricultural commodities and financing the construction or acquisition of facilities in foreign countries for handling, marketing, processing, storing, or distributing agricultural commodities produced in and exported from the United States.

It is with some hesitation that I support a proposal to increase Federal outlays. I think the record will show that I have worked constantly and consistently to reduce Federal spending. But given the President's decision to embargo grain sales to the Soviet Union and given the credit crunch that currently is threatening the existence of many family farmers, I think it is necessary to take steps that will permit the farmer to obtain a profit in the marketplace rather than from the U.S. Treasury.

Mr. President, the American farmer depends upon agricultural exports for almost one-third of his income. The restriction or suspension of international sales of U.S. agricultural commodities, therefore, jeopardizes the immediate economic well-being of rural America. If the Federal Government is to deprive the farmer of foreign markets, it must be prepared to help the farmer find and develop new markets.

The proposal to create within the Treasury the "Agriculture Export Credit Revolving Fund" would allow USDA's short-term and intermediate export credit programs to continue to help the farmer find new foreign markets for his commodities.

As we all know, the Carter administration continually has reduced funding for these important market development tools since 1979. The President dealt the final blow to these export credit programs in his 1981 budget by refusing to allocate any funds whatsoever to them. The President justifies his decision by pointing to the fact that he is replacing the direct credit programs with an equally effective guarantee program.

I question whether the guarantee program will be so useful in creating new markets for U.S. agricultural exports that we will not need a direct loan program. Under the guarantee program, CCC does not provide any funds unless there is a default on a loan that it has guaranteed. U.S. banks will find this program very attractive inasmuch as they welcome the opportunity to collect current interest rates without accepting any risk. In periods of tight money, however, U.S. banks may not make sufficient funds available to overseas customers; they will be under pressure to serve their domestic customers first. Such a reaction on the part of U.S. banks will do absolutely nothing to expand U.S. agricultural exports.

Furthermore, it is at best debatable whether the guarantee program will be attractive to foreign customers. There are approximately 30 countries that have requested over $3 billion in direct lines of credit for this fiscal year; $721 million worth of credit has been announced. Only 7 of those 30 countries have been willing to obtain financing under the guarantee program totaling $745 million. What this means is that the United States is losing $1.5 billion worth of agricultural sales this year because many countries do not want to put up with the inconvenience of dealing with private U.S. banks. They would prefer to do business on a government-to-government basis. The United States recent loss of a 2-million-ton sale of wheat to Brazil is a perfect case in point of the real damage inflicted by the President's decision to do away with direct credit programs.

There are those who claim, and the President is among them, that the real virtue of the guarantee program is that it has no adverse budget impact. This is certainly true. But such claims imply that the direct credit program is going to further burden the American taxpayer. This is simply not the case. The full amount financed under the direct credit programs is returned to the U.S. Treasury usually within a 3-year period. Since the interest charged on the financing is above the cost of money to the Treasury, there is no cost to the taxpayer. In fact, since the difference between the interest charged and the cost of money to the Treasury is so large and since the administrative costs are so low, the direct credit programs yield a handsome profit to the taxpayer.

I do not like to spend money. But if I have to spend it, I surely want to spend it on something that will make money for the farmer and the taxpayer.

I want to make it clear that I do not completely discount the effectiveness of a guarantee program. Such a program may be useful in helping to wean foreign customers off Government credit. What I do want to make clear is that at a time when there is a real need to push ahead with our market development programs we must not succumb to the temptation of instituting a cosmetic spending reduction at the expense of the American farmer.

The creation of the revolving credit fund would reduce the extent to which OMB could exercise its considerable influence over USDA's market development strategies. Decisions as to how much money would be allocated for purposes of financing agricultural exports would be based upon marketplace realities rather than the need to make cosmetic adjustments to the budget.

However, Congress would not surrender any of its oversight authority with respect to the administration of the revolving credit fund. Annual reports to Congress detailing the disposition of credit would be required and authority for the revolving credit fund would terminate after October 1, 1983.

A second important feature of title VII is the provision establishing a remedy for damages sustained by U.S. agriculture as a result of foreign export subsidy programs.

This proposal directs the Secretary of Agriculture to draw up regulations for a standby export subsidy program for U.S. agricultural commodities. The program would be designed to neutralize the effects of export subsidies employed by foreign suppliers to increase their shares of third-country markets. Once the regulations were finalized, they would be implemented only when the President made a determination under section 301 of the Trade Act of 1974, as amended by the Trade Agreements Act of 1979, that action by the United States was appropriate to counteract foreign countries' export subsidy programs.

The Secretary of Agricultural currently has authority under section 5 of the Commodity Credit Corporation Charter Act to institute export subsidies for agricultural commodities. As recently as the early 1970's, the Secretary provided export subsidies for wheat and other grains. The subsidy programs were discontinued when world prices for agricultural commodities rose to such levels that subsidies were no longer required to insure United States competitiveness in foreign markets.

Since the dismantling of the U.S. export subsidy programs, other countries, particularly the EEC and Japan, have increased their use of export subsidies, usually at the expense of U.S. agricultural exports. During the Tokyo round of the MTN, the international community established in the new Subsidies Code additional restrictions on the use of export subsidies for primary products. The international community also included in the Subsidies Code streamlined procedures for resolving disputes arising from the use of export subsidies. These procedures were institutionalized in U.S. law through amendments made to section 301 of the Trade Act of 1974.

Presently, the wheat flour millers and the wheat producers have pending before the Office of the Special Trade Representative two section 301 cases that challenge EEC export subsidy programs for wheat and wheat flour. Decisions will be made by July 26 as to whether the United States will formally seek to enforce its rights in these matters before the GATT.

If the United States were to decide to take these matters before the GATT, it would be beneficial for the United States to have on line a means for counteracting the effects of the EEC export subsidy programs. Otherwise U.S. officials would not be prepared to immediately implement a ruling by the GATT permitting the United States to retaliate against the EEC's export subsidies. The United States would have to delay the implementation of remedial measures for many weeks—even months—until regulations for such measures were drafted, published, commented upon, and finally approved. Such delays during peak periods of a marketing year would result in further losses of U.S. export sales.

Enactment of a standby subsidy program would avoid such delays by requiring the Secretary of Agriculture to formulate the program now for possible use in the future. Enactment of this program would also serve as a clear message to our trading partners that the United States is serious about enforcing its rights under the new subsidies code and is prepared to fight fire with fire when it comes to unfair trading practices.

A third feature of title VII which deserves further explanation is the authority for banks for cooperatives to engage in the financing of agricultural export transactions in which U.S. cooperatives are major beneficaries. Under this provision, banks for cooperatives would be permitted to make deposits in foreign banks, receive and hold credit balances from banks and borrowers, buy and sell bankers' acceptances, buy time drafts payable by foreign buyers of farm products, take part in currency exchange and make loans to facilitate transactions of borrowing cooperatives.

Having the authority to finance transactions abroad, banks for cooperatives would be able to encourage more direct cooperative exports. This, in turn, could lead to the reduction of middlemen costs and thus an increase in the returns to farmers on export sales.

This new authority, if approved, would come at a very auspicious time. Currently a number of farmer cooperatives are trying to capture a large share of international sales of agricultural commodities. Seven North American cooperatives recently have joined with four European cooperatives to purchase a controlling interest in Alfred C. Toepfer Export, Inc., a major international commodities trading firm headquartered in Hamburg, West Germany. The participating cooperatives believe that the acquisition will open new export markets for their members.

Farmers Export Co. of Overland Park, Kans., the Nation's largest single co-op grain exporter with over $1.4 billion of overseas business annually, also hopes to expand its sales efforts abroad and thereby return more of the export marketing margin to farmers.

With access to new credit sources such as the banks for cooperatives grain exporting cooperatives could increase their export share from 9 to 15 percent within 5 years, according to officials at USDA. Farmers, in particular, and the domestic economy, in general, would realize the benefits of such increased export sales.

As much as I support the provisions discussed above, I cannot accept title VII in its entirety. The provision which requests the President to help institute an International Wheat Exporting Commission is particularly disturbing for a host of reasons.

First, it is very questionable that such a cartel-like arrangement could ever achieve the objectives of higher prices for U.S. wheat producers. The four major wheat exporters produce only one-fifth of the world's wheat and less than one-sixth of the world's food grains. Any significant price increase for wheat on the part of the major exporters would encourage other countries to boost their production of substitute grains thereby reducing demand for U.S. wheat. Reduction in demand for U.S. wheat would lead to lower prices for U.S. producers who rely upon foreign purchasers for almost 5 percent of their total sales.

Second, even if U.S. producers could realize higher prices through such a cartel-like arrangement, there is considerable debate whether the discipline among the major exporters would be such as to overcome the forces that would tend to destroy the cohesiveness of the cartel. It is difficult to imagine that either the United States, Canada, or Australia would be willing to surrender its sovereignty over its own exports to its chief competitors. Each party would be tempted to make special extra-cartel trading arrangements in order to obtain additional sales denied to them by cartel stipulations. Discipline would break down and the arrangement would disintegrate.

Third, consumers in the countries that belonged to the cartel would not look kindly upon higher wheat prices artificially imposed by executive fiat. They would lobby their governments for lower prices while producers would fight for higher prices—with the result being that prices would be determined not by marketplace realities but by one's access to the powers that be. My impression is that farmers, who comprise less than 4 percent of the U.S. population, would not fare very well in such a situation.

Fourth, in order to make the cartel work, producing countries' governments would have to be able to affect the supply and price of wheat produced in their country. For the United States, this would involve the establishment of a grain board which would be charged with making all the determinations now made by the private sector with respect to the marketing of wheat. Such a centralized grain board would give rise to all of the inefficiencies that now plague the marketing systems of Canada, Australia, and the Soviet bloc countries. The taxpayer and the farmer would end up paying for all of the messes created by bureaucrats whose only concern was looking out for their jobs.

The bottom line is that any form of a wheat cartel would freeze the U.S. producer's share of the world market at its historical level and virtually rule out any quantum leaps in export sales. This is precisely what this country does not need especially when its economy is reeling from a succession of trade deficits.

I am also concerned about the provisions of the National Export Policy Act pertaining to the Export-Import Bank. Many view this institution as the only way in which the United States can compete with loans subsidized by foreign governments for the export of their domestically produced goods. The economic sense for this has always escaped me. It seems to be saying, that the U.S. Government should get involved in subsidizing the consumption of U.S. goods by foreign citizens.

I wonder, for example, how an American firm which produces mousetraps would feel if the latest mousetrap-manufacturing machine was sold to his foreign competition with financing from the Ex-Im Bank lower than that he could hope to get from domestic commercial banks. His foreign competition is thereby subsidized by American taxpayers. He is one of those taxpayers, or at least, he hopes to remain one by selling mousetraps.

What about the alternatives? What is really being done to work with trading partners to eliminate this kind of interest rate subsidy competition? Where are the international advocates of "free" trade when it comes time to negotiating the subject of this form of unfair competition in world markets?

I think that the United States has to hit hard at this kind of activity. I do not think that we bolster the political strength of those in other nations who oppose export subsidies when we acquiesce to the same kind of activity. We certainly do not provide anything but further U.S. Government usurpation of U.S. credit markets when a Federal agency like the Export-Import Bank goes into the market and, through its use of direct credit, insurance or guarantees, absorbs some of the finite supply of credit. We must remember when proposing programs to solve these problems, that the financial markets are also the source of funding for homes, for farm cerdit, for business loans and private export financing.

I believe that the Federal Government can encourage more private initiative for dealing with our trade problems. More importantly, I think that the Federal Government can do so without nationalizing our industries, instituting quasi governmental trading companies, or adding to the bureaucratic redtape that already restricts our flexibility to respond to changing international market conditions.

Tax incentives for investment in research and development and liberalized schedules for depreciation can be used to stimulate capital formation—an essential ingredient for increasing our productivity. The extraterritorial extension of our antitrust laws and corrupt practices laws do little but export the morality of a guilt-ridden liberalism to a world whose divergent cultures do not comprehend such morality. The reach of these laws should be restricted, and our businesses encouraged, not harassed, in their efforts to develop foreign markets.

While I cannot in good conscience cosponsor the National Export Policy Act of 1980, I do pledge to Senators Stevenson and Roth that I will work with them to help remind those among us who have forgotten what it takes to assert ourselves in international trade. I trust that together we will be able to formulate an export strategy that will unharness the ingenuity, perseverance, and vision of the American people and rekindle in them their desire to acquire an international status of which they can be proud.

PROTECT AND DEFEND

Mr. HELMS. Mr. President, not too many months ago, the President of the United States admitted to Frank Reynolds of ABC–TV that it was not until the Soviet invasion of Afghanistan that he began to perceive the nature of the Soviet intentions in the world. This admission startled and dismayed many Americans who pointed out that after all, the Soviets have been in business for over 60 years, and in that time they have succeeded in subjugating or subverting an average of one country a year. Where, one might legitimately ask, had the President been?

It is, nevertheless, better to wake up at the 11th hour than to sleep to the hour of doom. So for that reason I am encouraged by the signs we see around us that many influential Americans are coming to the realization that the Soviets have ambitions which are incompatible with our own survival in freedom. The Soviets' skillful exploitation of détente, and the credulity of many Western governments, fooled a lot of people in the 1970's, but as Lincoln once said, you cannot fool all of the people all of the time.

As an indication of the growing recognition on the part of our countrymen that we must lose no time to build up our Nation's defenses which have for a decade rested on delusions about Soviet intentions, I want to share with my colleagues a message from the grand exalted ruler of the Order of Elks, which appeared in the March 1980 issue of the Elks' magazine. In this piece, Mr. Robert Grafton reaches some conclusions that are very much in order as the ongoing debate of guns versus butter comes to a climax.

I ask unanimous consent that Mr. Grafton's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Protect and Defend: A Message From the Grand Exalted Ruler

Dear Friends: As I considered what the subject of this message would be, I found I could not forget a TV program I had watched recently. While the content of the program did not deal directly with Elkdom, in an indirect and important way it involves Elkdom, as it affects every American, his future and his way of life.

It was a panel program and the participants were a U.S. senator, a retired admiral and a gentleman from one of the so-called "think tanks"—an advisor on American policy. The question before them was the Russian presence in Afghanistan and what America could do about it, recognizing the potential threat it poses to our oil supply through the Persian Gulf. All three agreed there was a danger to our oil supply, and that if we lost the supply, it would strangle our country.

They differed on some points, but the most disturbing thing to me was their unanimous agreement that America had become so weak militarily, that we could not protect our vital interests through conventional warfare if the Russians chose to keep moving and cut the oil supply.

They also agreed that we were in no position to threaten Russia with nuclear war, as their capability was greater than ours. In a nuclear war, the probable result would be the destruction of both countries. They concluded that we must make a temporary "accommodation" until we can buy time and rebuild our conventional forces.

The longer I sat and listened, the more angry I became with myself. Where was I when we allowed our country to become inferior to Russia to the extent that we must attempt an "accommodation"? Why did I blindly trust our political leaders to assure our strength so that no country could bully us? Why did I sit by and allow moneys necessary for defense to be diverted to well-intended programs, which have had disappointing results? Where was I when our most important intelligence agency and our top internal security agency were torn apart and practically dismantled because of concern for a very few, to the detriment of the rest of us?

I am not proud of my answers to these questions. But I did promise myself one thing: I shall never again allow my faith and confidence in our political leaders to overrule my common sense. The protection and defense of our country must be foremost in our minds. All other causes and projects are of minute importance in comparison.

Robert Grafton.

W. DUKE KIMBRELL—A TEXTILE LEADER

Mr. HELMS. Mr. President, W. Duke Kimbrell is president and chief executive officer of Parkdale Mills, Inc., one of North Carolina's outstanding textile companies. He was recently featured in the May edition of the North Carolina magazine, which is published by the North Carolina Citizens Association. Duke Kimbrell is generally recognized as one of the most respected business and textile leaders in our State and I am proud to have him as my friend as well.

Duke has a worldwide reputation in the textile industry. He is a director of the American Textile Manufacturers Institute and a former president of the American Yarn Spinners Association. In October, he begins a year-long term as president of the North Carolina Association of Textile Manufacturers.

Mr. President, I ask unanimous consent that the article featuring W. Duke Kimbrell which appeared in the May 1980 edition of the North Carolina magazine be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Businessman in the News: W. Duke Kimbrell of Parkdale Mills, Inc.

Gastonia.—America is so full of the stories of young people from modest or deprived circumstances who became successful through hard work and dedication that they have become almost a commonplace of our national life.

The story of W. Duke Kimbrell is a little different, though, if for no other reason than the fact that he forged his success only a mile or so from where he was born and grew up. You'll probably find that in most such cases young men of the Horatio Alger mold travel a good distance away from home to build success and a good life for themselves.

Duke Kimbrell is the president and chief executive officer of Parkdale Mills, Inc., and he has pretty well run the company since he was 35 years old—some 20 years ago. He started work at the textile firm when he was 14, to earn spending money and to help his older siblings with their college expenses. Today you can spot his Cadillac parked in a reserved space outside the mill office. There were a number of years—even after he had finished college—when his transportation to and from work was a bicycle.

The company he manages is as much a phenomenon as the man himself. When Mr. Kimbrell officially assumed the presidency it consisted of the Gastonia mill. Today there are five additional plants in three other North Carolina cities, and more than 1,600 employees work for Parkdale. The production of yarns—Parkdale's product—has risen from less than 15 million pounds to 70 million and annual sales of the privately held company are up from $11.5 million to nearly $110 million.

But the truly striking fact about Parkdale is the firm's bottom line—its profitability. In an industry where net profits average under three percent, Parkdale during the last two years netted average profits of more than 11 percent.

Who, then, is this Duke Kimbrell whose performance is so consistently and outstandingly successful in an industry chock full of yarn manufacturers who compete fiercely with one another for orders and profits?

He's a handsome, silver-haired executive with the sort of poise and sophistication that put him right at home in corporate board rooms and executive offices. He is equally at home on the mill's production lines, where he greets employees by their first names and they call him Duke, and where he doesn't hesitate to roll up his sleeves when there's a mechanical problem and plunge into the innards of the recalcitrant machine and get dirt under his fingernails.

That isn't to say Mr. Kimbrell changes personalities depending on the people with whom he's associating. He wears the same genuine face for everyone. It's just that he's a man of immense versatility who relates easily and naturally to other humans, be they employees in the winding room or potential customers in a New York City skyscraper.

"I got a lot of help along the way," Mr. Kimbrell says of his career, "but the four people who were most important to me were my mother and father and the two men who ran Parkdale when I went to work there."

His parents, Duke Kimbrell observed, instilled in him the Christian ethic and the sense of pride that is independent of financial circumstances.

"We never had much money—it was a struggle to make ends meet—but we always had the feeling that we could make things better for ourselves through hard and honest work. And even though there wasn't a whole lot in the family bank account," Duke Kimbress related, "I think we were downright wealthy in terms of love, mutual esteem and a cheerful willingness to make sacrifices for each other."

As mentioned, at the age of 14 Duke Kimbrell found part-time and summer work at Parkdale Mills. He did what young boys in such jobs usually did back in the 1930's—swept floors, ran errands. But he also took a quick and active interest in how the mill wound its yarns, and in how and where they were shipped to become the raw material for underwear, golf shirts, infants wear and other textile products.

And he caught the eyes of W. L. Robinson, the firm's president and principal stockholder, and of M. R. Adams, the vice president in charge of manufacturing.

"They took a sincere interest in me," Mr. Kimbrell remembered. "When I did something right they complimented me. When I did something wrong they reprimanded me. But they allowed me to make mistakes and gave me opportunities. They were always fair. And from the time I was 14, whenever I needed a job there was always one at Parkdale for me."

Duke Kimbrell finished high school in 1943, played three years on Gastonia High's state championship football team and continued his part-time work at Parkdale Mills.

"I was in that generation where we knew the minute we got out of high school we would go immediately into military service," he said. "And that's how it turned out. I went into the Air Force, was stationed with the 493rd Bomb Squadron in England and flew 18 missions over Germany and occupied Europe. And when the war was over and I came home, Mr. Robinson and Mr. Adams were as good as their word—they put me right to work here in the mill."

Mr. Kimbrell plunged into yarn production and applied himself with the characteristic vigor his friends have noted.

"But I wasn't satisfied with that," he said. "I wanted to do better. So I went to Mr. Robinson and Mr. Adams and asked how I could get a better job. They told me I ought to go to college."

In June of 1946, then, Duke Kimbrell enrolled in the School of Textile Engineering at what was at the time called N.C. State College. He doubled up on courses and completed his degree requirements in only three years, graduating in June of 1949.

"The job offer at Parkdale still stood," Mr. Kimbrell said, "but I had some other offers that would have paid more money. The Parkdale folks said they'd hate to lose me, but that I had no obligation to them and they wouldn't stand in my way if I wanted to go somewhere else.

"I thought about it for quite a while, but something told me I'd be doing the right thing to go back to Parkdale. And I did."

No doubt Duke Kimbrell would have progressed and prospered at any textile company with which he might have cast his lot. But at Parkdale, unbeknownst to him at the time, circumstances would develop that provided undreamed of opportunity.

But that would be in the future. Duke Kimbrell, college degree notwithstanding, didn't come home to Gastonia to find a fancy office and title awaiting him. And he didn't expect to. He went back to the mill as a jack-of-all-trades, participating in just about every aspect of its operations. He lived with his parents, rode his bike to work at daybreak, often didn't get home until dark.

"I did a little bit of everything," Mr. Kimbrell observed. "I worked in winding on the second shift and as section man on the third shift. I filled in at all sorts of jobs. I went wherever the weakest link in the chain seemed to be. I came to work before breakfast and had to bring something to eat with me because I was not permitted to go home and eat. After about nine months they let me go back home for breakfast and some time later I was able to get a bank loan and buy a car. So I felt I was making some progress."

He was. Within a couple of years he had advanced to a position that was equivalent to an assistant superintendent. At various times during those years he was a fixer, apprentice master mechanic, section man, overseer, supervisor, cotton buyer, and salesman.

Titles for Duke Kimbrell in those days were rather indefinite and informal. The point was that from jack-of-all-trades he was rapidly advancing to the status of master of them all. He was learning everything there was to know about Parkdale Mills, with the full blessings and encouragement of President Robinson and Vice President Adams.

Increasingly he was brought in on management decisions—the types of yarn that should be manufactured to reach the most profitable markets. When customers came to Gastonia, Duke Kimbrell picked them up at the Charlotte Airport and drove them to the mill. That same day he might be called upon to diagnose some mechanical or production problem or study sales figures and make recommendations. And he started making sales calls.

"I remember one time when Mr. Robinson sent me to Philadelphia to call on a customer," Duke Kimbrell related. "The man I called on offered me a certain figure for an order. I wasn't certain whether we could fill the order at a profit for that price, so I told him I'd let him know.

"When I got back here I went to see Mr. Robinson and told him what I'd done. He didn't get mad or raise his voice, but I could tell he didn't approve of how I'd handled it. Very quietly he said to me, 'Duke, it's wrong to tell a customer you'll let him know whether his price is acceptable. Always say yes or no on the spot.' And that's what we've done here ever since."

By the time the 1950's drew to a close, Duke Kimbrell was recognized as pretty much the indispensable man at Parkdale, and the third in command behind the two men who had given him a job there. Then, in 1961, Mr. Robinson died.

As Mr. Robinson had wished and paved the way for, Duke Kimbrell soon became the guiding force at Parkdale Mills. He took the title of vice president and assistant to Mr. Adams, but the latter retired in 1966, and then, in name as well as fact, Duke Kimbrell became the head man. He was invested with the title of president in 1966 and became chief executive officer in 1967.

Between the years 1961 and 1966, under Mr. Kimbrell's guidance, the Gastonia facility had doubled in size and was extensively renovated. Looking outside Gastonia for properties that might enhance Parkdale's production and profitability, Mr. Kimbrell and his board of directors decided to purchase Erlanger Mills of Lexington in 1971. That acquisition allowed for important diversification—the production of blended cotton and synthetic open-end spun yarn at Lexington, and 100 percent cotton yarns at Gastonia.

Other acquisitions followed during the 1970's: the purchase of Mooney Mills at Kings Mountain in 1977 and Amazon Mills at Thomasville in 1979. Always the innovator, Duke Kimbrell was the prime mover in having Parkdale's main plant airconditioned way back in 1951. He is said to be one of the first in the business to install automatic winders, inter-mill computers and other technical improvements. He is regarded as something of a marvel in the industry for the efficiency and lack of waste with which Parkdale Mills turns out and sends its products to market.

Mr. Kimbrell operates on simple but effective management principles that call for good employee compensation and working conditions, aggressive but fair and honest salesmanship against the firm's many competitors, and expanding on a pay-as-you-go basis. The Amazon Mill acquisition last year was paid for in cash.

"I prefer to do it that way because it keeps us from getting over our heads financially," Mr. Kimbrell explained. "As a consequence, we have remained strong even in times of recession."

He also believes strongly in clearly-drawn lines of management responsibility. "Each of our divisions is concerned only with its duties," he pointed out, "and there are no overlapping chores. Still, the divisions mesh to form an effective, efficient organizational structure."

Workoholic or not, Duke Kimbrell (a seven-day-a-week man for Parkdale Mills) has somehow found time to do a considerable amount of professional work outside the corporation he heads. He and some associates independently owned and operated a textile mill at Kings Mountain which they purchased in 1968. Mr. Kimbrell sold his interest in 1973 after the facility had been renovated and made into a paying proposition.

In addition, he renovated a mill in Barcelona, Spain, which, at the request of its former owners, he put back on its feet. And he has performed similar rescue-renovation operations at a defunct mill in Puerto Rico and a tottering one on the island of Malta.

"My board of directors let me do those things as a sideline," Mr. Kimbrell said almost casually.

Obviously, this man has a worldwide reputation in the textile industry. He has a pretty good one in North Carolina, too. Next October he begins a year-long term as president of the North Carolina Association of Textile Manufacturers. He has been a director of that organization for quite some time, and is also a director of the North Carolina Textile Foundation and of the American Textile Manufacturers Institute. And he is a former president of the American Yarn Spinners Association.

Mr. Kimbrell's corporate directorships include First Union National Bank, Gastonia Mutual Savings & Loan Association, Kings Department Stores and Avon Bonded Warehouses. On the civic level he has been a director of the Gastonia United Fund, YMCA, Gaston Day School and Boys Club, and the Salvation Army. He was a trustee of the Greater University of North Carolina during the Bob Scott Administration, has served on the board of Queens College in Charlotte, and presently is a trustee at Pfeiffer College.

He and Mrs. Kimbrell—the former Dorothy Rhyne of Gastonia—are members of the First Presbyterian Church here and Mr. Kimbrell has been active in the church as an Elder, Cub Scout Master and chairman of the Board of Deacons.

Duke Kimbrell's life would appear as a succession of triumphs, and of course it has been. But it has not been without its heartaches as well. He and Mrs. Kimbrell have three children—two daughters and a son. The older daughter, Pamela Leigh, is a graduate of Salem College and is working on a master's degree at the Atlanta School of Design. The younger daughter, Shepard Carter, is a high school junior here in Gasstonia. Mr. and Mrs. Kimbrell's son, William Duke, Jr., was injured at birth and has been institutionalized for most of his 20 years. The father speaks of his son's handicap with obvious emotion, but without bitterness.

A natural athlete, Duke Kimbrell plays golf and according to a partner competes on the course "like a tiger." He plays here in Gastonia and also at the Grandfather Golf and Country Club at Linville where the family owns a condominium and where Mr. and Mrs. Kimbrell do a lot of their entertaining of Parkdale's customers.

As a natural optimist and realist, Mr. Kimbrell views the longstanding problems the American textile industry has wrestled with regarding cheap foreign imports as having eased. And he sees new opportunities for the American industry—and that obviously includes Parkdale—to build up its own export trade.

"The decline of the dollar's value in relation to the currencies of other countries has made our products more attractive," he explained. "That's especially true for the yarn business. And foreign customers have found they don't have to go through so much red tape and comply with so many complicated regulations when they buy from American manufacturers, as they do in other countries."

Mr. Kimbrell feels that recent press attention to the problem of byssinosis—the so-called Brown Lung disease said to be caused by prolonged inhalation of cotton dust in textile mills—tends to be biased against the industry, and has played down the industry's activity in seeking to find a solution to the problem. That was particularly so, he felt, with regard to a series a few months ago in *The Charlotte Observer*.

"We've spent millions and millions in the industry to research causes of byssinosis, and to cut down on dust levels in the mills," he asserted. "And certainly we don't object to just workmen's compensation to people who suffer from the disease and deserve payment. And I thought it was grossly unfair for the newspaper to belittle us and what we've done when the industry as a whole—and we here at Parkdale—have tried so hard and spent so much to comply with all the regulations and exerted so much effort to protect our employees. The fears are that 20 percent of all citizens—and 50 percent of all smokers—have some sort of lung disease. The textile industry cannot afford to pay for all the lung diseases of its employees. But the industry *wants* to pay for all those diseases contracted in the textile mills."

Duke Kimbrell, let no one doubt, is a textile executive who truly cares about the people who work for him in the production end of things. He, after all, was one of them not too many years ago. And he continues to identify with them as individual human beings.

He also insists that credit for Parkdale's years of success be spread among his executive associates—men like Vice President and Sales Manager Artie Newcombe; Director of Manufacturing Ken Pruitt; Lexington Division chief and vice president George Blomquist; and Controller and Corporate Secretary Don Stewart.

"They are an outstanding group of loyal, dedicated executives," declared Duke Kimbrell. "They know their jobs well and are free to do things their way. All I do is help steer them in the right direction."

Duke Kimbrell, one should point out, always seems unerringly to know which direction is the right one.

RAMSEY CLARK IN IRAN

Mr. HEFLIN. Mr. President, I have become increasingly alarmed over recent media accounts of former Attorney General Ramsey Clark's misguided and potentially illegal one-man foreign policy mission to Iran.

I believe I am safe in expressing the people of Alabama's outrage and dismay over Mr. Clark's many public statements of condemnation of this Nation's actions and his giving aid and comfort to the Iranian militants holding American citizens hostage.

The citizens of Alabama and I are shocked that any person who has served his Government at the Cabinet level—as the top law enforcement official in the Nation—would act in this reprehensible, irresponsible, and potentially illegal manner.

It should be clearly stated to the world that Mr. Clark has absolutely no authority to speak on behalf of the U.S. Government or to conduct his own kangaroo court-style "probe" into the past foreign policy actions of the United States.

It certainly appears that Mr. Clark has willfully and wantonly violated American law by traveling to Iran. He has further compounded his transgression by giving aid and comfort to the militants who have violated international law by holding 53 Americans hostage for more than 7 months.

Mr. President, I call upon the Attorney General of the United States, Mr. Benjamin Civiletti, to make an immediate determination whether Mr. Clark has in fact violated American law by traveling to Iran.

If it is determined that he has violated the law, I urge the Attorney General to order U.S. marshals to meet Mr. Clark and his entourage at the airport upon their return to the United States and read them their rights.

If they have violated the law, Mr. Clark and his confederates should be taken into custody and prosecuted to the fullest extent of the law.

I might add, Mr. President, that Mr. Clark may wish—or need—protective custody when and if he returns to this country for millions of Americans view his mission to Iran and his rantings against the United States as disloyal acts.

Frankly, I think the fellow needs to seek psychiatric help.

Irrespective of Mr. Clark's motives, his irresponsible behavior in participating in a so-called Conference on American Intervention is unforgivable and reprehensible. The former Attorney General's actions are only serving to further inflame the hostage issue and to give credibility to the band of terrorists holding our hostages.

The people of Alabama denounce Mr. Clark's actions in Iran. We vehemently disagree with Mr. Clark in his assertion that the taking and holding of diplomats as hostages is "an understandable act."

Mr. President, the people of Alabama and I feel very strongly about the whole hostage situation and we are extremely angry over Mr. Clark's participation in a "probe" of U.S. foreign policy actions. Mr. Clark is in no position to set or conduct U.S. foreign policy. We have an able Secretary of State and that duty belongs solely to him and to the President.

I do not believe Mr. Clark understands the very serious consequences he may face as a result of his unauthorized Lone Ranger-style diplomacy. If, in fact, the United States has acted improperly with respect to Iran, that should, and I am sure will, be investigated by the proper authorities at the proper time. However, Mr. Clark's initiative is the wrong action taken by the wrong individual at the wrong time.

Grievances against the United States can be aired only in the proper forum and only after the hostages have been safely returned to the United States.

MESSAGES FROM THE HOUSE

At 10:41 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 7428) to extend the present public debt limit through June 30, 1980.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1786. An act to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act.

S. 2517. An act to rename certain buildings of the Library of Congress;

S. 2666. An act to authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981; and

H.R. 7428. An act to extend the present public debt limit through June 30, 1980.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 12:07 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 95) to provide for the printing of the brochure entitled "How Our Laws Are Made."

The message also announced that the House has passed, without amendment, the following joint resolution:

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day."

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 5, 1980, he presented to the President of the United States the following enrolled bills:

S. 1786. An act to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act.

S. 2517. An act to rename certain buildings of the Library of Congress.

S. 2666. An act to authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 2620. A bill to expand the opportunities for small business participation in exporting, and for other purposes (Rept. No. 96-797).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Robert E. Herzstein, of the District of Columbia, to be Under Secretary of Commerce for International Trade.

A. Russell Marane, of Georgia, to be a Member of the Board of Directors of the New Community Development Corporation.

Frank B. Sollars, of Ohio, to be a Member of the Board of Directors of the National Consumer Cooperative Bank.

Alexis Herman, Director of the Women's Bureau, Department of Labor, to be a Member of the Board of Directors of the National Consumer Cooperative Bank.

(The above nominations from the Committee on Banking, Housing, and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PROXMIRE. Mr. President, as in executive session, I send to the desk nominations from the Senate Banking Committee, of which I am chairman, one for Mr. Herzstein, to be Under Secretary of Commerce for International Trade; the nomination of Russell Marane, to be a member of the Board of Directors of the New Community Development Corporation; the nomination of Frank Sollars, of Ohio, to be a member of the Board of Directors of the National Consumer Cooperative Bank, and of Alexis Herman to be a member of the Board of Directors of the National Consumers Cooperative Bank.

The PRESIDING OFFICER. Without objection, as in executive session, the nominations will be received and placed on the calendar.

Mr. PROXMIRE. I thank the Chair.

By Mr. LONG, from the Committee on Finance:

Robert E. Herzstein, of the District of Columbia, to be Under Secretary of Commerce for International Trade.

(The above nomination from the Committee on Finance was reported with the recommendation that it be reported subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2791. A bill to authorize the generation of electrical power at Palo Verde Irrigation District Diversion Dam, California; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself and Mr. MORGAN):

S. 2792. A bill to designate the Overmountain Victory Trail as a national historic trail; to the Committee on Energy and Natural Resources.

By Mr. JACKSON (by request):

S. 2793. A bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAYAKAWA (for himself and Mr. CRANSTON):

S. 2791. A bill to authorize the generation of electrical power at Palo Verde Irrigation District Diversion Dam, California; to the Committee on Energy and Natural Resources.

● Mr. HAYAKAWA. Mr. President, we hear continually about our Nation's "energy crisis" and the need for a comprehensive national energy plan. Indeed, the risks inherent to our dependence on imported oil, risks to national security, economic stability and foreign policy, underscore the fact that the energy problem is of national consequence. However, there is a danger in viewing our energy problems from only a national perspective because in doing so, we become accustomed to looking to the Federal Government for national solutions. Thus, we tend to underestimate the importance of regional responses which are aimed at satisfying specific regions demands for energy.

Today I am introducing legislation which will enable the inhabitants of the Lower Colorado River Valley to take the initiative in working to meet that region's growing demand for electricity. This bill enables the Palo Verde Irrigation District to construct a facility at the district's Diversion Dam on the Lower Colorado River for the purpose of generating hydroelectric power. No Federal funds are required.

The Palo Verde Irrigation District has been investigating the possibility of developing hydroelectric potential at the existing dam site for quite some time. They have conducted several preliminary engineering studies which indicate that the project is feasible despite a very low head at the dam. The only obstacle to further development is the fact that under present law, the Federal Government has the exclusive right to develop electrical power at the dam site. Therefore, this simple legislation is needed to grant the Palo Verde Irrigation District the legal right to develop a hydroelectric facility. Officials at the Water and Power Resource Service concede that the irrigation district could put a facility on line perhaps 3 or 4 years earlier than the Federal Government could, and they do not object to enabling legislation which gives the irrigation district the legal right to expedite its own development plans.

Mr. President, this legislation is simply not controversial. Both the local community and the appropriate Federal agencies have voiced their support for this bill. Furthermore, my colleagues can support this legislation with the knowledge that it does not require Federal funding. I urge the Congress to lend its support to the Palo Verde Irrigation District's efforts to secure a stable source of clean, renewable energy to meet that region's growing demand for electricity.●

By Mr. HELMS (for himself and Mr. MORGAN):

S. 2792. A bill to designate the Overmountain Victory Trail as a national historic trail; to the Committee on Energy and Natural Resources.

OVERMOUNTAIN VICTORY TRAIL

Mr. HELMS. Mr. President, one of the great battles of the American Revolution was waged between Loyalist colonists under the command of British Maj. Patrick Ferguson, and a band of Carolinians and Virginians known as the overmountain men at Kings Mountain, on the border of North and South Carolina.

These overmountain men, 1,000 strong, came over the Applachians from the west in September 1780, in snow, "shoe mouth" deep, to stop Ferguson and his Loyalists from sweeping across the mountains into their settlements—as they had swept across South Carolina.

On October 7, 1780, these overmountain men met Ferguson's army. When the battle was over, these rough, independent and untrained men had defeated the Loyalists and had given new hope to the American cause.

This victory shocked and frightened many of the Loyalists in the Carolinas and Virginia to the point that they refused to enlist to fight for the British. This shortage of manpower delayed the British efforts for several months—long enough for the Continental Army to organize a Southern offensive. It was this offensive that led to the defeat and surrender of General Cornwallis at Yorktown in 1781.

Thus, with the approach of the 200th anniversary of the march of these overmountain men, it is appropriate to recognize their contribution to our country's fight for independence by the designation of their march route as a part of our National Historic Trail System. I, and my colleague, Senator MORGAN, am offering a bill which will accomplish this with the designation of the Overmountain Victory National Historic Trail. Our legislation is the culmination of a good deal of effort by the Overmountain Victory Trail Association and the National Park Service which has evaluated the feasibility of adding the trail to the National Trail System. Both should be commended for their efforts.

The approach of this legislation, which is advocated by the Park Service, calls for initially recognizing only those segments of the trail presently under the control of State and Federal agencies. In other words, such an approach would entail minimal State and Federal involvement. Therefore, I am hopeful that the trail can receive designation by the 200th anniversary of the march this fall.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241 et seq.) is amended by adding at the end thereof the following new paragraph:

"(8) Overmountain Victory National Historic Trail, a route of approximately three hundred and twenty miles consisting of a main segment and two forks, and extending from Kings Mountain National Military Park, South Carolina, to Elizabethton, Tennessee (with forks extending from Elizabethton, Tennessee, to Abingdon, Virginia, and from Quaker Meadows, North Carolina, to Ronda, North Carolina), as depicted on map numbered 5 ('Plan Alternatives') of the Draft National Scenic/Historic Trail Study for the Overmountain Victory Trail, dated December 1979 and prepared by the National Park Service, Department of the Interior. The map shall be on file and available for inspection in the office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.".

By Mr. JACKSON (by request):

S. 2793. A bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Energy and Natural Resources.

● Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior.

Mr. President, this draft legislation was submitted and recommended by the Department of the Army, and I ask unanimous consent that the bill, the executive communication, and the sectional analysis which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732 (b)) is amended by inserting the phrase "temporary use permits" between the comma following the words "Section 204 of this Act" and the word "and" in the first proviso.

DEPARTMENT OF THE ARMY,
Washington, D.C., May 21, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation "To amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior."

The proposed legislation is part of the Department of Defense legislative program for the 96th Congress. The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the presentation of this legislation for the consideration of the Congress.

The Department of the Army has been designated the representative for the Department of Defense for this legislation. It is recommended that this legislation be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to authorize temporary use of public lands by Federal departments and agencies under such regulations as may be promulgated by the Secretary of the Interior.

The provisions of Section 302(b) of the Federal Land Policy and Management Act of 1976 authorize the Secretary of the Interior to permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way, withdrawals, and cooperative agreements where the proposed use and development are similar or closely related to programs of the Secretary of the Interior for the public lands involved. These provisions severely limit the ability of Federal departments and agencies to use public lands on a temporary basis and, in fact, are more restrictive than the provisions for private use of such lands.

The amount and variety of Interior-controlled public land in the continental United States and Alaska, together with its diversified terrain and climatic conditions, present the military services with opportunities to vary their training operations and yet not require the use of any one particular area on a recurring basis. In addition, there are frequent occasions where requirements for the temporary use of public lands for other than military training arise. These uses include, but are not limited to, surveys and exploratory work (surface and subsurface test holes) in connection with feasibility studies for military and civil non-military projects, and the testing of various types of military or other equipment. Temporary use permits could also be used to grant Federal departments and agencies interim use of public lands pending decisions relating to the possible extension or renewal of withdrawals or other use authorizations for areas previously withdrawn or otherwise used, when the applicant intends to continue the previous use. Further, military and other Federal agency use requirements often dictate that the public land be obtained for short-term temporary uses. The present law does not allow that. The proposed amendment would authorize the issuance of such short-term temporary permits. In no case would such interim use authorizations guarantee approval of the requested use authorization or authorize permanent construction or other activities not acceptable to the Secretary of the Interior on the land in question.

The provisions of Section 501(a) of the Federal Land Policy and Management Act specify the purposes for which rights-of-way may be granted by the Secretary of the Interior. For the most part, these purposes are limited to those uses which require the employment of lineal areas of land, such as canals, pipelines, and roads. It is possible that very liberal interpretations of the provisions of Section 501(a) could result in the granting of rights-of-way for some minor maneuvers or Corps of Engineers' functions. It is almost certain, however, that the use of large areas of public lands for other military operations, such as the major winter and summer exercises in Alaska, could not be authorized through rights-of-way. In addition, the liberal interpretations of the rights-of-way provisions would be the subject of constant debate and confusion. As a result, the enactment of this legislation is preferable to reliance on the present provisions.

The remaining methods of obtaining authority to use public lands are not readily adaptable to the requirements for temporary military use of such areas. The successful withdrawal of areas required for only temporary uses might well frustrate other Congressional intentions, such as those expressed in the Alaska Native Claims Settlement Act (43 U.S.C. 1600). The acquisition of temporary military use of public lands through cooperative agreements with the Secretary of the Interior, although feasible, is improbable because of the requirement that the proposed use of the land be similar or closely related to the programs of the Secretary for the public lands involved.

The amendment would authorize the Secretary of the Interior to issue permits to Federal departments and agencies for temporary use of public lands. The issuance of such permits is consistent with procedures formerly used by the Bureau of Land Management, Department of the Interior, to authorize special uses of public lands on a temporary basis (43 CFR 2920). Our proposal recognizes that the Secretary of the Interior will use the more detailed procedures recognized in FLPMA, section 302(b), for permitting long-term use, occupancy or development by Federal departments or agencies on public land areas managed by the Bureau of Land Management. Of course, issuance of temporary use permits would be subject to environmental review by the Secretary of the Interior in the same manner as are other land use authorizations.

COST AND BUDGET DATA

Enactment of this amendment will cause no apparent increase in budgetary requirements for the Department of Defense.

Sincerely,

Alan J. Gibbs,
Assistant Secretary of the Army (Installations, Logistics and Financial Management).

SECTIONAL ANALYSIS

To amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior.

The general objective of the bill is to assure that the Federal Land Policy and Management Act of 1976 is construed in such a way as to preserve the system under which the Secretary of the Interior awarded temporary use permits to the armed services for maneuvers and for Corps of Engineers projects on land controlled by the Bureau of Land Management (see 43 CFR 2920).

The single section of the bill simply is a device to expand the means through which Federal departments and agencies may obtain authority to use public lands by authorizing the Secretary of the Interior to issue temporary use permits to such departments and agencies. Presently there are three: (1) rights-of-way, (2) withdrawals, and (3) cooperative agreements.●

ADDITIONAL COSPONSORS

S. 2521

At the request of Mr. Dole, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2748

At the request of Mr. Bayh, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 2748, a bill to simplify trade procedures regarding sales of U.S. products abroad, and for other purposes.

SENATE JOINT RESOLUTION 156

At the request of Mr. Burdick, the Senator from Kansas (Mr. Dole), and the Senator from Minnesota (Mr. Durenberger) were added as cosponsors of Senate Joint Resolution 156, a joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

SENATE JOINT RESOLUTION 158

At the request of Mr. Hayakawa, the Senator from Ohio (Mr. Glenn), the Senator from Iowa (Mr. Culver), the Senator from Rhode Island (Mr. Chafee), the Senator from Alabama (Mr. Heflin), and the Senator from Alabama (Mr. Stewart) were added as cosponsors of Senate Joint Resolution 158, a joint resolution designating the joint reunion of American and Japanese veterans on the island of Iwo Jima on June 11, 1980, as a "National Historic Event."

SENATE JOINT RESOLUTION 168

At the request of Mr. Dole, the Senator from Texas (Mr. Bentsen), and the Senator from Colorado (Mr. Hart) were added as cosponsors of Senate Joint Resolution 168, a joint resolution designating July 18, 1980, as "National POW–MIA Recognition Day."

AMENDMENTS SUBMITTED FOR PRINTING

INTERNATIONAL SECURITY AND DEVELOPMENT CORPORATION ACT OF 1980—S. 2714

AMENDMENT NO. 1802

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted an amendment intended to be proposed by him to S. 2714, a bill to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and for other purposes.

● Mr. STONE. Mr. President, I am today submitting for printing an amendment to S. 2714, the International Security and Development Cooperation Act of 1980. I am submitting this amendment on behalf of the Committee on Agriculture, Nutrition, and Forestry, and I ask that it also be printed in the Record.

Our Committee on Agriculture, Nutrition, and Forestry has jurisdiction over the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), also known as the Food for Peace Act. The procedure developed in recent years is to have our committee report any Public Law 480 amendments and then seek their approval as amendments to the Foreign Relations Committee's foreign assistance legislation on the floor of the Senate.

In the House of Representatives, the Foreign Affairs Committee includes Public Law 480 amendments in the foreign aid bill. The House Foreign Affairs Committee included in its bill (H.R. 6924) the language of the Public Law 480 amendment I am submitting, and there has not been any opposition to it.

This amendment is a minor, technical one that will not require any additional funding. It will, however, provide some flexibility in allowing the shift of up to 15 percent in the funds available between the titles of Public Law 480.

In practice, this would mean that if additional unanticipated emergencies arose after the funding levels had been established, transfers of up to 15 percent could be made to title II from title I. Conversely, if the need for food commodities to meet emergencies and humanitarian feeding programs decreased below the level anticipated when the program levels were established, shifts from title II to title I of up to 15 percent could be made.

Mr. President, this amendment will give the administrators of the Public Law 480 program a measure of flexibility in responding to unforeseen needs. This program has been a major success in helping to deal with hunger abroad, meet emergencies, develop additional markets for our agricultural products, and meet national foreign policy objectives.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 1802

On page 32,, before line 1, insert a new section as follows:

"TRANSFER AUTHORITY UNDER PUBLIC LAW 480

"Sec. 607. Section 403 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new subsection (c):

"'(c) Notwithstanding any other provision of this Act or any other Act, if the President determines it to be necessary for the purposes of this Act, he may direct that not to exceed 15 per centum of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.' ".

On page 32, line 2, strike out "Sec. 607" and insert in lieu thereof "Sec. 608".

On page 32, line 5, strike out "The" and insert in lieu thereof the following: "Section 607 and the".●

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Agriculture Subcommittee on Agricultural Research and General Legislation has scheduled hearings on S. 23 and S. 1580, both of which are bills to amend the Plant Variety Protection Act to clarify its provisions.

The hearing will be held on Tuesday, June 17 beginning at 9 a.m. Anyone wishing to testify should contact Denise Alexander of the Agriculture Committee staff at 224–0014.●

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA AND SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia and the Subcommittee on Civil Service and General Services will hold a hearing to review the status of implementation of the Part-Time Career Employment Act of 1978. The hearing will take place on Tuesday, June 10, at 9:30 a.m., in room 3302, Dirksen Senate Office Building. Any questions about the hearing should be directed to Ira Shapiro at 4–4161 or Knox Walkup at 4–4551.●

SUBCOMMITTEE ON RURAL DEVELOPMENT AND SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

● Mr. LEAHY. Mr. President, on behalf of Mr. Zorinsky and myself, I wish to state that when the major banks' prime lending rate was nearly 20 percent in April of this year, the Department of Agriculture's Farmers Home Administration and other Federal lending agencies appropriately raised the cost of their loans. FmHA increased its rate for housing loans to low- and moderate-income borrowers to 13 percent. At the same time, the FmHA rate for loans charged to economic emergency farm loan borrowers was raised to 14 percent.

However, as the prime lending rate has declined in recent weeks to around 14 percent, FmHA has failed to bring down its rates charged on these important housing and farm loans. This is true even though the Department of Housing and Urban Development and other agencies have acted responsibly to lower their rates for similar assistance programs.

Mr. President, we and other members of the Committee on Agriculture, Nutrition and Forestry are puzzled by this lack of action on the part of the Department of Agriculture. We think it is important for Congress and the public to find out the reasoning behind the Department's position on this matter.

The more cynical among us may see this lack of action as a move by the Department of Agriculture to decrease its cost to the Government. By making what amounts to a profit on its loans, FmHA is holding down the cost of its loan programs.

If this is the case, such action may limit Federal expenditures, but it is seriously skewing the basic intent and purpose of these loans. These programs are intended to help those who cannot find affordable credit at private sources, assist those least able to afford a home, and aid American agriculture in surviving the all too frequent periods of hardship faced by our farmers. They were never intended to be another source of Federal income.

Mr. President, due to our deep concern regarding the Department of Agriculture's loan rates, the Rural Development Subcommittee and the Subcommittee on Agicultural Credit and Rural Electrification will be looking into this matter.

On June 10 at 9:30 a.m. in room 324 of the Russell Senate Office Building, we will hold a joint oversight hearing on the question of the interest rate set for FmHA loan programs.

The subcommittees will be interested in learning why the Department of Agriculture insists on holding its interest rates for basic assistance to people in rural areas and small communities near the prime rate. We will be hearing from Mr. Howard Hjort, Chief Economist of the Department of Agriculture, accompanied by Assistant Secretary for Rural Development, Alex Mercure.

While the witness list for the hearing is closed, interested members of the public are encouraged to submit written testimony. Anyone having questions on the hearing should contact Ken Pierce at 224-4242, or Jim Giltmier at 224-6922.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY REGULATION

Mr. NUNN. Mr. President, on behalf of the majority leader (Mr. Robert C. Byrd) I ask unanimous consent that the Energy Regulation Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on energy performance standards.

The PRESIDING OFFICER. Without objection, so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared by the minority:

Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a markup session on S. 2294, the Department of Defense authorization bill for fiscal year 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES-MEXICAN RELATIONS

● Mr. JAVITS. Mr. President, due to my longstanding and profound interest in United States-Mexico relations and my sponsorship of the United States-Mexico Quadripartite Commission, I have noted an important address in Mexico City on April 28, given by the senior Senator from Massachusetts, Senator Edward M. Kennedy, dealing with the issues and problems which today bind together our country and Mexico.

I submit the address for the Record.

The address follows:

Address of Senator Edward M. Kennedy on Future United States-Mexican Relations

I am honored to be here, in a country and a culture whose history reaches beyond recorded time, to the earliest ages of a new world that in truth was old long before Columbus discovered it. I am mindful of the words of Carlos Fuentes:

"Mexico is heir to ancient civilizations. The Indian world is as alive as the rich strains of the renaissance, the enlightment, and the modern era."

Your heritage is an ancient past; your destiny is to help shape the future of a planet balanced perilously between the opportunity for common progress and the possibility of prolonged injustice—or even the destruction of humanity itself.

The rulers of the Maya and the Aztecs had empires spanning a subcontinent. But in the 1980's the influence of Mexico, at a new pinnacle in its proud history, will span the globe.

The impact of public decisions in your country, as in mine, is now felt far beyond our frontiers.

I come to speak today of what we can do together—not merely for ourselves, but for our hemisphere and for the world.

For the past five hundred years, our futures have been intertwined. At times, our nations have been at odds. But the principles and purposes that can unite us in cooperation are stronger than any of the issues and interests that have ever divided us in confrontation.

Through the decades and the centuries, our separate experiences reverberate with a shared commitment. The Liberty Bell that rang out American independence in Philadelphia in 1776 was answered by the church bell of Padre Miguel Hidalgo that rang out Mexican independence at Dolores in 1810.

The Civil War that my country waged to end slavery came at a time when Mexican patriots were fighting to end your country's enslavement to a foreign emperor. Abraham Lincoln sought union with "malice toward none." Benito Juarez sought the reunion of Mexico with "tolerance and consideration." On the very day of his great victory, he insisted that: "Enough blood has been shed in Mexico."

The United States and Mexico are heirs of a unique and powerful legacy. We are two nations astride the same continent, two democracies born in revolution, two societies pledged to a continuing vision of liberty and justice for all. We are neighbors across 3,000 kilometers of common border; yet we are joined together not merely by the fact of geography, but by a philosophy of freedom.

And in the phrase of the poet and diplomat Octavio Paz, "The century has caught fire in our lands." For in the twentieth century, our two societies have moved far toward that fuller freedom which includes not only democratic institutions, but social justice.

The Progressive Era in the United States culminated in 1917, just as Mexico was proclaiming a Constitution based on "Pan, Tierra y Libertaed," with reforms in land, education, and labor. The New Deal revived my country in the 1930's, as a new period of reform swept yours.

In recent years, we have recognized more and more that the common values of our nations also require mutual respect for the rights of nationhood.

In 1962, President Kennedy carried the bright promise of an Alliance for Progress to this city. But he began by dealing with the issues between us over Chamizal and the Colorado River. He knew that progress for the entire hemisphere had to begin with first steps by the United States. Together, President Kennedy and President Lopez Mateos initiated a process of negotiation that settled the Chamizal question—and lessened the Colorado dispute.

In the same spirit, let us resolve the issues now before us.

On the issue of immigration, the United States must not act in a sudden way that eases its own problems, while creating larger problems for the society and the economy of Mexico. Before policy is set, our countries must consult and agree.

The past teaches us that barbed wire fences do not make good neighbors.

The United States must make it possible for families to be reunited. There is no justification for a policy that tells a husband lawfully residing in any country that he must wait years before his wife and children may join him.

As we deal with our mutual problems of migration, we must not deny basic human rights. There is now a Select Commission on Immigration at work in the United States. Within that commission, and across the country, there is an emerging consensus to grant amnesty to undocumented workers.

We must not condemn fellow human beings to live out their lives in the shadow of fear. No immigrant should ever be an alien when it comes to human rights.

On the issues of trade and energy, let us pursue genuine cooperation, not exploitation of one economy for the sake of another. Mexico has become a model of resource development—of the principle that prices for natural resources should be set fairly and rates of production should be set prudently. Your vast patrimony of oil will serve the vast needs of your own people. You have dedicated that patrimony to the enduring purpose of your revolution—to free your citizens from the tyranny of a poverty that oppresses as surely as any foreign ruler.

Beyond this, the genuine cooperation of which I speak demands "a world energy plan," as President Lopez Portillo told the United Nations last fall.

This plan must include not just Mexico and the United States—and not merely the nations of this hemisphere. In the words of your President, it must cover "all nations, both the haves and the have-nots." It must be "binding on all." It must have as "its fundamental objective the assurance of an orderly, progressive, integrated and just transition from one age of man's history to the next."

Mexico has taken the lead in this new age of history. Mexico and the United States each have the influence to help that history toward justice and peace. In the years ahead, justice among peoples may be the precondition not only of peace, but of survival for all people.

The Alliance for Progress of the 1960's must be succeeded in this new era by a new accord for justice—an acuerdo para la justicia—an accord that simultaneously moves our hemisphere and the world, an accord to advance justice among nations and for citizens of every race and class.

This accord depends not on a formal compact, but on a firm commitment to the ideals professed by Mexico, by the United States, and in every land by those whose spirit reaches for the fullness of freedom.

Our social problems may differ. But underlying them are the hopes and strivings of our common humanity. The campesinos of Mexico, like all too many of my fellow citizens still in poverty, seek only a chance to earn a decent living, and the promise that their children can learn in school and reach for a better life.

There are ill-housed families in the barrios of Mexico City and in the slums of the South Bronx who yearn for a place they can truly call a home.

There are disappointed dreams on both sides of the Rio Bravo. There is no border circumscribing the soaring aspirations of youth in both our nations—or in any other part of this planet. If our two nations stand for one thing above all else, it is for hope, that restless quality of spirit which unceasingly summons us to do better.

Other societies have sought economic progress without equity. Mexico and the United States must pursue both, because both Mexico and the United States must understand that equity is an indispensable element of progress.

By the end of this century, your population will exceed 100 million—nearly twice as many people as there were in Mexico ten years ago. But you have the resources and the will to do the work of justice. You and your President have committed Mexico to self-sufficiency in agriculture and decentralization for industry. And for many years you have maintained one of the most impressive rates of economic growth in the hemisphere.

Just as Mexico is an example by virtue of what it has done domestically, so Mexico is a leader by virtue of where it stands internationally.

Early on you understood the crisis of change in Central America. You foresaw the tide now rising higher against ancient oppression. You have called again, as you have before, for a policy of non-intervention by all nations—for a recognition that outside force cannot end the cycle of violence and dictatorship. Peace will come only when the people of the region are free to seek for themselves a destiny of liberty and opportunity.

By nature and by choice, your country and mine are pledged to the achievement of these goals. Together, as allies for justice within the world community, we can advance the oldest of all the causes that we share.

Together we must also advance the most fundamental of those causes—to make the world itself safe for human survival. Mexico has been an urgent voice for nuclear arms control. Your leaders have been in the vanguard of the struggle to stop nuclear testing, to stay nuclear proliferation, and to secure a nuclear-free zone in Latin America. As President Lopez Portillo told the United Nations, "(This) may be the beginning of a new era. It may be the end of them all."

Let us begin that new era of justice. An accord for justice is not a collection of treaties, but a set of attitudes among nations. It means that nations can no longer take each other for granted. It means that nations must treat one another as they would wish to be treated. For in the final analysis, we are all weaker if we all strive separately to be stronger.

Mexico and the United States have something unique to offer the world. We share a great continent, with all its problems and all its potential. We share a long history, with its darker moments, to be sure, but also with the lasting glow of ongoing revolutions faithful to the cause of human freedom.

We hear the words of Octavio Paz: "Yesterday is today, tomorrow is today; suddenly it came forth and it is watching me." Our tomorrow is now. It has come forth, and the world is watching us.

In the 1980's, we must be better neighbors; we must be better allies for progress, better allies for justice.

We are different countries. Our peoples take a separate pride in being citizens of Mexico and citizens of the United States.

But we are all citizens of a larger America—of a hemisphere America that was the destination of the greatest voyages of discovery in human history—and the starting point for a new voyage of discovery toward a deeper and more meaningful liberty.

We sail together on that voyage, into our new age of history, guided by the compass of our common hopes. For our sake, for the sake of all peoples in all lands, let us renew in our own time Padre Hidalgo's appeal of that September day nearly a century and three-quarters ago. Together let us say with him: "Long live America!" ●

S. 2—THE SUNSET BILL

Mr. BUMPERS. Mr. President, last year the Senate Governmental Affairs Committee held 7 days of hearings on S. 2, the "sunset" bill, and S. 1303, a "sunrise" bill. Since that time, several related measures have been introduced which have not had the benefit of Senate hearings, but which propose substantially different approaches than that contained in S. 2. The committee has scheduled a markup session on sunset measures for next week, and I want to share pertinent information with my colleagues.

At my request, the Congressional Research Service prepared an analysis of the reporting requirements of S. 2 which I placed in the RECORD on June 11, 1979. After amendment No. 517 was introduced by Senators JAVITS, PERCY, and RIBICOFF, I requested that CRS compare the paperwork burdens of the amendment with S. 2. I ask that this analysis be printed at this point.

The reporting requirements of S. 2 are the original text. Material enclosed in brackets are requirements that would be eliminated or modified under amendment No. 517.

The analysis follows:

REPORTING REQUIREMENTS UNDER S. 2, THE PROPOSED SUNSET ACT OF 1979

S. 2, the proposed "Sunset Act of 1979," was introduced on January 15, 1979. In its central thrust, the legislation provides that most Federal programs would be subject to automatic termination unless Congress voted to reauthorize them after a comprehensive review undertaken over a 10-year schedule. Detailed procedures for the review are set forth in the bill. This analysis focuses on some implications of such a review for the institutions responsible for conducting it. Reporting requirements of the bill for administrative departments and agencies, the President, congressional committees, and the congressional support agencies are described.

ADMINISTRATIVE DEPARTMENTS AND AGENCIES

1. The Office of Management and Budget (OMB) and the departments and agencies shall assist the General Accounting Office (GAO) in compiling a comprehensive inventory of Federal programs. (Sec. 203)

2. Not later than six months before the completion date for congressional reexamination reports on a program, each affected department and agency shall submit to OMB and the appropriate House and Senate committees a report on the program with respect to eight topics: program objectives; relevant emerging trends; any conflicting or duplicative programs; the number and types of the program's beneficiaries; the program's overall effectiveness; its cost-effectiveness; relative merits of achieving the program's purposes by other means; and information on the program's impact on regulation, privacy, and paperwork. (See 302(d)) OMB shall submit comments on this report not it deems appropriate to the committees. (Sec. 303(a))

[3. For programs reviewed by committees in 1981, the committees and department or agency may "provide for a more appropriate time for submission of the report . . . ." (Sec. 303(b))]

4. The Commission on the Organization and Operation of Government established by S. 2 is authorized to request all available information useful to its work from departments, agencies, independent instrumentalities, or other executive authorities. (Sec. 405(c))

5. The Commission shall be subject to the Federal Advisory Committee Act, including its reporting requirements. (Sec. 410)

6. The OMB Director shall provide the President with an evaluative report to be forwarded to Congress with the Presidential Management Report that ranks Federal programs. (Sec. 602(a)) In the OMB report, the Director shall identify any programs that are contradictory to other Federal programs and recommend corrective legislation. The Director shall also recommend termination or modification of any programs whose relative ineffectiveness no longer justifies continued Federal expenditures or justifies only a lower level of Federal expenditures. (Sec. 602(b))

7. The Budget and Accounting Act (31 U.S.C. 15) is amended to require the submission of agency budget requests at the initiative of any congressional committee, at any time after the day when the president transmits the budget to Congress. (Sec. 701)

8. Nothing in S. 2 shall require public disclosure of matters made secret and properly classified by Executive order in the interest of national defense or foreign policy.

or which are otherwise specifically protected by law. Nothing in the Act shall require any Senate committee to disclose publicly information governed by S. Res. 400, 94th Congress, or any other Senate rule. (Sec. 702)

9. Upon request, heads of any administrative agencies shall provide to Senate and House committees with legislative jurisdiction over a program being reviewed such studies, information, analyses, reports, and assistance as the committee may request. (Sec. 704(a)(1))

[10. Not later than six months before the first reauthorization date for a program under the Act, the head of any agency who is requested by a Senate or House committee shall review the agency's current regulations that the committee specifically has requested be reviewed and shall submit a report to the Senate or House, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized, and stating the basis for its decision. (Sec. 704(a)(2))]

[11. On or before October 1 of the year preceding the Congress in which a program's reauthorization date occurs, the President shall submit to Congress a Regulatory Duplication and Conflicts Report for all such programs scheduled for reauthorization in the next Congress. (Sec. 704(b)(1)) Each Regulatory Duplication and Conflicts report shall identify duplication or conflict in Federal regulatory policies and in Federal regulatory policies vis-a-vis State or local governments' policies; it shall contain recommendations addressing the conflicts or duplications. (Sec. 704(b)(2))]

THE PRESIDENT

1. The Commission shall be subject to the Federal Advisory Committee Act, thus extending the President's reporting responsibilities under that law. (Sec. 410)

2. Not later than the first day of February in the first session of the 97th, 98th, 99th, 100th and 101st Congresses, the President shall submit an analysis and plan for the reform of 16 regulatory agencies, grouped by functional subject areas. Dates and groupings are specified in S. 2. (Sec. 502(a)) Information to be included in the plan is spelled out, as well. (Sec. 502(b)) The legislative plan shall include specific legislation and may include eight specific kinds of recommendations listed in the bill. (Sec. 502(c)) Along with each plan submitted by the President, the Chief Executive shall report and make recommendations on the cumulative impact on four specific industry groups of all Government regulatory activity reviewed to that date. (Sec. 502(f))

3. At the beginning of the 97th Congress and every two years thereafter, the President shall submit to Congress a report on the management of the executive branch on the same day that the budget is transmitted to Congress. (Sec. 601(a)) The Management Report shall rank programs' effectiveness as "excellent," "adequate," and "unsatisfactory," and compare them to all other programs in that agency. Ranking shall be based on statutory design, effectuation, and management. (Sec. 601(b)) The Management Report shall include the President's reasons for the program designations and rankings. (Sec. 601(c)) It shall include a list of the programs or areas the President recommends for administrative or congressional improvement during that Congress. (Sec. 601(d)) The Report shall include the OMB Director's report and recommendations on management. (Sec. 601(e)) The President may submit additional reports to Congress supplementing or revising his recommendations in the Management Report. The OMB Director may submit supplementary reports to the President as well. (Sec. 603)

[4. On or before October 1 of the year preceding the Congress when a program's reauthorization date occurs, the President shall submit to Congress a Regulatory Duplication and Conflicts Report for all program scheduled for reauthorization in the next Congress. The Report shall identify duplicative or conflicting Federal regulatory policies and Federal regulatory policies that duplicate or conflict with State or local rules or policies. The Report shall make appropriate recommendations. (Sec. 704(b))]

CONGRESSIONAL COMMITTEES

1. Each congressional committee reporting a bill or resolution authorizing new budget authority for a program not included in the Fiscal 1979 budget shall include in its report a statement of the functional and subfunctional category to which the program is assigned for purposes of the Sunset Act. Where appropriate, conferees shall include a similar categorization in their joint statement on the bill or resolution. (Sec. 3(b))

[2. Each committee with legislative jurisdiction over a program exempted from review under the Sunset Act shall review and report "to the extent that the committee deems appropriate" on the program at least once during each sunset reauthorization cycle, during the Congress in which the applicable reauthorization date occurs. (Sec. 102(c))]

3. The committees with legislative jurisdiction over affected program and the House Committee on Rules and the Senate Committee on Rules and Administration shall have jurisdiction over all measures proposing changes in reauthorization dates and exemptions under the Sunset Act. (Sec. 104(c)) The respective Rules Committees shall report with recommendations any such measures previously reported favorably by the authorizing committees within 30 days (not counting days when the Senate or House is not in session), beginning the day after measures is referred. (Sec. 104(d)) The Rules Committees' recommendations shall include statements concerning the effect of the proposed change on the sunset reauthorization schedule, the effect on jurisdictional and reauthorization responsibilities and workloads of congressional authorizing committees, and any suggested grouping of similar programs to make more effective compersions. (Sec. 104(e)) Any such proposed changes reported by a committee before July 1, 1980, shall be referred to the respective Rules Committee, which shall report an omnibus measure with recommendations by August 1, 1980. (Sec. 104(f))

4. The inventory of Federal programs established by the Sunset Act shall not in any way bind the committees under the Act and shall not infringe on their legislative and oversight responsibilities. (Sec. 201(b))

5. Each Senate and House committee shall review the draft program inventory and advise GAO of any recommended revisions by March 1, 1980. In consultation with the committees, GAO shall report a revised program inventory by May 1, 1980. (Sec. 204)

6. After the Director of the Congressional Budget Office (CBO) has compiled a list of all laws related to programs subject to reauthorization, the authorizing committees shall study the list and make any recommendations they consider appropriate. (Sec. 205)(c))

7. Each Senate and House committee shall conduct a comprehensive reexamination of selected programs within its jurisdiction. (Sec. 301(a)) In selecting programs for review, each committee shall consider the length of time the program has been in effect, the extent to which it appears to require significant change, available committee resources for reexaminations across a broad range of programs, and the desirability of examining related programs concurrently. (Sec. 301(b))

[8. The 1981 funding resolution (and similar resolutions for the first session of each Congress initially reported by each Senate committee shall include a plan for program reexamination, including programs to be reexamined and reasons for selecting them; scheduled completion date (no later than the end of the Congress preceding the reauthorization date in the Act, unless the committee provides a special explanation, except that programs selected for the 96th Congress may be submitted at any time until February 15, 1982); and estimated cost. Beginning in 1981, the report accompanying the funding resolution for the first session of each Congress shall include in its reexamination plan a description of the components of reexamination and a statement of who will conduct the reexamination. (Sec. 302(a))]

9. To coordinate program reexamination, each committee shall in preparing its plans consult with appropriate Senate and House committees and inform itself of related activities by the congressional support agencies and administrative agencies. (Sec. 302(b))

10. Each committee shall prepare and have printed a report on each program reexamination. (Sec. 302(c)) It shall set forth findings, and shall include to the extent the committee deems appropriate: program objectives; relevant emerging trends; programs with potentially conflicting or duplicative objectives; number and types of program beneficiaries; program effectiveness; program cost-effectiveness; relative merits of alternative methods of achieving the program's objectives; and program impacts on regulation, privacy, and paperwork. (Sec. 302(d))

11. The final report of the Commission on the Organization and Operation of Government shall include the comments of the appropriate congressional committees. (Sec. 403(b))

12. Nothing in the Act shall require public disclosure of matters specifically and properly classified by Executive order to be kept secret in the interest of national defense or foreign policy or otherwise protected specifically by law. Also, nothing in the Act shall require any Senate committee to disclose publicly information whose disclosure is governed by S. Res. 400, 94th Congress, or any other Senate rule. (Sec. 702)

13. Agencies shall provide congressional authorizing committees such studies, information, analyses, reports, and assistance as the committees may request. [No later than six months before the first reauthorization date for a program, the administrative agency, when requested by a Senate or House committee, shall review current regulations and report on the agency's intention to retain, eliminate, or modify the regulations if the program is reauthorized. On or before October 1 of the year before the Congress of program's reauthorization date, GAO shall furnish each Senate and House authorizing committee with a list of prior program audits and reviews completed during the previous six years. The congressional support agencies shall furnish to each congressional committee any information, analyses, and reports it requests to assist in conducting program reviews or evaluations. (Sec. 704(a))]

[14. The President's Regulatory Duplication and Conflicts Report shall be referred to the authorizing committees with jurisdiction over the affected programs. (See 704(b)(3))]

[15. The chairman of the authorizing committee with jurisdiction over a program shall introduce a required reauthorization waiver resolution not later than the fifth day (not counting days when the Senate or House as the case may be, is not in session) when either of the following occur: a bill authorizing new budget authority for the program has been under consideration for at least 15 hours, without an agreement to limitation of debate; or the President has vetoed and either House has sustained the veto of a bill authorizing enactment of new budget authority for the program. (See 705(b)) The waiver resolution shall be referred to the appropriate authorizing committee, except that after September 1 of the second session of a Congress the committee shall be automatically discharged and the resolution placed on the appropriate calendar. (Sec. 705(c))]

16. The Senate Committee on Governmental Affairs and on Rules and Administration and the House Committees on Government Operations and on Rules shall review and report on operation of procedures established by the Act not later than December 31, 1986, and each five years thereafter, setting forth their findings and recommendations. (Sec. 706.)

CONGRESSIONAL SUPPORT AGENCIES

1. The Comptroller General and Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service (CRS), shall prepare an inventory of Federal programs. (Sec. 201 (a).) The Comptroller General shall compile and maintain the inventory, and CBO shall provide budgetary information. (Sec. 201 (b).) Not later than January 1, 1980, the Comptroller General, after consultation with CBO and CRS, shall submit the program inventory to the Senate and House. (Sec. 201 (c))

2. GAO, in consultation with CBO, shall group each program into one functional and one subfunctional category only, consistent with the structure of the 1921 Budget and Accounting Act. (Sec. 201(d))

3. The program inventory shall set forth for each program: specific provisions of law authorizing the program; authorizing committees with jurisdiction; a brief statement of purpose(s); subcommittees with jurisdiction over legislation providing new budget authority for the program; administering agency and, if applicable, its subdivision; any grants-in-aid provided by the program; its next reauthorization date; a unique identification number liking the program to the functional category structure; the year the program was established and the year, if any, when it expires; where applicable, the year new budget authority was last authorized and when current authorizations expire. (Sec. 201(e)) The inventory shall contain a separate table listing programs not required to be reauthorized by sunset procedures. (Sec. 201(e))

4. As determined by CBO, the program inventory shall set forth whether new budget authority for each program is authorized for a definite period, authorized in a specific dollar amount but without time limit, authorized without time or dollar limit, not specifically authorized, or permanently provided. (Sec. 201(g))

5. For each program or group of programs CBO shall provide the following information: amounts of new budget authority authorized and provided for each of the four preceding fiscal years and where applicable, the four succeeding fiscal years; the program's functional and subfunctional category currently and in the fiscal 1979 budget; its identification code and appropriation account title. (Sec. 201(h))

6. GAO, CRS, and CBO shall permit mutual exchange of information to aid in compiling the program inventory. (Sec. 202)

7. Each Senate and House Committee, CBO, and CRS shall review the draft program inventory and not later than March 1, 1980, advise GAO of any recommended changes. Not later than May 1, 1980, GAO in consultation with the Senate and House committees shall report a revised program inventory to the Senate and House. (Sec. 204)

8. After the close of each session of Congress, GAO shall revise the program inventory and report the revisions to the Senate and House. (Sec. 205(a))

9. After the close of each session, CBO shall prepare a report, for inclusion in the revised inventory, on each program (previously existing and new), including the amount of newly authorized budget authority for the current and each of the five succeeding fiscal years. If no new budget authority is authorized or provided, or is authorized or provided for in indefinite amount, CBO shall make projections based on the amount needed to maintain current services. (Sec. 205(b))

10. Not later than a year after the first or any subsequent reauthorization date, CBO, in consultation with GAO and CRS, shall compile a list of provisions of law related to all programs subject to reauthorization date for which new budget authority was not provided, to be included in the preceding report. (Sec. 205(c))

11. GAO and CBO shall include in their respective reports an assessment of the adequacy of the functional and subfunctional categories for grouping programs. (Sec. 206)

12. CBO shall tabulate and issue an annual report on measures reported by a committee of either House that authorize enactment of new budget authority for programs. (Sec. 207(a)) It shall include an up-to-date tabulation for the fiscal year and the succeeding four fiscal years of the amounts of budget authority authorized by law or proposed in any measure reported by a Senate or House committee, or the amounts necessary to maintain current services for programs in the inventory. (Sec. 207(b))

13. CBO shall issue period reports on programs and laws scheduled for reauthorization in each Congress. The reports shall identify each provision of law authorizing enactment of new budget authority and the title of the appropriation bill that would provide new budget authority. (Sec. 207 (c))

At least once every year for two years after submission of the final report of the Commission on the Organization and Operation of Government, GAO shall report to Congress on the status of actions taken on its report. (Sec. 403(c))

15. GAO and CBO shall submit along with the required analysis of regulatory agencies a report assessing each of the agencies to be included in the President's reform plan. (Sec. 503(a))

16. GAO and CBO shall submit not later than June 1 of each year in which a Presidential regulatory reform plan is submitted a complete and thorough analysis of the plan. (Sec. 503(b))

17. On or before October 1 of the year before a program's reauthorization date, GAO shall furnish to the authorizing committees a list of prior audits and reviews of the program during the preceding six years. (Sec. 704(a)(3))

18. GAO, CBO, OTA, and CRS shall furnish to each Senate and House committee any information, analyses, and reports that the committee may request to assist in reviewing or evaluating program. (Sec. 704 (a)(4))

Mr. BUMPERS. Cost estimates of S. 2 are few and far between which ought to be an indication that Congress may very well enact legislation which is the embodiment of the evils it is designed to cure. A draft cost estimate prepared by the Congressional Budget Office—based on extremely arbitrary assumptions—places the cost at $66 million by fiscal year 1984. The GAO Comptroller General declined to offer a firm estimate but allowed the cost could be $100 million. My own guess is that it will cost much more, and yet provide no guarantees that a single program will be terminated or that authorizing committees will find offsetting reductions.

Incidentally, one cost that has not been adequately considered is the effect that hundreds of authorizations will have on Members' personal offices. Each year as programs come up for reauthorization, my office is deluged with mail from constituents who testify to the importance of different programs. If sunset is enacted, I shudder to think of how offices will be swamped with mail. This, in turn, will increase the costs of the legislative branch as more use is made of computers or more staff are required to respond to these letters. Efforts to reduce the expense of running Congress are underway but will only be hampered by enactment of S. 2. I ask that the draft CBO estimate be placed in the Record.

The material follows:

CONGRESSIONAL BUDGET OFFICE: COST ESTIMATE

1. Bill number: S. 2.

2. Bill title: Sunset Act of 1979.

3. Bill status: As introduced and referred to by the Senate Committee on Governmental Affairs.

4. Bill purpose: The Sunset Act of 1979 establishes procedures for the periodic reauthorization of government programs and for a more systematic approach to comprehensive reexamination of government programs. It establishes a Citizen's Commission on the Organization and Operation of Government and requires the President to regularly review and report to the Congress on the efficiency of the management of government programs. Procedures are also established for the systematic review of the impact and operations of federal regulatory agencies.

Title IV authorizes $4 million to be appropriated until September 30, 1984 for the functions of the Commission. Indefinite authorizations are provided for Titles I, II and III.

5. Cost estimate: Both the sunset provisions of Title I and the program review requirements of Title III give the Committees substantial flexibility in determining the scope and intensity of review. The crosscutting review requirements and new procedures for organizing the review of federal activities should lead to increased efficiency. All activities authorized by the bill other than Title IV, the Commission, exist now in some form. The effort related to the bill should therefore replace existing functions or be absorbed by the responsible agencies in some instances. These factors create uncertainty about the potential costs of the legislation and require assumptions concerning the estimates of costs. The costs shown are CBO's estimate of reasonable costs. Alternative estimates are provided where appropriate in the discussion of the basis of the estimate.

[By fiscal years, in millions of dollars]

	1980	1981	1982	1983	1984
Estimated authorization level..	7	52	55	61	67
Estimated outlays............	7	48	54	60	66

Note: The costs of this bill will fall in function 800.

6. Basis of estimate: Title I of the Sunset Act of 1979 establishes a ten year or five Congress schedule for the review and reauthorization of budget authority for all government activities. Reauthorization requirements do not apply to specified programs such as interest on the public debt, contributory retirement programs, civil rights pro-

tection, specified veterans programs or administration of the federal judiciary.

To the extent that government programs already require reauthorization, S. 2 should have limited impact. Adjustments may be required for expiring programs that would expire out of phase with the Section 101(b) cycle, but this effect would be limited to the first and second Congresses since virtually all authorizations that now expire are written for a two or three year period. Table 1 shows the impact of S. 2 on reauthorization of federal activity. The level of current federal activity is measured in terms of public laws, sections of law authorizing budget authority, and the total estimated budget authority for fiscal year 1980. Section 103 exemptions and currently expiring authorizations are subtracted from current activity to identify currently indefinite authorizations that would require reauthorization under S. 2.

TABLE 1.—IMPACT OF H.R. 2/S. 2 ON REAUTHORIZATION OF FEDERAL ACTIVITY

	Public laws	Separate sections authorizing budget authority	Fiscal year 1980 budget authority (billions)
Total Federal activity	1, 063	2, 231	690
Less sec. 103 exemptions	−86	−164	−291
Less activity now requiring reauthorization	−183	−915	−197
Federal activity now indefinitely authorized that would require reauthorization	794	1, 152	202
Percent of total Federal activity that is now indefinitely authorized, but would require reauthorization	74.4	51.6	29.3

The increase in federal activity requiring authorization would be spread over a five Congress or ten year cycle. To simplify this analysis, Table 2 assumes that the increase in reauthorizations would be spread evenly through the five Congresses. The actual increase for any term of Congress would be determined by the grouping of activities according to the subfunctional schedule of Section 101(b).

TABLE 2.—IMPACT OF INCREASE IN REAUTHORIZATIONS ON POSSIBLE WORKLOAD ASSUMPTIONS

	Public laws	Separate sections authorizing budget authority	Fiscal year 1980 budget authority (billions)
Level of activity of the 95th Congress—the approximate base for the next 5 Congresses	259	1, 071	690
Increase in the total Federal activity requiring reauthorization divided into 5 equal parts for 5 Congresses schedule in sec. 101(b)	159	230	40
Increase in workload resulting from Sunset legislation (percent)	61	22	6

The sunset requirements of S. 2 are given force by Section 101(c)(2)(a) which precludes enactment of budget authority for any program which has not been reauthorized according to the provisions of Title I The use of this enforcement mechanism suggests that "separate sections authorizing budget authority" is the most appropriate proxy for the impact of S. 2. The use of numbers in public laws as an alternative has limited utility since public laws vary from containing a single authorization to many. For example, the Education Amendments of 1978 contained 61 separate authorizations. Budget authority is also an inadequate proxy. While it is true that the Section 103 exemptions represent a large proportion of federal activity in budget terms, Section 103 affects a small part of the legislation. Interest on the public debt, for example, accounts for $66 billion, but, requires only one section of substantive law for authority. Using separate authorizations as a proxy for impact, S. 2 would potentially increase Congressional control of federal activity and concurrently workload by 22 percent for each of the next five Congresses.

The committees are given substantial discretion to determine the intensity and scope of the reviews required by Section 102. This factor combined with the probability that the crosscutting review would lead to the consolidation of some authorizations and that some overlapping or outmoded authorizations would be eliminated would make it unlikely that committees would require a 22 percent increase in staff to correspond to the increase in workload. The costs of this requirement could vary substantially depending upon how much of the increased workload is absorbed. No absorption would result in a 22 percent in cost or $26 million. The other extreme would be costless, with the committees absorbing all the change in workload.

This estimate takes a mid point and assumes that the actual increase in costs would be $12,884 thousand. The estimate increases committee salaries by 11%. No increases are assumed for members staffs on the assumption that their workload does not vary directly due to the legislation being considered. The estimate includes cost of employment such as travel, telephones and office equipment. It does not cover office furnishings. The total number of staff added, would be 346: 138 for the Senate and 208 for the House. The estimate includes $519 thousand for space based upon the Architect of the Capitol's projection of 150 square feet per person. The space required would total 51,900 square feet. The Senate space requirement would be equivalent to ½ of the Carroll Arms. The House space requirement would be equivalent to ½ of one floor in House Annex No. 2.

Title II requires the General Accounting Office to maintain and the Congressional Budget Office to provide budget estimates for a program inventory. The legislative tracking efforts required by this title could be done by either agency using existing resources. The increased costs would result primarily from the need for CBO to establish a crosswalk between authorizations and appropriations to estimate amounts authorized and provided for each program. The crosswalk between the two decision structures is complicated by mixes of indefinite authorizations, lump sum authorizations, entitlements, formulas, and by partial funding of multiple authorizations.

7. Estimate comparison: No other formal estimates have been completed. The Comptroller General in a June 19, 1979 letter to Dr. Rivlin stated that the costs are indeterminable due to the number of assumptions that need to be made. In a June, 1978 letter, the Comptroller General suggested a cost "in the vicinity of perhaps $100 million."

There are no funds included in the President's fiscal year 1980 budget for these activities.

8. Previous CBO estimate: The Congressional Budget Office prepared estimates on the 95th Congress' S. 2 for both the Senate Governmental Affairs Committee and the Senate Committee on Rules and Administration. This estimate differs to the extent that a more quantified basis for the workload estimate is provided. Titles V and VI were not included in previous estimates.

Mr. BUMPERS. The Senate calendar is now packed with authorization bills that will set the stage for future funding requests. The addition of literally hundreds of authorizations bills that would be required by S. 2 would make the idea of any Member personally reviewing each and every bill and corresponding appropriations a joke. Sunset is no more than a cruel hoax on the taxpayer who expects termination of programs and agencies.

It would be far preferable, in my estimation, to turn to a biennial budgeting process that would allow committees plenty of time for oversight activities and adequate flexibility in appropriations—without creating a bureaucratic nightmare for the executive and legislative branches.

I urge members of the Governmental Affairs Committee to consider whether enactment of S. 2, without adequate consideration of the costs and alternatives, is the appropriate way to legislate. It is politically appealing, to be sure, but offers false hopes for reduced government spending and elimination of unnecessary paperwork.●

AIRLINE PRODUCTIVITY AND SAFETY

● Mr. BAYH. Mr. President, there is justifiable concern today about declining productivity in many sectors of American industry. The airline industry is no exception. In addition to concerns about productivity of employees and equipment, airline managements are faced with falling profits and traffic and the need to raise huge amounts of capital to pay for new aircraft.

At a recent international civil aviation conference in New York, Capt. John J. O'Donnell, president of the Air Lines Pilot Association, described how many of his 33,000 members are cooperating with management in these difficult times. As a result, productivity is often improved, and airlines avoid laying off pilots.

Captain O'Donnell also made some predictions about labor relations between pilots and airline managements in the next few years. I believe his remarks provide a unique insight into the airline industry and aviation safety, and I ask that his full text be printed in the RECORD.

The material follows:

REMARKS OF CAPT. JOHN J. O'DONNELL

Looking at the list of prestigious participants in this conference and being aware of the need for brevity, I would like to move right to the two basic problems facing the airline industry today. These are the horrendous increases in the price of jet fuel and the rate of inflation. They are causing great pain in the United States and in most other countries throughout the world.

It is no consolation that these problems come from outside the airline industry. The carriers must cope with these very difficult problems even if they are not responsible for them.

The price U.S. trunk lines pay for fuel has more than doubled in the past year. It is now about 83 cents per gallon domestically and 95 cents per gallon internationally and still climbing. At some points abroad, the price of jet fuel is over $2 per gallon.

In this country, both the annual rate of inflation and the prime interest rate are close to 20 per cent. These rates will certainly make it painfully burdensome to raise the capital for more efficient aircraft needed in the decades ahead.

High inflation and escalating fuel prices force airline managements to place more emphasis on controlling costs of all kinds. A common way to mitigate the effects of rising costs is to increase productivity of employees and equipment.

But it is often difficult to measure productivity in the labor-intensive and service-oriented airline industry. It is sometimes overlooked that the cost of labor is not the only factor in productivity.

For example, increasing daily aircraft utilization is one way to make the equipment more productive. But that will do little for profitability—the famous bottom line—if the aircraft is largely empty during those extra hours in the air. High utilization may also work against an airline if its aircraft are fuel inefficient and improperly sized for the route segments they fly.

Rearranging the schedule may make flight crews more productive in hours or available seat miles flown, but it may not improve profitability if the load factors are not there.

Airlines compete partly on offering fast, efficient service. That implies having enough reservations agents and baggage handlers to handle the peak workload. So management faces a difficult choice between providing prompt service and achieving high productivity by using as few employees as possible.

It should be obvious to airline management that an employee who is satisfied and secure will usually be more productive. Unfortunately, management often overlooks this point. Consequently, many airline employees rely more on the contracts they negotiate through collective bargaining than they do on the words and performance of their managements. These labor agreements maintain stability and establish procedures for resolving grievances. Thus, they make the major contribution to employee morale and thereby to productivity.

Too often, a simple act of management can create an atmosphere of distrust. Such an act may save a few pennies, but management loses a major tool to increase employee motivation and productivity. For example, one U.S. airline changed the term "furloughed" to "terminated" to circumvent contractual provisions covering furloughed pilots. This petty act has shaken the faith of all employees, not just those affected by the change. Now employees at this airline are constantly doubting their management.

Increased productivity of the airline work force can mean different things to different people. To management, it means greater efficiency that should lead to lower costs and, one hopes, higher profits. But to employees, productivity is often a buzz word for more work at less pay. At its worst, it can mean a loss of jobs as employers seek to increase the units of work with fewer employees.

That is why many employees become very apprehensive when talk of increased productivity becomes widespread, as it is today.

But we are not unaware of the problems faced by managements today. Airline pilots generally have a strong identification with and pride in their airline. In recent years we have been increasingly flexible in negotiating with management to reach compromises that benefit both sides. A key factor in reaching such compromises is the willingness of management to reach out, be forthright with the pilots and work with them rather than acting single-handedly and with little apparent concern for our views.

Two years ago, a major trunk airline in the U.S., by prior agreement with its pilots and other employees, rearranged its schedules to increase available seat miles and aircraft utilization. This was done without any increase in the number of pilots, and pilot productivity obviously increased significantly. This increase was possible only because the airline's top management worked extensively and cooperatively with its pilots. In this atmosphere of mutual trust and respect, they were able to create the equivalent of a medium-sized airline with no increase in pilot employment.

Another trunk carrier is justifiably proud of the fact it has never furloughed a pilot. When it found itself with too many pilots during the 1974 recession, the airline placed the excess crew members in ground positions until it could increase its flight schedules again. Management's recognized concern for its employees is reflected in their attitudes toward the airline and the public.

Let me give you one current example of how pilots and airlines are negotiating successfully to aid management in increasing productivity and avoiding furloughs.

Many airline managements have been asking us in contract negotiations to increase the number of hours that pilots fly each month. Most of our pilot agreements provide a maximum of 75 hours a month. Some carriers have asked for a temporary increase to accommodate their crew needs during peak seasons, and others have sought a permanent increase in maximum monthly flight hours.

One creative solution we have negotiated at several airlines is a bank system. Under such a system, a pilot may fly more than the maximum number of hours specified in the contract, usually 75. However, he is paid only for the 75 hours in the contract, and the balance goes into a bank. Later, because of weather or mechanical cancellations, he may fly only 60 or 65 hours in a particular month. He can then draw 10 or 15 hours from the bank to make his maximum of 75.

The advantage to the company is that it achieves greater use of its pilots, and the advantage to the pilot is no wide fluctuation in his monthly earnings.

In short, the current response of labor to management's call for increased productivity is to provide greater flexibility in scheduling and utilization. Our goals are to increase the carriers' efficiency and productivity and also avoid furloughs wherever feasible.

Is there anything else that can be done? In the past, major productivity increases for the airlines have come through the use of larger and faster aircraft. Clearly, the crew of a 727 is much more productive than that of a DC-6 or DC-7 and a 747 crew is more productive than the one on a 707 or DC-8.

However, we have to some extent reached the end of productivity increases due to new aircraft. Increased capacity meant the airlines enjoyed galloping increases in productivity as they went from the DC-3 to the DC-6, then into the jet age and finally into the era of the wide-bodied transport. Seating capacity went up as much as 20 times.

Today the only larger aircraft on the horizon is the stretched 747, which is still in the talking stage. The new designs now being built in Seattle and Toulouse offer more seats than the aircraft they will replace, but their main advantage is much better fuel efficiency.

In addition to selling fuel efficiency, the manufacturers are also seeking to gain a competitive economic edge by offering potential customers the choice of only having two crew members in the cockpit instead of three. Seeking an advantage in the many-faceted and intense battle to sell airplanes, a manufacturer offers the prospect of slightly lower direct operating costs by having only two crew members in the cockpit. Competing manufacturers then seek to nullify that advantage by offering the same feature to prospective customers.

We believe it is unwise and short-sighted to reduce the size of the cockpit crew for some slight short-term economic gain. Airline pilots throughout the world will continue to strongly oppose any reduction in crew size.

We are so adamant on this issue of crew complement because we believe it involves safety and not productivity or economics. And safety means lives, our own and those of our passengers.

It is safety that is often overlooked in discussing the productivity of airline pilots. Unlike manufacturers or airline managements, pilots are usually cited as the primary factor in most airline accidents. That is why any discussion of pilot productivity must also include full consideration of safety.

Any so-called increases in productivity or cuts in costs that compromise safety are misguided and will only lead to false savings and higher costs in the long term. It should be clear to all of us that the costs of a single accident can greatly exceed years of insignificant savings on crew costs.

Everyone here is very aware of the costs of the DC-10 accident last May at Chicago. It is clear that a major contributor to that accident was the desire to increase productivity by shortening the time needed for maintenance.

The lessons of that disaster should still be clear to us. With that in mind, we can not understand how manufacturers and airlines can consider jeopardizing safety for the sake of a paltry saving in cockpit crew costs.

We are ever more appalled and concerned about a reduction in crew size when we contemplate the aviation environment of the future. Clearly, it will be more crowded and complex, and hence dangerous.

Airline traffic in this country is expected to grow by two-thirds to 500 million passengers annually in the next decade. The FAA estimates the number of aircraft will grow from about 200,000 now to about 300,000 in ten years.

Crowding in the terminal areas around airports will make flying much more complex, increase pilot workload and reduce the margin for error. Earlier this year, the FAA Administrator told Congress that growing demand will force rationing or restrictions on the number of aircraft that can use many large airports. Already, arrivals are limited at four large airports in this country. Even with limited arrivals, delays are still common at these and other airports. These delays, incidentally, waste fuel and adversely affect productivity.

The prospect that the air traffic control system will be able to cope with this increased traffic is not good. The computer in each of the 20 en route air traffic control centers shuts down for more than a minute on the average of at least once a week. Failures of less than a minute occur more frequently.

A NASA study showed there were an average of almost 100 near mid-air collisions each month in the U.S. The FAA's own data support this finding and also show the number of near collisions in the air has been steadily increasing since 1974. An operational collision avoidance system is at least a decade away.

There were three instances last year when captains of wide-bodied aircraft with hundreds of passengers on board died in flight. In each instance, the other two crew members were able to take over and land uneventfully. What would happen if there were only two in the cockpit and one collapsed during landing or some other critical phase of flight?

The world's airline pilots reject the manufacturers' claims that advances in automation and use of new technology will enable two pilots to fly in the increasingly busy skies as safely as they do today. We disagree because it is obvious the prime justification for this claim is economics and not safety. Boeing is offering its two new models, the 757 and 767, with two or three seats in the cockpit, depending on the customer airline's choice. Boeing is doing so to compete with the Airbus A310, which offers the same option. Those clearly are economic or marketing decisions taken at the expense of safety.

Should "the customer is always right" be the determinant in airline safety?

At the same time, I also ask:

What role should the FAA and the Department of Transportation play in this controversy?

Should an important safety issue be left to the collective bargaining process?

The McDonnell Douglas DC–9 Super 80 is nearing certification, and the Boeing 767 and 757 are not far behind. In the 12 years since the 737 was certificated, it is clear the industry standard throughout the world has been a fully-integrated crew of three in the cockpit. Today, about three-quarters of the 2,600 aircraft in the U.S. airline fleet are flown with three crew members in the cockpit. Most members of the traveling public assume there are always three crew members operating their aircraft.

Now, we see the manufacturers and some airlines retreating from the industry standard. And this step backward—whose consequences may not be apparent for several years—is being taken solely for competitive economic reasons and without full regard for or comprehension of the complex safety issues involved.

We airline pilots—who are directly and ultimately responsible for the safety of our passengers—will continue to press for a crew of three in the cockpit. Pilots in Europe and Japan feel as strongly about this issue as we do in the United States. Already, there have been job actions in France over airline plans to fly the 737 with a crew of two. Last December, representatives of 18 flight crew associations met in Frankfurt to protest the design of the A310 and 757 as two-crew aircraft. These pilots also pledged not to fly any future aircraft unless it has a fully integrated cockpit for three.

The pilots of the world's airlines foresee this issue will be the principal point of contention with airline managements in the 1980s. Our beliefs are clear and strong, and we will continue striving to attain our goal. The response we receive from the manufacturers and the airlines will largely determine the quality of labor relations in our industry.

Those enlightened airlines that put safety first will probably enjoy better employee relations and higher productivity.

Those carriers responding to the manufacturers' sales promotions and emphasizing their short-term economic interests can expect labor unrest. As a result, productivity and these airlines' well-being in the long term will certainly suffer.

We pilots will continue to cooperate with airline managements—as we have countless times in the past—toward the mutual goal of prosperity for our industry. But we must defer on the issue of crew complement. This issue involves more than labor or productivity; it affects airline safety, the painfully established cornerstone of our common enterprise.●

THE FEDERAL ELECTION COMMISSION'S PROPOSED REGULATIONS ON CONTRIBUTIONS TO AND EXPENDITURES BY DELEGATES AND DELEGATE COMMITTEES TO NATIONAL NOMINATING CONVENTIONS

● Mr. PELL. Mr. President, on May 14, 1980, the Federal Election Commission transmitted to the Senate proposed regulations governing the application of the Federal Election Campaign Act, as amended, to the delegate selection process. The Senate may disapprove by resolution any regulation submitted by the FEC within 30 legislative days after its receipt. A legislative day is any day in which the Senate is in session. As of Wednesday, June 4, 19 legislative days remain for any action by the Senate in this matter.

The proposed regulations outline the effect of the Federal Election Campaign Act on contributions to and expenditures by delegates and delegate committees. Under the proposals, a delegate is not considered a "candidate" within the meaning of the act, and is, therefore, not subject to the registration and filing requirements which are imposed on a candidate. Furthermore, neither persons nor multicandidate committees contributing to a delegate would be subject to the act's $1,000 and $5,000 limitations respectively for contributions to Federal candidates.

It should also be noted that no distinction is made between "authorized" and "unauthorized" delegates here as had been made in past policy statements of the FEC. Thus a contribution to a delegate or to a delegate committee would not be considered a contribution to any presidential candidate, regardless of whether that candidate "authorized" any of the activities of the delegate.

The treatment of delegate committees is also outlined in the proposals. Generally, these entities are like political committees, subject to the registration and reporting requirements as well as the act's prohibitions and limitations. A delegate committee may be a group of delegates, a group of individuals seeking selection as delegates, or a group of individuals supporting delegates.

Topics covered in the proposed regulations are the definitions of delegates and delegate committees, contributions to delegates, expenditures by delegates, prohibited sources, and administrative expenses of party committees and payments to qualify as delegates.

Copies of the proposed regulations and a summary are available from the Senate Committee on Rules and Administration, Elections Section, 310 Russell Senate Office Building (202–224–5647) or from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463 (202–523–4143). Members of the Senate are requested to forward any comments they may have with respect to these proposed regulations to the committee.●

ALCOHOL FUEL IMPORTS

● Mr. BAYH. Mr. President, the latest Department of Commerce figures indicate that the United States imported nearly 12.2 million gallons of nonbeverage ethyl alcohol during April 1980. This is compared to the 6.4 million gallons imported during the three preceding months.

This flood of foreign fuel alcohol into the United States is due mainly to dramatic increases in imports from Brazil. Total imports from Brazil in April alone came to 7.7 million gallons, compared with a total of only 2.7 million gallons imported from Brazil during the first 3 months of 1980. This represents a very substantial increase from the nearly 2.5 million gallons imported from Brazil in all of 1979, and zero gallons imported from Brazil in 1978.

An article in the June 3 Wall Street Journal states that Brazil is expanding its exports of alcohol fuel because its production of alcohol-powered cars has fallen behind schedule. So long as Brazil continues producing a surplus of fuel alcohol, we must assume that U.S. imports of Brazilian alcohol fuel will continue to rise. Not only will this situation tend to have an adverse impact on our domestic alcohol fuel producers, it places this Nation in the awkward position of substituting our national dependence on foreign petroleum for a dependence on foreign fuel alcohol.

Mr. President, the recently enacted Crude Oil Windfall Profit Tax Act of 1980 contains several tax incentives for alcohol fuel, which I sponsored with several of my colleagues in the Senate. Paramount among these incentives is the extension through 1992 of gasohol's exemption from the 4 cent per gallon Federal motor fuel excise taxes, and the income tax credit for the users of straight alcohol fuel and the blenders of alcohol-gasoline fuels. These tax incentives were enacted to encourage development and expansion of a strong domestic alcohol fuels industry.

At the time I sponsored these incentives I thought that it would be foolish to allow other countries to dump their alcohol fuels production in our country, taking away markets from domestic producers and at the same time taking advantage of production incentives designed to encourage development of a domestic alcohol fuels industry.

As a result, the Crude Oil Windfall Profit Tax Act also requires the Secretary of the Treasury to provide Congress with a report on what methods may be used to limit U.S. imports of alcohol fuel. In preparing this report, the Secretary is to consider what means may be used to deny imported alcohol fuel the benefits of the excise tax exemption and the income tax credit.

On May 8, 1980, in my capacity as Chairman of the U.S. National Alcohol Fuels Commission, I wrote Treasury Secretary Miller reminding him of the aforementioned duty and offering the services of the Commission staff to assist the Department in this regard. On May 30, Secretary Miller responded in a letter agreeing to cooperation between the Department and the Commission, and initiating a means to begin this process. The Commission staff is now proceeding to work with the appropriate departmental officials.

Over the long term the solution to the problem of increasing imports of Brazilian alcohol will be alleviated by increased U.S. production. The incentives in the Windfall Profit Tax Act, the fiscal year 1980 DOE Appropriations Act, Public Law 96–126, and in the alcohol fuels provisions of S. 932, the Energy Security Act, will help bring about this increased domestic production. However, in the near term, a high level of Brazilian exports of alcohol to the United States may continue until the production of pure alcohol automobiles in that country increases.

Therefore, I believe it is absolutely

vital that the Treasury Department complete its study and forward it to Congress at the earliest possible date, and well before the October 2, 1980 deadline specified in the Windfall Profit Tax Act.

We simply cannot afford any unnecessary delays in addressing this issue and establishing a clear national policy on the import of fuel alcohol. It is only through increased domestic production of alcohol fuels that we can advance toward energy independence.

Mr. President, I ask that the Wall Street Journal article of June 3, my May 8 letter to Secretary Miller, the Secretary's May 30 letter of response, and the attached statistical chart on alcohol fuel imports be printed in the RECORD.

The material follows:

[From the Wall Street Journal, June 8, 1980]

ALCOHOL FUEL PLANS FOR AUTOS IN BRAZIL TAKE SLIGHT DETOUR

BRASILIA.—Brazil's pioneer program to run millions of cars on home-grown sugar cane alcohol is sputtering because of labor trouble, industry delays and people who would rather drink the fuel than fill their tanks.

The government's ambitious goal of having two million alcohol-powered cars on the road by 1985 has already been moved back to 1988.

As a result, the state-controlled oil monopoly, Petrobras, has begun exporting alcohol fuel because of low demand. And, in the process, it is taking advantage of the high market price of up to $60 a barrel.

The 474 gasoline stations authorized to sell pure alcohol have a glut of alcohol. This, even though, according to the Ministry of Industry and Commerce, some people are running their gasoline engines on pure alcohol to take advantage of the government-subsidized price equivalent to about $1.45 a gallon compared with $2.27 a gallon for regular gasoline.

That savings, however, will be quickly wiped out by mechanical problems, because engines are designed for specific fuels, a ministry spokesman observed. All gasoline sold in Brazil is mixed with up to 20% alcohol. Technicians say mixtures with higher amounts of alcohol corrode parts in engines designed for gasoline.

Some people also have been tapping the pumps to make a rum-like beverage called cachaca, Brazil's favorite intoxicating drink. The government is solving that problem, though, by adding about 3% gasoline to the alcohol to make it poisonous.

Trouble with alcohol as a fuel started in April, just after the government authorized the sale of alcohol cars to the general public. Before that, only taxi drivers and government fleets could buy alcohol cars.

Brazil's major auto makers were hit by a six-week strike that halted production lines.

"The strike came exactly at the time when we were gearing up to start commercial sales," said Marcos de Lina Fernandes, executive secretary of the government's National Executive Commission on Alcohol.

Mr. Fernandes says that despite the strike, Brazil will produce 200,000 alcohol-powered cars this year, 80% of its goal. Ministry of Industry and Commerce officials, however, say they would be surprised if 100,000 cars are produced. Only about 15,000 alcohol-powered cars are currently on the road, according to government and industry sources.

Officials say they will take necessary steps to ensure the success of the program, which is the key to Brazil's campaign to cut its foreign oil bill, which may exceed $10 billion this year.

U.S. NATIONAL ALCOHOL
FUELS COMMISSION,
Washington, D.C., May 8, 1980.

Hon. E. WILLIAM MILLER,
Secretary, Department of the Treasury, Washington, D.C.

DEAR SECRETARY MILLER: Public Law 96-223 requires the Secretary of the Treasury to provide Congress with a report on what methods may be used to limit United States imports of alcohol for use as a fuel. The U.S. National Alcohol Fuels Commission has a strong interest in alcohol fuel imports and is currently studying this subject as part of the Commission's comprehensive alcohol fuels report to Congress and the President.

Thus far our research has shown a steady increase of U.S. imports of non-beverage ethyl alcohol over the past several years. During the period 1976 through 1978, imports from Brazil totaled 550 gallons. In 1979, however, imports from Brazil skyrocketed to nearly 2.5 million gallons, and in January, 1980, nearly 2.2 million gallons were imported from Brazil.

Since both the Treasury Department and the Commission will be working on this subject, I feel that we should coordinate our efforts and share information. This could be especially beneficial since the Commission's final report is likely to be issued not long after Treasury's report is required to be completed. I hope that a meeting between the Commission's staff and representatives of the Treasury Department could be arranged in the near future to discuss this subject and identify appropriate areas for cooperation.

I appreciate your consideration of this matter, and look forward to working with you.

Sincerely yours,
BIRCH BAYH,
Chairman.

THE SECRETARY OF THE TREASURY,
Washington, D.C., May 30, 1980.

Hon. BIRCH BAYH,
Chairman, U.S. National Alcohol Fuels Commission, Washington, D.C.

DEAR BIRCH: Thanks for your letter suggesting that Treasury and the U.S. National Alcohol Fuels Commission consult concerning their studies of alcohol imports. While the Treasury must submit its own independent report, both of our studies would benefit from mutual cooperation.

Frank Vukmanic will contact Mr. Curtis Deane of the Commission staff to begin this process.

Best wishes.
Sincerely,
G. WILLIAM MILLER.

YEARLY TOTALS

	Gallons
1980: Through April	18,535,260
1979	28,073,096
1978	22,943,951
1977	19,199,292
1976	12,832,004

ANNUAL IMPORTS BY COUNTRY[1]

	Gallons
Argentina:	
1980: Through April	6,549,730
1979	9,346,580
1978	6,884,004
1977	6,426,901
1976	5,380,584
Belgium:	
1977	831,075
1976	2,213
Brazil:	
1980: Through April	10,417,403
1979	2,476,979
1977	550
Canada:	
1980: Through April	1,567,808
1979	9,563,476
1978	7,595,171
1977	9,716,326
1976	4,710,923
Federal Republic of Germany:	
1980: Through April	6
1979	1,388
1978	4,264
1977	105
1976	1,243
France:	
1979	36,338
1978	31,513
Italy: 1978	20
Japan:	
1979	1,290,971
1978	46
1976	150
Mexico: 1978	106
Netherlands: 1977	97,884
Norway:	
1980: Through April	313
1979	539
Peru: 1977	5,220
Philippines: 1979	320,178
Sweden:	
1979	10,484
1978	4,209
United Kingdom:	
1979	5,006,783
1978	8,409,498
1977	2,121,231
1976	1,884,641
Yugoslavia:	
1979	14,380
1978	15,120

[1] During years not listed under an individual country, no imports were received. ●

ONE PERSON CAN MAKE A DIFFERENCE

● Mr. SCHWEIKER. Mr. President, 10 years ago diabetes was regarded as an "Okay disease." All you had to do was take your medication and watch your diet.

Now we know better. We know that diabetes figures as the third leading cause of death by disease. We know that its devastating complications include kidney failure, heart disease, stroke, perinatal deaths, and gangrene leading to amputation. It is the leading cause of new blindness.

This change in awareness of the true scope of diabetes as a major public health problem has been reflected by increased appropriations for diabetes research at the National Institutes of Health (from about $25 million in 1972 to nearly $140 million this fiscal year). We have passed landmark legislation to strengthen and expand Federal diabetes programs, such as the National Diabetes Mellitus Research and Education Act and the National Diabetes Advisory Board Act. Just last month, the Labor and Human Resources Committee approved new legislation to revise and extend these important efforts. Research is already beginning to pay off with exciting new leads in understanding and treating diabetes. One striking example is the National Eye Institute's development of new technologies to prevent diabetes-related blindness. In some cases, the sight of legally blind diabetics can actually be restored by these methods.

What caused such a dramatic turnaround in public and congressional awareness of diabetes and its complications?

Much credit goes to the determined efforts of one of my constituents, Mrs. Lee Ducat. When Lee found out that her son, Larry, had diabetes, she was appalled by how little was known about this serious disease. She founded the Juvenile Diabetes Foundation, tirelessly organizing concerned parents into chapters all around the country, and even abroad. She spearheaded citizens' grassroots efforts and convinced Members of Congress to live up to our obligations to our Nation's diabetics through appropriations and authorizing legislation. In the private sector, JDF itself has invested more than $7 million in diabetes research. As I mentioned earlier, these efforts are paying off.

Much has happened since Lee first came to my office nearly 10 years ago. The prospects for finding a cure for diabetes are brighter than ever before. Diabetes programs represent a model for dealing with a chronic, systemic disease. As a concerned parent, founder of JDF, and member of both the National Commission on Diabetes and the Presidentially-appointed National Diabetes Advisory Board, Lee has proved again and again that one person can make a difference.

Mr. President, this Sunday's Philadelphia Inquirer published an article describing the efforts of this remarkable woman. I invite my colleagues' attention to this story and ask that it be printed in the RECORD.

The article follows:

ONE PERSON CAN MAKE A DIFFERENCE

"Forgive me for crying," says lovely Lee Ducat, founder of the Juvenile Diabetes Foundation, her big brown eyes brimming. "I cry a lot. We touch many people with many problems. You can't not be touched. I feel deeply. So I cry once a day."

Lee Ducat cried so much she had to wear dark glasses for two weeks back in 1966, when she discovered that her 9-year-old son Larry had diabetes—the number-three killer disease in America. "I was devastated," she declares. But after her tears dried, she wangled a list of diabetic patients from Larry's pediatrician. Then she invited scores of strangers to a cocktail party at her Penn Valley home. She learned that diabetes wasn't an "OK disease," but a scourge that can bring blindness, amputation, heart attack or kidney failure, even with proper treatment. She decided to fight the incurable disease with cash.

Soon, Lee Ducat quit her job as educational TV coordinator for Channel 12 and began recruiting volunteers and raising money. That was how the foundation began, in 1970, and now there are 130 chapters worldwide, including ones in Taiwan, Australia, Denmark, Canada and Israel. In 10 years, Lee Ducat and her volunteer army of housewives and business people, celebrities, physicians, scientists and politicians have raised $7 million for diabetes research. There have been some promising results, but no cure has yet been found.

"As a girl, . . . my heroine was Eleanor Roosevelt," says this year's recipient of the prestigious Gimbel Award. "I think she was the most extraordinary person, her combination of caring and intellect and activism. One time on a visit to the U.N. I was fortunate enough to bump into her. I was very little, and I remember her being very tall. I walked up to her and asked her for her autograph. Since then I have read everything about her."

Lee Ducat grew up "with the feeling that you gave money to charity and you gave a certain amount of your time to your community and your world. That's how my parents were. During the Second World War, you probably don't remember, but we all did things for the community. We collected tin cans and we bundled newspapers and we gathered scrap. We were all very patriotic, the most patriotic I think our country has ever been. No one ever thought they would get paid for doing something for their country."

Her first volunteer effort was, she recalls, "selling defense stamps when I was 5. I can remember going into school assemblies and begging people to buy them. I just grew up with community activity. In South Philadelphia where I was raised, people feel responsible for their neighbors."

Barely 5 feet tall the former Leatrice Zitomer always had a knack for finding the spotlight. Before she had her own three children, she was a music teacher, going from class to class, glee club to glee club, teaching kids how to sing. And as a tot she was one-half of the singing, dancing Lane Sisters, "two little redheads who looked alike, who many people thought were twins, who just happened to be born in a family where music was very important. Our father (who ran a wholesale clothing-supply store) was very musical, and when the family gathered, they said, 'Girls, sing,' and we did.

"We sang and danced on the radio, too, and we were on the first TV program out of Philadelphia ever and the first color TV program out of Philadelphia ever," she says. "We wore brown lipstick and brown rouge and we loved it, it was part of our growing up. Music was part of our lives. And, again, it helped us develop as people and made us very outgoing. So for eight years we sang and we were in kind of a mini-show-business atmosphere. I love singing, but, no, I don't miss it, it was just a hobby," she murmurs.

And wasn't she a kiddie columnist for the Bulletin? "How did you find out about that?" she giggles, forgetting it's on the resume she gave me. "I was a star reporter," she reveals. "They published me all the time. Of course, I loved being published and my parents loved seeing my name in the paper." What were her early ambitions? "I wanted to be a teacher first, then a movie actress. We didn't have TV. The gist is, I love people. That has never changed. And if being with people and loving to be with them meant you had to sing a song, or dance or write a column for the newspaper to touch someone or you had to stand in front of an audience and sell defense stamps, that is what I'd do. People were always important to me, even when I was little."

Does she like seeing her name in the paper now? "A good question. I have very ambivalent feelings about it. I don't like notoriety. That has bothered me, the fact I use my name, my story (to publicize the foundation's cause). I can remember the first picture I used, at great sacrifice to my privacy. Privacy is wonderful, but let's face it, we're in a fight, a fight to destroy an enemy."

The first skirmishes were tricky. Her maiden testimony before a Senate subcommittee "left me running back and forth to the bathroom." Early on, some researchers didn't want to consort with "emotional parents." And mastering complex medical reports was hard. "When I first started, I would read a medical article sometimes five or six times before I understood anything at all. The language is *different*. I'm a college graduate (Penn) but I have no medical background."

How'd she manage to juggle her marriage, children and career? "In this day of women's lib, I must tell you that women are *not* liberated. If a woman decides to have a career, she must add that commitment without neglecting her other responsibilities, or else she fails at the other responsibilities. All of a woman's commitments must be met or she will fail, something will suffer. She has to be mother, wife, housekeeper, and if she wants a career of any kind it's an added burden. That is plain fact," she avers.

"I didn't work full time with the JDF until my children were all in school. When they were babies, I was home with them. I'm sorry, I believe that is where mothers should be. I believe when you carry home a baby from the hospital you must spend some time with your little one—that little one needs you. When my children started school, I felt there was time for me to develop my own abilities, and so I worked during the school day. But I was home when they came home, and they had a good hot dinner every night and so did their father. I'm just old-fashioned enough to believe that is the way a home should be."

Now her children are grown, and she praises her secure, capable hubsand of 26 years, Edwin, a builder who is active in hospital construction. "Without my husband I couldn't afford to be a volunteer. Something else that has helped us to be strong is that he has helped me in the growth of the JDF. I would have had to get a job," she admits. "Well, he financed the whole beginnings of the JDF. He gave me money to start it. He gave me money to print stationery. He gave me an office. He gave me a typewriter. He actually set me up in business. He has been my main source of financial ability to function as a volunteer.

"Now if I have to take a trip to Washington (she's a presidential appointee to the National Diabetes Advisory Board), Edwin very generously pays for it. So that because he is successful at what he does, I have been able to work more efficiently. It is a hand-in-glove kind of thing. He has enabled me to do my job better. Also, his contacts in the medical field, in the hospital field, have helped me. It's enabled me to feel freer in the medical community. Our two careers have meshed. I call it a career," she reflects. "I'm egotistical enough to think that even though I'm a volunteer, I still have a career."

Her career has taken her to the pages of People magazine and innumerable other publications since an advertisement for Ladies Home Journal showed her on the steps of the Capitol with Sen. Richard Schweiker ("Not just any woman. Millions of kids owe her a vote of thanks . . . She reads Ladies Home Journal"). She has met several Presidents, worked with several senators, and befriended several celebrities, notably Dina Merrill and Bobby Clarke. "I don't think I am self-sacrificing or unselfish," she demurs. "I love my work. I love what I'm doing.

"Why do I do it? Basically, I do it for my son, with the hope someday he will have a better life. I do it because of all the little faces I have seen that have become part of my life. I do it because if I don't do it maybe nobody else will. It's up to us to care and to get other people to care. That is really why I do it, in the hope that maybe we'll all wake up and we collectively, not just me, but we will realize, all of us who have been working, we will realize that we have made a difference, our lives have made a difference, that our efforts have changed the world.

"In this country, one person can make a difference. I think the reason people feel they can't is because they haven't tried. I think anyone who tries can make a difference. I think that in our country the individual is still very important and any person can be heard and have their efforts change the course of our history. The only reason that doesn't happen is because not enough people try.

"I have seen democracy in action. I am living testimony to the fact that you can talk to your congressman and he'll listen, you can talk to your senator and he'll listen, you can influence them, that you can talk to your President, that you can go to the White House, that you can talk to your State Department. Individual efforts do matter."

And what of her son Larry? Fifteen thousand insulin injections later, Larry Ducat is 24, with an architecture degree from Penn. His adolescence was harrowing—he suffered insulin shock and passed out while riding on a surfboard; his syringe was discovered by a frightened college cleaning woman; he was mistaken for a dope addict at a customs check in Europe. But he has survived.

Amazingly, Larry's mother is a beautiful, vibrant 47. "My daughter always says, 'Mom looks young because she lives the good life." I guess I do. I don't smoke, I don't drink. You know, my family has lived a diabetic way of life all these years. . . . We avoid sugar and sweets. We have lots of fresh vegetables and fruit. We didn't want Larry to be singled out. We put the whole family on it. Exercise every day; try to stay active. When I'm sitting, I'm very unhappy. I can't stand to sit," Lee Ducat says, stretching. "I guess it's not every day you interview people who cry." ●

THE ELECTORAL COLLEGE AND THE 1980 ELECTION

● **Mr. BAYH.** Mr. President, last Sunday's Washington Post magazine contained a very interesting article by Walter Shapiro laying out a possible scenario for this year's Presidential election. While the author labels it "a political fantasy," his conclusions are not that far off the mark. Certainly, no aspect of the story was inaccurate in terms of legal and constitutional possibilities. This particular chain of events probably will not come to pass, but Mr. Shapiro's account gives a frighteningly good idea of what could be expected to occur if the election ends up in the House of Representatives.

Last year during the Senate debate on the proposed constitutional amendment to abolish the Electoral College, there was a great deal of discussion on both sides of the issue as to the chances that the Presidential selection process would "misfire." Opponents of the proposal claimed that it was nothing to worry about since the process had worked in all but three elections.

Mr. President, here we are, a year later, and as Mr. Shapiro has entertainingly reminded us, we may be looking down the barrel of the Electoral College.

I would simply remind my colleagues that with direct election of the President, none of this speculation about political deals, special favors, and bribery in return for votes would be necessary. If a candidate did not receive a mandate of at least 40 percent of the peoples' votes, he and the runner-up would again face the electorate for their decisive final vote. And that would be the end of it. As Newsweek magazine summed up its "what if" story 2 weeks ago:

> The electoral college apparatus that makes such scenarios possible exists because the Founding Fathers refused to entrust the election of the President entirely to the common man. It has survived partly because of the unwillingness of small states to give up their outsize power and partly because of a general reluctance to tamper with the Constitution. But if the 1980 election ends up in the House, the nation may finally decide to junk the electoral college and start electing its presidents directly.

Mr. President, if there is no objection, I ask that the text of Walter Shapiro's Washington Post magazine story of June 1 be printed in the RECORD.

The story follows:

THE ANDERSON CRISIS: A POLITICAL FANTASY

(By Walter Shapiro)

Former president Gerald Ford was one of the first to predict it. A few weeks ago, he said "the net result" of John Anderson's independent candidacy for president would be that "the next president won't be chosen by the people, but by the politicians in the House of Representatives."

(Under the Constitution, if no presidential candidate gets 270 electoral votes, the election is then decided by the newly elected House. There each state—no matter what its size—will have one vote, with 26 needed to elect a president.

(This peculiar constitutional provision, last used in 1825, can give rise to almost unlimited possibilities for confusion, intrigue and mischief.

(To capture the flavor of the constitutional crisis that may be the final scene of the 1980 election, we have created a fictional character, Richard Walker, and made him the newly elected Democratic congressman from Vermont. Let's take a look at some pages from his diary beginning with the morning after the 1980 election.)

NOVEMBER 5

It's about 4 in the morning, and I'm very drunk from too much champagne and excitement. Yes, Dick Walker, a 32-year-old lawyer with a two-bit law practice and an unemployed wife, is going to Washington as Vermont's only congressman. No more carry-out pizza, no more fights with Becky about money—soon it will be the Honorable Richard C. Walker, Member of Congress, holding his own at Georgetown dinner parties.

I still can't believe I won. You don't knock off a Republican incumbent in Vermont without money or strong party support. All I wanted to do was run so I could get my name known and get a little more legal business.

What a crazy night. John Anderson actually carried Vermont; Carter finished third here. It serves him right with 9 percent unemployment and 16 percent inflation. I knew I was doing the right thing when I told those students at Bennington that I was voting for Anderson. Party loyalty be damned.

Becky has gone to bed, but the television set is still on with John Chancellor talking about Reagan's narrow victory. Maybe he won't be such a bad president; at least we won't have a deadlock in the electoral college.

NOVEMBER 5 (SECOND ENTRY)

It's now about 9:30 in the morning. The weirdest thing just happened; I just got a call from Jimmy Carter.

He sounded just like he does on TV, and he asked if Becky and I would like to come to Camp David for the weekend to rest up from the campaign. I was so stunned that all I could say is that we had planned to go to Becky's parents' place on the lake. I think I actually talked about babysitters. He sounded disappointed and asked if I would think it over.

According to the TV, Reagan may not be president after all. Absentee ballots have given Oregon to Anderson by 3,000 votes. The latest figures on the screen show Reagan with 266 electoral votes. He got 39.7 percent of the popular vote, carrying almost all the West, important Sunbelt states such as Texas and Florida, and industrial states like New Jersey and Ohio.

Carter limped in with 37.6 percent of the popular vote and 234 electoral votes. With the exception of Hawaii, he didn't carry a state west of Minnesota. But he held his own in the South and narrowly won most of the key states in the Northeast and Midwest.

And John Anderson—amazing John Anderson—carried Vermont, Maine, Massachusetts, Wisconsin and Oregon, with 38 electoral votes and 22.7 percent of the popular vote. I guess Anderson could claim to be president of those who live north of Boston.

Most important to me, the Democrats kept their majorities in Congress. We lost 22 seats in the House and 5 in the Senate but are still in control.

NOVEMBER 6

Becky is not making things any easier. She insists we spend the weekend with her parents as planned. She says her parents haven't seen little Brad since his second birthday. The next minute she's saying we can't go to Camp David because Carter's pro-nuke and a war criminal; and, anyway, she has nothing to wear. I offered to buy her a new wardrobe, but she says I'm not in Congress yet and we can't afford it.

NOVEMBER 7

The President called again late last night and all I could stammer was that we had other plans for the weekend. He said he understood how important family life was and complimented me on my values. He suggested that I call him when I get to Washington.

Both Time and Newsweek called to ask who I'd be voting for if the election went to the House. I started to say John Anderson, but then I got cautious and said any comment would be premature.

NOVEMBER 11

The weekend with Becky's parents was better than I expected. Ralph, who over the years has called me a chump, a loser, a wimp, a bum and an ingrate, was introducing me to everyone as "my son-in-law, the congressman."

I did have one big fight with Becky, though. She said I'd turn into a politician, just like the rest of them, and vote for Carter. She said that just because she dropped out of Mount Holyoke didn't mean she hadn't read "Lysistrata."

NOVEMBER 17

Guess who was in town today? John Anderson and his wife Keke. I met them and Anderson's three Vermont electors at a restaurant in Burlington.

Anderson, who looked tired and dispirited, did most of the talking. He didn't have any notes, but he sounded as if he had diagrammed each of his complex sentences in his mind before he spoke.

"It was never my intention to create an electoral deadlock," he began. "Perhaps I was naive, but I believed I could win."

Here, Keke Anderson, a feisty little lady, broke in, "John, you still can win. The country needs you."

Anderson blushed beet red before saying softly, "Don't be silly, Keke."

He continued, as if the interruption had never occurred: "A deal in the electoral college or the House of Representatives would destroy the legitimacy of whoever was elected. I must keep my covenant with the 18 million Americans who voted for John Anderson, but I must also do what is right."

The problem is that Anderson can't figure out what is right. "The only thing I'm certain of," he said, "is that Ronald Reagan should not become president." But, in the next breath, Anderson said that electing Jimmy Carter "would be tantamount to declaring the office of the president vacant for the next four years."

Anderson has one other choice. He could

drop out and try to throw his electoral votes to a third candidate. This could be important because under the Constitution the House must choose among the top three finishers in the electoral college.

"I would like to explore one additional thought with you," he said to each of the three electors. "Would you consider voting for Jerry Ford instead of John Anderson?"

Keke Anderson explained in an aside, "Jerry Ford has been a loyal friend to John."

The three Vermont electors weren't buying. Marge Nesbitt, a feminist who even Becky says is shrill, said, "If you withdraw, I'll vote for Gloria Steinem."

Mark McCoy, a ski resort owner, said, "No way, José."

Fred Harding, one of those Republican fossils in the state legislature, had the last word: "I never had much use for people who appear in celebrity golf tournaments. I reckon that I'd sooner vote for Reagan."

NOVEMBER 25

Tip O'Neill's office in the JFK Federal Building in Boston looks like a stage set from *The Last Hurrah*. His anteroom is filled with a bunch of Boston pols smoking cheap cigars and talking about wakes. I felt a little peculiar in that setting with my Frye hiking boots, but the Speaker had asked me to stop by for a visit.

O'Neill offered me a cigar and asked if I wanted a drink, even though it was 10:30 in the morning. When I said Perrier, he sent one of his girls down to Ginty's to get a bottle.

The Speaker came right to the point. "Son, you have a bright future ahead of you in the House. The leadership could do a lot to help you get settled. We might even bend tradition and put you on a committee like Ways and Means. But first you have to show a little loyalty."

O'Neill then made very clear that "loyalty" meant voting for Jimmy Carter in the House. He explained that my election as the only congressman from Vermont gave the Democrats control of 26 states, the bare majority needed to elect Carter.

The Speaker leaned forward in his swivel chair, stared at me in what I think was his best Sam Rayburn imitation and said, "Before you leave this office, I want your pledge that you will vote for President Carter in the House if it comes to that."

I knew I couldn't do that; I wanted to keep my options open. I stared back as hard as I could and said, "Mr. Speaker, I just can't make that promise. If I don't, what will happen?'

O'Neill's face grew flushed, and he started grasping for words, "Why, why, why we'll just have to see."

A lot has happened in the last few weeks, while Becky and I have been busy moving to Washington. This pushy real estate lady, who kept dropping names, has found us a house to rent on F Street, Northeast, about a mile's bike ride from the House offices. Becky said the neighborhood is "Mercedes mixed with muscatel."

Everything got a little crazy in the few days before the electoral college voted on December 15. Two Carter electors from Kentucky claimed that they were each offered $150,000 by some unnamed oil men to vote for Reagan. John Anderson told his electors to "vote their conscience," but no one figured out what that meant. There were a flurry of Ford rumors, until the expresident appeared on a Bob Hope special and said that he wasn't a candidate, but added, "Betty would make a fine president."

In the end, we got a deadlock in the electoral college. But Reagan came awfully close. He picked up a Carter elector from Alabama and an Anderson elector from Maine. Eleven other Anderson electors voted for Ford. The final tally: Reagan, 268 votes; Carter, 233; Anderson, 26; and Ford, 11. The Senate will choose between Howard Baker and Walter Mondale for vice president.

Now that the election is going to the House, our social life has picked up a bit. Tomorrow Becky and I are having dinner with the Carters. Today she went out to buy a new dress and made the mistake of telling the saleswoman in Garfinckel's that it was for a White House dinner. As Becky put it, "They held me prisoner in the designer dress boutique for 45 minutes. I only escaped by asking what they had in polyester for $40."

DECEMBER 20

We just came back from the White House, and I don't know whether to be embarrassed or proud of Becky. And it's not only because she looked so good in the green dress she made in weaving class.

Dinner was like talking with these nice, but dull, friends of your parents, who just happen to have Filipino servants. The Carters asked about little Brad and how we were getting along in Washington. Becky even told the funny story about how we met at a mixer in college.

Only after the chocolate mousse was served did the president start talking politics. He spoke in a soft voice about his "hopes for peace" and of "his dream of being a peacemaker among nations." He said that our country was suffering from a "malaise," that he had made some mistakes, but that he just knew if he just had more time he could be a "competent, fair, compassionate president who could bring out the inherent and innate goodness of the American people."

Rosalynn added, "Jimmy could be such a wonderful president in his second term."

I was trying to think of something statesmanlike to say in return when Becky started talking in the high-pitched voice she gets when she's nervous.

"Mr. President," she said, "maybe I shouldn't be saying this, but I want you to know why I didn't vote for you and why I couldn't vote for you."

The president gave a broad smile and that gave Becky the courage to continue.

JANUARY 5

More pomp and circumstance. I was sworn in today as a member of Congress with Becky and little Brad waving from the gallery.

Washington is in an uproar. TV stations estimate there are 500,000 visitors in town to lobby their congressmen and hold demonstrations. The flags of the District of Columbia are at half-mast because this city does not have a presidential vote in the House. Six camera crews and about 150 demonstrators were camped outside my office at 8 this morning. When I saw them, I ran to the House gym to spend the morning in the sauna.

JANUARY 6

Becky and I have gotten a new unlisted phone number. But that didn't prevent President Carter from calling this morning at 6:30, "just to chat." I agreed to meet him for breakfast tomorrow. He then spent 20 minutes talking with Becky about the Women's Commission.

The public seems as confused as the House about who should be president. The latest Gallup Poll shows that all three candidates have lost considerable support since the election. Fifty-four percent agreed with the statement, "I wish someone other than Reagan, Carter or Anderson could be president."

At noon, Congress met in joint session to officially count the electoral votes with Vice President Mondale presiding. Leaving the chamber, Mondale made a point of coming over to me, introducing himself and whispering a few words. There was a lot of noise in the chamber, but it sounded like he said, "Hang tough."

Given all the buildup, the actual balloting in the House was curiously anticlimatic. We took three ballots today before adjourning, and the votes were the same, all of them. Carter carried 24 states, Reagan had 13 and Anderson 2. The other 11 states were divided.

There were a few curious twists to the voting. The new Democratic congressman from North Dakota voted for Reagan, largely because the Californian had carried the state 2–1. The two young Republican congressmen from Maine voted for Anderson, not Reagan. All told, 13 House members voted for Anderson. Rep. Paul Findley from Illinois, a maverick Republican, voted for Anderson and thereby deprived Reagan of a majority in that state.

Late this afternoon, the Senate, on the first ballot, elected Mondale vice president. The vote, 53–47, followed strict party lines except that Harry Byrd Jr. from Virginia, who is technically an independent but who gets his committee assignments from the Democrats, voted for Baker.

JANUARY 7

I met a different Jimmy Carter at breakfast this morning. Gone was the broad smile and the small talk. He looked tired and worn and the folds in his neck hung loosely above his shirt collar.

His pitch was short and direct: "Yesterday's votes illustrate the obvious. Neither Reagan nor Anderson have a ghost of a chance of being elected in the House. I need your vote, and I realize it won't come cheap. What do you want?"

"Mr. President," I said, "there is nothing that you can give me. I just don't think you have been a very good president. And I can't believe that your second term would be any better, especially if you're elected this way."

The conversation ended with the president saying that "some unexpected problems have come up with the Women's Commission. My staff made a small mistake—there is no vacancy after all."

JANUARY 12

The House has now cast 37 ballots and there have only been minor changes in the voting. The North Dakota congressman's law partner is now a federal judge and that state is now firmly with Carter. Paul Findley is now voting for Reagan and that keeps him at 13 states.

JANUARY 16

I just got an hysterical phone call from Becky's father, Ralph. He runs a small computer firm in Montpelier and his largest contract is with the Social Security Administration for data processing. He has just gotten a letter, signed by some deputy assistant secretary, terminating the contract for "inadequate compliance with the interface module."

It's clearly political, but I don't know what to do about it. When I told Sen. Pat Leahy, he suggested that I call the vice president. On the phone, Mondale seemed to be in awfully good spirits. "Dick, you don't have a thing to worry about, " he said. "Tell your father-in-law that if he can hang on for four more days, he'll have all the government computer work he can handle."

Five more ballots today. No change.

JANUARY 17

Becky has been a tower of strength. Last night she took me out to Lion d'Or, a real fancy French restaurant, as a surprise present "for being the bravest man and the best husband in the world."

JANUARY 20

Inauguration Day and the cold rain is just pouring down. The House took a final ballot this morning, the 57th, and the results were the same as always: Carter 25 states, Reagan 13, Anderson 2 and 10 divided.

Given the circumstances, the Inaugural balls and the parade have been cancelled. Becky and I were planning to watch the swearing-in of Mondale on television. But as the House was adjourning, I got a message from Mondale asking if I would ride with him from the vice presidential residence to the Capitol.

Mondale was in a jaunty mood and extremely friendly, even though I had single-handedly stopped his boss from being reelected.

"Dick," he said, "you've got guts. I admire that in a man. I just want you to know, Dick, that you have a friend in the president—ah, ah—I mean the vice president."

EPILOGUE

Walter Mondale served out his full four years as our first acting president. He kept most of the Carter Cabinet, except that John Anderson became attorney general. Mondale governed very cautiously, conferring with the House leadership before making any major decisions or appointments. He threatened to use his veto power only once, but dropped that idea when Tip O'Neill reminded him that the House could always bring Jimmy Carter back.

Dick and Becky Walker thrived in Washington. He regained his seat on the Ways and Means Committee and grew increasingly popular through his sponsorship of tax credits for the purchase of backpacks and hiking boots. Becky Walker became special assistant to the acting president for women's issues.

Dick Walker never talked much about the strange election of 1980. Asked at parties exactly how Mondale became acting president, he only would say, "The Constitution works in strange and mysterious ways."●

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Metzenbaum). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT ON THE PRESIDENT'S VETO MESSAGE ON THE DEBT LIMIT EXTENSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President's veto message on the debt limit extension measure, if in the Chamber by 11 o'clock a.m. tomorrow, be proceeded with immediately at the hour of 11 o'clock; that there be 1 hour for debate thereon, the time to be equally divided between the majority and minority leaders or their designees; that at 12 o'clock noon the vote then occur, without further debate, motion, point of order, or appeal on the question of overriding the President's veto; and that a motion to reconsider, if such is made, that there be no time thereon for debate.

Mr. BAKER. Mr. President, reserving the right to object. I think the request made by the majority leader completely meets our requirements on this side and meets the maximum convenience for our Members.

There is one other matter I might inquire about. For our purposes, we would be willing to add to that request that the reading of the message be dispensed with at the time it is made the pending business.

Mr. ROBERT C. BYRD. Mr. President, I include that in my request.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Ohio, wishes to reserve his right to object—I do not intend to object—to ask the leader a question.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. Morgan). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for the moment.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 710, 711, 792, and 805.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to advise the majority leader that all four items he just identified are cleared on our calendar and we have no objection with their consideration and passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITE RIVER NATIONAL FOREST

The Senate proceeded to consider the bill (H.R. 1967) to modify the boundary of the White River National Forest in the State of Colorado, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That the exterior boundary of the White River National Forest in the State of Colorado is hereby modified to include additional areas of approximately two thousand four hundred and sixteen acres and sixteen thousand six hundred and twenty-seven acres, respectively, as shown on the United States Department of Agriculture, Forest Service map entitled "Boundary Modification, White River National Forest," dated September 1979.

Sec. 2. Except as provided in section 3 of this Act, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the White River National Forest, and except as provided in section 4 hereof, shall be administered in accordance with the laws, rules, and regulations applicable thereto.

Sec. 3. The tracts of land identified in sales applications, Bureau of Land Management, serial numbers C-14117 and C-28389, shall not become a part of the White River National Forest unless such applications are denied, and if they are denied in accordance with the laws, rules, and regulations applicable thereto, such lands shall become part of the national forest and be administered in accordance with section 2 of the date of issuance of the denial.

Sec. 4. Except as provided in this section, nothing in this Act shall affect the validity or terms of any existing withdrawal, right-of-way, license, lease, easement, or prospecting permit issued pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.) covering lands transferred by this Act. Any other existing permit or grazing authorization covering lands transferred by this Act is hereby canceled effective December 31 of the year following enactment of this Act. During the period between enactment of this Act and said December 31, such permit or grazing authorization shall continue to be administered by the agency which initially issued the permit or grazing authorization. On or before said December 31, the holders of such permit or grazing authorization may apply for a new permit or grazing authorization to the agency which acquires administrative jurisdiction of the land which such prior authorizations cover. The provisions of section 402(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(g)) shall not apply to the termination of any grazing authorization pursuant to this section.

Sec. 5. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 56 Stat. 459 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9) the boundary of the White River National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

Sec. 6. The provisions of this Act shall take effect on the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-664), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

As amended by the Committee, H.R. 1967 would enlarge the boundaries of the White River National River National Forest, in western Colorado, by extensions in two separate areas. The first such extension is near Aspen, in Pitkin County, and would incorporate into the National Forest boundaries 2,416 acres of which 1,260 are public lands administered by the Bureau of Land Management. The second extension which is adjacent to the town of Minturn in Eagle County, includes within the boundaries about 16,627 acres of which 5,814 acres are public lands administered by the Bureau of Land Management and 10,813 acres are privately owned.

Both of the areas which would be added to the National Forest by this bill are in parts of western Colorado where population growth and the extension of developed areas are occurring at a rapid rate. The portion of Pitkin County immediately surrounding Aspen is, of course, a nationally known area of recreational developments, primarily involving skiing but also involving great numbers of summer homes and other developments. The eastern end of Eagle County, from Vail westward, is similarly an area undergoing very rapid growth as new ski resorts are being completed, additional recreational complexes are in the planning stage, and the completion of the only interstate highway link through the Colorado Rockies is bringing the area closer to the mushrooming population centers of the Front Range to the east.

Under these circumstances, it appears to be desirable to consolidate Federal land management functions, so far as practicable and consistent with the appropriate statutory mandates of the land-managing agencies, with an eye to reducing duplication and making it possible for Federal, State, and local decisionmakers to work more closely in ensuring that growth in these areas is managed in a way that will protect the splendid natural, scenic, water, and other values which have made the areas the magnets for population which they have become. Expansion of the areas to be administered by the National Forest Service, as would be achieved through this bill, is intended to achieve these ends.

The first area added by H.R. 1967 includes about 2,416 acres north and east of the city of Aspen. Of this area, about 1,260 acres are BLM lands, 785 acres are privately owned, and 371 acres are administered by the Forest Service and were recently acquired by a Land and Water Conservation Fund purchase. About 190 acres of the private lands are owned by the Nature Conservancy. This addition would eliminate several isolated tracts currently administered by the BLM, and incorporate them into the adjoining areas administered as part of the White River National Forest.

The second area would total 16,627 acres. This includes 5,814 acres of BLM lands and 10,813 acres of private lands. This area is within eight miles of the Forest Service Ranger District Office at Minturn, while the BLM Area office is at Glenwood Springs, some 55 miles distant. The addition would permit an important wildlife management area, now a joint responsibility of the two agencies, to become the sole responsibility of the Forest Service.

The bill does not affect the validity or term of any existing withdrawal, right-of-way, mineral lease, easement, or license involving the lands which would be within the extended National Forest boundary. As to grazing permits, the bill, as amended, would continue the existing permits in force for one year after enactment, under administration of BLM, after which time new grazing permits could be issued by the Forest Service.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BISCAYNE NATIONAL PARK

The Senate proceeded to consider the bill (H.R. 5926) to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

On page 2, line 7, strike "169–90,002, and dated November 1979" and insert "169–90,-003, and dated April 1980";

On page 2, line 25, strike "poverty" and insert "property";

On page 3, line 15, strike "two" and insert "three";

On page 4, line 6, strike "natural ecosystem";

On page 6, beginning with line 7, strike all through and including the period in line 9, and insert in lieu thereof the following:

The monument shall consist of the lands, waters, and interests therein generally depicted on a map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364–90,001, and dated April 1980. Any Federal lands excluded from the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the Federal Land Policy and Management Act of 1976. Any Federal lands added to the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the purposes for which the monument was established.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BISCAYNE NATIONAL PARK

Sec. 101. In order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, there is hereby established the Biscayne National Park (hereinafter referred to in this title as the "park") in the State of Florida. The boundary of the park shall include the lands, waters, and interests therein as generally depicted on the map entitled "Boundary Map, Biscayne National Park", numbered 169–90,003, and dated April 1980, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, not more than one year after the date of enactment of this Act, a detailed description of the boundary established pursuant to this section. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary may make minor revisions in the boundary of the park by publication of a revised boundary map or other description in the Federal Register.

Sec. 102. (a) Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of Florida or any political subdivision thereof may be acquired only by donation, and subject to such reservations and restrictions as may be provided by Florida law. Lands, waters, and interests therein within such boundary which are owned by the United States and under the control of the Secretary are hereby transferred to the administrative jurisdiction of the National Park Service to be managed for the purposes of the park. Any federally owned lands within the park which are not under the control of the Secretary shall be transferred to his control for purposes of the park at such time as said lands cease to be needed by the agencies which currently control them.

(b) It is the express intent of the Congress that the Secretary shall substantially complete the land acquisition program authorized herein within three complete fiscal years from the effective date of this Act. Any owner of property within the park may notify the Secretary of the desire of such owner that his property be promptly acquired, and the Secretary shall give immediate and careful consideration, subject to the availability of funds, to the prompt acquisition of such property.

Sec. 103. (a) The Secretary shall preserve and administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4), as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established: *Provided,* That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

(b) The Biscayne National Monument, as authorized by the Act of October 18, 1968 (82 Stat. 1188; 16 U.S.C. 450qq), as amended, is abolished as such, and all lands, waters, and interests therein acquired or reserved for such monument are hereby incorporated within and made a part of the park. Any funds available for the purposes of such monument are hereby made available for the purposes of the park, and authorizations of funds for the monument shall continue to be available for the park.

Sec. 104. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the park and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Sec. 105. Within two complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a revised comprehensive general management plan for the park consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a–1 et seq.).

Sec. 106. In addition to the sums previously authorized to be appropriated for Biscayne National Monument, there are authorized to be appropriated such sums as may be necessary for the administration of the park, and not to exceed $8,500,000 for the acquisition of lands and interests therein, as provided in this title. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

TITLE II—FORT JEFFERSON NATIONAL MONUMENT

Sec. 201. The Congress recognizes the need for stabilizing and protecting the masonry fortifications at Fort Jefferson and for protecting and interpreting a pristine natural environment including the entire Dry Tortugas group of islands and their associated marine environments, significant coral formations, fish and other marine animal populations, and populations of nesting and migrating birds, all of which are located within Fort Jefferson National Monument, Florida (hereinafter referred to in this title as the "monument"). The monument shall consist of the lands, waters, and interests therein generally depicted on a map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364–90,001, and dated April 1980. Any Federal lands excluded from the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the Federal Land Policy and Management Act of 1976. Any Federal lands added to the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the purposes for which the monument was established. In furtherance of the purposes of the monument the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to accept gifts of funds which may be donated for any purpose, but particularly for stabilizing the historic structures within the monument.

Sec. 202. Within three complete fiscal years from the effective date of this Act, the Secretary shall, after consultation with the Governor of the State of Florida, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a comprehensive general management plan for the monument consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a–1 et seq.).

Sec. 203. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the monument for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Sec. 204. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Notwithstanding any other provisions of law, no fees shall be charged for entrance or admission to the monument.

TITLE III—VALLEY FORGE NATIONAL HISTORICAL PARK

Sec. 301. The Act entitled "An Act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes", approved July 4, 1976 (90 Stat. 796), is amended (1) in subsection 2(a) by changing "dated February 1976, and numbered VF–91,000," to "dated June 1979, and numbered VF–91,001,"; (2) in section 3 by adding the following sentence at the end thereof: "In furtherance of the purposes of this Act, the Secretary is authorized to provide technical assistance to public and private nonprofit entities in qualifying for appropriate historical designation and for such grants, other financial assistance, and other forms of aid as are available under Federal, State, or local law for the protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park."; and (3) in subsection 4(a) by changing "$8,622,000" to "$13,895,000".

TITLE IV

Sec. 401. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–665), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The purposes of H.R. 5926, as reported by the Committee on Energy and Natural Resources, are to expand the existing Biscayne National Monument in Florida and redesignate the area as a national park; to establish a legislative boundary for the Fort Jefferson National Monument in Florida and provide for the acceptance of donations of funds for the purposes of the monument; and to expand the boundaries of the Valley Forge National Historical Park in Pennsylvania.

In 1968, Congress authorized the Biscayne National Monument in the State of Florida. The national monument, located some 25 miles south of Miami, currently protects about 104,000 acres of prime coastal waters, keys, and coral reefs. The area contains a remarkable diverse assemblage of tropical and subtropical plant and animal life, and is geologically significant as well. Enactment of H.R. 5926 would include an additional 71,000 acres within the boundaries of the monument and re-designate the monument as a national park.

The additions would greatly enhance the resources to be protected in this area. The northernmost extension of the series of keys which are within the existing boundary would be included. The keys and their adjacent waters are an extension of the warm, semi-tropical marine and coastal island ecosystems presently found within the monument.

The northern additions would also complete the protection of the coral heads and shoal areas that are an important feature in this area. This so-called "safety valve" area is a unique formation of alternating deep channels and extremely shallow banks. It derives its name from the fact that it breaks the ocean surge streaming into Biscayne Bay, keeping the waters within the bay relatively calm. The waters are highly enriched with nutrients carried by the tidal flow and, consequently, of great importance to the marine life of the bay.

Finally, the addition of the coastal mangrove areas along the western boundary of the monument would provide protection for this major nutrient source for the marine life of the area. By adding the mangroves, the marine resources within the park will be joined with a critical portion of the ecosystem upon which they are dependent.

In recommending the renaming of Biscayne National Monument to Biscayne National Park, the Committee recognizes the unique and special values these water-associated resources represent to the National Park System. The Committee shares the view expressed in the House Interior Committee report (House Rept. 96–693), that Biscayne can be a national park which can provide a very different type of visitor experience and enjoyment, and one which would be of great interest to much of the visiting public.

The legislation also addresses certain needs at another south Florida area, Fort Jefferson National Monument. This area contains remarkable marine and wildlife resources as well as the largest of the 19th century American coastal forts. Specific authority is given to the Secretary of the Interior to accept donations for the purposes of the monument. The boundaries of the monument, which were established by Presidential proclamation are modified slightly by a new map reference and monument boundary. While Fort Jefferson National Monument will not be an area of high visitation due to its isolated location, H.R. 5926 affords an opportunity for the Congress to further the protection of this unique area.

H. R. 5926 as ordered reported, also provides for the expansion of the existing Valley Force National Historical Park. Like the House-passed version, H.R. 5926 as reported by the Committee would add some 682 acres to the Valley Forge Park.

Subsequent to the establishment of the historical park, the National Park Service conducted a study of the boundary and the surrounding lands, and identified a number of properties which it felt would make valuable additions to the area. Inclusion of these lands within the park boundary would permit the acquisition of scenic easements over some 149 acres to retain the character of the area surrounding the park; provide for fee simple acquisition of some 482 acres which will improve the management of visitor use activities and protection of historic properties; and incorporate some 51.4 acres of State and county owned lands which would be acquired only by donation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the amendments are agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SANTA ROSA DAM AND LAKE

The Senate proceeded to consider the bill (S. 1895) to change the name of the Los Esteros Dam, N. Mex., to the Santa Rosa Dam, which had been reported from the Committee on Environment and Public Works with an amendment on page 1, line 5, after "Dam" insert "and lake"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Los Esteros Dam in New Mexico, authorized by Public Law 83–780, shall hereafter be identified and known as the Santa Rosa Dam and Lake.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–742), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

The reported bill, S. 1895, changes the name of the Los Esteros Dam in New Mexico to the Santa Rosa Lake and Dam.

The Los Esteros Dam was authorized by Public Law 83–780, and is presently near completion by the U.S. Army Corps of Engineers. It will provide substantial recreational, environmental, and economic benefits to the County of Guadalupe, New Mexico.

The name "Los Esteros" has no cultural, historical, or geographic significance. By changing the name to the Santa Rosa Lake and Dam, the project will be associated with the nearest town of Santa Rosa, New Mexico. This will consequently assist in establishing the location of the project. The Committee additionally included "Lake" in the name in order to make the recreational benefits of the facility clear to the public.

The name change is supported by the local community, the State, and the entire Congressional delegation.

Mr. DOMENICI. Mr. President, I am pleased that the Senate is acting swiftly on my bill, S. 1895, which changes the name of Los Esteros Dam to the Santa Rosa Lake and Dam.

Los Esteros Dam was authorized under Public Law 83-780 and is presently near completion. Dedication of the dam will occur this fall.

By changing the name of the dam to Santa Rosa Lake and Dam, it will be associated with the nearest town of Santa Rosa, N. Mex., and will, consequently, assist in establishing the location of the dam.

This important Corps of Engineers dam will provide substantial recreational, environmental, and economic benefits to the county of Guadalupe, N. Mex., and the name change is supported by the local community, the State, and the entire congressional delegation. By changing the name now, the dedication ceremonies may continue to be scheduled for this fall.

Mr. BAKER. Mr. President, might I inquire of the Chair, is there an amendment at the desk by the distinguished Senators from South Carolina?

The PRESIDING OFFICER. There is an amendment.

AMENDMENT NO. 1791

(Purpose: To designate Clark Hill dam and lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake")

Mr. BAKER. Mr. President, on behalf of the Senators from South Carolina, I call up amendment No. 1791.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker), on behalf of the Senators from South Carolina (Mr. Thurmond and Mr. Hollings), proposes an amendment numbered 1791:

On page 1 after line 5, delete the remainder of the bill and insert in lieu thereof the following:

Sec. 2. The Clark Hill Dam and Lake, Georgia and South Carolina, project, authorized by Public Law 534, Seventy-eighth Congress, approved December 22, 1944, shall hereafter be known and designated as "Clarks Hill Dam and Lake". Any reference in any law, regulation, map, document, record or other paper of the United States to such dam and lake, shall be held and considered to be a reference to "Clarks Hill Dam and Lake".

Mr. THURMOND. Mr. President, this amendment would change the name of Clark Hill Dam and Lake, a Corps of Engineers' hydroelectric impoundment on the Savannah River between South Carolina and Georgia, to Clarks Hill Dam and Lake, with the letter "s" added to the name "Clark."

Mr. President, for those persons, such as myself, who have a keen interest on historical accuracy, this is something that ought to be done, for, as it turns out, the "s" was inadvertently omitted from the name "Clark" when Congress authorized this first of several Corps' projects on the Savannah River some 36 years ago. Also, the Corps of Engineers has taken the position—quite properly, I think—that only Congress can alter the name of a hydroelectric project established pursuant to prior legislation.

Frankly, Mr. President, since I was raised in Edgefield County only a few miles from the small community of Clarks Hill, I have wondered why the nearby hydroelectric project did not have a name identical to that of the community. An answer to this question has been provided and brought to my attention by Mrs. George Cofield, who presently resides in Tallahassee, Fla.

Mrs. Cofield, whose deceased husband was a descendant of some of the former residents of the Clarks Hill community, has done extensive research on the history of this area in South Carolina. Her research has indicated that an error was made in the spelling of the name in the original legislation: Public Law 534, enacted by the 78th Congress in 1944. Somehow, the legislation which authorized the Corps of Engineers to construct this hydroelectric project omitted the "s" from the name of the facility by mistake. As a result, a large hydroelectric generating project and a 70,000-acre lake, one of the largest manmade bodies of water in the South, exist today under an incorrect name designation.

Mr. Donald Orth, Executive Secretary of the U.S. Board on Geographic Names, has confirmed Mrs. Cofield's research findings in a letter to Senator Lawton Chiles, with whom Mrs. Cofield has also corresponded. In his letter, Mr. Orth states that:

> We have looked into this matter and find that Mrs. Cofield is correct about the name of the community. The place has been known as Clarks Hill for over 100 years. It appears that the name was wrongly used in the language of the legislation which led to the construction of the dam by the Corps of Engineers.

Mr. President, to many this may seem to be a trivial matter; however, like most of my colleagues in the Senate, I have a deep interest in the developing history of these United States and a devotion to accuracy in the documentation of our history. Because of the importance of accuracy in the designation of persons, places, things, and events, and out of respect for the past and present residents of Clarks Hill, S.C., I am offering this amendment.

Mr. President, I know of no opposition to this change, and I appreciate the kind cooperation of the sponsors of S. 1895, Senators Domenici and Schmitt, in permitting me to add this provision (which is the text of S. 2573, a bill I introduced on April 16, 1980) to their legislation. I would also like to thank the distinguished chairman of the Environment and Public Works Committee, Senator Randolph, for his cooperation in this matter.

Mr. President, I ask unanimous consent that the aforementioned letter to Senator Chiles from the Executive Secretary of the U.S. Board of Geographic Names be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Board on Geographic Names,
Reston, Va., December 10, 1979.

Hon. Lawton Chiles,
U.S. Senate,
Washington, D.C.

Dear Senator Chiles: This will acknowledge your November 2 letter to Dr. Elvyn A. Stoneman enclosing a letter from Mrs. Leila K. Cofield of Tallahassee who is concerned about the names of Clark Hill Lake and Dam.

We have looked into this matter and find that Mrs. Cofield is correct about the name of the community. The place has been known as Clarks Hill for over one hundred years. It appears that the name was wrongly used in the language of the legislation which led to the construction of the dam by the Corps of Engineers.

Although the Board on Geographic Names has authority to establish uniform geographic-name usage throughout the Federal Government, the Corps of Engineers takes the position that names established in the language of enabling legislation for civil works are official by law. Only Congress can change the names.

Please let me know if we can help you further with this matter. Mrs. Cofield's letter is being returned.

Sincerely yours,
Donald J. Orth,
Executive Secretary,
Domestic Geographic Names.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

A bill to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as Clarks Hill Dam and Lake.

GEORGIA O'KEEFFE NATIONAL HISTORIC SITE

The Senate proceeded to consider the bill (S. 2363) to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike all after the enacting clause and insert the following:

That, in order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe, the Secretary of the Interior (hereinafter referred to as the "Secretary") may acquire, by donation, the site and structures comprising the home and studio of Georgia O'Keeffe situated in Abiquiu, New Mexico, and by donation or purchase, with donated or appropriated funds, not to exceed one acre of land for offsite support facilities which the Secretary deems necessary for the purposes of this Act. The Secretary may also acquire, by donation, personal property associated with the Georgia O'Keeffe home and studio.

SEC. 2(a). When the site, structures, and other properties authorized for acquisition under the first section of this Act have been acquired by the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice thereof in the Federal Register.

(b) Pending such establishment, and thereafter, the Secretary shall administer properties acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

SEC. 3. Effective October 1, 1980, there is hereby authorized to be appropriated an amount not to exceed $40,000 from the Land and Water Conservation Fund for the acquisition of lands and interest therein and an amount not to exceed $100,000 for the development of essential facilities to carry out the provisions of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–755) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT No. 96–755

As ordered reported, S. 2363 would authorize the establishment of the Georgia O'Keeffe National Historic Site in Abiquiu, New Mexico.

Long recognized as a major figure in American art, Miss O'Keeffe, now 92, has had a number of retrospective exhibitions at leading American museums, each one a major event. During her career, she has moved from intense personal abstraction to pictorial equivalents of her experience with nature—flowers, bones, rocks, landscapes—and back again to new forms of abstractions. Much of her work has been inspired by the landscape of the Southwest where she has made her home for 40 years. This remote, colorful and austere expanse has had an overriding influence on her work.

The home and studio of Miss O'Keeffe are located in the heart of the village of Abiquiu, New Mexico. The home, having been extensively restored by Miss O'Keeffe between 1946–49 reflects her spirit and lifestyle. The structures were rehabilitated as they had originally been constructed. No new walls were erected. Miss O'Keeffe refurbished the house to suit her taste—as evidenced by the addition of large picture windows and the redesigning of the corner fireplaces. Miss O'Keeffe tried to salvage as much of the original fabric as possible, especially the vigas and the latias. The perimeter wall enclosing the organic garden and the residence was repaired and stabilized; the garden was also rejuvenated. Therefore, the existing structure and its setting depicts the O'Keeffe inclinations. The furnishings are varied in design, style and representative periods. The walls are void of paintings or other artworks—with the exceptions of those in the living room and her studio/chambers.

The buildings, their immediate surroundings, and the view they command of the Chama Valley, all combine to provide a dramatic insight into the physical environment of an artist who has been lauded as one of the most original talents America has possessed in painting.

In this context, the Committee recognizes that the community of Abiquiu, New Mexico and environs is sparsely populated and does not have the capacity to accommodate high levels of visitation. The Committee expects the NPS to develop the General Management Plan for Georgia O'Keeffe National Historic Site with full consultation in the local community and to develop a travel plan that is sensitive to the community's needs, capabilities and capacities.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS TODAY UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR LIMITATION OF LEADERSHIP TIME TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the time of the two leaders be evenly divided and not extend beyond the hour of 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR DOMENICI TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders are recognized on tomorrow, Mr. DOMENICI be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON VETO MESSAGE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at 11 o'clock tomorrow morning, if the veto message on the debt limit extension bill is received in the Chamber prior thereto, the message be considered as having been read and be spread upon the Journal and that there then begin running not to exceed 1 hour for debate on the message, the time to be equally divided between the majority and minority leaders or their designees; that the vote occur on the question of overriding the President's veto at 12 o'clock noon, without any further debate, motion, point of order, or appeal; and that, upon the disposition of that vote, if there is a motion to reconsider, there be no time for debate on such motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if the motion to reconsider is made with respect to the override, there be a limit of not to exceed 10 minutes, to be equally divided between the majority and minority leaders or their designees on such motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

INTENTION TO OFFER CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, it is my intention to offer a cloture motion on tomorrow, the cloture motion being on House Joint Resolution 521, the joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The vote on that cloture motion, in view of the fact that the Senate will not be in on Saturday, will occur on Tuesday.

It is my intention at the moment to recess on Monday over to Tuesday to the hour of circa 9:45 a.m.—9:30, 9:45 a.m.—so as to allow the rollcall vote on invoking cloture to occur at as near 11 a.m. as possible.

I make that statement so that Senators may schedule their morning of Tuesday next accordingly.

Mr. BAKER. I thank the majority leader for that information.

I think that the advance notice that he gives us by that statement will be especially helpful to all Members, particularly Members on this side of the aisle who may wish to schedule next week.

Mr. President, 11 o'clock appears to be a good time on this side. I express my gratitude to the majority leader for taking account of our schedule requirements as well as, of course, his own.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. President, I hope that Senators will consider very seriously voting to invoke cloture on Tuesday next.

I call attention to the fact that while on many occasions I have offered cloture motions on the very first day on which the Senate has proceeded to the matter on which cloture has been sought, in this instance the matter on which cloture will be sought will have been before the Senate 2 days, 2 full days, prior to the offering of the cloture motion, thus allowing 4 days for debate of the measure prior to the day on which the cloture vote will take place.

I did this feeling that the matter should be debated rather fully before the cloture vote takes place, and I did this, also, in deference to the distinguished Senator from Washington (Mr. HATFIELD), who in turn agreed not to speak at length on the motion to proceed.

There are some Senators here who in the past have been reluctant to vote for cloture on the first cloture vote. I can understand their reluctance, especially when the cloture motion has been entered immediately upon the Senate's having proceeded to the matter on which cloture is sought. But, in this instance, I repeat for the RECORD that 2 days of grace have been given for debate before the cloture motion will have been entered.

I hope, therefore, that Senators who usually wait until the second or third cloture vote will vote for cloture on the first cloture vote. That vote will occur on Tuesday.

THE SENATE WORKLOAD

Not including Saturdays, but keeping in mind the days on which the Senate will not be in session because of the Republican and Democratic Conventions this summer, only 60 working days remain prior to the 1st of October.

Only 60 working days remain for Senate floor activity, excluding Saturdays—and, of necessity, there undoubtedly will be some Saturdays on which the Senate will have to be in session.

Tomorrow, one of those days will be gone. Monday, a second day will be gone, leaving only 58 working days. On Tuesday, when the vote occurs on cloture, only 57 working days will be remaining after that day; and I do not know how long the Senate will be on the measure once cloture is invoked on Tuesday, if it is invoked on Tuesday, as I hope it will be.

So, with only that limited time remaining and with 50 authorization bills dealing with expiring authorizations—give or take 1 or 2 days—but within the neighborhood of 50 authorization bills yet to be taken up, the first concurrent budget resolution yet having to be resolved, at least one supplemental appropriation bill, 13 general appropriation bills, and a number of other measures, it is obvious that the Senate cannot delay action on any of these measures and expect to get its work done prior to October.

I hope Senators will keep this in mind as they determine what their decisions will be on the cloture vote next Tuesday.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10:30 a.m. tomorrow morning.

The motion was agreed to, and, at 6:19 p.m., the Senate recessed until tomorrow, Friday, June 6, 1980, at 10:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, June 5, 1980*

The House met at 10 a.m.

Rev. Robert Leslie Holmes, pastor, First Presbyterian Church of Pascagoula, Pascagoula, Miss., offered the following prayer:

O Thou who art the ultimate ruler of all the nations, we acknowledge our need of Thee as we seek guidance for this land so richly blessed. We give Thee thanks for the privilege of living in America.

Be near to those who sit in this House. Grant wisdom in all their deliberations. Make them to understand the mighty privilege that is involved in their task of representing our people and help them never to forget the awesome responsibility that goes with it, of giving account to Thee for the far-reaching implications of their decisions.

Bless especially those of our people who are being held captive in Iran. Grant them speedy and safe release, we pray. Bring, Thou, comfort to their families who wait anxiously.

Restore our Nation to righteousness with the realization of the truth of the Prophet's words that the nation alone is blessed whose god is the Lord.

May it be that the lives of all our people would be spent in glorifying Thee and enjoying a right relationship with Thee forever. For Jesus' sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

REV. ROBERT LESLIE HOLMES

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, it is a great personal privilege for me to welcome, on behalf of my colleagues, Mr. Robert Leslie Holmes, minister of the First Presbyterian Church, in my hometown of Pascagoula, Miss. Mr. Holmes has served this church since May 28, 1978.

Mr. Holmes is a naturalized citizen of the United States, having been born in Belfast, Northern Ireland. He studied at the University of Southern Mississippi and Mobile College, receiving his bachelor of arts degree from Mobile College, Mobile, Ala. He subsequently received his master of divinity degree from Reformed Theological Seminary, Jackson, Miss.

The good people of the First Presbyterian Church, as well as all the citizens of Pascagoula, have been blessed by having Mr. Holmes, his wife Barbara, and his children Gary and Erin in our community. Their devotion to this country and their church are an inspiration to all who know them, and it is particularly appropriate, therefore, that we have Mr. Holmes with us in the U.S. House of Representatives today.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6285. An act to amend the Egg Research and Consumer Information Act;

H.R. 6554. An act to authorize appropriations for the fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes; and

H.R. 7428. An act to extend the present public debt limit through June 30, 1980.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2240. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; and

S. 2622. An act to improve coastal zone management in the United States, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2698) entitled "An act to provide authorizations for the Small Business Administration, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. NUNN, Mr. HUDDLESTON, Mr. WEICKER, and Mr. HATCH to be the conferees on the part of the Senate.

RAILROAD SAFETY VICTIM OF GROSS NEGLIGENCE BY FEDERAL GOVERNMENT

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, for some time, I have been investigating the deplorable state of railroad safety in this country. Tonight, on the ABC television show "20/20," the American people will get a firsthand view of the gross negligence of the Federal Government, and particularly the Federal Railroad Administration, in doing its job to protect the public from risks associated with inadequate, poorly maintained rail trackage all throughout this country. I urge my colleagues to watch this show so that we in the Congress will understand the catastrophes that lie ahead for us in America if our railbeds continue to be maintained as they have been in the past. The day of reckoning is approaching in rail safety—a continuation of current Federal attitudes will result in the failure of our energy efficient railroads to operate, and operate safely, in this critical time period. While major legislative solutions will be needed, tonight's television analysis will indicate that Congress' first duty is to insure that our lax Federal bureaucracy does its job properly.

DAILY HOUSE SESSIONS TELEVISED VIA CABLE TELEVISION IN KANSAS CITY

(Mr. BOLLING asked and was given permission to address the House for 1 minute.)

Mr. BOLLING. Mr. Speaker, within this past month, Kansas City subscribers to cable television have become able to watch the daily sessions of the U.S. House of Representatives.

This firsthand exposure to the Congress at work should lead to a better understanding of how this branch of the Federal Government works.

Better understanding of our Federal Government in turn should ultimately lead to more informed and knowledgeable voters who are essential to the democratic process which is at the base of the economic, social, and political system of our great country.

I want to extend my personal welcome to American cablevision which through its affiliation with C-Span will bring our Federal Government closer to Kansas City.

TORNADOES

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, on an annual basis, many segments of this Nation are subjected to the trauma of tornadoes. Homes are carried away like paper in the wind, crops are destroyed, and lives are lost.

Tuesday night was a perfect example. Fortunately, Washington, D.C., had no tornadoes, but Pennsylvania was not as fortunate. In a four-county area north of Pittsburgh, over 100 people were injured and 1 man was killed. In Nebraska, a tornado took the lives of five people.

We have grown complacent with this annual affair. We act as if this loss of

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

life is some sort of sacrificial offering to the weather gods. When the Three Mile Island accident occurred, which did not take one single life or damage public property, it maintained headlines for weeks and we appointed a Presidential commission all in the name of public welfare.

Yet, when a series of killer tornadoes hit the Wichita Falls, Tex., area last year claiming nearly 60 lives and doing millions of dollars in damage, it obtained hardly any attention.

These storms are going to continue, but we do not have to accept this loss of life and injury. The technology is available to dramatically improve the forecasting and warning capabilities of the national weather service, if the appropriate attention and priority were given to this problem. Doppler radar, for example, could provide up to 20 minutes of warning to a tornado—20 minutes that could be used for evacuation and taking shelter. But because of the lack of priority that is placed upon the tornado forecasting problem, the incorporation of this radar system will drag on for years.

The forecasters cannot continue to operate the antiquated, 1957 vintage radar system we currently are operating. And we, as policymakers, cannot continue to disregard this real threat to the public welfare.

FURTHER EVIDENCE OF OUR NATION'S CRITICAL DEFENSE NEEDS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, Adm. Hyman Rickover has testified before the House Armed Services Committee that old oil-fired ships within U.S. carrier task forces are slowing down and sometimes impairing our country's military capabilities and responsiveness around the world.

This problem has been compounded for many years to come by President Carter's shortsightedness in preventing the inclusion of any nuclear-powered surface ships in the defense budget since he has been in office.

Moreover, because of the lack of U.S. bases around the world, the Navy has had to violate proper military procedures by sending out unescorted and unprotected oil tankers in advance of naval task forces so that they would be in proper position when U.S. military vessels run low on fuel.

These facts are further evidence of our critical defense needs, and the proper emphasis on an increased defense budget within Congress in light of our lack of military readiness as opposed to the Soviet Union.

AIRBAGS ARE NOT SOLUTION TO TRAFFIC FATALITIES

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his ramarks.)

Mr. DEVINE. Mr. Speaker, this morning on the "Good Morning America" show I saw Joan Claybrook trying to shove airbags down the throats of all of the American automobile owners. She deplored the fact that we have not adopted this, even though it costs between $200 to $600 per car on the basis that the annual death rate as a result of automobile deaths is about 50,000 a year.

What she did not say is that at least half, at least half of these fatal accidents each year are caused by the use of alcohol. It seems to me that if they want to get to the root cause of these deaths it would not be to put more rules, regulations, restrictions, and controls on the American people by forcing expensive airbags for every automobile owner. They should get to the real cause.

□ 1010

INTRODUCTION OF HEALTH CARE LEGISLATION

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Oklahoma. Mr. Speaker, I call the attention of my colleagues to a bill I intend to introduce tomorrow which will do two things: First, it will substantially cut the costs of rising health care through introducing more competition in health care; and second, it will provide for a catastrophic health insurance program for that segment of our population which is now not properly covered for medical insurance. We have been working for several months on this bill. What it basically amounts to is a compromise combination of the competitive model cost control bill introduced by the gentleman from Oregon, the chairman (Mr. ULLMAN), and the catastrophic health insurance program introduced by the gentleman from North Carolina (Mr. MARTIN). I think this is a proper answer to some of the catastrophic health insurance problems today, as well as the health care cost problems.

I urge my colleagues to look at this legislation and to join us in cosponsoring it.

MEETING THE CHALLENGE OF IMPORTED FOREIGN CARS THROUGH TECHNOLOGICAL DEVELOPMENT

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, I could not help but note that the gentleman from Ohio (Mr. DEVINE) got up and talked about Miss Claybrook and her airbags. We have some legislation which we recently reported out of the Committee on Science and Technology which is now pending in the Commerce Committee which would authorize NASA to undergo extensive technological research and development to assist the automobile companies in meeting the challenge from foreign cars that come into this country. And who is one of the biggest opponents of this legislation? Miss Claybrook, who thinks that the only answer to Detroit is to regulate, regulate, regulate, rather than to assist technological development and spur research and development projects in this country which will involve a lot of high-technology firms in this country, and meet the challenge of imported cars.

I just want to congratulate the gentleman from Ohio (Mr. DEVINE) for bringing that up.

PUBLIC DEBT LIMIT EXTENSION

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7428) to extend the present public debt limit through June 30, 1980, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 4, insert:

SEC. 2. TERMINATION OF APRIL 2, 1980, OIL IMPORT FEE.

Notwithstanding any other provision of law, the action taken by the President under section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)) with respect to petroleum imports under Proclamation 4744, dated April 2, 1980, as amended, shall cease to have force and effect upon the date of the enactment of this Act.

● Mr. ULLMAN. Mr. Speaker, yesterday afternoon the Senate took up two matters which the House had approved earlier in the day. These were the extension of the present debt limit of $879 billion through June 30 and the termination of the oil import fee. The House had passed each of these matters as separate items. H.R. 7428 was the debt limit bill and House Concurrent Resolution 531 was the resolution disapproving of the import fee.

The Senate acted on the debt limit bill, H.R. 7428. To this bill, it added an amendment by Senator DOLE and others which would terminate the oil import fee. This amendment was added by a vote of 73 to 16. Subsequently the debt limit bill as amended to include the import fee resolution was approved by a large margin—67 to 20.

The action on the oil import fee by both Houses is substantially the same. They cover the same statutory grounds in referring to the authority for the President's action on the Trade Expansion Act of 1962 and Proclamation No. 4744 of April 2, 1980, under which the President imposed the proposed import fee. I believe that the distinction in the statutory language between the provisions of both bills is not significant.

I believe the House should accept H.R. 7428 as amended by the Dole amendment and send it to the President. This single bill does the same things that the House did in two separate actions yesterday. That is the only difference between the two.●

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the matter just considered.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

HELEN KELLER DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 127) to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from New York to explain what this is.

Mr. GARCIA. If the gentleman will yield, this resolution designates June 27, 1980, as Helen Keller Day in recognition of Miss Keller's worldwide efforts and service to blind people around the globe. It has the sufficient number of signatures.

Mr. ROUSSELOT. Further reserving the right to object, I am glad that it has the sufficient signatures. It certainly sounds like a worthy cause.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. FLIPPO. Mr. Speaker, I would like to point out to my colleagues that this legislation, Senate Joint Resolution 127, is identical to House Joint Resolution 470 which I introduced on December 20, 1979. Since the day I introduced this bill more than 230 Members of the House have added their names as cosponsors of House Joint Resolution 470. This effort to honor Helen Keller has also received the support of more than 90 organizations in this country that serve the handicapped. I am grateful for the overwhelming support for this effort to honor a great American.

The resolution now before the House would authorize the President to proclaim the 100th anniversary of the birth of Helen Keller on June 27, 1980, as Helen Keller Day. It serves as a recognition of the remarkable achievements of Helen Keller and her great work for the benefit of all mankind.

Helen Keller's life has served as an inspiration to millions. Her courage was shown in her ability to overcome multiple handicaps and in her capability to learn to communicate. Helen Keller is remembered throughout the world as a woman of great strength and courage. Her life serves as an example to all of us of the triumph of personal courage over adversity.

The worldwide crusade of Miss Keller to improve the cultural, social, and economic life of the blind and deaf has encouraged many individuals and organizations to carry on her work. Miss Keller addressed the 1925 International Lions Convention and appealed to the Lions to become "knights of the blind" and work with her on behalf of the blind people of the world.

The Lions responded to this challenge. For more than 50 years the Lions clubs have been in the forefront of the effort to improve opportunities for the handicapped. Today, the 1.3 million members of the Lions clubs in 151 countries and geographical areas throughout the world are working with those in need of eye care as their major project. The Lions are also actively involved in serving those who have speech and hearing problems. The Lions clubs is only one of many organizations and untold millions of people who have been touched by Helen Keller and infused with her spirit of courage and dedication to help others help themselves to a better life.

Mr. Speaker, year long observances and celebrations in honor of the 100th birthday of Helen Keller are planned by governments and organizations around the world. They will begin on June 27 in the hometown of Helen Keller in Tuscumbia, Ala. A special commemorative postage stamp will be issued in observance of the centennial on that day in Tuscumbia.

Mr. Speaker, I urge favorable consideration of Senate Joint Resolution 127.●

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 127

Whereas, Helen Keller was left incurably blind and deaf at the age of nineteen months:

Whereas, through her own determination and faith, and through the patience and understanding of her devoted teacher, Anne Sullivan, Helen Keller overcame the disability of blindness and deafness, became fluent in the use of sign language, mastered the Braille alphabet, and learned to speak;

Whereas, after her personal victory over her disabilities, Helen Keller turned her life and ambitions to the services of others, demonstrating to the world that her disabilities were minor compared to her talent and abilities;

Whereas, for more than a half century, Helen Keller has been a symbol of courage and faith serving to encourage and benefit millions of her fellow handicapped in America and thoroughout the world, serving to educate the nonhandicapped to the potential of handicapped persons;

Whereas, with limitless stamina and energy, Helen Keller dedicated her life to others, giving unceasingly—speaking, writing, traveling, and working constantly to improve the conditions of deaf and blind people;

Whereas, as counselor to the American Foundation for the Blind, she guided programs to advance economic, cultural, and societal opportunities of deaf and blind persons throughout the United States and was instrumental in launching a new era of work to advance these opportunities;

Whereas, through the Helen Keller World Crusade for the Blind, Helen Keller inspired programs for the education and rehabilitation of blind persons around the globe and became the primary force which led to increased awareness of the problems faced by the handicapped;

Whereas, wherever she went Helen Keller was received with a massive outpouring of love and admiration, being honored by heads of state, and being acclaimed by all;

Whereas, Helen Keller's spirit will endure as long as man can read and stories can be told of the woman who showed the world that there are no boundaries to courage and faith; and

Whereas, June 27, 1980, marks the one hundredth anniversary of Helen Keller's birth in Tuscumbia, Alabama: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating June 27, 1980, as "Helen Keller Day" and encouraging appropriate Government agencies to foster the recognition of the significance of Helen Keller's achievements on that day with appropriate ceremonies, programs, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PRINTING OF BROCHURE ENTITLED "HOW OUR LAWS ARE MADE"

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 95) entitled "Concurrent resolution to provide for the printing of the brochure entitled 'How Our Laws Are Made,'" with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 2, after line 2, insert:

Sec. 2. There shall be printed for the use of the Senate fifty-two thousand additional copies of the document specified in section 1 of this concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain why this is necessary?

Mr. HAWKINS. If the gentleman will yield, this resolution provides for the printing of the brochure "How Our Laws Are Made." On March 10 of this year the House passed this resolution in a form which would provide copies of the document to Members of the House only but not for the Senate. Accordingly the Senate has amended the resolution to provide for 52,000 additional copies which will provide 500 copies for each Senator. This is the same number which the resolution provides for each Member of the House. The increased cost from the Senate amendment is approximately $17,073.68 making the total cost of the resolution $99,415.80.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, there is no other hidden amendment in this that came over from the Senate?

Mr. HAWKINS. If the gentleman will yield, I would never be guilty of anything of that nature, I would like to inform the gentleman.

Mr. ROUSSELOT. When anything comes from the other body, I always worry about it.

Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding. I just want to comment that considering the good deeds the Senate has done for us recently, it is only appropriate that we give them 500 copies of "How Our Laws Are Made."

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 291]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Fountain
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1030

The SPEAKER pro tempore. On this rollcall, 355 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

NATIONAL SEA GRANT PROGRAM AUTHORIZATION

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6614) entitled "An act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes", with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), as amended, is further amended—

(1) in section 203(6) by inserting "Great Lakes and the" immediately before "territorial sea";

(2) in section 205(d)(2) by inserting "may be applied to the short-term rental of buildings or facilities for meetings which are in direct support of any sea grant program or project and" immediately after "contract" the second time it appears therein;

(3) in section 206(c) by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $7,000,000 for fiscal year 1981, not to exceed $7,000,000 for fiscal year 1982, and not to exceed $7,000,000 for fiscal year 1983.";

(4) in section 209(c)(3) by striking the first two sentences and inserting in lieu thereof the following: "Any individual appointed to a partial or full term may be reappointed for one additional full term."; and

(5) in section 212 by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $55,000,000 for fiscal year 1981, not to exceed $60,000,000 for fiscal year 1982, and not to exceed $65,000,000 for fiscal year 1983.".

SEC. 2. Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $5,000,000 for fiscal year 1981, not to exceed $5,000,000 for fiscal year 1982; and not to exceed $5,000,000 for fiscal year 1983.".

"SEC. 3. The section heading of section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.".

The Clerk read the House amendments to the Senate amendment, as follows:

On page 1 of the Senate engrossed amendment, between lines 4 and 5 insert the following:

(2) in section 204(c) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) encourage cooperation and coordination with other Federal programs concerned with ocean and coastal resource conservation and usage;".

On page 1 of the Senate engrossed amendment, line 5, strike out "(2)" and insert "(3)".

On page 1 of the Senate engrossed amendment, line 10, strike out "(3) in section 206(c)" and insert "(4) in section 206(c) by inserting 'out' immediately after 'carrying', and".

On page 1 of the Senate engrossed amendment, line 12, strike out "$7,000,000" and insert "$5,000,000".

On page 1 of the Senate engrossed amendment, line 13, strike out "$7,000,000" and insert "$6,000,000".

On page 2 of the Senate engrossed amendment, line 1, strike out "(4)" and insert "(5)".

On page 2 of the Senate engrossed amendment, line 5, strike out "(5)" and insert "(6)".

On page 2 of the Senate engrossed amendment, line 7, strike out "$55,000,000" and insert "$50,000,000".

On page 2 of the Senate engrossed amendment, line 8, strike out "$60,000,000" and insert "$58,000,000".

On page 2 of the Senate engrossed amendment, line 17, strike out the quotation marks.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the amendments recommended by the Committee on Merchant Marine and Fisheries be considered en bloc, and be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the matter just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE PROPOSED YUMA DESALTING PLANT IS STILL PENDING

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, some months ago the House debated and approved H.R. 2609, a bill to increase authorizations for the Colorado River Basin Salinity Control Act, primarily to allow for extravagant cost overruns on the proposed Yuma Desalting Plant. Like some other large projects, this one has not yet had groundbreaking, and the funds appropriated are not being fully used. Like other dubious projects, this is one that could be canceled, or at least deferred, for cost if not for other reasons.

It is my understanding that the House and Senate are nearing agreement on a bill, and both Houses will again have an opportunity to review this matter. To assist my colleagues in better understanding this matter, I am including two articles in Extensions of Remarks for my colleagues' review.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT

Mr. ZABLOCKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6942) to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The question was taken.

Mr. HARKIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 24, answered "present" 1, not voting 51, as follows:

[Roll No. 292]

YEAS—356

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Courter
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—24

Bauman
Collins, Tex.
Crane, Daniel
Crane, Philip
Deckard
Devine
Edwards, Okla.
Hansen
Hinson
Holt
Jeffries
Latta
Lloyd
Lujan
McDonald
Mitchell, Md.
Paul
Quillen
Roth
Rousselot
Snyder
Solomon
Stump
Taylor

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—51

Ambro
Anderson, Ill.
Annunzio
AuCoin
Boggs
Bonior
Brademas
Brooks
Burgener
Burton, Phillip
Chisholm
Clay
Conyers
Coughlin
Daniel, Dan
Davis, Mich.
Davis, S.C.
Dixon
Eckhardt
Edgar
Foley
Ford, Tenn.
Fowler
Giaimo
Grassley
Harris
Jacobs
Jenrette
Lederer
McKinney
Mathis
Mollohan
Nedzi
Peyser
Preyer
Reuss
Roberts
Rose
Runnels
Shelby
Shuster
Simon
Staggers
Stewart
Thompson
Ullman
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

☐ 1050

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6942, with Mr. LEVITAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole arose on Friday, May 30, 1980, title II was open to amendment at any point. Are there amendments to title II?

Mr. ZABLOCKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time merely to state that it is the intention of the leadership and the committee to complete this bill today. Indeed, if we do complete this bill, barring any other emergency legislation that may be necessary to be brought to the House of Representatives, it is my understanding that the leadership intends not to have a session tomorrow. Therefore, I would urge that all Members remain on the floor, in order to expedite the full consideration of all and sundry amendments that may be offered.

In reviewing the amendments, Mr. Chairman, I notice that many of them have been thoroughly discussed in the past. Many Members, possibly all Members, as a matter of fact, know exactly how they will vote on these amendments. Therefore, I would hope that we can complete this legislation today. Again, I hope the Members will remain on the floor so that we can indeed meet our goal.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 18, line 19, strike out "$2,105,500,000" and insert in lieu thereof "$2,110,500,000".

Mr. STUDDS. Mr. Chairman, the amendment I offer this morning is offered on behalf of myself, the gentlewoman from Massachusetts (Mrs. HECKLER), the gentleman from Massachusetts (Mr. CONTE), and the gentleman from California (Mr. COELHO).

Mr. Chairman, this is an amendment which would provide $5 million in assistance to the Government of Portugal to help those residents of the Azores left homeless by the tragic earthquakes that devastated several of the islands earlier this year.

As you know, Mr. Chairman, the most severe quake, which measured 7 on the Richter scale, occurred on January 1 and caused extensive damage to the islands of Terceira and Sao Jorge. While no one is as yet sure how much it will cost to rebuild the thousands of homes, dozens of schools and scores of roads destroyed by this earthquake, it is quite clear that the impact of this tragedy, which left at least 50 dead, 500 injured, and 20,000 homeless, will be felt for years to come.

Although the $5 million which my amendment would authorize will hardly be enough to adequately repair all the damage that remains, I am hopeful that it would at least be of some assistance to the many thousands of people who, even as I speak, are being forced to reside in temporary shelters, many of which were provided them by the generosity of the Azorean-American community in this country.

□ 1100

The Congress should be aware of the tremendous contribution made by these American citizens in providing food, money and supplies for their friends and relatives in the Azores immediately following the initial earthquake. There can be no question that without their efforts the loss of life and the human suffering on the islands would have been far greater.

I would also like at this time to commend the Salvation Army for the vital role it played in helping to ship those supplies in a timely fashion to the Government of the Azores. Without this generous assistance, the delivery of these materials could have been delayed for weeks and months and would have been denied those victims of the earthquakes at the time they were needed the most.

Mr. Chairman, as I have said, this $5 million authorization will not resolve all of the problems now facing the Azorean people. It can, however, put them on the road to recovery and help relieve the human suffering in a country we have long counted upon as one of our staunchest allies.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in support of this amendment which would increase the title II economic support fund for Portugal from $20 to $25 million. The increase is specifically for reconstruction needs in the Azores, a tiny but strategically critical island, which was heavily damaged by an earthquake on January 1 of this year.

The economic support fund, as many of you know, is economic assistance provided to those nations in which the United States has specific economic, political, or strategic interest. I believe that I can state without misgivings that Portugal is critical to the United States in each of these areas.

The Speaker and I headed a delegation which recently returned from a working visit to Portugal and the Azores where we viewed firsthand the multitude of problems which that nation was facing—one of which was the reconstruction needs of the Azores. My overall conclusion from the trip was simple: Should the current system in Portugal, one characterized by democratic principles and political liberalization, not be able to effectively deal with the major economic problems they are facing—problems such as inadequate investment, a 25-percent rate of inflation, total dependence on imported oil, and 14-percent unemployment, the political balance in that nation could easily be shifted—to the East. The United States cannot afford, particularly at this time, to lose the support of this strong ally—a support so recently manifested when Portugal staked her economic and political fortunes on the United States with a decision to be the first Atlantic ally to join us in sanctions against Iran. We must demonstrate to them, as they have to us, that we too have a stake in their political, economic, and strategic fortunes.

The $5 million increase in aid to the Azores will be utilized to provide housing for the approximately 20,000 persons made homeless by the quake. Yet more than this, it is an overt demonstration to the Portuguese that the United States is concerned about the future of this nation, and the future of this island on which a strategically important U.S. Air Force base is located. For these reasons, I strongly urge that this amendment be adopted.

Mr. STUDDS. I thank the gentleman. I am gratified by his presence on the Appropriations Committee.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Indiana.

Mr. HAMILTON. I thank the gentleman for yielding.

I want to express my appreciation to the gentleman from Massachusetts and to his colleagues, who have sensitized the Subcommittee on Europe and the Middle East as well as the House Foreign Affairs Committee, to the problems that exist as a result of the earthquake in the Azores. They have been very persuasive to us, and we are quite prepared to accept the amendment on this side of the aisle.

Mr. STUDDS. I thank my chairman.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I urge the support of my colleagues for Mr. STUDD's amendment.

The extent of the suffering has been brought to my attention by Mrs. HECKLER who gained firsthand knowledge from a study mission she undertook to the earthquake site in early January 1980. The gentlewoman from Massachusetts has worked energetically to report her findings to the Congress. In February, she published her findings from her study mission and testified as well on this critical matter on February 20, 1980, before the Subcommittee on Europe and the Middle East of the House Foreign Affairs Committee. Copies of Mrs. HECKLER's report are here at the desk.

Both are excellent presentations and I commend them to you. Mrs. HECKLER also introduced legislation earlier this year to provide earthquake relief assistance for the Azores, Portugal.

Therefore, I intend to support the nearly identical amendment offered by Mr. STUDDS and urge my colleagues to do so for the following reasons:

First. The earthquake which occurred on January 1, 1980, was devastating. It affected two islands—Terceira, and Sao Jorge—in the Azores, Portugal. Fifty-four people were killed and hundreds injured with 20,000 left homeless. It may cost Portugal as much as $70 to $100 million to repair the earthquake damage.

Second. AID, however, did not request assistance specifically for earthquake relief for Portugal but merely stated that it intended to reprogram $5 million in grant economic support funds for fiscal year 1980 already allocated for Portugal and specifically intended for the Azores.

Third. This is no way to treat a NATO ally:

I would point out that Terceira Island is the location of Lajes Airbase which is a critically important facility for U.S. Forces. The United States was able to use Lajes in October 1973 to resupply Israel while other NATO allies refused to permit us to use their facilities for that purpose.

The United States and Portugal signed a base agreement in June 1979 which permits our continued use of the base at Lajes. In return, the United States indicated during the negotiations that it would seek authorization and appropriation from Congress for a total of $81 million in grant military aid—MAP—in fiscal years 1980 and 1981 and $80 million in ESF grants in fiscal years 1980 to 1983. It was also understood that the ESF grants would be used for the economic and social development of the Azores which is an area of Portugal with many unmet needs. By reprograming $5 million already allocated for Portugal from the fiscal year 1980 authorization rather than authorizing additional funds for earthquake relief, I believe that we are undermining our aid commitments to Portugal pursuant to the Lajes Base Agreement and that we are detracting from the many development needs of the Azores.

I would add that, in April 1977, Congress responded to an earthquake in Romania by authorizing $20 million for earthquake relief for Romania and in fiscal year 1979 AID provided Yugoslavia with $10 million in earthquake relief assistance reprograming funds originally authorized for other countries.

If we are willing to provide these nations with earthquake relief assistance, how can we not be willing today to assist our good, loyal and trusted friends in the Azores.

Mr. STUDDS. I thank the gentleman, and I urge the acceptance of the amendment.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment has merit; it improves the bill. It fulfills an ongoing obligation to our longstanding allies in the Azores. I commend my colleagues in this endeavor: The gentlemen from Massachusetts (Mr. STUDDS) and (Mr. CONTE), as well as the gentleman from California (Mr. COELHO), on their cosponsorship of this amendment. What happened in the Azores on New Year's Day is no abstraction to me. Four days after the earthquake struck, I flew to the Azores. The dust from the disaster literally had not settled. I saw the rubble; I shared the dismay which was the legacy of the destruction. It was an earthquake devastating in its scope and it hit the island of Terceira hardest. Terceira is the home of the U.S. Air Force Lajes Field. The record should show that the commanding general of the U.S. forces on the island, Gen. Richard Drury, did not wait for Washington orders. He seized the initiative immediately after the quake struck and used his leadership to mobilize a crisis relief service for the people of the island. Food, clothing, and shelter for the victims were provided. The cleanup was begun. In myriad ways General Drury and his troops were genuine good samaritans. That presence in the Azores was hailed and respected by everyone who saw I felt what the Americans had accomplished.

What American servicemen were doing on Terceira was being duplicated here in the United States by the Portuguese-American community. A spontaneous relief effort was organized and mobilized which resulted in the shipment of thousands of tons of needed food and supplies to the suffering in the Azores. The genius of the Salvation Army—tactfully and skillfully coordinating the relief effort was a major boon during those hectic weeks.

The Lajes Air Base is a strategic outpost of significance. It was from Lajes that U.S. assistance to Israel was launched during the Middle East war in 1973 when Portugal stood alone—the only ally to allow the United States to refuel our planes. When we needed help, Portugal and the Azores did not flinch. The Azores are not affluent. The per capita income is $600 a year. The Azorian people are indeed friends in need. This amendment goes to and speaks to the question of what foreign aid is all about. It is assistance in the fairest, finest, and wisest sense.

Mr. COELHO. Mr. Chairman, will the gentlewomen yield?

Mrs. HECKLER. I am happy to yield to the gentleman from California.

Mr. COELHO. Mr. Chairman, I rise in support of the amendment of the gentleman from Massachusetts (Mr. STUDDS). As the Members of this body know, a tragic earthquake struck the Azore Islands on January 1. The earthquake left 100 people dead and 20,000 people homeless. More than 50 percent of the structures on two islands were devastated. The amendment by the gentleman to provide $5 million in aid will help to alleviate the obvious need for money to reconstruct the islands—Terceira and Sao Jorge.

Mr. Chairman, Members of this body will recall the 1973 Yom Kippur war in the Middle East. Our base, Lajes Field, on Terceira Island was the only base open to the United States during that crisis. And, to quote one of the distinguished Members of the other body:

> I think we should remember our friends when they are in need.

Also in reference to the close United States-Portuguese relationship, and with regard to this matter, the following statement came from a letter I received from the Department of the Air Force, and I quote:

> Now, and in the future, it will be in the United States' interest to continue close economic, political, and military relationships with our NATO ally.

This relationship was proven again when the Portuguese Government obliged the request of the U.S. Government by participating in our embargo to Iran despite the possibility of the loss of 21 percent of their energy supplies—which is what they were getting from Iran. Finally, Mr. Chairman, I want my colleagues to know that the Senate Foreign Relations Committee has language similar to this amendment in their version of the foreign aid bill.

Mrs. HECKLER. I thank the gentleman for his apt comments. My colleague from Massachusetts (Mr. STUDDS), my congressional neighbor and friend, has been a very staunch ally of Portugal and the people of the Azores ever since he took his seat in the House. We share a common concern for our allies and friends in Portugal and the Azores.

And we are fortunate in having the support of our colleague, the gentleman from Massachusetts (Mr. CONTE), in his important role on the Appropriations Committee. With his support this amendment will not only be authorized, but funding will follow. We share a common conviction that there is no more worthy recipient of American aid than the country of Portugal and the people of the Azores. They have suffered much, thousands of them are still homeless.

May I also thank all those who have joined us in this effort. The gentleman from Michigan (Mr. BROOMFIELD), ranking member of the subcommittee, for his support, the Speaker of the House (Mr. O'NEILL), who has been in the front lines on behalf of Azorean relief, the distinguished chairman of the Committee on Foreign Affairs (Mr. ZABLOCKI), and especially the gentleman from Indiana (Mr. HAMILTON) who chairs the subcommittee. He has been very supportive.

In this budget cutting season, we must not curtail or curb the assistance which Portugal and the Azores have earned and deserve.

Mr. CLAUSEN. Mr. Chairman, I rise in strong support of Mr. STUDD'S amendment offered on behalf of the gentlewoman from Massachusetts (Mrs. HECKLER). I also wish to commend my distinguished colleague from Massachusetts for the extraordinary leadership role which she has performed in responding to the devastation caused by the earthquake which struck the Azores Islands on January 1, 1980.

Mr. Chairman, I do not need to tell you the importance of the Island of Terceira to the security of the United States. This is the home of the U.S. Forces, Azores, based at Lajes Field. Only last year, the United States signed an extension of the 1951 Defense Agreement with Portugal permitting our continued use of this base through 1983. That agreement authorizes U.S. wartime use of the base at Lajes Field, provided NATO remains intact, and therefore plays an integral part to any flexible military response. As you may know, this base was used as the principal launching point for U.S. assistance to Israel during the 1973 Middle East war, and has served for many years as an important refueling stop for U.S. military aircraft.

I have had a long working relationship with many friends and their families from the Azores and it has been both a privilege and pleasure to be associated with these fine people. Because of the blood relationships which we share with these people, I believe there is a clear and unequivocal commitment which has existed over the years to offer whatever assistance might be needed in the wake of such massive destruction. The need is clear; the cause is worthy. Our friends and allies in the Azores have requested our help, and it is essential that we reciprocate by providing the financial assistance necessary for reconstruction efforts. It is my understanding that the victims of this earthquake are deeply committed to rapid recovery and are ready to work and rebuild—let us help these people help themselves.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ICHORD: Page 18, line 19, strike out "$2,105,500,000" and insert in lieu thereof "$2,075,500,000"; on page 22, line 9, strike out the closing quotation marks and the second period; and after line 9, insert the following new subsection:

"(h) None of the funds authorized to be appropriated for the fiscal year 1981 to carry out this chapter may be used for assistance for Zimbabwe.".

The CHAIRMAN. The Chair calls to the gentleman's attention that the amendment that the Clerk has read and the gentleman has offered purports to amend the same figure which was just amended by the amendment of the gentleman from Massachusetts.

Mr. ICHORD. Mr. Chairman, I can offer the amendment at another place in the bill without any difficulty.

POINT OF ORDER

Mr. ZABLOCKI. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Missouri (Mr. ICHORD) is recognized for 5 minutes in support of his amendment.

Mr. ICHORD. Mr. Chairman, let me state first of all to the gentleman from Wisconsin, my good friend, I can rephrase the amendment and offer it at a different point in the bill, and I would hope that he would not insist upon his point of order, because this is a matter that should be debated by the House. I can offer it to the general sections, I would point out.

□ 1110

The purpose of my amendment, as stated and made clear in the amendment, is to strike out all aid to Zimbabwe.

Mr. Chairman, regardless of the action the House might take on this amendment and regardless of what might happen in Zimbabwe in the future, it would not be responsible, in fact, it would be highly irresponsible for this body to embark upon a large program of foreign aid to Zimbabwe with only 12 lines in the committee report dealing with Zimbabwe, without the distinguished chairman of the Committee on Foreign Affairs stating on the floor of this House in specific terms the current U.S. policy toward Zimbabwe, without anything in the committee report dealing with our stated objectives in Zimbabwe, without any discussion as to how the aid will be dispersed and controlled to insure that the funding that is to be used under this bill will be in furtherance of the objectives of the U.S. policy, whatever that policy may be.

As the Members of the House well know, I opposed the British and American policy toward Rhodesia now known as Zimbabwe. I state that the present mess that exists in Zimbabwe today, and it is a mess, is in my opinion a direct result of the inane policy of Great Britain toward Zimbabwe-Rhodesia and the United States blindly following the British lead.

Now, it is true that Zimbabwe does not have a Marxist government. It does, however, have as prime minister of its government a gentleman by the name of Mugabe, who is an avowed Marxist, who has stated that he intends to turn Zimbabwe into a Marxist state and the best thing that can be said for embarking upon this program or the best point that I see in state department papers supporting Zimbabwe aid is that Mugabe has not turned out to be the firebrand Marxist which many people feared that he would be.

I am not an oracle. I do not have a crystal ball, I would state to the gentleman from Wisconsin. I do not know what is going to happen in the future and I cannot say that the gentleman's objectives, and I do not question those objectives, I cannot say that the gentleman's efforts definitely are not going to work; but I can say that the odds are, I feel very strongly that the odds are that if the House follows the leadership of the committee that we could very well be doing the dirty work of Moscow by financing its own foreign aid programs. We could assure Mugabe turning the present Zimbabwe government which is now an ethnic democracy into a Marxist government.

I will yield later on to the gentleman; but Mugabe has vowed that he will take this course. He has stated, I would state, and I observe the distinguished Member, the chairman of the subcommittee, on his feet seeking recognition, and I renew my request that he spell out what are the objectives of the U.S. program.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(By unanimous consent, Mr. ICHORD was allowed to proceed for 5 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. Briefly.

Mr. BAUMAN. Mr. Chairman, I just wanted to say to the gentleman, there was a technical problem with the drafting of his amendment, but the amendment I have given him would accomplish the objective of forbidding the aid he wishes to forbid. It would simply not change the amount, since the Studds amendment has already changed that, and I am sure the amendment I have given him would be in order.

Mr. ICHORD. Mr. Chairman, I ask unanimous consent to modify my amendment, and I send the modification to the desk.

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The Clerk read as follows:

On page 22, line 9, strike out the closing quotation marks and the second period; and after line 9, insert the following new subsection:

"(h) None of the funds authorized to be appropriated for the fiscal year 1981 to carry out this chapter may be used for assistance for Zimbabwe.".

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. ICHORD. Mr. Chairman, it is true that Mugabe an avowed Marxist and now the prime minister of Zimbabwe, did state some 18 months ago when the war was over that white Rhodesians will be welcome to stay and participate in the economic and political life of the country, but at the same time, and the gentleman from New York well knows this, he also promised that nationalization of land and industry would be an essential part, and I quote, "part of the destruction of the capitalist system and the implementation of a socialist system."

He did promise that a one party state would be established, "if the people agree."

He did promise that the leaders of Smith's administration, plus blacks who worked with it, would have to be "brought to trial," and, "if the judgment is that they hang, then hang they will."

Now, here we are, in this body, starting off on a large foreign aid program to Zimbabwe without any statement of the current U.S. policy toward Zimbabwe, without any stated objectives, without any statements as to how the funds will be provided or dispersed, I would state to the gentleman from New York, and I would now yield to the gentleman from New York and ask him, is this not a big gamble? I think that the gentleman from New York, and I know the distinguished chairman of the Committee on Foreign Affairs and the ranking members are well aware, that we are not dispensing the dollars of the taxpayers of America from a position now of overwhelming military superiority. In fact, in my own opinion, we are dispersing taxpayers' funds from a position of military inferiority. We do not have the military power we used to have to back up our diplomacy and foreign policy objectives.

So let me ask the distinguished gentleman from New York, what is our policy? How will this foreign aid program that we are going to embark upon be affected, if it happens and it could very well happen, and my own fears are that it will happen, if Mugabe effects government control and censorship of the news media, for example? What will occur if there is any effort to eliminate legislatively or otherwise the 20 white seats in the Zimbabwe parliament? What is going to happen to this foreign aid program if Mugabe, and I predict that he will, initiates a program of arrest and imprisonment of political opponents?

I yield to the distinguished chairman of the subcommittee, the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding.

We have, of course, been around the field before on the question of Zimbabwe.

Mr. ICHORD. I might say that I intended to state, if I did not state, that there is not now a Marxist government in Zimbabwe. You do have a prime minister who is decidedly Marxist. I think the closest thing, I think the gentleman will agree, that we have now in Zimbabwe is an ethnic democracy, because the voting in Zimbabwe pretty well followed ethnic lines, did it not, I would ask the gentleman from New York?

□ 1120

Mr. SOLARZ. The gentleman's political analysis of the election in Zimbabwe is, I think, essentially accurate.

Let me say I had hoped the spirit of reconciliation, which seems to have embued both whites and blacks in Zimbabwe following the election of Mr. Mugabe, would have extended to the House of Representatives where those of us who were on previous sides of this issue in the past might have tried to join together in the same spirit of harmony which seems to have developed in Zimbabwe.

Mr. ICHORD. That might prevail on my part if the gentleman will satisfactorily answer my questions.

Mr. SOLARZ. I will respond to the gentleman's question. I simply want to preface my response by indicating I recognize the seriousness of the question and the legitimacy of the gentleman's concerns.

Mr. ICHORD. And the gentleman will also admit that it is a gamble, will he not, that we are undertaking?

The CHAIRMAN. Time of the gentleman from Missouri has expired.

(At the request of Mr. Solarz and by unanimous consent, Mr. Ichord was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. Will the gentleman yield?

Mr. ICHORD. I yield to the gentleman.

Mr. SOLARZ. Mr. Chairman, I do want to respond on my own time, but let me say very briefly if, in fact, a one-party state were established, a free press were eliminated, this would obviously be a very adverse development from our point of view. I have no doubt that it would affect the decisions we would make with respect to a future relationship with Zimbabwe. I would not want to isolate any one development and make our future relationship contingent on that alone, but in general terms I would say to the gentleman that if this should happen I would be deeply concerned. I have no doubt the administration would be concerned too. So would the Congress. The people of the country would undoubtedly be concerned as well. Inevitably, this would have an impact on our relationship with Zimbabwe.

Mr. ICHORD. Does the gentleman from New York honestly believe that Mugabe, even though he is an avowed Marxist, is a friend of the People's Republic of China and of the West?

Mr. SOLARZ. I believe that Mr. Mugabe, however he may have described himself in the past, is a friend of the United States.

The CHAIRMAN. Time of the gentleman from Missouri has again expired.

(At the request of Mr. Stratton and by unanimous consent, Mr. Ichord was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman.

Mr. STRATTON. If I understand my friend from Missouri and what he is saying, in effect, it is that it is too early for us to place a substantial bet of a lot of money that we do not have on a gentleman whose previous record has been so closely alined to the Marxist philosophy.

Mr. ICHORD. If I may comment upon the statement of the gentleman from New York, it is true that Mugabe started out as a friend of China, but China pulled out of that part of Africa well over 2 years ago and Mugabe made his peace with the Soviet Union.

Mr. STRATTON. I am just trying to understand the gentleman's thrust. My friend from New York (Mr. Solarz) has the milk of human kindness, and when he sees a situation that appears to be all love and kisses he is willing to try to throw some money in that direction. But if I understand my friend from Missouri, the gentleman is saying that admittedly Mugabe has given a very, very fine performance since he was elected. He appears to be reconciled to democratic procedures.

However, with Mr. Mugabe's background of Marxist alinement, we ought not to start putting our money down on this horse until we wait and see a little bit longer how he is actually going to perform. If Mr. Mugabe is still as strongly prodemocratic a year or 2 years from now, then maybe we might consider some financial help. But it is too early to start making our bets now; is that not what the gentleman is really saying?

Mr. ICHORD. The gentleman is correct. I would say that it is a great gamble this country is now undertaking, and I think the odds are within a very short period of time we are going to see a greater vote—and I do not like to be pessimistic—we are going to see a greater vote against aid to Zimbabwe in this House than we saw against aid to Nicaragua.

Mr. SOLARZ. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment because I believe that were we to adopt it it would constitute a severe setback not only for America but for Western interests in a critically important part of the world.

About a year ago it was the conventional wisdom that once Mr. Mugabe came into power in Salisbury the whites would all flee in panic and black civil war between the two factions which constituted the patriotic trend would inevitably break out.

Fortunately that prophecy and prediction, which was the conventional wisdom a year ago, has not turned out to be true. Since the elections in Zimbabwe a few months ago, a government has come to power which has acted in a true spirit of political and racial reconciliation. Mr. Mugabe has kept General Walls, who is white, as commander-in-chief of the armed forces. He has put two whites, the Minister of Finance, Mr. Smith, and the Minister of Agriculture, Mr. Norman, in his cabinet. He has pledged on several occasions to obey not only the letter but the spirit of the constitution which he accepted at the Lancaster House negotiations. He has made it clear that he has no intention of nationalizing most of the property of the country.

He has also emphasized his commitment to maintaining the pension rights of the white civil servants. He has indicated in clear and unequivocal terms that he does not intend to permit an emerging liberation movement in South Africa to use the territory of Zimbabwe for the purpose of launching guerrilla raids against that country.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I will be happy to yield.

Mr. ICHORD. Has Mr. Mugabe indicated that he will not proceed to the communization of Zimbabwe, that he will not work toward the communization of Zimbabwe?

Mr. SOLARZ. Indeed he has, because he has said on a number of occasions that he intends to live up to the constitution. He does not intend to eliminate the seats which have been reserved for the whites in the parliament in the absence of unanimity within the parliament which the constitution requires in order to do so. But, most important, from the point of view of our own country, we now have a friend in Zimbabwe.

I went as part of the American delegation to the Independence Day ceremonies about a month and a half ago and my colleagues will be interested to know that the very first country given permission to open an embassy in Zimbabwe was the United States. We opened our Embassy on the day after independence was declared.

Almost 2 months later the Soviet Union still has not been given permission to open an embassy in Zimbabwe. In an interview on the MacNeil-Lehrer program several weeks ago, in response to a question by Mr. MacNeil, Prime Minister Mugabe responded:

> I believe that the role the United States has played has, in fact, made us regard the United States as an ally rather than as an opponent.

The problem with waiting a few years to see what happens in the future is that Zimbabwe needs aid right now. Over the course of the last several years, in one of the most bloody and bitter civil wars in the history of the African continent, 25,000 Zimbabweans lost their lives.

□ 1130

Hundreds of thousands of refugees were driven out of the country. Thousands of schools, hospitals, and clinics were closed, and must be rebuilt and reopened. The real question is, not whether they need aid but from whom they are going to get it. The British who have the primary responsibility for Zimbabwe, as the former colonial power, have pledged to provide Zimbabwe with $165 million in the next few years. Sweden and the Federal Republic of Germany and other Western countries have promised to give aid as well.

I received a letter just the other day from the British Ambassador to our country describing the aid program which his nation plans to provide for Zimbabwe, and he said in the letter:

> It is important to us and to the people of Zimbabwe that Western donors should be forthcoming as possible with aid in order to build upon the progress which has already been made. For this reason, the British Government have welcomed the U.S. Administration's reprogramming of funds in Finan-

cial Year 1980 and its undertaking to seek the allocation of a substantial programme of U.S. development aid for Zimbabwe in FY 81.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SOLARZ was allowed to proceed for 3 additional minutes.)

Mr. SOLARZ. I want to say to my colleagues in the House that more so than any other single factor, what happens in Zimbabwe in the next few years will determine the prospects for peaceful change in South Africa itself. I am sure it is no secret if I say that South Africa today is a volcano on the verge of explosion, and it would be a terrible tragedy not only for the people of South Africa but for our own country as well if there were to be a cataclysmic confrontation between the races in what Allen Paton once called "that beloved country."

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I will be happy to yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding. I want to endorse what the gentleman is saying.

I had the pleasure of visiting all the frontline states and going into Zimbabwe with the gentleman about a year ago at Easter. As we returned, the gentleman and I did not see eye to eye. He and I had the pleasure of visiting with Mugabe in Mozambique, and I came away with a pretty negative impression of Mugabe. His pronouncements were strongly Marxist at the time.

But I agree with the gentleman wholeheartedly that Zimbabwe is absolutely crucial to southern Africa, and I personally believe southern Africa to be crucial to the future international position of the United States of America. The mineral wealth that exists down there and our total and complete dependence on foreign sources of supply for at least 20 of our most important 50 minerals, makes it extremely significant to us that we encourage a reasonable development of the political and social structure in southern Africa.

I agree that Zimbabwe is absolutely crucial. I further think that it is apparent that Mugabe is saying and is doing the right things now in spite of what he said to us in an entirely different political environment when he was embattled, when a bloody civil war was going on. Now he is saying and doing the right things. Peace has substantially come to Zimbabwe. There is still some violence, but we do not have the terrible violence that we had a few years ago.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DUNCAN of Oregon, and by unanimous consent, Mr. SOLARZ was allowed to proceed for 5 additional minutes.)

Mr. DUNCAN of Oregon. If the gentleman will yield further, I could not agree more that South Africa itself is a tinderbox waiting to explode. When I talked to the so-called liberal members of the political structure that supports that government, I was convinced that the government in South Africa is way ahead of its constituency, but its constituency will not permit it to move. It is not every public official who will go ahead of his constituency, as some Members of this House, particularly from Oregon, have made the mistake of doing.

I think that if we can make Zimbabwe work—and I do not think the U.S. foreign policy deserves a great deal of credit for what happened in Zimbabwe; I think we have to give Mrs. Thatcher and the British Government full credit for that—but if this can work in Zimbabwe, and if the white community can be assured and stay there and help to make the country productive, it is going to, I think, have a chance of leading to some change in South Africa which is absolutely vital if we are to avoid a war down there.

My friend, the gentleman from New York, talked about it being too early to put your bets down. We do not know what this horse is going to do. I want to point out that when they close that $2 window and they pull the curtain down, it is too late to make your bets—once that train leaves the station it is too late to get on board.

We are not talking about much money here. In my judgment, we ought to put our bet down. We ought to give this government a chance to work. It is the best bet available to us. If we do not, we are going to regret it.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. I personally would like to pay tribute to the gentleman in the well for what I consider to be a major contribution to the situation that we have today in Zimbabwe. It is literally a miracle in that none of us expected when we talked about it a year ago, and the gentleman played a major role in preventing this House and the Congress from making mistakes along the way.

On the point about the importance of Zimbabwe to South Africa, I would like to report to the committee on a conversation that I had yesterday, thanks to the gentleman from Alabama (Mr. BUCHANAN) who arranged for a meeting with a representative group of about 20 South Africans. The group included blacks and whites representing a great variety of positions. The one thing this group could agree on was the importance of the United States supporting the current regime in Zimbabwe.

So I salute the gentleman, and I hope that the amendment will be defeated.

Mr. SOLARZ. I thank the gentleman for his observations and support.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to my friend, the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I associate myself with the remarks of the gentleman from New York (Mr. BINGHAM) who has just spoken. The South African leadership people with whom we met were unanimous in saying, "Please do more for Zimbabwe. You have promised it."

The leadership there is reaching out. There is an effort to serve and include all the people in that country. It is crucial that they now have this assistance they so desperately need. The British are doing more than we are, and I do not consider Mrs. Thatcher exactly a supporter of communism.

The South African leaders with whom we met are hardly pro-Communist. The truth is if we are to not only live up to our own commitments but act in our own interest, then surely this is the time to reach out and begin to fulfill promises made and commitments made at a time when the need in Zimbabwe is so great. This was the united appeal of the South African leadership group not only for Zimbabwe's sake but for the sake of South Africa and all of southern Africa. I would make that appeal on the basis of the national interest of the United States. We seem absolutely determined to alienate the leadership of a country which has 65 percent of the world's supply of chrome, and from purely narrow economic interests, I cannot understand such action. Now is the time to make an investment in the future for our country as well as for theirs.

Mr. SOLARZ. If I can conclude my remarks, let me say that I hope we can avoid reopening old wounds and old debates in this House. We have been through the Byrd amendment on more occasions than any of us care to remember. Last year it seemed at times as if there was no other matter before the House than the question of what to do about sanctions against Rhodesia. We have got a new situation today. The people in Zimbabwe are looking to the future. We ought to look to the future. What has happened there, as the gentleman from New York pointed out, really is a miracle. I was over there a few weeks ago.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SOLARZ was allowed to proceed for 3 additional minutes.)

Mr. SOLARZ. Every one of the whites with whom I spoke in Zimbabwe, including whites who lost people from their immediate families, including whites who thought that Mugabe was the embodiment of evil, expressed their remarkable satisfaction with the way he has conducted himself since coming into power. Maybe he was a Marxist before. Maybe he said a lot of things that many of us found unacceptable.

Mr. ICHORD. If the gentleman will yield, was there any doubt in the gentleman's mind that he was a Marxist before?

Mr. SOLARZ. I am not doubting it, but I do say to the Members of the House that if a man is willing to conduct himself in a spirit of democracy, if a man extends his hand in reconciliation with those against whom he previously fought, if a man pledges to live up to a constitution, if a man says, "I look to the United States as a friend, and I want your help," if a man says, "You can open your embassy, but I am not going to give permission to the Soviet Union to open up their embassy," I say that then we have a friend in Zimbabwe. And I say something else. We cannot afford to wait for years to see what is going to happen because the Prime Minister and the Government of Zimbabwe faces tremendous pressures today. There are pent-up demands on the part of the black masses in Zimbabwe. They want land. They want a better working wage. They want better health care.

□ 1140

Let me make a prediction on this floor today: If Mr. Mugabe cannot move to satisfy the legitimate aspirations of the black majority, he is going to be swept aside and someone whose name no one in this House knows today may then emerge who will be a radical and who will move in a direction which is not compatible with our interests. I say that we have a stake in helping this man satisfy the legitimate aspirations of the black majority while at the same time maintaining the confidence of the white minority. Because if the whites are forced to flee Zimbabwe, if they all depart from the country, it not only will be a tragedy for Zimbabwe, it will be a tragedy for the entire world because that will confirm the deeply rooted fears of the white minority in South Africa that there will be no place for them if the black majority is ever given its day in the sun in South Africa.

Mr. Chairman, I am not totally naive. My friend from Missouri may think I am substantially naive, but I am not totally naive. I recognize that no matter how well the situation works out in Zimbabwe there is no guarantee that the white establishment in South Africa will recognize the need for the kind of political, social, and economic changes which will be necessary in order to avoid a violent confrontation in South Africa, but I can tell you that the stability and success of the new government in Zimbabwe is a necessary if not a sufficient condition for peaceful change in Zimbabwe.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. SOLARZ was allowed to continue for 5 additional minutes.)

Mr. SOLARZ. Mr. Chairman, if the government fell, if the whites flee, if chaos breaks out, if a civil war should develop, then whatever slim chances there may be for peaceful progress in South Africa will go down the drain and the violent cataclysm, the confrontation which we all fear, will inevitably break out. Let us, therefore, provide these minimum resources in collaboration with the British, the Germans, the Swedes and many other Western nations, to a country which is reaching out to the West. If it does not get help from us, it is not going to sulk in its tent, it is going to turn to other countries that are willing to provide it and that would end up in the creation of a self-fulfilling prophecy which is neither in their interest nor ours.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, may I state, and very emphatically, I did not say that the gentleman from New York was totally naive. I did not even state that the gentleman was substantially or partially naive, but I do submit that the gentleman from New York is naive if he will state to this House that how Mugabe is proceeding in Zimbabwe at the present time is not the classical, the traditional Marxist approach.

I have heard a lot of hoping and praying around here about what is going to happen, but I have not heard any facts. I agree with the gentleman from Oregon that southern Africa is crucial. I am not concerned about any white minority in Rhodesia. Gentlemen, I am concerned about the survival of the United States of America and I do well agree with the gentleman from Oregon, the battle between the East and the West could be fought over the very critical materials in southern Africa, but I do not want to have us proceed blindly and appropriate money for Moscow right in this body. That is my fear. I have not heard any facts which would indicate a change on Mugabe's part. Give me such facts I say to the gentleman from New York.

Mr. SOLARZ. The gentleman asks for some facts.

On March 4, 1980, the day the British announced the election results and declared Mr. Mugabe would be invited to form the new government, the Prime Minister told Western newsmen and the people of Zimbabwe in a public statement:

> Whatever government I succeed in creating will certainly adhere to the letter and spirit of our constitution since that government will itself have been the product of such a constitution.
>
> Only a government that subjects itself to the rule of law has any moral right to demand of its citizens obedience to the rule of law . . .
>
> Similarly, it is not our intention to interfere with pension rights and other accrued benefits of the civil servants . . . We have assured them that it is not the intention of our government when it comes into being to deprive the civil servants of their pension rights and accrued benefits. Nor do we want to drive anybody out of this country. Nor do we intend to interfere unconstiutionally with the property rights of individuals. I urge you, whether you are black or white, to join me in a new pledge to forget our grim past, forgive others and forget, join hands in a new amity, and together as Zimbabweans, trample upon racialism, tribalism and regionalism and work hard to reconstruct and rehabilitate our society as we reinvigorate our economic machinery.

Mr. Chairman, I say to the gentleman from Missouri: Forget our grim past and let us join together in the same spirit of reconcilation.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Mississippi.

Mr. BOWEN. Mr. Chairman, I would like to mention to my very good friend from Missouri that the U.S. Chamber of Commerce has just sent a delegation to Zimbabwe led by the president of that organization, which I once worked for and that delegation was comprised of very hard-nosed American businessmen. They have analyzed the situation insofar as the future of private enterprise is concerned in Zimbabwe, and they have come back with a very favorable report. That kind of group I am quite confident does not want to appropriate money for Moscow. I would like to endorse very strongly the position taken by the gentleman from New York and urge my colleagues to give democracy and free enterprise a chance in Zimbabwe by rejecting this amendment.

AMENDMENT OFFERED BY MR. DERWINSKI AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ICHORD, AS MODIFIED

Mr. DERWINSKI. Mr. Chairman, I offer an amendment as a substitute for the amendment, as modified.

The Clerk read as follows:

The amendment offered by Mr. DERWINSKI as a substitute for the amendment offered by Mr. ICHORD, as modified: On page 22, line 9, strike out the period and insert the following new section:

"(h) Should Zimbabwe receive assistance from funds authorized to be appropriated under this Act, the President shall report to the Congress every sixty days after the obligation of such funds on the internal situation in Zimbabwe, particularly on its observance of the human rights of its citizens.".

Mr. DERWINSKI. Specifically, Mr. Chairman, my substitute would provide that every 60 days the President would report on the internal situation, specifically a kind of development that the gentleman from Missouri (Mr. ICHORD) happens to fear.

Mr. Chairman, at the moment I am somewhat optimistic that the government in Zambabwe will turn out to be a pleasant surprise to many of its critics. Perhaps the best way to approach this is to take a look at the history of other African states.

When the independence movement developed in the late fifties and all through the sixties in Africa, all types of interesting individuals came into power. For the most part they very quickly established one-party states; some total tyrannies, other benevolent dictatorships and a variety of internal adjustments were made.

Mr. Chairman, the practicality of this is that we have found it necessary, and properly so, to work with those statesmen in Africa who did not develop democracies such as we have but they developed working governments which helped the people of their countries progress.

Mr. Chairman, who do I have in mind when I make that point? President Senghor of Senegal. President Boigny of the Ivory Coast. They are not real democracies, they are one-party states, yet the people of those countries are enjoying the benefits of an economic success because of the statesmanship of their government leaders, and the fact that private enterprise is encouraged, investment from abroad is encouraged and that is the kind of development which hopefully we will see in Zimbabwe.

□ 1150

Now, perhaps the best example, would be that of Kenyatta in Kenya. Members might remember that back in the late 1950's during the Mau Mau rebellion, Kenyatta was described with every criticism that has been heard about Mr.

Mugabe. He was a murderer, he was at that time the most notorious guerrilla leader in Africa. What did Mr. Kenyatta do when he came to power? He established a one-party parliament, but in the process he nurtured the economy and development of a country that is now one of the few U.S. allies in that area. A country that has political stability so that when he passed from the scene, in a very peaceful, practical fashion the effectiveness of the government has continued.

I do not know what particular course Mr. Mugabe will take. All I know is that he deserves a fair shot, and since we in the Congress authorize and appropriate annually, I see nothing wrong with, at this point, permitting the support the administration intends to give to the Government of Zimbabwe. A year from now, we may be in a position to make a better judgment.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding. It seems to me worth pointing out that, if the amendment of the gentleman from Missouri is adopted, we would be foreclosing the possibility of aid to Zimbabwe until October of 1981. On the other hand, if we stay with the committee bill we are keeping our options open. This is only an authorization bill—the gentleman from Missouri misspoke earlier when he referred to an appropriation. Under the bill, the funds for Zimbabwe would still have to be appropriated and, as the committee report states, they would be expended only if the "political and economic climate in Zimbabwe [was] conducive to our achievement of the objectives of that assistance."

The point I want to make is that, if the amendment of the gentleman from Missouri is adopted. We are stuck for a year and a half on one course; on the other hand, if we authorize the funds, then as the gentleman points out, we can watch developments and we will be free to move in either direction.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I think I will accept the amendment of the gentleman in the well as a substitute amendment to my amendment, but I just want to reiterate that I have still heard no facts on the floor of this House that might possibly ameliorate my concern about what we are doing.

Now, let me state to the gentleman from Illinois that a number of weeks ago I received a briefing from an intelligence agency—I will not mention the particular agency—of the United States, to the effect that Mugabe was a friend of China and a friend of the West. This is typical of intelligence briefings that I receive, I might state, in recent months. I come away from the intelligence briefings knowing less than when I went in, but such an assessment is just not true. China pulled out of this section of the world 2 years ago, and Russia moved in. It was true that Russia was supporting Nkomo, and China was supporting Mugabe at one time, but China pulled out and Russia started giving its aid to Mugabe.

I know that the gentleman from Illinois well knows, Zanu, the party now in control of the Government of Rhodesia—Zimbabwe now—is a Marxist party. Will not the gentleman agree?

Mr. DERWINSKI. Yes, but the issue before us is, will Mr. Mugabe become a new Kenyatta or a new Idi Amin? We are willing to bet that he might turn out to be a new Kenyatta.

Mr. ICHORD. The gentleman from Illinois and I share the same objectives. I doubt if the amendment of the gentleman from Illinois will accomplish all that I want, but at least it will accomplish partially what I want and make the Members of this House aware that they are taking a tremendous gamble. I say this, gentleman from Illinois, as one who has gone officially on record willing to give not only military aid to the PRC—the Peoples Republic of China—but also willing to send sophisticated weaponry to the PRC. That is how bad my assessment of the military situation of the free world versus the Soviet Union now is.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I now yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding. I think he may have accomplished here in the House what Mr. Mugabe appears to be well on his way to accomplishing in Zimbabwe. If General Walls can accept the leadership of Prime Minister Mugabe, then I certainly can accept the amendment of the gentleman from Illinois; and since I think I heard my friend from Missouri accept it, too, I want him to come over here so I can symbolically shake his hand, seal the deal, and join together under the happy tent of unity and move forward to what we hope will be a new day for Zimbabwe and for Western interests in southern Africa.

Mr. ICHORD. Let me state that I hope that the gentleman from New York is right in his wishful thinking, but let me add just a caveat. I know some people in Zimbabwe—whites—at this particular time who are waiting for the chance to get hold of a lot of the U.S. foreign aid and other foreign aid, and then cut and run as fast as they can. Just remember that.

Mr. DERWINSKI. The House has just witnessed an example of diplomatic expertise.

Mr. LaFALCE. Mr. Chairman, I move to strike the requisite number of words, and I rise to support the amendment.

Mr. Chairman, now that we have this historic agreement between the gentleman from New York and the gentleman from Missouri, perhaps my words are not necessary, but I would like to make a few observations.

It seems that so many of the remarks that have been made have been based upon the Marxist leanings of Mr. Mugabe. You know, we tend to pigeonhole individuals and define them. I do not know about others, but I hate to be defined as a liberal or a conservative, a hawk or a dove; and I think we do a disservice when we define an individual as an enemy, because oftentimes we simply create a self-fulfilling prophecy.

Mr. Mugabe himself has called himself many things. On some occasions he said he has been a Marxist. On other occasions he has defined himself as a Christian Socialist.

One might say, "Well, is there not a tremendous dichotomy, a contradiction, between being a Marxist and a Christian Socialist?"

I think there is, even though there might also be similarities. But, it has to do, I believe, with the paradox of man. Man himself is a contradiction.

If one were to listen and read the statement of Pope John Paul II when he came to the United Nations, and to have listened to the speech of Fidel Castro before the United Nations, one would be struck with the tremendous similarities. So, I think we do ourselves a great disservice when we create enemies by defining them as such in advance.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. LaFALCE. I yield to the gentleman from Missouri.

Mr. ICHORD. I partially agree with the gentleman from New York, and I think possibly, in view of the remarks he made, he did not hear all the remarks that I made. Certainly a leopard can change his spots. We all know that leopards can change their spots. Perhaps Marxists can change their spots.

Will the gentleman from New York answer this question: I think what he said is completely irrelevant. Is Mugabe now a friend of the PRC or is he a friend of the Soviet Union? We know the dichotomy, the differences that exist between the PRC and the Soviet Union.

Mr. LaFALCE. Let me answer that question with a question: Is the gentleman from Missouri, is he a friend of a great many different individuals who are enemies of each other, or who are diametrically opposed in their points of view? I think he would like to say, "I am ready to be a friend of all."

Perhaps that might be the most apt description presently of Mr. Mugabe, at least to the extent that I can read his mind and his will based upon his actions and his public statements. It appears to me that he would wish to be a friend of all, and I do not think we can say, "Because you would also be a friend of our enemies, you are therefore also our enemy."

The world does not work that way. The Congress ought not to work that way. We ought not to conduct the foreign policy of the United States in that way.

Mr. ICHORD. In that respect I agree with the gentleman from New York, and I hope and pray that he is right.

□ 1200

But without being an oracle and without having a crystal ball, I think within a few years the gentleman from New York—and perhaps I am overly pessimistic—will be voting just as strongly against aid to Zimbabwe as this House more recently did against aid to Nicaragua.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, join the select camp of instantaneous experts who have enjoyed the opportunity of visiting the continent of Africa and returning to the United States of America with total insight and infallible solutions. As chairman of the Mines and Mining Committee, I went there with one particular objective or goal in mind, and that was to examine the research question that the gentleman from Oregon so well described, about the critical importance to the free world of Africa's strategic minerals.

We are in a most vulnerable posture in terms of mineral resources, and it is important to try to understand the magnitude of this problem, in conjunction with the very critical social, economical, and political problems of the continent. It is impossible to offer simple solutions to all the problems there.

But I think as the body deliberates on the merits of this amendment, there are some important considerations that should be shared with my good friend, the gentleman from New York, and others. I cannot at this juncture be swept up in euphoric endorsement of Mr. Mugabe and his efforts to date but I would take particular exception to the observations of my good friend, the gentleman from Missouri, that there is no tangible evidence of change. I think that is manifestly incorrect. I would point out that I have endorsed the efforts of my good friend, the gentleman from Missouri, in the past to put economic constraints on allowing those who appear to be in adversary postures around the world to dip into the cash register of the taxpayers of the United States of America in order to subsidize their antipathies toward the United States of America. Given that history, I believe it would be self-defeating for our Nation to ignore some of the encouraging tangible evidences of positive change in Zimbabwe. My negative expectations were misplaced. Positive events have transpired that I would never have predicted and I doubt that the gentleman from Missouri would have predicted them either. Mr. Mugabe campaigned on expropriation of both the private agricultural lands and the private industrial properties of Zimbabwe, then Rhodesia. No private land has been expropriated for either agricultural purposes or industrial purposes.

During my Rhodesian visit I met and spoke with those engaged in the minerals industry. Some were most skeptical and apprehensive about the prospects of Mr. Mugabe's government and predicted that within a month after his election the expropriation efforts would be commenced. They were wrong.

I spoke last month with the former Minister of Mines who now is serving in a subordinate capacity in the Ministry on Mines. He has worked in the civil service of that government for many, many years. During the January visit he predicted ominous consequences if a Mugabe government should come to pass. Last month he informed me that most of his dire expectations had been at least unfounded to date. He observed that much of what Mr. Mugabe has done has startled and amazed him in terms of the tempered, practical, political nature of his actions and efforts.

I doubt that the conduct of Mr. Mugabe reflects a conversion to democracy. I think it, rather, reflects a very profound political analysis by Mr. Mugabe that he needs the internal strength of the existing civil service and the existing private business foundation in order to build the society that he envisions will respond to the very critical social and economic concerns enunciated by the gentleman from New York. I think he is just a plain good old practical, pragmatic politician, as opposed to a philosophical dictator.

I do think that the conduct to date does represent some encouraging evidence that this important African nation might make it work. Is there evidence to conclude the problems are solved? No. I do not think any of us today can put the imprimatur of absolute credibility on the present actions of Mr. Mugabe, because his political polemic before the election was very distressing. His actions after the election have been very encouraging. I would like to recognize that encouragement.

The representatives of South Africa with whom we met this week have put an endorsement on the Mugabe efforts. It is their belief if the governmental experiment that is presently underway in Zimbabwe proves positive, conceivably an adaptation of that political and philosophical experiment could work in South Africa. I hope so. The free world needs the friendship and the critical materials of these two important African nations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI) as a substitute for the amendment offered by the gentleman from Missouri (Mr. ICHORD), as modified.

The amendment offered as a substitute for the amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD), as modified, as amended.

The amendment, as modified, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 22, line 9, strike the closing quotation marks and the period at the end of the line; and immediately after line 9, insert the following new subsection:

"(i) Not more than $20,300,000 of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1981 may be made available for Zambia.".

Mrs. FENWICK. Mr. Chairman, I would like to speak first for a moment about the amendment just agreed to on the funds for Zimbabwe. I did not want to take the time of this House during its consideration, but I think we see there perhaps the best hope for a multiracial society which could be an example for all the world, not just for Africa. I am very happy that the substitute was adopted.

I would like now to speak to my own amendment. Here we have a proposal that the Government of the United States, the taxpayers, the people of the United States, give Zambia about $27 million, and this is apart from the funds that Zambia will receive for food under title I and title II of Public Law 96–480. It is expected that for food they will receive some $10 million more.

I know the question will be asked. Why am I offering this amendment to cut $7 million from the proposal of the administration and the recommendation of the committee? I offer the amendment because I really think we are going to have to give notice and the governments of this world are going to have to take notice that we know what is happening in these countries, and that we are prepared, in those countries that are willing to deal fairly with their citizens and with us, to help where we can in ways that we think appropriate to their needs.

But what do we see here? We see a country which is poor. Zambia says it is poor and it wants aid, and our Government has recommended that we send them money. But they find $85 million in cash to buy MiG's from the Soviet Union.

Now, it is not just the clear evidence that they have cash which is available for this extraordinary deal, but, worse than that, this will mean, since these are very sophisticated planes, that there will be Soviet advisors, mechanics, and helpers coming into that country.

I think we ought to tell them and show them in the clearest possible way that we are prepared to help with food and we are prepared to help with agriculture, but we cannot continue unabated the flow of millions of dollars, if they have so many of those millions, for weapons of war from the Soviet Union. I think the time has come when we are going to have to get a little more prudent in our expenditures of funds.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(On request of Mr. BROOMFIELD, and by unanimous consent, Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I would like to compliment the gentlewoman from New Jersey (Mrs. FENWICK) for offering this amendment. I think it is very worthwhile.

It is hard to believe that Zambia just recently concluded an agreement with the Soviet Union to buy $85 million worth of military equipment. I think this is only one of several examples that turns the American people off in regard to providing foreign aid. It is especially disturbing to the American taxpayer when they see us providing economic aid to a country that has adequate funds to go out and make these huge military purchases, especially from our primary adversary, the Soviet Union.

So, Mr. Chairman, I compliment the gentlewoman. I think this is a worthwhile amendment, and I hope the House approves it.

□ 1210

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there is literally no other Member of the House for whom I have more admiration and certainly more affection than my beloved colleague, the gentlewoman from New Jersey (Mrs. FENWICK), who yesterday won a smashing victory in her primary campaign for reelection to the House. I have never yet endorsed a Republican in the course of my political career. Let it be on the record of this House in petpetuity that if I lived in the gentlewoman's district, I certainly would vote for her, not in the primary, because I am not a Republican, but as a crossover Democrat in the election. The gentlewoman has made such a great contribution to the Congress and to the Subcommittee on Africa which I chair.

But I have to regretfully say to my colleagues that this is an essentially well intentioned but misguided amendment. There are few countries in Africa which, generally speaking, have been more friendly to the West and to the United States than Zambia. They voted to condemn the seizure of our hostages in Iran. President Kaunda has publicly condemned the Soviet invasion of Afghanistan. Zambia was instrumental in helping us achieve a negotiated settlement of the conflict in Zimbabwe. Today, at this very moment, critical negotiations are underway between the West and South Africa and the front line states in an effort to achieve a comparable resolution of the continuing conflict in Namibia. Our ability to get a settlement of the conflict in Namibia will depend significantly on the continued willingness of President Kaunda and of Zambia to play a constructive role in persuading SWAPO to agree to reasonable terms to a settlement in that country.

The gentlewoman from New Jersey tells us that Zambia recently signed a deal with the Soviet Union to buy, I think, $90 million worth of arms from Russia. I deplore the fact that Zambia felt it necessary to turn to the Soviet Union for military equipment. But I think it is important for the Members of the House to know that before President Kaunda went to Moscow for these arms, he first came to Washington, and then he went to London, and then he went to Bonn. It was only after he was turned down in every Western capital to which he went for the military assistance which he felt his country needed, at a time when they were under daily and incessant attack from Rhodesia, and at a time when, at this very moment, Zambia continues to be attacked quite frequently by South Africa in pursuit of its campaign in Namibia, that President Kaunda went to the Soviet Union for arms. I think it would be a mistake, therefore, for us now to reduce the level of our aid to Zambia because they purchased arms from the Soviet Union after we refused to sell them arms ourselves.

Finally, I want to say that Zambia is one of the 30 poorest countries in the world. It is not a Marxist country. President Kaunda is not a Communist. He has proclaimed himself over and over again as a "humanist" and, in fact, has written many books describing his philosophy of humanism. He is our kind of African leader. Last year we gave Zambia $30 million in economic assistance. The foreign aid bill this year already has a $3 million reduction from the level of last year's aid program. If the amendment offered by the gentlewoman from New Jersey is adopted, it will be cut another $7 million, to $20 million, and at the very time when we need the cooperation of Zambia in the Namibian negotiations. When millions of Zambians live on the verge of starvation, I do not think it is compatible either with our political interests or with our humanitarian concerns to cut $7 million out of agricultural assistance to a country where there are millions of people who desperately need our aid.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to our friend, the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

Mr. Chairman, I would associate myself with the gentleman's remarks both as to my own deep respect and affection for the gentlewoman who is the author of the amendment, but secondly, as to sharing the opposition of the chairman of the Subcommittee on Africa to this amendment, however well intended.

The fact is that Zambia has been supportive of the United States on most international issues. As the gentleman from New York has said, the military help from the Soviet Union came as a last choice, last resort, and not a first choice.

The CHAIRMAN. The time of the gentleman from New York (Mr. SOLARZ) has expired.

(On request of Mr. BUCHANAN and by unanimous consent, Mr. SOLARZ was allowed to proceed for 2 additional minutes.)

Mr. BUCHANAN. If the gentleman will yield further, Mr. Chairman, the reason Zambia needed this military help was not only because they had a security problem, but because the Government, the Zambian Government, had put its money into education, not into building a military establishment. The leader of that country had sought to lift the standards of the people of this very poor country and had put his money into education, and this is why he had a defense problem. I think this is very commendable. This money is needed by that country. It is a country which has proven to be a friend of the United States over a period of time, and I urge the defeat of this amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I shall be brief, Mr. Chairman.

I would first warn the gentlewoman from New Jersey to be very careful about accepting flowery compliments and endorsements from the gentleman from New York, if I recall correctly, in the Presidential primaries in his State he endorsed Mr. Carter, but Senator KENNEDY overwhelmingly carried his district. So you have to weigh those facts in mind.

I do think, though, that the gentlewoman from New Jersey made a very practical case for her amendment It boils down to this: that the United States has provided Zambia with over $100 million in economic assistance over the years. Soviet economic assistance to that country has been negligible. Yet here, about $85 million or $90 million will now be spent by the Zambians for Soviet military hardware. One could almost say that it is transferring the U.S. economic aid over to purchasing the Soviet military hardware.

Now, this in my judgment, does not add to the economic development of the country, does not improve the standard of living of its people, and the gentlewoman properly points out that this amendment would be a practical effort in the Congress to have the officials of Zambia carefully reconsider the situation before it works out to the economic detriment of their people.

In that spirit, I support the amendment.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, the gentleman recognizes, I am sure, that this money is not intended to help Zambia purchase military equipment from the Soviet Union or any other country. It is for agricultural assistance.

Mr. DERWINSKI. Right.

Mr. SOLARZ. The gentleman, I am sure, also recognizes that whether Zambia got arms from the Soviet Union or anywhere else, they do have a legitimate defensive need, and like every country in the world, even the poorest of the poor, they will be spending some money on their own defense.

Mr. DERWINSKI. There is no quarrel with legitimate defense investment.

Mr. SOLARZ. The gentleman, I hope. also recognizes that Zambia did come to us in order to ask for military assistance and we categorically turned them down. They went to the British. The British would not help them. The country does have a need to defend itself. It is under attack.

Mr. DERWINSKI. May I point out to the gentleman, less so than a few years ago. If we are correct that the new government in Zimbabwe will be moderate and if we agree, as I think the gentleman would, we want to scale down the problem in Namibia, their defense needs are less today than they were a year or two ago.

Mr. SOLARZ. If in fact the Namibian problem had already been resolved, I would quite agree with the gentleman from Illinois. The problem is that at this very moment there are South African forces on Zambian territory in the vicinity of the Caprivi Strip. What got most of the publicity in the press in our country were the attacks by Rhodesia on Zambia. But the truth of the matter is that at the very same time, and to this day, Zambia continues to be under South African attack. Now, are we to say to President Kaunda of Zambia that he is not entitled to buy arms to defend his country from foreign attack?

Mr. DERWINSKI. We did not say that at all. But we wanted to keep the issue in perspective.

I will now yield to the gentlewoman from New Jersey (Mrs. Fenwick).

□ 1220

Mrs. FENWICK. I think what we must say to Mr. Kaunda, respected and valued as he may be, "If you are going to harbor SWAPO guerrillas in your country, you have got to expect hot pursuit."

We sanction hot pursuit everywhere. Remember that this sale of MIG's which are not a defensive weapon but a strong offensive weapon, was consummated and announced to the Zambian people on February 7, 1980.

No nation can harbor guerrillas who are attacking others and be safe from hot pursuit.

If a nation does not let the United Nations go in and look at those guerrilla camps, and we know Zambia will not, we have many things that we can say to President Kaunda if he wants peace; but one does not often advance peace with Soviet MIG's which will bring with them Soviet mechanics, Soviet advisers and all the rest that goes with it.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Derwinski) has expired.

(At the request of Mr. Solarz and by unanimous consent, Mr. Derwinski was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New York.

Mr. SOLARZ. I would say to the gentleman from New Jersey that to the extent she is concerned about Soviet advisers in Zambia and Soviet military equipment in Zambia, a concern which I share, the best way to deal with that is not to reduce the level of our economic assistance to Zambia but to indicate to President Kaunda that we are willing to sell them military equipment which they feel they need.

For us to turn our backs when they ask us for military assistance and then to complain that they have gone somewhere else strikes me as a little bit hypocritical. I am not suggesting that is the argument of the gentlewoman from New Jersey, because I know she feels we should have been responsive to Zambia's military needs.

Mr. DERWINSKI. I would like to point out to the gentleman that he should use his well-known influence with the President to have him reverse his arms sales policy, if that is the direction, or else accept this amendment as one of those great signals our committee sends.

Mr. SOLARZ. I am trying to persuade the administration to act more rationally toward Zambia, but I would say, in conclusion, that the consequence of the adoption of this amendment will be twofold. First, it will reduce American influence in Zambia, which may make it more difficult to get an agreement from Namibia, and, second, it will result in more hungry people in one of the poorest countries of the world.

Mr. DERWINSKI. I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 293]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Musto
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Pickle
Porter
Preyer
Pritchard
Quayle
Quillen
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

□ 1230

The CHAIRMAN. Three hundred and forty-six Members have answered to their names, a quorum is present, and the committee will resume its business.

□ 1240

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan (Mr. Broomfield) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for the vote.

The vote was taken by electronic device, and there were—ayes 220, noes 148, not voting 64, as follows:

[Roll No. 294]

AYES—220

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boner
Bouquard
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dodd
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Flippo
Florio
Forsythe
Fountain
Frenzel
Frost
Fuqua
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Marks
Marlenee
Marriott
Martin
Mica
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Natcher
Neal
Nelson
Nichols
O'Brien
Pashayan
Patterson
Paul
Perkins
Petri
Porter
Quayle
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Russo
Santini
Sawyer
Schulze
Sebelius
Sharp
Shumway
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Winn
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.

NOES—148

Akaka
Andrews, N.C.
Aspin
AuCoin
Bailey
Baldus
Barnes
Bedell
Beilenson
Biaggi
Bingham
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Carr
Cavanaugh
Clay
Clinger
Collins, Ill.
Conable
Conyers
Corman
Danielson
Daschle
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Fascell
Ferraro
Fish
Fisher
Fithian
Foley
Ford, Mich.
Garcia
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Gray
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heftel
Hollenbeck
Holtzman
Jacobs
Kastenmeier
Kildee
Kostmayer
LaFalce
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McHugh
McKay
Maguire
Markey
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Musto
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pickle
Preyer
Pritchard
Pursell
Rangel
Ratchford
Rhodes
Richmond
Rodino
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
Smith, Iowa
Solarz
Spellman
Stack
Stark
Steed
Stokes
Studds
Swift
Synar
Udall
Van Deerlin
Vanik
Walgren
Waxman
Weiss
Williams, Mont.
Wirth
Wolpe
Wright
Yates
Zablocki

NOT VOTING—64

Addabbo
Alexander
Anderson, Ill.
Annunzio
Anthony
Ashley
Blanchard
Brademas
Brooks
Burgener
Burton, Phillip
Chisholm
Coelho
Cotter
Davis, S.C.
Dickinson
Edgar
Fary
Fazio
Ford, Tenn.
Fowler
Giaimo
Grassley
Guarini
Hansen
Jenrette
Kogovsek
Lederer
Luken
McKinney
Madigan
Mathis
Matsui
Michel
Moakley
Mollohan
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Nedzi
Pepper
Peyser
Price
Rahall
Reuss
Roberts
Rose
Rostenkowski
Runnels
Satterfield
Shelby
Shuster
Staggers
Stewart
Tauzin
Thompson
Trible
Ullman
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Young, Alaska
Zeferetti

The Clerk announced the following pairs:

Mr. Runnels for, with Mr. Fazio against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise not to offer an amendment but to initiate a dialog which may or may not result in an amendment being offered.

I have placed in the RECORD, and I believe the committee is well aware of them, three possible amendments to the aid bill relating to Israel. One would cut off $150 million in aid assistance to Israel if Israel continues to expand its West Bank settlements. The second would require a certificate by the President of the United States that this aid money, over $800 million, is not being used for settlement purposes in the same way that on page 20 of the bill we require as a condition of our aid to Syria, an adjoining country, that the President certify to the Congress that Syria is acting in good faith to achieve further progress toward a comprehensive peace settlement.

□ 1250

The third amendment confirms that it is the sense of Congress that none of the funds appropriated under this bill be used for the construction of new settlements or the construction of additional facilities on the West Bank. The problem with an amendment of this kind, as has been pointed out, is that if the amendment carries, it may stiffen the determination of the Israel government to resist outside pressures and cause them to push through a policy of increasing settlements, which apparently no one in the United States supports and only a minority of the Israeli people support. On the other hand, if the amendment loses, it is a signal that the Congress does not care whether or not the settlement policy goes forward.

Mr. Chairman, it seems to me that there comes a time when the United States must draw the line even with its closest friends and allies, when one of those friends or allies proceeds with a policy which is clearly inimical to the attaining of peace. We did this with France and England when they invaded the Suez in October 1956. They were our NATO allies. We did so with Turkey when U.S. weapons were used for the invasion of Cyprus in July of 1974. Turkey was a NATO ally. Despite our very real needs for security bases in the Azores, we drew the line with Portugal and its brutal repression in its African colonies in 1961. Despite our security needs for the Subic Bay Naval Base and Clark Air Force Base, we are deeply troubled by the deterioration of constitutional government and the rights of human beings in the Philippines.

We have found that we ourselves, as a nation and as a people, are capable of transforming good intentions and anti-Communist determination into actions which the rest of the world perceives as brutal aggression and cruel imperialism. The deaths and devastation caused by American firepower in Vietnam, Laos and Cambodia, the practicing of the hot pursuit concept that was discussed a few minutes ago with respect to Cambodia, and that led to the terrible tragedy which has befallen Cambodia, those were American policies and they will be remembered for a long time by developing nations who are faced with choices between the Soviet bloc and the free world.

In the bill before us we are making our greatest single contribution in AID funds, nearly $1 billion out of the $2 billion, to a small country which continues to expand settlements on the West Bank of the Jordan River Valley in a way which, if not illegal, runs counter to principles of fairness recognized throughout the free world, and which is brutal in its impact on the Palestinians who reside there. The current Israeli settlements policy is disapproved by nearly all the democratic and free peoples of the world, by a majority of the Israeli people themselves, and by an overwhelming majority of the American people.

In a recent poll of my own constituents in northern California, I asked this question: "If Israel refuses to abandon its policy of expanding its West Bank settlements, should the United States cut one-half billion dollars from next year's aid to Israel?"

The response was 83.5 percent in favor of cutting off aid. Only 16.5 percent were willing for us to give aid money to Israel if they continued this settlements expansion policy.

Before deciding which of the three amendments, if any, should be offered, I would like to ask the chairman of the committee whether any of these three amendments, in the chairman's judgment, would be helpful to peace in the Mideast at the present time.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I would be glad to yield to the gentleman from Indiana for this purpose.

Mr. HAMILTON. I thank the gentleman for yielding. Although he mentioned the chairman of the committee, I will respond on behalf of the committee.

First of all, let me say that I appreciate the purpose of the gentleman's several proposals, and I agree with those purposes. I think it is not in the interest of the United States that funds be used for the construction of new settlements on the West Bank. I want to point out to the gentleman and to the committee, however, that the United States today has an agreement with Israel which provides that any assistance by the United States to Israel be used in the geographical areas which were subject to the Government of Israel's administration prior to June 5, 1967.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Kemp, and by unanimous consent, Mr. McCloskey was allowed to proceed for 5 additional minutes.)

Mr. McCLOSKEY. I continue to yield to the gentleman from Indiana.

Mr. HAMILTON. That is to say, none of the funds can be used in the West Bank area. That agreement has been carried out by Israel, so I think these proposals really are not necessary.

I want to add one other comment. It seems to me that these proposals really present us with a no-win situation. If they are adopted and we say that the funds will not be used for construction of new settlements, then I think that is a gratuitous slap at Israel because we already have an agreement, which I have previously described with Israel, that is being carried out. On the other hand, if these proposals were offered and then defeated, then I think it registers an approval of the settlements policy which we do not want to do. I think the gentleman is wise, indeed, in bringing this to the floor for discussion. I also think he is wise in not presenting us with a vote on this question, because I think a vote, no matter how it goes, would not be in the interests of the United States.

Israel needs American assistance. We dislike Israel's settlements policy. But these facts, it seems to me, do not call for a direct linkage. Finally, all of us know that negotiations are at a very critical point now, as they have been in recent weeks, and these proposals, if acted upon, would be quite disruptive of the peace process.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I will be glad to yield to any of my colleagues on this subject, because what I want to establish in this dialog is that it is, indeed, the sense of Congress that U.S. aid funds not be used for settlements purposes. If anyone wants to speak to the contrary, I will recognize him, too.

I yield to the gentleman from New York.

Mr. KEMP. I appreciate the gentleman's yielding. I agree with the gentleman from Indiana (Mr. Hamilton) that the amendments would be injurious to the process toward peace started at Camp David. It seems to me that these amendments would be trespassing on the Camp David accords and for the Congress to interject itself unilaterally at this point in the peace process by putting limitations on the disposition of economic support funds, so I oppose the amendments and urge the gentleman not to offer them. Such an encumbrance would imply a determination that all of the West Bank settlements are illegal. No such determination has been made, and it would be prejudicial to the negotiations for the Congress to imply that this was the case.

Mr. McCLOSKEY. If the gentleman will allow me to reclaim my time, I want to respond to the point the gentleman just made. Camp David was a great experiment by President Carter that had initial success and is now teetering on the brink. Whether that success will continue in the West Bank autonomy negotiations, which were to be concluded on May 26, the administration's policy on the West Bank settlements is quite clear. President Carter has stated on a number of occasions that the West Bank settlements policy of the Israelis is illegal.

Mr. KEMP. If the gentleman will yield further, that was my next question. Is that the gentleman's premise? Is that the predicate on which his amendment is based, that all of the West Bank settlements are somehow illegal? There is a great deal of dispute on the issue.

In testimony before the Subcommittees on the Middle East and International Organizations of the House Committee on International Relations on September 21 of last year, Rita E. Hauser presented a tightly reasoned study of the legal aspects of the West Bank settlements. Rita Hauser was formerly a U.S. Representative to the U.N. Human Rights Commission, and is a distinguished lawyer and legal scholar. Her testimony carefully reviewed the character of Israel's settlements on the West Bank. Her testimony stated, "I would therefore conclude that, to date, the three types of settlements in the occupied territories on the whole do not violate Article 49 of the Fourth Geneva Convention." Thus, the legal case against the West Bank settlements is questionable at best. The Congress should not go on record taking a position on the settlements question with so doubtful a legal foundation.

Mr. McCLOSKEY. No; I quote the President only. I have looked at the legal arguments on both sides. Frankly, I am not persuaded that the settlements are legal or illegal. Others may differ; the World Court may differ on that question. My argument against the settlements is not based on the claim that they are illegal.

Mr. KEMP. If the gentleman will yield, I think the gentleman should have time, because this is an extremely important subject. It seems to me that the gentleman is suggesting somehow that it is illegal for the settlements to exist on the West Bank. There are a minority of Arabs living in Haifa and other parts of Israel. Is it the gentleman's contention that somehow Jews are not Palestinians, and they should not be living on the West Bank of Jordan?

In an article published in the May 14 issue of the Wall Street Journal, Theodore R. Mann, "Israeli Settlements Aren't Obstacle to Mideast Peace," pointed to the fundamental problem in the search for peace. He said:

> It is Arab refusal to accept Israel as a permanent part of the Middle East—not the settlements—that is and always has been the only obstacle to peace.

This is the real issue and the settlements controversy should not obscure it. The Camp David accords have provided the basis for a settlement of the settlements controversy through negotiated autonomy for the West Bank. The Congress should not further complicate these most difficult negotiations by intervention on the content of the settlements question that is best left to be resolved by the parties involved.

Mr. McCLOSKEY. The contention I make is this, that at a time when we have so much at stake in the continuation of Camp David, at a time when the rest of the Arab world has bitterly condemned Sadat and is threatening, literally, to assassinate Sadat because he is perceived in the Arab world as having sold out the Palestinian cause in the Camp David agreements, we have a tremendous stake in the continuation and the ultimate success of both the West Bank autonomy negotiations and the process that Camp David only commenced.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Kemp, and by unanimous consent, Mr. McCloskey was allowed to proceed for 5 additional minutes.)

Mr. McCLOSKEY. It is not my position, and I do not want to argue and get lost in the maze of whether it is legal or illegal. Clearly these settlements are detrimental to reaching peace in the Middle East, and they are detrimental to reaching accords on autonomy, because they inflame, and understandably inflame, the Palestinians who live there.

Mr. KEMP. If the gentleman will yield, Israeli settlements are not blocking the peace process, they were not a detriment to solving the problems of the Sinai. When President Sadat came to Jerusalem, was it the settlements in the Sinai that were the detriment to peace, or was it the willingness of Sadat finally to get together with Israel and work out an agreement over the Sinai? Who has really stood in the way of peace? Is it Israel and the settlements, or is it, indeed, the intransigence of some of the immoderate, rejectionist Arab States?

Mr. McCLOSKEY. I think the difference between the West Bank today, Samaria and Judea and the Sinai is paramount.

□ 1300

There is no similarity between placing Israeli settlements in the wastes of the Sinai and placing settlements on the West Bank in Judea and Samaria where they must inevitably compete for land and water with Arabs already living there.

The settlements on the West Bank clearly are a deterrent to peace.

A case might have been made in 1967, in fact until recently, and may be made today, that the bands of those original settlements which serve a security purpose may have had a security benefit. Clearly also, however, if those settlements are expanded and broadened they no longer help security; they hurt security because the Israeli Army is severely taxed to be able to defend a group of isolated settlements. There are other parallels to the Sinai, however. When Egypt and the Israelis reached agreement at Camp David it was partly because we in America agreed to bear the cost of dismantling the bases which had been created. If the autonomy negotiations should lead to an agreement that there be a boundary adjustment, for example, to give Israel more than the 9 miles that they presently have on the coastline, if there is an agreement that Israeli settlements be dismantled, you can expect that U.S. money will pay for the dismantlement of any new Israeli settlements that are created. I think it is imperative in this dialog, if not by amendment, that we establish the clear knowledge of the Israel Government that we are not about to fund new settlements, particularly settlements like those two boarding homes for rabbinical students in the center of Hebron. No case can be made that those settlements in Hebron help Israel security.

Mr. SYMMS. Mr. Chairman, I wish to thank the gentleman from California (Mr. McCLOSKEY) for deciding not to offer his amendment which would require the President to certify that none of the economic support funds for Israel be used to support settlement of the West Bank. I do not feel any purpose would be served by brow-beating Israel on this issue. I believe that Israel has legitimate reasons for its defensive settlements on the West Bank, and I think it is wrong to try and restrict this aid. I think that instead of brow-beating Israel, we should be trying to encourage further cooperation between Israel and Jordan to solve some of these problems with respect to the West Bank settlements. This would insure a more lasting resolution to the settlements question. I think the gentleman from California has made a wise decision to withdraw his amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to say I hope the gentleman does not offer his amendment. I think the gentleman's analysis of the situation—as I understand it, the gentleman has not offered an amendment and I hope he will not offer an amendment. I think the gentleman's analysis of the situation is accurate. Though I do not necessarily agree with the reasoning on why the gentleman wanted to offer the amendment in the first place, I think either way a vote on that amendment could do damage to the cause of peace in which we are all interested. It would seem to me that indeed the Israeli Government would feel compelled to resist and would resist, and I think the last thing we need in that area is a government or a people absolutely refusing to have anything to do with the voices of moderation that do exist in the area. I think we can hopefully accomplish the same thing through friendly persuasion.

Mr. Chairman, I think one thing people frequently lose sight of as how far the Begin government has really gone in accommodating to the real situation. They have pulled out of the Sinai, they have given up their oil and so on.

Mr. Chairman, I commend the gentleman for what I think he is going to do; namely, not offer the amendment.

Mr. Chairman, I also want to make it very clear that I strongly support the Government of Israel.

Mr. McCLOSKEY. Flattery will get the gentleman anywhere. Thus far I am persuaded that the reasoning of the gentleman from California and the gentleman from Indiana, the chairman of the subcommittee, is correct but I want to make sure I hear from everyone who wants to speak on this subject.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding. I certainly urge the gentleman not to offer an amendment at this time. I think the distinguished chairman of the Subcommittee on the Middle East has responded to the gentleman's query with regard to funds. I do not think the gentleman objects to settlements for defensive purposes on the West Bank and I think the gentleman agrees the most important aspect of the peace negotiation would be Arab participation, a moderate Arab voice.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GILMAN and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 5 additional minutes.)

Mr. GILMAN. Will the gentleman continue to yield?

Mr. McCLOSKEY. I yield further to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I think the gentleman will agree that the most important missing ingredient in the peace talks growing out of the Camp David negotiations, is the presence of a moderate Arab voice sitting at the negotiating table. With the exception of Egypt that voice has not been present. I know that all of us in this Chamber decry the terrorism on both sides of the fence. The recent terrorism that resulted in the unfortunate violence that occurred to the officials in Hebron, the violence that occurred to the students in Hebron is abhorrent. We all know that violence breeds further violence.

Mr. Chairman, in the light of the very high level of tension in the Middle East at the moment, it is important for responsible leaders of all nations and factions to denounce terrorism, whether it is the responsibility of their opponents or the responsibility of those whose views on substantive issues they agree with.

I am glad that in the aftermath of the bomb maimings of the West Bank Mayors this week, the Jewish councils of the West Bank and Gaza have joined in the universal condemnation of those acts of terrorism. The Jews of the West Bank, who have themselves personally suffered from the effects of Arab terrorism have condemned what many believe to be extremist Jewish violence against Arab leaders. They have been provoked—six religious students were murdered very recently on the West Bank, and there have been countless other acts of terror—but in general they have withheld from acts of retribution. I hope that the bombings of the mayors' cars does not signal the start of a trend of counterterror. I appeal to the Jews living on the West Bank to leave their security in the very competent hands of the Israeli authorities, and not to try to take justice into their own hands.

I very much regret, Mr. Chairman, that the Palestinian side has not yet renounced the use of bombs directed at children nor abandoned the aiming of bullets at students. Only this morning I met with two Palestinian leaders who explicitly defended the use of "all means," including terrorism, to gain their political objectives.

It is only when both sides give up the weapons of terrorism and armed force that any factions in disagreement can hope to achieve lasting peace.

What is needed here is responsible, moderate Arab participation at the negotiating table. We have heard time and time again from Israel officials regarding the settlement issue. Many of the members of our committee have visited Israel and sat with Mr. Begin. They heard him say directly to us that even the settlement issue is negotiable. The distinguished Member from New York (Mr. KEMP) stated that the peace settlement with Egypt is indicative that the issue of settlements in any part of the occupied territories can be quickly set aside once there is a reasonable effort undertaken and willingness by all parties to sit down and resolve this issue. The settlement issue is not the obstacle here. The obstacle here is the unwillingness of a responsible Arab voice to sit down at the negotiating table. I think a measure of this nature could be harmful at this very tenuous time in the negotiating process.

Mr. McCLOSKEY. May I respond to the gentleman.

One of the reasons I bring this subject to the floor today is that two of the moderate Arab voices who might have participated in the negotiation with the Israelis have just been deported by the Israelis from the West Bank. These were moderate voices. These were not Palestinain Liberation Organization advocates of violence. These were two mayors, admittedly moderate in their views.

Mr. GILMAN. Will the gentleman yield again?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. GILMAN. We talked with the mayors this morning in a meeting with members of the Committee on Foreign Affairs. We asked them about their views and whether there was any truth to the charge that they had incited some of the incidents. Their response was, "Well, we did not feel we incited, but we said there would be no socialization, no dealing with any of the people coming in and that we would not sell to them." We would not do this, we would not do that, these are all acts that unfortunately would tend to lead toward a very difficult situation. The fact is, as I stated before, that these individuals would justify the use of violent means to expel the Israelis from the West Bank.

Mr. McCLOSKEY. It seems to me what the gentleman is saying confirms the fact that the settlements are not helpful to rational negotiation between the parties but indeed exacerbate the hostility between the moderate Arab leaders and the Israeli leaders. What we are seeking to achieve, and what we have a desperate stake in achieving, is that very dialog that the gentleman wants. If the United States, in seeking to push dialog, is also perceived to be financing the very settlements which inhibit the dialog, then I think we make a serious mistake.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Chairman, I think some of the statements, however, that the gentleman has set forth are not consistent with the facts.

Mr. Chairman, according to the Camp David accords there was a transitional period of 5 years during which time the Israelis were to be able to bring into certain selected areas their forces to insure security. These are security settlements.

Mr. McCLOSKEY. We have no problem with the forces—let me just point to the gentleman's point here, when he says I am wrong in any of the facts:

It is not the law of the United States, today, that this aid money not be used for military purposes or paramilitary purposes?

Mr. WOLFF. I am referring to the points the gentleman has made with regard to the legality of these settlements and their existence. I think if the gentleman will look at the Camp David accords he will find settlements are authorized under security arrangements.

Mr. Chairman, let us get to other points. The gentleman talks about security.

I should like to refer the gentleman to the question of the lack of security afforded to Israel, which is under artillery range if the areas of Judea and Samaria are forced to be ceded back in their entirety. They are under the range of ground-to-air missiles in the event these areas are ceded back. U.N. Resolution No. 242 guarantees secure borders and in no way demands that all territories be returned and does not refer to whom even those territories are to be returned. Therefore the question of the entire West Bank still remains for a final resolution of a peace agreement. I shall when I get my own time fully explain the legality of the entire situation.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WOLFF and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 3 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, if the gentleman does not want me to offer these amendments, I am not quite sure I understand the gentleman's arguments. I do not question the Israeli's right to security and I do not question the ultimate right of both sides to negotiate the terms of autonomy on the West Bank. I do not question the fact that we still abide by Resolution 242 and that all of us support the security of Israel. However, 242 refers to this area as occupied lands and the sole point I address today is not the validity of existing settlements, whether they are not illegal or legal, but the question of whether or not any of our $875 million in AID funds can be used in any way to expand those settlements.

Mr. Chairman, I understand from the gentleman from Indiana that not only can the money not be used to expand those settlements but that we have an agreement with Israel that they will not use the money for such settlements.

□ 1310

If that is the case, I am not inclined to offer this amendment. But go ahead, if the gentleman has a point to make, perhaps the amendment should be offered.

Mr. WOLFF. There is great confusion about the whole question of the West Bank and the legality of Israel's position. I think that the gentleman has misstated some of the facts involved. I am sure that the gentleman does not agree to the idea of territory being acquired by military occupation. Am I correct on that?

Mr. McCLOSKEY. Yes. That is our position under Resolution 242; that governs our whole policy.

Mr. WOLFF. Does the gentleman know that the territory of the West Bank was secured through military action by Jordanian military forces moving into these territories at the time of the partition?

Mr. McCLOSKEY. I appreciate that, but I felt that Resolution 242 went forward from 1967, and we were not going back into the historic evolution of prior actions by the parties.

Mr. WOLFF. I am referring to the fact that the West Bank was acquired by Jordan through military action.

Mr. KEMP. Does the gentleman have some knowledge that funds are now going from the United States to fund the settlements?

Mr. McCLOSKEY. No, that is the purpose of the dialog, to make sure that they are not.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding. I think that the contentious character of the debate which has been taking place within the last half hour is perhaps the best argument as to why it would be inadvisable to offer this amendment today. We are at a very delicate moment in the peace process. The autonomy negotiations which had been moving forward, albeit at a pace which is slower than many of us would have liked, have been temporarily suspended. At this very moment, Ambassador Linowitz is trying to fashion a formula which will make it possible to bring Egypt and Israel back to the negotiating table, hopefully with the participation of the indigenous representatives of the Palestinians, who obviously should be consulted in this process. Our country has an enormous stake in the success of the Camp David agreements.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(At the request of Mr. COURTER and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 3 additional minutes.)

Mr. McCLOSKEY. I will be glad to continue to yield to the gentleman from New York, then the gentleman from Illinois, then the gentlewoman from New Jersey.

Mr. SOLARZ. The first and most important test of whether the Camp David agreement was a separate peace between Egypt and Israel, or part of a larger process designed to eventually achieve a resolution of all the issues that divide Israel from the Arabs, will be the autonomy negotiations. We all know that the Government of Israel is in the midst of a political crisis. The Minister of Defense has just resigned. Elements of the governing coalition were unhappy with Prime Minister Begin's proposed nominations to succeed the Minister of Defense and to move someone else into the Ministry of Foreign Affairs.

I think it would truly be unfortunate, at this very delicate moment, to introduce a divisive element in our relationship with Israel. I understand that Ambassador Linowitz, who has been doing an absolutely marvelous job in trying to bring the parties together, has indicated that he felt the adoption of such an amendment at this particular time would be counterproductive in terms of our larger interests in the Middle East.

So I think the gentleman really has achieved his purpose. There has been a debate on the subject. The distinguished chairman of the Subcommittee on the Middle East has made it clear that existing agreements between Israel and the United States prohibit in any case the use of these funds for the purpose of settlements in the West Bank and Gaza. I hope that we could now move on to other matters related to this bill.

I want to say to the gentleman that I am personally pleased that he has been willing to pursue the route of debate on the subject rather than forcing the proposal to the test of a vote, which really could be counterproductive. I think we ought to move forward with the autonomy negotiations and get this question of the position we take on the settlements behind us, because our interest is in getting agreement on the autonomy, not making counterproductive pronunciamientos on the settlements.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding and I urge the gentleman not to bring his proposed amendment to the floor.

It is, I believe, extremely important to preserve our special relationship with the State of Israel and I believe your proposed amendment would be injurious to that relationship.

In addition, it is imperative that we not give inconsistent signals to the rest of the world with regard to our close relationship to Israel and I believe what you are suggesting would be construed as a shift in our policy, thus weakening our leadership position in that part of the world.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to my colleague from California.

Mr. MILLER of California. Mr. Chairman, I would just like to say to the gentleman I wish to compliment him for raising this issue at this point in the debate. I would hope that his amendment would not be offered. I think, for the first time, it raises this debate. We have heard people stand up here talking about our special relationship should not become a blind relationship. I think in the efforts for peace, this kind of dialogue is very important to move parties closer together. But, the most important part of that relationship is the quest for peace. I think all parties have got to be subject to the kind of scrutiny that we desire in going forward with that peace.

I really want to thank the gentleman for raising the issue before this Committee.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, as the gentleman knows, I introduced an amendment a number of years ago on this floor to accomplish somewhat the same purpose as the contemplated amendment by the gentleman from California. I want to congratulate him, because I do think that he has found a more constructive way to deal with this troublesome settlements issue than I did at that time.

I think that given all the tensions involved in the Middle East at the moment, to actually offer the amendment would not be a constructive step in resolving those very serious tensions, but I do congratulate the gentleman for raising the issue because it is a serious one which threatens the welfare of Israel as well as other parties in the area.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I appreciate the gentleman's decision not to offer an amendment on this subject, because I agree with the comments that have been made earlier that his amendment could seriously interfere with the peace process. I do think it is important, however, to put the settlements issue in some perspective. The fact of the matter is that although Jews lived on the West Bank from time immemorial, they were not permitted to live there when Jordan controlled it. I do not think any of us want to endorse the notion that the Nazis developed, that an area should be Juden nein or has a right to exclude all Jews.

Mr. McCLOSKEY. If I may respond to that, I am sympathetic to the argument the Israeli Government advances, that Jews should be able to live in any country in the world, Arab or otherwise. My objection to the expansion of the settlements now is not because I do not hope that in 5 or 10 or 30 years Jews can live in Arab territory in peace and Arabs can live in Israeli territory in peace, but the expansion of the settlements now has a detrimental effect. It inspires people to acts of terrorism. It drives people away from rational debate. That is why I would not want the Congress to be on record in any way in supporting expansion of settlements at this time.

□ 1320

This is not to derogate the right, which I think is a proper right, claimed by the Israelis, that the Jews should hopefully some day be able to live in peace throughout the Middle East.

Ms. HOLTZMAN. Mr. Chairman, I certainly share the gentleman's hope for peace and for the ability of both Arabs and Jews to live together in peace, but I would state that even when there were no settlements or Jews living in the West Bank, when Jordan controlled it, there was still no desire on the part of the Arab countries to make peace with Israel. The Arab countries, with the exception of Egypt, simply are not prepared to make peace and never have been—settlement or no settlement. At the same time I would urge the Congress continue to recognize—as it has in the past—that Israel has made enormous concessions in the quest for peace with Egypt on the issue of Sinai and in giving up the oil fields. It has been reported that Israel is prepared to make serious concessions for peace, and so I think it would be wrong to interfere with that process and impose a settlement cn our own.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

Just a preliminary remark, I would like to pursue the matter of "hot pursuit" as one of international law and not an American practice only. It is sanctioned by international law. If you harbor terrorists, you would have to expect that they will be followed by those they have attacked.

Mr. McCLOSKEY. Mr. Chairman, if I may respond to that for a moment, I remember once when we went into Cambodia on that basis and laid the groundwork for the devastation and the continuing devastation in that country which I am not at all sure we want to sustain. We have now, by that action, created a justification for the Soviets to go into Pakistan in pursuit of Afghanistan rebels.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield further, long before Cambodia and long before Afghanistan this right was established in international law. I uphold that right, whether or not we worked it wisely. In international law it is recognized to be legal.

But I would like to say something else. I think the chairman of our subcommittee has well expressed the views of many of us. We must somehow reduce the level of violence, and we must find those on both sides who will condemn violence with equal fervor. I was disturbed this morning, in talking with the mayors who were with us, to find that they would not condemn violence. Unfortunately, this climate of terrorism seems to be catching. It moves from one area to another .

I do commend the gentleman for a responsible act, and I am glad that this is not introduced as an amendment. I think that the relationships we have with Israel and the state of negotiations demand prudence and a sense of responsibility rather than rash acts.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(On request of Mr. NOLAN, and by unanimous consent, Mr. McCLOSKEY was allowed to proceed for 5 additional minutes.)

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Minnesota.

Mr. NOLAN. Mr. Chairman, I just want to take a minute to commend the gentleman from California (Mr. McCLOSKEY) for raising the dialog in the debate here. I want to compliment the gentleman for the way that he has brought about the discussion and the debate of the settlements issue here.

The whole question of legality or illegality is subject to many wide and varied interpretations, and I gather it is the gentleman's desire not to get involved in that. But I think the gentleman's point that the settlements, regardless of how we interpret the legality or illegality, is an obstacle to peace and an obstacle to a continuation of the Camp David process is a point that has to be very well taken. I think that any fairminded or objective individual who would examine the settlement process, how it evolves, and how it takes place, would have to conclude that it is an unfair process by any standard or objective evaluation of justice.

So I think it is most important that the Members of the Congress express their sentiment and hear at this time on this matter clearly the views of the people of the United States and, quite frankly, the people of Israel and, quite frankly, many of the ranking officials within the Israeli Government itself, who view the settlements as a very, very serious impediment and obstacle to peace in the Camp David process.

That situation as it now exists is so highly volatile and so explosive that it would be tragic if the Israeli Government as it now exists would continue its settlement process to the point where the peace process falls apart and that part of the world would come again into violent conflict, because clearly it would be at a level of violence far greater than anything that has occurred there in the past.

The gentleman deserves to be complimented, and I hope that the proper people pay heed to the warnings that are given here, because I feel confident in speaking for the Members here that what everyone is interested in is finding a peaceful solution to this conflict and finding a solution that preserves the security and the continuing existence of the State of Israel, but in a way that gives due recognition to the rights and aspirations of the Palestinians living in the occupied territory.

Mr. Chairman, I thank the gentleman for yielding.

Mr. McCLOSKEY. Mr. Chairman, I thank the gentleman from Minnesota (Mr. Nolan).

Mr. Chairman, I might add that not only is our interest in preserving the peace and security of Israel but we have a far greater interest now in the Middle East and the Persian Gulf area. I am convinced that the one thing that keeps the Islamic world and the Arab nations from uniting in the face of threatened opposition first to Afghanistan and then to the Persian Gulf countries—Pakistan, Iran, and, ultimately, the oil-producing countries, Saudi Arabia, Kuwait, and the Emirates—is our perceived position of unfairly supporting the Israeli West Bank settlement policy. I believe that it is greater barrier to Soviet expansion into the gulf to have Muslim and Arab solidarity on the side of the United States in opposing that military intrusion than any military force that the United States has the capability to bring to bear in that area of the world in the next decade.

For that reason it would be a shame if the energies and the passions of the Arab world continue to oppose the United States because in their judgment they perceive the United States to back the one occupation of Arab land that they see in their part of the world—the West Bank. Unfortunately, until that West Bank settlement issue is resolved, I am afraid we have no hope of obtaining the unanimous support of the Arab world against Soviet intrusion. That threat of Soviet intrusion, after all, is the concern which led the President of the United States to commit American military forces to a potential war in the Middle East.

Mr. Chairman, I would just point out that the solidarity of Muslim opposition to the Soviets may be more valuable to us in these days than the military force we would have to bring to bear as a substitute therefor.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would just like to point out that the argument being given or the rationale being given, if the gentleman should not offer his amendment, is that it would confuse the people themselves in essence if it would really take effect, if we passed this kind of amendment.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCloskey) has again expired.

(On request of Mr. Johnson of Colorado, and by unanimous consent, Mr. McCloskey was allowed to proceed for 3 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, let me respond to the gentleman from Colorado (Mr. Johnson).

I do not think that that is the argument, as I understand it. As I understand the argument of those who agree with me that the settlements should not go forward, it is that if we vote that the settlements should not go forward, it would be viewed by the Israeli people as a reason to band together behind the Begin policy of settlement expansion, because they would be facing a threat from the United States.

We know how we respond when some other country tells us how we should behave. We do not wish to have other countries tell us that our policy is wrong. We do not want others to tell us to stop that policy, and we resent their intrusion. That is the argument, as I understand it, and I am thus far persuaded by it.

Mr. JOHNSON of Colorado. Mr. Chairman, if the gentleman will yield further, that is the argument as I understand it also, but I am not persuaded by it. I am not persuaded by the conclusion that if we do not pass it, they will continue on with the policy that they are engaged in and which most of us seem to disagree with.

I would just like to point out that the real reason that this Congress will not deal with the gentleman's amendment is because the Congress cannot deal with this kind of problem when it concerns the nation of Israel. We are incapable as a Congress to put aside any military conduct that they engage in.

Mr. McCLOSKEY. Mr. Chairman, may I respond on that point? I will then give the gentleman more time to continue.

Mr. Chairman, I think this has been true in the past. I think there have been occasions when the United States was incapable of doing what was right because a relatively small number of our people felt deeply on the issue and Congress responded to that minority view. I have in mind the Cyprus question, when for years Congress continued to cut off aid to Turkey because few of us had Turkish constituents yet all of us had a few Greek restaurant owners. We continued to vote in a way which in my judgment was wrong. But I think we have passed that time, and I think we passed that time when, over the opposition of the American Jewish community, we voted sophisticated war planes to Saudi Arabia some years ago.

I think we are now prepared to do the right thing. I think this dialog has brought out that Congress is prepared to do the right thing, and the reasons not to offer the amendment are essentially three in number: First, I think we have reached the point the Congress will do what is right; second, we have been assured that this money cannot be used for the purpose of expanding the settlements. That is the salient point. The third, that to me is persuasive, is that we in the Congress are not geared to conduct day-to-day foreign policy.

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By nature of our Government, we must assign those negotiations to the executive branch. Ambassador Linowitz is attempting to carry out those negotiations, and if the Ambassador says that in his judgment it would not be productive to bring this issue to a vote today, I think the Congress should defer to the ongoing negotiations, to the executive branch's judgment as to how these negotiations are best conducted.

Those are the three reasons why, in essence, I am persuaded thus far in the dialog that none of the amendments should be offered.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCloskey) has again expired.

(On request of Mr. Broomfield and by unanimous consent, Mr. McCloskey was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I am happy that the gentleman from California has decided not to offer his amendment related to Israeli settlements in the West Bank.

Such an amendment would jeopardize the Middle East process. Much of the progress toward peace which has occurred to date—and that progress, I would stress, has been monumental—is the result of the strong ties and trust between the United States and Israel. American support and backing for Israel has enhanced its ability to make far-reaching concessions in the Sinai and elsewhere.

Now, if we in Congress contemplate amendments which have the effect of embarrassing and publicly criticizing Israel, we will begin to undermine the trust and closeness in our bilateral relations. And the consequence of this deterioration will inevitably be the breakdown of the peace process.

Israel, I would add, is particularly sensitive to congressional criticism because this body is the traditional steadfast supporter of Israel. This, of course, is in sharp contrast to the approach of the Carter administration and the confused and pro-Arab tilt of its Middle East policy. The March 1, 1980 U.S. vote in the United Nations in favor of a resolution condemning Israel and its policies in the West Bank is only one recent example among many of the Carter administration's disregard for Israel's concerns and Israeli confidence in this country.

This is no time to interfere in the

peace process, to prejudice or dictate its outcome and decisions, or to abandon hope that it will succeed. And it is no time to single out Israel for criticism—a friend that has already made many sacrifices for peace this past year.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Ohio.

Mr. PEASE. I thank the gentleman for yielding.

Mr. Chairman, like so many of my colleagues, I, too, would like to compliment our colleague in the well for a very constructive initiative today, including bringing the matter up for discussion and not for actual vote. The gentleman has been very productive in months and years past, and this is another example of his value to this body.

The fact that we are having this discussion indicates, I think, the very, very strong feelings on the part of many Members of this body about the settlements policy of the present Israeli Government and the fact that the policy is a detriment to the peace process.

I personally am filled with foreboding about recent events on the West Bank and the kind of violence that could well escalate to a very, very serious level. In the past, the policy on the settlements, I have felt, has been an impediment at the negotiating table to the peace process. Now it appears to be moving to be not only an impediment there but also a direct threat to peace.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCloskey) has again expired.

(On request of Mr. Pease and by unanimous consent, Mr. McCloskey was allowed to proceed for 4 additional minutes.)

Mr. PEASE. Mr. Chairman, this threat of violence, which could well escalate into great violence and war, is a relatively new factor, one that concerns me a great deal. We met this morning, some of us on the Foreign Affairs Committee, with two mayors from the West Bank who were recently deported. They were asked whether they thought they had incited their residents. They said they did not feel that they had, that they were expressing the opinions of their constituents who were very much upset about the possibility of new settlements in Hebron. If they urged their constituents not to have any social intercourse or economic relations with the new settlers, I cannot say that I would have blamed them.

Now, that settlement in Hebron did lead to violence on the part of Palestinian terrorists, and that in turn led to violence on the part of Israeli terrorists, and we all know how that is likely to escalate into more and more violence. The fact remains, I think, that the initial act of terrorism probably would not have occurred had the settlements not been announced for Hebron. That is an illustration that that new settlements policy is a very serious threat to peace on the West Bank.

I agree that this is not the time to take a vote in this Chamber on the matter, but I hope that those people in Israel who are in control of the government will mark well this debate and will begin to understand the depth of feeling within this Chamber, as within the executive branch and the population of the United States, against this policy of extending settlements into the West Bank.

Again I would like to commend the gentleman for raising the question today.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I, too, appreciate that the gentleman has decided not to seek a vote on this. I have visited the West Bank area five times, only once as a Congressman, and, although there are difficult problems to face in settling Arab representation on the West Bank and in the Gaza Strip, it has to be said over and over again that, although the maiming and murdering of human beings by terrorists of any sort is heinous, there is an extra dimension of horror involved with the PLO that is to use an Irish expression "beyond the pale." It is the deliberate execution, the calculated murdering of children, innocent women, and the elderly.

All other terrorist groups such as the IRA are appalled at the very thought of maiming women and children. This official slaughter of innocents began on May 15, 1974 at Maālot, although many children had died before this date. That the PLO is still being crammed down the throats of the Israelis by the U.N. is what is really worsening this situation and preventing a resolution in the foreseeable future.

I would also ask the gentleman to please understand that there were more than Greek restaurant owners pleading with some of us to vote against military aid to Turkey. I personally saw on a TV news report an airplane that I flew, physically flew, in the Air Force, the exact tail number of my old F-100 rolling in and strafing hotels along the Gold Coast of Cyprus close to Nicosia. Plus remember that the first holocaust, a ghastly nightmare even by Third Reichian or Cambodian standards, was the slaughter of a million and a half Armenians, including women and children, by the Turks in that Armenian holocaust of 65 years ago. Turkey has never apologized for or even deigned to discuss the destruction of an entire nation. Armenia alone is enough to have made that Turkish aid vote an honorable choice with or without Greek-American sensitivities being respected.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield back, I hate to go back to 1915 to determine our foreign policy against a given country today.

Mr. DORNAN. Well, there is no Armenian country in existence today and that will be a disgrace for thousands of years unless justice is done. Plus, I wish the gentleman would tell us what "hot pursuit" into Afghanistan by the Soviets exactly is? Any terrorist, anywhere, should be pursued and punished for murdering children, but just what in blazes was your comparison? I do not know what the Russians were pursuing into Afghanistan and I doubt that the gentleman does either.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCloskey) has again expired.

(On request of Mr. Weiss and by unanimous consent, Mr. McCloskey was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. WEISS. I very much appreciate the gentleman's yielding to me, and I, too, want to commend the gentleman for the approach he has taken in fostering a debate but not offering the amendments.

I had not intended to speak, I am doing so only because of the comment that the gentleman made that it is his conviction that the greatest barrier to Soviet expansionism in the Middle East would be a unity of the Arab and Muslim people. I think the implication of that, and I am not sure the gentleman intended it or not, but I wanted the record to be clear——

Mr. McCLOSKEY. To qualify that, I say that because I do not think any military force that the United States can apply in the Mideast short of nuclear can in any way match the capability of the Soviet Union in the Persian Gulf.

Mr. WEISS. I want to comment on it because the gentleman went on to suggest that the barrier to that unity is tied in only to the West Bank and Israel's occupation of it.

Mr. McCLOSKEY. Not only, but substantially. Every Arab country I visited, every Arab diplomat I have ever spoken with, raises the point that until the Palestinian aspirations are resolved in some reasonable way, there can be no identity between the Muslim world and U.S. foreign policy.

Mr. WEISS. If the gentleman will yield to me further, I simply want to remind the gentleman and my colleagues that Israel occupies the West Bank because in 1967 the State of Jordan declared war upon and attacked the State of Israel. Prior to the occupation in 1967, the Arab countries were uniform in not being willing to accept the existence of the State of Israel, and except for Egypt and a couple of very small Arab countries, that situation still prevails. I hope that even by implication the gentleman's statement does not extend to considering the trading off the security, the existence, or the survival of the State of Israel for some kind of potential, illusory unification of the Arab and Muslim countries—over Israel's dead body.

Mr. McCLOSKEY. Absolutely not.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCloskey) was again expired.

(On request of Mr. Rudd and by unanimous consent, Mr. McCloskey was allowed to proceed for 5 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, let me just say, in response to one point that the gentleman from New York made. I think on both sides in the Israeli-Palestinian dispute there is a tendency to look back, and understandably look back, with fear and terror and foreboding on actions that occurred in the past. No side is blameless as to what has happened in the past, and my very concern in raising this debate is that unless the issue can be framed in terms of 1980 and the situation we find ourselves in, where the United States is trying to create an environment where negotiations can go forward, we do not succeed.

And the greatest barriers to that negotiation are these historic grievances that are felt by parties on both sides. The holocaust is certainly an understandable reason for every Jew in America to say, "Never again, and anything that Israel wants to do is correct." On the other hand, the holocaust in the 1940's should not be used to justify an overly aggressive position on the part of the Israelis in the 1980's.

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I might say that I once enlisted in the Navy to fight against the Japanese when the Chinese were our allies. Six years later, I was landed in Korea to fight Chinese with the Japanese as our allies. I am not impressed that the enmity and hostility that exists between people cannot be reversed over a period of time. It is that hope and our stake in these negotions that is the fundamental reason——

Mr. WEISS. Given that this is 1980, not 1948 or 1967, would not the gentleman agree that if, for example, the Palestine Liberation Organization were to amend its charter to say that it no longer considered the destruction of the State of Israel as being its prime goal, that the chances for peace would also be much better?

Mr. McCLOSKEY. I am hopeful they will amend their charter. It seems to me, even regardless of that fact, these negotiations should go forward at the present time without the United States supporting the expansion of settlements, that the settlements are the issue we address here today. I do not want to go beyond that, because I think we can discuss it for hours. I have already taken considerable time of the Committee of the House that has a very important bill before us.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I would say I think this has been a thoughtful debate. I do not, however, want to leave the impression we have left any unclear messages here. One of my colleagues previously said maybe the Israelis will be warned by this debate. I think that would be very improper, because this Nation still has a unique relationship with the Israelis. I think if there is any message from this debate, it is to encourage the peace process to continue. I do not detect any real shift in congressional support for Israel, and while I agree the debate has been thoughtful, I do not want any interpretation to be made of this debate that there is a major shift in congressional position toward our ally Israel.

Mr. McCLOSKEY. Let me ask the gentleman, because that was the very purpose of my offering the discussion, and yet not offering the amendment for a vote. I am satisfied that nearly every Member of this House supports a strong and prosperous and safe and secure Israel. I am also satisfied that it is the sense of this House that U.S. aid moneys not be used to expand these settlements. It is because I am satisfied that is indeed the sense of this House that I do not offer this amendment. I think that all, or nearly all of us, support two things. All of us support the security of Israel. All of us have expressed the feeling that the West Bank settlements are not helping the security of Israel because they derogate from the process by which the autonomy negotiations go forward. That is my understanding of the sense of this debate. I have heard no one yet urge that is not the case.

We are for the security of Israel and wish to stop the settlement expansion.

Mr. GLICKMAN. I think the record is clear that under current law as well as clearly implied in our relationship with Israel that none of the money in this bill will go to fund the settlements, and therefore the gentleman is correct. My only main point is that I still believe that the American people have an understanding that democracy flourishes in very few places in this world. One of those places is Israel. I do not want the impression to go out that we have in any manner shifted our relationship with Israel as a result of this debate.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

I had not intended to speak on this. I am interested by virtue of the fact that after an hour and a half, perhaps 2 hours of discussion, no one has mentioned that within the last couple of days the PLO met in Damascus and reiterated its very covenant position that it seeks to destroy the State of Israel and replace it with what they call a secular democratic state. That means the end of the State of Israel.

While we may well want to discuss whether settlement policy may or may not be inimicable to peace, it seems to me that we also ought to point out that, as much as some may aspire that the PLO and others in the Palestinian West Bank area would hope to have a settlement where they would live in peace with the State of Israel, that is not their position at the present time. I think that is the biggest barrier and the fundamental barrier to a negotiation that is not taking place at the present time reaching some successful conclusion.

I also want to point out that, while the gentleman, my colleague from California, desires Arab unity to oppose——

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. McCLOSKEY) has again expired.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the gentleman from California be given 5 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROSENTHAL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

● Mr. BIAGGI. Mr. Chairman, it was 32 years ago when the State of Israel was founded. It is a known fact that very few if any of these 32 years has the nation or people of Israel enjoyed true peace. The signing of the Camp David accords just over 1 year ago marked the singularly most significant movement toward peace ever achieved. President Carter, the architect of the accords accomplished one of the most remarkable foreign policy achievements of this century.

There are many of us who are deeply disappointed over the recent breakdown of negotiations and the corresponding delay in the full implementation of the accords. However, the administration is pursuing a solution with the same diligence as before and should be allowed to proceed in that fashion for they have earned the confidence of the American people.

It is therefore in the spirit of seeing the fruits of the Camp David labors result in peace that I rise both to participate in this important debate but also to join in urging that the gentleman from California (Mr. McCLOSKEY) not proceed to offer his amendment on the issue of the West Bank settlements. My inherent fear is that this amendment would in fact introduce a new element of divisiveness into this very delicate process. This should be avoided at all costs.

From the standpoint of our national security there is no higher obligation or priority than for us to achieve a durable peace in the Middle East. The durability of the peace will revolve around a militarily and economically strong and secure State of Israel. This Nation has always negotiated with that emphasis and should not waver from that course at any time in the future.

The exact issue of the West Bank settlements being discussed here today is a controversial one. However it is not an issue which should be subjected to a congressional vote. No individual elements of the Middle East peace process should be extracted for separate congressional action.

What is important to reassert here is this body's continued support of Israel and her legitimate quest for peace. We must also in good conscience condemn the recent outbreaks of terror and urge their cessation no matter from where they eminate. A constructive debate has been conducted here today but it should go no further than the debate stage so as to insure it remains constructive.●

● Mr. COURTER. Mr. Chairman, I would like to go on record in urging the gentleman from California not to go forward with his amendment. I think we have heard good, articulate reasons as to why this type of amendment would be harmful. From my perspective, I think it would give a signal to indeed the entire world, particularly to the State of Israel, that our special relationship with the State of Israel is now shifting, is eroding. I think if there is one thing we have to have, it is an even, steady hand without a shifting in perception of American foreign policy.

We must remember that with the exception of Egypt, the rest of the Arab world is still officially at war with Israel. Israel, because of its strong democratic and pro-Western orientation, is despised not only by many Islamic nations, but by many other Third World nations who maintain a double standard of justice when it comes to such issues as terrorism and territory. In the absence of any real or demonstrated intentions on the part of Jordan, Syria, or the Palestinians to come to a meaningful peace agreement, I can fully understand Israel's rationale for building settlements as a buffer against future ground assaults by a combination of states which may include not only Jordan and Syria, but Iraq and possibly Iran. No country wants or needs peace more than Israel. She is fearful of an imposed settlement that will leave her in the same geostrategic position of June 4, 1967. In today's world those borders are clearly indefensible. Technology is no substitute for defensive depth. My colleagues who have visited Israel know that from the old 1967 border the distance between the Mediterranean Sea and Jerusalem is only 10 miles. It must be remembered that Jordan controlled the West Bank at that time and it was King Hussein who chose to open fire on the Israelis, leading to Israel's legitimate response to Jordanian aggression.

At the outset of this dialog, the gentleman from Indiana, Mr. HAMILTON, clearly stated that our Nation and Israel have an agreement which provides that any economic assistance by the United States must be used in geographical areas which were subject to Israel's administration prior to the June 1967 war. So clearly, there is no immediate reason for this debate. The agreement is there. In regard to the question of the settlements, as I have stated, that as long as they serve as deterrents to aggression and terrorism against Israel and her citizens, I can understand their rationale. This is not to say that I agree with the behavior of every Israeli living on the West Bank. There are lawbreakers in every society and Prime Minister Begin stated before the Knesset that the individuals responsible for the car bombings will be hunted down and prosecuted. However, as the gentleman from California, Mr. WAXMAN, has noted, the PLO's largest guerrilla group, Arafat's Al-Fatah, is pledged to carry out more terrorist violence against Israel. They use the excuse of the car bombings, but they have used terrorism against Israel since the PLO's creation in 1964.

Finally, and most importantly, we must do what is best for the United States. Yes, it is in our national interest to have good relations with all the nations of the Middle East and assist, if we can, the Israelis and Palestinians to live in peace and mutual respect. But as long as the Palestinian leadership in the PLO threatens Israeli and American interests with violence, I see no reason that we acquiesce to this type of heavy-handed pressure. Peace yes, appeasement never.●

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I too, compliment the gentleman from California for bringing to this Chamber what I think has been a very good debate. The only quarrel I would find in the argument that he has advanced is the suggestion that this body is absolved from any responsibility for the settlement policy by virtue of the fact that there is some sort of a document which states that none of the funds we provide through economic assistance will go to the construction of settlements on the West Bank or the Gaza Strip.

Well, that existence of that document, I do not question. But all of us know that dollars supplied to the budget of Israel are fungible dollars, and even though they may be restricted on the face of things from being applied to settlement construction to the extent that they aid the budget of that government, they enable that government to do other things, including the construction of settlements.

A further observation: There is nothing in public law or regulation which keeps the State of Israel from using U.S. supplied military hardware within the West Bank to carry out the purposes of its mission in the West Bank. We are kidding ourselves if we try to leave the impression that we can wash our hands here in this chamber of any burden or responsibility for the settlement policy.

I think the gentleman from California was prudent, however, in not pressing for a vote on these amendments.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

I appreciate the spirit in which the colloquy has taken place. I am not in favor of most of the appropriation part of this piece of legislation, but I hope the colloquy will not disrupt the course that this legislation is pursuing to support the Egypt-Israel accords.

Mr. Chairman, I do feel that the United States assistance to Israel and Egypt—in accordance with the Egyptian-Israeli peace process—will be of particular importance to the long-lasting peace and stability of the Middle East and thus to the security of the United States and the West.

Israel is one of our Nation's most strategic allies in the world. A secure Israel is the cornerstone of U.S. policy in the Middle East. Our ally represents qualities unique in this region—economic and political stability, undeviating opposition to Soviet expansionism, and military readiness.

Israel has most recently demonstrated her total alinement with the West by offering to the United States the use of the port of Haifa for the U.S. 6th Fleet in the Mediterranean following the ruthless Soviet invasion of Afghanistan.

That invasion, together with the overthrow of a friendly government in Iran and the Soviet naval buildup in the Mediterranean all point to the need for continued close and friendly ties with Israel and other pro-Western nations in the Middle East.

A strong Israel—both economically and militarily—serves to thwart further Soviet encroachment in this volatile area.

In many ways, this aid package serves a very direct national defense purpose for the United States. The strength and security of a free Israel is essential to the long-term freedom of the West.

Any further deterioration of our allies' freedom will inevitably endanger our own.

I urge support for that portion of the aid bill which provides economic and military assistance to Israel and Egypt to fulfill the commitments of the Camp David accords.

Mr. FINDLEY. I must say to the gentleman that I find it very gratifying that the discussion that has ensued has demonstrated that quite a number of Members of this body do have concern about the Israeli settlement policy, and even though I think it is imprudent for us to force a vote and thereby show how the majority does stand, I think it is a healthy development in substantial contrast with attitudes that have been displayed in this Chamber in years past.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

I am not so sure which way the vote would go. The chairman of the subcommittee indicated that whichever way the vote went, the United States loses because of the responsibility we have with these ongoing negotiations. But I did not want to conclude my own remarks without thanking the committee. I think that it ought to be known that in recent years, as we have seen the decline of Executive Branch credibility and effectiveness, we have seen a substantial rise in the dignity, responsibility and balance which the House Committee on Foreign Affairs has applied to our overall governmental efforts to achieve peace. I have in mind particularly Zimbabwe, where the House did what the other body would not do and kept sanctions on to give the British a chance to successfully negotiate a peaceful settlement there.

The quality of this debate has satisfied me that the part the House is now playing in international relations is a proper one, a dignified one, and one that adds a great deal to an administration which is often confused in this area.

I just wanted to thank the committee for the manner in which they have conducted this bill and this debate.

Mr. FINDLEY. I want to add, too, that in my opinion, the gentleman from California made some very profound observations on the question of public policy of this Government in the Middle East and the Persian Gulf that I hope all of our colleagues will take careful note of.

Mr. Chairman, finally, I would like to call the attention of the Members of this body to an extraordinary statement by an Israeli historian excerpted in the Washington Post of May 28, the historian being Yaakov Talmon.

I would like to read that statement:

> Whoever talks about the necessity of ruling over another nation for security reasons only deceives his listeners. Rule by bayonet is equivalent to sitting on a volcano, a con-

> tinuing source of insecurity and fear. The rebellious hostility of the subjected population, especially when it is supported by tens of millions beyond the border, neutralizes and eliminates any measure of security that can be gained from this hill or that valley, these straits or those swamps (in these days of long-range missile and supersonic bombers). There is something very objectionable in the pretended innocence of the cynicism with which it is proclaimed that the settlements are important in order to create a basis for living together, when everyone knows that every Arab views each additional settlement as another wedge in the slow operation of conquest and expropriation. The devaluation of the Jew's image as a result of this hyprocrisy and pretended innocence adds neither honor nod security. . . .
>
> Whoever says that Israel will be unable to defend herself without the occupied territories, even after border rectifications here and there stemming from real strategic considerations, is in effect saying that he will not be able to survive even within the expanded borders, because the topographic advantages and the added distances are insignificant. Is the Jordan as wide as the Volga or the Mississippi? And the hills of Nablus—are they as high as the Himalayas? . . . The true threat to the existence of Israel lies in the continuation of the Sisyphean effort to subjugate the Palestinians. Whoever doesn't see that a race war threatens us is blind.

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The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. FINDLEY) has expired.

(By unanimous consent, Mr. FINDLEY was allowed to proceed for 2 additional minutes.)

Mr. FINDLEY. Mr. Chairman, this bill affords us an important opportunity to discuss the issue of Israeli settlements in the occupied territories. Though many Americans are troubled by the Israeli settlements, there is a general hesitation in Congress to speak about them publicly. We are in the odd position of skirting the settlements question while in Israel, Prime Minister Begin's policies in the West Bank have generated a lively and thoughtful debate.

There is a need to discuss here in the United States the settlements question. By marring the prospects for peace in the Middle East, the West Bank settlements hurt American interests and security. And this is an appropriate moment for comments on the settlements since this bill and the aid it authorizes for Israel indirectly assists the establishments and expansion of Israeli settlements in the occupied territories.

The economic aid we provide Israel is in the form of a check, and it is substantial—about $600 per capita each year. And this U.S. aid is fungible. It may be held in a separate account from the settlements fund, but its overall balance of payments support at least indirectly helps Israel spend money on new settlements in the West Bank. Moreover, there are no restrictions on the use of U.S.-supplied military equipment in the West Bank. Therefore, our military assistance indirectly helps Israel maintain its occupation of the West Bank and the Gaza Strip. The United States, therefore, does have the responsibility to make its views known on the settlements. We cannot escape some measure of responsibility for grim events unfolding in the West Bank.

The administration has, of course, addressed the issue in its public statements decrying the settlements as "illegal and an obstacle to peace." And it made an effort in the Camp David framework to constrain new Israeli settlement activity in the occupied territories during the Palestinian autonomy negotiations and beyond. Criticisms of Israeli settlement policy have been extremely rare in the Congress, in part, I believe, because of a sense that the heart of U.S. support for Israel is in this body and adverse comments here are especially unsettling for Israelis.

Thus, in expressing my own deep concern about the establishment and expansion of Israeli settlements in the West Bank, I would like to try to allay any potential Israeli concern that such a discussion in Congress indicates a lessening of U.S. support for the security and well-being of Israel. Just as the United States and its European allies can openly trade criticisms without calling into question the ties that bind us together, the United States-Israeli relationship is sufficiently deep-rooted to tolerate friction and differences of opinion. The U.S. commitment to Israel's security and well-being must remain strong.

But I do want to make it clear that I regard Israel's policy of settling the West Bank to be harmful to the prospects for peace in the Middle East and, therefore, detrimental to U.S. interests. These settlements, particularly the more recent ones, in areas heavily populated by Palestinians, are generating increasing hatred among Israelis and Palestinians. If the establishment and expansion of Israeli settlement in the West Bank continues, completely removed from any negotiated context, they may make it impossible for Israelis and Palestinians to live together peaceably in the narrow territorial confines of this region.

For Palestinians, the growing Israeli encroachment on their lands indicates a lack of respect for their rights, their interests, and their well-being. They do not accept or respect what Israel has taken from them and do not recognize the changes Israel has made without their agreement in the West Bank. And for Palestinians, the Israeli settlements combined with government references to Biblical possession of this land indicate an Israeli disinterest in negotiating an equitable arrangement on the West Bank. This has had the effect of decreasing Palestinian interest in participating in negotiations and causing them to express their concerns by others means.

Furthermore, as Yaacov Talmon points out, the argument that settlements on the West Bank enhance Israeli security is false. To the contrary, they enflame those very Arab sentiments which threaten Israel's existence while they fail to provide a significant strategic buffer. And, as George Will writes in his column of July 26, 1979, the settlements and the occupation of the West Bank are bad for Israel's morale.

The settlements pose for Israelis a delicate question: Can a democracy continue to subjugate over 700,000 people and remain a democracy? Should violence on the West Bank continue to escalate, this question will become all the more compelling for Israelis. I do not doubt that Israel has the resources to maintain a semblance of order on the West Bank. But I am concerned about the impact on Israeli society and the real concerns of Israeli security of using those resources, not to mention the human problems caused to those under occupation.

One day, I believe, it will become apparent to the majority of Israelis that a solution to the West Bank must be found in negotiations rather than more settlements. These negotiations will and must provide for a reconciliation of Israeli rights and Palestinian rights so as to provide for Israel's security and Palestinian dignity.

But this day must come soon. Its postponement may engender great risks for us all.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not anticipated that this debate would go on this long; but obviously it has, because a number of the Members are deeply concerned about the issues and some of the discussion.

There are a couple points I simply wanted to make. In my judgment, the settlements on the West Bank, which may be annoying and aggravating and, in fact, may be causing Israel to waste much good will throughout the world community are, in fact, not illegal. They are not illegal under the Fourth Geneva Convention, because the territory there was not designated as national territory.

They could be illegal if they were on the Gaza Strip, which was associated with Egypt or the Golan Heights, which had been associated with Syria. But, because there was no clear declaration of national sovereignty over the West Bank, they would clearly not come under the restrictions of the Fourth Geneva Convention.

Second, even if they are considered under the strictures of the Fourth Geneva Convention, there is a whole body of recognized distinguished international legal scholars who in interpreting the Fourth Geneva Convention incentive that illegality only applies when population centers and people have been dispersed, which is clearly not the case with the West Bank settlements. The settlements essentially have been built in nonpopulated areas. In talking about the settlements and the bringing up of this debate, one should not lose sight of the fact that whatever acrimony develops from the circumstances surrounding the establishment and development of the settlements, one cannot say that that is an obstacle to peace without listing the other 300 obstacles to peace.

The principal obstacle to peace is that there are no other parties, other than Egypt, that are willing to come forward with Israel at an international conference to participate in a traditional kind of peace process that nations that have been at war have come to expect.

If Jordan or if Syria or albeit even Lebanon were willing to come forward into the peace process, then the attention given to the settlements would be minimized, because the parties themselves would be involved and engaged in other areas of discussion.

One of the reasons, I suspect, that the Israelis continue this commitment to the settlements is that they want to not only use the settlements for whatever security purposes there may be, but they want to affirm the traditional role between warring parties, that everything is negotiable if parties will come to a peace table.

In other words, if the parties want to make border adjustments in the West Bank, so be it, that is their business. The one thing that I do not think either the Israelis or any of the other states should want in that area is the imposition of predesignated borders by either the United States or any coalition of European countries or any other countries. The maintenance of the settlements, while aggrevating and annoying to some, is to affirm the right to negotiate those areas that ought to be negotiable between the parties.

The emphasis paid to the settlements, I think, is inappropriate. While this debate may have permitted an opportunity for those of us who are interested in the subject to express themselves, I do not think it necessarily moves the process forward. The process will be moved forward when we understand that you cannot impose a comprehensive settlement, you cannot automatically push a button and expect to return those territorial lines to 1967. If the parties want to sit down and negotiate new borders, then so be it, and we should let them do it.

Mr. YATES. Mr. Chairman, this has been a most interesting and stimulating debate. It is an important subject, so recognized in the House by the many speakers who participated in it. I want to make one point, that I believe should be made—because of the questions raised here of the Israeli settlements on the West Bank—and because of possible references which might be wrongfully drawn from some of the statements. That point is of Israel's good faith in the peacemaking process.

It must be made clear at once that peace does not reign in the Middle East. Israel, in spite of its peace negotiations with Egypt, is still a beleaguered country. Arab nations, other than Egypt, are still its enemies and blatantly so. The PLO sends its emissaries across Israel's borders to kill and maim Israel's civilians. Israel is still a country under siege. Jordan and Syria are still her declared enemies. Thus, the West Bank and the Golan Heights are a no-man's land, a buffer zone, providing an area to protect against military attacks upon Israel like those made on previous occasions by Jordan and Syria.

We hailed the Camp David agreements rightfully as a first step toward peace. Israel demonstrated by signing that agreement and subsequently, by her strict adherence to its terms, her good faith and her willingness to take risks in the cause of peace.

By military action Israel had gained the entire Sinai desert. In support of the Camp David accords, Israel gave up the strategic Jiddi and Mitla passes. She gave up the Abu Rudeis oil wells which had supplied her oil needs and without which now, her purchases of oil are contributing to her spiraling inflation. She gave up two military airfields in the Sinai which were among the best in the world. She gave up three-fifths of the land mass itself and is pledged to give up the remainder at a later date.

Ambassadors between the two countries have been exchanged. Trade is beginning to flourish. The peace process is working.

All the Arab nations and Israel have approved Security Council Resolution No. 242 which provides for a surrender by Israel "of territories" taken during the war, not all the territories as the Arab nations insist, but "territories" surrendered with assurances of Israel's security requirements. The PLO, however, demands not only the West Bank territory entirely, including Jerusalem, but all of Israel itself. Even though Palestinians may say "we follow the PLO leadership," is Israel wrong when it refuses to negotiate with an organization dedicated by its own charter to Israel's destruction? I say no.

Israel is willing to negotiate with Jordan, which is essentially a Palestinian state. King Hussein has been invited to participate in the Camp David negotiations but has refused to do so. Why should he not negotiate on behalf of the Palestinians?

When I was in Israel I heard Israelis and Palestinians both look to a peaceful settlement through an economic federation between Israel, Jordan, and a Palestinian West Bank entity—not a state, but an entity containing certain defined autonomy, defined by agreement between the parties. Gaza would be included with the West Bank in such an entity to contribute to its viability through an appropriate road connection.

That is one plan, others are under consideration. It becomes clear that King Hussein is an important party to the negotiations. Unfortunately, he refuses to participate, but every effort must be made to persuade him to join the quest for peace.

Mr. Chairman, when President Sadat made his dramatic visit to Israel, he found Israel to be very generous in the peace negotiations. A comparable effort by King Hussein might bring comparable results.

The CHAIRMAN pro tempore (Mr. PANETTA). The time of the gentleman from New York (Mr. ROSENTHAL) has expired.

Mr. ROSENTHAL. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WAXMAN. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise just to finish my thought that I started to express a few minutes ago.

Mr. Chairman, I think it is worthwhile having discussions on the floor of the House of Representatives and allowing all Members to express themselves. I wanted just to complete the thought that I was expressing earlier and which has not been discussed, that the PLO did have a meeting a couple days ago and reiterated their basic aim, which is to destroy the State of Israel; not to recognize it, not to coexist with it.

The gentleman from California (Mr. McCLOSKEY) suggested that one of the things we so desperately desire is a United Islamic Arab opposition to communism. I think it is a desire that we share, except that I do not think it is a desire that is going to be realized. There are some Arab States that are Soviet clients. Whether Israel were involved or not they would probably continue to be Soviet clients. I think we ought to use all diplomatic means to try to move them away from the Soviet orbit, but they are there, nevertheless, for many of the same reasons the Soviet have clients elsewhere in the world, where they are not even concerned about Israel.

The Soviet Union is one of the strongest opponents to the existence of the State of Israel. At the same time we hear from the Saudi Arabians who are anti-Communists in opposition expressed to the existence of the State of Israel.

I do not believe that if we resolve the Palestinian question, if we gave in to the PLO and there were a PLO state, that would lead for unity of the Arab world against communism.

We ignore recent events that have taken place in Iran if we do not learn that an Islamic fundamentalist revolution is sweeping the Arab world this is something that cannot be dealt with by simply talking about rearranging lines. It is a more fundamental and more basic emotion that is not leading to rationality, but to irrationality and violence. I join my colleagues for California in hoping that the Arab world could be united against communism, which is antithetical to the observance of the Islamic religion and to their security interests. But, I do not see it happening; and, even if Israel were forced into some kind of settlement that would supposedly make the PLO happy, it would not bring about that result.

Mr. WOLFF. Mr. Chairman, at the end of World War I there was a demand and a request made for a Jewish state by a group of people. Unfortunately, all of my colleagues are not able to see this on the map, but I should just like my colleagues to know that this Jewish state, which was requested went all the way to Amman, and included the areas of Jerusalem and Hebron, as well as the entire West Bank area.

Subsequent to that, as a result of that request in the Balfour Declaration, the British were given a mandate by the League of Nations. That British mandate that was given was to set up a Jewish homeland, and that mandate included all of the area that went far beyond the borderline which is today being discussed. That borderline went all the way into what is Jordan and part of Syria.

Actually what happened is after the British were given the mandate to set up a Jewish state and got the territory under their control, they divided the territory into two parts. Eighty percent was taken out of what was to be set up as a Jewish homeland and was designated as Transjordan, a Palestinian state; although, because of a deal the British made, it was to be ruled by a Bedoin king, King Abdullah, grandfather of King Hussein. The British limited the Balfour Declaration on a Jewish State to the remaining 20 percent of the land. You will note on the map that the remaining 20 percent of the land includes the West Bank, Hebron, and all of Jerusalem. The British later under pressure turned the matter over to the U.N.

In 1947 the U.N. partitioned what remained of the British Mandate of Palestine again: Into a second Palestinian state and Israel. The Arab States rejected the establishment of the state of Israel and the partition itself, and in January 1948 the Arab Liberation Army unilaterally attacked Israel and captured areas by military means. The lines set up by the armistice in 1949, referred to in U.N. resolution 242, never constituted internationally recognized borders. The lands seized and occupied by Jordan, including East Jerusalem and the West Bank have never been recognized by any nations except Pakistan and the United Kingdom. These areas remained and remain "unallocated areas of the British Mandate." Therefore these areas do not apply to the Fourth Geneva Convention, as this land was unallocated, not the territory of any sovereign.

The settlements on the West Bank and Gaza are properly the subject of negotiations. Israel has indicated that everything is negotiable. No nation presents its final acceptable position in the first round. Israel needs defensive borders. That has been shown indisputedly by four wars. At this delicate time, with the autonomy negotiation stalled, the United States must not force the terms of those boundaries onto Israel. We must encourage Israel and Egypt to return to the negotiating table. The Camp David Accords provide for Israel's security concerns in the final determination of those negotiated boundaries, after the 5-year autonomy transition period.

The Israeli military government and its civilian administration will be withdrawn, to be replaced by the self-governing authority, as specified in the "Framework for Peace in the Middle East." A withdrawal of Israeli armed forces will then take place and there will be a redeployment of the remaining Israeli forces into specified security locations.

We in the Congress should be nurturing and encouraging the peace process by getting the parties back to the negotiating table, rather than undermining Israel's security concerns in this delicate process.

Ms. OAKAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take 5 minutes because I know the Chairman wants to move along, and I know a lot of people are interested in concluding this debate. But I just want to make a few points.

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I am happy to yield.

Mr. ZABLOCKI. I thank the gentlewoman for yielding. I wish to advise our colleagues that I intend to ask unanimous consent, when we get back in the House, that all Members may have 5 legislative days to revise and extend their remarks on this measure.

Ms. OAKAR. I thank the chairman.

I honestly believe most Israelis and most Palestinians want peace. I honestly believe that most Israelis and most Palestinians do not believe in terrorism, do not believe in violence, but individuals of both ethnic groups in the last few weeks have been responsible for violence, which certainly does not contribute to peace on either side.

In my own judgment I do not believe these settlements contribute to world peace, though I believe debating the issue publicly for the benefit of the Members and the American people is very, very healthy.

The point I want to make is we are really dealing, especially in view of the last few days of problems, with a real powder keg. I think most people are interested in preserving peace, not only for themselves but for their children and their children's children. The only way to do that is through a dialog, a dialog with all of the parties involved with a stake in that part of the world which affects world peace and the world condition.

For this reason I would like to encourage Members of Congress to attend a meeting this evening in room 2253 at 5:30 to meet two West Bank mayors. I think we have a responsibility to meet with the Israelis when they come to town. I think we have an option, an opportunity to meet with these individuals, whether we agree with them or not, and that is the spirit of the dialog. In my judgment, if we do not have it we will never have world peace. So it will be interesting to see how many Members show up this evening. I hope many Members will be present. I think it will be very, very healthy.

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DERWINSKI: On page 20, line 4, strike the words from "Funds" through "East.", line 11, and insert the following: "None of the funds appropriated to carry out this chapter for fiscal year 1981 may be made available for Syria."

Mr. DERWINSKI. Mr. Chairman, in anticipation of this debate, and keeping in mind there are occasions when the chairman of the full committee appreciates brevity, I have sent out two "Dear Colleagues" that outline the points of my amendment.

Basically it rests on this thinking: First, I think it is wrong in principle for us to be providing foreign aid for Syria. That country is the leader of the so-called rejectionist bloc of Arab States. They have grown more radical in their language over the years and, at the same time, the Soviet Union is providing over $1 billion a year in military hardware for Syria. I do not think we could in any way alter the policies of that government by extending U.S. funds.

The problem basically boils down to this: The United States is required to invest tremendous amounts of funds in Middle East peacekeeping preparedness because of Libya, Algeria, and Syria that are in the forefront of the opposition to the Camp David accords and to the U.S. efforts to bring permanent peace to that area.

For 3 years now, I have opposed the U.S. aid program for Syria. Since 1975 we have poured money into Syria. So much, in fact, that much of it remains in the pipeline because our AID people cannot find enough projects to spend it on.

At the same time, the Soviets have been giving Syria a billion dollars worth of arms a year.

I am convinced, as I have said many times before, that one of the major obstacles to the U.S. peace initiative in the Middle East is the antagonism of the Government of Syria. My amendments the last 3 years to the bills appropriating development funds were based on this belief. The high cost of the Israeli/Egyptian peace plan is made necessary by the activity of the so-called rejectionist group of Arab States, among whom Syria is a leader.

The administration and its supporters, have told us that Syria was cooperative behind the scenes. But then we were told that Syria should be chastised for its treatment of Syrian Jews. I agree. But I also hold that Syria's long-term record in Lebanon and its destructive resistance to our Middle East peace initiative makes it unworthy of U.S. aid.

Last November, Syria came out in support of Iran in its dispute with the United States over Iranian terrorism at the U.S. Embassy in Tehran.

Deputy Premier and Foreign Minister Abdul Halim Khaddam told the Associated Press that Syria sees—

> A close link between what is happening in Teheran now and what is happening in the Arab world.
>
> We cannot tolerate the pressure being put by a superpower against a small nation, because this nation, (Iran) has supported the Palestinian revolution.

Syria joined Libya in openly supporting Iran in the current crisis.

Syria abstained on the U.N. resolution on January 14, 1980 for "withdrawal of all foreign troops from Afghanistan."

It could not bring itself to even appear to vote against the Soviet Union in its most blatant, flagrant attack on a smaller neighbor.

Last year the Syrian foreign minister, at the same time deputy prime minister, said publicly that—

> No Arab ruler has the right to end this conflict.

Then he went on to say that—

> The Arab masses must exert maximum pressure in order to stifle, bring down, and punish the Egyptian regime.

There were also references to the United States and its role in "supporting the evil Zionist movement."

To briefly review the issue, I believe

it is wrong on principle and a waste of the taxpayers' money to continue aid to Syria. We cannot counteract the Soviet influence in that country based on billions of dollars in arms they provide with the amount of aid we give. We should not be supporting a government which is leading the fight against the Camp David Accords. We must not forget the impact of the so-called Syrian peacekeeping forces in Lebanon, with their threat to the independence of that war-torn nation.

Its role in Lebanon has contributed to turmoil rather than peace. It has remained in the vanguard of the states making it difficult if not impossible for Egypt to implement a Middle East peace.

On March 19, 1980, the press quoted President Hafez Assad of Syria as follows:

> The United States is the number one enemy of our people and our Arab nation.

The press went on to say that Assad's verbal attacks have revived concern for the safety of U.S. citizens in Syria.

It is time for the United States to stop squandering millions of dollars in foreign aid on countries like Syria which continue to show their contempt of U.S. policies and goals in the world community.

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Then, for those of you who like current events and current news, just on May 29, which was just a week ago, I quote a report on a meeting of the Syrian National Council of Peace partisans with the Soviet Committee for the Defense of Peace:

> The two sides strongly condemned the Camp David accords, the separate Egyptian-Israeli treaty, the so-called normalization of Egyptian-Israeli relations and the continuous negotiations among the Egyptian regime.

They condemned Israel and the United States on the so-called self-rule for the Palestinians. That was just a week ago.

The last report that came to my attention was just 4 days ago, the 2d of June, when reports from Amman indicated that the Syrians were about to receive or had received MiG-27 aircraft; and that this, which was the most modern Soviet fighter plane, is being assigned now to the Syrians; there will be Soviet experts in Syria to handle the maintenance of the aircraft; and that this development was another sign of the consolidation of relations between Moscow and Damascus at the expense of the United States. I could go on and on citing arguments for my amendment.

To sum it up again, I just think it is totally impractical for us to have a foreign aid program for a country which is leading all efforts against what we hope will be real peace in the Middle East. If it is some kind of logic, it does not achieve any status in diplomatic circles.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding. Is it not true that in fiscal year 1979 the authorized amount was $90 million for Syria?

Mr. DERWINSKI. That is right.

Mr. ZABLOCKI. In 1980 Syria may get no more than $15 million as per the request of the administration; is that not correct?

Mr. DERWINSKI. That is right.

Mr. ZABLOCKI. And the administration this year has requested the amount for fiscal 1981 in this bill to be $5 million?

Mr. DERWINSKI. That is right.

Mr. ZABLOCKI. And our committee had cut it to $3.5 million?

Mr. DERWINSKI. That is right.

Mr. ZABLOCKI. Does not the gentleman agree that it is a pretty good signal to Syria as to our intentions? Certainly would not the gentleman further agree that we ought to keep a foot-in-the-door policy and if things should change, we would be in a position to assist?

Mr. DERWINSKI. I would say, first of all, that no, I do not agree that the signal is sufficient. I am not one who agrees with the effectiveness of all our committee signals. I tend to think that the signal of cutting of all aid for a year would be a proper method. I think it would be a much more practical, direct signal that could not under any circumstances be misinterpreted.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ZABLOCKI, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 2 additional minutes.)

Mr. DERWINSKI. Naturally I yield to my distinguished Chairman.

Mr. ZABLOCKI. I just want to make the observation that the gentleman from Illinois, a very dear and esteemed friend of mine, usually has a very diplomatic approach to all of these controversial issues. He is departing this afternoon from his usual manner of trying to resolve matters in an amicable way, and I am surprised.

Mr. DERWINSKI. There are times, when one is in a specially righteous and practical position, when a direct, clear-cut amendment is especially in order, which my amendment obviously is.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished senior statesman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I support the Derwinski amendment to terminate aid to Syria.

Proponents of this aid for Syria will note its limited scope and vastly reduced level from the fiscal year 1979 program of $90 million and the $15 million in fiscal year 1980.

However, in a year of U.S. budget restrictions and limited resources for foreign aid, the $3.5 million proposed for Syria represents a considerable sum. We would do far better to allocate these funds to pressing needs at home or to friendly countries whose economies threaten them with instability and ruin.

Moreover, it is unrealistic to assume that the United States will generate with this $3.5 million the influence with Syria the administration so avidly seeks. If we were unable to budge Syria from its rejection of the Middle East peace process with $105 million in aid over the past 2 years, we should expect little good to come from this proposed fiscal year 1981 program.

And the competition for influence with Syria is fierce. In 1979 Syria received $1.3 billion grants from Arab States, includ- $270 million from Iraq, $100 million from Algeria, and $50 million from Libya. This aid was over and above undetermined, but large, amounts of military assistance from the Soviet Union.

Syria does not play a constructive role in the Middle East and we should not, therefore, reward Syria with a continued U.S. aid program. Indeed, Syria has sharply criticized the United States and has joined the rejectionist states in opposing the Israeli-Egyptian Treaty of Peace. In addition, Syria has played a destructive role in Lebanon, blocking efforts to promote a conciliation there of the many elements of Lebanese society. Syria also supports elements of the PLO with aid and military supplies.

Therefore, to continue our aid program to Syria would undercut those very objectives we hope to achieve in the Middle East. And it would undermine—not enhance—respect for the United States among both friends and adversaries in that region.

I urge your support for the Derwinski amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Our mutual good friend, the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), talked about keeping an open door. As a matter of fact, the amendment I offered last year provided funds to Syria in the event that Syria made a good faith effort to contribute toward the Camp David accords or made any steps to promote peace in the Mideast.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. YATES, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 2 additional minutes.)

Mr. YATES. If the gentleman will yield, to provide funds for Syria under this program, if the President deemed that Syria was contributing to carrying out the Camp David accords that amendment kept the door open for Syria. Since that time Syria has moved in the other direction, as has been so graphically pointed out by the gentleman from Illinois (Mr. DERWINSKI) as well as by the gentleman from Michigan (Mr. BROOMFIELD). I do not think, therefore, that the point made by the distinguished chairman of the committee on Foreign Affairs is valid at this time.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. It is with a bit of nervousness that I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding. If only to prove that virtue is, indeed, its own reward, let me take this opportunity to say that I rise in support of the gentleman's amendment. A few years ago when the gentleman offered his annual amendment to prohibit aid to Syria, I voted against it, even though that was not a particularly popular vote in my district and I was one of a relative handful of Members of the House who opposed the gentleman's effort to terminate our AID program to Syria, because I believed that potentially Syria did have an important role to play in the peace process and that if we were going to advance the prospects for a comprehensive peace in the Middle East, their cooperation would be required, but also because we had just achieved something of a breakthrough in our effort to help the beleaguered Jewish community in Syria. The gentleman may recall that we had been successful in persuading President Asad of Syria to permit a dozen single Jewish Syrian women for the first time in 30 years to come to the United States, to meet and marry some men in our own country. I am pleased to tell the House, to the extent that anyone may be interested, that seven or eight of those young women have subsequently gotten married. Three have already given birth, and another one will be married in the next few weeks. Of course, as the matchmaker, I have been invited to the wedding.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. SOLARZ, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 2 additional minutes.)

Mr. SOLARZ. If the gentleman will yield further, at the time we considered that a very significant development, because there is absolutely no doubt that the 5,000 Jews who are still trapped in Syria want, more so than anything else, the opportunity to leave that country. Indeed, if they were ever given permission to go, there is no doubt in my mind they would depart so quickly it would make the exodus from Egypt over 3,000 years ago look leisurely by comparison. We were hopeful, once that first group of women was given permission to go, that others might be given an opportunity to leave as well.

I felt that the adoption of the gentleman's amendment, that he offered 2 years ago, might create obstacles to progress in that area. Unfortunately, however, despite the defeat of the gentleman's amendment, or, I think, its exclusion from the conference report where it was disposed of by the conferees, our hopes turned out not to be justified. Since that time, in total and complete contravention of its obligations under the Universal Declaration of Human Rights, the Government of Syria has not permitted a single additional Syrian Jew to leave the country, not simply to go to Israel, but even to come to the United States or any other country in the world that would have them.

As the gentleman has pointed out, and as others have noted, their attitude toward the peace process has been equally counterproductive. I had hoped to return to Syria last January in an effort to renew my pleas on behalf of the beleaguered Jewish community, but this time the Syrian Government would not even issue me a visa to let me go into the country. I am not at all persuaded that we ought to be providing foreign aid to another nation which refuses to permit Members of the U.S. House of Representatives into that country for the purpose of civilized discussions about some of our mutual problems. So I tried to be understanding of Syria's problem.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. SOLARZ, and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. If the gentleman will yield further, I do not think they have been equally understanding. They have not been helpful in the peace process. They remain adamant in terms of their refusal to permit the Jews of Syria to leave and, therefore, I feel that I have no alternative but to support the gentleman's amendment.

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Mr. DERWINSKI. Mr. Chairman, I welcome an especially effective convert to my position, and with that staunch support I rest my case for my amendment.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, I have no illusions about how this vote will come out. It is always difficult to argue the case for foreign aid and I suspect any Member who tries to argue the case for foreign aid to Syria embarks on a foolhardy project. Nonetheless, I think the case has to be made.

The chairman has made clear what has already been done by the committee and by this Congress with regard to aid to Syria. In fiscal year 1979, Syria had $90 million in aid from this country. In fiscal year 1980, Syria got no more than $15 million and it may be less than that. For fiscal year 1981, the administration recommended $5 million and the Committee on Foreign Affairs reduced that to $3.5 million. What we have done, in effect, by the committee action is to end the bilateral program between the United States and Syria.

The chairman of our committee has said that what we seek to do here is to keep a foot in the door. Why is it important to keep a foot in the door with $3.5 million? There are several reasons. First of all, Syria remains indispensable to any comprehensive Middle East peace settlement. We simply have to keep the lines of communication open to Syria. The $3.5 million in this bill is for participant training. That is a program to keep us in contact with Syrian leaders. It is a very, very modest amount of money.

Mr. Chairman, we have to keep in touch with these present and future leaders of the primary institutions in Syria if we are to have any chance of persuading them to join the peace process.

If we cut off any contact with Syria, then we are only going to make more difficult the eventual success of the peace process.

Mr. Chairman, we need American educated Syrian leaders. This money would be used to have Syrians come to the United States to study. Over the past few years, our best contact in Syrian leadership circles have been with the few American-educated ministers in the Syrian Government. They have really proved indispensable to us.

It is quite true, as the gentleman from Illinois has pointed out, that we have all kinds of policy differences with Syria today, but in some respects the Syrian and American poistions have been congruent. The Syrian-Lebanese dialog in recent months has been encouraging and Syria has supported the Lebanese Government in its efforts to promote national reconciliation. Syria is a country of considerable influence in Tehran and it has maintained a helpful posture in efforts to obtain the release of our hostages, even though they have given general support to the regime of the Ayatollah. The Syrians have made clear their opposition to the Iranian seizure of our diplomats. The Syrian judge on the International Court has voted consistently in favor of the decisions calling for the release of the hostages. A Syrian presidential advisor has taken part in the United Nations Commission that went to Iran to seek the release of the hostages.

Mr. Chairman, although we have plenty of reason to be unhappy with what the Government of Syria—it has, as has been pointed out by several Members, been opposed to the Camp David agreements. But it has supported U.N. Resolution 242; it continues to seek a comprehensive settlement; it has been accessible to us. Striking out the $3.5 million for participant training is a mistake for the long-term interests of the United States. I would urge defeat of the amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I wonder if the gentleman would tell the Members how much money is in the pipeline and whether or not this money could be used for that training of leaders to which the gentleman refers.

Mr. HAMILTON. Mr. Chairman, it is my understanding there will be approximately $250 million in the pipeline for Syria by the time we enter fiscal year 1981. It is also my understanding that none of that money can be used for participant training. All that money will be used for existing projects.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. I just want to concur with the Congressman from Connecticut, the subcommittee chairman, and the chairman of the full committee in asking Congress, although it may be a lost cause, not to make us truly an isolated country. That is what we are doing.

Syria does not need $3.5 million. Furthermore, this is aid not for military weapons, but for a means of dialog. It means very, very little monetarily, but it is symbolic. I think if we do not want to think of the seriousness and the subtlety of this amendment, what it perpetuates, I think we ought to think of the role the Syrians might be asked to play in freeing our hostages. They have taken a leadership role. They have been called upon recently by Mr. Waldheim of the United Nations to again possibly intercede on behalf of our hostages.

I think this is something we ought to consider in the full perspective of this issue. For that reason, I would hope that we would not be so provincial in cutting off aid. We give aid to many, many countries that we do not always agree with, but we are going to be very, very sorry if we agree to cut off aid to this country.

I think it is a very serious move we may be making, and I would hope that we would have a broader perspective on the issue than this amendment perpetuates.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. DERWINSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 295]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. C.
Andrews, N. Dak.
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1440

The CHAIRMAN pro tempore. Three hundred and eighty-one Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The Chair advises the Members that this is a 5-minute vote.

The vote was taken by electronic device and there were—ayes 320, noes 71, not voting 31, as follows:

[Roll No. 296]

AYES—320

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McHugh
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Ottinger
Pashayan
Patten
Patterson
Paul
Perkins
Petri
Pickle
Porter
Preyer
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Shelby
Shumway
Smith, Nebr.
Snowe
Snyder

Solarz
Solomon
Spellman
St Germain
Stack
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOES—71

Alexander
Andrews, N.C.
Baldus
Beilenson
Boland
Bolling
Bonior
Bowen
Brown, Calif.
Carr
Cavanaugh
Clay
Conable
Conyers
Cotter
Danielson
Dellums
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Fascell
Fazio
Findley
Foley
Fountain
Gephardt
Gibbons
Glickman
Hamilton
Jeffords
Johnson, Colo.
Kastenmeier
Kildee
Kostmayer
Leland
Long, La.
McCloskey
McEwen
Maguire
Matsui
Mazzoli
Mikulski
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Nolan
Oakar
Oberstar
Obey
Panetta
Pease
Price
Pritchard
Rahall
Rangel
Ratchford
Roybal
Sabo
Sharp
Skelton
Smith, Iowa
Spence
Stark
Studds
Van Deerlin
Volkmer
Walgren
Weiss
Wydler
Zablocki

NOT VOTING—41

Anderson, Ill.
Annunzio
Ashley
Brademas
Brooks
Burgener
Burton, Phillip
Chisholm
Davis, S.C.
Dodd
Edgar
Ford, Tenn.
Fowler
Giaimo
Grassley
Jenrette
Lederer
McKinney
Mathis
Mitchell, Md.
Mollohan
Myers, Pa.
Nedzi
Pepper
Peyser
Reuss
Roberts
Rose
Runnels
Shuster
Simon
Staggers
Steed
Stewart
Stokes
Thompson
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Young, Alaska

□ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Vento for, with Mrs. Chisholm against.

Mr. Roberts for, with Mr. Mitchell of Maryland, against.

Mr. ZABLOCKI changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 22, after line 9, insert the following new section:

"SEC. 204. Of the amount of funds authorized to be appropriated to carry out the provisions of this title, none shall be made available for any aid or assistance to Nicaragua.".

□ 1500

Mr. BAUMAN. Mr. Chairman, this amendment goes only to title II. It is a prohibition against the expenditure of the approximately $25 million in aid for economic security that would be made available to the Government of Nicaragua.

On May 22 and several days thereafter, I offered an amendment that cut out about $5 million in military assistance to Nicaragua, and on a rollcall vote, that was agreed to by 267 in favor to 105 opposed.

I want to make it very clear this amendment only goes to title II, that it is economic support and that it does not go to the remainder of the approximately $19 million remaining in a subsequent part of this legislation. That $19 million would be used for Food for Peace, the Peace Corps, and various other direct AID projects administered by the United States.

The aid in title II goes directly to the Government of Nicaragua and therefore to the extent that it bolsters the current Government, it is in my mind a serious mistake.

Mr. Chairman, I do not wish to prolong this debate, because I think all of us have heard a great many remarks made on this issue on a number of occasions in this House. In the last week there has been an almost unprecedented lobbying effort, not only by the State Department but by officials of the Government of Nicaragua who have come here to visit.

I think we do owe ourselves a brief review of the history since July of last year, when the Somoza government fell, and fell, I might add, with the opposition of the Carter administration and the assistance of the administration to the Sandinistas.

Today, the Government of Nicaragua consists of a window-dressing junta of five people, which has no real power, a council of state, which has only recently been initiated, but overwhelmingly controlled by the Sandinistas and passes for a parliament, although it is that only in name, and the real governing power rests in a directorate which is totally controlled by the Communists.

Now a comment has been made in previous debate only recently, particularly by the gentleman from Texas (Mr. WRIGHT), that my characterization of these people involved in running the Government is somehow my own judgment as to whether they are Communists. Most of us have perhaps noticed that it is no longer fashionable to call Communists Communists. They are now called Marxists, but by any independent judgment, the people who control Nicaragua and the Directorate and the majority of the junta and an overwhelming majority of the Council of State are Communists, many trained in Cuba, some in the Soviet Union, all of them highly critical of the United States and highly laudatory of Cuba and the Soviet Union.

Let us address for instance the issue of human rights, because if we give this aid, we are assisting the policies of the current government of the Sandinistas.

There have been various estimates of political deaths that have occurred in Nicaragua. The lowest estimate that I have seen coming from the State Department is around 500 to 700 people killed after the war ended, disappeared, or otherwise.

The Human Rights Commission in Nicaragua has estimated closer to 1,000. There is little dispute that about 7,000 at a minimum remain in prison, many of them opponents of the government, but many of them simply accused of being in opposition.

A free press is almost nonexistent, although after a month of not publishing, La Prensa, the only semifree paper, is now republishing again despite the fact it has a government paper in opposition to it. Any person who is allowed to practice journalism of any type in Nicaragua must get a license from the union, which is controlled by the government. This has been criticized by the Inter-American Press Association only within the last month.

No free elections have been guaranteed by anyone. They have simply said, "We will hold them at some time in the future," but they have also said, "The revolution was the referendum and the election. We need no elections to be held." Property has been confiscated in a wholesale manner.

In the area of foreign policy, the Government of Nicaragua, despite the fact that it has received more than $60 million in American aid in the last 10 months, has been unabashedly and unashamedly opposed to the United States in every international forum. It has been fulsome in its praise for Fidel Castro and the Cubans. It has opposed our policy on Afghanistan and our attempted rescue of our citizens in Iran.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(By unanimous consent, Mr. BAUMAN was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Chairman, the Sandinista government has been very friendly with the Soviet Union. Two major missions have visited the Soviet Union, and out of those have come extensive agreements of an economic nature and for technical assistance that will bring many Russians into Nicaragua, where an embassy has already been established.

But more interestingly, the Sandinista Party signed an agreement with the Communist Party of the Soviet Union, a highly unusual arrangement for two parties to be signed in different countries paralelled only between the Soviets and other national Communist parties.

I have no doubt that at the current time, the Government of Nicaragua is cooperating in and providing the training for terrorists who are operating against El Salvador in an attempt to overthrow that government, using their territory for this purpose; and in fact there have been published reports that is the case and that terrorism will eventually be used against Guatemala and other nations.

Only a week ago, a little more than a week ago, we were visited here by Jose Francisco Cardinale, who was the appointed Vice President of the new Council of State, who had been imprisoned by Somoza, who supported the revolution. He spoke to us in a meeting and many Members were there, of both persuasions. He had to leave his business behind, his assets behind, because he could not accept the post of vice president. He felt that the Communists had taken over the government; and he made an important point. They had defiled the revolution, that they had fought against Somoza for freedom and democracy, and that had been destroyed because the revolution had been taken over and was now controlled by Communists who, in fact, were friendly, more than friendly, with the Soviet Union and Cuba.

I say to my colleagues that in many respects we have no reason to provide this assistance, this $25 million that will go into the hands of the government, not into the hands of the private sector that may oppose the government, but certainly it may be used to bolster the government and give aid to that part of the private sector, that cooperates with the government.

At the very least, we owe it to ourselves and the American taxpayers to wait to see whether these sudden promises within the last few days have been repeated by these lobbyists from Nicaragua mean anything.

The entire history of 10 months runs contrary to what they have told us in the last few days, and I urge this body to adopt this amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. LAGOMARSINO. As I understand the gentleman's amendment, it does not touch any of the money that would go for humanitarian aid for such things as agricultural, rural development, nutrition, to the tune of some $8,700,000; population planning, $350,000; health, $3,425,000; education, human resources development, $7,300,000; and other development activities, $150,000. Is that correct?

Mr. BAUMAN. The gentleman is correct. All of those programs, under the terms of this amendment, will remain intact. This amendment simply goes to the $25 million.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent, Mr. BAUMAN was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. If the gentleman will continue to yield, I understand also that the gentleman's amendment would not affect the Public Law 480 program, food for peace, that is financed or authorized in the bill for $8,800,000. Is that correct?

Mr. BAUMAN. That is correct. I would also point out to the gentleman, who participated in the meeting with Senor Cardinale, to whom I just referred, he made the point repeatedly that aid should be given to the people in the form of food and medicine and assistance of that kind, but none should be given to the current Communist-controlled government, because it would simply bolster their support, continue them in office and prevent true freedom from coming to the country. That is what this amendment seeks to do.

Mr. LAGOMARSINO. I thank the gentleman. I was also very impressed by the statements of Jose Francisco Cardinale to the effect that we should not aid the Sandanista government to prove that Marxism works, but that we should assist the people with humanitarian and development aid. That is what we are trying to do with this amendment.

□ 1510

AMENDMENT OFFERED BY MR. WRIGHT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BAUMAN

Mr. WRIGHT. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WRIGHT as a substitute for the amendment offered by Mr. BAUMAN: Page 19, line 8, immediately after "SEC. 209" insert "(a)"; and on page 22, after line 9, insert the following:

(b) Should Nicaragua receive assistance from funds authorized to be appropriated by this title, the President shall report to the Congress every ninety days during fiscal year 1981 on the internal situation in Nicaragua, particularly on its observance of the human rights of its citizens and progress in the establishment of democratic political institutions including an orderly system of free elections.

Mr. BAUMAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. WRIGHT. Mr. Chairman, I would ask the membership to consider this amendment as an appropriate statement of the policy of Congress. It would require the President to report to us every 90 days on the internal situation in Nicaragua, particularly on its observance of the human rights of its citizens and upon progress that is being made in the establishment of democratic political institutions, including an orderly system of free elections.

Earlier this week, one of the members of the junta governing Nicaragua, Arturo Cruz, who is in charge of economic development for that country, a former president of the National Bank of Nicaragua and a representative of the private sector, appeared and answered questions for more than an hour with Members of Congress. He assured us, among other things, that in his very firm and considered judgment a substantial and overwhelming majority of the people of Nicaragua do not want to be dominated by Cuba and under no circumstances would desire to be dominated by the Soviet Union. It was his firm conviction that a majority of the people of Nicaragua want to live in a free democratic society; that they do believe that a free society and free institutions can achieve their legitimate economic and social objectives without the sacrifice of their individual political liberties, and that they want to be associated with us.

The President of the United States has asked me to head a delegation this weekend to Nicaragua. The President has asked me to serve as a personal emissary for him in an effort to create closer friendship and a better working relationship between our two countries. I expect to elicit from the governing group some firm assurances on free elections to be held in that country and the establishment and maintenance of free institutions.

It would be my intention to go not only as a representative of the President but also as a representative of this Congress; so I appeal to you in a very personal way, let me have the tools by which I can say to the people in Nicaragua: "The people of the United States have not deserted you. We haven't given you up for lost. We do want to work with you. We do expect you to establish free political institutions. We expect you to have regular, free, and orderly elections. We want you to respect private property and want you to respect human rights. So long as you do those things, we want to work with you and we want to help you in such ways as we may to solve the gnawing economic problems that beset your country."

Let me do that, I appeal to you.

I would have no credibility at all going to Nicaragua to plead our friendship for their country and their people, if I were speaking for a Congress and presumably for the majority of that Congress which had just for the second time in 2 weeks publicly asserted its disdain for the Government and the people of Nicaragua.

I believe that nation is capable of being saved. Let me, I appeal to you, have the tools by which I can help salvage their friendship.

Let me remind you simply that there are other countries in the world which for a time appeared to be lost to us. There are other countries which by our patient offering of the hand of willing friendship have been won back for us after first having disappeared for a time behind the Soviet curtain. I would ask you to think of Indonesia, the biggest country among all those in the South Pacific. For a time it appeared that Indonesia had been swallowed up by the Marxist bear; but Indonesia now has thrown off the encumbering yoke of world communism and is returning to a good and friendly relationship with the United States.

We can do the same with Nicaragua.

I would suggest that we might consider Nigeria, the country with the biggest population in all of black Africa.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. WRIGHT. For a time it appeared that Nigeria had been swallowed up into the orbit of the Soviet Union. They were buying Russian tools and Russian planes and Russian plows. Now Nigeria has passed through that phase. Because we did not become totally impatient with them, because we did not disdain them and disavow them wholly, they are friends with us. They have written a new constitution that is modeled almost exactly after the Constitution of the United States, and they are proud of that relationship.

We can do the same with Nicaragua.

I suggest that we might consider the case of Egypt, the biggest and most influential of all the Arab countries, for a time strongly dominated by the Russian influence. Finally fed up with the excesses that inevitably accompany Soviet despotism, Egypt's leaders threw off the shackles of the Russian relationship and sought a friendship with us.

We can do the same with Nicaragua.

Of all those countries, Nicaragua on our own doorstep, the biggest country in Central America, is far more vital to our future and the futures of our children. So I say to you, my colleagues, let us not give up on them. Let us extend the hand of helpfulness, not a handout, but a handup, and let us say to them, "If you will abide by those human rights recognized by all enlightened humankind, if you respect private property as you say you will, if you will continue to respect the right of free expression as you have demonstrated recently that you are willing to do, both with regard to the television station and with regard to La Prenza, and if you will hold those free elections that you have promised, then we will be your friend." I think they want to be our friend. Let us give them a chance, in the spirit of that dictum of Sam Rayburn who used to say, "The way to have a friend is to be a friend."

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Of course, I yield.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

I support fully this excellent amendment. Not only will it help the cause that the gentleman favors and which I tend to favor, but it says that the President shall report to Congress every 90 days during fiscal year 1981. I have every expectation that we will have a new team in at the State Department during fiscal year 1981 in whom we can have a trifle more confidence.

I thank the gentleman.

Mr. WRIGHT. I simply respond that I hope all of us will have confidence in whatever Presidential team is chosen to represent us in these delicate negotiations. I pledge to the gentleman that, whatever team that be, I will try to give it my support.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Arkansas, and in so doing I express my pleasure that he will be accompanying me on the journey to Central America.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the gentleman's amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has again expired.

(At the request of Mr. ALEXANDER, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. Mr. Chairman, if the gentleman will yield further, I say in support thereof there is no better evidence of the hope that is offered to the United States in the formulation of a foreign policy toward Nicaragua than the failures that we have seen across the Caribbean and in Cuba which have been exported to the United States in the form of refugees. No longer can the charisma of Castro support the economy of that paradise island. If we can make known that failure to our brothers and sisters in the Western Hemisphere, there is great hope that this government in Nicaragua will embrace the principles of representative democracy that are so dear to all of us here today.

I join with the gentleman from Texas. I support his amendment and I will look forward to journeying to Managua in order to impress upon those people the options which we hold for them.

□ 1520

Mr. GOODLING. Mr. Chairman, I rise in support of the substitute amendment. I strongly supported my neighbor as far as the military appropriations were concerned. I am not naive, nor is the business community in Nicaragua. We realize they may be used in some instances because they are needed, but the more important thing is that if we do not offer our hand of friendship they have no one else to turn to.

So it is a hope. We are buying time. With the gentleman's amendment I think we can keep a close eye on exactly what they do. Therefore I rise in support of the amendment.

Mr. WRIGHT. I thank the gentleman.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to congratulate the majority leader and urge support for his amendment. I would make just two additional points.

Today is the anniversary of the Marshall Plan. The Marshall Plan I think showed the imagination and the competitive nature of the United States of America better than any other international initiative in which we have ever been engaged. I would suggest we have had a similar case just a few years ago. In 1975 we had the nationalization of the insurance companies.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has again expired.

(At the request of Mr. OBEY and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. OBEY. If the gentleman will yield further, in 1975 in Portugal the moderates had withdrawn from the cabinet and in 1975 we had the insurance companies which had been nationalized by the new government. Our own Secretary of State thought that the country was lost to the Communists, but we had a gutsy Ambassador there who said we had a chance and we stuck with the Ambassador and today the Portugese situation has turned around completely. They are very much a friend of the United States.

I would also make an additional point, which is that much has been made of the fact that Mr. Robelo has withdrawn from the junta. I called Mr. Robelo after he withdrew from the junta 2 or 3 weeks ago and I asked him what his advice was, did he think it was lost down there. He said, "I am trying to organize a political force which provide an alternative to the Marxists." And he said, "I do believe that the worst thing you could do in pulling the rug out from under us is to withdraw the American flag and the American presence at this time." He said, "I would urge you to stay involved, keep the American flag flying down here."

I think the gentleman's amendment does exactly that in a moderate way and I strongly urge support of it.

Mr. WRIGHT. I thank the gentleman.

Mr. HUBBARD. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Chairman, I would like to indicate in the past I have gone along with my friend, the gentleman from Maryland, and others, who share views that Nicaraguan aid from our country was unwise. I also believe that this money could be wasted because the country seemingly was going into the hands of the Communists.

After having heard Nicaraguan leaders yesterday and having heard our majority leader earlier this morning indicate he and other Members of Congress are going there in the hopes of winning friends there and keeping that country an ally of ours rather than of the Soviet Union, I, for the first time, will support aid to Nicaragua by supporting the majority leader in this amendment.

The CHAIRMAN pro tempore. Time of the gentleman from Texas has again expired.

(At the request of Mr. HARKIN and by unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding. I, too, want to rise in support of his amendment and in opposition to the amendment of the gentleman from Maryland.

To those who say that all we can get from Nicaraguans are nothing but vilification for everything we do, I would like to read a small part of a speech that was given by Sergio Ramirez, one of the junta members, before the State Council on May 8. He said:

> With the United States of America we have established a new field of relations as of July 1979 based on the need for mutual respect of sovereignty and the right to self-determination. Within this climate we have received from the U.S. Government financial cooperation and material aid for the process of national reconstruction.

There is then a notation of applause.

This is before the State Council, a junta member saying we do have a relationship with the United States based on mutual respect, and the United States has given money for our national reconstruction, and that gentleman received applause from the Council of State.

To draw back now would be to pull the rug out from underneath these people who want to work with us to rebuild their country that was devastated in that war. I congratulate the gentleman for his amendment.

Mr. WRIGHT. I thank the gentleman.

The CHAIRMAN pro tempore. Does the gentleman from Maryland insist on his point of order?

Mr. BAUMAN. I withdraw my point of order, Mr. Chairman.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I know we are about ready to vote and I shall not take too much time.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I would say to the gentleman (the usual).

Mr. ZABLOCKI. Mr. Chairman, as we begin another debate on assistance to Nicaragua, I think it is important to clear the record of some of the misstatements and exaggerations that occurred during last Wednesday's debate and that have appeared in various "Dear Colleague" letters. These clarifications are important both to set the record straight and to provide accurate information to the Members before they again vote on this issue.

Let me enumerate some of the specific charges that have been made and respond to them directly.

CHARGE:

> The Government of Nicaragua, today, is controlled by Communists, working closely with the Soviet Union * * * working closely with Castro's government, which has shipped thousands of Cubans to Nicaragua to run various parts of their Government.

Another statement claims that—

> The body that actually runs the country—is the Sandinista National Directorate of nine members * * * all of whom, as far I know, are of Marxist orientation and most, if not all, of whom were trained in Cuba. On the Junta there are three radical people, three Marxist-type people. * * *

RESPONSE

There are several basic exaggerations here which are important to the issue of whether there is still a chance for freedom in Nicaragua. There are Marxists, Communists, radicals, in the government; there are Nicaraguan Government officials who have trained in and had close ties to Cuba and the Soviet Union. But they do not comprise a majority of government officials.

If it were clear that Nicaragua had gone Communist—that they controlled the government—do you think that I and many other Members of the House would be supporting assistance to Nicaragua? The fact of the matter is that no one faction controls the government, nor does the FSLN directorate, nor the FSLN military forces, nor the Junta, nor the Cabinet. The FSLN directorate may be the most influential group in the country, but it does not run the country. And that is what this aid package is all about. It is based on the recognition that there is an ongoing struggle for control of the government and it provides the moderate elements in that government with a better chance to succeed.

There are no "thousands of Cubans running various parts of the government." It is true that there are several thousand Cubans in Nicaragua; but what are they doing? The bulk of the several thousand are teachers, doctors, and road construction workers. And why are not there several thousand Americans in Nicaragua? Not because they are not welcome, on the contrary, the government has been seeking teachers and other foreign experts from all countries and specifically from the United States, but because the Congress has delayed providing the funds to finance assistance and has tied the hands of those who run our foreign assistance program so that it is difficult for the United States to respond quickly with sizable numbers of people.

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield briefly.

Mr BONIOR of Michigan. Mr. Chairman, I am reluctant to interrupt the gentleman's presentation to insert some comments at this point in the debate because it has been going so well. But I think the gentleman makes a good point. We were told yesterday by Mr. Cruz that there are, indeed, Americans over there who belong to religious orders who are working on behalf of the people of Nicaragua, working in the fields and in educational endeavors and, indeed, they are welcomed. In fact, Mr. Cruz, when he spoke to us, said:

> Send teachers, send technicians, send military advisers and physicians.

So, indeed, the gentleman from Wisconsin is correct that they do want our help. They are desirous of our help and they are accepting those people who are going over there and working today who are Americans.

□ 1530

Mr. ZABLOCKI. I thank the gentleman for his observations.

In fact, there is one American, an expert on organization, serving as an adviser to the governing junta.

The only Soviets in Nicaragua are at the Soviet Embassy; there may be several East Germans serving as technical advisers, but only a few.

CHARGE

Regarding the charge that the Nicaraguan Government works closely with the Soviet Union, it is reported that the Nicaraguan Government has been quoted as saying:

> The U.S. rescue effort in Iran was in fact a violation of Iranian sovereignty and an attack on Iran and moreover it is also reported that Nicaragua sided with the Soviet Union on the issue of Afghanistan.

RESPONSE

Again, the Members have presented only half the facts. The fact is that a member of the government, on his own initiative, did indeed criticize the U.S. rescue effort in Iran; it is also a fact, however, that the U.S. Ambassador was told by the acting foreign minister that that official's statement did not constitute official Nicaraguan policy. Similarly, the statement supporting the Soviet invasion of Afghanistan was issued by several of the more radical members of the government during a visit to Moscow; that statement was repudiated by government officials in Nicaragua and formally in a letter to the Washington Post by the Nicaraguan Ambassador to the United States. What clearer evidence do we need that no one controls the government and that there is an intense struggle going on.

CHARGE

> We have heard reports by the Human Relations Commission of possibly as many as 1,000 people being executed by the government, although in recent months there have not been immediate reports to that effect.

RESPONSE

I hope Members will examine this statement carefully because it is important to realize that what is being referred to is one report from one source that has not been confirmed in recent months. Why do the opponents of assistance to Nicaragua continually refer to this one unsubstantiated report? Why do they try to link the killings to the government, when the best assessment from a composite of sources is that during the several weeks following the revolution some 400 persons lost their lives—primarily due, not to government action, but to continued, uncontrolled fighting, the actions of armed bandits, the settling of old scores, and so forth.

CHARGE

> The Government of Nicaragua is today engaged in helping to aid terrorists to overthrow other governments in Central America.

RESPONSE

I fail to undersand why the gentleman who made this statement again last Wednesday continues along this line, when he knows that the best intelligence available to the U.S. Government indicates that there is no substantive evidence that the Government of Nicaragua is supporting terrorism in neighboring countries; that the Government of Nicaragua has denied it will engage in such activities and in fact played a role in resolving the recent political crisis in El Salvador and is supporting the government there; and that we are only aware of several isolated incidents of individual Nicaraguan Sandinistas being involved in activities in neighboring countries—operating on their own, not under government orders.

In fact, in one instance the Nicaraguan Government got wind that some 15 Sandinistas in a remote area of the country intended to move into El Salvador. The Sandinistas suddenly disappeared, and the Nicaraguan Government immediately informed the El Salvadorian Government of their intentions; and continued to search for them. Subsequently the 15 were found in Nicaragua and were detained from crossing the border into El Salvador.

CHARGE

> It is an undisputed fact that the Sandinistas maintain themselves and their control over the people of Nicaragua through the Sandinista military forces.

RESPONSE

Let us analyze this statement: I am not aware that the Sandinista military forces have been used to repress the people, which is what is generally implied when a government is said to maintain itself and its control over the people by military force. I am not aware that the military forces have prevented Robelo from holding mass political rallies—at which he has been criticizing government policies. The Sandinista military forces have replaced the former national guard as the military forces of the country, but have they engaged in acts of repression? There is no evidence to that effect.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. ZABLOCKI. Very briefly.

Mr. BAUMAN. I thank the gentleman for giving some of his time to yield to me, but let me just answer that one point. The gentleman says he is not aware that the Sandanista government has done anything to Alfonso Robelo who resigned from the junta because he disagreed with the government and its direction? But on June 8 there is scheduled in Nandaime, Nicaragua, a rally of the Nicaraguan Democratic Movement led by Alfonso Robelo, and it has had to be suspended because the government ordered a parade of sugar cutters and their union from a nearby sugar mill for the same place and the same hour that Robelo arranged his meeting.

Now, participants in his meetings have been roughed up all over the country, but I could provide the gentleman point by point an answer to everything the State Department has provided for him to say, just as I have on this point.

Mr. ZABLOCKI. If I may advise my dear friend, the gentleman from Maryland, the information with which I repudiate the gentleman's statements was not provided by the State Department. Much of the information was acquired as a result of the meetings that we have had with leaders from Nicaragua, not only Arturo Cruz, but also three independent businessmen who were here who have given me some of this information.

Regarding the one gentleman whom our dear friend and colleague, the gentleman from Maryland, has quoted, Jose Francesco Cardinale, I invited the gentleman from Maryland to come and hear Dr. Cruz, respond to questions on what Mr. Cardinale had said. Unfortunately, he did not see fit to see or hear the other side.

Mr. BAUMAN. Will the gentleman yield on that point?

Mr. ZABLOCKI. As soon as I finish my thought.

Mr. BAUMAN. Will the gentleman yield on the point of Dr. Cruz?

Mr. ZABLOCKI. Perhaps the gentleman was unable to come to hear the other side of the story.

Mr. BAUMAN. Will the gentleman yield?

Mr. ZABLOCKI. Now I yield briefly.

Mr. BAUMAN. I thank the gentleman for yielding. The gentleman did have a Rules Committee meeting that morning, but the gentleman from Maryland spent more than an hour talking alone with Dr. Cruz in Managua in February. I felt I knew his position.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 4 additional minutes.)

Mr. ZABLOCKI [reading]:

CHARGE

Last week the National Government of Nicaragua recognized the PLO.

RESPONSE

So have nearly 80 other countries, in one form or another, including most of our NATO allies. As Mr. SOLARZ pointed out on the floor, some of the major recipients of U.S. aid—including Egypt and Morocco—have recognized the PLO; if we were to use this standard as the basis for providing assistance, or the basis for establishing good relations, we would save a lot of money and have a lot fewer friends and allies. I also want to point out that the Nicaraguan Government maintains diplomatic relations with Israel. The Nicaraguan Government argues that it is merely recognizing those who supported it in its struggle against Somoza.

CHARGE

There is no arguing with the fact that the Sandinistas directed the violent overthrow of the existing government when efforts were underway to establish a transition process to provide the people of Nicaragua with representative government.

RESPONSE

My recollection is that the Sandinista forces agreed to a temporary cease-fire and interim government if Somoza left the country, and that the accord came apart when Senator Urcuyo who took over the government from Somoza as an interim head of state, decided to renege on the agreement and attempted to retain control.

CHARGE

Reference has been made that Nicaraguan businessman and Vice President of the Council of State, Jose Francesco Cardinale, left Nicaragua and came here to tell us in his own words that the Sandinistas, since last July, have done more to wreck the future of Nicaragua than the Somozas.

RESPONSE

He may well have said that, and it may well be his view; but for every businessman that has left the country, you can find 10, 20, 100, who still believe they have a chance and are staying on to run their businesses in Nicaragua. I emphasize the word "chance," as the chance still exists. It may not last long, however, if this bill is defeated. Also, Mr. Cardinale fully supports U.S. assistance for Nicaragua.

CHARGE

We have given them (Nicaragua) more than $60 million in the last 15 months. There have been consumate attacks on the people (the United States) who have paid the bill for them and who have made their existence today possible.

RESPONSE

We have provided some $40 million since July of last year, less than 10 percent of aid commitments to Nicaragua and maybe approximately 20 percent of that actually received—hardly an amount that has "paid their bills and made their existence today possible." (There is pending assistance of $15 million, principally in private sector inputs, and $5 million in Public Law 480 commodities, but neither has gone ahead yet.)

CHARGE

Nicaragua has signed agreements with the Soviets and other Eastern Bloc countries.

RESPONSE

So has the United States, and most countries of the world; they are only trade and technical agreements, not political.

CHARGE

There is no press freedom in Nicaragua, as evidenced by the recent closing down of La Prensa.

RESPONSE

There is press freedom. Certain Sandinista elements took advantage of a dispute among the Chamorro family for control of the editorial policy of La prensa to foment labor unrest which temporarily closed the paper. The government subsequently supported moves to resolve the dispute and, as a result, the paper is now on the streets again and the family members who support democracy and free enterprise are in full control. La Prensa is more independent today than it has been at any time since the revolution.

Finally, let me summarize and repeat the essentials of my position—and that of the committee:

First. We do not contend that there are no radical, pro-Soviet or pro-Cuban elements in the Nicaraguan Government. There are. What we do contend, is that those elements are not yet in firm control of the country.

Second. We do not, and I repeat not, favor the establishment of a Cuban, Fidel Castro-type regime in Nicaragua. On the contrary, passage of this measure is intended to prevent such an occurrence. It may not succeed and we are all aware of that possibility.

But before Members vote on this amendment, I ask them to consider whether it is not worth taking the calculated risk to invest some $54 million in an effort to strengthen those forces in Nicaragua, which alone can forestall the emergence of another Cuba in this hemisphere. And if you do not want another Cuba in Central America, I ask you to consider, before voting on this measure, what other alternatives—realistic alternatives—exist that would preclude the undesired result.

The time, Mr. Chairman, is running out and this may be our last chance to keep Nicaragua from falling inevitably within the yoke of a Marxist dictatorship.

I must point out in closing that as far as freedom of the press, I have here the latest copy of La Prensa in which the private sector had a one-page ad, in which are included the nine points that were negotiated between the COSEP and the Government of Nicaragua. As I will not have time, because I do not intend to take additional time, I will insert these nine points in the RECORD at this point:

NICARAGUA—COSEP/GOVERNMENT AGREEMENT

(Nine key points demanded by COSEP—7 have been secured and 2 have been partially secured or under negotiation).

Points sought by COSEP from the Government and result

1. Right of Judicial Review of Government Actions; obtained.
2. Reaffirmation of concept and protection of private property; obtained, some properties returned to owners and other takings now can be reviewed by courts.
3. Repeal of National Emergency Law; repealed.
4. Unrestricted freedom of expression; agreed to; decree being drafted: TV network to be removed from control of FSLN.
5. Resolution of "La Prensa" problem; resolved.
6. Separation of Party (FSLN) and State and guaranty of functioning of political parties without ideological discrimination; under negotiation—Robelo organizing own political party and campaigning.
7. Holding of elections of Constitutional Assembly and local and national elections; promised publicly; date for municipal elections to be announced on July 19.
8. Restructuring of executive, maintaining principle of pluralism; two moderates appointed to Junta.
9. Promote conciliatory attitudes among the various social classes and advantages of national coexistence; conciliatory government statements aimed at promoting this goal.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROOMFIELD, and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we just passed the special assistance bill which was agreed to by the Senate for $75 million. My point is, why do we include $25 million more in this bill which does not take effect until the new fiscal year 1981? Why would it not be better to let the dust settle to find out in what direction the Nicaraguan Government is going? Why would it not be better to use the $75 million authorized just a few weeks ago? What is the urgency of putting in more money at this particular time?

Mr. ZABLOCKI. The answer is very simple. The gentleman from Maryland himself said that at the time we were discussing the $75 million emergency, that the amount was insufficient, that they would need many, many more millions of dollars. If you are going to have continuity, if you are going to have successful completion of a program for which 60 percent goes to the private sector, then it is necessary to plan for the next fiscal year, and that is why we have this bill. To let the dust settle, so to speak, is like saying, well, I will give the patient half a bottle of the medicine he should take, but a full dose would be necessary. Let us see what a half bottle will do. If he does not die, then we will probably give him the rest.

Mr. BROOMFIELD. Will the gentleman yield at that point?

Mr. ZABLOCKI. I will be glad to yield.

Mr. BROOMFIELD. I think $75 million will buy a lot of medicine.

Mr. ZABLOCKI. Has the gentleman bought medicine lately?

Mr. BROOMFIELD. I would like to ask the gentleman, should the amendment of the majority leader prevail, would the chairman of the committee be opposed to the same restrictions which were attached to the special assistance bill on this $25 million?

Mr. ZABLOCKI. I might say to the gentleman that I am supportive of the substitute amendment of the majority leader. I want to point out to the gentleman from Michigan that some of the other restrictions are in the basic law. There is no need to repeat them.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

☐ 1540

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute offered by the gentleman from Texas.

Mr. Chairman, make no mistake about it, the amendment by the gentleman from Texas is a blatant attempt to do precisely what the House has in the past refused to do and that is to send $25 million to the Communist-controlled Government of Nicaragua. Despite the statements of the gentleman from Wisconsin (Mr. ZABLOCKI) that he is not aware—and the gentleman repeatedly used that phrase—those of us who have had occasion to read, for instance, the daily State Department reports of the press in Nicaragua which are controlled by the Government are under no illusions. No one has refuted the facts that I presented, that a five-man junta is controlled by three Communists. The other two people are essentially window dressing and one of them was here the other day.

No one has disputed the fact that the Sandinistas—the Communists—control the Council of State to the point that Mr. Robello refused to participate in it; and no one has disputed the fact that the directorate is the true government and is controlled completely by the Sandinistas, the Communists.

Now, Mr. Chairman, if the people in this House of Representatives want to vote $25 million to a government that contains as many if not more prisoners in their prisons than Somoza about which we were so concerned, that has, in fact, been censured by the Inter-American Press Association only in the last few weeks, that has consistently refused free elections—and you cannot give us a date, nor have you given us one—yes, they have all said, "Yes, we will hold elections—someday," but the revolution is the true referendum they say.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. The gentleman full well knows next month, approximately July 15, a day will be set.

Mr. BAUMAN. Then wait until July 15. This bill will be in the other body. We can act on it again. They can add on amendments in the other body. But why are you so concerned about getting this bill through? Because this country, Nicaragua, that was controlled by a right-wing dictatorship, today is controlled by a Communist dictatorship. The Carter administration brought it into being and they hate to admit it.

Mr. Chairman, I do not want to be a party to setting up a dictatorship far worse in Nicaragua than we had in the past. The issue before us is a turning point in our relationship with Latin America. Will we give aid and assistance to a Communist government to replace a right-wing government? Which is worse? I happen to believe that it is no worse to have a lack of freedom under a right-wing dictatorship than it is under communism except for one thing, this is not the end. After Nicaragua, Guatemala, El Salvador are all on the list for extinction, the governments there. One by one. This administration is engaged in a systematic overthrow of governments that are friendly to us on the theory that if we replace them by Communists or pro-Communists, they are more representative. Well, I do not think that is the case and I think the fundamental issue involved here is a very serious one. I think those of us who study this have presented correct facts: No elections, no free press, prisons, the killing of political opposition. That is not Somoza, that is the Sandinista government now in power there. Nobody denies the agreement that was signed with Cuba, nobody denies that there are two, three, several thousands, Mr. Cardenal told us 10,000 Cubans in the countryside and in the government assisting them for what? Not just education. No one denies the agreement signed in Moscow on March 23. They admit that. Is this the kind of government we should be giving aid to? Mr. Chairman, I submit it is not. I submit if one votes for the Wright amendment, we guarantee $25 million to a Communist government that does not love freedom, that is destroying the rights of the people in Nicaragua.

Mr. Chairman, I want to help the people of Nicaragua. But I do not want to confirm communism anywhere in this hemisphere. I personally believe the issue is clear. I urge you to vote down the Wright amendment and I urge you to support the amendment that will not only cut $25 million but will allow a remaining $19 million in the bill for food and medicine to the people, not the allies of Moscow, not to allies of Cuba and not to those who will not be the allies of the United States. That is the only issue here and if you want to weasel your way out by supporting this Wright amendment, go ahead and do it. I think it will be a shame. Not just for the American people, but more importantly for the people of Nicaragua we all profess we want to help.

Mr. Chairman, I yield back the balance of my time.

Mr. ZABLOCKI. Mr. Chairman, I ask unanimous consent that all debate on the Bauman amendment and all amendments thereto close at 4 o'clock.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous consent was agreed to will be recognized for 50 seconds each.

The Chair recognizes the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Chairman, I rise in support of the Wright amendment. I have had occasion to visit Nicaragua and have followed the issue closely since the turmoil ensued years ago in Nicaragua.

Mr. Chairman, the statements by the gentleman from Maryland, while they tend to be strong are overstated in many instances. For instance, the gentleman suggests there be no free elections. That is not true. The Nicaraguan Government now is starting to negotiate with the Government of Costa Rica to establish a base and the foundation for real elections. The gentleman says there is no free press. That is not true. La Prensa just printed an editorial recently in support of Mr. Robelo's party.

The gentleman says there is no pluralist society. That is not true, my colleagues. The other three parties that are organized in Nicaragua, I believe within a very short time, will be part of the Council of State.

It just seems to me we cannot give up on a society in a government that has the people at heart and I hope we will support the majority leader's amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. I would like to point out, with due respect to my dear friend the majority party leader, regarding his forthcoming trip, I think the report is already written, one which will be favorable to the Nicaraguan Government. I am sure then that the reports required from the administration every 3 months will be quite favorable to the Nicaraguan Government. So all we are doing is using this device to brush the issue away.

Mr. Cruz was here, he made an impressive showing, he is a fine gentleman. But I remind you 6 months ago the military types in the junta were here. They are minor league Castros. It took me back 20 years ago when Castro swaggered into town. He was called the new wave of democracy in Cuba. What do they have there today?

The chairman acknowledged the presence of thousands of Cubans. I do not know anywhere Cubans have gone in the last 20 years for the betterment of anybody. They are there to install dictatorships. The East Germans are acknowledged to be in Nicaragua. Just a few, the chairman said. East Germans are the police state experts of the Communist world. They are there to install a police apparatus.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Chairman, I had hoped to enter into a dialog with the gentleman from Maryland (Mr. BAUMAN) but unfortunately this limitation in time will not permit it. That gentleman said, and I agree, that we are at a turning point in our relations with the Caribbean and Central America. I think that is absolutely correct. Cuba has been ruled by a Communist dictatorship for about 20 years and Jamaica and Grenada are in that direction also. And now, unless we take some responsibility for the future of own hemisphere, I think we can expect this trend to continue in the Caribbean and Central America and maybe into South America also.

The question is, Do we want to get involved and try to maintain peace, freedom and democracy in our hemisphere or do we want to bail out and leave this part of the world to the Soviets and the Cubans? That is the choice we have to make today. I hope, in the interest of freedom, that we adopt the Wright amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise in strong support of the Wright substitute. The majority leader is leading us in the right direction and we should follow him.

The gentleman from Maryland (Mr. BAUMAN) describes a sick patient. The patient is ill, but he is not dead.

The gentleman from Maryland says the Communist influence is there and dismisses the society as a Communist society and government. The fact is, this is the medicine that can help. The private sector is also there. The church is also there. I hold in my hand a letter you had received dated June 2 from a number of religious leaders in our society both Catholic and Protestant urging support for this legislation and for this section of the legislation.

As has been mentioned previously in this debate, there are also religious leaders working in Nicaragua to help cure the patient and I think we should follow their leadership as well as that of the American religious leaders such as those from the United Methodist Church, the Lutheran Council, the American Baptist Churches, the U.S. Catholic Mission Council; the National Council of Churches, the United Church of Christ, the Church of the Bretheren, and the Maryknoll Sisters.

Their letter notes, and I quote:

> The Government of Nicaragua is committed to educating its people. Last July when Somoza was overthrown, 45 per cent of Nicaragua's adult population were illiterate. The new government initiated a broad-based nationwide literacy campaign in March of this year involving more than 80,000 youth who are teaching reading and writing to adults in the country's most isolated areas.

The Nicaraguan Government has asked us to send teachers, and I believe we should. The funds in the legislation will help with the education programs for Nicaragua.

The letter by these religious leaders, and I would note that in my experience, religion and communism do not go hand in hand, and goes on to say:

> The Government of Nicaragua is committed to feeding its people, 35 percent of whom were dependent on international food aid for the last 6 months of 1979 and well into 1980. The government is committed to maintaining stable prices for basic food stuffs, to using some of the land formerly owned by the Somoza family for growing basic grains and to food self-sufficiency by 1982.

Mr. Chairman, there is no way that the Government can maintain stable food prices without the type of economic assistance we are providing in the ESF program. There is just no way that food assistance and the country's economy can be separated. They are intertwined.

I would note again that progress has been made: moderates Arturo Cruz and Rafael Cordova-Rivas have been appointed to the Government; La Prensa has reappeared nationwide and has fewer restraints than in the past; the Government and the private sector agreed on the outlines of an understanding to broaden political participation in Nicaragua; announcements have been made concerning the holding of municipal and constituent assembly elections with dates for elections to be announced July 19; the private sector is participating in the Council of State and at least two of the independent political parties are represented; the state of emergency has been suspended and the right of habeas corpus has been reinstated and finally, the Government has agreed to halt property confiscations.

I would call to the attention of our colleagues an editorial which appeared recently in the Birmingham News, Alabama's largest newspaper and a newspaper which reflects the conservative outlook of many of the people of our State.

That editorial refers to the legislation we passed earlier this year with regard to Nicaragua but I think it underlines the reasons why we should continue the programs just recently begun. The editorial follows:

NICARAGUAN AID

> Usually Congress might be expected to move a little more expeditiously than over a 10-month period when the president urges haste with legislation. That it took Congress that long to pass a $70 million aid package for Nicaragua, even after President Carter urged rapid action, is understandable, however.
>
> Congress passed the aid bill early this week, making the U.S. the 41st nation to offer assistance to that revolution-torn Central American country. What Congress lost in not being swift, it probably more than made up for in trying to be sure. Though the U.S. State Department backed the aid bill, no one really could predict what kind of government the Sandinista guerrillas who overthrew Anastasio Somoza's regime woud set up. There was no guarantee, especially with Fidel Castro displaying a marked influence in the country, that Nicaragua wouldn't take our money and then become what a lot of senators feared. A second Cuba.
>
> Though the aid package is still risky business, there have been signs that Nicaragua is trying to allow moderates more input in decision-making. Last week, for example, the Sandanistas filled two seats on their five-man ruling junta with two famous moderates, one a noted banker, the other a former Nicaraguan Supreme Court justice.
>
> With most of the $70 million aid package going to help Nicaraguan business interests get back on their feet, that moderate influence should become all the more noticeable.
>
> Congress should be applauded for passing

the aid package—and for taking its time doing it.

Mr. Chairman, the patient is ill, but we here in this body have the opportunity to give vitally needed medicine to help cure its illness. Without this medicine, the patient will surely die.

I urge the adoption of the Wright amendment.

□ 1550

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I want to read the following editorial from the May 26, 1980, issue of La Presna:

EDITORIAL

For those who believe in freedom of expression in Nicaragua, the reappearance of La Prensa symbolizes more than a victory, rather it represents a positive turn in the Nicaraguan Revolution.

Before the split which closed the newspaper for one month, many sectors of the society had been accusing La Prensa of having become a semi-official organ, thereby betraying its independent, critical, democratic and pluralistic line which it had pursued since its first publication after the triumph of the popular uprising.

In effect, the newspaper found itself internally divided between a group that tried to follow the policies laid down by the Nicaraguan Union of Newspaper Journalists (UPN), a quasi-FSLN union charged with controlling the national press, and a smaller group of journalists who choose to follow a critical, informative line, independent of any state or quasi-state entity. This latter group was supported by La Prensa's Board of Directors which had been concerned for several months with the course the newspaper was taking and by the great deal of criticism La Prensa was receiving because of its gradual loss of independence and journalistic objectivity.

The takeover of the newspaper by its workers coincided with two events of major significance: the resignations of Doña Violeta de Chamorro and Alfonso Robelo. Even though these three events had no relationship with one another, the fact that they occurred at the same time led the country into a severe political crisis and inevitably to wide speculation over the motives behind the resignations.

The final break up between the Union and management of La Prensa came after several weeks of negotiations between the two parties when they reached an arrangement by which 150 of the 210 workers resigned to form their own newspaper: El Nuevo Diario. Javier Chamorro, a member of La Prensa's Board of Directors, also resigned to join a new paper after having signed an agreement by which La Prensa purchased his shares.

Under the terms of the agreement, management will pay its former employees their full fringe benefits amounting to $130,000.00. In addition, La Prensa will supply former employees with a bonus of 118 tons of newsprint worth $60,000.00. This amount, together with $120,000.00 in shares received by Javier Chamorro will form the capital base for El Nuevo Diario.

La Prensa now faces a new challenge: publishing a high quality newspaper with a largely new staff, while at the same time contributing to the development of a pluralistic and democratic atmosphere in which the Nicaraguan revolution can pursue the democratic course which shaped the revolution from its inception and is its very reason for being.

Without freedom of speech all other freedoms can be violated with impunity; without freedom of speech, the temptation for a dictatorship (of becoming a dictatorship) is irresistible.

La Prensa has become one of the three significant indicators generally used in making a dispassionate and objective analysis of the Nicaraguan situation: freedom of speech, the status of the human rights and the degree of ideological pluralism. With the only two television stations controlled by the FSLN and only 2 or 3 independent radio stations, La Prensa represents an oasis of freedom, an oasis which is intimately linked with the political and economic future of Nicaragua. To maintain the balance between social justice and democratic liberties is the challenge which faces both La Prensa and the Nicaraguan Revolution.

We cannot permit Nicaragua to move from a dictatorship of the right to a totalitarianism of the left. The Nicaraguan Revolution neither can or should be permitted to lose its unique character because of the enthusiasm of some leaders for bankrupted models such as Cuba. This is the challenge which faces La Prensa and if to reach this goal La Prensa must sacrifice its own existence it will be an honor to go down in history defending the ideals for which we have always fought, those for which my father, Pedro Joaquin Chamorro Cardenal gave his life.

Two roads are being opened in the history of Nicaraguan journalism: the birth of El Nuevo Diario and the resurgence of La Prensa after having another stiff blow in its 54 years of existence: takeovers, censorship, two earthquakes, the total destruction of its facilities, the assassination of its Director and now the most profound split brings us to a new phase of La Prensa only ten months after the victory of the popular uprising.

La Prensa has confirmed its allegiance to the motto which is printed daily under its banner: "To serve the truth and justice". What stirs the enthusiasm of the 60 workers who have stayed with La Prensa is well captured by what the ex-president of Venezuela, Carlos Andres Perez said the day he visited La Prensa's semi-devastated facility: "The faith and the spirit in the value of the printed word are embodied in the work of La Prensa."

In 1974 when La Prensa reappeared after a political shut down, a well known Nicaraguan writer and poet, Jose Coronel Urtecho sent my father a memorable telegram which was reproduced ten times its original size and hung in the entrance of La Prensa; it says: "Congratulations on reappearance of La Prensa. In the public mind, when La Prensa does not appear it is as if there were no news or as if the news that exists is a lie." Today La Prensa reopens again, with a mission before it, under new circumstances, but with its same enthusiasm, spirit and convictions.

We cannot permit Nicaragua to go from a dictatorship of the right to a dictatorship of the left. If we leave the people who are fighting down there for democracy with no help and no support, we are guaranteeing a dead policy. The way to keep life in the movement is for the United States to support those forces in Nicaragua which are trying to bring about a more reasonable democratic society.

La Prensa—a voice for freedom—is speaking out and is allowed to continue to operate—clear evidence that there is freedom of expression. The 25 radio stations remain in private hands and are operating. The Government has just agreed to remove the Government-owned TV network from FSLN control and place private sector representatives on the board of directors.

There are strong forces for moderation active in Nicaragua. Elections have been promised and will be announced on July 19.

There is clear movement toward pluralism in Nicaragua, and I urge the Members to support the Wright amendment and oppose the Bauman amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, 40,000 people were killed in the revolution; 40,000 orphans in Nicaragua; 200,000 people homeless; their economy totally wrecked. The people of Nicaragua are crying out for assistance to rebuild their economy.

Forget about the hatred that you might have for the Sandinistas. Forget about the hatred that you might have for communism, that my colleague here talked about a week ago. Forget about the hatred you might have for one person who "struck a deal" with the Soviet Union. Think about the suffering people of Nicaragua who are crying out for our help, who want to rebuild their economy, who want to raise their orphans, who want to rebuild their homes and provide education and health care for their people. That is what it is all about.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, no one in this House really knows whether there is a chance to save this country. Now, the gentleman from Maryland feels that, there is no chance. The majority leader feels there is a reasonably good chance. I imagine that somewhere in between the truth lies, and none of us know.

I believe as long as there is an element of the private sector and the church standing and fighting in this battle, there is a chance, to save this nation. We may be throwing the money down the drain, but not to make an effort is an alternative that we cannot choose.

(By unanimous consent, Mr. YATES yielded his time to Mr. WRIGHT.)

(By unanimous consent, Mr. BINGHAM yielded his time to Mr. O'NEILL.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, the impression might be gained by people listening to this debate that we have not been assisting Nicaragua. There is some $70 million either in the pipeline or already delivered, plus the $75 million that was authorized earlier this year; plus some $300 to $400 million by international lending institutions to which we contribute a major portion.

I point out also that although La Prensa apparently has started publishing again, El Pueblo, another newspaper shut down a long time ago by the Sandinistas has not reappeared on the scene.

This is quite interesting as this left wing paper freely published under the Somoza regime. No one has refuted the charge that the National Directorate of the Sandinista Party, the nine-member Directorate, is Marxist controlled—all of them, as are three of five members of the junta and a majority of the Council of State.

(By unanimous consent Mr. McHugh yielded his time to Mr. O'Neill.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Chairman, symbols are important, and I thought perhaps in the closing time the Members who love the Government of Nicaragua will tell us why I was informed by letter dated June 4 from the American Chamber of Commerce in Nicaragua just transmitted to me, that a special invitation has been extended to Fidel Castro to attend the anniversary of the Sandinista revolution by Minister of Planning, Henri Ruiz. Maybe that is a symbol that you ought to think about, or why, or why an alternate member of the Council of State, 2 days ago was arrested by the State Security Police as a counterrevolutionary. That is a member of Parliament being arrested along with nine other business associates; or, the rally that I just mentioned for Alfonso Robelo that has been canceled; or the statement of Commander Ortega made in Panama that there could be no elections in Nicaragua now because that would eliminate the political "pluralism" as the Sandinistas want it. I wonder if the gentleman would explain some of that.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

The Chair recognizes the gentleman from Michigan (Mr. Broomfield).

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the Bauman amendment, and yield the balance of my time to the gentleman from Maryland.

Mr. BAUMAN. I think that this has become a very important issue in the sense that the administration has been rebuffed repeatedly in this House on this issue—not because the administration should be opposed, but because the merits of the issue are such that we ought to make very plain the will of this Congress. No amount of twisting of arms or parading of converts at the last moment is going to change the issues involved in this amendment.

We can save Nicaragua, but not by making sure that the Communists remain in control. If you vote for the Wright amendment, you vote for something that is meaningless. If you vote for my amendment, I think you will send a message that is necessary; that we will not aid communism.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the policy of this administration toward the regime in Nicaragua seems to become more bizarre as each day passes. On one side there is the ongoing flood of evidence that Nicaragua is a Marxist government with every intention to serve the ends of Cuba and the U.S.S.R., yet this administration insists that American tax dollars be spent in subsidizing the junta's existence. This form of surrealistic diplomacy cannot go on indefinitely. I hope this House brings at least a portion of this policy back to reality in its vote on this amendment.

This bill has approximately $59.2 million earmarked for the Sandinistas in Nicaragua. What on earth is the United States doing giving millions of dollars to a country that has been described as a "Soviet regional base" by La Prensa Grafica of El Salvador?

Recent reports show that the regional base discussed in La Prensa Grafica is becoming more of a reality each day. On April 13, 1980 members of the Francisco Morazan International Brigade of Nicaragua were arrested while operating recruitment efforts in Costa Rica. On April 21, 1980 more than 20 Nicaraguans were captured in Honduras in connection with a weapons cache of machine guns and grenades. These reports follow incidents which happened earlier in the year when Sandinistas were arrested in El Salvador as part of a guerrilla group operating against the government and when Nicaragua was linked by the Guatemalan military to the training of insurgents.

Only last week the use of Sandinistas in the general world strategy of the U.S.S.R. and Cuba was identified by Paris AFP. At the request of Fidel Castro 500 Sandinistas were sent to Angola to bolster the 36,000 man Cuban Army operating in the country. This tie in of Nicaragua with world Communist activities follows the pattern of diplomacy that was established early by the junta. Strong ties to the U.S.S.R. and Cuba were implemented by Borge and others in numerous visits to those nations soon after the junta came to power. Ties to Angola, Czechoslovakia, Algeria, North Korea, and the PLO have also been implemented. Joint communiques criticizing the U.S. actions in the world and expressing solidarity with the goals of the PLO and other terrorist groups have further cemented ties between the junta and the Communist network in the world.

Part of the junta's solidarity with communism has been in the form of increased Soviet and Cuban presence within Nicaragua. Aeroflot now has regular service to Managua. On April 16, 1980, a new Soviet Ambassador arrived in Managua to head what is projected to be a 300 person Soviet mission in Nicaragua. The Cubans are also in Nicaragua in some numbers. One report states the number of Cuban personnel at close to 8,000. A contingent of Cubans from the Celia Sanchez Brigade have been working on road construction throughout Nicaragua. The combination of high levels of Soviet and Cuban personnel does not provide a picture of a neutral nation.

The domestic policy of Nicaragua is also becoming a clearer reflection of Marxist dogma. Under the guise of the literacy campaign the junta is beginning to indoctrinate the people of Nicaragua in Communist revolution. On May 24, 1980, the Washington Post reported that the first word taught one typical student of the literacy campaign was "revolution." Some of the first sentences taught in government primers are propaganda slogans like: "The guerrillas vanquished the genocidal National Guard." In March 1980 the Sandinista party organ Barricada called on the FSLN militants to "initiate a relentless ideological struggle now that there are some who are trying to confuse Sandino with bourgeoisie liberal ideology." This cleansing of the movement in order to present a clear picture of the Marxism practiced by the Sandinistas was spelled out on March 31, 1980, by the executive committee of the Peoples Social Christian Party:

> It is necessary to create a broad plan to change our mentality, to rid us of the values, attitudes and behavior inherited from Somozism and the capitalist dependent system in general. The cultural revolution is the foundation on which to develop a new Nicaragua. It is in this respect that the great literacy crusade plays an important and strategic role as the most important project of our popular Sandinista revolution."

Is it no wonder that the junta has put off talk of any elections until they have consolidated their hold on the country via propaganda and indoctrination? How similar this process is to what took place in Cuba, Vietnam, and other nations that have fallen under Communist control. In the past the United States has been an unwitting benefactor of these other Communist takeovers through lack of action or because those in power did not realize that matters were out of hand until it was too late. In Nicaragua we have the full knowledge of what is taking place. This time we can stop a bad situation from becoming worse. If this aid is approved the Congress will have subsidized a government that already is assisting to making this world safe for Soviet domination. I hope clearer heads will prevail by adopting this amendment and stopping the junta before it can do more damage to the people of Nicaragua and the people of Central America.

• Mr. FINDLEY. Mr. Chairman, I rise in opposition to the proposed aid for Nicaragua.

When the House considered the special $75 million economic aid package for Nicaragua earlier this year, I supported the aid in the belief that U.S. assistance would help preclude a Soviet-Cuban takeover of Nicaragua and influence the Sandinistas toward democratic rule and a free economy.

Events since the February 27, 1980, House vote have demonstrated, however, that the Sandinistas do not intend to establish democratic government in Nicaragua nor observe basic political liberties such as freedom of the press. The Sandinistas have, more and more, been attempting to suppress independent labor organizations, political diversity, and attempts to form opposition parties. The hope that existed early on that Nicaragua would become a democratic nation has grown dimmer to the point of extinction.

Also, it is increasingly clear that the

new regime in Nicaragua is intent on forging ever closer ties with Cuba and the Soviet Union. It has been reported that hundreds of Soviet advisers will soon arrive in Nicaragua according to a broad trade agreement signed between Moscow and the Sandinistas in late March. A delegation of Sandinistas not only signed trade and cultural agreements with the Soviet Union during a trip to the U.S.S.R. also at the end of March, but also initialed a "party-to-party" agreement between the Sandinista Party of Nicaragua and the Communist Party of the Soviet Union. This document clearly establishes the Marxist character of the Sandinista Party.

These developments all point to the establishment of a nondemocratic, pro-Soviet regime in Nicaragua. The United States, in no way, should pour money into Nicaragua. I cannot support aid for Nicaragua and urge my colleagues to join me in opposition. These funds would be better spent to build up U.S. defenses or to aid U.S. citizens who are struggling under the burden of an economy in recession.●

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. WRIGHT), the majority leader.

Mr. WRIGHT. Mr. Chairman, first I should like simply to answer one point just now made in the closing moments of this debate by the gentleman from Maryland in which he said the Nicaraguan Government has invited Fidel Castro of Cuba to attend the July 19 celebration. What he neglected to tell you is that it also has invited every other head of government in the Western Hemisphere, including the United States, and prominent people from the Government of the United States will be in attendance, as will others from other democratic countries throughout the Western Hemisphere.

Now, the point of it all is that Nicaragua, the biggest and most important country in Central America, teeters between our way and that of the Marxists. We can help move it in our direction if we are willing to be patient friends. In recent weeks it has indeed moved in the direction of democratic liberalism, to embrace the rights of private property and the rights of free expression.

Let me repeat to you a few of the things that have been demanded by the spokesmen of the private sector and affirmed by the Government in the last 2 weeks:

The right of judicial review of Government actions has been fully reaffirmed.

The restoration of habeas corpus has been established.

Reaffirmation of the concept of protection of private property has been obtained. Some properties that had been taken have been returned to private hands, and all other takings will be reviewed by the courts.

The national emergency law, which established martial control for a brief time, has been repealed.

Unrestricted freedom of expression has been agreed to; a decree is being drafted.

La Prensa, the nation's largest newspaper, has been returned to private hands.

These give us hope that there can be a free and happier future for that land if we do not despair.

(By unanimous consent, Mr. ZABLOCKI yielded his time to Mr. O'NEILL.)

The CHAIRMAN. The Chair recognizes the distinguished gentleman from Massachusetts (Mr. O'NEILL), the Speaker, for 3 minutes.

Mr. O'NEILL. Mr. Chairman, I speak in support of the Wright amendment. I believe this is the first time in probably 28 years that I have been in the Congress that I have ever taken the floor on a foreign affairs amendment or a foreign aid bill, but I do recall a meeting some years ago in which the Chief of Staff came over and talked with a group of us in the House. He talked to us at that time about Portugal, and how Portugal could possibly go down the drain and go Communist if we, the United States, at that time turned our back on Portugal, and what that country meant to the world.

It probably meant that hostilities between Spain and Portugal would occur. Communism was rising in Italy at the time, and he told us what the consequences for Italy would be. I can remember the Chief of Staff saying it was a tinderbox that could go ablaze.

☐ 1600

About 2 months ago I led a congressional delegation to Portugal, and we met with the President of Portugal and the Prime Minister of Portugal. Portugal is the most solid friend America has on the continent today, it is one of the most solid democracies on the continent. The Portuguese leaders told us how grateful they were that the Americans in their time of need came to their aid and came to their assistance. As I was talking with President Eanes, I recalled how a group of us sat in a room in the House of Representatives with the chief of staff, most of us from urban areas who were not interested, and had not followed closely the foreign affairs of his country.

I see a similarity today. Yesterday I met with Dr. Cruz. I was truly impressed. A member of the junta, he assured me—he assured me and I believe him—that Nicaragua desires a democracy and a productive economy. He pointed out that 60 percent of the gross national product of that country is in private hands, that municipal elections are being planned, and that a commitment has been made to draw up a new constitution. Dr. Cruz was truly eloquent and convincing that the United States should not fear that Nicaragua wishes to aline itself with the Soviet Union and with Cuba.

However, he made clear that his country is in a state of great deprivation and that our aid is sorely needed to get the productive sectors of the economy moving again. As a former president of the National Bank of Nicaragua and an officer of international development banks, he assured me that our aid would go to the private sector to get the producers moving again. I believe him.

I also believe that approval of the substitute will permit us to develop closer relations with Nicaragua and accelerate that country's recovery from the destruction that occurred during the recent revolution.

Now I know that some of my colleagues are concerned about the Nicaraguan delegation that visited Moscow. Well, I am concerned as well—but I have not forgotten that the revolutionary government sent a delegation to Washington first.

And I believe that the appointment of moderates, such as Dr. Cruz, to the junta after the delegation's visit to the Soviet Union indicates a willingness by the leaders of Nicaragua to chart a course of political moderation and pluralism. Last week in the matter of military aid to Nicaragua, the House by its actions expressed deep reservations about the course of events in Nicaragua since the revolution. If today this substitute is supported, the House will be supporting Dr. Cruz and those like him who are working to promote democracy in Nicaragua.

Franklin Roosevelt, a great friend of Latin America, stated once that "failure is not an American habit."

I am not ready to give up trying to help Nicaragua to recover from its civil war and pursue a path toward democracy.

I urge the Members, please, please, for the best interests of this Nation, support the Wright amendment.

I think I drew a parallel with regard to Portugal. Half a dozen years from now Nicaragua will be a democracy because history does repeat itself.

The CHAIRMAN. The question is on the amendment offered by Mr. WRIGHT as a substitute for the amendment offered by Mr. BAUMAN.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 144, not voting 45, as follows:

[Roll No. 297]

AYES—243

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Carr
Cavanaugh
Clay
Cleveland
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Frenzel
Frost
Fuqua
Garcia
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore

Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Leath, Tex.
Lehman
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Rhodes
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Skelton
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Stanton
Stark
Steed
Stenholm
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Williams, Mont.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—144

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bethune
Boner
Bouquard
Broomfield
Brown, Ohio
Broyhill
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Evans, Del.
Evans, Ga.
Fenwick
Findley
Forsythe
Fountain
Gaydos
Gilman
Gingrich
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Hillis
Hinson
Holt
Hopkins
Horton
Hyde
Ichord
Jeffries
Jenkins
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McDonald
Madigan
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Myers, Ind.
Natcher
Nichols
O'Brien
Pashayan
Paul
Perkins
Porter
Quayle
Quillen
Railsback
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Walker
Wampler
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wylie
Young, Fla.

NOT VOTING—45

Anderson, Ill.
Annunzio
Brademas
Brooks
Burgener
Burton, Phillip
Chisholm
Davis, S.C.
Dodd
Early
Edgar
Ford, Tenn.
Fowler
Giaimo
Goldwater
Grassley
Harsha
Hollenbeck
Jenrette
Lederer
Leland
McEwen
McKinney
Mathis
Mollohan
Myers, Pa.
Nedzi
Peyser
Reuss
Richmond
Roberts
Rose
Runnels
Shuster
Simon
Staggers
Stewart
Stokes
Thompson
Vander Jagt
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Young, Alaska

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The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Burgener against.

Mr. Brademas for, with Mr. Young of Alaska against.

Mr. Richmond for, with Mr. Goldwater against.

Mr. Vento for, with Mr. Grassley against.

Mrs. Chisholm for, with Mr. Bob Wilson against.

Mr. Ford of Tennessee for, with Mr. Shuster against.

Mr. Stokes for, with Mr. Vander Jagt against.

Mr. Leland for, with Mr. Runnels against.

Messrs. APPLEGATE, MICA, HORTON, and BROWN of Ohio changed their votes from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. McHugh). The question is on the amendment offered by the gentleman from Maryland (Mr. Bauman), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino: "(j)(1) In furnishing assistance under this chapter to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of the right to organize and operate labor unions free from political oppression, has engaged in or permitted violations of human rights, has engaged in violations of the right to freedom of the press, or has engaged in violations of the right to freedom of religion.

"(2) The President shall encourage the Government of Nicaragua to respect the right to freedom of the press, the right to organize and operate free labor unions, the right to freedom of religion, as well as all other fundamental human rights.

"(3) The Congress reaffirms the requirement of section 502B(a)(1) of this Act that a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries. In furtherance of that goal, assistance to Nicaragua for the fiscal year 1981 under this chapter shall be terminated, in accordance with sections 116 and 502B of this Act, if the Government of Nicaragua engages in a consistent pattern of gross violations of internationally recognized human rights.

"(4) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report for each 6-month period in which funds are expended under this chapter for Nicaragua for the fiscal year 1981. Each such report shall discuss fully and completely the status of respect in Nicaragua for human rights, political pluralism, freedom of the press and assembly, freedom of religion, and freedom of labor to organize and bargain collectively.

"(5) Prior to releasing any assistance to the Government of Nicaragua under this chapter, the President shall transmit a certification to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Nicaragua has not cooperated with or harbored any international terrorist organization and is not aiding, abetting, or supporting acts of violence or terrorism in other countries. In the event that the President transmits such a certification, but at a later date he determines that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or suporting acts of violence or terrorism in other countries, the President shall terminate assistance to the Government of Nicaragua under this chapter, and the outstanding balance of any loan to the Government of Nicaragua, or any of its agencies or instrumentalities, with funds authorized to be appropriated by this chapter shall become immediately due and payable.

"(6) It is the sense of the Congress that the United States should support those traditionally faithful allies of the United States which are responsible members of the Organization of American States, including Guatemala, El Salvador, Costa Rica, Nicaragua, Panama, and Honduras, against terrorism and external subversion.

"(7) Funds made available under this chapter for the National School of Agriculture in Nicaragua shall be used under an understanding with the Autonomous National University of Nicaragua that the National School of Agriculture will cooperate in programs with United States institutions of higher education.

"(8) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, which are to be made available in the form of loans, shall specifically require that at least 60 percent of such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. Insofar as practicable, local currency used for assistance to the private sector in Nicaragua shall, consistent with the accomplishment of the purposes set forth in section 536(a) of this Act (as added by the Special Central American Assistance Act of 1979), be used in ways which will strengthen private financial institutions which will help keep the private sector in Nicaragua financially independent. Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of this Act. The President shall report on the implementation of this paragraph in the reports required under paragraph (4) of this subsection.

"(9) The President shall terminate assistance to the Government of Nicaragua under this chapter if he determines and reports to the Congress that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and that the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

"(10) The President shall terminate assistance to Nicaragua under this chapter for the fiscal year 1981 if he determines that the Government of Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression.

"(11) The President shall encourage the holding of free, open elections in Nicaragua within a reasonable period of time and shall, in providing any additional assistance to Nicaragua, take into consideration the progress which is being made toward holding such elections.

"(12) None of the funds made available for Nicaragua under this chapter may be used for any school or other educational instrumentality or facility which would house, employ, or be made available to Cuban personnel.

"(13) The President shall terminate assistance to Nicaragua under this chapter if he determines that the Government of Nicaragua engages in systematic violations of free speech and press.

"(14) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, which are to be made available in the form of loans, shall specifically require that such loan funds shall be used for the purchase of goods or services of United States origin.

"(15) Up to one percent of the funds made available to Nicaragua under this chapter for the fiscal year 1981 shall be used to make publicly known to the people of Nicaragua the extent of United States aid programs to them. The President shall periodically report to the Congress on the effectiveness of his efforts to carry out this paragraph.".

Mr. ZABLOCKI (during the reading). Mr. Chairman, I would like to ask the sponsor of the amendment if this is not identical to what was in the bill that was passed earlier this year, the provisions of that bill, H.R. 6081.

Mr. LAGOMARSINO. It is.

Mr. ZABLOCKI. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, the amendment the gentleman is now offering embodies all of the amendments, save one, I understand, that were adopted by the House of Representatives, many of them on rollcall votes, to the Nicaraguan aid bill in February; is that correct?

Mr. LAGOMARSINO. That is correct. These are all of the amendments that were adopted.

Mr. BAUMAN. These are all of the amendments the House has already approved as restrictions on aid to Nicaragua?

Mr. LAGOMARSINO. That is right.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. ZABLOCKI)?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, as indicated by the closeness of past votes on aid requests for the new government in Nicaragua, and as indicated by the large vote eliminating military aid that we had on this bill in the past few days, it is plain to me that there is considerable concern in the Congress regarding the future of Nicaragua and what the U.S. role should be regarding it.

I might say that I think there was some confusion on the last vote, but be that as it may, the Members might want to pay particularly close attention to this amendment. In an effort to help foster the goals of full respect for individual liberty and human rights in Nicaragua, this body adopted a series of amendments to H.R. 6081 that spell out our concerns and seek to provide specific incentives to eliminating them.

I might remind the body that all of those amendments were either adopted in the Foreign Affairs Committee or in this Committee with the concurrence or the acceptance of the chairman of the committee, or in some cases the result of compromises that were offered by the chairman or other Members of this body.

It is also very clear, I think, from the narrow margin on final passage of H.R. 6081, some five votes, that without those safeguards no assistance would have been provided.

Furthermore, since the House acted on H.R. 6081, several Members have withdrawn their support based on the continuing deteriorating situation in that country.

Today in the bill before the House we are being asked to approve an additional $25 million in economic support fund assistance as the final component to the President's pledge of $100 million in that form for Nicaragua.

We have made that decision. The $25 million apparently is going to go to Nicaragua, at least insofar as this Chamber is concerned; however, as was the case on the original $75 million request as it came to us from the President, the administration's proposal here contains no safeguards whatsoever.

As a matter of fact, Mr. Chairman, the only safeguard contained in the request is the amendment that was offered by the majority leader, the gentleman from Texas (Mr. WRIGHT), which is only a simple reporting requirement. If the Members of this House feel that it is necessary to proceed with this additional funding, then I say we must take similar actions in adding those same safeguards.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to my chairman.

Mr. ZABLOCKI. I have earlier asked the gentleman from California whether the amendment the gentleman is proposing has language identical to that which is already in the law that was approved last month—H.R. 6081.

Mr. LAGOMARSINO. That is correct.

Mr. ZABLOCKI. The gentleman has assured me the language is identical. There were no additions to or subtractions from it, and having an opportunity to quickly peruse the gentleman's amendment, the chairman on this side and the Members on this side of the aisle are prepared to reluctantly accept the gentleman's amendment.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we are also very pleased to accept the gentleman's amendment. We think it will improve this section very much and we compliment the gentleman on it.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman.

I would just like to conclude by saying that I think it is extremely important that we adopt these amendments, this package of amendments, to make it clear to the Sandinista government of Nicaragua that we have not changed our position.

I am unhappy, very unhappy that the $25 million economic support fund item in the bill was not stricken out; I think the very least we can do is impose the same conditions.

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The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—DEVELOPMENT ASSISTANCE PROGRAMS

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 301. The first sentence of section 103(a)(2) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $731,773,000 for the fiscal year 1981.".

POPULATION AND HEALTH

SEC. 302. The first sentence of section 104(g) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $238,015,000 for the fiscal year 1981 to carry out subsection (b) of this section: and

"(2) $164,213,000 for the fiscal year 1981 to carry out subsection (c) of this section.".

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 303. The second sentence of section 105(a) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $119,569,000 for the fiscal year 1981. which are authorized to remain available until expended.".

ENERGY AND SELECTED DEVELOPMENT ACTIVITIES

SEC. 304. (a) The section caption of section 106 of the Foreign Assistance Act of 1961 is amended by striking out "TECHNICAL ASSISTANCE, ENERGY, RESEARCH, RECONSTRUCTION, AND SELECTED DEVELOPMENT PROBLEMS" and inserting in lieu thereof "ENERGY AND SELECTED DEVELOPMENT ACTIVITIES".

(b) Subsection (a) of such section is amended—

(1) by inserting "(A)" immediately after "(a)(1)";

(2) by striking out "(2)", "(3)", and "(4)" and inserting in lieu thereof "(B)", "(C)", and "(D)", respectively;

(3) by striking out "(A)", "(B)", and "(C)" in paragraph (3) and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively.

(4) by inserting "(1)" immediately after "subsection (b)"; and

(5) by adding at the end thereof the following new paragraph:

"(2) The Congress also finds that energy production from renewable, decentralized sources and energy conservation are vital elements in the development process. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.".

(c) Subsection (b) of such section is amended—

(1) by inserting "(A)" immediately after "(b)(1)";

(2) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out "fiscal year 1980 shall be used for purposes of paragraph (1)" and inserting in lieu thereof "fiscal year 1981 shall be used for purposes of subparagraph (A)".

(d) Such section is further amended by inserting at the end of subsection (b) the following:

"(2) The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation through research on and development and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another. Such programs may include research on and the development, demonstration, and application of suitable energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.

"(c) The agency primarily responsible for administering this part shall coordinate with the Department of Energy, to the maximum extent possible, the planning and implementation of energy programs under this chapter and shall consult with the Department of Energy on such planning and implementation.".

(e) Existing subsection (c) of such section is redesignated as subsection (d).

(f) Existing subsection (d) of such section is amended to read as follows:

"(e)(1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $160,632,000 for the fiscal year 1981.

"(2) Amounts appropriated under this section are authorized to remain available until expended.".

(g) Section 119 of such Act is repealed.

HUMAN RIGHTS IN DEVELOPING COUNTRIES

Sec. 305. Section 116(e) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981".

SAHEL DEVELOPMENT PROGRAM—IMPLEMENTATION

Sec. 306. Section 121(c) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purpose, $113,442,000 for the fiscal year 1981. Amounts appropriated under this subsection are authorized to remain available until expended.".

PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES

Sec. 307. Section 123 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(e) Prohibitions on assistance to countries contained in this or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering this part in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States.".

RELATIVELY LEAST DEVELOPED COUNTRIES

Sec. 308. The last sentence of section 124(c)(2) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981"; and

(2) by striking out "$18,800,000" and inserting in lieu thereof "$10,845,000".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 309. Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, $244,550,000 for the fiscal year 1981.".

PARTICIPANT TRAINING

Sec. 310. Section 617 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentence: "In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.".

REIMBURSABLE DEVELOPMENT PROGRAMS

Sec. 311. Section 661 of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$3,800,000 of the funds made available for the purposes of this Act for the fiscal year 1980" and inserting in lieu thereof "$4,000,000 of the funds made available for the fiscal year 1981 for the purposes of this Act".

INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Sec. 312. The first sentence of section 410 of the International Development Cooperation Act of 1979 is amended by striking out "$23,750,000 for the fiscal year 1980" and inserting in lieu thereof "$95,000,000 for the fiscal year 1981".

ASSISTANCE FOR THE EASTERN CARIBBEAN

Sec. 313. (a) The Congress urges the President to use up to $7,000,000 for the fiscal year 1981 for bilateral development assistance for the countries of the eastern Caribbean.

(b) Not later than February 1, 1981, the President shall report to the Congress on the implementation of this section.

AMENDMENT OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Quayle: Page 28, strike out line 21 and all that follows through line 2 on page 29; and on page 29, redesignate section 313 as section 312.

Page 22, line 17, strike out "$731,773,000" and insert in lieu thereof "$784,333,000"; page 23, line 1, strike out "$238,015,000" and insert in lieu thereof "$238,515,000"; on line 3, strike out "$164,213,000" and insert in lieu thereof "$175,313,000"; and on page 26, line 7, strike out "$160,632,000" and insert in lieu thereof "$160,832,000".

Mr. QUAYLE. Mr. Chairman, let me explain the amendment first.

The amendment does two things. First of all, it eliminates the authorization for the Institution for Scientific and Technological Cooperation of $30.64 million. It secondly redirects $64.36 million back to AID.

Under the AID accounts, the following categories will be increased; agriculture, rural development, and nutrition, by $25 million; population planning by $500,000; health by $11.1 million; and energy and selected development programs by $200,000.

Mr. Chairman, I do not disagree with the intent. the goal or the concerns of creating ISTC. They are very laudable and I am sure they are very worthwhile and sincere. Just reading the purpose of ISTC, and I quote from that, it is hard to disagree with it. It says:

> To strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries.

It would be very difficult to disagree with that, and I do not disagree.

What I do disagree with, and what is apparently happening is that we are simply creating another agency, another bureaucracy. As a matter of fact, the argument against ISTC at this time is similar to the arguments that were made against the Consumer Protection Agency which was debated and defeated in the last session of Congress. The major reason the Consumer Protection Agency failed was because there was no reorganization, there was no streamlining. It was simply lopping on another government agency on top of the existing government agency. This is what ISTC is doing.

I realize that AID has some problems. I realize perhaps there should be some reorganization, but I do not think we should just split out and create another agency and another bureaucracy just because we happen to have a few problems.

It is estimated, Mr. Chairman, that these salary expenses alone of this new agency will be over $5 million. Of the permanent positions in ISTC, 49 percent are GS–14 and above.

In this time of inflation and budgeting restraint, it is not the time to create a new agency, a new Government program with new funding and an additional $30 million. It is not as if we are not spending money on research and development, scientific and technological development. We are spending money.

In fiscal year 1980 alone AID itself has invested over $250 million in research and training. Most of the multilateral organizations in which the United States participates have large-scale research, training, and technical assistance functions. These include the U.N. Educational, Scientific, and Cultural Organization; the OAS Special Multilateral Fund for Education, Science, and Technology; the Inter-American Institute for Agricultural Sciences; the U.N. Development Program; and also various international financial institutions.

Th U.S. contribution alone to these organizations, which particularly engage in development and research, already totals well above $3.5 million, so it is not as if we have shortchanged research and development.

Finally, Mr. Chairman, by placing a greater emphasis in this time of fewer dollars on long-term development rather than getting directly to the people is questionable, to say the least.

Let me just summarize again, and I realize we need to look to the future, we have to have a vision to the future, and research today can provide some of our answers for tomorrow. But the realities are: First, that we do have limited resources, we do have a recession at home, we do have inflation; and second, these limited resources should go directly to the people. We are adequately, through these other programs I just explained, going into research and development and scientific and technological areas.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana has expired.

(By unanimous consent Mr. QUAYLE was allowed to proceed for 1 additional minute.)

Mr. QUAYLE. But most important and in conclusion, Mr. Chairman, this is just another program. There is no reorganization or streamlining of AID that has so many problems. I would ask the support of this amendment because of that.

Finally, I might add that the other body has twice under the authorization bill and the appropriation bill refused to go along with this new agency. If we refuse to go along with this new agency today, perhaps we can get back and have real substantive reorganization, and not just create more government for the sake of creating more government.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as my colleagues well know, last year the committee bill established and authorized an independent body within ISTC to focus long-term research on problems of developing countries. Last year in August, together with the chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA) and others, we attended in Vienna the United Nations Conference on Science and Technology for Development. The chairman of our delegation was Father Hesburgh, president of Notre Dame. I am sure the gentleman from Indiana (Mr. QUAYLE) is fully familiar and probably is a friend of his.

At this conference Father Hesburgh has pledged that he will try to obtain about $15 million for seed money, so to speak, for the purpose of continuing the objectives of this international conference. He is very interested in the establishment of the Institute for Scientific and Technological Cooperation, which the gentleman's amendment now would deny funds for, causing it to dry on the vine.

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The gentleman from Wisconsin, as a result of his convictions from attending these conferences, is very enthusiastic that this money be retained for this purpose if we are going to continue the much needed research which must be focused in these areas of development and can best be achieved through a separate identifiable institution like ISTC. The gentleman has stated that it is a new bureaucracy, a bureaucracy under IDCA. Under IDCA it has an opportunity to go into this research in a much finer way and much more expertise way than AID is able to do so because AID does not have the capability for this kind of research.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I will be delighted to yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. I am sure the Chairman recalls the testimony that we had in considering the establishment of this Institute that one of the great advantages of operating through an institute of this kind is that the scientists and the researchers that you need to carry on these long-range programs, which are of inestimable importance, AID could not get recruited within the rather short-range framework of most of the AID programs. So it is essential to get the right kind of people to do this all important research, to have a kind of long-range agency such as this.

Mr. ZABLOCKI. I thank the gentleman for his contribution.

Indeed, ISTC will provide a professional, nonpolitical atmosphere of cooperation with developing countries in scientific institutions which will contribute, Mr. Chairman, to our long-term foreign policy goals.

The President's proposal of the Institute has been broadly welcomed by the leaders of the least developed countries. ISTC will focus on research, I repeat, on worldwide development problems, and on scientific and technological cooperation with developing countries. It will be separate from AID to avoid being caught up in the day-to-day concerns of project implementation, but work closely with AID.

I urge my colleagues and members of the committee to reject the amendment offered by the gentleman from Indiana (Mr. QUAYLE).

I yield back the remainder of my time.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to the amendment, reluctant because of my great admiration for the gentleman from Indiana (Mr. QUAYLE) who has offered the amendment. But I think that the amendment is ill-considered and unwise.

I believe that ISTC, the Institute for Scientific and Technological Cooperation, deserves special attention and support. ISTC is, in my mind, an appropriate way to fund programs for development purposes and at the same time work with countries who might not otherwise be interested in U.S. assistance.

For example, a number of countries, like Mexico and Colombia, in my opinion, rightly refuse to accept what they consider to be handouts from the United States. Yet these countries recognize U.S. advances in technology and are willing to join in a cooperative scientific effort to seek solutions to long-term problems like low agricultural productivity and chronic disease.

Our interests in countries like Mexico, Venezuela—they have vast energy resources—and Egypt require special attention and approaches to development which emphasize those countries' particular problems. ISTC provides an ideal opportunity for the United States to cooperate with those countries in areas which are of mutual concern. The scientific approach promoted by the Institute operates on a cost-shared basis with middle-tier countries. These countries like Brazil and Taiwan have important resources of their own and are significant participants in the global economy, but they are also countries still struggling with basic poverty issues.

These middle-tier countries are often ones where AID missions have been terminated and where concessional aid is not appropriate. The technology programs of the Institute provides the means to attack the problems of the poorest sectors of these countries. ISTC serves to stimulate private sector activity, which I believe is often more effective in economic development than simply offering a handout. The Institute encourages direct institution-to-institution cooperation and it offers the United States the opportunity for increased contact with many of our most important allies and at the same time offers a different approach to dealing with their problems without being patronizing.

Let me just bring to the Members' attention, if I need to do so, the special situation with regard to Mexico. Our relations with Mexico are not nearly as good as they should be. They are not nearly as good as they can be; and I think this kind of an approach can break through that barrier, the barrier that has been erected because they say we are now seeking to patronize them because they now have vast energy resources. I think it is a way that we can on an informal or at least on a less formal government-to-government basis provide them with the kind of cooperation and technology that they need and at the same time keep our foot in the door in a realistic way. I urge defeat of the amendment.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Indiana.

Mr. QUAYLE. I thank the gentleman for yielding. The gentleman knows the great respect that I have for him and his work on the committee. I do not oppose what he is saying. What my main objection to this is that it is duplicating, that it is simply creating another Government agency. It is funding a new program. We are not reorganizing and streamlining what we ought to do on a government-to-government basis. What kind of long-term strategy policies should we have in research and development? And I think this is somewhat of a knee-jerk reaction we have a problem so, therefore, create another Government agency. That is the reason I oppose it. It is not for the reason it might not do some good, because it might do some good. But if we are going to add new Government programs, Government funding, we ought to be able to come back and correct some of the ineffective, inefficient programs on the books right now.

Mr. LAGOMARSINO. I appreciate what the gentleman says. I just do not agree with his amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. LOTT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to rise in support of this amendment offered by the gentleman from Indiana (Mr. Quayle). This is an issue that has been around for at least a couple of years, and I think our colleagues need to take a look at what has transpired both last year and this year on this new agency, the Institute for Scientific and Technological Cooperation. We need to be aware that the Senate last year, with the leadership of the gentleman from Arizona, knocked out this particular agency. We had a vote on it here in the House. It was a relatively close vote. I understand that again this year the Senate does not include this ISTC. For the life of me, I cannot understand why there is such a mood to start this new additional agency. We are talking here about $95 million total. That is assuming you have the $60 million transferred from AID. The truth of the matter is that that is just a down payment on a new agency in the foreign aid area. I urge my colleagues to think about this. When you go back home, what is the single area where your constituents will almost unanimously agree that we need to cut back some and not to continue year after year after year, increasing various parts of the program. I think obviously the committee has been trying to hold it down, but the truth of the matter is we are still spending an awful lot of money on foreign aid. This is one example why. We start new agencies that are duplicative of what is already being done. In fact, I understand that some of the activities that will be carried out by this new Institute are already being done now by the Department of State, the Agency for International Development, the National Science Foundation, and other such programs.

I cannot understand also why there has been such an intensive lobbying effort on this particular agency. I refer you to an investigative report by the Committee on Appropriations of the U.S. Senate and the lobbying effort that was paid for last year on this particular agency from funds that were authorized for the Institute of Scientific and Technological Cooperation, which is contrary to what the law allows.

□ 1650

Now, I recognize that scientific and technological cooperation probably is much better than some of the other areas that foreign aid has been going into, but I just have to question whether we need to start a new agency to do this. When you look at what has already been done, I think it is enough. We have got to find some places to cut back on foreign aid. This is one place where we can do it. The Senate has been insistent not only this year but last year.

Mr. Chairman, I urge my colleagues look very favorably on the amendment by the gentleman from Indiana.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Indiana. I think this institute represents one of the few positive initiatives of trying to develop assistance formulated by the United States in many years. I think those of you who have been around this House long enough, will recall that I have never been an enthusiastic supporter of foreign aid programs. However this institute I think, goes in the right direction. It is much better to give technical assistance and knowledge and cooperative programs, than to give other countries our money or tractors or outdated technology.

The previous speaker in the well, my good friend from Mississippi, comes from an area of the country like I come from, where we have benefited greatly by a program very similar to this program. I am speaking of the Agricultural Extension Service. The Agricultural Research Service, through our universities and colleges, where they have developed new breeding qualities of swine, the testing of soil and new developments of fertilizers, the new genetic applications into seeds, into animals and through the Agricultural Extension Service they deliver this information to farmers and ranchers throughout the length and breadth of this country. That is why we have one of the best agricultural systems in the world today. It is a result of what that system did. They did not give us tractors, they did not give farmers money, but they gave them know-how. That is what this institute is designed to do.

Mr. Chairman, we do not live in an isolated country. We live in a world. Many of the countries that we can help are very desirous of this type of help rather than trying to impose our life style or our farming. We are showing them how to fish rather than giving them a fish.

Mr. Chairman, as my good friend, the chairman of the Committee on Foreign Affairs (Mr. Zablocki), observed, when we attended the UNCSTD Conference last August, one of the keystones of that conference which was headed by the president of Notre Dame, Father Hesburgh, was this type of program. Those developing countries of the world are asking for this type of help from us. We can take our dollars that we have been spending for so many years and make them go so much further, do much more good than anything that I have seen debated in this House for a long time.

It is for those reasons that I stand here and plead with my colleagues to vote down this amendment because this is a good program and one that can be good not only for the United States but for our friends around the world. I urge the defeat of the amendment.

● Mr. BROWN of California. Mr. Chairman, I strongly oppose the amendment to delete authorization for the Institute for Scientific and Technological Cooperation (ISTC). In Vienna last August at the United Nations Conference on Science and Technology for Development, the Institute was the major U.S. initiative proposed in conjunction with the UNCSTD programme of action. I can testify personally that delegates of other nations looked to ISTC as an excellent complement to U.N. activities related to the application of science and technology for development. I believe we will be viewed as defaulting on moral commitments which we made at UNCSTD if we delete the Institute without at least letting the Institute prove its worth.

Mr. Chairman, the Institute could undertake several types of activity which are currently not open to our AID program. First, ISTC is permitted to develop cooperative programs with so-called middle-tier nations which already possess substantial scientific and technical capabilities. Together with these newly affluent nations we can perhaps confront the problems of the poorest nations.

Second, ISTC is not restricted to country-by-country assistance programs. Rather the thrust of ISTC is to develop coordinated regional efforts focused on transnational problems such as food, population, desertification, deforestation, energy, and health.

Mr. Chairman, last year members of my committee and the full House supported the ISTC. I urge that we continue this support and strongly oppose the amendment to delete authorization for the Institute.●

● Mr. HOLLENBECK. Mr. Chairman, I would like to associate myself with the remarks of the chairman of my subcommittee, George Brown, opposing the amendment to delete authorization for the Institute for Scientific and Technological Cooperation. We were delegates to the U.N. Conference on Science and Technology for development and I too can testify that if we accept this amendment we shall be defaulting on the commitments we made in Vienna in August.

I would also emphasize, as my colleague did, that the problems on energy supply, desertification, deforestation, and research on food production are best solved on a regional basis for employing the talents of developed, middle-tier, and developing nations. AID programs are ill-equipped and actually prohibited from undertaking this type of effort.

Mr. Chairman, I oppose the amendment to delete authorization for ISTC and urge its rejection by the full House.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE).

The question was taken; and on a division (demanded by Mr. QUAYLE) there were—ayes 11, noes 24.

So the amendment was rejected.

AMENDMENT OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mrs. FENWICK: Page 29, immediately after line 8 insert the following new section:.
>
> "SEC. 314. Of the amounts authorized to be appropriated for the fiscal year 1981 under this title, the President is urged to provide up to $3 million for assistance to Equatorial Guinea if he deems that conditions there warrant such assistance."

Mrs. FENWICK. Mr. Chairman, this is a very mild amendment. It is permissive only. It recognizes that this small and very poor country has had a coup, has asked all the Soviet citizens and Cubans to leave and is requesting American recognition.

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to my chairman.

Mr. ZABLOCKI. I thank the gentlewoman for yielding.

Mr. Chairman, we have had an opportunity to review the gentlewoman's amendment. The gentleman from Illinois (Mr. HYDE) was equally interested in a similar provision for the country which is in distress and certainly in need of our assistance. We are prepared to accept the amendment on this side of the aisle.

Mrs. FENWICK. I thank the chairman.

Mr. SOLARZ. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I find myself once again in happy harmony with my very good friend from New Jersey. I think this is a constructive amendment. It is unfortunate that there is not already a provision for Equatorial Guinea in this bill. What happened was that the administration had prepared its presentation for foreign aid to the Congress before President Masie was fortuitously and fortunately overthrown, and the bureaucracy being what it was, it seemed beyond their ability to come up with a supplemental request in time for our consideration of the bill on the floor today.

Mr. Chairman, I have previously indicated my own very strong desire to the Department of State for an effort on their part to reprogram funds for Equatorial Guinea. I know they have such a request under active consideration and I believe that the adoption of the gentlewoman's amendment, which does not obligate them to provide money for Equatorial Guinea but urges them to do so, will be very helpful in persuading the administration to provide some modest amount of money to Equatorial Guinea where, after the overthrow of President Masie and the eviction of the Cubans and Soviets, we certainly ought to have a more visible presence.

I would like to congratulate the gentlewoman.

Mrs. FENWICK. I would also like to bring to the attention of the Department of State that any suggestion that we are only going to send an honorary consul, who may not even be a citizen of the United States, would be a grave error.

Mr. BROOMFIELD. Will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we on this side also want to join the majority in accepting the amendment of the gentlewoman from New Jersey.

Mr. HYDE. Mr. Chairman, will the gentlewoman yield to me?

Mrs. FENWICK. I yield to the gentlewoman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentlewoman for yielding. I do not want to belabor the point because the amendment is accepted, but it must be said that if the State Department is to have any credibility, we should at least support our friends. We should help nations that have kicked out the Communists and looked to us for aid and have gotten silence.

Mr. Chairman, I am really loath to believe that this is a deliberate act. If it is inadvertent, it is a very sad situation. I have total confidence in my friend, the gentleman from New York (Mr. SOLARZ) who is chairman of the Subcommittee on Africa, to use his influence with the State Department to get a mission over there and to look at this country and try to help them. They at one time had one of the highest per capita incomes in Africa, a thriving country. All of the educated people have been killed or driven out. There were 40,000 murders. Let us now help this little country. An article in the Chicago Tribune by Ray Mosely first alerted me to this situation. I am delighted at the response to this article which I disseminated to some colleagues yesterday.

Mr. Chairman, the gentlewoman is to be congratulated for her initiative.

□ 1700

Mr. SOLARZ. Mr. Chairman, will the gentlewoman yield further?

Mrs. FENWICK. I yield.

Mr. SOLARZ. Mr. Chairman, I appreciate the gentlewoman's yielding. Let me say to my very good friend from Illinois that I entirely concur with his analysis of the situation. Unfortunately, when those who were responsible for the overthrow of President Masie, who was the west African version of Idi Amin, planned that coup, they neglected to time it in such a way that it fit into the budgetary cycle in our own country; so, the foreign aid program had already been prepared and submitted to the Congress when that event took place.

But, I am very hopeful, particularly with the adoption of this amendment, that the State Department will get the message and that by fiscal year 1981 we will have a foreign aid program for Equatorial Guinea.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The amendment was agreed to.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, Chairman PEPPER could not be here on the floor at this time, and he asked that I bring his concerns to the attention of his colleagues.

Chairman PEPPER supports enactment of H.R. 6942, the International Security and Development Cooperation Act. He is also pleased that this bill provides an opportunity to reaffirm congressional support for the World Assembly on the Elderly.

The 1978 International Development and Food Assistance Act—Public Law 95–424—included an amendment which Chairman PEPPER sponsored with Senator CHURCH to authorize the United States to contribute up to 25 percent of the cost of a World Assembly on the Elderly or $1 million, whichever is lower. Chairman PEPPER believes that this important conference will enable political leaders, Government technicians, and others to: First, identify possible resources to respond to the problems and challenges of a worldwide aging population, and second, assist their governments in policy formulation on a wide range of issues.

In November 1978, the United Nations adopted a U.S.-sponsored resolution to authorize a World Assembly on the Elderly in 1982.

The Economic and Social Council at the U.N. recently approved a resolution which created the position of Secretary General for the World Assembly. This resolution must, of course, be approved by the General Assembly. However, this action is significant because it clearly shows the intent of the U.N. to have a highly visible and effective World Assembly.

Mr. Chairman, Mr. PEPPER would like to raise two questions with my distinguished chairman of the Foreign Affairs Committee, who was so instrumental in having the Congress approve the World Assembly on the Elderly.

Does the chairman intend that the Department of State should make funds available during fiscal year 1981 to help carry out planning and other necessary preparatory activities for the World Assembly?

Mr. ZABLOCKI. Absolutely. If the World Assembly is to be a success, it is essential that there be appropriate planning and other preparatory activities. The recent Secretary General's report recommends that the World Assembly on the Elderly be held over a 2-week period in Vienna, Austria, during the latter half of 1982. It is crucial that important spade work be completed for that conference, as well as the preliminary regional conferences preceding the World Assembly.

I am pleased to assure the gentleman of my support of this worthy cause and would recall that the Committee on Foreign Affairs in the last Congress supported his resolution on the World Assembly in 1978. If the gentleman will permit, I would like to recall the relevant provision from the 1978 conference report of the International Food and Development Assistance Act. It stated that:

> In addition to the amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to exceed $1 million for contributions to the World Assembly on Aging to be convened under the auspices of the UN, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this section are authorized to remain available until expended.

Mr. MICA. What amount is required to begin necessary planning for the regional conferences and World Assembly?

Mr. ZABLOCKI. I do not know the precise amounts that would be most appropriate at this time, including such amounts as the distinguished Member from Florida has noted. However, I am sure the appropriations committees would give full consideration to whatever amounts are necessary and I certainly intend to support the appropriation for this item when it comes before the House.

Mr. MICA. On behalf of Chairman PEPPER and the Select Committee on Aging I thank distinguished chairman of the Committee on Foreign Affairs.

AMENDMENT OFFERED BY MR. MINISH

Mr. MINISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MINISH: Page 29, immediately after line 8, insert the following new section:
>
> PROHIBITION ON ASSISTANCE TO MEMBERS OF THE ORGANIZATION OF PETROLEUM EXPORTING COUNTRIES
>
> SEC. 314. Funds authorized to be appropriated by this title may not be used to provide assistance to any country which is a member of the Organization of Petroleum Exporting Countries.

Mr. MINISH. Mr. Chairman, this last February 4 we learned that Nigeria, a member of OPEC and the second-largest supplier of oil to the United States, raised its prices for petroleum by $4 a barrel, then the highest increase of the year by any OPEC nation. This increase added 7 cents to the price of a gallon of gas. At our February import rate of 1 million barrels of oil each day, this increase added $4 million daily, almost $1.5 billion annually, to our already enormous oil outlay to Nigeria. Yet this increase was not the act of an overtly hostile nation; Nigeria claims to be our friend, a friend to whom we gave $3 million last year in foreign aid. Why foreign aid?

On April 1, Nigeria increased prices by another 51 cents per barrel. Now they have just announced another increase of $2 per barrel, bringing its price up to $36.71. Yet Nigeria is still getting foreign aid from us, $5 million in economic assistance alone in the present bill.

I mention this conduct of a supposedly friendly OPEC nation to bring home the lesson that foreign aid money cannot buy friends. Does anyone here doubt that Nigeria's conduct is causing direct harm to our economy and hardship for our people? Can anyone doubt that other OPEC members like Indonesia, which took $99 million in aid from us last year and which added on May 19, 1980, another $2 per barrel, are working measurably to our detriment?

Do I have to repeat the nowfamiliar statistics on the relation of fuel price increases to inflation to prove that these moves, which are not justified by any economic considerations, are a major cause of our current distress? Are any of my colleagues so ill informed as to doubt that their constituents were hurt by the doubling of OPEC prices last year alone? I would urge those who are not convinced by the statistics to go home and ask the people who sent them here, and they will be convinced.

Mr. Chairman, last year I offered an amendment to the foreign aid bill to prohibit any direct assistance to any OPEC member. The House failed to agree to my amendment by only 24 votes. Although many of my colleagues agreed with me that it is foolhardy for our taxpayers to fund the very nations which have caused us such social and economic turmoil, many explained to me that they were afraid that the gesture of cutting off aid would irritate our "friends" in OPEC.

As it happens, we had to wait only 1 day to reap the fruits of such caution. The day after our vote, Indonesia thanked us for the $99 million we gave them by raising oil prices to us between 12 and 15 percent, adding an extra $400 million each year on top of the general OPEC increases. Indonesia is the beneficiary of most of the largesse directed at OPEC in the bill before us today. $110 million is earmarked for that large nation. But I wonder how many of my colleagues are aware of the total picture concerning Indonesia? To begin with, Indonesia this year enjoys something that the United States does not: a positive balance of trade.

The reason for this, of course, is oil money. To be precise, Indonesia is projected to have a 1980 income of nearly $20 billion from oil. Of this, the American people will contribute approximately $5 billion, or $14.9 million per day. Indonesia is hurting us now and it is downright wrong to give them another nickel while they do so.

Another point to consider: Indonesia has always charged more than the OPEC benchmark price. This was true before the 1974 embargo and it is true today.

Back in 1977, when they were getting $14.63 per barrel of oil, we gave them $175 million in economic assistance. They have received nearly $2.5 billion in aid from the American people over the last generation.

Today, Indonesia is charging $34.75 per barrel of oil, yet we are preparing to give them another $110 million in economic assistance. They keep on increasing their prices and we keep on giving them aid.

In addition to providing charitable contributions from the American people to the poor of the world, foreign aid has another aim: it must advance U.S. foreign policy and add to global stability. I seriously question whether aid to OPEC meets these criteria. There certainly is no stability in the international oil market that can be attributed to our donations to the cartel.

People around the country are growing more and more dissatisfied with the way their foreign aid dollars are being spent. The absurdity of providing aid to those nations that are willfully harming us is not lost on the American people.

Last year some Members voted against my amendment because they feared that other supposed friends, like Saudi Arabia, who do not themselves receive our aid, might be offended by our gesture of cutting aid to the others. Yet it was the supposedly "moderate" Saudis who touched off the disastrous January 26 round of price increases by raising their own prices $2 a barrel.

This move inspired the Nigerian action which I mentioned earlier. Now, as the Oil Daily of May 22 has concluded, the Saudis have lost their ability to set a unified price for cartel oil. As a result, the Saudis themselves are expected to raise their own prices even higher when OPEC meets in Algeria on June 9. If the past is any guide, another round of big price increases will follow.

I hope we have learned that foreign aid is an effort to help truly needy peoples to improve their lot, not a misguided attempt to buy friends. To give aid to OPEC is ridiculous, really ridiculous, when they have opted to take care of themselves by price-gouging at our expense. They cannot have it both ways.

Mr. Chairman, Secretary Duncan of the Department of Energy testified earlier this year to the Senate Energy Committee that the latest OPEC price increases could not be justified economically, but rather were aimed at "political ends." We are certainly fooling ourselves if we think that throwing aid at them, which they will surely interpret as a sign of weakness on our part, will deter them from their political schemes. Let us reconsider in the light of Secretary Duncan's warning the contradiction of aiding nations like Nigeria, Indonesia, Ecuador and Gabon, which—intentionally or not—have done such damage to our economy.

Mr. Chairman, we are beyond the point of feeding the dog that bites us. OPEC is engaged in deadly serious global strategies with grave implications for our national security. We cannot keep funding those who work to burden our people, not even a little bit. I offer once again an amendment eliminating direct aid to OPEC members.

I hope that the lessons of the past year and the new economic realities will persuade my colleagues that the time has come to send OPEC this signal. I would prefer to devote these funds to alleviating the hardships which OPEC gouging has wrought on our own people.

□ 1710

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I can fully understand the gentleman's desire to prevent any economic assistance to oil exporting countries. But his amendment, which reads, "no assistance to OPEC countries," affects only three countries that are at the present time receiving U.S. economic assistance.

The gentleman had mentioned Gabon. Gabon does not receive any aid money under this title. It gets some Peace Corps and foreign military sales. The OPEC members scheduled to receive U.S. bilateral economic assistance in fiscal year 1981 are Ecuador, Indonesia and Nigeria.

Now, I am sure the gentleman heard our majority leader point out how important Indonesia is and how a few years back it was almost within the grasp of the Communist orbit. Because of our assistance to Indonesia, today they are one of the United States' best friends in Southeast Asia. Indonesia is a very large country, but nevertheless a very poor country.

Ecuador will receive $9.5 million. Indonesia, as the gentleman stated, will receive $100 million. Nigeria will receive $5 million.

I must point out that these are three of the poorest OPEC countries, and indeed Indonesia is the poorest of all. In spite of their oil earnings, the countries in question are very poor. Average per capita gross national product for Indonesia is, for example, $300 per person. For Nigeria, it is $420. For Ecuador, it is $790. Certainly the gentleman from New Jersey would not put these countries in the category of the rich OPEC countries when their people are earning so little because the national economy is divided among so large a population.

These three countries have taken moderate positions, I might point out, in OPEC forums. They have supported U.S. interests. The gentleman well knows that none of the countries to which he would deny assistance, supported the 1973 oil boycott. The United States will need their continued moderate positions, not only in the international forums but also in bilateral relations. Nigeria, for example, is our second largest oil supplier. And I might point out to the gentleman that from Indonesia we import, not only oil, but also tin, which is very important to our economy. We also import natural rubber, which we need for our industries and for our transportation purposes. Certainly—and I must repeat it—Indonesia is a friend of the United States. Certainly the gentleman from New Jersey does not intend to slap the face of a friend merely because his primary idea would be applicable to those very rich oil-producing countries who have a monetary surplus and receive no aid from the United States.

□ 1720

The gentleman's amendment would hurt the countries who are helping us. It is like cutting your nose to spite your face, I might point out to the gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New Jersey.

Mr. MINISH. First of all, let me say to the distinguished chairman that Indonesia has a surplus in their balance of payment, so they are not doing too bad on the international market. They do not have to worry about selling oil. As long as we are willing to pay $34 a barrel and $36 a barrel to Nigeria.

My amendment is designed to deal with those countries that we have helped over the years, and now are the very countries who increase the price of oil to the United States at every opportunity.

Mr. ZABLOCKI. That may be the gentleman's intention, but what the result will be is your denying assistance to the countries who need it, who are our friends and should remain our friends. I hope the amendment will be roundly and soundly defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. MINISH).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 198, not voting 57, as follows:

[Roll No. 298]

AYES—177

Abdnor
Addabbo
Albosta
Anderson, Calif.
Andrews, N.C.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boner
Bouquard
Brinkley
Broomfield
Broyhill
Burton, John
Byron
Campbell
Carney
Clausen
Cleveland
Coleman
Collins, Tex.
Conte
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich
Deckard
Derrick
Devine
Dickinson
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del
Evans, Ind.
Ferraro
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Fountain
Frost
Gaydos
Ginn
Goldwater
Goodling
Gramm
Green
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hance
Hansen
Heckler
Hefner
Hightower
Hinson
Holland
Hopkins
Hughes
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Leach, La.
Leath, Tex.
Lee
Levitas
Lewis
Loeffler
Lott
Lujan
McDonald
McEwen
Marks
Marlenee
Marriott
Martin
Mattox
Mica
Michel
Miller, Ohio
Minish
Montgomery
Mottl
Murphy, Pa.
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
Panetta
Patten
Paul
Perkins
Petri
Pickle
Quayle
Quillen
Ratchford
Regula
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stenholm
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Walgren
Walker
Wampler
Watkins
Weaver
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wylie
Yatron
Young, Fla.
Zeferetti

NOES—198

Akaka
Alexander
Ambro
Andrews, N. Dak.
Anthony
Ashley
Aspin
Bailey
Baldus
Barnes
Bedell
Beilenson
Bereuter
Bingham
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Breaux
Brodhead
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Butler
Carr
Carter
Cavanaugh
Chappell
Cheney
Clay
Clinger
Conable
Conyers
Corcoran
Coughlin
Danielson
de la Garza
Dellums
Derwinski
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Erlenborn
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Foley
Frenzel
Fuqua
Garcia
Gephardt
Gibbons
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gray
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Heftel
Hillis
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jones, Okla.
Kastenmeier
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lehman
Lent
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
McKay
Madigan
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Pease
Pepper
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Solarz
Spellman
Stack
Stanton
Stark
Steed
Stockman
Stratton
Studds
Swift
Synar
Tauzin
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Waxman
Weiss
White
Williams, Mont.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Young, Mo.
Zablocki

NOT VOTING—57

Anderson, Ill.
Annunzio
AuCoin
Brademas
Brooks
Burgener
Burton, Phillip
Chisholm
Coelho

Collins, Ill.
Corman
Davis, S.C.
Dingell
Dodd
Edgar
Ford, Tenn.
Fowler
Giaimo
Gilman
Grassley
Harsha
Holtzman
Ichord
Jenkins
Jenrette
Johnson, Colo.
Lederer
Leland
Lundine
McDade
McKinney
Mathis
Mollohan
Myers, Pa.
Nedzi
Pashayan
Patterson
Peyser
Preyer
Reuss
Rhodes
Richmond
Roberts
Rodino
Rose
Runnels
Shuster
Staggers
Stewart
Stokes
Thompson
Vander Jagt
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Young, Alaska

☐ 1730

Mr. MITCHELL of New York changed his vote from "aye" to "no."

Messrs. BARNARD, HEFNER, ANDREWS of North Carolina, GINN, FORD of Michigan, TRAXLER, ERTEL, KAZEN, and PICKLE changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1740

The CHAIRMAN pro tempore. Are there additional amendments to title III?

If not, the Clerk will designate title IV.

Title IV read as follows:

TITLE IV—OTHER ASSISTANCE PROGRAMS

AMERICAN SCHOOLS AND HOSPITALS ABROAD

SEC. 401. Section 214(c) of the Foreign Assistance Act of 1961 is amended by striking out "$25,000,000 for the fiscal year 1980" and inserting in lieu thereof "$30,000,000 for the fiscal year 1981".

INTERNATIONAL NARCOTICS CONTROL

SEC. 402. Section 482(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a) (1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $38,613,000 for the fiscal year 1981.

"(2) Funds appropriated under this subsection for the fiscal year 1981 may not be used for a contribution to the United Nations Fund for Drug Abuse Control in an amount which exceeds the lesser of $3,000,000 or 50 percent of the total combinations by all countries to such Fund for the calendar year with respect to which the United States contribution is made.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

INTERNATIONAL DISASTER ASSISTANCE

SEC. 403. (a) Section 492 of the Foreign Assistance Act of 1961 is amended by striking out "$21,800,000 for the fiscal year 1980" and inserting in lieu thereof "$25,000,000 for fiscal year 1981".

(b) (1) Such section is further amended—

(A) by inserting "(a)" immediately before "There is"; and

(B) by adding at the end thereof the following new subsection:

"(b) In any fiscal year the President may exercise the authority of section 610(a) of this Act (without regard to the 20 percent limitation in that section on increases in accounts) in order to make available for use in carrying out section 491, up to $50,000,000 of the funds made available for that fiscal year for other provisions of this Act.".

(2) Section 491(b) of such Act is amended by striking out "limitation on appropriations" and inserting in lieu thereof of "limitations".

AFRICAN REHABILITATION AND RESETTLEMENT

SEC. 404. Section 495F of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 495F. AFRICAN REHABILITATION AND RESETTLEMENT.—(a) The Congress recognizes that United States assistance is necessary to help developing countries in Africa meet the longer term rehabilitation and resettlement needs of displaced persons and other innocent victims of civil strife. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the longer term rehabilitation and resettlement needs of such victims. Funds for this purpose should be used to assist African governments in providing semipermanent housing, potable water supply systems, and sanitary facilities which are generally not provided by existing refugee relief agencies.

"(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $15,000,000 for the fiscal year 1981. Amounts appropriated under this subsection are authorized to remain available until expended.

"(c) Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.".

MIGRATION AND REFUGEE ASSISTANCE

SEC. 405. Section 102(a) (4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, is amended by striking out "$457,798,000" and inserting in lieu thereof "$565,209,000".

EAST TIMOR

SEC. 406. It is the sense of the Congress that the President should take all appropriate measures to—

(1) encourage the Government of Indonesia to allow increased access to East Timor by international relief agencies and to allow the establishment in East Timor of humanitarian relief operations by such international agencies;

(2) encourage the Government of Indonesia to allow free emigration from East Timor, particularly in the case of families some members of which have previously left East Timor; and

(3) encourage the Government of Indonesia to allow access to East Timor by international journalists.

TRANSFER AUTHORITY

SEC. 407. Section 403 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following:

"(c) Notwithstanding any other provision of this Act or any other Act, if the President determines it to be necessary for the purposes of this Act, he may direct that not to exceed 15 percent of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.".

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 32, in line 2 immediately after "SEC. 405." insert "(a)"; and immediately after line 5 insert the following new subsection:

(b) (1) The Congress finds that:

(A) The people of the United States have historically displayed compassion and humanitarian concern for the well-being of refugees and other victims of oppression throughout the world.

(B) The United States has continued this tradition by showing a willingness to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(C) The crisis regarding the large number of Cubans fleeing their country is of international concern.

(2) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cuban natives who have recently fled or are at attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit some of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(3) It is the sense of the Congress that, in carrying out paragraph (2), the President should seek the discussion, in an appropriate international forum, of the situation involving the flight of large numbers of Cuban natives from Cuba.

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, one of the greatest problems facing this world, preventing any kind of stability and probably preventing peace, is the problem of refugees. In a little country such as Somalia alone, in Africa, there are more than a million refugees. In other parts of Africa there are hundreds of thousands of refugees. In Malaysia, in Thailand, and all over this world and, yes, in the United States, Mr. Chairman, we recently had 100,000 boat people. We recently had 100,000 refugees from Cuba. Even though 3 months ago the CIA had warned the administration that this could happen, few plans were made apparently to handle the situation and particularly to get the world involved in this situation.

For this reason I am offering this amendment to this particular act so that the President will be told to do the following: take the necessary steps to encourage and secure greater international cooperation in amassing the financial assistance necessary for the care of the Cuban emigrees as well as in providing permanent resettlement for them.

In addition, my amendment would urge the President to make use of any appropriate international forum to stimulate discussion on all aspects of this issue.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to my chairman.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. The gentleman from Pennsylvania (Mr. GOODLING) has shared his amendment with Members of this side of the aisle. We are in full agreement with the gentleman's proposal. We understand the problems the gentleman is trying to alleviate by urging the President to take all steps necessary to get other nations involved in resettling the Cuban refugees. It is a sense of Congress amendment and we accept it.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to my leader on the minority side.

Mr. BROOMFIELD. Mr. Chairman, we

are very happy to accept the gentleman's amendment. We feel this is a very constructive amendment.

Mr. GOODLING. I thank the gentleman.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the gentleman's amendment strongly. A number of us yesterday sat in on hearings, oversight hearings, on the subject of the emigres, the refugees, whatever you want to call them, from Cuba. One of the questions I asked the responsible officials of our Government who are supposedly handling this problem was: "To what extent has there been some success in having other countries participate in receiving these people, in having some of them resettled some place besides the United States?"

I was assured that great steps were being made. But when I pinned it down to how many of these refugees, emigres, have left the United States and gone elsewhere, I finally got the answer that 28 of them had agreed to go to Argentina, but none have gone anywhere. They all remain within the United States. The fact that 28 had agreed to go to Argentina did not mean that Argentina had agreed to accept the 28.

So as of yesterday morning at 7 o'clock we had 104,000 plus several hundred of these so-called refugees in the United States. None have left. I hope and pray the gentleman's amendment will do some good.

☐ 1750

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 32, after line 5, insert the following:

(c)(1) Of the funds appropriated for migration and refugee assistance for the fiscal year 1981 under section 102(a)(4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, $100,000,000 shall be available only for use as the President may determine to assist the resettlement in any country of foreign nationals who have fled their country of citizenship and with respect to whom resettlement assistance is not authorized under any other provision of law.

(2) In addition to the amount authorized to be appropriated for the fiscal year 1980 by section 102(a)(4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, there is authorized to be appropriated for the fiscal year 1980 for migration and refugee assistance $100,000,000 which shall be available only for use as the President may determine to assist the resettlement in any country of foreign nationals who have fled their country of citizenship and with respect to whom resettlement assistance is not authorized under any other provision of law. Amounts appropriated under this subsection are authorized to be made available until expended.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment.

At the outset I would like to say that I am offering this amendment on my own behalf and on behalf of my distinguished colleagues the Honorable CLAUDE PEPPER and the Honorable WILLIAM LEHMAN.

Mr. Chairman, the purpose of this amendment is to provide the necessary authorization required to deal with the recent explosion in boat refugees from the Caribbean area, primarily from Cuba, but also from Haiti, which has occurred since the President submitted his latest budget request for migration and refugee assistance. The amendment earmarks $100 million of the total amount authorized in H.R. 6942 for migration and refugee assistance in fiscal year 1981 for resettlement of foreign nationals to whom such assistance is not otherwise authorized. Those funds may be used to reimburse State and local authorities for expenses incurred in the resettlement of such individuals during the previous fiscal year.

The amendment also raises the existing migration and refugee assistance authorization ceiling for fiscal year 1980 by $100 million and earmarks that amount for the same purpose. The additional $100 million provided for in the amendment is assumed in the budget resolution conference report which explicitly adds $100 million in budget authority and outlays to the fiscal year 1980 aggregate ceiling for this purpose.

This amendment in no way establishes a new category of refugee. It does insure that when a foreign national has fled his or her country of citizenship, funds will be authorized to be appropriated to aid in his or her resettlement as the President may determine regardless of the exact legal status of the person involved. The amendment will close a gap which now allows a group of refugees to be in the United States as a result of Federal policy but for whom funds are not now available to finance necessary State and local services.

Mr. Chairman, since April 21 more than 100,000 Cuban refugees have landed in Florida. At the President's direction Federal agencies have stepped in to provide an orderly process for the resettlement of these refugees both within the United States and in other countries. But the Federal effort—as substantial as some may have imagined it to be—has been less than fully adequate in dealing with the various public safety, health and humanitarian burdens which this massive exodus of boat refugees has through an accident of geography placed on the citizens of South Florida. The massive influx of refugees has already imposed great strains on municipal, county and State government agencies. It is beyond their capacity and more importantly beyond their responsibility—to shoulder burdens imposed as a result of Federal policy without full and immediate reimbursement by the Federal Government of its full share of the costs incurred by local taxpayers in behalf of all the citizens of the United States.

Mr. Chairman, no one knows exactly how many refugees from Cuba may eventually arrive here or what will be required financially to carry out the Federal responsibility. But while the administration's legislative proposal is being considered and while a quite appropriate and important debate is held on exactly how to legally categorize the new Cuban and Haitian refugees already here, the costs to State and local governments continue to mount.

Regardless of how the legal debate is resolved, if it ever is, this amendment is designed to assure that local taxpayers will begin to be reimbursed without further delay for the expenses they have undertaken as a consequence of Federal actions and policies on refugees. Among categories of expenditures for refugees that these funds are intended to be used for are: A 100-percent reimbursement of the State and local share of social programs such as medicaid and aid to families with dependent children; full reimbursement of costs for special resettlement services such as English language and other training, and social and employment services; full reimbursement for other extraordinary expenses incurred such as for public safety; reimbursement for those other programs and services provided for refugees pursuant to the terms of the Refugee Act of 1980.

The amendment would make funds available in both fiscal year 1980 and fiscal year 1981 to assist in the resettlement of applicants for asylum and refugees—used in the broad sense of the word. The amendment would permit use of fiscal year 1981 funds for expenses incurred during fiscal year 1980.

Mr. Chairman, this amendment provides the flexibility to deal with a situation where the United States in effect becomes the country of first asylum for a group of persons fleeing their homeland. It makes no finding about the actual status of the persons who have arrived in the United States. This is not an open ended provision in the sense that it would apply to every group which arrives in the United States. The use of the term "fled" in the amendment is deliberate. The common dictionary meaning of flee is "to run away from danger or evil." The funds provided in the amendment are intended to be used for persons who are in the United States, having fled Haiti or Cuba, and for whom assistance is not authorized elsewhere.

Mr. Chairman, I urge the House to support this amendment in order to quickly relieve State and local governments of extraordinary burdens they are carrying on behalf of the Federal Government and all the American people.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. I thank the

gentleman for yielding. I support your amendment and associate myself with your concern and with your remarks, because the obvious burden created by the President's Cuban refugee policy on local communities should be borne totally by the Federal Government, and I think that it is very much needed. I had so earlier advised the White House. I appreciate the gentleman's effort.

Mr. FASCELL. I hasten to add that the Committee on the Judiciary is considering I assume because of the hearings which the gentleman from California referred to, all of the questions with respect to the legal status.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. I also would like to go on record as supporting the gentleman's effort. I think that the local communities that are being impacted by the refugee settlement process are very definitely going to bear a national burden with local taxes unless something of this type is done. I thank the gentleman for his effort.

Mr. FASCELL. I thank the gentleman very much. I might add that for fiscal year 1980 the amount requested is already in the budget resolution.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the distinguished chairman of the full committee, the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

I have discussed this amendment with the gentleman from Florida and am happy to say that I support his amendment completely. The additional funds authorized by the amendment for fiscal year 1980 have been included in the revised budget resolution for fiscal year 1980 by the conference committee. The amount earmarked in the fiscal year 1981 authorization for the resettlement of those refugees not currently covered by any other law is within the level contained in this bill. The amendment addresses a priority situation in the Caribbean which has impacted very heavily on the United States, which arose after the President submitted his most recent authorization request. I urge the adoption of the amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the minority Member, the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, we on this side have had a chance to review the amendment offered by the gentleman from Florida, and I am pleased to support him in this effort.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. I just want to say that the hearings that the Committee on the Judiciary have been holding are not with respect to legislation. They are oversight hearings trying to get information as to what is going on, asking questions.

Mr. FASCELL. Good luck.

Mr. McCLORY. It is asking questions as to why the administration is not complying with the Refugee Act of 1980 which we passed just in March of this year. I would like to say that the fact that the gentleman is offering this amendment—and I have no objection to it—indicates the ad hoc method in which the whole refugee problem is being handled, and I think it is a reflection on the administration's policy. I can see the need for this in view of what has developed. I thank the gentleman for his effort.

Mr. FASCELL. I thank the gentleman for his remarks and would hope that the administration would come forth promptly with its solution to the problem and submit it to the Committee on the Judiciary.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Pennsylvania.

Mr. GRAY. I thank the gentleman for yielding. I would like to associate myself with the gentleman's amendment and certainly agree with him that the tremendous costs that are being borne by local government are costs that we in the Federal Government should recognize. His amendment does exactly that, so I would support very strongly the gentleman's amendment.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to bring to the attention of my colleagues a similar problem to that which the gentleman from Florida's amendment addresses and to associate myself with the remarks of the gentleman from Illinois (Mr. McCLORY) to the extent that we have no policy, because here the gentleman is trying to address a need of local communities which have been or are being impacted because of the incoming surge of refugees. We have a similar problem when the U.S. Immigration and Naturalization Service allows citizens from other countries to come legally, and my district being on the United States-Mexico border suffers a terrible impact when they come from Mexico. There are also others coming illegally, but I would not address that at this time.

The fact is that the schools, the facilities of the local very small and not-too-rich communities as far as taxation is concerned are impacted, and there is no program within the Government that can address this situation. There are no funds available that we can address ourselves to for assistance. I do not have any quarrel with the gentleman's intention or his amendment. All I want to do is say I could not stand here and let this amendment go by without apprizing the Members that there is a similar problem, perhaps a more arduous problem because those keep coming continuously as the immigration process continues. Somewhere down the line, hopefully, the Judiciary Committee or the Education and Labor Committee, or any of the other committees, would assist us in helping these areas that are impacted, without the problem of the immediate refugees.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding. I thank the gentleman from Texas for raising that point. It is a very real problem which needs to be addressed both by the Committee on the Judiciary and the Committee on Education and Labor. The gentleman is quite correct. I do not know the extent of the impact in his area, but I know what the impact of legal immigration is in my own area, for example. I do not know what it might be, let us say, in Illinois or other places, but in our community right now just with this recent so-called legal influx, we are taking in 60 new students per day into our school system, which requires us every 10 days to build one new elementary school. We expect to have 20,000 new students in the school system when September 1 comes around, so I know what the gentleman is talking about. The gentleman's people do need some relief.

Mr. DE LA GARZA. I appreciate the gentleman's interest. I guess what I am trying to tell the House is that whenever we have a problem from anyplace in the world we give it priority, and the daily problems of a similar nature we don't seem to address. I would hope that my colleagues would assist me in this effort in the near future.

Mr. Chairman, I yield back the remainder of my time.

□ 1800

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

Mr. SYMMS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to discuss my feelings on H.R. 6942, the International Security and Development Cooperation Act of 1980, which authorizes appropriations for international security and development assistance and makes certain changes in the Foreign Assistance Act with regard to the Hughes-Ryan provision of that act.

While I support many provisions in H.R. 6942, particularly the foreign military sales and credits, I have problems with certain other sections of the bill which provide foreign aid to countries which are viewed as adversaries and yet punish some of our friends for alleged human rights violations. It is this selective human rights policy which has alienated many of our supporters and forced them to look elsewhere for military equipment markets and economic assistance.

I strongly support the funding in this legislation to bolster our allies in the Middle East, Israel and Egypt. We need to continue to work to encourage a peaceful settlement of the disputes between these Middle Eastern States and to provide Egypt and Israel with the necessary military hardware to defend their homelands against larger external threats seeking to gain a foothold in this strategic region. It is important that the United States provide military and economic assistance to these powers in order to stabilize conditions in the region, because it is quite apparent that the Soviets are funneling money to the more radical Arab States to foment growing unrest and instability in the Middle East thereby wearing down the capabilities of Israel and the more moderate Arab States to continue to survive as free entities.

Though I strongly support this assistance to our Middle Eastern allies, and our ally Turkey which forms the southeastern flank of NATO, I have problems with some of the other major provisions of this legislation. I am concerned about the funding to certain countries which are definitely working against the interests of the United States and who will not be influenced to think more kindly of us by sending several million dollars their way.

As I stated earlier, I am also extremely concerned about the way in which the administration has applied its human rights policy. We make aid to some of our friends contingent upon their efforts to correct what this administration views as violations of human rights; yet the administration proposes aid for other nations, such as Mozambique, whose human rights records are far from U.S. standards with no strings attached on the aid. This double standard is not only incomprehensible, but it is also unethical.

I was particularly outraged about the proposed military and economic aid for Nicaragua. Not only would the United States be providing this funding to a Marxist regime which would use the money for the solidification of its power base, thereby squelching the remaining democratic forces within that nation, but the Sandinistas would also be obtaining additional resources to assist insurgent movements in neighboring Central American States. Do we really want to spend U.S. taxpayers' dollars to help communize the remainder of Central America? I think not. While an amendment has been adopted to strike the military assistance to Nicaragua, the economic funding still remains in the bill.

It is unfortunate that we could not have dealt with the military sales and credits in a separate bill. While we need to provide assistance and sales credits to Egypt and Israel and other allies, we cannot continue to expand our foreign aid budget by sending funds to adversary nations who actively work against the United States and the Western Alliance. I am hopeful that the amendments which will be offered to strike both direct and indirect aid to such countries as Nicaragua, Mozambique, Syria, Zambia, Jamaica, and Cuba will be adopted by the House. That would result in a much more sensible piece of legislation providing sales credits and some economic assistance to our NATO allies and our friends and allies in the Middle East.

Thank you, Mr. Chairman, for allowing me this time to express some of my views on this legislation.

The CHAIRMAN pro tempore. Are there additional amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—AFRICAN DEVELOPMENT FOUNDATION

SHORT TITLE

SEC. 501. This title may be cited as the "African Development Foundation Act".

FINDINGS

SEC. 502. The Congress finds that—

(1) social and economic development ultimately depends on the active participation if individuals within a society and on the enhancement of opportunities for those individuals;

(2) the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;

(3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961, and recent amendments to that Act, the Congress has sought to enable the poor to participate in the process of development;

(4) the Inter-American Foundation, established by Congress in the Foreign Assistance Act of 1969 to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and

(5) an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa.

ESTABLISHMENT

SEC. 503. (a) There is established a body corporate to be known as the "African Development Foundation" (hereafter in this title referred to as the "Foundation").

(b) The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

PURPOSES

SEC. 504. (a) In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives, the purposes of the Foundation shall be—

(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

(2) to support self-help activities at the local level designed to enlarge opportunities for community development;

(3) to stimulate and assist effective and expanding participation of Africans in their development process;

(4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries; and

(5) to improve the quality of life of all Africans.

(b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and in response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall coordinate its activities with the activities of private, regional, and international organizations.

FUNCTIONS

SEC. 505. (a) (1) In order to carry out the purposes set forth in section 504, the Foundation may make grants, loans, and loan guarantees to any African private or public group, association, or other entity for—

(A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;

(B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;

(C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;

(D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this title; and

(E) other projects that would carry out the purposes set forth in section 504.

(2) The total amount of grants, loans, and loan guarantees that may be made under this section for a project may not exceed $250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this title.

(b) In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this title, the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this title.

POWERS

SEC. 506. (a) The Foundation, as a corporation—

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;

(3) may adopt, alter, and use a seal, which shall be judicially noticed;

(4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;

(5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $10,000 in any fiscal year;

(7) may, as necessary for carrying out the functions of the Foundation, employ and fix the compensation of not to exceed 75 persons at any one time.

(8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein,

wherever situated, as may be necessary for carrying out the functions of the Foundation;

(9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this title;

(10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this title; and

(12) shall have such other powers as may be necessary and incident to carrying out this title.

(b) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this title. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(c) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(d) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

MANAGEMENT

SEC. 507. (a) (1) The management of the Foundation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes.

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

(b) Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

(c) A majority of the Board shall constitute a quorum.

(d) (1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5, United States Code.

(e) (1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this title.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, United States Code, which are incurred by them in the performance of their functions under this subsection.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 508. The Foundation shall be subject to title I of the Government Corporation Control Act.

LIMITATION ON SPENDING AUTHORITY

SEC. 509. Any authority provided by this title involving the expenditure of funds (other than the funds made available pursuant to section 510) shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

USE OF CERTAIN FUNDS

SEC. 510. Of the funds appropriated for the fiscal year 1981 to carry out part I of the Foreign Assistance Act of 1961, other than funds appropriated for the Economic Support Fund, $5,000,000 shall be used to carry out this title.

The CHAIRMAN pro tempore. Are there amendments to title V? If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—PEACE CORPS

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. (a) Section 3(b) of the Peace Corps Act is amended by striking out "fiscal year 1980 not ot exceed $105,404,000" and inserting in lieu thereof "fiscal year 1981 not to exceed $118,800,000".

(b) Section 3(c) of such Act is amended by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981".

The CHAIRMAN pro tempore. Are there amendments to title VI? If not, the Clerk will designate title VII.

Title VIII reads as follows:

TITLE VII—MISCELLANEOUS PROVISIONS

HUMAN RIGHTS

SEC. 701. (a) Section 116(a) of the Foreign Assistance Act of 1961 is amended by inserting "causing the disappearance of persons by the abduction and clandestine detention of those persons," immediately after "without charges,".

(b) Section 502B(d)(1) of such Act is amended by inserting "causing the disappearance of persons by the abduction and clandestine detention of those persons," immediately after "trial,".

(c) Section 112(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "causing the disappearance of persons by the abduction and clandestine detention of those persons," immediately after "without charges.".

AUDITING OF INTERNATIONAL PROGRAMS

SEC. 702. (a) Section 301(d) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following: The Comptroller General shall report simultaneously to the Congress and the President the results of the audits conducted under this subsection.".

(b) Section 301(e) of such Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking out a "single professionally qualified group" and inserting in lieu thereof "of external, professionally qualified groups", and

(B) by striking out "an evaluation" and inserting in lieu thereof "evaluation, and audits";

(2) in the second sentence of paragraph (1)—

(A) by striking out "group" both places it appears and inserting in lieu thereof "groups", and

(B) by striking out "and evaluation" and inserting in lieu thereof "evaluation, or audit";

(3) in the third sentence of paragraph (1) by striking out "group" and inserting in lieu thereof "groups";

(4) in the first sentence of paragraph (2) by striking out "and evaluation" and inserting in lieu thereof "evaluation, and audits";

(5) in the second sentence of paragraph (2) by striking out "and evaluation" and inserting in lieu thereof "evaluation, or audit"; and

(6) in the second sentence of paragraph (3) by inserting "his evaluation of such reports and related information," immediately after "to the President".

REPORTS ON INTERNATIONAL ORGANIZATIONS

SEC. 703. Chapter 3 of part I of the Foreign Asisstance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 306. REPORTS ON INTERNATIONAL ORGANIZATION.—(a) The annual reports to the Congress under section 2 of the Act of September 21, 1950 (64 Stat. 902; 22 U.S.C. 262a), shall be submitted within nine months after the end of the fiscal year to which they relate. The report for the fiscal year 1978 shall be submitted no later than December 31, 1980.

"(b)(1) The President shall submit semiannual reports to the Congress listing all voluntary contributions by the United States Government to international organizations. One of the semiannual reports shall be submitted no later than July 1 and shall list all contributions made during the first six months of the then current fiscal year. The other semiannual report shall be submitted no later than January 1 and shall list all contributions made during the last six months of the preceding fiscal year. Each such report shall specify the Government agency making the voluntary contribution, the international organization to which the contribution was made, the amount and form of the contribution, and the purpose of the contribution. Contributions shall be listed on both an agency-by-agency basis and an organization-by-organization basis.

"(2) In order to facilitate the preparation of the reports required by paragraph (1), the head of any Government agency which makes a voluntary contribution to any international organizations shall promptly report that contribution to the Director of the Office of Management and Budget.

"(3) As used in this subsection, the term 'contribution' means any contribution of any kind, including the furnishing of funds or other financial support, services of any kind (including the use of experts or other personnel), or commodities, equipment, supplies, or other materiel.".

TECHNICAL AMENDMENT CORRECTING CROSS REFERENCE

SEC. 704. Section 502B (a) (2) of the Foreign Assistance Act of 1961 is amended by striking out "Export Administration Act of 1969" and inserting in lieu thereof "Export Administration Act of 1979".

PROCUREMENT

SEC. 705. Section 604(e) of the Foreign Assistance Act of 1961 is amended by inserting the following immediately before the period at the end thereof: ", unless the commodity to be financed could not reasonably be procured in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed".

INSPECTOR GENERAL

SEC. 706. Section 624(g) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "Auditor General" each place it appears and inserting in lieu thereof "Inspector General";

(2) in paragraph (3)—

(A) by striking out "and investigative" and inserting in lieu thereof ", investigative, and security"; and

(B) by adding at the end thereof the following: "In addition, to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator), the Inspector General shall with respect to the duties and responsibilities of that Agency supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency.";

(3) in paragraph (4) by inserting "and the Director" immediately after "Administrator"; and

(4) by adding at the end thereof the following:

"(6) The Inspector General shall have the authority to require by subpena the production of all information, documents reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of functions under this section. Any such subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court. Procedures other than subpenas shall be used to obtain documents and information from agencies of the United States Government.

"(7) In carrying out the responsibilities specified in paragraph (3), the Inspector General shall—

"(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(B) establish guidelines for determining when it is appropriate to use non-Federal auditors; and

"(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in subparagraph (A).

"(8) The Administrator shall provide the Inspector General with appropriate and adequate office space at central and field office locations of the agency primarily responsible for administering part I of this Act, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices and the equipment and facilities located in such offices.

"(9) (A) The Inspector General may receive and investigate complaints or information from any employee of or under the United States International Development Cooperation Agency concerning the possible existence of an activity constituting a violation of law, rules, or regulations, constituting mismanagement, gross waste of funds, abuse of authority, or constituting a substantial and specific danger to the public health and safety.

"(B) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

"(C) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not exercise or threaten to exercise such authority in order to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its trust or falsity.".

SHIPPING DIFFERENTIAL

SEC. 707. Section 640C of the Foreign Assistance Act of 1961 is amended by striking out "Part V" and inserting in lieu thereof "chapter 4 of part II".

OPERATING EXPENSES

SEC. 708. Section 667(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981"; and

(2) in paragraph (1) by striking out "$263,000,000" and inserting in lieu thereof "$293,800,000".

INTERAGENCY GROUP ON HUMAN RIGHTS AND FOREIGN ASSISTANCE

SEC. 709. It is the sense of the Congress that—

(1) the Interagency Group on Human Rights and Foreign Assistance has been an effective mechanism for coordinating and implementing United States human rights policies;

(2) the President should consider establishing the Interagency Group on a more permanent basis;

(3) the Interagency Group should examine proposals for not only economic assistance but also for security assistance; and

(4) the President should report his recommendations for strengthening the Interagency Group to the Congress no later than November 1, 1980.

PEACE IN THE MIDDLE EAST

SEC. 710. (a) It is the sense of the Congress that all parties to the Arab-Israeli conflict need to reaffirm their unequivocal commitment to the peace process in order to achieve further progress toward a comprehensive settlement, to reinforce the principles of the Camp David accords, and to take actions to encourage parties not currently involved in the peace process to become active participants in peace efforts.

(b) It is further the sense of the Congress that to further these goals (1) all parties to the conflict should accept Israel's unequivocal right to exist within secure and recognized borders; (2) the Government of Egypt should maintain and strengthen its commitment to the process of normalization of relations with Israel and continue actions to support that commitment; (3) the Governments of Israel and Egypt should reaffirm their commitment to United Nations Resolution 242 and its applicability, in all its aspects, to territories under negotiations; and (4) the Government of Israel should assure that its settlement policies and actions in the occupied territories are consistent with the objectives of achieving peace and of involving other parties in the peace process.

ASSISTANCE FOR JORDAN

SEC. 711. It is the sense of the Congress that for Jordan to receive any funds appropriated under this Act, it should be judged by the President that Jordan is acting in good faith to achieve progress toward peace in the Middle East and that the expenditure of such funds for Jordan will serve to further the process of peace in the Middle East.

EXTERNAL DEBT BURDENS OF EGYPT, ISRAEL, PORTUGAL, AND TURKEY

SEC. 712. The Congress finds that the Governments of Egypt, Israel, Portugal, and Turkey each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs. In order to assist the Congress in examining United States assistance for these countries, the President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, no later than January 15, 1981, a report regarding economic conditions prevailing in Egypt, Israel, Portugal, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies.

EFFECTIVE DATE

SEC. 713. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) Section 407 and the provisions of this Act containing authorizations of appropriations and limitations of authority applicable to the fiscal year 1981 shall take effect on October 1, 1980.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD: Page 52, immediately after line 10, insert the following new section 713 and redesignate existing section 713 as section 714:

SOVIET MILITARY PERSONNEL AND ACTIVITIES IN CUBA

SEC. 713. (a) At intervals of 90 days during the first year after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report identifying the military capabilities and deployment of Soviet military personnel in Cuba, together with his appraisal of the mission performed by such personnel.

(b) At intervals of one year after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report setting forth the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding year and the military capabilities of those armed forces.

Mr. BROOMFIELD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objecton to the request of the gentleman from Michigan?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, at a time when the American people have been vividly reminded of the true nature of the Government of the Soviet Union by its aggression in Afghanistan, there is a real need to focus our attention on their activities in our own backyard. Just 90 miles off our coast, the Soviet Union has established a major military stronghold on the island of Cuba.

Since the very beginning of the establishment of the Castro-led Communist government on that island, the Soviet

Union has tried repeatedly to use Cuba as a forward strategic base against this Nation. With the first introduction of Soviet offensive nuclear weapons in 1962 until the discovery of a Soviet combat brigade, the Soviets have sought to threaten the United States and make a mockery of the Monroe Doctrine.

In addition to the long-term threat that the Soviet buildup in Cuba poses for this country, the more immediate threat to our security lies in the activity of the strengthened surrogate forces of Castro. As a reward for action in carrying the Soviet banner in Africa, Asia, the Middle East, and Latin America, the Soviets have transformed the ragtag forces of pre-Castro Cuba into a modern fighting force. With modern weapons and extensive training, Castro now has under his control the largest and most powerful standing army in Latin America next to Brazil.

In the last 2 years alone, we have seen the introduction into Cuba of sophisticated Mig-23 fighter bombers, AN-26 long-range transport aircraft, Foxtrot attack submarines, expansion of the Cienfuegas submarine base facilities and airfield, and a several-thousand-man combat brigade. These actions, when combined with Soviet aggression in Afghanistan and Cuban subversion in Central America and the Caribbean, demand that the American people and the Congress be fully informed of the threats they face from Havana and Moscow.

In response to this clear and present danger, I joined with Senator GORDON J. HUMPHREY of New Hampshire in coauthoring legislation, House Concurrent Resolution 247, to insure that detailed information on Cuban/Soviet military presence in the area is presented to Congress. That legislation was adopted by the Senate Foreign Relations Committee without opposition, as an amendment to S. 2423, the Senate companion bill to H.R. 6942, the bill before the House today. For that reason, I too am offering a comparable amendment to H.R. 6942.

Simply, the amendment would require the President to report to Congress at intervals of 90 days during the 1-year period from the date of enactment of this section, on the status of military personnel stationed in Cuba by the Soviet Union and their military capabilities. In addition, this provision would require an annual report on Soviet military assistance to Cuba and on the military capabilities of the Cuban Armed Forces.

Since the information required by this amendment is already currently being collected by the various executive agencies and reported annually to the Subcommittee on Inter-American Affairs on an informal basis, my amendment would not add any undue new burdens, but merely insure that this information is provided on a timely and formalized basis to the entire Congress.

I urge the adoption of my amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I will be happy to yield to my good friend.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan, the ranking minority member of the Committee on Foreign Affairs indeed has shared his amendment with this side. We find no problem with the amendment and accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: Add the following new section and renumber the succeeding sections accordingly:

INTERNATIONAL COOPERATION IN REFUGEE RESETTLEMENT

SEC. 701. In order to encourage countries throughout the world which are recipients of United States bilateral and multilateral assistance to permit and to help finance the resettlement of Cuban and other refugees within their borders, the Secretary of State shall, to the maximum extent feasible, attempt to channel such assistance to countries which have demonstrated a willingness to provide assistance to Cuban and other refugees.

Mr. HYDE. Mr. Chairman, this amendment simply recognizes that not only the Cuban refugee but the Haitian and the Southeast Asian refugee problem is an international problem and as long as we are authorizing funds for so many countries, it is simple justice to attempt to enlist their cooperation in assuming an appropriate share of this international refugee burden. It simply says that the Secretary of State shall, to the maximum extent feasible—in other words, it gives him ultimate flexibility—attempt to channel our assistance to those countries that demonstrate a willingness to provide assistance to Cuban and other refugees.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will be happy to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding. Mr. Chairman, the gentleman from Illinois has made a copy of his amendment available to this side of the aisle. It is an amendment similar to one offered by the gentleman from Pennsylvania (Mr. GOODLING), which amendment was accepted. This amendment is not in conflict with the one we adopted. It does embellish it and broaden it somewhat. We have no problem with the amendment and will accept it.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will be happy to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, we, too, would like to join the chairman of the Committee on Foreign Affairs in accepting the gentleman's amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, do I understand the gentleman's amendment does speak to the question of the funds which go to the countries that are authorized to receive assistance under this bill?

Mr. HYDE. Exactly.

Mr. WALKER. Mr. Chairman, I commend the gentleman for his effort. I had a similar amendment I was planning to offer. I will not offer that amendment because I think the amendment offered by the gentleman does speak to the problem very well. This is the right direction for us to proceed. It does put some teeth in the proposed efforts of the administration to attain international cooperation in the resettlement of the refugees.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my colleague from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentleman on his amendment. It seems to me particularly, now, with respect to the Cuban refugees, that Central and South American countries are particularly well suited for receiving these Cuban refugees who are in general Spanish speaking.

I was rather appalled on a recent evening when I was visiting with an ambassador of one of the large South American countries to find out that he had not even been spoken to, that he had no communication with our executive branch of Government with regard to the resettlement of Cuban refugees in his country. He had no communication about it at all. I think this amendment would at least induce the administration to communicate with the representatives of other countries which can in turn receive refugees from Cuba and elsewhere.

Mr. HYDE. Mr. Chairman, I thank the gentleman and yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 52, after line 10, insert the following new section 713 and redesignate existing section 713 as section 714:

PROHIBITION ON ASSISTANCE TO THE GOVERNMENTS OF CUBA, VIETNAM, AND CAMBODIA

SEC. 713. Except for food assistance to Cambodia, none of the funds authorized to be appropriated by this Act (including funds authorized to be appropriated under section 302(a)(1) of the Foreign Assistance Act of 1961, relating to international organizations and programs) may be used to provide assistance to the government of Cuba, Vietnam, or Cambodia.

Mr. ASHBROOK. Mr. Chairman, we have been through this amendment every year for a number of years so I need take little time.

The Chairman will note that I added an exception: "Except for food assistance to Cambodia." In other words, it would be exactly the same amendment we have offered over the years with the caveat that we would make exception for food assistance to Cambodia.

Mr. Chairman, this amendment is similar to one this House addresses every year. The issue is also the same. Should the American taxpayer be an unwilling partner in supporting three of the most infamous regimes in the world today? I would hope that my colleagues will remember the agony of the thousands of refugees in Florida and the million or more refugees in Thailand and support this clear statement of policy toward the governments that caused these tragedies.

The United States is addressing the staggering refugee crisis elsewhere in this bill and in other legislation. Earlier this week Deputy Secretary of State Warren Christopher stated that some $29.5 million in U.S. aid was going to help those starving in the refugee camps in Thailand. It is estimated that another $300 million may be spent on aiding the Cuban refugees in Florida. My amendment targets the aid given directly to the rogue governments of Cuba, Cambodia, and Vietnam via the international organizations under section 302 (a)(1) of the Foreign Assistance Act of 1961.

As in past years, I am sure that one of my colleagues will offer an amendment to revise my amendment in some way to render it ineffective. This would be a grievous mistake in light of the situation in the world today. The stakes have increased dramatically since this House addressed this issue last year. We now have an ongoing crisis in Iran and new Soviet threats in the Persian Gulf. Today we have major signs of Cuban intervention throughout the Caribbean and Africa. These have happened, in part, because the United States has failed to bring adequate sanctions to bear on those nations responsible for these threats. As long as the United States acquiesces to the subsidizing of aggressive and violent regimes there will be an implicit green light for future acts against the world community.

This House has heard on many occasions how it is impossible to earmark multilateral aid. The amendment is not trying to do any such thing. It is instead a simple sense of Congress that our delegations to the United Nations, and its support groups, should do all in their power to end any subsidy for the three tyrannical regimes listed in this amendment. This can be done not only through their own vote but through their statements during organizational consideration. We have already seen that the World Bank can be subject to such pressures, thanks to the untiring effort of my colleague from Florida, Mr. YOUNG. Is it too much to ask that our delegates to the U.N. exercise similar policy in the name of international morality?

In the year since the House refused to take a stand against Cambodia, Cuba, and Vietnam the U.N. has continued to ship funds to underwrite at least two of these regimes. Thankfully, world opinion has stopped the flow of additional funds to Kampuchea. or Cambodia. However, Vietnam and Cuba have profited handily since last year's report. Vietnam which had $24.495,946 in U.N. funds last year received an additional $21,995,734 as of the most recent report on U.N. development programs.

Included in this was a multimillion-dollar package for various research projects and a $535,641 package for a special industrial services project. The most incredible development grant was $2,686,900 for "civil aviation services and facilities." This is in the face of mounting evidence that the Soviets have established major bases for military operations within the country.

On April 14, 1980 La Lettre de L'Expansion in Paris reported over 3,000 Soviet military personnel assigned to Cam Ranh and Da Nang serving to outfit these facilities for Soviet naval vessels and aircraft. Reports from the Philippines and from Japan have showed dramatically increased Soviet naval activity in the region as these bases are brought up to full use. I do not think the Americans who lived through the agony of the Vietnam war would support a portion of their tax dollars going for additional aviation facilities in Vietnam that may eventually serve Soviet aims.

Regardless of the Soviet role in the region there remains the horrible scenes on the Thai border caused by the Vietnamese invasion of Cambodia and the oppression from the Government of Kampuchea. The last figures from Thailand show 156,461 refugees living at the various refugee centers and another 1,100,000 staying in areas straddling the Thai-Kampuchea border. The Soviets are estimated to be pouring as much as $3 million a day into the Vietnamese military effort inside Kampuchea.

There are mounting reports of outside assistance for the guerrillas operating within Thailand. On April 23, 1980, Col. Uthan Sanitwong at the Thai Supreme Command Headquarters, stated that there was a steady increase in terrorism as a result of outside Communist assistance designed to undermine Thai stability.

He alluded that these outside sources were the Soviets and the Vietnamese. Can we stand by and allow such a nation like Vietnam to receive millions of dollars from the U.N. that could go to other nations which really are deserving? A vote for this amendment may aid in reordering the priorities of the U.N.

Cuba has also done well during the year it expanded its aggression in the Caribbean and Africa. The U.N. provided $5,367,988 as of the lastest report. Of these funds, $891,440 were used for educational programs. I wonder how much of this money found its way to the indoctrination centers or the terrorist training camps on the Isle of Youth? When is this Congress going to realize that we cannot persist in funding our enemies if we ever expect to end their threat to the stability of the world?

In closing I want to raise the point that these funds may seem insignificant to those who speak in the billions of dollars for other programs in the Federal budget. However, the symbolism of the money far outweighs the actual dollar amounts. As long as the Governments of Cuba, Cambodia, and Vietnam can point to funds being sanctioned by the United States they can continue the myth that their actions do not violate the standards of moral conduct. We have tried a number of gestures this past year to bring pressure to bear on the U.S.S.R. because of Afghanistan and on Iran because of the hostages, let us now go on record with an action that really states a clear policy toward three other primary violators of world stability and morality.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I failed to hear what my good friend from Ohio said earlier. I am not sure it was complimentary.

Mr. ASHBROOK. Oh, it was very complimentary.

Mr. ZABLOCKI. I am at a loss as to how to respond.

Will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to my friend.

Mr. ZABLOCKI. I thank the gentleman for yielding.

As the gentleman knows, the provision he is offering is in the basic law already. This is repetitious in a way. There is some, Public Law 480, food assistance to Cambodia and with the exception that the gentleman had added, since it is in track with what we already have—it is provided for in the basic law—the gentleman from Wisconsin is willing to accept the gentleman's amendment, although I say it is unnecessary.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague and I yield back the balance of my time.

Mr. SOLARZ. Mr. Chairman, I move to strike the last word.

I wonder if I could ask my good friend from Ohio to yield?

Mr. ASHBROOK. I would be glad to respond to the gentleman's question.

Mr. SOLARZ. I appreciate the gentleman's willingness to respond to some questions.

The gentleman, of course, is aware of the extent to which, as a result of the Vietnamese invasion of Cambodia, there are literally hundreds of thousands of Cambodians who are in danger of starving to death over the course of the next several months.

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I am sure the gentleman is also aware that our own country, in cooperation with many other nations around the world, has provided humanitarian relief assistance to the people of Cambodia in an effort to avoid what would otherwise be a catastrophic situation in that country. I am a little bit concerned that the gentleman's amendment, as it is written, might be construed to prohibit humanitarian relief, not for the Government of Cambodia, but for the people of Cambodia.

I would like to offer an amendment to the gentleman's amendment which, hopefully, would be acceptable to the gentleman which would, I think, protect his interests in prohibiting aid directly to the Government of Cambodia, but which would permit humanitarian assistance directly to the people.

Mr. ASHBROOK. I would have no objection to that.

AMENDMENT OFFERED BY MR. SOLARZ TO THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. SOLARZ. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ to the amendment offered by Mr. ASHBROOK: Add the following at the end of the section to be added to the bill:

Nothing in this section shall be construed to prohibit humanitarian assistance which is distributed directly to the people of Cambodia.

Mr. SOLARZ. Mr. Chairman, I am delighted that the gentleman from Ohio has indicated a willingness to accept the amendment. I think that, with the inclusion of this amendment, I personally have no problem with the rest of the amendment. Not only that, I think it is clear that we have no intention of providing aid to either Vietnam or to Cuba. I certainly do not think, under existing circumstances, we want to provide aid directly to the puppet regime in Phnom Penh, but I am very much concerned, as I know the overwhelming majority of the Members of the House are, about the plight of the Cambodian people.

Upward of two million of them have died over the course of the last several years, first at the hands of Pol Pot—one of the worst murderers in the history of the human race—and secondly as a result of the Vietnamese invasion. There is a very real possibility that hundreds of thousands of additional Cambodians may die in the months ahead if relief is not provided to them.

I just participated as a member of the American delegation to the Geneva Conference 2 weeks ago, which raised in new pledges $116 million from countries all over the world for a new emergency relief operation in Cambodia. Our own country pledged an additional $29 million, which will be distributed through the international relief agencies, such as UNICEF and the International Committee of the Red Cross. With my amendment, it would become possible for us to continue our efforts to help the people of Cambodia directly.

Mr. ASHBROOK. I thank my colleague.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ) to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as amended.

The amendment, as amended, was agreed to.

AMENDMENTS OFFERED BY MR. ALBOSTA

Mr. ALBOSTA. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ALBOSTA: Page 52, after line 10, insert the following new section 713 and redesignate subsequent sections accordingly:

REQUIREMENT THAT ASSISTANCE BE IDENTIFIED AS BEING OF UNITED STATES ORIGIN

SEC. 713. (a) The President shall take such steps as may be necessary to ensure that, to the maximum extent possible, the recipients of any economic assistance provided for the fiscal year 1981 under this Act, or under the Agricultural Trade Development and Assistance Act of 1954, are informed that such assistance was made available by the people of the United States.

(b) In furtherance of the policy of subsection (a) of this section, the policy of section 641 of the Foreign Assistance Act of 1961, and the policy of section 103(1) of the Agricultural Trade Development and Assistance Act of 1954, the President shall, in determining the levels of assistance to countries under those Acts, take into account whether the government of the proposed recipient country has been making good faith efforts to inform the recipients of such United States assistance of the extent to which the people of the United States are providing assistance for that country.

(c) For purposes of this section, the recipients of assistance include—

(1) in the case of assistance which is used to make commodities, other items, services, or information available for individuals in a foreign country, those individuals who ultimately receive or actually use the commodities, items, services, or information; and

(2) in the case of assistance which is used to assist a country generally, the inhabitants of that country.

Page 52, immediately after line 10, insert the following new section 713 and redesignate the subsequent sections accordingly:

COOPERATION OF OTHER GOVERNMENTS IN THE BOYCOTT OF THE 1980 SUMMER OLYMPIC GAMES IN MOSCOW

SEC. 713. In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated by this Act, the President shall take into account the position of that government with respect to the United States-proposed boycott of the 1980 summer Olympic games in Moscow.

Mr. ALBOSTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and that they be printed in the RECORD.

Mr. CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. ALBOSTA. Mr. Chairman, there are presently two laws which require that American foreign aid be suitably marked to identify it as U.S. foreign assistance. Both section 641 of the Foreign Assistance Act of 1961, and section 103(1) of the Agricultural Trade Development and Assistance Act of 1954, otherwise known as Public Law 480, require that project and nonproject assistance be identified appropriately overseas as "American aid" insofar as practicable.

The purpose of this amendment is to emphasize that Congress wishes this policy to be followed in all possible situations. The two laws I just mentioned allow, in my opinion, for this policy to be subverted through wide use of "waiver" clauses.

My amendment would place on the President, to the maximum extent possible, the duty to insure that the recipients of any economic assistance provided under this act, or under Public Law 480, are informed that such assistance was made available by the people of the United States. Most importantly though, it instructs the President, in determining the levels of assistance to countries under those acts, to take into account whether the government of the proposed recipient country has been making good faith efforts to inform its people that the United States provided such assistance.

My concern is this: I want the ultimate recipient—that is, the person who actually eats the bread or wears the clothes—to know that it was given to him by the American people. I do not think our present laws go far enough in assuring this. My answer is to put the burden on the recipient country to inform their people and use their good faith efforts as one factor in determining future aid to that country.

Mr. Chairman, as to the second amendment I have offered, the reasons for this amendment should be obvious. In response to the Soviet military invasion of Afghanistan, the United States has taken a series of steps to insure that the U.S.S.R. will pay a concrete price for its aggression. One of the most important steps has been America's call for nonparticipation in the 1980 Olympic games in Moscow.

The idea of boycotting the games has strong merit—but only if the boycott is internationally supported. Since President Carter issued our call for a boycott, there has been a wide realization that it is in the best interest of all free countries. Indeed, the State Department has advised me that 56 countries will not be represented by athletes in Moscow. But at the same time, 67 countries have announced their intention to send a team to the Olympics. Another 21 countries have yet to make a firm commitment either way.

The purpose of my amendment is to instruct the President to take into consideration the position of a recipient government with respect to the proposed boycott when he determines the levels of assistance to be provided with funds authorized under this act. This amendment will not bind the President to any action other than the consideration of support, or lack of support, America has received from the world community.

The amendment fully recognizes that several governments—such as England—have taken a strong stand in favor of the boycott, while their National Olympic Committees have voted to participate in the games. We are not seeking to punish any country for the independence of its Olympic Committee. This will be one factor, among many others, that the President can weigh in his decision.

But for those countries who have made a deliberate decision not to support us, and for those countries who are still deciding, I think we should reexamine our policy of foreign aid.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. ALBOSTA. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from Michigan for yielding. I desire to ask the gentleman, are the amendments that are now considered en bloc the ones that were printed in the June 4 Record on page H4532; amendments that were worked out with members of the Foreign Affairs Committee staff? Am I correct?

Mr. ALBOSTA. That is correct.

Mr. ZABLOCKI. Mr. Chairman, since we have looked at the language of the gentleman's amendments, we find no problem with the amendments. The identification of our assistance already is required with the clasped-hand insignia. The other amendment boycotting the 1980 summer Olympic games in Moscow, with the provisions that the gentleman has accepted, is perfectly in order for us to accept. We accept the amendments.

Mr. ALBOSTA. I thank the chairman.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Michigan (Mr. Albosta).

The amendments were agreed to.

□ 1820

AMENDMENT OFFERED BY MR. PEASE

Mr. PEASE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pease: Page 52, after line 10, insert the following new section 713 and redesignate existing section 713 as section 714:

ELECTIONS IN UGANDA

Sec. 713. The President shall encourage the holding of free, open elections in Uganda and shall, in considering assistance for Uganda and Tanzania with funds authorized to be appropriated by this Act, take into account whether such elections were held as planned in September 1980.

Mr. PEASE. Mr. Chairman, there are not many nations currently more in need of outside assistance than Uganda and Tanzania. And I was pleased to play a role in March when the Foreign Affairs Committee was marking up this bill in boosting and amplifying the assistance our country is extending to these two beleaguered nations. As it now stands, the bill authorizes $22 million for Uganda and $33.4 million for Tanzania in fiscal year 1981.

It is with deep regret that I must express misgivings about whether any of this aid should now be authorized for Uganda and Tanzania with the exception of the food aid—Public Law 480—already planned for delivery and distribution. My doubts flow from the disturbing events that have occurred in Uganda in the past couple of weeks and the role that Tanzania has played in what is happening now in Uganda.

Uganda gained its independence in 1962. And only once since that time have the Ugandan people been able to elect their own leaders. It has been nearly 18 years since self-determination was exercised in that nation. In the intervening years, Uganda has seen much destruction and decay brought on first by the autocratic rule of former President Milton Obote which was followed by the brutal, dictatorial regime of Idi Amin.

It has only been possible in the last 13 months since Amin's ouster for Ugandans to even conceive of once again being able to elect a civilian government to be selected through open, electoral processes. And now it appears this hope may be snuffed out almost as quickly as it was revived by the Ugandan Nation Liberation Front—UNLF—government that took control of the country in April 1979.

The recent military coup in Uganda and subsequent events have raised fear in my mind that the hopes of the Ugandan people and their right to self-determination are in real jeopardy of being quashed by a small cadre of Ugandan military officers operating with at least the tacit complicity of Tanzanian President Nyerere and his troops. Let there be no doubt that Tanzanian President Nyerere is the prime mover who has direct influence over what is to come in Uganda. Just as certain as the fact that Nyerere's troops are holding former Ugandan President Binaisa under house arrest at Entebbe is the fact that Nyerere wields great power over whether the Ugandan people will be able to freely elect their new leaders in fair elections later this year or not.

The goal which we should assist in attaining remains the same—self-determination for the Ugandan people to be expressed through free, fair, and open elections. Just as Tanzanian President Nyerere pressured our Government to facilitate free and fair elections in the newly independent Zimbabwe, we should insist that his government do the same in Uganda.

The recent military coup in Uganda certainly will prolong the suffering and despair of the Ugandan people if it is not reversed through the conduct of popular elections under credible conditions. There are already reputable reports of innocent civilians being detained by the Ugandan Army and worse. If the repression grows worse and elections are not held, there is a great likelihood of civil war in Uganda before the year is out.

It is imperative that our Government do everything in its power to impress upon the new military government in Uganda and its benefactor, Tanzanian President Nyerere, the importance of holding elections in Uganda in September and allowing outside observers to monitor these elections to insure their efficacy. If there is not substantial progress toward this end in coming days and weeks, then serious consideration ought to be given to conditioning release of our fiscal year 1981 aid for Uganda and Tanzania—excluding the food aid—upon whether free and fair elections are to be held in Uganda in September.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to my distinguished chairman.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, we are in an election year in our country, and we hope that there will be an election in both Uganda and Tanzania. The gentleman, of course, earlier had shared his proposed amendment with me, which he called the Pease-Zablocki amendment, although I had no knowledge of cosponsorship of the amendment. After reading it, and since it is an amendment which, in a sense, is the sense of Congress, the gentleman from Wisconsin is prepared to accept the gentleman's amendment.

Mr. PEASE. Mr. Chairman, I am very pleased to hear that from my chairman. It is called the Pease-Zablocki amendment because it was patterned after a brilliant amendment that the chairman offered on a recent bill on behalf of aid to Nicaragua.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding, and I would like to associate myself with the gentleman's remarks and with this amendment. I think it is an excellent amendment.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the gentleman from New York.

Mr. SOLARZ. I just wanted to say that I support the gentleman's amendment. It is designed to encourage elections, not in Tanzania, which have already taken place, but in Uganda later in the year, and I certainly hope they will be conducted as planned.

Mr. PEASE. I thank the gentleman for his remarks.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. Pease).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Panetta: Page 52, after line 17, insert the following new section:

UTILIZATION OF RETURNED PEACE CORPS VOLUNTEERS

Sec. 714. The Director of the Peace Corps shall develop a plan providing for more effective utilization of returned Peace Corps volunteers in order to promote a better understanding of other peoples and cultures on the part of the American people. The Director shall report to the Congress no later than January 15, 1981, on the plan and necessary procedures for implementing the plan.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BAUMAN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. PANETTA. Mr. Chairman, this is an amendment that has been worked out with the staff of the Foreign Affairs Committee and which I think is acceptable to the committee. It was to take place in title VI. It has been revised to now be included in title VII.

Mr. Chairman, my amendment is a simple one. It directs the Director of the Peace Corps to develop, and to report to Congress by January 15, 1981, on a plan to better utilize returned Peace Corps volunteers to "promote a better understanding of other people and cultures on the part of the American people." The amendment is needed to insure that the Peace Corps begins to pay special attention to fulfilling goal 3 of its original mandate, which relates to enhancing American society through the experience of Peace Corps volunteers in other regions and cultures of the world. Goals 1 and 2 relate to making a contribution to the welfare of people in the developing world and to providing an invaluable learning experience for the individual volunteer. It is time that we begin to develop the Peace Corps volunteer as a unique resource for our own country.

But the Peace Corps today does virtually nothing in a structured way to make use of the expertise and experience of Peace Corps volunteers in the United States. Having served recently on the President's Commission on Foreign Language and International Studies, I can attest to the dismal situation in this country in these subjects. At a time when this Nation must strive to learn more about the world, American students are turning their attention to other matters. Foreign language courses are losing enrollments at an alarming rate. The Commission found that:

Only 15 percent of American high school students now study a foreign language—down from 24 percent in 1965.

Only 1 out of 20 public high school students studies French, German, or Russian beyond the second year. (Four years is considered a minimum prerequisite for useable language competence).

Only 8 percent of American colleges and universities now require a foreign language for admission, compared with 34 percent in 1966.

Foreign affairs agencies of the U.S. Government are deeply concerned that declining foreign language enrollments in our schools and colleges will lower the quality of new recruits for their services and increase language training costs, already at a level of $100 million in 1978.

Mr. Chairman, the President's Commission on Foreign Language and International studies, which completed its work last November, has called attention to the declining capability of the United States to understand, and thereby to respond effectively in, a troubled and turbulent world. The Commission issued numerous recommendations in the area of foreign language and international studies, including expanded student and teacher exchanges and teacher training institutes, establishment of international high schools, reimposition of foreign language requirements for entry into college, and strengthening of foreign language requirements for Government personnel. The commission specifically recommended that we begin to regard the 80,000 returned Peace Corps Volunteers as a vital resource for this Nation. My amendment today recognizes that resource.

Knowledge of foreign languages and of foreign cultures is critical for the continued welfare of this Nation. I regard such knowledge to be the first line of our national defense. It is clear that our intelligence capability—which has come into substantial controversy in recent months—depends fundamentally on an ability to understand others. Our leaders need to know about the world in order to seek and to follow sound advice. Our competitiveness in world trade relies heavily upon knowledge of foreign markets and an ability to communicate effectively in another language. In our democratic society, moreover, it is essential for the general public to understand complex world events so that official policies will reflect the concerns and interests of the American people.

The amendment I am offering today would simply direct the Peace Corps to develop a plan. The amendment is designed to prod the Peace Corps to fulfill the mandate of goal 3. I happen to know that the Peace Corps is very interested in moving in this direction: My amendment would simply provide the necessary encouragement to move more forcefully and rapidly.

Peace Corps volunteers represent an enormous, untapped resource. I would like to see a program instituted which would give former volunteers an opportunity to help Americans learn about the world. The plan required by my amendment should provide opportunities for volunteers to assist in the Nation's schools, colleges, universities, and communities. The plan should consider the appropriate kinds of compensation and benefits for volunteers who participate in the plan.

I urge adoption of the amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, the gentleman gave his amendment to the Foreign Affairs Committee, and the chairman directed the staff to work with him on the amendment. I want to thank the gentleman for agreeing to the modifications that were suggested. Certainly there are returned Peace Corps volunteers who can contribute a great service to a better understanding of foreign countries, foreign cultures, and foreign lands on the part of U.S. citizens by utilizing the Peace Corps volunteers. The amendment that the gentleman proposes merely states a plan should be considered. On that basis, we are prepared to accept the gentleman's amendment.

Mr. PANETTA. I thank the gentleman for his remarks.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. We are happy on this side to accept the gentleman's amendment.

Mr. PANETTA. I thank the gentleman.

The CHAIRMAN pro tempore. Does the gentleman from Maryland (Mr. BAUMAN) insist on his point of order?

Mr. BAUMAN. I do not, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title VII? Are there any further amendments to the bill?

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 52, after line 17, insert the following new title:

"TITLE VIII—REDUCTION OF AUTHORIZATION

"REDUCTION OF AUTHORIZATION

"SEC. 801. Notwithstanding any other provision of this Act, the total amount of funds authorized to be appropriated by this Act shall not exceed the aggregate of amounts intended for assistance for Israel and Egypt from funds authorized in this Act, plus amounts authorized in sections 110, 401, 402, and 405 of this Act, plus seventy-five per centum of the total of all other amounts authorized to be appropriated by this Act."

Mr. BAUMAN. Mr. Chairman, I will not take long. This is a very simple amendment. It simply cuts out about $750 million in this massive foreign aid bill. It does not in any way disturb the funds for Israel or Egypt or the Middle East peacekeeping operation, nor does it disturb the funding of American schools or hospitals abroad or international narcotics control or migration and refugee assistance.

It does, however, present a substantial reduction in all other areas. It is my belief that the total amount of money in this bill can stand some cutting. In most all areas it is over the Presidential request, as well as over what a prudent government, laboring under the economic restrictions that we have in this country, should consider for these programs.

It amounts to, in effect, because of the exclusions in the amendment, probably a 12-percent or a little more cut in the entire amount of money in the bill. It is not a terribly large cut. In fact, I would even say it is conservative in nature, as would be expected from the gentleman from Maryland.

I would urge the Members to adopt this modest reduction in spending in an area which certainly can use it.

AMENDMENT OFFERED BY MR. BROOMFIELD TO THE AMENDMENT OFFERED BY MR. BAUMAN

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD to the amendment offered by Mr. BAUMAN: In the fourth line of the section proposed to be added, immediately before "Israel" insert "the United Nations Children's Fund (UNICEF),"; and

In the next-to-last line, strike "seventy-five" and in lieu thereof insert "ninety"

Mr. BROOMFIELD. Mr. Chairman, the effect of my amendment would simply be to reduce the overall level of authorizations provided for in this bill by an amount sufficiently reasonable to permit a majority of the House to justifiably support this legislation in the face of the worsening economic conditions afflicting our constituents. After excluding aid for Israel and Egypt, the U.S. contribution to the U.N. Children's Fund (UNICEF), and authorizations for peacekeeping, American schools and hospitals abroad (ASHA), international narcotics control, and migration and refugee assistance, my amendment would apply a 10-percent cut to the remainder of the authorization.

The various authorizations excluded from the cut add up to a subtotal of $2,422,020,000. When that figure is deducted from the total authorization in the bill, as reported, of $5,528,418,000, the remainder to which the 10-percent cut applies amounts to $3,106,398,000. Ten percent of that remainder would be a cut of $314,639,800.

Understanding the fine tuning that is usually necessary in responsibility and efficiently apportioning cuts among the widely varied kinds of programs and projects involved, my amendment leaves the administration substantial flexibility in apportioning the cut as it deems practical. Hopefully, that decision will be reached after suitable consultation with the appropriate committees of the Congress.

Let me just remind my colleagues that the exclusions mentioned were made before applying the percentage cut, to more fairly impact on the nonexempt portion of the authorizations, instead of applying the percentage cut to the gross total of the bill and only then exempting certain programs.

My amendment exempts aid to Israel and Egypt and the peacekeeping authorization because those authorizations are intimately tied to our efforts to achieve lasting peace in the volatile and strategically important Middle East. The international narcotics control program is excluded because those funds help stop drugs at their sources abroad, before they reach U.S. cities. The authorization increase for migration and refugee assistance is exempted because of the highly critical nature of this assistance for the many displaced and completely destitute victims of unrestrained repression and natural disasters. The UNICEF program is excluded because it is concentrated on the needs of poor and disadvantaged children in developing countries. Lastly the ASHA program is excluded from the cut because of the continuing strong support in the House for aid to American sponsored schools and hospitals overseas which serve as study and demonstration centers for American ideas.

This amendment is a reasonable and responsible measure under our present economic circumstances. I urge the House to support it.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Ohio.

Mr. FINDLEY. Mr. Chairman, I was listening as intently as I could to the list of exclusions. Does the gentleman exclude funds provided for food and agricultural assistance? I have in mind particularly the famine prevention program in title XII of the Foreign Assistance Act.

□ 1830

Mr. BROOMFIELD. The President will have discretion as to where he wants to cut this. In other words, he will have flexibility. My amendment merely means a reduction in the overall amount for the balance of the bill.

Mr. FINDLEY. It does set aside the money for American schools and hospitals abroad. That is not cut at all.

Mr. BROOMFIELD. That is exactly right.

Mr. FINDLEY. But the cut would apply to funds from which food and agricultural assistance is provided?

Mr. BROOMFIELD. I would not necessarily say that. If the President feels that is where he would like to cut, he could. The bill provides for a 10-percent cut in areas that have not been excluded.

Mr. FINDLEY. I thank the gentleman.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

Mr. Chairman, the 25-percent cut proposed by the gentleman from Maryland with the exemptions would nevertheless reduce the amount authorized under the bill by $786½ million. Such a cut, I submit, Mr. Chairman would significantly curtail our international security and development assistance programs and seriously jeopardize our U.S. national interests. It would reduce the authorization level below the fiscal year 1980 appropriations conference report figure.

For example, in foreign military sales, a 25-percent cut would constitute a reduction of approximately 28.8 percent in funds from which the cut can be taken. This would reduce the foreign military sales program, for example, for Greece by $52½ million. Further, every dollar cut from the appropriations has a tenfold impact on the total programs that can be financed under FMS.

Under the economic support fund, a cut of 25 percent would be an effective reduction of 47½ on this account in these particular programs, due to the exemption of Israel and Egypt and earmarkings for Turkey, the Middle East special requirements and base rate obligations to Spain, the Philippines, and Portugal. Therefore, the program for Portugal, which Members have just voted to increase by $5 million for the Azores, if the gentleman's amendment prevails, will be a cut of $6.25 million. Indeed, it would be adding a million and a quarter from the already authorized amount for the Azores. His 25 percent would cut from the program, I repeat, $6.25 million.

Mr. Chairman, I unabashedly admit that the Committee on Foreign Affairs worked hard on all of the programs, and they were reviewed on the basis of the various subcommittees and in the full committee.

As the gentleman from Maryland knows, I am sure, during the consideration of the legislation in committee, I fought every increase. I must at this time say, having been in the forefront to hold the line on increases, I am sure the gentleman will admit that I have some credibility when I say that the gentleman's cut is far too deep, far too deep. If the gentleman wants to kill the program, vote against it. Do not bleed it to death.

I know the gentleman is a humanitarian and dislikes blood. Therefore I am sure that we will certainly not agree to his amendment, and he will not be overly disappointed if we defeat it.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. We have two amendments pending. The gentleman from Maryland does not take it personally that the gentleman from Wisconsin usually opposes the amendments of the gentleman from Maryland. That is to be expected, but the gentleman did not mention the somewhat less meritorious, because of the amount involved, amendment of the gentleman from Michigan. Is the gentleman accepting that amendment?

Mr. ZABLOCKI. There are two ways of looking at these proposals. You can say that one smells good and the other one smells less good, or you can put it the other way: One smells worse than the other one.

I might say that I think the amendment of the gentleman from Michigan is, as he called it, a perfecting amendment. He does save 15 percent of the cut that the gentleman from Maryland would propose, but I could not nevertheless subscribe to an across-the-board cut. As I said, and I am repeating something I am sure the gentleman from Michigan would not expect me to say on the floor, that if he really wanted to save money, Mr. Chairman, he would put a 5-percent cut across-the-board with no exceptions.

I think that when you get these exceptions, and you have an exception here and you except that country and so on——

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, actually we are only voting on 5 percent because it only deals with half of the bill. In other words, we are exempting half of the $5 billion. In effect, if we take the cut across the board on all the countries, we are still only looking at 5 percent.

When we are talking about a $5 billion bill, the cut that I am providing, $310 million, it provides plenty of room, and it will not jeopardize the bill at all.

Mr. ZABLOCKI. If I may respond to the gentleman, where the gentleman is cutting 10 percent is from the poorest of poor, where the amounts authorized are the smallest. Why does not the gentleman cut where the fat is? Why does not the gentleman cut where the large amount is if the gentleman thinks there is some fat? Why does not the gentleman cut the amendment I have fought against in committee, cut it on a selective basis? I would go along with the gentleman on those cuts. The gentleman from Michigan knows that the gentleman from Wisconsin detests the across-the-board, irresponsible type of cutting.

If the gentleman is going to do it right, do it on the basis of what country needs the aid and what country is getting more than it needs.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. The gentleman has twice suggested in his remarks just now that we ought to offer an amendment that cuts across the board 5 percent and said he would even support that. Did the gentleman want us to understand that if we offered an amendment cutting the funds for peacekeeping in the Middle East, and for Israel he would support that?

Mr. ZABLOCKI. What I said, if the gentleman on the other side of the aisle wanted to really cut for the sake of saving money, the greater amount would be an across-the-board cut for 5 percent. I did not say I would agree to that. But if the gentleman is going to save money, if that is the gentleman's purpose, then do it where there is more money, a 5-percent across-the-board cut.

The gentleman from Maryland fully well knows that the policy of the gentleman from Wisconsin is to oppose across-the-board cuts. I will vote for selective cuts.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to both amendments.

Mr. Chairman, I realize that this is the season to go after foreign aid. It is the time of the year when we take up the budget. It is also an election year. We have got a serious problem of inflation in the country. Several million Americans are out of work, and foreign aid is the traditional target for those who think they can solve all of the problems of the country and the world by economizing when it comes to the Federal Government.

□ 1840

But before we rush off and routinely approve either of these amendments, I want to ask you to very briefly consider what the consequences would be for our country were we to accept either of them.

The Bauman amendment would cut the foreign aid bill by 25 percent. The Broomfield amendment as a substitute would cut it by 10 percent.

I want to suggest to you that either of these amendments would have seriously unfortunate consequences for our country.

At a time when we are proposing to increase the level of defense spending by over $20 billion because the Soviet Union is on the march in Afghanistan, because the Russians have engaged in an unrelenting military buildup over the course of the last 20 years which has posed a serious threat to the security of our own country, I cannot for the life of me understand how my friends on the other side of the aisle, who profess to be concerned about the Soviet threat, can possibly ask this House to approve an amendment that would go a long way toward crippling our capacity to compete effectively with the Soviet Union for influence elsewhere around the world.

I yield to no Member of this House in terms of the importance which I attach to Israel and Egypt and the peacekeeping process in the Middle East. I am delighted, therefore, that they exempt Israel and Egypt from the cuts contained in their amendment; but is there anybody here who seriously thinks that Egypt and Israel exhaust the totality of our concerns or of our interests? What about Turkey that would have to be cut if these amendments are adopted, or Greece, or Korea, or Thailand, or the Philippines, or Indonesia or Morocco?

We cannot stave off the Soviet threat all by ourselves. We could increase the defense budget, not by $20 billion, but by $40 billion, and unless we had friends elsewhere around the world whose assistance we can count on in an emergency, then this country will be in far more serious danger than it is today. If we are going to be able to contain the Russians, we need friends who are strong and who can stand on their own two feet. We need them in the Far East, in Korea. We need them on the southern flank of NATO, in Turkey, and in Greece. We need them in North Africa with Morocco. We need them in a variety of other countries to whom we will have to reduce our military and economic assistance if either of these amendments are adopted.

Now, how can we possibly justify cutting back by $100 million the level of our foreign aid program from where it was last year, which we would have to do if even the Broomfield amendment was adopted, which in comparison to the Bauman amendment looks moderate, when at the same time we are increasing our defense spending by $20 billion.

If you want to tie the hands of the President behind his back, if you want to paralyze the Secretary of State, if you want to deprive our Nation of the influence which we are going to need in order to contain the Soviet Union, then vote for either of these amendments; but if you want us to be able to prudently compete for influence around the world, then I very much hope you will vote against them.

I want to make one final point. The total amount of money in this bill accounts for less than 1 percent of the Federal budget. Nobody can possibly think that we are going to balance the Federal budget by cutting the foreign aid bill by 25 percent or by 10 percent over the level which is in the bill before us today, because it does not touch 99.5 percent of the other expenditures in the Federal budget; but what it does do is give us the ability to compete for influence and to respond to the suffering of hundreds of millions of people who look to our Nation for assistance.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. SOLARZ) has expired.

(At the request of Mr. BARNES and by unanimous consent, Mr. SOLARZ was allowed to proceed for 1 additional minute.)

Mr. BARNES. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to my friend, the gentleman from Maryland.

Mr. BARNES. Mr. Chairman, I thank the gentleman for yielding.

I rise simply to commend the gentleman for his leadership upon this issue, for an eloquent statement. The gentleman said what I had come to the floor to say. He said it better than I could have said it and I associate myself with everything the gentleman has said.

Mr. ERDAHL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, daily in this body we reach crossroads, which to a lesser or greater degree, determine the course of history of this and other nations. Again today, in our consideration of foreign aid, we stand at a crucial crossroads.

Restless and dissatisfied people throughout this world are seeking self-determination and a national identity. We in this Nation who pride ourselves on being sons and daughters of a revolution should not be threatened by these aspirations. With few exceptions these new governments do not yet have the degree of freedom and justice which eventually evolved in ours.

By recent events in Afghanistan, the Middle East, and in our own hemisphere, we are made ever aware of the Soviets' aggressive attempt to expand this influence and export their concept of a proper economic order.

As Members of this body, and Representatives of the American people, we now have the option of throwing the people of Zimbabwe, Zambia, and Mozambique either a lifeline or the anchor. A lifeline that provides the attachment to concepts of self-determination, freedom, or liberty—or by refusing to respond; the anchor of reaction or denial which could cut the fragile cord and inadvertently drive these nations deeper into the Socialist camp.

Perhaps by extending this modest aid we err. But if we are to err, let us take the risks and err on the side of continuing foreign aid. Let us err on the side of being a generous people welcoming others into the sphere of democratic nations; let us err on the side of positive action and response rather than on the side of negative withdrawal from international participation.

Maybe these other governments will reject or cut the lifeline—let us not fail to cast it out.

The expedient political course for most of us in this election year, with the mood of the times, is to vote "no" on all foreign aid bills. With all due respect, this is perhaps good politics, but is it responsible and is it good international policy?

So, I rise in opposition to the amendment to reduce this assistance by the magnitude suggested.

I would remind my colleagues that the Rhodesian settlement represented a decided setback to Soviet interests and a major diplomatic triumph for the Western World. The nations of the region have acknowledged the positive role which the United States played in the transition to an independent Zimbabwe. At no time has our stock been higher in this critical region. The interests of the United States demand a stable and economically sound situation in southern Africa. Never has this prospect been greater.

We can join with our allies and work with the countries of the region—Mozambique, Zambia, Zimbabwe, Tanzania, and others—to nurture the opportunity to advance Western and U.S. interests. For a very modest investment in assistance to these countries, we can effectively blunt the possibilities for Soviet penetration in the area.

More than ever, the nations of southern Africa are looking to the West as they strive to ease the plight of their people and achieve economic and social independence. They have seen that our commitment to majority rule was indeed a real one.

None of us condone some of the actions and policies of some of these states. But I do feel we must stay in the ball game and work with the nations of southern Africa to encourage moderation and peaceful evolution in the area. Let us not forfeit the opportunities to the Soviet Union in the wake of the positive developments in the region. Rather, we should seize the moment to demonstrate our continual commitment to the development of attempts at democracy and the establishment of moderate nations in this strategic area. One of the most tangible ways of demonstrating this commitment is through these modest assistance programs.

I urge my colleagues to defeat this amendment so that we can continue to play a meaningful role and foster positive political, social, and economic developments in southern Africa.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. ERDAHL. Yes, I yield to the gentleman.

Mr. MAGUIRE. Mr. Chairman, I just want to compliment the gentleman on his very thoughtful statement and identify myself with his remarks.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

I rise to oppose the Broomfield substitute.

Mr. Chairman, I do hear a few Members shouting, "vote," but I am sure they will not know how to vote until they hear me; so, obviously, a few more minutes will not hurt.

Actually, we are at that very delicate point in the bill where we have these wonderful across-the-board cuts. I wonder if there is merit to them or if there is merit in sustaining the bill as produced by the committee with the adjustments that we have made to date.

Now, personally, I do not think that even the Broomfield proposal is logical at this point. I do not think it should be accepted for a number of reasons. Once you offer all the exclusions that the gentleman from Michigan (Mr. BROOMFIELD) does, you are cutting rather deeply into some very sensitive spots.

Now, for example, Morocco; Morocco is engaged in a very difficult desert guerrilla war with a Soviet sponsored guerrilla group. Do you really want to restrict Morocco at this time?

Indonesia, a very trusty ally in a very delicate area of the world. Do you want to punish Indonesia at this point?

The Philippines, where we have major base rights, in fact, base agreements.

Sudan, a new-found ally, so to speak; Sudan has supported President Sadat, supported the Camp David accords. Do we want to start turning back against Sudan at the present time?

□ 1850

Thailand, with the forces of Vietnam up against its border and all of the problems on that border, and the tremendous service they have rendered in refugee programs.

Do you want to turn back some of the best programs that we have in Africa and Asia where there are the most underdeveloped countries of the world, where really humanitarian efforts in health, nutrition, agricultural development are being made and we are doing an excellent job.

I would say even though foreign aid is not popular, the committee has come out with a fairly good bill with responsible figures, and any across-the-board cut is so unscientific and has to hurt good, proper, practical recipient countries that it should not be accepted.

Now let me give my colleagues just one very specific figure. In Africa, 19 of the 30 least developed countries are receiving assistance. They are receiving real humanitarian assistance, food relief, all of the programs that people really need. The largest concentration of refugees in the world is in Africa, in Somalia. Now, this across-the-board cut would do damage not only to the dubious programs but to some of the very good, sound programs that we still sponsor under this bill.

I would suggest that the House rise above its frustrations, its irritation with foreign affairs and with the occupant of 1600 Pennsylvania Avenue. I would suggest that the House show that it has the leadership in foreign affairs which requires it to be responsible and international minded and that we reject both of these across-the-board amendments.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I will yield to the safest Members. I will yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Bauman and Broomfield amendment. Twenty years ago, a folk group known as the Kingston Trio recorded a song which reflected the turmoil then in the world. The last verse of that song went as follows: They are rioting in Africa, there is strife in Iran, what nature does not do to us, will be done by our fellow man.

In the ensuing 20 years the ravages of nature and man's ever increasing inhumanity to man have multiplied the problems many times over. In that same 20 years, however, our own efforts to combat these problems have declined, both in constant dollars and as a percentage of our gross national product.

The bill before us provides limited assistance to address the reality of 15 million children in the developing countries who will die of starvation or malnutrition related diseases this year without our help.

During the course of the debate on this legislation, many people have spoken of the realities of budgetary constraints. There are, however, other realities in addition to the children—the reality that less than one-sixth of the 2.1 billion people in the developing world are literate, that 85 percent of the population in the LDC's have inadequate, if any, health care and that wars and civil strife have sent the world's refugee population skyrocketing.

We in the United States have a firsthand view of the problems caused by the massive influx of refugees, but compared to some other countries, we are fortunate. Yes, we are seriously burdened by refugees, but the burden is somewhat less devastating for us because we are one of the wealthiest nations in the world and we have a multitude of natural resources, our other problems notwithstanding.

On the other hand, there are countries among the poorest of the poor, such as Somalia, which also bear the burden of hundreds of thousands of refugees.

It is the poorest countries which this bill seeks, through our economic assistance programs, to aid.

While the bill authorizes $5.5 billion, the overwhelming majority is for military assistance and the economic support fund. Less than $2 billion is provided for economic assistance outside the Middle East.

In my judgment, this legislation reflects the bare minimum to help address some of the major problems confronting the developing world, problems which are here today, but which have implications for the world of the future.

I am no more excited about paying taxes than the next person, but I sincerely believe that the dollars we spend to save human lives and to help create stability in an increasingly tumultuous world are well spent.

In the 13 years in which I have been a member of the House Foreign Affairs Committee, I have seen your committee refine again and again the foreign assistance program to attempt to insure that it meets the most pressing needs and goes to those countries best able to use it.

At the same time, I sincerely believe that the funds authorized by this legislation are in our own national interest.

The military and security supporting assistance are major factors in our own defense posture and there are very few who will argue that point.

But, the economic assistance plays a vital role in that same defense posture. It reflects what we as Americans are, that our aspirations are for peace in the world and that we continue to care about human suffering in vivid contrast to the Soviet Union which exports war and exploits peoples. And it helps strengthen our allies.

This legislation is also of substantial economic benefit to the United States, to the point that it has been endorsed by the U.S. Chamber of Commerce. In my own State of Alabama last year we received more than $30 million in sales and contracts as a result of the foreign aid program.

Across the country, the figure reached nearly $2 billion. This assistance also helps in developing sorely needed markets for U.S. goods abroad. Thus, we are helping not only the poor farmer and the dying child in the developing world, but the American farmer and worker as well.

Mr. Chairman, for these reasons, I support the amounts recommended by your committee and strongly oppose any reductions.

Our assistance efforts are already low. We rank 14th among the developed nations in the percentage of our gross national product which we provide in bilateral assistance to the developing world, trailing behind even countries with lower GNP's such as Italy and the United Kingdom.

According to the latest available figures, the total net flow of official resources from the United States to developing countries and the multilateral agencies represents three-tenths of 1 percent of our gross national product, down from four-tenths of 1 percent of our GNP 10 years ago.

Thus major cuts which have been proposed would be disastrous to the recipient nations and contrary to our own national interest.

Somalia is a prime example. Here is a country which has turned away from the Soviet Union and toward the United States. It is a country with urgent developmental, health and other needs. It has one of the highest infant mortality rates in the world, a per capital income of $110 a year and a 15-percent literacy rate and it is being inundated with Ethiopian refugees.

The bill contains $2.5 million to help Somalia extend vitally needed basic health care. But, by enacting the cuts which have been proposed, we will in effect say to the Somalis, "Thank you, but we do not care to help save the lives of your people and, oh, by the way, we would like the use of your military bases."

Mr. Chairman, we are already nickle and diming the world to death. Yet, as we talk of reductions in an already inadequate program, children are dying.

Thailand is another case in point. We used her land for bases during Vietnam. Her per capita income is only $420 a year; she is flooded with refugees from throughout southeast Asia and is surrounded by hostile Communist governments.

Proposed reductions would be a serious blow not only to our economic assistance programs to Thailand, but to the military aid programs as well.

Is this where we are really coming from as a nation?

Approximately 85 percent of the in-country programs provided for in this legislation will go to countries with an annual per capita income below $625. Therefore, any cuts will impact heavily on them.

In addition, our contributions to such international organizations as the world food program and UNICEF will help to alleviate the suffering of millions of people forced from their homes by war and civil strife.

The Presidential Commission on World Hunger has concluded that the elimination of hunger may "provide the most promising basis for other international actions to assure world peace."

Last year, I stood in this well and in the short time in which I spoke, 200 children died of malnutrition and related diseases. In the 14 months which have elapsed since that last debate, millions of children, equal to double the population of the city of New York, have died from similar causes and they have died needlessly.

If I could bring just one of those starving children here, to this Chamber, you could not stand it, you could not sit still and let that child die. You would have to act.

The legislation before us provides a vehicle for that action. It will help save the lives of countless innocent children. It will help pave the way for peace in our time. It will aid our own economy at a particularly difficult period and it will underline what Abraham Lincoln said more than 200 years ago—that America remains the world's last best hope for peace.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. LLOYD. I thank the gentleman very much for yielding. I would say to the gentleman that I am, indeed, safe because I happen to agree with particularly the point the gentleman made, which is a percentage cut is never a thoughtful cut for the simple reason that you have worked your will on this bill and now to come in and have a percentage cut on any bill is unrealistic. I commend the gentleman for making that point.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Massachusetts, a bastion of conservative political thinking.

Mr. CONTE. Mr. Chairman, I thank the gentleman for the compliment. I rise in opposition to these two amendments.

Mr. Chairman, I would like to call your attention to an article in today's Washington Post, an article which is particularly relevant to the legislation which will be discussed at length this morning and afternoon. Entitled, "United States, Saudi Concern Increasing at Soviet Arms Aid to North Yemen," it goes on to describe the cataclysmic increase in Soviet influence in that nation, a country of critical importance to our security interests. Strategically located at the mouth of the Red Sea, Soviet control of North Yemen combined with the already extensive inroads into the Middle East and Africa could prove disastrous for U.S. and Western economic interests, particularly our oil interests in the Middle East region.

According to the Press, Soviet ships are regularly unloading MIG-21 and SU warplanes along with T-55 tanks and other military equipment at the Red Sea port. And while the United States last year tried in vain to win the allegiance of North Yemen, our aid attempt, much like our recent aid package for Pakistan, was too little, too late and too closely tied to Saudi Arabia to make a difference in North Yemen.

Mr. Chairman, today when we consider the foreign assistance authorization bill let us keep those words, too little and too late in mind, particularly when we consider the detrimental effect they have on U.S. security, economic, and political interests. We cannot afford to make these same mistakes again.

United States, Saudi Concern Increasing at Soviet Arms Aid to North Yemen

(By Edward Cody)

HODEIDA, NORTH YEMEN—The presence of Soviet arms and military advisers in North Yemen is increasing steadily, and the government says it has no intention of stopping the flow despite concern in Saudi Arabia and the United States.

The influx grows from determination within President Ali Abdullah Salah's government and officer corps to strengthen the armed forces from whatever sources are available to a country with Yemen's limited financial resources.

It reflects a history of military aid from the Soviet Union combined with North Yemen's resolve to remain independent of its wealthy Saudi neighbors, whose attempts to steer the Sanaa government away from Moscow often have been heavy-handed.

Against this background, President Carter's decision in March 1979 to dispatch under emergency procedures 15 Northrop F5E fighters and 64 M60 battle tanks, a gesture urged by the worried Saudis, appears now to have been too little, too late and too closely tied to Saudi Arabia to make a difference in North Yemen.

Instead, the size of the direct Soviet effort has largely eclipsed the U.S. arms and their value as a symbol of Western and Saudi support.

If North Yemen is weaned away from Saudi Arabia and the West, it would represent a major setback for American efforts to contain Soviet influence in the Middle East, right in the backyard of the world's leading oil exporter. Outright alignment with the Soviet Union by North Yemen would be seen elsewhere in the Arab world as another loss of face and influence by the United States on top of developments in Iran and Afghanistan.

In addition, North Yemen is strategically placed to provide a possible site for military control of the mouth of the Red Sea.

Soviet ships are regularly unloading Mig 21 and SU22 warplanes along with T55 tanks and other military equipment at this humid Red Sea port—even as Yemeni pilots learning from two American instructors make practice landings in the F5Es at Sanaa airport 150 miles northeast.

Migs and Sukhois, painted in camouflage, line up at the main airport here. Nearby on the coast, a Soviet-supplied radar and antiaircraft battery rises beside the road stretching along a 12-mile sandspit protecting Hodeida's deep-water harbor where the Soviets land their arms.

Analysts in the capital estimate that North Yemen has received 15 SU22 ground-attack jets and 10 Mig 21 fighters since February in a deal in which Moscow has promised 40 Mig 21s and 20 SU22s.

In addition, soon after the American tanks began arriving, Soviet T55 tanks started showing up. First came 200 Polish-made T55s, military analysts say, and since then at least 300 more from the Soviet Union's own stocks.

Also recently arrived from the Soviet Union, they say, are 65 multiple rocket launchers and 18 self-propelled antiaircraft guns, with four 24 mm cannons that spit out 900 rounds a minute. Moreover, 70 armored personnel carriers sent by Carter have been joined by Soviet armored cars.

Along with the weapons have come Soviet military experts to train Yemenis in their use. About 230 Soviet military advisers are reported to be working in North Yemen. The schedule of future arms deliveries has led to predictions that the number will rise.

Up to 70 U.S. military personnel were in North Yemen last year to train Yemenis on the American weapons. But that number has dropped to eight, including the two instructor pilots, U.S. sources say, in addition to U.S. teams that come and go and a dozen civilian technicians.

It was because Saudi Arabia urged and financed the deal for American aircraft to strengthen North Yemen against Marxist South Yemen that the Saudi rulers became particularly upset when the Soviet arms started coming. Their worries were heightened by talks that for the first time showed signs of improving relations between the Marxists in Aden and the Sanaa government.

Since then, North Yemen, has offered repeated assurances to Saudi Arabia that the flow of Soviet arms and advisers does not mean a change in Sanaa's traditional policy of nonalignment, and that the unity talks do not mean a drift toward a Soviet-oriented alliance with the south.

But Prime Minister Abdul Aziz Abdul Ghani and Foreign Minister Hassan Makki said in separate interviews this week that the North Yemeni assurances have not included a specific promise to send the advisers home as reported last March in Saudi Arabia.

"Everybody got angry, but we thought they shouldn't," said Abdul Ghani. "We have got arms from the Soviet Union since the 1950s. . . . As long as there is a job to do, there will be advisers to do it."

Echoing this theme, Bakke said: "We have our own interests. They have their own interests. They are our neighbors, but our interests may not always be the same. I will never say to them (the Soviets) not to come because somebody is not happy that they are here. I will never accept that someone tells us how to deal with other countries."

At the same time, both officials emphasized that Salah's government has assured the vigorously anticommunist Saudis that the Soviet advisers are in North Yemen only for weapons training and maintenance, and that their departure will be considered when their job is finished.

"We gave all these assurance that there is no shift in policy," the prime minister said. "The equipment is equipment whether it comes from the United States or the Soviet Union."

Saudi Arabia nevertheless became so irritated about the Soviet arms deal and the unity talks that it unofficially suspended aid to North Yemen in December and January. As a result some soldiers and civil servants got paid late.

Independent sources estimated that the Saudi government and royal family distribute $250 million as budget aid annually to North Yemen and a similar amount for special development projects and discreet payments of their own to ministers, officers, and tribal sheiks whose influence is considered valuable in Riyadh.

Jarred by the halt in Saudi funds, Salah sent envoys to Saudi Arabia to try to repair the damage. A Yemini diplomat said Salah authorized Makke to tell them that "in principle" North Yemen accepted a phase-out of the Soviet advisers.

After the talks the Saudis resumed their aid. Nothing was said about when the advisers would leave, however, and the Yemeni diplomat said there are no signs this will be soon.

Anxious for more definite word, the Saudi defense minister, Prince Sultan ibn Abdul Aziz, and foreign minister, Prince Saud ibn Faisal, paid an unusual joint visit to Sanaa May 13 for talks with Salah.

Abdul Ghani and Makke both said this review of Yemeni-Saudi relations satisfied the Saudis, ensuring continued aid. Several diplomats in Sanaa have noticed signs of another potential cash pinch in the government, however, and they say Sultan and Saud flew home with less of a guarantee than they had sought.

The Saudis traditionally have thought of North Yemen as a close ally and a buffer against South Yemen, ruled by Marxists and closely tied to the Soviet Union. Thus their nervousness remains close to the surface as North Yemen deals directly with the Soviet Union and improves its relations with Aden.

The obligation to deal with Washington through Saudi intermediaries has irritated the independent-minded Yemeni government. A high Yemeni official complained that at one point in the training program every U.S. instructor was accompanied by a Saudi "as if the Americans did not know what they were doing by themselves."

By contrast, the Soviet Union has made a point of direct contacts and swift fulfillment of its promises. Yemeni officials said Moscow even diverted an arms ship at sea on its way to another country to make sure one shipment arrived in Yemen before deadline.

Mr. LOTT. Mr. Chairman. I move to strike the last word and rise briefly in support of the amendment.

My colleagues, we are talking about the foreign aid bill. It is unbelievable to me when we go back to our districts all across America that we can talk to people about how we are going to cut spending and then we come in here and we increase the foreign aid bill. Let us not kid ourselves. This is an increase over last year from $5.3 billion to $5.5 billion.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I would say to the gentleman not only that, but almost every amount in this bill is higher than even President Carter asked for. This committee has raised more than the administration wants.

Mr. LOTT. That is absolutely correct. I have already mentioned the Institute for Scientific and Technological Cooperation which does not exist for $95 million, and international organizations and programs which has increased over what the President asked for. My colleagues, I urge you to take a look at the countries that get assistance under these international organizations through indirect aid. They would be surprised at some of the countries all over the world that get this aid.

Another example is the migration and refugee assistance. It is up above what the President asked for, over $50 million.

There has to be a limit to this. It is very hard to be opposed to bad legislation when we have the leadership of the fine gentleman from Wisconsin (Mr. ZABLOCKI) and it makes you want to be for it. But we must keep our eye on the ball. This is foreign aid. If we cannot cut the foreign aid back to what we had last year, or reduce it a little bit, I maintain we will never cut any place, we will never get the budget balanced.

My colleagues, I urge you to at least support a 10-percent cut in this foreign aid bill, which will put it just minimally under what it was last year.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding. The gentleman mentioned the President's request. The bill, as I understand it, is some $224 million over the President's request and I think it would be inconceivable in this year of budgetary constraint for us to pass a foreign aid bill, of all bills, that exceeds the amount requested by the President. I urge adoption of the gentleman's amendment.

Mr. LOTT. The gentleman is absolutely correct.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) to the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN), as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered

The vote was taken by electronic device, and there were—ayes 243, noes 131, not voting 58, as follows:

[Roll No. 299]

AYES—243

Abdnor
Addabbo
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boner
Bouquard
Brinkley
Broomfield
Brown, Ohio
Broyhill
Butler
Byron
Campbell
Carney
Carter
Chappell
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip

D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dicks
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harkin
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
Marks
Marlenee
Marriott
Martin
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Panetta
Paul
Perkins
Petri
Pickle
Quayle
Quillen
Regula
Rinaldo
Ritter
Robinson
Roe
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wright
Wyatt
Wylie
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOES—131

Akaka
Alexander
Ashley
Aspin
Baldus
Barnes
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Carr
Cavanaugh
Clay
Clinger
Collins, Ill.
Conte
Conyers
Danielson
Dellums
Derwinski
Dixon
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Erdahl
Erlenborn
Fary
Fascell
Fazio
Fenwick
Fisher
Ford, Mich.
Frost
Garcia
Gephardt
Gibbons
Gonzalez
Gray
Green
Hall, Ohio
Hamilton
Hanley
Harris
Hawkins
Heftel
Holland
Hollenbeck
Howard
Hyde
Johnson, Calif.
Kastenmeier
Kildee
Kostmayer
LaFalce
Lehman
Lloyd
Long, Md.
Lowry
McCloskey
McHugh
Madigan
Maguire
Markey
Matsui
Mavroules
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Pease
Pepper
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Rodino
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
Stack
Stark
Studds
Swift
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Waxman
Weiss
Wirth
Wolff
Wolpe
Yates
Zablocki

NOT VOTING—58

Anderson, Ill.
Annunzio
AuCoin
Beilenson
Brooks
Burgener
Burton, Phillip
Cheney
Chisholm
Coelho
Corman
Davis, S.C.
Dickinson
Dingell
Dodd
Edgar
Ford, Tenn.
Fowler
Giaimo
Gilman
Grassley
Harsha
Holtzman
Jenkins
Jenrette
Johnson, Colo.
Lederer
Leland
Levitas
Lewis
McKinney
Mathis
Mollohan
Myers, Pa.
Nedzi
Nolan
Pashayan
Patterson
Peyser
Preyer
Reuss
Rhodes
Richmond
Roberts
Rose
Runnels
Shuster
Staggers
Stewart
Stokes
Thompson
Vander Jagt
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

☐ 1910

Mrs. BOGGS and Mr. VOLKMER changed their votes from "aye" to "no."

Ms. FERRARO, Messrs. SYNAR, DASCHLE, McCLORY, BEDELL, and FOLEY changed their votes from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: Page 52, after line 17, insert the following new title:

TITLE IX—EXPULSION OF CERTAIN ALIENS WHO HAVE VIOLATED UNITED STATES LAW

SEC. 901. It is the sense of the Congress that the President should exercise the authority he has to immediately order the expulsion from this country of those Cuban immigrants who have participated in rioting and other civil disturbances at various processing centers.

Mr. SKELTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, this amendment expresses the sense of Congress that the Cuban refugees who have violated Federal and State laws of this country should be expelled and deported immediately.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. The gentleman has shared his amendment with members of the committee on this side of the aisle. With certain modifications which the gentleman from Missouri has agreed to, this side is prepared to accept the gentleman's amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment. I wish it went just a little further. Last evening on some of the boatloads they showed all sorts of prisoners coming in, shaved heads, prison boots and Mr. Castro said this morning that we had better not try to send back any of his chicken thieves that he has expelled.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. SKELTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I know it might be upsetting to intrude civil rights into this matter but the amendment of the gentleman as I read it says that we favor the expulsion from this country those Cuban immigrants who have participated in rioting and other civil disturbances at various processing centers.

Mr. Chairman, how is it to be determined that the people fall into that category? Are they to have processing by the courts or what is the determining factor?

Mr. SKELTON. Mr. Chairman, they have not been accepted by our country. Until the moment they are accepted, they do not fall into the category of an immigrant or into the category of a refugee as such. They have no such rights until that is determined.

Mr. BAUMAN. If the gentleman will yield further, I am not trying to defend these people but if someone can arbitrarily go around and say, "You participated in a riot; get out," I do raise some questions about whether that is the American way of doing things.

Mr. SKELTON. Mr. Chairman, I will yield to the chairman of the Committee on Foreign Affairs who is versed in the legality of it.

Mr. ZABLOCKI. If the gentleman will yield, it is the understanding of the gentleman from Wisconsin that a disturbance would have to occur at the time the Cuban immigrants are asylees, they are seeking asylum. They are not as yet qualified as refugees or bona fide immigrants and, therefore, if they riot at that point—there would have to be some substantive proof that they indeed were involved in and participated in the rioting.

Mr. BAUMAN. Will the gentleman yield further?

Mr. SKELTON. I yield, yes.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, I have just been assured by the gentleman from California, a member of the Judiciary Committee, that under our existing Federal law each of these people apparently are entitled to an expulsion hearing.

☐ 1920

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Does the gentleman's amendment define "participate?"

Mr. SKELTON. I did not understand the gentleman.

Mr. SEIBERLING. Does the gentleman's amendment define the meaning of the word "participate" for purposes of deciding whether a person should be expelled?

Mr. SKELTON. "Participate" is a very

plain English word, one everyone understands.

Mr. SEIBERLING. Would the gentleman tell me, then, whether he intends "participation" to mean actively involving oneself, or just being present?

Mr. SKELTON. Obviously, it is actively participating. That is the word that is used.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I think that it is very significant that it is a sense of the Congress only; nothing mandatory; simply a sense of Congress of what the President ought to do.

Mr. SKELTON. I think we should express our sense of outrage. I think that these people should receive the word that thy should be deported if they participate in rioting and destruction of American property while they are here.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, you know, the Bill of Rights just happens to apply to anyone in the United States, whether they are an alien or a citizen. I think that we ought to at least understand what we are doing. I personally am revolted and outraged by the actions of many of these refugees, so-called, and I agree that they ought to be shipped back to Cuba or wherever they came from if they are involved in violations of the law such as inciting to riot. But, I do think that certain amenities ought to be observed, and I am going to talk as long as necessary in order to bring that to the attention of this House. Certainly we should observe the same respect for our own laws as we expect of the refugees. Arbitrary action is not the way Americans dispose of matters involving human liberty. I am asking a question which I think needs to be answered. I think we need to make a record here that we are not going to authorize just grabbing any refugee that happens to be in sight and saying, "You were in a riot and should be expelled."

I think the sense of this amendment is absolutely right in that it attempts to convey to the executive branch our revulsion at mob action. On the other hand, there may be legitimate reasons for some of the unrest that has occurred. We do not know what misinformation or what failures, by the executive branch or others, may have brought about some of these riots. We ought to know.

Mr. EDWARDS of Oklahoma. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, I wonder if I could have the gentleman from Missouri answer a question for me. At Fort Chaffee, Ark., where there were a number of these and are a number of these Cubans waiting to be processed, there was a period where a number of them left the stockade, broke out of the stockade and ran loose in Arkansas. Some of them surely did some damage. A great number of them just joined in the frivolity and went on a rampage. Nobody was hurt. They just ran out under the frustration of being penned up. Were they participating in a riot?

Mr. SKELTON. Yes, I believe so.

Mr. EDWARDS of Oklahoma. They were?

Mr. SKELTON. Yes.

Mr. LaFALCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I notice that the resolution expresses the sense of Congress that the President should exercise his authority. It is clear, it seems to me, that the authority the President has is only that authority that the Constitution gives him. It is clear that he could not exercise any constitutional authority in a way that would deprive any individual, regardless of his status, of any constitutional rights he has.

So, there is language within the resolution itself that clearly says that he can only conduct that action in a constitutional manner.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to point out that this is, in my judgment, a necessary discussion. I think the gentleman from Ohio (Mr. SEIBERLING) has injected some practical points into this debate. Let us make one point clear. We have to recognize that, despite the frustrations that have been caused, that this exodus of Cubans from Castro's government constitutes the greatest diplomatic public relations and propaganda setback for the Communist world since the end of World War II. It matches the Hungarian Revolution and others as the classic case of people who are voting, in this case with their feet, if you want to call it that, they are voting for freedom.

No one wants any action of this House to be interpreted that we, the Congress, have any thought of slamming the doors in the faces of any legitimate groups who have reached our shores, who want freedom. They will be good Americans in the long run. This is consistent with the great traditions of our country.

For the sake of the RECORD and with emphasis on the great diplomatic defeat this constitutes for the Castro government, I would like the RECORD to show that basically this entire refugee flow has constituted a vote for the United States and a vote against Castro in the eyes of the world.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in trying to assist the gentleman from Missouri, we had made several suggestions. I am going to ask unanimous consent, Mr. Chairman, in order to clarify the confusion here as to the definition of "participate", or "participating", or "participated" on line 3 of the gentleman's amendment, that the word "participated" be stricken, and in lieu thereof the following words inserted: Who have "violated U.S. laws by participating" in rioting and other civil disturbances at various processing centers.

I think this clarifies it.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just hope that we in this legislative body understand exactly what we are doing here today. I think the words of the gentleman from Illinois are absolutely correct. But, those Members who are much more familiar with foreign policy and what is happening in this country should understand that many of these people who are coming to our shores are people who, over the past 3 or 4 years under Castro's policy of tourism, have seen their families for the first time; whether they be from New York or whether they be from Miami. They have gone to Cuba and they have seen and touched their loved ones. For the first time, these people have come to these shores, and with all the anxiety of any one of us in this Chamber who has not seen one of our loved ones, and all of a sudden realize that we can touch and feel and find ourselves in a Fort Chaffee or find ourselves in an Eglin or find ourselves in an Indiantown Gap, Pa., and know we are going to see our families, we are going to see our loved ones, I would suggest to the gentleman from Missouri that he be absolutely careful in terms of how we discuss the question of Cuban refugees, because we are treading on very thin ice in terms of this amendment.

□ 1930

There is a great deal of frustration, and I would hope that nobody in this Chamber would be locked in one of those Air Force bases or one of those Army camps waiting and knowing that their families are outside.

Now, if you can understand that frustration and vote yes to this, then I would suggest to you that you are on the wrong track.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. SKELTON), as modified.

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—ayes 145, noes 44.

So the amendment, as modified, was agreed to.

● Mr. CONYERS. Mr. Chairman, having just returned from Lagos, Nigeria and discussions with African leaders, I have to confess to my colleagues that the debate on the foreign assistance authorization bill (H.R. 6942) has left me with a sinking feeling about what we are attempting to accomplish, particular as the bill relates to aid to Third World nations.

Debate has been couched in narrow and shortsighted terms. Concern with superpower rivalry has tragically overshadowed the grim realities of global hunger, poverty, and international instability. We have failed to speak to the hope we can potentially bring to the nations of the world that would be assisted by this legislation.

We should not be misled by ideological rhetoric that never tires of viewing the world simply as capitalist or Communist, pro-American or pro-Soviet. A number of the amendments seek to cut or eliminate aid to nations of Africa reflect this preoccupation. The fact of the matter is that every one of the African nations that will receive assistance under this bill are overwhelmingly oriented to the United States culturally and economically. Most of their trade is with Western nations. Every one of them has assisted in constructive ways in easing the tensions that have plagued a very troubled part of the world.

The authors of the amendment to cut funds to Zambia cite the situation that has led this nation recently to purchase Soviet arms. The irrelevance of this is brought home by the fact that we maintain supportive relations with many other nations including India that also purchase Soviet arms, in rather large quantities, and that, in any event, the exclusive purchase of American arms is no guarantee of friendly relations, as the tragic events in Iran and other Middle Eastern nations has shown. The Zambian Government, it should be noted, supported the United States in the U.N. Security Council vote on sanctions against Iran and also was pivotal in bringing the war in Zimbabwe to a peaceful conclusion. The funds furnished to Zambia through this bill will be used principally to develop its agricultural resources and its labor market. This is the kind of foreign aid that offers the greatest hope for development and that draws our two nations together.

Another nation that has come under attack is Mozambique. The authors of an amendment to cut out $6 million in economic support funds to that country argue that Mozambique is undeserving of assistance since it has a Marxist-form of government. Yet we conduct relations with other nations, elsewhere in the world, that have similar governments. Mozambique, it should be remarked, conducts most of its trade with Western Europe and is the recipient of considerable European aid, including aid from Portugal, its former colonial oppressor. The nations of Africa desperately require development assistance. We should not be surprised that they accept aid from a variety of sources, since their needs far exceed what the United States and Europe are able or willing to provide. The strong Western orientation of these nations is all the more remarkable when we consider their anguished colonial histories.

Not very long ago, the Willy Brandt Commission on North/South Relations issued its report, warning that a most critical question affecting the world community is to find the means to avert global disruption resulting from the great disparities in income and development between the industrial nations and the so-called developing ones. As an illustration, the citizens of six African nations that we will assist under this bill earn currently a mere 4 percent of the annual income enjoyed by Europeans and Americans. Their average per capita GNP is $300 annually, as compared to an average of $8,000 in Europe and the United States. A number of African nations have a per capita GNP of only $150 annually.

We cannot afford to overlook the profound issues of economic development, resource shortage and competition, and the tensions characterizing world trade and investment. The endemic and unimaginably appalling famine occurring in the Sahel region of Africa compounds the development crisis in these countries. Starvation has become so commonplace that it no longer is reported by the media. We will have to address these grim realities someday. Third World nations will pursue their development one way or another. The question is not why, or under whose guidance, but how quickly and effectively.

The foreign aid authorization bill represents a very modest, but important effort in this direction. It includes development assistance to Zimbabwe, Zambia, Uganda, and Mozambique, among others. I urge my colleagues to take the long view and support the committee's bill.●

● Mr. ANDERSON of California. Mr. Chairman, I would like to express my strong opposition to H.R. 6942, the International Security and Development Corporation Authorization Act of 1980, as it was reported from the Foreign Affairs Committee. This foreign aid bill for fiscal year 1981 is simply too expensive. It must be significantly cut back.

In a year when we are trying to balance the budget, in a year when we are asking the American people to make sacrifices, in a year when important domestic programs are facing great reductions; we cannot do something so foolish as to increase the amount of foreign aid we send overseas.

Mr. Chairman, we are being asked to approve the authorization of $5.52 billion in this assistance. That figure is $136.6 million above the authorization level for the current year. And it is $223.5 million over the amount requested by the administration.

This week, as we are voting on this exorbitant foreign aid bill, we are also examining the overall budget for fiscal year 1981. So, it is hard not to compare the two. It is hard not to notice that in a year when we are being asked to increase foreign aid authorizations by $136.6 million, we are talking about reducing outlays in transportation expenditures here at home by nearly $1.5 billion. And I wonder how much of the $5.52 billion in foreign aid will be spent on the building of highways and bridges in some other country.

I see that we are talking about, in fiscal year 1981, a reduction of $500 million in community and regional development And I ask; how much of this foreign aid is going to develop communities abroad?

In this year of high inflation and expected increases in unemployment, the 1981 budget decreases our domestic education, training, employment, and social services function by $400 million. But we are talking about increasing education, training, employment, and social services abroad.

Now, during my years here in the House, I have generally opposed foreign aid. But I recognize that some foreign aid money is well-spent. We should help out countries that are our traditional allies; those that stand by us when we ask them to. But what are we doing. talking about providing aid for Mozambique; for Syria; and for Zambia?

And what are we doing spending so much money abroad when we are trying to balance the budget here at home? Surely, we can find some reductions in this bill to save the taxpayers money. Or, if we need to spend it, why not help people in California, or Montana, or the Mount St. Helens area? Mr. Chairman, I just know that some of this money could be put to better use than that which it is being authorized for here today.

So, as I have done in years past, I am going to oppose passage of the foreign aid bill. I regret this might appear that I oppose some of the individual programs which I do favor. I am sorry if some of our large corporations that benefit from our foreign aid programs are not pleased by my vote. And I am sure that corrupt foreign regimes which line their pockets with American dollars—and see to it that the dollars just do not filter down to their citizens most in need—would have preferred that I vote for this bill. But I will not.

Mr. Chairman, I hope that this bill is defeated. And I hope the Foreign Affairs Committee will rewrite a version of this foreign aid bill that helps provide some assistance to the American taxpayer for a change.

The CHAIRMAN pro tempore. Are there any further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. McHugh, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration of the bill (H.R. 6942) to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes, pursuant to House Resolution 662, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. LAGOMARSINO. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LAGOMARSINO moves to recommit the bill, H.R. 6942, to the Committee on Foreign Affairs.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Immediately following this vote, the House will receive a message from the President, and the House will take action on it forthwith

The vote was taken by electronic device, and there were—yeas 221, nays 147, not voting 64, as follows:

[Roll No. 300]

YEAS—221

Addabbo
Akaka
Alexander
Ambro
Anthony
Ashley
Aspin
Bailey
Baldus
Barnes
Beard, Tenn.
Bedell
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Carr
Carter
Cavanaugh
Clausen
Clay
Clinger
Collins, Ill.
Conable
Conte
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Frenzel
Fuqua
Garcia
Gephardt
Gibbons
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Holland
Hollenbeck
Horton
Howard
Hughes
Hutto
Hyde
Ireland
Jeffords
Johnson, Calif.
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Lee
Lehman
Lent
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Nelson
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Porter
Price
Pritchard
Pursell
Railsback
Rangel
Ratchford
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Stanton
Stockman
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Walgren
Waxman
Weiss
Williams, Mont.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—147

Abdnor
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Bennett
Bethune
Bevill
Boner
Bouquard
Brinkley
Brown, Ohio
Broyhill
Butler
Byron
Campbell
Carney
Chappell
Cleveland
Coleman
Collins, Tex.
Conyers
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Dellums
Derrick
Devine
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Evans, Ind.
Flippo
Fountain
Gaydos
Gingrich
Ginn
Gramm
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Hefner
Hightower
Hinson
Holt
Hopkins
Hubbard
Huckaby
Ichord
Jacobs
Jeffries
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kindness
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Loeffler
Lott
Lujan
Lungren
McDonald
Marks
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Oakar
Paul
Perkins
Petri
Pickle
Quayle
Quillen
Rahall
Regula
Robinson
Roth
Rousselot
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Steed
Stenholm
Stump
Symms
Taylor
Thomas
Volkmer
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wylie
Young, Fla.

NOT VOTING—64

Anderson, Ill.
Annunzio
AuCoin
Beilenson
Brooks
Burgener
Burton, Phillip
Cheney
Chisholm
Coelho
Corman
Davis, Mich.
Davis, S.C.
Derwinski
Dickinson
Dingell
Dodd
Edgar
Ford, Tenn.
Fowler
Frost
Giaimo
Gilman
Grassley
Harsha
Holtzman
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Lederer
Leland
Levitas
McKinney
Mathis
Mollohan
Myers, Pa.
Nedzi
Nolan
Nowak
Pashayan
Patterson
Peyser
Preyer
Reuss
Rhodes
Richmond
Roberts
Rose
Runnels
Shuster
Staggers
Stark
Stewart
Stokes
Thompson
Trible
Vander Jagt
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

☐ 1950

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Burgener against.

Mr. Richmond for, with Mr. Young of Alaska against.

Mr. Vento for, with Mr. Shuster against.

Mr. Dingell for, with Mr. Johnson of Colorado against.

Mr. Thompson for, with Mr. Cheney, against.

Mr. Frost for, with Mr. Dickinson against.

Mr. Corman for, with Mr. Grassley against.

Mr. Vander Jagt for, with Mr. Staggers against.

Mr. Gilman for, with Mr. Runnels against.

Until further notice:

Mr. Leland with Mr. Davis of Michigan.

Mr. Ford of Tennessee with Mr. Wydler.

Mr. Jenrette with Mr. Bob Wilson.

Mr. Stokes with Mr. Trible.

Mr. Reuss with Mr. Pashayan.

Mr. Charles H. Wilson of California with Mr. McKinney.

Mr. Patterson with Mr. Anderson of Illinois.

Mr. Preyer with Mr. Derwinski.

Mr. Nedzi with Mr. Harsha.

Mr. Levitas with Mr. Rhodes.

Mr. Jones of Oklahoma with Mr. Beilenson.

Mr. Brooks with Mr. Mathis.

Mr. Annunzio with Mr. Roberts.

Mr. AuCoin with Mr. Charles Wilson of Texas.

Mr. Phillip Burton with Mr. Jenkins.

Ms. Holtzman with Mr. Coelho.

Mrs. Chisholm with Mr. Nolan.

Mr. Nowak with Mr. Peyser.

Mr. Stewart with Mr. Myers of Pennsylvania.

Mr. Dodd with Mr. Edgar.

Mr. Fowler with Mr. Stark.

Mr. Mollohan with Mr. Rose.

Mr. Giaimo with Mr. Davis of South Carolina.

Mr. SANTINI changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AUTHORIZING CLERK TO MAKE CLERICAL AND CONFORMING CORRECTIONS IN THE ENGROSSMENT OF H.R. 6942

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 6942, the Clerk be authorized to correct section numbers, punctuation, cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 6942.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

PUBLIC DEBT LIMIT EXTENSION—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–323)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning H.R. 7428, the Public Debt Limit Extension Bill, without my signature. I regret the need to take this action, because enactment of the debt limit bill is critically important to the financial operations of the Federal government. I urge the Congress in the strongest possible terms to return an acceptable bill to my desk promptly, so that unjust hardship to millions of Americans can be avoided.

My action in returning this critical bill is required by an unrelated and wholly unacceptable amendment which would prohibit the imposition of the oil import conservation fee that I announced as part of our comprehensive anti-inflation program on March 14.

As you will recall, that carefully conceived program was worked out in unusually close and detailed cooperation with the Congress. Both the Congressional leaders and I decided then, and I still maintain and am convinced, that a conservation fee on imported oil is important for the energy security, for the economic security, and for the national security of the United States.

We were also well aware that this step, however important to the interest of the Nation as a whole, might not be in the individual political interests of many Members, especially in this election year. I acted under my executive authority, thereby shielding the Congress from most of the immediate political repercussions. Thus there can be no doubt among those now attempting to override the oil import conservation fee that this reversal will only encourage more domestic energy consumption, add to our intolerable oil import bill, hinder our efforts for energy security, obstruct our fight against inflation, and be inconsistent with our responsibility for leadership among the oil consuming nations.

That is why I have stated clearly on several occasions, and repeated yesterday, that if legislation blocking my decision on the oil import conservation fee should be sent to me, I would be compelled to veto it—and it is for those very same reasons that I now do so.

The fee on imported oil is an integral part of energy, economic and foreign policy goals that hold important benefits both for the welfare of our citizens and for the security of our Nation.

—The fee reduces our imports of foreign oil by 100,000 barrels a day within the first year and much more in future years. Over 40 percent of all the oil consumed in this country is imported. Unless we take this kind of courageous action, we will remain dangerously vulnerable to severe economic disruptions from terrorism, accident, embargo, war or political strategy.

—The United States is a leader in trying to forge a joint program, with our allies, to secure greater energy independence. But we use about half of all the oil consumed in the Western industrial nations, and a larger proportion of gasoline than anywhere else in the world. The oil import fee is a symbol of our own willingness to take the painful steps needed to conserve oil. If we are to lead, we must act like a leader.

—With the full imposition of the oil import conservation fee the United States would have a 14 cent per gallon tax, one of the lowest in the Western world. The tax has been only 4 cents a gallon since 1959. In contrast, France has a $1.67 per gallon tax. Since the 1973 oil embargo, France has increased its gasoline tax by more than 160 percent. Italy has a $1.92 per gallon tax. Since the 1973 embargo, the Italian tax has been increased by more than 200 percent. Even with the fee, Americans will in fact be paying lower taxes this year relative to the price of gasoline than they did two decades ago.

—To the extent that we can convince foreign nations, both the oil producers and consumers, that we mean business in conserving energy and reducing our oil imports, to that extent they will join us in reducing world demand, and in maintaining oil production. A small investment in reducing imported oil now will return great benefits in the future by holding down the price of imported oil, and therefore gasoline, to the American people.

—Unless and until we can control our appetite for imported oil, we will not be able to solve our inflation problem. In 1979 alone, the price of each barrel of imported oil rose 120 percent—an average of 10 percent each month. More than 2 points of our Consumer Price Index (CPI) increase in 1979 can be attributed directly to the OPEC increases. As long as nearly one out of every two gallons of gasoline we consume comes from abroad, that inflationary "tax" levied by OPEC will continue. This year we will pay $90 billion for foreign oil—$400 for each person in the United States. Along with that $90 billion, we export jobs and import inflation.

—While the fee will cause a short-term, one-time increase in the CPI, the long-term effect of the fee is not inflationary—it is deflationary. First, the fee will save money that would otherwise be sent to OPEC. Second, the fee is a vital part of an anti-inflation package which is beginning to take hold. To the extent that part of this package is removed, the financial impact could be serious. The consequence could be an increase in overall inflationary pressures.

—The fee has been imposed for energy conservation reasons, but its revenue-raising effect cannot be ignored. The fee serves to allocate a small share of a realistic increase in gasoline prices, not to the energy companies or the exporting nations, but for public use. Without the oil import fee, our long struggle to achieve a balanced budget is in jeopardy, and it will be more difficult to find the resources for tax reduction and to provide needed incentives for investment and productivity when economic conditions warrant.

—Above all, my Administration and the Congress are together putting in place the energy policy America needs for energy security, for economic security, and for national security. Only by encouraging greater conservation, stimulating new production, and making alternative energy sources competitive, will we eventually stop the price of gasoline from rising. Only if we are prepared to take strong actions and make tough stands now—like this import conservation fee—can we assure adequate supplies of gasoline and limit the crippling escalation of gasoline prices later.

I recognize the political pressure. I know that this is a difficult issue for many Members of Congress. Nevertheless, the oil import conservation fee is good public policy, and it is good common sense. That was true when we agreed upon it. It is if anything even more true today, as we see the early tangible, measurable signs of successes in both our energy and inflation policies.

Therefore, I urge the Congress to join me in carrying on the work of enhancing America's energy security, economic security, and national security by sustaining my veto and upholding the oil import conservation fee.

JIMMY CARTER.

THE WHITE HOUSE, *June 5, 1980.*

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The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Presidential veto.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the vote is to override. An "aye" vote is to override the veto. A "no" vote would be a vote to sustain the veto.

It will be the intention of this Member to avoid discussions. We have talked this matter to death. I would only yield 1 minute to my distinguished minority collague on the committee, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding to me. I do not intend to use my entire minute.

I think the gentleman has debated the issue. I think the gentleman has debated the issue sufficiently and we all understand the vote. I thank the gentleman for explaining that an "aye" vote is a vote to override.

● Mr. FRENZEL. Mr. Speaker, this evening we have the opportunity to save the taxpayers of this country from President Carter's 10-cent gas tax.

No matter who is in the White House, a veto override vote is usually an unpleasant duty. In this case, however, there is little pressure. Neither the President, nor all his executive department, have been able to make a persuasive case for the gas tax.

There is general agreement that the tax is inflationary. The administration's most optimistic estimate of oil savings is an unimportant 100,000 barrels per day. DOE figures reveal that oil consumption generally and gasoline consumption specifically is down. Oil imports are at the lowest levels in years.

Rising prices are still providing plenty of disincentives to use oil. By any standard, the oil import fee is such an insignificant, expensive conservation measure that it is no conservation measure at all.

Stripped of its conservation guise, the tax is revealed as just another tax, a revenue raiser. It is about what the country has come to expect from the Carter administration, which has raised the taxes of the American people more than any other.

This House has voted resoundingly for repeal on several occasions. We should do so again today. The President needs a message from the people delivered by their representatives here in the people's House.

His message to us is unseemingly patronizing and self-serving. It repeats all of his discredited arguments, perhaps in the hope that repeated nonsense will somehow impress someone.

The only proper response to such a message is to pass this bill, President Carter's veto to the contrary notwithstanding, by an even greater margin than last time.●

Mr. ULLMAN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

ANNOUNCEMENT BY THE SPEAKER

The Chair will announce that immediately following the vote there will be a dialog on both sides concerning the program for next week. It is my understanding that the gentleman from Florida (Mr. Bennett) has a resolution to file, and then there will be no other business for the week. When the House adjourns, it will adjourn until Monday next at 12 noon.

The vote was taken by electronic device, and there were—yeas 335, nays 34, not voting 63, as follows:

[Roll No. 301]

YEAS—335

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nichols
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Paul
Pease
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Ullman
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitney
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wolff
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—34

Ashley
Aspin
Bennett
Biaggi
Bolling
Brown, Calif.
Cavanaugh
Fascell
Fazio
Garcia
Gephardt
Gibbons
Gonzalez
Heftel
Jones, N.C.
Lehman
Matsui
Mazzoli
Mineta
Moorhead, Pa.
Murtha
Obey
Patten
Rangel
Rostenkowski
Sabo
Scheuer
Solarz
Stratton
Udall
Van Deerlin
Vanik
Wirth
Wright

NOT VOTING—63

Anderson, Ill.
Annunzio
AuCoin
Beilenson
Breaux
Brooks
Burgener
Burton, Phillip
Cheney
Chisholm
Coelho
Corman
Davis, Mich.
Davis, S.C.
Dingell
Dodd
Edgar
Ford, Tenn.
Fowler
Frost
Giaimo
Gilman
Grassley
Harsha
Holtzman
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Lederer
Leland
Levitas
McKinney
Mathis
Mollohan
Myers, Pa.
Nedzi
Nolan
Nowak
Pashayan
Patterson
Peyser
Preyer
Reuss
Rhodes
Richmond
Roberts
Rose
Runnels
Shuster
Staggers
Stark
Stewart
Stokes
Thompson
Trible
Vander Jagt
Vento
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

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The Clerk announced the following pairs:

On this vote:

Mr. Thompson and Mr. Lederer for, with Mr. Beilenson against.

Mr. Rhodes and Mr. Corman for, with Mr. Richmond against.

Until further notice:

Mr. Annunzio with Mr. Burgener.
Mr. Mollohan with Mr. Wydler.
Mr. Preyer with Mr. Gilman.
Mr. Levitas with Mr. McKinney.
Mr. Brooks with Mr. Young of Alaska.
Mr. Breaux with Mr. Bob Wilson.
Mr. Dingell with Mr. Grassley.
Mr. Giaimo with Mr. Davis of Michigan.
Mr. Frost with Mr. Cheney.
Mr. Reuss with Mr. Trible.
Mr. Runnels with Mr. Vander Jagt.
Mr. Stokes with Mr. Shuster.
Mr. Nedzi with Mr. Anderson of Illinois.
Mr. Myers of Pennsylvania with Mr. Pashayan.
Mr. Dodd with Mr. Stewart.
Mr. Stark with Mr. Roberts.
Mr. Vento with Mr. Rose.
Mr. Jenrette with Mr. Leland.
Mrs. Chisholm with Mr. Edgar.
Mr. Ford of Tennessee with Mr. Fowler.
Mr. Charles H. Wilson of California with Mr. Davis of South Carolina.
Mr. Nolan with Mr. Nowak.
Mr. Staggers with Mr. Peyser.
Mr. Patterson with Mr. Mathis.
Mr. Jones of Oklahoma with Ms. Holtzman.
Mr. Jenkins with Mr. Coelho.
Mr. AuCoin with Mr. Phillip Burton.
Mr. Charles Wilson of Texas with Mr. Johnson of Colorado.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The SPEAKER pro tempore. (Mr. Fary). The Clerk will notify the Senate of the action of the House.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO HAVE UNTIL 6 P.M. TOMORROW, JUNE 6, TO FILE A SUPPLEMENTAL REPORT IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that the Committee on Standards of Official Conduct may have until 6 p.m. tomorrow, June 6, to file a supplemental report in the matter of Representative CHARLES H. WILSON.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. FORD of Michigan. Reserving the right to object, Mr. Speaker—and I do not intend to object—I would just like to ask the Chairman of the committee, the gentleman from Florida, is this the revised report from the material that was presented on the floor the other day?

Mr. BENNETT. If the gentleman will yield, it is the transcript of the supplemental proceedings which came about as a result of the meeting that we last had on Mr. WILSON.

Mr. FORD of Michigan. Just as a matter of curiosity, I heard about the meeting this morning. How did the matter get back into the committee from the floor? Did we have some kind of unanimous-consent request to take it back to the gentleman's committee?

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How does the matter get before the gentleman's committee at this point? I understand it is still pending here on the floor.

Mr. BENNETT. The House directed by its proceedings that we give an opportunity to Mr. WILSON and his counsel to be present. We gave notice that day and they were present this morning for the hearing which was concluded.

Mr. FORD of Michigan. I understand that part of it, Mr. Chairman. I just wondered by what route the matter got back before the gentleman's committee. We did not pass the motion to refer it back to the committee. I have not seen the nature of the additional material and, as I indicated, I am not inclined to object, because I do not really think the material has any relevance to the matter of CHARLES H. WILSON pending before us, but I think it should be noted for the RECORD that we have a rather unusual situation. Not only are we now, if you will, supplementing the evidence to be considered by the Members, sort of in the middle of the trial if you please, but indeed doing so without observing the nicety of asking the permission of the House to take up additional matters.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida (Mr. BENNETT)?

There was no objection.

A REPORT ON PROCEEDINGS AGAINST O. ROBERT FORDIANI

Mr. BENNETT, from the Committee on Standards of Official Conduct, submitted a privileged report (Rept. No. 96–1078), on proceedings against O. Robert Fordiani, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the acting majority leader the program for next week.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, the program for the House of Representatives for the week of June 9, 1980, is as follows:

On Monday, June 9, the House will meet at noon. It is District Day, but there are no bills.

All recorded votes will be postponed until Tuesday, June 10.

There are seven bills under suspension, Mr. Speaker, which are as follows:

H.R. 7072, United States Code amendments for per diem and mileage;

H.R. 5997, code of ethics for Government service;

H.R. 1781, United States Code amendment for air traffic controllers;

H.R. 6666, Coast Guard Reserve amendments;

H.R. 2759, deep seabed mining;

H. Con. Res. 323, commending American servicemen for hostage rescue attempt; and

H.R. 5612, minority contracting.

On Tuesday, June 10, the House will meet at noon. No bills will be considered under suspension. Recorded votes on bills debated on Monday, June 9, will be taken.

The other bills to be considered on Tuesday, June 10, are:

H. Res. 660, in the matter of CHARLES H. WILSON of California;

H.R. 4048, awards of prejudgment interest in antitrust litigation, under an open rule, with 1 hour of debate, the rule having already been adopted; and

H.R. 2255, insurance activities of bank holding companies, under an open rule, with 1 hour of debate, the rule having already been adopted.

Mr. Speaker, on Wednesday and the balance of the week, June 11, 12, and 13, the House will meet at 10 a.m. on the following bills:

H.R. 5200, the Fair Housing Act Amendments of 1980, under an open rule, with 2 hours of debate, the rule having already been adopted;

H.R. 7262, Housing and Community Development Act, under an open rule, with 2 hours of debate;

H.R. 6413, NASA authorizations for fiscal year 1981, under an open rule, with 1 hour of debate;

H.R. 7265, DOE nuclear warheads authorizations, under an open rule, with 1 hour of debate; and

H.R. 7115, National Science Foundation authorizations for fiscal year 1981, under an open rule, with 1 hour of debate.

The House, Mr. Speaker, will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday. Conference reports may be brought up at any time and any further program will be announced later.

Mr. MICHEL. Mr. Speaker, may I inquire of the majority whip: The budget resolution is not listed and the Senate has not agreed to our request for a further conference. Is there any intelligence on whether or not there is any possibility of the budget resolution coming up next week?

Mr. BRADEMAS. If the gentleman will yield further, I can only respond to the gentleman from Illinois by saying, speaking solely for myself, I hope very much that we shall be able to bring a conference report up next week, but I do not have any specific information with which to reply to the gentleman's question.

Mr. MICHEL. Mr. Speaker, one final question: Is it planned to have but 1 hour of debate on House Resolution 660, the matter of CHARLES H. WILSON, or will that be extended to more than an hour?

Mr. BRADEMAS. If the gentleman will yield further, perhaps the distinguished chairman of the committee, the gentleman from Florida (Mr. BENNETT) could respond to that.

Mr. BENNETT. Mr. Speaker, if the gentleman will yield, without unanimous consent being sought—and I do not think it will be sought—we will proceed where we left off and the next person to be recognized will be myself to explain what happened in the hearing we had today and immediately after that Mr. CHARLES H. WILSON will be called upon.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT, MONDAY, JUNE 9, 1980, TO FILE A REPORT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce have until midnight, Monday, June 9, 1980, to file a report on H.R. 4678, the Automotive Research bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY JUNE 9, 1980

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Indiana?

There was no objection.

DEPORTATION IS ANSWER FOR DISRUPTIVE AND DESTRUCTIVE CUBAN REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, yesterday, I was pleased with a number of House colleagues in introducing legislation calling for the deportation of any of the newly arrived Cuban refugees who participate in destruction or violence at any of the refugee processing centers.

One of these centers, Fort Chaffee, Ark., is in my congressional district. Incidents there among the refugees have ranged from minor disturbances to an almost full-scale riot and near-tragedy endangering civilian townspeople in surrounding communities.

The necessity for orderly and peaceful behavior at these temporary immigration centers is paramount, not only to proceed as quickly as possible with the processing necessary under our immigration laws, but also to guarantee in every way humanly possible, the safety and security of American citizens living in the vicinity of the refugee camps.

Our legislation calls for identification of the disruptive and destructive refugees, separation from the peaceful and cooperative ones, and expeditious deportation.

It is my feeling that refugees who organize and participate in riots or lesser disturbances show little appreciation for their tentative status here, and no willingness to respect and conform to our system and its rules. It is so doubtful that such individuals would become loyal, productive citizens in our country, I feel we would be justified in denying them immigration status, and in deporting them.

After two personal working visits to the Fort Chaffee camp, and one to Eglin Air Force Base in Florida, I can assure my colleagues that this legislation is urgently needed.

Regardless of our individual evaluations of the President's policy decisions and administrative handling of the refugee influx, the existing situation calls for swift and favorable consideration of our proposal. I urge the full cooperation of the House to accomplish this without undue delay.●

PERSONAL EXPLANATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, due to a long-standing commitment to deliver the commencement address at my alma mater, Marymount College, I was unable to be on the floor late yesterday afternoon. Had I been present, I would have voted as follows:

Rollcall No. 288. Passage of House Joint Resolution 531, disapproving the imposition of the fees on importation of crude oil and gasoline; "yea."

Rollcall No. 289. Motion to resolve into the Committee of the Whole for consideration of H.R. 7428; "yea."

Rollcall No. 290. Passage of H.R. 7428, to extend the present public debt limit through June 30, 1980; "yea."

THE NEW AMERICAN WINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AUCOIN) is recognized for 5 minutes.

● Mr. AUCOIN. Mr. Speaker, I am proud to call to your attention an article heralding the superior quality of the varietal wines produced in Oregon, which appeared in the June 4 New York Times.

Tradition has long acknowledged the superlative flavor of the crops produced on Oregon's fertile farmlands. Rain, rich soils, long summer days and cool refreshing evenings combine to nurture Oregon crops to perfection.

A new dimension has been added to this tradition with the highly successful growing and processing of wine grapes. European wine grapes were first planted in Oregon in the early 1960's. Since then, selected sites throughout the northwestern valleys of Oregon have been transformed into lush vineyards.

We in Oregon have justly been proud of our fine Oregon wines. Now the distinctive wines produced from noble wine-grape varieties such as pinot noir, chardonnay, riesling, sauvignon blanc, and cabernet sauvignon are gaining well-deserved national recognition.

I would like to add, Mr. Speaker, that the grapes from which these fine wines are made are grown in fertile lands protected by an effective State land-use planning law. The vineyards are located in prime areas for industrial and housing development, but are maintained for agricultural use by far-sighted zoning regulations. Without such a law, the land for our fine Oregon wines might not be available.

The article follows:

[From the New York Times, June 4, 1980]

WINE TALK

(By Terry Robards)

DUNDEE, OREG.—Not long ago bettors would have put their money on California to produce the best American pinot noir, a red wine made from the same grape used for the exquisite red Burgundies of France. After all, California's other European varietals are the best wines in the land, so why not the pinot noir too?

A small band of wine makers in the rolling hills of northwestern Oregon are proving the bettors wrong. Some of the best pinot noirs in the nation are being made here in the Red Hills above the Willamette Valley, confirming that the Burgundy country of France is not the only place where this stubborn grape can be cultivated successfully.

"The pinot noir has a stigma attached to it that says we can't grow it, but here in Oregon maybe we can show people something," said Richard Erath of the Knudsen Erath Winery in Dundee, which turns out good chardonnays as well as pinot noirs. Mr. Erath and his competitors in the fledgling Oregon wine industry are proving not only that they can cultivate the pinot noir but also that other European grapes can be grown here and made into good wines.

"I don't see any reason why Burgundy should be the only place for pinot noir, just because they've been growing it for 2,000 years," said David Lett of Eyrie Vineyards, whose pinot noir 1975 vanquished most of the French competition in blind tastings last summer in Paris and last winter in Beaune, the seat of the Burgundy wine trade.

It was that luscious pinot noir from Eyrie that focused worldwide attention on Oregon wines for the first time. It was vinified at Mr. Lett's winery that occupies a converted turkey-processing plant near a railway siding down the road in McMinnville, and it was a wine of complexity and elegance when tasted there the other day.

Unlike many California pinot noirs, the ones from Oregon are not awkward, heavy and unbalanced. Nearly all of them display a peppery bouquet and are light on the palate, with a subtle spiciness that is reminiscent of some of the Burgundies of the Côte de Beaune. But the Oregon versions are usually more elegant and less intense.

Oregon wineries are also turning out good chardonnays and white rieslings that are being recognized increasingly for their quality by connoisseurs all over the world. The quantities are small because most of the vineyards have been planted only in the last decade and the proprietors are still experimenting. It was not until the early 1960's that the first European vines were brought here, and at that point nobody knew which would adapt best to the local climate.

"I think this is going to be pinot country," said Mr. Lett. He and many other vintners here agree that the pinot noir, the chardonnay, the riesling and the sauvignon blanc have been the most successful so far. Cabernet sauvignon is made in very small quantities and lacks the varietal intensity and balance of Napa and Sonoma cabernets from California. Merlot also is less successful here than in California, although David Adelsheim of Adelsheim Vineyards vinified one barrel of an unusual white merlot in 1979.

The chardonnays are less intensely flavored than French white Burgundies and most California chardonnays. They are lighter and tend to bear a closer resemblance to French chablis than to the rich and pungent Montrachets of the Côte de Beaune. Some of the rieslings closely resemble the wines of the Mosel Valley of Germany.

"Our style is different, and that's what we have to offer in Oregon," said Richard Ponzi of Ponzi Vineyards in Beaverton. "Our goal is really not to make a lot of wine, but to be distinctive."

The northern Oregon vineyards lie in an area that oenologists call a microclimate, where the weather conditions are especially favorable for producing wine grapes. The area is protected by the Coast Range Mountains to the west and the Cascade Mountains to the east.

"It's mainly wet in the winter," said William H. Malkmus of Tualatin Vineyards in Forest Grove. "We'll get two or three inches of snow and it'll go away in a few days." The country is wild, and deer foraging on the vines are a bigger threat than freezing temperatures. Bears and mountain lions can also be spotted occasionally through the early morning mists that blanket the vineyards.

In contrast to California, New York and some other states, there is no "chablis" or "burgundy" or "Johannisberg" riesling made here. With one of the stiffest wine laws in the country, Oregon forbids the use of European geographical names on Oregon wines. Rather, they must be named accurately after the area where they are produced and after the grape varieties used to make them.

Also in contrast to California wines, most Oregon varietals must contain 90 percent of the named grape to merit the varietal name on the label. The excellent Oregon sauvignon blanc made by the Sokol Blosser Winery in Dundee, for example, must be vinified at least 90 percent from sauvignon blanc grapes, with only 10 percent at most of another variety blended in.

California varietals need be only 51 percent of the named grape, although the distinction has little practical meaning with the best California varietals because they tend to be far more than 51 percent and sometimes are 100 percent. Nevertheless, it is significant that Oregon's wine regulations appear to be more consumer-oriented in that the information conveyed on labels is more specific and accurate.

Three days of tastings here provided insights into a representative cross section of Oregon wines. Some are distributed in modest quantities on the East Coast and others are expected to reach eastern markets in the next year or two. Prices range from less than $4 to about $10 a bottle at each winery but are likely to be somewhat higher elsewhere. Here is a sampling:

Adelsheim Vineyards, Newberg, Spicy interesting merlots and pinot noirs crisp and dry rieslings and semillons in small quantities. Tastings by appointment.

Amity Vineyards, Amity. Elegant chardonnays and spicy pinot noirs from both Oregon and Washington grapes. Tasting room open weekends and holidays.

Côte des Colombe Vineyards, Banks. A surprisingly well-balanced cabernet sauvignon 1978, austere and subtle chardonnay in 1977. Quantities very small—only 1,200 cases a year.

Elk Cove Vineyards, Gaston. Soft and fruity rieslings, peppery pinot noirs in small quantities. Tastings by appointment.

Eyrie Vineyards, Dundee. Creamy, rich chardonnays, elegant and balanced pinot noirs in modest quantities. Winery at McMinnville, vineyards at Dundee. Tastings by appointment only. Wines in great demand. Some East Coast distribution.

Knudsen Erath Winery, Dundee. Well-made, buttery chardonnays, peppery pinot noirs, fresh, clean rieslings. Public tasting room open weekends. Some East Coast distribution.

Oak Knoll Winery Hillsboro. Mainly a fruit wine operation but good chardonnays spicy pinot noirs and sauvignon blancs are made from purchased grapes. About 5,000 cases produced in 1979. Public tasting room.

Ponzi Vineyards, Beaverton. Chardonnays and pinot noirs of high quality, light and fresh sauvignon blanc vinified from Washington grapes. Wines sold only at the winery. Public tasting room.

Sokol Blosser Winery, Dundee. Good chardonnays and pinot noirs plus small amounts of cabernet sauvignon. About 19,000 cases in all produced in 1979—large by Oregon standards. Modern tasting room open weekends.

Tualatin Vineyards, Forest Grove. One of the larger operations, with 16,000 cases produced in 1979, with both Oregon and Washington grapes. Excellent chardonnay and pinot noir in 1978. slightly sweet rieslings also showed well. Public tasting room. Some East Coast distribution.●

LEGISLATION TO PRESERVE TAX STATUS OF RURAL ELECTRIC AND TELEPHONE COOPERATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. Ullman) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, today I am introducing legislation to preserve the tax status of the rural electric and telephone cooperatives. Under present law, a rural electric or telephone cooperative is tax exempt provided that 85 percent or more of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Recently, the Internal Revenue Service has indicated that income from pole rentals and display listings in "Yellow Page" directories may be included in non-member income.

If amounts from pole rentals and display listings are classified in this way, then many of these cooperatives may lose their tax exempt status. That result would be counterproductive. Telephone and electric cooperatives would not rent pole space if they feared such rentals would jeopardize their tax exemption. In addition, the bill would provide that income from the rental of pole space would be considered related to the tax exempt function of these rural cooperatives. Therefore, pole rental income would not be taxed as unrelated business income.

Statement of Hon. Albert Gore

Mr. Speaker, today the Chairman of the Ways and Means Committee, Al Ullman, and I introduced a bill to preserve the equitable tax treatment of rural cooperatives. This bill is a narrower version of H.R. 5643, the Rural Cooperative Business Income Act of 1979, which I introduced last year and which was cosponsored by 130 of my colleagues.

I want to commend Mr. Ullman for his work on this bill. His expertise in tax matters has been extremely helpful in redrafting the original bill and his support on this important issue is greatly appreciated.

The purpose of co-ops is to provide wide-ranging, low-cost service. One means to achieve this is to share the costs of putting up poles. The rental revenue received, say by the electric co-op, is money that the telephone co-op would normally have to spend on putting up its own poles. The revenue is not unrelated to the purpose of the co-op—it is essential to the purpose. Duplication of poles is of course ludicrous, but the IRS seems to be encouraging that practice.

The telephone co-ops are faced with a similar problem with income derived from display listings in yellow page directories. Income from these display listings should not cause the rural telephone cooperative to lose its tax-exempt status.

The bill we have introduced today would alter IRS tax treatment by allowing pole rentals and directory advertising from the unrelated business income definitions. This would make clear the Congressional intent that the IRS should tax only those activities which are truly unrelated to the business of cooperatives.

I applaud IRS efforts to tighten the tax laws, but I am afraid their efforts in this area are totally misguided. The tax revenue which the IRS expects to gain from cooperatives is negligible in the aggregate, but it translates into significant costs for the co-ops and frustrates their efforts to meet the needs of their customers.

Mr. Speaker, electric and telephone cooperatives are the backbone of rural America. The goal of cooperatives is not profit but reliable service at the lowest price. They have provided opportunities for growth and development in rural areas, and have been at the forefront of major technological changes and innovative, cost-cutting measures.

I hope Congress will act swiftly on this bill to ensure that cooperatives can continue to meet their goal of providing reliable service at the lowest possible price.●

THE OCS NATIONAL RESERVE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation which would designate the energy resources contained within that portion of the U.S. Outer Continental Shelf (OCS) adjacent to central and northern California as a national reserve, to be developed only after a finding that there are insufficient oil reserves to meet national security needs.

I offer this bill for the consideration of the Members of this body for two reasons.

First, I believe the unique and valuable resources of the California coastal region represent important assets for our entire Nation, assets which are threatened by the initiation of intensive offshore oil and gas development. Some $11 billion is generated in California annually by tourism in the State. The fishing industry in California alone accounts for another $1 billion, and comprises an important component of our foreign export trade. Finally, perhaps the most fragile element of the California coast, and consequently the most threatened by the offshore drilling proposal, is the number of fishing grounds and unique habitats which exist along the coast.

The residents of the coastal region, dependent as they are upon these natural assets for their livelihoods, are understandably disturbed over the prospect of offshore oil rigs and increased tanker traffic in the coastal waters. Yet there is more at stake in the argument against energy development in this area at the present time than mere reluctance on the part of these residents. There is an additional question of what advantages would accrue to our Nation if we do risk damage to the coastal environments.

The fact is that the quantity of energy supplies which are predicted to lie within this area represents a minimal gain. The U.S. Geological Survey has estimated that the amount of oil deposits contained within the OCS between Point Concepcion in the south and the California-Oregon border in the north would supply our Nation's need for this fuel for a period of some 30 days. This 30 days' equivalent of oil would be bought at the expense of some of the most productive fishing areas in the world, the pristine quality of approximately 1,000 miles of coastline, and the economic vitality of hundreds of coastal communities.

Second, it is my hope that this legislation will serve to focus attention on the manner in which the Interior Department has administered the offshore leasing program established by Congress in the 1977 OCS Lands Act amendments. The Department has increasingly made itself subject to widespread criticism for its failure to adhere to the "balancing" requirements of the 1977 act; these requirements mandated that the potential for oil and gas development in a region be carefully weighed against the potential damage to coastal resources. In practice, the Interior Department has run roughshod over these balancing requirements, evincing a prodevelopment bias which threatens to irreparably impair valuable natural resources and flouts congressional intent.

Because of these factors, I believe a strong case can be made for holding lease area 53 in reserve as a last alternative in the event all other oil resources are exhausted. If the serious environmental and economic risks are to be taken for the minimal resources available, it should only be under circumstances in which the President determines that it is essential to meeting national security needs. This would enable those resources to be made available if necessary. Prior to that time, however, it is clear that there are substantial onshore energy resources that remain to be developed that are more abundant and less environmentally hazardous.

In the Georges Bank area, in the Santa Barbara Ecological Preserve, and now in the spectacularly beautiful central and northern California coastline, a careless disregard for the legitimate concerns that have been raised has been the rule, rather than the exception. Most recently Interior refused to grant a requested delay in the sale proceedings for sale area No. 53, central and northern California, which would have allowed time to analyze the likely impacts of the offshore drilling proposal and implement appropriate mitigation measures. Even this important concession to guarding our Nation's ecological assets was denied, despite the widespread support for this option by individuals from across the public policy spectrum. There is even some question as to whether the oil industry will have sufficient equipment available to it to pursue exploration and development in each of the areas likely to be leased by the Interior Department.

The State of California has attempted to work with Interior in compiling a development plan for the region which would enable energy production to take place within a framework of carefully crafted environmental mitigation measures. These include the use of pipelines rather than oil tankers for transportation where feasible, deletion of the three lease basins within sale area No. 53, more specific definition of the sale areas under consideration, and a review of the offshore drilling "preleasing" activities for consistency with the State's coastal management plan, as called for under section 307 of the Federal Coastal Zone Management Act.

These do not represent a sound means of reconciling energy needs with environmental restraints. Unfortunately, the Federal agency has chosen either to refuse or ignore these recommendations, serving only to further exacerbate feelings of frustration and resentment with the Federal Government on the part of the citizens and elected officials of the State.

I recognize the fact that there is a general unwillingness to discourage energy development in any area, regardless of oil and gas potential or environmental sensitivity, and that this unwillingness will likely make enactment of the measure which I am proposing a difficult task. However, it is my hope that the bill I am introducing today will alert the Members of this House as well as the people of our Nation to the tragedy which may now be in the making, one for which the responsibility lies solely in the hands of the present administration. I believe we can avail ourselves of the energy resources of the Outer Continental Shelf in a manner consistent with the goal of protecting valuable environmental assets; indeed, the guidelines for achieving this objective have been provided by Congress in the balancing requirements of the 1977 OCS Lands Act. For these to be effective they must be fully employed, however, or else we risk suffering greater losses through offshore energy production than is gained in the end.

The following is the text of the bill:

H.R. 7512

A bill authorizing the Secretary of the Interior to retain as a national reserve, lands of the outer Continental Shelf included in the proposed lease sale numbered 53, and prohibiting the Secretary from leasing such lands for oil or gas production or development, except as recommended by the President of the United States and not disapproved by the Congress, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) the Secretary of the Interior (hereinafter in this Act the "Secretary") will retain as a national reserve for oil or gas production or development the area within the Outer Continental Shelf extending from Point Concepcion in the south to the California-Oregon border in the north, and extending seaward from 3 to 70 miles offshore. The Secretary shall not lease this area for oil or gas production or development, unless—

(1) the Secretary requests the President of the United States to prepare a finding that other oil or gas reserves are not sufficient to meet national security needs and, further, that the estimated value of oil and gas resources within such area exceeds the estimated revenue loss and environmental damage which would result from such production or development;

(2) the President makes such finding;

(3) the President transmits to the Congress a recommendation that the Secretary lease such area; and

(4) during the first period of 60 calendar days of continuous session of Congress after the date of transmittal to Congress, both Houses of the Congress do not pass a concurrent resolution disapproving such recommendation.

(b) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.●

SOVIET UNION MORE AGGRESSIVE IN ITS FOREIGN POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, while the United States has allowed its military power to diminish and self-flagellated our foreign policy on the altar of the Vietnam syndrome, the Soviet Union has grown more aggressive in its foreign policy. This aggression has taken many forms and has occurred in many places among them Angola, Ethiopia, South Yemen, and most recently Afghanistan.

The following article written under the pen name of Silver Flash II argues that the Soviet Union is basically cautious and hesitant to intervene in areas of potential conflict. It is only the lack of U.S. resolve which leads the men of the Kremlin to continue their dangerous policies. The article entitled "How, With Weakness, To Tempt Moscow Beyond the Limits of Ecstasy" appeared in the March 1980 edition of the Armed Forces Journal. I believe my colleagues will find it most interesting and enlightening.

HOW, WITH WEAKNESS, TO TEMPT MOSCOW BEYOND THE LIMITS OF ECSTASY

(By Silver Flash II)

The Soviets have their limits of tolerance. They are tough-minded, ultra conservative, Marxist-Leninist hell raisers of unshirted mendacity and super caution. Yet there is a line beyond which their ability to resist temptation simply snaps. They enjoy a vicious gutter-liar's exchange, an alley-mugging KGB keyhole caper, a quick knee-capping among rivals, and a kick in the groin contest as well as any other "beyond-the-pale" ideologue of darkness and inhumanity. (It restores their faith in the frailty of human nature.) What they cannot abide however, is weakness in an opponent. The "turn the other cheek" freak who knows not how to be competitive in the decathalon of nastiness and below the belt punches, unhinges their restraint. Even more deranging to Soviet tolerance is the sophist who refuses to handle the proper firearms while under attack, substituting apathy and fringe gestures for the necessary responses to recognition of mortal danger. Such a hapless opponent causes the Moscow leadership to trip out on the heady adrenalin of seemingly unlimited opportunity for gain. Soviet Politburo moderates wither in the glare of such opportunity. Their extremist-colleagues chortle at the sight.

At such moments, the most reckless of the 14 old men who today run the Soviet Union glimpse a tantalizing short-cut to the Marxist doctrine's interminable zig and zag path to victory over Capitalism. Weakness in U.S. policy conjures up in Moscow a vista of a freeway leading straight to unexpectedly early supremacy over the Kremlin's global enemies; a prospect that makes the traditional molasses-paced Marxist-Leninist timetable about as appealing as the 55 mph limit is to a speed-crazed A.J. Foyt or an 18-wheel trucker.

Since 1976, the Kremlin in its "let's-see-what-the-Vietnam-trauma-did-to-the-U.S." examination has been given lots of clues about the long road vs. the short-cut prospects. The US non-responses to Soviet-sponsored "probes" in Angola (1976), Ethiopia (1977), Yemen (1978), Cambodia (1978), and Cuba (1979), plus the US dumping of Taiwan (1978–79), the frenzy of SALT II at any price, and the US hostages in Iran crisis could somewhat excuse the Soviets for believing by December 1979 that the US and Western policy were in the same basic condition as former Spanish dictator Franco: basically stable (i.e. dead).

Given this chronology of three years of testing the Western policy corpse without detecting a pulse, the Soviets moved into Afghanistan which had become an ulcerous mess of defecting local soldiers, outraged

Moslem warriors, and an inept Soviet puppet Amin regime.

The Soviets moved initially in (what for them was) a cautious manner. Five thousand troops were airlifted into Kabul on Christmas Eve 1979. Moscow awaited Western reaction. Kremlin moderates and Kremlin extremists sweated out the early returns from the outlying precincts of policy rivalry once again. The effective non-response of the West and the US in the first two days led to an added margin of Kremlin "finger in the wind" restraint of two more days and finally on the 28th of December the extremist card was played: 80,000 troops invaded Afghanistan at the "request" of the headless Afghan puppet regime. (Soviet troops murdered puppet Amin and his family as a Christmas gesture of solidarity.)

The Soviets began stomping and nerve-gassing the Afghanistan hill peoples. Soviet tanks moved to the western borders of Afghanistan poised to enter Iran with anti-Teheran Baluchi tribes as the only "barrier" between Moscow's military legion and the 300 miles distant Straits of Hormuz, the pulmonary artery for Middle East Oil supply routes to the world.

The US and the West, in the 44 days since the Christmas Eve Soviet invasion has sought to prove that Lazarus still lives.

The US has correctly threatened to boycott the Olympics if the Soviet troops do not withdraw from Afghanistan, has shelved the SALT II Treaty's ratification effort, reduced or cut economic, scientific and cultural exchanges/trade/aid with Moscow, and declared that it would repel any Soviet moves in the Persian Gulf area with any means necessary including military force.

The Soviets run this through their computer and it comes out in Moscow: the US believes that the Olympics are equal in importance to the geopolitical launching platform that Afghanistan represents in Soviet efforts to tip the entire balance of power and political clout in the Persian Gulf. In Olympic terminology, the Soviet threat to the Straits of Hormuz may be designated the "unparalleled broadjump" competition and the Soviets stand a chance of bringing home the gold medal *and* the oil.

The other US moves are even less impressive in Soviet eyes: SALT II has been recognized dead in its scrolls by everyone except Paul Warnke (Mr. Keeper of the Other Cheeks) even before the ratification showdown. The economic, technical, scientific and cultural exchanges are nice to have, but not vital compared to the prize glittering in the Persian Gulf.

Unfortunately it will take much more to reach the Soviet leadership, half-numbed by success in this their fourth year of non-stop post-Vietnam intimidation and geopolitical profit.

Even if the US would respond with military power in the Persian Gulf, the Soviets would welcome a series of Vietnams revisited, or Koreas dimly remembered, fought out by proxies vs. US rapid deployment troops in the sand of Yemen, the wastes of Oman or the inconclusiveness of the Emirate deserts.

In its "present" stance vs. Moscow's "then" stance, the US has threatened B'rer Rabbit with the Briar Patch.

To avoid further miscalculation, imprecision (and those who value it), should be given a long rest. The US needs to spell out precisely how serious it believes this crisis to be and precisely (down to fine print) what it will cost the Soviets.

The President of the United States in 1962 did exactly that when he said that the Soviet Union must realize that a missile fired from its clandestine base in Cuba at any target in the Western Hemisphere would be regarded as having been fired from the Soviet Union itself and direct retaliation would be taken against the Soviet Union accordingly (the crisis had evolved from US weakness in 1961: Bay of Pigs, Laos, Vienna Summit, and Berlin Wall).

All of the rest of the crisis was atmospherics after that statement. The Soviets had been given the crucial precise understanding. They were six to one at a disadvantage in missilery and strategic forces. They took their missiles out of Cuba. The Mao Tse Tung criticism of Soviet leader Khruschev was the most revealing: "It was foolish to place missiles 10,000 miles from the Soviet heartland in the first place and cowardly to withdraw them under pressure. A fool and a coward is no revolutionary." Nikita K. dropped into the Communist wastebasket of history less than two years later. Nikita had committed the cardinal sin, he had risked too much too soon in a contest with an adversary, the US whom the Soviets believe is dying of long-range political and economic leukemia anyway. Hence in any confrontation where nuclear shotguns at 20 paces is the scenario, the Soviets are strongly motivated by their unholy doctrine to head for the sidelines and wait for elections, acts of God, human foibles and the odds to bring things their way in a less dangerous mode. Patience is their main tattoo.

That is, unless in 1980 they encounter a country whose missile and strategic force edge is still credible but who incredibly doesn't place the confrontation in that adequate realm, preferring instead to brandish a ready deployment force which barely exists, an airlift/sealift capability which doesn't exist, and a series of gestures ranging from trips to troubled allies to visits to bewildered bystanders.

The US has little time to set things straight. But it can still manage the task if it understands the nature of the leadership in the Kremlin. The moderates there are barely alive but they will be immensely strengthened in influence if the extremists are tagged with having brought the Soviets to the point of alarming the West so much that the following things occur:

US military dependents are pulled out of NATO which goes on the alert, the US rotates combat units through Europe for training, with Mom and the kids on high ground in the US (providing the Soviets with a second front worry). The sick dollar, drug abuse, and low morale environment of US' dependents lifestyle makes their removal a total plus.

Neutron bomb deployment for the NATO defense forces is given number one priority to equalize Soviet tank force superiority on the Elbe line.

U.S. announces that any further Soviet move across any international boundary in the Persian Gulf area whether by Soviet main force or by proxy will be considered a direct attack upon the United States and the West, and the US direct military response will be made against the *Soviet Union* without limitation of weaponry.

A defense alliance of Persian Gulf nations with Western support is developed as rapidly as possible.

Nations like Oman, Somalia and Kenya who have indicated their desire for American troops, receive immediate detachments of such forces.

Mandatory gasoline rationing begins and reduces dependence on imported oil.

A draft call-up is put into effect; a National Service Act is introduced providing for everyone at the age of 18 to serve for one year to two years in some national activity: military, Peace Corps, or Civil Service unit. The Reserves are brought up to full strength.

The Soviet Union's ethnic minorities (who outnumber native Russians) are informed of the Soviet invasion of Afghanistan and the Soviet troops' use of nerve gas against the Afghani Moslem peoples. (50 million Moslems inside the boundaries of the Soviet Union are interested.) Food, medicine, weapons, etc. are supplied to Afghan tribes by U.S./West/Moslem nations/Peking efforts. This effort is public and proud in attribution. Massive supplies of the Koran and transistor radios are balloon-dropped and smuggled into the Moslem tribal areas of the Southern underbelly of the Soviet Union. Public medium and short wave language broadcasts to these concerned Soviet Moslem peoples are conducted by the US (Voice of America), Western Europe (Radio Liberty), regional Moslem nations and radio Peking, and such broadcasts are given new priority, expanded air time and razor-edged content. (The Soviet Union risks a Moslem Holy War inside its own back-yard.) Similar activities of public (not covert) information penetration is aimed at Eastern Europe's bloc of unwilling Soviet satellites.

The Soviets are placed on notice that they've started this competition and they have the option of withdrawing from Afghanistan, putting their proxies in Yemen, Ethiopia and Angola areas on a tight leash, and matching their fine words on peace and detente with action.

Given Soviet vulnerabilities at home, these nine responses by the United States and its allies in the world would help cause Moscow leaders to regret succumbing to the temptation of extremist adventures in Afghanistan which so awakened the US and the world from its post-Vietnam stupor. The moderates in the Kremlin leadership, as a result of this regret, will have some new clout.

Indeed, the greatest irony in the long view so favored by Marxist-Leninists facing a strong opponent is that the prospects for the US and the West are much better than for Moscow.

Assuming that we weather the crisis of the 1980s, with the measures proposed, never again will the US be as confused, economically fragile, unprepared, and vulnerable as it was in 1969. By the late 1980s we will have a conventional and nuclear balance of defense capabilities, a stronger relationship with global allies, and a coherently interdependent partnership with the Third and Fourth World nations.

By the late 1990s we will have energy alternatives (solar, fusion, and/or surprises from the White Smock People of Popular Science) and oil may be more of a gunky embarrassment than a dependable indicator of power.

By the year 2000 we will be engaged internationally with our global allies and partners in extracting mineral ores from the moon, and harvesting and developing the ocean floor.

The Soviets, by contrasts, will be thrown implosively inward if contained in the 1980s. They will find their doctrine is steadily less relevant in a world that is making new discoveries in cooperation and mutual interdependence, providing the 1980 jungle habits of proxy aggression and Moscow intimidation can be leashed. Even the negative prospect of some 30 countries obtaining the capability to build nuclear weapons, by the year 2000, makes it a messy world, too diversified to easily dominate in the guaranteed style that Marxist-Leninists have always counted on.

Turned inward in the 1990s the Soviets will contemplate their lousy economic system, their lousy housing, their lousy domestic repression, their shaky satellite empire, and their lousy managerial environment which stifles creativity and only seems good for producing tanks to roll over someone on the sly. Such involution of Soviet policy may well foster internal changes worthy of the innate quality and native creativity of the peoples of Russia totally at odds with police state tyranny.

Essentially, if we take the measures proposed above in 1980, we will allow the Soviet leadership at this present moment of Brezhnev's slow dissolve from the scene (and the scramble of new aspirants to prove by deeds they deserve the mantle of power) to clearly and precisely judge what they are risking by extremist aggression.

In the baldest sense, if Moscow succeeds in the Straits of Hormuz/Persian Gulf drive, they will have in checkmate the oil of the Middle East, comprising 28% of U.S. imports, 55% of Western Europe's needs, and even more of Japan's vital supply. That spells economic depression and chaos and the collapse of Western Alliance.

If the independent nations who produce the oil, and the unrestricted global flow of this oil is not vital enough to the U.S./Western Allies to risk a direct nuclear showdown with Moscow, why the hell should we or anyone fight for the preservation of West Berlin? At this time, the control of the oil of the Persian Gulf region by Moscow would, in fact, reduce all of Western Europe, the U.S. and Japan to a replica of West Berlin during the 1948 Soviet strangulation of that enclave. In 1948. West Berlin was rescued by a U.S./Allied airlift. The only thing that could rescue the 1980 U.S./West/Japan enclave from oil strangulation by Soviets control of the Persian Gulf jugular vein fait accompli would be the landing of the Martian UFO Saucer Folk. (Having observed earthlings for many moons from afar, the Martians wouldn't touch this dangerous planet with a ten-foot antenna.)

This is the challenge and the task facing the U.S., the West and Japan. It is not insuperable. It will only be solved, however, by leading from strength. There is much to welcome in the year 2000 if we respond now with courage and purpose.

We still hold Aces and have been leading with Deuces. A poker player knows that this is a fast way to have to leave town in a barrel. It is also a sure way to open the Year 2000 in chains.

COMPARING MILITARY SPENDING IN THE UNITED STATES WITH THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, comparing military strength or military preparedness or military spending in the Soviet Union and its allies with the United States and its allies is obviously a difficult problem. As one would expect in a situation where it is proper to err on the side of caution, official U.S. estimates of Soviet strength are generally considered the high estimates of the Soviet military capabilities.

Mr. Speaker, while political rhetoric, especially in a highly volatile election year lends itself to overstatement and misstatement, there is a need to keep our actions within the bounds of reality. In a serious situation such as accelerating the global arms race, it is especially important that the United States act out of prudence and not belligerence. Unless our comparisons between United States and Soviet military strength are reasonably accurate, we or they can make serious misjudgments.

One index of military strength which is especially dominant as we debate the congressional budget resolution is comparative spending. An extremely useful and revealing article about comparative spending between the United States and the Soviet Union appeared in the June 1980 issue of the Bulletin of Atomic Scientists. The main point in this article is that official U.S. estimates of Soviet military spending are a gross overestimate of the actual situation. If the method of calculating Soviet defense expenditures were done differently, the author argues, the United States and not the Soviet Union would be spending the most, even before we consider the enormous defense increases proposed by all three budget proposals for fiscal year 1981 and beyond.

Mr. Speaker, because of the important implications of this matter to our policy deliberations, I commend the following article to my colleagues:

[From the Bulletin of Atomic Scientists, June 1980]

DOLLARS OR RUBLES: THE CIA'S MILITARY ESTIMATES

(By Franklyn D. Holzman)

The Soviet Union spends much more money on defense than the United States does, according to estimates by the Central Intelligence Agency. These estimates are an important factor in the push by the Department of Defense and the Congress for ever greater U.S. military expenditures. But the CIA's calculations are performed in such a way that they substantially exaggerate Soviet military spending relative to our own. In fact, contrary to the Agency's claims, the corrected figures indicate that the Soviet Union has not been outspending the United States.

Central Intelligence Agency estimates of Soviet military spending are needed for two reasons: the Soviet Union publishes only one figure for defense spending, a figure which undoubtedly understates the Soviet military efforts; and even if the Soviets published a comprehensive figure for defense spending in rubles, it would not be very useful because the ruble exchange rate is not a meaningful basis for converting rubles into dollars or into any other Western currency.

The CIA uses a so-called "building block" approach to estimate quantities of everything included in defense—numbers of soldiers, tanks, guns and so on—and values these at U.S. wages and prices, correcting where possible for differences in quality. The quantities are taken from or based upon published Soviet sources, satellite reconnaissance photos and other intelligence sources. The resulting estimate of Soviet defense expenditures in dollars presumably represents what it would cost the United States to reproduce the Soviet defense efforts.

These estimates are usually taken, for lack of a better measure, as proxies for military capability. As such, they are deficient, since the performance and effectiveness of armed forces are not necessarily proportional to the cost of their inputs. This expedient is admitted by the CIA and, for present purposes I have accepted it.

The CIA also acknowledges that a comparison of U.S. and Soviet defense (or any other sector) expenditures in dollars tends to exaggerate—in the sense that it provides an upper limit—Soviet expenditures. By the same token, a comparison in rubles would tend to exaggerate U.S. defense (or other) expenditures. This is the well-known index number effect and it is substantial when nations are at different stages of development, produce different proportions of goods and have different relative prices. The Soviet defense establishments buys comparatively more manpower than the United States whereas the United States buys comparatively more equipment. This is because, in the words of former CIA Director Admiral Turner, "Military hardware is much more expensive than manpower in the Soviet Union while in the United States manpower is relatively more expensive than hardware" [1, p. 71]. Thus the Soviet 4.5-million-man army appears extraordinarily expensive, priced at U.S. volunteer army pay rates plus upkeep of more than $10,000 a man. Similarly, high ruble prices for hardware would exaggerate the more capital-intensive U.S. defense establishment.

Where there is a substantial index number effect, the usual procedure is to calculate expenditures in both rubles and dollars and present the results either as a range or as the geometric mean of the two. For, as the CIA admits, the ruble measure is as valid as the dollar. The two currencies simply represent different but equally valid measuring rods.

The first source of bias, then, is the almost exclusive use by the CIA of dollar comparisons between U.S. and USSR defense expenditures.

How large are Soviet/U.S. index number effects, that is, spreads? The figures in the table are selected from a Soviet/U.S. gross national product comparison by the CIA for 1976, published in October 1979.

INDEX NUMBER EFFECTS IN CIA COMPARISON OF UNITED STATES-U.S.S.R. EXPENDITURES (1976)

	In rubles[1]	In dollars[1]	Dollars divided by rubles
GNP	0.495	0.737	1.49
Consumption	.352	.543	1.54
Investment	1.076	1.403	1.30
Administration	.571	.602	1.05
Defense and space	1.292	1.440	1.11
Other	.500	.647	1.29

[1] Ratio of U.S.S.R./United States.

Source: T. Edwards, M. Hughes, J. Noren, "U.S. and U.S.S.R.: Comparisons of GNP," in Soviet Economy in a Time of Change, I, Joint Economic Committee, U.S. Congress (Washington, D.C., 1976), p. 378.

In these figures, the CIA shows a defense index number spread of 1.11 (column 3), with the Soviet Union outspending the United States by 44 percent (column 2) in dollars and by 29.2 percent (column 1) in rubles. In Congressional Hearings, using similar figures for this and other years, Directors Colby and Turner have argued that the relative picture is changed very little by ruble measurements. If these figures are correct, the CIA is right. However, perusal of the remaining figures shows (with the exception of the tiny sector of administration where expenditures are similar, that is, labor intensive with an absence of index number effects) that the spreads average 1.49 for the whole GNP, and all other sectors exceed 1.29. There is, in fact, no reason to believe that the defense sector should have a lower spread than other sectors. If, for example, the defense spread were 1.30, and the Soviet Union were outspending us by 44 percent in dollars, then it would be outspending us by only 11 percent rather than 29.2 percent in rubles. If the spread were larger than 1.30, the ruble figure would be even less than 11 percent. It would therefore make a big difference whether rubles or dollars were being used, contrary to the testimonies by Colby and Turner.

There is a good reason why the CIA's ruble valuation yields such a relatively small index number effect. Comparison is based, for lack of data, on a disaggregation of defense expenditures into *only* about 10 categories. It is well-known, and admitted by the CIA, that the higher the level of aggregation, the lower the index number spread [1, 1975, p. 24]. Since many thousands of products are bought by the two defense establishments, the small number of categories must yield a large distortion. It can be shown from CIA data that increasing the number of expenditure categories five-fold, from two to 10, doubles the index number spread [2]. My guess is that increasing the number of categories 100-fold (to 1,000) would raise the spread to at least the level of other major sectors, that is, to 1.29 or more. This would substantially lower the USSR–U.S. expenditure ratio in rubles.

The second source of bias, then, is the fact that not only does the CIA not make official defense expenditure comparisons in rubles, but the unofficial comparisons they do make contain a strong upward bias regarding the level of Soviet expenditures [3].

A third source of bias is CIA overvaluation of Soviet military personnel. International comparisons usually attempt to adjust prices for differences in the quality or complexity or size of the products being compared. Similarly, an adjustment is needed to pay scales if there are significant differences in the background, training and capabilities of personnel. Colby says that "In the case of labor services in health and education, we apply a 20 percent quality discount based on a consideration of standards of training (for example, the number of years devoted to the training of doctors and teachers)" [1, 1975, p. 85].

The CIA makes no adjustment for quality or for cost of training in its dollar evaluation of the Soviet armed forces. Yet about twice as high a percentage of Americans complete high school as Russians; the same is true of college. In my opinion, this is partially, but not entirely, offset by the fact that our volunteer army has become less representative of the general population than Russian draftees are of theirs. Moreover, Soviet schools are of lower quality than our own. As Colby notes, Soviet teachers are sufficiently less well-trained than our own to warrant a 20 percent pay discount. Soviet schools are also less well-equipped and the system has a higher percentage of rural schools which, in both countries, provide a lower level of education. The point is that those recruited into the U.S. Army have received a greater investment in human capital than those inducted into the Soviet army. It is true that many Soviet inductees receive some pre-military training, but this can hardly compensate for the much broader experience with equipment of all kinds with which under-18-year-olds in the United States are provided by our consumer-rich society. For example, how many Soviet teenagers know how to drive an automobile? Not many!

There are other approaches to the military pay question:

The U.S. Armed Forces are much more capital-intensive than those of the Soviet Union. The implication of this is that: "Since the Russians use a higher ratio of manpower to other inputs, it seems a mistake to attribute to all those soldiers the corresponding 'dollar's worth' of contribution to military strength that they get in the dollar valuation of Soviet national security expenditures" [4].

American military equipment tends to be of higher quality and technology than Soviet equipment. On this basis, a scholarly estimate of East European military expenditures values enlisted personnel in Eastern Europe, in dollars, at 75 percent of those in the United States, to reflect the relatively lower technical qualifications required of them [5]. An analogous adjustment is required in the Soviet case.

Anyone familiar with the structure of the Soviet economy knows that, given similar or identical factories in the two countries, there are always many more workers in the Soviet than in the American factory. This relationship probably characterizes a good part of the two nations' armed forces. The implications of this for relative pay scales has already been noted.

According to the CIA [1, 1974, p. 33], U.S. armed forces spend more than twice as much per soldier on military operating costs—maneuvers and the like—as do the Soviet armed forces, and turn out a much better trained soldier.

While it is impossible to put a precise figure on the pay discount which should be applied to Soviet military personnel, we arbitrarily adopt the same 20 percent discount that Colby applied to Soviet doctors and teachers. This adjustment removes perhaps one-fourth of the differences in the defense expenditures between the two nations measured in dollars; a somewhat smaller fraction in rubles.

A fourth source of bias has to do with U.S. estimates of Soviet expenditures on military equipment. The CIA attempts, to the extent possible, to adjust for the "physical and performance characteristics of the individual weapons" when costing Soviet military equipment. This procedure is called "Sovietizing." In response to a question by Senator Proxmire in the 1975 Joint Economic Committee Hearings, Colby said: "To the extent that we are not able to 'Sovietize,' and U.S. weapons used in the cost estimating methodology are more complex, our estimates tend to overstate the costs of producing the Soviet design. *This is probably the general case* [italics supplied]" [1, 1975, p. 83]. Thus, Colby admits there is a systematic upward bias in the valuation of Soviet equipment.

How large a bias it is difficult to say. We know, for example, that Soviet enterprises which export manufactured products have received subsidies recently averaging some 40 percent of domestic price to cover "the additional costs of meeting world quality standards" [6]. We also know that many Soviet manufactured goods are offered on world markets at substantial discounts: for example, transformers, 30 percent; machine tools, 40–50 percent; turbines and compressors, 40–50 percent; color TV, 25–31 percent [7].

While these magnitudes are suggestive, we have no precise information on what percentage of Soviet military equipment is overvalued and by how much. It may well be, however, that overvaluation of Soviet military equipment is in the same range as that of Soviet civilian equipment. Referring to this problem, the U.S. Arms Control and Disarmament Agency says:

"Whether this type of bias may be more or less prevalent in the military sector than in the economy as a whole is difficult to judge. On the one hand, Soviet efforts to eliminate any quality gap may be greater than in other fields. On the other hand, the qualitative and technological disparity may be larger and more difficult to overcome in the military sector due to a greater relative prevalence of innovations on the technological frontier" [8].

In light of this judgment and of the fact that the former director of the CIA admits that quality overvaluation is the "general case," one can only conclude that both dollar and ruble estimates of Soviet defense expenditures contain a significant upward bias.

It is paradoxical to read in the Joint Economic Committee Hearings for various years that, according to the CIA, the Soviet Union has been regularly producing and deploying more military equipment than we have, and has almost twice as much military manpower; yet the predominant opinion of participants is that the United States is still the stronger power. The resolution of this paradox is not hard to find. Clearly the basis for this view is the superior quality and technology of U.S. equipment. Unfortunately, this crucially important factor is not captured in CIA estimates.

A major reason why the CIA did not make an official ruble comparison of defense expenditures until October 1979 is because "while virtually all of the Soviet inventory of weapons falls within U.S. production technology, the Soviets simply do not have the technology required to produce many of the U.S. weapons nor could they produce close substitutes . . . [1, 1977, p. 40].* Under these circumstances, it is impossible to find an actual ruble price by which to value high-technology U.S. military equipment.

The CIA procedure, in their unofficial calculations, has been to use ruble prices "applicable to the closest substitute goods which can be produced in both economies" [1, 1977, p. 40]. What this means is that the CIA ruble calculation values high technology American equipment at ordinarily high Soviet ruble prices, but not at what Colby described as prices which are so high as to be "almost uncountable," [1, 1975, p. 24] and another CIA spokesman referred to as "theoretically infinite" [1, 1975, p. 91]. No wonder U.S. defense expenditures calculated in rubles are estimated to be less than those of the Soviet Union. If a properly high ruble price tag could be put on that part of the U.S. high technology beyond normal Soviet capabilities, the American defense package would certainly cost the Russians more to produce than their own; or it might well be that they could not produce our defense package at any cost.

The fallacy of the CIA procedure is that the very dimension of the arms race in which the United States has the greatest advantage, namely, advanced technology—which dimension makes much of the difference between military superiority and inferiority—is enormously under-valued. In fact, significant technological superiority is given a zero price instead of the "almost uncountable" or often "infinite" price the CIA admits it should have. The CIA's ruble calculation implicitly asks: Which country's defense package would cost the Soviet Union more to produce, assuming U.S. equipment is not technologically superior? This question is a proxy for: Which country's defense package is stronger assuming the U.S. has no lead in weapons technology? This is like asking: Would Wilt Chamberlain have been a greater basketball player than most if he had been a foot shorter?

All of these sources of bias are admitted by the CIA although, except for the first reason, only informally under pressure of Congressional quizzing. More generally, however, in these estimates the CIA has to make hundreds of choices into which errors can creep—such as in the interpretation of quantities of weapons from satellite photographs, dollar costing of Soviet equipment, evaluation of other types of intelligence information on military expenditures, etc. One wonders if a similar bias, conscious or unconscious, infects these choices. It seems a reasonable assumption that most such choices are colored by what might be called an "asymmetric loss function" bias. That is to say, those working for the U.S. government on U.S.-USSR military expenditure comparisons are likely to view the danger from underestimating Soviet military output as greater than the danger (or loss) from overestimating. Overestimating would, at worst, simply lead us to waste another $10 or $20 billion worth of resources trying to catch up; underestimating could result in military inferiority or even defeat.

The CIA has been admitting each year to a possible error of plus or minus 15 percent in its dollar estimates [1, 1977, p. 39]. In light of the postulated "asymmetric loss function," I would argue that a 30 percent error range is more likely to be skewed from plus-25 to minus-5 percent. (One might be a little skeptical even of the admitted 30 percent error range in light of the CIA admission in 1977 that for 10 years they had been 100 percent off in their estimate of ruble prices of defense equipment [1, 1977, p. 17].)

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*An ambiguous statement quoted from Admiral Turner suggests that approximately 30 percent of our weapons are currently (1977) beyond Soviet technology [1, 1977, p. 87].

What does all this add up to? Not being privy to the CIA archives, one can only try to make reasonable guesses. My own rough estimates are as follows [2]:

The CIA claimed that in 1977 Soviet military expenditures exceeded those of the United States by 40 percent in dollars and, unofficially, by 25 percent in rubles. My calculations suggest that, in dollars, Soviet expenditures exceeded those of the United States by 20 to 25 percent; but in rubles, the USSR was spending between 70 and 80 percent of what the United States was spending. These calculations do not take account of the asymmetric loss function bias. Taking this into account might well reduce the Soviet lead in dollars to, say, 10 to 15 percent and increase the Soviet deficiency, measured in rubles to, say, 60 to 70 percent. Taking both ruble and dollar measures into account, it seems clear that one cannot make a strong case that either nation is outspending the other on defense. It all depends on which measuring rod one uses, and one is as good as the other.

Even as U.S. government specialists rely on dollar calculations to make the defense expenditure comparison, so Soviet specialists probably calculate U.S. defense expenditures in rubles for comparison purposes. Thus each nation will view the other as devoting more resources to defense. If both nations want parity in expenditures and if, in fact, they achieved parity (measured, say, as a geometric mean of dollar and ruble comparisons), each would still feel that it was behind and would increase expenditures in order to catch up.

Fleshing this out, Americans tend to see the Russians with a larger army than ours and also each year producing many types of weapons in greater quantity than we do. The "ruble's eye view" finds the Soviets viewing a competitor whose military spending is only 5 percent of its GNP, in comparison with their own much larger burden of 11 to 13 percent, and yet is producing many weapons of superior technology, higher quality weapons at the same technological level, and at the same time has better-trained armed forces. This may well be a major impetus behind the estimated steady increase in Soviet defense spending over the past decade.

There are undoubtedly many who will not be persuaded by these arguments. They will remain convinced that the Russians are ahead and therefore we must increase our defense expenditures. But the implication of my calculations, if correct, is that it is not greater defense spending that we need, but a better and wiser use of our funds. For we have been spending as much as or more than the Russians and inferiority, if there is such, must be attributed to either production inefficiency or misdirection of expenditures on our part.

While this analysis has been restricted to U.S.-USSR comparisions, much of it is valid for military expenditures by the NATO nations, on the one hand, and the Warsaw Pact nations on the other. If anything, this comparison should be at least as important as the U.S.-USSR comparison in our defense spending decisions. That it is not highlighted by the CIA and the Department of Defense is undoubtedly due to the fact that NATO outspends the Warsaw Pact *even in dollars*. Generally accepted dollar estimates for 1978, for example, show NATO spending at $180 billion in comparison with the Pact total of $160 billion [9]. In rubles, and taking account of various qualitative factors mentioned above, as they apply in this enlarged comparison, NATO's expenditure superiority would be still greater [10].

The CIA, in my view, does a serious disservice to our policy-makers and to the American public by presenting such biased and misleading dollar comparisons of American and Soviet, as well as of NATO and Warsaw Pact military expenditures. Dollar and ruble figures, correctly estimated (biases removed) should both be presented—or neither should be.

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1. U.S. Congress, Joint Economic Committee, *Allocation of Resources in the Soviet Union and China* (1978).

2. F. D. Holzman, "Are the Soviets Really Outspending the U.S. on Defense?" *International Security* (Spring 1980).

3. These defense and space figures for 1976 represent the first time in at least a decade that both dollar and ruble comparisons have been presented officially by the CIA. Previously, only official dollar calculations have been presented. "Unofficial" and "casual" ruble comparisons have been elicited under pressure of questioning in Congressional Hearings by legislators like Senator Proxmire, who are aware of the index number effect. Unfortunately, these Congressmen have not been familiar enough with U.S.-USSR comparisons to realize that the CIA's index number spreads for Defense have been suspiciously low.

4. R. Campbell, M. Earle, H. S. Levine, F. Dresch, "Methodological Problems Comparing the U.S. and USSR Economies," *Soviet Economic Prospects for the Seventies*, Joint Economic Committee, U.S. Congress (Washington, D.C., 1973).

5. T. Alton, G. Lazarcik, E. M. Bass, W. Znayenko, "Defense Expenditures in Eastern Europe, 1965–1976," East European Economies Post-Helsinki, Joint Economic Committee, U.S. Congress (Washington, D.C., 1977).

6. V. Treml and B. Kostinsky, *Soviet Foreign Trade and Domestic Pricing*, Foreign Demographic Analysis Division, U.S. Department of Commerce (forthcoming).

7. Paul Ericson, "Soviet Efforts to Increase Exports of Manufactured Products to the West," *Soviet Economy in a New Perspective*, Joint Economic Committee (Washington, D.C., 1976).

8. U.S. Arms Control and Disarmament Agency, *World Military Expenditures and Arms Transfers*, 1968–1977 (Washington, D.C., 1979).

9. This is because other NATO nations spent $75 billion in 1978, while other Warsaw Pact nations are estimated to have spent only $12 billion. *Wall Street Journal*, Feb. 1, 1980.

10. From the Soviet standpoint, Chinese military expenditures should probably be added to NATO's.●

THE NEW FACE AND SPACE OF DOWNTOWN WASHINGTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

● Mr. SCHEUER. Mr. Speaker, we all know of the problems of the downtowns of our cities across the United States, and the majority leader, Representative JIM WRIGHT, and I wish to call to the attention of our colleagues the success story that is evolving in downtown Washington and to pay tribute to the strategist largely responsible for that success. Our good friend and associate of two decades, Knox Banner, recently retired after 20 years of service to the Nation's Capital. We can never repay him for the changes which have occurred and are continuing to occur in downtown Washington between the Capitol and the White House.

Mr. Banner is a native Texan and a graduate, with distinction, of Rice University, Phi Beta Kappa.

In 1956–57 he served as president of the National Association of Housing and Redevelopment Officials and is presently a member of its international committee. In addition, he is a trustee of ULI—the Urban Land Institute. He is a member, officer, or director of a number of national and local organizations. Recently, he was elected an honorary life member of IDEA—the International Downtown Executives Association.

For 6 years (1954–60) he was executive director of the housing authority of the city of Little Rock, Ark., responsible for both its low-rent public housing program and its extensive urban renewal program covering 4½ square miles of that city. Some of his urban renewal accomplishments during that period were:

First project to be completed west of the Mississippi River;

First project in the Nation initiated and approved under the Housing Act of 1954;

Second federally assisted predominantly rehabilitation project to be approved in the United States;

Only urban renewal project in the United States to be planned, executed, and closed out in less than 3 years, and

First total downtown project in the United States to be approved under the special provisions of the Housing Act of 1959. Presently the only total downtown urban renewal project in the United States.

He has lectured on community and economic development at the University of North Carolina, the University of Arkansas, the University of Cincinnati, the George Washington University, the Stonier Graduate School of Banking at Rutgers, Cornell University, Howard University, the American University, the Institute of Social Studies at The Hague, the Graduate School of Ekistics in Athens, and has talked on urban problems and solutions to hundreds of business, civic, and professional groups throughout the United States.

From 1960 through 1977, he was executive director of the National Capital Downtown Committee, Inc., a private nonprofit corporation, known by the short name of Downtown Progress, created and supported by Washington business and civic leaders to plan the revitalization of downtown Washington between the White House and the Capitol, and to assure that the plan became a reality. Downtown Progress was the creator, initiator, or played a significant role in many actions, including: development, transportation, public improvements, and historic preservation. The private and public development already completed amounts to $700 million with almost $1 billion additional under construction, announced, on the drawing board, or in planning.

During 1978 and 1979, he served as the executive director of the newly created office of business and economic development in the executive office of the mayor of the District of Columbia.

Presently, he is chairman of Banner Associates, Ltd., a consulting and creative writing firm.

We believe that our colleagues will find of great interest, as we did, his letter of resignation, Mayor Barry's letter of acceptance, and the letter from Tom Bradley, mayor of Los Angeles, to Mayor Barry regarding Mr. Banner, and perhaps most importantly, his list of things he has been wanting to do for years.

And finally, Mr. Speaker, we believe our colleagues will find of great interest his brief historical report on downtown revitalization, which he delivered earlier this month at a meeting sponsored by the George Washington University and the Washington Board of Realtors. That report deserves our attention, since he credits the thousands of actors in the private and public sectors whose efforts have resulted in the healthy, sustained growth now occurring in downtown Washington.

The material follows:

GOVERNMENT OF THE
DISTRICT OF COLUMBIA,
Washington, D.C., November 20, 1979.

Hon. MARION S. BARRY, JR.,
Mayor of the District of Columbia,
District Building, Washington, D.C.

DEAR MR. MAYOR: I am determined to have the Office of Business and Economic Development fully operational and actively engaged in utilizing the significant commitments which you have recently obtained from Robert T. Hall, Assistant Secretary of Commerce, Economic Development Administration. In addition, the creation of the Business Information Center can be announced by you in December, if you wish to do so. This is the only incomplete item on our 1979 work program.

Your recent meeting with Federal officials permits us to continue to have the services of the National Development Council for another year and also for us to hire a staff loan packager. We are currently interviewing.

I mention these matters because your leadership and the support of the City Administrator assure the continuing success and expansion of your business and economic development program.

In view of the foregoing, I wish to submit my resignation as of December 31, 1979, so that you will have sufficient time to recruit my successor.

I admire the leadership you are giving to the District of Columbia, and I am confident that your initiatives will result in continuing successes.

My best wishes to you.

Sincerely,

KNOX BANNER,
Executive Director.

THE DISTRICT OF COLUMBIA,
Washington, D.C.

Mr. KNOX BANNER,
Executive Director, Office of Business and Economic Development, District Building, Washington, D.C.

DEAR MR. BANNER: I have received your letter of November 20, 1979, informing me of your decision to resign as of December 31st of this year. It is with great regret that I accept this proposal.

In doing so, however, I wish to recognize the committed and significant work you have done in setting the city's new Office of Business and Economic Development on a productive course. The experience you brought to this endeavor, as a prime factor in the preservation and revitalization of the central business district of our city, gave you a strong background in establishing the city government's emphasis on economic development. Your work in establishing a constructive relationship with the Economic Development Administration, and in creating the city's Business Information Center, are both significant accomplishments. Beyond specific programs, however, it is the spirit of cooperation which you have fostered between the public and private sectors in the District which marks the special heritage of your service with the District.

For your devoted service to the District Government and its citizens, all of us are grateful.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.

OFFICE OF THE MAYOR,
TOM BRADLEY, MAYOR,
Los Angeles, Calif., January 3, 1980.

Hon. MARION S. BARRY, Jr.
Mayor, District of Columbia
Washington, D.C.

DEAR MARION: You have my congratulations and best wishes as you complete your first year as Mayor.

I was concerned on your behalf recently to learn that you are losing the experience and talents of Knox Banner, whom I have known well for a number of years. As a matter of fact, he contributed to my first campaign for mayor before we had ever met. I lost that election. Subsequently, we met and have stayed in touch ever since. As a matter of fact, in 1972, he and I travelled throughout Europe, under Lud Ashley's leadership, on the U.S. Special Urban Growth Study Tour. I came to admire and respect him, both professionally and personally. You and I know that no one is irreplaceable—not even Mayors—but I suspect that you will have to search hard to find someone of his experience and his knowledge of your city and with his extensive business, professional, and political relationships.

In his letter to me, he has told me that, after six months of relaxation and travel, he intends to become active again. I enjoyed and sort of envied his list of things he plans to do.

I hope that you continue to do well for the remaining three years of your first term!

Sincerely,

TOM BRADLEY, MAYOR.

STATEMENT OF KNOX BANNER

For years, I have been wanting to:

Play cribbage with my wife every day;

Read the more than 1,000 books we own;

Read *The New Yorker* every week;

Go bicycling with my wife;

Go to the Air and Space Museum again;

Luxuriate in the National Gallery and the East Wing;

Use our FONZ membership;

Spend a month in Ireland in the late spring;

Spend a month on Lake Balaton in Hungary and catch and eat *fogás*, washed down with *Badacasonyi Szürkebarát*;

Attend the National Town Meetings in the Kennedy Center as I used to do;

Enjoy all the many facilities of the Parks and History Association, on the Board of Directors of which I have served since it was first created;

Paint with oils;

Wood carve;

Use the ten inch bandsaw my wife (with advice from Ancher Nelsen) gave me for Christmas five years ago;

Use all the array of photographic equipment I have to create masterpieces and win prizes;

Buy a sail boat and a fishing boat and trailer;

Go fishing with my wife;

Buy chest waders and troutfish in the Blue Ridge with my wife;

Find the crappie hole in the Potomac between Fletchers Boathouse and Thompson's Boathouse and fish it and fish it and fish it;

Begin to use and enjoy the many things I have helped to create or restore, including METROrail, the Tourmobile, the Midibus, Ford's Theatre, the Pennsylvania Avenue Development Area, the Convention Center, the Martin Luther King, Jr., Library, Streets for People, F Street Plaza, the National Portrait Gallery, the National Collection of Fine Arts, the Old Post Office, and other elements of Downtown revitalization;

Write a book on the evils of bureaucracy and their antidotes;

Write a syndicated column on traffic safety; and

Enjoy life with my wife.

THE NEW FACE AND SPACE OF DOWNTOWN WASHINGTON

(Remarks by Knox Banner, chairman, Banner Associates, Ltd.)

My brief report on planning will be in the broad sense rather than in the technical or professional sense. However, I do wish to point out that the professional staff which prepared the action plan for downtown Washington included a generalist (me), two city planners, three architects, three engineers, a transportation planner, an economist, and an attorney. That staff, with consultants, including Stanford Research Institute; Booz Allen & Hamilton; Parsons, Brinkerhoff Quade & Douglas; Keyes, Lethbridge & Condon; Alan Voorhees & Associates; Convair Division of General Dynamics; and others, carried out an intensive program of community involvement with more than one hundred organizations and agencies to create the action plan for downtown and to insure its translation into reality. The work of eighteen years is now culminating in what some call a boom. I prefer to call it healthy sustained growth, since it has taken nineteen years of sustained effort to achieve, and since boom connotes bust.

Let's take a quick look at the sixties and seventies; an enlightened business and civic community headed by Robert C. Baker, president of American Security Bank, Andrew Parker, president of Woodies, Robert H. Levi, president of the Hecht Company, and Admiral O. S. Colclough, acting president of the George Washington University, created a non-profit corporation, the National Capital Downtown Committee, Inc., on the joint recommendation of the Federal City Council and the National Capital Planning Commission. I was hired to guide the planning for downtown revitalization and to assure that revitalization became a reality. I hired the staff professionals I have described and began fully staffed operations on April 1, 1960. As all good planners do, we promptly expanded the boundaries of the area to from North Capitol to 15th Street and from Pennsylvania Avenue to M Street, N.W.—the square mile between the White House and the Capitol. At that time downtown Washington was suffering badly from the flight to the suburbs which began after World War II. In the decade of the fifties, only seven office buildings had been built in the area. Because of difficulties of environment, site assembly, transportation, and other factors, this area between the White House and the Capitol was no longer a prime area.

It was our job to begin to turn it around. To keep from being called NCDC, we quickly amended our by-laws to adopt the name, downtown progress.

With intensive community involvement, and with more than a dozen staff and consultant studies, as I have said, we produced a sketch plan for downtown in nine months and the action plan for downtown twelve months later. Concurrently, we began work to carry out the plan.

Our staff produced, in 1962, an internal circulation system vehicle, the minibus, predecessor to the current midibus. Our transportation planner supervised, under contract, some 30 or 40 members of the then National Capital Transportation Agency to lay out the various alternative routes for what has come to be known as Metro. We had already recommended the specific alignments in downtown.

To provide greater convenience and safety for pedestrians, F Street Plaza was developed as a precursor to streets for people. It was both physical and symbolic.

Our interest in historic preservation, along with that of others, led to the conversion of the old Patent Office into the National Portrait Gallery and the National Collection of Fine Arts, the restoration of Ford's Theatre; the relocation and restoration of the Adas Israel Synagogue; and the preservation of the old Post Office and the Willard Hotel.

Our interest in providing new public facilities of quality design resulted in the Martin Luther King, Jr., Library, designed by Mies Van Der Rohe.

We did our best to focus developer and Presidential attention and interest on the area and had made considerable progress until the April 1968 civil disorders. Just prior to that, the absorption rate of commercial office space in the entire central business district was about seven or eight hundred thousand square feet per year. When it dropped below that, we and others went to the White House and got some more temporary buildings on the Mall torn down. Last year and this year, the absorption rate is in excess of two million square feet per year and the tempos are all gone. This is healthy, sustained growth. And downtown between the White House and the Capitol is beginning to get a greater share. The rate of development in this heretofore neglected area had already increased by more than 500%, but that rate was greatly accelerated by the long-delayed approval of the convention center.

That was the one remaining of the four elements essential to downtown revitalization when downtown progress closed its doors on December 31, 1977, after 18 years of public service. Far too little credit has been given to the business and civic leaders who invested considerably more than $3 million to develop the action plan for downtown and to pursue its realization. Of course, these seventy leaders invested literally thousands of hours of applying to numerous planning proposals their knowledge and experience in the economic and political realities of the marketplace. Let's look briefly at the four elements essential to success.

1. Metrorail: As I have pointed out, downtown progress helped plan the downtown system and the alternatives of the entire system and worked for support and financing. The Federal city council played the major and lead role in support and financing.

2. Urban renewal sites at 7th and 12th and G Streets: The basis for these assemblies and their re-use came from the action plan for downtown. The D.C. redevelopment land agency was the official agency to carry out the dowtnown urban renewal plan with strong and continuing support from downtown progress.

3. Pennsylvania Avenue Development Plan: After some 13 years of uncertain existence but valiant professional effort, this federally chartered corporation came within a hair's breadth of being wiped out in the House of Representatives. On the initiative of downtown progress, a "dear colleague" letter signed by thirty members of the House helped to turn that vote around, although not until after the date of the budget resolution. A similar initiative then secured funding in the supplemental appropriation so that for the first time, the Pennsylvania Avenue development corporation could begin to acquire property to offer for redevelopment.

4. Convention Center: After more than 7 years of intensive community effort, congressional approval of the convention center was still withheld even though no federal funds were involved. As downtown progress closed its office, I accepted Mayor Walter Washington's invitation to become executive director of his newly created Office of Business and Economic Development. One of my major responsibilities in 1978 was to obtain developer commitments to demonstrate that the convention center would not be a burden on the Federal Government or on the D.C. residential taxpayer. This we did with outstanding cooperation from the business community. The groundbreaking ceremony this morning reflected the success of this public/private partnership.

Thus, with these four elements assured and with the continuing strong market created by the three A's—associations, accountants, and attorneys—revitalization of downtown Washington between the White House and the Capitol is becoming a reality.

This brief history is a tribute to thousands of business and labor leaders, public officials—local and federal, professionals, organizations, and citizens who played a significant role in the success we now see emerging in downtown Washington.

● Mr. WRIGHT. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague from New York. I first met Knox Banner in 1953 when I was mayor of Weatherford, Tex., and president of the League of Texas Municipalities. He attended a meeting in the Tarrant County Court House in Fort Worth where I spoke to a rather small group soliciting their support for my election to the 84th Congress in an uphill fight against a strongly entrenched incumbent. Knox and a friend with him were responsive and worked for my election. Knox has been my friend and supporter ever since. I am happy to join in saluting his accomplishments which are leading to the revitalization of downtown Washington between the Capitol and the White House.●

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today of the gentleman from New York (Mr. SCHEUER).

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from Washington?

There was no objection.

LOVE OF COUNTRY AND FLAG—TO MAINTAIN LAW AND ORDER

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, Dr. Karl B. Justus, formerly national executive director of the Military Chaplains Association and now chaplain general of the Military Order of World Wars, has written a most thought-provoking article which was recently published in Officer Review, a publication of the Military Order of World Wars. The article was first delivered as an address to the northern Virginia chapter of MOWW on May 14, 1980. I would like to share this article with my colleagues in the House:

". . . LOVE OF COUNTRY AND FLAG; . . . TO MAINTAIN LAW AND ORDER . . ."

(By Dr. Karl B. Justus)

Twelve years ago this July, I gave a major address on the subject—"What's Happened To America?"—which, later, was entered into the Congressional Record by the late Senator Everett Dirksen. Recently I reviewed that manuscript. I was struck by the fact that not only could that title make for a timely topic these twelve years later, but some of the things I discussed then still make for contemporary consideration. Nevertheless, I shall forego that easier option since your Chapter Commander, Captain Luby, asked me to undertake a specific theme—and for this occasion I have prepared accordingly.

In our Preamble, read as part of the opening ceremony for this meeting, we find some of the most noble precepts known to us as Americans. It is one thing to speak them, but only as we observe and live them in daily routines will they become meaningful—and contribute to the strength and security of this Nation.

That Preamble embraces nine important statements, which clearly set forth the high purposes of our Order. Each one is an integral part of the overall purpose, but I have been asked to direct our attention to two of those vital precepts. I now quote the significant phrases in those two.

To inculcate and stimulate love of our country and the Flag. . . . Ever to maintain law and order. . . . The first statement sets forth that we propose, not only, to practice patriotism, but that we propose to teach and promote it. The second statement is saying that, as loyal, patriotic citizens, we believe that law and order should be maintained and prevail throughout the land. In my opinion, no other precepts in that Preamble are more important than these two.

During the riotous, chaotic, indeed, horrendous decades of the sixties and early seventies, patriotism seemed to be a dirty word. Patriotism, itself, was laughed at, frowned upon, hushed up and outmoded by many so-called citizens.

Along with that, our Flag—the Stars and Stripes—held no meaning for many of our citizens. The Flag was not respected by them and was often abused and besmirched—even burned. Such flagrant disrespect was disgraceful, equaled only by the evident disloyalty of the protesting perpetrators. I believe that true patriotism respects and honors the American Flag, the very symbol of the purity, integrity and sacrifice that has made this a great nation and kept us free.

Strangely enough, it was not only some of the rebellious protesters of the sixties and early seventies that manifested a lack of respect for the Flag. As the national Executive Director of The Military Chaplains Association, I was occasionally confronted by one or two clergymen-in-uniform—yes, I mean chaplains—who said, "Justus, the trouble with you is—everything that you say or write you wrap in the Flag." That hardly requires any further comment.

I am a staunch advocate of undiluted patriotism—and I believe that every true American loves and honors the Flag of our country. I am, indeed, proud to wrap anything I have to say in our Flag. Whether in peace or in war, good Americans honor our national Ensign—and whenever situations dictate a call to the colors in defense of our freedoms, our ideals and all that we hold dear, a true patriot will answer that call—even to the point of making the supreme sacrifice. Patriotism to our Nation, and love for our country and the Flag, should be second only to our love and loyalty to Almighty God.

It is only recently, since the Iranian situation arose—that unwarranted, unnecessary and tragic imprisoning of fifty of our countrymen in our own embassy—yes, only since then has there arisen a new sense of patriotism and appreciation for our Flag. During the football bowl games over the last New Year period, it was a pleasant and stimulating change to see American Flags waving from all over the stands—and to hear that the Star Spangled Banner has been sung with more gusto at recent public gatherings. For sure, it was wonderful and inspiring to see the Stars and Stripes in all sizes—waving throughout the arena—when that unbelievable, talented young American hockey team vanquished the surging Soviets and "put them on ice" at the Winter Olympics in Lake Placid.

I am unashamed to say that as I stand and watch a parade—when the furls of the Red, White and Blue come by, accompanied by a good band playing The Stars and Stripes Forever—I feel a lump in my throat, a tear dims the eye and a tingle goes up and down my spine. God didn't make us all the same, but the person whose chemistry has never produced the thrill I just described has surely missed something.

Just as we issue a call for renewed patriotism and love for our country and the Flag so, with equal fervor and conviction, do we call for the maintenance of law and order.

In the not-too-distant past, we saw what happens when law is disregarded and order is flaunted and replaced with chaos. Only two months ago, we saw over 30,000 youths come to Washington to protest the President's call for a draft registration. This was the first time since the massive anti-Vietnam war protests. Fortunately, however, the unbridled protests and unmitigated rebellion that harassed us in the late sixties and early seventies, which had come to rest where the last decade closed, was not in evidence. Nevertheless, the seeds of riot and rebellion cannot be too far beneath the surface in a generation that is so permissive—and that seems to lack a clear sense of duty and obligation to the defense and security interests of America.

Our unmatched freedoms in America have been bought with a price—for every citizen of this land, but with all of our freedoms, citizens of every age need to be reminded that America is a nation where liberty under law is advocated. If we make license out of liberty, law and order disintegrate.

When we come to consideration of law and order, we are confronted with a complex subject. There are those who seem to feel that the breakdown in law and order has resulted solely, in recent-past years, from entangled race relations—mainly the conflicts which have, at times, arisen between blacks and whites. However, the problem cannot be so narrowly confined. Any breakdown in law and order involves many elements. In addition to any racial conflict, which has lessened, contributing factors may be the economy itself, disruptions in the social order, unemployment, rising crime, prejudice, permissiveness, lack of moral and ethical standards and values, apathy, lenient judicial decisions, and many others. Time will not allow us to go into all of these factors.

It is true that there continues to be some injustice and inequity in our social structure and human relationships. Nevertheless, this can never constitute either a moral or legal justification for people to take matters into their own hands. Those of us who feel that freedom was mainly designed to permit us to do our own thing may one day awaken to the fact that we are not contributing anything to the good of our society. As good Americans we must realize that if we are to enjoy "inalienable rights" we must, also, accept unalterable responsibilities. It has been a lack of such sense that has constituted one of our day's most serious breakdowns which, if continued, can lead only to social and moral bankruptcy.

Following the massive, rebellious protests and riots of some years back, the late Elmo Roper did a survey on the basic causes. That study shed light not only on causes and remedies of riots, and on riot behavior, but revealed a significant area of order in our cities that was obscured by the dramatic impact of the riots. His organization interviewed 500 whites and 500 blacks in each of six cities. What Roper found was more similarities than differences among the six cities.

I quote from his findings: "We found that a riot potential existed in each of the six cities, both those which had experienced riots and those which had not. While some cities were closer to the brink than others, none was immune to the possibility of riot. When the cities were ranked on a combination of indices of Negro discontent, it turned out that the city where Negro turmoil was at its peak was, indeed, in the riot column—but that the city where Negroes were least disturbed was also a riot city. Obviously, if a riot did break out in the least inflamed city, a riot could break out in any of them. The study concluded: there is no single factor or combination of factors which assures that a city will be riot-free."

The maintenance of law and order quite evidently must encompass the quality of our life as well as the economics of our life. It involves not only what kind of a living are we making, but what kind of a life are we making.

Our society continues to be plagued with a rising crime rate. Not too many months ago I read in U.S. News & World Report an article stating that the FBI found that crime was on the rise last year—and that major crimes, such as rape, murder, and armed assault had risen by 11 percent. Furthermore, right here in the nation's Capital, I heard a recent TV editorial stating that there had been 10,000 major crimes in Washington in 1979. Combatting crime and trying to bring it under even reasonable control is a tremendous task calling for relentless effort. Currently the FBI is, and has been, conducting a campaign against crime that constitutes the greatest effort in its history. It reports to be carrying on simultaneously some fifty undercover operations against the Mafia, as well as any politicians and white-collar criminals whose nefarious actions help the Mafia to prosper.

One of the saddest aspects of the thwarting of law and order is the fact that so much of the crime, in our cities and now in the suburbs, is carried on by youth. More and more young people seem to be turning to crime. Surely a factor contributing to this is that an increasing number of young people are hooked on dope—and many who are not yet hooked say, at the least, that they have tried some kind of dope. I did not research the exact number, but from all reports it is appalling the number of young people in school today who regularly take dope, or have tuned in on alcohol. Many of these youths are totally apathetic toward anything that is vital in our society. I expect that a majority of youths in America today are good citizens and, hopefully, are on the right track. It is just unfortunate that there are so many others who have been caught up in ventures that destroy their lives, which results in the breaking of our laws and thence to a disruption of order.

What has led so many youths into ways that are contrary to what are the accepted standards of right living? What has contributed to the attitudes of so many youths who have no respect for law and order, or any kind of authority? Undoubtedly there are many factors, but I want to mention just one that could, conceivably, rest on the doorstep of some of our homes. I sincerely believe that it has been the naive, progressive, totally permissive attitudes, and the abdication of exercising any kind of authority, that have held sway the last two decades—among cultured, educated, affluent people—which has thrown respect out the window, led to increasing crime and, hence, has seriously hindered law enforcement. Even in many very fine, supposedly Christian, homes parents have been too busy, or have been afraid or unwilling, to exercise any control over their children. God save the child who has grown up without respect for authority and without any discipline. Surely those parents will have to bear the responsibility for having failed in their tasks.

In addition, I think that our schools must bear part of the responsibility for wayward young people. Some of our school administrators and teachers have been so *far out*—that they should have been *put out* of our schools. I had experience with a few, a number of years back. Furthermore, some of the things that are taught in school today, as well as some things which are not taught, contribute to some of the youth attitudes and habits we have mentioned.

A few months ago General Talbott, our Chief of Staff, prepared a report to present to the MOWW Executive Committee at its midwinter staff meeting. Later, I found that, due to a lack of time, he had by-passed a part of his report—a part I found astounding.

One of the most important subjects we are taught is history. Permit me to share with you just a few excerpts from General Talbott's report:

"Do we realize that most American high school history books tilt in favor of the Soviet Union? Our sons and daughters are being taught that Lenin and Stalin were, basically, benign figures, that the Soviets are more sinned against than sinning in the Cold War, that the UN is the neglected vessel of mankind's hopes, and that Castro is an economic and social reformer.

"At the request of the Ethics and Public Policy Center of Georgetown University in Washington, D.C., Martin F. Herz, a veteran diplomat, undertook to examine how six best-selling high school history tests treated sixteen topics of the Cold War. These ranged from the Yalta agreement to the containment policy, from the Berlin blockade to the Cuban missile crisis, from the Korean War to the Vietnam conflict. The conclusions of his 76-page report, How the Cold War is Taught, are sobering. With the exception of a single paragraph in a single history book, Herz says, 'None of the textbooks can be said to present an overly favorable view of U.S. foreign policy. On the contrary, there is a tendency of several to give the Soviet Union greater benefit of the doubt than is given to the United States'."

It would seem to me that the Military Order of the World Wars has not even scratched the surface with its Patriotic Education program—which our Preamble says we propose to promote in this Nation. In light of the findings of Herz, it would seem it will require the combined efforts of many patriotic organizations such as ours to reverse this teaching trend in many of our schools.

To conclude, I think we live in a marvelous land; America is the greatest nation on earth. What's wrong with America is far less than what is right with America, and there is nothing wrong that cannot be changed through orderly processes. Against the background of this TV age, and in a lighter vein, I might even say that if you "Pour on the Heinz, you can put a lake in your bake, and give a rise to your fries." You can "fill it to the rim with Brim" and you can even get "Midasized in 30 minutes." In the final analysis, however, life is a very serious business—and we must give it our all and our best—every day.

So, I call upon every Companion of the Military Order to renew his/her love for our Country and the Flag—and to do all within the power of each of us to contribute to the order and stability of the land that we love.

As Marvin Stone, Editor of US News & World Report, wrote in his March 3, 1980 editorial, "The road just ahead runs straight uphill. It doesn't take occult powers to realize that. But to predict the more distant future requires a combination of statistical drudgery, institution and faith. The most important of these is FAITH—in ourselves and in our country—because either the presence or the absence of it can be self-fulfilling."●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEYSER, (at the request of Mr. WRIGHT), for June 5 and 6, on account of official business.

Mr. DAVIS of Michigan, (at the request of Mr. MICHEL), for June 6, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MICHEL) to revise and extend their remarks and include extraneous material:)

Mr. HAMMERSCHMIDT, for 5 minutes, today.

The following Members (at the request of Mr. SWIFT) to revise and extend their remarks and include extraneous material:)

Ms. FERRARO, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. AUCOIN, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. BROWN of California, for 5 minutes, today.
Mr. SCHEUER, for 5 minutes, today.
Mr. BOLAND, for 60 minutes, on Wednesday, June 11, 1980.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BIAGGI, immediately upon the conclusion of the dialog which was initiated by Mr. MCCLOSKEY during consideration of H.R. 6942 in the Committee of the Whole today.

Mr. CLAUSEN, on the Studds amendment to H.R. 6942 in the Committee of the Whole today.

(The following Members (at the request of Mr. MICHEL) and to include extraneous matter:)

Mr. SCHULZE.
Mr. RHODES.
Mr. ROUSSELOT in two instances.
Mr. LAGOMARSINO in two instances.
Mr. COUGHLIN.
Mr. LENT.
Mr. CONTE.
Mr. GOODLING.
Mr. LEWIS.
Mr. CONABLE.
Mr. HILLIS.
Mrs. HECKLER.
Mr. SOLOMON.
Mr. PAUL in two instances.
Mr. DANIEL B. CRANE.
Mr. DERWINSKI.
Mr. COLLINS of Texas in two instances.
Mr. FINDLEY.
Mr. COLEMAN.
Mr. ASHBROOK in three instances.
Mr. FRENZEL in five instances.

(The following Members (at the request of Mr. SWIFT) and to include extraneous matter:)

Mr. BRODHEAD.
Mr. ADDABBO.
Mr. BIAGGI in 10 instances.
Mr. SOLARZ in three instances.
Mr. GUARINI.
Mr. COELHO.
Mr. LEHMAN.
Mr. KILDEE.
Mr. SKELTON in two instances.
Mr. PEASE.
Mr. DRINAN.
Mr. AKAKA.
Mr. HUBBARD.
Mr. SIMON in two instances.
Mr. SCHEUER.
Mr. HAMILTON.
Mr. NICHOLS.
Mr. SHELBY in two instances.
Mr. MCDONALD in five instances.
Mr. PEPPER.
Mr. CONYERS.
Mrs. CHISHOLM.
Mr. LONG of Maryland.
Mr. AUCOIN.
Mr. OTTINGER in two instances.
Mr. GAYDOS in two instances.
Mr. LEVITAS.
Mr. HEFTEL.
Mr. PATTEN.
Mr. JOHN L. BURTON.
Mr. ATKINSON.
Mr. FOLEY.
Mr. ANDREWS of North Carolina.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 1786. An act to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act;

S. 2517. An act to rename certain buildings of the Library of Congress; and

S. 2666. An act to authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7428. An act to extend the present public debt limit through June 30, 1980.

A BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on June 5, 1980, present to the President, for his approval, a bill of the House to the following title:

H.R. 7428. An act to extend the present public debt limit through June 30, 1980.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Monday, June 9, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4530. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Japan (Transmittal No. 80-64), pursuant to section 36(b) of the Arms-Export Control Act; to the Committee on Armed Services.

4531. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescission and deferral of budget authority contained in the message from the President dated May 13, 1980 (H. Doc. No. 96-311), pursuant to section 1014(b) of Public Law 93-344 (H. Doc. No. 96-322); to the Committee on Appropriations and ordered to be printed.

4532. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Japan (Transmittal No. 80-64), pursuant to section 36(b) of the Arms-Export Control Act; to the Committee on Foreign Affairs.

4533. A letter from the Administrator of Veterans' Affairs, transmitting the semi-annual report of the Veterans' Administration's Inspector General, for the period ended March 31, 1980, pursuant to section 5(b) of the Inspector General Act of 1978, Public Law 95-452; to the Committee on Government Operations.

4534. A letter from the Comptroller General of the United States, transmitting a report on "Foreign direct investment in the United States—the Federal role", (ID-80-24, June 3, 1980); jointly, to the Committees on Government Operations, Foreign Affairs, and Interstate and Foreign Commerce.

4535. A letter from the Comptroller General of the United States, transmitting a report entitled "The Law Enforcement Education Program is in serious financial disarray" (FGMSD-80-46, June 4, 1980); jointly, to the Committees on Government Operations, Education and Labor, and the Judiciary.

4536. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4537. A letter from the Secretary of Health and Human Services, transmitting a report on "A review of research on the effects of lead on child development," pursuant to section 209, Public Law 95-626; to the Committee on Interstate and Foreign Commerce.

4538. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the Corporation's monthly itemized report of revenues and expenses, pursuant to section 308 (a)(1) of the Rail Passenger Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

4539. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the Corporation's monthly report on passengers carried and on-time performance, pursuant to section 308(a)(2) of the Rail Passenger Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

4540. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 1781. A bill to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes; with amendment (Rept. No. 96–1076). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7477. A bill to amend the Internal Revenue Code of 1954 to provide a three-month extension of the taxes which are transferred to the Airport and Airway Trust Fund; with amendment (Rept. No. 96–1077). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENNETT: Committee on Standards of Official Conduct. Report on proceedings against O. Robert Fordiani (Rept. No. 96–1078). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 7499. A bill to provide financial and technical assistance to encourage the use of commercial fishing methods, in certain Great Lakes waters, that are consistent with sound fishery conservation and management practices, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of Ohio (for himself, Mr. Gramm, and Mr. Stockman):

H.R. 7500. A bill to reform the regulatory program implementing the Powerplant and Industrial Fuel Use Act of 1978 so as to reduce the burden on parties affected thereunder, and to make certain technical amendments to the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Interstate and Foreign Commerce.

By Mr. DAVIS of South Carolina:

H.R. 7501. A bill to amend section 316 of the Federal Election Campaign Act of 1971 with respect to certain solicitations for contributions; to the Committee on House Administration.

By Mr. EDWARDS of Alabama:

H.R. 7502. A bill to allow State medicaid plans to provide medical assistance for institutional services for mentally retarded individuals who are not otherwise provided such assistance because they are not treated as residents of the State; to the Committee on Interstate and Foreign Commerce.

By Mr. FINDLEY (for himself, Mr. Wampler, Mr. Sebelius, Mr. Johnson of Colorado, Mr. Madigan, Mr. Richmond, Mr. Nolan, Mr. Jeffords, Mr. Grassley, Mr. Hagedorn, Mr. English, Mr. Fithian, Mr. Glickman, Mr. Skelton, Mr. Huckaby, Mr. Daschle, Mr. Stenholm, and Mr. Bowen):

H.R. 7503. A bill to establish a ceiling of 9 percent on interest rates on price support loans for 1979 and 1980 crop agricultural commodities to aid farmers during their current financial crisis; to the Committee on Agriculture.

By Mr. GUARINI:

H.R. 7504. A bill to amend the Internal Revenue Code of 1954 to provide for an investment tax credit for theatrical productions; to the Committee on Ways and Means.

By Mr. HEFTEL (for himself, Mr. Ottinger, Mr. Fish, Mr. Rousselot, and Mr. Downey):

H.R. 7505. A bill to amend the Internal Revenue Code of 1954 to provide that the energy percentage of the investment tax credit shall be 20 percent for specially defined energy property, certain alternative energy property, and qualified conservation property, and to allow refunds of the investment tax credit to the extent attributable to such 20 percent energy credit; to the Committee on Ways and Means.

By Mr. HIGHTOWER (for himself and Mr. Stenholm):

H.R. 7506. A bill to provide that a Federal agency may not require that any person maintain records for a period in excess of 4 years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after 4 years from the date of the act which is the subject of the enforcement action or fine, and for other purposes; to the Committee on Government Operations.

By Mr. LONG of Maryland:

H.R. 7507. A bill to amend title II of the Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation; to the Committee on Ways and Means.

By Mr. MARLENEE:

H.R. 7508. A bill to amend the Solid Waste Disposal Act to exempt rural communities from the prohibition on open dumping of solid waste; to the Committee on Interstate and Foreign Commerce.

By Mr. MATTOX:

H.R. 7509. A bill to amend the Internal Revenue Code of 1954 to allow individuals to elect a credit or deduction for certain crime prevention expenditures; to the Committee on Ways and Means.

H.R. 7510. A bill to provide that the interest rate on mortgages secured by one- to four-family residences and insured under title II of the National Housing Act or guaranteed under chapter 37 of title 38, United States Code, be negotiated between the borrower and lender, and that lenders may not charge discount points on such mortgages in excess of their acquisition costs; jointly, to the Committees on Banking, Finance and Urban Affairs, and Veterans' Affairs.

By Mr. MONTGOMERY (for himself, Mr. Wylie, Mr. Roberts, Mr. Hammerschmidt, Mr. Danielson, Mr. Brinkley, Mr. Edgar, Mr. Hall of Texas, Mr. Applegate, Mr. Gramm, Mr. Mica, Mr. Coelho, Mr. Guyer, Mr. Hillis, and Mr. Hansen):

H.R. 7511. A bill to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PANETTA:

H.R. 7512. A bill authorizing the Secretary of the Interior to retain as a national reserve, lands of the outer Continental Shelf included in the proposed lease sale numbered 53, and prohibiting the Secretary from leasing such lands for oil or gas production or development, except as recommended by the President of the United States and not disapproved by the Congress, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROTH:

H.R. 7513. A bill to suspend for 3 years the free world rates of duty on potassium bicarbonate; to the Committee on Ways and Means.

By Mr. SHUMWAY (for himself and Mr. Johnson of California):

H.R. 7514. A bill to provide for the conveyance of certain lands in Mammoth Lakes, Calif., to the Mammoth Unified School District, Mono County, and Mono County Water District; to the Committee on Interior and Insular Affairs.

By Mr. SOLOMON:

H.R. 7515. A bill to amend title IV of the Social Security Act to improve the aid to families with dependent children program by substituting block grants for open-ended Federal matching, to give the States a fiscal incentive to reduce error, waste, and fraud in the aid to families with dependent children program, to provide fiscal relief to the States so as to reduce overall State welfare spending and increase basic benefits for the truly needy, to encourage the States to require work as a condition of eligibility for aid to families with dependent children payments, to establish a demonstration project to provide a pilot test of the States' ability to design and implement their own welfare programs, and for other purposes; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. Scheuer):

H.R. 7516. A bill to amend the Trust Indenture Act of 1939 to make the small offering exemption under section 3(a)(8) of such act consistent with the small offering exemption under the Securities Act of 1933, to increase the amount of the small offering exemption under section 3(a)(9) of the Trust Indenture Act of 1939, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEWART (for himself, Mrs. Collins of Illinois, Mr. Mitchell of Maryland, Mr. Stokes, Mr. Bailey, Mr. Guarini, Mr. Rangel, Mrs. Chisholm, Mr. Edgar, Mr. Gray, Mr. Phillip Burton, Mr. Kildee, Mr. Seiberling, and Mr. Scheuer):

H.R. 7517. A bill to require the consideration of the impact on employment in Federal contract operations, and for other purposes; to the Committee on Government Operations.

By Mr. THOMPSON:

H.R. 7518. A bill to protect the confidentiality of data made available to the Bureau of Labor Statistics, and for other purposes; jointly, to the Committees on Education and Labor and Government Operations.

By Mr. UDALL (by request):

H.R. 7519. A bill to amend section 2 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S.C. 70a), as amended; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN (for himself, Mr. Gore, Mr. Pickle, Mr. Jones of Oklahoma, Mr. Jenkins, Mr. Lederer, Mr. Fowler, Mr. Duncan of Tennessee, Mr. Frenzel, Mr. Martin, and Mr. Moore):

H.R. 7520. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 7521. A bill to provide that U.S. citizenship shall be an eligibility requirement for any benefits wholly funded or administered by the Federal Government, and to terminate any Federal assistance toward any program of benefits in which such assistance is used to provide benefits to noncitizens; to the Committee on Government Operations.

By Mr. SEIBERLING (for himself, Mr. Downey, Mr. LaFalce, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Mottl, Mr. Scheuer, Mr. Stokes, and Mr. Weaver):

H.R. 7522. A bill to amend the Internal Revenue Code of 1954 to provide individuals a refundable income tax credit for 50 percent of the amount of energy saved during the taxable year with respect to the principal residence of the taxpayer; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.J. Res. 563. Joint resolution proposing an amendment to the Constitution of the United States to provide that Federal expenditures shall not exceed Federal revenues, except in time of war or economic necessity declared by the Congress; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. BETHUNE:

H. Con. Res. 356. Concurrent resolution expressing the sense of Congress that the President should exercise his authority to restore the peaceful and orderly processing under the immigration laws of Cuban nationals who recently arrived in the United States and to remove, in accordance with law, from the United States those Cuban nationals who participate in acts of destruction or violence at the sites of such processing; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H. Con. Res. 357. Concurrent resolution expressing the sense of the Congress that the President should exercise his authority to restore the peaceful and orderly processing under the immigration laws of Cuban nationals who recently arrived in the United States and to remove, in accordance with law, from the United States those Cuban nationals who participate in acts of destruction or violence at the sites of such processing; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H. Con. Res. 358. Concurrent resolution expressing the sense of Congress with respect to periods of silence (for private prayer, mediation, contemplation or introspection) in public schools; jointly, to the Committees on Education and Labor and the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JOHN L. BURTON:

H.R. 7523. A bill for the relief of Margot Hogan; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 7524. A bill for the relief of Brian E. McCagh; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 7525. A bill for the relief of Peter Fiala and Habibeh Jafari-Langeroudi; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 365: Mr. Royer, Mr. Forsythe, Mr. Dougherty, Mr. Roth, Mr. Yatron, Mr. Snyder, Mr. Marks, Mr. Stokes, Mr. Bedell, Mr. Whittaker, Mr. Michel, Mr. Railsback, Mr. Edwards of Alabama, and Mr. Clausen.

H.R. 1918: Mr. Conte and Mr. Moorhead of California.

H.R. 3244: Mr. Bafalis.

H.R. 3524: Mr. Jenkins.

H.R. 3696: Mr. Lungren.

H.R. 4511: Mr. Fisher.

H.R. 4949: Mr. Walgren, Mr. Evans of the Virgin Islands, Mr. Gray, Ms. Ferraro, Mr. Panetta, Mr. Dixon, Mr. Ford of Tennessee, Mr. Rosenthal, Mrs. Schroeder, Mr. Fauntroy, Mr. Drinan, Mr. Mitchell of Maryland, Mr. Nolan, Mr. Moffett, Mr. LaFalce, Mr. Dellums, Mr. Richmond, Mr. Stokes, and Mr. Conyers.

H.R. 5433: Mr. Downey.

H.R. 5610: Mr. Bereuter, Mr. Livingston, and Mr. McCormack.

H.R. 5658: Mr. Philip M. Crane.

H.R. 5704: Mr. Wirth.

H.R. 6070: Mr. Gudger.

H.R. 6270: Mr. Harris.

H.R. 6637: Mr. Collins of Texas and Mr. Kramer.

H.R. 6782: Mr. Collins of Texas, Mr. Kramer, Mr. Brown of Ohio, Mr. Jenkins, Mr. Whitten, Mr. Montgomery, Mr. Rudd, and Mr. Dannemeyer.

H.R. 6859: Mr. Pepper, Mr. Moorhead of California, Mr. Hughes, Mr. Glickman, Mr. Downey, Mr. Edgar, Mr. Neal, Mr. Jeffords, Mr. Kildee, Ms. Mikulski, Mr. Nolan, and Mr. Heftel.

H.R. 6906: Mr. Albosta, Mr. Skelton, and Mr. Neal.

H.R. 6919: Mr. Howard and Mr. Fithian.

H.R. 7017: Mr. Pursell and Mr. Oberstar.

H.R. 7025: Mr. Bevill, Mr. Fazio, Mr. Ottinger, Mr. Neal, Mr. Duncan of Tennessee, Mr. Hughes, Mr. Lagomarsino, Mr. Roe, Mr. Albosta, Mr. Murphy of Pennsylvania, Mr. Waxman, Mr. Charles Wilson of Texas, and Mr. Heftel.

H.R. 7049: Mr. Harkin, Mr. Charles Wilson of Texas, Mr. Benjamin, Mr. Bedell, Mr. Bonior of Michigan, and Mr. McHugh.

H.R. 7082: Mr. Lent, Mr. Forsythe, Mr. Dannemeyer, Mr. Walker, Mr. Jeffords, Mr. Evans of Indiana, Mr. Edgar, Mr. Goldwater, Ms. Mikulski, Mr. Simon, and Mr. Nolan.

H.R. 7086: Mr. Harris.

H.R. 7107: Mr. McDonald and Mr. Derwinski.

H.R. 7127: Mr. Campbell, Mr. Hance, Mr. Barnard, Mr. Kogovsek, Mr. Madigan, Mr. Chappell, Mr. Bereuter, Mr. Devine, Mr. Leach of Louisiana, and Mr. Winn.

H.R. 7211: Mr. Kazen, Mr. Paul, Mr. Pickle, Mr. Leach of Louisiana, and Mr. Jones of Oklahoma.

H.R. 7248: Mr. Bevill, Mr. Philip M. Crane, and Mr. Symms.

H.R. 7319: Mr. Bevill, Mr. Carter, Mr. Downey, Mr. Duncan of Tennessee, Mr. Forsythe, Mr. Frenzel, Mr. Cleveland, Mr. Guyer, Mr. Jacobs, Mr. McDade, Mr. Murphy of Pennsylvania, Mr. Neal, Mr. Petri, Mr. Scheuer, Mr. Solomon, and Mr. Walker.

H.R. 7348: Mr. Paul, Mr. Hinson, Mr. Edwards of Oklahoma, and Mr. Whittaker.

H.R. 7391: Mr. Rinaldo and Mr. Downey.

H.R. 7400: Mr. Collins of Texas, Mr. Lagomarsino, Mr. Leach of Louisiana, and Mr. Skelton.

H.R. 7424: Mr. Carter, Mr. Mitchell of Maryland, Mr. Rinaldo, and Mr. Wylie.

H.J. Res. 389: Mr. English, Mr. Robinson, Mr. Satterfield, Mr. Hubbard, and Mr. Synar.

H.J. Res. 532: Mr. Fowler, Mr. Carter, Mr. Lagomarsino, Mr. Whitehurst, Mr. Frost, Mr. Forsythe, Mr. Hamilton, Mr. Erlenborn, Mr. Mazzoli, Mr. LaFalce, Mr. Barnes, Mr. Burgener, Mr. Marriott, Mr. Long of Louisiana, Mr. Lent, Mr. Gilman, Mr. Ritter, Mr. Lott, Mr. Bedell, Mr. Mineta, Mr. Coughlin, Mr. Lungren, Mr. Pease, Mr. Vento, Mr. Fazio, Mr. Leach of Iowa, Mr. Preyer, Mr. Buchanan, Mr. Wirth, and Mr. Campbell.

H. Res. 698: Mr. Abdnor, Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Anthony, Mr. Ashbrook, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Baldus, Mr. Bauman, Mr. Benjamin, Mr. Bereuter, Mr. Bethune, Mr. Biaggi, Mr. Bingham, Mr. Blanchard, Mr. Bonior of Michigan, Mr. Bowen, Mr. Breaux, Mr. Broomfield, Mr. Brown of Ohio, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. John L. Burton, Mr. Campbell, Mr. Carney, Mr. Carr, Mr. Carter, Mr. Cavanaugh, Mr. Cheney, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mr. Coelho, Mr. Coleman, Mr. Collins of Texas, Mr. Conable, Mr. Conte, Mr. Corcoran, Mr. Corman, Mr. Coughlin, Mr. Courter, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. D'Amours, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Davis of South Carolina, Mr. Davis of Michigan, Mr. Deckard, Mr. de la Garza, Mr. Dellums, Mr. Derwinski, Mr. Dickinson, Mr. Dougherty, Mr. Downey, Mr. Duncan of Tennessee, Mr. Edwards of Alabama, Mr. Edwards of Oklahoma, Mr. Emery, Mr. English, Mr. Erdahl, Mr. Erlenborn, Mr. Ertel, Mr. Evans of Georgia, Mr. Evans of Delaware, Mrs. Fenwick, Ms. Ferraro, Mr. Findley, Mr. Fish, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Forsythe, Mr. Fountain, Mr. Frenzel, Mr. Fuqua, Mr. Garcia, Mr. Gephardt, Mr. Gibbons, Mr. Gilman, Mr. Gingrich, Mr. Goldwater, Mr. Goodling, Mr. Gramm, Mr. Green, Mr. Grisham, Mr. Guarini, Mr. Guyer, Mr. Hagedorn, Mr. Hall of Texas, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hanley, Mr. Hansen, Mr. Harris, Mr. Hefner, Mr. Hillis, Mr. Hollenbeck, Mrs. Holt, Ms. Holtzman, Mr. Hopkins, Mr. Horton, Mr. Hubbard, Mr. Hyde, Mr. Ichord, Mr. Jeffords, Mr. Jeffries, Mr. Jones of Oklahoma, Mr. Kazen, Mr. Kelly, Mr. Kemp, Mr. Kindness, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Louisiana, Mr. Leath of Texas, Mr. Lee, Mr. Lent, Mr. Lewis, Mr. Livingston, Mr. Lloyd, Mr. Loeffler, Mr. Lott, Mr. Lowry, Mr. Lujan, Mr. Lungren, Mr. McClory, Mr. McCloskey, Mr. McEwen, Mr. McHugh, Mr. Maguire, Mr. Marks, Mr. Marriott, Mr. Martin, Mr. Matsui, Mr. Mattox, Mr. Mazzoli, Mr. Mica, Mr. Michel, Mr. Miller of Ohio, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell of New York, Mr. Moffett, Mr. Moore, Mr. Moorhead of California, Mr. Murphy of New York, Mr. Murtha, Mr. Musto, Mr. Myers of Indiana, Mr. Natcher, Mr. Nelson, Mr. Nolan, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Patten, Mr. Paul, Mr. Perkins, Mr. Petri, Mr. Peyser, Mr. Pickle, Mr. Porter, Mr. Price, Mr. Pritchard, Mr. Pursell, Mr. Quayle, Mr. Quillen, Mr. Railsback, Mr. Ratchford, Mr. Regula, Mr. Rhodes, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Russo, Mr. St Germain, Mr. Sawyer, Mr. Scheuer, Mrs. Schroeder, Mr. Shannon, Mr. Sharp, Mr. Shumway, Mr. Shuster, Mr. Skelton, Mrs. Snowe, Mr. Snyder, Mr. Solarz, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Stockman, Mr. Stratton, Mr. Symms, Mr. Synar, Mr. Tauke, Mr. Taylor, Mr. Thomas, Mr. Trible, Mr. Vander Jagt, Mr. Walker, Mr. Wampler, Mr. Waxman, Mr. Weiss, Mr. Whitehurst, Mr. Whittaker, Mr. Williams of Ohio, Mr. Winn, Mr. Wolff, Mr. Wolpe, Mr. Wright, Mr. Wyatt, Mr. Wydler, Mr. Wylie, Mr. Young of Florida, Mr. Zablocki, and Mr. Zeferetti.

EXTENSIONS OF REMARKS

THE SHAM OF A BALANCED BUDGET

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues a June 1, 1980, editorial by William Randolph Hearst, Jr., editor in chief, the Hearst Newspapers, entitled "The Sham of a Balanced Budget."

It speaks for itself:

THE SHAM OF A BALANCED BUDGET

NEW YORK.—A week ago President Jimmy Carter, as Commander-in-Chief of U.S. military forces, alighted from his helicopter on the deck of the Nimitz, the aircraft carrier that has been on extended duty in the Persian Gulf.

He told the more than 3,000 assembled officers and men that such defenders of American interests are entitled to higher pay and promised that he would see that they all got raises. He meant raises for the entire military, not just the men of the Nimitz.

A few hours later, in a message to Congress on the 1981 budget (begins Oct. 1) he contended that the $616.3 billion worked out by a congressional conference committee, had provided too much for the military at the expense of social programs.

Thursday night the House of Representatives rejected the compromise budget, sending it back to the House-Senate conference committee. Republicans later obtained a vote instructing House conferees to insist on keeping the military spending figures.

Rep. Robert N. Giaimo (D.-Conn.), chairman of the House Budget Committee, said he considered the Republican motion to be the will of the House and no attempt would be made to reverse it.

The complete turn-around by the president was simply too much for Sen. Ernest F. Hollings (D.-S.C.), chairman of the Senate Budget Committee, who declared the president to be a "hypocrite, guilty of outrageous, deplorable conduct."

The senator has got something there as the president had promised us not only a balanced budget, but one with a SURPLUS.

You can forget the surplus.

You can even forget the balancing bit. Presidential election years customarily bring forth such pledges from our chief executives and lawmakers. Nothing has happened to reduce the federal bite of your income since Franklin D. Roosevelt pledged a "covenant" with taxpayers in 1932, to knock 25 per cent from his $4 billion budget. He failed, as we all know.

The hard facts are these:

Spending in the current fiscal year, ending Sept. 30, will be about $572 billion—about $8 billion more than Mr. Carter was estimating only four months ago.

Expected revenues are estimated as $526 billion—which will give us a deficit of more than $46 billion. Remember, that's $46 billion more than we have.

Here's something more likely to be closer to the truth:

President Carter alienated many liberal congressmen with his demand for a balanced budget, along with an increase of $600 million in military spending.

This did not prove to be as popular as he thought it would be, especially among taxpayers who are concerned over the weakness and growing obsolescence of our military arm, and who thought the suggested increase in spending too small.

So, making a 180-degree turn, he is seeking a retrenchment in military spending levels and an increase in social programs. Perhaps because of the tough campaigns for the votes of convention delegates, he has rediscovered that the strength of the Democratic Party consists of a coalition of urban, labor and minority groups.

Scoffed Sen. Hollings: "He (the president) doesn't want a balanced budget, he wants a campaign budget."

How much would you bet that there will be a $500 million surplus of income over outgo?

Alan Abelson, respected feature writer for Barron's, the Wall Street weekly, estimates that the optimists are off by as much as $50 billion.

It should be no mystery in Congress that when business profits fall off, companies send less tax money to the government. So it seems to most non-office-seekers at this time that lower revenues must be expected. Right off the bat that should end the dream of a surplus.

When business falls off, an increase in unemployment is a natural consequence. This means, simply, that Uncle Sam will have to pay more for family unemployment compensation checks, while the breadwinner looks for another job. After a certain age, success in finding a new job is limited, as you may learn from many people who have been notified of the permanent closing of the Ford Motor Company plant in Mahwah, N.J., across the Hudson River from us.

So here's what you may expect:

Sometime later this summer, probably before the presidential campaigns reach their hottest point, you'll be told, probably by the White House, that a balanced budget must be forgotten because of reasons beyond control.

This past week Federal Reserve Board Chairman Paul Volcker warned that we are about to have the steepest recession on record. Already the navigators are at work to steer us from the course that will lead to a balanced budget, to say nothing of a budgetary surplus.

Measure our hoped-for but elusive $500 million surplus against the more than $72 billion annually it costs companies to keep up with the paper work demanded by the government. From a Constitution of some three pages in length, we now have primary federal regulations that fill more than 60,000 pages with small print, laments Charles Gould, executive director of The Hearst Foundation, in a recent speech.

The federal bureaus that create most of these rules send out more than 9,800 different forms each year. More than 556,000,000 responses are mandated annually under penalty of the law.

The billions—at least $72 billion—do not add one whit to the worth of the merchandise you buy. However, such costs must be added to the products that are produced.

This is a major contributor to inflation, the handmaiden of the last two recessions.

Mr. Gould had some other hair-raising examples. For instance, in 1975, Congress passed 404 new laws. That's a large dose of legislative medicine for a nation to absorb in one year. Yet, while Congress was laboring on the new laws, the regulatory agencies churned out 7,496 new and amended codes.

That's an average of more than 20 new laws each and every day. Companies that can afford it must enlarge their accounting departments, increase their legal staffs.

The added cost comes right down to each one of us—the costs to the companies, plus the enormous costs of government.

Balance the budget? Not until the politicians substitute action for hypocritical campaign oratory.●

ORM FINK

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. RHODES. Mr. Speaker, the news of Orm Fink's passing touched all of us with sadness and the sudden realization that one of our finest staff members has left us. He put up a long and courageous fight against the ravages of his illness.

Orm Fink was the epitome of a congressional staff professional. He was skilled and experienced in the law and procedures of his committee. He was knowledegable and effective in the legislative and parliamentary procedures of the Congress. He understood constitutional authority and responsibility. Above all, he remained a very warm and sensitive human being.

Everyone who knew Orm, whether Member or staff, will miss his candor, his wise counsel, and his friendship.

We have, indeed, lost a good friend and I know I join with all of Capitol Hill in extending to his family our deepest sympathy and condolences.●

THE ITALIAN REPUBLIC TURNS 34—WITH CHALLENGES BEFORE IT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. BIAGGI. Mr. Speaker, on June 2, the anniversary of the Republic of Italy was observed by millions of Italian-Americans in this Nation and the wonderful people from their homeland. It is only appropriate that on

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

this occasion we pay tribute to the accomplishments of the Republic in the past 34 years as well as look ahead to its future.

After World War II, Italy was more than anxious to shed itself of the yoke of fascism under Mussolini and its subsequent constitutional monarchy. It did so in 1946 when the Italian people voted to establish a republican form of government. Many observers of the Italian scene felt this was the catalyst which allowed the Italian nation to emerge as one of the most important of our Western democracies.

Even so, these past few years have not been easy ones for the Italian Republic. The large-scale changes in governments have led to a state of constant instability. The growth of the Italian Communist Party has been both rapid as well as disturbing. The ability to control the outcome of an election, especially since the late 1970's, has posed a real threat to the strength of democracy in Italy. However, the Communists, in very recent times, have had many difficulties of their own. The relationship between Italian communism and terrorism is growing increasingly clear. It is more imperative than ever that the United States work closely with the elements of democracy in Italy—the established political parties and leaders. Italy is too important as a friend and as an ally to the United States and the European Community to fall into the hands of communism.

As we observe Italian Republic Day, it is altogether appropriate that we acknowledge the constant and varied contributions which Italians have made in all segments of our society and our culture in the United States. In America, we are fortunate to have a strong and vibrant Italian-American community which imparts its traditions throughout society.

Yesterday, it was my distinct priviledge and honor to be awarded the 1980 Bonaparte Citation by the Italian Historical Society. This citation was created in honor of Charles J. Bonaparte, the 46th Attorney General of the United States and the founder of the FBI. In attendance at this ceremony were the distinguished Attorney General, Benjamin Civiletti and Judge Edward Re, Chief Judge of the Federal Customs Court.

The ideals of the Italian-American community are best embodied in our love of family, of country, and of freedom. Our most fervent hope on this 34th anniversary is that the Italian Republic will flourish in the years ahead and serve as a sterling example for the rest of the European community. The strength of the current Italian Government must not be destroyed with the complacency which destroyed the Roman Empire.

The land of my forefathers and those of the American Italo-American community has provided us with constant inspiration in its artistic ideals as well as its social and civic ideals. As a strong and supportive NATO ally, we must be ever-vigilant of threats to weaken the Italian Republic. We truly are our brother's keeper and the strength and security of our own beloved United States can only be as secure as that of our fellow links in the chain which supports international peace and stability.●

A TRIBUTE TO RABBI HAROLD I. SAPERSTEIN, BELOVED LEADER OF TEMPLE EMANU-EL OF LYNBROOK, N.Y.

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. LENT. Mr. Speaker, on Saturday, June 14, Temple Emanu-el of Lynbrook, N.Y., holds a community day in tribute to its beloved rabbi, Harold I. Saperstein, who is retiring after serving for 47 years as the spiritual leader of the temple.

I bring this event to the attention of my colleagues because I know you will join me in congratulating this remarkable man for his magnificent record of unflagging service to his faith, his people, his community, and his country.

In these times, so filled with skepticism and cynicism, it is an inspiring experience to learn of the accomplishments of a man so totally devoted to the betterment of humanity. Throughout his long career of service to others, Rabbi Saperstein has always directed his efforts toward the goals of spiritual and social betterment for mankind.

His work and influence have ranged far beyond the congregation of Temple Emanu-el of Lynbrook. During World War II, Rabbi Saperstein served with distinction as a chaplain in the Armed Forces in the European theater. He has visited and lectured in Jewish communities all over the world, including North and South America, Europe, Asia, Africa, and Australia. He has made three visits to the Soviet Union and other Iron Curtain countries on behalf of Jews oppressed and persecuted by the Communist regimes. He has made 24 visits to Israel.

Rabbi Saperstein has been active in many organizations, and has served as chairman of the North American Board of the World Union for Progressive Judaism; as a member of the board of governors and the board of alumni overseers of the Hebrew Union College-Jewish Institute of Religion; as president and chairman of the board of the New York Board of Rabbis, the largest rabbinical organization in the world; as president of the Association of Reform Rabbis of New York City and vicinity; as vice president of Histradut Ivrit; and as a member of the board of trustees, Union of American Hebrew Congregations.

Rabbi Saperstein has lectured throughout the United States and has appeared on many television and radio programs concerning Judaism and interfaith relations.

Yet, despite this multitude of concerns and responsibilities, Rabbi Saperstein has always given first place in his heart and his duties to the needs of his congregation and his community. His devoted service to Temple Emanu-el of Lynbrook began immediately after he was ordained by Dr. Stephen S. Wise of the Jewish Institute of Religion—now the Hebrew Union College-Jewish Institute of Religion—and has continued to this day, 47 years later.

Some indication of the respect and admiration with which his congregation regards Rabbi Saperstein may be gained from the fact that the congregation granted Rabbi Saperstein life tenure in 1954, after 21 years of outstanding service, and now has honored him by naming him Rabbi Emeritus. As a further tribute, the temple school has been named the "Rabbi Harold I. Saperstein Religious and Hebrew School."

During his near one-half century of service in Lynbrook, Rabbi Saperstein has been a peerless community leader. He served many years as chaplain to the Lynbrook Fire Department and to the Nassau County Police Conference. He was prime organizer of, and continues to participate in the annual Lynbrook Thanksgiving Community Service. He has served on the Lynbrook Recreation Commission, and the Lynbrook War Memorial Committee and is an annual participant in the Memorial Day services of the Village of Lynbrook. He is a member of the board of directors of the Franklin General Hospital in Valley Stream, N.Y., and is chairman of the board of directors of the International Synagogue at the J. F. Kennedy International Airport. For his outstanding community work, Rabbi Saperstein has been honored as Lynbrook's "Man of the Year."

Mr. Speaker, this brief review of the life and accomplishments of Rabbi Saperstein provides only a hint of his superlative spiritual and community leadership. As one who has been privileged to know Rabbi Saperstein for some 40 years, I can testify without fear of contradiction to the depth of his concern for his fellow man, to his commitment to the betterment of his fellow man, and to the warmth of his outgoing personality, and to the wisdom of his counsel.

In the Book of Psalms it is written:

> Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful.
>
> But his delight is the law of the Lord; and in his law doth he meditate day and night.
>
> And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit

in season; his leaf shall not wither and whatsoever he doeth shall prosper.

Although those words were traced on parchment thousands of years ago, they well describe Rabbi Saperstein, whose lifelong delight in the law of the Lord has brought assistance and inspiration to the thousands of persons whose lives he has touched.

As one of those thousands, I offer the hope that although he is retiring, Rabbi Saperstein will continue to give us the instructive benefits of his wisdom and the solace of his spiritual guidance.

Mr. Speaker, I know my colleagues wholeheartedly join me in offering our very best wishes to this wonderful man, and to his lovely wife Marcia and their two sons, Rabbi Mark Saperstein and Rabbi David Saperstein. I know my colleagues join me in the hope that Rabbi Saperstein's retirement years will be blessed with good health, the richness of friendships and the warm glow of memories of those many accomplishment-filled years of service to others.●

MEMORIAL DAY MESSAGE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SKELTON. Mr. Speaker, the following is an editorial written by Meyer L. Goldman, publisher of the Kansas City Labor Beacon, concerning Memorial Day. I commend this article to my colleagues as being a fitting tribute to the spirit of the American union movement:

Memorial Day Message

As Memorial Day comes to an end, here are some thoughts on the relation between this important holiday, and the spirit of the American trade union movement . . .

Memorial Day has been observed as an American day of remembrance for more than a century . . . It was originally called "Decoration Day," and was a day set aside for the strewing of flowers on the graves of soldiers killed in the Civil War . . .

Its traditional date—May 30th—was designated in 1868 by the Grand Army of the Republic, a northern veterans' organization . . . In 1882 the G-A-R suggested the name be changed to "Memorial Day." . . . Later its scope was expanded to include fallen veterans of all wars . . . In modern years, Americans have made it more and more a day of remembrance for all family members who have died . . .

Memorial Day has a double meaning for almost 20 million men and women who comprise the American trade union movement . . . From the Civil War through all American Wars, large and small, to Viet Nam, American working families have provided the majority of service people in the defense of the United States against its enemies . . . American workers have the largest stake in the safety and security of their country . . .

Today they have joined all other Americans in honoring the casualties of Gettysburg, the Marne, Pearl Harbor, Bastogne, Seoul and Saigon—their parents, children and fellow-citizens who did not return to their homes and their families . . .

But this legion of union members has another group of heroes to remember on Memorial Day—the thousands of far-sighted and determined leaders who produced the American system of organized labor . . .

Beginning in times when workers had no rights—when the law placed far more value on property than on human life or dignity—these pioneers had the vision and the vigor to pursue the American dream of freedom, equality and dignity . . .

They fought battles that were in every way as crucial as American military actions. . . . They were opposed by enemies from within the country who were as brutal as foreign enemies . . . There were gains . . . and defeats . . . and casualties . . . and suffering . . . and suffering . . . Not until the Great Depression of the '30s did workers win protection under law, for their right to join in unions . . .

Union members of today are the beneficiaries—and the heirs—of those stout leaders in the mines, mills, and factories . . . on the farms and construction jobs . . . who moulded the course of workers' rights . . . The struggle has moved from the job-sites, largely to the halls of Congress and the 50 State Legislatures . . . But the effort to protect each other, and maintain an equal position in the balance between labor and industry, still goes on . . .

On Memorial Day, union members—and thoughtful citizens who are not themselves union members, but who understand the social, political and economic foundations of America—can rightfully honor the generations of dedicated union members who won no military medals, but for whom the prosperity and security of American workers are their decorations.●

OCEAN THERMAL CONVERSION PROJECT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. AKAKA. Mr. Speaker, I have long been a supporter of the ocean thermal conversion project (OTEC) as a potential avenue for relieving this country's future energy needs. And today, it gives me pleasure to place into the RECORD the informative speech of my Governor, the Honorable George Ariyoshi, which he presented to the Seventh Ocean Energy Conference on June 2, 1980:

The Future of OTEC in Hawaii and the Nation

Mr. Chairman, Distinguished Guests, Ladies and Gentlemen, I am very pleased to be with you today, and to be able to share our vision of the future of Ocean Thermal Energy Conversion—OTEC—in Hawaii and the nation. I bring you the warm Aloha of our people, and a special greeting on behalf of the members of our community who are actively working toward the efficient development of ocean energy.

A few months ago, a converted Navy barge was anchored offshore on the Leeward Coast of the Island of Hawaii, containing OTEC equipment.

It was not a very elegant craft, but it was beautiful in a number of ways.

It proved, beyond any doubt, and beyond any questioning, that it is possible, indeed, to generate electrical energy from the sea.

To be sure, the concept of OTEC had been considered possible, and even feasible, just as manned flight had been before that momentous day at Kitty Hawk, N.C.

But just as manned flight had to be proven in the field, under actual conditions, so did the concept of Ocean Thermal Energy Conversion.

In my announcement of the OTEC success, which the national media properly considered significant, I compared what the Wright Brothers accomplished at Kitty Hawk, to what our scientists and technicians had accomplished last year off our Kona Coast. Both accomplishments, without question, are of considerable significance.

The difference is, of course, that the significance and the potential of airplane flight has been considerably achieved. As an illustration of that, I flew five thousand miles last night—over an ocean and a continent—to be here today.

But the significance and the potential of OTEC is yet to be realized. The equipment used in Hawaii last year in the demonstration project will be considered crude, unsophisticated and quaint in the years to come. But the fact of the matter is that it worked, and that is what is important.

A criticism has been leveled at OTEC that the start-up costs are exceedingly great. Indeed they are, although I feel that as the state-of-the-art advances, costs will get lower. But the important thing to consider is that once the hardware is in place, the annual costs of OTEC should diminish drastically, and dramatically.

After all, the basic ingredients—warm and cold water—are provided without charge by nature. They are not subject to the wild escalation, and acceleration, in costs that have afflicted other energy sources.

Therefore, as we learn more about OTEC, I am convinced that it will represent substantial bargains, over the years, and increasingly so as we refine its applications.

We have only begun to develop its systems, and possibly we have not even begun to realize the potentials.

Given my strong feelings on OTEC, I would like to speak with you today about Hawaii's commitment to OTEC development, and also to the long-term importance of OTEC that I see for our entire nation.

OTEC development can have enormous impact on the State of Hawaii. Our Islands rely upon oil for 92 percent of our present energy needs.

At the same time, Hawaii is rich in alternate energy potentials: winds, direct solar, geothermal, biomass, and OTEC. We are actively pursuing the development of each of these Island resources, which are essentially inexhaustible.

Our State goals are set forth in the Hawaii State Plan, the first legislatively adopted State plan in the United States, and a document I consider second in importance only to our State Constitution. Under the State Plan, our objective is to, and I quote, "accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste," and to achieve "increased energy self-sufficiency."

We are aware of the many advantages which OTEC has to offer. The temperature differential required for OTEC operations is available day and night in Hawaii, the year around, which means that OTEC is available for baseload power.

Importantly, it appears at present that OTEC plants will have no major negative environmental impacts.

And while there are problems to be solved, no major technological breakthroughs appear necessary for commercialization.

Floating OTEC plants can be moved from place to place, thus providing flexibility in meeting our future energy needs.

Floating OTEC plants will conserve Hawaii's land, a limited and precious resource.

We in Hawaii are committed to the development of OTEC. We are pleased that all three of the major OTEC seawater projects now in progress in the United States are located in Hawaii. These are Mini-OTEC, OTEC-1, and the OTEC Seacoast Test Facility.

As you are no doubt aware, Hawaii feels it should be the location of the OTEC pilot plant which the U.S. Department of Energy plans to build by 1985. Our State will counsel and cooperate with any consortium which proposes Hawaii as a pilot-plant site.

We are now working to facilitate the establishment of such a pilot plant.

An Ad Hoc Committee for the Advancement of OTEC in Hawaii was formed last fall. Under the leadership of private companies, and with the cooperation and support of my Administration—including the University of Hawaii—this committee has produced a report entitled "OTEC for Oahu."

It describes the studies which will be necessary to collect environmental and design data in the sea off one of Hawaiian Electric Company's main generating stations on the Island of Oahu.

This area, off Kahe Point, is a prime location for a commercial OTEC plant, and the proposed studies will yield data useful in both designing and obtaining permits for the establishment of a pilot plant.

From the planning standpoint, our Coastal Zone Management Program is initiating an Ocean Management Program which will analyze ocean uses, potential conflicts, and community attitudes.

To the ancient Hawaiians, the ocean was a natural extension of the land—a place to work and play and travel. Today we also look to the sea as a bountiful resource, rich in minerals, food, and energy.

We are an ocean State, and the only Island State, and we believe that our future will largely depend on our ability to better understand the vast sea around us and to make wise use of its innumerable resources.

The management of our coastal zone, including our offshore areas, is thus of vital interest to us. In order to protect and develop our ocean resources, we must carefully plan the use of our ocean space.

OTEC is an important part of our planning.

From the legal standpoint, our State Department of Planning and Economic Development, in conjunction with the Department of Land and Natural Resources, has begun a study of jurisdictional and management issues regarding OTEC, mariculture, fisheries, and other uses of our coastal zone. We expect that this study will result in guidelines for legislation to set up a mechanism which will balance potential conflicting interests in licensing ocean uses.

The State has expended, and will continue to spend, substantial funds on the development of OTEC.

In the period 1972-79, our State Government and private industry spent $6 million on OTEC development in Hawaii. Our Hawaii State Senate recently adopted a resolution declaring its total commitment to the development of OTEC systems. It declared that the State of Hawaii should compete for, and share the cost with the Federal government, for an OTEC pilot plant in Hawaii; and that an appropriate in-kind or fiscal contribution will be available at the time Hawaii's contribution is required.

This resolution is very much in keeping with the direction my Administration has pointed.

I feel it is absolutely essential to develop and utilize the energy sources that are available to us in such bountiful measures, and in so doing, to be able to share our research and development with the rest of the world.

We are a small state, in terms of total land mass, and to a degree population, but we are a very large state in terms of potential, and being a living laboratory for the development of energy programs and potentials for this entire nation.

Just as we are pioneers in social structures, I think we already are emerging as pioneers in energy development and the development of potentials.

We are very proud of the work being done here in Washington by Hawaii's Congressional delegation to further these commitments by the State of Hawaii.

I am sure you are familiar with Senate Bill 1830, the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act," which was introduced by Senator Spark M. Matsunaga, and also Senate Bill 2492, "The Ocean Thermal Energy Conversion Act of 1980," introduced by Senator Daniel K. Inouye.

We commend our Congressmen, and their colleagues, for the leadership they have provided and the results they have achieved.

Thus, our Administration, the Legislature, the business sector, the academic community, and our Congressional delegation are interested and active in promoting OTEC development. We put together Mini-OTEC and the Seacoast Test Facility and we stand ready to do much more. We offer Hawaii to the nation as an OTEC laboratory both on shore and at sea.

The theme of this conference is "Ocean Energy: A Time for Action."

I have described to you some of our activities in Hawaii.

At this point, however, our future progress depends on the U.S. Department of Energy. We await DOE funds for the Seacoast Test Facility; we await DOE funds for the second deployment of Mini-OTEC; and we await the issuing of the Program Opportunity Notice for the pilot plant.

In all of these areas, we look forward to action from the DOE so that ocean thermal development will be aggressive and timely.

I have briefly described Hawaii's commitment to OTEC, and the research and development in our State, and of our desire for early action from the DOE. But possibly the most important message I have to convey today has a much broader scope. While hard work in Hawaii and in the DOE will give the nation an OTEC proving-ground and the funding to develop the technology, the success of OTEC in the long run depends upon the understanding that OTEC can be of great benefit to the entire nation.

It is not merely a technology that will be useful in Hawaii, Guam, the Gulf Coast, Florida, the Virgin Islands, and Puerto Rico. In the long run, OTEC can be of significant benefit to all Americans.

Without question, the generation of electricity by OTEC plants will help to relieve the demand for oil. We know also that the construction of OTEC plants may take place in many different communities—heat exchangers may be built in one place, cold water pipe in another, and concrete barges in a third. All these things benefit the nation.

What I have in mind, however, is a long-term benefit to the nation far greater than this. Permit me to explain . . .

I have been advised by scientists and engineers that OTEC is likely to develop in four phases.

The first phase is the generation of electricity for use by coastal and island communities such as Hawaii. This phase is significant because it will demonstrate the commercial OTEC concept and provide energy to local communities. However, this phase will not have a major effect on the national energy problem.

The second phase will involve the relocation of energy-intensive industries to OTEC sites. Shortages of energy supplies will induce industries to go where the energy is, in order to obtain an assured supply. The manufacture of aluminum, titanium, and steel is energy-intensive, as in the processing of manganese nodules for copper, nickel, and cobalt.

Industries such as these may seek out OTEC as an energy supply far more dependable than Middle East oil.

In the third phase, OTEC plants will produce hydrogen and ammonia for use as fuel—hydrogen as fuel for commercial aircraft, and ammonia as fuel for major power grids in the form of ammonia fuel cells.

In the fourth phase, ammonia will become a substitute for gasoline and alcohol in internal combustion engines. I understand that research on ammonia-fueled automobiles already is underway.

It is in phases three and four that OTEC will have its greatest value to our nation—in the generation of ammonia and hydrogen as fuels for our economy. In order to substitute ammonia for conventional fuels, we will need very large quantities of it. OTEC will be able to meet that challenge and that need.

It has been calculated that within the 200-mile zone of islands under U.S. jurisdiction, including the Marianas and the Marshall Islands, it is possible to produce about 70 quads a year of ocean energy product. This is equivalent to the United States total energy use.

In the Hawaiian Archipelago alone, it is possible to produce 10 to 15 quads per year. Ten to 15 quads per year is equivalent to the amount of oil which the United States imports from the Middle East. Thus, it is possible for the Hawaiian Archipelago to eventually replace the Middle East in America's fuel economy.

Obviously, we are talking about decades of research and planning, a huge investment in OTEC plants, and a major change in capital and equipment for our fuel economy.

On the other hand, we also are discussing a potential new fuel system which can guarantee us a continuous supply of fuel, produced in essentially unlimited quantities, in waters controlled by the United States. And we are discussing a fuel system which we expect will have minimal environmental impact.

We in Hawaii have a vision of the great contribution which OTEC can make to the welfare of the nation. We believe that the rate of OTEC development, and its success, depends a great deal upon explaining this potential to all the people of America. This Conference will go a long way to achieving that goal if those of us present will take the long-term national view, and will share that view with government agencies, industry, consumer groups, and all of our citizens.

We have an important message to convey, and the hour grows short and late.

Permit me to mention one final concern.

Without question, our nation's energy supply is of strategic importance to the nation's economy and security. We desperately need a new fuel system which can guarantee us a continuous supply of fuel, and thereby declare our independence from OPEC. We need a new fuel system which is researched, designed, constructed, and operated by American companies.

The United States has shown its technological leadership in OTEC development, and we must remain leaders. Every effort must be made to support American industry's involvement in OTEC development. Federal Government initiatives are of decisive importance in this area. The highest priority must be given to the award of contracts to the companies which will actually design, construct, and test the nation's OTEC plants.

The time for talking is rapidly running out, and the time for action is very much at hand.

We cannot allow a lack of understanding of the technical aspects or potentials of OTEC on the the part of our Nation's citizens to dissuade us.

We cannot allow indifference, or questioning, within the scientific community, to deflect us from this very essential effort.

To be sure, there are many technical problems to be recognized, and to be solved, if OTEC is to become a reality. Many of these problems, and these questions, are being addressed in this conference.

But, were not these questions and these doubts present during every scientific breakthrough in the history of mankind, including flight?

Have we not always been presented with problems, and also with the pervasive voice of those of a negative persuasion who would say that any new idea is not feasible?

I subscribe to the proposition that the progress of the human mind, and society, and environment has been the success of enlightened persons who were able, in whatever generation or circumstance, to rise above those who said achievement was impossible.

Certainly, achievement is possible, and I think we have an outstanding opportunity to prove that once again in the development of ocean thermal energy conversion, and eventually making it available for the benefit of mankind.

In closing, I want to bring you greetings from the people of Hawaii, and to extend our most sincere invitation to come to Hawaii this December to attend the National Conference on Renewable Energy Technologies.

Mahalo and Aloha.●

QUESTIONNAIRE RESULTS

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. CONABLE. Mr. Speaker, my constituents in the 35th Congressional District of New York recently responded to my annual questionnaire on national issues which was distributed in mid-April. A larger number replied this year than in the past several years, perhaps indicating a renewed desire to share in the decisions of government. I share their responses with our colleagues and include the results with these remarks.

RESULTS OF 1980 CONGRESSIONAL QUESTIONNAIRE OF CONGRESSMAN BARBER B. CONABLE

(1) Given the state of the economy, should federal income taxes be reduced? Yes, 68.4 percent; no, 28.1 percent; no answer, 3.5 percent.

(2) Would you favor a 10-percent value added tax (a national sales tax on every transaction) if other taxes were correspondingly reduced? Yes, 17.2 percent; no, 79.9 percent; no answer, 3.1 percent.

(3) Should Congress approve military draft registration of: 19 and 20 year old males? Yes, 75 percent; no, 22 percent; no answer, 3 percent. Females of the same age? Yes, 47.9 percent; no, 45.2 percent; no answer 6.9 percent.

(4) After a review of safeguards should we continue to develop nuclear power plants? Yes, 65.7 percent; no, 30.2 percent; no answer 4.1 percent.

(5) Should government regulation of the trucking and railroad industries be sharply reduced? Yes, 63.1 percent; no, 30.2 percent; no answer, 6.7 percent.

(6) Do you believe federal, state and local government employees should be required to join the social security program? Yes, 76.5 percent; no, 20.4 percent; no answer 3.1 percent.

(7) Should our country boycott the Summer Olympics in Moscow? Yes, 76.2 percent; no, 22.5 percent; no answer, 1.3 percent.

(8) Do you approve of President Carter's handling of the Iranian hostage crisis? Yes, 39 percent; no, 54 percent; no answer, 7 percent.

(9) What steps would you support as a means of reducing inflation: Wage and price controls, 32.8 percent; higher taxes, 1.1 percent; reduce government spending, 85.2 percent; lower taxes to encourage investment, 56 percent.

(10) If spending by the federal government is to be reduced, where should it be done: Across the board, 34.1 percent; defense, 9.6 percent; education, 14.8 percent; energy development, 4.7 percent; foreign aid, 65.3 percent; government retirement benefits, 56.4 percent; health, 15 percent; job training and assistance, 22.6 percent; social security, 12.2 percent; welfare, 54 percent.

(11) What is the Nation's No. 1 need? 1. Control inflation, 21.5 percent. 2. Stronger leadership, 10.4 percent. 3. Reduce Government spending, 8.4 percent. 4. More/alternate energy sources, 8.0 percent. 5. Stronger defense, 4.5 percent. 6. Honesty in Government, 4.0 percent.●

MR. CARTER CLAIMS VICTORY AS UNEMPLOYMENT AND INFLATION LOSSES MOUNT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. COUGHLIN. Mr. Speaker, President Carter's ill-conceived and ill-advised attempts to blame the American people for our Nation's economic woes are deftly skewered by Mr. Louis Rukeyser in a column which appeared in the May 28, 1980, edition of the Bulletin in Philadelphia.

With unemployment running at 7.5 percent and millions of Americans scrapping to make proverbial ends meet, Mr. Rukeyser points out that the latest pronouncements by administration spokesmen would have us believe that the inflation war is over and won. As we all know, however, administration officials have a peculiar knack for misstating facts even when they are painfully obvious to American consumers and businessmen.

The so-called mild recession predicted by the Carter gaggle of economists has descended quickly into one of the most devastating recessions since World War II. Mr. Carter, who criticized former President Ford for a 6.4 percent inflation rate, is trumpeting the fact that inflation has dropped from 18 percent to 11 or 12 percent. It's funny how the window glass in the Oval Office distorts one's vision.

Meanwhile, the beleaguered American consumers—exhorted only weeks ago to put away their credit cards and stop consuming so much—are now being told that it's OK to go out and palm off their plastic to various and sundry commercial establishments. The onerous credit rules, imposed at the height of the Carter crusade against inflation, already are being cut back. The catch, however, is that many credit institutions have already imposed the tougher and higher rates which consumers will continue to pay whether or not the Carter crew decides that the credit restraints should be abandoned completely.

The Rukeyser column delineates the wonderful world of Carter administration's doublespeak which makes George Orwell one of the greatest prophets of all time.

While I commend the Rukeyser column to my colleagues, I think it would be far more beneficial if Mr. Carter, his advisers, and his economic pundits were to read it and digest it carefully.

The article follows:

WE'VE WON THE WAR ON INFLATION, U.S. DECIDES

(Louis Rukeyser)

Well, that was a short war on inflation.

Aren't you glad you did your part?

The word from Washington is that President Carter wants consumers who took his advice a few weeks ago and put away their credit cards to dust them off and resume spending. And Treasury Secretary G. William Miller, asserting grandly that consumers had "done their job" in curtailing credit purchases, assures us paternally that we can now "go back to more normal spending."

Thus ends the third-fastest economic battle of the last decade, surpassed in brevity only by Gerald Ford's button-happy campaign to "whip inflation now" ("WIN") and Jimmy Carter's own melodramatic "moral equivalent of war" on energy ("MEOW").

If there's any justice, they should be teaching these three for centuries in the world's military colleges. Next to them, Hitler's blitzkriegs at the start of World War II were as poky and prolonged as the Hundred Years' War. And Israel's triumph over her Arab neighbors in the Six Day War of 1967 looks downright leisurely.

What's going on? Have we truly scored an overnight victory against the dread disease of inflation? Or are those fellows in Washington just kidding us again?

Three thoughts suggest themselves (but read them fast, before the government's next economic "war" comes—and goes):

—America's citizens are more patriotic than their politicians.

For all the talk about the alleged new cynicism of the populace in the wake of Watergate, double-digit inflation and assorted other governmental disasters of the last decade, the average American still listens when his President offers counsel, no matter how spurious.

And when Jimmy Carter blamed an important share of our current inflation woes on irresponsibly high consumer debt and spending, millions of Americans took his (highly inaccurate) words to heart.

The American public did more in 15 days than Congress had in 15 years. In fact, by doing exactly what their leaders told them to do, they scared the pants off them. Now we're told, in effect: "Hey, gang, ease up. You didn't have to take us all that seriously. This is Washington, remember?"

The issue was overwhelmingly a phony from the start.

This central fact has now, in effect, been acknowledged by the perpetrators themselves.

What we were seeing was merely the latest chapter in Washington's perennial effort to invent outside scapegoats for its own ongoing fiscal and monetary villainy.

In truth, inflation is no more caused by overuse of the Visa card than it is caused by workers trying to get a raise or businessmen trying to boost their profits. Inflation is caused by government, the guys who (surprise! surprise!) are doing all the finger-pointing at everybody else.

As for consumer debt, it was (a) an entirely rational response to government's blatant failure to check inflation, and (b) slowing its growth anyhow, before the governmental lectures, as borrowers began to fret about the looming recession. This is normal and savvy consumer behavior; if our politicians had behaved anywhere near as sensibly over the last 15 years, we wouldn't have any inflation problem to discuss.

The 1980 economy had been worsened, not helped, by the government's ill-timed crusade against consumer credit.

Retail sales were unnecessarily damaged. The money-market mutual-fund industry, which had given the small saver a long-overdue break, was thrown into disarray. And a recession that Carter had forecast as "mild and short" began to look anything but.

So now Bill Miller, whose earlier economic achievements include a hyperinflationary spurt as Federal Reserve Board chairman and a spectacularly inept prediction last summer that the recession was already "half over," benignly tells us that it's okay to forget what he told us last. There was no apology, just more Washington insincerity.

Would you buy a used credit card from these fellows?●

SOUTH AFRICAN POLICE KILL TWO COLORED STUDENTS AMID WAVE OF LABOR UNREST

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. DRINAN. Mr. Speaker, as a member of the Human Rights Committee of Members of Congress for Peace Through Law, I would like to express my great concern over the human rights situation in South Africa.

I am inserting in the RECORD an article from the Washington Post, by Caryle Murphy, of May 29, 1980, which describes the repressive measures of the South African security forces undertaken in response to nationwide strikes and student boycotts. Nonwhite students and workers are demanding, according to the article, an end to the segregated educational system and higher wages.

In Port Elizabeth, police arrested 275 colored junior high school students on May 28 who were protesting the detention of their fellow students. In Johannesburg, colored and Indian students recently resumed their boycott of classes, calling for the release of their fellow students.

And in Cape Town security police wounded three students and killed two others when they fired into a group of youths who were stoning their vehicles. These tragic acts of violence can only serve to further inflame passions throughout South Africa.

I commend the following article to the attention of my colleagues:

SOUTH AFRICAN POLICE KILL TWO NONWHITE PUPILS IN GROUP STONING CAR

(By Caryle Murphy)

JOHANNESBURG, May 28.—Two pupils were shot dead and three others wounded today when police fired into a group of youths who threw stones at their passing vehicle in a nonwhite neighborhood in Cape Town, police said.

The deaths come amid a nationwide wave of student boycotts and labor unrest that has put the government and police on edge. It appears to be gaining momentum despite numerous arrests of pupils, teachers and community leaders in the last few days.

Although police refuse to say how many people they have detained under the country's extensive security laws, the latest detentions are clearly the largest number since the massive security crackdown of black leaders in October 1977.

The Johannesburg Star newspaper reported that 65 persons have been detained since Sunday under security laws. The South African Institute of Race Relations tabulates that since late March, 239 persons have been arrested, but an unknown number of those were subsequently released.

If anything, the arrests appear to have fueled the turmoil and the students' determination to confront the authorities. In Johannesburg, Colored and Indian students who had returned to classes last week resumed their boycott Tuesday, demanding the release of imprisoned colleagues.

In Port Elizabeth, a traditional stronghold of black activism, police today arrested 275 black junior high school students who were marching into town protesting the detention of some students, police said. This is the boldest action by students in that town in more than two years. All marches and outdoor gatherings are prohibited throughout the country.

The shooting of the students, said by witnesses to be about 13 or 14 years old, occurred in a section of Cape Town restricted to Colored persons, the official designation for persons of mixed race under South Africa's apartheid laws.

The country's 2.5 million Colored population reacted with anger and shock to today's shootings, which are likely to inflame further the passions that led to the unrest.

"I was shocked," said Colored mechanic Petrus Present, who witnessed the incident. "One child was standing still, he was not running away. He was facing the police. I saw him fall to the ground."

Present, who said he has two teen-agers who are boycotting their classes, called the atmosphere in Elsies River Township, where the shootings occurred, "very tense."

Coloreds have been at the center of the present unrest, which began six weeks ago, when secondary and university students in the Cape Town area initiated a school boycott protesting the segregated education system. The boycott soon spread to Colored schools in other parts of the country and took on the character of a broader protest against apartheid, the system of racial segregation.

In the last two weeks numerous black schools have joined the boycott, particularly in Port Elizabeth, where 28 black schools are shut down. In the tiny black homeland of Qwa Qwa, 2,000 marching students were dispersed by police this week.

At the nonwhite University of Western Cape, students pelted the dean with eggs and tomatoes yesterday after he called police to break up a student meeting he had prohibited. Today, students were planning another meeting despite orders not to.

Meanwhile, the Committee of 81, an anonymous group of student leaders from each boycotting school in the Cape Town area, today condemned the detentions and what they termed the "Gestapo-like action of the police."

"This shows that the country is moving away from a democracy and becoming a totalitarian police state," the committee said.

In addition to the ferment at schools, black workers have begun to make increasingly more vocal demands. In Cape Town, more than 800 striking workers are at an impasse with the management of the area's slaughterhouses over a union recognition dispute. In Durban, nearly 6,000 textile workers were fired yesterday after striking over wage grievances. The workers say they do not accept being fired.

The government has begun to take a harder line toward the school boycotts. Police Minister Louis Le Grange Monday warned those who sought to turn the student unrest into a political confrontation with the government that "they will get what they are looking for."

In his statement on the deaths, Le Grange said today that the shootings followed "at least 50 cases" of vehicles being stoned in that area. The minister said about 400 youths were throwing stones today.

The police had strict orders to use firearms "only in the most extreme cases," Le Grange said. He did not say what action was to be taken against the four policemen involved.●

REFUGEE PROBLEMS INCREASE IN SOMALIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SOLARZ. Mr. Speaker, the Ogaden region has been plagued with fighting between ethnic Somalis and Ethiopians since March 1978. Ethnic

Somalis fleeing from the increased fighting are reported to be entering refugee camps in Somalia at a rate of 1,000 per day. Despite the attention presently focused on the Vietnamese, Cambodian, Afghani, and Cuban refugees, the crisis in the Ogaden has been called by a U.S. relief official as "the most serious refugee problem in the world."

Most recent reports estimate that 670,000 refugees are crowded into 25 camps in Somalia, 90 percent of whose members are women and children. An additional 530,000 refugees from Somalia remain outside these camps.

Starvation and disease is rampant in this region. Despite increased aid by Siad Barre's government, economically strapped Somalia remains unable to supply needed food and medical supplies. The implementation of U.S.-, U.N.-, and Iraqi-sponsored emergency relief programs has been hindered by poor roads and a shortage of trucks.

United States and world opinion must be focused on the "forgotten refugees" of the Ogaden. Thousands of lives and the political stability of this area which is of strategic importance are at stake.

I am submitting the following article from the Washington Post for the benefit of my colleagues:

Somali Refugees: World Ignores Unending Flood

(By Edward Cody)

Tug Wajale, Somalia.—Omar Aw Yusif hung limply on his mother's crooked arm, weeping in a soft, sickly rasp.

His balding head tipped in a futile nod toward her dry breast, and his withered legs dangled out of the wrinkles drooping from his pelvic bones. At 3, Omar looked less than a year old. Before he got started in life, starvation and disease had brought him to the verge of death in this squalid refugee camp just inside the border with Ethiopia.

The stream of ethnic Somalis like Omar and his family into this and 24 other refugee camps in Somalia at a rate of 1,000 a day for the last several months has created what a U.S. relief official called "by far the most serious refugee problem in the world." Somalia's refugee population has tripled in the last year, reaching an officially estimated 670,000 in camps and 1.2 million in all—more than one-fourth of the normal Somali population.

About 90 percent of the refugees in camps are women and young children, according to Somali government estimates. Many of their husbands, sons, brothers, or fathers are members of the Western Somali Liberation Front, the main guerrilla group fighting to throw off Ethiopian control over the 127,000 square miles of eastern Ethiopia known as the Ogaden. Many others are dead, victims of the little-noticed war that has simmered for two years and intensified over the last six months.

"They're dead, they're fighting or they're with the camels," said a U.S. relief official in the Somali capital of Mogadishu.

As a result, the camps have, in large part, become rear areas for the Ogaden war—places where the Somali guerrillas' families can find refuge from the combat and benefit from a growing effort by the Somali government and foreign donors, chiefly the United States, to feed and care for them.

The influx has raised fears that, unless the struggle for control of the Ogaden region is resolved, the Somalis pouring across the border could turn into a nation of perennial refugees like the Palestinians, with unforeseen consequences for stability in the critical Horn of Africa. Their disruptive potential is regarded as particularly dangerous as the United States negotiates for use of Somali military facilities in exchange for military and economic aid which is likely to result in a closer relationship to the government of President Mohammed Siad Barre.

In addition, relief officials estimate hundreds of thousands more residents of the southern Ogaden's Sidamo region also have become displaced persons within Ethiopia because of fighting between Ethiopian troops and the southern Ogaden guerrillas. Officials fear that these refugees—mostly Oromo people native to the area—could also come across the border to seek refuge in Somalia even though they are not ethnic Somalis.

"It's a problem that's going to be there until it's solved," said Maj. Gen. Jama Mohammed Ghalib, Somalia's minister of local government and rural development, who is responsible for the refugee effort.

Ghalib and other Somali officials complain that the world has turned away from the misery of refugees from the Ogaden to focus on the fleeing Vietnamese, the escaping Cambodians and now, on Cubans sailing to Florida.

"Sometimes we feel that if we put the refugees in a boat and sent them out into the Indian Ocean, we would get more publicity," said Saeed Gase, Ghalib's deputy on the National Commission For Refugees:

On a recent tour of the United States, Canada and Europe, Ghalib said that he found plenty of sympathy but little real willingness to resolve the problem. "They always said they were interested, they were sorry, but I don't know," he said, holding out his palms.

A tour of several camps and conversations with Somali and foreign relief officials revealed a problem of stunning proportions for Somalia, which is one of the world's 25 poorest nations, with per capita income below $100 and chronic food shortages in the best of times.

One face of the problem is that of Omar Aw Yusif. His mother carried him for seven days across the Ogaden scrub land before the family made it to this transit camp, a three-hour drive from Hergeysa at the northern end of the Somali wedge. The mother, Amina Bedeh, 40, brought her six other children on the trek in the second week of May. She sought "medicine for my boy."

She and her husband have a simple explanation for the decision to abandon their farm at the village of Lafa-Issa, near Jigjiga in the Ogaden region, which the Somalis call Western Somalia.

"We were afraid," she told a visitor to the hut here where she has set up housekeeping. "There were wars going on there."

A neighbor, Abdi Elam Durir, 60, told a similar tale. After his cattle were slaughtered and Ethiopian soldiers raped the women of Sheed Dheer village, Durir packed a few belongings and headed out with his wife and five children.

"There is nothing worse than seeing your wife raped," he said. "Killing is better than that."

In all the camps, Somali refugees tell stories like Durir's: guerrillas of the Western Somalia Liberation Front fighting Ethiopian troops, Ethiopians mounting retaliatory raids on Somali villages and Somalis fleeing to escape the brutality.

Almost without exception, the refugees are proud that their sons and husbands are fighting in the Western Somalia Liberation Front. Ossob Abdillahi Mohammed, who fled to Sabaad Camp near Hergeysa six months ago, said one of her sons is a commando whom she has not seen for two years. A second son was killed in combat and two daughters were machine-gunned by revenge-seeking Ethiopian soldiers, she said.

Her eldest son is still at home. At 15, he soon will be joining the guerrillas in Ogaden, she said.

"We are enemies," she explained through an interpreter.

Recalling the two-week trek into Somalia, she said she has walked for so long that "my feet were watering." When a visitor commented on her stark, slim good looks despite her travail, she replied: "If you could see me the way I was back home, you would not recognize me now."

A medical relief worker said her gaunt face showed she was anemic, the result of an inadequate camp diet of rice, oil, dates and sugar.

Officially, the refugees are supposed to receive about 20 ounces of food a day—the size of a big hamburger. In fact, food shortages have reduced their rations to about 16 ounces a day at best.

Many receive less than that. Shortages became so severe at one camp recently that residents stormed the food store to ransack whatever was available, sources said. Such shortages contributed to the death of 700 children in the first three months of the year at Agabar Camp.

Camps in northern Somalia would have been left with close to nothing if Iraq had not dispatched an emergency shipment of 4,400 tons of dates, oil and blankets to the port of Berbera last March, relief officials say.

Distribution of even these goods has been slowed in recent days because of an inquiry into alleged irregularities by the Somali colonel running the northern relief efforts. During an investigation and audit, officials closed the warehouse at Hergeysa, blocking shipments to the camps.

The main problem, however, is transport, officials say. Staffan Bodemar, head of the United Nations High Commission on Refugees team in Somalia, said he needs nearly 100 trucks, but has only 25.

As a result, refugees were going hungry here at Tug Wejale Camp while 838 tons of dried milk sat waiting in a warehouse on the Soviet-built pier of Berbera harbor. Hundreds of yellow plastic bottles of Iraqi-supplied cooking oil also lay strewn about the stucco building in the humid coastal heat.●

ANDY C. McEUEN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the remarkable career and prominent record of service of my friend and constituent, Andy C. McEuen.

Andy has contributed much of his life to the advancement of education. A graduate of the University of Southern California and the University of California at Berkeley, Andy has served as associate superintendent and superintendent of the Oxnard Union High School District for 8 years. He also served as a principal, business department chairman, and teacher in the district since 1951.

Andy also chaired the California Association of Secondary School Administrators for 5 years, acted as ACSA region XIII president, and served as a CASSA State representative.

A most distinguished citizen of his community, Andy served as the Boy Scouts of America council fundraising chairman, United Fund district chairman, and as a member of the Ventura County Juvenile Justice Committee.

Andy has earned the respect of many of the residents of Oxnard, and I feel as do my constituents that he has been an outstanding asset to his community.●

OVERREGULATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. HUBBARD. Mr. Speaker, one has only to glance at the daily Federal Register to realize that the executive and independent agencies have evolved into a fourth branch of Government with hosts of regulations which carry the force of law without legislative consideration and administrative rules which are written by a bureaucrat who is elected by no one and is responsible only to the agency head.

I would like to insert the text of a letter from Superintendent Bill Brown of the McCracken County Public Schools, Paducah, Ky., which certainly enumerates this situation very clearly:

> This correspondence is pursuant to the alleged violations of Title IX of the Educational Amendment of 1972 by the McCracken County Public Schools. The following information will further laminate the total situation.
>
> It has always been the policy of the McCracken County Board of Education to comply with all laws and regulations relative to the educational needs of the students of this district. The Board of Education has made a concerted effort to provide an excellent athletic program for the girls and boys of the district. When the Title IX Amendments were enacted by Congress and directives were sent to local educational agencies by HEW, certain guidelines were required. The McCracken County Public Schools initiated an immediate program to comply with every guideline which was set forth by HEW. This school system did not stop with a program that would meet minimum requirements. Specific steps were taken to ensure the very best opportunity for all students, both from a general educational and athletic standpoint. Girls athletic teams were organized even before the Title IX Amendment went into effect.
>
> Since we have, hopefully, survived an alleged complaint, there are some observations we feel compelled to present in retrospect. Hopefully, Congress will see fit to take corrective action on the deplorable manner in which HEW endeavors to ensure compliance with Title IX. Listed below are some thoughts on the situation:
>
> 1. The names of the complainants were never released. HEW claimed this was in violation of regulations. It is our contention that no person or public entity in a democratic nation should ever be accused without knowing who the accuser might be. The possibility exists that the complainants may not even live in this school district.
>
> 2. HEW operated from a philosophy that the school system was automatically guilty. Every communication with HEW personnel implied guilt. If the McCracken County Public Schools communicated with their constituency in the same manner HEW personnel communicated with us, a massive uprising of the citizenry would be inevitable.
>
> 3. The manner in which HEW handled this complaint is a typical and tragic example of bureaucracy in action. This case typifies a tragic truism of bureaucracies first function: That is to perpetuate the bureaucracy and survive at all costs.
>
> 4. This case typifies bureaucratic arrogance and waste. The McCracken County Board of Education had a procedure set forth to solve complaints on the local level. The procedure was never given an opportunity to work. The school district adopted a grievance procedure in accordance with HEW guidelines. There is no doubt in our mind that if the procedure had been allowed to function, this complaint would have been satisfactorily solved at the local level. HEW's reason for not allowing the grievance procedure to function was that the complainants would not agree to go through the district's grievance procedure. We feel very strongly that if the complainant did not want to go through the grievance procedure, then the complaint should have been dropped by HEW immediately.
>
> 5. According to HEW, one complainant stated that numerous meetings had been held with the Superintendent and the Assistant Superintendent and proven unsuccessful. HEW appeared to accept that assertion. We informed them that was an outright prevarication, however, they made no effort to take corrective action. There is no plausible excuse for a school system that is attempting to perform to the full extent of their capacity to be subjected to the innuendoes and negative attitude displayed in this particular situation. HEW ignored and violated their own regulations at every opportunity.
>
> 6. This total fiasco is a flagrant example of wasting taxpayers' money and educators' time. We are cognizant of the fact that many of the bureaucratic organizations in government are so overstaffed that they have to search for things to do. Unfortunately, public school districts are at the opposite end of that spectrum. We are not provided with adequate funds to employ sufficient staff. Consequently, the man hours used in attempting to satisfy this complaint could have been utilized much more effectively in satisfying the educational needs of the youth of McCracken County.
>
> This fiasco was very simply a negative, nitpicking, poorly handled endeavor in futility.
>
> 7. Public confidence in government is at an all time low. Much of the blame for this condition lies in the ceaseless bungling, arrogance, lack of incentive, apathy, ineffectiveness, coercion, over-regulation, and flagrant disregard for the intent of the law of various bureaucratic governmental agencies; HEW in particular.
>
> It is our concerted opinion that governmental agencies should be held accountable for their actions. The only way public confidence can ever be restored in government is to make all governmental agencies accountable to the Congress.
>
> The McCracken County Board of Education has received considerable assistance from Senator Wendell Ford, Senator Walter Huddleston and yourself. We are most appreciative of that assistance. There is no way to estimate the kinds of actions the McCracken County Board of Education would have been subjected to in the absence of help and support by you three gentlemen.
>
> We wish to express to you our profound appreciation for the assistance you have rendered in our behalf. It is our fervent hope that the Congress of the United States will take a close look at the various governmental agencies. We hope these agencies will be required to operate under the intent and purpose of the various laws governing their existence. We also hope that these various agencies will not be allowed to overregulate in an effort to justify their existence. We believe each governmental agency should be required to be totally accountable for their actions.
>
> Any assistance you can render to alleviate this deplorable situation will be most gratefully appreciated.●

AMERICA'S FOUNDATIONS SUBJECT OF NEW STUDY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. BIAGGI. Mr. Speaker, this morning's Washington Post contains an article on a subject which I have been deeply interested in for some time. The article written by veteran Capitol Hill correspondent, Spencer Rich, discusses a study on America's private and business foundations conducted by the National Committee for Responsive Philanthropy. The study concludes that these foundations despite enjoying a major tax exemption provided by the Federal Government operate in great secrecy and more importantly according to the study give "startlingly small" amounts of money to new charities concerned with minorities, women, consumers, the poor, the elderly, the disabled, and the environment.

As an original member of the House Select Committee on Aging I have long been concerned over the lack of commitment by foundations to projects benefiting older persons. I make this observation for a large majority of foundations although I am aware of some which have made great strides in recent years.

I service as chairman of the Subcommittee on Human Services of the House Select Committee on Aging. Next week, the subcommittee will be releasing a major report entitled "Future Directions for Aging Policy—A Human Service Model." One of the key points of the report is the fact that other sources beside the Federal

Government dollar will have to be tapped to meet the increased social and human service demands of our rapidly expanding elderly population. Foundations with assets of over $2 billion annually should be as expected as any other source to help shoulder the burden.

In the months ahead I intend to more closely examine the precise nature of the tax-exempt status which has been granted to foundations as well as look more closely into aspects of how foundation funds are awarded to various groups and organizations. The National Committee for Responsive Philanthropy has completed an important study and at this point in the Record I insert the Washington Post article entitled, "Charity Groups Secrecy Criticized":

Charity Groups' Secrecy Criticized

(By Spencer Rich)

Although the nation's private and business foundations enjoy major tax exemptions and give away $2 billion annually, many operate largely in stealth and secrecy and refuse to make public the details of their operations, investments and beneficiaries, a new study charges.

The National Committee for Responsive Philanthropy also said the foundations give "startlingly small" amounts of money to newer charities concerned with minorities, women, consumers, the poor, the elderly, the disabled and the environment. Instead, they tend to pile their money into "long-established relatively well-known charities with very traditional approaches to social problems."

The committee's charges were made in a two-year study of the 208 largest foundations, whose assets account for $19 billion of the $34 billion in assets held by the nation's 21,500 foundations.

In the survey, the panel, whose board includes officers of the Consumer Federation of America, NAACP, National Black United Fund, National Organization for Women and National Council of La Raza among others, sought information on 22 key points. The committee said these were the results:

Thirty percent of the 208 foundations either failed to reply or declared they don't make public reports. The committee said the group included Chrysler Corp. Fund, Eastman Kodak Charitable Trust, Western Electric Fund, Olin Foundation, Newhouse and Annenburg Funds and the Gulf Oil Foundation of Delaware.

Twenty-nine percent provided some information but so little that the committee rated their response unacceptable. D.C.'s Cafritz Foundation and Public Welfare Foundation were in this group.

Thirty-seven percent were rated acceptable in providing public information.

Four percent were rated excellent—led by the C. S. Mott Foundation of Flint, Mich. The others were Northwest Area Foundation, Bush Foundation, Dana Foundation, W. K. Kellog Foundation, Commonwealth Fund, Carnegie of New York and Rockefeller Bros. Fund.

Timothy Saasta, a committee official, said failure of many foundations to provide information on how to apply for a grant, the standards of judgment and objectives of the foundation made it hard for minority groups and individuals to apply for foundation money.

Although foundations must file some of this information with the Internal Revenue Service, and keep a copy of the filing in their main office for six months for public viewing, Saasta said access is still difficult. Those living outside Washington where reports can be viewed at IRS by appointment or the foundation's home city are mostly shut out.

Although the Cafritz Foundation received a "score" of 47—just below acceptable—an official here provided a list of grants and instructions on how to apply. Neither document included information on investments, holdings, salaries and expenses, but the IRS document at the Cafritz headquarters included that.

The committee said most foundation grants go to schools and education and health groups, with virtually nothing to organizations of the poor, minorities or environmental movements.

For example, it said, a 1978 study of 153 foundations done by the Community Support Fund showed that in the Washington area, natural resources and environment groups got nothing, consumer affairs groups got one-quarter of 1 percent, housing and neighborhood development groups got 2 percent. One private high school (St. Albans) received "more than the entire category of housing and neighborhood development."●

ETHNIC OPPRESSION IN ROMANIA

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SCHULZE. Mr. Speaker, within a week, the House of Representatives will again take up the issue of continued most-favored-nation trade status benefits for Romania.

Last year, 125 of my colleagues joined me in voting to terminate that status, because of the dismal human rights record of Romania, which is one of the most deplorable even among Communist states.

One facet of that record is the Romanian regime's brutal treatment of its minorities, among them 2.5 million Hungarians, who are subjected to a relentless campaign of discrimination, cultural deprivation, and forced assimilation. This campaign resulted in one of the most courageous acts of dissent of our time, the protest letters of Mr. Károly Király, former alternate member of the Romanian party Politburo. Mr. Király has sacrified his high position, risked the well-being of his family and his own life by expressing his conscience and speaking out against the oppression of his fellow Hungarians. As a result of his letters he has been exiled, subjected to the most vicious charges, and has lived under constant police surveillance and harassment ever since.

Last January, I visited Romania and intended to meet Mr. Király to get his opinion firsthand. However, the Romanian authorities denied me the opportunity to meet him on the most flimsy pretexts. His voice of protest, however, could not be silenced. Last February, he sent another extraordinary protest letter to Romania's Prime Minister, Ilie Verdet. The letter reveals the promises he received from the Romanian leadership in an obvious attempt to silence him after his first letters of 1977. All of those promises have been broken, and the campaign of cultural genocide continues unabated. I submit to you Mr. Király's letter as further evidence of the oppressiveness of the Ceausescu regime.

Before we discuss Romania's trade status once again, I urge my colleagues to pay close attention to the words of this courageous individual. We must not turn a deaf ear to those in the Communist world, who are natural allies in our fight for the betterment of the human condition.

At this point, I enter into the Congressional Record the letter of Károly Király—a great champion of human rights.

Comrade Ilie Verdet,
Prime Minister of the Socialist Republic of Rumania.

Two years have passed since our last conversation at your office in the company of Petre Lupu, Teodor Coman and Janos Vinte. Since that time, numerous events have transpired in the life of our country. The 12th. Congress of the Rumanian Communist Party and the 2nd. Congress of the Democratic Front of the Socialist Union have been held. Our conversation on October 4, 1977 was particularly significant. At your urgent request, I submitted a memorandum (of which you kept two copies) which summarized several key discussions and confrontations.

In essence, we agreed that I would drop the idea of forming a new organization for the co-inhabiting nationalities, whose function would have been to defend their constitutional rights. I made this concession on the condition that—and I quote from the above mentioned memorandum:

"* * * all necessary steps are taken to guarantee the rights provided for in the Constitution and other laws, including the practical implementation of these rights in all areas—education, cultural activity and use of the native tongue in all organizations and official bodies without discrimination of any kind—provided that disciplinary action is taken against those individuals, government employees and police officials who violate such rights.

"I abandoned the idea of a new nationality statute on the grounds that the Party and government leadership will take concrete measures to respect and implement the Constitution and the laws of the Socialist Republic of Rumania. My opinion with respect to the nationality statute is that as soon as those provisions of the Constitution and other laws pertaining to the nationalities are implemented, in other words, when the nationalities are granted the unobstructed use of their rights, the proposal for a nationality statute becomes unnecessary. In that event, I am willing to give up the idea which was presented in my letter to Comrade Verdet.

"What I do consistently maintain is that definite steps must be taken toward the elimination of the existing shortcomings and abuses, wherever and in whatever form they appear. Only in this way can a nationality feel itself at home, that its mother country, the Socialist Republic of Rumania, is a good mother, who loves each one of her sons equally, without regard to nationality."

During the discussion, you asked me to be patient, because the Party would take steps to remedy the mistakes which had been committed. I was gratified by your assertion that these steps would be implemented after a thorough and detailed analysis of the recommendations which I, and many other nationality representatives in Rumania had made. Though I did not trust entirely in these promises, I hoped and impatiently waited for the deeds to follow. Unfortunately, practically nothing has been done to solve these problems, to change the situation of the national minorities. I am now compelled by these broken promises to raise this question again. What has happened in the area of minority problems, has engendered only dissatisfaction.

In the area of education the opportunity for children to study in the mother tongue has narrowed even further. Classes in the mother tongue have been eliminated, and in their place, mixed Rumanian-Hungarian, Rumanian-German, etc., classes have been set up. The discriminatory Decree Law 258 was not repealed. In the Bánát and the Mezoség region of Transylvania there are communities and cities where there is not a single Hungarian-language class, elementary or trade school. In Moldavia, in entirely Hungarian Csángó communities, no form of education in the mother tongue exists.

No improvements can be found in the higher levels of education either, where the situation is also continuously deteriorating.

Nothing has changed for the better in the use of the mother tongues of the national minorities. In the administration of justice, the state organs, etc., the only language permitted is Rumanian. In meetings of the Party, the trade unions, the Communist Youth League, as well as in meetings of industrial or agricultural workers, all presentations are made in the Rumanian language, even where the overwhelming majority of the audience is not Rumanian. The Rumanian language remains in use even at meetings of the Nationality Workers' Councils. It appears that religious service is the only occasion when the mother tongue may be used without restriction. However, the Moldavian Csángó villages are an exception even to this. In spite of the fact that the inhabitants are all Hungarians and Roman Catholics, they have Rumanian priests, and as a consequence, their services are conducted not in their Hungarian mother tongue, but in the Rumanian language. Not to mention the fact that in the Moldavian villages inhabited by Csángó Hungarians all forms of schooling and instruction in the mother tongue have been eliminated for two decades. In the last census they were denied even the possibility of declaring themselves Hungarian, and were officially declared Rumanian. Such actions would not have happened in the past, even under the most reactionary regimes.

As regards the Nationality Councils, their activities are determined exclusively by orders from above. These Councils do not represent the interests of the nationalities. The people belonging to these nationalities cannot participate in the activities of the Councils, and do not elect Council members. The local authorities and the Party Central Committee appoint them. The Party uses these Councils to enforce its own discriminatory nationality policies. To get to the head of these Committees, one must have the following qualifications:

He should be a man without character.

He should be able to clap vigorously.

He should speak only when the Party asks him to, and he should say what the Party wants him to say (naturally one must submit one's speeches in writing beforehand).

An extremely burning issue is the total lack of protection of the collective rights of Rumania's national minorities, whether the nationality group is large, as in the case of the Hungarians and Germans, or small as in the case of the Serbs, Russians, Turks, Bulgarians, etc. None of them enjoys collective rights.

This lack precipitates the dissolution of ethnic communities and renders their members increasingly defenseless against the policies of forced assimilation. After getting rid of the Jews, we are going in the most direct way toward getting rid of the Saxons and Swabians, and finishing the denationalization of such small ethnic communities as the Armenians, Tartars, Turks, etc. All that remains is the problem of the Hungarians, which is more intricate and more difficult to solve. It was for this reason that a special strategy and tactic was worked out, which may be found—naturally in veiled form—among the propositions of the 10th Congress of the Rumanian Communist Party. During the Central Committee conferences which preceded the Congress, the problem of what road the Party should follow to "solve the nationality question" was raised. Three hypotheses which could be pursued toward this solution were worked out: assimilation, homogenization, integration. These propositions, accepted by the Party, upheld the idea that in Communism there is but a single nation. In Rumania, this nation will be realized through the unification (homogenization) of the socialist society, naturally as a consequence of total assimilation carried out by any means and at any price.

Thus, the saying that "the end justifies the means" is a guiding principle. The panel working under the direction of Comrade Paul Niculescu Mizil came to the conclusion that these methods and ideas have become discredited in both theory and practice. Consequently, they proposed a new formula: "the creation of the unified socialist nation". This reactionary formulation dressed in socialist clothes, however, can no longer be found in the documents of the 11th. and 12th. Congress. On the other hand, other formulations such as the following, were born:

(a) Let us speak the language of socialism.

(b) Let us speak the language of technology—that is instead of the mother tongue, the national minorities of Rumania are provided a political language. Thus, the concept of the political nation was borrowed from the arsenal of 19th Century nationalism, and as a consequence, steps were taken to intensify the forced assimilation of the national minorities:

All community organizations with nationality characteristics were abolished.

The Ministry whose task it was to oversee and protect the nationalities was abolished.

The question of a nationalities statute was obviously forgotten (one has not been enacted for 25 years).

The Hungarian Autonomous Region was abolished.

Since 1955, education in the mother tongue has been curtailed, in the beginning through merger, then through elimination.

Naturally in each case it was emphasized that these steps aim at the solidification of the fraternal unity of the Rumanian and co-inhabiting nationalities; that they reflect the most righteous policies of Marxism-Leninism for the solution of the nationality question. I think there is no reason for me to make any further remarks on the nationality policies of the RCP led by First Secretary Comrade Nicolae Ceausescu. The generous overindustrialization of Transylvania, particularly of the Hungarian inhabited areas, about which so much is made, and for which so much gratitude is expected of the locals, is based on this policy.

On the excuse of labor shortage, masses of people from Historic Rumania are brought not only into the cities, but into the villages as well. If it were true that all this is being done out of love for the nationalities, then the possibilities of study in and use of the mother tongue would not be hindered. The use of the "language of socialism" and "technology" would not be required instead of the mother tongue.

The propaganda of the Party employs all the means at its disposal to try to make the Rumanian inhabitants believe that the Hungarians and Germans must pay for the atrocities committed during the time of Hitler and Horthy. The truth is that the fascist system committed many offenses against the population of Transylvania but it is much more guilty in its atrocities against the progressive forces in Hungary. Every fascist system in the world is guilty of crimes against humanity. Neither Antonescu's fascist system, not the Maniu Guard is exempt of guilt for such crimes in 1944-45. They committed not a few crimes against the Rumanian, Jewish, Hungarian and German population. Let us not differentiate among fascisms. Neither was worse or better depending on national characteristics. The peoples whom they terrorized in equal measure, cannot be held accountable for their deeds. Thus I cannot agree with raising guilt feelings in any people, be it German, Italian, Spanish or Rumanian. To maintain such a psychosis regarding the Hungarian population is malice premeditated with political ends in mind. (See the article "The Night of St. Bartholomew", printed in Scienteia in 1978, and other articles).

Basically, the main reason for these schemes, is to mislead the masses of the national minorities, to demoralize them with confusion and disorder, and thus totally to disarm them in the face of the policy of forced assimilation. Those who try to protest nationality oppression from abroad, are renounced on the pretext of "meddling in Rumania's internal affairs".

It is time to renounce those reactionary theories and practices that discredit the accepted ones necessary for the building of a thoroughly developed society. It is time to renounce nationality policy devoid of any sincerity.

In the interest of correcting the errors and abuses committed against the nationalities and the national question, and of placing the fraternity and friendship between the Rumanian and the other nationalities on a healthy footing, I consider it necessary that the following measures be instituted:

1. Life within and without the Party must be democratized. The machinations of the totally discredited personality cult must be renounced if the nationality question is to be assured an honorable solution.

2. With regard to the nationality question:

(a) Three official languages should be equally recognized in the Socialist Republic of Rumania: Rumanian, Hungarian and German.

(b) A suitable Nationality Statute should be enacted.

(c) Organizations with elected leadership should be established for the nationalities to practice and protect their rights, as well as to serve the friendship and fraternal cooperation between the majority and the minority nationalities.

(d) In those areas where ethnic communities, be they Hungarian, German, Serb, etc. are in the majority, autonomous local administration should be established on the county or province level. Even if the Rumanian inhabitants are in a majority in the country as a whole, there are places, communities, cities, indeed entire provinces in Transylvania and the Bánát, where people belonging to the various nationalities live, and where they represent the majority.

(e) Radio and television programing, and the press should be provided in three languages: Rumanian, Hungarian, and German.

(f) In Transylvania the three languages should be taught in a parallel manner in the schools, and either none of them or all three of them should be mandatory.

All this I propose and insist upon, since equality cannot exist in a subordinate way. Whatever is subordinate cannot be equal, especially in the problematic area of nation and nationality. A subordinate man cannot be equal as a citizen, he cannot be free of material, moral, and intellectual oppression, he cannot be equal to his fellow man, before the Creator and the law. A just society can only exist in a country with a social system which realizes social and political equality not in words but in practice.

Only a society which has the courage to solve problems with maximum sincerity and in good faith can be free, and only such a society has the right to call itself socialist. If the Socialist Republic of Rumania carries out such measures, then it can rely on all its sons under any circumstances, whether the problem be sovereignty, or the integrity of the country's borders. Only in this way can our country take its place in the ranks of civilized people, and only in this way can it realize complete unity and lasting friendship among all its citizens, regardless of nationality. The restoration of the rights of the national minorities would in no way hurt the Rumanian people. It does not conflict with their interests and aspirations. The reason the co-inhabiting nationalities have very few rights is not that the Rumanians have too many. On the contrary, it is to the detriment of all if some are lacking rights, since this lack hinders understanding.

The idea of a Rumanian nation superior to others in its past, present, and future, raises empty illusions in the majority and a feeling of inferiority in the country's other inhabitants, who do not receive equal treatment before the law. Placing questions concerning the co-inhabiting nationalities in the light of such claims to superiority bring forth Nazism with all its consequences. The time has come, Comrade Verdet, to face up to the truth, not to allow illusions to cloud our vision, and not to mislead anyone with beautiful, well sounding phrases. The people of these lands have learned over the course of history not believe words, but deeds. As the Rumanian saying goes, "An abundance of talk is poverty". Never and nowhere has there been so much talk about democracy, equality and just solution of the nationality problem as here for the past few years.

With faith in the future,

KÁROLY KIRÁLY.●

SUPPORT FOR AUTO FUEL EFFICIENCY ACT OF 1980

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. PEASE. Mr. Speaker, I regret that I was in my congressional district for primary election day in Ohio Tuesday when the House considered and passed the Automobile Fuel Efficiency Act of 1980 (S. 2475). I want to express my support for this constructive legislation.

The vitality of our national economy depends upon the condition of basic industries like the auto industry. And you do not have to be an economist to know that the present condition of our auto industry is poor and getting worse by the day. Nationwide, nearly 300,000 auto workers are out of work because of forces largely beyond their control. In my own district, the unemployment rate has climbed to 13 to 14 percent in two counties where the local economy rises and falls with the fate of the auto industry. Entire factories and assembly plants have been idled for weeks at a time.

Certainly I strongly support the fuel efficiency standards prescribed by the Energy Policy and Conservation Act, and I think they can be met. It is in our national interest that we not take one step backward from the overall standards to be met in the 1985 model year. But this does not mean that we should do nothing while an industry that provides one out of every five jobs for Americans is in danger of permanent damage.

Throughout the 1950's and the 1960's, the Japanese Government worked in concert with Japanese auto manufacturers to improve their competitive posture and their products. The Japanese are now reaping the benefits of passive and active Government-business collaboration. And I think it is about time we learn from their success.

Among the thoughtful provisions of this bill is one that will allow new domestic auto manufacturers to increase their production here in America. This is precisely the sort of responsible steps we should be taking to help revive our beleaguered auto industry and to increase employment for American auto workers.

Most importantly, this bill exempts very low-volume auto manufacturers from certain paperwork and administrative burdens. It allows some auto manufacturers to combine their domestic and foreign fleets for computing fuel-efficiency performance. And it extends the time available to auto manufacturers to carry forward or carry back fuel-efficiency credits earned by exceeding current mandated standards in the Energy Policy and Conservation Act. In so doing, this bill demonstrates that Government and the business sector can work cooperatively without having to lose sight of the common good.

I commend my distinguished colleague, Congressman DINGELL, and all of the members of his subcommittee for improving this bill in their deliberations and for bringing it to a vote in the House in timely fashion.●

CUBAN REFUGEES ARE FEDERAL RESPONSIBILITY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. LEHMAN. Mr. Speaker, the number of Cuban refugees arriving in south Florida has now exceeded 100,000. Although efforts are being made to settle some of these persons in other parts of the United States or in other countries, most will undoubtedly come to live in the Miami area.

The burden which this imposes on the local and State governments is tremendous. The Dade County school system is particularly hard hit. The cost of educating each additional refugee child is $1,000 above normal costs.

The administration and the Congress have a responsibility to provide assistance to State and local governments which, through no fault of their own, find themselves struggling to serve thousands of additional residents.

A recent editorial from the Miami Herald rightly places the responsibility squarely with the Federal Government. I would remind my colleagues as they read these remarks that they too may have to face this problem as some refugees begin to find permanent homes outside of south Florida. I urge them to keep open minds as proposals for assistance are made and to recognize that we in Congress must not shirk our duty to the areas affected by large numbers of refugees.

The editorial follows:

[From the Miami Herald, May 15, 1980]

U.S. POLICY INVITED REFUGEES, SO U.S. MUST PAY THE FREIGHT

The Carter Administration, in opening its arms to the new wave of Cuban refugees, seems destined to slam an elbow in the teeth of the local governments—particularly Dade's—upon which they are descending.

That mustn't happen. If it should, it would pervert humanitarianism. Where is the humanitarianism in opening America's gates to all comers and then telling local taxpayers, "Here they are—you take care of them"?

Yet that could be the result of the President's apparent intention to grant the influx of Haitians and Cubans "asylum" rather than "refugee" status. Involved are some 20,000 to 25,000 Haitians already in Dade County, plus an exodus of Cubans that already has passed 40,000.

The President at long last acted Wednesday to try to stop the flotilla. The Government itself should transport the refugees from Cuba, because only then can U.S. authorities even begin to control those it allows to come here.

Granted, the Administration does face a Hobson's choice. If it granted refugee status to the Haitians and Cubans already here, the Government fears that might trigger a monumental rush toward Florida of people from impoverished lands throughout the Caribbean. Yet if it grants these newcomers asylum instead, it risks dumping the cost of caring for them upon the communities to which they gravitate.

The reason is that Federal law entitles refugees to Government assistance, but persons receiving asylum are not included. As refugees, the Haitians and Cubans would be entitled to Government relocation aid, subsistence and job-training benefits, and medical care. Conversely, the asylum option requires that Congress appropriate funds for these purposes. If Congress balks, local taxpayers will have to pick up the tab.

That clearly is unconscionable. It creates precisely the situation that Fidel Castro hopes to create: backlash against Cubans fleeing his regime. Added to the resentment and fear already generated by the mental defectives and convicts Castro has mixed among the Cubans awaiting transport from Mariel, it threatens to turn Castro's failures into an American domestic political crisis.

Let the President and Congress bear one fact clearly in mind: They and they alone created this problem, and they and they alone must bear the financial responsibility of their actions. South Florida's governments simply do not have the financial resources to pay the bills for chaos custom-ordered by their national Government.

Nor, purely on principle, should they. The Refugee Act of 1980 stipulates that after today, groups of people cannot be granted blanket refugee status; their applications must be evaluated one by one. That act did not envision the Havana 10,000 or the exodus from Mariel to Key West that Fidel Castro subsequently triggered. Nor did the President anticipate, when he declared his "open heart, open arms" policy toward these desperate human beings, that Castro would empty jails and asylums into the boats crossing the Straits of Florida.

But Congress wrote the Refugee Act of 1980; Dade Countians and Florida's state government didn't. And the President authored the policy that made a shambles of U.S. immigration law; Dade Countians and Florida's state government didn't.

Let Mr. Carter and Congress recognize where Federal responsibility requires Federal help. And let them do it by addressing to the local governments impacted by the refugees an unstinting policy whose first words are, "Pay to the order of . . ."●

SPIRIT OF HELSINKI VIGIL 1980

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues the plight of Vladimir Nikolayevich Osipov, who is a prisoner of the Soviet system of justice.

Vladimir Osipov is a man with a dream—he hopes to see freedom in Russia. He continues to dream of a free country despite the fact that his own freedom has been so sharply curtailed—he has spent 13 of his adult years in prison. Vladimir Osipov stands convicted of anti-Soviet activities—which consisted of organizing public poetry readings and later editing Russian cultural journals. His crime was a belief in the need to preserve the Russian heritage and culture.

Life in prison has been debilitating for Vladimir—his current sentence of 8 years at hard labor was begun in 1975 and has caused him serious health problems. In March of this year, we have learned, he was transferred to Vladimir Prison, where he is now being kept in solitary confinement. This prison is believed to be one of the most restricted in the Soviet Union, and we greatly fear that his transfer could be very damaging given Vladimir's failing health.

Many have spoken out against the suffering of Vladimir Osipov and his fellow "refuseniks" who are standing up in support of the most basic of human rights. We must continue to pledge and provide our support to these courageous individuals and help in the fight for their freedom.●

BOONDOGGLE ON THE COLORADO RIVER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. BROWN of California. Mr. Speaker, when the House passed H.R. 2609 last February 7, most of my colleagues were caught unaware of the significance of the legislation and its enormous budgetary implications. Also, since last February 7, the House, the Senate, and the administration have all been hit with budget-cutting and budget-balancing fever, which required reconsideration of a number of previously passed proposals. H.R. 2609, a bill to increase authorizations for appropriations for the proposed giant desalting plant at Yuma, Ariz., was last considered by a committee of the Congress over 1 year ago. At that time, much of the information which called this project into doubt was not available. When the House took this bill up as one of its first actions during this session of Congress, most Members were unaware of the controversy surrounding this project.

Mr. Speaker, quite frankly, I believe we should reject this bill and completely reevaluate the proposed desalting plant, as the General Accounting Office recommended. We still have that opportunity. I hope we take it.

A recent article on this controversy, from the March-April 1980 issue of Wildlife Digest follows:

BOONDOGGLE ON THE COLORADO RIVER

(By Susan McDowell O'Connell)

A 1974 decision to sacrifice money rather than water may cost U.S. taxpayers over a billion dollars.

"I've never heard more people call an authorized project a 'turkey.' " says Congressman George Brown (California), explaining why he's leading the effort to stop construction of the world's largest desalting plant near Yuma, Arizona.

"When you stood beside the irrigation return flow ditches from the Welton-Mohawk Irrigation District, you could smell the salt. It was like standing beside the ocean only without the breakers." This quote from T. R. Martin of the U.S. State Department explains why in 1961, Mexico started complaining about the liquid we were sending down the Colorado River.

In that year, the opening of 65,000 acres of reclaimed desert just north of the border for irrigated agriculture, plus the damming of Lake Powell, nearly doubled the salt content of the river water entering Mexico, pushing it from "fresh" to "brackish." Simply, more salt was being carried in less water, as "fresh" water was diverted for irrigation and salty drainage returned to the river. In 1973, when the Mexican president visited to formally complain about salt damage to his country's crops, and America was eyeing its neighbor's new oil and gas discoveries, a "salt" agreement on water quality was finally signed. In 1974, Congress hurriedly approved a $98 million complex to desalt irrigation return flows from Welton-Mohawk, to be completed in 1978.

Today, the plant remains unbuilt, and, because its estimated cost has ballooned to $238 million (July 1977 estimate), new authorization is needed from the Congress. Even without it, we are honoring our agreement via an $11 million canal that sends the offending drainage to the ocean instead of the river. Then why is the plant still being considered? Because of the water "lost" to the seven Colorado River Basin states through this bypassing.

When the Mexican agreement was signed, these states insisted that it not cost them "dollars, water or energy." According to Guy Martin, Assistant Interior (DOI) Secretary: "To them, it was an international problem, whose resolution should be borne by the nation as a whole." The Bureau of Reclamation (now the Water and Power Resources Service) admits that the plant, and other planned Colorado salinity control projects, were justified on the basis of social and political pressures rather than for economic reasons.

Congressman Brown feels it is reasonable to expect final construction costs exceeding $500 million, given the normal experience of cost escalation when scaling up from small projects—and the proposed plant is ten times larger than the world's biggest, located in Saudi Arabia. It will also be expensive to run (between $14-$50 million annually), and the government's plan to use electricity from a nearby federal coal-burning plant is being challenged by two basin states wanting the power themselves.

Arizona State University agriculture economics professor William Martin estimates that the water the U.S. finally delivers to Mexico from the desalting plant will cost $125 an acre foot. "I don't know any farmer who'd use the water if he were paying for it," he remarked. A May 1979 estimate by the General Accounting Office (GAO) places the price even dearer: $338 per acre foot. In that same report, the GAO recommended that Congress temporarily defer funding the plant until a reevaluation of its feasibility, possibly including more economical alternatives, is completed.

Are there alternatives? According to DOI, complete federal buyout of the Wellton-Mohawk District would cost $1 million a year less than going ahead with the desalting plant. "This obvious option was rejected by the Nixon Administration because it didn't wish to offend powerful and indispensable political allies by proposing any change in the status quo in Arizona," asserts Congressman Brown. Both the Environmental Protection Agency and the Department of Agriculture offered other options to allow continued farming, such as a strong basinwide water conservation program. Other possibilities range from the obvious—raising water prices, growing water-stingy crops, installing better irrigation systems—to seemingly far-out ones like using lasers to level farm fields (which tripled water use efficiency in tests at Wellton). However, warns DOI's Martin, "The alternatives offered today are similar to those eliminated earlier as not acceptable to the basin states."

Even with the desalting plant and other salinity control projects, GAO predicts the river may still become too salty by the turn of the century for many uses. The reason: $5 billion in slated upstream water diversion projects. Dr. Brent Blackwelder of the Environmental Policy Center criticizes Congress for continuing to authorize more water projects that aggravate the very problem to be solved.

"We should ask what indispensable contribution does Wellton-Mohawk make to U.S. agriculture?" says Congressman Brown. "Is it worth more than $1 billion to keep these 65,000 acres and 150 farms in production?"

"The desalting plant is a symbol of wrongheaded water policies that will bankrupt this nation if we continue down the path of the federally subsidized 'technical fix,'" concludes Brown. His legislative assistant, Tim Lynch, adds, "The authorization bill [which has already passed the Senate] has been considered minor legislation, mainly from a lack of public awareness. However, with some publicity, the plant could become a national symbol of wasted money, a real 'boondoggle.'"●

BIAGGI MOURNS MURDER OF LEADING IRISH PROTESTANT LEADER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. BIAGGI. Mr. Speaker, as chairman of the Ad Hoc Congressional Committee for Irish Affairs, I was shocked and saddened to learn of the murder yesterday of John Turnley, prominent member of the Irish Independent Party.

Deliberate acts of political assassination and violence have occurred with disturbing regularity throughout the history of the Northern Ireland conflict. Each act sets the course of peace and moderation that much further back. In the case of the Turnley murder, it was especially heinous as he was shot to death right in front of his wife and children.

John Turnley was one of the most articulate spokesmen on the Protestant side in favor of Irish unity. Despite being a Protestant he was opposed to majority rule by Protestants. His interest was in seeing a durable solution achieved to benefit all the people of Ireland.

The cause of peace, justice, and human rights in Ireland has been a difficult one filled more often with tragedies than triumphs. The continuation of violence will only prolong the suffering. All violence whether civilian or official based must end if peace is ever to come to Northern Ireland.●

RAPID INNOVATION IN COMMUNICATION TECHNOLOGY

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. AUCOIN. Mr. Speaker, the Task Force on Industrial Innovation, which I chair, is looking into ways to stimulate innovation in the American economy. It should be no surprise that we have found regulation to be one of the chief impediments to increased innovation.

The Washington Post yesterday published an article describing the tremendous increase in technology which has occurred in the communications business. Unfortunately, the availability of this new technology has been restricted by FCC regulation. Moreover, regulation has dampened the incentive for even further gains.

Now the FCC has decided to deregulate computerized communication services. The result will be a diffusion of a new technology and an increase in productivity. The FCC decision has also provided the stimulus for hundreds of companies to get into the computer business. That's good because it increases the likelihood of even further innovation in this important field.

Mr. Speaker, I insert the article in the RECORD at this point:

INFORMATION BUSINESS BOOMS

(By Thomas O'Toole)

"If the airlines had progressed as rapidly as this technology," mused Stanford University economist Edward Steinmuller, "the Concorde would be carrying half a million passengers at 20 million miles an hour for less than a penny apiece."

What Steinmuller meant was the technology of the information business, where progress is measured at a dizzy pace. There are electronic mailboxes, electronic answering services, electronic message centers, electronic file cabinets, electronic telephone directories and even electronic libraries.

Electronic typewriters correct spelling mistakes before mailing letters. Electronic telephones let the deaf "talk" to each other. Engineers in Long Island send electronic blueprints to their colleagues in Los Angeles. Sick children get their homework assignments and complete them electronically. The nation is on the threshold of the era of the smart machine.

Take the silicon chip, the tiny integrated circuit that's smaller than a fingernail and serves as the memory for thousands of small computers. Hook one to a telephone and the phone remembers hundreds of numbers that can be dialed with the push of one button.

Today's chips store a maximum of 64,000 bits of information. Next year, chips will be available that store 10 times that. By 1985, chips storing 1 million bits are expected to be in use. Computer scientists talk of putting up to 30 million bits on a single chip, almost 500 times the memory capacity of today's smartest chips.

There's also a political reason the smart machines are about to get smarter: the little-noticed decision recently by the Federal Communications Commission to deregulate computerized services at each end of the telephone line.

That decision allowed the nation's two biggest phone companies to sell those computer services, giving American Telephone & Telegraph and General Telephone their first chance to enter a business that's been dominated by computer companies like IBM.

"The FCC decision means there's going to be an explosion in this business, it's going to grow 10- or 20-fold in the next 15 years," AT&T Vice President William G. Sharwell said in an interview. "I think every business and every residence will someday be dependent on computer services."

The FCC took as much time reaching its decision as it has reaching any it made in the last 25 years. Before even forming a recommendation, the FCC staff went twice to the computer industry for its comments. The second inquiry brought more than 10,000 pages of industry comment. The FCC staff took five months writing its recommendation to the commission.

"In all my experience here," said Thomas Casey, deputy bureau chief of the common carrier division, "I have never seen another document get as much attention and time."

Casey said that if the FCC did not deregulate computer services at the ends of the phone lines, the FCC would be swamped with challenges and lawsuits. Casey said he also questioned the wisdom of regulating a business where innovation and improvement are so commonplace.

"Terminal equipment is getting smarter and smarter and smarter," Casey said. "How can you put a tariff on smartness? How do you measure the IQ of a telephone?"

In voting for deregulation, FCC Chairman Charles D. Ferris said he looked at the issue in the broadest possible way. He said he asked himself what might happen to the information business if the FCC put up a single new barricade to its growth.

"I concluded that it's better that the listeners, the viewers and the readers make the judgment who it is that provides them with their information," Ferris said in an interview. "I think they can certainly make the choices as well as seven people at the FCC."

Encouraged by the FCC decision, hundreds of companies are getting into the information business. The newcomers range from the smallest specialty computer firms to giants like IBM and Xerox.

Typical of the new unregulated services is the X10 to be offered by Xerox next year to speed the movement of paperwork between cities.

The X10 will link offices by rooftop microwave, beaming what's printed on paper to satellites that will relay the information in less than one second to rooftop antennas anywhere in the country. The X10 service will include "smart" copiers that pre-edit text for mistakes and a video service that transmits still photographs for what Xerox calls "teleconference" calls.

"We weren't sure about this business because we weren't sure we'd see black smoke or white smoke out of the FCC," said one Xerox official. "Now we see this business growing at a fantastic rate."

Computer experts believe the biggest impact of the FCC decision will be on the American home, where the telephone will be used to call up the latest news, hotel and restaurant reservations, language lessons for children and chess and backgammon classes for adults.

Bills will be paid by the transfer of bank funds by phone. People will be able to dial their home phones to warm or cool their house or just to check thermostat settings.

They'll call home to turn on the oven before they leave work and after dinner be able to call out to retrieve the kinds of information that only libraries provide.

"Ways will be devised to pass charges along this information network just like the banks do with larger amounts of money," said one computer expert at Massachusetts Institute of Technology. "This will allow 'Wizard of Oz' experts to earn a living just answering questions for customers."

The deregulation of enhanced telephone services has triggered some concerns. One is that the use of the telephone to transfer bank funds to pay bills may open it up to fraud and theft.

"If a store wanted to post a statement into my computer, I'd be happy to signal my bank to pay that bill," said MIT computer engineer Al Vazza. "On the other hand, I'm not sure I want to give some third party the authority to withdraw funds from my bank account. There has to be some safeguard system in all this."

There's also the very real issue of privacy. Computerized telephone service offers businessmen unique opportunities to tap into competitors' files and banks, and insurance companies to peer over their private lives. How will the FCC regulate that?

"Regulation has nothing to do with this but I think this is one of the issues we should be focusing on," FCC Chairman Ferris said. "This is one of the really important questions for the years ahead."

Ferris thinks another issue that will have to be aired in the years ahead is the issue of electronic mail. Who gets to carry it? What happens to the Postal Service if business and private individuals make increasing use of computerized telephones to send electronic letters? Ferris is candid about how he feels the issue should be approached.

"Our feeling here is that the monopoly that's granted the Postal Service (via the Private Express Statute) to deliver hard copy can be maintained and should be," Ferris said. "However, I think you're going to see that we'll be getting more and more of our information electronically instead of handprint and there should be as many pathways to provide that service as possible."●

SHARON SEMMENS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. LEVITAS. Mr. Speaker, 3 years ago, Emory University of Atlanta established an award which bears my name to be given annually to a superior political science student. This year's winner of the Elliott Levitas Award for outstanding achievement in political science is Sharon Semmens.

In advising me of Sharon's selection, the director of undergraduate studies, Dr. Gerard Gryski, had this to say:

> Sharon is one of the truly elite group of students I have seen at Emory over the past several years. She was selected for our four year B.A./M.A. program, in which unusually distinguished students in their senior year do graduate course work and write a thesis, and in so doing receive a Masters as well as a Bachelors degree. You can well imagine the rigor entailed by such a program.
>
> Sharon not only completed the program but excelled in all aspects of her graduate requirements. As a matter of fact, she was at least on par with the Ph. D. students with whom she was competing in her seminars. Her thesis probed the dynamics of military rule, using Nigeria as her case study; it was truly an exemplary piece of work.

Mr. Speaker, I want to offer my congratulations to Sharon Semmens for her outstanding record and wish her well as she pursues further graduate work in political science. We need people of Sharon's ability focusing on the political world of today.●

MCPL NUCLEAR ALERT SERIES X: REMEMBERING HIROSHIMA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SIMON. Mr. Speaker, as chairman of Members of Congress for Peace Through Law, I have had the opportunity to observe and participate in the highly complicated deliberations on arms control. Unfortunately, due to the complex nature of this subject I have found that there is precious little time to focus or reflect adequately on the horrific consequences that could result if we are unsuccessful in our efforts. The chilling realities of nuclear war, however unpleasant to consider, must be kept in the forefront of our thinking. Perhaps the best way to accomplish this is to come face to face with the aftermath of an atomic blast.

From Sunday, June 8, through Friday, June 13, the reality that was Hiroshima will be on display—for the first time ever—in the U.S. Capitol. Photographs and artifacts which comprise the Hiroshima Peace Memorial Museum have been brought from Japan to remind us, our staffs, and our constituents, of the effects of the atomic bomb. I would urge everyone to attend this exhibit between the hours of 10:30 a.m. and 4:30 p.m. on Sunday and between 7:30 a.m. and 10 p.m., Monday through Friday, in the rotunda of the Russell Senate Office Building.

As you view the Hiroshima exhibit I would recommend consideration of the following article from the New York Times by Anthony Lewis. Mr. Lewis points out that we somehow have come to take the existence of nuclear weapons for granted and that this inhibits our ability to deal effectively with the critical issues of arms control. I am confident that the Hiroshima exhibit will bring the horror of nuclear war to our conscience and cause us to intensify our efforts to avert such a catastrophe.

The article follows:

[From the New York Times, May 26, 1980]

TIME TO REMEMBER

(By Anthony Lewis)

BOSTON.—In the film shown to visitors at the John F. Kennedy Library there is a scene in which the young President looks silently out the window of the Oval Office on a rainy day. A voice says:

"I remember one day when he [Kennedy] asked me what happens to the radioactive fallout, and I told him it was washed out of the clouds by the rain and would be brought to earth by the rain. And he said, looking out the window, 'You mean it's in the rain out there?' And I said, 'Yes.' He looked out the window, very sad, and didn't say a word for several minutes."

The voice is that of Jerome B. Wiesner, science adviser to Kennedy and for the last nine years president of the Massachusetts Institute of Technology. He played a crucial part in alerting Kennedy to the dangers of fallout and, more broadly, to the need for control of nuclear weapons. He was among those whose efforts produced the 1963 Soviet-American treaty barring nuclear tests in the atmosphere.

Wiesner is retiring now as president of M.I.T., and the other day there was a convocation in his honor. Many subjects were discussed, but the talk kept coming back to the threat of nuclear weapons.

John Hersey, from whose "Hiroshima" many Americans first learned what nuclear war could mean, spoke of the growing public hostility to technology. Exploring the reasons for it, he mentioned the Vietnam War, pollution, the Love Canal, smart robots replacing workers. Then he said: "And some of us who are a little on in years have not forgotten Hiroshima."

Sidney D. Drell, a Stanford physicist, gave the audience some statistics. Since Hiroshima, he said, the nuclear powers have stockpiled 40,000 bombs. Arms control efforts have not stopped the race for more accurate, more numerous, more ingenious weapons. The United States and the Soviet Union have two-and-one-half times as many nuclear warheads deployed today as they did when their strategic arms talks began 10 years ago.

"More and more we hear of usable nuclear weapons," Drell said, "and of nuclear-war fighting and winning. Where are we going? Do we even still remember what nuclear explosions do? Does the post-Hiroshima generation still appreciate the horror of nuclear weapons and the dangers posed by the prospect of a nuclear conflict?"

Listening to the discussion, one realized how most of us have come to take nuclear weapons for granted. The reality of those weapons is so terrible that we simply close our eyes to it. We assume that the balance of terror will hold. But in fact, as Sidney Drell said, weapons technology is advancing so fast that it threatens "to remove even the limited security we have sought through mutual deterrents."

Arms control is a forbiddingly complicated subject for most citizens. Drell put it that the expert arguments "have become like those of the scholastic of the 13th century. To them the fundamental ethical and moral issues of religion had degenerated largely into questions of how many angels there are on the head of a pin. In his recent book, 'Endgame: The Inside Story of SALT II,' Strobe Talbott has drawn the macabre parallel of how for us the nuclear debate has similarly microscoped down to how many MIRV's are on the head of our modern pins, the ICBM's."

We do not know how to address the issues in the usual ways of democratic debate. Yet arms control can make a difference. So the history of the last 20 years shows.

Suppose, for example, that the test-ban treaty had not been successfully negotiated. The competitive pressures for atmospheric testing in both the U.S. and the Soviet Union would surely have led to large numbers of tests—and immense amounts of fallout, polluting the earth into the indefinite future.

Or consider the decision of the Johnson Administration in 1968 to go ahead with MIRV's—multi-warhead missiles—without trying to negotiate agreed limits on them. We thought that they would put us ahead in the arms race. In fact, Russian development of huge MIRVed missiles has made us fear that our land-based weapons are vulnerable and led us toward the vastly expensive, environmentally disastrous MX missile program.

Jerome Wiesner, responding to the talks at M.I.T., said the central problem in controlling nuclear weapons was how the public could understand and share in decisionmaking.

"We are running a race between catastrophe and understanding," he said. "We have outrun the processes by which we make our decisions and manage the society. It is so difficult to challenge the military decisions; there is no court, no forum. We have to find a process by which to challenge an MX, because it will only make our lives more dangerous."

In a gloomy time, Jerome Wiesner still thinks that citizens can make a difference—can stop nuclear folly. Various speakers called him an optimist. He said:

"I don't know whether I'm an optimist or not, but I'm a realist. I realize this is the only world we've got. We have to use our intelligence, our reason—and work just a little bit harder."●

ON EXCELLENCE IN EDUCATION

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SHELBY. Mr. Speaker, as many of us stand before graduating classes of high school and college seniors this year, having been called upon to speak a few memorable words of wisdom with which to send them on their way, we can find inspiration from some remarks given recently in my hometown of Tuscaloosa, Ala.

Dr. Richard Thigpen, a longtime friend who currently serves as the esteemed vice president for academic affairs, University of Alabama, offered some meaningful comments on the value of excellence in education before a Tuscaloosa audience recently. While I cannot reproduce here today his speech in its entirety, I urge my colleagues to ponder an especially pertinent passage.

Dr. Thigpen said:

> * * * we pay tribute to "excellence" in education because it provides our world with those who will "lead" us to a better tomorrow.
>
> Leadership has been defined as many things to many people. But the definition I prefer is by George W. Curtis, eminent orator and scholar. He said, "Leadership is not servility to the mob; it is not giving vehement voice to popular frenzy, that makes a leader. That makes a demagogue. Leadership is the power of kindling in others a sympathy and trust which will eagerly follow." In other words, a leader thinks and moves ahead of the crowd but always in a way which inspires others to follow. It is thinking so as to make others think; feeling so as to make others feel that makes a leader; it is, in sum, bringing out the best in ourselves and in other people.
>
> That ability to influence and motivate others, to help them think great thoughts, to help them share your hopes and dreams, is the single most important job of leaders. And * * * that may also be the single most important job of "education."

Dr. Thigpen's remarks are indeed words of wisdom which are definitely inspirational to both students and adults and worth passing on to any audience.●

TRIBUTE TO LEONARD KIRTZ

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. WILLIAMS of Ohio. Mr. Speaker, I take this opportunity to bring to your attention a resident of Ohio's 19th District, Mr. Leonard Kirtz, who is recognized as a pioneer in the area of mental retardation.

Leonard Kirtz brought his many talents to Mahoning County, as well as a deep personal commitment to numerous retarded persons. This has enabled them to have a decent way of life and to join the mainstream of society. He has been consistently diligent, forceful, and powerful in his lobbying efforts at the Federal, State, and local levels.

Mr. Kirtz is a public educator whose efforts have taught community residents about the mentally handicapped in institutions, and those returning to or living in the community. His purpose is to create a more openminded attitude toward the development of the mentally disabled, to address the fears and anxieties of the public, and to create a community climate where mentally handicapped persons are encouraged to develop their capacity.

As a gesture of the high respect and appreciation for Mr. Kirtz' valuable contributions to the mentally handicapped, the Mahoning County Council for Retarded Citizens honored Mr. Kirtz at a recognition dinner at the Georgetown on Thursday, May 29, 1980, in Youngstown, Ohio.

It is duly noted and fully warranted that the Mahoning County commissioners presented Mr. Kirtz with a resolution for the formal naming of the Leonard Kirtz School for the Retarded, in his honor for his tremendous leadership for those mentally handicapped and their families.

He is further recognized as a successful businessman, a dedicated family man, and a respected community leader. All residents of the 19th Congressional District owe debt and gratitude to Mr. Kirtz' untiring efforts in the area of mental retardation.

Mr. Speaker, I call the attention of my colleagues of the U.S. House of Representatives to a unique and sensitive man, Mr. Leonard Kirtz, for his efforts to open the minds and hearts of a State and a community to the mentally handicapped who need special understanding to be the most they can be.●

GM DENIES PUBLIC CHOICE IN AIRBAGS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. OTTINGER. Mr. Speaker, I am outraged and saddened by the decision of General Motors not to produce cars with airbags in 1982. General Motors is the largest automobile company in the world, and holds an absolutely dominant position in the U.S. auto market. GM also has a commanding lead in the development of airbag technology in the United States. Does not this company, with its resources and capability, sense any obligation to the customers to make this important safety technology available?

The Federal Government accommodated GM and the other automakers by providing an exceptionally long leadtime for the implementation of the automatic crash protection standard—4 to 6 years. In addition, the standard allows a considerable amount of latitude to the industry in the way it is implemented. When the Congress reviewed the standard we assumed that the industry would use that latitude creatively to provide the customers various types of restraint systems, not just belts as they are presently in cars. Unfortunately, GM has chosen the narrowest interpretation of the standard, and in doing so, will limit even its own product offering.

There has been a considerable amount of talk about freedom of choice in the debates on occupant restraints. But the public has no choice when a company like General Motors refuses to offer the only really new restraint system technology that is available.

With this decision, the public loses in several ways:

We will not achieve the predicted life savings under the automatic crash protection standard without airbags. This is because people who cannot or do not want to wear safety belts will have no alternative to give protection in a serious crash.

Further delay in commercializing this new technology means that many new jobs and industrial opportunities will be lost.

Since the only company that now plans to produce large numbers of airbag-equipped cars in Mercedes-Benz, the U.S. auto industry will fall further behind the foreign automobile industry in its commercialization of new technologies to satisfy public needs and desires.

I hope that General Motors will reconsider its decision and will opt to become an aggressive innovator and promoter of automotive safety, consistent with its position and power.●

DEPARTMENT OF EDUCATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. COLLINS of Texas. Mr. Speaker, the new Department of Education came into being on May 5, and is already exceeding expected costs and number of personnel. Despite promises that, if created, it would include no more people and would cost no more than previously devoted to education programs, the facts show increases in both.

Since the original bill to create a separate Department of Education passed the Senate in 1978, there were repeated promises of reduced costs and reduced personnel. Yet, in fact, by September 30, 1980, on a comparable basis, the Department will include 157 more people than 1 year ago, and 1,121 more people than 2 years ago. Likewise, between fiscal years 1979 and 1980 budget authorities for its programs show outlays will increase by $2 billion.

In March 1979, OMB Director McIntyre testified:

> The Department will include no more people and will cost no more than is now devoted to education programs. In fact, 350 to 450 positions will be eliminated, saving $15 to $19 million. Creation of a new Department will require no new funds.

On April 5, 1979, the Senate manager of the new Senate bill said that the Department "will not result in any new costs," and repeated the OMB estimate of 350 to 450 positions being eliminated. On June 7, 1979, the House Manager concurred.

As a result of the above promises, Congress wrote into law the following provision:

> Not later than the end of the first fiscal year beginning after the effective date of this act, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this act shall be reduced by 500.

The catch is that the Department of Education interprets this language to mean a 500 reduction in personnel by September 30, 1980. The clincher is that by September 30, 1980, the number of positions is estimated to be 7,581, which is 1,121 more positions than on September 30 1978. What this means simply, is a 1,121 increase in personnel, unbalanced by a 500 personnel reduction. Therefore, even if the Department achieves a reduction of 500 by September 30, 1981, it will still have 621 more people than in the original Senate bill and early promises for reductions. This is easily visible in the following chart.

PERSONNEL AT THE DEPARTMENT OF EDUCATION OR COMPARABLE AGENCIES AT THE END OF FISCAL YEARS

Date	Full-time permanent	Other	Total
Sept. 30, 1978	5,551	909	6,460
Sept. 30, 1979	5,943	1,481	7,424
Sept. 30, 1980 (estimated)	6,120	1,461	7,581
Sept. 30, 1981 (estimated)	6,032	1,049	7,081

Note that the big cuts are proposed for the temporary, not the permanent positions.

Overall costs for the new Department—including the costs of education programs—are also much higher than first proposed. The latest official figures, including President Carter's revised budget estimates for budget authority and outlays, show tremendous growths in spending for the separate Department of Education:

BUDGET ESTIMATES

[In billions of dollars]

	Budget authority	Outlays
Fiscal year:		
1979	12.6	10.9
1980	13.6	12.9
1981	15.1	13.1
1982	16.2	15.3
1983	17.6	16.8

What happened to the OMB promise that "the Department will include no more people and will cost no more than is now devoted to education programs?" It has long since been forgotten, with recent OMB figures predicting even more increases between fiscal years 1979 and 1981:

> Personnel compensation will rise from $113 to $163 million, or by $50 million—a 44 percent increase.
>
> Contractual services, including travel, utilities, printing and supplies, go up from $342 to $518 million, an increase of $176 million, or 51 percent.
>
> The budget for capital assets rises by $298 million, from $634 million to $932 million. This is a 47 percent increase.

In the wake of broken promises to decrease costs and personnel, the new Department of Education continues to grow, increasing both costs and number of personnel. While educational achievement is going down in quality, the educational costs are zooming skyward.●

BORIS GASPAROV

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SCHEUER. Mr. Speaker, I rise to join my colleagues in the Spirit of Helsinki Vigil for 1980. I am concerned about the plight of Jewish people in the Soviet Union. As you know, the Soviet Union continues to persecute those of her citizens who wish to practice their religion openly and freely. Jews are still being denied exit visas to Israel and the West, and they are not permitted to live freely as Jews under the Soviet regime.

I bring to your attention the case of Boris Gasparov and his family. Boris, his wife, and daughter, the younger of two, have repeatedly been denied exit visas to Israel. Boris is a world-recognized scholar of Slavic languages and linguistics and his wife Ira is a literary scholar. His daughter Olya is still in high school. Boris' older daughter is now in West Germany and Boris eagerly awaits his family's reunification.

A number of American universities have voiced interest in Boris because of his outstanding academic abilities. An invitation proffered by Ira's uncle in Israel has also been transmitted. The U.S.S.R. has no humane grounds for keeping the Gasparovs virtual prisoners in their own home.

I call upon the Soviet Union to demonstrate its oftstated dedication to human rights and allow this family to reunite and live as free people wherever they wish and to practice their religion in freedom and without fear.●

AMERICANS GET CLEAR VIEW OF ELDERLY CRIME PROBLEM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. BIAGGI. Mr. Speaker, to an increasing extent, our television and motion picture industries are using their vast resources to expose the public to various social problems that often go unnoticed by the majority of Americans. These issues have included a rape victim's mental anguish, a Vietnam veteran's frustration, and the powerful and confusing impact of a divorce on young children.

Earlier this week, the CBS television network, in keeping with this trend, aired a movie entitled "Siege." It allowed Americans across the Nation to get a shocking glimpse of one of the most tragic, and least known problems facing our society today—increasing juvenile crime against the elderly.

The story is set in the Bronx, my home community, and shows in vivid detail the mental and physical torment experienced by a neighborhood of elderly persons who are terrorized by a gang of youths. The scenes were powerful, and included elderly persons being beaten; victims repeatedly being robbed by the same attacker; gang members collecting extortion money from elderly crime victims who want desperately to avoid another attack; and an elderly female crime victim committing suicide because she can no longer stand the fear of being victimized again—a fear that forces the other elderly residents to shop in pairs, lock themselves in their apartments for days at a time, and remain silent when the police ask for a description of their attackers.

The dictionary defines siege as "a persistent attack (as of illness)." This CBS movie could not have been more appropriately named. Juvenile attacks against the elderly are persistent—in New York City alone, there were 64,728 reported crimes against persons over 65 in 1977. Of these, 9,970 were robberies. The average victim was female and over 70. Shockingly, the average attacker was male and 16 years old.

The cause of these attacks, and the result, must be termed an illness. What else, other than a serious illness, would cause three different teenagers, on three separate occasions, to beat and rob an 85-year-old woman? What else, other than a serious illness, would keep an estimated 100,000 New York City elderly citizens prisoners in their own homes due to the fear of being victimized by crime?

Perhaps the best evidence of the seriousness of this situation is revealed in a 1974 Louis Harris survey. When asked for their perception of various social problems, the elderly ranked fear of crime as the most serious problem they experience; more serious even than health, money, and loneliness.

As a member of the House Select Committee on Aging, I have conducted several hearings in New York City on this issue, and have helped to prepare a comprehensive report on this issue, entitled "In Search of Security: A National Perspective on Elderly Crime Victimization."

Based on my findings, I have introduced several measures aimed at addressing this serious problem. Two of these bills would provide a much-needed and new Federal approach for dealing with juvenile criminals who, as depicted in the movie, are responsible for a large percentage of all crimes against the elderly. The first bill would lower to 15 the age under which juveniles can be prosecuted as adults for felony offenses. The second measure would provide for the fingerprinting of juveniles convicted of felony offenses and would prohibit the withholding of previous juvenile records to courts.

I have reintroduced legislation to provide Federal assistance to States for compensating victims of crime. My bill gives special consideration to the needs of elderly crime victims, who are particularly vulnerable to serious financial injury.

I also introduced an amendment earlier this Congress, which has become law, to require the new Bureau of Justice statistics to compile more specific data on crimes against the elderly. This new law will help to overcome a serious deficiency in the existing criminal justice system which fails to provide us with any specific data on crimes committed against the fastest growing segment of our population. Proper compilation of crime statistics can help channel adequate Federal resources both for crime prevention programs and for crime victim assistance.

In the end of "Siege," the head of the youth gang is finally apprehended after a violent struggle with a courageous senior citizen. There is a feeling of great relief by the elderly residents in the movie, and I am sure, the audience at home. However, the scene shifts quickly to a younger gang member, probably no older than 13, who is involved in a ritualistic chant aimed at an assembled group of seniors—a clear reminder that their troubles are not over.

That scene is especially significant. Earlier this week, a 68-year-old Baltimore man was acquitted of killing one teenager and seriously wounding another after his home was pelted by snowballs. According to a Washington Post article, the man, Roman G. Welzant, "had become a symbol, to some people, of the suffering inflicted by the young on the elderly * * *. Welzant contended that the shootings were in self-defense and culminated a dozen years during which he and his wife had been harassed by generations of teenagers."

Mr. Speaker, as depicted in the movie, and as seen in the real-life story of Roman G. Welzant, the tragedy of juvenile crime against the elderly does not stop with the arrest of one person, nor the passing of years. Rather, juvenile crime against the elderly is a fact of life that all too many Americans find easy to ignore. It is unfortunate that it takes a case like Roman Welzant's to bring this tragic problem to the public's attention, but hopefully, a purpose has been served and corrective actions will be taken. I applaud CBS and the makers of "Siege" for their responsible action in showing this problem to the American people.●

IMPRISONMENT DID NOT DETER THE ZAVUROVS' DESIRE FOR FREEDOM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SOLARZ. Mr. Speaker, as part of the Spirit of Helsinki, Vigil 1980, I would like to take this opportunity to state my strong support for Amner Zavurov, his wife, and his child in their attempt to emigrate from the Soviet Union to Israel. Their plight exemplifies the persecution of Soviet Jews and the problems they encounter in obtaining emigration visas from Russia.

In 1976 the Soviet authorities arrested Mr. Zavurov for violating passport regulations. In January 1977, he was sentenced to 3 years in prison. Mr. Zavurov and his family had completed all the necessary procedures in applying for an exit permit to Israel. Unaware, however, that there was a time limit for processing of a visa application, Mr. Zavurov agreed to wait an extra day when the Soviet authorities informed him that there was a backup. The following day he returned with his family, but their application to go to Israel was denied because the application deadline had expired.

As part of the preliminary procedures, Mr. Zavurov had relinquished his passport and Soviet citizenship. Later in the year, he was picked up for not possessing a passport and was eventually sent to prison. He was finally released last April 5 after 3 years, 4 months, and 15 days of imprisonment. Mr. Zavurov and his family have already suffered greatly as a result of this fabricated crime and a severe jail sentence. Now that he has served his time in prison, he and his family should be permitted to go to Israel.

It is evident that the Soviet's handling of Mr. Zavurov's case is not in accord with the international conventions they have signed. The Helsinki agreement clearly states that nations are to "make it their aim to facilitate freer movement and contacts among persons."

I am outraged and disturbed by the Soviet's arbitrary and inequitable system which denies basic human rights to its Jewish citizens who desire to emigrate. Of the 598,100 Soviet Jews who were sent emigration visas from Israel between the years 1968 and 1979, less than one-half—288,707—actually obtained visas and reached Vienna. In 1979, an average of 4,277 Soviet Jews emigrated per month from Russia. In 1980, the monthly average is down by 42 percent.

I urge all of my colleagues to continue to fight here in Congress and to speak out against the continued oppression experienced by Soviet Jews. Soviet Jews should be accorded the full range of human rights the Helsinki agreement recognized, and particularly the right to free emigration.●

HAZARDOUS WASTE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, June 4, 1980, into the CONGRESSIONAL RECORD:

> The problem of hazardous waste has climbed quickly to the top of the country's domestic agenda. Some observers have likened hazardous waste to a "sleeping giant." Others have referred to it as a "time bomb waiting to explode." Whatever the description, there can be no doubt that the problem is very serious.

No one really understands the precise proportions of the problem of hazardous waste, but the statistics of recent estimates are suggestive. There are about 69,000 chemicals in commercial use today, and limits of safe exposure have been set for less than one percent of them. More than 77 billion pounds of hazardous waste are generated each year, yet only ten percent of that amount may be disposed of in an environmentally sound manner. Hazardous waste in some 30,000 to 50,000 storage sites now poses a danger to man and his surroundings, and some 1,200 to 2,000 of these sites may be extremely dangerous. Indiana has at least 70 sites of its own. The costs of cleaning up may range from hundreds of millions of dollars to scores of billions of dollars, far more than it would have cost to follow proper practices of disposal in the first place.

Examples of the danger are only too common. In fact, hardly a state has escaped unscathed. In Seymour, Indiana, toxic chemicals in thousands of barrels leaked into the ground and threatened a nearby stream. More than 80 substances from an abandoned underground dump, the Love Canal near Niagara Falls, New York, seeped into basements and yards, causing birth defects and illness. Chemical spills from an unused coal mine are poisoning Pennsylvania's Susquehanna River. Denver, Colorado is faced with the grim prospect of cleaning up uranium waste in 30 old sites in and around the city. The problem will not yield to some readily available solution. Unlike many things the nation produces, hazardous waste cannot be recalled, or even easily identified, once it has been let loose.

The country lacks a program to identify chemical storage sites, clean them up, and provide facilities for the safe disposal of hazardous waste in the future. The Clean Water Act does pay some of the costs of cleaning up, but its appropriations are small and its procedures cumbersome. Because the present mishmash of laws is plainly inadequate, additional legislation will be needed to close the gaps. The "super-fund" bills, so called due to the large amounts of money they would demand, are now under consideration. Congress is also looking into proposals to have the Environmental Protection Agency begin cleaning up the most dangerous sites. None of these measures will be enacted easily, however, since several tough questions have not yet been answered. For example, who should foot the bill for cleaning up—the taxpayer, the chemical industry, or both? Should victims be compensated? If so, by whom? Should an offending company be liable for damages? If so, what should be done if the company has gone out of business?

The super-fund bills are the current focus of legislative attention, and in their basic outlines they are similar to one another. Each would establish a multimillion-dollar fund for emergency cleanup. Once a site had been identified and cleaned up, the federal government would try to locate the company responsible and make it reimburse the fund. If the company could not be found, or if it could be found but did not have the means to pay, the fund would absorb the cost. All of the bills would require the polluter to pay, but in varying degrees. The bills differ on the size of the fund, the source of revenue, the specific uses of the fund, and the kind of liability to be imposed on the polluter. Due to the enormous cost of compensating victims, some of the bills contain no provision on compensation. One of the stickiest provisions in the bills is that which would hold anyone generating or handling hazardous waste liable for cleanup and damages. Should the liability be strict, so that responsibility for damages would be automatic, or should negligence have to be shown before the question of damages would be decided?

Where to put hazardous waste is a long-term aspect of the problem. Everyone wants the waste managed, but not in one's own backyard or even in one's own county. With reason, people fear contamination of ground water, pollution of air and land, fires, explosions, accidental spills, and depressed property values. Most people realize nonetheless that many new sites will be needed in the years ahead. Companies can be expected to recycle waste and convert to new processes that generate less waste, but all that will take time. A number of promising methods of disposal for companies to consider are secure landfills (that is, landfills built with impermeable bottoms of clay), injection of waste into pockets or mines located deep inside the earth, chemical treatment of waste with inert substances which harden waste into a cement-like material suitable for reclamation of land, microbiological deactivation of waste, and high-temperature incineration (perhaps the way of the future).

It is clear to me that we have much catching up to do in our effort to clean up hazardous waste in this country. It is also clear to me that we face the frightening likelihood of more Love Canals. However, we can be pleased with a growing scientific understanding of the dangers of chemicals and radiation, with better standards of safety for workers and consumers, with a heightened awareness of the problem of hazardous waste among public officials, and with a willingness of federal, state, and local agencies to work together both on particular incidents and on the legislation now moving toward enactment in Congress.●

THE AFRICAN DEVELOPMENT FOUNDATION

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mrs. CHISHOLM. Mr. Speaker, I rise to express my strong support for creating an African Development Foundation. The proposed legislation was originally introduced in November 1979 as H.R. 6288 by Congressman William Gray and Congressman Don Bonker. Under title V of the International Security and Development Cooperation Act of 1980, H.R. 6942 would authorize $5 million to establish an African Development Foundation.

According to an April 1979 report prepared by a senior AID official, many Government officials in several African countries support the creation of an African Development Fund because such a fund would provide for a visible U.S. presence at the local level. I believe it is in our national interest to support ADF programs which serve the neediest people in a given country. The foundation would clearly help us with such an effort in African countries.

The purpose of this foundation is to channel small amounts of development assistance to local community groups and institutions and to support fully new and operating development projects. Such projects might include local home improvements, community-based health centers and agricultural loan funds. The foundation would be empowered to offer loans and loan guarantees to private or public groups. The overall objective of the foundation would be: First, to strengthen the bonds of friendship and understanding between the people of Africa and the United States; second, to support self-help initiatives designed to enlarge the opportunities for individual and community development; third, to stimulate and assist effective and expanding participation of Africans in their development process; fourth, to encourage the establishment and growth of fully developed institutions which can respond to requirements of the poor in Africa; and fifth, to improve the quality of life of all Africans.

The new institution would assist in bottom-up development efforts which are not possible under AID's present administrative structure. AID now works through large, central government agencies which often require a 2-year delay in implementation. The African Development Foundation would be able to respond quickly and in a highly visible manner to local village needs, similar to our bilateral funding approach with many countries.

With the proposed $5 million from the International American Foundation, it is anticipated that the annual congressional appropriation will only be $4 to $10 million a year.

The African Development Foundation will be managed by a seven-member Board of Directors, appointed by the President and confirmed by the Senate. Five of these members will be appointed from the private sector and two from agencies concerned with African affairs. The Foundation is limited to a maximum of 75 employees. The agency would be able to reach a much greater number of local African projects with minimal bureaucracy. I urge my colleagues to support the inclusion of the Foundation in H.R. 6942, the International Security and Development Cooperation Act of 1979.●

CONTINUED FAMINE LIKELY IN CAMBODIA

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SIMON. Mr. Speaker, as chairman of Members of Congress for Peace Through Law, I would like to remind my colleagues of the critical food shortages which still exist inside Cambodia.

The March 21, 1980, Washington Post article reprinted below, "Famine Conditions Will Persist Until Political

Accord Is Found," by William Shawcross, describes the political and the logistical difficulties facing the international relief effort to feed the people of Cambodia.

As Mr. Shawcross points out, a political solution between the Heng Samrin government, the Khmer Rouge, and other political groups is essential if Cambodia is to fully recover from years of war, famine, and massive internal migration. Yet, in the wake of the Soviet invasion of Afghanistan, the chilled political climate between Washington, Moscow, and Hanoi all but rules out any possibility of political compromise.

The relief effort, itself, now faces major difficulties. The entire United Nations Cambodian relief program needs $260 million for the coming year, but, so far, little money has been pledged by previous donors. The U.S. contribution to the Cambodian relief effort is now hostage to the battle over the foreign aid bill and the fiscal year 1981 budget cuts now being considered by the House and the Senate.

Unless 30,000 tons of rice seed is sent to Cambodia and planted by farmers within the next 2 months, the 1980 wet season crop will not be planted. Without this crop, the country will be completely dependent on outside food aid through the end of 1981.

In the last week, two of the three wooden piers of the Phnom Penh docks have collapsed, thereby cutting off the food flow through the Cambodian capital for the foreseeable future. International organizations are now desperately seeking new distribution routes.

These include an overland route from Ho Chi Minh City (Saigon), a land bridge from Thailand, expanded use of river barges up the Mekong, and airflights from Thailand directly into provincial Cambodian airfields. Thus far, however, the Heng Samrin government has refused to authorize any of these alternative aid routes.

In November of last year, Representative David Bonior and 66 of my colleagues joined me in calling for an international airlift of relief supplies to Cambodia. Such an airlift is as much needed today as it was then.

We must do our utmost to persuade the Heng Samrin government to open up as many alternative supply routes as possible. With cooperation from that government and with renewed efforts on our part, we can still avert widespread famine inside Cambodia.

I commend the following article to the attention of my colleagues:

Famine Conditions Will Persist Until Political Accord Is Found

Damaged by 10 years of warfare and neglect, the ancient docks of Phnom Penh have sprung back to a busy life in the last three months. Thousands of tons of relief food have been shipped up the Mekong River and laboriously unloaded, often by hand, and placed in dilapidated warehouses in the still eerily empty Cambodian capital.

Last week, two of the port's three spindly wooden piers collapsed, shutting off the food flow for the foreseeable future. The accident has come at a crucial time for a $500 million international relief effort that seems at times to be resting on similarly uncertain foundations.

The Cambodia relief operation is now engulfed in several crises. Unless they are resolved immediately they threaten to undo all that international aid has so far achieved in these areas:

Seed. Unless 30,000 tons of rice seed is purchased, shipped to Cambodia and distributed to village level in the next two months, the 1980 wet season crop will not be planted. Last year's cycle of famine will recur, and huge international food shipments will be needed at least until the end of 1981. If it is possible to imagine, the condition of the people will be even more wretched than it is today.

Money. Unless the United Nations Children's Fund can raise another $80 million at once its whole program—not just rice seed—will be threatened. U.N. Secretary General Kurt Waldheim has called a meeting of potential donor countries for next Wednesday at the United Nations to raise $260 million to keep the U.N. program going. So far, little has been pledged.

Politics. The Soviet invasion of Afghanistan—and U.S. reaction—have made moves toward any political compromise by any of the parties more difficult still. Yet without compromise the very best the international relief effort can do is to keep Cambodia teetering on the brink of disaster.

At the present moment, the odds are extremely high that none of these overlapping races against time will be won. Bureaucratic inefficiency has helped slow the seed effort. Budget cutbacks and Western economic malaise appear to doom the drive for more money. And the political conflict shows no sign of abating.

That more tragedy will follow is a bitter truth for Cambodians. But it will weigh heavily also on a world that will have shown that it did not learn enough from the last year of disaster to find ways to halt the suffering now.

This series has sought to trace the humanitarian and political responses of the international community to the Cambodian tragedy, one of the great man-made disasters of our time.

In a recent months, the plight of Cambodia has stirred emotions and action across the world. But a genuine outpouring of humanitarian concern has been constantly limited by political and bureaucratic constraints.

Inevitably the international system's response has been ad hoc—as it must be to any emergency. It has been well-intentioned in many respects, inadequate in others. International civil servants have careers to promote and parishes to protect. They also have to work within rules laid down by governments with different priorities.

In the villages of central Cambodia, another rice crop—the small dry-season crop planted in the fall and due to be harvested now—has failed. There is now a race against time to get a wet season crop planted before the monsoon inundates the land in May and June.

The Food and Agriculture Organization (FAO) had planned to ship 30,000 tons of rice seed into Cambodia early this year. The U.N. agency planned to provide seed for a million acres of land in six provinces. In the 1960s, when Cambodia exported a rice surplus, 3 million acres were planned.

Every ton of seed, properly planted and harvested, provides six to 10 tons of rice. The FAO plan would give Cambodia a 200,000-ton harvest by the end of 1980. That seemed a realistic, and crucial, target for Cambodia when FAO began planning its effort six months ago.

But now, the organization says it has not even purchased large quantities of seed, let alone shipped it. The explanation is that FAO is short of funds and that the appropriate seed is in woefully short supply.

Thus far, FAO has bought just 3,000 tons of seed in the Philippines and with the private British relief agency Oxfam is negotiating for another 15,000 tons in Thailand. The Thai government still has not granted an export license.

The arithmetic is this: only a fifth of the normal crop is to be planted this wet season; 30,000 tons of seed have to be found, bought, officially exported and either pushed across the border or shipped to Cambodia, unloaded, processed through the primitive distribution system and rushed out to farmers—in six to eight weeks. It could still just be done. But not at the present rate of progress.

Fertilizer and farming equipment are also badly needed. Some has been shipped in by the international relief plan and Oxfam. More is required.

At the same time more relief food than ever is urgently needed for the existing emergency. If rice seed alone is shipped to starving villages, it will be eaten, not planted. There are already reports of seed being eaten in villages. In the week this series has been running, U.S. Embassy officials along the border have been reporting to Washington worse stories of starvation. The breathing space has gone.

Back in January the International Committee of the Red Cross and UNICEF had planned to ship 200,000 tons of food into Cambodia this year. Latest reports from the field are that at least 230,000 tons will be needed—an increase of 15 percent.

Even if all these supplies can be bought and shipped in time, it looks unlikely that they can be landed and distributed. Even before the collapse of the Phnom Penh dock, the logistics of the country were under severe strain.

Warehouses at the port of Kompong Som are again clogged up. The Soviets have resumed large shipments: their ambassador in Phnom Penh has told UNICEF that Moscow will send 130,000 tons of food this year. (Until now the State Department estimates that the Soviets have sent about 17,000 tons as against 59,000 tons from the West. The Heng Samrin regime says more—186,000 tons from the socialist bloc.)

The international organizations are desperately looking for new distribution routes. These include trucks from the port of Ho Chi Minh City (Saigon) and more use of river barges up the Mekong and Tonle Sap in Cambodia. The Heng Samrin government still refuses to allow a formal "land bridge" by either road or rail from Thailand or direct flights from Bangkok to provincial Cambodian airports.

Altogether, the outlook for this year's wet season crop is gloomy. One senior UNICEF official puts it at "less than 50-50." This means food dependence, and an expensive international aid program until at least Christmas 1981. By then the cost will be close to $1 billion.

And yet money is already running out. The international organizations have spent $205.5 million on Cambodian relief since September. The United States has been the largest contributor, providing $72 million. Waldheim is now seeking a further $262 million through the end of 1980. Financial cutbacks in the United States and elsewhere are combining with irritation over the distribution problems to make donor countries reluctant to be very generous.

The United States contribution is now hostage to the budget cuts decreed by President Carter and to the battle over the foreign aid bill in Congress. State Department officials say they still have no idea how much the United States will be able to pledge to the new appeal, but one said there is a serious danger it will only be "peanuts." Without a U.S. contribution at least as generous as before, the aid program could easily collapse.

That is true in part because the State Department has played a major moral as well as financial role in the relief effort. U.S. Ambassador to Thailand, Morton Abramowitz was among the first officials anywhere to warn of impending famine.

Rosalynn Carter has attached her own and the president's prestige to the Cambodia effort, although some White House staff members—most particularly national security adviser Zbigniew Brzezinski—are widely thought by relief officials to have leaked negative and exaggerated reports on Soviet and Vietnamese obstructions as a way to move American policy closer to the more hard-line Chinese policy on Cambodia.

The impact of the "China card" effort and of the budget cuts on the relief effort is not yet clear. But officials at the State Department have been warning voluntary agencies that the United States may not still be able to take 14,000 refugees a month in fiscal 1981, despite President Carter's previous commitment. Any reduction in the number of refugees coming to the United States would seriously undercut Thai willingness to allow refugees to stay.

Over all the difficulties of seed procurement, distribution and finance loom the political problems. Without their solution the relief effort will continue to be obstructed—by all sides. And conversely, until and unless the political problems are solved, the relief effort will have to continue.

Ten years after the North Vietnamese, Richard Nixon and Henry Kissinger "drew Cambodia into war," games are still being played with the country. The principal players inside Cambodia are:

The Heng Samrin government, installed in Phnom Penh by the Vietnamese after Hanoi's invasion 14 months ago. It is still utterly dependent on Vietnam—for example, the only telephone system is Vietnamese Army line.

Pol Pot's Khmer Rouge. Reduced to at most 25,000 troops in the west and northeast, the fear of their return is a principal reason for some Cambodian tolerance of the Vietnamese occupation. The Khmer Rouge are mounting an extraordinary diplomatic campaign to capitalize on the anti-Sovietism which has followed Afghanistan—including requests to "forget the past" made at press conferences in luxurious jungle headquarters—but they are growing weaker, despite support from China through Thailand. Still, however, they are tying down the Vietnamese.

The Khmer Serei. The only serious group is Son Sann's Khmer People's National Liberation Front. Son Sann's army is run by Dien Del, one of the most effective commanders in Lon Nol's army from 1970-75. Son Sann is recruiting in the refugee camps in Thailand and has been given around $1 million by China. The United States is giving, at the very least, tacit support to his group.

The deposed Cambodian leader, Prince Norodom Sihanouk, is now touring the West arguing that he, and only he, can bring peace. Like the pope, Sihanouk does not have many divisions and he has petulantly refused to align himself with Son Sann.

It is not easy to imagine the Vietnamese, who still have 200,000 troops in Cambodia, and their principal allies, the Soviets, accepting the international conference that Sihanouk says must be called to resolve the Cambodian conflict. Hanoi says the situation in Cambodia is "irreversible."

But the war is costing the Soviet Union $2 million a day. Vietnam's own economy is in shambles and it faces a 1980 food deficit of its own of at least 2 million tons. Until now the Soviet Union has sent food aid to Vietnam; this year, after the U.S. cutback of grain, Moscow has told Hanoi that no such aid will be available.

For China, the Cambodian war costs almost nothing to sustain. It ties down Vietnamese troops and bleeds the military and economic force of Hanoi. Peking seems prepared "to fight to the last Cambodian" by supporting the Khmer Rouge and other guerrilla resistance indefinitely. Unlike the Soviet Union, China has not sent any humanitarian aid to Cambodia.

Whether the new understanding between Peking and Washington extends to Cambodia is one of the keys to a resolution of the crisis of Southeast Asia.

One statement of the U.S. position was given in a background briefing to reporters in Bangkok by a U.S. official who accompanied Defense Secretary Harold Brown to Peking in January: "The U.S. shares common interests with China on Indochina," the official said. "That is to dilute the Soviet influence in Indochina and get the Vietnamese out of Cambodia. China's objective is to ensure maximum Khmer resistance, not necessarily only through the Khmer Rouge. They are looking to a lifespan of three to five years. It is in U.S. interests to see a neutral and independent Cambodia."

But he added that the United States understood that "any political settlement would have to take into account Vietnamese interests. That is that a government in Cambodia should not be hostile to Vietnam." That is not the Chinese position.

Other U.S. officials have said that the United States seeks a compromise and would willingly go to a conference if only others would attend. But that China, Vietnam and the Soviet Union show no sign of doing so.

A new international conference as such is not essential for Cambodia. Compromise is. There are formulas. The essential elements seem to include the following:

The West must recognize that Vietnam is the dominant power in Indochina by reason of numbers alone. (51 million Vietnamese, 3 million Lao, 5 to 6 million Cambodians.) Vietnam has legitimate security interests in Cambodia. Sihanouk understood that in the 1960s. His successor, Lon Nol and Pol Pot did not; and their assessments led to disaster.

If the Vietnamese were ever to withdraw some or all their troops, it would probably only be if a friendly government in Phnom Penh were guaranteed. One scenario is a broadening of the Heng Samrin government to include Son Sann and other independent politicians. Secret contacts are already rumored. A grand coalition could not include the Khmer Rouge, whose behavior has anyway surely forfeited them any right to return to power.

Whether or not the Vietnamese would tolerate the return of Sihanouk to Phnom Penh is not clear. But he is probably the only figure, battered though he is, whose presence there could persuade large numbers of refugees to return of their own free will to Cambodia.

As an incentive to the Vietnamese the West and Japan should offer a long-term relief and rehabilitation plan for all Indochina. And the United States could offer normalization of relations as part of the conference.

Such suggestions may seem utopian. But the overwhelming impression gained in a thorough examination of the problems of Cambodia today is that the only alternative to an imaginative political leap is a dismal downward spiral.

That leap could be made first by the United States and by the Association of Southeast Asian Nations taking a new "initiative" toward Hanoi. If ASEAN leads, the West, particularly the United States, would have to follow.

Every age has it symbols of horror. The destruction of Cambodia is symbolic of our own time. There are other contemporary disasters—in East Timor and Ethiopia to name but two. But for complex reasons—political, emotional and merely logistical—Cambodia has recently attracted more attention.

Precisely because of the concern it has belatedly aroused, Cambodia is now a vital test: When there is world-wide consensus that a human disaster has occurred, is occurring, and will, unless actively prevented, continue to occur is it possible for nations to agree that it must be prevented?

Or will short-term, often hypothetical political concerns condemn not only Cambodians to death today but also the rest of mankind to be seen in history as accessories to another great crime of this century?

That is the issue. If the community of nations does not have the political will to save Cambodia, then that community cannot be confident of having the will, ultimately, to save itself.●

OIL COMPANIES AND THE MEDIA: COMPARISON OF PROFITS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. COLLINS of Texas. Mr. Speaker, for over a year there have been continuous complaints against the oil companies and their large profits that the media assumes are connected with the high prices of oil. Unfortunately, these people who have created the propaganda against the oil companies have not checked their figures. The facts show that in these inflationary times the price of a barrel of oil has not risen very much in a fair comparison.

It is particularly interesting to compare the cost of a 30-second TV commercial to the cost of a barrel of oil in the United States. The price of an average prime time 30-second commercial on network television has gone up by 66.1 percent from 1975 to 1979. This increase is in current dollars. This is also only an average commercial. For advertising that is in great demand the increases in cost are even more. For example, a 30-second commercial in the world series cost $52,200 in 1975, and by 1979 it cost $100,000.

This is an increase of over 91 percent. A commercial in the academy awards cost $80,000 in 1975, and in 1979 it has risen to $145,000. Obviously the networks and advertising media should compare their own products to rising oil prices.

In comparing corporation profits there are some discrepancies about what is told to the public. The returns on total capital for 12 months ending September 30, 1979, were 19 percent for 10 leading media companies and 13 percent for the 8 largest oil companies.●

INDUSTRIAL ENERGY CONSERVATION INCENTIVE TAX ACT OF 1980

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. HEFTEL. Mr. Speaker, today, I am pleased to join with my distinguished colleagues, Mr. Ottinger, Mr. Fish, Mr. Rousselot, and Mr. Downey in introducing the Industrial Energy Conservation Incentive Tax Act of 1980.

This bill would increase the available tax credits for industrial conservation projects. Under the proposal, the credits for "specially defined" and "alternative" energy property, both as defined in the Energy Tax Act of 1978, would be increased from 10 to 20 percent and be made refundable. A third category of qualified property to be known as qualified conservation property would also be established. Adding this third category of property would expand the range of projects eligible for conservation incentives. The credit for this property would generally be 20 percent and would also be refundable. However, this credit would be subject to several limitations. First, the credit for qualified conservation property would be limited to the lesser of 20 percent of qualified investment or $55 for each barrel of oil equivalent (BOE) saved in 1 year by the investment based on preproject levels of production. Second, no credit would be allowed for qualified conservation property if the credit otherwise allowable were less than $11 per BOE. These two conditions attached to the third category of qualified property are designed to limit the revenue impact of the bill and exclude from the incentive program those modifications or replacements which are already sufficiently attractive from a financial point of view.

Mr. Speaker, since American industry consumes almost 40 percent of all energy utilized in the country, we believe that an aggressive energy conservation effort in the industrial sector could bring our Nation a significant part of the way down the road to energy independence. The program we propose today could save our Nation in the neighborhood of 750,000 barrels of oil per day by the end of 1988. It is incumbent upon us to realize this conservation potential.

Mr. Speaker, the United States is faced with an energy problem of unprecedented dimensions. Energy now has a direct and significant impact on our foreign policy and our domestic economy. It is essential then that strategies be devised and implemented to deal with the energy problem in the short term—over the next decade—and in the long term, in ways that will not have adverse implications for the Nation's economy and productivity.

The need for an increased industrial conservation effort is clear. Even with greater Federal research and development of synthetic fuels, solar energy, and other energy sources, the widespread use of these alternatives in the industrial sector remains at least a decade away. The role to be played by nuclear power remains uncertain, particularly in the short term. Increased production of domestic oil, natural gas, and coal must be encouraged. However, with our proven domestic oil reserves on the decline, and with increased coal production posing serious environmental risks, other short-term strategies must be utilized. Conservation technologies are ready now, are domestic, produce little if any pollution, and offer us perhaps our best short-term solution to the energy crisis.

We are reminded by the authors of "Energy Future" that:

> . . . Conservation is no less an energy alternative than oil, gas, coal, or nuclear. Indeed, in the near term, conservation could do more than any of the conventional sources to help the country deal with the energy problem is has.

Specifically, industrial conservation efforts using existing technology and requiring moderate capital can produce energy savings of about 10 percent in many of our most energy intensive industries. Energy conservation projects in this category include improved operating procedures and comparatively minor modifications to existing equipment. As the price of energy has risen, projects to achieve this first level of energy savings have increasingly become cost effective. In many industries, then, these "first level" conservation savings have been and are being realized.

Mr. Speaker, it is our opinion that significant additional "second level" conservation savings in the neighborhood of an additional 15 to 20 percent can be achieved with existing technology. However, projects to achieve these savings require large capital outlays. To date, substantial "second level" energy savings have not been achieved in the industrial sector. Some of our most energy intensive industrial firms simply may not have the capital necessary to undertake significant conservation projects. For other firms, where energy is not a significant cost, energy saving whether by housekeeping or by investment may remain a low priority concern. However, conservation must be elevated in priority throughout our industrial sector. It is these "second level" conservation projects which we hope to stimulate with this incentive proposal.

Mr. Speaker, it is our feeling that the proposal we introduce today will provide the necessary incentive for those industries which would ordinarily not undertake industrial conservation projects. At the same time, it is our intention to address the cash flow problem which prevents many industries from investing in significant conservation projects.

It is clear that the barriers to industrial conservation are in some cases economic and in some cases institutional. What we have tried to accomplish with this legislation is give energy conservation the visibility it deserves as a significant alternative energy source. By addressing the barriers which have inhibited industrial energy conservation in the past, hopefully we will have charted a new course for energy conservation in the future.●

CROSS COUNTRY SCHOOL VISITS THE CAPITOL

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

●Mr. LONG of Maryland. Mr. Speaker, I welcome the fifth-grade students, their parents, and teacher, from the Cross Country School in Baltimore who are today visiting the Capitol. My constituents have a full day in Washington. They will tour Congress, the FBI Building, and Arlington National Cemetery. I am delighted to meet with my friends from Cross Country School and am sure that their day here will be memorable and interesting.

The parents are: Marilyn Warsofsky, Lorraine Wizda, Janet Somerville, Charles Stewart, and Hariadere Gustus. The teacher is Judith Shuster.

The students are:

Scott Adams, Durand Canty, Dane Chesely, John Cole, Steven Halle, Lee Montgomery, Whitney Och, Mark Simms, John Slepenski, Steven Newton, Adam Smolen, Michelle Stewart, and Jackie Somerville.

Jacquetta Blanding, Rhonda Boozer, Stephanie Brunson, Fracye Carter, Raquel Covington, Cherees Dow, Camilla Gustus, Carla Hardy, Holly Higgs, Latonya Jackson, Diane Johnson, and Jerina Kesler.

Holly Markow, Charlene Offer, Anna Schwartz, Laura Walpert, Avra Warsofsky, Nicole Winreich, Shelly Wicks, Sharyn Wizda, Adrianne Wilton, Lisa Wright, and Kelly Butler.●

SOIL CONSERVATION SERVICE HELPED MAKE POSSIBLE RESEARCH TRIANGLE PARK'S SCENIC BEAUTY

HON. IKE ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. ANDREWS of North Carolina. Mr. Speaker, those of us from North Carolina take exceptional pride in the Research Triangle Park and enjoy telling our colleagues in the House about its many attributes.

Because of the park and the several nearby colleges and universities—Duke, Meredith, University of North Carolina, North Carolina Central, Shaw, North Carolina State, St. Mary's, St. Augustine's, and Peace—the Raleigh-Durham standard metropolitan statistical area (SMSA) ranks first nationally in the number of Ph. D. scientists and engineers per capita.

Among the many research institutions in the park are several Federal ones—the National Institute of Environmental Health Sciences, the Army Research Office, Forest Service, and Environmental Protection Agency. These agencies employ several thousand persons, and the contributions they are making are well-known nationally and internationally.

Not well-known until recently has been the role of another Federal agency—the Soil Conservation Service—in helping make possible the scenic beauty of the Research Triangle Park.

This story began more than 25 years ago, when the late J. C. Jester, district conservationist in Durham County, began working closely with the founders of the park, and it continued with his successor, Robert S. Tennant.

My good friend, Frank Jeter, public information officer with the SCS in North Carolina, has written an account of Mr. Tennant's many contributions to the park, and it was published in the May issue of Carolina Country, the office publication of the North Carolina Association of Electric Cooperatives. I am pleased to insert Mr. Jeter's article in the RECORD at this point.

> People from all parts of the world have been impressed by North Carolina's Research Triangle Park.
>
> Some are impressed by the fact that the research facility lies in what once was open country bounded by three nationally known universities—North Carolina State University at Raleigh, the University of North Carolina at Chapel Hill, and Duke University at Durham, all near the "Triangle."
>
> Others are impressed by the business firms and governmental agencies that have established modern research facilities within the Triangle.
>
> But very few fail to comment on the fact that the 5,400-acre site of the Research Triangle is a scene of great natural beauty, with rolling lawns, many trees and shrubs in between the attractive buildings, and landscaping that comes right down to the edge of roads and walkways.
>
> This didn't just happen.
>
> From the beginning, the Triangle was planned as an attractive location where fertile minds, using modern equipment and techniques, could come up with ideas and discoveries useful to mankind.
>
> So from the beginning the USDA-Soil Conservation Service was called in to provide technical assistance, including conservation measures that would prevent erosion and provide a scene of natural beauty.
>
> The advice and assistance of one individual stands out in the process.
>
> For years Robert S. Tennant served as district conservationist at Durham, in charge of SCS activities in Durham County, which includes the Research Triangle. Although he has now transferred to neighboring Orange County, "Bob" Tennant keeps the same interest in the Triangle that has won him praise from all those visitors coming into the facility.
>
> Specifically, Bob Tennant has helped the Research Triangle with comprehensive erosion control plans for each new client, including plans for each new client, including planting recommendations for grasses, trees and shrubbery around their site, and has given them step-by-step procedures to insure success.
>
> A number of tested conservation techniques, similar to those used on farms in the rolling Piedmont terrain, have been utilized. Sediment basins have caught run-off water that sometimes contained silt.
>
> Diversions to control water, sediment ponds, dams made of stone, and such temporary measures as brush barriers and burlap sediment fences have all proved useful.
>
> Follow-up advice on maintenance is another important part of the "package" provided at no cost to firms within the Research Triangle.
>
> The results can easily be seen by passing motorists. A harmonious blend of buildings and trees, stone "rip-rap" and grass, shrubs and flowers greet them on every hand.
>
> All this is a living monument to Bob Tennant, who refused to let even a job transfer get in the way of his seeing this project through.●

BURTON POLICE OFFICER KILLED IN LINE OF DUTY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. KILDEE. Mr. Speaker, the recent death of an officer with the Burton, Mich., Police Department reminds us again of the dangers faced by those who put their lives on the line to protect the lives and property of the rest of us. It also reminds us of the dedication and devoted service that motivates so many of these public safety officers—a great public service attitude that too often is taken for granted or overlooked.

Russell Herrick, 26, had been a member of the Burton Police Department for only 2 years when he was ambushed and killed on May 8 by an unseen assailant with a high-powered rifle. Mr. Herrick and his partner, David Rushton, had responded to a burglar alarm at a store in Burton and had surprised and captured a burglar carrying a pillowcase filled with stolen guns when they were fired upon by the burglar's accomplice from a nearby field. Mr. Rushton was seriously wounded, and Mr. Herrick was shot in the back while calling for aid for his wounded partner over the police cruiser's radio.

Mr. Herrick is the first police officer killed in the line of duty in Michigan this year. He was the first officer killed on duty in Burton.

Mr. Herrick's wife of more than 6 years, Elizabeth, gave this tribute to her husband and to his sense of duty in an interview afterward to reporters:

> We both realized the dangers involved in being a cop. We discussed it sometimes. But I think because he had to live with this element of danger on a day-to-day basis, it gave him a different perspective. I think it made him appreciate life even more.

She said he lived by this motto:

> You have never lived until you have almost died. And for those who fight for it, life has a flavor the protected will never know.

Mrs. Herrick went on to say:

> Even though he took precautions, he knew there would be unpredictable, life-threatening situations. But he felt that what he was doing and what he could do as a policeman was worth it. You see, Rusty was really idealistic. I know a lot of people think men become cops because they think it's macho, a symbol of power and authority. For Rusty, being a cop was something much deeper, something special. He really cared about people. He would change the world if he could to make it a little happier, a little safer place to be.

Mrs. Herrick recalled the case of a 14-year-old fatherless boy who ran around with a gang and got in plenty of trouble. She said:

> Rusty thought this kid was worth something, so he spent time with the boy. He even took him to a hockey game. He talked to him and motivated him to stay out of trouble and to gain a grip on his future. He always had time to talk to any youth, to help them cope with and solve their problems. Through this kind of work, he saw a lot of positive results. And this, more than anything else, made him feel good about being a policeman. It made everything seem worthwhile.

Coworkers recalled many other instances of Mr. Herrick's concern for young people, such as when he took bags of candy with him in his cruiser last Halloween to pass out to trick-or-treaters.

Only a week before his death he was awarded a letter of merit for work he did in February to track down and arrest three persons, who police say have admitted to more than a dozen burglaries and safecrackings in Burton.

All of us are poorer, Mr. Speaker, for the loss of such a dedicated and talented young man.●

FOREIGN AID—A RECONSIDERATION IS NEEDED

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. CONYERS. Mr. Speaker, having just returned from Lagos, Nigeria, and discussions with African leaders, I have to confess to my colleagues that the debate on the foreign assistance authorization bill (H.R. 6942) has left me with a sinking feeling about what we are attempting to accomplish, particularly as the bill relates to aid to Third World nations.

Debate has been couched in narrow and shortsighted terms. Concern with superpower rivalry has tragically overshadowed the grim realities of global hunger, poverty, and international instability. We have failed to speak to the hope we can potentially bring to the nations of the world that would be assisted by this legislation.

We should not be misled by ideological rhetoric that never tires of viewing the world simply as capitalist or Communist, pro-American or pro-Soviet. A number of the amendments seek to cut or eliminate aid to nations of Africa reflect this preoccupation. The fact of the matter is that every one of the African nations that will receive assistance under this bill are overwhelming oriented to the United States culturally and economically. Most of their trade is with Western nations. Every one of them has assisted in constructive ways in easing the tensions that have plagued a very troubled part of the world.

The authors of the amendment to cut funds to Zambia cite the situation that has led this nation recently to purchase Soviet arms. The irrelevance of this is brought home by the fact that we maintain supportive relations with many other nations including India that also purchase Soviet arms, in rather large quantities, and that, in any event, the exclusive purchase of American arms is no guarantee of friendly relations, as the tragic events in Iran and other Middle Eastern nations has shown. The Zambian government, it should be noted, supported the United States in the U.N. Security Council vote on sanctions against Iran and also was pivotal in bringing the war in Zimbabwe to a peaceful conclusion. The funds furnished to Zambia through this bill will be used principally to develop its agricultural resources and its labor market. This is the kind of foreign aid that offers the greatest hope for development and that draws our two nations together.

Another nation that has come under attack is Mozambique. The authors of an amendment to cut out $6 million in economic support funds to that country argue that Mozambique is undeserving of assistance since it has a Marxist-form of government. Yet we conduct relations with other nations, elsewhere in the world, that have similar governments. Mozambique, it should be remarked, conducts most of its trade with Western Europe and is the recipient of considerable European aid, including aid from Portugal, its former colonial oppressor. The nations of Africa desperately require development assistance. We should not be surprised that they accept aid from a variety of sources, since their needs far exceed what the United States and Europe are able or willing to provide. The strong Western orientation of this nation is all the more remarkable when we consider their anguished colonial histories.

Not very long ago, the Willy Brandt Commission on North/South relations issued its report, warning that a most critical question affecting the world community is to find the means to avert global disruption resulting from the great disparities in income and development between the industrial nations and the so-called developing ones. As an illustration, the citizens of six African nations that we will assist under this bill earn currently a mere 4 percent of the annual income enjoyed by Europeans and Americans. Their average per capita gross national product is $300 annually, as compared to an average of $8,000 in Europe and the United States. A number of African nations have a per capita gross national product of only $150 annually.

We cannot afford to overlook the profound issues of economic development, resource shortage, and competition, and the tensions characterizing world trade and investment. The endemic and unimaginably appalling famine occurring in the Sahel region of Africa compounds the development crisis in these countries. Starvation has become so commonplace that it no longer is reported by the media. We will have to address these grim realities some day. Third World nations will pursue their development one way or another. The question is not why, or under whose guidance, but how quickly and effectively.

The foreign aid authorization bill represents a very modest, but important effort in this direction. It includes development assistance to Zimbabwe, Zambia, Uganda, and Mozambique, among others. I urge my colleagues to take the long view and support the committee's bill.●

PARACHUTE TEST PROGRAM

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. NICHOLS. Mr. Speaker, for some time now I have been interested in a parachute test program that has been proposed by my constituent, Christian Koenig, president of Koenig & Associates, Prattville, Ala., which is an Aero Systems research company.

The Koenig low-altitude parachute is designed to function in the 250- to 350-feet-above-ground-level ranges. On May 18, five men, Stephen McConnell, Win Smith, John Kelsey, Jim Cazer, and Mark Cazer successfully jumped from a C-45 at 360 feet during the Elmore County, Ala., air show, thereby accomplishing a first in the history of military parachutes. They were assisted by a ground crew consisting of Jesse Woodard, Thomas Duane Calhoun, and William Spivey. Thus, Koenig & Associates have proven that airborne forces can safely be deployed below Warsaw pact radar systems.

I am enclosing an article appearing in the Prattville Progress on May 22 detailing the specifics in this history-making parachute jump which may well revolutionize the utilization of parachutes at low levels, and I am pleased to make this event known to my colleagues here in the House of Representatives.

360-FOOT DROP WITH KOENIG CHUTE MARKS AVIATION MILESTONE

(By Carl Poteat)

Another chapter was written into aviation history this weekend at the Elmore County airport as five men using the Chris Koenig low altitude-fail safe parachute successfully jumped at 360 feet above the ground, ending standing up without injury.

According to Prattville resident Koenig, it was the first time any one intentionally jumped at that height, 600 to 1,100 feet below altitudes considered safe by the military.

Making the eventful jump were Jim Cazer and his son Mark of Birmingham, John Kelsey of Auburn, Win Smith of Prattville, and Stephen McConnell of Elmore.

The low altitude jump was made possible by a new parachute designed by Koenig which utilizes the air rushing around the canopy rather than the air rushing up into the canopy. His design forces the canopy to open even when the parachute is not in line with the wind and also causes an immediate separation of suspension lines and parachute fabric which eliminates a major malfunction problem with present parachutes.

Since the Koenig chute opens almost immediately, it does not give time for a jumper to accelerate thus allowing for an immediate slow rate of descent which makes low altitude jumps possible.

The Koenig parachute gives new life to airborne warfare by allowing troop-carrying airplanes to fly under enemy radar.

The Koenig chute is now being tested at Ft. Bragg, North Carolina. In preliminary testing with dummies, the Koenig chute has been given a reliability rate of "99.999 percent" by the Army.

The parachute has created world-wide interest and June 5, Koenig and his associates—parachute riggers Jim Cazer and Duane Calhoun and cameraman Jesse Woodard—will demonstrate the parachute with a live drop at 300 feet at Ft. Benning, Ga. This demonstration will be for representatives of the North Alliance Treaty Organization (NATO).

This weekend the history-making 360-foot jump was made Sunday afternoon, during the annual Elmore County airport airshow. The five parachutists exited a Twin-Beech flying 130 knots. The rate of descent on the chute was estimated at nine feet per second.

Saturday was the first public demonstration of the Koenig chute as the five parachutists jumped at 500 feet, which set a record for a mass jump at that altitude.

Koenig, a former Army intelligence officer and veteran combat trooper, has spent several years in designing the chute after seeing three helicopters shot down in Vietnam in 1971, killing men who would have been saved with a special kind of parachute.

Koenig started work on the parachute in 1976 and the first full scale model was built in late 1978 by Jim Cazer, a master pararigger of Birmingham, and Duane Calhoun, a pararigger with the Air National Guard in Montgomery. Cazer became the first man to jump the Koenig parachute at 500 feet in August of 1979.

Koenig has designed his system into chutes for paratroopers, for jet aircraft, and for slow flying civilian aircraft and helicopters.●

INDUSTRIAL ENERGY CONSERVATION INCENTIVE TAX ACT OF 1980

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. OTTINGER. Mr. Speaker, I am happy to join my distinguished colleague from Hawaii (Mr. HEFTEL) in introducing legislation that will produce major energy savings for the Nation while helping to put American industry back on its feet.

This legislation is aimed first of all at tackling the serious national security threat posed by the U.S. dependence on foreign oil. American industry is a major user of this and other scarce fuels, consuming about 20 percent of the oil and 50 percent of the natural gas burned up nationally.

Although industry has already achieved significant energy savings, largely through inexpensive housekeeping measures, it has yet to make the major investments needed to achieve the much larger efficiency improvements waiting in the wings.

The potential energy savings are enormous, as is evident when we compare U.S. industrial production to that of other industrialized nations. This country uses 50 percent more energy than Italy to produce the same quantity of steel, for example, and 45 percent more energy than West Germany to produce the same amount of cement. This disparity can be traced to the historical fact that most of the U.S. industrial equipment was built when oil cost only $2 a barrel. In the current climate of expensive and politically sensitive energy supplies, the Nation's existing industrial equipment is obsolete.

The overhauling needed to bring existing equipment up to modern-day needs will take enormous amounts of capital.

Yet industry does not appear to be making these improvements as fast as might be expected in light of rising energy prices. As we have discovered in hearings before my Subcommittee on Energy Development and Applications, industry is often reluctant to make major energy conservation investments in the face of competing pressures to develop new products or expand its operations. In today's tight capital market, this competition for investment within each business is increasingly severe, often pushing cost-effective conservation measures to the bottom of a company's priority list.

The incentive we are proposing today is aimed at helping industry to overcome the capital supply problems it faces when deciding whether to make an energy conservation investment. The bill would encourage only those investments that are cost effective to the Nation when compared to alternative energy sources. In addition to its energy saving benefits, this legislation has significant implications for the economy. By helping industry to reduce the rising energy-cost component of manufactured goods, this measure should help to improve industrial productivity and to dampen the inflationary effects of rising energy costs.

Preliminary estimates indicate that by 1988, this bill could save up to 1 million barrels of oil equivalent daily or more than one-eighth of our current petroleum imports.

In general, this bill would provide a tax credit equal to 20 percent of a qualified industrial energy conservation investment. The tax credit would be in addition to the regular 10 percent investment tax credit provided by existing law.

For the two categories of industrial conservation equipment currently receiving an additional 10 percent energy tax credit under the Energy Tax Act of 1978, our bill would increase that credit to 20 percent and make the credit refundable. Those two categories are "alternative energy property"—property to convert from the use of natural gas and oil to other fuels such as coal—and "specially defined property," which includes 12 specific items of energy-conserving equipment.

The Industrial Energy Conservation Incentive Tax Act would broaden the type of equipment eligible for tax incentives by creating a new category of qualified conservation property. Generally this category includes new equipment or improvements that result in less energy consumed per unit of output. The credit for qualified conservation property is limited to the lesser of 20 percent of the qualified investment or $55 for each barrel of oil equivalent saved per year. This limitation is intended to assure that the Nation will pay no more for energy conservation than it would for such alternative sources of energy as synthetic fuels.

No tax credit is allowed for qualified conservation property if the amount of the credit would come to less than $11 per barrel of oil equivalent. This limitation is designed to exclude from the incentive those improvements that are already sufficiently attractive economically for private industry to undertake on its own.●

APPRECIATION DAY, 1980

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SHELBY. Mr. Speaker, the Seventh District of Alabama honored a real hero this past Memorial Day: Air Force M. Sgt. Reuben S. Cole of Greensboro returned home wearing the laurels of being a voluntary member of the U.S. rescue team in Iran.

As the honoree of Greensboro's "Appreciation Day" on May 25, Master Sergeant Cole spoke to a large gathering of the experience shared with his teammates in Iran. The brave young man said:

> Words are inadequate to express the grief that is felt at Hurlburt Field and across the Nation for the loss of these men and the three marines who were also lost. But words must serve to express our debt to these men, and to all men, throughout history, who died while helping to win and then to protect our Nation's freedom.

I join with my friends in Greensboro, my fellow Alabamians, and all Americans in saluting both those who returned from the Iranian desert and those who lost their lives there. Master Sergeant Cole's proud recounting of his "Articles of Conduct" was particularly inspiring:

> I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

And we, in turn, will trust in our fine American fighting men.●

MR. ASHBROOK'S COMMENTS ON VIETNAM SERVICEMEN

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. COLEMAN. Mr. Speaker, last June the distinguished Member from Ohio (Mr. ASHBROOK) made an important tribute to the American servicemen who fought in the Vietnam war. The substance of this tribute was that the heroism of the Vietnam veteran should not be forgotten.

Because Mr. ASHBROOK's comments on the sacrifice these men made in Vietnam and on our duty to remember that sacrifice are as relevant now as they were a year ago, I would again like to bring them to your attention.

Mr. ASHBROOK's comments follow:

A Tribute to Our Fighting Men in Vietnam

(By Hon. John M. Ashbrook)

It was a pleasure for me to see the recent publicity given to honoring our Vietnam veterans' during Vietnam Veteran's Week. My record, throughout the Vietnam and post-Vietnam eras, shows that I have been aware of the debt we owe our former fighting men in Vietnam, not only a debt in monetary benefits and jobs, but another, spiritual payment: the accolade given fighters for freedom.

Our men in Vietnam fought for the same cause our soldiers died for in other wars: freedom. In the early 1940's, with Americans firmly united in the war effort, it required great courage to do one's job as a soldier. But we have never asked as much of human beings as we did of our men in the late 1960's, when they did their duty despite confusion, stupidity, and vast numbers of enemy sympathizers at home.

We do not wish to remember war, but we cannot forget heroism. It is not to fix our minds on the blood baths in the Pacific that we have the Iwo Jima Memorial. The purpose is to commemorate bravery in the cause of freedom. It is not the "agony of Vietnam" we should remember, but we certainly should not let the agony allow us to forget the moral triumph of the hundreds of thousands of young Americans who did their duty.

Too many commentaries on our Vietnam veterans seem to be saying, in effect, that we should pay them off in money so we can forget the whole painful episode. This is morally wrong. It is spiritual cowardice. The Vietnam era was catastrophic, but that catastrophe was the fault of those in power, both in Washington and in the New York-based media. It was not the fault of the young men who fought and died for their country. It is our own failures that make the period painful, not their heroism.

Half a million American military personnel stood between 30 million southeast Asians and Communist enslavement and death. We have seen the millions die and the enslavement proceed since those troops withdrew, so that today only a psychopathic liar—or a psychopathic ideologue—could deny that statement. The army of South Vietnam fought long and hard, but it was the American forces that made the final difference.

In Cambodia alone, from 1 to 3 million people have been murdered by Communists. That means that for each American soldier withdrawn from support or combat duty—and most were in support duty—two to six Cambodians have died.

While our soliders fought and died for the freedom and the very lives of the Vietnamese, American big media kept insisting that the Vietnamese people loved the Communist invaders. But our fighting men noticed that the streams of refugees streamed southward, away from the Reds. The big media never noticed that their Communist heroes, their so-called "people's friends," always have to chase those people down to conquer them, and to build walls around them to keep them once they have been liberated. This sort of distortion did not fool our troops: They could see that they were defending a whole people from oppression, slavery, and butchery, though we at home gave them precious little credit for it.

Our leaders—not our men in uniform—failed the people of Vietnam, just as they failed their defenders. This is indeed a painful memory for a leadership which failed to lead, just as it should be agonizing to the media which failed to inform. But it does not negate the heroism of our Vietnam fighting men. Nor does it give us any right to forget about it.●

CARTER POLICY: THE TRADITIONAL FAMILY IS JUST ONE MORE LIFESTYLE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. ASHBROOK. Mr. Speaker, when candidate Carter declared his intention of aiding the American family in 1976, there was no doubt in his mind or in the mind of voters what the family meant. As with so many other promises made in 1976, Mr. Carter immediately abandoned wishes of the people who elected him in favor of the preferences of professional liberals in Washington. He abandoned the concept of the unique importance of the traditional family, which liberals consider just one more lifestyle, in favor of a White House Conference on Families. According to the profamily publication, the Right Woman, an appointee handling public relations admitted that—

> The name was changed from the White House Conference on the Family to the White House Conference on Families so that we would not be advocating any one particular life style.

Clearly, there is no other explanation for this all-important change of title.

Can anyone seriously say that candidate Carter would have gotten votes in 1976 by declaring the traditional family just one more lifestyle? Obviously the exact opposite is true: The very profamily people Carter appealed to by his promises in 1976 would be most infuriated by this relegation of the family to the status of just another lifestyle. Carter has twisted his 1976 profamily promises into an action which is a direct attack on the institution of the American family. This represents either extreme dishonesty or extreme gullibility on Mr. Carter's part, and neither is a qualification for the Presidency.●

TAXING OIL COMPANY PROFITS

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. DANIEL B. CRANE. Mr. Speaker, perhaps the most misunderstood topic in the Nation today is the subject of oil company profits and the alleged need for a tax on what have become known as windfall profits.

I have attempted to correct the gross misunderstandings in the past, and will continue to do so. Jay Gossett, editor of the St. Elmo (Ill.) Banner, has editorialized on the fallacy of so much of the rhetoric surrounding this subject. I strongly recommend to my colleagues that they read Mr. Gossett's analysis and perhaps see the problem from a perspective different from that of the propagandists.

The editorial follows:

Political Windfall

The more I think about the political ploy that's currently being executed in Washington by the so-called leaders of our country, the angrier I get. Frankly, what Carter and company are trying to pull off is an insult to your intelligence and mine and it contradicts the very tenets of this country.

The political ploy, of course, is the so-called "windfall profits tax." The very name is deceitful. In the first place, the proposed tax is not a profits tax, it's an excise tax. A profits tax is levied after a company has paid its bills, claimed its deductions and determined what the business cleared. An excise tax comes off the top—it will be extracted at the wellhead on each barrel of oil produced. A company will pay it whether it operates at a loss or earns a profit.

Carter and company would have us believe that this tax is needed to prevent oil companies from reaping excess profits at the expense of us all now that oil and gas prices have been de-regulated. But the reason oil and gas prices are being de-regulated is that the government imposed lid on oil and gas prices has deterred oil companies from exploring for oil in this country. In effect, what the politicians are saying is, "Let's encourage the oil companies to find and produce more oil, but when they find it after dutifully following the carrot, let's whack them with a club."

Of course, the fact the "club" (the excise tax) will give the politicians a share of the pie isn't repulsive to the politicians.

Now, the logic for the government taking a share is that it can use the money more efficiently (pause for roar of laughter) to develop alternate sources of energy. That claim comes from people who can cite the post office and railroads as examples of efficient management. (Pause for sobs)

No wonder the oil companies are investing in department stores, just escaping from government regulations would make the move alluring.

Even the current furor over oil company third quarter profits is a fraud, promoted in a fashion that would turn a Goebbels green with envy.

Now, it is difficult for a small town editor to shed any tears over the plight of a company that reported $1,140-million in profits for three months, as Exxon did recently. My little calculator won't even accommodate that many digits. It's a breath-taking figure, but not if you put it in perspective. Exxon has 690,000 stockholders who own 439-million shares. That profit breaks down to $2.60 a share of which $1.00 was returned to stockholders in the form of dividends. The remaining $1.60 presumably is being pumped back into the business to produce more dividends in the future. Who gets the dividends? Some very wealthy people, true, but also some not so very wealthy. For example, a teachers retirement pension fund.

But to get back to the central question, was Exxon's profit excessive. Not by many standards used to measure a business's performance. One yardstick is earnings as a percent of sales. Most manufacturing companies earned 6.6¢ per dollar of sales so far this year; the oil companies earned 6¢ on the dollar.

Even some of the figures thrown at us to paint the oil companies as profiteers are deceptive. We're told for example that Exxon doubled its profits, but only in comparison with the third quarter a year ago, the worst in five years.

We've had the spectre of monopolistic oil, shades of the John D. Rockefeller days, flashed before us by the propagandists. But what are the facts. Exxon may be the top oil producer in this country, but Exxon doesn't even produce 10 percent of the country's oil. Our Loudon field offers a good example of this. Exxon is unquestionably the biggest producer but a quick glance at the oil and gas assessment legal published in last week's Banner should convince you that the pie is sliced many, many ways.

And speaking of taxes, which we were, Exxon paid $6.2-billion in taxes to the U.S. and foreign countries for the same three-month period when their earnings aroused such outrage. Those profits were one-sixth of taxes.

A very good reason exists for labeling the proposed excise tax a "windfall", it will be for the politicians whose addiction to spending more and more money to erode the roots of the tree of Liberty which our forefathers planted with the notion that any man should be able to climb as far as he could by using his brain, honest toil, and a willingness to risk capital. My dictionary says that a windfall is something blown down, first; and an unexpected gain, secondly. This windfall may turn out to illustrate the first definition. The casualty could be our 254-year-old heritage. The price? A return to bondage.●

KEVIN SHORT

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mrs. HECKLER. Mr. Speaker, the Young American Medal Awards are a prestigious recognition of exceptional service by our Nation's youth. To be nominated for the award is a great honor, and I am proud that my constituent, Kevin Short, is Massachusetts' nominee.

Kevin is valedictorian of his high school class and president of the National Honor Society, but his accomplishments do not end at the classroom door. His musical talents have repeatedly earned him awards as most valuable musician in a jazz ensemble that ranks No. 1 in the State. He is president of the marching band and concert band, and his entry took second place in the jazz ensemble original competition contest. These recognitions were all earned in his senior year alone.

Kevin is an adept skier; in addition to serving as a ski instructor for the New England Handicapped Sportsman's Association, he has earned first place in the Eastern Regional Races and the North American Championship Nationals. He also placed third in the voice of democracy speech contest and is actively involved in many other school and community activities.

Many students have impressive academic records. Fewer combine this with a special talent that earns them statewide recognition. Fewer still add to this a record of athletic achievement. And there is only one who has accomplished all this after losing a leg to bone cancer—that individual is Kevin Short.

Perseverance, determination, and a selfless concern for others—these are the lessons we learn from Kevin Short, as well as a reminder that the only barriers before us are the barriers of our minds.●

POSITION PAPER ON JORDAN AND THE CAMP DAVID ACCORDS

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, today's discussion on the proposed McCloskey amendment concerning Israel has raised several problems regarding peace in the Middle East.

I insert into the RECORD a position paper on Jordan and the Camp David accords, which was prepared by Dr. Michael J. Franzblau of San Rafael, Calif., a respected member of America's Jewish community. Dr. Franzblau's position paper contains concrete proposals for bringing together support for the accords from Jordan and the other Arab nations.

The material follows:

POSITION PAPER ON JORDAN AND THE CAMP DAVID ACCORDS

Central to the just resolution of the Israeli-Arab conflict is the continued implementation of the Camp David Accords, as they relate to the problems of Arabs living in the West Bank and in Gaza.

The language of the Camp David Accords is very explicit in describing the need for the Jordanians, the West Bank and Gaza Arabs, the Israelis, and the Egyptians to all participate in the development of a comprehensive peace plan that will address the political solution to the status of the West Bank Arabs.

The active participation of Jordan is most important now. This will strengthen the peace process, weaken the position of the PLO and the rejectionist Arab States, and provide the chance for a viable political plan to be developed.

Arabs and Jews have been in conflict for over 3,500 years. Time to negotiate in a quiet manner is essential. Jordan can be available to help during the next 5 year period of the development of a peace plan by offering its good offices to act as a bridge between the Israelis and Arabs.

The West Bank must have time to develop a democratically oriented constituency of moderate Arabs to counter the power of the PLO backed political forces that act by terror tactics whenever an Arab leader suggests rapprochement with Israel.

It is my view that the U.S. Government has not done all it can to encourage the King of Jordan to show statesmanship and participate in the peace talks now.

We have leverage with Jordan because of our "special relationship," over the past 30 plus years of economic and military aid. We also have leverage through the Saudi Arabian Government, who have great influence over King Hussein.

The willingness of the U.S. Government to support the pricing techniques of the OPEC Cartel and our generous deployment of the most sophisticated weaponry to the Saudis show our good faith. Let the Saudis reciprocate now by giving King Hussein the chance to become the second Arab leader to become a statesman in the interests of his own people.

The importance of time to permit the peace process to go forth is essential. Jordan which is a stable nation can help by being available to help in the development of specific nuts and bolts details with reference to civil administration problems in the West Bank area.

The one million Arabs living in the area must be encouraged to develop a political leadership that is western-oriented, anti-PLO terrorist, and able to live with the state of Israel now.

The benefits to the people in the area, if peace breaks out, are almost beyond comprehension. Arabs, Jews, and the rest of the world will be the benefactors of stabilization, improvement in the economic well-being of the Arabs and Israelis, and the exclusion of mischief by the Soviet Union in the Middle East.

The U.S. Government must call in its IOU's from both King Hussein and our Saudi allies now. The Camp David Accords are a magnificent diplomatic triumph for our country but they are the first step in a complex series of events that will lead to a comprehensive settlement of the Arab-Israeli Conflict in our time.●

VIOLENCE BEGETS VIOLENCE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. FINDLEY. Mr. Speaker, I am deeply saddened by the statements emanating from Fatah, Yasser Arafat's group and the largest within the PLO, at the conclusion of its congress in Damascus.

Fatah has issued a declaration calling for the dismantlement of the State of Israel. Whether this confrontational approach will lead to greater violence is, as yet, unclear, but it does not augur well for peace in the Middle East nor for the security and well-being of all its peoples.

As many know, I have made a serious attempt to convince Arafat to recognize publicly Israel's right to exist. Like Ezer Weizman, I have told the PLO "to stop shooting and start talking." And of course I have urged that Israelis reject violence. I have believed that PLO acceptance of Israel's right to exist was a critical element in reaching a Middle East peace. I was encouraged by Arafat's private statements to me and reports of his identical statements to others regarding PLO willingness to recognize Israel, and live at peace with Israel, and felt that a dialog with the United States would insure that PLO recognition of Israel would follow. To urge someone to stop shooting and start talking necessitates someone to talk to.

As we now witness the tragic events that are occurring in the Middle East—the terror, the murder, and the maiming of Israelis and Palestinians, the stalemate and breakdown in the autonomy talks, the growing hatred and the harsh statements, I feel that it might have been otherwise. I do not accept the inevitability of what is now happening in the Middle East nor do I accept the inevitability of either peace or war in that region in the future. What will happen will be the result of our efforts and the efforts of Israelis, Palestinians, and other Arabs.

Violence from whatever quarter will yield only destruction, suffering, and hatred. The way to a real peace that will promote the well-being and security of Israelis, Palestinians, and Americans among others will be a sincere attempt to talk, to negotiate, and to reconcile the rights of Israel and the rights of Palestinians.●

THE PUBLIC SCHOOL MONOPOLY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. ASHBROOK. Mr. Speaker, one of the great creations of modern democracy is the vision of universal high-quality education. One of the great ironies of contemporary American liberalism is its support of institutions which have actually hindered progress toward that goal—institutions like monopolistic teachers unions, mindless experiments in pedagogical faddism, and paralyzing State and Federal regulations.

Traditionally the faction of the intellectuals, liberalism has in effect waged war on intellectual excellence. Traditionally the champion of the poor and of racial minorities, it has in effect locked those very groups into academic mediocrity.

It is no wonder that the more thoughtful liberals are now taking a second look at institutions which recently they used to take for granted. One such liberal is Prof. John Coons of the University of California at Berkeley. Professor Coons has done what many intellectuals try, and few succeed, in doing: He has discovered, or rather rediscovered, a simple truth. Professor Coons' earth-shaking discovery is that families are competent. The typical family does not need to be nursed and shepherded and straitjacketed by social service professionals in order to make sane decisions for its members' well-being.

Since families are competent, no useful purpose is served by denying them control over their own destinies. Specifically, there is no good reason for the Government to dictate the specific content, style, and philosophy of schooling to families by imprisoning them in a state-controlled monopoly.

Unfortunately, this monopoly has proved extremely skillful at enlarging its domain under rallying cries like "democracy" and "equality." As a conservative, I happen to think we have heard too much about educational equality during the last 15 years, and too little about educational excellence. But as a liberal, Professor Coons points out that Government monopoly undermines both excellence and equality.

Substituting a voucher or family choice system of the sort Professor Coons advocates would help every kind of student—poor, rich, bright, and dumb. Even if one were totally uninterested in basic literacy and high culture, and totally preoccupied with issues like racial integration and school finance reform, I think Professor Coons' proposal would serve those values better than the status quo.

That is why I am confident that many Americans from all shades of the political spectrum will get together behind this type of educational reform in the decade ahead. Here is the full text of Professor Coons' recent essay in Newsweek on "The Public-School Monopoly."

THE PUBLIC-SCHOOL MONOPOLY

Tax-supported schools call themselves public. The label is democratic, but the reality is not. To get the school you want for your child you have to live in the right place in the right district. If the school is popular, getting a home there requires a deep pocket. You'd think such an elite system would be called private.

Meanwhile, schools called private take kids who live anywhere. Of course, they have to charge tuition to survive. Yet, most make it on half the average cost of public schools and still give scholarships to many low-income pupils. Somehow they also keep the tuition down. In fact, they are a bargain. This helps explain why they often have so many low-income children; the Roman Catholic schools of California, for example, have a higher proportion of minority children statewide than do the public schools. Maybe private schools should be called public.

But private schools can subsidize only a fraction of those who apply. Hence, most families have no choice but to enroll their children in the schools to which they are assigned by an impersonal system of law. The system thus segregates children by income class—workers here, owners there. A Marxist would say, "It is no accident."

But it is. The system is not intentionally vicious. It is merely absurd.

Quality: Why worry? The kids all go to school. The problem is that choice affects quality in education as it does in art, sex and anything else worthwhile. Children who attend public and private schools picked by their parents simply do better. They learn. They enjoy learning. They mature gracefully. They are more tolerant of individual differences. And this pattern holds irrespective of family income. Private schools in the slums turn out educated children.

At the same time, children from the same social class turn stupid and hostile in government schools enjoying twice the financial resources. They go there by compulsion. They tune out, drop out, are thrown out or become professional truants. What they rarely do is flunk out. On the contrary, they graduate before it is discovered that they cannot read.

Is there something inherently wrong with government schools? Of course not. Some are splendid—especially those in neighborhoods inhabited by affluent families. But there is something seriously wanting in any school with a captive audience. Its managers have little reason to serve their clients; they have every reason to serve themselves.

"Public" schools are the quintessential self-serving monopoly. Unlike the local utility, they won't even disconnect and go away. You can rip out the phone, but you can't take your kid out of school. The school is not your servant but your master. It has no incentive to win you because it already has you.

The cure is obvious. The have-nots will be educated when they enjoy the liberty and responsibility that works for the wealthy. Call it "vouchers," call it what you will, but America desperately needs a system of family choice.

The machinery can be simple, flexible and efficient. No existing institutions need be altered. A private school could forgo vouchers; a public school could be financed and administered as today. But families would now enjoy a choice among new public and private schools operating as individual institutions. These would be financed by state vouchers issued to the parents and cashed by their school. No pupils, no vouchers; no vouchers, no school. There would be a day of reckoning for educators.

Government voucher schools could be liberated from the maze of red tape. The California initiative planned for 1982, for example, would end teacher certification and tenure. Voucher schools would be free to set their own curricula, choose facilities and govern themselves in a variety of ways. Parents would have a choice of style and content even in the public sector and would not be bound by district lines. Enrollment in the schools would be open and transportation provided for reasonable distances. Parents themselves could start public voucher schools by petition.

Regulators: The participating private schools under the California proposal would for the first time enjoy state constitutional protection against legislative regulation of hiring, curricula and facilities. Their power to charge extra tuition would be limited, but they could seek support through voluntary giving. The participating private schools would continue as today—but they would have to provide fair disclosure of information—to ensure intelligent choice—and a neutral enrollment system. The only regulators would be the family and the school, not the state bureaucracy. Each child now would bring his own financial support in the form of a voucher.

The system would include private schools teaching religion; in education based upon choice, one would scarcely want to exclude them. Constitutional scholars give their blessing to the idea and predict its validation by the Supreme Court.

Choice would also give new hope for racial integration. Court orders generally stop at district lines; but voluntary transfers would cross those lines to reach schools public and private. They would open new space to the one form of integration that we know is stable—integration by choice. The polls show that the public supports voluntary integration as strongly as it rejects compulsory busing.

Perhaps the biggest winners in the new system would be teachers. Families favor schools that concentrate resources on teaching, not administration. Teachers would at last be in a solid economic position to start their own schools, and financial institutions would have reason to back them. We could do worse than return to the small school operated by a faculty responsible to its clients. Choice is the chief hope in the 1980s for a renaissance in education.●

WEST SAND LAKE HONORS SARAH AND OSWALD BITTIG

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SOLOMON. Mr. Speaker, in this day and age we have grown accustomed to hearing about increasing divorce rates, alternatives to the institution of marriage, and the general decline of the American family. Today, I would like to share with you and my colleagues a shining example of love and devotion which disproves all the trends which are so often publicized by critics of modern American society.

On June 15, 1980, Sarah and Oswald Bittig, of the town of West Sand Lake, N.Y., will commemorate 50 years of marriage. They will be honored by friends and family at a community open house at the Sand Lake Firehouse.

Sarah has been a homemaker and mother, and is quite active in church groups and senior citizens organizations. Oswald was an employee of the Allegheny Ludlum Steel Corp. for over 30 years and retired in 1972. In recent years he has devoted part of his time to public service with the town of West Sand Lake. He is a member of the Stephentown Rod and Gun Club, and the Rensselaer County Conservation Alliance. Mr. and Mrs. Bittig are members of the Sand Lake Baptist Church as well as the Senior Citizens of Sand Lake. They have five children: Millicent, Gladys, Dorothy, Shirley, and Oswald, Jr., and have 19 grandchildren.

Sarah and Oswald were married on June 15, 1930, at the West Sand Lake Trinity Lutheran Church by Rev. Harry Lammond. I urge my colleagues in Congress to join with me in honoring Sarah and Oswald for their devotion to each other, their community, and their country, and in wishing them many more happy, healthy, and prosperous years together.●

A WORLD WITHOUT TRUST

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. PAUL. Mr. Speaker, many Americans no longer trust freedom; instead we live with the misplaced hope that Government programs will provide security, well-being, and happiness. And we believe this can happen without productive effort on our part. As Samuel Johnson wrote in the Rambler in 1751, "The reigning error of mankind is that we are not content with the conditions on which the goods of life are granted." The reigning error in Washington is the idea that the politicians and bureaucrats can provide, out of thin air, the goods of life for everyone.

TRUST: THE SOCIAL CEMENT

Our country today is characterized by a lack of trust in everything, from ourselves to our money. But our society cannot survive without mutual trust. No laws or regulations can compensate for chronic distrust. The only alternative in holding a society together is oppression.

SELF-SERVING POLITICS

We live in an age of self-serving and corrupt politics. The papers are filled with lurid stories, indictments are frequent, and confidence in our leaders has virtually vanished. We no longer believe our Presidents, and assume most politicians are on the take. Few believe the members of the Supreme Court ever read the Constitution; and if they did read it, most Americans are convinced the Justice would pay no attention to it.

The lack of trust in our leaders is not unfounded, of course. It's based on the acceptance, by nearly everyone in Washington, that Government can solve all problems by intervention. Intervention in the market permits politicians to advance themselves by accommodating the special interests in a legal, although immoral, way. Next come bribes and kickbacks, a natural progression for those without strong moral convictions. They reason, "If I can protect my job by voting for the lobbyists and special interests, and providing them with benefits, why," they ask, "should I not receive other rewards—cash, trips, gifts—as well?"

It is essential that the American people reject the notion that government exists to pass out special favors, if we expect to restore confidence in the political process and our leaders.

ECONOMIC IGNORANCE

In economics, ignorance has led to a a lack of trust in the most fundamental truths. There is even confusion about what a sound dollar is. Alfred Kahn, President Carter's chief inflation fighter, said recently before a banking subcommittee: "I don't know what sound money means these days." The law of supply and demand is seen as harsh and unfair; the marketplace itself has become public enemy No. 1. And profit was described by the Speaker of the House as "sinful."

The politicians, the intellectuals, and, of course, the bureaucrats have no trust in the market economy. Worse than that, they fear it and work to destroy it. On occasion, they give lip service to something they call free enterprise, but it bears little resemblance to a free market. They ignore the fact that the market, in its magnificence, provides for their daily needs as well as everyone else's, in spite of their hostility toward it.

As economic intervention increases, so does political and bureaucratic arrogance. The only arguments in Washington today are over what form of intervention Congress should enact; who should receive the benefits; which lobbying effort will win. The winning group either made the most noise recently, or is being asked to deliver contributions or votes. Fundamental economic laws are rejected not for their failure, but because America has been brainwashed for decades by the interventionist economists. Understanding of how a market economy cares for the needs of average people has been lost.

The citizen has lost confidence in the economy because economic intervention leads to stagnation and inflation. He learns to despise the promoters of the old policies, because they serve only the needs of the bureaucrats and the politicians. But the arrogance of the planners grows as their plans fail and the economy deteriorates. Otherwise, the politicians and bureaucrats would have to admit their guilt in creating the problems. So, like the desperate men they are, they struggle for more programs, more deficits, more taxes, more exemptions and credits, more concocted schemes of wealth redistribution.

The inevitable consequence is more and more distrust directed at our economic savior—the political leader—who promises everything and delivers nothing. This distrust, if directed at the arrogant planners, could be the catalyst for building a new economic order. Failing to understand who the villain is, however, will be disastrous, for the proper changes will not be made.

With loss of trust in the market economy, there is always growth of the Government sector and inevitable currency depreciation. Government deliberately waters down the money supply through the printing presses at the Bureau of Engraving and Printing. Although expanding the money supply is always explained in terms of humanitarianism, it soon becomes obvious that the price inflation it brings plays havoc with every family. This leads, logically, to distrust in money. Savings are systematically destroyed, especially if Government fixes interest rates at low levels and then taxes them heavily. The incentive to save is destroyed and consumer spending increases. Prices are then forced even higher, credit markets become tighter, and Government prints even greater numbers of dollars, making the whole problem worse. Without trustworthy money, capital markets are destroyed, as we see in the bond market today.

All this encourages hoarding of gold, silver, and other hard assets, removing from the market the capital required for economic growth.

The price of goods and the rapidity with which consumers rid themselves of untrustworthy money are subjective matters. But when Government defies fundamental economic law, and prints irredeemable paper money, self-serving politicians always abuse it to maintain power, by giving the people something for nothing.

When confidence is finally lost in money, the consumer will precipitate rampant price inflation in a frantic effort to get out of dollar-denominated assets.

THE MEDIA

Many citizens today have lost all trust in the media. People are cynical about the news they hear on television and read in the newspapers, believing that it was either canned by the Government or manipulated by the news service. For this reason, we see the flourishing of high-priced newsletters, especially those that specialize in economic survival as well as politics. Whether or not the distrust in the conventional media is justified is beside the point; the distrust exists.

DOLLAR DIPLOMACY

We have, for decades, tried to win friends around the world with dollar diplomacy, only to usher in an age where few countries in the world truly trust us, and humiliation and ridicule are heaped upon us. This may well be related as well to our practice of exporting inflation and paying our bills with a depreciating currency. It could also be a result of too much CIA-style intervention in the internal affairs of other nations.

NEIGHBORS AND FAMILIES

Trust in neighbors and family has declined. Divorce rates are higher than ever. Crime is more prevalent. When floods or snowstorms close down cities, or power failures occur, looting is rampant. But this is only an extension of the ethic of the welfare state to get what you can while the getting's good.

Lawsuits are rampant against professional people and industries for anything less than perfect results. A California minister was recently sued for malpractice because a member of his congregation committed suicide. The motto is not "trust your neighbor;" it's "get from your neighbor what you can." There's little hope for the future, with many people existing only for the moment.

PEACE IS THREATENED

With a precarious economy and the world disrupted by international economic conditions, peace itself is threatened. War talk always escalates as economic conditions deteriorate.

NO RESPECT FOR LIFE

Without trust in the future or an understanding of the principle needed to revive our free society, loss of respect for human life must follow. First we saw American parents made to feel guilty for having children. This was followed by wholesale abortions, many at taxpayers' expense, so unwanted children would not suffer from future parental neglect or abuse. But the opposite has been the case. With abortions, other kinds of child abuse have increased. If we condone the destruction of an unwanted life, why not permit lesser injury as well? Effective responsibility for the case of children and the elderly has also been turned over to the State, which will lead to the next steps of infanticide and euthanasia.

FEAR

Instead of trusting, we have become dependent on a government of lobbyists, special interests, controls, bureaucracy, manipulation, deceit, fraud, and corruption. We have reaped an inevitable loss of personal freedom and a stagnating inflationary economy.

We now fear our Government with its IRS, wiretapping, invasions of privacy, spies, and bounty hunters. We fear our money, our leaders, ourselves, our competition, and our future. We grasp at any form of government intervention and protection and no longer trust our ability to compete. We are literally frightened by challenge. Businessmen argue in Washington against any changes that would lead to a market economy and challenge them with competition.

With all the fear and loss of trust, we are terrified by the thought of freedom. We forget the God-given sense of satisfaction that comes from purposeful work. The 8-hour day has given way to lobbying, conniving, and initiating violence against our fellowmen through legislation. Many industries can achieve more with a change of one regulation than months of productive effort. Tax code manipulation yields greater rewards than capital investment.

WHEN THE MARKET STOPS

With this loss of trust and fear of freedom, many lose their sense of worth as human beings and accumulation of things dominates their lives.

Ironically, the strength of the market economy compounds the problem, for it continues to lavish material benefits on us long after its moral foundation has been eroded. When the economy finally stops functioning, the cause—abandonment of sound economic principles—is not readily apparent. The opposite view, that abundance is not dependent on a free market is ardently argued because there are temporary difficulties in restoring a free society and sound money. This makes if difficult to convince some people that government intervention has been the source of our problems. Unless we understand the connection between the free-market economy and abundance for the common man, the fear in our country will turn into panic. A national panic is as harmful as the uncontrolled thrashing of a drowning victim. Since it is misdirected, it serves only to make the problem worse; it can lead to the death of the economy.

THE PRESCRIPTION

Under these circumstances, we need calm and confidence. A free, productive, and peaceful society can be achieved; but it requires effort and dedication. We must give up our addiction to larger doses of Government—food stamps, public works, corporate welfare, and foreign military welfare. Government power must be reduced, not increased. Irrational taxing and spending policies must cease. We must reject all Government planning and control, whether benefiting blacks or whites, business or labor, right-wing dictators, or left-wing dictators. Government should exist only to protect our liberty and prevent violence.

The temptation always exists to try to get more for less. Many succumb, and manipulate Government to their special benefit, rejecting the legitimate, limited role of Goverment as protector.

Trust cannot be restored, or freedom protected, unless we resist the temptation to participate in the reigning error of mankind.●

FIESTA CELEBRATES MAGNIFICENCE OF THE GRAY WHALE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. ANDERSON of California. Mr. Speaker, this weekend, the American Cetacean Society and the Cabrillo Marine Museum Volunteers will be sponsoring the 10th Annual Whale Fiesta on the sands of Cabrillo Beach in San Pedro, Calif. The purpose of this event is to celebrate the wonders and beauty of the gray whale and, most importantly, to draw attention to the continuing need of protecting the gray whale from extinction.

A spectacular part of the fiesta will be the building of a 47-foot sand whale and calf on Cabrillo Beach. More than 1,000 volunteers are expected to participate. The daylong event will also feature displays and movies on various whale species.

The two sponsoring groups have already done much to spread public appreciation of the whale. During the past 9 years, they have taken nearly 1 million adults and children on boats to see the annual migration of gray whales off the Southern California coast. Through their annual whale fiesta they further spread this awareness.

This year's whale fiesta is bound to be another success. As always, there will be many people on hand to participate in the whale building, to watch the multimedia whale displays, and to enjoy the food and music. Each will be part of a memorable event with real significance. Together they become a display of public support for the continuance of worldwide action to preserve a magnificent marine asset—the living whale. I bring their message to Congress today and hope their message carries further; to the International Whaling Commission and to the countries of the world who can actively protect the gray whale. I hope you feel the same concern that I do.●

CONSTUCTION FIRM INDICTED IN CASE OF WORKER DEATHS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. GAYDOS. Mr. Speaker, I have continually made a practice of alerting my colleagues to workplace fatalities which have occurred throughout our country. The June 3 edition of the Washington Post contains an article reporting the indictment of a Virginia construction company on charges of violating Federal occupational standards on a site in which two workers were killed in a trench collapse. This case represents the first criminal charges filed in northern Virginia on alleged unsafe working conditions. The charges, which allege that the company willfully and unlawfully failed to brace the ditch to prevent a collapse, were made after State OSHA inspectors uncovered a history of earlier violations by the company. The dramatic aspect of this case is that, while earlier inspectors had uncovered trenching violations, it appears that the employer continued to allow this type of unsafe working condition to persist. This clearly demonstrates that, while OSHA can pinpoint unsafe working conditions, it is up to the employer to abate these conditions. Unless OSHA receives the cooperation of employers, it will be severely impaired in its attempts to assure a safe and healthful work environment. Unfortunately, it may take criminal indictments such as this to alert employers to their responsibility of eliminating workplace hazards.

I now provide for the edification of my colleagues the article that appeared in the Washington Post:

VIRGINIA BUILDING FIRM INDICTED IN DEATHS OF TWO WORKERS

A Northern Virginia construction company and its two top officials were indicted yesterday on charges of violating federal safety standards on a job in which two young construction workers were killed in 1978 when a 17-foot ditch collapsed and buried them alive.

S. O. Jennings Construction Corp. of Fairfax County and its two top officials, Bruce Jennings and S. O. Jennings, were charged with three safety violations in an indictment returned by a federal grand jury in Alexandria.

The indictment marks the first federal criminal charges filed in a U.S. crackdown on allegedly unsafe construction working conditions in Northern Virginia, an official with the Occupational Safety and Health Administration (OSHA) said yesterday.

Each of the three criminal misdemeanor charges carries a penalty, upon conviction, of up to six months in prison and a fine of $10,000.

The charges were sought after state officials said inspectors had found at least a dozen previous trenching violations by the company in the last 12 years.

The Fairfax Board of Supervisors, upset about what it felt was inadequate policing of construction sites by Virginia safety officials, recently launched a joint inspection program with the federal agency. There have been at least 18 construction-related deaths in the fast-growing Northern Virginia suburbs during the last two years.

Yesterday's indictment climaxed a two-year federal probe that began after the deaths of Robert Baker and Michael DeGroot, on July 18, 1978.

The two workers were laying sewer pipes for Jennings at an Annandale subdivision when the 135-foot long ditch collapsed. The first slide trapped DeGroot and Baker up to the waists, workers later recalled. DeGroot tried to free his legs and was reaching for Baker a few feet away when the second avalanche buried both men.

Hours later DeGroot was found buried seven feet underground. Baker was under 18 feet of dirt.

The indictment alleges that Jennings "willfully and unlawfully" failed to brace the ditch to prevent a slide or cave-in, that soil from the trench was stored too close to the edge and that heavy equipment loaders were operating along the edge. The alleged unsafe conditions caused the two employees' deaths, the indictment says.

Bruce Jennings said yesterday, "We're innocent of any wrongdoing," but declined further comment. S. O. Jennings could not be reached.

Fairfax County prosecutors previously had declined to bring criminal charges, saying the Virginia's code sections on trenches were too vague to support a criminal case.

Baker and DeGroot, both 25 when they died, were childhood friends. The families of the two men each received $1,000 for funeral expenses under Virginia's no-fault workmen's compensation law.

That law provides for injured workers to receive benefits free of charge while the workers in turn give up their right to sue for damages.

In a test of the workmen's compensation law, the DeGroot family filed suit against Jennings for $1.6 million in Fairfax County Circuit Court earlier this year. Both sides are awaiting a ruling from Judge Thomas J. Middleton on whether the case can proceed to trial.

Douglas J. Sanderson, an attorney for the DeGroot family, said the suit is an attempt to establish the precedent that the ban on civil suits does not apply to instances where companies have committed "particularly intentional and gross acts."

OSHA has already assessed more than $24,000 in civil penalties against Jennings for the accident, but the final disposition of that action has been postponed pending the outcome of the criminal case.●

NATIONAL AGRICULTURE DAY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. FOLEY. Mr. Speaker, last week, for myself and on behalf of Mr. WAMPLER of Virginia, ranking minority member of the Committee on Agriculture, and 96 other Members of the House, I introduced a resolution to proclaim March 19, 1981, as "National Agriculture Day."

The resolution would authorize and request the President to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

The purpose behind this resolution is simple, limited, and important.

American agriculture, including farmers and all the others who join with them to produce and distribute food and fiber, is the Nation's largest and most productive industry. A healthy farm economy, coupled with efficiency in the agribusinesses which supply farmers and handle their products, is the cornerstone on which the rest of our economy rests.

Given this basic fact, we believe all Americans should be given the best possible understanding of the role agriculture plays in their lives and the many direct and indirect ways it affects their present and future well-being. One of the effective ways of promoting this understanding in recent years has been the annual observance of Agriculture Day, which is coordinated by the Agriculture Council of America, a nonprofit, nonpartisan organization devoted to communicating the facts about modern agriculture. Our resolution would, without involving any cost to taxpayers, bring the added emphasis of formal Government recognition to the efforts which are already underway to make the 1981 Agriculture Day a truly effective observance.

In the past, Agriculture Day has been celebrated in communities all across the country with special activities designed to call attention to the impact of agriculture on the lives and interests of all citizens. Many of our colleagues will remember the observance here at the Capitol which centered around new educational materials pointing out the superior productivity of American agriculture compared with the food systems in other major nations.

In 1981, the observance which our resolution is designed to support will bring together farmers and ranchers, farm and commodity groups, and all other segments of the food production chain for another united effort to speak to the American people. We hope many more of our colleagues will join us in sponsoring the resolution.●

INVESTMENT TAX CREDIT FOR THEATRICAL PRODUCTIONS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. GUARINI. Mr. Speaker, today I am pleased to introduce a bill which would amend the Internal Revenue Code of 1954 to extend the investment tax credit to theatrical productions.

This bill is a companion to S. 2500, which was introduced recently by Senators MOYNIHAN, JAVITS, and HEINZ and which was the subject of hearings before the Senate Subcommittee on Taxation and Debt Management on May 30.

The Theatrical Production Investment Tax Credit Act of 1980 would extend the investment tax credit to live commercial theatrical productions of dramatic works. The provisions of this bill closely parallel those which were included in the Tax Reform Act of 1976 which extended the investment tax credit to qualified production costs of films.

Under the provisions of this bill, the investment tax credit would be allowed with respect to production costs only if such costs constitute new section 38 property with respect to a qualified theatrical production and only to the extent that the taxpayer has an ownership interest in the theatrical production.

The investment tax credit was devised as a means to spur investment in business assets which in turn would result in expansion of the business and the creation of new employment opportunities. Clearly, the theater industry meets these objectives.

First, the industry badly needs the stimulus of the investment tax credit. Fewer new plays are being produced each year in commercial theaters in New York and other cities with strong theater traditions. From a high point of 161 new plays each season during the 1920's and 1930's, an average of only 38 new plays have been produced on Broadway each year over the past decade.

To a great extent, this decline can be traced to skyrocketing production costs. A play must run for months, if not a year, if the investors are to recoup production costs. Yet four out of five productions lose money. The investment tax credit would help offset this deterrent to investment in new productions.

Furthermore, the theater industry is a significant employer. Each new production requires the employment of a variety of personnel of varying levels of skill, from actors, directors, and stage technicians to ticket sellers and concession workers. In addition, other industries prosper by their proximity to an active theater industry. Hotels, restaurants, and retail concerns all benefit from a thriving theatrical environment.

In addition, the theater makes a significant contribution to the urban environment. A vital theater industry makes urban areas more safe by helping to keep people downtown during the evening hours. It provides an invaluable cultural resource which attracts corporations and their employees to locate in or stay in the city environs. Theaters also serve as effective buffers against urban blight and may, on occasion, provide the catalyst around which a community may rally to reverse a declining neighborhood.

According to an estimate prepared by the Joint Tax Committee, the Theatrical Production Investment Tax Credit Act would reduce budget receipts by less than $5 million annually. This is certainly a small price to pay for encouraging investors to participate in new theatrical productions and I would request prompt consideration of this bill.●

SIXTIETH ANNIVERSARY OF THE PEACE TREATY OF TRIANON

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. PATTEN. Mr. Speaker, for the many years I have represented my district, I have been in touch with many of my constituents who are Hungarian or whose ancestors came from Hungary. They are a patriotic and hardworking lot who have not forgotten their ethnic heritage and their compatriots in Hungary.

I have known many of the national leaders of the American Hungarian community, particularly the late Right Reverend Zoltan Beky, D.D., who had served for many years as chairman of the board and national president of the American Hungarian Federation and president of the Hungarian Reformed Federation of America. He was a courageous and valiant American Hungarian leader. His death in 1979 created a vacuum in American Hungarian leadership.

Yesterday, June 4, 1980, the American Hungarian Federation and its constituent units commemorated the 60th anniversary of the peace treaty of Trianon, a somber occasion indeed. When the victorious powers after World War I dissolved the Austro-Hungarian monarchy, Hungary got particularly unfair treatment. Although her Prime Minister, Count Stephen Tisza, opposed the war in July 1914, Hungary, in the peace treaty of Trianon, lost over 70 percent of her territory and two-thirds of her population. Many of the detached areas were inhabited by non-Magyars. However, 3.3 million Magyars were put under foreign rule, over half of them under Romanian rule in Transylvania.

Today, as we recall the unfair peace treaty, its consequences are still with us 60 years later. About 2.5 million Hungarians living in Transylvania are still being oppressed. Their lot has been described in many documents and discussed with the Romanian Government by our Government many times in the past without much success.

In addition, there are thousands of Hungarians in Czechoslovakia and the U.S.S.R. Their lot is most burdensome.

Human rights and cultural rights can no longer be swept under the table in the name of great power politics at the expense of the people.

In commemorating this anniversary, I call my colleagues' attention to the plight of Hungarians who, despite their rising against communism and the Soviet Union, still live under dictatorships, which continue to ignore the will of a proud people who seek nothing more—or less—than their cultural and political freedom.●

THE CASE AGAINST GOVERNMENT MEDICINE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. PAUL. Mr. Speaker, once again the Congress is considering further Federal presence in medical care. There are, basically, only two positions that one may take on this issue. First, that the Federal Government should be involved in medical care; or second, that it should not. All the specific proposals, whether made by President Carter, Senators Long or Kennedy, some Republicans in the House, or me are simply variations on these two positions.

It so happens that all the proposals made by the President and some Members of the Congress all take the position that there should be further intervention by the Federal Government in medical care. Some proponents of more intervention are more gradualist than others; they propose simply a catastrophic Federal health plan, which will be, I might add, catastrophic for all concerned. Such a plan will create a constituency that will insure the growth of the plan to comprehensive Federal control of medical care.

Others are not so gradualist. They would prefer that the Federal Government get involved immediately, not only in catastrophic protection, but in routine and usual medical care.

The price tags for these various programs range from $7 billion per year to $36 billion per year, using the estimates provided by the proponents of the programs. Such estimates are notoriously unreliable. A more accurate range of costs would be from $12 billion per year to $140 billion, and even those figures are startup estimates.

After the programs have been operating for a few years, the costs would escalate dramatically, even were inflation not taken into account.

These cost estimates raise one of the prime objections to any such proposal: It is too costly. In view of the need to cut spending and cut taxes, it is ludicrous to consider spending several more billion dollars per year on a program that the American people do not want. Increased expenditures of this magnitude will push up price inflation, raise interest rates—as the Government drains off funds needed by businesses—and exacerbate unemployment. On economic grounds alone, there is more than ample reason to oppose any further Federal interference in medicine.

One need not rely on economic arguments alone, however. There are, for example, constitutional arguments. Which article, what clause, which sentence authorized the Federal Government to interfere in the private medical care system? I have read the Constitution many times, and I have not found a single syllable that would give us such authority. Certainly the general welfare and commerce clauses do not, for, as James Madison wrote in "The Federalist Papers":

> It has been argued * * * that the power "to lay and collect taxes * * *, to pay the debts, and provide for the common defense and general welfare of the United States," amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction.

In the absence of such authority, one is forced to conclude that any attempt by Congress to enact such a Federal health care program would be a usurpation of power.

In addition to economic and constitutional reasons, there are moral and practical reasons for opposing any further Federal interference in medicine. Let me first discuss the moral issue.

I do not have primarily in mind the moral problems raised by Federal interference in medicine such as funding for abortions and funding for the elderly. Such issues, given Federal involvement, are inevitable and they cannot be satisfactorily resolved. When should Federal funds that are paying to keep an elderly person alive be cut off—when such funds can be used to keep two younger persons alive? Such moral dilemmas raised by Federal interference in medicine are both inescapable and insoluble, and they must lead—I repeat, must lead—to an official Federal policy on euthanasia. Those who favor Federal intervention must be forced to see that such intervention necessarily makes some bureaucrat into a little tin god who can make life and death decisions affecting, not his own life, but the lives of thousands, perhaps millions, of others. But this is not the primary moral reason for opposing Federal interference.

The primary reason is that such interference, even if it would never make some unelected bureaucrat into a tin god, is immoral in itself. The Federal Government has no right to tax a person in order to establish a Federal medical program. Such taxes are indistinguishable from theft. Nor does the Federal Government have any moral right to force doctors to deliver their services at specified fees or at specified times or in a specified way. The Federal Government has no moral right to invade the privacy of either the patient or the doctor as it does in such programs. It is only because the Federal Government violates the moral laws protecting a person's property, person, and privacy that it can achieve the position of dispensing life and death at its whim.

Finally, there are the practical reasons for opposing any further Federal intrusion into medical care. Quite simply, it will not work. How many articles and books, one wonders, must appear on the British experience with a national health service? How many horror stories about Government nurses periodically checking unconscious patients who have not been admitted to Government hospitals? How many cases of fraud and abuse in medicare and medicaid must be uncovered? How much data on the influence of Federal programs in driving up the costs of medical care in this country must be published? Will we ever get the point? Government medicine simply does not work. It cannot work. To continue as we have been for the past 15 years, gradually increasing Federal intrusion in medical care, is sheer folly. The only ones who can benefit from Federal intrusion are the Federal bureaucrats. It will reduce the quality—and eventually even the availability—of medical care for the American people.

When I began my statement, I mentioned that all proposals before the Congress are based upon the premise that there should be more Federal involvement in health care. The Congress is not even considering the alternative: Less Federal involvement. Yet that is the direction in which we must proceed if we are to preserve our magnificent medical care system and our liberty.

This Congress is so out of touch with reality and with the American people that I am constantly amazed at its apparent inability to understand the public's demand for less government, more freedom, lower taxes, and no inflation. Reality, though, has a way of asserting itself in unmistakable terms. It is my hope that Congress will realize the disastrous course we are pursuing.●

THE BUDGET PROCESS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. HILLIS. Mr. Speaker, the problems we are having with obtaining passage of the conference report on the first budget resolution may be threatening the entire budget process. To a large degree I fear that the budget resolution has become such a political issue that we have lost sight of its intended purpose.

The first budget resolution is the first major step in the labyrinth of legislation necessary to provide the funds for the Federal Government. The function of the first budget resolution is to establish funding targets in order that the Congress can have an idea of how each individual spending bill relates to the overall budget. Those spending bills cannot be considered until the first budget resolution conference report has passed both the House and Senate. The targets in the first budget resolution are not binding. The legislative assumptions made to develop the target figures are only recommendations. They do not predetermine any subsequent actions by the authorizing and appropriating committees of either House.

It should be noted that it was the President who lost sight of the intended purpose of the first budget resolution. President Carter, not the Congress, made the resolution a campaign issue.

When the President urged the defeat of the conference report last week, he did so not because of the fiscal policies reflected in it or the economic assumptions upon which it was based. He opposed the conference report to help bolster his image and his campaign.

Although the first budget resolution contains projected spending for fiscal years 1982 and 1983, its major purpose is to establish spending targets for fiscal year 1981. As suggested in the conference report, the Federal budget for fiscal year 1981 was within 1 percent of what the President had recommended. President Carter argued, however, that too much money was included in the defense area. Yet, the conference report suggested exceeding the President's defense spending recommendations by only 2 percent. Furthermore, almost everyone recognizes the fact that the spending level recommended by the President was insufficient to fund the programs the President had proposed. In other words, his defense budget was faulty, or perhaps bogus better describes it.

Either the President has little idea of what the function of the first budget resolution is or he has been intellectually dishonest. It is not the first budget resolution which establishes the programs the President claims are unsatisfactory to him. Those programs are contained in the defense authorization and appropriation bills and as President ought to know that. It is not the budget resolution that worried the President, but the political problems his own recommendations were causing as he faced a tough primary fight.

In any event, the problems the President has caused by leading the fight against the budget resolution go far beyond Capitol Hill. Until the budget fight is settled, the House cannot bring the supplemental appropriations bill for fiscal year 1980 to the floor. Several important programs are close to running out of funds and others have already run out. Trade adjustment assistance, for example, can no longer be paid because the funds have been exhausted. Additional funds for trade assistance are contained in the supplemental appropriations which is hostage to the budget resolution.

The President cannot justify his opposition to the first budget resolution conference report based on excessive defense spending. His success in defeating the conference report prevents the supplemental appropriations bill from being considered. That bill contains $1.5 billion in fiscal year 1980 rescissions. Many of those rescission recommendations involve defense programs. The Congress only has 45 days to approve rescissions and that deadline happens to be today. Although the House Appropriations Committee concurred with many of the President's rescission recommendations, under the provisions of the Budget Act, it could not bring the matter up until after the conference report had been agreed to. We now have a situation where the President opposed a harmless resolution due to the excessive defense spending in it. In the process he killed meaningful savings in defense spending contained in the supplemental appropriations bill.

If this sounds confusing, you are right. But I have a feeling that the President intends for it to be confusing in order to hide his actions and motives. The bottom line however is simple. The President has used the budget process as a campaign tool. He has opposed his own recommendations when the Congress tried to enact them.

It will be extremely difficult to finish our work this year in a timely manner. If we continue to let the President influence our decisions, we may never pass a budget. Because the budget process forces the Congress to address difficult issues and restrain spending, it has always been difficult to pass budget resolutions. If those resolutions are now to be abused by the President, the entire process may break down.●

THE SPIRIT OF HELSINKI, 1980

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. FRENZEL. Mr. Speaker, the Spirit of Helsinki 1980 is a continuing vigil to remind the Soviet Union of their commitment to the Helsinki agreement.

The repressive emigration policy of the Government of the U.S.S.R. is designed to crush the inner spirit of Soviet Jewish citizens. But, I think that the Government has failed. The people know that upon application for emigration they may face harassment, loss of jobs, and years of waiting. But, this has not deterred their desire to emigrate, nor their willingness to make applications.

That, to me, is a sign of hope. Whatever the obstacle, the Soviet citizens continue their struggle for freedom. Their spirit is not suppressed.

I would like to invite the Members' attention to the Lederman family, who have not given up their dream of emigration from Russia. Grigory and Elizabeta Lederman and their 6-year-old daughter, Inna, live in Moscow. I have little information on the Lederman family, but their story is a familiar one. Grigory is an electronics engineer, and his wife instructs piano in their home. Grigory's parents and brother live in Israel. In April 1976, the Lederman family applied to emigrate to Israel, but they have been denied this right.

I believe that all of us, including myself, have two responsibilities to the Lederman family, and to the many others who have been forcibly detained in the U.S.S.R. First, we must continue to remind the Soviet Government of its commitment to the Helsinki agreement, which included a pledge to reunite divided families. The Soviet Union may be able to provide the numbers of their citizens allowed to leave the country, but we can counter with the years of harassment prior to departure and the many others who are still waiting.

And second, the spirit of the Jewish citizens is vital. We must continue to support them in their efforts to leave the Soviet Union. They are the ones that must apply for emigration, and then suffer for it. Our role requires no sacrifice. All we have to do is to call the attention of the Soviet Government to individual cases of suffering and denial. The letters from Members of Congress, friends, and relatives give the people additional strength to continue their struggle.

If we forget the Jewish families and do not provide the support they so need, then they are alone, and we have failed. I invite every Member of Congress to join in the Spirit of Helsinki, 1980 vigil for the people of the Soviet Union.●

TORNADO DAMAGE DEVASTATING

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. SKELTON. Mr. Speaker, on May 12, 1980, Sedalia, Mo., which is located in my congressional district, was hit by a devastating tornado. It resulted in about 25 million dollars' worth of property damage, yet, due to an outstanding civil defense warning system, no lives were lost. It should also be pointed out that another tornado ravaged Sedalia, Mo., on May 4, 1977, and again no deaths occurred because of an effective warning system. Some $20 million in damage resulted from the 1977 tornado.

The national average warning time for a tornado is 4 minutes; in two cases, civil defense in Sedalia and Pettis County have more than a 20-minute warning. I consider this an outstanding record.

Mr. Speaker, for a community to be struck by two destructive tornadoes in just over 3 years without one single life lost is a distinction worthy of note. Several people from Sedalia and Pettis County, Mo., deserve special attention for the alertness and work they offered in protecting their community. The names of those who were helpful in the 1977 tornado are indicated by an asterisk.

EMERGENCY OPERATION CENTER

James Snavely—Director.

Judeth Smith—Secretary.

Gary Burford*—FM Radio Communications.

Glenda Malnory—Plotter.

Milton Malnory—HAM Radio Communications.

Greg Hibbard*—HAM Radio Communications.

Marge Burford*—CB Communications.

FIELD OPERATIONS

Marvin Benitz*—First to sight tornado.

Jess Mascarenaz*—Deputy Director, second to sight tornado and second into disaster area.

John Burford*—Sighted tornado and was first to arrive and report destruction.

Kenny Mickens*—Sighted tornado and was third into disaster area.

Jerry Iuchs*—Aided in warning of Walnut Hills subdivision residents.

Jim Cave—Chief Deputy, Pettis County Sheriff's Department, responded to Walnut Hills to give warning and render aid.

Jimmy Mays—Corporal, Missouri State Highway Patrol, responded to Walnut Hills subdivision to give warning and render aid.

Sgt. Tim Mosier—Sedalia, Missouri Police Department, sighted tornado, relayed civil defense radio transmissions to Sedalia Police Department.

John Rosebrock—Patrolman, Sedalia, Missouri Police Department, sighted tornado, relayed civil defense radio transmissions to Sedalia Police Department.●

FATHER KEAGHER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. LEWIS. Mr. Speaker, Father Thomas Francis Keagher was born in Drom, County Tipperary, Ireland on June 18, 1915. He is 1 of 11 children born to William and Susan Keagher, including Sister Lucy who still serves her order, the Company of Mary, in Limerick, Ireland. As a seminarian, he studied at St. Patrick's College, Thurles, County Tipperary, from where he was ordained at the Cathedral of the Assumption, Thurles, on June 9, 1940. On ordination he was assigned to the Salford Diocese in Salford, England, where he worked among the miners in Lancashire for 2 years, from where he joined the British Army and served as chaplain for 5 years during World War II.

After his discharge from the service in 1947 he came to the United States to the Archdiocese of San Antonio, Tex., where he was appointed secretary to Archibishop Robert E. Lucy. While in San Antonio he did special work in social justice and public relations and was very valuble in the defense of the Spanish-speaking community, whom he felt, at that time, were being very much exploited.

In 1954 he was assigned to the Diocese of San Diego and since his arrival in California he has acted as pastor at St. Mary Magdalen Church in Jacumba, St. Francis Church, Elsinore, St. Catherine of Siena Church, Rialto, and St. Thomas Mission in Fort Yuma. While at St. Catherine's in Rialto he planned and supervised the building of a new convent for the teaching nuns and the rebuilding of the rectory. Also, while in Rialto he had the distinct honor of being elected president of the Priests' Senate of the San Diego Diocese, and again, which proves his ability in this office, he has been elected as president to the Priests' Senate in our San Bernardino Diocese. Since his arrival at St. Christopher's Church in Sunnymead in 1972, where he still serves, his accomplishments re the improvement of the parish plant have been numerous, and the payment in full of an extensive parish debt in 1979 was certainly no small feat.

He has instilled a feeling of spirituality in his parish. He is well loved by his parishioners, both current and past, many of whom still travel from his former parishes for his advice and guidance. He has proven himself to be a down-to-earth individual, with a deep commitment to his stewardship, which is readily imparted to and instilled in his parishioners.●

THE CNL—CAPTIVE NATIONS LIST

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. DERWINSKI. Mr. Speaker, the CNL is known here and in many parts of the world as the captive nations list. This list capsulates the direct and indirect effects of the power of Soviet Russian imperialism over the past 60 years. The CNL is carefully maintained by the National Captive Nations Committee and is solidly based on scholarly and conservative grounds of evaluation. Moscow and its satraps detest it not because of its objectivity but rather because of its memory value, conveying the cumulative record of Soviet Russian conquests and imperialist influence over the short period of only three generations. As the custodian of the CNL, Dr. Dobriansky rebuts the recent, unjustified criticism made of the CNL by Aleksandr Solzhenitsyn. With the Afghanistan addition to the CNL, he points out also the possible new directions in U.S. policy. I insert Dr. Dobriansky's commentary at this point:

THE CNL—CAPTIVE NATIONS LIST

(By Lev E. Dobriansky)

Moscow knows it, our leaders still don't, but the best structure of thought to assess present and future events on this global scale is provided by the CNL, the Captive Nations List. Very basically, if you don't know the past, you won't understand the present and the likely future. This is what experience—personal or historical—is all about. The CNL capsulates on the basis of extensive scholarship the exploits of Soviet Russian imperialism in all of its forms for the past 62 years. Read it carefully and you'll begin to appreciate how non-Russian resources are primarily exploited by the Soviet Russian imperio-totalitarians to wage their campaign for global dominion.

THE CAPTIVE NATIONS LIST (CNL)—WHO'S NEXT?

[Country, people, and year of Communist domination]

Armenia [1]	1920
Azerbaijan [1]	1920
Byelorussia [1]	1920
Cossackia [1]	1920
Georgia [1]	1920
Idel-Ural [1]	1920
North Caucasia [1]	1920
Ukraine [1]	1920
Far Eastern Republic [1]	1922
Turkestan [1]	1922
Yugoslavia (Serbs, Croats, Slovenians, etc.)	1946
Poland	1947
Rumania	1947
Czechoslovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
Mongolia	1924
Estonia [1]	1940
Latvia [1]	1940
Lithuania [1]	1940
Albania	1946
Bulgaria	1946
North Vietnam	1954
Cuba	1960
Cambodia	1975
South Vietnam	1975
Laos	1975
Afghanistan	1980

[1] Countries absorbed into U.S.S.R.

WHOS'S NEXT? IRAN, NICARAGUA, PAKISTAN, NORTH YEMEN, ANGOLA, ETHIOPIA, SAUDI ARABIA, MOZAMBIQUE, REPUBLIC OF CHINA, SOUTH KOREA?

Who's next? Upon the Soviet Russian invasion of Afghanistan, Israel's Prime Minister Menachem Begin accurately observed, "Then here is the question of course, logically, what country comes next?[1] Egypt's President Anwar Sadat shared this thought. Begin's mistake in raising the appropriate question was his preceding view of the USSR as such staging the Afghan rape. Do you hold Lithuania, Ukraine, Georgia and other national captives in the USSR responsible for the acts of the imperiototalitarians in Russian Moscow? A distinction is necessary. Begin's earlier predecessor, Ben Gurion, whom I knew and posed a query to on the distinction, understood clearly the real force of Soviet Russian imperialism that, as in Afghanistan, subverted and subjugated the original non-Russian nations now held captive in the USSR. Without this distinctive, foundational understanding those in the Free World will continue to ask "who's next?" in a fragmented and losing fashion. Moscow and its satraps understand the CNL completely.

THE SOLZHENITSYN INTERLUDE

The prime reason for considering the famed Aleksandr Solzhenitsyn in connection with the Captive Nations Week movement in the U.S. is his uninformed stance toward PL 86-90. The criticisms put forward here are with respectful feelings for his undoubted personal heroism, his literary brilliance and, most of all, his basic religious convictions and known humanitarianism toward all dissidents in the Soviet Union, whether Russian, Ukrainian, Tartar and others. The novelist has of late been properly taken to task for his many harsh statements. Here, only a few strictures are necessary to indicate his misconceptions and inaccuracies. The writer has much to learn yet in his new environment.

It is interesting to note that about 20 years ago Khrushchev also attacked PL 86-90 in the same periodical.[2] Like the past Russian leader, Solzhenitsyn views the law as "notorious" and arrogantly denies the existence of Idel-Ural and Cossackia, though in the same piece he talks about Cossacks.[3] A little research on his part would disclose the Russian Bolshevik destruction of the new Idel-Uralian Republic advanced by the Tartars and Bashkiri in the 1917-20 period and the established use of Cossackia, dating back to the 18th century, to cover the freedom-striving Cossacks. Solzhenitsyn also decries the term "Russian Communism" and, somewhat contradictorily, asks why Russia is not listed as a captive nation in this "notorious" resolution. The concrete answers to these points are that totalitarian communism first established itself commodiously in Russia and spontaneously developed into a Soviet Russian imperialism, destroying the independent republics of Byelorussia, Ukraine, Georgia, Armenia and others in this first wave of its advance. We're not aware of any foreign army having invaded and subjugated Russia. Yes, in another sense, in terms of institutions that were never savored by a Reformation, Russia and earlier Muscovy have been captive for over 500 years.

The regrettable aspects of Solzhenitsyn's recent, emotion-ridden article (e.g. *Time,*

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[1] AP, Aswan, Egypt, January 10, 1980.

[2] Nikita S. Khrushchev, "On Peaceful Coexistence," Foreign Affairs, October 1959.

[3] Aleksandr Solzhenitsyn, "Misconceptions About Russia Are a Threat to America," Foreign Affairs, Spring 1980, pp. 805-806.

February 18) are their illogic, careless treatment of facts, and plain unfairness toward Western scholarship. Respect for Russian nationalism does not mean an acceptance of traditional Russian imperialism, whatever its form. Solzhenitsyn writes as though the latter has never existed, and revives the same nonsense we went through in this country with the Kerenskys, the Dallins and others of the Holy Mother Russia cabal.[4] Russian scholars of the stature of a Fedatov, Berdyaev and others have conclusively shown the institutional receptivity of Russia to "communism" and its mask for Soviet Russian imperialism. Briefly, one can be very pro-Russian and yet realistically opposed to Soviet Russian imperialism. Also, as Nazi quislings emerged with the advance of Nazi German imperialism, so communist quislings, whether abiding or momentarily not, have been cultivated by this type of imperialism.

Solzhenitsyn's factual examples are often diluted and misleading. Desertions in World War II, 1000 years of "Russian" history, the man-made famine, intensity of economic exploitation, etc. are examples without balanced qualification and exude a distortive Russian bias. For most of them the national non-Russian content far exceeds the Russian. In World War II, over 2 million Ukrainians and others were ready to take up arms against the Russian occupier of their countries. Finally, Solzhenitsyn's assault on Professor Pipes, and indirectly on Father Walsh, Smal-Stocki and other contributors to Western scholarship on the Russian problem, reflects more emotion than logical reasoning. But as Solzhenitsyn himself admits, he's an artist, not a social scientist or scholar. Unhappily, his stray thoughts have veered greatly from the essentials on the myth of communism and Moscow's occupation of the non-Russian countries occupation of the non-Russian countries in the USSR as contained in his original letter to the Kremlin in 1973.

NEW DIRECTIONS IN U.S. POLICY

Unless Moscow lulls us again, Afghanistan as a new captive nation may signify new directions in U.S. foreign policy. One of these is the sudden interest in the Moslem nations in the USSR. Over 20 years ago captive nations ideology pointed in this direction, but few listened. A policy concentration on the non-Russian nations in the USSR would accommodate this and more. Radio Liberty and VOA should be strengthened in this area, with significant effect on Moslem nations from Morocco to Indonesia. Congressional measures S. Con. 9 and H. Con. 72, highlighting the Russification and genocide of the Ukrainian Orthodox and Catholic Churches, should be pressed. There are not TV cameras for the American tube to focus on Russian savagery in Afghanistan. As NCNC long ago advocated, imagine what could be done with a Congressional committee on the Captive nations, gathering information from Afghan refugees in Pakistan.

These are only a few of the many ideas that deserve attention today. If we were in direct confrontation with Moscow, the captive nations ideology would be fully invoked. Why not use it intelligently to prevent one?●

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[4] See, e.g., "Imperialism of Russia," editorial page, *The New York Times*, 1951.

THE POLITICS OF ENERGY

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. BRODHEAD. Mr. Speaker, on June 1, I participated in a conference on "The Politics of Energy" sponsored by the Friends of Labor Israel, a group of leaders of the Jewish Community in the Detroit area. The basic premise of this conference was that a continuation of our dependence on OPEC oil could result in a weakening of our commitment to Israel, to an increase of instability in the Middle East, and to a continued weakening of the U.S. economy.

During the conference, I made a presentation on current legislative efforts to solve the energy crisis. The organizers of the conference asked me to insert my presentation in the CONGRESSIONAL RECORD because they felt that it covered matters of considerable national importance. At their request, I submit the following:

THE POLITICS OF ENERGY

Six years after the Arab oil embargo, the U.S. energy consumption profile had changed very little. Last year Americans used almost the same energy mix as they did in 1974. Fossil fuels (oil, natural gas, and coal) supply 90 percent of the Nation's energy. Our transportation system relies almost exclusively on oil. The residential and commercial sectors depend heavily on liquid fuels; and industry uses liquids and gases to meet three quarters of its energy needs. This pattern of energy use has continued despite declining American oil production and the skyrocketing price of oil.

In 1972, the United States imported about 30 percent of its oil needs. Today, we import about 44 percent of the petroleum we consume. Seventy percent of our imported oil is supplied by OPEC members. The cost of this oil has increased from $1.80 per barrel in 1970 to an average price of over $27 per barrel today.

In 1973, the U.S. imported 3.2 million barrels of crude oil per day. In 1979, imports averaged approximately 6.2 million barrels per day. The fact is that Americans consume 25 percent more oil than Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Italy, the Netherlands, Portugal, Spain, Sweden, Switzerland, the United Kingdom, and West Germany combined. This oil gluttony must stop.

One of the most serious problems connected with our dependence on imported oil is its effect on U.S. foreign policy. We are constantly reminded through real and implied threats by OPEC ministers that our supply of oil could be shutoff if our policies meet with disfavor. Nowhere is this more evident than in the Mideast, where our traditional support for Israel has angered OPEC leaders.

OPEC price increases constitute a threat to economic stability in this country. They are the major cause of the inflation we are experiencing. It is also true that our national security depends far too heavily on that thin line of tankers from the Mideast. We must change the habits of a lifetime or face the possibility of economic and military disaster and of foreign policy disaster for the United States and its allies in Europe and Israel.

What can we do about solving this problem? Expanded use of coal is a partial answer. Our coals reserves, nearly 450 billion tons, amount to the equivalent of 10 Saudi Arabias or 500 times the known oil reserves in this country. Currently we produce nearly 700 million tons of coal annually, and 50 percent of U.S. electricity is generated from coal.

It is national policy to attempt to increase coal production substantially. President Carter has set a production goal of more than 1 billion tons per year by 1985. However, there are serious limitations on our ability to switch heavily to coal use.

Getting more coal to market than is produced today will tax our transportation system. Railroad coal cars are in short supply and roadbeds are in widespread disrepair. Without a much larger investment, transportation will be a serious bottleneck for the coal industry for many years to come.

In addition, coal mining has always been tough, dangerous work which has taken a terrible human toll. Even without major disasters, more than 100 people die in mines every year, usually in small, dangerous facilities. More than a billion dollars in Federal money is paid annually to miners who have been victimized by black lung disease.

Another serious health hazard is the sulphur gas produced by burning coal. The lives of thousands of Americans every year are shortened because of excessive exposure to it.

In addition, many scientists are worried that a major increase in carbon dioxide, a byproduct of coal burning, could produce what has become known as the "greenhouse" effect. In the atmosphere carbon dioxide acts to trap sunlight and raise ground temperatures. The hotter atmosphere could melt parts of the polar ice caps with potentially disastrous results. Also, recent scientific evidence concerning acid rain, precipitation with a strong acidic content formed by the mixture of sulphur oxides and water vapor, suggests another severe danger of increased use of coal.

Clearly, coal is not the answer. A better course would be to increase coal usage steadily but cautiously.

Nuclear power has also been proposed as an alternative to imported oil. There are 72 existing nuclear powerplants in the United States: Construction permits to build an additional 94 have been issued: and 34 more are in the engineering stage.

The issue of spent nuclear fuel disposal looms as a significant obstacle to the expansion of nuclear power. Spent fuel has been piling up in storage areas, and most will be filled by 1985. As plants exhaust storage capacity, additional storage sites must be found, or nuclear plants will have to be closed. In addition, nuclear power has turned out to be far more expensive than originally projected. The cost per kilowatt hour for electricity produced at nuclear plants has doubled in less than 10 years.

I believe that we can neither push ahead with huge numbers of new nuclear plants nor shut down the existing ones. A sound nuclear policy requires: Upgrading the safety of all existing plants in accordance with the recommendations of the Kemeny Commission, and no further construction of nuclear plants until they have met the strict safety standards of the Three Mile Island study.

The cheapest, most effective course of action is conservation. As Daniel Yergin pointed out in a Harvard energy study, "conservation is no less an energy alternative than oil, gas, coal, or nuclear power." Yergin tells us that if this Nation were to engage in a serious conservation effort, we could cut energy consumption 30 to 40 percent and still enjoy the same or an even higher standard of living. Conservation is the cheapest, safest, most productive energy alternative available. It does not threaten the international monetary system, emit carbon dioxide into the air, or generate dangerous waste.

Why has conservation failed to win more support? It lacks glamour and, to some, it connotes negativism and a no-growth philosophy. This feeling has been enhanced by many so-called energy experts, who are usually people directly involved in and with an economic stake in expanded production of oil, coal, or nuclear energy. Actually, quite the opposite is true. 1978 hearings of the Joint Economic Committee provided persuasive evidence that conservation creates more jobs than any other form of energy.

A detailed effort to study the job-creating potential of various energy sources was cited in the Harvard report. This study concluded that a $6 billion investment in conservation and solar energy provided twice as much energy for end use as a $7 billion investment in nuclear power. Over a 30-year period the conservation and solar package created 178,000 jobs as opposed to 72,000 jobs created by the nuclear investment.

Nowhere is conservation more necessary than in our use of automobiles. Cars have a disproportionate and massive effect on energy consumption. Our private cars consume one-ninth of all the oil used in the world every day.

Recently, we have made significant progress in conservation involving automobiles, much of it because of the fuel efficiency standards required by Federal law. In the first 3 months of this year, gasoline consumption has dropped by 8.4 percent from the same period last year. This is a result not only of more efficient cars but of an estimated 5-percent drop in driving mileage.

In addition to conservation, the United States needs to start immediately on the development of new synthetic fuels. Massive reserves of oil are locked in formations of shale in the West. By the most conservative estimates shale holds the equivalent of more than 500 billion barrels of oil. Other synthetic methods such as the conversion of coal to gas or liquids have great potential. Luckily, the country is rich in resources, and it is even richer in technological and problem-solving skill to exploit them. We need a joint partnership between the public and private sector to exploit synthetic fuels.

Finally, a major new commitment to renewable energy sources, particularly solar energy, is needed. President Carter told the Nation last year that by the end of the century 20 percent of its energy should come from renewable sources. The Department of Energy has estimated that renewable sources could generate nearly 30 percent if the Government would play a much more active role in energy planning. Thirty percent by the year 2000 is clearly possible with vigorous, assertive public policy.

A strong program of solar energy development could free us from dependence on the oil barons of the Middle East, and it could also stimulate a huge U.S. export boom. The Nation that pioneers in the development of solar energy systems will reap a bountiful harvest in the form of vast worldwide markets for these products.

Congress has addressed our serious energy needs in three major bills: The Windfall Profits Tax Act, the Priority Energy Project Act, and the Synthetic Fuels Act.

The Windfall Profits Tax Act passed by Congress in March is not merely a revenue measure. It contains important conservation incentives. The bill increased the tax credit available for residential solar, wind, and geothermal equipment to 40 percent of the first $10,000 in expenditures. It also authorized the Treasury Secretary to add to the list of property eligible for residential and business energy credits.

The business tax credit for solar, wind, or geothermal equipment was increased from 10 to 15 percent and was extended until 1985. In addition, tax credits were allowed for the purchase of cogeneration equipment, and equipment that used or produced biomass energy. The bill also extended through 1992 the current exemption for alcohol fuels from the 4-cent per gallon Federal excise tax.

The Priority Energy Project Act, known as the fast-track bill, has been agreed to by conferees and should be voted on by Congress later this month. This bill establishes a three-member board which could ask Congress, upon the recommendation of the President, to exempt an energy project from Federal laws which might delay it. This act must be administered with great care, but it will force Federal, State, and local agencies to make timely decisions and streamline regulatory procedures.

Finally, agreement has been reached on the synthetic fuels bill which will provide $20 billion for loan guarantees. Purchase guarantees, and price guarantees that would induce private corporations to produce synthetic fuels. A long-range aim of this bill is to have in operation by 1992 enough synthetic fuel capacity to produce 2 million barrels of oil a day, almost a third of current petroleum imports. The bill also creates a solar bank which will provide $1.75 billion in credits, loan guarantees, and subsidies to spur renewable energy sources. In addition, a conservation bank would be created to foster low-interest loans to homeowners for home insulation. Some direct grants for this purpose would be made to poor families. The bill also requires the administration to begin filling the strategic petroleum reserve, a series of salt domes along the gulf coast where oil is stored for use in emergencies.

In conclusion, I reiterate that this Nation must end its dependence on foreign oil. If we fail to do this, we will allow a growing influence on our national policy by the oil ministers of the OPEC nations. Therefore, we must be willing to change the bad habits of consumption that we developed during many years of cheap, abundant energy. We must also be prepared to pay the heavy price for development of synthetic fuels and renewable energy sources.

But this is a not no-growth philosophy. It is a policy which can pay tremendous dividends in economic growth, jobs, and international prestige. As painful as this policy has been in its first years, we have taken the first vital steps toward energy independence.●

THE 60TH ANNIVERSARY OF THE PEACE TREATY OF TRIANON

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to say a few words to my distinguished colleagues on the 60th anniversary of the Peace Treaty of Trianon. Unfortunately, it is not an anniversary that brings joy; rather, it is an anniversary of sadness and despair for the almost 4 million Hungarians living under the great weight of Communist dictatorship and cultural and national oppression in Romania, Czechoslovakia, the Soviet Union, and Yugoslavia.

The Treaty of Trianon, which was concluded at the Grand Trianon, Versailles, between the victorious Allied Powers of World War I and Hungary, reduced Hungary to about one-third its prewar size. At the same time, while being forced to cede large amounts of territory to Romania, Czechoslovakia, and what is now Yugoslavia, the treaty deprived Hungary of about two-thirds of her population, including 3.3 million Hungarians and large Hungarian inhabited areas as well.

The end result of the treaty was the heralding in of what is now 60 years of deprivation of human rights inflicted upon Hungarians in those nations. In Romania, the Romanian Government has made it quite clear of its intended cultural genocide of the Hungarian ethnic group. In Czechoslovakia, the Communist dictatorship and Soviet occupation are major roadblocks in the Hungarians quest to enjoy their culture. It goes without saying that those Hungarians living in Yugoslavia and the Soviet Union, live under the antithesis of the American ideals of democracy and respect for fundamental human rights.

Of all the crimes mankind has perfected, none is more heinous than to deny anyone the right to the cultural, political, and religious freedoms that are an integral part of the fulfillment of human potential. If we as a nation fail to stand up to those countries who willfully deny people their most basic human rights, then we, too, must be prepared to accept part of the blame for their suffering. Inaction, in respect to human rights violations by the democracies of the world, will almost certainly lead to continued action by the violators. Failure to understand this will only insure that more treaties of Trianon will occur.●

YOUTH FOR AMERICA ECOLOGY CLUB

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. ATKINSON. Mr. Speaker, I am very pleased to report to you and to my colleagues about the Youth for America Ecology Club of Riverside High School, Ellwood City, Pa., which has been selected the No. 1 high school ecology club in the Nation and winner of the recent Keep America Beautiful contest.

The YFA club, sponsored by Mr. John Novalesi, has involved itself in many projects to enrich our local community. Through such efforts as the collection of 1,001,000 pounds of newsprint in the past 9 years, it has reached out to the community to show how recyclable material can become an asset to all. Each ton of newsprint converted into insulation can conserve up to 1,000 gallons of fuel oil or 15,600 cubic feet of natural gas, or 13 tons of coal annually in an average insulated American home.

The YFA philosophy is "what comes out of the community in the form of recyclables must go back into the community in the form of monetary contribution." Toward this goal, YFA has contributed money raised through its efforts to improving their school and donating to area charities and tree planting projects.

In addition, the Riverside YFA group has organized high school energy patrols where two students check the school halls during each school period to see that lights and doors are properly utilized to conserve energy. They also organized a special tin patrol where club members go to the cafeterias during free study periods to rescue all tin cans and articles for recycling. Twice a year the group sets up roadside litter pickups in Franklin and North Sewickley townships.

These young people and their sponsor, Mr. Novalesi, are an inspiration to us all. I hope, Mr. Speaker, that this Congress will take a lesson from these youthful leaders and practice some of these well-taught lessons of conservation and practical application of recycled resources.

It is very encouraging to see such foresight and vision in our local community. I join the citizens of Ellwood City and especially the proud parents of the YFA students in applauding their generous and creative spirit. Our future is a bright one, Mr. Speaker, if the coming generation reflects the hope and potential of this fine group.●

YOUTH ACT OF 1980

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 5, 1980

● Mr. GOODLING. Mr. Speaker, I rise today urging my colleagues to support me in my request to the leadership that immediate consideration be given to H.R. 6711, the Youth Act of 1980. There are several hurdles which this bill has successfully overcome. Not the least of these was the fact that President Carter, who was calling this bill his major legislative initiative of the year, did not send his proposal down for consideration until early March of this year. In anticipation of this proposal, both the Subcommittee on Elementary, Secondary, and Vocational Education and the Subcommittee on Employment Opportunities conducted extensive hearings in the last week of February and the first weeks of March.

After very extensive consultation with the various associations concerned, the Subcommittee on Employment Opportunities completed markup on a substitute to title I of H.R. 6711 on April 17, 1980. Title II of H.R. 6711 was reported out of Subcommittee on Elementary, Secondary, and Vocational Education on April 29, 1980, also after long negotiations and consultation with the education community. On May 6, the full Committee on Education and Labor, in an open legislative session, reported H.R. 6711, as amended.

H.R. 6711 is the vehicle through which the education and labor communities would finally have the incentive to bring together basic skill and youth unemployment programs, eliminating much of the duplication which now exists. Never before has there been the incentive to do this, although there has clearly been the need. We have spent a great deal of time formulating this legislation, which was initially proposed by the President. Curiously, it now appears to be headed nowhere.

I am getting some indication that now that the majority party sees the Youth Act actually moving through Congress, it fears its budgetary requirements. We cannot allow such an important initiative to fall victim to election year or White House politics. I urge my colleagues to join me as I call on the House leadership to bring this measure up for debate and vote immediately. The Youth Act of 1980 provides incentive for greater coordination and cooperation between the education and labor communities—an ideal the Congress has worked toward for several years. Now that the vehicle is here to provide the incentive for coordination, I urge the leadership not to forgo this opportunity which Members of both parties have waited for—for years.●

SENATE—*Friday, June 6, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. Quentin N. Burdick, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, in this place of work and worship help us once more to "be still and know that Thou art God." Grant us the stillness not of inactivity or passivity but the stillness of serenity and power. Preserve in our inmost souls a quiet area of inner peace which only Thou canst give and no power on Earth can take away. With renewed strength, sharpened minds, and warm hearts send us to our tasks, great and small, to strive for that better world whose builder and maker is God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., June 6, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Quentin N. Burdick, a Senator from the State of North Dakota, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the time between now and 10:45 a.m. will be equally divided and controlled by the majority and minority leaders.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I believe Mr. Domenici is to be recognized at some point, is he not?

The ACTING PRESIDENT pro tempore. That will be after the two leaders.

Mr. ROBERT C. BYRD. Yes; after the two leaders.

MILITARY REGISTRATION

Mr. ROBERT C. BYRD. Mr. President, an editorial in today's Washington Post makes some very good points in support of military registration. They are points which I and others who support peacetime registration have been making for some time.

Registration will not solve the current manpower, recruitment, and retention problems affecting the All-Volunteer Forces and the Reserves. But it is a useful tool for a nation which seeks to demonstrate its resolve and commitment. It is a measure of our determination to back our foreign policy pronouncements of preparedness and prevention. The rest of the world is watching—our allies and our adversaries—and views our action as a crucial sign of our determination.

I ask unanimous consent that the editorial from today's Washington Post be inserted in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The "Draft Debate" Is Over

As the Senate opens debate on a bill to finance registration of 19- and 20-year-old men for a possible military draft, it's useful to keep in mind that the "draft debate" is not what it once was. In the several years since troubles in the all-volunteer force started being aired, and especially in the nearly six months since Jimmy Carter proposed registration, a discussion has been conducted of the full range of the nation's military manpower needs. The debate is no longer just about the draft, which is the particular manpower issue of the most immediate and volatile public impact. It is also about recruiting and retention, pay and benefits, increments of preparedness and "signals" of readiness, the nature of the forces the United States may require in future contingencies and the effect of military service on the relationship between individual citizens on the one hand and the society and the state on the other. It has been one of our better national debates.

As a result, certain things can now be said with a measure of assurance. The first is that registration—and one cannot talk about registration without anticipating an eventual draft—is a limited but useful tool for a nation attempting to play a responsible leadership role in an uncertain world. There is a lot that a draft won't do. It won't help retain skilled NCOs, for instance, or top off combat readiness or, by itself, rebuild the reserves. For these objectives other measures are required. But the draft will contribute to raising the quality (and equalizing the social burden) of those who serve, priming the reserves and preparing for unexpected larger manpower needs. As part of a comprehensive approach, it's sensible.

Something else important has been learned, too: the rest of the world is watching. The United States is one of the few developed nations to rely exclusively on volunteers to fill its armed forces. Even those (few) countries that understand why the United States abandoned the draft regard the volunteer system as a strange gamble on fair weather in stormy climes. Typically, West Germany's chancellor says, "There's a difference between a country that has military service obligation . . . and a country which has abolished the draft." Reinstating registration has, at this point, little to do with President Carter's post-Afghanistan intent to send Moscow a message of American resolve. It has a lot to do with informing other countries that the United States is serious for the long haul. Now that the issue has been raised, a refusal to move to registration would throw a long shadow. A Senate debate with a positive answer—the House has already done its work—would give the best results, both at home and abroad.

MESSAGE FROM THE HOUSE

At 10:33 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House, having proceeded to reconsider the bill (H.R. 7428) to extend the present public debt limit through June 30, 1980, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, on reconsideration by the House, and two-thirds of the House of Representatives agreeing to pass the same.

The ACTING PRESIDENT pro tempore. The veto message having been received, pursuant to previous order the reading will be waived, the message will be spread on the Journal, and its consideration will be delayed until 11 a.m. today.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, on my time I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I have not yielded the floor yet, and I say this with apologies to the Senator.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I was unaware of the fact that the majority leader still had the floor.

The ACTING PRESIDENT pro tempore. The majority leader has the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. As I understand, the order for the recognition of the two leaders having expired, Mr. Domenici will be recognized for 15 minutes.

The ACTING PRESIDENT pro tempore. For not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Yes. Then the 1 hour on the veto message, which was agreed to by the Senate yesterday, would begin at 11 a.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. BAKER. Mr. President, I am trying to clear one item for passage, and it is going to take just a moment more so, for the moment, in order to gain that time, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for routine morning business not to extend beyond 10:45 a.m. and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 837 and 707.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, both of these items are cleared for action on our side.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1980

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2730) to amend the Federal Railroad Safety Act of 1970 and other rail safety acts to extend authorization for appropriations, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1125

Mr. BAKER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of himself and Mr. SASSER, proposes an unprinted amendment numbered 1125.

Mr. BAKER. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section after section 9 of S. 2730, as reported:

STATE SAFETY POWERS

SEC. 10. (a) Section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 436) is amended to read as follows:

"SEC. 207. ENFORCING COMPLIANCE WITH FEDERAL RAILROAD SAFETY RULES, REGULATIONS, ORDERS AND STANDARDS

"(a) In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title with respect to a violation of any railroad safety rule, regulation, order or standard issued under this title within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for the assessment and collection of the civil penalty. This subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that no violation has occurred.

"(b) In any case in which the Secretary has not commenced an action for injunctive relief under section 210 of this title with respect to a violation of any railroad safety rule, regulation, order or standard issued under this title within 15 days after the date on which the Secretary received notification of the violation, together with a request that an injunctive action be instituted, from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for injunctive relief to restrain further violation of such rule, regulation, order or standard. This subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that (1) no violation has occurred; or (2) an action for injunctive relief is not necessary because of other enforcement action undertaken by the Secretary with respect to the subject violation.

"(c) A State agency may not bring an action under this section in any United States district court located outside the boundaries of the State."

(b) (1) Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 435) is amended by adding the following new subsection:

"(g) In addition to the provisions for State participation set forth in subsections (a) and (c) of this section, the Secretary may enter into agreements with any State to provide investigative and surveillance activities with respect to those functions transferred to the Secretary by subsection (e) (1), (e) (2), and (e) (6) (A) of section 6 of the Department of Transportation Act (49 U.S.C. § 1655 (e) (1), (2), (6) (A))."

(2) Subsection 206(d) of said Act is amended by adding "or (g)" immediately following the words "subsection (c)."

Mr. BAKER. Mr. President, I am today introducing an amendment to the Federal Railroad Safety Authorization Act of 1980 to improve the enforcement of Federal railroad safety laws. This amendment, cosponsored by my distinguished colleague from Tennessee, Senator SASSER, is endorsed by the Senate Commerce, Science, and Transportation Committee. It will grant to State regulatory agencies greater authority to detect and seek redress of violations of railroad safety standards.

The Federal-State relationship under the 1970 Federal Railroad Safety Act has been repeatedly criticized. In 1978, the National Transportation Safety Board determined that "increased State participation will augment the Federal monitoring effort, reverse the derailment trend, and minimize the effects of catastrophic hazardous materials releases." In light of the benefits to be gained, I find it unbelievable that the Federal Railroad Administration has not implemented an effective State participation program, in which the States are true partners as was intended by the 1970 act.

State authority to see that reported violations are corrected was restricted by the 1970 act and the regulations adopted thereunder in 1974. The amendment I am offering will provide the States with greater incentive and flexibility to assure safe operating conditions on rail track and roadbed throughout the Nation.

The National Transportation Safety Board has reported an alarming trend to Congress. Over the past 12 years, the rate of occurrence of railroad accidents has doubled. Each of these accidents is a potential disaster. One of the worst disasters in history took place in Waverly, Tenn., recently. A train derailment in that small community took 16 lives, injured at least 45 persons and destroyed property valued at millions of dollars. We must strengthen the effort to reduce the possibility of such tragedies occurring again.

Approximately a year ago, I introduced S. 934, a measure requested by the Tennessee Public Service Commission which regulates railroads operating within the State of Tennessee. I believed then, and I continue to believe, that it is time for Congress to return to State agencies which are willing and able to accept the responsibility, the authority to enforce Federal safety standards in a prompt and effective manner.

EXPLANATION OF AMENDMENT TO S. 2738

This amendment will strengthen the State safety participation program in two significant respects.

STATE INJUNCTION POWERS

First, it will revise section 207 of the Federal Railroad Safety Act of 1970 to enhance the enforcement authority of States participating in investigative and surveillance activities under that law.

Subsection (b) will reduce from 90 to 15 days the period which a participating State must await action by the Secretary before going into Federal court for injunctive relief from critically unsafe rail conditions.

Public utility commissions have been reluctant to join the State participation program because they do not believe the States are provided sufficiently credible enforcement tools to assure respect for their programs. This change should provide encouragement to those States that have been considering participation in the national railroad safety program, while continuing to assure national uniformity in the manner in which safety laws and regulations are interpreted and applied.

The amendment would retain existing language preventing State action in incidents in which the Secretary determines, in writing, that no violation has occurred.

In addition, the Secretary may determine that an alternative statutory remedy is appropriate to the particular compliance problem.

SCOPE OF STATE PARTICIPATION

Second, this amendment will enable the Secretary of Transportation to enter into agreements with States for investigation and surveillance activities under the Safety Appliance Acts, Locomotive Inspection Act, Signal Inspection Act, Hours of Service Act, and Accident Reports Act.

The purpose of this change is to provide the Federal Railroad Administration with the ability to assure that State agencies make maximum contributions to the railroad safety effort. There would seem to be no reason, for instance, why State inspectors already participating in the enforcement of the freight car safety standards could not inspect the same cars for compliance with safety appliance and power brake requirements.

CONCLUSION

This amendment has an added advantage—it will save Federal dollars. The Federal-State partnership is established on a 50-to-50 matching fund basis. Encouraging State programs not only makes use of local administrative capabilities but also draws State funds into the Federal rail safety program.

Before the Railroad Safety Act of 1970 was adopted, the States had administered railroad safety programs for over 100 years. The States offer a much-needed potential of safety enhancement to the railroad industry. With adequate authority to enforce Federal laws and regulations and the cooperation of the Federal Railroad Administration, the States can again play a vital role in assuring the safety of rail operations, both for the railroad employees and all the citizens of our Nation.

● Mr. SASSER. Mr. President, the amendment we have agreed to today is a giant step toward improving the safety of our Nation's railroads.

My interest in railroad safety was initiated in February of 1978 when a Louisville and Nashville train derailed in Waverly, Tenn. The explosion of a propane tank car on that train resulted in the death of 16 people, the injury of 145 more and the complete disruption of normal life in Waverly.

Thirty-four hours later in Youngstown, Fla., another train derailment resulted in the death of 8 people and the hospitalization of 205 others.

That weekend and in the days since, it has become all too clear that we must take steps to improve the safety of our Nation's railroads. It is no exaggeration to say that following the Waverly accident and the accident in Florida, people shudder when they hear railroad cars running near their homes. I cannot blame them.

During the year of the Waverly accident, 61 people lost their lives because of railroad accidents; another 1,666 were seriously injured.

The step we take today will not end the danger or the fear, but it is a very important step.

We know many of the reasons why trains are unsafe. The conditions are easy to spot and usually they are correctable. Unfortunately, the Federal Government does not always have the manpower to find the problems. We also recognize that sometimes redtape keeps safety violations from being corrected.

Many States presently have programs where State officials may inspect for Federal safety violations. However, they must wait far too long before they can seek injunctive relief in Federal courts. They must wait 3 months for the Federal Railroad Administration to take action before they can appeal to the Federal courts for help in correcting unsafe conditions.

This amendment will allow the States to go to the Federal courts in 15 days. We do not seek to take away power from the FRA nor do we seek to take away power from the States. We simply believe that action must be taken where action is needed. We cannot wait for papers to move from office to office in Washington while the lives of our citizens are at stake.

As well, this amendment expands the area of railroad safety law in which States can participate. Presently the States can only be certified to enforce the Railroad Safety Act of 1970. I see no reason why the States should be so limited in enforcing safety law. I am pleased that the committee also recognizes and wishes to correct this oversight in current law.

Mr. President, we have taken an important step in improving the cooperation between Federal and State authorities in the important area of railroad safety. We have not taken power from anyone. We have recognized the very simple fact that Federal and State efforts can compliment each other.

It is, of course, hoped that the result will be safer railroads and a reduction in unnecessary loss of life and injury.●

Mr. BAKER. Mr. President, I understand that this amendment has been cleared by the majority and minority of the committee and is acceptable.

Mr. ROBERT C. BYRD. Mr. President, the amendment is acceptable on this side of the aisle.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1980".

AUTHORIZATION FOR APPROPRIATIONS

Sec. 2. Section 212 of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 441), is amended to read as follows:

"Sec. 212. Authorization for Appropriations.

"There are authorized to be appropriated to carry out the provisions of this Act not to exceed $28,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law. Sums appropriated for automated track inspection and the State safety grant program are authorized to remain available until expended.".

INJUNCTIVE RELIEF

Sec. 3. (a) Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439 (a)), is amended by inserting the following immediately before the period at the end thereof: ", and to restrain violations or to enforce rules, regulations, orders, or standards established under any statute transferred to the Secretary under subsections (e) (1), (e)(2), and (e)(6)(A) of section 6 of the Department of Transportation Act, as amended (49 U.S.C. 1655(e) (1), (2), and (6)(A))".

(b) Section 210 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439) is further amended by adding at the end thereof the following:

"(c) Actions under subsection (a) of this section may be brought in the United States district court where any action or transaction constituting the violation occurred or where the defendant has its principal executive office. Nothing in this section shall authorize any State agency participating in investigative and surveillance activities under the provisions of section 206 of this title to bring a cause of action under this section in any United States district court located outside of the boundaries of the State.".

VENUE

Sec. 4. (a) Section 6 of the Act of March 2. 1893, as amended (45 U.S.C. 6) is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "committed".

(b) Section 9 of the Act of February 17, 1911, as amended (45 U.S.C. 34), is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "committed".

(c) Section 25(h) of part I of the Interstate Commerce Act, as amended (49 U.S.C. 26(h)) is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "committed".

(d) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended—

(1) by striking "having jurisdiction" immediately following the words "United States" the second time they appear; and

(2) by inserting "or where the defendant has its principal executive office" immediately following the word "occurred".

HOURS OF SERVICE AMENDMENTS

Sec. 5. Subsection (a) of section 5 of the Hours of Service Act, as amended (45 U.S.C. 64a(a)), is amended to read as follows:

"(a) Any such common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A, or violating any other provision of this Act shall be liable to a penalty of $500 for each and every violation, to be received in a suit or suits to be brought by the United States attorney in the district court of the United States in the locality where such violations shall have been committed or where the defendant has its principal executive office. In the case of paragraphs (3) and (4) of subsection 2(a) of this Act, each day a facility is in noncompliance shall constitute a separate offense. It shall be the duty of such United States attorney to bring such suit upon satisfactory information being lodged with such attorney; but no such suit shall be brought after the expiration of 2 years from the date of such violation except when administrative notification pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953) has been provided to the common carrier within 2 years from the date of the violation, and in no event shall suit be brought after the expiration of the period specified in section 2462 of title 28, United States Code.".

CONSOLIDATION OF ADMINISTRATIVE POWERS; CRIMINAL PENALTY FOR FALSE REPORTING

Sec. 6. (a) Section 208(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437 (b)) is amended by inserting "and under the functions transferred by subsections (e)(1), (e)(2), and (e)(6)(A) of section 6 of the Department of Transportation Act, as amended (49 U.S.C. 1655(e) (1), (2), and (6)(A))" immediately following the word "title" the first time it appears therein.

(b) Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is further amended by adding at the end thereof the following:

"(d) In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by subsections (e)(1), (e)(2), and (e)(6)(A) of section 6 of the Department of Transportation Act (49 U.S.C. 1655(e) (1), (2), and (6)(A)), the Secretary is authorized to perform such acts as are authorized in subsection (a) of this section including, but not limited to, conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, and prescribing recordkeeping and reporting requirements as he deems necessary to carry out the transferred functions. The Secretary is further authorized to issue orders directing compliance with the statutes transferred by subsections (e)(1), (e)(2), and (e)(6)(A) of section 6 of the Department of Transportation Act or with any regulation or order issued thereunder. The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce such orders by appropriate means.".

(c) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is further amended by adding at the end thereof the following:

"(e) With respect to any record or report required under this title to be made, prepared, or preserved, any person who knowingly and willfully (1) makes a false entry in the record or report; (2) destroys, mutilates, changes, or by another means falsifies the record; (3) does not enter required specified facts and transactions in the record; (4) makes, prepares, or preserves the record in violation of a regulation or order issued under this title; or (5) files a false report or record with the Secretary, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.".

EMERGENCY SAFETY ORDERS

Sec. 7. Section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432) is amended to read as follows:

"Sec. 203. Emergency Powers.

"(a) If through testing, inspection, investigation, or research carried out pursuant to this title, the Secretary determines that an unsafe condition or practice, or a combination of conditions or practices, or both, creates an emergency situation involving a hazard of death or injury to persons, the Secretary may immediately issue an order, without regard to the provisions of section 202(b) of this title, imposing such restrictions or prohibitions as may be necessary to bring about the abatement of the emergency situation.

"(b) Subsequent to the issuance of an order under this section, opportunity for review shall be provided in accordance with section 554 of title 5 of the United States Code.

"(c) If administrative review of an order pursuant to subsection (b) of this section has not been completed within a period of 30 days after the date of issuance of the order, such order shall cease to be effective at the end of such period, unless the Secretary determines in writing that the emergency situation remains in existence.

"(d) Any order issued under this section shall identify the conditions or practices which create an emergency situation (as determined by the Secretary), and shall set forth standards under which relief from such order might be obtained. Nothing in this subsection shall be construed to affect any discretion of the Secretary to issue orders responsive to emerging safety problems.".

ELIMINATION OF REPORTING REQUIREMENTS UNDER LOCOMOTIVE INSPECTION ACT

Sec. 8. Section 6 of the Act of February 17, 1911 (45 U.S.C. 29), is amended by striking the fourth and fifth sentences thereof.

STUDIES AND REPORTS

Sec. 9. (a) The Secretary of Transportation shall conduct a comprehensive study regarding State participation in railroad safety programs as provided in section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435). Such study shall specifically—

(1) assess the success of each program in a participating State;

(2) identify the specific reasons for such success, or lack thereof;

(3) project the effect that increased State authority in the area of railroad safety inspection and enforcement would have on the success of the State programs;

(4) estimate the funding requirements which would be associated with increased State authority in the area of railroad safety inspection and enforcement; and

(5) provide such other information as the Secretary deems necessary.

The Secretary shall transmit to the Congress the conclusions of such study, together with recommendations with respect to any additional legislation which the Secretary determines necessary, not later than December 31, 1980.

(b) The Secretary of Transportation shall conduct a study regarding employee training in the railroad industry as it affects railroad safety. Among other factors, such study shall consider the appropriate Federal role, if any, in such training, and the adequacy of such training. The results of such study, together with recommendations for any necessary legislation, shall be submitted to the Congress by December 31, 1980.

(c)(1) The Secretary of Transportation shall make every possible effort to expedite promulgation of a final rule regarding the retrofitting of Department of Transportation specification 105 tank cars with shelf couplers. In the event that such rule is not promulgated prior to December 31, 1980, the Secretary of Transportation shall submit to the Congress a status report with respect to such rule, indicating the Federal Railroad Administration's activities to such date, the current status of such rule, and an estimate as to when a final rule will be promulgated.

(2) Whenever the Secretary of Transportation submits a status report pursuant to the provisions of paragraph (1) of this subsection, or when the Federal Railroad Administration promulgates a final rule with respect to the retrofitting of Department of Transportation specification 105 tank cars with shelf couplers, the Secretary shall submit to the Congress any other recommendations and anticipated action by the Department of Transportation with respect to the retrofitting of such tank cars.

(d) The Secretary of Transportation shall submit to the Congress a systems safety plan relating to the activities of the Department of Transportation in carrying out rail safety laws. The Secretary shall complete such plan at the earliest possible date, but in no event shall the study be submitted later than January 31, 1981.

STATE SAFETY POWERS

Sec. 10. (a) Section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows:

"Sec. 207. Enforcing Compliance With Federal Railroad Safety Rules, Regulations, Orders and Standards.

"(a) In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title with respect to a violation of any railroad safety rule, regulation, order or standard issued under this title within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for the assessment and collection of the civil penalty. This subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that no violation has occurred.

"(b) In any case in which the Secretary

has not commenced an action for injunctive relief under section 210 of this title with respect to a violation of any railroad safety rule, regulation, order or standard issued under this title within 15 days after the date on which the Secretary received notification of the violation, together with a request that an injunctive action be instituted, from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for injunctive relief to restrain further violation of such rule, regulation, order or standard. This subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that (1) no violation has occurred; or (2) an action for injunctive relief is not necessary because of other enforcement action undertaken by the Secretary with respect to the subject violation.

"(c) A State agency may not bring an action under this section in any United States district court located outside the boundaries of the State.".

(b)(1) Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding the following new subsection:

"(g) In addition to the provisions for State participation set forth in subsections (a) and (c) of this section, the Secretary may enter into agreements with any State to provide investigative and surveillance activities with respect to those functions transferred to the Secretary by subsection (e)(1), (e)(2), and (e)(6)(A) of Section 6 of the Department of Transportation Act (49 U.S.C. 1655 (e) (1), (2), (6)(A)).".

(2) Subsection 206(d) of said Act is amended by adding "or (g)" immediately following the words "subsection (c)".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CIBOLA NATIONAL FOREST

The ACTING PRESIDENT pro tempore. The bill will be stated by its title.

The legislative clerk read as follows:

A bill (S. 1803) to modify the boundary of the Cibola National Forest in the State of New Mexico.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment on page 1, beginning with line 3, strike all through and including line 4, on page 2, and insert in lieu thereof:

That the exterior boundary of the Cibola National Forest in New Mexico is hereby modified to include an area of approximately fourteen thousand four hundred and seventy-six acres as shown on United States Department of Agriculture, Forest Service map entitled "Boundary Modification, Cibola National Forest," dated April 1980.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico is hereby modified to include an area of approximately fourteen thousand four hundred and seventy-six acres as shown on United States Department of Agriculture, Forest Service map entitled "Boundary Modification, Cibola National Forest," dated April 1980.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903 as amended; 16 U.S.C. 4601-9 (1976)) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 1126

(Purpose: To extend the period of assistance for school districts within Grand Canyon National Park)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment by Mr. DECONCINI and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for the Senator from Arizona (Mr. DECONCINI) for himself and Mr. GOLDWATER proposes an unprinted amendment numbered 1126.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 22 add the following new section:

"SEC. 4. The Act of March 14, 1978 (92 Stat. 154), is amended as follows:

(a) In section 1(a), in the first sentence, delete the phrase 'two-year', and change 'September 30, 1980' to 'September 30, 1985'; and

(b) In section 1(c) strike the second sentence in its entirety and insert the following:

There is authorized to be appropriated an amount not to exceed $1,500,000 annually for fiscal years 1979 through 1982 to carry out the provisions of this Act: *Provided*, That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et. seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et. seq). For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.".

● Mr. DECONCINI. Mr. President, my senior colleague from Arizona, Senator GOLDWATER, is a cosponsor. This amendment will extend Public Law 95-244, which provides financial assistance to the Grand Canyon school district for an additional 2 years. The amendment will also allow any funds authorized to remain available until appropriated through 1985.

This law was enacted just over 2 years ago after initially being introduced by Senator GOLDWATER and myself as S. 778. The law contains the following provisions: First, payments to the district are subject to appropriations; second, no more than $1.5 million can be appropriated each year; third, this ceiling must be reduced by the amount of impact aid funds received; and, fourth, the law will terminate after September 30, 1980.

Financial conditions being experienced by the Grand Canyon school district are no less severe today than when the law was enacted. The entire district lies wholly within the Grand Canyon National Park, which results in a very low tax base. Over 80 percent of the district's students are dependents of people who pay no property taxes, so the remaining small percentage is, in effect, subsidizing the education of the dependents of these Federal and concessionaire employees. Further, the largest taxpayer, the Atchison, Topeka, and Santa Fe Railroad is presently negotiating to sell its rights-of-way. When the sale takes place, the rights-of-way will revert to the status of untaxable Federal land dealing a crushing blow to the remaining taxpayers who will have to make up the loss.

Those who have questioned the validity of special funding for the district contend that existing Federal programs, such as impact aid and in lieu of tax payments, provide sufficient funds to sustain the Federal Government's responsibility. However, the district receives no funds from the in-lieu-of-tax program, and for the 1977-78 school year received just $114,000 in impact aid funds.

Last year the district spent approximately $1,200 per elementary student and $2,700 per high school student. The Federal Government reimbursed the district at the rate of approximately $587 for each dependent of a Federal employee. It is quite evident that impact aid falls far short of meeting the Federal Government's obligation to the Grand Canyon School District.

To date, the district has received $750,000 under Public Law 95-244—less than one-third of the authorization. Our amendment will permit the district to receive those funds that were authorized when they are appropriated. Additionally, the amendment extends the authorization through 1982, but would permit the district to receive funds, if appropriated, through 1985.

Mr. President, this amendment will help to correct an inequitable financial situation and improve the quality of education available to the district's students. I urge my colleagues to support it.●

The ACTING PRESIDENT pro tempore. Without objection, the amendment is agreed to.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico is hereby modified to include an area of approximately fourteen thousand four hundred and seventy-six acres as shown on Unted States Department of Agriculture, Forest Service map entitled "Boundary Modification, Cibola National Forest," dated April 1980.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903 as amended; 16 U.S.C. 4601–9 (1976)) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

SEC. 4. The Act of March 14, 1978 (92 Stat. 154), is amended as follows:

(a) In section 1(a), in the first sentence, delete the phrase "two-year", and change "September 30, 1980" to "September 30, 1985"; and

(b) In section 1(c) strike the second sentence in its entirety and insert the following: There is authorized to be appropriated an amount not to exceed $1,500,000 annually for fiscal years 1979 through 1982 to carry out the provisions of this this Act: *Provided,* That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without prejudice to Mr. Domenici, that Mr. Burdick be allowed to proceed for 1 minute.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I might advise the majority leader that I have now been notified that Senator Domenici does not wish his special order for this morning and we can cancel that.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR DOMENICI

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. Domenici be vitiated and that the Senate proceed with routine morning business in the meantime and Senators may be permitted to speak.

The PRESIDING OFFICER (Mr. Hart). Without objection, it is so ordered.

The Senator from North Dakota.

GENERAL FEDERATION OF WOMEN'S CLUBS HONORS MRS. MARIJO SHIDE

Mr. BURDICK. Mr. President, tonight the General Federation of Women's Clubs will honor at its national convention the organization's new President, Mrs. Marijo Shide of Larimore, N. Dak.

I am proud to bring to the attention of my Senate colleagues the many achievements of this outstanding North Dakotan and friend, and I would also extend to the members of the GFWC my sincerest congratulations on their excellent choice of Mrs. Shide as their national leader.

As Mrs. Shide begins her term as GFWC President tonight, she can proudly add one more accomplishment to a lifetime list of invaluable contributions to community and civic affairs. Although she classifies herself as a "homemaker," Mrs. Shide can also be included among the "superwomen" of today's society who manage to successfully balance home and family responsibilities with a rewarding career of voluntary service. She is a true descendant of the strong and determined pioneer women who were so instrumental in the development of the western frontier only a generation ago.

Mrs. Shide has long been an active and energetic member of the GFWC and served as the North Dakota chapter president prior to her election to several national GFWC offices. In addition to raising four children, she has devoted much of her career to efforts involving young people through her work with the Association for Children with Learning Disabilities, Brownies and Girl Scouts, and as a youth adviser at her church. Moreover, Mrs. Shide has served as a trustee to public broadcasting, and was appointed by the Governor to serve on two State advisory councils.

The achievements of Mrs. Shide should serve as a source of inspiration to all Americans, and her selection as President of the GFWC as a proper tribute to her life of helping others. I ask my colleagues to join with me today in sending our best wishes to Mrs. Shide as she embarks on her newest personal challenge.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

SENATE RESOLUTION 453—SUBMISSION OF A RESOLUTION CONCERNING THE HOSTAGES IN IRAN AND ENFORCEMENT OF THE LOGAN ACT

Mr. DOLE (for himself, Mr. Baker, Mr. Goldwater, Mr. Thurmond, Mr. Helms, Mr. Laxalt, Mr. Lugar, Mr. Hatch, Mr. Garn, Mr. Hayakawa, Mr. Humphrey, Mr. Jepsen, Mr. Tower, Mr. Stevens, Mr. Domenici, Mr. Pressler, Mr. Simpson, Mr. Warner, Mr. Young, Mr. Harry F. Byrd, Jr., and Mr. Ford) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 453

Whereas, the government of Iran has continued to act in a hostile manner towards the government of the U.S. since it seized American diplomatic personnel on November 4, 1979;

Whereas, certain residents and citizens of the U.S. have collaborated in this hostility by condemning and insulting their own country;

Whereas, the government of Iran has conducted a "sham" tribunal falsely pretending to be an assessment of "crimes of America" at which certain citizens and residents of the U.S. attended at the request and expense of Iran;

Whereas, the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is active enforcement of the Logan Act;

Whereas, Title 18, Section 953, of the United States Code prohibits that any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States;

Whereas, the President of the United States by executive order prohibited all travel by American citizens to Iran as part of our overall policy of securing the release of American hostages;

Now, therefore, be it resolved, that it is the sense of the Senate that the President instruct the Attorney General to prosecute to the fullest extent of the law any and all persons who are in violation of the Logan Act; thereby denigrating the United States, and giving the color of "right" to the illegal actions taken by the government of Iran.

Mr. DOLE. Mr. President, the Senator from Kansas wishes to introduce a simple resolution to take care of a recent blot upon our national honor. This resolution would simply express the sense of the Senate that the President instruct the Attorney General to carry out his responsibilities with regard to the Logan Act, that is to prosecute to the fullest extent of the law any persons participating with foreign governments in the denigration of the United States. In particular, this resolution is aimed at those Americans attending the anti-American conference in Tehran in support of the Government of Iran.

The Logan Act is quite clear in its message, quite direct in its meaning, and simple in its language, title 18, section 953 of the United States Code prohibits that any citizen of the United States, directly or indirectly commence or carry on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.

SOME NEVER LEARN

Mr. President, during the Vietnam war, now a decade in the past, Ramsey Clark, Jane Fonda and some others went to North Vietnam in a misguided attempt to bring peace by giving our enemies legitimacy and by casting blame on the United States, in an environment hostile to America, our prisoners of war in Hanoi had some reason to regret the presence of Mr. Clark and Ms. Fonda, as many of them have since eloquently testified.

Today we see a similar situation developing that is more repugnant to us because of those who have failed to learn from the past. Now our country is completely united in its rancor toward the Ayatollah Khomeini and Iran. We should not tolerate the egregious self-righteousness and apostate quislingism of those Americans who have gone to Iran. They may have acted with good, though misguided intentions—but they were warned by the President's Executive order that such unwarranted interference was prohibited and not subject to private, individual interpretation. Yet, these self-proclaimed experts went anyway to attend this conference to condemn America.

FIFTY-THREE HOSTAGES

Fifty-three Americans—diplomats all with international immunity—are held hostage in a despicable and defiant act of war against the people of the United States. Iran has been universally, if ineffectively, condemned for this outrageous action. Yet, Mr. Clark, and his associates, see fit, as he did in North Vietnam, to lend legitimacy and credibility to our enemies, by participating in this mockery of a trial, this travesty of justice. When we get the hostages back—and someday we will get them back—we may find, as we did upon the return of the Vietnam POW's, that Mr. Clark's dramatic appearance on the scene was far from appreciated. In the meantime, appropriate courses of action toward Mr. Clark and his friends exist in law, via the Logan Act, and in the Executive order promulgated by President Carter. It would be totally irresponsible for the President to allow the ban on travel to Iran to be violated in this flagrant breech of loyalty. It just seems to the Senator from Kansas that when the administration is actively discouraging families of the hostages from going to Iran to plead for the lives of their husbands and fathers, and sons and daughters, that we cannot allow these unofficial apologists for American policy to dictate a United States position before the scandalized eyes of the world.

It is the understanding of the Senator from Kansas that the administration does plan to detain Mr. Clark and the others when they arrive back in this country, for possible violation of the Logan Act. With the passage of this resolution, the Senate will go on record in support of this just and vigorous prosecution of the law of the land. It is my belief the American people will welcome this display of firmness and high regard for our national honor.

RUSSIANS USE NEW X-GAS IN AFGHANISTAN

Mr. DOLE. Mr. President, for the past 3 months the Senator from Kansas has spoken in this Chamber about the threat of the development of a chemical and biological warfare (CBWF) technology by the Soviets. While I have called upon the State Department and the administration to direct the U.N. Committee on Disarmament to begin an investigation of the use of chemical warfare in Afghanistan, I have understood the need to assume a cautious approach in this matter where hard information is difficult to come by and often classified.

Mr. President, the time has come, however, to launch a full-scale investigation into the Soviets' blatant disregard for the convenants of the Geneva protocol. Now is the time to seriously assess our offensive and, most importantly, our defensive capabilities against the threat of CBWF before it is too late.

During a recent briefing by Mr. Galen Geer, a journalist recently returned from Afghanistan where he observed the invasion firsthand for Soldier of Fortune magazine, convincing evidence was presented that the Soviets had developed a chemical capability that extends far beyond our greatest fears. Against this nefarious chemical weapon, we presently have no defense whatsoever. X-gas, as Mr. Geer chooses to call it, is unaffected by filters in our armor filtering systems as well as our gas masks and leaves our military defenseless.

This gas is a subtle triumph for the Soviet propaganda machine. The gas renders its victims unconscious for 24–36 hours without rendering death, providing the perfect opportunity for the aggressors to move in for the kill. The victims of X-gas then become ostensible battle casualties, dead of gunshot wounds. Weapons can be confiscated and buildings and armor captured, to be added to their arsenals or analyzed for defense purposes. Whole units and regions can be overrun, all of this done with minimal effort and without the damage that would otherwise be incurred during the course of combat as we know it. In addition, the Soviets could choose to cover up these abhorrent events by destroying the chemical-stricken bodies of soldiers so the world could remain ignorant of this ultimately lethal knockout gas.

The Soviets are currently using this gas indiscriminately against insurgents and civilians in Afghanistan. We have only to guess against whom they are prepared to use it in future conflicts.

As a result of Mr. Geer's expedition, U.S. intelligence agencies were able to secure a new device for investigation that lends a great degree of credibility to the thought that the Soviets are worlds ahead of us in the development of explosives. Measuring only 10 inches, this tube weapon has the potential to destroy heavy armor. There is new evidence also, that the Russian infantry is using an intra-explosive bullet against the Afghan freedom fighters. Incredibly more lethal than any bullet in existence in our arsenal, it represents yet another violation of the Geneva protocol by fatally exploding within the victim's body upon impact.

BIOLOGICAL WEAPON IN ARSENAL

To add even more fuel to the fire, reporters Evans and Novak in a recent column in the Post made public the fact that it has become clear to the administration that the so-called accident at Sverdlovsk in 1979 was no accident at all. Instead, it was the result of biological warfare testing by the Soviets—an obvious attempt to develop a deadly capability to be used as the Soviets deem appropriate. As Mr. Evans and Mr. Novak have pointed out, this ominous report indicates that the Soviets have developed a biological capability that insures a readiness that imperils every nation of the free world.

Mr. President, it is difficult for me to believe that the Soviets can so contemptuously deny the use and development of chemical and biological technology to the world at a time when their actions have become increasingly easier to prove. And I am sure that we can expect to receive a similar response to the knowledge we have so recently acquired should we decide to pursue an explanation. There is no question that tensions have been heightened by the Soviet invasion of Afghanistan and cooperation between the Kremlin and the rest of the world is at a new low. It would seem that if the U.S.S.R. is at all serious about establishing a realistic relationship with the rest of the world—one that will allow nations to peacefully coexist—it would do its best to either curb its CBWF venturism or diplomatically address the problems at hand. The fact that the Kremlin has chosen to do neither sends a distinct and ominous message to the world about its regard for human life and its thirst for expansionism at any cost.

We have seen time and time again that the Soviets enter combat with a ferocity that is virtually unsurpassed. They had not had much recent combat experience, but now they are learning fast and becoming expert. Reports out of Kabul indicate that protesting schoolage girls, unarmed, were the victims of rifle fire by Soviet soldiers in late April.

Described as "the bloodiest disturbances in Kabul since * * * February, when 300 persons were killed," it is obvious that the Kremlin is willing to back even the most heinous crimes to squelch whomever they consider their opposition.

Mr. President, this Senator is afraid for the future of this country and for the freedom and hope it has defended for 200 years if we choose to ignore this warning. It has become increasingly clear that the iniquitous invasion of Afghanistan is just one more step toward a goal that is all to obvious. To even suggest a leveling off of defense spending for our Nation by the Carter administration at such a critical time in our history is unfathomable. And I urge this Congress to maintain a hard line on this issue as deliberation continues on the budget.

The Senator from Kansas calls for an immediate and intense examination of our chemical and biological defense capability in view of the Soviet's studies is this area before it is too late. The Senator from Kansas has urged the Armed Services Committee to investigate this situation and it is my hope that hearings will soon be underway. If the Congress and the administration chooses to ignore the inauspicious but clear messages that the Soviets are sending to the world, we will be forced to bear the embarrassing burden of responsibility for the loss of a freedom for which our forefathers fought so fiercely throughout the history of this great Nation.

Mr. President, it just seems to me that now is the time for a complete investigation. I would hope that the appropriate committees who have jurisdiction are either in the process of investigation or will begin an investigation of these alleged violations by the Soviet Union.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MORGAN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC DEBT LIMIT EXTENSION

The ACTING PRESIDENT pro tempore. The hour of 11 a.m. having arrived, the Chair lays before the Senate the President's veto message on H.R. 7428, which the clerk will report.

The legislative clerk read as follows:

> The House of Representatives having proceeded to reconsider the bill (H.R. 7428) entitled "An Act to extend the present public debt limit through June 30, 1980", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was
>
> *Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The ACTING PRESIDENT pro tempore. Time for debate is limited to 1 hour, to be equally divided and controlled by the majority and minority leaders or their designees, with the vote to occur at 12 noon, with no further debate, motion, appeal, or point of order in order, except a motion to reconsider, if made, on which there shall be 10 minutes debate, to be equally divided between the two leaders, or their designees.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I relinquish the control of time on our side to the Senator from Kansas (Mr. DOLE).

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes under my control to Mr. HART.

The PRESIDING OFFICER. The Senator from Colorado (Mr. HART) is recognized.

Mr. HART. Mr. President, the issue before us is as political as any that we have faced, since I have been in the Senate. It is an issue that goes to the very heart of our political process and our economy. It affects the lives of all of our citizens. It engages deep concerns on all sides, as it should. That might be called politics with a small "p."

It is also political with a capital "P," in the sense that it tends to bring out some of the worst of the political process. Those of us who are elected to public office, certainly in Congress, try to take good news home to our constituents.

We are all familiar with the process of announcement of grants, awards, and contracts, the effort to indicate to our constituents that we are doing our job of representing them and, symbolically, to the degree that the Federal Government is going to spend money, our constituents are getting at least their share of those benefits.

But very, very few of us want to take home bad news to the people we represent. It is fundamentally against human nature to want to be in the position of telling people that they are going to have to take some bitter medicine. Increasingly, the cost of energy to reduce oil imports is very bitter medicine.

Mr. President, we can think of many, many reasons why something painful should not be done. It is the wrong medicine; the medicine will not make us well; the medicine is too weak; the medicine could be taken next week. It is very, very easy for Members of this body to come up with reasons why we should avoid this bitter medicine, and not increase the cost of energy.

Mr. President, for my part, I have come to believe that the most serious single issue and problem facing America is our dependence on foreign-produced oil. Unless someone in this body or in our sister body or in the White House will come up with a plan that can achieve a consensus of support for reducing those imports, I fear greatly for the future of this Republic. I believe that the chances are great, if we do not take steps soon to take that medicine, whatever it is, that will reduce those imports, that we are very likely to face military action in the Persian Gulf area. If we want to make our economy more secure, if we want to make our Nation more secure militarily, the best single action we can take is to force ourselves to reduce our reliance on oil coming from that region.

I do not think the President's proposal is necessarily the best one, but it happens to be the only one that we have before us. If we do not have the will in this body to support a modest proposal such as the President has come forward with, we will not have the will to take even more serious or dramatic action, which I believe is necessary.

I fear for our country. I fear for our economic and military security. I fear for the lives and safety of our young people who will be called upon to shed their blood to protect those supplies of oil. I particularly fear that those lives and that blood will be shed in vain. It will be shed to continue wasteful energy usage; it will be shed to permit us to drive inefficient automobiles, air-condition our homes and office buildings to an unnecessary temperature, and heat them as well; to continue to use appliances we do not need; to continue wasteful practices.

Mr. President, I know of no other way to get us to quit following those wasteful practices than to take some serious medicine. Unfortunately, this body does not seem to indicate that it is willing to do that. I think that is very, very unfortunate.

CHALLENGE TO REDUCE OIL IMPORT

The economic and military security of this nation depend precariously on the insecure supply of oil imports from the Middle East. The Senate will decide whether to override the President's veto of legislation preventing him from establishing an oil import fee to reduce oil imports.

While many Members of Congress may fault particulars of the President's import fee and gasoline tax, it is incumbent on all Members of Congress to produce a stronger program to reduce oil imports. I have my own preferences for the design of a particular oil reduction program. However, the particulars are less important than agreement by Congress and a broad consensus of citizens to work together to free us from a dependence on Middle Eastern oil.

CURRENT CONGRESSIONAL ACTION

Several months ago, the President invoked his statutory authority to impose a fee on oil imports. Through existing price control mechanisms, the President would have oil refineries transfer all this oil import fee to the sales price of gasoline. Thus, this oil import fee amounts to a 10-cent-per-gallon gasoline tax.

There are several problems with this gasoline tax proposal. The tax would be implemented in such a way that current holders of large stocks of gasoline, which has not yet been taxed, would be able to sell this gasoline at a price as if it were taxed. Thus, a windfall gain, perhaps a few hundred million, would go to the distributors of gasoline.

Additionally, this gasoline tax is too narrow. A tax only on gasoline ignores the potential conservation inducements for petrochemical feed stocks, heating oil, and so forth. Although we use more oil for gasoline than for any other purpose in this country, all other uses combined exceed those for gasoline. Surely, conservation inducements should be applied to these other uses as well.

Several weeks ago, the Senate voted, 75 to 19, for an amendment to the Senate version of the budget resolution. This amendment would allow the Senate to vote on the question of repealing the authority for an oil import fee before the second budget resolution is in place this fall. This vote obviously revealed strong opposition to the President's gasoline tax proposal.

While I would prefer that the President's gasoline tax were different in some of its particulars, I support the President in this effort to reduce oil imports. I hope my colleagues who vote to repeal this authority will feel some responsibility soon to produce a consensus alternative to reduce oil imports.

The 1973 oil embargo put this country on notice that its source of oil imports was insecure. That embargo demonstrated the need to develop domestic energy resources to substitute for these oil imports. So far we have not listened well.

In 1973, crude oil imports were 3.2 million barrels per day. Instead of declining since the embargo, oil imports have actually increased to 6.4 million barrels per day in 1979. Due to the doubling again of world oil prices in the last year, the U.S. consumption of crude oil imports has decreased slightly in the last year. However, our crude oil imports still stand at 5.8 million barrels per day, which is roughly twice our consumption in 1973.

This year, oil imports will cause us to export $90 billion to foreign countries. This is larger than the net income of the entire Fortune 500 companies.

While oil imports to this Nation were an economic convenience in the 1960's, they have become an undesirable economic necessity in the 1970's. This country cannot maintain its position of strength in the world if its economic might is dependent upon the exports of a few nations of uncertain good will.

Over the past several years, our national energy policy has been a succession of timid steps to nibble away at oil imports. But nibbling will not get there. We need to take giant strides for economic and energy self-sufficiency.

VARIOUS MECHANISMS TO REDUCE OIL IMPORTS

There are many ways to reduce oil imports. Some of them are being tried now. Mechanisms which induces energy conservation in this country are positive steps. Mechanisms which promote environmentally safe production of domestic energy resources are also positive. The phased decontrol of natural gas prices and the phased decontrol of domestic oil prices will contribute substantially to reducing oil imports.

Similarly, programs to replace natural gas and oil with coal, particularly in industrial boilers and electric generation plants, are important ingredients to reducing oil imports. Furthermore, the myriad of programs to develop renewable energy resources and synthetic fuels are important ingredients.

The problem with all these mechanisms is that they are too slow. They are the right policies, but they cannot do enough in the time we have. We need a direct policy aimed specifically at reducing oil imports dramatically.

Two years ago, in March 1978, Congressman OTTINGER and I sent the President a letter urging him to take direct action to reduce oil imports. Mr. President, I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. At that time, we urged the President to adopt a system of either oil import quotas or oil import fees. A quota mechanism could work without energy price increases in the short run—but only with rationing. To avoid the troublesome consequences of rationing at a time when few Americans trust their Government to administer it fairly, it would be preferable to reduce oil imports by using price to discourage consumption.

Compared to rationing, it would be simpler and probably more efficient to impose a tariff on all imported crude oil and refined products. At this time, my preference leans toward the fee on oil imports and products. Such a fee would reduce oil imports most significantly because it would encourage domestic energy conservation as well as greater domestic energy production.

The oil import fee would cause the revenues from higher oil prices to go temporarily to the U.S. Treasury, rather than to OPEC nations, or to multi-national oil companies. The tariff revenues must be returned directly to the American citizens through lower taxes and special programs to alleviate economic hardship caused by the higher energy prices.

A $10 PER BARREL TARIFF ON ALL OIL IMPORTS

At this time, I would encourage my colleagues to begin thinking about a straight $10 per barrel oil import fee (such as S. 2466, which I introduced on March 21, 1980). Such a fee would be applied to all crude oil imports as well as imports of refined products. The revenues would be used to cut social security or other taxes.

Higher prices for oil will directly contribute to investments in equipment that use oil more efficiently. Similarly, higher oil prices and higher prices for all other domestic resources will contribute greatly to the profitability of investing in domestic new supplies. Thus, the oil import fee will contribute not only to energy conservation but more rapid deployment of solar heating and cooling, of gasohol plants, of synthetic fuel plants, of projects in tight sands gas and in enhanced oil recovery. All of these things will more rapidly speed the elimination of our reliance on Middle Eastern oil.

ELIMINATE OIL IMPORTS BY 1980

Higher energy prices will reduce oil imports. For the first 4 months of 1980, total demand for petroleum products declined 9.1 percent, and total domestic production increased 2 percent due mostly to higher prices. During this time, total petroleum imports decreased 12.1 percent. An import fee will decrease imports even further.

I believe this country can eliminate oil imports before the end of the decade, and I have proposed a program to achieve that goal. This program was developed from the studies made for the Budget Committee's Special Subcommittee on Synthetic Fuels last summer and fall. Those studies demonstrated that, with oil prices and domestic energy prices above $30 per barrel of oil equivalent, it is economically practical to do sufficient energy conservation and sufficient domestic energy production to reduce oil imports by about 6 million barrels of oil a day below current projections for the future.

These data mean that our economy, left to itself, would eventually increase energy conservation and domestic energy production sufficiently to eliminate oil imports. The question is when this production and conservation would occur.

At today's oil prices, the profitability of energy investments is not high enough to take priority in many firms. But firms do not take into account the national security aspects of their investment decisions.

Only the Federal Government has a direct stake in our long-term national and economic security. Based on that direct stake, we should make the expected profitability of energy conservation investments and energy production investments much greater than today. The oil import fee will make investments very profitable which are barely economically practical today.

Preliminary studies focusing on just part of the American energy industry indicate that by 1990 oil imports will be reduced enough to completely eliminate imports from the Arab OPEC nations. Compared to current projections, a $10 per barrel fee adjusted for inflation will:

Increase conventional oil and natural gas liquids by 300,000 barrels per day;

Increase enhanced oil recovery and synthetic fuels by 100,000 barrels per day;

Increase conventional gas production by the equivalent of 500,000 barrels per day;

Promote additional conservation in the residential and commercial sector to save about 200,000 barrels per day;

Promote additional conservation in the industrial sector to save about 500,000 barrels per day;

Promote additional conservation in the transportation sector to save about 500,000 barrels per day; and

Promote additional substitution of coal in the generation of electricity to save about 1 million barrels of oil per day.

The above preliminary analyses show that oil imports would be reduced from about 6 million barrels per day in 1990 to about 3 million barrels per day. I believe future analyses will show that the remaining 3 million barrels per day can be eliminated by the supply response in the following sectors:

Production of unconventional gas from tight sands formations in the West;

Production of unconventional gas from geopressurized methane in the Gulf States and Devonian shale in the Appalachian East;

Expanded use of solar energy for heating and cooling and for hot water, and

Expanded production of alcohol from waste plant materials, spoiled grain, and so forth.

In summary, the economic inducement of a $10 per barrel oil import fee is substantial. The impact on oil imports is not immediate, but over the next 5 to 10 years, is monumental. Without a program of this nature, this country will probably still be importing about 3 million barrels of oil per day from OPEC nations, and another 3 million barrels of oil per day from other exporting nations. With an oil import fee, it is likely that this country will import no oil by the end of the decade.

REBATE OF REVENUES FROM OIL IMPORT FEE

Not one cent of revenues from the oil import fee should be used to fund Federal outlays. Every cent of revenues from this oil import fee should be used to provide tax cuts to return this money directly to American citizens. The revenues from the oil import fee will be approximately $25 billion in 1981. This can more than offset the scheduled $14 billion increase in social security taxes in 1981. Indeed, these tax revenues can be used to cut social security taxes paid by employers and by employees by very substantial amounts.

Additional Federal revenues raised from the existing windfall profit tax could be used totally for tax cuts designed to stimulate investment in productivity by American businesses. Such a "supply-side" tax cut is necessary to restore economic growth without inflation in this Nation.

Low and lower middle income consumers in this Nation should not be cast into economic emergency because of our oil import reduction policies. Indeed, their incomes, where needed and when needed, should be supplemented to help them pay for higher cost energy in amounts necessary for basic human needs.

THE CHALLENGE BEFORE US

This country faces an economic challenge of immense proportions. At a time when inflation is at an unacceptable rate and unemployment is increasing, this country must face a still more bitter medicine that will raise energy prices even further. This medicine will induce more business investment in energy production and energy conservation. Many of my constituents in Colorado, and I am sure many constituents of my colleagues, are offering many good reasons why they should vote against a gasoline tax. But because a bitter medicine is distasteful does not mean the medicine is unnecessary. Indeed, I think the bitter medicine is more necessary now than it has ever been. The instability in the Middle East could lead this Nation into war if this Nation feels it must protect and assure the supply of oil imports.

Mr. President, the best way to avoid war is to eliminate the need for those oil imports. With bountiful natural resources, this country is positioned probably better than any other nation that imports oil. It has vast quantities of coal, vast quantities of unconventional gas, plentiful solar energy, shale oil and the like. This country has no shortages of raw materials. I hope this country does not have a shortage of vision to develop those raw materials as soon as possible.

U.S. SENATE,
Washington, D.C., March 22, 1978.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We urge you to break the unwarranted and unproductive deadlock in the Energy Conference Committee by taking action through existing executive authority.

The National Energy Plan, as passed in different forms by the House and Senate, contains incentives to conserve oil and thus reduce oil imports. The cornerstone of this Plan was the crude oil equalization tax.

Economic and political conditions have changed since last summer and fall, when the crude oil tax was approved by Congress. There is a strong possibility the Energy Conference Committee will not approve this tax. Therefore, we strongly urge you to take administrative actions which will reduce oil imports.

It is necessary to take administrative action now because our national energy picture and our economy have not improved over the past several months. With continued high levels of oil imports, our balance of payments has suffered to the detriment of the value of the dollar in world markets. This is sustaining inflation in our own economy. The coal conversion plan may be jeopardized by labor problems in the coal industry. Uncertainty in coal supplies must not be allowed to promote continued reliance on uncertain foreign oil supplies. Clearly, the country needs a program aimed directly at reducing oil imports and improving the economic viability of substitutes.

Under existing authority, you could take direct action to reduce imports by imposing oil import quotas, by imposing a supplemental import fee, or by a combination of both. It may be necessary to establish formal targets for imported oil reductions, and to enforce those reductions with increasingly stringent administrative actions.

The primary goal of your action would be to reduce oil imports by accelerating conservation of petroleum and petroleum products and developing alternatives to petroleum. We hope that you would choose methods to implement a system of import quotas and/or import fees which also serve the following secondary objectives:

(a) Maintain consumers' real disposable income;

(b) Share the burden equally among income groups and regions of the country;

(c) Minimize the role of government in allocating scarce oil by giving economic incentives to the private market.

Most of the objectives and goals can be attained under existing executive authority. However, should legislation be needed, we will lend whatever assistance we can to secure such authority.

The nation's energy and economic problems are in need of strong and quick action. We urge you to act soon to establish substitutes for the crude oil equalization tax. Although many will disagree with these actions, many others—at home and throughout the world—will respect your strong leadership.

Of course, we stand ready to work with your Administration to achieve these objectives at the earliest date.

Sincerely,

RICHARD L. OTTINGER,
Member of Congress.
GARY HART,
U.S. Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, there are a number of requests to speak, so I shall limit myself to 3 minutes. As I understand the situation there are 30 minutes on a side. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The time will be slightly reduced because the vote has to come at 12 o'clock.

Mr. DOLE. I thank the Chair.

Mr. President, last Wednesday, this body voted 73 to 16 to attach an amendment to H.R. 7428 to kill the so-called oil import fee proposed by the administration. Following a Presidential veto, the House last evening voted 335 to 34 to override and effectively block the fee. Thus, the question is squarely before us whether to block the import fee or not.

Early indications are that the override vote may be closer in the Senate than in the House. I urge that we vote to override the President's veto. It is going to be a difficult vote for many Members, but the fee should be blocked, because it is bad economic policy. Approximately 335 House Members, Republicans and Democrats, were not afraid to bite the bullet. Seventy-three Republicans and Democrats in the Senate who voted for the amendment on Wednesday evening were not afraid to bite the bullet. The past vote should not be considered the test. The test should be whether this fee is sound economic or sound energy policy. This Senator believes that it does not fit in either category.

Let me briefly review why this Senator believes that the so-called oil import fee is wrong and why it should be decisively rejected.

Mr. President, it is wrong to pretend that this fee is a serious conservation measure. In fact, some of the White House advisers, in their off-guard moments, have indicated that it is more of a revenue cushion of $10 to $12 billion to balance the budget. Some may want to raise taxes to balance the budget or some may want to raise taxes by a 10-cent tax on gasoline on working Americans so we can have a tax cut later on. Neither course seems to me to be very good policy.

This fee is not a serious conservation measure. Rather, its real purpose is to open the wallets of every American taxpayer to collect $10 billion in new taxes. This new tax will have only a paltry, and incidental conservation effect. The CBO estimates that in fiscal year 1981 the fee will produce an oil savings of only 70,000 barrels per day. Even by fiscal year 1983, that conservation figure will rise only to 90,000 barrels per day. Thus, this fee will cost the American taxpayer more than $300 for every barrel of oil "saved." Indeed, using the CBO's figures, the cost in fiscal year 1981 will be more than $390 for every barrel of oil saved. The efficiency of this so-called conservation measure sharply contrasts with the Department of Energy estimate that the temperature control regulations cost only an estimated 20 cents per barrel saved.

It is going to cost the American taxpayer, according to our figures and CBO estimates, more than $300 a barrel to save a barrel of oil. That is not very good conservation or economic policy.

It is clear that this 10-cent-per-gallon tax is at heart a revenue, rather than an energy measure. This $10 billion in new taxation tops the list of $104.9 billion in additional taxation that the administration projects for fiscal year 1981. This gasoline tax will cost the average American family $114 in fiscal year 1981.

Mr. President, it is wrong to deliberately fuel the long raging fires of inflation. That is exactly what the oil import fee would do. It will add at least a full percentage point to the national inflation rate and perhaps more if one considers the ripple effect of the inflationary fee on the economy through automatic wage and benefit escalation clauses. The American people have suffered enough of the corrosive effects of inflation without our adding yet another inflationary measure.

It is also wrong to follow a course that will seriously aggravate the near-depression condition of segments of the American economy, such as the auto industry. The CBO estimates that in 1980 the automobile industry may lose as many as 175,000 sales of U.S. cars if this import fee goes into effect. Currently, we have 11 U.S. auto plants shut down and May car sales have plunged to a 19-year low. We simply cannot afford a 175,000-car decline in sales of U.S. automobiles.

The import fee would in fact have no direct impact on imported oil. As the fee is designed, the fee on imported oil would be rebated by collection of the retail gas tax. Thus, the only possible reduction in oil imports that might occur would be the indirect result of the paltry conservation effect of the fee.

The import fee program would undoubtedly be a regulatory nightmare, loading new entitlements and regulations on an already overloaded system. Some experts have predicted that, despite the administration's claims to the contrary, the import fee will cause an increase in the prices of fuel oil and other petroleum products.

Moreover, the imposition of the oil fee would cause a windfall price increase of as much as $100 million to gasoline wholesalers and retailers. Under DOE's complicated price control regulations, retailers are permitted to price all their gasoline as high as their most expensive gasoline stocks. Thus, purchase of even a small amount of gasoline subject to the President's fee would enable the dealers to raise the price of all of their gasoline supplies.

The Senator from Kansas shares the deep concern of many of his colleagues about the drain that imported oil and high OPEC prices is causing on the U.S. economy. Nevertheless, the import fee is not the solution to this problem. Indeed, many believe this fee will be a signal to OPEC to raise oil prices. The imposition of the fee suggests that the American market can easily absorb even higher crude prices.

It is wrong for the President to try to usurp the taxing power of Congress. The Constitution of the United States grants Congress the exclusive power to levy taxes on the American people. District Judge Aubrey Robinson has struck down the President's fee as being beyond the President's legal authority. In his opinion, Judge Robinson noted that the President does not have any inherent Presidential power that authorizes him to impose his gasoline fee. Judge Robinson stated:

> Congress, not the President, must decide whether the imposition of a gasoline conservation fee is good policy.

Finally, Mr. President, I shall ask unanimous consent that two important pieces of information be printed in the Record. The first piece is an editorial from the Wall Street Journal, which briefly makes the arguments against this gasoline tax and congratulates Congress for taking this stand against it.

Second, Mr. President, I would like to have printed the rollcall vote on the amendment to stop the import fee that occurred last Wednesday night. It is difficult for Senators to oppose the President on matters such as this. Those Members who showed the courage to stand up to political pressure to stop bad policy deserve the praise of all our citizens. Such courage should not go unrecognized.

My argument has rather widespread support. I understand consumers oppose this. People do not want to pay higher taxes. The Consumers Energy Council of America supports repeal of the import fee, along with the AFL–CIO, the Consumer Energy Council of America, Consumer Federation of America, the Energy Action, Independent Gasoline Marketers Council, National Grange, National Oil Jobbers Council, National Rural Electric Cooperative Asosciation, Oil, Chemical and Atomic Workers Union, Society of Independent Gasoline Marketers of America, National Farmers Union, and the National Council of Farmer Cooperatives.

The list goes on and on.

I suggest that there are problems. One answer would be to decontrol the price. That would not satisfy everybody in this room, but if the President is interested in picking up revenue and raising the price of gasoline, he can do it by Executive order that does not, in effect, impose a tax. He could turn for a change to free market forces.

I agree with the Senator from Ohio (Mr. Metzenbaum) that taxes are imposed by the Congress and we should not be denied that right, either to impose or not to impose the tax.

Finally, Mr. President, I ask unanimous consent to have two important pieces of information printed in the Record at this point. One is the Wall Street Journal editorial of this morning, and the other, to have the record complete, is the rollcall vote on Wednesday, to indicate the strength of opposition to the import fee.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, June 6, 1980]

A CONGRESSIONAL CRUSHER

As might have been predicted, President Carter accused Congress of pandering to gas guzzlers with its defeat of the President's 10-cent-a-gallon gasoline tax. His chief economic adviser, Charles Schultze, was on the Today show bright and early yesterday calling the congressional action "inexcusable."

We don't always agree with Congress either, of course. But when a President whose own party controls that body can only get 30 votes in the House and 16 in the Senate on an important bill, something interesting is happening. A government in England would not just fall on such a rebuke, it would disintegrate.

The interesting thing happening is that Congress has obviously lost confidence in the President's leadership on energy as well as several other things. A legitimate case can be made for a further gasoline tax as a conservation measure, but not one that tumbled out of the President's bag of tricks the way this one did.

First of all, the public is annoyed with the rising burden of federal taxation. If the President had coupled this 10 billion revenue measure with a supply-oriented tax cut on investment and savings it would have become more palatable. If he had further contributed to the cause of expanded supply by decontrolling the energy industry, his claimed desire to reduce imports would have been believable.

But he did nothing of the kind. Instead, the backroom boys over at DOE concocted a scheme to convert the President's authority to apply fees to crude oil imports into a gasoline tax. Gasoline refiners would have to buy "entitlements" which would be used to reimburse payers of the import fees. The DOE regulatory bureaucracy would be further expanded, the oil products supply chain would be further disrupted, with one possible result, hence, gasoline lines. The tangle of governmental interference in the energy industry, comprised of continued price controls, the "windfall profits" tax, constraints on coal and nuclear power development, and the program to squander tax money on high-cost synthetics, would have been enlarged.

The other thing wrong, and most annoying to Congress, was that the import fee-entitlements scheme was a deliberate power play against Congress, designed to force it to accept a fait accompli. A lot of Congressmen think that the levying of taxes is their constitutional prerogative, and they are, of course, right. This affront was combined with the President's clumsy intervention in the congressional budget process last week that helped to scuttle a hard-won Senate-House compromise.

All that distilled down to a vote of 376-30 against the President in the House and 73-16 against him in the Senate. We doubt that he will help his cause by fuming. The lawmakers are not the only ones who are not impressed by the President's energy tactics.

[Rollcall Vote No. 173 Leg.]

YEAS—73

Armstrong, Baker, Bayh, Boren, Boschwitz, Bumpers, Burdick, Byrd, Harry F., Jr., Cannon, Chafee, Church, Cohen, Culver, Danforth, DeConcini, Dole, Domenici, Durenberger, Durkin, Eagleton, Exon, Ford, Garn, Glenn.

Goldwater, Gravel, Hatch, Hatfield, Hayakawa, Heflin, Heinz, Helms, Hollings, Humphrey, Jackson, Javits, Jepsen, Johnston, Kassebaum, Laxalt, Leahy, Levin, Long, Lugar, Magnuson, Mathias, Melcher, Metzenbaum, Mitchell.

Nelson, Packwood, Proxmire, Pryor, Randolph, Riegle, Roth, Sarbanes, Sasser, Schmitt, Schweiker, Sampson, Stafford, Stennis, Stevens, Stewart, Stone, Talmadge, Thurmond, Tower, Wallop, Warner, Young, Zorinsky.

NAYS—16

Bellmon, Bentsen, Bradley, Byrd, Robert C., Chiles, Hart, Inouye, Matsunaga, Nunn, Pell, Percy, Ribicoff, Stevenson, Tsongas, Weicker, Williams.

NOT VOTING—11

Baucus, Biden, Cochran, Cranston, Huddleston, Kennedy, McClure, McGovern, Morgan, Moynihan, Pressler.

So Mr. DOLE's amendment (UP No. 1124) was agreed to.

Mr. DOLE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield the Senator from Ohio 3 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, it is somewhat disturbing to this Senator that the Senate is being forced to vote on overriding the President's veto. It is quite obvious from an earlier vote in the House on the resolution what the will of the House was, and is.

It was obvious from a vote we had, I think about 2 weeks ago, that the Senate does not support the 10-cent-a-gallon tax, and I am not quite certain why this body is being forced to go through this override.

It is very difficult for some Senators who want to support the President to come out here on the floor and vote to do so.

The President says it does not help for public officials to stand up and make speeches about conserving energy and controlling inflation unless they are willing to stand up and take the political heat by making tough decisions.

Well, the decision today is a tough decision for many of us who are Members of the same party. As a matter of fact, it should be pointed out that the President was advised that if he were to withdraw the action, because it is obvious the will of the Congress is not to support it, that there would be no action on the floor of the Senate in connection with this issue.

He was not advised to that effect once, he was advised to that effect twice.

So we are, indeed, placed in the position of making the tough decision, that he says we are unwilling to make, and I think we will make by overriding the veto.

Why will we be doing that? Because we do not believe the 10-cent-a-gallon tax is the way to solve the energy problems of this Nation and, certainly, will not achieve the goal the President himself talks about.

If the President was that interested in taking tough positions, then I would have to ask, where has the administration been in the last 3 years on mandatory conservation issues?

The administration backed off minimum standards for automobiles and refused to provide support, notwithstanding the fact that the Senate had passed the bill.

Then there was a proposal for mandatory efficiency standards for industrial motors, and where was the administration on that? We got token support, but not much more than that.

When it came to the question of a simple thing such as a transfer audit provision for homes, which would save tremendous amounts of energy, the administration was found wanting.

As a matter of fact, as recently as this week, we had before us the whole issue of better enforcement of the 55-mile-per-hour speed limit, a measure which if enacted and enforced would save three times the total amount the 10-cent-a-gallon tax is claimed to save, but the administration was not there with all guns shooting.

Where was the administration when the issue of rationing came up?

The administration talks about rationing. The President has spoken about it on many instances. But it has taken the administration 15 months to put the plan into effect. When they talk about providing that, it is always to be mañana, not really to be put into effect, just the question of trying to lay something on the table so it will be in readiness, and when they come forward with that bill, there are special exemptions provided, and the administration has exacerbated the problem by working out details with the House on the question of rationing and ran into a hornet's nest as a consequence.

The administration is willing to accept special exemptions for the rationing plan for those who make alcoholic beverages, candy, pet food, and other kinds of items of a similar nature that are not entitled to any special exemption.

But the administration is not willing to make the tough decision there.

Mr. President, this Congress is going to bite the bullet that the President says we do not have the courage to do. I hope we will, indeed, enact an override of the veto by a very substantial margin.

Mr. BUMPERS. Will the Senator yield 4 minutes?

Mr. DOLE. Yes.

Mr. BUMPERS. Mr. President, when President Carter was running for President in 1976, one of the things he said with which I agreed and with which I still agree was that Washington was not the fountain of all wisdom.

It was not then, and it is not now. I would add that the White House is not the fountain of all wisdom, either.

This proposal, Mr. President, makes no economic sense; it makes no social sense, and it does not make any energy sense. It is a harsh and cruel treatment of about 55 percent of the people of this country who can hardly keep body and soul together. It is harsh and cruel to the workers who have already lost 12 percent of their disposable income in the last 2 years due to the economic policies of this administration.

It will save a marginal amount of energy, 100,000 barrels a day, at a cost of $10 billion to $12 billion on the American people, and cut trade deficits by $1.2 billion. The savings will cost the American people roughly $300 a barrel. Where is the economic sense?

The cruelty of pricing—dealing with the energy problems on a pricing basis—has not worked in Western Europe and Japan and it will not work here. We can bite the bullet and break an OPEC dependence through rationing now or rationing later, but we will not do it through this mechanism.

Then the President says that this body does not have the courage to vote for this nonsensical proposal.

I say that what it takes to vote for this proposal is a personality that is willing to demonstrate cruelty and insensitivity and indifference to about 85 percent of the people of this country.

It is the policy which says that the rich will ride, the poor will walk, and I am opposed to it and always will be.

Mr. HART. Mr. President, in the absence of the majority leader, would it be in order, as a proponent of the President's position, to yield myself 3 minutes; can that be done?

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. HART. Mr. President, I read somewhere that of 10 barrels of oil produced in the world every day, 9 are burned in American automobiles. We consume a staggering amount of gasoline in the United States.

Mr. President, we can stand around the Senate and point the finger at the administration and at each other; and, for week after week and month after month, we probably will tell ourselves what is wrong with the President's proposal, state what we think is the answer, and fail to get any consensus.

The Senator from Arkansas well knows that there is no consensus in this body for rationing, however passionately he feels about it.

The Senator from Kansas talks about the vast majorities in both bodies who are opposed to the President's plan. He suggested something he likes. He has not told us how he is going to go about getting a majority of Senators to support his position.

It is incumbent upon all those who vote against this position today, for whatever reason, to tell us what their solution is—whether through the market mechanisms of price increases or Government allocation through rationing—to tell us how they intend to get the Congress of the United States to support it.

We have heard all the speeches, and we have heard dozens and dozens, if not hundreds, of proposals; and there is no consensus. There is no majority support to solve the most critical problem this country faces.

We can speak about what the President said at some other time and what he says today, about how he has failed to do this and that. That is not going to get America out of the very serious problem it faces.

We are going to have more speeches, I take it, in the next 40 minutes about how terrible the President's plan is and how everybody has turned their backs on it and how it does not make any sense. I want to hear one idea that is going to pass the House and the Senate and is going to be signed into law in the next few weeks to solve this critical problem, and I have not heard it yet.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, if I may take 30 seconds in response to the Senator from Colorado, I say that there is no consensus in either of these bodies for this proposal, either. So I should like to hear the Senator from Colorado tell us his proposal.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 4 minutes to the distinguished Senator from Delaware.

Mr. ROTH. Mr. President, I urge my colleagues to vote to override the President's veto.

The oil import fee is nothing but a $10 billion tax increase on working Americans. With the economy already in a serious recession, the last thing we need right now is higher taxes and higher prices.

Mr. President, I have listened with interest to the comments of the Senator from Colorado, and I have listened with interest to what the President has said with respect to his 10-cents-a-gallon increase, and I find that I cannot agree with their arguments or objectives.

It was not too long ago that the administration was arguing we should let the price of gasoline go as high as a dollar a gallon for the purpose of conservation. Today, is at $1.27 or higher. Now they say that it must go up another 10 cents.

Does anyone really think that this 10 cents a gallon is going to have any major impact on conservation? I believe the answer is clearly, "No." The facts show that, at most, it would save approximately 80,000 barrels a day, at a cost of $300 per barrel saved. That is substantially higher than what we are paying the OPEC countries.

Anyone who goes back home and listens to the working people—if they are lucky enough to have a job—knows that it is necessary for them to get to work. How high do they want the price of gasoline to go? In effect, many of these people are arguing that they want it to go as high as the European cost of gasoline, which is roughly $2.75 a gallon. I do not think the working people of America can support this.

In the last 2 months, unemployment has gone up from 6.2 percent to 7.8 percent, with 1.7 million people losing their jobs. It seems to me perfectly obvious that this administration does not understand economics. At the same time the administration is putting people out of work to combat inflation, it is proposing increases in energy costs that will increase inflation.

Both the Senate and the House have voted overwhelmingly against the import fee. The lack of support for the President's position is easily explained. There are simply no valid arguments in support of imposing a $10 billion tax increase on working Americans.

The President and his few supporters argue that the import fee is needed as a conservation measure.

But the estimated energy savings from the import fee are a drop in the bucket.

The President argues we need to send a message to OPEC.

But the only message the oil import fee will send to OPEC is that the U.S. Government wants the people of this country to pay higher gas prices.

Finally, the President and his supporters say we need a $10 billion oil import fee to finance a tax cut.

It is a pickpocket policy to say you need to raise gas prices to pay for a tax cut.

The American working people are already facing the most massive 1-year tax increase in history without the import fee. It is preposterous to argue we need even higher taxes to justify a tax cut.

Inflation will increase taxes at least $15 billion. Social Security taxes are increasing $15 billion. The windfall profit tax will increase taxes by $18 billion. In addition, the President has proposed tax increases of $4.3 billion from cash management; $1.1 billion from restrictions on tax-exempt housing bonds; $600 million from independent contractors; $700 million from foreign tax credit changes; $900 million from increased airport trust fund taxes; $300 million from railroad retirement taxes; $200 million from oil and hazardous substance fees; and $3.4 billion from withholding taxes on interest and dividend income.

Mr. President, enough is enough. An override of the President's veto will send a signal to the administration that we want tax relief, not a $10 billion tax increase.

The massive job losses announced this morning were caused by the administration's policy of high taxes and high prices.

His attempt to balance the budget on the backs of taxpayers has crippled the economy.

In the last 2 months, 1.7 million people have been thrown out of work. And more workers will lose their jobs unless we stop this import fee and enact a tax cut.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. DOLE. Mr. President, how much time remains? We may be running out of time, and the other side has not used much time.

The PRESIDING OFFICER. The Senator from Kansas has 11 minutes and 16 seconds. The Senator from West Virginia has 21 minutes and 30 seconds.

Who yields time?

Mr. DOLE. I yield 2 minutes to the Senator from Ohio (Mr. METZENBAUM).

Mr. METZENBAUM. I thank the Senator from Kansas and the Senator from West Virginia.

Mr. President, if there were no other reason for the Senate to override the President's veto, there is one that to me is very evident on its face, and it is that this is a tax upon the people of this country that would be imposed by the President of the United States. In the past, we always have had the concept that Congress imposes taxes. This is the first instance—actually, the second instance—in which an effort has been made to impose a tax by the President of the United States. In the first instance, President Ford saw fit to withdraw the action before it was acted upon by Congress.

The language of the legislation under which the President is acting does not give him the authority to do this, as I see it, and the courts already have determined that he does not have that authority. At least, in this instance they have determined that his actions have been unlawful.

I believe there is more than the question of the propriety of the 10-cent-a-gallon tax, to which I am unalterably opposed, because it will not conserve any gasoline, it will not conserve any energy, and the amount that will be conserved, if at all, is in the area of 80,000 barrels a day by 1981, which is insignificant when we talk about the consumption of approximately 20 million barrels a day.

Even if there were merit to having a new tax on imported oil and on gasoline sold at the stations, it should be the determination of Congress. It should not be possible for the President of the United States simply to impose a 10-cent-a-gallon tax. If he can do that, it can be a 50-cent-a-gallon tax, a dollar-a-gallon tax.

This goes far beyond what was ever considered by the framers of the Constitution and certainly beyond anything that ever has taken place before in the history of this Nation.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ROBERT C. BYRD. I yield 3 minutes to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from West Virginia.

Mr. President, I should like to address myself to the issue the President talks about, which has to do with the conserving of gasoline.

There are many ways you can conserve gasoline, but this undoubtedly is the most expensive. As has been stated previously, this would cost the average American family $114 in 1981, and the price of that would be to add a full percentage point to the Consumer Price Index.

Another point that I believe has to concern all of us in Congress is that it would cause a decline in domestic car sales of an additional 175,000 cars a year, at a time when the auto industry is on its knees. The CBO is authority for that statement.

It has been suggested that we should be doing this in order to accommodate the international community.

But, as a matter of fact, the United States has been doing a far better job in conserving our energy resources than have the other nations that participate with us in the IEA.

In the first half of 1978 compared to the first half of 1979 the U.S. conserved 2.2 percent of its usage; Japan went up 4.3 percent; Canada went up 2 percent; the United Kingdom went up 2.7 percent; Italy went up 4.3 percent; Germany went up 3 percent—that has been a consistent record.

When I attended the IEA meeting they agreed at that meeting that everyone would cut back 5 percent. The facts are that the United States did indeed cut back 5 percent on its consumption, but the other nations failed to live up to their obligation to do so.

I believe in mandatory conservation. I want to conserve energy in this Nation, but I do not want to do it at the price of the American consumer.

I was told what a great thing it was going to be when we deregulated the price of natural gas and how that was going to help our Nation.

Well, it has helped the rate of inflation but it has not helped the Nation.

I was told when the President deregulated the price of oil it was going to help the Nation. But it has not done that, and it has not caused more oil to be produced.

What we have done is we have exacerbated the problem, we have increased the problem, we have aggravated the problem, of inflation in this Nation by each of these actions, and I believe the people of this country do not want to be paying an additional 10-cent-a-gallon tax. They do not accept the concept that imposing a 10-cent-a-gallon tax is a good way in order to get a tax reduction which, I must say, is probably one of the most absurd arguments I have heard proposed, of all the arguments proposed, so far as this particular legislation is concerned, that we pass a tax in order to cut taxes. I do not accept that concept, and I hope the Senate will see fit to override the veto.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield myself 1 minute to correct one misunderstanding.

Last year the average daily crude oil production in the world was 62 million barrels. We burned in our automobiles an average of 7 million barrels per day. This is, perhaps, too high, but it is much less than 9 out of every 10 barrels. It is more like 1 barrel out of 10. I would not want the statement by the Senator from Colorado to go unchallenged.

I also suggest that working men and working women that used gasoline to commute back and forth to work, cannot deduct the cost of this gasoline. Business, including big business, can deduct the cost of all the gasoline they use.

I would also like to point out that there are studies that show that those on the lower end of the income scale have been conserving just about as much gasoline as they can. Again, this tax is pointed at the wrong people. It is pointed at the working man and woman of this country. I just hope we can indicate to the President that this is not a good way to go. Maybe we can agree on some other approach.

I think we are all concerned about conservation. We do not do it by increasing taxes. First, it was a windfall profit tax; now it is an import fee tax.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. The outcome of this debate is already known. The President's veto will not be sustained.

The proposed oil import fee has engendered strong feelings and heated debate. The issue addressed by the President's action—the reduction of American dependence on foreign oil—is the single most important economic and strategic problem we face. The import fee, together with the 10-cent-per-gallon surcharge, is a modest attempt to reduce gasoline consumption. But it embodies the controversy which typifies every energy measure—how will the burden of uncertain energy supplies and skyrocketing energy prices be shared?

Congress spoke decisively when it acted to disapprove the import fee. There were a number of reasons for this vote. Some claim that the fee constituted a new tax, imposed by Executive order, without congressional participation. Some object to the fee on the grounds that it is inflationary without achieving significant conservation. And others believe that the 10-cent-per-gallon gasoline surcharge unfairly impacts those least able to pay. However, while all these concerns may be valid, the need to dramatically reduce oil imports cannot be ignored.

I will vote today to sustain the President's veto of the debt ceiling extension, as amended by the disapproval resolution. I do so with complete awareness of the importance of the debt ceiling legislation to general Government operations. I support the import fee because it represents a step forward in the direction we must go to curb our appetite for foreign oil. Although the fee may be somewhat inflationary, nothing creates greater hardship than the unemployment and inflation we import along with $90 billion worth of oil this year. Although the conservation achieved may be limited, disapproval of the fee sends a message to our allies and to OPEC that we may be incapable of doing more. If we are serious about energy conservation this import fee should be viewed as the place to start.

On Monday, June 9, the member states of OPEC will meet to discuss oil prices. Rumors abound that price hikes and production cutbacks are in the offing. The contract price for oil may rise to as much as $32 per barrel and production cuts by Saudi Arabia and other OPEC states could force spot market prices to rise to $50 per barrel or more. A production cut of 1 million barrels per day would cause an immediate tightening in the world oil market. Although there are no shortages or gas lines in the United States now, this could change overnight. The price of a gallon of gasoline could change overnight. The price of a gallon of gasoline could rapidly increase to well over $1.50, perhaps approaching $2.00. And all of those billions of dollars would flow not to the U.S. Treasury but would flow out of the United States, further increasing our economic and strategic vulnerability.

The people of this country must not forget that we are hostages, 220 million of us, to the oil-producing nations as long as we harbor our continued dependence on imported oil. OPEC seems to be determined to teach us the lesson that we must reduce oil imports. We have a choice. We may take steps on our own to reduce oil imports; or we may follow the dictates of OPEC; or we may suddenly find ourselves confronted with an emergency situation brought on either by an invasion or by a terrorist act or by accident or by embargo or by the overthrow of a regime—any one of which will force us to reduce oil imports.

The vote today may bury this oil import fee, but it will not bury this most urgent national problem. It will not put this urgent national problem to rest. The problem will remain with us. Our allies expect us to take some tough steps to induce conservation. Our economy will be strained by higher OPEC prices. We remain strategically vulnerable to a cutoff of Persian Gulf oil supplies. We must address this issue and we must do so soon, because our national future, our national economy, and our national security depend on it.

Mr. HART. Mr. President, will the Senator yield me 30 seconds?

Mr. ROBERT C. BYRD. I yield the Senator 1 minute.

Mr. HART. Mr. President, of course the Senator from Kansas was correct. Nine out of every ten barrels are consumed for uses other than by American motorists. It is one in ten that is used for gasoline in the United States. I apologize that I reversed this in my earlier remarks. The Senator from Colorado misstated the facts that he brought up earlier.

I would point out, however, that one barrel out of ten produced in the world every day consumed in American automobiles is a staggering amount of oil.

Mr. DOLE. Mr. President, I yield 4 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, may I begin these brief remarks by paying a special tribute and express my particular appreciation to the majority leader for his cooperative spirit in arranging this vote for this particular time in this particular way. It is a matter of great legislative importance, of great policy importance. It is typical of the majority leader's courtesy and cooperation that he would arrange it so that it would accommodate the needs of a maximum number of Senators, particularly, in this case, the Senators on this side of the aisle. I thank him for it.

Mr. President, I shall vote to override the President's veto. I have long felt that there is an urgent need to get on with the business of maximizing the production of oil and natural gas in this country. I have supported measures to attain that end.

I felt, and I feel now, that it is absolutely essential that we go forward with synthetic fuels and with sound conservation policies as well as the production of energy from the so-called advanced or exotic sources.

Mr. President, I have never favored a tax on gasoline. I believe the President's import fee is precisely that. I believe it to be unconstitutionally imposed or attempted to be unconstitutionally imposed by Executive order. I think it discriminates against those who must drive and have no practical alternative to the use of private transportation. I think, in a word, it is unfair.

I think it is a proposal for a huge additional tax on this country at a time when, next year, the tax burden on the people of the United States will increase by almost $100 million, the largest increase in the amount of money taken in taxation from the mainstream of America in the history of the Republic. I believe we do not need this additional tax burden.

Mr. President, at some future time in a constitutional forum—that is to say, consideration of a tax imposed by Congress, not by the President—I would be willing to consider a tax not just on gasoline, but on crude oil, on energy resources of this Nation.

I have long suggested that we consider, for instance, a Btu tax instead of a gasoline tax. That would place that burden on the people of the United States equally and without discrimination against those who must use gasoline in the course of their daily lives and in the course of their effort to earn a livelihood. When, and if, that opportunity presents itself, I will consider such proposals on their merits.

But I will not, Mr. President, consider this tax imposed, as it is attempted to be imposed by an Executive order. I will vote to override the President's veto. I urge my colleagues on this side of the aisle to do the same thing. It is my hope that the Senate will express its will in that respect.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, how much time does the Senator from Kansas have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 20 seconds.

Mr. DOLE. Mr. President, I yield 3 minutes to the Senator from Iowa (Mr. JEPSEN).

The PRESIDING OFFICER. The Senator from Iowa (Mr. JEPSEN).

Mr. JEPSEN. Mr. President, I would like to state for the record my continued opposition to increases in the public debt limit. The American people have made clear their opposition to deficit spending and we ought to be worrying more about ways to balance the budget and eliminate the necessity for increasing the debt limit.

However, I intend to vote to override the President's veto on this debt limit extension because it includes an amendment proposed by Senator DOLE, of which I am a cosponsor, to repeal the President's authority to impose an oil import fee. The courts may ultimately find that the President did not have this power in the first place, but we cannot be certain what the final outcome of the pending court case will be or when it will take place, so we should move ahead to deal with this problem legislatively.

My principal objection to the oil imports fee is that it is a fraud. The President says it was imposed to encourage energy conservation. The truth is that the fee is just another tax increase on the American people. It is not necessary to encourage conservation because the American people have already shown their willingness and desire to conserve energy. Gasoline use in 1980 is 9.5 percent below 1978, diesel fuel use is 23 percent below 1978, and total petroleum use is 6.3 percent below 1978. What more does the President want?

In my view, what he really wants is the money to buy votes, to establish new programs, to do all the things Government does while maintaining the fiction of fiscal responsibility. The truth is that the Federal budget is out of control, and the only reason this fact is not more apparent that it is is because taxes have increased even faster than inflation. Coming on top of the massive tax increases which have already been implemented, imposition of the oil import fee is like adding insult to injury.

I urge my colleagues to support an override of the President's veto and stop the oil import fee once and for all.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, the Senator from Kansas only has about a minute remaining. Maybe there are other requests on the other side.

Mr. ROBERT C. BYRD. Mr. President, would the Senator like to have a little more time right now?

Mr. DOLE. I would appreciate it. The Senator has 1 minute remaining.

The PRESIDING OFFICER. The Senator has 2 minutes and 10 seconds.

Mr. ROBERT C. BYRD. Mr. President, how much time does the Senator desire?

Mr. DOLE. Mr. President, does the Senator from Ohio want any additional time?

Mr. METZENBAUM. Mr. President, I thank the Senator from Kansas and the Senator from West Virginia. I do not desire any additional time.

Mr. DOLE. Mr. President, maybe I could finish on my time.

Mr. ROBERT C. BYRD. Mr. President. does the Senator want more time?

Mr. DOLE. Yes, about 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 3 minutes.

Mr. DOLE. Mr. President, I think, perhaps, we could probably vote right now, except the vote has been set for noon, as I understand it. The issue has been debated.

I do not know of anybody who quarrels with the President on a personal basis. There is just a lot of disagreement over whether or not this import fee should stand. It is not with any rancor or bitterness that we stand here and rail against the fee.

I would just like to restate that I do not believe this is a conservation measure. We are talking about saving, at the outside, maybe 80,000 barrels a day by 1983. We passed a windfall profit tax here, which I opposed, which is going to cut approximately a million and a half barrels a day from U.S. production by the year 1990. So we tax the domestic oil industry and we call it an energy bill; the windfall profit tax reduces production. Then we tax gasoline and call that an energy bill. All it really does is raise revenue. It does not conserve a great deal, but it does make it more difficult for working men and women to keep up with the economy, with inflation.

The tax is inflationary. It is going to add about 1 percent to the Consumer Price Index. The White House experts themselves admit it is going to add about three-quarters of 1 percent to inflation.

The Senator from Tennessee just mentioned taxes that total almost $100 billion, additional taxes, in fiscal year 1981. This will reduce that amount by $10 billion.

The Senator from Massachusetts, Senator TSONGAS, on Wednesday night talked about how he was going to support the fee. I can understand his position. But I am not certain whether he would support the fee if it were imposed on heating oil. When the President issued his proclamation on April 2, he excluded all of New England, in effect, by excluding the tax on heating oil and applying it only to gasoline.

But, in the Midwest and other States, where working people have to drive a great distance to work, they cannot deduct the import from their income tax liabilities.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Mr. President, do I still have my 2 minutes remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 10 seconds remaining.

Mr. DOLE. I think his fee would impose a particular hardship on people who are already hard pressed. It will adversely affect the auto industry, which is in the throes of bankruptcy all across this Nation. It has been estimated by the Congressional Budget Office that the fee would reduce sales by 175,000 automobiles at a time when sales are down by 37 percent to 40 percent—the perhaps worst sales picture in the history of this country.

This fee has been called a regulatory nightmare. I assume that if the OPEC countries raise their prices in the next couple of weeks, many are going to say, "Well, it is because Congress overrode the President's import fee."

We were told during the consideration of the windfall profit tax that if we did not pass the windfall profit tax the OPEC countries were going to raise prices.

We passed the windfall profit tax and yet the OPEC countries still raised their prices.

It seems to me that this import fee is an invitation to increase crude oil prices by $4.62 a barrel. What happens at the next OPEC meeting will have no relationship to what Congress may do today and what the Senate I hope will do in resoundingly overriding the President's veto.

Finally, overriding this veto will not have any budget impact. It will not imbalance the budget. It is not included in the budget resolution. Anybody who suggests that they have to have the tax to balance the budget I believe is misinformed.

I think it would be nice for those who now control Government to have a $10 billion kitty to use later on, maybe this year or some appropriate time to indicate to the American people that we were going to cut taxes.

I will finally concur in what the Senator from Ohio said—it is hard for people in my State to understand why we should increase their taxes so we can cut their taxes. They would just rather have us leave them alone for a while and not bestow any more goodies on the people in my State, the States of Ohio, Delaware, and others. If I have any time remaining, I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator has 5 seconds.

Mr. ROTH. I will yield that back.

Mr. DOLE. He declines to accept that amount.

Mr. ROBERT C. BYRD. How much time does the Senator wish?

Mr. ROTH. Two minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes.

Mr. ROTH. I thank the distinguished majority leader.

Mr. President, it is a pickpocket policy to say you need to raise gas prices to pay for a tax cut.

The President should have had the veto signing ceremony at the local gas station. He could have heard firsthand from people struggling to pay their bills.

The President is absolutely out of touch with working Americans. It is easy for someone who is not paying for his own gas to support increasing its price.

It would take someone who has not bought gas in over 3 years to push for higher gas prices.

If Carter, and not the taxpayer, had to pay to fill up his limousine, maybe he would not be so enthusiastic about higher gas prices.

Perhaps he should get out of his limousine as well as the Rose Garden.

Mr. President, I would point out that the average weekly income of American workers has fallen to the lowest point since 1961. At this very juncture the President is proposing imposing even a greater burden on them. This $10 billion tax increase would cost the typical American something like $114 per year, or roughly $10 a month. He can ill afford this when his income has already fallen to the lowest level since 1961.

Mr. President, I close by saying that the President's economic policies are bankrupt. This is exactly the wrong medicine for the country at this time, with unemployment up roughly 1.7 million in the last 2 months and with taxes rising very substantially.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield 1 minute to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, it is with a deep sense of regret that I will vote today to override President Carter's veto of the public debt limit extension bill containing a prohibition on the imposition of the oil import conservation fee that the President announced earlier this year.

I say "with regret," because I do not oppose the concept of a "gasoline conservation fee." Nor do I oppose the possibility of a direct increase in the present gasoline tax. I want there to be no misunderstanding of my position in this regard.

The American people should be under no illusion that a vote against the gas tax is a vote against higher gasoline prices. Until we can reduce our dangerous dependency on foreign sources of crude oil, the price is going to continue to go up and up. We are now caught in a vicious circle—the more we consume, the more dependent we are on imports, and the more OPEC can charge for their crude oil. The monopoly power of OPEC and their pricing policies have already caused a large increase in the cost of crude oil imports, and in the price of crude oil products, including gasoline. As a result, we will probably spend about $90 billion this year for imported oil, which means that every hour of every day, $10 million is being siphoned away from our domestic economy.

Until we can reduce this stranglehold that our oil import dependency has placed on our economy, and our national security, the price of energy in our country will keep rising, whether or not there is a 10-cent gasoline conservation fee.

Mr. President, for the sake of our future as a great country, we have to do away with this vulnerability.

We have to become the masters of our own fate.

I do not pretend that a 10-cent increase is the cure-all for our energy problems. But it would stimulate conservation. It would help to reduce the hemorrhage of American dollars overseas. It would assist our economy in supporting efforts to bring on competing alternate energy forms. It would not be painless, but the alternative of maintaining the status quo, with almost 50-percent dependency on foreign sources of crude oil, will be not only painful—it could prove to be fatal.

Therefore, I support the conservation goal that 10-cent gas tax embodies. But, Mr. President, I strongly oppose such an increase in the tax burden on the American people when it is not accompanied by an offsetting Federal tax reduction, either in the form of a cut in social security or income taxes, or some other form as a tax stimulus to the supply side of the economy.

It is for this reason, Mr. President, that I will vote to override even though 2 days ago, I voted against the repeal of the President's authority to impose this tax. I did so at that time because I continued to hope that the administration would make a firm commitment to use the billions of dollars in revenues from this 10-cent fee to reduce the Federal tax burden, and not to balance the budget.

I wanted to let the President have every opportunity to do this; but I have not been able to get such a commitment.

Instead, all the indicators appear to imply just the opposite. For example, the President opposed the conference report on the first concurrent budget resolution and aided in its defeat in the House. As my colleagues know, this budget resolution would have achieved a balanced budget without the revenue from such a gas tax, and provided that, if the tax were upheld, the revenues would be used to reduce the Federal deficit in fiscal 1980, and would have specifically been used to provide a tax cut in fiscal 1981.

The President opposed this resolution. While I realize that there were other reasons for his opposition, the fact that this commitment is not in place, and that the President will not now make a similar one is a clear signal, in my view, that the revenue from the tax could well be used as a crutch to avoid the administration and Congress taking the difficult steps which must be taken to reduce expenditures. This tax should not be used to balance the 1981 budget; Congress and the executive branch should display the fiscal discipline necessary to accomplish this task without the additional revenues, and if this fee is to be used for this purpose, I oppose it.

Unfortunately, the President has not precluded that possibility. In his veto message yesterday, the President stated:

> Without the oil import fee, our long struggle to achieve a balanced budget is in jeopardy . . .

Once again, I have tried to give the administration every opportunity to make a commitment not to use the gas tax to balance the budget, either by direct statements or in the form of commitments from congressional supporters. This has not been forthcoming.

Therefore, Mr. President, as I stated at the outset, I will vote to override.

Mr. ROBERT C. BYRD. Mr. President, I can sympathize with the constitutional argument in opposition to the pass-through, and I am not prepared to say that it does not have some valid basis. The courts may very well have rendered this question moot.

I can understand the question with respect to taxes. I do not want to raise taxes. I do not want to vote to increase taxes. None of us wants to do that. But we continue to overlook the fact that the OPEC countries, the oil producing countries, are, every year, levying what amounts to an invidious tax on the American people, and to the tune now of $90 billion a year, which is $400 for every man, woman, boy, and girl in this country annually.

We have a 4-cent tax on gasoline. West Germany has $1.14. France has $1.62. Italy has $1.83. What we are advocating is that we support tough measures that will encourage conservation of oil.

The greatest problem facing this country today is the energy problem. It underlies the problem of inflation; it underlies the problem of unemployment; it underlies the economy; and it underlies our national security problem.

I say to you, Mr. President, that this energy problem is not going to go away. We are going to bury the import fee today, but we are not going to bury the problem.

I am sorry to hear the distinguished Senator from Iowa (Mr. JEPSEN) say the President wants this money "to buy votes."

Mr. President, I would hope we would not resort to that kind of rhetoric. The President has shown courage but has not done a good job of making the case to the country for the fee. But it was hoped by many of us, that the revenues could be used for a productivity tax cut, which, in the long run, would help to create jobs and to modernize our industrial plant which we now turn over once every 30 years and which the Japanese are able to renew once every 10 years—a tax cut which would result hopefully in a reduction of the social security withholding tax.

Mr. NUNN. Will the Senator yield?

Mr. ROBERT C. BYRD. No, I cannot yield, I say to the distinguished Senator.

Mr. President, the time will come when this Senate is going to have to take some tough action to greatly reduce oil imports. This was a very minor step, not a major step in this instance. But we are going to have to take action one day to encourage more conservation than we have thus far accomplished.

This is not a popular vote, but it is the right vote because it is a step in the right direction.

I had no illusions as to the outcome of the vote. But the issue will return again—whether in the form of an import fee—perhaps not—or in some other way.

The PRESIDING OFFICER. The Senator's time has expired.

● Mr. BAYH. Mr. President, I rise today to join my colleagues in voting to override President Carter's veto of H.R. 7428, a bill to extend the public debt limit through June 30, 1980, and to disapprove the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under Proclamation 4744 dated April 2, 1980. I take this step because I have been a longtime opponent of energy price increases by our multinational oil companies—in concert with the OPEC cartel—and cannot stand idly by when our own Government joins this effort by raising energy prices even further.

On April 2, 1980, President Carter issued Presidential Procalamation 4744 creating a new petroleum import adjustment program, the purpose of which is to impose a so-called gasoline conservation fee of $4.62 per barrel on imports of crude oil with the burden of the fee to fall entirely on gasoline. As originally proposed, the first passthrough of the estimated 10-cent-per-gallon to consumers would have taken place on May 15, 1980.

There is some doubt about whether the President has legal authority to impose the fee. On May 13, District Judge Aubrey Robinson permanently enjoined the implementation of the gasoline conservation fee.

On June 4, both the House and the Senate passed measures disapproving the gasoline conservation fee. Yesterday the President vetoed that measure setting the scene for today's vote to override the veto.

Mr. President, I strongly oppose this proposed increase in gasoline prices. American consumers have suffered enough during the past year as energy price increases for gasoline, home heating fuels, and electricity have eaten up more and more of their family budgets while inflation has reduced the value of their wages. It makes absolutely no sense to me to fight inflation with an import fee or increased Federal taxes on gasoline. The administration's own figures indicate that such steps will further fire our inflationary spiral by increasing the Consumer Price Index by one-half of 1 percent this year, and another one-quarter of 1 percent as increased gasoline costs ripple through the economy. Reducing our dependence on foreign oil is a national priority of the highest order, but raising prices is the cruelest means of achieving this goal because it puts the greatest burden on those least able to bear it—the middle-income wage earner who must travel to his or her job, the senior citizen living on a fixed income, the farmer who must transport his goods to market, and others dependent on automobiles for their means of livelihood—while our more affluent citizens can continue to go about their business with little, if any, impact on their lifestyle.

Mr. President, every day that our Nation remains dependent on foreign oil our national security is threatened. There is no question that we need to pursue all reasonable alternatives to continued dependence on foreign energy. But the hard fact about the gasoline conservation fee is that the major impact will be a transfer of money from American consumers to the Federal Treasury—to the tune of $10.3 billion for gasoline—in exchange for more inflation. And this will come at a time when gasoline prices have stabilized for the first time in 4 months after going up over the last months; when gasoline reserves are at record levels; and, 2 days before the OPEC cartel gathers to consider their next round of price increases and supply curtailments.

Mr. President, this is the wrong road to take. Unfortunately, this action has been initiated without involving the Congress. It has been imposed by Presidential proclamation. We must use the authority provided to the Congress in the windfall profit tax bill to disapprove the President's action, or we may be forced to watch the next round of energy price increases kicked off with a new Federal "tax." This new tax on gasoline will not only impact the motoring public, but will effect gasoline users now exempt from the existing Federal excise tax on gasoline. These exempt users include, among others, farmers, who are already strapped for cash and credit to plant this year's crops; State and local governments, which face a loss of Federal revenue sharing; and nonprofit educational institutions.

Further, Mr. President, implementation of the gasoline conservation fee will be through another complex Department of Energy regulatory program. At a time when we have just received a General Accounting Office report which was highly critical of the Department's regulatory efforts to deal with the 1979 gasoline shortage, I must confess reluctance to involve DOE in yet another complex regulatory effort. And, I am disturbed by DOE comments that the regulatory maze necessary to implement this program may cost still another 1 cent per gallon at the pump.

Mr. President, I vote to override the veto of President Carter with the greatest reluctance. However, I believe very strongly that he is wrong in attempting to reduce our reliance upon imported oil by placing an added burden upon those individuals who can least afford to pay. I call upon my colleagues in the Senate and the House of Representatives to join me in voting to override President Carter's veto. I hope this effort will be successful.●

Mr. HELMS. Mr. President, today the Senate has the opportunity to save the taxpayers of this country from President Carter's inflationary 10-cent-a-gallon gasoline tax. I urge the Senate to override the President's veto and thereby spare the American people from the $10 billion annual tax burden.

The Carter administration has raised taxes more than any other administration in history. And the working people of this country have had enough. Nobody has been fooled by this latest tax-increase gimmick. The purpose of this so-called oil import fee is not to reduce petroleum imports but rather to raise more revenue for the Federal Government. This is not what the American people want.

Time and time again—to my dismay—I have watched Congress go along with President Carter's high-tax and big-spend policies. These decisions have contributed to the deterioration of our economy. We simply cannot afford to continue along this course.

The House voted resoundingly yesterday to override the President's veto. The Senate should follow their example today. The arguments for this proposed tax have all been discredited. It is time to send the President an unmistakable message from the people, and that message should be delivered right now by the U.S. Senate.

Mr. JAVITS. Mr. President, this historic override of a Democratic President's veto by a Democratic Congress demonstrates the dissatisfaction of the American people with the administration's energy policy and a determination that taxes shall be levied by the Congress and shall not be levied by the President.

I opposed this 10-cents tax on a gallon of gasoline because it would not save any appreciable amount of gasoline and would add unnecessarily to inflation. A higher tax, also being discussed, might save more fuel, but it would have an even worse inflationary effect, and I remain opposed to this idea of rationing by price.

Much more conservation of oil is critical to our national security and our national economy, but I believe the people want it attained by everybody getting equal treatment. It seems to me that just jacking up the price is not the way to bring about conservation. But Congress marching orders to get us conservation are clear. I hope both the President and the Democratic majority in Congress will now pay attention.

Mr. MATHIAS. Mr. President, I voted against the President's 10-cent-tax on gasoline because no one knew how it would be spent. There was no assurance that it would be plowed back into energy—no assurance that any of it would be rebated to consumers or applied to general productivity enhancement. Any one of these purposes might have justified a vote to support the President. But a tax to create a kind of slush fund for unspecified purposes is hard to justify. Taxation is serious business and a $10 billion tax is big business. To incur the inflationary effects of a tax without any guarantee of its intended benefit, and with no plan to dispose of the proceeds is too casual an approach to a big and serious issue. This is a point that I have made repeatedly to administration officials who have been calling me in recent days about this vote. The problem is still with us and demands another and better effort at solution.

The PRESIDING OFFICER. All time has expired.

The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Texas (Mr. BENTSEN), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. HEFLIN), the Senator from Vermont (Mr. LEAHY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. McGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. STEWART) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. MATSUNAGA) would vote "nay."

On this vote, the Senator from New York (Mr. MOYNIHAN) is paired with the Senator from Montana (Mr. BAUCUS) and the Senator from Vermont (Mr. LEAHY). If present and voting, the Senator from New York would vote "nay" and the Senators from Vermont and Montana would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Illinois would vote "nay."

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 10, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—68

Armstrong
Baker
Bayh
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chafee
Church
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Long
Lugar
Magnuson
Mathias
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Nunn
Packwood
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schweiker
Simpson
Stafford
Stennis
Stone
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—10

Bradley
Byrd, Robert C.
Chiles
Hart
Inouye
Pell
Ribicoff
Stevenson
Tsongas
Williams

NOT VOTING—22

Baucus
Bellmon
Bentsen
Cochran
Cranston
Glenn
Gravel
Heflin
Leahy
Matsunaga
McGovern
Moynihan
Nelson
Percy
Pressler
Sasser
Schmitt
Stevens
Stewart
Talmadge
Tower
Weicker

The PRESIDING OFFICER (Mr. PRYOR). On this vote, the yeas are 68 and the nays are 10. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LONG. Mr. President, I move to reconsider the vote.

Mr. ROBERT C. BYRD. Mr. President, the motion to reconsider is not in order.

The PRESIDING OFFICER. The Senator is correct.

The majority leader is recognized.

Mr. HUDDLESTON. Mr. President, the Senate has just taken action in concurrence with the House to deny the President his proposal to impose an import fee on oil resulting in a 10-cent-a-gallon increase on gasoline. By taking that action it would be desirable, of course, if we had some alternative to offer.

I just want to suggest one alternative that I think the President ought to give some consideration to. First of all, he has the authority and, indeed, has already used it, to impose import quotas on foreign oil. I would urge him to establish some stringent reductions in the amount of oil from foreign sources that we bring into this country. That, of course, would create some shortage, and should create some shortage, within the United States.

I would further add to compensate for that shortage the President enter into a program that would require that all of the refineries in the United States produce at least 10 percent of their total output as gasohol. The time has come, the technology is here, and it can be accomplished.

I would commend to the Members of the Senate an article appearing today in the Washington Post about the use and sale of gasohol in the Washington area. The one major oil company that does distribute and make it available through their system is selling 13 percent of its total sales in the Washington area as gasohol.

The argument is made that we do not have the infrastructure at this time to produce enough ethanol to meet those requirements. My judgment is if this mandated market were available those facilities would come forth very quickly. We would have the ability to meet those quotas, and they should be put into effect.

If the Government does not have, if the President does not have, the authority to do that then we ought to consider legislation giving him that authority.

Mr. President, I ask unanimous consent that the article in the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GASOHOL PROVES POPULAR IN AREA AND NATION

(By Phil McCombs)

Washington area motorists have taken to gasohol in a big way since its introduction at local service stations earlier this year, with more than 125 dealers here now selling nearly $1 million worth of the blend of gasoline and grain alcohol each month.

While gasohol has not yet proved to be a cost-saver—it sells locally at as much as six cents above regular unleaded—motorists appear to be attracted to it as a means of energy conservation and because of the cleansing effect they believe it has on their car engines.

"Everybody says it improves their performance," said Wes Sealock, an attendant at his father's Texaco station in Alexandria.

Officials at Texaco, the largest gasohol retailer, say the product accounts for 13 percent of the company's sales in Washington, despite the high price. They claim that sales would be much greater if not for a temporary nationwide shortage of grain alcohol.

"In the gasoline business, alcohol is perhaps the fastest comer since unleaded took off early in the 1970s," reported the Lundberg Letter, a petroleum marketing newsletter. "Scarcely known a little over a year ago, probably more than 2,000 stations now handle it, and the number is certain to leap in the months ahead."

Texaco stations compose the bulk of the gasohol dealers, with more than 1,400 company stations selling it here and across the nation. Amoco and other major companies sell it, too, but primarily in grain-producing regions of the Midwest where farmers are especially fond of it because it provides another market for their grain.

But some companies, including Exxon and Shell, refuse to market gasohol. Exxon asserts that it actually takes more energy to produce the alcohol in gasohol than is saved by its use in automobiles.

"Unfortunately, the ethanol (grain alcohol) currently available in this country for gasohol blending . . . comes from manufacturing processes which consume as much or more energy in the form of petroleum or natural gas than ethanol yields as a fuel," said an Exxon statement.

Experts disagree on the question, however.

A technical study by the U.S. Office of Technology Assessment, which studies technical matters for Congress, tends to contradict Exxon's flat statement, concluding that an efficient distillery fired by oil or natural gas can save the equivalent of one-third gallon of gasoline for every gallon of ethanol produced.

If the distillery were coal-fired, the equivalent of a full gallon of gasoline could be saved, according to the study.

Most of the alcohol used in gasohol now is made by Archer-Daniels-Midland Co. in Illinois and Publicker Industries Inc. in Philadelphia. Both companies fire distilleries with natural gas or oil but plan to convert to coal.

The alcohol comes to the Washington area in big tank trucks. The 200-proof "power grade" alcohol (as opposed to "beverage grade," which requires more expensive distilling), is placed in Texaco's specially treated Fiberglas alcohol tanks located in Fairfax City.

There, it is mixed with gasoline that comes by pipeline from refineries on the Gulf of Mexico—refineries that use much crude oil imported from the Middle East.

The resulting gasohol—1 part alcohol and 9 parts unleaded gasoline—is then distributed to stations.

The Carter administration has made gasohol a key element of its energy program, proposing a $3 billion loan program to promote distillery construction and an extension of the already-existing exemption for gasohol from the 4-cent-a-gallon federal gasoline tax.

The exemption amounts to a 40-cent-a-gallon subsidy of the alcohol component of gasohol, which some critics say distorts the nation's alcohol markets (alcohol is also used in manufacturing chemicals) and gives gasohol an unfair competitive edge.

President Carter set the nation's production goal at 500 million gallons of gasohol by the end of 1981—six times what is produced now and enough to replace 10 percent of the current demand for unleaded gasoline. That could extend the U.S. annual fuel supply by 1½ days, according to a Shell study.

Sixteen states, including Maryland, exempt gasohol from all or part of state gasoline taxes. The exemption is 4 cents in Maryland, but Virginia and the District still subject gasohol to the full tax. As a result, the price of gasohol at the pump is generally a few cents cheaper in Maryland than in the other local jurisdictions.

The average price of a gallon of gasohol in the Washington area was 131.4 cents in a recent week, a Washington Post survey showed. Unleaded regular at the same time averaged 129.4 (full-serve) and 126.6 (self-serve).

Texaco markets gasohol as a premium unleaded fuel, but some other oil industry spokesmen regard it as a "super regular" product—not quite premium.

Gasoline prices have been fairly steady for the past few months, but if they soar again and the price of alcohol—now about $1.75 a gallon—remains steady, the demand for gasohol could rise sharply as its price becomes more attractive.

ADM and Publicker said they are vastly expanding their alcohol production capacity and that any shortage of alcohol production capacity and that alcohol is just temporary.

Some analysts have raised the specter of Americans driving on grain while the world starves.

"The stage is set for direct competition between the affluent minority, who own the world's 315 million automobiles, and the poorest segments of humanity, for whom getting enough food to stay alive is already a struggle," wrote Lester R. Brown in a recent publication of Worldwatch Institute, a think tank.

But the OTA study concludes that 1 to 2 percent of U.S. gasoline consumption can be provided by alcohol "without a significant impact on food and feed prices."

And William C. Holmberg of the U.S. Energy Department's office of alcohol fuels said there is no straight tradeoff between food and fuel. U.S. grain bins are overflowing and still there is hunger in the world, he said.

Fairfax County has been the only local government here to try gasohol, but it stopped using it after learning that gasohol's higher price would add $191,000 to the county's fuel bill this year.

"I think imposing that increase with budget constraints at this time is unacceptable," said John F. Herrity, chairman of the county Board of Supervisors.

In other respects, the county's test of gasohol in 20 police cars disclosed no significant problems with it. Some inexpensive rubber hoses had to be replaced after the alcohol apparently wore them out.

Experts confirmed gasohol "cleans out" engines, breaking loose gunk and sometimes requiring the gas filter to be cleaned.

The Fairfax police even got better mileage with gasohol: 8.6 miles a gallon instead of 8.4 with unleaded.

"Gasohol reduces my car engine knocking," said Kensington motorist John Omachel, who uses it in his '78 Ford.

"I like the smell, it smells so sweet," said New York Avenue Texaco dealer Michael Liu.

"The public has given gasohol a very favorable response," said American Automobile Association spokesman Hank Downey. "A segment of the motoring public uses it as part of their own personal fuel conservation effort."

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The Senate resumed the consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I take the floor just briefly to state that for the rest of the day I anticipate no rollcall votes.

Mr. President, I congratulate those who have carried the fight and who have won. I also congratulate those who voted to sustain the President. Although it was a small vote, I personally appreciate it.

There is no ill will, no hard feelings. I think it was pretty much of a foregone conclusion. Both sides are to be congratulated.

Especially on the temperate tone of the debate, I congratulate Senators in the main, those who opposed the President's position and those who supported it.

For the remainder of the day, the debate will be on the military registration bill. However, Mr. Stennis and some other Senators will be asking to speak out of order on another matter, notwithstanding the Pastore rule of germaneness. I will yield shortly to Mr. Stennis so that he may state what that colloquy will be about.

Mr. FORD. Mr. President, may we have order?

Mr. ROBERT C. BYRD. What I am about to say will be of interest to Senators.

The PRESIDING OFFICER. Senators will please leave the well and will take their seats.

The Senate will be in order. There will be order in the galleries.

UNANIMOUS-CONSENT AGREEMENT—CLOTURE MOTION

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I will submit a cloture motion today on the military registration bill.

I call the attention of my colleagues to the fact that in recent years, the cloture motion has been entered on the first day the Senate has taken up a measure on which cloture has been sought to be invoked. In this instance, 2 days have passed—yesterday and the day before—so it is on the third day of debate that I am submitting the motion.

The rollcall vote on the motion to invoke cloture will occur next Tuesday. Some Senators, for good reasons, have hesitated over the years to vote for cloture on the first day. In view of the fact that 2 days have passed for debate on the military registration bill before the cloture motion has been offered, I hope Senators, if they are going to vote for cloture at all, will vote for cloture on next Tuesday.

We are running out of time. We are down to less than 60 days until October 1, excluding Saturdays—60 working days. We have all the appropriation bills. We have approximately 50 expiring authorization bills. We have other measures that will take time. So we are running out of time.

I urge Senators who are going to vote for cloture at any point to vote for cloture on next Tuesday, so that we can get on with disposing of this measure. There are a good many bills backed up behind this one: The conference report on the budget, the supplemental appropriation bill, and many others. So I urge Senators to consider that as we vote next Tuesday.

I suggest, if it is agreeable with the distinguished minority leader and other Senators, that we may wish to establish an hour at this point, by agreement, at which we would vote on the motion to invoke cloture next Tuesday. In accordance with our understanding, that vote will come around 11 a.m., by virtue of the fact that we will let the rule operate, and the Senate will come in at an hour which will cause the vote to occur at 11 o'clock. It might occur 5 or 10 minutes after, and I wonder whether the distinguished minority leader would be willing to set the time precisely at 11 o'clock, so that Senators may be aware of such hour beforehand.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I will be happy to do that. I discussed with the majority leader yesterday the desirability, from our standpoint, of having a time certain to vote on this important measure.

By the way, I say parenthetically that I, too, support cloture. I have signed the cloture motion, and I urge Republican Members of the Senate to vote for cloture and to do so on the first vote.

In order to maximize that opportunity and to meet the convenience of as many Senators as possible, I will be happy to join the majority leader in the unanimous-consent request to vote at 11 o'clock precisely.

Mr. ROBERT C. BYRD. Mr. President, I am encouraged by the minority leader's statement as to his position on cloture. He indicated to me earlier what he has just stated.

Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture occur at 11 a.m. on next Tuesday; provided, further that no quorum call be in order under rule XXII—there is the automatic quorum call—that that quorum be waived, and that the vote occur precisely at 11 a.m., with no further quorum call in order at that point.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the purpose of this reservation is to say that ordinarily I would not agree to dispensing with the mandatory quorum prior to the vote on cloture. However, in this case, we are dealing with a matter that is some days away, and by this colloquy, all our offices will be on notice of that event. It will not be the first day of the weekly session; rather, it will be the second day, on Tuesday. It will not be an early vote; it is to be at 11 o'clock.

Under those circumstances, I believe there is adequate notice, and I will not object to dispensing with the quorum call provided for under the Rules, as I ordinarily would do.

Mr. ROBERT C. BYRD. Mr. President, there is one problem that could be a constitutional one. I assure the Senate that there will be a quorum call, but it will be held at such time that it will expire by 11 a.m. The Constitution does require a quorum to do business; and if any Senator, under the rules, asks for a quorum, the clerk will have to call it.

For now, let us agree that the vote will be at 11 o'clock and that the automatic quorum will be waived.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

ERRONEOUS NEWS REPORTS REGARDING ACTION OF ARMED SERVICES COMMITTEE ON HOSTAGE RESCUE ATTEMPT

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the majority leader.

Mr. President, I am going to ask unanimous consent that we proceed, for a maximum of 30 minutes, to a discussion about an erroneous and false statement of facts that was floating around last night on the newswires, to the effect that the Senate Armed Services Committee has formulated a report regarding the attempted rescue of the hostages in Iran.

I immediately made a flat statement that the story was totally false, completely erroneous, and had no element of truth in it. I stated words to that effect over and over at that time, but it was still floating around on the news this morning, on the television newscasts.

I want to make a flat statement now about this, as do other members of our committee who are here.

In that connection—and this has been cleared with the managers of the pending measure—I ask unanimous consent that we proceed for 30 minutes on a nongermane matter to the pending business, which is the military registration bill.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask for the floor in my own right on this subject matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask unanimous consent that my administrative assistant, W. E. Cresswell, be accorded the privilege of the floor while we are discussing this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I yield myself such time as I may use. The Chair might remind me at the end of 6 minutes.

Mr. President, I made reference to the fact about a news story to the effect that the Senate Armed Services Committee had rendered and issued a report regarding the attempted rescue of the hostages in Iran that was highly critical of some of the members of that party and the management and planning of it.

As soon as I heard that, I immediately issued a statement, as chairman of the committee, that there had been no such report, that there never had been any report by the committee, there had not been any discussion of an actual committee report by the committee, or any preliminary document about it. Again all such reports to the contrary were false.

I said further that our committee was continuing its study and investigation and checking up on various phases of the entire matter. We had to partly suspend due to the heavy pressure of our military calendar for the last 3 weeks especially, and we are right at the end now of the major defense authorization bill. We hope to finish it early next week.

But, nevertheless, the stories continue about the so-called report. I saw one myself on the Today Show this morning between 7 and 8 o'clock.

This is to put to rest, and I hope forever, any kind of message that there had been any official action or report made by our committee. It just is not true.

I find there was an instrument prepared by a member of the so-called minority staff. I do not like to acknowledge that there is such a thing as minority staff. We try to be nonpartisan, nonpolitical on the Armed Services Committee, as we should be, but there is some division there. I am not arguing now that there should not be any on the staff.

I wanted Senator TOWER to be here if he could. He wanted to be here this morning, but cannot. I thought I ought to go on and handle this on the floor where all the press and everyone would know what the situation was.

I could not reach him on the phone, but he called me later. I will quote him or he will be quoted in a minute. He is the ranking minority member of our committee.

An announcement was made this week by the Pentagon that they were setting up a special body to give consideration to the attempted rescue mission. I am sure it is within their power to do it, but we were not given any real notice or any consideration that they were planning to proceed in such a way.

My point is—we are continuing to proceed with this matter. We are going to do the very best we can, to further develop the facts in connection with the entire matter.

Mr. President, there is the matter of running a large committee which has these enormous responsibilities. This is nothing new because other committees discharge the same volume, and a growing volume, of these important matters. There is more demand than ever for the highest form of devotion to duty, for trust and for confidence among the membership, among the staff. I am not making any accusations of anyone but that has to be the highest possible caliber and form to keep down the false leaks or false stories that are somehow being put out.

I referred to Senator TOWER earlier. He authorized me to say that he was responsible and assumed full responsibility for what turns out to be a memorandum prepared by a staff member for the so-called minority. He was not responsible for it getting out in any way because he knew nothing about how it got out or who was responsible either on or off the staff. He was concerned about it. But the Senator from Virginia (Mr. WARNER) will further mention Senator TOWER's position on this matter.

I want to emphasize that we are going to have to be more rigid on our committees in order to govern. A chairman of a committee now cannot even appoint enough subcommittees to give even a cursory consideration to a lot of the major matters that are in these large authorization bills. He does not have enough authority toward the direction of the staffs.

I am not saying any staff member is guilty of any wrongdoing, and I hope they are not. I have had a very strict surveillance over the main body of that staff. I have no indication that they are involved. But there is something wrong somewhere.

We want this body to know that it is not our committee—you never hear me say "my committee" this or that. It is always "our committee" or it is the "Senate's committee." We are just an arm of the Senate. We want you to know that we expect you to hold us accountable and responsible in this field, and we will try even harder in that direction.

The PRESIDING OFFICER. The Senator has used 6 minutes.

Mr. STENNIS. I yield the floor for the time being, Mr. President. I do not want to control the time.

Mr. WARNER and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I would like to associate myself with the remarks of the distinguished chairman of the Senate Armed Services Committee.

Some days ago there was a rumor concerning a memorandum prepared by a staff member on the minority which may have been unfavorable to General Vaught. I have not read such a memorandum and, furthermore, there has been no action taken by the minority or the majority, as I understand, certainly not the full committee. I think it is very unfair to General Vaught that anything be published which gives the impression that the majority, minority, or the committee has taken a stand detrimental to him on his actions in the rescue attempt of the hostages.

General Vaught is a very able general. He is a major general in the Army. He has an outstanding record. He was selected for this mission because of his peculiar and special training in operations and also in special types of operations. He was selected because he was well equipped and possessed the experience to command such an effort. I have heard nothing that I could single out General Vaught and accuse him of not being qualified for the job or of not handling his job in the proper manner.

It is my sincere hope that the news media will not leave the impression that the Armed Services Committee, either the majority or the minority, have taken or plan to take steps that would be detrimental to the reputation and the honor and the integrity of this very patriotic, fine major general in the Army.

I ask unanimous consent, Mr. President, that a statement I put in the Record a few days ago about General Vaught appear at this time and also several newspaper articles and an editorial which praises him for the great job that he has done and for his courage and patriotism in being willing to undertake this task and doing the best he could.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Iran Rescue Attempt

Mr. Thurmond. Mr. President, the article in the Sunday, May 18, 1980, edition of the Washington Star has done a severe injustice to one of our finest military men, Maj. Gen. James Vaught, USA.

I personally believe General Vaught was a good choice to direct our unconventional counter-terrorism activities. General Vaught has served this country with great distinction in World War II, Korea and Vietnam. Among many decorations, he holds the Silver Star and the Legion of Merit. The Star article is indeed a shabby attack on General Vaught. There is much innuendo without evidence from anonymous sources. Let me say also that at least 40 lines in the Star article are extracted from classified material. It is disturbing not only that our Government has security leaks, but that the Star would print sensitive information without further checking.

Mr. President, our country owes a debt of gratitude to General Vaught, and those who worked with him, in his efforts in planning and attempting to execute the Iranian hostage rescue.

After listening to the House Armed Services Committee testimony on the rescue attempt, Congressman Larry Hopkins of Kentucky was moved to write General Vaught a letter.

Mr. President, I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

House of Representatives,
Washington, D.C., May 15, 1980.

Maj. Gen. James B. Vaught,
Director, Operations and Readiness, Headquarters, Department of the Army, Washington, D.C.

Dear General Vaught: As a member of the House Armed Service Committee I want you to know it was an honor to meet you and I want to enthusiastically congratulate you on your answers and straightforward testimony before this Committee.

General, I am no warmonger for in my view, war is the worst way to settle anything—but when we must be prepared is when there is no other way left. You may be assured that my vote will help us be prepared.

If there is another war, I want you to know that I would want my son to serve with people like you and as I told you, you just keep layin 'em on the landing deck and I'll do my best to take care of these turkeys I serve with in Congress.

I appreciate your invitation to visit with you and your soldiers and, if for no other reason, I want them to know that at least one Member of Congress is on their side. I look forward to hearing from you in this regard.

Yours very truly,

Larry J. Hopkins.

[From the Atlanta (Ga.) Constitution, May 21, 1980]

"Media Morning" Quarterbacks

(By Hal Gulliver)

A friendly fellow in Dublin the other day asked me if I agreed with this definition of editorial writers, that we were the ones who came down out of the hills after the battle and shot the wounded.

I demurred slightly, though there may sometimes be some truth in that definition.

It comes to mind though because of some media follow-up stories on the failure of the recent rescue attempt in Iran. Some of the stories seem written with a kind of glee, taking the general line in almost cheerful fashion that somehow the mission might have worked if there had been better planning, or sometimes the line that it was a stupid notion in the first place and should never have been tried.

One of the things that troubles me about some of these stories is that they rely on unnamed sources, people who are apparently willing to bad-mouth the people who risked their lives (some indeed losing their lives) but who are not quite courageous enough to let their own names be used.

Two examples: These both happen to be Washington Star stories, though that newspaper is by no means the only culprit. Both stories ran in Atlanta newspapers, one in the Sunday Atlanta Journal-Constitution, so there is some shared responsibility.

The story that ran Sunday asserted that the planners of the unsuccessful rescue attempt failed to "train or prepare" for many of the things that happened, including sandstorms and the final emergency withdrawal. Who says so? That is not very clear in the news story.

There are references to "planners," and to a "score of officials." Which planners? What officials? There are no names offered. Yet the tone of the story suggests that the people running the rescue attempt must have been idiots, that they did not anticipate even that there might be sandstorms in that part of the Iranian desert in this time of the year, nor what they would do if the aircraft involved encountered such sandstorms.

Now, this on the face of it seems pretty inaccurate. All the earlier versions of the story of the attempted rescue explained that one of the major considerations in planning had been the sandstorms, that some planners had wanted to attempt the raid a bit earlier in the year for that very reason. Not consider in planning that the helicopters and other planes might encounter the kind of weather typical of Iran in the spring? I simply do not believe that. Nor do I believe the unnamed "sources" used in the news story. Nor do I believe in the accuracy of that story.

Second example: Another Washington Star story asserts that "one of the most fundamental errors" in the raid was selecting Maj. Gen. James B. Vaught as the commander. Who says so? Nobody is quoted by name in the entire story, not on this assertion.

Some of the "investigators" probing the raid are cited. One "Senate investigator" is mentioned. A "conservative congressman and former combat veteran" is offered as authority. A "military aide to a liberal member of the Senate Armed Services Committee" surfaces. This last beauty found Vaught's testimony to be like "Saturday Night Live," the NBC television comedy show on Saturday evenings. What does that mean? That Vaught was just a barrel of laughs? No, it apparently means that the "military aide" found it funny that Vaught spent a lot of time telling the Senate committee about his previous combat experience. What exactly should he have told them? That is not clear.

This last article, based again on unnamed anonymous sources, those with the courage to defame a man who has just risked his life for his country and for his fellow Americans held hostage but without the courage actually to let themselves be quoted by name, is especially poisonous. It in effect asserts, without any named source, that Vaught was incompetent as a military commander in what undoubtedly was the toughest military assignment of his full career. It tries him, hangs him, and condemns him without benefit of judge or jury or really of evidence.

There are days when some of my brethren in the media make me sick to the stomach.

[From the Atlanta (Ga.) Constitution, May 7, 1980]

Beckwith's Boss Has Roots in Georgia

(By Beau Cutts)

James Benjamin Vaught, the Army major general who was the overall commander of the Iran rescue mission, has roots deep in the Southern soil that has nurtured a large share of the nation's military leaders.

The 53-year-old general, who prides himself on staying trim and fit, won his spurs in the Army airborne. Last year he was saddened by his transfer from the post of commanding general of Fort Stewart, near Savannah, to the Pentagon. He wanted to command the 82d Airborne, the Special Forces and other elite Army units at Fort Bragg, N.C.

Vaught, a native of Conway, S.C., attended The Citadel, later transferring to Georgia State College, now a university. A management major, he graduated in 1960 with a bachelor's degree in business administration.

While here, Vaught was an ROTC instructor in the Atlanta public high schools.

On Tuesday, the man called "a real soldier's soldier" was explaining in Washington at a closed hearing what went wrong at "Desert One," the first staging area inside Iran where the rescue mission was scuttled after three helicopters failed.

Vaught, the task force commander, and Air Force Lt. Gen. Philip Gast, who acted as a special assistant to the Joint Chiefs of Staff for the Tehran mission, testified before the House Armed Services Committee. On Monday, Col. Charles Beckwith, the commando leader, appeared before the panel. Vaught, Beckwith's boss, directed the mission from an unknown site outside Iran.

How the men who planned and executed the mission will be dealt with is unknown. There will be more congressional hearings, more inquiries.

"His career is ruined," a Washington source said of Vaught. "He's associated with one of the biggest military fiascos in our history. He planned it and executed it. No matter if he did the greatest job in the world, he was associated with that, and you don't get but one chance at those levels. It's tough."

The source continued, "But I'll tell you this: If somebody said six months ago they were planning a rescue mission into Iran and Jim Vaught was going to plan it, I'd say they got a good man. He's a nuts-and-bolts general. He's a field guy, not a staff guy. He's a good Army commander. He's the type of guy who kicks—and takes names. I wish we had more Army generals like that."

It is unlikely that Vaught was able to use his down-home humor before the congressmen Tuesday. But under different circumstances—at a social event at Fort Stewart, for example—Vaught's ability to tell jokes is well known.

"He told ol' country-boy jokes," recalled Col. W. Hugh Bearden, who was with Vaught on several occasions at Stewart, the 280,000-acre Army home of the 24th Infantry Division (Mechanized).

[From The Liberty County (Ga.) Herald, May 21, 1980]

General Vaught Has Served Well; Deserves Praise

Maj. Gen. James B. Vaught, overall commander of the aborted attempt to rescue American hostages in Iran, has been criticized by some House and Senate investigators as a man who may not have been up to the job.

Our own opinion is that Vaught, former commanding general of the 24th Infantry Division and Ft. Stewart, is up to any job the Army has to offer. The opinion apparently is one which is shared by the Pentagon, which has strongly defended Vaught and his actions as commander of the raiding party.

During Vaught's time at Stewart, the post experienced rapid expansion. Housing, manpower and some problems bloomed. From October 1975 to December 1979, the Army spent $163 million in construction alone—barracks, family housing and tactical military facilities.

Civilian leaders often wanted improvements in roads and schools to ease the impact on the community. But Vaught's mission was to get combat-ready the newly formed infantry division. More than 17,000 soldiers are now stationed at Stewart and its Hunter Army Air Field, both under Vaught's command from September 1977 to August 1979.

Jim Wynn, editor and publisher of The Liberty County Herald, said, "Everything Jim Vaught did was the Army way. You can't separate the Army's feelings about something from his feelings. He's an Army man."

Wynn, whose Hinesville newspaper covers Army activities at Stewart, said, "When you saw a group of soldiers walking down the street, he is the one that looks sharper than the others. He's a real spit-and-polish type soldier."

Vaught took an active part in the community life of Hinesville. He was a member of the Rotary Club and the Chamber of Commerce. Wynn's newspaper polled its readers and found that after the state senator and the sheriff, Vaught was the most influential man in the community.

The father of three children, Vaught filed for divorce while living at Stewart. A few months later, he married a woman he had known earlier in his life.

Vaught has served in Germany, Japan, Korea, Vietnam and Turkey. He held several key posts at Fort Bragg before becoming chief of staff for the NATO Land Forces in southeastern Europe, stationed in Turkey, where he became familiar with strategic conditions of the Middle Eastern countries—including Iran.

From Turkey, Vaught came to the flat lands and pine trees of southeast Georgia as commanding general of Fort Stewart. "The Army's not for everybody," he once told an interviewer. "It's still a tough operation, and you have to make sacrifices for yourself and your family."

From Stewart, Vaught went to the Pentagon. His current position is director of Army operations and readiness in the office of the deputy chief of staff for operations and planning. It was from this job that Jim Vaught guided the ill-fated attempt to rescue American hostages in Iran.

The Liberty County Herald has a policy of refusing to publish personal attacks from sources who are not willing to authorize publication of their own identities in connection with the attacks. We have made an exception in this case by reporting on a Washington Star story in which the anti-Vaught comments were reported. Our reasoning is that the attacks already had received widespread national exposure and our readers, we think, need to have a full report.

We question the Star's decision to permit the attackers to remain anonymous, however. The newspaper has permitted itself to be used as a vehicle to smear the record of a man who has worked for many years establishing what has become a tremendous military record. Jim Vaught has served his country well. We wonder, having watched the Congress mangle our nation, just how the Vaught critics would stand up against that record. The critics' names should have been published. Otherwise the Star should have declined to print the story.

The Iran rescue mission was aborted due to mechanical failures, not from failure of Vaught's strategy and detail planning. The question of whether it would have succeeded had it been carried through will never be answered. Congressional investigators have no way of making such a determination; none of us has.

It is our hope that the congressional attacks on Vaught will not hurt his career in the military; that they will not hurt the military, itself. The rescue attempt was well-advised, we believe. If it had succeeded, Vaught and others involved would have been national heroes. Certainly they are not made villains by mechanical failures.

The Liberty County Herald salutes them all.

Mr. STENNIS. Will the Senator yield to me?

Mr. THURMOND. Yes.

Mr. STENNIS. I want to thank the Senator for the remarks he has made. This memorandum we are talking about. I did not know until about an hour and a half ago the real nature of this instrument. I have not seen it yet. I do not know what is in it. I hear that these things are mentioned. I thank the Senator.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the ranking minority member of the Armed Services Committee, Senator Tower, is out of the city, otherwise he would be present this morning. I have just completed a lengthy conversation with him by telephone, acquainting him with the background of this situation and the fact that the chairman of the committee and I had talked earlier today and that there was agreement between the chairman and myself that we would come to the floor of the Senate this morning to inform our colleagues of the background of these series of articles

I am pleased to be joined by Senator Thurmond, Senator Nunn, and others.

Mr. President, under the direction of the chairman of the committee and the ranking minority member, a task force of several staff members of the Armed Service Committee was formed to interview various members of the mission. At times I was privileged to sit in, with the permission of the chairman and ranking minority member, and actually listen to this procedure by which our committee began to collect the facts necessary so that the full committee could eventually determine the course of action it would take.

During the course of this preparatory work, Senator Tower authorized Col. Bud McFarlane, a very distinguished former Marine officer, now retired, to prepare an analysis of the facts thus far gathered. And Senator Tower told me that he personally accepts full responsibility for directing that a staff member make this preliminary assessment of the evidence gathered at that point in time. In Senator Tower's words, the memorandum contained some very constructive and valuable observations. Unfortunately, the press has not reported, in my judgment, nor in Senator Tower's judgment, the balanced view that was contained in that memorandum.

The memorandum does contain many facts which praise various aspects of this mission, as well as some conclusions and observations which are critical. But again I wish to stress the balanced nature of the memorandum to Senator Tower.

Senator Tower has not in any way officially, or among minority members, tried to say which part he endorses and which part he rejects.

We do know as a fact that there are some conclusions in the memorandum which have now been disproved by additional evidence that has been collected.

Therefore, this regrettable incident is one where a preliminary memorandum, prepared by one staff member out of a team of four, has come into the hands of third parties, and the public should know that no one on the minority side, to my knowledge, has taken any position, one way or another, with respect to the contents of this memorandum.

Upon learning of the disclosure of the memorandum last night around 7 o'clock, I promptly called Chairman STENNIS and then made the following statement to the press:

> The Senate Armed Services Committee has not completed its analysis of the rescue mission into Iran and therefore has, as a committee, issued no reports. Consequently, the memorandum in question carries no official standing whatsoever. It merely reflects the views of only one of four staff members assigned to the investigation.
>
> Although I, as one Senator, have much more analysis to perform working with the committee, I personally have reached one conclusion: That nothing in this memorandum, nor any other evidence which I have seen thus far, should in any way reflect adversely upon the courage and devotion selflessly demonstrated by our military personnel who actually flew into Iran.

Mr. President, I am glad that we have had this opportunity to advise our colleagues with respect to the background of this matter. I would like to add that I have come to know Colonel McFarlane as one of the most responsible, energetic, and intelligent members of the minority staff. I personally this morning vouch for this fine officer's professional and personal integrity.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I want to join the chairman of the committee, Chairman STENNIS and my colleagues on the committee, the Senator from South Carolina and the Senator from Virginia, in discussing the leak of the draft copy of an individual Senate Armed Services Committee staff member's view of the hostage rescue attempt. I view this leak as being outrageous. Most committee members have not seen this draft. It does not represent a committee view, as the Senator from Mississippi has already said and the Senator from Virginia has made absolutely clear. It does not even represent a consensus view of the staff of the Senate Armed Services Committee. It represents only the view of one member of the staff. It may or it may not be accurate. It may or it may not reach valid conclusions.

For it to be distributed in this fashion is unfair to the committee and is unfair to the courageous American military men who volunteered for this rescue mission.

Even more damaging in the long run, this leak undermines the duty and the obligation of the Senate Armed Services Committee or a designated group of members of that committee to receive full and complete information from the administration on the antiterrorist capabilities of our Government. This information is necessary and essential if the Senate and the Congress are to fulfill our duty to allocate the funds and resources necessary to build an effective antiterrorist capability in America.

I commend Chairman STENNIS for his views as expressed here this morning, and I endorse those views. The person or persons who leaked this document should be aware of the damage done. The ability of Congress to fulfill its obligation in developing an effective antiterrorist capability has been eroded. Those in the administration who seek to avoid any independent review of the hostage attempt have been strengthened.

Mr. President, our Nation has a formidable task ahead. We are likely to be the victims of increasing terrorist activities, and we must have an effective antiterrorist capability in the decade ahead. Based on the evidence I have seen, I am not at all certain that this capability exists today.

We have several essential tasks:

First. If there have been legal violations, the person or persons responsible for this leaked information should be prosecuted to the fullest extent of the law;

Second. If there have not been prosecutable offenses committed, and if the person or persons who leaked this information is discovered, this person or persons should be removed from the Senate payroll and denied all access in the future to any classified information;

Third. The Armed Services Committee, in spite of this unfortunate development, has a duty to continue our investigation of the rescue attempt and we also have a responsibility to continue our oversight of U.S. military capabilities to deal with terrorism; and

Fourth. The administration must have an independent review of the rescue mission in order to determine our problems and correct them. I commend the administration for beginning this review, but I question, as Senator JACKSON has, whether an objective analysis can be made by those persons who are part of the chain of command by reason of their active duty status.

Mr. President, in summarizing my view, this inexcusable leak comes on the same day that a news release from Iran discloses details of the hostage rescue attempt which have been denied to Congress, at least to the best of my knowledge.

It is absurd for the Ayatollah Khomeini to have top secret information which has been denied the Senate Armed Services Committee. It is outrageous for a leak of that nature to occur. The combination of these developments diminishes the viability and credibility of the governmental process. This marks a new low in governmental performance. It is government at its worst. The American people deserve better.

Mr. President, I thank my colleague for yielding, and I yield the floor or yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I commend the chairman of the Senate Armed Services Committee, Senator STENNIS, Senator WARNER, and Senator THURMOND for their fine statements, and I also commend my distinguished colleague from Georgia (Mr. NUNN) for his statement.

I am a member of the Armed Services Committee and I have been in the Armed Services Committee for every moment of the testimony we have taken thus far with regard to the raid in question.

I totally agree with the fact that the irresponsible leak of information which obviously came from some staff is one of the things that we have to stop in the Congress of the United States. I emphasize irresponsible.

I, for one, was critical of the fact that the President of the United States did not share the plan in advance when the mission to rescue the hostages was decided to be carried out. I realize, though, that maybe Senator GOLDWATER was right when he said he did not think the President of the United States should have given this information to the Members of Congress in advance, because the case in point here is that when information is given to the Members of the Congress, if their staff finds out about it, then in some way it has a chance to leak into the press.

I do not condemn my colleagues on the other side of the aisle on the Armed Services Committee in this instance because this could just as easily have happened to any of us on this side of the aisle.

I think what is pointed up here, Mr. President, very clearly is that staff sometimes is not as responsible and reflective to the people that hire them as they are sometimes to some members of the press. I think this was one of the most unfortunate leaks I have ever seen. It goes beyond irresponsibility. It goes to the heart of whether or not we on the Armed Services Committee, our colleagues in the Intelligence Committee, and our colleagues in the Foreign Relations Committee, who deal from time to time with highly secret information, have the ability to keep that secret.

I suspect that this matter will pass over, and the end result might be that what has happened with this unfortunate leak will prick the senses of those of us who are responsible for not only maintaining secrets, but also to penalize staff when they are leaked. It might be, in the end, a step in the right direction to tighten up on the security interests of the United States of America.

In conclusion I would just say that the remarks made by the Senator from Georgia are so accurate. We have little information in the Armed Services Committee as to this raid. I highly compliment the people who carried out the raid for their courage and their dedication. I think there are some of us who still have some legitimate questions that must be asked as members of the Armed Services Committee on the overall planning for that raid.

I find myself in the same position with my colleagues on the Armed Services Committee, that we want more information and we are not about to jump to a conclusion until we have the information that I think we are entitled to to make a report, if, in fact, we decide to issue a report as the Armed Services Committee.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I have one additional word.

I want to make it clear that the staff member who wrote this report has my respect. I make no allegations whatsoever as to who may or may not have leaked this report. I have no knowledge of that. I have no way of knowing. I do not know whether it was a staff member. I do not know whether it was a staff member of the Armed Services Committee. Certainly, the staff member had every right to prepare the report. There is a great deal of difference between having prepared a personal opinion and having leaked a personal opinion. I think we have to distinguish very clearly between the preparation and the leak. It was entirely appropriate for that staff member to give his opinion, whatever it might have been and whether we agree with it or not.

I certainly share the view of my colleague from Virginia as to his overall capabilities and integrity. I make no insinuation or allegation as to where the leak may have come from, but I do believe we have every duty to pursue it to the best extent we can, and, if discovered, I think we have every duty to take very, very strong actions to the extent we can under the Senate rules and in compliance with the law.

Mr. President, there is only one comment I have. Senator Jackson had to leave the Chamber. He and I discussed this matter this morning in some detail. I am authorized to say that he shares and endorses the views I have expressed on this matter.

Mr. STENNIS. Mr. President, I ask unanimous consent for 5 additional minutes to be shared by the group.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I want to say this, and not speaking with reference to this particular item or this particular person who prepared this memorandum. In the affairs of a Senate committee now, where we recognize the minority as a separate staff group, the chairman of the committee does not have any real control in saying who that will be. I am not particularly complaining about that. But on this point here, the chairman is responsible, in a way, for the whole committee, for what the staff as a whole does. The chairman may have the power to strike any staff member's name that he does not see fit to approve for a monthly paycheck. There may be some legal question about that. He may have it or he may not have that authority. I have thought about that in connection with other matters as to what my powers were.

I do not think there is any doubt, though, that any Member of the Senate can introduce a resolution, Senate Resolution No. X, providing that so and so shall not be eligible to receive pay from the Senate funds for any purpose. If that resolution passed, that is one way the Senate has for protecting itself.

I point to an uncertainty in the law that is going to plague us immeasurably at some time. I do not know the contents of this memorandum or whatever it was. I have not been shown a copy of it. If I did, I would feel honorbound to share it with other members of our committee or any Member of the Senate. The reason I have not is that I just do not know what the contents are.

I yield the floor, Mr. President.

Mr. WARNER. Mr. President, I thank the chairman of the Committee on Armed Services, my colleague (Mr. Nunn), and my colleague (Mr. Exon), for the true spirit of bipartisanship in which they have joined me in addressing this most unfortunate incident and the willingness of both the chairman and the ranking minority member (Mr. Tower) to do so. I, of course, join Mr. Tower in trying as best we can to ascertain how this occurred. Assuming that we have some success in that, we, of course, shall advise our colleagues as to our findings as well as our recommendations as to how the matter should be dealt with in the future.

I also thank Chairman Stennis for his reference to the staff member who prepared this, Colonel McFarlane. It is my understanding that the chairman consulted with Senator Tower and it was a joint choice, as such, that Colonel McFarlane work with other members of the majority staff as a team in performing the basic assessment of factual evidence.

Mr. STENNIS. That is right, and interrogating the witnesses for the few hearings that we have been able to hold.

Mr. WARNER. I also thank Senator Nunn for joining me in our personal assessment that Colonel McFarlane is a man of personal and professional integrity and that he prepared this report, in his own words, in a balanced way, giving constructive criticism and constructive praise of various segments of this mission.

The memorandum was done on a preliminary basis. The team and the committee have since then gone forward and assessed a great deal more fact, which has resulted in certain portions of this report being proven inaccurate.

Mr. STENNIS. Mr. President, if I may, I commend and thank again the Senator from Virginia for his work on this entire subject matter. He has been helpful from the beginning, helping to interrogate some of the witnesses. He was concerned last night when he called about this development.

Mr. WARNER. Mr. President, that concludes the discussion of this matter. At this time, the floor is yielded back to Senator Hatfield. That is my understanding, subject to the majority leader's concurrence.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued with consideration of the House joint resolution.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER (Mr. Riegle). The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on House Joint Resolution 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980 for the Selective Service System.

Robert C. Byrd, Lawton Chiles, George J. Mitchell, John Glenn, J. James Exon, John C. Stennis, Robert Morgan, Sam Nunn, Jennings Randolph, Ernest F. Hollings, Howard Baker, Strom Thurmond, John W. Warner, John Tower, Robert T. Stafford, John H. Chafee, Claiborne Pell, Henry M. Jackson.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, this morning, in the Washington Post, the lead editorial is entitled "The Draft Debate Is Over." The Post, once again, restates its position in support of the President's call for registration. This is a restatement because on March 6, 1980, the Washington Post had another editorial which they entitled "The Draft Registration Vote."

I am not suggesting that there is any virtue in consistency, but perhaps it is interesting at times to note inconsistency. In the Post editorial of March of this year, it makes very clear:

> The president has asked for registration in response to the Soviet invasion of a neighboring country. It is the first time that the Soviet Army has gone in force beyond the perimeter that it established in the aftermath of World War II.
>
> If the committee votes down the registration money, it will be delivering the president a rebuff of enormous symbolic importance.

That is March 6, 1980.

Today, Friday, June 6, in this editorial, the Washington Post states:

> Reinstating registration has, at this point, little to do with President Carter's post-Afghanistan intent to send Moscow a message of American resolve.

That is a rather interesting change of analysis as presented in the two editorials.

It is also interesting to note a third editorial written by the Washington Post, in which they comment about the Gulf of Tonkin Resolution, dated August 7, 1964, the day following the vote in Congress on that issue. Particularly striking was the reference to the Senator from Oregon, Senator Wayne Morse. It says:

> There is no substance in Senator Morse's charge that the resolution amounts to a "predated declaration of war."

I shall read the entire editorial:

> Congress is responding with commendable promptness and with an almost unanimous voice to President Johnson's request for support in the Southeast Asian crisis. The

> President consulted the leaders of both houses and then asked for a supporting resolution not only because he felt the necessity for congressional approval of what is being done, but also because he wished to demonstrate before the world the unity of the American people in resisting Communist aggression. That unity has been demonstrated despite the reckless and querulous dissent of Senator Morse.
>
> There is no substance in Senator Morse's charge that the resolution amounts to a "predated declaration of war." On the contrary, it reaffirms the long-standing policy of the United States of aiding the states covered by the Southeast Asia Collective Defense Treaty in the protection of their freedom as a contribution to international peace. It pledges military action only to resist aggression against American forces in that area. Of course, the President has authority to respond to attacks upon American forces without any approval in advance by Congress. So the resolution means only a recommitment of the Nation to the policy it has been following—an almost unanimous recommitment in the face of the inexplicable North Vietnamese challenge.
>
> This means of reasserting the national will, far short of a declaration of war, follows sound precedents set in other crises. President Johnson noted in his message to Congress that similar resolutions had been passed at the request of President Eisenhower in connection with the threat to Formosa in 1955 and the threat to the Middle East in 1957. The same course was followed in 1962 at the request of President Kennedy to meet the missile threat in Cuba. None of these emergencies led to war. Rather, the firm action that this country took interrupted Communist maneuvers that might otherwise have led to war.
>
> Congress ought to be very pleased with the now firm establishment of this mechanism for meeting an emergency with a united front. Reliance solely upon the power of Congress to declare war as a last resort would not be appropriate in these days of repeated crises short of war. A resolution of support for the Executive arm in meeting an emergency has all the virtue of rallying national strength behind a firm policy—without taking the calamitous step of war in this nuclear age. We surmise that the almost unanimous sentiment behind this resolution on Capitol Hill reflects appreciation for the President's sharing of responsibility as well as support for the tough punishment for aggression that he initated.

Here we see a typical reaction which can come from all quarters—liberal and conservative alike. Whenever there is a difficult decision to make, dump it in the lap of the President, just get rid of it, let him worry with it, or make him totally responsible, even when it means abdicating the responsibility of other institutions of Government—namely, in this case, the Congress of the United States.

I need not show it at this time, because it is obvious that Senator Morse was proved correct by the tragedy of Vietnam; and there were others who had given a little more thought to it and who could have perceived the nature of that resolution. Of course, Senator Morse and Senator Gruening were the only two who publicly voted against Gulf of Tonkin.

However, I recall a number of times talking to Senator Morse about this matter, and often in those conversations it would come up in his recall that others agreed with him, in the cloakroom, saw the dangers that he was publicly addressing in his opposition to the Gulf of Tonkin resolution, but they lacked the courage to express it publicly because of the overwhelming popular opinion otherwise.

Again referring to the Post article of March 6, 1980, it is very interesting that we get some of the same flavor they expressed on August 7, 1964, when they say:

> It would be grotesque to kill the measure in committee on an appropriations question.
>
> * * * * *
>
> The president has in fact made the request, and the committee cannot deny it to him without denying him much more.
>
> Registration concedes only one point—that there may be very different circumstances, somewhere in an uncertain future, in which a draft might become necessary. Not many Americans would deny that the possibility exists. If the Appropriations Committee agrees that it exists, then it can hardly reject this small measure of preparation.

I think it is very interesting, as I say, how the Post has established this viewpoint not once or twice here in these two editorials relating to the draft over a long period of time, where they have been so totally inaccurate in their assessment of the situation. It does not disturb me because there are so many other editorials that have supported the position I take here today. But I only want to call this to the attention of the Senate because we all have great respect for the stature of the Washington Post, and we cannot expect to agree on everything, every issue, but I think they have been a little weak over the years in their ability to perceive and forecast military-political issues on an international level, and have usually lined up with the kind of knee-jerk reaction we get from those who see no other way than to have a military response to an international crisis.

The Post also infers that this has nothing to do with the draft, underrating the connection. In 1964, they said that the Gulf of Tonkin resolution "does not amount to a predated declaration of war."

Well, so be it. I would like to take from that editorial one thought that has certainly confronted us all, and that is again why the registration? The administration has not clearly established its intention as it relates to the question of authority to begin induction, if they get the registration resolution passed in the Congress.

We have heard on the floor the advocates disagree a little bit—not on their viewpoint regarding the desirability of draft, but as to the timing.

The Senator from Georgia (Mr. NUNN) has said it may be necessary under certain circumstances in a national emergency or if we fail to achieve the full complement of our military services to institute the draft.

The Senator from Louisiana made it very clear yesterday that he supports the draft, and intimated at least or implied that he would support it even as of now.

The question of timing is not, I suppose, all that important except to recognize that when our colleagues who try to delineate or distinguish between registration and the induction features of the draft are really not engaged in a meaningful distinction. It may be an exercise that creates a political situation that they feel is more comfortable, but to indicate one is supportive of registration but not supportive of induction begs the real question and avoids the real question.

This is one of the difficulties those of us who oppose the registration procedure phase face, and that is that we have a Salome dance. Salome has dropped one veil, but she has got six other veils, and we just do not know exactly—we have a fairly good idea what is under them, but we have not an idea of the complete configuration. Consequently, we are asked, since she has dropped one veil it only indicates the first step. But we do not have any timing for classification or induction that will follow, because this is just the beginning of the dance and, therefore, we are under the illusion somehow that we can stop after one veil or that we can have enough of a pause to let us recover our senses.

But we cannot be so sure that this will happen. When one enters into the seductive den of Salome, I think one is somewhat committed when one parts the curtains and goes into that dimly lit, heavily pillowed, love nest.

Consequently, I think we have to be very, very specific here in terms of the fact that we are moving to adopt the draft. We are taking the first step. I think it is interesting that the President has actually called upon the Congress for this.

I wonder sometimes whether the money is that important because, you know, the President does have the authority already so that he could call for the draft registration tomorrow. He did not have to come to Congress to get authority to institute the registration. But it is somewhat like the President who wanted the Gulf of Tonkin Resolution. He wanted to have some kind of a congressional input and support.

I can recall when, as a Governor, in the National Governors' Conference of 1965, the Governors' Conference proposed a resolution to endorse the Vietnam policy of President Johnson, the vote was 49 to 1, and I was the only negative vote in that conference.

I recall when President Johnson then sent Air Force I to Minneapolis to invite the Governors down to the White House for a special briefing on Vietnam. The first thing President Johnson said at that briefing was:

> Here is the Gulf of Tonkin resolution in which the Congress gave full support and affirmation of the policy we are following in Vietnam.

In all good humor and kindliness he placed it right in front of my face and said:

> See, Mark, this is the basis upon which we have established the policy of Vietnam. This is the congressional action. This is the support, and there were only two votes in the Senate that opposed it.

Yes, the President had what he felt was a congressional mandate to not only initiate and pursue that program that he established in Vietnam, but I suggest that one of these days when, perhaps, the public reaction becomes rather intense or it becomes a political millstone around the President's neck he is going to pull out the resolution that we are considering here today, if it passes, and he will say, in effect, to the American public:

> Here is the congressional support for registration. Here is the affirmation of the policy that you are now dissenting from and that you are criticizing.

This is, perhaps, one of the reasons why the President asked for this money. He did not want to venture out into this thicket alone and say, "I am going to reestablish registration under the authority that is already on the statute books, but it was an action by the U.S. Congress, the Senate, and the House of Representatives acting together, that gave this policy its implementation." I do not want to suggest that the situation faced by this Nation in 1964 and 1965 represents an exact parallel with the choice we face today. But there are lessons to be learned and traps to be avoided. Both then and now, we are dealing with a symbolic gesture devoid of facts, long range planning, or foresight.

I am not sure how many of the Members who are running this year will be voting for or against this particular bill, but I want to say that there is no way of dumping it on Jimmy Carter's head when you are out on the campaign trail and you have to face up to the question of why you voted for registration.

It is always interesting to note how many Senators were always trying to make it Mr. Johnson's war when it became very unpopular, as if they had no part in it, as if they had no opportunity at any time to cast a vote indicating their displeasure or their dissent, because many of those who were trying to make it Mr. Johnson's war had voted for the Gulf of Tonkin resolution.

Consequently, it could be made analogous to the year 1980 when, as I have already indicated, Mr. Reagan is the Republican candidate, and if Mr. ANDERSON succeeds in getting his name on a number of State ballots as an independent candidate, those two gentlemen will not have to make any explanation to the voters as to why there is registration, if the Senate affirms this resolution we have before us.

Only Mr. Carter will have to explain to the American people why registration is being implemented, because Mr. Reagan has made it very clear that he opposes registration. Mr. ANDERSON has made it very clear he opposes registration. Senator KENNEDY has made it very clear he opposes registration. Former President Gerald Ford has made it very clear he opposes registration.

I think all of these men can speak from an honest conviction and certainly cannot be challenged for the courage that they have exhibited in making this very clear.

I recognize that people do not feel the importance of this issue at this moment in many instances, because the American public is so deeply concerned with economic problems, and with the foreign problems of this Nation, that they have not caught the immediacy of what is about ready to befall them.

I have found in the past, having been involved in this issue of Selective Service for many years in my State of Oregon, at least, that it was overwhelmingly the young generation that opposed registration and the draft, and I found a major degree of support amongst the older generation.

But I find, interestingly, at this particular time now the combination of opposition is across all age brackets. It is not just overwhelming opposition amongst the young people who would be most directly impacted. But I find all age groups. I find many people saying, "I don't want this power vested in the hands of a President. We should have learned our lesson in Vietnam."

Or I have heard people say frequently, "I am not supporting registration because I am not willing to have my sons go over to the Persian Gulf to fight for the big oil companies."

A lot of other reasons are given. I am not sure that always we can expect reasons that are going to come out of purely intellectual reasoning or rational reasoning, because this deals with such an important part of our whole society—namely, the lives of young people—that people will oftentimes have emotional reaction and response.

But I do feel that it is very important to recognize, as the American people become more and more aware, that this is an issue that carries with it the significance of a 5-year sentence to a Federal penitentiary or a $10,000 fine if there is a failure to comply, the same penalties as are applied to the failure to report to an order for induction under the Selective Service Act.

As I have indicated, I think that this is an impossible act to administer fairly and with equity, because this budget only incorporates about $200,000 at the minimum and $400,000 at the maximum of moneys available for public education and public announcement, public information. It is to come at a time when they are on vacations or they are in summer employment or they are in summer travel.

Obviously, there is going to be a fair percentage who will not have received the word because this is all supposed to be explained and all the public is supposed to come to an understanding of this requirement in 30- and 60-second television and radio spots, of which you do not buy very many for $200,000 or $400,000. So noncompliance will be very obviously a mixed bag. It will be mixed deliberately with those who refuse to comply and it will be mixed with those who did not actually hear or understand or were properly informed about the requirement.

So what does the Government do? As I indicated earlier, the Government can make a selective prosecution. It can pick Bill Jones and make him an example in Portland, Oreg., carry him to court, press for conviction, and get him sentenced. Then they can come back and say, "Now, if others don't come forth and register, we will do the same to them," well knowing that there were many others that were not registered and had not complied with the law. But they are going to be selective in their prosecution. There is obvious inequity in that kind of enforcement.

Or they could go about the business of diligently pursuing every possible noncompliance. And what do they have on their hands? Well, first of all, this registration calls for a current address. So how are they going to check through on a person who they have knowledge has not complied?

Well, they have to perhaps go to some other Government agency with some other record, maybe the Social Security Administration, or they may have to go to the high schools and say to the high school registrar or to the college and university registrars, "We want the record. We want to see the record of Bill Jones of Waterbury, Conn. We have evidence that he is not registered and he is 19 or 20 years old."

What about the question of privacy, what about the Act of Privacy or the right of privacy that individuals have in this country? Well, I think what we will find in that case, is that they will have to come back to the Congress and get some kind of a modification or some kind of a new authority to abridge the existing rights of privacy of records. But the Government would be diligently pursuing, assuming the Government has an army of investigators, assuming we have appropriated literally hundreds of thousands of dollars that we will have to appropriate in order to hire the special investigators and special prosecutors.

I think it is very interesting that frequently we have before this body a request in the form of appropriation of literally millions of dollars to try to unburden the judicial branch of Government because it is so overburdened. We create new judges, Federal judges. We do the same thing on the State level.

In the 8 years that I was Governor of the State of Oregon I appointed almost 100 members of the judicial branch of our State government. In only 8 years. These were not all new positions, but a number of them were new positions.

The point is that anyone that looks carefully at our judicial branch of Government or listens to any of the dissertations given by Chief Justice Warren Burger, who is attempting diligently to try to reform and try to bring greater administrative order into the judicial branch of Government, will know that this branch of Government, the judicial branch of Government, is inundated today with cases that have not been heard, cases that have been heard but not acted upon, cases where we have, at the local judicial branch of Government level, individuals who are out on bail and who have been found guilty of even a second crime and are out on bail and guilty of a third crime. It is really quite a chaotic situation in some specific areas and overall it is an overburdened branch of Government.

And yet we are going to say to this judicial branch of Government or its components that we are going to have to prosecute, we are going to have to ferret out, investigate and prosecute anywhere between 80,000 and 400,000 people.

I have used those figures based upon the fact that we are talking about a pool of 4 million in the 19–20 year old brackets. The Defense Department and others have estimated that there may be as low as 2-percent noncompliance and others have estimated that there might be as high as 10-percent noncompliance, which gives you 80,000 to 400,000 potential evaders of the registration requirement.

Consequently, when the question was asked of the administration, "What are your plans for enforcement?" and when we received no satisfaction, no information of consequence, it gave some of us the added concern of acting upon this measure at this time.

I say at this time. As far as I am concerned, no peacetime registration is going to be appropriate. To others it would be appropriate for registration if they felt there was proper planning for it and, therefore, we have an interesting combination of people who are opposing this measure for different reasons. This is only one of them.

So, Mr. President, we again face a question before the body, as we did in 1964. We face the question that will trigger a Federal action that I feel not everyone fully comprehends, with the kind of action, the kind of response, the kind of milieu that we will find ourselves in down the road.

I certainly do not pretend to have any gift of prophecy. Although I recognize that is one of the gifts that is bestowed by the Holy Spirit, I still feel that one can read history and learn sufficiently from history to be able at least to anticipate that which may sound prophetic to other people but which is purely based upon experience.

I am sure that when President Carter initially asked for this registration, he could have very sincerely and very deeply believed that it would be an important symbolic message to send to the Russians. That was the only justification given in our committee. It was to be a symbolic message to be sent to the Soviet Union.

Let me suggest that, rather than sending a symbolic message to the Soviet Union that there is an American resolve, or that there is national unity, or a national consensus, if we pass this resolution we are going to be sending a message to the Soviet Union that is totally negative, that will tell the Soviet Union precisely opposite what the President had intended to send as a message.

Instead of sending a message to the Soviet Union that the United States of America is in a state of resolve and unity, we will be sending a message that the United States of America is in a state of dissent, of division.

There is nothing I know of that this Congress could do that will trigger and create a greater divisiveness in this country than to pass this resolution. That is the message we will be sending to the Soviet Union. It will not be a message of strength, national will, and national purpose, but a message of dissention, disunity, and demonstration, which prayerfully and hopefully will be peaceful.

And let no one then ask themselves the question, why did all this happen; how did this all happen? Like they did after they marched in and voted for the Gulf of Tonkin Resolution in 1964.

Mr. President, I have pending at the desk a number of amendments. I would like to briefly summarize the purpose of these amendments. I feel that ours is a legislative responsibility to try to correct what we feel to be the inadequacies or the errors in legislation even when we are opposed to the legislation. I have no lesser responsibility to this particular resolution if it passes than if it fails. I am hopeful that it will fail, but I have to be realistic. We are in an uphill battle, those of us on the opposition side.

One of the reasons why we are not voting today is the fact that obviously I do not believe there are the votes to stop it. One of the reasons why we are not voting Monday is that I do not believe there are the votes to pass it. The obvious reason why the Senate majority leader laid down the cloture petition today in order to try to bring this to a halt on Tuesday is because he realizes that the longer this goes, perhaps the greater the possibility we will have conversions. I suppose this is a verse of "Just as I Am" to ask for conversion, but there are not enough in the Chamber to make that invitation at this time, though I do not believe that anybody is beyond redemption, not even my good friend from Georgia.

So we are not getting conversions today, and, therefore, I am about to now offer a summary of some of these amendments which, if this is to be enacted and if this is to become the policy of the land, at least I feel these amendments would help moderate the impact. It is really not possible to moderate the impact effectively because it is like pregnancy: Once we pass this, we are committed, and we are committed, in my opinion, to the wrong, wrong, wrong policy. But at least we might be able to make it a little more equitable. Again, that is almost a contradiction. How can you produce equity in something that is basically inequitable? Obviously, it is impossible, but at least we are trying.

One of the amendments is entitled "Enforcement Guidelines." It is the subject I have just referred to about enforcement of this inequitable, Prussian type military recruitment system.

On page 2, before the period on line 14, I would insert the language "or be used for implementing a selective service registration until the Attorney General promulgates written guidelines to all United States Attorneys outlining procedures for locating and prosecuting persons who fail to register."

What we are suggesting in this amendment is that the policy of registration would not become operable until the Attorney General of the United States, who is the chief law enforcement agent for this policy, would outline the rules of procedures and the plans and the programs for enforcement, and that they would be made available to all of the State attorneys general or to all of the Federal attorneys in each of the States.

Simply, this is a matter to try to get some kind of planning. This is an issue in which we are trying in effect to say, "Let us at least plan out our strategy. Let us at least be aware of the problems, the manpower requirements, the cost factors, and all the other things that are going to be incorporated in the matter of enforcement."

As I indicated earlier, when we asked this question of the administration, they had no plans; they had no rules of procedure; they had no idea how they were ever going to enforce this.

I come from an area where we have done a lot of pioneering work in land-use planning. We had the experience of letting the communities in our State grow up topsy-turvy, with no idea where we were going or any reason for it. We used to build roads in square turns, 90 degree turns, because that was the property line. Or we used to let a rendering plant be built next to a lovely farm home or a residence. No planning, no forward-looking ideas at all on how we were going to grow and develop or live.

All we are suggesting here is that we put some kind of plan into effect or, at least, that we have some kind of blueprint on how we are going to enforce this act or this policy. That is one of the proposals which seems to me to be reasonable. I think we ought to require that some serious consideration be given to how we are going to locate the registrants or the nonregistrants, because it does raise these questions about exemption from the Privacy Act. It does raise the questions about merging the social security records with the Selective Service records.

It does raise the question about a computer bank that Congress has, in the past, rejected, the Orwellian concept of one big computer that is going to put all the data and all the records of our citizens into one place where we could press a button and everything prints out everything we know in the Federal Government and the State and local governments about every citizen. That kind of thing we have rejected as dangerous to the rights of the citizens of this country. Yet that question is involved here.

Mr. President, I should like to know precisely what the plans of information are going to be. How are we going to get this information out to the public other than by the 30- and 60-second spots? That is all the information we got: "Oh, we'll have 30- and 60-second spots on radio and television." There is a study that has just been published that indicates that between one-quarter and one-third of the people who view any television program, whether it is entertainment or a documentary or whatever it is, or commercial, between one-quarter and one-third of the message never penetrates. The message never gets through. There is no comprehension. Between one-quarter and one-third of the viewers of television today do not fully understand what they have just heard.

Yet we are going to promulgate a policy here that involves a possibility of incarceration in a Federal penitentiary up to 5 years or fine up to $10,000 for noncompliance. Yet this is going to be communicated to the American people through 30- and 60-second television spots.

There may be ways to do this more effectively, but we do not have that kind of information. I think it is, again, a premature request for the President to make of Congress until he has a better planning program than what he has demonstrated up to this point.

Mr. President, there is another amendment which is at the desk, an amendment which would provide for the congressional veto. I shall not read the entire wording of the amendment but if this policy should pass or this resolution should pass, the Selective Service System must provide Congress with a copy of its new rules and regulations. Then it will permit Congress, within 30 days, to exercise a veto.

This is no innovation, this is no strange proposal at all to this Congress because, as we all realize more and more, Congress is concerned about the regulatory agencies of our Government, the scope with which they have moved out into the industrial, commercial, educational, and social life of this Nation in the form of regimentation and regulation of such segments of our population.

As a consequence, we have taken action in order to maintain a better oversight, in order to satisfy the complaints of the constituents, we have taken action that calls for the right of Congress to review such regulations and policies of the regulatory agencies and to veto them, either a one-House or a two-House veto.

We have engaged in a variation of this theme as it relates to different agencies, but this is a very well-established congressional action now to keep some kind of restraint on these agencies. We want to keep a better check and balance. We want to be able to review these agencies' rules and regulations that have become so onerous to the American public. This is simply another such example where, under this amendment, we would retain for Congress the right to review the regulations and plans and to exercise a veto.

There is another amendment which has been sent to the desk and that has to do with a deletion, in effect, or a saving of some $443,000 out of the $13 million-plus total. We are not deleting this; we are merely freezing it, in effect, so that it cannot be expended for the wrong purpose. This proposes simply to freeze the $443,000, or that approximate amount, that is planned for the reconstruction of the local draft boards. This would still permit the opportunity for the Selective Service System to develop their national policy for registration. It would still provide an opportunity to permit development of an infrastructure for the registration procedure.

I do not see, if this is all that is intended by the President, why we then have to provide resources for the training and reconstruction of local draft boards. Mr. President, that is what gives some of us reason for suspicion. I know we live in an era where there is so much suspicion, there is so little trust between people. I really very reluctantly even raise this question at this point, because I in no way want to suggest that the President is trying an end run play or a sneak play of some kind. He could not do it. He would have to come back here for the induction power, anyway. But it bothers me that this is presented to the Congress of the United States as simply a registration procedure, a registration of names on a piece of paper, because the administration likes to downplay the possibility that this action will give momentum to a draft.

Yet here we have very clearly before us no invisible ink on this request. It is right out here in bold print, in effect, stating that they—they, the administration—want to plan for the reconstruction of the draft.

Regardless of what the President may want, the reality is that he is giving proponents of the draft in Congress, his spokespersons, a real vehicle for the desire to return to peacetime conscription.

They can only do this on an incremental basis. I suppose they have already made a judgment, or possibly have made a judgment, that no other way is politically possible in peacetime, so we will cut a little piece off it. But of the roll of baloney, after a while all we have left is the string. By that time everyone has accommodated to the fact it has been totally consumed.

So, instead of saying, in effect, that we are in the process of reestablishing a peacetime Prussian draft, what they are saying is that we only want registration. Then reconstitute the draft board, and the classification, and the examination, and then come back to the Congress for induction.

By that time, what can Congress say? My goodness, we cannot say much. We have assented.

Like the Gulf of Tonkin Resolution, they assented, the emergency of 1964, and every incremental increase sending more troops to Vietnam had to be approved, because we were committed.

All President Johnson and President Nixon had to do was say "You cannot send these boys out to Vietnam and not support them."

So all we are saying here is that we just want a list of names. That is all. Just a little census taking. Just a little inventory of the 19-year-olds and 20-year-olds.

Oh, we are not drafting them, just have them put their names on a piece of paper.

Yet, in the same request, we have that proposition, to plead for the reconstruction of the local draft boards.

It is interesting to note that in the Chicago Tribune of a few months ago there was a news article that said the draft cards were already being printed by a Chicago printing company. We called the company. We first called the Chicago Tribune. We said, "What is the source of your information"?

Well, they could not track the source of information. We know how sensitive newspapers are about giving out their source of information. They have become a little paranoid on that.

Consequently, we could not get much help from the Chicago Tribune which printed the story.

So we got the name of the printing company, called the company, and asked the company. It said, "We cannot make any comment, ask the Pentagon."

The only person who has said "No" to this has been the Selective Service. But of course, as we know, that is the same organization that put out the report that we did not need the draft registration at this time and later on said that we did.

In fact, I also recall, for the record, that the same Selective Service earlier denied the existence of the report.

So I am not so sure we can put a great deal of credibility, or credence, to whatever kind of answer they give.

Consequently, all this amendment does is to say, "All right, Mr. President, if this is all you want, registration, this is all you are going to get."

But no. It is just like, as I indicated before, when we so frequently find political statements being made that tend to mislead.

Then I can remember the Assistant Secretary of Defense during the Johnson administration said it was the right of the Government to lie to the people—if the Government determined that was in the best interest of the people. The right of the Government to lie to the people.

Of course, just like under the Republican administration, Mr. Nixon, anything could be justified in the name of national security or national defense, anything, Watergate, anything else, because it was a noble purpose we were serving. The ends justified the means.

We have had enough example of that in Government to be suspicious today.

What is the hidden agenda? What is the blueprint that there is already, perhaps, in existence that says that we are going to get the draft?

We can only do it with a little incremental step, one at a time, because we do not have the political circumstances, we do not have the political climate to come forthrightly to the American people and say that we are going to set up the draft.

The administration has been completely honest on the question that they believe in drafting the young women, too. But they do not want that confused with this issue at this time.

I think it is going to be very clearly presented to us, perhaps on Monday, by the Senator from Kansas (Mrs. KASSEBAUM), our only woman Member of the Senate, to let the Senate just consider this possibility, if we are going to register the men, why not register the women?

I know they do not want that because some of our good southern gentlemen do not want women in the military service on the same basis they want men in the military service.

Mr. THURMOND addressed the Chair.

Mr. HATFIELD. So, consequently, this is an issue they will want to keep apart from this initial registration. But if we get this first step of registration it will be much easier to get women registered later on, that is probably the strategy of the administration, why they do not want us to take up the issue of women at this time.

Mr. THURMOND. Will the Senator yield with the understanding he will not lose his right to the floor and that he may resume without it being counted as a second speech, and with the further understanding that my remarks will come at some other place in the RECORD?

Mr. HATFIELD. Would the Senator like me to yield for a question?

Mr. THURMOND. I would like him to allow me to get the floor, with the understanding I just made that protects him.

Mr. HATFIELD. For how long?

Mr. THURMOND. I ask unanimous consent he be allowed to yield without losing his right to the floor, that my statement will come somewhere else in the RECORD, and not be considered a second speech.

Mr. NUNN. I cannot hear the Senator.

Reserving the right to object, can the Senator use his microphone?

Mr. THURMOND. I ask unanimous consent that the distinguished Senator from Oregon be allowed to yield to me for not over 10 minutes and that my remarks appear elsewhere in the RECORD, that when the distinguished Senator from Oregon resumes, it will not be considered a second speech on this legislative day.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator yield?

Mr. HATFIELD. I am happy to yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. NUNN. Mr. President, will the Senator from Oregon yield to me for very brief comments?

The PRESIDING OFFICER. The Chair asks if the Senator from Oregon wishes to yield the floor to the Senator from Georgia.

Mr. HATFIELD. I am happy to yield the floor for a question.

Mr. NUNN. Will the Senator yield for brief comments? I do not really have a question at this point.

Mr. HATFIELD. I yield.

Mr. NUNN. Mr. President, several Members of the Senate would like to speak on this subject, and they will speak on this subject on Monday and Tuesday. A good many people have indicated a desire to speak. Most of the members of the Armed Services Committee, in the last 2½ days of debate, have been occupied in very important committee meetings on the markup of a major authorization bill.

That markup will continue on Tuesday, but I hope many of these Members will be able to come to the floor and speak on this subject on Monday. I anticipate a very vigorous and active debate on the registration measure on Monday.

Mr. President, I have received a letter that was addressed and mailed to Senator JOHN STENNIS, chairman of the Committee on Armed Services, by Harold Brown, the Secretary of Defense. This is on the subject of registration. On Monday, I will go into detail on some of the points made in this letter.

For the benefit of my colleagues, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., June 5, 1980.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Now that the Senate is considering the Administration's request for funds for registration, I would like to reemphasize in the strongest terms my judgment, and that of the Joint Chiefs of Staff, that a favorable vote on this measure is of special importance to the national security.

Approval of the Administration's proposal will permit the Selective Service System to implement the registration the Presidest is already authorized to conduct. Registration is clearly in the national interest. It will improve our mobilization capability significantly, and it will greatly enhance our confidence in that ability. Registration in peacetime provides an assured capability to proceed very quickly should an emergency arise. A standby plan, for use in an emergency, would provide only a potential—a potential severely marred by risks of delay, unfairness, and confusion.

A favorable vote on registration will also be a demonstration—to the Soviets and to our Allies—of our increased readiness to act in response to increased world tensions. A vote against the Administration's request would have adverse opposite effects.

The latter would be a dramatic signal to the Soviets, and to those who rely on the United States to maintain world stability, that we are not prepared to assume and discharge our leadership responsibilities. In sum, concerns both for the mobilization capability of this country in the future, and for its deterrent posture at the present, combine forcefully to make a positive vote on this proposal essential.

I urge the Senate to approve the same bill that passed the House. The amendment to the House bill added by the Senate Appropriations Committee would allow those who conscientiously object to war in any form to express that belief at the time of registration. Such an expression, at that time, would serve no useful purpose. A later exemption on this basis could not be established by this essentially meaningless action. But an officially invited indication of intent would mislead some to think it guaranteed an exemption. This sort of information is appropriate to the process of classification, not registration. Finally, the amendment added by the Senate Appropriations Committee could serve to entice many young men (the Committee estimates as many as 40 percent) to make a mockery of the act of registration by appearing to take back with one signature the responsibility they will have recognized with another.

If accepted by the Senate, this, or any other amendment, would require further action by the House and would, therefore, delay registration even more—at least until early autumn. Such a delay would be highly undesirable, and would be viewed abroad as evidence of a lack of American resolve to meet the grave international challenges we face.

I earnestly solicit your support in getting the House-passed bill through the Senate this week.

Sincerely.

HAROLD BROWN.

Mr. NUNN. Mr. President, I thank the Senator from Oregon for yielding to me for this brief comment.

Mr. HATFIELD. I am happy to be able to yield to the Senator from Georgia.

Mr. President, I was in the process of describing the various amendments that have been offered and printed in the RECORD so that everyone would have an opportunity to review them before we call them up. I had indicated that one of the amendments dealt with the question of whether or not we should program for the reconstruction of local draft boards.

Mr. President, it is unfortunate enough that we begin to register persons under any circumstance, but especially under the old, inadequate military Selective Service Act. We should not be developing a training program for local board members to teach them how to use this thoroughly inequitable, inadequate statute, because I am persuaded that anyone who reads the existing military Selective Service Act will know—even the strongest advocate of the reestablishment of the draft will know—that we are going to have to reconstitute the whole Selective Service Act.

We cannot, under the wildest stretch of the imagination, expect to reinstitute the draft under the present military Selective Service Act.

It seems to me we are going to have to again look down the road, not just look at what appears to be the immediate scene before us, but because we are really getting the cart before the horse. We are getting the cart before the horse because we are expecting these people to be reconstituted under a totally archaic and out-of-date type of act.

Before the draft boards learn the law that exists today, I think Congress should be called upon—this is the long-term plan—to decide upon a Selective Service Act for 1980, and then move to establish the draft boards under the new Selective Service Act.

Let there be no confusion. I do not advocate any kind of Selective Service Act in peacetime, but I am suggesting here that if that is inevitable, if that is the long-term, long-range goal, then it is best that there be a full disclosure of what that act shall be and is to be, and then set up the training program for the draft boards under that reconstituted act.

Draft boards are not necessary for registration. I do not think anyone has to have that clarification. But again I wonder if the administration is really leading us down the road a little bit further than what appears here on the surface by merely calling for registration.

Four hundred and forty-three thousand dollars that we save by this amendment could be spent in expanding the woefully inadequate publicity campaign to educate the public, to inform the public, about the registration requirement, if that is to be inevitable.

I just do not believe we ought to be about the business of setting the stage for a whole generation of felons because of a lack of good education and public understanding.

I think regardless of one's views on registration we ought to be able to fully see the waste and inefficiency of what we are about to do here as it relates to reconstituting the draft boards.

Mr. President, I have consulted with my worthy adversary on the subject—of course I am referring to Senator NUNN. As he has indicated, there are a number on the proponents' side who wish to be heard on this, and we do have Monday for that purpose in the projected agenda. We have a great number of people on the opponents' side, the opposition side, who wish to be heard, and who will have statements to make.

I feel that we have pursued this subject on the floor with great diligence in a way that should be worthy of a senatorial debate.

Since we are already in a time frame, so to speak, in that the cloture motion has been laid down, I see no particular purpose and, as I believe my worthy colleague has also come to the same conclusion, see no purpose in continuing this discussion on into the evening, so I am willing to bring my side to a halt for the day with the understanding that on Monday next we will resume the issue and the discussion and, perhaps, consider some of the amendments upon which I have reflected this afternoon.

I would be very happy to yield to my colleague for any remarks he wishes to make on this moment of reckoning with the clock.

Mr. NUNN. I thank my friend from Oregon for yielding just for a brief comment.

It is my understanding that we will have several speakers on this side who will be interested in both making their own comments and engaging in dialog on Monday and on Tuesday.

I think we have had a very meaningful 2½ days of debate. I particularly want to commend my colleague from Oregon for his part in this debate. Although we disagree, I have tremendous respect for him, as he well knows.

I also think it is unusual to have this kind of debate stay on point as much as the Senator has. He has used several hours of debate and he has not been repetitious. He has made a number of invalid points but, nevertheless, the points are relevant to the debate. I think he is to be commended for that.

I will say he mentioned conversion a little while ago, and I say that the Senator from Georgia has not been converted. I recognize and I think the Senator is in tune, but the words are not recognizable. I am sure we will continue to pursue this debate on Monday.

I do not anticipate that either the Senator from Oregon or the Senator from Georgia is going to be converted from our present position, but I do believe our colleagues who read the RECORD for this week and who have participated in the debate, and who have followed it and had their staffs follow it, and those who will follow the debate on Monday and Tuesday, will be assisted in making their final decision on the question of how to vote on cloture on Tuesday and the question of how to vote on possible amendments.

Mr. HATFIELD. I thank the Senator.

I would like to respond to the ambivalent compliment the Senator has extended. I suppose really this is one of those instances which confounds some of our foreign visitors and even, perhaps, confounds some of our own constituents that within the legislative process there can be strong viewpoints expressed and fought for over even a period of time, such as the Senator from Georgia and I exemplify here today, and yet have no impact whatsoever upon the personal friendship, personal relationship, that exists as between all the Members of the Senate and, most especially, between the Senator from Georgia and myself.

I have had people often ask me how we can be so divergent in our viewpoints and claim such a warm friendship. I have often responded that there is no one in the U.S. Senate for whom I have a closer sense of friendship and spiritual friendship than with the Senator from Georgia, and that our differences certainly do not impact upon that friendship, and that our friendship transcends our differences.

I am always happy to engage in combat with the Senator from Georgia because I know of his dedication and the spirit of battle or spirit of combat that he has, as I have, and yet it is in the legislative process of diversity, debate, and combat that, hopefully, there always emerges, at least frequently emerges, the best product or at least we work toward that objective.

So I am grateful for that experience. I want to thank the Senator from Georgia for his kind remarks. I only reiterate we have a day we refer to as a sabbath between now and when we resume this, and, perhaps, within a prayerful mood we can again underscore the fact that no one is beyond the pale of redemption. I still hope that may happen even yet over this particular weekend. Whether it will or not, I do not know.

Mr. NUNN. I will add to the Senator from Oregon that we can still differ on this issue and both still have the possible option of redemption. Conversion is not a prerequisite to redemption. I hope my friend will agree with that.

Mr. HATFIELD. I would agree.

Mr. NUNN. My friend will agree that conversion is not necessary for redemption on this issue, would he not?

Mr. HATFIELD. Absolutely. But I do feel there is maturation in the faith that occurs, that must always be occurring as part of our experience in life, and perhaps the accent should not be on conversion but, perhaps, it should be on one of those steps of spiritual maturation.

(Mr. BOREN assumed the chair.)

Mr. NUNN. Mr. President, I thank the Senator from Oregon. I assure him I will look forward to continuing this debate on Monday. I am sure he will continue to make very relevant and very cogent arguments. We will disagree in the final analysis of this bill, but we will remain very close friends. I appreciate very much his approach to this overall debate.

I have no further comments this afternoon. The majority leader is in the Chamber.

Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President. I thank the distinguished Senator.

RECENT ACTIVITIES OF RAMSEY CLARK IN IRAN

Mr. THURMOND. Mr. President, I speak at this time to express my strongest objection to the recent statements of former Attorney General Ramsey Clark at the so-called international conference on U.S. involvement in Iran. His remarks were irresponsible and can only serve to strengthen the position of the radicals now controlling that country.

Mr. President, I believe that Mr. Clark should be strongly reprimanded and made legally accountable for his actions. Not only is his presence in Iran a blatant disregard of the President's April 17 Executive order banning travel to Iran, but also, his statements and actions are, it seems to me, a clear violation of 18 U.S.C. 953. This statute, better known as the Logan Act, states:

> Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Mr. President, this is not the first time this man has actively interfered in the policies of the United States. During his 14-day visit with the Communist North Vietnamese in 1972, Mr. Clark castigated the U.S. policies in broadcasts made by radio Hanoi. Yet, when questioned about North Vietnamese actions, he refused to condemn the Communists for their denial of Red Cross visits with U.S. POW's, their invasion of South Vietnam, or their savage massacres during the Tet and Binh Dinh offensives.

Mr. Clark has been especially active in interfering in U.S. policy with respect to Iran. An early supporter of the Ayatollah Khomeini, Mr. Clark made an unofficial visit to Iran in January of 1979. After 8 days in Iran, he traveled to France to meet with Khomeini on January 22, 1979. The former Attorney General emerged from this meeting praising Khomeini as "a brave man" and the first to speak out against the Shah. Further interfering in the conduct of U.S. foreign policy with Iran, Mr. Clark, in an October 12, 1979, letter to Iranian Foreign Minister Ibrahim Yazdi, urged the revolutionary regime to seek damages from "the Shah, his family, and his confederates." Mr. President, it is indicative of this administration's poor judgment in the handling of foreign affairs, that President Carter—for what reason, I cannot understand—in November of last year designated Mr. Clark as his "special emissary" to negotiate the release of the hostages.

Mr. President, I cannot understand how anyone, with a clear conscience, could call the recent United States attempt to rescue its citizens from the ruthless, callous, and dangerously irresponsible extremists who are holding them, with the support of the Government of Iran, "a lawless military expedition, an assault on the sovereign territory of Iran."

Can you imagine a citizen of this country making such a statement, calling our attempt to rescue our own people, who are hostages and who are representing the United States and the American Embassy—using his words—"a lawless military expedition, an assault on the sovereign territory of Iran"?

Furthermore, Mr. Clark referred to the revolution, which led to the execution of thousands of Iranians, as well as the taking of American diplomats as hostage, "a miracle for the century."

Mr. President, if Mr. Clark wishes to hold these perverted views, he can. It is his right, protected under our Constitution, to do so. However, he has no lawful right to defy the President's ban on travel to Iran, nor does he have the right to interfere with United States foreign policy. Mr. Clark's activities clearly demonstrate his disrespect for the laws of our country.

In addition, he has announced his intentions to return to the United States and "pursue with full vigor" the formation of a commission, which he intends to head, to investigate the grievances of Khomeini and his extremist followers against the United States. He also has threatened the use of the Freedom of Information Act to obtain secret U.S. Government documents for the use of this commission.

Mr. President, what authority—I repeat, what authority—does Mr. Clark have to establish such a commission, which our Government has repeatedly refused to establish? He has none. Mr. Clark has merely become the puppet of Khomeini and his henchmen. If the ayatollah, or President Abol Hussan Bani-Sadr, say establish a commission, Ramsey Clark jumps to do their bidding, without a thought to what may be in the best interest of the United States. His statements and actions raise questions about where his allegiance really lies.

I sincerely hope that President Carter realizes the seriousness of this man's actions and that he will direct the Justice Department to deal accordingly with him, and any others in violation of the law, upon their return to the United States.

Mr. President, in order that my colleagues in the Senate may be fully aware of Mr. Clark's activities in Iran, I ask unanimous consent that two Washington Post articles of June 4 and 5, 1980, be printed in the RECORD at the conclusion of my remarks, along with June 4 and 5 Washington Star articles.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 4, 1980]

CLARK URGES IRAN TO RELEASE HOSTAGES

(By Stuart Auerbach)

TEHRAN, June 3.—Former attorney general Ramsey Clark, one of the earliest American supporters of Iran's Islamic revolution, today urged the quick release of 53 American hostages held here for seven months and offered to take the place of one of them if that would help gain freedom for all of them.

Clark, in Tehran as a guest of the Iranian government, made his emotional appeal at an "international conference on U.S. involvement in Iran." In the course of his address, he castigated American administrations of the last 27 years for supporting the deposed shah and returning him to power in 1953 through a CIA-sponsored coup.

But Clark said Iran's holding of the hostages "cannot be justified" and "is not right."

"I am so sure that I am right in this, so sure that it is imperative that the hostages be released now. It is so important to the fulfillment of the Iranian revolution, which is damaging in a hundred ways. It is so important to the individual justice and rights of the hostages, and it is so important to peace on earth that I offer today to take the place of any hostage if that will help resolve this tragic crisis," he said.

The militant students holding the hostages, who are now reportedly scattered in 15 Iranian cities, offered no reaction tonight to Clark's proposal.

Clark's offer was not echoed by the other nine Americans attending the conference here. They had been debating such a move over the last two days, according to some reports, but rejected it as a group effort. Some said they were surprised when Clark, one of three Americans who addressed the conference, made his statement.

"Speaking for myself," said political scientist John Gerassi in his talk, "I do not want to substitute myself for a hostage. I was invited here by the government of Iran, which I support as a friend . . . I do not believe that I should abuse the invitation I have from the government by interfering in an internal question."

Later, at a press conference, none of the Americans—who defied the U.S. government ban on travel to Iran to come here—said they would join in Clark's offer.

"I felt absolutely convinced he was sincere," said the Rev. Paul Washington of Philadelphia, "but I personally don't know how it would help."

While Clark's offer was not accepted by the conference, a number of delegates—all anti-American supporters of Iran's Islamic revolution called for an end to the holding of the hostages. These included Italian Communists, a Yugoslav, and a West German.

The open support here for the release of the hostages by Iran's friends was far greater than at the Islamic foreign ministers' conference in Islamabad, Pakistan, last month. At that conference, delegates told reporters they were quietly urging Iranian diplomats to release the hostages, but they made no public appeal.

There was some speculation here today that Iranian President Abol Hassan Bani-Sadr, who has been trying to arrange the release of the hostages, staged this conference to get friends of Iran to push his point of view in a way that could reach the hard-line clerics who are supporting the keeping of the hostages.

The American delegates, all of whom said at a press conference tonight they favor the quick release of the hostages, are trying to arrange meetings with Iranian political leaders, including some of the hard-line clerics.

In his speech to the conference this afternoon, Clark made it clear that he was on the side of Iran in its lengthy battle with the United States. He praised Ayatollah Ruhollah Khomeini's Islamic revolution as "a miracle for the century," and said "the U.S. role in Iran is for me incredibly painful." He called America's April 24 attempt to rescue the hostages, "a lawless military expedition, an assault on the sovereign territory of Iran."

Clark said he supports putting the deposed shah, Mohammad Reza Pahlavi, on trial, although he did not say where and by whom the shah should be tried. He added that the shah's wealth, "ripped from the bodies and the backs and the sweat and the broken bones of the people of Iran, should be returned."

But despite the support the United States gave to the deposed shah, Clark disputed Iran's holding the hostages, who he said were "uninvolved in the specified offenses for which you are concerned."

"Where is Allen Dulles? Where is Kermit Roosevelt? Where is Richard Helms or Henry Kissinger or Richard Nixon?" Clark asked in a reference to U.S. leaders and officials of the State Department and Central Intelligence Agency who are seen here as longtime supporters of the shah.

Clark described those men as the people really responsible for U.S. policies in Iran and said, "If you had one of them [hostage] it might be different."

But, Clark said, the 53 hostages, who include three diplomats held at the Foreign Ministry since Nov. 4, "are little people." The effect of holding these 53, though, provides an excuse for powers of intervention, for powers of imperialism, a delicious excuse to war, to dominate, to intervene.

"Finally," Clark said at the impassioned conclusion to his address, "the hostages are human beings, individuals. They are the wrong people. And there are three main risks to the hostage crisis. First, intervention and violence. Second, the terrible cost to Iran in the fulfillment of its revolution. Third, and finally, the morality."

[From the Washington Post, June 5, 1980]

CLARK INTENDS TO PROBE U.S. FOR IRANIANS

(By Stuart Auerbach)

TEHRAN. JUNE 4.—Former U.S. attorney general Ramsey Clark indicated tonight that he will establish and head a commission in the United States to investigate Iran's case against Washington as a first step leading to the release of the 53 American hostages.

The formation of the commission was suggested today by Iranian President Abol Hassan Bani-Sadr. Clark, one of the earliest American supporters of the Islamic revolution that overthrew the shah of Iran 17 months ago, suggested that the commission coud use the Freedom of Information Act to obtain secret U.S. government documents.

Clark told the Associated Press that the proposal was of "enormous importance" and an "idea that I will pursue with full vigor."

In a 36-minute meeting with 10 Americans attending a government-sponsored conference here on U.S. imperialism in Iran, Bani-Sadr listed a series of specific steps he said the United States could take to win freedom for the hostages. The hostage issue has plagued U.S.-Iranian relations and carried the constant threat of military action that could spread beyond this country into the already turbulent Persian Gulf area.

According to Los Angeles attorney Leonard Weinglass. Bani-Sadr did not insist on the return of the shah to face trial here and the return of his wealth that Iranian authorities insist he plundered illegally from this country. Those two demands have consistently been made by the militants since they seized control of the U.S. Embassy on Nov. 4.

Bani-Sadr's suggestion today was similar to others made in the last seven months by him and Foreign Minister Sadegh Ghotbzadeh as steps that could lead to the release of the hostages. These two men, nonclerical supporters of the Iranian revolution have been thwarted in their efforts by the hard-line Islamic clerics who have supported the embassy captors and who, some observers here say, have much of the power but none of the responsibility for running Iran.

All these efforts, including a U.N. commission, have been blocked by the militants and the clerics, who have stuck to their demand for the return of the shah and his wealth as the only price of freedom for the hostages.

The Clark commission, however, differs from previous proposals since it would be a nonofficial panel composed of jurists and attorneys and would not require permission from the United States government. The Iranians would have the satisfaction of airing their grievances fully and the Carter administration would be spared having to take part in what promises to be a long attack on U.S. policy in Iran.

Although Iranians insist the United States should release all its documents on its public and clandestine activities in Iran during the past 27 years, these are really not needed by any commission. Iranian students claim to have found documents in the U.S. Embassy and in the files of Iranian ministries showing how the United States was involved in Iranian affairs.

These documents allegedly include a top-secret message talking about American-supported plans for a military takeover of this country just after the shah fled.

Moreover, Iran's revolutionary leader, Ayatollah Ruhollah Khomeini, has given the newly elected parliament sole authority on the hostages' fate. The parliament is controlled by hard-line, clerical Islamic Republic Party, many of whose members have indicated already they favor putting the hostages on trial here before releasing them.

In any case, it appears it will take the parliament more than a month to organize and select a prime minister. Only then, probably in late July, will it begin to take up the hostage issue.

Further adding to the complicated political situation here, Islamic Republic Party leader, Ayatollah Mohammed Beheshti, today derided the international conference. The meeting was established by Bani-Sadr and is headed by Ghotbzadeh as a way to bring world attention to what they consider the longtime interference by the United States in Iran's internal affairs, including returning the shah to the throne in 1953 through a CIA-sponsored coup.

Beheshti has emerged as Bani-Sadr's main political opponent, challenging all the president's prerogatives under the new constitution. Although Bani-Sadr is considered a favorite of Khomeini, he appears to be losing most of the battle to Beheshti, which further complicates efforts to release the hostages, who have become pawns in Iran's internal political battles.

Nonetheless, Weinglass said he thought Bani-Sadr's plan was a well considered effort to end the hostage crisis and its release today was meant as a message to the United States. But some of the other Americans at the meeting said the Iranian president was merely floating ideas that could possibly help free the hostages.

Among the main points that Bani-Sadr raised as conditions for the hostages' release was a pledge by the United States not to interfere any more in Iran's internal affairs. Included in that pledge, Weinglass said, would be assurances that the United States would take no punitive action against Iran for holding the hostages.

Meanwhile, Khomeini said today that President Carter should be put on trial for threatening Iran and asserted "the superpowers will . . . not have the slightest effect on our will." The 80-year-old revolutionary leader said in a radio and television message, "We are not afraid of anything."

[From the Washington Star, June 4, 1980]

CLARK CRITICIZES IRAN AND U.S. FOREIGN POLICY

(By Ragi Sanghabadi)

Former U.S. Attorney General Ramsey Clark yesterday delivered tempered criticism at Iran for holding 53 Americans hostage and a broadside at U.S. foreign policy.

Clark, who with nine other Americans is in Tehran for the "U.S. crimes" conference in defiance of President Carter's Iranian travel ban, told the gathering: "The seizure of the hostages here is understandable in human terms. God knows it is understandable. But it is not right."

He also offered to take the place of any of the hostages held in Iran since last Nov. 4 if it would help settle the seven-month crisis.

He said the American hostages are "the wrong people" to punish for past U.S. actions.

Clark criticized U.S. foreign policy, deploring the American role in Vietnam, Chile, Iran and the protection of multinationals.

"The U.S. role in Iran is, for me, terribly painful," he said. "Of course, the United States leadership still clings to the idea that it can control the destinies of other people."

American policy, he stressed, violated all principles on which the United States had been founded.

He asked the delegates to press both for the creation of an international tribunal to try despots like the shah and for U.S. restraint toward Iran. The conference, he noted, must make it clear that American military intervention against Iran would not be tolerated.

"Of course the shah should be tried for his crimes. Is there to be a man above the law? How many greater crimes does history reflect than the crimes of the shah of Iran against the people of Iran?" he asked.

The shah's regime, he continued, had "brutalized millions" and the shah is "eating caviar in Egypt and escaping international justice."

In this context, he criticized President Carter's expressions of support for the shah during his final days in power while the dictator's forces were mowing down protesters in Iran.

This line of policy was doomed to failure. "You must help show the American people that that policy (use of force and coercian) can't prevail, that it is impossible to subjugate a people—as the people of Iran have shown—because, surely, a people (the Americans) will not continue a policy that is doomed to failure."

"Now I tell you that I, as an individual human being am so sure that I am right in this, so sure that it is imperative that the hostages be released now, so important to the fulfillment of the Iranian revolution, which it is damaging in a hundred ways, so important to the individual rights of the hostages, and so important to peace on Earth, that I offer today to take the place of any hostage if that will help resolve this tragic crisis."

[From the Washington Star, June 5, 1980]

CLARK AGREES TO HEAD GROUP PROBING DATA ON "CRIMES" BY U.S.

(By Raji Samghabadi)

Former U.S. Attorney General Ramsey Clark said last night that he had agreed to a proposal by Iranian President Abolhassan Bani-Sadr that he head a commission to investigate American documents concerning alleged U.S. crimes in Iran.

Clark, who with nine other Americans defied President Carter's ban on travel to Iran in order to attend the so-called "Crimes of America" conference, talked with reporters last night after emerging from a half-hour private meeting with Bani-Sadr.

Such a commission would have to be given access to documents of the CIA, the State Department, the Pentagon and other agencies.

Clark indicated he would begin his work for the Iranians after returning to the United States, where he faces possible prosecution by the Justice Department for violating Carter's ban on travel to Iran.

"The idea of a commission to determine from the United States government what its conduct has been is of enormous importance," Clark said. He promised to pursue the idea "with full vigor."

The plan is bound to evoke fierce criticism both from U.S. authorities and from Iranian radicals, especially the militants who have held 50 Americans hostage since last Nov. 4 and their clerical allies.

(Clark has been under heavy attack in Congress since he went to Iran.)

(Sen. John Tower, R-Texas, said yesterday in Washington that Clark's statements in Iran were "a disgrace to our nation.")

Islamic leader Ayatollah Ruhollah Khomeini earlier yesterday told the 300 foreigners attending the conference that Carter is worse than a "wild animal" and is afraid of Iran and the fate it holds in store for the hostages.

The delegates were bused from their hotels to Khomeini's north Tehran home, where the 80-year-old Iranian leader addressed them from a balcony as Foreign Minister Sadegh Ghotbzadeh sat at his feet, busily taking notes.

Later, in another message marking the anniversary of a 1963 rebellion against the shah, Khomeini said Carter "the gangster" should be put on trial in a "world public court" for intervening in Iran and "violating human rights."

Khomeini told his foreign audience that the crisis has struck "fear" into Carter because he knows that Iran's "investigations" will prove that the United States is guilty of interfering in Iranian affairs and that the hostages are spies.

A presidential spokesman said that Bani-Sadr also told the Americans attending the conference that the United States must end support for its "agents and mercenaries" in Iran and abroad who are trying to overthrow the Islamic Republic.

Clark said Bani-Sadr told him that the U.S.-Iranian dispute could be settled easily if Washington recognized "Iranian realities" and stopped interfering in Iranian affairs.

Bani-Sadr said the United States would also have to finish some factories it had begun building in Iran and to supply spare parts for Iran's military equipment, much of it American-made and bought by the deposed shah.

Bani-Sadr said he wants to "see these demands actually met by the U.S." rather than accepting promises from Washington.

He said the United States should establish a commission under Clark to investigate all American government documents related to Iran. These documents would then have to be published for the inspection of the American public.

"If the American people know what their government did to us, it will be the best guarantee and assurance we can have," Bani-Sadr was quoted by an aide as saying.

ORDER FOR RECESS UNTIL MONDAY, JUNE 9, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT CALENDAR ORDERS NOS. 151, 778, AND 854 BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President. I am authorized by the distinguished minority leader to make the following request, which has been cleared on both sides.

Mr. President, I ask unanimous consent that Calendar Order Nos. 151, 778, and 854 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE COMMITTEE ON THE BUDGET TO FILE REPORTS UNTIL 6 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Budget have until 6 p.m. today to file any reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT OF LOW-ENRICHED URANIUM FUEL

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 89.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 89) entitled "Joint resolution permitting the supply of additional low-enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes", do pass with the following amendment:

Strike out all after the resolving clause, and insert:

SECTION 1. Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

SEC. 2. (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 and by the Nuclear Non-Proliferation Act of 1978.

(b) The term "low-enriched uranium" means uranium enriched to less than 20 per centum in the isotope 235.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

EXECUTIVE SESSION

NOMINATIONS ON EXECUTIVE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, again, this request has been cleared with the distinguished minority leader and the minority and with the Senators on this side of the aisle.

I ask unanimous consent that the Senate go into executive session to consider only the nominations on page 2 of the Executive Calendar, beginning with Federal Labor Relations Authority, going to New Reports, National Consumer Cooperative Bank, New Community Development Corporation, and Department of Commerce.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, again this request is cleared. I ask unanimous consent that the nominees be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, all nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

FEDERAL LABOR RELATIONS AUTHORITY

Henry Bowen Frazier III, of Virginia, to be a member of the Federal Labor Relations Authority.

NATIONAL CONSUMER COOPERATIVE BANK

Frank B. Sollars, of Ohio, and Alexis Herman, Director of the Women's Bureau, Department of Labor, to be members of the Board of Directors of the National Consumer Cooperative Bank.

NEW COMMUNITY DEVELOPMENT CORPORATION

A. Russell Marane, of Georgia, to be a member of the Board of Directors of the New Community Development Corporation.

DEPARTMENT OF COMMERCE

Robert E. Herzstein, of the District of Columbia, to be Under Secretary of Commerce for International Trade.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be reconsidered en bloc, be laid on the table, and that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

THE GENOCIDE CONVENTION: THE INSPIRING CASE OF FATHER KOLBE

Mr. PROXMIRE. Mr. President, nearly 39 years ago today a man died a martyr in a starvation bunker at Auschwitz. He is a lesson to all of us. The U.S. Senate continues to ignore the Genocide Convention, but this man is a model of positive action.

The man was Father Maximilian Kolbe, a Polish priest of the Franciscan Order. Expressing sympathy with Polish Jews in the early days of the Holocaust, he too was shipped to the death camp Auschwitz. There he committed an act of conspicuous heroism.

After his arrival, a worker escaped from the camp and, according to procedure, 10 others were arbitrarily selected to meet death by starvation. One of the men, who had a wife and children, began to weep. Father Kolbe offered to take his place in the concrete bunker. According to the testimony of a guard, Father Kolbe consoled his fellow prisoners throughout the days of their torment. As the last of the nine other prisoners died and was dragged out, the guards could not endure the priest's gaze. Rather than meet his eyes, they killed him with an injection.

The man Father Kolbe replaced survived the war. He rejoined his family.

What, Mr. President, can this story tell us? At the time Father Kolbe went to his martyrdom, there was no reason to believe that his action would have practical significance. By chance, it did.

A noted philosopher, Hannah Arendt, has said of such apparently symbolic actions:

> One man will always be alive to tell the story. Hence, nothing can ever be practically useless, at least, not in the long run.

We must consider the Genocide Convention in the same spirit. Just as in the case of Father Kolbe, the gesture appears to some to be merely symbolic; to have no practical significance. Some point out that the Genocide Convention may not save many lives. But was Father Kolbe's action worth less because he saved only one man, and then only by chance? Of course not.

Like Father Kolbe, we must recognize that there is a chance that our action will have little practical significance. But we cannot let that stop us. The memory of those that were saved and those that could have been saved demands that we try.

Father Kolbe tried. Can the Senate do any less? As Hannah Arendt says:

> Humanly speaking no more is required, and no more can reasonably be asked, for this planet to remain a fit place for human habitation.

APPOINTMENTS TO THE CONGRESSIONAL AWARDS BOARD

Mr. BAKER. Mr. President, it is with great pleasure that today I nominate for membership on the Congressional Awards Board four most distinguished Americans: former Ambassador to Great Britain Anne Armstrong; our former Ambassador to Norway William Anders; former Secretary of Transportation William Coleman; and Mr. David A. Koch, the president of Graco, Inc., of Minneapolis, Minn.

I am certain these four outstanding individuals will provide exemplary leadership and direction for this most worthy project designed to encourage and recognize the boundless creativity of our Nation's young people.

In addition, Mr. President, I would like to take this opportunity to acknowledge the enormous contributions made in behalf of this program by the distinguished gentleman from Wyoming, Senator WALLOP, and also by Mr. W. Clement Stone, the chairman of the board of Combined Insurance Co. of America. It was Senator WALLOP's untiring efforts in behalf of America's young people that made this program a reality. I am delighted to see his selfless devotion to young Americans has borne this program as its fruit.

And the expertise which Mr. Stone, through the charitable foundation which bears his name, has lent to the formation and organization of the Congressional Awards Program will, I am certain, insure its success.

The PRESIDING OFFICER. The Chair, on behalf of the majority and minority leaders of the Senate, pursuant to Public Law 96-114, appoints the following citizens to the Congres-

sional Awards Board: Hon. John D. Rockefeller IV, Mr. John G. Fox, Mr. Stanley C. Morris, Jr., Mr. Joshua L. Miner, Ms. Anne L. Armstrong, Mr. William T. Coleman, Jr., Mr. David A. Koch, and Mr. William A. Anders.

The PRESIDING OFFICER. The Senator from New York is recognized.

THE EMPLOYMENT SITUATION

Mr. JAVITS. Mr. President, today's announcement that unemployment in the United States soared to a 3½-year high of 7.8 percent or 8.2 million in May, that 1.7 million people have been added to the unemployment rolls since March, an increase of more than 25 percent, confirms our worst fears that the economy is in very serious trouble. It is clear that the administration is pursuing a conscious policy of recession as the way of reducing inflation which is creating more and dangerous unemployment. This is wrong-headed; it is negative; it falls heaviest on those who are least able to bear it: the cities; the poor; the old, the handicapped and those on fixed incomes.

The question Americans should be asking right now is: What are we going to do about it—and when?

This is no time for politics as usual or for partisan political advantage. And I do not believe we can wait until 10 million are unemployed before we act. I urge the President to convene a Task Force of National Union to include Cabinet heads and congressional leaders of both major parties right away, to develop a bipartisan, targeted policy to create jobs; and revitalize U.S. business and industry.

There is nothing wrong with us, Mr. President, that we cannot cure.

Mr. President, to the deplorable figures I have read, I add also the total employment, which was going up for a time even with heavy unemployment and which has now declined by nearly 1 million workers only in the last 3 months, in the teenage joblessness rate, which is so worrisome because it impacts very heavily on the inner cities of many of the great cities and jeopardizes public order, the teenage unemployment rate has jumped 3 full percentage points, to 19.2 percent.

So, Mr. President, the writing is on the wall, and I hope that the administration and we take notice. I have made a pragmatic suggestion as to what might be done about it.

Mr. President, I ask unanimous consent that a news release from the Bureau of Labor Statistics referring to the employment situation in May 1980 be printed at this point in the RECORD, along with a table reflecting the employment status of the noninstitutional population for the 10 largest States.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

THE EMPLOYMENT SITUATION: MAY 1980

Unemployment rose sharply for the second straight month and employment continued to decline in May, the Bureau of Labor Statistics of the U.S. Department of Labor reported today. The jobless rate was 7.8 percent, up from 7.0 percent in April and 6.2 percent in March.

Total employment—as measured by the monthly survey of households—edged down in May, as a 300,000 decline in nonfarm employment was partially offset by an over-the-month gain in agriculture. Total employment has declined by nearly 1 million during the past 3 months.

Nonfarm payroll employment—as measured by the monthly survey of establishments—declined by 180,000 in May to 90.3 million. As in April, the drop was concentrated in manufacturing. Average weekly hours fell for the fourth month in a row.

UNEMPLOYMENT

The unemployment rate rose 0.8 percentage point for the second month in a row and stood at 7.8 percent in May, the highest rate since November 1976. The number of persons unemployed increased by 900,000 to 8.2 million. Most of the May increase can be traced to layoffs and job terminations; job losers now comprise more than half of the unemployed total. In the past 2 months, the number of unemployed workers has risen by 1.7 million. (See table A.)

Jobless rate increases were pervasive among worker groups. The teenage rate jumped 3 full percentage points to 19.2 percent. The rates for adult men and women continued to rise; each stood at 6.6 percent in May. Joblessness among adult men has been climbing at a faster pace than that for adult women in recent months, and May marked the first time in 2 decades that the rate for men has been as high as that for women. Whites, blacks, and full-time workers also registered markedly higher rates than those posted in April.

As in the previous month, unemployment increases were especially large among workers in the construction and manufacturing industries. The rate for blue-collar workers also rose sharply.

The number of nonfarm workers on part-time work schedules for economic reasons (often referred to as the "partially unemployed") increased by 530,000 in May to 4.3 million. Jobholders who usually work full time accounted for two-thirds of the increase.

TABLE A.—MAJOR INDICATORS OF LABOR MARKET ACTIVITY, SEASONALLY ADJUSTED

	Quarterly averages			Monthly data			
	1979		1980	1980			
Selected categories	I	IV	I	March	April	May	April–May change
				Thousands of persons			
Household data:							
Civilian labor force	102,315	103,749	104,194	104,094	104,419	105,142	723
Total employment	96,425	97,665	97,804	97,656	97,154	96,988	−166
Unemployment	5,890	6,084	6,390	6,438	7,265	8,154	889
Not in labor force	58,255	58,842	59,022	59,322	59,182	58,657	−525
Discouraged workers	740	741	993	NA	NA	NA	NA
				Percent of labor force			
Unemployment rates:							
All workers	5.8	5.9	6.1	6.2	7.0	7.8	0.8
Adult men	4.0	4.2	4.7	4.9	5.9	6.6	.7
Adult women	5.7	5.7	5.7	5.7	6.3	6.6	.3
Teenagers	15.9	16.1	16.2	15.9	16.2	19.2	3.0
White	5.0	5.1	5.4	5.4	6.2	6.9	.7
Black and other	11.4	11.2	11.7	11.8	12.6	13.9	1.3
Full-time workers	5.2	5.4	5.7	5.8	6.6	7.5	.9
				Thousands of jobs			
Establishment data:							
Nonfarm payroll employment	88,724	90,108	90,772	90,819	[1]90,508	[1]90,328	[1]−180
Goods-producing industries	26,486	26,587	26,705	26,600	[1]26,210	[1]25,963	[1]−247
Service-producing industries	62,238	63,521	64,067	64,219	[1]64,298	[1]64,365	[1]67
				Hours of work			
Average weekly hours:							
Total private nonfarm	35.8	35.7	35.5	35.4	[1]35.3	[1]35.1	[1]−0.2
Manufacturing	40.6	40.2	40.1	39.8	[1]39.6	[1]39.4	[1]−.2
Manufacturing overtime	3.7	3.2	3.2	3.2	[1]2.9	[1]2.6	[1]−.3

[1] Preliminary. NA—Not available.

EMPLOYMENT

Following a drop of 800,000 in the February-April period, there was a small decline in total employment in May. Over the past 3 months, the overall employment level decreased by nearly 1 million; about three-quarters of the decline occurred among adult men. The precipitous drop during recent months wiped out about two-thirds of the employment gains which had occurred since May a year ago, such that total employment was up only about half a million over the past year. The employment-population ratio was 58.5 percent in May, the lowest it has been in 2 years.

There were sharp contrasts in April-to-May movements among the major occupational groups. The number of blue-collar workers fell by 450,000, continuing the steep declines which have been registered in recent months. In contrast, white-collar employment was up 200,000 in May and has maintained a moderate growth pace. (See table B.)

The civilian labor force swelled by 725,000 in May to 105.1 million, as a disproportionately large number of persons under 25 years of age entered the labor force; they accounted for more than half of the over-the-month growth. The May labor force activity brought the overall labor force participation rate to a record 64.2 percent, up 0.4 point from April.

TABLE B.—EMPLOYMENT STATUS OF THE NONINSTITUTIONAL POPULATION FOR THE 10 LARGEST STATES

[Numbers in thousands]

State and employment status	Not seasonally adjusted			Seasonally adjusted					
	May 1979	April 1980	May 1980	May 1979	January 1980	February 1980	March 1980	April 1980	May 1980
California:									
Civilian noninstitutional population [1]	16,713	17,034	17,062	16,713	16,954	16,979	17,007	17,034	17,062
Civilian labor force	10,774	11,080	11,065	10,832	11,074	11,013	11,103	11,179	11,125
Employed	10,171	10,307	10,330	10,170	10,434	10,337	10,441	10,389	10,332
Unemployed	603	773	735	662	640	676	662	790	793
Unemployment rate	5.6	7.0	6.6	6.1	5.8	6.1	6.0	7.1	7.1
Florida:									
Civilian noninstitutional population [1]	6,729	6,920	6,937	6,729	6,870	6,886	6,904	6,920	6,937
Civilian labor force	3,812	3,904	3,908	3,847	3,791	3,842	3,884	3,915	3,945
Employed	3,618	3,716	3,701	3,626	3,596	3,644	3,683	3,701	3,711
Unemployed	194	189	207	221	195	198	201	214	234
Unemployment rate	5.1	4.8	5.3	5.7	5.1	5.2	5.2	5.5	5.9
Illinois:									
Civilian noninstitutional population [1]	8,248	8,305	8,310	8,248	8,290	8,295	8,300	8,305	8,310
Civilian labor force	5,168	5,385	5,423	5,242	5,466	5,463	5,431	5,461	5,500
Employed	4,923	5,008	5,027	4,959	5,077	5,081	5,058	5,057	5,066
Unemployed	244	376	396	283	389	382	373	404	434
Unemployment rate	4.7	7.0	7.3	5.4	7.1	7.0	6.9	7.4	7.9
Massachusetts:									
Civilian noninstitutional population [1]	4,363	4,403	4,407	4,363	4,393	4,396	4,400	4,403	4,407
Civilian labor force	2,852	2,833	2,870	2,880	2,827	2,838	2,853	2,858	2,899
Employed	2,709	2,691	2,702	2,721	2,685	2,702	2,714	2,707	2,714
Unemployed	143	141	168	159	142	136	139	151	185
Unemployment rate	5.0	5.0	5.8	5.5	5.0	4.8	4.9	5.3	6.4
Michigan:									
Civilian noninstitutional population [1]	6,707	6,781	6,787	6,707	6,762	6,768	6,775	6,781	6,787
Civilian labor force	4,317	4,233	4,321	4,334	4,283	4,273	4,248	4,262	4,336
Employed	4,006	3,710	3,714	4,005	3,875	3,834	3,814	3,741	3,711
Unemployed	310	523	607	329	408	439	434	521	625
Unemployment rate	7.2	12.4	14.0	7.6	9.5	10.3	10.2	12.2	14.4
New Jersey:									
Civilian noninstitutional population [1]	5,497	5,549	5,554	5,497	5,536	5,541	5,545	5,549	5,554
Civilian labor force	3,459	3,493	3,553	3,500	3,597	3,563	3,588	3,566	3,597
Employed	3,213	3,275	3,263	3,240	3,348	3,371	3,339	3,332	3,296
Unemployed	247	218	289	260	249	192	249	234	301
Unemployment rate	7.1	6.2	8.1	7.4	6.9	5.4	6.9	6.6	8.4
New York:									
Civilian noninstitutional population [1]	13,273	13,304	13,306	13,273	13,298	13,300	13,303	13,304	13,306
Civilian labor force	7,844	7,799	7,914	7,913	8,064	8,161	7,936	7,807	7,987
Employed	7,384	7,262	7,327	7,405	7,440	7,543	7,391	7,241	7,351
Unemployed	459	537	587	508	624	618	545	566	636
Unemployment rate	5.9	6.9	7.4	6.4	7.7	7.6	6.9	7.2	8.0
Ohio:									
Civilian noninstitutional population [1]	7,906	7,964	7,970	7,906	7,949	7,954	7,960	7,964	7,970
Civilian labor force	4,974	4,957	5,035	5,017	5,062	5,043	4,991	5,038	5,080
Employed	4,729	4,595	4,596	4,732	4,743	4,733	4,695	4,664	4,602
Unemployed	245	363	439	285	319	310	296	374	478
Unemployment rate	4.9	7.3	8.7	5.7	6.3	6.1	5.9	7.4	9.4
Pennsylvania:									
Civilian noninstitutional population [1]	8,888	8,938	8,943	8,888	8,925	8,929	8,934	8,938	8,942
Civilian labor force	5,209	5,321	5,301	5,285	5,383	5,411	5,365	5,381	5,379
Employed	4,915	4,933	4,919	4,928	4,998	5,041	4,998	4,967	4,933
Unemployed	294	388	382	357	385	370	367	414	446
Unemployment rate	5.6	7.3	7.2	6.8	7.2	6.8	6.8	7.7	8.3
Texas:									
Civilian noninstitutional population [1]	9,473	9,690	9,709	9,473	9,637	9,655	9,673	9,690	9,709
Civilian labor force	6,086	6,287	6,282	6,146	6,365	6,358	6,327	6,333	6,342
Employed	5,828	5,988	5,967	5,859	6,060	6,049	5,957	5,994	5,999
Unemployed	258	299	314	287	305	309	370	339	343
Unemployment rate	4.2	4.8	5.0	4.7	4.8	4.9	5.8	5.4	4.5

[1] The population figures are not adjusted for seasonal variations; therefore, identical numbers appear in the unadjusted and the seasonally adjusted columns.

Note: These are the official Bureau of Labor Statistics' estimates used in the administration of Federal fund allocation programs.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

PROHIBITION OF DRUGGING AND NUMBING OF HORSES PRIOR TO RACE

Mr. PRYOR. Mr. President, I recently introduced S. 2636, legislation which would seek to prohibit the drugging or numbing of horses prior to a race. In the near future, I will be seeking cosponsors for this legislation. I would like to bring to the attention of my colleagues two articles which appeared in the Washington Post, which I believe they will find of great interest relating to this most important issue.

Mr. President, I ask unanimous consent that the articles entitled, "Abuse of 'Controlled' Racing Drugs Caused Ban" and "Edged Out" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ABUSE OF "CONTROLLED" RACING DRUGS CAUSED BAN

(By Andrew Beyer)

In the mid-1970s, the racing industry launched a bold experiment designed to cure some of its most serious ills, and to help horses overcome some of theirs.

Politely called "controlled medication," it meant the abandonment of the historic prohibitions against giving drugs to racehorses. People in almost all segments of the racing industry embraced the belief that certain medications would benefit the sport.

In only a few years, controlled medication programs have become a scandal and an embarrassment across the country. In Maryland, as of today, the program is over. When Bowie Race Course opens its summer meeting this afternoon, horses will be fueled by hay and oats—not Butazolidin and Lasix. The state racing commission finally issued its order banning the drugs last week, after public opinion against them had become so strong.

Only one segment of the racing community —the horsemen—is still trying to preserve controlled medication. Maryland trainers have been threatening boycotts and legal action, citing the hardships that the new restrictions will cause them.

But it was these same trainers whose abuses made controlled medication fail so miserably. They are fighting for a lost cause now, and nobody is listening to their arguments any more.

In 1973 and 1974, horsemen in Maryland and most other racing states had a very receptive audience when they made their pitch for legalizing bute, a painkiller and analgesic; and Lasix, which helped horses with the tendency to bleed through the nostrils.

The horsemen's argument seemed irrefutable. The sport had changed dramatically since the bygone days when there was a definable racing season. Now most states were conducting the sport year-round, and horses no longer had an offseason in which to recover from the inevitable wear and tear of racing. Medication would help the horses withstand the stress of year-round racing.

When the drugs were legalized, trainers did not employ them in anything resembling a judicious or "controlled" manner. Even casual race fans quickly grew suspicious about the use of Lasix.

The drug had been legalized for use on bleeders and no more than 5 percent of all thoroughbreds are potential bleeders. So why were 58 of the 81 horses entered on Pimlico's closing-day program racing with Lasix?

The most popular and plausible answer was that these legal drugs helped camouflage the presence of illegal substances in a horse's urinalysis. Indeed, the era of controlled medication has seen the use of powerful illegal drugs like Sublimaze reach almost epidemic proportions.

Even though bute and Lasix were being overused, they did not accomplish what their proponents had said they would. The argument that drugs would help horses better withstand the rigors of year-round racing proved utterly false.

At the start of the decade, the average American thoroughbred raced 10.3 times a year. In 1974 the figure was the same. But since then it has dropped steadily, and last year the average horse went to the post only 9.6 times.

While controlled medication was not making any obvious positive contribution to the sport, it was creating a backlash. Expert veterinarians and chemists always described Butazolidin as useful, benign and mild—giving it to a horse was like giving aspirin to a human—but the public never got the message.

When bute-treated horses broke down on the track, such as the one who killed jockey Robert Pineda at Pimlico, people increasingly blamed the fact that the animals had been "drugged." This reaction may have been a bit hysterical, but when CBS' "60 Minutes" presented a one-sided report on the evils of drugs in racing, American public opinion was galvanized.

That sentiment took form in ridiculously heavy-handed bills introduced by Sen. David Pryor (D.-Ark.) and Rep. Bruce Vento (D.-Minn.) that could send a trainer to prison for giving a horse Butazolidin. Frightened by the possibility of federal intervention in the sport, racing officials were forced to find some answer to the drug problem. Last month the National Association of State Racing Commissioners unveiled a model medication program, and it is that set of stringent guidelines which Maryland adopts today.

Bute is abused when it is given to horses who shouldn't be running; but it is beneficial when it helps sore-legged horses get through their training. Racing officials would like to have specified that horses may take the drug except in the 24-hour period before they run.

Unfortunately, there would be no way to enforce such a standard. Instead, the new rules specify the amount of bute that may show up in a postrace blood test. The permissible limits are defined as two micrograms of bute per millimeter of plasma. The commissioners think this trace of bute would be present in the blood of a horse who has trained on the drug but hasn't had it for 24 hours.

Trainers and vets are going to have to experiment to discover how long before a race they can permissibly administer bute to a horse, and the Maryland Racing Commission has said that the rules will be leniently enforced at first.

But the guidelines may well turn out to be a lot tougher than even the commissioners and the horsemen think. Dr. Thomas Tobin, professor of pharmacology at the University of Kentucky, has been conducting research on the subject, and he said, "If you give bute to a horse 24 hours before a race, there is an 80 percent possibility that he will be over the limit. I would have to advise horsemen not to medicate in the three days before racing."

The new rules will drastically control the use of Lasix, too. It can now be given only to horses whom a state veterinarian has observed bleeding on the track at the conclusion of a race. Horses who are treated with Lasix may not be given the drug within five hours of post time, and they will be quarantined during this period.

Maryland horsemen have protested that the Lasix rules are too strict, the bute rules too vague, and some have said that they will race their horses in other states if the commission makes these prohibitions stick.

Once such a threat might have been forceful; now it is hollow. As antidrug sentiment sweeps the country, there are not going to be many states left where trainers can use bute and Lasix with impunity. The new drug rules are ones that horsemen are going to have to live with for a long time.

EDGED OUT

(By Dick Dabney)

A few years ago, I was working a full-time job, carrying a full academic load and moonlighting at a part-time job on the side. And my angry, vociferous creditors would come on the horn almost every day to tell me that I wasn't working hard enough. Back then, there was an Edge whose name was Despair, and every time I felt it coming close, I would drive out to the race track in Charles Town, W. Va.—not so much for the betting but to get away.

It was a beautiful drive up Routes 7 and 9, the race track beer was cold and delicious, the horses and the fresh dirt looked and smelled wonderful, and the people up there were likable in that they too had gotten away and were more absorbed in whether the favorite in the third race had blinkers on than they were with whatever was going on back here. And although this was 1971, the prevailing attitude at that mountain track seemed to be that whatever was wrong, President Roosevelt would handle it, and that in the meantime the most important thing was to study the Racing Form, which was something you could depend on.

Of course, it sometimes happened that those of us who lived frantically and on the Edge had not found time to pore over that noble publication—an activity that, if done properly, took all day. And in that case we would buy a tip sheet at the door from the hawkers clamoring there—J.J.'s, Clockers', Trackman or the Fox. This was done shamefacedly, since it was thought ignoble not to be able to make up your own mind in serious matters. But it was wonderful going to Charles Town, and when I got back, the Edge, which was not physical fatigue but some deep futile sense that the deck was stacked, would have receded and I could resume the usual routine of hard work and profuse apologies.

Then something happened, small and ominous as a roach scuttling through Eden, but of enormous spiritual significance: West Virginia passed laws legalizing the use of Bute and Lasix—drugs that acted as tranqualizers and painkillers. And immediately, the owners and trainers of Charles Town began pumping the beautiful thoroughbreds full of those, so that they could run them more frequently—in fact, so that they could run them to death. After all, from an investor's point of view—the point of view that prevailed—they were cheap horses. So those owners ran them, and drugged them, and ran them—until typically a horse broke its leg in the middle of a race and had to be destroyed.

This was profitable to the owners, but a death of the soul to those of us who loved the splendid animals. And I began to see that track not as any escape from Washington anymore, but as Washington itself, magnified—tense, drugged racers, ever close to the Edge, being driven to serve the murderous ambition of men it was not possible to respect.

Then Jenny Lynn Hykes, the bravest and most gifted jockey I knew, and the most likable, was seriously injured in a spill involving those frantic, legally doped horses and her career was over at 19. After that, I did not go back to Charles Town anymore—and ever since, I've been haunted by a vision of our town as the night track—resembling that mountain-surrounded, light-bejeweled oval in too many ways: in dangerous beauty; in the noble, doomed hope that the brave and gifted will prevail; and in the stubborn notion that someone has enough of an inside line to be able to tell you truly what is going to happen.

Of course, it isn't healthy to dwell on metaphors like that. And in a town full of psychiatrists with thick prescription pads, one wishes to be as healthy as possible. So most of the time I manage to think about other things, although today, which brought one newspaper story of the Preakness scandal and another on executive burn-out, was not one of those days. The horse race resuscitated that nightmare, and one was reminded that flagrant public offenses often do pay off—as the filly that ought to have won was fouled repeatedly and whipped in the face before 40 million viewers, an offense promptly ignored by the Pimlico stewards. While in the other daily Washington race, good men and women were finding themselves stricken by the question, "What am I doing?" And going off burned out into welfare, flower gardening or madness, in this beautiful city where the Edge is everywhere zig-zagging among us like crevasses in an earthquake and, where more responsibilities and more Valium are always to be had. But I wonder—isn't "What am I doing?" a better question than "What is the inside dope?" And isn't "burned-out" sometimes a synonym for "sane"?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON OCCUPATIONAL SAFETY AND HEALTH—MESSAGE FROM THE PRESIDENT—PM 213

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596), I hereby transmit the Annual Report of the Department of Health, Education, and Welfare on Occupational Safety and Health for 1979.

Jimmy Carter.

The White House, *June 6, 1980.*

MESSAGE FROM THE HOUSE

At 10:33 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House, having proceeded to reconsider the bill (H.R. 7428) to extend the present public debt limit through June 30, 1980, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, on reconsideration by the House, and two-thirds of the House of Representatives agreeing to pass the same.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

S. 1972. A bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corporation (Rept. No. 96–798).

S. Res. 454. Original resolution waiving Cristo 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1972, a bill to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corporation (Rept. No. to the Committee on the Budget.

ORDER FOR STAR PRINT—S. 1641

Mr. BOREN. Mr. President, on behalf of the Senator from New York (Mr. Moynihan), I will state that when S. 1641 was reported, several section references were inaccurately printed in the bill.

I ask unanimous consent, again on behalf of Mr. Moynihan, that a star print of S. 1641 be made, in order to correct the section references and to correct minor typographical errors.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HART (for himself, Mr. Leahy, Mr. Cranston, Mr. Sarbanes, Mr. Heflin, Mr. Metzenbaum, Mr. Tsongas, Mr. Bradley, Mr. Percy, Mr. Williams, Mr. Stewart, Mr. Domenici, and Mr. Baucus):

S. 2794. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to home builders for the construction of residences incorporating certain solar energy utilization characteristics; to the Committee on Finance.

By Mr. RIBICOFF (by request):

S. 2795. A bill to create an independent Office of the Special Counsel; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 2796. A bill to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes; to the Committee on the Judiciary.

By Mr. PELL:

S. 2797. A bill to require the Environmental Protection Agency and the Department of Health and Human Services to submit a report with respect to the effects of hazardous wastes; to the Committee on Environment and Public Works.

By Mr. CULVER:

S. 2798. A bill to amend the Small Business Act to provide special loan guarantees to small business concerns for the acquisition of motor fuel service stations, to require the divorcement of motor fuel service stations from operation by certain producers and refiners of motor fuels, to control sales by producers and refiners of motor fuels, and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. Hayakawa, and Mr. Jepsen):

S. 2799. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART (for himself, Mr. Leahy, Mr. Cranston, Mr. Sarbanes, Mr. Heflin, Mr. Metzenbaum, Mr. Tsongas, Mr. Bradley, Mr. Percy, Mr. Williams, Mr. Stewart, Mr. Domenici, and Mr. Baucus):

S. 2794. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to homebuilders for the construction of residences incorporating certain solar energy utilization characteristics; to the Committee on Finance.

PASSIVE SOLAR TAX CREDIT

Mr. HART. Mr. President, today I am offering legislation designed to encourage builders to include passive solar energy systems in new homes by providing tax credits based on the performance of the passive solar system. This same measure enjoyed overwhelming support in the Senate when offered as an amendment to the windfall profit tax bill last December. At that time it passed the Senate by a vote of 82 to 1. Unfortunately, it was left out of the package of credits eventually approved by the House and Senate conferees. Because of the very strong support that has been demonstrated for this measure, both in the Senate and among a broad coalition of industry, labor, and environmental groups, I am reintroducing it today with the hope that Congress will act quickly on this carefully drafted, very necessary, and very popular proposal.

Mr. President, in the struggle for energy independence, our Nation must continue to make every effort to encourage the use of currently available, cost-effective solar systems. "Passive" solar systems rely on energy-efficient architectural techniques and the use of special building materials, rather than mechanical means, to make maximum use of the Sun's energy.

A well-designed passive solar system can reduce the heating load of a standard home by as much as 80 percent. While opportunities exist to add passive solar features to existing homes, the greatest potential for energy savings is realized when passive solar systems are incorporated as part of the original design of the home. Since the Nation's entire housing stock is expected to be replaced over the course of the next 50 years, it is vitally important that new housing incorporate passive solar systems (as well as other energy-efficiency features) if future generations are not to be "locked-in" to increasingly costly and uncertain supplies of energy for their residential needs.

In general, passive solar techniques are relatively simple, inexpensive, and just a matter of commonsense. For example, new homes should be constructed with eaves on their summer exposure which block the direct rays of the high southern Sun, while permitting direct light from the low winter Sun to heat the structure. Other passive design features, such as Trombe walls which capture, store, and gradually release heat from the Sun, are more sophisticated and somewhat more expensive.

The key question is if passive solar makes economic sense today, why are not builders including passive solar features in new housing? Although a passive solar system will often pay for itself over the course of just a few years, this savings accrues to the owner of the house rather than to the builder. Builders and developers, who must compete in an extremely tight capital market, are understandably hesitant to make any addition to a home which will increase its cost.

Additionally, the homebuilding industry in this country is dominated by small businesses which construct, on the average, only nine homes a year. Small homebuilders can ill afford the risk that the public will not readily accept—or cannot find the financial backing for—passive solar homes. Given these barriers, there is a clear need to provide a strong incentive to builders to include passive solar features as an integral part of new housing.

Despite longstanding congressional interest in passive solar, it has not been possible to implement a residential passive solar tax credit in the past because of difficulties in determining how to provide a tax credit for components of a home which serve a "dual" function, for example, a Trombe wall which stores heat (a passive solar function), as well as supporting the ceiling—a structural function.

The legislation I am introducing today addresses this problem by providing a tax credit to builders of new homes based on their effectiveness in reducing the energy load of the home, rather than providing a credit for a percentage of the cost of the components of a passive solar system. This approach has the additional advantage of encouraging the use of low-cost, high-performance passive solar designs.

To qualify for the credit, a passive solar system will have to possess all of the following elements:

(1) a solar collection area;

(2) an absorber;

(3) a heat storage "mass;"

(4) a heat distribution mechanism; and

(5) heat regulation devices.

To determine the amount of the credit for a given passive solar system, the builder must know first, the size of the solar collection area on a passive home; second, the energy efficiency of the home (determined by the extent to which it utilizes insulation and other conservation features); and, third, the nearest city to determine the amount of sunlight which falls on the home. These factors can be compared on a simple chart which will predetermine the amount of the credit based on the extent to which the passive solar system has reduced the heating and cooling requirement of a home. A sample chart and description of how the credit would work is included as part of the attached factsheet.

The maximum credit for a passive solar system would be $2,000. It is expected credit for an average passive solar system would be about $1,000. On the average, this would constitute about a 20-percent subsidy for residential passive solar systems. Individuals would be eligible for this credit from September 30, 1980, through December 31, 1985. According to the Internal Revenue Service, total revenue loss during that period would be $328 million—$4.1 million during the current fiscal year.

Mr. President, as I said at the outset, this measure enjoys widespread support. When offered as an amendment to the windfall profit tax bill, it was overwhelmingly approved by the Senate and endorsed by the following national organizations:

National Association of Home Builders.
National Conference of State Legislatures.
National League of Cities.
Sierra Club.
Friends of the Earth.
Environmental Action.
National Wildlife Federation.
Environmental Policy Center.
League of Women Voters.
Solar Lobby.
American Institute of Architects.
National Woodwork Manufacturers Association.

Mr. President, the reality of this Nation's energy situation makes it vitally important that new housing incorporate passive solar systems. This legislation provides important incentives toward the goal, and I urge my colleagues to support it.

I ask unanimous consent that the text of the legislation, and a fact sheet prepared by my office, be printed in the Record at this point.

There being no objection, the bill and fact sheet were ordered to be printed in the Record, as follows:

S. 2794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Credit for Passive Solar Residential Construction

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44F. Credit for Passive Solar Residential Construction.

"(a) Allowance of Credit.—In the case of a builder of a new residential unit which incorporates a passive solar energy system, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined under the solar construction credit table prescribed by the Secretary under subsection (d).

"(b) Limitations.—

"(1) Maximum dollar amount per unit.—The amount of the credit allowed by subsection (a) shall not exceed $2,000 for a residential unit.

"(2) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) Definitions; Special Rules.—For purposes of this section—

"(1) Builder.—The term 'builder' means a person who is in the trade or business of building residential units and has a proprietary interest in the residential unit built.

"(2) New residential unit.—The term 'new residential unit' means any unit—

"(A) which is located in the United States,

"(B) which is designed for use as a residence,

"(C) which is a unit of a building having less than 5 residential units,

"(D) the construction of which is completed after September 30, 1980, and before January 1, 1986, and

"(E) which is ready for occupancy before January 1, 1986.

"(3) Passive solar energy system.—The term 'passive solar energy system' means a system—

"(A) which contains—

"(i) a solar collection area,

"(ii) an absorber,

"(iii) a storage mass,

"(iv) a heat distribution method, and

"(v) heat regulation devices, and

"(B) which is installed in a new residential unit after September 30, 1980, and before January 1, 1986.

"(4) Solar collection area.—The term 'solar collection area' means an expanse of transparent or translucent material that—

"(A) is located on that side of the structure which faces (within 30 degrees) south, and

"(B) the position of which may be changed from vertical to horizontal in such a manner that the rays of the sun directly strike an absorber.

"(5) Absorber.—The term 'absorber' means a hard surface that—

"(A) is exposed to the rays of the sun admitted through a solar collection area,

"(B) converts solar radiation into heat, and

"(C) transfers heat to a storage mass.

"(6) Storage mass.—The term 'storage mass' means a dense, heavy material that—

"(A) receives and holds heat from an absorber and later releases the heat to the interior of the structure,

"(B) is of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the structure in which it is incorporated,

"(C) is located so that it is capable of distributing the stored heat directly to the habitable areas of the structure through a heat distribution method, and

"(D) has an area of directly irradiated material equal to or greater than the solar collection area.

"(7) Heat distribution method.—The term 'heat distribution method' means—

"(A) the release of radiant heat from a storage mass within the habitable areas of the structure, or

"(B) convective heating from a storage mass, through airflow paths provided by openings or by ducts (with or without the assistance of a fan or pump having a horsepower rating of less than 1 horsepower) in the storage mass, to habitable areas of a structure.

"(8) Heat regulation device.—The term 'heat regulation device' means—

"(A) shading or venting mechanisms to control the amount of solar heat admitted through solar collection areas; and

"(B) nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of a structure.

"(9) Joint proprietary interest in residential unit.—If 2 or more builders have a proprietary interest in a residential unit, the credit allowable under subsection (a) shall be apportioned to each builder on the basis of his ownership interest in the residential unit.

"(d) Solar Construction Credit Table.—

"(1) Prescription of table.—After consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, the Secretary by regulations shall—

"(A) prescribe the solar construction credit table referred to in subsection (a) which meets the requirements set forth in paragraph (2), and

"(B) prescribe a table of insulation factors, based on the amounts of insulation in floors, walls, and ceilings and the number of panes of glass in the windows of a structure, for 8 categories of residential units ranging from one having no added insulation to one having the maximum feasible amount of insulation.

"(2) Requirements for solar construction credit table.—

"(A) In general.—In order to meet the requirements of this paragraph, the table prescribed by the Secretary—

"(i) shall provide a credit at the rate of $60 for each 1 million Btu's of annual energy savings per residential unit, and

"(ii) shall set forth different amounts of credit for different ratios of solar collection area to house heating load and for residential units located in different areas of the United States.

"(B) Annual energy savings per residential unit.—For purposes of subparagraph (A), the annual energy saving for a residential unit shall be the amount by which the number of Btu's of nonsolar energy required to provide heat to a reference house for a calendar year exceeds the number of Btu's of nonsolar energy required to heat a similar house, in the same or a similar location, which uses an incorporated passive solar energy system for a calendar year.

"(C) Reference house.—For purposes of subparagraph (B), the term "reference house' means a residential unit with 1,500 square feet of habitable floor space and a heating load of 7.5 Btu's per square foot per degree day.

"(D) Heating load.—For purposes of subparagraph (C), the term 'heating load' means the product of the number of square feet of habitable floor space of a residential unit multiplied by the appropriate insulation factor, set forth in the table prescribed by the Secretary under paragraph (1)(B), for that unit.

"(c) Termination.—The credit allowable by subsection (a) shall not be allowed with respect to a residential unit the construction of which is completed after December 31, 1985.".

(b) Clerical Amendments.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44E the following new item:

"Sec. 44F. Credit for passive solar residential construction.".

(2) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting "44C, and 44F".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after September 30, 1980.

Fact Sheet on Passive Solar Tax Credit Legislation

How Does the Credit Work?

Step 1: To determine whether or not his passive solar system qualified, the builder will complete a simple recognition factor form.

This will establish that the passive solar system contains all of the following components: solar collection area; absorber; storage mass; heat distribution method; and heat regulation device(s).

(Simple definitions exist for each component.)

Information on all of these components is known to the builder, allowing him to easily perform the recognition step.

Step 2: To determine his tax credit, the builder must know: closest city to building; size of passive collection area; and house heating load.

All of these are known to the builder and will not require any additional effort to determine.

Step 3: The builder then: determines the ratio of passive collection area to the house heating load* (the passive rating); and enters the solar construction credit table at the nearest city and determines the tax credit.

Example: House location, Roseville, California; nearest location, Sacramento; passive collection area, 279 ft^2, house heating load,** 465 btu/hr °F.; passive rating, 279=.6; total, 465.

Tax credit, $708.

Revenue effect: Enactment of the tax credit will produce estimated revenue losses of $328 million through fiscal year 1986.

The revenue losses by fiscal year are (millions of dollars):

Fiscal year 1980	4.1
Fiscal year 1981	10.2
Fiscal year 1982	21.7
Fiscal year 1983	39.5
Fiscal year 1984	63.6
Fiscal year 1985	93.9

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*The house heating load is determined by the builder by taking the floor area of the house (sq. ft.) and multiplying by one of four selected insulation factors from the insulation factor table (see table 1).

**House heating load=(1500 ft^2) (.31—from insulation factor table)=465 btu/hr °F.

EXAMPLE TABLE OF PASSIVE SOLAR BUILDER TAX CREDIT

[Amounts in dollars]

Location	Passive rating[1] 0.2	0.3	0.4	0.5	0.6	0.7	0.8
Abuquerque	420	800	1,100	1,340	1,480	1,620	1,700
Atlanta	250	475	620	820	972	1,080	1,144
Boston	374	636	898	1,122	1,309	1,496	1,683
Burlington	366	641	916	1,053	1,237	1,328	1,420
Columbus	310	557	756	876	955	1,144	1,194
Madison	432	778	1,080	1,296	1,512	1,685	1,858
Sacramento	231	400	524	616	708	755	801

[1] Passive rating

$$=\frac{\text{Passive solar collection area (square feet)}}{\text{House heating load (Btu's/degree Fahrenheit-hour)}}$$

By Mr. RIBICOFF (by request):

S. 2795. A bill to create an independent Office of the Special Counsel; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the chairwoman of the Merit Systems Protection Board, I am introducing legislation to create an independent Office of the Special Counsel in the executive branch.

I ask unanimous consent that the text of the bill, the section-by-section analysis and the accompanying letters be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 1204 of title 5, United States Code, is amended to read as follows:

"1204. Office of the Special Counsel; Special Counsel; appointment and removal

(a) The Office of Special Counsel is an independent establishment in the executive branch. It shall have its principal office in the District of Columbia, may have field offices in other appropriate locations, and shall have an official seal which shall be judicially noticed.

(b) There is at the head of the Office of the Special Counsel a Special Counsel appointed by the President from attorneys, by and with the advice and consent of the Senate, for a term of 5 years. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of his predecessor serves for the remainder of the term. The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office."

Sec. 2. Section 1206 of title 5, United States Code, is amended by inserting immediately following subsection (m) the following new subsection:

"(n) The Special Counsel shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Office of the Special Counsel which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)."

Sec. 3. Title 5, United States Code, is amended by striking "of the Merit Systems Protection Board" in sections 1206(b)(1)(B), 2302(b)(8)(B) and 5315 (123).

Section-by-Section Analysis

Section 1 of the Bill creates the Office of the Special Counsel as an entity totally separate and independent from the Merit Systems Protection Board. The Office of the Special Counsel will be headed by a Special Counsel whose duties are the same as those of the Special Counsel of the Merit Systems Protection Board. See 5 USC §§ 1205–1208. The qualifications, term of office and the limitation on the President's authority to remove a Special Counsel remain unchanged.

Section 2 of the Bill provides the Special Counsel with the authority to submit directly to the appropriate committees of Congress an annual budget.

Section 3 of the Bill makes conforming amendment in three provisions of Title 5 to indicate that the Special Counsel no longer is the Special Counsel of the Merit Systems Protection Board.

Merit Systems Protection Board,
Washington, D.C., April 14, 1980.

Hon. Abraham A. Ribicoff,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I have enclosed for your information a copy of a legislative recommendation of the Merit Systems Protection Board which would establish an independent Office of the Special Counsel.

It was forwarded to Speaker O'Neill and Vice President Mondale today, and concurrently, as required by 5 U.S.C. 1205(k), to President Carter.

I am pleased to make this copy of the draft bill available to you, and look forward to discussing it with you at your convenience.

Sincerely,

Ruth T. Prokop.

Merit Systems Protection Board,
Washington, D.C., April 14, 1980.

Hon. Walter F. Mondale,
President of the Senate, Washington, D.C.

Dear Mr. President: Pursuant to 5 USC §1205(k), I am transmitting herewith a proposed bill,

"To create an independent Office of the Special Counsel."

The proposed bill would amend Title 5 of the United States Code to create an Office of the Special Counsel totally independent of the Merit Systems Protection Board. It would authorize the Special Counsel to submit a budget directly to Congress but would make no other changes in the duties or responsibilities of the Special Counsel.

As further required by 5 USC §1205(k), I have also submitted the same legislative recommendation to the President.

The proposed legislation will not adversely affect the environment, nor will it have an inflationary impact on the economy.

Attached for your information is a Section-by-Section Analysis of the proposed legislation.

Sincerely,

Ruth T. Prokop. ●

By Mr. RIEGLE:

S. 2796. A bill to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes; to the Committee on the Judiciary.

● Mr. RIEGLE. Mr. President, today I am introducing a bill to repeal titles I, III, and IV of the Narcotic Addict Rehabilitation Act of 1966 (NARA)—an obsolete law which has long since served its purpose. The original intent of this Act was to provide treatment to narcotic addicts who were charged with or convicted of a Federal crime by offering them treatment in lieu of prosecution or sentencing. A similar program was established for drug addicts who had not been charged with any crime, as an opportunity for them to obtain treatment and rehabilitation.

Under title I, Federal district courts held criminal prosecutions of eligible addicts in abeyance while they were examined for admission to the NARA program. Addicts were then civilly committed to the Surgeon General for treatment.

Even during the first 3 years of the program, July 1967 to June 1970, the number of drug addicts committed under title I was far below the original projections. To a large extent, this shortfall reflected a general lack of understanding and resistance to NARA in some U.S. attorneys' offices. Since 1973, NARA has been gradually phased down because of excessive costs and cumbersome administrative procedures. In recent years, no funds have been requested by the administration or appropriated by the Congress for NARA. In fact, only two addicts were admitted under NARA in 1977—but at least one Federal judge has threatened to hold the Surgeon General in contempt if he does not maintain this outdated and underutilized program.

Under title III, addicts voluntarily seeking commitment must be judged suitable by a drug abuse treatment center and must petition the U.S. attorney, who in turn must petition a district court to grant the request. U.S. attorneys have, understandably, questioned their role in this process. In a study completed by the General Accounting Office in 1971, U.S. attorneys in 13 cities stated that their offices were not appropriate intake points for voluntary civil commitment and suggested that such functions would be more aptly performed by social services agencies or by HEW.

Furthermore, since the enactment of NARA in 1966, the Federal Government has been moving toward community-based treatment programs. As a result of legislative initiatives, a major national community-based treatment network has emerged to treat drug addicts, including those who might otherwise have sought help through a civil commitment.

Legislation responsible for this shift included the Drug Abuse Office and Treatment Act of 1972, which established the National Institute on Drug Abuse (NIDA) in the Department of Health, Education, and Welfare. The purpose of NIDA was to develop a comprehensive, coordinated, long-term Federal strategy to combat drug abuse and expand drug abuse prevention and treatment services.

As chairman of the Subcommittee on Alcoholism and Drug Abuse, I sponsored the Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1979, Public Law 96-181, which was signed by the President on January 2, 1980. This law reauthorizes NIDA for 2 years and continues to support community-based prevention and treatment programs which have proven to be effective in combating our Nation's drug abuse problems. This law also provides for outpatient treatment which was originally authorized by title IV of NARA under the direction of the Surgeon General.

My proposal to repeal obsolete sections of NARA has the support of the administration. Lee Dogoloff, the associate director of the White House Domestic Policy Staff and the official designated by the President to direct Federal drug abuse policy, states:

> Evaluation studies examining patient outcomes between civil commitment and voluntary treatment in community agencies show no statistical differences in treatment impact. The Administration feels that the striking cost differential between these two programs and the improved patient care available through community-based centers more than justifies repeal of NARA Titles I and III.

The authorities provided under title I, III, and IV were clearly designed to fill a vacuum created by the lack of nonjudicial drug abuse treatment. This vacuum, however, no longer exists.

In keeping with our congressional responsibility to repeal laws which are no longer effective or necessary, I urge my colleagues to join me in removing titles I, III, and IV of the Narcotic Addict Rehabilitation Act of 1966 from the statute books.●

By Mr. PELL:

S. 2797. A bill to require the Environmental Protection Agency and the Department of Health and Human Services to submit a report with respect to the effects of hazardous wastes; to the Committee on Environment and Public Works.

HAZARDOUS WASTE HEALTH EFFECTS

● Mr. PELL. Mr. President, the Environmental Protection Agency recently published a list of hazardous wastes, as directed by the Resource Conservation and Recovery Act of 1976. This list, although not complete, includes an imposing litany of substances that pose threats to our citizens ranging from explosion and fire to cancer and birth defects.

These wastes are defined as "hazardous" because they threaten the health of our citizens and the purity of their environment. The problem is that the EPA list, which is based on extensive research and consultations, only groups the types of threats posed by each substance into general categories.

I think it is not enough to classify any of these wastes so generally. Congress and the public should be clearly aware of the specific threats posed by each of the hazardous wastes listed by EPA.

In my own State of Rhode Island, we are wrestling with the problem of how to control and dispose of hazardous waste. The chemicals involved are difficult for the layman to pronounce, but it is even more difficult for him to find out what immediate or long-term effect they may have on him and his environment.

The substances that we are dealing with in a single Rhode Island site can explode when they come in contact with moisture, form a nerve gas when exposed to sunlight, peel off the outer layer of a person's skin or lead to cancer.

The layman has the right to know if he or she is exposed to waste that is only suspected, or clearly known, as causing cancer; waste that is known or suspected of mutating genes; waste that is a slow, cumulative poison or a fast and deadly one.

It is for that reason that I am introducing legislation today to direct the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, to prepare a comprehensive report setting forth the known and suspected "specific" hazards associated with those substances that are classified as hazardous wastes.

I am limiting the scope of the report to those substances already identified by EPA because they represent a small and easily targeted collection of some of the most serious pollution hazards known to man.

This legislation calls for the compilation of a simplified, readable guide for citizens to the known and suspected threats posed by hazardous wastes. It is my hope that once we have defined the extent of the problem, that Congress can proceed to deal with this through the "Superfund," legislation which I have supported since its inception.

Congress has no higher priority than to protect the health and welfare of our citizens and to preserve a clean and healthy environment for them and their children.

In order to adequately protect ourselves and our future generations from the effects of hazardous substances, we must first understand what we are fighting and how difficult the task will be. My legislation is an important step in that direction.

It will increase our working knowledge about the health effects of hazardous substances and will give us some of the ammunition necessary to bring this serious problem under control.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, shall prepare a report setting forth the known and suspected hazards associated with those substances which he has identified as hazardous wastes pursuant to section 3001 of the Solid Waste Disposal Act.

(b) The report shall include a description with respect to each substance as to the nature of the hazard to human health directly, and to human health indirectly through the environment and through the hazards presented to other forms of life.

(c) The Administrator shall submit the report to the Congress within six months after the date of the enactment of this Act.●

By Mr. CULVER:

S. 2798. A bill to amend the Small Business Act to provide special loan guarantees to small business concerns for the acquisition of motor fuel service stations, to require the divorcement of motor fuel service stations from operation by certain producers and refiners of motor fuels, to control sales by producers and refiners of motor fuels, and for other purposes; to the Committee on the Judiciary.

SMALL BUSINESS MOTOR FUEL MARKETER PRESERVATION ACT OF 1980

• Mr. CULVER. Mr. President, today I am introducing the Small Motor Fuel Marketer Preservation Act of 1980. This act is designed to give independent gasoline dealers of this country an equitable opportunity for competition in the retail gasoline marketplace.

During most of the last decade, a slow erosion of the market share of independent gasoline dealers has been accompanied by a steady decline of the number of independent dealers. Between 1972 and 1979, approximately 80,000 dealers have gone out of business, and the attrition appears to be continuing at a rate of about 10 percent per year. Many of these dealers were victims of marketing and leasing practices of the major integrated oil companies that resulted in direct competition between refiner-operated and dealer-operated stations selling the same brand in the same marketing area * * * often literally across the street from one another.

During the same time period, refiners more than doubled their sales of gasoline through stations that they own and operate themselves.

Mr. President, it is axiomatic that fair and vigorous competition is necessary to a healthy economy. The legislation I am proposing assures this kind of competition in the retail gasoline market. It allows independent gasoline dealers to compete on the basis of their business abilities, not on the discriminatory practices of their suppliers. Of course consumers are also bound to be beneficiaries of improvements in the competitive environment. The legislation seeks to accomplish this important goal in four essential features. A brief description of each follows:

DEALERS RIGHTS, SBA LOANS

The legislation does not require the sale of refiner-owned stations. It does, however, specify that a refiner desiring to sell a station currently leased to a dealer must give the dealer the right of first refusal to purchase that station. In cases where the refiner and the dealer cannot reach agreement on the price of the property, an independent appraisal is provided. In addition, SBA loan guarantees are made available to dealers wishing to purchase the stations they currently lease.

This provision is important to assure that the dealers have the opportunity to remain in business if a major oil company decides to leave a given area.

DIVORCEMENT: LIMITATIONS ON RETAIL SALES BY REFINERS

The "divorcement" terms of the legislation would prohibit major integrated oil companies with their own employees from directly operating motor fuel service stations. These companies could, however, continue to own the stations and lease them to independent dealers to operate. For the purposes of this legislation, a major integrated oil company is defined as a company that refines and retails products using 30 percent or more crude oil produced from its own wells.

Of the estimated one-quarter million gasoline retail outlets in the country, approximately 14,400 are presently refiner operated. Of these, only 8,000 stations would be affected by the provision barring refiner operations. The remaining refiner operated outlets are scattered among 150 or so small refiners around the country.

Among small and independent refiners vigorous competition in the marketplace is now the rule. Such refiners are not subject to the divorcement features of the legislation.

The bill does, however, contain provisions to limit independent refiners—those producing less than 30 percent of their own crude oil—or small refiners—those whose refining capacity is less than 175,000 barrels per day—in expanding their share of direct sales. It does this through a concept called "refiner sales ratio."

Under its terms, using 1978 as a base year, small and independent refiners could not increase the percentage of their total motor fuel that they marketed directly through stations they owned. In addition, if they increased their total sales of motor fuel, no more than 50 percent of the increment could be marketed through their own outlets. These provisions strike an equitable balance between the legitimate concerns of both small refiners and independent dealers.

OPEN SUPPLY

In order to encourage competition and to facilitate the free flow of motor fuel in the marketplace, this legislation would make it illegal to interfere with the right of a dealer to purchase, store or sell motor fuel obtained from any source.

Any dealer operating a brand-name station, however, would be required to provide point-of-sale notice to customers if his product was not supplied by the brand-name supplier. Today the vast majority of brand-name service stations are prohibited from marketing motor fuel supplied from a source other than their brand-name supplier. This leaves both the dealers and the consumer at the mercy of the major oil companies' marketing practices. Dealers are unable to shop competitively for lower prices or for additional supplies if they have a reduced allocation from their supplier.

The effect of this provision would be to generate significant price competition for more than 50,000 service stations that are now locked into sole source supply arrangements. It stands to reason that this competition would facilitate the flow of motor fuel to the retail marketplace.

RACK PRICING

Modeled after the Robinson-Patman Act, the "rack pricing" provision of this legislation establishes the principle that purchasers of motor fuels at the same place and at the same time should pay the same price. Today, independent dealers frequently are charged higher prices than refiner-operated stations selling the same brand.

It is this pricing method that is responsible for much of the discrimination against independent dealers. Ending this practice will provide a fair and equitable basis for competition and generate lower prices to the consumer.

Mr. President, the approach of this legislation is a moderate one. Unlike total divestiture proposals, it does not deprive the oil companies of the right to own stations, nor does it force dealers currently leasing stations to come up with the financing to purchase their stations at a time when money is in short supply and interest rates are high. With a minimum of disruption and at no cost to the taxpayers, changes can be made to the structure of the retail gasoline marketplace that will serve the interests of both the small independent gasoline marketer and the American public.•

By Mr. HELMS (for himself, Mr. HAYAKAWA, and Mr. JEPSEN):

S. 2799. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS ACT OF 1980

Mr. HELMS. Mr. President, I am introducing today a bill to amend the laws authorizing the child nutrition and related programs administered by the Department of Agriculture.

The authorization for several of the child nutrition programs expires at the end of this fiscal year. However, because these programs have been very profoundly affected by the first concurrent budget resolutions of both the Senate and House, the Agriculture Committee has not yet reported reauthorizing legislation. But, a committee markup is scheduled for Wednesday, June 11.

As is appropriate, budgetary constraints have been a controlling factor thus far in consideration of the child nutrition programs. So, I should note that the Senate version of the first concurrent budget resolution of fiscal year 1981 was based on the assumed enactment of changes in the child nutrition program which would result in a savings of $600 million. Meanwhile, the House version of the resolution was based on an assumption of $500 million in legislative savings. Of course, the budget conferees are bound by the rules of the Senate and House. So, their report will be obliged to assume a savings in child nutrition programs of at least $500 million.

This bill is most certainly not the legislation the Senator from North Carolina would regard as the amendments which would make the National School Lunch Act and the Child Nutrition Act ideal. However, as ranking minority member of the Committee on Agriculture, Nutrition, and Forestry, I feel a responsibility to offer an alternative to current proposals now before the Committee so that we can act in accord with the budget resolution. This bill is that alternative. It represents an effort to recognize political realities and put tax dollars already going to child nutrition programs to the best possible use. Within those constraints, it was drafted with the intention of attracting a majority of the committee to its support.

Two other proposals have been proffered in regard to the child nutrition programs. The administration prepared a bill which has not been introduced, but was printed by the Agriculture Committee.

And, the Senator from South Dakota (Mr. McGovern) introduced a bill, S. 2675, which he estimates will realize $413 million in fiscal year 1981 savings. Many provisions of the bill I am introducing are identical to provisions in one or both of these two proposals. However, there are significant differences. The most important difference is that this bill, unlike S. 2675, meets the minimum budget requirement for legislative savings.

Unlike either the administration proposal or S. 2675, this bill includes no reauthorization for the very troublesome summer food service program. Refusing to reauthorize the ineffective and fraudulent summer feeding program will account for $149 million in fiscal year 1981 savings.

The summer feeding program does not warrant reauthorization. It is a program with a long record of fraud, mismanagement, and waste which is openly acknowledged by Assistant Secretary Foreman. And, most important, the summer food service program has absolutely no record of having significantly improved the diets of the truly needy.

That is because there is no assurance the truly needy receive the benefits generously poured out through this program. The summer food service program is intended to provide meals over the summer to children living in "poor economic conditions," or who are going to summer camps. Senators should know what is meant by "poor economic conditions." It is any area in which one-third or more of the children are eligible for free or reduced-price lunches under the national school lunch program.

In other words, under current law unless two-thirds of the families in an area are estimated to earn above 195 percent of the poverty guideline—$15,990 for a family of four—the area has "poor economic conditions."

Obviously, this program is not targeted at the truly needy. Two-thirds of those children in the neighborhood may come from families in relatively high-income groups. And, children who come from relatively wealthy households would receive free meals under the summer food service program. Not only are meals indiscriminately distributed in the project area, the Food and Nutrition Service has been unable to provide an estimate of what percentage of the program recipients are from needy households.

Senators should not forget that our Nation's poor already receive generous food stamp allotments. Summer feeding is a simple duplication of food stamp benefits. Also, many of these children may receive free meals through the child care food service program. It would be an outrage for Congress to once again reach into the taxpayer's pocket to fund another fast growing duplicative program.

As if duplication and poorly targeted benefits are not enough, the problems with this program are compounded by its long and lurid history of fraud and mismanagement. Though some of the original problems have been corrected over the past years, widespread abuses continue to be documented.

The USDA Inspector General found in an audit done last summer that the Federal Government should not have paid for 63 percent of the meals served through the summer feeding program.

And, I have received reports from the eastern part of North Carolina that the summer feeding program is abused by tourists who stop at playgrounds on their way to and from the beach. Since meals are being handed out at these playgrounds the tourists simply stroll over and pick up a lunch for themselves.

A few years ago, after Congresswoman Holtzman paid a surprise visit to two feeding sites in Brooklyn she reported:

> I found children carrying away shopping bags full of food which is required by law to be consumed on site; I found boxes of food discarded and abandoned; I found cartons of milk being thrown at passersby; and I found no recordkeeping on the site by program sponsors.

Following her visit, she received scores of phone calls complaining that:

One site in Manhattan served mostly alcoholics and drug addicts, who received several meals a day.

At a site in the 25th police precinct in Manhattan, policemen took home meals to feed to their dogs.

At another site, adults carried away shopping carts of food. Some program improvements have been made since Congresswoman Holtzman's surprise visit, to be sure.

However, a program such as this, in which free meals are given away in playgrounds and other out-of-door settings, is bound to be fraught with management problems. Fraud and rampant abuse are unavoidable in this program.

We have no evidence to show that summer feeding actually serves the most needy children; we have no evidence to show that it has any significant nutritional impact on any of the children; and, we have ample evidence to show that each summer substantial amounts of program funds are spent on wasted food and fraudulent bidding and contracting.

There may be some benefit derived from the summer feeding program. But, more good would be done and a better use of tax dollars made if those funds were dedicated to the school lunch program.

Significant savings are also made by this bill through a modest change in the income eligibility criteria for free and reduced price school meals. Eligibility for free meals is shifted from 125 percent of the income of poverty guideline to 120 percent, while eligibility for reduced price meals will be lowered from 195 to 175 percent of the poverty guidelines.

It should be emphasized that this is a moderate change, which is offered as a compromise between the administration proposal and the McGovern bill.

Current law permits a family of four in fiscal year 1981 to earn approximately $16,000 and still pay only 10 cents for a lunch it costs the taxpayers over $1 to serve. This is far too generous a standard and it is a burden the taxpayers no longer should be expected to bear. This bill proposes that Congress lower that limit to 175 percent of poverty—$14,350.

Of course, the income limit for the free lunch category is lower than that for reduced price lunches. Under this bill, with free lunch eligibility set at 120 percent of poverty, children from a family of four with an annual income of $9,840 will receive free school meals. This is far more generous than the $9,100 limit recommended by the administration. However, this compromise limit is lower than that proposed in S. 2675 which actually raises the existing limit for the free category. S. 2675 allows students from a family of four earning up to $10,330 to receive free school meals.

Both S. 2675 and this bill would amend current law to effectively raise the price of reduced price lunches from 10 to 20 cents. Likewise, both would eliminate hardship deductions. When these changes are combined with those effecting income eligibility, a saving of over $160 million will be achieved.

Let me take just a moment to discuss hardship deductions. If Senators page through the National School Lunch Act, they may be surprised to find that there is no mention anywhere of the so-called hardship deductions. Yet every application for free and reduced price lunches mentions them, and they will cost the taxpayers $21 million next year. These deductions first appeared in a notice in the Federal Register several years ago. Yet Congress has to my knowledge never stated an intent that they be included in the definition of income used in this act.

These deductions are administrative nightmares for local school administrators who have to process these applications. Yet only 3 percent of the applicants claim them. By eliminating this deduction, not only will tax dollars be saved, but also the valuable time of local school administrators.

In addition, these deductions are the source of much of the program's abuse because thorough verification of claims would require excessive administrative time and expense.

This bill includes a number of cost saving provisions also found in S. 2675. I will touch on each of these briefly.

The reimbursement levels which are currently adjusted semiannually for inflation are to be adjusted annually instead, for a saving of $75 million. This brings the program in conformity with the inflation adjustment made in other welfare programs.

It should be noted, however, that the annual adjustment provided for in S. 2675 only has a significant savings in fiscal year 1981. In subsequent years, the annual adjustment is made utilizing projected rates of inflation rather than actual inflation as this bill and the administration proposal provides. In fact, the provision in S. 2675 may be more expensive than current law in some future years.

The bill includes a $56 million saving in the special milk budget, an administration proposal also included in S. 2675.

This saving results from reducing to 5 cents the Federal subsidy to paying children in schools where there are other meal programs. Otherwise, the subsidy would be 8½ cents.

The bill further includes an across-the-board, 1-cent reduction in commodity assistance for school lunches. This lowers the level for next year from 17 cents per lunch to 16 cents. I should mention that although this is an across-the-board reduction, only children in the paying category will bear the costs. Others will still receive their lunches free—or pay 20 cents if they are in the reduced price category. This provisions is also a part of S. 2675.

The other cost saving provisions included in this bill are, I believe, not controversial. All are a part of S. 2675 and all but the first are included in the administration bill.

I will list them briefly:

A saving of $6 million from reducing by 3 cents the reimbursement for snacks served to children in child care centers;

A saving of $5 million from reducing the $20 million food service equipment assistance authorization in fiscal year 1980 to $15 million in fiscal year 1981;

A saving of $5 million from lowering expenditures on nutrition education and training to $15 million; and

A saving of $2 million from lowering equipment assistance for child care centers to $4 million.

This bill includes several provisions which will not produce immediate cost savings. But they will significantly improve overall program integrity.

One of the program-tightening measures I have proposed is to untie the hands of our school authorities so that they can verify information written on applications for free and reduced-price lunches. This bill eliminates the restriction that authorities may only verify income information "for cause." The privacy of applicants will be maintained by constitutional protections. In addition, the bill authorizes the Secretary to require social security numbers on these applications so verification will be possible.

Another program the bill tightens up is WIC, the special supplemental food program for women, infants, and children.

CBO estimates that if WIC were to become an entitlement program, participation could soar from its current level of 1.9 million to as high as 8 million. That would put costs for fiscal year 1981 at $3.6 billion—4 times the level proposed by the administration.

It is not enough to retain a cap on the program—which this bill does. We must do more. The most reasonable approach is to retarget the program to the most needy women and children. To that end, this bill separates WIC eligibility from that for reduced-price school lunches and sets the income limit at 150 percent rather than 195 percent of poverty. This will help assure program access to those most in need. Otherwise, they might be held off the program on long waiting lists while those with lesser need remain on the rolls.

The bill also contains a provision allowing congressional review of regulations drawn up under the National School Lunch Act and the Child Nutrition Act. I am pleased to say that this is a provision recently adopted in full committee by our colleagues on the House Committee on Education and Labor. The amendment gives Congress the authority to disapprove, through concurrent resolution, any final child nutrition regulations within 45 days of their appearance in the Federal Register. This provision provides a meaningful tool for congressional oversight.

Under current law, any school participating in the food service programs operated under the National School Act may refuse not more than 20 percent of the commodities offered them. In place of these commodities they receive others to the extent they are available to the State during that year.

This bill includes the administration proposal allowing schools to refuse more than 20 percent of the offered commodities, and receive substitute ones to the extent they are available. This will increase program flexibility at the local level. In addition, it provides that if regulations require skim or low fat milk to be served with lunches, whole milk must also be offered. The bill returns authority to local school boards to determining what foods may be sold in the lunchroom in competition with that offered in the school lunch program. The sale of any competitive foods may not be prohibited by the Secretary. Instead, he may take recommendations to local school authorities concerning the sale of such foods, and it is up to them to make the final decision.

In conclusion, I must again note that the bill I offer is not the perfect answer to the problems of cost and administrative complexity. It is an alternative proposal intended to aid the Agriculture Committee in its considerations of child nutrition programs. Most of all, it achieves the full savings of $500 million mandated under the budget resolution. And it does so in a manner least detrimental to the school lunch program.

Mr. President, I ask unanimous consent that the bill I am introducing on behalf of myself, Mr. Hayakawa and Mr. Jepsen be printed in the Record, together with a summary.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 2799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "School Lunch and Child Nutrition Amendments Act of 1980".

Sec. 2. Section 6 of the National School Lunch Act is amended—

(1) by striking out the second sentence of subsection (a) thereof; and

(2) by inserting the following between the fifth and sixth sentences of subsection (e): "Beginning with the adjustment to be made on June 30, 1981, and annually thereafter, the national average value of donated foods or cash payments in lieu thereof, as established and adjusted in the preceding sentences of this subsection, shall be reduced by one cent.".

Sec. 3. (a) Section 9(b) (1) of the National School Lunch Act is amended—

(1) by striking out "solely" after "annual incomes of any household";

(2) by striking out "for cause" after "local school authorities may";

(3) by inserting ", such form to include as a condition for participation in the program, at the discretion of the Secretary, that such adult furnish the social security account numbers of all members of such household" after "adult members of such household";

(4) by inserting "the Secretary, the State, and" before "such local school authorities may";

(5) by inserting "and may utilize the social security account numbers provided in such application for the purpose of facilitating such verification" after "data in such application";

(6) by striking out the sixth sentence thereof and inserting in lieu thereof: "The income guidelines for free lunches shall be prescribed at 20 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.";

(7) by striking out the eighth sentence thereof and inserting in lieu thereof "Such income guidelines for reduced price lunches shall be prescribed at 75 percent above the income poverty guidelines prescribed by the Secretary."; and

(a) by striking out "95" and inserting thereof "75" in the ninth sentence thereof.

(b) Section 9(b) (2) of the National School Lunch Act is amended by striking out "solely" after "of the preceding sentence".

(c) With respect to the income poverty guidelines established by the Secretary of Agriculture pursuant to section 9 of the National School Lunch Act, the exclusion from income provided in 37 FR 23370, November 2, 1972, shall not be applicable.

Sec. 4. Section 11(a) of the National School Lunch Act is amended—

(1) by striking out the following in the fifth sentence thereof: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater"; and

(2) by striking out ", and on January 1, of each fiscal year, semiannual adjustments" and inserting in lieu thereof "an annual adjustment" in the sixth sentence thereof;

(3) by inserting "free and reduced price" before "lunches" the first time it appears in the sixth sentence thereof; and

(4) by striking out "six-month" and inserting in lieu thereof "twelve-month" in the second proviso in the sixth sentence thereof.

Sec. 5. (a) Section 12(d) (6) of the National School Lunch Act is amended by inserting "except Job Corps Centers funded by the Department of Labor" after "retarded" thereof.

(b) Section 12 of the National School Lunch Act is amended by adding at the end thereof the following new subsection:

"(i) Claims eligible for reimbursement for meals served during a fiscal year under this Act or the Child Nutrition Act of 1966 shall be limited to those claims that are submitted to the appropriate State agency within ninety days after the end of such fiscal year, with the exception of claims so filed but subsequently amended as a result of an audit or investigation.".

Sec. 6. (a) Section 14(a) of the National School Lunch Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

(b) Section 14 of the National School Lunch Act is amended by adding at the end thereof the following new subsection:

"(f) Each State agency that distributes agricultural commodities and other foods to schools participating in programs under this Act shall establish procedures so that any school may request and receive to the extent practicable the desired amounts and types of commodity assistance available to the State during any school year. When offered commodities are not accepted by a school during any school year, alternate commodities shall be offered for delivery if available to the State during the same school year. For the purposes of this subsection, 'alternate commodities' shall not include any commodities available from stocks of the Commodity Credit Corporation and designated by the Secretary as a bonus over and above the level of assistanec to be provided to the State under section 6(e) of this Act.".

SEC. 7. (a) Section 17(c) of the National School Lunch Act is amended—

(1) by striking out "and January 1" in paragraphs (1), (2), and (3) thereof;

(2) by striking out "six-month" in paragraphs (1), (2), and (3) thereof, and inserting in lieu thereof "twelve-month"; and

(3) by inserting the following, before the period at the end of paragraphs (1), (2), and (3): ": *Provided*, That the average payment rate for supplements served to these institutions, commencing in the fiscal year ending on September 30, 1981, shall be 3 cents lower than the adjustment prescribed by the Secretary in accordance with the adjustment formula set forth in this sentence".

(b) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

(c) Section 17 of the National School Lunch Act is amended by redesignating subsection (r) as subsection (s) and inserting the following new subsection immediately following subsection (q):

"(r) The Secretary is authorized to require each State to establish a standard form of contract for use by institutions in purchasing meals. The Secretary may prescribe requirements governing bid and contract procedures for the purchase of meals including, but not limited to, procedures for review and approval of contracts by States, provisions to ensure maximum free and open competition, and safeguards to prevent collusion.".

SEC. 8. (a) The National School Lunch Act is amended by redesignating the second section 22 contained in such Act as section 23 and by adding at the end of such Act the following new section:

"CONGRESSIONAL REVIEW

"SEC. 24. (a) (1) Concurrently with the publication in the Federal Register of any final regulation of general applicability under this Act or under the Child Nutrition Act of 1966, such regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the regulation is inconsistent with the Act from which it derives its authority, and disapprove the regulation.

"(2) The failure of the Congress to adopt a concurrent resolution under paragraph (1) with respect to any final regulation under this Act or under the Child Nutrition Act of 1966 shall not represent, with respect to such regulation, an approval or finding of consistency with the Act from which the regulation derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(3) For purposes of this section, the term 'regulation' means any rule, regulation, guideline, interpretation, or requirement of general applicability.

"(b) The forty-five-day period specified in subsection (a) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days have elapsed unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate (or both) shall have directed its chairman, in accordance with the rules of the committee and the rules of the House, to transmit to the Secretary of Agriculture a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this section. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this section, for both Houses of the Congress.

"(c) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the Secretary of Agriculture may issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.".

(b) The amendment made by subsection (a) of this section shall be effective with respect to (1) any regulation (or amendment thereto) promulgated on or after the date of the enactment of this Act, and (2) any regulation relating to the Assessment, Improvement, and Monitoring System, for which system a proposed rule was published in the Federal Register on September 14, 1979.

SEC. 9. Section 3 of the Child Nutrition Act of 1966 is amended by inserting the following between the seventh and eighth sentences: "Notwithstanding the previous two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and this Act, shall be 5 cents.".

SEC. 10. Whenever a lunch eligible for Federal cash reimbursement pursuant to the National School Lunch Act is required by regulation to contain unflavored, fluid lowfat milk, skim milk, or buttermilk as a lunch beverage, whole milk shall also be offered.

SEC. 11. Section 4(b)(2)(9(ii) of the Child Nutrition Act of 1966 is amended—

(1) by striking out "on a semiannual basis each July 1 and January 1" and inserting in lieu thereof "on an annual basis each July 1"; and

(2) by striking out "six-month" and inserting in lieu thereof "twelve-month".

SEC. 12. (a) Secton 5(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"(a) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1980, not to exceed $20,000,000; for the fiscal year ending September 30, 1981, not to exceed $15,000,000; for the fiscal year ending September 30, 1982, not to exceed $30,000,000; and for the fiscal year ending September 30, 1983, not to exceed $35,000,000; to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with the equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs."

(b) Section 5(e) of the Child Nutrition Act of 1966 is amended by striking out "September 30, 1978, September 30, 1979, and September 30, 1980" and inserting in lieu thereof "September 30, 1981, September 30, 1982, and September 30, 1983".

SEC. 13. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended—

(1) by striking out the last sentence of paragraph (1);

(2) by striking out the period at the end of the second sentence of paragraph (1) and inserting in lieu thereof "to the agency or agencies responsible for the administration of the programs authorized under the National School Lunch Act and this Act, with the exception of the special supplemental food program under section 17 of this Act. If the State education agency does not administer all of such programs, any other State agency responsible for administration of any program shall receive an allocation of funds in accordance with the allocation formulas described in this section. Such funds, together with State funds specified in subsection (h) shall be used to assure the proper, effective, and efficient State administration of programs authorized under the National School Lunch Act and this Act, with the exception of the special supplemental food program under section 17 of this Act."; and

(3) by amending paragraph (5) thereof to read as follows:

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be available to the State for use as needed in meeting the costs of administration of programs authorized and this Act, except section 17 of this Act.".

(b) Section 7(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) The Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary deems appropriate.".

(c) Section 7(g) of the Child Nutrition Act of 1966 is amended to read as follows:

"(g) Each year by not later than a date specified by the Secretary, each State agency shall submit to the Secretary for approval an annual plan for the use of State administrative expense funds, including a staffing pattern for State personnel.".

(d) Section 7(i) of the Child Nutrition Act of 1966 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1983".

SEC. 14. Section 10 of the Child Nutrition Act is amended—

(1) by striking out "approved by the Secretary" in the second sentence thereof; and

(2) by inserting "The Secretary may make

recommendations to local school authorities relating to the sale of such competitive foods." between the second and third sentences thereof.

Sec. 15. Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting "except Job Corps Centers funded by the Department of Labor" after "retarded".

Sec. 16. Section 16 of the Child Nutrition Act of 1966, is amended by adding the following new sentence at the end thereof: "The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this Act, the National School Lunch Act, or the regulations issued pursuant to these Acts.".

Sec. 17. (a) Section 17(c) of the Child Nutrition Act is amended—

(1) by striking out "and September 30, 1982" in paragraph (2) thereof and inserting in lieu thereof "September 30, 1982, and September 30, 1983"; and

(2) by striking out the third sentence of paragraph (3) thereof and inserting in lieu thereof: "The program authorized under this section shall not operate in the same geographic area as the commodity supplemental food program authorized under section 1304 of the Food and Agriculture Act of 1977. The Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program authorized under this section, where both programs operate in the same geographic area.".

(b) The second sentence of section 17(d) (2) is amended by striking out beginning with "that satisfy the income standards" and all that follows down through the period and inserting in lieu thereof "that have an annual income of 50 percent (or less) above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary pursuant to section 9 of the National School Lunch Act. Persons participating in the program prior to the effective date of the School Lunch and Child Nutrition Amendments Act of 1980 shall remain eligible for the program until the date six months after the effective date of such Act.".

(c) The third sentence of section 17(f) (12) is amended by striking out beginning with "or are justified" and all that follows down through "prescribed by the Secretary".

(d) Section 17(g) of the Child Nutrition Act of 1966 is amended—

(1) by striking out "and" after "1981,"; and

(2) by inserting "and $1,025,000,000 for the fiscal year ending September 30, 1983," after "1982,".

Sec. 18. Section 19(j) of the Child Nutrition Act of 1966 is amended—

(1) by striking out "For the fiscal year beginning October 1, 1979" in paragraph (2) thereof and inserting in lieu thereof "For the fiscal years beginning October 1, 1980, October 1, 1981, and October 1, 1982"; and

(2) by inserting before the period at the end of the first sentence ": *Provided*, That there is hereby authorized to be appropriated, for the fiscal year beginning October 1, 1980, not in excess of $15,000,000"; and

(3) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Enrollment data used for purposes of this subsection shall be the latest available to the Secretary.".

TECHNICAL AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

Sec. 19. The National School Lunch Act is amended by—

(a) inserting in section 12(d)(1) "the Commonwealth of the Northern Mariana Islands," immediately after "American Samoa,";

(b) redesignating "Section 22 STUDY OF MENU CHOICE" as "Section 23";

(c) amending section 6(e) to read as follows:

"(e) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products). For the fiscal year ending June 30, 1975, and subsequent school years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch. That amount shall be adjusted on an annual basis through the school year ending June 30, 1979, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. For the school year ending June 30, 1980, and subsequent school years, the amount specified by the second sentence of this subsection, as adjusted for the school year ending June 30, 1979, in accordance with the third sentence of this subsection, shall be adjusted on annual basis to reflect changes in the Price Index for Food Used in Schools and Institutions, which shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 after the school year ending June 30, 1979, by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. The adjustments required by this subsection shall be computed to the nearest fourth cent. Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.";

(d) amending the second sentence of section 12(h) to read as follows:

"In no event, however, shall Federal reimbursement to school food authorities exceed the combined cost of operating both the lunch and breakfast programs."; and

(e) amending the fourth sentence of section 11(a) to read as follows:

"For the purposes of making special assistance payments in accordance with the preceding sentence, the numbers of lunches served by a school to children eligible for free lunches and reduced-price lunches, respectively, during each school year of the three-school-year period shall be deemed to be the numbers obtained by multiplying the number of lunches served during each such year by the percent of lunches served during the first school year of such period that were served to children eligible for free and reduced-price lunches, respectively, unless that school elects, for purposes of computing the amount of such payments, to determine on a more frequent basis the number of children eligible for free and reduced-price lunches who are served lunches during such period.".

TECHNICAL AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

Sec. 20. The Child Nutrition Act of 1966 is amended by—

(a) in the second sentence of section 3, inserting "the Commonwealth of the Northern Mariana Islands," after "American Samoa,"; and

(b) in section 15(a), inserting "the Commonwealth of the Northern Mariana Islands," after "American Samoa,".

Sec. 21. The provisions of this Act shall become effective October 1, 1980.

SUMMARY OF HELMS CHILD NUTRITION AMENDMENTS OF 1980

Preliminary savings estimates

Program changes:	*Millions*
Reduce income eligibility for free and reduced price lunches from 125 and 195 percent of poverty to 120 and 175 percent; raise price of reduced price lunches to 20 cents; eliminate hardship deductions	$160
Eliminate summer feeding program	149
Replace semi-annual inflation adjustment with annual one	75
Limit special milk reimbursement for paying children in schools with other meal programs to 5 cents	56
Reduce value of lunch commodities by 1 cent	43
Reduce child care snack reimbursement by 3 cents	6
Reduce equipment assistance from $20 million to $15 million	5
Reduce NET from $20 million to $15 million	5
Reduce child care equipment from $6 million to $4 million	2
Total	501

OTHER PROGRAM CHANGES

Lunch and/or breakfast changes

1. The Secretary is authorized to require social security numbers on applications for free and reduced price meals. In addition, income information printed on the applications may be verified. (The stipulation "for cause" would be removed.)

2. The sale of competitive foods may not be prohibited. Instead, the Secretary is authorized to make recommendations to local school authorities concerning the sale of such competitive foods.

3. Schools may refuse more than 20 percent of the commodities offered, and have them replaced by other commodities, to the maximum extent practicable.

4. If regulation should require that skim or lowfat milk be offered with school lunches, then whole milk must also be provided as an option.

WIC program changes

1. Income eligibility is restricted to 150 percent of poverty rather than the eligibility limit for reduced price school lunches.

2. The WIC cap is set at $1.025 billion for FY 1983.

Miscellaneous

1. Any regulation promulgated under either the National School Lunch Act or the Child Nutrition Act is subject to congressional review, and would not go into effect if both houses of Congress find it objectionable.

2. All non-permanent programs other than Summer Feeding are authorized through September 30, 1983. This includes WIC, State Administrative Expenses, Nutrition Education and Training, and Equipment Assistance Reserve.●

ADDITIONAL COSPONSORS

S. 1382

At the request of Mr. LONG, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1382, a bill to amend title IV of the Social Security Act to improve the operation of the AFDC program, to give the States a fiscal incentive to reduce error and waste in the AFDC program to defray the costs of other welfare programs, to provide fiscal relief to the States under the AFDC program, to make it clear that States may impose work requirements as a condition of eligibility for AFDC payments, and to establish a demonstration project to provide a pilot test of the States' ability to create their own welfare programs as an alternative to the AFDC program.

S. 1789

At the request of Mr. Culver, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of S. 1789, a bill to facilitate the ability of product sellers to establish product liability risk retention groups, to purchase product liability insurance on a group basis, and for other purposes.

S. 2623

At the request of Mr. Goldwater, the Senator from Ohio (Mr. Glenn), the Senator from West Virginia (Mr. Randolph), and the Senator from Kentucky (Mr. Huddleston) were added as cosponsors of S. 2623, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 2763

At the request of Mr. Chafee, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 2763, a bill to amend and clarify the Foreign Corrupt Practices Act of 1977.

S. 2773

At the request of Mr. Roth, the Senator from Montana (Mr. Baucus), and the Senator from Connecticut (Mr. Ribicoff) were added as cosponsors of S. 2773, a bill to establish a national export policy for the United States.

SENATE JOINT RESOLUTION 115

At the request of Mr. Riegle, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of Senate Joint Resolution 115, a joint resolution designating July 1980 as "National Porcelain Art Month."

SENATE RESOLUTION 454—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 454

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1972. Such waiver is necessary because due to the time constraints of Committee business meetings prior to May 15, 1980 and the large number of authorization bills included on the Committee agenda, the Committee on Energy and Natural Resources was unable to consider S. 1972 until June 4, the first general business meeting after May 15th. The amount authorized by S. 1972 is not significant enough to adversely affect the Congressional budget.

AMENDMENTS SUBMITTED FOR PRINTING

CRIMINAL CODE REFORM ACT OF 1979—S. 1722

AMENDMENT NO. 1803

(Ordered to be printed and to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to S. 1722, a bill to codify, revise, and reform title 18 of the United States Code, and for other purposes.

● Mr. BIDEN. Mr. President, I shall offer amendments to sections 3724 and 3725 of title 18 as contained in section 101 of S. 1722 and to rule 35 of the Federal Rules of Criminal Procedure, as contained in section 111 of S. 1722. The amendments eliminate the provisions for Government appeal of sentences.

S. 1722 now provides for filing of a motion with the sentencing court and subsequent Government appeal of any sentence (other than a sentence that is the subject of a plea bargain) that is below the minimum sentence established by application of sentencing guidelines. I oppose Government appeal first, because the workload of appellate courts would be increased without achievement of benefits that might be better achieved by other means. Second, the possibility of an appeal by the Government from a sentence may deter a convicted defendant from filing his own appeal on the merits and may induce more accused to plead guilty. Finally Government appeal of a sentence is inherently unconstitutional in that it places a convicted defendant in double jeopardy and denies him due process of law.

According to its proponents the primary benefit from Government appeal is uniformity or consistency in sentences. The present section 3725(b) of the bill provides generally for Government appeal of sentences that are below those established in the guidelines prepared by a sentencing commission. However, since section 2003(c) of the bill requires the sentencing court to state its reasons for imposition of all sentences and its reasons for sentencing outside the range of the guidelines, it is highly likely that the basis for any lenient sentences will be obvious on the record. The uniformity achieved as a result of government appeal will thus realistically result in the establishment of mandatory minimums by appellate courts or by sentencing courts who fear appellate reversal. If Congress desires to include uniform, mandatory minimums as a feature of sentencing, it would be far simpler and more economical to include it as part of the present legislative package rather than providing for its evolution via the route of the appellate process.

The bill in other sections appears to recognize the need for individualization of sentences in the criminal justice system. An example is section 3714, which allows for admission of "(a)ny relevant information concerning the history, characteristics, and conduct of a person found guilty of an offense * * * for the purpose of ascertaining an appropriate sentence to be imposed * * *."

The guidelines must give the sentencing court flexibility so that it can use the information available to it to sentence defendants fairly as individuals; the guidelines should be changed if this flexibility is lacking. Thus, a trend toward lenient sentencing far below the available guidelines should cause the sentencing commission to review its work. Government appeal is obviously either unnecessary or an inferior substitute for the responsibilities of the commission or the sentencing court. Like a jury that can nullify a criminal statute by an acquittal in the face of overwhelming evidence, a sentencing judge, who is appointed by the Government itself, must retain the ability to humanize the law in its application without fear of reversal.

In its February 15, 1980, response to the American Civil Liberties Union, the Judiciary staff observes that defendants convicted of white-collar crimes are not being sentenced to terms of imprisonment and that they benefit from the services of a well-connected, high-priced lawyer. Thus, Government appeal of lenient sentences is necessary to insure that different standards of justice are not applied to the affluent and the "powerful." Government appeal of sentences will not alleviate the problem of any disparity in sentencing of white-collar criminals.

Most white-collar criminals, like the vast majority of other defendants in the criminal justice system, will never be subjected to trial by jury. They will plead guilty to some offense pursuant to a plea bargain.

Section 3725 precludes the Government from appealing a sentence received pursuant to a plea bargain in which the defendant and the Government have agreed that a specific sentence is the appropriate disposition of the case. Such plea bargains are common practice in the criminal justice system. They are described in rules 11(e)(1)(B) and 11(e)(1)(C) of the Federal Rules of Criminal Procedure. Pursuant to a plea bargain, a prosecutor may agree that a very lenient sentence is appropriate. Thus, a defendant may very well decide to plead guilty in the hope of receiving a sentence substantially below the applicable guidelines, in light of the fact that the Government could not appeal such a sentence. On the other hand, if the case went to trial instead, and the same defendant were convicted by a jury and received the same low sentence by the same judge, the Government would have the right to appeal that sentence because there was no plea bargain.

Thus, according to the revised code, the Government will not be able to appeal from any lenient sentence they receive anyway. Judges must be selected for appointment who are not biased in favor of white-collar criminals and who are sensitive to the great harm such persons inflict on the society as a whole.

Similarly, justice demands that regardless of the lawyer retained, the guilty should be punished and the innocent should be set free. Judges must be selected for appointment who are ethical and unaffected by the wealth or connections that a lawyer of defendant may have. In other words, an ethical judiciary, merit selection of judges, and public pressure on judges to sentence defendants fairly will banish the specter of the leniently sentenced white-collar criminal. Government appeal of lenient sentences will not.

On the other hand, the possibility of Government appeal may deter an erroneously convicted defendant from appealing on the merits and may induce an innocent accused to plead guilty. A defendant may have been found guilty after a trial in which the Government's evidence against him was legally insufficient to support a verdict of guilty.

He is then sentenced to a term in prison that is substantially below the term established by application of relevant guidelines.

If he appeals the illegal conviction, the Government in turn can appeal his sentence. The defendant may lose his appeal, and the Government may win.

Rather than run the risk of losing his appeal on the merits and facing increased punishment if the Government prevails, a defendant may very well decide to serve the prison time, even though it means foregoing his statutory right to appeal the conviction. The bill contains no prescription against a Government appeal of the sentence when the defendant appeals on the merits.

Government appeal of a sentence is not constitutional. The fifth amendment provides that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." This provision prevents Government appeal of any case in which a defendant has been found not guilty on the merits, even when the acquittal is based on error. *Arizona* v. *Washington*, 434 U.S. 497 (1978) demonstrates this clearly. The defendant has a right to a fair trial, and society has an interest in not allowing a defect in legal proceedings to immunize a guilty person from punishment. However, the Government is prevented from appealing an acquittal because the anxiety, embarrassment, uncertainty, and possibility of being convicted though innocent are too great a price to pay to allow the Government a second "bite at the apple."

Exceptions to the policy of avoiding multiple trials have only rarely been allowed. A defendant can be tried again if the first trial was ended in a mistrial granted at his request or because of "manifest necessity," or when a conviction has been set aside on appeal at the defendant's request. *North Carolina* v. *Pearll*, 395 U.S. 711 (1969). Some courts apply the theory that the defendant actually waives his plea of former jeopardy by appealing his conviction.

An excellent analysis of the law of double jeopardy as it applies to the present provisions of the bill is contained in an article in the Maryland Law Review entitled "The Federal Criminal Code Reform Act of 1977 and Federal Prosecutorial Appeals of Sentences: Justice or Double Jeopardy"? volume 37, No. 5, 1978. The author concludes that the provisions of the present bill allowing Government appeal of sentences are unconstitutional. On page 775, he states:

> The Constitutional safeguard against multiple punishment is subject to the same double jeopardy principles that have traditionally protected defendants against multiple prosecutions. In several cases, the Supreme Court has regarded the avoidance of multiple punishments as the central purpose of the fifth amendment prescription. It is inconsistent with the history and purposes of the double jeopardy clause to accord a lesser degree of protection in a sentencing context, where the threat of punishment is most acute.

On page 776, the author concludes that although some cases "suggest that the Supreme Court may have different standards depending upon the nature of the case invoking the guarantee against double jeopardy, there is no persuasive evidence that the Court considers traditional double jeopardy principles inapplicable to the sentencing context."

Although the issue of appeal of a sentence by the Government has not been ruled on by the Supreme Court, it has been treated by a Federal appellate court in *United States* v. *DiFrancesco*, 604 F.2d 769 (2nd Cir. 1979). In that case, 18 U.S.C. section 3576 was challenged. That section (which is repealed by S. 1722) provides for Government appeal of a sentence pursuant to the characterization of a defendant as a "dangerous special offender." The court of appeals can review "whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused" and can affirm the sentence, impose a sentence the trial court could have imposed, or remand.

The court held that the statute violates the "double jeopardy" clause of the Constitution. Its decision was based on strong dicta in such cases as *United States* v. *Benz*, 282, U.S. 304 (1931) and *Reid* v. *Covert*, 354 U.S. 1 (1957). The second circuit, in DiFrancesco also relied upon decisions of other courts of appeal that have held that a sentence cannot be increased where punishment has already commenced. The DiFrancesco court interprets the possibility of imposition of greater sentences after retrial as growing out of the defendant's voluntary choice to appeal; the protection from Government oppression afforded by the double jeopardy clause is at the heart of its decision that an increased sentence as a result of Government appeal is unconstitutional. Thus the two results are not inconsistent. Petition for certiorari of DiFrancesco to the Supreme Court was filed by the Government on October 5, 1979 (U.S. Law Week, November 20, 1979).

In section 2007(b) of title 18 the bill makes a sentence "provisional, at the time of imposition, with respect to that portion or degree of the sentence that is subject to modification through such appellate review." Section 2007 was obviously designed to eliminate the objections raised by DiFrancesco by making the trial court's sentence "provisional" until the issue raised by the Government's appeal is resolved by the appellate court. This tactic would result in anxiety and in even greater uncertainty on the part of a defendant as to what his sentence actually is at the time of sentencing. It also ignores the basis for the DiFrancesco opinion. Whether the legislature labels a sentence as final or not cannot affect the fact that a sentenced defendant who may serve an increased sentence later (depending on the outcome of an appellate process) has been placed in double jeopardy at the hands of the Government. It is this "second bite at the apple" on the part of the Government that is at the heart of the constitutional infirmity inherent in Government appeal of a lenient sentence.

Increase in sentence pursuant to Government appeal may also violate the "due process" clause of the Constitution. The fifth amendment guarantees that none will "be deprived of life, liberty, or property without due process of law." The bill changes current law dramatically. Rule 25(b) of the Federal Rules of Criminal Procedure provides that a judge different from the one who presided at the trial can impose a sentence only if the trial judge is absent, dead, sick, or disabled. This rule recognizes the premise that live testimony rather than a cold written record is essential in a sentencing decision.

Obviously, the demeanor of the defendant at trial and at any sentencing hearing is crucial. If a more severe sentence were set by an appellate court after a successful Government appeal, that demeanor evidence would not have been available to the appellate court. Due process is applicable at sentencing. *Gardner* v. *Florida*, 430 U.S. 349, (1977). Although it has not specifically been addressed by the Supreme Court, sentencing a defendant by an appellate court on a cold record may result in a deprivation of due process.

The Business Roundtable, the Federal Public and Community Defenders, and the American Civil Liberties Union oppose Government appeal of sentences. The American Bar Association originally took a position in favor of Government appeal. However, at its February 1980 meeting the ABA reversed itself and now opposes it.

The ABA Standing Committee on Association Standards for Criminal Justice in its commentary on standard 18–6.4 recognizes that applying due process to sentencing involves a balancing of various interests:

> Outside the context of sentencing, the recent constitutional law of due process has emphasized four factors: (1) the nature of the individual's interest, (2) the risk of error inherent in the existing means of adjudication, (3) "the probable value, if any, of additional or substitute procedural protections," and (4) the government's interest, including both the administrative and the fiscal burden that the proposed additional protections would entail. Persuasive reasons are lacking why sentencing should stand apart from generalized developments in the law of due process.

Defendants have a primary interest in being sentenced as individuals. However, the risk of imposing an undeserved sentence on a defendant increases with the removal of the ultimate sentencing entity from the physical presence of the person who is being sentenced.

The value of substituting the judgment of an appellate court for that of the trial judge is nearly nonexistent, since uniformity in sentencings should not be achieved in this manner.

Finally, the Government's interest in curbing lenient judges and exercising the same power that a defendant can exercise in respect to appeal of an unsatisfactory sentence must be viewed in the context of the proper exercise of judicial discretion and the need to protect the individual from the power of Government, which is at the core of the Constitution.

I oppose appeal of a lenient sentence by the Government because it would increase the workload of appellate courts, it may deter a convicted defendant from filing an appeal that might be meritorious, and it may induce an innocent person who is accused of a criminal offense to plead guilty. Most importantly, the provision would place a convicted defendant in double jeopardy and deny him due process of law. Thus it is inherently unconstitutional. S. 1722 and rule 35 of the Federal Rules of Criminal Procedure should be amended to eliminate the ability it now gives the Government to subject a lenient sentence to appellate review.

Government appeal of sentences is also opposed by the Business Roundtable, the Federal Public and Community Defenders, the American Civil Liberties Union, and the American Bar Association. Therefore, an amendment to eliminate it from S. 1722 and rule 35 has very broad support.●

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM—HOUSE JOINT RESOLUTION 521

AMENDMENT NO. 1804

(Ordered to be printed and to lie on the table.)

Mrs. KASSEBAUM (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by them, jointly, to House Joint Resolution 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

AMENDMENT NO. 1805

(Ordered to be printed and to lie on the table.)

Mrs. KASSEBAUM submitted an amendment intended to be proposed by her to House Joint Resolution 521, supra.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources will hold a third hearing on S. 2665, the National Coal Production, Distribution, and Utilization Act of 1980.

The hearing will be held on Monday, June 16, 1980 at 10 a.m., in room 3110 of the Dirksen Senate Office Building.

Questions regarding this hearing should be directed to George Dowd of the committee staff at 224-2564.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Thursday, June 26, 1980, the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources will hold a second day of hearings on the Department of Energy's Building Energy Performance Standards (BEPS) program. This hearing will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Questions about this hearing should be directed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Wednesday, June 11, 1980 at 11 a.m. in room 4232 Dirksen Senate Office Building on the following nominations:

Richard Rios to be Director of the Community Services Administration.

Michael Blouin to be Assistant Director of the Community Services Administration.●

ADDITIONAL STATEMENTS

THE INFLUENCE OF THE U.S. CONSTITUTION ABROAD

● Mr. HUDDLESTON. Mr. President, as the Senate begins its work in the opening days of the decade of the 1980's, it is appropriate that we remind ourselves that we are about to celebrate the 200th anniversary of the document which makes all of our meetings and all of our Government possible—the Constitution of the United States of America. And in the celebration and commemoration of that 200th anniversary, I am pleased to call attention to the important scholarly work now being undertaken on the "Influence of the United States Constitution Abroad." For our Constitution is not only the first and longest-lived constitution but by far the most influential. And the story of that influence must be told.

Belgium is the first foreign nation to give its support to the project. The division of international cooperation of its Ministry of Education is establishing a 3-year grant for two outstanding Belgian legal scholars "to provide a thorough scientific contribution" on the influence of the U.S. Constitution on its own constitutional structure and history.

Heading the general study as authors and editors are Albert P. Blaustein, professor of law, and Jay A. Sigler, professor of political science, both at Rutgers—the State University of New Jersey. Both are well-qualified to undertake this vital task. Professor Blaustein is coeditor of the 15-volume work "Constitutions of the Countries of the World" and its companion six-volume work, "Constitutions of Dependencies and Special Sovereignties." Professor Sigler's works include "The Legal Sources of Public Policy, American Rights Policies," and "Contemporary American Government." Professors Blaustein and Sigler have worked together before, coediting the commemorative volume, "Independence Documents of the Nations of the World."

Professor Blaustein was a consultant in the preparation of the Bangladesh Constitution of 1972 and the Cambodian Draft Constitution of 1974. In 1979, he was special counsel to Prime Minister Bishop Abel T. Muzorewa on the preparation of the new Zimbabwe Constitution, and he has now been named adviser on the revision of the Constitution of Korea.

Other top editors include Lawrence W. Beer (Far East), Roger S. Clark (Oceania), John H. Crabb (Francophone Africa), Michael Curtis (Commonwealth), George Ginsburg (Eastern Europe), Richard Plender (Commonwealth) Britan Weinstein (Francophone Africa), and Charles Zorgbibe (Northern Africa). Roy M. Mersky will serve as bibliographer.

I now want to call to the attention of my colleagues in the Senate the details of this important project and ask that the prospectus outline which has been prepared be printed in the RECORD.

The prospectus follows:

THE INFLUENCE OF THE UNITED STATES CONSTITUTION ABROAD

THE PROLOGUE

The end of the 1980's will commemorate the 200th anniversary of the United States Constitution—drafted in 1787 and ratified in 1789. And scholarly studies, as well as public celebrations, must mark these events. For this has been the most successful constitution in the history of the world and it is incumbent upon the scholarly community to present explanations and ultimate progress reports.

Most of the projected studies—and properly so—will be directed toward the impact of the constitution upon the American people and the American way of life. These will be national studies. But there is an international role which likewise demands study and report: "The Influence of the United States Constitution Abroad."

The 200th anniversary of the United States Constitution is recognized as an event of world-wide significance. The formation of the United States Constitution was the most important landmark in the history of constitutions. This was the first single document constitution, and is by far the longest-lived. The whole world has looked to the United States experience as an imperative to consider in each country's own constitution-making. And nearly every nation has demanded an examination of the "Philadelphia formula" as a prelude to its own constitution drafting.

What must be examined (and what must be reported on) are the ways in which United States constitutional guidelines were accepted, adopted, adapted, avoided and abjured during the two centuries past.

What will result, however, will be more than a scholarly evaluation of the influence of the United States constitution abroad. For by studying and analyzing the United States paradigm in a multiplicity of foreign contexts we will inevitably gain greater insights into the meaning of our constitution and its continuing viability. And the explanation of how the United States Constitution influenced the other constitutions of the world should contribute to its continuing influence.

THE PLAN

End Product A: A one-volume (500–600 pages) trade book. This is to be a comprehensive study, tracing the history and evaluating the significance of the influence of the United States Constitution upon the constitutional system of the other nations of the world. Publication date: Fall, 1986.

End Product B: A two-volume (1500–2000 pages) library reference documentary, collecting the nation-by-nation analyses which will form the research background for the trade book. Publication date: Fall, 1987.

Telling the story of the influence of the United States Constitution is not only a task of years but a task which demands a team effort. "What Must Be Done at the outset is to assemble the team—a team of constitutionalists which includes American as well as foreign scholars and which is interdisciplinary in scope.

(The Korean study, for example, may be

co-authored by an American political science professor and a Korean law professor; the Czechoslovakian study by an American professor of politics and a Czech historian. And some of the major studies—such as those prepared for India and Germany—demand their own sub-teams.)

The country-by-country analyses will not await 1987 publication. They will be published seriatim as completed in scholarly reviews devoted to law, history and political science. And some of the analyses may be published as monographs. Each will be accompanied by an editor's note indicating that it is a study prepared for this project as a preliminary to the final comprehensive study.

Publication of studies as completed (in English and in foreign languages) will attract world-wide attention in the scholarly and book-buying communities. Such publication will also provide an early opportunity for critique and criticism, and will furnish guidelines for subsequent studies. Editing (and of course translating) will precede the eventual publication of the nation-by-nation collection.

The preliminary articles and monographs with their own citations to documentary authority will provide the scholarly underpinnings for the major one-volume comprehensive study.

THE PROJECT

Objective scholarship is the one indispensable guidepost for this project. The careful assessment of the reception of the United States Constitution by other nations must be free from bias, from chauvinism and from self-effacement. This will not be a public relations exercise in American aggrandizement. The whole story must be told, "warts and all."

The project must be interdisciplinary. For it requires the cross-fertilization of law, history and political science to provide the comprehensive background and the comprehensive analyses that scholarship demands.

Yet scholarship must never neglect the fact that the making of a constitution is one of the most critical events in nationhood. And the drama must not be lost in the footnoting.

Nor can the students of the influence of the United States Constitution limit their thinking to the spread of democratic ideals which had their first successful flowering in this country. The very concept of a single documentary constitution is peculiarly American. On the eve of the 200th anniversary of the United States Constitution only five of the world's 165 nations is without such a charter: the United Kingdom, Canada, New Zealand, Israel and Saudi Arabia. And the adoption of a Canadian Constitution is expected well before 1987.

Even in the totalitarian states—even in the nations which deny their citizenry a bill of rights—there is often a United States influence. This influence is manifested in institutional and structural contributions: the concept of federalism, a presidential system, an electoral college, or a separate national judiciary appointed by the president with the approval of a parliamentary upper chamber.

There will be no equality in the size and scope of these studies. "Great love letters are only written to great women." The chief draftsman of the new Zimbabwe Constitution never thought about the United States Constitution at all; the authors of the 1936 Soviet Constitution purposefully rejected the Philadelphia guidelines as the products of capitalism. These will be among the lesser reports.

The major studies—those which will be forthcoming about the national constitutions most influenced by the United States pattern—will be . . . by continent:

South America: Argentina, Brazil, Venezuela.

Europe: France, Germany.

Asia: India, Japan, the Philippines.

Africa: Liberia, Nigeria.

From their very beginnings all of the Latin American states borrowed heavily from the United States model and large sections of so many of their constitutions are nothing more than verbatim Spanish translation of the language adopted in Philadelphia. One story which must be told is how the United States concepts fared in translation. Another story is reflected sometimes in continuity and sometimes in change. (Ecuador has had sixteen constitutions since 1812 and all of them are essentially variations of what the United States had adopted. Peru's new 1979 Constitution reads like an amalgam of constitutional precepts from every place but North America.) The Argentina, Brazil and Venezuela studies are the most interesting, as they trace the viability of United States precepts during various historical periods under various types of governments.

While there is less word-for-word United States influence in the constitutions of France and West Germany than in the constitutions of Latin America, the actual influence may be far greater. Individual rights are secured in these European democracies to a far greater extent than in the so many nations in the Western Hemisphere.

Yet that is only a part of the story. The United States constitutional influence was of major significance in Baden, Bavaria and Wuerttemberg even before it played so significant a role in the drafting of the Weimar Constitution. And the United States Constitution—plus United States lawyers, historians and political scientists—provided the foundation for the present West German Constitution.

The French monograph (or monographs) will be particularly significant: (1) The Massachusetts and Virginia Constitutions, precursors of the United States Constitution, played an influential role in the French Revolution. (The U.S. Constitution was not ratified until 1789 and the final document was thus of lesser import.) (2) The entire history of French constitution-making has been influenced by United States constitutional philosophy even where the model has not been followed. And the model was followed in the drafting of the current Fifth Republic Constitution. (3) The very many Francophone nations which achieved independence since the end of World War II adopted constitutions heavily influenced by United States constitutional thinking, filtered through the French experience.

Africa will provide very different studies. From its very inception, Liberia adopted the United States model. Nigeria, on the other hand, was given the more or less standard Westminster model when it achieved independence and has now (after years of constitutional experimentation) settled upon a United States type constitution. One of the original states making up the Union of South Africa—the Orange Free State—had a United States style constitution, but the Republic finally opted for the Westminster pattern.

Japan's post World War II constitution is called the MacArthur Constitution—for obvious reasons. The Philippines Constitution is as much like the United States Constitution as one would expect of a former colony. The ways in which the Philippines Constitution—and its interpretation—differ is the more interesting story.

The role of United States constitutionalism in the Indian experience is particularly interesting and particularly complicated. Of course India looked to the United States Constitution for guidance in developing its own federal system; of course India looked to the United States Constitution for guidance in drafting its bill of rights, etc. But India also looked to the entire United States constitutional experience. Judicial review is an important part of constitutionalism in India and the Indian Supreme Court uses United States Supreme Court opinions as precedent.

These are only a few of the major countries whose constitutions have been so strongly influenced by the United States model. What is also significant is the fact that the influence has been continuous:—from France in 1789 to Kirabati in 1979. What was formerly the United Kingdom dependency of Gilbert Islands, Kirabati is one of the islands of the Pacific—and close enough to the United Staes Trust Territory of Micronesia to opt for a constitution that borrowed from United States ideas.

And these are many other examples which could be cited and will be documented as research continues.

For the historical approaches, original texts, memoirs, letters, individual interviews, oral history and other documentary sources will be employed. The studies will not be speculative, but rather grounded upon hard data. Since the past two decades have constituted an unparalleled era of constitution-making, many of the draftsmen are still alive, and their experiences should provide a priceless source of information in the preparation of the monographs.

The monographs must also include consideration of:

(A) misapplications and misunderstandings about the United States model;

(B) competition between the United States model and other models;

(C) successes and failures in the application of the United States model (some constitutions, like some wines, do not travel well); and

(D) application of the United States model in actual practice as well as theory.

Specifically, thought must be given to the following:

(1) the United States constitution as a symbol;

(2) the borrowed concept of "constitution-workshop";

(3) the idea of a single-document constitution;

(4) the separation of powers;
(5) checks and balances;
(6) American-style federalism;
(7) bicameralism;
(8) enumerated legislative powers;
(9) the electoral college;
(10) the presidential system;
(11) the amending process;
(12) judicial review;
(13) the idea of a bill of rights; and
(14) specific bill of rights safeguards and prohibitions.●

THE CRISIS IN THE HOUSING INDUSTRY

● Mr. GARN. Mr. President, many American families cherish the dream of owning their own home. Many other families cherish the dream of owning their own small business. Many of these families are seeing these dreams vanish under present economic conditions.

The crisis in the housing industry is felt first and felt hardest by the small homebuilder and the small businessmen who are his suppliers and subcontractors.

I have been receiving a large volume of mail from people who want to buy homes and from people who want to build homes without Government handouts. The following letter from the wife of a homebuilder in Spanish Fork, Utah, vividly expresses the frustration and fear of these people and I wish to share it with my Senate colleagues:

Senator Garn, the housing industry is in trouble. If it collapses, so do a lot of other businesses—appliances, floor coverings, all sorts of building materials, the plumbing materials and trade, electrical, heating, big equipment—back hoes, cats, etc., the list is endless. Could you petition the President and Congress to adopt an economic policy which would shift the responsibility of economic solutions to private enterprise? As it is, the government waits or causes an economic crisis and then tries to provide unworkable relief.

High interest rates curtail production and causes inflation. My husband builds homes on a very small scale. But did we ever get hit in the current home builder's crisis! We are holding eight unsold homes. We stand to lose everything (which isn't much), but includes our own home. My husband has built homes for 25 years—for the other guy. At last he wanted the satisfaction of being in the business for himself. He builds a quality home for a competitive price. But he got in just too late. He no more got a good start when the interest rates shot up (and are still going up). No loans are available and no one can qualify even when there is money. My husband is 62 years old and it seems to me that a raw deal was handed out not only to him, but to all younger Americans whose great ambition is to own their own home.

I don't approve of foreign aid. Those people hate us anyway, so keep our dollars home. Help our own people have a home and a job.

Reduce spending by plugging up the leaks like a homemaker has to do. Cut out unnecessary committees, cut out stupid "studies". Cut out revenue sharing. Nebo School district has demolished buildings that would have stood 500 years or more. Now they are having to build more schools. I think the schools spend money foolishly—at least here in our district. Apply revenue sharing money toward reducing the national debt, or reduce taxes and don't take that money at all.

We would like a positive economic policy. Let private enterprise function properly. Government can't solve all our problems. Let us think and act for ourselves. But at the same time, don't push the buttons that throws us into an economic crisis and then expect us to bail ourselves out.

We need the interest rates to go down. High interest is a rotten way to stem inflation—it just increases the cost of everything because the cost has to be unloaded on to the consumer. With all the "smart" there is supposed to be in Washington surely our government can come up with a workable solution.

Also scrap SALT. Everyone, but our elected officials knows we can't trust the Russians.

Arm the U.S. now—arm with the best we can muster. If it takes the MX lets have it, even if it has to be in Utah. Let's arm, and then let the Russians know we're as well off as they are.

In short: balance the budget by cutting out nonessentials.

Arm America and arm well.

Get the screws on money going for foreign aid.

Let Americans who want homes have the privilege of having one at a decent rate of interest.

Let the money now going for foreign aid be loaned to Americans to buy homes with. At least the government will get it back and then some. That's more than we can look forward to on our foreign aid policy.

Allegiance to America first!

Act now for America!

Control inflation through production in the private sector.●

FAIR LABOR STANDARDS ACT

● Mr. HART. Mr. President, on June 12, 1979, I introduced legislation to exempt full-time students serving as college resident assistants from the minimum wage provisions of the Fair Labor Standards Act of 1938.

The Department of Labor has determined that students serving as college dormitory counselors or resident advisers are "employees," to be paid in accordance with the minimum wage provisions set forth in the Federal Fair Labor Standards Act. My legislation simply provides that the term "employee" does not include full-time students serving as resident assistants in private colleges and universities.

Although some schools pay minimum wage, most award resident assistants with free room and board, academic credit, or a reduction in tuition. The position of many colleges is that resident assistants are primarily engaged in activities educational in nature and that the value received by these persons for their activities as resident assistants is more appropriately viewed through an analogy to athletic scholarships and grants-in-aid.

The Department of Labor, however, however, has taken legal action against schools not paying minimum wage to resident advisers in their dormitories. The colleges and universities involved in litigation with the Department of Labor have no desire to violate the Fair Labor Standards Act or any other law. They believe the relationship between the school and the resident assistant is not an employment relationship, but is rather a fellowship award.

This just and logical position was upheld earlier this week when the U.S. District Court for the District of Colorado held that the resident advisers at Regis College were not "employees" within the meaning of the Fair Labor Standards Act. The court's opinion will be of interest to institutions of higher education across the country. More than 40 colleges and universities in at least 20 States are on record in support of my bill to exclude resident advisers from the definition of "employee." The recent determination by a U.S. district court that, under appropriate circumstances, resident advisers are not "employees" with the meaning of the FLSA adds weight to the already strong arguments in support of this legislation.

I ask that the court's opinion be printed in the RECORD at this point.

The opinion follows:

[In the United States District Court for the District of Colorado, Civil Action No. 78–M–93]

RAY MARSHALL, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR, PLAINTIFF, VS. REGIS EDUCATIONAL CORPORATION, DEFENDANT

MEMORANDUM OPINION AND ORDER

MATSCH, Judge.

This is an action to enjoin alleged violations of Sections 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 215(a)(2) and (5), requiring the maintenance of records concerning wages of employees and payment to them of minimum wages. The plaintiff also seeks recovery of claimed underpayment to employees.

The defendant Regis Educational Corporation is a Colorado nonprofit corporation which operates Regis College as a private, liberal arts, coeducational, post-secondary educational institution in Denver, Colorado with an enrollment of approximately 1,000 students, the majority of whom live in residence halls on the campus. Jurisdiction and venue are admitted.

The critical decision in this dispute is whether those students who worked as Resident Assistants (RA's) in the college residence halls during the academic years 1976–77, 1977–78, and 1978–79 are employees within the meaning of the FLSA. There are three residence halls on the Regis College campus and all students who are not from the Denver area are required to live in them. The residence halls are within the administrative authority of the Director of Student Life and there is a Resident Director in charge of each hall. The RA's are to assist the Resident Director and one RA is assigned to each floor of the building.

During the three academic years here in question, approximately 47 students functioned as RA's in the Regis College residence halls. Appointments to the RA positions were made only from full-time students who submitted written applications for the position. All applicants were then interviewed by a panel composed of a Resident Director, two RA's and one or two other students. The applicants then participated in a two-day workshop in which they were required to use role playing to test their maturity and ability to solve problems. The selection process for each year was accomplished in the Spring semester.

All successful applicants who received appointments as RA's were required to be at the college the week before classes began for the purpose of training, orientation and organization for the school year. The training given during that week included instruction in the rules and regulations governing the residence halls; disciplinary procedures; fire, health and safety procedures; and learning to counsel students by identifying problems and making referrals to the available resource agencies.

The RA's were required to be in the residence halls for 17 weeks in the Fall semester and 16 weeks in the Spring semester. Each RA had single occupancy of a double room at the regular double room rate and each was provided with a free telephone. While they were not required to keep specific hours, each RA was required to be available to the occupants of his floor and to assist in maintaining security and discipline. Each of them was also required to work one weeknight and one day on weekends as the duty person for the entire residence hall, answering the telephone, receiving packages and mail, and performing such other duties as were assigned by the Resident Director. The RA's were also responsible for program development for their floors. That responsibility included encouraging students to become involved in residence hall and campus activities, planning and attending floor and hall parties and other functions, and serving as the communicator of the needs and interest of floor residents to the Resident Director.

For these services, each RA was given $1,000.00 credit toward tuition and fees, allocated in monthly installments. No records were maintained of the hours worked by the RA's and, while there were differences according to floor assignments and differing student needs, the plaintiff's estimate of about 20 hours of work per week is a reasonable one.

During the 1976–77 academic year, each RA had a written contract called an "employment agreement." In November, 1976, a Department of Labor, Wage and Hour Compliance Specialist began an audit at Regis for regular full-time employees and, during that audit, he raised the question of the status of the RA's. In his final report of July, 1977, the auditor concluded that the RA's were employees who had not been paid the statutory minimum wage.

The written agreement with the RA's was changed to a "grant-in-aid agreement" for the next two academic years in question. The new form of agreement avoided the words "employment" and "employee" and expressly included the single room benefit in the total per annum "grant" of $1,242.00. The perceptions of those trial witnesses who had been RA's during the subject years varied from those who thought of themselves as employees performing a job to those who considered their experience to be educational and developmental.

The FLSA definitions are circular and all inclusive. In 29 U.S.C. § 203 an "employee" is "any individual employed by an employer", and "employ" means to "suffer or permit to work." Only a few years after enactment of the statute, the United States Supreme Court recognized that, read literally, these definitions would be all encompassing, and then excluded trainees working for their own advantage in *Walling* v. *Portland Terminal* Co., 330 U.S. 148 (1947). Shortly thereafter, in *Rutherford Food Corp.* v. *McComb*, 331 U.S. 722 (1947) the Court found that its decision defining coverage of the employer-employee relationship under the National Labor Relations Act and the Social Security Act should be considered persuasive under the FLSA since all of the statutes were part of the same social legislation of the 1930's. Accordingly, an "economic reality test" was suggested to avoid making the determination depend on isolated factors rather than "the circumstances of the whole activity." *Id.* at 730.

The remedial purpose of the FLSA in seeking to eliminate substandard labor conditions without substantially curtailing employment of earning power was emphasized in *Powell* v. *U.S. Cartridge Co.*, 339 U.S. 497 (1950), in which the Court also cautioned:

> Our decisions have made one thing clear about the Fair Labor Standards Act: its applicability is not fixed by labels that parties may attach to their relationship nor by common law categories nor by classifications under other statutes. *Id.* at 528.

The plaintiff has urged that under the "immediate advantage" test of *Walling* v. *Portland Terminal Co., supra*, the RA's are employees because their work was to the immediate advantage and benefit of the defendant. Thus, it is argued that the defendant's business is to teach through its employees and the RA's facilitate that business by providing the security essential for learning. That is a very simplistic view which fails to consider the totality of the circumstances. A college is an academic community in which the administrators, faculty, and students share in the activities of learning, teaching, and scholarship. Accordingly, the "business" of the defendant is to provide an environment for the enrichment of the lives of those who are participants in the college program.

The RA's involved in this lawsuit did not come to Regis to take jobs. They enrolled as full-time students seeking growth and development from adolescents into mature human beings and desiring to earn the recognition of an academic degree. The opportunity to reduce the cost of their college education by being helpful to other students and to the administration in assisting the residence hall program is only one circumstance in the whole activity of the college program. It does not differ from credits granted to student athletes and leaders in student government. Under the economic reality test, and considering the totality of the circumstances, the RA's were not "employees" of the defendant within the meaning of the FLSA during the academic years in issue here.

It must be recognized that this view differs from that of Judge Pierce of the Southern District of New York in *Marshall* v. *Marist College*, 82 CCH Lab. Cas. ¶ 33,561 (S.D.N.Y. 1977, not officially reported) involving somewhat similar facts. If these cases are not distinguishable, I must respectfully disagree with the result reached in that decision.

Having arrived at the mixed finding of fact and conclusion of law that the FLSA has no application to the RA's at Regis College because they were not "employees" during the questioned years, it is not necessary to decide the defendant's contentions that enforcement of the statute's requirements would interfere with academic freedom in violation of the First Amendment to the United States Constitution and that the characterization of the RA's as "employees", while other student recipients of different forms of financial aid are excluded, would be a violation of the due process clause of the Fifth Amendment.

Accordingly, upon the foregoing, it is

Ordered that the plaintiff's complaint is dismissed and judgment shall enter for the defendant on its counterclaim for a declaratory judgment that the Fair Labor Standards Act is not applicable to Resident Assistants and that the defendant shall recover its costs herein.

By the Court:

Richard P. Matsch,
Judge, U.S. District Court.●

MAKE CONGRESS ACCOUNTABLE FOR INFLATION TAX INCREASES

● Mr. DOLE. Mr. President, this week the Congress has expressed its overwhelming opposition to the so-called oil import fee, which was really an attempt by the President to impose a 10-cent-per gallon gasoline tax. Congress rightly rejected this back-door effort to increase taxes. Levying taxes should be, and is under the Constitution, the prerogative of the Congress.

Having addressed itself to this issue, Congress should now proceed to end the hidden tax increase that is even more devastating than the import fee gasoline tax. I refer to the automatic tax increases—uncontrolled by Congress—that result from inflation. This year personal income taxes alone will increase by nearly $18 billion because of inflation, and this does not even take into account the effects of inflation in distorting corporate income and capital gains. While Congress is reasserting its authority to raise taxes, it ought to consider that it has ceded a significant amount of that authority by neglecting to adjust the tax code for inflation.

Mr. President, the growing awareness of this phenomenon—and of the resulting unfairness to taxpayers—means increasing support for indexing taxes for inflation. Recently the Federal Tax Division of the American Institute of Certified Public Accountants issued a statement of policy which supports indexing the Internal Revenue Code for inflation.

The AICPA statement is indeed significant. Its 150,000 members work closely with tax law, and many of them prepare tax returns and give advice on tax matters. They are professionals who know firsthand the uncertainty and inequity that results from the interaction of inflation and the progressive income tax.

I welcome the AICPA findings, because they support my oft-stated contention that tax indexing is the most meaningful tax reform that Congress could undertake. That is why I introduced the Tax Equalization Act, S. 12, at the very beginning of the 96th Congress. This legislation would adjust the personal income tax according to the inflation rate, thereby guaranteeing stability in tax rates.

Mr. President, tax equalization should be an urgent priority in Congress, and I am glad that the AICPA agrees. As the AICPA states:

> The provisions of the Internal Revenue Code were enacted with the expectation of little or no inflation; however, the consumer price index has increased over 25 percent in the past three years, and inflation is expected to continue at a relatively high rate in the foreseeable future. Because of bracket creep and the loss in value of fixed deductions and credits, individuals whose earnings merely kept pace with inflation have seen their purchasing power eroded by disproportionately high income taxes . . . Congress has reacted to the inequity and adverse economic impact by legislating periodic reductions in tax rates, modifications of tax brackets, increases in exemptions, and other changes. The results are a tax structure rife with inequities and disincentives to invest and uncertainty about future tax provisions, which itself discourages investment.

Mr. President, the AICPA goes on to conclude that "Economic considerations and the need for fairness in our tax laws mandate adoption of indexation at the earliest possible date." This Senator agrees. I hope that my colleagues are also prepared to follow this advice.●

BETTER CONTROL OF U.S. IMMIGRATION

● Mr. HUDDLESTON. Mr. President, responsible elected officials are continuing to speak out on the need to regain better control of U.S. immigration. It is clear to them that we cannot continue a policy which has allowed 100,000 Cuban citizens to enter this country with little initial effort made to control the influx.

My distinguished colleague from Alabama, Senator Heflin, has gained a reputation since arriving in the Senate of being a compassionate and fair man. His outstanding work as chief justice of the Alabama Supreme Court has given him excellent preparation for service on the Judiciary Committee, which has jurisdiction over immigration legislation. When a Senator such as Senator Heflin speaks out on an issue which the committee he serves on has responsibility for, his thoughts should be carefully considered.

Senator Heflin recently wrote an article entitled "U.S. Cannot Accept All the World's Refugees," which was published in many newspapers throughout the State of Alabama. The Senator's long training as a jurist is demonstrated in the way he sets forth the logical solutions to the problem. He states in the article that:

> I do realize that this nation was founded by refugees and that we were all immigrants

at one time, but today there must be a planned policy or orderly immigration with reasonable limits based upon economic and social realities.

I ask that this article be printed in the RECORD.

The article follows:

U.S. CANNOT ACCEPT ALL THE WORLD'S REFUGEES

The arrival of thousands of Cuban refugees in recent weeks is causing very serious immediate and long range problems and a storm of protest in Alabama and across the nation.

While I don't think anyone should be callous toward anyone who risks his life to escape the tyranny and political and economic oppression of a communist dictatorship, the United States simply cannot take all the refugees of the world.

I heard an estimate recently that there are at least 14 million refugees in the world today and with inflation raging 18 percent or more and unemployment going up every day, this country simply cannot afford the severe economic strains that would accompany the arrival of many more refugees—from Cuba or elsewhere.

I do realize that this nation was founded by refugees and that we were all immigrants at one time, but today there must be a planned policy or orderly immigration with reasonable limits based upon economic and social realities.

However, I do see a possible solution to the Cuban refugee problem. I believe we should turn the tables on Castro.

It is obvious that Castro wants all his dissident citizens to come to the United States and not to the other countries of South and Central America. Castro is afraid that these people who lived under his communist oppression will severely damage his reputation among his Latin American neighbors he so desperately tries to manipulate.

If the truth about the miserable economic conditions and political oppression of Castro's communist dictatorship were known throughout the Western Hemisphere, Castro and his communist government would be thoroughly rebuked.

I believe the United States should work with a hemispheric organization, like the Organization of American States (OAS), to solve the problem.

It must be made clear that the Cuban refugee problem is not simply a problem for the United States, but a problem to be shared equally by all the nations of North and South America.

All of the nations in the Western Hemisphere including the United States, must accept their fair and proportionate share of responsibility. I might add that this country has already accepted more than 500,000 Cuban refugees since Castro came to power.

The OAS should establish a system of quotas to decide how many refugees each nation should accept. This serious problem will not go away by our simply complaining about the refugees—action must be taken.

I see a hemispheric effort as the only way to formulate and implement a long range solution to this problem as well as the only way to provide the emergency short term food and health care needs of the refugees.●

AIRLINE PILOTS' SAFETY PLATFORM

● **Mr. MATHIAS.** Mr. President, airline safety is of growing concern as the now deregulated industry tightens its belt to survive the recession. Last year, for the first time in several years, the airline accident rate went up instead of going down.

In his recent testimony to the National Republican Platform Committee, Capt. Thomas M. Ashwood, secretary of the Air Line Pilots Association, addressed safety issues and other major problems such as fuel and availability of capital facing our airlines today.

I was particularly struck by his statement that some aircraft manufacturers are, in ALPA's view, compromising safety by marketing new transports with only two crew members in the cockpit. Captain Ashwood strongly argues that safety in the future will require three crew members in the airline cockpit. He also makes a number of other proposals for improving aviation safety and the financial condition of the airline industry.

Because his remarks are timely and provide useful insights into the current condition of airline safety, I ask that Captain Ashwood's entire statement be included in the RECORD.

The statement follows:

STATEMENT OF CAPT. THOMAS M. ASHWOOD

Good afternoon, Mr. Chairman and members of the Committee. I am Captain Tom Ashwood, Secretary of the Air Line Pilots Association. On behalf of the 33,000 members of ALPA who fly for 31 airlines, I appreciate the opportunity to appear before you today.

My purpose in being here is to urge that you include provisions in the platform of the Republican Party to increase the health and safety of the airline industry. The policies and performance of the federal government affect in countless ways our industry and the millions of passengers who rely on us for safe, efficient and reliable transportation. We look to you as the drafters of the Republican Party platform to provide a vision of what our Nation and our industry should be. We hope your platform will provide the direction to enable our industry to grow in safety and prosperity.

STATE OF THE INDUSTRY

Today, the airline industry is encountering strong economic turbulence. All signs indicate we are now in a recession, which means the airline industry can expect declining profits and little or no growth in traffic.

Most of our larger airlines lost money in the first quarter, and some carriers have already experienced the declines in passenger traffic that characterize a recession. At the same time, inflation continues unabated, sparked by the soaring increases in the price of jet fuel. A gallon of fuel now costs almost one dollar, more than double the price of just a year ago.

In addition to enduring a recession and sharply rising fuel prices the airline industry has had to grapple with economic deregulation. Over the past two years, deregulation has created as many problems as opportunities for the domestic airline industry. It is not yet clear whether deregulation will be of net benefit to the airlines. We may never know because other factors such as the current recession and fuel price increases make it difficult to determine the impact of deregulation itself.

A similar situation exists in the international aviation arena. For the past three years, the United States government has pursued, where possible, a policy of encouraging competition with foreign governments and airlines. In some instances, this policy has created new opportunities for our airlines and offered them greater flexibility. In many cases, however, it has hurt our carriers because our government has given foreign airlines greater access to U.S. markets without obtaining commensurate benefits in return. As with domestic deregulation, the net benefit of our international aviation policy is still unclear.

While the future of the airline industry in the next two years is shrouded in uncertainty and economic apprehension, it is somewhat reassuring to report that most forecasts expect the airline industry and American aviation to grow substantially in the next decade.

The question then becomes how we will pay for all the equipment needed to support and sustain this growth. Our equipment needs include not only billions of dollars for new aircraft that are more fuel-efficient and quiet. They also include substantial expenditures needed to improve our air traffic control system so it will be able to handle more aircraft with a higher level of safety than in recent years.

The source of most of this vast amount of money will be airline profits. Unfortunately, the record of the airline industry offers little encouragement that the profits in the next decade will be enough to meet our equipment needs. Therefore, we need provisions in the Republican platform that will serve to improve the financial health of the airlines. These measures will do more than benefit airline investors; they will also help preserve the jobs of hundreds of thousands of airline employees, and they can enhance safety by encouraging investment in new equipment and trained personnel. Just as important is the necessity to maintain a healthy commercial aviation system, which is essential for this nation's economic welfare and security.

SAFETY

It is clear to everyone that safety must remain the cornerstone of aviation. However, we must do much more than pay lip service to it.

The recent record clearly tells us we can not afford to be complacent about safety. For the first time in several years, the airline accident rate in 1979 reversed itself and actually went up instead of continuing to go down. Other indicators are equally ominous. For example, the number of near mid-air collisions has been steadily increasing in recent years and is now about 100 per month. It becomes especially worrisome when we combine that trend with the forecast growth in the numbers of aircraft and passengers.

We pilots are especially concerned that some manufacturers are selling new aircraft with only two crew members in the cockpit instead of three. For more than a decade, the standard in the industry has been a crew of three. The third crew member provides the extra margin of safety that enables airliners to fly through increasingly crowded skies with the highest level of safety.

Today, some manufacturers are deviating from the industry standard. Seeking to gain an advantage in the intense battle to sell aircraft, they are offering the dubious prospect of slightly lower operating costs by having only two crew members in the cockpit. We see this move as a step backward taken solely for economic reasons. Full consideration for the highest level of safety requires three crew members in the future airline cockpit.

A fact of life in aviation today is that the death toll in individual accidents is rising. That reflects both the growing use of larger aircraft and the growth in airline traffic, which often means there are more passengers on the aircraft when the accident occurs.

Therefore, we will need to fight any tendency toward complacency regarding aviation safety. We in the airline industry are justifiably quite proud of the safety record we have established over the years. Our record has improved markedly, but it is still not as good as it could and should be. Safety is like liberty in that its price is eternal vigilance. We must continue to be willing to pay that price.

It is with regret and concern that I tell the Committee the airline pilots of the Nation are troubled about the future of aviation safety. Part of our concern is some doubt about the ability of the Federal Aviation Administration to carry out its Congressional mandate of ensuring the highest degree of safety.

Our doubt stems from the agency's performance in the past. Let me cite some examples of specific problem areas at the FAA.

1. Basic Conflict. The Federal Aviation Act of 1958, the basic law of United States aviation, directs the FAA to promote the highest level of safety and also to foster the growth of commercial aviation. These dual directives to the FAA have led to instances where the agency has compromised safety to aid an aircraft manufacturer or airline. Several congressional committees have pointed out that an attempt to balance dollars against lives benefits no one.

2. Inadequate Supervision. The National Transportation Safety Board's investigations of the DC–10 disaster at Chicago last year and other recent accidents shows that the FAA often provides little oversight and supervision over those it is charged with regulating. Too often, it has not done its job.

3. Research and Development. The FAA is too often slow in developing equipment needed to enhance aviation safety. It is clear that a system to prevent mid-air collisions has been needed for years. The FAA now says it will begin to implement such a system in about ten years as part of an elaborate and expensive ground-based air traffic control system. It took a congressional directive to make the agency test an alternative airborne system that could be ready sooner and would be less costly if testing confirms its promised performance.

Another device known as a Microwave Landing System, or MLS, has been invented to offer better guidance to aircraft landing in bad weather. MLS would also increase the available capacity of our air traffic control system by permitting more aircraft to be handled in the same period of time. One can only wonder and question why the FAA is moving so slowly to complete development and begin installing MLS.

4. Airport and Airway Development. We and most others in the aviation industry become incensed when we look at what the FAA has done—or not done, to be more precise—in this regard over the past ten years. The aviation trust fund now has an uncommitted balance of more than $3 billion while hundreds of airports throughout the Nation lack needed safety facilities and equipment. I think the Committee will be shocked to know that more than 250 airports with scheduled passenger service lack control towers and almost 200 lack even a single instrument landing system to provide precision guidance to aircraft in bad weather.

These examples of what the FAA has done and is planning to do fully justify the Republican Party platform calling for a complete and independent evaluation of the FAA's role in safety.

In a report earlier this year, the General Accounting Office found the FAA has not been effective or timely in identifying safety hazards. GAO made specific recommendations for improvements. Right now, a special panel of the National Academy of Sciences is examining the FAA's airworthiness procedures. The Secretary of Transportation asked the Academy to appoint such a panel because of the many questions raised about the FAA's performance following the DC–10 accident at Chicago. We believe that accident and earlier ones justify opening the aircraft certification process so that all qualified persons can contribute their expertise.

Both the GAO and the National Academy of Sciences are performing critically needed oversight of the FAA. But a full examination of the agency's functioning in all areas of aviation safety is still needed.

FUEL

All of us in the airline industry are fully aware of the need to conserve fuel. Airlines and pilots have already taken a variety of steps on the ground and in the air toward that end.

The only thing we ask is that the government not discriminate against us by giving priorities for fuel to other modes of transportation. It is often overlooked that the airlines carry far more intercity passengers than any other mode of public transportation. Therefore, it is short-sighted and unfair to give a priority for fuel to a competing mode of transportation. We are not asking for special consideration, only fair treatment.

CAPITAL NEEDS

As I mentioned earlier, the airlines will have tremendous requirements for capital in the coming decade to finance new equipment. The carriers themselves estimate they will need no less than $90 billion.

As they struggle to raise this awesome amount of capital, our airlines—and particularly the international ones—look with envy at their foreign competitors. The reason for their envy is that our government gives low-cost loans to make it easier for foreign airlines to buy U.S. aircraft. Then those foreign carriers use their new aircraft to compete directly against U.S. airlines, which do not receive similar financial assistance.

We recognize the need for government assistance in financing aircraft exports to maintain the health of our aerospace industry. But it is often overlooked that there are only three long-range airline transports made today. These are the Boeing 747, the Lockheed L–1011 and the McDonnell Douglas DC–10. And they are all made in the U.S. Thus, an unintended result of our export financing is that foreign carriers get the benefits of the latest technology and the highest fuel efficiency to use in their competitive battles with our airlines. U.S. carriers are frequently stuck with older, less-fuel-efficient aircraft, and are finding it difficult to raise the capital needed to buy new aircraft. Unlike our airlines most foreign carriers are government owned and enjoy ready access to public funds.

We believe it is only fair for the U. S. government to provide the same financing assistance to U.S. international airlines as it already does to their foreign competitors. Low-cost loans to cover part of the cost of new aircraft are one method of providing such assistance, and loan guarantees would be another.

There are also other fiscal policies the federal government should adopt to assist all U.S. airlines in raising the vast amounts of capital that will be needed. Examples include faster depreciation of aircraft and making tax credits refundable. In view of the airlines' capital needs, we urge the Committee to include in the platform provisions that will enable our carriers to meet these needs.

In summary, Mr. Chairman and members of the Committee, ALPA recommends the following specific proposals for inclusion in the 1980 Republican Party platform:

1. End the FAA's mandate to promote commercial aviation.

2. Improve the quality of the FAA's supervision of the airline industry so that fair, enlightened and effective regulation leads to greater safety.

3. Open the aircraft certification process to make full use of the expertise of all qualified persons before an airline transport enters passenger service.

4. Recognize the need for three crew members in the cockpits of all future airline transports to ensure the highest level of safety.

5. Increase our efforts in aviation research and development.

6. Develop an effective collision avoidance system as soon as possible.

7. Stop the current practice of limiting spending from the aviation trust fund.

8. Increase spending from the trust fund so that long-overdue facilities and equipment to enhance safety are installed.

9. Ensure that the airline industry is treated fairly with other modes of transportation if it is ever necessary to allocate fuel.

10. Assist the airlines in every way possible to raise the capital they will need in the coming decade.

On behalf of the 33,000 members of ALPA, I thank you for hearing us. By acting on the recommendations I have offered today, you will be making a valuable contribution to the safety and health of our vital airline industry.●

INDEXATION OF THE TAX LAWS FOR INFLATION

● Mr. HART. Mr. President, the Federal Tax Division of the American Institute of Certified Public Accountants has just issued a statement of tax policy entitled, "Indexation of the Tax Laws for Inflation." Their statement announces their support for the concept of indexing the Internal Revenue Code to minimize the consequences of inflation. The institute has established a task force to study the considerations involved in determining the manner and extent of implementing indexation, and expects to publish its report in the near future.

The American Institute of Certified Public Accountants joins a large and growing consensus in favor of tax indexing at the Federal level. One of the cruelest side effects of current rates of inflation is the hidden tax imposed by cost-of-living increases which push wage earners into higher tax brackets although they have received no real increase in income. Indexing automatically corrects this situation.

Mr. President, I have long supported indexing and have introduced proposals to index the personal income tax brackets in the last two Congresses. In 1978, then Senator Griffin and I built a strong bipartisan coalition that came extremely close to getting indexing passed. At the end of last year, I joined with Senator ARMSTRONG in offering an indexing amendment which also came very close to being approved by the Senate.

Because the need for indexing is greater now than ever before, I intend to reoffer an amendment to index the income tax brackets at the earliest opportunity this year. Indexing is an idea whose time has come, and I think the Senate will confirm this when it acts on my amendment.

Mr. President, I submit for the RECORD the recent recommendation of the American Institute of Certified Public Accountants.

The recommendations follow:

RECOMMENDATIONS

The AICPA supports the concept of indexing the Internal Revenue Code to minimize the consequences of inflation. Considering the economic, political, and technical complexities associated with implementing full or partial tax indexation, we are not now making specific legislative proposals. We shall establish one or more task forces to study the issues and participate in their discussion. The studies will encompass such aspects as the following:

1. Indexation of depreciation and the basis of income-producing assets.

2. Indexation of individual tax rates and fixed-dollar allowances, such as deductions, credits, and exemptions.

3. Indexation of fixed-dollar debt, savings accounts, etc.

4. A capital maintenance deduction for business enterprises.

5. Adjustment of tax reporting and financial statement reporting to reflect the impact of changing prices and inflation.

6. Indexation of the estate and gift tax provisions of the Internal Revenue Code.

7. The question of whether indexation should be total or partial, immediate or gradual.

8. The question of whether the consumer price index (because of its broad coverage and because it is generally understood by large segments of society) or some other economic index should be used as the appropriate measurement for tax indexation.●

CYRUS VANCE ON FOREIGN POLICY

● Mr. **KENNEDY**. Mr. President, I wish to draw to the attention of all my colleagues the eloquent and powerful speech delivered yesterday by former Secretary of State Cyrus R. Vance, at the commencement exercise of Harvard University, which I also attended with members of my family.

Cyrus Vance said what needed to be said about our future foreign policy:

That "neither we nor the world can afford an American foreign policy which is hostage to the emotions of the moment."

That we should not fear the process of negotiation and diplomacy, and we should resist the "dangerous fallacy of the military solution to nonmilitary problems."

That the pursuit of our values, such as human rights, can and should be compatible with our interests: "We have a stake in the stability that comes when people can express their hopes and build their futures freely."

That we must not accept the "pervasive fallacy that America could order the world just the way we want it to be." We must avoid the "new nostalgia" leading to "simplistic solutions and go-it-alone illusions, diverting our efforts from the struggle to shape change in constructive directions."

I agree with Mr. Vance that "we must preserve the global military balance and achieve, as well, balance in our political relations with the Soviet Union." In particular, we must put renewed emphasis behind strategic arms control, beginning with SALT II which "stands at the very heart of a sensible and far-seeing American foreign policy."

Second, Mr. Vance is right to point out that we must be prepared to "consult and adjust for the sake of allied agreement"—so that we can "nurture strong alliances among free nations."

Third, Mr. Vance describes the critical challenges facing America in the Third World, and rightly emphasizes that we must "put our resources behind our policies."

Fourth, Mr. Vance stresses the need for a "strong American economy in a strong international economy," a theme which has been central in my own campaign over the past 7 months.

Above all, Mr. Vance speaks for the forces of confidence in our ability to work with our friends and allies in shaping change in the world—rather than merely reacting to it. The speech he delivered yesterday at Harvard confirms the view that I and many others have always had: That Cyrus Vance was the most impressive of the foreign policy advisers to the President, and that his resignation was a loss to the Nation.

The text of the speech follows:

TEXT OF VANCE SPEECH AT HARVARD ON FOREIGN POLICY

Yours is the first Harvard class to graduate in the decade of the 1980's. The decisions our nation makes now will shape the future of that decade.

We can either work to shape, in wise and effective manner, the changes that now engulf our world or, by acting unwisely, become shackled by them.

It is a time to set and stick to basic goals. Neither we nor the world can afford an American foreign policy which is hostage to the emotions of the moment.

We must have in our minds a conception of the world we want a decade hence. The 1990 we seek must shape our actions in 1980, or the decisions of 1980 could give us a 1990 we will regret.

BASIC GOALS ARE DEFINED

Supporting the efforts of third world nations to preserve their independence and to improve the quality of life for their people, particularly those hovering at the edge of survival; strengthening the health and well-being of our economic system within a strong international economy.

These are the decisions, along with preserving the military balance while effectively managing our competition with the Soviet Union and fostering strong alliances of free nations—these are the decisions we should make now.

These goals are ambitious. It would be naive to think otherwise. But unless our reach is bold, our grasp will fall far short.

Let us keep in mind the world from which we start: a world undergoing rapid change, with growing expectations, better education, quickened communications; a world in which neither the United States nor any other country commands a preponderance of power or a monopoly of wisdom. It is a world of conflicts, among nations and values, among social systems and emerging new interests. It is a world in which competitive superpowers hold in their hands our common survival, yet paradoxically find it beyond their power to order events.

REJECTING THE GLOOMY OUTLOOK

There is a disturbing fear in the land that we are no longer capable of shaping our future. Some believe that we have lost our military muscle; others worry that our political will has been sapped.

I do not accept this gloom. It discards the abiding pragmatic philosophy that has characterized America ever since its founding.

I consider mistaken the view that we and we alone are responsible for all the confusing changes that we see around us. This is a serious misreading of our condition, a perverted hubris that overestimates our power and our responsibility for ill and underestimates our capacity for good.

The international diffusion of power and intellect is a fact. It will not change. It requires fresh and vital forms of action, not regret and pining for supposed "good old days."

What is to be regretted is a reluctance to relate our basic purposes to these new conditions. Yesterday's answers will not provide tomorrow's solutions.

It seems to me that much of the current dissatisfaction with the world and our role in it rests on certain fallacies. These illusions must be exploded before our nation can chart a coherent and determined course in foreign policy.

The first fallacy is that a single strategy—a master plan—will yield the answers to each and every foreign-policy decision we face. Whatever value that approach may have had in a bipolar world, it now serves us badly. The world has become pluralistic, exposing the inadequacy of the single strategy, the grand design, where facts are forced to fit theory. Given the complexity of the world to which we have fallen heir, the effect of a single strategy is to blur this complexity and to divide nations everywhere into friends and enemies.

FEAR OF GETTING SECOND BEST

A second widely accepted fallacy is the fear of negotiation, the worry that somehow we will always come out second best in any bargain. This fallacy assumes we have a realistic alternative of going it alone, of not bothering to recognize the legitimate interests and desires of other peoples. Without the fair bargain, achieved through negotiation and diplomacy, there is only a misguided, failed effort to impose one will upon another.

Denying others a fair bargain and its benefits will not alter their behavior or reduce their power; it will simply have the effect of denying ourselves the same advantages. If America fears to negotiate with our adversaries, or to bargain fairly with third world nations, we will not have a diplomacy. And we, no less than others, will be the loser.

A third myth that needs to be exploded is that there is an incompatibility between the pursuit of America's values in our foreign policy, such as human rights, and the pursuit of our interests.

Certainly the pursuit of human rights must be managed in a practical way. We must constantly weigh how best to encourage progress while maintaining an ability to conduct business with governments—even unpopular ones—in countries where we have important security interests.

CHOICES FREEDOM OR CONVULSION

But we must ultimately recognize that the demand for individual freedom and economic progress cannot be long repressed without sowing the seeds of violent convulsion. Thus it is in our interest to support constructive change, as we did, for example, in the Dominican Republic, and are seeking to do in Central America, before the alternatives of radicalism or repression force out moderate solutions.

We know from our own national experience that the drive for human freedom has tremendous force and vitality. It is universal. It is resilient. And, ultimately, it is irrepressible.

In a profound sense, then, our ideals and our interests coincide. For we have a stake in the stability that comes when people can express their hopes and build their futures freely.

Further is the dangerous fallacy of the military solution to nonmilitary problems. It arises in particularly acute form at times of frustration, when the processes of negotiation are seen as slow-moving and tedious.

American military power is essential to maintaining the global military balance. Our defense forces must be modernized—and they will be. But increased military power is a basis, not a substitute, for diplomacy.

I have heard it argued that our response to a changing world must be a new emphasis on American military power and the will to use it. This is reflected in proposed new budget priorities in the Congress, in which unnecessary defense spending squeezes out domestic programs and foreign assistance. There is near-consensus on the need for defense increases. But it is illusion to believe that they are a substitute for the diplomacy and resources needed to address such problems as internal change and basic need in other nations or a battered international economy.

THE RIGHT TO SHAPE THE FUTURE

The use of military force is not, and should not be, a desirable American policy response to the internal politics of other nations. We believe we have the right to shape our future; we must respect that right in others. We must clearly understand the distinction between our readiness to act forcefully when the vital interests of our nation, our allies and our friends are threatened, and our recognition that our military force cannot provide a satisfactory answer to the purely internal problems of other nations.

Finally there is a pervasive fallacy that America could have the power to order the world just the way we want it to be. It assumes, for example, that we could dominate the Soviet Union—that we could prevent it from being a superpower—if we chose to do so. This obsolete idea has more to do with nostalgia than with present-day reality.

Spread over the widest territory of any nation on earth, the Soviet Union has its own strategic interests and goals. From a state of underdevelopment and the ravages of war, it has built formidable military and industrial resources. We should not underestimate these resources any more than we should exaggerate them. We must preserve and manage a position of essential equivalence with the Soviet Union. It is naïve to believe that the Russians will play by our rules any more than we will accept theirs. It is naïve to believe that they—any more than we—would willingly accept a position of second best in military strength.

A dangerous new nostalgia underlies all these fallacies—a longing for earlier days when the world seemed, at least in retrospect, to have been a more orderly place in which American power could, alone, preserve that order. That nostalgia continually erodes confidence in our national leadership for it encourages expectations that bear no relationship to reality. And it makes change in the world's condition seem all threat and no opportunity. It makes an unruly world seem more hostile than it is. The fact is that we are a people who not only have adapted well to change but have thrived on it.

SELF-INDULGENT NONSENSE

The new nostalgia leads us to simplistic solutions and go-it-alone illusions, diverting our energies from the struggle to shape change in constructive directions. It is self-indulgent nonsense, bound to lead us into error, if not disaster.

What course is open to us now?

Our real problems are long term in nature. It will not do to reach for the dramatic act, to seek to cut through stubborn dilemmas with a single stroke. Against the real problems now facing us this approach will not only fall far short but also create new problems.

Obviously, immediate crises have to be dealt with as they occur. And we should learn from these events. But they should never be allowed to distort our foreign-policy goals.

As a global power the United States has an extraordinary range of interests. That is why we must make sure that our pursuit of the desirable does not interfere with our achievement of the essential.

If, by 1990, we have not made progress in the four basic areas I listed earlier, the world will indeed be the inhospitable place many now fear it is. In each area we can make progress—if we listen to our hopes no less than our fears. If we are prepared to sacrifice now for our future good. And, most important, if we work with other nations to resolve problems none can solve alone.

First, we must preserve the global military balance and achieve, as well, balance in our political relations with the Soviet Union.

Our military strength is important to our own safety, to a strong foreign policy free from coercion, to the confidence of allies and friends, and to the future of the reciprocal arms control and other negotiations. Our strength also buttresses regional balances that could be upset by the direct or indirect use of Soviet power.

ARMS CONTROL TERMED VITAL

Maintaining the military balance will be expensive. To limit the costs, and to increase our safety, we must have an effective arms-control policy as an integral part of our security policy.

Yet when the historian of 1990 looks back upon the year 1980, I believe a profound mistake may well be identified: a failure to ratify the SALT II treaty. As a symbol of our hopes for a more peaceful world, as a commitment to work toward better security through arms control and as a process of trying to work out differences with an adversary, this treaty stands at the very heart of a sensible and far-seeing American foreign policy.

Without this treaty our efforts to prevent the spread of nuclear weapons will be in jeopardy. If the United States and the Soviet Union fail to make real headway toward controlling nuclear weapons and eliminating nuclear testing, nonnuclear nations will have less reason for their own restraint.

Without this treaty both sides will have more nuclear weapons than with it. In particular, the Soviet Union will have thousands of additional nuclear warheads.

Without this treaty it will be much more difficult for us to undertake reliable planning for our military forces since we will not be in as good a position to know what is going on within the Soviet Union. The treaty bans practices that would prevent each side from being able to verify compliance with its terms.

CONFLICT OR COOPERATION

Without this treaty there is bound to be less emphasis placed in both of our societies on conciliation of differences without conflict. Political elements who wish to emphasize conflict over cooperation will be strengthened.

Without this treaty the process of arms control might be dealt a blow from which it could not recover. Can anyone doubt that this will make the coming decade more dangerous?

It is not too late, but it may soon be. I believe that the Senate must ratify the SALT II treaty before the end of this year. Certainly we must continue our firm and sustained response to Soviet aggression against Afghanistan. But neither that aggression nor the fact that this is a political year are sufficient grounds for a failure to act in our own national interests. I am aware of the political difficulties in acting at this time. But if we fail to act we will someday ask ourselves why we were blinded by considerations of the moment and lost a vital long-term opportunity. It is far too easy, in an election year, to let what may seem smart politics produce bad policies.

Both the United States and the Soviet Union will have to work even harder in the years ahead to avoid extremely serious confrontations. How we conduct our relations with the Soviet Union will perhaps be the most significant test of our maturity of judgment, our clearsighted recognition of real interests and our capacity for leadership.

FROM DETERRENCE TO INCENTIVES

It is foolish and dangerous to believe that we can manage this relationship by deterrence alone. We also will need to provide positive incentives.

We must use both our strength and the prospects of mutually beneficial agreements to help shape competition with the Soviet Union. We must work for implicit if not explicit agreements to bound our competition by restraints, by a kind of common law of competition.

The means to implement this goal will rest on patience, steadiness, clarity and consistency. In our approach toward Moscow we cannot afford wild swings from being too trusting to being hysterical. And even as we maintain a steady course we must recognize that it will require constant effort to mold that common law of competition. That effort must include both deterrence and the possibility of cooperation where our interests coincide.

We must also think anew about how to manage our affairs with the People's Republic of China in relation to those with the Soviet Union. Even as we act to develop nonmilitary ties with China we should strive to restore a more balanced approach to both countries.

NUTURING STRONG ALLIANCES

A second and paramount goal for our nation should be to nuture strong alliances among free nations.

But there is no gainsaying that relations among the industrial democracies are uneasy. We must address the causes for this; they may well be more fundamental in origin than we care to admit.

We must find better ways to coordinate our policies in areas beyond our territories. for it is there that we increasingly face new problems. While our immediate interests may sometimes diverge in such areas, our basic interests run in parallel and, accordingly, should provide grounds for common action.

Our allies must recognize that while the American nuclear shield is unshakeable and our commitment to the common defense is firm, they cannot expect America to bear a disproportionate share of the burdens of deterrence.

We, for our part, must accept the other side of the same coin. We need common efforts because we cannot bear all the burdens ourselves, nor do we have all the answers. The price to us will be a willingness to consult and adjust for the sake of allied agreement. Consultation cannot be a substitute for a clear sense of direction. But there is no point in consulting if we are unwilling then to adjust our course for the sake of a common purpose.

POTENTIAL COCKPIT OF CRISIS

Partly because of the strength of our alliances, it is the third world—more than our alliance areas—that is likely to be the cockpit of crises in the coming decade.

We must first be clear on the nature of our challenge there.

Certainly, as we have seen in Afghanistan and elsewhere in the third world, Soviet actions pose threats we must meet.

But we will meet them ineffectually if we react only by imitating Soviet tactics—emphasizing the military at the expense of the politcial and disregarding the indigenous yearning of third world nations for true independence and economic justice.

We must recognize the strong sense of national pride—and fierce independence—

of developing nations. Having fought to throw off the burden of outside domination, they will strenuously reject the efforts of other nations to impose their will. We should respect and reinforce that spirit of independence. Our interests are not served by their being like us but by their being free to join with us in meeting the goals we share.

Support for the political independence and economic growth of the poorer nations is important primarily because these nations matter in their own right. Their conflicts could also become our wars. Our trade with them is increasing. Their instabilities can affect our interests in many ways.

Our own national interests are served when we support the security of third world nations with our assistance. When we help them develop their economies, we not only meet pressing human needs, we invest in important trading relationships. Our interests are served by supporting peaceful change within those nations and by encouraging the peaceful resolution of their conflicts.

ABSENCE OF A REALISTIC PLAN

For example, our interests are clearly served by our efforts to help resolve the Arab-Israeli conflict and bring peace to this troubled and vitally important region.

In 1990, as in 1980, the problems of the third world will remain a central challenge to our wisdom. No realistic plan yet exists to defuse the potential dangers or resolve all the anguish of hundreds of millions of people living in degrading poverty. But over the next decade the United States can make a difference with regard to the severity of those problems—in helping create progress and hope, in not disregarding the violence and suffering of despair.

To make that difference we must first accept our differences with third world nations, yet work with them where our interests coincide. Peace came to Zimbabwe because of the ability of Britain and the United States to work with the African nations of the region. Had the opponents of improved relations with Mozambique, Zambia, Tanzania and others had their way, the situation today might well have been far different. The logical corollary is clear; it makes no sense not to recognize the Government of Angola, a Government with which we have cooperated in the search for peace in southern Africa despite fundamental differences on other issues.

It is imperative that we also put our resources behind our policies.

American aid programs comprise less than 1.5 percent of our Federal budget. They—not rhetoric, not good will—are what make the most difference in supporting our third world diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in the Congress and elsewhere.

"DISGRACEFUL" DEFICIENCY IN AID

The result is—I can think of no other word—disgraceful.

Our security assistance has declined by 25 percent over the past 20 years.

The United States ranks 13th among the 17 major industrial powers in percentage of G.N.P. devoted to development assistance. We will likely soon drop another notch.

We are far in arrears in meeting the pledges we have made to the multilateral development banks—and likely to slip still farther.

It is not enough to strengthen our defenses. We must also increase the resources needed to support our diplomacy, a diplomacy designed to reduce the chances our military forces may be needed.

Other nations do not want the rhetoric of American leadership: they want its substance. And we must provide it. The U.N. global negotiations on relations between developed and developing countries—opening this fall in New York—offers a prime opportunity for us to demonstrate that leadership.

This brings me to a fourth goal for the decade: a strong American economy in a strong international economy.

I ask you to ponder the implications for our future of two stark statistics:

According to the International Energy Agency, based on current trends, by 1985 the world demand for oil is likely to outstrip global oil production by two million barrels a day. Consider the implications of this fact for world oil prices, and our own economy; for the hard pressed economies of the poorer nations; for relations among the industrial nations, if there is a new scramble for energy.

DOMESTIC PRODUCTIVITY DECLINE

The other statistic is domestic in nature: Productivity in the United States declined in every quarter of 1979 after the rate of increase in our productivity had steadily slowed over the previous two decades. Decreasing productivity not only fuels inflation. It undercuts our trading position and the strength of the dollar. And declining productivity means increasing domestic pressures for protectionism.

In both cases—meeting the energy crisis and addressing the problem of productivity—we cannot rely on the genius of some economist with a new solution. We need acts of political will.

If the U.S. and the other industrial countries do not act decisively to reduce our levels of energy consumption, and particularly our demand for oil, we will stand on the brink of economic disaster by the end of the decade—or sooner. The effort must be made now.

The President recognized the danger posed by our energy dependence and, from the earliest days of the Administration, sought comprehensive legislation to deal with it. Public skepticism and Congressional inaction have delayed the full implementation of his program for three costly years. In the meantime the oil exporters have added price increase after price increase at will and used their oil power for political ends. This will not change unless we are willing to let domestic energy prices reflect the reality of the marketplace and to tax excessive use ourselves instead of letting OPEC do it for us; unless we produce more energy-efficient cars and houses and appliances and channel sufficient resources into developing alternative energy sources; unless we share equitably with other industrial countries the burden of conservation and stand together against unjustifiable price increases.

A QUESTION OF NATIONAL WILL

U.S. productivity declined in every quarter last year. Solving that problem will also be costly. But there must be reduced consumption and a higher rate of capital investment; a willingness to shift from obsolete industries instead of propping them up with protectionist trade barriers; incentives for innovation; responsible prices and wage demands by industry and labor. Each is at root a question not of economic theory but of national will.

Meeting the four challenges I have described depends not on quick fixes, new gimmicks, bluffs or threats. It requires steadiness, political will, and understanding of a world in change.

If we are prepared to accept the implications of a world of diffuse power, and work with others where we cannot succeed alone, there need be no insurmountable barriers to our progress.

There should be no mystery about how to manage East-West relations with realism and prudence, creating more cooperative alliances, addressing the problems of third world nations and acting now to strengthen our economy for later.

The mystery will be for the historian of 1990, if—blinded by the new nostalgia—we fail now to shape our future. The puzzle will be why we reacted against change in the world and did not seek to shape it. The historian will then conclude that ours was a failure not of opportunity but of seeing opportunity; a failure not of resources but of the wisdom to use them; a failure not of intellect but of understanding and of will.

It need not be so. For now, as always before, our destiny is in our hands.●

IMPACT OF ILLEGAL ALIENS ON THE UNITED STATES

● Mr. HUDDLESTON. Mr. President, in determining our policies with respect to illegal immigrants, it will be useful to know which people are entering the illegal migrant stream. The way we treat the crime of illegal immigration depends upon its effects on our society, and the effects of illegal migration differ with the kinds of people who enter our country.

I would like to bring to the attention of my colleagues a paper by Ronald A. Grennes, of the Border Research Institute of Trinity University, San Antonio, Tex. This paper, in a longer and more detailed version, was presented to the Select Commission on Immigration and Refugee Policy on December 17, 1979.

Professor Grennes points out, from his own detailed and long-term research, that the migrant stream from Mexico is changing, that the traditional image of the rural peasant from Mexico who enters agricultural work in the United States is outdated. The new influx of illegal migrants from Mexico is more urban, more skilled, more likely to travel with their families, and much more likely to affect our country's employment and population goals.

As we debate programs of amnesty for illegal immigrants, guest-worker programs, or any other steps which could encourage an even greater volume of illegal immigration to the United States, I believe that we should consider Professor Grennes' findings of the likely results of unimpeded illegal immigration.

I ask that Professor Grennes' paper be printed in the Record.

The paper follows:

Impact of the Urban Mexican Worker on the United States

(By Ronald A. Grennes)

Our field research in both urban and rural communities in Mexico, done between 1973 and the present, indicates the emergence of a significant new pattern of illegal migration from Mexico to the United States. This pattern which is becoming increasingly frequent, differs dramatically in most essential aspects from the traditional pattern of short-term, circular migration from rural Mexico. Briefly, we have found that illegal workers from urban Mexican backgrounds, entering the labor market in large American cities, behave differently from illegal Mexican workers from rural areas. These urban workers are: (1) much better educated than the typical rural migrant from Mexico; (2) possessed of specific occupational skills; (3) finding with increasing frequency decidedly non-marginal jobs in industry, construction and service areas in large northern cities: (4) earning almost twice as much per hour as rural migrants; (5) tending to stay in the United States three times longer; (6) more often accompanied by other family members; and (7) expressing a much greater interest in considering permanent residency in the United States.

This brief comparison of urban and rural illegal migrants from Mexico, based on our recent studies, underscores the crucial difference in their impacts on the U.S. labor market. The urban component, although numerically smaller than the rural, is growing continuously, and the urban component has a much more profound effect on the U.S. labor market as a long-term problem. Our employment and residential histories of urban and rural families clearly indicate that the migration patterns to the United States of agricultural workers still living in rural areas are distinct in virtually every aspect from those of the second and third generation members of families which moved from rural communities into large Mexican cities during the early 1950's.

The rural migrant is bound to the land. He works on the farms, and in this sense, he is not unemployed; but he lacks disposable income. For the past century at least, rural males traditionally have left their families and land during the slow period between seeding and harvesting in order to earn supplemental income in the United States. Their work trips were usually for short periods of time, averaging about four months, before they returned to Mexico with their savings and accumulated capital goods. This cyclical periodicity attuned to the agricultural seasons is the salient characteristic of rural migrants and has been underscored by all investigators. Peasants are tied to the land and do not leave it for long periods of time.

Thus, as the migration season is necessarily short, rural migrants minimize the investment needed to reach the labor market in the United States by seeking employment in areas near the border, where agricultural-related work is generally available and where Spanish is spoken. Well aware of this pattern, the INS and Border Patrol deploy 90 percent of their intercept units in border areas, and, not surprisingly, it is in these border areas where an overwhelming percentage of apprehensions occur. For this reason, it is our contention that all of the studies of illegal Mexican migration that have utilized information gathered from apprehended migrants or from migration statistics are grossly distorted because almost all of the apprehended are rural people.

Although our studies indicate a very pronounced increase of undocumented, urban migrants from Mexico to large American cities, this trend is not visible in the apprehension data. The urban Mexican undocumented worker has a tendency to successfully seek employment in large northern industrial areas, and as a result, is seldom detained by authorities who concentrate their efforts along the border.

In Mexico, due to rapid economic development and industrialization during the thirty year period 1950–1979, an internal migration from rural to urban areas has dramatically altered the demographic shape of Mexico. In 1950, approximately 65 percent of the population lived in small towns and villages of less than 2,500 inhabitants, and 35 percent lived in urban areas. Today, thirty years later, 65 percent live in urban communities and only 35 percent remain in rural settlements. The demographic shift continues as industrialization and urbanization transform Mexico society, and as population soars to seventy million.

There is an almost unanimous consensus that, although it is impossible to precisely quantify the number of undocumented workers in the United States at any given time, the number is very large and has been increasing significantly in recent years. Our October 1979 survey of INS mobile field units along the Texas border suggests that apprehensions will reach a record high in 1979, and that estimates based on implanted sensors, helicopter, and infrared surveillance will show that more illegal migrants are crossing the border unapprehended. A record flow of illegal migrants into the United States in 1979, a greater ratio of unapprehended to apprehended migrants, and a steady increase in the proportion of urban Mexican migrants among the unapprehended will have an even more pronounced negative impact on the U.S. labor market.

While one-to-one displacement of American workers is difficult to demonstate, it is becoming increasingly clear in our study of urban Mexican chain migration that:

(1) the urban Mexican illegal migrant is increasingly finding employment in the industrial, construction, and service areas of the labor market in large northern cities, at salaries well above the minimum wage level;

(2) the presence of large numbers of illegal migrants with specific skills, staying in the United States for longer periods of time, is undercutting the manpower goals and strategies of the Department of Labor (as we perceive a high proportion of skilled and semiskilled positions held by illegal migrants are precisely those for which the CETA program is training unemployed and disadvantaged youth); and

(3) urban Blacks and Mexican-Americans are becoming increasingly restive in cities like Miami, Los Angeles, Chicago, and Houston, as they find themselves forced to compete with illegal migrants for employment.

Considering the present downward overall trend of the economy, the expected rise in unemployment due to the application of inflation controls, and the anticipated lower levels of federal and state assistance to most social services, the secondary labor market will become an important factor of subsistence for urban minorities.

We would also argue that, although the urban secondary labor market is characterized by low-paying, dead-end jobs, it is utilized by most non-college youth to encounter their first jobs. In addition, a highly significant number of married females are employed in this labor market in order to supplement the salaries of working-class husbands. Although these working, married women are averaging only half of their husbands' salaries, the augmentation of family income provides the margin by which middle-class living standards are maintained.

In the long-term, the present situation will worsen. During the period 1950–1979, an era of rapid development and comparative prosperity, economic growth in Mexico averaged a very respectable 6.5 percent annually; but the creation of jobs has not kept pace with the population increase. Today, Mexican government estimates cite 42 percent of the labor force as either underemployed or unemployed. The chief economic advisors to President Lopez Portillo caution that even if economic growth fueled by petroleum sales reaches 8 percent annually and continues with no disjunctions, a maximum of 360,000 new jobs would be created yearly. Since the labor force increases by 650,000 yearly, this creates an annual shortfall of 300,000 jobs. Additionally, the dynamics of the selective process by which skilled Mexican workers from urban areas decide to migrate to the United States to seek employment is of crucial importance. It may well be that the essential determinant of this process, in most cases, is the extreme wage differential that exists between the United States and Mexico, rather than chronic underemployment, as in the case of the rural agricultural worker. If this assumption is correct, programs designed to create jobs in Mexico for those who migrate illegally to the United States would have little or no effect on ameliorating the propensity of the urban component to migrate.

American policy makers must define the desired degree of participation of Mexican migrants in the American economy and carefully consider the inherent differences between urban and rural migrants to create an immigration policy which complements the long-term manpower policies and strategies of the Department of Labor, instead of creating conflicts and cross-purposes. Immigration and manpower priorities must be integrated and utilized as a fine tuning mechanism to meet the ever-changing manpower needs of the American economy.●

TAX COUNSELING FOR ELDERLY PROGRAM HELPS IRS, AGED, AND NATION

● **Mr. DECONCINI.** Mr. President, the Internal Revenue Service estimates that 92 million individual tax returns will be filed during 1980 for taxable year 1979. Many persons have already discovered that preparing form 1040 with accompanying schedules can be a formidable task.

But it may be even more complicated for older Americans because they are frequently exposed to a new and more complex set of tax rules upon reaching retirement age. This problem is oftentimes intensified for elderly widows who typically have little or no experience in preparing a tax return.

In 1978, Congress enacted legislation to establish a tax counseling for the elderly program. TCE has become a nationwide program that provides competent tax counseling and preparation services for older Americans.

IRS trains volunteers—many of whom are older Americans—to provide these services without charge in a wide range of settings, including conveniently located community sites, senior centers, nursing homes, and at residences for the homebound.

The National Retired Teachers Association and the American Association of Retired Persons' Tax-Aide program is by far and away the largest of the TCE programs.

Nearly 12,000 counselors, coordinators, and others participated in Tax Aide during the past tax season. These individuals prepared approximately 400,000 Federal tax returns for the elderly.

This service is now provided without taking business away from professional preparers. In fact, many professional preparers actually refer clients—particularly those with more limited means—to the Tax-Aide or other TCE programs.

The overwhelming proportion of Tax-Aide clients have moderate or limited income, but they frequently have complicated tax situations—at least from their vantage point. Under these circumstances, professional preparers would be required to devote considerable time in preparing a return with comparatively little remuneration for their services.

TCE, it seems to me, offers important benefits to IRS, older Americans, and our Nation.

IRS taxpayer service capabilities are limited now because of budgetary constraints. Voluntary tax counselors, though, can help to fill the gap between the public need for assistance and the ability of the IRS to respond.

TCE can also reduce the IRS workload and costs in staffing service sites for the public. This enables IRS personnel to provide more direct public services.

In addition, voluntary instructors can augment the training activities by offering more intensive and comprehensive training than IRS can provide. This can help assure greater accuracy by those who assist older taxpayers. In Yuma, Ariz., for example, the error rate for tax counselors taught by NRTA and AARP Tax-Aide volunteers was less than 0.4 percent. The volunteers prepared more than 750 returns, and made only three errors.

Equally important, volunteer tax consultants can help improve taxpayer compliance which can reduce IRS administrative expenses.

Finally, the program can make specialized services more readily available to groups traditionally underserved by IRS, such as the homebound, rural older Americans, and individuals with limited English-speaking ability.

The NRTA and AARP Tax-Aide program has prepared a helpful and readable "Retirement Income Tax Guide," which includes useful information on retirement planning and preparing for next year's return.

Mr. President, I ask that these two brief sections from the NRTA and AARP "Retirement Income Tax Guide" be printed in the RECORD.

The information follows:

YOUR RETIREMENT INCOME TAX GUIDE

PRERETIREMENT PLANNING

Some planning about taxes should be done before your 65th birthday arrives. The following comments may start you thinking.

How should I take my pension?

Consider well whether you want to take your pension benefits in one lump-sum payment, or in installments over your lifetime—assuming that you have a choice. If you participated in a profit-sharing plan, the same question applies: all at once, or a little at a time? It sometimes boils down to which method offers the best advantage in terms of taxes.

Your pension is taxable income as soon as you have gotten back what you put into it. In other words, if you contributed $1,800 to the cost of your pension, and your employer contributed the rest, you'll start paying tax on your pension as soon as you've received more than $1,800. With most employee pension plans, you'll recover your contribution to the plan within three years—and then your payments will be taxed. Of course, by then you'll probably be in a much lower tax bracket than you were before you retired.

If you take your pension in a lump-sum payment, you can take advantage of a special 10-year-average method. This allows you to pay the taxes on your lump-sum as if it were spread out over 10 years' time. (This is not the same as averaging your income on Schedule G.) You'll need Form 4972. And the method is explained in IRS Publication 575. Because of the money involved, you may want to get professional help in filling out this form.

If you're trying to decide how to take your pension or profit-sharing plan, we suggest you seek expert advice. There are estate, as well as tax, questions here.

How should I pay tax on my pension or annuity?

You may not know it, but you can have income tax withheld from your retirement pension or annuity just as it was withheld from your paycheck. You do it simply by asking the payer to withhold some portion of your payments for income tax. The payer must comply, whether it is an insurance firm or a corporate plan for employee retirement benefits. You make the request by taking or mailing a filled-out Form W-4P to the payer of your pension. Get the form from an IRS office. That may keep you from having to pay an estimated tax during the year.

What about selling my house?

Many people sell their houses after retirement. Normally, if you sell your house, you must pay a capital gains tax on the profit. But if you wait until after you are 55 to sell your house, the tax rules spell out a more favorable formula. The law offers a once-in-a-lifetime break to homeowners 55 or over who have lived in their houses for three of the five years before selling.

The rule in a nutshell: Generally, if you sell your home after July 26, 1978, up to $100,000 of gain will not be taxed if you elect the exclusion.

Example: Smith bought his house for $20,000, 10 years ago. Now past 55, he sells the house for $120,000. That's $100,000 profit, which is tax-free. To report it, he'll attach either a completed Form 2119 or a signed statement that he's electing to exclude the capital gain from his taxable income under the rules pertaining to the sale of a residence by any owner 55 or older. (For more information see IRS Publication 523.)

There is a technicality here that some people get caught on: You must not sell your house before your 55th birthday. It's not enough to be 55 later in the year of the sale. For married couples who own a home together, only one spouse has to be 55. But the couple must own the home jointly, file joint income tax return, and both must meet the residence requirements. And remember, it's a once-in-a-lifetime opportunity. Once you have exercised the privilege, you may never do it again. Note: You may exclude the gain once for sales before July 27, 1978, and once for sales on or after that date. The time to do it is when you are not going to buy another house. The reason is that if you buy a replacement home within 18 months, you may get to defer payment of your tax anyway.

PLANNING FOR NEXT YEAR'S TAX

Recordkeeping

When it comes to income tax, records can save you a bundle. Let's take one example. Marge and Bill Hansen are approaching retirement and thinking about selling the house they've lived in most of their married life. It has appreciated tremendously in value, and they probably aren't going to buy another house, at least not right away. So they may have to pay a whopping capital gains tax on the big profit they're bound to make on the sale (especially, if they don't qualify for the over-55 break).

Their best protection is to produce such records as:

Receipts for the attorney fees, broker's commission, abstract fees, utility connection charges, surveys, transfer taxes, title insurance, etc.—all paid years ago in addition to the purchase price of the house.

Receipts for any landscaping, remodeling, fencing, resurfacing the driveway, adding yard lights, patios, carports, walks, etc., done over the years.

Receipts for any special assessments by the city for street improvements, sewers, etc.

All of these things make up the "basis" of their home—the real "cost" of their home. The original buying price is only a point of departure. Thus, the Hansens discover that they have about $6,000 worth of extra "basis"—and that's going to help out a lot in reducing their capital gain when they sell. Understand that this isn't a bit of tax conniving, achieved with a sharp pencil and a vivid imagination; these are real allowable expenses, backed up by real records. And the Hansens won't make the mistake of paying a capital gains tax on those expenses.

For how long

How long should you keep records? Tax law doesn't mention a specific length of time. However, here are some guidelines.

Keep your old returns and supporting documents 10 years. This is because the IRS can review your return even after the initial "three-year audit period" has gone by. If you ever decide you want to income average (used if your income goes up sharply from one year to the next), your old returns are essential.

Hold records that show the cost of property (your house, car, boat, stocks and bonds, jewelry) at least until you sell the property. To be safe, keep them for 10 years after the resale shows up on your return. That seems like a long time. But if you're going to save money when the time comes to save money, keep the records. If you're audited and don't have records to back up your claim, the auditor will often disallow your claim, even though it's perfectly true.

Tips in a nutshell

Keep records as a business office does. Use a compact file or envelopes in a drawer if necessary. It takes less time than scrounging in pockets and through the bottoms of closets at tax time. Mark your files as simply as "income" and "deductions." Or divide your deductions into charity, property tax, medical expenses, gas mileage; your income into dividends and interest, wages.

Keep a notebook in the glove compartment of your car. Write down the mileage to and from the doctor's office, doing charity work, or any driving related to business.

A canceled check to your local pharmacy is not adequate to prove a medical deduction. Some pharmacies also sell toothpaste, cigarettes and face powder. More and more pharmacies will keep a running tab for you of what you spend on medicine during the year.

When you've written a check for something that will be an income tax deduction, flag it in red in your checkbook.

Getting expert help

More sources than you might think are ready to help you with your tax return. Consider first an AARP-NRTA Tax-Aide volunteer counselor, whose services are free. There should be one in your area. He or she will be specifically trained to deal with retirement tax problems and can tell you if you need more high-powered help. AARP-NRTA counselors usually offer assistance at specific locations announced locally in the newspaper and on television and radio—or you can write to Tax-Aide, Dept. RG, 1909 K Street, N.W., Washington, D.C. 20049 to find the counselor nearest you.

Consider the Internal Revenue Service itself, also free. An IRS Taxpayer Service Representative will answer your questions—either over the phone or in person at a local office. This often proves satisfactory if your question is specific and properly phrased—and if it is early in the season, before offices are jammed and counselors are harassed.

The IRS will even figure your tax, under certain conditions. However, you have to fill out your 1040 or 1040A down to the point where the IRS has the information necessary to compute your tax. See your instruction booklet for details.

If things get pretty complicated this year, you may want to consult a tax practitioner. A tax practitioner is a qualified individual who might be a lawyer, an accountant, or an "enrolled agent"—a former IRS agent or private expert who has passed a Treasury Department examination.

A practitioner can cost you several hundred dollars, or 20, depending on the area and your needs. Many practitioners may not advertise, so get a referral from someone you trust. Or go to the professional listings in the Yellow Pages, or your local bar and accounting associations. For enrolled agents, get a list from the nearest IRS district office.

You may want to go to a tax practitioner one time to see how he sets up your return, and then do it yourself after that.

In choosing a practitioner, look for a good reputation—honesty and ability—before a low price. Remember, under the law, you bear the final responsibility for your tax return. Here's a final piece of advice from a top practitioner who does three to four hundred returns a year: "Tax season is really only three months, and a lot of practitioners are too darn busy to really take care of you individually. They'll say 'Leave it; I'll do it.' Don't. That's a poor way of doing business. I take the time to do their tax return, and if it takes three hours, they sit here three hours, and we go over everything. If it takes time, it takes time. But I give them individual attention."

So, good luck with next year's taxes, and remember: Start early.●

IS NOTHING WORTH FIGHTING FOR?

● **Mr. GOLDWATER.** Mr. President, the mind of the antidefense activitists in this country is indeed a curious thing. It seems to see everything in terms of Soviet patience and American arrogance. It excuses even the most flagrant Russian adventures as reaction to American provocation, no matter what you say to them. No matter what happens, they are determined to view the Soviets as people willing to relax tensions and live in peace if we will only encourage them.

An interesting article on this whole question appeared recently in Air Force magazine. It was written by Gen. T. R. Milton, USAF (ret.) and entitled "Is Nothing Worth Fighting For?" I ask that this article be printed in the RECORD.

The article follows:

IS NOTHING WORTH FIGHTING FOR?

(By Gen. T. R. Milton, USAF (ret.))

As someone once said, a good part of life is spent just showing up. Accordingly, I showed up a few weeks ago at an antiwar conference, having lent my name to the publicity fliers for the event. The earnest people putting on the affair said they wanted someone from the other side. It was, on reflection, a curious reason. As I tried to explain to the sizable, and polite but clearly unsympathetic audience, military types are against war with at least as much fervor as peace activists. We just have a different view on how war is best prevented. Well, no matter what I told them. It was what I learned from them that was fascinating.

First of all, I discovered, we are the ones who are pushing the Soviets into their current behavior. The prospect of Pershing missiles with nuclear warheads in NATO Europe was doubtless the reason behind the Soviet move into Afghanistan. The Soviets are, above all, human beings willing to relax tensions and live in peace if we will only encourage them, as witness the withdrawal of 20,000 Russian troops from Western Europe. We, however, frighten them instead with our military preparation. It is our own defense spending that has accelerated theirs.

One of my fellow panelists, a man who has made a comfortable living for a good many years recasting the same old line, proposed unilateral disarmament as the simple and immediate way to end the threat of war. Once we have disarmed, the Soviets will no longer feel threatened, and they, too, will disarm. And if they do not? It is still no real problem. A few commissars here and there are infinitely better than the prospect of war. Old Bertrand Russell at least had the excuse of senility when he advanced the same argument. It is evidently not possible to convince the antiwar movement there is a middle ground: neither Red nor dead.

The strength and influence of the antimilitary movement—for it is really antimilitarism that peace activism is all about—is difficult to assess. Certainly, it is making itself felt in a variety of ways during the current political campaign. Now that the draft no longer involves the citizenry at large in national defense, the antipathy toward the military has taken on a more subtle tone. There is the cost, first of all, of defense and its consequent effect on social programs. And then there is the emotional business of going to war for the oil companies, or for dictators, or for whatever. Finally, and underlying it all, is the articulate opposition to any sort of national military service.

My brother and sister celebrants at the peace conference organized workshops on such useful matters as "Draft Counseling and Values Clarification," a seminar that might have been more honestly called "How to Dodge the Draft," and a folksy one, "Ain't Goin' to Study War No More." There was also a workshop, of course, on "Federal Spending: Shall We Buy Guns or Care for People?" There were other instructional sessions on how to organize campus movements, protesting in general, and the important business of lobbying or, to use the polite term, political action.

And yet, there was an air of defensiveness—zealots pursuing a lost cause. It was reminiscent of Henry Wallace and the Progressive Party in the Presidential election of 1948, when Soviet behavior in Berlin and Czechoslovakia alerted the country to the Soviet menace for the first time after the brief and euphoric affair with good old Uncle Joe Stalin.

Now we face an uncertain future, something even my companions in the antiwar festival recognize. They see that future in stark black and white: either the apocalypse or peace on any terms. There is no room in their view for any of the considerations that have traditionally inspired this country of ours to mobilize. Nothing, in the peace activist's view, is worth fighting for, although they stop short of putting it that clearly. And if nothing is worth fighting for, then it follows that there is no logic in maintaining military forces whose job it is to fight.

One way or another, we have worked ourselves back to 1948, with the Soviets once more challenging our national resolve. This time, instead of Berlin, it is a global challenge, one that ranges all the way from Southeast Asia and Afghanistan to our own backyard. For while we remain absorbed in our Tehran humiliation, there is an ominous Soviet-influence creep taking place in the Caribbean.

As we have discovered lately, our allies are no longer as easily led as they were in the days when they had confidence not only in our leadership but in our military power. They are still allies, but our trumpet is giving off an uncertain sound. The antiwar activists make little sense, true enough, but neither does a doctrine that calls for military defense of our vital interests without providing for an adequate military.●

CITIES SEVERELY IMPACTED BY REFUGEES

● **Mr. HUDDLESTON.** Mr. President, in January 1980 the U.S. Conference of Mayors released an informal telephone survey of 12 metropolitan areas which gathered information about local experiences and difficulties related to the influx of Indochinese refugees. This survey concluded that "municipal governments are being severely impacted by and bear the financial burden of the national policy to admit Indochinese refugees at a rate of 14,000 per month."

The multitude of problems being generated by this unprecedented flow of refugees are both economic and social in nature. The natural response of these governments is to look to the Federal Government which created this problem for more money. On June 7, the Conference of Mayors will consider a a resolution which "urges the Federal Government to provide assistance to State and local governments to alleviate the problems arising from the influx of Cuban refugees and Haitian immigrants."

While municipal governments must be provided adequate funds to deal with the many problems generated by the increased refugee flow, this is not the ultimate solution to the problem. The United States must regain control of its immigration policy by establishing a total immigraton level that is both reasonable and compassionate. Unless we take this step, domestic assistance programs will suffer as a result of our efforts to balance the budget. Because of the budget constraints we will be operating under, there is no way that the refugee program can continue to grow as it is without taking this money out of domestic programs.

As an example of what we are facing, the administration has just revealed that an additional $400 million will be needed in the remaining 4 months of fiscal year 1980 to meet the immediate needs of the 100,000 Cuban arrivals. If these people are given refugee status by the administration, substantial additional funds will be needed.

I ask that the "Survey of City Officials on the Impact of the Indochinese Refugees on Their Communities" be printed in the RECORD.

The material follows:

SURVEY OF CITY OFFICIALS ON THE IMPACT OF THE INDOCHINESE REFUGEES ON THEIR COMMUNITIES

INTRODUCTION

An informal telephone survey of the following metropolitan areas was conducted to gather information about their experiences and difficulties related to the influx of Indochinese refugees in the United States: Austin, Chicago, Dallas, Denver, Los Angeles, New Orleans, Orange County (CA), San Diego, San Francisco, San Jose, Seattle, and Topeka.

Questions asked of local officials focused on: the estimated number of refugees in each community, city relationships with local voluntary resettlement agencies, local problems with respect to information, housing, human services, health services, translators and conflicts between refugees and other minority groups.

SUMMARY OF FINDINGS

Information.—Local governments rely on voluntary resettlement agencies, state departments of human services, and school records to obtain information on the Indochinese refugees who have settled in their jurisdictions. The information available is limited, fragmented and often inconsistent. Major information needs identified include:

A centralized mechanism which would provide information on the number and location of refugees already living in a city;

Advance notice regarding the number of refugees expected to arrive, including projected dates of arrival;

Better information on refugees' special needs, family size, job skills, etc.;

More complete and accurate medical information;

Clearer definition of the responsibilities of each federal agency involved, voluntary resettlement agencies and state and local governments with respect to the needs of Indochinese refugees; and,

Information on secondary migration.

Coordination with volunteer resettlement agencies.—There is generally minimal or no coordination between local governments and voluntary resettlement agencies regarding primary placement of Indochinese refugees. Coordination among the voluntary agencies is also often lacking. In some cities, interagency coordinating mechanisms, in which city officials do not participate, have been established by the voluntary resettlement agencies.

Housing.—City officials indicated they are experiencing serious difficulties in meeting the refugees' housing needs because of a nationwide housing shortage, particularly of affordable, large units. Overcrowding (5 to 7 persons per room), which is intensified by secondary migration, and the need for additional temporary housing were also commonly identified problems.

Human Services.—Additional funds are needed to meet the increased demands on already scarce human services. Services particularly needed by the Indochinese refugees include:

Outreach and follow-up services;

Family counseling and mental health services;

Recreation programs;

English as a Second Language (ESL);

Job training programs;

Orientation on cultural assimilation; and

The provision of translators in public services facilities.

Health.—The most common health problems of Indochinese refugees arriving in the U.S. are: malaria, TB (mostly inactive), anemia, parasitic conditions and dental needs. Many refugees are also suffering from stress and emotional problems caused by family separation, difficulties adjusting to new life styles, and family conflicts. Major health problems and needs identified include:

Inadequate health screening of refugees prior to arrival in the U.S.;

Inaccurate, incomplete, and poorly translated medical records;

Lack of central coordination to ensure that all arriving refugees receive health screening once in the U.S., and that health problems and diseases are detected and treated;

Inadequate Medicaid reimbursement schedules;

Lack of outreach and follow-up services;

Training for medical staff in dealing with the refugees particular needs (e.g. possible leprosy);

Increased mental health services; and

Translators.

Translators.—The need for additional translators to be provided in public services facilities was identified as a major problem by all the local officials who participated in the survey.

Relationship between Indochinese refugees and other minority groups.—Some cities have experienced conflicts between Indochinese refugees and other minority groups. In New Orleans, Blacks have expressed concern about perceived preferential treatment given to refugees in terms of housing and employment opportunities. In Denver, "incidents" between refugees and Chicano youths occurred last summer. Indochinese refugees in Dallas' public housing allegedly have been physically attacked by their neighbors. City officials in Orange County are troubled by growing tension between the Indochinese refugees and other minority groups.

Local efforts to avert conflicts between the Indochinese refugees and other minority groups, include locating housing for the refugees in areas where there is no concentration of other minority populations and/or avoiding giving preferential treatment to the refugees.

SUMMARY OF RECOMMENDATIONS

Municipal governments are being severely impacted by and bear the financial burden of the national policy to admit Indochinese refugees at a rate of 14,000 per month. City officials proposed the federal responses listed below for alleviating identified problems and assisting cities to absorb more easily the arriving refugees:

Examination of the impact that the influx of Indochinese refugees has had on local governments;

Provision of financial support to enable impacted local governments to meet the increased demands on their already scarce resources. Support is particularly needed for housing, human services, translators, health services, English as a Second Language and job training programs;

Establishment of national standards and guidelines for both public and private sector involvement in resettlement;

Monitoring of voluntary agency resettlement efforts;

Better coordination at the national level, including:

Clearer definition of the responsibilities of the several federal and voluntary agencies and state and local governments with respect to the needs of Indochinese refugees;

Advance consultation with local officials concerning the number of refugees expected to arrive in a city, projected dates of arrival, and local capability to meet additional needs; and,

A centralized tracking system to provide information on where the refugees have settled and what their needs are.

Improved health screening of refugees prior to arrival;

Continuation of the Indochinese Refugee Assistance program, which provides 100 percent reimbursement for welfare, Medicaid, and social services, with no imposition of a time limit from date of entry.●

THE LOS ALAMOS ABM ASSESSMENT

● Mr. DOMENICI. Mr. President, last January, I formally requested of Dr. Donald Kerr, director of the prestigious Los Alamos Scientific Laboratory in Los Alamos, N. Mex., that he and his staff conduct a review of antiballistic missile (ABM) technology, summarize the advances made in this technology since the signing of the ABM Treaty in 1972, and present me with some conclusions and recommendations regarding the future development of U.S. ABM capabilities.

Today, I am releasing this ABM assessment by Los Alamos, and I have with me Dr. Kerr and Ed Chapin, who headed the study and who will make a formal presentation based upon it in a few minutes.

Let me give you some background before we get to the assessment itself.

I requested the study for a variety of reasons:

As a member of the Senate Budget Committee, in which a full-scale debate on national defense has been taking place for the past 2 years, I wanted further information about U.S. investment in ABM technology, in other systems designed to protect our land-based ICBM's, and to be able to evaluate costs and benefits in the future of such systems;

The indefinite postponement of SALT II in the wake of the Soviet Union's aggressive global conduct seems to me to place the entire future of the SALT process in doubt and makes it appropriate to reexamine all strategic force concepts, including ABM, which were previously deemed incompatible with the SALT process.

The uncertainty which continues to surround the question of survivability of our land-based missiles makes it desirable to pursue all options for preserving these missiles, and the unconstrained growth in Soviet strategic offensive weapons will inevitably drive us to consider an ABM-type system at some time:

Post-ABM Treaty evolutions in U.S. strategic doctrine towards a war-fighting capability, coupled with a clearer awareness that the Soviet Union has always adhered to such a strategic doctrine, calls into serious question the so-called mutual assured destruction doctrine upon which American strategic policy has hinged for several years. Such a reevalulation is needed especially in light of the need for the United States to consider the ABM Treaty at the 5-year review conference scheduled for 1982.

These considerations contributed to my belief that the United States must develop more awareness and appreciation of the advances in ABM technology. The LASL assessment, to my knowledge, represents the first unclassified summary since 1972 of the current status of ABM technology. Because I asked Dr. Kerr to focus on ABM developments which could address immediate U.S. strategic force requirements, the summary does not address ballistic missile defense concepts such as high-energy lasers or directed-energy weapons that are not expected to be deployable in the timeframe of the 1980's or early 1990's.

The assessment's major conclusions are that:

First. While defense systems in the early 1970's were not competent to deal with the threat then perceived, technical advances since then have made it possible to overcome the most serious weaknesses.

Second. Ballistic missile defense systems designed for both exo- and endo-atmospheric interceptions appear to be technically feasible and their combined use as a layered defense for silo-based ICBMs offer the most cost-effective options.

Third. A mature, layered defense would provide the capability to respond to further increases in the Soviet threat. and would include flexibility to defend other national assets.

Fourth. BMD technology offers real hope for eventually reducing the numbers of offensive strategic weapons in the world and could lead to a non-nuclear defense for the Nation to counter the nuclear threat posed.

Among the study's major recommendations are that exo-atmospheric ABM research and testing should be accelerated to provide a deployment option within 10 years and that full scale development of a low-altitude endo-atmospheric ABM should be initiated in order to provide deployment option by 1986.

It is estimated that an additional $40 million over the amount requested for ABM in fiscal year 1981 would be needed to initiate these activities and that total ABM funding would need to increase to approximately $500 million annually for the next several years.

Additional recommendations support the strengthening and modernization of U.S. strategic early warning capabilities and a sustained research effort to determine the actual potential of high-risk directed energy weapon technology for BMD applications.

I endorse the recommendations contained in this assessment and I intend to promote them in the fiscal year 1981 defense authorization and appropriation process. I also intend to seek funding flexibility for ABM research and testing when the Senate Budget Committee recommends defense spending targets in the fiscal year 1982 first budget resolution.

I believe that when the Congress and the country become more aware of the potential offered by new ballistic defense technologies, ABM will become the major strategic policy issue of the 1980's. It is essential that the United States reexamine the applicability and merits of ABM concepts for preserving the deterrence credibility of U.S. land-based strategic forces. This will also require a decision whether to continue to be a party to the ABM Treaty. In this age of fast-moving weapons technology, it would be illogical to continue to hobble our deterrence flexibility by adhering to a decade-old agreement whose basic premises appear to be obsolete.

While it appears that, if sufficient funding is available, a great deal of ABM development can occur within the constraints of the ABM Treaty, vital areas of development and testing are still precluded. Present defense policies and congressional guidance restricting ABM activities are based upon assumptions related to the SALT process and the ABM Treaty which have not been seriously reconsidered for a decade.

My key concern is that, in view of the strategic uncertainties which confront the United States, we dare not preempt any decision which might arise out of an ABM reexamination by not preserving the technological option to deploy an effective ABM system.

Any decision by the United States to abandon the ABM Treaty and deploy an ABM system would require a major reexamination and debate of U.S. strategic doctrine. I think such a debate is required. However, there is also no reason why the research and testing required to develop new ABM concepts into a deployable option cannot begin now so that it will be available if and when such a decision is made. I believe it would be a mistake not to begin to pursue this course now.

Mr. President, I ask that the study done by Los Alamos Scientific Laboratory on ballistic missile defense which accompanies my statement be printed in its entirety in the RECORD.

The study follows:

QUICK LOOK ASSESSMENT OF BALLISTIC MISSILE DEFENSE

EXECUTIVE SUMMARY

The deteriorating U.S. retaliatory capability in the face of a growing Soviet threat to our land-based missile force has led the DoD to plan development of the highly capable MX missile and to propose deploying it deceptively in arrays of Multiple Protective Structures (MPS). Since political, economic, and social concerns may constrain the MPS approach, and anticipated threat evolution may increase its vulnerability, we have considered augmenting MX–MPS with ballistic missile defenses of it and other U.S. assets as a means to reduce cost and shorten the time for redressing strategic disparities. To this end, over the last few months, a LASL team critically examined technical innovations developed by the Ballistic Missile Defense (BMD) community. We conclude that BMD provides an adjunct to MX–MPS to achieve ICBM-force survivability in the mid-1980s and beyond. Although BMD deployment in any useful configuration is now precluded by the ABM treaty of 1972 and its protocol, BMD research has developed a technology base that predicts near-term BMD feasibility and permits definition of the roles BMD could play in improving U.S. strategic posture.

Redressing the imminent vulnerability of Minutemen has been given "highest priority" by the Secretary of Defense. This vulnerability has developed since 1972, when U.S. strength clearly denied the Soviets a first strike capability. In the interim, the U.S. reduced its emphasis on defense spending, relying on its strategic inventory to deter war. In the same period, Soviet strategic spending has been three times higher than ours, reflecting the clear intention to acquire—not necessarily to use—a capability to initiate, fight, survive, and win a nuclear war. The Soviets have greatly improved their ground-based and submarine-launched missile fleet and have concentrated on defense; air, civil, BMD, and, some analysts believe, hardened strategic industry. Unless redressed, the combination of Soviet offensive and defensive gains in strategic posture relative to the U.S. will give them a first-strike capability in the next few years together with the concomitant political leverage that goes with major strategic advantage.

The current U.S. response designed to redress threatened ICBM survivablity is limited to MX–MPS. The LASL team has concluded that today's methods of active defense have potential to complement ICBM survivability, either by defending shelters to improve MX–MPS survival rates or by defending silos to protect their missiles. Whereas in 1972 BMD was not feasible or cost effective, a number of technological innovations have made today's BMD concepts appear capable of achieving a useful cost-efficient level of threat interdiction by the mid-to-late 1980s.

In 1972, the Safeguard BMD system specified a few, large, expensive radars for long-range detection, assessment, tracking, discrimination, and interceptor guidance, for both exoatmospheric and endoatmospheric-intercept defense components. Nuclear warheads were to be carried by the interceptors, with a few-Mt yield specified in the exoatmosphere and a few kt in the endoatmosphere. The radars were the weakest link: They would be inoperable through nuclear-effects blackout regions, in particular from the first wave of interceptor detonations, and they would be vulnerable to a concerted attack mounted through the blacked-out regions. Together with other problems, the radar problems would have rendered Safeguard inoperable.

Todays exoatmospheric BMD concepts specify two major innovations: long-wave infrared (LWIR) passive detectors for detection, assessment, tracking, discrimination, and interceptor homing guidance; and multiple vehicle non-nuclear kill (NNK) interceptors. Both these technologies, and other stressing but less innovative ones, are detailed in the text. A few issues remain to be addressed regarding proof of discrimination and NNK technologies, system operability in wartime, survivability to direct nuclear attack, and integration into national communications-command-control systems. We expect the resolution of these to lead to demonstrated feasibility of exoatmospheric intercept technology within a few years.

New endoatmospheric concepts are innovative in that they replace the few, vulnerable, critical radars with a large number of smaller ones. While the small radars are also vulnerable to concerted attack, they are also expendable in quantity, making attacks on them costly. With new radar-discrimination algorithms developed since Safeguard, the endoatmospheric systems are largely survivable, and, therefore, appear feasible. An example system is LoADS, designed for augmenting MX–MPS survivability against massive Soviet threats but also usable in modified form for defense of silos.

Although not all the technical problems have been solved, we anticipate fully demonstrated BMD feasibility in the near future.

To assess the applicability of active defense to assist MX–MPS in redressing the strategic disparity, we estimated effectiveness and costs of a number of U.S. options, namely MX–MPS, MX–MPS enlarged, MX–MPS defended by LoADS, optimal layered defense of silos, and phased layered defense of silos designed to redress survivability early. The estimates were made for two projected Soviet threats: 5,000 arriving warheads, representative of a 1990-SALT II constrained threat, and an excursion to 10,000, assuming no SALT constraints.

The costs to achieve adequate survivability for the various options, and the times these systems could be available, are shown in the table on the following page. Augmentation of MX–MPS by active defense can achieve force survival sooner than MX–MPS by itself, at little additional expense and the combination can withstand greater threats. Defense provides motivation for arms control as well because it removes incentives for further proliferation of strategic offensive forces.

BMD futurity is dominated by the potential for boost-phase intercept with directed-energy weapons, either lasers or particle beams. This high-risk, high-payoff technology cannot affect the strategic balance this decade but justifies a sustained research effort.

OPTIONS FOR ICBM SURVIVABILITY, COSTS AND TIMING

[Costs in billions of fiscal year 1980 dollars (estimated)]

	MX ICBM's	Basing	Defense system	Total cost	FOC date
1. Base-line MX/MPS (200 missiles, 4,600 shelters)	$11	$22		$33	1989
2. MX-silo stuffer and layered defense system (1,000 silos, 200 MX plus 800 Minutemen)	11		$11	22	1990
3. Phased defense of silos:					
Phase I: LoADS defense of minuteman			15	15	1987
Phase II: 200 MX missiles and overlay defense	11		7	18	1990
Complete system	11		22	33	
RESPONSE TO THREAT GROWTH					
4. Double MX/MPS	6	17		23	1990
5. LoADS defense of baseline MX/MPS			7	7	1990
6. Expanded defense of MX silo-stuffer			6	6	1990

To prepare BMD to assume its role in national strategic policy, we recommend:

Accelerate exoatmospheric advanced development program to achieve earliest possible deployment capability;

Initiate full scale development of LoADS terminal defense system to prepare as a timely deployment option;

Establish BMD system operations and demonstration facility and integrate with national command, control, and communication system;

Pursue vigorous research & development in directed energy weapons; and

Plan integration of BMD into national strategic posture.

I. INTRODUCTION

The perception of a deteriorating U. S. retaliatory capability in the face of a growing Soviet threat to our land-based missile force, inevitably leads to a quest for political and technical countermeasures. The DoD plan to build capable MX missiles and emplace them in Multiple Protective Structures (MPS) provides counterforce survivability against a SALT II-constrained threat by 1989. However, since political, economic, and social concerns may constrain the MPS approach, and because of the potential for threats larger than the currently planned MPS deployment can withstand, it is appropriate to consider other options to complement MX–MPS thereby enhancing ICBM Survivability. One such option may lie in Anti-Ballistic Missile (ABM) technology. Little attention has been given to ABM deployment since the ABM Treaty of 1972, yet both the U.S. and the Soviet Union have continued to carry on active technology research and development programs. The study summarized here examines the question of ABM feasibility in light of the changes that occurred since the signing of the Treaty.

The investigation was conducted by a team of LASL staff members augmented by consultants. The team was thoroughly briefed by representatives of the U.S. Army Ballistic Missile Defense Agency, the McDonnell Douglas Astronautics Corporation, Lockheed Missiles and Space Company, Martin Marietta Aerospace, Vought Corporation, and North American Air Defense Command. We gratefully acknowledge all this support.

Time available did not allow an in-depth examination of all aspects of technology, or the reproduction of existing extensive and detailed analytic studies of ballistic missile defense (BMD). The approach chosen therefore combined a review and compilation of data on the Soviet threat and a critical examination of technical claims and analyses presented by the BMD community. This paper presents findings, conclusions, and recommendations of the study-group members.

At present, the ABM treaty and protocol preclude BMD deployment in any militarily useful configuration. These agreements restrict ABM systems to a maximum of 100 launchers and 100 interceptors at only one site, with only a limited deployment of radar. Research on advanced ABM concepts is permitted, but development is significantly constrained by Article V of the Treaty, quoted here in its entirety:

Article V

1. "Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, or mobile land-based.

2. "Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, nor to modify deployed launchers to provide them with such a capability, nor to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers."

Despite these constraints, BMD research has developed a substantial technology base that is applicable to:

Evaluating BMD feasibility;

Determining the role BMD could play in improving U.S. strategic posture;

Estimating the consequences of a sudden Soviet BMD deployment ("breakout"); and

Determining conditions under which a modification of the ABM treaty would be in the national interest of the United States.

The LASL study has addressed the first two topics.

II. SOVIET THREAT AND U.S. RESPONSE

A. Soviet threat

The continuing build-up of Soviet strategic capabilities anticipated for the 1980s will soon make the U.S. Minuteman retaliatory force extremely vulnerable to a Soviet first-strike, as indicated in Fig. 1.[1] Since only land-based intercontinental ballistic missiles (ICBMs) have the delivery accuracy needed to pose a direct retaliatory threat to Soviet hard-point targets (e.g., silo-based missiles not used in the first strike, hardened command/control/communications posts, etc.), many believe that we must act now to protect our ICBM counterforce. In particular, Harold Brown has stipulated "Reducing the vulnerability of the land-based ICBM force is the highest priority strategic initiative in the five-year program." [2]

[Figures mentioned in text not printed in RECORD.]

This is the primary reason for considering rapid deployment of Multiple Protective Structures for the MX missile or alternative counter measure such as an ABM defense for land-based missiles.

The imminent vulnerability of our land-based missiles is in stark contrast to the strategic situation in 1972 when we agreed to preclude development of an ABM defense. At that time, the Soviet first-strike threat to our strategic forces was severely limited by the number of warheads they could deliver and their accuracy. The United States could respond to a first strike with any or all components of land- and sea-based missiles and heavy bombers to destroy remaining Soviet war-making power and much of the Soviet economic base.

Since 1972 the U.S. has reduced its emphasis on defense spending, guided in part by the implicit assumption that nuclear war is too terrible to even happen. The United States has added no strategic launchers, has dismantled the limited Safeguard ABM defense of a single Minuteman wing, has continued to diminish air defense capability and has taken no initiatives in civil defense. We have added to our inventory of deliverable warheads through adding multiple independently targeted reentry vehicles (MIRVs) to our missiles, and are preparing to add cruise missiles to our otherwise obsolescent bomber fleet. Although we continue to have an advantage in numbers of warheads, the advantage is in airborne and sea-based warheads, which cannot be counted on to attack hard targets. This advantage is decreasing rapidly.

The Soviet approach to strategic preparedness appears to be quite different. Their assumptions include the possibility or even inevitability of nuclear war. Through military programs and advertised strategy, they indicate clear intentions to acquire a capability to fight, survive and win. The development of offensive and defensive capabilities appear to be more a function of their perceived national security needs than a response to U.S. initiatives.

Over the past decade, Soviet spending on strategic forces has been two to three times that of the U.S. (see Fig. 2).[2] A comparison of changes in strategic levels for the U.S. and Soviet Union over the last decade are shown in Fig. 3.[2] Rough strategic parity with the U.S. has been achieved, and agreed upon through the Salt I treaty; however, the Soviets show no sign of decreasing their efforts to expand both offensive and defensive capabilities.

Since 1972 the Soviet Union has continued to add warheads and heavy ICBMs with impressive MIRV capabilities and has steadily improved warhead delivery accuracy. The Soviet launched ballistic missile (SLBM) force has reached the limit of 62 submarines prescribed under SALT–1, but various programs are underway to add warheads and generally improve the SLBM capabilities. Soviet fourth generation ICBMs, that have improved accuracy (a ¼ mile circular error probable–CEP–), the capacity to carry up to 25 MIRVed warheads, and high alert rates are being deployed at an approximate rate of 125 launchers per year. Moreover intelligence data indicate that significant improvements in accuracy will be achieved by the early 1980's and that new fifth generation ICBM's are nearing flight testing.

The Soviet Union also stresses strategic defense. Their civil defense spending exceeds that of the U.S. more than tenfold. They have a formidable air defense, with about 2700 interceptor aircraft and 12,000

Footnotes at end of article.

SAMs with new-generation systems aimed at cruise missiles and low-altitude aircraft. U.S. air defense has only token capability. Some defense analysts report a significant effort under way to harden Soviet strategic industry[34] although this is not supported by official U.S. statements.

The Soviet Union has one operational BMD site and is investing heavily in a BMD research program, (though there is no unclassified statement as to its budget). Evidently their program covers those approaches being pursued in the U.S. The emphasis on BMD is not surprising if we consider the strategic advantage such a defense would give them over the U.S. (if not reciprocated) and the protection it would give them from attack by other nuclear powers, particularly the Chinese.

In summary, the Soviet Union is rapidly acquiring the capability for successfully attacking a large collection of U.S. high-value and hard-point targets while using only a modest fraction of its force. Within the next few years, the Soviet ICBM and SLBM forces will have a first-strike capability against U.S. ICBMs, bombers, and in-port submarines (those not deployed). Coupled with this, Soviet improvements in air, civil, and strategic industrial defense are moving toward reduced vulnerability to a (depleted) U.S. retaliatory counterstrike. Unless redressed, these asymmetries will at best provide the Soviet Union with political leverage that they will certainly choose to exploit.

B. U.S. response and defense doctrine

In response to the concern expressed above regarding the growing strategic disparity between the Soviet Union and the U.S., the DoD has—

Implemented development and construction of the new, very capable MX missile with greater guidance accuracy, several times the throw weight, and improved nuclear and blast hardness, relative to Minuteman; and

Proposed deploying MX deceptively in arrays of Multiple Protective Structures (MX–MPS) in any of a number of configurations.

Defense Department plans call for an initial deployment of 10 missiles in 1986, with full operational capability of 200 MX Missiles distributed among 4600 shelters in place by the end of 1989. Assuming deception can always be maintained, this is clearly an effective means for raising the cost to an attacker, who would have to exhaust 23 warheads to have as much chance of destroying a deceptive-based MX as one warhead would provide against a silo-based Minuteman. The MPS basing can be looked upon as a passive defense of the MX missile field.

A possible problem to MX–MPS is the potential for failure of deception, in which case the defensive value of MPS is negated. Some analysts find it difficult to credit MX–MPS with adequate deceptiveness for its 20-year life cycle.

To obviate this concern, and to enhance survivability against potential threats beyond the SALT II constraints, we feel options for active defense of MX–MPS, or of other assets in conjunction with MX–MPS, must be considered.

Earlier U.S. decisions not to continue operation of its BMD system were caused in part by limited, defeatable technology and by a cost-exchange ratio widely favoring the defense. In contrast, a number of technological innovations developed since 1972 make today's BMD technology appear capable of achieving a useful cost-efficient level of perceived attack interdiction by the mid-to-late 1980s. Not all the problems have been fully solved, but, in our opinion, a credible system could be deployed that would significantly alter Soviet perceptions of the risk of a preemptive first-strike attack, and increase their uncertainty about that risk as well. Together, these perceptions would greatly augment the degree of deterrence otherwise available and thereby reduce the risk that deterrence would fail due to growing U.S./Soviet military disparities.

In preparing a basis for the discussion of BMD technological evolution and applicability, we present changes in defense doctrine that have developed, in part interactively with changing technology, since 1972.

In the 1960s, we looked to BMD to intercept all incoming missiles, for two reasons:

1. We wanted an area defense to protect our cities and people; and
2. Our BMD system had to be leak free to survive against a concerted nuclear attack; the few large radars were critical, and their destruction would negate the defensive system.

In contrast, current defensive doctrine accepts penetration by a significant fraction of the attack provided that a sufficient counterforce for deterrence can be maintained. The surviving counterforce, comprising elements from each of the Triad ("complementary survivability"), must contain components with sufficient accuracy to eliminate hardened Soviet targets and inflict unacceptable damage to Soviet national assets. In particular, we could maintain credible deterrence by preferentially defending a selected fraction of our assets, leaving the remainder undefended.

In discussing BMD technology, we assume as a nominal threat a massive attack launched from Soviet land-based missile fields, toward our MX–MPS and Minuteman fields. The duration for this attack, from launch to impact is 20 to 30 minutes. If an attack is launched instead from Soviet submarines off the U.S. shores, other durations, targets, and defense doctrines apply; this also poses different—and difficult—problems for BMD that we have not yet addressed.

III. BMD TECHNOLOGY

Destruction of ballistic missiles in flight can take place anywhere along the trajectory from launch to impact, and defense systems to effect kill are identified by where on the trajectory the interception takes place.

Less conventional systems have been studied that apply to launch and terminus of the trajectory:

Boost phase or early-trajectory interception by directed-energy weapons hold much promise but cannot improve U.S. strategic position in the coming decade. The potential of this method is discussed in Sec. V.

Last-ditch methods for destroying RVs by nonguided, nonpowered missiles—such as barrages of projectiles or dust clouds—do not seem feasible at present and are not discussed further.

Conventional BMD methods, the main subject of this document, are illustrated in Fig. 4. They operate between midpoint of the trajectory and 1–2 km prior to impact, by guiding powered vehicles to effect intercept. The systems that appear feasible in the nearer term are

Exoatmospheric (overlay)—operating prior to atmospheric reentry (above 100 km), and

Endoatmospheric (underlay)—operating after reentry.

These methods share the same list of requirements: early warning that a threat has been launched; detection and assessment of the approaching threat; derivation of trajectories and prediction of impact points; discrimination between RVs and decoys; commitment, launch and guidance of interceptors; and destruction of the RVs. Today's optimum BMD system combines exo- and endoatmospheric components into a layered defense, as did the Safeguard BMD system of 1972. Below, we contrast modern technological capabilities with Safeguard's to show how known weaknesses have been overcome to make today's systems appear eminently feasible.

A. The Safeguard system

Safeguard System as originally designed was a two-tiered layered defense that used ground-based radars for detection, assessment, tracking, discrimination, and interceptor guidance for both layers of the defense. Long-range Perimeter Acquisition Radars (PAR) provided early warning and characterization of the attack. As attackers neared the intercept range, battle mangement and engagement were taken over by Missile Site Radars (MSR), coupled to central computers, with one assembly for each wing of the Minuteman force. For the exoatmospheric overlay, multi-stage Spartan interceptors, guided by the MSR radars, operated out to several hundred kilometers. Since guidance capabilities were of limited accuracy, the Spartan carried a single high yield (few megatons) nuclear warhead that was intended to destroy a number of RVs at one time.

Those RVs leaking through the Spartan overlay would meet fast reacting SPRINT interceptors at altitudes of 3–30 kilometers also guided to intercept by the MSR radars. The SPRINT interceptors, carrying low yield (few kilotons) nuclear warheads, were designed for one-to-one engagements with RVs.

It was recognized that the large nuclear yields from the first SPARTAN explosions would create large regions of the atmosphere that were opaque to radar propagation, rendering the MSR detection, guidance, and battle management system inoperable for the entire subsequent attack. The MSR's themselves were large, and vulnerable to attack. The computers needed to manage the anticipated battle were beyond the state-of-the-art in speed, size, and reliability. Discrimination by radar signatures could not operate exoatmospherically and was marginal endoatmospherically. Finally, the system was expensive and the cost exchange ratio favored the offense since a large number of costly interceptors were required against a Soviet threat with MIRVed missiles.

Modern research into ABM defense concepts has developed and partially verified methods to surmount these problems. The most dramatic changes have been developed for exoatmospheric defense, but the endoatmospheric defense has also been improved to the point where it is useful as a standalone defense in some cases.

B. Exoatmospheric defense for the '80s

This component of ballistic missile defense uses two major innovations: (1) Small, high-resolution, sensitive long-wave length infrared (LWIR) detectors, and fly-along computers in space-borne probes and interceptors replace large ground-based radars and central computers for long-range threat acquisition, assessment, tracking and discrimination; and (2) homing LWIR guidance allows use of multiple-vehicle nonnuclear kill (NNK) interceptors for threat interdiction instead of single-vehicle nuclear interceptors.

Early warning messages either from satellites or early-warning radars trigger the central command post to launch several rocket-borne probes from shelters in the continental United States. Each payload consists of a sensitive infrared telescope, a data-processing computer, and down-link communications equipment which together weigh several hundred pounds. Moderate-sized rockets place these probes into trajectories that keep them above the atmosphere for approximately 20 minutes, the duration of the entire engagement (subsequent engagements require new probes). The probes scan the threat corridor specified by the early warning, detecting at ranges of several thousand km the largest components from Soviet-missile payloads, i.e., fuel tanks, and shortly afterward the reentry vehicles, accompanying

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objects, and penetration aids. Typical threats could have approximately 5000 RVs and upwards of 20,000 other objects in the probe's field of view.

The probe tracks all these objects for three to four minutes, measuring angular information and intensities of several spectral regions of the LWIR radiation as a function of time. The on-board computer stores this information, computes approximate trajectories and launch and impact points, and based on the multispectral LWIR data, uses discrimination algorithms to differentiate the reentry vehicles from the other objects in the threat.

This information is relayed to the ground-based battle-management computer in real time via high-data-rate, multiple-path microwave communications links. Based on the attack breadth, predicted impact points, and relative strength of the defense, the battle management computer decides whether to defend all assets (subtractive defense) or only some assets, and which ones (adaptive preferential defense). The appropriate targets are assigned to interceptors, each carrying one or two dozen small NNK vehicles.

The exoatmospheric interceptor rockets operate autonomously, reacquiring their portions of the threat via on-board LWIR sensors, repeating part of the discrimination procedures, and finally deploying multiple kill vehicles to engage the attack while still several minutes from impact. Using another LWIR sensor, each kill vehicle homes on a separate warhead, getting close enough to destroy it by direct impact or by firing a conventional explosive system.

Some of the attack can survive this engagement, including objects deliberately ignored (penetration aids, accompanying objects, warheads allowed through by a preferential defense) and leakers (mis-identified or nonintercepted warheads). The remaining warheads either reach their targets or are further depleted by subsequent underlay defense.

Advances in LWIR sensor technology, discrimination algorithms, multiple vehicle non-nuclear kill, high-performance computers, and communications technology, developed and/or proven since 1972, are needed for the overlay:

LWIR sensor technology: An LWIR sensor suitable for the probe is a cooled-body infrared telescope with a half-meter aperture and an array of extremely low temperature semiconductor detectors at its focal plane. This sensor appears capable of:

1. detection of Soviet fuel tanks at approximately 5000-km distance and Soviet RVs at approximately 3000 km.

2. angular measurements of approximately 20 μrad, which determines angle-only trajectories accurately enough for threat assessment and impact-point prediction for preferential defense, and

3. sufficient hardness against expected nuclear environments.

Progressively smaller, less sensitive LWIR sensors are specified for interceptors and homing-NNK vehicles.

Current LWIR sensors have adequate sensitivities and appear satisfactory for probe/interceptor/kill vehicle applications. The flyable cooled-body technology is in hand. The objectives of ongoing development programs are to: increase probe field of view by increasing the number of sensor elements and by changing the telescope design; decrease the sensitivity to nuclear radiations; and improve element-to-element precision and reproducibility.

Discrimination technology: LWIR discrimination is based differentiating the spectral signatures from a massive RV, accompanying objectives, and lower-mass decoys designed to look like RVs. The differences between RVs and decoys have a physical basis: in the presence of solar radiation in the day or radiation from the earth at night, low mass objects travelling through space cannot maintain temperature stability nor uniformity; massive RVs cannot avoid doing so. The more a decoy simulates the LWIR signature of an RV, the more massive it must be.

Many decoy designs have been proposed, either to simulate an RV or to match an RV modified in an attempt to look like a decoy. All these designs have been modeled theoretically; some have been fabricated and tested in the laboratory; a few have been tested in space. Although the discrimination data base is limited, the physical basis for discrimination is apparently supportable by the data.

Large differences in the LWIR signature are present between RVs and the light decoys ($<3\%$ of RV mass), and very few discrimination failures would occur. The differences become smaller for heavier decoys but discrimination, while less than perfect, degrades gracefully with increasing decoy mass. Very massive decoys can be made that are indistinguishable from RVs, and would need to be intercepted.

Discrimination algorithms and performance simulations are under development. Simulation studies show leakage figures in the few-percent range against a hypothetical Soviet threat including large numbers of low-mass decoys. With heavier decoys, fewer will be present in the threat, but discrimination will be compromised, and leakage will be in the 10 to 20% range, possibly higher. Lower leakage rates are feasible with a larger number of deployed interceptors but at the expense of greater wastage of kill vehicles.

Multiple vehicle non-nuclear kill (NNK): The development of two different NNK-interceptor technologies is being pursued vigorously. Both rely on homing guidance directed by small, on-board LWIR sensors, but they differ greatly in concept.

The homing-interceptor-technology (HIT) vehicle is very small and highly maneuverable; many could be carried by a single interceptor. This HIT vehicle carries no warhead but positions itself for direct collision with the target RV. A larger, more conventional kill vehicle—several hundred kg but still small enough that the interceptor can carry many—is less agile but uses state of the art sensors, propulsion, and guidance to reach within a few meters of the RV. Kill is attempted by either an explosive warhead or a deployment of an array of objects in the path of the fast-moving RV; examples are shown in Fig. 5.

ABM treaty constraints prevent the testing of multiple kill vehicles, but this technology is not stressing and can be expected to work well. Two elements of NNK that do stretch the limits of present technology are homing and non-nuclear warhead lethality on the RV.

1. Homing accuracy: The accuracy with which kill vehicle can close upon its target is a function of the angular resolution and scanning rate of its homing sensor, and the acceleration and responsiveness of its guidance. Both types of NNK vehicle have been studied in computer simulations, and both are scheduled for test within a few years. The HIT vehicle simulations predict a miss distance within the diameter of a typical target. The conventional vehicle simulations predict miss distances within the fragment-array fixed to the nose of the vehicle will strike the RV. If this proves too optimistic, the explosively-driven fragment pattern should suffice, with the anticipation that at least a few fragments will strike the target.

2. Lethality: Research and development to date has emphasized determining warhead characteristics required for high lethality with the conventional NNK vehicle, but many of the studies relate to HIT-vehicle lethality as well. Kill mechanisms are of two classes. If the impact detonates the high explosive in the nuclear warhead kill is immediate, but the chances of doing this depend on the (unknown) structural design of the warhead and RV. If the impact is sufficiently intense to either separate the RV shell from the warhead or to shatter and remove a substantial fraction of the RV heat shield the warhead will not survive reentry. Accomplishing this delayed kill is less sensitive to internal design details of the RV/warhead combination. But in any case NNK requires hitting the RV with enough mass and energy to do substantial damage.

With regard to the "conventional" NNK vehicles, high-explosive-driven warhead output characteristics—fragment mass, shape, velocity, and distribution pattern—have been experimentally determined and can be well-characterized. Calculations using structural response and particle penetration codes have been verified using laboratory facilities to hurl single or multiple fragments at RVs and mock nuclear warheads. Experiments in current programs, using static ground tests, rocket sleds, and missile flights into the Kwajalein Test Range should soon demonstrate that targets can be struck and probably destroyed.

The energetics of the impact for either NNK vehicle are impressive: many tens of megajoules will be deposited in the RV structure and, possibly, the warhead. Most of the energy comes from the $\sim$ 10 km/sec relative closing velocity of RV and kill vehicle. Although a number of tests remain to be conducted, we feel the probability of assured kill of the target will prove to be high for any of the NNK technologies.

Computer technology

Two types of computers are needed for overlay: fly-along computers to handle probe, interceptor, and kill-vehicle functions; and ground-based battle management computers.

1. Fly-along computers must handle the problems of trajectory determination and discrimination for potentially tens of thousands of targets in the probe's LWIR field of view, fewer for interceptor and kill vehicle.

Fly-along computers in the probe must correlate data from sequential LWIR scans at 10–20 sec intervals to track incoming objects. This scan-to-scan correlation is feasible due to the limited apparent motion of each target between scans. For the heaviest threats, simulations show that overlap between images of closely spaced objects (CSOs) may require the computer to consider special intensities to identify CSOs and to assist in scan-to-scan correlations.

Trajectory determinations based on a sequence of LWIR angle measurements, but without a priori knowledge of distance, is complex. Two numerical methods appear to give useful solutions except for trajectories pointed directly toward the sensor. Therefore, the probe trajectory will be oblique to the trajectories of the threat.

To discriminate RVs from decoys, the fly-along computer must also process the spectral-intensity data in three wavelength bands through discrimination algorithms that consider a number of discriminants at once. The actual discriminants and the tests on them are classified.

Advance in semiconductor technology since 1972 have increased the speed, capability, and reliability of digital logic components while simultaneously driving down costs. The trend to very-large scale integrated circuits has promoted parallel- and distributed-processing architecture. These new systems are ideally suited to process the large amounts of data using relatively few, fixed algorithms needed for BMD. According to McDonnell Douglas, the fly-along computer in the probe will require a throughput rate of 40 million instructions per second (MIPS). The CRAY-1, the most advanced 1978 Scientific Computer is capable of 100 or more MIPS but weighs nearly 10,000 pounds. However, current large-scale integrated circuit technology should allow construction of a special purpose distributed data processor rated at 40 MIPS and weighing only a few hundred pounds. Further savings are anticipated.

The needed computers stress the current state of the art but appear feasible within their respective weight constraints by the time they would be needed.

2. Battle management computer. The technology of ground-based battle-management computers for attack assessment and commitment of interceptors appears to be largely in hand. The Minuteman Defense Study (MDS-III) describes a design based on the Control Data Corporation 7700 with capacity exceeding 40 MIPS and with very high reliability, suitable for the job.

Communications technology

Massive amounts of data are passed from probe and interceptor to the ground-based battle management computer. In an undisturbed environment, such data links are straight forward, but in a nuclear-explosion degraded upper-atmospheric environment, propagation paths can be seriously disturbed. Mitigation techniques to be used are: use of maximum available (microwave) frequencies to minimize attenuation, scattering, and scintillations of radio waves; use of coding and repetitive transmissions to minimize data errors; and, if needed, use of multiple-path redundant links to circumvent degraded propagation paths. These mitigation methods are expected to be satisfactory against all but the most stressing attacks.

However, even if communications from probe/interceptor to ground fail, the overlay system can continue to function at a reduced efficiency. Interceptors can be launched "blind," along threat tubes linking Soviet launch sites and defended missile sites. Once in space, the interceptors can operate autonomously, launching kill vehicles to intercept threats within their reach. The leakage will of course be greater than for a well-planned defensive engagement.

Additional benefit of exoatmospheric defense

1. Threat assessment and preferential defense

The probe functions provide a useful threat-assessment capability for other applications. Any decision regarding launch of our ICBM force while an attack is en route would greatly benefit from this detailed information. The probe could play an interim early-warning role if normal early-warning channels failed.

The probe's role in BMD allows optimal deployment of defense assets. In particular, the probe's threat assessment is detailed enough to support preferential defense decisions, in which a fraction of our assets would not be defended, so that our defense inventory could be used effectively in depth, to protect the remaining assets.

As an example, suppose we were defending 1000 silos against an attack by 2000 RVs, spread uniformly (2 RVs on each silo), and we could commit an inventory of interceptors with 1000 kill vehicles total. All vehicles are assumed to operate perfectly for this example. If we defended uniformly, one kill vehicle per silo, we would destroy one RV for each silo and then lose all 1000 silos to the remaining RVs. If we defended subtractively, i.e., randomly intercepting any 1000 of the 2000 attackers, statistically we would lose 750 silos and save 250. If, however, we defended preferentially, we would save 500 silos by intercepting both RVs targeted on each one. The 500 silos we lost would each have been hit twice.

To overcome the preferential defense, the attacker must increase his attack everywhere, while we increase our defense only on the fraction of our assets defended.

Preferential defense decisions require a knowledge of the size and depth of the attack, and knowledge of each attacker's target. In this way, the battle manager can decide what fraction of the defense inventory to commit, what attackers are to be intercepted, and which ones are to be ignored. The probe functions provide this information.

2. Cost effectiveness

Owing to the multiple NNK vehicles carried by each interceptor, costs per intercept by the overlay appear to be in the range of ½ to 1 million dollars, depending on the type of kill vehicle and how well the system works. The intercepted RV costs the offense many times this figure, Thus, even without preferential defense, the defense is cost effective. With preferential defense, the offensive-to-defensive cost ratio (cost exchange ratio) can be predicted to exceed 10.

Such a cost exchange ratio could greatly inhibit the offense's incentive—or ability—to proliferate offensive weapons.

Outstanding issues in exoatmospheric defense technology

Three areas of concern regarding overlay feasibility remain that transcend a particular technology:

1. Can such a complex system be operable under wartime conditions? We feel it can, because of its non-nuclear and therefore largely automatic operation; because its high-level decision points can be made redundant; because it can hand lesser decisions down to redundant and autonomous subsystems; and because a reduction in efficiency would increase leakage rather than induce catastrophic system failure.

Simulation studies and evaluations of system "down-time" are needed to address this concern.

2. Can overlay defense survive a nuclear-precursor atack in the exoatmospheric engagement space? Effects of exoatmospheric nuclear explosions upon overlay internal functions are being considered. Nuclear explosions can be anticipated as: (1) precursor "pin-down" attacks at about 100 km. altitude designed to keep missiles in their silos/shelters; (2) precursor attacks in the defense engagement volume, designed to defeat the defense; or (3) salvage-fuze explosions of intercepted Soviet warheads.

The most significant effects on exoatmospheric defense hardware are from ionizing radiation: the prompt x-ray and gamma-ray bursts, and delayed neutrons and gammas from the nuclear debris. Radiation-survival criteria for sensors and computers have been developed for a pin-down precursor attack, and it appears they can be met. The defense-suppression attack is more stressing, and this problem is under study. It appears to be solvable via more radiation hardening and by opening up the engagement volume, so that the size of the needed suppression attack exacts an unacceptable penalty from the offense.

A secondary nuclear effect is due to LWIR radiation from dosed upper-atmospheric constituents and from nuclear debris. This effect is most intense outside the sensor's field of view, and adequate baffling can be specified. LWIR emissions within the field of view, while not very intense on the average, include bright features aligned along the earth's magnetic field (striations). When the sensors scan the field of view, the striations will add "ghost" targets. We feel appropriate algorithms can be formulated to handle this problem.

We conclude that nuclear precursor attacks could be stressing but can probably be survived if the engagement space is as large as possible. System implications need to be considered.

3. Can overlay be integrated with an already strained national command-communications-control system, including early warning? Significant upgrading is needed to accomplish this.

Present Status of Exoatmospheric Defense

In summary, the technology base for exoathmospheric intercept appears to be either in hand or on the immediate horizon. Integrated circuit technology is progressing so rapidly that adequate computer capability appears assured. Laboratory models, experiment and calculations on non-nuclear kill give high confidence in performance capabilities. Infrared detection and discrimination have been studied carefully, and useful techniques and knowledge of their limitations appear in hand. While these are not perfect, the cost to the offense of producing decoys that can frustrate discrimination is high. System stimulations show high probability of coping with the postulated threats.

C. Endoatmospheric defense for the '80s

The arena for endoatmospheric defense begins in principle at altitudes of approximately 90 km, where atmospheric effects on reentry first appear, and extends downward to a lower altitude limit determined by the hardness of the defended asset. To take advantage of atmospheric filtering of penetration aids, and also to reduce the size and cost of radars and interceptor missiles, a practical upper altitude for endodefense is approximately 30 km.

Intercepts in the atmosphere occur close enough to the defense site that small radars can be employed to acquire and track the threat, and to guide the interceptor. In Safeguard/Sprint, one weakness was that the radars were very large and not expendable because they were too expensive to proliferate widely. The radar size was driven by the combined requirements for high power and adequate angular resolution to command the long-range Spartan interceptor. A radar to control only the Sprint could have been smaller. Since current endoatmospheric defense concepts are decoupled from overlay requirements, these concepts call for restricting the size of the radars so that many can be deployed and some can be expendable.

Characteristics of the defense are strongly influenced by the nature of the assets defended and the expected intensity of the attack. Engagement at low altitude takes maximum advantage of atmospheric discrimination and minimizes the size (and cost) of radars, but compresses the battle space, reducing the ability to cope with repeated attack. A lower limit "stay out" zone for any defense is determined by the hardness of the defended target to defensive weapons bursts and possible nuclear detonation of the intercepted RV. For example, a shelter containing an MX missile could be defended by a low-altitude (LoADS) interceptor with engagement as close at 2 km from impact.

U.S. efforts in endoatmospheric defense have concentrated on systems for intercept at altitudes at or below about 20 kilometers. Intercept at higher altitudes could require committing the interceptor before discrimination is complete, and might be best done using interceptor sensors as in the exoatmosphere. Homing technology—either infrared or millimeter-wave radar—would be necessary, but is not at present feasible in the endoatmosphere. However if intercept becomes feasible at higher altitudes, so that subsequent reentry loads can still be expected to destroy a severely damaged RV, benefits would be derived from the extended battle time and space, and from the enhanced prospects for non-nuclear kill.

At altitudes under 15 km. discrimination problems are reduced because tank debris and light weight penaids are no longer present; smaller lower power radar can be used. Rapid system response and an agile interceptor are required in order to accomplish discrimination, tracking, and intercept in the space of less than 10 seconds—possibly much less. Non-nuclear kill becomes less sure as the intercept altitude is decreased, and it becomes increasingly important to damage or destroy the nuclear warhead directly. This will require enough projectile hits to give high confidence of penetrating to and striking a critical portion of the warhead. NKK puts demands on the defensive warhead and on the tracking/maneuver capability of the interceptor that are beyond current capabilities, although well within the realm of possibility. Currently planned terminal defense will use a nuclear defensive warhead.

U.S. endoatmospheric defense research and development effort is concentrated in two Army programs: Baseline Terminal Defense, and Low Altitude Defense System (LoADS).

Baseline Terminal/Defense is a direct descendant of Sentinel/Safeguard. The system employs upgraded Sprint interceptors, a commercial computer, and phased-array radars with 1/5 the power-aperture product of MSR. Intercept would occur in the altitude range of 10–20 kilometers and would be specified for soft targets.

Based on established technology, this system would be less vulnerable than Safeguard because the multiple radars are employed in dispersed sites.

LoADS (*Low Altitude Defense System*) is the major ongoing program in low-endoatmospheric intercept, with a reach of only a few kilometers. It is a derivative of the Baseline Terminal Defense System designed mainly for defense of MX–MPS. LoADS employs phased array radars of modest power, mini computers in a distributed data processing network, and a single stage low altitude interceptor. Because of small component size the system can be deceptively based in any of the basing modes proposed so far for MX.

Smaller and less complex components make LoADS a relatively low technical risk system with less costly components than other systems. The stressful nuclear environment requires interceptor and radar hardness values exceeding those needed in predecessor systems. It is also less capable, however, because with the very short time available for acquisition, track, and intercept, multiple sequential intercepts will be difficult.

PRESENT STATUS OF ENDOATMOSPHERIC DEFENSE

The status of endoatmospheric defense may be summarized as follows: Interceptor technology is well in hand so long as nuclear warheads are carried. Non-nuclear kill may be feasible particularly for engagements at higher altitudes, but will require further development in sensor, guidance, warhead and missile technology. Distributed data processing and the use of multiple small, hard radars would ensure that the system performance would, at worst, degrade gracefully against even heavy attack. For low-altitude defense of hard targets an endoatmospheric system of the LoADS design could be ready for deployment by the mid-eighties.

D. Boost phase or very early intercept

Laser and particle beam weapons hold the potential for an extraordinarily effective defense of all national assets against both ICBM and SLBM attack, but are in a very early state of development. A well-funded five- to ten-year research program will be required to establish the technology base. These systems would be triggered by satellite detection on launch of Soviet missiles and would reach out thousands of miles with pin-point aiming and tracking to destroy Soviet missiles in powered-flight or RVs in mid-course.

Laser weapons would accomplish boost-phase kill by heating the missile skin, reducing the material strength to the point where flight loads induce structural failure. Although the laser power required to do this does not seem excessive, demands on pointing accuracy and target discrimination are severe. With beam width comparable to target size (a few meters), angular precision of less than one microradian is needed to engage a booster at a range of 5–10 thousand kilometers. Kill probability is increased if the missile is caught while still under acceleration, so the targeting system must collect information on booster characteristics and flight time. Producing the necessary optics and control systems does not appear to be impossible, but is beyond the present state of the art.

Three laser systems have promise for ABM applications; the hydrogen fluoride chemical laser operating in the near infrared; rare gas halogen lasers operating in the near ultraviolet; and the free electron laser that can operate in the infrared, visible and ultraviolet. Laser systems could be space-based, or could conceivably operate from the ground by means of orbiting relay mirrors.

Space-based neutral-particle beam weapons offer another approach to long range missile or RV kill. The penetrating power of the energetic (few hundred MeV) particles allows the energy to be deposited in the sensitive internal components of a hardened RV or booster to produce damage by a number of different mechanisms. This system must be space-based to operate and is probably best suited to mid-course kill of RVs, although booster kill may be possible.

IV. DEFENSE OF THE ICBMS

Assembly of exo- and endo-atmospheric BMD components into a system with optimal performance depends on the kinds of assets being defended. For defending MX–MPS, a LoADS stand-alone system seems optimal, owing to its ability to defend the shelter containing the MX and to ignore close-by attacks on adjacent shelters. For defending other hard targets—silos—a layered defense comprising a highly effective overlay and hard-target underlay, LoADS, provides maximum survivability. In defense of softer targets, such as air fields or submarine ports, an exoatmospheric defense could stand alone or could be augmented by a long-reach underlay.

To assess counterforce survivability, we have considered effectiveness, cost and time scales of a number of strategic options. Although options can be combined, we analyzed them separately.

Rough analysis of force survival

Rigorous analysis of defense effectiveness taking into account characteristics of the assets defended (number, area extent, hardness, etc.) and details of the attack (ICBM, SLBM, "pin-down," "ladder-down," mix of warheads, etc.) have been completed by others. But simple arithmetic is sufficient to obtain a rough comparison of alternative approaches to force survival. We consider the time frame of 1990 and beyond and postulate a Soviet threat of 5000 arriving RVs—roughly consistent with SALT limits—and having probability of 0.9 against either hardened silos or MPS shelters. The defense system will have leakage of 15 percent in each layer, with no allowance made for wastage or spares, and 10 kill vehicles on each exo-interceptor. To measure response to threat growth we also consider an attack of 10.000 arriving RVs—possible even as early as 1990 in the absence of SALT constraints.

Five U.S. ICBM deployments are considered:

Minuteman—(1000 undefended silos);

Baseline MX/MPS—(200 MX missiles in 4600 shelters);

Doubled MX/MPS—(400 MX missiles, 9200 shelters);

Baseline MX/MPS defended by LoADS (one intercept per MX, 15% leakage); and

Layered Defense of 1000 silos—(200 MX missiles, 800 Minutemen).

Results are summarized in Table I. The most interesting aspect of these figures show up in the response to threat growth. Silo-based Minuteman does not survive. Baseline MX/MPS will assure roughly 500 warheads survive the 5000 RV attack, and doubling the MX deployment to respond to a doubled attack regains a similar survivability. To counter an additional 5000 enemy RVs therefore costs 4600 new shelters, 200 extra missiles, and 2000 additional nuclear warheads. Alternatively, the addition of LoADS interceptors to baseline MX–MPS also effectively deals with the expanded threat, using 400 interceptors and 200 radars in the existing shelter structures. The layered silo defense, responds to the doubled threat by adding 200 exo-interceptors, 300 cheaper endo-interceptors, and only 300 nuclear warheads for the terminal defense (perhaps *no* nuclear warheads if endoatmospheric NNK can be proved feasible). No significant changes are required in other components. Defense, by allowing choice of silos defended, also allows some control over the number of surviving warheads, depending on the mix of Minuteman and MX warheads emplaced and defended. Our calculations assume 200 MX plus 800 Minutemen.

Specifying the relative costs of these options is somewhat difficult since they include costs of nuclear warheads, different missile types, shelters, and roads. Nevertheless, some reasonable data are available. The Congressional Budget Office assigns a cost of $33 billions to the base-line MX/MPS.[5] Of this, about $11 billions buy the missiles (exclusive of nuclear warheads), and $22 billions pays for the basing. Doubling the MX/MPS to cope with a 10,000 RV threat would add approximately $23 billions. Augmenting baseline MX–MPS with the LoADS underlay defense needed to cope with the expanded threat would cost $7B. Total cost for a layered defense of 1000 silos, sized to meet the 5000 RV threat, appears to be in the neighborhood of $10–12 billions; adding interceptors to cope with a doubled threat should add another 5–6 billions.[6]

Thus, defending baseline MX–MPS is less costly than expanding MX–MPS to meet heavier threats. An optimum layered defense of silos could meet the required ICBM-force survivability with even less expense. However, owing to uncertain prospects for timely funding and implementation, we cannot prudently recommend optimal layered defense as an alternative to the currently scheduled deployment of MX–MPS. A realistic estimate places availability of optimal layered defense past 1990.

Timing of the response to the developing Soviet threat is, in many views, quite critical. The expected survivability of Minuteman dips drastically long before the installation of MX–MPS can redress the balance (1989). Defense of existing silos could enhance survivability sooner than 1989, although the low-cost layered defense we have been discussing cannot.

However, a heavy LoADS system could be effective as a stand-alone defense of Minuteman silos starting by 1987. A large number of radars and about 1800 interceptors, deployed deceptively near Minuteman silos would be required, at a total estimated cost of $15 billion. Making available sufficient nuclear materials for this large number of

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Footnotes at end of article.

warheads could pose difficult problems. Such a defense should act to deter attack on Minuteman. Later, once exoatmospheric technology is in hand, an overlay would be deployed completing a layered defense system. Incremental cost of adding the optimum overlay to the early LoADS defense is an additional $6–8 billions, result in a total defense cost (for an approximately 5000 RV threat), of $21–23 billions. This is considerably higher than the total cost of an optimum layered defense, but the added cost buys an earlier effective date and pays for excess LoADS hardware, re-usable in the same time scale to augment MX–MPS survivability.

Costs discussed here are summarized in Table II.

Arms Control Consideration

One "cost" not yet addressed is the cost to arms control. It is apparent that none of the active defenses discussed here would be consistent with the limitations set by the ABM treaty. Yet it also seems apparent that cost-effective defenses, by rendering offense proliferation unprofitable in terms of cost exchange, fall completely within the spirit of arms limitation underlying the ABM treaty. High defense leverage guarantees this by providing intrinsic disincentives to offense proliferation.

A simple example illustrates the extraordinary effectiveness of high leverage in the defense, and may contain the germ of an effective approach to arms limitation. Suppose each side were treaty-limited in the number of *launch points* deployed, but were free to use any launch point for either an *offensive* ICBM or an exoatmospheric *defensive* interception. To make the example concrete, we consider our 1000 Minuteman silos, containing a mix of Minuteman/MX ICBMs and exoatmospheric interceptors. Underlay interceptors as appropriate are supplied to provide a layered defense. We defend only those silos containing ICBMs and not silos holding overlay interceptors (which in this simple model will be empty by the time the silos come under attack). Assuming the same parameters for layered defense used earlier, we can calculate the mix of ICBMs and interceptors for any threat size, and predict the number of survivors. Results of the calculation are presented in Table III. Note the rather remarkable property that the response to an increasing threat is to decrease our own offense. Of course, with unlimited threat growth displacing ICBMs for interceptors results in defeat by prior exhaustion of the ICBM force; such a scheme can only work if both sides abide by the rules. However, the only rule required (barring further major impovements in MIRV fractionation capability) is the limitation on launch sites and silos are readily verifiable.

TABLE I.—OPTIONS FOR ICBM SURVIVABILITY: EFFECTIVENESS

	Defense interceptors (overlay/underlay)	Surviving missiles	Surviving warheads (MK-12A
5,000 ARRIVING RV ATTACK			
1). Undefended Minuteman (or MX): 1,000 silos	NA	0	0
2. Baseline MX/MPS: 200 MX in 4,600 shelters plus 800 Minuteman silos	NA	115	510
3. MX/Minuteman silo stuffer: 1,000 silos, 200 MX, 800 Minuteman plus layered defense system	170/250	300	(1)
10,000 ARRIVING RV'S			
4. Baseline MX/MPS	NA	13	66
5. Baseline MX/MPS plus LoADS defense	200	50	490
6. Doubled MX/MPS: 400 MX 9,200 shelters, 800 Minuteman silos	NA	120	560
7. MX/Minuteman silo stuffer: 1,000 silos, 200 MX, 800 Minuteman plus layered defense system	360/550	300	(1)

(1) Up to 2,300; surviving warheads depend on MX/Minuteman mix (here assumed at 200/800) and on defense preference.

TABLE II —OPTIONS FOR ICBM SURVIVABILITY, COSTS AND TIMING

[Costs in billions of fiscal year 1980 dollars (estimated)]

	MX ICBM's	Basing	Defense system	Total cost	FOC date
1. Base-line MX/MPS (200 missiles, 4,600 shelters)	$11	$22		$33	1989
2. MX-silo stuffer and layered defense system (1,000 silos, 200 MX plus 800 Minutemen)	11		$11	22	1990
3. Phased defense of silos:					
Phase I: LoADS defense of minuteman			15	15	1987
Phase II: 200 MX missiles and overlay defense	11		7	18	1990
Complete system	11		22	33	
RESPONSE TO THREAT GROWTH					
4. Double MX/MPS	6	17		23	1990
5. LoADS defense of baseline MX/MPS			7	7	1990
6. Expanded defense of MX silo-stuffer			6	6	1990

TABLE III.—LAYERED DEFENSE OF 1,000 TOTAL OFFENSIVE OR EXODEFENSIVE LAUNCHERS

	Initial ICBM's	Overlay interceptors	Underlay interceptors	Surviving ICBM's
Threat RV's arriving:				
2,000	833	167	250	800
5,000	667	333	500	602
10,000	500	500	750	407
15,000	400	600	900	294
20,000	333	667	1, 000	221
30,000	250	750	1, 125	135

V. CONCLUSIONS AND RECOMMENDATIONS

The Soviet threat to U.S. national assets continues to increase and its growth is apparently not sensitive to U.S. policy. The 1972 decision to forego BMD had technical justification. However, technical developments together with the growing disparity in Soviet/U.S. strength, indicate that the time has come for reconsideration. A cost-effective defense—one capable of countering growth in the offense by a less-costly increase in the defense—would intrinsically support arms limitation by eliminating incentives for offense proliferation. In addition, strategic competition in the defense arena would offer opportunities to exploit the U.S. edge in technical capability not available in the more mature area of offense technology.

Ballistic missile defense (BMD) systems designed for both exo- and endo-atmospheric engagements appear technically feasible. Their combined use as a layered defense minimizes leakage, maximizes exchange ratio, and offers the most cost-effective option. Technology for the critical exoatmospheric component is, however, still quite far from being ready for deployment. Endoatmospheric defense technology (with nuclear warheads) is closer to fruition. As a terminal defense for hard, high-value targets, endoatmospheric defense offers the chance for earlier redress of the deteriorating strategic balance.

BMD could play a timely and vital role in national strategic policy and must be considered in relation to other strategic options. To make this possible, however, the technology must first be demonstrated and its potential fully assessed. Financial constraints determine the rate at which this can be accomplished, but political constraints are more binding. Current defense policies and Congressional guidance strongly inhibit any construction of prototype hardware. Ultimately, Treaty provisions will either confound the development capability or will have to be relaxed by political action. Serious consideration of BMD for an important role in the Nation's security will require that these barriers be overcome.

To prepare BMD for a role in national strategic policy, we make the following recommendations:

Accelerate Exoatmospheric Advanced Development Program to Achieve Earliest Possible Deployment Capability

The critical part of any layered system is the exoatmospheric defense component.

It is generally applicable to defense of many types of assets (ICBM, airfields, National Command Authority, cities, and urban industrial sites). Effort should be accelerated and expanded to allow engineering design of sensors, systems integration and demonstration, construction of prototypes, and collection of hard data on decoy and penaid characteristics.

Early warning capability is essential to initiating the responses for effective functioning of an exoatmospheric defense as well as in preserving effectiveness of the strategic forces. The task group is concerned that U.S. early warning systems are not receiving the modernization and strengthening they require. It is also apparent that the rocket-borne probe needed for an exoatmospheric defense could play a very useful role in warning and attack assessment, over and beyond its use for BMD.

Initiate Full Scale Development of LoADS Terminal Defense System to Prepare as a Timely Deployment Option

Looking toward near-term defense of the ICBM's endoatmospheric technology development and demonstration should be accelerated. To enlarge the collection of assets defendable, LoADS should be made more capable and brought forward in time by initiating prototype construction and test, and reconsidering basing to include mobile or other deceptive basing. This will ensure the capability for defense of MX–MPS silos, and other hard targets (at the earliest possible date). An extended LoADS will also form the lower tier of an ultimate more-capable defense system.

Continued reliance on nuclear defensive warheads entails political, operational and cost burdens, particularly for a thick terminal defense as described earlier for first-phase defense of our counterforce. Research and development on non-nuclear kill should be accorded a high priority.

Establish BMD Systems Operation and Demonstration Facility and Integrate with National Command, Control, and Communication System.

Integration of a defense system into an expanded and improved national command, control, and communication (C^3) and battle management system should receive immediate attention. Establishment of a facility (using, for instance, the existing site at Grand Forks, North Dakota) for operational test, systems integration, and training would provide a focus for dealing with problems of field deployment.

The actions recommended above will cost more money for research, development, test, and engineering—we have estimated that an additional $40 million would be needed in FY 1981, increasing to an additional $500–600 million per year in the following several years—but will give the nation a much needed extra option at the earliest possible date. It is our perception that most—but not all—of the development and test required can be accomplished within the constraints of the ABM treaty. However, important development areas that are out of bounds include development of mobile basing and any test of multiple-kill vehicle intercept.

Pursue Vigorous Research & Development in Directed Energy Weapons

Directed energy weapons have high potential for effective defense of the continental United States, but are based on high risk technology. A sustained research effort at about the presently-planned level is required to determined their actual capabilities.

Plan Integration of BMD Into National Strategic Posture

The consequences of a Soviet BMD breakout, U.S. response to such a breakout, and determination of the conditions under which modification of the ABM treaty would be in the national interest of the United States should all be thoroughly examined.

Finally, and for the longer term, national strategic goals should be reexamined in order to permit all strategic alternatives (including BMD) to be refined and compared. In particular, the consequences of a defense posture based on strategic defense in conjunction with strategic offense should be articulated. It is our perception that the impressive technological advances of recent years have opened the possibility for a mutually stable strategic posture in which defense plays an essential role.

FOOTNOTES

[1] Harold Brown, *Department of Defense Annual Report Fiscal Year 1980*, January 25, 1979.

[2] Harold Brown, *Department of Defense Annual Report Fiscal Year 1980*, January 29, 1980.

[3] Leon Goure, *War Survival in Soviet Strategy, USSR Civil Defense*, University of Miami Center for Advanced International Affairs, Monographs in International Affairs, 1976.

[4] C. H. Donnelly, "Civil Defense in the Soviet Union," *International Defense Review*, August 1977, pp. 635–651.

[5] Congressional Budget Office, *The MX Missile and Multiple Protective Structure Basing: Long Term Budgetary Implications*, June, 1979.

[6] Cost estimates are derived from information supplied by a number of BMD contractors.●

CUBAN REFUGEES AND THE REFUGEE ACT OF 1980

● Mr. KENNEDY. Mr. President, as chairman of the Judiciary Committee I have closely followed the unfortunate developments that have surrounded the recent flow of Cuban refugees into the United States. In fulfillment of our oversight responsibilities in the immigration and refugee field, the committee has conducted two public hearings on the Cuban refugee problem and has held regular consultations with officials in the executive branch.

Over the past many weeks we have attempted to work with the administration in dealing with these and other refugee problems under the terms of the new Refugee Act of 1980 (Public Law 96–212), which was signed into law on March 17. Congress passed this act so as to avoid treating each new refugee situation on an ad hoc basis, requiring new authorities to deal with it, and new legislation to provide resettlement assistance to local communities.

Regrettably, there has been some confusion over the terms of the new law and how it applies to the current crisis. For the information of my colleagues, I would like to share with you a memorandum prepared by the Judiciary Committee staff on the emergency provisions of the Refugee Act, as well as a letter I addressed to President Carter on May 20.

Mr. President, I ask that these materials, and my opening statement at the Judiciary Committee hearing on Cuban refugees on May 12, be printed at this point in the RECORD.

The material follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., May 20, 1980.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing pursuant to our previous correspondence on your decision to exercise the emergency provisions of The Refugee Act of 1980 (P.L. 96–212), to deal with the Cuban refugee problem as it had developed as of April 14th. Also, I want to reiterate my recommendations as to how our government should proceed in dealing with the escalating problems among both Cuban and Haitian refugees.

First, I believe it is essential that we bring some order to the chaos that has surrounded the flow of Cuban refugees to the United States. I believe it is imperative to negotiate a comprehensive agreement on orderly departure with the Cuban government and to press other nations to receive their fair share of refugees for final resettlement. As you probably know, we reviewed these issues in some detail with your representatives during Judiciary Committee hearings on May 12th—but serious questions remain and hard decisions have been postponed. The immigration status of Cubans and Haitians who are already in the United States is unresolved. And the issue of federal support for State, local and voluntary agencies helping the refugees has been avoided.

Relative to Cubans, I have repeatedly urged your Administration to utilize, on a case-by-case basis, the emergency provisions of The Refugee Act of 1980. In statements on April 16th and 17th—during the first Judiciary Committee hearing and consultation under the terms of the new Act—I strongly supported your April 14th decision to use the emergency provisions (Section 207(b)) of The Refugee Act to respond to the plight of Cubans in the Peruvian Embassy in Havana.

Following your Executive Order, the Judiciary Committee immediately arranged for expeditious consultations to consider the proposed admission of 3,500 Cubans—as well as other refugees previously scheduled for admission to the United States for the remainder of fiscal year 1980. On April 25th, Senator Thurmond and I wrote to you, on behalf of the Committee, supporting your proposals and agreeing that the admission of Cubans met the test of Section 207(b) of The Refugee Act, which states:

"If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed 12 months). . . ."

However, during this period of consultation on your original request for Cuban admissions, the situation in Havana changed. Instead of being able to process Cubans at the Peruvian Embassy in Havana, or in Costa Rica as originally planned, the Cuban government halted the airlift to Costa Rica and stimulated a massive sealift of Cubans to the United States.

It is my view that these developments did not create a new refugee situation under the terms of The Refugee Act; rather, they created a changed refugee situation. Cubans flowing out of Havana subsequent to April 14th are part of a single foreign refugee situation which you properly deemed "an unforeseen emergency refugee situation," for which their admission was "justified by grave humanitarian concerns" and "otherwise in the national interest." These changed circumstances should have been dealt with by simply amending your Executive Order of April 14th, and consulting again with the Judiciary Committees.

However, your representatives, particularly Ambassador Palmieri, United States Coordinator for Refugee Affairs, have refused to take this course. They have repeatedly asserted that Congress never intended that the provisions of the Refugee Act should accommodate large numbers of refugees arriving directly to our shores. This is correct in terms of the asylum provisions of Section 208 of the Act. This section was added to adjust only 5,000 asylum cases each year, for persons already in the United States who are unable to return to their native countries because of a well-founded fear of persecution, as defined in the law.

But the current Cuban refugee flow was initiated under Section 207 of the Act. It was judged to be a foreign refugee situation, and although the modalities of the movement have shifted, and refugees are arriving directly on our shores, it remains a foreign refugee situation. (A similar situation would arise if Vietnamese "boat people" reached Guam or Hawaii—as was considered likely in 1978. Surely they could be treated as refugees under the Indochinese refugee program, as authorized under Section 207 of the Act. Indeed, contingency plans were developed in 1978 to accept Vietnamese refugees reaching our shores the same way we have urged Malaysia or Hong Kong to accept them—by providing safe-haven under the auspices of the United Nations High Commissioner for Refugees until third country resettlement opportunities can be arranged, either in the United States or elsewhere.)

In no case, however, does this mean the United States must take all who reach our shores, even if they are bona fide refugees under the United Nations Convention and Protocol Relating to the Status of Refugees. Rather, we are required only to provide safehaven until such refugees are either admitted to the United States, under the terms and conditions we establish pursuant to the provisions of the Refugee Act, or until the UNHCR can find third country resettlement opportunities or facilitate voluntary repatriation. I would agree that simply because a Vietnamese boat arrives in the United States—or a Cuban boat—we are not required to resettle such individuals, even though we may have already established a general refugee admission program for Vietnamese (or Cubans) under the terms of Section 207 of the Refugee Act.

What it does mean, however, is that if we choose to do so, we can use this legislation to respond effectively to such refugees and give full and prompt assistance to the communities which receive the refugees. The Congress passed the Refugee Act so as to avoid treating each new refugee situation on an ad hoc basis, requiring new authorities to deal with it. It is precisely this flexibility which is missing in the current approach to handling the Cuban refugee problem. And it is this that prompted my deep concern at the May 12th hearing—my concern that if we fail to use the Refugee Act now, with the flexibility and scope for which it was intended, we will likely compromise its future use just as it has been signed into law.

I would hope that you will see both the wisdom and benefits of using the Refugee Act to handle those Cubans who are already here and who meet, on a case-by-case basis, the criteria and screening we establish to judge their eligibility for resettlement—just as we establish criteria and screening for other refugee programs authorized under Section 207 of the Act. By amending your Executive Order of April 14th and consulting again on a second, more realistic ceiling for the admission of Cuban refugees, you can utilize the tools made available by the Refugee Act.

Finally, with regard to Haitians already in the United States, I urge you again to direct the Attorney-General to use available authorities under the Immigration and Nationality Act of 1952, as amended, to dispense with all pending Haitian cases and to institute fair procedures to handle future Haitian cases under the terms of the Refugee Act. If we do not act now to use the parole authority to resolve the Haitian cases, we will allow this tragic legacy of past injustice and discrimination to continue into the future, poisoning our ability to treat all new arrivals fairly. We must also take diplomatic action, in concert with the U.N. High Commissioner for Refugees and other Hemispheric nations—to determine whether Haitians leaving their country are, as a class, fleeing a well-founded fear of persecution, or whether only individual cases should be processed under the asylum provisions of the new law. Only such a concerted and high-level effort can lay to rest the concerns of many Americans that the Haitian situation is not being taken seriously, and that Haitian refugees are not being treated fairly.

On both the Cuban and Haitian refugee situations, I urge you to direct your representatives to consult with the Judiciary Committees of the Congress and to develop reasonable alternatives to the current, unacceptable situation. You have my strong support in any endeavor to treat refugees humanely and generously, consistent with our laws and our traditions.

Many thanks for your consideration, and best wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman.

THE REFUGEE ACT OF 1980

The current Cuban refugee crisis is the first test of the Refugee Act of 1980. The precedents established in this situation will help define the working relationship between the Executive Branch and Congress under the new Act. The provisions of the Refugee Act provide an opportunity to break from past practices.

1. Refugee law before the 1980 Act.

Under the provisions of previous laws, the admission and resettlement of refugees was handled on an *ad hoc*, often chaotic basis. In most instances, the President, through the Attorney General, would invoke the "parole authority" and later come to Congress to request the necessary funds to admit refugees. While this allowed us to respond quickly to the urgent needs of homeless refugees, it was often inefficient, unplanned, and deprived Congress of any advance role in the decision-making process.

2. Basic objectives of Refugee Act of 1980.

The Act has four basic purposes:

a. Repealed the law's discriminatory treatment of refugees which defined "refugees" as only coming from communist countries or certain areas in the Middle East; it adopts the United Nations definition;

b. Raises the annual limitation on regular refugee admissions from 17,400 to 50,000;

c. Provides for an orderly, but flexible procedure to meet emergency refugee situations that exceed the annual ceiling;

d. Provides for federal support of the refugee resettlement process (an important provision for states and local communities).

3. Analysis of Act's emergency provisions.

Since the present Cuban refugee crisis brings into play the emergency provisions of the Act, it is important to understand these sections of the new law.

The emergency provision of the Refugee Act of 1980, contained in Section 207(b), reads as follows:

"If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a) the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed 12 months). . . ."

This provision requires the President to consult with Congress on the question of whether there is an emergency. In making this determination, the President and Congress must consider the following factors:

a. That an unforeseen emergency refugee situation exists; and

b. The admission of these refugees is justified by grave humanitarian concerns or is otherwise in the national interest; and

c. These refugees cannot be admitted under the 50,000 annual limitation.

If these three factors exist, the President then consults with Congress, after which he may fix the number of refugees to be admitted. Appropriate consultation is defined by Section 207(e) of the Refugee Act as "discussions in person by Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest, and to provide such members with the following information:

1. A description of the nature of the refugee situation;

2. A description of the number and allocation of the refugees;

3. Proposed plans for their movement and resettlement;

4. An analysis of the anticipated social, economic and demographic impact of their admission to the U.S.;

5. A description of the extent to which other countries will admit and assist in the resettlement of such refugees;

6. An analysis of the impact of the participation of the U.S. in the resettlement of such refugees on the foreign policy interest of the U.S."

After the consultation process is initiated and prior to making a determination on the number of refugees to be admitted, because of an unforeseen emergency refugee situation, "to the extent that time and the nature of the emergency refugee situation permits, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives and safety of individuals." The results of the hearing are to be printed in the Congressional Record.

4. Administration's response to current Cuban crisis.

Although the President invoked the emergency provisions on April 14th to deal with the initial phase of the Cuban refugee problem—3,500 numbers for Cubans in the Peruvian Embassy—it has not used these provisions subsequently. Instead, some 90,000 Cubans have been admitted for 60 days under the Attorney General's parole authority (Section 212(d)(5)) of the Immigration and Nationality Act, pending their application for asylum.

No resettlement funds are now available to the States, local communities, or voluntary agencies. Instead, domestic disaster assistance funds are being utilized.

5. Options available to the administration.

a. Amend the President's April 14th decision to invoke Section 207(b) of the Refugee Act of 1980 and provide for an increased ceiling—perhaps 90,000.

b. Continue to invoke the Attorney General's parole authority.

c. Admit Cubans under the old "Cuban Refugee Adjustment Act of 1966."

d. Propose special legislation.

The Attorney General's parole authority, Section 212(d)(5), provides:

"The Attorney General may, except as provided in subparagraph (B), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien, and when the purposes of such parole shall, in the opinion of the Attorney General, have been served, the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

"(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207."

In the Cuban situation, there is a law which permits the adjustment of status of Cubans who have been paroled and have been present in the U.S. for at least 2 years. P.L. 89-732, The Cuban Refugee Adjustment Act of 1966, provides that Cubans who have been here for at least two years, may adjust their status to that of a permanent legal resident. A drawback with this provision is that it requires a two-year residency. Thus, any paroled Cuban refugee must wait two years before benefiting from this provision. The new Refugee Act only has a one year waiting period. Another major problem is that paroled refugees are not eligible for federal resettlement assistance. The Administration must seek separate financial assistance.

6. Equity for the Haitian boat people.

The Haitian situation is more difficult to resolve than the Cuban. The State Department has declared that the Haitian boat people are economic, not political, refugees. Therefore, they cannot be considered under the Refugee Act. The only immediate solution available is for the Attorney General to invoke the parole authority on a case-by-case basis.

SENATOR KENNEDY'S OPENING STATEMENT AT JUDICIARY COMMITTEE HEARING ON CUBAN REFUGEES

The following is the text of Senator Edward M. Kennedy's statement at today's hearing on Cuban refugees.

The committee meets this morning to assess the worsening human crisis among Cuban, Haitian and other Caribbean refugees coming to our shores.

We are concerned today about the chaos surrounding thousands of boat refugees. We are concerned over the steps the government has taken and should take to deal with this crisis.

This desperate flight of humanity on the high seas endangers the lives of thousands of men, women and children each day. It also threatens to disrupt the economy of Florida and other states and is undermining the integrity of the Nation's immigration laws.

All Americans want to open their arms and hearts to the homeless, and to see that families are reunited.

However, we cannot welcome refugees if there is no order to their movement, no screening to help them, and no funds to support them.

Day after day, for the past four weeks, we have seen this humanitarian and political crisis grow increasingly out of control, with no decisive action or leadership capable of meeting the challenge.

We want to know this morning what steps the Administration is taking diplomatically to internationalize this problem. We want to know when and if the United Nations High Commissioner for Refugees has been invited to use his good offices to coordinate the departure of refugees from Cuba and their resettlement in countries other than the United States.

We want to know whether the High Commissioner has been invited to help in the relocation centers in Florida and elsewhere, as he was during the Indochinese refugee evacuation in 1975—so that he can provide overall policy guidance and international support for our efforts.

The United States now faces the problems similar to those of many other countries of first asylum, such as Austria, Malaysia, and Thailand. The international presence and participation of the High Commissioner can help to ease our problems as well.

We also want to know what progress was achieved at last week's conference in Costa Rica. We want to know whether the Administration has urged other countries to receive their fair share of refugees. We want to know whether the Administration is prepared to negotiate seriously with Cuba for humane and orderly refugee procedures, similar to those concluded in the 1960's.

We want to know what the Administration intends to do with the thousands of Haitian boat people also reaching our shores—and why it has closed its eyes to their suffering over the past weeks and months. We must deal humanely with those who are here and fairly with those who arrive in the future, using the terms of the Refugee Act of 1980.

Refugee problems have always been of deep concern to the American people. The United States has a long and distinguished humanitarian record in this area. Indeed, as a nation of refugees, we take pride in America as a haven for those seeking freedom from oppression in other lands and a better chance in life.

Today, refugee problems pose critical foreign policy questions for both the United States and the international community.

Nowhere is this more true than in the Caribbean—so close to our shores and so important to our national interests.

The new Refugee Act offers us an opportunity to deal effectively with the current crisis. Congress and the Administration, working together, have a clear responsibility to meet this challenge.●

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders have been recognized under the standing order on Monday, Mr. CANNON be recognized for not to exceed 15 minutes and, after Mr. CANNON has been recognized, that the following Senators be recognized, each for not to exceed 15 minutes, not necessarily in the order that they are stated, but for their own convenience, for their own convenience as to sequence: Messrs. BAKER, TOWER, DOLE, GARN, DANFORTH, STEVENS, BOREN, and ROBERT C. BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JUNE 9, 1980

Mr. BOREN. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 12 noon on Monday next.

The motion was agreed to; and, at 2:58 p.m., the Senate recessed until Monday, June 9, 1980, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 6, 1980:

DEPARTMENT OF EDUCATION

Cynthia G. Brown, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education (new position.)

Edwin W. Martin, Jr., of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education (new position).

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Abramson, Lawrence, [redacted].
Adair, Robert B., [redacted].
Adams, Frank S., [redacted].
Adderley, David L., [redacted].
Ady, Samuel J., [redacted].
Aikman, Larry P., [redacted].
Albertson, Tom L., [redacted].
Alexander, Don R., [redacted].
Alexander, Joseph D., [redacted].
Allen, Alex L., [redacted].
Allen, Frank C., [redacted].
Allen, Lee, [redacted].
Ammerman, Robert H., [redacted].
Anderson, James Y., [redacted].
Andrews, Anthony J., [redacted].
Apfel, Paul W., [redacted].
Applegarth, Donald, [redacted].
Arbogast, William R., [redacted].
Archibald, Harold R., [redacted].
Archibald, Thomas, [redacted].
Armstrong, Donald R., [redacted].
Arndt, Gary L., [redacted].
Arnold, Joseph V., [redacted].
Atkins, George C., [redacted].
Avant, Thomas L., [redacted].
Avery, Wesley B., [redacted].
Ax, George R., [redacted].
Badine, Alan H., [redacted].
Bagnerise, Joseph W., [redacted].
Bailey, William N., [redacted].
Baker, Charles R., [redacted].
Baldwin, Edward R., [redacted].
Ball, James W., [redacted].
Bangerter, Jerald C., [redacted].
Bare, George P., [redacted].
Barone, Ercole M., [redacted].
Barrios, Roy J., [redacted].
Barrowman, Thomas J., [redacted].
Bassett, Franklyn B., [redacted].
Bauer, David W., [redacted].
Beakey, Danny J., [redacted].
Beans, Harry C., [redacted].
Beavers, Leslie E., [redacted].
Beck, William F., [redacted].
Beebe, Merrell S., [redacted].
Beinhacker, Neal D., [redacted].
Belan, Charles G., [redacted].
Bendele, James C., [redacted].
Bender, Joseph F., [redacted].
Bennett, James L., [redacted].
Bennett, Thomas R., [redacted].
Benson, Richard D., [redacted].
Benson, Roger R., [redacted].
Bergeron, Gary P., [redacted].
Bernstein, Charles, [redacted].
Berry, John A., [redacted].
Best, James W., [redacted].
Beyer, Eugene A., [redacted].
Bidgood, Ferdinand, [redacted].
Bierly, Robert N., [redacted].
Billings, Barry B., [redacted].
Bilyeu, Ronald E., [redacted].
Biondi, Richard M., [redacted].
Bireley, Judson L., [redacted].
Black, Ronald L., [redacted].
Blackstone, Anthony, [redacted].
Blake, Phillip L., [redacted].
Blanchard, Charles, [redacted].
Blanchard, Joseph H., [redacted].
Bledsoe, James H., [redacted].
Blewett, John H., [redacted].
Bochnowski, Frank J., [redacted].
Bogart, William V., [redacted].
Bohach, John L., Jr., [redacted].
Bolton, Peter A., [redacted].
Bomersheim, Phil K., [redacted].
Bonfanti, Anthony J., [redacted].
Bonifay, Isaac F., [redacted].
Bonner, John E., [redacted].
Booth, Van D., [redacted].
Bosch, Brian J., [redacted].
Botelho, George E., [redacted].
Bowden, John T., [redacted].
Bowe, Robert M., [redacted].
Bowers, Joseph M., [redacted].
Bowersox, Wilbur G., [redacted].
Boyd, Claude D., [redacted].
Boyle, David J., [redacted].
Braden, Frank R., [redacted].
Bradley, William A., [redacted].
Brady, Edward J., [redacted].
Brailsford, Marvin, [redacted].
Bratton, Vernon W., [redacted].
Bratz, Gordon T., [redacted].
Brennan, Patrick M., [redacted].
Bretsch, Kenneth P., [redacted].
Brice, Donald A., [redacted].
Brinkley, Ulyus O., [redacted].
Brisach, Eugene M., [redacted].
Brock, Donald E., [redacted].
Brooks, Delbert R., [redacted].
Brown, Stanley M., [redacted].
Brugnoni, John J., [redacted].
Brumblay, Robert H., [redacted].

Brunner, Karl R., [redacted].
Bryan, Joe S., [redacted].
Bryans, Wallace A., [redacted].
Buckert, Kenneth D., [redacted].
Buckles, Harvey I., [redacted].
Bunting, Willis R., [redacted].
Burch, Fenwick H., [redacted].
Burd, Cleve J., [redacted].
Burden, John R., [redacted].
Burgin, Charles M., [redacted].
Burley, Edward B., [redacted].
Burnell, Robert W., [redacted].
Butler, Billy C., [redacted].
Byrnes, David F., [redacted].
Cahill, Ralph D., [redacted].
Calkin, Ellery F., [redacted].
Callahan, Joseph C., [redacted].
Callender, William, [redacted].
Cameron, Carl H., [redacted].
Campbell, Albert, Jr., [redacted].
Campbell, Charles L., [redacted].
Campbell, Dan H., [redacted].
Campbell, Kenneth H., [redacted].
Candia, Ruben A., [redacted].
Cansler, Joe C., [redacted].
Caraballo, Julian T., [redacted].
Caraway, Lynn I., [redacted].
Carey, Arthur T., [redacted].
Carlton, Terry M., [redacted].
Carmean, Clayton H., [redacted].
Carney, Roger F., [redacted].
Carolan, James M., [redacted].
Carpenter, William, [redacted].
Carr, Milton B., [redacted].
Carr, Richard M., [redacted].
Carter, Lewis L., [redacted].
Casey, John L., [redacted].
Cash, John A., [redacted].
Cassada, Thomas W., [redacted].
Castro, John P., [redacted].
Cato, Richard W., [redacted].
Catt, Jackie D., [redacted].
Caulk, Richard R., [redacted].
Cerjan, Paul G., [redacted].
Chabot, Brion V., [redacted].
Chamberlain, Craig, [redacted].
Chamberlain, William, [redacted].
Champ, Alan D., [redacted].
Chapman, Don C., [redacted].
Chapman, Gerald, Jr., [redacted].
Child, John, [redacted].
Childs, Leo M., [redacted].
Chucala, Steven, [redacted].
Chunco, William R., [redacted].
Clark, Carl M., [redacted].
Clark, Claude L., [redacted].
Clark, Daniel R., [redacted].
Clark, Niles C., [redacted].
Clark, Vernon L., [redacted].
Clawson, Lucien B., Jr., [redacted].
Cleaver, Donald E., [redacted].
Clement, Robert D., [redacted].
Click, David L., [redacted].
Clifton, Jack H., [redacted].
Cloud, Leon B., [redacted].
Coates, Albert, [redacted].
Cole, Julian V., [redacted].
Cole, Robert H., [redacted].
Cole, Theodore R., [redacted].
Collier, William P., [redacted].
Collins, Charles D., [redacted].
Collins, Francis C., [redacted].
Comfort, Gary L., [redacted].
Conforti, Gilbert, [redacted].
Conlin, Thomas J., [redacted].
Conner, George H., [redacted].
Conte, Ronald D., [redacted].
Coombs, John G., [redacted].
Coombs, Robert M., [redacted].
Costa, Robert A., [redacted].
Cote, Joseph R., [redacted].
Cox, William W., [redacted].
Coyne, John F., [redacted].
Cozanitis, Eleas A., [redacted].
Cratty, William E., [redacted].
Creekmore, Joseph P., [redacted].
Cressall, William F., [redacted].
Cressler, Walter L., [redacted].
Crocker, Aaron O., [redacted].
Crosby, George T., [redacted].
Crossley, Ross W., [redacted].
Crump, John C., [redacted].
Crysel, James W., [redacted].
Culp, Richard B., [redacted].
Cummings, Edward H., [redacted].
Cummings, Ezra C., [redacted].
Cummings, Patrick W., [redacted].
Cushman, James M., [redacted].
Daknis, William R., [redacted].
Daniel, Richard A., [redacted].
Danielsen, Theodore, [redacted].
Darden, Harold W., Jr., [redacted].
Dascanio, John L., [redacted].
Daum, Richard S., [redacted].
Davies, David C., [redacted].
Davies, Michael D., [redacted].
Davis, Paris D., [redacted].
Davis, Peter A., [redacted].
Dean, George A., [redacted].
Debolt, Harold F., [redacted].
Decko, Charles, Jr., [redacted].
Dee, David D., [redacted].
Delfavero, Robert V., [redacted].
Deloach, Javan M., [redacted].
Denney, J. Thomas H., [redacted].
DeSantis, Edward, [redacted].
Dethlefsen, James D., [redacted].
Dice, Denis C., [redacted].
Dice, Jack W., [redacted].
Dickerson, Michael, [redacted].
Diebold, Jerome A., [redacted].
Digregorio, Anthony, [redacted].
Dillard, Franklin R., [redacted].
Donaldson, Benjamin, [redacted].
Donlon, Roger H., [redacted].
Doty, Richard V., [redacted].
Downey, John T., [redacted].
Doyle, William J., [redacted].
Dreska, John P., [redacted].
Drewfs, Henry F., [redacted].
Driver, Lewis F., [redacted].
Dubov, Bruce J., [redacted].
Duckworth, Charles, [redacted].
Duerre, Chester W., [redacted].
Duey, William E., [redacted].
Duff, John A., [redacted].
Duggan, Lawrence W., [redacted].
Duncan, Garrett E., [redacted].
Duncan, Jerry G., [redacted].
Dunford, William H., [redacted].
Dungan, Avalon L., [redacted].
Dunham, Rockwood S., [redacted].
Dupont, Arnold R., [redacted].
Durbin, Jerome A., [redacted].
Duryea, Lyman C., [redacted].
Dyer, Robert E., [redacted].
Dygert, George H., [redacted].
Eames, Robert F., [redacted].
Earle, Richard H., [redacted].
Ed Robert C., [redacted].
Edgette, Charles W., [redacted].
Edinger, Jerry D., [redacted].
Edwards, Robert H., [redacted].
Eggerichs, James M., [redacted].
Elam, Fred E., [redacted].
Emerson, Lloyd A., [redacted].
Emond, Rene J., [redacted].
Endicott, James A., [redacted].
Endy, Clarence E., [redacted].
Enloe, Donald R., [redacted].
Erickson, Richard A., [redacted].
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Eubanks, Herman T., [redacted].
Evans, Donald L., [redacted].
Evans, Loyal G., Jr., [redacted].
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Fairchild, James B., [redacted].
Fairweather, Robert, [redacted].
Fanning, John P., [redacted].
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Fenn, Harlin L., [redacted].
Fenton, Roland D., [redacted].
Ferguson, George A., [redacted].
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Fetterolf, Robert J., [redacted].
Fields, Clinton A., [redacted].
Fields, Harold T., [redacted].
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Fiero, Robert S., [redacted].
Fink, Jerry D., [redacted].
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Foreman, Leroy F., [redacted].
Forster, Paul A., [redacted].
Fossum, Raymond O., [redacted].
Fouratt, Enos J., [redacted].
Fox, Louis W., [redacted].
Foye, Robert, Jr., [redacted].
Frankenberger, Charles, [redacted].
Frasche, Louis D., [redacted].
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Galliers, Richard J., [redacted].
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Garcia, Miguel A., [redacted].
Garner, George K., [redacted].
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Gates, Richard H., [redacted].
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Gay, Homer G., Jr., [redacted].
Gee, John T., [redacted].
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German, Abraham L., [redacted].
Germann, Anthony C., [redacted].
Getgood, John H., [redacted].
Gibbs, Homer J., [redacted].
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Gillespie, Wayne G., [redacted].
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Gilligan, Joseph M., [redacted].
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Golding, Willard E., [redacted].
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Goodman, Donald W., [redacted].
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Graves, Hardy L., [redacted].
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Guest, James A., [redacted].
Guiler, Douglas C., [redacted].
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Key, Robert C., [redacted].
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Kinkade, David R., [redacted].
Kirkland, Cleo D., [redacted].
Kish, Francis B., [redacted].
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Knight, John M., [redacted].
Knisely, Lynn B., [redacted].
Kniskern, Bruce E., [redacted].
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Kok, Sherwood J., [redacted].
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Krape, Darryl S., [redacted].
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Lamb, John C., [redacted].
Landry, Larry J., [redacted].
Lane, Bishop L., [redacted].
Lane, Michael K., [redacted].
Lang, Neil B., [redacted].
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Lenti, John M., [redacted].
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Leverette, Thomas E., [redacted].
Lew, James R., [redacted].
Lewis, Billie G., [redacted].
Lewis, Charles L., [redacted].
Lewis, Jerome X., [redacted].
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Lewis, Ronald D., [redacted].
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Lincoln, James B., [redacted].
Line, Edward D., [redacted].
Lipson, Elliot S., [redacted].
Little, Allan G., [redacted].
Littlefield, William, [redacted].
Livengood, Raymond, [redacted].
Lohr, Richard A., [redacted].
Lombardo, Roy S., [redacted].
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Love, Heilbron B., [redacted].
Lowry, Robert C., [redacted].
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Lucas, Joseph C., [redacted].
Luck, Gary E., [redacted].
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McAulay, David J., [redacted].
MacGregor, Harry G., [redacted].
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Maloney, William H., [redacted].
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Marotta, Joseph R., [redacted].
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Mashburn, Richard J., [redacted].
Mason, John T., [redacted].
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Mattson, Gerald E., [redacted].
Maurer, Raymond W., [redacted].

May, Billy W., [redacted].
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Mayville, William C., [redacted].
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Moe, John A., [redacted].
Mohr, Harley R., [redacted].
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Monahan, James F., [redacted].
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Morris, Jimmy R., [redacted].
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Nobles, Charles S., [redacted].
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Overholser, William, [redacted].
Owens, Bobby L., [redacted].
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Owens, William B., [redacted].
Paaso, Thomas H., [redacted].
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Painter, Donald E., [redacted].
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Parker, Frank W., [redacted].
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Pate, Rupert E., [redacted].
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Peppers, John S., [redacted].
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Shachnow, Sidney, [redacted].

Shaul, Charles D., [redacted].
Shaver, Frank J., [redacted].
Sheldon, Thomas K., [redacted].
Sherrell, Wilson J., [redacted].
Sherrod, Dale E., [redacted].
Sherwood, John T., [redacted].
Shevlin, George L., [redacted].
Shimek, Daniel W., [redacted].
Shohan, Robert W., [redacted].
Shost, Alan T., [redacted].
Siegling, William A., [redacted].
Sills, Edward G., [redacted].
Simpson, Andrew R., [redacted].
Simpson, William C., [redacted].
Singsank, James J., [redacted].
Sloan, Jimmy B., [redacted].
Smallen, Ray H., [redacted].
Smathers, Sam T., [redacted].
Smith, Donald E., [redacted].
Smith, Guy A., Jr., [redacted].
Smith, Horace A., [redacted].
Smith, James C., [redacted].
Smith, John A., [redacted].
Smith, Paul L., [redacted].
Snow, Edward F., [redacted].
Sodano, Guy R., [redacted].
Solliday, Charles W., [redacted].
Sorenson, Ralph L., [redacted].
Sorenson, Wilbert W., [redacted].
Sowle, Peter H., [redacted].
Spanjers, Leonard J., [redacted].
Spann, Juan W., [redacted].
Speedie, John C., [redacted].
Spigarelli, Raymond, [redacted].
Spigelmire, Michael, [redacted].
Spin, William A., [redacted].
Sprinsky, William H., [redacted].
Stafford, Benjamin, [redacted].
Stageberg, Richard, [redacted].
Stamant, Joseph F., [redacted].
Stanford, Harold D., [redacted].
Stang, Arthur C., [redacted].
Starling, James D., [redacted].
Starnaud, Charles E., [redacted].
Stearns, Raymond L., [redacted].
Stehling, Joseph M., [redacted].
Steiger, Donald W., [redacted].
Stem, David H., [redacted].
Stephens, William J., [redacted].
Stevens, Ralph P., [redacted].
Stillman, Geoffrey, [redacted].
Stilwell, Joseph W., [redacted].
Stitt, Wilbert, Jr., [redacted].
Stivison, James R., [redacted].
Stockman, William L., [redacted].
Stofft, William A., [redacted].
Stokes, Orville P., [redacted].
Stovall, Rayburn C., [redacted].
Stowe, Wain W., [redacted].
Straetz, Donald F., [redacted].
Strimbu, George, [redacted].
Strong, Edward M., [redacted].
Struck, Larry D., [redacted].
Stubblefield, Joel, [redacted].
Stulga, Charles A., [redacted].
Stupka, Michael B., [redacted].
Sullivan, Gordon R., [redacted].
Sullivan, James A., [redacted].
Summers, Don A., [redacted].
Suter, Ronny L., [redacted].
Sutter, Ronny L., [redacted].
Sutton, James C., [redacted].
Symons, Rodney W., [redacted].
Szabo, Richard M., [redacted].
Tancreti, Roger J., [redacted].
Taranto, Monroe J., [redacted].
Tate, George W., [redacted].
Taylor, Billy W., [redacted].
Taylor, Horace G., [redacted].
Taylor, John E., [redacted].
Tebo, Robert J., [redacted].
Tenbrook, James J., [redacted].
Terpak, Donald R., [redacted].
Theofanous, Angelo, [redacted].
Thomas, Jerry A., [redacted].
Thomas, William S., [redacted].
Thompson, James B., [redacted].
Thompson, James P., [redacted].
Thompson, Vernon D., [redacted].
Thorne, Tommy L., [redacted].
Thurgood, Leon C., [redacted].
Thurston, Joe B., [redacted].
Tichenor, James R., [redacted].
Tillman, Clifford R., [redacted].
Tocher, Robert B., [redacted].
Todd, Jackson E., [redacted].
Todd, John J., [redacted].
Tomlinson, Gary V., [redacted].
Totten, Robert G., [redacted].
Tower, William E., [redacted].
Tozer, William S., [redacted].
Tracy, James L., [redacted].
Trauner, Ronald F., [redacted].
Trodella, Robert A., [redacted].
Tudor, Robert W., [redacted].
Tyson, Richard L., [redacted].
Ullman, Cornell L., [redacted].
Ulmer, Donald J., [redacted].
Unger, Curtis G., [redacted].
Valliant, Charles M., [redacted].
Vaneynde, Donald F., [redacted].
Varley, William L., [redacted].
Varnon, Jerry R., [redacted].
Vela, Rene A., [redacted].
Vemity, Charles G., [redacted].
Vermilyea, Carl P., [redacted].
Villaronga, Raul G., [redacted].
Vinson, Billy R., [redacted].
Wacloff, Robert L., [redacted].
Waddell, Decatur F., [redacted].
Waddell, Ralph L., [redacted].
Wade, Jerry F., [redacted].
Waghelstein, John D., [redacted].
Waits, John P., [redacted].
Waldhour, Louis G., [redacted].
Waldrop, William R., [redacted].
Walker, Frederick A., [redacted].
Walker, John A., [redacted].
Walker, Lanny K., [redacted].
Walker, Philip A., [redacted].
Ware, William M., [redacted].
Warren, Claude H., [redacted].
Warren, James A., [redacted].
Washington, Charles, [redacted].
Watkins, Charlie C., [redacted].
Watson, Henry C., [redacted].
Watts, Pitt M., [redacted].
Webb, Gerald E., [redacted].
Weeks, Leo J., [redacted].
Weening, Otto, [redacted].
Weir, David E., [redacted].
Wells, Herbert D., [redacted].
Welsh, James B., [redacted].
Wendt, Robert L., [redacted].
Wenzel, Paul J., [redacted].
Wernitznig, Ronald, [redacted].
Wesneski, Carl, A., [redacted].
Westry, Oliver B., [redacted].
Whaley, Max, [redacted].
Whatley, David T., [redacted].
Wheeler, Philip A., [redacted].
Whipple, Berkley A., [redacted].
Whisenhunt, J. Dee, [redacted].
Whisler, John C., [redacted].
White, Billy C., [redacted].
White, Harry N., [redacted].
White, James M., [redacted].
White, Jerry A., [redacted].
White, Robert L., [redacted].
White, Walter S., [redacted].
Whitlaw, Nathaniel, [redacted].
Whitley, Wade H., [redacted].
Whitsett, Richard D., [redacted].
Whitten, William M., [redacted].
Wickliffe, Paul T., [redacted].
Wild, Allen R., [redacted].
Wiley, Noblejames I., [redacted].
Wilhelm, Robert S., [redacted].
Wilkes, John S., [redacted].
Wilkie, David G., [redacted].
Willard, Jack T., [redacted].
Williams, Charles E., [redacted].
Williams, Frank K., [redacted].
Williams, James E., [redacted].
Williams, Jon W., [redacted].
Williams, Paul E., [redacted].
Willison, Darryl L., [redacted].
Wilson, Bruce E., [redacted].
Wilson, David G., [redacted].
Wilson, Gene R., [redacted].
Wilson, John H., [redacted].
Wilson, Walter K., [redacted].
Wisby, James M., [redacted].
Witcher, Robert A., [redacted].
Witherspoon, Jerry, [redacted].
Witt, Billy J., [redacted].
Wolfarth, William M., [redacted].
Wolmering, Lawrence, [redacted].
Wolpert, Robert A., [redacted].
Wolters, Robert A., [redacted].
Wood, Dallas C., [redacted].
Wood, William A., [redacted].
Woodall, Thomas J., [redacted].
Woodbeck, Charles A., [redacted].
Woodhurst, Charles, [redacted].
Woodle, Kenneth J., [redacted].
Woodson, William B., [redacted].
Worlund, Shyron L., [redacted].
Wright, Jerry T., [redacted].
Wrockloff, George E., [redacted].
Wugofski, Eugene T., [redacted].
Yamaguchi, Phillip, [redacted].
Yawn, Malcolm T., [redacted].
Yeagley, John P., [redacted].
Yetman, Robert R., [redacted].
York, Dennis, J., [redacted].
York, Donald, [redacted].
York, James J., [redacted].
Youngblood, David T., [redacted].
Zebarth, Roger L., [redacted].
Zingle, Paul R., [redacted].
Zorn, Burl A., [redacted].
Zouzalik, Ervan E., [redacted].

CHAPLAIN CORPS

To be lieutenant colonel

Alutius, Joseph F., [redacted].
Burnett, Lewis G., [redacted].
Devine, Kevin A., [redacted].
Geary, Wesley V., [redacted].
Hagin, J. Ward, [redacted].
Howells, Carlton R., [redacted].
Kleinworth, Robert, [redacted].
Kyle, Charles G., [redacted].
Murja, Milan, [redacted].
Piskura, Joseph H., [redacted].
Standley, Meredith, [redacted].
Vanderburgh, Daryl C., [redacted].
Vaughan, Curry N., [redacted].
Venzke, Rodger R., [redacted].

DENTAL CORPS

To be lieutenant colonel

Ailor, John E., [redacted].
Battle, Lucius W., [redacted].
Bellizzi, Ralph, [redacted].
Bernier, William E., [redacted].
Brown, Richard T., [redacted].
Carpenter, William, [redacted].
Ciconte, Joseph A., [redacted].
Coleman, Alfred E., [redacted].
Cupero, Hamil M., [redacted].
Davisson, Nelson M., [redacted].
Dowdy, Thomas S., [redacted].
Eaton, John D., [redacted].
Ellinger, Harley A., [redacted].
Fox, Lonald J., [redacted].
Goldberg, Joel R., [redacted].
Goldberg, Stuart E., [redacted].
Hoeksema, Gordon J., [redacted].
Jacobs, Richard C., [redacted].
Johnson, Timothy M., [redacted].
Leahy, Robert E., [redacted].
Lebeau, Paul, Jr., [redacted].
Lorton, Lewis, [redacted].
Mattia, Michael N., [redacted].
Mills, Donald E., [redacted].
Moss, James L., [redacted].
Moyer, John H., [redacted].
Robbins, Fredrick E., [redacted].
Shaudis, Thomas C., [redacted].
Shimer, Tommy W., [redacted].
Simes, Thomas A., [redacted].
Tabor, Herman S., [redacted].
Theisen, Frank C., [redacted].
Ward, James, P., [redacted].
Wehmeyer, Thomas E., [redacted].
Welsh, Stephen L., [redacted].
Zehngraff, Paul E., [redacted].
Ziesmer, Dale W., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Barry, Michael J., [redacted].

Beard, Graham E., [redacted].
Bobitt, John R., [redacted].
Butler, Melvin L., [redacted].
Chase, Norman B., [redacted].
Claypool, Robert G., [redacted].
Cottingham, Andrew, [redacted].
Cutting, John W., [redacted].
Dean, Arthur J., Jr., [redacted].
Dunn, Bruce E., [redacted].
Flannery, Eugene P., [redacted].
Gerstenberger, Duane F., [redacted].
Geschke, Dietrich W., [redacted].
Ghaed, Nasser, [redacted].
Goette, Detlef K., [redacted].
Graven, Richard M., [redacted].
Hecht, Manfred H., [redacted].
Heilman, John P., [redacted].
Hill, John C., [redacted].
Hinckley, Marshall, [redacted].
Jirka, Anton J., [redacted].
Kull, Donald H., [redacted].
Light, Jimmy A., [redacted].
Lowell, George G., [redacted].
Metz, Leon B., [redacted].
Nevarez, Leonard J., [redacted].
Owens, Bennett G., [redacted].
Powell, George K., [redacted].
Proctor, Richard O., [redacted].
Rahm, Adolf E., Jr., [redacted].
Ranadive, Manmohan, [redacted].
Ruark, Sylvan R., [redacted].
Saadah, David M., [redacted].
Shaw, Jon A., [redacted].
Sitter, Stephen C., [redacted].
Spence, Crumpton R., [redacted].
Stafford, Chester T., [redacted].
Sullivan, Dennis J., [redacted].
Travis, Richard T., [redacted].
Vansant, Thomas E., [redacted].
Warren, Danial C., [redacted].
Wheeling, James R., [redacted].
Williams, Troy H., [redacted].
Zajtchuk, Russ, [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Barnard, John D., [redacted].
Barnes, Walter, Jr., [redacted].
Bennett, Winston R., [redacted].
Bishop, Garland G., [redacted].
Boyd, William M., [redacted].
Carnahan, Robert P., [redacted].
Clark, Charles F., [redacted].
Collman, Richard H., [redacted].
Cooke, James K., [redacted].
Delane, Charles E., [redacted].
Derrickson, William, [redacted].
Ditmars, Dennis L., [redacted].
Dix, Richard A., [redacted].
Dominguez, Roberto, [redacted].
Dunlevy, Bernard J., [redacted].
Fitzgerald, Barry E., [redacted].
Forrer, Dennis B., [redacted].
Fuller, Gary L., [redacted].
Fulton, William R., [redacted].
Goodman, Dorris C., [redacted].
Graydon, Donald M., [redacted].
Greene, Fredrick L., [redacted].
Greenhalgh, Donald, [redacted].
Grider, Donald A., [redacted].
Hall, Joseph A., [redacted].
Halvorson, Gerald W., [redacted].
Hamilton, John C., [redacted].
Harris, Cecil B., [redacted].
Hausler, George W., [redacted].
Heller, Kyle M., [redacted].
Helser, Carl W., [redacted].
Hennessy, Albert G., [redacted].
Higgs, Richard H., [redacted].
Holcomb, Robert E., [redacted].
Houston, William E., [redacted].
Howard, Jimmie B., [redacted].
Iber, Peter K., [redacted].
Inberg, Darlow L., [redacted].
Jackson, Johnnie R., [redacted].
Jones, Ronald C., [redacted].
Kendall, William F., [redacted].
Labat, Roger J., [redacted].
Lamport, James E., [redacted].
Lanier, Jack O., [redacted].
Laubscher, John W., [redacted].
Longley, Karl E., [redacted].
Lund, Nelson H., [redacted].
Malone, Richard L., [redacted].
Marine, Wayne E., [redacted].
Meiers, Richard E., [redacted].
Mercado, Robert K., [redacted].
Merritt, Thomas E., [redacted].
Osborne, Edward J., [redacted].
Smith, James M., [redacted].
Stone, Leland M., [redacted].
Thompson, Eugene G., [redacted].
Vallandingham, James, [redacted].
Vance, William M., [redacted].
Waters, George A., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Brewer, Jessie S., [redacted].
Buss, Corole J., [redacted].
Hammond, Charles W., [redacted].
Lopez, Sarah D., [redacted].
Meier, Theodocia T., [redacted].
Putnam, Joicey M., [redacted].
Vickery, Jane C., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Brown, John L., [redacted].
Cooper, James C., [redacted].
Howarth, Robert A., [redacted].
Reddin, George B., [redacted].
Rozmiarek, Harry, [redacted].
Seedle, Clyde D., [redacted].
Shroyer, Emerson L., [redacted].
Stephenson, Edward, [redacted].
Strahler, Eugene G., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Barrington, Tillman, [redacted].
Condon, Kathleen T., [redacted].
Fox, Eileen L., [redacted].
Glor, Beverly A. K., [redacted].
Hammer, Joyce A., [redacted].
Haupert, Irene T., [redacted].
Jims, Madeline P., [redacted].
Lamontagne, Mary E., [redacted].
Marsh, Carolyn J., [redacted].
Matthiesen, Jerry A., [redacted].
Nolfe, Vera A., [redacted].
Samuels, Claude C., [redacted].
Scheerer, Marjorie, [redacted].
Segler, Esther J., [redacted].
Skinner, Fay J., [redacted].
Stepulis, John J., [redacted].
Sullivan, Barbara A., [redacted].
Wonpat, Jacqueline, [redacted].

CHAPLAIN CORPS

To be major

Scott, Quincy, Jr., [redacted].

MEDICAL CORPS

To be major

Karsh, Richard B., [redacted].

MEDICAL SERVICE CORPS

To be major

Smoluk, John J., [redacted].
Thomas, Buddy G., [redacted].

MEDICAL SERVICE CORPS

To be captain

Buchmeier, Robert P., [redacted].
Palmer, Gary S., [redacted].
Press, Paul P., [redacted].

ARMY NURSE CORPS

To be captain

Savinske, Debra L., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, section 3305:

MEDICAL CORPS

To be colonel

Goodnow, Robert W., [redacted].

MEDICAL SERVICES CORPS

To be colonel

Hill, Harris R., [redacted].

DENTAL CORPS

To be colonel

Lamers, Edward M., [redacted].

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, sections 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Curran, Jan D., [redacted].
Derr, Edward B., [redacted].
Hubbard, Harry J., III. [redacted].
Judge, Richard F., [redacted].
Merrill, Will G., Jr., [redacted].
Olchovik, Stanley, [redacted].

DENTAL CORPS

To be colonel

Dowdy, Thomas S., [redacted].
Goldberg, Stuart E., [redacted].
Klonaris, Nick S., [redacted].
McDonald, Frederick L., [redacted].
Marshall, Keith J., [redacted].
Martin, Robert L., [redacted].
Merten, Robert L., [redacted].
Moyer, John H., [redacted].
Pickett, Alan B., [redacted].
Ziesmer, Dale W., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Merrill, Jerry E., [redacted].

MEDICAL CORPS

To be colonel

Benson, Willliam, [redacted].
Schneider, Robert L., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Anderson, Charles A., [redacted].
Berry, James L., [redacted].
Burns, Charles P., Jr., [redacted].
Davis, Vernon B., [redacted].
Doble, John G., Jr., [redacted].
Evans, John O., III., [redacted].
Fink, Kenneth L., [redacted].
Gilbert, Ralph W., Jr., [redacted].
Graham, Bobby L., [redacted].
Jackson, William L., [redacted].
Lee, Robert E., [redacted].
Linder, Wesley R., [redacted].
McCoy, Frederick W., Jr., [redacted].
Muller, Walter O., [redacted].
Osborne, Tommy T., [redacted].
Pelfrey, Kenneth R., [redacted].
Porter, James W., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Giove, Francis L., [redacted].
Newborn, James L., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Voegele, Henry D., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Abbott, Oscar D., [redacted].
Adams, John D., [redacted].
Agodoa, Lawrence Y., [redacted].
Amedia, Chester A., [redacted].
Amegin, George P., [redacted].
Anderson, Walter C., [redacted].
Andrade, William P., [redacted].
Andres, Dale F., [redacted].
Arkangel, Carmelito, [redacted].
Bailey, James W., [redacted].
Bajor, Constantino, [redacted].

Baker, Brian L., [redacted].
Baker, John A., [redacted].
Banks, Richard A., [redacted].
Bascom, Barbara, [redacted].
Baskoff, Joel D., [redacted].
Bates, Vernice E., [redacted].
Baumgartner, James, [redacted].
Beachler, Kent J., [redacted].
Behnke, Ernest E., [redacted].
Bellin, Bruce D., [redacted].
Benton, Edward W., [redacted].
Benvenuti, James P., [redacted].
Bernier, Ralph D., [redacted].
Billingsley, Jerome, [redacted].
Bissell, William G., [redacted].
Black, James F., [redacted].
Black, William L., [redacted].
Blum, Eduardo S., [redacted].
Bova, James G., [redacted].
Bowers, Rodney E., [redacted].
Boyd, James F., [redacted].
Brandner, Patrick J., [redacted].
Brinkman, Frank P., [redacted].
Brinks, Heinrich A., [redacted].
Broadbent, Paul W., [redacted].
Bryant, Max V., [redacted].
Bucknell, Allan L., [redacted].
Burton, Charles H., [redacted].
Butler, William M., [redacted].
Cagle, Donald E., [redacted].
Campbell, Robert W., [redacted].
Campos, Frederick A., [redacted].
Capen, Charles V., [redacted].
Carlon, Michael J., [redacted].
Carr, John P., [redacted].
Cecere, Fred A., [redacted].
Cerezo, Lizardi L., [redacted].
Chamberlain, Warren, [redacted].
Chan, Philip, [redacted].
Chan, Yuk Keng D., [redacted].
Choi, Suni, [redacted].
Chun, Patrick K., [redacted].
Cioffi, Francis J., [redacted].
Clark, Clifford R., [redacted].
Clark, Louis P., [redacted].
Clay, Jennifer G., [redacted].
Cochran, Henry S., [redacted].
Conaway, Lincoln, [redacted].
Cook, John R., [redacted].
Copley, John B., [redacted].
Crone, Richard A., [redacted].
Cummings, Douglas M., [redacted].
Dantzler, Brian S., [redacted].
Davenport, James A., [redacted].
Deruyter, Hans A., [redacted].
Dodson, Leonard E., [redacted].
Dorsey, Kenneth E., [redacted].
Doucet, Timothy W., [redacted].
Dozier, Douglas P., [redacted].
Easterbrook, James, [redacted].
Eddleman, William L., [redacted].
Edmund, Robert H., [redacted].
Enders, John G., [redacted].
Ewart, Thomas W., [redacted].
Fanning, Robert K., [redacted].
Farr, John F., [redacted].
Farrell, Shari L., [redacted].
Fenster, Harold A., [redacted].
Ferris, Charles W., [redacted].
Fetters, Lawrence J., [redacted].
Figelman, Alan R., [redacted].
Finne, Charles O., [redacted].
Foreman, Adolpus, [redacted].
Forrest, Peter E., [redacted].
Fuentes, Canales M., [redacted].
Fulk, Charles S., [redacted].
Gandara, David R., [redacted].
Geiger, James M., [redacted].
Glass, Allan R., [redacted].
Goldman, Richard A., [redacted].
Gonzalez, John J., [redacted].
Grant, Kenneth F., [redacted].
Gray, William J., [redacted].
Grimmett, Garfield, [redacted].
Guill, Marshall A., [redacted].
Haden, James B., [redacted].
Hadley, Arthur T., [redacted].
Haithcock, William, [redacted].
Hall, Richard A., [redacted].
Hansen, Mark F., [redacted].
Harmen, Louis E., [redacted].
Harper, Robert E., [redacted].
Harper, William K., [redacted].
Haverkamp, John, [redacted].
Hawley, Richard C., [redacted].
Hayes, Brian E., [redacted].
Healey, Edwin M., [redacted].
Hoffman, Clark G., [redacted].
Hollison, Robert, VI., [redacted].
Hong, Inpow, [redacted].
Howard, James T., [redacted].
Humphrey, Stephen H., [redacted].
Hurst, Charles G., [redacted].
Hutt, William D., [redacted].
Illingworth, William, [redacted].
Insalaco, Samuel J., [redacted].
Isenhower, Nelson N., [redacted].
Jackson, Stanley M., [redacted].
Jalota, Renu, [redacted].
James, Cornelius R., [redacted].
James, Donald L., [redacted].
Johnson, David E., [redacted].
Jones, Michael J., [redacted].
Jones, Preston A., [redacted].
Jones, Richard O., [redacted].
Jones, Robert P., [redacted].
Joyce, Roby P., [redacted].
Kam, Tiong H., [redacted].
Karsh, Richard B., [redacted].
Katz, Ronald L., [redacted].
Kelly, Robert W., [redacted].
Kennon, William G., [redacted].
Kies, Merrill S., [redacted].
Kilbride, Howard W., [redacted].
Kussman, Michael J., [redacted].
Labash, Stephen S., [redacted].
Laham, Michel N., [redacted].
Lanier, Dennis M., [redacted].
Larson, Steven A., [redacted].
Lawson, Jerold O., [redacted].
Lee, Bernard J., [redacted].
Lemanski, Anthony J., [redacted].
Limburg, Stephen W., [redacted].
Lupton, George P., [redacted].
Maran, Antti G., [redacted].
Marciniak, Thomas A., [redacted].
Matsumoto, Larry M., [redacted].
McCarty, William K., [redacted].
McCallum, Michael H., [redacted].
McPherson, Robert W., [redacted].
Mease, Alan D., [redacted].
Michaels, Paul D., [redacted].
Mobley, James A., [redacted].
Moore, Raymond P., [redacted].
Nadalo, Lennard A., [redacted].
Neglia, William J., [redacted].
Nunn, Howard S., [redacted].
Oltersdorf, Timothy, [redacted].
Ortiz, Ana A., [redacted].
Ortiz, Maria D., [redacted].
Ortiznieves, Julio, [redacted].
Oster, Charles N., [redacted].
Owensby, Loren C., [redacted].
Paik, Woo Chun W., [redacted].
Palmintier, Jon S., [redacted].
Pamplin, Charles L., [redacted].
Patel, Jijibhoy J., [redacted].
Patrick, Madison W., [redacted].
Patterson, James W., [redacted].
Perone, Thomas P., [redacted].
Perry, Franklin D., [redacted].
Peterson, Richard B., [redacted].
Pfeiffer, Ronald F., [redacted].
Phillips, Granville, [redacted].
Pick, Terry E., [redacted].
Pierce, Edward V., [redacted].
Pillsbury, Richard, [redacted].
Pinto, John F., [redacted].
Pope, John, Jr., [redacted].
Przasnyski, Edward, [redacted].
Quigley, John T., [redacted].
Quinones, Benjamin, [redacted].
Raife, Michael J., [redacted].
Ramirez, Daniel A., [redacted].
Redwine, Michael D., [redacted].
Reed, Larry D., [redacted].
Reid, John H., [redacted].
Rimm, William R., [redacted].
Riveria, Luis R., [redacted].
Roach, James W., [redacted].
Robinson, Bernard, [redacted].
Robison, James W., [redacted].
Rucker, Tinsley W., [redacted].
Rychly, Robert E., [redacted].
Saenz, Angel, Jr., [redacted].
Salazar, Fernando G., [redacted].
Sandberg, Maynard C., [redacted].
Sander, Gary E., [redacted].
Saunders, Patrick E., [redacted].
Schuster, Brian G., [redacted].
Schuster, Donna F., [redacted].
Self, Jerry L., [redacted].
Shay, Stevens S., [redacted].
Shelton, Artie L., [redacted].
Shen, Shiao W., [redacted].
Shesol, Barry F., [redacted].
Shivers, William F., [redacted].
Shmookler, Barry M., [redacted].
Shumski, Edward J., [redacted].
Simpson, Marcus B., [redacted].
Sims, Jerry E., [redacted].
Sinnott, Robert C., [redacted].
Slama, Robert D., [redacted].
Smith, David S., [redacted].
Smith, Robert D., [redacted].
Sorgen, Stephen D., [redacted].
Spebar, Michael J., [redacted].
Speilman, Daniel E., [redacted].
Squiers, Milton D., [redacted].
Sramka, Jan, [redacted].
Staib, Ronald K., [redacted].
Stephenson, Stephen, [redacted].
Sterle, Oscar F., [redacted].
Stewart, Colston R., [redacted].
Stratton, James W., [redacted].
Stringfellow, Roy C., [redacted].
Suich, Dennis M., [redacted].
Sullivan, Daniel E., [redacted].
Susann, Philip W., [redacted].
Swedarsky, Robert H., [redacted].
Tenholder, Michael, [redacted].
Theard, Franz C., [redacted].
Thomasino, Joseph A., [redacted].
Thompson, Clarence, [redacted].
Thomson, Daniel D., [redacted].
Trescot, Ronald E., [redacted].
Tyler, William F., [redacted].
Underwood, George H., [redacted].
Velezperez, Ulpiano, [redacted].
Vigersky, Robert A., [redacted].
Volk, Stephen A., [redacted].
Vyas, Hansa B., [redacted].
Waller, Stephen F., [redacted].
Warncke, Ronald M., [redacted].
Wellman, Robert B., [redacted].
Weltz, Martin D., [redacted].
Wheeler, Bruce R., [redacted].
Whitlock, Norris W., [redacted].
Williams, Luther R., [redacted].
Williamson, Gary B., [redacted].
Wilson, James L., [redacted].
Wilson, Miles E., [redacted].
Wolpaw, Jonathan R., [redacted].
Yeager, Richard A., [redacted].
Youkey, Jerry R., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of Title 10, United States Code, sections 3284 and 3289.

ARMY PROMOTION LIST

To be first lieutenant

Amadee, Joseph C., III., [redacted].
Bankey, Robert M., [redacted].
Bosse, Raymond J., [redacted].
Bricker, George E., [redacted].
Brooks, Curtis R., [redacted].
Cope, Kenneth C., [redacted].
Davis, Susan R., [redacted].
Debose, Thomas C., Jr., [redacted].
Ehrlich, Michael R., [redacted].
Eilts, Theodore B., [redacted].
Engstrom, David R., [redacted].
Fil, Joseph F., Jr., [redacted].
Gabriele, Gary A., [redacted].
Garza, Richard, [redacted].
Graydon, Donald M., [redacted].
Harvey, Kevin S., [redacted].

Kemp, Jeffrey P., [redacted].
Lee, Alan R., [redacted].
Lefemine, Steve C., [redacted].
Loftin, Michael T., [redacted].
Luther, John J., Jr. [redacted].
Merrit, Robert J., [redacted].
Ooley, Milton R., [redacted].
Parish, Michael L., [redacted].
Riester, Carl W., [redacted].
Sardo, Charles F., [redacted].
Sielski, Karen M., [redacted].
Sittnick, Stephen M., [redacted].
Smith-Leverock, Gerald, [redacted].
Smith, Ronald, [redacted].
Sobey, Robert L., [redacted].
Stewart, Michael J., [redacted].
Sweet, William A., [redacted].
Taliaferro, Jerry, [redacted].
Turner, Blair M., [redacted].
Tuttle, Philip I., [redacted].
Vane, Timothy D., [redacted].
Wnek, Roy M., [redacted].
Yeaw, Jeffrey L., [redacted].

MEDICAL SERVICE CORPS

To be first lieutenant

Arominski, Edward P., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate June 6, 1980:

FEDERAL LABOR RELATIONS AUTHORITY

Henry Bowen Frazier III, of Virginia, to be a member of the Federal Labor Relations Authority for a term of 5 years expiring July 1, 1985.

NATIONAL CONSUMER COOPERATIVE BANK

Frank B. Sollars, of Ohio, to be a member of the Board of Directors of the National Consumer Cooperative Bank for a term of 3 years.

Alexis Herman, Director of the Women's Bureau, Department of Labor, to be a member of the Board of Directors of the National Consumer Cooperative Bank for a term of 3 years.

NEW COMMUNITY DEVELOPMENT CORPORATION

A. Russell Marane, of Georgia, to be a member of the Board of Directors of the New Community Development Corporation.

DEPARTMENT OF COMMERCE

Robert E. Herzstein, of the District of Columbia, to be Under Secretary of Commerce for International Trade.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, June 9, 1980*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God of our history, who has spoken from the beginning of time to people of every age, bless, we pray, those who seek to serve You in this day. Keep us from any self-righteousness which hinders the love and respect You wish us to teach, and enable us to speak with compassion and kindness to people of all backgrounds. Help us to learn from others and to open our hearts and minds to Your truth and grace. Bless our Nation and those who labor in this assembly, and grant to all people the wisdom to serve You and those in need. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 7428) entitled "An act to extend the present public debt limit through June 30, 1980," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1967. An act to modify the boundary of the White River National Forest in the State of Colorado; and

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to a joint resolution of the Senate of the following title:

S.J. Res. 89. Joint resolution permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes;

S. 1895. An act to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake";

S. 2363. An act to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes; and

S. 2730. An act to amend the Federal Railroad Safety Act of 1970 and other rail safety Acts to extend authorization for appropriations, and for other purposes.

The message also announced that, pursuant to Public Law 96-114, the Presiding Officer, on behalf of the majority and minority leaders, appointed the following citizens to the Congressional Award Board: The Honorable John D. Rockefeller IV; Mr. John G. Fox; Mr. Stanley C. Morris, Jr.; Mr. Joshua L. Miner; Ms. Ann L. Armstrong; Mr. William T. Coleman, Jr.; Mr. David A. Koch; and Mr. William A. Anders.

OIL IMPORT QUOTAS MUST BE KEPT LOW

(Mr. LOWRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY. Mr. Speaker, the balance of payments of this Nation in the last few months have improved for the first time in years. The figures are still negative, but they have improved greatly for one overriding reason: We have cut the amount of oil we are importing into this Nation from the traditional 8.2 million barrels per day to 6 million barrels a day during April, and actually last week it was cut to an average of 4 million barrels a day.

Unfortunately, that is because the economy is slowing down. But if we are to rebuild the economy of this country, what we now need to do is to make sure that we do not again begin to increase our dependence on imported oil.

I am, Mr. Speaker, calling on this Congress to send a strong message to the President that we want to lower our oil import quotas at least 20 percent from the 8.2 million barrels that we had been importing. We should take action on this as soon as possible.

GRAIN PRICES TO FOREIGN BUYERS SHOULD BE RAISED

(Mr. WEAVER asked and was given permission to address the House for 1 minute.)

Mr. WEAVER. Mr. Speaker, OPEC is today raising oil prices once again, by perhaps $4 a barrel. And yet what is happening to our grain prices? They are going down. The cost of our exports is going down, but what we buy from abroad is going up.

We shipped to OPEC 7.5 millions tons of grain, or about 260 million bushels, in 1978. The amount of grain we send to OPEC has been going up. If we would raise our grain price to $4 a bushel, that would give us an additional $1 billion from OPEC.

Mr. Speaker, why must we continue this policy of allowing our grain to be sold at less than it costs to produce while OPEC continues to raise its prices? We must, of course, raise any price we charge, not just to OPEC but to every buyer in the world, and that will have the effect of raising the amount of money we get from the sale of our grain by $5 to $10 billion.

Mr. Speaker, it is time that we do that. I ask the President and the Congress to move expeditiously on it.

RAIL ACCIDENT PRESENTS HAZARD IN DALLAS-FORT WORTH

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I intend to alert my colleagues each time a major rail accident occurs to attempt to insure that Congress and the Federal bureaucracy take appropriate action.

Last Friday, in the early hours of the morning, another train derailed, this one in the community of Garland, Tex., in the metropolitan Dallas-Fort Worth area. The accident involved three cars containing hazardous materials including one that leaked styrene monomer, a highly toxic, highly flammable material dangerous enough to force the evacuation of over 2,000 area residents.

The details of the accident are still not definitely known, but the circumstances around it reconfirm my belief that we need to act now to prod the Federal Railroad Administration to do what clearly should be its priority job and to get deteriorating American railbeds back in reasonable working condition. First of all, it is amazing to me that a rail accident—particularly one involving hazardous materials—was not reported to the National Transportation Safety Board as soon as it occurred, but, according to the NTSB regional office, they learned of the accident from a radio news broadcast. It should be no wonder to us that the railroads are not upgrading track as they should be when serious accidents can occur without any effective requirement for immediate reporting.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Second, when my office contacted the FRA in Dallas, it indicated that it would have to check its files but was not aware of any previous accidents on that segment of track. Maybe they need to hire some area residents since one phone call to the Garland area by my staff prompted recollection of as many as seven accidents on that track in the last year.

The accident in Garland was most unfortunate, but what is saddest about the situation is that it is not an isolated incident, and would not be until we act.

RAMSEY CLARK ASKS AMERICA TO APOLOGIZE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, I heard on the radio this morning that Ramsey Clark thinks America ought to apologize to the Iranian Government.

He has got it backwards. If any apologies are in order, it is the other way around: Ramsey Clark ought to be apologizing to the American people for the embarrassment he has caused them.

My only regret is that the Iranians did not take him up on his offer to replace one of the hostages. That would have made the trip worthwhile.

Ever since he went to Hanoi in 1972, Mr. Clark has seemed determined to carve himself a career as our unofficial apologist to the world.

What he does not seem to understand is that no one needs to apologize for America.

SAKHAROV STATEMENTS IN NEW YORK TIMES RECOMMENDED AS REQUIRED READING

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, last January Andrei Sakharov, the physicist, Nobel laureate, and one of the most outspoken human rights activists in the Soviet Union, was banished to Gorky. He has been living there under tight security guard.

This past weekend, in the New York Times Magazine, his longest statement since he was placed in exile was published. I urge all my colleagues to read his particular statement, and I will be placing it in the Congressional Record.

He touches on the Olympic boycott and urges all countries to join in boycotting the Olympic games in Moscow; he talks about the American rescue mission in Iran and praises it; and he talks about the advantages of a pluralistic society and articulates the inherent weaknesses of the Soviet Union.

This is required reading, I think, Mr. Speaker, for all Members of this body.

□ 1210

DO-IT-YOURSELF DIPLOMACY

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, Secretary of State Muskie's comments yesterday in which he indicated that the Carter administration would follow a lenient policy toward Ramsey Clark after his all-expense-paid trip to the anti-American propaganda circus in Iran has destroyed whatever hope some of us had that the Carter administration might follow a strong and consistent policy toward the Iranian outlaws.

Mr. Clark and his merry band have clearly violated the President's travel ban, and may well have violated the Logan Act which prohibits private citizens from diplomatic activities without the authority of the Government. Yet Secretary Muskie indicated not only that they probably would not be prosecuted for their actions, but that they would be welcomed with open arms at the State Department.

Thus, it appears that the administration has decided to endorse a policy of "do-it-yourself diplomacy" where anybody, regardless of their past or present positions with the Government, can hop on a plane, represent our country at anti-American shows, and say anything disloyal that they want, all without fear of prosecution. In fact, they might even get a medal when they return.

Our allies, and our own people, have good reason to ask just exactly who speaks for America—Ramsey Clark or the administration. I once again call on President Carter to clear up this confusion by fully enforcing the law and prosecuting Ramsey Clark. If he does not, then the administration will have no excuse if others begin playing diplomat for a day.

DISREGARD OF CONGRESSIONAL VETO

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, if the recent article in the Washington Post is accurate, it portrays a disturbing lack of response to congressional intent. The article to which I refer appeared in Saturday's issue of the Washington Post, where the headline says, "Executive Branch Decrees Its Disregard of Congressional Veto." It goes on to say that the Department of Education has stated publicly that it intends to disregard the veto. In a sense to ignore what we in this body did just a few days ago.

Many of us in this body have endorsed the concept that Congress has an obligation to see that agency regulations fall within the parameters of the statute that authorized them. Evidently, the new Department of Education, which I supported and voted for—and I am still being criticized for in some circles—has chosen to ignore a mandate and directive from the House Committee on Education and Labor and from this body. The article indicates that this refusal to cooperate by the Department of Education has the backing of the administration. That attitude, too, disturbs me.

The Congress has properly reasserted its rightful oversight obligations in the concept of the congressional veto of agency regulations. Evidently this administration feels threatened by this exercise of congressional responsibility. It is most unfortunate.

NATIONAL HEALTH CARE REFORM ACT

(Mr. STOCKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOCKMAN. Mr. Speaker, I am today pleased to join my colleague, the gentleman from Missouri (Mr. Gephardt), in introducing the National Health Care Reform Act. We believe that this is a bold and sweeping new approach to the real health care problems of our country today. Those problems, as we all know, are the problems of escalating costs, an inadequacy of efficiency in our delivery systems, and the fact that the American people are really not getting the full value in productivity for the health dollars that they are spending today.

We do not believe this problem can be solved with more regulation, with more bureaucratic planning. It can only be solved by stimulating the creation of a competitive delivery system in our health care sector. We propose to do that by giving consumers control over their health dollars and by deregulating providers by allowing them to compete vigorously and effectively in the marketplace.

MORE PRESIDENTIAL "FLIP-FLOPS"

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, the budget deliberations of the past 2 weeks have shattered the last illusions of President Carter's ability to lead.

The President's ability to make a firm budgetary decision was brought to question earlier in the year when he submitted his fiscal year 1981 budget in January—only to withdraw it to submit a new one barely 2 months later.

The topper came 2 weeks ago when he promised higher pay and increased benefits to the sailors on the U.S.S. *Nimitz* one day, and started lobbying against increases in military spending the next. Even Senator Hollings, a leader in the President's own party, has accused him of unpredictable flip-flops.

President Carter has put his own policies into reverse so many times that it appears he has finally stripped his Presidential gears. Clearly he has lost his "clutch" on leadership and should be taken out of the driver's seat in November. We need Ronald Reagan in the White House in 1981 and leave the driving to us.

DELIBERATELY CAUSED RECESSION DESTROYS BALANCED BUDGET

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, unemployment has escalated 1.6 percent in just 2 months. Inflation ravages the paychecks of those who still have jobs. Yet in this House we maintain the fiction that things are fine, that people are not really suffering, that the budget process is working.

For 3 months, the country was promised a balanced budget. Tax revenues were to go up $96 billion in the new budget. Such an increase in tax revenues is cruel, unfair, and counterproductive. But the House passed that budget. Now we face the biggest recession since 1938, and a severely unbalanced budget.

How big will the 1981 deficit be? Hobart Rowen says at least $20 billion. Eileen Shanahan says $30 billion. The Kiplinger newsletter says $40 billion. Alan Abelson of Barron's says $50 billion. The chamber of commerce says $55 billion. National Review says $80 billion.

In 1976 we set an all-time record with a $66 billion Federal deficit. Next year we may break that record. We may go from what was billed as the first balanced budget in 12 years to the biggest deficit in our history—in the space of a few months.

Perhaps that means Congress can change things when it wants to. To me it signifies an utter lack of foresight and failure of leadership.

THE LATE HONORABLE TOM PICKETT

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, it is my sad duty to announce today that a distinguished former Member of Congress from Texas, Thomas Augustus Pickett, better known as Tom Pickett, died in Leesburg, Fla., on Saturday morning.

He was born in Texas in 1906, and received his law degree from the University of Texas. He was the Anderson County attorney from 1931 to 1935, and district attorney from 1933 to 1945. He came to Congress in the 79th Congress in 1945 and served until 1955, when he resigned and went to work with the National Coal Association until 1961, after which he became vice president of the Association of American Railroads until November 1967, when he retired and moved to Florida and lived there.

Many of us knew him. We all respected him. He was an able, articulate, and perceptive man.

The Texas delegation joins me in expressing our deepest sympathy to his lovely wife, Louise.

I ask unanimous consent that all Members be given 5 days to extend their remarks on this distinguished former Member.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and public service of the late Honorable Thomas Augustus Pickett.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1220

MAY THE BEST DEMAGOGUE WIN IN NOVEMBER

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, on last Thursday the President of the United States used the East Room of the White House to launch a partisan political attack on Gov. Ronald Reagan, the next President of the United States.

Mr. Carter got out the old mud bucket and threw the first mudball of the campaign by calling Ronald Reagan a demagogue.

Now, I think most fair minded people will feel that is unjustified, but I went to Webster's Dictionary and found out that the preferred meaning of "demagogue" is:

> A leader or orator in ancient times who championed the cause of the common people: a leader of the popular party in the state.

So I guess in that sense Ronald Reagan is a modern day leader of the common people. The second preferred meaning of "demagogue" in Webster's is:

> One who employs demagogic methods; especially: a political leader who seeks to gain personal or partisan advantage by specious or extravagant claims, promises, or charges.

In that sense, I would suggest that President Carter is certainly qualified to be called a demagogue in light of his specious charge that Governor Reagan is a demagogue.

May the best demagogue win in November; in the ancient sense and best sense of the word I think we all know who that is.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
June 9, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 1:05 p.m. on Friday, June 6, 1980 and said to contain a message from the President wherein he transmits the Annual Report of the Department of Health, Education and Welfare on Occupational Safety and Health for 1979.

(2) At 1:05 p.m. on Friday, June 6, 1980 and said to contain H.R. 5036, An Act to require the Secretary of the Interior to convey a parcel of land located in Colorado to the Ute Mountain Ute Tribe and to pay an amount to such tribe for economic development, and a veto message thereon.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
W. RAYMOND COLLEY,
Deputy Clerk.

ANNUAL REPORT OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON OCCUPATIONAL SAFETY AND HEALTH FOR 1979—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of Friday, June 6, 1980, page 13612.)

ACCORDING CERTAIN LAND AND MONETARY BENEFITS UPON UTE MOUNTAIN UTE TRIBE—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–324)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning, without my approval, H.R. 5036, a bill that would accord certain land and monetary benefits upon the Ute Mountain Tribe, Colorado and New Mexico.

Specifically, the enrolled bill would require the Secretary of the Interior (1) to convey approximately 3,000 acres (estimated value of $1,800,000) of public domain land in Colorado to the Ute Mountain Ute Tribe, and (2) to pay $5,840,000 to the tribe for economic development purposes. These benefits would be considered compensation to the tribe for the loss of oil and gas revenues allegedly resulting from an incorrect land survey by the United States Government.

The central issue raised by H.R. 5036 involves a land dispute in New Mexico between the Ute Mountain Ute Tribe and the Navajo Tribe. Both tribes claimed ownership of the same lands which formed a common boundary between their respective reservations. However, pursuant to the Navajo-Ute Boundary Dispute Act of 1968, the Supreme Court reviewed the case and ruled in favor of the Navajo Tribe in 1972. In addition, there is no legal claim against the United States and in light of the Supreme Court decision, I do not believe this legislation should be approved.

This legislative relief is unwarranted because of the preferential treatment and special advantage it would accord the Ute Mountain Ute Tribe vis-a-vis other tribes whose circumstances may be similar.

JIMMY CARTER.

THE WHITE HOUSE, *June 6, 1980*.

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the message, together with the accompanying bill, be referred to the Committee on Interior and Insular Affairs.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, with reference to the request just agreed to, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REPEALING AND AMENDING CERTAIN LAWS REGULATING TRADE BETWEEN INDIANS AND CERTAIN FEDERAL EMPLOYEES

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3979) to repeal and amend certain laws regulating trade between Indians and certain Federal employees, with Senate amendments thereto, concur in Senate amendments numbered 1 through 17, and concur in Senate amendment No. 18 with amendments.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the Senate amendments and the House amendments to Senate amendment No. 18.

The Clerk read the Senate amendments and the House amendments to Senate amendment No. 18. as follows:

Senate amendments: Page 2. lines 1 and 2. strike out ". direct or indirect—" and insert "in such officer, employee, or agent's name, or in the name of another person where such officer, employee, or agent benefits or appears to benefit from such interests—".

Page 2, line 6, strike out "of" the second time it appears and insert "or".

Page 2, line 17, strike out "employee" and insert "officer, employee, or agent".

Page 2, line 22, strike out "employee" and insert "officer, employer, or agent".

Page 2, line 25, strike out all after "dian" over to and including "or" in line 2 on page 3 and insert "of any real or personal property (or any interest therein) for the purpose of commercially selling, reselling, trading, or bartering such property; or".

Page 3, line 9, strike out "employee" and insert "officer, employee, or agent".

Page 3, line 13, strike out "employee" and insert "officer, employee, or agent".

Page 3, line 13, strike out "engage in such a purchase or sale" and insert "have such an interest".

Page 3, line 16, strike out "employee" and insert "officer, employee, or agent".

Page 3, line 18, strike out "employee" and insert "officer, employee, or agent".

Page 3. line 19, strike out "installation; or" and insert "installation: *Provided further*, That (1) any such designee may not be a relative by blood or marriage of the officer, employee, or agent engaging in such purchase or sale; (2) with respect to purchases or sales by any officer, employee, or agent employed at the reservation, agency, or service unit level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office or at an area office installation other than that with authority over such reservation, agency, or service unit; (3) with respect to purchases or sales by any officer, employee, or agent employed at the area office level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office; and (4) the Secretary must approve purchases or sales by any officer, employee, or agent employed at the Washington, District of Columbia, central office; or".

Page 4, line 3, strike out "employee" and insert "officer, employee, or agent".

Page 4, line 8, strike out "employee" and insert "officer, employee, or agent".

Page 4, line 23, strike out "land."." and insert: land.

Page 4, after line 23, insert:

"(e) For purposes of this section, the term 'Bureau of Indian Affairs' means the Bureau of Indian Affairs and the Office of the Assistant Secretary for Indian Affairs, both in the Department of the Interior.".

Page 5, line 5, after "transaction" insert ", other than one involving the sale of property held in trust or subject to a restriction against alienation imposed by the United States.".

Page 5, line 9, strike out "valid." and insert "valid, subject to all valid transactions subsequent to such time.".

Page 5, after line 20, insert:

SEC. 5. (a) On and after the effective date of this Act, the following tract of land shall be held in trust for the Wa-He-Lute Indian School for its beneficial use as an Indian school and community center for educational or cultural purposes:

Part of Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, described more particularly as follows: Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, except excluding that portion which begins at the northeast corner of the William Packwood Donation Claim Numbered 37, thence south along the east line of said claim, 655 feet to the point of beginning, thence south 655 feet; hence east 420 feet; thence north 655 feet; thence west 420 feet to place of beginning; all in section 8, township 18 north, range 1 east, Willamette meridian, except including a strip of land 0.7 foot in width, lying along the north boundary of said excluded tract, acquired by the United States of America on February 23, 1942, by Declaration of Taking filed in United States District Court, Western District of Washington, Southern Division.

(b) Legal title to the land described in subsection (a) shall remain in the United States under the administration of the Secretary of the Interior who shall hold the above-described tract of land in trust for the Wa-He-Lute Indian School so long as it is used for any of the above-mentioned purposes, and the beneficial title of the Wa-He-Lute Indian School shall terminate and full title shall revert to the United States if such school ceases to use such land for educational or cultural purposes.

House amendments to Senate amendment No. 18: Amend Senate amendment No. 18 by:

(1) Changing subsection (a) by deleting "held in trust for the Wa-He-Lute Indian School for its benefical use" and inserting in lieu thereof "held by the Secretary of the Interior for the Wa-He-Lute Indian School for its use" and

(2) Amending subsection (b) to read:

"Title to the land described in subsection (a) shall remain in the United States under the administration of the Secretary of the Interior who shall hold the above-described tract of land for the Wa-He-Lute Indian School so long as it used for any of the above-mentioned purposes. At such time as the land ceases to be used for the above purposes, title thereto shall be taken in trust for the benefit of Willy Frank, Nisqually Enrollee No. 19 (November 8, 1976), or his heirs.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to Senate amendment No. 18 be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I simply ask the gentleman from Arizona if he would explain what those amendments are all about.

Mr. UDALL. If the gentleman will yield, Mr. Speaker, H.R. 3979, as passed by the House, amended existing laws by eliminating certain harsh restrictions on commercial transactions between Indians and Federal employees. These laws were enacted in the 1800's to protect uneducated, unsophisticated Indians from undue influence and overreaching by Federal employees.

The sanctions for violation of these laws are penal in nature, including a fine and automatic dismissal from office. These laws are generally obsolete and H.R. 3979 would amend them to ease their harsh application and penalties.

The Senate passed the bill with 18 separate amendments. Seventeen of these are primarily technical and clarifying amendments proposed by the Interior Department and we have no objection to them.

The 18th amendment provides that a small tract of Federal land in Thurston

County, Wash., held by the United States in trust for a private Indian school incorporated under the laws of the State.

While I feel that the use of these Federal lands for the purposes of this Indian school is desirable, I could not support a transfer of the lands in trust to the school. The trust relationship extends either to federally-recognized Indian tribes or members of such tribes.

Holding lands in trust for a school or other person or entity not an Indian tribe or member of such tribe would set a precedent I am not prepared to support.

I propose to amend Senate amendment 18 to provide simply that the Secretary of the Interior would hold these lands for the use of the school as long as it is used for school purposes. No trust transfer would be involved.

Mr. LUJAN. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona to dispense with the reading of the amendments?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendments just considered.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERTAINING TO INHERITANCE OF TRUST OR RESTRICTED LAND ON THE STANDING ROCK SIOUX RESERVATION, NORTH DAKOTA AND SOUTH DAKOTA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2102) pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out "devise" and insert "distribution".

Page 2, strike out lines 1 to 6, inclusive, and insert:

"SEC. 2. Only the Standing Rock Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are (a) enrolled members of the tribe, (b) members of a federally recognized Indian tribe, or (c) otherwise recognized as Indians by the Secretary of the Interior (hereinafter the "Secretary") shall be entitled to receive by".

Page 2, line 11, strike out "leaving" and insert "possessed of".

Page 2, lines 13 and 14, strike out "an approved will" and insert "a will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373) and which is".

Page 3, line 6, strike out "parents" and insert "surviving parents or parent".

Page 3, line 9, strike out "parents," and insert "parent,".

Page 3, line 12, strike out parents," and insert parent,".

Page 3, strike out lines 18, 19, and 20 and insert:

(c) As used in this section, the words "children" and "issue" include adopted children and children of unwed parents where the Secretary determines that paternity has been acknowledged or established, except that (1) a child may not inherit by intestate succession from or through a parent whose parental rights with respect to said child have been terminated pursuant to lawful authority and (2) a parent may not inherit by intestate succession from or through a child with respect to which such parent's parental rights have been so terminated.

Page 3, line 23, strike out "leaves" and insert "dies possessed of".

Page 4, line 2, after "lifetime" insert ", but the remainder of such interest shall descend as provided in section 3 of this Act".

Page 4, line 11, after "Secretary" insert "as of the date of the decedent's death".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I ask the gentleman for an explanation.

Mr. UDALL. If the gentleman will yield, Mr. Speaker, H.R. 2102, as passed by the House, provides for the modification of certain Federal laws regulating the devise and descent of interests in trust or restricted lands on the Standing Rock Sioux Indian Reservation in North and South Dakota. The bill was supported by all concerned parties and passed by unanimous consent.

The Senate recently passed the bill with numerous amendments. These amendments are all technical or clarifying in nature and were recommended by the Department of the Interior in its report to the Senate committee.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona to dispense with the reading?

There was no objection.

The SPEAKER. Is there to objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 10, 1980.

EXPENSES AND ALLOWANCES FOR GOVERNMENT EMPLOYEES ON OFFICIAL TRAVEL

Mr. JOHN L. BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7072) to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5702 of title 5, United States Code, is amended—

(1) by striking out "$35" in subsection (a) and inserting in lieu thereof "$50";

(2) by striking out "$50" in subsection (c) and inserting in lieu thereof "$75"; and

(3) by striking out "$21" in subsection (d) and inserting in lieu thereof "$33".

SEC. 2. Section 5704 of title 5, United States Code, is amended—

(1) by striking out "11 cents" in subsection (a)(1) and inserting in lieu thereof "20 cents";

(2) by striking out "20 cents" in subsection (a)(2) and inserting in lieu thereof "25 cents"; and

(3) by striking out "24 cents" in subsection (a)(3) and inserting in lieu thereof "45 cents".

SEC. 3. To make available to Congress information in order that it may evaluate and reduce excessive per diem and mileage allowance payments:

(a) The Administrator of General Services shall, based upon a sampling survey, collect by fiscal year the following information (compiled separately for payments made under sections 5702 and 5704 of title 5, United States Code, and for each agency evaluated) with respect to agencies spending more than $5,000,000 annually on transportation of people:

(1) identification of the general causes and purposes of travel, both foreign and domestic, estimates of total payments, average cost and durating of trip, and an explanation of how these estimates were determined; and

(2) identification by specific agency of travel practices which appear to be inefficient from a travel management or program management standpoint and recommendations to the Congress on the applicability of alternatives to travel as well as other techniques to improve the use of travel in carrying out program objectives by relating travel to mission.

(b)(1) The Administrator shall report the information required by subsection (a) to the Congress for fiscal year 1979 by February 1, 1981; for fiscal year 1980 by June 1, 1981; and for fiscal year 1981 by June 1, 1982.

(2) The Administrator is empowered to issue such rules and regulations as are necessary to ensure that the information is submitted by the various agencies to him in a manner that permits comparisons among the agencies and to permit him to compile the information required to be included in the annual report.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr.

JOHN L. BURTON) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. WALKER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. JOHN L. BURTON).

☐ 1230

Mr. JOHN L. BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7072 provides for the first increase in 5 years in the maximum per diem, subsistence, and mileage allowances paid to Federal employees while on official travel. It does not authorize the enactment of any additional appropriations or for any new budget authority. It will not result in any additional cost to the Government. The Office of Management and Budget has already directed agencies to absorb any increased costs by reducing the amount of official travel or by reducing administrative costs. OMB will not permit any agency to seek supplemental or additional appropriations.

The current maximum travel allowances were established in 1975. The actual cost of travel has increased by over 30 percent, largely because of increases in the cost of energy. Often, these allowances do not adequately reimburse employees for the costs that they incur while on official travel and they are forced to subsidize Government travel out of their salaries.

H.R. 7072 increases the maximum per diem reimbursement from $35 to $50 per day, the maximum actual expense reimbursement for high cost areas from $50 to $75 per day, and the overseas rate from $21 to $33. Maximum mileage allowances paid to employees using privately owned vehicles on Government business is increased from 20 to 25 cents for automobiles, from 11 to 20 cents for motorcycles, and from 25 to 45 cents for airplanes. Under H.R. 7072 the General Services Administration could establish reimbursement rates which reflect its cost determinations, so long as they did not exceed the maximum rates.

In addition, this legislation requires the GSA to provide three annual reports to the Congress on an agency-by-agency basis with information about how much is being spent on Federal travel, and ways that amount can be reduced.

Mr. Speaker, this bill is needed both to provide fair compensation to Federal employees who must travel on Government business, and to provide information about travel expenditures to the Congress in order to evaluate future travel reimbursement proposals and insure that expenditures are made only for necessary Government travel. H.R. 7072 received unanimous approval in the Committee on Government Operations, and I urge your favorable consideration.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7072. As the ranking minority member of the Government Activities and Transportation Subcommittee, I worked closely with Chairman BURTON to iron out problems faced with this bill.

The most significant concern I had at the outset was the potential impact of the bill on the appropriations process. There is no question that an increase in the per diem and mileage rates will increase travel expenditures, but subcommittee members were determined that this bill would not impact the budget. Therefore, we requested and received a commitment from the administration, represented by the Office of Management and Budget, that passage of H.R. 7072 will not result in increased or supplemental appropriations. In addition, the OMB has already notified the agencies that expected increased travel costs are to be absorbed.

During our deliberations of H.R. 7072, we discovered that there is a general lack of information on Government travel expenditures. We were told time and time again during the hearings that our questions cannot be answered because no records on Government travel information are kept centrally. In other words, no one in the Government is aware of how much money is spent on travel, how many trips are taken or to where. Our greatest frustration was in trying to calculate how much money we are requiring the agencies to absorb in order to increase the per diem and mileage rates. As a result of this discovery, we amended the bill in subcommittee to include a requirement that GSA collect Government travel costs information for the next 3 years to give us some idea of travel trends. Following compilation of this information, it will be an easier task for Congress to assess travel costs the next time it is necessary to adjust the rates.

Mr. Speaker, I urge my colleagues to support H.R. 7072. We should not allow a situation to exist where Federal employees are having to cover legitimate business expenses out of their own pockets.

Mr. GRASSLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding.

I would ask the gentleman in the committee deliberations of this bill was there any consideration given to the General Accounting Office reports and studies that have been issued in the last 2 years as to the excessive amount of travel by Federal employees? I remember reading one figure, in fact I think we used it in debate on the first budget resolution a year ago, in which on any one day there are 22,000 Federal employees actually traveling by air. That is in 1 day. The General Accounting Office was inferring tremendous waste in such travel.

Has that been considered by the committee?

Mr. WALKER. I can assure the gentleman that it was considered by the committee. We were assured that the administration has taken steps to implement some reforms based upon that particular study and, in fact, has already cut about $500 million in costs from travel in this fiscal year.

In addition, there will have to be additional costs absorbed that will take a lot of the unreasonable, irresponsible travel out because we are talking here about a cost which could cut as much as a third of Federal travel under the provisions of this bill, with the costs being absorbed. That is a concern that I expressed throughout the committee deliberations, and I think it is addressed in this. That is another reason why we think there is a need for central recordkeeping of just what Government travel goes on. The bill addresses that by saying that for the first time we are going to have the travel data collected from all agencies of Government, kept centrally so we know exactly how much travel is going on, where the travel is, how much it is costing. This will be the first time we have those kinds of statistics to work with. I think it is going to make it far easier to monitor Government travel in the future as the result of passage of this bill.

Mr. GRASSLEY. If the gentleman will yield further, I am glad the committee did take those things into consideration because I know they were concerns that have been expressed for this budget year we are now in. I am glad the committee followed up on that.

Mr. Speaker, I would like to commend the members of the subcommittee on their work in attempting to unravel the complicated issue of travel by Federal employees. I would like to emphasize the importance of OMB's decision to not allocate any new funds for Federal travel if the per diem and mileage allowances are increased. OMB must not waver on this important point. In this era of rampant inflation and increasing unemployment, the U.S. Congress must not tolerate more Federal dollars to be wasted on unnecessary travel.

Our efforts to balance the Federal budget and constrict the money supply are being undermined by an expenditure of almost $3 billion in fiscal year 1979 for travel for Federal employees. This $3 billion was spent on travel for the Federal Government's 2 million full-time employees. This equals a travel allowance of $1,500 for each Federal employee—including secretaries, computer operators, janitors, and maintenance personnel. This is intolerable.

For that reason, I applaud OMB for issuing a directive requiring travel expenditures by Federal employees to remain at the same level if this bill becomes law. OMB should not misinterpret congressional intent—we do not want any more money spent on Federal travel if the per diem and mileage allowances are increased. I, and many of my colleagues, could not support a per diem and mileage allowance increase unless OMB holds the lid on appropriations.

Three billion dollars of the taxpayers' funds spent on Federal travel is an inexcusable waste. I urge the members of the subcommittee to continue their important work in eliminating most administrative travel for Federal employees and making necessary program travel more cost-effective. We owe our overtaxed constituents no less.

Mr. WALKER. I thank the gentleman. I reserve the balance of my time.

Mr. JOHN L. BURTON. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Government Operations, the gentleman from Beaumont, Tex., the Honorable JACK BROOKS.

Mr. BROOKS. Mr. Speaker, I thank my distinguished chairman for yielding.

Mr. Speaker, this bill simply tries to assure that Government workers will be treated in a fair and equitable manner when they travel on official Government business.

It has been 5 years since there was any change in the per diem rate for official travel, and no one here needs to be reminded what has happened to restaurant and hotel prices during that time. The $35 a day now authorized for Government travel does not come close to covering the actual expenses most employees must meet. It is obviously unfair to those employees to expect them to subsidize the Government by paying the extra charges out of their own pockets.

It should be made absolutely clear that this bill does not authorize one mile of travel or one dollar of travel expense. Government agencies must justify their travel expenses and have them funded by the Appropriations Committee, just as they always have. With the tight budgets the agencies are now operating on, a raise in the per diem rate could well have the effect of reducing Government travel by eliminating all but the most essential.

But that is a separate issue. It has nothing to do with this bill. H.R. 7072 is simply a recognition of the reality of what it now costs to travel.

Mr. WALKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, accepting the word of the administration that the additional cost of this legislation will be absorbed by the agencies without the need for any additional appropriation, we are led to the conclusion that the practical effect of the bill is to reduce bureaucratic travel.

In approving this legislation we should urge the Committee on Government Operations to vigorously carry out its intent to evaluate and discipline excessive travel.

The Office of Management and Budget presents figures that show administrative travel in the executive branch for fiscal 1980 would be about $180 million and programmatic travel would be about $2.84 billion. Under the provisions of Public Law 96-86, which reduced the amount of funds available for all governmental travel, OMB projects a reduction of $500 million.

For too long the bureaucratic travel of the executive branch has been handled too loosely. Reliable data is hard to come by.

As one who is not adverse to legitimate and justifiable official travel in the interest of good Government, I see no reason why executive branch travel should not be subject to the same scrutiny and standards as congressional travel.

Therefore I hope we can expect some periodic reports on whether or not extravagances are being eliminated.

Mr. JOHN L. BURTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I would like to ask the gentleman from California (Mr. JOHN L. BURTON) a specific question on this bill. We have raised the mileage reimbursement from 20 cents to 25 cents a mile for private automobiles. For some time my staff and I back in Kansas have been computing what the actual costs are to drive, and we discussed it this morning. There is some concern that this will cost the Government several hundred million dollars more down the line and some, maybe many Federal employees might be making some money on 25 cents a mile. I would like to ask the gentleman what was the rationale for going up a nickel a mile, and if their data indicate it does, in fact, cost that much per mile.

Mr. JOHN L. BURTON. Will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman.

☐ 1240

Mr. JOHN L. BURTON. There is no indication it costs that much. It does not go up a nickel a mile. It is average costs up to 25 cents a mile. So I mean if it only costs 7 cents a mile as an average of actual costs set by GSA, the employee only gets that kind of reimbursement; so it is average expenses up to. There was a Government study that the present cost of mileage now, not only gasoline, wear and tear on the car, tire depreciation, et cetera, is 21.5 cents a mile, and, in addition, that utilization of the automobile would encourage them to use this means of travel possibly other than using more expensive ways such as air travel. Again, the bill provides a maximum reimbursable amount, but the actual allowance is a weighted average mileage rate, which can be up to 25 cents a mile. You do not get an automatic 25 cents a mile.

Mr. GLICKMAN. Is it not true, however, that most Federal employees who use an automobile do in fact seek reimbursement for that mileage charge of 20 or 25 cents a mile?

Mr. JOHN L. BURTON. No. It is set at different costs up to the maximum, based on agency-by-agency experience.

Mr. GLICKMAN. Naturally, we want to keep the amount of travel down. I just do not want to see anybody unjustly enriched.

Mr. JOHN L. BURTON. Nobody would be unjustly enriched. The gentleman has my commitment on that.

Mr. GLICKMAN. I appreciate the gentleman's commitment. If anybody can give me one, it is he.

Mr. Speaker, I yield back the remainder of my time.

Mr. JOHN L. BURTON. Mr. Speaker, I yield back the remainder of my time.

Mr. WALKER. Mr. Speaker, I have no additional requests for time and yield back the remainder of my time.

The SPEAKER. The question is on the motion of the gentleman from California (Mr. JOHN L. BURTON) that the House suspend the rules and pass the bill, H.R. 7072, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHN L. BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7072, just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CODE OF ETHICS FOR GOVERNMENT SERVICE

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5997) to provide for the distribution of the Code of Ethics for Government Service, as amended.

The Clerk read as follows:

H.R. 5997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such regulations as the Administrator shall prescribe, each agency shall display in appropriate areas of Federal buildings copies of the Code of Ethics for Government Service.

SEC. 2. (a) The Administrator shall provide for the publication of copies of such Code of Ethics and for their distribution to agencies for use under the first section of this Act.

(b) The Administrator may accept on behalf of the United States any unconditional gift made for purposes of this Act.

SEC. 3. For purposes of this Act—

(1) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, and the Postal Rate Commission;

(2) the term "Administrator" means the Administrator of the General Services Administration;

(3) the term "Code of Ethics for Government Service" means the code of ethics set forth in House Concurrent Resolution 175, agreed to July 11, 1958 (72 Stat. B12); and

(4) the term "Federal building" means any building in which at least 20 individuals are regularly employed by an agency as civilian employees.

SEC. 4. The provisions of this Act shall take effect October 1, 1980.

The SPEAKER. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. Leach) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. Schroeder).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5997 requires that copies of the Code of Ethics for Government Service be posted and displayed in buildings housing 20 or more Federal employees. As you know, the Code of Ethics for Government Service was adopted as a concurrent resolution during the 85th Congress in 1958. The Code articulates 10 precepts which apply to any person in Government service. Among the principles of the Code are:

Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

Give a full day's labor for a full day's pay.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Expose corruption wherever discovered.

Unfortunately, knowledge of the Code of Ethics in the Federal work force has declined to a sad level. The Code itself is no longer printed by the Government Printing Office, the plates have been destroyed, and copies are scarce. This state of affairs is deplorable indeed: The words of the Code of Ethics are as important today as when originally passed. Now, perhaps more than ever, there exists a strong need to keep ethical values vital.

H.R. 5997 was reported out by the Committee on Post Office and Civil Service in an attempt to restore the Code of Ethics for Government Service to its proper place of prominence. We cannot say that posting a copy of the Code of Ethics for Government Service will instantly upgrade the ethical standards of those employees who walk by. What we can say is that a clear and present reminder of ethical duties will have some effect over the long run.

Before I yield to the distinguished chairman of the Committee on Ethics, who wrote this legislation, I would like to say a word about the cost. Printing, framing or laminating, distributing, and hanging copies of the Code will cost some money. The General Services Administration thought $200,000 was an accurate estimate. I think that this is a small sum to pay for the real and potential benefits which display of the Code can bring.

Nevertheless, a private, nonprofit, educational group has offered to provide 200,000 printed and laminated copies of the Code, suitable for hanging. Two hundred thousand copies is more than enough to meet the purposes of the legislation. Further, the bill expressly provides for the acceptance of gifts to carry out the program. So, it is probable that the entire program envisioned in H.R. 5997 can be carried out without recourse to taxpayer's money.

Mr. Speaker, I really want to compliment the gentleman from Florida (Mr. Bennett) who has been my chairman on another committee. He has worked very, very hard on this legislation, and this was basically one of his ideas. I now yield such time as he may consume to the gentleman from Florida (Mr. Bennett) who is responsible both for this legislation and for the passage of the original Code of Ethics.

Mr. BENNETT. Mr. Speaker, I want to congratulate the committee, the subcommittee under the able leadership of the gentlewoman from Colorado (Mrs. Schroeder), and the full committee for bringing this bill out.

Mr. Speaker, I rise in support of H.R. 5997 which I introduced to provide for the distribution of the Code of Ethics for Government Service. I authored the Code of Ethics for Government Service some 20 years ago and it was approved by Congress in 1958. The 10 general principles of the code enunciate a standard of behavior that should be the guideline for all persons employed by the Federal Government.

The relevance and need for such a code are as apparent today as when it was first proposed. Federal employees must be encouraged and directed to strive to meet their job responsibilities in the most efficient, productive, and honest manner. The code lays out just what is expected of those employed in Government service.

We all need frequent reminders of the goals, standards, and responsibilities that are part of our employment. For Federal employees, the Code of Ethics can serve as a reference point of just what is required of those whose job it is to serve the public. To accomplish that purpose, it is essential that the code be prominently displayed in Federal offices. My bill aims to insure that the General Services Administration, in conjunction with the executive agencies, will undertake a program to provide for the open display of the Code of Ethics in appropriate locations in all Federal offices. The bill allows the Government to accept unconditional gifts from private donors to help meet the cost of publishing and displaying the Code, and a private foundation (American Viewpoint, Inc.) plans to help in this effort. I urge my colleagues to support H.R. 5997 which will provide for the distribution of the Code of Ethics for Government Service.

Mrs. SCHROEDER. I thank the gentleman from Florida (Mr. Bennett). I would just like to remind the Members that a private, nonprofit educational group has offered to provide 200,000 printed and laminated copies of the Code suitable for hanging. Two hundred thousand copies are more than enough to meet the purposes of this legislation. Furthermore, the bill expressly provides for the acceptance of gifts to carry out the program, so it is probable the entire program envisioned in H.R. 5997 can be carried out without recourse to the taxpayers' money.

Mr. BAUMAN. Mr. Speaker, will the gentlewoman yield for a question?

Mrs. SCHROEDER. I will be delighted to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentlewoman for yielding. Is it correct that there has been an offer by this private group, American Viewpoint, Inc. and Mr. Ivan Hill to absorb the complete costs of the printing of 200,000 copies of the Code of Ethics? Is that correct?

Mrs. SCHROEDER. That is correct, for the printing costs. That is my understanding, yes.

Mr. BAUMAN. There will be some cost of distribution.

Mr. BENNETT. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I will be happy to yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentlewoman for yielding. The American Viewpoint wrote the committee on this matter, and I will quote from the letter. This is a letter from Ivan Hill. He is the president of American Viewpoint.

> I confirm to you directly that our organization will provide at no cost to the United States Government 200,000 full-color copies of the Code of Ethics for Government Service.

They are going to provide those. The small cost that would be involved would be for pushing a thumbtack into the wall. They are laminated copies and do not require framing. That small cost would be the Government cost because there is no real way to handle that. But the material itself would be furnished free.

Mr. BAUMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I will be happy to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentlewoman. I just want to say I think it is a commendable arrangement. If, indeed, it would cost the taxpayers anything, I would raise some questions because, while it is laudable to have the Code of Ethics in a place where all members of Federal employment can read them, I am not sure how much impact it will have, particularly if it is put in places where Federal employees are, such as in a lunchroom where they might be more intent on eating a hamburger than considering ethics. But the gentlewoman has been an advocate of exempting Congress from matters pertaining to the executive branch. Is there any consideration to putting the Code of Ethics on the bathroom door of each Member of Congress so they would be sure to see it? What is good for Federal employees ought to be good for us.

Mrs. SCHROEDER. The gentleman makes an excellent point. Unfortunately, it is not in my subcommittee's jurisdiction, but the gentleman may wish to introduce such legislation. I think this is very important. I think it a tragedy that the Government Printing Office is not printing the Code of Ethics any more for Federal employees. That is really rather shocking. I think that Federal employees are basically very good people. It certainly would not hurt to remind them of the Code. I think they would probably look up from their hamburgers at least long enough to read it. I think we should at least try this. It will not cost much. Copies are being provided free. I think it is a good idea to try it.

The SPEAKER pro tempore (Mr. Murtha). The Chair recognizes the gentleman from Iowa (Mr. Leach).

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from Colorado (Mrs. Schroeder) and the gentleman from Florida (Mr. Bennett) have accurately described this bill.

I think there are two points to be made in connection with this bill. First, the emphasis and attention it gives to the code of ethics for Federal employees is timely in this era of failing confidence in the ability and integrity of government in general. It demonstrates to the public that Federal employees at all levels—not just supergrades covered by special disclosure requirements or Presidential appointees scrutinized by Senate committees—are expected to perform under the highest standards of ethics.

Second, it is a reminder to Federal employees themselves that although the job which they perform for the Federal Government may resemble a job in the private sector, there is an additional dimension of "public service" to their tasks which plays a significant role in establishing their special obligations and responsibilities to the public and to the taxpayers.

I would urge my colleagues to support H.R. 5997 in an effort to restore some visibility to the code of ethics for Federal employees, which a prominently displayed copy will assure.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Speaker, this bill simply provides for the Administrator of the General Services Administration to distribute copies of the Code of Ethics for Government Service to agencies which shall then display the code in appropriate areas of the building.

The code of ethics is a useful statement of "the fundamental principles of conduct that should be observed by all persons in public service." However, at present, there is no requirement that the code shall be displayed, and in fact, the Government Printing Office has ceased printing it.

A private citizen, Mr. Ivan Hill of American Viewpoint, Inc., sponsor of the Ethics Resource Center, has agreed to print and laminate 200,000 copies of the code, which would considerably offset any cost to the Government. The bill also allows the acceptance of this gift. The Congressional Budget Office estimates the additional cost of framing and hanging the codes would be minimal.

Mr. Speaker, I believe the public display of the code will serve as a further useful reminder to employees of their important responsibilities and the trust placed in them by the American public. I urge enactment.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. Schroeder) that the House suspend the rules and pass the bill, H.R. 5997, as amended.

The question was taken.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

UNITED STATES CODE AMENDMENTS FOR AIR TRAFFIC CONTROLLERS

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1781) to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2109 of title 5, United States Code, is amended to read as follows:

§ 2109. Air traffic controller; Secretary

"For the purpose of this title—

"(1) 'air traffic controller' or 'controller' means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

"(2) 'Secretary', when used in connection with 'air traffic controller' or 'controller', means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.".

(b) Sections 3307(b), 3381(a), 3382, 3383 (a), 3384, 3385, and 8335(a) of title 5, United States Code, are each amended by striking out "Secretary of Transportation" each place it appears and inserting in lieu thereof "Secretary".

(c)(1) Section 3381(c)(1) of title 5, United States Code, is amended by striking out "in the Department of Transportation" and inserting in lieu thereof "in the Executive agency in which the controller is employed".

(2) Section 3383(b)(2) of title 5 United States Code, is amended by striking out "the Department of Transportation" and inserting in lieu thereof "the Executive agency in which the controller is employed".

(3) Section 3383(d) of title 5, United States Code, is amended by striking out "within the Department of Transportation" and inserting in lieu thereof "within the Executive agency in which such controller is employed".

(d) The analysis of chapter 21, of title 5, United States Code, is amended by striking out the item relating to section 2109 and inserting in lieu thereof the following:

"2109. Air traffic controller; Secretary.".

Sec. 2. Section 8335(a) of title 5, United States Code, shall not apply to an individual appointed as an air traffic controller in the Department of Defense before the date of the enactment of this Act.

Sec. 3. This Act shall take effect on the later of—

(1) October 1, 1980, or

(2) the ninetieth day after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado (Mrs. Schroeder) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. Leach) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. Schroeder).

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Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1781 corrects an oversight which occurred when we passed Public Law 92-297 in 1972. Public Law 92-297, the basic law governing air traffic controllers, established a number of conditions of employment and benefits which were peculiar to air traffic controllers because of the distinct nature of their work. This law gave the Secretary of Transportation wide authority to remove controllers to meet the needs of aviation safety, established a maximum entry age and a mandatory retirement age for controllers, provides a second career training program for controllers who were no longer able to function effectively, and entitled air traffic controllers to early retirement benefits. All of these provisions were directed to a single goal: Aviation safety. In passing Public Law 92-297, Congress found that air traffic control was a young person's career; that the aging process had a detrimental effect on the controller's ability to function quickly; and that the safety of air travelers depended on a young, alert, agile force of air traffic controllers.

Public Law 92-297 only covered air traffic controllers working for the Department of Transportation. While some 20,000 air traffic controllers work in Federal Aviation Administration facilities, there are some 230 other civilian controllers who work in air traffic control facilities run by military departments in the Department of Defense. These civilian employees control both high altitude and terminal approach traffic just as do DOT controllers. They are assigned segments of air space and form part of the nationwide air traffic control system. Concentrations of DOD air traffic controllers are located at Fort Benning, Ga., Fort Hood, Tex., Pensacola, Fla., Patuxent River, Md., Hill Air Force Base, Utah, Fort Rucker, Ala., and elsewhere.

All this bill does is place DOD controllers on the same footing as DOT controllers. The committee found no significant differences in the tasks performed by DOD and DOT controllers. It found that the same concern for aviation safety mandated coverage of DOD controllers just as it mandated coverage of DOT controllers.

H.R. 1781 is the third bill relating to air traffic controllers which the Committee on Post Office and Civil Service has reported to the floor this Congress. H.R. 5870 would reform the second career training program for DOT air traffic controllers. H.R. 1262 would expand Public Law 92-297 to cover both DOD controllers and flight service station specialists. In asking for passage of H.R. 1781, the committee is not retreating from its support for these other measures. While the other two bills caused controversy, I know of no opposition to H.R. 1781. It is fully supported by the administration and the Department of Defense.

Given the small number of employees involved, the cost of H.R. 1781 is low.

Mr. LEACH of Iowa. Mr. Speaker, the gentlewoman from Colorado accurately describes the intent and purpose of this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON), the prime architect of this legislation and to whom we owe a good deal for having this bill before us today.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding.

I think the gentlewoman from Colorado has accurately described the situation here. When Public Law 92-297 was originally enacted setting up certain retirement benefits for air traffic controllers, it was limited only to Federal Aviation Administration controllers and it left out those air traffic controllers who work for the Department of Defense.

Mr. Speaker, there is no distinction in training, duties, requirements, and performance of services between Department of Transportation air traffic controllers. The stress is just as much, the degree of skill is just as much. However, there were some 230 air traffic controllers not included. This is simply an effort on my part, representing the air traffic controllers of the Department of Defense, to correct an inequity. I thank the committee for its consideration and the support of H.R. 1781. The measure is supported by the Department of Defense, the Office of Management and Budget, and the Administration. There was no testimony against the measure in committee. I have been working on this for a number of years. I am very glad to see it come to this point of fruition. I want to thank those who have added support to it.

I yield back the balance of my time, Mr. Speaker.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Committee on Post Office and Civil Service, the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of H.R. 1781. This legislation, long championed by the gentleman from Alabama (Mr. DICKINSON) provides for the inclusion of Department of Defense Air Traffic Controllers under the same benefit provisions of law which apply to air traffic controllers employed at the Federal Aviation Administration.

The Department of Defense also favors enactment. Spokesmen testified that in the interests of equity, employees of both departments should be included under the same provision of law. Although the bill would have slight effect on the unfunded liability of the civil service retirement fund, the administration has no objection to its passage.

Under current law, air traffic controllers are entitled to early retirement and second-career education benefits. However, in the past several Congresses, no funds have been appropriated to continue the second career program.

Mr. Speaker, this bill affects approximately 230 Department of Defense controllers, who perform similar tasks under comparable conditions as Federal Aviation Administration controllers. It is a fair bill which deserves approval of the House.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill, H.R. 1781, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bills, H.R. 5997 and H.R. 1781.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

COAST GUARD RESERVE

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6666) to revise the laws relating to the Coast Guard Reserve, as amended.

The Clerk read as follows:

H.R. 6666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 14, United States Code, is amended to read as follows:

"CHAPTER 21—COAST GUARD RESERVE

"SUBCHAPTER A

"GENERAL

"Sec.
"701. Organization.
"702. Authorized strength.
"703. Coast Guard Reserve Boards.
"704. Grades and ratings; military authority.
"705. Benefits.
"706. Temporary members of the Reserve; eligibility and compensation.
"707. Temporary members of the Reserve; disability or death benefits.
"708. Temporary members of the Reserve; certificate of honorable service.
"709. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.
"710. Appointment or wartime promotion; retention of grade upon release from active duty.
"711. Exemption from military training and draft; exclusiveness of service.
"712. Active duty for emergency augmentation of regular forces.
"713. Enlistment of members engaged in schooling.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"720. Definitions.
"721. Applicability of this subchapter.
"722. Suspension of this subchapter in time of war or national emergency.
"723. Effect of this subchapter on retirement and retired pay.
"724. Authorized number of officers.
"725. Precedence.
"726. Running mates.
"727. Constructive credit upon initial appointment.
"728. Promotion of Reserve officers on active duty.
"729. Promotion; recommendations of selection boards.
"730. Selection boards; appointment.
"731. Placement in promotion zone; consideration for promotion.
"732. Eligibility for promotion.
"733. Recommendation for promotion of an officer.
"734. Qualifications for promotion.
"735. Promotion; acceptance; oath of office.
"736. Date of rank upon promotion; entitlement to pay.
"737. Type of promotion; temporary.
"738. Effect of removal by the President or failure of consent of the Senate.
"739. Failure of selection for promotion.
"740. Failure of selection and removal from active status.
"741. Retention boards; removal from an active status to provide a flow of promotion.
"742. Maximum ages for retention in an active status.
"743. Rear admiral; maximum service in grade.

"744. Appointment of a former Navy or Coast Guard officer.

"745. Grade on entry upon active duty.

"746. Recall of a retired officer; grade upon release.

"SUBCHAPTER A

"GENERAL

"§ 701. Organization

"The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

"§ 702. Authorized strength

"(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

"(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary's determination.

"§ 703. Coast Guard Reserve Boards

"(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

"(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

"§ 704. Grades and ratings; military authority

"The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

"§ 705. Benefits

"(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Naval Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

"(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

"(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Naval Reserve who suffers sickness, disease, disability, or death under similar conditions.

"(d) A member of the Reserve or active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training) or when retired for disability is entitled to the benefits of chapter 55 of title 10.

"(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Naval Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

"§ 706. Temporary members of the Reserve; eligibility and compensation

"A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

"§ 707. Temporary members of the Reserve; disability or death benefits

"(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of $600.

"(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

"(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

"(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

"(e) In administering section 8133 of title 5, for a person covered by this section—

"(1) the percentages applicable to payments under that section are—

"(A) 45 per centum under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection;

"(B) 20 per centum under subsection (a)(3) of that section, for one child, and 10 per centum additional for each additional child, not to exceed a total of 75 per centum, where the member died fully or currently insured under title II of the Social Security Act; and

"(C) 25 per centum under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

"(2) payments may not be made under subsection (a)(5) of that section; and

"(3) the Secretary of Labor shall inform the Secretary of Health and Human Services whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Secretary of Health and Human Services shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

"§ 708. Temporary members of the Reserve; certificate of honorable service

"In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

"§ 709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade

"(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

"(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

"(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

"(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

"(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may serve for an additional period of not more than two years.

"(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

"§ 710. Appointment or wartime promotion; retention of grade upon release from active duty

"(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

"(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

"§ 711. Exemption from military training and draft; exclusiveness of service

"A member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law. No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

"§ 712. Active duty for emergency augmentation of regular forces

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.

"(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

"(c) Active duty served under this section—

"(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 270 of title 10;

"(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

"(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

"§ 713. Enlistment of members engaged in schooling

"The initial period of active duty for training required by section 511(d) of title 10, may be divided into two successive annual periods of not less six weeks each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

"SUBCHAPTER B

"COMMISSIONED OFFICER

"§ 720. Definitions

"As used in this subchapter—

"(1) 'Reserve officer' means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and

"(2) 'discharged' means released from an appointment as a Reserve Officer.

"§ 721. Applicability of this subchapter

"This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

"§ 722. Suspension of this subchapter in time of war or national emergency

"In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

"§ 723. Effect of this subchapter on retirement and retired pay

"Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer, or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer.

"§ 724. Authorized number of officers

"(a) The authorized number of officers in the Reserve in an active status is 5,000. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

"(b) The authorized number of Reserve officers in an active status below the grade of rear admiral shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and in the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law. The authorized number of Reserve officers in an active status not on active duty in the grade of rear admiral is two.

"§ 725. Precedence

"(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

"(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

"(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

"§ 726. Running mates

"(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

"(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

"(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

"(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

"(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

"(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

"(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

"(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

"§ 727. Constructive credit upon initial appointment

Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a law specialist in the Reserve shall be credited with a minimum of three years service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

"§ 728. Promotion of Reserve officers on active duty

"(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the officer shall be included in the grade distribution authorized by this subchapter.

"(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

"(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 11 of this title, shall be promoted to that grade as though selected under this subchapter.

"(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

"§ 729. Promotion; recommendations of selection boards

"(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

"(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

"(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommended for promotion to the next higher grade:

"(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

"(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

"(d) Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that grade. The Secretary may, however, prescribe regulations that provide for the establishment of promotion opportunity percentages for each grade to ensure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.

"(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grade of rear admiral apply to a Reserve officer, except that to be eligible for consideration an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

"(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

"(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

"(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list.

"(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

"§ 730. Selection boards; appointment

"(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum.

"(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

"(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required by officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

"(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the armed forces that, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer.

"§ 731. Placement in promotion zone; consideration for promotion

"Subject to the eligibility requirements of this subchapter, a Reserve officer shall be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable.

"§ 732. Eligibility for promotion

"A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under subsection 741(a) of this title, is not eligible for consideration for promotion.

"§ 733. Recommendation for promotion of an officer previously removed from an active status

"A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

"§ 734. Qualification for promotion

"(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer's service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

"(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

"§ 735. Promotion; acceptance; oath of office

"(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

"(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

"§ 736. Date of rank upon promotion; entitlement to pay

"(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

"(b) Notwithstanding any other law and when a Reserve officer's running mate is so entitled, a Reserve officer in the grade of rear admiral is entitled to the pay and allowances of the upper half for duty performed.

"(c) For the purposes of subsection (a) of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary.

"§ 737. Type of promotion; temporary

"Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

"§ 738. Effect of removal by the President or failure of consent of the Senate

"(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title.

"(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

"(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

"§ 739. Failure of selection for promotion

"(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

"(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

"§ 740. Failure of selection and removal from an active status

"(a) The Secretary—

"(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

"(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral.

"(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

"(c) Subject to section 1006 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

"(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

"(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

"(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

"§ 741. Retention boards; removed from an active status to provide a flow of promotion

"(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status not on active duty and not on an approved list of selectees for promotion to the next higher grade. The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status. This board shall—

"(1) to the extent practicable, consist of at least 50 per centum Reserve officers;

"(2) consist only of officers who are senior in rank to any officers being considered by that board; and

"(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

"(b) Subject to section 1006 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

"(c) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

"§ 742. Maximum ages for retention in an active status

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

"(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

"(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.

"§ 743. Rear admiral; maximum service in grade

"Unless retained in or removed from an active status under any other law, a Reserve rear admiral shall be removed from an active status on the day that officer completes four years of service in that grade.

"§ 744. Appointment of a former Navy or Coast Guard officer

"A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer's Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

"§ 745. Grade on entry upon active duty

"A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

"§ 746. Recall of a retired officer; grade upon release

"(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

"(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade.".

CONFORMING AMENDMENT

Sec. 2. Subsection 1006(e) of title 10, United States Code is amended by striking out "787" in the first sentence and substituting "740".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required of this motion.

The gentleman from New York (Mr. Murphy) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6666 would revise existing laws pertaining to the Coast Guard Reserve. This bill would clarify language and rationale provisions in existing law to remove ambiguities and inconsistencies. The bill would make minor substantive changes, as requested by the administration and approved by the Committee on Merchant Marine and Fisheries.

I now yield to the gentleman from New York (Mr. Biaggi), chairman of the Subcommittee on Coast Guard and Navigation, who will explain the need for the bill and its content.

Mr. BIAGGI. Mr. Speaker, H.R 6666 is a bill to revise the laws relating to the Coast Guard Reserve. As I am sure all Members know, the Coast Guard is one of the Armed Forces and its Reserve component is governed by the same laws that govern the Reserve components of the Armed Forces. These statutes are found in title 10 of the United States Code.

In addition to the provisions in title 10, there are other laws that apply only to the Coast Guard Reserve. These are found in chapter 21 of title 14, United States Code. The statutes in title 14 primarily govern the organization and administration of the Coast Guard Reserve. They also contain provisions dealing with the appointment, promotion, and retention of commissioned officers in the Coast Guard Reserve. It is these statutes that H.R. 6666 amends.

The purpose of H.R. 6666 is to correct, clarify, and improve the laws governing the Coast Guard Reserve that are found in chapter 21 of title 14, United States Code. The bill corrects errors—removes inconsistencies—updates material—improves the language—and rearranges the material in a more logical order.

The bill also makes a few minor substantive changes—including reducing the tenure of Reserve rear admirals from 5 to 4 years in order to increase the opportunity for selection among captains. Another change would remove a limitation on the authority of the Coast Guard Reservists while on weekend training duty.

Enactment of the bill will both benefit the members of the Coast Guard Reserve and enable improvements in the management and administration of the Coast Guard Reserve program. The bill will also bring inactive duty Reserve officer promotion and retention legislation more in line with the law applicable to active service officers.

I urge enactment of H.R. 6666 by the House.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the ranking member of the Coast Guard Subcommittee, the gentleman from Alaska (Mr. YOUNG) and the rest of the full committee, I support the passage of H.R. 6666, a bill to update the administration and organization of the Coast Guard Reserve.

In order to enhance the law enforcement capability of the Reserve, Reservists on inactive duty are given the same authority in this area that their active duty counterparts have.

The Reserve officer selection, promotion and retention provisions are improved by:

First, providing that Reserve officers on active duty for limited, brief periods for study or special projects will not be considered for promotion by the same board as Regular officers;

Second, reducing service requirements for eligibility to the grade of rear admiral;

Third, eliminating certain unnecessary qualifications for promotion while adding a character of service review,

Fourth, clarifying retention board procedures;

Fifith, setting a definite date for removal for reservists who have failed for selection twice and for captains who have completed 30 years service; and

Sixth, reducing Reserve rear admiral tenure from 5 to 4 years.

This bill was passed unanimously by the committee and is supported by the administration. I ask all Members to join me in voting for it.

● Mr. YOUNG of Alaska. Mr. Speaker, I rise today in support of H.R. 6666, a bill revising the laws relating to the Coast Guard Reserve. I am very interested in the vitality of the Reserve and in insuring that it can make a meaningful contribution to the security and defense of this Nation through its mobilization efforts and can effectively augment the regular service.

Mr. Speaker, this bill will make several changes in current law that will improve the effectiveness of the Coast Guard Reserve and its administration.

Perhaps the single most important change is providing reservists with the same authority to act as their active duty counterparts. With this authority, reservists will not be hamstrung when performing duty augmenting the Regular Coast Guard in law enforcement and in other activities regarding the multiple missions of the Coast Guard. The bill also makes improvements in the existing Reserve officer selection, promotion, and retention provisions which will provide for a greater opportunity for selection for Reserve officers as they progress through their careers. In particular, H.R. 6666;

Removes Reserve officers on active duty for limited, brief periods of specialized duty from consideration for promotion by the same board as Regular officers;

Reduces service requirements for eligibility to the grade of rear admiral;

Eliminates certain unnecessary qualifications for promotion;

Clarifies retention board procedures;

Sets a definite date for removal from an active status for officers twice failing for selection or for captains who complete 30 years; and

Reduces Reserve rear admiral tenure from 5 to 4 years.

Finally, Mr. Speaker, the bill accomplishes a certain degree of needed reorganization, simplification, and modernization of existing provisions. Where possible, the Reserve laws have been revised to conform to the laws governing officers on active duty in the Coast Guard.

Mr. Speaker, the last revision of the laws governing the Coast Guard Reserve was 10 years ago. Therefore, I am pleased that we are taking the opportunity now to review and improve the current law and eliminate certain ambiguities, inconsistencies, and deficiencies. I support this legislation and urge its enactment.●

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 6666, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1300

DEEP SEABED HARD MINERAL RESOURCES ACT

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2759) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, as amended.

The Clerk read as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States' requirements for hard minerals to satisfy national industrial needs will continue to expand and the demand for such minerals will eventually exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and the acquisition of such minerals from foreign sources is a significant factor in the national balance-of-payments position;

(3) the present and future national interest of the United States requires the availability of hard mineral resources which is independent of the export policies of foreign nations;

(4) there is an alternate source of supply. which is significant in relation to national needs, of certain hard minerals, including nickel, copper, cobalt, and manganese, contained in the nodules existing in great abundance on the deep seabed;

(5) the nations of the world, including the United States, will benefit if the hard mineral resources of the deep seabed beyond limits of national jurisdiction can be developed and made available for their use;

(6) in particular, future access to the nickel, copper, cobalt, and manganese resources of the deep seabed will be important to the industrial needs of the nations of the world, both developed and developing:

(7) on December 17, 1970, the United States supported (by affirmative vote) the United Nations General Assembly Resolution 2749 (XXV) declaring inter alia the principle that the mineral resources of the deep seabed are the common heritage of mankind, with the expectation that this principle would be legally defined under the terms of a comprehensive International Law of the Sea Treaty yet to be agreed upon;

(8) it is in the national interest of the United States and other nations to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of ocean interests, including exploration for and commercial recovery of hard mineral resources of the deep seabed;

(9) the negotiations to conclude such a Treaty and establish the international regime governing the exercise of rights over, and exploration of, the resources of the deep seabed, referred to in General Assembly Resolution 2749 (XXV) are in progress but may not be concluded in the near future;

(10) even if such negotiations are completed promptly, much time will elapse before such an international regime is established and in operation;

(11) development of technology required for the exploration and recovery of hard mineral resources of the deep seabed will require substantial investment for many years before commercial production can occur, and must proceed at this time if deep seabed minerals are to be available when needed;

(12) it is the legal opinion of the United States that exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law;

(13) pending a Law of the Sea Treaty, and in the absence of agreement among states on applicable principles of international law, the uncertainty among potential investors as to the future legal regime is likely to discourage or prevent the investments necessary to develop deep seabed mining technology;

(14) pending a Law of the Sea Treaty, the protection of the marine environment from damage caused by exploration or recovery of hard mineral resources of the deep seabed depends upon the enactment of suitable interim national legislation;

(15) a Law of the Sea Treaty is likely to establish financial arrangements which obligate the United States or United States citi-

zens to make payments to an international organization with respect to exploration or recovery of the hard mineral resources of the deep seabed; and

(16) legislation is required to establish an interim legal regime under which technology can be developed and the exploration and recovery of the hard mineral resources of the deep seabed can take place until such time as a Law of the Sea Treaty enters into force with respect to the United States.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to encourage the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) pending the entering into force of such a Treaty, to provide for the establishment of an international revenue-sharing fund the proceeds of which shall be used for sharing with the international community pursuant to such Treaty;

(3) to establish, pending the ratification by, and entering into force with respect to, the United States of such a Treaty, an interim program to regulate that exploration for and commerical recovery of hard mineral resources of the deep seabed by United States citizens;

(4) to accelerate the program of environmental assessment of exploration for and commercial recovery of hard mineral resources of the deep seabed and assure that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea; and

(5) to encourage the continued development of technology necessary to recover the hard mineral resources of the deep seabed.

SEC. 3. INTERNATIONAL OBJECTIVES OF THIS ACT, DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY

(a) By the enactment of this Act, the United States—

(1) exercises its jurisdiction over United States citizens and vessels, and foreign persons and vessels otherwise subject to its jurisdiction, in the exercise of the high seas freedom to engage in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in accordance with generally accepted principles of international law recognized by the United States; but

(2) does not thereby assert sovereignty or sovereign or exclusive rights or jurisdiction over, or to the ownership of, any areas or resources in the deep seabed.

(b) SECRETARY OF STATE.—(1) The Secretary of State is encouraged to negotiate successfully a comprehensive Law of the Sea Treaty which, among other things, provides assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations, gives legal definition to the principle that the resources of the deep seabed are the common heritage of mankind, and provides for the establishment of requirements for the protection of the quality of the environment as stringent as those promulgated pursuant to this Act.

(2) Until such a Treaty is concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the environment from adverse impacts which may result from any exploration for and commercial recovery of hard mineral resources of the deep seabed carried out by persons not subject to this Act.

SEC. 4. DEFINITIONS.

For purposes of this Act, the term—

(1) "commercial recovery" means—

(A) any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;

(B) if such recovered hard mineral resource will be processed at sea, such processing; and

(C) if the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal;

(2) "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(3) "controlling interest", for purposes of paragraph 14(C) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person;

(4) "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(5) "exploration" means—

(A) any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(6) "hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(7) "international agreement" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(8) "licensee" means the holder of a license issued under title I of this Act to engage in exploration;

(9) "permittee" means the holder of a permit issued under title I of this Act to engage in commercial recovery;

(10) "person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(11) "reciprocating state" means any foreign nation designated as such by the Administrator under section 118;

(12) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(13) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(14) "United States citizen" means—

(A) any individual who is a citizen of the United States;

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; and

(C) any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in subparagraph (A) or (B).

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

SEC. 101. PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS

(a) PROHIBITED ACTIVITIES AND EXCEPTIONS.—(1) No United States citizen may engage, directly or indirectly, in any exploration or commercial recovery unless authorized to do so under—

(A) a license or a permit issued under this title;

(B) a license, permit, or equivalent authorization issued by a reciprocating state; or

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities:

(A) Scientific research, including that concerning hard mineral resources.

(B) Mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or random bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment.

(C) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing is conducted on shore.

(D) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under this title, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement.

(E) Activities, other than exploration or commercial recovery activities, of the Federal Government.

(b) EXISTING EXPLORATION.—(1) Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the effective date of this Act from continuing to engaged in such exploration—

(A) if such citizen applies for a license under section 103(a) with respect to such exploration within such reasonable period of time, after the date on which initial regulations to implement section 103(a) are issued, as the Administrator shall prescribe; and

(B) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(2) Notwithstanding paragraph (1), if the President by Executive order determines that immediate suspension of exploration activities is necessary for the reasons set forth in section 106(a)(2)(B) or the Administrator determines that immediate suspension of activities is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, the Administrator is authorized, notwithstanding any other requirement of this Act, to issue an emergency order requiring any United States citizen who is engaged in exploration before the effective date of this Act to immediately suspend exploration activities. The issuance of such emergency order is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(3) The timely filing of any application for a license under paragraph (1)(A) shall entitle the applicant to priority of right for the issuance of such license under section 103(b). In any case in which more than one application referred to in paragraph (1) is filed based on exploration plans required by section 103(a)(2) which refer to all or part of the same deep seabed area, the Administrator shall, in taking action on such applications, apply principles of equity which take into consideration, among other things, the date on which the applicants or predecessors in interest, or component organizations thereof, commenced exploration activities and the continuity and extent of such exploration and amount of funds expended with respect to such exploration.

(c) Interference.—No United States citizen may interfere or participate in interference with any activity conducted by any licensee or permittee which is authorized to be undertaken under a license or permit issued by the United States to the licensee or permittee under this Act or with any activity conducted by the holder of, and authorized to be undertaken under, a license or permit or equivalent authorization issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources. United States citizens shall exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas.

SEC. 102. LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY.

(a) Authority To Issue.—Subject to the provisions of this Act, the Administrator shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery.

(b) Nature of Licenses and Permits.—(a) a license or permit issued under this title shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Administrator to implement the provisions of this Act, and the specific terms, conditions, and restrictions applied to the license or permit by the Administrator.

(2) Any license or permit issued under this title shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(3) A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this Act and regulations issued under this Act, to a permit for commercial recovery. Such a permit recognizes the right of the holder to recover hard mineral resources, and to own, transport, use, and sell hard mineral resources recovered, under the permit and in accordance with the requirements of this Act.

(4) In the event of interference with the exploration or commercial recovery activities of a licensee or permittee by nationals of other states, the Secretary of State shall use all peaceful means to resolve the controversy by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) Restrictions.—(1) The Administrator may not issue—

(A) any license or permit after the date on which an international agreement enters into force with respect to the United States, except to the extent that issuance of such license or permit is not inconsistent with such agreement;

(B) any license or permit the exploration plan or recovery plan of which, submitted pursuant to section 103(a)(2), would apply to an area to which applies, or would conflict with, (i) any exploration plan or recovery plan submitted with any pending application to which priority or right for issuance applies under section 103(b), (ii) any exploration plan or recovery plan associated with any existing license or permit, or (iii) any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to this title;

(C) a permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license if such permit is issued to other than the licensee for such area;

(D) any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1988;

(E) any license or permit the exploration plan or recovery plan for which applies to any area of the deep seabed if, within the 3-year period before the date of application for such license or permit, (i) the applicant therefore surrendered or relinquished such area under an exploration plan or recovery plan associated with a previous license or permit issued to such applicant, or (ii) a license or permit previously issued to the applicant had an exploration plan or recovery plan which applied to such area and such license or permit was revoked under section 106; or

(F) a license or permit, or approve the transfer of a license or permit, except to a United States citizen.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing at sea of hard mineral resources recovered under the permit issued to the permittee unless the vessel is documented under the laws of the United States.

(3) Each permittee shall use at least one vessel documented under the laws of the United States for the transportation from each mining site of hard mineral resources recovered under the permit issued to the permittee.

(4) For purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used in the commercial recovery, processing, or transportation from any mining site of hard mineral resources recovered under a permit issued under this title shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936, and shall be deemed to be a vessel as defined in section 1101(b) of that Act.

(5) The Administrator shall issue regulations with respect to the locations in which any permittee may process hard mineral resources recovered by such permittee under a permit for commercial recovery. In issuing such regulations the administrator shall take into account—

(A) the multinational nature of deep seabed mining operations;

(B) in consultation with the Secretary of State, the foreign policy interests of the United States;

(C) the necessity of maximizing employment opportunities in the United States; and

(D) the national interest in maintaining an adequate domestic supply of such resources.

"SEC. 103. LICENSE AND PERMIT APPLICATIONS, REVIEW, AND CERTIFICATION.

(a) Applications.—(1) Any United States citizen may apply to the Administrator for the issuance or transfer of a license for exploration or a permit for commercial recovery.

(2)(A) Applications for issuance or transfer of licenses for exploration and permits for commercial recovery shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of this title. In accordance with such regulations, each applicant for the issuance of a license shall submit an exploration plan as described in subparagraph (B), and each applicant for a permit shall submit a recovery plan as described in subparagraph (C).

(B) The exploration plan for a license shall set forth the activities proposed to be carried out during the period of the license, describe the area to be explored, and include the intended exploration schedule and methods to be used, the development and testing of systems for commercial recovery to take place under the terms of the license, an estimated schedule of expenditures, measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems of commercial recovery, and such other information as is necessary and appropriate to carry out the provisions of this title. The area set forth in an exploration plan shall be of sufficient size to allow for intensive exploration.

(C) The recovery plan for a permit shall set forth the activities proposed to be carried out during the period of the permit, and shall include the intended schedule of commercial recovery, environmental safeguards and monitoring systems, details of the area or areas proposed for commercial recovery, a resource assessment thereof, the methods and technology to be used for commercial recovery and processing, the methods to be used for disposal of wastes from recovery and processing, and such other information as is necessary and appropriate to carry out the provisions of this title.

(D) The applicant shall select the size and location of the area of the exploration plan or recovery plan, which area shall be approved unless the Administrator finds that—

(i) the area is not a logical mining unit; or

(ii) commercial recovery activities in the proposed location would result in a signficant adverse impact on the quality of the environment which cannot be avoided by the imposition of reasonable restrictions.

(E) For purposes of subparagraph (D), "logical mining unit" means—

(i) in the case of a license for exploration, an area of the deep seabed which can be explored under the license in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant as set forth in the exploration plan; or

(ii) in the case of a permit, an area of the deep seabed—

(I) in which hard mineral resources can be recovered in sufficient quantities to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the recovery plan;

(II) which is not larger than is necessary to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit; and

(III) in relation to which the permittee's estimated production requirements are not found by the Administrator to be unreasonable.

(b) Priority of Right for Issuance.—Subject to section 101(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator. Priority of right shall not be lost in the case of any application filed which is in substantial but not full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Administrator shall prescribe in regulations.

(c) Eligibility for Certification.—Before the Administrator may certify any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with other departments and agencies pursuant to subsection (e) of this section, that—

(1) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will be financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the appliance has demonstrated that, upon issuance or transfer of the license or permit, the applicant will have the technological capability to engage in such exploration or commercial recovery;

(3) the applicant has satisfactorily fulfilled all obligations under any license or permit previously issued or transferred to the applicant under this Act; and

(4) the proposed exploration plan or recovery plan of the applicant meets the requirements of this Act and the regulations issued under this Act.

(d) Antitrust Review.—(1) Whenever the Administrator receives any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Secretary shall transmit promptly a complete copy of such application to the Attorney General of the United States and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust review of the application as they deem appropriate and shall, if they deem appropriate, advise the Administrator of the likely effects of such issuance or transfer on competition.

(3) The Attorney General and the Federal Trade Commission may make any recommendations they deem advisable to avoid any action upon such application by the Administrator which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include, without limitation, the denial of issuance or transfer of the license or permit or issuance or transfer upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within 90 days after receipt by them of the application. The Administrator shall not issue or transfer the license or permit during that 90-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation with respect to the application.

(5) If the Administrator decides to issue or transfer the license or permit with respect to which denial of the issuance or transfer of the license or permit has been recommended by the Attorney General or the Federal Trade Commission, or to issue or transfer the license or permit without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as appropriate to prevent any situation inconsistent with the antitrust laws, the Administrator shall, prior to or upon issuance or transfer of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

(6) The issuance or transfer of a license or permit under this title should not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(7) As used in this subsection, the term "antitrust laws" means the Act of July 2, 1890 (commonly known as the Sherman Act; 15 U.S.C. 1–7); sections 73 through 77 of the Act of August 27, 1894 (commonly known as the Wilson Tariff Act; 15 U.S.C. 8–11); the Clayton Act (15 U.S.C. 12 et seq.); the Act of June 19, 1936 (commonly known as the Robinson-Patman Price Discrimination Act; 15 U.S.C. 13–13b and 21a); and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(e) Other Federal Agencies.—The Administrator shall provide by regulation for full consultation and cooperation, prior to certification of an application for the issuance or transfer of any license for exploration or permit for commercial recovery and prior to the issuance or transfer of such a license or permit, with other Federal agencies or departments which have programs or activities within their statutory responsibilities which would be affected by the activities proposed in the application for the issuance or transfer of a license or permit. Not later than 30 days after the date of enactment of this Act, the heads of any Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the recovery or processing of hard mineral resources shall transmit to the Administrator written comments as to their expertise or statutory responsibilities pursuant to this Act or any other Federal law. To the extent possible, such agencies shall cooperate to reduce the number of separate actions required to satisfy the statutory responsibilities of those agencies. The Administrator shall transmit to each such agency or department a complete copy of each application and each such agency or department, based on its legal responsibilities and authorities, may, not later than 60 days after receipt of the application, recommend certification of the application, issuance or transfer of the license or permit, or denial of such certification, issuance, or transfer. In any case in which an agency or department recommends such a denial, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall indicate how the application may be amended, or how terms, conditions, or restrictions might be added to the license or permit, to assure compliance with such law or regulation.

(f) Review Period.—All time periods for the review of an application for issuance or transfer of a license or permit established pursuant to this section shall, to the maximum extent practicable, run concurrently from the date on which the application is received by the Administrator.

(g) Application Certification.—Upon making the applicable determinations and findings required in sections 101, 102, and this section with respect to any applicant for the issuance or transfer of a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures for receiving the application required by this Act, and upon payment by the applicant of the fee required under section 104, the Administrator shall certify the application for the issuance or transfer of the license or permit. The Administrator, to the maximum extent possible, shall endeavor to complete certification action on the application within 100 days after its submission. If final certification or denial of certification has not occurred within 100 days after submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the Administrator's efforts to reoslve them, and an estimate of the time required to do so.

Sec. 104. License and Permit Fees.

No application for the issuance or transfer of a license for exploration or permit for commercial recovery shall be certified unless the applicant pays to the Administrator a reasonable administrative fee which shall be deposited into miscellaneous receipts of the Treasury. The amount of the administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

Sec. 105. License and Permit Terms, Conditions, and Restrictions: Issuance and Transfer of Licenses and Permits.

(a) Eligibility for Issuance or Transfer of License or Permit.—Before issuing or transferring a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with interested departments and agencies pursuant to section 103(e), and upon considering public comments received with respect to the license or permit, that the exploration or commercial recovery proposed in the application—

(1) will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law;

(2) will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States;

(3) will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict;

(4) cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable environmental impact statement prepared pursuant to section 109(c) or 109(d); and

(5) will not pose an inordinate threat to the safety of life and property at sea.

(b) Issuance and Transfer of Licenses and Permits With Terms, Conditions, and Reservations.—(1) Within 180 days after certification of any application for the issuance or transfer of a license or permit under section 103(g), the Administrator shall propose terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with the provisions of this Act and regulations issued under this Act. If additional time is needed, the Administrator shall notify the applicant in writing of the reasons for the delay and indicate the approximate date on which the proposed terms, conditions, and restrictions will be completed. The Administrator shall provide to each applicant a written statement of the proposed terms, conditions, and restrictions. Such terms, conditions, and restrictions shall be generaly specified in regulations with general criteria and standards to be used in establishing such terms, conditions, and restrictions for a license or permit and shall be uniform in all licenses or permits, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

(2) After preparation and consideration of the final environmental impact statement pursuant to section 109(d) on the proposed issuance of a license or permit and subject to the other provisions of this Act, the Administrator shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein.

(3) The licensee or permittee to whom a license or permit is issued or transferred shall be deemed to have accepted the terms, conditions, and restrictions in the license or permit if the licensee or permittee does not notify the Administrator within 60 days after receipt of the license or permit of each term, condition, or restriction with which the licensee or permittee takes exception. The licensee or permittee may, in addition to such objections as may be raised under applicable provisions of law, object to any term, condition, or restriction on the ground that the term, condition, or restriction imposes such unreasonable and adverse economic consequences on the licensee or permittee as to outweigh the benefits to be derived from the proposed term, condition, or restriction. If, after the Administrator takes final action on these objections, the licensee or permittee demonstrates that a dispute remains on a material issue, the licensee or permittee is entitled to a decision on the record after the opportunity for an agency hearing pursuant to sections 556 and 557 of title 5, United States Code. Any such decision made by the Administrator shall be subject to judicial review as provided in chapter 7 of title 5, United States Code.

(c) Modification and Revision of Terms, Conditions, and Restrictions.—(1) After the issuance or transfer of any license or permit under subsection (b), the Administrator, after consultation with interested agencies and the licensee or permittee, may modify any term, condition, or restriction in such license or permit—

(A) to avoid unreasonable interference with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law;

(B) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea and if such modification is consistent with the regulations issued to carry out section 109 (b);

(C) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or

(D) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Administrator an application for a revision of the license or permit or the exploration plan or recovery plan associated with the license or permit. The Administrator shall approve such application upon a finding in writing that the revision will comply with the requirements of this Act and the regulations issued under this Act.

(3) The Administrator shall establish, by regulation, guidelines for a determination of the scale or extent of a proposed modification or revision for which any or all license or permit application requirements and procedures, including a public hearing, shall apply. Any increase in the size of the area, or any change in the location of an area, to which an exploration plan or a recovery plan applies, except an incidental increase or change, must be made by application for another license or permit.

(4) No modification may be made under paragraph (1)(A) if the Administrator determines, on the basis of substantial evidence, that the national interest in obtaining hard mineral resources from the area which is covered by the license or permit and which is the subject of the proposed modification outweighs the potential injury to the quality of the environment intended to be remedied by the modification. In determining whether a license or permit shall be modified under paragraph (1)(A), the Administrator shall also consider whether the proposed modification would result in significant economic loss to the licensee or permittee which would substantially outweigh the potential injury to the quality of the environment to be remedied by the modification.

(5) The procedures set forth in subsection (b)(3) of this section shall apply with respect to any modification under this subsection in the same manner, and to the same extent, as if such modification were an initial term, condition, or restriction proposed by the Administrator.

(d) Prior Consultations.—Prior to making a determination to issue, transfer, modify, or renew a license or permit under this section, the Administrator shall consult with any affected Regional Fishery Management Council established pursuant to section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852), if the activities undertaken pursuant to such license or permit could adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

Sec. 106. Denial of Certification of Applications and of Issuance, Transfer, Suspension, and Revocation of Licenses and Permits; Suspension and Modification of Activities.

(a) Denial, Suspension, Modification, and Revocation.—(1) The Administrator may deny certification of an application for the issuance or transfer of, and may deny the issuance or transfer of, a license for exploration or permit for commercial recovery if the Administrator finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(c), section 105(a), or in any other provision of this Act, or any regulation issued under this Act, for the issuance or transfer of a license or permit.

(2) The Administrator may—

(A) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit issued under this Act, or suspend or modify any particular activities under such a licnese or permit, if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit; and

(B) suspend or modify particular activities under any license or permit, if the President determines that such suspension or modification is necessary (i) to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or (ii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

(3) No action may be taken by the Administrator to deny issuance or transfer of or to revoke any license or permit, or, except as provided in subsection (c), to suspend any license or permit or suspend or modify particular activities under a license or permit, unless the Administrator—

(A) publishes in the Federal Register and gives the applicant, licensee, or permittee, as the case may be, written notice of the intention of the Administrator to deny the issuance or transfer of or to suspend, modify, or revoke the license or permit and the reason therefor; and

(B) if the reason for the proposed denial, suspension, modification, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice or such longer period as the Administrator may establish for good cause shown, to correct such deficiency.

(4) The Administrator shall deny issuance or transfer of, or suspend or revoke, any license or permit or order the suspension or modification of particular activities under a license or permit—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, modification, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such corretion has not been made before such day.

(b) Administrative Review of Proposed Denial, Suspension, Modification, or Revocation.— Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a denial of issuance or transfer, or a suspension or revocation, of a license for exploration or permit for commercial recovery, or a suspension or modification of particular activities under such a license or permit, is entitled to an adjudication on the record after an opportunity for an agency hearing with respect to such denial or suspension, revocation, or modification.

(c) Effect on Activities; Emergency Orders.—The issuance of any notice of proposed suspension or revocation of a license for exploration or permit for commercial recovery or proposed suspension or modification of particular activities under such a license or permit shall not affect the continuation of exploration or commercial recovery activities by the licensee or permittee. The provisions of paragraphs (3) and (4) of subsection (a) and the first sentence of this subsection shall not apply when the President determines by Executive order that an immediate suspension of a license for exploration or permit for commerical recovery, or immediate suspension or modification of particular activities under such a license or permit, is necessary for the reasons set forth in subsection (a)(2)(B), or the Administrator determines that an immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Administrator, after any appropriate administrative review under subsection (b), to certify or deny certification of an application for the issuance or transfer of, or to issue, deny issuance of, transfer, deny the transfer of, modify, renew, suspend, or revoke any license for exploration or permit for commercial recovery, or suspend or modify particular activities under such a license or permit, or any immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, pursuant to subsection (c), is subject to judicial review as provided in chapter 7 of title 5, United States Code.

SEC. 107. DURATION OF LICENSES AND PERMITS.

(a) DURATION OF A LICENSE.—Each license for exploration shall be issued for a period of 10 years. If the licensee has substantially complied with the license and the exploration plan associated therewith and has requested extensions of the license, the Administrator shall extend the license on terms, conditions, and restrictions consistent with this Act and the regulations issued under this Act for periods of not more than 5 years each.

(b) DURATION OF A PERMIT.—Each permit for commercial recovery shall be issued for a term of 20 years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the recovery plan associated with the permit applies. The permit of any permittee who is not recovering hard mineral resources in commercial quantities at the end of 10 years shall be terminated; except that the Administrator shall for good cause shown, including force majeure, adverse economic conditions, unavoidable delays in construction, major unanticipated vessel repairs that prevent the permittee from conducting commercial recovery activities during an annual period, or other circumstances beyond the control of the permittee, extend the 10-year period, but not beyond the initial 20-year term of the permit.

SEC. 108. DILIGENCE REQUIREMENTS.

(a) IN GENERAL.—The exploration plan or recovery plan and the terms, conditions, and restrictions of each license and permit issued under this title shall be designed to assure diligent development. Each licensee shall pursue diligently the activities described in the exploration of the licensee, and each permittee shall pursue diligently the activities described in the recovery plan of the permittee.

(b) EXPENDITURES.—Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Administrator shall establish, taking into account the size of the area of the deep seabed to which the exploration plan associated with the license applies and the amount of funds which is estimated by the Administrator to be required for commercial recovery of hard mineral resources to begin within the time limit established by the Administrator. Such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(c) COMMERCIAL RECOVERY.—Once commercial recovery is achieved, the Administrator shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit; except that the Administrator shall for good cause shown, including force majeure, adverse economic conditions, or other circumstances beyond the control of the permittee, authorize the temporary suspension of commercial recovery activities. The duration of such a suspension shall not exceed one year at any one time, unless the Administrator determines that conditions justify an extension of the suspension.

SEC. 109. PROTECTION OF THE ENVIRONMENT.

(a) ENVIRONMENTAL ASSESSMENT—(1) DEEP OCEAN MINING ENVIRONMENTAL STUDY (DOMES).—The Administrator shall expand and accelerate the program assessing the effects on the environment from exploration and commercial recovery activities, including seabased processing and the disposal at sea of processing wastes, so as to provide an assessment, as accurate as practicable, of environmental impacts of such activities for the implementation of subsections (b), (c), and (d).

(2) SUPPORTING OCEAN RESEARCH.—The Administrator also shall conduct a continuing program of ocean research to support environmental assessment activity through the period of exploration and commercial recovery authorized by this Act. The program shall include the development, acceleration, and expansion, as appropriate, of studies of the ecological, geological, and physical aspects of the deep seabed in general areas of the ocean where exploration and commercial development under the authority of this Act are likely to occur, including, but not limited to—

(A) natural diversity of the deep seabed biota;

(B) life histories of major benthic, midwater, and surface organisms most likely to be affected by commercial recovery activities;

(C) long- and short-term effects of commercial recovery on the deep seabed biota; and

(D) assessment of the effects of seabased processing activities.

Within 160 days after the date of enactment of this Act, the Administrator shall prepare a plan to carry out the program described in this subsection, including necessary funding levels for the next five fiscal years, and shall submit the plan to the Congress.

(b) TERMS, CONDITIONS, AND RESTRICTIONS.—Each license and permit issued under this title shall contain such terms, conditions, and restrictions, established by the Administrator, which prescribe the actions the licensee or permittee shall take in the conduct of exploration and commercial recovery activities to assure protection of the environment. The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health, and the environment wherever such activities would have a significant effect on safety, health, or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Before establishing such terms, conditions, and restrictions, the Administrator shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating, concerning such terms, conditions, and restrictions, and the Administrator shall take into account and give due consideration to the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to subsection (d).

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—(1) If the Administrator, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, determines that a programmatic environmental impact statement is required, the Administrator shall, as soon as practicable after the enactment of this Act, with respect to the areas of the oceans in which any United States citizen is expected to undertake exploration and commercial recovery under the authority of this Act—

(A) prepare and publish draft programmatic environmental impact statements which assess the environmental impacts of exploration and commercial recovery in such areas;

(B) afford all interested parties a reasonable time after such dates of publication to submit comments to the Administrator on such draft statements; and

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish final programmatic environmental impact statements regarding such areas.

(2) With respect to the area of the oceans in which exploration and commercial recovery by any United States citizen will likely first occur under the authority of this Act, the Administrator shall prepare a draft and final programmatic environmental impact statement as required under paragraph (1), except that—

(A) the draft programmatic environmental impact statement shall be prepared and published as soon as practicable but not later than 270 days (or such longer period as the Administrator may establish for good cause shown) after the date of enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within 180 days (or such longer period as the Administrator may establish for good cause shown) after the date on which the draft statement is published.

(d) ENVIRONMENTAL IMPACT STATEMENTS ON ISSUANCE OF LICENSES AND PERMITS.—The issuance of, but not the certification of an application for, any license or permit under this title shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969. In preparing an environmental impact statement pursuant to this subsection, the Administrator shall consult with the agency heads referred to in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any applicable studies and any other environmental impact statement prepared pursuant to this section. Each draft environmental impact statement prepared pursuant to this subsection shall be published, with the terms, conditions, and restrictions proposed pursuant to section 105(b), within 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the application for the license or permit concerned is certified by the Administrator. Each final environmental impact statement shall be published 180 days (or such longer period as the administrator may establish for good cause shown in writing) following the date on which the draft environmental impact statement is published.

(e) EFFECT ON OTHER LAW.—A vessel documented under the laws of the United States shall not be deemed to be a "vessel or other floating craft" for purposes of section 502 (12)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1362(12)(B)) while it is being used for exploration, commercial recovery, or the processing of hard mineral resources at sea.

SEC. 110. CONSERVATION OF NATURAL RESOURCES.

For the purpose of conservation of natural resources, each license and permit issued under this title shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the area to which the license or permit applies. In establishing these terms, conditions, and restrictions, the Administrator shall consider the state of the technology, the processing system utilized and the value and potential use of any waste, the environmental effects of the exploration or commercial recovery activities, economic and resource data, and the national need for hard mineral resources. As used in this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision of which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

SEC. 111. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS.

Each license and permit issued under this title shall include such restrictions as may be necessary and appropriate to ensure that exploration or commercial recovery activities conducted by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law.

SEC. 112. SAFETY OF LIFE AND PROPERTY AT SEA.

(a) CONDITIONS REGARDING VESSELS.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, shall require in any license or permit issued under this title, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license or permit comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning, and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea.

(b) APPLICABILITY OF OTHER LAWS.—Notwithstanding any other provision of law, any vessel described in subsection (a) shall be subject to the provisions of the International Voyage Load Line Act of 1973, and to the provisions of titles 52 and 53 of the Revised Statutes and all Acts amendatory thereof or supplementary thereto.

SEC. 113. RECORDS, AUDITS, AND PUBLIC DISCLOSURE.

(a) RECORDS AND AUDITS.—(1) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Administrator shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for exploration and commercial recovery, including processing, of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of licensees and permittees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (1).

(b) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Administrator such data or other information as the Administrator may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of any license or permit; compliance with the reporting requirement contained in section 309; and evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

(c) PUBLIC DISCLOSURE.—Copies of any document, report, communication, or other record maintained or received by the Administrator containing data or information required under this title shall be made available to any person upon any request which (1) reasonably describes such record and (2) is made in accordance with rules adopted by the Administrator stating the time, place, fees (if any, not to exceed the direct cost of the services rendered), and procedures to be followed, except that neither the Administrator nor any other officer or employee of the United States may disclose any data or information required under this title the disclosure of which is prohibited by section 1905 of title 18, United States Code. Any officer or employee of the United States who discloses data or information in violation of this subsection shall be subject to the penalties set forth in section 303(b) of this Act.

SEC. 114. MONITORING OF ACTIVITIES OF LICENSEES AND PERMITTEES.

Each license and permit issued under this title shall require the licensee or permittee—

(1) to allow the Administrator to place appropriate Federal officers or employees as observers aboard vessels used by the licensee or permittee in exploration or commercial recovery activities (A) to monitor such activities at such time, and to such extent, as the Secretary deems reasonable and necessary to assess the effectiveness of the terms, conditions, and restrictions of the license or permit, and (B) to report to the Secretary whenever such officers or employees have reason to believe there is a failure to comply with such terms, conditions, and restrictions;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects of the exploration and commercial recovery activities in accordance with guidelines issued by the Administrator and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects.

SEC. 115. RELINQUISHMENT, SURRENDER, AND TRANSFER OF LICENSES AND PERMITS.

(a) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(1) surrender to the Administrator a license or a permit issued to the licensee or permittee; or

(2) relinquish to the Administrator, in whole or in part, any right to conduct any exploration or commercial recovery activities authorized by the license or permit.

Any licensee or permittee who surrenders a license or permit, or relinquishes any such right, shall remain liable with respect to all violations and penalties incurred, and damage to persons or property caused, by the licensee or permittee as a result of activities engaged in by the licensee or permittee under such license or permit.

(b) TRANSFER.—Any license or permit, upon written request of the licensee or permittee, may be transferred by the Administrator; except that no such transfer may occur unless and until the Administrator determines that (1) the proposed transfer is in the public interest and (2) the proposed transferee and the exploration or commercial recovery activities the transferee proposes to conduct meet the requirements of this Act and regulations issued under this Act.

SEC. 116. PUBLIC NOTICE AND HEARINGS.

(a) REQUIRED PROCEDURES.—The Administrator may issue regulations to carry out this Act, establish and significantly modify terms, conditions, and restrictions in licenses and permits issued under this title, and issue or transfer licenses and permits under this title, only after public notice and opportunity for comment and hearings in accordance with the following:

(1) The Administrator shall publish in the Federal Register notice of all applications for licenses and permits, all proposals to issue or transfer licenses and permits, all regulations implementing this Act, all terms, conditions, and restrictions on licenses and permits, and all proposals to significantly modify licenses and permits. Interested persons shall be permitted to examine the materials relevant to any of these actions, and shall have at least 60 days after publication of such notice to submit written comments to the Administrator.

(2) The Administrator shall hold a public hearing in an appropriate location and may employ such additional methods as the Administrator deems appropriate to inform interested persons about each action specified in paragraph (1) and to invite their comments thereon.

(b) ADJUDICATORY HEARING.—If the Administrator determines that there exists one or more specific and material factual issues which require resolution by formal processes, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to take any action referred to in subsection (a). Hearings held pursuant to this section shall be consolidated insofar as practicable with hearings held by other agencies.

SEC. 117. CIVIL ACTIONS.

(a) EQUITABLE RELIEF.—Except as provided in subsection (b) of this section, any person may commence a civil action for equitable relief on that person's behalf in the United States District Court for the District of Columbia—

(1) against any person who is alleged to be in violation of any provision of this Act or any condition of a license or permit issued under this title; or

(2) against the Administrator when there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary,

if the person bringing the action has a valid legal interest which is or may be adversely affected by such alleged violation or failure to perform. In suits brought under this subsection, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the provisions of this Act, or any term, condition, or restriction of a license or permit issued under this title, or to order the Administrator to perform such act or duty.

(b) NOTICE.—No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to the alleged violation in a court of the United States; except that in any such civil action, any person having a valid legal interest which is or may be adversely affected by the alleged violation may intervene; or

(2) under subsection (a)(2) of this section, prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) Cost; and Fees.—The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party whenever the court determines that such an award is appropriate.

(d) Relationship to Other Law.—Nothing in this section shall restrict the rights which any person or class of persons may have under other law to seek enforcement or to seek any other relief. All vessel safety and environmental requirements of or under this Act shall be in addition to other requirements of law.

Sec. 118. Reciprocating States.

(a) Designation.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, may designate any foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation—

(1) regulates the conduct of its citizens and other persons subject to its jurisdiction engaged in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in a manner compatible with that provided in this Act and the regulations issued under this Act, which includes adequate measures for the protection of the environment, the conservation of natural resources, and the safety of life and property at sea, and includes effective enforcement provisions;

(2) recognizes licenses and permits issued under this title to the extent that such nation, under its laws, (A) prohibits any person from engaging in exploration or commercial recovery which conflicts with that authorized under any such license or permit and (B) complies with the date for issuance of licenses and the effective date for permits provided in section 102(c)(1)(D) of this Act;

(3) recognizes, under its procedures, priorities of right, consistent with those provided in this Act and the regulations issued under this Act, for applications for licenses for exploration or permits for commercial recovery, which applications are made either under its procedures or under this Act; and

(4) provides an interim legal framework for exploration and commercial recovery which does not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law.

(b) Effect of Designation.—No license or permit shall be issued under this title permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by any foreign nation which is designated as a reciprocating state under subsection (a).

(c) Notification.—Upon receipt of any application for a license or permit under this title, the Administrator shall immediately notify all reciprocating states of such application. The notification shall include those portions of the exploration plan or recovery plan submitted with respect to the application, or a summary thereof, and any other appropriate information not required to be withheld from public disclosure by section 113(c).

(d) Revocation of Reciprocating State Status.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall revoke the designation of a foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation no longer complies with the requirements of subsection (a). At the request of any holder of a license, permit, or equivalent authorization of such foreign nation, who obtained the license, permit, or equivalent authorization while such foreign nation was a reciprocating state, the Administrator, in consultation with the Secretary of State, may decide to recognize the license, permit, or equivalent authorization for purposes of subsection (b).

(e) Authorization.—The President is authorized to negotiate agreements with foreign nations necessary to implement this section.

(f) International Consultations.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall consult with foreign nations which enact, or are preparing to enact, domestic legislation establishing an interim legal framework for exploration and commercial recovery of hard mineral resources. Such consultations shall be carried out with a view to facilitating the designation of such nations as reciprocating states and, as necessary, the negotiation of agreements with foreign nations authorized by subsection (e). In addition, the Administrator shall provide such foreign nations with information on environmental impacts of exploration and commercial recovery activities, and shall provide any technical assistance requested in designing regulatory measures to protect the environment.

TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

Sec. 201. Declaration of Congressional Intent.

It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens, and

(B) provide security of tenure by recognizing the rights of United States citizens who have undertaken exploration or commercial recovery under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis;

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investments of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective procedures for the settlement of disputes, and any features that tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the Third United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States, or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

Sec. 202. Effect of International Agreement.

If an international agreement enters into force with respect to the United States, any provision of title I, this title, or title III, and any regulation issued under any such provision, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. In the implementation of such international agreement the Administrator, in consultation with the Secretary of State, shall make every effort, to the maximum extent practicable consistent with the provisions of that agreement, to provide for the continued operation of exploration and commercial recovery activities undertaken by United States citizens prior to entry into force of the agreement. The Administrator shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Administrator under this section, which report shall include, but not be limited to—

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their operations.

Sec. 203. Protection of Interim Investments.

In order to further the objectives set forth in section 201, the Administrator, not more than one year after the date of enactment of this Act—

(1) shall submit to the Congress proposed legislation necessary for the United States to implement a system for the protection of interim investments that has been adopted as part of an international agreement and any resolution relating to such international agreement; or

(2) if a system for the protection of interim investments has not been so adopted, shall report to the Congress on the status of negotiations relating to the establishment of such a system.

Sec. 204. Disclaimer of Obligation To Pay Compensation.

Sections 201 and 202 of this Act do not create or express any legal or moral obligation on the part of the United States Government to compensate any person for any impairment of the value of that person's investment in any operation for exploration or commercial recovery under title I which might occur in connection with the entering into force of an international agreement with respect to the United States.

TITLE III—ENFORCEMENT AND MISCELLANEOUS PROVISIONS

Sec. 302. Prohibited Acts.

It is unlawful for any person who is a United States citizen, or a foreign national on board a vessel documented or numbered under the laws of the United States, or subject to the jurisdiction of the United States under a reciprocating state agreement negotiated under section 118(e)—

(1) to violate any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of any license or permit issued to such person under this Act;

(2) to engage in exploration or commercial recovery after the revocation, or during the period of suspension, of an applicable license or permit issued under this Act, to engage in a particular exploration or commercial recovery activity during the period such activity has been suspended under this Act, or to fail to modify a particular exploration or commercial recovery activity for which modification was required under this Act;

(3) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of this Act, as provided in sections 114 and 304, to board a vessel documented or numbered under the laws of the United States, or any vessel for which such boarding is authorized by a treaty or executive agreement, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any regulation, term, condition, or restriction referred to in paragraph (1);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (3);

(5) to resist a lawful arrest for any act prohibited by this section;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody control, or possession of any hard mineral resource recovered, processed, or retained in violation of this Act or any regulation, term, condition, or restriction referred to in paragraph (1); or

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of any other person subject to this section knowing that such other person has committed any act prohibited by this section.

SEC. 302. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTY.—Any person subject to section 301 who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Administrator by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, any history of prior offenses, good faith demonstrated in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) REVIEW OF CIVIL PENALTY.—Any person subject to section 301 against whom a civil penalty is assessed under subsection (a) may obtain review thereof in an appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which the particular violation was found and such penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person subject to section 301 fails to pay a civil penalty assessed against such person after the penalty has becme final, or after the apprpriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the civil penalty assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY THE ADMINISTRATOR.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section unless an action brought under subsection (b) or (c) is pending in a court of the United States.

SEC. 303. CRIMINAL OFFENSES.

(a) OFFENSE.—A person subject to section 301 is guilty of an offense if such person willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense described in paragraphs (1), (2), and (6) of section 301 is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (3), (4), (5), and (7) of section 301 is punishable by a fine of not more than $75,000 or imprisonment for not more than six months, or both. If, in the commission of any offense, the person subject to the jurisdiction of the United States uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any such Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

SEC. 304. ENFORCEMENT.

(a) RESPONSIBILITY.—Subject to the other provisions of this subsection, the Administrator shall enforce the provisions of this Act. The Secretary of the department in which the Coast Guard is operating shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of the provisions of this Act. The Secretary of the department in which the Coast Guard is operating shall have the exclusive responsibility for enforcement measures which affect the safety of life and property at sea. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b). While providing such assistance, these officers and employees shall be under the control, authority, and supervision of the Coast Guard. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) POWERS OF AUTHORIZED OFFICERS.—To enforce this Act on board any vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or by the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search any such vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 if the officer has reasonable cause to believe that the person has committed a criminal offense under section 303;

(4) seize any such vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any hard mineral source recovered or processed in violation of any provision of this Act;

(6) seize any other evidence related to any violation of any provision of this Act;

(7) execute any warrant or other process issued by any court of competent jurisdiction; and

(8) exercise any other lawful authority.

(c) DEFINITION.—For purposes of this section, the term "provisions of this Act" or "provision of this Act" means (1) any provision of title I or II or this title, (2) any regulation issued under title I, title II, or this title, and (3) any term, condition, or restriction of any license or permit issued under title I.

(d) PROPRIETARY INFORMATION.—Proprietary and privileged information seized or maintained under this title concerning a person or vessel engaged in exploration or commercial recovery shall not be made available for general or public use or inspection. The Administrator and the Secretary of the department in which the Coast Guard is operating shall issue regulations to insure the confidentiality of privileged and proprietary information.

SEC. 305. LIABILITY OF VESSELS.

Any vessel documented or numbered under the laws of the United States (except a public vessel engaged in noncommercial activities) which is used in any violation of this Act, any regulation issued under this Act, or any term, condition, or restriction of any license or permit issued under title I shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

SEC. 306. CIVIL FORFEITURES.

(a) IN GENERAL.—Any vessel subject to the provisions of sections 304 and 305, including its gear, furniture, appurtenances, stores, and cargo, which is used, in any manner, in connection with or as a result of the commission of any act prohibited by section 301 and any hard mineral resource which is recovered, processed, or retained, in any manner, in connection with or as a result of the commission of any such act, shall be subject to forfeiture to the United States. All or part of such vessel, and all such hard mineral resources, may be forfeited to the United States pursuant to a civil proceeding under this section. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel or cargo for violation of the customs laws, and the disposition of the vessel, cargo, or proceeds from the sale thereof and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as such provisions of law are applicable and not inconsistent with this Act.

(b) JURISDICTION OF COURTS.—Any district court of the United States which has jurisdiction under section 307 shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d).

(d) PROCEDURE.—Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 307 shall stay the execution of such process, or discharge any property seized pursuant to such process, upon the receipt of a satisfactory bond or other security from any person subject to section 301 claiming such property. Such bond or other security shall be conditioned upon such person (1) delivering such property to the appropriate court upon order thereof, without any impairment of its value; or (2) paying the monetary value of such property pursuant to any order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, it shall be a rebuttable presumption that all hard mineral resources found on board a vessel subject to the provisions of sections 304 and 305 which is seized in connection with an act prohibited by section 301 were recovered, processed, or retained in violation of this Act.

Sec. 307. Jurisdiction of Courts.

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. These courts may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

Sec. 308. Regulations.

(a) Proposed Regulations.—Not later than 270 days after the date of enactment of this Act, the Administrator shall solicit the views of the agency heads referred to in section 109(b) and of interested persons, and issue, in accordance with section 553 of title 5, United States Code, such proposed regulations as are required by or are necessary and appropriate to implement titles I and II and this title. The Administrator shall hold at least one public hearing on such proposed regulations.

(b) Final Regulations.—Not later than 180 days after the date on which proposed regulations are issued pursuant to subsection (a), the Administrator shall solicit the views of the agency heads referred to in section 109(b) and of interested persons, consider the comments received during the public hearing required in subsection (a) and any written comments on the proposed regulations received by the Administrator, and issue, in accordance with section 553 of title 5, United States Code, such regulations as are required by or are necessary and appropriate to implement titles I and II and this title.

(c) Amendments.—The Administrator may at any time amend regulations issued pursuant to subsection (b) as the Administrator determines to be necessary and appropriate in order to provide for the conservation of natural resources within the meaning of section 110, protection of the environment, and the safety of life and property at sea. Such amended regulations shall apply to all exploration or commercial recovery activities conducted under any license or permit issued or maintained pursuant to this Act; except that any such amended regulations which provide for conservation of natural resources shall apply to exploration or commercial recovery conducted under an existing license or permit during the present term of such license or permit only if the Administrator determines that such amended regulations providing for conservation of natural resources will not impose serious or irreparable economic hardship on the licensee or permittee. Any amendment to regulations under this subsection shall be made on the record after an opportunity for an agency hearing.

(d) Consistency.—This Act and the regulations issued under this Act shall not be deemed to supersede any other Federal laws or treaties or regulations issued thereunder.

Sec. 309. Biennial Report.

(a) Submission of Reports.—The Administrator shall submit to the Congress—

(1) not later than December 31, 1981, a report on the administration of this Act during the period beginning on the date of enactment of this Act and ending September 30, 1981; and

(2) not later than December 31 of each second year thereafter, a report on the administration of this Act during the two fiscal years preceding the date on which the report is required to be filed.

(b) Contents.—Each report filed pursuant to subsection (a) shall include, but not be limited to, the following information with respect to the reporting period:

(1) Licenses and permits issued, modified, revised, suspended, revoked, relinquished, surrendered, or transferred; denials of certifications of applications for the issuance or transfer of licenses and permits; denials of issuance or transfer of licenses and permits; and required suspensions and modifications of activities under licenses and permits.

(2) A description and evaluation of the exploration and commercial recovery activities undertaken, including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources.

(3) An assessment of the environmental impacts, including a description and estimate of any damage caused by any adverse effects on the quality of the environment resulting from such activities.

(4) The number and description of all civil and criminal proceedings, including citations, instituted under this title, and the current status of such proceedings.

(5) Such recommendations as the Administrator deems appropriate for amending this Act to further fulfill its purposes.

Sec. 310. Authorization of Appropriations.

There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of titles I and II and this title, such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982.

Sec. 311. Severability.

If any provision of this Act or any application thereof is held invalid, the validity of the Act, or any other application, shall not be affected thereby.

TITLE IV—TAX

Sec. 401. Short Title.

This title may be cited as the "Deep Seabed Hard Mineral Removal Tax Act of 1979".

Sec. 402. Imposition of Tax on Removal of Hard Mineral Resources From Deep Seabed.

(a) General Rule.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Tax on Removal of Hard Mineral Resources From Deep Seabed

"Sec. 4495. Imposition of tax.
"Sec. 4496. Definitions.
"Sec. 4497. Imputed value.
"Sec. 4498. Termination.

"Sec. 4495. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax on any removal of a hard mineral resource from the deep seabed pursuant to a deep seabed permit.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) on any removal shall be 3.75 percent of the imputed value of the resource so removed.

"(c) Liability for Tax.—The tax imposed by subsection (a) shall be paid by the person to whom the deep seabed permit is issued.

"(d) Time for Paying Tax.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations. The time so prescribed with respect to any removal shall be not earlier than the earlier of—

"(1) the commercial use of, or the sale or disposition of, any portion of the resource so removed, or

"(2) the day which is 12 months after the date of the removal of the resource.

"Sec. 4496. Definitions.

"(a) Deep Seabed Permit.—For purposes of this subchapter, the term 'deep seabed permit' means a permit issued under title I of the Deep Seabed Hard Minerals Resources Act.

"(b) Hard Mineral Resource.—For purposes of this subchapter, the term 'hard mineral resource' means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

"(c) Deep Seabed.—For purposes of this subchapter, the term 'deep seabed' means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside—

"(1) the Continental Shelf of any nation; and

"(2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

"(d) Continental Shelf.—For purposes of this subchapter, the term 'Continental Shelf' means—

"(1) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

"(2) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

"Sec. 4497. Imputed Value.

"(a) In General.—For purposes of this subchapter, the term 'imputed value' means, with respect to any hard mineral resource, 20 percent of the fair market value of the commercially recoverable metals and minerals contained in such resource. Such fair market value shall be determined—

"(1) as of the date of the removal of the hard mineral resource from the deep seabed; and

"(2) as if the metals and minerals contained in such resource were separated from such resource and were in the most basic form for which there is a readily ascertainable market price.

"(b) Commercial Recoverability.—

"(1) Manganese, nickel, cobalt, and copper.—For purposes of subsection (a), manganese, nickel, cobalt, and copper shall be treated as commercially recoverable.

"(2) Minimum quantities and percentages.—The Secretary may by regulations prescribe for each metal or mineral quantities or percentages below which the metal or mineral shall be treated as not commercially recoverable.

"(c) Suspension of Tax With Respect to Certain Metals and Minerals Held for Later Processing.—

"(1) Election.—The permittee may, in such manner and at such time as may be prescribed by regulations, elect to have the application of the tax suspended with respect to one or more commercially recoverable metals or minerals in the resource which the permittee does not intend to process within one year of the date of extraction. Any metal or mineral affected by such election shall not be taken into account in determining the imputed value of the resource at the time of its removal from the deep seabed. Any suspension under this paragraph with respect to a metal or mineral shall be permanent unless there is a redetermination affecting such metal or mineral under paragraph (2).

"(2) Later computation of tax.—If the permittee processes any metal or mineral affected by the election under paragraph (1), or if he sells any portion of the resource containing such a metal or mineral, then the amount of the tax under section 4495 shall be redetermined as if there had been no suspension under paragraph (1) with respect to such metal or mineral. In any such case there shall be added to the increase in tax determined under the preceding sentence an amount equal to the interest (at rates determined under section 6621) on such increase for the period from the date prescribed for paying the tax on the resources (determined under section 4495(d)) to the date of the processing or sale.

"(d) Determinations of Value.—All determinations of value necessary for the application of this subchapter shall be made by the Secretary (after consultation with other appropriate Federal officials) on the basis of the best available information. Such determinations shall be made under procedures established by the Secretary by regulations.

"Sec. 4448. Termination.

"(a) General Rule.—The tax imposed by section 4495 shall not apply to any removal from the deep seabed after the earlier of—

"(1) the date on which an international deep seabed treaty takes effect with respect to the United States, or

"(2) the date 10 years after the date of the enactment of this subchapter.

"(b) International Deep Seabed Treaty.—For the purposes of subsection (a), the term 'international deep seabed treaty' means any treaty which—

"(1) is adopted by a United Nations Conference on the Law of the Sea, and

"(2) requires contributions to an international fund for the sharing of revenues from deep seabed mining.".

(b) Clerical Amendment.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following new item:

"Subchapter F. Tax on removal of hard mineral resources from deep seabed.".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1980.

Sec. 403. Establishment of Deep Seabed Revenue Sharing Trust Fund.

(a) Creation of Trust Fund. There is established in the Treasury of the United States a trust fund to be known as the "Deep Seabed Revenue Sharing Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) Transfer to Trust Fund of Amounts Equivalent to Certain Taxes.—

(1) In general.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury to be equivalent to the amounts of the taxes received in the Treasury under section 4495 of the Internal Revenue Code of 1954.

(2) Method of transfer.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.

(c) Management of Trust Fund.—

(1) Report.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and to report to the Congress for the fiscal year ending September 30, 1980, and each fiscal year thereafter on the financial condition and the results of the operations of the Trust Fund during the preceding year and on its expected condition and operations during the fiscal year and the next five fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—

(A) In general.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) Interest on certain proceeds.—The Interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) Expenditures From Trust Fund.—If an international deep seabed treaty is in effect with respect to the United States on or before the date ten years after date of the enactment of this Act, amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making contributions required under such treaty for purposes of the sharing among nations of the revenues from deep seabed mining. Nothing in this subsection shall be deemed to authorize any program or other activity not otherwise authorized by law.

(e) Use of Funds.—If an international deep seabed treaty is not in effect with respect to the United States on or before the date ten years after the date of the enactment of this Act, amounts in the Trust Fund shall be available for such purposes as Congress may hereafter provide by law.

(f) International Deep Seabed Tteaty.—For purposes of this section, the term "international deep seabed treaty" has the meaning given to such term by section 4498(b) of the International Revenue Code of 1954.

Sec. 404. Act Not to Affect Tax or Customs or Tariff Treatment of Deep Seabed Mining.

Except as otherwise provided in section 402, nothing in this Act shall affect the application of the Internal Revenue Code of 1954. Nothing in this Act shall affect the application of the customs or tariff laws of the United States.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. Murphy) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2759, a bill to promote the orderly development of hard mineral resources in the deep seabed, pending the adoption of an international law of the sea regime. The amendment in the nature of a substitute which is before us today is a consensus bill developed by the four committees of jurisdiction and, after 9 years of congressional consideration, represents a sound piece of legislation that is critical in assisting our Nation in developing technology for obtaining manganese nodules from the deep seabed.

The world leadership and industrial strength of our Nation depends heavily upon the availability and secure supply of natural resources. Our Nation requires in excess of 4 billion tons of new mineral resources each year. Because of shortages in domestic supply, we are forced to import 80 to 90 percent of over 12 metals critical to our defense and industrial needs.

Demand is particularly important for three minerals that can be obtained from ocean mining—manganese, cobalt, and nickel. All three elements are essential in their utilization in metal alloys for the construction of military hardware, and substitutes are either nonexistent or result in significantly lower efficiency.

The Soviet Union has approximately 50 percent of the world's total manganese resources, and cobalt supplies come primarily from two developing African nations that are of uncertain political stability. Prices of these metals have fluctuated greatly, and the price of cobalt has risen tenfold since 1972 in response to global instability. Additionally, our present stockpiles are insufficient to meet U.S. needs in an extended crisis. If the foreign supply of these metals were to stop immediately, domestic mining operations could not meet our needs. It is obvious that the security of our Nation is imperiled by the lack of control over supply and that domestically controlled sources of these critical minerals must soon be found. The Deep Seabed Hard Mineral Resources Act can provide the appropriate response to these needs.

The legislation before us was first submitted to Congress in 1971 and has experienced a tortuous evolution since that time. During the 95th Congress, a version very similar to that before us was passed in the House by an overwhelming majority (312 to 80). The bill was resubmitted to the 96th Congress and passed by the Senate late during the first session. The House Committees on Merchant Marine and Fisheries, Interior and Insular Affairs, and Ways and Means reported the bill favorably during the first session of this Congress.

The Committee on Foreign Affairs deferred consideration of the bill until the spring session of the United Nations Law of the Sea Conference was completed and Ambassador Elliot Richardson could make specific recommendations with respect to the legislation. The changes recommended by the administration essentially modify the date by which full commercial recovery of manganese nodules can begin—that date in the bill before us today is January 1, 1988. At the same time, another amendment redefines commercial recovery to require the making of a net profit. Therefore, industry will be able to make continued investments in developed technology for ocean mining prior to 1988. By that time there should be a clear resolution of the Law of the Sea negotiations, although at this time I would hesitate to predict what that resolution will be.

Further industry investment is also critically dependent upon the ability of companies to operate under a future treaty regime which will respect prior site-specific investments and allow industry to continue development. The deep seabed mining industry cannot, without such assurances, obtain the more than $1 billion in loans needed per consortium for future investments necessary to reach the commercial recovery stage.

While negotiations continue on the eventual structure of an international seabed authority, our mining companies desperately need some visible evidence that the United States is committed to a course that will protect their investments. Already mining companies have sharply cut back operations because of the lack of apparent progress in domestic legislation and the Law of the Sea negotiations. It has been predicted that, if U.S. deep seabed mining legislation is not passed this year, there will be no deep seabed mining industry left to protect.

The bill before us today represents many years of effort and compromise. It attempts to encourage the Law of the Sea negotiations and simultaneously provide some measure of protection for further industry investments. The balance struck is a delicate one, but represents the only chance of reconciling global concerns for seabed resources with our national needs for mineral resources. Moreover, passage of the legislation is needed now to help steer the course of the LOS negotiations and encourage our industry to continue their investments and operations. The legislation has received broadbased support from the administration, Congress, and industry, and I strongly urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2759, the Deep Seabed Hard Minerals Act, a compromise proposal representing the work of four committees, Merchant Marine and Fisheries, Interior and Insular Affairs, Foreign Affairs, and Ways and Means.

While I have opposed unilateral action in the past, I believe the time has come when this legislation will assist, rather than inhibit, in attaining a Law of the Sea Treaty.

There are several key compromises in this bill. One prohibits the commercial recovery of deep seabed minerals prior to January 1, 1988. The second defines commercial recovery more restrictively to include any recovery at a substantial rate for commercial purposes. Finally, the Administrator of NOAA is required, within 1 year, to submit to Congress proposed legislation to implement a system for the protection of interim investments that has been adopted as part of an international agreement, or to report on the status of negotiations if no agreement has been reached.

An important element of this bill is the grandfather rights section which expresses the intent of Congress that any subsequent international agreement on deep seabed mining should not impose significant new economic burdens on U.S. mining operations that would prevent their continuation on a viable economic basis. Earlier versions unnecessarily restricted U.S. negotiating flexibility at the conference by specifying that terms, conditions, and restrictions of a Law of the Sea Treaty had to be substantially the same as those under this legislation.

I have had many reservations about this legislation because the resources it deals with lie in areas beyond national jurisdiction, and a U.N. General Assembly resolution, supported by the United States, refers to these resources as part of the "common heritage of mankind." While we remain committed to a treaty which recognizes this important principle, the fact remains that, despite lengthy and genuine efforts, an international agreement on regulation of deep seabed mining has not yet been achieved.

Because our mining companies must have some regulatory regime in place in order to continue their research and development programs and to maintain their expertise, and because this legislation is clearly interim in nature, I believe that Congress is fully justified in proceeding with it at this time. By prohibiting commercial recovery until January 1, 1988, I believe we have left more than enough time available for a comprehensive Law of the Sea treaty to be finalized and ratified. I anticipate attending this summer's session in Geneva, and am hopeful that our optimism will be borne out at that session.

All four committees involved with this bill have, and will continue to give careful attention to Law of the Sea considerations as the treaty negotiations continue, and I would stress again that it is the contribution to the success of those negotiations which makes this legislation acceptable and desirable at this time.

This is the view of our distinguished Ambassador, Elliot Richardson, who has played a major part in the treaty negotiations since their inception in 1970, and who has headed the U.S. delegation during the painfully slow and frustrating negotiations of the past 3 years. In concluding, I would like to express my deep respect for the quiet, determined, and forceful leadership Ambassador Richardson has provided, both to our own delegation and to the world's difficult quest for world peace under world law, in the 10 years of these negotiations. Should a treaty ultimately be ratified, it will balance a great many of the failures in international diplomacy of the past decades and it will be due in large part to the efforts, abilities, and integrity of a truly great American, Elliot Richardson.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I support the amendment of the Ways and Means Committee to H.R. 2759, the Deep Seabed Hard Mineral Resources Act.

This amendment imposes an excise tax on certain hard minerals extracted from the deep seabed. The effective tax rate is 0.75 percent of the fair market value of all commmercially recoverable minerals contained in nodules, which include at least one of the following four minerals: Manganese, nickel, cobalt, or copper.

The proceeds of the excise tax are earmarked for deposit in a deep seabed revenue-sharing trust fund. The amounts in the trust fund will be available to make up part of any contribution required of the United States by a treaty agreement resulting from the Law of the Sea Conference. This agreement is apparently going to be a long time coming, and in no way does this bill prejudge the result of such an agreement. The excise tax will terminate upon the earlier of two events: Either a Law of the Sea Conference treaty agreement or the lapse of 10 years after the effective date. We have no intention of setting up a trust fund that lasts forever if agreement is not forthcoming.

Mr. Speaker, the excise tax and trust fund are straightforward in their operation. The specifics of the amendment address details such as the procedure for determining the minerals' value, the payment schedule of the tax, and certain conditions for suspending payments. We should not lose sight of the more important aspect of this revenue measure; that is, it signals our willingness to share deep seabed revenues whenever an acceptable treaty can be reached. It shows the world that we are backing up our words with meaningful action.

Unless we take some step of this sort, Mr. Speaker, I think it is going to be difficult to entice American concerns, who for the most part are the only ones in the world with sufficient technology to exploit this potentially valuable mineral resource, into going into what is, in effect, a no man's land—the bottom of the sea—and making the investments that are necessary when they think their investment may not be adequately protected by American law.

Mr. Speaker, I urge the House to pass H.R. 2759. It seems like an appropriate compromise.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona (Mr. UDALL), chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Speaker, I wish to enter into a colloquy with the distinguished chairman of the Merchant Marine and Fisheries Committee concerning the matter-of-future committee jursidiction over deep seabed mining.

The compromise legislation designates the Administrator of the National Oceanic and Atmospheric Administration as lead agency to carry out the mandates for seabead mining. Although I personally believe this function should fall within the purview of the Secretary of the Interior, I have acquiesced to NOAA due to the wishes of the administration, the Senate, and the decision of the House during the 95th Congress. The merits of enacting deep seabed mining legislation in this session of Congress outweigh the wisdom of consuming percious time to debate, once again, the issue of a lead agency. In reality, whichever agency is designated to implement the program, it will be necessary to appeal for assistance from other Government agencies.

Of utmost importance to me is an understanding that the designation of NOAA in no way diminishes the jurisdiction of the Committee on Interior and Insular Affairs over deep seabed mining, either through oversight or future legislative activities.

Historically, jurisdiction of the Interior Committee has covered, among other subjects, mining interests generally and proposed long-range domestic minerals programs, including availability of domestic minerals to fulfill all domestic requirements. Deep seabed mining entails the recovery of cobalt, manganese, nickel, and copper, all of which are essential to the U.S. and domestic minerals programs. In order for the Interior Committee to completely fulfill its responsibilities to the House, it is imperative that we continue our jurisdiction and involvement in deep seabed mining programs.

Mr. MURPHY of New York. Mr. Speaker, I want to thank the distinguished chairman of the Interior Committee for his generous decision to designate the National Oceanic and Atmospheric Administration as the lead agency for the administration of deep seabed mining programs. I recognize my colleague's deep commitment to the Department of the Interior; and understand that this decision was not an easy one for him to make. Enactment of deep seabed mining legislation in this session of Congress is essential, and I commend him for his assistance in expediting House passage.

With regard to the future jurisdiction of the Committee on Interior and Insular Affairs, I do understand that his decision was not intended to diminish the jurisdiction of his committee. Mining and minerals have historically been a function of the Interior Committee and I do not interpret the designation of NOAA as detracting from that jurisdiction.

At the same time, the Merchant Marine and Fisheries Committee maintains its strong interest in, and jurisdiction over, matters related to ocean affairs, including deep seabed mining and the Law of the Sea Conference.

I believe it is appropriaate, therefore, for the Merchant Marine and Fisheries Committee and the Interior and Insular Affairs Committee to continue their joint jurisdiction over deep seabed mining oversight and future legislation.

Mr. UDALL. Mr. Speaker, I thank the gentleman for his comments.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would indicate on the behalf of the minority that the views of the chairman of the Interior and Insular Affairs Committee are correct and his points are well taken. The Interior Committee has long held jurisdiction over minerals generally and has by legislative action and oversight demonstrated an interest, a capability and an involvement which is merited by the importance and significance of this issue. For nearly 3 years the Interior and Insular Affairs Committee, and more particularly the Mines and Mining Subcommittee has been intimately involved in a close and careful scrutiny of President Carter's nonfuel mineral policy review. That review, which deals with perhaps the most dangerous crisis facing our Nation—that of a shortfall of vital and essential strategic and critical minerals in the years and decades ahead—has been the subject of almost bimonthly hearings by the Mines and Mining Subcommittee and is, in fact, the subject of a lengthy and thorough report now being prepared by the Mines and Mining Subcommittee.

It is vital to the House and it is vital to the Nation that the committee which has demonstrated a skill and expertise in a particular area continue to maintain jurisdiction over that area in the future. I am gratified, therefore, that the mere naming of the administrator of NOAA as the lead agency in American deep seabed mining ventures will not alter the jurisdictional vision of this legislation or this issue.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may require to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of H.R. 2759, the deep seabed mining bill. Other Members have today expressed so well the necessity of undisputed United States access to deep seabed minerals as their supply from conventional sources diminishes. Our national security clearly is dependent upon such access.

The trouble is, as is so often the case today, the American delegation to the Law of the Sea negotiations has not in my opinion properly protected American interests; it has been less than effective against the demands of the Third World. American negotiating ability, unfortunately, has not kept abreast with American know-how. Our technological expertise is being punished because it is too good. The administration and the U.S. negotiators have been more intent on protecting the interests of others than our own.

The Foreign Affairs Committee conducted a series of hearings over the years on the relationship of the Law of the Sea Treaty being negotiated and this legislation. I would like to put that issue in context. In late July of 1978, H.R. 3350, the Ocean Mining bill, was brought to the floor and passed by an overwhelming vote of 312 to 80.

On February 16, 1978, the Foreign Affairs Committee had earlier reported the bill. In committee it struck the insurance compensation provisions contained in the Merchant Marine version of that legislation and substituted a strong grandfather clause very much like the present language contained in title II of the H.R. 2759.

The report filed this year on the bill referred to that earlier report which declared that "it is appropriate for Congress to express as a matter of policy the desirability of protecting the integrity of U.S. licenses and permits." Title II was identified by the committee as providing "grandfather rights" for U.S. licenses and permits.

In the context of this legislation, "grandfather rights" mean that rights granted under this legislation in the form of licenses and permits are to be fully protected under the Law of the Sea Treaty. What our representatives to the Law of the Sea Conference have been negotiating, however, is the opposite. Instead of grandfathering the legislation into the treaty, our delegation tries to grandfather the treaty into the legislation. The U.S. delegation asked the American Mining Congress to evaluate its proposal, the so-called preliminary investment protection (or PIP). I include excerpts from the American Mining Congress Analysis, in response to the delegations request, in the RECORD at this point:

THE MEANING OF TITLE II OF THE UNITED STATES OCEAN MINING LEGISLATION

During the 95th Congress the Administration agreed to support the grandfather language, *i.e.*, Title II of the legislation, as it was sent to the House floor in exchange for the deletion of the investment insurance provisions contained in earlier versions of the bill. The House on July 26, 1978 by a vote of 312 to 80 passed the legislation (H.R. 3350) containing a floor amendment to the grandfather provision which differed from the version the Administration had earlier supported.

Title II of the bill as introduced on March 8, 1979 in the House has been amended by both the Interior and Merchant Marine Committees. The Interior Committee adopted changes to the bill which conforms the language of §§ 201 and 202 to that contained in H.R. 3350 as it was taken to the House floor in the 95th Congress. This is the language the Administration approved.

On August 17, 1979, the Merchant Marine Committee adopted the language contained in Title II of S. 493, nearly identical to the version by the Senate Foreign Relations Committee and then passed by the Senate on December 14, 1979.

It can be argued that the version of Title II reported by the House Interior Committee last year and approved by the Administration contains slightly more protective grandfather terms to U.S. citizens than the Senate bill, although both are in most respects quite similar. Regardless, in fairly attempting to construe Congressional intent it must be noted that the Congress as a whole has not yet chosen which of the two versions is to become law. It is theoretically possible that the weaker, Senate-passed version may be the one finally enacted into law. Accordingly, our analysis of Congressional intent is based on the assumption that the version less favorable to U.S. ocean miners will be enacted into law. Furthermore, it will be the Senate which constitutonally has the responsibility for passing judgment on the acceptability to the United States of treaties submitted to it for its advice and consent.

Title II of S. 493 as passed by the Senate encompasses several different but related policy considerations.

Foremost, it provides that any LOS treaty should: (1) "provide assured and nondiscriminatory access, under reasonable terms and conditions" to deep seabed minerals for U.S. citizens, and (2) provide security of tenure to those U.S. citizens who undertake mining activities (be it exploration or commercial recovery) before the ratification and entry into force of such LOS treaty by recognizing these rights to continue their operations "under terms, conditions and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations." In other words, the terms, conditions and restrictions which the treaty would place on U.S. ocean miners already in business must not prevent "the continuation of such operations on a viable basis."

Title II continues by stating that the decision as to whether or not the LOS treaty meets the above objections should be determined by the "totality of the provisions" of the treaty including but not limited to:

(1) practical implications of discretionary powers granted the Authority;

(2) the structures and decisionmaking procedures of the Authority;

(3) the availability of impartial and effective procedures for the settlement of disputes; and

(4) "any other features that tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens."

Clearly, these provisions of Title II of S. 493 are intended to perform two functions. First, they are meant to be taken as a set of instructions by the Congress to the Law of the Sea negotiators in the State Department regarding the general policies that the Congress intends to be contained in the final text of a Law of the Sea Treaty. Secondly, as was made clear in the December 14, 1979 Record of the Senate debate of S. 493, it is the intent of that body that Title II be a measuring stick by which the Senate should evaluate a subsequently signed treaty submitted to it for advice and consent.

In the detailed comments and accompanying summary regarding the present Law of the Sea Treaty negotiating text recently submitted to the Administration by the U.S. ocean mining industry it was again documented that the treaty negotiating text, taken as a whole, fails to comply with the Congressional mandate established by Title II of S. 493.

The negotiating text does not establish assured and non-discriminatory access for U.S. citizens under reasonable terms and conditions. It does not provide for security of tenure for ocean mining activities undertaken by U.S. citizens pursuant to domestic legislation. The negotiating text would in fact impose significant new economic burdens, including but transcending the text's financial provisions, than required under the legislation. The treaty negotiating text does discriminate against ocean mining activities undertaken by U.S. citizens prior to entry into force of the treaty not only by its operative terms and conditions but also because it outlays any mining from being conducted except pursuant to the treaty.

Accordingly, in order for the treaty to conform to the mandate contained in Title II of the legislation the treaty must be amended as suggested in the detailed comments the industry submitted to the Administration and a grandfather provision must be added to the treaty which exempts ocean mining activities conducted pursuant to U.S. legislation from terms and conditions in the treaty inconsistent with Title II. Preferably, detailed amendments to the negotiating text should be effectuated along with the addition of explicit grandfather protection.

This paper deals only with the grandfather issue. Accordingly, there follows an analysis of the State Department interim investment proposal which is in turn succeeded by a grandfather proposal by the industry which more properly conforms to the intent of Title II.

Although the industry proposal contains more details than expounded in the many past discussions with Administration officials regarding the treaty generally and the grandfather issue specifically, it is consistent with industry's repeated expressions to Administration officials regarding the imperative need for the inclusion of explicit grandfather protection in the treaty text itself.

DETAILED ANALYSIS OF STATE DEPARTMENT PROPOSAL

In essence, the State Department proposal, calling for major restructuring of the ocean mining bill, would require American ocean miners, prior to entry into force of the treaty with respect to the United States, to apply to the Administrator of the U.S. legislation for "certificates of priority" for two mine sites, termed "logical mining units," and to submit to him prospecting data for each. The miner would then be required to submit the same prospecting data for each mine site to the "Executive Secretary" of the "Preparatory Commission." The Preparatory Commission presumably would be constituted by LOS Conference resolution or by U.N. General Assembly Resolution, prior to entry into force of the treaty, to prepare ocean mining rules and regulations pursuant to the Law of the Sea Treaty. The Executive Secretary, based on the advice of "a panel of experts," would decide which of the two mine sites would be reserved for the exclusive future development by developing nations and by the transnational ocean mining company, called "the Enterprise," to be created by the Treaty. The other mine site would be given a "priority" which would merely entitle the U.S. ocean mining company to apply for a contract granting the right to mine the site not reserved for the Enterprise and developing countries when and if the Treaty ever entered into force.

The State Department proposal would only create a right to apply for a known mine site at sometime in the future, not a right to continue mining operations started under domestic legislation.

If there were conflicting applications for the same "priority" site, under the State Department proposal, the miner who submitted the most data would be awarded the "priority." Such a data quantity standard could not be expected to produce an equitable result even if the "priority" conveyed meaningful rights, which, of course, it does not.

Additionally, the U.S. ocean miner awarded the "priority" would be required to abide by the terms and conditions. i.e., diligence requirements, of the treaty prior to the time such treaty would enter into force with respect to the United States.

Following the action of the Executive Secretary of the Preparatory Commission regarding the selection of the site to be reserved for future exclusive use by the Enterprise and developing countries, the U.S. ocean miner would return to the Administrator of the U.S. legislation and apply for a license to only explore and not mine the site not reserved. No U.S. ocean miner could be expected prior to obtaining a "priority" to invest additional millions of dollars for exploration for its own benefit let alone for the benefit of the Enterprise and developing countries without a concomitant right to mine in hand.

The proposed State Department amendments to the legislation would bar the Administrator from issuing any U.S. ocean miner a permit to actually mine the site until 1985–1990, but only then if the treaty is not in force with respect to the United States by such date. Otherwise, the U.S. miner would be permitted to mine only if he were granted a contract pursuant to the treaty requiring him to conduct all of his ocean mining operations exclusively under the terms and conditions set forth in the final treaty text and in the also yet unknown Rules and Regulations formulated by the yet nonexistent Preparatory Commission.

The so-called "priority" he would have earlier received from the Executive Secretary of the Preparatory Commission would entitle him, after the treaty entered into force with respect to the United States, only to stand near the head of the line of all persons from all over the world who then wished to obtain mining rights (contracts) under the treaty. His rights would be to enter the Seabed Authority's door after the treaty entered into force with application in hand. If he were earlier granted a so-called "'priority," it would contain no guaranteed right for him to obtain any future contract from the Authority allowing him to mine the site not reserved for the Enterprise and developing nations, let alone a contract whose terms and conditions are even known at the time of the "priority" would be granted.

It follows therefore that such "priority" from its date of issuance would in no way guarantee him security of tenure encompassing the right to use and mine the sites;

nor the right to mine at whatever rate or production he chose;

nor assure him of the right to mine under any other terms and conditions which could possibly be ascertainable prior to the date on which he later might be awarded a contract by the Authority allowing him to mine the site.

For example, upon award of his so-called "priority" the U.S. ocean miner could not know or foresee his future costs under whatever contract he might sometime acquire. This is because he could not know or foresee the aggregate economic burdens imposed by the treaty including the rules and regulations which would implement it. He could not know or foresee the contents of the rules and regulations governing non-financial matters under which he would be required to operate if he were awarded a contract. He could not know or foresee what technology he would be required to transfer to the Enterprise or to developing nations or what price, if any, he would be paid for such transfer. He could not know or foresee if the Council of the Seabed Authority would approve his contract application. He could not know or foresee if others earlier or later in line with their applications in hand would be awarded contracts because they had agreed to terms and conditions more acceptable to the Seabed Authority than those he would be able to live with.

The U.S. ocean miner could only know that if some other person, within six months of the time the Authority began to accept contracts, applied for an area which overlapped with the area for which the U.S. ocean miner had earlier been awarded a "priority" and for which he had also applied for a contract, the U.S. ocean miner's applications would be reviewed first. In other words, the principal fact about which the U.S. ocean miner could be certain is that the Authority would have the right to reject his application before it considered any competing application. The U.S. ocean miner would also know that the "priority" he had been earlier awarded would expire six months after the Authority begins accepting applications for contracts regardless of whether it has ever acted on any such application, including his own.

The U.S. ocean miner could only expect that if he were ever awarded any contract to mine at all it would be for generally the same area for which he had been granted a "priority." The "priority" only creates knowledge of the location of a particular area of the seabed. Mere knowledge of the location of a patch of seabed to which the U.S. ocean miner might possibly be awarded a contract if he is awarded one at all creates no rights to mine that patch of seabed either at the time of the issuance of the "priority" or at any time in the future.

In short, the most important fact of which the recipient of a "priority" could be certain at the time of its award is that he would be subjected to nearly all the same ambiguities and uncertainties under the treaty and its regulations that he would face when and if he later applied for a contract after the treaty entered into force.

Not only would he not receive any of the grandfather protection mandated by Title II of the U.S. ocean mining legislation, he would receive no certain protection at all for any of his interim investments. Therefore, the State Department proposal would deter, if not prohibit, any substantial additional interim investment even if no State Department proposed amendment were adopted to the U.S. ocean mining legislation.

Even if the treaty had not entered into force with respect to the United States by whatever date is specified and the U.S. ocean miner were issued a mining permit pursuant to U.S. legislation, his rights to mine would be automatically revoked when and if the treaty did later enter into force with respect to the United States.

To repeat, the State Department proposal under the most favorable of all imaginable circumstances grandfathers nothing. Accordingly, the "automatic" prospect for a U.S. ocean miner being authorized to commence commercial production under the U.S. legislation if the treaty does not enter into force by date X is pure illusion. This is because if the ocean miner started to mine under the legislation on date X and the treaty then entered into force with respect to the United States on date X plus one day, one month or one year, the treaty would govern and his rights under the legislation would cease. This is especially the unfortunate result because of the U.S. delegation's commitment to write into the treaty text itself a total prohibition on all reservations to the treaty. The Senate would be precluded from recommending a reservation to the treaty to protect such pre-existing U.S. ocean mining operations and the Congress as a whole would be barred from passing subsequent legislation to ensure the continuation of pre-existing U.S. ocean mining operations because such legislation, if enacted, would have the effect of providing a reservation to the treaty and would otherwise be in violation of the treaty.

As you can see the AMC analysis exposes PIP for what it really is.

Mr. Speaker, if this is all the U.S. delegation intends to provide in the way of grandfather protection in the treaty, I believe that the other body would not ratify the treaty.

The other body debated the bill on December 14, 1979, its version of title II being identical to title II of the bill before us today. It said the treaty negotiating text made a mockery of title II. It was right. I am hopeful that our delegation will recognize that the Congress is serious about title II. PIP flies in the face of the intent of title II.

During the negotiations with the administration that led to the Foreign Affairs Committee adoption of section 203, which calls for the administration to submit legislation within a year of the date of enactment, the State Department actually tried to write PIP into the legislation.

The text of the amendment they proposed on April 11 is as follows:

> The Secretary shall establish procedures for the issuance of Certificates of Sponsorship to United States citizens. Such procedures shall be consistent with any internationally agreed upon procedures for the granting of priorities to areas of the seabed for State-sponsored applicants. They shall provide criteria for the resolution of conflicting applications which are consistent with the provisions of section 101(b), 102(c), and 118 of the Act. The Secretary shall promulgate rules concerning publication, notice and opportunity to comment on applications for certificates of sponsorship. A Certificate of Sponsorship shall be valid during a period, and under terms and conditions consistent with section 105(b) of this Act, to be determined by the Secretary in accordance with procedures established pursuant to this section. *Provided, however,* That a Certificate of Sponsorship relating to an area of the seabed that has been designated pursuant to internationally agreed upon procedures as having been selected as the area to be reserved in contemplation of the entry in force of an international agreement shall remain in effect in accordance with procedures established pursuant to this section at the option of the sponsored applicant so long as the sponsored applicant has also applied for or holds a license relating to a corresponding area for which he has been granted a priority then in effect pursuant to such internationally agreed upon procedures.

What that gobbledy-gook is all about is an attempt by the State Department to cause U.S. ocean mining companies to give away free a mine site, awarded under this act, to a United Nations created body in exchange for a lottery ticket to go to the head of the line after the Law of the Sea Treaty enters into force and then be told by the International Seabed Authority that it has no right to continue mining the seabed.

Not only is this proposal an outrage but it would have had the effect of grandfathering the treaty into the legislation before the other body had had the opportunity to ratify or reject the treaty. Worse yet, the State Department proposed section 203 would have asked the Congress to enact a proposal that is not even included in the treaty negotiating text, let alone a signed treaty. Needless to say, the State Department suggestion was rejected and nothing like it remains in section 203.

The point of all this is to remind the State Department that a year from now any legislative suggestion resembling the above quoted State Department proposal will be equally unacceptable.

Mr. Speaker. it is a shame that so few of our friends in the State Department seem interested in protecting American interests. As Mr. John Yarmola, vice president of the Seafarer's International Union, told the Foreign Affairs Committee last year in his testimony on this legislation and the treaty:

> We need an American desk in the State Department.

I agree.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may require to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I find myself in a unique position today, serving as I do on two committees which have jurisdiction over this most important legislation. As a member of the Foreign Affairs Committee, as ranking member of its Economic Policy and Trade Subcommittee, and as a member of the Interior and Insular Affairs Committee I have taken a deep and abiding interest in both the Law of the Sea Treaty negotiations and the progress of the Deep Seabed Hard Mineral Resources Act. As a member of the Interior and Insular Affairs Committee I am aware of America's vital need for these minerals and as a member of the Foreign Affairs Committee I am aware of the interesting, conflicting, challenging nature of the interrelationship between nations in this pursuit of this vital resource. I am particularly pleased today that the various committees of jurisdiction have joined together in a compromise acceptable to all which will allow this legislation to move expeditiously to the President.

Mr. Speaker, while I am supportive of this legislation, I am supportive as a result of what I feel to be the vital interest of America in making use of these critical minerals. I feel it is imperative that this Nation move forward in developing these resources in an efficient, economical manner. I must confess, however, my concern with the state of negotiations now in progress and the Law of the Sea Treaty.

A little more than 2 months ago the ninth session of the third conference on the Law of the Sea was concluded in New York City. In a little more than a month a summer session will commence in Geneva, Switzerland. I have followed closely these negotiations and I have been somewhat bemused by the continuing assurances of those involved that much progress has been made and that a final agreement is within our grasp. My analysis of the state of these negotiations is that America has gained precious little while losing significantly on a number of fronts. Unless significant changes are made and unless certain reversals are undertaken, this treaty will be unacceptable to this Nation. I am particularly concerned with the production control concept now being discussed at the LOST. As well, the procedures for technology transfer are exceedingly troublesome and able to infringe significantly on what Americans have long believed to be basic property rights. Finally not because this concludes all my concerns, but because it in fact sums up the negative position in which we find ourselves, finally I would express concern about the voting procedures now being developed. America could well find itself completely outvoted and outmaneuvered in any decision previously undertaken by the enterprise. Unless basic changes are made, the United States, which will be supplying the technology, which will be paying the bills, will find itself on the outside looking in.

What we have now as a result of the recently concluded session in New York is an international creation which as the result of the tentative agreements already made, will have the upper hand in the acquisition of technology and the receipt of financing and the selection of deep seabed mining tracts in the creation of an organism to develop, mine and refine these minerals. America, in the decades ahead, should this treaty be agreed to in its present form, will find itself no further along in our desire to decrease our dependence on foreign sources for strategic and critical minerals.

Mr. Speaker, much has been said today about the Law of the Sea Treaty and its relationship to this legislation. The head of the U.S. delegation to the Law of the Sea Conference asked the ocean mining industry to submit its comments on the treaty negotiating text. The industry faithfully responded in great detail going into the treaty on a nearly line-by-line basis.

The industry also submitted a summary of its comments based upon an earlier critique of the treaty presented by the able head of our delegation, Ambassador Richardson. In its summary the ocean mining industry agrees with Ambassador Richardson about why the treaty text is so fundamentally unacceptable. Some minor changes have been made in the negotiating text since the comments were submitted on February 29 of this year. But most of what was wrong with the treaty then is still wrong now.

I include the industry comments at this point in the body of the RECORD:

SUMMARY OF DETAILED OCEAN MINING INDUSTRY COMMENTS

(Presented to Ambassador Elliot L. Richardson, regarding the negotiating text of the Law of the Sea Treaty (ICNT Rev. 1), February 28, 1980)

The U.S. ocean mining industry's detailed comments regarding major changes to the treaty negotiating text are generally in line with your own comments about the negotiating text you made at the Law of the Sea Conference on July 20, 1977, and have since repeated many times in your testimony before the Congress. We have accordingly adapted the summary of our detailed comments to the format of your own well-reasoned critique.

You stated that the (ICNT) informal composite negotiating "text concerning the system of exploitation and governance of the deep seabed area (Part XI) is now fundamentally unacceptable [and . . .] cannot be viewed as a responsible substantive contribution to further negotiation."

We agree, and note that the same text has indeed been used as a substantive basis for all subsequent negotiations. Although the ICNT was last year reissued as "ICNT, Rev. 1", it is still in most instances word for word the same or nearly the same text as originally released.

You stated that the text ". . . would not give the reasonable assurance of access that is necessary if we and others could be expected to help finance the Enterprise and to accept a 'parallel system' as a basis of compromise."

You recall at the time of your statement there was much hesitancy on the part of developed nations to agree that the transnational ocean mining company, called the Enterprise, which would compete with private ocean mining companies, should ever be created by the treaty, let alone be financed by taxpayer contributions. The so-called parallel system compromise was to be one under which the Enterprise would be able to operate on an equal footing with private companies and the private companies were to be given assured and non-discriminatory access to seabed minerals. As a result of subsequent negotiations the Enterprise continued to acquire additional competitive advantages while the assurance of non-discriminatory access for private companies has rapidly deteriorated to the point where likelihood of any private sector access under the so-called "parallel system" would be highly remote.

What has emerged from the negotiations is an Enterprise that is governed by a body determined to grant it a monopoly over seabed mineral production and a series of "incentives" that will most probably enable it to achieve a monopoly. Under the present negotiating text, the Enterprise shall be subject to the general policies laid down by the Supreme Assembly dominated by a one nation-one vote majority of developing countries.

The Enterprise's first mining project is to be fully funded by the efforts of States Parties to the treaty—one-half in the form of interest-free loans, one-half through loan guarantees. This much alone, will cost the United States (if it ratifies the present text of the treaty) approximately $250 million. All of the mining sites "reserved" for the Enterprise must be fully prospected by private concerns wishing to undertake mining themselves—at no cost to the Enterprise. (See Industry Comments, pages 29, 44, 45, 62.)

You stated that the text "could be read to make technology transfer by contractors [*i.e.*, private ocean mining companies] a condition of access to the deep seabed—subject, at least in part, to negotiation in the pursuit of a contract."

The transfer of technology provisions have undergone little improvement. For example, a competitive advantage granted to the Enterprise by the current text includes the mandatory transfer of technology from private industry when the Authority believes that such technology is not available on the open market. The text forces an applicant to submit proprietary data and other confidential information about his technology before he ever obtains a contract. To use closely held technology owned by a third party, a contractor must obtain written assurances that such third party will transfer that technology to the Enterprise or any developing country seeking to mine in the reserved area. In addition, the contractor is obligated throughout the life of his contract to transfer not only his original, but any newly developed mining technology to either the Enterprise or developing countries. (See Industry Comments, pages 8 and 42.)

You stated that the text "could be read to give the Seabed Authority the power effectively to mandate joint ventures with the Authority as a condition to access."

There have been no changes in the text to eliminate this problem. In fact, under the treaty language contained in the latest negotiating text, the so-called parallel access system is really nothing more than a unitary system of forced joint ventures with the Enterprise. The combination of Enterprise incentives, the production ceiling and the priority granted Enterprise work plans under the production ceiling will force U.S. industry, if it chooses to enter ocean mining at all, to negotiate joint arrangements with the Enterprise. This is hardly the world of assured access first promised by U.S. negotiators and mandated by domestic legislation. (See Industry Comments, pages 29, 44, 55–62.)

You stated that the text "fails to set clear and reasonable limits on the financial burdens to be borne by contractors; indeed, it simply combines a wide range of alternative financial burdens, as if such a combination could be a compromise—when, in fact, it is likely to prove a compound burden sufficient to stifle seabed development."

Although the financial arrangements contained in the present negotiating text represent an improvement over the original ICNT, the financial burdens imposed upon this nascent industry continue to remain oppressive. The International Seabed Authority would confiscate what are apparently considered by third world negotiators to be excessive and unjustifiable profits. This entire concept is based on a complete misconception of the hazardous and unpredictable nature of mining operations, particularly in such a hostile environment as the ocean floor.

In addition to issues such as the heavy nature of front end payments detailed in the Industry Comments that accompany this synopsis, a major problem is encountered in the provisions that empowers the Authority to negotiate the terms of every contract. Such negotiation would not be at arm's length, but totally one-sided due to the nearly limitless discretion accorded the Authority.

In short, the thrust of the treaty provisions dealing with financial terms of contracts is yet another step away from assured and non-discriminatory access for private capital and a step toward the domination of ocean mining by an Enterprise, molded around the state-planned economic model. (See Industry Comments, page 48.)

You stated that the text "would set an artificial limit on seabed production of minerals from nodules—which is not only objectionable in principle; it is also far more stringent than would be necessary to protect specific developing country producers from possible adverse effects, and is incompatible with the basic economic interests of a developing world generally."

The production control provisions of the current text are not only "objectionable in principle", their only purpose is to restrict the availability of ocean minerals in order to protect the handful of developing countries that exports such minerals from any real competition from ocean mining, regardless of the relative economic efficiency of land and ocean-based mining.

Using a formula that constantly looks to past growth in the world nickel market, the treaty mandates that the ocean mining industry will, in effect, be the relief valve for normal fluctuations in the minerals consumption/production business cycle. By artifically limiting the amount of minerals that private party miners can exploit, the treaty can only fuel world inflation through the maintenance of high metal prices.

If U.S. industry is to be expected to invest under a treaty the billions of dollars necessary to bring ocean mining to the point of commercial reality, it must be guaranteed that the only factor affecting the decision to produce is economic reality—not arbitrary and artificial controls. (See Industry Comments, pages 12–14.)

You stated that the text "would give the Seabed Authority extremely broad new, open-ended power to regulate all other mineral production from the seabed 'as appropriate.' "

There has been no conference reversal on this issue.

If the Authority is granted the power to regulate future hydrocarbon development, and it can do so only through regulations which enter into force as amendments to the treaty, the oil-producing nations and their allies among the Third World countries are given a virtual veto over the development of these resources. (See Industry Comments, page 14.)

You stated that the text "would appear, arguably, to give the Authority unacceptable new power to regulate scientific research in the Area."

Article 143 of the negotiating text, for example, continues to raise problems for the free conduct of marine scientific research, particularly when considered in the context of an International Seabed Authority empowered to adopt sweeping policies on any subject matter within its competance—for example, the conduct of deep seabed scientific research and the dissemination of the results of such research. (See Industry Comments page 7.)

You stated that the text "would fail adequately to protect minority interests in its system of goverance and would accordingly, threaten to allow the abuse of power by an anomalous 'majority.' "

Perhaps one of the single greatest blocks to a treaty mining regime that provides assured access is the system of goverance envisioned therein. The Assembly is the "supreme organ" of the Authority and is empowered to "establish general policies" that are to be followed and pursued by all other organs of the Authority. As has been made crystal clear in all negotiating sessions, this Assembly, which will be dominated by developing country interests, plans to use the world government system established under the treaty as a first step in the fulfillment of their call for a New International Economic Order.

Unlike its U.N. counterpart, no one particular nation is guaranteed a seat on the Council, although the "Eastern (socialist) European" region is guaranteed representation in three of the five categories. Further, the treaty directs the Assembly to grant special consideration to landlocked and other "geographically disadvantaged States" as well as developing nation coastal States so that they are represented "to a degree which is reasonably proportionate to their representation in the Assembly."

Although the Council is denoted as the "executive organ", it is clear from a reading of its specified powers and functions that it will primarily be relegated to "proposing", "recommending", "presenting", and otherwise "making recommendations" to the Assembly. Hence any "specific policies" adopted by the Council will clearly have to conform with the "policies established by the Assembly." Without question, one of the most important powers granted the Council is the ability to decide whether or not ocean mining exploration and exploitation plans of work submitted by private companies to the Authority are to be approved. Such contract approval had previously been automatic if the qualifications spelled out in the treaty were met. It is imperative that the issues of relative governmental powers and contract approval be divorced. (See Industry Comments, pages 20–24.)

You stated that the text "would allow the distribution of benefits from seabed exploitation to peoples and countries not party to the Convention."

Article 140, for example, is the first of several articles in the draft text which open the door to non-parties and even non-states to receive benefits from the treaty. Given the fact that this provision could be used to directly support the efforts of such groups as the Palestine Liberation Organization, Polisario Front, Southwest African Peoples Organization and other self-styled "national liberation movements" that often resort to, and occasionally advocate the use of terrorist or other violent activities for political purposes, this text is likely to pose a serious obstacle to ratification. Nothing in the treaty limits the "benefits" that are to be shared, which could therefore include cash, technology, a right of access to the resources, a right of participation in U.S.-sponsored joint ventures and even a right to be reimbursed for economic dislocation that might be caused by seabed mining.

It is unjustifiable to ask the United States and other major industrialized nations to make major sacrifices of their economic interests without at least ensuring that the beneficiaries of those sacrifices undertake the obligations of the treaty. (See Industry Comments, page 5.)

You stated that the text "would seriously prejudice the likely long-term character of the international regime, by requiring that—if agreement to the contrary is not reached within 25 years—the regime shall automatically be converted into a 'unitary' system, ruling out direct access by contractors, except to the extent that the Authority might seek their participation in joint ventures with it."

Here too little progress has been made to alleviate this major problem. The present text provides that a review conference is to be convened twenty years after the first mining contract is awarded. If after five years of work, the review conference cannot agree on a new system of exploration and exploitation, the Assembly may vote a moratorium on all future development. The text seems to allow, however, for the continued approval of plans of work for activities in those areas reserved for the Enterprise or developing countries operating in joint arrangement with the Enterprise.

The net effect of these provisions demonstrates the lack of security of tenure inherent in existing mining contracts, enhances the possibility of an Enterprise ocean mining monopoly, and prejudices the outcome of the review conference.

Another provision in the present text mandates the Assembly to conduct five year periodic reviews of the mining regime established pursuant to the treaty and to adopt measures "which will lead to the improvement of the operation of the regime." The scope of the review is left to the complete discretion of the Assembly; whether or not the changes constitute "improvements" is left to the Assembly; the changes adopted may clearly apply to operations earlier approved and may thus clearly change the circumstances and assumptions under which such operations have been conducted; and as a discretionary act, such changes are nonreviewable by any of the dispute settlement procedures.

These two provisions taken together cannot help but eliminate any hope of achieving the legal and political stability required for investment. (See Industry Comments pages 17 and 18.)

Missing from your earlier statement was any concern about the dispute settlement process. The procedures set forth for the election of members to the Law of the Sea Tribunal and the Seabed Disputes Settlement Chamber are intended to result in bodies with strong political affiliation and sympathy for Third World causes. Among the most prominent issues raised in the Industry Comments are that Chamber review of discretionary Authority actions or suits by Contractors against the Authority for acts allegedly in excess of jurisdiction or a misuse of power are prohibited. Given the large number of discretionary and implied powers granted the Authority and its subsidiary organs this raises obvious problems for industrialized nation miners.

Industry has also argued that binding commercial arbitration of disputes be available at the insistence of just one party to a contract. Unfortunately, the treaty does not incorporate this objective; instead the treaty provides that such arbitration is available only if provided for in the contract. This leaves the Contractor in a position of forcing the Authority to accept such a provision at the time he is negotiating a contract.

The fact that the Enterprise is immune from the legal process of any State Party to the Convention ensures that the treaty dispute settlement process is the only method by which a United States citizen can attempt to have his grievances redressed. Without assurances that a fair and equitable process exists for the settlement of seabed mining disputes, U.S. industry cannot attempt to operate under this treaty. (See Industry Comments, pages 34–38, 63–74.)

Also missing from your earlier statement was any reference to the Preparatory Commission which presumably would be constituted to negotiate rules and regulations under which ocean miners would operate. What such rules may require is at this point totally unpredictable.

Any substantial additional private investment in ocean mining by U.S. companies must be preceded by legal certainty. Companies must be able to acquire firm rights to explore and mine a given area of the seabed at an economic rate of production for the life of the mine before any capital expenditures can be committed.

Not only does the present treaty text not guarantee such rights, but the prospect of several years of additional negotiations concerning yet unknown rules and regulations creates so much uncertainty as to preclude any capital investment in contemplation of such a regime.

In both the summary comments and our more detailed analysis regarding the present Law of the Sea Treaty negotiating text, it has been documented that the treaty negotiating text, taken as a whole, fails to comply with the Congressional mandate established by Title II of the U.S. domestic mining legislation (S. 493 and H.R. 2759).

As you know, the negotiating text does not establish assured and non-discriminatory access for U.S. citizens under reasonable terms and conditions. It does not provide for security of tenure for ocean mining activities undertaken by U.S. citizens pursuant to domestic legislation. The negotiating text would in fact impose significant new economic burdens than required under the legislation, including but transcending the text's financial provisions. The text does discriminate against ocean mining activities undertaken by U.S. citizens not only by its operative terms and conditions but also because it outlaws any mining from being conducted except pursuant to the treaty.

Accordingly, in order for the treaty to conform to the mandate contained in Title II of the legislation the treaty must either be substantially changed as suggested in the detailed comments enclosed or a grandfather provision must be added to the treaty which exempts ocean mining activities conducted pursuant to U.S. legislation from terms and conditions in the treaty inconsistent with Title II. Preferably, detailed amendments to the negotiating text should be effectuated along with the addition of explicit grandfather protection.

In all fairness, since the February 29 preparation of the industry comments, some minor improvements have been made in the noted treaty provisions. For example:

First. New language with respect to the transfer of technology provisions specify that only nonproprietary data be submitted by contract applicants.

Some helpful modifications have also been made to the third party transfer of technology provisions—although problems still remain regarding the extent of the miners' obligations. The primary obligation to transfer technology has been somewhat limited by imposition of a 10-year time obligation which unfortunately does not begin to run until after the transnational Enterprise enters the commercial production phase;

Second. New language should help to make the Enterprise a more commercially oriented venture, although its strings will still be pulled by a Third World dominated body;

Third. A revision of one article will make it slightly more difficult for Third World nations to fundamentally alter the character of the existing seabed mining regime after 25 years; and

Fourth. Commercial arbitration is now available to parties to a contract if they so choose although the arbitrator is prohibited from examining issues that involve any interpretation of the treaty.

As is obvious, even this list of "improvements" is not without its pitfalls.

As I previously indicated, most of the problems highlighted by the industry in their February 29 submission to Ambassador Richardson remain in the second revision of the Treaty negotiating text.

For example, issues raised regarding the overall system of exploitation and governance remain; issue relative to assured access and the fair operation of the so-called parallel system remain; the basic characterization of the treaty mining system as forcing unitary joint ventures between the Enterprise and private mining companies is still valid; onerous financial burdens which fail to account for the borderline economics of pioneer mining projects remain a feature of the text; production limitations that are designed to protect land-based producers are also a fundamental component of the treaty production system—discussion of the benefits of a "floor" on the level of production must be offset by the corresponding imposition of a ceiling or "cap" over the "floor"; the latest text continues to allow the authority power to regulate all other seabed mineral production; a one-nation, one-vote Third World dominated "supreme" assembly still controls the "executive" council and contract approval for private miners remains an uncertainty; benefits derived from the regime may still be passed on to liberation movements; the assembly may still conduct 5-year periodic reviews and recommend the adoption of "improvements" in the exploitation system; and the functions and powers of the preparatory commission, its ability to protect existing investments, and the status of the initial rules and regulations of the authority are all unclear. Indeed some of the other treaty provisions have been made worse. For example:

First, priority granted to the approval of Enterprise plans of work (contracts) is now based only upon whether or not "fewer reserved sites (Enterprise sites) than nonreserved sites are under exploitation"—a situation that is sure to exist;

Second. Amendments to the text relating to marine scientific research have resulted in further restrictions on the freedom of said activities. As the United States Delegation Report admits, "[T]his well may remove a major incentive for countries with advanced marine scientific research capability" to participate in this vital research; and

Third. New provisions have been added that could lead to an even greater financial burden to the United States taxpayer relative to funding the International Seabed Authority and its mining arm—the Enterprise.

Mr. Speaker, those of us who have labored long and hard on this legislation know that the treaty negotiating text shows little evidence of any awareness on the part of Law of the Sea Conference delegates of the congressional intent expressed in title II of this legislation.

That title instructs our delegation not only to obtain grandfather protection for U.S. licensees and permittees but to bring home a treaty which from beginning to end conforms to the intent of title II. The present treaty text does not even begin to come close to achieving that end.

Let us not forget that ocean mining is now a high seas freedom. Our choices are to continue to exercise that high seas freedom without a treaty, to obtain a treaty that protects existing high seas freedoms to mine the deep seabed, or to lie down, play dead, and accept the present text or anything like it.

Either of the first two choices are preferable to the third. Let me make it clear that the third choice would make a mockery of title II.

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● Mr. ULLMAN. Mr. Speaker, the Ways and Means Committee considered title IV of H.R. 2759, the Deep Seabed Hard Mineral Resources Act, and reported the bill favorably with a technical amendment. Title IV imposes an excise tax on deep seabed mining and creates a trust fund for revenue sharing under an international deep seabed treaty.

The excise tax is imposed on the value of the metals or minerals removed from deep seabed nodules containing at least one of the following—manganese, nickel, copper, or cobalt. The rate of tax is 3.75 percent of the imputed value of all commercially recoverable metals or minerals in those nodules. The "imputed value" is 20 percent of fair market value, so that the effective tax rate is 0.75 percent of fair market value.

The tax is payable at the time prescribed by the Treasury Department which generally can be no earlier than the time of commercial use or sale of the metals or minerals. If the taxpayers does not intend to process, use commercially, or sell a metal or mineral within 1 year, the tax on that metal or mineral is not payable unless and until the taxpayer later does process, sell, or use the metal or mineral.

The tax is effective on January 1, 1980, and it terminates 10 years after enactment or earlier if an international deep seabed treaty which meets the provision's requirements is adopted by the United States.

Since there is not expected to be any deep seabed mining for at least 5 years, there will not be any tax revenues for that period. Once mining is in full production, it is expected that the tax will raise about $5 million of net revenues annually.

Mr. Speaker, I urge the adoption of title IV of the Deep Seabed Hard Mineral Resources Act.●

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the genleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Speaker, I endorse the compromise version of the Deep Seabed Hard Mineral Resource Act that is before us and support its passage at this time.

At the very outset I desire to commend the chairman of the Committee on Merchant Marine and Fisheries, my colleague, the gentleman from New York (Mr. Murphy), as well as the subcommittee chairmen and chairmen of the various committees within whose jurisdiction this bill was considered.

Mr. Speaker, this bill is in our national interest and in the interest of the international community. It will establish a legal framework that permits the development of seabed mining technology necessary to recover for profit valuable minerals on the seafloor by the end of the 1980's. Industry needs a long time to prepare for commercial recovery for profit of manganese nodules. It has already made sizeable investments and requires further large investments to test equipment and conduct pilot projects long before actual mining can take place.

The bill is however, also intended to be interim in nature and I want to emphasize this point very strongly. If you read through the purposes of the bill as well as title II, the clear intent of those provisions is that this legislation will be superseded by legislation that will implement a comprehensive treaty on the Law of the Sea.

I continue to support the successful conclusion of Conference on the Law of the Sea. There is no question that this treaty is in the U.S. national interest as well as in the interest of the rest of the world. The conference has reached consensus on a wide range of issues—on the freedom of navigation and overflight through international straits and through ocean space beyond, on the legal status of the economic resource zone, on marine scientific research, protection of the marine environment, the outer limits of the Continental Shelf, the powers and funtions of the International Seabed Authority, and the settlement of disputes. It is remarkable that the conferees, representing over 150 states, have cut the initial list of over 100 issues to less than a dozen.

The Committee on Foreign Affairs appreciates the difficulties of resolving the remaining issues and hopes that 1980 Geneva meetings will result in their resolution and in the adoption of a draft convention that protects U.S. interests.

Mr. Speaker, members of the Foreign Affairs Committee are well aware of the significant implications of the bill for the foreign relations of the United States at the Conference on the Law of the Sea. Indeed, the action by the committee to postpone the effective date for granting permits for commercial recovery from 1982 to 1988 reflects bipartisan concern that sufficient time be available in which to conclude the treaty and to bring it into force. At the same time, this provision will provide companies a reasonable period of time in which to develop their technology.

A number of parts of the bill convey the committee's understanding of the international implications of the passage of this legislation. They include the sections on findings and purposes, on reciprocating states, the several provisions in title II on transition to international agreement and generally the anticipated activities of U.S. citizens in international waters.

Because of its historic and continuing interest in these matters, the Committee on Foreign Affairs has actively exercised its jurisdiction on this legislation. The committee expects to continue to exercise its legislative and oversight jurisdiction on these aspects of the deep seabed mining bill as it is implemented. The committee expects therefore to receive reports and notifications that are required under various provisions of the bill and to be consulted by the administering agency on all matters relating to its jurisdiction.

Mr. Speaker, I urge the adoption of the consensus bill.

Mr. MURPHY of New York. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in support of the consensus bill. I think this can now be termed a bipartisan and noncontroversial bill, and I am pleased to join with my colleagues in supporting its passage.

I first want to commend the Members who have worked on this bill. I think we have dealt with this bill in a responsible manner. We have given our seabed mining companies what they need: an interim legal framework under which they can proceed with their preparations for mining the seabed. At the same time, we have produced a bill that is supportive of our Government's efforts to achieve a comprehensive Law of the Sea Treaty, and we have handled the timing of the legislation so as to minimize any adverse impact on the Law of the Sea Conference.

In a true spirit of compromise, the committee of jurisdiction have reconciled all the differences among the various versions of the bill, which is what enables us to bring this bill before the House under suspension of the rules. I think this is a remarkable achievement, for which the Members are to be congratulated. I particularly commend the chairman of the Merchant Marine Committee and his staff for their hard work and their constructive and cooperative attitude on this bill. Without their efforts, we could not have produced this result this soon.

Since it is at my suggestion that the floor manager is bringing this bill up under suspension of the rules, I would like to comment on my reasons for suggesting that procedure. At first glance, this bill might seem too important and complex for that procedure. However, a similar bill passed the House in the last Congress by a vote of 312 to 80. The changes that were made in the bill in this Congress were carefully considered and agreed to by four different committees.

Obviously, no Member is entirely satisfied with the bill. But I am aware of no opposition on any of the four committees to passage of the bill in its current form. In fact, there is agreement among all the committees, the administration, and the mining industry that the earliest possible passage of the bill is imperative. In view of the fact that the bill is both urgent and noncontroversial, and in view of the crowded floor calendar, I think the suspension procedure is appropriate.

The Committee on Foreign Affairs has been involved with seabed mining legislation since it was first reported out of the Merchant Marine and Interior Committees in 1977. Since that time, the objective of the Foreign Affairs Committee has remained the same: to fashion a bill that would support and contribute to the achievement of this Nation's overriding interest in successfully concluding a Law of the Sea Treaty, while at the same time protecting the interests of our seabed mining industry. This objective has required our attention to both the timing and the substance of the bill. And in dealing with both timing and substance, we have had to recognize the opinion of most countries of the world—even though we may not agree with that opinion—that the United States does not have the right under international law to mine the seabed outside the context of a treaty. Premature enactment of legislation, or enactment of legislation without certain necessary provisions, could have scuttled the treaty.

I join in bringing this bill to the floor at this time with the sincere intent and belief that it poses no threat to the negotiations or to those countries that do not have seabed mining capabilities. Several provisions of the bill are important in that regard. First, under the bill commercial mining of seabed nodules is prohibited before January 1, 1988. This provision is intended to provide a reasonable period of time to bring a treaty into force before seabed mining begins. Second, this is explicitly interim legislation. On its own terms, it will be superseded by a Law of the Sea Treaty, so that U.S. seabed mining operations will be conducted under the terms of the treaty. Third, while the bill states the intent of Congress that the rights of U.S. mining companies be protected in any treaty, there is no statement, as there was in earlier versions of the bill, that the terms of the treaty should necessarily conform to the terms of the legislation.

Finally, should a treaty not be in force by January 1, 1988, the bill provides that some of the proceeds of any seabed mining that may commence after that date must be deposited in a revenue-sharing fund for future sharing with the international community under the terms of a treaty.

I want to say a few words about the so-called "grandfather" language in title II of the bill. Section 201 states that a Law of the Sea Treaty should provide U.S. mining companies "assured and nondiscriminatory access under reasonable terms and conditions," and security of tenure," and that the attainment of these goals should be "determined by the totality of the provisions" of the treaty, rather than by any one article or provision. This section recognizes that a treaty negotiated by 150 countries with widely divergent interests cannot be expected to provide terms and conditions as favorable as U.S. legislation drawn specifically to promote the development of our seabed mining industry.

The administration has testified many times, and this section recognizes, that a treaty will provide for additional financial obligations and other new requirements not contained in this legislation, such as the transfer of technology on fair and reasonable terms and conditions. It is our intent that section 201 does not exclude such treaty provisions. Section 201 simply states the realistic expectation that these and any other treaty provisions taken together must not "impose significant new economic burdens" that have "the effect of preventing the continuation of (mining) operations on a viable economic basis."

Mr. Speaker, I have said that no Member is totally satisfied with this bill. I would be remiss if I did not mention that I am deeply concerned about the implications of the U.S.-flag requirements in the bill. The mining consortia are multinational in character, and I do not understand how only one of the countries participating in a consortium can expect to reserve for itself the lion's share of the shipping business associated with seabed mining. Foreign governments have expressed their opposition to these provisions in very strong terms.

In recognition that I would not have the votes, I did not press for a procedure which would have permitted me to offer an amendment to delete or soften these provisions, although I would have preferred to do so. I can only express my hope that these provisions do not lead to the breakup of the consortia. On the other hand, I am gratified we were able to include sufficiently flexible provisions in the compromise bill with regard to the location of processing plants.

Mr. Speaker, the successful conclusion of a Law of the Sea Treaty is important to the national security of the United States. When the United States entered these negotiations several years ago, our principal objective was to secure provisions that would preserve the freedom of maritime movement necessary for U.S. air and naval mobility and the projection of our national power. As events in Iran and Afghanistan demonstrate, this objective has never been more important. It is achieved in the current treaty text. It is my sincere hope that our delegation to the Law of the Sea Conference will be able to achieve a treaty that meets our interests in other areas as well, that the Senate will ratify such a treaty, and that our mining industry will support such ratification. Ambassador Richardson has written an article for Foreign Affairs examining the national security implications of a Law of the Sea Treaty, which I include at the end of my remarks.

In short, I believe the bill before us meets the foreign policy and national security interests of this country, as well as the interests of the seabed mining industry, and I urge the Members to vote for the motion to suspend the rules and pass the bill.

[From Foreign Affairs, spring 1980]

POWER, MOBILITY AND THE LAW OF THE SEA

(By Elliot L. Richardson)

In the late summer of 1979 the Norfolk (Va.) Ledger Star based a lead story on the leak of a classified communication from the naval command there (Cinclant) to units of the Atlantic fleet, laying out procedures to be followed by the U.S. government in protecting traditional high-seas freedoms. Three days later The New York Times picked up the story, running it on the front page under the headline, "U.S. Will Challenge Coastal Sea Claims That Exceed Three Miles." The United States, said the Times, "ordered the Navy and Air Force to undertake a policy of deliberately sending ships and planes into or over the disputed waters of nations that claim a territorial limit of more than the three miles accepted by the United States and 22 other nations." A decision had been taken, the story said, to "show a more active interest . . . because simply protesting diplomatically about such limits would not be effective."[1]

On the day that the Times story appeared, the Third United Nations Conference on the Law of the Sea was in the fourth week of its Resumed Eighth Session at the U.N. headquarters in New York. Launched at Caracas in 1974 and representing 160 countries—eight more than the U.N. itself—the Conference had succeeded during the intervening years in making remarkable progress on the most ambitious agenda ever attempted by a multilateral law-making forum. Substantial consensus had been reached on issues ranging from navigation and overflight, the conservation and management of fisheries resources, the protection of the marine environment, and the exploitation of oil and gas in the continental shelf, to marine scientific research and a carefully balanced system of compulsory dispute settlement. The results were embodied in a text containing nearly 400 articles of which fewer than ten percent remained controversial. By far the most troublesome issues still unresolved concerned the regime for deep seabed mining, which necessitated designing a new kind of international institution responsible to the world community as a whole. Only a handful of other substantive issues still awaited resolution. Delegates were at last beginning to believe that an effort which had come so far might yet confound the skepticism that had always surrounded it.

Reaction to the CINCLANT leak ranged from surprise to indignation. Many delegates assumed that the timing of the leak had been deliberately calculated to put pressure on the Conference. The Coastal States Group—87 countries in all—hurriedly convened an executive session to deliberate upon a response. Beyond assuring everyone that the leak was not premeditated, the U.S. delegation noted that the procedures in question were intended merely to give consistent and non-provocative application to the view of international law we had long maintained—that so long as there was not universal acceptance of some clear definition of the territorial sea other than the historic three-mile limit, the United States was bound to assert its own view.

These assurances, however, did not succeed in heading off statements and counter-statements in the closing plenary session of the Conference. During the next few weeks two heads of government, several foreign ministers, and numerous other officials—in varying tones of voice—denounced, protested and deplored.

Back of these reactions lay a long history. The leak served as an abrupt reminder of why the Conference had been convened in the first place—rapidly expanding coastal-state claims over ocean space and the impact of these on traditional freedoms of maritime travel and the movement of military and peacekeeping forces. In effect, the old alliance among peacekeeping power, the global peacetime mobility of military forces, and a universal system of ocean law has been appropriate to the present, remains an essential task of the Conference, and one in which not only the United States but all nations have a major stake.

Ironically, it was an American President, Harry Truman, who unwittingly started it all when in 1945 he proclaimed the jurisdiction of the United States over the seabed resources of the continental shelf. Though scarcely comparable to the attempt by Spain and Portugal in 1494 to divide all the world's oceans between themselves in accordance with precepts enunciated by Pope Alexander VI, Truman proclamation constituted the first major breach in modern times of the classic principles of ocean law laid down by Hugo Grotius in 1609. National sovereignty had since then been confined to a narrow band of territorial sea only three nautical miles, or one marine league, in width.

Three years later Chile and Peru, followed by Ecuador, outdid President Truman by claiming maritime zones extending 200 miles from their coasts and embracing the water column as well as the seabed. These claims were soon backed up by the seizure of U.S. tuna boats in those waters, a practice which had become chronic by 1969 when, as the new Under Secretary of State, I was obliged to oppose congressional requests for the assignment of U.S. naval escort vessels to the protection of our tuna fleet. It was by then clear that the combined impact of rapid technological advances in the exploitation of ocean resources and the increasingly assertive claims of coastal states to the benefits of such exploitation demanded some new accommodation between coastal-state jurisdiction and high-seas freedoms. Neither the First U.N. Conference on the Law of the Sea in 1958 nor a second conference held in 1960 was able to reach agreement on the seaward limit of coastal state claims, whether three miles or beyond.

It was beginning to be clear a decade later that the only way of reconciling the number and variety of claims that had by then emerged would be through the convening of a new international conference charged with drawing up a comprehensive charter for all uses of the oceans. When the first substantive session of the Law of the Sea Conference got underway in 1974, 76 countries had claimed territorial seas ranging from 12 miles to 200 miles, and since then the number has increased to 101. (Roughly three-quarters of these states now claim a 12-mile territorial sea.) In addition to new territorial limits, certain of these claims call for prior notification to or authorization by the coastal state for the passage of warships or nuclear-powered ships, thus significantly restricting the traditional right of innocent passage.

Further confusing the picture, a number of island countries—Fiji, Indonesia, the Philippines and others—have asserted the equivalent of sovereignty over the waters embraced by their islands. This has raised what has come to be called the archipelagic problem.

The world's independent coastal states now number 135. The United States is one of only 23 that still adhere to the traditional territorial-sea limit of three nautical miles. Like the trading nations in whose interests Grotius' legal doctrines were enunciated, we have traditionally seen our military and commercial interests as requiring maximum freedom of movement for our ships and planes. Any expansion of the territorial sea carries with it the potential impairment of such freedom because it is a firmly established principle of international law that other countries enjoy only a right of "innocent passage" in territorial waters. Passage is innocent so long as it is not prejudicial to the peace, good order, or security of the coastal state, and such passage is not subject to the consent of the coastal state. As adapted in recent times, however, innocent passage does not embrace any right of overflight or of submarines to travel submerged.

More than 100 straits around the world are more than six but less than 24 miles wide. So long as the territorial sea on each side of a strait is confined to three miles, a high-seas route remains in which full freedom of navigation and overflight will continue to exist. But extension of the territorial sea on both sides to 12 miles would eliminate these high-seas corridors, and the bordering states would then be able to contend that the straits remain subject only to the right of innocent passage. On that argument, the legal right to overfly a strait could be gained only with coastal state consent, submarines would be obliged to travel on the surface, and surface vessels would be subject to varying assertions of coastal-state regulatory power. All the world's most important straits would be subject to these restrictions; for example: the Strait of Gibraltar separating the Atlantic Ocean from the Mediterranean Sea; the links between the Pacific and Indian Oceans, including the Straits of Malacca and Singapore as well as the gateways to the Indonesian archipelago; the Strait of Hormuz at the entrance to the Persian Gulf; and the Bab el Mandeb strait connecting the Indian Ocean to the Red Sea and Suez. The result could seriously impair the flexibility not only of our conventional forces but of our fleet ballistic missile submarines, which depend on complete mobility in the oceans and unimpeded passage through international straits. Only such freedom makes possible the secrecy on which their survivability is based.

In addition, by prior action or relying upon the consensus in favor of a 200-mile exclusive economic zone which emerged at the Law of the Sea Conference in 1975, a number of states now claim resource jurisdiction beyond the territorial sea out to 200 miles, either, as in the case of the United States, as a fisheries conservation and management zone or in the more expansive form of an exclusive economic zone. The content of these 200-mile zone claims varies widely, but they invariably include authority over fishing and marine scientific research. In addition, a few purport to restrict navigation

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and overflight, and these claims may be hard to distinguish from some of the more extensive territorial sea claims. Roughly 40 percent of the entire surface of the world's oceans, an area greater than all the earth's land mass, lies within 200 miles from shore. All the important seas—the Mediterranean, the Caribbean, the Black Sea, the Red Sea, the Persian Gulf and the Sea of Japan among them—are consumed by coastal zones less than 200 miles in width. If this vast area ever comes to be regarded by coastal states as subject to their sovereignty for purposes of regulating navigation and overflight and related activities, the result would be to curtail drastically what Professor Bernard H. Oxman has aptly called "the sovereign right of communication."

II

Hardly had the Norfolk leak highlighted the chaotic state of the law of the sea than an extraordinary sequence of events—the seizure of American hostages in Iran and the Soviet invasion of Afghanistan, as well as the Vietnamese threat to Thailand—underscored the importance of the capacity to project force to any part of the globe where significant U.S. interests or responsibilities are challenged. Those of us who had never agreed that the Vietnam experience made this capacity unnecessary suddenly found ourselves in the overwhelming majority. President Carter announced the abandonment of the Nixon Doctrine, the Marine Corps got a new lease on life, and the Congress increased appropriations both for the Navy's shipbuilding program and the Air Force's airlift capability. Although belatedly, public attention focused on the vulnerability of the Middle Eastern oil fields and the fragility of the supply lines carrying oil from the Persian Gulf to Europe, Japan, and North America.

Clearly the classical uses of sea power have assumed fresh importance. On their way to stations in the northwest Indian Ocean less than 200 miles from shore, U.S. Navy task forces transit the Straits of Malacca, Singapore, Lombok or Sunda. To back up friends, to warm potential enemies, to neutralize similar deployments by other naval powers, to exert influence in ambiguous situations to demonstrate resolve through a deployment of palpable force—all these are tasks that naval power is uniquely able to perform. For these purposes the advantages of naval power over land or air power are clear. As Hedley Bull wrote in 1976 for the International Institute of Strategic Studies:

"The first of these advantages is its flexibility: a naval force can be sent and withdrawn, and its size and activities varied, with a higher expectation that it will remain subject to control than is possible when ground forces are committed. The second is its visibility: by being seen on the high seas or in foreign ports a navy can convey threats, provide reassurance, or earn prestige in a way that troops or aircraft in their home bases cannot do. The third is universality or pervasiveness: the fact that the seas, by contrast with the land and the air, are an international medium allows naval vessels to reach distant countries independently of nearby bases and makes a state possessed of sea power the neighbor of every other country that is accessible by sea.[3]

Although the number of U.S. overseas bases and military personnel stationed abroad has been reduced in recent years, this reduction has not been accompanied by a corresponding contraction in the scope of our vital overseas interests. The reduction has served, rather, to increase the necessity for alternative means for protecting those interests. Our economic well-being, meanwhile, is continually more dependent on overseas trade and more vulnerable to distant political developments. The combined result is to compel increased reliance on the strength, mobility and versatility of our armed forces. To fulfill their deterrent and protective missions these forces must have the manifest capacity either to maintain a continuing presence in farflung areas of the globe or to bring such a presence to bear rapidly. An essential component of this capacity is true global mobility—mobility that is genuinely credible and impossible to contain.

While this is not the place to undertake a discussion of the force capabilities demanded by global mobility, some of its requirements are illuminated by a glance at the proposed Rapid Deployment Force. Designed to provide a capability for deploying task groups of varying size and structure to any region in the world, the Rapid Deployment Force will draw on a central "reservoir" composed primarily of units based in the continental United States from which the forces can be dispatched to deal with a specific contingency. This reservoir will be composed of Army divisions, a Marine amphibious force, and appropriate Air Force and Navy units. The size and composition of the force selected will depend on such factors as the realities of geography and the nature of potential threats. Phased deployments initiated with small, "show-the-flag" forces could be supplemented by a second, larger force with greater capability.

The efficiency with which any such combination of units can be brought to bear depends to a significant degree on legal and political factors. The naval units must be able to sail and take up station without at anytime being obliged either to defy some challenge to their right to do so or to make a vast detour in order to avoid such a challenge. The Air Force units have a similar need for direct and untrammeled routes to a crisis area. In the words of Professor Geoffrey Kemp, "Since one of the great attributes of air power is speed, any factor that works to delay flight time, such as rerouting or the need to ask permission to overfly, would naturally downgrade its value."[4]

The assurance that our forces can be rapidly deployed without having either to defy some other state or to seek its permission enables us to calibrate our responses precisely to the situation at hand. It maximizes the value of the Navy's unique ability to position itself at sea near foreign countries without entering the territory of friend or foe. It permits the movement of forces and supplies past the coasts of other countries irrespective of their view of the mission. This flexibility, combined with the logistical capacity of our air forces to delivery materiel rapidly, can enable our friends confidently to refrain from steps that would otherwise accelerate localized arms races.

The same events that have revived awareness of the need for global mobility have also, though less obviously, increased the importance of universally accepted rules of law governing the rights and obligations of maritime powers and coastal states. The existence of such rules is significant primarily for the deterrent or preventive function of our military forces as distinguished from their combat function. Once a crisis verges upon armed conflict no major nation is likely to let the movement of its forces be deflected solely by another country's disagreement with its view of the applicable principles of international law. Yet foreign perceptions of these principles can affect both our willingness and our ability to carry out deterrent or preventive missions. Because their purpose is not to create conflict to forestall it, such missions require rules of law compatible with the routine deployment of ships and planes.

The erosion of the traditional rules and the trend toward expanding claims of coastal state jurisdiction have progressively increased the risk that deployments to distant regions of the globe will encounter some form of challenge by third states along the way. Whenever it arises, this prospect faces us with an uncomfortable choice. One alternative is to go full speed ahead, thereby generating hostility and exposing us to political and economic costs. More and more countries, moreover, in order to patrol their 200-mile zones and protect themselves against unfriendly neighbors, are acquiring a variety of patrol boats, maritime patrol aircraft, ship-to-shore cruise missiles, inshore submarines and small destroyers. Many of these countries also have mine-laying capabilities. A decision to disregard their claims of sovereignty must therefore take into account military as well as economic and political risks. And if we make it our consistent policy to damn the torpedoes, the costs will be cumulative. The result will be expensive not only to our bilateral relationships but to our reputation as a well-intentioned and law-abiding member of the world community. We should not be surprised when those whose claims we have ignored take advantage of a chance to get even.

A second alternative is to behave in a manner designed to avoid these costs, but this too can be expensive, although in other ways. If we hang back from acting upon our own understanding of the applicable principles of international law, we pay a price in terms both of constraints on the mobility of our forces and of the credibility of our will to use them. An additional cost is the further erosion of the very principles we proclaim, for the survival of any principle of customary international law depends upon the consistency of its observance in practice. Nor does the achievement of consistency come easily in the face of constant pressures to give priority to the preservation of cordial bilateral relations. Cables that have crossed my desk in recent months have appealed for the blurring or delay of activities of the kind referred to in the CINCLANT communication on such grounds as the "adverse effect on other matters on which we are seeking their support," "jeopardy to important American economic interests," "repercussions on sensitive bilateral developments," and the like. One ambassador went so far as to recommend the outright cancellation of routine overflights of the 200-mile zone.

It is conceivable, of course, that to escape this dilemma we might attempt to negotiate bilateral or regional agreements giving us the right to send warships and military aircraft through other states' claimed waters and airspace. Apart from the fact that any such bargain is likely to survive only as long as relations between the parties are good, what can we give on our side of the bargain? Merely to offer the reciprocal right to operate off our own coasts would seldom be sufficient, since few countries have an interest in acquiring any such right. The more likely price would be some form of political, military or economic concession—even, perhaps, acquiescence in a user charge proportioned to tonnage or the risk of pollution. And this, of course, would be a threat of concern not only to warships. Still another possible consequence would be to stimulate the major maritime powers to compete with each other for influence over strategically located coastal states in order to obtain preferential treatment for the highest bidder's military and commercial traffic.

There is only one way to prevent the costs both of conflict and of inaction. It is to create a common understanding and a common acceptance of rules compatible with the routine global deployment of air and naval forces. This cannot be done, quite obviously, merely by invoking what we may genuinely believe to be superior legal arguments in sup-

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port of our view of the controlling principles of international law. It requires building a new consensus embracing the strategically significant coastal states. Until this has been done, foreign perceptions will continue to dictate the scope of the operational risks and costs encountered by the military forces of the United States in the performance of their deterrent role.

As between the superpowers, consensus on the importance of the law of the sea to global mobility has not thus far been a problem. Although somewhat backhandedly, Admiral S. G. Gorshkov, the chief architect of the Soviet Union's growing naval might, has publicly saluted the peacekeeping contribution of our and our allies' navies.

"Owing to the high mobility and endurance of its combatants, the navy possesses the capability to vividly demonstrate the economic and military might of a country beyond its borders during peacetime. This quality is normally used by the political leadership of the imperialist states to show their readiness for decisive actions, to deter or suppress the intentions of potential enemies, as well as to support "friendly states." . . . Consequently, the role of a navy is not limited to the execution of important missions in armed combat. While representing a formidable force in war, it has always been an instrument of policy of the imperialist states and an important support for diplomacy in peacetime owing to its inherent qualities which permit it to a greater degree than other branches of the armed forces to exert pressure on potential enemies without the direct employment of weaponry.[5]

As this is written Admiral Gorshkov's words are being reinforced by the sincerest form of flattery: the construction of a Soviet global fleet. Currently numbering about 372 surface warships, the Soviet Navy is rapidly gaining in strength and versatility. Its first 37,000-ton ASW aircraft carrier joined the fleet only four years ago. The second was commissioned in 1978, a third will become operational in 1981, and a fourth is probably under construction. It has also been reported that the Soviets are building a 50,000-60,000-ton catapult-equipped nuclear-powered carrier. A new and powerful class of nuclear-powered cruisers—almost pocket battleships—is being added to other classes of cruisers in being and under construction, and a support system capable of sustaining fleet units at great distances is under development. Although not yet a match for the U.S. Navy on an overall basis, the Soviet Navy has acquired impressive sea-controlled capabilities.

Like the United States, the Soviet Union attaches importance to the successful outcome of the Law of the Sea Conference because it is aware that the superpowers have troubles enough in an increasingly pluralistic world without being forced into marginal conflicts over the peacetime movement of their military forces. Ever since the traditional rules came under attack, both countries have had a common interest in finding a way of reconciling the freedoms of navigation and overflight important to themselves and other major maritime countries with the national control of coastal resources and international control of seabed resources important primarily, though not exclusively, to developing countries. Both countries played active and supportive roles in the series of steps beginning in 1967 and culminating in 1973 which led the United Nations to conclude that any such reconciliation could only be accomplished through a comprehensive treaty. The Third U.N. Conference on the Law of the Sea got under way the same year. Although the Conference has since then dealt with issues ranging all the way from piracy to vessel-source pollution, its participants have understood from the outset that the accommodation of navigational and resource interests must be at the core of any eventual "package deal."

A common interest in conflict avoidance, of course, does not by itself compel an identity of legal positions on law of the sea issues. Indeed, the differences between the superpowers' geographical situations could have been the basis for different perceptions of their national interests. It is a fact, in any case, that the Soviet fleets cannot be deployed on a global scale without having to pass through constricted waterways and the 200-mile zones of other countries, almost none of which are pro-Soviet. The Soviet Northern fleet—icebound half the year—can reach the Atlantic only by way of the claimed zones of Scandinavian countries. To reach the Pacific from its home ports. on the Sea of Japan the Soviet Pacific fleet must mainly depend on the Straits of La Pérouse and Korea. The Black Sea fleet can reach the Mediterranean only through the Bosporus and gain open ocean only through Gilbraltar or Suez and the Bab el Mandeb. The Baltic, the Black Sea, the Mediterranean and the Red Sea, moreover, are entirely subdivided among actual or potential 200-mile zones.

U.S. fleets, by contrast, have direct access to the open oceans on both coasts and can reach the territories of allies such as Japan, Britain, France and West Germany without having to cross any 200-mile zones except those of allies. These sharp differences between the situations of the two superpowers have led some analysts to conclude that the differences in the superpowers' legal positions should have been equally sharp. This school of thought sees the guarantees of transit passage of straits and freedom of navigation and overflight in 200-mile zones as bringing significant advantages to the U.S.S.R. without any commensurate benefit to us or our allies. Its disciples argue that the expansion of coastal-state jurisdiction at the expense of high-seas freedoms would leave the Soviet fleets hemmed in by alien waters without any corresponding detriment to our side. In their view, the expansion of Soviet naval ambitions strengthens the case for letting the U.S.S.R. suffer the constraints on its mobility that a more coastally oriented world system would entail.

Despite their evident force, these arguments have never been persuasive to U.S. policymakers. On the contrary, we and our allies have always insisted that any enlargement of the territorial sea must be contingent on the equivalent of high-seas passage through straits and that any recognition of coastal-state rights over the resources of adjacent waters must preserve high-seas freedoms of navigation and overflight in and over such waters. Successive secretaries of state and joint chiefs of staff have been unanimous in advocating these fundamental propositions. Why? Have we misconceived our true interests?

The answers derive from four factors which, in the aggregate, are no less compelling for us than the Soviet Union's geographical entrapment is compelling for it.

First, we have our own reasons for needing unchallenged rights of navigation and overflight—not as acute as the Russians' perhaps, but substantial nevertheless. We need access to the Mediterranean and mobility within it. We need access to the Persian Gulf, the Red Sea and the Indian Ocean. We need to be able freely to traverse archipelagic waters like the Philippine Sea, the Java Sea, and the vast areas of the Pacific within 200 miles of some island. As the hasty shuttling of fleet units in response to the Iranian and Afghan crises recently demonstrated, our Navy is not now—and will not soon be—capable of maintaining a strong simultaneous presence in both the Southwest Pacific and the Indian Ocean. It must therefore be able to move fleet units from one area to the other by the most expeditious possible routes, and that requires the use of such major straits as Malacca, Singapore, Lombok and Sunda.

Second, the absence of any universally accepted legal foundation for the freedoms of navigation and overflight through straits and 200-mile zones could lead to unpleasant and otherwise unnecessary strains on our relations with our allies. Even the friendliest state is subject to its own set of indigenous political constraints and pressures, and, particularly at the stage when a crisis is developing, it is inevitable that these constraints and pressures will from time to time lead to perceptions of national interest divergent from ours. Indeed, we saw just such an outcome during the Middle East crisis of 1973 in which some of our allies, invoking attributes of sovereignty long sanctified by customary international law, denied us the use of their bases and airspace. If, in addition to the rights they already derive from the established legal attributes of territorial jurisdiction, our friends were also to acquire the power to grant or withhold permission to transit straits and 200-mile zones, their exercise of this discretion would immediately become fair game for their political opponents at home and vulnerable to pressure from abroad—for instance, by oil producers.

Third, it must be assumed that the U.S.S.R. is prepared to go to great lengths to ensure the mobility of its air and naval forces. The less secure the right of Soviet planes and ships to transit strategically important chokepoints in conformity with legal principles established by global agreement, the greater will be the Soviets' incentive to acquire equivalent results by other means. In the contest for control of strategic waterways thus made inevitable, the least the United States would seek to accomplish would be to neutralize whatever combination of carrots and sticks was employed by the Soviet Union, lest we find ourselves acquiescing in Soviet control. And the latter, indeed, must be recognized as a substantial possibility in any situation in which the U.S.S.R.'s interest in the transit of a vital chokepoint is in fact more intense than our own. For if the U.S.S.R. has no assurance that such an interest will be respected under binding legal arrangements, it will feel compelled to bring to bear whatever resources may be necessary to win control over the chokepoint. If we have a lesser interest, our willingness to match and resist the Soviets may be correspondingly less. For us to choose in such a situation to force the Soviets to seek direct control rather than to rely on legal arrangements could only mean that we would prefer to indulge the satisfactions of rivalry than to cut our costs. We would do better to heed the example of Winston Churchill at Potsdam in 1945 when he parried Stalin's demand for bases to protect the Soviet right of passage through the Bosporus by offering instead legal guarantees of that right.[6]

Fourth, any extent to which Soviet military forces are more dependent than those of the United States on the free transit of straits and economic zones is offset by our greater need to bring the requirements of mobility into accord with principles of international law which we alone cannot create. As the Soviet invasion of Afghanistan once again demonstrated, the handfull of bosses who make decisions for the U.S.S.R. can disregard public opinion both at home and abroad. The government of the United States, on the other hand, is powerfully constrained by public opinion. Any serious question about the legality of our actions can undermine both our capability to act and the ability of our allies to support us. We cannot change this responsiveness to law and public opinion and would not even if we could.

Footnotes at end of article.

IV

A Law of the Sea treaty creating a widely accepted system of international law for the oceans would—if the rules it contains adequately meet U.S. needs—be the most effective means of creating a legal environment in which our own perception of our rights is essentially unchallenged. We would then, for the first time since the Grotian system began to disintegrate, be assured rights of navigation and overflight free of foreign control, free of substantial military risk, and free of economic or political cost.

The negotiating text now before the Third United Nations Conference on the Law of the Sea,[7] if incorporated in a widely ratified Law of the Sea treaty, would provide this assurance.

First, by establishing a 12-mile maximum limit for the territorial sea, the text would deny validity to assertions of sovereignty by coastal states beyond 12 miles. The result would be to roll back existing claims of territorial jurisdiction wider than 12 miles.

Second, the text provides for free and unimpeded passage through straits used for international navigation in accordance with the concept of "transit passage." Transit passage is the freedom of navigation and overflight for the purpose of continuous and expeditious passage of the strait. The right of free passage applies to all ships whether on the surface or submerged and includes the movement of ships and aircraft in military formations as required by the circumstances. The text emphasizes the rights of transiting states, placing on them only reasonable obligations that do not impair, inter alia, the execution of military missions. Although the coastal state is not permitted to control transit, the legitimate interests of coastal state are protected. For example, it may enforce internationally approved maritime safety and pollution measures, except against vessels entitled to soveign immunity, when the violation causes or theatens major damage to the marine environment of the strait.[8]

Third, the text would guarantee freedom of navigation and overflight through achipelagos on terms equivalent to transit passage through straits, with the difference that the sea-lanes, instead of being determined by the configuration of the land, would be defined by courses and distances, with a right of deviation up to 25 miles on each side of this axis. Subject to the free transit of these sea-lanes by other states, an "archipelagic state" would have rights over the waters embraced by baselines joining the outermost points of its outermost islands equivalent to the rights of a coastal state over its territorial waters.

Fourth, in giving coastal states sovereign rights over the living and nonliving resources of a 200-mile "exclusive economic zone," the text preserves for other states "the freedom of navigation and overflight" and "other internationally lawful uses of the sea related to these freedoms such as those associated with the operation of ships, aircraft and submarine cables and pipelines. . . ."[9] In the group which negotiated this language it was understood that the freedoms in question, both within and beyond 200 miles, must be qualitatively and quantitatively the same as the traditional high-seas freedoms recognized by international law: they must be qualitatively the same in the sense that the nature and extent of the right is the same as the traditional high-seas freedoms; they must be quantitatively the same in the sense that the included uses of the sea must embrace a range no less complete—and allow for future uses no less inclusive—than traditional high-seas freedoms. In order to carry out the qualitative aspect of this understanding, the text[10] identifies the safeguarded freedoms as those "referred to in Article 87," which is the article on "Freedom of the High Seas." The quantitative aspect is satisfied by the phrase "such as," which makes clear that the reference to specific uses is illustrative but not exhaustive. Article 87 similarly defines "freedom of the high seas" by setting forth a nonexhaustive list of freedoms.

Fifth, under the text the United States would have the right to bring suit against a state that interferes with navigation or overflight. The existence of this opportunity would help relieve us of having to choose between acquiescence and defiance each time a claim is made that could erode high-seas freedoms. It would give us an important new option in our efforts to control and discourage such claims. While disputes concerning military activities as such would be subject to an optional exclusion, the possibility of suit on claims in general would strengthen the advocates of reason and restraint within foreign governments.

Significant though the benefits of a law of the Sea treaty would be, their value to the United States is not unlimited. Although substantial improvements have been made in the deep seabed mining provisions of the negotiating text, which I characterized as "fundamentally unacceptable" when they emerged in July 1977,[11] this part of the current text still has serious deficiencies. But the essential structure of the regime for mining manganese nodules on the seabed beyond the 200-mile economic zone on the continental margin is no longer in issue. It is built around a basic compromise between the position of the developing countries which wanted all exploitation of seabed resources beyond these limits and constituting "the common heritage of mankind" reserved for the international equivalent of a government monopoly, and the position of industrialized countries, which advocated a licensing system for all qualified seabed miners, whether private corporations or state entities.

Under this compromise, generally known as the "parallel system," both companies and an international seabed mining entity known as "the Enterprise" would have the opportunity to engage in deep seabed mining under the aegis of an International Seabed Authority. Many of the thorny problems that have had to be addressed in order to make both halves of the system workable—the powers of the International Seabed Authority, start-up financial assistance to the Enterprise, the manadatory licensing of technology for the benefit of the Enterprise, the types and amounts of payments by contractors to the Authority, the provisions for the adjudication of disputes, and countless subsidiary matters—are at or near the point of consensus.

The seabed mining issues not yet resolved, however, confront the Law of the Sea Conference with formidable difficulties. Among those that will have to be addressed in the two five-week meetings scheduled for 1980 are protection of major economic interests from an unsympathetic majority vote in the Authority's principal managerial body (the Council), certain features of the production ceiling on seabed minerals which protects land-based producers of the same minerals, and several subsidiary aspects of the obligation to sell technology. If these difficulties cannot be resolved in a manner satisfactory to the United States and other countries whose companies are preparing to engage in seabed mining, none of the other benefits of the treaty can make it acceptable to us. We would thus be forced to sacrifice not only the guarantees of freedom of navigation and overflight discussed in this article but other gains as well, including effective protection of the marine environment, a stable regime for marine scientific research, and a workable definition of the outer limits of coastal-state jurisdiction over the oil and gas resources of the continental margin. It would be an outcome preferable, nevertheless, to be bound by a system incapable of attracting the private investment without which the wealth of the deep seabeds will continue to lie in total darkness miles beneath the surface of the ocean.

But even if the remaining deep seabed mining issues are satisfactorily resolved within the framework of the basic compromises already made, there will still be those who insist that these very compromises concede too much to Third World demands. They may contend that we should prefer an outcome under which a treaty satisfactory in all respects other than seabed mining is completed but never comes into force. This, arguably, would leave us free to conduct deep seabed mining either under our own legislation or under a "mini-treaty" negotiated among interested states outside the U.N. Conference framework, and restricted to seabed mining, while at the same time letting us benefit from the assimilation of the draft Law of the Sea treaty's navigational provisions into customary international law. Such a strategy would give us—would it not?—the benefit of both worlds.

The idea has attractive features, and it is not surprising that spokesmen for some of the seabed mining companies have attempted to win converts to it. In the real world, however, this is simply not the way in which things are likely to work out. The changes in customary international law that have gained the most momentum from consensus in the Law of the Sea Conference are those that enlarge coastal-state claims. While these expansive principles may not need the treaty's entry into force in order to be ultimately absorbed into customary international law, the same cannot so confidently be said of the limitations and qualifications on coastal states' rights that the treaty would attach to them. The provisions for transit passage through straits qualify the extension of the territorial sea; the provisions for sea-lanes through archipelagos limit the concept of archipelagic waters; the provisions preserving high-seas freedoms in the exclusive economic zone restrain coastal-state claims of control; the provisions for geographic limits bar claims beyond those limits. These provisions can spell the difference between enjoying and losing high-seas freedoms of navigation, overflight and related uses in 40 percent of the world's oceans. It is hard to see, moreover, how countries with territorial sea claims exceeding 12 miles can, in fact, roll them back except as a consequence of a global treaty that actually comes into force.

Such are the probabilities without reference to the retaliatory measures that would surely be provoked by what would be seen as a barefaced attempt to have it both ways. Even if we discount the more extreme consequences that some representatives of other nations have warned us about—coastal-state claims dividing up the seabed itself, for example—we cannot so easily dismiss the likelihood that the navigational provisions we care most about would be cut back, dropped out, or ignored. It would be a mistake, finally, to assume that seabed mining under unilateral legislation—or even a "mini-treaty"—would be free of problems. Neither national legislation nor a "mini-treaty" could ever purport to grant a seabed miner exclusive rights of access to his mine site against the rest of the world.

We would, it is true, have to accept some of these same undesirable consequences if we cannot get compromises on the remaining seabed mining issues good enough to justify our signing and ratifying the treaty. But that would be because we had concluded that the

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Footnotes at end of article.

net balance among all U.S. interests affected by the treaty was adverse. The same result, quite obviously, will not follow if the resolution of seabed mining issues is on its own merits better than no treaty: we would then gain, rather than risk losing, benefits in other areas, including navigation.

Any treaty that can win widespread acceptance is bound to have costs as well as benefits. Its measure is not whether it is as good as the constitution for ocean space we would write if we alone were responsible for its terms. Its measure is whether it serves all our interests as well as or better than those interests would be served in a treatyless world.

Among the interests that will have to be weighed in the end is our interest in the avoidance and prevention of conflict. We—as part of the world community—are strengthened by the strengthening of the rule of law. The crises in Iran and Afghanistan have given us sharp reminders of the relevance to our interests of widely accepted legal standards. In responding to those crises we have worked hard to build supportive coalitions based not on a similarity of political outook or mutuality of economic or military concerns, but on a common awareness of the importance to all members of the world community of respect for the rule of law.

A successful outcome of the Law of the Sea Conference and the widespread adoption of the resulting treaty would extend the rule of law—including an agreed regime for third-party settlement of disputes—over two-thirds of the earth's surface. In so doing, it would give powerful encouragement to the determined pursuit of other rational accommodations among the ever more complex issues forced upon the world by the imperious realities of its inescapable interdependence.

FOOTNOTES

[1] *The New York Times*, August 10, 1979, p. A1.

[2] For a fuller discussion of the background of the Conference, see John Temple Swing, "Who Will Own the Oceans?", *Foreign Affairs*, April 1976, pp. 527–546.

[3] "Sea Power and Political Influence," in "Power at Sea I: The New Environment," Adelphi Paper No. 122, Spring 1976, p. 6.

[4] "U.S. Naval Power and the Changing Maritime Environment," a paper presented at the 4th Annual Seminar of the Center for Oceans Law and Policy of the University of Virginia, January 1980, p. 4.

[5] *Proceedings of the U.S. Naval Institute*, October 1974, No. 9/859, p. 59 (translation of an article by Admiral Gorshkov in *Morski Sbornik*, November 2, 1972).

[6] Winston Churchill, *The Second World War*, Vol. 6, Boston: Houghton Mifflin, 1953, p. 635.

[7] *Official Record* (A/CONF #62/WP.10/Rev. 1), United Nations Third Conference of the Law of the Sea, April 28, 1979. This is called for convenience ICNT, Rev. 1.

[8] Although it has been suggested that the very existence of flag state obligations might support the inference that the states bordering straits had been given a right unilaterally to determine that violations have occurred or to seek to enforce the obligations, Professor John Norton Moore persuasively refutes this notion. Indeed, as Professor Moore makes clear, both the language of the text and its negotiating history compel the conclusion that the elaboration of the obligations of transiting ships and aircraft does not, except in the limited situation noted above, give enforcement powers to states bordering a strait. The coastal state, therefore, may not suspend or hamper any critical element—submerged passage, surface navigation or overflight—of transit passage. *American Journal of International Law*, January 1980, p. 77.

[9] ICNT, Rev. 1, Article 58.

[10] *Ibid.*

[11] Statement of July 20, 1977, Press Release of the U.S. Mission to the United Nations, No. 57(77).

Mr. McCLOSKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I for one wish to rise in opposition to this legislation. I rise in opposition not so much because of the wording in the legislation as because of its timing.

I have been very active, as many of the Members know, in the law of the sea negotiations. I have visited those negotiations and involved myself in them.

We pledged in those negotiations that we would negotiate in good faith. The people who are negotiating with us expected us to keep that commitment. Now we are going to pass legislation which says that in spite of our commitment in these negotiations, which have shown tremendous progress and are near the point of completion, we are going to go ahead and pass legislation which says that, regardless of those negotiations, we are going to authorize our companies to go out and mine these minerals which we have already agreed on and which are the common heritage of mankind and are not to be appropriated by individuals or states.

I believe it is in our best interest to be responsible citizens in the world community. I believe that by doing so we are going to move toward peace in the world and we are going to move toward the type of world we want. I realize that we have the power to push our way around lots of times, but I would hope that we would recognize what is truly in the national interest.

Although I commend the Members who have worked on this legislation—I know they have worked hard to try to draft the best legislation they can—it is a terrible shame, in my opinion, that we are passing this legislation at this time rather than giving the negotiators, with all the progress they have made, at least one more session to see if they cannot resolve up their differences. Our arbitrary passing of this legislation will likely harden the attitudes of those people who are unfriendly toward us in the negotiations anyway, enhancing their strength at the expense of our friends.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I will be glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I recognize the gentleman's feelings in this matter, and I respect them. But I know the gentleman will agree that our principal negotiator in these Law of the Sea negotiations, the Honorable Elliot Richardson, has concluded that this legislation is appropriate at this time, with the amendments that were agreed to during the course of the last session of the Law of the Sea Conference, and that it will not unduly interfere with the chances for negotiating an acceptable treaty.

The SPEAKER pro tempore. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

Mr. McCLOSKEY. Mr. Speaker, I am glad to yield 1 additional minute to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I am well aware of what the gentleman from New York (Mr. BINGHAM) says. Mr. Richardson and I have agreed in many instances; disagreed in others.

I think it is generally agreed in most of the world community that had we passed this legislation when it was under consideration 2 years ago it would certainly have jeopardized the negotiations. Yet, Ambassador Richardson supported the legislation at that time.

I think the question is: Who is right, and who is wrong? My opinion is that it is wrong to pass it. I understand the EPA, because of some of the commitments to the things that have been done, believe it should move forward.

But that does not change my opinion, Mr. Speaker. I believe I have a responsibility to stand here and speak for what I believe is in our national interest. I believe to pass this legislation at this time is not in the national interest of the United States, and I can only hope and pray that it does not destroy the negotiations, and that we are still able to get a reasonable Law of the Sea Treaty through the negotiations in New York.

Mr. Speaker, I thank the gentleman from California (Mr. McCLOSKEY) for yielding me this time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Speaker, as chairman of the Mines and Mining Subcommittee, I am happy to join and commend the respective committee chairmen for the coordinated effort to produce a deep sea mining bill that advances the interests of the United States of America on the domestic scene and that I hope has some positive international impact as well.

Our deep sea mining bill will permit access to four critical mineral resources: manganese, cobalt, nickel, and copper. The manganese we need to make steel. We cannot make steel without manganese as a hardening element. The problem in the United States is that we do not have any manganese. We import approximately 100 percent of our manganese for our steel industry.

Cobalt. We are in the same foreign reliance situation with cobalt. We need cobalt to make airplanes, we need it to make tanks, and we need it to make drill bits for oil and gas exploration. Yet we have none of it. In 1979 we had no domestic source of supply.

This bill would permit initiation of exploration, with the long-range expectation of recovery of these vital mineral resources. In addition, our bill will provide a new source for our Nation's nickle.

We imported approximately 90 percent of our nickel last year.

I believe this legislative effort represents a constructive step in the right direction, but it is not a panacea.

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There are practical infirmities within the legislation that remain untested. When we recognize that the United States of America is critically dependent on manganese ore and 85 percent of the world's known resources of manganese are located in South Africa and Russia, you can begin to appreciate the potential contribution that this new source of supply could make to our Nation and its future.

We face some perilous and some troublesome days ahead. The fact that we pass an isolated piece of legislation to permit access to these resources on the ocean bottom is but a very small part of addressing the very, very large problem of our Nation's strategic vulnerability to foreign sources of strategic mineral supply.

You can imagine how cooperative Russia would be with us in the event that the South African source of manganese supply was cut off. At that point, if a Russian friend was dominating in the South African arena, Russia would then command 85 percent of the world's known resources of manganese. Without manganese we cannot make steel.

How about cobalt?

Zaire is the bastion of political and economic strength on which the United States of America relies for almost 70 percent of our cobalt. One large pit, a hole in the ground in Shabba Province, the Kolwezi mine, Zaire, is the underpinning of our Nation's cobalt source of supply. Zaire is the source of 65 percent of the free world's cobalt. Without cobalt, you do not have the jet airplane engine for the F-16, without cobalt you do not have the new M-16 tank, without cobalt you do not have the drill bits for oil and gas. We need a broader aproach to this very very big problem. We need in this Nation a national materials and minerals policy that will recognize how critically exposed we are to curtailment of supply or increased cost of supply. Our Nation has put all of our strategic mineral eggs in one basket or two baskets or three baskets in the belief that this long-distance Easter bunny is going to continue to deliver those baskets to our domestic industry.

I commend the individual chairmen who have worked so hard in negotiating this final legislative accommodation, but I urge them to consider the larger question that we face in this Nation, and that is our vulnerability to foreign sources of supply of strategic minerals and the practical imperative for finalizing the national mineral policy which President Carter initiated 3 years ago. That study, after $3 million and involvement of 14 agencies of Government now languishes on the bureaucratic beaches of indifference and incompetence. It has been washed ashore after being thrown overboard. I hope he can revive that policy patient in time. Our national security commands no less.

Mr. Speaker, in addition I believe that this legislation provides an interim legal regime for exploration and development of the minerals of the seabed. The consensus bill reflects a regulatory framework for protecting the environment, developing the resources, and encouraging the successful conclusion of a comprehensive Law of the Sea Treaty.

Mr. Speaker, on December 14, 1979, the Senate passed by a unanimous voice vote, S. 493, the Deep Seabed Mineral Resources Act. During the course of debate, 14 Senators spoke in favor of the legislation and only 1 Senator voiced an objection to immediate passage of the bill. Seventy-three Senators from five legislative committees and the Budget Committee had earlier in the year voted unanimously to report the bill. That bill bears a very strong resemblance to the legislation the House is considering today.

More important, however, than their expressions of support for the immediate passage of S. 493 in committee and on the floor was the round of criticisms they leveled against various draft articles contained in the ocean mining provisions of the Law of the Sea Treaty currently being negotiated at the Third United Nations Conference on Law of the Sea.

Intended as a bipartisan effort to exercise the constitutional mandate for senatorial advice in the treaty negotiation process, the thrust of the 14 Senators statement was that the U.S. Law of the Sea negotiators should abandon the present course of negotiation and should undertake serious renegotiation of many major provisions of the current treaty text. Without such massive and fundamental revision, several Senators threatened to withhold their consent to, and work for the defeat of, the treaty.

Almost every Senator who participated in the floor debate indicated that the present draft Law of the Sea Treaty constitutes a massive concession by the United States to various political and economic pressures that are not founded upon or in furtherance of the best interests of this Nation. Additionally, most Senators indicated in their floor statements that if the administration did not heed the Senate's advice offered during the course of the floor debate and if the negotiators did not undertake serious and fundamental revisions, the Senate would withhold its consent to ratifiction of the treaty. Many made a specific point of mentioning that whether the legislation would remain interim in nature depended upon future ratification of the treaty. Further they stated that the Senate would much prefer to protect American interests by unilaterally sanctioning mining operations through U.S. legislation rather than by consenting to the defective draft they so severelv criticized. They also expressly stated that if such an undesirable treaty were, in fact, signed by a representative of the United States, such signature would have no effect in deterring enactment of the legislation of its administrative implementation. Some Senators said they would oppose a U.S. signature on the treaty altogether absent major revision of its text.

For example:

Senator Long concluded his statement by noting that—

> While I am in favor of an equitable Law of the Sea Treaty, the current articles pertaining to deep seabed mining are defective and so one-sided that if called upon to give my advice and consent to the current treaty draft, I would withhold it.

Senator McClure stated—

> I hope our actions and our words here today will not go unheeded by either the State Department or the other negotiators at the United Nations Conference. The present treaty is, I repeat, fundamentally unacceptable. If a treaty that is more balanced cannot be negotiated, we will allow our citizens to carry on in perpetuity under the scheme established by this legislation. Its interim nature depends upon the renegotiation of just such a balanced document.

Senator Muskie, now Secretary of State Muskie, noted that—

> The executive branch has an affirmative duty to listen to such advice of the Senate or else the Senate will be forced to choose between adopting treaties it does not like or embarrassing our international position by amending or rejecting what has already been negotiated.

Senator Hatfield stated that—

> [T]he provisions of the 1977 ICNT [Informal Composite Negotiating Text] have been improved little by the publication of the ICNT Revision 1 [the current negotiating text] this spring. The negotiations of this summer in New York have not moved the negotiators substantially closer to a successful treaty . . . it is now abundantly clear that we must also move to establish interim rules;

Senator Weicker noted that—

> [P]rogress of negotiations . . . have been lackluster and near-term progress, without substantial concessions on the part of the United States is unlikely . . . We should, therefore, pass these protective, interim measures and encourage the House to move expeditiously as well.

Senator Matsunaga argued that—

> Passage of the legislation "should help to stimulate realistic negotiations . . . which will protect the interests of our people".

Senator Stevens pledged:

> I am personally committed to insuring that the United States does not sign any Law of the Sea Treaty until such treaty is fully acceptable to the Senate.

Senator Javits stated that the negotiations are—

> Not likely to arrive at any agreement on the deep seabed issue that is acceptable to the United States . . . unless it is clear to the developing world that . . . if some of their demands remain unreasonable, we will have proceeded to mine during the next decade without an agreement.

Senator Pell observed that—

> [I]f there is to be any deep seabed mining to regulate at all, there must be an interim regime that provides a bridging legal basis for and diplomatic protection of deep seabed mining.

Senator Church warned that—

> Any treaty which: Fails to provide assured access by U.S. citizens and security of tenure to U.S. mining operators; Fails to protect the national interest in sound institutional arrangements; forecloses a substantial contribution to national mineral needs by

> imposing onerous economic conditions and artificial limitations on seabed production; . . . would raise serious questions concerning its acceptance by the Senate.

Senator JACKSON declared that—

> While increasing global economic interdependence would lead us to redouble our [negotiating] efforts, we cannot allow ourselves to be pushed into positions on deep seabed mining so inimical to our national interests as those we find ourselves trapped in at the present negotiations.

Senator STONE concluded by stating:

> [G]iven the recent events in Iran and elsewhere which exemplifies the tenuous balance between issues of mineral access and national security, it is incumbent upon the Senate to insure that the situation we face in oil does not become the situation we face in these strategic metals. If difficulties with the developing nations of the world which export minerals to us is to remain the trend, this Nation must have the capability to provide for itself. I firmly believe, Mr. President, that this legislation is one method of insuring that capability. If the State Department is going to send the Law of the Sea Treaty to this body and ask this body to agree to its ratification and to agree that the treaty will supersede this legislation, it had better start undertaking some serious reconsideration. Mr. President, I am hopeful that the State Department will get the message from this body that it had better go back to the drawing board and start renegotiating a good part of the treaty before sending it to the Senate and hoping to get it ratified.

In addition to the above quoted points, the following detailed views concerning the treaty's deficiencies were expressed during the course of the Senate debate; points which need to be underscored here on the House floor today;

First. Provisions that would jeopardize the security of tenure for U.S. citizens that have either engaged in mining under domestic legislation prior to the ratification and entry into force of a Law of the Sea Convention or who are engaged in operations pursuant to the treaty must be rectified. Specifically, the Senators were displeased with those articles that require applicants for work plans to agree to accept as enforceable all rules and regulations adopted by the authority—without regard to the timing of such adoptions. Many considered it a shocking disappointment that the draft text contains no mention of grandfather protection for miners who are U.S. citizens or private citizens of any other country who undertake operations pursuant to validly enacted domestic legislation. Most of the Senators who addressed the issue were of the opinion that lack of adequate grandfather protection in the text of the treaty itself would seriously jeopardize the chances for Senate approval of a treaty subsequently presented to it for ratification.

I would like to underscore this point. The grandfather protection language in the bill before us today is identical to the language passed by the Senate. Therefore, it must mean what the Senate said it means. I know that when my colleagues cast their vote for this legislation that is what their understanding of title II will be.

Second. Draft treaty provisions that would impose production controls over the extraction of the vital minerals found on the ocean floor are anticonsumer in nature, inflationary, artificially maintain the market shares of mineral exporting nations and are inimical to the national defense and security interests of the United States. Such provisions are likely to result in the creation of an OPEC-type metals cartel.

When we see what OPEC has done to us on oil prices, we ought to have learned a lesson. To repeat the mistake for nickel, copper, cobalt, and manganese would be inexcusable.

Third. The ocean policymaking functions and powers delegated to the political arms of the "Authority" created by the treaty; (that is, the Assembly, Council and Tribunal) are too discretionary to adequately assure protection of United States or other developed countries' interests. Specifically, our colleagues in the other body found objectionable and fundamentally unacceptable, provisions that grant the Assembly supreme policymaking authority for ocean mining and other U.S. nautical objectives particularly on the basis of the one-nation, one-vote system. That the Council may not override or check the policy actions of the Assembly was also cause for concern. They also criticized provisions of the treaty for not guaranteeing the United States a seat on the Council, and provisions that grant discretion to the Council and Technical Commission to block the approval of a plan of work or contract; (that is, be granted a legal right to conduct mining operations) even though the applicant might be fully qualified.

How the U.S. delegation can represent such provisions as negotiating progress truly confounds me.

Fourth. Other draft Law of the Sea Treaty provisions which require U.S. companies to negotiate the transfer of their own technology to Third World countries and a third party's technology to the Authority and Enterprise are clearly unacceptable. Those provisions throttle arms-length negotiations between the mining companies and the Authority.

Fifth. The creation of a transnational government owned and operated government mining company called the Enterprise was highly criticized. The exemptions and other favorable treatment afforded the Enterprise, result in an access system that is not in reality a dual system and will in the long run likely lead to a system that forces private parties to enter into joint ventures with the Enterprise if they want to participate in mining operations at all. Such a system is incompatible with the language of this legislation and adverse to the best interests of the United States.

Not only does the U.S. delegation support the concept of a government-owned mining company, but it insures that it will have a virtual monopoly and in addition thinks the Congress should fund it with U.S. taxpayers money.

Sixth. The so-called French antimonopoly clause of the draft treaty that would result in limitations being placed on the number of U.S. citizens that could engage in the recovery of ocean mineral resources was also labeled "fundamentally unacceptable." Such a limitation would force U.S. corporations to operate in conjunction with foreign corporations and consequently seek sponsorship for a contract; that is, right to conduct ocean mining operations, from other countries which are parties to the Convention. This in turn leads to the exportation of American jobs and technological expertise.

Seventh. The financial obligations imposed by the draft treaty on private mining contractors are arbitrary and too high in relation to the investment risk already faced by such private parties.

Mr. Speaker, I have barely begun to scratch the surface of what is wrong with the treaty. I am confident that my colleagues have read the RECORD of the Senate debate of December 14.

We all know that the treaty in anything like its present form is totally unacceptable to the Congress.

In the legislation before us today, there are several provisions I would like to address. First, although the effective date for full scale commercial recovery has been postponed until 1988, the amended definition of "commercial recovery" contained in section 4(1)(A) permits the domestic seabed mining industry in the meantime to take the critical step to test our large-scale activity at sea of the mining processes, to test demonstration plants, and to sell materials produced during such large-scale operations for the purpose of testing products in the marketplace and to help offset the extremely high costs of such operations. It is clear that so long as the miners do not intend a net profit, full scale test mining is fully authorized under the act without any need for a commercial recovery permit.

Second, in addition to the grandfather provision of title II, the legislation contains a second grandfather proposal contained in section 101(b). This proposal grants to all existing consortia who have engaged in exploration activities pursuant to their high seas freedoms, the right to continue such exploration activities without an exploration license so long as they apply for such within a reasonable period of time after the regulations pertaining to such licenses are finally promulgated and until a final judicial determination is made affirming or denying the issuance of such exploration license. Recognizing the disruption that would be caused if the exploration progress of existing consortia were forced to shut down while the administration promulgates the necessary regulations to implement this legislation, the committees have granted a clear right for such consortia to continue their existing programs without an immediate requirement of applying for and being granted an exploration license.

Third, section 204 of the legislation is intended solely as a disclaimer of obligation on the part of this Government to compensate ocean miners for the impairment of investments caused by the subsequent entering into force of a Law of the Sea Treaty. However, this does not in any way lessen the mandate contained in sections 201 and 202 which direct our negotiators to bring home a treaty that provides assured and nondiscriminatory access to ocean minerals for U.S. citizens. It is the expressed intent of this legislation that neither the Law of the Sea Treaty nor the rules and regulations promulgated by the Authority shall impair the ability of ventures undertaken in accordance with this legislation to mine the minerals of the deep seabed.

In summary, a treaty will not meet the policy goals and mandates of Congress if it mandates the transfer of highly specialized technology and allows the cancellation of continued rights due to a disagreement over the reasonableness of the terms of such transfer; imposes strict controls over the quantity of minerals that can be mined from any given minesite; allows more favorable treatment to the review of Enterprise plans of work—contracts—than private company plans of work—contracts; could result in the disruption of the entire negotiated international ocean mining require after some 20–25 years; grants to a one-nation, one-vote Assembly "supreme" powers in the governance and oversight of the ocean mining regime; and limits outright the number of U.S. citizens that will be able to conduct mining operations.

I will reiterate that sections 201 and 202 of H.R. 2759 express the congressional mandate that the negotiations on Law of the Sea produce a treaty that provides assured and nondiscriminatory access to ocean minerals for U.S. seabed miners; that such treaty provide continued security for pretreaty operations by recognizing the rights of U.S. citizens to operate under this legislation; and that such treaty allow U.S. citizens to continue those operations without imposing significant new economic binders so that the continuation of such operations on a viable economic basis is feasible.

Mr. Speaker, I urge my colleagues to support passage of H.R. 2759.

Mr. MURPHY of New York. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, the passage of H.R. 2759, the Deep Seabed Hard Mineral Resources Act, must be recognized as an action of historic proportions. By our decision to approve this measure, we advance decisively the interest of the United States in the development of secure sources of supply of critical raw materials. More than any other action of this Congress and administration, the enactment of H.R. 2759 signals the determination of this Nation to free itself from a resource dependence that threatens our economic viability, political independence and defense security. The Deep Seabed Hard Mineral Resources Act establishes a legal framework essential to the application of advanced American technology to the recovery of the vital minerals—cobalt, manganese and nickel—from ocean areas outside the control and jurisdiction of any nation.

Without cobalt, for which the United States is currently reliant on unstable foreign sources of supply, such as Zaire, the high technology equipment essential to our commerce and defense cannot be produced. For example, America's frontline fighters, the F–14, F–15, and F–16, are powered by engines that cannot be produced or maintained without cobalt. Manganese is essential to the production of steel. The United States is overwhelmingly dependent on imports of manganese from Gabon, South Africa, and Brazil. Nickel is required for the production of stainless steel and high temperature alloys, for the refinement of petroleum and for the manufacture of chemicals and electrical equipment. We must obtain much of our nickel from countries, such as Canada, which have demonstrated a willingness to regulate the flow of resources for nationalistic, economic purposes. The Soviet bloc, on the other hand, is rich in cobalt, manganese and nickel, as well as in most other strategic materials.

U.S. mining operations under the Deep Seabed Hard Minerals Resources Act can completely eliminate our dependence on foreign cobalt, and will substantially reduce our reliance on foreign manganese and nickel. Our critical materials position vis-a-vis the Soviet bloc will be radically improved.

IMPLICATIONS FOR THE U.N. LAW OF THE SEA CONFERENCE

There has been a great deal of discussion concerning the ramifications of this legislation for the Third United Nations Conference on the Law of the Sea. As a long-time congressional advisor to the U.S. delegation to the conference, I think I have an excellent grasp of what has transpired in the many years of negotiations and what remains to be accomplished before a treaty that is compatible with our vital national interests can be concluded. For reasons that I intend to describe in some detail, the conference has a very long way to go before our national requirements are satisfied. The greatest threat to the successful outcome of the conference is Third World and Soviet bloc intransigence on certain deep seabed issues. Developing countries insist on economically and politically unrealistic and unacceptable control over seabed resources. The Soviet Union seeks a disproportionately influential role in decisions concerning access to those critical materials.

Although itended to be interim in nature, the Deep Seabed Hard Mineral Resources Act nonetheless could become the basis for a permanent regime, should the Law of the Sea Conference fail to produce an acceptable treaty. Enactment of this national legislation, therefore, enters realism into the international negotiating equation and enhances the possibilities of the conference achieving a satisfactory result.

THE LAWFULNESS OF DEEP SEABED MINING

Developing countries and the Soviet Bloc argue that this legislation and mining undertaken pursuant to it are incompatible with international law. But international law is not simply what the Third World and Eastern European nations say it is. There is, fortunately, a rational process by which international law is made, such that the rights of sovereign States cannot be abridged without consent.

The reality of the matter is that this legislation and the mining it would authorize are consistent with international law. There is no treaty to which the United States is a party, there is no principle of law, and there is no rule of customary law, that obligates the United States to refrain from proceeding with deep ocean mining under domestic legislation. The fact is that the seabed beyond the limits of national jurisdiction is an area of the high seas, that deep seabed minerals belong to no one and that deep seabed mining is permissible in accordance with a general principle of international law, the freedom of the high seas, and with a widely accepted treaty in force, the 1958 Geneva Convention on the High Seas, which by its own terms, embodies that principle.

The international deep seabed is a juridical unity with the superjacent high seas. The minerals there are res nullius, freely available for appropriation by any one. The freedom of the high seas, which at its inception in the 17th century, encompassed simply fishing and navigation, has proved to be an elastic principle. No specific authorization was required in the 19th century for the laying and maintenance of submarine cables on the bed of the high seas, or for oceanographic research, such as that which was carried out by the H.M.S. *Challenger* and resulted in the discovery and collection of the very deep seabed minerals with which we are concerned today. Later, there was no question of the legality of high seas submarine transit and overflight. High seas missile tests were not regarded to be illegal.

Even high seas atomic weapons tests, which were at one point challenged as incompatible with international law, were confirmed to be within the ambit of the freedom of the high seas and had to be terminated by the express agreement of States through treaty.

From the historical perspective, the experience with those tests is instructive. It was the Soviet Union that led the effort to prevent them, in order to thwart the development of our nuclear deterrent. For its own part, the Soviet Union was easily able to test these weapons on its extensive land territory. Today, the Soviets argue that interim ocean mining is unlawful.

The object is to prevent the United States from gaining a secure source of strategic minerals. The Soviets have ample land supplies. In both experiences, the developing countries shared the views of the Soviet bloc (although the Soviets themselves were faster determining where their interests lay in the case of weapons testing, than in the case of seabed mining).

The evolutionary nature of the principle of the freedom of the high seas is explicitly recognized by article 2 of the High Seas Convention and the accompanying, extensive legislative history. The freedoms set out in article 2 include, inter alia, navigation, fishing, laying and maintenance of submarine cables and pipelines, and overflight. Official records show that both the International Law Commission—which produced the draft provisions and the commentaries upon which the convention was based—and the states at the 1958 Geneva Conference which concluded the convention recognized the expansive nature of the freedom of the seas. Seabed exploration and exploitation beyond the Continental Shelf were recognized by both the Commission and Conference participants as freedoms of the high seas within the meaning of article 2. Extensive scholarly writings confirm this view.

In 1969, the U.N. General Assembly passed by a narrow margin a resolution declaring a moratorium on deep seabed mining. The United States and all other vitally affected maritime states opposed the resolution and correctly pointed out that, because the U.N. Charter did not convey international legislative authority upon the General Assembly, the purported moratorium could have no legal effect.

In 1970, the General Assembly passed with only a few abstentions and without objection the Declaration of Principles regarding the deep seabed. As H. Shirley Amerasinghe, the drafter of the declaration and currently the President of the Law of the Sea Conference, rightly stated at the time, the resolution did not prejudice the legal position of any state and, like all General Assembly resolutions unrelated to U.N. housekeeping matters, the declaration was not legally binding.

The United States and the major western developed states agreed and have consistently maintained that view to this day. Therefore, contrary to arguments offered by Third World and Soviet spokesmen, the declaration does not abridge the rights of states to carry out deep seabed mining as an exercise of high seas freedoms. Moreover, nothing that has occurred subsequent to the declaration has altered the permissibility of deep ocean exploration and exploitation. Arguments by eminent publicists who support this position are compelling.

The juridical foundation for H.R. 2759 is carefully detailed in the provisions of the measure. Section 2(a)(12) of H.R. 2759 states that:

> Exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law.

Section 3(a) provides that, by the enactment of the act, the United States exercises its jurisdiction over its citizens and vessels, and over foreign persons and vessels otherwise subject to its juridiction, in the exercise of the high seas freedoms to engage in deep seabed mineral exploration and exploitation, but does not assert sovereignty, sovereign rights, exclusive rights, or exclusive jurisdiction over, or ownership of, any areas of the deep seabed or resources in situ.

These provisions are entirely consistent with applicable international law, which guarantees the freedoms to explore and exploit deep seabed minerals and proscribes the appropriations of the deep seabed and resources in place there. Any claim or exercise of sovereignty, sovereign rights, exclusive jurisdiction or exclusive rights over the deep seabed or resources in situ would be incompatible with the character of the area as high seas and of the resources as res nullius. Relevant here is section 4(4) of H.R. 2759 setting out the definition of the deep seabed area.

Of course, by agreement inter se, states may restrict the exercise by their citizens of the freedom to mine the deep seabed. This principle is recognized by section 118 and related provisions (including, particularly, sections 101(a)(1)(B) and 102(b)(2)) pertaining to reciprocal recognition of licenses and permits among consenting states. Exclusivity conveyed by U.S. licenses and permits is effective only as regards U.S. citizens and the citizens of states which enter into reciprocal relations with the United States in accordance with the provisions of this act and their own domestic legislation or in accordance with international agreements.

H.R. 2759 recognizes that international legal rights are attended by international legal duties. Sections 2(a)(12) and 3(a), mentioned above, recognize the duty of "reasonable regard" to other lawful high seas uses, which is inherent in the principle of the freedom of the high seas. Section 101(c) provides that U.S. citizens shall exercise their rights on the high seas with reasonable regard to the interests of other states in their exercise of the freedoms of the high seas.

Section 105(a) provides that, before a license or permit may be issued or transferred, the administrator must find that the proposed exploration or commercial recovery will not unreasonably interfere with the lawful exercise by foreign states of the freedoms of the high seas.

Section 106(a) provides for the denial of applications that fail to meet this test. Section 105(b) establishes that license and permit terms, conditions and restrictions must assure compliance with the act and section 111 specifically provides that such restrictions shall insure that the activities of licensees and permittees do not unreasonably interfere with the exercise of the freedoms of the high seas by other states.

Licenses and permits may be suspended, and particular, authorized activities may be modified, in order to avoid a conflict with U.S. treaty obligations which include, of course, the "reasonable regard" duty set out in article 2 of the 1958 Geneva High Seas Convention.

According to section 118(a)(4), respect by a state for that duty is a precondition for reciprocating state status. Reciprocal relations may be revoked, in accordance with section 108(d), if that duty is breached.

Thus, it is clear that the United States is not only asserting its legal right to authorize deep seabed mining, but also is respecting the corresponding legal duty to assure that the exercise by other states of their high seas freedoms will not suffer unreasonable interference through operation of our law. It is particularly notable in that regard that this legislation is replete with stringent protections for the marine environment and with assurances that resources will be conserved.

By virtue of the fact that the freedom of the high seas is a general principle of international law and is, therefore, universally binding, all states are legally obligated to respect the exercise of that freedom by licensees and permittees under the authority of this act.

Any unreasonable interference with such activities and any other actions calculated to materially discourage, or exact a penalty against, those who explore or exploit the deep seabed under authority of this law would render the offending state internationally responsible.

The diplomatic protection of the United States, in accordance with international law, extends to all persons who engage in deep seabed exploration or commercial recovery under authority of this act.

This is what is meant by section 102 (b)(3) and (4). Of course, the rights of the United States with respect to the protection of its citizens and vessels include those recognized by the U.N. charter and general principles of international law.

By the enactment of the Deep Seabed Hard Mineral Resources Act, the United States assumes no legal obligations with regard to the common heritage principle by which the Third World and Soviet bloc seek a proscription of unilateral deep seabed mining. Indeed, section 2(a)(7) of H.R. 2759 makes it abundantly clear that the common heritage will be legally defined by a Law of the Sea Treaty yet to be agreed upon. Section 3(b) confirms this interpretation.

The United States will be legally bound to a definition of the common heritage only upon the entry into force for this Nation of a Law of the Sea Treaty that establishes such a definition. International revenue sharing provided by title IV of the bill is intended to represent a political gesture of good will toward other nations. This is made evident by section 403(d), which provides for the distribution of such funds, first only in the event there is a Law of the Sea Treaty, requiring the sharing of revenues, in force for the United States within 10 years of the enactment of this act, and second, only in accordanace with appropriation acts.

Accordingly, sections 2 (a)(15) and (b)(2) make it clear that an international obligation to share revenues from deep seabed mining will exist only upon the entry into force of the treaty for the United States, and not before. There is no legal recognition, implicit, conditional, or otherwise, of the common heritage by the establishment of the revenue sharing fund under title IV or by any other provisions of this act.

There is no international juridical significance attributable to section 102(c) (1)(D), which permits "commercial recovery" only after 1987. Under section 4(1)(A), "commercial recovery" is a term defined by a financial criterion, that is recovery of resources at a substantial rate for the primary purpose of marketing or commercially using such resources to earn a net profit, whether or not such profit is actually earned.

Substantial quantities of deep seabed resources may be commercially recovered even before January 1, 1988, under this provision. There is no question here of restraining, for reasons relating to international law, the appropriation of these resources.

Fundamentally at work in section 102(c)(1)(D) is the practical recognition of the fact that "commercial recovery," as defined by section 4(1)(A), cannot take place, for technological and financial reasons, prior to 1988. Mining companies have made clear their intention to recover, for commercial purposes, substantial quantities of deep seabed minerals prior to 1988 under this act.

THE EMERGING LAW OF THE SEA TREATY

I am deeply troubled by the Law of the Sea Treaty that appears now to be emerging from negotiations in which the United States has been engaged since 1968, in U.N. committees and at the international conference on that subject. Because this legislation is intended to be interim, I believe that it is essential that this body consider what the Law of the Sea negotiators are producing and may conclude in a few short months.

The United States has a number of important interests that will be affected by the Law of the Sea Treaty. In light of the fact that there have been negotiating trade-offs involving deep seabeds and other areas of this comprehensive treaty, it is important to consider what would be the full range of impacts of ratification. It is my opinion that the legal framework to be established by H.R. 2759 ought to be regarded as a very positive step forward for U.S. interests and that it would be unwise to agree to a global regime unless there were compelling reasons to do so. However, I do continue to hope for a good treaty.

In approaching the question of what issues are likely to be of importance to the other body in its consideration of the future Law of the Sea Treaty, it is, of course, necessary to identify the major interests of the United States with respect to the Law of the Sea and, in light of them, to assess the relative merits of the treaty and no-treaty alternatives. One major interest is navigation, both commercial and military. There are, as well, associated interests in overflight and communication.

A second major interest is resource development, both by the United States for its own direct benefit and by all nations for the benefit of the international economy.

Third, there is environmental protection with respect to U.S. coastal interests and the global marine environment.

Fourth, is marine scientific research as carried out by the United States for its own purposes and as conducted by other countries and by international organizations for the benefit of mankind.

Fifth, is global order, that is, the process by which international law is made, the rules and institutions that effect international cooperation, and the rules and procedures for the settlement of international disputes when cooperation breaks down.

Sixth, is the interest in precedents set by the law of the sea with respect to the international commons, namely, outer space, Antarctica (according to nonclaimants such as the United States) and the airwaves and with respect to international economic arrangements, such as commodities finance and monetary agreements.

Finally, there are the interests of the United States in our international political relations, North-South, East-West, regional and bilateral.

NAVIGATION

Navigation and related interests are affected by the following regimes: Inland waters and ports; territorial sea; contiguous zone; exclusive economic zone; straits used for international navigation; archipelagic sealanes; Continental shelf; and high seas. The treaty and no-treaty alternatives are essentially the some with respect to inland waters and ports.

As regards the territorial sea, the Law of the Sea Treaty provides for a maximum of 12-miles' breadth. In the U.S. view, this would constitute a considerable extension from the 3-mile rule and thus would substantially increase the area subject the regime of innocent passage, which is more restrictive than the regime of freedom of navigation applicable to the high seas.

Nevertheless, given the trends in state practice and the expectations raised by the Law of the Sea negotiating text on this point, the 12-mile rule will likely prevail, even if the treaty does not enter into force.

A disturbing element of the treaty regime with respect to the territorial sea is the existence of weapons testing as a basis for temporary suspension of innocent passage. Customary and conventional law does not now, and ought not in future, provide such a basis upon which traditional international rights of passage could be thwarted by coastal states.

The contiguous zone under existing law extends no greater than 12 miles from the baselines from which the territorial sea is measured. Under the Law of the Sea Treaty, the maximum distance would be extended to 24 miles. Again, however, it is difficult to believe that, if the treaty does not enter into force, the rule will not become as it is provided in the treaty.

Navigation interests with respect to the exclusive economic zone are treated very unsatisfactorily in the Law of the Sea Conference negotiating text. It would be excessively generous to represent that the relevant articles are ambiguous concerning the allocation of rights and duties as between the coastal states, on the one hand, and the international community, on the other.

It is more correct to state that the text tilts in favor of the coastal states and thus presents potential difficulties of some magnitude for international navigation within 200 miles. The no-treaty alternative offers maritime nations the option of establishing in their own zones, by domestic legislation and international agreement, a regime more favorable to international navigation.

Through consolidation of state practice by those most vitally affected states, a rule of customary law would evolve.

There is an additional problem with the exclusive economic zone regime presented by the Law of the Sea text. In ice-covered areas of the zone, the coastal state has special unilateral environmental authority.

As the pertinent provision is written, arguably neither the safeguard provisions for international navigation, nor the sovereign immunity provision for military and other noncommercial government vessels would apply in such areas.

Plainly, this constitutes a serious difficulty that could be avoided in the no-treaty situation. For example, our nuclear submarines must be able to transit under the ice without hindrance in peacetime, so that they may be prepared to defend the Nation in time of war.

The Law of the Sea Treaty would provide that, in straits used for international navigation, the regime of "transit passage" would apply. This is roughly equivalent to freedom of navigation, except insofar as a state bordering a strait would have certain powers with respect to the control of marine pollution. There is considerable scholarly debate concerning whether the straits regime indeed provides adequate protection for international navigation interests. In any case, it is clear that, in the absence of a treaty, global commercial and security interests would dictate that straits would remain open under a free transit rule. What is said of straits may also be said of archipelagic sealanes.

It is worth noting that navigation interests over the Continental Shelf beyond 200 miles are better protected in the text than under existing conventional and customary international law. One may well inquire, however, how significant this point is, in light of the fact that there are relatively few areas in the world in which the Continental Shelf extends beyond that distance.

It is possible that, with the establishment by the treaty of the International Seabed Authority, navigation on the high seas over the deep seabed might encounter new and serious challenges. The no-treaty alternative does not present that potential difficulty.

As regards existing coastal states claims of jurisdiction that exceed what is permissible in the treaty, it is unreasonable to expect a substantial difference of outcome in the treaty and no-treaty alternatives. History shows that states rarely roll back claims in order to join treaties. Moreover, treaties that limit the powers of states are frequently eroded. On the latter point, the experience with the 1958 Law of the Sea Conventions is instructive. Therefore, the new treaty text will probably be followed little more if it enters into force, than if it does not, so far as navigation is concerned. In general, however, the treaty is a model.

Thus, on balance it can be seen that

the favorable navigation provisions of the treaty do not offer terribly substantial advantages over existing law and over that which is likely to evolve in the law absent the treaty. Indeed, in some cases, the regime established by the treaty is less favorable than that which would apply under the no-treaty alternative. For reasons which I shall explain, the environmental protection regime under the treaty would not alter this calculus.

ENVIRONMENTAL PROTECTION

The regime for environmental protection represents a compromise between the interests of coastal states and flag states. This balance is sought by maintaining most standard-setting authority in international organizations and by circumscribing the enforcement authority of coastal states.

Thus, the text both would have the effect of tying the hands of the United States in its efforts to protect its own coastal areas, but on the other hand, would provide some protection for international navigation.

However, as noted in the discussion of the straits, the national and global interest in navigation is such that interference in key areas would not be tolerated in the no-treaty alternative. On the whole, given the other important interests affected by the Law of the Sea, it is unlikely that the environmental protection regime, particularly in light of its mixed costs and benefits, would be decisive of whether to consent to the treaty.

MARINE SCIENTIFIC RESEARCH

Marine scientific research in the text is not very acceptable. Essentially discretionary consent is provided to coastal states within the scientifically most important 200-mile zone, with a more liberal regime beyond that area. In addition, the regime would impose on researchers heavy obligations in favor of coastal states. In the international seabed, as well, the obligations on reseachers could operate to deter scientific investigation.

Although the no-treaty alternative offers only the slight prospect that the conditions of marine and scientific research could be improved through bilateral and perhaps regional arrangements, the question facing the other body might well be whether the United States would care to become a party to the difficult system established by the treaty.

GLOBAL ORDER

The interest of the United States in global order is clearly important. First, the other body would no doubt consider whether it would be in the interest of the United States to accept the treaty as a product of global consensus decisionmaking. The question would be whether U.S. interests could be better served by reliance upon more traditional methods of lawmaking, that is, through agreements among the most vitally affected states, those being the states making greatest use of the oceans, and through the evolution of customary international law by the consolidation of unilateral acts and multilateral and bilateral arrangements.

Further, the other body would ask whether the rules and institutions established by the agreement not only contribute to global order, but also to the kind of order that would serve the interests of the United States. The International Seabed Authority, which relies heavily on one-nation-one-vote decisionmaking on the model of the U.N. General Assembly, and provides the East bloc with influence far in excess of that which could be expected to be enjoyed by the United States, turns the reality of the international economic, political and military power structure on its head. However, other institutions, such as IMCO, are, and ought to be, preserved by the treaty.

Specific rules established by the treaty text are fraught with problems and cannot be said in many very important cases to contribute to global order. For example, as noted, the allocation of rights and duties between the coastal states and the international community presents very grave problems.

The treaty text provides very limited opportunities for the fair settlement of disputes through methods which are both binding and compulsory.

For example, within 200 miles, fisheries disputes, which can be most volatile, are subject only to compulsory conciliation; that is, the results of settlement are nonbinding.

The same applies with respect to marine scientific research, another sensitive area.

Moreover, military activities can be exempted from compulsory and binding settlement and these too, therefore, are not subject to reliable methods of peaceful settlement. Moreover, all actions of the coastal state that are discretionary in nature are not covered by disputes settlement. The same is true of discretionary actions of the authority, as I noted earlier.

Further, the Law of the Sea tribunal would very likely be controlled by Third World jurists whose legal orientation would be unsympathetic to concepts upon which private enterprise and the Western market economies rely.

POLITICAL INTERESTS

Political interests of the United States affected by the Law of the Sea Treaty would also be important considerations. The treaty does represent an important effort at North-South cooperation. On the other hand, as I intend to demonstrate, the result is so titled toward the "New International Economic Order," as it is envisaged by the South, that one cannot say that this is the kind of bargain that the United States would like to see extended to other areas.

East-West political relations are also reflected in the document. This is most clearly the case in the Executive Council of the Authority, wherein the Soviet bloc is expressly guaranteed three seats, with no like assurance for the United States and its allies. This is hardly a useful precedent, from the U.S. standpoint.

So far as other international relations are concerned, it is possible that the Law of the Sea Treaty could both contribute to, and derogate from, our ability to maintain friendly relations on a bilateral basis. The latter is the case insofar as major bilateral issues, such as boundaries, would not be resolved by the treaty and provisions with respect to the exclusive economic zone would provide an additional basis for conflict in the future.

Another political interest relates to our policy with respect to national liberation movements. This interest is affected by a provision of the text which would result in the distribution of revenues from the deep seabed mining to such groups as the Palestine Liberation Organization.

It is difficult to see that the other body would view the Law of the Sea Treaty as promoting U.S. political interests. Indeed, that body could quite easily conclude the contrary.

RESOURCE DEVELOPMENT

Resource development falls basically under the regimes of the territorial sea, 200-mile exclusive economic zone, Continental Shelf, and international deep seabed. Under the treaty, the area in which the coastal state would exercise sovereignty over natural resources would be 12 miles. The 200-mile exclusive economic zone would provide for coastal state sovereign rights over natural resources. Both of these regimes can be seen as likely to be fundamentally reflected in future customary international law, if the treaty does not enter into force.

As noted above, however, the balance of rights and duties between the coastal states and the international community could be different in the treaty and no-treaty scenarios.

The Law of the Sea text provides for a cutoff of the continental margin subject to coastal state jurisdiction. The margin outside of coastal state jurisdiction would be under the control of the Authority and would be subject to a moratorium on hydrocarbon development until appropriate rules and regulations were established.

Further, the text requires significant revenue sharing from mineral development beyond 200 miles, except that less developed country net importers of the minerals involved are not subject to that obligation.

Under existing law, and under any regime that might be contemplated in the absence of the Law of the Sea Treaty it is clear that there will be neither a cutoff, nor a moratorium, nor a revenue-sharing system. Development beyond 200 miles would thus not be thwarted by a moratorium nor be discouraged by additional costs. For the United States, which has substantial areas of shelf beyond 200 miles and a severe dependence on foreign oil, the treaty regime must be a serious concern.

With respect to the deep seabed, in the absence of the Law of the Sea Treaty, the freedom of the high seas would prevail. Admittedly, the exercise of that freedom would be subject to some politically motivated challenge by some countries.

However, if one looks at the treaty alternative, one finds that there is no assurance whatsoever of access to deep ocean minerals and there is no provision for grandfathering of operations which have been carried out in the interim period prior to entry into force.

The current negotiating text reflects a seabed mining regime that is completely contrary to the national interest. Key elements of the envisaged system for exploration and exploitation of the international deep seabed are as follows:

An international seabed authority, which would exclusively authorize and strictly control deep seabed mining;

A supreme assembly, composed of all states parties to the treaty, that would decide, on the basis of one-nation one-vote, the general policies of the authority and approve all rules and regulations;

An executive council, that would be composed of 36 nations—at least three of which would have to be Soviet bloc states, with no similar guarantee to the United States and its allies, and the majority of which would be developing countries—responsible for, among other things, determining by a two-thirds vote which applications, if any, to mine the seabed would be approved and which disapproved.

Exclusions of judicial review of discretionary actions of the Authority, which are pursuant to the most crucial powers of the organization, and domination of the review process by developing countries;

A restrictive 25-year production limit, which would be replaced by international commodity arrangements wherein the authority would represent all seabed production, not just that of the authority's mining Enterprise, and in which all affected parties might not be represented;

Restrictive "anti-monopoly" and "anti-density" provisions calculated to limit the operations of any state or group of states by area and time;

Mandatory transfer of proprietary mining technology and know-how by private companies, engaged directly or indirectly in seabed exploration or exploitation, to the Enterprise within the authority and to developing countries that wish to engage in ocean mining (and while these transfers are supposed to be under fair and reasonable commercial terms and conditions, that is not practical to expect in this type of forced sale situation with limited recourse to fair and impartial dispute settlement);

A direct obligation on states parties whose citizens are engaged in ocean mining or that have access to the technology, to insure that the Enterprise receives all the technology needed for mining, and or processing, as well;

A requirement for heavy contributions of revenues from mining operators to the authority for distribution not only to developing countries, but also, as noted above, to national liberation movements, such as the Palestine Liberation Organization;

A requirement for two equally valuable, fully prospected mine sites to be presented to the authority by an applicant, with one site to be selected by the authority for development by the enterprise or developing countries in association with the authority;

Startup funding for the Enterprise, with the U.S. share being $125 million in long-term, low interest loans and $125 million in loan guarantees;

Privileges for the enterprise, including not only transferred technology, preferential financial backing, and a guarantee of one-half of all seabed mine sites plus the right to compete on a favored basis for the rest, but also a guaranteed portion of the allowable seabed production, exemption from the antimonopoly and antidensity provisions, probable tax immunity, and probable reimbursement of revenue contributions to the authority; and

No interim investment protection.

Worst of all, in a quarter of a century, just when the United States will most need the minerals, the treaty could be completely revised on a vote of two-thirds of the states parties and the resulting agreement would be binding on all states parties. There would be no reservations allowed to the treaty, so they would offer no escape. Denunciation would not be a viable option, since 20 years of the common heritage in treaty law might consolidate the principle in customary law and a return to unilateral mining by a state party would be legally difficult to defend.

Only nonparties to the treaty could be assured of the legal ability to mine the deep seabed unilaterally.

Thus, whatever small access might, on an optimistic appraisal of the current text, be available to private miners, would be easily lost upon revision of the treaty, so far as states parties would be concerned.

Plainly, the conference text presently fails to satisfy title II of H.R. 2759, which provides in section 201(1) that the treaty must have:

> Assured and non-discriminatory access, under reasonable terms and conditions, to hard mineral resources of the deep seabed for United States citizens; and . . . security of tenure by recognizing the rights of United States citizens who have undertaken exploration or commercial recovery under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis.

According to section 201(2) of the bill, the "totality of provisions" of the treaty will determine whether these conditions have been met.

It is completely clear that there is no assured access for U.S. citizens under the highly political and discretionary system envisaged in the conference text. Discrimination is inherent in the regime.

The political composition and voting formula of the council and the relationship of that organ to the "Supreme Assembly," as well as the production restrictions that trigger, or are elements of, the discretionary selection of applicants for mining authorizations from the authority, are but two of the severe problems that make it impossible for access to be assured and for mining rights to be granted on a nondiscriminatory basis.

Provisions favoring developing countries and the Soviet bloc, as well as the economic system that they seek to extend universally, are simply unacceptable. The revision of the treaty on terms that will be established by the Third World is virtually certain to be fatal to access to deep seabed resources by U.S. citizens and the citizens of the other Western industrialized nations.

Terms, conditions, and restrictions set out in the text for mining operations are unreasonable.

Revenue sharing, technology transfer, and site banking amount to a system that is simply confiscatory. Tenure of mine sites is not secure. The absence of interim investment protection is conspicuous; the conference text does not "recognize the rights" of interim mining operators, a requirement of title II that means just what it says, recognize the rights of those miners. Any system which resembles that set out in the negotiating text cannot offer the opportunity of seabed mining by U.S. citizens on a "viable economic basis" within the meaning of title II of H.R. 2759.

Let us be absolutely clear about what is really being perpetrated in the negotiations at the Law of the Sea Conference. It is an international regime contrived on the model of the centrally planned, Socialist, economies. It is a calculated effort to socialize property, seabed minerals, otherwise freely available to development by private enterprise, and to expropriate the means of production, seabed technology, from private enterprise.

It is worth reviewing what is being said of the work of the conference by U.S. citizens who are interested in, or would be affected by, the treaty. The American Mining Congress, in a letter dated February 29, 1980, to the head of the U.S. Law of the Sea delegation, noted the following specific elements of the negotiated seabed regime which are unacceptable:

The unworkable system of access to ocean minerals;

The confiscatory requirements for technology transfer;

The extensive competitive advantages, largely at U.S. taxpayer expense, accorded the Enterprise (the transnational state-owned mining company);

The ability of the International Seabed Authority to force private companies to joint venture with the Enterprise;

The financial burdens imposed upon private companies wishing to mine ocean minerals;

The market distorting and inflationary system of production controls on seabed mineral mining to be imposed by the International Seabed Authority;

The authority's open ended power to regulate all other seabed mineral production, including petroleum;

The system of world government to be imposed by the treaty which, in addition to abrogating existing legal rights enjoyed by the United States, would also grant the U.S.S.R. superior political power over the United States;

The probable distribution of revenues received by the authority to world terrorist groups, including the PLO;

The likely moratorium on ocean mining by private companies which would result from international reviews and restructuring of the regime; and

The dispute settlement system which is biased against all developed countries. Absent major and far-reaching changes in the treaty text which would correct these deficiencies, there is no foreseeable way in which U.S. private investment could take place under the treaty.

A 1980 American Bar Association resolution on the Law of the Sea and deep seabed mining legislation, an International Law Association American branch draft interim report of 1980 and report of 1978, a 1980 resolution of the national resources steering group of the national Association of Manufacturers, as well as a 1980 study by the National Ocean Industries Association, note and condemn the same unacceptable provisions as those identified by the American Mining Congress.

I believe that the conclusions of these informed groups are compelling.

PRECEDENTS

It is rightly said that those who ignore history are doomed to repeat it. The 1970 "Declaration of Principles" on the deep seabed and the Law of the Sea negotiating text has already begun to affect other areas of international law, politics, and economics. The Moon Treaty, which was recently opened for signature by all states, declares that the resources of outer space are the common heritage of mankind and obligates states parties to establish an exploitation regime based on that principle. At the basis of each agreement is the Third World program for the establishment of a "New International Economic Order," the essence of which is a fundamental redistribution of global wealth. The declared goal is Third World control of international resources and of global political and economic institutions.

It is instructive to compare in detail the texts of the Moon Treaty, on the one hand, and the 1970 deep seabed resolution and Law of the Sea negotiating text, on the other. Paragraph 1 of the resolution states:

> The seabed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction . . . as well as the resources of the area are the common heritage of mankind.

And article 136 of the Law of the Sea negotiating text states that:

> The Area [international deep seabed] and its resources are the common heritage of mankind.

Article XI, paragraph 1 provides that:

> The Moon and its natural resources are the common heritage of mankind which finds its expression in the provisions of this agreement and in particular in paragraph 5 of this article.

Paragraph 9 of the resolution states that:

> On the basis of the principles of this Declaration an international regime applied to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of universal character, generally agreed upon. The regime shall, *inter alia*, provide for the orderly and safe development and rational management of the area and its resources and for expanding opportunities and the use thereof and insure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.

Article 150 of the LOS negotiating text provides that the policies for deep ocean mineral development include, among others, "orderly and safe development and rational management of the resources of the area * * * and the expanding of opportunities for participation in such activities" and article 140 of the text provides that the envisioned International Seabed Authority "shall provide for the equitable sharing of benefits derived from the area * * *."

Article XI, paragraph 5 of the Moon Treaty provides:

> States Parties to this Agreement hereby undertake to establish an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the moon as such exploitation is about to become feasible.

Paragraph 7 of article XI states:

> The main purposes of the international regime to be established shall include: . . . the orderly and safe development of the natural resources of the moon . . . the rational management of those resources . . . the expansion of opportunities in the use of those resources . . . and an equitable sharing by all States Parties in the benefits derived from those resources, whereby the interests and needs of the developing countries as well as the efforts of those countries which have contributed either directly or indirectly to the exploration of the moon shall be given special consideration.

Lest it be thought that slight differences in language might offer some protection against intense international pressure for a celestial resources exploitation regime similar to the deep seabed minerals development regime, one need only refer to the statements of key states and spokesmen in the group of 77. Mexico recently stated before the U.N. Special Political Committee:

> Regarding the treaty on the Moon . . . this agreement provided that the resources of the Moon were the resources of mankind, just like the "historic decision" on the resources of the seabed.

In an even more far-reaching statement, Alvaro DeSoto, a delegate of Peru to the Law of the Sea Conference, remarked not long ago:

> The temptation to apply to Antarctica the same principles which were the basis for the regime of the seabed is very great and some have not been able to resist it. This temptation should increase now that the United Nations Committee on the Peaceful Uses of Outer Space has decided to recommend to the General Assembly a draft treaty which would declare the moon also constitutes the common heritage of mankind.

The American Bar Association Natural Resources Law and International Law Sections have recognized the precedential significance of the Law of the Sea negotiations. The sections' report accompanying the association's resolution on the Law of the Sea and deep seabed mining legislation states:

> Since the establishment by the United Nations General Assembly in 1968 of the Ad Hoc Sea Bed (sic) Committee, the United States has been engaged in negotiations directed toward the establishment of a regime for the seabed and subsoil and resources thereof beyond the limits of national jurisdiction. From the outset, it was clear that the developing countries viewed the regime for the deep seabed as prototypical to future North-Sea arrangements across a wide range of economic and natural resource issues. As the concept of the New International Economic Order coalesced, control by the developing countries of global access to the resources of the international deep seabed came to be viewed as the first step toward a fundamental redistribution of the world's wealth to increase Third World control of a broad range of international economic institutions and resources.

A 1980 draft interim report of the Committee on the Law of the Sea, American Branch International Law Association, states that:

> In December 1979, the U.N. General Assembly approved for opening for signature what has come to be called the 'Moon Treaty', a global agreement that extends to the celestial bodies of the solar system the principles established in the deep seabed negotiations. Both the seabed negotiating text and the Moon Treaty are, by their own terms, grounded on the principle of the common heritage of mankind. The operative language of the two draft agreements is practically identical . . . . The negotiations for a deep seabed regime must be approached in terms of the far-reaching effects they may have on other areas. A supranational organization dominated by the numerical majority, a planned economy system of development designed to limit production, a highly privileged international Enterprise to compete with and eventually supplant private enterprises, mandatory transfer of technology and many other elements of the deep seabed regime, seem likely to establish precedents that could severely damage the long-term political and economic interests of the United States and other western industrialized countries.

It is highly probable that the final report of the Committee on the Law of the Sea will retain these observations. The 1978 report of that committee also expressed the concern that the seabed regime "would constitute a highly adverse precedent."

The U.S. industry and academia have also noted the precedential nature of the Law of the Sea negotiations and have pointed to the affinities between the Law of the Sea and the Moon Treaty. A resolution adopted by the steering group of the Natural Resources Committee, National Association of Manufacturers on March 21, 1980, states, in pertinent part, that—

> The Moon Treaty adopts the principle of the Common Heritage of Mankind as it has evolved in the Law of the Sea negotiations to the injury of industrialized, market-oriented countries and the system of private enterprise.

The National Ocean Industries Association has stated that:

> As one step toward the NIEO, an LOS [Law of the Sea] treaty would establish a very harmful precedent. Key provisions have already been used in drafting the "Moon Treaty."

United Technologies, a leading high technology corporation, has stated:

> In regard to the Moon Treaty, we find the same common heritage concept and the same language . . . as appears in the LOS draft treaty and the U.N. resolution upon which it is based. As in ocean mining, this

> would discourage private investment and could foreclose access to exploitation of space by the West. Ocean mining companies have declared that they could not operate under an LOS treaty as drafted; we believe that aerospace industries could not proceed with space development under a similar system.

Richard Darman, past vice chairman of the U.S. Law of the Sea delegation and lecturer in public policy and management at Harvard University, has testified before the Congress that:

> The prevailing U.S. position: that LOS is essentially law and oceans unto itself . . . seems to me quite clearly myopic.
>
> * * * * *
>
> The fundamental issues, in my view, have been excessively and mistakenly cast as mining interests versus international equity, or U.S. interests versus international equity. In fact, the fundamental issues involve differences over types of economic systems, types of political systems, and types of legal and juridical systems—all of which can be argued by their advocates to be the better servants of equity. Those who view the deep seabed debate as fundamentally dealing with these systemic types of issues, it seems to me, tend not only to be correct, but also tend to think more in precedential terms and, in my personal view, to argue their case the more effectively.

In a letter dated October 30, 1979 to Secretary of State Vance, Senators CHURCH and JAVITS, the chairman and ranking minority member, respectively, of the Senate Foreign Relations Committee, remarked:

> After a decade of negotiation at the Law of the Sea Conference, the set of draft treaty articles now before the Conference sets forth an interpretation of the "common heritage" which does not conform to the national interest of the United States or of other countries with free enterprise/free market economies, particularly as they relate to such matters as production limitations, technology transfer, dispute settlement and competition with the proposed international "Enterprise". Furthermore, the formula for control of the intenational Authority to regulate seabed mining does not provide adequate protection for developed countries in general and the United States in particular.

Because of the affinities between the Law of the Sea text and the Moon Treaty, Senators CHURCH and JAVITS asked the Secretary of State to seek a return of the space agreement to the Committee on the Peaceful Uses of Outer Space. They advised against signature of the treaty unless and until revisions were achieved to protect the national interest. The Department of State defied the wishes of these Senators for renegotiation. The issue of whether the United States will sign is unresolved in the administration.

ASSESSMENT OF THE BALANCE OF NATIONAL INTERESTS

There is no nonseabeds interests of the United States that would justify acceptance of the kind of treaty presaged by the Laws of Sea negotiating text. The Law of the Sea Treaty must not be concluded in a form that would not only defeat the national interest in seabed minerals, but also establish an adverse detailed and unavoidable model for the space resources exploitation regime generally described in the Moon Treaty. The extension of the common heritage, as it is set out in the Law of the Sea text, to the "frozen continent" would destroy the Antarctic Treaty system that has averted territorial conflict over critical minerals and has assured freedom of scientific research in an area that has a profound effect on the global climate. The common heritage does not threaten the world with armed conflict over the seabed beyond the claimed limits of national jurisdiction or over the resources of outer space, but that principle does raise the spectre of war over Antarctic resources that are subject to conflicting claims of sovereignty. Certainly, the kind of common heritage regime embodied in the Law of the Sea text offers the worst possible prospect for those who would seek to develop deep seabed and outer space resources and for Antarctic claimants and nonclaimants, alike.

CONCLUSION

Mr. Speaker, the implications of this legislation are vast. The enactment of H.R. 2759 offers the United States vitally important access to critical deep seabed minerals. The measure also represents a sound basis for an assessment of the compatibility of the emerging Law of the Sea Treaty with the fundamental interests of this Nation, both in the oceans and in other international areas, such as outer space and Antarctica. I urge favorable consideration of H.R. 2759 by this body.

Mr. Speaker, today is indeed a historic day. As one chairman, I think the gentleman from New York (Mr. MURPHY) mentioned, 9 years ago we first considered this legislation, and 9 years ago those who opposed the legislation said that it was not needed, that we weré coming very close to a final resolution of this question at the Law of the Sea Conference and we did not, therefore, need legislation. Well, here we are today, 9 years later, and several Congresses later, finally considering and adopting in the House legislation which many of us felt was needed 9 years ago. I think that we have been very patient, I think that Congress has been very patient in trying to work affirmatively toward a solution in the Law of the Sea Conference.

This bill, I think, is very compatible with the Law of the Sea Conference in the fact that it does not derogate any form of international law whatsoever, but merely restates what is current international law. I think it is very clear that the bill today, which is a compromise worked out among four committees in the House, is consistent with international principles. There is no treaty that the United States is a party to today, there is no principle of international law or no rule of customary law that obligates the United States from proceeding with deep seabed ocean mining under domestic legislation, which is what we are doing here today. The fact is very clear that the seabed beyond the limits of national jurisdiction is an area of the high seas and that deep seabed minerals belong to no one and that deep seabed mining is permissible in accordance with general principles of international law, the freedom of the high seas and with the widely accepted treaty in force, which is the 1958 Geneva Convention on the high seas which, by its own terms, embodies the principle that a nation may exercise the freedom to mine on the high seas.

By virtue of the fact that the freedom of the high seas is a general principle of international law and is therefore universally binding, all states are legally obligated to respect the exercise of that freedom by licensees and permittees under the authority of this act, and any unreasonable interference with such activities and any other actions calculated to materially discourage or to exact a penalty against those who explore or exploit the deep seabed under authority of this law would render the offending state internationally responsible.

I, therefore, want to state for the record that I think this domestic legislation is consistent with international law, consistent with the position of the United States that we have said all along in the Law of the Sea Conference. We have never at any time agreed to a principle of common heritage that would be in violation of the legislation that we have presented here today. While common heritage is an often-discussed principle at all international negotiations, it, however, has never been defined to prevent any nation from mining deep seabed minerals on the high seas. I think it is very clear that the principle of common heritage and what it actually means will only be defined after an international agreement is completed, in which nations of the world clearly define common heritage.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, the gentleman is saying that in his opinion this is not a violation of international law; is that what the gentleman is saying?

Mr. BREAUX. That is correct.

Mr. BEDELL. Because the gentleman would agree, I think, that there is a great argument as to whether or not international mining, at this time, unilateral mining, without this treaty would be a violation of international law.

Mr. BREAUX. As long as we have the United Nations, there will always be great arguments on any great issuees of the world.

Mr. BEDELL. Yes. And I presume the gentleman is aware that of the group of 77, that those nations are unanimous in their opinion that this would be a violation of international law if we were to start mining.

Mr. BREAUX. I would say to the gentleman that they clearly have a right to their opinion. I just do not happen to agree with it.

Mr. BEDELL. I thank the gentleman.

Mr. BREAUX. Mr. Speaker, I would like to commend the chairman of the Committee on Merchant Marine and Fisheries, in particular, for the effort and the work that he has put into this very, very complicated issue, considering the many other subjects of jurisdiction that are under the full committee's chairmanship and responsibility. His work and efforts have been untiring in his efforts to try to pull together a compromise which we today present to the House, and I think it has been a remarkable piece of legislation. I would like to commend the gentleman and have the record show that.

With that, I urge passage of the legislation.

● Mr. BEDELL. I rise in opposition to H.R. 2759, the Deep Seabed Hard Minerals Resources Act. This bill seeks to protect the immediate deep seabed interests of our nation's mining companies. I do not oppose or disparage those interests. But I do believe that this unilateral action will undermine a more fundamental national concern: The acceptance of a legal regime embracing the ocean areas that cover 70 percent of the Earth's surface. In an unprecedented achievement, the nations of the world are now on the verge of establishing a universally recognized code of oceanic law; a code that not only protects America's national security, economic, and environmental interests, but one that will serve to deter self-serving national conflicts over the ocean's many and varied resources.

Each time a deep seabed mining bill has been introduced, its supporters have argued that the U.N. Law of the Seas (LOS) negotiations were deadlocked and that only congressional action could safeguard American mining interests. On the contrary, it is now undeniable that progress in the LOS negotiations has been substantial. Over 100 major points were initially disputed. Today only three remain: Voting procedures in the council; marine boundaries between adjacent and opposite states; and the final clauses on bringing the treaty into force. Still, the differences are well understood and it is quite possible that a final draft LOS Treaty will be completed when the LOS Conference resumes its 1980 session in Geneva later this summer. Yet, incredibly, the House is considering legislation that will surely spark a confrontational mood among the delegates returning to Geneva. Thus, resolution of the remaining differences could become very difficult, if not impossible.

I recognize that substantial changes have beeen incorporated in the consensus bill, which has been offered as an amendment in the nature of a substitute for H.R. 2759. These are changes that underscore the growing awareness of America's commitment to international equity, as embodied in the 1970 U.N. Declaration of Principles that the deep seabed and its resources are "the common heritage of mankind." I therefore wish to compliment Elliot Richardson, Ambassador-at-Large and our representative to the LOS Conference, for reaffirming America's longstanding support of the "common heritage of mankind" principle by insisting on these changes before endorsing the consensus bill. Nonetheless, I am deeply disappointed by our lack of patience and judgment in not waiting for the Geneva session to conclude in August. I fear that, by passing this legislation, we will imperil the many successes already achieved.

As many of my colleagues are aware, H.R. 2759 has a long and checkered history. In each Congress since 1971, repeated attempts have been made to grant American-based mining consortia a hunting license to roam the high seas monopolizing the mineral resources that lie beneath. As a congressional adviser on LOS, I have consistently opposed these attempts for the following reasons.

First, the nations who compose the Group of 77 will no longer believe that the United States is negotiating in good faith. I remind my colleagues that in affirming the 1970 Common Heritage of Mankind Declaration, the United States agreed that minerals on the ocean floor "shall not be subject to appropriation by any means by states or persons * * *." The United States further agreed that "no state or person shall claim, exercise, or acquire rights with respect to the area; that is, deep seabed or its resources." How can we now license private firms for future "appropriation" of the ocean floor and not be judged insincere or hypocritical? Surely, the developing countries will view the passage of H.R. 2759 as both a challenge and provocation. They will view this bill as a means of forcing them to negotiate under duress; a perception that, in turn, will weaken the moderate leaders of the Group of 77, while enhancing the obstructionist power of the Group's extremists. Further concessions will become much harder to obtain, particularly on the critical question of decisionmaking within the Council. In a recent letter to Ambassador Richardson, Singapore's permanent representative to the U.N. and LOS chairman (?) * * * Ambassador T. T. B. Kohn, addressed this issue directly:

> In the First Committee area there is only one remaining hardcore issue viz. the voting procedure in the Council. Any resolution of this issue will probably require very painful concessions on the part of the Group of 77. Nothing must therefore be done in the intersessional period to provoke the Group of 77 into a confrontational mood. In my judgment, the enactment of US unilateral mining legislation will have precisely such an effect on the Group of 77. It is likely to spoil the negotiating mood in Geneva and make the resolution of the question of the voting procedure in the Council very difficult, if not impossible. That is a risk I cannot responsibly assume.

I would certainly add that this is a risk the Congress cannot responsibly assume.

Second, the developing countries are themselves quite capable of unilateral legislation. Presently, claims of 200-mile exclusive economic zones cover 40 percent of the oceans' surface. What if coastal states in the group of 77 respond by declaring 200-mile territorial seas? One of the great achievements of the LOS Conference has been to arrest the growing trend of coastal states to expand their claims over adjacent waters. Article 58, paragraph 1, of the LOS informal composite negotiating text, specifically states that, in the exclusive economic zone, all nations shall enjoy the "freedoms * * * of navigation and overflight and of the laying of submarine cables, and other internationally lawful uses of the sea related to these freedoms." Claims of 200-mile territorial seas would deny these freedoms, causing irreparable harm to American navigation and security interests.

Third, there is the specter of harassment against our deep sea miners, and against American maritime commerce generally. Many LDC's have now acquired coastal patrol fleets with which to defend their expanded claims. We should recall, then, what the Congressional Research Service reported to the Congress in 1978:

> Current concepts for mining the deep seabed involve ships towing deep sea dredges, either bucket or suction operated, at speeds from 2 to 4 miles an hour. With gear working, these ships are vulnerable to various kinds of hostile actions. Few in number and operating in well defined locations, they could be subjected to harassment, seizure or even sinking. The sophistication of the hostile element might range from naval and air units of a Third World power or powers to ordinary commercial craft in the hands of terrorists or other subnational groups. Harassment, the most likely hostile actions, could take the form of close passes to the mining vessel, intended to obstruct movement, deliberate fouling of the dredging equipment, setting off explosive charges in the near vicinity of the mining vessel, deliberate collision and similar actions designed to impede operations. Seizure or sinking, though probably less likely, are equally feasible actions against undefended mining ships should the challenger decide on that course. Harassment and seizure are most easily accomplished from another vessel. Either ships or aircraft could carry out a decision to sink a mining vessel as a challenge to the claimed right to mine the deep seabed. Submarines, available in a number of Third World navies, could sink mining vessels anonymously.

Nor is harassment limited to the use of force on the open sea. Suppose angry developing nations expropriate U.S. property in return for what they calculate as their share of the mineral value our miners have taken from the "common heritage." In a press statement issued last fall, the Group of 77 itself threatened that "any activity by a company under such purported authorization would be open to challenge at any time in an appropriate forum within any jurisdiction in which that company has assets." Therefore, we should not be surprised by retaliatory action; and I do not believe the supporters of this legislation have truly examined how we would respond to such retaliation.

Finally, I am concerned about the sustained weakening of the international legal order. Since last November, it has been severely breached; first, in Iran, then in Afghanistan. For me, the assault on our embassy and the invasion of Afghanistan underscore the importance of the rule of law to a stable international political system. The value of international law has always derived from its capacity to galvanize world opinion on behalf of a peaceful resolution to international tension and conflict. Indeed, it is on the basis of international law that the United States is condemning the Iranian and Soviet aggressions. To quote Ambassador Koh again:

> The United States has always stood for the application of international law in relations between and amongst states. This is, for example, the position you have taken concerning the seizure of the US Embassy and its diplomatic personnel in Iran. The

> United States would weaken its moral authority if it were to act in a manner which is perceived by the overwhelming majority of the international community as contrary to international law. This would be the case if the United States were to enact unilateral national legislation authorizing seabed mining.

Will the United States now join Iran and the Soviet Union in trumpeting its disregard for the rule of law among sovereign nations?

Despite these fundamental concerns, I realize that the consensus bill is a significant improvement over previous proposals, and that it represents a good faith effort to bring the legislation into closer alinement with both developing international law and the U.S. negotiating position at the LOS Conference. Four provisions are of particular interest.

First, in order to accommodate international concerns that may impede the ongoing LOS negotiations, section 2(a)(16) states that the measure is an interim one "until such time as a Law of the Sea Treaty enters into force with respect to the United States." It is the clear, then, that this legislation intends to be superseded once a LOS treaty is ratified and widely accepted. Section 106 (a)(2)(B) reaffirms this intent by permitting the President to suspend any exploration activities in order—

> (i) to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or (ii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

Second, in what was perhaps the most critical change, section 102(c)(1)(D) will prohibit commercial recovery of manganese nodules until January 1, 1988. H.R. 2759 previously authorized commercial production as early as July 1, 1982. Delaying actual recovery until 1988 instead will provide a reasonable period of time for the entry into force of an international LOS Treaty. Moreover, U.S. mining companies have conceded that this later date will not hinder their continued development of deep seabed mining technology and exploration. The change in date is crucial because Ambassador Richardson has tabled at the conference a proposal for the protection of preparatory investment. During his testimony before the House Foreign Affairs Committee April 17, Ambassador Richardson stated that he has now "had the opportunity to develop among delegations of developing countries an understanding of the need for preparatory investment protection and an appreciation of the desirability of clearing the way for seabed mining to get underway on both sides of the parallel system as soon as possible following entry into force of the treaty." The 1988 date should therefore stand because a treaty system of site assurances protecting preparatory investment would be advantageous to all.

Third, there is the issue of the so-called grandfather language (section 201). This section declares the intent of Congress regarding the transition to an international agreement. Specifically, it states that the deep seabed mining portions of LOS Treaty should provide U.S. citizens with "assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed"; as well as security of tenure for any companies that have been authorized to proceed with mining operations. It also affirms that the fulfillment of these aims "should be determined by the totality of the provisions" in an international agreement in order to assure a balanced assessment. But most importantly, the record should show that the language of section 201(1)(B) was drafted to take into account the fact that the terms of an international mining regime will likely be less favorable to U.S. mining interests than the provisions of this legislation.

The consensus bill wisely rejects alternative language that would have made compromise impossible by insisting on treaty terms that are "substantially the same" as those in U.S. law, and that do not "materially impair" the value of prior investments. Instead, the consensus bill carefully establishes the guideline that treaty restrictions "do not impose significant new economic burdens * * * with the effect of preventing the continuation of such operations on a viable economic basis." Even so, the Congress should not be bound by premature interpretations of this "grandfather" language. The magnitude and complexity of LOS Treaty demand that any agreement be examined in its entirety before judging its impact on the national interest.

Lastly, I would like to draw attention to section 204, which disclaims any implied legal or moral obligation of the U.S. Government to compensate miners for losses under an international seabed treaty. To do otherwise would have set a dangerous precedent for future U.S. negotiations; handicapped the American delegation to the LOS Conference; and burdened the taxpayer with an unjustified risk. Considering that the proposal submitted in the 95th Congress provided guarantees of up to $350 million per mining operation, I regard the disclaimer in section 204 an impressive accomplishment.

In closing, while I oppose the ill-timed passage of this bill, I'do believe that it has built a foundation from which we can later reach acceptance and ratification of a universal and comprehensive LOS Treaty. And, in truth, the progress towards such a treaty has been remarkable.

As currently drafted, the treaty provides for a uniform 12-mile territorial sea and a 200-mile exclusive economic zone. The rights and obligations within the territorial sea have long been established. But, for the exclusive economic zone, the treaty creates new rights and obligations for offshore oil and gas, fishery management and conservation, the conduct of marine scientific research, and the protection of the marine environment. In addition, the treaty provides a more precise definition of the Continental Shelf and the resources therein.

In order to preserve the nearly 100 international straits that would otherwise be restricted in these expanded territorial seas, the treaty creates a new regime of "unimpeded transit passage." The new regime will permit airplane overflight and transit for submerged submarines; before only surface ships were allowed "innocent passage" through a territorial sea. A similar set of rights will apply in specified sealanes through archipelagoes like Indonesia and the Philippines, where critical trade routes are found. High seas navigational rights will also be preserved throughout the 200-mile exclusive economic zone.

The provisions in the draft treaty thus guarantee a number of freedoms essential to the mobility of our Armed Forces. These freedoms have become more vital today as the United States is considering new naval bases abroad that would require guaranteed access. But above all, the capacity to move our naval ships freely will assure us flexibility in coping with tension-prone regions like the Persian Gulf. Without a LOS Treaty, the trend toward more restrictive coastal control (over extended offshore zones) will continue, and our military flexibility will be gravely compromised. To understand the calamities that could result, one need only recall how in 1973, when the United States required access to the Mediterranean to supply Israel during the Yom Kippur War, several European allies were wary of granting overflight and transit rights for fear of Arab reprisals. A LOS Treaty would guarantee the United States automatic rights of access through the Straits of Gibraltar. Lastly, one should not forget that the Soviet Union will go to great lengths to insure the mobility of its air and naval forces.

Without established international legal rights, a contest for control of strategic waterways becomes inevitable; a contest that could easily escalate into a dangerous source of conflict.

Even where disagreement has been sharpest, the progress has been encouraging. As Ambassador Richardson pointed out in the recent issue of Foreign Affairs—

> The essential structure of the regime for mining manganese nodules on the seabed beyond the 200-mile economic zone on the continental margin is no longer an issue.

A promising proposal on financial arrangements for the enterprise has now been suggested. Extensive revisions narrowing the obligations on technology transfer were made at the recent LOS ninth session. A consensus on marine research in coastal areas has been reached. And, in what is perhaps the LOS Conference's most unique achievement, the draft treaty now includes mandatory provisions on the settlement of disputes.

I firmly believe that a successful completion of the LOS Conference is now in sight. Ambassador Richardson and the American delegation should be applauded for their progress to date. I can only hope that today's action by the House will not prevent a rapid and triumphant conclusion to these historic negotiations.●

● Mr. PRITCHARD. Mr. Speaker, I rise

in support of H.R. 2759, the Deep Seabed Hard Minerals Act.

This legislation has been carefully considered by four committees, and has been modified considerably since earlier versions which were introduced in the early 1970's. This legislation is important in that it provides a regulatory framework for conduct of mining operations on the high seas. This framework reduces the uncertainty associated with deep seabed mineral development and, as a result, this legislation will foster the continued investment by various mining consortia in the further development of these important mineral resources. Without this legislation and due to the lack of an international regulatory regime, it is unlikely that mining companies would continue to do the research and development necessary to develop this vast storehouse of nickel, copper, cobalt, and manganese.

In addition to establishing the necessary regulatory framework, the legislation requires that specific studies be undertaken to determine what environmental impacts, if any, could be a result of mining operations. Also, the legislation designates the National Oceanic and Atmospheric Administration (NOAA) as the lead agency for the administering of this legislation. Finally, H.R. 2759 authorizes such sums as may be necessary for fiscal years 1981 and 1982.

Much debate and consideration has gone into the final product of the four committees which considered this legislation. In fact, the House passed a very similar measure in the 95th Congress, but the other body failed to act on this measure. The administration currently supports this legislation and Ambassador Elliot Richardson, who heads our delegation, strongly supports final passage and enactment of this legislation, given the modifications which had been made since the last session of the Law of the Sea Conference. For some time now, Members of Congress have been urged to not proceed with unilateral deep seabed mining legislation, and to "wait until next year" when we will achieve a major breakthrough in the law of the sea negotiations. Although we have made substantial progress in these negotiations, it is essential at this time that we move forward with this legislation in order to assure the continued existence of the research and development capacities which had been established by various mining consortia.

Mr. Speaker, the law of the sea negotiations have provided an important forum for the debate of a number of issues which must be resolved as we expand our uses and activities in the world oceans. Much agreement has been reached in such areas as rights of navigation, pollution control, fisheries management, and principles for continental shelf delineation. However, the development of deep seabed minerals has provided a major hurdle for the law of the sea negotiations, and the jury is still out as to whether this last hurdle will be cleared in the context of a comprehensive Law of the Sea Treaty. Although many developing nations would prefer to establish an international deep seabed authority which would regulate deep seabed mining, it is clear that this authority must recognize the importance of certain market principles in order to assure the efficient and orderly development of these deep seabed hard minerals.

Mr. Speaker, this is important legislation, which will have significant implications for how we manage and develop ocean resources in the future. It also has significant implications for our relationships with many developing countries, and as to how the benefits from the development of ocean resources can best be realized by these countries.

Thank you, Mr. Speaker.●

● Mr. BONKER. Mr. Speaker, I would like to commend Chairman ZABLOCKI and Representative BINGHAM, my colleagues on the Foreign Affairs and Merchant Marine and Fisheries Committees, and members of the other two committees for their work in producing this composite text of the deep seabed mining legislation.

The bill before us today represents the most comprehensive version to date of the Deep Seabed Hard Minerals Act. The text, which is very similar to the bill passed earlier this year by the Senate, reflects the interests of the four House committees that considered the bill, and incorporates amendments acceptable to the administration, to the mining industry, and to U.S. interests in the law of the sea negotiations.

I wish to call to the attention of my colleagues the carefully constructed language of the so-called grandfather clause in title II of the bill. This section clearly expresses the intent of the Congress that the deep seabed mining portions of any international treaty which enters into force for the United States should provide U.S. citizens with "assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed." It further assures security of tenure for any companies which have been authorized to proceed with mining operations prior to the entry into force of a Law of the Sea Convention.

Mr. Speaker, I would like to submit for the RECORD two brief articles: One from the Washington Post and one from the New York Times. These articles set forth the importance of deep seabed mining legislation in the context of the ongoing law of the sea negotiations, and should serve us in our consideration of the bill today.

In closing, I strongly urge my colleagues to support the deep-sea mining legislation. Our passage of this bill will benefit all marine-oriented industries in this country and promote U.S. national interests in concluding an acceptable Law of the Sea Treaty.

[From the New York Times, Apr. 7, 1980]

SEA CHANGE IN WORLD LAW

With a little sailor's luck and some agile navigation, this could at long last be the year of the sea. The United Nation's Law of the Sea Conference is in the final phases of devising a treaty that could determine the future of nearly three-fourths of the earth's surface. Probably not since the Code of Justinian was framed 1,500 years ago has there been an equal challenge to the wit of jurisprudence. Yet thus far, the seven-year conference has elicited only yawns from the media and glazed eyes among the public.

That boredom perfectly suits corporate lobbyists who hope to scupper any global accord that would involve sharing the seabed's mineral wealth with poorer nations. Some mining interests take particular offense at the notion that seabed minerals are, like the air, part of the "common heritage" of mankind. They prefer the right of unilateral exploitation of billions of dollars' worth of nickel, cobalt and copper that are thought to lie beneath the oceans. They would like to scramble for the riches, with only a hunting license from Congress.

In narrow terms, a free-for-all might indeed serve the interests of the wealthy countries that will long monopolize the technology to reach the sea's riches. Any limits on exploitation can, too simply, be depicted as a set back to consumer hopes for lower prices. But the projected Law of the Sea Treaty contains offsetting benefits that are more tangible than a hypothetical bonanza. To replace a chaos of conflicting sovereign claims, the treaty would fix a 12-mile limit for territorial waters and a 200-mile "Exclusive Economic Zone" granting national control over all resources, living and mineral. It would appreciably tighten global standards of pollution control and open the way for stricter standards of seamanship; it would specify rights of marine research and give real protection to threatened species of whales.

The security benefits are equally palpable. The draft treaty would assure freedom of passage for ships and submarines through strategic straits and guarantee the overflight rights that proved vital to American military aircraft during the 1973 Yom Kippur War. These and other benefits stem from negotiations initiated when the United Nations gave a rare unanimous endorsement to the "common heritage" principle for sharing seabed wealth.

How the common heritage should be shared is, deservedly, the focus for reasonable argument. Ambassador Elliot Richardson, the chief American delegate, has been pressing for a voting formula that would give due weight to the economic interests of industrial countries. He has accepted a distasteful interim limit on seabed mining to maintain price stability in the global commodity markets. But the limit would be reviewed in 20 years; it is unlikely that seabed mining before then would exceed the prescribed amounts.

On these questions, the treaty could still founder. If an agreement is reached, its terms are bound to be caricatured as a giveaway. Its corporate opponents are already aiming their guns at a parallel moon treaty, which also embodies the "common heritage" doctrine.

The Law of the Sea Conference has weathered fogs for more than seven years. An initial list of a hundred problems has been cut to fewer than a dozen, a remarkable achievement for talks involving about 140 nations. The world may soon have before it a virtual constitution for the oceans, drafted with the help of a persistent American diplomacy. There is a grandeur of purpose in this enterprise that warrants real celebration and reflection, not self-serving propaganda about some parts of an imposing whole.

[From the Washington Post, Mar. 24, 1980]

IN PURSUIT OF A LAW OF THE SEA

I will leave to others the choice of whether to respond to allegations concerning the Moon Treaty made in the Feb. 13 advertisement placed by United Technologies, under the metaphorically intriguing heading "Stranglehold on the Moon." As head of the U.S. delegation to the Law of the Sea Conference, however, I feel that I should offer a few comments on the advertisement's careless and misleading references to our efforts to negotiate a comprehensive global treaty covering the management and utilization of the world's oceans and their inestimable resources.

Far from being a diabolical plot "to place seabed mining technology and resources under the control of countries seeking to bring Western nations to heel," the concept of the "common heritage" expresses no more than a realistic recognition that the deep seabed lying beyond areas of recognized national jurisdiction cannot legitimately be carved up the way Africa was dismembered in the 19th century. But the result that no nation can "own" any part of the common heritage does not prevent its nationals from exploiting the resources of the deep seabed, and freedom to exploit can lead to the very real possibility that mining projects will overlap. The most efficient and effective way to prevent such conflict is to create an international regime to oversee the exploration and exploitation of those resources.

The United States and other industrialized countries have agreed to the establishment of a "parallel system" for seabed mining that, as recognized by the overwhelming majority of conference participants, developed and developing, must provide for states (i.e., governments) and entities sponsored by states (i.e., private firms) assured and non-discriminatory access to deep seabed mineral resources, on reasonable terms and conditions and with security of tenure for miners. This "parallel system" also carries with it an assumption that nations incapable of playing a direct role in the harvest will share in the proceeds. Further, the "parallel system" offers to developing countries the opportunity for more direct participation through the creation of an international mining operation—the "Enterprise"—that will compete alongside private firms and state corporations.

As a condition for getting a contract for exploration and exploitation, a financially and technically qualified firm or consortium must agree to share its revenues with the world community using a precise formula roughly approximating progressive taxation that fully protects the miner's earnings until they show a return on investment. Once having received a contract, the miner must furnish the "Enterprise" a prospected mine site comparable to the one it intends to operate itself and must be willing to sell to the "Enterprise" mining technology to be used by and legally under the control of the miner. Governments, rather than private firms, will jointly undertake to stake the "Enterprise" to its initial operation and to help the "Enterprise" buy technology needed to process mineral resources.

The United Technologies ad, perhaps owing to lack of space, fails to mention that the technology transfer provisions under consideration at the Law of the Sea Conference can be invoked only if and after the "Enterprise" has failed to locate the requisite technology on the open market, and that the intended transfer is a sale of the technology in question on fair and reasonable commercial terms and conditions. Moreover, any dispute over those terms and conditions is to be referred to conciliation and, failing resolution, to commercial arbitration of the sort relied upon regularly by American firms doing business abroad. In fact, the provisions being negotiated will protect American firms from the concessionary terms to which they often succumb as the price of launching and maintaining profitable ventures in developing countries.

The commitment to sell is the price that has to be paid to dispel the suspicion that technology will be withheld from the "Enterprise" no matter how generous the offer to buy.

The Low of the Sea negotiations, however, are far from finished. The U.S. government requires a number of important changes in existing draft seabed mining provisions before it can agree to sign on the dotted line along with 160 other governments. These improvements are essential despite the fact that the emerging treaty deals not only with seabed resources but also with a number of other crucial national interests, among them freedom of navigation and overflight, protection and preservation of the marine environment, fisheries, oil and gas in the continental margin, marine scientific research, and dispute settlement with respect to all of these matters.

If we accomplish our objectives, American seabed mining firms will be able to proceed under conditions of security guaranteed by international agreement. If we fail, a grab for seabed resources can bring only conflict, chaos and very uncertain returns for investors.

ELLIOT L. RICHARDSON,
Ambassador at Large,
Department of State.●

● Mr. SYMMS. Mr Speaker, as one of the original cosponsors of this legislation over the course of the past several Congresses, I am quite pleased to participate in the debate which precedes enactment by the House of H.R. 2759, the ocean mining bill. That the legislation is timely and in the national interest has been discussed in great detail by my colleagues.

Accordingly, I intend to focus the thrust of my remarks on the grandfather issue. Title II of the bill is commonly referred to as the grandfather language. The policy content of title II is significant in at least two regards. First, it is a statement of U.S. policy that ocean mining activities conducted pursuant to this act are an exercise of an existing legal right derived from the internationally recognized freedom of the high seas doctrine, the continued exercise of which the Congress is encouraging by enactment of this legislation. The U.S. delegation to the Law of the Sea Conference has always insisted that the freedom of the seas doctrine represents existing international law. Contained in title II is a statement of congressional policy that U.S. citizens who rely upon this legislation as a legal basis for undertaking ocean mining investments are entitled to have those rights protected as against any subsequent changes in international law which would or could otherwise abrogate or unfairly restrict their existing legal rights.

In particular, such rights must be clearly spelled out in the language of the treaty text itself. To repeat—the rights of U.S. citizens confirmed by this legislation must be fully protected in the language of the treaty text itself. That means that the grandfather language to be incorporated in the treaty text may not either dilute the rights confirmed by this legislation or that the treaty as a whole may not dilute these rights.

Mr. Speaker, it is well known that the negotiating text of the treaty contains no grandfather rights at all. This in itself is a shocking disappointment which, if not fully and properly corrected to preserve all the rights of U.S. citizens confirmed by this legislation, could, in and of itself, become a basis for the Senate refusing to grant advice and consent to ratification. Failure fully to achieve recognition of such rights in the treaty could also therefore result in this legislation becoming permanent rather than interim.

Accordingly, our U.S. negotiators should recognize the necessity of their obtaining express grandfather language in the treaty which makes reference to this legislation; which provides assured and nondiscriminatory access to U.S. citizens to continue their ocean mining operations of any kind commenced pursuant to this act; which provides security of tenure for such ocean mining operations by recognizing their rights to continue such operations after an acceptable Law of the Sea Treaty enters into force with respect to the United States, and which contains terms and conditions which do not impose significant new economic burdens compared to the burdens imposed upon U.S. citizens by this legislation; and, finally, which encourages the continuation of such ocean mining operations on a viable economic basis. Accordingly, the intent of title II is to insure that U.S. ocean miners are to be protected not only from adverse treaty language itself but additionally from the foreseeable adverse effect of the administrative and regulatory interpretation of the treaty by the International Seabed Authority created by the treaty.

It is important that the record be made clear that by voting for enactment of this legislation we are putting the State Department on notice that we will not idly sit back and allow the law of the sea delegation to fritter away the rights of U.S. citizens to mine the deep seabed under the freedom of the high seas doctrine as implemented by this legislation. This body intends that for the foreseeable future U.S. ocean mining is to be governed by this act and no other instrument regardless of whether or not that instrument bears the signature of a U.S. executive branch official.

There are numerous other provisions of the treaty which also are plainly unacceptable as confirmed repeatedly in testimony by the chief U.S. law of the sea negotiator presented before the Congress this year and in years past.

Mr. President, I am personally committed to insuring that the United States does not sign any Law of the Sea Treaty until such treaty is fully acceptable to the Congress.

The present treaty negotiating text does little else than establish a foundation for the creation of the New International Economic Order. As my colleagues are well aware, one of the linchpins of that policy is to deny developed nations access to seabed minerals. Nickel, copper, cobalt, and manganese are vital to our national security. We are highly dependent upon imported sources of these minerals. We have a present legal right to avoid dependence upon mineral exporting nations for metals by mining them from deep seabed. It is the continuation and protection of that undisputed right of access that we intend to see safeguarded and undiminished in any Law of the Sea Treaty that would enter into force with respect to the United States. That is the meaning of title II; that is what the House is enacting today.●

● Mr. CLAUSEN. Mr. Speaker, as a long term proponent of the deep seabed mining legislation, I am pleased and gratified to join with my colleagues from the committees of jurisdiction in bringing before the House a compromise which is generally acceptable to all parties and which will insure prompt enactment prior to the resumption of the Law of the Sea Treaty negotiations in Geneva next month.

The fact that this matter comes to the floor today is illustrative of the hard work and dedication expended by the chairmen and ranking members of the various committees involved in this issue in seeking a solution which allows expeditious action by the House.

A major factor in our ability to reach a compromise is the agreement to designate the Administrator of the National Oceanic and Atmospheric Administration as lead agency to carry out the mandates of the act.

The Interior Committee originally reported legislation giving this function to the Secretary of the Interior. Our acquiescence is only with the assurance that this change will in no way lessen or alter the Interior Committee's jurisdiction both in terms of oversight and legislative responsibilities. In light of the expertise and interest in mining activities of all types demonstrated by members of our committee and our commitment to the oversight function, I envision an active role for the committee.

The compromise was also reached due to the recognition of the importance of this legislation in meeting our national mineral and hardrock needs. The resources which America seeks to recover from the floor of the ocean by means of this legislation are what are commonly called manganese nodules. These nodules contain four basic metals, cobalt, copper, manganese, and nickel, metals essential, vital to the survival of this Nation, to the maintenance of this Nation, to the maintenance of its dependence and to the preservation of its economy. The United States today finds itself dependent on imports for 95 percent of our cobalt, 98 percent of our manganese, 71 percent of our nickel, and 15 percent for copper. There is a saying that without steel there is no possibility of a postindustrial world and without manganese there is no steel. Cobalt is just as vital, just as essential for it is the fundamental hardener of the steels upon which we depend. Cobalt is a vital component in our jet aircraft engines and aircraft frames. It is basic to numerous other weapons systems and it is a vital part of the steelmaking process itself. As well, it is an important hardener of the bits with which we drill the deep oil and gas wells upon which we will become increasingly dependent. Nickel is crucial to the production of stainless and alloy steels, nonferrous alloys and electroplating. Copper, as my colleagues know, is perhaps the most important mineral of a modern society.

Mr. Speaker, I would concentrate this afternoon in my discussion on the need for this legislation on a mineral which has been the subject of long, heated debate by the Interior and Insular Affairs Committee. The mineral is cobalt. America today relies upon foreign sources for 95 percent of the cobalt we use. In fact, America is 100 percent reliant on foreign sources since the other 5 percent consists of recycled materials; 76 percent of our imports come from a very small region of the world—southern Africa. And 55 percent comes from Zaire and 18 percent from Zambia. I need not explain for my colleagues the uncertainty of these two nations as future suppliers of cobalt. Zaire has in the past been a subject of foreign invasion and Zambia has only recently entered into a $85 million purchase of fighter aircraft from the Soviet Union. There is today no source of domestic production, although it is our hope that cobalt reserves in Idaho and California will soon supply up to 20 percent our current needs.

Cobalt is a vital mineral to America's economy and to our national defense. Cobalt is used in jet turbine blades and in jet aircraft afterburners, in landing gear, and engine mounts. It is vital to missile controls, tank precision rollers, armor-piercing shells, and nuclear propulsion systems. As well, cobalt is used in tool steels, drawing, forming, and forging dies, as well as rolling mills, punch mills, and presses. Cobalt is used in coal cutting bits, hardrock drill bits, and deep hole oil and gas drilling bits.

There is no question that America must have cobalt. The international situation makes it very, very clear that we can no longer allow ourselves to depend for such a crucial mineral on such a small and unstable part of the world. America must move ahead to develop its own source of these strategic and critical minerals. The floor of the ocean provides a new frontier, a new resource that America must develop to keep economically strong, militarily secure. For more than America's survival is dependent upon such minerals, more than the survival of the free world is at risk also.

This legislation will assist us in making the recovery of these resources possible. I urge my colleagues to support it.●

● Mr. JEFFORDS. Mr. Speaker, as an adviser to the U.S. delegation to the Law of the Sea Conference, I wish to express my support of this bill, and specifically its provisions relating to the Law of the Sea Treaty. I believe the success of the Conference is important to the United States and that provisions respecting the possible treaty should be included in legislation involving activities to be affected by the treaty.

It is my hope that the respect afforded those negotiations by H.R. 2759 will aid in the timely resolution of the seabed mining issues currently being considered in those negotiations. Although our country has chosen to begin developing a new natural resource without the clarification of an international agreement, H.R. 2759 clearly demonstrates our willingness to abide by an international agreement which defines, and regulates activities relating to, the "common heritage of mankind."

Although the negotiations leading to the current revision of the Law of the Sea Treaty have been long and difficult, we should recognize the importance of their success to the United States and to the world. Provisions of the treaty would guarantee freedoms of movement around the oceans which could be vital to our national security. The treaty would clarify economic rights of coastal and noncoastal nations to the resources in and below the sea, and would provide minimum protections for those resources against environmental degradation. These agreements warrant the respect conveyed by the provisions in H.R. 2759 allowing for the implementation of the treaty which we all hope will soon emerge from the negotiations in the Law of the Sea Conference.●

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 2759, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMENDING AMERICAN SERVICEMEN FOR HOSTAGE RESCUE ATTEMPT

Mr. WHITE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 323) commending the personnel who took part in the attempt to rescue the American hostages being held illegally in Iran.

The Clerk read as follows:

H. CON. RES. 323

Whereas the Government of Iran and its Revolutionary Council have brutally and illegally held hostage diplomatic, military, and private citizens of the United States against their will in life-threatening and humiliating conditions;

Whereas the Government of the United States has all but exhausted all peaceful means short of capitulation to unconscionable demands in seeking the peaceful return of the hostages; and

Whereas the United States has exercised its inherent right to protect its citizens in attempting to carry out a humanitarian rescue mission: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress commends the American military personnel who took a direct part in the attempt to rescue the hostages and applauds their patriotism and selfless courage and recommends that the President consider the awarding of appropriate military decorations and awards to the men who took part in the rescue operation.

Sec. 2. The Congress expresses the condolences of the American people to the families of the men who died in the attempted rescue.

Sec. 3. The Congress states that the American people stand as a Nation united in our determination to achieve the safe return of our hostages.

Sec. 4. The Congress recommends that Iranian assets frozen in the United States be made available to American claimants for damages against Iran, particularly the hostages, the families of the hostages, the survivors of those killed during the rescue operation, those injured during the rescue operation, and the families of the injured.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Armed Services has approved House Concurrent Resolution 323 without objection.

It is a relatively simple resolution which expresses the view of Congress on several points relating to the Iranian crisis.

With the passage of this resolution, the Congress would commend our military personnel who attempted the rescue of the hostages in Iran. It would also be recommended that the President consider award of appropriate military decorations to these personnel. The award of these decorations is within the President's authority but it is certainly appropriate for the Congress to make recommendations as it considers necessary.

Section 2 of the resolution expresses the sincere condolences, which I am sure are felt by all of our citizens, to the families of the men who were killed in the attempted rescue. Certainly nothing can be done which will make their sense of loss any less. However, recognizing that others share their sorrow may provide some comfort.

Section 3 asserts what is in fact the case that the American people as a whole are united in their desire to achieve the safe return of the hostages.

Section 4 recommends that Iranian assets in the United States be made available to American claimants for damages against Iran.

Mr. Speaker, this final section is within the jurisdiction of the Committee on Foreign Affairs and for that reason House Concurrent Resolution 323 is jointly referred to that committee as well as the Armed Services Committee. The distinguished chairman of the Foreign Affairs Committee, the honorable CLEMENT J. ZABLOCKI, has advised our committee they have no objection to its consideration. At the appropriate time I will yield to the chairman of the Foreign Affairs Committee for his comments.

Mr. Speaker, this resolution is straightforward and requires no detailed explanation. For this reason, the Armed Services Committee has filed no written report on it.

I urge its passage.

□ 1330

Mr. Speaker, at this time I yield such time as he may consume to the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI) for any comments the gentleman wishes to make.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 323, commending the American military personnel who took part in the attempt to rescue the American hostages being held illegally in Iran.

House Concurrent Resolution 323 was referred jointly to the Committees on Armed Services and on Foreign Affairs. The resolution has been ordered favorably reported by the Committee on Armed Services and in the Committee on Foreign Affairs is pending before the Subcommittees on Europe and the Middle East and on International Economic Policy and Trade. It is my understanding that the chairman of the subcommittees reviewed the resolution and support the adoption of House Concurrent Resolution 323. The intent of House Concurrent Resolution 323 is similar to House Concurrent Resolution 321 and House Concurrent Resolution 333. The former, House Concurrent Resolution 321, was introduced by the Honorable CARDISS COLLINS of Illinois, and House Concurrent Resolution 333 was introduced by the gentleman from Wisconsin and 33 cosponsors.

I would like to take this opportunity to commend the sponsor of House Concurrent Resolution 323, the gentleman from New Jersey (Mr. COURTER) and the distinguished chairman of the Armed Services Committee for their efforts in bringing this timely resolution to the floor.

Mr. Speaker, it is highly appropriate that we take this time today to express our gratitude to those members of the U.S. Armed Forces who selflessly volunteered for the dangerous humanitarian mission to rescue their fellow Americans illegally held captive by Iranian terrorists. The members of the rescue team demonstrated the highest degree of courage and bravery in the performance of their duties and it is therefore fitting that we recognize their heroic efforts which are a source of national pride and merit the gratitude of all Americans.

I particularly want to take this opportunity to express my condolences to the families of the eight men who died during the attempted rescue effort and to wish those who were injured during the mission a speedy recovery.

I urge the unanimous adoption of the resolution.

Mr. WHITE. Mr. Speaker, this resolution is straightforward and requires no detailed explanation. For that reason, the Committee on Armed Services has filed no written report on it. I urge its passage.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I thank the gentleman for yielding and I commend the gentleman and the committee for bringing forth this most timely commendation of our servicemen. Too often our servicemen are maligned, rather than commended. I think this is one time they are justly to be commended in their most heroic attempt to save our hostages illegally held in Iran.

Mr. Speaker, I rise in support of this most important resolution commending our servicemen.

As chairman of the Defense Appropriations Committee I have held extensive hearings on the hostage rescue attempt.

It is my opinion that the rescue attempt failed—not for failure or lack of zeal or lack of competence of the dedicated men and officers involved but solely due to mechanical failures. These failures could or should have possibly been anticipated but that should not adversely reflect on those dedicated men of our military services who participated in this action.

Mr. Speaker, I join with my colleagues in commending the brave men who gave their lives for their fellowmen and all those who participated in this hostage rescue attempt.

Mrs. HOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also strongly support House Concurrent Resolution 323.

I guess we all feel frustrated by the events in Iran, but certainly some of our citizens, in addition to the hostages, have had even greater burdens. The military personnel who attempted the rescue of the hostages risked their lives in that unsuccessful effort. They deserve recognition for their actions. The families of the personnel who were killed in the rescue attempt have suffered more than anyone. It is little enough for the Nation to express its sorrow.

Actions such as are contained in this resolution are intangible, but nevertheless important. We must continue to focus our attention on the status of those 53 U.S. citizens held hostage in Iran. I support the effort to have the Nation recognize the sacrifices of our military personnel and their dependents during the rescue attempt and I know that this resolution will maintain the focus on the hostages that I hope will ultimately lead to their return.

Mr. Speaker, I would like to commend the author of this resolution, the gentleman from New Jersey (Mr. COURTER), for taking the initiative.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Mr. Speaker, I very much appreciate the actions and kind remarks made by the chairman of the Subcommittee on Military Personnel (Mr. WHITE) and the ranking minority member of that subcommittee, the gentlelady from Maryland (Mrs. HOLT). Additionally, I would like to commend my committee chairman, Mr. PRICE, and the chairman of the Foreign Affairs Committee (Mr. ZABLOCKI) and their staff directors for taking timely action on this resolution and permitting it to be acted upon today. I know I speak for the 30 cosponsors of this resolution in thanking you.

Mr. Speaker, as a member of the House Armed Services Committee, I am more convinced than ever of the need for the House of Representatives to go on record in support of our effort of April 25, 1980, to rescue our hostages held in Iran. This was the first time that American forces had been sent into action since the *Mayaguez* affair of 1975.

In recent days I have been troubled by two stories in the news. The first relates to the disgraceful actions of Ramsey Clark and his entourage, attending the "American crimes against Iran conference." At the conference the former U.S. Attorney General labeled our rescue attempt "a criminal act." He repeated that charge on the Sunday news program, "Issues and Answers." I find Mr. Clark's remarks incredible and outrageous. As this resolution states, we exhausted every known diplomatic avenue in trying to extricate our fellow citizens without resorting to force. We tried every conceivable method short of capitulation to Iran's demands. Mr. Clark was part of that diplomatic effort. All nations have felt the responsibility to protect their nationals, at home and abroad. The new regime of the Ayatollah Khomeini has chosen to disregard the age-old custom of protecting foreign emissaries and their staffs.

Instead, the Ayatollah, who remains the real power in Iran thinks that foreign representatives are legitimate targets for personal grievances. Many people in this country believe that we waited too long to act in the manner we did; but let it suffice to say that we did act, not out of malice or reprisal, but merely to exercise our inherent right to defend and protect our personnel in Tehran. The life-threatening and humiliating circumstances they were subjected to, had to be alleviated. In my judgment, we had no other choice.

The other news story I alluded to concerns the Washington Post story of this past Friday, concerning itself with a Senate Armed Services staff memo, leaked to the press, that was critical of the mission. I have two responses to this story. First, Senator John Tower, the ranking minority member of the Senate Armed Services Committee stated yesterday on "Face the Nation" that the memo was unofficial, incomplete, did not represent the views of the committee and its contents were not fully disclosed; only the negative elements. Second, in regard to the feasibility of the mission and the manner it was carried out, I could not find a better judge of that than the Chief of Naval Operations, Adm. Thomas B. Hayward who stated that:

> Sailors, soldiers, airmen and marines worked side by side, week after week, developing techniques, working out details, practicing, practicing, practicing. Some fell by the wayside under the strenuousness of the requirement. Others took their place. Only the very best were chosen to execute the mission. To my knowledge there has never been any finer interservice cooperation, pulling together to make sure it would work. They had trained together as a team. They knew and trusted one another completely, they were totally confident. Anyone who suggests these men were not up to their job, that there was laxness in any way of their performance, or that they were not adequately prepared, is proceeding from a vast base of ignorance. Theirs was a tough, demanding assignment. There was a risk at every juncture, but it was a risk that had been thought out and accounted for. The mission took guts, courage, and stamina. They had it all. They were professionals.

As is evidenced by the admiral's comments, he had nothing but the highest praise for the men who were to carry out the mission. This is what this resolution deals with; the personnel who took a direct part in the rescue effort and what modest rewards they should receive for their efforts. I am convinced, and I think there should be no doubt in anyone's mind, that they were the best men our Armed Forces could provide. They had an unshakeable faith in their abilities, absolutely convinced of the correctness of their actions and the courage to carry the mission out.

We have recently celebrated Armed Forces and Memorial Days, and I think that passage of this resolution does justice to our Nation, answers Mr. Clark, and honors the bravery of those who took part in this rescue mission, its survivors and especially those who perished. Let us inform our Armed Forces that we truly appreciate their efforts to protect our Nation and its citizens whenever and wherever the need arises. So, at this time I ask all of you to support this resolution. Thank you, Mr. Speaker.

● Mr. WEISS. Mr. Speaker, I intend to vote present on House Concurrent Resolution 323, a resolution commending the participants in the unsuccessful mission to rescue the American hostages in Iran.

Like my colleagues who will vote for the resolution, I have the utmost respect for the brave and patriotic servicemen who participated in the mission and especially for the eight men who sacrificed their lives in the attempt. I commend their noble spirit of voluntary service, and cannot vote against this resolution honoring them.

But I cannot vote for the resolution. Such a vote, I believe, would carry with it implicit approval of the decision to try to rescue the hostages by force. Indeed the statement in support of the resolution by its chief House sponsor, the gentleman from New Jersey, Mr. Courter, specifically sets forth that the desire to counter criticism of the mission is one reason he introduced the resolution.

I opposed that ill-advised, even reckless mission. I believe it was extremely counterproductive to our efforts to secure release of the hostages, and a threat to world peace.

Therefore, I will vote present on House Concurrent Resolution 323.●

Mrs. HOLT. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

Mr. WHITE. Mr. Speaker, I have no further requests for time. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. White) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 323).

The question was taken.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 323.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MINORITY CONTRACTING

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5612) to amend section 8(a) of the Small Business Act, as amended.

The Clerk read as follows:

H.R. 5612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 8(a) of the Small Business Act is amended by striking "September 30, 1980" wherever it appears therein and by substituting in lieu thereof "September 30, 1982".

Sec. 2. Section 202(b) of Public Law 95–507 is amended to read as follows:

"(b)(1) Not later than January 1, 1981, the General Accounting Office shall submit to the Congress a report which, with respect to provisions of paragraphs (1)(B) and (2) of section 8(a) of the Small Business Act, shall evaluate the implementation of such provisions and whether such implementation furthered the purposes under section 2(e) of the Small Business Act.

"(2) The Small Business Administration and the agency designated pursuant to section 8(a)(1)(B) of the Small Business Act shall submit separate quarterly reports to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives. Such reports shall contain a review and evaluation of all activities conducted pursuant to section 8(a)(1)(B) of the Small Business Act during the previous three month period, including—

"(A) the number, dollar value, and description of all contracts awarded or being reserved for award pursuant to such section;

"(B) the status of all contracts awarded, including percent of completion and a description of problems incurred in the performance of such contracts;

"(C) the impact, if any, on small business concerns resulting from the selection of any contract for award under such section; and

"(D) efforts made by the Administration to identify, match, and negotiate procurement requirements pursuant to such section.

"(3) The reports referred to in paragraph (2) shall be submitted commencing on October 1, 1980, and shall continue through and include the fiscal year quarter ending September 30, 1982.".

Sec. 3. This Act shall take effect October 1, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Iowa (Mr. Smith) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. Erdahl) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York will handle this bill, and I yield my time to him.

I just want to commend the subcommittee, headed by the gentleman from New York (Mr. LAFALCE) and also the gentleman from New York (Mr. ADDABBO), the gentleman from Maryland (Mr. MITCHELL), the gentleman from Kentucky (Mr. CARTER), the gentleman from Minnesota (Mr. ERDAHL) and others that worked on this bill. It is an important bill. I want to commend the subcommittee for bringing it to the floor.

□ 1340

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5612 was unanimously approved and voted out of both my Subcommittee on General Oversight and Minority Enterprise, and the Full Small Business Committee.

PURPOSE OF BILL

The purpose of the bill is to extend through September 30, 1982, two pilot programs originally authorized in Public Law 95-507: The 8(a) pilot procurement program and the 8(a) bond waiver pilot program. These pilot programs were intended to facilitate the ability of the Small Business Administration to develop small business concerns owned by socially and economically disadvantaged persons.

In addition, this bill is intended to clarify and expand the scope of agency reporting requirements so that your committee may receive the necessary information to evaluate the effectiveness of the pilot programs.

DESCRIPTION OF PROGRAMS

Under the regular 8(a) program, the SBA can request suitable procurement requirements from Federal buying activities, enter into contracts with the Federal agencies and, in turn, subcontract the work to small socially and economically disadvantaged business. Under the 8(a) pilot procurement program, the SBA has the exclusive authority to determine which procurement needs of an agency designated by the President, currently the Army, are suitable for inclusion in the 8(a) program.

The bond waiver pilot program allows the SBA to waive, in certain specific circumstances, and under stringent conditions, Federal bonding requirements that otherwise would attach to Government contracts awarded through the 8(a) program. The basic intent of this pilot is to assist a startup firm to obtain a "track record" in a manner commensurate with protecting the interests of material, suppliers, and laborers of the 8(a) firm.

NEED FOR 2-YEAR EXTENSION

The pilot programs need to be extended because SBA has been extremely slow in their implementation. With respect to the procurement pilot program, the SBA and Army did not let a contract until September 27, 1979, which was nearly 11 months after Public Law 95-507 was enacted and 4 months subsequent to the May 24, 1979, signing of the interagency agreement between Army and SBA. Further, only three contracts have thus far been awarded. With respect to the bond waiver pilot program, SBA has not, to date, waived any bonds under this pilot. Final regulations have not yet been published.

Therefore, the pilot programs need to be extended for an additional 2 years so that the original congressional intent of testing these approaches to contract selection and bonding for the 8(a) program can be properly evaluated.

IMPACT OF PILOT PROCUREMENT PROGRAM ON SMALL BUSINESS COMMUNITY

While the committee believes it is both desirable and necessary that SBA have increased authority to select contracts for award through the 8(a) program, as provided for in the pilot program, it firmly believes that the authority should not be used in a manner detrimental to the general small business community.

Taking contracts from the small business community, when such contracts represent a traditionally significant part of the Federal purchase dollar to small business, is not the intent of the 8(a) program. Instead, we firmly believe that a conscious and deliberate effort by the Government to decrease the share of the Federal procurement budget spent with large business concerns is the fundamental prerequisite for both increasing awards to small business and for securing an increase in the number and quality of contracts selected for the 8(a) program.

Furthermore, it is the committee's belief that SBA should attempt to obtain, insofar as practical, a selection of contract requirements which will result in a broad geographic dispersal of work so that the program will have a more representative base for proper evaluation.

The SBA is strongly urged to conduct its programs guided by these principles, and not to engage in practices which merely result in shifting contracts between the small and small minority business community, while large business continues to maintain its disproportionate share of the Federal procurement dollar.

CONCLUSION

The bill is the result of extensive consideration by your committee's Subcommittee on General Oversight and Minority Enterprise. It was considered by your committee and was unanimously ordered favorably reported, with amendment, to the House.

Your committee believes that the provisions of this bill are needed by those socially and economically disadvantaged business persons participating in SBA's business development program; that it is needed to realize original congressional intent of testing the efficacy of new approaches for economic development; that its reporting provisions are needed to obtain information necessary to evaluate program efforts; and that it represents a reasonable, adequate, and inexpensive means to achieve these purposes.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker. I thank the gentleman for yielding and want to commend him and the ranking minority member for expeditiously bringing this bill to the floor. It is very important legislation and, as a sponsor, naturally I would be in full support. I ask my colleagues to support this legislation.

Mr. Speaker, I rise in strong support of H.R. 5612, which would continue for an additional 2 years two minority enterprise pilot programs, which have shown themselves worthy of continuance.

The bill amends section 8(a) of the Small Business Act by extending through September 30, 1982, the Army pilot program and the bond waiver pilot program, which were created as a part of Public Law 95-507, which I authored, and which was signed into law by the President in late 1978.

When I authored that legislation it was my intention to make both of these programs permanent. In conference with the Senate, however, it was felt that only by operating these programs on a pilot basis could the determination be made as to whether these programs should become a part of the annual authorization. As a result of that decision, the General Accounting Office was due to monitor the progress of the programs and report to the Congress by June 30, 1980, as to their effectiveness. GAO, through no fault of its own, will not be able to submit that report on time. I believe very strongly that it is important to keep these programs going until such time as GAO can submit its final report.

The Small Business Administration was very slow in getting these programs started. The agency did not publish its proposed rules for the bond waiver pilot program until April 4, 1980, some 19 months into a 24-month pilot program. By the time final regulations are published, the original 24-month period will nearly have passed. Obviously, this pilot program must be extended in order to carry out the congressional intent to determine the validity of the program.

The Army pilot program suffered from a similar delay. The President was required to designate an agency for the pilot program within 60 days after the effective date of the statute. The President designated the Army on January 10, 1979, 75 days after the bill became law. Late in May 1979, some 4 months later, SBA and the Army entered into an agreement to implement the program. The first of only three contracts which have been awarded to date, was awarded in September 1979, with the others following in December and the last on January 31 of this year. Nothing approaching a systematic implementation of the program has been seen until just recently. However, the contract already awarded as well as those now under negotiations indicate that the pilot program can attract the more sophisticated and high dollar value contracts into the 8(a) program. It must be given a chance to fulfill the promise of that Congress mandated.

I would urge my colleagues to support this legislation so that we can finally make a determination as to the validity of these programs as demonstrated in the pilot program operation.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. LaFALCE. I yield to the gentleman from Maryland.

Mr MITCHELL of Maryland. Mr. Speaker, I, too, want to thank the chairman of the subcommittee for the expedious way in which he has handled this piece of legislation. The chairman of the subcommittee has made it very, very clear that there simply was not enough time to test the workability of this program. Therefore, we are asking for its extension.

I believe the program is of significant merit and I think the Congress would be very wise to pass this measure in a very expeditious fashion. I thank the chairman for yielding.

Mr. ERDAHL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, representing the minority side of the Small Business Committee, I rise in strong support of this piece of legislation, H.R. 5612. Every once in a while we do things around this place that make a lot of sense, and this happens to be one of those things.

This extension has been requested and the committee was unanimous in its approval for this extension of time to see if this law really works. It has not had time yet for this testing. I think it makes good sense that we provide some incentives and some encouragement to people in small business areas and in the minority groups for not only the bonding but also in the procurement area.

I rise in strong support of H.R. 5612 and trust it can be unanimously adopted.

Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I, too, strongly support this legislation. I feel it will help those people who have been disadvantaged over the years to have part of the action.

Briefly, the bill extends the life of the interagency procurement agreement between the SBA and the Army. The agreement is aimed at improving the quality of procurements that form the basis of the 8(a) procurement program.

Additionally, the bill allows an extension of the surety bond pilot program. Since SBA has yet to issue final regulations to implement the program this extension is necessary.

Lastly, the bill statutorily mandates a series of reports by the SBA, the pilot agency designated by the President (the Army), and the GAO that will provide a positive and sure basis for decision of the pilot program's value and its cost. With the data, the Oversight Subcommittee will be able to make an informed judgment on program continuation.

Again I want to thank the gentleman, from Minnesota, Mr. ERDAHL; the chairman of the full committee, Mr. SMITH; and chairman of the subcommittee, Mr. LaFALCE; as well as the distinguished gentleman from Maryland, Mr. MITCHELL; and the distinguished gentleman from New York, Mr. ADDABBO.

I strongly urge passage of this legislation.

Mr. LaFALCE. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. ERDAHL. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 5612, as amended.

The question was taken.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LaFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro temore. Is there objection to the request of the gentleman from New York.

There was no objection.

SHORT-TIME COMPENSATION ACT OF 1980

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, during the last few weeks economists have shifted their predictions, and now are saying 1980 may see one of the worst recessions since the 1930's. Already layoffs are staggeringly high in the automobile, rubber, steel, and construction industries. The statistics indicate that the country must again brace itself for another recession.

However, when the economy experiences a downturn, the brunt of the cost of a recession is borne by the relative few who are put on indefinite layoff. Those who are laid off totally suffer the loss of income, job-related benefits, and newly acquired work skills, while the failure to pay the mortgage and car payments, and loss of health insurance coverage can cause both physical and psychological stress.

But the employees are not the only ones who suffer the costs of a layoff. New production schedules and exercise of bumping rights make layoffs costly to the company in terms of both money and productivity, and to workers who, though still at work, have to move down into lower paying jobs. Moreover, costly rehiring and retraining cut deep into productivity and profits in the long term.

Unemployment is also costly to the taxpayer. The Congressional Budget Office estimates that when unemployment goes up 1 percentage point, the cost of programs like unemployment insurance and food stamps go up $5 to $7 billion. But of even greater impact on the taxpayer and the budget, is that tax revenues go down $20 to $22 billion.

Today I am introducing legislation that proposes an alternative to costly layoffs. The Short-Time Compensation Act encourages States to permit payment of unemployment compensation benefits to employees who are laid off partially. It encourages worksharing as an alternative to layoff where feasible. Under short-time compensation, workers will be paid their regular wages for the time they work and prorated unemployment insurance benefits for the time they do not. Under current law, it is impossible for any State but California to pay unemployment insurance for a 1-day layoff per week.

This bill authorizes the Secretary of Labor to develop model legislation, make grants, and provide technical assistance to States to assist in developing, enacting, and implementing short-time compensation programs.

The bill proposes a voluntary approach: use of short-time compensation will be voluntary for States, employers, and employees in unionized firms. While State experimentation is encouraged, the legislation recommends some basic guidelines to protect employees and the integrity of the unemployment compensation trust funds. It also establishes a controlled demonstration project. We need to test the viability of short-time compensation as a means to alleviate the burden of layoffs during recessions.

Although short-time compensation is a relatively new concept in this country, it has been used for decades in Western Europe as an important tool to combat layoffs. In the last recession, more than 770,000 German workers received partial compensation.

California has had a successful short-time compensation program since mid-1978. It has worked well and the California workers, employers, and unions are satisfied with it. Although the legislation was introduced by Senator William Green in the aftermath of passage of proposition 13, the program was extended by the State legislature last year.

The advantages of short-time compensation to workers is obvious. It preserves their job attachment and fringe benefits. It also may be a better way of doing business for employers as well. Even though it costs them more to maintain fringe benefits, it reduces rehiring and training costs. Short-time can improve long-run productivity since it helps employers retain a skilled work force.

The legislation can also benefit unions. A number of unions have collective-bargaining agreements that call for worksharing among employees before layoffs are permitted. However, under current law in most States, this worksharing has to be done without compensation. My bill would encourage the payment of unemployment insurance benefits to workers in those unions who already use reduced work hours before resorting to layoffs.

Short-time compensation is a cost-effective way to fight unemployment. The cost of my bill to establish this 3-year experimental program is $10 million, for the entire 3 years. Since employers will be required to certify that the use of short-time is in lieu of an equivalent number of hours of full-time layoffs, it should not be more costly to the unemployment insurance trust funds. Moreover, employers who are at their maximum tax rate can be charged an additional surtax or be required to reimburse the trust fund for their utilization of short-time compensation.

Second, if short-time were used, there would be less need for costly public service jobs, which pay the employee less than they would get from reduced wages supplemented by unemployment insurance benefits. Public assistance costs could also be reduced.

Finally, use of short-time compensation would have a stabilizing force for the local economy. Employees on short-time will come closer to maintaining their normal incomes, especially since they will have reduced work-related expenses and unemployment insurance benefits are nontaxable. In addition, their increased purchasing power will sustain local businesses and help the State's economic recovery, and there will be greater tax revenues for the State.

Since we seem to be headed for another full-blown recession, I think it is a good time for Congress and the States to test this alternative to layoffs.

NATIONAL HEALTHCARE REFORM ACT OF 1980

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GEPHARDT. Mr. Speaker, Congressman STOCKMAN and I are today introducing legislation called the National Healthcare Reform Act of 1980, which would deregulate the health care industry and permit competition to contain health care costs. Last year when the House refused to approve President Carter's mandatory hospital cost containment program many of us said that health care costs could be restrained in a better way.

I submit this bill today in that spirit and hope it will engender a great deal of discussion and constructive criticism as a comprehensive counterproposal to the many national health insurance bills and other procompetition proposals. We believe our plan will awaken the health industry and the public, which has been anesthetized to the costs of health care, while it also provides health care coverage for millions of Americans who have heretofore not been covered under our health care system. I hope many Members will join us in developing and supporting this radical change in health care in America. A summary of the bill follows:

SUMMARY OF THE NATIONAL HEALTHCARE REFORM ACT OF 1980

The National Healthcare Reform Act would deregulate the health care industry and permit competition to contain health care costs. The main changes it would introduce in the nation's health care delivery system are the following:

It would introduce financial incentives for health care insurers and providers to contain costs while improving quality and would remove the methods of payment which now make meaningful cost containment impossible.

It would permit the American people, rather than layers of government bureaucracies, to determine what health care they want, how much they wish to pay for it, and how much insurance they wish to obtain. It would require the development of innovative and cost-effective ways of delivering care, responsive to the wishes of people rather than of regulations.

It would enable those Americans who now have little or no insurance to buy basic health care protection.

It would make increased benefits available for Medicare beneficiaries and give them the option of selecting new methods of delivery and of benefiting from the cost saivngs.

It would federalize Medicaid (at the option of each state) and permit the poor and needy to join the mainstream of the community health care delivery system.

It would phase out cost-based reimbursement for hospitals and other providers, which is generally recognized as being a major deterrent to effective cost containment. Providers would then compete in terms of quality and price.

It would prevent inefficient and expensive hospitals from continuing to count on the cushion of reasonable cost reimbursement. At the same time, providers would keep the rewards of delivering high quality care at lower costs, and consumers would be rewarded for choosing providers who deliver quality care at lower costs.

It would replace government regulation of the financial aspects of the health care delivery system. In effect, it would largely deregulate the health care industry, without affecting government efforts to insure quality of care.

Federal dollars are now funneled into the system largely through reasonable cost reimbursement which, in itself, provides no financial discipline on the providers and no incentive to reduce costs. Moreover, most private health insurance reimburses hospitals on methods related to cost.

At the same time, workers are permitted to purchase health insurance with contributions made by their employers which are tax-free without limitation, thus providing no incentive for workers to care about the price of the insurance they buy. Thus, both patients and health care providers have strong incentives to provide more and more care regardless of cost. This cycle can be broken only if providers are not assured of recouping their costs but must provide care for a predetermined amount and if consumers and providers have financial incentives to consider the cost of care. For consumers to have the ability to make cost decisions and to keep a lid on the price of care, providers must be forced to compete. In order to carry out these goals, this bill would move the health care field from regulation to competition.

HOW THE BILL WORKS

The bill is based on Qualified Healthcare Plans which could be sponsored by any person or agency of government. The sponsors could be hospitals, doctors, Blue Cross, Blue Shield, commercial insurance companies, or others who would develop innovative delivery mechanisms.

Each citizen would receive a Healthcare Contribution from the federal government in one of the following forms:

(1) The present exclusion from income tax for health care premiums paid by employers on behalf of their workers would be maintained, but the exclusion would be provided only if the contribution is used by the employee to pay for the premium in a Qualified Plan. However, the exclusion would no longer be unlimited. It would be limited to the average premiums paid by similarly situated individuals in an area, although no worker would have an exclusion which is less than what his employer paid him on his behalf before the bill was enacted. Also, and most importantly, unlike the present system, a worker who chooses a Plan with a premium which is less than the payment being made by his employer would be able to pocket the difference in cash—and tax free.

In short, an employee who chooses a plan more costly than the Contribution would incur additional costs; but an employee who selected a Plan with a premium lower than the employer's payment would be entitled to receive the difference as a tax free refund. Thus, individuals would shop among Plans looking for the combination of price, coverage, and quality which would suit their needs.

(2) For people whose employers do not pay the cost of the premiums in Qualified Healthcare Plans or who are themselves self-employed, a tax credit would be granted. The credit would be equal to the amount spent by the person for the premium of a Qualified Healthcare Plan—but no higher than the tax benefit of the exclusion provided for workers whose employers do pay for Plan premiums. The tax credit would be far more valuable than the present deduction. Moreover, the tax credit would be refundable so that the individual would receive the money from the government even if the cost of the Plan premium was greater than his tax liability.

(3) Medicare beneficiaries would have the option of remaining with the present Medicare benefits system or of choosing to receive the benefits of Plans being offered by the competitive system. Medicare beneficiaries who took this option would be provided a direct Healthcare Contribution by the federal government in an amount equal to the average cost of Plans purchased by Medicare beneficiaries. Plans providing services to Medicare individuals would be required to provide benefits which are greater than those currently covered by Medicare. For instance, outpatient drugs would be provided and there would be no limitation on the number of hospital days. If they selected a Plan whose premium was less than the amount of the Healthcare Contribution, they would be able to keep the difference as a tax-free refund.

(4) After a four-year period for the competitive system to become established, Medicaid recipients and poor people not now eligible for Medicaid would be eligible to come under the Act. States would have the option to go onto a federalized Medicaid system. If they made the selection, they would avoid further increases in their Medicaid costs. The bill provides that expenditures for health care for the poor by states electing to be covered by the new program would be no greater than it was this year, indexed for inflation. In states which elected to be covered by the federalized Medicaid system, the eligible people would be provided a direct Healthcare Contribution. This would enable them to join the mainstream of community health care delivery by selecting from among the Plans and making their own decisions. Plans for these beneficiaries would have no cost-sharing. The contribution would be equal to the average of the premiums paid and out-of-pocket expenditures incurred by the other members of the community for health care provided by Qualified Plans. In short, the governmental contribution to Medicaid beneficiaries is set by the amount spent on health by the other residents of their own communities.

Consumers who joined Qualified Healthcare Plans that effectively manage costs would get more for their money. Plans that were not cost effective and performed inadequately in providing services would lose customers and risk going out of business. Out of this gradual evolution would emerge a system based on incentives to provide quality services to patients at the lowest cost.

People would have the freedom to make choices about the kind of health insurance and type of care they obtain and would have complete and reliable information enabling them to make informed choices.

A pamphlet would be prepared each year to specify in clear and readily understandable language the terms and conditions of coverage provided by each Plan offered in an area. The pamphlets would be distributed to all eligible persons in October, preceding the beginning of the Plan year on January 1.

To further improve customers' ability to make health care purchasing decisions, they would be allowed to choose consultants to give them help in the selection of Plans. This would give customers the benefit of professional expertise; and the agents would be representing a number of customers, be able to obtain care for the lowest cost and see that customers received quality care.

Qualified Healthcare Plans would be required to accept all applicants without regard to health status. They would provide all covered services for a prepaid premium, putting them at financial risk for their efficiency and encouraging them to avoid the delivery of unnecessary services. They would be required to charge the same premiums for all people in broad categories of age, residence, and family status. They would be required to market at the same period of time each year to facilitate comparision shopping (while provision is made for members to select a Plan outside of the enrollment period, if necessary). The Plans would be required to provide a specified minimum level of care and would be free to provide additional care if they wished and to charge additionally for it.

HOW QUALIFIED PLANS WORK

In providing services, Qualified Healthcare Plans and providers of services would not be restricted by artificial governmental constraints on how care is delivered or by whom—a Plan would choose the most appropriate method. Undoubtedly, some Plans will utilize prepaid provider systems, some fee-for-service mechanisms, and some will innovate in ways yet unknown. The bill deliberately does not direct the development of a system of care or its payment in a certain way, as toward HMOs or fee-for-service. It deliberately encourages and facilitates competition of all sorts.

In addition, the bill sets out certain rights of a Plan and its affiliated providers, such as the right to charge any premium, the right to provide services in addition to Basic Healthcare Services, and the right to refuse membership if a person could not pay premiums.

Plans would be encouraged to compete on the amount of care provided for the premiums charged. But to ensure the basic level of care is provided by Plans, all Plans would, at a minimum, be required to provide all acute care services for the treatment of illness, disease or accident after a member of the Plan had spent no more than $2,900 in one year. That is, of course, only a maximum. It is expected, because of employer contributions to premiums and because of competitive pressures, that most Plans will be marketed with far lower levels of required out-of-pocket expenditures.

Some will market plans with no out-of-pocket expenditures if a market for such Plans continues to exist. The level is set in the bill at this figure to ensure that at least basic protection will be provided to all Americans. After the Plan-specified out-of-pocket expenditure amount is met by a family, the Plan would be responsible for all their acute care, without financial or durational limitations. And the Plan and its providers would be permitted to make its own judgment as to the appropriate means of delivering care—all of which will be known and agreed to by Plan members—so that innovative and cost-effective methods will be encouraged.

A Qualified Plan would be required to accept for membership all residents of an area but could limit the number accepted each year under a priority system specified in the bill. All contracts would be for a single year. enabling dissatisfied members to switch Plans when their contract period would end. As security for the customer, the bill would establish a corporation in the Treasury Department to provide a system for protecting members enrolled in Plans which experience financial difficulties or fail.

CONCLUSION

The current non-system of providing health care is a vicious circle of "reasonable" cost reimbursement and insulation from the effects of competition that provides little incentive for doctors, hospitals or patients to consider the cost of care. Hospitals, doctors and patients must have meaningful incentives to consider costs, as they do in every other function of life. The collective effect of these decisions would determine the amount of the national resources allocated to health care. The American people, not a regulatory superstructure, should determine how they will obtain health care and at what cost. This can be done only if economic competition replaces government control, and if customer responsibility replaces government determination. Government efforts to combat these factors by a never-ending flood of regulatory controls have not and will not work. They freeze initiative and discourage innovation. The cure is not more government regulation. What is needed is a fundamental change in the structure of the system, and that is what this bill would create.

THE FTC STRIKES AGAIN

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARTIN. Mr. Speaker, the Federal Trade Commission recently has achieved a singular record of harassment of American businesses, enviable only to Caligula were he alive today. If Congress does not soon get control, there is no end to the damage they will do to private enterprise and what little respect entrepreneurs have left for their Government.

The news article which follows, from the Charlotte, N.C., Observer, June 8, 1980, tells the sordid story of how they have singled out a highly regarded and respected automobile dealer for punishment for failure—inability, frankly—to comply with their overreaching regulations. The FTC has brought suit against Mr. Charles Young and his company, Young Ford, Inc., not for what he has done nor for any alleged harm to his customers, nor for what he is capable of doing, but rather over matters outside of his control. He is being sued because he lacks leverage to compel banks—which are subject to many other regulators, but not FTC—to make their independent credit contracts for car loans specify the right of the customer to sue the banks to halt payment if something goes wrong with the car.

Few auto dealers can deliver on this regulation, most are in noncompliance. So how does the FTC seek to remedy this outrage? By compounding it with intimidation. Mr. Young and two other auto dealers across the country are singled out as an example, as a "message" to other dealers.

Read it and ponder what we have wrought.

The article follows:

DEALER OUTRAGED, BUT U.S. PRESSES SUIT

(By Robert Hodierne)

WASHINGTON.—"This thing is really unbelievable," Charles Young said, reading from the lawsuit. "It says, The United States of America vs. Young Ford, Inc., and Charles Young."

Young paused, and when the Charlotte auto dealer spoke again there was a growing tone of awed disbelief in his voice: "They named me as an individual. The United States of America vs. Charles Young."

To hear Young and his lawyers tell it, a suit claiming Young Ford violated the rights of credit users is nothing more than nit-picking, overzealous regulation by the Federal Trade Commission (FTC).

"A classic example of the FTC's unwarranted assault upon small businessmen," Young fumed in a news release.

The suit is viewed by some as the kind that fueled business hostility resulting this spring in a congressional goring of FTC authority.

In addition to ordering the FTC to keep its regulatory hands off such businesses as television advertising aimed at children and the funeral industry, Congress gave itself veto power over new FTC rules.

Young calls the FTC's case a "misguided display of bureaucratic power."

Others think it is more complicated than that:

Young and his dealership at 301 E. Stonewall St. were sued May 30. The suit claims Young Ford failed to insure that loan contracts between banks and car buyers gave the buyers the right to sue not only the dealer but also the banks if the car was defective.

"The FTC is telling us we should refuse your check unless we check your contract with the bank to see if it has that language in it," Young said. "If I'm guilty of anything, it's not being able to control three large banks in Charlotte."

The suit said the banks whose contracts Young failed to check were Wachovia Bank and Trust Co., North Carolina National Bank (NCNB) and Northwestern Bank.

Young Ford is one of only four businesses that have been sued under the 4-year-old FTC rule that requires merchants to check that contract language. While the rule is aimed at all businesses using installment contracts, three of the four suits are against auto dealers.

Young said he feels the suit is unfair because none of his customers has been hurt—nor have any even complained.

The FTC readily admits that.

"There is no evidence Young Ford is a lousy dealer, nor does there have to be," according to David H. Williams, FTC program adviser on credit practices.

It is the same reasoning that results in speeding tickets. Speed limits are set to prevent accidents. Speeders get tickets even if they haven't crashed. A rule is a rule.

In this case, the rule was aimed at schemes that went something like this:

A family buys aluminum siding, signing an installment payment contract with the siding company. The siding company sells that contract to a finance company. The family is now indebted to the finance company and must pay even if the aluminum siding never arrives.

The 1976 FTC rule said such contracts must give the family the right to stop making those payments to the finance company.

Young Ford and most other auto dealers obey the part of the rule covering loans drawn up by dealers and then sold to lending institutions. It is a subsection that caused Young Ford's problem.

The subsection says, in effect, that if a customer goes on his own to Wachovia to borrow money to buy from Young Ford, the loan agreement must say that the customer has the right to sue Wacnovia as well as Young.

That right is required because Wachovia and Young Ford do other loan business together and are "affiliated." It is Young Ford's responsibility to make sure the language is in the contract.

Young Ford apparently is not the only dealer in North Carolina that failed to check such direct bank-to-customer loans—although it was the only one sued.

The sales manager at another Charlotte dealership that does nearly three times the $16.6 million volume of Young Ford admitted his firm does not check the direct bank loan contracts.

"I don't know of another dealer who does," he asserted.

Paul Polking, assistant general counsel for NCNB, said his bank includes the protective language "upon request of dealers." He added, 'My understanding is some do ask for it and some don't."

Why, if the practice is apparently widespread, was Young Ford singled out? FTC officials are evasive on that.

The FTC's Williams says 156 screenings of state attorneys general and legal service offices was done. But, he said, Young Ford was not picked on the basis of complaints the survey uncovered.

Sarah Hughes, an FTC attorney in the credit practices office, says other dealers also were asked for Information about contracts. Asked if any other violations were found, Ms. Hughes answered: "I'm not at liberty to say."

Williams concedes an example is being made of Young Ford. "It's getting the message out that if you violate the rule there will be consequences—if we find you," he said. "We do not intend to sue every auto dealer in the country."

Although three of the four FTC suits are against auto dealers, a 1978 study done for the FTC showed new car dealers were in greater compliance than home improvement companies, furniture stores and used car dealers. Williams called the level of violations in those fields "dramatic."

But, says Williams, the auto industry made its opposition to the rule widely known. "It was apparent to us the auto dealers were going to be an area of trouble for us," he said.

Despite the fuss, the FTC is not seeking large fines. In its case against a Miami dealer, a settlement was reached in which the dealer promised to obey the rule and pay $25,000. That dealer is about five times the size of Young Ford and its violations were more flagrant. Williams says the FTC will settle for a smaller fine against Young Ford.

Because the fine sought is relatively small, because there were no complaints against Young Ford, and because even the FTC has admitted the rule should be changed. Young's lawyers don't understand why a suit was brought.

One of Young's Washington lawyers, David Fierst, said, "This is a case for the judge to look over his glasses and say to the government. 'Why are you wasting my time with this? Don't you have something better to do?' "

NUCLEAR FUEL TO INDIA: ANOTHER POLICY INCONSISTENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, hardly a week goes by without some new example of this administration's foreign policy inconsistency. The President's recent decision to ship 38 tons of enriched uranium fuel to India illustrates my point.

This decision clearly contradicts the President's widely publicized efforts to stem nuclear proliferation around the world. Apologists for this policy reversal claim it is predicated upon a desire to develop closer ties with Madam Gandhi because of events in Iran and Afghanistan. Well, if indeed that is the case, India's recently-announced $1.6 billion weapons deal with the U.S.S.R. provides the President with a ready made reason to reconsider this matter.

In this connection, I remind those Presidential advisers startled by this latest Gandhi maneuver that the previous Gandhi administration enjoyed a very close relationship with the U.S.S.R. And let us not forget that it was Indira Gandhi who doublecrossed us back in 1974 when she allowed nuclear material furnished for peaceful research purposes to be used to test an atomic bomb.

What the administration has failed to realize is the importance of quid pro quos in international relationships. With respect to India, what are we getting in return for this nuclear fuel? As far as I can tell, only the largest weapons agreement ever concluded by an Indian Government. Unfortunately it was not made with us but with our major adversary who, because of the long-term nature of the transaction, will be able to sustain and increase further his already substantial presence and influence in India.

Since the Nuclear Regulatory Commission's unanimous disapproval of the administration's decision, there have been reports that the President is reevaluating his position. In making his final determination, I recommend that he give considerable weight to foreign repercussions, particularly from those nations that we have been trying to dissuade from developing nuclear military capabilities. In this regard, I am thinking especially of many European allies, as well as such nations as Israel, Republic of China, Japan, Argentina, South Africa, and Brazil from whom, individually and collectively, we fervently seek help and restraint in maintaining an effective international nuclear nonproliferation regime.

And what about Pakistan? Can we expect General Zia to refrain from joining the nuclear club when his next door neighbor is already a member and receiving material from the United States that could significantly enhance its proven capability? Furthermore, what are the global implications of a policy that permits the continuation of nuclear cooperation with a country that refuses to sign the nuclear nonproliferation treaty, keeps key nuclear facilities closed to international inspection, and does not preclude future detonations of nuclear weapons?

I also refer the President and his advisers to the remarks of Mr. Victor Gilinsky, one of the four NRC Commissioners opposing the shipment to India, who stated before the Indian Council of Washington, D.C. on February 5, 1980:

> The question of continued uranium shipments has now become entangled with the invasion of Afghanistan by the Soviet Union, the threats of a Pakistani nuclear weapon, and other problems in the region. In this setting the Nuclear Nonproliferation Act may understandably be regarded as an unnecessary irritant by the embattled U.S. foreign policy establishment, which doubtless wishes the law would have the grace to go away. It might in fact be made to go away if the last shipments possible under the law go quietly and the question of what happens after that were to be deferred for several years.
>
> The difficulty with this approach lies in the danger that it will be seen as a signal to India and to the rest of the world that long-term U.S. nonproliferation objectives are being subordinated by the exigencies of the post-Afghanistan state of affairs. It might be well to remind ourselves, in the heat of today's international crises, that the proliferation of nuclear weapons is no less a threat to international security than the events we now witness with such apprehension.

I would only add that long-term U.S. interests generally are much better served by well-though-out policies, consistently adhered to. Obsequiously currying favor for perceived short-term gains, particularly when such actions lead to scorn, repudiation. and loss of respect, is clearly unproductive.●

INTRODUCTION OF FUEL USE REGULATORY REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 15 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today Congressmen GRAMM and STOCKMAN and I have introduced the Fuel Use Regulatory Reform Act of 1980. I had hoped that this legislation would not be necessary, but unfortunately, the Department of Energy, in implementing the Powerplant and Industrial Fuel Use Act of 1978, has gone far beyond what Congress intended in that legislation. In many respects. the DOE has demonstrated a callous disregard to what many of my colleagues and I feel were clear instructions regarding this most important legislation.

Over the past 18 months, a number of my colleagues in the House and I, as well as a number of Senators. have expressed our displeasure with the manner in which DOE is implementing the Fuel Use Act. However, the suggestions which I and my colleagues have made appear to have fallen on deaf ears.

The Powerplant and Industrial Fuel Use Act of 1978 establishes certain prohibitions on the use of oil or natural gas in utility and industrial facilities. Recognizing that these prohibitions could fall very heavily on many utility and industrial facilities, Congress created a series of explicit exemptions from the prohibitions of the act and intended that qualified petitioners have a reasonable opportunity to obtain the appropriate relief from the prohibitions.

Since the act was signed into law in November of 1978, the Department of

Energy has promulgated interim regulations which are now in effect. Unfortunately, these interim regulations contain many deficiencies, particularly with respect to the procedural burdens placed upon affected parties. In letters of January 24 and September 20, 1979, I called these failures to DOE's attention. However, the DOE has not moved to correct a number of abuses which I see in the present regulations. Last week, the Department of Energy announced several improvements in these interim regulations. A careful review of these new regulations indicates that the changes which DOE is proposing are more cosmetic than real and fail to address the most serious problems represented by the interim regulations.

As a result of the failure of the DOE to respond to what I consider to be serious concerns with its regulations under the Fuel Use Act, the only alternative which we have to correct these abuses is to make technical amendments in the existing Fuel Use Act which will force the DOE to correct procedural abuses placed upon parties affected by the over-reaching regulations. This is what the Fuel Use Regulatory Reform Act of 1980 is designed to do.

Mr. Speaker, I am very serious about pursuing this legislation if the Department of Energy does not take a more realistic view toward implementing the Fuel Use Act. Although I have always supported the concept of requiring certain utility and industrial facilities to use coal or other alternate fuels when it is possible for them to do so, I refuse to stand idly by while DOE attempts to run roughshod over industries which find it impossible to comply with the DOE regulations without very serious financial consequences.

For the benefit of my colleagues, I insert a summary of the Fuel Use Regulatory Reform Act of 1980 in my remarks. The summary follows:

SUMMARY OF THE FUEL USE REGULATORY REFORM ACT OF 1980

Section 1. Short Title. Establishes the name of the Act as the Fuel Use Regulatory Reform Act of 1980.

Section 2. Findings; Statement of Purposes. Findings and purposes.

Section 3(a). Definition of Alternate Fuel. The Fuel Use Act has been interpreted by the Economic Regulatory Administration to require that petitioners for exemptions demonstrate that they are not able to use coal or a wide variety of other alternate fuels. These alternate fuels include many nonconventional fuels which are of questionable value to the unit which is petitioning for an exemption. This provision would require that in the case of those petitions for exemptions, where a petitioner would be required to determine that an alternate fuel could not be used before an exemption is granted, the DOE must determine, by formal rule making, that such a fuel is technically and economically feasible for use in such units.

Section 3(b). Construction and Reconstruction. This amendment would correct the existing problems with DOE's regulations regarding reconstruction of existing units. Under the existing Fuel Use Act regulations, the DOE has determined that if the capital expenditures on an existing unit for the past three years exceed 50 percent of the cost of an equivalent unit, the unit becomes a new unit for the purposes of the Act. Under this strict interpretation, many companies are refusing to make necessary repairs or rework inefficient units since such activity may make those units subjects to the new unit provisions of the Fuel Use Act. Further, there is no provision under the Act for the replacement of a unit due to unique circumstances, such as an accident. This amendment would make two limited exceptions from the regulatory definition: (1) where the cost for repair of a unit is for the sole purpose of improving energy efficiency, those expenditures could not be counted towards making the unit a new unit; (2) any expenditures incurred due to the occurrence of an accident or any other unforeseen event would not be counted towards the reconstruction test.

Section 3(c). Primary Energy Source. The Department of Energy has determined that the automatic exemption provided by the Act for unit ignition, start-up, testing, and flame stabilization control shall apply to only 5 percent of the total annual BTU input of a unit. Unfortunately, the safe and efficient operation of many units require the use of at least 15 percent natural gas or petroleum for such purposes. Therefore, this amendment would require that the percentage be no less than 15 percent, thus fulfilling the Congressional intent that a realistic amount of fuel be provided to meet normal industry requirements.

Section 3(d) Cogeneration Exemption. This provision would make a technical amendment in the Fuel Use Act to authorize a cogeneration exemption for facilities which produce mechanical as well as electrical energy.

Section 3(e). Cost Exemption. The Act presently provides that for an exemption under the cost test a petitioner must show that the cost of using coal substantially exceeds the cost of using imported oil. The DOE has chosen to interpret the substantially exceeds test as justifying a 30 percent differential between imported petroleum and other alternate fuels. This extremely high test effectively removes this exemption. This amendment would set this differential at a statutory 10 percent.

Section 3(f) Certification; Environmental Exemption. The Act provides certain environmental exemptions for those facilities which cannot use coal or another alternate fuel because of environmental restrictions. The DOE has established procedures which require an independent review and analysis by DOE of Federal, state, or local environmental agency determinations that coal or another alternate fuel cannot be burned.

This amendment would require the DOE to accept the certification by a petitioner that the appropriate environmental agency determination regarding the use of coal or another alternate fuel make compliance with the Act's prohibitions impossible. The amendment would also reduce the substantial evidentiary burdens that the regulations have placed upon applications for exemptions. This is done by converting the demonstration of facts by the petitioner to a certification procedure.

Section 3(g). Mixtures Exemption. The Fuel Use Act currently provides that certain facilities that use mixtures of oil or gas are entitled to an exemption from certain of the prohibitions within the Act. The Act provides a floor of 25 percent for oil or gas use below which the DOE may not force a petitioner to go under the mixtures exemption. Unfortunately, the DOE. in its implementing regulations, has included within that 25 percent statutory floor the Act's automatic exemption for unit ignition, start-up, testing, flame stabilization and control, which the DOE has determined to be 5 percent. This amendment would clarify the intent of Congress that the 25 percent floor for gas and oil mixtures be based on only the portion of a unit's primary energy source which has not otherwise been automatically exempted by the Act.

Section 3(h). Coal Capable Units. The Fuel Use Act defines a coal capable unit as any unit which had the technical capability of burning coal or another alternate fuel or which could have such capability without substantial physical modification or reduction in rate of capacity. In addition, conversion from the existing fuel to coal or another alternate fuel must be financially feasible.

DOE's regulations circumvent the coal capable provision by neglecting to consider the need to install pollution control equipment or fuel handling equipment in determining whether or not the unit would require "substantial physical modification". It is clear that converting a natural gas or petroleum burning unit to coal often requires installation of pollution and fuel handling equipment which, in turn, requires substantial physical modification of the unit and extensive financial investment. In many cases, the cost of pollution control and fuel handling equipment easily approaches the cost of the boiler itself.

This amendment would correct this abuse by requiring that DOE consider the addition of pollution control and fuel handling equipment in determining whether or not a unit would require substantial physical modifications in making it coal capable.

Section 3(i). Terms and Conditions. The Fuel Use Act provides that any exemption from any of the prohibitions within the Act shall be on such terms and conditions that the Secretary determines appropriate. The DOE has interpreted this provision as giving it the authority to require that a petitioner, if he desires an exemption, agree to a variety of conservation and other matters relating to an entire facility regardless of whether or not these terms and conditions relate directly to the unit for which the exemption is sought. Under one case in which DOE has granted an exemption for the burning of natural gas, DOE required the petitioner to install special refrigeration facilities, special lighting systems, and the installation of a solar collector as part of the terms and conditions of the petition. Clearly, this is well beyond the intent of Congress. The terms and conditions provision was put into the legislation by Congress to insure that the exemptions were properly implemented. They were not put in the legislation to permit DOE to reach those activities which the Fuel Use Act does not cover.

The amendment would restrict the application of the terms and conditions of the provision to only the particular units for which the exemption is sought. This would permit enforcement of an exemption, but not permit the DOE to overreach the powers given it by the Act.

Section 3(j) Information Authority. Under the Act, the Secretary may require any person owning, operating or controling any electric power plant or major fuel burning installation to submit such information in reports as the Secretary determines necessary to implement the Act.

DOE has interpreted this authority as authorizing the imposition upon petitioners of the requirement of a "fuels decision report". Under this fuels decision report, the DOE has required petitioners to provide a massive amount of essentially irrelevant information.

Because of the burdens imposed by DOE's existing regulations regarding the collection of information, this amendment would require that only information specifically needed to evaluate the petition could be collected by DOE.

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CYRUS VANCE AT HARVARD

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

● Mr. LAFALCE. Mr. Speaker, on June 5, Cyrus Vance, the former Secretary of State, delivered the commencement address at Harvard University. After 3½ years of quiet diplomacy, the former Secretary used the commencement address to issue a far-reaching and penetrating analysis of both domestic and foreign policies.

His denunciation of a "dangerous new nostalgia" is coupled with a sober emphasis on the need for increased defense spending, in order to protect our vital national security interests. He correctly states:

> There is near-consensus on the need for defense increases. But it is illusion to believe that they are a substitute for the diplomacy and resources needed to address such problems as internal change and basic need in other nations or a battered international economy.

That statement reflects on the former Secretary's keen understanding of von Clausewitz's seminal work on the role and nature of war and military power.

Unfortunately, Mr. Vance's characterization of the level of the U.S. foreign aid as "disgraceful" is all too true. The steady decline in the level of U.S. foreign aid is depriving this country of an effective means to increase its influence in the Third World and is condemning billions of people to a level of poverty that is unimaginable to the average American.

Further, domestic and foreign policies are intimately linked. If something weakens the United States at home, it certainly weakens the United States abroad; and declining productivity is sapping our domestic economy and the place of the United States in the world economy. Mr. Vance succinctly and trenchantly analyzed the importance of productivity:

> Decreasing productivity not only fuels inflation. It undercuts our trading position and the strength of the dollar. And declining productivity means increasing domestic pressures for protectionism. In both cases—meeting the energy crisis and addressing the problem of productivity—we cannot rely on the genius of some economist with a new solution. We need acts of political will.

I did not agree with everything the former Secretary said at Harvard, but I believe that his speech constituted a long-overdue general and long-term analysis of both foreign policy and domestic problems. I hope that all of my colleagues will carefully read Mr. Vance's speech and carefully reflect on the points which he made.

The text of the speech follows:

COMMENCEMENT ADDRESS BY CYRUS VANCE

Yours is the first Harvard class to graduate in the decade of the 1980's. The decisions our nation makes now will shape the future of that decade.

We can either work to shape, in a wise and effective manner, the changes that now engulf our world or, by acting unwisely, become shackled by them.

It is a time to set and stick to basic goals. Neither we nor the world can afford an American foreign policy which is hostage to the emotions of the moment.

We must have in our minds a conception of the world we want a decade hence. The 1990 we seek must shape our actions in 1980, or the decisions of 1980 could give us a 1990 we will regret.

BASIC GOALS ARE DEFINED

Supporting the efforts of third world nations to preserve their independence and to improve the quality of life for their people, particularly those hovering at the edge of survival; strengthening the health and well-being of our economic system within a strong international economy.

These are the decisions, along with preserving the military balance while effectively managing our competition with the Soviet Union and fostering strong alliances of free nations—these are the decisions we should make now.

These goals are ambitious. It would be naïve to think otherwise. But unless our reach is bold, our grasp will fall far short.

Let us keep in mind the world from which we start: a world undergoing rapid change, with growing expectations, better education, quickened communications; a world in which neither the United States nor any other country commands a preponderance of power or a monopoly of wisdom. It is a world of conflicts, among nations and values, among social systems and emerging new interests. It is a world in which competitive superpowers hold in their hands our common survival, yet paradoxically find it beyond their power to order events.

REJECTING THE GLOOMY OUTLOOK

There is a disturbing fear in the land that we are no longer capable of shaping our future. Some believe that we have lost our military muscle; others worry that our political will has been sapped.

I do not accept this gloom. It discards the abiding pragmatic philosophy that has characterized America ever since its founding.

I consider mistaken the view that we and we alone are responsible for all the confusing changes that we see around us. This is a serious misreading of our condition, a perverted hubris that overestimates our power and our responsibility for ill and underestimates our capacity for good.

The international diffusion of power and intellect is a fact. It will not change. It requires fresh and vital forms of action, not regret and pining for supposed "good old days."

What is to be regretted is a reluctance to relate our basic purposes to these new conditions. Yesterday's answers will not provide tomorrow's solutions.

It seems to me that much of the current dissatisfaction with the world and our role in it rests on certain fallacies. These illusions must be exploded before our nation can chart a coherent and determined source in foreign policy.

The first fallacy is that a single strategy—a master plan—will yield the answers to each and every foreign-policy decision we face. Whatever value that approach may have had in a bipolar world, it now serves us badly. The world has become pluralistic, exposing the inadequacy of the single strategy, the grand design, where facts are forced to fit theory. Given the complexity of the world to which we have fallen heir, the effect of a single strategy is to blur this complexity and to divide nations everywhere into friends and enemies.

FEAR OF GETTING SECOND BEST

A second widely accepted fallacy is the fear of negotiation, the worry that somehow we will always come out second best in any bargain. This fallacy assumes we have a realistic alternative of going it alone, of not bothering to recognize the legitimate interests and desires of other peoples. Without the fair bargain, achieved through negotiation and diplomacy, there is only a misguided, failed effort to impose one will upon another.

Denying others a fair bargain and its benefits will not alter their behavior or reduce their power; it will simply have the effect of denying ourselves the same advantages. If America fears to negotiate with our adversaries, or to negotiate with our adversaries, or to bargain fairly with third world nations, we will not have a diplomacy. And we, no less than others, will be the loser.

A third myth that needs to be exploded is that there is an incompatiblity between the pursuit of America's values in our foreign policy, such as human rights, and the pursuit of our interests.

Certainly the pursuit of human rights must be managed in a practical way. We must constantly weigh how best to encourage progress while maintaining an ability to conduct business with governments—even unpopular ones—in countries where we have important security interests.

CHOICE: FREEDOM OR CONVULSION

But we must ultimately recognize that the demand for individual freedom and economic progress cannot be long repressed without sowing the seeds of violent convulsion. Thus it is in our interest to support constructive change, as we did, for example, in the Dominican Republic, and are seeking to do in Central America, before the alternatives of radicalism or repression force out moderate solutions.

We know from our own national experience that the drive for human freedom has tremendous force and vitality. It is universal. It is resilient. And, ultimately, it is irrepressible.

In a profound sense, then, our ideals and our interests coincide. For we have a stake in the stability that comes when people can express their hopes and build their futures freely.

Further is the dangerous fallacy of the military solution to nonmilitary problems. It arises in particularly acute form at times of frustration, when the processes of negotiation are seen as slow-moving and tedious.

American military power is essential to maintaining the global military balance. Our defense forces must be modernized—and they will be. But increased military power is a basis, not a substitute, for diplomacy.

I have heard it argued that our response to a changing world must be a new emphasis on American military power and the will to use it. This is reflected in proposed new budget priorities in the Congress, in which unnecessary defense spending squeezes out domestic programs and foreign assistance. There is near-consensus on the need for defense increases. But it is illusion to believe that they are a substitute for the diplomacy and resources needed to address such problems as internal change and basic need in other nations or a battered international economy.

THE RIGHT TO SHAPE THE FUTURE

The use of military force is not, and should not be, a desirable American policy response to the internal politics of other nations. We believe we have the right to shape our future; we must respect that right in others. We must clearly understand the distinction between our readiness to act forcefully when the vital interests of our nation, our allies and our friends are threatened, and our recognition that our military force cannot provide a satisfactory answer to the purely internal problems of other nations.

Finally there is a pervasive fallacy that America could have the power to order the world just the way we want it to be. It assumes, for example, that we could dominate the Soviet Union—that we could prevent it from being a superpower—if we chose to do so. This obsolete idea has more to do with nostalgia than with present-day reality.

Spread over the widest territory of any nation on earth, the Soviet Union has its own strategic interests and goals. From a state of underdevelopment and the ravages of war, it has built formidable military and industrial resources. We should not underestimate these resources any more than we should exaggerate them. We must preserve and manage a position of essential equivalence with the Soviet Union. It is naive to believe that the Russians will play by our rules any more than we will accept theirs. It is naive to believe that they—any more than we—would willingly accept a position of second best in military strength.

A dangerous new nostalgia underlies all these fallacies—a longing for earlier days when the world seemed, at least in retrospect, to have been a more orderly place in which American power could, alone, preserve that order. That nostalgia continually erodes confidence in our national leadership for it encourages expectations that bear no relationship to reality. And it makes change in the world's condition seem all threat and no opportunity. It makes an unruly world seem more hostile than it is. The fact is that we are a people who not only have adapted well to change but have thrived on it.

"SELF-INDULGENT NONSENSE"

The new nostalgia leads us to simplistic solutions and go-it-alone illusions, diverting our energies from the struggle to shape change in constructive directions. It is self-indulgent nonsense, bound to lead us into error, if not disaster.

What course is open to us now?

Our real problems are long term in nature. It will not do to reach for the dramatic act, to seek to cut through stubborn dilemmas with a single stroke. Against the real problems now facing us this approach will not only fall far short but also create new problems.

Obviously, immediate crises have to be dealt with as they occur. And we should learn from these events. But they should never be allowed to distort our foreign-policy goals.

As a global power the United States has an extraordinary range of interests. That is why we must make sure that our pursuit of the desirable does not interfere with our achievement of the essential.

If, by 1990, we have not made progress in the four basic areas I listed earlier, the world will indeed be the inhospitable place many now fear it is. In each area we can make progress—if. If we listen to our hopes no less than our fears. If we are prepared to sacrifice now for our future good. And, most important, if we work with other nations to resolve problems none can solve alone.

First, we must preserve the global military balance and achieve, as well, balance in our political relations with the Soviet Union.

Our military strength is important to our own safety, to a strong foreign policy free from coercion, to the confidence of allies and friends, and to the future of the reciprocal arms control and other negotiations. Our strength also buttresses regional balances that could be upset by the direct or indirect use of Soviet power.

ARMS CONTROL TERMED VITAL

Maintaining the military balance will be expensive. To limit the costs, and to increase our safety, we must have an effective arms-control policy as an integral part of our security policy.

Yet when the historian of 1990 looks back upon the year 1980, I believe a profound mistake may well be identified: a failure to ratify the SALT II treaty. As a symbol of our hopes for a more peaceful world, as a commitment to work toward better security through arms control and as a process of trying to work out differences with an adversary, this treaty stands at the very heart of a sensible and far-seeing American foreign policy.

Without this treaty our efforts to prevent the spread of nuclear weapons will be in jeopardy. If the United States and the Soviet Union fail to make real headway toward controlling nuclear weapons and eliminating nuclear testing, nonnuclear nations will have less reason for their own restraint.

Without this treaty both sides will have more nuclear weapons than with it. In particular, the Soviet Union will have thousands of additional nuclear warheads.

Without this treaty it will be much more difficulty for us to undertake reliable planning for our military forces since we will not be in as good a position to know what is going on within the Soviet Union. The treaty bans practices that would prevent each side from being able to verify compliance with its terms.

CONFLICT OR COOPERATION

Without this treaty there is bound to be less emphasis placed in both of our societies on conciliation of differences without conflict. Political elements who wish to emphasize conflict over cooperation will be strengthened.

Without this treaty the process of arms control might be dealt a blow from which it could not recover. Can anyone doubt that this will make the coming decade more dangerous?

It is not too late, but it may soon be. I believe that the Senate must ratify the SALT II treaty before the end of this year. Certainly we must continue our firm and sustained response to Soviet aggression against Afghanistan. But neither that aggression nor the fact that this is a political year are sufficient grounds for a failure to act in our own national interests. I am aware of the political difficulties in acting at this time. But if we fail to act we will someday ask ourselves why we were blinded by considerations of the moment and lost a vital long-term opportunity. It is far too easy, in an election year, to let what may seem smart politics produce bad policies.

Both the United States and the Soviet Union will have to work even harder in the years ahead to avoid extremely serious confrontations. How we conduct our relations with the Soviet Union will perhaps be the most significant test of our maturity or judgment, our clearsighted recognition of real interests and our capacity for leadership.

FROM DETERRENCE TO INCENTIVES

It is foolish and dangerous to believe that we can manage this relationship by deterrence alone. We also will need to provide positive incentives.

We must use both our strength and the prospects of mutually beneficial agreements to help shape competition with the Soviet Union. We must work for implicit if not explicit agreements to bound our competition by restraints, by a kind of common law of competition.

The means to implement this goal will rest on patience, steadiness, clarity and consistency. In our approach toward Moscow we cannot afford wild swings from being too trusting to being hysterical. And even as we maintain a steady course we must recognize that it will require constant effort to mold that common law of competition. That effort must include both deterrence and the possibility of cooperation where our interests coincide.

We must also think anew about how to manage our affairs with the People's Republic of China in relation to those with the Soviet Union. Even as we act to develop non-military ties with China we should strive to restore a more balanced approach to both countries.

NURTURING STRONG ALLIANCES

A second and paramount goal for our nation should be to nurture strong alliances among free nations.

But there is no gain saying that relations among the industrial democracies are uneasy. We must address the causes for this; they may well be more fundamental in origin than we care to admit.

We must find better ways to coordinate our policies in areas beyond our territories, for it is there that we increasingly face new problems. While our immediate interests may sometimes diverge in such areas, our basic interests run in parallel and, accordingly, should provide grounds for common action.

Our allies must recognize that while the American nuclear shield is unshakeable and our commitment to the common defense is firm, they cannot expect America to bear a disproportionate share of the burdens of deterrence.

We, for our part, must accept the other side of the same coin. We need common efforts because we cannot bear all the burdens ourselves, nor do we have all the answers. The price to us will be a willingness to consult and adjust for the sake of allied agreement. Consultation cannot be a substitute for a clear sense of direction. But there is no point in consulting if we are unwilling then to adjust our course for the sake of a common purpose.

POTENTIAL COCKPIT OF CRISIS

Partly because of the strength of our alliances, it is the third world—more than our alliance areas—that is likely to be the cockpit of crises in the coming decade.

We must first be clear on the nature of our challenge there.

Certainly, as we have seen in Afghanistan and elsewhere in the third world, Soviet actions pose threats we must meet.

But we will meet them ineffectually if we react only by immitating Soviet tactics—emphasizing the military at the expense of the political and disregarding the indigenous yearning of third world nations for true independence and economic justice.

We must recognize the strong sense of national pride—and fierce independence—of developing nations. Having fought to throw off the burden of outside domination, they will strenuously reject the efforts of other nations to impose their will. We should respect and reinforce that spirit of independence. Our interests are not served by their being like us but by their being free to join with us in meeting the goals we share.

Support for the political independence and economic growth of the poorer nations is important primarily because these nations matter in their own right. Their conflicts could also become our wars. Our trade with them is increasing. Their instabilities can affect our interests in many ways.

Our own national interests are served when we support the security of third world nations with our assistance. When we help them develop their economies, we not only meet pressing human needs, we invest in important trading relationships. Our interests are served by supporting peaceful change within those nations and by encouraging the peaceful resolution of their conflicts.

ABSENCE OF A REALISTIC PLAN

For example, our interests are clearly served by our efforts to help resolve the Arab-Israeli conflict and bring peace to this troubled and vitally important region.

In 1990, as in 1980, the problems of the third world will remain a central challenge to our wisdom. No realistic plan yet exists to defuse the potential dangers or resolve all the anguish of hundreds of millions of people living in degrading poverty. But over the next decade the United States can make a difference with regard to the severity of those problems—in helping create progress and hope, in not disregarding the violence and suffering of despair.

To make that difference we must first accept our differences with third world nations, yet work with them where our interests coincide. Peace came to Zimbabwe because of the ability of Britain and the United States to work with the African nations of the region. Had the opponents of improved relations with Mozambique, Zambia, Tanzania and others had their way, the situation today might well have been far different. The logical corollary is clear; it makes no sense not to recognize the Government of Angola, a Government with which we have cooperated in the search for peace in southern Africa despite fundamental differences on other issues.

It is imperative that we also put our resources behind our policies.

American aid programs comprise less than 1.5 percent of our Federal budget. They—not rhetoric, not good will—are what make the most difference in supporting our third world diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in the Congress and elsewhere.

"DISGRACEFUL" DEFICIENCY IN AID

The result is—I can think of no other word—disgraceful.

Our security assistance has declined by 25 percent over the past 20 years.

The United States ranks 13th among the 17 major industrial powers in percentage of G.N.P. devoted to development assistance. We will likely soon drop another notch.

We are far in arrears in meeting the pledges we have made to the multilateral development banks—and likely to slip still farther.

It is not enough to strengthen our defenses. We must also increase the resources needed to support our diplomacy, a diplomacy designed to reduce the chances our military forces may be needed.

Other nations do not want the rhetoric of American leadership; they want its substance. And we must provide it. The U.N. global negotiations on relations between developed and developing countries—opening this fall in New York—offers a prime opportunity for us to demonstrate that leadership.

This brings me to a fourth goal for the decade: a strong American economy in a strong international economy.

I ask you to ponder the implications for our future of two stark statistics:

According to the International Energy Agency, based on current trends, by 1985 world demand for oil is likely to outstrip global oil production by two million barrels a day. Consider the implications of this fact for world oil prices, and our own economy; for the hard pressed economies of the poorer nations; for relations among the industrial nations, if there is a new scramble for energy.

DOMESTIC PRODUCTIVITY DECLINE

The other statistic is domestic in nature: Productivity in the United States declined in every quarter of 1979 after the rate of increase in our productivity had steadily slowed over the previous two decades. Deceasing productivity not only fuels inflation. It undercuts our trading position and the strength of the dollar. And declining productivity means increasing domestic pressures for protectionism.

In both cases—meeting the energy crisis and addressing the problem of productivity—we cannot rely on the genius of some economist with a new solution. We need acts of political will.

If the U.S. and the other industrial countries do not act decisively to reduce our levels of energy consumption, and particularly our demand for oil, we will stand on the brink of economic disaster by the end of the decade—or sooner. The effort must be made now.

The President recognized the danger posed by our energy dependence and, from the earliest days of the Administration, sought comprehensive legislation to deal with it. Public skepticism and Congressional inaction have delayed the full implementation of his program for three costly years. In the meantime the oil exporters have added price increase after price increase at will and used their oil power for political ends. This will not change unless we are willing to let domestic energy prices reflect the reality of the marketplace and to tax excessive use ourselves instead of letting OPEC do it for us; unless we produce more energy-efficient cars and houses and appliances and channel sufficient resources into developing alternative energy sources; unless we share equitably with other industrial countries the burden of conservation and stand together against unjustifiable price increases.

A QUESTION OF NATIONAL WILL

U.S. productivity declined in every quarter last year. Solving that problem will also be costly. But there must be reduced consumption and a higher rate of capital investment; a willingness to shift from obsolete industries instead of propping them up with protectionist trade barriers; incentives for innovation; responsible prices and wage demands by industry and labor. Each is at root a question not of economic theory but of national will.

Meeting the four challenges I have described depends not on quick fixes, new gimmicks, bluffs or threats. It requires steadiness, political will, and understanding of a world in change.

If we are prepared to accept the implications of a world of diffuse power, and work with others where we cannot succeed alone, there need be no insurmountable barriers to our progress.

There should be no mystery about how to manage East-West relations with realism and prudence, creating more cooperative alliances, addressing the problems of third world nations and acting now to strengthen our economy for later.

The mystery will be for the historian of 1990, if—blinded by the new nostalgia—we fail now to shape our future. The puzzle will be why we reacted against changes in the world and did not seek to shape it. The historian will then conclude that ours was a failure not of opportunity but of seeing opportunity; a failure not of resources but of the wisdom to use them; a failure not of intellect but of understanding and of will.

It need not be so. For now, as always before, our destiny is in our hands.●

PRICE-ANDERSON REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 30 minutes.

● Mr. BINGHAM. Mr. Speaker, today I am introducing legislation designed to increase the public's protection in the event of a major nuclear accident. The Nuclear Liability Reform Act of 1980 increases the amount available for compensation after a nuclear accident from $560 million to over $7 billion. In the case of new reactors, it removes the absolute limitation on liability which now prevails so that injured parties may attempt to recover for damages through the courts and according to traditional principles of law. My proposed legislation also makes other needed improvements in the Price-Anderson law, which governs the area of nuclear liability.

An overhaul of Price-Anderson is long overdue. Passed in 1957 to encourage the fledgling domestic nuclear industry, the law's basic provisions have remained largely unchanged. Despite over 20 years of nuclear operating experience we are still treating the nuclear industry as if it were an infant incapable of surviving in the competitive world of free enterprise. Remarkably the Price-Anderson compensation scheme has not even been adjusted for inflation since its 1957 enactment. Today, as in 1957, damages under $560 million are covered by a combination of private and government insurance; damages over $560 million are legally defined out of existence.

In other words, the $560 million sum is the absolute maximum available to the public after an accident. No matter that an accident could result in billions of dollars in damages—above $560 million the public has no recourse but to turn to the Congress—that is the taxpayer—for an appropriation to cover the damages. The most fundamental principles of the common law are thus abrogated: He who has caused the injury is held harmless while the victims of the injury must suffer the loss without adequate compensation. Simply put, after an accident the public—and not the nuclear industry—is left holding the bag.

Back in 1975, when Price-Anderson was extended for the second time, I offered an amendment which would have deleted the liability limit of $560 million while leaving the rest of the Price-Anderson Act alone. This was before the near catastrophe at Three Mile Island and before we learned, at Love Canal, just how dangerous and unfair it is to permit a situation where injuries occur and there is no clear means for the victims to gain swift and full compensation. That amendment gained 176 votes from both sides of the aisle and from both opponents and supporters of increased reliance on nuclear power. The legislation I am proposing today goes beyond my 1975 amendment and, I believe, offers more protection to the public while being less burdensome to industry.

The bill I am introducing today would substitute a pool of over $7 billion for the $560 million pool which is now in existence. The new pool would consist of two tiers. The first would be the liability insurance which is available from the private insurance companies. Today that sum is $160 million but it is logical to suppose that the private insurers could increase that figure substantially if the nuclear industry sought to buy more insurance. The second tier would consist of retrospective premiums, that is, assessments to be paid by the entire nuclear industry after a bad accident—such retrospective premiums were introduced into the Price-Anderson scheme in the 1976 amendments.

These assessments could go as high as $50 million for each plant operated by licensees and $25 million for each plant built or designed by reactor manufacturers and architect-engineering firms. These assessments would fund a pool of some $7 billion which would be available after an accident. Of course, the assessments would be prorated in the event of an accident causing less than $7 billion in damages. The Government indemnity which now exists and which amounts to a subsidy, would be removed. Industry, not Government, would be liable for damages.

In the case of new reactors—that is, for which operating licenses have not yet been applied—there would be no limit on liability. If injuries exceeded the reserves of the pool, then claimants would have recourse to the courts where they would be permitted to seek damages according to the common law.

This is not a radical piece of legislation. After all, other industries, including potentially very dangerous industries like the chemical and airline industries, are not granted, nor do they seek, Government limits on liability. Admittedly the retrospective assessments this legislation would make on industry could be large but these large assessments would only come into effect after a massive nuclear accident—the type of accident which, the industry assures us, will not happen. The alternatives to assessing industry for damages are to either leave the public without compensation after an accident or, almost equally unpalatable, to put the burden on the long-suffering taxpayer. Those who profit from the production of nuclear power should bear its full potential costs, not the victims of an accident or the taxpayers.

This legislation differs from existing law in that it would bring both manufacturers and architect-engineering firms into the retrospective premium scheme. Under current law all private insurance is channelled to the licensees and only the licensees participate in the retrospective pooling arrangement. This makes little sense. The manufacturers and the architect-engineers play important roles in the development and operation of nuclear power facilities. They make substantial financial profits from nuclear power. In the event of an accident it is quite as likely that the party responsible would be the manufacturer or architect-engineer, rather than, or as well as, the licensee. We have seen that at Three Mile Island.

Accordingly, these substantial companies should not be freed from liability. There are those who will argue that including the manufacturer or architect-engineer will drive these concerns out of the nuclear business. But the fact is that every businessman who is involved in an industrial process must access the risk that he may be liable for damages in the event his product fails. The manufacturers and engineers have been assuring us that their products are safe: let them back up that assurance with their assets.

There is another point: knowing that they have a stake in the safety of their products may make manufacturers or architect-engineers just a little more scrupulous about the quality of their work. As former Atomic Energy Commissioner, William Kreigsman, said about the Price-Anderson limits on liability in 1975:

> Do away with it, and you'd probably see nuclear valves coming off the assembly line in a lot better shape.

My bill would also delete the "extraordinary nuclear occurrence" designation of an accident which must be made by the Nuclear Regulatory Commission before the "no fault" waiver of defenses provisions of Price-Anderson come into play. An NRC determination that an accident was or was not an ENO is not reviewable by the courts. A few weeks ago the NRC ruled that the Three Mile Island accident, the worst accident in the history of nuclear energy, was not an "extraordinary nuclear occurrence." This means that Pennsylvania citizens with claims for damages from TMI will have to litigate their claims as in a traditional tort case, without recourse to the Price-Anderson waivers, thus casting doubt on the value of the much vaunted Price-Anderson system of strict liability to compensate for the limits on liability.

This legislation would not permit part of the maximum $7 billion pool to be used for investigating and administering claims. In the current law, part of the $560 million liability can be used for these purposes, reducing the amount available to the public for compensation. In addition, no claims for property losses by the owner or operator of a reactor will be paid until medical and personal injury losses are fully compensated. The legislation also attempts to offer guidance to the courts in determining whether or not a particular injury was caused by a nuclear accident. The current legal standard in most jurisdictions requires that causation be proved by a "preponderance of the evidence." This legislation would reduce the burden on the claimant by permitting recovery if a claimant can demonstrate a reasonable probability that his injury was caused by a nuclear accident by citing, among other evidence, statistical evidence of an increase in injury or disease in the exposed population. The language I employ here was taken from S. 1480, a bill introduced by Senator CULVER regarding compensation in the event of a hazardous waste spill.

Mr. Speaker, the legislation I introduce today will greatly increase the public's protection from loss in the event of a nuclear accident. Three Mile Island demonstrated that a supposedly impossible accident can, in fact, happen. I pray that there will never be a catastrophic nuclear accident but I believe that we must be prepared for that eventuality and that we cannot permit a situation where the victims of an accident are denied compensation while a multibillion dollar industry is protected from liability. Unfortunately, that is the situation which prevails today.●

OPEC OIL AND AMERICAN GRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 15 minutes.

Mr. WEAVER. Mr. Speaker, today I would like to talk about OPEC oil and American grain. As to OPEC oil, because of our deep recession we have begun to use less, and import less foreign oil. We are down to as low as 4 million barrels a day from a high of 9 million barrels a day. At the 9 million level we would have been importing $90 billion worth of oil in one year, a sum that would stagger and disrupt our economy. Now we are on the right trend, but, unfortunately, Mr. Speaker, it has been the deep recession we are going into that has caused the decrease in the amount of oil that we are buying from foreign countries. We must decrease our usage of foreign oil by rational methods, by methods that do not rely only on sharply increasing the price to American consumers.

This week we expect the administration to send a gas rationing bill to the Congress, and this gas rationing bill is—while I support gas rationing very strongly—a monstrosity. It will require tens of thousands of bureaucrats to administer. It will be almost impossible to unravel in its complexities by the people and the states that will be called upon to administer it. There is a much simpler method of gas rationing available; one that would not require a bureaucracy, one that would be fair to everyone. Instead of the monstrous Department of Energy bill, which gives so much gasoline to every owner of every car—in other words, they give the gas to the car—we should give the gas to the people. Every single man and woman in this country over 18, let us say, with a driver's license should be sent their allotted number of tokens to purchase their allotted amount of gasoline. The surplus for any individual would go into a white market so that anybody who needed more gasoline would simply buy white-market surplus coupons. We could let the market work in that way, let the rationing system work to keep our usage down, and not import so much oil.

I would like now to address the other side of the equation which is the commodity we sell to overseas customers, and that is our grain. We sell billions of bushels of our soybeans, corn, wheat, and other grains every year overseas, but, differing from OPEC who have raised and reraised the price of their oil to us and other users, we continue to sell our grain at prices below the actual cost of production to our farmers. This, of course, has caused our balance of payments to drop precipitously, causing our dollar to weaken, causing increased inflation in this country, causing our farmers to go bankrupt, and it is the worst of all possible policies.

Why do we continue to sell our grain below the cost of production simply because a few large multinational grain companies like it the other way, and the bureaucrats and the Department of Agriculture think that is the way the Lord intended it to be? We cannot go on as a nation doing it this way. What we should do is sell our grain in the same manner OPEC sells its oil, and that is to say that we will set a price for soybeans, wheat, and corn and other grains to be sold overseas and set that price at a reasonable price, one that our customers will buy for, and one that will give our farmers and ourselves a good return on the grain.

For those who say, "Oh, no; oh, no; the buyers of grain would simply go elsewhere," I might point out, just like the buyers of OPEC oil who tried to go elsewhere to get their oil when the OPEC nations raised their price, they have no place else to go. We export 85 percent of the soybeans in the world market. We export 70 percent of the corn in the world market. We export 50 percent of the wheat in the world market. We are now the OPEC of grain. We are Saudi Arabia, Kuwait, Iraq, Iran, Algeria, and Libya combined, and yet we go on dumping our grain on world markets, dragging the price down for countries such as Australia and Canada who also export large amounts of grain.

I have a letter from the Australian Wheat Board saying the United States sets the price on world markets; you drag our price down along with everyone else. We cannot make any money on our grain either so long as the American grain is sold so cheaply. But willingly we go on buying our oil, paying dearly, and selling our grain cheaply. So it only makes sense.

I call on the President—I have asked him repeatedly; I have sent letters to him; I have talked to him—and I call on the Congress to pass legislation setting up a National Grain Board. That grain board would simply be empowered to set minimum prices for our grain sales overseas. What would it mean immediately? The OPEC nations are about to raise the price of oil again by $4 or whatever a barrel. They are not the largest buyers of our grain; the Soviet Union is the largest buyer, along with Japan, West Germany, and other wealthy nations. But the OPEC nations do buy our grain. In 1978 they bought 7.5 million tons of grain from us, 260 million bushels, and we got $1.4 billion in payment for it. We could raise the price of our grain by $4 a bushel, and, believe me, we can. There is no reason in the world we cannot. I think that is too cheap. But certainly we could raise our grain $4 a bushel. This would mean that OPEC nations would have to pay an additional billion dollars for our grain.

I say to the Members, Mr. Speaker, that certainly that billion dollars would help us pay for that increase of $4 or whatever it will be in the price of OPEC oil, and it only makes sense. How much longer can this Nation go on allowing OPEC to raise the price of oil while continuing to sell our grain at rock-bottom prices? Naturally, we would have to set this price for our grain to all customers overseas. In other words, we would have to charge the Soviet Union a higher price, too. Now is that not too bad. Would that not be too bad for the Soviet Union, whose troops are in Afghanistan, who sells gold now for $600 an ounce to pay for our grain—in other words, gold at highly inflated prices and our grain at extremely cheap, below-cost-production prices. If the Soviet Union had to pay a decent price for our grain, I think that would only make sense, too.

I am called upon in this House of Representatives to vote billions of dollars for defense materiel in order to defend ourselves against the Soviet Union. At the same time we continue to subsidize the Soviet Union in sending them cheap grain. Even with the embargo, we plan to sell the Soviet Union the traditional 8 million tons this coming year—even with the embargo. That is our plan now to sell the Soviet Union 8 million tons at cheap prices, allowing them to have the grain at cheap prices, to use the rest of their savings to put into their own materiel for war and aggression.

☐ 1400

How can we face ourselves. How can we look ourselves in the face to continue this policy that is beyond the pale of any normal practical business. We are supposed to be a great business Nation and yet we are being suckers. We are being sold out. We sit idly by while grain ship after grain ship loads up in New Orleans and in Portland, Oregon, and elsewhere, with grain to all these countries at below the cost of production and at the same time ships unload oil from OPEC nations at $35 and $38 a barrel.

I call on the people of this Nation, if the Congress will not wake up, if the President will not wake up. By the way, it is not just the present President but I have asked every single candidate for President this year of both parties to sponsor such a program and not a single one has been willing to do it. Not one.

It is a bipartisan fault. I say to you we must wake up and the people must demand of their candidates this year: Mr. Candidate for President, Mr. Candidate for Congress, are you going to support a policy that has us sell our grain at below our farmers' cost of production while we buy oil at $35 a barrel or are you going to support a bill and a program that would say, "We will not sell our grain except at prices that are reasonable and decent to our farmers and our people."

CONSUMER HEALTH EXPENSE CONTROL ACT (CHEC)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, today I will be introducing a bill that combines the best of Mr. ULLMAN'S Health Cost Restraint Act and Mr. MARTIN'S Medical Expense Protection Act into one vehicle. My bill capitalizes on the merits of these bills and would provide for catastrophic coverage for all Americans as well as addressing some of the cost problems within the health care field.

The bill will accomplish these important goals without increasing federal spending for health care. At a time when we are trying to balance the budget and cut back government spending, it is crucial that we not overlook the costs of any health insurance proposal. My proposal meshes the concerns for benefits and cost issues into one well-balanced approach.

Frankly, I do not foresee any major action on the health care front during this Congress; however, there is the outside chance that some action might be taken in 1980. If we are confronted by this issue in 1980. I hope we keep in mind that any program we endorse this year must be modest and fiscally responsible.

I offer this bill as a useful guide to any full-scale debate on national health insurance for 1980 or 1981. I urge my colleagues to look at this legislation and join in cosponsoring it.●

GENE FAMIGLIETTI—A DISTINGUISHED EDITOR DIES

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, the American GI lost a great friend with the untimely death on May 26 of Gene Famiglietti, the distinguished and courageous editor of Army Times. A moving editorial in the sister publication, Air Force Times, written by editor Bruce Callander, sums up with extraordinary clarity what this fine editor meant to his paper and to the American serviceman.

I want to take this opportunity to share this editorial with the members of the House of Representatives, many of whom knew and respected Mr. Famiglietti and his brand of honest, forthright journalism.

The editorial follows:

[From the Air Force Times, June 9, 1980]

THIRTY

Readers of this paper should be familiar with the byline of Gene Famiglietti. In 1959, he became a reporter for the Army Times and, in 1973, he was made editor of that paper. In both roles, he contributed frequently to Air Force Times.

Gene was a good reporter. He had the instinct of a bloodhound when he got wind of a good story and the tenacity of a bulldog when he pursued it. He wrote tight pieces, covered all the angles and never compromised. He gave his readers the facts without fear or favor.

He was a good editor. Tough, volatile and demanding, he expected his reporters to show the same degree of professionalism he showed and they did. A good editor demands respect but does not expect affection. Gene earned both.

He was a good friend. Outspoken, quick-tempered and cantankerous, Gene was an irrepressible scrapper. He argued violently, fought hard, ruffled feathers and challenged tradition. He disliked sham and distrusted pretense. He was a harsh critic and a fierce foe in a debate. With it all however, he was honest, genuine and fair. He probably commanded as much respect and had as many friends as anyone in our business.

In an uncommon way, he was a patriot. He was suspicious of flag waving. He had little awe of officialdom. He viewed the military hierarchy with the cynicism of a newsman. Yet, he had an unblushing admiration for the troops and an uncompromising belief in their right to know what was going on. He was critical of Pentagon policy when he felt it went against the interests of the soldiers, but he fought vigorously for what he believed was for their good. Army troops and military people in general could ask no better champion for their cause.

Like any newsman who does his job well, Gene often was in hot water with the brass. But it is a mark of the respect they held for him that he was invited regularly to address students of the top professional military colleges in this area. Nobody wrote his talks. The powers-that-be often cringed at his blunt observations. But they and his audiences valued his words for their ring of honesty.

On Memorial Day, Gene Famiglietti suffered a heart attack while playing basketball at a church picnic and died almost immediately. His obituary appears elsewhere in this issue.

Gene's death naturally came as a shock to those of us who worked with him so long. Selfishly, we mourn our loss and think about our own mortality. For many years his voice richocheted off the walls here, his spontaneous opinions enlivened our editorial meetings and his infectious enthusiasm inspired not only his own staff but the rest of us. In a day when even newspapers tend to take on the coloration of the business world, he reminded us—regularly and with little subtely—what we are about. We will miss him.

Yet, if it can be said of anyone that he has left something behind, it can be said of Gene Famiglietti. He took the reins of *Army Times* when it needed strong leadership. He built its circulation. He pumped new life into its columns. He gave its sister publications, including this one, something to shoot for. His paper reflected the best qualities of his own strong personality. He will be succeeded. He cannot be replaced.

Gene left his paper better than he found it. Much of what is good in today's military is due in part to his efforts. He will be remembered here with much respect and affection. Men who have lived much longer have spent their lives less well.

If anybody has a mind to erect a monument to him, let it be the people who cover the Pentagon and the troops in the field. Let them remember a reporter who went where it was happening, dug for the truth and wrote it in crisp, clear, declarative sentences. His was not the style of some modern journalists but it was solid and honest, and a generation of youngsters could do worse than to emulate it.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. PHILLIP BURTON (at the request of Mr. WRIGHT), for June 5, on account of illness in the family.

Mr. ALEXANDER (at the request of Mr. WRIGHT), for June 9 and 10, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COURTER) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI, for 5 minutes, today.

Mr. BROWN of Ohio, for 15 minutes, today.

(The following Members (at the request of Mr. WEAVER) to revise and extend their remarks and include extraneous material:)

Mr. LAFALCE, for 30 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BINGHAM, for 30 minutes, today.

Mr. WEAVER, for 15 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COURTER) and to include extraneous matter:)

Mr. WHITEHURST.

Mr. LENT.

Mr. BROOMFIELD.

Mr. STOCKMAN.

Mr. WYDLER.

Mr. BROWN of Ohio.

Mr. LAGOMARSINO in three instances.

Mr. RHODES.

Mr. MCCLOSKEY.

Mr. PHILIP M. CRANE.

(The following Members (at the request of Mr. WEAVER) and to include extraneous matter:)

Mr. STARK.

Mr. FISHER.

Mr. EDWARDS of California.

Mr. HAMILTON.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. OTTINGER.

Mr. HARRIS.

Mr. LEACH of Louisiana.

Mr. LELAND.

Mr. APPLEGATE.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1803. An act to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs;

S. 1895. An act to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clark's Hill Dam and Lake"; to the Committee on Interior and Insular Affairs; and

S. 2363. An act to authorize the establishment of the Georgia O'Keeffe National Historic Site, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 89. Joint resolution permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes; and

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day."

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 10, 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4541. A letter from the Director, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with British Caledonian Airways Ltd., pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4542. A letter from the Director, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with the Public Power Corporation of Athens, Greece, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4543. A letter from the Chairman, Federal Home Loan Bank Board, transmitting the Board's annual report for calendar year 1979, pursuant to section 17(b) of the Federal Home Loan Bank Act; to the Committee on Banking, Finance and Urban Affairs.

4544. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the Colombian assistance effort for narcotics control, requested by the committee of conference on the International Security Assistance Act of 1979; to the Committee on Foreign Affairs.

4545. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4546. A letter from the Secretary of Agriculture, transmitting the fiscal year 1980 global assessment of food production and needs, pursuant to section 408(b) of the Agricultural Trade Development and Assistance Act; to the Committee on Foreign Affairs.

4547. A letter from the Chairman, Federal Communications Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4548. A letter from the Assistant Secretary of Treasury for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4549. A letter from the Administrator of General Services, transmitting the annual report for fiscal year 1979 on personal property furnished to non-Federal recipients, pursuant to section 202(e) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

4550. A letter from the Comptroller General of the United States, transmitting a report on the Government's use of consultants (FPCD–80–48, June 5, 1980); to the Committee on Government Operations.

4551. A letter from the Deputy Assistant Secretary of the Interior, transmitting the first annual report on public lands management, covering fiscal year 1979, pursuant to section 311 of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

4552. A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the distribution of Warm Springs judgment funds awarded in docket 198 before the Indian Claims Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

4553. A letter from the Deputy Secretary of Energy, transmitting the annual report for fiscal year 1979 on the use of various bidding systems for leasing Federal lands located on the Outer Continental Shelf, pursuant to section 8(a) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

4554. A letter from the General Counsel, Department of Energy, transmitting notice of various meetings relating to the international energy program to be held on June 11, 12, and 13, 1980, in Rome, Italy; to the Committee on Interstate and Foreign Commerce.

4555. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting reports for the month of February 1980, on changes in market shares of refined petroleum products and of retail gasoline, pursuant to section 4(c) (2) (A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4556. A letter from the chief Scout executive, Boy Scouts of America, transmitting the 1979 annual report of the organization, pursuant to section 8 of its charter; to the Committee on the Judiciary.

4557. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

4558. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a copy of an order entered in the case of a particular alien found admissible to the United States, pursuant to section 212(a) (28) (I) (ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

4559. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d) (3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d) (6) of the act; to the Committee on the Judiciary.

4560. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to provide for participation of subsidized vessels in a sealift readiness program of the Department of Defense, and for other purposes; to the Committee on Merchant Marine and Fisheries.

4561. A letter from the Deputy Secretary of Defense, transmitting a report in response to a complaint filed with the Special Counsel of the Merit Systems Protection Board, pursuant to 5 U.S.C. 1206(b) (5); to the Committee on Post Office and Civil Service.

4562. A letter from the Acting Secretary of Transportation, transmitting a report on the study of the impact of increased unit train traffic, pursuant to section 162, Public Law 95–599, of the Surface Transportation Act of 1978; to the Committee on Public Works and Transportation.

4563. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Fox River Basin, Iowa and Mo., in response to resolutions of the House Committee on Public Works adopted June 7, 1961 and September 23, 1976; to the Committee on Public Works and Transportation.

4564. A letter from the Administrator of General Services, transmitting a prospectus proposing the aquisition, repair, and alteration of the Thomas Jefferson Inn, Charlottesville, Va., for its continued use as the Federal Executive Institute, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4565. A letter from the Director, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend section 402 of the Disaster Relief Act of 1974; to the Committee on Public Works and Transportation.

4566. A letter from the Comptroller General of the United States, transmitting a report on the Army's Washington, D.C., finance and accounting operation (FGMSD–80–53, June 5, 1980); jointly, to the Committees on Government Operations, and Armed Services.

4567. A letter from the Comptroller General of the United States, transmitting a report on the operational and support costs of the Navy's F/A–18 aircraft (LCD–80–65, June 6, 1980); jointly, to the Committees on Government Operations and Armed Services.

4568. A letter from the Comptroller General of the United States, transmitting a report on the Department of Housing and Urban Development's section 8 rental assistance program (CED–80–59, June 6, 1980); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

4569. A letter from the Comptroller General of the United States, transmitting a report on the Department of Agriculture's child care food program (CED–80–91, June 6, 1980); jointly, to the Committees on Government Operations and Education and Labor.

4570. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Inter-American Foundation for fiscal years 1979 and 1978, pursuant to section 401(t) of Public Law 91–175, as amended (H. Doc. No. 96–325); jointly, to the Committees on Government Operations and Foreign Affairs, and ordered to be printed.

4571. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Overseas Private Investment Corporation for fiscal years 1979 and 1978, pursuant to section 106 of the Government Corporation Control Act, as amended (H. Doc. No. 96–326); jointly, to the Committees on Government Operations and Foreign Affairs, and ordered to be printed.

4572. A letter from the Comptroller General of the United States, transmitting a report on making public buildings accessible to the handicapped (FPCD–80–51, June 6, 1980); jointly, to the Committees on Government Operations and Public Works and Transportation.

4573. A letter from the Secretary of Transportation, transmitting the first annual report on administration of the offshore oil pollution compensation fund, pursuant to Section 314 of the Outer Continental Shelf Lands Act Amendments of 1978; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on June 5, 1980, the following supplemental report was filed on June 6, 1980*]

Mr. BENNETT: Committee on Standards of Official Conduct. Supplemental report on House Resolution 660 (Rept. No. 96–930, pt. 2). Referred to the House Calendar.

[*Submitted June 9, 1980*]

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 4678. A bill to establish within the National Aeronautics and Space Administration a comprehensive program of automotive research and technology development, and for other purposes; with amendments (Rept. No. 96–920, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 7526. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 relating to liability for accidents at nuclear facilities, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GEPHARDT (for himself and Mr. Stockman):

H.R. 7527. A bill to institute fundamental reforms in the health care delivery system, to assist all Americans in obtaining health care, and to restrain increases in the cost of health care; jointly, to the Committees on Ways and Means, Interstate and Foreign Commerce, the Judiciary, and Post Office and Civil Service.

By Mr. JONES of Oklahoma (for himself and Mr. Gibbons):

H.R. 7528. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for the protection of individuals against catastropic medical expenses and for employer-offered health plans to meet minimal requirements in order to receive certain tax benefits, to amend the Public Health Service Act and the Social Security Act to further encourage enrollment in health maintenance organizations, and for other purposes; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mrs. SCHROEDER:

H.R. 7529. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers; to the Committee on Ways and Means.

By Mr. CARNEY:

H.J. Res. 564. Joint resolution congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

491. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the Santa Margarita project, which was referred to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MOORHEAD of California presented a bill (H.R. 7530) for the relief of Guadalupe Trinidad del Toro, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4678: Mr. Edgar and Mr. McHugh.

H.R. 6070: Mr. Hillis.

H.R. 6422: Mr. Addabbo, Mr. Clausen, Mr. Williams of Montana, Mr. Dingell, Mr. Seiberling, Mr. Petri, Mr. Oberstar, Mr. Madigan, Mr. Applegate, Mr. Roth, Mr. Goldwater, and Mr. Ottinger.

H.R. 6813: Mr. Blanchard.

H.R. 7117: Mr. Tauke, Mr. Williams of Montana, and Mr. Skelton.

H.R. 7170: Mr. Montgomery.

H.R. 7332: Mr. Pursell.

H.R. 7337: Mr. Bowen and Mr. Symms.

SENATE—*Monday, June 9, 1980*

(*Legislative day of Thursday, January 3, 1980*)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal God, our Father, we thank Thee for every day Thou dost give us to live in this world. We thank Thee for bright days and dark days, for hard days and restful days, for days of striving and days of heated contest, for days of quiet reflection when life comes into clearer focus, for days of prayer when the curtain of sense and time are drawn back and we are in Thy presence, one with the infinite and the eternal. Give us grace, wisdom, and strength for all our days and for every experience. Thanks be to Thee for this day to be lived to Thy glory and in service to our fellow man. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 9, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

SAKHAROV'S "LETTER FROM EXILE"

Mr. ROBERT C. BYRD. Mr. President, this weekend a remarkable document appeared, Andrei Sakharov, a Soviet scientist and human rights advocate of international renown, has published an extraordinary "Letter From Exile" in the New York Times magazine.

Sakharov has been banished to internal exile in Gorky, a Soviet city closed to foreigners. His alleged "crime" is continuing to speak out, clearly and forcefully, against those policies of the Soviet Government that threaten world peace and violate the rights of Soviet citizens.

Sakharov's "Letter From Exile" is a singular act of courage. It is frankly critical of many aspects of Soviet policy and the Soviet authorities. Publishing this kind of attack might conceivably lead to even greater repression against Sakharov, his wife Yelena Bonner, and other dissidents in the Soviet Union. But as Sakharov has concluded:

> Our only protection is the spotlight of public attention on our fate by friends around the world.

Those of us who are free to speak out must help to keep the spotlight focused on Andrei Sakharov.

There are many observations in Sakharov's letter that deserve our close attention. I do not necessarily agree with each point—indeed, I am not in a position to judge many of his observations on life in the Soviet Union. But his views on the international situation invite our careful reflection.

In the Soviet Union, Sakharov is a voice "crying in the wilderness." But in the United States, his voice rings loud and clear.

Mr. President, I ask unanimous consent that Sakharov's "Letter From Exile" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine, June 8, 1980]

A LETTER FROM EXILE

(Last January, Andrei D. Sakharov—a physicist, Nobel Laureate and one of the Soviet Union's most outspoken human-rights activists—was seized on a Moscow street by agents of the State Security Committee, the K.G.B., and banished to the Volga River city of Gorky. There, some 250 miles east of the capital, he is not permitted to communicate by mail or telephone with foreigners. He has, nevertheless, managed to send messages to the outside world. The following article, obtained by The New York Times, is his first major statement since his exile in Gorky. It was translated by Raymond H. Anderson, an editor on the foreign news desk of The Times.)

I should like to offer some thoughts on problems that have been troubling me and discuss the way they appear to me here in Gorky, a city closed to foreigners, in the depths of the Soviet Union, where I now live under vigilant surveillance by the K.G.B.

WORLD PROBLEMS

In the 1960's and 70's, the Soviet Union, making use of its growing economic and scientific-technological potential, carried out a fundamental reequipping and expansion of its weaponry. There was a substantial increase in both the quality and quantity of the missiles and nuclear weapons developed earlier, and in other new systems of military technology: transport vehicles for the largest land force in the world, the latest word in tanks and aircraft, combat helicopters, fire-control systems, communications, nuclear submarines, fast hydrofoil craft and many others.

A major change has occurred in the world balance of forces, and this change is intensifying. It is true, of course, that the development of new technology and the growth in numbers of weapons have not been confined to the Soviet Union. This is a mutually stimulating process in virtually all technologically developed countries. In the United States, in particular, such developments have perhaps proceeded on a higher scientific-technological level and this, in turn, caused alarm in the Soviet Union.

But in order to assess the situation properly it is imperative to take note of the particular features of the Soviet Union—a closed totalitarian state with a largely militarized economy and bureaucratically centralized control, all of which make the growing might of such a country even more dangerous. In more democratic societies, every step in the field of armaments is subjected to public budgetary and political scrutiny and is carried out under public control. In the Soviet Union, all decisions of this kind are made behind closed doors and the world learns of them only when confronted by *faits accomplis*. Even more ominous is the fact that this situation applies also to the field of foreign policy, involving issues of war and peace.

At the same time that the change in the balance of forces was occurring—though not only because of that change—there was covert and overt Soviet expansion in key strategic and economic regions of the world. Southeast Asia (where Vietnam was used as a proxy) and Angola (with Cuba as the proxy), Ethiopia and Yemen are only some of the examples. The invasion of Afghanistan may be a new and more dangerous stage in this expansion. The invasion, which occurred against the background of the tragedy in Teheran, and possibly had some concealed connection with it, exacerbated world tensions and obstructed talks on disarmament and the settlement of other conflicts. In particular, the invasion made it impossible, at the present time, for the United States Congress to ratify the SALT II treaty, which is of such crucial importance to the world.

Several months earlier, the Soviet Union had unleashed at home and had instigated abroad a demagogic campaign against plans by the United States and North Atlantic Treaty Organization allies for an urgently needed modernization of their missile forces in Europe—this at a time when the Soviet Union had already completed such a modernization and had thwarted (I hope only temporarily) talks on limiting medium-range nuclear missiles. The Vienna negotiations on disarmament in Europe are likewise in a deplorable state, which is also mainly the fault of the Soviet Union.

Despite all that has happened, I feel that the questions of war and peace and disarmament are so crucial that they must be given absolute priority even in the most difficult circumstances. It is imperative that all possible means be used to solve these questions and to lay the groundwork for further progress. Most urgent of all are steps to avert a nuclear war, which is the grestest peril con-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

fronting the modern world. The goals of all responsible people in the world coincide in this regard, including, I hope and believe, the Soviet leaders—despite their dangerous expansionist policies, despite their cynicism, dogmatic conceptions and lack of self-confidence that often prevent them from conducting more realistic domestic and foreign policies.

Therefore, I hope that when there is some easing of the present crisis in international relations, caused mainly by the Soviet invasion of Afgnanistan, there will be a revival of efforts in regard to SALT II, a technologically progressive treaty that provides the essential foundations for SALT III. I hope, too, that there will be new efforts in regard to medium-range nuclear weapons and tactical weapons as well as a reduction in "ordinary" weaponry in Europe.

Negotiations on disarmament are possible only on the basis of strategic parity. The countries of the West must do everything necessary to maintain this parity or, in some categories, to regain it—not allowing themselves to become victims of blackmail and demogogy as in the campaign against American missiles in Europe.

Of equal urgency is a peaceful settlement of "hot" conflicts. The Soviet invasion of Afghanistan was condemned by 104 nations, but the war continues there and no end is in sight. Economic and political sanctions are extremely important; they can help strengthen the hand of the more responsible, non-dogmatic members of the Soviet leadership. In particular, the broadest possible boycott of the Moscow Olympics is necessary. Every spectator or athlete who comes to the Olympics will be giving indirect support to Soviet military policies.

It is vital to demand withdrawal of the Soviet troops in Afghanistan. I hope that withdrawal of the troops will become possible—if not now, perhaps later—on the basis of guaranteed neutrality, with stationing in the country of United Nations troops or units from neutral Moslem countries, which should ease Soviet apprehensions.

The Soviet "conditions" that foreign interference be ended are pure demogogy because there is no such interference. In general, Soviet propaganda is conducted now on a crude "military" level. For example, television broadcasts are showing allegedly captured "American" grenades containing nerve gas. Painted on the grenades in large white letters are the words "Made in U.S.A." All this is obviously intended to head off any similar accusations against operations by the Soviet Army.

The Middle East conflict has been dragging on for decades. The main hope for its settlement is development of the Camp David line so that the difficulties and tragedies of the past will not be carried into the future. It is very important that the Palestinians adopt such a position, that they recognize the existence of Israel, renounce terrorist-guerrilla methods of struggle and refuse to be pawns of those who supply them with guns. There is no evidence yet of any movement in this direction.

Israel, it seems to me, should show more restraint, particularly in regard to settlements in the occupied lands. The Middle East crisis can be solved only in the context of general world problems. Therefore, United States mediation seems to me to be of utmost importance.

In November 1979, I wrote to Leonid I. Brezhnev, chairman of the Presidium of the Supreme Soviet of the U.S.S.R., urging him to help assure uninterrupted supplies of food to the starving people in Cambodia, where famine is the consequence of the crimes of the deposed Pol Pot regime and the war. This problem, like that of the refugees from Vietnam, Cambodia, Ethiopia and other countries, remains as critical as ever. Now there is the problem of refugees from Afghanistan and Cuba. Saving people must be put ahead of all military and political considerations and national prestige.

At the moment I write this, the world has just learned of the failure of the American attempt to rescue the hostages in Teheran. I feel that this was a brave and noble effort. It was undertaken only after it had become clear that the Iranian authorities would not free the hostages voluntarily, thereby taking upon themselves responsibility for a crime that flouts the standards of international behavior.

I do not understand how so many technical problems could have arisen. These are no doubt being subjected to intensive scrutiny, not only the technical questions but also the possibility of sabotage. Success of the American mission would have saved the world from a nightmare. No one should condemn the United States because the mission failed. And no one should criticize President Carter for the secrecy in which the mission was organized. It would be my guess that the secrecy, if anything, was insufficient rather than excessive. Personal ambitions had no place in this. Over all, the actions of Mr. Carter in these tragic days win only respect from me.

Success of the American rescue mission would have eliminated a need to impose sanctions against Iran, and it would have been in the interest of the Iranian people themselves. It appears now that sanctions have become inevitable, and it is very important to achieve unity of action by the countries of the West. Solution of the hostage problem is a matter for all countries that consider themselves democratic and strive to preserve the norms of international relations. This is not just an American problem but a worldwide one, as was shown by new acts of terrorism: the successfully resolved incidents in Bogotá and London.

World attention should be paid to many other problems whose burden now rests mainly on the United States—economic and technological aid to developing countries, help to refugees and the starving, and general economic, ideological and military resistance to the expansion of totalitarianism.

Western unity is one of the main conditions for international security, a unity that will promote resistance and ultimately lead to rapprochement and the convergence of world systems, averting thermonuclear catastrophe.

WESTERN PROBLEMS

A totalitarian system conducts its policy through control from a single center—diplomacy, information and disinformation services inside and outside the country, foreign trade, tourism, scientific-technological exchanges, economic and military assistance to liberation (a word that must sometimes be used with quotes) movements, foreign policy of satellite countries and all kinds of clandestine activities—all these are coordinated from a single center. Special attention must be paid here to clandestine activities, since a person is inclined to forget something if it is not waved in front of his eyes. The West and developing countries are filled with citizens who by reason of their positions are able to promote Soviet influence and expansionist goals.

Some of them are motivated by ideas that at least merit discussion. After all, in the Soviet Union, the ideological epicenter, and in China as well, Communist ideology is not a complete fraud, not a total delusion. It arose from a striving for truth and justice, like other religious, ethical and philosophical systems. Its weakness, its failure and its degradation—evident from the very beginning—represent a complex historical, scientific and psychological phenomenon that requires separate analysis.

There are others among such people who conduct themselves in a "progressive" manner because they consider it profitable, prestigious or fashionable.

A third category consists of naive, poorly informed or indifferent people who close their eyes and ears to the bitter truth and eagerly swallow any sweet lie.

Finally, there is the fourth group—people who have been "bought" in the most direct sense of the word, not always with money. These include some political figures, businessmen, a great many writers and journalists, Government advisers, and heads of the press and television. Over all, they make up quite a group of influential people.

(I can't resist telling about an incident involving my wife and me. Two leading and influential American scientists, arriving in the Soviet Union to take part in a conference, were given envelopes containing money for personal expenses. Out of politeness and embarrassment they felt they could not decline the money. So, in a state of confusion, they gave it to us and asked that we pass it on to scientists who had lost their jobs. We don't know how many other such incidents there have been.)

Of course, there are many spies, secret agents and organizers of sabotage. This is true of nations other than the U.S.S.R., but a totalitarian system has special opportunities. In particular, one cannot arbitrarily reject allegations by some writers about connections between the K.G.B. and international terrorism. The absence of direct proof about such links and concern about a further worsening of tensions make governments of the West reluctant to look too deep into this sensitive question.

Unity of all its forces is one of the advantages of totalitarianism in its world offensive threatening the pluralist West. What can the West do to counter this challenge? Of course, in historical perspective, in conditions of peaceful and orderly development, the pluralist and free systems are more viable and dynamic. Therefore, the future will follow the path of pluralist and converging scientific-technological progress.

But the world is facing very difficult times and cruel cataclysms if the West and the developing countries trying to find their place in the world do not now show the required firmness, unity and consistency in resisting the totalitarian challenge. This relates to governments, to the intelligentsia, businessmen and to all people. It is important that the common danger be fully understood—everything else will then fall into place. In this regard, I believe in Western man. I have faith in his mind, which is practical and efficient and at the same time aspires to great goals. I have faith in his good intentions and his decisiveness.

Recent months have been under the shadow of the events in Afghanistan and Teheran. The reaction in Europe, at least the initial reaction, has not been as consistent and united as, in my opinion, it should have been. One could read assertions in the press of the following type: "Let Carter worry about it. He's the one facing the elections. After all, this is a purely American matter. We have our own problems."

I am unable to judge how widespread are such views. In my opinion, they are very harmful. Recently, the West German author Günter Grass and three other writers issued a statement in this spirit. The Soviet press delights in quoting such statements, forgiving the authors all their past "sins." The anti-Americanism of certain representatives of the West European intelligentsia would be merely amusing, given their show of exaggerated sensitivity, if it were not so harmful.

In truth, Europe has much of which it can be proud. But it is inappropriate for Europe to adopt an arrogant attitude. The tragic nature of our time does not permit this. Europe must fight shoulder to shoulder with the transoceanic democracy, which is Europe's creation and Europe's main hope. A certain lack of unity, of course, is the reverse side of the coin of democratic pluralism, the West's major strength. But this disunity is also caused by the systematic Soviet policy of driving "wedges," a policy that the West has not resisted adequately because of carelessness and blindness. Nonetheless, I feel that in the course of recent crises a positive shift has appeared in the stand of the West and of the developing countries. Only the future will show whether I am right.

Among the important events of recent years is a movement toward greater independence by several European Communist parties—though now the French have apparently beaten a quick retreat. There may be profound consequences if the parties continue to reject dogmatism and unquestioning support of Moscow (in such matters as Afghanistan, for example) and if they accept certain pluralist principles. It would be very important if the European Communist parties joined all democratic forces in supporting the struggle for human rights in the Soviet Union and other Communist countries.

One of the causes of the weakening position of the West is its dependence on oil supplies, a "fatal dependency," as an American leader has remarked. The geopolitics of the Soviet Union is aimed precisely at this weak point. In these circumstances, the West cannot afford to deprive itself of nuclear energy, which gives room for diplomatic and economic "maneuvering." Concern about safety and environmental hazards should have no bearing on the principal issue—to build or not to build nuclear stations—but only on how to build them. The price in terms of polluting the environment are greater from coal and oil than from nuclear energy. Of course, other sources of energy must be developed as an alternative to oil, including coal despite its ecological shortcomings. Strict conservation must be introduced in the use of electricity and heat. Steps must be taken to provide small cars, good public transportation, insulation of homes, integrated heating systems and, especially, introduction of technological processes in industry to conserve electricity. Western voters must demand this from government leaders and not allow demagogues to exploit these problems for their selfish ends.

INTERNAL PROBLEMS

Defense of human rights has become a worldwide ideology, uniting on a humane basis peoples of all nationalities and with the most diverse convictions. I have very high regard for them all, for Amnesty International and its struggle for release of prisoners of conscience, against torture and the death penalty; for the International League for Human Rights, and for the rights activists in Eastern Europe, China and other countries, where they show great bravery in coping with cruel repression.

In the Soviet Union, the movement for human rights emerged in its present form at the end of the 60's with publication of the Chronicle of Current Events, an anonymous underground journal that reports cases of violations in the Soviet Union factually and without subjective comment. Despite severe repressions, the journal has continued to appear, a total to date of 54 issues. In more recent years, appeals by the Helsinki Group [formed in the Soviet Union to check on compliance with human-rights provisions of the 1975 Helsinki agreement on European security] began to appear.

The human-rights movement has no political objectives and its participants have no desire to gain political power. Their only weapon is the free access and dissemination of information. It is of vital importance that the movement limit itself to nonviolent methods. Such a position is logical in a country that has passed through the violence of every circle of hell. Calls for new revolutionary upheavals or for intervention would be made and a terrible crime in an unstable world only several steps from the thermonuclear abyss.

Participants in the human-rights movement speak out openly for human rights whenever they learn of violations, and they inform the people. They have also set themselves the task of correcting the historical record about a society and individual citizens if the truth has been distorted by official propoganda. They help the families of victims of repression. I am convinced that this is what is needed—a pure moral movement to plant in people's minds a basis for democratic and pluralist transformation. This is crucial to the country and essential to all mankind for the sake of peace on earth.

The consciousness of broad masses of the population has been deformed by a number of factors: Decades of totalitarian terror . . . old and new prejudicies . . . the lure of a relatively good life after generations of havoc (I mean of course a very limited good life, nothing like the well being and freedom of workers in the West or the privileged elites in the Soviet Union) . . . the constant need to wheel and deal, to scheme and break the law. The ideology of the Soviet philistine (I have in mind the worst people but they, unfortunately, are rather frequently found among the workers and peasants and throughout the intelligentsia) consists of several uncomplicated ideas:

Cult of the state, involving, in various combinations, submission to authority, a naive belief that life in the West is worse than in the Soviet Union, gratitude to a "benefactor" Government and, at the same time, fear and hypocrisy.

Egoistic endeavors to insure a good life for oneself and one's family, to "live like everyone else" with the help of graft, theft ignored by bosses and ever-present hypocrisy. Yet there is a desire among better people in this category to achieve a good life through their own labor, by their own hands. Nonetheless, it is still necessary to wheel and deal and to play the hypocrite.

The idea of nationalist superiority, which takes on a dark, hysterical and pogromlike form among some Russians, and not only among Russians. One often hears exclamations: "We're wasting our money on these black (or yellow) monkeys! We're feeding parasites!" Or one hears: "The Jews are responsible!"—or the "Russians" or the "Georgians" or the "Chuchmeki," a derogatory term for the peoples of Central Asia.

These are very disturbing symptoms after 60 years of proclaiming "friendship of the peoples."

Officially, Communist ideology is internationalist, but it surreptitiously exploits nationalist prejudices. So far, this has been done with some caution and I hope that these forces will not be unleashed. After the class hatreds we have suffered, we certainly have no need for a racist-nationalist ideology. I am convinced that this is dangerous and destructive even in its most humane (at first glance) "dissident" manifestations. There are few people who react seriously anymore to slogans about building Communism, although there was a time when, perhaps as a result of a certain misunderstanding, Communist slogans reflected a wish for justice and happiness for all in the world.

But internal propaganda intensively exploits the nationwide tragedy of World War II and the pride that people feel in their active part in historic events of that time. The irony of life is that it was only during the war that the ordinary person felt his importance and his dignity in an inhuman world of terror and humiliation. There is intensive exploitation of the risk of war and the much decried American military bases around our country. Feelings of suspicion are stirred up about schemes of the "imperialists."

A nation that has suffered the horrible losses, cruelties and destruction of war yearns above all for peace. This is a broad, profound, powerful and honest feeling. Today, the leaders of the country do not, and cannot, go against this dominant desire of the people. I want to believe that in this regard, the Soviet leaders are sincere, that when peace is involved they are transformed from robots into people.

But even the people's deep wish for peace is exploited, and this is perhaps the cruelest deception of all. The deep yearning for peace is used to justify all the most negative features in our country—economic disorder, excessive militarization, purportedly "defensive" foreign policy measures (whether in Czechoslovakia or Afghanistan) and lack of freedom in our closed society. And those negative features also include the ecological madness, such as the destruction of Lake Baikal, meadows and fields, the country's fish resources and the poisoning of our water and air.

The people of our country submit uncomplainingly to all the shortages of meat, butter and many other products—though they do grumble at home. They put up with the gross social inequality between the elite and the ordinary citizens. They endure the arbitrary behavior and cruelty of local authorities. They know about the beatings and deaths of people in police stations but as a rule keep quiet. They do not speak out—sometimes they even gloat—about the unjust treatment of dissidents. They are silent about any and all foreign policy actions.

A country living for decades under conditions in which all means of production belong to the state is suffering serious economic and social hardship. It cannot grow enough food for its people. It cannot, without the benefit of détente, keep up with the contemporary levels of science and technology.

From the time I wrote "My Country and the World [published in 1975], the average salary has risen, but the cost of living has evidently risen even higher because daily life has not improved. The much acclaimed free medical care steadily gets worse. (It is "free" because the wages of most workers are kept so low and because one must pay for expensive medicines.) The situation in education is not much better, especially in the countryside. It is no longer possible to explain away all these problems as a result of the war or occasional mistakes.

There is an urgent need for economic reforms that would increase the independence of enterprises and allow elements of a mixed economy. There is a need for more freedom of information, a free and critical press, freedom for people to travel abroad, freedom of emigration and a free choice of one's place of residence within the country. In the long run, there should probably be a multiparty system and elimination of party monopoly over all ideological, political and economic life.

But all of this, even though obvious to most people, remains for the time being nothing but wishful thinking. The dogmatic bureaucrats and the new people replacing them—anonymous and shrewd cynics, moving in the many "corridors of power" of the departments of the Central Committee, the K.G.B., the ministries and the provincial and regional party committees—are pushing the country toward what they consider to be the safest path but that is in reality a path to suicide.

Everything is as it was under the system of power and economy created by Stalin. The leaders carry on the arms race, concealing it behind talk of their love of peace. They interfere in troubled areas around the world, from Ethiopia to Afghanistan, in order to increase prestige, to strengthen the nation's power and to insure that the guns don't get rusty. They round up dissidents, returning the country to the quiet "predissident" period, as my son-in-law, Efrem Yankelevich, has described the situation. [Mr. Yankelevich, who emigrated in 1977, is a researcher at the Massachusetts Institute of Technology.]

In the last 10 or 15 years there has been a worsening of the traditional Russian curse, drunkenness. The Government has attempted some timid half-measures—more in word than deed—but it is unable to accomplish much. Alcoholism is a worldwide phenomenon, not wholly a result of conditions in our country. But certain specific factors do play a major role.

Expenditures for drinking reduce surplus purchasing power of the population, but the main point is that an alcoholic poses no threat to the Government. Also, drinking is the only real freedom available and the authorities are not foolhardy enough to take this away without giving something in return. There are economic, social and psychological elements in all this. And the result: Instead of dry wine and good quality old vodka, the authorities flood the market with cheap and poisonous fortified wine, known as "bormotukha," which swiftly destroys men, women and youngsters. As the "quiet" Czar Aleksei Mikhailovich said 300 years ago: "Don't drive the hotheads away from the taverns."

The people of our country are to some extent confused and intimidated, of course. But there is also a conscious self-deception and an egoistic escape from difficult problems. The slogan, "The People and Party Are One," which hangs from every fifth building, consists not entirely of empty words.

But it was from the ranks of the people that the defenders of human rights emerged, standing up against deceit, hypocrisy and silence, armed only with pens, ready to make sacrifices, yet lacking the stimulus one derives from the certainty of quick success. They had their say. They will not be forgotten. On their side, they have moral force and the logic of historical development. I am convinced also that their activity will continue in one form or another, whatever the size of the movement. What is important is not the arithmetic but the qualitative fact of breaking through the psychological barrier of silence.

But history develops according to its own slow (and tortuous) laws. We are now living through difficult and troubling times—a worsening of international tensions, Soviet expansionism, shameless anti-American, anti-Western, anti-Israeli, anti-Egyptian and anti-intellectual propaganda and threats of still greater tension ahead.

Inside the country, these are times of ever greater repression. It is terrible to think that the most honorable and generous people, who have devoted many years to defending others through public protest, have fallen victim to arbitrary repression.

I feel obligated to tell something about a few of them: Tatyana Velikanova, a mathematician and mother of three children, a grandmother, participant in the struggle for human rights for more than 12 years, from the very beginning to the present. Showing no interest in fame, glory or personal gain, sacrificing much in her personal life, she has always been at the center of the battle, committing herself to the fate of hundreds of victims of injustice, speaking out on their behalf, helping them in every way she could, not caring whether their opinions were close to hers or distant. Her only consideration was whether someone had suffered injustice.

I do not reproach those who could not bear up under the many years of strain, those who quit the struggle or even those who in some way betrayed themselves. But they demonstrate all the more why we should admire the courage of this woman.

Another is Malva Landa, a geologist, an active member of the Helsinki Group, one of the volunteers in the aid fund helping dissident families, and for many years, for decades in fact, a friend of political prisoners and their families, totally dedicated to the idea of justice.

It is the same with Sergei Kovalev, a talented biologist and a deep and penetrating thinker, kind, patient and strong. We all were devoted to him when he was free. I was often impressed by the deep respect he received from many of his fellow prisoners during six years in a labor camp.

Another is Viktor Nekipelov, who gave his utmost to help others in trouble or subjected to injustice, a sensitive poet, a loving father, a brave man.

All the world knows of Prof. Yuri Orlov, the physicist, a courageous man always in the forefront, founder of the Helsinki Group.

The world also knows of Anatoly Shcharansky, falsely accused of espionage in an attempt to intimidate the Jewish emigration movement.

I have deep respect for the talented writer and World War II invalid Mykola Rudenko; Vyacheslav Bakhmin, the courageous and honorable member of the Working Commission on Psychiatric Abuse; Leonard Ternovsky, a radiologist and member of the same commission and also of the Helsinki Committee in Moscow, a remarkably kind and steadfast man.

Repression has been intensified against religious believers and those who defend their cause. Noteworthy among these are the names of the priests Gleb Yakunin and Dmitri Dudko and of Viktor Kapitanchuk, Lev Regelson, Aleksandr Ogorodnikov and Vladimir Poresh. Also, the names of the church elder Nikolai Goretoi and of 84-year-old Vladimir Shelkov, who recently died in a camp, should be well known.

Mustafa and Reshat Dzhemilev and Rolan Kadyev, fighters on behalf of the Crimean Tatars, are once again imprisoned.

As I was writing this article, more tragic news reached me: the arrest of Aleksandr Lavut, a talented mathematician and one of the veterans of the struggle for freedom of information. I have known Lavut for many years. Modest, serious-minded and good-natured, he never sought to draw attention to himself. But he worked on behalf of many people. Many of them, including me, will miss his kind words and sound advice. All those I have listed have either been sentenced to long terms or are awaiting an illegal trial. All those who are free have the inescapable duty to speak out on their behalf and on behalf of the many others I have not mentioned.

SOME WORDS ABOUT MYSELF

I live in an apartment guarded day and night by a policeman at the entrance. He allows no one to enter but family members, with a few exceptions. There is an old friend who lives in Gorky; the price he pays for associating with us in a summons to the K.G.B. for a talk after each visit. There is a Gorky physicist who has been denied an emigration visa; he also has to go to the K.G.B. after his visits to us. The only other visitors are people judged suitable by the K.G.B. There is no telephone in the apartment. I am unable to telephone Moscow or Leningrad even from the public telephone bureau at the post office. The call is immediately disconnected at the orders of the K.G.B. agents who always follow me. I receive very little mail, and that consists mainly of letters "re-educating" me or merely cursing me. Oddly enough, I get the same kind of letters from the West. However, I also get some mail from the West with kind words and I am deeply grateful to the senders.

When I accompanied my mother-in-law to the station on her departure for Moscow, K.G.B. agents, pistols in hand, made a show of preventing me from approaching the coach, making it clear that the order forbidding me from going beyond the city limits was not just empty words. A radio-jamming facility has been set up in the apartment building, just for me. In order to listen to the radio, it is necessary for my wife and me to go for walks at night with a transistor receiver. While we are out walking, the K.G.B. agents are in our apartment damaging the typewriter and tape recorder or searching through our papers. I occupy myself with scientific work, but I suffer from a lack of regular contact with colleagues.

At the end of the third month of my stay in Gorky, on the eve of the arrival in Moscow of Western participants in an unofficial scientific seminar, the K.G.B. allowed my colleagues in the Institute of Physics of the Academy of Sciences to visit me. It even recommended that they do so. I am very grateful to those who did come. It had been a long time since I had an opportunity to discuss developments in science. During their stay, the police post was moved away from the door and the jamming facility was turned off. But as soon as my colleagues had left, promising that others would come in time, everything returned to the former state. And there was a resumption of the regular summons to the Ministry of Internal Affairs for registration.

In terms of everyday life, my situation is much better than that of my friends sent into exile or, particularly, sentenced to labor camp or prison. But all the measures taken against me have not even a shred of legality. It is part of a harsh, nationwide campaign against dissidents, including the attempt to force me to keep silent and thereby make it easier for repressive action against others.

On Jan. 22, in Moscow, K.G.B. agents forcibly took me to the Deputy Prosecutor General, Aleksandr M. Rekunkov, who informed me that I was being stripped of my awards and would be sent into exile. He produced only the decree of the Supreme Soviet concerning the awards, giving an impression, however, that the decree also called for exile. But that was not so. I still do not know which branch of Government or who personally made the decision to have me exiled. All my inquiries meet only with silence. In any event, the decision is illegal and is in violation of the Constitution. In two letters to Rekunkov and in a telegram to the chairman of the K.G.B., Yuri V. Andropov, I demanded revocation of the illegal exile order and said I was prepared to face an open trial.

In recent months the Soviet press has printed many articles accusing me of "mortal" sins—contempt for the people and their aspirations, slander of the Soviet system, inciting the arms race, groveling before American imperialism and divulging military secrets. I shall not reply, once again, to those accusations here. In part, this article is my reply. I put forth my position, in very brief form, in my first statement from Gorky. All my activities stem from a desire for a free and worthy destiny for our country and our people and all countries and peoples of the world. I consider the United States the historically determined leader of the movement toward a pluralist and free society, vital to mankind. But I equally respect all peoples for their contributions to our civilization and future society.

In April, the former president of the New

York Academy of Sciences, Dr. Joel Lebowitz, visited Moscow. He passed on to the president of the Soviet Academy of Sciences, Anatoly P. Aleksandrov, a petition from American scientists urging that I be freed from exile and be allowed to return to Moscow or, if I should choose, emigrate to the West. Aleksandrov replied that the exile was for my own welfare because I had been surrounded in Moscow by "dubious characters" through whom there had been a leak of information involving state secrets. That was an outrageous assertion. I have never had dealings with "dubious characters." My friends are honorable and decent people, all of whom are known to the K.G.B. If state secrets have been betrayed, any guilty person (including me, first of all) should be put on trial. But the accusation about betrayal of secrets is nothing but slander. The response to the demand that I be allowed to emigrate was also somewhat strange: "We have signed the treaty on nonproliferation of nuclear weapons and we abide by it strictly." As if I were a hydrogen bomb!

I am frequently asked whether I am ready to emigrate. I feel that constant discussion of this matter in the press and many foreign broadcasts is premature, motivated by thirst for sensationalism. I feel that every person has the right to emigrate and, in principle, I do not exclude myself. But I do not regard this as a valid question for me at this time because the decision does not depend upon me anyway.

I regard as just and legal the demands of my foreign colleagues that my exile order be revoked and that I be allowed to return home or go to the West. These are my rights not only as a scientist but also as a human being. I am very grateful for the concern and for the clearly formulated demands.

This article is being taken to Moscow by my wife, my constant helper, who shares my exile and willingly takes upon herself the heavy burdens of traveling back and forth, handling my communications with the outside world, coping with the growing hatred of the K.G.B. Earlier, she withstood the poison of slander and insinuation, focused more on her than on me. The fact that I am Russian and my wife is half-Jewish has proved useful for the internal purposes of the K.G.B.

Recently, someone appeared at the door of my mother-in-law at 5:30 A.M., describing himself as an officer of the K.G.B. He warned that if her daughter, meaning my wife, did not stop her trips back and forth from Gorky and stop inciting her husband with anti-Soviet statements, they would take certain measures. Earlier, some of our friends received letters with similar threats against my wife. Every time my wife leaves, I do not know whether she will be allowed to travel without hindrance and to return safely. My wife, although formally not under detention, is in greater danger than I am. I urge those who speak out on my behalf to keep this in mind. It is impossible to foresee what awaits us. Our only protection is the spotlight of public attention on our fate by friends around the world.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE RECESSION AND RESPONSIBLE CONGRESSIONAL ACTION

Mr. ROBERT C. BYRD. Mr. President, the National Bureau of Economic Research has declared that the current economic downturn is a recession.

As statistics roll in, we need to take stock of our economic situation.

Important questions arise:

Will the recent drop in interest rates induce a sufficient level of economic activity to shorten and moderate the downturn?

Are there actions which can and should be taken to stimulate activity in particularly hard-hit sectors, such as the housing and automobile industries?

Are existing financial safety nets adequate to avoid financial crises? Rather than deal with beleaguered industries in a piecemeal fashion, do we need a new institutional framework within which to revitalize our industrial base?

What are the prospects for inflation, particularly as the economy starts to rebound? If any stimulative measures are undertaken, can they be targeted and timed in order to achieve a maximum of economic activity, with a minimum of pressure on prices?

We must develop a coordinated economic strategy to deal with a recession.

Confronted with 7.8 percent unemployment—and the largest 2-month jump in unemployment on record—we recognize that remedial action may be necessary. But we must not jeopardize the recovery by overreacting.

Congress can and will steer a steady, long-range course; we must not only look at the problems of recession, but look over the trough of the recession to an upturn of economic activity.

It is easy to look at sanitized statistics and not see the tragedy which they represent. Unemployment is an emotionally shocking and financially devastating experience. People worry about paying their rent, sending their children to school, and generally sustaining their families.

Statistics show a direct link between unemployment and social problems such as crime, alcoholism, and emotional disorders. The cost of idle economic capacity is tremendous, not only in financial terms, but in human terms.

The contradictions of unemployment confound us. While many sit idle for want of work, tens of millions of homes remain uninsulated, lacking even rudimentary caulking and weatherstripping. Meanwhile, our dollars continue to flow to OPEC to pay for the heat which escapes from these homes.

Potholes in unrepaired roads and highways damage our automobiles, bridges crumble, and railroads struggle to achieve a state of repair comparable to 40 years ago.

Unemployment devastates the Federal budget. It also invites efforts to spend our way into full employment. But primarily because of the lag time in getting funds into the economy, this strategy has sometimes caused the economy to exit the recession on a new wave of inflation.

THE BUDGET

Despite some predictions to the contrary, there is still no conclusive evidence that the budget cannot be balanced.

Although the decline in the gross national product looks deeper than predicted by the Congressional Budget Office in March, the rapid decline in interest rates could turn the recession around more quickly than the CBO had predicted.

Unlike the recession of 1974–75, business is not faced with a large inventory which must be sold prior to resumption of normal economic activity. This phenomenon bodes well for a quick recovery.

There is also the very real prospect that the healthy level of capital spending which the economy has experienced in the face of the recession will continue. If it does, it will help to carry the economy through the recession better prepared to increase productivity and fight inflation.

We have long recognized that the recession could pull the budget out of balance. We also recognize that if the recession bites so deeply that mild stimulus is in order, that decision can be made down the road. But we are not at a juncture in the road where those decisions can or should be made. I am hopeful that the recovery will come quickly. We should not now abandon our balanced budget course.

INTEREST RATES

Interest rates have fallen precipitately since their peak in early April. Three-month Treasury bills have fallen from above 16 percent to about 8 percent; the prime rate has fallen from 20 to 13 percent; certificates of deposit have fallen from above 18 percent to about 8.5 percent; mortgage rates have fallen from as high as 17 percent to about 13 percent.

This unprecedented decline is due to a softening in loan demand and a calming of financial markets which developed as a result of the March 14 economic program. It is not due to a looser monetary policy. In fact, the money supply has been shrinking lately, and nevertheless, rates are falling. This bodes very well for future trends in interest rates, since the Fed will have to increase the supply of money to keep it in line with its targets. An increase in the supply of money will help to hold rates down.

Lower interest rates, particularly if they can be expected to stay low, will help to turn the economy around. Industries which are particularly sensitive to interest rates, such as housing, autos and other durables, are likely to start showing signs of some relief in the not-too-distant future.

Since May 1, I have been urging the banks to bring their prime rate down in line with their significantly lower cost of funds. In a May 5 letter I wrote to the President, I recommended that he urge the banks to bring the rate they charge their customers into line with the rate they pay for their money. On May 22, the President asked the banks to drop their prime rate, and they responded the following day by a reduction of 2 percentage points.

Prime rates must come down still lower. The banks have a great deal to lose if this economy does not rebound quickly. Any short-term profits they might enjoy by keeping their lending rate artificially high will be offset many times over by a wave of loan losses from a prolonged recession.

I hope that leaders in the banking industry will appreciate the critical role they have to play in turning this recession around.

HARD-HIT INDUSTRIES

Housing starts in April were at a 1 million unit per year level, 42 percent below last year.

Domestic auto production is off by more than one-third, with about 300,000 auto workers unemployed.

Durable goods production fell 4.2 percent in April after a 3.9-percent decline in March.

A variety of factors have affected these vital sectors; but they all have been wracked by high interest rates, and, most recently, by a sharp contraction of consumer spending.

Short of throwing significant amounts of Federal money at these sectors and thus wrenching the budget out of balance, there are actions which the Congress can take, or encourage the executive or Federal Reserve to take, which could bring some relief.

For example, credit controls which have inhibited nonspeculative consumer spending should be dismantled. Although the controls were designed to have no impact on the auto industry, they appear to have spilled over into this sector. The consumer credit controls have served their purpose of breaking the soaring interest rate psychology.

However, it is absolutely essential that the Fed continue to exercise its authority to prevent counterproductive, inflationary use of credit for speculation. Lack of such restrictions helped lead to the Hunt silver fiasco, allowed housing to become a speculator's haven, and generally permitted the diversion of too much credit from productive economic activity, to speculative, purely financial activity.

The Federal Reserve should encourage and stimulative the flow of credit to the housing and auto sectors. The Fed should lend money to the banks through its discount window at a lower rate for auto and housing production purchases.

On April 22, the Senate passed legislation to revise the section 235 housing program which was expected to stimulate 100,000 new starts. The House will not take up the bill as separate legislation, and instead has folded it into the HUD authorization bill. The HUD authorization bill is on the calendar in the Senate, and its enactment will bring about needed stimulus to the housing industry, within the framework of the budget.

The only real solution for the American auto industry's problems is a massive engineering and retooling—perhaps in cooperation with foreign companies—so Detroit will be in a position to build automobiles which the American people want.

In the short term we must insure that an adequate flow of credit is available to purchase American-made cars. Further, we must support efforts by the administration to discourage, through negotiations, the flood of foreign-made vehicles, and to encourage American production by foreign manufacturers.

The Congress has an obligation to disabuse the American people of the notion that their Government does not want them to buy a new house, car, or washing machine. That is not the case, and never has been the case. The Congress, the President, and the Federal Reserve all must send a clear, loud signal on this issue.

SAFETY-NET

I do not believe that this recession will induce a financial crisis. The financial condition of our banks and corporations, on the whole, is superior to their condition in the 1974–75 recession.

But many of our more mature industries face serious challenges from both the recession and foreign competition.

I believe that our existing economic institutions, both private and public, are not up to the enormous task involved in restructuring some of the basic American industries. Efforts to restructure and revitalize the automobile, steel, rubber, and mass transportation industries are spread among various Government agencies, with various interests and responsibilities. These industries need massive infusions of capital which, in some cases, may be beyond the capacity of the private sector to arrange.

Decisions which range from trade to antitrust policy, from environmental regulation to industrial relations, need to be coordinated and directed.

I believe that we should consider the creation of an RFC-like Government corporation to help point this country on a path toward reindustrialization in the 1980's.

The economic challenges which face this Nation are tremendous. Instead of waiting for them to overtake us, we must move forward in a fiscally responsible, forceful fashion.

I believe an institution like the Reconstruction Finance Corporation, with very little cost to the Federal Treasury, could play a vital role in helping business, labor, and Government to join forces in building a productive capacity capable of meeting the economic and strategic challenges of the 21st century.

INFLATION

Indications are that inflation should be down to about 10 percent in the near future. But wild inflationary expectations are not far behind us. They can be easily revived through a sharp departure from current monetary or fiscal policy.

It is important, therefore, that the economy not be overheated through a massive tax cut. A large tax cut carries the danger of pushing us back into the cycle of inflation, high interest rates, and even tighter monetary policy.

On the other hand, a modest tax cut which prevents the scheduled 1-percent social security tax increase from taking effect on January 1, 1981, could very well be in order. Since the employers' share of social security taxes is generally passed on to the consumer, such a modest tax cut would not contain the inflationary bias of most other tax cut proposals.

In summary, the following approach appears to have the best hope for exiting the recession as quickly as possible with a noninflated economy:

First. Targeted assistance should be forthcoming to certain hard-hit sectors.

Second. Consumer credit controls should be dismantled, while restrictions on speculative credit should be maintained.

Third. Current fiscal and monetary policy should not be precipitously abandoned. America's economy is at a critical juncture which transcends the immediate problems of the recession.

Fourth. We should evaluate the adequacy of our economic institutions and consider the creation of a Reconstruction Finance-like Government corporation.

Looking to the future, I foresee major initiatives in the area of trade policy and export expansion.

We are approaching the time when the American people will be ready to take some real, dramatic steps to encourage gasoline conservation. Nothing is more critical to our security and our economy.

We must explore concepts of work-sharing which could transform the inequity of unemployment for some into more leisure time for many. The result would be increased economic productivity.

I hope the Congress will undertake a major review of industrial relations, with an eye toward increasing the American workers' stake in the ownership and decisionmaking of the American economy.

The Democratic Congress looks forward to meeting these challenges.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I have a special order, do I not, for this morning?

The ACTING PRESIDENT pro tempore. The Senator does.

Mr. BAKER. Mr. President, I ask unanimous consent that my time under the special order may be given to the control of the Senator from Kansas (Mr. DOLE), and that my statement relating to the matter he will address be placed in the RECORD following his remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nevada is recognized under the first special order.

REGINALD E. GILLIAM, JR.

Mr. CANNON. Mr. President, on April 2, 1980, the Senate confirmed Mr. Reginald E. Gilliam, Jr., to be a member of the Interstate Commerce Commission. Mr. Gilliam's nomination was received by the Commerce Committee on December 12, 1979, and on that date the committee staff was advised by the White House that Mr. Gilliam had been nominated to be a Democratic member of the Commission. The Commerce Committee acted upon Mr. Gilliam's nomination with the clear understanding that he was to fill a Democratic slot on the Commission, our committee reported the nomination favorably to the Senate based upon, among other considerations, that Mr. Gilliam would be a Democratic member of that regulatory body, and finally the Senate confirmed Mr. Gilliam on April 1, 1980, to fill a Democratic seat on the Interstate Commerce Commission. All that seems perfectly clear to me, and it is difficult to see anything ambiguous about it all.

However, I am now advised that the White House Personnel Office is under the impression that Mr. Gilliam was nominated to serve as an independent on the Commission, and that the Interstate Commerce Commission now carries Mr. Gilliam listed as an independent member of the Commission. While I understand that Mr. Gilliam is, indeed, registered as an independent voter, I must say, in this instance, that has nothing to do with what seat the Senate confirmed him to assume at the Interstate Commerce Commission.

So the record may be absolutely clear for those who had difficulty getting it straight the first time around, I wish to advise the White House, the Interstate Commerce Commission, and Mr. Gilliam that the nomination of Reginald E. Gilliam, Jr. was to serve as a Democrat at the Interstate Commerce Commission and that the Senate confirmed him to occupy a Democratic slot at the Interstate Commerce Commission. I ask unanimous consent that I be permitted to have printed in the Record letters that Senator Packwood and I have written to the White House Personnel Director, the Chairman of the Interstate Commerce Commission, and Commissioner Gilliam on this matter.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Committee on Commerce,
Science, and Transportation,
Washington, D.C., June 4, 1980.

Mr. Arnold Miller,
Presidential Personnel Office, The White House, Washington, D.C.

Dear Mr. Miller: It has come to our attention that your office is under the impression that Mr. Reginald E. Gilliam, Jr. was nominated and is now serving as an Independent member of the Interstate Commerce Commission.

When Mr. Gilliam's nomination was received on December 12, 1979, the Committee staff was advised by telephone by White House personnel on that same date that Mr. Gilliam had been nominated as a Democrat to the Commission. The Committee acted upon this nomination with the clear understanding that he was to fill a Democratic slot on the Commission, our Committee reported the nomination favorably to the Senate based upon, among other considerations, that Mr. Gilliam would be a Democratic member of that regulatory body, and finally the Senate confirmed Mr. Gilliam on April 2, 1980, to fill a Democratic seat on the Interstate Commerce Commission.

You may recall that there were discussions at the staff level of Mr. Gilliam being nominated as an Independent, but you were advised that despite Mr. Gilliam's being a registered Independent voter, it would not be possible to have his nomination ordered favorably reported unless he were nominated as a Democrat. The minority was insistent upon Mr. Gilliam not being nominated for an independent slot on the Commission. We thought you clearly understood that was the end of the matter, and that Mr. Gilliam would be nominated as a Democrat. Indeed, on December 12, 1979 the Committee's staff director was advised by the White House that Mr. Gilliam had been nominated as a Democrat. Therefore, we considered the matter closed and it was never raised when Mr. Gilliam's nomination was pending before the Committee.

We expect your records to accurately reflect that Mr. Gilliam occupies a Democratic slot at the Interstate Commerce Commission, that you will so advise the Chairman of the Interstate Commerce Commission, Chairman Gaskins, and the Senate Commerce Committee at the earliest possible opportunity that Reginald E. Gilliam, Jr. occupies a Democratic Commissioner slot at the Interstate Commerce Commission.

Sincerely,
Howard W. Cannon,
Chairman.
Bob Packwood,
Ranking Minority Member.

June 4, 1980.

Hon. Reginald E. Gilliam, Jr.,
Commissioner, Interstate Commerce Commission, Washington, D.C.

Dear Commissioner Gilliam: It has been brought to our attention that some may be under the impression that you were nominated by the White House to occupy an "Independent" seat at the Interstate Commerce Commission.

From our enclosed letter to Mr. Arnold Miller of the Presidential Personnel Office, you will note that the Senate Commerce Committee acted upon your nomination with the clear understanding that you were to fill a Democratic slot at the Commission and that you were confirmed by the Senate to occupy a Democratic seat at the Commission.

You should understand that you were not confirmed to an "Independent" seat and that it would be inappropriate for you to represent or consider that you occupy anything other than a Democratic commissioner position at the Interstate Commerce Commission.

We understand that you are in no way responsible for the apparent confusion created by the Presidential Personnel Office in this matter, and we regret that it is necessary to again restate precisely what political slot at the Interstate Commerce Commission you were confirmed for by the Senate.

With our best wishes,
Sincerely,
Howard W. Cannon,
Chairman.
Bob Packwood,
Ranking Minority Member.

June 4, 1980.

Hon. Darius Gaskins,
Chairman, Interstate Commerce Commission, Washington, D.C.

Dear Chairman Gaskins: It has come to our attention that the Commission and the Presidential Personnel Office are under the impression that Mr. Reginald E. Gilliam, Jr. was nominated and is now serving as an Independent member of the Interstate Commerce Commission.

From our enclosed letter to Mr. Arnold Miller of the Presidential Personnel Office, as well as our recent colloquy on the Senate floor, you will note that the Senate Commerce Committee acted upon Mr. Gilliam's nomination to fill a Democratic slot at the Commission and that he was so confirmed to occupy a Democratic seat on the Commission.

Please advise this Committee that the Interstate Commerce Commission and Commissioner Gilliam clearly understand that he occupies a Democratic slot at the Commission and that he is not listed as an "Independent" member of the Interstate Commerce Commission.

With best wishes,
Sincerely,
Howard W. Cannon,
Chairman.
Bob Packwood,
Ranking Minority Member.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Oregon 2 minutes from my remaining standing order time.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I believe that it is fair to say that I am as surprised as Senator Cannon to discover that a nominee—Reginald Gilliam—whom the Commerce Committee confirmed with a clear understanding that he would fill a Democratic seat on the Interstate Commerce Commission is now listed by both the Commission and White House personnel as an independent. The minority supported Mr. Gilliam's confirmation based on a number of considerations—one being that he would fill a Democratic slot on the Commission. Had there been any question as to his political affiliation on the Commission the minority would not have agreed to his appointment.

That this matter arises after the fact of full Senate confirmation is problematical. However, we sincerely hope and expect that all concerned parties will correct their records to accurately reflect the fact that Mr. Gilliam should be listed as a Democratic—not an Independent—member of the Interstate Commerce Commission. The minority strongly concurs with Senator Cannon and the majority on this point. We are looking forward to expeditious action to rectify this matter to the satisfaction of the Congress.

ORDER OF PROCEDURE

Mr. STENNIS. Mr. President, may I have 1 minute? Will someone yield me 1 minute in order to define the situation?

Mr. STEVENS. I have a special order, and I yield to the Senator.

Mr. STENNIS. I thank the Senator from Alaska.

The ACTING PRESIDENT pro tempore. The minority leader has 4 minutes remaining before the special orders.

Mr. STEVENS. Mr. President, a parliamentary inquiry. Was that time yielded to the Senator from Kansas?

The ACTING PRESIDENT pro tempore. The time on the other order was yielded to the Senator from Kansas.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time remaining to the minority leader be under the control of the distinguished minority whip.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. STEVENS. Does the Senator from Mississippi seek some time?

Mr. STENNIS. Just a half-minute to make an inquiry. I thank the Senator from Alaska.

Mr. President, I inquire how many special orders there are.

The ACTING PRESIDENT pro tempore. In response to the question of the

Senator, there are nine 15-minute requests on the calendar.

Mr. STENNIS. I am not trying to break in. I want to seek the floor when they are completed. I have not had a chance to speak on the pending matter, on which a cloture motion is to be voted on tomorrow. I am not complaining. I will stay here and wait.

NATURAL GAS RESERVES IN ALASKA

Mr. STEVENS. Mr. President, I should like to take a few minutes to talk about the natural gas reserves in Alaska which, given the current state of affairs with respect to our energy situation, takes on a great national significance.

Alaska has the potential to make tremendous contributions toward solving our energy crisis. Even now, with only minimal exploration accomplished, the natural gas in Alaska totals 13 percent of the Nation's total reserve. This massive reserve, when the projected increased demand for natural gas is taken into consideration, will contribute greatly toward the goal of depending less on foreign fuel sources to power America. This year alone, increased gas sales in the United States are offsetting foreign oil at a rate of 450,000 barrels per day.

When Alaska gas comes onstream, it will more than double those figures, and gas will then displace more than 900,000 barrels per day. This is an incredible saving for the American people and is especially important in these times of uncertain oil supplies from abroad and ever higher oil prices imposed on us by foreign oil producers.

Another aspect which certainly ought to be uppermost in our minds is the strategic necessity of increasing our energy independence. I have noted with special concern, as have many of my colleagues, I am sure, remarks made recently by OPEC oil ministers to the effect that a large cut is coming again so that oil prices can be kept tight. These remarks should serve to remind us of our vulnerable position and that we cannot remain dependent on the fiat of decisions made elsewhere. In times of conflict what would we do? We would be dependent on fuel supplies that would involve long and arduous supply lines.

Only by reducing our dependence on foreign oil can we avoid the necessity of distant nations being vital to our national interest. Consequently, I believe it is clear that the natural gas industry is providing and will continue to represent the best near-term hope of reducing America's dependence on imported oil.

Another key part which Alaska's vast natural gas reserves could play is in the balance of trade situation. The United States has clearly entered the long predicted recession. One means of easing the effects of it and, we hope, to help in lifting it in the rough times ahead is to keep as much money flowing in this country as possible. Alaska's natural gas could do that. In Prudhoe Bay alone, we have some 26 trillion cubic feet of natural gas located and awaiting production and shipment.

Once this gas begins to flow, those 26 trillion cubic feet will be equivalent to more than 3 billion barrels of crude oil. That is 3 billion barrels of crude oil we would not need to purchase from foreign countries. At the current cost of $28 per barrel, we could reduce import expenditures for oil by $84 billion—a considerable amount by any standard. With the cost of a barrel of oil shooting up the way it has, this will certainly parlay into even greater savings in the future.

Yet, the product itself would not be the only contribution to the political and economic well-being of the United States. In order to ship the natural gas from Alaska to the continental United States, a pipeline must be constructed from Prudhoe Bay through Canada to the Midwest. This 4,800-mile pipeline which will be funded by the private sector is the biggest construction project of its kind ever undertaken in history. It will provide jobs for 400–450 workers on each spread of 90-miles in length during construction. With the increasing concern over the numbers of unemployed, this is no insignificant addition of jobs. Furthermore, it is estimated that construction of the project, including the eastern and western U.S. legs will provide 50,000 man-years of direct and indirect employment for Americans.

In conclusion, I point out that the benefits extend beyond these immediate considerations. We will also gain through strengthened ties to our neighbor, Canada. Some 40 percent of the pipeline will be routed through Canada, on its way to the Midwest. For the Canadians, the pipeline will provide approximately 40,950 jobs. Working together on a mutually beneficial basis is sure to have a beneficial impact on future relations with that country.

Clearly, there are few other projects underway that can provide so many benefits to the United States. This will help to make the United States more energy dependent. It will provide relief for the balance of trade situation. The pipeline will ease the unemployment problem. Finally, construction of the Canadian and U.S. segments will enhance cooperation between the two governments.

Mr. President, Alaska and Alaskan natural gas has obviously a great deal to offer. The benefits of producing it which are clear for all to see would seem to offer solid evidence pointing to one conclusion: Alaska has what America needs.

RECOGNITION OF SENATOR DOLE

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

RAMSEY CLARK CONDEMNS AMERICA

Mr. DOLE. Mr. President, some sentiment has surfaced in the past few days to downplay Ramsey Clark's trip to Tehran, notably by Mr. Carter's Secretary of State, but even from some Members of Congress. The Senator from Kansas does not believe it was right for Mr. Clark to go to Iran as a private citizen, set himself up as a quasi-official representative of our country, and then to condemn the United States—as he did—while 53 Americans are still held hostage.

THE PRESIDENT'S TEST CASE

Mr. Carter ought to make this his test case. Mr. Clark has defied the ban on travel to Iran. Yet, it remains to be seen whether or not Ramsey Clark will be detained. We have yet to see whether there will be an investigation, and to what extent. Mr. Carter ought to enforce the ban or revoke it.

What we have now is a situation where the families of the 53 hostages are afraid to go to Iran to see their loved ones, or to plead on their behalf, while Ramsey Clark goes over and adds the aura of legitimacy to a conference called to condemn American actions. The same authority that President Carter said he was prepared to invoke to prevent American athletes from going to the Moscow Olympics, is now violated by Mr. Clark and the nine others apparently with impunity.

It just seems to the Senator from Kansas that the President's policy would be very inconsistent to prevent athletes and family members of the hostages from traveling, and yet, not enforce the ban on Ramsey Clark. If the President is not going to follow through, then he should lift the restrictions. It does not seem fair, but, then, as the President has noted before, "life is unfair."

A FUNDAMENTAL CONCEPT

The resolution the Senator from Kansas and about 25 other Senators introduced last Friday, addresses a more fundamental concept than merely a ban on travel to restricted countries. This concept concerns the taking of the law into one's own hands, the formulating of national public policy without any authority or responsibility whatsoever.

This resolution, Senate Resolution 453, urges the enforcement of the Logan Act, which bans unauthorized Americans from dealing with a foreign government, or representing this country in matters of dispute with foreign governments. Mr. Clark and the others have claimed they have a constitutional right to freedom of travel.

It is not the Logan Act, but the President's order under the International Emergency Economic Powers Act, that was supposed to prohibit Mr. Clark's trip to Iran. Whether or not that law infringes on the constitution's guarantees may be open to question, but it does not alter the facts about what Mr. Clark did after he got to Iran. He broke the law, and he condemned America.

Some claim that Mr. Clark ought to be let off because the Logan Act is rarely invoked. For nearly as long as our republic has existed, the Logan Act has been part of the law of the land. Rarely has there been a need to prosecute loyal and patriotic Americans because of this provision of law. Especially in earlier times, when relations among sovereign states were more clear cut, perhaps then they are now, when the taking of diplomats as hostages was regarded as an act of war, there was no reason for ambiguity in the disputes between governments.

UPHOLDING THE LOGAN ACT

As the Senator from Kansas understands it, the Logan Act was dropped from the new revision of the Criminal Code, scheduled to be considered by this session of Congress, not for any reason based in law, justice or right, but merely because it seldom needed to be used. Mr. Clark's trips to Hanoi and Teheran demonstrate a need for that law to remain on the books. This Senator will offer an amendment to the new Criminal Code restoring the language of the Logan Act.

One of the members of Mr. Clark's group said, upon returning to the United States at Boston's Logan Airport, that "the whole point—or going to—the conference was to represent the United States." By urging the enforcement of the law by the passage of this resolution, the Senate can make it clear that Ramsey Clark did not represent the United States, did not represent our policies or views, and that his condemnation of the United States will not pass muster with the American people.

EXPAND THE RESOLUTION

It is certainly clear to this Senator that Mr. Clark is guilty of violating both the Logan Act and the President's travel ban under the International Emergency Economic Powers Act of 1977. He should be prosecuted under both laws—each backs up the intent of the other.

The Senator from Kansas will amend his resolution introduced on Friday covering the possible violation of the International Emergency Economic Powers Act by adding after the words "all persons who are in violation of the Logan Act," the following: "and the prohibition on travel to Iran provided for under the authority of the International Emergency Economic Powers Act."

Mr. President, that is the prepared statement of the Senator from Kansas, and I add that we now have about 20 cosponsors of the resolution: Senators BAKER, STEVENS, DOMENICI, GARN, GOLDWATER, HATCH, HAYAKAWA, HELMS, HUMPHREY, JEPSEN, LAXALT, SCHMITT, LUGAR, SCHWEIKER, THURMOND, TOWER, SIMPSON, WARNER, YOUNG, HEINZ, and HARRY F. BYRD, JR.

I hope that we will see a strong show of bipartisan support for the resolution. I ask unanimous consent that the amended text of the resolution be inserted in the RECORD at this point.

The PRESIDING OFFICER. Without objection, the text of the amended resolution follows:

Whereas, the government of Iran has continued to act in a hostile manner toward the government of the U.S. since it seized American diplomatic personnel on November 4, 1979;

Whereas, certain residents and citizens of the U.S. have collaborated in this hostility by condemning and insulting their own country;

Whereas, the government of Iran is conducting a "sham" tribunal falsely pretending to be an assessment of "crimes of America" at which certain citizens and residents of the U.S. are attending at the request and expense of Iran;

Whereas, the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is active enforcement of the Logan Act;

Whereas, Title 18, Section 953, of the United States Code prohibits that any citizen of the United States, wherever he may be, who without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States;

Whereas, the President of the United States by executive order prohibited all travel by American citizens to Iran as part of our overall policy of securing the release of American hostages;

Now, therefore, be it resolved, that it is the sense of the Senate that the President instruct the Attorney General to prosecute to the fullest extent of the law any and all persons who are in violation of the Logan Act and the prohibition on travel to Iran, provided for under the authority of the International Emergency Economic Powers Act; thereby denigrating the United States, and giving the color of "right" to the illegal actions taken by the government of Iran.

Mr. DOLE. It is amazing to the Senator from Kansas to watch the talk shows, the TV shows, and the headlines in the paper and to see how the media is attracted to someone with very liberal views and someone who, in effect, goes to Iran and condemns the United States. That is one sure way to get press, I guess, in America: to go to some foreign country, condemn our country, say in one broad sweep that for the past 27 years we have collaborated somehow with the Shah in a number of illegal activities, and that gets you on all the talk shows and gets you headlines in the paper with big pictures.

I would say, in fairness to the media, I think they posed some very difficult questions to Ramsey Clark, who seemed very defensive and with good reason, particularly the questions posed in yesterday's Issues and Answers program by Bob Clark, who is no relation as far as I know.

I watched very intently as Mr. Ramsey Clark on this program tried to defend his reason for going to Iran, trying to suggest that there should not be any ban on travel in America, that we are in a free country—but no one quarrels with that. The President through the International Emergency Powers Act of 1977 did restrict travel to Iran, however. He did tell the families of the hostages, "You cannot go to see your son or your father, or whoever, because you may be used by the Iranian officials and it may in the long run cause more hardship to the 57 American hostages."

It also has been said that if any of the American athletes try to go to the Olympics, they might be prosecuted or detained subject to this act.

I just wonder if the administration is operating a double standard, because I watched with some interest our new Secretary of State, former Senator Muskie, indicate that this law was not designed to punish anyone, it was just designed to discourage travel. It occurs to this Senator that either the President invoked the ban for some good reason or he did not.

A DOUBLE STANDARD?

If it was done just as another symbolic act to make the American people think we are going to get tough, that we are not going to permit everyone to travel to Iran and act as if they were our Secretary of State, that we are going to rely on the Government channels, that is one thing. So I really believe President Carter now has sort of gotten himself into a corner. Either they must proceed against Ramsey Clark, the ringleader of the group of 10, investigate and take action, or they should revoke the sanctions imposed on banning travel under this act of 1977.

What will the administration do? I think it is probably obvious to many. They probably will not do anything. This administration may do a little paper investigation of Ramsey Clark, but former Senator Muskie, as I have indicated, said in effect yesterday they are going to have a conciliatory attitude, that anyone who has information certainly should give it to the Secretary of State, and he would gladly accept it. And I do not quarrel with that. My quarrel is if we do not really mean it, if the administration does not mean it, then the ban against travel to Iran or anywhere else should be revoked. There should not be a double standard, even though Ramsey Clark was asked by the President a few months ago to go to Iran. I might add there are some who think that this trip may have been made under the auspices of the administration, maybe at the direct direction of the President himself. That was one of the questions Ramsey Clark was asked yesterday. He denied it. But I think there are some who doubt that answer and may have questions whether he was there under the auspices of the administration, since he was once asked to go there for the administration. That is a matter that ought to be part of any investigation.

There is no doubt about the violation itself. Ramsey Clark said so himself that he has defied the travel ban. He said it is unconstitutional. We have a right in this country to travel anywhere we want. Let us find out. I think President Carter owes it to the Nation to proceed with this case. Either that, as I said, or to revoke the ban he imposed in April.

Having just been in my State of Kansas over the weekend and having had people discuss this particular trip with the Senator from Kansas, I can say that a majority of American people do not appreciate the likes of Ramsey Clark who set themselves up above the law and travel as they did in the Vietnam war to Hanoi and visit with the enemy about America and travel to Iran and condemn America with one broad brush, and then come back and somehow are made a semi-hero by some in the media.

I just suggest the American people are much more sophisticated than that. The American people are concerned about the safety of the hostages. They are also concerned about anyone who would set himself up above our Government as far as negotiations are concerned.

If we are going to have a consistent

policy, if we are going to say "no" to the families, as the administration did say to the families—and I remember one mother who traveled over to see her son and was castigated when she got back for making the trip—then the administration ought to be consistent and fair. She did not go there to condemn America, did not go there to participate in any conferences as Ramsey Clark did, but she was discouraged from making that trip. She had already started the trip before the order was invoked by President Carter. But it is a very inconsistent policy if we say to the athletes in America that you cannot go to Moscow and say to families you cannot go try to see your loved ones because that violates the President's act and violates the ban on travel, and then we do not do something about the Ramsey Clarks in this country. I think the American people are going to see through that double standard very quickly.

AN APPROPRIATE AMENDMENT

Mr. President, I hope that when the Department of Justice authorization bill comes to this floor maybe this week we will have an opportunity to offer this sense of the Senate resolution as an amendment. Ramsey Clark said yesterday that Senator DOLE and others were interfering with the orderly process. I do not know who is interfering more, whether it is Ramsey Clark or someone elected by the people in the Senate. We believe we have a right to reflect the views of our constituents. We believe we have the right to support our President when he invokes a travel ban. We believe we have the right to suggest that the Attorney General and other authorities have to carry out the law, or that it should be revoked, or repealed in the case of a law.

So it seems to me that when the Department of Justice authorization bill comes before the Senate that would be an appropriate time to offer the sense of the Senate resolution sponsored now by some 20 Senators and hopefully more on both sides of the aisle, not in an effort to prejudge the case, not in an effort to find anyone guilty, but an effort to suggest it should be investigated, it should be prosecuted, and if there are defenses to be made then the defenses should be aired and we should have one standard for all Americans. And that standard should apply to Ramsey Clark as well as some mother or some father or some athlete or anyone else who might want to travel to Iran or Moscow since the ban was imposed.

Some will say let us play this down. We certainly do not want to raise the visibility or to rehash all the hostages' problems of the past 216 days. On the other hand, maybe it is time we rehashed some of the policies that affect the hostages and if in fact there are some arrangements between the administration and Ramsey Clark, then we should be told that he went there with the approval of the President or some one of authority in the administration. I doubt that he did because we have had some indication the administration did not direct his travel there.

In the final analysis, the American people are waiting to determine not what the media may say, not how some of the media would hype Ramsey Clark as some kind of hero for going to Iran in opposition to the President's ban on travel and having, at least on the face of it, violated the Logan Act, but what is our Government going to do about it? Ramsey Clark's trip may make him special in the eyes of some who share his philosophy, but in the eyes of the American hostages, in the eyes of those who suffered in the Vietnam war while he went to Hanoi, in the eyes of those who have to deal with other governments officially, whether it is a Republican administration or Democratic administration, I just suggest that the efforts of Ramsey Clark are not appreciated.

I am not certain whether there is some other tie with Ramsey Clark and the Government. It has been suggested in the Chamber last week that maybe his law firm represents some of the Iranian interests. That they are in fact registered agents of the Iranian Government. Maybe that is the reason he has been so active. He was not asked that question. I do not know the answer.

But I do suggest that there is a double standard out there and if the administration does not take action I think the American people will understand that double standard. There is one standard for Ramsey Clark because he has one political philosophy. He is above the law. He suggested he was yesterday. He suggested the rest of us were interfering by suggesting he may have violated the travel ban or violated the Logan Act.

So I just challenge the administration to do one of two things, either proceed against Ramsey Clark as a ringleader of the group of 10, or to revoke the ban on travel they imposed in April. If it is not going to apply to Ramsey Clark it should not apply to anyone else who wants to travel to Iran, Moscow, or wherever.

I hope the administration will take the appropriate action. I think we can assure the President of the united support of the majority of Senators and Members of the House in this Congress.

Mr. President, I reserve the remainder of my time.

Mr. BAKER. Mr. President, in the normal course of events there is no one in the Congress more willing than I to challenge the policies and actions of the President when I believe them misguided or ill-advised. It is the very essence of the constitutional responsibility of the Congress enthusiastically to challenge the President when we believe him to be wrong, and as minority leader of the Senate, I regard that responsibility with a special, keen appreciation.

During times of crisis, however, there is an additional responsibilty to insure that the United States speaks with one clear and resolute voice. Faced with a crisis like Iran, the perception of the resolve and will of the United States is fundamentally important and no public figure or official should consciously undermine it.

It must be clearly understood that we will have our diplomats held hostage in Iran returned. It must be clearly understood that there is no other issue between our two countries that merits even discussion until that occurs.

I am afraid, Mr. President, that Ramsey Clark and his group of self-appointed apologists have, by their participation in the recent "Crimes of America" conference in Tehran, contributed to the creation in Iran of an image of this country that is untrue. By participating in that charade of a tribunal, they may well have misled the leaders and people of Iran into believing that we are not united in our single-minded determination to see our people free. They may now believe that we can be distracted, and that we may be willing to participate further in their bizarre games played at the expense of 53 American citizens.

Mr. President, even in normal times the discourse of diplomacy is so especially the constitutional province of the President that the Congress in 1799 enacted a statute, the Logan Act, worded expressly to protect his prerogatives in this regard. It was the purpose of this act to prevent the officious intermeddling of self-styled diplomats. Moreover, the President, pursuant to authority granted him in the International Emergency Economic Powers Act of 1977, quite correctly went further and forbade all travel to Iran by American citizens.

Mr. President, I do not know that Ramsey Clark and the others violated either of these laws. Before they can be found guilty of any violation, they must be accorded the legal presumption of innocence and the full protection of the legal process afforded them under the laws and Constitution of the United States. It is neither my intent nor my responsibility to prejudge the outcome of that process.

It is, however, the responsibility of the President to insure that the laws of the United States are faithfully executed. This resolution calls on the President to enforce those laws that may have been violated in the course of Ramsey Clark's trip to Tehran. If he fails to do so, he will have not only failed in his constitutional responsibility, he will have compounded the damage Ramsey Clark has already done. Failure to enforce these laws will send to Iran the very message that we have hoped to avoid: that we are indecisive—that we are not united—that we lack the resolve and determination to see this thing through.

I ask my colleagues to support the resolution and I commend Senator DOLE for his initiative in introducing it.

(Later the following occurred:)

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to speak on the time of the Senator from Missouri?

Mr. THURMOND. As I understand it, a special time has been set aside for this matter.

The PRESIDING OFFICER. Without objection, the Senator may speak on the time of the Senator from Missouri.

Mr. THURMOND. How much time is allowed?

The PRESIDING OFFICER. Seven and a half minutes remain of the time of the Senator from Missouri.

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I wish to express my opinion and contempt of the actions of former Attorney General Ramsey Clark.

This gentleman was sworn in as Attorney General of the United States on March 10, 1967. He was appointed by the then President, Lyndon B. Johnson.

Mr. Clark is the same gentleman who refused to prosecute the leaders of the riots at the Democratic National Convention in Chicago in 1968. He is the same gentleman who instructed the Chicago U.S. attorney to begin grand jury investigation of police actions and the possible violation of rioters' civil rights. In other words, it seems that he was going to prosecute the police instead of prosecuting those who had rioted in Chicago.

This is the same gentleman who, in January of 1970, offered to testify in defense of the notorious "Chicago Seven." I think most people are familiar with that situation.

He ran for the U.S. Senate, from New York, in 1976. In that race, he criticized Senator Javits for "failure of moral leadership."

This is the same gentleman who went to Moscow first on July 27, 1972, and left Moscow for Hanoi on July 29, 1972. He toured North Vietnam for 14 days. He castigated the U.S. policy on Radio Hanoi.

Here is a man who had been Attorney General of the United States. He went to a country at war with the United States—whether war had been declared or not, a war was going on over there—and he got on the radio in Hanoi and castigated his own country. I just want to remind the American people of the kind of character this man is.

On the radio, he said that the air war by the United States was being conducted inhumanely and with "no possible justification in the eyes of any human morality."

This country, of which he was a citizen, was at war; and he went to Hanoi and took the other side of this matter and criticized us instead of criticizing the North Vietnamese.

After returning, he was asked questions, and he refused to condemn the Communists of North Vietnam. He refused to condemn them for not allowing the Red Cross to visit the prisoners of war. He refused to condemn them for their invasion of South Vietnam, and everybody knows that North Vietnam invaded South Vietnam, not the reverse. He refused to condemn them for the savage massacres during the Tet and Binh Dinh offensives.

Attorney General John Mitchell called him "naive" and a "dupe" of Hanoi for allowing himself to be used by North Vietnam in a propaganda campaign. Then Secretary of State Rogers—and I think everybody considers Mr. Rogers restrained in his remarks—called Clark "contemptible."

Mr. President, Clark has just been to Iran, and I will recite something about his feelings and actions toward the leaders of that country.

He was an early supporter of Khomeini. He met Khomeini in France on January 22, 1979. He called Khomeini "a brave man." He said the revolt against the Shah "established the opportunity for a new freedom" in Iran.

Regardless of how we feel about the Shah, we have to recognize this: that he was a friend of the United States, that he was standing as a bulwark against the Soviet Union and a bulwark between the Soviet Union and the free world, so to speak.

We have to recognize that it was the Shah who brought about the land reform in Iran to give the poor people, the farmers, little farms, so that they could own those farms eventually, with a long time to pay for them. It was some of the religious leaders like Khomeini who claimed the land and objected to this.

On October 12, 1979, in a letter to the Iranian Foreign Minister, Yazdi: Clark urged the revolutionary regime to seek damages from the "Shah, his family, and his confederates."

In November 1979 President Carter named this man "special emissary" to negotiate release of the hostages. He was unsuccessful.

Just like we did not trust him in this country, I guess they found out that they could not trust him either.

Now he is on an unofficial mission, in violation of the Executive order of the President. President Carter issued an Executive order that people from this country would not travel in Iran while these hostages are being held there, and held there illegally. And the whole world knows they are being held there illegally. The International World Court has condemned Iran for holding these hostages illegally.

On this mission he not only violated the Executive order of the President but he also violated the Logan Act.

I hold here in my hands a copy of the Logan Act. It reads this way:

Section 953 of the United States Code, 18 USCS 953:

> Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Mr. President, this man attempted to interfere with the foreign relations of this country and, further, he now says he will "pursue with full vigor" the establishment of a commission to investigate U.S. involvement in Iran.

What legal right does he have to investigate U.S. involvement in Iran? He is not an official of the United States. He is not an official of the United Nations. He is not on the World Court.

The World Court has already decided it. They have condemned Iran.

He is going to have a commission here to investigate the U.S. involvement. I guess he wants to again try to derogate and embarrass the United States in every way he can.

And he has even gone so far as to threaten to use the Freedom of Information Act to obtain secret documents.

Mr. President, it is very difficult to understand a man of this kind, an American citizen, who would commit such acts as this, condemn his own country, condemn the policies of his own country, and he has gone so far as to call the revolution over there "a miracle for the century," and he has gone so far that he has called our rescue attempt to try to rescue our hostages, whom Khomeini and the terrorists in Iran have captured and held in the Embassy, and they may be moved now to other places but they are still being held in Iran, he has gone so far as to say that when we attempted to rescue them it was "a lawless military expedition, an assault on the sovereign territory of Iran."

Again he has shown his colors, when these hostages are held against their will, held against international custom, held against international law, to say that our attempt to regain the hostages and allow them to come back here to freedom was "a lawless military expedition, an assault on the sovereign territory of Iran."

Mr. President, I do not see how our Government can get out of condemning this man and holding him responsible for his actions. Just because he has been an Attorney General of the United States he should get no special exemption. In fact, the very fact that he has been an Attorney General should hold him to a higher responsibility. Just as those in authority who commit wrong acts should be held probably to a higher sense of duty than the average citizen, because this man was the highest legal officer in this Nation, the highest in the country, and the highest in the free world, and it is my judgment that the Justice Department should call him on the carpet and should take his case before a grand jury and let them decide whether or not he has violated the law and violated the President's Executive order. Mr. President, if we condone acts of this kind then we are going to have other people who are going to flagrantly violate the law and visit any country they want to even though the law prohibits it and even though the Executive order of the President may prohibit it.

Mr. President, it is my sincere hope that our Government here will do its duty.

I heard over the radio, I believe from the new Secretary of State, who says that although this man is wrong, we may have to show him some mercy.

Mr. President, there are times to show people mercy. But this is a time, it seems to me, when we need to set an example of what high officials or high former officials should do in cases of this kind.

They should understand that when they take it upon themselves to try to interfere with the foreign policy of this country, they are violating the law and they will be punished. Furthermore, when they turn around and excoriate their own country and when they turn around and act as he has done and condemned his own Nation for what we are doing to try to protect those innocent hostages over there, it seems to me that is entirely too far and that he should be punished. I hope our President and our Attorney General have the courage to act to do what is proper in the circumstances.

(Conclusion of later proceedings.)

● Mr. HEINZ. Mr. President, I rise in support of the resolution (S. Res. 453) offered by the Senator from Kansas, Mr. Dole, to condemn Ramsey Clark for his recent visit to Iran, and I commend Senator Dole for taking this action.

In recent days, we have witnessed a truly sad and deplorable event. I speak of the visit of Ramsey Clark and his fellow vigilantes for peace to Iran.

Some observers have questioned the sincerity or patriotism of Clark. Certainly, Mr. Clark is entitled to the benefit of the doubt with respect to his motivations. What concerns me much more, Mr. President, is the signal that such actions send to those who do not have the best interests of the United States and its citizens at heart.

It is true that the release of the hostages depends upon a variety of factors. But none of these is more important than the perception by others, and especially the Iranian terrorists and those in league with them, that the American public stands united in demanding the hostages' release, and that normal relations between the two nations cannot and must not be restored until the hostages are all safely back in the United States.

By going to Iran at this time, in apparent violation of U.S. law, and by undertaking to give the impression that there is substantial sentiment in the United States for self-abnegating statements regarding past U.S. foreign policy toward Iran, Ramsey Clark has done potentially incalcuable damage to the process of achieving an early release of the hostages.

I might add, Mr. President, that Mr. Clark's decision to go to Iran is at least comprehensible when one considers that the same administration, which is now condemning him for such an action, only a few short months ago actually appointed him to be its official representative in discussions with the Iranians concerning the hostage situation. At that time, many people questioned the wisdom of sending Clark on such a mission, and Clark's latest activities certainly appear to prove them correct.

What is perhaps even more appalling that the fact of the mission, which has seen the spectacle of a former Attorney General of the United States acting in apparent violation of Government regulations, is the subserviently apologetic tone which Clark took concerning America and our people. When one objectively reviews a three decade record of relationships between any two nations, there no doubt could be found some mistakes or errors of judgment. What is wrong with Clark's approach is that he condemns our entire foreign policy in that region without any effort to balance out the good and the bad.

Even more regrettably, Clark has chosen to make his assessment at a delicate time in the process of seeking the release of our hostages, and to do so in front of the very people responsible for the continued holding of the hostages. Ironically, latest reports indicate that Clark has lost whatever credibility he may have had with the Iranians, and that they are now contemptuously dismissing his efforts.

Mr. President, the visit of Ramsey Clark, and the sight of he and his minions kowtowing to terrorists holding American citizens at gunpoint, is indeed a sad and tragic moment in contemporary American history. Clark should rightly be condemned by the Congress for his actions, a condemnation which I have no doubt represents a sentiment shared by the overwhelming majority of Americans. Such an action takes a necessary step toward repairing any damage that may have been done by the Clark trip toward the goal of achieving the prompt release of the Americans held hostage in Iran. Those responsible for taking and holding our Embassy personnel must know that we Americans stand together, and that we as a people reject all efforts by any and all individuals to divide us. Only by standing firm, and by being united in the seriousness of our purpose, can we genuinely hasten the day that the hostages return safely to our shores.●

RECOGNITION OF SENATOR BOREN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

Mr. DOLE. Mr. President, has the Senator from Kansas' time expired?

The ACTING PRESIDENT pro tempore. No. The Chair had understood that the Senator had reserved the remainder of his time.

Will the Senator from Oklahoma please stand by?

Mr. DOLE. The Senator from Kansas wanted to make an inquiry. He made it.

I yield back the remainder of my time, along with the time yielded by the Senator from Tennessee. That will take care of a few of the special orders. I understand Senator Danforth cannot be present. Senator Garn will not be present. That will take care of two additional special orders. I know that will please the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

BOB MILEY AND DOE'S GASOLINE ALLOCATION PROGRAM

Mr. BOREN. Mr. President, I would like to take a few minutes of my colleagues' time to discuss a very unfair situation which one of my constituents has faced. This is the story of a small businessman, an independent gasoline station owner, who has been treated unfairly by the Federal bureaucracy at every turn. This story also is about what the General Accounting Office terms a chaotic program, the Department of Energy's gasoline allocation program. It is about people who administer or I could say more correctly maladminister this program.

Let me tell you about Bob Miley.

On June 25, 1979, nearly a year ago, Mr. Miley filed an application for an exception and requested that his base period allocation of motor gasoline be increased to 40,000 gallons per month. He operated a Texaco station at 4001 North May Avenue in Oklahoma City for 22 years, from 1956 to 1978. His monthly allocation was 41,000 gallons at the time he was forced to close his doors because of the construction of a new Federal highway near his station. The station was demolished for right-of-way. The property was leased from Texaco.

Mr. Miley moved 2 miles west and bought another gasoline station with a $100,000 loan from Union Bank in Oklahoma City, based on the 40,000 gallons per month which he had sold at his previous station.

In the new station, he attempted to increase his monthly sales over those of the previous owner. The previous owner had sold approximately 10,000 gallons per month. Bob Miley increased the sales to 20,000 gallons per month in a very short period of time. This was the maximum amount his jobber would sell him and was the residue left over after the jobber had serviced all his other customers.

In an opinion handed down by DOE's Office of Hearings and Appeals, Mr. Miley is cited as not having experienced a substantial increase in gasoline sales in 1978 before the new base period went into effect in the spring of 1979. As I understand the situation, Bob Miley doubled the business of the station over that of the previous owner. He would have increased it further, but was restricted because his jobber was able to give him only a limited amount of gasoline—about half of the amount which he requested. Bob Miley as proven that he is very capable of increasing sales at his station when he has the product to sell. Those months in which he was able to supplement his gasoline allocation with some State set-aside, Mr. Miley sold close to the 40,000 gallons he is requesting.

The opinion handed down by DOE states that, according to previous determinations, an exception can be granted when a firm can demonstrate:

First. A substantial capital investment was made with the expectation that the investment would enable the applicant to increase his sales of motor gasoline and thereby realize an economic benefit from the investment;

Second. The increased sales volume and the intended benefits of that capital investment could not be realized until after the newly updated base period; and

Third. In the absence of an exception increasing its allocation of gasoline, the firm will not be able to realize the intended benefits of the capital investment and will be adversely affected to a significant degree.

DOE told Mr. Miley that exception relief was not justified in his case, because they could not squeeze his situation into their precedent.

Mr. President, I ask unanimous consent that correspondence between Mr. Miley, myself, and the officials of the Department of Energy be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOREN. It did not matter to them that it was not within Mr. Miley's power to meet all of the qualifications of this precedent. He could not control the Government building a road over his first filling station after he had been there 22 years. He could not make his jobber give him more gasoline at the second station because the Government did not allow his jobber to have any more gasoline. He had no base allocation period in the first period because the Government had torn down his station to build a highway. I repeat, his present situation was not of his making.

Here we have a small businessman, 22 years in business, the Federal Government tears down his station; because they tear down his station, he does not have a base allocation period to demonstrate how much gasoline he should receive; and because he cannot get any more gasoline from his jobber under the allocation system he cannot demonstrate any increase in sales. So while the Government has forced him to move, the Government denies him the fuel to sell.

I believe that Congress intended for DOE to address such cases of severe economic hardship. I also believe that the Office of Hearings and Appeals is shirking its responsibility, either because it does not have the time, or will not take the time, to consider each case on its individual merits. Instead, the agency has chosen to hide behind administrative precedents in their own decisions.

Bob Miley could not afford to come to Washington to meet with the Department of Energy. He could not afford an attorney to represent him. And, because the Department of Energy has become so isolated from Members of Congress, we can not get through to tell DOE staff about Bob Miley's situation or help them get additional information so that the proper officials there can understand Bob Miley's full story. In fact, at times last summer when my staff and I would call over to the Office of Hearings and Appeals to discuss Bob Miley's case, all we would get was a tape recording requesting that the caller leave his name and number. I made several telephone calls myself personally, and when I finally did reach DOE officials at the higher levels, I was told that there would soon be a decision to help Mr. Miley.

In fact, after 6 months of effort I was finally told that I should telephone Mr. Miley to tell him that a decision was soon to be made and that help was on the way. A few days after this assurance was given to me by an Assistant Secretary at the Department of Energy, a negative decision was rendered.

It is high time that DOE becomes more responsive to the citizens and their elected representatives. Congress intended for DOE to be accessible and provide quick and direct relief to the public. Congress certainly did not intend for DOE caseworkers to isolate themselves by taking on the cloak of Federal judges, or to hide themselves in bureaucratic ivory towers away from the realities of the world.

While the bureaucrats sit in their ivory towers setting "administrative precedents." small station owners all across the country like Bob Miley are being forced out of business. Over 60,000 independent stations have been forced to close their doors since 1974, and 11 percent of those were forced out just in the last year.

It is not as if the gasoline is not available to increase station owners' allocations. In Bob Miley's case, he is merely requesting the same amount which he had received at his other station before the Federal Government built a road over his service station.

Bob Miley is not able to operate his new station on a sound business basis because he does not have enough gasoline to sell. Without relief from DOE he will eventually be forced out of business, joining the 60,000 others who are suffering the same experience.

Mr. President, I am not taking the time of the Senate today to discuss the case of Bob Miley because he is a special friend of mine. I do not know whether he supported me in the last election or to which political party he belongs. I have never met him personally; only over the telephone. I cite his case because he is one of countless numbers of Americans who are being abused by their own Government.

Instead of serving as a catalyst to help release the creative abilities of our individual citizens, the Federal Government has become an oppressive burden, stifling the ability of our people to help themselves.

If anyone thought that creating a new bureaucracy with new powers to control and manipulate the private sector would be the way to produce more energy or to solve any other problem, I hope they will ask Bob Miley about the help he has received from the Federal Government in Washington.

One of these days, we will wake up to the fact that the outmoded solutions of the 1930's are not the solutions to the problems of the 1980's. More Government control and more Government spending are not the answer. Mr. President, I only hope that we will wake up before it is too late.

The Department of Energy, to date, has given few reasons to justify its existence and many reasons which would justify serious examination of its budgets and programs. Whether it is helping a service station owner receive fair treatment or trying to increase gasohol production in my home State, I have found the Department of Energy to be a major roadblock to progress.

If improvements do not come within a reasonable time, I, for one, will be ready to begin to make deep cuts in the Department's budget. The taxpayers have a right to keep their tax dollars from being used to defeat us in the fight for energy independence in this country.

I am just one Senator and Bob Miley is just one citizen and I do not know if by ourselves we will succeed in getting any positive response from the bureaucracy at DOE. However, I suspect that there are other Bob Mileys out there and one of these days, if they continue to be fought by their own Government, they are going to clean house from one end of the Federal Government to the other without regard to party or title. Mr. President, to paraphrase a bumper sticker now popular in Oklahoma, the people are mad, and Mr. President, they are right to be.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., May 7, 1980.

Re. Case No. DEE–6791.

Hon. CHARLES W. DUNCAN,
Secretary, Department of Energy,
Washington, D.C.

DEAR SECRETARY DUNCAN: I am writing in support of the Statement of Objections filed by Mr. Robert J. Miley to the proposed decision and order issued on April 24, 1980, by the Office of Hearings and Appeals.

On June 25, 1979, almost a year ago, Mr. Miley filed an application for Exception which requested an increase in his base period allocation of motor gasoline to 40,000 gallons per month. Let me tell you his story. He has operated a Texaco station at 4001 N. May, Oklahoma City, Oklahoma, for 22 years from 1956 to 1978. His monthly gasoline allocation was 41,000 gallons. In April, 1978, he had to close his doors because of the construction of a new highway near his station. His station was demolished for right-of-way. The property was leased from Texaco.

Mr. Miley moved two miles west and bought another gasoline station with a $100,000 loan from Union Bank in Oklahoma based on the 40,000 gallons a month he had sold in his previous station. In his new station, he attempted to increase the monthly sales over the previous owner's sales. The previous owner had sold approximately 10,000 a month. Bob Miley increased his sales up to 20,000, at times the maximum amount his jobber would give, which was the residue from the jobber's other customers.

In the recent opinion handed down by the Office of Hearings and Appeals, Mr. Miley is cited as not having experienced a substantial increase in gasoline in 1978 before the new base period went into effect in the Spring of 1979. As I understand his situation, Bob Miley doubled the business the station was doing before he purchased it.

He would have increased it further, but was restricted in that his jobber was only able to give him a limited amount of what was left over from his other customers. He has shown that his station is quite capable of increasing sales when he has the product. Those months that he was able to supplement his allocation with some state set-aside he sold close to the 40,000 he is requesting.

Bob Miley is either barely breaking even or losing money every month. Without relief from the Department of Energy, he will go bankrupt.

I strongly urge you to do everything you can to help Bob Miley. I know this situation can be corrected at the administrative level. I strongly encourage you to help us in this matter.

Sincerely yours.

DAVID L. BOREN,
U.S. Senator.

DEPARTMENT OF ENERGY,
Washington, D.C.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BOREN: Thank you for your recent letter concerning an Application for Exception which has been filed with the Office of Hearings and Appeals by Mr. Robert Miley on behalf of Miley's Texaco Service (Case No. DEE-6791).

On April 24, 1980, the Office of Hearings and Appeals issued a Proposed Decision and Order denying the Application for Exception. The tentative determination concluded that the firm failed to show that general allocation regulations resulted in a serious hardship, gross inequity or unfair distribution of burdens in this particular case. However, the firm was told that if it disagreed with our preliminary conclusion it could file a formal Objection in which it specified the basis for its disagreement.

Mr. Miley filed a formal Objection to the Proposed Decision on May 7, 1980. The Miley's Texaco Service request is currently undergoing active analysis, and we will certainly make every effort to reach a prompt determination in the case. In view of the strong support which you have expressed for Mr. Miley's exception request, your letter will be made a part of the administrative record in this proceeding.

I hope this information will be useful to you. If I may be of any further assistance, please do not hesitate to let me know.

Sincerely,

MELVIN GOLDSTEIN,
Director.

Enclosure, Constituent correspondence.

CORRESPONDENCE

I was not in business at this location purchasing gasoline from my present supplier in November and December of 1977 and January and February of 1978. Therefore November and December of 1979 and January and February of 1980 I have no gasoline coming at all.

In order to pay for my business, $916.00 per month and make a decent living for my wife and two sons in the only business I've been in for the last 23 years I need an allocation of 40,000 gallons of gasoline per month which is the same amount of gasoline I was selling at my station at 4001 N. May before it was torn down to make way for Interstate Highway 240 in Oklahoma City. I hope and pray that you can help me.

I do not request a conference as it would be to far to travel and to costly. I contacted the Department of Energy in Dallas and Mr. Bill Clark gave me oral instructions for making application for Temporary Stay, Stay and Exception. Mr. Micah Smith of the Department of Energy State Set Aside office in Oklahoma City, Oklahoma helped me in making my applications. I am not being investigated by any State or Federal agency. If you need any additional information please call me collect at 405-943-0873.

Sincerely,

ROBERT J. MILEY.

OKLAHOMA CITY, OKLA.

STATEMENT BY ROBERT J. MILEY

I Robert J. Miley, d.b.a. Miley's Texaco Service operated a Texaco Service Station at 4001 N. May, Oklahoma City, Oklahoma from September 15, 1956 to April 1, 1978. Construction on Highway I240 in Oklahoma City shut down my business. The building had to be torn down to provide street right of way. This station was leased from Texaco, Inc. April 1, 1978 I bought a Conoco station at 3924 N. Meridian, Oklahoma City, Oklahoma, 73112, and converted it to Texaco. I purchased my gas from a Texaco Distributor in Edmond, Oklahoma. Central Oil Company 323 South Broadway, Edmond, Oklahoma, 73034, phone, 405-341-3345.

I purchased the building and land at 3924 N. Meridian with a $100,000 loan from Union Bank, 4921 N. May, Oklahoma City, Oklahoma, 73112, Phone, 405-946-0511.

In 1977 at my original location I averaged 41,000 gallons of gasoline sales per month. In my present location I have been working very hard to build my business to what my original business was. From April of 1978 to March of 1979 I managed to show some increase each month. However in April of 1979 I was cut back from April of 1978 10 percent which left me 15,200 gallons of gasoline for the month. In May I received 16,000 gallons gasoline which was 80 percent of May 1978. In June I was cut 70 percent of June 1978 which gave me 14,095 gallons of gasoline. This month (June of 1979) I applied for State Set Aside and was given 5,000 additional gallons of gasoline. I think I will get 8,000 gallons additional gasoline in July.

DEPARTMENT OF ENERGY,
WASHINGTON, D.C., *April 24, 1980.*

[Case No. DEE-6791]
Mr. ROBERT J. MILEY,
Miley's Texaco Service,
Oklahoma City, Okla.

DEAR MR. MILEY: We are enclosing for your review a copy of a Decision and Order that the Department of Energy proposes to issue with respect to an Application for Exception that you filed on June 25, 1979. New procedures applicable to this stage of exception proceedings were recently issued by the DOE. 44 Fed. Reg. 16884 (March 20, 1979). A copy of the new procedural regulations is enclosed.

If you wish to contest the enclosed Proposed Decision and Order, you must file a Notice of Objection with the Office of Hearings and Appeals within 13 days from the date of this letter. If you do not do so, we will assume that you consent to the determination reached in the Proposed Decision and Order. If no person files a timely Notice of Objection, the enclosed Proposed Decision and Order may become a final Order without further consideration. In that case, you will have waived your right to appeal the final Decision.

If you do decide to challenge the Proposed Decision and Order, you must also file a Statement of Objections within 30 days after this letter is mailed. In the Statement of Objections, you must specify each finding of fact or conclusion of law in the Proposed Decision and Order that you disagree with. You should also explain any alternative findings or proposed modifications that you think should be made in the final Decision.

If you have any questions about the enclosed Proposed Decision and Order or this letter, please contact Ms. Susan J. Thomas, Assistant Director, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461, telephone number (202) 653-3028.

Sincerely,

RICHARD T. TEDROW,
Deputy Director.

PROPOSED DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

APPLICATION FOR EXCEPTION

Name of petitioner Miley's Texaco Service.
Date of filing June 25, 1979.
Case number DEE-6791.

On June 25, 1979, Miley's Texaco Service (Miley's) filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. In its Application, Miley's requests an increase in its base period allocation of motor gasoline to 40,000 gallons per month.

The present Application involves amendments to the Mandatory Petroleum Allocation Regulations that the Economic Regulatory Administration of the Department of Energy (ERA) issued on July 15, 1979. *See* 44 Fed. Reg. 42549 (July 19, 1979). Those regulatory amendments generally made permanent the provisions of an Interim Final Rule that the ERA issued on May 1, 1979. *See* 44 Fed. Reg. 26712 (May 4, 1979); *see also* Standby Regulation Activation Order No. 1, 44 Fed. Reg. 11202 (February 28, 1979). The DOE allocation regulations now provide that the base period for motor gasoline allocation is the corresponding month of the period November 1977 through October 1978. 10 C.F.R. § 211.102. The regulations also permit a retail sales outlet, wholesale purchaser-consumer, or bulk purchaser of motor gasoline to substitute as its base period volume for a particular month its average monthly purchases during the period October 1978 through February 1979 if that average is 10 percent greater than its purchases during the corresponding base period month. 10 C.F.R. § 211.104.

Miley's operates a retail service station in Oklahoma City, Oklahoma. In its Application, Miley's states that it operated a service station at 4001 North May for a period of over twenty years, until the outlet was vacated on April 1, 1978 to permit construction of Interstate Highway 240. The firm further indicates that the North May outlet was razed shortly after it vacated the site. Miley's states that it relocated its business operations by purchasing an outlet at 3924 North Meridian with the proceeds of a $100,000 bank loan.

In its submissions, Miley's contends that its monthly purchases of gasoline at the North May outlet averaged 41,000 gallons prior to April 1978. The data in the Appendix summarizes the base period allocation of motor gasoline at the North Meridian outlet, which the firm currently owns and operates. The firm contends that as a result of the implementation of the updated base period, the firm's access to an assured supply of gasoline has been reduced to the point where it is experiencing serious financial difficulties which jeopardize its viability as an independent marketer of motor gasoline.

In previous determinations, an exception has generally been granted where a firm can demonstrate that:

(1) a substantial capital investment was made by a firm with the expectation that the investment would enable the applicant to increase its sales of motor gasoline and thereby realize an economic benefit from the investment;

(2) the increased sales volume and the intended benefits of that capital investment could not be realized until after the newly updated base period; and

(3) in the absence of an exception increasing its allocation of gasoline, the firm will not be able to realize the intended benefits of the capital investment and will be adversely affected to a significant degree.

See Leo Anger, Inc., 4 DOE § 81,037 (1979).

Miley's has failed to meet the standards for exception relief outlined above. It is clear from the record that Miley's did in fact make a substantial capital investment in order to purchase the North Meredian outlet. Miley's apparently undertook the investment with the expectation that it would permit the firm to engage in a level of gasoline sales comparable to the firm's historical levels at the North May outlet, i.e., approximately 41,000 gallons per month. However, we are unable to conclude that Miley's meets the second criterion for exception relief under the *Anger* precedent. Specifically, Miley's has not shown that it was unable to realize the intended benefits of its capital investment until after the base period. Since Miley's commenced operations at the North May outlet in April 1978, sales at the outlet have remained fairly constant. *See* Appendix. We note in this regard that the firm had an ample period of time prior to implementation of the new base period in which to increase its sales of gasoline.

If, for example, the firm had begun to experience a substantial increase in gasoline sales during the five-month period October 1978 through February 1979, the firm would have automatically qualified for an upward adjustment in its base period allocation of gasoline. 10 C.F.R. § 211.104. In view of the fact that 11 months elapsed between Miley's commencement of operations at the North May outlet and the updating of the base period, it does not appear that the change in base period prevented Miley's from increasing its sales volumes and realizing the intended benefits of its capital investment. Thus, since Miley's has failed to establish a causal relationship between the DOE allocation regulations and the firm's current low base period allocation, we cannot conclude that exception relief is justified.

Accordingly, the Application for Exception filed by Miley's Texaco Service should be denied.

It is therefore ordered that:

(1) The Application for Exception filed by Miley's Texaco Service on June 25, 1979 be and hereby is denied.

(2) An Appeal from this Decision and Order may be filed by any person who is aggrieved or adversely affected by the denial of exception relief. Such Appeal shall be filed with the Federal Energy Regulatory Commision pursuant to 18 C.F.R. § 1.40. 43 Fed. Reg. 35907 (1978)

APPENDIX

Purchases of motor gasoline at 3924 North Meridian, in gallons:

November 1977	* 10, 770
December	* 12, 220
January 1978	* 11, 480
February	* 10, 320
March	** —0—
April	19, 724
May	20, 118
June	20, 137
July	18, 032
August	18, 560
September	16, 750
October	16, 871
November	19, 180
December	19, 980
January 1979	19, 080
February	17, 238

*Under the provisions of Section 211.104 (the unusual growth adjustment), the firm should calculate its average purchases during the period October 1978 through February 1979. This average may then be substituted for actual purchases in any given month where the five-month average exceeds actual purchases by at least 10 percent.

** The outlet was closed during this month due to a change of operators. Under the provisions of Section 211.105(e), an outlet which has experienced a temporary exigent circumstance causing at least 10 percent reduction in its normal purchases for a base period month may adjust its base period volume for that month to equal the volumes purchased in the corresponding month of the November 1976 through October 1977 period. A facility shutdown generally qualifies as a temporary exigent circumstance. Thus, the outlet may use either the purchases made in the period November 1976 through February 1977 or, in the alternative, the volumes determined in accordance with § 211.104. *See* 10 C.F.R. § 211.105.

The ACTING PRESIDENT pro tempore. The Chair, in his capacity as a Senator from the State of Nebraska, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I yield myself such time as is necessary under the special order given to Senator DOLE.

I ask unanimous consent, Mr. President, that my remarks be included as part of the discussion on draft registration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. ROTH at this point and the colloquy in connection therewith are printed later in today's RECORD. by unanimous consent.)

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator has been speaking on the special order reserved for the Senator from Missouri. Nine minutes remain on that special order.

Mr. HATFIELD. Mr. President, is that the total allocated time remaining on the special order?

The PRESIDING OFFICER. Fifteen minutes remain to the Senator from West Virginia, the majority leader.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Twenty-eight minutes have been yielded back of the time for other special orders.

Mr. HATFIELD. So that the total remaining time of the special order is what?

The PRESIDING OFFICER. Approximately 25 minutes.

Mr. HATFIELD. Mr. President, after the time has been yielded back or utilized under the special order, what will be the parliamentary situation?

The PRESIDING OFFICER. The Senate then will resume consideration of the pending business, which is the Selective Service registration bill.

Mr. HATFIELD. I thank the Chair.

I yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. President, I want to get an explanation of the parliamentary situation, which the Senator from Oregon was trying to do. I understand that after 25 minutes have elapsed under the special order, the debate will continue on the registration matter.

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. At that time, I hope I can get the floor. I know what the rules of the Senate are. One has to compete, and I will be right here, to compete.

ORDER VITIATING REMAINING TIME UNDER A SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remainder of the order under my control be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. STENNIS. Mr. President, I ask recognition, but if the floor leader or the minority leader for any reason wishes to be recognized, I will be glad to yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished chairman of the committee.

Have all the orders been consummated so that the Senate may proceed to the consideration of the pending business?

The PRESIDING OFFICER. All orders have been completed.

Mr. ROBERT C. BYRD. Mr. President, then I suggest that the Senate resume consideration of the pending business.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The Senate resumed consideration of the joint resolution.

(The following proceedings occurred earlier and are printed at this point by unanimous consent:)

Mr. ROTH. Mr. President, I will vote against the administration's proposal for registration of 18- and 20-year-old men for the Selective Service. Recruiting and retaining appropriate manpower for the all volunteer force has become one of the most compelling security issues facing our Nation. Resolving this problem, however, must come as part of a comprehensive defense policy to strengthen our Armed Forces. Mandatory premobilization registration makes no substantive contribution to improving our defense posture.

I cannot support a half-way measure so patently irrelevant to our defense needs. Nor can I pretend that this empty, symbolic gesture is going to impress the Soviet Union with our martial ardour.

The administration, in presenting this measure as part of its response to the invasion of Afghanistan, contends that it will both enhance U.S. military preparedness and signal American resolve to resist further Soviet aggression. There is little doubt that the challenges to American security abroad make it imperative that we strengthen our defense capability. But, how can we be realistically expected to believe that a draft registration plan which the administration strongly opposed and worked to defeat only a few months ago has suddenly become essential to our military preparedness.

It is difficult to take seriously a measure which the administration had termed redundant and unnecessary such a short time ago. It is especially difficult when the administration's own experts in the Selective Service System conclude that pre-registration would reduce our mobilization time by a scant 7 days. Add to this the fact that the Armed Forces will be unprepared to train inductees so hastily processed, and you have a measure which is of dubious value, indeed, for enhancing our military preparedness.

What value, then, does such an obviously feeble gesture toward improving our defensive capability have as a signal of American resolve? We dangerously delude ourselves if we believe the Soviet Union will be impressed by such empty symbolism. More important, we delude the American people by presenting this post office registration scheme as a significant contribution to our defense readiness.

At this critical juncture in our history as a world power, the American people must be made fully aware of the reality of our military decline, and their elected representatives must encourage their support for meaningful action to reverse this decline. Palliatives such a post card draft registration serve only to confuse the issue. We are not fooling the Russians, so why fool ourselves?

I am also deeply concerned that peacetime draft registration, far from a signal of national resolve, will become a divisive issue at a time when the American people, perhaps as never before, need to be united. For so little, if any, gain in national defense, the administration raises the prospect of again alienating our Nation's youth. Registration for the Selective Service need not be a negative experience, as it would surely be under this proposal.

In times of national peril, America's young people have enthusiastically responded to the call to arms. There is no doubt in my mind that should such a need again arise, they will respond with comparable patriotism. I see no reason to question their commitment to their country; to force them to sign post cards which can be waived in the face of the Soviet Union.

Another troubling aspect of the President's plan to register 19- and 20-year-olds is that it is not really 19- and 20-year-old conscripts which we need in the sophisticated Armed Forces of today. Trained men and women with years of experience are needed to maintain and operate the complex weapons systems which are the most vital component of our Nation's defense. The compelling defense manpower problem is how we retain the services of these people. Signing up hundreds of thousands of young people for future use does nothing to meet this urgent problem.

I fear that the administration's sudden espousal of a plan it had so emphatically discarded reflects a paucity of realistic defense planning. The next President of the United States, whoever he may be, must address as his first priority the need to restore the effectiveness of our Armed Forces. He must have a clear vision of what the country needs to meet the challenges to our security in an increasingly unstable and dangerous international environment. He must then demonstrate the strength of his convictions and show the leadership necessary to win the support of the American people for his chosen policies.

If our next President concludes that sacrifice for national defense is required of American youth, and he deems it necessary to return to a system of draft registration, I hope that, before presenting such a measure to the U.S. Congress, he will have made his case to the American people, and especially to our young people. Strong national defense depends on national consensus. It is too vital a matter to be conducted through half-way measures dictated by political expediency.

There has been some concern expressed that Senate rejection of the President's draft registration plan will be a damaging signal of lack of resolve by the United States in the face of Soviet aggression. I see it rather as our disposal of an empty, potentially counterproductive gesture which, far from enhancing our military preparedness could very well impair national unity. Let us therefore dispose of this question quickly, and get down to the serious business of considering measures which will make a real contribution to America's defensive capability.

At this point in the record, I ask unanimous consent to have printed in the RECORD two editorials which articulate very well some of the reasons I oppose the administration draft registration proposal.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 30, 1980]

FALSE ROAD TO A DRAFT

At this moment of despair over military failure in Iran, the Senate appears tempted to push through President Carter's proposal to register some young men for a nonexistent military draft. But this is a half-baked measure that would do little for the armed forces and could further erode the constituency that real preparedness now requires. Congress should shelve the idea and move instead to an urgent inventory of all manpower needs.

Someday, some Administration will state persuasively why the armed forces need two million people rather than three million, or one. Someday, Americans will learn how inadequate the voluntary forces and reserves have become. Like so much else in the defense budget, personnel policies are said to derive from expert calculations. But to a large extent they represent what Congress has agreed to finance in response to the Pentagon's estimates of what the traffic will bear.

Such horse-trading should no longer be acceptable. You would think it would end at an emotional issue like universal registration so that military assumptions could be truly reexamined. We suspect that preparedness is in fact inadequate for the kind of military contingencies for which the Pentagon periodically has to plan. But suspicion is not good ground for policy. And registering, without even examining, a few million peripatetic youths will hardly add much to preparedness. This most sensitive issue is being managed in the sloppiest possible manner.

Among the sloppiest managers has been the President, who urged registration last January as one way to protest the Soviet invasion of Afghanistan. At first, like Congress, we applauded the idea. The nation has appeared weary since Vietnam, unwilling even to suppose that it might one day want to defend a national interest abroad. That mood can be misleading to other nations. A quick move toward registering young people for a military draft would have been a useful diplomatic signal, particularly in an election year.

But the election angle has worked the other way. Far from asking, the public for something patriotic, even if unpopular, Mr. Carter soon deflated his gesture. He confined the proposed registration to 19- and 20-year-olds, thus narrowing the number of voters directly affected. And after vowing ostentatiously not to allow any registration that excluded women, he agreed offstage to let Congress limit the measure to men.

Skepticism spread, as it should have. Now the matter turned not on demonstrating national will—most families had been taken off the hook—but on some real gain in preparedness. Yet Mr. Carter's defense experts said that postcard registration might save at most a week in case of a general mobilization. Others insist it could save up to 90 days, but even they do not pretend that the armed forces could absorb newcomers at such an accelerated pace. No one contends that registration would stimulate enlistments. Hardly anyone, in fact, claims very much for the measure except that rejecting it seems somehow unpatriotic.

On that flimsy basis, the House narrowly approved it last week and a Senate subcommittee, with Iran on its mind, consented easily yesterday. Its main appeal, however, is to the Joint Chiefs and others who want not so much registration itself as a test of the political waters for a return to the draft. They say voluntary enlistments are simply not producing the quality and quantity of recruits and reservists they need.

Those judgments deserve attention. But they do not justify a cynical political escalation in which a President asks for registration before revealing whether he favors a draft; asks for a draft before describing how fair the system of choice, and devises a draft before finally deciding what size forces are truly needed.

Need is the place to begin. The Senate should reject registration until the whole recruiting problem is fully examined, by a President willing to utter the hard truth and by an alert and independent Congress.

[From the Richmond Times Dispatch, May 11, 1980]

MEANINGLESS GESTURE?

President Carter's draft registration proposal, which we originally supported, begins to look more and more like a meaningless gesture.

Serious doubt has been thrown on the argument that registration now would materially speed up mobilization if required some time in the future.

Some national leaders who are far from being doves when it comes to military preparedness are opposed to the plan. Former President Gerald Ford is one of them. Republican presidential aspirant Ronald Reagan is another.

The proposal passed the House last month by the slim margin of 218-to-188. There were clear indications that some of the 218 voted for the measure not because they believed it had any significant practical value but because they wanted to support the president's intention of sending a message to the Soviets that this nation is ready to take any necessary steps to be prepared for military emergencies.

Republican Rep. Robert H. Michel of Illinois told the House that the proposal provides another demonstration that "the Carter administration is willing once more to settle for a gesture instead of a policy. . . . If the president believes the Soviet rulers, shrewd men that they are, are going to be frightened by a wall of computer cards, he is mistaken once more."

Lest anyone think Rep Michel is a dovish liberal, it should be pointed out that the U.S. Chamber of Commerce last year gave him its highest possible 100 rating, while the Americans for Democratic Action gave him a measly 5. What Mr. Michel calls for is a strengthening of the military services and reserves by increasing pay and taking other steps to counteract many servicemen's feeling that "no one cares about the armed forces."

Republican Rep. Lawrence Coughlin of Pennsylvania, another lawmaker with conservative credentials, told his colleagues that the difference between having an advance registration and registering at the time of mobilization is perhaps seven days in getting trained men in the field: six months and seven days on the one hand, and six months and 14 days, on the other, a difference he described as meaningless. He said "it is a question of sending no signal to the Soviet Union because they know it is a phony program and the wrong signal to the American people who think we are doing something when we are not."

Rep. Coughlin quoted Gerald Ford:

"Most people, I suspect, assume that I would support registration. I do not. President Carter's priorities are screwed up. The first thing we should do is strengthen our active duty forces. Then we need to beef up our reserves in manpower and weapons. Third is to increase the retention rate of our top-grade people in the services. All these things are more important than draft registration."

Republican Rep. Silvio O. Conte of Massachusetts pointed out another factor that is generally overlooked in discussions of registration possibly long before mobilization. "There is reason to believe," he said, "that premobilization registration will slow the process [of mobilization] down because the addresses will be out of date as time passes."

The decision on registration is not an easy one to make. Most Americans want to "do something" in response to the Russian invasion of Afghanistan. But is a gesture that surely won't fool the Soviets worth the expenditure of $13.3 million and the divisiveness it undoubtedly would cause in American society? The close House vote illustrates the nation's division on the proposal.

Weighing all the factors involved, we believe the registration proposal should be shelved and that immediate and forceful steps should be taken to strengthen the existing military and reserve forces. If such steps prove unsuccessful and there is evidence that the all-volunteer services cannot provide the security the nation requires, then some form of mandatory military service should be instituted.

Mr. HATFIELD. Mr. President, will the Senator from Delaware yield for a comment?

Mr. ROTH. Yes, I yield at this time.

The ACTING PRESIDENT pro tempore. Without objection, on the time reserved by the Senator from Utah.

Mr. HATFIELD. Mr. President, I ask unanimous consent for time from the order of the Senator from Utah (Mr. GARN).

The ACTING PRESIDENT pro tempore. Without objection. it is so ordered.

Mr. HATFIELD. Mr. President, first, I commend the Senator from Delaware for his very cogent remarks. The Senator has certainly summarized in a very succinct manner the salient arguments that obviously led him to take a position in opposition to the draft legislation. I think it is very significant to note, as well, that in the Senator's remarks, he clearly takes his position as one who is supportive of a strong, well-trained, properly-equipped military defense system.

As the Senator has pointed out, this proposal does not in any way address the problems we face today in maintaining or upgrading and then maintaining a strong and well-trained, properly equipped military defense system. I wonder if the Senator will answer this question: When he points to the fact that the administration had opposed registration only a few months before and now has made a 180-degree turn to advocate it instead of sending a message of national resolve to the Soviet Union, what does the Senator feel will be the kind of message in this procedure? What does he foresee down the road in terms of the full impact of this registration becoming implemented? What does he see as the full impact of the kind of message the Soviet Union will likely receive?

Mr. ROTH. I say to my distinguished friend from Oregon that I greatly fear it will give the wrong signal. I fear it will give the wrong signal for two reasons.

First, I do not think the groundwork has been laid to gain the support of our young people, and if they do not respond to this registration call, then we would have exactly the opposite kind of signal than we are trying to give the Soviet Union. For that reason, I fear that it is the wrong act at this particular juncture.

Second, it does not seem to me to be very impressive as an indication of resolve to the Soviet Union. The administration denied a few months ago that it was an effective step for improving our military posture. The real question is, what has happened to change this situation?

Certainly, this draft registration proposal is an inadequate response to the critical developments in the Middle East and Southwest Asia. I agree that recent developments in the Middle East and Southwest Asia call for some kind of response, but I do not believe that this is the appropriate response.

Again, I fear that the Soviet Union will see it as merely a gesture, a gesture primarily for internal consumption, rather than an indication of national resolve in the face of Soviet aggression. For that reason, I do not support it.

I do think that we are, I say to my friend from Oregon, at one of the most critical junctures in the history of this country. I am gravely concerned that we are seen as weak, as divided, as having no resolve. I am greatly disturbed by the fact that the NATO alliance, that our security relationships with Japan and other countries, are seen in disarray.

It seems to me that it is important that the new leadership in this country try to develop a consensus in foreign policy so that we shall have the support of all the American people, including the young. That has not happened up to the present moment.

Mr. HATFIELD. I thank the Senator for his response.

Would the Senator not also agree that if we have draft registration, there should be a plan that Congress should be able to review to be assured that this program is enforceable and that there is machinery and some kind of blueprint for the enforcement of this registration requirement? Bear in mind that they have only included in this request some $200 to $400,000 total for public information and education to communicate the requirements if this should become enacted.

That failure to register, or failure to comply, will carry with it the same penalties, criminal penalties, that are applied to those who fail to respond to an order of induction—up to 5 years in the Federal penintentiary and a $10,000 fine.

When we are talking about 4 million eligible registrants in the 19- and 20-year age group alone, does the Senator not agree that we should have some kind of indication, some sort of plan in hand, as to exactly how they expect to enforce this registration?

Mr. ROTH. The Senator has, I think, pointed out an important specific weakness, and through that a general flaw in this whole approach. It is merely a gesture, really. It is for that reason that I cannot support it.

Obviously, any well-conceived draft registration plan would include provision for the necessary enforcement proceedings. The administration's proposal is defective in that regard.

To me, the most telling aspect of this measure is that in no way has the administration attempted to build a national consensus, especially among our young people, so that there would be voluntary support for such a program.

It disturbs me very much, as one who has served here many years, that we apparently have not learned the lessons of the 1960's and 1970's.

The only way we can develop a viable defense policy, I think, is to pursue a policy overseas which enjoys broad support, that young people, in particular, who are called upon to make the greatest sacrifice, fully understand and appreciate. There has been no effort to mobilize such support.

I might say this to my distinguished colleague, I think it is even more important to get the affirmative support of our young people behind our foreign policy than to concern ourselves with the essential, but negative, issue of how any prospective draft registration scheme might be enforced.

Mr. HATFIELD. I could not agree more.

But does the Senator agree that under the constitutional system that we are so privileged to live under, the whole essence of that constitutional system is a rule of law, a Government of law, and if we adopt procedures and if we exercise gestures that are not enforceable that we are doing violence to the very constitutional system that we are sworn to uphold?

Does the Senator not agree that we risk an erosion of respect, if because it is difficult to administer and, therefore, we fail to enforce it, that we are really, saying to the world that we have a constitutional system, but it just is not working?

I do not think we need give any more evidence about our problems to the world, because we have all kinds of problems. We do not have to create new problems willingly when we are trying to deal with those problems we have unwillingly to face.

Does the Senator not agree that this does strike the very heart of our constitutional system, the enforcement of the law, the body of law we are governed upon?

Mr. ROTH. Yes. I share the concern

expressed by the senior Senator from Oregon.

Again, it seems to me that this was an ill-conceived proposal that came in response to adverse international developments but without the clarity of thought and planning necessary for an appropriate response.

It is obviously very foolish to put through a proposal that is unenforceable, that does not contain the necessary provisions for fair and equitable enforcement.

This is but another reason that the Senate should reject it.

The essential signals that I believe this country needs to give to the world are first, that we are united, second, that we can act effectively to influence events abroad, and third, that we shall continue to be supportive of our free world friends.

It serves little purpose, in my judgment, to register 19- and 20-year-olds for the draft when, as I understand it, their registration is not even relevant to our manpower problem in the Armed Forces.

I happen to think the manpower shortage is an extraordinarily serious problem for our military and that it requires urgent action to correct it.

But, it would be foolhardy to take a step that this administration itself a few short months ago said had no relevance would not significantly alter our defense preparedness, and, particularly, when it is defective in the manner pointed out by the Senator from Oregon.

Mr. HATFIELD. The Senator mentioned the manpower shortage problems, and I agree that this is of great significance to us.

Actually, the implication by some of the proponents is that we are going to answer the manpower shortage with the draft.

Upon careful scrutiny it becomes very clear that our great shortage is in the area of skilled and technical personnel. It is the outflow of the junior officers and high-rated enlisted personnel who have developed these skills, who have been trained, who are pursuing these skills, but because of the noncomparability of compensation to civilian opportunities, they are leaving the military forces.

That is, at least, one of the problems we have. We have a number of personnel problems. But that, I think, is probably the most significant.

Does the Senator not agree that if we had registration plus induction, we still would not solve that particular problem among 19- and 20-year-olds who will be coming in and staying as little time as necessary in order to get out? Even if we had certain skills within that manpower pool of 19- and 20-year-olds, if we had their service for only about 18 months, we have not solved the personnel problem in these areas, or sustained those operations and the weapons systems upon which they relate; does the Senator not agree that is also significant?

Mr. ROTH. Yes. I do agree with that.

It is a fact that not only in the Navy and Air Force, but the Army as well, we have extraordinarily complex equipment that requires great training and great skills.

It is a fact, as the Senator points out, that we are tragically losing many of the men and women who are particularly well-trained and whose skills are essential to the combat readiness of the armed services. Recruiting hundreds of thousands of raw recruits is not the answer to that particular need. This is another of the reasons which I cited in my statement for not supporting this proposal.

I feel very strongly that one of the first jobs, one of the first vital missions of the new President, whoever that may be, should be to study in detail the entire manpower problem, both short range and long range.

It seems to me that coherent security policies depend not only upon the armed services, but also upon developing a cohesive foreign policy.

I greatly fear we do not have that today. That is one of the major reasons that we are looked upon as weak, having no resolve, no national will.

I will be frank with my distinguished colleague. I believe the international situation today is as serious as in the 1930's. I say that for a number of reasons; the primary one being the lack of strong leadership in the conduct of our affairs abroad. But I do not think we are really addressing the basic problem of developing a coherent foreign policy that has broad support, bipartisan support. Only when this has been done can we realistically decide what are the military requirements to support those policies.

I think it is very foolish to give a number of signals to the Soviet Union, as this administration has done, saying that we are going to do this, that, and the other thing, when we are not really equipped to back up what we say.

We are not going to fill that void by taking this gesture of registration. Our defense needs are real and resorting to empty symbols only makes us look weak and unprepared for the challenges of the 1980's.

Mr. HATFIELD. I again thank the Senator from Delaware for contributing his thoughts and for the time he has taken to clarify some of these very important issues.

It seems to me that the more we dig into this matter and develop the facts and the data and get the perspective, the more of an illusion this becomes. Somehow a registration procedure is to address all of our military problems. It is going to create more of a problem than anything I can see it is going to solve.

Consequently, I believe that the Senator's comments today have added immeasurably to understanding this issue in its true light. I am very grateful for his contribution.

Mr. ROTH. In closing, I express my appreciation to the leadership that the senior Senator from Oregon is displaying in this matter. I know that many of us feel that he is making a very valuable contribution.

Mr. HATFIELD. I thank the Senator.

(Conclusion of earlier proceedings.)

Mr. STENNIS. Mr. President, am I recognized now on the pending order of business?

The PRESIDING OFFICER. The Senator is recognized on the pending order of business.

Mr. STENNIS. Mr. President, are we operating now under closed time or controlled time or just regular session?

The PRESIDING OFFICER. There is no control of the time on the pending measure.

Mr. STENNIS. Mr. President, I ask unanimous consent that two members of my staff, Mr. Rex Buffington and Mr. Steve Grafton, be accorded the privileges of the floor.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. STENNIS. I thank the Chair.

Mr. President, I do not want to limit myself, but I wish to give some indication to the membership as to how long I might speak. I expect to take 30, 35, or 40 minutes as a minimum, regarding this measure.

Even though it is a relatively small amount, money-wise, it is a highly important measure in that it represents. I think, by far the gravest question connected with our military preparedness. What we do here will have a very major impact on whether or not we really cope with this situation.

Mr. President, may we have quiet? I do not mind speaking to the empty chairs, but I do want to make some points here in consecutive order.

Let me say, Mr. President, this bill has been ably handled by the Senator from Georgia and others who have spoken in favor of it. The Senator from Oregon, with his usual fine presentation of matters here on the floor, has been excellent in opposition.

I am glad of a chance to speak today to put in the RECORD, for whatever benefit it might be to my colleagues in the Senate, to the public, to the press, to the media, or anyone who might be interested in this problem. The facts—as I have emphasized already—are that this is by far the gravest problem that we have, and the most difficult one to solve concerning our military preparedness.

I want to bottom this thought right where I think it belongs. Under our present foreign policy—I am not talking about Mr. Clark's going to Iran—I am talking about the broad aspects of our foreign policy that we formulated soon after World War II. I refer to the fact that on conscious consideration we decided to go and become an internationalist nation and become one of the leaders in free world affairs. We deliberately chose that course rather than remain what we had more generally followed previously in our existence, an isolationist position.

I was here and a Member when a great part of those debates were held. I remember very vividly the strong call that was made here by very able and conscientious men who said over and over again, "We need not go into all these entangling affairs, we can go it alone and we should go it alone," in world affairs, using those exact words.

Nevertheless, we decided to go the other way, and I was of that opinion. I was convinced, even though of a relatively conservative approach and position, that that was the way to go.

The United Nations had already been formalized and organized in 1947 when I became a Member of the Senate. It was well known then, here and throughout the country and throughout the world, that the United Nations could not do it all. There had to be additional alliance in the free world, and that is what really brought forth NATO, the North Atlantic Treaty Organization. That and other matters brought forth the special treaty we went into with Japan, and then another one with West Germany, part treaty and part peace agreement.

Israel came along about that time for a special consideration and a definite special position, in American thought and American policy.

Then we had many other special agreements, including one with the Philippines, and with others.

My point in bringing this up now is that we laid the groundwork then that we were going to have a strong military force and power for military preparedness that was ready to go here, there, and everywhere. We need force and power and the ability to get there in a hurry.

We did not fully realize then the extent to which we would have to do these things, but we have stuck to our word. We stuck to the protection of West Germany. We called the hand with reference to the blockade and flew food in. We even flew in coal.

Then we went to war in Korea. There was no declaration of war or anything like that. Then, we got into the war in Vietnam. I am not complaining about those things. I am relating them to show that we have already had these calls for military power.

We are still obligated and bound by the NATO agreement. We have fulfilled the limit there and far more, I think. Our share was in the beginning of that agreement.

Perhaps some have found that they were not able to carry out all of their part of the agreement in those early years. But even now we are carrying an annual load in NATO that runs into many billions of dollars. I have heard it estimated all the way from $20 billion a year on up. I am not going to try to make an estimate of what it costs us per year to live up to our part of that agreement. I am not putting that in issue here in this speech, although I am familiar with it, except for the precise dollar figure.

We debated it all during the war in Vietnam in trying to pass amendments here—and I do not say it critically—to put limitations on appropriation bills to bring home most of our troops. It happened to fall to me, among others, to be the one to be prepared, to oppose those amendments.

So I am immersed in the subject matter, and have been for years and years. I know now something of how much our real military demands are brought about by virtue of this NATO treaty. I wish it was less money and less burdensome to the taxpayers. I think we are paying more than our share but, at the same time, I feel that NATO itself has been highly successful by comparison.

I believe the free world of Western Europe would have passed under the domination of Soviet Russia had it not been for our long strong arms in this NATO agreement and in the way we kept living up to it. I feel that I know the balance of power even today makes a difference so that Soviet Russia does not try to come in there. It is because the balance of power is there, because we are there. I do not mean to downgrade any of the other members—I am proud of what every one of them is doing—West Germany and all the rest.

You will notice when Soviet Russia went out on their last campaign of attacking other countries and doing those things they did not attack us. They did not attack Western Europe, where the machinery was already in place—the guns and all the weapons. They went into Afghanistan, not hitting the Western world.

So I do not downgrade. I emphasized the importance of those programs. But our military program, manpower, weaponry, and money, is a great part of the deciding force for the effectiveness of peace in the free world today. To continue that course is going to take a great deal of American manpower and American military forces. Like it or not, it will be required for a number of years to come.

And, unmistakably, now we are not getting enough of the right kind of manpower through the so-called voluntary forces concepts to supply the minimum needs.

Now, if the military calculations are correct, by both the uniformed and the civilian officers as well as the committees of this body and the House, somewhere in the neighborhood of 2 million people in American military uniform are necessary. That sounds like a pretty high figure to me, but I support it because it is proven stronger that way than any other. So we are going to have to continue for a while a military force of approximately that many people.

I mention that because if we just have too many in uniform, maybe we could reduce that a great number and then get enough through the volunteer forces. I do not think we have a choice about making any great reduction, even though I might vote to reduce it some. I would vote today to put fewer men in the regular services and turn some of those duties over to our Reserve units, and give them more responsibility, more money and weapons of an A-1 order. Many of those Reserve units would be able to do the job.

I believe that, finally, that is the policy we will adopt. It will be a material part of our adjustment to this manpower situation, through the reserves, where we have a lot of men. These units are in many communities in this country with individuals who are talented, have raw courage, and have the know-how. They have a liking for the military. They do not want to make it a career, but they like it for weekends. We find some of those units trained to perfection, almost. They are of high quality and there is an abundance of these exceptional men. They make up some of the most formidable units we have in the military uniform today.

That is no discredit to the regular forces. Lest I be misunderstood, I am certainly not putting a low estimate on all the military people, men and women, who are in the American military uniform today. Some of them are as fine as we have ever had. They make up highly responsible and effective units.

But we just do not have enough of that type and it is getting harder and harder and harder to keep the recruiting level that even supplies it at this deficient level.

Those are the facts. The figures show it. The hearings have been held. We went into this matter in depth—in depth—and this is a very difficult matter to get to. You will not get it in just examining a few temporary civilian officers who really have not been on duty long, or maybe have not had many responsibilities with this manpower problem.

You get it out in the field where these people are. I know that, because that is where I found it in these years that I have been on the Armed Services Committee. You learn more out there talking to the corporals, the sergeants—particularly the drill sergeants—the lieutenants and the captains and on up to and including the commanding officers. You really rub shoulders with the problem there and those men tell you the whole story about what it is.

In an effort to keep these men there, the discipline was allowed to get slack, compared to what it used to be, because they wanted them to reenlist. That is what the sergeants and others tell me at those military installations.

Those are the conditions that our military are having to put up with now, after a very intense effort to recruit. They make a real effort at it, all of the services, and some of these youngsters that are in the recruiting business go too far and in the extreme. They bring in a whole lot of men who just cannot adjust or are not prepared. They do not have the capacity and become very unhappy. Many of them just walk off and leave. This is according to the record, now. It got to where they just let some go and do not try to get them back. They do not want to spend any more money on them and just let them go.

So it is touch and go with some of the finest officers we have who have been working day and night. I know because I went out there and spent time with them—trying to bring about and make this system work.

I was opposed to abandoning the Selective Service in the beginning. I just had a premonition that we would not get enough of the right kind of men. But, after that became the law and policy, as chairman of the Armed Services Committee, I had the idea that it was up to me to try to help make it work. So I did that by bringing about all conditions that I could to help bring it about and give it a fair chance.

We increased the bonuses—a bonus

for enlistment, a bonus for reenlistment—increased a great many of these privileges. There was a pay bill to increase salaries when the system was first put in.

Now we have passed some more, the Nunn-Warner bill. We have a good bill here. It has not become law yet, but I think it will.

I am willing to go what I consider enough of the way with reference to adjusting some of this pay. But I know this by experience: You go to raising the pay first and you will wind up just able to pass those bills and then, all of a sudden, you lose your voting strength and you cannot put in the reforms. You cannot change the rules that you think should be changed to bring about a better situation.

So we get the cart before the horse. Are we going to try to increase all the pay right down the line and across the board, or are we going to decide what our definition of quality is going to be, what our definition of talent is going to be and the requirement for making a real soldier or real sailor?

As you know, we just had these men return from the Indian Ocean area outthere where they served these extra months without complaint. The President of the United States met them here at Norfolk and we all gave them special honor.

I think that was an illustration of having a lot of fine men in these that are willing to go the second mile and did go the second mile.

But my point is that when things happened over there on the other side of the world, we were the ones who had to go in with the power, the force, and the military strength.

In addition, and certainly as important or more important, I think, than all these matters that I have enumerated so far, is a situation we ourselves are up against with reference to energy.

Mr. President, we have now on our hands, in my viewpoint, one of the saddest situations that our Nation has ever had to undergo and humiliating—humiliating. It is to me, and I think it is to most of us. We have a situation in Iran that is so sensitive. I am not drumming up a plan now to try to stick a whole army over there or anything like that. Things are happening so different and in such broad scope now that we do not know what else we are going to be called on to do. We are trying to protect the fundamental physical rights, if none other, of our own citizens who were on duty in Iran.

I am referring, of course, to the hostages.

Furthermore, there is the oil supply area of the world. Like it or not, we are dependent, to a large degree, on oil from beyond our own shorelines. I hope we are doing something about remedying that situation, and I think we are doing something. It is a slow start we are making, but I think the tide has turned. We are getting into the energy problem.

For the next 10 years, if we are going to stay anywhere near our presents levels of our economy and our standard of living to which we are accustomed—and spoiled, also, to an extent—we are going to have to have the military power to protect the energy lines that feed into us whatever it may be, oil, gas, et cetera, to make our economy go on. After all, that is a big issue here which is affecting virtually everything we do with reference to energy. It is the most far-reaching adjustment and the most difficult we will find that our Nation has ever had to face. But we can do it. I have no doubt about that. However, we are just beginning to feel the impact of making these changes and making this adjustment.

I am proud we have gone as far as we have been able to go so far with reference to the balanced budget, which is much more than just words. It means that great numbers have stood on this floor and voted time after time contrary to the way they would have voted otherwise because they were voting for a more respected and a sounder American dollar. Not just sounder for the marketplaces of the world, but sounder here at home, at our grocery stores, at our drugstores, drygoods stores, and everywhere where people have to buy the things they must have.

Inflation, runaway costs, and high prices can very well destroy our economy. I am proud that for the first time we have made some appreciable headway toward rectifying some of those situations. I know we have to carry that on and it will take years to do it.

To go back to military preparedness, by tomorrow, I think, we have a good chance to finish what we call the military authorization bill, which will be perhaps beyond $55 billion just for the hardware, you might call it, and part of the manpower. The big appropriation bill, the total appropriation bill, this year will certainly be by far the largest bill which has ever been passed by the Senate in peacetime or in wartime. That has been true for the last 3 to 4 years.

I have known in the back of my mind, and I have said so, too, as I have turned those bills in their final form for our committees and our conference committees, that there was a soft spot in the whole military picture. There are a whole lot of alleged soft spots that are not true. The real soft spot is in our manpower. That is going to continue until we change our system.

We have been trying to change that system for several years, by just throwing in a lot more money. I am convinced that is not going to bring about the change. It is not more pay, it is not that people are just looking for more pay. We need more people with the raw courage, we need more people with what I call the raw talents, that we can put into these essential places if we do have to go battle, and I pray to God we do not. We are going to have to have the kind that will hit the ground running forward when the command has to be given. Those are the type that money cannot buy.

I think registration is just a step. For a military program, this is just a small amount of money, $13 million, to register them, to find out where the people are, where they reside, and just a little more about them. It would save time. There is not going to be any long waiting time. We have talked about what happened in World War II and World War I. But there will not be that long wait next time. Whatever benefit you are going to get, you have to have this either ready or nearly ready when that unfortunate day comes, and which, God forbid, will not come.

Those of us who deal with this matter all the time do not have any doubts about these things. I believe we can get a type of person into uniform whereby we can get along on fewer numbers of those who are in the military system. We can put the same amount of money in reference to their programs and put more of it into Reserves. I am not just tooting a horn now for our Reserve system. I am referring to them as being a reservoir of talent, many of them already trained, who have the love for a military mission even though they are not part of the regular service.

We will find again, as we have always found, a great part of what is needed to carry through the military mission to back up the policies of the United States will come from the Reserve units, and the proud preparation which has been made through them.

That is one point I want to get over to the American people. We are just arguing about a pitiful little point that does not make any difference, if we fail to get over the point that to carry out our policies. This is the basis of our fine economy, our fine standard of living we have, and this bountiful supply of energy that we have had, that we are going to continue to have one way or another. America is not going to give up just because things are hard to get or cost more. We have built on the idea of expansion, of growth, of opportunity for everybody. We will keep growing and keep getting stronger. That is what America wants to do and we will do it.

We are not going to back away and become an isolationist nation. We do not want to go back to lower standards of income and trade. We want this foreign trade and the benefits that come from it, the benefits we get from the things we grow and let them have, the benefits of exchange, and the benefits of carrying on some of the fine things that we have that go to make up our standard of living. Today, every worthwhile boy and girl can get a chance to go to school, get a chance to get what we used to call some learning, get a chance to get some vocational training of some kind that will fit them for something useful, an opportunity to pay their own way and earn their own self-respect.

That is the America we have had. That is what has brought us this far and we are going to reconsider this softer way. We are going to go back and rediscipline ourselves. We have found out the soft way leads down and we are going back to the hard ways. Our children, I believe, many of them, are just yearning for more discipline and more training of the harder type, if I may use that word, rather than always looking for the easy way and let somebody else do it.

I have confidence in our future. I have lived in what I call the golden age of

America. I sure want it to outlive me, and it will, by far. But we have to do the hard things and this is one of the things we do not like. We are not happy about having to have a lot of military strength, even in so-called peacetime. But our commonsense tells us that not yet—not yet, anyway—do we have an excuse.

So I hope we can pass this bill. It is not going to make a lot of immediate difference, but it is going to show a trend. It is going to prove to every American that this is a highly respectable thing to do. You become a part when you register, you become a part right then, of a great element of potential strength and development for the people of America. You are not just someone who is running from something, but you are up on the front line when you sign your name. It is up to the leaders who look for the peaceful way but still want to keep things strong, so that, if the peaceful way is not the way we have to go, we shall be prepared.

I urge the membership here now to take this small step. I know as fine a man as ever wore shoe leather in this body, the Senator from Oregon, has argued about what the Selective Service people said and recommended in January and what they recommended later. Let me tell you, Mr. President, we just do not have a General Hershey now, anyway. Those of us who have been around think of the way General Hershey used to operate Selective Service. There comes only one in every generation, I suppose, and he was amazing, with an amazing way of getting things done. But the present Selective Service people have not had any money, they have not had any duties. They have been a kind of sitting shell, in a way. So they cannot come up any day, on only a few days' notice, with a plan for doing this or doing that that is going to work out perfectly.

But I respect those gentlemen. We approved them for the positions they are in—our committee did, and then the Senate approved them. But they were not experienced nor first in the field and did not know what we wanted. Congress had not taken any action in that field since the days when we hoped everybody was happy and we were going to have freedom of choice about it. So they did not have the benefit of all those things that go to make up a plan.

Anyway, the President of the United States has rejected that plan. It never was born as a part of the military planning and program. The President rejected it and, instead, recommended this registration.

I wish he had done that earlier and had gone a little further. But that is a step, and it is ground we have been over before. We have some idea about what it will do. The main thing I see is that it is certain, should we have to have a mobilization, that we would save some appreciable time that would add up to a number of days and that, within itself, is a great deal.

I do not have these figures before me. One of the most impressive facts we have at the Armed Service Committee is the Army—and the Senators will notice that I have not tried to downgrade any of the services, but the Army has the toughest goal in this system. They ran a test in their own fine way, not too long ago, and according to their calculations, under the present situation, it would be 90 days after a mobilization might be called for. An imaginary mobilization was called—90 days—3 months. The Army would only be able to fill, even then, 52 percent of its infantry positions. Anyone that is 48 percent short 90 days after a war starts is certainly not in position to go to war. That is more dangerous to the ones who are in the uniform than to anyone else.

At the end of that some 90 days, 73 percent of the Army's artillery positions, only that number, would be able to be filled, with 27 percent short.

As to the armor positions, 28 percent is all that would be available to fill those positions and 72 percent could, therefore, be short.

As the Senators know, armor includes tanks, tank crews, and so forth. Today, a tank costs us in the neighborhood of $1.5 million apiece. That is not just inflation, because it has become a highly complicated piece of machinery and delicate in its operation. It takes one of more skill, more know-how, more training, more endurance, more discipline, and more of everything to fill some of those key positions. I think that is typical of many, many other positions that we have now in modern warfare. I know it is.

We boast of our technology and we do have, thank the Lord, the best in the world. There are others that are good, but all in all, we are the best. And we have to stay the best. We have to stay out front. We have to be superior and ready to go and get there quickly.

I do not buy this stuff about the Russians being 7½ feet tall and we are dwarfs. I do not buy it. I do not believe it.

But unless we pick up our pace in technology, manpower, know-how, and every other way, we can quickly find ourselves on the short end of things.

It is a position we just cannot afford to take until we have found some kind of substitute, some kind of determination. We can call it what we will.

So I do not hope to throw in anything, and I still pinch money. There is enough Scotch in me. I get tired of voting for billions and billions of dollars.

But I think I know what we see here and the things we have to do. We are going to have to keep on with this high-priced weaponry. We already have the high-priced cost of manpower. We have spent so much on that.

Do not think they are treated like second rates. Mr. President, 57 percent of every military dollar we spend now goes to personnel, goes to people. That leaves only 43 percent to buy all the hardware, all the machines, all the tanks, airplanes, submarines, missiles, ships, and everything else that we have to buy.

When I first went on the Armed Services Committee, we could get a good submarine for $33 million. I happen to remember that. The ultimate submarine we are building now, the Trident, it is not in operation yet, with its long-range powerful weaponry, will cost over $900 million.

If we let the personnel cost, run on and on and on, getting a higher and higher percent of that military dollar, it will be less and less to pay for what we think we need in these other fields.

I will say one word now about the person who wears the military uniform. It makes no difference whether he went through Selective Service, volunteered, or whatever he did. I say that there has never been a word heard out of me except a word of the highest respect and appreciation for the American military uniform. That extends down through today.

But there is a tendency now to discredit, to shortchange, even those who tried to carry out this recent mission with respect to our hostages. I am proud of every one of them, and they all volunteered. But I have that basic respect for the American military uniform, and a lot of other people have it. It makes no difference whether they went in through the draft or the volunteer system, or however.

They carry the burden. They carry the load of being our first line of preparedness and our military defense.

I think today, with all our modern weaponry, and everything else, that the best kind of preparedness and the most effective is to be prepared in advance because there is the deterrent. There is the deterrent. So those that walk the streets today, wherever they are, are entitled to the most gratitude that any American can bestow on them, as well as respect, for they are, of course, trying to do their duty and live within the rules.

We are not playing with a little thing here, Mr. President. As I said, the central foundation of our foreign policy, as we have it now, is the essential foundation of our energy lines. As long as we have to go abroad we have to protect the oil routes and help our allies protect it.

We have to live with all these things and we better not be second rate in any part of our military preparedness.

We are dealing with this manpower. It is something money cannot buy. We have to get the man that has the capacity, and then train and discipline him. That is where we get the finished product.

Mr. President, I am glad to have had a chance to express these convictions that I have. There are other facts that could be related. They have been presented, or will be presented here, better than I can myself.

I believe that when the vote is taken on this small measure, it will be a small step, but it will be in the right direction. It will be the foundation of a new policy that will bring us this added measure of protection and satisfaction.

With thanks to the Members, Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I thank the Senator from Mississippi, the chairman of the full committee, for an excellent statement on not just this bill, but the wider scope of our national security problems, manpower problems, mobilization problems. He has made an excellent presentation here. He has given it in a historical perspective. I believe it was a tremendous input in this debate.

I thank the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Georgia.

Mr. President, I say again he has played a tremendous part in all these hearings in his 4, 5, or 6 years. He has been a great help on the committee, the subcommittee, the nonpartisan committee.

I thank the Senator.

Mr. NUNN. Mr. President, I think the Senator from Nebraska is here. If he would desire to be recognized, I will yield.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend from Georgia and join with him in saluting the excellent remarks that have just been made by the chairman of the Armed Services Committee on which I serve.

REMARKS ON DRAFT REGISTRATION

Mr. President, I have listened to portions of this debate with great interest. What has struck me so far is the vast amount of misinformation which has been disseminated.

Some have said that a return to registration would not solve our military manpower problems. I agree. Some have said that, instead, increased military compensation will be a good way to help solve those problems. I agree that such steps are necessary.

The point is that our military manpower problems do not lend themselves to a single solution. The question before the Senate is whether or not the United States of America is adequately prepared to mobilize in case of a national emergency. The indisputable answer is "no." Senator Nunn has already ably described the problems the United States would encounter if, tomorrow, we as a nation had to mobilize for a military emergency. I need not add to that description. The point is that the greatest Nation on Earth is not prepared to mobilize in response to a threat to our security. That is an absurd proposition—and yet, it is true.

Some argue that they oppose registration because they do not like the kind of war which they think we may be called upon to fight next. While I understand that concern, I ask each and every one to imagine for a moment that you are the President of the United States. Early one morning you are awakened and told that a situation has arisen which requires mobilization. How can you begin to imagine carrying out your responsibilities when you do not even have an inventory of where our available personnel resources are and a means to contact them quickly? Warfare today is much more complex and things will happen much quicker than they did in World War II. The next year, if it comes, may very well be a "come as you are war." We do not have the luxury of being able to take months to mobilize people and industry for such an effort. If anything, a lack of conventional capability will actually exacerbate the chance for a nuclear conflict—something that defies imagination.

I do not contend that the question of registration is totally divorced from the issue of a return to the draft. No one should support registration on such a proposition. The first is a step down the road toward the possible, if required, second step. Yet, there are important differences. The President can reinstitute registration on his own authority. All he needs is the funds to do so on the other hand, reinstitution of the draft explicitly requires congressional approval. So we are not deciding the issue of a return to the draft today. Personally, I recognize the difficulties we are having in the military manpower area and am doing whatever possible to make the All-Volunteer Force work. At some future date, unless there is an improvement, I may decide that a draft is necessary. Nevertheless, I am convinced that the need to mobilize properly and in a timely fashion is a national necessity—whether we have a draft or rely on volunteerism. It is a necessity because we have been surprised before and may be surprised again. As a Nation, we cannot rely totally on our intelligence capability to provide us with enough warning to start the slow, grinding wheels of national mobilization in time to be of any appreciable effect—especially when our Reserve and National Guard Forces are at the low strengths we find them today. In fact, when the All-Volunteer Force was created, it was done with the explicit understanding that the United States would maintain a strong Reserve, National Guard and mobilization capability. Seven years later, we have not lived up to that end of the bargain.

Our military manpower problems arise from various causes and can only be solved through a variety of means. Registration and a possible return to the draft will not solve the problem of retaining the experienced supervisory personnel we need to keep and who are the "backbone" of our military services. The Senate Armed Services Committee right now is working on means of arresting the exodus of these vital and experienced people and will soon bring to the floor a series of recommendations to the Senate intended to correct this situation.

The problem of recruiting enough people to man our Armed Forces is another part of the equation. Today's military requires that many of these new recruits be able to handle the sophisticated equipment we have been forced to procure. Our ability to train many of today's recruits to perform these tasks is questionable and improvement is necessary. Again, the Armed Services Committee recognizes this problem and is formulating steps to assist the effort to man our volunteer military. Specific recommendations will soon be brought to the floor in this regard as well.

I believe that all of us must step back and take a look at the troubled world around us and ask if we are really ready to handle some future contingency—perhaps one we could not or did not predict. While I have been critical of some of our allies who I think should be making a greater contribution to the defense of the free world, the fact remains that the United States has certain fundamental responsibilities to itself which must be recognized and fulfilled. Most of our major allies, and the Soviet Union, I might add, do have an adequate mobilization capability in hand.

Since we are understandably addressing the possible restitution of a fair draft lottery at some future date, devoid of the terrible injustices of the past, it is inconceivable that some well-intentioned individuals swear that it is somehow unholy and un-American to even consider a draft in peacetime. Are we blind to the proposition that a strong presence of military strength is hopefully our best deterrent to an international conflict? In this regard it is interesting to note that "in peacetime" the U.S.S.R. and its satellites, East Germany, Poland, Czechoslovakia, Hungary, Romania, and Bulgaria as well as our allies or supposed allies France, China, West Germany, Holland, Israel, Belgium, and Italy, all have military conscription "in peacetime." What immunity in this area do we as leaders of the free world enjoy? Is our position realistic?

I believe that it would be a wrong signal to send out to the world during these precarious times if the U.S. Senate were to repudiate even the first step of inventorying our manpower.

The United States has learned the lessons of isolationism in the past—painfully. While our allies need to contribute more toward our common defense, we must pull our end of the load, too. Decisions to use military force must be made as a joint venture of the executive and legislative branches of our Government. However, not to have the resources and capability to take such steps when and if necessary represents the abdication of responsibility of the Government which has been elected to look after the best interests of the United States and its people. Fundamentally, this interest is in a strong national defense. We cannot sit here in the Senate and decide the question of whether or not we have an adequate mobilization capability on the basis of our "best guess" on the next kind of war we may have to fight. National policymakers must have benefit of several options to act or not. Once that capability is achieved, then we as a government must take the steps necessary to decide on the best course of action.

Mr. President, before closing my remarks let me make some key points which I believe have not been mentioned, or at least extensively developed, which are critical to understanding the fundamental issue of the manpower problems which confront us. They are military, social, and economic. They affect both the registration or inventory-taking, which is the heart of this debate, as well as the broader issues of the possible future draft.

We are called upon as elected officials to look to the future needs as well as our past commitments to our national security.

Our present deteriorated position, vis-a-vis the Soviets, began with the "total force structure" which evolved in 1972. There came upon us then as part of the volunteer service manpower concept that ended the draft, a magnificent plan—possibly a good one, but it was inherent in that great design that our Reserve and National Guard structures must be enhanced. These forces were designed and designated then as our new vital second line of manpower defense, ready for immediate callup for specific and prompt combat assignment as units. While we have some excellent units, we are far below the manpower and equipment needs in this critical category. This is the "unsung" and "little talked of" shortcoming of our national defense posture. With our present and future manpower shortfall in the regular forces we would discover, in case of hostilities, the need to employ the Guard and Reserves as stopgap, resupply forces to regular units and essentially thereby destroy them as designated preplanned fighting units.

The Guard and Reserves shortfalls are a combination of lack of funding, attention, and indirect manpower shortages—primarily because of the failure of the recruitment of regular standing forces under the "All-Volunteer" force.

I have referred to the social consequences of our present course of less than satisfactory regular recruitment. I was amazed to hear raised in debate unfair and twisted racial allusions to those of us concerned about the high rate of minority enlistees.

It is true, in the last 6 months, that the Army has signed up approximately 40 percent of its recruits from minority groups.

While I do not have the breakdown of the educational level of that 40 percent, it is a fact that during that same period only 43 percent of all Army enlistees attained a high school diploma.

In specific reply to those who seemingly profess shock that such statistics should be employed in debate because of racial overtones, I maintain that exactly the opposite is true.

I am not afraid of a black army or even a majority minority army. It is not fear that motivates me but fairness.

Talent, dedication or bravery is not exclusive or paramount to any race in battle. All they have to give ultimately is their life, if necessary, and a bullet knows not the color or tint of skin.

However, to the do-gooders who preach, "Don't bother me with such statistics," I ask the following question: What would be your reaction, say 1 year from now, if, God forbid, we should be in a shooting war and the press reports would indicate our first month's battle casualties as over 50-percent minority Americans and young men, over half of whom have not attained a high school diploma.

How proud would we be as Americans all?

Mr. President, are we to ignore the clear and unmistakable statistics which clearly tell us that we are under the present failing system, conscientiously creating an Army of the poor and the underprivileged to fight the war for the more elevated society classes?

Or, putting it another way has our national will and spirit so degenerated that we of the "Good life" can consciously endorse recruitment of our gladiators from the ranks of the underprivileged?

Is a return to registration a "meaningless gesture" as so many have stated? Does draft registration destroy the very values that our society is committed to defending, as has been charged in the Chamber during this debate? Hardly, Mr. President. The simple and fundamental step of revitalizing our national mobilization capability at this time—facing the dangers and uncertainties that we do—is instead a prudent and necessary course. We are not deciding the future of the Armed Forces military manpower question today. Rather, we are deciding if we are going to take a realistic and much-needed first step which is in our own best interest regardless of the mechanism used to bring people into our Army, Navy, Air Force, and Marine Corps. I hope that each of my colleagues will take a moment to reflect and ask themselves if we as a Nation are now really adequately prepared for any contingency which may come along.

Tomorrow we will have a critical cloture vote to end the delaying filibuster. I hope the Senate will muster the courage to quickly end further meaningless delays, including killer amendments, and have the up or down vote on the issue. While registration of males will not solve our problems, they will be further complicated without it.

Mr. NUNN. Mr. President, will the Senator yield for a brief comment?

Mr. EXON. I yield.

Mr. NUNN. Mr. President, I commend my colleague on the Armed Services Committee, the Senator from Nebraska, for an excellent statement.

He has expressed very vividly his feeling on the subject of fairness in terms of national service, in terms of duty to the country, and in terms of the people who would be called on in the front lines to defend this Nation in the event of war.

He has made that statement as clear as any statement I have heard on the subject, when he said that he did not concern himself with the statistics because of fear but because of his great concern for fairness.

I wish to thank the Senator from Nebraska not only for an excellent presentation of the reasons that we need registration and the reasons we urge our colleagues to vote for cloture tomorrow so that we can complete this matter, but also I wish to thank him for his tremendous service on the Armed Services Committee.

He has been here only a short time, but he has joined in and has done an exemplary job of acquainting himself with the issues not only in the manpower area—he serves on the subcommittee that I chair in the manpower area—but he has also done indepth analysis in the research and development area and is making a very, very substantial contribution not just to the deliberations of the Armed Services Committee but, indeed, to the deliberations of the Senate on the crucial issues that face this Nation in national security.

So I thank my colleague from Nebraska for his participation in this colloquy and I thank him for his tremendous service in the area of national security.

Mr. EXON. I thank my friend from Georgia very much.

Mr. NUNN. Mr. President, I yield to the Senator from Oklahoma.

Mr. BOREN. I thank my colleague from Georgia.

Mr. President, I rise in full support of House Joint Resolution 521 which transfers funds to reinstate registration of young men under the Selective Service System.

I, along with a good many of my colleagues, have been extremely alarmed for some time about the overall condition of U.S. military preparedness. My alarm is heightened by not only the manpower problems which face the United States today but also the growing imbalance between the United States and the Soviet Union in terms of military hardware.

As this session of Congress moves along, we will have ample opportunity to begin the long process of rebuilding our military strength, a process which is essential to the national security of the United States.

Mr. President, I will have a good deal more to say in the coming weeks on the various aspects of this problem. I intend to address myself to the so-called quick-fix proposals to narrow the window of vulnerability in strategic nuclear weapons which is generally agreed will occur some time in the mideighties.

I intend to also speak out on such matters as military pay, the All-Volunteer Force, and the critical issue of conventional strength imbalances between the Warsaw Pact countries and NATO.

But the subject today is manpower in general and the need to reinstate registration in particular.

I want to compliment my very good friend, the distinguished Senator from Georgia, Senator NUNN, for his unceasing efforts to bring to the attention of the Senate the difficulties we face in the area of military manpower. Recent exercise revealed that 90 days after a mobilization occurred, the Army would only be able to fill 52 percent of its infantry positions, leaving a 48-percent shortfall in the infantry. In addition, there would be a 28-percent shortfall in artillery, and a huge 72-percent shortage in armor manpower.

Senator NUNN has already outlined for you in earlier debate that under the current capabilities of the Selective Service System, these shortages at M plus 90 would get worse until the first draftees started arriving in combat units somewhere around M plus 210. Estimates on the amount of time it would take the Selective Service to respond vary anywhere from M plus 180 to M plus 235.

Mr. President, this is totally unacceptable.

Under current Department of Defense requirements, inductees are called for within the first 30 days following the decision to mobilize. The Department requires 100,000 inductees by M plus 60, and 650,000 by M plus 180.

There is no question that the Selective Service System today could not deliver anything close to the requirements outlined by the Department of Defense as necessary to protect our Nation's security. Therefore, it is obvious that steps must be taken to remedy the situation. House Joint Resolution 521 constitutes the beginning of that remedy.

Mr. President, those of us who support this proposal have made it clear that we do not view this action as a panacea for all of the problems that will occur in the event of mobilization.

However, just as the process of balancing the Federal budget is one step on the long road to controlling inflation, so the passage of this legislation will mark one step on the long road toward adequately preparing this country for the crisis which would occasion a call for mobilization.

The support for this proposal is widespread. The overwhelming number of letters I have received from my own State of Oklahoma are in support of registration.

Mr. President, I recently received returns from some 25,000 citizens of my own State, replying to a questionnaire which I mailed out to community leaders. Over 85 percent of those who received the questionnaire responded, took the trouble to mail back a response to my question. In excess of 93 percent of those responding favored registration. Such diverse publications as the Baltimore Sun, the Wall Street Journal, the Los Angeles Times, the Milwaukee Journal, the Chattanooga News-Free Press, the Houston Chronicle, the Washington Star, and the Washington Post, have editorialized in support of registration.

This morning's Washington Post, under the headline "The Draft Debate Is Over," was particularly on target, I believe, in setting forth reasons why this measure should be approved. I ask unanimous consent that an editorial from today's Daily Oklahoman be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNNECESSARY FIRST STEP

The pairing of strange bedfellows is not new to politics, as forces of diametrically opposed philosophy team up on specific issues. But the current debate over President Carter's draft registration plan has produced a rather startling line-up of liberals and conservatives seeking to block it. The measure, H.J.R. 521, would provide a 13.3-million-dollar fiscal 1980 supplement to the selective service system to begin registration of 19 and 20 year old men this summer. It was passed by a mere margin in the House in April with an original target date of June to start the sign up. But delaying tactics in the Senate by Senator Hatfield of Oregon, an ardent dove, has set the date back to mid July.

The odd coalition of opponents has Hatfield allied with conservatives like republican Senator Jake Garn of Utah. Hatfield and other liberals oppose registration because they fear it will lead to peace time conscription. Garn and other conservatives oppose it as an empty gesture that will not solve U.S. military manpower problems.

Indeed, an actual draft may be necessary both to revive America's sense of national purpose and to demonstrate U.S. determination to deal with the threat to western security posed by aggressive actions of the Soviet Union.

Meanwhile, registration is a necessary first step. Senator Sam Nunn, of Georgia, a strong supporter of the bill, pointed out peacetime registration could save the country valuable time in getting replacements to combat units in a time of emergency. Even more important is the needs to rebuild reserve units that would be expected to replenish the combat units. Of particular concern to military men is the ability of the armed forces to retain the experienced, non-commissioned officers with the skills to handle today's sophisticated weapons. Registration alone wouldn't solve that problem, but it would show that the country is on the right track.

(Mr. LEVIN assumed the chair.)

Mr. BOREN. I call your attention particularly to the final paragraph of the editorial in which the Post says:

> Something else important has been learned, too: the rest of the world is watching.

I believe this to be a very important point which we would do well to keep in mind during this debate. If there is one thing that has been central to all of the speeches made on this floor with regard to defense and foreign affairs, it is that the United States must be aware of the perceptions in foreign capitals of our actions. Further, we have been told again and again that the most damaging result of the on-again, off-again actions of this administration in the field of defense and foreign policy has been the growing suspicion that the United States is no longer a reliable partner in world affairs.

We are told in varying ways that it is the business of leaders to lead, and that as the leader of the free world, the United States has ceased to do that. We are told again and again by various governments around the world that no one doubts the capacity of the United States to promote and protect its interests around the world, but there is great doubt as to our will to do so. There is a general feeling that the United States is not serious in its dedication to confront the growing military capabilities of the Soviet Union and to arrest the aggressive actions that have caused world tension in Afghanistan, and many of the Third World nations.

As the Post editorial accurately points out, passing the registration bill "has a lot to do with informing other countries that the United States is serious for the long-haul. Now that the issue has been raised, a refusal to move to registration would throw a long shadow. A Senate debate with a positive answer * * * would give the best results, both at home and abroad."

I could not agree more.

No one is more concerned than I about the difficulties that have faced the All-Volunteer Force concept. As I have said earlier, it is my intention to speak more on that subject as time goes on.

It is certainly worthy of note in this debate to recall that one of the basic assumptions of the Gates Commission when recommending the All-Volunteer Force was that an effective standby draft mechanism would exist. I join with Senator NUNN in wondering why those who favor the All-Volunteer Force would be so much opposed to peacetime registration under these circumstances.

Mr. HATFIELD. Mr. President, would the Senator like a response to the question?

Mr. BOREN. I certainly would.

Mr. HATFIELD. Is the Senator aware of the added provisions of the Gates Commission report beside the one recited?

Mr. BOREN. Some of them. What does the Senator have in mind?

Mr. HATFIELD. Is he aware of the provision in the Gates Commission which indicate very clearly that the presumption was that the President of the United States and Congress would maintain a comparable compensation with the civilian sector and create an environment within the military that would be conducive to not only attracting but to retaining military personnel?

Mr. BOREN. Yes, I am aware of that.

Mr. HATFIELD. Is the Senator then by his indication of statistics that he has quoted satisfied that that has been done?

Mr. BOREN. No, I am certainly not satisfied that it has been done.

Mr. HATFIELD. Will the Senator then indicate further, if I could ask another question, what is the registration going to do then, precisely, to answer these specific problems within the military today?

Mr. BOREN. Well, I would be happy to respond to the Senator. As I said earlier in my remarks, I do not think we should view registration by itself as a panacea or cure for anything. I think it must be in addition to adequate pay scales for those who particularly have longevity and have particular skills. I think it is not going to solve that problem. But I think we have by our record demonstrated, at least in my mind, that we are not going to provide the funds, at least they have not been provided by this Congress, to meet the full cost of maintaining a military establishment short of some kind of required service. That is my whole and honest opinion.

I think in addition to that we have to go ahead and move on a congressional professional pay scale. But what I cannot understand and, perhaps, the Senator from Oregon can enlighten me on this, is when we do not have a draft, when we do not have compulsory service, it seems to me that there should be the realization that some dire emergency might occur that would necessitate the calling of people, and it might be under circumstances that would have universal approval in this country, that we have to under dire circumstances call people to duty to defend their country, perhaps even the boundaries of this country, and if we can save even a week or 15 days or 30 days, I fail to understand why it is that it is considered somehow wrong or immoral or dangerous for the citizens of this country of any age to have names, addresses, and telephone numbers on record so that it would be more practical and easier for them to be called to such service if an emergency should exist.

Mr. HATFIELD. Mr. President, I would be happy to respond to the Senator if he is putting that in the form of a question.

Mr. BOREN. I so stated it as a question.

Mr. HATFIELD. First of all, it would be the most impractical exercise that we could engage in. It would be an utter waste of the taxpayers' money, for the simple reason, as the Senator knows, that it calls for the current address. Therefore, it has been estimated, conservatively, that within the first year at least 25 percent of that list would become obsolete; within the second year, 50 percent would become obsolete.

I think the Senator from Oklahoma is fully aware that this is one of the most mobile of all the segments of our population, and our total population is very mobile today; and that, therefore, this does not give us a list that has any value for a great or a short or even medium period of time.

Now, I want to say one further thing. What is going to happen is the proponents of this, Mr. NUNN and others, will come back on this floor very shortly, if this passes, and they will ask for provisions to be added to go into the social security data base, to go into other records that the Government has on people to confirm or try to find out where they are or what they are doing. We are going to have a continued expansion of this.

The Senator, I think, has been very honest, if I have understood the Senator correctly, in saying that he supports a draft. Is that correct?

Mr. BOREN. Mr. President, I would say this: That if registration does not succeed in increasing the number of those who began to think more seriously about the responsibility of the country that we began to meet our manpower needs, I think that we have to confront a choice of having an inadequate military capability to keep the peace in the world and continue on with the present policy. I would say the present policy has to be changed. If registration does not result in improvement of our manpower situation over a period of time, yes, this Senator would be ready at that time to support the draft.

Mr. HATFIELD. Mr. President, I am very interested in what the Senator has just said. I would like to understand more clearly what the Senator has in mind, in which he foresees this registration procedure may have an effect upon the voluntary enlistments or the response of young people in that age bracket of 19–20 to fill in the gaps that he identifies in the existing military personnel program. What is there in this registration that is going to do that?

Mr. BOREN. Mr. President, I would be happy to answer that question, but I would like to go back for a minute to a point my distinguished colleague from Oregon made just a minute ago when he was saying that we are not going to have adequate names and addresses because people are going to be moving so rapidly that some of these addresses will become outmoded.

I wonder what suggestion the Senator from Oregon has to improve the tracking of that so that we will know. Does he suggest that we have them register every month so we have a more current address, or does he simply say we have no address?

Mr. HATFIELD. Mr. President, please bear in mind that I want to clarify what the Senator said. He may have some misunderstanding. I am totally opposed to registration. I do not want any list at this point in time. I do not want a peacetime draft. I am opposed to a peacetime draft.

Mr. BOREN. So the Senator feels we should not know how to locate people or make an effort to locate people if there is a dire emergency?

Mr. HATFIELD. The burden of proof is on the Senator who is advocating the program, because the Senator is advocating a program that I say is inoperable, that is unenforceable. The burden of proof is to show where it is operable and where it is enforceable.

Mr. BOREN. Mr. President, I am going to yield in just a moment to my colleague from Georgia. I would say that if the Senator from Oregon is saying what the fault of this program is is that some of the addresses will be inadequate if we need to call people to emergency duty, some of them, I would still say if a lot of them are accurate, that is still putting us far in advance of where we are now. I would say that even the Senator already said that he believes there is no system whatsoever, and that is what I understood him to say.

Mr. NUNN. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. NUNN. Mr. President, the Senator from Oregon is in a position that a lot of good lawyers find themselves in. They argue one day on one side of a position and the other day on the other side. On the one hand, the Senator says this is going to be a Prussian system. And a Prussian system, of course, compels people in peacetime to serve the country. I assume that is the Senator's definition. So he is going to say it is an onerous system and going to place a huge burden on the young people of the country, et cetera, et cetera.

On the other hand, he is saying it is going to be outmoded very quickly, because it will not have updated addresses, and he assumes no one is going to ever get in touch and let them know what their current address is. He assumes all of these things.

The President's plan is very specific on this point. I will read from the Selective Service Committee's letter of June 5. This has been in previous testimony, also. This is signed by Director Bernard Rostker, the head of the Selective Service. This is on page 2 of that letter.

> Specific procedures also have been developed to ensure that the registration data base will remain valid. Both a current and permanent address will be requested on the form. Registrants will be individually informed of the need to report an address change both at the time of registration and at the time they receive an acknowledgement of their registration from the Selective Service. Change of Address forms will be included with the acknowledgement letters and will be readily available at all post offices.

This is not a unique problem the Senator is bringing up. Everyone that has a mailing list knows it gets to be outdated and you simply keep it up. You merely have the young people turn in a permanent address and certainly that would include, in many cases, the address of the parents, where they could be forwarded or where they know where they could be located.

The Senator from Oregon knows the details of this proposal better than most people. But he likes to throw these things out every now and then. He is appealing to people both on the far left who are afraid this system will work and those on the far right who have other fears. So he is playing it very cleverly.

But the Senator from Oregon realizes this is taken care of. He knows we had a system of registration from a period of 1948 until about 1975 and all of these horrible things that he said was going to happen did not happen. He realizes that.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. NUNN. The Senator realizes that this country was able to survive what he has termed the "Prussian system" for most of our modern history. The Senator knows this.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. NUNN. I congratulate the Senator from Oregon for being able to create these red herrings. He does very well at this.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. NUNN. Mr. President, I do not have the floor. I would be happy to yield back to the Senator from Oklahoma and he could yield.

Mr. HATFIELD. Mr. President, I just want to ask the Senator: Is this a quotation from the same man who drew up the "hoax" program for the Selective Service that he is now quoting on the floor, the man who was authoring the hoax program?

Mr. NUNN. The Senator realizes that both the Senator from Oregon and the Senator from Georgia believe in the power of redemption.

I would say the Director of the Selective Service has seen the light. Fortunately, he is right here now, and he is hearing this. He understands now how important his words are, and he recognizes in the future that when he does come up with a plan it will be an absolutely valid plan. It is interesting enough that the Director is here observing this debate. He is finding many of the complexities in coming up with the registration procedure that works that our committee anticipated and pointed out last year when we were dealing with the original plan for the Selective Service. And, I must say, in fairness to Director Rostker, that he was not there when that original plan came in.

Of course, what I stated about that plan was that, at best, it was wishful thinking; at worst, it was a hoax. I did pose those alternatives, and I stick by that.

Mr. HATFIELD. Mr. President, I would say to the Senator I think the author probably knows which side bread is buttered on, because he is so flexible that he can adapt to change, whatever the mood or whatever the wind is. Obviously, the wind has been blowing from the White House in a little different direction than when he started his program of research.

Mr. NUNN. Mr. President, I would certainly say that one of the high marks of someone serving in the administration is to be able to march in the same direction as the Commander in Chief. The Commander in Chief has also seen the light in this respect, and I am grateful for that. A year ago, he did not favor registration. But I believe when the Commander in Chief looked around after Afghanistan and Iran and looked at his manpower situation, he looked at the possibility of some kind of situation in NATO possibly differing, he probably asked his Joint Chiefs whether they were able to meet the contingencies the United States had to meet our treaty obligations. I do not know this, but I imagine he followed the stand advanced by the military authorities.

I am grateful that the Commander in Chief, President Carter, was able to change his opinion after looking at all the facts. I am grateful that he was able to come about in terms of his overall view of our manpower needs. I think that is a step forward. I would hope that all of us would remain flexible and be able to change our views when we are faced with overwhelming evidence of national security needs. I believe that the Senator from Oregon at some point will come around on this issue. I have not given up on him. We will be debating this a while longer. As the debate goes on and he hears more evidence and more rebuttal of his own sincerely held but erroneous views, I think he will begin to see the light also.

Mr. BOREN. I thank my colleagues. I might say as a purely objective statement on the interchange to both my friend from Georgia and my friend from Oregon that my friend from Georgia has demonstrated that my good friend and colleague from Oregon has tried to be on both sides of this registration question. Perhaps that is what confused me earlier.

Mr. HATFIELD. Will the Senator explain my position as he understands it?

Mr. BOREN. I understand you are saying that you are partially opposed to this because you do not think it is effective enough in terms of getting accurate enough information and, therefore, should be made more accurate. That seems to be your debating point.

Mr. HATFIELD. May I clarify for the record because the Senator is misstating the proposition. I would like to have the privilege of clarifying this. There are no two sides at all to this position as far as this Senator is concerned, as far as my view which has been expressed for 2½ days on this floor. I hope the Senator from Oklahoma has read the record. He should understand very clearly that I have been fully and completely against this program. I have been leading the battle against it.

Let me say to the Senator I am merely challenging the operable character of this. I have not in any way suggested we should strengthen it. I want to keep it from becoming, in effect, an actuality. All I am pointing out are the defects. When you rise on the floor and say that this is going to solve some of our problems, or it is going to be the first step, I am challenging that because it is an inoperable program, it is an unenforceable program. Let me clarify. I have but one position and that is total and complete opposition to this operation.

Mr. BOREN. Then is the Senator from Oklahoma correct in saying that the more possible it is to have current names and telephone numbers and other information of those who need to be called in an emergency the more opposed the Senator from Oregon would be to it? Is that correct?

Mr. HATFIELD. I am trying to keep us from getting into the business of creating a generation of felons, of young people who do not get the word because of the inadequacy of this program to communicate through public information the requirements and, No. 2, the nonoperability of this whole operation because those addresses will be not current within a very short time. All I am saying is if you are bound and determined to runover me and my position, then what I say is you have a responsibility, a very serious responsibility, to the young people of this country upon whom you are going to impose this Prussian system of registration and draft to put it into a form that makes it operable and makes it enforceable. That is all I am saying.

Mr. BOREN. I think with all due respect my colleague from Oregon has overstated the case. I think we have heard something described as somewhat or at least only partially effective and my colleague from Georgia said a minute ago that it now has become referred to as a Prussian system imposed upon the young people of this country. I have to say with all due respect I have listened to my good friend and colleague from Oregon. I have not only read the record but I have listened to him in my office over our communication system. I have heard him say again and again that we are making a generation of felons out of young people in this country by asking the young people of this country to sign a card with their name and address on it to say, "Yes, as an American citizen I am willing for this system that we believe in, this system of freedom that we have in this country, I am willing for the Government to have my name and address so that they will know where to find me if they need me."

I will say, Mr. President, with all due respect, I must take sharp exception to that kind of statement. I do not believe that that is the case. I do not believe that we are creating a generation of felons if we take a small step in talking about the responsibilities that all of us of any age should feel toward this system of government that we have. I do not think so, with all that this country does for its citizens, all of the opportunities that this political system guarantees, including the right of free speech and debate, in which we are now engaged, including the help given to the underprivileged in this country, including the opportunity given to young people, the billions of dollars invested to provide them with educational opportunities.

I must say, Mr. President, that of all the things that have been said in this debate for the past several days the one statement that has made me most want to come to this floor and say I cannot agree with what the Senator from Oregon has been saying is the statement that we are creating a generation of felons. I do not agree with that in the least. I do not believe that the young people of this country feel that way. I do not believe that the vast majority of the people of this country feel this way. There comes a time, Mr. President, in the history of the country when we must not only talk about the rights that we enjoy, but there comes a time when we must talk about the responsibilities that the enjoyment of those rights also imposes upon all of us.

Mr. HATFIELD. Will the Senator yield for a question? Does the Senator believe that if there is a serious threat to the security of this country that there would not be an increase in volunteers immediately going into the armed services? The Senator from Oklahoma decries the fact that our young people do not agree with what I have said. Well, the Senator has said that we are only going to get those who signed their names, who will be drafted into the service. Does the Senator not believe that there will be a great increase of volunteers as there was in World War II and other times in our history? I will tell you, the figures that Mr. Nunn quotes and that Mr. Stennis quotes about the kind of condition we will be in in case of a crisis is predicated on no increase in volunteers over the present level of volunteers. Does the Senator from Oklahoma believe that?

Mr. BOREN. Of course my colleague from Oregon knows I do not believe that. I will say that in World War I and World War II we did have a draft. If we were to have another situation of a dire emergency facing this country, would the Senator from Oregon in the worst situation, such as we had in World War II, for example, be opposed to having the draft reinstituted?

Mr. HATFIELD. Does the Senator know how many volunteers there were in the first 2 months following Pearl Harbor? 300,000.

Mr. BOREN. I have no doubt about that.

Mr. HATFIELD. I say I am opposed to a peacetime draft. If the Senator had been listening on the squawk box or reading the Record he would have seen clearly that we have been addressing this as a peacetime draft.

Mr. BOREN. And so the Senator would, to clarify the point, favor reinstituting the draft in this country if we were to have a situation again like World War II?

Mr. HATFIELD. If we were to get into another war where we had to have a draft, the draft issue is moot. We are all in it because then we go for the big boom.

Mr. BOREN. I understand the Senator does not oppose having a draft again if we have another situation.

Mr. HATFIELD. That is not the issue before us.

Mr. NUNN. If the Senator from Oklahoma will yield, the position of the Senator from Oregon, and I believe after 3 or 4 days I believe I understand it, it is that we would have no peacetime draft because that is the Prussian system and, second, if we have a war we are going to have the big boom anyway and, therefore, we will never need the wartime draft. Is that what the Senator is saying?

Mr. HATFIELD. The Senator from Georgia is, of course, very desirous of thwarting the issue, but I would be very happy to respond to the Senator.

The Senator is talking about a hypothetical case of a world war. What I am saying is that we are going to be involved in a nuclear war and the whole issue becomes moot. We are all in it.

Mr. NUNN. Does the Senator believe any war is going to be nuclear, then?

Mr. HATFIELD. What was the Senator's question?

Mr. NUNN. The Senator from Oklahoma posed a very good question of the Senator from Oregon when he simply asked him if he would support a draft in wartime. The Senator from Oregon responded by saying that in any war, the question would be moot, because we are going to have a big boom. I think if that is the position of the Senator from Oregon, anybody supporting his position ought to understand that the Senator from Oregon believes we have no options between a nuclear Armageddon and some peacetime registration proposal. If that is the gap, I do not believe the Senators who are listening to this are going to completely agree with the Senator from Oregon. I think most Senators in this body, most Americans, would hope and pray that the President of the United States would have some option between capitulation and going for a strategic nuclear exchange.

That is what we try to do with our conventional defense posture. That is what we try to do with our Guard and Reserve. If the theory of the Senator from Oregon is true, we ought to eliminate the Guard, we ought to eliminate the Reserve, we ought to eliminate most of our active duty forces and put most of our missiles, our B–12 bombers, and our Trident submarines on the alert and get ready for what the Senator from Oregon describes as the big boom.

Mr. President, I reject that kind of argument and I hope the Senate of the United States will reject that argument, because I think it is essential for our national security and the freedom of the world that the President have some other option.

Mr. HATFIELD. If the Senator will yield, I am glad to say that if he wants now to engage in some discussion of foreign policy and take up the most likely place where we are facing a problem because of the Carter doctrine, namely, the Persian Gulf, if he wants to discuss that, that is fine, I shall be happy to go into that issue because we have already heard the discussion about the possibility of the use of tactical weapons in order to implement the Carter doctrine. We have already heard about the attempt to revive the neutron bomb to implement the Carter doctrine. If that is what the Senator from Georgia is saying, I am willing to take him on on that any day.

What we are talking about here is a peacetime draft. Let us not try to throw sand in the air, or pick up dust, in order to divert attention. To me, of all the arguments to get to support a peacetime draft, the allegation that without it, we must resort to nuclear war is one of the most insidious. The issue is a peacetime draft and that is what we ought to keep our attention on. We shall come back in maybe 3 or 4 weeks and take up the Carter doctrine and I shall be happy to debate the Senator from Georgia on the potential areas for the big boom following the Carter doctrine.

Mr. NUNN. The first thing the Senator from Oregon has to do for me is define the Carter doctrine and I shall debate him in depth on that. If he is talking about the declaration of the President that the Persian Gulf is within our vital interests, I would certainly be willing to talk about that at a later point. The Senator from Oklahoma asked the Senator from Oregon a direct question on a direct part of this debate. That is, would the Senator, who is against, as we all understand, "the Prussian-type peacetime registration" that he has referred to—he was asked what his position would be, if we have a war, on the draft. The Senator from Oregon said very specifically that if we have a war—and the record will show what was said in absolute words—if we have a war, the question of the draft is moot, because we are going to have the big boom.

I think that is a very telling part of this debate. To all of those who believe we have no options and should provide for no options in terms of national emergency, in terms of some type of confrontation in NATO, in Korea, in the Persian Gulf, off the shores of America, in Cuba—if the Senate comes to the conclusion that we should be in a position of having an automatic "big boom" any time we have a war and we should have no other options, then the Senator from Oregon certainly has a point that I am sure would be of interest.

But if, on the other hand, the American people, through their elected representatives in this body, want the President of the United States and, for that matter, the Congress of the United States and the American people, themselves, to have some other option than going to what the Senator has described as the big boom, or not fulfilling our treaty obligations, or capitulation—if they want some other option, this is only one step.

This is one step. It is an important step. It is not going to solve all the problems. The choice is not between registration and nuclear war. I have never said that. The choice is between conventional preparedness or facing the horrible dilemma of choosing between a nuclear exchange and capitulation or failure to fulfill our treaty commitments.

Conventional preparedness is a broad term. Registration is only one part of conventional preparedness, but it is a significant part because, after 90 days, now, if we have any kind of war at all, this country is out of business. This country is out of business and, even during the first 90 days, we have significant problems.

I have never said that registration is going to cure all those problems. It will not. It will not cure all those problems. But the Senator seems to be saying that we really should allow ourselves to be in the posture of having no real conventional options.

Mr. HATFIELD. Will the Senator yield?

Mr. NUNN. With that, I most vigorously dissent, as the Senator from Oklahoma has said so well.

Mr. President, the Senator from Oklahoma has the floor and I yield it back to him.

Mr. BOREN. Mr. President, the Senator from Oklahoma will yield in a few minutes, but——

Mr. HATFIELD. Mr. President, I should like to clarify what the Senator from Georgia has said. May the Senator from Oregon do that so as not to provide this kind of misstatement of fact?

Mr. BOREN. I am happy to yield.

Mr. HATFIELD. Mr. President, the Senator from Georgia knows very well what the Senator from Oregon has said. This is a forensic style, as anyone knows, of throwing up a little dust if your arguments seem a little weak.

Let anybody be disabused here of the misinformation or misinterpretation of what the Senator from Oregon has said. If I felt that there is no alternative but to face up to the big boom, I would not be supporting the strengthening of our Reserves, the strengthening of comparable compensation in our standing military. I would not give support to those propositions if I believed that is the only alternative.

What I am saying is that the Senator from Georgia cannot stand here on this floor and guarantee to the Senate or to the world or to this Nation that, by adopting this, we have avoided the other. That is what the implication is, that somehow, if we adopt this plan, then we avoid the big boom.

I am saying that that is the thing we face every day of our lives if we are honest, that we have been on alert—on a false alert—three times. We have been on a false alert that could have triggered our nuclear weaponry. That is how close we are to the abyss. To stand here and try to make people believe that if we adopt a registration procedure and a Prussian system of peacetime draft, that we are providing the President with an alternative that forecloses or minimizes the big boom is unrealistic.

Mr. NUNN. Mr. President, I think the record will clearly show to my friend from Oregon that the Senator from Georgia has never said that it is registration or nuclear war. That has never been said in the whole debate. Of course, the record will stand. We shall have the record read back as to exactly the words of the Senator from Oregon.

As I understand the words—and I may be wrong—he basically said, if we have another war, the question of a draft will be moot because it will then be the big boom. If the record does not show that, I shall certainly stand corrected, but we shall take a look at the record.

Mr. BOREN. Mr. President, I should like, if I could, to bring our attention back to where we started. We started by discussing whether or not we should have a system of registration, since we do not have a draft, since we are under strength, since we are badly out numbered by those who are our potential adversaries. They have demonstrated the aggressive nature of their conduct of international relations, have only most recently marched into the helpless nation of Afghanistan and, at least according to some published reports, have used the cruelest kind of weapons—even, perhaps, poison gas and chemical agents, rarely ever used or never used by civilized nations. The discussion is whether or not we are going to have a system of registration—registration: Having young people sign a card, in essence, giving their current address and where they can be contacted if there is a dire national emergency that would make it necessary to call them to duty in defense of this Nation and in defense of their political system that makes it possible for this great body to exist as a lawmaking forum, a representative democracy.

That is the issue. That is the issue, and the Senator from Oklahoma was simply trying to probe, to find out why.

Why is it that I have to be puzzled when I call on my constituents and over 93 percent of them say that they favor a system like this, when I go to the college campuses in my State and young people say, "Yes, if there is a real threat to this country, if there is a real threat to national security, if there is a real threat to the political system, we are ready to try to protect our country and this system we believe in."

What I was probing to find out was why, and I am puzzled by it. I cannot believe we have come to this point. Why? Why?

Could anyone be so passionately and fervently opposed and talk in terms of a great burden, a great burden on a free people, that they would let it be known, in essence, how they could be called in case of a great emergency.

Why is it? Why is it that that could arouse so much emotion?

I think the reason it was given is that which could perhaps lead to a more effective system, where we could know more accurately how to locate the people, and perhaps that could lead to a draft.

Mr. President, in my mind, if we have another situation like World War II, if we were to have another situation, for example, where a Hitler threatened the security of all people in the world, or the standards of decency for human beings, where he was obliterating whole races of people and religious creeds from the face of the Earth, we know from our own history there have been cases where we have had to call forth all of our people, and not only those who volunteer, but we have had to say to all our people physically able that this is a time that focuses upon a responsibility, a responsibility to protect and defend courageously a system which guarantees the rights of all human beings.

I could not understand why we should not have such a standby emergency system.

I can see a debate about a draft in certain peacetime situations where young people might be drafted into some kind of armed conflict that simple people would not approve. I can understand the passions. Indeed, I witnessed those that the war in Vietnam aroused.

Mr. President, that is not what we are debating. We are not debating whether tomorrow we should send off American young people into some conflict to defend this or that country, this or that interest, or this or that kind of regime.

We are not debating that. We are debating about whether or not it is too great a burden to ask people to be responsible, in essence, sending out a card, and sending it in with their name and address so they can be called in case of emergency.

I think the Senator from Georgia is right in trying to join with me in probing the reasons of those who oppose this system.

I think, basically, it boils down to a feeling that somehow the draft is wrong. This responsibility should not be imposed by government upon its citizens. Ever? That is what I was trying to find out. Under no circumstance?

I think, quite frankly, one of the reasons given is that there was a feeling that the likelihood would be that, if we ever had that kind of emergency, it would not be like World War II, but a situation in which we might have a nuclear holocaust.

After listening to this interchange between my two good friends and colleagues, I respect them both. I respect the Senator from Oregon. I know that he is taking the position he is taking because he sincerely believes in it, and I respect that.

If there is anything wrong with American politics today, it is that there are not enough people in it who take positions because of their own convictions, because of their own perception as to what is right. I salute him for doing that.

In that sense, I think he makes a real contribution to American Government and American politics. I respect him for making it, just as I respect my colleague from Georgia because I think he is doing the same thing.

I think he is trying to bring us back to the writings of war, that Jefferson issue when he said that eternal vigilance is necessary, eternal preparedness, in essence, is necessary.

I again remind my colleagues that when we talk about smoke, when we talk about smokescreens, when we talk about seizing on other issues, we take attention away from what is really being debated here. We are talking not about a draft, not about a massive increase in our military budget, for example. We are talking about a very small step, not to solve all the problems, not to fill all the holes in our Nation's security, but a small step in the right direction toward preparedness if an emergency should come.

Peacetime registration is just that, Mr. President—registration. The system is of the simplest nature. Young men, 19- and 20-years-old, would simply fill out post cards at their local post office and would in return be recorded on computer so that they would be reachable in the event of an emergency. The only other action these young men would be asked to take would be to inform the Government of any change in address. There could be no process more simple.

I would point out here that even with this simplicity, the administration has told us that it will take at least 5 weeks to put it into effect. Such an admission should send chills down the spine of anyone contemplating the chaos that would occur if we were faced with a mobilization effort starting from scratch, with no preplanning.

The benefits of such a simple plan, Mr. President, are that the Selective Service System would be able to meet current stated requirements of the Defense Department and begin induction within 13 days. Peacetime registration could deliver trained individuals to combat units 73 to 120 days earlier than under the current system. To a nation in crisis in today's highly mechanized and mobile society, such a capability is absolutely essential.

I do not believe I need to comment any further on the draft plan to which opponents of this measure have referred in the last few days. Opponents of registration claim that under their plan, the Selective Service System would deliver draftees within 30 days after a call for mobilization. That is a total postmobilization registration and induction system which would be untried and untested until the moment of use. This plan has been thoroughly rejected by all military organizations in and out of government.

Finally, Mr. President, I want to say just a word about the argument that registration is simply a device to make the draft easier to put into effect.

As my friend from Georgia has pointed out, that is absolutely true, and should it not be, there is no reason to pass this measure. The whole idea is to make the draft easier and quicker, if and when it is needed.

I think perhaps that is the one point that the Senator from Oregon and the Senator from Georgia, and all of us, have agreed to. Registration would make it easier to put the draft into effect. If it would not make it easier, there would be no reason to pass this measure. The whole idea is to make the draft easier and quicker, if and when the need should arise.

To those who fear the resumption of a peacetime draft, I would point out that nothing in this proposal would allow that to occur. The President would have to return to the Congress and request a resumption of the draft, and the Congress would then have to agree, including the Senator from Oregon and others, would have to agree. There would be an ample opportunity to debate the question of whether or not there now exists an emergency situation, whether or not events around the world have led us to the point where we need to strengthen our conventional capabilities, the Senator from Georgia said earlier, to the extent that the implementation of some kind of mandatory draft was necessary.

Mr. President, as I said earlier, and as I said in replying to my good friend from Oregon, I have been especially disturbed by some of the rhetoric which has been used in opposition to registration; and I have been listening to this debate over the last several days and several hours. To me, some of the remarks which have been made imply that the young people of this Nation will oppose registration on a massive scale; that the proposal will divide the country, as we have been told; that it will cause a cynicism about our political institutions.

In my opinion, such a view reflects a lack of confidence in the patriotism of the young people of the United States. Let us give the American people of all ages credit for a strong sense of patriotism and a willingness to safeguard freedom and our political system which provides it.

I do not believe for 1 minute that the very honest debate and divisions which existed in the country during the Vietnam war could lead us to a logical leap that would say that because people were divided over that particular war in Vietnam and over whether or not that particular cause and that particular circumstance was sufficient to risk American lives—I do not believe for 1 minute that that proves that it would deeply divide the American people, if we simply ask young people to send in a card with their names and addresses on it, so that they can be called to duty in case of an emergency.

That, to me, is simply a reinforcement of basic systems which have been in existence in our frontier communities for years; a sense of obligation of the citizens of a community to help maintain it, be it in a volunteer fire department or any other effort—a sense of responsibility.

Mr. President, I can say only this: With all the rights and privileges this country guarantees to its citizens, all the benefits it extends to its citizens, if we have reached the point in this country that we would object to saying—any of us—that we have a responsibility to let it be known where we could be found, to be called to service to defend this country in case of a legitimate emergency, then we have gone a long way, indeed, down the road to a total dissolution of any sense of community in this country. If we have come to that point in the attitudes of our people, I doubt that there is anything we could do to get this country back on track again.

Mr. President, I have great confidence in my fellow citizens of all ages. I have a deep and strong confidence in the young people of this country. I have more faith in them than to believe that the vast majority of Americans would object to our Government having the names and addresses of those who could be called to serve in case of national emergency.

We should send a clear message to the world that Americans would come to the defense of our country and our political system if the need should arise. We should make it clear that this generation of Americans is just as prepared to be eternally vigilant in the defense of freedom as any group of Americans who have come before. That is a message that needs to be sent. That is an affirmation that needs to be made not only by this particular generation of young people but also by every citizen of this country.

I believe that is an affirmation that the vast majority of the people of this country would welcome an opportunity to make.

Let us not denigrate the sense of responsibility that the people of this country have. Let us not ask too little of the people of our country. Let us not expect too little of the people of our country. Let us not say that they do not have the capability any more of loving their country, of believing in their community, of wanting to work together to defend a political system. Let us not say that about the United States of America.

As those who are called upon to help make policy for this country, let us set the example ourselves in having faith and confidence in the American people, in the basic sense of responsibility of the American people, in the soundness of the values of the American people.

If we who are elected by the people cannot believe in the people who sent us here, what can we believe in? What can we believe in?

Mr. President, I support House Joint Resolution 521, and I urge my colleagues to support it. There is no more reasonable course for us to follow. We must face reality. The surest way to preserve the peace is to demonstrate to the world that we have the will and the strength to resist aggression. Being prepared to meet emergencies is necessary for the very reason that our goal is to keep young people out of wars—to keep them out of all wars.

One of the tragedies of history is that we do not learn from it.

Mr. President, a few weeks ago, I quoted in this Chamber a recent column by George Will. I did not bring it with me today, but I think I can paraphrase it.

He was writing of the situation that existed in the years immediately before World War II. I could not help be reminded of his comments in listening to my good friend and colleague from Oregon. I say this with great respect for him, because, in many ways, the fact that he has the sensitivity and holds the values he holds is a great tribute to him as a human being.

In his column, George Will said that the French, in the years before World War II, had reached a point in their history and in their civilization that had taken them, in some ways, to a point beyond where the rest of their neighbors at that time were. He said they had come to realize that in a war, in the fullest sense, no one really can win ultimately because of the great human suffering and tragedy that come from war.

He said that they were the last people on Earth who at that particular time, prior to World War II, should have had Nazi Germany as their neighbor, because that country had not reached that point in history and had not reached that point in its own self-understanding to realize the tragedy of war. It was bent upon aggression, bent upon a course of aggrandizement, of conquest, of war itself.

So there were the French, who wanted to live in a world free of war, who did not want to prepare adequately for war, who wanted to avoid it. They were the French who refused to face reality, who, because they believed war was wrong and wanted to renounce it, simply could not realize adequately that there were others in the world who did not share their values and who were not ready to renounce it themselves.

In that column, George Will said something else. He said that because of changes in technology, because of the speed with which we can move around the world, because of new weapons systems, everyone today, every nation today, is the neighbor of the Soviet Union—a nation which, in many respects, demonstrates the same kind of aggressive tendencies that were demonstrated by Nazi Germany prior to World War II.

We are a neighbor of the Soviet Union, just as France was a neighbor of Nazi Germany. We must learn from history.

The French learned that while there may not be such a thing as total victory in warfare, there certainly are victories, limited as they are, which are preferable to abject and total defeat and surrender.

We wish to keep our young people out of war. The best way to keep our young people out of war is to be well prepared for war, to not only be well prepared in fact but to be so well prepared that in the eyes of the rest of the world we stand ready to defend ourselves and our interests.

If we will do that I think we will lessen the chances of aggression by the other side. If we will do that, particularly in the conventional area, as the Senator from Georgia was pointing out a while ago, I think we will lessen the likelihood that this world could lurch toward nuclear war.

In the 1930's, Gen. Douglas MacArthur wrote from the Philippines to William Allen White:

> The history of failure in war can be summed up in two words—too late. Too late in comprehending the deadly purpose of a potential enemy, too late in realizing the mortal danger, too late in preparedness, too late in uniting all possible forces for resistance, too late in standing with one's friends.

Today, if we want to avoid war, and we do, if we want to keep the peace and discourage aggression, and we do, we must not be too late in showing our constant vigilance and preparedness.

Mr. President, I close where I began. The system proposed before us is not a perfect one. I did not come to the Chamber today to say it will solve every problem that we have in the area of adequate defense for this country. I did not come here saying that it would provide adequate pay scales to retain the senior people that we need to retain, to provide us with all of the skilled technicians that we need. I did not come here to say that it would make up for the deficiencies in hardware and technological development that occurred because we have undercut the defense budget. I did not say that, and I do not believe that.

Nor did I come here to argue about whether or not the Selective Service System or the administration had taken one position one day and another position several days later or several weeks later. I did not come here to defend the administration or to try to pretend that there have not been inconsistencies in the statements and arguments made by the President. There have been. I would be the first to admit that and say that. I did not come here for that purpose.

I simply came here for the purpose of saying let us take one small step toward greater preparedness for this country. Let us take one small step that will not only make us a little more prepared in fact but will help us send a message at least of some force to the rest of the world that we mean what we say in terms of getting this Nation in the position to protect its own interests and keep the commitments which it has made.

And I did come for one other purpose, and that is to say that I do not believe for a minute, and I want the Record to say and I want the people of my State of all ages to know that I do not for 1 minute believe we have reached the point in this country where Americans in any age group feel that they do not care enough about their country that they would object, with all they have gained from this political system and all the rights that have been guaranteed to them, to sign their name on a postal card with their name and address on it. I expect the best of the American people. I have great confidence in them and the young people of this Nation, and I have great hope for the future and as long as I am able to stay here, as long as the people of my State decide to send me here, I am going to try to legislate on the basis of having faith and confidence in them and in their judgment and in their commitment to this political system.

Mr. President, I yield back to my colleague from Georgia at this time.

Mr. NUNN. Mr. President, I thank my friend from Oklahoma for the magnificent and cogent statement that not only relates to this particular measure but also relates to the much broader question of not only the national security of this country but also of the duties and responsibilities of citizenship. I particularly agree with him in his closing remarks. I am confident that the people of our country of every age group, as the Senator from Oklahoma said, realize that we have benefited from this system and we all have some obligation and duty flowing to this system and to our Nation.

So I thank my good friend from Oklahoma for a splendid statement. I thank him for his tremendous involvement, even though he is not on the Armed Services Committee, with national security issues, and he has followed them in detail. I have talked to him on numerous occasions. He is interested in all facets of our national security. He is knowledgeable in all facets, and he is playing a tremendous role in the Chamber and I know that the people of Oklahoma are proud of his representation.

So I thank my friend from Oklahoma.

Mr. President, I think the Senator from Virginia wishes to be recognized at this point in time, and I will be glad to yield to him for such remarks as he may desire to make.

I wish to say that the Senator from Virginia has not just played a vital role in this overall debate, but he has played the vital role because the Senator from Virginia introduced legislation on this subject about a year and a half ago, and it was his legislation, and the legislation of a similar nature introduced by the Senator from North Carolina, (Mr. Morgan), that was the focal point of our subcommittee's deliberations on the overall registration issue.

Of course, we came out last year with legislation called S. 109 that was the outgrowth of the effort of the Senator from Virginia.

He has participated in the subcommittee deliberations. He has participated in the full committee deliberations. He has played a tremendous role in respect to not just the manpower issue or the registration issue but every single phase of our national security.

So I am delighted to be able to yield to the Senator from Virginia for such time and such remarks as he may see fit to make.

The PRESIDING OFFICER (Mr. Heflin). The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I am deeply grateful to my dear friend from Georgia for his very generous and kind comments, and I am pleased to follow his leadership.

Mr. PROXMIRE. Mr. President, will the Senator yield for a question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. PROXMIRE. I simply wish to ask. The Senator wishes to speak on this issue. I have been trying to get the floor for some time. I wondered how long Senators in support of this bill are going to hold the floor? Do they intend to filibuster? If they do I wish to know because I have other plans also. I know they want to delay a vote on this for some reason. But I am prepared to speak any time. I want to have some notion. I was going to follow Senator Boren. If Senator Harry F. Byrd, Jr. wishes to go ahead that is fine with me.

Mr. HARRY F. BYRD. JR. May I say to the Senator from Wisconsin I know of no desire on this side of the aisle to filibuster. As a matter of fact, it is just the opposite. But I had planned to speak this past Thursday, then again this past Friday, and then today. Matters occurred on those previous days where I was unable to get the floor. I wish to speak for about 30 minutes.

Mr. PROXMIRE. Fine. I want to know if the Senator is going to follow someone else in opposition? I wish to know so I may accommodate my own plans.

Mr. NUNN. The Senator said "opposition." The speakers this afternoon have been in favor of the committee bill.

Mr. PROXMIRE. Yes. I get confused on this. By "in opposition," I mean in opposition to the right course, which is to reject the bill. But I understand, I will yield the floor.

Mr. NUNN. I say to the Senator from Wisconsin that I discussed this matter with the Senator from Oregon. I told him we had several speakers. The opponents of this measure held the floor quite a while the last 2 or 3 days. But we had a spirit of accommodation. I do not think anyone has tried to preclude anyone from speaking.

I have two or three additional Senators who wish to speak. If the Senator from Wisconsin wishes to speak after the Senator from Virginia concludes his remarks, I will certainly do my best to accommodate him.

Mr. PROXMIRE. Yes. I will be happy to follow the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I say again to the Senator from Wisconsin of those who support the legislation to require the registration of young men, there is no one who takes that view who desires to filibuster. As a matter of fact, I think he will find most of those who take a position in favor of the legislation will be voting for cloture tomorrow so that the bill will be brought to a vote.

Mr. President, the Senator from Oklahoma made a powerful presentation of the need for the legislation now being debated by the Senate.

Registration is, as I see it, a vital first step in reactivating America's national defense.

I also concur wholeheartedly in what the Senator from Oklahoma (Mr. Boren) had to say a few moments ago about the young people of our Nation. I have great confidence in the young people of our Nation.

I spoke in southeastern Virginia at a high school commencement in a rural county last Friday evening, and I had the opportunity to speak personally with many members of that graduating class.

I came away from Farmville in Prince Edward County, with a very, very good feeling as to the quality, the intelligence, and the will of those young people. I think what I found in Prince Edward County, Va., exists throughout Virginia and throughout our Nation.

Before commenting on the legislation at hand, I want to recognize the sincerity and the great dedication of the Senator from Oregon (Mr. Hatfield). I know how deeply he feels about this subject. I remember some 8 or 10 years ago Senator Hatfield led a very lonely fight to eliminate the Selective Service System and to go to the all-volunteer concept.

I did not agree with the Senator from Oregon at that point, and I do not agree with him today. I have great admiration for his sincerity, his strong convictions, and even though his convictions do not coincide with my own, that fact does not cause me in any way to lessen my very high regard for the distinguished Senator from Oregon.

Mr. HATFIELD. I thank the Senator

Mr. HARRY F. BYRD, JR. I believe that it is important to bring into perspective the debate now underway.

The Senate is debating the transfer of $13,295,000 to the Selective Service System to permit registration of 19- and 20-year-old young men. Not at issue is the authority of the President to register young men for possible conscription. Nor at issue is the question of conscription itself. The existing law, the law which is on the statute books today, authorizes registration. That is existing law. Existing law authorizes the President to register young men.

In 1975, President Ford temporarily suspended draft registration for the then announced purpose of conducting a study of the Selective Service System. President Carter, after his election in 1976 did not resume registration.

On June 19, 1979, the Senate Committee on Armed Services approved S. 109, a bill designed to require the President to resume registration and to make clear that registration should not be suspended indefinitely by Executive action. The vote in the committee in favor of the measure was substantial.

On September 21, 1979, the Senate debated S. 109 and held a secret session to review the worsening condition of manpower in the military services.

In that closed session debate the able Senator from Georgia (Mr. NUNN) presented very important facts to the Senate which, in my judgment, fully justified the enactment of the legislation then under consideration. However, no final action on the legislation was taken at that point.

Four months later, the President, in his state of the Union message, called for revitalization of the Selective Service System through reinitiation of draft registration. On Febrauary 8, 1980, the President submitted a request for supplemental funding to register young men and young women.

The President's statement said:

> I will seek from Congress funds to register American young men under existing law.

He also sought authority to register young women. The President did not seek authority to register young men because he has that authority under existing law.

The important fact is that the President, after 3 years in office, did finally recognize his responsibility to register young men for conscription should that need arise.

I must say this recognition was a long time in coming, but now that the President has acknowledged his responsibility Congress should provide the funds needed for him to execute faithfully existing statute.

I might say at this point that I do not see how any significant hardship is worked on any young American man by being required to register his name and address in order that the Government might know whom to locate and where to locate him in the event of an emergency.

The President's request for statutory authority to register young women is however, another matter. He does not now have that authority, and in fact young women are specifically precluded by statute and regulation from serving in the military in combat.

Registration of young men is intended primarily to aid the efficient drafting of soldiers for combat arms. Since women are precluded by law from serving in combat arms there is no military need to register women.

Women now volunteer for military service and are assigned to most occupational specialties. They make an important contribution to our Armed Forces.

The number of women in the military has increased significantly in the past few years and, for example, only 6 percent of the enlisted skills in the Army are closed to women. But those skills are the combat arms specialties which form the bulk of any Army in the field. Those skills are closed to women as a result of the exclusion of women from combat.

It is precisely in those combat skills, and particularly in the very large number of positions needed to be filled in infantry and armor units, where mobilization manpower is so severely short. It is also in the combat arms skills that peacetime recruiting is most deficient.

Witnesses representing all the military services testified at length before the Subcommittee on Manpower and Personnel of the Committee on Armed Services. Both the civilian and military leadership agreed that there was no military need to draft women. Because of the combat restriction the need would be for men. Women volunteers would fill easily the requirement for women.

An ability to mobilize rapidly is essential to the preservation of our national security. If mobilization were to be ordered in a national emergency, the primary manpower need would be for combat replacements. If the law required women to be drafted in equal numbers with men, mobilization and national seurity would be severely impaired because of strains on training facilities and administrative systems.

Registration of women would not be a prudent step and could cause very substantial damage to national defense. Registration of women would undermine the signal of resolve we can send to potential adversaries by restoring the registration of men. Registration of women, when the need would be for soldiers in combat arms, could cause the entire process to be viewed as a charade with no real substance.

I know that there are Senators who oppose draft registration or who feel that the President's method for accomplishing registration, even of men alone, is a meaningless gesture. I disagree. While I feel that there are clear defects in the President's plan, while I would prefer for the plan to include classification and examination, at least under the President's plan registration is resumed.

And, as I see it, registration is an essential first step. I do not believe it is the last step that will need to be taken, but I am convinced that we live in a very dangerous era. I concur in the President's appraisal of the Russian invasion of Afghanistan. I think that it does present a danger to the free world. And here is an opportunity for the United States to let the world know that it is now prepared to take steps to bring about the registration of young men for military service in the event our country is faced with a national emergency.

To those Senators who oppose registration, I suggest that the proper course is to seek the repeal of the existing law which authorizes registration. Withholding funds from a President who cannot exercise his statutory authority without the funds is, in this vital area involving national security, an inappropriate exercise of the legislative power.

The perception of the United States as a nation with a vacillating and weak national security policy would, I fear, be greatly heightened. In the legislative area, what could be worse at this time in our history than for the Senate of the United States to refuse even this minimum step to improve manpower readiness.

It seems to me that after the Russian invasion of Afghanistan and the humiliation of the United States by Iran, the Senate should understand the importance of taking this first slight step toward resolving and correcting the deplorable personnel problems of our armed services.

In my judgment, the Volunteer Army has not been a success. For whatever reasons, the evidence is clear that morale and discipline in the armed services have declined drastically since the elimination of the draft.

It is disheartening, I think, to learn the personnel attrition figures. I will not do it today, but before this debate is over I want to speak again so that I can cover the subject of personnel attrition in the armed services and the impact of that problem on readiness.

Of every 100 individuals who enter the military services, only 17 reenlist, and more than a third of the total do not even finish 2 years of the enlistment period.

That rate of attrition occurs, I might say, in spite of the fact that many of those who do enlist are given a special bonus for the mere act of enlisting. The bonuses now run as high as $3,000 per enlistee.

A proposal is being made and will be made to the Senate to increase that bonus to $5,000 per enlistee. This sum is over and above, of course, the compensation that the individual receives as salary and over and above other benefits.

Another aspect of the all professional or All-Volunteer Force which is not appealing to the Senator from Virginia is that it does not represent a cross-section of our whole Nation. Unfortunatelv. too many of the enlistees are in the lower economic groups. I do not want to feel that those in that particular group should bear the main burden of defending the United States. I think everyone of us, as individual Americans, have an obligation to our Nation.

I would like to see all young men be subject to the opportunity to be called upon to train themselves for service in the event of an emergency.

Registration is a first step toward solving these larger problems. Frankly, I would prefer to see examination and classification included as part of the President's plan for registration. Examination and classification would greatly increase the effectiveness of registration and might offer an opportunity to recruit volunteers of higher qualification than is now the case.

But I must say that in my view the United States may soon be required to return to the draft for reasons of fundamental national security. The adequate defense of the United States is a matter of too great importance to permit Congress to ignore much longer the dangerous conditions in the all-volunteer force.

The plain fact, Mr. President, is that if the United States had to respond to a major crisis, the Army and Navy would not have sufficient combat manpower in combat units and ships.

The Army would be required to pull soldiers from units scheduled to be deployed at later dates in order to use those soldiers for individual augmentation and replacement in units already deployed.

When the matter of the registration was considered by the Armed Services Committee and by the Subcommittee on Manpower, each of the Chiefs of Staff and the chairman of the Joint Chiefs of Staff testified in favor of registration. Each pointed out the great need which exists today for registration.

I will quote several of these top military leaders.

According to the NATO commander, Gen. Bernard Rogers:

> We only have sufficient personnel for a very small percentage of the combat arms requirement. They would only last for *x* days but *x* is not a very large number of days.

He was speaking then as Chief of Staff of the Army.

The Secretary of Defense, Harold Brown, appearing before the Committee on Armed Services on January 25, 1979, testified as follows:

> I think that Selective Service is not in a situation now where it could meet our requirements should there be a major conflict. It would take too long to register, classify, process, conscript, and so on. For that reason, I believe that we ought to bring Selective Service up to a higher degree of readiness.

Gen. David Jones, Chairman of the Joint Chiefs of Staffs, again focusing attention on the impact of Selective Service deficiencies on existing manpower shortages, provided the committee the following information:

> The manpower shortage is further compounded by the lack of a responsive Selective Service System to meet the mobilization manpower needs of the Services. Since registration is one of the most crucial aspects of manpower mobilization, the establishment of a mechanism which provides for peacetime registration is needed now . . . While registration and initial screening would not eliminate the pretrained-manpower shortfall during the early stages of mobilization, it would decrease significantly the total shortfall.

Mr. President, the other members of the Joint Chiefs of Staff have each also recognized the same serious implication of the current inadequate capabilities of the Selective Service.

Although I recognize that some Senators may dispute the figures involved, according to former Army Chief of Staff, Gen. Bernard Rogers:

> Under the current Selective Service System capabilities, providing the first inductees at M+110 days to start training, newly trained soldiers would not be available to fill and sustain deployed Army units until 7 months after mobilization. In view of the Army's current pretrained manpower shortfall of approximately 500,000 to meet the requirements for the defense of NATO in a major war that starts with little warning, this is a very dangerous situation. Although improving the Selective Service System capability to deliver inductees sooner by establishing peacetime registration will not eliminate the Army's total mobilization manpower deficit or even influence the manpower shortfall in the first 90 days, it will shorten the time of availability to the deployed units of the first newly trained inductees from M+210 to M+110 days.

What he is saying is that it would reduce the time from 7 months to less than 4 months or a reduction of over 3 months.

The present Chief of Staff of the Army, Gen. David Myer, agrees with General Rogers' assessment.

General Myer testified to the Committee on Armed Services that he also believes that under the existing system it would take a full 210 days, 7 months, to get new draftees in the field in the event of an emergency. That period of time obviously is much too long.

Mr. President, the overall seriousness of the Selective Service inadequacy is understood in the Air Force and Navy as fully as it is understood in the Army.

The Chief of Naval Operations, Adm. Thomas B. Hayward, testified as follows:

> Any inability of the Selective Service System to ensure the timely flow of forces to the war places the outcome of our strategy in serious question, and our national security in jeopardy.

According to Air Force Chief of Staff, Gen. Lew Allen:

> The United States needs to have, in being, a system which will provide a continuous inventory of potential inductees for mobilization. That capability does not now exist. The national security risk associated with a weak Selective Service System is significant.

To summarize, Mr. President, there is virtually unanimity among the Nation's top military leaders that the current capabilities of the Selective Service System are not adequate and that, as a result, there is a serious risk to the national security.

All of these top military officers are firm, definite, and clear in that assertion in the public testimony to the Committee on Armed Services. All of them advocate a reinstatement of registration requirements.

I might add my own opinion, Mr. President, that the risk posed by our failure to have an adequate system of registration does in itself assume an ongoing strategic significance that is certainly fully recognized by the potential enemies of our country.

In these circumstances, a failure to reinstate promptly registration requirements would be a grave mistake. It would be a mistake that, in a future crisis, would put in jeopardy the security of our Nation.

Senator Boren, the distinguished Senator from Oklahoma, earlier today termed registration one small step. I think he is accurate in that assessment. It is a small step, but as I see it, it is an essential step. It is an essential first step toward revitalizing our national defense forces and to reinforce our national defense needs.

I am convinced that the young men of our country in overwhelming numbers are prepared to accept the responsibility which comes to all of us in a democracy. That is to be prepared to defend our Nation should it require such defense.

I have great confidence in our young people, and I am also convinced that our country faces a very dangerous and serious threat from the Soviet Union. None of us know what lies in the minds of the leaders of the Kremlin.

I happen to believe that the Russian people as a people are just as peace loving as are the American people. But under the system of government which now exists in Russia there is no means for the people to make their voices felt. Decisions are made by a very few individuals at the top, and none can be sure just what those decisions may be.

I do not know of any Member of the Senate, any Member of the House of Representatives, or any person in the executive branch of Government who foresaw the Russian invasion of Afghanistan. If they did foresee it, they certainly have not claimed such credit.

I think it is the obligation of each of us in these United States in what I consider to be perilous times to be prepared fully and adequately for whatever course of action a potential adversary might be inclined to take.

I am convinced also, Mr. President, that the most serious weakness facing our national defense today is the question of manpower. I am convinced that the all-volunteer military service is not meeting the needs of our Nation and that it is vitally important that our country proceed immediately to enact legislation to provide the necessary funds for registration.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

Cloture Motion

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.J. Res. 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.
>
> Robert C. Byrd, Lawton Chiles, George J. Mitchell, John Glenn, J. James Exon, John C. Stennis, Robert Morgan, Sam Nunn, Jennings Randolph, Ernest F. Hollings, Howard Baker, Strom Thurmond, John W. Warner, John Tower, John H. Chafee, Claiborne Pell, and Henry M. Jackson.

Messrs. NUNN and PROXMIRE addressed the Chair.

The PRESIDING OFFICER. I believe under a previous agreement, the Senator from Wisconsin wanted to be recognized at the conclusion of the remarks of the Senator from Virginia.

Mr. NUNN. Mr. President, I am glad for the Senator from Wisconsin to have the floor. I just want to commend the Senator from Virginia.

Mr. PROXMIRE. I am happy to yield to the Senator from Georgia for that purpose without losing my right to the floor.

Mr. NUNN. Mr. President, I thank the distinguished Senator from Virginia for an excellent statement, for his tremendous work on this matter, and for his leadership, not only in this area of national security, but in the entire field of national security. It is a great honor and privilege for me to work with him on the floor and in the Committee on Armed Services and the subcommittee.

I thank him.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Georgia.

Mr. PROXMIRE. Mr. President, I oppose this resolution. I do it for a whole series of reasons. The fact is that the only data base we have, the only facts we have do not support registration, even say it will not help. We have documentation from the Selective Service System itself that the only study they have made supports that. Last year there was a study by Robert Shuck that indicated there was no case for registration. After that, the executive branch swings into line, but without supporting documentary proof. At that time, Mr. Shuck said:

> We firmly believe that the Selective Service System can develop the capability with the increased resources requested in the President's budget message to Congress without a return to peacetime registration as called for in S. 109.

That was the administration's position, that is what their documentation supports. There is no case, there is no documentation for proceeding with registration at this point.

Mr. President, my good friends on the floor here, who have argued in favor of registration, have really resurrected a strawman. They take the position that those of us who opposed registration are against preparedness, that we want a weaker Armed Force, and that we take the position that if we are not as well prepared, we are less likely to have war.

That is not our position at all. Mr. President. Our position is quite to the contrary. Our position is that the more prepared we are, the stronger we are, the less likely we are to have war. Our position, Mr. President, is that registration will not move us one step closer. It will move us farther away. A draft would certainly move us farther away from having the kind of military force that we think is essential if we are going to be able to command respect in the world.

Mr. President, it is no accident that a man who has as fine a record as anybody who served in Congress in many years, a man who served as President of the United States and was known as a great champion of the Armed Forces, opposes registration. The fact is that former President Ford has come out in support of the position taken by Senator HATFIELD and myself against registration, as Governor Reagan has. Both of them are well known to be in favor of the strongest possible military force, a military force that can command respect throughout the world.

Mr. President, our argument is also based on the fact that if we draft personnel into the military branch of our Government, that personnel will be less motivated, less determined to make a constructive career than if they come in under a voluntary basis. Nothing destroys morale more than to have people in any kind of unit who are there although they do not want to be there. I say that as one who served for some 7 months in 1941 in the peacetime Army. I went in as a volunteer. Most of the people there then were in as draftees. I can tell you that those who were in as draftees did not want to be there. OHIO—Over the Hill in October—was a slogan in a far more disciplined society than we have today. There was more goldbricking, goofing off, and so forth, and detrioration of the Armed Forces compared to what it was before the draft was put into effect. It was much more evident at that time, very evident.

Mr. President, there is no substitute for paying people to do a job. I suppose we could make an argument that we could reduce the cost of our whole Federal Government by drafting everybody, everybody we need to work in the Federal Government. We have 2 million employees, something like that. Draft them all. Why pay them? Cut their pay in half and draft them.

We could do that, I suppose, in our industry in this country. We need sheetmetal workers, we have a shortage; draft them. Force them to learn.

Obviously, if you have that kind of system, it is not free. What we are asking for here is that we draft a tiny, tiny percentage of our Armed Forces, let alone a small percentage of our country, and require those people, against their will, to serve in the military. Any military commander will tell you that he has enough trouble getting discipline in these days, with the kind of undisciplined society we have. If you move people in under those circumstances, it is going to be a very, very difficult operation.

Mr. President, there is another element here that I think too few people have paid attention to. Yes, it has been difficult to get people to go into the military for two reasons: One is that we do not pay them enough. That is true of any kind of endeavor. You are not going to get people unless you pay them. The other is that at the end of 1979, we had a higher proportion of people in our country at work than at any other time in our history—not just more people, but a higher proportion.

It is clear that when jobs are plentiful and opportunity is substantial for our young people, they are going to take a job that pays more, a job that is easier, a job that lets them stay in their community, a job that is more pleasant. So, in 1978–79, these were tough years for a volunteer Army that did not provide adequate pay. Mr. President, we have had in the last 2 months the biggest increase in unemployment in the history of this country in any 2-month period—an increase in unemployment of over a million-and-a-half people. When you have that kind of situation, it is an entirely different ball game.

I have a nephew who is going in the Army this year. He is proud to go in; I am proud of him because he is going in. He is going in not because of any draft threat, but because he wants a military career and he cannot get a job elsewhere. I am sure there are tens of thousands of young people like that, far more than last year, because the unemployment rate is greater.

Look at the incidence of people who go into the military force and put that on the basis of the number of unemployed, and you will find quite a coincidence. The fact is that economic conditions in this country should not be ignored.

There is every indication that unemployment is going to increase. The consensus among the board of economists that Time magazine has indicated that, at the end of this year, there will be about 9-percent unemployment. The Federal Reserve Board, which has a very competent group of economists, estimates that all through 1981, unemployment is going to increase. We all hope and pray that will not be true, but in the short run, that is the outlook.

In the long run, Mr. President, as in everything else, you get what you pay for in this world. If you do not pay people, you do not get competent people. Of course, we do not have the kind of personnel we would like in maintenance in the military when we do not pay them enough. We have some marvelous people, dedicated people, hardworking people. Many of them are on food stamps. Some of them cannot afford to marry because they are not paid enough. We are treating them like second-class citizens. It costs money to correct that.

Mr. President, it is the best kind of investment we can make. It will cost a lot less money, believe me, than to follow a policy of drafting people against their will into the Army, Navy, and Air Force.

I think people also fail to recognize that we no longer have the kind of military we had 30 or 40 years ago. We are always fighting the last war. Most of the 16 million people who served at one time or another in the Armed Forces in World War II remember the kind of Army it was. It was Army, Navy, and Air Force that was beginning to become more technological, but nothing like it is today. We need today people who can learn a skill—operating a tank, a plane, a missile, maintaining tanks, planes, and missiles. Providing the kind of competency and skill you need in a modern Army takes time. You do not want somebody who comes in as a raw recruit, give them 6 months or 2 years of training, and lose them. Certainly, in a draft Army, that is what happens.

The same thing is true, Mr. President, of the argument that we need registration in order to build a stronger Reserve Force or a stronger National Guard. I am very proud of the fact that we have one of the best National Guard and Reserve operations in Wisconsin of any State in the Union.

We have come very close to 100 percent of our manpower needs in our State. It is one of the very few States able to do that. We have a superb record, that goes back more than 100 years, of patriotism and of performance under fire by the Wisconsin National Guard, in the War Between the States, in World War I and in World War II.

It is a great and wonderful record. We have been able to maintain it because of good morale, because of the use of incentives. But we are told that if we maintain that record in the future and, certainly, this is true in every other State—Alabama, Mississippi, Georgia, and the other States—we have to pay people well enough so they will want to go in.

I predict in the next year or so, if unemployment is high and the opportunities continue in the Reserve and the National Guard, they will have a far better record, whether we have registration or not, because that is the way our economic system works. People will move toward the greatest opportunity. We should not have to depend, in the military, on a draft that compels them to move in and not a pay and a working condition situation that encourages them to do that.

DRAFT REGISTRATION: GOOD MILITARY POLICY OR AN EMPTY SIGNAL

The Draft. Those two words conjure up memories of campus unrest, draft boards, the Vietnam war debacle and, sadly, the flight of many of our young people over the Canadian border during the 1960's and early 1970's. Well, the President has not requested that we go back to the draft—but he has asked the Congress to put up $13.3 million of money to start registering 19- and 20-year-olds—those born in 1961 and 1962—for the draft this summer and 18-year-olds next January. And the reaction has been predictable.

Letters have been pouring into my Washington and Wisconsin offices at a fast clip, with the overwhelming majority of constituents opposing the administration's plan to register our young people. And for good reason. Setting aside the emotional and moral issues, the administration has just not made the hard case to justify the reinstitution of draft registrations and I am unconvinced at this point that registration is essential. After many months of study, hearings, and debate—I concede the Armed Services Committee had the lion's share of that, although we have had some before my committee which is responsible for this resolution—here is what the record shows.

THE PRESIDENT'S PLAN

What is the President asking our young people to do? The President's draft registration plan calls for the U.S. Postal Service to undertake the task of face-to-face registration. This summer young men ages 19 and 20 would be asked to go to their local Post Offices to register. There they would fill out a simple form with their name, address, date of birth, and social security number.

The forms would be checked at postal windows to insure that they are legible and complete and then sent to the Selective Service System where the information would be entered into computers. Then the registrants would get a letter acknowledging their registration and asking that Selective Service be kept up-to-date on any change of address. In January 1981, all 18-year-olds would be asked to register, and so on every year.

Under the President's revised plan, women would be exempt from registration and no classifications or examinations would be made upon registration of our young men.

The process is fairly simple, but the plan behind the process is full of holes and false assumptions and lacks the supporting evidence to support a return to peacetime draft registration in the absence of a national war emergency.

WHAT WILL PRE-MOBILIZATION REGISTRATION BEFORE WAR, BUY US?

Not much in terms of time and improvements to our current and future military manpower mobilization capabilities. A draft registration before a war is declared will do virtually nothing to enhance our national defense posture. According to the Selective Service System's own estimates—these are not mine, they are the Selective Service System's—as contained in a draft report prepared on January 16, 1980 by the Director of the Selective Service, registration before a war, as proposed by the President, would save only 7 or 8 days in a crisis over a registration held after a national war emergency was declared. Post mobilization registration.

Mr. President, that overlooks the fact that in every emergency we have ever had we have been overwhelmed by volunteers—World War II, World War I, name the emergency we faced—our volunteers have come forward by the hundreds and hundreds of thousands.

Mr. President, the Department of Defense military manpower mobilization requirements call for the first inductions of young men within 30 days after mobilization, 100,000 inductions by 60 days after mobilization and 650,000 inductions 180 days after mobilization. The Selective Service draft report concluded that a registration conducted after war was declared would exceed the DOD requirements with room to spare—first inductions by 17 days, 100,000 inductions by 33 days and 650,000 inductions by 124 days, and would be only slightly less responsive than a registration conducted before war, as proposed by the administration.

That is after war, that is if we do not pass this resolution, then we would have more, as I say, than needed with room to spare.

The Director of Selective Service went on to say in the same draft report that—that is if we refuse to pass this and we stand by what we have now—

> The post-mobilization option should substantially exceed Defense requirements, employs the fewest number of full time personnel . . . costs the least . . . and that the reduced delivery time provided by the other options is redundant and unnecessary

Add to this the Selective Service System's own estimate that premobilization registration is more than 2½ times more expensive than post-mobilization registration and it is clear that we are being asked to buy a package deal that is no bargain and the President's plan does nothing to enhance our ability to meet Defense Department mobilization requirements.

Furthermore, the Selective Service is not the only Government entity to conclude that postmobilization registration is the most cost effective and desirable option available to improve the emergency capability of selective service. The Congressional Budget Office reached similar conclusions in a study done for the House Armed Services Committee back in November of 1978—a study whose findings are still relevant.

Mr. President, there is not any study to show to the contrary, or assertions by people favoring this resolution, those who want registration and to go ahead with the draft and be in a position to do it. There is no documentation. Not only did the CBO indicate that a postmobilization option would meet all of the Defense Department's induction requirements, it pointed out major deficiencies in the Selective Service System's capabilities that raised serious doubts as to whether the agency could effectively implement any mobilization plan. And concern about the Selective Service System's ability to implement the President's plan still appear to be just as valid today.

WILL DRAFT REGISTRATION IMPROVE OUR MILITARY MANPOWER CAPABILITIES?

No way. And nothing the administration has told me to date convinces me otherwise. Registration—whether it be the President's plan or post-mobilization registration—will have no effect on the personnel needs of the current volunteer Armed Forces. Although I firmly believe in the All-Volunteer Army, the problems that we do have in retaining skilled individuals in the armed services and attracting quality soldiers into the Reserves and National Guard will not be affected one bit by draft registration. Draft registration will not add one GI to the Volunteer Force.

(Mr. TSONGAS assumed the chair.)

Mr. PROXMIRE. Mr. President, this is exactly why I say that this registration is counterproductive. It gives us the notion that we are solving the problem. The word will go out that we are making progress, and we do not have to worry so much about paying people adequately to get and keep competent people.

What about backing up our front line forces in Europe, the administration might be asked? Well, as we all know, the first line of backup for our standing Army and NATO forces overseas is the Reserves—not draftees. Draft registration does nothing to improve our ability to assist during the critical first 90-day period after mobilization in the event of a conventional land war in Europe when our armors and infantry forces will be severely tested by the Soviet army, artillery, armor, and air power. Draftees must be trained, equipped, and put into functioning combat units before they can be thrown into the breech of combat. That would take at least 90 days, probably more, because we have a far more complex and technical operation now than we have had in the past. As the Nation mobilizes for war and industry tools up for wartime munitions and armor production, we will be relying on our Reserves—not our draftees.

In addition, the Department of Defense testified before the House Appropriations Committee recently that it will have, only 70,000 to 80,000 training slots available for new soldiers at the end of 30 days after war has begun. The DOD also said that it would not have training slots available for the 650,000 inductees produced by either plan at 117 and 125 days after mobilization. Therefore, both pre- and post-mobilization draft registration plans produce more inductees than the armed forces can absorb in the first months after war begins.

This is insanity. We are going ahead with a program that costs millions of dollars and will do nothing for us. This is not simply my documentation. This is the documentation of the Selective Service System.

Also, the training slots that the Defense Department plans to have available by 30 days are for both volunteers and draftees. During the Vietnam war, there were 20,000 volunteers per month. In today's Army, there are over 30,000 volunteers per month. In the 60 days following the attack on Pearl Harbor, over 300,000 Americans volunteered. So the speed at which mobilization proceeds will be largely determined by the availability of training facilities, training staffs, and stockpiled equipment—not by draft registration. Until these support systems are in place and our training base capacities expanded, draft registration will remain a hollow gesture.

That is no message to the Soviet Union. They understand that better than most American citizens.

So why all the fuss and feathers by the administration for a peacetime draft registration? Their answer? "Send a signal to the Russians to show that we mean business." Well, my friends, the Soviets may be a lot of things, but they are not stupid. They know the difference between a real and an imaginary threat. Draft registration provides no military capability. It is an empty threat and the Russians know it, as Martin Anderson said in a February 3 Washington Post article.

> The Soviets are fully capable of distinguishing between the military capability of computer lists as potential additions of young, inexperienced draftees and that of a significantly strengthened reserve force. They will view registration more as a stamping of our feet than as a shouldering of arms. And they will act accordingly.

Finally, proponents of peacetime registration argue that by establishing a computer file of names and addresses of 19- and 20-year-olds this year and 18-year-olds next year, there will be less confusion later on if a war breaks out.

Who are we trying to kid? The 18–20 year old population is among the most mobile in the Nation, and the administration has virtually no program to monitor or enforce registrants to keep their addresses current. In the event of war, the Selective Service would use its registration list to send induction notices to 20-year-olds, the age group subject to earliest induction. But when Uncle Sam calls, Johnny probably will be somewhere else. The Selective Service itself estimates that 25 percent of registrants will move each year and that half of the addresses given at initial registration will be obsolete after 2 years. The $13 million is just down a rathole. Speaking of confusion, imagine what will occur when hundreds of thousands of induction notices arrive at old addresses during a period of emergency mobilization.

On the other hand, one of America's great success stories in past history has been its ability to rapidly mobilize for war and register millions of men in a matter of days. When America entered World War I, how many people do you think were registered the first day? Some people might say that they might have registered 50,000, 100,000. Ten million were degistered the first day, in 1 day, June 4, 1917. In World War II, on October 16, 1940, how many were registered? Sixteen million men, in 1 day. If Americans were called upon to meet the call of their country in time of another international military emergency, there is no doubt that our young people would volunteer in substantial numbers to serve America in its time of need.

Mr. HATFIELD. Mr. President, this afternoon we have heard a great deal of comment made by the proponents of the registration system. I think it is very interesting to note that in each and every case, I might be mistaken maybe by one or two, not more than that—every Senator speaking today supporting the registration, has readily admitted that it really does not answer the basic problems that we now face in the military personnel picture.

The best they can make out of their case is that it is one small step, one important small step toward the establishment of the draft.

This has been one of the great problems we have faced in this whole debate. It has been that we are really not dealing with the primary issue, which is the draft itself. We are dealing with a procedure that will be the harbinger of the draft and the first step necessary to the return of induction.

But I am very delighted to know that at least we have had a fairly forthright statement made by the proponents of the registration that, behind this measure pending today is their desire for the draft. That is their target. That is their goal. It is the draft itself.

We have heard it said today that in Oklahoma overwhelmingly the people support the draft or registration.

Our good friend from Oklahoma today, Senator BOREN, said when he goes on to college campuses of Oklahoma, they overwhelmingly say, "We want the draft," or "We support the draft."

I say to my colleagues I can only say if the students at the universities of Oklahoma are so anxious to be in the military, they can volunteer now. They do not have to wait around for the draft. They do not have to wait around for registration, if they are so anxious to get into the military service of their country, which is a noble service, why do they not go down and enlist now? Why do they not give of their voluntary effort now?

Oftentimes it is awfully easy to be for something in theory, especially in a university setting knowing full well that if we reestablish the draft system we would, in all probability, have student deferment, as we did before, so they would escape that requirement.

I am not saying that students in Oklahoma would not respond like that. They may. But let me say that if they do they are certainly far different from the students in my State of Oregon.

I recognize that Oregon has led the Nation in so many things. Maybe we are just so far out front that the other States have not caught up yet. I do not know.

But let me just indicate here a very interesting contrast of statistical data.

The Governors Commission on Youth wrote me a letter on May 7 of this year, 1980, and it indicated that each biennium the Governors Commission on Youth conducts a survey of the opinions of junior and senior high school students, and they posed in this particular survey the matters relating to war and they say:

> Our students are deeply concerned about the possibility of war. When asked to list the greatest problems facing themselves and the nation, 65 percent listed the chance of war. Sample comments included "Worried about getting drafted and killed." "War I am afraid of." "We should have a chance to live."
>
> "Perhaps the greatest significance is the fact," and I am quoting from this statement, "that about 75 percent of the 17 and 18 year old men say that they would volunteer for military service in the event of a national emergency, that they would volunteer. About one-third of the women in the same age group said they too would volunteer."

But, Mr. President, on the other hand, 86 percent of these same students in the State of Oregon said they did not favor a law that would require peacetime registration for either military or national service.

This illustrates the very point that I have tried to express here in the last number of days, and that is that our young people are patriotic. They do not believe they have to sign up on a registration form to prove their patriotism.

I do not think that should be the litmus paper test that somehow we are going to measure patriotism by how you enthusiastically send in your registration for the draft.

But not only are our young people patriotic but they are very perceptive. They clearly view the world situation because they are so intimately involved not only as it relates to their future, but to their career future as well, and they are very perceptive as to the situation in the world as to whether or not America should risk a nuclear war in the Persian Gulf under the Carter doctrine in order to "secure a raw material or resource that can be replaced by conservation and development of alternative fuels program."

No, and I would say a hardy no as well. They would say no as to whether they are willing to give their lives for that purpose.

So, consequently, I believe that when we talk about patriotism, we have to recognize that it is in the hearts of our young people and all others as well, and if America is to be threatened, if America is under dire threat, as in the case of World War II and in the case of other wars in which we have been involved where there was a great and a very definable threat to America, there would be no doubt in my mind that the volunteers would pour out of the homes and the schools of this country and register, enlist, and offer themselves to defend their Nation.

I stated the situation before out of personal experience, and I will state it again. That was exactly what happened in my generation. Most of us had not been able to finish the college or university in which we were involved when President Roosevelt declared war, but we recognized that when Pearl Harbor was bombed that was a threat to America and we were willing to put aside our educational pursuit and to offer ourselves in the defense of our Nation. Three hundred thousand within 2 months poured out of the schools of this Nation and enlisted and offered themselves to serve their Nation in military uniform.

That would happen again if we had a definable, clear threat to this Nation, but I will tell Senators the memory of Vietnam is too clear in the mind of our people today to be suckered into another situation where we give the President the power to draw on a manpower pool under a peacetime draft.

As I have said many times and would say again, because obviously there may be a need in the minds of some for clarification, there are many of us throughout the history of this Nation who have opposed a peacetime draft.

This speech that I have given in the Chamber and these expressions that I have given in the Chamber have been given in this Chamber for the full length of the history of the Republic.

One of these days I shall place in the RECORD if not read it, the great speech by Daniel Webster which rang forth from the Halls of the Senate and is one of the great speeches, which he in his eloquence cited the totally contrary philosophy to the American system as embodied in the draft, peacetime draft.

I have quoted before again one of the great Senators, again one of the five Senators portrayed out here in our reception room, Senator Robert Taft of Ohio, when he stood in this Chamber and condemned the draft in terms like facism and communism.

No, this is not a new idea. These are not new arguments that we are hearing on either side of the question. These arguments have been stated in the Chamber for many generations, and it is just our time to restate the argument in this generation.

It is always interesting that the ones always arguing, debating in the Chamber are not the ones who will be drafted. We are arguing the case about people out there beyond the Halls of this Senate. We will be immune unless we are in an all-out war and then we are all in it. Then people raise that academic question, Would there be a peacetime draft in the case of world war III?

It is like arguing the point of how many angels can dance on the head of a pin that the theologians used to raise when they got bored with other issues.

The question, of course, comes down to the fact that we are all drafted in a third world war. Maybe they should start with the Senate. Maybe they should start with 50-year-olds. If we put them up as the first ones to go I wonder how excited the debate would be then?

But the point is simply this: In case of a third world war the whole Nation would be involved. Everyone would be drafted. Of course, there would be a draft. There would be no question, there would be no argument. It is not a matter of whether you are for a peacetime draft versus a wartime draft. Those of us who oppose a peacetime draft, of course, would support a wartime draft. It would not be a matter of option. It would be an utter and complete necessity.

Now, let us not also forget, Mr. President, that the underlying issue of this whole debate is what are we being registered for, what are we being drafted for. The simple answer to that is not national defense. The answer is war. Let us distinguish. The constitutional fathers had a very interesting debate and that was on the need for the State militia, the need for a standing army.

I would not have been here on this floor supporting the pay increase bill for the military if I did not support a strong military. I would not support improvements in the Reserves, in the National Guard, and all the other components of our military organization if I did not believe in the necessity of a strong military.

But in a case of an emergency you do not organize a draft to meet the emergency. You call up the Reserves. That is what the Reserves are for. So the impression, the illusion, is somehow in the event of an emergency we stand bereft of any kind of additional supplemental manpower and, therefore, we have the draft in order to supply the manpower for that emergency.

Well, the military itself has not asked for it in the sense that they have said they need 30 days in the worst case scenario of an international event in order to have the first draftee ready for training.

Thirty days is their time frame. The Selective Service System says they can do it in 13 days. I am willing to give them $4.7 million more to let them do it in 17 days.

Registration is not necessary. It does not enhance our military stature today. It is an expensive, futile effort to try to develop a meaningless list of names. The proponents themselves admit that it does not solve nor does it even address those problems we have today in military personnel, of losing the technical and the skilled people within the military because of noncomparable compensation and other factors.

So what are we drafting for, what are we registering for? I think when we look at the rather weak and thin argument given by the White House, our Commander in Chief, he could develop no better argument to appear before our committee than to say that he wanted to send a symbolic message to the Russians. showing the kind of strength America has behind his foreign policy, that we are not going to stand and be disinterested in Russian adventurism and provocation.

Well, Mr. President, I predicate my statement, as I have in the past, on the fact that I do not claim any gifts of prophecy. So when my friends asked me if I could foresee the future when I was the only Governor to vote "no" on the Vietnam catastrophe in 1965 when 72 percent of my State by a poll indicated their support for Mr. Johnson's war, his policy in Vietnam, of course, I did not have any answer.

But I have read a little history and I am hoping that all my colleagues will take the time to walk over to the Russell Office Building where in the rotunda of that Russell Office Building they can see an exhibit brought to us from Hiroshima, Japan. We too easily forget, or fail to recognize, the necessity of reading our history.

We are not sending any kind of message to the Soviet Union that is a meaningful one by calling for registration, because we have set into action a vehicle that will cause more dissent in this country, more division. If people do not believe it they have not been back in their constituencies or they have not recognized the diversity of the constituencies of this country. When they come and tell us that their constituency is wholeheartedly behind the registration, let me say, there are other constituencies that I know of that are not, and those constituencies will increasingly become vocal on that issue, and that is the kind of a message we will be sending to the Russians.

People will say, "Why didn't someone tell us what a wrong step this was?" There is no pleasure, at any time, in anyone's heart who is serious about this issue, to be gained by saying, "I told you so" after the fact. I want to be proven wrong on that type of thing.

But let me tell you, as I stand here today, I believe with all my heart that we will have colleagues on the floor of this Senate expressing dismay and concern about the divisiveness that has been created in their constituency or other constituencies in this Nation of ours if registration goes through and the requirement is made of these 19- and 20-year-olds to register for the draft.

My views do not come through any prophecy or any kind of crystal-gazing. It is just a matter of listening to the people, and of reading what has happened in the past. We should have had a fair indication of what the reaction of the people in this Nation is to a draft when Mr. Lincoln himself had to face the riots in New York City and in other major cities of the North, even in time of Civil War.

So let us then be very careful about what we do, not only in terms of the immediate question, but the full impact that it has upon our young people, upon our people as a whole, and upon the world, and about what kind of message it is that we are really sending to the Soviet Union.

I believe in our young people, and I believe we have no need to be concerned that somehow they are not interested in defending this system of government The only problem is they are not willing to go out here and defend the oil companies or their interests or the oil profits, and all the other things we are told are in our national interests in the Persian Gulf.

What is our national interest in the Persian Gulf? Oil. That is what our interest is. We can replace that, we can replace that with conservation; we can replace it with alternative systems. We do not have to be about the business of sending our young people out to maintain the status quo of our economic investments.

Is that turning tail and running from the Soviet Union, Not at all. I have not lived this long to believe that the only way we show our macho is by raising the threat of our megatonnage in the face of the world, in a threat to peace.

Mr. President, I believe that as far as this side of the issue is concerned, we are ready to rest our case for this day and are ready to undertake the mission again tomorrow. If my colleague and friend from Georgia, or the Senator from Mississippi, has any other views about the time frame in which we are operating, I would be happy to hear from them.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we have had, I think, another day of very interesting debate. There have been a good many points made on both sides.

Just summarizing my view, I am very hopeful that we are going to be able to reach a conclusion on this matter this week. I think that it is a matter that has been debated for a long period of time. We had lengthy sessions on it last year. although we did not come to a vote on the Senate side. The House side did. We have had a good amount of testimony in both the Armed Services Committee and the Appropriations Committee. We have S. 109, which has come out of our committee, calling for registration. We have the President of the United States, the Secretary of Defense, and the Joint Chiefs who have all endorsed this.

I believe that it is a necessary and significant step to improve our national security. I do not believe that it will cure all of our problems. I do not believe it will cure all of our manpower problems. It is not going to solve the problem of retaining skilled people. It is not going to solve the problems that are developing in terms of the quality of the Reserve.

It is not going to solve the recruiting problems, although indirectly I think it will help by serving notice on the people of our country that we do have a serious manpower problem.

So it will not, in any way, cure all the problems we have. Certainly it will not automatically make the world a safe place to live in.

It does, though, take a significant step, a significant step militarily and a significant step psychologically. It puts us in a position and it serves notice on our allies and our adversaries that we would be in a position and intend to be in a position to better fulfill our treaty commitments and to better protect our national security.

I believe everyone who has listened to this debate realizes my view on this subject and I will not go into it at length at this late hour of the afternoon.

But today, Mr. President, we cannot mobilize; we cannot adequately mobilize. We do not have the kind of conventional posture—that is, nonnuclear posture—that gives us the flexibility that we need to defend this Nation and to carry out our treaty commitments.

Perhaps this body will decide that the status quo is acceptable. If the body decides that, then I think we are obligated to begin reexamining some of our commitments and taking a serious look at the treaties that we have signed, because you have report after report demonstrating, without any doubt, that we cannot mobilize and if we did try to mobilize we would not be able to generate the number of people we need in the time frame needed.

And when you recognize that we already have serious deficiencies that would develop within the first 90 days—that is, that we would be something like 50 percent short of the necessary people in the infantry, we would be something like 30 percent short of the necessary people in artillery, and we would be something like 65 to 70 percent short of the necessary people in armor, the three combat functions that are absolutely essential. And that would all occur before 90 days.

And then when you recognize, because of the absence of a Selective Service System, the problems which would already be overwhelming would then become completely unmanageable because, from that point until about M-Day plus 210, we would have even more serious problems, even more serious deficiencies.

So the Senator from Oregon and I have a fundamental difference on this question, although I have tremendous respect for him. We have a fundamental difference in the perception of whether this Nation needs to be able to have a strong and a ready conventional deterrent.

I do not wish to belabor the point that we debated earlier today, but I am not willing to accept the fact as a fact that this great Nation cannot provide the flexibility to deter war at every level. Certainly no one wants a nuclear war.

One of the ways to prevent a nuclear war is to prevent an escalation taking place from a conventional war. One of the ways to prevent a conventional war is to be prepared to fight one. We simply are not prepared to fight the kind of war that we would need to fight if we were not going to be in a position of either not honoring treaty commitments or being the party to have to turn to the early use of nuclear weapons or other weapons.

Mr. President, I will have more to say on this subject tomorrow. We have an important vote coming up tomorrow.

UP AMENDMENT NO. 1127

(Subsequently numbered amendment No. 1886)

Mr. NUNN. Mr. President, while I have the floor, I would like to send to the desk—and my friend from Oregon is here in the Chamber—an amendment. This is an amendment to the committee amendment. I would very much hope that we will be able to reach a vote on that amendment at some point in the morning. Mr. President, I ask that that amendment be reported by the clerk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia proposes an unprinted amendment numbered 1127:

On page 2, line 11, strike out "registration form" and insert in lieu thereof "form used for classification."

Mr. NUNN. Mr. President, I have just a brief explanation of this amendment.

I will have a "Dear Colleague" letter going out on this amendment tomorrow. This addresses the committee amendment to House Joint Resolution 521.

The committee amendment is misleading. Particularly, it is misleading to those who are truly conscientious objectors and it invites massive abuse of the registration system. I believe conscientious objectors should be able to register their views, but it ought to be at the appropriate time. The appropriate time is on classification not on registration.

We are not providing for classification in this appropriation measure. The President has the right, under the law, to classify, but we have certain exceptions. Conscientious objectors are among those exceptions if they do it at the proper time and proper place.

Having them sign a form, together with registration, stating they are conscientious objectors would be misleading, because it would have absolutely no validity in law. It would make no difference in terms of their obligations.

There is not now, under this bill, provided for any kind of funding to allow that kind of classification to take place. The appropriate time for a person to become known by his own or her own choice as a conscientious objector is when we have a classification system.

I anticipate that we will be talking about classification in the future. Certainly, I believe the law should be updated. I think my friend from Oregon and I could agree on that point.

So this amendment to the committee amendment is intended to perfect and make more realistic and meaningful the committee amendment. I do hope my friend from Oregon will allow us to vote on this at some point tomorrow morning.

Mr. President, if the Senator from Oregon would like me to yield at this point, I would be glad to.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. HATFIELD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is the amendment by the Senator from Georgia to the committee amendment.

Mr. HATFIELD. Mr. President, if the committee amendment and the amendment to that amendment by the Senator from Georgia is the pending question, under what circumstance can that be brought to a vote?

The PRESIDING OFFICER. The question would be put on the pending issue when no other Senator wishes to speak.

Mr. NUNN. Will the Chair please repeat his statement?

The PRESIDING OFFICER. The question will be put to the body at such point as no other Senator wishes to speak.

Mr. HATFIELD. May I inquire further?

The PRESIDING OFFICER. The Senator may proceed.

Mr. HATFIELD. Is there any difference between the time it is put to the body on what would be an intervening cloture motion for a vote, if cloture were invoked? What would be the status change of this amendment to the committee amendment before or after such cloture is voted?

The PRESIDING OFFICER. There would be no change in the status except that the factor of germaneness would come into play if cloture were to be invoked.

Mr. HATFIELD. Is the amendment germane?

The PRESIDING OFFICER. The Chair will wait for a ruling from the Parliamentarian.

The Chair will state that the amendment by the Senator from Georgia is germane to the committee amendment. However, the committee amendent would not be germane.

Mr. HATFIELD. Mr. President, a further inquiry. If cloture is invoked, does the amendment to the amendment fall with the committee amendment?

The PRESIDING OFFICER. The Senator is correct. It would fall.

Mr. HATFIELD. As I understand it, if we are to have a vote on the amendment to the amendment that has been offered by the Senator from Georgia, it would have to occur before cloture is invoked.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. A further inquiry, Mr. President. Does the Chair have discretion to apply the question of germaneness after the invocation of cloture?

Mr. NUNN. Mr. President, will the Senator repeat that last question? I did not hear it.

Mr. HATFIELD. The question was, Does the Chair have discretion to apply the germaneness rule after cloture is invoked?

The PRESIDING OFFICER. The Chair would not have discretion. The Chair would be bound by the rules of the Senate.

Mr. HATFIELD. By the rules or by precedents.

The PRESIDING OFFICER. By both.

Mr. HATFIELD. I thank the Chair.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I believe that the United States must maintain a strong national defense posture, including the ability to mobilize hundreds of thousands of men and women on short notice in a genuine emergency. We rely not only on our Active Duty Forces of some 2 million people, but also on our critically important Reserves, which now number over 800,000. In the event of a major and prolonged conflict, however, we may need to acquire and train hundreds of thousands of additional men and women for military service.

That is what this peacetime draft registration debate is all about—whether or not our wartime requirements make a peacetime signup of young men necessary now.

We are not—or should not be—debating the strategic nuclear balance, or the conventional weapons balance, or the adequacy of the All-Volunteer Force, or the strength of the Reserves, or the appropriate level of military pay and benefits. Those are all important issues, probably even more important than the pending question of registration, but they are separate and distinct from the matter of registration.

Mr. President, I agree with those who say that we must improve our plans and capabilities for full-scale mobilization, even though the likelihood of another World-War-II-type conflict is remote. I also agree with those who complain that our current, in-place plans for registration are inadequate.

But those deficiencies can be remedied without peacetime registration. In fact, registration is a divisive diversion from needed efforts to strengthen our defenses, a mere symbol of preparedness with little if any substance for combat-ready capability.

Mr. President, I believe we can and should revitalize the Selective Service System and improve our standby capability to mobilize our forces if and when they are actually needed.

We need an effective standby system, we do not need peacetime registration.

As a member of the Armed Services Committee, and of its Military Manpower Subcommittee, I understand and respect my colleagues who, looking at the same evidence, we have reached differing conclusions. We agree, I think, on the need to improve our current capabilities, although we disagree on the contribution which peacetime registration can make toward this goal.

Time and again in recent years, our military manpower experts have testified that we could meet our crisis requirements without such registration. The Secretary of Defense, the Assistant Secretary of Defense for Manpower, the Director of Selective Service, and the Congressional Budget Office all reached the same conclusion, prior to the President's decision to request funds for registration. A study done last January by the Director of Selective Service said that prior registration would speed up the start of induction and training by, at most, 7 days. That same study called peacetime registration "redundant and unnecessary."

Mr. President, I do not believe we should waste taxpayers' dollars on redundant and unnecessary Government programs. I do not want to see our Nation polarized by this issue, or confronted with the problem of dealing with those who may refuse to register. I am troubled by the prospect of a lengthy and contentious national debate on registration, when what we need is unity and consensus on strengthening our national security.

We can improve our defense posture by concentrating on the "Three R's"—readiness, retention, and Reserves. These are far more serious and important tasks than the "Fourth R" registration.

Mr. President, there is abundant evidence that both postmobilization registration and premobilization registration can meet our stated military requirements. While some may consider the 7-day advantage of a prior signup important, I do not believe that it would be significant in practice. None of the personnel would be trained or available for combat for another 3 to 4 months.

Volunteers would likely show up in large numbers, perhaps even overwhelming our training capacity. In 1917, thousands of volunteers had to be turned away. Our current contingency plans, however, assume no additional volunteers, and thus they exaggerate the potential value of peacetime registration.

The 7-day headstart depends on congressional action to restore the draft on the first day of mobilization. Until both Houses of Congress consider and vote on conscription, the President has no authority to induct the registrants. Renewing the draft is not a simple legislative act, however, since we would have to spell out procedures and exemptions for fairness, as well as penalties and other provisions.

Frankly, I think that it is every bit as reasonable to assume that there will be large numbers of volunteers, thus offsetting any advantages of prior registration, as to assume that the Congress would act hastily to resume conscription. If the Nation is unified and truly threatened, we will act quickly whether or not there has been prior registration.

On the other hand, Mr. President, we must avoid placing to much faith in peacetime registration. The proposed system would rely on addresses 2 years old—since plans call for registration at 18 but conscripition of 20-year-olds first—which may or may not have been voluntarily updated. This bill does not provide for any mental or physical testing, or any other effort at classifying young men for service. Thus, we cannot be sure that the millions of names in a computer give us any greater security than the more effective standby emergency plan which I support.

I believe we can show our determination and send a signal to any adversary if we concentrate on readiness and retention and the Reserves, and if we strengthen our capacity for mobilization without peacetime registration.

Mr. LEVIN. Mr. President, I oppose House Joint Resolution 521. Before detailing the basis for my opposition to this resolution, I want to pause and pay tribute to the distinguished Senators from Oregon and Georgia who have been so involved in the debate on this issue. I want to congratulate them on both the spirit and the substance of their presentations. In spirit, I believe they have demonstrated again that disagreements can be deep, they can be genuine, but they need not be personal. Neither has sought to impugn the motives of the other; neither has attempted to suggest that the other side lacks an interest in or concern for the best interests of the Nation; and neither has indicated anything but the highest regard for the loyalty and intelligence of their opponents.

No matter what the outcome of this debate, I think that the spirit of the argument has done much to indicate to this country the way in which decisions should be reached and the way in which disagreements should be managed. In terms of the substance of the arguments that have been presented, I want simply to indicate that despite the length of the speeches which have been made, they have consistently been germane to the topic under consideration. The Senate has been educated, the country has been informed—and that means that the participants in this debate have done their jobs no matter what the outcome may be.

Having said that, let me indicate the basis for my opposition to this proposal. As a member of the Armed Services Committee, Mr. President, I have spent a good deal of time looking into the readiness of the United States to respond to an emergency. And I must say, in all candor, that I am not satisfied with what I see. I do not believe the United States is as prepared as we need to be to mobilize. But, at the same time, I do not believe that registration is the only or the best way to make us prepared.

Members have been treated to an extensive discussion of the various reports which have been issued describing our options and our ability to mobilize. I do not wish to unnecessarily review the claims and counter-claims, but the point should be fairly clear by now: Until the President did an about face and called for registration in his state of the Union message, the entire analysis produced by the administration, by the Congressional Budget Office and by the Selective Service System indicated that we could meet the moblization needs of this Nation without requiring registration. Those mobilization needs have not changed: DOD says we still need the first draftees at M plus 30; we still need 100,000 people by M plus 60; and we still need 650,000 at M plus 180. The alternatives to registration are still there, they have not changed: We can install computer capability; we have the physical ability to use Post Office facilities; and we still have the capacity to utilize the IRS and social security key punching resources. These things have not changed, Mr. President. They are still viable, still available to us if we would but fund them, as they were prior to January.

What has changed is the political climate. The President has announced that he wants registration as a symbol to the Soviets of our seriousness. I worry about the future of our country if we believe that instituting a system of registration—with all the flaws and weaknesses it contains—is a sufficient or a necessary response to the Soviet Union. I worry about the independence and the power of Congress if we can be forced into adopting policies simply because the President—without advanced consultation—announces that he favors a policy and then declares that a failure to adopt it would be tantamount to showing dangerous signs of weakness.

But let me step back from those concerns and get into the issue of our capability to meet our mobilization needs. Let me start with a conclusion that I believe both sides of this dispute will agree to. Last summer, Secretary of Defense Brown, in a letter to our colleague from Maine, Senator COHEN, said that he "was concerned that the Selective Service System cannot now meet the 30-day requirement." But, and this is critical, Secretary Brown goes on to say "that circumstance does not, however, lead to the conclusion that peacetime registration is necessary." Let me repeat the key point: this conclusion "does not, however, lead to the conclusion that peacetime registration is necessary."

In forming public policy, it seems to me the advocates of change must demonstrate not only that there is a need to change—a need I am willing to concede—but also that their proposed policy is the best or only way to meet that need and that their policy will in fact solve the problems they have identified. In this case, I simply do not believe that advocates of this proposal have been able to establish either of those points.

First, they have not been able to demonstrate that their proposal is the best or only way to meet the mobilization needs of this Nation. Again, let me turn to Secretary of Defense Brown for a complete explanation of the point. In a letter addressed to me last summer he said:

> I believe that with proper planning and efficient resources, 30 days should be adequate time for Selective Service to begin delivering inductees without peacetime registration. . . . I know of no reason, given adequate planning and resources, that [the necessary] steps could not be accomplished in 30 days under conditions of a national emergency. In 1917 the nation conducted a registration within 18 days of passage of enabling legislation while at war. In 1940 we conducted a registration within 30 days. I believe it is reasonable to expect that we could do better in the future, provided that we make use of modern technology, and that we plan prudently. This judgment is consistent with the conclusions of a study by the Congressional Budget Office.
>
> I do not believe, however, that the matter should be settled merely by judgment—mine or anyone else's. Once Selective Service computer resources, staffing, and planning have been enhanced, their capability should be periodically tested through joint exercises with the Department of Defense to provide the necessary confidence that the system will work. If exercises of Selective Service do not demonstrate that Selective Service can meet Department of Defense mobilization requirements under emergency conditions, I shall not hesitate to recommend that the President order a peacetime registration under the statutory authority he now possesses. The President will use this authority as necessary and appropriate to protect the national security.
>
> The Administration has asked for funds to provide the necessary improvements. I believe that appropriation of these funds is the correct next step—one that will help us achieve our goals through improving the Selective Service System's ability to prepare for processing people upon mobilization.

The point, Mr. President, is that we do not need registration in order to improve our mobilization ability. This is not a debate about whether we ought to improve that ability—it is a debate about whether we need to restore registration in order to do it and the answer to that question is "no."

Mr. President, reinstitution of registration requirements reverse a policy decision we made years ago. I do not believe we ought to do that before we go through the process of analyzing our military capacity. I would, for example have preferred to see us decide if we want the draft restored before we decide if we want registration for the draft reinstituted. But we did not choose that course. Instead, we have decided to look at registration prior to a detailed consideration of the need for and form of a draft. Given the logic of the order of consideration, I would be forced to agree with Stuart Eizenstat who wrote Congressman JOHN SEIBERLING in July of 1979 that "we do not believe it is necessary to impose this burden on our Nation and our youth at this time when there are effective ways to improve the capability of the Selective Service System so that it can respond quickly in time of emergency."

In concluding my analysis of whether or not there are alternative ways to meet our mobilization needs, let me simply suggest that advocates of this proposal have not demonstrated that theirs is the only or the best solution. Indeed, I think the best objective evidence—the evidence that came prior to the President's decision to make the registration issue a symbol of our international commitment to strength—that evidence suggests that we need to improve our mobilization capacity, but we do not need registration in order to make the improvements we need. The distortions and alterations of positions which have come after the President's state of the Union message make suspect the testimony made after that date.

As one example, I would simply point to the fact that DOD now makes its calculations concerning our ability to meet mobilization requirements based on the assumption that after mobilization is announced there will be no—will be no—increase in volunteers. Mr. President, that simply is not consistent with any experience this Nation has ever had. And its not consistent with what DOD used to say.

In sum, Mr. President, we need to improve our capability to mobilize—yes. But we do not need to register young men or women in order to do that. Proponents of registration have failed to demonstrate that their proposal is the best or only way to make the improvements we need to make.

Not only is their proposal not the only or best way to deal with our need for additional mobilization capacity—it is not even an effective way. Mr. President, this call for registration simply is not responsive to the major needs facing our military and it also is not assured of delivering and training the people required.

Lets start with some practical arguments first. On April 2, 1980—even after the President's call for registration—Gen. Edward C. Meyer, Chief of Staff of the Army testified before the Senate Armed Services Committee and said:

> Registration does not do anything as far as near term readiness of our forces is concerned. So if you talk about short term contingency in which we insert forces and are able to contain it with Active Forces, the Selective Service System would not bring people in, train them and have them in the Army in time to have an effect.

And I think some questions which have not been adequately answered help explain that conclusion. It simply is not clear that the training bases can properly handle the influx of draftees. It simply is not clear that registration, without physical exams and classification, help us speed up the delivery of people. And finally, it simply is not clear that we could retrain accurate and up-to-date lists of addresses. Any Member of this body who sends out mailings know that the mobility of this society makes lists out of date the day they are prepared.

This plan—rejected until January—simply has not been refined and is not worthy of our support because it offers no reasonable assurance of success.

Finally, Mr. President, earlier today there was some discussion of the fact that a number of people—perhaps 100,000—will violate this law intentionally or unintentionally. I do not think there is any way to avoid that fact. People will not know about it, people will forget about it, and some people will choose to ignore it. If we want to create a new crime which will be violated by that many of our youth, if we want to create the social unrest and division which will accompany this legislation, then we had better have good reasons to do so. I would be willing to pay that price if I thought registration was essential to our national security. But for the reasons I have outlined here, I simply do not think we need to pay that price. There are other options open to us—options we can explore with less social and financial cost. I suggest we explore them—and if they prove inadequate, then, and only then, would I support this proposal.

Mr. President, I am not opposed in an absolute philosophic sense to registration. I am not even opposed in an absolute philosophic sense to a peacetime draft. But I am opposed to taking those steps until we are convinced that there is no better alternative. I am opposed to taking those steps when it is not clear that they will work. I would rather see this Senate address the more serious and structural problems we face relative to military personnel needs. I would like to see us pay our military people enough to attract qualified persons into the field. I would like to see us pay our military people enough to retain qualified people in the field. And I would like to see us explore additional methods of guaranteeing the strength and speed of our ability to respond to an emergency.

For these reasons, Mr. President, I join Senator HATFIELD and the others who reject the call for registration at this time.

THE ANGOLA BREAKTHROUGH

Mr. TSONGAS. Mr. President, we are fast approaching the fifth anniversary of the American involvement in Angola. Over those 5 years, the nations of the world have opened diplomatic relations with the regime in Luanda. Only the United States and China have refused to recognize the Government of Angola.

I have addressed the recognition issue before in this Chamber. I will not ask my colleagues to listen again to my views on the self-destructive folly of our current policy.

My purpose today is to inform my colleagues of a development, a breakthrough, in Angolan-American relations. Last Thursday, June 5, the Angolan Secretary of Health and Social Affairs, Mr. Mendes de Carvalho, sent a message to the State Department saying that Mr. George Gause, an American imprisoned in Angola since 1975, had been released. This has since been confirmed. Mr. Gause, one of three Americans captured during the civil war, is at liberty in Luanda and free to leave the country.

This is not a routine decision by the Angolans. It is a significant diplomatic overture preceded by years of delicate maneuvers. Let me set out the background to this breakthrough.

Gause was a farmer in Angola when civil war engulfed the country. He was seized by the MPLA army, because he was in possession of a firearm. He was never charged with mercenary activity. Other Americans, who were mercenaries, were also captured and so charged. Two are still in prison. The Angolans are extremely sensitive on the subject of mercenaries. CIA-financed mercenaries inflicted casualties on the civilian population during the war, and came to symbolize for the Angolans the specter of foreign intervention. For the government to release any mercenary, or anyone remotely suspected of being one, carries with it a high political cost in Angola.

The three Americans have languished in prison while the United States set out its conditions for recognition.

The debate over recognition has dragged on to the detriment of U.S. relations in black Africa.

It has been suggested to the Angolan Government that a gesture on their part might help break the stalemate. In 1978, Senator MCGOVERN proposed to the Angolans that they release the American prisoners. Official American emissaries have also raised the question. While in Angola earlier this year, I, too, proposed that the release of the Americans would be a helpful gesture. Like my predecessors, I received no response regarding the initiative.

Just over a month ago, Mr. Mendes de Carvalho visited Washington, the highest ranking Angolan to have done so since independence. I met with Mr. Carvalho, and again suggested that the Angolan Government might demonstrate its interest in better relations by a gesture such as the release of one or all of the American prisoners. He promised to take up the issue, once he returned to Luanda.

The fruits of his efforts are now before us. The gesture has been made. Mr. Gause is a free man. The Angolans are telling us in the clearest terms that they want recognition from the United States. A restless Soviet client is looking for new sources of diplomatic and economic support. As one Angolan official told an American reporter, "Our future is not with the Russians." America has been handed a very ripe opportunity with no hidden costs. An oil-rich African state, with a vast economic potential, has sent us a very unambiguous signal. All we must do in response is to abandon our senseless policy of nonrecognition.

The useless vestige of Henry Kissinger's cold war obsession, nonrecognition places a hobble on us, not the Soviets. In the race for influence in Angola, the Soviet horse carries the minimum weight. Our mount is loaded down with diplomatic isolation, a reputation for covert intervention, circuitous contacts, missed signals, and the affront of nonrecognition.

The fact that we have a better horse is, at present, only an insignificant footnote in the Racing Forum.

Our superior technology, products, capital, and expertise cannot overcome the diplomatic handicap our horse must carry. The Angolan derby goes to the Soviets, despite their exploitative commercial agreements, inept technical assistance, and miserly economic aid.

Mr. President, while we quibble about a "significant reduction" in the number of Cuban troops, our friends from Europe gleefully dispatch their companies to Angola for the lucrative contracts financed by Angolan sweet crude. Meanwhile, our American companies do their best under difficult competitive conditions. It is not easy to sell airplanes and oil rigs when there is no embassy to help matters along.

Nonetheless, the Angolan demand for American technology is so great that some business deals have been made. Boeing has sold air navigation equipment. Gulf is expanding its oil operations, and Texaco will explore for offshore oil. This weekend, Angola will send a high level delegation to a conference on American trade and investment in Africa, to be held in my home State of Massachusetts. Everyone wants to do business except President Carter. As former Secretary of State Vance concluded last week:

> It makes no sense not to recognize the government of Angola.

The Secretary was free to say when he got out of office what he has been arguing for in office, lo, these many months.

There are precious few experts of any ideological complexion who see nonrecognition of Angola as sensible. Our Angola policy is more than a mistake. It has become an embarrassment. The Angolan decision to release Mr. Gause now puts the ball, if not the entire game, in our court. If our past behavior is any guide, we will probably ignore this opportunity. But why?

The answer, in a word, is politics. Foreign policy calculations evacuated this issue long ago.

Politics is the culprit. President Carter believes it is good politics to ignore realities whenever the word "Cuban" is mentioned. If a Cuban turns up in a socialist state, such as Angola, the response is positively rabid.

This is a very shaky foundation on which to build a policy. When accused of writing off American interests in Angola, the administration falls back to passing the buck. "It's your fault," I have been told more than once. "There would be big trouble on the Hill if we recognized Angola."

We call that leadership.

Perhaps it is time that we put our house in order on this issue, and place responsibility for this policy fiasco where it belongs. The first order of business is to set the record straight on Jonas Savimbi's guerrilla insurgency. Some of my colleagues in the Senate believe that Savimbi and his UNITA forces represent a bright hope for Western interests in Angola. They feel that recognition would undercut Savimbi and narrow our options. Some, like presidential candidate Ronald Reagan, wish to supply Savimbi with arms or other support.

I met with Savimbi last year and talked over these matters with him at length. It is my feeling that Savimbi represents a genuine ethnic constituency in southeastern Angola. He is a man of considerable charisma and intelligence. The Angolan Government would do well to reach an accommodation with him. I urged that when I was there. Our policy should reflect that concern, because the peace and stability of Angola depend on a reconciliation.

To urge negotiation and reconciliation is one thing, but to withhold recognition in the hopes of getting a better deal with a guerrilla leader is quite another. Banking on Savimbi would be risky, some would say foolish. Savimbi's political and economic program is unclear. He has received support from the Chinese and the South Africans. His party rhetoric has verged on reverse racism in the past. His support beyond his exclusive ethnic base is questionable. In short, he is not predictable.

This does not mean that I regard the present regime in Luanda as an ideal diplomatic partner. Management of the economy by the MPLA has been doctrinaire and inefficient. Ties to the Soviet Union, although weakening, are still extensive. The professed ideology is Marxist.

Yet, the track record of the government is known. The opening to the West dates back to 1978 and is gaining strength in the bureaucracy. The foreign investment terms are one of the most liberal in West Africa, and intentionally so. The ruling party recently issued an official statement in support of private enterprise in agriculture, industry, and trade. The Angolans have cooperated with the West extensively on the delicate Namibia negotiations with South Africa. The MPLA party is not monolithically Marxist. Most members are missionary educated. One of the three party factions is anti-Soviet. There is a firm basis here on which to develop a mutually beneficial relationship between Angola and the United States.

I urge my colleagues to look again at this recognition issue. The release of George Gause is a dramatic signal of Angola's objectives and intentions. We have before us a wavering Soviet client, a young state not yet entrenched in a dogmatic Marxist mold. Do we offer an alternative to the leaders in Luanda, or do we abdicate our responsibility and leave the field to the Soviets? Such opportunities to advance our interests do not persist indefinitely. The time for the recognition of Angola is now.

In conclusion, Mr. President, as one of many who worked to bring about the release of Mr. Gause and as one who sees in this gesture how important recognition is to the Angolans, I hope that in the throes of election year, we will not let this opportunity pass.

Mr. President, I ask unanimous consent that several documents and articles be printed in the Record at the conclusion of my remarks. The first document is a list of countries with diplomatic relations with Angola. The second is an article from the May 21 Los Angeles Times entitled, "East Bloc Aid Little Comfort to Angola." The third and fourth articles are from the June 4 edition of the Washington Post, under the titles of "Elusive Savimbi Pursues Quest" and "20,000 Cubans Prop Up Regime." The fifth article is from the May 19 Los Angeles Times and entitled, "One Time Rio of Africa Now Angola Ghost Town."

There being no objection, the material was ordered to be printed in the Record, as follows:

Countries With Relations With Angola

Angola and Algeria—Government recognition on 20 February 1976.

Angola and Austria—Government recognition on 20 February 1978, relations established on 27 October 1977.

Angola and Bangladesh—Government recognition on 26 February 1976.

Angola and Belgium—Relations established on 15 October 1976.

Angola and Benin—Relations established on 11 October 1976.

Angola and Botswana—Government recognition on 16 February 1976.

Angola and Brazil—Government recognition on 10 November 1975.

Angola and Bulgaria—Diplomatic relations established on 24 November 1975, relations restored during 1976.

Angola and Burundi—Government recognition on 25 February 1975.

Angola and Cambodia—Government recognition on 10 March 1976.

Angola and Cameroon—Government recognition on 2 February 1976.

Angola and Canada—Government recognition on 18 February 1976, relations established on 3 February 1978.

Angola and Cape Verde—Government recognition on 11 November 1975.

Angola and Central African Empire—Relations established on 22 January 1979.

Angola and Chad—Government recognition on 7 January 1976.

Angola and Congo—Government recognition on 11 November 1975, relations exist on 2 February 1976.

Angola and Cuba—Government recognition on 11 November 1975.

Angola and Czechoslovakia—Relations established on 11 November 1976.

Angola and Denmark—Government recognition on 17 February 1976, relations established in May 1976.

Angola and East Germany—Relations established on 26 August 1976.

Angola and Egypt—Government recognition on 14 February 1976.

Angola and Equatorial Guinea—Government recognition on 12 November 1975.

Angola and Ethiopia—Government recognition on 15 January 1976, relations established in July 1977.

Angola and Finland—Government recognition on 20 February 1976, relations established on 18 September 1976.

Angola and France—Government recognition on 17 February 1976, relations established in January 1977, normalized in October 1978.

Angola and Gabon—Government recognition on 12 February 1976.

Angola and Gambia—Government recognition on 15 February 1976.

Angola and Ghana—Government recognition on 23 December 1975.

Angola and Guinea—Government recognition on 11 November 1975.

Angola and Guinea Bissau—Government recognition on 11 November 1975.

Angola and Guyana—Relations established in July 1977.

Angola and Hungary—Relations established on 24 December 1975.

Angola and India—Government recognition on 6 February 1976.

Angola and Indonesia—Government recognition on 15 April 1976.

Angola and Iraq—Government recognition in November 1975.

Angola and Ireland—Government recognition on 17 February 1976.

Angola and Italy—Government recognition on 17 February 1976, relations established on 4 June 1976.

Angola and Ivory Coast—Government recognition on 12 February 1976.

Angola and Jamaica—Government recognition on 9 March 1976.

Angola and Japan—Government recognition on 20 February 1976, relations established on 9 September 1976.

Angola and Kuwait—Government recognition on 22 February 1976.

Angola and Laos—Relations established on 1 January 1976.

Angola and Lesotho—Government recognition on 17 February 1976.

Angola and Liberia—Government recognition on 13 February 1976.

Angola and Libya—Relations established on 30 March 1976.

Angola and Malagasy—Government recognition on 12 November 1975.

Angola and Malawi—Government recognition on 17 February 1976.

Angola and Malaysia—Government recognition on 15 April 1976.

Angola and Mali—Government recognition on 11 November 1975.

Angola and Mauritania—Government recognition on 13 February 1976.

Angola and Mauritius—Government recognition in November 1975.

Angola and Mexico—Relations established on 20 February 1976.

Angola and Mongolia—Relations established on 9 February 1976.

Angola and Morocco—Government recognition on 13 February 1976.

Angola and Mozambique—Government recognition on 12 November 1975.

Angola and Netherlands—Government recognition on 10 February 1976, relations established in May 1976.

Angola and New Zealand—Government recognition on 23 February 1976.

Angola and Niger—Government recognition on 9 January 1976.

Angola and Nigeria—Government recognition on 27 November 1975, relations established in March 1977.

Angola and North Korea—Relations established on 14 April 1976.

Angola and Norway—Government recognition on 17 February 1976, relations established on 31 October 1977.

Angola and Pakistan—Relations established on 19 October 1976.

Angola and Panama—Government Recognition on 13 May 1976.

Angola and Philippines—Government recognition on 14 April 1976.

Angola and Poland—Relations established on 11 November 1975.

Angola and Portugal—Relations established on 11 November 1975.

Angola and Portugal—Relations broken on 19 May 1976, relations restored on 30 September 1976.

Angola and Rwanda—Government recognition on 14 February 1976.

Angola and Sao Tome—Government recognition on 11 November 1975.

Angola and Sdar—Government recognition on 11 March 1976.

Angola and Sierra Leone—Government recognition on 11 November 1975.

Angola and Spain—Government recognition on 26 February 1976, relations established on 21 October 1977.

Angola and Sudan—Government recognition on 16 December 1975.

Angola and Swaziland—Government recognition on 23 February 1976.

Angola and Sweden—Government recognition on 17 February 1976.

Angola and Switzerland—Government recognition on 18 February 1976, relations established on 30 September 1976.

Angola and Syria—Government recognition in November 1975.

Angola and Tanzania—Government recognition on 11 November 1975.

Angola and Thailand—Government recognition on 15 May 1976.

Angola and Togo—Government recognition on 10 February 1976.

Angola and Tunisia—Government recognition on 14 February 1976.

Angola and Turkey—Government recognition on 21 June 1976.

Angola and U.A.E.—Government recognition on 2 March 1976.

Angola and Uganda—Government recognition on 10 February 1976.

Angola and United Kingdom—Government recognition in February 1976, relations established on 14 October 1977.

Angola and Upper Volta—Government recognition on 12 February 1976.

Angola and U.S.S.R.—Relations established on 11 November 1975.

Angola and North Vietnam—Government recognition on 12 November 1975.

Angola and South Vietnam—Government recognition in November 1975.

Angola and West Germany—Government recognition on 19 February 1976, relations established in March 1977.

Angola and Yemen—Government recognition on 16 February 1976.

Angola and Yemen P.D.R.Y.—Government recognition on 18 November 1975.

Angola and Yugoslavia—Government recognition on 12 November 1975.

Angola and Zaire—Relations established on 28 February 1976, recognition formally acknowledged on 3 March 1977.

Angola and Zambia—Government recognition on 15 April 1976, relations established on 22 September 1976.

[From the Washington Post, June 6, 1980]

ELUSIVE SAVIMBI PURSUES QUEST

(By Jack Foisie)

WITH UNITA GUERRILLAS IN ANGOLA.—Although repeatedly dismissed as little more than a nuisance by the Angolan government in Luanda, guerrilla leader Jonas Savimbi remains confident and optimistic that he will succeed some day in overthrowing it.

At Savimbi's personal invitation recently, eight reporters were flown to his hideout in southern Angola from a neighboring African country so he could prove his continuing viability.

"I want to show you that UNITA is viable and controls almost half of Angola [which is almost twice the size of Texas] and convince you that we are going to reach Luanda one of these days and take over the country," Savimbi said.

The journalists in their 18-day trip with Savimbi's UNITA (National Union for the Total Independence of Angola) guerrilla forces in southern Angola, saw his fighters to be disciplined and dedicated but without the support that would seem necessary to defeat the government forces.

Savimbi, however, remains optimistic. An ebullient fellow, he is hard to pin down on his claim. A sketch he made of the areas he says are UNITA controlled or dominated seemed to cover only about a third of the country, and his absolute control seems to be only in the southeast province of Cuango-Cubango.

It is a desolate region, usually shunned even by tribesmen, but with enough water and grass to support wildlife such as the sable antelope, foxes, buffalo and storks.

The trackless scrub forests of Cuango-Cubango serve UNITA well as a rear base area. Among the well-hidden clusters of huts that make up UNITA's camps, recruits train and then begin the long trek north to harass government forces in central Angola.

The Benguela railway, built to carry the copper ore of neighboring Zaire and Zambia to the Atlantic port of Benguela, is a favorite target for the guerrillas, and Savimbi claims that they have kept the railroad inoperative by blowing up bridges and other sabotage since 1976. (The government's manager of the line says, however, that it has been reopened and is operating normally.)

Savimbi also claims that his troops in central Angola are so aggressive that the government's forces and their Cuban allies are unable to venture out of their garrisons in the towns without being ambushed.

Besides attempting to embarrass and weaken the Soviet-backed regime with his creeping offensive into central areas still controlled by the government. Savimbi has intensified his effort to take and hold down along the Angola border with Namibia (Southwest Africa) in the south.

He has a political motive for doing so. The current U.N. proposal for bringing about independence and representative rule in Namibia, which is administered by South Africa, includes the establishment of a demilitarized zone along the 1,500-mile Angolan—Namibian frontier as a way of preventing infiltration of insurgents into Namibia.

Savimbi says he is all in favor of this—as long as he is consulted about his status in the zone. This is the guerrilla chief's way of trying to obtain a degree of recognition from the United Nations, which until now has not acknowledged his presence.

Although Savimbi talks in mildly revolutionary terms, mentioning socialism and nonalignment as policies he would adopt should he come to power, his determination to drive the Soviets out of Angola might be expected to bring him meaningful support from the noncommunist world. But there is no evidence that it does.

[From the Washington Post, June 4, 1980]

20,000 CUBANS PROP UP REGIME

(By David Lamb)

HUAMBO, ANGOLA.—Four years after the high hopes of independence collapsed into civil war, peace remains nothing but a dream for the people of this once prosperous central Angolan city. For them—like for most Angolans—the war simply will not go away.

As almost everywhere in this vast nation, conflicts continue to ravage the land, burdening the Marxist government with a political and military crisis it could probably not survive without the continuing presence of the 20,000 Cuban troops who prop it up.

Signs of the continuing struggle are never far away and there are daily reminders that this nation has not known peace since Angolan guerrillas launched their war for independence in 1961 against the Portuguese who had ruled them so long.

Here in Huambo, Cuban troops rumble through the streets in convoys by day on their way to the front. At night, after the curfew has emptied the streets and the outlying areas have become an eerie no-man's land, the stillness is broken only by howling dogs and occasional bursts of gunfire.

Known as Nova Lisboa in colonial times, Huambo was a beautiful town of 50,000 before the war. For three brief months after independence, it was the capital of two pro-Western guerrilla movements trying to overthrow the Marxists who took over the government in Luanda on the coast. But Huambo fell to Cuban and government forces on Feb. 11, 1976, as the rebels took to the bush.

Today, Huambo is a slum with garbage in the streets, crumbling apartment buildings filled with squatters, blocks of abandoned, boarded-up shops and long lines of women waiting all day for a loaf of bread or a can of Brazilian powdered milk.

The Cuban troops who flow in and out of the city, the government insists, are here out of a temporary necessity, which now has lasted more than four years. "We are a big country and on the other side is South Africa, which is making war against us," said the deputy defense minister, Col. Juliao Mateus Paulo.

"At this moment it is necessary for our friends to help us. The Cubans are here as volunteer peace workers. One day maybe the situation will be calm and they can go home. But for now, that would be impossible."

Western intelligence sources say that the former guerrilla group that is now the government—the Popular Movement for the Liberation of Angola (MPLA)—has full control of only one-third to one-half of the country. But the MPLA and the Cubans do not appear to be losing ground in their attempt to extend government influence. They have made gains in the north and the northeast and have succeeded in reaching at worst a military standoff here in central Angola.

Clearly, the MPLA controls more territory—or at least more people—than it is given credit for in the West.

In Benguela, Huambo and Bie provinces—strongholds of the guerrilla group known as UNITA—the MPLA controls the population centers and has party offices even in small villages. Angolan and Cuban soldiers are highly visible at all strategic locations. Government officials made no attempt to hide the fact that the Cubans were combatants—not just advisers.

But at night UNITA (the National Union for the Total Independence of Angola) can roam freely, planting mines and setting up ambushes. Its leader, Jonas Savimbi, retains a large measure of support from the Ovimbundu tribe, which makes up about 40 percent of Angola's 6.5 million people. The area he controls, however, is not contiguous, and this makes it difficult for UNITA to have real administrative authority.

Numerous civilians who have fled the combat areas for the relative safety of government refugee camps told of UNITA guerrillas maiming or killing people who would not support them. The United Nations estimates that 300,000 people have been displaced by the war.

UNITA says it has a fighting force of 15,000 regulars and 10,000 militia. Savimbi, 45 and Swiss-educated, claims the covert support of at least 10 African countries, although only one country in black Africa—Senegal—has refused to recognize the MPLA (because of its dependence on the Cubans).

The MPLA government in Luanda recently branded Savimbi as a traitor. Government officials dismiss him as a political force and say that in most areas of Angola, UNITA operates only in small bands rather than in large, organized units. Savimbi has never apologized for accepting help from South Africa, but few independent observers would consider him an agent for the Pretoria government.

Savimbi wants to force the Cubans to withdraw from Angola and insists that independence in November 1975 only ushered in an era of neocolonialism.

Savimbi presents the government with its biggest military threat, and the 30,000-man, Cuban-supported Angolan Army had had more success against another guerrilla group, the National Front for the Liberation of Angola (FNLA).

The FNLA's survival has depended on support from—and sanctuary in—Zaire. But late in 1978, Angola's then-president Agostinho Neto and President Mobutu Sese Sko of Zaire agreed to stop supporting guerrilla movements trying to overthrow each other's regimes. Neto died last year but the agreement seems to have held, under his successor, Jose Eduardo dos Santos, diminishing the military effectiveness of the guerrillas on both sides.

Western intelligence sources in Luanda said there appears to be little activity among the Angola-based Zairian rebels who attacked Zaire's Shaba Province in 1977 and 1978. The Angolan government has resettled hundreds of the former Zaire inhabitants and, despite frequent rumors to the contrary, the sources know of no military buildup among the rebels.

In northern Angola, where FNLA leader Holden Roberto found his support among the Kongo tribe, the military situation also has stabilized in the government's favor, and last month a Cuban and Angolan operation through the former FNLA strongholds met little significant opposition.

Last November, Roberto, who is 57 and was named for a British Baptist missionary, left Zaire at Mobutu's request and moved to France. He has not been seen in West Africa since, and most observers believe that the FNLA has ceased to exist as an organized movement.

In northernmost Angola, the government faces yet another rebel group, the Liberation Front for the Cabinda Enclave (FLEC). Its European-based president, Francisco Xavier Lubota, said last year that his movement controlled one-third of the area. Western sources consider this to be an exaggeration.

About 1,000 Cubans are providing security in Cabinda, an enclave separated from the rest of Angola by a strip of Zaire. Ironically, the Cubans are also charged with protecting Cabinda's huge Gulf Oil Corp. compound; oil produced there by the U.S. company is Angola's biggest source of foreign exchange. The several hundred Americans there are supplied from Gabon and have virtually no contact with the Angolans or the Cubans, recent visitors to Cabinda said.

Although there are many critics of the Luanda government among Western and African diplomats, most agree that the MPLA is the only organization in Angola that has a national base of support, as opposed to an ethnic or regional base. It is also the most multiracial.

The MPLA was formed in 1956 with the help of the Portuguese Communist Party and was supported during the independence war by the Soviet Union. It was the most ideological of the independence movements and its two principal military bases during the war were known as Hanoi II and Ho Chi Minh. In 1962, Neto, the MPLA leader, visited Washington in an unsuccessful attempt to gain wider sympathy in the West and to diminish his procommunist image.

[From the Los Angeles Times, May 19, 1980]

ONE-TIME RIO OF AFRICA NOW ANGOLA GHOST TOWN

(By David Lamb)

LUANDA, ANGOLA.—It's hard to believe now, but only a few years ago Luanda was known as the Rio de Janeiro of Africa. And Angola was full prosperity and abundance. Ask a Portuguese what life was like here then and he will smile, close his eyes and blow a kiss.

When Angola was a Portuguese colony, he will say, it was far better place to live than Lisbon, with weekends spent on the beach eating fresh lobsters and prawns, shops stuffed with gourmet foods and the latest European fashions, luxury high-rise apartments overlooking the bay, summer homes at Lobito and Luanda—ah, Luanda . . .

Luanda had 170 nightclubs and restaurants. It was built on hills that rose gently from the bay, and the sidewalks were paved with mosaic tile, and the streets were wide and lined with trees. There were parks everywhere, neatly clipped and ablaze with flowers. The skyline, from the 25-story President Hotel to the 17th-Century Dutch fort a few miles away, was like nothing anywhere else in Africa. There was no more striking urban view on the entire continent.

As recently as 1972, Angola grew 90 percent of its own food and was the world's fourth-largest coffee producer. It had oil, diamonds and iron—and its annual industrial production topped $40 million. It had 17 radio stations, 16 newspapers and 15 magazines.

But all that was before the Portuguese empire—and Angola collapsed, leaving in its wake here a Marxist revolutionary state.

More than any European power in Africa, Portugal, the poorest nation in Western Europe, had pursued a policy that guaranteed eventual disaster, not only for the empire but also for the future of its colonies. Places like Angola were the exclusive domain of white men who would stay on forever.

When independence came in 1975, after 15 years of rebellion, 98 percent of the Angolans were illiterate. There were few with any technical skills and virtually none with university degrees. The barbers, the taxi drivers, even the bartenders were Portuguese in this colony that did not abolish the legal distinction between "civilized" and "non-civilized" Angolans until 1961.

Most of the 750,000 Portuguese fled Angola—the whitest colony in black Africa—at the time of independence. They took with them everything they could carry or ship—vehicles, telephones, typewriters, coin to be melted down for the silver in them, even the faucets from bathrooms.

* * * * *

A visitor is struck by the eerie notion that he has entered a ghost town. Block after block of stores is closed, their windows broken and boarded up. Elevators don't work. Cargo stands rotting at the port. Neon signs flash above IBM, Sony and Singer showrooms that have been empty for five years. At the airport there are no taxis to meet passengers arriving from Lisbon, Moscow and Havana.

In a $40-a-day Luanda hotel, guest find a notice advising, "The great difficulty we are finding in replacing lost or deteriorated objects forces us to make this special request. Should you need a towel, please request same at porter's desk." But the hotel has no porter's desk—and no running water and no aircondition.

The other day, along the road from Huambo to Kuito, in central Angola, an American sped up behind what appeared to be a slow-moving Peugeot convertible. As he passed, he saw that the owner had cut off the top, gutted the inside and attached a yoke to the front axle. The car had been turned into a cart and was being pulled by oxen.

"We're not in a very happy state of affairs," a senior police official in Luanda said. "I wouldn't suggest for a minute that anyone would want colonialism and the Portuguese back, but certainly, unless you're a top party official, we were a lot better off and living better in 1970."

Indeed, after five centuries of Portuguese domination and five years of Marxist revolution guided by the Soviet Union, Angola is a fragile and wounded country in a state of utter deterioration.

It is a country that has put ideology ahead of development and is governed by a bewildered group of people who seem to think the nation's problems will go away if they recite enough slogans.

"Most Angolans feel their country is like a ship caught in a storm, and understandably no one wants to try a complicated maneuver in gale-force winds, a Western resident said. "But if Angola doesn't change course drastically, you're going to come back in 20 years and find another Pompeii."

That may be an exaggeration. But a 2,000-mile trip through four Angolan provinces produced little evidence of anything save decay and stagnation, incompetence and inefficiency. Most of the people appear to be bored and obedient.

In a factory outside Luanda, one of the few still operating in Angola, a worker was asked how he interprets the uncomplimentary drawing of President Carter that someone had scrawled on a nearby wall.

"Who did you say that is?" he asked the American visitor. Then, after a lengthy pause, he said, "Is your government Communist?"

The Angolans, victims of both the past and the present, are a kind and proud people. And their country, twice the size of Texas, has the potential for considerable economic growth. Income from Gulf Oil Corp. production in the Angolan enclave of Cabinda is in the neighborhood of $5 million a day.

But, according to Western economic sources, 60 cents of every dollar earned goes either to the military or toward repaying Angola's debt to the Soviet Union. The coffee crop, now negligible goes to Cuba, and the fish to Russia. There are more than 40,000 Eastern Bloc soldiers and civilians here and none of them came for free. For every Cuban teacher, for example, the Angolan government reportedly pays Havana $600 a month.

"I don't think our future is with Russia," a presidential adviser said but refused to elaborate.

It was a remarkably candid statement in a country where politics is discussed only in whispers, if at all, and where the affairs of state are conducted in almost total secrecy.

Angola has not published a budget since 1977. The same applies to its year-to-year development plan. The once-flourishing press has dwindled to two government newspapers and a single radio station, and Angolans learn only what the ruling party thinks they should know. An estimated 2,000 people who have dared to speak or act independently are in prison. All decisions are made at the top, and the people, whose opinions are never sought, take part in the democratic process only to the extent of following orders.

"Maybe you can't understand this in the West," a party official said. "The people's political consciousness must be raised. Everyone must learn to work for the common good. This means that the party controls every aspect of life—social, economic, political, cultural."

The Marxist party that runs Angola was once a guerrilla movement, the Popular Movement for the Liberation of Angola, which fought the Portuguese and came to power with the help of Cuban troops. It has a 45-member Central Committee presided over by the country's president, Eduardo dos Santos, 38, who succeeded Agostinho Neto when Neto died in September.

During Neto's early years in power, Angola was almost entirely isolated from the West. But before he died—of cancer in Moscow—Neto had begun re-establishing contacts with the West for economic reasons and Dos Santos, though trained in Moscow for seven years and married to a Soviet woman, shows no signs of wanting to reverse this process. (The United States has never recognized the Angolan government, largely because of the presence of the 20,000 Cuban troops here.)

Unlike many African governments, Angola's has never wasted money on flashy prestige projects, and corruption is virtually nonexistent. The government has encouraged the emergence of an egalitarian society where black and white, rich and poor, enjoy no special privileges. Cabinet ministers live modestly on salaries of $800 a month—although they do have access to whiskey, cars and food not available to most Angolans.

But the handful of revolutionary zealots in the government is fighting what appears to be an impossible battle. Not only is Angola virtually without people who can fix a carburetor or repair a leaking faucet, it also has no governmental organization; the simplest task requires mountains of official authorization, often an insurmountable obstacle.

Angolans can buy food at government shops but only if they have a card that shows they are employed. They need permission to change addresses or to travel. They are allowed to leave Angola once every three years, but getting an exit visa takes six or seven months, and no individual may take more than the equivalent of $75 out of the country.

For the visiting businessman, Angola is the ultimate African nightmare. Rarely is any food served in the hotels other than fish and rice; local beer is rationed to one bottle per meal, when available; a glass of pink Kool-Aid sort of soft drink is considered a special treat, and buying a plane ticket requires a solid two days work. Taxicabs will not pick up foreigners and there are no telephone directories.

Drivers show up three hours late and sheepishly apologize for oversleeping. On some days only 10 percent of the staff appears for work at the nine shoddy hotels that a Brazilian firm is trying to renovate. In government offices, glassy-eyed clerks doodle idly at empty desks and often drift off to sleep even before morning tea.

"We're producing 600 tires a day, but God knows how we're doing it," said an executive at General Tire & Rubber Co. of Akron, Ohio, the only U.S. manufacturer operating here. "The workers come in the morning and push the buttons and if everything works, fine. If it doesn't, they just go home."

Absenteeism, he said, runs 50 percent a day, and a worker who puts in four hours a day is considered extremely diligent.

When production falls at General Tire or some other plant, a meeting is called and the workers usually vote unanimously to declare a "Red Saturday"—an extra workday, one they donate without pay. The last time one plant near Benguela had a Red Saturday, only three of the 150 employees showed up—two foreigners and a party official.

For most Angolans, ideology is just something they must live with—and cannot escape. The bookstores are among the few shops still open but they sell only communist literature. The newspapers are filled not with news but with propaganda. The ruling party exhorts the hungry masses to labor for society's benefit while mothers nurse their babies on tea, while weeds and jungle reclaim the plantations and the standard of living deteriorates by the day.

"Angola, Angola, Angola," a navy lieutenant said, throwing up his hands in exasperation when most of his men failed to show up the other day for a training exercise. "What is this thing we have created?"

[From the Los Angeles Times, May 21, 1980]

EAST BLOC AID LITTLE COMFORT TO ANGOLA

(By David Lamb)

LUANDA, ANGOLA.—Officials are reluctant to discuss it publicly but there is growing dissatisfaction in government circles with the Soviet Union's role in Angola and its meager assistance to Angola's failing economy.

Many Angolians say privately that they believe their country is being short-changed in its marriage with Moscow. And they add that there is no divorce in sight. As long as civil war rages and as long as neighboring Namibia continues to fight for independence from South Africa, Angola will need its Soviet and Cuban allies.

"We can't cope with our problems now, economically, militarily, politically," an Angolian academic said. "So what do you think would happen if we cut our lifeline to the one country that's been an ally from the start? You don't have to be Marx to figure it out."

A Western ambassador equates Angola with a man who is desperately ill and being fed intravenously. A doctor comes along and tells the patient to yank out the needle and try something else but the patient has neither the strength nor the inclination, because he does not know what the effect would be. Maybe he would be left to die.

"It's difficult to find a single government official who is happy with the Russians," the ambassador said. "Everyone knows the country is going to hell in a handbasket and they look around and about all they can see the Russians doing is handing out guns and pictures of Marx and Lenin."

Privately, many officials confirm the ambassador's assessment. A top adviser to President Eduardo dos Santos, who would neither elaborate nor be identified, said, "I don't think our future is with the Russians."

These officials complain that the massive communist presence has not prevented steady economic deterioration. They grumble that the Russians are aloof and isolated from the Angolan community—the Russians have their own beach in Luanda and do not mix socially—and many Angolans wonder aloud whether the Russians are really interested in promoting regional stability and economic development.

Intelligence sources estimate that 5,000 Russians, military and civilian, are stationed in Angola. They put the number of Cubans at 27,000, about 20,000 of them soldiers, and the number of East Europeans at more than 5,000. Angola is not a Soviet client state to the extent that Cuba is, but Soviet influence is great and there is no attempt to hide the Soviet presence.

Soviet pilots take off from Luanda Airport in MIG fighters, presumably on combat missions, and 300 Russians live in the navy barracks near the port. Cuban helicopter pilots drift into the bar at Benguela airport for a beer and convoys of trucks filled with Cuban soldiers rumble through the streets of Huambo, headed for the front.

Soviet engineers are rebuilding bridges on the road to Kuito and Cubans are working in schools and hospitals and on sugar plantations. East Germans are active as agricultural, security and propaganda advisers.

"We need the help of our friends and it is difficult for me to understand why some countries keep saying Angola is controlled by the Soviets and Cubans," said the deputy defense minister, Col. Juliao Mateus Paulo.

"The president here is Angolan, the ministers are Angolan, the troops are Angolan. The reason these countries keep harping about the Soviets and Cubans must be simply that they don't like our politics, which are Marxist."

The ruling party, the Popular Movement for the Liberation of Angola, is divided into three distinct groups, intelligence sources said. The first and smallest is hard-line pro-Moscow; the second is unhappy with Moscow's grip on Angola and would like to see the emergence of a purely African system that favors neither East nor West; the third and largest group, which includes President Dos Santos, flows with the currents of the moment and appears to be generally befuddled by the problems facing Angola.

For the Soviet Union, Angola represents an important springboard for trying to influence events in southern Africa. As in other areas of Africa, Moscow moved quickly here to capitalize on regional instability, and most diplomats in Luanda see the peaceful transition of power in Zimbabwe as an important setback to the Soviet Union's efforts in Africa.

These diplomats said Moscow is putting "savage pressure" on Angola to divorce itself from the Western proposal for a settlement in Namibia and to return to a policy of confrontation. Angola supported the West's plan to end the civil war in Rhodesia (now Zimbabwe) and also has backed the West's proposal on Namibia.

(Namibia, long known as South-West Africa, has been governed by South Africa under a League of Nations mandate granted after World War I. The mandate was terminated in 1966 by the United Nations, but South Africa has defied repeated U.N. demands that it relinquish the territory and recognize its independence.)

The inadequacy of Moscow's assistance to Angola is strikingly obvious. Despite Moscow's substantial military investment here, the economy is headed toward disaster. The cities are turning into slums, medical care is lacking, some of the schools are closed because there are no books, agricultural production has fallen 75 percent since independence from Portugal in 1975, meat is rationed and there are long food lines for even essential commodities.

"During colonial times this province was a big exporter of food," the deputy governor of Bie Province, Martins Samuel Camarada, said.

"Every family had a cow and some chickens. But the animals were killed during the independence war and our farms are not yet producing again. There is no medicine to speak of in the province, no nurses and not enough doctors. We have problems."

The East Bloc has not been very successful in solving those problems. Czechoslovakia recently sold Angola 1,500 cars but no spare parts. The Cubans have taken over programs they knew nothing about—petroleum distribution, for example—and have been forced to hand them over to Western experts.

Angola gets nothing free from the East. It pays the rent and utilities for the Russians' housing, pays $600 a month for every Cuban school teacher, allows the Soviet Union to keep 75% of the fish caught off its coast and repays its debt for weapons with most of its income from oil and coffee. Of every dollar earned, a European economist said, Angola spends 60 cents on the military or on meeting its financial commitments to Moscow.

Largely out of economic necessity, Angola has been gradually reestablishing its contracts with the West over the past two years. It recently spent $7 million on a new embassy in Paris, European businessmen and technicians now arrive in substantial numbers, the Portuguese who fled at the time of independence are starting to trickle back, the national airline's jet fleet consists of six U.S.-made Boeings, and a U.S. charter company, Trans International Airlines of Oakland, Calif., has the aviation contract for Angola's diamond industry.

One of Angola's biggest new trading partners is Brazil, which shares a common language and colonial heritage with Angola. Brazilian exports to Angola have increased from $4 million three years ago to an estimated $90 million this year. They include cars, trucks, buses, fishing boats and food ranging from powdered milk to spaghetti. Next month the Brazilian foreign minister will make an official visit to Angola.

The Angolan government is recognized by all black African governments except Senegal's and by most Western governments except the U.S. Although the daily newspapers are full of virulent attacks on the United States, dialogue with Washington continues and Angola is eager to win recognition from the Carter Administration.

Earlier this month Angola announced that the U.S. Export-Import Bank had granted it a $97 million loan for oil exploration. At about the same time, a member of Angola's Central Committee visited the United States. He was the first high official of his government ever to be received by the State Department, Angola said.

Washington, before granting recognition, wants Angola to make at least a token reduction in the number of Cubans here and wants the ruling party to reach a conciliation with Jonas Savimbi, the pro-Western leader of an anti-government guerrilla group known as UNITA. Two years ago, President Carter said he was thinking of renewing U.S. military assistance to Savimbi.

"State Department officials come through here and they keep talking about the Cubans and Savimbi," a Western ambassador said, 'The Angolans want to talk about other things, like the economy, and when the Americans leave, the Angolans say, 'What terrible people. They're not interested in our problems.'

"Frankly, when it comes to Angola, I think the Americans are operating with a sort of Alice-in-wonderland naivete. The point that they miss is that even if the Angolans wanted to, they're in no position at this point to rethink their relationship with the East.

'Why should Angola want to commit suicide?"

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE ON CLOTURE MOTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the vote is to occur tomorrow on the motion to invoke cloture at 11 a.m.; am I correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. The automatic quorum call under rule XXII has been vitiated, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no quorum call prior to 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 1 hour under the cloture rule be equally divided between the majority and minority leaders or their designees tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER REDUCING TIME OF THE TWO LEADERS OR THEIR DESIGNEES TOMOROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the standing order for the recognition of the two leaders or their designees be reduced to 5 minutes each tomorrow and that that come out of the 1 hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SACCHARIN EXTENSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 765.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4453) to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

The Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that a statement by Senator HAYAKAWA be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT OF SENATOR HAYAKAWA

Most of us in this Chamber remember well the furor that erupted following release of a Canadian study which stated that massive doses of saccharin caused bladder cancer in rats. As a result of this conclusion, the Food and Drug Administration issued a detailed plan on April 14, 1977, to end its use as a general food additive, in cosmetics likely to be ingested, and as a non-medical ingredient in drugs.

The protest from the American people was overwhelming. It was so immediate and so strong that the Congress in its wisdom passed legislation to delay the ban. Having introduced a bill to the same effect, I supported the final version that Congress passed that imposed a moratorium on such a ban until May of 1979.

On May 10, 1979, I introduced a second bill, S. 1121, to extend for 36 months the prohibition against Government action to ban saccharin. I am pleased to note that 32 of my Senate colleagues co-sponsored this bill, which was referred to Committee. The amendment we are voting on today was passed by the House overwhelmingly on July 24, 1979, and calls for a two-year extension of the moratorium until June 30, 1981, and the Senate Labor and Human Resources Committee reported the amendment out on May 15, 1980. Since an additional 15 months, at least, would be required to write, publish, and review public comments on regulations evoking a ban, the moratorium will be extended until 1982, which the members of the House and Senate Committees feel is acceptable.

Since the passage of the Saccharin Study and Labeling Act in November 1977, the required studies have been conducted and the results have been published. To say that the results are somewhat conflicting is a truism that I believe everyone will admit. I would like to take the time to refer to brief summaries of these studies which were provided by the Food and Drug Administration indicating the uncertainty, even now, of the full danger of saccharin to the average consumer.

On December 20, 1979, the Department of Health, Education, and Welfare released the preliminary findings of a $1.5 million epidemiological study that examined the relationship between the use of artificial sweeteners such as saccharin and cyclamate and the incidence of bladder cancer in humans. Results of the study, conducted by the National Cancer Institute (NCI) and the Food and Drug Administration (FDA) were that there was no increased risk of bladder cancer among users of artificial sweeteners in the overall study population. However, there was some evidence that sweeteners may be hazardous among three groups:

1. Heavy users of artificial sweeteners.
2. People who smoked cigarettes heavily and who also made heavy use of artificial sweeteners.
3. Those women who normally would be at low risk for bladder cancer, but who consumed sugar substitutes or diet beverages twice or more a day had 60 percent greater risk of bladder cancer compared with similar women who never used artificial sweeteners.

When the results of this study were announced, the Commissioner of Food and Drugs stated that further evaluation of the data of this complex study is required. While the NCI's evaluation indicates that this study is consistent with previous animal studies concluding that saccharin is a weak carcinogen, FDA will evaluate the new NCI data and gauge their significance.

A second study, published in the New England Journal of Medicine on March 6, 1980, involved 592 cancer patients and 536 controls. In an editorial in the publication, Dr. Robert Hoover, Director of the NCI/FDA study wrote ". . . The findings of these studies can be interpreted as being consistent with the laboratory (animal) evidence suggesting that saccharin is a weak carcinogen. On the other hand, the findings can also be interpreted as showing no evidence of carcinogencity. . . . The correct or more prudent interpretation will probably be a matter for conjecture and debate for some time. . . ."

A third study, conducted by the American Health Foundation, found "no association . . . between use of artificial sweeteners or diet beverages and bladder cancer." This study is being published in Science magazine.

I mention these interpretations to point out that there still is scientific uncertainty about the effects of the use of saccharin which justifies, in my mind, the moratorium of the FDA ban that the Congress enacted. Five years will have elapsed since the FDA announced its intention to ban saccharin in 1977, extensive studies have been made, and now the results are still being evaluated by the scientists.

I must reiterate my personal commitment to permitting the use of saccharin and I, therefore, support H.R. 4453.

I thank the Chair.

The bill (H.R. 4453) was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROCEDURES FOR INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 840.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1717) to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 4, beginning with line 1, strike through and including line 7;

On page 4, line 8, strike "(iii)" and insert "(ii)";

On page 4, line 11, strike "or replace" and insert "replace, or remove";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2510 of title 18, United States Code, is amended—

(1) in paragraph (10) by striking out "and" at the end thereof;

(2) in paragraph (11), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(12) 'surreptitious entry' means a physical entry upon a private place or premises to install, repair, reposition, replace, or remove any electronic, mechanical, or other device, and includes both covert entry and entry effected by means of a ruse or subterfuge.".

Sec. 2. Section 2518(1) of that title is amended—

(1) in paragraph (e), by striking out "and" at the end thereof;

(2) in paragraph (f), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(g) a statement whether surreptitious entry is required to effect the interception, and if such surreptitious entry is required, a statement as to why means of effecting the interception other than surreptitious entry reasonably appear, if tried, to be unlikely to succeed, to be too dangerous, or to be impracticable.".

Sec. 3. Section 2518(3) of that title is amended—

(1) in paragraph (d), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(2) by adding at the end thereof the following:

"(e) where the order is to authorize or approve a surreptitious entry, such surreptitious entry reasonably appears to be required to effect the interception because means of effecting the interception other than surreptitious entry reasonably appear, if tried to be unlikely to succeed, to be too dangerous, or to be impracticable.".

Sec. 4. Section 2518(4) of that title is amended—

(1) in paragraph (d), by striking out the "and" at the end thereof;

(2) in paragraph (e), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(f) whether surreptitious entry is authorized or approved to effect the interception; and

"(g) in any order which includes authorization of surreptitious entry—

"(i) the identity of the agency authorized to make the surreptitious entry;

(ii) that in any case in which more than one entry is necessary to install the device, or in which reentry is necessary to repair, reposition, replace, or remove the device, the attorney for the government in charge of the investigation shall, when practicable, notify in writing the authorizing judge prior to such reentry of the reasons which necessitate the reentry, and when prior notice is not practicable, such notification is to be made within forty-eight hours after the reentry and is to describe the reasons which necessitated the reentry and why prior notification was not practicable.".

Sec. 5. Section 2518(7) of that title is amended—

(1) by amending paragraph (a) to read as follows:

"(a) an emergency situation exists that involves—

"(i) immediate danger of death or serious physical injury to any person,

"(ii) conspiratorial activities threatening the national security interest, or

"(iii) conspiratorial activities characteristic of organized crime,

that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained. and": and

(2) by inserting a comma and "and may make any surreptitious entry required to effect such interception," immediately before "if an application for an order".

Sec. 6. Section 2519(1) of that title is amended—

(1) by inserting immediately after paragraph (e) the following:

"(f) the fact that a surreptitious entry to effect the interception was authorized or approved, the number of such entries made, and the purpose, either to install, repair, reposition, replace, or remove the interception device, for each such entry;".; and

(2) by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively.

Sec. 7. Section 2519(2) of that title is amended in paragraph (a) by striking out "(g)" and by inserting in lieu thereof "(h)".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. Kennedy be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MR. KENNEDY

S. 1717 makes two important amendments to Title III of the Ominbus Crime Control and Safe Streets Act of 1968, which sets forth procedures for the use of electronic intercept devices during the course of a criminal investigation.

The first of these amendments establishes procedures for obtaining judicial approval of surreptitious or covert entries when such entries are necessary to install, maintain, or remove a court-authorized electronic eavesdropping device. In most criminal investigations, authority to enter a private premises is not required since wiretaps can be installed on exterior lines or at distant locations. In some cases, however, in order to intercept conversations relating to criminal activity, an oral intercept device must be installed on the premises itself. This kind of installation requires that a covert entry be made onto those premises.

As necessary as these entries may be for the successful interception of oral communications, they raise privacy considerations beyond those that accompany wiretaps. In addition to the intrusion into an individual's conversational privacy by virtue of his conversations being intercepted, his physical privacy is also breached when federal agents must enter his home, office or other premises to install the intercept devices. This entry is made without notice to the individuals. And his premises may later be re-entered to maintain, repair, replace, or remove the intercept devices. Because of these additional intrusions into otherwise protected areas of privacy, it is important that these entries by federal agents be approved by an informed and neutral judicial officer. This approval would protect not only the person whose premises are to be entered, but also would provide clear authority to the federal agents to make such an entry when it is necessary to install a court-authorized intercept device.

To its credit, the Department of Justice has, for the past few years, had a policy of notifying the court when a surreptitious entry is necessary for the installation of an intercept device, and its agents have included specific entry provisions in the intercept order submitted to the issuing court for approval. This amendment codifies that policy, which the Supreme Court has also approved.

S. 1717 contains a second and equally important amendment to the current electronic eavesdropping law relating to emergency interceptions of wire or oral communications. Under present law, conversations can be intercepted on an emergency basis only if the investigation relates to conspiratorial activities characteristic of organized crime or threatening the national security. These exceptions, however, do not include life-endangering situations where such interceptions could be instrumental in preventing death or serious bodily injury to any person. These situations arise especially in kidnapping and hostage cases where delay of any length of time could jeopardize the life of an innocent person or prevent federal agents from quickly neutralizing a terriorist or hostage-taking incident.

In closing, I should like to acknowledge the major contributions made by Assistant Attorney General Philip B. Heymann and Ms. Molly Warlow of his staff, and Director William H. Webster and his staff with whom I have worked closely in drafting this legislation. I would also like to express my appreciation to my good friend and colleague. Senator Patrick J. Leahy and to Mr. Harry Wiles of his staff whose assistance was invaluable.

These amendments have a broad spectrum of support. The Administration, the Department of Justice, the American Bar Association, the American Civil Liberties Union, The Federal Bureau of Investigation and a number of other federal law enforcement agencies have endorsed this legislation because it carefully balances and protects important privacy interests as well as legitimate law enforcement needs.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL SEA GRANT COLLEGE PROGRAM AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6614.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 6614) entitled "An Act to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes", with the following amendments:

Page 1, after line 5, insert:

(2) in section 204(c) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) encourage cooperation and coordination with other Federal programs concerned with ocean and coastal resource conservation and usage;".

Page 1, line 6, strike out "(2) in", and insert: (3) (in

Page 1, line 11, strike "(3) in section 206 (c)", and insert: (4) in section 206(c) by inserting "out" immediately after 'carrying". and

Page 1, line 13, strike out "$7,000,000", and insert: $5,000,000

Page 1, line 14, strike out "$7,000,000", and insert: $6,000,000.

Page 2, line 1, strike out "(4)", and insert: (5)

Page 2, line 5, strike out "(5)", and insert: (6)

Page 2, line 7, strike out "$55,000,000", and insert: $50,000,000

Page 2, line 8, strike out "$60,000,000", and insert: $58,000,000

Page 2, line 17, strike out "Sec. 3., and insert: Sec. 3.

UP AMENDMENT NO. 1128

(Purpose: Add additional section regarding applications for compensation under the Fishermens Protective Act of 1967)

Mr. STEVENS. Mr. President, I have an amendent at the desk, sponsored by the Senator from Oregon (Mr. Packwood) and me.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), for himself and Mr. Packwood, proposes an unprinted amendment numbered 1128.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the House amendment, insert the following:

"Sec. . (a) Notwithstanding the provisions of section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) applications for compensation under such Act, filed within 90 days after the date of enactment of this subsection shall be deemed to be timely filed.

"(b) Section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) is amended by striking 'sixty' and substituting '90'.".

Mr. ROBERT C. BYRD. I move that the Senate concur in the House amendments to the Senate amendment, with an amendment.

The motion was agreed to.

Mr. STEVENS. Mr. President, a parliamentary inquiry. Do I correctly understand that the bill as sent to us by the House has been agreed to with an amendment?

The ACTING PRESIDENT pro tempore. The Senate has concurred in the House amendments to the Senate amendment, with an amendment.

EXTENSION OF TIME ON SEQUENTIAL REFERRAL OF S. 2597

Mr. ROBERT C. BYRD. Mr. President, the Armed Services Committee requested and received sequential referral under Senate Resolution 400 of the fiscal year 1981 intelligence authorization bill, March 24, for a period of 30 session days.

Unfortunately, because of the markup of the defense authorization bill, the Armed Services Committee has not been able to complete its work on the intelligence bill. Therefore, I ask unanimous consent that the Armed Services Committee be granted an extension of 10 session days on its sequential referral of S. 2597. This request has been discussed with the chairman of the Select Committee on Intelligence.

I am authorized to say that Mr. Bayh does not object.

Mr. STEVENS. I am authorized to say that the minority on the Intelligence Committee does not object either.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there morning business?

THE CROMMELIN FAMILY OF ALABAMA

Mr. HEFLIN. Mr. President, the U.S. Navy recently honored a distinguished Alabama family by naming one of its new guided missile frigates the U.S.S. *Crommelin*.

The Crommelin family, of Montgomery and Elmore Counties in Alabama, is one of my State's and the South's most distinguished and accomplished families. I can think of no other family more deserving of this very special honor.

The Crommelins have distinguished themselves in service to the Nation and to the U.S. Navy. All five of the Crommelin brothers had outstanding Navy careers. Two of them, Charles and Richard, gave their lives for their country during World War II.

All five Crommelin brothers graduated from the U.S. Naval Academy at Annapolis and each pursued a career in the Navy. The oldest of the brothers, Henry, attained the rank of vice-admiral and earned the Silver Star for distinguished service during World War II.

John Crommelin, one of the two surviving brothers, was the executive officer on the U.S.S. *Enterprise*. Brothers Charles and Richard, who were killed in combat, were both awarded the Navy Cross for their aeronautical exploits against the Japanese in World War II.

The youngest of the five brothers, Capt. Quentin Crommelin, served as a distinguished carrier aviator pilot and is currently a cattleman in Elmore County. Captain Crommelin's son, Quentin Crommelin, Jr., is known to many of you as a legislative assistant to the Honorable Harry Byrd of Virginia. Prior to joining Senator Byrd's staff, Quentin served as staff director for the Separation of Powers Subcommittee of the Senate Judiciary Committee chaired by the late Alabama Senator James B. Allen.

I am most proud that the Navy chose to honor one of Alabama's finest and most distinguished families by naming one of its guided missile frigates the U.S.S. *Crommelin*. Alabama and the entire Nation can be proud of the dedicated service the members of the Crommelin family rendered to this Nation during both war and peace.

Mr. President, I ask unanimous consent that an article by Ms. Susan Hurley Boyd, published in the Birmingham Post-Herald about the U.S.S. *Crommelin* be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Navy Honoring Crommelins

(By Susan Hurley Boyd)

The U.S. Navy has decided to honor a distinguished Alabama family for its contribution to the service, including two men who earned the Navy Cross during World War II, by naming a new guided-missile frigate the USS Crommelin.

The Crommelin family of Elmore and Montgomery counties gave five sons to the Navy. Two reached the rank of admiral, one the rank of captain and two, who were killed in the war, achieved the ranks of commander and lieutenant commander.

"I almost burst out crying, I was so thrilled," said Sally Crommelin of Montgomery, the wife of the late Vice Adm. Henry Crommelin, who died in 1971.

"I could hardly believe it but, they deserved it, each and every one of them," Mrs. Crommelin said she was notified last December of the Navy's decision to name the ship for her husband and his brothers.

Under construction in Seattle by Todd Shipyards Corp., the ship is officially named for three of the Crommelin brothers, Vice Adm. Henry, Cmdr. Charles and Lt. Cmdr. Richard Crommelin, all of whom are dead.

The Navy has suggested that the two surviving brothers, retired Rear Adm. John Crommelin of Harrogate Springs and retired Capt. Quentin Crommelin of Toulouse Plantation, will be added to the ship's name later. The Navy rarely names a ship for a living person.

"Of course, I think it's a very great honor, particularly because the people they named were my brothers killed in the war, Charles and Richard, as well as Henry," said the youngest of the brothers, Quentin Crommelin, 60.

"We're especially proud for the ones who are no longer with us. We're just bound to be proud and pleased . . . we all loved it (the Navy)."

Quentin Crommelin, who retired from the Navy in 1970, is a cattleman on 1,400 acres of Elmore County land that has been in the family since 1820.

All five Crommelin brothers graduated from the U.S. Naval Academy and had distinguished careers. The rank of vice admiral, attained by Henry Crommelin, is the second highest rank in the Navy. He was awarded the Silver Star for distinguished service.

John Crommelin was the executive officer on the aircraft carrier USS Enterprise, which at one time was the lone U.S. carrier in the World War II fleet. Two books written about the Enterprise were dedicated to him. He later ran unsuccessfully for governor and U.S. senator.

Charles and Richard Crommelin won the Navy Cross, the highest honor the secretary of the Navy can bestow, for daring exploits against the Japanese as aviators. Charles Crommelin won the award twice.

In one battle, Charles Crommelin's plane was hit by the Japanese. The explosion inside his cockpit virtually blinded him. With barely any vision left, he flew several hundred miles to land on a carrier. He later returned to duty and was killed in an aircraft collision.

Richard Crommelin was killed in the last week of the war.

Construction of the $200 million ship begins today with the laying of the keel. The shipyard expects to launch the ship next February. It will join the fleet later next year.

"Four of us were carrier aviator pilots, the fifth, Adm. Henry, was primarily on destroyers," Quentin Crommelin said. He said he expects to attend the ship's christening in February.

Asked if she would attend the ceremony, Mrs. Henry Crommelin said, "You're damned tooting, wouldn't you? I might add, so are all my children."

One of her four children is Dr. Henry Crommelin Jr., a physician at St. Vincent's Hospital in Birmingham. He said yesterday that his father "would have been honored, certainly. He was 16 when he went to the Naval Academy after attending the University of Alabama for one year."

He said he had "thought it might be possible" that a ship would be named for his father and uncles. "There are lots of ships that need names, and in my family five graduated from the Naval Academy and two died in World War II."

Carrying on the family tradition, he also served in the Navy, three years as a line officer and, after graduation from medical school, five years as a physician.

"I'm delighted to see that they are building new ships, and they need to do a lot more to strengthen our armed forces in these days and times, if necessary at the expense of domestic programs."

ADOLF EICHMANN AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, 29 years ago, Adolf Eichmann was put on trial for murder. This man sent millions to their death. But, Mr. President, from the point of view of jurisprudence, this Nazi official was nearly guiltless. He had never personally hurt anyone. In fact, under the Nazi regime, the responsibility for murder increased with distance from the crime. Adolf Eichmann was guilty of something uniquely modern—administrative massacre. The Eichmann case reminds us that after all these years we must come to grips with the crime of genocide.

The trial of Eichmann at Jerusalem was a start. But it did not go far enough. It asked an ordinary question that did not fit these extraordinary crimes. Did the defendant personally assault a Jew? No. He had not even been impolite to a Jew. In short, the Jerusalem court could not punish this man under existing law. It had to create its own notion of "crimes against humanity." The law books never mentioned the evil of genocide. Mr. President, this presented a problem for the courts that is with us today. But today we have a chance to begin closing this legal loophole. We can ratify the Genocide Convention.

Under the Nazi legal system, Eichmann was a functionary, not a murderer. But now we have an opportunity to forge a new future. Does it not make sense to put him and his kind in their rightful place? This country can, right now, join with other countries to condemn this most horrible crime. The task of preventing a future holocaust demands that we give weight to international opinion and ratify this treaty.

Because the desk murderer is so insulated from the evil he creates, he must be especially aware of those who would condemn him. With modern techniques of murder, with racial prejudices that are still among us, an observer has pointed out that:

> This new type of criminal commits his crimes under circumstances which make it . . . impossible for him to know or feel that he has done wrong.

Future generations must know that acts of genocide will be met with international condemnation. The trial of Adolf Eichmann reminds us that we must prevent and punish horrors which we canot grasp. We must ratify the Genocide Convention now. If the individual can no longer be held responsible, then we have an alibi for all guilt.

THANKS FROM FORMER SENATOR NORRIS COTTON

Mr. HUMPHREY. Mr. President, I have received a letter from our former colleague Senator Norris Cotton, requesting that I thank my colleagues who joined me in sending him a birthday card recently on the occasion of his 80th birthday.

As a mater of fact, I believe we owe a vote of thanks to former Senator Thomas McIntyre for undertaking that birthday card project.

I also report to my colleagues that not only is Norris Cotton doing well, enjoying improved health, but also, as evidence of that, he recently took a bride, a very lovely lady named Eleanor Brown, who, more than any other person, I believe is responsible for bringing Noris back to the enjoyment of full health.

I am sure that my colleagues join me in wishing Senator Cotton and Eleanor many years of health and happiness.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on Banking, Housing, and Urban Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:16 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 2511) to amend the Civil Rights Act of 1957 to authorize appropriations for the U.S. Commission on Civil Rights for fiscal year 1981, with amendments; that the House insists upon its amendment to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Edwards of California, Mr. Kastenmeier, Mr. Seiberling, Mr. Drinan, Ms. Holtzman, Mr. Volkmer, Mr. Hyde, Mr. Ashbrook, and Mr. Sensenbrenner were appointed as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 6614) to authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6942. An act to authorize appropriations for the fiscal year 1981 for international security and development assistance.

the Peace Corps, and refugee assistance, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 89. Joint resolution permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes; and

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 3:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2102) pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read by its title and placed on the calendar:

H.R. 6942. An act to authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 9, 1980, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 89. Joint resolution permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes; and

S.J. Res. 127. Joint resolution to authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3950. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Major Deficiencies in Army's Washington, D.C., Finance and Accounting Operation"; to the Committee on Armed Services.

EC-3951. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-3952. A communication from the Board of Directors of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States imports to the United Kingdom; to the Committee on Banking, Housing, and Urban Affairs.

EC-3953. A communication from the Board of Directors of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Greece; to the Committee on Banking, Housing, and Urban Affairs.

EC-3954. A communication from the Vice President for Governmental Affairs of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on total itemized revenues and expenses of each train operated by the Corporation for the month of March 1980; to the Committee on Commerce, Science, and Transportation.

EC-3955. A communication from the Vice President for Governmental Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the number of passengers on board and the ontime performance of each train operated by the Corporation for the month of March 1980; to the Committee on Commerce, Science, and Transportation.

EC-3956. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, a notice that the Commission is unable to render a final decision in No. 37299F, Grain, Kansas City, Mo-Ks, to Texas Ports, within the specified seven month period; to the Committee on Commerce, Science, and Transportation.

EC-3957. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission is unable to render a final decision in Docket No. 37322 Coal, Belle Ayr and Easle Jct. Wyo., to Council Bluffs, Iowa, within the specified seven month period; to the Committee on Commerce, Science, and Transportation.

EC-3958. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3959. A communication from the Assistant Secretary of State for Congressional Relations, transmitting, for the information of the Senate, a response to a request of a conference committee on the degree of implementation of the Colombian assistance effort and progress toward elimination of Colombia as a source and transit country for cocaine and marihuana; to the Committee on Foreign Relations.

EC-3960. A communication from the Secretary of the Treasury, transmitting, pursuant to law, an annual report on progress in promoting the development and utilization of capital saving technologies in the activities of certain international financial institutions, dated May 1980; to the Committee on Foreign Relations.

EC-3961. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the activities of the Office of Inspector General, Department of Commerce, for the period October 1, 1979 to March 31, 1980; to the Committee on Governmental Affairs.

EC-3962. A communication from the Administrator of the Veterans Administration, transmitting, pursuant to law, a report on the activities of the Office of Inspector General, Veterans Administration, for the period October 1, 1979 to March 31, 1980; to the Committee on Governmental Affairs.

EC-3963. A communication from the Assistant Secretary of Agriculture for Administration, transmitting, pursuant to law, a report on a poposed new system of records for the Department of Agriculture for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-3964. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to establish an Office of Statistical Policy in the Executive Office of the President for the purpose of developing Federal statistical policy and statistical programs of the Federal agencies are responsible to national information needs, and for other purposes; to the Committee on Governmental Affairs.

EC-3965. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Inter-American Foundation for fiscal years 1979 and 1978; to the Committee on Governmental Affairs.

EC-3966. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of the financial statements of the Overseas Private Investment Corporation for fiscal years 1979 and 1978; to the Committee on Governmental Affairs.

EC-3967. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the temporary admission of certain aliens under section 212(d)(3) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3968. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the admission of a certain alien under section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3969. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a copy of the order suspending deportation of a certain alien under section 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3970. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Law Enforcement Education Program Is In Serious Financial Disarray"; to the Committee on the Judiciary.

EC-3971. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the forty-fourth annual report of the National Labor Relations Board for fiscal year 1979; to the Committee on Labor and Human Resources.

EC-3972. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the budget rescissions and deferrals contained in the President's eighth special message transmitted to the Congress on May 13, 1980; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Environment and Public Works, and the Committee on the Judiciary.

EC-3973. A communication from the General Counsel, Department of Commerce, reporting, for the information of the Senate, relating to S. 2622, the "Coastal Zone Management Act Amendments of 1980"; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON from the Committee on Energy and Natural Resources with an amendment and an amendment to the title:

S. 1280. A bill to amend the Energy Policy and Conservation Act, as amended, to provide assistance to States and to political subdivisions within States to promote national energy objectives, and for other purposes (together with minority views) (Rept. No. 96-799).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MAGNUSON (by request):

S. 2800. A bill to provide for full insurance for deposits of public funds in insured banks, thrift institutions, and credit unions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOREN:

S. 2801. A bill to designate the Indian Health Facility in Ada, Oklahoma the "Carl Albert Indian Health Facility"; to the Select Committee on Indian Affairs.

By Mr. BENTSEN:

S. 2802. A bill relating to toll-refining agreements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HUMPHREY:

S. 2803. A bill to designate the United States Post Office and Courthouse Building in Concord, New Hampshire as the "James C. Cleveland Building"; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON (by request):

S. 2800. A bill to provide for full insurance for deposits of public funds in insured banks, thrift institutions, and credit unions; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. MAGNUSON. Mr. President, today, at the request of the Savings League of the State of Washington, I am introducing legislation to provide 100-percent insurance of public funds deposited with insured institutions—banks, thrifts, and credit unions.

In 1972, I introduced legislation similar to the bill I am submitting today. Though hearings on the measure were held in the Committee on Banking, Housing and Urban Affairs, no action was taken to eliminate the barriers which restrict thrifts in their participation in the competition for public funds. Current circumstances make the need for congressional action all the more necessary. I hope that this bill will assist both savings and loan associations, and the homebuilding industry, by attracting capital to the very institutions whose highest volume business is in the mortgage lending area.

In the 93d Congress, the Advisory Commission on Intergovernmental Relations conducted a study of Federal insurance of public deposits. The ACIR report on "The Impact of Increased Insurance on Public Deposits" was issued on January 20, 1977. The report stated in part:

> The ACIR recommends that the appropriate federal agency insure the full amount of public deposits in commercial banks, savings and loan associations, mutual savings banks, and credit unions. . . . Full deposit insurance for public funds would result in better service and higher returns on deposits of governments because of the wider competition for such deposits by all types of financial institutions (Pages vii and viii).

Currently, most States require that deposits of public funds with banks be fully collateralized. Such funds may be deposited in savings and loans only to the extent of insurance—currently $100,000. We all recognize the need to increase the funds available for home financing. This bill permits local public officials, who have considerable amounts of funds available for investment, to put those funds to use within their own communities to encourage homebuilding and home buying, and still have the security of full insurance, provided by either the FSLIC or the FDIC.

We are not talking about a small amount of money when we refer to the pool of public funds available for investment across our Nation. Government deposits in commercial banks exceeded $78.5 billion as of December 31, 1978. I draw the attention of my colleagues to figures obtained by the Congressional Research Service detailing for each State the funds on deposit with commercial banks, and ask unanimous consent that this information be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATE AND LOCAL GOVERNMENT DEPOSITS IN INSURED COMMERCIAL BANKS, DEC. 31, 1978

[In thousands of dollars]

State	Commercial banks: Demand deposits	Commercial banks: Time and savings deposits	Commercial banks: Total
Alabama	354, 640	892, 837	1, 247, 477
Alaska	62, 124	326, 432	388, 556
Arizona	137, 170	364, 446	501, 616
Arkansas	255, 669	496, 167	751, 836
California	684, 177	5, 521, 126	6, 205, 303
Colorado	196, 734	959, 701	1, 156, 435
Connecticut	261, 507	372, 668	634, 175
Delaware	127, 577	28, 295	155, 872
District of Columbia	14, 667	32, 304	46, 971
Florida	569, 945	1, 987, 166	2, 557, 111
Georgia	637, 390	1, 109, 816	1, 747, 206
Hawaii	31, 030	631, 187	662, 217
Idaho	98, 227	156, 585	254, 812
Illinois	989, 610	3, 877, 706	4, 867, 316
Indiana	1, 024, 346	1, 791, 701	2, 816, 047
Iowa	194, 493	893, 511	1, 088, 004
Kansas	371, 217	1, 402, 897	1, 774, 114
Kentucky	390, 788	673, 411	1, 064, 199
Louisiana	551, 074	2, 203, 118	2, 754, 192
Maine	50, 473	193, 334	243, 807
Maryland	128, 307	371, 234	499, 541
Massachusetts	609, 371	629, 376	1, 238, 747
Michigan	706, 911	3, 084, 281	3, 791, 192
Minnesota	331, 480	1, 142, 121	1, 473, 601
Mississippi	490, 394	818, 898	1, 309, 292
Missouri	360, 817	1, 366, 462	1, 727, 279
Montana	105, 436	266, 764	372, 200
Nebraska	199, 714	481, 629	681, 343
Nevada	52, 582	221, 222	273, 804
New Hampshire	81, 424	102, 111	183, 535
New Jersey	742, 474	1, 323, 018	2, 065, 492
New Mexico	158, 893	701, 616	860, 509
New York	1, 726, 977	3, 897, 428	5, 624, 405
North Carolina	259, 679	919, 767	1, 179, 446
North Dakota	53, 258	176, 085	229, 343
Ohio	854, 220	2, 030, 247	2, 884, 467
Oklahoma	307, 822	1, 474, 599	1, 782, 421
Oregon	186, 018	480, 338	666, 356
Pennsylvania	561, 988	2, 880, 779	3, 442, 767
Rhode Island	70, 108	167, 555	237, 663
South Carolina	222, 220	201, 492	423, 712
South Dakota	50, 972	271, 930	322, 902
Tennessee	390, 348	1, 657, 924	2, 048, 272
Texas	1, 268, 630	7, 235, 511	8, 504, 141
Utah	90, 416	481, 293	571, 709
Vermont	39, 953	75, 210	115, 163
Virginia	399, 032	1, 132, 385	1, 531, 417
Washington	176, 944	1, 258, 702	1, 435, 646
West Virginia	154, 018	278, 667	432, 685
Wisconsin	255, 950	1, 237, 667	1, 493, 617
Wyoming	99, 000	223, 379	322, 379
Total	18, 138, 214	60, 414, 098	78, 552, 312

Source: Federal Deposit Insurance Corporation.

Mr. MAGNUSON. Mr. President, data for savings and loan associations is available in aggregate form only; as of December 31, 1978, there were $3,959,670,000 Federal, State, and local government deposits in insured savings and loan associations. However, in the State of Washington alone, the average daily balance available for investment solely from State treasury funds is $849 million.

In short, we need to enlarge the investment opportunities for this pool of funds. With the recent passage of Public Law 96-221, the banking deregulation bill, which increases competition in the financial community, the climate may be right for the consideration of further competitive measures. I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 11(a)(2)(A) of the Federal Deposit Insurance Act is amended by striking out "an amount not to exceed $100,000 per account" and inserting in lieu thereof "the full amount."

(b) Section 11(a)(2)(B) of such Act is amended by striking out all after "terms of its assets" and inserting in lieu thereof a period.

Sec. 2. Section 405(d)(1) of the National Housing Act is amended by striking out "an amount not to exceed $100,000 per account" and inserting in lieu thereof "the full amount".

Sec. 3. Section 207(c)(2)(A) of the Federal Credit Union Act is amended by striking out "an amount not to exceed $100,000 per account" and inserting in lieu thereof "the full amount".●

By Mr. BOREN:

S. 2801. A bill to designate the Indian Health Facility in Ada, Okla., the "Carl Albert Indian Health Facility"; to the Select Committee on Indian Affairs.

● Mr. BOREN. Mr. President, today I introduced legislation to designate the comprehensive Indian Health Facility currently under construction at Ada, Okla., in honor of the former Speaker of the House of Representatives, the Honorable Carl Albert of Oklahoma.

During Speaker Albert's long and distinguished career in the House of Representatives, he exhibited unfailing support and dedication to efforts advanced to upgrade the economic and social self-sufficiency of the first Americans of the country. Recognizing that one factor of major importance in achieving a sound economy for any group of people in a health status of the highest level, Speaker Albert was always supportive of the Indian peoples' efforts to improve the quantity and quality of health care provided to them.

Having represented a State with the largest number of Indian tribes as well as the largest number of Indians of any other State in the Nation, Speaker Albert is well acquainted with the difficulty Indian tribes in Oklahoma and throughout the country encounter in their efforts to achieve a health status of the highest level for their tribal constituency. Recognizing the numerous unmet health care needs of the thousands of Indian people in southeastern Oklahoma, Speaker Albert was instrumental in securing funds for the much needed comprehensive health care facility presently under construction at Ada, Okla., which will provide complete health services to approximately 20,000 Chickasaw and other Indians residing principally in southeastern Oklahoma.

It is the desire of the Chickasaw Nation that this Comprehensive Indian Health Facility, located in the headquarters city for the Chickasaw Nation, be named in honor of the Honorable Carl Albert in appreciation for his friendship and service to the Chickasaw Nation over the years. I support the tribe in their desire and am pleased to be able to assist them in this effort. I gladly introduce legislation to designate the Indian Health Facility at Ada, Okla., the "Carl Albert Indian Health Facility."

Mr. President, I ask unanimous consent that the bill I have introduced in support of this effort be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Health Facility located at 1001 North Country Club Road, Ada, Oklahoma, shall hereafter be known and designated as the "Carl Albert Indian Health Facility".

Sec. 2. Any reference in law, map, regulation, document, record, or other paper of the United States to such facility shall be held to be reference to the "Carl Albert Indian Health Facility".●

By Mr. BENTSEN:

S. 2802. A bill relating to toll-refining agreements; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. BENTSEN. Mr. President, I am introducing a bill which I believe will help increase the productivity of our domestic refineries. My bill will permit refineries located in the United States to import, refine, and reexport foreign crude oil.

Many small refiners have found themselves in the position of having excess or spare refining capability due to the high cost of crude. This spare refining capability represents a drain on U.S. productivity and lost employment opportunities. Much of this spare refining capability could be utilized if we, as a matter of policy, allowed or even encouraged our domestic refiners to enter into toll agreements with foreign producers.

The policy of the United States, as enunciated in the Export Administration Act of 1979, is "to insure trade with all countries with which the United States has diplomatic or trading relations" and to use export controls only to the extent necessary to protect the domestic economy from "the excessive drain of scarce materials."

Not allowing U.S. refiners to reexport foreign-owned refined products will not prevent the drain of "a scarce commodity." If U.S. refiners are not allowed to reexport a product to its actual owner, it will not be exported to us in the first place; the profit to be derived from the processing agreement will go to another country.

As was recognized in the act, restrictions on exports can have serious adverse effects on the balance of payments and on domestic employment and should therefore be used only when absolutely necessary.

Yet, the Commerce Department's supply regulations make no differentiation between the exporting of domestic crude oil and the reexporting, pursuant to a toll refining agreement, of petroleum products refined from foreign owned and produced crude. The regulations only provide for the exporting of petroleum products in the case of severe hardship. Nowhere in the statute does it say that exports are to be limited exclusively to hardship situations. Nonquota exports should include toll refining (and perhaps other situations as well) in addition to, hardship situations.

The current short supply regulations are out of date. They were written before the Export Administration Act of 1979, and indeed during a period of time where the United States was facing a very different situation with respect to petroleum.

I strongly urge, Mr. President, that the Secretary of Commerce along with other appropriate departments of Government address the policy question and modify its regulations accordingly.

The decline in the growth of U.S. productivity is a great concern to every member of the Joint Economic Committee, which I chair. The 1979 and 1980 annual reports, which were unanimously agreed to, emphasize the need to increase U.S. productivity. Governmental actions or regulations which stifle U.S. productivity should only be allowed when needed to further and even greater, overriding concern. No such cogent imperative exists, that I am aware of, which requires the Federal Government to stand in the way of toll-refining agreements.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That petroleum products that are refined in the United States from foreign crude oil pursuant to a processing agreement shall qualify for a general license for re-export, unless the President certifies that such re-export would violate the policy objectives set forth in Sections 3(2)(A) or (B) of the Export Administration Act of 1979.●

By Mr. HUMPHREY

S. 2803. A bill to designate the U.S. Post Office and Courthouse Building in Concord, N.H., as the "James C. Cleveland Building"; to the Committee on Environment and Public Works.

● Mr. HUMPHREY. Mr. President, today I am introducing legislation to name the U.S. Post Office and Courthouse Building in Concord after Congressman James C. Cleveland, who will retire from Congress this winter at the end of his ninth term.

Jim Cleveland is one of New Hampshire's most respected public servants, and it is only fitting that he be honored in this way. His 19 years in Congress serve as a model of integrity and principle for all to follow.

Mr. President, Congressman Cleveland represents my own town of Sunapee and in this sense, I am losing much more than a colleague in the Congress. Long before I entered politics, I had the highest respect for Congressman Cleveland and the dedication he has shown to his constituents.

The elderly, servicemen and their families, and municipalities all rely on Jim to guide them through the maze of Federal agencies with which they have had to do business. There are few people in the Second District who have not been helped in some way by Jim Cleveland. I urge my distinguished colleagues to join me in extending this honor to Congressman Cleveland.●

ADDITIONAL COSPONSORS

S. 2765

At the request of Mr. MAGNUSON, the Senator from Florida (Mr. STONE), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2765, a bill to amend the Fishery Conservation and Management Act of 1976, and for other purposes.

SENATE RESOLUTION 455—SUBMISSION OF A RESOLUTION COMMENDING THE CULTURAL LAUREATE PROGRAM

Mr. HARRY F. BYRD, JR., submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 455

Whereas, the Senate should seek means to advance the best interests of all the people of the United States; and

Whereas, in our history of taming a continent and building a great industrial society, our citizens have shown a continuing dedication to both equality of opportunity and excellence in achievement; and

Whereas, by the public recognition of achievement, our society reaffirms the greatness of our people and encourages continued striving toward that excellence in every walk of life which has made our country the most powerful nation in the world; and

Whereas, there now exists a Cultural Laureate program which enables the people of each state and territory to honor fellow citizens for their outstanding achievements and provides for national recognition by the public of the exceptional accomplishments of the people; and

Whereas, the Cultural Laureate program belongs to the people and operates without any requirement for either state or federal funding;

Resolved, that the Senate commends the Cultural Laureate program as being in the best interest of all the people and encourages establishment of the Laureate in each of the various states and territories and in the nation so that the people of the United States can fully and appropriately express their commitment to excellence.

SEC. 2. When the Cultural Laureate becomes truly national in scope, the Senate recommends public recognition of those citizens nominated by the people and selected for honor by groups of their peers to the end that all the people of the world shall know that the greatness of America is firmly based upon the achievements of individual Americans.

● Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk a resolution which would permit the Senate to recognize equality of opportunity and excellence in achievement among our citizens.

The cultural laureate program already is chartered in my own State of Virginia, where it has had exceptional success, and is being favorably considered by other States.

The program was conceived and developed by two splendid Virginians, Allen E. Turner and Donald Miller, who deserve high praise for their efforts.

It is being supported by a number of our congressional leaders, such as Speaker O'NEILL, majority leader WRIGHT, and minority leader RHODES of the House of Representatives, as well as other outstanding Americans.

I submit this resolution to the Senate, ask that it be appropriately referred, and urge its approval.●

AMENDMENTS SUBMITTED FOR PRINTING

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM—HOUSE JOINT RESOLUTION 521

AMENDMENT NO. 1806

(Ordered to be printed and to lie on the table.)

Mr. BAKER (for Mr. MATHIAS) submitted an amendment intended to be proposed by him to House Joint Resolution 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

AMENDMENTS NOS. 1807 THROUGH 1883

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted 77 amendments intended to be proposed by him to House Joint Resolution 521, supra.

AMENDMENT NO. 1884

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to House Joint Resolution 521, supra.

AMENDMENT NO. 1885

(Ordered to be printed and to lie on the table.)

Mr. JEPSEN submitted an amendment intended to be proposed by him to House Joint Resolution 521, supra.

AMENDMENT NO. 1886

(Ordered to be printed.)

Mr. NUNN proposed an amendment to House Joint Resolution 521, supra.

EDUCATION AMENDMENTS OF 1980—S. 1839

AMENDMENT NO. 1887

(Ordered to be printed and to lie on the table.)

Mr. SASSER submitted an amendment intended to be proposed by him to S. 1839, a bill to extend the Higher Education Act of 1965, and for other purposes.

● Mr. SASSER. Mr. President, today I am submitting an important amendment to S. 1839, the education amendments of 1980.

My amendment is important in two respects. First and foremost, it will help eliminate the barriers that now exist to minority employment in public affairs and administration. Second, it will assist in the training of able administrators for the local, State and Federal Governments.

The Sasser amendment establishes a William Levi Dawson Chair of Public Affairs at Fisk University in Nashville, Tenn. And $750,000 would be authorized to provide this step toward improving post-secondary education for the black community.

It is fitting that this amendment, and its goal, be dedicated to William Levi Dawson. From 1942 to 1970, he represented his Chicago constituency as only the second black Congressman since Reconstruction. He was the first black to chair a committee; the first black to serve as assistant chairman of the Democratic party.

More importantly, Mr. President, Bill Dawson was possessed by the conviction that public service, the need to serve people, was the primary business of politics. He once said that "participation in politics is the crowning glory of an American citizen and is the greatest weapon to gain and safeguard the rights of citizens." He firmly believed that the black community should develop political leaders in their own right—something that could only be accomplished with proper training and education.

Despite the quantum leaps in American education during the past decade, there is a conspicuous lack of adequate facilities to prepare black youth for public service. Fisk University, one of the Nation's premier institutions of higher education for black youth, is the ideal location for the William Levi Dawson Chair of Public Affairs. Fisk has a tradition of over 100 years of excellence in liberal arts education; this Chair of Public Affairs will permit the university to expand its curriculum to meet the changing needs of the school, the students, and indeed the entire Nation.

At this point, I would also like to express my thanks to Dr. Walter Leonard, the president of Fisk University. Dr. Leonard who served as an executive assistant to the president of Harvard University before taking the helm at Fisk, is one of the country's most prominent educators. He has and he continues to do a masterful job of guiding a black college through difficult times. He has been instrumental in the development of this worthy project and I am indebted to him for his support.

As a lasting monument to Bill Dawson, the Chair of Public Affairs will help in meeting the need which exists for trained public administrators. As a living monument to William Levi Dawson, the Chair of Public Affairs will increase job opportunities for black men and women. It will prove an asset to the black community—and indeed for all Americans—in the years to come by developing strong public leadership.

Finally, Mr. President, the William Levi Dawson Chair of Public Affairs will help eliminate the stigma that is placed on participation in politics. Convinced of the propriety of politics, he noted that:

> It is an honorable profession, a full-time job that rewards only those who are willing to apply their energy, start from scratch, and benefit by his experience.

And that, Mr. President, is nothing short of the American dream—hard work and just rewards, in the service to the public. The Dawson Chair of Public Affairs will help us attain these goals as our Nation moves from the 1980's into the next century.●

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Energy and Natural Resources will hold field hearings on section 605 of H.R. 7330, to explore options for energy self-sufficiency in the Pacific Basin.

These field hearings will be held in Honolulu, Hawaii, on July 10 and 11, 1980.

For further information regarding the hearings you may wish to contact James P. Beirne of the committee staff on extension 4–2564. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the committee, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that the hearing on S. 2695, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on production of coal, which was originally scheduled for June 17 has been rescheduled for August 6, 1980.

The hearing will be held at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions regarding this hearing should be directed to Thomas Laughlin of the committee staff at 224–2564.●

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

● Mr. JACKSON. Mr. President, the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources has scheduled a hearing on the nature, source and effects of "acid rain" and how the potential growth in emissions from coal-burning powerplants will affect acid rain problems.

The hearing will be held on Saturday, June 21, 1980, starting at 9:30 a.m. at the Concord Public Library, Concord, N.H.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, June 11, 1980, to hold a markup session on child nutrition legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CREDIT AND RURAL ELECTRIFICATION AND SUBCOMMITTEE ON RURAL DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Agricultural Credit and Rural Electrification Subcommittee and the Rural Development Subcommittee of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, June 10, 1980 to hold a joint hearing on the Farmers Home Administration's interest rate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GAO REPORT TO THE JOINT ECONOMIC COMMITTEE LISTS SERIOUS PAPERWORK PROBLEMS IN THE U.S. DEPARTMENT OF AGRICULTURE

● Mr. BENTSEN. Mr. President, according to a report recently released by the Joint Economic Committee, a number of agencies in the U.S. Department of Agriculture have been arrogantly imposing unnecessary and inflationary paperwork costs on the meat industry; costs which are ultimately borne by American meat consumers in the form of higher prices.

This report, which was prepared for the Joint Economic Committee by the General Accounting Office (GAO), contains a number of findings that I want to call to the attention of my colleagues in the Senate because they are so appalling:

First, the agencies generally ignored Office of Management and Budget (OBM) regulations for developing and testing paperwork imposed on the public. The OMB insists that all paperwork affecting businesses and individuals include an estimate of the hours of burden required to comply, both per individual respondent and for all respondents. This burden data can be determined under the OMB regulations by any of four different estimating methods. According to GAO, however, "the Department does not enforce either its own or OMB's burden-estimating guidelines. Instead, it allows agencies to use staff judgment when estimating burden."

One result of this is that the USDA can change the burden estimate for its paperwork requirements at whim. For example, GAO found that in 1977 the Food Safety and Quality Service (FSQS) claimed:

> In response to President Gerald R. Ford's burden reduction program, to have reduced the burden imposed by its meat inspection reporting requirement from 833,000 to 407,500 hours annually. Better estimating on the part of knowledgeable program staff was claimed as the basis for this reduction. . . . When we questioned the reasonableness of the estimate, neither the Department clearance officer nor FSQS officials knew if the estimate was accurate, reasonable, or reliable.

The burden figure for the meat inspection reporting requirement was cut in half, but not one substantive change was made in any form or any paperwork requirement. This kind of capricious disregard for OMB regulations on burden estimates makes a mockery of our attempt to reduce the crushing burden of Federal paperwork on the American public.

Second, the GAO found 1,100 forms being used by FSQS which had never been cleared by OMB under the requirements of the Federal Reports Act. All forms affecting more than 10 private sector respondents have to be approved by OMB before they can be put into use. During its investigation, GAO found evidence of uncleared forms. When it asked the FSQS to survey its local offices around the country for uncleared forms, FSQS found 1,100 bootleg forms being used illegally. At a Joint Economic Committee hearing which was held to look into GAO's findings, I was presented with these 1,100 bootleg forms by Comptroller General Elmer Staats. They made a pile almost 2 feet high.

The existence of these forms shows the utter disregard of the USDA for the volume of paperwork it imposes on the public. Furthermore, it shows that a lack of communication exists between Washington and the field on the importance of minimizing the burden of paperwork on the public. The meat inspectors and other USDA employees around the country were almost entirely unaware of the need to have these forms approved by OMB. The USDA was unaware that these forms were being used. The 1,100 bootleg forms are currently being evaluated by the USDA, and many have been submitted to OMB for proper approval.

Third, the General Accounting Office found paperwork being imposed that the Department never used. The most glaring example was the biological residue certificates. According to GAO:

> Under the reporting requirement, a business selling cows or sheep to slaughtering packers must prepare a certificate stating that the animals have not been exposed for 14 days before slaughter to a biological residue called diethylstilbestrol (DES) . . . The overall value of the DES certificate appears questionable. The evidence compiled so far shows that actual use has been negligible . . . At one plant, FSQS inspectors were collecting certificates and tossing them away. At another plant, FSQS inspectors received the certificates after the animals had been slaughtered.

The inspectors found that, even with the certificates, animals still had to be visually inspected and tested to assure that they had not been contaminated by DES. The recent ban on DES by the Food and Drug Administration has made the certificates obsolete, and the USDA has done away with them. But for over 7 years, USDA was forcing livestock sellers to prepare and submit a form that was never used.

Fourth, the report discovered that four agencies in the Department of Agriculture collect virtually the same data from stockyards and meatpackers, unaware that they were duplicating each other's efforts. The GAO reported that:

> A lack of interagency coordination has also caused duplication. The lack of coordination has occurred because agencies collecting packer information did not know that the information was readily available elsewhere. For example, P&S (the Packers and Stockyards Administration) justified its need to collect livestock slaughter information on the basis that no one else maintained the

data. P&S did not know that the Department's Agricultural Marketing Service; Animal and Plant Health Inspection Service; Economics, Statistics, and Cooperative Service; and the Bureau of the Census also collected livestock slaughter information.

But even with their new knowledge, these agencies in the Agriculture Department still failed to get together and collect the data in unison. According to the GAO:

These agencies believed letting businesses continue supplying duplicate information to the Department and the Bureau might be cheaper in the long run.

The GAO answered that one very simply: "Businesses disagreed." The packers and stockyards surveyed for the report all said that their main cost was not in the collecting of the data needed by these Government agencies but in reworking the data to fit the different formats used by each agency. Consolidating the various reports into a single one would cut their costs considerably. I hope the USDA will take this simple cost-cutting step.

Fifth, the GAO found that American meatpackers often feel compelled to hire private expediters to get their label applications through the USDA's bureaucratic mess in a timely fashion, at great cost to American meat consumers. Every label used for a meat product must first be approved by the Food Safety and Quality Service to assure that the product meets all USDA regulations.

The requirement that meat labels accurately describe the product for sale is a good one, because it helps prevent consumers from being misled about what they are buying. But the bureaucratic maze has turned this perfectly good idea into a nightmare for meatpackers—because it takes up to 3 weeks to obtain approval of a label, according to the GAO report. Since any ingredient change in a product, such as bologna, requires a new label, this delay means that meatpackers cannot respond in a timely fashion to changes in the prices of various meats, thus raising the costs of these products to consumers. To cut through the bureaucratic delay, most meatpackers have resorted to hiring private expediters who personally usher a label application through the USDA channels.

GAO found that this often cuts the approval time down to a single day. But expediters do not come cheaply. The GAO computed that a firm submitting 25 applications would spend as much a $375 for the assistance of an expediter, while a consolidated application for 25 labels without an expediter would cost a firm as little as $4 to prepare and submit. This extra cost, of course, goes right into the price of the meat product.

Since the Joint Economic Committee issued its report, the USDA has issued draft regulations designed to solve the label approval problem. But the solution is one that might be expected from a Government bureaucracy. Instead of revising their procedures to assure that labels are approved quickly for all applicants, the Department has simply decided to do away with the expediters. With no substantive changes in their procedures, this simply means that all meatpackers will now experience costly delays in getting their labels approved.

Mr. President, these are just some of the paperwork problems that the General Accounting Office found at the Department of Agriculture. The report contains many others. Anyone who wants to read the full report can obtain it directly from the GAO or from the Joint Economic Committee. Its title is "Department of Agriculture: Actions Needed to Enhance Paperwork Management and Reduce Burden."

One of the good things about having a GAO investigation into a problem like the paperwork mismanagement at USDA is that the Department must respond to the GAO's recommendations. I have just received a copy of the official USDA actions being taken in response to the nine GAO recommendations in its report to the Joint Economic Committee. The response is generally positive; the USDA is taking the recommendations seriously and trying to solve the problems along the lines suggested by GAO.

But I am not going to be satisfied, Mr. President, with statements of good intentions. I intend to keep a close eye on what the USDA actually does to improve the management of its paperwork and reduce the burden it imposes on the public. I want to make sure that the GAO recommendations are carried out and I understand that the GAO investigators will take a followup look at USDA in a few months. As I receive additional information on this, I will keep the Senate informed.

I ask that the digest of the report be printed in the RECORD.

The digest follows:

DEPARTMENT OF AGRICULTURE: ACTIONS NEEDED TO ENHANCE PAPERWORK MANAGEMENT AND REDUCE BURDEN

This report, the first in a series requested by the Chairman of the Joint Economic Committee, examines the effectiveness of the Department of Agricultures paperwork management program and policies. To manage paperwork effectively, Federal agencies need reliable information on the burden imposed on the public, the use made of the information requested, and the extent of duplicate reporting. Such information generally is unavailable at the Department of Agriculture, GAO concluded, after studying reports required from the meat industry.

The Department should improve its paperwork management program to better manage and further reduce the burden imposed on the public. The Department can do this by correcting ineffective practices which contribute to—

Meaningless and unreliable burden estimates,

Collection of unneeded information, and

Duplicate reporting requirements.

BURDEN ESTIMATES ARE MEANINGLESS

The Department's burden estimates usually represent unsupported staff judgment. How reasonable or reliable the estimates are is difficult to ascertain, since neither the Department nor the Office of Management and Budget has made a comprehensive evaluation. However, GAO found that staff judgment did not produce reliable estimates for either the Regulations Governing Meat Inspection or the Annual Report of Packers—the two most burdensome reporting requirements the Department levies on the meat industry. The Department estimated businesses spent 407,500 hours annually completing the regulations requirement and 4,400 hours annually completing the annual report. A GAO survey of businesses showed that the estimate for the regulations overstated the paperwork burden. The Department agrees and believes the overstatement may run as high as 259,000 hours. GAO believes the estimate for the annual report could be understated by as much as 7,600 hours. (See pp. 19 and 29.)

FAILURE TO MONITOR PRACTICAL UTILITY ALLOWS COLLECTION OF UNNEEDED INFORMATION

The Office of Management and Budget requires agencies to make "practical utility" reviews to verify use made of information collected from the public. Agencies are to stop collecting information they do not or cannot use because of staff, time, or other constraints.

The Department has not adequately monitored and evaluated information collection and use by its agencies or established standards and controls for agencies' practical utility reviews. These shortcomings have allowed agencies to establish inconsistent practices and procedures. For example, some agencies make practical utility reviews only on new forms and reports; others make no reviews at all. (See p. 6.) In addition, businesses must complete over 1,100 reporting requirements which have not been approved and may violate OMB guidelines. (See p. 17.)

BUSINESSES FACED WITH DUPLICATE REPORTING REQUIREMENTS

The Department has not defined "unnecessary duplication," and the two methods used to control it—memory and ad hoc subject files—require much time and effort and do not work. (See p. 8.)

The Department's label approval program bogs down businesses in duplicate reporting and red tape. The Department must approve a label before it may be used on any meat product. Companies which produce a product in a variety of weights or at several plants must get approval for each weight and each plant. (See p. 25)

Six Federal and two State reporting requirements duplicate, in part, information collected from meatpackers by the Department's Packers and Stockyards program. Four of the Federal requirements are imposed by the Department. (See p. 32.)

RECOMMENDATIONS

The Secretary of Agriculture should:

Require the Department's clearance office to upgrade policies and guidelines for estimating burden, assessing utility, and eliminating duplication.

Upgrade the paperwork management program by (1) improving the Department's method of burden estimating, (2) making sure that only verified and documented agency burden estimates are certified as reasonable, and (3) requiring each agency to index its reporting requirements.

Require each agency to fully assess the burden and utility of its reporting requirements.

These and related recommendations to the the Secretary are discussed in detail on pages 11, 26, and 35.

The Director of the Office of Management and Budget should:

Not delegate any additional authority to the Department for reviewing its repetitive reporting requirements until the Office has verified that the shortcomings discussed in this report have been corrected.

Designate Agriculture the focal agency responsible for overseeing the Government's collection of slaughtering packer information. (See pp. 12 and 35.)

AGENCY COMMENTS

Department of Agriculture

The Department acknowledged that there are areas in its paperwork management process needing improvement. The Department identified specific actions which would be taken for:

Improving its burden estimating procedures, including better documentation.

Assessing the practical utility of its information requirements.

Eliminating duplicate reporting.

The Department's comments and GAO's evaluation are discussed in detail at the end of chapters 2, 3, and 4.

Office of Management and Budget

The Office of Management and Budget agreed with GAO that the Department needs to correct weaknesses in its paperwork management process. The Office outlined actions underway or planned to insure that these problems were corrected. The Office's comments and GAO's evaluation are discussed in detail at the end of chapters 2, 3, and 4.

The Office stated, however, that GAO's recommendations did not go far enough since similar deficiencies are found in other Federal agencies. The Office cited the President's November 30, 1979, Executive Order 12174, "Paperwork," and proposed implementing guidelines as measures designed to achieve broader improvement in Federal paperwork management. As part of its papaperwork management reviews, GAO will monitor the Office's and other agencies' progress under the new executive order and guidelines.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for a determination under rule 35 which would permit Mr. David Foster, a staff member of the Committee on Finance, to participate in a program sponsored by a foreign educational and charitable organization, the "Policy Study Group of Japan." The purpose of this trip is to engage in a series of meetings and seminars in Tokyo with Japanese Government officials, scholars, and businessmen concerned about United States-Japanese trade relations from July 5 to July 12, 1980.

The committee has determined that the participation of David Foster in this program, at the expense of the "Policy Study Group," is in the interests of the Senate and the United States.●

AN APPEAL FOR CLEMENCY

● Mr. LEVIN. Mr. President, I have recently received information that Soviet President Leonid Brezhnev has rejected an appeal for clemency of two Soviet citizens who were sentenced to death in August 1978 for "economic crimes." I understand that the defendents, Mr. Raphael Adzhiashivili, from Tbilisi, and Mr. Mamed Abassov, from Baku, have been taken from the Donetsk prison and have been brought to a new location in the Denipropretrovsk region to await their ultimate fates. Mr. Adzhiashivili is a Jew and Mr. Abassov is a Moslem. Reports indicate that they will be executed in the next few days.

They were informed last week that the Supreme Soviet had confirmed their death sentences. Their families have not been allowed to see them since they were transferred. Mr. Adzhiashivili's family, his 75-year-old mother, two children aged 16 and 20, and his wife have been trying to appeal for clemency and have not yet been successful. Mr. Abassov's family has also submitted an appeal for clemency.

The two men were part of a group of 54 persons, 48 of whom were Jewish, who were charged after a 5-year investigation of activities at a textile factory where they all worked. They were charged with reselling stolen fabric on the black market. The majority of the group pleaded guilty and received prison terms ranging from 10 to 15 years. However, four men were condemned to death. In the past weeks, two of those four have had their death sentences reduced to 15 years in prison. But the two others, Mr. Adzhiashivili and Mr. Abassov, saw their death sentences upheld. It is important to note that the prosecutor in this case merely asked that all those involved be sent to prison. But the trial judge imposed the death sentences on the four arbitrarily.

I am concerned by the wanton and whimsical manner in which the Soviet judicial system has been allowed to work in this case. It demonstrates a lack of respect for equal treatment and for respect of human life. While there is not a question as to the propriety of the convictions in this case, I do believe that the differences in the sentences of those convicted demonstrate the serious cruelty allowed under the Soviet system and point out the indiscriminate manner in which justice is applied in that country.

We have watched the Soviet courts operate arbitrarily in many cases involving Soviet activists, dissidents and scholars. We have seen persons convicted falsely of crimes which never took place. We have seen persons sentenced to death for expressing their desire to emigrate from the country. And we have seen persons sentenced to death for economic crimes in the past. But the importance of these cases is that they show, as clearly as has ever been shown before, that the Soviet judicial system operates in a completely arbitrary manner. There were 54 persons convicted in this case. At this time, 52 will serve prison terms and will return to lead normal lives afterward. But two men will die for their parts in the same crime.

Mr. President, last Friday, Senators Javits, Exon, Metzenbaum, Tsongas and Dole joined me in sending a telegram to the Procurator General of the Soviet Union, Roman Rudenko, asking for a review of this matter and urging that a humanitarian solution be found. I ask that the text of the telegram and a statement by Senator Javits appear at this point in the Record.

The material follows:

[Telegram]

Hon. Roman Rudenko,
Procurator General of the U.S.S.R.,
Moscow, U.S.R.R.:

We are writing to urge you to reconsider the decision which imposed the death sentence on Raphael Adzhiashivili, from Tbilisi, and Mamed Abassov, from Baku. Both men were among the 54 persons convicted of "economic crimes" in the Donetsk Trial of 1978, which was the result of a five-year investigation. While we do not challenge the findings of the court, we are convinced that the two individuals will lose their lives as punishment for these crimes while others will only have to serve prison terms for the roles they played. We hope that this matter can be reviewed as soon as possible and that a humanitarian solution can be found. Among highly developed nations like the United States and the Soviet Union, the infliction of "cruel and inhuman punishments" has been recognized and accepted as immoral. We appeal to you on this ground, as an international, not solely a national obligation

Sincerely,

Carl Levin,
Jacob Javits,
James Exon,
Howard Metzenbaum,
Paul Tsongas,
Robert Dole,
U.S. Senators.

STATEMENT BY SENATOR JAVITS A HUMANITARIAN APPEAL FOR CLEMENCY

Today, somewhere in the Denipropetrovsk region of the Soviet Union, two men are waiting their execution after receiving written notification that the Supreme Soviet had confirmed their death sentences. The two men were tried and convicted of "economic crimes" in September, 1978 along with 54 other individuals from throughout the Soviet Union. The majority of the defendants pleaded guilty and received prison sentences ranging from ten to fifteen years. Four were sentenced to death by the trial judge, even though the prosecutor demanded only prison terms. Since then, two of the men have had their sentences commuted to fifteen years imprisonment, while the other two, Raphael Adziasvili and Mamed Abassov, have had their death sentences upheld.

An economic crime in the Soviet Union is punishable by the death penalty, so the Soviet authorities are within their powers to demand these two individuals' execution. However, I believe the circumstances of the situation warrant a personal appeal on a humanitarian basis to the Supreme Soviet of the USSR to commute these sentences, as was done in the case of the first two individuals. Highly developed nations, such as the United States and the Soviet Union, have long recognized the immorality of inflicting "cruel and inhuman punishments" upon their citizens, and an "economic crime" is hardly worthy of the punishment of death. I, and several of my colleagues, have therefore sent a personal message to Chairman Brezhnev requesting clemency on humanitarian grounds for the two individuals whose crimes are far from commensurate with their punishment. We appeal to the Supreme Soviet to reconsider—as an international, not just a national obligation—their prior decision and allow these men to live by commuting their sentences to imprisonment.●

MISS EUDORA WELTY

● Mr. STENNIS. Mr. President, it is a great privilege for me to pay tribute today to one of the most distinguished women in Mississippi and, indeed, in the Nation. Miss Eudora Welty, a life-long resident of our capital city of Jackson, has been acclaimed as the greatest living female author in the country today. She is, without a doubt, one of the truly distinguished authors of the 20th century. Her many honors and recognitions include the Pulitzer Prize for Literature.

Today Miss Welty will be awarded the Medal of Freedom from the President of the United States in a ceremony in the White House. She will be sharing this ceremony with other distinguished Americans such as Beverly Sills, Admiral Rickover, Robert Penn Warren, and Tennessee Williams, another native son of Mississippi.

I am proud, Mr. President, that my home State has produced an astonishing number of great literary figures throughout its history and particularly in the 20th century. Miss Welty is firmly in that great tradition and is, in addition, a lady of great charm and becoming modesty. She will bring honor and pride to Mississippi and to the entire world of arts and letters on Monday when she receives this award from the President.

The Mississippi Legislature recently adopted a concurrent resolution praising Miss Welty for receiving the Medal of Freedom, and I ask, Mr. President, that this resolution be printed in the RECORD.

The resolution follows:

SENATE CONCURRENT RESOLUTION NO. 613

Whereas, Eudora Welty is a native Mississippian, and has been a lifelong resident of Mississippi; and

Whereas, Eudora Welty has, through her literary works, novels and short stories, brought honor and recognition to her native state; and

Whereas, Eudora Welty has received numerous awards and citations, including the Pulitzer Prize, for her writings; and

Whereas, on June 9, 1980, Eudora Welty will be awarded the Medal of Freedom from the President of the United States in a ceremony at the White House; and

Whereas, the Medal of Freedom was established by an Act of Congress in 1945, and is the Nation's highest civilian honor to recognize meritorious contributions in cultural, public and private endeavors, world peace or national security; and

Whereas, Eudora Welty, this year, is among such other honorees as Beverly Sills, Admiral Hyman Rickover, Tennessee Wililams, Robert Penn Warren, and posthumously, Lyndon B. Johnson, John Wayne and Hubert Humphrey:

Now, therefore, be it resolved by the Senate of the State of Mississippi, the House of Representatives concurring therein, That we commend and congratulate Eudora Welty upon her selection as recipient of the Medal of Freedom and for the outstanding contributions she has made to the cultural advancement of the State of Mississippi and the entire Nation.

Be it further resolved, That a copy of this resolution be furnished to Eudora Welty, the President of the United States, the Congress and to the Capitol Press Corps.●

FLORISSANT, MO., JAYCEES CELEBRATE 25 YEARS OF SERVICE

● Mr. DANFORTH. Mr. President, one of the great things about this country is its volunteer organizations—people who freely give of themselves for the good of their community. This year the Florissant, Mo., Jaycees mark 25 years of service to the people of St. Louis County. The work of this organization is well known. I myself have had the honor and pleasure to be their guest on many an occasion, and I can testify to the hard work and good fellowship that seems to be a part of everything they do. Recently they were honored by the Missouri House of Representatives in celebration of their silver anniversary. I ask that the resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

Whereas, the members of the Missouri House of Representatives are delighted to learn that the Florissant Valley Jaycees Organization is observing the Silver Anniversary of its founding; and

Whereas, that outstanding group has provided twenty-five years of diligent, faithful and devoted service to St. Louis County; and

Whereas, members of the Florissant Valley Jaycees have been instrumental in many civil and philanthropic activities of importance to the St. Louis area, including the Valley of Flowers Festival, the Muscular Dystrophy Fund Raising Project, the Strassenfest, the Junior Miss Pageant, Senior Citizens Dances, numerous activities at St. Sophia's Geriatric Center, the Hugh O'Brien Youth Foundation Seminars, Distinguished Service Awards, "Meet the Candidate" Forums, Handicapped Day at the Fair, Wonderland Camp and the Judevine Center for Autistic Children; and

Whereas, Florissant Valley has consistently ranked among the top Chapters in the Jaycee Organization, which now numbers more than 8,000 chapters and 1,000,000 members worldwide; and

Whereas, the presidents who have faithfully served the Florissant Valley Jaycees over the years since its founding in 1956 include Bill Herman, Ray Yeater, Hal Schuchmann, Edward Cook, Robert Mobley, Duke Bauer, Robert Lowery, Wilford Moonshine, Chris Kilgore, Gene Hirsch, Anton Brockmeyer, Martin Eckstein, Michael Weishaar, Joe Elliot, Herb Terrill, David Gleeson, Robert Mooney, Jon Haag, Ray Dupske, Larry Oberkrom, Mike Moritz, Russ Macko and Carl DiMaria, current President; and

Whereas, such constructive efforts on behalf of their community and their Great State should be given proper recognition;

Now, therefore, be it resolved that the members of the Missouri House of Representatives, Eightieth General Assembly, Second Regular Session, extend their sincerest congratulations to the members of the Florissant Valley Jaycees on their Twenty-fifth Anniversary; and

Be it further resolved that the Chief Clerk of the Missouri House of Representatives be instructed to prepare a properly inscribed copy of this resolution for the Florissant Valley Jaycees.●

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning, and at 11 o'clock tomorrow morning will vote by rollcall on the motion to invoke cloture on House Joint Resolution 521, the military registration bill.

I realize that it is the practice of some Senators not to vote for cloture on the first effort to invoke cloture. In my early years in the Senate, I refused ever to vote for cloture; and then I finally came around to voting for cloture after one or two cloture votes had been cast. Then I came to the conclusion that if I were going to vote for cloture at all, I might as well vote for cloture on the first vote. I saw nothing to be gained by awaiting the second or third vote. It merely prolongs the agony.

The Senate already has been on the pending measure 4 days. I did not offer the cloture motion until the third day of debate. On most occasions, I offer the cloture motion on the first day of debate. This time, 2 days of grace were allowed, and an additional 2 days have run under the cloture rule. I hope that the total of 4 days is sufficient for Senators to vote for cloture tomorrow.

If cloture is not invoked, of course the Senate will vote again on Wednesday on cloture which means a day will have been lost, and we do not have many days to lose. There are not many days to lose in this session. We now have less than 60 work days prior to the 1st of October not counting Saturdays.

It may seem like a long time, as this is only the 9th day of June, and the 1st day of October may appear to be a long way off. But it is less than 60 days away as far as working days are concerned unless one includes Saturdays.

Of course, the longer the Senate waits to invoke cloture means that it is simply building up trouble for itself, because the work is going to have to be done and if it means going beyond October 1 to complete the work then the Senate will go beyond October 1. If it means Saturday sessions will be necessary to complete the work, then the Senate will have Saturday sessions. If it means coming in early and staying in late throughout the week, then the Senate will come in early and stay in late throughout the week.

I hope Senators will take this into consideration as they cast their vote on cloture tomorrow.

If we do not get cloture tomorrow, we will vote on cloture Wednesday. If we do not get it Wednesday, we will vote on it Thursday. If we do not get it Thursday, we will vote on it Friday, and so on.

I understand there are 89 amendments at the desk. So it appears that the Senate is going to be in early and stay late following the invoking of cloture, and there is no point in delaying a vote on cloture if one intends to vote for cloture at all. A vote to invoke cloture on tomorrow will mean that the Senate will dispose of the resolution earlier than it will otherwise dispose of it if cloture is delayed.

All of the appropriations bills are still ahead of us down the road. The conference report on the first concurrent budget resolution is yet to be worked out and agreed to. The supplemental appropriation bill is back of the conference report on the first concurrent budget resolution, and there are something like 50 expiring authorization bills that yet have to be disposed of. The second concurrent budget resolution will have to be disposed of. The extension of the debt limit will be back with us one day before long. So there is a lot of work to be done, and I wish to call to the attention of Senators that this work will have to be done. If not done Mondays through Fridays, it will have to be done on Saturdays and if not done by the 1st of October, and if not done by November, we will come back after the election, none of which I like to talk about or think about. But that is what we have confronting us.

I urge Senators to take all of this into consideration when they cast their vote for cloture or against cloture tomorrow.

I hope we will not prolong the agony. I have already introduced a cloture motion to be voted on on Wednesday, and I will offer another motion tomorrow just in the event tomorrow's cloture vote should fail and Wednesday's vote should fail. The longer the Senate spins its wheels on this joint resolution the longer we are going to have to be here and the more likely it will mean Saturday sessions and early sessions and late sessions, because time will not wait. The work has to be done. We only have so much time in which to do it. It means we have to compress it, come in early, stay in late, and give up our Saturdays and stay in beyond October 1.

In consideration of the fact that the majority leader waited 2 days—he gave two freebees—before offering the cloture motion, I hope Senators will consider this and cast their vote for cloture on tomorrow.

After all, they are making it easier on themselves, because this resolution will be with us until we finish it, cloture or no cloture tomorrow.

RECESS TO TOMORROW AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and, at 6:24 p.m., the Senate recessed until tomorrow, Tuesday, June 10, 1980, at 10 a.m.

NOMINATION

Executive nomination received by the Senate June 9, 1980;

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Kennon V. Rothchild, of Minnesota, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1982 (reappointment).

EXTENSIONS OF REMARKS

INNOCENCE ABROAD—JIMMY CARTER'S FOUR MISCONCEPTIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. LAGOMARSINO. Mr. Speaker, an article in the most recent issue of Reader's Digest by Rowland Evans and Robert Novak describes four significant misconceptions perpetuated by the Carter administration in foreign policy.

The four misconceptions are that: First, the cold war is over; second, military spending can and should be reduced; third, human rights must be the cornerstone of U.S. foreign policy; and fourth, there is no need for covert intelligence activity.

I call to the attention of my colleagues this article and urge that they not be misled into the same trap of believing that the four misconceptions are valid.

The article follows:

INNOCENCE ABROAD—JIMMY CARTER'S FOUR MISCONCEPTIONS

(By Rowland Evans and Robert Novak)

On January 12, 1977, eight days before his inauguration as President, Jimmy Carter was briefed by Washington's leading military and national-security experts. Carter asked if studies had been made on how a major reduction of long-range missiles would affect the U.S.-Soviet military balance.

Gen. George Brown, chairman of the Joint Chiefs of Staff, quickly responded, "Oh, yes, Governor." He referred to studies that analyzed a reduction of long-range missiles from the proposed SALT II level of about 2,400 to perhaps 2,000 or so. This was considered a radical cutback. "I'm not talking about 2,000, General," Carter replied in his soft Georgia accent. "I'm talking about 200 or 300."

Silence followed. Finally Harold Brown, Carter's incoming Secretary of Defense, pointed out that such an immense reduction in America's strategic arsenal would pose a fundamental risk to the nation's security, all but destroying the U.S. nuclear "shield." It would also expose Europe to the Soviet Union's vast superiority in conventional arms.

Carter's pre-inaugural interest in radically reducing the U.S. arsenal set a pattern that persisted until the Soviet military takeover of Afghanistan last December. It was born of a peculiar innocence, coupled with genuine self-confidence. His experience as a junior Naval officer, Carter felt, established his military expertise; in the two years after his single term as governor of Georgia, his membership on the newly formed Trilateral Commission convinced him that his agile mind had mastered the great game of diplomacy.

Others were not so sure. The trouble with Carter, Henry Kissinger told a friend early in the Carter Administration, was not that he did not understand foreign affairs, but that he did not understand that he did not understand.

Jimmy Carter is by no means the solitary author of the present weakened state of U.S. foreign policy. Toward the end of the Vietnam war and in the years that followed, Democratic Congresses began slashing away at the defense budget. Republic Presidents timidly accepted this. Nevertheless, our increasing vulnerability derives very substantially from the steady reinforcement of four basic misconceptions that Carter carried into office with him:

MISCONCEPTION NO. 1: THE COLD WAR IS OVER

The pronouncement was made four months after the inauguration in Carter's commencement address at Notre Dame University: "Confident of our own future, we are now free of that inordinate fear of communism, which once led us to embrace any dictator who joined us in our fear."

In giving voice to this innocence he was merely endorsing the then popular sentiment that ideological conflict between democratic America and totalitarian Russia was no longer relevant. That view prevailed among such foreign-policy advisers as Secretary of State Cyrus Vance, chief disarmament negotiator Paul Warnke and Marshall Shulman, Vance's resident Soviet expert.

The only dissenter within the Administration was National Security Adviser Zbigniew Brzezinski, who harbored no illusions about the Cold War being ended. But he was surrounded by adversaries, and he lacked both bureaucratic skill and Oval Office backing. Brzezinski did not even control the critical function of naming his own National Security Council staff.

Meanwhile, Carter was developing a peculiar empathy for Soviet President Leonid Brezhnev. He seemed to view Brezhnev as a fellow politician harassed by pressure groups, rather than as the master of Russia who had sent his legions rolling into Czechoslovakia a decade earlier.

Nor was he prepared to dwell on Soviet violations of détente. When a military junta seized power in Afghanistan in April 1978, one of the President's national-security aides handed a reporter highly confidential information about close ties between the Soviet Union and the leaders of the junta. It proved that rivers of blood had flowed in their seizure of power. The reporter's question was obvious: "Why doesn't the State Department publicly reveal these facts?" "Because," the bureaucrat replied with bitter sarcasm, "it is afraid the Soviets might not accept our next concession."

Those "concessions" were being made in the SALT negotiations. Nobody pretended that this was an equitable step toward arms control, but key Carter aides insisted that the "process" must be maintained. "I would like to say to you," Carter told a joint session of Congress on June 18, 1979, following the signing of SALT II, "that President Brezhnev and I developed a better sense of each other as leaders and as men . . . I believe that together we laid a foundation on which we can build a more stable relationship between our two countries."

The Soviet sweep into Afghanistan was only six months away.

MISCONCEPTION NO. 2: MILITARY SPENDING CAN AND SHOULD BE REDUCED

When Carter pledged in his 1976 campaign that "we can reduce present defense expenditures by about $5 billion to $7 billion annually," he was merely registering the Democratic Party's post-Vietnam consensus of "reordering priorities." That consensus, in turn, reflected the loathing of all things military that grew out of Vietnam. By deed, though not by word, Carter soon began to accept the argument of many advisers that a nation's arsenal could become too great for its own good.

Although a cutback of $5 to $7 billion a year in " present" defense spending was patently impossible, Carter moved in that direction. On June 30, 1977, he announced opposition to the new B-1 bomber. On April 3, 1978, he deferred production of the neutron warhead. On August 17, 1978, he vetoed Congressional authorization of a nuclear aircraft carrier. In 1979, he delayed production on the cruise-missile, the Trident-submarine and the SSN-688 attack-submarine programs. The Trident II missile system was postponed.

In his first three years in the White House, he cut $38 billion from spending called for by President Gerald Ford's last five-year defense program. Naval shipbuilding languished. Development was delayed of a mobile-basing system for the MX missile to protect the U.S. land-based deterrent from the dramatically improved accuracy of the big Soviet missiles. Aircraft production did not even cover attrition. Morale declined as pay for experienced technicians and officers lagged well behind inflation.

All of this overlooked two hard facts of life: first, that ever since Russia's humiliation in the 1962 Cuban missile crisis, the Soviet Union had been carrying on the greatest peacetime arms buildup in the history of man; second, that U.S. military might had suffered by financing the Vietnam war through the deferral of vital weapons modernization.

Not until defense-oriented Senators tied their support for ratification of Salt II to higher defense spending did Carter change his public tune—a change now dramatically accelerated by the Afghanistan invasion. Even so, Carter's new proposals cannot possibly catch up with original military plans until 1985 at the earliest and, given Soviet weapons progress, even then we will fall far short of attaining parity with the Russians. Moreover, danger persists that the mixture of rising inflation and rising pressure to balance the 1981 budget will reverse Carter's pledge to increase defense spending, despite all the bold talk.

MISCONCEPTION NO. 3: HUMAN RIGHTS MUST BE THE CORNERSTONE OF U.S. FOREIGN POLICY

Carter made clear from the start that his crusade for human rights was directed not just at the Soviet Union but against "any dictator who joined us" in our "inordinate fear of communism." That inevitably led him into a policy of maximum U.S. pressure against friendly tyrants. At the same time, Soviet experts in the State Department gradually subdued Carter's human-rights pressure against Moscow, for the sake of détente.

The damage to long-standing U.S. relationships came quickly. Brazil canceled a 25-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

year-old military assistance treaty with the United States. American relations with Argentina and Chile deteriorated.

The peak of human-rights zealotry came last year in Nicaragua and Iran. The result in Nicaragua is a pro-Marxist regime that did not even join the United States and the vast majority of the United Nations General Assembly in condemning Soviet aggression in Afghanistan. The result in Iran is Ayatollah Khomeini and anguished months of humiliation for the United States.

MISCONCEPTION NO. 4: IN THE NEW WORLD, THERE IS NO NEED FOR COVERT INTELLIGENCE ACTIVITY

The men brought into high office by Carter had come to regard the CIA's great feats of the 1950s—the overthrow of a procommunist regime in Guatemala and the restoration of the Shah in Iran—as cause for shame. Carter said at Notre Dame, "For too many years, we have been willing to adopt the flawed principles and tactics of our adversaries, sometimes abandoning our values for theirs."

Carter decided not to retain George Bush as CIA director but instead to single out for that job a leading critic of the intelligence system, Theodore C. Sorensen. When the Senate forced Carter to withdraw Sorensen's name, he responded with a man far less controversial: Adm. Stansfield Turner, an old Annapolis classmate with excellent brains but faulty judgment.

Turner began by summarily abolishing 820 jobs in the clandestine service. His callous order forced out men and women with priceless and irreplaceable expertise. Some of these operatives were in mid-career and ineligible for retirement pay. Morale plummeted and many of the best CIA personnel have since quit in disgust. Among Turner's casualties: the agency's top experts in counter-insurgency, in Iran, the People's Republic of China, the Kremlin power structure and the vital Middle East.

Combine that with Congressional shackling of covert operations, and it is no wonder Sen. Daniel Patrick Moynihan (D., N.Y.) suggested that the analytical functions now left to the CIA might well be performed by the Library of Congress. He was exaggerating only a little. The CIA has ceased to function as the intelligence service of a great power. It cannot even aid anticommunist insurgencies in Angola and Afghanistan.

With U.S. diplomats imprisoned for months as hostages in their own embassy in Teheran, and with Soviet troops pouring into Afghanistan, Jimmy Carter began reelection year 1980 by appearing to reject each of his misconceptions. He forthrightly confessed after the Afghan invasion, "My opinion of the Russians has changed more drastically in the last week than in even the previous 2½ years." He re-declared the Cold War with his pronouncement of the "Carter Doctrine," guaranteeing the territorial integrity of Persian Gulf nations; he set aside his cherished SALT II; he raised defense spending; he began to unshackle intelligence and counter-intelligence activities.

Yet, questions persist: Why are negotiations with the Soviet Union on European force reductions and on a comprehensive nuclear-test-ban treaty continuing? Why is the SALT II Treaty still on the Senate calendar? Why is the Office of Management and Budget still resisting desperately needed programs such as Naval modernization and career-pay improvements? Why are the B-1 and the neutron warhead still in mothballs, the fate of the MX mobile missile still uncertain? Why is the old team of top Carter advisers still on the job if its policies had been wrong and now appear rejected?

And, finally, can a rational person explain, much less excuse, the incompetence demonstrated when Carter disavowed the recorded U.S. vote in the U.N. Security Council in the bizarre matter of Israel's settlements policy? Such sophomoric antics would be funny as slapstick comedy if they did not tear away at the confidence and credibility of the presumed leader of the West.

The early innocence may be gone, but what has replaced it? Tough rhetoric makes good headlines, but there is abiding reason to doubt whether the old misconceptions have truly been swept away.●

GOVERNMENT CENSORSHIP OF THE MEDIA

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. BEVILL. Mr. Speaker, for several years, I have been pleased to insert into the RECORD the top entries of the Albert Rains Speech Contest of Snead State Junior College in Boaz, Ala. This contest is named for one of our distinguished former colleagues.

Albert Rains' membership in this body spanned three separate decades, as he served Alabama in the House from 1945 to 1965, and retired following a career of outstanding service to the people of his district.

During his years in the House, Albert was regarded as one of its finest orators, and it is for this gift that the Snead State contest is so aptly named.

The theme for this year's contest was "Government Censorship of the Media." The first-place winner in this year's competition was Ben Gilliland of Arab. Second place went to Teresa Reid of Holly Pond. I think you will agree that their speeches reflect many hours of thought and research on this vital subject.

THE DISCLOSURE OF INFORMATION

The disclosure of information or the telling of information has become accepted as a matter of public policy. The widespread acceptance of this policy by the American public is based on three commonly held beliefs:

(1) that people have a right to information.

(2) that disclosure is good.

(3) that businesses should not remain silent.

The belief that people have a right to information. There is some debate in legal circles as to whether the public's right to know is guaranteed by the first amendment to the Constitution or not. For all practical purposes the question is irrelevant. The media act on the principle that the people have a right to know.

The simple fact is that a great many of the people who are in a position to influence disclosure policy in the country, believe that people have the right to information. The belief that people have a right to information would be enough to justify a considerable amount of disclosure, but it is enhanced by the belief—that "disclosure is good".

Disclosure can also be good for your firm. Take the topic of pay, which is not public information in most firms. There are many reasons given for keeping salaries secret including the risk of dissatisfaction, hard feelings, and a loss of flexibility in rewarding performance. But when companies switch to a policy of making pay information public, none of these threats really materialize. In fact, most researchers suggest that productivity increases when salaries are disclosed. People who are overpaid work harder to justify their salaries. People who are underpaid work harder to justify a raise.

Our economic, political, and scientific institutions all provide support for the idea that disclosure is good. We believe in the "free marketplace of ideas". We believe that free and open discussion will lead to good decisions and that dialogue allows truth to emerge.

This is not to say that all disclosure is good, there are some forms of irresponsible disclosure. Certainly I'm not suggesting that Coca-Cola reveals its secret formula or that the Pentagon disclose "Top Secret" papers to the news media. But on balance, Americans support the idea that disclosure is good and that in the end truth will win out.

These two beliefs that people have the right to information and that disclosure is good lead to the third belief that business should not remain silent. If disclosure is good then silence is bad. A few years ago, critics were snapping at the "no comment" policy which was big businesses reply to any controversial issue. That has all changed now. Today companies are speaking out about controversial issues.

Speaking out and being informed is the main issue. For example, when the Andrea Doria sank and survivors were asked "what was the most upsetting part of the experience?" They didn't say the danger of death or the loss of loved ones. They answered that nobody told them what was going on. The past Watergate climate of public opinion has made the practice of stonewalling or hiding the issues highly suspected. Silence is no longer golden.

These beliefs that people have the right to information, that disclosure is good, that silence is bad—are important because in a democratic society like ours public policy must meet the test of public acceptance. Policies of silence and resistance to disclosure simply don't meet the test. For these reasons, in today's world disclosure is good.

CAN ANYONE HAVE A FAIR TRIAL?

Can anyone have a fair trial? Can anyone rest in peace? In America it's a great ideal, but what about reality these days. Think about it.

I feel our television news broadcasts are turning into a 3 ring circus, yes all of them. Total News, Action News, World and Eyewitness News, this is a problem. Many of us fail to see this because we roll with the tide not realizing what is going on right under our own noses.

In this speech I don't intend to tell you what the government or we ourselves can do about the news we see and hear, but that it is a problem and why something should be done about it.

Our newscasters seem to think that we, the American public, are uneducated fools who thrive on goriness and exaggerated detail. Words as well as swords and guns terrorize. Don't we have the right to peace? To free ourselves from tidbits of horrid news that really does not affect us at all. After all can a citizen be truly informed if falsehoods are masqueraded as truths? Can't the abuse of liberty destroy liberty?

Our national security should be the most important thing to consider. But many broadcasters tell us everything, many things that have been going on since the beginning of time, and it hasn't hurt us not to know before.

Yes, the public does have a right to know, but what about a right not to know, when they could be putting our lives in jeopardy by telling us some of the things they do. For instance, I'm sure if they had gotten their hands on the plan for rescuing the hostages they would have told all and if by chance someone in Iran had heard, which isn't at all unlikely, the whole attempt might have caused more trouble than it did.

Who knows what might have happened. They could have taken all of the rescuers hostage or they could have killed them. Of course no one really knows what would have happened, we can only speculate, but I think you agree that sometimes too much can be told.

And speaking of the rescue attempt, I repeat my question. Can anyone rest in peace? Those eight men who gave their lives for their fellow countrymen in the attempt were exploited, their bodies shown on national television. Weren't their families suffering enough without adding that to their grief? Yes, I agree we should be informed, but that was carrying the information too far.

Most of the time it seems they are not interested in the actual news but in how big they can make the story. They are profit-oriented. Television news has become so competitive that they are all after the biggest story. They don't put enough emphasis on fact, they are too busy using impressive words.

And as if the impressive words are not enough they are advertising. It reminds me of little kids vying for an adult's attention. "Looky what I'm gonna do". It's ridiculous, they come on at all hours of the day telling what their big story is going to be. And they are constantly getting new things, which in itself is good, but the way some of them carry on you would think they never got anything new before. They come on and tell about what they have new, then all the other stations get the same thing and we're constantly reminded who got it first and who's got the best. What does this have to do with the news? Pointing these things out seems tacky to me.

Rumors shouldn't be started on the news but unfortunately we are so often victims of the broadcasters opinions that it is hard to determine fact from fiction. Something that really bothered me was all the talk about the Cuban refugees, the rumor that some had tuberculosis and a few had leprosy, some were mental patients and things like that. If some of those people really want to become Americanized who is going to give them a chance, there is enough prejudice among us without the broadcasters adding to it.

Speaking of prejudice, is it really possible for anyone to have a fair trial? There is so much pre-trial publicity about anything major and many minor things that the only people truly applicable for jury work are hermits and how many hermits do you find. I've always heard that a person is innocent until proven guilty, but seldom have I seen this statement in practice. Many broadcasters tear suspects apart weeks before their trial, so most everyone has formed an opinion one way or another by the time for jury selection.

Our policemen no longer get any respect, they are being slaughtered so often and praised so seldom. It seems the criminals get more praise than they do. Let a policeman slip upon one minor detail and the world knows about it in 2 minutes, but let him do something outstanding and maybe they'll find 30 seconds on the late news. In Birmingham, for example, all the riots against police gave publicity to many people who never had it before and I believe gave incentive to many others who later joined, mainly so they could get on television. Publicity for people going against the establishment, they're destroying what morals and patriotism we have left.

What are they trying to turn us into? They must think they have turned us into something or do they really think we're such idiots that we can't understand what the president says in his speeches. After every speech some commentator comes on and repeats everything he said. Then when the regular news comes on they show one film clipping and again repeat what he said. It can really give you a complex. These things are ridiculous. We are supposed to be a society of self-governing people if we are to stay that way we must defend ourselves against the way our newscasts are tearing us apart.

Don't you agree . . . something should be done?●

CONSULTING ABUSES

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. HARRIS. Mr. Speaker, I would like to direct the attention of my colleagues to a new GAO report which I released yesterday with Senator PRYOR on the improper use of consultants by Federal agencies. According to GAO, agencies have failed to make satisfactory progress in their management of consulting services during the past 20 years. Despite the fact that GAO has issued 30 audit reports identifying problems in every major agency, improvements still need to be made in:

Identifying expenditures for consulting services,

Obtaining adequate competition when awarding consulting service contracts,

Justifying the need for consulting services,

Assuring that consultant studies are not duplicated, and

Implementing effective management controls to assure the proper use of these services.

I agree with GAO's conclusion that OMB's efforts to improve agencies management of consulting services have not been effective. OMB's attempts to identify the amount of money spent by agencies for consulting services have resulted in understated figures. OMB guidance to establish controls to improve the management of consulting services has resulted in little improvement. Perennial problems concerning conflict of interest continue to surface.

I feel that the time has come for legislative action to identify consultant costs and the potential for conflicts of interests to the sunshine. I am currently drafting legislation to achieve these goals. I feel that exposure of this information is essential for this Congress to carry out its oversight responsibility and to guarantee public awareness.

My legislation will not hinder the procurement process in any way. It will merely allow sunshine into the labyrinth of the Federal Government's consulting activity.●

RISK ASSESSMENT BILL

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. WYDLER. Mr. Speaker, the issue of risks connected with technological advancement, particularly in energy technology, has begun to receive well-deserved attention in recent months. Our Science and Technology Committee has been pursuing this theme as a basis for assessing technologies over the past 2½ years. Most recently, a member of the committee proposed a risk assessment bill to encourage the Federal agencies to address this question in a more comprehensive manner. The related question which I feel deserves additional consideration is that of the gap between real and perceived risk of technology development.

For instance, it is clear that a major responsibility for that gap between the real comparatively small risk of radiation from nuclear power generation and the perceived risk on the part of the people must, in large part, lie with this administration. The White House has simply not chosen to educate the people in any balanced way on the comparative risks of energy technologies and has allowed its own visceral discomfort with respect to nuclear power to dominate its position rather than performing critical assessments. The following is an interesting article which appeared in the New York Times on May 22, on this topic, "Technology: Scientific Gains and the Risks," by Peter J. Schuyten and I recommend it to my colleagues.

TECHNOLOGY: SCIENTIFIC GAINS AND THE RISKS

Has the rapid proliferation of technology and the risks associated with technological advancement created a new wariness on the part of the public?

And what of the public's belief in experts? Have the disturbing events at Three Mile Island, the fractured engine mounts of the DC-10's, or the unfolding story of Love Canal eroded the public's confidence in the pronouncements of the scientific and engineering communities?

In an attempt to assess the present mood, an independent opinion survey found that a majority of Americans feel they face more risk now than they did 20 years ago, and further, that the risks of living in a technological society will increase.

But despite the heightened sense of danger, the findings indicate that the public feels the future benefits from science and technological innovation still outweigh the risks.

The survey, "Risk in a Complex Society," is based on some 1,500 interviews with a national cross section of the adult population and 600 interviews with members of Congress, corporate and financial leaders, and Federal regulators.

The survey was commissioned by the Marsh & McLennan Companies, an insurance brokerage concern, and was conducted by Louis Harris and Associates.

Among other things, it addressed the factor of risk in the areas of energy, transportation, health care, environmental pollution, and even the question of assigning a value to human life in the allocation of scarce resources.

According to Mr. Harris, the study documented some wide and revealing discrepancies between public and corporate perceptions of risk.

The public, he noted at a news conference held earlier this week, feels that the safety of society will be jeopardized if some future restraints on advanced technology are not imposed.

"In addition, most Americans feel strongly that our present knowledge about the actual risks stemming from modern technology has touched only the tip of the iceberg," Mr. Harris, said. "Corporate leaders flatly disagree, express deep confidence in advanced technology and see no dangers virtually from decreased governmental safety regulations."

The survey also found that only 28 percent of the public felt they had a strong sense of control over the risks they face in their daily lives, while nearly a fifth felt they had almost no control at all.

In the area of energy, the poll disclosed that, while nearly three-quarters of the public believed there was no guarantee against a catastrophic nuclear accident, most nonetheless felt that nuclear power was too important to abandon at this time.

Similarly, a majority indicated that they accepted the increased use of coal despite the potential dangers posed to health and the environment, although most also indicated a preference for solar energy despite the fact that the survey takers pointed out to respondents that solar "may not provide sufficient energy to support our current standard of living."

In the area of transportation, most executives felt that the lower costs and energy savings associated with smaller, lighter cars outweighed the risk of higher fatal accidents. A plurality of the public, however, did not.

The Harris organization concedes that some of the questions oversimplify the issues, and indeed, the word "risk," itself, was purposely left undefined, allowing for each question to provide the necessary context.

Still, in the context of cost/benefit analysis, for example, a majority of executives and regulators said they were now willing to place an economic value on human life when making important decisions about the allocation of scarce resources.

Similarly, executives indicated overwhelmingly that the potential breakthroughs from genetic research far outweighed the possible health hazards, and they also favored the continued use of chemical pesticides on crops.

But a majority of the executives and financial leaders indicated that, in the decade ahead, the country's mood regarding risk would have a significant impact on their investment decisions.

"That was not true five years ago," noted Richard Wilson, a professor of physics at Harvard University. "Executives have apparently now caught up with the notion that the public wants to have a share in the decision process."

When asked to choose the most attractive investments in light of the evolving public opinion on risk and the future impact of government regulation, corporate executives and financial leaders listed computers, petroleum, synthetic fuels and electronics. Least attractive were tobacco, railroads, automotive, steel and nuclear energy.●

RAMSEY CLARK'S TRIP TO IRAN AN IRRESPONSIBLE ACT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. APPLEGATE. Mr. Speaker, for close to 8 months now, 50 of our citizens have been held hostage in Iran. Recently, a new development has occurred, that being former U.S. Attorney General Ramsey Clark's trip to Iran. This event compels me to speak out to my colleagues.

Mr. Clark, through his self-appointed American Crimes Conference, has indicted, tried, and convicted the United States for their lawless acts in the aborted rescue attempt last April of the 50 American hostages in Iran. He has acted in an anti-American way to discredit this Nation and has undermined American credibility and strength in world leadership. His actions are demeaning to the American people.

I believe this totally irresponsible act on Mr. Clark's part should be immediately condemned by the President, the Congress, and the American people. No matter how noble Mr. Clark's purported intentions are, his mission can only serve to damage long-term American interests. The present Iranian crisis is a very tense, complex situation. Such an attention-seeking event by the former Attorney General can only serve to prolong and aggravate the crisis in two ways.

First, the central and only issue in the Iranian crisis is the illegal and immoral kidnaping of American citizens, an act that clearly violates international law, and may I point out, in the name of which the militants say they are acting, Islamic law. Any grievances that the Iranian Government has against our country may only be considered after the hostages are unconditionally released. Mr. Clark's trip serves to divert attention from this most important and vital concern.

Second, our Government must have a firm, unified plan for dealing with this international crisis. Further, it is illegal for self-appointed negotiators to negotiate as representatives of the United States with foreign officials. The Logan Act, designed specifically to halt such unwarranted activity, provides for a maximum penalty of $5,000 and/or 3 years in prison. In the days to come, Mr. Clark must answer for his reprehensible action.

Mr. Speaker, during this troubled period, let us and our countrymen stand together in our hope that the crisis will end and that our fellow citizens may safely return home.●

WILL THE PENTAGON KILL THE GOLDEN GOOSE?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. STARK. Mr. Speaker, how much military spending can the United States afford? We, of course, must spend enough to provide for the national defense. But we can no longer afford to define the national defense so broadly that every Pentagon request and wish is satisfied.

We must ask the tough questions.

Expenditures must be justified by necessity, not because they would buy items it would be nice to have. Not all close calls can be resolved in favor of more military spending.

As James J. Treires points out in his June 5 Christian Science Monitor essay, "Will the Pentagon Kill the Golden Goose," military potential depends on the national economy, and it is clear that the U.S. economy is in trouble. Loading more military spending on an already strained economy will not yield a stronger nation, better prepared to defend its international interests.

I agree with Treires that a military spending increase big enough to satisfy congressional hawks may kill our golden goose—the American economy.

The article follows:

WILL THE PENTAGON KILL THE GOLDEN GOOSE?

The United States is the world's wealthiest nation, with a gross national product (GNP) nearing $2.5 trillion. President Carter's military budget calls for 1981 outlays of $150.5 billion, and Congress wants a further increase.

The Pentagon's main argument in support of this huge budget request is the relationship between these numbers. Even at $157 billion, the military budget would amount to only 6.3 percent of the GNP. Ergo, the Pentagon concludes, we can easily afford it. Time magazine, using slightly outdated figures, tells us that "social spending is now the largest item in the national budget, amounting to $423.8 billion this year as compared with $145.1 billion for defense."

These are comforting ideas. We are evidently a fat, prosperous, pleasure-seeking society that needs only to cut back on a few luxuries—like the lavish "social spending" cited by Time—in order to pay for a big expansion in our military power.

Would that it were so. While the numbers cited above have some basis in fact, a careful look at the United States economy as it is currently functioning tells a much different story.

Beneath the shining surface of the GNP figures lies an ugly reality: The US economy is in shambles. The basic industries which once catapulted America into the number one economic postion are losing ground rapidly to foreign competitors. While our government bemoans our dependence on imported oil, a resource whose supply is limited by nature, its economic policies have made us "dependent" on imported automobiles, television sets, shoes, hi-fis, steel, and clothing, all of which we once supplied for ourselves. Although some profits have accrued to US corporations operating abroad, the losses in jobs and income from America's industrial decline have been enormous. The February foreign trade deficit of $5.6 billion was the worst in our history.

The theory that the US private sector is vigorous and successful without government assistance or coordination is rapidly being destroyed by a fact: Those capitalist democracies that give top priority to their civilian manufacturing industries are crowding American products out of world markets.

America is a nation in serious economic difficulty, barely able to support its current defense expenditures, and in real danger of collapse if that burden is substantially increased.

The measure of a nation's potential military strength is the size of its economic surplus. What we don't need to live on is what we can spend for defense. Before any resources can be used for national defense, the economy must provide the necessities of life for all its people. Before they can fire a rifle, sail a ship, or fly a plane, the men and women in the armed forces must have food, shelter, clothing, and the other amenities of modern life.

It is the crucial relationship between civilian economic base and military expenditures that is now being threatened by the hawks in Congress. Ignoring direct evidence of serious economic crisis all around them, they focus on the abstraction called GNP as proof that a bigger military budget is easily affordable.

Many people are unaware of the fact that military spending is automatically counted as GNP; the more we spend on the Pentagon, the bigger our GNP. Obviously we can't improve our personal economic circumstances by spending more for defense, but we can increase the GNP.

As for the mythical growth of "social spending," most of it is in federal programs that pay for themselves through special contributions—social security, medicare, unemployment compensation. They don't come out of our income taxes and they don't compete for defense dollars.

The raw political power of the military industry lobby in Washington is awesome. Presidential candidates are afraid of being labeled "soft on defense," a code phrase for unwillingness to give the Pentagon more money. Jimmy Carter—the candidate who called for a $5 billion to $7 billion cut in military spending—has increased real military spending in every one of his three years in office, and now seeks the biggest boost of all for 1981.

From World War II through the early sixties, the US economy was indeed a golden goose, bringing rapid improvement in the standard of living and the military power required to fight in Korea and Vietnam. By the late sixties, however, it became apparent that our ambitions were outrunning our resources.

In the new era of limits, there is no free ride for the defense establishment. Any increase in the Pentagon budget will bring a proportional decrease in the general welfare, as the beneficiaries of federal social programs are already learning. An increase big enough to satisfy Congress's hawks could kill the golden goose.●

WILLIAM C. PRATTELLA CHOSEN TOP SCHOOL EXECUTIVE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. OTTINGER. Mr. Speaker, William C. Prattella of Mount Vernon, N.Y., has been selected as one of North America's 100 top school executives by the Executive Educator, the magazine for elementary and secondary school administrators.

On June 12, Dr. Prattella will be honored by his friends and colleagues for this well-deserved tribute. I am pleased to share with my colleagues at this time a brief recognition of Dr. Prattella's numerous accomplishments.

A native of Mount Vernon, Dr. Prattella has spent 19 years in the city school system. In 1972, he was appointed superintendent of the Mount Vernon school system which has an enrollment of approximately 10,000 students. At age 32, Dr. Prattella was the youngest individual in New York State to hold this important position.

During his tenure as superintendent, Dr. Prattella has reduced the percentage of students performing at below-minimum competency on State tests from 36 percent in 1972 to 7 percent in 1978. His innovative methods include: teaching reading by the phonics method, using television scripts as teaching aids, starting programs for early identification and treatment of learning disabilities, and teaching Chisanbop—the Korean finger-calculation technique—to first and second graders. Dr. Prattella also helped start the first magnet school for elementary students in New York State. This school, which I have visited many times, has become a model for school districts across the country.

In addition, to his responsibilities as superintendent, Dr. Prattella teaches two graduate school courses at Fordham University and serves as chairman of the scholarship committee of the Italian Civic Association. In recent years, Dr. Prattella has been honored for his distinguished service and leadership by many groups including the Mount Vernon Parent Teacher Association, the Mount Vernon City Council, and the Italian Civil Association. Dr. Prattella lives in Mount Vernon with his wife and four children.

I am pleased to join the Executive Educator and his many friends in honoring Dr. William Prattella for his many achievements. His accomplishments are worthy of national attention and many of his innovations could well be emulated by school districts around the country. I commend them to my colleagues.●

ISRAEL'S WEST BANK SETTLEMENTS ARE AN OBSTACLE TO THE PLO—NOT TO PEACE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. LENT. Mr. Speaker, there is an unfortunate and still-growing misunderstanding in this country concerning Israel's position on the West Bank settlements question. President Carter's egregious blunder in permitting the United States to cast a U.N. Security Council vote against Israel's settlement policy has contributed greatly to that misunderstanding. Tragically, subsequent explanations of that vote by Mr. Carter and his foreign policy advisers have further confused the issue, rather than clarifying it. Israel and the government of Prime Minister Begin have come under unjustified attack in America for obstructing the progress of peace agreements in the Middle East because of the settlements issue.

It is absolutely vital that Americans have a thorough understanding of this important question. With that thought in mind, I direct the attention of my colleagues to a most perceptive examination of the entire issue contained in an article recently published by the Wall Street Journal. The article was written by Mr. Theodore R. Mann, chairman of the Conference of Presidents of Major American Jewish Organizations. I congratulate Mr. Mann on his learned discussion of this important matter, which places the settlements question in its proper historical context. I ask that the article be reprinted in its entirety in the Record because I believe it contributes significantly to a better understanding of Israel's position on the settlements question.

The article follows:

ISRAELI SETTLEMENTS ARE NOT AN OBSTACLE TO MIDEAST PEACE

(By Theodore R. Mann)

Are Israel's settlements on the West Bank really an obstacle to peace?

President Sadat of Egypt has condemned them as "unfounded, ill-conceived and illegal." President Carter says the settlements are harmful to the continuing negotiations on the future of the disputed areas. The New York Times editorializes that the spirit of Camp David is threatened by Prime Minister Begin's settlement policy. But the history of the area repudiates this view. The obstacle to Arab/Israel peace is the same as it has been since 1948—Arab refusal (except now for Egypt) to accept Israel's rightful place in the Middle East.

In 1948, when Israel declared its statehood, five Arab armies invaded the fledgling nation to destroy it. When the fighting stopped, King Hussein was in possession of the West Bank territories and East Jerusalem, which his troops had captured during the fighting. He promptly annexed the territories and changed the name of his country from Transjordan to Jordan.

In June 1967 Jordan used the West Bank and East Jerusalem as jumping off points from which to invade Israel again, in what turned out to be the Six Day War. When that fighting stopped, it was Israel that held the West Bank and East Jerusalem.

Driven back to its original borders on the eastern shore of the Jordan River, King Hussein's regime refused to negotiate peace with Israel. The Jewish state thereupon began placing settlements in strategic locations in the West Bank to stand guard against renewed attack, whether from Jordanian troops or PLO terrorists.

Today the Carter administration and Israel agree that there should be no new Palestinian state between Israel and the one that already exists—Jordan. (Most Jordanian citizens are Palestinians; most Palestinians are citizens of Jordan.) How to prevent a nascent Palestinian state from coming into being is what divides Washington and Jerusalem.

On the settlements, Menachem Begin contends that (1) Jews have every right to settle in Judea and Samaria, traditionally Jewish areas that were part of the original Palestine mandate; (2) if Arabs can live as a minority in Israel, Jews can live as a minority in the West Bank; and (3) in any case the settlements are essential for Israel's security.

Whether or not one accepts all of Mr. Begin's arguments, it turns history on its head to hold that the settlements are an obstacle to peace. When previous Israeli governments pursued a far more circumscribed settlement policy, Jordan and other Arab states refused to talk peace. They refused to talk peace from 1949 to 1967, when Jordan occupied both the West Bank and East Jerusalem—areas which the Arabs now insist Israel return as a precondition for joining the negotiations. And they refuse to talk peace now.

It is Arab refusal to accept Israel as a permanent part of the Middle East—not the settlements—that is and always has been the only obstacle to peace. It is Arab unwillingness to accept Israel's legitimacy—not the "Palestinian issue"—that is the heart of the problem in the Middle East.

In November 1977 President Sadat made his momentous decision to fly to Jerusalem and the stalemate was broken. But no other state in the region has followed Sadat's initiative, and Israel is not so suicidal as to withdraw from territories that separate her from her avowed enemies in the absence of peace.

At Camp David the parties approached this aspect of the problem by inaugurating a process to encourage fundamental attitudinal changes—Arab hatred, Jewish fears—among the peoples living in the area. This process called for giving the Palestinian Arabs and the Israelis on the West Bank five years of experience in living together under an automony agreement in which the powers and responsibilities of an Administrative Council or self-government authority would be defined by mutual agreement. A goal of May 26, 1980 was set to achieve that limited agreement.

All questions of permanent borders and sovereignty were explicitly deferred, in the hope that autonomy for the Palestinians and the evolution of normal relations between Egypt and Israel would lead other Middle Eastern states to conclude that peace with Israel was no longer unthinkable. Only then could a comprehensive peace be negotiated.

The purpose of the autonomy talks, then, is not to create a Palestinian state or to bring about ultimate annexation of the territory, either by Jordan or by Israel, but to give Israelis and Palestinians the opportunity to overcome the psychological barriers that have separated them for more than a generation. Toward that end the Palestinians will, under autonomy, enjoy more control over their daily lives than they have ever had under any ruler. It is understood that Jordan and other Arab states are not now ready to make peace with Israel; but it is hoped that a successful autonomy experience will enhance the likelihood that they will want to later.

It is a noble goal; some might call it quixotic. And it might yet work, given enough time. But if attention is focused on Israel's settlement policy rather than on the respective rights and responsibilities of the Palestinians and the Israelis in the West Bank during the next five years, I fear there will be no progress toward the goal of achieving a plan for self-rule that all the parties can agree on.

Thus far, both Israel and Egypt have scrupulously fulfilled their responsibilities under the Camp David accords and the peace treaty they signed on the White House lawn. It would be a great pity if progress that has been made to date should be jeopardized by unnecessary emphasis on what is essentially a side issue. Israel's settlements are an obstacle to the PLO—not to peace.●

THE FUTURE OF THE NAVY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Rowland Evans and Robert Novak that appeared on May 21 in the Washington Post. The article provides a critical analysis of the President's real position on the U.S. Navy.

The article follows:

SINKING THE NAVY

Less than four months after his stirring call to arms in the Jan. 23 State of the Union address, President Carter completed his molting as a born-again hawk by quietly insisting that Congress abandon efforts to save the Navy.

On May 15, the president wrote Chairman John Stennis to urge that his Senate Armed Services Committee remove from the defense authorization bill $6.2 billion in hardware added by the House Armed Services Committee. Specifically, Carter's unpublished letter said no to $3.1 billion in naval and air items, no to taking capital ships out of mothballs, no to stepping up F18 aircraft production, no to extra submarines and frigates and, of course, no to resurrecting the B1 bomber.

Nowhere in the terse letter is there a hint of world crisis set off by the Kremlin's Afghanistan adventure. Instead, the president made clear that the plight of the hard-pressed Navy should never obstruct the chimerical "balanced budget." While one Jimmy Carter speaks loudly to the Soviet Union by boycotting the Olympics, the other Jimmy Carter carries a small stick; it takes no genius in Moscow or NATO capitals to understand which is the real Jimmy Carter.

What is surprising is not the substance but the style. It is unusual enough for a president personally to set out such detailed military hardware desires ("like assigning tennis courts," one sarcastic defense contractor told us). Beyond that, Carter has dropped all deception, making clear it is not Congress that blocks a defense buildup.

The most predictable of Carter's requests is to remove $600 million for development of the proposed B1 bomber as a cruise-missile launcher. The president understandably opposes resurrecting the B1 on the shoulders of the cruise missile, but the modified B52 he proposes is a debatable, even risky alternative. In his letter, Carter urges Congress to wait for "full determination of the timing and specific form of an appropriate B52 follow-on."

That sets the tone for the rest of the letter. Although Carter ignores it, the hard-pressed Navy wants the red-penciled items as a quick fix for its desperate condition following years of inattention. In response, the president is calling for long-lead help in the by-and-by.

Thus, Carter wants to delete $560 million to reactivate two mothballed warships, the aircraft carrier *Oriskany* and the battleship *New Jersey*—both pleaded for by Adm. Thomas B. Hayward, chief of naval operations. With two carrier battle groups on station in the Indian Ocean since the Iranian-Afghan crises began, additional ships are needed quickly.

The president calls it "inefficient to apply hundreds of millions of dollars to resurrect 1940s technologies for only a few years of stretched operation." Actually, the *Oriskany* was not commissioned until 1950 (and deactivated in 1976); the *New Jersey*, mothballed most recently in 1979, is suitable for cruise missiles.

"Because they require thousands of new crew members," Carter wrote, "both these ships would aggravate current Navy ship-manning problems." Thus, the president has adopted a reverse beer-and-pretzels argument as rationale for the undersized Navy. The small size of the fleet justifies the low manpower level; but the manpower level limits the size of the fleet.

Carter similarly rejects modest increases in new shipbuilding, modest indeed when compared with the Soviet program. He rejects $495 million for increasing the four new guided-missile frigates to six, considered a bare minimum by the Navy for anti-aircraft protection. He also rejects $907 million for two badly needed 688-class nuclear submarines asking the Navy instead to await a new class of submarine "we plan to design."

Finally, Carter comes down against yet another Navy priority: expanding F-18 aircraft production from 48 to 72 at a cost of $492 million but at a saving of $4 million a plane. "An increase beyond 48 would likely be done at the expense of funds needed to operate and maintain existing Navy aircraft," Carter argued.

That buttresses the letter's overriding theme: a defense appropriations bill "consistent with a balanced budget" cannot contain these new planes and ships without "severe reductions" in operations, maintenance and personnel funds that "could adversely affect today's military readiness."

But the same president has been vigorously fighting amendments to the budget resolution that would increase money for operation, maintenance and personnel by taking it from social welfare spending. Furthermore, any chance for a balanced budget went down the drain with the onset of recession. President Carter, therefore, actually is calling for no change in the domestic priority amidst deficit spending. Afghanistan or not, that is just the same old policy.●

A NATIONAL EFFORT TO COMBAT DIABETES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. LaFALCE. Mr. Speaker, the prevalence of diabetes is increasing each year at the alarming rate of 6 percent. A child born today faces a 1 in 5 chance of contracting diabetes in his lifetime.

The social costs of diabetes multiply with each passing year of underfunded research. The impact of budgetary cuts in diabetes research are well stated by Richard Aszling, chairman of the board of directors of the Juvenile Diabetes Foundation. I submit for my colleagues' attention Mr. Aszling's comments on this issue, which appeared in the May 31, 1980, National Journal magazine:

A National Health Problem Demands a National Effort

"Not since the discovery of insulin over a half century ago has the outlook for clinical advances in the treatment and ultimate prevention and cure of diabetes been as promising as today." —David Kipnis, M.D., Chairman, National Diabetes Advisory Board, April 1980.

This promise may not be fulfilled because of the prevailing attitude on Capitol Hill and at the White House that virtually all sections of the federal budget must be cut—*at any cost.*

The message which this reduction in funding transmits to the medical research community, to the diabetic, to millions of heart and cancer patients, to the blind—to all Americans, as potential beneficiaries of health research—is a discouraging one. Federal research and training budget cuts could retard the progress that has been made in combatting major national health problems, and sap the health and burden the economy of the nation in the years to come.

The Juvenile Diabetes Foundation, a voluntary health organization with 123 chapters throughout the nation, is dedicated to supporting research to prevent devastating complications of diabetes, and ultimately to find a cure for this dread disease. Toward this end, the foundation has provided over $7 million in the last six years in projects and fellowship support to investigators conducting meritorious diabetes research.

PRIVATE SECTOR GOVERNMENT PARTNERSHIP

It was recognized a decade ago that, by themselves, private sector contributions to diabetes research would never be sufficient to eradicate diabetes and its countless complications. Accordingly, the diabetic community entered into a partnership with the federal government.

In 1975, Congress created the National Commission of Diabetes and charged it with the responsibility of developing a Long Range Plan to Combat Diabetes. As one of its primary recommendations, the commission urged Congress to increase its substantial funding of agencies which support research, education, training and control programs in diabetes—the National Institutes of Health, the Center for Disease Control, the Indian Health Service, the Veterans Administration, etc.

INVESTMENT IN HEALTH AND ECONOMY

In its wisdom, Congress thereby made an investment in the health of 10 million American diabetics as well as in the national economy:

Diabetes research funding in 10 of the National Institutes of Health has increased substantially in the past decade.

The National Diabetes Advisory Board, which serves as the agency for national focus on diabetes activities throughout the federal government, has been in operation for three years.

There are eight Diabetes Research and Training Centers in existence, conducting diabetes research, training physicians and allied health personnel and educating the public regarding diabetes.

The Indian Health Service is implementing five model diabetes care projects on Indian reservations (diabetes has a prevalence rate of up to 60 per cent among some Indian tribes).

Major research programs of the National Institute of Child Health and Human Development have been initiated in four states to investigate the problems of diabetic pregnancies and the infant of the diabetic mother.

Diabetes Control Projects sponsored by the Center for Disease Control in 20 states are providing valuable mortality and morbidity data regarding diabetes and are enhancing the education of diabetics and health care professionals.

RESEARCH PAYS OFF

The federal government's diabetes research investment is partially responsible for five major research advances during the past 18 months alone. Utilizing NIH grant funds, researchers and scientists have:

—Established a causal link between a specific virus and juvenile diabetes, a development which holds out hope of a vaccine at some future time.

—Developed a miniature, battery-powered pump, worn externally, which feeds a continuous supply of insulin to the diabetic.

—Accomplished bacterial production of human insulin using recombinant DNA technology.

—Located possible genetic markers for diabetes which may make it possible to identify some high-risk candidates before they develop the disease.

—Transplanted insulin-producing pancreatic cells in laboratory animals.

The momentum for further notable advances is clearly with us. But current political imperatives, it would seem, are working just as clearly against us.

The proposed federal 1981 budget would provide for the funding of only 20-30 per cent of *approved* research grant applications, compared with a funding rate of as high as 60 per cent five years ago.

RESEARCH MANPOWER

Advances in diabetes research will be highly dependent upon an influx of new research scientists, and yet the Administration's proposed budget would provide for the funding of no new research manpower traineeships.

Opportunities for advances in diabetes are appearing at a time when the number of highly qualified investigators, particularly in clinical medicine, is rapidly declining. As the National Diabetes Advisory Board states in its third annual report, the clinical investigator is approaching the status of an endangered species.

The number of physician scientists in all fields of research who spend more than 50 per cent of their total effort on research decreased from 30,000 in 1966 to 15,000 in 1976. The number of physicians being trained in NIH-sponsored research training programs in all fields declined from 4,600 in 1971 to 1,800 in 1977.

The Juvenile Diabetes Foundation will continue to raise funds to support research through research grants and post-doctoral fellowships. The foundation's Career Development Awards will enable young scientists to maintain their commitment to research during early academic appointments. JDF will continue to convene scientific workshops at which leaders of research and practicing physicians share their knowledge and discoveries with their colleagues, stimulate and inspire each other, and train junior observers in the current status of diabetes treatment and investigations.

NATIONAL EFFORT

But a national health problem—and let there be no doubt that diabetes is just that—requires a national effort. In the 1970s, the Juvenile Diabetes Foundation helped Congress and the medical community focus on the need to expand federal funding for diabetes research. Today, we see that huge dividends are being reaped from this modest investment.

We must do all we can to assure that this progress is not slowed because of political rather than medical considerations. For the alternative to further successful research—in terms of human suffering and premature death, as well as the economics of lost wages, productivity and welfare payments—is far too great a price for our society to pay.

We hope—and so do 10 million diabetics—that Congress and the Administration will not let up on these efforts for even a short-term savings.●

FRANKLIN PIERCE HUDDLE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. FUQUA. Mr. Speaker, a few days ago Dr. Franklin P. Huddle, who was—inadequately—titled as "senior specialist in science and technology" for the Library of Congress, died after a lingering illness.

Frank Huddle was much more than that.

He was more than his widely diverse, highly disciplined experience and education could instill in him. He was more than the many exacting accomplishments his rigorous professionalism would extract from him.

His was a prodigious memory, a mind finely turned to logic—harbored within a spirit which was at once philosophic and poetic. He was, in truth, a unique mixture of insatiable curiosity, or marked productivity, and of almost prophetic perception. Yet with all these things he blended conscientiousness and compassion, traits which are not concocted but which bloom only in and of themselves, to a degree rarely encountered.

Those who knew and worked with Franklin Huddle were sometimes struck with the notion that he was not unlike that other Dr. Franklin of the 18th century—an intellectual explorer, an astute observer, a tinkerer after knowledge and truth, and in his special way an effective spokesman for both humanity and rational government.

Mr. Speaker, a listing of Frank Huddle's contributions to our Committee on Science and Technology, let alone to the Congress, would cover pages. Let me mention just three:

Technical Information for Congress, a classic study of how and why science fares in the political arena, revised and reprinted three times and used as a text in scores of educational institutions.

Science Policy: A Working Glossary, now in its fourth edition and a guide widely used in the formulation of policies adopted to the careful application of science and technology in many nations.

A Declaration of Policy directed to the goals and uses of U.S. science, which is Title I of the National Science Policy and Organization Act of 1976, the first and only statutory statement of federal science and engineering policy in American law.

We can but guess at the ultimate impact of such works. We know simply that they will register high on the Richter scale of technolgical and political significance.

Mr. Speaker, we deeply regret, but do not mourn, the passing of Frank Huddle—because he himself did not want memorials, eulogies, tears. If anyone espoused the philosophy expressed by the famous line: * * * Let there be no sadness of farewell when I depart * * *. It was Frank.

So, we are sorry. But mostly we are grateful for Frank Huddle, for what he was and did. Very grateful.

Mr. Speaker, I attach a brief notice of Dr. Huddle's career as it appeared in the Washington Star, June 4, 1980:

FRANKLIN PIERCE HUDDLE

Franklin P. Huddle, 66, a senior specialist in science and technology for the Congressional Research Service of the Library of Congress, died Friday of cancer in Fairfax Hospital. He lived on Nemeth Court in Alexandria.

Mr. Huddle was known for his prolific legislative analysis and writing in the fields of science policy, materials policy and research.

He was a graduate of the University of Arizona and received a master's degree from Brown University in Rhode Island in 1939. He taught English at Brown during World War II and also was a reporter for the Providence Journal, a writer for Editorial Research Reports and director of Brown University's news bureau.

Mr. Huddle began working for the federal government in 1947 at the Defense Department, where he held several assignments, including the department's materials conservation program which he began in 1949.

In 1962, he participated in a study of national materials policy in the Executive Office of the President.

Also in the early 1960s, Mr. Huddle was a senior staff engineer and senior staff scientist for a laboratory of the Hughes Aircraft Co. in California, and he was a consultant for the System Development Corp. and a lecturer at California State College in Fullerton.

Mr. Huddle received a Ph.D. in government from American University in 1965 and resumed his teaching career in California on the American presidency. In 1967 he became a specialist in science and technology in the Legislative Reference Service's science policy research division.

Three years later he was promoted to specialist in systems and goals and in 1973 was named a senior specialist in science and technology.

Mr. Huddle participated on panels of the National Research Council, the American Society for Metals and the American Association for the Advancement of Science.

Under the auspices of the Congressional Research Service, Mr. Huddle was directing a study of the Potomac River basin which would provide information to help guide future legislation affecting the basin.

He leaves his wife, the former Claire Scott; two sons, Franklin P. Jr. and David: three daughters, Eleanor, Elizabeth and Christine; and three grandchildren.●

WAYNE POMEROY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. RHODES. Mr. Speaker, last week my good friend, Wayne Pomeroy, stepped down after 4 years as the mayor of Mesa, Ariz. In a time when there seems to be so much concentration on the negative aspects of public service and elective office, Wayne's career as mayor demonstrates that it is possible to achieve, and derive, a great deal that is positive through public office.

A recent article in the Arizona Republic summarizes Wayne's record in office, not only in terms of specific accomplishments, but also in terms of the sense of community which he worked to maintain in the midst of the city's tremendous growth.

I commend and congratulate Wayne Pomeroy on his outstanding record of service to the people of Mesa and wish him every good luck as he returns to private life. I now insert the Arizona Republic article in the RECORD:

LOW SALARY JOB PAID OFF IN "EXTRA BENEFITS" FOR MESA MAYOR

(By Jack West)

MESA.—In monetary terms, Wayne Pomeroy's tenure as mayor of Mesa has netted him a little more than $2 per hour.

For the past four years, Pomeroy figures, he has put in about 60 hours a week as mayor, which pays $600 per month.

"It's a job you sure don't take for the money, but there are lots of things that mean as much as money," Pomeroy said last week as he prepared to re-enter "civilian" life.

He will step down as mayor Monday when Donald Strauch, elected April 29, takes over the city's top job.

Joining the City Council at that time will be Murray Woods and Dave Guthrie, replacing Cordon Driggs and Elma Milano, who ran unsuccessfully.

Of his term in office, Pomeroy, 57, perhaps is most proud of the fact that major city improvements were paid for in cash.

"It's a pleasure to be mayor of this city because of the attitudes that we have here," Pomeroy said. "It's a happy city."

"I know Don (Strauch) will do an outstanding job. He's a fine person," Pomeroy said.

"He has a deep interest in the community and he will go about his job in his manner, which will not be mine, but he will add a tremendous amount to the city in his own way of doing things.

"And I think it will be refreshing for the city to see somebody else and read about somebody else."

The face of the city changed during Pomeroy's administration, with the addition of buildings for several major city departments, plus Centennial Hall, the outdoor Amphitheater, the new Senior Center and the new City Council chambers, dedicated recently in Pomeroy's name.

Ground-breaking ceremonies are scheduled Friday for the new Mesa Library, the same day a new police, fire and utility building will be opened in south Mesa.

The number of fire stations and parks doubled during Pomeroy's administration, and a large police headquarters was added.

"We've more than doubled Police and Fire Department manpower in the past four years," Pomeroy said. New fire services include a paramedic program and community-service trucks.

"We've worked fast," Pomeroy said. "Four years is not very long and I worked constantly. And that staff was just as excited and enthusiastic as I was—they never looked at a clock."

The mayor is highly pleased with programs established for senior citizens during his term, including Dial-a-Ride for the elderly and handicapped and the Senior Center's daily activities.

Pomeroy also started the Mayor's Youth Committee, made up of students from the city's junior highs and high schools, which plans a wide variety of activities for young people.

The mayor confirmed he is being considered for a post on the Interstate Commerce Commission, but added it does not appear likely he will win the appointment.

He has been urged to run for other political offices but was not interested in those particular races.

"I don't have any (political) plans," he said. "If there's something for me out there and it looks good and it's waved at me, I'll sure go at it. But I haven't found that yet.

"I do have a business to operate (Pomeroy's Mens Stores). It's been costly (to his business) being mayor, but I have no regrets on that point," he said.

"My wife has been outstanding that way. She's a perfect wife of a mayor—so kind and considerate and gracious. She understands my job."

The outgoing mayor's great-great grandfather, Francis Martin Pomeroy, sailed the Atlantic trade routes until he joined the Mormon church and made the long, hard trek to Idaho and, later, to Arizona.

"They came to where Centennial Hall is now and made their camp there on Feb. 14, 1878," the mayor said. "We opened Centennial hall exactly 100 years from that day."

Pomeroy graduated from Mesa High School in 1941 and since has earned degrees from Brigham Young University and New York University.

He was wounded on a bombing mission over Czechoslovakia on June 16th, 1944. In 1945, still hospitalized, he married his high-school sweetheart, Ceil. They now have four daughters.

In 1950, he borrowed $4,000, using his mother's home as collateral, and opened Pomeroy's Mens Store in downtown Mesa.

"I have other stores, but that store's been there for 30 years," the mayor said.

In 1966 he was elected to the City Council, where he served eight years. He was elected mayor in 1976.

During his term he tried, he said, to "give people a purpose, make them feel they're part of the city and should have a sense of community value.

"I tried to keep that, even though during the four years we grew nearly a third in total city population (between 40,000 and 50,000 people). Mesa's population now is more than 160,000, making it the third-largest city in Arizona.

"Everybody smiles," the mayor said. "I can go down the street and pass an old city pickup. They see my car, they wave and I wave. I couldn't be treated better than I've been treated as mayor.

"I can go out of office and feel very satisfied."●

DEDICATION OF INTERNATIONAL BOUNDARY MARKER STONE—ONLY REMAINING EVIDENCE OF OFFICIAL BORDER BETWEEN UNITED STATES AND REPUBLIC OF TEXAS

HON. CLAUDE (BUDDY) LEACH

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. LEACH of Louisiana. Mr. Speaker, the Louisiana and Texas sections of the American Society of Civil Engineers have honored me by inviting me to participate in a special historical dedication this Saturday, June 14, in DeSoto Parish, La. An original international boundary marker stone, set in 1841, marking the border between the United States and the Republic of Texas, will be designated a local historical civil engineering landmark. Because it is the only remaining evidence of the exact survey line between the two, it is therefore of national historical significance. I would like for my colleagues to share with me an article, "Epic Journey," published in the Texas Highway magazine several years ago. The story by Marjie Mungo describes the circumstances of how the marker was set in 1841, and how it was recently rediscovered.

EPIC JOURNEY

It was April 25, 1838. W. J. Stone, an ambitious young engineer, shook hands with President Harrison in Washington, D.C. and promised to complete his appointed task "with all due speed and accuracy." Stone had just been charged with the responsibility of charting a boundary between the Republic of Texas and the United States of America.

In all probability, neither he nor the members of the joint commission—consisting of representatives of the US and the Republic of Texas—realized the obstacles they would face before their task was completed in 1841. Hampered by hardships, heavy rains, misunderstandings, unbridged streams, boggy marshes, impenetrable lakes, malaria, poisonous snakes, lack of equipment and funds, their work was delayed time and again.

The boundary was marked by mile markers placed from the mouth of the Sabine on the Louisiana-Texas border to the Red River on the Arkansas-Texas border. A granite marker set on the west side of the Sabine fell into the river years ago when the sandy bank crumbled. A second granite marker was located on the 32nd parallel about 100 feet off FM 31 on the Louisiana-Texas border near Logansport, Louisiana.

Set on April 23, 1841, it was recently "rediscovered" by District 19 employee Del Moore while he was charting historical and archeological sites for the Highway Department. On the west side of the marker is engraved "R.T.," which stands for the Republic of Texas; the east side has "U.S." On the south side is "Merid N T Boundary, established A.D. 1840." The shaft was prepared in 1840 and was dated to be set that year, but because of delays, it was not placed until the spring of 1841. Several years ago, woodsmen felled a tree on the marker, breaking it off a few inches above the ground, but it was repaired.

Jake Watson of Beckville, who submitted the joint commission's journal so that a story could be written for the Texas Highways says, "The boundary between the United States and the Republic of Texas is the only boundary the United States negotiated with three foreign powers. It was negotiated with Spain in 1818, Mexico in 1821, and the Republic of Texas in 1838."

Both France and Spain explored the southern half of North America. The two countries had long-standing disputes about land that is now on the Louisiana-Texas border. They both claimed lands beginning with the first watershed west of the Mississippi. The dispute arose over whether the first watershed was the Sabine or the Atchafalaya in Louisiana.

When the United States purchased Louisiana from France in 1803 and inherited France's claim, the disputed land east of the Sabine River was considered "neutral ground" and became a haven for outlaws and deserters—a no-man's land.

When the United States bought Florida from Spain in 1819, the two countries agreed the boundary of Texas was to be the Sabine River until it crossed the 32nd parallel; then it was to be from the west bank of the Sabine to the south bank of the Red River. Texas was still a part of the Spanish Territory.

When Texas gained its independence in 1836, the boundary had to be settled. The joint commission was appointed two years later. The commission met in New Orleans on August 7, 1839. Gathering enough provisions and arranging transportation to the mouth of the Sabine River, they reconvened on October 15. "Owing to the peculiar unhealthiness of the season and other obstacles," the commission reassembled instead on November 12 at Green's Bluff, about 35 miles upriver on Sabine Lake.

They still had problems, however. Major J. D. Graham and Lt. T. J. Lee hadn't arrived with their astronomical apparatus and other equipment, so they moved their encampment 15 miles upriver to Millspaw's Bluff to wait. A Louisianian, appointed to assist the surveyors, arrived in camp on November 23, but he was killed the next day when his rifle accidentally discharged.

A page from the commission journal shows why it took so long for Major Graham and Lieutenant Lee to arrive with the instruments—and provides a good example of what John Milton meant when he wrote "Confusion worse confounded."

"Major Graham did not receive his orders in Washington definitely detailing him to this service until November 1, 1839. It then became necessary for him to proceed to Philadelphia, New York, and Boston to collect and pack up the astronomical instruments necessary for execution of his duties when he and Lt. Lee, who was in charge of the instruments, sailed from New York to New Orleans. . . . After a very boisterous passage, attended by adverse winds, they reached the latter place on December 18."

They needed water transportation to insure safe passage for the delicate instruments, so they sent a messenger to tell the commission they would be delayed. The messenger left on December 29, but didn't reach the commission's campsite until January 21.

In the meantime, the U.S. Commissioner had gone to New Orleans on business and had already met with Major Graham and Lt. Lee. By this time the pair had arranged for "an excellent 47 ton sloop," the Thomas Carnby, and were ready to sail pm January 27. Three days later they reached the Sabine campsite.

They immediately "commenced the necessary astronomical observations for determining the latitude and longitude of the junction of the west bank of the Sabine with the sea, and the dip and declination of the magnetic needle."

Finally, on May 21, 1840, demarcation of the boundary was begun. It was marked by a high mound of earth about 50 feet in diameter and seven feet high and surmounted by a 36-foot high pole with a keg at its top, and the site was marked "A" on the map.

They continued tracing the boundary up the river, often making astronomical observations long past midnight, especially when the nights were clear. One night their encampment was on a bluff on the east bank, or Louisiana side, of the Sabine River and they wrote, "We crossed today the path of a recent tornado which has prostated trees and cane on the river banks. This was supposed to be the same tornado which occasioned such dreadful destruction on human lives and houses in Natchez on the seventh of May."

There was some question that the treaty between the United States and Mexico in 1821 may have named the Neches River instead of the Sabine. The surveyors determined that the Neches could not be the boundary line and they wrote in their journal: "The edition of Melish's map of the United States, improved to January 1, 1818, referred to in the treaty as laying down and identifying the particular stream, could not be found. In the absence of that evidence, the commission has been led to conclude on other grounds equally satisfactory to them the River Neches could not have been intended as the river designed by the treaty as constituting this portion of the boundary between the two countries."

At times dense forests and sinewy streams hampered their progress. One morning they started out at 6 a.m. and had gone no more than three miles when their passage was blocked by a raft (a mass of floating driftwood). That detained them seven hours. They went six more miles and were again blocked by a raft. That night the moon conspired against them:

"The moon being near full and shining very bright rendered it extremely difficult for several nights to observe with a reflecting instrument on stars of these lesser magnitudes with accuracy desired. The advanced state of the season toward the unhealthy period (summer) and the exhaustion of the funds rendered it absolutely necessary that the commission should at once adjourn."

So they adjourned in June, agreeing to reconvene November 1, but Texas did not appropriate funds so it was February 14 before work could resume. In March the rains came and lowland flooding interrupted progress once again but work soon resumed at a rapid rate. Each mile was marked by a mound of earth five feet high and fifteen feet across. In the center of each mound was a wooden post eight feet high with U.S. carved on the east side and T on the west side. The south side was marked to indicate the number of miles distant from the thirty-second parallel.

By May 14, 36 miles had been covered. The commissioners went to Greenwood to attend memorial services for President Harrison. In their journal they called the day "a day of prayer and fasting on account of the afflicting calamity which had so recently and unexpectedly befallen this nation by the death of her late President."

Four days later they reached Ferry Lake (Caddo) and established the 46 mile post near the center of an island in the lake. They had a time crossing the swampy region, according to the journal:

"From the reluctance manifested by the men to go into the water it became necessary that the officers should lead them. The operations of this day in wading and cutting where the depth of the water would admit through forests of cypress and almost impervious undergrowth, added to the excessive heat, were very severe upon the party who would only go 1,950 feet to the banks of Jims Bayou."

They were in the homestretch now, and the journal tells of all their troubles:

June 1: "After a most circuitous day's journey, encamped at a spring of most delicious water on an old Indian trail leading from Caddo Prarie to the Oushatta Village and a short distance west of the boundary. Established the 58th and 59th miles . . ."

June 9: "On this day Mr. A. G. Gray was thrown from his horse and narrowly escaped from a serious injury. He was soon able to resume his duties on the line. Established the 77th and 78th miles running along a creek bottom for some distance."

June 11: "The supplies of bread having been left at the last encampment the hands refused to work and several were taken sick. Established 82, 83, 84, 85 and 86th miles passing through an almost impenetrable undergrowth of young oaks and hickory. The increasing sickness of the U.S. Commissioner, with an attack of fever upon three of his officers, along with the sick hands amounting to a dozen or more, rendered the camp more the appearance of a hospital, and the most unpleasant and disagreeable passed on the line."

June 12: "This morning four gentlemen rode into camp from Red River and informed us of our near approach to the Sulphur Fork. They were the first new faces seen in camp for a long time. They remained a few days and were of signal service in expediting our passage across the swamp and the river."

June 14: "The men engaged this day in assisting the wagons through an overflow swamp and across a large tributary of the river over which the oxen and mules swam with the wagons empty."

June 15: "Engaged the principal part of the day in constructing rafts to transport supplies, baggage, etc. across the river . . ."

June 20: "Encampment stationary. Marked 96th and 97th miles crossing the remains of an old hurricane."

Then—success! They reached Red River.

June 24: "The Meridan portion of this boundary has been achieved amid difficulties of no ordinary character, arising as well from the nature of the country through which it passed, as from the unpropitious season of the year . . . The plans or maps of the whole extent of the boundary are determined . . . and authenticated by the signing of this journal by the joint commission."

Their job was done! The United States of America and the Republic of Texas had its boundry. Some of the five-foot high mile markings are still in place. The papers and other data buried in them have long since disappeared, but the journal lives on, a memorial to man's fortitude and forebearance.

The actual maps, certified by W. J. Stone, are in the U.S. Archives, but the Texas State Library has photostatic copies. Neither the maps nor the markers had got much attention during the past decades until Del Moore's "discovery."

The Panola, Texas Watchman (newspaper) called Moore's "discovery" a "historical find," but the senior designing engineer says, "Everyone knew the marker was there. It was a matter of record. We are preparing maps of archeological and historical sites so we can avoid them when we plan new highways or relocate old ones. I went to the site to confirm the marker's existence and the newspaper gave it a lot of publicity."

A Carthage (Texas) schoolteacher and historian, Mrs. Leila LaGrone, agrees with Moore and says, "The 'historical find' has not been lost by historical-minded local people. I am pleased with the publicity. This will add impetus to our movement to have a state-line park built at the marker site."

Says Tom Hunter, Del Moore's boss and supervising resident engineer, "The marker is of great historical significance, and it is still valid, as far as we know."

[NOTE.—The International Boundary Marker landmark is located on land dedicated for use as a park. It is the only remaining evidence of the exact survey line between Louisiana and Texas. Surveyors on East Texas and Louisiana still use in their surveys the common points established from this original boundary line.]●

THE PROPOSED CENSURE OF HON. CHARLES H. WILSON

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. McCLOSKEY. Mr. Speaker, in the matter of CHARLES H. WILSON, House Resolution 660, I have previously expressed reservations about the quantum of proof of guilt contained in the Committee on Standards of Official Conduct's original report. These reservations were printed in the CONGRESSIONAL RECORD of May 29 at pages 12732 and 12733.

When House Resolution 660 was first brought to the floor on May 29, new evidence was presented by our colleague from California, Mr. THOMAS, which effectively rebutted the theory of presumed innocence I had presented on counts 7, 8, 9, 10, and 11.

I had expressed the concern that the evidence on those five counts of alleged violations did not overcome the reasonable possibility that Representative WILSON had incurred $25,000 in campaign expenditures during the 1970 campaign for which he was entitled to reimbursement in the two checks for approximately $15,000 in March of 1971 and in the three checks for approximately $10,000 in November 1971.

The new evidence presented on the floor by Mr. THOMAS clearly showed that Mr. WILSON had not incurred campaign expenditures of $25,000 or any other sum during 1970 for which he would be entitled to reimburse himself from campaign funds. In response to this new evidence, however, Mr. WILSON has now produced records of two fundraising dinners which occurred on February 26, 1971, and November 17, 1971. The February fundraiser brought in $15,727, and I have appended to this statement the two bank statements reflecting deposits between February 8, 1971, and March 17, 1971 of $15,727, a sum slightly in excess of the two checks named in counts 7 and 8, $10,283.35 and $5,129.85, respectively, totaling $15,413.20 which were drawn on the campaign account on March 3 and March 15, respectively.

[Material referred to not reproduced in the RECORD.]

When these checks were paid, it was more than a year prior to the effective date of the new campaign reporting law of April 5, 1972. In March 1971, it was not illegal to hold fundraising dinners for the purpose of funding expenditures of Congressmen for nonpolitical expenditures. In particular, a number of our colleagues in 1971 were accustomed to raising additional funds for newsletters and travel expenses which were not then compensated, as they are today, from House official expenses. Neither illegality nor breach of House rules was involved in holding fundraising functions for this purpose.

The same holds true of counts 9, 10, and 11 which involved three expenditures totaling $9,900 at a time when Wilson was raising $13,880 through a fundraising dinner held on November 17, 1971, in Washington. The bank statements reflecting these deposits to his campaign account during October and November 1971, are also appended to this statement.

[Material referred to not reproduced in the RECORD.]

We are thus left with fundraising receipts of over $29,000, and expenditures in excess of $25,000, 9 years ago. While these expenditures were clearly not for campaign expenditures, the question is upon whom the burden should fall—WILSON to show that they were for business, not personal, expenditures, or the committee to show that they were for personal expenses.

Nine years after the fact, it is my tentative conclusion that the burden is on the committee and that that burden has not been met from facts contained in either the original report or the supplemental report. The factual evidence does not furnish clear and convincing proof of the eight counts specifically charged, and it is the clear and convincing standard that we ourselves have set.●

SOUTH AFRICAN RESETTLEMENT POLICY PROVOKES RACIAL TENSION IN RURAL AREAS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. EDWARDS of California. Mr. Speaker, as a member of the Human Rights Committee of Members of Congress for Peace Through Law, I would like to express my concern over the growing racial unrest in South Africa resulting from the Government's policy of forcibly removing thousands of urban blacks each year to tribal homelands.

I am inserting in the Record an article from the Wall Street Journal by Jonathan Spivak of May 30, 1980, which describes the homelands policy and its political and social repercussions.

Since 1948, 2 million blacks have been resettled from urban to rural areas. About half of South Africa's 20 million blacks now live in rural homelands which, as Mr. Spivak points out, are economically depressed areas offering few jobs and services to the urban black families arbitrarily transported to them.

Ten homelands have been established since the late 1940's and three, including Transkei, Venda, and Bophuthatswana, have accepted independence from South Africa. KwaZulu is, however, one homeland that is refusing independence as Chief Buthelezi, hereditary leader of 5.5 million Zulus, organizes a political and cultural movement known as Inkatha. This movement seeks to unite urban and rural blacks. It now claims about 300,000 members throughout the country.

The creation of this movement among the Zulu population and the building resentment of urban blacks forcibly removed to destitute homelands would seem to show that the homelands policy has only served to spread racial unrest from urban to rural areas of the country.

I commend the following article to the attention of my colleagues:

[From the Wall Street Journal, May 30, 1980]

Homeland Policy Stirs Threat of Racial Strife in Rural South Africa

(By Jonathan Spivak)

Ulundi, South Africa.—An angry activism is slowly building in the hinterlands of South Africa. It could, in the end, turn out of be far more explosive than urban unrest.

Ironically, it grows out of a government policy aimed at defusing the danger in the cities by forcibly moving thousands of urban blacks each year to ancestral tribal "homelands."

Black anger builds both at the idea of the resettlement policy and at the way it has been carried out. Blacks in city and suburban areas receive little notice before they and their possessions are piled on trucks and moved hundreds of miles away. The bulldozers come in quickly to level their former homes. The people are often offered little shelter in the rural resettlement areas. Frequently they are given land too poor for cultivation.

"In five years, the pendulum of revolution will swing from urban to rural areas," declares one black tribal leader. An academic expert in Johannesburg says, "The homeland policy has backfired, but the government won't admit it."

ARMS ARE FOUND

Already arms caches have been found in several of the homelands, including the Zulu homeland here in KwaZulu stretching along the Indian Ocean to Marxist Mozambique. The recent black victory in Zimbabwe has added to the mood of rising militancy. "One sees the possibility of terrorism increasing—the potential is there," says Chief Lucas Mangope of the Tswana tribe in the Bophuthatswana homeland.

Even the homeland policy doesn't prevent the black population from increasing in the cities as rural blacks pour in to seek jobs. But the policy has slowed the net growth and, in time, may even bring it to a halt. Blacks are allowed permanent residence in white areas—within designated black townships—only if they were born there or have permanent jobs.

Certainly the prospect remains for growing racial violence in and around cities. The headlines these days tell of bitter racial conflict in Johannesburg, Durban, Capetown and other urban areas where millions of blacks live without political rights. A school boycott, which started in Capetown five weeks ago, has spread throughout the country, touching off rioting and a police crackdown. Government retaliation has so far produced the deaths of four demonstrators and the arrest of hundreds, including 50 prominent church leaders in Johannesburg.

Obviously, such events have a potential for racial conflagration. But most leaders, white and black, believe that the government has massed sufficient power in Soweto and other urban centers to suppress black uprisings there. The government, despite strong political criticism, shows no hesitancy in using its forces.

CRITICS' VIEW

Thus, most white critics of the government's racial policies believe that urban insurrection can't succeed. "The black kids are very fed up, very militant, very radical," says Helen Suzman, a liberal member of the South African parliament, "but the thought of a massive uprising just isn't possible." The rural areas may be another matter.

The homelands policy was begun in the late 1940s as a major element of apartheid, the official doctrine of separate development of the races. Large numbers of urban blacks would be sent back to their old tribal homelands, which would eventually become independent states with no voice in South African affairs and no claim on help from the South African government.

For years, the policy seemed to be working as black leaders passively went along. But now discontent is growing, particularly as black leaders come to realize that while most homelands have virtually no hope of economic survival, they are nonetheless called on to support more and more people. Lands are overgrazed, mineral resources are scant, and homeland boundaries are gerrymandered to leave prosperous white areas outside.

Since 1948, two million blacks have been resettled and the number in the past decade has been running about 100,000 a year, according to experts at the SA Institute of Race Relations, in Johannesburg, a nongovernmental organization. Official South African figures, however, put resettlements for the 1970s at about 30,000 a year. In any case, roughly half of South Africa's 20 million blacks now live in the homelands—about 40 percent of the country's total population.

Ten homelands have been established, most of them consisting of several sections of noncontiguous territory. Three of the homelands—Transkei, Venda and Bophuthatswana—have accepted independence. Residents of independent states aren't citizens of South Africa, and South Africa regards the states as foreign countries.

To persuade homelands to accept independence, South Africa has offered them financial aid if they do so. This aid then amounts to foreign aid, and South Africa can cut it off whenever it pleases. It did just that in a border dispute with Transkei.

KwaZulu is spurning independence. Here in the capital of the Zulu homeland—a few dusty streets and a handful of simple buildings—lies the heart of resistance to the homelands policy. M. Gatsha Buthelezi, the strong-willed 51-year-old hereditary leader of 5.5 million Zulus, shrewdly manipulates the policy to enhance his own power and undermine the South African government's.

HEADQUARTERS FOR INKATHA

Take his smartly clad, blue-coated two-man police force. The government was opposed to even this small effort to replace South African security police, but Chief Buthelezi insisted that he was acting under authority already granted to his homeland government. "It's necessary to protect our property and will be expanded," he says.

The Zulu leader also uses the homeland as headquarters for a highly disciplined political and cultural movement known as Inkatha. It seeks to unite urban and rural blacks into South Africa's largest black political movement; with large numbers of Zulus living in Soweto and other urban areas, Inkatha has reached throughout the country and now claims 300,000 members.

Chief Buthelezi is, in fact, the only black leader who currently boasts a national following—other than jailed black activist Nelson Mandela, whom the South African government vows never to release. And the chief's increasing activity is causing increasing worry among whites.

"Inkatha is being organized as a fight against whites," says Prof. Ben Piek, a white who is a homelands expert at Rand Afrikans University in Johannesburg. "A mobilized Zulu force is a threat."

Resentment of the homelands policy makes it easier for Chief Buthelezi and other black leaders to mobilize black feeling.

In the Johannesburg office of a legal-aid service known as Black Sash, a young black client's eyes smolder with anger as a counselor tells him why he is being ordered to return to a homeland 200 miles to the north: Since he has lost his job as a driver for a local company, he no longer has any legal right to remain in Johannesburg and must leave even though he feels he can't support his wife and children in the homeland. (They do have a right to stay in Johannesburg—because they were born there—and the family has decided they will.) "Our offices are full of people like this every day," Sheena Duncan, a white woman who heads the aid service, says sadly.

"BLACK SPOTS" WIPED OUT

At the same time that it obliges individuals like the truck driver to return, the government is also wiping out entire "black spots"—unauthorized black settlements in urban white areas. The human devastation produced by the forced removal of these blacks from their long-occupied homes to distant homelands is incalculable, says Pat Rainey, a white researcher with the South African Institute of Race Relations in Durban. Ray Tucker, a white Johannesburg lawyer who has fought some of these removals, says: "The government doesn't think of the human consequences. It's outrageous."

A talk with residents of a "black spot" settlement called St. Wendolin's, a few miles from Durban, reveals a bitter despair at being forced to move. One man is finishing a galvanized tub that will bring him $4.75 for his day's work on it—an example of the simple economy that sustains many of these settlements. "How should I know where we are going?" he asks angrily. "This is South Africa. The government will give us one day's notice and take us away in trucks."

Many whites worry that while the government may have the military and other resources to control urban unrest, it doesn't have sufficient resources to also contend with rural rebellion and with guerrilla raids from outside the country staged through the homelands. To avoid such danger in this area, whites are increasingly interested in some sort of political settlement between Chief Buthelezi's KwaZulu homeland and the surrounding South African province in Natal. The provincial government there has traditionally been more liberal on racial matters than the central government, and many whites in Durban, Natal's major city, have a high regard for Chief Buthelezi.

AN ECONOMIST'S QUESTION

"Why should Natal be caught up in a race war just because the rest of South Africa is enmeshed in it?" demands Gavin Maasdorp, a white economist at the University of Natal.

But the central government's response to the growing unrest in the homelands has taken a different tack. Army strategists are seeking to dampen rural resentment by a kind of pacification program. Soldiers with professional skills—teachers, doctors and engineers—are assigned to the homelands in an effort to win the allegiance of the local population. Because of a critical shortage of trained native manpower, such help is badly needed. KwaZulu, for instance, relies heavily on military doctors, and even then there is only one physician per 44,000 inhabitants.

Despite the need, most homeland leaders say that this aid is accepted only grudgingly and is having little propaganda effect on the population. Moreover, one young white radical argues, whatever good will these military men may create is usually destroyed by the heavy-handed activities of the security police.

To prevent guerrillas from filtering into the homelands from abroad, the government has fortified a strip of land between the Zimbabwe border and the northernmost homeland, Venda. But the barrier is far from secure, and other homelands such as KwaZulu and Bophuthatswana also provide direct access for outsiders.●

FURTHER CONSIDERATIONS IN THE CASE OF MR. CHARLES H. WILSON OF CALIFORNIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. HAMILTON. Mr. Speaker, Congressman FORD of Michigan has presented several detailed criticisms—May 28, 1980, 12581—of my earlier statement on the Wilson misconduct case—May 21, 1980, 12022. I would like to briefly respond to his specific criticisms, and then I would like to reiterate my basic points so that his criticisms do not divert attention from the key issues at hand.

The material follows:

I. HOUSE ETHICS PROCEEDINGS

1. Mr. Ford states (I. A) that I argued that the principle of fundamental fairness does not apply to congressional ethics proceedings.

Response. Quite the opposite. My basic claim was that the guiding principle in House ethics proceedings is basic fairness, rather than conformity to the precise notion of due process used in the courts.

2. Mr. Ford claims (I. B) that my use of the Powell precedent (to support my argument that the House procedures need not be precisely judicial) is of questionable value because the House action on the Powell case was reversed by the Supreme Court.

Response. The reversal was not because the procedures used by the Celler Committee were not precisely judicial. In fact, the reversal had nothing to do with the Committee actions at all, but was over the floor amendment of exclusion offered by Representative Gerald Ford of Michigan. Had the House used the same nonjudicial procedures to expel Powell rather than to exclude him, then, as Justice Douglas said, the Court would not have even taken up the case. This is more an endorsement of the procedures than a rejection of them.

3. Mr. Ford objects (I. B) to my use of the Supreme Court decision in *Barry* v. *United States* ex. rel. Cunningham because it states that the House has some functions which are judicial in character.

Response. Although congressional ethics proceedings have obvious parallels to judicial proceedings, this decision does not require them to adopt the notion of due process used in the courts. The exact nature of the proceedings is left up to the House. The Court does not require more of the House proceedings than what if in fact stated in this decision, viz. that they just be fundamentally fair. Moreover, an attempt by Congress to perform a judicial function would be questionable constitutionally because of the separation of powers.

4. Mr. Ford states (I. C) that the best evidence that the House proceedings are adversely in nature is that the Standards Committee Rules themselves grant the Member nearly all the rights and procedures of an adversary procedure.

Response. The fact that the Standards Committee has decided to grant the accused Member many of the same rights accorded in the courts (besides seeming inconsistent with his later claim that our proceedings are fundamentally unfair) simply does not prove that the proceedings must correspond to the judicial notion of due process. The Committee could change its procedures to differ significantly from the due process used in the courts, and that would be just as constitutionally acceptable as long as the procedures are basically fair. I personally think that some of the Standards Committee rules of procedure should be altered. They are not perfect, and they can be improved. However, the changes must keep the process "discretionary because it could not exist under the procrastination of general rules" (case of Senator Smith of Ohio, 1807).

5. Mr. Ford states (II.D) that the key point in Mr. Wilson's argument is that it would be fundamentally unfair for the House to punish Members for misconduct if the actions are so old that the passage of time had stripped them of their means of defense.

Response. I agree that this would be unfair, but this does not apply to the case at hand. The basis for dismissal is not simply that the misconduct took place some time ago (and House precedents bear this out) but rather that during the intervening time there was a loss of evidence for the Member's defense. This must be decided on a case by case basis. In the Wilson case, the Standards Committee decided that the key evidence, even though old, was still available, and it proved clearly and convincingly Mr. Wilson's misconduct.

6. In response to my point that the facts of the Wilson case were just recently revealed so the damage to the House is recent, Mr. Ford states (II.D) that the facts were discovered by investigator 1½ to 2 years ago.

Response. This obviously does not change the fact that the findings were not revealed to the general public until recently. We are not attempting to punish Mr. Wilson for something generally known by his constitutents for eight years. Rather, the damage to the public's perception of the integrity of the House has been recent, and needs to be corrected now. Mr. Ford's suggestion that the damage done to the House was more due to the Standards Committee revealing Mr Wilson's actions than to the actions themselves is certainly puzzling.

7. Mr. Ford states (II.E) that a complete misunderstanding of the function of a trial jury is demonstrated by my statement that the Committee acts more like a grand jury and the full House acts more like a trial jury. Rather, Mr. Ford claims, the Committee acts like a trial jury and the House acts like an appellate court.

Response. There are procedures under which Standards Committee consideration of misconduct case can be circumvented and the case be brought directly to the House floor, which on Mr. Ford's analogy would mean that they are brought directly to the appellate court. Moreover, in the courts, if a trial jury finds someone guilty and applies a sanction, and the appellate court does not take the case up, the verdict and sanction stand. Not so in the House: If the Standards Committee recommends a finding of misconduct and recommends a certain sanction, and the full House for some reason does not take up the case, the Committee-recommended decision and sanction mean nothing. Only the full House finds the member guilty of misconduct and applies sanctions. I made this point originally in response to Mr. Wilson's actions than to the actions ings are fundamentally unfair because the Standards Committee not only issues the Statement of Alleged Violation but also decides guilt and sets punishments.

8. Summary. It is easy for the over all points to be obscured in such exchanges. Mr. Wilson and his attorneys have chosen an attack on the way that the House han-

dles its misconduct cases as a principal line of defense. For example, he issued a statement that "* * * the procedures of the Committee which judged Mr. Wilson are *outrageously* unfair and *violate every concept of due process under American law*". (his emphasis) In my earlier statement I defended the Standards Committee and House proceedings by pointing out that the framers of the Constitution, the House, and the Supreme Court all have recognized that congressional ethics proceedings are sui generis and need not follow the exact due process requirements used in the courts. The procedures need just be generally fair, and they clearly are. Mr. Wilson had access to all documents in the Committee's possession, he had the right of counsel, the right of cross examination, the right to have subpoenas issued, the right to file motions, the right to present arguments and testify on his own behalf, the right to request delays, and so on. Mr. Wilson did not even choose to take advantage of all the rights that were made available to him, e.g. he chose not to testify. The Standards Committee made every effort to be fair to Mr. Wilson. The House should not be sidetracked by diversionary tactics such as attacking the general House ethics procedures. The main issue is the specific evidence against Mr. Wilson, to which I now turn.

II. FINDINGS AGAINST MR. WILSON

1. Mr. Ford claims (II.A.2) that the misconduct of Mr. Wilson is less severe than the type of misconduct involved in the three cases I mentioned in which there were moves for expulsion.

Response. Mr. Wilson's actions, like the others, involved a Congressman improperly receiving money in violation of House ethical principles. However, in the other cases mentioned, the Congressmen accepted money from employees or from individuals wanting appointments to military academies. It is much more serious for a Member of the House to accept money from a person with direct interest in specific pieces of legislation before his Committee and before the House, as Mr. Wilson did. Such actions clearly cause more damage to public perceptions of the integrity of the House and the Congressional legislative process.

2. Mr. Ford claims (II.B) that the three transactions totalling $10,500 were loans from Mr. Rogers to Mr. Wilson, and that my remarks that they were gifts are simply incorrect. Mr. Wilson did not report his loans from Mr. Rogers on his 1977 House financial disclosure statement because of a California statute of limitations.

Response. It bears repeating that the monies that exchanged hands lacked the normal properties that could confirm the claim that they were loans: There was no repayment by Mr. Wilson, no written agreement, no discussion of interest or maturity date, and no demand for repayment. The fact that a California statute of limitations might apply to Mr. Wilson's 1977 financial disclosure statement does not alter the fact that if these were in fact loans, they should also have been reported on his 1973, 1974, and 1975 reports. These statements, signed by Mr. Wilson and filed with the House list no loans from Mr. Rogers. This is clear evidence that Mr. Wilson himself did not view the monies as loans but rather as outright gifts.

3. Mr. Ford states (II.B) that Mr. Rogers' interest in legislation before Congress has been carelessly presented and needs to be clarified.

Response. In order for there to be a violation of the House Code of Conduct, it need only be shown that Mr. Wilson accepted gifts from someone with a direct interest in legislation before Congress (no matter what committee or subcommittee is handling it). Mr. Rogers admitted under oath such an interest. Contrary to Mr. Ford's claims (III), I did not state one way or the other whether I thought that Mr. Wilson was influenced by Mr. Rogers, but only that Mr. Rogers attempted to influence Mr. Wilson, as evinced by facts such as his correspondence on specific pieces of legislation and by his general role as director of a trade association involved in legislative matters relating to the mails. This is why the Committee-recommended sanction is especially fitting: Mr. Wilson is currently chairman of the House Subcommittee on Postal Operations and Services, and it handles matters that Mr. Rogers clearly would have an interest in. Allowing Mr. Wilson to retain his subcommittee chairmanship after accepting money from such an individual would raise serious questions in the public's mind about the integrity of Congress and of the legislative process.

4. Mr. Ford claims (II.C) that I overlooked Mr. Wilson's prior testimony that the transfers of almost $25,000 from his campaign funds to his personal funds were legitimate campaign reimbursements.

Response. Mr. Wilson's prior testimony submitted into evidence did not deal with the possibility of almost $25,000 being reimbursements for campaign expenses. In that testimony he specifically denied under oath that there were any legitimate reimbursements involving large sums of money.

5. Mr. Ford states (II.C) that there was no evidence that Mr. Wilson knew of the transfer from his campaign account to his personal account.

Response. In responding to another charge that was eventually dropped by the Committee, Mr. Wilson's lawyers (Committee Report p. 361) described Committee exhibit 17 (p. 344) as a truthful prior testimony by Mr. Wilson regarding the transfers in question. However, there Mr. Wilson specifically mentions how "* * * I transferred money from campaign accounts to myself".

6. Mr. Ford states (II.C) that I chose to ignore expert testimony that when a Member is reimbursed for legitimate campaign expenses, he can spend the money as he sees fit.

Response. The testimony is correct. However, the important point is that there was no verifiable evidence before the Committee that this money was in fact reimbursement for legitimate campaign expenses. On the contrary, the timing and amounts of money involved showed that it was only for personal expenses rather than for campaign reimbursements. Mr. Wilson received money from his campaign fund during the time in question primarily when his personal loans were due or when his personal checks were overdrawn, and the transfers were for almost the exact amount of his personal indebtedness. Moreover, we are asked to believe, for example, that Mr. Wilson took out $15,000 in loans to use for 1970 campaign expenses rather than for personal expenses during a general period when there was a surplus in his campaign fund. Campaign statements filed with the State of California and signed by Mr. Wilson counter this line of defense. When asked the amount of his own personal funds that he used for campaign expenses during the 1970 campaign he stated: "None".

7. Summary counts 1-3. In order that the key overall points are not lost in such exchanges I want to briefly summarize the main issues at hand. In counts 1-3 Mr. Wilson is charged with violating Clause 4 of the House Code of Conduct in that he accepted large gifts from someone having a direct interest in legislation before Congress. The relevant evidence is: Mr. Rogers admitted his interest in legislation before Congress. Mr. Wilson received $10,500 from Mr. Rogers. These were gifts rather than loans, as evinced, first, by the absence of traditional earmarks of loans, and second, by the fact that Mr. Wilson's financial statements filed with the House list no outstanding loans from Mr. Rogers, indicating that he did not view the money as loans but as outright gifts.

8. Summary counts 7-11. In counts 7-11, Mr. Wilson is charged with violating Clause 6 of the House Code of Conduct in that he converted almost $25,000 in campaign funds to personal use that were not reimbursements for legitimate and verifiable prior campaign expenditures. The relevant evidence is: On five separate occasions, campaign funds were transferred to Mr. Wilson's personal accounts, and Mr. Wilson has stated that he was aware of the transfers. The timing and amounts involved indicate that the transfers were not triggered by anything except the need to repay personal debts. Documents filed with the State of California by Mr. Wilson state that he did not previously use personal funds for campaign expenses, indicating that they could not have been legitimate campaign reimbursements.●

SOVIET ADVANCES SHOULD NOT GO UNNOTICED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my fellow colleagues an article by Vermont Royster that appeared on June 4 in the Wall Street Journal.

The article attempts to alert the reader to the relationship between Marxist theory and the latest Soviet advances into foreign countries, and the ventures conveyed by Adolf Hitler in "Mein Kampf." In light of this fact, we must not make the same mistake and ignore the intentions of the Soviets as Hitler was ignored in the 1930's.

The article follows:

THINKING THINGS OVER

(By Vermont Royster)

LESSON FROM "MEIN KAMPF"

Hardly anybody, so it seems, reads "Mein Kampf" any more. There's a 1962 edition still in print but it isn't stocked by two local bookshops and at the town library no one could recall when there last was a request for it.

That's not too surprising. Adolf Hitler's prose was prolix, his narrative rambling and his rhetorical style ranting. For the modern reader, Hitler's ravings must now seem totally irrelevant. After all, we all now know how the story came out. So there's not even suspense left in the account of this Austrian house painter planning to rule the world.

Yet it's a pity "Mein Kampf" has been so completely forgotten. For there remains in it a lesson that is very relevant indeed to our own times.

Published in 1924, "Mein Kampf" ("My Struggle") was written while Hitler, then in his mid-thirties, was in prison for an abortive effort to overthrow the Bavarian government. The story of his life up to that point, even as he tells it, is that of a misfit who failed in almost everything he tried. But by the time the world began to pay attention, a decade later, this Adolf Hitler was the Fuhrer of the German Reich, soon to be the conqueror of all Europe.

What is fascinating about that prison-written book is that in it Hitler told the world exactly what he intended to do and how he intended to do it. He told how he would undermine the Weimar Republic, arouse the German people demoralized in the aftermath of World War I, seize control of the government and, using the Nazi Party of his own devising, make himself absolute dictator.

He explained how, once master of Germany, he would proceed to divide and conquer Europe. He outlined the technique of advancing boldly in small but increasing increments of conquest, no one of which—as he foresaw—would seem to the European powers worth a war to halt. After each one he would pause, publicly foreswearing further ambitions, until ready for the next step. It worked from the seizure of the Rhineland, to Czechoslovakia to Austria.

He was equally frank about his internal plans for Germany. Foreshadowed there was even what became his "final solution" of the "Jewish problem."

What was astonishing about all this is that the world—including its statesmen—read "Mein Kampf" avidly and hardly anybody believed him. Few believed him because nobody wanted to believe him. In France, in Great Britain, in the United States there was no effort to prepare for war until it was too late to avoid the holocaust of world war.

What remains astonishing is how slow the world has been to learn the lesson of Hitler.

At any rate the rulers of the Soviet Union have never made any secret about their ambitions for conquest. In Marxist theory communism need only wait for the "internal contradictions" of the capitalist West to cause its collapse. In practice the men in the Kremlin, without any dissimulation about it, have built a huge military force with the intention of speeding the Western collapse by force whenever and wherever the opportunity presents.

Thus far they have skillfully used Hitler's incremental technique. In the chaotic aftermath of World War II they seized half of Western Europe, including much of Germany, and all of Poland, Hungary, Czechoslovakia. They missed Austria only by a miscalculation and Yugoslavia only because of Tito.

Elsewhere they have extended their reach wherever opportunity presented, from Cuba to Afghanistan. They assumed that if they followed each nibble with peace-loving words none would arouse peace-loving peoples to their own defense. If imitation is the best form of flattery Hitler would admire his former foe.

For those of a certain age this is bound to leave a sense of deja vu. A traveler in Europe this spring, for example, found himself amid ceremonies marking the 40th anniversary of Hitler's "blitzkrieg"; in Holland there was a special celebration of the 35th anniversary of its liberation at war's end. Everywhere the prayers said "never again." Yet almost everywhere too there was a reluctance, as there was 40 years ago, to man the ramparts against another formidable foe.

Of course as before there are warning voices. In Britain Sir John Hackett, former British commander in NATO, has drawn a familiar scenario for World War III. In West Germany Franz Joseph Strauss, leader of the opposition, cries the danger in the Soviet arms buildup. In our own country there are those, including a former Secretary of State and a former President, who urge us to those ramparts that we not tempt a foe by being weak.

But in many quarters all who speak so are branded as "hawks," a pejorative term. Its intended implication is that anyone who argues the need to build up the military defenses of the West is someone who would lead us to war. Anyone who suggests that Soviet ambitions are what they have always said they were, that their huge rearmament program is not purposeless, is decried as an alarmist.

This mood is, I recognize, understandable. You cannot look at the well-tended fields of France and Germany, or the tulip fields of Holland, without a feeling of horror that they might be overrun again by tanks and marching troops as they have been over and over. And when all is serene the temptation is to believe that earthquakes never come, that volcanos never erupt.

All the same I find it surprising, in Europe especially, that so soon after the agony of World War II the lesson of "Mein Kampf" should be so quickly forgotten.●

H.R. 3236, THE SOCIAL SECURITY DISABILITY INSURANCE AMENDMENTS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. FISHER. Mr. Speaker, I was very pleased by the overwhelming vote of the House in approving the conference report on H.R. 3236, the social security disability insurance amendments. This bill was the culmination of work started by the Social Security Subcommittee of the Committee on Ways and Means on which I serve, to provide incentives for disabled people to return to work and to make improvements in the administration of the program. The Congressional Budget Office estimates that this bill will result in savings to the social security trust fund, starting at $70 million in 1981, increasing to over $1 billion by 1985. The savings come not through arbitrary cuts, but by capping the amount of family benefits that can be paid so that disability benefits will not exceed the earnings the worker had before he stopped working. One purpose of the cap is to encourage those who are able to become rehabilitated and reenter the work force. Other provisions in the bill encourage work effort by the disabled while providing a safety net in case the return to work is not successful.

Work incentives are also provided for supplemental security income (SSI) recipients. These provisions are similar to those in H.R. 3464, a bill which passed the House last year. The disabled are often concerned that if they attempt to work and fail, they will have cut off their retreat; they fear losing their benefits. They also worry about losing collateral benefits, particularly for medical care if they return to work. This bill has several provisions to encourage the disabled to go to work and become productive citizens.

A final section of the conference report deals with medigap insurance. This largely parallels a proposal by Congressman PEPPER to set up a voluntary certification program for medicare supplemental health insurance policies.

All three of the bills which have been incorporated in this conference report are measures which I have cosponsored. I am pleased that they have now received final approval and will become law. I am particularly glad to note that these provisions overall will save money.●

URBAN JOBS AND ENTERPRISE ZONES

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. STOCKMAN. Mr. Speaker, our distinguished colleague from New York, Mr. KEMP, recently proposed a bold new plan for revitalizing our economically depressed urban areas. Mr. KEMP'S bill, H.R. 7240, is designed to stimulate employment and investment in declining urban areas by creating special urban jobs and enterprise zones in which unique tax breaks and incentives would apply to both businesses and workers. This legislation correctly calls for a strong dose of economic growth as the only real cure for urban decay.

I am pleased to be a cosponsor of this measure, and I would like to bring to the attention of my colleagues a recent editorial on the subject by noted columnist George Will. Writing in the May 20 issue of Newsweek, Mr. Will convincingly makes the argument for swift enactment of this important legislation. I commend the article to the attention of my colleagues and everyone who cares about the future of our Nation's urban areas:

HOW TO CUT TAXES AND PROSPER

(By George F. Will)

Congressman Jack Kemp, the high-octane Republican from the Buffalo area, does not think economics is a dismal science. His confidence that it holds the key to human happiness is such that Joanne Kemp, poor thing, probably received love letters sprinkled with passages not from Byron but from Adam Smith. None of that "she walks in beauty, like the night" stuff, but warm praise for the sensuous curves on graphs explaining well-proportioned tax cuts. When Kemp beholds an opportunity for a tax cut, the effect on him is like the effect on Dante when he first beheld Beatrice, except that Dante seems to have been speechless. I suspect that Kemp believes that well-thought-out tax cuts could make crab grass scarce and children obedient.

He certainly, and with reason, believes that particular tax cuts would help revive run-down inner cities. To that worthy end, he has produced the Urban Jobs and Enterprise Zone Act. Kemp is one of Reagan's closest advisers, and a possible running mate. His proposal deserves attention not only because it is ingenious but because it is a clear case of applied Reaganism, of activist conservatism.

Special Zones

It would classify certain poor urban (and rural) areas as "jobs-and-enterprise zones," where individuals and companies would be subject to dramatically reduced tax rates. A local government could apply to have portions of its jurisdiction designated jobs-and-enterprise zones. Designation would depend on meeting tests of poverty and unemployment, and on the willingness of the local government to reduce property taxes within each zone by 5 per cent a year for four years.

To encourage job creation within such zones, Kemp's bill would reduce social-security payroll taxes on employers and employees by 50 per cent for workers 21 and older, and by 90 per cent for those younger. To stimulate small companies (an MIT study shows that two-thirds of new jobs are created by businesses employing no more than twenty people), the bill would reduce by 50 per cent the capital-gains tax on investment in each zone. To stimulate the expansion of businesses already in such zones, Kemp's bill would reduce tax rates on those businesses by 15 per cent, and would accelerate depreciation of the first $500,000 of capital investment by each business each year.

Kemp estimates that at most 5 per cent of the population lives in areas that could be eligible to become jobs-and-enterprise zones. The costs would be low because the targeted areas produce virtually no revenue. As Kemp says, government loses nothing by lowering tax rates on people now unemployed. Kemp, by the way, is a Republican so convincing in his concern for jobs that his predominantly blue-collar constituency gives him astonishing majorities (94.7 per cent in 1978).

When preparing the bill, Kemp began with a clutch of dismal facts, and a paradox. One dismal fact is that all Americans would be above the poverty line if the poor were just given, directly, the money poured into anti-poverty programs. Another dismal fact is that urban blight has deepened and spread even though, by fiscal 1979, nearly one-quarter of the nondefense portion of the Federal budget was being spent in central cities. The paradox is that the most heavily taxed American is someone who has been receiving $8,000 worth of welfare and who accepts an $8,000 job. When he begins to earn, his welfare benefits decline and he begins to pay income and payroll taxes. He winds up with little, if any, more real income, so the effect is of a marginal tax rate approaching 100 percent higher than any wealthy American pays. This is the "poverty trap."

Would Kemp's idea work? Dunno. But it wouldn't work worse than a slew of centralizing, bureaucratic programs have worked. The Federal government's recent urban policies call to mind this axiom: "To err is human, but when the eraser wears out faster than the pencil, you're overdoing it."

It is, I warrant, unsettling, the cocksure way some of the deepest-dyed Reaganites talk about the benefits that must flow from this or that tax cut. It reminds me of Frank McKinney Hubbard's axiom: "Tain't what a man don't know that hurts him; it's what he knows that just ain't so." But a lot of good men, of many persuasions, suffer monomania. Lyndon Johnson did: "The answer for all our national problems—the answer for all the problems of the world—comes to a single word. That word is 'education'." If there is a Reaganite monomania it is tax cuts. Tax cuts, like education, are generally dandy, but they don't always have the effect their enthusiasts expect from them. Still, it now seems that Kemp and other true believers were correct about the 1978 cut in the capital-gains tax rate. That cut seems to have dramatically stimulated the venture-capital market.

Social Change

Any political persuasion has an essence, and Kemp's proposal radiates essential Reaganism. "What we need," Says Kemp, "is a program based on an understanding of what makes people—rich and poor—tick economically, and what motivates them in the marketplace." Dip back into the Federalist Papers, on almost any page, and you will see that the Founding Fathers, too, saw the world as a clockwork mechanism, ticking away, all the gears and springs visible to the observant, intelligible to the reflective and manipulable by the clever.

Seen through Reaganite spectacles, society is wall to wall with Economic Man. That reassuringly predictable rascal is everywhere, calculating his interests and acting accordingly. So the key to controlled social change is intelligent manipulation of society's structure of material incentives.

This republic was founded by men with a keen, perhaps too keen, sense of how to make "self-interest" the central concept in a political philosophy, and almost the sole fact of political life. They would immediately recognize the assumptions of Reaganite government. It is government grounded in a not very elevated, or elevating, but clear and constant sense of what makes people tick—all people, "rich and poor," calculating like crazy. As a philosopher said: "I reckon there's as much human nature in some folks as there is in others, if not more."●

TRIBUTE TO MR. AND MRS. NICK MATHEWS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. WHITEHURST. Mr. Speaker, a most marvelous tribute was paid to Mr. and Mrs. Nick Mathews in the Monday, June 9, edition of the Washington Post. Having known Mr. Nick and Miss Mary for many years, and having enjoyed their incomparable cuisine, I would like to add a few words of my own on behalf of this marvelous couple. They represent the fulfillment of the American dream for those who choose to make the United States their home. Mr. Nick himself identified the formula for success when he said, "Hard labor, decency, and sweat on the forehead, that's how I made it."

The unique thing about Nick and Mary Mathews is that they have given as much of themselves to their community and the Nation as they have to their restaurant. Their concern about keeping alive our historical traditions and their spirit of patriotism are an inspiration to millions of us who were lucky enough to have been born in this country.

Next year, on October 19, 1981, Virginians and all Americans will commemorate the last major military engagement of the Revolutionary War, The Battle of Yorktown, and the surrender of the Army of Lord Cornwallis which led to the British decision to grant American independence. Nick and Mary Mathews are determined that this event shall be suitably recognized and are intimately involved with efforts to put together a fitting celebration. How appropriate it is that this couple, who have enjoyed the fruits of American independence, are working so hard to insure the success of the commemoration of the decisive victory that achieved it.

To date, more than half of the Members of the House have joined with our colleague Paul Trible, in whose district Yorktown is located, in sponsoring House Joint Resolution 529, to designate October 19, 1981, as a day of national celebration of the 200th anniversary of the American victory at Yorktown, Va., and I trust that favorable action will be taken on this in the near future.

Mr. Speaker, I insert the article by Blaine Harden in the Record at this point:

Yorktown Restaurant "Known World Over" For Its Excellent Seafood, Artistic Decor

Yorktown, Va.—At sundown on the south bank of the York River, the smell of fish hangs heavy among rococo statuary and ailing palm trees. Lines of diners loop in the gravel parking lot. Nick's Seafood Pavilion, the legendary home of gastronomical virtue served amid a motley of art, is cooking.

"Ah hah," says Nick, the owner, his Greek accent as heavy as the smell of fish. "We always busy. We known the world over, I tell you. The kings and the queens, the stars and the politicians, we got 'em all here."

Nick Mathews, 72, swept-back white hair, nice brown suit, cigar in left breast pocket, smell of cologne, is known inside his restaurant at Mister Nick. His wife, a Greek immigrant with thick brown hair and a predilection for chopping air with her right hand during conversation, is known as Miss Mary.

With the help of up to 100 cooks, waiters, waitresses and a Vietnamese maitre d' who six years ago was a general commanding 1.1 million troops, Mister Nick and Miss Mary run what is often called the best restaurant in Virginia.

Couples have been known to drive 400 miles in one day just to eat the shrimp casserole. Ann Landers, in a radio show a few years ago, referred to Norfolk (40 miles to the south) as "that Virginia city that's near a good seafood restaurant."

U.S. Sen. John Warner (R-Va.), who gave Mister Nick the Bicentennial pin he wears in his lapel (he also wears a tie clasp given him by vice president Nelson Rockefeller), describes the food at Nick's Seafood Pavilion as "excellent, just excellent."

"My wife [Elizabeth Taylor Warner] and I, whenever we are in a radius of 10 miles, we will deviate from our course to go there. Not only because of the food, but because of our friendship for these two great Americans," Warner says.

Virginia Gov. John N. Dalton has eaten there countless times, according to Paul Edwards, his spokesman.

"I don't think any Virginian, especially an elected official, can go long without eating at Nick's," Edwards says.

According to Mister Nick, there are two things in this riverside village that are not for sale. The first the Department of Interior's holdings, which include a 5,000-acre national historical park commemorating the surrender of the British army under Lord Cornwallis to George Washington and his victorious rebels in 1781. The second, Mister Nick's holdings, which include Nick's Seafood Pavilion.

Now Mister Nick is quite willing to give up other things besides his restaurant for the sake of Yorktown, a town of 400 that he refers to as "the beginning of our freedom." He and Miss Mary paid the town's light bill in 1972, when Yorktown went into arrears by $212. "How anybody can stand this historic Yorktown to be in dark. I always hate the dark," Miss Mary said at the time.

That same year, Mister Nick and Miss Mary gave the Commonwealth of Virginia 25 acres of prime river-front property (for which developers had offered them $700,000) to build the Yorktown Victory Center. The state delayed for five months before accepting the land and Mister Nick threatened a congressional investigation if the state didn't take it.

But the restaurant, which over the past 36 years has transformed Nick and Mary Mathews from poor immigrants to proud benefactors, will never be sold or given away, according to the owners.

"This place was nothing when I came to Yorktown and started working 18 to 20 hours a day," Mister Nick says. "I was a chef, a waiter and a dishwasher; everything me.

"God gave me the instinct to give people a little more than they deserve. I learned how to be the best chef in the United States in Pittsburgh, then I went to Chicago and then I went to Brooklyn. In New York one day, in the Greek Orthodox cathedral, that is where I met Mary. She was singing in the choir. I sort of picked her up."

Mister Nick hasn't cooked for four or five years. He's written up his recipes and spends seven days a week walking around the restaurant making sure they are followed. He says he's particularly proud of his seafood shish kebab.

"Shish kebab is my creation. I thought it up about seven or 10 years ago. It has shrimp, scallops, lobster, onion, tomato, mushrooms—all cooked in real butter. Ah, hah, they talk about it all the way to California," Mister Nick says. It costs $10.

In Nick's Seafood Pavilion there are three major dining rooms. The old dining room, the Triton Room (named after the sea god who had the torso of a man, tail of a fish and carried a conch-shell trumpet) and the Nile Room (so named because it has an imitation Nile River fountain.

Mister Nick enjoys art, but he defers to Miss Mary in any systematic discussion of the Nick's Seafood Pavilion collection. "My wife like all the art," he says.

Miss Mary, interviewed in the Nile Room near a gurgling fountain, 14 different bronze and marble statues, an avacado tree, a mango tree and a philodendron plant, said that as she and Mister Nick expanded the restaurant four times they found themselves in constant need of something to cover the walls.

"I love mythical. I love Biblical. Something to give you spirit, give you the heritage. So for 36 years, any time religious, Biblical or mythical art is available, I buy it," says Miss Mary.

In the three dining rooms, which seat 450 people and are almost always packed with customers on weekends, there are 24 paintings, scores of small statues and an overwhelming presence of purple. All the walls are purple.

"We've had 15 years of purple," says Miss Mary, proudly. "It gives a little life. We had the white before, then we came to the purple and we like the life."

The prize of the art collection, most of which was purchased in Florida when Miss Mary went there to get away from cold, wet winds off the York River, is a statue of an Egyptian princess holding the baby Moses. It the highlight of the Nile Room and before it came to Nick's Seafood Pavilion it stood in a John Wanamaker department store in Philadelphia.

When lunch and dinner is served at Nick's, Miss Mary works the cash register, Mister Nick walks around smoking cigarettes and the maitre d', Dong Van Khuyen, a former three-star general and chief of staff of South Vietnam's army, seats customers, who often stand in line for 1½ hours to get in.

Khuyen (pronounced "Quinn") came to Nick's looking for a job in 1975, after he was flown out of Saigon on one of the last American helicopters to leave Vietnam before it fell to the communists. For nearly five years, he has been quietly handling the crush of dinner at Nick's.

"He is most outstanding," says Mister Nick. "He always tends to business."

And business hasn't stopped growing. On Mother's Day, Nick's served 600 people, a record crowd, with lines winding around the parking lot.

Mister Nick says his success is no stroke of luck: "Hard labor, decency and sweat on the forehead, that's how I made it."●

PATRIOTISM IN HIGHLAND PARK, ILL.

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 9, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, I would like to bring to my colleagues' attention the efforts of one community in the 12th District of Illinois to combat high-priced energy. Our current helter-skelter energy policy has placed America in the precarious position of depending on unreliable foreign energy sources. Rather than sit by idly and wait for this administration and Congress to act on the matter, the citizens of Highland Park, Ill., have taken action. The city of Highland Park has proclaimed the month of June 1980 as "Help Put America Back on Her Feet Month." Mayor Robert Buhai points out that if each of Highland Park's 15,000 registered vehicles can avoid consuming 1 gallon of gasoline per month, the results will be substantial. The many citizens who walk to work, walk to school, walk to worship, walk to the store, will undoubtedly notice a considerable reduction in family expenditures, noise, and air pollution and a beneficial effect on one's health. Combined with this, Highland Park is experimenting with electric vehicles for city service. Reports I have received about this experiment have been most encouraging, and I feel the entire help put america back on her feet program is a commendable effort pioneered by a number of Highland Park's community organizations. The township of Deerfield and the city of Highland Park along with its park district, police department, Rotary Club, Clergy Association, chamber of commerce, youth committee and League of Women Voters, should be applauded for their patriotic attempt to put America on the road to energy self-sufficiency. I submit to the RECORD Highland Park's "Help Put America Back on Her Feet" proclamation, and Mayor Buhai's letter on the program. I urge my colleagues to consider supporting this program in their own congressional districts.

PROCLAMATION

Whereas loyal and patriotic American citizens everywhere are alarmed over the dependency of their nation on foreign oil;

Whereas in particular, the citizens of Highland Park, Illinois are eager to take the initiative in establishing a program that could very well set a national trend;

Whereas other communities across the land are invited to join Highland Park, Illinois in its effort to reduce the nation's fuel consumption: Be it

Resolved, That I, Mayor Robert M. Buhai of the City of Highland Park, Illinois, do hereby proclaim the month of June 1980 to Help Put America Back on Her Feet and to rally the citizens of Highland Park to walk to work, walk to school, walk to worship, walk to the store, walk because-it's-good-for-you; and Walk, Don't Drive!

CITY OF HIGHLAND PARK,
Highland Park, Ill., May 27, 1980.

Hon. PHILIP M. CRANE,
House Office Building,
Washington, D.C.

DEAR PHIL: I thought you might be interested in the program which we are pioneering in Highland Park called "Help Put America Back on Her Feet". The first step is proclaiming the month of June 1980 as "Help Put America Back on Her Feet Month" with strong emphasis on Walk, Don't Drive!

The City of Highland Park, population approximately 35,000 people, has over 15,000 registered vehicles. If each vehicle can project a gasoline savings of a gallon per month, the results can be overwhelming. If we can get other cities across the country—whatever their size—to join us in such an effective and exciting program, the savings in gasoline can be staggering, the savings in expenditure per family can be excellent, the reduction in noise and air pollution will be evident, and the effect on individual well-being and health will be beneficial.

You will find enclosed, together with the proclamation, a photo of the electric vehicle presently being used by us as a light delivery van. We have only had it a little over a month, plug it in every night, use it every day up to 60 miles, and are absolutely thrilled and excited by the results thus far. We are monitoring every aspect of its use, and will be happy to make such data available to you upon request.

I hope that you can help us to expand and export this program to encourage all of the citizens of the nation to walk to work, walk to school, walk to worship, walk to the store, and walk for health.

Cordially,

ROBERT M. BUHAI,
Mayor.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 10, 1980, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 11

9:00 a.m.

Judiciary

To hold oversight hearings on the activities of the Public Integrity Section of the Criminal Division, Department of Justice.

2228 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to consider S. 2675, authorizing funds for child nutrition programs.

324 Russell Building

*Veterans' Affairs

To hold oversight hearings on the activities of the Office of the Inspector General of the Veterans' Administration.

412 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

Governmental Affairs

Business meeting, to mark up S. 2, to provide for a review of Government programs every ten years; S. 1938, to increase Government efficiency and to provide a mechanism for raising the level of protection of workers, the general public, and the environment against unnecessary radiation exposure; a proposed budget waiver resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to Senate consideration of H.R. 826, to increase the authority of the President and Congress in postal operations and to provide continued financial security for the Postal Service; and to resume markup of S. 2160, to require public disclosure of certain lobbying activities to influence issues before the Congress.

3302 Dirksen Building

Rules and Administration

Business meeting, to consider H.R. 6702, to allow Federal employees to make voluntary campaign contributions to other Federal employees other than to their own employer, and other pending legislative and administrative business.

301 Russell Building

Special on Aging

To hold joint hearings with the House Select Committee on Aging to examine abuses of the elderly.

2212 Rayburn Building

11:00 a.m.

Labor and Human Resources

To hold hearings on the nominations of Richard J. Rios, of California, to be Director of the Community Services Administration, and Michael T. Blouin, of Iowa, to be an Assistant Director of the Community Services Administration.

4232 Dirksen Building

2:00 p.m.

Foreign Relations

To hold closed hearings on pending applications for the export of nuclear fuel to India for the Tarapur fuel reactors.

S-116, Capitol

Select on Ethics

To hold an open and closed business meeting.

S-207, Capitol

Select on Intelligence

Closed business meeting.

S-407, Capitol

JUNE 12

8:00 a.m.

Armed Services

To hold hearings on proposed legislation authorizing funds for fiscal year 1981 for the operation and maintenance of the Panama Canal; the nomination of Charles W. Snodgrass, of the District of Columbia, to be an Assistant Secretary of the Air Force; and on routine unobjected-to military nominations.

212 Russell Building

9:30 a.m.

Judiciary

Constitution Subcommittee

Business meeting, to resume markup of S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.

2228 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

To hold hearings on S. 2490, proposed Infant Formula Act.

1318 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold oversight hearings on the implementation of the Federal coal leasing program.

6226 Dirksen Building

Energy and Natural Resources

Parks, Recreation and Renewable Resources Subcommittee

To hold hearings on S. 2686, to provide for the protection of the Barrier Islands off the Atlantic and gulf coasts by reducing Federal spending on hazardous development projects.

3110 Dirksen Building

Finance

Business meeting, to resume consideration of S. 1076, providing changes in the Employee Retirement Income Security Act regarding insurance provided by the Pension Benefit Guaranty Corporation for pension benefits of employees covered by multiemployer plans which terminate, and on the substance of H.R. 7477, to provide a 3-month extension of the taxes which are transferred to the Airport and Airway Trust Fund.

2221 Dirksen Building

Foreign Relations

To continue hearings on S. 2186, to extend to September 30, 1985 the authority of the Overseas Private Investment Corporation (OPIC) to facilitate U.S. investment in developing countries to promote economic growth.

4221 Dirksen Building

Governmental Affairs

Business meeting, to continue mark up of S. 2, to provide for a review of Government programs every ten years, S. 1938, to increase government efficiency and to provide a mechanism for raising the level of protection of workers, the general public, and the environment against unnecessary radiation exposure; a proposed budget waiver resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to Senate consideration of H.R. 826, to increase the authority of the President and Congress in postal operations and to provide continued financial security for the Postal Service; and S. 2160, to require public disclosure of certain lobbying activities to influence issues before the Congress.

3302 Dirksen Building

Judiciary

Criminal Justice Subcommittee

To hold hearings on S. 252, proposed Anti-Arson Act.

5110 Dirksen Building

Labor and Human Resources

To hold hearings on the nominations of Cynthia G. Brown, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education, and Edwin W. Martin, Jr., of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

4232 Dirksen Building

Select on Intelligence

Closed business meeting.

S-407, Capitol

3:00 p.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold an open and closed business meeting.

3302 Dirksen Building

JUNE 16

9:30 a.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To resume hearings on S. 2665, to provide for the development of an adequate national coal distribution system by acquiring the necessary rights-of-way to grant access for coal slurry pipelines across railroad property, and to expedite the construction of such pipelines.

3110 Dirksen Building

Environment and Public Works

To hold hearings on proposed Federal building prospectus.

4200 Dirksen Building

2:00 p.m.

Conferees

On S. 932, authorizing funds to establish the production of synthetic fuels, gasohol, solar energy, renewable resources, geothermal energy, to establish an energy conservation program and energy supply targets, and to extend the Defense Production Act until September 30, 1986.

345 Cannon Building

JUNE 17

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on S. 23 and 1580, bills to clarify the terminology contained in the Plant Variety Protection Act (P.L. 91-677) relating to specifications on seed varieties.

324 Russell Building

9:30 a.m.

Veterans' Affairs

To hold hearings on S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors; S. 1212, to extend from 1 to 7 years the presumptive period during which a veteran suffering from the neurological disorder syringomyelia can obtain service-connected disability benefits if determined that the disease was brought on by active wartime military service; S. 2755, to provide a memorial plaque or marker in appropriate situations to the next of kin of an individual who would otherwise be memorialized in a national, private, or local cemetery; S. 2758, to expand the eligibility for specially adapted housing benefits; and S. 2330, to provide for the confidentiality of the medical review process in VA hospitals.

412 Russell Building

10:00 a.m.

Joint Economic

To hold hearings on the effectiveness of local public works programs as administered by Federal agencies.

457 Russell Building

10:30 a.m.

Labor and Human Resources

*Education, Arts, and Humanities Subcommittee

To resume hearings on Title II, proposed Youth Education and Training Act, of S. 2385, proposed Youth Act.

4232 Dirksen Building

2:00 p.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the U.S. Railway Association and the Washington Metropolitan Area Transportation Authority.

1224 Dirksen Building

JUNE 18

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on Title II, proposed Youth Education and Training Act, of S. 2385, proposed Youth Act.

4232 Dirksen Building

JUNE 19

9:30 a.m.

Energy and Natural Resources

To resume hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade, focusing on the prospects for developing hydrocarbon resources in Latin America.

3110 Dirksen Building

Veterans' Affairs

To hold hearings on S. 2020 and 2596, bills to provide educational assistance programs for those individuals who enlist in the Armed Forces, and to hold oversight hearings on the implementation of current educational incentive programs to promote an All Volunteer Force.

412 Russell Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1957 and H.R. 4310, bills to promote increased use of U.S. waterways and provide for continued recreational boat safety programs.

235 Russell Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

JUNE 24

10:00 a.m.

*Labor and Human Resources

Business meeting, to mark up S. 2375, authorizing funds for fiscal years 1982, 1983, and 1984 to provide support for the training of professionals in health service needs.

4232 Dirksen Building

2:00 p.m.

Appropriations

Transportation Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Department of Transportation.

1224 Dirksen Building

Office of Technology Assessment

The Board to hold a meeting on pending business items.

EF-100, Capitol

JUNE 25

10:00 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Malecite Indian tribes.

1202 Dirksen Building

JUNE 26

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

Labor and Human Resources

*Health and Scientific Research Subcommittee

To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To resume oversight hearings on the implementation of the Department of Energy's Building Energy Performance Standards (BEPS), providing for energy efficiency standards for new building construction.

3110 Dirksen Building

Select on Indian Affairs

To continue hearings on proposed legislation authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Malecite Indian tribes.

1202 Dirksen Building

2:00 p.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 2283, 2418 and 2321, bills to increase the earned income exclusion for U.S. citizens working abroad who are bona fide residents of a foreign country.

2221 Dirksen Building

JULY 1

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 415, to strengthen highway safety programs by discouraging driving while under the influence of alcohol.

5110 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development.

235 Russell Building

10:00 a.m.

Veterans' Affairs

To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.

412 Russell Building

JULY 2

9:30 a.m.

Commerce, Science, and Transportation Science, Technology, and Space Subcommittee

To continue hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development.

235 Russell Building

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.

235 Russell Building

JULY 29

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.

6226 Dirksen Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).

235 Russell Building

AUGUST 6

10:00 a.m.

*Energy and Natural Resources

To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.

3110 Dirksen Building

CANCELLATIONS

JUNE 12

9:00 a.m.

Judiciary

To continue oversight hearings on the activities of the Public Integrity Section of the Criminal Division, Department of Justice.

2228 Dirksen Building

JUNE 13

9:00 a.m.

Judiciary

To continue oversight hearings on the activities of the Public Integrity Section of the Criminal Division, Department of Justice.

2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, June 10, 1980*

The House met at 12 o'clock noon.

The Reverend William G. Price, Culmore United Methodist Church, Falls Church, Va., offered the following prayer:

God of our fathers, their stay in trouble, their strength in conflict, their guide and deep resource, we worship Thee. Be to us what our fathers have said You were to them: A fortress, a high tower, a refuge in the day of trouble. We pray today for the Nation that our fathers founded. We thank You for the heritage that has been ours. For the great character that has been woven into the fabric of this Nation. For the great leaders You have lifted up to direct our paths.

Grant those who rule over us and who legislate for us may be of one mind to establish justice and promote the welfare of all our people. Endow all Members of the House of Representatives with a right understanding, pure purposes, and sound speech.

Cleanse our public life of every evil. Subdue in our Nation all that is harmful and make us a disciplined and devoted people, that we may do Thy will on Earth as it is done in heaven. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. JOHN L. BURTON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. JOHN L. BURTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 14, answered "present" 1, not voting 57, as follows:

[Roll No. 302]

YEAS—360

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harris
Hawkins
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—14

Coughlin
Forsythe
Gingrich
Goodling
Harkin
Jacobs
Jones, Okla.
Lloyd
Mitchell, Md.
Quayle
Sabo
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—57

Alexander
Anderson, Ill.
Applegate
Bingham
Blanchard
Bolling
Bonker
Brown, Ohio
Carney
Cleveland
Collins, Ill.
Conyers
Cotter
Daschle
Davis, S.C.
Dellums
Derrick
Dingell
Dixon
Donnelly
Dougherty
Drinan
Edgar
Evans, Ga.
Giaimo
Goldwater
Hance
Hanley
Harsha
Heckler
Hefner
Heftel
Holtzman
Jenrette
LaFalce
Lundine
McCloskey
McCormack
McKinney
Mathis
Michel
Neal
Nedzi
Nolan
Pritchard
Railsback
Reuss
Rinaldo
Rostenkowski
Runnels
Satterfield
Stark
Taylor
Thompson
Ullman
Whitten
Wright

□ 1210

Mr. MINISH changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7102. An act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate, with an amendment, to a bill of the House of the following title:

H.R. 6614. An act to authorize appropriations to carry out the national sea grant

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

program for fiscal years 1981, 1982, and 1983, and for other purposes.

☐ 1220

SWEARING IN OF THE HONORABLE JOHN G. HUTCHINSON

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the gentleman from West Virginia, the Honorable JOHN G. HUTCHINSON, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. Will the gentleman from West Virginia (Mr. HUTCHINSON) kindly step into the well of the House, along with the West Virginia delegation, and take the oath of office?

Mr. HUTCHINSON appeared at the bar of the House and took the oath of office.

GAS RATIONING PLAN

(Mr. AMBRO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AMBRO. Mr. Speaker, obdurate is a good word. It means adamant, unbending, uncompromising, unyielding stronghearted, hardheaded.

Lazy is another good word. Lax is its best definition.

They both apply to the White House and especially to the so-called gas rationing plan that is coming back to this House for approval.

It is the same old tune from the obdurate and lazy maestros who have orchestrated other ringing cacophonies such as the oil import fee. Queuing up at banks to redeem coupons, white market provisions, a ludicrous 20-percent trigger, 10 gallons per week going to all registered jalopies and no recognition of the differences between mass-transportation-efficient and mass-transportation-deficient areas of the country.

We do need a plan, but this Congress should have developed it and then required the administration to implement it—that is the correct role of these branches of Government.

CLARENCE M. MITCHELL, JR.—THE MEDAL OF FREEDOM

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, I, along with my other family members, experienced a surging burst of pride yesterday, when Clarence M. Mitchell, Jr., was presented the Medal of Freedom.

An editorial in the Sun newspaper for Tuesday, June 10, 1980, captured my feeling on this historic occasion. The editorial reads as follows:

> MITCHELL'S MEDAL
>
> There could have been no better reward for Clarence M. Mitchell, Jr., than the presentation to him by President Carter of the Medal of Freedom. Although he was retired as the NAACP's influential Washington lobbyist (he was often called "the 101st Senator"), Mr. Mitchell still remains active in his life-long mission of fighting for human dignity as chairman of the Leadership Conference on Civil Rights. Yet it is his 38-year quest for civil rights legislation on Capitol Hill for which this country owes him its greatest debt. May Mr. Mitchell, a Baltimorean and a columnist for the Sunday Sun, live to see his dream of full equality for all Americans come closer to fulfillment.

President Lyndon B. Johnson and Vice President Hubert H. Humphrey were also recipients of the Medal of Freedom yesteday. As President Carter presented the Medal of Freedom to Clarence Mitchell, he stated that both President Johnson and Vice President Humphrey, who won acclaim for their leadership in the field of civil rights, would not have been so notably acclaimed if not for the persistent lobbying with the Congress that Clarence Mitchell did.

Monday, June 9, 1980, was a rare experience in my life, for I saw a nation pay tribute to a man, Clarence M. Mitchell, Jr., who, in the words of President Carter, aroused our righteous indignation at intolerance.

We in this Congress salute Clarence M. Mitchell, Jr., recipient of the Medal of Freedom, the Nation's highest civilian award.

● Mr. ECKHARDT. Mr. Speaker, the NAACP dates back to the early years of this century, when racial prejudice in our society was almost universal, taken for granted, and for all that as demeaning and intolerable to this Nation's black citizens as it is today. Clarence M. Mitchell, Jr., has given his lifetime to ending this national disgrace.

In presenting him with the Medal of Freedom on Monday, President Carter added yet another tribute to the long lists of tributes this outstanding American has earned. The NAACP is the eldest of our civil rights organizations. Its half million members have fought the good fights, the just fights, for longer than most of us have lived. It is an old group but by no means senile. Especially under Mitchell's leadership, it has been a prime force in consolidating the gains of black Americans, achieved as the result of incredible striving during the past two decades.

I believe Mitchell will be remembered in history as a builder, a consolidator—surely honorable accolades. President Carter put it as well as anyone can when he praised Mitchell's "brilliant advocacy that helped translate into law the protest and aspirations of millions concerned too long to second class citizenship."

Those of us who hold public office, especially, can echo the President's tribute joyfully, and with good heart. But as we do, we must not forget that the things Mitchell has fought so hard for are not yet finally achieved. I know he will go on battling. The best tribute we can give him is to pledge that we will be there at his side.●

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech on today.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Maryland?

There was no objection.

A TRIBUTE TO CLARENCE MITCHELL

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I am grateful for the opportunity to address the House following my friend and colleague, the gentleman from Maryland, Mr. PARREN MITCHELL. I would like to speak also about Clarence Mitchell, an old and valued and very dear friend. I think there are many Members of this House who are too young to remember what we owe this man. But those of us who were concerned with civil rights under President Truman, under President Eisenhower, under President Kennedy, under President Johnson, under President Ford, and under President Nixon, all know what we owe him. His was a steady, sound, sure voice for moderation and, above all, for the human rights of everybody in this country. We owe him a great debt. He piloted us in a very important way in very difficult times. He never lost his head, he never lost his vision of what this world could be and, most particularly, what this country owes to our people. He is a very great American, and I am very happy that he has received this honor from the President of the United States.

The SPEAKER pro tempore (Mr. MITCHELL of Maryland). The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

A TRIBUTE TO CLARENCE MITCHELL

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I, too, want to join in the tributes that are being paid to Clarence Mitchell. When I first came to the House of Representatives 22 years ago, there was a good deal of difficulty with respect to the passage of legislation to open the doors of opportunity to Americans of all races, creeds, and colors. I quickly came to learn that there was one man whose voice commanded respect on both sides of the aisle, among both Democrats and Republicans, among people of every point of view on such legislation, and his name was Clarence Mitchell.

In my view, Mr. Speaker, without the leadership of Clarence Mitchell, our country would not have made the tortuous painful progress that we have made toward the free and open society promised by our Constitution and our Declaration of Independence.

Mr. Speaker, I commend President Carter for his award of the Presidential Medal of Freedom to Clarence Mitchell.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I commend both the gentleman from Maryland (Mr. MITCHELL) and the gentleman from Indiana (Mr. BRADEMAS) for their remarks, and I recall the words of President Kennedy of almost 20 years ago when he said that in America a great revolution is at hand and our job is to make that revolution peaceful and constructive for all.

Mr. Clarence Mitchell was the quintessence of that aspiration of President Kennedy's. I never heard Clarence Mitchell speak a word of hate, even though the cause he represented was a cause that could well produce such in lesser men.

Mr. BRADEMAS. I thank the gentleman for his comments.

□ 1230

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I would be glad to yield to my colleague, the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, our country has no greater wealth than the wealth of citizens like Clarence Mitchell, nor any greater strength than the strength of leaders like Clarence Mitchell.

I thank God for him and for what he has done for the people of my own beloved southland and for what he has done for his country.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman.

DEFENSE DEPARTMENT'S NUCLEAR ERRORS

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, twice during 4 days of last week the entire world was faced with the realistic prospect of Armageddon. Because of failures of the Department of Defense computers, alerts were instituted within our Defense Department indicating that we were possibly the subject of a nuclear attack from the Russians. Our planes and missiles were put on the alert. If that process had not been ascertained to be in error in time, we could have had destruction of every living thing in this country, in Russia, and, very likely, in a large part of the world.

The No. 1 priority of our Defense Department simply has to be to see to it that that kind of error cannot occur again. I dearly hope that our appropriate committees will make it their No. 1 priority as well.

Furthermore, I would like to point out that this kind of incident makes it imperative that we not proceed with the MX missile, because if we build that missile, we will greatly increase the risk of an accidental nuclear war.

If an MX system is installed capable of penetrating Russia's hardened missile sites, then in the event of a computer error in Russia, Russia would have to launch its missiles immediately without verification of computer errors. Assuming Russia installs a system comparable to the MX, then we would also have to "launch on warning," deprived of the time to verify whether or not the warning was warranted. This creates an intolerable risk of world destruction. It is bad enough that our national security depends on "assured mutual destruction," by way of international deterrence. The prospect of unintentional destruction, made even more real by our MX development and the recently demonstrated failures of our computer warning system is sheer insanity. It must be stopped.

NEBRASKANS THANK PRESIDENT CARTER FOR HELP TO GRAND ISLAND

(Mr. CAVANAUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAVANAUGH. Mr. Speaker, the President is traveling to Grand Island, Nebr., today to survey the devastation caused by the tornadoes which victimized that city a week ago tonight.

The extent of the tragedy cannot be overstated. There are at least seven confirmed deaths related to the tornadoes, with over 200 more injured. Although officials are still sifting through the rubble and do not have exact figures, it is estimated that over 500 homes were totally destroyed, and another 1,400 suffered major or minor damage, leaving some 2,000 families homeless. In addition, 60 businesses were wiped out and almost 50 more damaged; 13 farms were destroyed and 33 more with major damage. The dollar figure for these losses runs over $300 million, but what cannot be measured is the suffering of those thousands of people whose lives have been traumatized by nature's capricious fury.

President Carter has already declared Grand Island a national disaster area, and his decision to witness the massive destruction in the city firsthand and reassure its victims personally exemplifies his concern for the despair of these citizens as well as the Government's willingness to help them recover as swiftly as possible. For this I thank the President on behalf of all Nebraskans.

COAL—TRANSITION FUEL?

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, as I reported previously, "coal's message is being heard."

In capitals throughout the world a new realization of coal's potential is being recognized. Both industrial nations and developing countries are evolving programs for long-term coal use, yet, many perceive coal's new portrayal as a transition fuel rather than a long-term fuel source.

This past weekend, a New York Times editorial, "The Catch in Coal," spoke of our need to turn to coal for the next two decades while solar energy and renewable fuels undergo growth and development. While I share the Times' belief that we must further the development of these alternate energy sources, I differ with their interpretation of coal as a transitional fuel source.

The Department of Energy is currently analyzing the hundreds of proposals which have been submitted by companies both large and small to develop facilities to convert our vast coal reserves to liquid and gaseous fuels. Further, the Congress through the development of solvent refined coal facilities, enactment of the Synthetic Fuels Production Act and creation of the Synthetic Fuels Corporation has committed itself to a long-term synthetic fuels energy program utilizing our vast coal reserves.

Mr. Speaker, we have the coal, we have the ability and we have the potential. Coal's time is here, it is now and it is real.

OUR GREATEST DANGER IS STILL INFLATION

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, the news on Friday of the rise in the national jobless rate to 7.8 percent was very disquieting. It is worse in Ohio. The natural tendency is to panic and start hurling vast sums of money at unemployment through job creation programs, which add nothing to productivity. While joblessness is serious, our greatest danger is still inflation, which is being brought under control.

If the President and this Congress respond as they did in 1977, and I might say not with my vote, we will have over a 25-percent inflation rate the next time.

Ohio and Michigan are hardest hit by the new unemployment figures and statistics show the unemployment rate in Ohio and Michigan is directly related to the automobile industry and its ripple effect on other industries.

Mr. Speaker, I think the administration had better take another look at our import policy on foreign made automobiles.

RAMSEY CLARK—BENEDICT ARNOLD OF THE 20TH CENTURY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, it has been suggested by Bernie Wynn, the incisive political editor for the Arizona Republic, that someone should nominate former U.S. Attorney General Ramsey Clark as America's Benedict Arnold of the 20th century.

Surely the Clark's delegation participation in the anti-American conference held in Tehran last week was a disgrace.

I believe it was also a violation of at least two U.S. statutes—the Logan Act and the International Emergency Economic Powers Act.

I am today, introducing a resolution, offered yesterday in the other body by Senator Dole, which expresses the sense of the House that the President should instruct the Attorney General to prosecute to the fullest extent of the law anyone who may have violated these two laws.

I solicit the cosponsorship of all Members in order to repudiate Mr. Clark and his associates for their illegal and contemptible actions.

OUR SERVICEMEN FORCED TO DEPEND ON FOOD STAMPS

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, a magazine article indicated that there were 11.7 million food stamps discounted in fiscal year 1979 at military commissaries; 4.7 million in the Air Force; 4.8 million in the Army; 2.2 million in the Navy.

Now, if this is true, it seems to me that it is an outrage. It is an outrage if there is abuse, but it is even worse, I would say, if in fact we are paying our military such a meager salary that we lose all of middle management and they have to use food stamps in order to exist.

I would hope that the necessary committees would check into this 11.7 million food stamps that were discounted last year in commissaries and come up with a solution that we can act on so that we can either prevent the abuse of the use of food stamps, or keep our middle management military people in the service.

UNHERALDED BUT IMPORTANT REPORTERS OF DEBATES

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, every time we pick up the Congressional Record to read the previous day's activities, we take for granted the effort of the Reporters of Debates who diligently take down each word spoken on the floor.

Last year our eight Reporters of Debates transcribed enough words to fill 12,524 pages of the Record. That is an average of 1,565 pages per Reporter.

A Washington Post article printed last week about the Reporters of Debates emphasized the benefits they receive, but did not emphasize the unique skills and pressures their job entails. The Reporters must be able to take down 260 words per minute, twice as many as the best secretaries are expected to be able to handle. The expert transcribers must also be able to type 140 words per minute.

In order to follow the legislative debates, the Reporters must be well versed in parliamentary procedure, and they must be able to recognize each of the 435 Members and their varied speaking styles. In addition, the Reporters must be up to date on the issues that come before the House, a responsibility which requires the Reporters to read a great deal of material on current events.

When the Reporters leave the floor, their work is only partially complete. They must coordinate the organizing of the transcript of debate for the Congressional Record, including the many revisions and extensions of remarks. Some days that involves processing as many as 10,000 words an hour, words often spoken in heated debate or at the same time another is speaking.

These workers do not have the luxury of regular hours. When the House stays in long hours, they stay in long hours. They have no preset lunch or dinner breaks, they eat when time permits.

Mr. Speaker, I have a great deal of respect for the Reporters of Debates, and I am constantly amazed by the remarkable accuracy of the Record. We have become spoiled by the professional job these people do for us. The unheralded work they do keeps the lines of communication open within this great body.

☐ 1240

THE WAY TO GET THE COUNTRY BACK ON THE RIGHT TRACK IS ELECT REPUBLICAN ADMINISTRATION

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, Edmund Muskie has now been on the job for a month, and a clear picture is beginning to emerge of the course he intends to set as Secretary of State. Over the weekend, Mr. Muskie indicated that he sees no reason to prosecute Ramsey Clark even though the former attorney general of the United States—a man who should know the law and be willing to obey it—openly violated President Carter's ban on travel to Iran. Then, in yesterday's Christian Science Monitor, Mr. Muskie is quoted as saying that the administration is making plans to revive the SALT II treaty in the Senate. I, for one, had hoped that the Carter administration had undertaken a major reevaluation of its foreign policy blunders in the wake of the resignation of Cyrus Vance. It is becoming apparent that has not been the case, and the only way to get this country back on the right track, to make it strong once again, is to elect a Republican administration in November.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed on Monday, June 9, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 5997, de novo; House Concurrent Resolution 323 and H.R. 5612 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CODE OF ETHICS FOR GOVERNMENT SERVICE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5997, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. Schroeder) that the House suspend the rules and pass the bill, H.R. 5997, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the display of the Code of Ethics for Government Service.".

A motion to reconsider was laid on the table.

COMMENDING AMERICAN SERVICEMEN FOR HOSTAGE RESCUE ATTEMPT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 323).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. White) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 323) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 0, answered "present" 1, not voting 32, as follows:

[Roll No. 303]

YEAS—400

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony

Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Weiss

NOT VOTING—32

Alexander
Anderson, Ill.
Bolling
Collins, Ill.
Davis, S.C.
Dellums
Derrick
Dingell
Dougherty
Evans, Ga.
Giaimo
Goodling
Hance
Hefner
Heftel
Holtzman
Jenrette
McKinney
Mathis
Michel
Moffett
Neal
Nedzi
Nolan
Pritchard
Railsback
Reuss
Loeffler
Rostenkowski
Runnels
Roth
Rousselot
Thompson
Whitten
Wright

□ 1300

The Clerk announced the following pairs:

Mr. Thompson with Mr. Pritchard.

Mr. Nedzi with Mr. Goodling.

Mr. Giaimo with Mr. McKinney.

Mr. Rostenkowski with Mr. Dougherty.

Mr. Wright with Mr. Neal.

Mr. Reuss with Mr. Michel.

Mr. Dingell with Mr. Jenrette.

Ms. Holtzman with Mr. Nolan.

Mr. Whitten with Mr. Railsback.

Mr. Hefner with Mr. Runnels.

Mr. Alexander with Mrs. Collins of Illinois.

Mr. Dellums with Mr. Evans of Georgia.

Mr. Derrick with Mr. Davis of South Carolina.

Mr. Mathis with Mr. Hance.

Mr. Moffett with Mr. Heftel.

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)3, rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

MINORITY CONTRACTING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5612, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 5612, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 367, nays 33, not voting 33, as follows:

[Roll No. 304]

YEAS—367

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard. R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lewis
Lent
Levitas
Lloyd
Loeffler
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.

Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pashayan
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—33

Archer
Badham
Beard, Tenn.
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Devine
Dickinson
Goodling
Gramm
Hagedorn
Hammerschmidt
Hansen
Jeffries
Kelly
Lagomarsino
Latta
Leath, Tex.
McDonald
Mollohan
Montgomery
Paul
Quillen
Rudd
Satterfield
Snyder
Stenholm
Stratton
Stump
Symms
Taylor

NOT VOTING—33

Alexander
Anderson, Ill.
Bolling
Collins, Ill.
Davis, S.C.
Dellums
Derrick
Dingell
Dougherty
Giaimo
Gibbons
Hance
Hefner
Heftel
Holtzman
Jenrette
Livingston
Long, La.
McKinney
Mathis
Michel
Moffett
Neal
Nedzi
Nolan
Pritchard
Railsback
Reuss
Rostenkowski
Runnels
Thompson
Whitten
Wright

The Clerk announced the following pairs:

Mr. Thompson with Mr. Railsback.
Mr. Reuss with Mr. Pritchard.
Mr. Nedzi with Mr. Michel.
Mr. Whitten with Mr. Livingston.
Mr. Giaimo with Mr. McKinney.
Mr. Wright with Mr. Dougherty.
Mr. Rostenkowski with Mr. Runnels.
Ms. Holtzman with Mr. Nolan.
Mr. Dingell with Mr. Neal.
Mr. Hefner with Mr. Jenrette.
Mr. Long of Louisiana with Mr. Moffett.
Mr. Mathis with Mr. Alexander.
Mrs. Collins of Illinois with Mr. Davis of South Carolina.
Mr. Gibbons with Mr. Dellums.
Mr. Derrick with Mr. Hance.
Mr. Heftel with Mr. Anderson of Illinois.

Mr. CARNEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1310

IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON

The SPEAKER. The unfinished business is the further consideration of the resolution (H. Res. 660) in the matter of Representative CHARLES H. WILSON.

The Clerk will report the resolution.

The Clerk read the resolution as follows:

> *Resolved*,
>
> (1) That Representative Charles H. Wilson be censured;
>
> (2) That Representative Charles H. Wilson be denied the chair on any committee or subcommittee of the House of Representatives for the remainder of the Ninety-sixth Congress;
>
> (3) That upon adoption of this resolution, Representative Charles H. Wilson forthwith present himself in the well of the House of Representatives for the public reading of this resolution by the Speaker; and
>
> (4) That the House of Representatives adopt the report of the Committee on Standards of Official Conduct dated May 8, 1980, in the matter of Representative Charles H. Wilson.

The SPEAKER. Pursuant to the rules of the House and the unanimous-consent agreement, the gentleman from Florida (Mr. BENNETT) has 12 minutes remaining; the gentleman from South Carolina (Mr. SPENCE), has 8 minutes remaining; the gentleman from California (Mr. CHARLES H. WILSON), or his designee, has 1 hour remaining.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on May 29, the House voted to postpone further proceedings on House Resolution 660 until today, after my assurances in the May 29 proceedings that the committee would consider in an additional meeting of the committee any rebuttal to the newly offered evidence that Representative WILSON might wish to submit to the committee. I wrote Representative WILSON and his lawyer on May 30 and offered to receive from them "any objection, comments, or additional proof on the new evidence submitted by Representative WILLIAM M. THOMAS on the House floor May 29." The committee met on June 5 and the proceedings of that meeting have been printed and are available to each Member. The matter now before the House is the original report of the committee dated May 8, which the committee has not changed in any respect.

Based on the record of the disciplinary hearing, the committee's findings and recommendations stand.

In debate on disciplinary matters such as this, no rule prohibits any Member at any later time from bringing up material germane to the question whether or not the material had been before the committee previously. This was the effect of the ruling by the Speaker on May 29. Obviously it would be best to receive evidence in the committee's proceedings, where rules govern its admission and the witnesses are under oath, and cross examination is possible. But then the Constitution states in (art. I, sec. 5) that the House is granted the power to "punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member." Therefore, as unwieldly as it may be, these issues can be raised and decided upon before the whole House and it is doubtful that any statute or rule could change this. The House can consider these additional materials in any way it wishes. But the recommendation in this case as made on April 24, 1980, and the committee's report filed on May 8, 1980, are the principal matters before the House today.

I reserve the balance of my time.

The SPEAKER. The gentleman from Florida has 10 minutes remaining.

The Chair recognizes the gentleman from California (Mr. CHARLES H. WILSON).

CALL OF THE HOUSE

Mr. FORD of Michigan. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 305]

Abdnor
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Ashbrook
Ashley
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard

Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lowry
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolpe
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1330

The SPEAKER pro tempore (Mr. SIMON). On this rollcall, 365 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

IN THE MATTER OF REPRESENTATIVE CHARLES H. WILSON

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would like to emphasize most emphatically that I am not guilty and have not been guilty of any disorderly conduct insofar as this House of Representatives is concerned or any of my activities in the House of Representatives. I mention that because the chairman just mentioned that the Constitution provides the Congress with the authority to punish its Members if they are guilty of disorderly conduct. Further, I will state most emphatically that I am not guilty of any of the charges which have been brought against me by this committee. I make that statement because in some of the "Dear Colleague" letters which we have sent to you to try and educate you on my side of this problem, some Members have been concerned that I stressed the fact that the committee had not proven its case and I had not denied guilt at any time. I am, therefore, at this time denying guilt absolutely of any crime or any charge whatsoever that this committee has brought against me.

This is the second time that this resolution is before you. We are here again because a member of the committee was unconvinced that certain counts would be supported by the House. We had to have additional evidence. As he said:

> In discussing the matter with Members on the floor, they were indicating that, although it was clear and convincing, that there were perhaps some gaps that made it less clear and convincing.

Quoting further:

> I found that they were not going to agree with the committee based upon the arguments that were made about the gaps.

So here we are again. We have no assurance that additional new evidence may not be offered. But for the moment, the committee now seems satisfied that they have plugged the gaps in their case.

Twice now I have mentioned the committee's case. Many of you may not realize that this particular case was one that the committee initiated. No Member, no private individual or group signed a complaint against me. The committee staff initiated this case on their own in February of 1979. They investigated this case for 9 months, including the issuing of subpenas before the committee had its first majority vote in November. I was then asked to appear before them and answer their questions. You may remember, on page 2 of the committee report, it is mentioned that I declined to testify in this executive session.

Ladies and gentlemen, the committee had not voted at that time to hold an official inquiry into the case. How was I going to refute information in one executive session without knowing what they had discovered in an investigation that spanned two Congresses?

The need to provide the House with an ethics system to protect the institution of Congress is apparent to all of us. This resolution, however, shows that how we go about protecting the institution is still in need of refinement. The most glaring need is to address the issue of the committee initiating, investigating, and prosecuting its own complaint. When the committee proceeds, as in this case, it writes its own script. Rather than objectively viewing the facts, they must prejudiciously support the resolution. The committee develops tunnel vision, seeing only that which proves its own complaint it initiates. This is the process where, once it beings, there can be no stopping it until it reaches the floor of the House. It is natural, under the circumstances, but it must be eliminated from proceedings such as this.

I will wager that there will be major changes made in the procedures of this committee as a result of the case against CHARLES H. WILSON. If the arguments of my lawyers have had any influence at all in any area at all, it will be that there have to be major changes made in the proceedings.

But what of the violations of House rule XLIII? There are two points to keep in mind. First, these alleged violations took place in 1971 and 1972. I think it is a statement of the committee's efforts that six of the seven oldest counts are the ones presented to you. The committee not only dropped the four most recent counts, but they also found no evidence on the counts alleging criminal violations of bribery, perjury, and payroll kickbacks. These last counts are the allegations the press chose to highlight throughout these last 6 months, even after they had been dropped by the committee, and these are the allegations I was accused of during the recent campaign in which I was defeated for renomination. These are the allegations that were leaked the day before the committee chose to vote an official inquiry into this matter.

I have never acted in a criminal manner, I have not violated the rules of the House.

Second, the evidence must show that these violations were in direct conflict with the standards and rules as enforced and observed in 1971 and 1972.

There can be no mixing of rule definitions and application from year to year. The violations must have been those expressly forbidden in 1971 and 1972.

But once again, the committee confuses or counts on confusion when it presents this resolution. It is not surprising that 60 percent of the committee is comprised of Members who are in their second term or less. This is directly reflective of the fact that 60 percent of the Members of this Congress, today, did not even serve their first day in office until after the alleged violations I have been accused of took place. I supported the ethic reform legislation in 1977. The House was right in its decision. But who will argue that retroactive application of stricter rules and enforcement mechanisms is what the House intended? The very fact changes and refinements were made is indicative of the fact that the 1971 and 1972 standards and procedures were far different from the 1977 changes and what they are today. Members must, somehow, reject all they know or understand now about the rules in force now and learn and know the rules as they were in 1971 and 1972.

The years after Watergate brought on a new era as far as this institution is concerned. The committee knows, and I know, that for you to ignore your reactions to that situation, to try to displace that anger caused by Watergate, is beyond your, or my, ability. By issuing this report, the committee is asking each

Member to walk a tight, impossible line of judging standards that are not only alien but unacceptable to many of you. It is the specific purpose of House rule 10 to protect Members under an ethics investigation from being held in violation of House rules for changes in standards from one period to another. It is a protection that prohibits the committee either directly or indirectly to confuse a standard of one era with that of another. House rule 10 is an ethical standard of the House just as House rule 43 is. Unfortunately, House Resolution 660 speaks to the literal reading of the rules. It ignores the compliance and interpretation of those rules in effect in 1971 and 1972 and the conflict that sitting Members have in their post-Watergate experience.

One last word on the background of these allegations. As many of you know, the Obey commission provided the House with a major overhaul of the ethics provisions in 1977. Among the commission's changes were fuller financial disclosure requirements, unofficial office account prohibitions, unearned income provisions, and the prohibition of using campaign funds for personal use. In making these changes, the commission stated that the 1971 and 1972 rules and standards "were essentially unenforceable because of the totally subjective nature of their terms." Standards that were "neither defined nor discussed in the legislative history" when these rules were drafted.

What is this resolution all about? It is a resolution to censure a sitting Member of Congress for action of over 7 and 8 years ago. It is a resolution that asks you to censure a Member because you did not anticipate what would happen to the ethics rules 7 and 8 years later.

This is a matter where the House will agree to be subjected to the same open process and parameters the committee used in the matter of CHARLES H. WILSON. It is the full House that rightly determines its future and that of its Members. This resolution gives the full House that opportunity.

There is no dispute to the need of protecting this institution from ethic abuses. But, the institution is made up of each individual Member as a collective body. When divided into individuals, they should be afforded the same protection the institution deems necessary for itself.

If there is one charge that a Member must refute it is that he used his office for his own gain. I flatly deny these allegations by the committee. No one can buy a piece of me. There is no evidence that shows me selling out my profession. The facts do not support these allegations. The committee has not carried the burden of proof. It continually infers my guilt. It continually circles around the accusation. But they have not proved it because no such action on my part existed.

What is it the committee wants you to believe? It is asking you to take the testimony of an expert in postal legislation at face value. George Gould began gaining experience in postal legislation in 1973, not 1971 or 1972, when he became my staff director of the subcommittee handling postal affairs. To his credit he has become an expert in postal affairs. But the committee makes no note that my postal subcommittee and George Gould's expertise were after these alleged violations took place in 1971 and 1972. The committee would have you believe that in 1971 and 1972 my simple little Committee on Census and Statistics was enough of a position for me to have a conflict of interest in the setting of postal rates. How ridiculous.

But, the committee also ignores two other points; 3 years before my taking the chairmanship of the Postal Subcommittee, postal rates were removed from the full committee and the House when the independent Postal Rate Commission was created. No one on the committee, no one in the House, could after that time change postal rates. To do so would require the influencing of the Postal Rate Commission, not a Member of Congress.

Second, the committee points to specific legislation that showed that I acted with a conflict of interest. This legislation was referred to the Interstate and Foreign Commerce Committee, not the Post Office and Civil Service Committee, of which I was one of 26 Members. The committee would have you believe that my taking the postal subcommittee for the first time in 1973 is clear and convincing evidence of my unethical actions in 1971 and 1972 and for legislation that was pending in the Interstate and Foreign Commerce Committee of which I was not a member.

The committee's own witness, Mr. Lee Rogers, is the one who swore under penalty of perjury that the two $5,000 checks he gave to me were loans. Loans were written on them and in response to questions by members of the committee, he said this was not an unusual procedure for him and he off the top of his head named half a dozen other people who he had made similar loans to under similar circumstances, without notes, without interest or anything of the sort, and yet the committee would tell you that because I did not report in 1977 these two $5,000 checks as unsecured notes on my financial disclosure report that I did not consider them as loans.

Well, let me tell you that in California there is a 4-year statute of limitations on unpaid loans and those loans were not collectible at that time and did not have to be reported in 1977.

Now, Mr. Cheney the other day went through a list of the years prior to 1977 when I did not include these checks as unpaid loans. The law at that time said unsecured loans in excess of $10,000. I was not required to report those on the financial disclosure forms at that time. It was 1977 when the law became effective that required loans of $10,000 or more be reported.

Now, the committee bypasses Mr. Rogers' testimony completely. He swore under penalty of perjury, he had immunity, that was the only thing that he could be caught on was to lie to the committee, and they accepted that testimony without any question at the time and I do not know whether they are going to bring perjury charges against Mr. Rogers at the present time or not, because they are ignoring completely the testimony which he presented to the committee and they are now calling these $5,000 checks gifts, instead of loans which they rightly were. I was not bought by Lee Rogers. I have not been bought by anyone.

The committee has erred to excess in trying to put these charges over on the House. It is disgusting that the committee would attempt such juggling of dates and facts and come up with these allegations, but it is not surprising. This resolution is the end product of the committee's own initiated investigation.

The committee proof lies not in the facts it presents, but in the conjecture and misstatements of events. The committee plays upon what each Member knows to infer the events of almost a decade ago. The committee is under the belief that its mandate requires an accused Member to carry the burden of proof of his own innocence.

With all of the time available to it, its investigative powers, its access to funding, the committee has come up with allegations of 7 and 8 years ago.

This is a resolution based on someone's gut feeling, not on facts. This resolution is based on the proposition where there was one violation, there must be others. The committee feels it is obligated to find other violations, regardless of the time that has passed on or the changes made in the rules and standards.

If you have read the materials I have sent to you, it is apparent that the Ethics Committee has pushed this matter beyond all bounds of realistic fairness. I have worked hard for my constituents. I have never let them down. I would never have knowingly violated their trust. Yet, in June I was defeated in my own primary. That defeat was the most heartbreaking of all. It was as if my whole career in this House was meant to be repudiated, but it really could not be otherwise based upon the 5 and 6 months of extensive press and media and open opposition pronouncements at every turn of the committee process, even to the date before the committee voted to start its proceedings. I was tried and convicted time and again, four times I was tried and convicted. To this very day I could pick up a paper and find the disproved charges of bribery, perjury and payroll kickbacks in the articles.

When will the record finally be set straight? To expect my constituents to ignore such constant reinforcement of unethical behavior and criminal conduct, though there never was, would be disrespectful of their value and standards.

The fact remains I have lost everything of value that I worked so hard to achieve professionally. What is left is my self-respect and my reputation.

I suppose I could have walked away from this whole thing months ago. I suppose I could have walked away from this whole thing yesterday, but I cannot because the committee is wrong. These 18 years have given me enough insight to know when to fight or not to fight for an issue.

Practicalities bear a great deal on making those decisions. But in this instance, practicalities have no bearing. This resolution brands me as something I am not. I have not acted in any manner that is disrespectful of this House. This institution has been my life. I cannot let these years go by and end as the committee would like.

Every issue in this House is given a full and fair hearing. Every issue in this House has its supporter and detractor. But every issue that comes before this House is judged on its merits in the way in which it came before this House.

Sometimes personalities become more dominant than the facts and the procedures, but the House, in its wisdom, always seems to make the right decision. I believe that this last fight for me can be judged on its merits.

Oh, I recognize I am not a popular person in this House. I have emotionally objected to unanimous-consent requests of people, Ms. Holtzman, Mr. Gramm. I have even antagonized other people, some of my colleagues on this side because I vote with the folks on this side on some matters of international affairs, which mean so much to me. But I do not think that how you vote on this matter today should be based upon whether I am a popular Member of the House or not. It should be based on what is right and what is wrong.

Reading all that has been presented, listening to all that has been spoken, this House must come to grips with this resolution. My constituents have made their decision based upon what they know.

I have fought this resolution based upon what I know, and what I have been advised to do by my counsel. And let me tell you, I take their advice. They are very expensive.

You must evaluate all that has been presented to you, factually and otherwise.

Let me know, let each succeeding House know what this institution considers to be the facts and the truth. Let each succeeding Congress know what it expects of the Members as individuals, and let each individual Member know what he can expect from the institution as a whole.

I thank my colleagues for their patience.

□ 1350

Mr. FORD of Michigan. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, for the next hour the House will consider a matter of great importance, a matter involving not just the dignity and integrity of the House, but also the reputation and career of one of its most senior Members.

During the course of the next several hours of debate many Members will feel obliged to leave this Chamber to discuss urgent problems such as the upcoming budget resolution, to conduct committee business or simply to keep appointments made weeks ago. But let me urge every Member of the House to resist those other obligations, for the matter at hand will require your undivided attention during every minute of the next several hours.

During the course of the debate the House will hear that the procedures of the Committee on Standards of Official Conduct as established by this body, are so lacking in due process and fundamental fairness that we have already committed a serious injustice by bringing Mr. Wilson to trial here today.

The committee itself will defend its procedure, as they did in motions during their deliberations, by arguing that they do not determine a Member's guilt or innocence, nor do they impose any sanctions: The committee merely puts together a case to be tried before the whole House and merely recommends a punishment. "The full House, not the Committee of Standards of Official Conduct, is the judge and jury in disciplinary matters."

While I cannot agree that this fact cures the many serious deficiencies in the committee's procedures, the fact remains that every Member of this House is a Member of the jury in the case at bar. And like a juror in a criminal court, each Member has a duty to hear all of the testimony presented in this and to listen carefully to every argument.

Regardless of the committee's recommendations, every Member must approach the evidence today with the presumption that Mr. Wilson is innocent of any wrongdoing. For as Mr. Hamilton said in his remarks in the Congressional Record on May 21, the Ethics Committee does not determine guilt or innocence. It acts only as a grand jury, to advise the House that an ethical violation may have occurred and to recommend that a Member be tried: "Obviously, the full House acts as judge and jury and makes the final decision."

Thus, Mr. Wilson is entitled to the same presumption of innocence as any other American citizen would have in a court of law after an indictment has been brought against him.

And when the arguments are finished and each Member has studied the committee's report and the many dear colleagues that have circulated in this matter, only then should this body decide—not whether Mr. Wilson "probably" violated the code of ethics as constituted in 1971 and 1972—but whether the Committee on Standards of Official Conduct has satisfied its burden of proving by clear and convincing evidence that Mr. Wilson breached the code of ethics as it was understood and applied in 1971 and 1972.

Mr. Wilson was found not guilty of any serious charge against him. There is no evidence to support the minor charges with which he is charged. The minor charges are all more than 7 years old.

Mr. Speaker, I yield 10 minutes to the gentleman from California (Mr. McCloskey).

(Mr. McCLOSKEY asked and was given permission to revise and extend his remarks.)

□ 1400

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I will be glad to yield to the gentleman from California.

Mr. DANIELSON. I thank the gentleman for yielding.

While the gentleman from Michigan (Mr. Ford) was speaking, I made a count of the Members present on the floor. The count is not exactly accurate, but approximately 115 Members out of 435 were present.

Mr. McCLOSKEY. Mr. Speaker, we participate today in an extremely important part of the legislative process. Under the Constitution we are specifically granted the power to discipline a Member by a majority vote, or to expel a Member under our rules and our Code of Ethics by a two-third vote. We have guides under the Constitution but no mandate as to what rules to apply as to guilt or innocence.

Clearly, a Member has a constitutional right against self-incrimination. He has the right to counsel. But whether we in the House today are sitting as a jury, a trier of the fact, or an appellate court is not clear. We vote as our consciences dictate.

One thing is clear, however. We have adopted our own rules that before we discipline a Member, we apply the test of clear and convincing evidence. We do not apply a civil test of the weight of the evidence on one side or the other, and we do not go so far as to require, under the criminal rule, guilt beyond a reasonable doubt. But we do require clear and convincing evidence. here we recognize, that we as the House sit independent of the committee.

The committee has served as an investigator. It has served as a prosecutor. It has served as grand jury. That committee contains, I think, some of our ablest Members, people that do a job for all of us, and I thank them for the job that they have done in this case. But I respectfully disagree that the quantum of evidence shown in the record—and I have read that record three times now—meets the clear and convincing test. I would not have been presumptuous enough to make this argument on Mr. Wilson's behalf but for having had the privilege of spending 14 years as a small-town lawyer, serving as president of the Conference of Barristers of the State Bar of California, and having edited the procedural handbook on ethics that is used by the California Bar for disciplinary proceedings. I think that as a bar, we attorneys apply to ourselves a higher standard of guilt than we do to criminal defendants, and that for that standard of guilt, in my judgment—were Mr. Wilson to be tried for professional misconduct before the State Bar in California—this evidence would not suffice to meet the clear and convincing evidence test.

Let me take up the eight specific counts and the proof in the record. These eight counts essentially divide into two categories. The first counts 1, 2, and 3 involve three checks that were given to Mr. Wilson by a Mr. Lee Rogers in June of 1971, in June of 1972, and in December of 1972. I think the committee concedes that if those three checks were loans, Mr. Wilson is guilty of nothing. If they were gifts, then he is guilty of the counts as charged.

We as triers of the fact must look at the record, and I would ask the committee to point to anything in the record which furnishes clear and convincing evidence that the checks were not loans. The sole evidence, the sole witness who appeared before the committee, Mr. Lee Rogers himself who signed these three checks, said that they were loans. Two of the checks bore the word "loan" on the face of them. The committee went to that point and said, well, there was no promissory note; there was no due date on the loan; there was no rate of interest. Mr. Rogers never sued to get the money back. All of those things are true, but Mr. Rogers was in a peculiar relationship with Mr. WILSON. He was a member of his staff.

He was the chairman of his key committee to raise money for Mr. WILSON in his campaigns. He was a multimillionaire. He was a man who testified before the committee that he was not accustomed to sue to get loans back, and that he rarely was repaid. He listed a number of people to whom he had given loans, and only on one occasion had the individual paid him back. So the evidence is in a state of confusion, in my judgment, as to whether or not these transactions were loans or gifts. You could go either way. In our consciences as Members, it is perfectly appropriate for the members of the committee to reach the conclusion that on the evidence that they examined, they believed these were gifts and not loans. But I would submit to you that applying a clear and convincing evidence test to this evidence, you would have to give the benefit of the doubt to Mr. WILSON.

This was a peculiar relationship, to have a man on your staff who was an expert in postal matters; ran three companies engaged in the mail order business; obviously giving advice to Mr. WILSON on his payroll at $1,000 a month, $12,000 a year between 1971 and 1974; taken off of the payroll in 1974; put back in 1976. This was a transaction between a man and his employee, and while it is peculiar and it is strange, it does not seem to me to qualify as clear and convincing evidence that this was a gift of funds and not a loan.

Now take the second set of counts, the last five counts of conversion. These were moneys, about $15,000 in counts 7 and 8 and $9,900 in counts 9, 10, and 11, which were paid from Mr. WILSON's campaign account to him. The first two checks, roughly, $15,000, were repaying bank loans that he had taken out during the 1970 campaign.

I pointed out in a letter to the committee before this matter was heard on May 29 that there was no evidence in the record to show that this $15,000 in debts, incurred during the campaign in 1970, were not taken out by Mr. WILSON to pay his campaign expenses.

The gentleman from California (Mr. THOMAS), with documents that were obtained just before the hearings, showed those documents to me, and those documents conclusively show, in my judgment, that these moneys were not spent for campaign expenses in 1970. There is a statement by Mr. WILSON made to the California authorities, not required by law to the Federal authorities, that he had incurred no personal expenses for campaign purposes in 1970, and I advised Mr. WILSON that if the record stayed in that condition, I would not argue on his behalf that these moneys were used either for campaign expenses or were used for personal expenses. But what were they used for? Mr. WILSON brought forth, and it is in the record of the committee hearings, that he held two fundraisers. The first was held in March of 1969, and his campaign account shows deposits of about $15,700 in that period of time from that fundraiser, and he paid himself $15,500 to pay these two loans back.

In November 1971, 7 or 8 months later, he held a second fundraiser, and in that fundraiser he raised over $13,000. He then wrote three checks, counts 9, 10, and 11, for $9,900 to himself. But where in the record is there any indication or any fact or any evidence to indicate that those were not reimbursement, say, for newsletters, or travel expenses?

We were accustomed, in 1967 when I was first elected to the Congress, until 1977, 10 years later—in fact, I think most Members did—to raise money from our supporters to pay those costs of newsletters and travel which were not covered by the House expense allowances. I can remember in 1967 coming back here as a freshman when the House funded six trips a year back and forth to California. We were accustomed to making 20 or 25 trips a year back and forth to our districts. And there are Members from California who go back every weekend. Until 1977 it was eminently proper, and it was accepted as right, to raise money from your supporters to pay for these business expenses, the additional expenses of newsletters, and travel which were not funded by the House and were not proper campaign expenses.

There is no showing in the record that these funds were not used for this purpose, so we are left with a situation dating back to 1971 that Mr. WILSON applied $25,000 to his own use, but there is no evidence to show that it was not for proper purposes, for congressional expenses. The violation was to use them for personal expenses.

We are faced, then, as a trier of the fact with the question, where should the burden of proof lie, the committee having come forward with evidence of suspicious payments? Should the burden be on the Member to produce records from 9 years ago showing that these expenses were for a specific valid purpose?

We in the Congress have applied a 5-year statute of limitation on crimes to all other citizens. We are not bound by that statute of limitation, but I think we should consider the reasoning behind the statute of limitation. The reason for the statute of limitation is that very few of us can reach back more than 5 years and produce evidence of what we spent money for at any given time. That statute of limitation is founded in a rule of reason that no person should be charged with a crime that occurred so long ago that he cannot easily produce evidence to refute the accusations. I think we should apply in these proceedings the constitutional view that a person is presumed innocent until proven guilty. We have adopted as one of our rules that that proof be by clear and convincing evidence.

I have no disagreement with the gentleman of the committee except on this one point. It seems to me that the clear and convincing evidence of what happened 9 years ago should be on the committee to produce, not on the part of the defendant to try to refute. It is that reason and that reason alone that causes me to urge that we should vote for an acquittal on all eight of the counts with which Mr. WILSON is charged.

☐ 1410

It is not a disagreement with the fairness of the proceedings that the committee has undertaken, but it seems to me that we make a record here that is going to stand for 200 years. If we are going to insist on proof that is clear and convincing, then we must do so on the record before us and the record of this evidence is not clear and convincing; it is evidence that raises a suspicion; it may raise a possibility or even a probability of guilt, but it is not evidence that if we were arguing this case before a jury, or we were arguing this case before our peers in the Bar Association or any other professional organization that we could say meets the clear and convincing test.

Mr. FORD of Michigan. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, according to Webster's Dictionary a "kangaroo court" is a mock trial in which the principles of law and justice are disregarded or perverted. I believe that if mock trials exist they should be the exclusive prerogative of dictatorial governments bent on convicting the innocent when evidence does not justify a verdict of guilty. I also believe that truth should prevail over custom and tradition. Unfortunately the custom of this body has been to ignore certain inherent deficiencies in the process of justice. Unfortunately the tradition has been for Members to be polite even while being unjust and to be grateful while being unfair. Today I hope that both custom and tradition will be discarded in favor of truth and fairness. Today I hope this House does not engage in a charade projecting the illusion of an orderly, fair process while at the same time denying one of our Member's his individual and constitutional rights during the proceedings.

Mr. Speaker, without feeling a necessity for restraint or for mincing words, I categorically charge that the proceedings of the Committee on Standards of Official Conduct accurately fit the definition of Webster's "Kangaroo Court." I am not a member of that committee, but I did attend the hearings involving CHARLES H. WILSON. In fact, I attended more sessions than most members of the committee. To be perfectly candid, the chairman and one other member of the committee are the only two who spent as much time as I hearing the evidence. So

I can say to you, my colleagues without being an ally it was indeed a mock trial. The principles of law and justice were totally disregarded. The doctrine of "due process" was without a doubt perverted.

On the first day of the public hearing, three members of the committee were not in attendance. Those who were in attendance acted like kangaroos, hopping in and out of the hearing room. Some for periods which exceeded 2 hours. Apparently, they had more important business than to hear, interrogate and evaluate the testimony of witnesses they had subpenaed. Apparently they had already concluded the guilt of one CHARLES H. WILSON.

What kind of process is it, that allows those who sit in judgment to be absent when the prosecution or the defense presents evidence. But even more fundamental, even more appalling is the procedure by which the committee arrived at a verdict. Our system of judicial justice is molded by and copied after the English common law. Our system mandates that the finding of guilt be based on the principle of equity, that evidence is substantial, and clear and convincing. It prescribes that a jury of one's peers convene to deliberate in secrecy for the purpose of determining if sufficient evidence exists to bring charges. It demands that if the evidence justifies, that a bill of particulars or an indictment be issued. Then a neutral third party is appointed to preside. An impartial jury is impanelled to decide innocence or guilt. None of these guarantees were afforded CHARLES WILSON during the committees' deliberations. No court in the land would tolerate such crass denial of an individual's basic legal and constitutional rights as did the House committee. True, a finding of guilt was issued by a panel of his peers. But not in accordance with the principles of equity. The committee did not deliberate in secrecy. The press was made privy to all deliberations. Members were not present to evaluate evidence. A third party neutral did not serve as judge.

Twelve members of the Committee on Standards of Official Conduct acted as district attorneys in investigating the allegations. Those same 12 acted as grand jurors in voting an indictment. Those same 12 acted as petit jurors in making a finding of guilt and also those same 12 served as judges in dispensing a disciplinary sentence. The whole process is devoid of fairness, justice, and equity. It flies in the face of the constitutional guarantee of due process.

Mr. Speaker, the other part of this disgraceful equation which renders fairness impossible and makes a mockery of our system of justice is that we sit here today as the final judge ready to arrive at a decision which could adversely affect the future and reputation of one of our colleagues without benefit of the facts.

The committee report consists of some 382 pages including exhibits. Two members of the committee, Mr. STOKES and Mr. RAHALL, wrote dissenting opinions. Mr. WILSON's attorney issued a lengthy legal brief refuting point by point the accusations. I think I can safely say that less than 25 percent of the Members of this body have read the committee report, the dissenting views, and the defendant's brief. They certainly did not attend the hearings. And less than 25 percent are present now. So there is no way for them to be privy to the facts involved in this transaction. What criteria will they use to determine the innocence or guilt of CHARLES WILSON?

One whole hour has been set aside to argue the merits of this case. In a matter of 60 minutes, 200 Representatives will storm through those doors to determine the fate of one CHARLES H. WILSON, a Member of this House for the last 18 years. Fairminded people of necessity will conclude that decision arrived at under these circumstances is tainted. That decision will be based either on media publicity, a letter from Common Cause, or fear of voter reaction. In a matter of minutes, this Chamber will be stampeded by Members who know not the facts and care not of the consequences. They are not aware that 7 of the original 15 charges against CHARLES WILSON, all seven felonies were dismissed because the committee found no clear and convincing evidence to sustain a finding of guilt. They are not aware that the remaining eight charges, all misdemeanors, date back more than 7 years. They are not aware that all eight charges exceed the statute of limitations by 2 years. They are not aware that the committee produced no evidence to substantiate wrong doing or impropriety in the remaining eight counts.

Mr. Speaker, the Members of this body should view this episode in its broadest dimension. CHARLES WILSON as an individual is on trial, but this House as an institution is also being judged. A body so cavalier, so insensitive to protecting the rights of one of its own, cannot and will not be perceived as having the capacity, inclination, determination, or the will to protect the rights of the public at large.

Mr. Speaker, CHARLIE WILSON is not seeking compassion, charity, or mercy. He has already been defeated in his primary. Today he simply seeks justice. Justice in this instance means rejection of the recommendations of the Committee on Standards of Official Conduct. I urge my colleagues to do just that.

Mr. FORD of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I firmly believe that we must approach the issue before us with the utmost objectivity. Certainly the dignity of this body is on view, but we must also keep in mind that our concept of American justice as it applies to each citizen must also prevail.

I find it unusual that the Committee on Standards of Official Conduct would, as part of this resolution, take it upon itself to secure the removal of Representative WILSON as chairman of a postal subcommittee and place this question before the full House of Representatives.

I respect the traditions and rules which govern the organization of the House and its committees, and submit that the question of his chairmanship rightfully belonged before the Democratic Committee membership or the Democratic Caucus. It is my understanding that this issue has in fact, been removed to the Democratic Caucus and I believe such procedure is most proper.

Then, I am concerned about the span of time which has elapsed between the alleged violations and the bringing of charges. I do not have any formal training in jurisprudence, so I do not pretend to have legal expertise in the interpretation or application of the law. However, I have read the committee report and other documents which have been circulated with respect to the charges brought against Representative WILSON.

In my opinion he deserves the same standing before the law as any other citizen; that is, he is innocent until proven guilty.

It seems to me that with certain of these allegations dating back 8 or 9 years, the passage of time has eroded adequate documentation. It is my feeling that the burden of proof must rest with the committee to produce the documentation which supports the charges. Fairness dictates that Representative WILSON should not be required to produce evidence which proves his innocence; the committee must prove his guilt beyond reasonable doubt.

We are not in a court of law. But we, above all bodies, ought to be sensitive to the precepts of elementary justice. I am hopeful that when we conclude this matter we can be satisfied that these ideals have prevailed.

Mr. Speaker, my congressional service with Representative WILSON dates from the early 1960's when he was appointed to the Committee on Post Office and Civil Service. During that time, he has ably and effectively chaired a series of postal service subcommittees with the genuine goal of insuring a quality postal system for the American public.

We share this objective, although at times we have differed on the proper approach. But throughout his tenure as subcommittee chairman he has worked in the best interest of the Postal Service, postal employees, and above all, the postal customer. He has earned my respect for this consistency, dedication, and sincerity.

□ 1420

Mr. FORD of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. Mr. Speaker, it is not this Member's ordinary approach to things to assume this well and try to preempt the opinions of any committee that serves in this House. But, before I came to this House I spent over a decade, probably in more States than any other Member, and probably in many more courthouses than any Member I know, defending something that has come to be part of my way of life; and that is, that the system of trial by jury and justice in the court rooms of this country is far more important than any judge or juror or defendant affected by that system.

I think it logical and just that we, as

lawmakers, should be willing to transplant into this House of Representatives the same system of justice for which we are responsible across this land. I think there are forces at work that we have not considered yet in the case of Charles H. Wilson, and I think there are matters that probably transcend in importance the outcome of this case today, and certainly should be considered and should have an impact on what this House does.

Many speakers have already pointed out that the House today probably is unaware of the true facts in this case. I would say that is probably true. But, whether you know it or not, my colleagues, when we come through these doors to vote, I have studied it and I have watched it and I have seen a presumption at work that is dangerous if this House or any system of justice in this country is to survive, and that is a presumption we have that if a committee of the House brings a matter to the House floor, the presumption is that the facts are accurate, that the procedure by which that matter was brought here was proper, and that the conclusion ought to be supported by the body at large.

I contradict that without reservation in this matter because we are dealing more with the destiny of this House and this system than we are with the life of Charles H. Wilson. The presumptions that fly here and there, that if there is accusation against a Member of this House, then there must be merit to it and that merit should be held up to public scorn and ridicule and censure, is a presumption and an impact and a force that we cannot allow to continue.

There is a conversation in a piece of literature, "A Man for All Seasons," between Sir Thomas More and his prospective son-in-law, Roper, in which Roper points out that he, being an enemy of the devil—and I am sure all of us of the House are enemies, and we work to ferret out unethical conduct—but Roper, being a true enemy of the Devil, says he would cut down all the laws in England to get after the Devil. The rejoinder of Sir Thomas More ought to mean something to us as individuals today, because Sir Thomas More said:

> If you cut down all the laws to get after the Devil, and you pursue him until the Devil turns round about, and all the laws being laid flat, where will you turn for protection?

I submit to you that this procedure—and these gentlemen on the Committee on Standards of Official Conduct are ethical and honorable gentlemen—but this procedure is nothing more or less than a leveling of all the laws and constitutional protections that are written into our system and, my fellow Members of this House, once we have leveled the laws and procedures designed to protect the rights and privileges, and when that system of us getting after the Devil turns around about on each one of us, we having leveled the rules and the laws, where will we turn for protection? Because, there will be no protection if we do not reject this committee recommendation today and rewrite these procedures. There is no protection for any individual Member of this House.

I urge the Members to reject this committee proposal.

The SPEAKER. The gentleman from Michigan (Mr. Ford) has 14 minutes remaining.

Mr. FORD of Michigan. Mr. Speaker, I would like to reserve my time.

The SPEAKER. The gentleman from South Carolina (Mr. Spence) has 8 minutes remaining, and the gentleman from Florida (Mr. Bennett) has 10 minutes remaining.

Who desires time?

Mr. BENNETT. Mr. Speaker, has the respondent used up all his time?

Mr. FORD of Michigan. No; I have not used up all my time, but I would rather not. I have reserved some time.

Mr. BENNETT. Would the minority like to use some of their time? I only have 10 minutes remaining, and I have got to yield to one other Member.

Mr. SPENCE. Mr. Speaker, we have 8 minutes remaining. I will yield 4 minutes to the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Speaker, I did not seek to serve on the Committee on Standards of Official Conduct. I was drafted to serve in this position, recognizing that it is an essential job to investigate matters of these serious allegations and to bring the best judgment of the committee to the floor of the House. We should remember at all times during this proceeding that this is not a criminal trial. It is a proceeding in response to allegations that the standards of this House, the rules of this House, have been violated.

□ 1430

In other ethics proceedings the courts have consistently determined that all that is required is fundamental fairness in the discharge of the proceedings.

I would submit that the Committee on Standards of Official Conduct has been more than fundamentally fair to the gentleman from California (Mr. Charles H. Wilson) in this matter. In every instance when the gentleman from California, either in person or through his attorneys, asked to be heard before the Committee on Standards of Official Conduct, the gentleman from California or his attorneys were heard, and if the gentleman from California did not put his full case in before the Committee on Standards of Official Conduct, that was the decision that he made at the time.

The committee is accused of being both the prosecutor and the judge. This is similar to practically every professional licensor in disciplinary proceedings against a licensee that are held in the 50 States of this Union, whether it is before a bar commission, whether it is before a medical examining or licensing board, or whether it is before an accounting licensing board or a board of any of the other licensed professions. When there is an allegation of professional misconduct, it is the licensing board that investigates, it is the licensing board that conducts the trial, and it is the licensing board that considers whether the license should be revoked or suspended. The courts have upheld this procedure consistently in licensing boards, and they deal with ethical violations similar to the way the House is proceeding here today.

The Committee on Standards of Official Conduct has been objective. Originally 15 charges were levied against Representative Wilson in the committee's statement of alleged violations. Eight of those charges were sustained, some in an amended form, and seven of the 15 charges were dismissed entirely.

If the committee was a "kangaroo court," as has been alleged, why, then, would 7 of the 15 charges be dismissed? The fact is that those seven charges were not sustained on the basis of the evidence that was produced, and consequently the committee dismissed them.

Furthermore it has been alleged that the Committee on Standards of Official Conduct is duty bound to proceed to the floor with every matter that has been investigated and the record of this committee in this Congress is to the contrary. In the last 2 months, two investigations were concluded by reports on the floor of the House of Representatives which did not charge Members of Congress with violating the rules. Those were the South African investigation and the investigation into voting anomalies on the floor.

Finally, I would point out that as far as the counts relating to the conversion of campaign funds for personal use, those counts were based upon the rules of the House of Representatives that were in effect at the time the violation was alleged to have occurred. The committee on Standards of Official Conduct is not applying today's rules to 1971 and 1972. It is applying the rules that were in effect then to the evidence that was brought before the committee.

There is no statute of limitations on ethics violations, and that has been consistently upheld by the courts. Whether there should be or not is not the issue here before us today. I personally believe that there should be a statute of limitations on ethics violations, but if there is to be that kind of a statute of limitations, then the rules of the House should be amended, and the Committee on Standards of Official Conduct would be glad to follow whatever amendments to the rules the House in its wisdom shall make.

The SPEAKER. The time of the gentleman from Wisconsin (Mr. Sensenbrenner) has expired.

Mr. BENNETT. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. Fowler).

Mr. FOWLER. Mr. Speaker, I believe I speak for all members of the committee when I say, that this is not a pleasant task. Our charge was to proceed fairly, dispassionately, and without any sense of moral righteousness. I think we did that, and we acted in a nonpartisan manner in presenting the committee's recommendations for discipline which we have given to all Members of the House.

I will proceed quickly because we have only 4 or 5 minutes left, most of the time having been used last week.

Let me try to summarize why the committee has recommended what it has:

First, there was no substantial rebuttal to the charges that there were conversions from Mr. Wilson's campaign account—moneys traced from his campaign funds to his office account to a California bank account—to pay off personal debts. Why? Because Mr. Wilson refused to testify.

Second, today, for the first time, Mr. Wilson has spoken. He says that what the committee found were "gifts" were in fact "loans." We do think that the evidence was clear and convincing that these moneys were gifts, but Mr. Wilson cannot argue it both ways.

I ask all Members to read the testimony of Mr. Lee Rogers. Mr. Rogers described himself as a multimillionaire engaged in the mail order business. He testified he was made a congressional employee of Mr. Wilson by Mr. Wilson for 3 years and paid $12,000 a year. Mr. Rogers did claim that the moneys he gave to Mr. Wilson were "loans." The committee, however, found the evidence to belie this interpretation, and dismissed the charges relating to "loans." However, Mr. Wilson now for the first time insists on the interpretation of "loans." I can say in rebuttal that there was substantial evidence that Mr. Rogers was put on the congressional payroll as a method of repaying the money that was "loaned" by Mr. Rogers.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. FOWLER. I will not yield until I have finished my statement. Now, all Members must determine whether it was a "gift" or whether it was a "loan." You have heard Mr. Wilson. We did not. He refused to testify at any time before the committee.

I am willing to accept what Mr. Wilson has said, but you must determine the credibility of his testimony in light of that of Mr. Rogers. There are only four pages of his testimony. Please read it.

Finally, on the subject of the statute of limitations. The statute of limitations, I say to my colleagues and fellow lawyers at the bar, was put on the books in English and American constitutional history to deal primarily with petty crimes—crimes committed outside of the jurisdiction, crimes that had been consciously concealed, as well as lesser infractions considered "stale" by the passage of time.

But there are some crimes that so shock the public conscience that there is no statute of limitations.

The committee dealt with this question of what happened in 1972 as soon as it came to light. We did not tarry out of a sense of forgiveness to Mr. Wilson. All delays or postponements were at his request.

Your committee is not a court of law. What we tried to do was pierce procedure to get at the substance while protecting Mr. Wilson in his constitutional rights. Much of the outrage at the judicial branch of our Government occurs when technical defenses, properly presented, are allowed to shadow or obscure the real issues, the issues of substance.

Here, I submit, are the issues of substance which we must decide after hearing and reading all the evidence:

First, was there a conversion of campaign funds for personal use? The committee, by an overwhelming majority, found that there was.

Second, was the congressional office of Mr. Wilson being used for private rather than public purposes, or used so casually as to violate the responsibilities of stewardship with which we are all charged? The committee, by an overwhelming majority, thought it was.

Last, I must say that there was a duty, an absolute duty of Mr. Wilson, to speak in defense of himself and in defense of the institution of the Congress.

□ 1440

Mr. Wilson does not stand questioned by the courts. He stands questioned by his peers. And the question is direct and profound: Did he violate his oath of office?

This is different than an accusation against the butcher or the baker or the candlestick maker. If a member of any of those occupations are brought before any court of inquiry and found guilty, it would not affect the institution of butchering or baking or candlestick making. It would leave no taint on any other practitioner of the profession. No other butcher or baker or candlestick maker would be affected.

The SPEAKER. The time of the gentleman from Georgia (Mr. Fowler) has expired.

Mr. BENNETT. Mr. Speaker, I yield 1 additional minute to the gentleman from Georgia.

Mr. FOWLER. Mr. Speaker, but whenever we are accused, when any one of our Members is accused, then we all stand accused. He does stand alone, because the institution is therefore brought under question. The institution of Congress is also the name which then must be cleared. And that duty accrues to Mr. Wilson, as a sitting Member of this Congress, to clear the name of this institution as much as it is to clear himself.

My colleagues, it is extremely unpleasant, after the defeat of Mr. Wilson of California, to be here. The committee tried for months to bring this matter for resolution. We have granted the delays of Mr. Wilson, who has asked over and over to postpone it beyond his primary. But all I can say to you, to answer the gentleman from South Carolina, who quoted Sir Thomas More accurately, though not completely, is that when asked, "Who will defend after the laws?" the answer by Roper was, "God will defend." And the answer of Sir Thomas More was, "Then let God strike down the laws."

We have laws called "rules" for protection of the institution. We must defend them. It is our duty, regardless of all externalities like elections. The committee has found, in a strong nonpartisan vote, after hearing the evidence, that the punishment recommended, regretfully, should be accepted by this House.

Mr. FORD of Michigan. Mr. Speaker, I yield myself 30 seconds, only to say that the previous speaker deeply saddens me when he suggests, as a pattern for our conduct, that we should respond to public impatience with the courts' attempts to protect the rights of individual citizens of this country which they might regard to be technical kinds of defenses. He suggests that we respond by showing that we are not burdened by technical considerations for the Bill of Rights, that we are operating under something different. I think that illustrates the problem we have, Mr. Speaker, that this committee has not regarded itself as bound by fundamental due process and fundamental fairness.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Mr. Speaker, the proceedings today are not a licensing matter. This body represents more than 220 million people, and I suggest that in deference to them, we have an immense responsibility to make certain that the people that they send here to the House of Representatives are provided with fair play and due process.

Now, the Standards Committee must operate within the rules that the House of Representatives provides to the Standards Committee. But there are some very real problems with the House rules under which the Standards Committee must handle this particular type of proceeding. The problems have been recognized, to the credit of the members of the Standards Committee, by a majority of them. A majority joined in introducing H.R. 136, which would provide a separation of the factfinding functions from the adjudicatory functions. The bill, if approved, would require the Standards Committee to act as the investigatory body, the grand jury, and a panel of eight members selected by lot to act as the factfinding body, the petit jury. It appears to be a needed reform.

There is the question of the right to counsel. We recognize the right today, but only in part. Our colleagues, the gentleman from Michigan (Mr. Ford) and the gentleman from Missouri (Mr. Clay) have very graciously volunteered to serve as defense counsel, and they are doing an excellent job. Mr. Wilson's counsel, I understand, is allowed access to the floor, but not to the microphone. He can whisper the knowledge gained by months of living with this case into the ear of the member of counsel, who can then communicate this information to us as best he can.

In the impeachment proceedings with regard to President Nixon, the Judiciary Committee insisted that Mr. St. Clair have the privilege of the committee at all times and the right to cross-examine witnesses. And although I am not certain that the rule had not been decided as to whether he would be permitted the privileges of the floor, I am certain that the trend was that way and that we would have voted to allow Mr. St. Clair the privileges of the floor. And certainly in the trial in the Senate, if it had gone that far, President Nixon would have been entitled to counsel with the right of cross-examination.

Let me relate quickly two more problems in the existing rules that cause me great concern. This has been brought up by previous speakers. There is the question of ancient issues. People simply cannot remember the events of 7 and 8 years ago. Memories fade, records are lost, witnesses die or cannot be found. Is there not really a need for a statute of limitations, borrowing perhaps from the Federal Criminal Code or applicable State law?

Then there is the question of burden of proof, and this is terribly important. Who has the burden of proving guilt or innocence? The Standards Committee reports that Mr. Wilson did not negate the charges against him. But is this Mr. Wilson's responsibility? Should the presumption of innocence apply until the guilt is proven beyond a reasonable doubt? Should not House rules so provide for this presumption?

Mr. Speaker, I chair a House Democratic Caucus Select Committee to study the entire range of problems related to our constitutional authority to sanction offending Members. The select committee has been at work. We have examined the constitutional provisions, their history and their interpretation. We have examined the House history and the history of the Senate. We will shortly report back to the caucus with recommendations.

Mr. Speaker, I feel that the rules under which the Standards Committee must operate are defective, seriously defective. I do not think that they provide fair play and due process. For these reasons I must vote against the resolution.

The SPEAKER. The Chair recognizes the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, we would like, if possible, for respondent to use his time first, so we can conclude. That is the usual procedure.

Mr. FORD of Michigan. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. Stokes), a member of the committee.

Mr. STOKES. Mr. Speaker, I am a member of the Committee on Standards of Official Conduct. As such, I am the only member of the committee who voted against each and every count which the committee found to be proved. I also voted against the committee's recommendations that Charles H. Wilson be censured and stripped of his chairmanships.

Mr. Speaker, I did not seek membership on this committee. In fact, as you know, I resisted this appointment for a considerable amount of time. In agreeing to go on this committee, I did consider that my background might enable me to bring a different perspective to the committee. The background to which I refer is that of having been a trial defense lawyer in criminal cases for 14 years. That experience included trying hundreds of cases ranging from first degree murder down to simple assault. It also included participation in several cases in the U.S. Supreme Court.

One of these cases which I argued in that Court, Terry against Ohio, a landmark case, is still the law of the land in stop and frisk, search and seizure law under the fourth amendment to the Constitution. I mention this, Mr. Speaker, not out of braggadocio, but to say that I think I bring to the committee some understanding of our system of justice and more importantly a real understanding of due process of law. I also understand that the Ethics Committee is not a court of law and that in proceedings before it, ordinary rules of evidence in a court of law do not apply. But, I say to my colleagues that even disciplinary tribunals such as the Ethics Committee cannot divest themselves of the requirement to afford a respondent due process of law and fundamental fairness. As one who has spent a great part of his life preserving the constitutional rights of criminals in order that that constitutional right would be available to America's best citizens if ever need be, I can only say to you, that the due process and fundamental fairness denied to Charles Wilson today may be denied to you or me tomorrow.

It is for that reason that there is something fundamentally wrong with a system where the same Members of the House who initiate an investigation of a Member, charge him with violations, investigate the charges, hear the evidence relating to the charges, decide the guilt as to the charges, and then decide the punishment for the charges. There is something fundamentally wrong with this system, otherwise 9 of the 12 members sitting on this committee in February 1979, would not have proposed to the House under House Resolution 136 legislation to change the rules and initiate new methods of disciplinary proceedings which would insure due process and fairness.

The gentleman from Missouri (Mr. Clay) is correct. The members of the committee were in and out of the room, in absentia, and otherwise occupied during proceedings where witnesses were giving testimony against the respondent for whom they now recommend this severe punishment. One afternoon, while witnesses were testifying, I had to spend over 2 hours in the Rules Committee. I did not want to leave Charlie's hearing, but, I had to make a choice, legislation affecting my congressional district won priority over my obligation to my colleague. Sure I had the transcript to read, but did you know that accompanying the transcript was a letter from our staff director which said:

> The enclosed transcripts from the Wilson hearings are for your review. It is the opinion of the committee staff that the transcripts are not totally accurate, therefore the reporting company will be asked to review their tapes.

This means then that not only did those of us who missed hearing witnesses not only have no opportunity to observe the witnesses on the stand, to observe their demeanor, to evaluate their appearance of truthfulness or lack of thruthfulness, but we made up for this by reading "not totally accurate transcripts." How would any of you today like to have your fate determined, be censured, and stripped by some jurors who were running around answering bells and taking care of regular congressional business while deciding your fate?

Now, let us talk about counts 7, 8, 9, 10, and 11 which all dealt with conversion of campaign funds to personal use 8 and 9 years ago. The House rule which the respondent is alleged to have violated which was in effect in 1971 and 1972, and which is in effect today, prohibits conversion to personal use of funds "in excess of reimbursement for legitimate and verifiable prior campaign expenses." Thus, under the House rule in question, a Member has the absolute right to be reimbursed from campaign funds for campaign expenses he may have incurred and once reimbursed may use the reimbursed amount for personal or any other use. Under the rules of our committee, it was incumbent upon the staff to prove by clear and convincing evidence that these transfers were not reimbursements for prior campaign expenses.

The key to the lack of clear and convincing proof that Representative Wilson committed any offense can be found in the statements of our distinguished chairman on the floor here last week. With references to counts 7, 8, 9, 10, and 11, the chairman in his remarks used phases such as, "the committee was offered no evidence that this loan was for prior campaign expenses," or "the committee was offered no evidence that this loan was for legitimate campaign expenses," or "no evidence was offered to the contrary." The fact, my colleagues, is that Representative Wilson had no burden of proof as to his innocence. The committee was required, but they did not offer one scintilla of evidence that the transfers were "in excess of reimbursement for legitimate and verifiable campaign expenses."

They cannot absolve themselves of such burden of proof by transferring the burden of proof to the respondent. Additionally and more importantly, let us admit that the House has played around a little bit with the same law Representative Wilson has been found guilty of violating. Conversion of campaign funds to personal use was not prohibited by law in 1971 and 1972. It also was not prohibited by the Federal Election Campaign Act. Even the more recent amendment does not prohibit conversion of campaign funds for Members in office on January 8, 1980. The House rule relating to conversion was adopted in 1968.

In 1975 the rule was amended to prohibit conversion unless "otherwise specifically provided by law." This change in the law, as we all know, was enacted to permit a special circumstance to occur in the House. Once the circumstance was over, in 1977 we removed the 1975 provision and went back to the previous law. Thus, two points appear to be evident. First, there is no well-stated policy in this area and second, we have alternately prohibited and permitted under certain circumstances the same thing Representative Wilson has been found guilty of. My conscience will not under these circumstances permit me to find him guillty of these 8- and 9-year-old charges. And since the charges are not criminal in nature, and since few of us would be able to reconstruct campaign records 8 or 9 years later, the absence of a statute of limitations would seem to me to be a denial of fundamental fairness.

Lastly, I want to say that I do not condone wrongdoing, nor do I oppose disciplinary proceedings against any Member of the House under proper circumstances. As a member of this committee, I can say to you without fear of refutation, that all members of the committee acknowledged Representative Wilson's attorney, Mr. Bonner's observation that at one time or another, each of us, with the exception of the chairman and perhaps one other member had missed some portion of the proceedings. Every member agreed that before deliberating they wanted to read the transcripts so that they could accurately and intelligently discuss the evidence. Therein was the admission that the circumstances under which we acted as jurors did not lend itself to our being able to act as jurors. Here was an admission by the entire committee that they were unable to deliberate and decide this case upon the evidence they had seen and heard. Even in a court of law when jurors cannot remember the evidence they are instructed that they must recall the evidence as they saw and heard it in the courtroom.

Mr. Speaker, my conscience will not let me find Representative Wilson guilty of any of these charges. The question for you to ask yourselves is this: Would you want yourself or anyone near and dear to you to be found guilty based upon this kind of evidence? I urge a no vote on this resolution.

□ 1450

Mr. FORD of Michigan. Mr. Speaker, I yield the remaining 3½ minutes to the gentleman from West Virginia, a member of the committee (Mr. Rahall).

Mr. RAHALL. Mr. Speaker, I was elected to serve on the Committee on Standards of Official Conduct on March 26, 1980, to fill a vacancy created by the untimely death of our dear colleague from West Virginia, John Slack.

I had no opportunity prior to this time to express opinions or listen to testimony or in any way involve myself in the deliberations in the matter of Charles H. Wilson.

As my colleague, the gentleman from Ohio (Mr. Stokes) mentioned, there were numerous members of the committee that for one reason or another did miss much testimony that was taken during these deliberations. I had to miss the disciplinary hearing on March 31. I know the concern that many have expressed with the fact that we as busy Members of Congress have to run out and answer rollcall votes, have to conduct constituent business, have to conduct legislation that relates to the people in our districts and, therefore, are unable to devote our 100 percent time in the matter of Charles H. Wilson.

The Speaker's concerns were expressed to me in this regard by phone calls from his office questioning my absence on March 31, when I did have a prior commitment in my district and was unable to attend the hearing.

Joining the committee in its work when I did, and not being a lawyer, I tried to absorb and read as much of the testimony as I could, in order to conduct the special care necessary to insure that fair justice was given to a man for whom, I could see we were deciding his entire political career. After reviewing that testimony, the first case in which I have had to deal in this regard, I found that I did have to dissent from the majority of the committee in their recommendation that censure be invoked upon Charles H. Wilson. I have filed dissenting views.

My basic dissension relates to the fact that Representative Wilson was charged with accepting gifts, and I put the word "gifts" in quotes, from a person with a direct interest in legislation, and I put "direct interest" in quotes.

The far more serious charge that was considered by this committee, that of being influenced in the performance of his governmental duties, was unanimously—unanimously rejected by the committee.

The first point, that Charles H. Wilson received gifts from a Mr. Lee Rogers, I suggest, as the gentleman from Georgia has suggested, that, yes, we do read his testimony in the record. Yes, perhaps Mr. Rogers did have an interest in legislation before Congress as a direct mailer, but so did other first, second, third, fourth, and fifth class mailers and many other individuals, and perhaps he could fit in the same category as every American that pays taxes. We all have an interest in legislation before Congress.

□ 1500

A second point, is that these "gifts," and I think perhaps this has been addressed already by the gentleman from California (Mr. McCloskey)—in the form of checks were written by Lee Rogers and were indeed marked "Loan." He has a habit, as he testified before our committee, of making various such loans to individuals with no written instruments of interest requirements, no demands for payment, or no suits against individuals whenever they did not fulfill payments on those loans.

For those two reasons I felt that the first six counts did not warrant the recommendation of censure.

The second point on which I disagreed with the final committee recommendation is the charge that Representative Wilson did convert campaign funds to his personal use. When we consider past precedent, Mr. Speaker, in the matter of Representative Charles Diggs, a much more serious matter, I feel, where the committee found that there was as of public taxpayers' moneys and a conversion indirectly; that is the end result being it was converted to personal use. In this matter we are not talking about public moneys from the American Treasurer or the taxpayers. We are talking about campaign funds from private sources, from private individuals that were donated to Representative Charles Wilson's campaign. Any misuse of the public trust certainly cannot be condoned by anybody. This is serious and should never be condoned.

But while serious, I do not feel this case, possible misuse of campaign funds, merits the same penalty as the misuse of tax dollars which occurred in the case of Representative Diggs.

For those two reasons, and a third reason, Mr. Speaker, which relates to the changing nature of our campaign laws, which was addressed by prior speakers, I did dissent from the committee recommendation of censure.

In conclusion, I want to commend the members of the Committee on Standards of Official Conduct and the staff. The charge has been leveled today that the committee acted in the nature of a kangaroo court. I cannot agree with that characterization. Having served on the committee for less than 2½ months, I have found among the staff and members a deliberative effort to find out the facts and an effort to accommodate Mr. Wilson in many cases when delays were requested. Delays were granted in order that he and his lawyers could gather the vital information that was necessary. Indeed, I, myself, voted against the first vote last week to put off consideration of this matter any further.

Mr. Speaker, as I stated I have been on the committee for a short time. I did not even know Charles Wilson when I first became a member of this committee. I do not know him personally and do not serve on any committee of Congress with Mr. Wilson. I have only been in this Congress for 4 years as compared to his 18. I do not feel that the final recommendation of the committee was warranted.

I have heard the rumors going around the Hill since the matter of Charles H. Wilson has come up that there are various forces "out to get" Representative Wilson. I have heard the rumors about his arrogant and abrasive nature with fellow colleagues in Congress. Mr. Wilson himself spoke on this attitude toward him in his comments. Personally I have found no evidence of the latter.

In regard to the rumor mills that there are forces "out to get" Representative Wilson, I have no facts one way or another to substantiate those rumors.

But there are, I suggest, forces that have been successful thus far in "getting" Representative Wilson. Part of those forces are his constituents. It is true those forces have won a battle, if, indeed, those forces exist and are "out to get" Representative Wilson. He has been defeated by his constituents in the California primary. A battle has been won, perhaps. A man is down. His financial obligations are great.

As my concluding comment, Mr Speaker, I would say: Where, where does basic human rights come into play? When can we quit kicking a man once he is down?

I urge a no vote on this censure recommendation.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, I thank the gentleman for yielding.

I am not on the committee, and 2 weeks ago I was arguing for fairness and spoke for the motion to continue this to a date certain. But this thing of fairness cuts both ways.

I have the utmost respect for the chairman and the members of the committee. They worked hard and they put together the documents and testimony in a 382-page report.

Now, the facts are, that the Member who is accused chose not to testify when this factfinding procedure was taking place. He denied the committee the right to cross-examine him. He denied the committee the right to find any rebutting evidence.

We were told 2 weeks ago, it was argued that we need to stick to this record because it was not fair to go outside of the record, and yet here today the first thing that happened is the Member himself takes the well and testifies on what is all new; that is all outside of the record. The Congress and the committee are put at the disadvantage of not having the opportunity to cross-examine the Member or to rebut what is said on the floor.

What conversations did he have with Lee Rogers? What dealings did he have? What did you do with the money? Why did you make the loans? Why did you repay them? Did you not repay them? Questions like that that would be asked on cross-examination.

I think a lot of interesting speeches have been made here, but I think the committee has been, and the Congress has been put at a serious disadvantage by the Member's technique.

Mr. SPENCE. Mr. Speaker, as I said earlier, I am sure most of you realize, on both sides of this question, that this is not a pleasant task. My colleagues, you as a House gave us the responsibility of doing the preliminary work involved here and bringing back our recommendation.

I can assure my colleagues no one has come up yet with some question that we have not raised and thoroughly discussed and debated and disposed of. That includes all the questions by the lawyers in this body who have been practicing law for a long time.

We have taken some abuse here today as a committee, and I might say on your behalf because we agreed to undertake this job for you. That is part of it. We expect to be used and abused by those people who would take this way of aiding the defense. It is easy to abuse and criticize someone who has a difficult job of doing what your committee has had to do.

I would say to you, that among lawyers, and I plead guilty to being one, some say that if you have a poor defense you have to yell, scream, and beat on the podium or the desk and then, when all of that fails, shift the blame to someone else. I submit that your committee and this body and this institution is not on trial today. Someone else is. Maybe another time, another day, but not today.

Someone has raised the question as to whether or not the Members of this body did not have the same rights, duties and privileges as other people at large in this land. I submit that we have a greater standard that applies to us, each and every one of us. We have additional rules we must abide by, ethical rules.

□ 1510

More is expected of Members of Congress by the people that we represent. They sent us here to represent them, and when we do something that is wrong, we reflect adversely on this body and all those people we represent. Our job, yours and mine, is to uphold the integrity of this body. If we do not, it reflects unfavorably on each one of us and all those thousands of people we represent.

I ask you this question: What do you expect us to do when we run across evidence of wrongdoing? I do not care when it was. Do you expect us to do, as we have been accused of doing—cover it up? Do not say anything about it? Then the story surfaces in the news media: They knew about it but they did nothing about it. We will be accused of covering up, and you will be guilty of covering up. It is your decision. Go back home and answer these questions to your people.

Mr. BENNETT. Mr. Speaker, I yield as much time as he may consume to the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Mr. Speaker, I will just touch on two points very briefly: First, to respond to the testimony of the gentleman from California (Mr. McCloskey) that was offered a little earlier this afternoon. What Mr. McCloskey pointed out was the source of the campaign funds in the campaign fund account of Mr. Wilson. But the point we are concerned with is the transfer from that campaign fund account to the office account then to pay for his personal expenses. For example, the first of the fundraisers occurred on February 26, 1971. On March 9, Mr. Wilson withdrew $10,283.35 for deposit in his office account, and on the day following drew the same amount of money, to the penny, and repaid a loan at the Imperial Bank. That loan was characterized on the loan approval and credit report as being for "personal expenses." Clearly, in the absence of even a single fragment of evidence that these funds were used for any other purpose, the committee is entitled to clearly and convincingly conclude that the funds were used precisely for the purpose stated on the approval of the credit report. I think the same rationale applies to the other counts dealing with the conversion of funds.

Let me finally just briefly mention the statements that have been made about this being a "mock trial," that we have "leveled all of the rules of constitutional procedure," and that we have abolished protection for Members of the House here. I think as a matter of policy we may want to change the way we have proceeded, and I have cosponsored H.R. 136 because I think as a matter of policy we ought to get Members of the House more involved in these ethics procedures rather than leaving it up to the committee to handle all aspects of these things. But I want to make it very clear to you that by cosponsoring that bill does not mean I have the slightest question about the constitutionality of the procedures of the Committee on Standards of Official Conduct.

There can be no question under the law that our proceedings are entirely constitutional. They are customary procedures that protect all sorts of professional organizations, medical societies, bar associations, and the rules which we follow offer every sort of protection for a Member, including adequate notice, the right to counsel, the right to challenge any member of the committee who he believes cannot make an impartial decision, the right of discovery, the right of cross-examination, the right to call witnesses and to offer evidence in his own defense. Mr. Wilson's attorneys were granted access to all of the committee's evidence in this case before the hearing commenced, and every motion filed, whether it was timely or not—and some were not timely—was heard by the committee. The committee granted his subpenas for all the witnesses that he requested. The committee granted every reasonable request of the respondent in this case.

These disciplinary procedures are not criminal cases. They are not the same. If they were, the ability of any institution to protect its own integrity would be in question. But the committee rules as applied in this case have been fair and certainly are in no way violative of due process.

The SPEAKER. The time of the gentleman has expired.

The Chair recognizes the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, I yield to the gentleman from Washington (Mr. Foley) for an amendment.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Foley: Strike out the second clause of House Resolution 660 and renumber the subsequent clause accordingly.

The SPEAKER. The Chair recognizes the gentleman from Washington (Mr. Foley) for 1 hour.

Mr. FOLEY. Mr. Speaker, in offering this amendment, which, in effect, strikes that portion of the resolution depriving the gentleman from California (Mr. Charles H. Wilson) of his subcommittee chairmanship and denying him any subcommittee or committee chairmanship in the 96th Congress, I wish to make a few things very clear: I am not in any way questioning the authority or the propriety of the Committee on Standards of Official Conduct in offering such a resolution; nor am I questioning the power of this House to act to deny any Member a subcommittee or committee chairmanship, or a ranking minority membership for that matter. This is not at issue in the matter before us today. What I am proposing with this amendment is a better policy—and I underline the word "policy"—for the House to follow, however it disposes of the matter of Mr. Wilson.

It has been a tradition of the House for nearly three-quarters of a century now to allow the party conference and caucus to make decisions affecting the appointment of their respective members to committees and the assignment of committee offices. It is important, in my judgment, to the proper execution of good legislation that the two-party system be respected in its privilege to make party choices regarding the essential committees on which Members serve.

If I may speak to my friends on the other side of the aisle—and it may well be at some time in the future that the Democratic Party is the minority—I would stress that it is particularly important for the privileges of the minority that the House respect your right to decide Republican committee assignments and leadership positions. It would be a dangerous precedent to encourage the House, however indirectly, to take a hand in deciding who the ranking minority member on a committee should be. That is a judgment that should be made only by the Republican Conference. For I would remind my friends that under the Rules of the House today only the minority leader or someone acting on authority of the Republican Conference can make any recommendation to the House at the beginning of a Congress with respect to minority assignments and ranking minority membership positions on the various House committees. It would require a two-thirds vote of the House to suspend the Rules to do otherwise. Moreover, a similar rule applies to Democratic assignments and positions to insure that both parties keep control of their own assignments. It is important, for the majority as well, protecting it against cross-party alliances that might interfere with its leadership decisions.

This protection of party control of committee assignments is not a question of petty prerogative but an important foundation of the two-party structure of the House that encourages careful and critical examination of public issues and legislative proposals. It supports open debate and honest resolution of matters before the House.

It is a privilege to be elected chairman or ranking minority member of a committee or subcommittee. Moreover, ultimately, it is the House which elects just as it is the House which has overall power to take that same privilege away. There is no suggestion to the contrary here.

Again, this amendment is not intended as a criticism of the Committee on Standards of Official Conduct. I have served on that committee and know the difficulty and few rewards that such service provides. Furthermore, I have nothing but respect for the Members, Democrat and Republican, who undertake this responsibility.

I urge you today to adopt this amendment which in no event can possibly change the outcome of this case because the Democratic Caucus on May 29 adopted rules which automatically remove any committee or committee chairman who is censured by a vote of the House or who is convicted of a felony. That is an automatic action subject only to the appeal of the Member involved. Within 15 days it becomes final. From then on, that person can neither exercise the powers of his former committee or subcommittee chairmanship nor assume the chairmanship of a new committee or subcommittee for the remainder of that Congress. Further, in the succeeding Congress, a person so censured or convicted may not assume any subcommittee or committee chairmanship without a special specific vote of the caucus permitting it.

Mr. FORD of Michigan. Mr. Speaker, will be gentleman yield?

Mr. FOLEY. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the distinguished gentleman for yielding.

On May 28, I was directed to, and did, hand deliver to the minority leader, the gentleman from Arizona (Mr. RHODES), to the Speaker, to the majority leader and to the majority whip, a letter which we had hoped would disentangle Mr. WILSON's matter from the overriding concern that was developing over the future procedures of the House with respect to committee assignments and committee chairmanships.

If the gentleman would yield further, I would be pleased to read that letter into the RECORD for the purpose, Mr. Speaker, of making it abundantly clear that the fate of CHARLES H. WILSON is in no way involved in the vote that is about to take place and is in no way a vote that can be construed as for or against the outcome of the case pending before us. The letter is addressed to the Speaker by the gentleman from California (Mr. CHARLES H. WILSON):

> H. Res. 660, the Ethics Committee resolution, In the Matter of Charles H. Wilson, is scheduled to be considered by the House on Thursday, May 29. The resolution is so drawn, however, that it could very well detract from the principle purpose for which it was reported: to have the House hear and decide on the merits of this case as presented by myself and the Ethics Committee.
>
> Subparagraph two (2) of this Resolution speaks of my removal from my subcommittee chairmanship position for the remainder of the 96th Congress upon the House agreeing to censure me for my alleged misconduct. This section will dilute the objective consideration of my position. This section adds another issue to the case, is redundant in intent, and obstructs a direct consideration of the facts involved.
>
> The parameters in which the debate must be couched is of paramount importance in what is a very personal matter. To facilitate a "singleness of purpose" in the debate, I must take whatever action is necessary to ensure that the institutional decisions of the body are separated from the personal nature of the resolution.
>
> My solution to this situation is simple. I will voluntarily step down from my subcommittee chairmanship immediately upon the the vote of the House to either censure or reprimand me for my conduct. This action will be irrevocable for the remainder of the 96th Congress.
>
> My utmost concern is to clear the record of the charges leveled against me by the Committee. By voluntarily stepping aside from the chairmanship, I hope to ensure that the House considers only the merits of my case and not be burdened with any other important institutional decisions.
>
> I would appreciate your consideration of this proposal. It is the only way that I can guarantee to myself that the House gives my case a fair and equitable review and vote.

I thank the gentleman for yielding.

Mr. FOLEY. I should like to assure the Members of the House that this amendment which I offer today is made as much as possible without reference to the present cause that is being considered by the House. It goes to the broader issue, and that is the issue of party comity; and that is an important issue not just for protection of the political parties of the House but for the protection of the legislative process.

It is important if we are to have effective debate and wise decisions on public policy that the individual parties are given and maintain the authority to make their own decisions with respect to important committee assignments and important prerogatives, including chairmanships and ranking minority memberships.

I might say that in adopting this amendment the House would lose nothing. If the gentleman from California (Mr. CHARLES H. WILSON) should be censured by the House, the operation of the Democratic Caucus would remove him immediately as the subcommittee chairman; and, in effect, the second part of this resolution is automatically involved. If any other action, such as a reprimand, is taken, the gentleman has already indicated his willingness to give up the subcommittee chairmanship.

It is for the House to decide on the recommendation of the committee, but this section is not a necessary part of that recommendation; and I think it would be wiser, as I have said, to expect the longstanding tradition of the House to apply by first allowing the parties to exercise their authority.

If there were a case arising in which, in the judgment of the House, a party were not acting properly with respect to a subcommittee or committee chairmanship or a ranking minority membership, the House would always retain the residual power to act, but this approach will discourage cautious interference. While I do not classify this as cautious interference, I nevertheless believe that we will discourage such intervention if we maintain, even in matters of such seriousness as the situation at hand, initial opportunity for the parties to enforce their own requirements and their own standards with respect to this vital area of decision.

I would hope that this amendment can be adopted without reference to the matter we try today and in recognition of a longstanding tradition, going back to 1911 and perhaps beyond, in which this House has respected the integrity of choice of the minority and majority parties over their respective offices and assignments.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Speaker, I thank the gentleman from Washington for yielding. I rise to speak in opposition to the gentleman's amendment.

The gentleman from Washington has made the point that the subcommittee chairmanship should be taken away not by the House but by the caucus. I believe

that is a mistaken view for several reasons.

I think the question that Members have to ask themselves today is, What institution is harmed by the misconduct of a Member?

I agree with the gentleman from Washington and the gentleman from Michigan that we are not here discussing the merits of the Wilson case, but if a Member has conducted himself in such a manner as to violate the rules of the House, then what institution is harmed? Is it the caucus or is it the House of Representatives?

☐ 1530

My view is that the institution that is harmed by the misconduct of a Member is the House of Representatives, and not the caucus. Those Members who seek to protect the caucus by arguing that the caucus and not the House should remove the chairmanship are protecting the wrong institution. The full House should act to restore threats to its integrity, rather than to leave that to a subgroup like the caucus.

Now, I recognize that this is a House composed of Members who are politicians, and that the argument based on the prerogatives of a caucus has great appeal. But, it is the House that is harmed when misconduct occurs. I commend the gentleman from Washington for his leadership in the Democratic Caucus when that caucus acted a few days ago to pass a rule to remove any censured Member from a committee chairmanship, but that is not enough. The understandable concern of many Members to protect the prerogatives of the caucus to name committee chairmen should give way in these limited instances to the need to restore confidence in the ability of the House to recognize misconduct and to punish misconduct of one of its Members.

I would venture the view that the acceptance by a subcommittee chairman of money, for example, from someone with a direct interest in legislation before the Congress does not raise doubts in the minds of most people about the integrity of the caucus. It raises their doubts about the integrity of the House of Representatives.

The gentleman from Washington claims that there is no reason for the House to strip Mr. WILSON of his committee chairmanship because, if he is censured, he will voluntarily resign, or that the caucus will strip him of the chairmanship automatically. But, I disagree with that observation.

Even though either of those alternatives would have the same effect so far as the makeup of the subcommittee is concerned, they will have quite different effects on the public perception of the ability of this House to act when wrong is done. The resolution before us today asks the House to take away the subcommittee chairmanship of a Member who accepted sums of money from someone with a direct interest in legislation before the Congress. If the House defeats this resolution, the American people will wonder why the full House thought that such a serious act did not warrant our taking away of the chairmanship. The gentleman from Washington correctly says that the Constitution vests the House—not some other body—with the power to punish its Members, and that is what this House ought to do if it finds the facts to be true as alleged.

The notion that the House of Representatives must depend upon some other subgroup, caucus or anything else, to restore its own integrity is demeaning to the House of Representatives. I urge the defeat of the amendment.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I have heard the argument of the gentleman from Indiana, and if this were a case in which the decision ultimately would result in the removal of a certain authority granted by the House which would not already be removed under party caucus rules, I would be somewhat persuaded by his argument. I am not sure that the House should in every case leave to the party the question of such removal of such a prerogative. But that is not the issue here.

The gentleman in the well has pointed out effectively that we have 75 years of precedent of not taking the kind of action that we would take here unless his amendment passes. Because it is not necessary to take that action at this time, and it is not necessary to anticipate the difficult question of what the House should do if a party caucus acts contrary to what appears a necessary House discipline of an errant Member or necessary to protect the integrity of its processes, I think we should do as courts do. I think we should avoid that which is not an essential element of the case before us here, and expunge from this resolution the matter that raises another and a very different point. The gentleman in the well, I think, is correct, that the question should be very, very seriously considered before the authority to act, at least initially, on positions controlled normally by the parties, be preempted by the House itself. At the same time, I can recognize the argument of the gentleman from Indiana that there may be cases in which this body should exercise the authority, whether or not the party wishes to do so.

I therefore urge that this body vote in favor of the amendment of the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I rise in support of the Foley amendment. I think it is self-evident that that is what we ought to do. However, I think that, to paraphrase an old English saying, "There is nothing more ridiculous than to see a congressman in a fit of morality."

This is what we are going to keep on getting into as long as we allow ourselves to have succumbed to what the gentleman who just preceded Mr. ECKHARDT, Mr. HAMILTON, obviously has given as the touchstone, because for all of our flailing and flaunting—as several of the other speakers have said—that is, "the public perception" of what we should do or should not do about cases involving the ethics.

We talk about precedents. Well, for 180 years or so, the House never bothered to construct such a committee as the Ethics Committee. Incidentally, I did not vote for it. I did not vote for the last resolution this House passed with only one dissenting vote—that was mine—because we set up a creature here, for example in the last resolution, in which this committee has the exclusive right to differentiate between the membership. We voted that this committee get certain material coming from such sources as the FBI, can exclude such information from its own membership or from any other Member of the House.

On what basis? On whose judgment? We do not say. We also gave this committee carte blanche authority to intervene in every judicial case it saw fit to intervene in. Yet, in that last resolution there was not a whimper or question, so that when it comes in now with a rather difficult joint recommendation or mandate, including what I think the gentleman from Washington has properly labeled as an unwarranted transgression into the privileges of the House, why should we be surprised?

We will not end this until we abolish this committee and put it under the jurisdiction of the Judiciary Committee of the House, where it properly belongs.

Mr. FOLEY. Mr. Speaker, in yielding to Members I will yield for debate only. I yield such time as he may consume to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding. I rise only for the purpose of debate. But, I would like to speak in opposition to the amendment because I perceive this, Mr. Speaker, as making this a partisan matter.

Now, the House has the right and the duty, in my opinion, to take whatever action it deems necessary; and if there is a finding of fault or guilt here, then it is the duty of the House to impose the punishment. It is not the duty of the Democratic Party then to go forward and impose punishment because of the finding of the House. By doing this, we make it simply and purely a partisan or Democrat versus Republican matter, and that is wrong.

☐ 1540

What we are doing here is making a determination of guilt or innocence, and then the committee has told the House:

> Based on your judgment, then we would recommend that this be the punishment.

To take it one step further, this House cannot force the Republican conference to pass a similar resolution—we no doubt would do so if faced with it—nor can the Republicans force on the majority party at this time the necessity to deny a chairmanship to any Member of its party. Therefore, it does not necessarily follow that a Republican in the same position would be denied. We do not have such a rule.

It should not be left to each party, then, to decide what to do to punish a

Member for violating the rules of the House.

I recall very clearly, going back to the matter of John Bell Williams, that he violated the rules of his party. He voted for BARRY GOLDWATER, and he violated party discipline and party rules, so they stripped him of his chairmanship and they stripped him of his seniority because it was a party matter; it was not a House matter.

There is a very clear distinction between the two matters, and I think we would be making a grave mistake in setting a precedent here and saying that "If you violate the rules of the House, then we will leave it up to your party to inflict the punishment."

Mr. Speaker, I thank the gentleman for yielding.

Mr. FOLEY. Mr. Speaker, before I yield further, I would like to respond to my friend, the gentleman from Alabama (Mr. DICKINSON), and to my distinguished friend, the gentleman from Indiana (Mr. HAMILTON).

I am sorry that I am such a poor advocate of my own amendment that I should be so fundamentally misunderstood as to suggest that this is a party matter. On the contrary, it is not and should not be a party matter. It is a matter for the House, and I was pleading not for one party or another but for the House in suggesting that this amendment should be adopted.

Indeed I would say to the gentleman from Alabama that if I were to plead for a party, it would be for his party because it is the minority party. His party suffers if it encourages a violation of tradition, in this case the tradition that we allow committee assignments and the awarding of committee responsibility to be handled, at first instance at least, within the party conference and within the party caucus. In doing so, we respect not merely a tradition but something which goes well beyond both tradition and the parties. It is an integral part of the power of the two-party system itself, which is the foundation of the House.

If I can say this to my friend, the gentleman from Indiana (Mr. HAMILTON), I agree with him that if a Member has discredited his office and his responsibility as a subcommittee chairman, committee chairman, or ranking minority member in such a gross way as to be guilty of the offenses that the gentleman mentioned—and I say this without particular reference to this case—then, of course, it is the House that is primarily affected, it is the House that is offended, and it is the House that has the right to redress. It is the House that has the power.

The House does not depend upon the party caucuses. If it allows in the first instance those party instrumentalities to take action, the House loses nothing, it depends upon nothing, it surrenders nothing, it concedes nothing, and it destroys nothing of its prerogatives or power. They can always be exercised, and in appropriate cases they would undoubtedly be exercised if the appropriate party conference or caucus failed to act.

We do no violence to the rights of the House to allow those party traditions to be first exercised before we move to the forum of the full House.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield, of course, to the distinguished minority leader.

Mr. RHODES. Mr. Speaker, I thank my friend, the gentleman from Washington (Mr. FOLEY) for yielding.

I agree thoroughly with everything that the gentleman has said since I came onto the floor. It is my understanding that the reason he has offered this motion to strike is for the purpose of preserving to the Democratic Caucus directly, and indirectly to the Republican Conference, the authority to make decisions concerning seniority and concerning positions on committees.

Actually, I think we should all bear in mind that not too many years ago the seniority system was inexorable, and that if a Member was a member of a committee and he had been here longer than anybody else, he was absolutely and perforce chairman of that committee. Some years ago both the Democratic Caucus and, prior to that—I might say, by 4 years—the Republican Conference decided that the conference and the caucus would elect the chairman or ranking minority member as the case might be, and this has been the tradition, that the parties themselves are the sole arbiters of the positions of their own Members on committees and on subcommittees.

I certainly understand why the gentleman has made his motion. It had been my hope that after the Democratic Caucus had moved to amend its rules, a new resolution concerning the gentleman from California might have been brought to the floor, one which did not have this provision in it, so that the striking of the provision would not have been necessary. That was not done.

Nevertheless, I do support the gentleman from Washington (Mr. FOLEY). I think this is an important matter, and, as the gentleman has said, it is more important for the minority that this be done than it is for the majority, because certainly the majority has the authority, if it ever decided to do it, to actually remove Members of the minority from a committee or to change the whole structure of a committee.

Mr. Speaker, I cannot believe that the Members sitting here in this Chamber at this time would do that, but unfortunately, all of the Members now sitting will not always be here. I think it would be a terrible mistake if we were to break the precedent that has, I think, been wisely established that this is a party matter. I hope that the amendment offered by the gentleman from Washington (Mr. FOLEY) will be agreed to.

Mr. FOLEY. Mr. Speaker, I am most appreciative of the remarks of the distinguished minority leader.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman for yielding.

I want to compliment the gentleman from Indiana (Mr. HAMILTON) for what I think was a very fine and lucid statement a moment ago as to the reasons for the rejection of this amendment. Let me make a number of points, if I may.

It is an institutional concern of the House of Representatives when the rules of the House are found to have been violated. A reference was made to 75 years of precedents. I would point out that it has only been in the past 4 years that the Ethics Committee, a bipartisan committee of this House, has taken seriously the task of examining violations of House rules by individual Members of the body.

I, by the way, applaud the fact that the committee has taken its task seriously enough to pursue serious allegations of wrongdoing or evidence of wrongdoing where those matters have arisen, and without hiding behind the technical requirements which the ethics committees of earlier years hid behind, namely, the requirement that a signed statement be made out by a Member of Congress against another Member.

It was several years actually that the Democratic Caucus took to act on establishing a proper and regularized procedure for chairmen to step down in the case of indictment or conviction or censure. The matter was placed before the Caucus at least 2 years ago by myself and some other Members, and for a while prior to that, when I raised the issue, I was told by some that it was not necessary to deal with it because there was not any particular problem. Then, of course, when individual cases did come up, I was told that it would be unseemly to proceed to establish a rule which might be or might give the appearance of being directed at the case of a specific Member.

So it was not easy to get that rule passed by the Democratic Caucus, and it was only a few days ago that the caucus in fact adopted the rule; and I am very glad that the caucus did that. But I would point out that the possibility always exists that the caucus could change that decision sometime in the future. I think that is unlikely, but the possibility does exist.

□ 1550

Clearly, both parties are going to continue through their caucuses to exercise the preference that they rightly have for the selection of chairmen and ranking members and for the assignments of Members to committees. I am sure and I am confident that most Members are confident that that process will be protected. But for both parties to protect their prerogatives in choosing Members to sit and chairmen and ranking members to serve, clearly there is a distinction between that and a case where a violation has been found to have occurred of the House rules, in which case I agree with the gentleman from Indiana that it is the House which should act in that case. The question, though, arises as to ranking minority members. And I have discussed this matter with the gentleman from Wisconsin. If the gentleman from Washington would yield to him for a question at this point, I would like to ask him whether in his judgment the kind of action that is being asked to take by the resolution from the Ethics Committee which is before it with respect to a committee chairman would also be an appropriate action, in the gentleman's judgment, with respect to ranking minority members if that should ever arise.

Mr. FOLEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I did not intend to speak on this particular question, since the gentleman from Indiana (Mr. HAMILTON) more eloquently stated my position that I could do so myself. I concur with the gentleman from New Jersey and the gentleman from Indiana that a question of ethical violations is one which should transcend the party caucus system.

So the answer to the question of the gentleman from New Jersey is clearly yes, that if the respondent in this matter were the ranking minority member of a subcommittee or full committee of this House, I believe the resolution of censure should include stripping that member of the ranking minority member's position.

Mr. MAGUIRE. I thank the gentleman.

Mr. Speaker, I do agree with the gentleman from Wisconsin and the gentleman from Indiana that this is a matter for the House to decide. I am glad that the gentlemen and I would hope that all Members from the other side would also agree that ranking minority members should be covered by exactly the same type of rules.

Mr. FOLEY. Mr. Speaker, I do not think there is any question that the Committee on Standards of Official Conduct which is the only committee whose membership is equally divided between the two parties, would act impartially with respect to a minority member or a majority member. I accept the view that the House is the institution primarily concerned with the ethical conduct of its Members. I accept the view that it is the integrity of the House which must be protected together with the rights of individual Members. However, under this amendment, nothing is taken away from the power of the House to make judgments on the ethical conduct of Members. Nothing is taken away from its ultimate power to decide subcommittee or committee chairmanships. Nothing is taken away from its right to determine the question of ranking minority memberships. It is a simple question of allowing a first effort or a first responsibility to be exercised by the party caucus or conference before the House steps in.

It might be useful for the Members of the House to at least have the first paragraph, the operative paragraph, of the new Democratic Caucus rules read, so that they might understand the reach of the provision. It is entitled "Automatic Replacement of Chairmen who are Censured or Convicted."

> (a) The chairman of a standing select, special or joint committee of the Congress or subcommittee thereof who is censured by a vote of the House, or who was convicted of a felony for which a sentence of two or more years imprisonment may be imposed, shall cease to exercise the powers of chairmen, shall be replaced in such position in accordance with Caucus rules, and shall not serve as the chairman of any committee or subcommittee for the remainder of that Congress.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I would like to make just one point, if I might. That applies to Democrats and chairmen, but I am not aware that there are any rules on the Republican side at this point which would deal with ranking minority Members.

Mr. FOLEY. I think the gentleman is correct, but if I may point out to him, some of the reforms of the party on the Democratic side followed decisions that were taken by the Republican Conference, as the minority leader pointed out. The Republican conference was the first to determine that Members be elected to the ranking minority position before our party took such action. So I have absolute confidence that in a situation involving a minority Member, the party conference on the Republican side would take its responsibility seriously, and I believe the gentleman from New Jersey shares that belief.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield for a question?

Mr. FOLEY. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the distinguished chairman of the caucus for yielding.

I am curious. If the gentleman's amendment passes, does this not in effect further limit the powers of meting out punishment of the Ethics Committee?

Mr. FOLEY. No indeed. I do not think that is correct.

Mr. FITHIAN. Does it not set a precedent?

Mr. FOLEY. Having served as a member of the Committee on Standards of Official Conduct, I have nothing but the greatest respect for the Members who undertake the responsibility of being on that committee. However, it is for the House to decide whether to accept, or to modify, or to reject the recommendations of the committee. I have said that I do not criticize, and this amendment does not criticize, either the power or the propriety of the resolution that has been brought before us today. I offer no criticism, explicit or implicit. I only suggest that it might be the better part of wisdom to respect a tradition which I think is important for the proper functioning of the whole House. That is all. The House, obviously, can make its own judgment.

Mr. FITHIAN. If the gentleman will yield further, it really does have the impact of setting the precedent for all time down ahead to deny the Committee on Standards of Official Conduct the right to mete out a removal of a chairmanship.

Mr. FOLEY. I am sorry to quarrel with the gentleman, but as the gentleman may know, it is not the Committee on Standards of Official Conduct that metes out punishment. It is the Committee on Standards of Official Conduct that recommends to the House such action, and nothing in this amendment in any way limits the power or reach of the Committee on Standards of Official Conduct to make whatever recommendations it deems appropriate to the House in any case. It is for the House to make the decision and not the committee. I have served on the committee, and I know that is the position of the committee and its distinguished chairman.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I support the gentleman's amendment. I would like to point out that I had some of the reservations that the gentleman from Indiana had. But what concerns me more is that if the amendment is not adopted and the resolution is passed upon as proposed by the Ethics Committee, this, I suppose, would mean that the Ethics Committee could therefore recommend henceforth, what would be traditionally henceforth, punishment not only on chairmanships, subcommittee or full committee chairmanships, but on membership on committees and things to that extent also. This bothers me, because that, too, is within the realm. And then it goes further. Would that same Ethics Committee, then, in the future also recommend that certain Members not be even elected to chairmanships of subcommittees or full committees? And I agree with the gentleman that this is a matter that traditionally should be left where it is.

Mr. FOLEY. I thank the gentleman.

Mr. FOWLER. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. FOWLER. I thank the gentleman from Washington, the distinguished chairman of the caucus, for yielding.

I do not think there is any question from this debate that the gentleman would agree that we are all trying to reach the same goals and to preserve traditions and preserve prerogatives of the caucus system of both parties in the House. But I ask the gentleman, and in asking him I show my prejudice about his amendment, as to why risk partisanship on the Committee of Ethics and Standards, however it is constituted? All of us appreciate the words that the gentleman has said on behalf of members of the committee on both sides of the aisle that we have thus far acted in a nonpartisan manner, but I am sure I speak for my colleagues in saying that we all hope that this cup will pass from us some day and that it will be someone else's turn to serve on this committee. It seems to me that the practical effect of the amendment, if adopted—and I say this with great respect for the gentleman from Washington—would be to risk partisanship in the deliberations of the one committee of equal representation that is charged with recommended punishment on disciplinary matters to the House.

Mr. FOLEY. I say to my friend, the gentleman from Georgia, that I am sorry I cannot agree with him; and I speak with some experience that, however painful, most of the Members do not have. I was his predecessor on the Committee on Standards of Official Conduct.

☐ 1600

I know the difficult responsibility. I know the circumstance of the committee.

It was my experience in all the time that I served that partisanship did not intrude, in the discussions of the committee.

I do not believe, however, that in giving some prior recognition to the Republican Conference and Democratic Caucus in carrying out their responsibilities over committee assignments and offices any element of partisanship would intrude in the deliberations of the committee.

While we have both had experience, I think the gentleman would agree that most Members cannot quite appreciate what service on the committee entails. I respect the gentleman's opinion as a member of the committee; but, as a former member myself, I respectfully disagree with him.

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the position taken by the gentleman from Indiana and the remarks made by the gentleman from Georgia. I do believe that the perception will be that the House is detaching itself from the authority to exercise the power that I think should be here and should not in an instance of disciplinary proceedings be reserved to one party or the other.

Mr. FOLEY. Well, again, I think the gentleman certainly is entitled to his judgment about what the perception will be; but the record should be clear that the authority of the House is paramount. The House gives up nothing, concedes nothing, and divests itself of nothing by accepting this amendment.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished minority leader, the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I just wanted to reemphasize what the gentleman from Washington just said. The House retains the authority to act in this matter in any way it sees fit. The fact that we now recognize, and I hope we will recognize, the fact that the Democratic Caucus has already acted and as the gentleman from Washington says, if a minority Member were involved, the Republican conference undoubtedly would act, does not foreclose the House from at some later date taking the matter away from the conference and the caucus.

I am in hopes it will not do that today.

Mr. FOLEY. Mr. Speaker, the gentleman is absolutely correct.

Mr. Speaker, I yield to the gentleman from California (Mr. Thomas).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the discussion by the gentleman from Indiana (Mr. Fithian) compels me to speak on this point and that is as a single member of the Ethics Committee. We spent a great length of time when we first met at the beginning of the 96th Congress discussing what various sanctions there were and what they meant. In examining a reprimand, a censure, and an expulsion, we discussed what other choices may have been made available to us; for example, a fine, which was levied against the gentleman from Michigan (Mr. Diggs).

In all candor, if the Democratic Caucus had acted in changing its rules prior to the decision of the committee, I think we would find that section 2 of this resolution would not be in the resolution.

So the question of various sanctions available to the committee would have been a function of the Democratic rules change anyway and would not have been before us, in my opinion.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for his comment. I think that if the gentleman is correct, that the committee would not have voted such a sanction had the caucus rule been in place, and he speaks with authority because he is a member of the committee, I see nothing to argue that this amendment should not be agreed to after the caucus rules have been put in place.

I might state for the record that before the recent change, it was a rule of the Democratic Caucus that a Member who was censured or convicted had to be brought before the caucus at its next regular meeting; and, at that time, a vote had to be taken. The difference between the old rule and the new rule is that removal is now instantaneous with a censure or conviction.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman.

When the gentleman first started speaking about his amendment, I have to say that I agreed with him; however, upon listening to the gentleman from Indiana (Mr. Hamilton), I am reminded of a number of conversations that we on the committee had about the possible penalties, as the gentleman from California pointed out.

I was also reminded that, in fact, we are dealing with an infraction against the House and not an infraction against the party. That is the sole essence of this amendment.

Mr. FOLEY. Mr. Speaker, I can say to the gentleman, that I know of no situation that involves a censurable action which would not, primarily be an offense against the House. I think that is an argument, which if I may say so, misses the mark.

We would not, through the adoption of this amendment, be suggesting in any way that the primary offense of misconduct is given to the Democratic Caucus or to the Republican conference to decide. Of course, it has been given to the House to determine if a Member should be found guilty of misconduct.

All the House would be doing by this amendment is utilizing the instrumentality of the party caucus or conference to express its sanction. That is an argument I agree with. I fully accept the fact that any offense of a censurable kind is first and foremost an offense against the House. The question, then, is, How will the House deal with it? Will it sanction it directly or allow the parties to do their work and accept their responsibility while preserving its ultimate power?

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will yield further, I suggest to the gentleman in answer to his question then that it is inappropriate for the House to delegate its duties to take action; that it is incumbent upon the House to take action to remedy that infraction of the rules.

Mr. FOLEY. Mr. Speaker, I say to the gentleman that nothing could possibly happen here to make this section operative in one sense, because the existing rules of the Democratic Caucus instantaneously remove a subcommittee chairman or a chairman who is censured.

One would have to argue some metaphysical question of which happens first, the House action or the automatic operation of the caucus rules.

The question is how to avoid doing unnecessary violence, unnecessary weakening of another important aspect of House privilege and House tradition, which is to respect the party comity in the appointment of committees and committee offices. That tradition is not principally for the benefit of the parties. It is first for the benefit of the legislative process; second, more than anything, it is for the protection of the minority, and third, it is for the protection of both parties.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I hesitate to become involved in the debate, because I am not a member of the committee; but I would like to make three brief points.

One is that I have the greatest respect for the gentleman, one of the most influential and decent people in the House; but I would have to differ with the gentleman on this issue.

I think the gentleman from Indiana, my friend from across the State line (Mr. Hamilton) has put his finger on the point. I think it is a matter of the House being at issue.

I would like to bring up one other point and that is that I am really surprised that the minority leader of the House, my friend, the gentleman from Arizona (Mr. Rhodes) would support the amendment of the gentleman, because if I understand correctly, minority ranking members would not be affected whatsoever, so that if the gentleman who is before this House for judgment were a ranking member of the party of the particular committee, as I understand correctly, the Republican conference has no rule, which means this individual would continue to operate as the ranking member of the committee.

Mr. FOLEY. Mr. Speaker, if I can interrupt the gentleman, that is only if you assume that the Republican conference would not take action in an appropriate case. I do not make that assumption. I make the contrary assumption and so has the distinguished minority leader.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. Yes.

Mr. RHODES. Mr. Speaker, the gentleman from Kentucky (Mr. Mazzoli), of course, is well aware of the fact that the Democratic Caucus did not have a rule like this, either, until after this resolution came out.

What makes the gentleman think that the Republican conference would not do exactly what the Democratic Caucus did if a Republican were involved?

Certainly I cannot promise for the other Members of the conference, but I certainly have no doubt that the Republican conference would take the matter up and would act as responsibly as I think the Democratic Caucus did.

Mr. FOLEY. Mr. Speaker, will the gentleman from Kentucky forgive me, but our time has eroded to the point where my commitment to the distinguished chairman of the committee is past due.

Mr. MAZZOLI. Mr. Speaker, could I ask the gentleman to yield for 30 seconds, would the gentleman just indulge me for 30 seconds?

Mr. FOLEY. Yes.

Mr. MAZZOLI. Mr. Speaker, will the gentleman then clear me up and I will leave the microphone, how the House if it were to adopt the amendment of the gentleman is not receding from its power and donating perhaps some of its powers?

Mr. FOLEY. Well, all the House would be doing is recognizing that in appropriate cases the party caucuses would be allowed to act on such a matter. The Democrats already have a set provision that automatically takes effect upon censure. The Republican conference I am absolutely satisfied would develop such if the occasion ever arose; so I am not troubled that the House in allowing the parties to act would retain all of its constitutional power. Nothing in this amendment detracts or could detract from the ultimate power of the House over its structure or the discipline of its Members.

The House would merely be using the caucus or conference as an instrumentality, rather than acting directly. I think that would be wise. The adoption of this amendment would in no sense be in derogation of the powers or the privileges of the committee on Standards of Official Conduct or the power of the Members to make any decision in an appropriate case they wish.

At this time, Mr. Speaker, I yield such time as he may consume, less 1 minute, to the distinguished chairman of the committee, the gentleman from Florida (Mr. Bennett).

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Mr. BENNETT. I thank my colleague for yielding.

My colleagues may wonder why the committee brought the motion like it did, and the reason was in the debate we felt that this was a valid penalty.

Previously this year there has been a censure of Mr. Diggs for taking money through the process of padding payrolls. In this case a more serious offense was involved. Rule XLIII, clause 4, says:

> A gift of substantial value from any person having a direct interest.

That was clearly proved, and the feeling of the committee was that something more onerous, more blameworthy than was the case of Mr. Diggs, who was censured. It was felt that it was sufficiently severe to warrant taking away the committee chairmanship from Mr. Wilson if it proved to be so.

Now, it is the law and I give the definition of the cases of court:

> Whether a transfer of money creates a bona fide debt depends on the existence of an intent by both parties substantially contemporaneous at the time of such transfer.

The proof in this case was that a multimillionaire was on the staff of Representative Wilson and he did not get off that staff until 1976, December of 1976. He went on that staff in 1971, and that is the evidence at page 191, and that also is the reason why this committee has a reason to bring this case before us in a timely fashion, because it is a clear-cut decision of law that when a thing has been continuous over a period of time that it can go backward in time if there has been some refreshening of it. It was fresh down to December of 1976.

That is one reason.

The other reason is because this procedure is analogous to the bar association in which statutes of limitation and laches do not apply. If Congress wants to apply one, it can.

That is the reason why we tied these things together, because we thought it was a serious charge.

What is the reason the chairman of the committee voluntarily agreed to allow this thing to come up, because we did not have to at all? The reason is because those in a partisan leadership position in Congress have a very definite feeling that this is a usurpation of their power. It is not the opinion of the Committee on Standards of Official Conduct that that is so, because actually all this does is remove one man from the qualification of sitting in one spot. That is all it does. There are hundreds of other men who could be given this post by party action; and the committee could not in any way affect them at all.

Furthermore, of course, in the final result it is a decision by the House. Furthermore, the rules of the caucus in no way affect the jurisdiction of the committee. That would have to be done by a rule of the House. If the House wants to say that the Committee on Standards of Official Conduct cannot act in this area, it should simply say so by a rule of the House or by statute. But just doing it by saying that the caucus can also do it does not accomplish anything.

So it seems to us that the penalties in this matter should be more severe than those of people who have been previously tried for lesser offenses, and we thought it was clearly proved. Therefore, we asked for this more severe penalty. We feel it is an appropriate thing to do.

Before yielding back to the gentleman from Washington (Mr. Foley) I want to conclude by saying I appreciate the dignity of the way this matter has been handled. We have all tried to be fair, and I hope whatever we do, we will go away from here with the feeling that we did what was just and right and our duty.

Mr. FOLEY. Mr. Speaker, I will conclude by saying again that this is in no way intended as a reflection or criticism of the recommendation that has been brought forth by the Committee on Standards of Official Conduct. It is merely meant to suggest that since the rules already in place in the Democratic Caucus would take away any subcommittee or committee chairmanship from any Member censured or convicted by the House, this particular title is unnecessary. In taking this action of leaving the title in the resolution, we tend to do violence to a very old tradition of the House which protects, first of all, the process of the House by which its two parties function effectively; second, and most important, the prerogatives of the minority, which is particularly vulnerable to invasion by majority judgment; and finally, the powers of the majority as well. It is a process that has served the House well throughout the time in which it has been in effect, and this tradition has been strong for almost three-quarters of a century.

I offer this amendment with the greatest respect for the Committee on Standards of Official Conduct. It is not for the Democratic Party or the Republican Party nor is it for or against Mr. Wilson. Instead it is on behalf of a process by which all Members of the House irrespective of party benefit that I ask that this section be stricken from the resolution.

Mr. Speaker, I move the previous question on the amendment.

The previous question was ordered.

The SPEAKER. The question is on the amendment offered by the gentleman from Washington (Mr. Foley).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 148, answered "present" 2, not voting 22, as follows:

[Roll No. 306]

YEAS—261

Addabbo
Akaka
Albosta
Alexander
Ambro
Annunzio
Applegate
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burgener
Burlison
Burton, Phillip
Campbell
Carr
Carter
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Donnelly
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Calif.
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fish
Foley
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gaydos
Gephardt
Giaimo
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Grisham
Guarini
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Hawkins
Heckler
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Ichord
Jacobs
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kogovsek
LaFalce
Lagomarsino
Leach, La.
Leath, Tex.
Lederer
Leland
Levitas
Lewis
Lloyd
Long, La.
Lowry
Luken
McClory
McDade
McEwen
McHugh
McKay
Madigan
Markey
Matsui
Mattox
Mavroules
Mikulski
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Porter
Price
Quillen
Rahall
Rangel
Rhodes
Richmond
Roberts
Rodino
Roe
Rose
Rosenthal
Rousselot
Roybal
Russo
Sabo
Santini
Satterfield
Schroeder
Sebelius
Seiberling
Shannon
Shumway
Shuster
Skelton
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Swift
Synar
Tauzin
Taylor
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Wylie
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—148

Abdnor
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Archer
Atkinson
Bafalis
Barnard
Bauman
Bedell
Bennett
Bethune
Bouquard
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burton, John
Butler
Byron
Carney
Cheney
Cleveland
Corcoran
Coughlin
D'Amours
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dickinson
Dodd
Dougherty
Downey
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Evans, Ind.
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gibbons
Gilman
Gingrich
Ginn
Gramm
Green
Gudger
Guyer
Hagedorn
Hamilton
Harris
Hightower
Hollenbeck
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson, Colo.
Kildee
Kostmayer
Kramer
Latta
Leach, Iowa
Lee
Lehman
Lent
Livingston
Loeffler
Lott
Lujan
Lundine
Lungren
McCloskey
McCormack
McDonald
Maguire
Marks
Marlenee
Marriott
Martin
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moore
Mottl
Neal
Nelson
Nichols
O'Brien
Oakar
Paul
Pepper
Petri
Preyer
Pursell
Quayle
Ratchford
Regula
Rinaldo
Ritter
Robinson
Roth
Royer
Rudd
Sawyer
Schulze
Sensenbrenner
Sharp
Shelby
Simon
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Studds
Stump
Symms
Tauke
Thomas
Trible
Walker
Weiss
Whittaker
Winn
Wolpe
Wydler
Yates
Young, Fla.

ANSWERED "PRESENT"—2

Long, Md.
Wilson, C. H.

NOT VOTING—22

Anderson, Ill.
Cavanaugh
Collins, Ill.
Davis, S.C.
Hefner
Heftel
Holtzman
Jenrette
McKinney
Mathis
Michel
Moffett
Nedzi
Nolan
Pritchard
Railsback
Reuss
Rostenkowski
Runnels
Scheuer
Thompson
Whitten

☐ 1630

Messrs. MICA, YATES, NEAL, TAUKE, and KOSTMAYER changed their votes from "yea" to "nay."

Mr. HINSON and Mr. SKELTON changed their votes from "nay" to "yea".

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. LIVINGSTON. Mr. Speaker, the charges against Mr. WILSON are contained in the original committee report, in the RECORD of May 29, 1980, and in the amended report.

There is no need to dwell on the facts. The record is complete.

Mr. WILSON is charged first with violating House rule 43, clause 4, in three counts, to wit: receiving gifts of substantial value from a person with direct interest in legislation.

The committee found sufficient evidence to prove clearly and convincingly that Mr. WILSON received three checks totaling $10,500 from Lee Rogers, and that Lee Rogers, whose principal business was a mail order operation, had a direct interest in postal legislation, over which Mr. WILSON, as a member of the Postal Subcommittee, had direct jurisdiction.

The question is whether the checks constituted "loans" or "gifts." The definitions of both were inserted by me into the RECORD of May 29, 1980.

The committee found that, although two checks were marked "loans," and Lee Rogers called them "loans," there was—

No written agreement;
No maturity date;
No interest:
No repayment schedule;
No attempt to repay; and
No demand to repay.

In fact, it was deemed totally unreasonable to believe them to be anything other than "gifts."

Hence, the committee found Mr. WILSON guilty of counts 1, 2, and 3. In counts 7, 8, 9, 10, and 11, Mr. WILSON was charged with five instances of syphoning off campaign funds for his personal use, in violation of House rule 43, clause 6. In fact, the committee found Mr. WILSON violated rule 43, clause 6 by convert- $25,383.35 of campaign funds to his personal use.

The checks show the transactions. The only question is this: Were they reimbursements for prior loans to his campaign?

Mr. WILSON did not testify, but he leaves the House with the clear implication that he is claiming they were reimbursement for prior loans.

Lacking any evidence to prove such is true, the committee found evidence to show clearly and convincingly that money was taken by Mr. WILSON strictly for his personal use, and that these funds were not campaign debts to him. There is no evidence at all to show they were campaign obligations to Mr. WILSON.

Moreover, documents introduced by Representative BILL THOMAS, show categorically, by Mr. WILSON's own hand, that in the only campaign preceding these transactions, the candidate, Mr. WILSON, contributed no money to the campaign. He loaned no money to the campaign, and the campaign was completed in the black, without debt. So there was no need for Mr. WILSON to loan the campaign money.

Now we hear that Mr. WILSON raised $15,727 in a fundraiser in February 1971 and $13.880 in November 1971.

Mr. WILSON would now have us believe that this money was raised to reimburse himself for out-of-pocket campaign costs or office expenses not reflected on his campaign documents—$25,383.35 to be exact.

This argument simply does not hold water, and is beyond belief for an average reasonable man. There are simply no documents which verify such out-of-pocket expenditures.

The checks supporting counts 7 through 11 make it abundantly clear that Mr. WILSON had personal obligations which had nothing to do with his campaign, and that he took the money from his campaign to pay them off.

Thus, there is ample justification to

support the committee's finding that Mr. Wilson is guilty of counts 7, 8, 9, 10, and 11.

He took the money;

He converted it to his own use; and

It was not for loans by him to a previous campaign.

I urge the committee to find Mr. Wilson guilty as charged and to censure him for his conduct.●

● Mr. HOLLENBECK. Mr. Speaker, I had not intended to speak again in this matter but am constrained to by certain further statements and allegations made by members and counsel since the beginning portion of this hearing.

Let me refer to statements by counsel at the June 5, 1980, hearing (transcript p. 26, 1. 12; through p. 27, 1. 20). These statements allude to his feelings that he was "sandbagged" by members of the committee and the House who "have taken the position that Mr. Wilson did not have a full defense, because certain documents, no evidence was put in, he only chose to call an abbreviated number of witnesses." (p. 27, 1. 4–6). Counsel's defensiveness surprises this Member since in reviewing the floor statements and dear colleague letters I find no allegations that Mr. Wilson "did not have a full defense."

On the contrary, counsel provided an outstanding defense. But simply put, on the basis of all the evidence adduced, the charges were proven to the committee by the "clear and convincing" standard and that proof is in the report of the committee.

This Member, in his initial remarks, enunciated his firm belief that the House should act on the record adduced at the hearings for two reasons—he was afraid of the introduction of additional evidence on the floor as was attempted by Mr. Wilson and Mr. Thomas and, second, he felt that the dignity of the House might be besmirched by additional allegations and statements made on the floor under the immunity of the speech and debate clause but not made under oath at the hearings. And after listening to the gentleman from Missouri (Mr. Clay) use unfounded and unsubstantiated statistics to attack the committee itself, I realize I should have had a third fear.

Let me say in closing that I respect the views of the gentleman from California (Mr. McCloskey) who, I add parenthetically, I agree with on several counts, and his basis for them. He, as I, and as I hope this body will have based our conclusions on the facts, on the record and not on extraneous material or on an unfounded attack on the committee's basic fairness.●

Mr. BENNETT. Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the resolution?

Mr. McCLOSKEY. Yes I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCloskey moves to recommit the resolution (H. Res. 660) to the Committee on Standards of Official Conduct with instructions to report the same to the House forthwith with the following amendment:

Strike out all after the resolving clause and insert in lieu thereof the following:

That Representative Charles H. Wilson be reprimanded.

The SPEAKER. The question is on the motion to recommit offered by the gentleman from California (Mr. McCloskey).

The question was taken; and the Speaker being in doubt, the House divided, and there were—ayes 67, noes 102.

Mr. FORD of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 97, nays 308, answered "present" 4, not voting 24, as follows:

[Roll No. 307]

YEAS—97

Addabbo
Akaka
Alexander
Annunzio
Badham
Bailey
Bevill
Biaggi
Brooks
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Clay
Collins, Tex.
Conyers
Corman
Daniel, Dan
Danielson
Derwinski
Early
Edwards, Calif.
Evans, Del.
Fary
Ferraro
Fish
Ford, Mich.
Ford, Tenn.
Garcia
Gaydos
Goldwater
Gonzalez
Gray
Grisham
Hammerschmidt
Hanley
Hawkins
Holland
Hubbard
Huckaby
Ichord
Jones, Okla.
Kelly
Kramer
LaFalce
Leland
Lent
Lewis
Lloyd
McClory
McCloskey
McEwen
Mikulski
Mineta
Mitchell, Md.
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Oakar
Pashayan
Patten
Perkins
Rahall
Rangel
Richmond
Roberts
Rodino
Rosenthal
Rousselot
Roybal
Russo
Satterfield
Smith, Iowa
Spellman
Stanton
Steed
Stewart
Stokes
Stratton
Stump
Taylor
Van Deerlin
Volkmer
White
Wilson, Bob
Wilson, Tex.
Wyatt
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—308

Abdnor
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Florio
Foley
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Howard
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCormack
McDade
McDonald
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Mottl
Musto
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Panetta
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rose
Roth
Royer
Rudd
Sabo
Santini
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Stenholm
Stockman
Studds
Swift
Symms
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Fla.

ANSWERED "PRESENT"—4

Beilenson
Dellums
Dixon
Ottinger

NOT VOTING—24

Anderson, Ill.
Boggs
Collins, Ill.
Davis, S.C.
Heftel
Holtzman
Jenrette
Kemp
McKinney
Mathis
Michel
Moffett
Nedzi
Nolan
Pritchard
Railsback
Reuss
Rostenkoswki
Runnels
Scheuer
Thompson
Whitten
Wilson, C. H.
Wydler

□ 1650

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution, as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BENNETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CENSURE OF REPRESENTATIVE CHARLES H. WILSON OF CALIFORNIA

The SPEAKER. Will the gentleman from California (Mr. Charles H. Wilson) kindly appear in the well?

Mr. CHARLES H. WILSON of California presented himself at the bar of the House.

The SPEAKER read House Resolution 660, as amended, as follows:

H. Res. 660

Resolved,

(1) That Representative Charles H. Wilson be censured.

(2) That upon adoption of this resolution, Representative Charles H. Wilson forthwith present himself in the well of the House of Representatives for the public reading of this resolution by the Speaker; and

(3) That the House of Representatives adopt the report of the Committee on Standards of Official Conduct dated May 8, 1980, in the matter of Representative Charles H. Wilson.

The SPEAKER. The matter is closed.

IN THE MATTER OF CHARLES H. WILSON

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, I wish to explain my vote on the matter of Charles H. Wilson. The confused procedural situation which existed at the time of that vote, I believe, necessitates this statement. I cast a recorded vote against the motion by the gentleman from California (Mr. McCloskey) to recommit and to recommend a reprimand in place of censure, and by voice vote against House Resolution 660, which censured Mr. Wilson. Those two votes reflected my firm belief that the evidence against Mr. Wilson did not rise to the standards of evidence required for either a reprimand or a censure.

As one who has served both as a prosecutor and as a defense attorney, I have the utmost respect for legal standards under which evidence is evaluated. We must adhere to those standards strictly if respect for the law—and in this case, for this body and its standards of ethics—is to be insured. In voting the censure of Charles H. Wilson without adequate evidence to support it, we have set a precedent that bodes ill for future proceedings.

In upholding standards of honesty in government, we must also be certain that we uphold our own standards and the requirements of due process.

Our House rules require that evidence offered to support disciplinary action against any Member must be clear and convincing. This standard of proof, the clear and convincing test, is a rigorous legal test of fact, and is required for either censure or reprimand. This test was not met by the evidence against Mr. Wilson.

Therefore, I could not vote in favor of either proposal to discipline him.

Though I voted against the McCloskey motion, I am in complete agreement with his basic arguments. When we examine the evidence, no clear and convincing proof of Mr. Wilson's alleged guilt is revealed.

The first three counts charged Mr. Wilson with accepting gifts from an inindividual with a direct interest in legislation. This individual was a member of his staff, one Lee Rogers, who gave Mr. Wilson three checks in 1971 and 1972. Mr. Wilson has said that the checks were loans; two checks bore that notation, and Mr. Rogers confirmed under oath that the checks were loans. It is important to note that Mr. Rogers had been granted immunity from prosecution when he testified to that effect.

But the committee rejected the testimony of Mr. Rogers—the only witness it heard. The committee concluded that the checks were gifts because none of the customary indicators of loans were present: No promissory note, no due date, no rate of interest.

Surely arguments can be made to support either side of the case. But neither side can cite clear and convincing evidence to prove its point. The evidence is evenly weighted, and evenly weighted evidence does not meet the legal test for conviction by this House.

Indeed, the evidence against Mr. Wilson rested on the lack of certain indicators, rather than positive signs of guilt. And the only witness' testimony contradicted the evidence used against Mr. Wilson. We should not judge anyone on this basis.

In the second set of counts, Mr. Wilson was charged with converting campaign funds for his personal use. The evidence supporting these allegations was also inconclusive, at best.

The committee concluded that the defendant used the funds to repay personal loans taken out during 1970. Nothing in the record, however, contradicts his claim that he was merely reimbursing himself for permissible campaign expenses incurred during that period of time. Again, the committee has not met the required test of proof.

The events of these charges occurred a long time ago—up to 10 years ago. In a criminal court, charges relating to these expenditures would be dismissed under the statute of limitations, which limits prosecution to a period of 5 years after the alleged offense. Though the committee is not bound by that statute, the concerns that dictated such a rule are relevant. Producing records from more than 5 years ago about specific expenditures involves obvious hardship, and may be impossible in many cases. The difficulty experienced by both Mr. Wilson and the committee in producing evidence on either side of this matter demonstrates the wisdom of the statute of limitations.

I must agree with my distinguished colleague from California (Mr. McCloskey) that the committee—not the defendant—should bear the burden of providing clear and convincing proof from up to 10 years ago. Such clear proof was not provided in this case.

We must adhere to the strictest interpretation of the standards we have adopted if we are to protect the integrity of this institution, and our ability to police ourselves. If we, as the lawmaking branch of this Government, cannot conduct our own proceedings with fundamental fairness, how can we expect our laws to be respected as fair and correct?

I believe that in the matter of Charles H. Wilson this body did not act according to the principles of our Nation's jurisprudence. I regret and oppose this ill-considered judgment in a most important matter of ethics. I hope that future cases involving our Members will be more equitably managed, and decided in conformance with the demands both of our rules and of fundamental due process.

ANNOUNCEMENT BY THE SPEAKER REGARDING RECORD OF PROCEEDINGS ON HOUSE RESOLUTION 660

The SPEAKER. The chair desires to make a statement regarding the record of proceedings on House Resolution 660, in the matter of Representative Charles H. Wilson.

Although unanimous consent has been obtained for several Members to revise and extend their remarks on this matter, it is essential that the Congressional Record contain as true and accurate a record of the proceedings as possible. All insertions and extensions not delivered in debate will appear at the end of the proceedings with a bullet symbol. The Chair trusts that Members will, in revising remarks they actually delivered in debate on this subject, confine their revisions to those which are necessary to correct technical and grammatical errors, and, consistent with the permission obtained by the gentleman from Florida (Mr. Bennett) on page 12656 of May 29, 1980, refrain from making any changes in the substance of debate.

PERMISSION TO INSERT EXTRANEOUS MATTER PURSUANT TO PROVISIONS OF THE REFUGEE ACT OF 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to insert extraneous matter into the RECORD, pursuant to provisions of the Refugee Act of 1980 (Sec. 201(b) of Public Law 96–212), notwithstanding the fact that the Government Printing Office has estimated the cost of printing such material will be $5,109.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONSULTATION ON REFUGEE ADMISSION PROGRAM FOR REMAINDER OF FISCAL YEAR 1980

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. DANIELSON. Mr. Speaker, on March 17, 1980, the President signed into law the Refugee Act of 1980 (Public Law 96–212) which provided a comprehensive procedure for the admission and domestic resettlement of refugees. The law itself, the accompanying legislative history and certain informal agreements reached in the full committee and on the floor set forth a consultation procedure to be followed with regard to refugee admission programs.

The legislation specifically requires the President to initiate consultation and report to the Judiciary Committee prior to the fiscal year "regarding foreseeable number of refugees" to be resettled during the fiscal year and "the anticipated allocation" of the refugee numbers. In addition, for the remainder of fiscal year 1980, the President was required to consult within a 45-day period after the bill was signed into law.

The act also envisioned the continuation of the traditional consultative practice employed in the past by the House Judiciary Committee involving "in person" discussions between a Cabinet official and the chairs of the full committee and the Subcommittee on Immigration, Refugees, and International Law, together with the ranking minority members of the full committee and the subcommittee.

The act also requires a hearing to review the proposed determination as discussed in the consultation sessions with the Judiciary Committees and the printing of the substance of the consultation in the CONGRESSIONAL RECORD.

In accordance with the requirements of the act, the Chairs and the ranking minority members of the full committee and the subcommittees met with Attorney General Benjamin Civiletti, Victor H. Palmieri, U.S. Coordinator for Refugee Affairs, and Nathan Stark, Under Secretary of HEW on April 22, 1980, to consult on the refugee admissions program for the remainder of fiscal year 1980.

In summary, the administration proposed the admission of 117,416 refugees for the last 6 months of fiscal year 1980 for a total refugee admission level for the entire fiscal year 1980 of 231,700. Their figures included 3,500 Cuban refugees to be admitted in response to the Cuban nationals who sought refuge in the Peruvian Embassy in Havana.

Following is a brief description of the major refugee groups covered by the administration's proposal:

A. Indochinese Refugees.—The proposal calls for a continuation of the 14,000 monthly level originally announced by the President in Tokyo last June. There are currently some 230,000 boat and land refugees in the various countries of first asylum in Southeast Asia—120,000 from Laos, 100,000 from Viet Nam, and 10,000 from Kampuchea (this last figure does not include the 150,000 Khmer refugees in Thai holding centers and several hundred thousand refugees clustered along the Thai-Kampuchea border). The number of Indochinese refugees in asylum countries has been reduced by 130,000 refugees since last summer, as a result of the expanded United States program (14,000 per month) instituted last October and the improved response of the international community since the Geneva Conference on Indochinese Refugees held last July.

B. Soviet Refugees.—The proposal calls for the admission of 15,000 such refugees for the last six months of FY 80 as compared to 18,000 for the first six months. The reduced flow is based on the recent decline in the number of Jews permitted to leave the Soviet Union. The Administration has indicated, however, that it is prepared "to consult with the Congress on additional refugee admission numbers" and to "seek additional funds" if there is an increase in Soviet emigration levels. In testimony before the Senate Judiciary Committee, Secretary of State Vance noted that they are prepared to take the aforementioned actions in order "to accommodate all Soviet Jews who seek admission to the United States." While the vast majority of Soviet refugees are Jewish, there are also Armenians and members of certain Christian groups who are also admitted under the Soviet program.

C. Eastern European Refugees.—The proposal calls for the admission of 3,000 such refugees for the second half of FY 80 (as compared to 2,000 for the first half). Romanian refugees are the largest group admitted to the United States under this program. It is estimated that approximately 1200 such refugees will be admitted this year. As the result of Most Favored Nation treatment granted to Romania under the Jackson/Vanik amendment, that country has permitted increasing levels of persons to emigrate. The Administration has indicated that they will consult with Congress for additional refugee numbers and funding if the level of Romanian emigration increases beyond current levels. Other Eastern European refugees who have traditionally been admitted, and will continue to be admitted, under this proposal are those from Czechoslovakia, Poland, Hungary, Bulgaria, and Albania. As with the Soviet refugees, Secretary Vance stated before the Senate Judiciary Committee that "the policy of the United States has been to accept all Eastern European refugees who wish to come to this country subject to eligibility under the law. The Administration proposes to continue this policy."

D. Middle East Refugees.—The proposal calls for the admission of 2,000 such refugees for the last half of FY 80 (as compared to 500 for the first half). These numbers will be allocated among several groups, but the primary beneficiaries will be Assyrian Christians who left Iraq and are now in Greece and Iraqi Kurds who are currently in Iran.

E. Cuban Refugees.—The proposal calls for the admission of 10,500 such refugees for the second half of FY 80. This includes some 7,000 under the "Old" program and 3,500 under the President's "New" program announced two weeks ago.

F. Latin American Refugees.—In addition to Cuban refugees, the Administration proposal calls for the admission of 936 refugees from Latin America for the last half of FY 80 (as compared to 64 for the first half). Under this so-called Hemispheric Program, political detainees in Argentina have been processed for entry into the United States as well as political detainees from Chile. At the current time, the government of Argentina has refused to permit the emigration of a large number of approved cases.

G. Haitian Refugees.—The Administration does not propose to establish any special program for Haitian refugees because of the State Department's position "that a significant number [do not] meet the eligibility requirement of the Refugee Act definition and [cannot] demonstrate that they are subject to political persecution in their homeland". The following excerpt from Ambassador Palmieri's submission to the Committee explains the Administration's policy with regard to Haitian refugees.

"We will continue our long-standing policy of examining on a case-by-case basis applications for political asylum from Haitians already in this country. We are fully committed to affording political asylum to all Haitians who qualify. We will also begin accepting applications from Haitians in third countries who wish to enter the United States as political refugees, and will examine each case on its merits. As with refugees from Latin America and elsewhere, we will consider admitting Haitians who are to demonstrate that they are unable or unwilling to return to Haiti because of a well-founded fear of political persecution, that they have a close association with the United States, that they have no other resettlement opportunities, or that there are other humanitarian reasons for admitting them to the United States as refugees."

H. African Refugees.—The proposal calls for the admission of 1380 such refugees for the last half of FY 80 (as compared to 120 the first half). The largest number of African refugees who will be admitted are Ethiopian refugees located primarily in Europe. There are smaller numbers of Ethiopian refugees in Somalia, Sudan, and Djibouti. During his Senate testimony, Secretary Vance indicated that the Administration plans to establish more comprehensive and equitable admissions criteria and that "we are strongly committed to expanding admissions of refugees from Africa". He also noted that INS will be establishing a presence in Africa and that "our experience in the coming six months should provide us with a sound basis for adjusting the (FY 80) number in calculating FY 1981 admission levels."

The following chart summarizes the total refugee admissions contemplated for FY 1980:

Area of origin	Approximate number admitted 1st half of fiscal year	Approximate number to be admitted remainder of fiscal year	Total number of admissions for fiscal year 1980
Asia			169, 200
Indochinese	84, 000	84, 000	(168, 000)
Other	600	600	(1, 200)
Soviet Union	18, 000	15, 000	33, 000
Eastern Europe	2, 000	3, 000	5, 000
Middle East	500	2, 000	2, 500
Latin America			17, 000
Cubans	9, 000	7, 000	(16, 000)
Other	64	936	(1, 000)
Africa	120	1, 380	1, 500
Subtotal	114, 284	113, 916	228, 200
Asylum status adjustments			2, 500
Total			230, 700

A full committee hearing to review the administration's proposed refugee admissions program for the remainder of fiscal year 1980 was held on April 30, 1980, to comply with the second consultative step mandated by the act.

A transcript of that hearing follows for the information of all Members of the House:

ADMINISTRATION'S REFUGEE PROGRAM FOR FISCAL YEAR 1980

U.S. House of Representatives,
Committee on the Judiciary,
Washington, D.C., April 30, 1980.

The committee met at 3 p.m. in room 2141 of the Rayburn House Office Building; Hon. Peter W. Rodino, Jr. (chairman), presiding.

Present: Representatives Rodino, Edwards, Conyers, Danielson, Drinan, Holtzman, Hall, Volkmer, Harris, Synar, Evans, McClory, Fish, Butler, Sawyer, Lungren, and Sensenbrenner.

Also present: Representative Fascell.

Chairman Rodino. The committee will come to order.

Mr. Danielson. Mr. Chairman, I ask unanimous consent that the committee permit this meeting to be covered in whole or in part by television broadcast, radio broadcast, and/or still photography, pursuant to rule 5 of the committee rules.

Chairman Rodino. Without objection, so ordered.

Mr. Sensenbrenner. Mr. Chairman.

Chairman Rodino. The gentleman from Wisconsin.

Mr. Sensenbrenner. A point of order. The committee is sitting this afternoon in violation of rule 11, clause 2(i) of the rules of the House of Representatives which provides that no committee of the House, with certain exceptions, may sit without special leave while the House is reading a measure for amendment under the 5-minute rule.

There was objection to the request made this morning by the gentleman from California, Mr. Danielson, for leave for the committee to sit today; and I believe that further proceedings today would be in violation of the House rules.

Chairman Rodino. Is anyone desirous of being heard on the point of order?

Mr. McClory. Mr. Chairman. A point of order. I would like to as what the statutory requirement is as far as our meeting is concerned, as far as hearing from the President with respect to the subject of refugees? I think the committee has a role, and I think we have a deadline to meet; is that correct?

Chairman Rodino. The gentleman from Illinois states the situation correctly. According to a provision of the Refugee Act of 1980, which was recently enacted into law, as Public Law 96-212, on March 17, 1980, section 207(d)(3)(A) reads:

"After the President initiates appropriate consultation prior to making a determination under section (a), a hearing to review the proposed determination shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals."

It is my understanding that the final date for a hearing is today since consultation will terminate as of May 1. The President may, notwithstanding the fact that we have not proceeded in accordance with the law, make a determination.

I think the committee is under a responsibility, since the committee saw fit to write this provision into the law. It must proceed in this manner if it wishes to be informed.

Mr. Sensenbrenner. Will the gentleman from Illinois yield?

Mr. McClory. I will be happy to yield.

Mr. Sensenbrenner. Mr. Chairman, I made this point of order not because I am opposed to the hearing on this very important issue, but in protest over the scheduling that has taken place this week in the committee. We spent all yesterday morning wasting our time in general debate over the regulatory reform bill, with no votes being taken and with very few members of the committee being present.

If there was a deadline of May 1, which is not set forth in the statute, it seems to me this hearing could have been held yesterday morning when the House did not go into session until noon and when the 5-minute rule on the budget did not begin until substantially thereafter.

I believe that the committee should follow the law which it itself wrote in requiring a public hearing; but again, because under the rules the need to sit was objected to, it seems to me very ill advised for the committee to go ahead even after objection was raised on the floor.

Mr. McClory. I would just say in connection with the point of order, that it is unfortunate that this hearing is scheduled at a time when many of us are very interested in the discussion that is taking place on the floor of the House of Representatives.

I don't want to argue with the gentleman so far as the subject of scheduling is concerned. I agree that we could have scheduled the regulatory reform meeting at another time. However, I would hope the gentleman would not object to this hearing this afternoon, because I think we have all the parties here; and I think we are all anxious to get the information from the Representatives that are here and fulfill our role, even though I think it is a very inadequate role.

I would offer an amendment to this legislation to the effect that we would have to give approval to these figures with regard to refugees; but notwithstanding that, we passed the bill in another form. I think this hearing is in order and appropriate. I think it would be very useful to all of us to have the information that we can get this afternoon.

Ms. Holtzman. Would the gentleman yield?

Mr. McClory. Yes.

Ms. Holtzman. Thank you. I would like to add a footnote to the gentleman's remarks. Tomorrow is the deadline under which the President must decide under the Refugee Act of 1980 how many and which refugees are to be admitted for the remainder of fiscal year 1980. If Congress and the public are to have any meaningful input at all in that decision through the public hearing process that was suggested by the gentleman from Illinois, Mr. Hyde, the hearing has to be held today.

Chairman Rodino. The Chair would like to state before ruling on the point of order recognizing that if the gentleman insists on his point of order the gentleman is within his right to do so, with regard to the questions he raised about the scheduling of legislation. Unfortunately this committee has considerable legislation that's just been reported out.

We make every effort to try to advise all of the members about the importance of all of the legislation and keep them advised. We don't have enough dates, actually to be able to fulfill all our requirements. I think that scheduling is a judgment that the Chair has to make: and it was made confident that we were giving the members sufficient time, to be informed and to meet other deadlines.

Insofar as this hearing is concerned, the Chair would like to state that if it is the intention of the gentleman from Wisconsin to persist, the Chair will rule: the Chair, however, will advise that we will hold the hearing immediately following the close of the debate on the floor on whatever legislation there is pending in order to fulfill the requirements of this legislation. I think it's imperative that this committee do that. I think we would be very remiss if we didn't.

Having stated that, I am prepared to rule, unless the gentleman is prepared to withdraw his point of order.

Mr. Sensenbrenner. The gentleman from Wisconsin has gotten the message from the chairman. Knowing the great desire of the members not to have to be paid time-and-a-half, I will withdraw my point of order: but let me state that my protest relative to the scheduling of matters in this committee remains.

I am sick and tired of coming here and participating in general debates and in markups with very few members of the committee, a bare working quorum present.

Let me state for the record that my charity of today will probably not be repeated if we spend long periods of time with 11 or 12 members in this room and a whole pocketful of proxies marking up legislation.

I withdraw my point of order.

Chairman Rodino. Thank you very much. The Chair will state that this hearing has been called in order to comply with the requirements of the Refugee Act of 1980 which requires a hearing by the Judiciary Committee prior to a Presidential determination for refugee admissions for the remainder of fiscal year 1980.

The other requirement as to consultation has already been complied with; and I believe that we are prepared now to hear from the witnesses who will present the administration's proposed refugee admissions program for the remainder of the fiscal year.

We are glad to welcome Ambassador Victor Palmieri, U.S. Coordinator for Refugee Affairs; and Undersecretary for Health, Education, and Welfare, Nathan Stark; and David Crosland, Acting Commissioner of the Immigration and Naturalization Service.

STATEMENT OF VICTOR H. PALMIERI, U.S. COORDINATOR FOR REFUGEE AFFAIRS, ACCOMPANIED BY DAVID CROSLAND; NATHAN STARK, UNDERSECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY ROGER WINTER, DIRECTOR, OFFICE OF REFUGEE RESETTLEMENT; AND DORIS MEISSNER, DEPUTY ASSOCIATE ATTORNEY GENERAL

Mr. Palmieri. Mr. Chairman, members of the committee. I am pleased to have this opportunity to consult with you, in accordance with the Refugee Act of 1980, on our plans for refugee admissions and resettlement assistance for fiscal year 1980.

The administration has long shared the views of this committee on the need for a more comprehensive and equitable basis for our refugee programs. We greatly appreciate your efforts to see this legislation enacted. And we look forward to working closely with you to implement the Act. The rapid evolution of the Cuban refugee problem in the last 2 weeks—and the policy issues it raises—are evidence of the long and difficult task we face together in determining the U.S. response to volatile and broad-reaching refugee problems around the world.

This afternoon I would like to focus on our basic approach to the growing refugee problem and then to address the major considerations which underlie our proposed fiscal year 1980 refugee admissions. Nathan Stark, Under Secretary of Health, Education, and Welfare, will discuss refugee resettlement programs. And David Crosland, the Acting Commissioner of the Immigration and Naturalization Service, and Doris Meissner, Deputy Associate Attorney General, are also here to answer your questions about admissions policies and procedures.

Let me begin with a few words about our overall approach to refugee problems. Through active diplomacy, economic and security assistance programs, and through practical support for human rights, we will persist in our efforts to resolve the conflicts and ameliorate the underlying conditions that give rise to large numbers of refugees. It is both in our national character and in our national interest to respond compassionately and sensibly to a mounting refugee problem.

Events around the world in the past few months vividly illustrate the magnitude and the complexity of the refugee problem confronting the international community. From Kampuchea, Afghanistan, Ethiopia, and many other countries, refugees totaling in the millions have fled their homes in the face of external aggression, political and religious persecution, and civil strife. They constitute a vast sea of uprooted, homeless, aggrieved people. We cannot be blind to their suffering, or to the consequences for stability and peace if we leave them to languish without hope.

In nearly every instance, an enormous burden has fallen on countries of first asylum—a burden most have borne with extraordinary compassion and generosity. But it would be unrealistic and unwise to expect that these nations can bear this burden alone. International efforts are essential, both to alleviate human suffering on a massive scale and to lessen the unsettling political, economic, and social tensions that large refugee populations can create for first-asylum countries.

Our initial objective in responding to specific refugee situations has been to join in international efforts to provide relief to the refugee in place—that is, in the countries of first asylum—and to promote voluntary repatriation of refugees where possible. Many nations have contributed generously—through the United Nations High Commissioner for Refugees, and in other ways. The United States has been in the forefront among contributors to these international relief efforts. Often U.S. leadership has been instrumental in generating the broad international response these situations require.

In some cases, however, resettlement of refugees is a practical necessity. Last spring, for example, thousands of Indochinese fled their homes by sea and by land, only to be turned back by neighboring countries overwhelmed by large refugee populations. President Carter's pledge to double our rate of resettlement of Indochinese refugees to 14,000 a month was a critical factor in generating new resettlement pledges by over 20 countries at the Geneva conference last July. Support from the international community encouraged Southeast Asian countries to begin once again to grant asylum to all new arrivals.

Against this general background, let me outline for the committee how we propose that the United States participate—consistent with the Refugee Act of 1980—in international resettlement efforts during the remainder of this fiscal year.

By eliminating the previous geographic and ideological restrictions on the granting of refugee status, the act enables a more flexible system for refugee admissions and assistance. We intend to avail ourselves of this flexibility to establish admissions criteria that are as comprehensive and equitable as possible. In doing so we will pay close attention to the resettlement needs of refugees in regions not explicitly encompassed by the prior legislation.

Let me be frank in pointing out, however, that it will take time to translate the goal of greater equity into a workable system. Many of the factors which contributed to our previous refugee admissions practices will of necessity continue to play an important role for some time. Indeed, these factors should be taken into account as we strive to define the elements of a more equitable system.

Among the considerations which have helped shape our admissions proposals for fiscal year 1930 are the following:

We must continue to be sensitive to the needs of refugees with close ties to the United States. We will remain dedicated to reuniting families and to aiding those who have had past employment ties to the United States.

Where the United States has stood uniquely as a symbol of freedom from oppression for a particular group, we must respond to their understandable aspirations for safe haven in our country.

We must consider how our participation in refugee resettlement efforts can further our broader foreign policy objectives—for instance, by promoting the stability of friendly, democratic governments in countries of first asylum.

And we will continue to be guided by our assessment of the opportunities for resettlement in other countries, and the practical limits of U.S. resources, also.

In fiscal year 1980 we propose to admit into the United States 231,700 refugees. This figure includes over 114,000 refugees admitted before April 1 under previous statutory limits and parole programs authorized by the Attorney General and appoved by the Congress. For the second half of the fiscal year, we propose to admit approximately 117,000 refugees.

Let me briefly review the major groups of refugees we propose to admit and the considerations underlying these proposals.

In Southeast Asia we face a human tragedy of staggering dimensions. The enormous Indochinese refugee burden is also a continuing challenge to the stability of neighboring nations. Therefore, we propose to continue to resettle 14,000 Indochinese refugees per month in the United States—a total of 168,000 this fiscal year. This level would continue the admission rate pledged last year by President Carter and previously authorized for fiscal year 1980 under the Attorney General's parole authority, with congressional concurrence. In addition to the major humanitarian dimension of this commitment it is an important, tangible demonstration of U.S. support for the ASEAN nations.

At the Geneva conference last year, the world community more than doubled its resettlement offers and the Vietnamese pledged an end to forced departures. Since the conference, the rate of new arrivals of "boat people" has declined. Resettlement in third countries has increased. This has somewhat eased the burden of first-asylum countries. Boats of refugees are not now being pushed back to the sea.

Nevertheless, the situation remains grave. In addition to some 150,000 Khmer in temporary holding centers in Thailand, some 230,000 Indochinese remain in refugee camps. Many of those in refugee camps have been waiting for resettlement for as long as 5 years. Without sustained resettlement commitments from the United States and other countries, these people face a bleak future—an existence without hope. Many are haunted by the prospect of forced repatriation, with persecution and possible death in their homelands. Flagging international interest, a sharp new influx of refugees, or new tension in the region could prompt changes of policy toward the refugees by the countries of first asylum.

I want to point out that most of the Indochinese refugees we propose to admit this year have ties in the United States—relatives already in this country or past associations with the U.S. Government or U S. institutions. In addition, we propose to admit a substantial number of refugees who have been languishing for years in refugee camps and have no other resettlement prospects.

Let me note that some of the Vietnamese qualified for admission by virtue of family ties or political persecution may come directly from Vietnam to the United States, if the Vietnamese authorities permit the planned "direct departure" program to go forward. We have now agreed on a list of over 1,000 qualified persons, as the Vietnamese have insisted. We hope many of them will be allowed to leave soon. Any people leaving Vietnam under the orderly departure program will count against our quota of 14,000 Indochinese a month.

We are also proposing to admit 1,200 other Asians, principally Chinese who have escaped from the People's Republic of China and sought temporary refuge in Hong Kong.

From the Soviet Union and Eastern Europe, we propose to admit 33,000 to 5,000 refugees, respectively.

It has been the policy of the United States to offer a haven to any refugee from the Soviet Union who wishes to resettle in this country. This will remain our policy. We deplore the restrictions by Soviet authorities that have resulted in a recent decline in the number of Jews allowed to leave the Soviet Union. Should these restrictions be eased and the trend reversed, we are fully prepared to consult with the Congress immediately on additional admissions and the necessary funding to accommodate all Soviet Jews who seek admission to the United States. We also anticipate admitting Soviet Armenians and other Christians who wish to resettle here, as well as Eastern Europeans of diverse backgrounds who have suffered discrimination in their homelands.

We propose to admit 20,500 refugees from Latin America. This figure includes 19,500 Cubans, other, of course, than those who are now on our shores under the current Cuban emergency.

The United States has a long and proud history of aiding Cubans fleeing repression under the Castro regime. To date some 800,000 Cubans have resettled in the United States. In recent years, Cuban refugee admissions have been limited primarily to former political prisoners and their families, and to cases involving family reunification. Persons in these categories will continue to comprise the bulk of the Cuban refugees we will admit directly from Cuba or from third countries.

The rush to the Peruvian Embassy compound in Havana nearly 2 weeks ago by some 10,000 Cubans seeking asylum was stark evidence of the oppressive conditions under which Cubans are living. The number of those Cubans who expressed a desire to come to the United States is proof that our country remains a strong symbol of freedom and safe haven.

Since we first consulted with the ranking members of this committee on April 11, the Cuban situation has obviously changed dramatically. After several hundred Cubans from the Peruvian Embassy had been flown to Peru and Costa Rica, Castro cut off the airlift and left as the only avenue of escape departure from the port of Mariel in boats provided by friends and relatives in the United States. This inhumane act has forced thousands of people to risk their lives at sea. We do not know how many people have drowned during the last few days of rough weather, nor do we know how many more lives will be lost before Castro relents and provides a more orderly means of departure, such as airlifts to resettlement countries.

In the meantime, almost 4,000 Cubans have reached the United States, and there is evidence that additional tens of thousands may be setting out for our shores in the coming weeks. Their sudden arrival in this country without proper screening and documentation presents serious legal as well as humanitarian problems for which we were frankly not prepared. The Cuban-American community, State and local officials, HEW and the voluntary agencies are helping to meet the immediate humanitarian needs of these people—although resources are rapidly being exhausted. With the full cooperation of the White House and the Federal Emergency Management Administration, we have mobilized various Federal agencies to provide emergency assistance in Florida. We are currently working on a range of immediate steps to care for the Cubans, including the creation of reception and processing centers. Given the expected numbers of arrivals and the support system needed to relieve the burden on the local communities and provide for orderly processing, it is clear that we will soon have to seek supplemental funding from the Congress.

We also believe that special legislation may be necessary to resolve the legal status of the Cubans arriving directly from Mariel. One alternative may be special legislation on this question.

For the moment, they are granted a 60-day parole with deferred inspection. During that time they must apply for political asylum under the procedures of the Refugee Act, like any alien without proper documentation who wishes to seek refuge here because of a well-founded fear of persecution in his or her country of origin. As you know, asylum procedures involve a careful case-by-case review, and the process can take months under the best of circumstances. The Refugee Act does not authorize assistance to those awaiting final action on asylum claims, except those who applied by November 1, 1979. Clearly these provisions were not written with the kind of situation in mind that we face today. We intend to keep the Congress fully informed on the evolution of this problem, as well as our plans to deal with it. We welcome your thoughts on ways to respond to this situation humanely and expeditiously.

Since the Cubans are now arriving directly on our shores without the proper screening required by our laws, we are not proposing to accommodate them in refugee admissions numbers we presented to you last week. They will be treated as political asylum cases, which are not included in authorized refugee admissions by the Refugee Act. At the same time, we are preserving the 3,500 refugee admissions numbers we added to the proposed annual flow from Cuba when we invoked emergency group admissions procedures at the beginning of this crisis. We will need some of these numbers for Cubans airlifted to Costa Rica who qualify for the U.S. resettlement program because they meet the refugee definition and are former political prisoners or have close family ties to the United States. We also expect to use some of the numbers allocated for Cubans within Cuba who meet the above criteria, as stated in the consultation document. Finally, the proposed number could be used for others leaving Cuba directly for the United States if we are successful in convincing Castro to begin a more orderly and humane program of official departures.

With this current influx of undocumented arrivals fleeing from Cuba, we are experiencing the pressures of being a country of first asylum—a burden that we have borne before in our history. Like scores of first-asylum countries around the world today, we will be generous; we will be sensitive to the basic human desires that motivated their flight; no boats will be turned away; and no one will be returned to a country where he or she might face persecution.

In addition to Cubans, we anticipate admitting 1,000 other refugees from various parts of Latin America. These include former political prisoners and Central Americans fleeing civil strife in their homelands.

We are strongly committed also to expanding admissions of refugees from Africa. The geographical restrictions in the previous legislation severely limited the number of Africans who could qualify for refugee status. Nearly all of those who did qualify came from the Horn of Africa, defined by the prior legislation as a part of the Middle East. The Refugee Act of 1980 eliminates this restriction, making it possible for refugees in any part of Africa to apply for admission. The Immigration and Naturalization Service currently is developing temporary procedures for reviewing applications for Africans, pending the establishment of an INS presence in Africa.

We propose 1,500 admissions this fiscal year for African refugees. This level constitutes a threefold increase over the last fiscal year. It is our best estimate of the number who will wish to apply for and will qualify for refugee status during this fiscal year. Our experience in the coming 5 months should provide us with a sound basis for adjusting this number in calculating fiscal year 1981 admission levels.

We shall also maintain our longstanding policy of resettling persons fleeing political and religious persecution in the Middle East. We propose to admit a total of 2,500 refugees from this region. This reflects a growing demand for resettlement among religious and ethnic minorities in the region, such as Christians from Iraq. Internal repression, and now the Soviet invasion of Afghanistan has also created large numbers of Afghan refugees, some of whom are also seeking admission to the United States.

Mr. Chairman, we recognize that there remain large regional disparities in the numbers of proposed refugee admissions. Considerations I have noted compel these disparities for the present. As I have indicated, however, we are determined to develop a system which permits refugees in all parts of the world to apply freely for admission to the United States and to have their applications fairly considered.

In addition to the refugees we propose to admit into the United States from abroad, the act also authorizes an adjustment to permanent resident status of up to 2,500 persons in the United States granted political asylum at least a year ago. These 2,500 would bring to 234,200 the total number of refugee admissions and adjustments for this year.

We also expect to use the authority under part B of the refugee definition to provide in special circumstances for the admission of certain political prisoners and others released directly from their country of origin, specifically those leaving Vietnam. Argentina, and Cuba, as noted in our consultation document. We will also be alert to ways of extending this provision to other political detainees who may be released in the future.

The cost to the Federal Government of processing, transporting, and initially resettling these refugees in the United States will be approximately $267 million for fiscal year 1980. We estimate that domestic assistance—funded through the Department of Health, Education, and Welfare—will cost an additional $243 million. A number of other Federal agencies will incur lesser expenses for providing services to these refugees. It is still too early to tell what the Federal costs will be of assisting Cuban and other asylum applicants. We will keep the Congress informed on these costs as estimates become available.

It is important to note that the private sector, particularly voluntary agencies, contribute generously to refugee resettlement programs. Our ability to work closely with dedicated private organizations and individuals has helped to make resettlement a remarkably effective process.

In the coming months, I will be working with officials in the Departments of State, Justice, and Health, Education, and Welfare—and with the Congress—to refine the admissions criteria and procedures needed to implement the new act. As I mentioned, we will be consulting with you on a regular basis on the evolution of the Cuban problem and legislation or other provisions necessary to resolve their status and provide them assistance. We will also be making a special effort to assure equity of treatment for all asylum applicants.

Mr. Chairman, the refugee admissions I have discussed constitute a major commitment by our Government and by the American people. Helping these persecuted and uprooted persons begin new lives in our country will require the creative use of limited resources. But I am confident that our Nation, which provided a new life for our forefathers, will faithfully uphold this humanitarian tradition and meet this challenge. I would be happy to answer your questions.

Chairman RODINO. Thank you, Mr. Palmieri.

We will hear next from Mr. Nathan Stark, Undersecretary of Health, Education, and Welfare.

If you will, Mr. Stark—you may either read your prepared statement in full or summarize it for insertion in the record, in the interest of expediting the proceedings so the members may have an opportunity to ask questions.

Mr. STARK. I will do that, Mr. Chairman.

Chairman RODINO. Thank you very much.

Mr. STARK. Let me first introduce Roger Winter, on my left, our Director of the Office of Refugee Resettlement.

Mr. Chairman, members of the committee, I appreciate this opportunity to appear before you today in response to the mandate for congressional consultation in this Act. I am going to be very brief. I will just pick out highlights of this statement which in itself is quite brief; but I am going to give testimony today focusing on four major areas: Fiscal aspects of the refugee assistance program, including current availability of funds; the new 1981 budget request occasioned by enactment of the Refugee Act of 1980; the status of funding for social services in the current fiscal year; and our estimates of costs for assisting the additional 3,500 Cuban refugees whom President Carter has authorized to enter the United States.

Under our current continuing resolution, the refugee program is authorized to spend funds to aid Indochinese refugees based on 14,000 admissions monthly. We believe the

1980 budget has sufficient moneys to provide basic assistance to newly arrived Indochinese refugees. The only problem is social services, which I will allude to later.

We also have before us a fiscal year 1980 supplemental request, primarily to address activities which are not covered by our current appropriations. This is a $100 million supplemental.

I won't go into the details of what that will provide. They are also in my prepared statement.

In the fiscal year 1981 budget, we are asking for $693,457,000 for the new Refugee Act of 1980. Since that budget was prepared, there have been dramatic events concerning refugees, as well as the arrival of Cubans on our shores.

These events have not been reflected in the 1981 budget that Congress has before it now. We are not yet able to estimate the impact of these changes due to the many uncertainties, such as the rate of refugee flow, the timing of entry, the level of their education and occupational skills, and the States in which they will settle.

As I indicated earlier, the current fiscal year 1980 appropriation is sufficient to meet the needs of the Indochinese refugees in all areas except social services. Our 1980 budget contains $57.5 million for State-administered social services for refugees. At the beginning of the fiscal year, the States had estimated that they would spend about $90 million for social services and that they desired Federal reimbursement for this level.

In the past, quarterly grants to States for the Indochinese program provided a total amount with no earmarks on individual components. That is, States could distribute their total share of funds among cash assistance, medical assistance, and social services programs.

Each State's allowance was based on the total of its estimates in the need for each of these areas.

With the Refugee Act of 1980, we have some fiscal management requirements which are retroactive to October 1, 1979, and thus does not afford the same flexibility for expenditures among the categories as in previous years.

Specifically, social services were placed under an authorization ceiling of $200 million separate from cash and medical assistance and administrative costs.

The new law requires identification of how much a State is allowed to spend for social services; and we intend to monitor closely individual State spending for these services.

On the 3,500 Cuban refugees to be admitted into the United States, an estimated 10,000 Cuban refugees who want to flee Cuba entered the Peruvian Embassy compound in early April. The President announced that the United States would admit up to 3,500 from that group.

The first preference for admission is given to those refugees with family members already living in the United States.

Little is known about the demographic makeup of this group of refugees, or new arrivals, but State Department officials expect that they represent a cross section of the Cuban population.

At this time we cannot make a firm estimate of the costs until we learn more about these refugees.

I think that in sum gives you a capsule of what I had. I am looking forward, as our Department is, to working closely with members of this committee and State Department officials to determine an appropriate response regarding the status of Cubans and other groups seeking asylum in this country.

Thank you for allowing me to appear, Mr. Chairman. I would be happy to answer any questions you may have.

Chairman Rodino. Thank you very much. We will proceed with questioning. I recognize the gentleman from Illinois, Mr. McClory. We will adhere to the 5-minute rule.

Mr. McClory. Thank you very much, Mr. Chairman. I do have a couple of questions.

One question is directed to Ambassador Palmieri. One of the most touching experiences I have had when I chaired an all-day meeting of the Select Commission on Immigration and Refugee Policy in Chicago just a week ago Monday, was from a woman who is Vietnamese and her husband who was an American GI. The Vietnamese woman worked in our American Embassy and married the American GI over there. She's been here now for, I think, 3 or 4 years.

Members of her family are still in Vietnam.Very tearfully she complained that she was unable to get them over here; and her husband feels very unhappy having devoted himself as a combat member of the Armed Forces in Vietnam.

I am trying to assure them that we were trying to process especially members of families and trying to provide reunification of families under our policy, and that that was the first priority.

Are we without access to consular officers or personnel to process visas on behalf of these Vietnamese personnel, members of families?

Mr. Palmieri. You are speaking of people who are in Vietnam now?

Mr. McClory. Right.

Mr. Palmieri. That is the subject of our orderly departure negotiations which I mentioned in my testimony.

Following the Geneva Conference, we engaged in discussions in part on a direct bilateral basis, in part through the UN High Commissioner for Refugees and we have continued those negotiations with the Vietnamese now for many months.

I have participated in them personally. We have made some progress but it has been painfully slow.

We now have about 1,300 names which the Vietnamese—and we have agreed upon for interview in South Vietnam. We have a voluntary organization representative standing ready to go to Ho Chi Minh-Ville to interview as a prerequisite for flights into Ho Chi Minh-Ville with U.S. Consular officers who would then be in a position to process and take off with the planeloads on the same day.

So far the Vietnamese have not granted permission for our intermediary to proceed to Ho Chi Minh-Ville and complete the preliminary interviews, so that we can fly in the consular officials. There are, apparently, as many practical problems standing in the way of this process from the Vietnamese standpoint, in terms of conditions within South Vietnam and particularly conditions within Saigon, as there are policy problems.

Mr. McClory. You don't have any time estimate as to when we might be able to——

Mr. Palmieri. I was in Bangkok in mid-January. I was having discussions with the Vietnamese authorities there, when we succeeded in agreeing on a basic process. We made the match-up of some 1,300 names within a few weeks afterward. It is now late April and we still do not have permission for our intermediary to proceed. We have no indication either, Congressman, that the other countries who have similar discussions are doing any better. In fact, they have not made as much progress.

Mr. McClory. When we met earlier, I asked about what was the difference between the 10,000 Cubans in the Peruvian Embassy and the rest of the Cubans, all of whom appear to be repressed. You estimate there might be 10,000 more who would want to come in boats and that we would provide asylum. Why do you think there are only 10,000? Why aren't there a million?

Mr. Palmieri. Congressman, I am not sure I understand your reference to my testimony. There were 10,000-plus Cubans within the Peruvian Embassy compound in Havana who were the subject of our actions and the staging area of Costa Rica. I don't know of another 10,000 figure.

Mr. McClory. How many do you expect to come by boat?

Mr. Palmieri. I didn't make that statement, sir.

Chairman Rodino. The time of the gentleman has expired.

I am going to recognize the chairperson of the Subcommittee on Immigration, Refugees, and International Law, Ms. Holtzman.

Ms. Holtzman. Thank you, Mr. Chairman.

Mr. Palmieri and the other witnesses, I appreciate your testimony. I think this is an important and historic hearing. I have a number of questions, but I would like to focus immediately on the Cuban issue, because I just returned today from a visit to Miami and Key West, where I spent this morning and last night. I am deeply concerned about what I saw there.

I saw, on the one hand enormously impressive efforts by the local Cuban community, both in Key West and Miami, to help in the resettlement of their compatriots. They are doing a marvelous job. I met refugees who clearly were fleeing political persecution. I met refugees who were clearly seeking family reunification. I saw families with immense joy at being in the United States after trying to get here for many years.

I also met, however—and this is a matter that concerns me—people who could be termed "common criminals." I met 17 people who were detained in a Federal correctional institution, and I met others coming directly off boats who said they had been in prison.

I met a young man who said he had been imprisoned twice for petty theft. His story disturbs me the most.

He said he was taken to a central processing area in Cuba where there were approximately 700 other ex-prisoners, and they were told by the Cuban authorities, "Either go to the United States now or face jail." When I asked him whether anybody picked the alternative, facing jail, he laughed. He said not to his knowledge.

I don't know if this man's statement is true: but I do think that it represents a serious problem when virtually every single adult male I questioned this morning in Key West said that he had served a term in prison.

We do not have, according to the Immigration authorities in Miami, an adequate procedure to screen and monitor those who are coming in.

I, therefore, want to urge you immediately to set up a screening and holding center at Eglin Air Force Base or some other facility. I think this should have been done before and I would like to know what assurances you can give to me and this committee at this point about this matter.

Mr. Palmieri. Let me give you this assurance: that this has been the focus of our Federal effort over the past few days. We have a naval air station at Key West which is currently fully deployed with military maneuvers; and we are, therefore, in the process of setting up—we hope within the next 24 hours—an airlift from Key West to a military base which can serve as processing, holding, and detention for the people that you mentioned. That is the highest priority in the picture.

I would also like to ask Mr. Crosland, from the Immigration and Naturalization Service, to respond with respect to the problem of screening and detention on reception in Key West, which I totally agree with you is a priority issue for us. It is a cause of major apprehension in that community.

We have augmented the numbers of officers, but I think Mr. Crosland, who is in the front line of that problem, should answer.

Mr. Crosland. Ms. Holtzman probably knows better than I, from her firsthand observation, what is actually happening there. For the benefit of the committee, we have detailed 100 border patrolmen into the Key

West area. We are screening persons as they come off the boat as well as we can as to whether they have a criminal record.

We have sent in, are sending in, some 15 vans and 35 sedans and will segregate those persons who seem to be criminals from the rest of the population coming over on boats, and will then transport them up to Miami for separate processing.

I have asked that those persons who are being held on account of their being excludable under the immigration laws for criminal records—I have asked that I get a detailed report on each individual. We certainly do not want to be in the position of holding persons who have a criminal record if it's a political crime such as speaking against the state or perhaps getting extra food or something like that.

We don't want to be in that posture. I have asked that we screen those kinds of persons very carefully.

However, given the present setup, we do rely upon what people tell us; not only the persons who are interviewed but what other persons tell us who come in. Certainly having a separate location, as you have recommended and we have been exploring and looking at that with the other agencies—the Department of Defense—it would provide an opportunity for a more leisurely screening, more thorough screening, and an opportunity to interview other persons who are coming in more thoroughly as to the nature of their companions on the boats.

One thing that is of interest: Last night we had 25 boats come in. Of that number, eight of them came back empty; and the reasons reported were that the Cuban Government was overcrowding the boats, and also the expense to the captains of staying in Cuba for some period of time seemed to be a factor.

It is clear that some of the people are going to pick up friends and relatives, and it is clear that some of these people, as you indicated, are being forced on the boats by the Cuban Government.

Ms. Holtzman. May I just ask Mr. Palmieri to be as specific as he possibly can with regard to when this facility is going to be set up?

I think, Mr. Crosland, from my conversations with the Immigration people in Florida that they cannot conduct adequate screening under the present arrangement. Even with hundreds more people it will continue to be inadequate unless there is a different kind of procedure. When will this Air Force base be available, and which Air Force base will it be, Mr. Palmieri?

Mr. Conyers (presiding). I regret to note the gentlewoman's time has expired.

Ms. Holtzman. I would ask unanimous consent to proceed for 2 more minutes.

Mr. Conyers. What I would propose we do now, if it meets with the concurrence of the committee, is that we suspend for 15 minutes and then regather after the Mitchell substitute, which is the record vote pending on the floor, after that has been disposed of.

Mr. Conyers. What I would propose we do floor, after that has been disposed of.

Without objection, and with the concurrence—we hope the witnesses will excuse us for just a short recess for purposes of a vote.

[Recess.]

Mr. Conyers. May we come to order.

The gentlewoman from New York may continue. She is recognized for 2 additional minutes.

Ms. Holtzman. I had already addressed a question to Mr. Palmieri. I would appreciate his response.

Mr. Palmieri. Let me assure you, Congresswoman Holtzman, that I am advised as of this moment—as a result of a consultation that's been in progress with the officials who are working on the problem—that we can assure this committee we will have a facility opening within 24 hours. We can assure you that we will keep pace with the problem; but I am not in a position to tell you which facility it will be. I don't even know myself at this time. They have identified one and are working on it.

Ms. Holtzman. You don't know the location?

Mr. Palmieri. I do not know myself at this point.

Ms. Holtzman. A facility has been identified, is being prepared, and will be available for use within 24 hours?

Mr. Palmieri. I have just been assured of that in order to answer your question on the latest and best information I could get.

Ms. Holtzman. The statement I heard when I arrived was that a press conference had already been held in Florida by the person in charge of the Federal task force. He said Eglin Air Force Base had been decided on. You are saying that is not correct at this moment?

Mr. Palmieri. First of all, I didn't hear the press conference. That's Tom Casey, head of the Federal Emergency Management Administration team down there, working on the problem. I did not hear the press conference. I do not know if it's Eglin. I do know that I am authorized to assure you that there will be a facility in operation within 24 hours and that we will keep pace.

Ms. Holtzman. Well, I hope you can advise us as soon as you find out which facility that is.

The screening problem raises a larger issue—that is the nature of the exodus from Cuba. I think it is clear that leaving in small boats creates a risk to life, and it is also clear that leaving without prior screening by U.S. officials means we take the risk that we will have criminals and other types whom we do not want to admit to this country coming here.

Can you tell us specifically what steps have been taken to try to deal with the Cuban Government directly to establish an orderly, regularized flow from Cuba?

Mr. Palmieri. To my knowledge there are no steps taken to deal with the Cuban Government directly at this time. The information that I gave earlier this morning at a press briefing was apparently in error when I said I thought that the first inquiries had been raised with respect to that. I want to assure you, however, that the question of how to accomplish what you are talking about is uppermost in the minds of this Government; but there is, at this time, a real question as to how that should be pursued and whether direct negotiations such as you suggest would have a counterproductive rather than a helpful effect.

Ms. Holtzman. I did not mean to limit my inquiry to direct negotiations. I am asking about any kind of negotiations, dealings or contacts, direct or indirect, through third countries or otherwise, to begin to establish an orderly outflow from Cuba as opposed to what we have now.

Mr. Palmieri. I see. First of all, we have continued to follow up with our discussions in relation to the possibilities of Costa Rica and Peru succeeding in resuming the airlift, in securing approval of the Cuban authorities to the airlift. They have been conducting those discussions with the Cuban Government.

We have continued to be in touch with the Costa Ricans and the Peruvians. We have, as you know, a staging area in Costa Rica, if that air shuttle is resumed.

The second thing that you may be interested in, in response to your question, is that we are considering the possibility of an immediate conference with our friends in Latin America and other regions which would consider this whole problem and which would open up precisely the question you asked.

Mr. Conyers. The time of the gentlewoman has expired.

Before I recognize our colleague from New York, Mr. Fish, might I just direct this question that I think needs some clarification.

Both Haitians and Cubans are refugees in an economic sense, are they not? Are they treated on quite different bases. Mr. Ambassador?

Mr. Palmieri. The Cubans who are arriving on our shores by small boats today are not refugees in the sense of the Act. They are applicants for asylum, at least potentially. They are paroled into the country on the basis of a 60-day parole with deferred inspection. So that both Haitians and Cubans who arrive here in undocumented status are essentially candidate for asylum.

The Refugee Act is aimed at persons either within their country or outside their country who are subject to screening and processing outside of the United States; and come here as refugees after a determination of their status.

The question of how the Cubans who are arriving here now and how the Haitians who are arriving here now will be regulated may be an issue that can be covered under the present Refugee Act. We will be consulting with the committee on this. It is being studied. It could possibly be a subject of special legislation.

Mr. Conyers. The Haitians are not receiving—are they eligible for social services in the same sense that the Cubans are?

Mr. Palmieri. Candidates for asylum who arrive here in undocumented status are not eligible.

Mr. Conyers. Neither are?

Mr. Palmieri. Correct.

Mr. Conyers. I want to pursue this line of questioning, but I want to recognize the subcommittee members, and I yield now to my colleague from New York, Mr. Fish.

Mr. Fish. Mr, Ambassador, when we met April 22, a week ago, in consultation with members of this committee, as I recall most of our talk was in terms of Haitians. The Cubans were just beginning to land. I see from your testimony that you now state that 4,000 have landed.

I would like to support Ms. Holtzman's comments here that it seems to me we have at present the worst situation possible.

I certainly approve of efforts to get other nations involved; but I hope that it won't take as long to determine whether or not the Cuban authorities will allow people to leave, to go to the third countries, other than the United States. I really question whether or not we shouldn't be thinking in terms of processing in Cuba itself and to regularize the flow coming from Cuba if—as I understand it—that is what they would support.

It certainly seems to be a better situation than that we have today.

As far as the processing is concerned, I understand that we are paroling in Cubans for deferred inspection, for a period of 60 days, during which asylum claims will not be considered for those 60 days; is that correct? Is that what our processing is?

Mr. Palmieri. The asylum claim is considered after inspection is completed. It is then reviewed by the State Department after the Immigration Service has completed its proceeding.

Mr. Fish. During the 60-day period?

Mr. Palmieri. The State Department review takes place after.

Mr. Fish. That's my understanding.

What I have difficulty understanding is in the treatment of these people's asylum cases. I understood we have had negotiations dealing with political prisoners released since 1978; and then there were negotiations dealing with prisoners released prior to 1978, and that some 2,500 have been committed, and some 7,000 remain. Would those people be considered refugees or would they be considered asylees?

Mr. Palmieri. Congressman, those political prisoners are part of our regular refugee admissions program and are part of the 19,500 that we have described in testimony.

Mr. Fish. How many political prisoners are there in Cuba today?

Mr. Palmieri. Political prisoner petitions? I understand about 15,000. Let me ask Mr. Scully if that's correct.

About 15,000.

Mr. Fish. So we have two pieces of legislation to deal with this problem: The Refugee Act and the Immigration and Naturalization law? If 19,500 can be refugees, and the balance are political prisoners, then you have, I suppose, a 20,000 limitation on the rest, of which we have 15,000 petitioners?

Mr. Palmieri. That excludes the immediate relatives.

Mr. Fish. How many more would that be?

Mr. Palmieri. Let me ask Mr. Scully to make an estimate of immediate relatives.

Mr. Scully. Mr. Fish, I don't have an estimate of the total number of immediate relatives registered in Havana. The incident has been approximately 100 a month. We have no indication of any administrative backlog. I would assume there are probably not more than several hundred immediate relative petitions there.

Mr. Fish. Beyond those who really qualify as refugees and beyond the ones we have in the Immigration pipeline, the rest of the people are just the ones that Mr. Castro said could leave the country? Is that it?

Mr. Palmieri. Yes, sir.

Mr. Fish. Are not members——

Mr. Palmieri. Some of them, of course, are people who were in the Peruvian Embassy. Did you mention that?

Mr. Fish. They are in a different category?

Mr. Palmieri. Those in the Peruvian Embassy would count against the 3,500 numbers about which we initiated consultations on emergency group admissions.

Mr. Conyers. Your time expired a little while ago. Perhaps a subsequent colleague would yield.

The gentleman from Virginia, Mr. Butler, is recognized for 5 minutes.

Mr. Butler. Thank you, Mr. Chairman.

I appreciate the work you are doing. I don't envy you your job. The problems that these circumstances are creating seem to multiply every day. I thought when we passed the Refugee Act and established the numbers and the procedure for expanding the numbers that we were putting ourselves in a position where Congress would make the policy as to the numbers.

Now, all of a sudden it's slipping away from us under this emergency.

We are talking about the Cubans. We are not talking about the numbers, the procedures under the statute. On page 12 you say they will be treated as political asylum cases. Of course, that provision is made for asylum procedure in the Act. The act, section 208 (a), says the Attorney General shall establish a procedure for asylum; and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines such alien is a refugee.

We come back to the basic point of the legislation and, of course, to the policy of this legislation: That you have to be a refugee, and Congress has to decide how many refugees there are.

I don't think the Attorney General has had time to establish this procedure since the act, but there was one kind of in place before.

Where does the 60-day parole, for example, come from, the 60-day parole with deferred inspection?

Mr. Palmieri. That's simply temporary parole to permit deferred inspection. It does not constitute legal admission to the United States. Under the Attorney General's discretionary authority—let me ask Mr. Crosland to speak to that.

Mr. Crosland. The temporary parole is merely for the purpose of allowing the various intelligence agencies adequate time to screen the individuals.

Mr. Butler. So that's something you pulled out of the air? That's not part of the established procedure? That's what you had to do because of the tremendous influx?

Mr. Crosland. Right.

Mr. Butler. I certainly think that's reasonable. What it does do is lead us to the ultimate decsion: That you are going to have to insist that each one of these people apply for political asylum; and from there you have to proceed on a case-by-case determination. Is that the plan of the administration at this point?

Mr. Palmieri. I would say that's the process dictated by the terms of the Act. That is to say, asylum process is necessarily a case-by-case process which applies to undocumented aliens who are in this country. Obviously, this Act was not drafted to deal with a problem of this magnitude. We have been thrown a curve in terms of the mass of people arriving here in undocumented status. And it may well be, as I suggested in testimony, that the Congress may want to act on this in some special way.

Mr. Butler. I think, with all due respect, that's where we disagree. I think the Act was passed with the view that Congress would determine the number. It does call for consultation and hearing. We are not going through consultation at the moment with respect to Cubans beyond the 19,500.

It seems to me that what really concerns me is that this situation is getting out of the control of everyone, but the people are showing up; and we don't have the temerity—certainly I wouldn't have the courage to turn them back, especially after all the things we said to the Malaysians.

What efforts are being made, if you could outline them for us, to discourage this immigration, to discourage the use of our boats to bring them in? Are we confiscating boats? Are we finding the people?

I wish you would address that aspect of it, even though I judge from your testimony you don't sympathize with that aspect.

Mr. Palmieri. I don't want you to have the impression that I am unconcerned about the impact of these flows on our own country, our own communities. I will tell you that there are many officials and many members of the community in South Florida who are concerned.

Our problem has been to deal with the realities of the situation; and these involve an extraordinarily emotional response on the part of the Miami Cuban community to the opportunity for long-deferred family reunification.

On the other hand, this Government is not in a position to take a vacation from the responsibility of enforcing the law. What is required in the guidance that the Attorney General has issued is a general statement that we intend to enforce the law, the continuation of the application of the civil sanction, applicable under 1323 of the Criminal Code, applying a $1,000 fine for every undocumented alien brought back. Those citations continue to be issued.

But I want to be quite clear with you that the enforcement process, in going beyond that to the question of seizure, question of arrest, is being implemented in a way which takes account of the fact that when a community is in an emotional state one of the products of enforcement activity which is not careful can be major disobedience, civil disorder, and we are not going to solicit that kind of a response.

We believe the situation, incidentally, Congressman, is cooling. We believe the problems that Congresswoman Holtzman related about the individuals whom Castro is forcing into this flow are giving great pause now to members of the Cuban-American community in Miami.

We believe that this will have important results; and just as enforcement authorities have had to do in high-tension community situations many times in the past few years, we are seeking to uphold the integrity of our immigration laws. We are maintaining the responsibility of the community and of Federal agencies to enforce the law. We are trying to take account of the fact that we have difficult problems of emotions and our enforcement should be aimed, in this instance, at people who are in aggravated cases, where they endanger the safety of the individuals, where they are profiteering, and otherwise.

My understanding from Mr. Crosland is that three boats have been seized in exactly those circumstances; is that correct?

Mr. Crosland. That's correct.

Mr. Conyers. The gentleman's time has expired.

Once again we have a record vote that requires the presence of all Members on the floor for the Synar substitute. If the witnesses will indulge another brief recess, we will resume immediately after this vote.

[Recess.]

Mr. Conyers. The committee will come to order.

Before recognizing my colleague from Massachusetts, Mr. Drinan, I wanted to ask the Ambassador if he wanted to make any further distinction between the assistance being provided the Haitians and the Cubans that are coming to these shores.

Mr. Palmieri. Mr. Chairman, I will ask Under Secretary Stark to take the question.

Mr. Conyers. All right.

Mr. Stark. As far as I know, we are not making any distinction. As far as the Haitians are concerned, they are seeking a legal opinion as to what their status is. I would assume that whatever status is given to the Haitians, whatever status is given to the Cubans, if it's the same they will be treated exactly the same.

Mr. Conyers. Information is coming in that requires a lot more time to that question. I yield to the chairman of the committee, Mr. Rodino.

Chairman Rodino. Mr. Secretary, isn't it true, though, that in the case of the Haitians they are treated on a case-by-case basis, and there is a distinction. Presently, according to some of the opinions that have been handed down—and this is the opinion in the State Department that Haitians, in most instances, have been looked upon not as refugees in the terms in which we understand them and define them, but as those who have need because of economic reasons rather than political reasons.

Isn't that the case right now?

Mr. Stark. Mr. Chairman, as far as HEW is concerned, the policy determination is a responsibility of the Justice Department. I can assure you we will carry out whatever the mandate is.

Chairman Rodino. Well, do you know what the mandate is?

Mr. Stark. Perhaps the INS can answer that.

Mr. Crosland. Mr. Chairman, we are treating Cubans and Haitians the same in the processing. They will all have to file a claim for asylum, if they have a fear of persecution; and that claim for asylum will be presented to the State Department for review, and then will come back to INS for a hearing in an exclusion proceeding.

They will have the burden each, of going forward and proving that they would be in fear of persecution.

Mr. Conyers. The chair recognizes Father Drinan.

Mr. Drinan. Thank you. First, I want to

commend you for the extraordinary work you continue to do on behalf of the Vietnamese refugees. I wish more time were available today to go into some of the problems and what the Congress could do. I know on a continuing basis we will try to assist them in this difficult role.

I want to introduce, Mr. Chairman, also an inquiry from our colleague, Congresswoman Shirley Chisholm. Let me read one sentence and ask them not now but for the record to repond:

"I thought you might be interested in the fact that Latin America, with the exception of Cuba, is slated for only 1,000 refugees for fiscal year 1980. As a member of the Black-Hispanic Coalition—"

And I rise this question on behalf of Congresswoman Shirley Chisholm and ask the witnesses to respond in due course.

I would ask unanimous consent that a letter I sent to Ambassador Palmieri the other day, along with a memo from Amnesty International, be made part of the record. These relate to the whole question of the admission of refugees who are prisoners of conscience within their countries.

Mr. Conyers. Without objection, so ordered.

[Information to be furnished.]

Mr. Drinan. I would be happy to yield to Congressman Fascell of Florida.

Mr. Conyers. We welcome our colleague from Foreign Affairs whose interest in this matter is quite apparent. He has represented his district in Florida for lo these many years. Welcome to the committee, Mr. Fascell.

Mr. Fascell. Thank you, Mr. Chairman. Let me thank the members who have given me this opportunity today not only to speak but also to thank the gentlewoman from New York, Ms. Holtzman, for having traveled to my District in order to look directly at the problem. I would invite all members of the Judiciary Committee to go to the area and view the situation in order to better understand, and assess the problem after having had the opportunity to see the difficulties of processing and providing assistance and after talking with individuals who are involved in the community as well as the people who are themselves entering the country. In this way, I believe the members will be more fully aware of the problem itself rather than only the historic responsibilities of this committee with respect simply to whatever the law happens to be.

I agree, of course, that the letter of the law as it treats alien status is a matter of consideration for which this committee has high regard. I do think that it is important for the maintenance of national policy. We should either respect the law or change the law.

Therefore, I obviously believe that a determination of status is vital. However, I would like to ask the director at this point whether in light of the previous statement concerning a case-by-case determination for asylum, applications: Isn't that policy negated if the Federal court makes a contrary decision in the Haitian case?

Mr. Crosland. This——

Mr. Fascell. By the way, I might add for the record that at the present time my opinion is that the Federal order now barring deportation in effect permits people to enter the United States under color of law. Lawyers can argue about that point for a long time, I'm just venturing my opinion. As long as the Federal order remains in effect saying no Haitian can be deported because of the class action now pending, then it appears to me that there is no way that the other arm of the Federal Government, which has the responsibility, can enforce the law until that matter is resolved, unless this committee is going to change the law and disenfranchise for the particular lawsuit. I can sympathize with your problem.

Isn't that part of the issue on how to treat the problem of either refugees or asylees?

Mr. Crosland. As a matter of law, it's obvious that, under the new refugee legislation. Haitians and Cubans who come here shall be treated the same; whereas in the past Cubans were not treated the same as Haitians because the law was not the same.

We are, therefore, processing them identically within INS except that persons who come from Cuba are interviewed and we get extensive biographical data on them to determine whether they would be a security risk since they come from a Communist country which does not have diplomatic relations with us.

Mr. Fascell. Let's proceed to the issue of how you determine numbers of refugee entries as far as this committee is concerned in being responsive to the dictates of the law. The numbers on refugees are quite clear: 50,000 within the 320,000 worldwide limitation. But there are additional numbers for various categories, whatever they are under the law—which I gather are two exceptions. For fiscal 1980 the numbers are used up on a 50,000 limitation, from the time that the law went into effect until October 1. Am I correct? Are the numbers used up in the 50,000?

Mr. Palmieri. We have certainly admitted more than 50,000.

Mr. Fascell. Agreed. Therefore, if you want to go above the 50,000, as I understand it, the 3,500 number picked for the Cuban refugees in the Peruvian Embassy was within the exception provided for in the law; correct? Isn't that the matter of colloquy here?

Mr. Palmieri. Correct.

Mr. Fascell. As far as any other people are concerned, over and above 3,500, or other than the 3,500 contemplated in the presentation before this committee, are they "illegal"? Are they undocumented?

Mr. Palmieri. Correct.

Mr. Fascell. They do not come into the purview of the law?

Ms. Holtzman. Would the gentleman yield?

Mr. Fascell. Correct.

Ms. Holtzman. The law does apply to them whether or not they carry documents. The law is silent on the issue of documents. Whether someone carries a document with him or her is irrelevant to whether they are entitled to asylum, whether they are refugees. If these people are, in fact, refugees, the Attorney General in his discretion may grant them asylum. Then there is the question of adjustment of status.

Mr. Fascell. So you can get back to the numbers within the framework of the law?

Ms. Holtzman. Absolutely.

Mr. Fascell. Once a decision on status has been made, if the administration wants the numbers to go up. On the other hand, they are not to ask for any additional numbers beyond the 3,500; am I correct? Is that correct, Mr. Chairman?

Mr. Butler. Will you yield?

Mr. Fascell. Certainly, I am looking for information.

Mr. Crosland. Mr. Fascell, the numbers—anybody who files an asylum claim, who comes to this country and lands or finds himself here, those numbers don't count against the numbers that we are talking about here for refugees.

Mr. Fascell. I was trying to reconcile that statement with what the gentlewoman from New York just said.

Mr. Palmieri. She was talking about the adjustment, right?

Mr. Fascell. I don't know. I am asking, adjustment for refugees?

Mr. Palmieri. For asylum applicants.

Mr. Fascell. Within or above the 50,000?

Mr. Palmieri. Above.

We have David Martin here from the Bureau of Humanitarian Affairs at the State Department, which actually oversees the asylum process. Why don't you answer the question?

Mr. Martin. Mr. Fascell, there are two separate arrangements under the Refugee Act; one for refugees—properly speaking, our program is for moving people from overseas. That's the major issue of numbers we are talking about now: the 231,700 refugee admissions we are talking about for all of fiscal year 1981. There is a separate section, 208, of the Refugee Act, that provides an asylum procedure for people who get here on their own in some fashion and then claim a right to stay and not be sent back because of a well-founded fear of persecution. That's a case-by-case determination. There's not a ceiling on the number of people who can get asylum.

Mr. Fascell. I understand that. I just wanted to get it clear on the record that this has nothing to do with numbers. There is no requirement anywhere in the law with respect to the case-by-case determination on asylum. There could be 500,000.

Mr. Palmieri. That's right.

Mr. Fascell. Once they get within the jurisdiction of the United States and take advantage of the present law which simply requires them to file a petition for asylum, there are no numbers involved?

Mr. Martin. That's right, but let me make clear that does not necessarily make a right to obtain permanent residence.

Mr. Fascell. I did not say that. Let me conclude. I could ask a thousand questions, but this committee is better equipped to handle that matter than I.

Let me say this: Since Ambassador Palmieri came on board—he has only been here a short time—I must commend him for having at least discerned the problem. Up until now, believe me, we have tried with the assistance of HEW, INS, State Department, and everyone else, to get somebody to focus on the problem and on the needs of the local community which has had the feeling, and rightly so, that it was completely overwhelmed in dealing with what is basically a Federal problem. The local community needs to have some help in terms of personnel to deal with the processing (fundamentally a Federal responsibility), the humanitarian treatment of these people (a Federal responsibility), and there is no gimmick in the world that is going to lay that financial responsibility for humanitarian treatment on the local city, local county, or the State government.

No gimmick in the world is going to make that acceptable. This is a Federal responsibility; and if we cannot find a way to do it, then this Government is in some kind of trouble as far as I am concerned. For the processing assistance that you have brought down there, thank goodness. It is late, but thank goodness it got there. A decision on status is vital and imminent. The other point that needs to be finally resolved, Mr. Ambassador, is just there should be no equivocation or reservation about the fact that whatever services were provided at the local level will be unstintingly, unhesitatingly reimbursed to the local communities or the State.

Chairman Rodino. If the gentleman would yield?

Mr. Fascell. Thank you very much.

Chairman Rodino. The gentleman from Florida. He makes the point and a very important one that I think we have to focus on: While we talk about these numbers, the numbers are going to mean dollars.

Mr. Fascell. The other point I want to make, Mr. Chairman——

Chairman Rodino [continuing]. Right now we are cutting down on the amount of money that is going to be used in funding some of these programs. But we do have admissions already and I think the committee has to be aware of it.

Mr. CONYERS. The gentleman from Illinois?

Mr. FASCELL. The other point I was making is if everyone asks for asylum, the numbers don't mean anything.

Mr. CONYERS. The gentleman from Illinois?

Mr. HYDE. I thank the Chairman. I have a statement I want to make that includes an awful lot of questions. I don't expect answers today.

First of all, I would like to start off by referring to the first paragraph—and ask that the entire text be put in the record—from an article in the Chicago Sun-Times, March 31, 1980, dateline Jerusalem. The Refugee Act of 1980 liberalizes benefits available to refugees in the United States and is being criticized here by Zionist leaders as a grave threat to Soviet Jewish immigration to Israel.

I invite the attention of the members to the additional minority views submitted by myself and Mr. Sawyer to the committee report on the Refugee Act legislation.

In it, we addressed a number of issues the treatment of which we thought was ill conceived and inconsistent in the identification of refugees, the treatment of refugees depending on the area from which they come, and the obvious influence exerted by foreign policy considerations, special interest pressures and not the least, press and media coverage on determining which groups would be favored.

In this consultation process, I would like to address four main areas which, I believe, require detailed explanation—

One, the question of classifying Soviet Jews as refugees rather than processing them as immigrants;

Two, the practice of admitting into the United States Indochinese as refugees who were considered to have been firmly resettled in Western European and other countries;

Three, the reason for and the extent to which we are subsidizing travel costs for refugees to other countries through contributions to UNHCR; and

Last, the rationale for relegating our prerogative to UNHCR in determining the method of teaching English language and imparting cultural orientation information to Indochinese refugees selected for the United States.

On my first point, I grant that the Jews in the Soviet Union are a persecuted group and to that extent would qualify as refugees. However, since they leave the Soviet Union with a valid visa for Israel—a democratic country striving to sustain its economic and political freedom—a country which accepts these people without equivocation—a country which needs these productive immigrants—would we not be doing our ally a tremendous service by encouraging these Soviet Jews to immigrate to Israel instead of allowing them to opt for coming to the United States? Why not, following their admittance to Israel, treat them as all other immigrants should they want to come to the United States?

Under the present definition in the Refugee Act, how do these Soviet Jews qualify since they do have an exit permit and a valid visa?

Is it not possible for those persons who qualify under our Immigration and Nationality Act to apply for immigrant visas in Israel under our normal preference system?

Now with regard to my second point, it is understood that a number of Indochinese refugees who accepted resettlement in another country, especially in Western Europe, are finding their way to the United States as refugees. Can you explain how these people qualify? If they don't qualify, under what guise are they coming here?

What action will you take to discontinue this practice which I understand is growing?

With regard to my third point: From the outset we in the Congress have insisted that the Department of State internationalize the Indochinese refugee program. A number of countries apparently have agreed to accept certain numbers of these refugees.

However, we now find that perhaps the administration succeeded to a certain extent to internationalize this problem by subsidizing transportation costs for those Indochinese refugees going to other countries through our contributions to UNHCR.

How many refugees have been resettled through this subsidization method? To what countries? And at what cost to the United States?

What agreements exist between our Government and UNHCR to pay for such movements? Are these expenditures identified in requesting funds for UNHCR? What are your future plans for continuing this subsidization?

On my fourth point: Up to this time, we have always been told that the primary aim of UNHCR was to guarantee the legal protection of refugees, and as such, UNHCR was not to be considered as an operational entity.

There have been some exceptions to this primary objective, such as Cyprus, where UNHCR was given broader operational jurisdiction because of its unique position of being able to operate freely in both the Greek and Turkish sectors. However, now we have learned that the Department of State has turned to UNHCR to organize an English language and refugee cultural orientation program in Indochina and the Philippines for those refugees destined for the United States.

My questions are:

What special expertise does UNHCR have to qualify it to determine for the United States what English-language or cultural-orientation programs are the most beneficial for those refugees coming to the United States? What role will UNHCR continue to play in the implementation of programs of this type?

What efforts have been made to seek assistance in formulating and implementing English-language and cultural-orientation activities among American institutions, especially universities? What drawbacks, if any, have been perceived in allowing American institutions to engage in these activities?

In closing, I am pleased that we have a sunset provision on this Refugee Act—perhaps our experiences under this Act will enlighten us with regard to the pitfalls we overlooked in passing this legislation.

"[From the Chicago Sun Times, Mar. 31, 1980]

"NEW U.S. LAW CALLED THREAT TO ISRAEL ON SOVIET JEWS

"(By Jay Bushinsky)

"JERUSALEM.—The Refugee Act of 1980 that liberalizes benefits available to refugees entering the United States is being criticized here by Zionist leaders as a grave threat to Soviet-Jewish immigration to Israel.

"The new law was passed by Congress early this month and signed by President Carter on March 18.

"The immediate result of the law will be an even higher 'dropout rate' among Soviet Jews who leave the Soviet Union with Israeli visas but opt for the United States on arrival in Vienna, Austria, says the chairman of the Jewish Agency for Israel, Aryeh Dulzin.

"Dulzin has urged Prime Minister Menachem Begin to take firm action on the problem during his forthcoming talks in Washington with Carter by insisting that the Soviet Jews not be classified as 'refugees.' He argues that Israel's readiness to admit them and grant them citizenship cancels their eligibility for refugee status.

" 'Otherwise,' said Jewish Agency spokesman Zvi Eyal, 'our campaign to reduce the dropout rate will be ruined.'

"During the last two years, more than 65 percent of the Soviet Jews who passed through Vienna shunned Israel in favor of the United States, to the chagrin of Jewish Agency and Israeli government aides.

"This choice occurred even though the Soviet Jews left the U.S.S.R. after obtaining Israeli visas from the Dutch Embassy in Moscow on the basis of affidavits sent to them by the Jewish Agency in Israel. The affidavits attested to their having relatives here, thereby qualifying them for "reunification of families" under the Helsinki accords.

"Eyal said he feared that the Soviet authorities may halt the Jewish exodus entirely after this summer's Moscow Olympics because of the Vienna switchover.

" 'The Russians have other minorities that want to be reunited with their families in the United States,' he said, citing Czechs and Ukrainians among others. 'The Jewish dropouts are causing the Soviets too many local problems with these groups.'

"In a parallel move, the head of the Jewish Agency's immigration department, Rafael Kotlowitz, sent a telegram to Max Fisher in the United States asking him as chairman of a U.S.-Jewish committee on the dropout problem to prevent the new law from being applied to Soviet Jews.

"He pointed out that 24 out of 32 U.S. cities (including Chicago) with welfare programs for Soviet Jews have accepted the Fisher committee's recommendation that aid be extended only to those with immediate relatives in the United States.

"According to Eyal, 50,000 Soviet Jews left for the West last year, compared with a projected 30,000 this year.

"Begin has proposed that Jewish organizations that deal with Soviet Jews in Vienna—the Hebrew Immigrant Aid Society and the Joint Distribution Committee—also accept the immediate-relative principle as a criterion for assistance.

"The Refugee Act of 1980, of which Sen. Edward M. Kennedy (D.-Mass.) was the chief Senate sponsor, grants automatic U.S. permanent residency to refugees within a year of their arrival, as well as free English language training and a wide range of free social services.

"Jewish Agency personnel and Israeli politicians admit that they were unaware that the new legislation was about to be signed by the president.

" 'I heard the radio Friday morning and found out about it for the first time,' said Eyal."

Mr. CONYERS. Can the gentleman submit the rest of the questions?

Mr. HYDE. Yes; I will submit them and many more. As long as the light is still amber, I see that you are going to admit and ask for necessary funding to accommodate all Soviet Jews who seek admission to the United States. Why them? Why not all refugees from everywhere who seek admission? Why the preference? What about all Sudanese or all of the Ethiopians that are in Somalia. Why all Soviet Jews? Why the preference?

Would someone answer that? Anybody answer that?

Mr. PALMIERI. The United States has made a continuing commitment to Soviet Jews to aid them in their struggle to emigrate and to take all who wish to come to the United States. That policy predates my jurisdiction. It was reaffirmed in this administration. If it is going to be changed, it will undoubtedly be a subject for discussion and consultation with this committee and ultimately by the President. It is a long-standing policy and an important part of our effort to reinforce freedom of choice among persecuted peoples. No.

1; and an important part of our policy vis-a-vis the Soviet Union, No. 2.

Mr. Hyde. I hear you, but I can't say I am satisfied. I yield back my time.

Mr. Conyers. The Chair recognizes the gentleman from Missouri, Mr. Volkmer.

Mr. Volkmer. I would like to continue on with some of the previous questioning. Of the Cubans that are presently in Florida that came over on the boats, direct access, they are being treated as those requesting asylum; right?

Mr. Palmieri. Yes, sir.

Mr. Volkmer. Are they included within the 3,500 or not?

Mr. Palmieri. No, sir.

Mr. Volkmer. Not at this time?

Mr. Palmieri. No, sir, let me clarify——

Mr. Volkmer. No; let me clarify. Will they ever be?

Mr. Palmieri. No, sir.

Mr. Volkmer. None of them will be sent back to Cuba. You and I know that.

Mr. Palmieri. There are some we hope to send back, the ones Ms. Holtzman was talking about.

Mr. Volkmer. Would you advise me personally, and I think the committee, within—after the 60 days or the 90 days or the 120 days or the 6 months, whenever somebody is sent back to Cuba that came over on those boats, I would like to know who it was or at least the numbers. Whether it is a year from now or whenever it happens?

Mr. Palmieri. We will certainly do that.

Mr. Volkmer. What you are telling me is basically if you get on the boat and come over directly you are better than waiting around than to go to Costa Rica and coming to the United States? That's what you are telling me? That's what you are telling the Cubans?

Mr. Palmieri. Well, I'm not telling you anything in that respect. That's your conclusion. It's not an irrational conclusion based on the fact that we probably have 6 million undocumented workers in this country who have come here illegally.

Mr. Volkmer. Right.

Is it legal or illegal to bring them in like that on the boats?

Mr. Palmieri. It is illegal. And we are issuing citations to the boatowners.

Mr. Volkmer. We confiscated three boats?

Mr. Palmieri. Correct.

Mr. Volkmer. Out of how many estimated?

Mr. Palmieri. Must be several thousand—or several hundred, excuse me.

How many boats have come back?

Mr. Crosland. Fifty-four boats.

Mr. Volkmer. Fifty-four boats have come back? We've only confiscated three?

Mr. Crosland. Yes.

Mr. Volkmer. Have we cited more than three?

Mr. Crosland. We cited a $1,000 fine for each Cuban who is brought here, every single boat.

Mr. Volkmer. Every single one? But you haven't confiscated any of the boats?

Mr. Crosland. It's a combined law enforcement effort. Customs is the agency charged with the seizure process on this civil proceeding.

They have only seized three; that's correct.

Mr. Volkmer. Do you know whether or not there's been any notice or warning to any of the boatowners down there that if they don't that they will be seized?

Mr. Crosland. Yes; I issued a directive and it went out—and also a press release which stated quite clearly that a person was subject to a civil fine and that their boats would be held until it was paid, and also that they could be subject to criminal prosecution for a felony.

Every single person who has gone out and gotten clearance from Customs to leave was given a copy of that notice in English and in Spanish.

Mr. Volkmer. Have the boats going out slowed down in the last day or two?

Mr. Crosland. Well, we had a fairly major storm. I don't know what the report is today. I was told there were no boats going or coming in any great number over the weekend because of the storm, so I cannot report to you as to the numbers that have gone out today.

Mr. Volmer. About how many have come over so far?

Mr. Crosland. We have 4,006.

Mr. Volkmer. 4,006?

Mr. Crosland. Right.

Mr. Volkmer. Where are those 4,006 right now today, this minute? Generally?

Mr. Crosland. Most of those are processed and they are with friends and relatives in the Miami area.

Mr. Volkmer. How do you plan to locate them for examination to determine whether or not they are going to be acceptable?

Mr. Crosland. We have addresses on each one of them and we will call them back in for hearings when it's appropriate.

Mr. Volkmer. If they don't show up or if you can't find them?

Mr. Crosland. Then we will go look for them.

Mr. Volkmer. That's what it amounts to?

Mr. Crosland. That's what it always amounts to.

Mr. Volkmer. Thank you very much.

Mr. Sensenbrenner. Mr. Chairman?

Mr. Conyers. The gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. Sensenbrenner. During the debate on the Refugee Act of 1980, the supporters of this bill informed the Congress that one of its purposes was to eliminate such dodges as utilization of the Attorney General's parole power, so that all people who were refugees were put into this country as refugees pursuant to the limitations in this act.

Today, you have informed us that the people who are getting off the boats from Cuba are being treated as possible political asylees and given 60 days to file an application for political asylum.

What I would like to know is what happens to these people if it is subsequently found that they do not meet the criteria for political asylum and their petition for asylum is thus denied?

Mr. Palmieri. Subject to the legal remedies that exist to stay exclusion proceedings, they would be sent back to Cuba.

Mr. Sensenbrenner. Isn't it true that in the case of the Haitians that are coming here, that there has been a class action filed in the Federal court, and the Federal court has prohibited the deportation of the Haitians?

Mr. Palmieri. It has prohibited the exclusion proceedings; that's right.

Mr. Sensenbrenner. Why shouldn't we be honest and increase the quota of refugees beyond the 231,000 plus that is contained in the Presidential executive order rather than using the dodge of political asylum as a way of keeping them in the country?

Mr. Palmieri. I don't think we are—we are not understanding each other. We are not trying to use any dodge or keep anybody here or do anything but comply with the terms of this act.

No. 1, we are in the process of working out these terms; and I might add that we and the staff have been talking about what these terms mean and how they should be applied to specific situations; so the first thing I want to say to you, Congressman, is that we are right now in this hearing, and in the prior consultation, implementing the Act, and we are learning how to do it. That's point No. 1.

Point No. 2, we regard this massive human phenomenon that we have in the Cuban situation as an appropriate subject of consultation within the spirit of the act. We don't intend to do anything without consulting with this committee and the Senate committee. It's squarely within the spirit of the Act.

Whether it's within the letter, because of the special circumstances, I don't know.

We are in a need for legal opinions on some of this; but all of that will be worked out with your staff and this committee. We are not trying any dodge.

Mr. Sensenbrenner. It seems to me that the way that you are interpreting this law and the way you are utilizing the political asylum technique, we are playing right into Mr. Castro's hands in accepting anybody who gets off the boat from Cuba and then getting that person into a situation where it would be impossible to kick him out and return him if the Federal court's decision in the Haitian case is upheld.

Mr. Crosland. Mr. Congressman, under the law, anybody who comes to our shores has a right to an exclusion hearing. We can hold them in jail until the hearing. Or we can, if we are satisfied we will have control of them, and they will report for the hearing, we can use parole for the limited purpose of letting them go out into the community, subject to certain limitations. There has been widespread confusion as to what parole is.

We parole people in sometimes for limited periods of time. There's no determination that they are paroled in to stay—it is so that they can make an application for political asylum.

They are applicants for asylum. They have a right to a hearing. They will make that claim before an Immigration judge in the exclusion proceeding.

Mr. Sensenbrenner. My time has almost expired. I do have one additional question: Has the administration taken any steps to convene an international conference for the resettlement of Cuban refugees so that the United States does not have to bear the exclusive burden of resettling all of the people who do leave Cuba through one means or another—and if not, why not?

Mr. Palmieri. I will take that question for the State Department. The answer is that a conference is being considered with other Latin American countries and other countries who may attend outside of Latin America.

We think it's a good idea, because we have, from the start, regarded the Cuban emergency as a hemispheric problem.

I agree with you that the issue of Cubans who leave Cuba should be an open issue as to where they settle. We do have problems in seeking to divert those who arrive here elsewhere, problems which realistically you have to deal with.

If we can get back to a staging area in a third country, we have a far better chance of implementing some international resettlement; but I would not oversell you on the possibilities other countries have not been that willing in—except with respect to quite small numbers.

Mr. Conyers. The gentlewoman from New York? Do you desire any additional time?

Ms. Holtzman. Thank you very much, Mr. Chairman. Yes, I do.

Going to the issue of asylum, under the law it says that asylum may be granted in the discretion of the Attorney General if the Attorney General determines that an alien is a refugee within the meaning of section 101 (a) (42) (A).

That really contemplates that regulations will be issued to determine who will be eligible for asylum, who qualifies, and what procedures will be used.

Indeed, until that happens, these people are really in limbo, the Haitians and the Cubans.

Do you have any plans for establishing or promulgating these regulations promptly?

Mr. Crosland. The State Department and

the Immigration and Naturalization Service have formed an ad hoc group in developing regulations on the implementation of the asylum proceedings of the Refugee Act.

Ms. Holtzman. Let me urge you to do it as promptly as possible. I think that it is materially important in order to handle the situation effectively.

Mr. Butler. Would the gentlelady yield on that point?

Ms. Holtzman. Sure.

Mr. Butler. Is it the Attorney General's intention to bring these regulations to us for review?

It seems to me that since it is clear that asylum is being used, as suggested by the gentleman from Wisconsin, as a device by which people are not brought in under the numbers, then Congress' intention was to control the numbers in passing this legislation, that it would be appropriate for you to bring these asylum regulations to us for review and a hearing before they are finally promulgated.

Do you have any plans along that line?

Mr. Crosland. Any regulations would be published subject to comment; and in the past, on regulations of this nature, the Immigration and Naturalization Service certainly has spoken with key staff people and obtained the views of the committees as to what would be the most appropriate way to implement the legislation.

David Martin might be better able to answer this in terms of how this is proceeding.

Mr. Martin. The act requires——

Ms. Holtzman. Excuse me. I hope the gentleman will get me additional time.

Mr. Butler. I ask unanimous consent for the lady to have additional time.

Mr. Conyers. We are trying to avoid unanimous consent, but we will allow—we are trying to close down——

Mr. Butler. Close down debate?

Mr. Conyers. Discussion.

Mr. Butler. You can have my time when we get to it.

Mr. Martin. The act requires new regulations by June 1. We have been working with the INS to prepare regulations to meet that deadline.

Looking at those as interim regulations and then a publication shortly thereafter for public comment on the ultimate final regulations; but I should point out there are existing regulations providing for asylum processing and a procedure to establish that.

All this goes back to 1968 when the United States accepted the U.N. protocol relating to the status of refugees. It's that treaty standard that is now embodied in the statute.

This is not a totally new legal provision for the United States. It was done by treaty before. Now it's been established by statute. There are regulations that exist at present. They will be modified by June 1.

Ms. Holtzman. I want to ask another question going back to the point Mr. Conyers raised earlier, namely, the difference in the treatment between Haitian refugees and Cuban refugees.

I understood, Mr. Palmieri, you said neither Cuban refugees nor Haitian refugees are entitled to assistance from the Federal Government while they are seeking asylum; is that correct?

Mr. Palmieri. Let me turn to Mr. Stark, whose direct responsibility it is.

Ms. Holtzman. I will tell you I saw Cuban refugees getting a check, funds, from the Federal Government. If what you said before was accurate, I want to know the authority under which these funds were disbursed.

Mr. Stark. I think the statement that was made, Ms. Holtzman, was that the undocumented people were not receiving funds. We made a judgment—and I must say that I did this not to be bureaucratic about it. We had to act quickly. We had an emergency on our hands and the newly arriving Cubans bearing the INS Service Form I–94 are being registered by our Cuban Refugee Office, program office, as temporary parolees. They are claiming political asylum at this time.

Ms. Holtzman. Where is the authority—excuse me.

Mr. Volkmer. They are getting a check?

Ms. Holtzman. They are getting a check; is that correct?

Mr. Stark. They are getting a check from the State which we will eventually reimburse the State for. That's within the 60-day period.

Ms. Holtzman. Where is the authority for that?

Mr. Stark. It was our understanding that we have that authority.

Ms. Holtzman. Would you point to the section of the law that grants you the authority? There is nothing, by the way, that draws any distinction in the law between someone with documents and someone without. Nothing.

I would like to know what provision of the law you are relying on to provide Federal funds to the Cubans.

Mr. Stark. We are only relying on the certification of INS giving this temporary parolee status to these people for a period of 60——

Ms. Holtzman. Where does the law allow you to provide funds for someone in a temporary parolee status? What law allows you to do that?

Mr. Stark. It's my understanding that we have that authority. We have checked that out with State. We checked that out with the INS. We checked it out with the White House.

We are still trying to determine where we are. We may not wind up with that authority.

Ms. Holtzman. I think it is important to understand that. Certainly if the State is disbursing funds on the notion that it is going to be reimbursed by the Federal Government and that is inaccurate, you ought not to be misleading the State. I would like to know what law you are relying on. I do not see anything in the Refugee Act of 1980 and I do not know of any other law that would apply that would in any way authorize the distribution of Federal funds.

Mr. Crosland. I think it's fair to say there is a difference of opinion. Legal opinion within the agencies. I have asked for an opinion from the Office of Legal Counsel to lay the issue at rest.

Ms. Holtzman. What provision of law would give you the authority to disburse Federal funds? You said there is a dispute within the agencies. Obviously someone must be relying on some section of law. Can you cite that section of the law to me?

Mr. Crosland. I don't wish to be in the position of speaking for HEW as to what they are relying on. I'm not sure what they are relying on; but our view is that Haitians and Cubans stand in the same shoes now under the law; and we have asked for an opinion from the Office of Legal Counsel.

Ms. Holtzman. Are Haitians getting checks from the State of Florida which will be reimbursed by the Federal Government?

Mr. Stark. We have not had any Haitians applying.

Ms. Holtzman. Why is that?

Mr. Stark. I have no idea.

Ms. Holtzman. I am not sure the Cubans actually applied. There is a little table. They file through and get a check. I don't think they even know they are getting a check.

Mr. Stark. We are under the impression as late as last Thursday that we were—that these were being processed in the way I have described it.

Now we may have been wrong. We are trying to determine that status at the present time.

Ms. Holtzman. I must say, and it is probably clear from my questions, that I am not at all satisfied with the answers here. I think it is very important. I think it is of concern to the members of the committee as to the fair treatment of all persons regardless of race, regardless of origin. That was the point of the Refugee Act of 1980. We want to know why there is a difference of treatment between the Cubans and the Haitians with respect to the distribution of Federal funds. We want to know why it is that you are disbursing Federal funds.

Mr. Stark. We have no intention of treating Haitians any different than Cubans.

Ms. Holtzman. But you are.

Mr. Stark. We may. I do not know until we get a legal interpretation. We may have made a mistake in granting this to Cubans. If Haitians had come to us, we probably would have done exactly the same thing. Not probably. We would have.

Ms. Holtzman. Well, I think someone ought to let the Haitians know they are entitled to these funds.

Mr. Volkmer. Let the Haitians have it, too.

Ms. Holtzman. I don't think they are.

Mr. Stark. We have not made any secret of this. The Cubans are very much aware of it. The families have probably been the greatest source of information.

Ms. Holtzman. Mr. Chairman, can I just tell you how this works? Nobody asks for these checks. There are a series of tables, 1, 2, 3, 4, 5. Cubans come in, they are taken from table 1, to table 2, to table 3, to table 4, to table 5. When they get to table 4, they are given a check.

Mr. Stark. HEW does not go out and solicit these. These people must apply. When they have applied they are processed in the same way as others. They must meet the financial criteria.

Ms. Holtzman. This is part of the processing done by the Federal Government. The Federal Government does not have in its processing of Haitians at table No. 4 with a check sitting there. That's all I am saying. It seems to me this procedure is, on its face, apparently discriminatory.

It may not be. I would like to have your answer. Maybe since you do not seem to know the procedure clearly now, perhaps you can make some inquiries and find out the legal basis for the procedure.

Mr. Stark. I would be very happy to do so. I wouldn't want to leave you with the impression that we are in any way discriminating. We will treat the Haitians exactly as we do any other group.

"The Under Secretary of Health,
Education, and Welfare,
"Washington, D.C., May 2, 1980.

"Hon. Elizabeth Holtzman,
"Chairwoman, Subcommittee on Immigration, Refugees and International Law, U.S. House of Representatives, Washington, D.C.

"Dear Madam Chairwoman: As you recall during the Subcommittee hearing of Wednesday, April 30, I promised to clarify for you the Department's role with respect to those individuals who are arriving by boat in Florida from Cuba. Enclosed is a statement which addresses the concerns you expressed and describes HEW activities regarding these individuals.

"If you have any further questions or wish to discuss this matter further, please do not hesitate to contact me or Assistant Secretary for Legislation, William Welsh.

"Sincerely yours,

"Nathan Stark.

"Enclosure.

"May 1, 1980.

"Upon the advice of counsel, the Administration has concluded that funds under the Refugee Act of 1980 are not available to provide services to those Cubans currently arriving by boat in Florida. Because of this, the Office of Refugee Resettlement is discontinuing registration of these arrivals in the Cuban Refugee Program and so advising the Offices of the Governor, the Dade County

Manager, the Florida Secretary of Health and Rehabilitation Services, the Mayor of Miami and the National Voluntary agencies currently involved in this resettlement. Of course, those Cubans arriving as refugees under the Refugee Act of 1980 will continue to receive the full range of services available under the Refugee Act.

"The Office of Management and Budget will make every effort to find funds to reimburse the State of Florida and the Voluntary agencies for expenditures made in anticipation or reimbursement under the Refugee Act. In addition, the Department of State is moving ahead to plan for national involvement of the voluntary agencies in responding to the needs of these recent arrivals from Cuba.

"HEW will maintain those of its services to the new arrivals in Key West and Miami now being provided by the Public Health Service and the Social Security Administration such as health services and receipt of applications for social security cards for those who are work authorized."

Ms. Holtzman. I am glad to know of your intentions. That may not be the fact of the matter.

I would like to point out, finally, that there may be people not eligible for asylum. There may be people not qualifying as refugees. There may be people we want to deport to Cuba. It is imperative in my judgment that we work out a system for an orderly flow from Cuba, so we avoid these problems at the outset. I cannot urge you strongly enough to do that. If necessary, the President ought to say, as President Johnson did in 1965, we are willing to take our fair share, if we open up an orderly process. I think that ought to be seriously and immediately considered: otherwise we will create a serious problem for the localities and create serious problems for us in terms of what are we going to do with people who are not refugees, are not asylees, and are not family reunification cases.

Thank you, Mr. Chairman.

Mr. Conyers. Mr. Fish?

Mr. Fish. Thank you, Mr. Chairman.

Mr. Ambassador, with regard to this consultation involving the 117,416 people to be admitted in the rest of this fiscal year, there are 10,500 from Cuba. In your testimony you accounted, as I recall, for 3,500 as being earmarked for those people. I don't think we discussed the number of 7,000.

Mr. Palmieri. Can I clarify one point, Congressman? I think I said that the 3,500 numbers relating to the Peruvian Embassy crisis would apply to those in the Peruvian Embassy coming to this country.

I don't think that's right, because again we—people who come here are not within the refugee numbers. We went all through that colloquy.

This is just a point for clarification. Those numbers are for people coming out of the Peruvian Embassy to Costa Rica and back to the United States under that special determination.

The 7,000—those are the family reunification program.

Mr. Fish. These people will be processed by Federal immigration officials within Cuba?

Mr. Palmieri. Well, that's right. We have some that go to Madrid and are processed there for the United States.

Mr. Fish. We have been processing them, INS personnel, FBI personnel, in Cuba now for several years; is that not the case?

Mr. Palmieri. Yes, sir.

Mr. Fish. I understand there's nobody left in the Peruvian Embassy compound?

Mr. Palmieri. The last word I heard today was something like 500 to 600.

Mr. Fish. How many have gone across the straits from Cuba?

Mr. Palmieri. We have—400 have gone to Costa Rica.

Mr. Fish. Why do we need those who have been returned to their own homes with some guarantee that they will not be persecuted?

Mr. Palmieri. The Costa Ricans are seeking to institute the airlift?

I'm having trouble hearing you.

Mr. Fish. This is a contingency figure?

Mr. Palmieri. Yes. If it were not used up, it would lapse.

Mr. Fish. The 7,000-refugee numbers then are for political prisoners either—released in 1978 or those people in the new category of prisoners released prior to 1978?

So this is being handled in Cuba today by the Immigration officials who have been there for some time and are familiar with this. I would like to point out something about the applicability of the Refugee Act. You discussed this earlier today. It's my first chance to come back. I was responsible for section B of the definition. "A person within his own country who is persecuted or fears persecution." At the time we did have in mind this situation, contrary to your testimony. We were in the midst of discussions with the U.N. staff about the normal flow from Vietnam. We talked in terms of the situation in Chile, in Argentina, where the State Department was interested in having people come directly from those countries.

It is not outside the context of the bill or the genesis of the bill that we are facing this issue today.

I submit that we have the apparatus, the history of doing this, the Immigration Office officials, in dealing with the class of people that has heretofore been allowed to leave.

Mr. Palmieri. I don't understand, Congressman. Direct departures, from Vietnam, for instance, processed by our consular official at the airport there would not be comparable, would they, in terms of the statute with Cubans arriving on our shores?

Mr. Fish. Cubans from Cuba, yes. That's what I am addressing.

Mr. Palmieri. Yes.

Mr. Fish. That was the contemplation of this legislation.

I think we have two things. As I said before, we have the refugee bill which would pick up prisoners and former prisoners; and we have the immigration process which is being done by consular offices.

I can't help, to get back to my original point, that this would be a far more preferable, more humane way, than this very haphazard, scraggly situation, in which you are consulting with us on 10,500 admissions; and yet we are really talking about a tremendously open-ended process of asylum, which through mobilization of the process in Cuba, I think it could be avoided.

I feel once again that we are talking about a broad problem here, that we will be months, years, processing if you do anticipate, as I believe you said, many more thousands of people coming from Cuba. An individual asylum determination will provide years and years of tremendously expensive processing for the American people.

Mr. Conyers. Do other members desire recognition?

Mr. Volkmer. Yes.

Mr. Butler. Yes.

Mr. Conyers. I yield to the gentleman from Missouri.

Mr. Volkmer. Who instigated the proposal to issue the checks to the Cubans? The State of Florida or yourself?

Mr. Stark. No. It would be our office.

Mr. Volkmer. You instigated it?

Mr. Stark. Yes, sir.

Mr. Volkmer. In the event it is held these checks were not authorized by law, Florida will not get any?

Mr. Stark. If that is the case, and we cannot find other funds.

Mr. Volkmer. What do you mean by that?

Mr. Stark. There may be other ways.

Mr. Volkmer. Imburse them from money you are holding for other things.

Mr. Stark. Under the Refugee Act.

Mr. Volkmer. These are not refugees.

Mr. Stark. If these are refugees at some point.

Mr. Volkmer. They are either refugees initially or they are not refugees initially.

Mr. Stark. Oh, no. They are going through the individual criteria that is set up by the INS and by the Justice Department, and I would say that they can be declared refugees at almost anytime.

Mr. Volkmer. I think you are wrong on that.

Mr. Stark. Let me just say this. We do have a continuing Cuban refugee program; and, hence, we register these people under it.

Mr. Volkmer. That's a different program than this. That's completely different.

Mr. Winter. Let me talk about it from the operational side.

We have a permanent Cuban refugee staff that has operated the regular——

Mr. Volkmer. That's the old program?

Mr. Winter [continuing]. Program, and the political program that's currently in operation.

Our onsite staff, when they were faced with dealing with the first boat a week ago Monday, I believe, the first 54 or 55 individuals that came in, understood that those individuals were to be counted against the 3,500 refugees. That may have been in error; but they did accept them along with the simultaneous political prisoners. That is the source of the beginning of this confusion.

Now we did not become aware of that here in Washington until 2 days later, on Wednesday.

Since that time, we have tried to get this legal clarification straight. We don't have it yet, but that is the genesis of the problem at the operational level.

Mr. Sensenbrenner. Would the gentleman from Missouri yield at this point?

Mr. Volkmer. not quite. I am not finished.

We do understand—I understand you to say you are going to try one way or the other to get money to Florida whether we authorize it or not? That's clear to me. That's my statement. That's very clear.

I object to that. I think that's one of the worst things the bureaucracy does. You don't have to answer. That's my statement.

Mr. Stark. Well, we still are under the very deep impression that we are going to be able to do this legally. Now it's still a question of law and there's some——

Mr. Volkmer. Let's say there is no basis in the law for you to do it. You get a reply from the Attorney General of the United States or someone that says, a legal opinion, there is no basis. You are still going to find a way?

Mr. Stark. I didn't say that. I would hope that there would be some way, so that the State would not be penalized for something that we have created.

Mr. Volkmer. All right.

The next question and then I will finish, is: Since you instigated this, you knew we had Haitians coming into this country for some time; is that correct? You have known this? On the shores of Florida, you have known that? Haven't you?

Mr. Stark. Haitians?

Mr. Volkmer. People from Haiti.

Mr. Winter. We know there are Haitians on shore, yes.

Mr. Volkmer. When did you institute a program for them, to give them a check through the State of Florida?

Mr. Stark. I have stated, Mr. Congressman, that we have not solicited any of those people coming to our office.

Mr. Volkmer. Why didn't you go down and set up tables for them?

Mr. Stark. Because that is not our purpose. We have a processing center. We have been in this business in Florida for some 18 years now. We expect when people are in need they will come to our office and make application. When they come there, there is not discrimination.

We may make the same mistakes, but we are still not going to discriminate.

Mr. Volkmer. Are you telling me that the processing that you are doing now for the Cubans was in the same place, the same processing, identical—you had people right there at these tables, all this time for the political prisoners for the last 4 or 5 years?

Mr. Stark. I'm not familiar with the period going back 4 or 5 years.

Mr. Volkmer. I really don't think so. I think you set something up special down in Key West for these Cubans coming in and you didn't set up something special for the ones from Haiti coming in: is that right?

Mr. Winter. We were not aware that the individual documentation that the Cuban boat arrivals had is the same as the Haitian arrivals until this past Wednesday, here in Washington, or a week ago today here in Washington.

Mr. Volkmer. What do you plan to do for the ones in Haiti now?

Mr. Stark. Let me say that we are going right back to what you heard from our two colleagues here. We are going to try to do this as expeditiously as possible.

Mr. Volkmer. Are you going to give them a check——

Mr. Stark [continuing]. To get the status clarified, so we can do the same thing for everyone who qualifies.

Mr. Volkmer. I want to know—you are still going to be giving checks—if Cubans come in tomorrow, you are going to give checks to Cubans. If Haitians come in, you won't give them a thing.

Mr. Stark. If Haitians come in with the same documentation, and we are still able to do this for Cubans, we are going to give them to Haitians.

Mr. Conyers. Mr. Butler?

Mr. Butler. Thank you. I recognize the problem the witnesses have. I don't want to be too hard on you for learning to live with the new act. There are some things about it that I feel like we should be insisting upon. Mr. Ambassador, you are telling us you are living within the spirit of the Act, but having problems with the technicalities. I think you should be aware that the Attorney General's parole authority to an agent who is a refugee was withdrawn by this statute: If refugees are admitted here, as parolees, there's no statutory authority for that, and I hope counsel will correct me if I am in error.

The second thing that concerns me is this. We are moving to the requirement for developing regulations with references to asylum as the basis for admitting these people here. I don't think that's the appropriate way to do it. I think the statute contemplates that you must arrive at the number that you expect, or tell us what the number is and go through the consultation and hearing procedures; certainly the consultation, as to these numbers and not go through the asylum route.

Asylum on the scale that we are doing it here or plan to do it here was simply not contemplated by this legislation. If you are operating within the spirit of the act, then I think you misread the spirit.

Your counsel there is waving his head one way or the other. I would appreciate it if he would tell me whether I am on the wrong route or not.

Mr. Martin. Let me say first on the parole power, we are certainly aware of that provision which I believe you introduced, about terminating the power to parole groups of refugees. The people who are coming in now are getting a form of parole, but it's not a refugee parole. In this respect, it's not being done for a group.

The parole power is used, as you know, in many different ways; sometimes for somebody who needs to come in for an operation; someone will be paroled for a limited period of time for that purpose.

Mr. Butler. A refugee cannot be a parolee?

Mr. Martin. That's right. These people are not being termed to be refugees.

Mr. Butler. Why don't you send them home?

Mr. Martin. The fact is what is being provided now is simply a form of temporary refuge. The United States is not in a position, and I think does not want to be in a position of pushing boats back out to sea. People come in here and there has to be an orderly procedure to resolve their status, and resolve all the questions we are dealing with now in this emergency situation; and the parole document that they are receiving, the 60-day parole document, is simply an identification card that allows that to proceed. It does not commit us in any way on the final resolution of the status.

It is the documentation that provides them to come in here and live in humane conditions while the other questions are being resolved.

Mr. Butler. Well, I don't think that's a very satisfactory answer. I judge you agree with me on the law. I am concerned about undertaking to treat these people as political asylees and going through the route of regulations and the insurmountable, it seems to me, bureaucratic problem it's going to create for the due process we require.

That certainly was not within the spirit of the law. What is your response to that?

Mr. Palmieri. Well, I have already said that I thought the problem we had in respect to the Cubans is not a problem that the act contemplates; specifically in that some special amendments or new legislation may be required.

Mr. Butler. All right. I yield back, Mr. Chairman.

Mr. Conyers. For the final set of questions, Mr. Sensenbrenner.

Mr. Sensenbrenner. I have some questions for the people from HEW based upon your answers. They relate to questions posed by Mr. Volkmer relative to where those checks being passed out by the State of Florida are to come from.

I certainly agree the State of Florida and the local jurisdictions should not be left holding the bag, particularly if there was authorization given from a Federal agency. My question is, I receive the impression that there would be funds from refugee programs used to reimburse the State of Florida. Yet at the same time we are being told that those people are not refugees. They will not be included in the quota. The administration is not planning on asking for an increase in the quota pursuant to the Refugee Act. How can we spend refugee funds for people who are determined not to be refugees; and isn't that inconsistent?

Mr. Stark. This, as far as we are concerned, is a legal question which has to be resolved. We are still under the impression, at this moment, that we are doing what is legally right; that we are expending the funds, or at least committing the expenditure of funds properly.

Mr. Sensenbrenner. If you don't have a legal opinion, you haven't been able to cite any section of any act for the authority to reimburse the State of Florida for these funds, isn't the horse out of the barn, because if it's determined that there can be no legal payment, certainly you are not going to attempt to seek reimbursement from the people who have been admitted?

Mr. Stark. The only part of the law—and again it is a new law, and I would have to give way to anyone on interpretation—the alien may be granted asylum in the discretion of the Attorney General. If that is the case, then he's a refugee under the meaning of this law.

Mr. Sensenbrenner. I disagree. Perhaps I should have pursued my point of order, so that you could have come back at a later time a little bit better prepared.

I yield back the balance of my time.

Mr. Conyers. There being no further comments from the members of the committee, I wish to thank the witnesses for joining us today.

Ms. Holtzman. Mr. Chairman?

Mr. Conyers. Ms. Holtzman?

Ms. Holtzman. May I be recognized for a unanimous consent request? I would like to submit questions in writing to members of the panel with respect to some of the testimony that was presented.

Mr. Coyers. As any other members may do.

You have been very patient, I would like to say to the witnesses. We appreciate it. You have been charged with a lot of responsibilities for more detailed responses; and we hope this dialog will be able to continue with the full committee.

We thank you for your appearance. The committee stands in adjournment.

[Whereupon at 6:30 p.m., the hearing was adjourned.] ●

PERMISSION FOR SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE, ON TOMORROW, WEDNESDAY, JUNE 11, 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on tomorrow, Wednesday, June 11, 1980.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. The Chair hears an objection.

The Chair will ask that the Members kindly be seated, please. The gentleman from California (Mr. Rousselot) is making an objection that requires 10 objectors.

On the objection that the gentleman from California (Mr. Rousselot) has made, are there 10 objectors?

Mr. ROUSSELOT. Mr. Speaker, I withdraw my objection.

□ 1700

Mr. VOLKMER. Mr. Speaker, reserving the right to object, is this on the request of the gentleman from California?

The SPEAKER. The objection was withdrawn, and there were no other objections at that time.

Mr. VOLKMER. Mr. Speaker, I had made a reservation of objection while I was standing over there. At the same time the gentleman objected, I was over there and I made a reservation of objection.

The SPEAKER. If the gentleman would speak louder, mavbe the Chair could understand what the gentleman is saying.

Mr. VOLKMER. The microphone was taken away. Mr. Speaker, I would like to say that at the time the gentleman from California made his reservation of objection, I made a reservation of objection over there. The gentleman from California was recognized.

The SPEAKER. Does the gentleman reserve a right to object?

Mr. VOLKMER. Yes, I do, Mr. Speaker.

The SPEAKER. The gentleman from Missouri (Mr. VOLKMER) reserves the right to object.

Mr. VOLKMER. Mr. Speaker, I have a serious problem about what the gentleman from California is requesting. I would like to discuss it with the gentleman from California.

Mr. Speaker, I would like to say that as a member of that subcommittee, and knowing the importance of the legislation, I would like to be there. But if tomorrow we are going to be here on either the fair housing bill or the prejudgment interest bill at the same time, I also have amendments on those bills. I would like to know from the gentleman if he would, within that unanimous-consent request, put in there that we would not meet if either one of those two bills are being taken up by the House at that time. Then I would have no objection, if he would include that in his unanimous-consent request. Otherwise I would have to object.

Mr. McCLORY. Mr. Speaker, will the gentleman yield on his reservation of objection?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I am going to be in the subcommittee at the same time, and I want to be on the floor with regard to those bills. I am sure that we can adjust our meetings so that we are not taking advantage of any of the Members when we have to leave the subcommittee and be present on the floor with regard to general debate. So I hope the gentleman will not object, that we can work on marking up the bottlers' bill and at the same time accommodate the need for doing that so that we can have it before the full committee on Thursday and, likewise, we will take care of whatever Judiciary Committee matters have to be taken care of on the floor.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California.

Mr. ROUSSELOT. This is what has become known as the bottlers' bill; is that correct?

Mr. McCLORY. If the gentleman will yield, yes, that is correct.

Mr. DANIELSON. Mr. Speaker, will the gentleman from Missouri yield?

Mr. VOLKMER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, yes, we are referring to the bill, H.R. 3567, also known as the bottlers' bill.

Mr. ROUSSELOT. If the gentleman will yield further, if the committee acts, it could preempt the discharge petition that has been issued; is that correct?

Mr. VOLKMER. I have made the reservation of objection, and I do not know the answer.

Mr. ROUSSELOT. What is the answer?

Mr. VOLKMER. At this time, with the assurances of the gentleman from Illinois, and I had hoped the chairman of the subcommittee would be here, but I do not see him, I am sure that he would give the same assurances, I will withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us, if the committee acts, does that preempt the discharge petition bill?

Mr. DANIELSON. If the gentleman will yield, I am not able to answer that question. That is an honest answer.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I would just like to say that I am very anxious, and I have been pressing for marking up the bill and getting it to the floor, and I am sure that, under the pressure of the discharge petition, action is taking place. but we do want to resolve the markup of the bill and bring it to the full committee on Thursday and get it to the floor promptly.

Mr. ROUSSELOT. Further reserving the right to object, how much are you going to change the bill from the discharge petition position?

Mr. McCLORY. I would not know what amendments, if any, would be taken on, but at any rate, it will come to the floor of the House and the House can work its will.

Mr. ROUSSELOT. On that basis, Mr. Speaker, I renew my objection.

Mr. DANIELSON. Did the gentleman renew his objection or withdraw his objection?

Mr. ROUSSELOT. I renewed my objection.

The SPEAKER. Are there other objections? The Chair counts nine objectors.

An insufficient number of objectors have arisen.

For what purpose does the gentleman from California (Mr. DANIELSON) rise?

Mr. DANIELSON. Mr. Speaker, I have another unanimous-consent request.

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman was aware that the gentleman from California had renewed his objection, and nobody rose at that moment. The Chair counted the nine Members who were standing.

The Chair will recognize the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I have another unanimous-consent request.

Mr. ASHBROOK. Mr. Speaker, a point of order.

The SPEAKER. The Chair leans over backward to try to be fair.

Mr. ASHBROOK. Mr. Speaker, a point of order. The question was not put. I did not even have a chance to get on my feet. The minute the Chair said that, I was on my feet. I do not know how fast we have to get up.

The SPEAKER. The Chair knows that the gentleman is not trying to embarrass the Chair.

Mr. ASHBROOK. I am not trying to embarrass the Chair. I am getting older and it is harder to get up, Mr. Speaker.

The SPEAKER. The gentleman did not arise at the proper time. The debate had been going on for several minutes when the objection was suddenly renewed.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING THE 5-MINUTE RULE ON THURSDAY, JUNE 12, 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Thursday, June 12, 1980.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MYERS of Indiana. Mr. Speaker, I object.

(Messrs. MILLER of Ohio, BAUMAN, HILLIS, ASHBROOK, CAMPBELL, ROUSSELOT, SYMMS, McCLORY, and CLAUSEN also objected.)

The SPEAKER. Objection is heard.

AUTHORIZING APPROPRIATIONS FOR U.S. INTERNATIONAL TRADE COMMISSION, U.S. CUSTOMS SERVICE, AND OFFICE OF U.S. TRADE REPRESENTATIVE FOR FISCAL YEAR 1981

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1081) on the resolution (H. Res. 699) providing for consideration of the bill (H.R. 6783) to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1981, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AMENDING CERTAIN INSPECTION AND MANNING LAWS APPLICABLE TO SMALL VESSELS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96–1082) on the resolution (H. Res. 700) providing for consideration of the bill (H.R. 5164) to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes, which was referred to the House Calendar and ordered to be printed.

COASTAL ZONE MANAGEMENT IMPROVEMENT ACT OF 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report

(Rept. No. 96-1083) on the resolution (H. Res. 701) providing for consideration of the bill (H.R. 6979) to improve coastal management in the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

YOUTH ACT OF 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-1084) on the resolution (H. Res. 702) providing for consideration of the bill (H.R. 6711) to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 1159, AUTHORIZING APPROPRIATIONS FOR THE MOTOR VEHICLE SAFETY AND INFORMATION AND COST SAVINGS ACTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, with House amendments thereto, insist on the House amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1980

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6285) to amend the Egg Research and Consumer Information Act, with Senate amendments thereto, and agree to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 5, after line 20, insert:

SEC. 7. The Commodity Exchange Act is amended by adding at the end thereof a new section 21 to read as follows:

"SEC. 21. The Commission shall establish a joint working group with the Federal Reserve Board, Department of the Treasury, and Securities and Exchange Commission to analyze the various aspects of the events in the silver cash and futures markets during the period of September 1979 through March 1980. The joint working group will prepare a report of its findings that shall include, but not be limited to, a description of the causes of this situation, an appraisal of the adequacy of consultation during this period between the members of the joint working group, and recommendations for legislative changes that could prevent a recurrence of these or similar events in any futures market. The joint working group shall submit its report to the appropriate committees of Congress by October 1, 1980.".

Amend the title so as to read: "An Act to amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets.".

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, for the purpose of explanation to the Members, would the gentleman please explain just what the amendment was that was put on by the Senate and for what purpose was it put on?

Mr. FOLEY. If the gentleman will yield, the Senate agreed to the House bill exactly as the House passed it but added an amendment, technically nongermane, to the House bill, which would require the Commodity Futures Trading Commission to establish a joint working group with the Federal Reserve Board, Department of the Treasury, and the Securities and Exchange Commission to analyze the causes and circumstances surrounding the recent so-called silver crisis on the commodity exchange markets.

The group, through the CFTC, would submit a report of its findings and legislative recommendations, if any, to the congressional Agriculture Committees—and other appropriate congressional committees—by October 1, 1980. This will give the group time to explore fully many of the myriad issues presented and prepare its report.

We are seeking a broad-based study and recommendations for any legislative changes that may be deemed advisable to prevent a recurrence of similar events in the future. While the study called for by the amendment is addressed to the futures market, it extends as well to trading in cash markets and the forwards markets and the effect they may have had on the events that transpired in the futures market.

□ 1710

The simple effect of the amendment is to call upon a joint study by all of the agencies that might be involved in issues arising from this so-called silver crisis.

As the gentleman may remember and the House Members may recall, the incident involving silver trading raised questions about the stability of a large brokerage house and about the possible stability of even certain banking institutions.

The Conservation and Credit Subcommittee has held several days of hearings in which it received testimony on possible need for amendments to the Commodity Exchange Act and the adequacy of existing regulatory authority in the light of recent market developments. The subcommittee heard testimony from various Government agencies, representatives of the major commodity exchanges, future commission merchants, silver users, the Hunt brothers, and others. In order to evaluate to what extent legislation was needed, the representatives of the CFTC, Treasury Department, Federal Reserve Board, and SEC were questioned as to their recommendations for legislation. We were advised by representatives of the latter three agencies that a study was in progress and a response was not possible at the time of the hearing.

The group that is charged with responsibility for the study under the amendment would be expected to use and expand upon analyses already undertaken by the Federal Reserve, Treasury, and SEC. By having the CFTC take the lead in this effort, Congress will be assured of the full participation of the Federal agency that is responsible for futures trading and has all the information on the futures markets. The extensions of bank and brokerage house credit to meet margin calls which were all part of these events, call for the involvement of the other Federal entities.

By having a single report submitted to Congress from all of the affected Federal entities, we will avoid a proliferation of reports. All points of view will be represented in the report and there is the real possibility that unanimous agreement of all of the agencies will not be reached on every point. There should be a full and free sharing of information among the Members of the working group. Sensitive business data should be handled on a strictly confidential basis.

The amendment calls for the submission of the working group's report to the appropriate committees of Congress by October 1, 1980.

The appropriate committees of Congress would be those committees vested with legislative jurisdiction over the activities of the Members of the working group. If other committees or individual members wish copies of the report, it will be readily available from the committees of jurisdiction.

This amendment merely calls for a joint study to report to the interested committees of Congress on the findings of the various agencies that would have immediate concern with those problems.

This amendment has been cleared on both sides of the aisle. I believe that this provision is urgently needed and should be enacted into law as soon as possible.

Mr. JEFFORDS. Mr. Speaker, as I understand it, there are no changes in any substantive or procedural law. It is just merely a joint study.

Mr. FOLEY. The gentleman is entirely correct. The amendment merely calls for a study and both the House and Senate Committees of Agriculture and other appropriate committees will be informed of the results of the study.

Mr. JEFFORDS. Mr. Speaker, I would just like to say that I have checked with the ranking minority Member on the Committee on Agriculture and the ranking member on the subcommittee which deals with these, and they both agree that this amendment is an excellent one.

Mr. Speaker, as the manager of H.R. 6285 when the matter was taken up on the floor of the House, I wish to go on record as favoring the amendment added in the Senate that directs the Commodity

Futures Trading Commission (CFTC) to establish a joint working group with the Federal Reserve Board, the Department of the Treasury, and the Securities Exchange Commission (SEC) that would analyze the various aspects of the matter involving the silver, cash and futures market during the period from September 1979 through March 1980.

This joint working group under the provisions of the Senate amendment would prepare a report of its findings and submit its report to the Congress by October 1, 1980. Included in the report would be such things as a description of the causes of the runup in the silver, cash and futures market and the abrupt decline that occurred during the first part of this year, and an appraisal of the adequacy of consultation between relevant Federal agencies during the September 1979 to March 1980 period, that is, between the members of the CFTC, the Federal Reserve Board, the Department of the Treasury, and the SEC. The report is also to contain recommendations for legislative changes that could prevent a recurrence of these or similar events in any similar futures market activity.

The Senate amendment seems certainly reasonable to me and one that presumably would bring all of the Federal agencies into consultation in preparing a report for the consideration of Congress that would address the issue surrounding the silver market problems which occurred late last fall and early this spring.

The Subcommittee on Conservation and Credit, of which I am a member, held extensive hearings on this matter in recent weeks. I believe that all of the members of the subcommittee—and many of the members of the Agriculture Committee who are not members of that subcommittee who were in attendance at these hearings—are all quite conversant in this subject and would support this amendment. I daresay that there is broad general support by committee membership on this side of the aisle for the proposal contained in the Senate amendment.

From my point of view, Chairman Volker of the Federal Reserve Board and Deputy Secretary of the Treasury Carswell have warned against precipitous action in reacting to certain of the allegations regarding the silver trading problems that occurred earlier this year. If I perceive their statements correctly, they are urging close and careful study to examine the possibility of additional Federal regulatory authority, if indeed any is needed, over the silver, cash and futures market. I believe that in adopting the Senate amendment, we are being cautious and directing the agency which is principally involved here, the CFTC, to conduct a thorough study which will bring this matter back to the attention of the Congress by October 1 of this year.

I urge the adoption of the Senate amendment which has been added to H.R. 6285 by the other body.

(Mr. JEFFORDS asked and was given permission to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington (Mr. Foley)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Washington.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1159, AUTHORIZING APPROPRIATIONS FOR THE MOTOR VEHICLE SAFETY AND INFORMATION AND COST SAVINGS ACTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, with the House amendments thereto, insist on the House amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. Staggers, Scheuer, Preyer, Ottinger, Broyhill, and Rinaldo. As additional conferees: the gentleman from Michigan (Mr. Stockman) solely for consideration of section 102 of the House amendment and the modifications committed to conference, and The gentleman from Georgia, (Mr. Levitas) solely for the consideration of title III of the House amendment and modifications commited to conference.

CONFERENCE REPORT ON S. 562, AUTHORIZING APPROPRIATIONS TO THE NUCLEAR REGULATORY COMMISSION

Mr. UDALL. Mr. Speaker, I call up the conference report on the Senate bill (S. 562) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 4, 1980.)

The SPEAKER. The gentleman from Arizona (Mr. Udall) will be recognized for 30 minutes, and the gentleman from Idaho (Mr. Symms) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the NRC authorization bill for fiscal year 1980 began its prolonged journey through Congress before the March 28, 1979, accident at Three Mile Island nuclear plant. Following that accident, the authorization became the primary vehicle for congressional response to many of the glaring deficiencies that were revealed in our nuclear regulatory process.

The conference agreement before us today is the product of many months of hard work by House and Senate conferees. The agreement enjoys the unanimous approval of the conferees and represents a careful and fair legislative compromise that is timely and needed. By taking up this conference report, the House is not only fulfilling its authorization-appropriations responsibility, but is also acting on a bill that will provide substantially greater assurance that public health and safety will not be endangered by the operation of nuclear powerplants.

Our national commitment to commercial nuclear power is at a crossroads as a result of the accident at Three Mile Island and other significant events of the past year and a half. The conference agreement incorporates interim steps that should be taken while the Congress and the public continue to reevaluate the Nation's nuclear policies. Coming more than 14 months after TMI, this conference agreement, if enacted, will be the first nuclear regulatory reform bill sent to the President since that accident.

Let me summarize some of the key provision in the conference agreement:

First, the agreement contains a provision that will correct a gross inadequacy in existing law which now limits to an unreasonably low level the maximum civil penalty assessable per violation of an NRC license. The Atomic Energy Act now limits the maximum civil penalty per violation of Commission regulations to $5,000 with an aggregate limit of $25,000 in any 30-day period. These limits provide insufficient deterrent to NRC licensees operating in violation of their licenses when compared to the high cost of unplanned reactor shutdown and purchase of replacement power. The conference agreement amends the Atomic Energy Act to raise the level of civil penalties to $100,000 per violation and removes the overall ceiling in a 30-day period.

Second, the agreement prohibits NRC from issuing new operating licenses for nuclear plants unless there exists an approved State or local emergency response plan, or unless the Commission determines that a State, local or utility plan (or combination thereof) provides "reasonable assurance" that public health and safety is protected. The conferees intend that ultimately every operating nuclear plant will have a State emergency response plan that provides reasonable assurance that the public health and safety will not be endangered in the event of an accident at the plant.

Third, the compromise requires that the Commission develop strict new remote siting regulations to assure that new nuclear powerplants are located away from densely populated areas.

Under the new regulations an important criterion for site selection will be the likelihood that evacuations and other emergency actions will be feasible in the event of a serious accident at the nuclear plant. The conferees intend that compliance with remote siting regulations, once promulgated, is a condition for the issuance of new construction permits for reactors.

Fourth, based on a provision originally offered by Congressman BINGHAM and adopted by the House, the conference agreement directs NRC to establish a comprehensive plan for the systematic safety evaluation of all currently operating nuclear powerplants. The conferees believe that, among other things, the accident at Three Mile Island revealed the need for such a systematic assessment of the extent to which currently operating plants comply with significant NRC safety requirements.

Fifth, the conference agreement establishes a criminal penalty for acts of sabotage against various nuclear facilities and materials. The criminal penalty would apply to any person who willfully and intentionally destroys or causes physical damage to, or who willfully and intentionally attempts to destroy or cause physical damage to those facilities or materials. The conference agreement is derived from an amendment offered during the House floor debate by Congressman HERB HARRIS. The provision seeks to deter acts of sabotage at nuclear facilities that could endanger the public, such as the attempt last year to damage reactor fuel at the Surry nuclear plant in Virginia.

Sixth, the conferees agreed to a provision that responds to allegations made during the past year about irregularities in construction at several sites for new nuclear powerplants.

The allegations include both intentional violations of NRC regulations and orders for assuring quality control of construction, and intimidation of quality control inspectors. The conference agreement creates a criminal penalty where a knowing and willful violation of an NRC safety standard in the construction of a plant significantly impairs a basic component. Ultimately, the provision is intended to serve as a deterrent to such violations.

Mr. Speaker, the conference agreement also contains several provisions that will enhance the capability of NRC to respond to future emergency situations.

The agreement directs NRC to prepare an agency plan for its own internal responses to emergencies at nuclear plants;

The compromise directs the President to prepare and publish a national contingency plan for use by appropriate Federal agencies in the event of an accident at a nuclear plant;

The agreement amends the Atomic Energy Act to require, as a condition for an operating license, that a utility have the capability to immediately notify the Commission in the case of an accident; and,

The Atomic Energy Act is amended to give the Commission new authority in certain emergency situations to suspend an agreement with an Agreement State, so that NRC might take actions to protect public health and safety.

Mr. Speaker, the conference agreement also includes several provisions that will assist NRC to be a more effective regulator on a day-to-day basis. Among these provisions are the following:

In accordance with an amendment offered in the House by Mr. DICKS and Mr. GLICKMAN, the agreement accelerates NRC's program for putting full-time inspectors at all nuclear plants by authorizing funds to hire 146 additional resident inspectors;

The compromise directs NRC to implement a plan to improve training and retraining programs for nuclear plant operators—a provision similar to an amendment offered in the House by Representative HOLTZMAN;

The agreement directs the NRC to prepare a plan for instantaneous, remote monitoring or other timely communication of key safety data from all operating nuclear powerplants; and

The Atomic Energy Act is amended to give the Commission limited new authority to withhold from public disclosure certain sensitive safeguards information, if the disclosure of the information could reasonably be expected to have a significant adverse effect on public health and safety.

Finally, Mr. Speaker, let me briefly mention several other provisions that were originally agreed to by the House and have remained intact in the conference agreement:

The agreement includes the overall authorization level of $426,821,000 approved by the House for the salaries and expenses of the NRC during fiscal year 1980;

As suggested by the House Committee on Foreign Affairs, the conference agreement designates funds to be available for implementation of the U.S./International Atomic Energy Agency Safeguards Treaty;

The compromise incorporates a provision first proposed by Congressman SEIBERLING that requires the notification of Governors before nuclear waste is shipped through their States;

As required by an amendment first offered by Congressman LAGOMARSINO, the conference agreement requires prior notification of Congress of any plan to ship spent fuel to Pacific islands;

The conference agreement, like the amendment offered in the House by Mr. GONZALES, makes it a Federal crime to kill, assault, or intimidate inspectors of nuclear plants; and

Based on the amendment in the House by Congressman QUILLEN, the compromise designates funds to be used for the regulatory improvement of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent nuclear fuel.

In conclusion, Mr. Speaker, the conference agreement on the NRC authorizing legislation for fiscal year 1980 has been a long time coming, and some say it is long overdue. Speaking for myself, I am convinced that the conference report is carefully crafted and fairly balanced, and I urge my colleagues to approve its adoption.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I noted, I realize this is rather an academic question in view of the fact that we are only dealing with the period from now until the end of the 1980 fiscal year, but I see that the conferees agreed to the language regarding the dumping of nuclear waste material in the oceans. That was an amendment which was offered here on the House floor and discussed at some length and rejected by the House. It has been apparently agreed to by the House conferees.

I am disturbed by the language, not because it is in the bill, that is academic almost, but because I do not think this is a good policy for the country to pursue in the years ahead; in other words, why we would eliminate from the possible places we might want to dispose of some of this waste, be it high level waste or low level waste, all the oceans of the world and to do it unilaterally. I mean, it would be the only country in the world which would have made this type of commitment. I do not think it makes much sense as national policy.

I am just trying to get the reaction of the gentleman as to what the conferees were trying to do or say.

Mr. UDALL. Mr. Speaker, let me state to the gentleman, I agree with his proposal that we ought to study this. We ought to study every kind of proposal.

This started out as a line item authorization bill, but it was the first nuclear regulatory bill to come up after Three Mile Island and a number of policy provisions were written into the bill to deal with things that are longer range than simply the authorization of money.

We had to give on some things, and the provision from the Senate bill on ocean dumping was one of those things. I am interested in the nuclear waste issue and will try to work with the gentleman on future legislation.

Mr. WYDLER. Mr. Speaker, I thank the gentleman very much.

Mr. SYMMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one of the conferees on this bill, I can tell you that we sought to maintain those basic principles agreed to in the House, particularly in the area of emergency planning. However, I must restate a point that I made earlier in the House debate on this bill and that is, I do not believe that the authorization bill is the proper vehicle for the amendment of substantive law. I recognize that the accident at Three Mile Island produced an environment that demanded that Congress mandate certain legislative changes on a priority basis. I believe that we have certainly done this. However, I hope our action on amending substantive law via an authorization bill is a one-time-only event—not a precedent.

Mr. Speaker, at this time I would like to ask if the gentleman from Arizona would engage in a colloquy.

Mr. Speaker, I would like to obtain a clarification of one point in the statement of managers accompanying S. 562 from the gentleman from Arizona. The statement of managers states that the increased limits on civil penalties provided for in section 234 of the Atomic Energy Act of 1954 are also intended to apply to violations of section 206 of the Energy Reorganization Act of 1974, which specifically references the limits in section 234. I assume that the application of the increased civil penalty limits to violations of section 206 is based upon the same underlying rationale as that described in the statement of managers for section 234.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the gentleman is correct. As the statement of managers indicates, the increased civil penalty limits are intended to provide a stronger deterrent against violations by large corporate entities such as major NRC licensees that might otherwise have an economic incentive to commit a violation and incur a relatively low civil penalty. The application of the higher civil penalty limits to violations of section 206 is intended to be consistent with this underlying rationale.

Mr. SYMMS. The statement of managers also described several factors that the conferees expect the Commission will consider in setting the amount of civil penalty under section 234. These include the gravity of the violation, good faith, the history of previous violations, and the financial impact of the fine on the licensee. Are these same factors, including the financial impact of the fine, intended to apply to the Commission's decisions in setting the amount of civil penalty under section 206, particularly where the civil penalty may be imposed for violations by individuals as opposed to organizations?

Mr. UDALL. Yes. The Commission has discretion in setting the specific amount of any civil penalty within the overall limits established by the bill. The conferees intend that the Commission, in exercising that discretion under both sections, specifically consider the factors enumerated in the statement of managers. This should insure that the civil penalties imposed are fair and appropriate to the violation, and that the Commission's civil penalty authority will provide an effective deterrent against possible future violations.

Mr. SYMMS. I thank the gentleman for that clarification.

□ 1720

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of the conference report. However, I would appreciate the attention of the chairman of the Committee on Interior and Insular Affairs, because I wanted to remind him of our colloquy earlier when the bill was under consideration in the House in which several of us agreed, I think, that the Nuclear Regulatory Commission, once the authorization is passed, should move on the licensing for operation of those plants that have been delayed and not had their licenses finally approved. Certainly I refer to those who have no problems, those who have no safety factors and so forth, and there is no reason to extend that delay any longer because we need the power. While we have a glut in the oil market at this time, we still ought to have nuclear power where we can have it put into effect and if there is no safety problem.

As I understand, no new operating licenses have been issued yet, so I think we need to remind the Nuclear Regulatory Commission of their responsibility to regulate and that means both approve when it is timely as well as disapprove when it is appropriate.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I would say to the gentleman we are trying very hard in our committee, as the gentleman is in his, to further the national debate on the whole question of where we go with nuclear. Certainly I agree with him that if the new standards are being met, and there are facilities ready to go on line, the NRC must make that determination. I trust they will make that kind of a determination.

Mr. BROWN of Ohio. I would assume also the gentleman would agree with me that the States should voluntarily comply with the guidelines which NRC will issue regarding State emergency response plans, that those guidelines, once prepared, need to be appropriately addressed by the States, and it is my hope that the Nuclear Regulatory Commission will complete those guidelines as rapidly as possible.

Mr. UDALL. I trust they will. Working together with the Federal Emergency Management Agency, we are trying to give them some authority they need and give them a little kick in going off in that direction.

Mr. BROWN of Ohio. Finally let me say to the chairman of the Interior and Insular Affairs Committee I am gratified that the language of the other body was rejected which would have mandated no new operating licenses if there were not State plans. I think the voluntary approach is better. I am delighted that issue was settled and want to congratulate the gentleman for the work done by the conference committee.

Mr. UDALL. I thank the gentleman and would advise him we are beginning a markup this week in our subcommittee and eventually we will be working with the gentleman's committee. We are trying to write a national nuclear policy bill. We have a bill before us, and the day after tomorrow we are going to start to work on that. I hope we can address some of the things the gentleman is concerned about.

Mr. BROWN of Ohio. Finally I want to make sure that I am correct in my assumption, because I intend to continue to keep some kind of an eye on what the Commission is doing. It is my understanding that existing plants are in no way affected by the compromise State plan language that was agreed to in the conference report; is that correct?

Mr. UDALL. If the gentleman will yield, that is correct.

Mr. BROWN of Ohio. I thank the gentleman very much. I want to again commend the work of the gentleman from Arizona (Mr. UDALL) and the ranking member of the committee, the gentleman from Idaho (Mr. SYMMS), for the work they have done on this legislation. I feel that at least we have gotten some progress made, which is salutary.

Mr. CLAUSEN. Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I rise in support of the conference report for the bill authorizing appropriations during fiscal year 1980 for the Nuclear Regulatory Commission. I signed the conference report because I believed in the agreement of the conferees from this House with the Senate that we did accomplish something.

The accident at Three Mile Island took place nearly 15 months ago. The 1980 fiscal year began nearly 9 months ago. It is long past due that Congress acted to correct some deficiencies in the laws governing nuclear power.

The President's Commission on the Accident at Three Mile Island pulled no punches last October when it concluded that such an accident was "eventually inevitable" given the policies and procedures, or lack of them, that brought the nuclear industry to its present state of disarray.

I supported safety reform measures stronger than those on which the conferees have agreed. Key amendments attached in the House and Senate last year in reaction to the TMI–2 accident have been watered down. For example, in this body we approved an amendment offered by the gentleman from New York (Mr. BINGHAM) requiring the timely identification of unresolved safety problems common to all nuclear plants. The status of these so-called generic safety questions, whether technical solutions have been developed yet, and if so, in which operating reactors these solutions have been implemented, was to be reviewed. A schedule for developing solutions to the remaining unresolved safety questions was to be prepared. Further, a full examination of all safety-related rules and regulations governing nuclear power was to be made with respect to the application of these rules to all currently operating reactors. Finally, the NRC was to submit to Congress, within 120 days after an accident, a report containing a compilation of all these studies.

There are many questions, many areas that were addressed in this piece of legislation dealing with penalties, criminal penalties on those that violate the laws, whether it be the manufacturer, architect or contractor, that could have been tougher safety requirements with regard to remote siting and emergency planning in particular, but compromise was necessary.

I wish this Congress were ready to go further than this conference report to insist that if we err in the regulation of nuclear power that we err in favor of greater insistence upon nuclear safety than in the other direction. But because this report makes some progress in this regard, I urge the Members of this House to support this conference report today.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in support of the conference report accompanying S. 562 and urge strongly that it be adopted by the House.

This conference report on Nuclear Regulatory Commission's 1980 authorization legislation contains some very important recommendations, requirements, and funding levels for programs which stem from our experience last year with the Three Mile Island nuclear accident. In particular, I would point out to my colleagues a provision in the bill before you which requires the Nuclear Regulatory Commission to undertake its first systematic safety evaluation of all existing commercial nuclear powerplants. While the original House bill directed the NRC to begin such a safety exercise, there was no similar language in the Senate bill. The compromise worked out on the so-called Bingham amendment reflects a broad-based, bipartisan desire to see that the NRC develops and implements expeditiously a truly comprehensive and meaningful evaluation of how safe our nuclear powerplants are, and of what might need to be done to further insure their safety. Good faith negotiations among the conferees have produced a good program. I urge my colleagues to study the detailed discussion contained in the conference report about this very important safety program.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report represents the most significant piece of legislation in the area of nuclear regulation move out of this body since the accident at Three Mile Island. I can tell you it deserves our undivided attention. This bill addresses a number of key areas of concern that resulted from Three Mile Island, these being radiological emergency planning and the remote siting of nuclear powerplants. These particular provisions, as envisioned in our conference report, will undoubtedly assure that an additional measure of safety will be provided for the public around and near nuclear powerplants.

We also accepted a number of the Senate provisions which would improve the communications between NRC and the operators of nuclear reactors. These provisions include dedicated telephone lines from the powerplant to NRC regional offices and headquarters. We are also having NRC undertake a study that would evaluate the feasibility of the automatic transmission of reactor data to NRC. These provisions, we think, would provide a clear understanding both to NRC and to the public of the conditions surrounding events at a malfunctioning nuclear powerplant.

● Mr. HARRIS. Mr. Speaker, I am pleased that the House is now considering the conference report on S. 562, the Nuclear Regulatory Commission's fiscal year 1980 authorization bill. This conference report includes my amendment which would impose uniform sanctions against the sabotage of any nuclear facility. It would provide criminal penalties for those who engage in nuclear sabotage of not more than $10,000 and/or 10 years in prison.

Early in 1979, I had an opportunity to tour the VEPCO nuclear generating facility in Surry, Va. I was impressed with the elaborate and intricate security measures in place to guard against potential damage to the plant and danger to workers and to the public. But not withstanding this most sophisticated security system, in May of last year, two persons with access to the plant demonstrated that the security system could be breached and that, in fact, a nuclear facility could be sabotaged. Something else was demonstrated by this incident, that there is no apparent Federal jurisdiction either to investigate or prosecute in a case of sabotage against a nuclear generating facility.

The Federal Bureau of Investigation (FBI) did initially enter the Surry case under the belief that existing Federal statutes might have been violated, but the FBI later discovered that the Surry incident did not fall within Federal jurisdiction. As a result, the FBI turned over the case and its files to the Commonwealth of Virginia for prosecution.

Passage of this conference report, which includes my amendment, would clearly establish the Federal interest in preventing, investigating and punishing acts of sabotage against nuclear plants. It would make it possible for the FBI to become involved in investigating attempts to sabotage nuclear facilities and would provide for criminal penalties for those who engage in sabotage of not more than $10,000 and/or 10 years in prison.

I feel strongly that there is a clear Federal interest in insuring the health and safety of all Americans who might be jeopardized as a result of sabotage to a nuclear facility. Sabotage of a nuclear facility could clearly affect parts of the Nation other than the place in which the sabotage occurred. This amendment would make it clear that nuclear sabotage is a serious offense that the Federal Government will thoroughly investigate and fully prosecute. We cannot tolerate willful and intentional acts of violence to nuclear facilities which could endanger the safety of the American people and the environment.

This provision carefully defines the acts of sabotage covered with the intent of achieving a narrow, but effective, definition of nuclear sabotage. Specifically, it would cover only willful and intentional acts of sabotage that cause serious physical damage to a nuclear facility. The provision is tightly worded and covers only those nuclear facilities actually involved in the production, utilization or storage of nuclear material. It would not cover other auxiliary components such as fences, access roads, guard houses, and visitors centers.

I feel strongly that it is in the national interest to protect the health and safety of all Americans and to protect the environment from the sabotage of a nuclear facility. I am pleased my amendment was included in this conference report and I think it is absolutely necessary to pass S. 562 and clear up this ambiguity in Federal law. We must make it clear that nuclear sabotage is a serious offense that the Federal Government will thoroughly investigate and prosecute.●

Mr. UDALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. RICHMOND). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CLAUSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 9, not voting 38, as follows:

[Roll No. 308]

YEAS—386

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.

de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Waytt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—9

Burton, John
Conyers
Dellums
Jeffords
Kelly
Paul
Satterfield
Stark
Weiss

NOT VOTING—38

Anderson, Ill.
Beard, Tenn.
Biaggi
Burton, Phillip
Chisholm
Clay
Collins, Ill.
Danielson
Davis, S.C.
Dixon
Ford, Mich.
Gephardt
Giaimo
Hawkins
Heftel
Holtzman
Ichord
Jenrette
Kemp
McKinney
Mathis
Michel
Moffett
Nedzi
Nolan
Pritchard
Railsback
Reuss
Roberts
Rostenkowski
Runnels
Scheuer
Sebelius
Thompson
White
Whitten
Wilson, C. H.
Wydler

☐ 1740

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Beard of Tennessee.
Mr. Reuss with Mr. Wydler.
Mr. Giaimo with Mr. Michel.
Mr. Hawkins with Mr. Pritchard.
Mr. Danielson with Mr. Kemp.
Mr. Nedzi with Mr. Railsback.
Mr. Rostenkowski with Mr. McKinney.
Mr. Thompson with Mr. Sebelius.
Mr. White with Mr. Dixon.
Mr. Roberts with Mr. Jenrette.
Mr. Phillip Burton with Mr. Ichord.
Mrs. Chisholm with Mr. Heftel.
Mr. Clay with Mr. Mathis.
Mr. Moffett with Mr. Runnels.
Mr. Whitten with Mr. Charles H. Wilson of California.
Mr. Ford of Michigan with Mrs. Collins of Illinois.
Mr. Nolan with Mr. Scheuer.
Ms. Holtzman with Mr. Davis of South Carolina.
Mr. Gephardt with Mr. Anderson of Illinois.

Mr. PURSELL and Mr. McDONALD changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DIRECTING THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 562

Mr. UDALL. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 359) directing the Secretary of the Senate to make corrections in the enrollment of S. 562, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 359

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 562) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 101(a)(4)(C), strike out "and" in the first place it appears.

(2) In section 101(a)(5), strike out "Reserach" and substitute "Research".

(3) In section 110(c), after "Congress" insert "on".

(4) In paragraph (3) of subsection b. of the amendment made by section 203, strike out "as" and substitute "in excess of the limits".

(5) In the last sentence of the amendment made by section 203 insert "required to be" before "licensed".

(6) In subsection d.(3) of the amendment made by section 207, before the period insert "or the common defense and security".

(7) In section 301(a), strike out "bundaries" and substitute "boundaries".

(8) In section 303(2), after "permit" insert "and".

(9) In section 307(a), strike out "programs by" and substitute "programs for".

(10) In section 308, strike out "Secretary of Health and Human Resources" and substitute "Secretary of Health and Human Services".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RE-REFERRAL OF S. 1895, CHANGING NAME OF LOS ESTEROS DAM, TO COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1895) to change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Ga. and S.C., as "Clarks Hill Dam and Lake," and that the bill be re-referred to the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERSONAL EXPLANATION

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, on Thursday, June 5, I was required to return to my congressional district before the House rose, causing me to miss several rollcall votes.

On rollcall No. 298, the Minish amendment, I would have voted "no" had I been present. This amendment failed 177 to 198. I opposed the Minish amendment because it affected aid to only three countries which, while members of OPEC, do receive some aid from the United States. Those countries are Ecuador, which will receive $9.5 million, Indonesia, which will receive $100 million, and Nigeria, which will receive $5 million. These are countries with which we need to maintain ties and which are on friendly terms with us. We should not cut off these relatively small projects out of pique against OPEC.

On rollcall No. 299, the Bauman amendment, as amended, to cut the amounts authorized in the foreign assistance authorization by 10 percent except for funds intended for Israel and Egypt, for refugees, narcotics control, UNICEF, peacekeeping operations, and American schools and hospitals abroad, I would have voted "yes." The Bauman amendment carried 243 to 131.

On rollcall No. 300, final passage of H.R. 6942, the foreign assistance authorization for fiscal year 1980, I was paired in favor of passage, of the bill.

On rollcall No. 301, the question of passing H.R. 7428, to extend the public debt limit and repeal the oil import fee of 10 cents per gallon, the objections of the President to the contrary notwithstanding, I would have voted "yes" to override the President's veto. I was a cosponsor of two measures which would have had the effect of repealing the oil import fee, which represented an unconscionable inflationary additional tax on the American people. The President's veto was overridden by a vote of 335 to 34.

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF COMMITTEE ON GOVERNMENT OPERATIONS TO MEET TOMORROW DURING 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security of the Committee on Government Operations be permitted to meet on Wednesday, June 11, while the House is proceeding under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT TO SECTION 8 OF THE MOTOR CARRIER ACT

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, a few days ago I got a letter from the National Small Business Association regarding the Motor Carrier Act, section 8, and I started doing a little checking. It was amazing what I have found.

Where did this amendment come from? After doing a little bit of checking, one person, a Senator from Louisiana, offered this amendment. There was no debate, no vote. It comes out on the floor of the other body. What happened to those silent sentinels in the Senate who are usually protecting the consumers? Not one of them spoke up.

I asked a few of them and they said, "Well, a Senator from Louisiana wants this."

It is now over in this Chamber. I then asked some of the Members on our side what this section 8 was and they said, "Well, a Senator from Louisiana said it cannot come out."

Well, let me tell you something. I have been around here for 20 years and I have watched some strange things happening, but this is the type of thing that should get a lot of attention and, believe me, it will in the next few days. I ask my colleagues to watch the Record for some of the statements that I will be putting in regarding section 8 of the Motor Carrier Act.

Mr. Speaker, the letter I received from NSBA follows:

National Small Business Association,
Washington, D.C., June 6, 1980.

Dear Representative Ashbrook: Very shortly you will be voting on H.R. 6418, the Motor Carrier Act of 1980. This legislation is needed and we generally support the concepts and goals covered by the bill.

However, section 8 of the bill entitled "Food and Grocery Transportation," because of its potential effect on the Robinson-Patman Act and our nation's 14,000,000 small businesses, should be deleted. Small businesses depend on the protection of the Robinson-Patman Act to survive the intense competition offered by larger businesses. This is a very important issue and one which we believe should be thoroughly evaluated before Congress makes any final decisions.

Section 8 of H.R. 6418 providing for discriminatory customer pickup (backhaul) allowances is, in effect, an amendment to the Robinson-Patman Act, and as such, is clearly an antitrust issue of great concern to small business which regards the Robinson-Patman Act as the "Magna Carta" for small business.

Despite claims made by the proponents of this move, the Federal Trade Commission has repeatedly held that enactment of this section would make it impossible for the Commission to enforce the discriminatory pricing provisions of the Robinson-Patman Act.

Testifying before a House Small Business Committee hearing, Alfred Dougherty, Director of the FTC's Bureau of Competition, said:

"The Commission position is that backhaul allowances can be offered to buyers confronting uniform delivered price systems, as long as the price that results from the deduction of the allowance is the same for all buyers, thereby preventing price discrimination.

"From my point of view, Mr. Chairman, the real issue is simple: If I show up at a seller's loading dock with my own truck, the cost of the product I buy should be no different from the price charged to any other buyer who shows up with his own truck. This is because the seller's costs at the loading dock are the same for everyone."

Because of the leverage that can be utilized by large chain buyers, discriminatory pricing, decreased competition and added concentration would result. Therefore, we ask that the measure be thoroughly examined by the House Judiciary Committee, under whose jurisdiction Robinson-Patman issues properly fall.

If an issue of such vital importance to small business as the Robinson-Patman Act is to be tampered with, it must only be done after thorough evaluation and realistic assessment of the consequences.

This is not a transportation issue, nor is it an energy saving measure. Although the language of section 8 would seem to involve only "food and grocery" industries, it is evident that the chief sponsor of the amendment in the Senate considers a much broader application:

". . . Existing law does not make unlawful the type of compensation specified in this section, whether the goods picked up by the customer are food or grocery products or some other materials, nor does existing law establish this type of compensation or allowances. *Thus, even though this section is expressly limited to food and grocery products, its enactment should not be construed to mean that the payment of similar compensation—or the granting of a comparable allowance—to customers picking up other materials is unlawful. In addition, the enactment of this section should not be construed as meaning that other types of pickup compensation or allowance formulas are unlawful either as to food or grocery products or any other material.* In other words, the purpose of this section is to reaffirm what is now the law as to food and grocery products but not to express or infer anything else with respect to any form of pickup compensation or allowance applied either to food and grocery products or any other product line." Congressional Record, April 15, 1980, p. S363—Remarks of Senator Russell Long, italic added.

Therefore, the entire broad range of commerce may be involved, including thousands of retail establishments in your own Congressional district.

Finally, this measure undoubtedly would not result in any savings for the American consumer. Attached is a copy of a letter sent to all members of the Senate Commerce Committee on March 11, 1980, just prior to the markup on S. 2245. Kathleen F. O'Reilly, then Executive Director of the Consumer Federation of America, expressed the fear that increased economic concentration would only result in higher consumer prices.

As a simple matter of justice and equity, we cannot condone so severe a blow to the Robinson-Patman Act and small business as is being contemplated in H.R. 6418. That the U.S. Senate did not have the time to recognize the potential damage to small business is unfortunate. To have the White House follow suit with no defensible hearing record to support such a move would be unthinkable.

We urgently request that this measure be deleted from H.R. 6418 at this time.

Sincerely,
Herbert Liebenson,
President.

THE DESTRUCTION BY TORNADOES OF THE CITY OF GRAND ISLAND

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matters.)

Mrs. SMITH of Nebraska. Mr. Speaker, the ordeal of the people of Grand Island, Nebr., is entering its second week following devastation of this wonderful Nebraska city by four or more tornadoes on the night of June 3, 1980.

I wish to bring the attention of my colleagues here in the Congress and in the Nation to the courage, initiative, and cooperation of not only the volunteer, local, State, Federal officials responding to this tragedy but especially of the people of the city itself. I thank the President of the United States for touring the stricken city today, for inviting me to confer with him in Grand Island, and for offering me passage back to Washington on Air Force One.

Let me just sketch the outlines of the devastation that descended upon Grand Islanders that black night: Within a few hours, perhaps one-third of the city, which has a population of about 33,000, was destroyed or heavily damaged. Dozens and dozens of city blocks of residences and businesses simply were flattened by the storm. The toll includes 531 homes destroyed, 460 damaged severely, 940 damaged to lesser extent; 60 businesses destroyed, 15 with major damage, and 33 with minor damage. For hours afterward, most of the city was without electricity and water, and transmission lines were wiped out. Total estimated damage to the city: $300 million. Nearly 50 farms were destroyed or heavily damaged in outlying Hall County.

The human toll consisted of 5 deaths and 200 injured. Eight persons were missing. Mr. Speaker, the search for bodies is continuing in the splintered homes and business offices of Grand Island even as I speak.

My district office staff in Grand Island informed me of the tornado's impact upon the city by about 12:30 a.m., on June 4, and then, working with our distinguished Governor, Charles Thone, I quickly appealed to the White House for whatever Federal assistance is available to help Grand Island to begin to pick up the pieces and put itself and its economy back together.

I am pleased to note that the White House did respond, and quickly declared the area formally to be a major disaster. This triggered a series of steps that led the Federal Emergency Management Agency to dispatch 70 persons to Grand Island to assist in categorizing and processing the pressing needs of the people.

I wish to commend Francis Tobin, the Federal disaster team leader, for moving in quickly afterward to begin helping people, to provide mobile homes for the homeless, and to guide the citizenry to obtain the array of services and resources available.

I commend Mayor Robert Kriz, the city council, the county board of supervisors for their indefatigable devotion to duty in the first dark hours and for their unswerving determination to put the city and Hall County on the right road to recovery.

Of special importance was the outstanding, uninterrupted performance of our newspapers, radios, and television who labored to keep us informed when most other means of communication were knocked out. I commend also all others, known and unknown, who helped each other to survive.

Once all that I could accomplish was done in Washington for Grand Island, I hurried home to the Third District to see the city for myself and to learn how best to tailor Federal assistance to the needs of our city.

Mr. Speaker, I must report to you and my colleagues here in the House that the sight of the incredible devastation was a shock. The psyche simply cannot be prepared for such a reality. I was shaken.

My spirits took a sharp turn upward, however, after my firsthand tour of the city and the damage it suffered.

Many commentators have expressed already well-deserved praise for the way Grand Island people responded, shared their overwhelming feelings of loss, and began taking the storm's aftermath in their stride.

Mr. Speaker, the recovery effort will be costly. Of human spirit, there is an abundance. Of outside money and muscle, there is a shortage.

The Federal Government is being asked to help Grand Island foot that part of the bill that exceeds State, local, and private sector resources.

This will be money well spent, in my view, far better spent, say, than endlessly pouring it out for foreign-aid assistance, often to lands who ungratefully scorn us and our efforts to help them.

So, as the Congress moves into its appropriations process, I appeal to my colleagues to take care of our own people first, and then let us see what can be spared for other lands.

Grand Islanders, and all Americans, deserve our first attention. My hat is off to Grand Island and its indomitable spirit.

Thank you.

THE JUSTICE DEPARTMENT SHOULD PROSECUTE RAMSEY CLARK AND OTHER AMERICANS WHO PARTICIPATED IN THE ANTI-AMERICAN IRAN CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 30 minutes.

Mr. RUDD. Mr. Speaker, I am today introducing a resolution designed to express the sense of Congress that the President instruct the Attorney General to prosecute to the fullest extent of the law those American citizens who evidently violated U.S. laws by their participation in an international anti-American conference in Iran last week. I am pleased to offer in the House a resolution containing identical language to that introduced in the Senate by the distinguished Senator from Kansas, Mr. BOB DOLE, and 24 colleagues.

In particular, the resolution cites the provisions of the Logan Act which specifically prohibit private citizens from entering into intercourse with any foreign government with intent to influence the measures or conduct of any foreign government in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.

Also cited in the resolution are the provisions of the International Emergency Economic Powers Act which grant to the President the authority to restrict travel to countries hostile to the United States which were invoked by the President on April 17 with respect to travel in Iran.

Both laws have clear relevance to the actions taken last week in disregard of these laws by former U.S. Attorney General Ramsey Clark and nine other Americans who traveled to Tehran to participate in an Iranian-sponsored international conference investigating American interference in Iran.

Their activities were undertaken despite warnings from the Justice Department about potential violations of U.S. law.

The 10 American citizens willfully participated in the conference, the very purpose for which was to serve as a platform for virulent anti-American statements and legitimize the continued holding of the 53 American hostages.

Mr. Clark and his associates contributed to the inflammatory nature of the tribunal with their repeated denigration of present and past U.S. policy toward Iran and with regard to the Shah's government and by their outspoken opposition to the current U.S. policy of economic sanctions against Iran and our Government's refusal to assist in returning the Shah to Iran.

Such a bias was a prerequisite for participation in the conference and ensured the condemnation of the United States sought by the Iranian Government.

The bias of the U.S. delegation was made clear by Foreign Minister Sadeq Qotbzadeh who said:

> The U.S. delegation taking part in the conference has been chosen by our friends in the United States and consists of those who have taken a clear stand in favor of the Iranian revolution.

A report from the British Broadcasting Service summarized the damage done by the Clark delegation:

> The international conference intended to prove Iran's charges of American connivings with a manipulation of the shah has been a success. One propaganda coup was to invite and get former U.S. Attorney General Ramsey Clark. His savage denunciation of past and present American governments was a bonus.

While in Iran, Clark mouthed the litany of Iranian grievances against the United States. He denounced previous U.S. support for the Shah of Iran and urged the return of the Shah to Iran "so that he may be tried and punished for all this treason."

Clark criticized the current U.S. policy of economic sanctions against Iran and denounced the April 24 hostage rescue attempt.

Indeed, Clark's statements parallel the final statement of the conference condemning the United States. That statement follows:

1. The conference supports the heroic struggle for freedom of the Iranian nation, based on Islam.

2. The conference praises the martyrs of the Islamic Revolution whose martyrdom has guaranteed Iran's liberty and freedom from imperialistic domination.

3. The conference strongly condemns U.S. interference in the internal affairs of Iran, especially during the past 27 years and after the coup d'etats that were prepared and executed by the United States and the CIA.

4. The conference decisively condemns the direct and indirect threats of the U.S. Government conspiracies and incitements against the Islamic Republic of Iran.

5. The conference condemns the recent U.S. aggression against Iran's territorial integrity and liberty.

6. The conference condemns the recent economic decisions against Iran, especially the freezing of Iranian assets in the United States.

7. The conference condemns the prejudiced treatment and pressure exerted by U.S. officials and organizations on Iranian subjects, especially Iranian students in the United States.

8. The conference recognizes Iran's right to compensation for the heavy material and humanitarian losses incurred by Iran as a result of U.S. actions during the past 27 years.

9. The conference recognizes the right of the people and the Islamic Republic of Iran to demand the extradition of the deposed Shah and the return of the wealth that the Pahlavi dynasty and its collaborators have plundered from Iran.

10. The conference stresses that all quarrels between the Islamic Republic of Iran and the United States should be solved through peaceful means as soon as possible.

11. The conference condemns U.S. pressure on other countries to force them to participate in the sanctions against Iran, thereby threatening world peace, and asks these countries to maintain and extend their cooperation with the Islamic Republic of Iran.

12. The conference expresses its solidarity and support for the Iranian people and the Islamic Republic of Iran, and has decided to establish a special committee to keep in touch with the participants in this conference in order to harmonize their efforts towards preventing all instigations by the imperialists against the Iranian revolution.

This statement was adopted unanimously by the more than 300 representatives from 54 countries or groups who attended the Tehran conference.

The Clark delegation's collaboration with the avowed enemies of our Nation and enthusiastic support for the revolutionary government of Ayatollah Ruhollah Khomeini have served only to inject into Iranian consciousness the mistaken impression that our citizens are not united in our dedication to the unconditional release of the 53 Americans wrongfully held since November 1979.

Such confusion inevitably serves to aid and abet the Iranian terrorists and strengthen their desperate hope that our Nation will capitulate to their ever-shifting demands.

The irresponsible actions of this radical group of Americans have served to widen the gulf between the U.S. Government and Iran, and to prolong the captivity of the American hostages.

Nothing constructive to the release of the hostages was derived from the participation of this self-appointed delegation. The purpose of the conference was clear from the outset: To create a forum for anti-Americanism and a premise for continuing to hold the 53 Americans.

The participation of the Clark delegation was used by the Iranians to give an appearance of respectability to the predetermined objectives of the conference.

The statements made by Ramsey Clark and his associates in Tehran are a disgrace to the United States.

Congress should make unmistakably clear that their views in no way represent the feelings of American citizens who remain committed to the return of the hostages.

Unlike previous visits to Iran before the travel ban by Representative GEORGE HANSEN, and even others since the ban, the Clark delegation engaged in conduct undermining the position of the U.S. Government, condemning U.S. policies, and supporting the revolutionary government in Iran.

The delegation was clearly warned in advance about the likely consequences of their actions.

The resolution which I am introducing today expresses the sense of the House that the President should instruct the Attorney General to begin immediate prosecution under the Logan Act and the International Emergency Economic Powers Act.

This resolution calling for the prosecution of Ramsey Clark and his associates does not deal only with the question of the President's ban on travel to Iran. My bill calls for prosecution of American citizens who broke the law by dealing with foreign government officials and condemning the United States after they got to Iran.

This act of taking the law into their own hands and formulating national policy without any authority or responsibility whatsoever is much more fundamental than the mere violation of a Presidential ban on travel to restricted countries.

It would be totally irresponsible for the President to allow this flagrant breech of loyalty to go unprosecuted.

When the administration is actively discouraging families of the hostages from going to Iran to plead for the lives of their husbands and fathers, and sons and daughters, we cannot allow the visit of these disloyal Americans to be misinterpreted by anyone as representing the United States or our policies or views.

By urging enforcement of the law through passage of this resolution, Congress can make it clear to the world that Ramsev Clark and his cohorts have been repudiated and condemned for their actions by the American people.

If there are other statutes which the Clark delegation has violated, these, too, should be fully enforced by the Justice Department and the courts.

The flagrant violation of U.S. laws cannot be sanctioned.

Mr. Speaker, I include the resolution which I have introduced at this point in the RECORD, and urge all my colleagues to join as cosponsors:

H. RES. 704

Whereas, the government of Iran has continued to act in a hostile manner towards the government of the U.S. since it seized American diplomatic personnel on November 4, 1979;

Whereas, certain residents and citizens of the U.S. have collaborated in this hostility by condemning and insulting their own country;

Whereas, the government of Iran is conducting a "sham" tribunal falsely pretending to be an assessment of "crimes of America" at which certain citizens and residents of the U.S. are attending at the request and expense of Iran;

Whereas, the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is active enforcement of the Logan Act;

Whereas, Title 18, Section 953, of the United States prohibits that any citizen of the United States, wherever he may be, who without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States;

Whereas, the President of the United States by executive order prohibited all travel by American citizens to Iran as part of our overall policy of securing the release of American hostages;

Now, therefore, be it resolved, that it is the sense of the House of Representatives that the President instruct the Attorney General to prosecute to the fullest extent of the law any and all persons who are in violation of the Logan Act and the prohibition on travel to Iran, provided for under the authority of the International Emergency Economic Powers Act; thereby denigrating the United States, and giving the color of "right" to the illegal actions taken by the government of Iran.

□ 1800

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. COELHO). Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, on Thursday, June 5, during consideration of H.R. 6942, the International Security and Development Assistance Act for fiscal 1981, I missed several rollcall votes. The votes are as follows:

Rollcall No. 292, a vote on a motion that the House resolve itself into the Committee of the Whole for consideration of H.R. 6942, the International Security and Develooment Assistance Act for fiscal 1981. The motion was agreed to by vote of 356 to 24. Had I been present, I would have voted "yea."

Rollcall No. 294, a vote on an amendment to H.R. 6942, offered by Mr. BROOMFIELD of Michigan. The amendment was agreed to by a vote of 220 to 148. Had I been present, I would have vote "no."

Rollcall No. 296, a vote on an amendment to H.R. 6942 offered by Mr. ASHBROOK of Ohio. The amendment was agreed to by vote of 320 to 71. Had I been present, I would have voted "no."

Rollcall No. 297, a vote on an amendment to H.R. 6942 offered by Mr. WRIGHT of Texas. The amendment was agreed to by vote of 243 to 144. I was paired for this amendment and had I been present, would have voted "aye."

Rollcall No. 298, a vote on an amendment to H.R. 6942 offered by Mr. MINISH of New Jersey. The amendment was rejected by a vote of 177 to 198. Had I been present, I would have voted "no."

Rollcall No. 299, a vote on an amendment to H.R. 6942 offered by Mr. BAUMAN of Maryland. The amendment was agreed to by vote of 243 to 131. Had I been present, I would have voted "no." ●

WILL RAILROAD DEREGULATION INSURE THE SAFETY OF AMERICA'S RAIL SYSTEM?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, as you know, for several months now I have taken the floor from time to time to discuss my concerns about the safety of our Nation's railroads. Today, I will conclude my series of statements with a general discussion of the financial condition of the rail industry as it relates to rail safety.

There was a time when railroads were the topic of popular songs. Riding by rail was a glamorous way to travel. Towns fought for rail service to assure economic prosperity. Times have changed and so has the tune. Airplane, cars, and trucks became the modes of travel in this country for both people and products.

Today, it is widely recognized that the U.S. railroad industry is facing serious financial problems. Although some railroads are financially healthy, a number of other railroads—such as the Milwaukee Road and the Rock Island—are bankrupt, and others—such as the Chicago and North Western, and the Illinois Central Gulf—are financially weak. Conrail, the quasi-public railroad, is continuing to incur large deficits, and is generally expected to need even more Federal financial assistance than the $3.3 billion already authorized by Congress. The Department of Transportation has concluded that, if present trends continue, railroads will incur a composite shortfall of between $13 and $16 billion in needed capital investment within the next few years.

The decline of our Nation's railroads is primarily the result of a policy decision made years ago to encourage and subsidize other modes of transportation such as airplanes, cars, and trucks. The railroad companies, seeing what was happening, began to divert their investment capital to everything else from pipelines, oil, and trucking companies, to publishing companies, amusement parks, and real estate. In terms of track maintenance, that meant company safety inspectors had to compete with a wide range of other—and more profitabe—interests when trying to secure funds for track repairs.

Although the figures vary from railroad to railroad, recent data indicates an average rate of return on company investments of only 3.43 percent. In 1978, the rate of return on equity was only 1.55 percent for railroad operations, compared to 8.62 percent for barges, and 17.21 percent for trucks. In short, railroads, due primarily to shortsighted Government policies, have been severely handicapped in their ability to compete with other modes of transportation.

It has been suggested that the solution to the problem of dramatic increases in rail accidents is deregulation. By deregulating the rail industry, as advocates of this argument contend, companies will have the capital necessary to operate safely. While there may be compelling reasons to deregulate the railroad industry, we should realize that deregulation, in itself, will not necessarily solve the problems related to rail safety. The result of a study conducted by the Federal Railroad Administration sheds some light on this subject.

The FRA's comparison of profit rates of the top 30 railroads shows that profits vary widely from a high of 7.58 percent profit to a 54 percent loss. The analysis of railroad profit rates and accident rates indicated that there was not a strong relationship between railroad profits and railroad accident rates. While bankrupt railroads do have higher accident rates, some other railroads with relatively high profits have very poor rail safety records. For example, the Elgin Joliet and Eastern ranks second in profit rates, and 29th in safety. Yet the Santa Fe ranks 13th in profit rates, and 3d in safety. The FRA report concluded that the relationship between railroad profit rates and railroad safety "cannot be considered very strong." The correlation coefficient which describes the association between the two variables equaled minus 0.54.

So that you will be aware of the FRA's statistics, I am submitting the following summary chart comparing profit rates and accident rates:

A COMPARISON OF PROFIT RATES AND ACCIDENT RATES BY RAILROAD COMPANY

Railroad company	Profit rate (per dollar of assets percent)	Profit ranking	Acidents per million car-miles 1975–77	Accident ranking
Sante Fe	2.64	13	0.136	3
Bessemer & Lake Erie	7.58	1	.325	11
Boston & Maine	−6.67	27	.390	16
Burlington Northern	1.86	16	.240	9
Chessie System	4.42	4	.372	14
Milwaukee	−2.44	25	.676	24
Chicago & North Western	−.93	21	.829	26
Rock Island	−7.02	28	.951	27
Conrail	−10.02	29	.392	17
Delaware & Hudson	−4.18	26	.382	15
Denver & Rio Grande	4.62	3	.093	1
Detroit Toledo & Ironton	−.07	20	.532	22
Duluth Missabe & Iron Range	−1.16	22	.346	13
Elgin Joliet & Eastern	5.79	2	1.741	29
Family Lines Systems	3.10	11	.482	20
Florida East Coast	4.17	7	.152	5
Grand Trunk Western	−1.52	23	.436	19
Illinois Central Gulf	.52	19	.499	21
Kansas City Southern	1.46	17	.814	25
Long Island	−54.05	30	7.754	30
MO-KS-Texas	−2.23	24	.668	23
Missouri Pacific	4.40	5	.162	6
Norfolk & Western	3.97	9	.142	4
Pittsburgh & Lake Erie	2.49	14	1.669	28
St. Louis-San Francisco	2.07	15	.339	12
Soo Line	4.26	6	.425	18
Southern Pacific	2.82	12	.184	7
Southern Ry System	4.01	8	.233	8
Union Pacific	3.94	10	.128	2
Western Pacific	1.12	18	.266	10

As we move to floor consideration of the rail deregulation legislation, I intend to keep an open mind. But I would remind my colleagues especially of two points. First, when we consider rail deregulation we are talking about a situation different from that in the instance of airline and trucking for two reasons: the relatively minimal Federal subsidies to the rail industry and the lack of common access to rail routes. Second, while deregulation should lead to improvement in the railroad's financial conditions, that does not mean it will be a cure-all, especially for the serious problem of rail accidents.●

LEGISLATION TO LIMIT TAX SHELTERING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 20 minutes.

● Mr. VANIK. Mr. Speaker, today I have introduced legislation to combat a serious, spreading abuse which threatens the effectiveness, efficiency, and fairness of our system of taxation. I specifically direct attention to a loophole, the so-called tax straddle, which is being utilized by tens of thousands of high income people in the top strata of our society. The Treasury loss in the use of these special tax devices may be as much as $3 to $4 billion per year for the benefit of approximately 30,000 of the most affluent people in America. The potential for abuse is enormous. Commodity trading is a $2-trillion industry. This does not include the huge number of financial paper transactions which are outside the commodity markets. Many of these people do not even understand the intricate devices which their accountants and tax advisers employ to avoid proper taxation under our income tax laws. The straddle is an accounting bypass of the use of tax obligations. This legislation deals with problems which were extensively discussed in hearings held by Congressman ROSENTHAL's Subcommittee on Government Operations over the last several months. I am pleased that Chairman ROSENTHAL joins me in cosponsoring this legislative approach.

Sophisticated and unscrupulous promoters are marketing a number of tax shelter schemes involving so-called straddle transactions. These activities are motivated solely by tax considerations and offer no opportunity for meaningful economic reward. They have attracted high-income clients eager to reduce or eliminate their income tax liabilities by deducting enormous paper losses from their incomes 1 year while deferring their offsetting gains to a later year. Some try not only to defer their taxes, they also try to convert ordinary income or short-term capital gain to long-term capital gain which is taxed at significantly lower rates.

In the last few years, the number and variety of these shelter deals have increased, even though the Internal Revenue Service has stated publicly that it will disallow deductions for the paper losses in these shelters. Straddle shelters have been structured in many commodities. Popular offerings include straddles in precious metals, especially silver and silver futures contracts, and in financial paper, particularly Treasury bills and Treasury bill futures. Individuals can purchase a single straddle, engage in multiple transactions through matched accounts, or invest in partnerships or subchapter S corporations participating in these shelters. Some persons take advantage of straddle shelters through offshore promoters, especially in foreign countries which refuse the IRS access to their records for audit purposes.

In one case currently under examination by the Internal Revenue Service, a corporate executive, who had salary and investment income in excess of $500,000, attempted to deduct over $500,000 as a loss from a Treasury bill straddle. This taxpayer reported a net loss for the year and claimed a refund of $38,000 for withheld taxes. In another case under examination, a taxpayer, who recognized a substantial gain from a business liquidation, tried to defer $2 million of gain year after year with commodities straddles. The IRS estimates, based upon a sampling of returns under audit, that there are in excess of 5,000 tax returns involving commodity tax straddles already under audit, with potential deficiencies of about $400 million.

The most highly touted example of these shelter schemes has been the straddle in silver futures contracts. In this deal, late in the tax year, a taxpayer with a large short-term capital gain buys a straddle consisting of, for example, one futures contract to buy a specified amount of silver in the next January at a fixed price and a second contract to sell an equal amount of silver at a fixed price in June. Because the taxpayer has purchased a straddle, the "margin"—security deposit—which he must put up is significantly less than the amount required if he were to purchase only one of the contracts. The straddle is a "covered" investment, safer than a single "naked" contract. In December, the taxpayer sells the contract on which he has a loss, and he immediately reestablishes the straddle by buying another similar contract. He continues to hold the original offsetting contract.

This original contract reflects an unrealized gain approximately equal to the loss on the sold contract. If the individual's real economic position were measured, his gain and loss from the offsetting positions of the straddle virtually would cancel each other out, with at most a relatively negligible gain or loss mainly attributable to transaction costs. By holding the contract reflecting a gain for 6 months, the taxpayer allegedly defers income until the next year.

In addition, because futures contracts have only a 6-month holding period, the taxpayer reports the income as long-term capital gain. And, by using a straddle which may require outlays of only 5 percent of the value of the offsetting contracts—plus commissions—the taxpayer has executed transactions on which he claims significant tax savings without exposing himself to the risk involved in genuine, economic, for-profit investments. His de minimis exposure is clearly insubstantial in relation to the alleged tax benefits. The size of the alleged tax benefits and the lack of genuine risk are evident in an example of a silver futures straddle using actual prices.

On November 30, 1979, a taxpayer enters 10 contracts to deliver silver in July—a "short" position—and enters 10 contracts to buy silver in September—a "long" position. The July contracts are for $19.83 an ounce and the September contracts are for $20.11 an ounce. Each contract is for 5,000 ounces.

On December 26, 1979, the taxpayer disposes of the 10 July contracts. On that date, silver for delivery in July is selling for $26.89 an ounce. Since the taxpayer's contract was to deliver silver at $19.83 an ounce, the loss on that transaction was $7.06 an ounce, or $353,000 on the 10 contracts of 5,000 ounces each.

Although the taxpayer has incurred a paper loss on the July part of the straddle transaction, it should be noted that, on December 26, September silver was selling for $27.295 an ounce. Since the taxpayer has a contract to purchase September silver at $20.11 an ounce, the taxpayer has an unrealized gain on the September contract of $7.185 an ounce, or $359,250 for the 10 contracts. Thus, as of December 26, the transaction as a whole has produced a modest gain of $6,250. Nevertheless, the taxpayer claims a tax loss of $353,000 which he records as a short-term capital loss. This could result in the taxpayer reporting his tax liability for the year in an amount which would be $247,000 less than if the loss were not reported.

In order to maintain his straddle position, the taxpayer on December 26 goes short on 10 contracts for delivery in December 1980. On that date, silver for delivery in December 1980 is selling for $27.91 an ounce.

On January 8, 1980, the taxpayer disposes of his straddle position. On that date, September silver is selling for $34.21 an ounce and December silver is selling for $34.90 an ounce. Thus, the taxpayer's gain on the September contract is $14.10 an ounce, or a total of $705,000. On the December contract, however, the taxpayer would have lost $6.99 an ounce, or a total of $349,500. For 1980, the taxpayer would claim a net short-term gain of $355,500.

Thus, on the transaction as a whole, despite the sharp movements in the price of silver and in interest rates between November 1979 and January 1980, and despite the taxpayer's large gross positions in silver, the taxpayer has gained a total of only $2,500—less transaction costs. However, the taxpayer might claim a 1-year deferral of tax liability which could be $247,000. If the taxpayer were in the 70-percent bracket in 1980, his tax on the gain would be $248,850. If the taxpayer held the contracts for 6 months and closed out the straddle at a gain, the profit would be long-term capital gain taxable at a maximum rate of 28 percent instead of 70 percent. In effect, the taxpayer would have "borrowed" $247,000 from the Treasury for a year at no cost and would have realized a small net gain—less transaction costs.

It is fair to note that the taxpayer could have had a real loss on the transaction as a whole. For example, if the taxpayer had been long July 1980 silver and short September 1979, at the beginning, his loss position on December 26, 1979, would have been his short September position. If he sold his short September position, it would produce a loss of $359,250 when sold. If he had then gone short December 1980 silver, his net loss on the transaction as of January 8 would have been $13,500—July silver was selling for $33.735 an ounce on January 8, so the taxpayer's gain on the July position would have been $13.905 an ounce or $695,250 on the 50 contracts; his loss on the September position would have been $359,250; his loss on the December position would have been $349,500.

However, the taxpayer could as readily have made the $13,500 if the contracts had run the other way. What is crucial to note is that even in an extraordinary market for silver and for interest rates, the real loss on the transaction did not approach the economic gain that could result from the tax deferred if the transactions were given the tax effects desired by the taxpayer.

Over 3 years ago the Internal Revenue Service issued Revenue Ruling 77–185, disallowing deductions for paper losses from straddles on the grounds that the transactions are tax-motivated with no real risk and no potential for real economic gain. Despite this ruling, many taxpayers continue to claim the alleged tax benefits of these shelter devices. Because these transactions bridge 2 or more tax years, taxpayers hope that their shelter activities will escape IRS detection in the "audit lottery."

Some taxpayers have taken additional measures to hide straddle shelters from the IRS. By structuring multiple straddle transactions and creating enormous paperwork burdens for IRS agents, they hope to disguise sheltering as investment activity. Others run their offsetting positions through a number of accounts nominally held by different persons.

Taxpayers' continuing disregard of the IRS position and their attempts to shelter income through these abusive devices must be stopped. It appears that shelter-seeking individuals and corporations will be dissuaded from purchasing these devices only if straddle shelters are specifically and expressly outlawed. While I believe that the IRS eventually will prevail judicially against these abuses, I also recognize that litigation is lengthy and costly. Therefore, the enactment of specific rules to invalidate straddle sheltering is necessary.

The bill which I have introduced today is intended to end these shelters by specifically denying deductions for noneconomic losses claimed even though a straddle position continues to be maintained. Taxpayers clearly are entitled to reflect real losses on their tax returns. Hedgers and legitimate investors must be allowed to reduce their income and gains by losses. But, phantom, paper losses which do not reflect any genuine economic change cannot be fabricated to create enormous tax savings.

When taxpayers sell stock at a loss and immediately replace it with substantially identical stock, present law provides that they may not deduct any loss from that sale. The wash-sale rules in section 1091 of the Internal Revenue Code forbid such manipulation. My bill extends the wash-sale principle to similar transactions in other types of property. This approach may not be the sole way to stop straddle shelters. I welcome the suggestions of all interested persons on improvements of effective alternatives to this proposal.

It is my hope that hearings on this bill can be scheduled soon. Illegal tax shelters cost the Treasury enormous amounts of revenue. They increase the tax burden of other taxpayers. They erode citizens' confidence in, and respect for, not only the tax system, but ultimately, in all government. Shelters must be closed.

EXPLANATION OF H.R. 7541

This bill would limit tax sheltering through straddle transactions by postponing the recognition of losses on certain straddle positions while the taxpayer continues to maintain offsetting positions in a straddle.

The bill would provide that if a taxpayer holds a straddle, the portion of loss which exceeds recognized gain from the straddle may not be recognized for the period during which the taxpayer holds the offsetting positions plus the 30 days after the day on which the offsetting positions—or successor positions—cease to be offsetting.

Thus, if a taxpayer sold one leg of a two-leg straddle at a loss on September 1, the taxpayer would have to hold the other leg—position—of the straddle without establishing any offsetting legs—positions—for the next 30 days before the loss could be recognized. The loss would be treated as sustained on October 1, 30 days after the straddle, that is, the offsetting positions ceased.

In addition, the running of holding periods for the straddle positions would be suspended for the balanced period, that is, the period during which the positions are offsetting plus 30 days. However, in determining the taxpayer's holding period for the position, any period during which a position was held prior to the establishment of an offsetting position could be tacked to any period during which that position was held after the close of the balanced period.

The bill uses the term "offsetting positions" to characterize a straddle. Under the bill, the term means that there is a substantial reduction of the taxpayer's risk of loss from holding any position with respect to personal property because the taxpayer also holds one or more other positions with respect to personal property—whether or not of the same kind.

The bill would create a rebuttable presumption that two or more positions are offsetting under specified circumstances. If two or more positions are customarily treated as straddles or offsetting positions or if the aggregate margin requirement for holding such positions is lower than the sum of the margin requirements for each such position—if held separately—the positions would be presumed to be offsetting unless the taxpayer establishes that they are not offsetting. The Secretary could prescribe by regulations other factors which indicate that two or more positions are offsetting and which would establish a rebuttable presumption that the positions are offsetting.

The bill would not apply to hedging transactions. The bill would provide that the term "offsetting positions" does not include positions in commodities which are an integral part of the taxpayer's business. Thus, for example, futures contracts in grain would not be subject to the bill's rules when held by a wheat farmer or cereal processor as an integral part of the farmer's or processor's farming or processing business.

The bill would apply to positions in personal property which are interests, including futures contracts or options, in commodities, evidences of indebtedness, and any other type of personal property, except for stock in a corporation. Personal property acquired by a taxpayer pursuant to a futures contract, option, or other interest will be treated as the same position as the predecessor interest.

In order to preclude manipulation of the character of gain or loss as ordinary income or loss, or capital gain or loss, the bill provides that obligations of the United States, of its possessions, of a State or political subdivision of a State, or of the District of Columbia, issued on a discount basis and payable without interest in less than 1 year, will be treated as capital assets in determining gain or loss. This change will apply prospectively to obligations issued after December 31, 1980.

The bill would provide special constructive ownership rules for determining whether any positions are offsetting. The general principles of the attribution rules in section 318 would apply except in determining attribution to and from family members and to and from a corporation, partnership, trust, or estate. Under the bill, an individual's family would consist only of the individual, his or her spouse, and the individual's children under 18 years of age. Attribution would be made to and from a corporation, partnership, trust, or estate, only if there is at least an 80-percent interest—determined after application of the family attribution rules—or if, in the case of a trust, the trust is a grantor trust (Sections 671 et seq.).

The amendments made by the bill would apply to offsetting positions established after June 30, 1980, in taxable years ending after that date.●

BEVERLY SILLS RECEIVES MEDAL OF FREEDOM

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, among the 14 distinguished Americans receiving the Medal of Freedom from President Carter at the White House on June 9 was Beverly Sills, whose voice has thrilled and continues to thrill millions.

Miss Sills, now the general director of the New York City Opera Company, had an extraordinary career as an operatic soprano. We who have had the pleasure of listening to the purity of her voice and of watching her perform on a variety of stages know how much she deserves the tribute paid her at the White House.

Mr. Speaker, the Medal of Freedom received by Beverly Sills is recognition of an outstanding American who, now that she has retired from the operatic stage, is launched on a new career that will continue to bring all of us some of the best from the world of opera.

At this point, Mr. Speaker, I would like to include the text of the citation accompanying the Medal of Freedom received by Miss Sills yesterday:

> Beverly Sills has captured with her voice every note of human feeling which her supurb dramatic talent projected to us with ringing clarity. Through her many and diverse roles she tells and retells operas' intensely hightened stories of human folly, goodness, pain and triumph. She has touched and delighted audiences throughout the world as a performer, as a recording artist and now a producer. And of all her arts, she is a master.●

WE NEED A COMPREHENSIVE WATER MANAGEMENT APPROACH TO THE COLORADO RIVER—NOT A DESALTING PLANT

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BROWN of California. Mr. Speaker, H.R. 2609, a bill to amend the Colorado River Basin Salinity Control Act to allow for cost overruns for the proposed Yuma Desalting Plant, will shortly be before the House and Senate again. In the House debate on this matter last February 7—there was no Senate debate—the House approved this bill, largely as a housekeeping action and a continuance of business-as-usual in approving pending bills. Since that time our difficult efforts to balance the Federal budget have become a matter of central concern, requiring cutbacks in even good programs.

One proposal which is not good, to build the largest desalting plant in the world to remove salts from irrigation water with an extremely expensive and unproven technology, should be cut. Since final action has not occurred in either the House or the Senate, we can still do this.

Mr. Speaker, for reasons which have never been explained to me, the administration officially supports H.R. 2609, even though several agencies of the Federal Government have serious reservations about it, and the proposed desalting plant fails to meet any of the criteria the administration uses to justify proposals or projects. The GAO, which evaluated the proposed desalting plant, opposed it as well. Unfortunately, this advice has been ignored.

An excellent article on the Colorado River Basin, which includes a discussion of the proposed desalting plant appeared in the "Earth Day 1980" issue of the administration's EPA Journal. I commend this article to my colleagues.

The article follows:

[From the EPA Journal, April 1980]

THE COLORADO—AMERICA'S HARDEST WORKING RIVER

(By Truman Temple)

The Spanish named it the Colorado because of its reddish, silt-laden waters. John Wesley Powell, a 19th century explorer, called it "a mad, turbid stream." In the 20th century, it has been nicknamed "Lifeline of the Southwest."

But in recent times, the Colorado River also has been termed an "ailing giant." Its lower reaches are burdened with so much salinity that the problem has become an international issue with Mexico. The increasingly severe demands for multiple use of its waters by the seven States in its drainage area keep lawyers busy. Near the river's upper reaches, cities containing the bulk of the State of Colorado's population are busy piping its water east to the so-called Front Range, while Western Slope farmers argue that their livelihood is being threatened. And many residents—not all of them dedicated environmentalists—are deeply concerned about what the exploitation of oil shale, coal, and other energy resources in the West will do to the river.

As Colorado Governor Richard D. Lamm, observed a few months ago, "Our finite, limited water resource is being seriously taxed and depleted in most geographic areas. For the first time in our history, we are consuming almost all of the water to which we are entitled in three of our four river basins * * *. Even in the most water-abundant area of Colorado, the Colorado River Basin, the competition is stiff as to how, when, and where we allocate the remaining 1,000,000 acre-feet of our unconsumed water. Further, the availability of this water will depend, in part, on interpretations of treaties, compacts, water quality requirements, and environmental statutes."

To understand the unusual character of the Colorado, it is necessary to consider how it differs from other great rivers of America.

First, when compared to many such waterways, the Colorado has a modest annual flow an estimated 13 to 15 million acre-feet. That is about the same as the Delaware River's, which is one-third the length of the Colorado and drains a far smaller basin. By contrast, the annual flow of the Columbia River is about 130 million. (An acre-foot is the amount of water that would cover an acre one foot deep.)

Furthermore, the Colorado is unnavigable to any ocean shipping. There is no major city at its mouth where it flows into the Gulf of California, no deepwater port along its length, no complex of docks, or any of the other transshipment facilities that characterize rivers like the Mississippi and the Hudson.

Despite all this, the Colorado has been described as the aorta of the Nation's fastest-growing region. Vast desert areas depend on its nourishing water. Fed by winter snows in the high passes of the Rockies, it begins at 14,000 feet in Rocky Mountain National Park and snakes its way more than 1,400 miles to the Gulf of California, helping to sustain a total of 29 million people in seven States. South of the border, it also is a water supply for half a million people and irrigates about 500,000 acres in Mexico.

In fact, the Colorado permeates the economy and lifestyle of the Southwest so thoroughly that three of EPA's Regional Offices are involved in the quality of its water in one way or another. Region 8 deals with many of the Upper Basin matters from its Denver headquarters. Region 9 with headquarters in San Francisco is concerned with the river since it flows through one State in its jurisdiction, Arizona, and borders two others, California and Nevada. Region 6 from its central office in Dallas also participates in Colorado affairs since one of the Upper Basin States, New Mexico, is in its territory.

"We are involved with the Colorado in several ways," says Frank Covington, Director of Region 9's Water Division. "We're on the receiving end of problems. The Lower Basin States of course contribute salinity, as do the Upper Basin ones, and as the latter gets into energy development, we'll feel any impact. We also interface with Mexico, and Paul De Falco, our Regional Administrator, represents the Region at meetings of the International Boundary and Water Commission."

The references to the Colorado as the cardiovascular system of the Southwest are not idle fancies of travel writers. The populations along its route depend on its life-nourishing flow for their household needs, electric power, food and fiber, as well as many jobs in a multi-million-dollar recreation industry. In fact, more than 90 percent of the Colorado and its tributaries is used to irrigate agricultural fields, most of which get little rainfall. The river's drainage basin covers some 244,000 square miles and waters 3.4 million acres producing crops worth more than $1 billion a year. Unfortunately, it also flows through the most arid sector of the North American continent. In this desert climate, water evaporation is extremely high. And although the irrigated farms in the Lower Basin permit a year-round growing season with double and even triple cropping, producing a big share of the Nation's fruits and fresh vegetables, a huge amount of the river evaporates into the air from the chain of man-made reservoirs along its course. This evaporation further increases the river's salinity.

What sort of climate is it? The region that the Colorado drains has an annual average rainfall of only 10 inches, compared with about 57 for Louisiana, the Nation's wettest State. But even worse, only one-eighth of that ten inches ever survives to contribute to the volume of the river, since the rest is lost through evaporation on the ground or by transpiration through the leaves of the basin's plants.

Great quantities of the river's flow are diverted to reclamation projects and to other locations hundreds of miles distant. The lush grazing meadows in the valleys of the Rockies and the lawns of Los Angeles are both nourished by the Colorado. It slakes the thirst of people from Denver to San Diego. From Lake Havasu on the Arizona border, one billion gallons of Colorado River water are taken daily 250 miles west across California to supply the Los Angeles and San Diego megalopolis. Other vast quantities are channeled to California's Imperial Valley to irrigate crops. And numerous other projects divert the river's waters along its course. In fact, in all but two of the last 20 years, the Colorado petered out into a dry riverbed at its mouth because so much of it had been siphoned off.

The specific use of the waters was first decreed in the 1922 Colorida River compact, an agreement among the seven basin States that apportioned an assumed flow of 18 to 20 million acre-feet with 15 million being divided equally into two huge segments: The lower compact States of Arizona, Nevada, and California, and the upper ones of Wyoming, Utah, Colorado, and New Mexico. (The dividing line was near Lees Ferry, Ariz., where an exiled murderer named John D. Lee began transporting passengers in 1871 across the river. The annual river flow has been measured there since 1922 with the longtime average annual flow now believed to total only 15 million acre-feet.) The compact also recognized that Mexico could be given rights to use Colorado River water at some future date. A treaty was signed with Mexico in 1944—but more about that later.

The 1922 compact paved the way for enormous engineering projects. It made possible for the first time a drainage basin with multiple use of water including power development, irrigation, recreation, and flood control. Among the projects that followed were Hoover Dam in 1936, creating Lake Mead and considered a major engineering feat of its time; the Imperial Dam in 1938 where the All-American Canal carries water 80 miles west to the Imperial Valley and its 2,000 miles of lateral canals; Parker Dam 150 miles south of Hoover Dam, completed in 1938 and creating storage water for 22 California cities; the Colorado-Big Thompson Project, completed in 1945, diverting water by tunnel beneath the Continental Divide to irrigate cropland in northern Colorado, and the Davis Dam in 1949, alleviating power shortages in Arizona.

The creation of these vast reservoirs and irrigation projects brought wealth and population to the Southwest—but not without a price. Evaporation from the huge new bodies of water along with other uses concentrated the salinity of the river water remaining behind, and the run-off and percolation from irrigated fields increased it even more. To be sure, much of the salt load also comes from natural sources, since mineral weathering and dissolution of soluble salts in the land would occur even if the river basin were totally uninhabited. According to a 1971 EPA report on the Colorado, for example, about 60 percent of the salt load in the waters at Hoover Dam comes from natural sources.

But since the region began its dramatic growth in the past few decades, there is no doubt that man's activities have greatly affected the salinity of the river. Estimates vary on just how much. Myron B. Holburt, chief engineer of California's Colorado River Board, says the salinity of the river flowing into Mexco increased from 800 parts per million in 1960 to 1,500 parts in 1962 (although others note it has decreased since then). A study by Professor Stanley A. Schumm of Colorado State University reports that the average annual salinity concentration has almost doubled this century.

Salinity hurts crops. The Water and Power Resources Service (WPRS—formerly the Bureau of Reclamation of the U.S. Department of the Interior), estimates that total losses including agricultural and municipal damage due to salinity in the Lower Basin are now $96 million per year. It estimates the figure will hit $237 million annually by the year 2000 if no salinity control measures are carried out.

The 1944 treaty made no mention of the quality of the 1.5 million annual acre-feet of water from Colorado that Mexico was guaranteed. But in the 1960's it became apparent that the increased saltiness of Mexico's share was greatly reducing the usefulness of the water for irrigation in that country. Each year the Mexican authorities pointed this out to Washington with increasing vehemence, and in 1972 William D. Ruckelshaus, then EPA Administrator, convened an enforcement conference of the seven basin States and Federal officials to curb the salinity. Conferees recommended among other things a high priority on removing salt from Paradox Valley and Grand Valley, which were leaching into the Colorado, urged EPA to accelerate its data collection and research, and named the Bureau of Reclamation as the lead agency for basinwide salinity control. President Nixon, sensing a major international problem, asked Herbert Brownell, former U.S. Attorney General, to head a task force seeking a solution. The conclusion: Build a giant desalting plant at Yuma near the Mexican border where water could be diverted, cleaned up, and poured back into the river to dilute the salts.

Congress in 1973 authorized construction of the plant, which would be ten times bigger than any such facility in the world, and able to process 96 million gallons of water a day. However, a number of large projects that would increase irrigation and other water uses are in various stages of completion. The drainage from some of the new irrigated lands will soon be carrying still more salt into the Colorado and south of the border.

In the meantime, the estimated cost of the desalting plant has soared. The House recently approved more than $356 million for the project including some related work to alleviate impacts on fish and wildlife habitat at the site, more than double the estimate six years ago. The price tag attracted fire from several quarters. The General Accounting Office, in a critical report to Congress, said earlier that the project "needs to be reassessed" and suggested that cheaper alternatives be studied. Some Congressmen also objected. The most vociferous of them, Representative George Brown of California, estimated the ultimate construction cost will hit half a billion dollars plus operating costs that will run many more millions of dollars in ensuing decades.

"How can we get out of this mess?" he asks. "While I'm no expert, the experts I've consulted believe the key is how we develop our arid lands, and how we irrigate our crops. In some cases, this may mean not using certain lands due to the soil conditions. In other cases, it means reducing the water return flows, which carry the salts."

In a letter to Representative Brown last September, EPA Administrator Douglas Costle noted that the Agency earlier had expressed environmental reservations about the facility adding:

"Our major concern was, and continues to be, that a desalting plant should not be viewed as a panacea for salinity problems in the Colorado River. EPA supports a basinwide approach to solving these complex and controversial problems, and we will continue to work with the Interior Department in pursuit of this goal."

In response to concerns raised by EPA, the seven basin States created the Salinity Control Forum to develop Colorado River salinity standards, which now include numeric criteria and a plan of implementation. All the basin States have adopted the Forum's recommendations as part of their water quality standards. The basic objective of the standards is to treat salinity as a basin-wide problem and to maintain the 1972 salinity levels in the lower part of the river while the States develop the waters appropriated to them under the compact. Key elements of the standards include establishing numeric criteria at three stations in the lower mainstem (below Hoover and Parker Dams and at Imperial Dam); developing monitoring stations and baseline values at key locations in the Upper Basin, and carrying out a variety of salinity control projects by Federal and State authorities.

EPA has helped to fund a number of irrigation studies dealing with salinity at Grand Valley, Colo. and elsewhere. (EPA Journal, February, 1978.) Scientists say there is no one technology to cure all the problems, but a number of remedies are well known. These include lining canals and lateral ditches to prevent seepage, and the use of sprinkler, drip, or trickle irrigation which applies the water more effectively. Another method calls for more careful timing of irrigation to apply water when the soil requires it. The Soil Conservation Service is now pursuing corrective measures at Grand Valley. It is estimated that 410,000 tons of salt can be eliminated annually from the current discharge into the Colorado from that area.

In addition, water experts are focusing on certain areas of natural salt deposits that are leaching into the Colorado. The Federal water and power service, for example, is drilling nearly two dozen wells along Paradox Valley in southwestern Colorado to pump brine out of a geologic formation that now contributes 200,000 tons of salt annually to the Colorado via a tributary, the Dolores River. The project, which is targeted for completion in 1986, will pump the brine to an evaporation reservoir or dispose of the brine through deep well injection. EPA's Region 8 staff has worked with the Department of the Interior agency on the problem area.

"We're also investigating 12 other sources of salinity," says Michael Clinton, Chief of the Interior agency's Colorado River Water Quality Office. "Five of them involve saline seepage from irrigated areas like Grand Valley, five involve point sources of salinity like the Paradox Valley situation, and the others involve salt loading from normally dry drainage areas where weathering and natural runoff carry it into the river." These studies will be completed between 1983 and 1989.

The U.S. Department of Agriculture also has become more involved in salinity control in the basin. In Grand Valley, for example, the Soil Conservation Service has provided technical assistance and the Agriculture Stabilization and Conservation Service has helped to fund measures for reducing salinity from irrigated agriculture. These include ditch lining, land leveling, water measuring and control structures, and installation of sprinklers in selected areas. A similar program is beginning in the Unitah Basin. In addition, the Soil Conservation Service has salinity control studies under way in the other major irrigation areas.

Another project to help ease the salinity problem is a weather modification program by means of cloud-seeding that the Interior water and power agency is now putting together for the Upper Basin of the Colorado.

"The Bureau of Reclamation did a successful pilot study in the San Juan Mountains in southwestern Colorado five years ago," explains Clinton. "Further studies indicate a potential of producing about 1 to 1.5 million acre-feet of water annually." Such a heavy addition of inflow to the river would, of course, provide much-needed dilution of the salinity.

(The dilution would occur only if the added water from rain and snow moves downhill and reaches the Colorado. If large amounts of this water are consumed before reaching the river, the cloud-seeding obviously isn't going to do much to solve the salinity problem.)

Cloud-seeding programs have focused on increasing the winter snow-pack. The idea, however, has been a source of some controversy. Ranchers, highway departments, and some community leaders have voiced concern that additional snow would compound existing winter problems, and fish and wildlife interests fear that the extra snow would have an adverse impact on critical winter range for many game species. In any event, the program would require Congressional authorization and probably would not get underway until the mid-1980's at the earliest.

Still another way to reduce salinity in the lower Colorado would be to mitigate the impact of transmountain diversion of water that now goes by tunnels and pipelines to the East Slope from the Upper Basin. This is water that would dilute the salinity if it didn't end up in Denver, Colorado Springs, and other cities on the eastern side of the Rockies. One of the most articulate forces protesting the way transmountain diversion is taking place now is the Northwest Colorado Council of Governments, representing six counties in high mountain terrain located mostly west of the Continental Divide and extending from the Wyoming border south for 140 miles.

The six counties contain some of the most spectacular land in America, and some world-famous ski centers—including Aspen, Vail, Steamboat Springs, and Breckenridge.

About 541,000 acre-feet are now being diverted to the Eastern Slope, or around 20 percent of the total virgin water here," says Tom Elmore, water quality management coordinator for the Council. "This is very pure water, much of it from melting snow. But we're very concerned about a new water resource development projects. We project that an additional 1,142,900 acre-feet will be taken by the Eastern Slope by 1995. We estimated these new diversions will mean $29.9 million per year in salinity damages downstream between now and 1995." The Council is seeking to regulate all new diversion projects and wants the Eastern Slope diverters to compensate for the adverse impacts of their projects by installing salinity controls—not yet specified but perhaps lined irrigation ditches—in the Colorado basin.

"We have an outstanding area here. It's vacationland for the rest of the country—high quality trout streams, pristine water, world-famous ski resorts. The economy is built on energy development, agriculture, and tourism. Much of what we do depends on water. We're seeking to protect our present economic base and to prevent the foreclosure of our future economic options," Elmore declares.

The six counties, to be sure, are up against formidable political forces. The Eastern Slope has about 90 percent of Colorado's burgeoning population, which grew about 25 percent in the last decade. So the votes and political clout are there, and it will take a skillful balancing act for the State to keep its high mountain trout streams flowing if Denver and other nearby cities continue to mushroom.

EPA itself has not escaped the continuing controversy surrounding the Colorado River. The Environmental Defense Fund, a public interest group, sued EPA for its 1976 approval of the water quality standards for salinity by the seven Colorado Basin States, alleging the implementation plans did not provide adequate salinity controls. However, last October the U.S. District Court for the District of Columbia decided the case in favor of EPA and Interior, which was also a defendant. The Environmental Defense Fund filed an appeal last December.

What of the Colorado's future? One of the biggest question marks hanging over the river is the impact of energy developments in the area. The Rocky Mountain West has 50 percent of the Nation's coal reserves, 100 percent of the now commercially recoverable oil shale deposits, and 9 percent of the oil reserves. The region's strippable coal totals 195 billion tons. Its shale oil potential totals 600 billion barrels.

But the industry required to extract these fossil fuels will need water from the Upper Colorado River Basin. According to a report for the Water Resources Council, oil shale and coal gasification developments would consume about 200,000 to 250,000 acre-feet a year to produce 1.5 million barrels of oil or its equivalent daily. Surface water supplies can be made available for these industries only if existing uses are bought out or water not now under contract is brought from the Federal water and power service reservoirs, or if new reservoirs plus pipeline and pumping facilities are constructed. The report estimates the cost of developing the surface water supply would total $1 billion. The changes this would entail, the report warns, could also reduce recreational opportunities and the habitat for a number of species of fish.

William McDonald, Director of the Colorado Water Conservation Board, points out that the study assumes that neither oil shale nor coal gasification plants will be discharging effluents into the surface waters of the Upper Basin. The study declares that the technology exists to reduce and dispose of the waste streams in other ways that would not affect the river, and actually it will be cheaper to use these methods than to treat the effluent enough to meet discharge standards.

"There is a national need for more energy—but people must pay the full costs to protect the environment and factor those costs into the product," he emphasizes.

Pro-development organizations such as the Club 20, a Western Slope group headed by former Colorado Governor John Vanderhoof, stress the need for balanced economic growth and new jobs in the State. McDonald says the State's approach is to evaluate costs and benefits in any decision about water problems.

Aside from the quality of the Colorado's waters, the tug-of-war over who gets to tap how much of the water promises to intensify. In recent years, the Navajo Indian Tribe has been stating that it has rights to a major portion of the river's flow, as much as 5 million acre-feet a year. If a suit is filed. it promises to drag on for years, possibly decades. Holburt, of the Colorado River Board of California, has pointed out that an earlier lawsuit between his State and Arizona took 13 years to wend its way up to a Supreme Court decision. And a Navajo suit could be more complex since it would involve the Federal Government, all seven States, and many other parties.

Under the existing Compacts and court decrees, some States have been taking more than their quota of the Colorado's water because other States have until now not used all their allotments. But that situation promises to change. California has been using nearly 4.9 million acre-feet per year but when the big Central Arizona Project begins deliveries in the mid-1980's, California will reduce its use to a 4.4 million basic entitlement. Holburt has testified in the past that he thinks there will be enough water from reservoir storage to take up shortages in the decades ahead.

Conflicts over uses of the Colorado's waters come into sharp focus in EPA's Region 8, for instance, when that office reviews environmental impact statements related to water project development. Key examples include the Foothills water treatment project southwest of Denver and the central Utah Project aimed at supplying water to irrigators, cities, and industries across central Utah.

After months of protracted, sometimes heated, controversy, EPA's Region 8 office agreed to the issuance of a dredge and fill permit for the dam portion of the Foothills project when sponsors agreed to measures protecting minimum stream flows below the dam and a water conservation program aimed at reducing per capita water consumption in the Denver Water Board's service area over coming years.

Protection of minimum stream flows and water conservation issues generally fuel heated debate among individuals and agencies involved in the Central Utah Project.

To improve its own handling of water project reviews and to inform project supporters and opponents alike of what they could expect from EPA, the Regional Office recently began drafting a proposed water policy.

"Much of the delay and litigation involved in water projects, we believe, we can be traced to misunderstanding and misinformation," according to Region 8 Regional Administrator Roger L. Williams. "We hope, through our water policy, to clarify EPA's role and responsibilities in addressing water resource issues.

"We will emphasize early involvement with project proponents to identify and defuse, where possible, areas of conflict and to avoid 11th hour litigation tied to hardened positions where change or compromise is nearly impossible.

"We are committed to involving the widest range of public possible in the development of this policy even recognizing the hazard of doing so where water is so vital and emotional an issue," Williams adds.

Apart from all the other troubles, the Colorado also is suffering in one scenic stretch from an excess of outboard motors, according to the National Park Service. Recently the Park Service ordered a phase-out of all motorized rafts, both commercial and private, over the next five years along the 277 miles of the Grand Canyon. River trip parties also will be banned from burning driftwood for campfires during summer months, and must haul their wastes out of the canyon. The move has the support of environmental groups. Says Gaynor Franklin of the San Francisco Sierra Club, "Let's leave the Grand Canyon to those who want a true wilderness experience."

With all its problems, can the Colorado retain its integrity as a unique water resource in America's Southwest? As the protective measures by Federal, State, and other organizations have come into play, it is obvious that many forces are working to keep the river healthy. Because of the absence of heavy industry along its banks, it has thus far escaped the PCB's that afflict the Hudson. It has experienced no Kepone disaster and none of the massive fish kills that periodically visit coastal areas. So in a way, the Colorado is lucky.

Back in 1903, Theodore Roosevelt stood at the rim of Grand Canyon and looked down at the river, experiencing the awe that visitors often feel when viewing this magnificent vista.

"Leave it as it is," he declared. "The ages have been at work upon it, and man can only mar it."

In the ensuing decades, America has turned the waterway into what one conservation official calls "the hardest working river in the United States." But many of its stretches retain the splendor, solitude, and prehistoric aura that inspired the early Spanish and American explorers. Given enough forethought and care, the Colorado can still be preserved, a river of myths and moonscapes and mystery.●

MR. CLIFFORD PERLMAN HONORED BY BOYS CLUB OF AMERICA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PEPPER. Mr. Speaker, it was with great pleasure that I learned of the heartwarming story of Mr. Clifford Perlman—a millionaire businessman from Miami—who was recently honored by the Boys Club of America for his outstanding work to rescue hardcore, underprivileged boys between the ages of 9 to 14. Because of this man's warmth, concern, and selfless devotion to his fellow human beings, the after care program was formed and serves to rescue the hardest of the hardcore youth cases. Because of this great help, youths with previously untapped potential, who would otherwise be lost to our society, do not have to struggle with their problems alone. For them, Clifford Perlman is a cherished friend and the after care program, the door to hope and understanding. I was deeply touched by the personal involvement, the spirit of humanity, and the dedication to those less fortunate reflected in this endeavor and I insert the press release recounting this story of encouragement and hope in the body of the Record to be shared with our colleagues and fellow citizens and to give well-deserved recognition to this great American:

Miami, Fla., May 29.—A millionaire Miami businessman who came to the aid of "tough kids nobody else wants" was honored today by the Boy's Club of America at its annual national convention.

Tribute was paid by directors of the organization to Clifford S. Perlman, chairman of the board of Caesars World, Inc., of Los Angeles, who conceived the program to rescue hard-core underprivileged boys from 9 to 14.

National sports personalities, including Broadcaster Howard Cosell, a personal friend of Perlman's; pro basketball star Larry Bird, and Miami Dolphins Quarterback Bob Griese joined several hundred Boy's Club officials at the luncheon for Perlman.

The program, operated for the past year on a pilot project basis here for about 20 youngsters, is known as the After Care program and is being funded by Caesars World and private donations.

In fashioning his program, Perlman explained, he conferred with police and juvenile authorities and deliberately went after the hardest of the hard cases among street-wise youngsters—the potential major criminals of tomorrow. To be eligible, a boy must already have had at least five brushes with the juvenile courts.

"These are the disabled youths," Perlman said. "They are unable to enter our society because they lack basic reading and writing skills and because no one cares about them. The juvenile court system can't handle them and they are too young to handle their own problems."

The After Care program means exactly that, according to Wayne Blanton, executive director of the Boy's Club of Miami, which coordinates the project. It rides hard on the youngsters virtually every moment that they're not in school or at home asleep. The project has its own two-story building in Miami, where much of its activities are centered.

Blanton explained that After Care workers call the boys' homes in the morning to convoy them to school. After school, they're met and brought to the program home where they are tutored in reading, writing and other skills by remedial specialists, and do special chores. At 11 p.m., they're taken back to their homes.

On weekends, there are field trips and part-time jobs. In the summer, jobs are arranged for them.

"A lot of the kids are going to fail again," Perlman observed, realistically. "But the chances of failure are less with this type of program, we feel."

Blanton is enthusiastic about the youth aid concept developed by Perlman and Caesars World.

"This is a great example of the private sector stepping into undertake a job that needs doing and which it can do best," he said. "School systems must deal with large masses of the total child population. Juvenile court systems are often too overloaded and understaffed to be able to give the individual caring attention that often is needed."

Perlman voiced to the national Boy's Club officials his philosophy that programs such as After Care offer double benefits. Primarily, of course, they help people who need help.

"But," he explained, "they also take corporations and other private sector groups one step beyond their normal donations to charity and get them personally involved in worthwhile human endeavors."●

ARCHBISHOP IAKOVOS RECEIVES FREEDOM MEDAL

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, among the recipients of the Medal of Freedom at the White House on June 9 was Archbishop Iakovos, primate of the Greek Orthodox Church of North and South America.

In awarding Archbishop Iakovos this well-deserved recognition of the contributions he has made and continues to make to the religious life of the Greek Orthodox community in North and South America and to the causes of freedom and human rights everywhere, President Carter honored both an outstanding religious leader and the three million men and women who are communicants of the Orthodox faith in this Hemisphere.

Mr. Speaker, in the 21 years since his enthronement, Archbishop Iakovos has distinguished himself and his church by his efforts in behalf of civil and human rights and social justice. He has always spoken out against the actions of oppressive governments whenever there have been violations of human rights.

His belief in the dignity and equality of all persons has led Archbishop Iakovos to become a world leader in the ecumenical movement. His Eminence, a former president of the World Council of Churches, is held in high regard by religious leaders of every faith throughout the world.

Like other Members of this House, Mr. Speaker, I have had the privilege of knowing His Eminence for many years and have the greatest respect and affection for this tireless and dedicated religious leader.

Mr. Speaker, I would like at this time to include the text of the citation accompanying the award of the Medal of Freedom to Archbishop Iakovos:

> Greek Orthodox Archbishop Iakovos has long put into practice what he has preached. As a progressive religious leader concerned with human rights and the ecumenical movement, he has marched with Dr. Martin Luther King, Jr. and has met with the Pope. As the Primate of the Greek Orthodox Church of North and South America, concerned with his congregation, he has given guidance to millions.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MOFFETT, for Tuesday, June 10, 1980, on account of illness in his family.

Mr. MCKINNEY (at the request of Mr. RHODES), for today, June 10, through June 13, 1980, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CARNEY) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 30 minutes, today.

Mr. SEBELIUS, for 60 minutes, July 1, 1980.

Mr. PAUL, for 30 minutes, June 11, 1980.

(The following Members (at the request of Mr. HUTCHINSON) to revise and extend their remarks and include extraneous material:)

Mr. BRADEMAS, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. VANIK, for 20 minutes, today.

Mr. PEPPER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of California, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,179.

(The following Members (at the request of Mr. CARNEY), and to include extraneous matter:)

Mr. GILMAN in two instances.
Mr. RITTER.
Mr. COLLINS of Texas in two instances.
Mr. SAWYER.
Mr. BADHAM.
Mr. WYDLER.
Mr. DERWINSKI in three instances.
Mr. QUILLEN.
Mrs. SMITH of Nebraska.
Mr. KEMP.
Mr. GOODLING.
Mr. GRISHAM.
Mr. CLAUSEN.
Mrs. HOLT.
Mr. BROWN of Ohio.
Mr. HOLLENBECK.
Mr. PHILIP M. CRANE in 10 instances.
Mr. PURSELL.
Mr. GOLDWATER.
Mr. GRASSLEY.
Mr. DOUGHERTY.
Mr. HANSEN.

(The following Members (at the request of Mr. HUTCHINSON), and to include extraneous matter:)

Mr. RODINO in two instances.
Mr. FROST in three instances.
Mr. MAZZOLI.
Mr. SIMON in three instances.
Mr. IRELAND in two instances.
Mr. SHELBY.
Mr. SKELTON.
Mr. HARRIS in two instances.
Mr. STUDDS.
Mr. EDGAR in two instances.
Mr. HAMILTON in two instances.
Mr. GIAIMO.
Mr. MURTHA in two instances.
Mr. FAZIO in two instances.
Mr. LELAND.
Mr. GUARINI.
Mr. UDALL.
Mrs. SCHROEDER.
Mr. HUBBARD.
Mr. GRAY.
Mr. DELLUMS.
Mr. CORMAN in two instances.
Mr. LUKEN.
Mr. FORD of Michigan.
Mr. MURPHY of New York.
Mr. MAVROULES.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2102. An act pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota; and

H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

ADJOURNMENT

Mr. HUTCHINSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 11, 1980. at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4574. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-195, to amend the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, District of Columbia Law 2-139, with respect to the rate of compensation paid to members of boards and commissions; the appointment of attorneys; the transfer of personnel and cases from the Board of Labor Relations to the Public Employee Relations Board; the temporary continuation of authority in the Mayor to hear administrative personnel appeals; the provisions of title XXIII relating to disability compensation; and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4575. A letter from the Secretary of the Interior and the Secretary of Agriculture, transmitting the 1979 annual report on the Youth Conservation Corps program, pursuant to section 5 of Public Law 93-408; to the Committee on Education and Labor.

4576. A letter from the Assistant Secretary of State for Congressional Affairs, transmitting a report on political contributions made by Ambassador-designate Jerrold M. North, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4577. A letter from the Assistant Secretary of State for Congressional Affairs, transmitting a report on political contributions made by Ambassador-designate Frances D. Cook, and by members of her family, pursuant to section 6 of the Public Law 93-126; to the Committee on Foreign Affairs.

4578. A letter from the Assistant Secretary of State for Congressional Affairs, transmitting a report on political contributions made by Ambassador-designate Herbert S. Okun, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

4579. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4580. A letter from the Chairman of the Board and the President and Chief Executive Office, U.S. Railway Association, transmitting that Association's fourth report on the performance of the Consolidated Rail Corporation, pursuant to section 307(b) of the Regional Rail Reorganization Act of 1973, as amended; to the Committee on Interstate and Foreign Commerce.

4581. A letter from the Acting Secretary of Transportation, transmitting a report on the Department's contracts negotiated under the authority of 10 U.S.C. 2304(a) (11) and (16) during the period October 1, 1979, through March 11, 1980, pursuant to 10 U.S.C. 2304(e); to the Committee on Merchant Marine and Fisheries.

4582. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to extend for 1 year the tax incentives and disincentives provided by certain provisions of section 2124 of the Tax Reform Act of 1976, as amended, intended to encourage the preservation of historic structures; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. House Concurrent Resolution 351. Resolution with respect to taxing social security benefits. (Rept. No. 96-1079). Referred to the House Calendar.

Mrs. SPELLMAN: Committee on Post Office and Civil Service. H.R. 2510. A bill to amend title 5, United States Code, to permit court review in cases involving employees separated under section 8347, title 5, United States Code; with amendments (Rept. No. 96-1080). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 699. Resolution providing for the consideration of H.R. 6783. A bill to authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1981, and for other purposes (Rept. No. 96-1081). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 700. Resolution providing for the consideration of H.R. 5164. A bill to amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes (Rept. No. 96-1082). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 701. Resolution providing for the consideration of H.R. 6979. A bill to improve coastal management in the United States, and for other purposes (Rept. No. 96-1083). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 702. Resolution providing for the consideration of H.R. 6711. A bill to extend the authorization of youth training and employment programs and improve such programs, to extend the authorization of the private sector initiative program, to authorize intensive and remedial education programs for youths, and for other purposes (Rept. No. 96-1084). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM (for himself, Mr. Wolff, Mr. Bonker, and Mr. Barnes):

H.R. 7531. A bill to authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China; to the Committee on Foreign Affairs.

By Mr. BRODHEAD (for himself, Mr. Albosta, Mr. Bonior of Michigan, Mr. Broomfield, Mr. Conyers, Mr. Davis of Michigan, Mr. Dingell, Mr. Ford of Michigan, Mr. Kildee, Mr. Pursell, and Mr. Traxler):

H.R. 7532. A bill to amend the Internal Revenue Code of 1954 to impose an additional excise tax on the sale of certain imported automobiles in the United States; jointly, to the Committees on Ways and Means and Rules.

By Mr. CONABLE (for himself and Mr. Erlenborn):

H.R. 7533. A bill to amend the Internal Revenue Code of 1954 with respect to the vesting and discrimination requirements which apply to certain employer plans; to the Committee on Ways and Means.

By Mr. FARY:

H.R. 7534. A bill to make appropriations for the construction of a rapid transit project in Chicago; to the Committee on Appropriations.

By Mr. FAZIO:

H.R. 7535. A bill to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act; to the Committee on Post Office and Civil Service.

By Mrs. HOLT (for herself, Mr. White, Mr. Montgomery, Mr. Hillis, Mr. Kazen, Mr. Won Pat, Mr. Nichols, and Mr. Beard of Tennessee):

H.R. 7536. A bill to amend title 10, United States Code, to reduce the cost-sharing required of participants in the civilian health and medical program of the uniformed services (Champus) for inpatient medical care provided on an emergency basis; to the Committee on Armed Services.

By Mr. MITCHELL of New York:

H.R. 7537. A bill to amend the Solid Waste Disposal Act to provide for financial assistance to municipalities for the closing of open dumps under the Solid Waste Disposal Act and for the construction and operation of sanitary landfills in compliance with the provisions of that act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PAUL:

H.R. 7538. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for certain expenses paid or incurred in connection with the adoption of a child; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 7539. A bill to amend the Internal Revenue Code of 1954 to provide that interest on obligations issued to finance hazardous waste disposal facilities shall be exempt from Federal income tax; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 7540. A bill to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes; to the Committee on the Judiciary.

By Mr. VANIK (for himself and Mr. Rosenthal):

H.R. 7541. A bill to amend the Internal Revenue Code of 1954 with respect to offsetting positions in personal property; to the Committee on Ways and Means.

By Mr. HALL of Ohio (for himself, Mr. Donnelly, and Mr. Paul):

H.J. Res. 565. Joint resolution to authorize and request the President to issue a proclamation designating June 1 through June 6, 1981, as "National Management Week"; to the Committee on Post Office and Civil Service.

By Mr. PAUL:

H.J. Res. 566. Joint resolution withdrawing the United States of America from the Treaty on the Limitation of Anti-Ballistic Missile Systems, and the Interim Agreement, Protocol, and Agreed Interpretations to the Treaty, signed on May 26, 1972; to the Committee on Foreign Affairs.

By Mr. STAGGERS (for himself and Mr. Broyhill):

H. Con. Res. 360. Concurrent resolution providing for the printing of additional copies of House Report No. 96-1035; to the Committee on House Administration.

By Mrs. BOUQUARD (for herself, Mr. Devine, Mr. Quillen, Mr. Collins of Texas, Mr. Lee, Mr. Duncan of Tennessee, Mr. Whitehurst, Mr. Horton, Mr. Lott, Mr. Pepper, Mr. Bevill, Mr. Abdnor, Mr. Hagedorn, Mr. Hinson, Mr. Stangeland, Mr. Ottinger, Mr. Cleveland, Mr. Chappell, Mr. Dingell, Mr. Montgomery, Mr. Gephardt, Mr. Mollohan, Mr. Benjamin, Mr. St Germain, Mr. Winn, Mr. Latta, Mr. Richmond, Mr. Satterfield, Mr. Boner of Tennessee, Mr. Stack, Mr. Gudger, Mr. Young of Missouri, Mr. McDonald, Mr. Staggers, Mr. Ambro, Mr. Davis of South Carolina, Mr. Butler, Mr. Bailey, Mr. Robert W. Daniel, Jr., Mr. Rinaldo, Mr. Watkins, Mr. Flippo, Mr. Jenkins, Mr. Stump, Mr. Hall of Texas, Mr. Ginn, Mr. Hightower, Mr. Gramm, Mr. Brinkley, Mr. Beard of Tennessee, Mr. Kazen, Mr. Leath of Texas, Mr. Jones of Oklahoma, Mr. Barnard, Mr. Glickman, Mr. Nichols, Mr. Whitley, Mr. Evans of Georgia, Mr. Rose, Mr. Jones of Tennessee, Mr. Ford of Tennessee, Mr. Hefner, Mr. Ireland, Mr. Jones of North Carolina, Mr. Blanchard, Ms. Oakar, and Mr. Rahall):

H. Res. 703. Resolution to express the sense of the House of Representatives concerning the operations at Washington National Airport; to the Committee on Public Works and Transportation.

By Mr. RUDD (for himself, Mr. Rhodes, Mr. Burgener, Mr. Moorhead of California, Mr. Ashbrook, Mr. McDonald, Mr. Derwinski, Mr. Symms, Mr. Lagomarsino, Mr. Dornan, Mr. Carney, Mr. Gingrich, Mr. Miller of Ohio, Mr. Shumway, Mr. Whitehurst, Mr. Cheney, Mr. Ichord, Mr. Lee, Mr. Kelly, Mr. Bauman, Mr. Shuster, Mr. Devine, Mr. Dan Daniel, Mr. Rousselot, Mr. Spence, Mr. Myers of Indiana, Mr. Archer, Mr. Edwards of Oklahoma, Mr. Loeffler, Mr. Latta, and Mr. Horton):

H. Res. 704. Resolution expressing the sense of the House of Representatives that the President instruct the Attorney General to prosecute to the fullest extent of the law any and all persons who are in violation of the Logan Act and the prohibition on travel to Iran, provided for under the authority of the International Emergency Economic Powers Act; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

492. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the New Melones Dam and Reservoir, which was referred to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 654: Mr. Wolff.

H.R. 735: Mr. Stump.

H.R. 1310: Mr. Spence.

H.R. 1496: Mr. Peyser.

H.R. 1785: Mr. Conyers, Mr. Fuqua, Mr. Gaydos, Mr. Ginn, Mr. Grisham, Mr. Roybal, and Mr. Wylie.

H.R. 3609: Mr. Brinkley, Mr. Nichols, and Mr. Mineta.

H.R. 3655: Mr. Lagomarsino.

H.R. 3677: M. Bowen and Mr. Gray.

H.R. 4897: Mrs. Chisholm and Mr. Tauke.

H.R. 5610: Mr. Chappell, Mr. Clinger, Mr. Mineta, Mr. Rosenthal, Mr. St Germain, and Mr. Spence.

H.R. 6034: Mr. Kemp and Mr. Rahall.

H.R. 6203: Mrs. Spellman and Mr. Tauke.

H.R. 6611: Mr. Dougherty.

H.R. 6637: Mr. Walker, Mr. Bethune, and Mr. Kelly.

H.R. 6705: Mr. Bowen.

H.R. 6978: Mr. Moakley, Mr. Donnelly, and Mr. Markey.

H.R. 7019: Mr. Edwards of California and Mr. Stack.

H.R. 7039: Mr. Carney, Mr. Oberstar, and Mr. Mavroules.

H.R. 7047: Mrs. Heckler.

H.R. 7223: Mr. Yatron.

H.R. 7300: Mr. Glickman, Mr. Stump, Mr. Lagomarsino, Mr. Devine, Mr. Clausen, Mr. Symms, Mr. Rousselot, Mr. Lungren, Mr. Hinson, and Mr. Derwinski.

H.R. 7365: Mr. Bevill, Mr. Mottl, Mr. Traxler, Mr. Regula, Mr. Coelho, Mr. Burgener, Mr. Derwinski, Mr. Hughes, Mr. Murphy of Pennsylvania, Mr. Rose, and Mr. Porter.

H.J. Res. 300: Mr. Wyatt and Mr. Ambro.

H. Con. Res. 223: Mr. Derrick.

H. Con. Res. 344: Mr. Railsback, Mr. Brown of Ohio, Mr. Campbell, Mr. Lewis, Mr. Lujan, Mr. Guyer, Mr. Edwards of Oklahoma, Mr. Frenzel, Mr. Whittaker, Mr. Cheney, Mr. Daniel B. Crane, Mr. Forsythe, Mr. Roe, Mr. Cleveland, Mr. Kelly, Mr. Glickman, Mr. Mollohan, Mr. Hollenbeck, and Mr. Pashayan.

H. Con. Res. 355: Mr. Devine, Mr. Guyer, Mr. Evans of Delaware, Mr. Duncan of Tennessee, Mr. Mottl, Mr. Lee, Mr. Heftel, Mr. Watkins, Mr. Hall of Texas, Mr. Anderson of California, Mr. Ichord, Mr. Walker, Mr. Nichols, Mr. Jones of Tennessee, Mrs. Bouquard, Mr. Frost, Mr. Hutto, Mr. Hinson, Mr. Horton, Mr. Ginn, Mr. Forsythe, Mr. Hubbard, Mr. Young of Florida, Mr. Huckaby, Mr. Bevill, and Mr. Evans of Georgia.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2255

By Mr. CAMPBELL:

—On page 4, line 3, strike "June 6, 1978," and all that follows through the semicolon on line 6 and insert, in lieu thereof, the following: "the date of enactment of this Act;".

By Mr. VENTO:

—On page 4, line 1, strike (D) and insert in lieu thereof the following:

"(D) when the activity is to be performed, or shares of the company involved are to be owned directly or indirectly, by a bank holding company which, prior to September 11, 1979, was engaged in insurance agency activities, or which bank holding company, prior to that date, had applied to the Board for authority, and which may be granted by the Board, to engage in insurance agency activities."

H.R. 6418

By Mrs. FENWICK:

—Page 12, line 20, after the semicolon, insert "and".

Page 12, strike out lines 21 and 22.

Page 12, line 23, strike out "(4)" and insert in lieu thereof "(3)".

Page 12, line 24, strike out "subparagraph" and insert in lieu thereof "subparagraphs".

Page 13, line 7, strike out the quotation marks and the period and insert in lieu thereof "and".

Page 13, after line 7, insert the following:

"(F) food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption;".

—Page 6, line 24, strike out "food and" and all that follows through "human consumption," on line 2 of page 7.

Page 7, line 3, strike out the comma.

—Page 19, line 13, strike out "food and" and all that follows through "consumption," on lines 15 and 16.

Page 19, line 16, strike out the comma following "conditioners".

H.R. 7262

By Mr. BROWN of Ohio:

—Page 82, line 24, insert "(a)" after "Sec. 315".

Page 83, after line 4, insert the following new subsections:

(b) Paragraphs (1) and (2) of section 304(a) of such Act are amended by inserting the following before the period at the end of the last sentence of each such paragraph: "; except that such final performance standards shall not be promulgated until (A) the Secretary of Energy has conducted a detailed and thorough demonstration project utilizing such standards for at least 12 months in at least two geographical areas in different climatic regions of the country, and (B) such Secretary has transmitted to both Houses of the Congress a report containing a detailed and thorough analysis of the findings and conclusions made as a result of carrying out such project, including at least (i) a detailed and thorough analysis of the impact of such standards on small builders and the cost of constructing such buildings and the impact of such cost on the ability of low- and medium-income persons to purchase or rent such buildings, and (ii) a detailed and thorough analysis of the total energy savings to be realized from utilizing such standards".

(c) Section 526 of the National Housing Act is amended by adding the following new sentence at the end thereof: "The Secretary shall not make the energy conservation performance standards promulgated under the Energy Conservation Standards for New Buildings Act of 1976 effective with respect to newly constructed residential housing subject to mortgages insured under this Act unless a resolution of approval is adopted with respect to such standards by each House of Congress in accordance with section 305 (c) of the Energy Conservation Standards for New Buildings Act of 1976."

By Mr. DUNCAN of Tennessee:

—Page 22, after line 20, insert the following:

DEFINITION

Sec. 115. Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end thereof: "; the term 'urban county' shall also mean any county within a metropolitan area which (A) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas which are not units of general local government, (B) has at least one metropolitan city within its boundaries, (C) has a combined population in excess of 125,000 persons (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, and (D) offers at least three of the following types of governmental services: health, welfare, library, education, recreation, law enforcement, and the judicial system in such unincorporated areas".

—Page 118, line, after line 25 create the following new title:

TITLE VII

Sec. 701. Notwithstanding any other provision of law, social security benefit increases occurring after May 1980 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this subsection, the term "social security benefit increases occurring after May 1980" means any part of a monthly benefit payable to an individual under the insurance program established under title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program becoming effective after May 1980 pursuant to section 215 (i) of such Act, or any other increase in benefits under such program, enacted after May 1980, which constitutes a general benefit increase within the meaning of section 215 (i)(3) of such Act.

(b) Subsection (a) of this section shall be effective only with respect to assistance which is provided under the Acts referred to in the first sentence of such subsection for periods after September 30, 1980.

By Mr. OTTINGER:

—Page 83, line 4, strike out "1982" and insert in lieu thereof "1981".

By Mr. PATTERSON:

—Page 93, after line 22, insert the following new section:

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

SEC. 328. The first sentence of section 203 (b) of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3502(b)) is amended by inserting "the Secretary of Housing and Urban Development," after "the Chairman of the Federal Home Loan Bank Board,".

H.R. 7265

By Mr. DERRICK:

—Page 9, after line 19, insert the following:

Defense Waste Processing Facility, Savannah River Plant, design only, $10,000,000.

SENATE—*Tuesday, June 10, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HOWELL HEFLIN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for the moment of prayer when the day is new, the mind is clear, and the soul receptive to Thy presence. Move among us, O Divine Spirit, to lighten our burdens, lift our spirits, warm our hearts, and direct our actions. When hours grow tedious or tension is high, still give us Thy quickening power and Thy refining and steadying grace. When perplexity or bewilderment overtakes us and we are unsure of the course to follow, guide us through the difficulties to a victorious conclusion in accord with Thy will. So may we "serve the present age our calling to fulfill." And when the day is ended may we rest with Thy benediction upon us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 10, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HOWELL HEFLIN, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HEFLIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONVENING SENATE ON JUNE 11, 12, 13, 14, AND 16, 1980, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow, Wednesday, and the next day, Thursday, and the next day, Friday, the Senate stand in recess, respectively, until the hour of 9 a.m. tomorrow, Thursday, Friday, and Saturday, and that if the Senate is in session on Saturday, when it completes its business on Saturday it stand in recess until the hour of 10 o'clock on Monday next—in any event, when the Senate meets on Monday next, it meet at 10 a.m.

Mr. NUNN. Mr. President, reserving the right to object, and I will not object——

Mr. ROBERT C. BYRD. Mr. President, I amend my request insofar as the daily meeting is concerned, to change it to 10 a.m. rather than 9 a.m.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I gather one of the reasons for the request for an extended series of convening hours is in reference to the possibility of the necessity for recurring votes on the draft registration bill.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader.

Mr. President, I do not know whether we will get cloture today or not, but I hope we can dispose of this matter with reasonable promptness and without having to extend it into next week.

I announced on the floor that I hope Members on this side will vote to invoke cloture at an early time, and I do hope that. But I must tell the majority leader in all candor, as I told him privately yesterday, it is going to be difficult to do.

I will continue to vote for cloture. I will continue to try to bring this matter to a conclusion as speedily as possible, but I hope that on the second vote, if not on the first, we can get cloture and proceed to final disposition without having to continue the consideration and debate into next week.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I, too, have doubt that cloture will be achieved today. There are Senators who customarily wait until the second vote, the second cloture vote, before voting for cloture, and I am sure that is going to occur again in the case of some Senators.

I hope they will, however, consider the fact that 2 days passed before the cloture motion was entered on this occasion, thus allowing 4 days of debate before the vote, before the day on which the vote occurs.

Mr. President, will the Chair put the request?

Mr. BAKER. Mr. President, I have no objection to the request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MILITARY REGISTRATION

Mr. ROBERT C. BYRD. Mr. President, the debate on House Joint Resolution 521 began on Wednesday, June 4. This measure makes available by transfer $13.295 million for the Selective Service System for the current fiscal year. Today the Senate will vote on the question of invoking cloture. It is my hope that we will get the necessary 60 votes to limit debate on this measure.

Considerable difference of opinion exists on the need for premobilization registration. Arguments have been made—and reiterated—on both sides of this complex and emotional issue. The debate has been reasoned and thorough. I am confident that each of us has had ample time to become familiar with the issues.

Additional days given to unlimited debate would not, I believe, serve the interests of the Senate. Having had time to review the facts and weigh the arguments, our primary interest is to express the will of the Senate by voting this measure up or down.

On Friday, when I first filed a cloture motion to limit debate on this resolution I noted that I usually offer cloture motions on the very first day of debate. I did not do so in the case of House Joint Resolution 521, which was before the Senate 2 days prior to my offering the cloture motion. As of today the Senate has had 4 full days to debate this measure.

Even before the current debate, both the Senate and the House devoted considerable time to examining both peacetime registration and the overall matter of our manpower requirements and military preparedness.

Last year the Senate Armed Services Subcommittee on Manpower and Personnel held 3 days of intensive hearings and compiled extensive evidence supporting peacetime registration. Additional testimony on Selective Service registration was received by the committee during hearings on S. 428, the Department of Defense authorization bill for fiscal year 1980. This information was compiled in a set of hearings totaling 239 pages, and those hearings have been available since last fall.

On September 20, 1979, the Senate

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

met in a closed session to consider classified information relating to the problems of wartime mobilization without peacetime registration. The closed session provided a forum for extensive, substantive debate on the issue of our manpower readiness.

Early last year, the House Armed Services Committee, during its consideration of the Department of Defense authorization for fiscal year 1980, held hearings on the current status of our military personnel. Military registration was considered under this category, and it filled over 200 pages of the committee's published hearings.

The House heard arguments on House Joint Resolution 521 over 1 month ago; it approved the resolution on April 22, by a vote of 218 to 188.

The Senate Appropriations Subcommittee on HUD-Independent Agencies held hearings on this measure several months ago and favorably reported House Joint Resolution 521 to the full committee. The subcommittee compiled over 200 pages of testimony and facts during its consideration of the measure. The full Appropriations Committee conducted 4 days of markup sessions, during which arguments—pro and con—received considerable attention. The committee ordered the measure favorably reported with an amendment on May 13. The report has been available for nearly 3 weeks.

The House has approved this resolution, but the Senate continues to debate it. While we continue to debate it, the message from the American public is clear—most Americans favor peacetime registration.

Letters which I have received from my constituents in West Virginia are indicative of the public support for military registration.

For example, Miss Brigetta M. Crimm, a student attending West Virginia University, writes:

> I believe that the United States should be ready to handle any conflict that may arise between the U.S. and other countries. I also believe that President Carter has asked to reinstate draft registration because the U.S. military is not completely capable to defend the U.S. in case of war. For these reasons alone, I am in support of draft registration.

She closes her letter by saying:

> I hope that you will vote for draft registration. Americans need to stand behind their country.

Another letter, from John and Teresa Boggs of Charmco, W. Va., notes:

> I think it is time we get our defenses built up, starting with reinstitution of [registration].

And a letter from Barbara Elwell in Rupert, W. Va., reads:

> I feel it is very necessary that we have the manpower readily available in case of an emergency. The days lost by having to register men after an emergency has arisen could be crucial. I believe the money spent for this would be well-used.

These letters express what I believe to be is the sentiment shared by a majority of Americans—their recognition that our military preparedness needs to be strengthened and their willingness to share in the defense of the country. And most Americans agree that peacetime registration is a step in the right direction.

Given these circumstances—given the fact that debate on military registration has been going on for over 1 year; given the fact that there are hundreds and hundreds of pages of testimony, facts and figures on the status of our military personnel and our defense preparedness; given that the House Armed Services Committee, the Senate Armed Services Committee, the House Appropriations Committee, and the Senate Appropriations Committee all recommend that peacetime registration be reinstituted; given that the House has already approved House Joint Resolution 521—I think it is imperative that the Senate move to limit debate on this measure so that we can begin considering amendments, and move toward taking a final vote—up or down. I urge my colleagues to vote for cloture on this first vote.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BAKER. Mr. President, was there no leader time this morning?

Mr. ROBERT C. BYRD. Mr. President, yes, there was 5 minutes each for leader time.

DEATH OF TENNESSEE CHIEF JUSTICE JOE W. HENRY

Mr. BAKER. Mr. President, it was with deep sorrow that I learned of the passing of the chief justice of the supreme court in my home State of Tennessee, the Honorable Joe W. Henry, on Monday.

Justice Henry was born on September 20, 1916, in Lynnville, Tenn. He attended Middle Tennessee State University and received his law degree from Cumberland University. He served in the Tennessee House of Representatives and was adjutant general of Tennessee from 1953 to 1959.

He was a member of the house of delegates of the American Bar Association and president of the Tennessee Trial Lawyers Association. I was proud to be a member of the Tennessee Bar Association when Justice Henry ably served as its president.

I loudly applauded Justice Henry when he became a member of the first elected supreme court in Tennessee and later when he was elevated to the position of chief justice in 1977.

I can vividly recall the day that Justice Henry, then a practicing attorney, came to Washington to testify on no-fault insurance. In his own resonant way, he termed no-fault as "the Trojan Horse in the House of Tort."

Justice Henry will be sorely missed in Tennessee. He was a skillful attorney, a dedicated public servant and a conscientious jurist. I extend my deep sympathy to his family during this time of sorrow.

Mr. President, I have no further need for my time under the standing order. I am prepared now to yield it back. I see no one on the floor requesting time.

Unless the majority leader has any need for it, I am prepared to do that.

Mr. ROBERT C. BYRD. Mr. President, I do not have any need for it. I thank the minority leader.

Mr. BAKER. Mr. President, I thank the majority leader. I yield back any time remaining under the standing order.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The Senate resumed consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, inasmuch as I am controlling time on this side, I yield the time to the Senator from Mississippi (Mr. STENNIS) on my side of the aisle.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I understand the majority leader has, at least temporarily, given me control of the time with reference to the pending matter. The Senator from Georgia (Mr. NUNN) is here. He and I can utilize this control of the time insofar as it needs any control; it is not a matter of wanting to control it.

If the Senator from Georgia wishes to use some time now, I would be glad to yield such time as he may use.

Mr. NUNN. Mr. President, I thank the chairman. I would prefer to wait until Senator Pressler arrives. We have a dialog that he would like to engage in. I think I better save the time, because I have two or three Senators that would like to speak. Senator JACKSON indicated that he has some remarks he would like to make; Senator WARNER would like to make some remarks, as well as Senator TOWER. So I would prefer to reserve the time until Senator PRESSLER arrives, at which time I will have a dialog with him.

Mr. STENNIS. Mr. President, may I ask the Senator from Oregon (Mr. HATFIELD) if he wishes to use some time now?

Mr. HATFIELD. Mr. President, I understand the pending matter is the amendment of the Senator from Georgia. So I assume that he would like to present that amendment.

Mr. NUNN. Mr. President, I would like to just get an indication from the Senator from Oregon about his feelings on a vote on that amendment between now and 11 o'clock, because that would make a difference as to the debate. Does the Senator envision having a vote on that?

Mr. HATFIELD. Mr. President, I would like to hear the amendment argued. I cannot very well predict what the situation is. I have to understand what the amendment proposes to do, and so forth. I do not think we could make any assumptions unless we hear what the business is.

Mr. NUNN. Mr. President, if the Senator from Oregon is not disposed to indicate his willingness to have a vote on the amendment, I see no need of having most of our time taken between now and 11 o'clock on that amendment. I would prefer to address it to the overall bill.

I understand from the Senator's remarks that he, at this time, is not disposed to having a vote on the amendment.

Mr. HATFIELD. Mr. President, it is not a question of being disposed or indisposed about voting on the amendment. I think it is very peculiar that the Senator from Georgia has offered an amendment he wants, then to get some kind of an agreement before we even hear the opening remarks about the amendment or an explanation about the thing. I am not buying a pig in the poke.

Mr. NUNN. Mr. President, the Senator must understand it. He wrote a "Dear Colleague" letter against it that has been circulated and went into considerable detail on it. I would gather from that very adamant position against the amendment that the Senator from Oregon fully comprehends it. I am certain he would not write a "Dear Colleague" letter opposing the amendment if he did not understand or comprehend it.

Mr. HATFIELD. Mr. President, the Senator is quite right, I fully understand it. But this is a matter involving the entire Senate and not just the Senator from Georgia and the Senator from Oregon. I do not understand why the Senator from Georgia is so reluctant to go ahead and present his amendment.

Mr. NUNN. Mr. President, the Senator is not reluctant to——

Mr. HATFIELD. Mr. President, I do not understand why——

Mr. NUNN. Mr. President, the Senator is not reluctant to go ahead. We have a cloture vote at 11 o'clock and the question is whether we spend our time——

Mr. HATFIELD. Mr. President, who has the floor? Mr. President, do I not have the floor? Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. I believe we have order now.

Mr. HATFIELD. Mr. President, I believe the procedure is that one person speaks at a time. I would like to say to the Senator from Georgia that if he is not interested in pursuing his amendment, that is perfectly all right. But I think it ought to be clearly understood that that is his choice and not my choice. If the Senator from Georgia is not interested in pursuing that amendment, then let other matters be taken up.

I think it also ought to be pointed out, and I would like to make it clear for the record, that the amendment of the Senator from Georgia forecloses any other consideration of any other amendment before the cloture vote. It had been my clear understanding with Senator KASSEBAUM, of Kansas and Senator LEVIN, of Michigan that we would consider other amendments, as well as an amendment by the Senator from Iowa, Mr. JEPSEN.

Now that the Senator from Georgia has effectively foreclosed any other amendment to be considered before cloture, I would think he would be at least a little bit compelled to pursue his amendment and discuss it.

Mr. NUNN. Mr. President, I would say to my friend from Oregon, if I have the floor, that I am perfectly willing to enter into a unanimous-consent agreement to vote on the Jepsen amendment before the vote on the Nunn amendment. I am also prepared to enter into a unanimous consent to vote on the Kassebaum amendment before the Nunn amendment, if the Senator from Oregon is so disposed, provided it is done before 11 o'clock.

Mr. HATFIELD. Mr. President, I think this again shows the true strategy from the Senator from Georgia, which is that he has sought effectively to foreclose and shut off any meaningful consideration of any other amendment. This offer now to enter into unanimous consent, I think, ought to be taken on the face of it. It is no offer at all. It is 20 minutes after 10 and the Senator from Georgia says he is willing to enter into a unanimous-consent agreement to vote on some other amendment before 11 o'clock. He knows full well that no one is prepared at this time—the authors of such amendments are not here—nor is there adequate time to debate it.

Mr. NUNN. Mr. President, I am perfectly prepared to vote on the Nunn amendment at this time if the Senator would like to vote.

Mr. HATFIELD. Mr. President, this badminton game of throwing the shuttlecock back and forth between the two Senators is leading to no place, because I think it is very interesting that the Senator is so reluctant to take up the amendment that he was so anxious to offer last night and to discuss it.

If the Senator is not willing to discuss his amendment at this time, then let him choose the subject he is willing to discuss.

(Mr. CRANSTON assumed the chair.)

Mr. STENNIS. Mr. President, unless there is someone who wants the floor now, and there are Members who are unable to come to the floor now who do want to speak, I understand, I will yield myself 5 minutes. I will yield at any time someone should have a pressing need for the floor.

Mr. President, yesterday it was my privilege to address the Chamber about this problem and the consequences that go with an attempted solution for manpower, which I call the weakest link, by far, in the chain of our military preparedness. I did not have with me at the time the figures with reference to the investment that we have made in our Military Establishment. My point is that money alone is not all of the problem. You cannot buy the kind of talent, ability, and disposition that goes with military service in this day.

(Mr. HARRY F. BYRD, JR., assumed the chair.)

Mr. STENNIS. As an illustration of how we have been willing to spend money, we now have in physical property, counting the things that are in use now—not antedated items—we now have physical property owned by the Department of Defense as an investment, items like ships, guns, tanks, aircraft, trucks, and so forth—I call that general equipment—to the extent of $154 billion. Then supply equipment such as parts, major end items, and so forth, are listed with a present value of $67 billion, for a total of $221 billion in the way of capital investment. This does not include plant equipment and items like land and construction in progress or real property of any kind.

That is almost a quarter of a trillion dollars, Mr. President, which shows the enormity of the physical property that is involved in our daily operation of this massive military machine, and which extends, to some degree, around the world.

I bring those figures in now to show the importance of the manpower problem, the human side. We have been trying to solve that by just putting in more money, throwing in a pile of money, as I sometimes call it, in this direction and hoping that something good will come. hoping that this matter will be solved.

Those of us who are perhaps closer to it than others, who live with the problem, conclude over and over, and see it repeated time and time again, that it is character qualifications that it is a matter of talent, that it is a matter of personal coverage, that it is a matter of self-discipline and willingness to accept discipline from others. These are the vital ingredients that go to make up the manpower and womanpower situation in our military services.

It is in that type that we have the shortage; it is that type that I have tried to describe in practical terms as being those who you cannot get merely with money.

There is another point I want to make which I did not cover yesterday. I said that time has proven very clearly that the voluntary system for this massive worldwide commitment that we have, as well as the needs that are connected with our own economy, this exclusively volunteer system just does not meet the needs. I want to make it clear that that is true even though the military services themselves have done the very best they could, I believe—making some allowances, of course, here and there. I yield myself 2 more minutes, Mr. President.

Mr. NUNN. Mr. President, the Senator from South Dakota has now entered the Chamber for our dialog. Will the Senator yield to me for 5 minutes?

Mr. STENNIS. If I may yield under those conditions. I will come back to my point. I yield 5 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from South Dakota and I have had a very important conversation concerning this whole debate. I will yield to him for the purpose of a statement or a question, or both.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I would like to quickly raise a few issues that trouble me concerning the proposed reinstitution of selective service registration before we proceed to a cloture vote. These are points which may not have been raised yet and they are important enough not only to me, but also to millions of young people who will be subject to selective service registration and I do not want to miss this opportunity to bring them up.

Mr. President, I want to stress that there was a great feeling during the Vietnam era that the Vietnam draft was unfair. There have been numerous articles written which show that war was fought primarily by lower income persons and by persons of lower educational backgrounds.

There was also a feeling at the time, and indeed I served in the Army in Vietnam, at some of the graduate schools and elsewhere, that the draft could be avoided through certain steps if one were wealthy enough or able to go on to graduate school or through some other type of exemption. Therefore, that generation of young people lost confidence in the draft and, indeed, confidence in the Government. Both those who were not called and those who were called were very cynical about the whole system.

In order to support this registration proposal, which I understand is the first step before classification and induction, I would have to be assured that there would be a special effort to make it a fair draft—one that will not just draft certain social groups or certain educational groups with lower income backgrounds.

I certainly do not seek a commitment here to all the particular criteria, but my own thinking is along these lines:

First, people should be subject to a draft for only a limited period of 1 or 2 years of vulnerability.

Second, induction should be by a pure lottery system so that all individuals would be equally subject to the draft.

Third, there would be rare exemptions from service, but alternative service could be arranged according to specific standards spelled out in the Selective Service Act.

The concept of duty and service to our Nation can be preserved and effective if we guarantee these criteria.

Mr. President, on the basis of this, and keeping in mind the general points I have mentioned, I wonder if Senator NUNN or any other supporters or opponents of this bill can give me any assurances that they also will support me in what I am recommending.

Mr. NUNN. Mr. President, if I can respond briefly to the Senator from South Dakota, I want to thank him for raising specific points about this joint resolution that I am sure he and others have raised in connection with the Selective Service System. Senator PRESSLER is one of the few people in the Congress who served in the Armed Forces in Vietnam during the war there, and I can certainly appreciate why he feels keenly and strongly about this registration. We are lucky to have him in our midst and I am sure that, as this debate goes on and as we talk, in the future, about other manpower problems including the problems of classification, he will play a very vital and important role in our deliberations. Let me assure my distinguished colleague from South Dakota that I do not support individually and I do not believe the Armed Services Committee supports returning to any draft like that used during the Vietnam era. It has never been the view of the Armed Services Committee to put the old Selective Service apparatus back in place as it existed during Vietnam

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield an additional 3 minutes.

Mr. NUNN. I agree with the Senator from South Dakota that the registration system and any return to the draft, if subsequent events should require a draft, should be as universal as possible. We need a thorough overhaul of the old classification procedures and appeal procedures to insure that the evils that existed in the Vietnam period do not recur. I hope the Senator from South Dakota will provide us with his testimony when the hearings are held on these needed changes. Again, I assure him that his views will be given very careful consideration in any deliberations we have on this matter.

The Senator from South Dakota may be aware that last year, the Armed Services Committee reported S. 109, which is really still pending in the Senate. In the committee report, we specifically recommended that the President be prohibited from instituting classification for military service, unless a real emergency occurs, until after the classification and exemption process has been completely restudied and revamped. I stand by that position individually and I believe that our committee would still have that view. I believe that a revamping can and should be effected and achieved before any draft will be allowed to go into effect.

Mr. President, if the Senator from South Dakota has any further questions, I shall be glad to try to address them. I know the Senator from South Carolina has indicated he would like to comment on this.

Mr. PRESSLER. Mr. President, I should like to hear the comments of the Senator from South Carolina.

Mr. THURMOND. Mr. President, first, I commend the able Senator from South Dakota for being the only Vietnam veteran in the Senate. I can understand his concerns. I want to assure him that, in my opinion, whatever draft may follow this registration will be a fair and an equitable draft.

I realize that, during the Vietnam war, there were various exemptions. There were a lot of complaints and a lot of people were dissatisfied with the way it was handled. I do not think that will occur again. I want him to know that I shall do everything I can to see that whatever draft follows will be fair and equitable to all people.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

Let me assure the Senator from South Dakota that we want his help and we need his help in laying down the plans and specifications, if we are called upon to pass such a bill. I have for my guide now the very points that he has made and, as a chairman of the Committee on Armed Services, I shall certainly use all the effort and influence that I shall be able to muster to see that we have a fair and honest application of the rules, as well as the rules themselves. It will be a matter of personal surveillance and responsibility for our committee. We shall have to pass on the direction of the program.

I am not in favor of any kind of Selective Service Act that does not carry these very qualities into its very terms, written in steel and stone.

The ACTING PRESIDENT pro tempore. The time of the Senator from Mississippi has expired.

Mr. STENNIS. I yield the floor, Mr. President.

Mr. HATFIELD. Mr. President, what is the time situation?

The ACTING PRESIDENT pro tempore. The Senator has 25 minutes and 30 seconds.

Mr. HATFIELD. What time does the other side have?

The ACTING PRESIDENT pro tempore. Zero.

Mr. HATFIELD. Zero. So I have the remaining time.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HATFIELD. Mr. President, I should like to make a few comments on this same subject to the Senator from South Dakota. I do not know how to term the promises that have been made in order to get the Senator's support this morning, because they so obviously are meaningless promises or commitments that have been made.

First, the very subject of the discussion, the very title, "A Fair and Equitable Draft" is mutually contradictory and as contradictory on basic data and statistics. Let me remind the Senator from South Dakota that we have 4 million people in the 19- to 20-year-old age group that will be required to register under this pending business. Next year, that will drop to 18-year-olds. That will add another 2 million.

Let me also remind the Senator from South Dakota that the history of the Selective Service System was that they had to be selective. They could not accommodate the total numbers that would be available. Training stations and other such logistical support base are just nonexistent. It has never been existent. Consequently, the "selective" part of Selective Service was specifically designed in order to be selective and extrapolate out of the manpower pool numbers that they could accommodate and train and incorporate in the military service. Also, it provided the flexibility, depending on how the war as going, whether they need to accelerate or whether they need to level off for a period of time.

If the Senator from South Dakota is going to buy this kind of pig in a poke that has been offered him this morning, that, somehow, we are going to guarantee the Senator a fair and equitable draft system, I think all the Senator from South Dakota has to do is look at the very basic statistics, because what I quoted does not even include women. That issue has not been settled.

We have in excess of 2 million in our standing Army today, 1.3 million Reserves. Does the Senator think that we are going to make a fair and equitable Selective Service, which must mean practically universal, that we are going to take 4 million, then 2 more million, without even considering women, and, within the next few months after the adoption of a so-called fair draft system, that we can actually accommodate millions—6, 8, 10 million people?

Of course, it is going to be discriminatory. That is another word for "selective." It could be called the discriminatory service system. How we do it is certainly still open for Congress to determine. Let me suggest that I assume that there will be some student deferment, as there was in the past. They will need some classifications of people—doctors, dentists, and others—who will then be deferred. As far as making a fair and equitable system, we are going to have to have a universal system if it is going to be fair and equitable. Otherwise, it is going to be discriminatory. It always has been, always will be.

In the first one, in the Civil War, if you had $300, you could go down and plunk your $300 down and you could escape that service in the Civil War. World War I, World War II, Vietnam—by the very logistics of the numbers we are dealing with, it will be discriminatory. It cannot be any other way.

Consequently, when the Senator is assured this morning, it is really one kind of one step below a campaign promise in the believability or the quality of that kind of response the Senator got this morning. I think it is a very interesting exercise here in fantasy.

I hope the Senator realizes that no system of draft or compulsory military service can be other than discriminatory. You can take the 4 million we have and if you discount one-quarter of that 4 million for physical incapacity or inability to pass a physical examination, you would have 1,500,000 immediately. Then, when you add the 18-year-olds, then you would have another group of people. If you add women, you would have another increment. So by the time you consider all these increments, you have a totally impossible pool with which to be other than discriminatory.

Mr. PRESSLER. Will the Senator yield for a question?

Mr. HATFIELD. Yes.

Mr. PRESSLER. Let me first say what a high regard I have for the Senator from Oregon and for his analysis of this issue. I greatly appreciate the tremendous effort he has put into this important debate.

Any system is going to have certain inequities. I suppose we could find something wrong with the procedures we use in the U.S. Senate, in committee assignments or the seniority system, or the system of grading in schools, or methods used in career promotion. It is difficult to think of any human endeavor in which there is true equality. Certainly it would be difficult to design a draft system which meets all hypothetical standards of equity and fairness. I recognize the difficulty of the task to which the Senator refers. It is important that we carefully evaluate these issues in making essential improvements in the Selective Service System.

My initial objective is to get away from the blatant and gross inequities we had during most of the Vietnam era. Toward the end of the Vietnam war, the System was improved substantially. I believe that it is necessary to make further substantial improvements. The number of individuals required by the military as the Senator from Oregon says, may change from one period to the next. Not all eligible persons would be needed at all times. But, for example, if people in categories were chosen by lottery, we could involve everybody, except in the most extreme circumstances. But, to restate my position, we must devise a system that would be fairer, certainly, than we had in the Vietnam era. I do not believe anybody could pretend that it would be a perfect system. No system would be perfect, but we must at least work toward that goal.

For example, if we needed so many thousand mechanics, or chemists or accountants, people in that category could be chosen perhaps by lottery. There are a number of other proposals which could also be explored to spread the burden in a fair and rational manner if we are to actually reinstitute the draft.

Mr. HATFIELD. What about doctors?

Mr. PRESSLER. That is a very special group.

Mr. HATFIELD. Yes.

Mr. PRESSLER. They would have to be dealt with in their classification. But, certainly, within that classification they would need to be chosen by lottery, as opposed to being chosen by some other helter-skelter system, as we had earlier in the Vietnam era.

Mr. HATFIELD. The Senator is aware that we had a lottery system, as well, within the period of the Vietnam war.

Mr. PRESSLER. Toward the end we did, yes. The system I was personally under in the draft was not the lottery system. That old system affected the majority of the people drafted during this period.

The point I make is that I do not pretend, or claim, or even expect that there will be perfection in the system. But I feel strongly that if we are to have registration, we should be moving in a direction that will insure a system that is much fairer than was imposed in the Vietnam era.

Mr. HATFIELD. I thank the Senator for his concern. But I think whether we roll the dice, or whether we have a system without lottery, that we still have a discriminatory system. So to call it a fair and equitable system is a contradiction.

Mr. PROXMIRE. Will the Senator yield?

Mr. HATFIELD. I am happy to yield to the Senator.

Mr. PROXMIRE. I think the Senator from Oregon is absolutely 100-percent right. There is no way to make it fair.

In the first place, it is unfair to 19- and 20-year-old people. No Senator is being drafted. Nobody is being drafted in their late twenties, thirties, forties, fifties. Only those 19 or 20 years old are being drafted, and, of course, as they become 18 they will be subject to the draft.

In the second place, as the Senator from Oregon said so well, women are not being drafted, only men, although the President did propose it be both sexes—and we will have an opportunity to vote on a Kassebaum amendment, which I strongly support, which would be much more equitable.

But what we are given now is something that is discriminating against males.

In the third place, the Senator from Oregon points out that only the physically fit would be drafted, only the mentally qualified would be drafted.

The main point, as the Senator from Oregon so well points out, is that only a tiny fraction of the 4 million people, or if we cut it down with those not qualified, only a tiny percentage of the 2 million people eligible each year would be drafted.

Because they need, at most, 100,000 or 150,000, probably not that, in the next 18 months, I predict they will not need anybody because of the unemployment situation we have in this country and the long record we have of having plenty of people volunteer for the military forces when we have unemployment.

But the point is, and this is the point I would like to leave with the Senator from Oregon and the Senator from South Dakota, that we have always wanted a fair draft. In the Vietnam period we were not anxious to have an unfair draft or a discriminatory one, but it was unfair, partly because there were deferments. But that was a small part of it.

The main reason was because those who want to stay out of the draft can hire a good lawyer. There are all kinds of ways we can escape from being drafted if we have the money and the will to do it. We know that in this country. It happened again and again. It will happen this time if we have a draft.

A draft may be necessary under some circumstances, and I certainly would support it enthusiastically if it were. The fact is that a draft is not necessary now. We need adequate pay, the kind Senator ARMSTRONG proposed, a bill that would provide incentive to put people in the military because they would want to be there.

We could, of course, resolve our problems budget-wise by cutting all Federal salaries in half and drafting everybody into the Federal service. Everybody in the post office, everybody in social security, and so forth, would be a draftee. We know how grossly unfair that would be.

In the same way, this country can certainly afford to pay adequately to have people in the military because they want to be there, proud of a career that can make anybody proud. We have a marvelous Army, Navy, Air Force, a great tradition, and it can be greater if we pay people adequately and do not force them to come out of it.

Mr. LEAHY. Will the Senator yield?

Mr. HATFIELD. I am happy to yield 5 minutes to the Senator.

Mr. LEAHY. Mr. President, I ask unanimous consent that David Julyan of my staff be granted privilege of the floor throughout the rest of this debate and the vote on cloture.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the key issue in the debate on registration and a possible draft is fulfillment of our manpower goals with enough qualified people to defend our country.

If this Nation—for reasons of national security—needs a draft or predraft registration to realize this goal, I will support these actions.

But I do not believe that taking these steps today will most effectively and efficiently meet this goal.

We must remember that, as stated by the Senator from Oregon and others, coupled with our Reserve and National Guard units, the All-Volunteer Force is the only trained reliable force available to the United States today. In fact, under any system of registration and draft, there would be no significant change in the makeup of our Armed Forces for well over a year. What I believe we must do is apply the additional resources and national commitment to making the Volunteer Force work better for us today.

I wish the President had set specific goals for the All-Volunteer Force and a specified period of time—18 months—to carry out those goals. This should have been done with the understanding that if they were not reached within that period of time, we would go to an actual registration system.

Unfortunately, the President did not take this step—and I am troubled that he did not call on young Americans to serve their country before recommending registration.

Our modern military, with its sophisticated weapons, requires highly trained soldiers. Our experience has shown that if people are drafted, most leave the service by the time they are becoming proficient at their given positions. A draft cannot solve the present problems of our military.

We can maintain a strong military force only when we recognize the need for training and experience. We must address the problems of retention and recruitment. A fair, realistic, increased pay scale is one such step.

I join with the Senator from Colorado (Mr. ARMSTRONG) in that regard. I support efforts to increase the salary of our military personnel. I support efforts to improve training, education, and inducements for the best of our military to reenlist. Retention—not recruitment—is the immediate solution. The problems that do exist can be solved, but the country, the Congress, and the Defense Department must fully support the all-volunteer concept.

There is no question in my mind from the mail I have received—I have received a great deal, both pro and con on this registration—from those in favor of the registration plan, I find over and over again in letters I received from across the country, that those who are in favor of it are in favor of it as a means of doing away with the All-Volunteer Force, as a first step.

I am opposed to registration and a peacetime draft because they are the first steps in eliminating the All-Volunteer Force. This concept of volunteerism can work, and if we abandon it before we know its full potential we will have committed our country to conscription indefinitely.

In other words, if we let this go through, we make absolutely sure that those who support an All-Volunteer Force will be undercut for the rest of the time and we will never be able to make it work.

It is important to note that both those who support and those who oppose the administration's proposal believe that the Selective Service System must be brought out of its standby status so that it will meet the Defense Department's requirements in case of a national emergency. The President's proposal, while raising all the problems associated with a draft, will not help address the problems of the All-Volunteer Force.

Registration, whether pre- or post-mobilization, will have no appreciable effect on the personnel needs of the current volunteer Armed Forces. The central problem faced by the Armed Forces today is the retention of skilled and experienced soldiers.

Until steps are taken to make military service a more attractive career, the reenlistment of pilots, physicians, and other technically skilled individuals will continue to be problematic. The Army Chief of Staff concludes that we cannot solve this manpower problem by registration or a peacetime draft.

Opposition to draft registration cuts across the political spectrum. Presidential candidates Ronald Reagan, Senator EDWARD KENNEDY and Congressman JOHN ANDERSON, as well as former President Gerald R. Ford have all expressed disapproval of the registration plan.

It is clear that the decision represents a symbolic reaction to international events rather than a sincere attempt to improve our military posture. Even as a symbolic gesture, I believe it is cosmetic at best. Though it will not send a meaningful message to the Soviets, it may mislead the American people into thinking that something meaningful has been done.

There are serious questions regarding the equity and the constitutionality of a registration system limited to males. If, for reasons of national security, this Nation must move to registration or a draft, I believe there should be no exemption except for physical infirmities. This should be equally applied to all men and women.

I have voted against funding to implement registration in the Appropriations Committee, and I will vote against the proposal when it comes to a vote here in the full Senate. I have always tried to vote on the merits of any given issue, however, and therefore, have made it my policy to vote for cloture in the 5 years that I have served in the Senate.

Really, Mr. President, my most difficult vote in this whole matter, and I have supported the efforts of the Senator from Oregon, I support the amendment of the distinguished Senator from Kansas (Mrs. KASSEBAUM), my most difficult vote, and I think my only difficult choice today, is going to be on the cloture issue.

But I have no difficulty in opposing the registration plan.

It is the obligation of our Government in this free society to take the path least intrusive on individual freedom in defending the Nation. The Senate should reject the empty symbolism—that is all it is—of draft registration so that we may turn our attention to reasonable measures to improve our defense, and maintain the All-Volunteer Force in a free society. To reject the proposal is our clear duty, for it is not in keeping with our institutions, our experience, and does nothing to enhance our defense posture.

Mr. HATFIELD. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, as a member of the Senate Armed Services Committee and as a member of Senator NUNN's Subcommittee on Personnel, I have been very active in this matter. I have considered the matter carefully and I support the concept of registration.

I have talked with a number of my colleagues, among them my distinguished colleague from South Dakota (Mr. PRESSLER), and explained to him that I have been in a position to see this thing from both sides, now as a legislator and formerly, for more than 5 years, in the Department of Defense as Under Secretary of the Navy and Secretary of the Navy, during the Vietnam war. I saw firsthand the inequities of the draft system at that time.

I have given my colleague from South Dakota my personal assurance that in the work in the Armed Services Committee, I would do everything possible to see that we never bring back upon the youth of this Nation a system with such inequities as we experienced during the period of the Vietnam war. It was unfair. Nevertheless, I believe it is of paramount importance at this time that the Congress of the United States go forward and support the President's request at this time for registration—registration only, not a draft. The subject of a draft is not before this body at this time.

I thank the distinguished Senator from Oregon.

Mrs. KASSEBAUM. Mr. President, will the Senator from Oregon yield me 2 minutes?

Mr. HATFIELD. I am happy to yield 2 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator.

Mr. President. I have an amendment at the desk. It seeks to assure that, if we are to have registration, women will be included. Senators LEVIN, SIMPSON, and LEAHY have cosponsored the proposal.

It is not our intention to delay the Senate. I would like to call up the amendment at the first parliamentary opportunity. After a reasonable time for debate, in which any Senator who wishes to express himself on the issue has had an opportunity to do so, I would seek a vote. I think 3 to 6 hours is a fair estimate of the time this matter will consume.

My intention in speaking at this time is to put Senators on notice that I have this amendment and will bring it up. It is my understanding that chances for getting a vote on the merits of the amendment are reduced if it is offered post cloture. I think the issue is sufficiently important to warrant a vote on the merits; therefore, I would like to complete action on the amendment before cloture is invoked.

In deference to the wishes of other Senators, I have withheld debate on the amendment prior to this first cloture vote. Whether cloture is invoked or not, I will, if I am permitted, bring my amendment to the floor as soon as the pending business is resolved.

Mr. HATFIELD. Mr. President, what is the time situation?

The ACTING PRESIDENT pro tempore. Six minutes and forty-nine seconds.

Mr. HATFIELD. I yield 1 minute to the Senator from South Dakota for a question.

Mr. PRESSLER. Mr. President, I commend the Senator from Oregon for his excellent leadership of one side of this issue.

My observation is that during the Vietnam war and during the voluntary service period following it, we have found that those from the lowest income and lowest educational groups have made up a substantial share of our Armed Forces. This is a very great problem.

I am not advocating the draft today; but if we do move in the direction of greater manpower mobilization, are we to be permanently locked into having a military that seems to be made up primarily of persons from a lower income and lower educational background?

For example, 6 years after World War II, nearly half the Members of Congress were people who had served in the military forces in World War II. At present, a very small number who serve in Congress, or in leadership positions in the country, served in the military during the Vietnam era.

Are there other steps we can take so that a broader cross-section of our society will become involved?

Mr. HATFIELD. I should like to respond to the Senator with documentation rather than with merely an opinion.

As the Senator knows, the Rand Corp. was commissioned to make a study of the entire recruitment program—voluntary forces, draft, and so forth. In that report, this is their finding:

> Medium- to low-income areas are similarly contributing approximately the same percentages as they did under the draft.

The point is that we are dealing here not with basically a military recruitment program or problem exclusively. We are dealing with a basic socioeconomic problem that involves our entire population, whether we are in a military procurement program or otherwise. When one looks at the gaps widen between the haves and the have-nots, not only in the world but in this country as well, it is very obvious that the military procurement program is not going to solve the problem but is going to reflect it.

Also, in many instances, it might provide even an opportunity for some of those who are excluded from upward mobility in the economic system we have or in the economic culture we now have. So I do not think one can look to the draft or to the voluntary system to correct some of those problems. Those are beyond the question of the draft or the volunteer system.

Also, the increase in blacks within the military often has been raised as a question or a problem. Some of that increase has been due directly to the increased number of black officers in the military. Whereas they have been denied, perhaps, entrance into the mainstream of other socioeconomic life in this country, the military has provided them with some of those opportunities. Again, that is not the problem of the military as much as it is with our basic socioeconomic institution.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. HATFIELD. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Three minutes and fifty-two seconds.

Mr. HATFIELD. How much time does the Senator want?

Mr. MELCHER. One minute.

Mr. HATFIELD. I yield to the Senator.

Mr. MELCHER. I thank the Senator for yielding.

Mr. President, I wish to follow up what the Senator from Oregon just said in response to the Senator from South Dakota.

I reiterate what the 1981 Department of Defense annual report stated:

> Peacetime conscription is by no means an obvious solution to our current personnel problems. These problems have more to do with the retention of skilled and experienced personnel who already have six to twelve years of service, than with recruits. We need accordingly, to expand current efforts to improve our recruiting and retention performance.

That is the Department of Defense. That is what the Army says. That is what the Navy says. That is what the Air Force says. That is what the Marine Corps says. We should believe them. We should act on the real problems, these retention problems, and adequate Reserves. We should act on what is needed, and that is better pay, better career opportunities, educational opportunities, training opportunities, a better GI bill—benefits in that regard. Then we would be doing something helpful for the military.

I am saddened that this is a step we are taking, leading back to a peacetime draft, which really will not correct the problem within our military and assuredly is the wrong step to be taken at this time.

I thank the Senator from Oregon for yielding. I do not want to use any more of his time.

Mr. HATFIELD. Mr. President, I should like to close, before the vote on cloture.

The desire to close off debate on this matter is very interesting. The administration indicated at the first of the year that they would have this matter pass through Congress within a few days, which has not happened, and they indicated that they would win the first cloture vote and cut off the debate. I do not know what their victory will be, or if it will be a victory on that question, until the vote is taken.

I just wish to point up one thing: Even this morning, in the closing minutes before the first cloture vote, we have had the question raised of how we are going to develop an equitable, fair draft system. So we are asked to close off debate on an issue that is of such great magnitude that we do not even have a plan for it; yet, we are saying that we are taking the first step toward the draft.

The advocates have said that this is the first step toward the draft. Yet, we are asked now to buy the assurance, the word, of these people, who initially probably will be drafting a program of compulsory service, that it will be a fair and equitable program. By its very nature, it cannot be. It will be inequitable, it will be discriminatory, as all drafts have been.

Let us not base our judgment on assurances here today. Let us go to history. The history of this Nation's draft experience gives us the evidence that is indisputable.

We also have not even considered today, or at any other time, what the enforceability of this program will be. The Justice Department has no plan in hand. At least, they told that to our committee. How are we going to enforce noncompliance? It will involve 2 percent of 4 million—80,000 is what the Justice Department estimates. What is the plan for that enforcement?

What is the problem of privacy? We have not even determined or discussed the rights of privacy that will be circumvented by any enforcement.

What about women? We have not even addressed Senator KASSEBAUM'S issue about women registrants and women draftees.

● Mr. DOLE. Mr. President, first, I commend Senator HATFIELD from Oregon and Senator NUNN from Georgia and others for their leadership in managing a most informative and useful debate on the issue of peacetime draft registration.

CLOTURE VOTE

Senators who have participated in this debate have brought forth some very cogent arguments for and against this proposal—a process which is imperative if Senators are to make an informed decision on such an important piece of legislation. That is precisely why I intend to vote against cloture today, as I believe further substantive debate can only serve to provide the answers to the many questions that surround this very controversial issue.

Mr. President, once again, I want to state that this proposal does not in any way address the problems we face today in maintaining or upgrading and maintaining a strong defense. There is no question that we are experiencing serious problems in attracting and keeping quality personnel.

Gen. Edward C. Meyer, Chief of Staff of the Army, testified before the Senate Armed Services Committee and said:

> Registration does not do anything as far as near-term readiness of our Armed Forces is concerned. So, if you talk about short-term contingency in which we insert forces and are able to contain it with active forces, the Selective Service System would not bring people in, train them, and have them in the Army in time to have an effect.

Mr. President, other unanswered questions help explain General Meyer's conclusion: Do we have the proper training base to properly handle the influx of draftees? Does draft registration, without classification and physical examinations, help speed up the delivery of personnel? Can we retain an accurate, up-to-date list of registrant addresses?

In sum, Mr. President, I want to say that I am not concretely opposed to registration for the draft. But, I am definitely opposed to taking a step which has been documented to be no more than an empty gesture. I am opposed to taking this step when there seems to be an alternative in that we could accomplish the same thing as premobilization registration through an increased computer capability for the Selective Service System.

I would think the Senate would be much more interested in addressing the more serious and structural problems we face with respect to our personnel.

Mr. President, there is no question that we need to improve our capability to mobilize. However, registering young men and women will not address this problem.

Frankly, I would like to see us pay our military personnel enough to retain them and to also serve as an incentive to those considering a career in the military.

Mr. President, once again I join Senator HATFIELD and others in rejecting the call for premobilization registration at this time and urge continued debate on this important issue.●

PREMOBILIZATION DRAFT REGISTRATION

○ Mr. BAYH. Mr. President, today the Senate will vote on a motion to cut off debate on House Joint Resolution 521, a bill providing President Carter with the funds necessary to undertake a revitalization of the Selective Service System and provide for the registration of 19- and 20-year-old men for the military draft. I think that it is important to emphasize that approval of the draft registration program does not automatically mean a return to a peacetime draft as was the case for the first time in our Nation's history in 1940. For that to happen, the President would still have to come to the Congress for separate authority to conscript and, in all likelihood, at a time of imminent danger to the United States. So, it is clear that Congress, the representatives of those who may be called on to serve, would have to ratify such a decision.

Therefore, I cannot agree with those who sincerely advance the argument in opposition to registration that this is the first step leading to an inevitable return to conscription. Indeed, one of the most compelling arguments made in favor of draft registration is that it will demonstrate a national determination necessary to discourage situations from occurring which would lead a President to call for a return to the draft.

Let me also emphasize that House Joint Resolution 521 is a funding transfer measure which gives the President no new authority but rather gives the President the means to implement the premobilization program. While other issues involving upgrading * * * able to unilaterally induct unlimited numbers of people in the event of a return to the draft.

THE CASE FOR PREMOBILIZATION REGISTRATION

Mr. President, I make these two observations in order to emphasize that if the bill we are considering passes, the responsibility of the Congress on this issue will not be lessened, it will intensify. It will be incumbent upon all in Congress to look even more closely and carefully at events in the world, at the definition of the vital interests of the United States, and at the real requirement that we not just provide greater defense spending to assure the security of our people, but that we obtain from that spending a genuinely improved defense effort.

In order to accomplish these tasks, it is far wiser, I believe, for the United States to demonstrate a measured determination to be prepared to defend our vital interests which do exist and extend beyond our shores. This does not mean the kind of preoccupation with global involvement which led us to the tragedy of Vietnam for which we are still paying a high price. It does mean not learning the wrong lessons from that wrenching experience. The capability to meet stated emergency goals in the event of a mobilization to deter or meet a challenge to America's declared vital interests or security commitments will in large measure determine whether and the extent to which hostilities will occur. If the United States is perceived as unwilling or unable to do what is in our interests, I am afraid we will not be able to expect those interests to be respected by potential adversaries.

So, how will the President's premobilization registration program accomplish this? The answer is that in and of itself it is not the total answer to following through on the Persian Gulf doctrine or any other stated policy intention. However, the rejection of the proposal will drive us to a situation where we must await an emergency to be declared before we act to shore up the shortfalls which now exists in the armed forces. That, I would submit, is not the best formula for demonstrating resolve.

CURRENT DOD STATED REQUIREMENTS VS. CAPABILITIES

To understand why the registration system will help redress some of the shortcomings in the present system, it is important to keep in mind that the All-Volunteer Force (AVF) is a peacetime force which was to be supported by a strong reserve force component and a viable Selective Service System. As a Senator who has taken a special and careful interest in sponsoring and supporting legislation intended to strengthen the reserve force component of our total forces, I can express deep concern about shortfalls there as well as the failure to meet mobilization targets overall in the "Nifty Nugget" exercise which has been referred to in the course of the debate on the registration proposal. In this connection, it is particularly important to understand that if your reserve force components are not meeting emergency manning goals, compounding the problems of shortfalls in support of overall strength, it is likely that the commitment of Reserve Force units would have to be delayed absent a certain knowledge that replacement units could be formed by a certain date. Without a system of registration, the reliability of that knowledge crucial to make necessary military decisions is of a very low order. A premobilization draft registration system in place will give us a much better idea as to when additional forces can be available.

At the end of fiscal year 1980 the actual strengths of the Guard and Reserve forces fell short of emergency goals ranging from 6.3 percent with the Air Force Reserve to 31.2 percent for the Army Reserve. This meant a 200,000 shortfall throughout the actual Reserve Forces versus stated emergency requirements.

The current DOD mobilization requirements state that no more than 30 days should elapse between the decision to mobilize and the time the first inductee arrives for training. (The President's plan, once in place, could deliver the first inductee to training in 13 days.) Within 2 months, 100,000 inductees should have arrived at training centers. At the present time, the Selective Service System's capability to be prepared to begin registration, let alone be capable of actually inducting people, is severely questioned. While a draft SSS report of January of this year stated that inductees might arrive within 20 days of mobilization, this conclusion has been discounted by other manpower experts who assert that a post-registration plan could leave us facing a 60 to 90 day delay in the arrival of inductees to the training center. This would mean a period of confusion, disarray and uncertainty over national purpose. Such a formula which suggests everything will go according to plan in unforeseen circumstances does not provide deterrence; it invites disaster. And surely, should hostilities commence, both the AVF and Reserve Forces would be left in a situation where national decisionmakers could be faced with the awful choice between a defeat of U.S. conventional forces or crossing the nuclear threshold.

While premobilization registration is not by itself the answer to the many other problems which we must address in terms of the AVF and Reserve Forces, it is surely preferable to the undeniable shortfalls which we now face in the event of a national callup. I really do not see how we support the men and women now in uniform if, as indicated by the "Nifty Nugget" exercise we are willing to accept the fact that without advance registration within 90 days after mobilization infantry positions will be short by almost one-half of planned strength; artillery positions will be short by almost one-quarter of planned strength, and armor positions will be down by almost three-fourths of planned strength.

REGISTRATION: PART OF A RESPONSE

Mr. President, this is not the world as I would wish to see it but it is the world of U.S. military readiness and capabilities as it really is when matched against emergency requirements. Perhaps we could change the assumptions of those requirements, but, regrettably, that would not change the dangerous and unpredictable nature of the world in which we live. Now, I am aware that there are many other issues which will have to be discussed and debated as the President's registration plan is implemented: Issues dealing with noncompliance, permitting those with deeply held religious beliefs against war in any form to obtain conscientious objector status which I did support in the Appropriation Committee; also, the President's request to include women in the registration program; what the system of classification might be in the event of a return to the draft as well as upgrading the levels of compensation for the AVF and providing increased incentives and benefits for the Reserve Forces. After agreement is reached to end debate. I am sure most of these issues will be fully considered.

DELAY OVER THE DECISION NO LONGER JUSTIFIED

Mr. President, we have had an opportunity over the past 5 months since the President proposed premobilization registration to look at this proposal in its many aspects. So, I believe we have now deliberated long enough. Some of us who will support registration today by voting to end debate may disagree with others also supporting this measure who think it does not go far enough; that we need the draft and we need it now. I do not subscribe to that belief at this time. Some of those Senators who are opposing the registration proposal do so out of a profound sense of conscience and are disturbed that passage of this legislation will lead us down another "Vietnam alley." As much as I share these concerns, I do not agree with that assessment.

We can ill afford to repeat the reticence of Mark Twain's cat that would never sit on cold stoves because he had been scorched by a hot one. The fact is that there are events occurring in the world which can directly jeopardize the political, economic, and security interests of the United States unless we do what is necessary to send a series of clear signals that our economic and military strength will be brought to bear to defend our vital interests.

The peacetime registration program will, I believe, help keep the peace if it is followed up by doing what is necessary to correct problems in the AVF and Reserve Forces as well as pursue the right kinds of defense procurement and management policies to improve the readiness of our forces-in-being. The peacetime registration program will help keep the peace if our Nation also demonstrates the willingness to wield our economic weight to tighten the screws against the Soviet Union and Iran. So I believe it is prudent that we proceed and approve this program with the knowledge that the task of repairing deficiencies in certain aspects of our Nation's defenses will not end with the vote today; in a very real sense it will have just begun. Whether that process will actually involve a return to the draft will depend upon the degree of success which we achieve in these other areas I have mentioned. Hopefully, this will not be necessary. I will vote for the registration measure because I believe that registration preparedness today will lessen the likelihood of the draft tomorrow.●

Mr. LEVIN. Mr. President, I again find myself in an uncomfortable position in regard to a cloture vote. I have consistently indicated that I believe that once the Senate has been given a reasonable period of time to debate an issue, then the Senate ought to be able to vote on the issue. My commitment to that concept remains unchanged.

In this case a very specific and technical problem compels me to reject cloture even though I believe the Senate has had an ample opportunity to debate the general issue of registration.

The problem that concerns me is simply this: A number of Senators, myself included, have indicated for some time that they wish to offer amendments to this legislation.

In almost all cases, these amendments are directly related to the purpose of this legislation. But despite their relevance, it is clear that they are not germane in the very technical sense that the Senate rules define that term. In essence, then, a vote for cloture will have the effect of allowing points of order to be raised against these relevant and significant amendments. We would then be denied an opportunity to vote on the merits of a number of important issues like registration of women. In this case, then, a vote for cloture would have the effect of preventing the Senate from considering, on their merits, a number of amendments which while not technically germane, are substantively relevant to the purpose and nature of the legislation before us.

I am more than willing to support cloture—and I intend to support it—once we have either considered these amendments or once we are assured that the Senate will be able to vote on their merits. In that connection, I would indicate publicly—as I have indicated privately—that I am more than willing to enter into time agreements which would facilitate our prompt consideration of these issues.

In conclusion, I still support the concept of cloture—I still reject the notion of filibusters as legitimate tools except where the fundamental rights or liberties are involved—but I find special circumstances operating here which make me unable to vote for cloture at this time.

● Mr. NELSON. Mr. President, the Senate today will decide whether to shut off debate on House Joint Resolution 521, legislation to reinstitute premobilization draft registration for 18- to 20-year-old males and to revitalize the Selective Service System. I shall vote no.

Mandatory premobilization registration ended in April 1975. President Carter has proposed its reinstitution in light of the Soviet invasion of Afghanistan last December.

In July of 1979, Secretary of Defense Harold Brown, speaking for the administration, advised the Congress that he opposed registration. In a letter to Representative CHARLES BENNETT, Democrat, of Florida, the ranking Democrat on the House Armed Services Committee, Secretary Brown wrote:

> I oppose peacetime registration at this point. Given adequate planning and funding, I believe the Selective Service System could be able to meet the Department of Defense requirement for delivery of new inductees without peacetime registration.

Now, suddenly, the President has stated that registration is necessary after all. The burden rests with the President to make a convincing argument to the Congress that circumstances have changed so as to require registration. In my view, he has not done so.

I agree with the President that the United States suffers serious military manpower problems. We simply do not have adequate numbers of trained, combat-ready servicemen and women.

But I disagree with the President's proposed response. In my view, the strengthening of our existing active duty and Reserve Forces, and not the institution of draft registration, is the key to resolving U.S. military manpower problems in the 1980's.

From a military needs standpoint, the experts seem to agree that peacetime registration is not necessary to the national security.

According to the Congressional Budget Office, the institution of premobilization registration would not make an appreciable difference in the speed with which the Selective Service could process inductees.

And in a January 16 report to the President, the Selective Service itself claimed that postmobilization registration was the "most cost-effective" and "least intrusive" registration option, and was its option of choice. With internal administrative improvements alone, the Service said, it could exceed Defense Department wartime induction requirements.

Our past wartime experiences, of course, are instructive. The U.S. registered 10 million men on a single day when it entered World War I, and 16 million men on a single day in preparation for World War II. Clearly, then, the country has been very successful with 1-day postmobilization registration in the face of a military emergency. There is simply no reason to believe that we would be any less successful in the future in the event of a genuine military threat to our vital national security interests.

Certainly there is no reason to risk

the divisiveness which the resumption of draft registration could cause if our military security does not require it.

Registration, then, does not provide the means to buttress America's Armed Forces. The answer lies rather in strengthening the Active and Reserve Forces we already have, particularly the Reserve Forces.

I doubt whether many of us realize the degree to which we are dependent upon our Reserve Forces for defending this country in time of war.

The Reserve Forces, comprised of the Army National Guard and Air National Guard, and the Services' Reserve Units, contain fully one-half of the country's combat power and two-thirds of its support capability.

Nor, I suspect, do many Americans realize the degree to which both the Guard and the Reserves are dangerously short of qualified, trained manpower, up-to-the-minute weapons and equipment, and modern, efficient training facilities.

In order to assure a swift and orderly transition from peace to war, the Guard and the Reserves must perform as disciplined teams. If war breaks out in Western Europe, theoretically within 90 days more than half the Army's combat troops, infantry, and armor would be made up of National Guard and Reserve units. Similarly, more than half our tactical airlift planes, airlift crews, tactical reconnaissance, fighter and air-defense planes would come from Air Guard and Reserve units.

But there are increasing signs that the National Guard and the Reserves—so vital to our defense—would be unable to carry out their mission if war were to break out in Europe tomorrow.

Since 1974, studies by the General Accounting Office, the Defense Manpower Commission, and the Brookings Institution have all warned of continuing problems with the Reserve Forces. Even the Pentagon itself concedes that the National Guard and Reserves are nowhere near their assigned combat readiness.

And, most recently, the Adjutant Generals of the United States, at their 68th annual meeting in Portland, Oreg., sounded the alarm about what they called "the perils now facing this country caused by its present and continuing failure to adequately fund and support the Reserve components of our Nation's Armed Forces."

According to the Adjutant Generals, the National Guard lacks the weapons, equipment, and training facilities it needs, support from the Pentagon leadership, and the recruiting and reenlistment bonuses and incentives that are available to the active Armed Forces.

"Changing these conditions is not only desirable—it is essential," these Guard commanders say. In my view, then, three steps are essential to strengthen the Guard and the Reserve, and enable them to perform their missions.

First, the Guard and the Reserves must be given the tools to attract and retain highly qualified, highly skilled, highly motivated men and women. The Reserve Forces now lack fully 200,000 of the men and women they would be required to provide in time of war. The key to solving the manpower problems in the Reserves and the National Guard is to make Reserve and Guard duty more financially attractive. We must take steps to encourage more people to join the Guard and the Reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, and reenlistment bonuses.

Second, America's Armed Forces, both Active and Reserve, must be provided with effective equipment and training in order to meet the challenge from the Soviet bloc.

Third, the Guard and the Reserves must be provided with the full-time staffing they so desperately need to achieve the higher standards of readiness now demanded of them.

The Guard and the Reserves will never be able to perform their wartime missions unless they overcome two key manpower problems: The shortage of qualified people and the high turnover rates. These two problems, in turn, cannot be solved without first improving the kind of training our guardsmen and reservists receive.

Strengthening the National Guard and the Reserves would send a clear signal to the Soviets that we are moving to improve the combat readiness of our Armed Forces. Registration does not do this. Writing in the Washington Post recently, Martin Anderson correctly pointed out that even with the names and addresses of young men and women neatly typed on computer printouts, it would take 3 to 4 months to contact them, induct them, and hastily train them—if the training facilities were ready. The end result would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the Armed Forces many months too late.

Registration is not the answer to strengthening America's Armed Forces. The answer lies in beefing up the Active and Reserve Forces we already have—particularly the Reserve Forces. Therein lies the key to America's security in the turbulent decade ahead.

I strongly urge the Defense Department to review its fiscal year 1981 budget authorization with an eye toward redirecting significant amounts of money to projects designed to strengthen the combat readiness of the Reserves and the National Guard.●

Mr. HATFIELD. Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. Kennedy) on the draft registration be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Kennedy

I am strongly opposed to the pending measure to reinstate military registration, and I lend my full support to the efforts of Senator Hatfield and others to defeat the proposal now before us.

The Administration has argued that draft registration is necessary "to increase our preparedness" and to demonstrate "our resolve as a nation."

But, as I have emphasized on numerous occasions, peacetime registration, under current requirements, is essentially meaningless in terms of the two most important mobilization manpower problems we would face during the crucial early stages of a war: (1) the need to deploy large numbers of combat troops abroad; and (2) the need to avoid shortages of skilled personnel.

With regard to the need for a quick deployment of troops abroad, draft registration would not even be a cosmetic solution. We might save a total of seven or eight days by registering young persons in a pre-mobilization period. But classification, training, and transportation requirements would prevent newly-called inductees from getting to the front until some five to six months after being conscripted. And it is precisely during these months that casualties would be at their highest level and that the outcome of any conflict is likely to be decided. Thus, registration in itself is irrelevant to our most pressing mobilization needs.

Similarly, registration would do nothing to halt the sharp decline in reenlistments of middle-grade personnel. The loss of skilled career personnel has severely degraded our overall combat readiness. Retention rates are now so low that our military forces are becoming incapable of performing many of their designated missions.

All branches of the armed services are experiencing shortfalls in reenlistment. The Air Force has a shortage of more than 2,000 pilots; the Army has a shortage of more than 46,000 non-commissioned officers; the Navy has a shortage of nearly 20,000 mid-grade skilled personnel, including 2,600 officers. Last year, the Navy suffered reenlistment shortfalls in 59 of its 85 major skill areas; as a result, our present fleet manning is at only 85 percent of combat readiness.

A resumption of registration or the draft will have no bearing on these retention problems: we cannot draft sergeants and colonels, trained technicians and squadron commanders. The only way to counter the decline in reenlistments is by providing military personnel with a living wage and decent compensation. While I welcome the recent announcement of a new program—based on the Nunn-Warner amendment—to increase pay and benefits, I believe the Administration's pay proposals for next year are still far from adequate. A May 1980 study by the Congressional Budget Office warned that unless improvements are made in pay and compensation, the shortfalls in recruitment and reenlistment will grow even worse.

Former Under Secretary of the Navy James Woolsey recently estimated that selective pay and benefit improvements could increase the career proportion of our enlisted force from 42 to 50 percent. That step alone could reduce our enlistment requirements by 70,000 persons a year, or more than twice the recruitment shortfall that occurred last year.

It is also imperative that we take genuine and effective steps to upgrade our mobilization capabilities.

For example, we should revitalize the Selective Service System and upgrade it from its current "deep standby" status to a functioning level. It is particularly important to develop an effective post-mobilization registration plan that will meet our military needs.

We should also enhance our mobility forces, particularly our airlift and sealift capability. We must increase the strength of our reserve forces, which now face serious problems. Manpower shortfalls remain critical, particularly in the Army reserves: equipment is often inadequate; training is generally lacking; and military preparedness is inhibited by the lack of a proper mangement structure. Since one-half of our combat power and two-thirds of our support capability are maintained in our reserves, it is essential that they be properly manned, equipped, and trained.

In deciding to support draft registration, the President apparently ignored the advice of his own Director of Selective Service. In a report prepared last January, a week before the President made his proposal in the State of the Union address, the Selective Service made clear that registration conducted in a post-mobilization phase is the most efficient and cost-effective procedure of mobilizing our forces:

> The post-mobilization option should substantially exceed Defense requirements, employs the fewest number of full-time personnel, and costs the least . . . [T]he reduced delivery time provided by the other [premobilization] options is redundant and unnecessary.

It is clear that draft registration will not enhance our military preparedness. The decision to resume registration was a weak and even dangerous response to the Soviet invasion of Afghanistan. The Soviets are well aware of the difference between a clear, effective more to strengthen U.S. combat capability and a symbolic gesture, and they will respond accordingly.

By its action, the Administration also risks diverting the attention of the American people from the real steps that must be taken to increase our military strength. Enactment of draft registration may well create a false sense of security that our military manpower problems are being solved. They are not.

Our primary attention must be directed to the need to improve the overall readiness of our forces. On any given day, one-third to one-half of our ships and tanks and planes are not prepared for battle. Neither registration nor a draft will solve this problem. We can solve it only by giving much greater attention than we have in the past to such basic necessities as fuel supplies, spare parts, combat training, and ammunition stocks.

There are a number of other considerations that undermine any purported benefits of registration.

The registration lists will quickly become outdated and useless. Individuals directly affected by the legislation—those in the 18- to 20-year-old age bracket—are a highly mobile group. According to the Census Bureau, 30 percent of all males move in the 12-month period between their 20th and 21st birthdays. The Selective Service System has estimated that half of the addresses recorded during the initial registration will become obsolete within two years. In the end, we will be left with reams of computer printouts in need of constant updating.

The proposal to reinstate draft registration for men and not for women also raises serious problems of sex discrimination. Even if the transfer of funds is approved and registration is enacted, a court challenge may halt the entire process. The General Counsel to the Selective Service has advised that "to meet current Constitutional law requirements of equal protection, any system of registration for and induction into the armed forces must include both men and women." I share the view that it is unwise and unconstitutional to exclude women from future selective service requirements, and I urge the Senate to reject the proposed measure on this ground as well.

Finally, draft registration may have a divisive effect on the American public. Young Americans will oppose a system they perceive to be unnecessary and unfair. In addition, registration will be conducted under the seriously flawed Military Selective Service Act, which does not even provide basic due process protections.

In short, the reinstitution of draft registration will not solve our military problems, but it will divert attention from more pressing military needs. There is no present emergency that warrants a drastic change in existing selective service procedures. In the event of such an emergency, it would be essential to reinstate the draft itself, and not merely registration for the draft. The proposal for draft registration alone is ill-conceived. In a dangerous world, America needs more than symbolic gestures to restore its military strength. The Senate should reject the pending transfer of funds for registration and begin the more difficult task of truly strengthening our military capability.

The ACTING PRESIDENT pro tempore. The Chair dislikes to interrupt the Senator from Oregon, but 1 hour having passed since the Senate convened, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on House Joint Resolution 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980 for the Selective Service System.

> Robert C. Byrd, Lawton Chiles, George J. Mitchell, John Glenn, J. James Exon, John C. Stennis, Robert Morgan, Sam Nunn, Jennings Randolph, Ernest F. Hollings, Howard Baker, Strom Thurmond, John W. Warner, John Tower, Robert T. Stafford, John H. Chafee, Claiborne Pell, Henry M. Jackson.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the clerk repeat the name after each vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on House Joint Resolution 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System, shall be brought to a close. The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. BOREN). The clerk will suspend.

The Senate will be in order. Senators clear the well and take their seats. Senators will clear the well.

The clerk may continue.

The legislative clerk resumed the call of the roll.

Mr. HATFIELD. Mr. President, may we have order, please, and have the well cleared?

The PRESIDING OFFICER. Senators will clear the well. The clerk will suspend until the Senate is in order. Senators will take their seats. Senators will clear the well.

Mr. HATFIELD. Mr. President, we are not in order. The well is not cleared.

The PRESIDING OFFICER. The Senator is correct. The well is not cleared.

Senators will clear the well and return to their seats.

The clerk may continue.

The legislative clerk resumed and concluded the call of the roll.

The PRESIDING OFFICER. Are there other Senators present who desire to vote? Are there any Senators wishing to vote?

Mr. PACKWOOD voted in the affirmative.

Mr. WEICKER voted in the affirmative.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG) and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The yeas and nays resulted—yeas 62, nays 32, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—62

Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
DeConcini
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hayakawa
Heflin
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Lugar
Magnuson
Mitchell
Morgan
Moynihan
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Sasser
Schweiker
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Weicker
Zorinsky

NAYS—32

Armstrong
Bellmon
Bradley
Cohen
Cranston
Culver
Danforth
Dole
Eagleton
Hatch
Hatfield
Heinz
Helms
Jepsen
Kassebaum
Levin
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Nelson
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stevens
Tsongas
Wallop
Young

NOT VOTING—6

Church
Gravel
Kennedy
Long
Mathias
Williams

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. Time on this measure is now limited to 100 hours.

Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Chair states that, cloture having been invoked, the committee amendment is not germane—the Senate will be in order

Mr. MOYNIHAN. Mr. President, may we have order?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order.

The Chair announces that, cloture

having been invoked, the committee amendment, on the face of it, is not germane.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Therefore, it is not in order and the pending amendment to it, therefore, also falls.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair.

Mr. NUNN. Mr. President, will the Presiding Officer ask for order? This is a very important ruling. I think the Senator from Oregon and I would agree everyone ought to listen to the ruling. I would ask the Chair to repeat the ruling, please.

The PRESIDING OFFICER. The Chair has ruled that the committee amendment is not germane and that both it and the pending amendment, therefore, fall.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair. I ask for the yeas and nays.

Mr. NUNN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. NUNN. Mr. President, is it the ruling of the Chair that the committee amendment is not germane and, cloture having been invoked, that amendment is not germane and also the Nunn amendment to that amendment is not germane and that both would fall?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The appeal is not debatable.

Mr. ROBERT C. BYRD. I understand. I move to table the appeal.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The PRESIDING OFFICER. Are there Senators present desiring to vote?

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—37

Baucus
Bentsen
Biden
Boren
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Cochran
DeConcini
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Johnston
Mitchell
Morgan
Nunn
Pryor
Randolph
Ribicoff
Sasser
Simpson
Stennis
Stevenson
Stewart
Stone
Talmadge
Tower
Warner
Young

NAYS—57

Armstrong
Baker
Bayh
Bellmon
Boschwitz
Bradley
Byrd,
  Harry F., Jr.
Chafee
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Durkin
Eagleton
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pell
Percy
Pressler
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stafford
Stevens
Thurmond
Tsongas
Wallop
Weicker
Zorinsky

NOT VOTING—6

Church
Gravel
Kennedy
Long
Mathias
Williams

So the motion to lay on the table the appeal of the ruling of the Chair was rejected.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, appeals are not debatable under cloture, but I believe that if Senators could have just a few minutes to debate the appeal, they would have a better understanding of what they are voting on and, I hope, will then uphold the Chair. I ask unanimous consent that there be 30 minutes, equally divided, on the appeal. I ask unanimous consent that the time be divided between Mr. HATFIELD and Mr. NUNN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, let me briefly outline the issue before us. The Appropriations Committee, in full committee markup, by rather a good margin, determined that there should be included on the registration card a box or some way in which a person who is called upon to register would be able to check his view as to whether he expected to claim a conscientious objector classification later down the road. This in no way established the right of a conscientious objector at the time of registration, but merely gives an indication of what we may be faced with in terms of compliance.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order so that the Senator may be heard. Members will dispense with conversations.

The Senator may proceed.

Mr. HATFIELD. Mr. President, this is not a theoretical situation, because we have published in the press, as of March 27, 1960, a report by Donald Guritz, a former Selective Service Regional Counsel for the Midwestern States. Mr. Guritz indicated, in that report to the Selective Service System, that he was deeply concerned about the possibility of a high number of registrants being of the conscientious objector viewpoint. He suggested that there might be ways to anticipate that and thus avoid a great amount of noncompliance or having to deal with up to possibly 50 percent of those registrants, who would check out a possible conscientious objector request. This amendment that was passed by the committee in no way establishes that right of conscientious objection.

That person still will have to go through the administrative procedure outlined by the statute to establish his position as a conscientious objector.

I do not believe I have to argue the point we have had a historic position on this since the very founding of the Republic, that we provided for that right from the very beginning of the Republic's history.

We are not establishing any new right here. What we are trying to do is to ascertain what kind of problem we have for the simple reason that the Justice Department has not in any way presented the committee with any data on how they expect to enforce this law, or this requirement of registration, if we pass it.

They have estimated that up to 20 percent of the 4 million may be in the group of noncompliance. That leaves 80 percent in compliance. Others have indicated it may be as high as 10 percent in noncompliance. That is 400,000.

They have no plans at all at this time on how many investigators, and so forth, will be required to enforce a registration act.

Therefore, it seems to me, as it did to the committee, even those who supported registration in the committee voted for this provision for the simple reason it is necessary to get as much data, as much a sense of what we have as a problem, before us in terms of compliance as possible.

There is an amendment to this amendment offered by the Senator from Georgia which would say, "Well, let this happen at the time of classification."

That has nothing to do with compliance at a time of registration because registration does not incorporate classification. Classification has to come under a later act by the Congress and the action of the President. But this procedure does give us, if we want a census-taking activity, an opportunity to find out how many 19- and 20-year-olds there are and where they are. It seems to me we ought to at least know the additional factor of how many of them expect to at least indicate by this box on their form to become, or file for, the classification of conscientious objector.

Again, let me emphasize that no one becomes a conscientious objector by merely checking off the box. It does, though, I believe, give us that additional information and understanding of what kind of job we have.

This is the one thing I have been arguing, primarily to an empty Chamber, from the very beginning, that we have not, really, any kind of blueprint or program presented by the administration of how they expect to enforce this.

We are asked to buy a pig in a poke, in a sense, because they have at no time been able to give the committee any plan of what kind of enforcement program they expect to impose if we pass a registration requirement, and no concern about whether it is subscribed to, obeyed, or acquiesced to, by the people involved.

I think that is irresponsible. I think the administration has acted irresponsibly on this part of their proposal.

It has been indicated that they have already gone ahead, printed forms, and, therefore, it will cost money to change the forms.

This is another example of the presumption on the part of an executive agency.

Mr. President, I do not challenge the legal authority that the President already has. There is no question that the President has the authority today to commit himself to a registration program. But I think it is very interesting that simultaneous to his asking the Congress for $13-plus million in order to implement that plan, the agency proceeds to go ahead and print the forms without the congressional action.

If that is a problem, that is their problem, in a sense, for having been so presumptuous as to go ahead and print forms before they actually had their request cleared by the Congress.

I do not challenge the legal authority of the President. That has been very well established in our record of debate up to this point.

I say that several witnesses appeared before our Appropriations Committee and indicated that failure to provide members of some religious groups, the historic peace people, and others defined by the Supreme Court, with an opportunity to state such intentions at the time of registration would lead to a substantial amount of nonregistration.

That was well established in our record, that the fear was that without this provision there would be many who would say that the only way they could state their position of dissent, or the position to apply for conscientious objector, is to not register, is to refuse to register and take the consequences.

I do not think we ought to put our 19- and 20-year-olds in such a position. We are going to have enough noncompliance, in my opinion, based on the evidence of studies, and so forth.

It seems to me we must be very careful and make this as workable as possible.

I am opposed to the whole registration procedure. But if we must have one, and I face those realities, then it ought to be able to function, to be functional and operative.

I think this would assist in making such a registration procedure more operative than otherwise it would be.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. Does the unanimous-consent agreement entered into by the request of the majority leader include the question as to whether or not the time to which I am now addressing this issue is taken out of my 1 hour under cloture, or was this unanimous-consent agreement in addition to?

The PRESIDING OFFICER. It is the opinion of the Chair that the time would come out of the 1 hour.

Mr. ROBERT C. BYRD. Mr. President, I do not want to treat my friend in that fashion, and the Chair is right, but I ask unanimous consent that the time in this instance not come out of the time of the Senator from Oregon under cloture and that the time not come out of the time of the Senator from Georgia under cloture, but that come out of the overall 100 hours.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from West Virginia, the majority leader, for that additional time.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, will the Chair advise the time that remains on each side?

The PRESIDING OFFICER. The Senator from Oregon has 12 minutes remaining. The Senator from Georgia has 15 minutes remaining.

Mr. NUNN. Mr. President, the unfortunate posture we are in now——

The PRESIDING OFFICER. The Chair will correct what it just told the Senator from Georgia.

The Senator from Oregon has used 8 minutes. The Senator from Georgia has all 15 minutes remaining.

Mr. NUNN. Mr. President, I will comment on where we are now on this matter.

The Chair's ruling on germaneness is no surprise. I think all people on both sides of this debate have understood this would have been the Chair's ruling if cloture was invoked.

But we had a dialog on that yesterday afternoon. The CONGRESSIONAL RECORD will reflect that the Chair, in fact, stated this would be the ruling. So there is no surprise here about the question of germaneness.

Also, I say that this matter was never brought for a vote in 3½ days of debate. I know that the people who favor the committee amendment recognized that both the administration and the proponents of registration would oppose that amendment, but there was never any request for a vote.

I indicated my willingness to vote in the last 3½ days on any issue.

I filed an amendment yesterday afternoon on this which I think would clarify the amendment, which would make the amendment meaningful, and would also make it clear we are protecting the rights of a conscientious objector.

I stipulated yesterday afternoon that I would like to vote on that amendment this morning. But I think we recognize, and this is certainly a legitimate tactic, I do not in any way criticize this tactic, but the Senator from Oregon has been in a position of not wanting any votes on amendments because that might have had people more willing to invoke cloture.

Of course, now we have cloture, and the Senator from Oregon is appealing the ruling of the Chair on germaneness. I do not think that position should be sustained by the Senate. No one has been surprised by this ruling. Everyone knew what the ruling was going to be.

The Senator from Kansas and the Senator from Michigan have an amendment, and they were fully aware that if cloture were invoked, their amendment would be ruled nongermane. The Senator from Iowa (Mr. JEPSEN), who is in the Chamber, has an amendment on classification; and he understood last week, and still understands, that the Chair will rule that amendment nongermane.

So if we are going to make an exception here, the interesting question is, Where do we draw a line, and what does cloture mean?

Very briefly, I should like to address the merits of the amendment, because Senators should understand what they are voting on.

The Senator from Oregon has indicated that, in the past, a conscientious objector could file some kind of statement during the registration procedure. It is my understanding that that never has been the case, that it always has been a matter of filing a conscientious objector status on classification.

I am absolutely in favor of anyone who is a legitimate conscientious objector being able to make that fact known before any draft occurs, and a draft cannot occur until there is classification.

All we are dealing with here is registration. In the past, a question has been asked of registrants who already registered about any characteristics that would lead to deferment or exemption. Registrants could indicate on the questionnaire that they intended to file for conscientious objector status or for a hardship deferment or for an exemption because of physical reasons.

If the registrant indicated on the questionnaire that he intended to file for conscientious objector status, form 150 was then sent. If he intended to file for an exemption because of physical reasons, he was asked to send a doctor's statement, and so forth. Form 150, which provided for conscientious objector status, never was part of the registration process. It was part of the classification process.

If this amendment is ruled germane, it is the understanding of the Senator from Georgia that the amendment the Senator from Georgia has filed also will be ruled germane, and that means we will be voting on the amendment first.

I urge my colleagues, first, not to vote for overturning the ruling of the Chair. I believe it is a bad precedent, and I leave it to the Senator from West Virginia, who is much better acquainted with these matters than I am, to discuss this in full.

It is important for Senators to recognize that this amendment is misleading to conscientious objectors. A declaration of a conscientious objector status at the time of registration has absolutely no legal consequences for the registrant. Nobody is going to examine that to determine if he or she really is a conscientious objector. If we go to classification, the whole process will have to be repeated.

So what we have is an amendment that will cloud the registration process and will mislead conscientious objectors, because many of them are going to think, "If I fill out this form, the Government is going to know I am a conscientious objector; therefore, I will not be called in a draft." Nothing could be further from the truth. That is not the case.

The registration does not guarantee anyone that they will be exempt, no matter what they write on the form.

So we have here an amendment that I believe would be misleading to those it is intended to serve.

I completely concur with the Senator from Oregon that before we have any classification, conscientious objectors should be able to make that fact known and we should have an exemption. I am going to be working with the Senator from Iowa in the future on trying to study the consequences of some of the laws we have on the books now and the regulations relating to classification. This is not the appropriate time to deal with the conscientious objector subject.

People should recognize one other thing. What about the blind person who is registered? What about the lame person who is registered? What about the deaf person who is registered? Are they going to be deprived of stating that they are blind and that, therefore, they should have an exemption? Are people who are deaf going to be deprived of that? Are people in wheelchairs going to be deprived of making that known? Are we creating a conscientious objector status that has priority over the deaf, the blind, the lame?

I do not think that is the intention of the Senator from Oregon. I do not think that is the intention of anyone here. That is exactly what the amendment of the Senator from Oregon would do. It would do that because it would say to anyone who files for conscientious objector status that presumably somebody in the Government is going to look at it. They presume that somebody is going to examine it. That is not going to happen, because we do not have the conscientious objector status filed at the appropriate time.

So I urge my colleagues to uphold the ruling of the Chair, so that we can proceed in an orderly fashion, under the Senate rules.

Also, if the ruling of the Chair is not upheld, I strongly urge my colleagues to support, on the merits, the Nunn-Jepsen-Tower amendment to the Hatfield amendment. By doing that, we would make this misleading kind of amendment become an amendment which states the true facts—that is, that a conscientious objector will be able to make that fact known on classification.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, will the Senator from Georgia yield for a 30-second question and answer?

Mr. NUNN. I yield.

Mr. CHAFEE. The question I propound is this: How have we done it in the past? In prior years, when we had the draft, when we had registration, when a person went to register, would there be questions such as this, or did that solely come up in classification?

Mr. NUNN. That came up in classification. Part of the form involved conscientious objector status, along with physical and mental hardships. Then the person was able to ask for form 150, which was the conscientious objector form. It all took place in the context of classification, not registration.

Mr. CHAFEE. So am I correct in saying that the suggestion of the Senator from Oregon is a departure from past practices?

Perhaps I should direct that to the Senator from Oregon. Is that correct? I am not choosing sides. I just do not know the answer.

Mr. HATFIELD. I will be happy to yield for the question.

Mr. NUNN. Mr. President, I reserve the remainder of my time, and I yield the floor.

Mr. HATFIELD. My proposal precisely puts this into the same tradition and precedent; because, as the Senator from Georgia has just indicated, in the past, at the time of registration, a registrant was handed a form.

Mr. CHAFEE. But that was for classification?

Mr. HATFIELD. For classification. But, simultaneously, at the time of registration, he was able to indicate his exception or plan to file for conscientious objector status, and was provided the form. In this case, that is not true. He is given a registration form. If, down the road, we decide to have a draft, at that point down the road it is assumed that we would incorporate that within the draft law.

However, in this amendment that the committee considered, this is one of the reasons why the committee adopted it, with the votes of those who support registration, to maintain that right precisely at the time he registers, as we always have done.

Mr. CHAFEE. I thank the Senator.

Mr. HATFIELD. Mr. President, I should like the floor in my own right at this point.

I do not think anybody would consider the arguments that the lame, the deaf, and the blind are being discriminated against. That argument is specious on its face, and it is more specious as we look into it, for the simple reason that we have much evidence that there are many with handicaps who would like to serve in the armed services.

I indicated early on that I had a classmate, at the time we all marched out of the fraternity—after President Roosevelt's declaration of war—to sign up, whose failure to be accepted in any branch of the service was such a traumatic experience that he took his life. Consequently, I do not think that is the question at hand.

The Senator from Hawaii and others have indicated, with respect to nondiscrimination toward the handicapped, that we have provided for access to public buildings by the handicapped, provided for special education for the handicapped. Many other things we have done establish the right of the handicapped to sign up and find some appropriate place to serve, if that be the desire, under a true program. So that is a specious argument.

The question relates to the person who is not physically handicapped and who intends to file as a conscientious objector. That is the issue.

As the Senator from Rhode Island, in his question, has brought into focus, we have had in the tradition of the draft the right established at the time of registration, by form 150. It was handed to the person. We are denying that person that right today.

If we vote to sustain the Chair, we are, in a sense, sending the signal, after the committee has considered this carefully and incorporated it, that we are going to delete it, because we are going to deny the historic right to establish at least some sign or indication at the time of registration, which has been traditional in our country, of a conscientious objector.

I am not carrying the cause.

I must say to the Senator that some of my classmates ended up being conscientious objectors in World War II and we had nothing but disdain for them. We thought they had such conscientious objection that some took jobs in the shipyards. They were willing to make the instruments of war and get paid much more than we were being paid in the military. That created in our mind at least at that time some question as to whether there was a great depth of commitment.

That is neither here nor there, whether one supports the proposition of the conscientious objector as far as his views are concerned. The question is that we have had established in our historical constitutional system that right. Historical peace churches would violate their religious convictions. The Supreme Court broadened that to those not in historical peace churches to be considered by the draft board on the local level, and the same criteria base that they granted those came out of the historical peace churches.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. HATFIELD. I yield.

Mr. GOLDWATER. Does the Senator feel that the language in the proposed joint resolution is adequate and complete enough to cover conscientious objectors? I ask that question because I cannot remember the number of times that I was asked to go down after World War II and testify as to whether or not a boy was a conscientious objector. That is a very tough thing to do unless one happens to have known the boy and his family for years.

Does the Senator think the language is adequate?

Mr. HATFIELD. In the actual statute that would be established?

Mr. GOLDWATER. Yes.

Mr. HATFIELD. I do not know what this Senate will do if we are called upon to enact a Selective Service Act which would have criteria or establish some base upon which conscientious objector status could be granted to those who apply. I have no way to foresee that.

I hope that we could make it so definitive that it would be as objective and less subjective as possible because the Senator is quite correct.

Let us go back to the Supreme Court case. The Supreme Court looked at this and if one had been a Mennonite or a Quaker in the past, that more or less was prima facie evidence that he had a right for a classification of conscientious objector. Then they found people had the same depth of feeling if not more so and they might not be a Mennonite or a Quaker; yet they were forced in. The Supreme Court tried to broaden that by setting up a criterion, and I think that is always subject to review and becomes more definitive.

I agree with the Senator. I was asked the same thing to testify on occasion. How can one crawl in the mind and the heart of someone else and make a judgment? It is very difficult.

Mr. GOLDWATER. Another point that might be raised is that one does not have to base it on religious objections.

Mr. HATFIELD. That is right.

Mr. GOLDWATER. One could have moral objection.

Mr. HATFIELD. Exactly.

Mr. GOLDWATER. I think there were more moral objectors to war than religious. I am getting to the point that was raised by our friend from Rhode Island about the handicapped. I think that is a very valid thing we have to take care of.

Mr. HATFIELD. That is right.

Mr. GOLDWATER. I remember one man who served under me and it took me 3 years to get him. He had tuberculosis. He was 4–F. But he was the best man I ever had work for me.

There is a place for the handicapped if they wish to work.

Mr. HATFIELD. Certainly.

Mr. GOLDWATER. I will discuss it with the Senator as we go along to make sure that we have language that makes all of these things a little more simple than it was the last time around.

Mr. HATFIELD. Yes. I agree fully with the Senator and wish to work with him.

But the point we must bear in mind, I say to the Senator from Arizona——

The PRESIDING OFFICER (Mr. NELSON). The time of the Senator from Oregon has expired.

Mr. HATFIELD. I will tell the Senator privately.

Mr. GOLDWATER. I am sorry.

The PRESIDING OFFICER. The Senator from Georgia has 6 minutes remaining.

Mr. NUNN. Mr. President. I shall just take 1 minute, and then I believe the Senator from West Virginia and the Senator from Mississippi wish to speak.

Mr. President, the Senator from Arizona (Mr. GOLDWATER) has put his finger right on the problem with this well-meaning, sincere amendment proposed by the Senator from Oregon. If this amendment is agreed to, not only are we setting up a conscientious objector privilege which exceeds that of the blind, the lame, the deaf, and the disabled, but we are doing it in a way that no evidence would be presented whatsoever and there would be no examining body, no one to examine them, and there would be no opportunity for a conscientious objector to state whether he is opposed to any service in the military which would be noncombat service, which has been done by many sincere, dedicated conscientious objectors. They served in military occupations that did not go into combat. There would be no opportunity for them to say they would be willing to serve in a civilian capacity to support the overall national effort, even though they are opposed to combat.

This is the wrong place and the wrong time to express the conscientious objector status. I think it is going to be very misleading and very disillusioning to the sincere, dedicated conscientious objectors who really are legitimate because they are going to wake and find they went in and filled out a form on registration and it had absolutely no meaning. No one in Government looked at it. No one questioned it. And when they get into the classification stage, then they will have to go through everything again. So it has no meaning and it will substantially delay this overall process.

Mr. President, I yield such time as the Senator from Mississippi desires.

How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 4½ minutes remaining.

Mr. NUNN. I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Georgia.

Mr. President, notify me at the end of 2 minutes, please.

I say to Members of the Senate that I make this point for clarity and for certainty. We now have a positive law in what we call the old law that was not repealed. The Selective Service law is still on the books as to this point. There is no power to make inductions. But it is there. It is preserved and can be used now if necessary.

No. 2, I think there will be no chance to avoid a full consideration of this subject matter again should there be a new law proposed with complete provisions.

That would be not only considered but it would also be recognized and favorably passed. Not only those who are conscientious objectors but everyone who is an honest conscientious objector would be given this special dispensation.

I never have heard a member of our committee present or past since I have been around who had any idea to the contrary. I believe that is fully accepted by the people at large over the Nation.

So there is not any chance being taken, and nothing is being neglected.

With all deference, this would bring confusion and compound confusion if we should inject this in the law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Senator.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Georgia yield for a parliamentary inquiry?

Mr. NUNN. Not on my time, Mr. President; on the time of the Senator from Oregon, yes.

I yield the remainder of my time to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senate will be voting not on the substance of the amendment but on a matter of procedure. I hope that Senators will keep their eye on that ball.

The Senate a little earlier today invoked cloture on debate, and under Senate rule XXII, once cloture is invoked, no amendment not germane shall be in order.

If we are going to invoke cloture, we should live by the cloture rule, and one of the reasons for invoking cloture is to rule out nongermane amendments.

The Chair has ruled that the committee amendment is not—n-o-t—not germane. Now the committee amendment refers to registration, and it refers indirectly to conscientious objectors, neither of which terms is germane to the original language of the joint resolution.

This is an appropriations joint resolution, not an authorization bill for the selective service or the draft or classification. The place for this amendment is on an authorization bill where it could be germane, but the Senate has invoked cloture. This amendment is not germane. It does not pertain to the joint resolution itself. It does not pertain to an authorization but to an appropriation.

I hope that the Senate will keep in mind that the vote is on a procedural question, to wit, Shall the decision of the Chair be sustained?

That question has been appealed by the distinguished Senator from Oregon. A vote "aye" would sustain the Chair. Is that not the question?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And the Chair should be sustained.

Are we going to play by the rules or are we going to make our own rules? The Chair has ruled the amendment not germane. Under cloture any amendment not germane is not in order, and I hope the Chair will be sustained by a vote of "aye" on the part of the majority of the Senate.

The PRESIDING OFFICER. All time has expired. The question is——

Mr. HATFIELD. Mr. President, are the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is, Shall the ruling of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr.

LONG), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Washington (Mr. MAGNUSON), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote who have not voted?

The yeas and nays resulted—yeas 43, nays 49, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—43

Baker
Bentsen
Boren
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Domenici
Exon
Ford
Glenn
Goldwater
Hart
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
McClure
Mitchell
Morgan
Nunn
Pressler
Pryor
Randolph
Ribicoff
Sasser
Schmitt
Simpson
Stennis
Stewart
Stone
Talmadge
Tower
Warner
Zorinsky

NAYS—49

Armstrong
Baucus
Bayh
Bellmon
Biden
Boschwitz
Bradley
Byrd,
  Harry F., Jr.
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Durkin
Eagleton
Garn
Hatch
Hatfield
Heinz
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Riegle
Roth
Sarbanes
Schweiker
Stafford
Stevens
Thurmond
Tsongas
Wallop
Weicker
Young

NOT VOTING—8

Church
Gravel
Kennedy
Long
Magnuson
Mathias
Stevenson
Williams

The PRESIDING OFFICER. The ruling of the Chair does not stand as the judgment of the Senate.

AMENDMENT NO. 1886

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Nunn amendment to the committee amendment.

Mr. ROBERT C. BYRD. Vote. Put the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to share with the Senate a history of the conscientious objector. I think we recognize that this is not something that we have merely concocted at this particular time to try to delay or to try to encumber the registration procedure. But I would like to assure my colleagues that it is simply an effort to try to minimize noncompliance. I hope the Senators have all viewed the report from the Selective Service System itself which has indicated the possibility that up to 50 percent——

The PRESIDING OFFICER. May we have order in the Chamber? Will Senators who wish to converse please retire to the cloakrooms?

Mr. HATFIELD. Mr. President, this simply provides the same procedure that we have had in the past where a person who, at the time of registration, is able to secure a specific form indicating his intention to file for a classification of conscientious objector. This does not grant him that at all. But before, when he went to register and sign his name, he was handed a form simultaneously. If we do not adopt this as a committee amendment, then all it does is to delay that possibility, to give rise to a generation of felons who would be prosecuted for noncompliance, based again upon the Selective Service estimates themselves.

Mr. NUNN's amendment I hope will be voted down because all the Nunn amendment does is simply to delay that right until the time this Senate acts upon a new selective service law and then, hopefully—and who knows down the road—there will be a provision in that law to provide for a person to become classified as a conscientious objector.

It seems to me that it would be very important for us to minimize noncompliance at this time, based upon the estimates that have already been made, because we do not have the personpower in the Justice Department to prosecute every noncompliance that we may have.

We have no opportunity for these people to express themselves except through the committee amendment. Again I emphasize, all the Nunn amendment does is to delay this, to deny the people the right for that opportunity to establish their intentions at the time of registration as we have had in other selective service times.

Remember, we have not had in the past a registration act and then delayed by who knows how many years until the time would arise for the adoption of a Selective Service Act for them to be able to establish that position.

Mr. President, I yield the floor and am ready to vote on the Nunn amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I just want to briefly repeat the argument that most of my colleagues who were on the floor a little while ago have already heard. I think it is very important. It is essential that the committee amendment be amended. The reason for that is that the committee amendment would be misleading every sincere conscientious objector. We have never, in all the time we have had registration, had declaration of conscientious objector status at the time of registration. It has always come at the time of classification.

I favor conscientious objectors being able to register their status at the appropriate time. But the committee amendment, unless it is amended by the Nunn amendment, provides that this declaration would be at the time of classification. It is going to have a very serious, in my opinion, and disillusioning effect on legitimate conscientious objectors who realize they have a form to fill out that nobody is going to pay any attention to whatever, that has no legal status whatsoever, that does not exempt them from any service whatsoever.

I think it is important for them to recognize that. I think it is important for the Members of the Senate to recognize that if they leave the committee amendment unamended, that is, if they vote down the Nunn amendment which will be the next vote—we will be voting, I assume, on the Nunn amendment or a motion to table, whichever the case may be—if that amendment fails, then what we have done is we have placed anyone who wants to sign a conscientious objector statement on registration in a position that has precedent over people who are blind, over people who are deaf, over people who register in a wheelchair, because they do not have any form to fill out. They do not have any way of saying, "I am physically disabled" or "I have had some emotional or mental problem."

All of those are legitimate issues but those issues should be decided at the appropriate time, in the appropriate forum. That is when we have classification.

I would like to quote briefly from Secretary of Defense Harold Brown on this issue in a letter dated June 5 to Senator STENNIS. He states:

> I urge the Senate to approve the same bill that passed the House. The amendment to the House bill added by the Senate Appropriations Committee would allow those who conscientiously object to war in any form to express that belief at the time of registration.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I was one of those Senators who voted twice against the ruling of the Chair that the amendment approved by the committee was not germane. It appears to me that it is germane and I disagreed with the ruling of the Chair in that regard.

The pending amendment is an amendment by the Senator from Georgia dealing with conscientious objectors. The Senator from Georgia would amend the joint resolution now before the Senate by providing that conscientious objectors shall have the right to claim conscientious objector status when the classification process begins.

That differs from the committee language which would permit an individual to note his objection to war at the time he registers.

Mr. President, I am one of those who believe very strongly that if we have a Selective Service System, that those with conscientious convictions, those with strong convictions in opposition to participating in any war, those who hold those views, that the law should permit them their full rights and the law should deal sympathetically with those who hold such strong views.

The Senator from Georgia's amendment to the joint resolution would grant just such opportunity to any individual who seeks to claim conscientious objector status.

The time to do it, and I think the Senator from Georgia is correct, is when the classification process takes place, not during registration.

In the first place, it would single out just one group which would have the right to present reasons why he would not want to participate in the Selective Service System.

I think the Senator from Georgia's amendment is superior to the committee amendment. I think it fully and adequately protects the rights and the views of any individual who seeks to claim conscientious objector status.

For that reason, I shall support the amendment offered by the Senator from Georgia.

I think it is not only a reasonable one, but I think it is the only workable proposal as compared to the committee amendment supplemented by the Senator from Oregon.

But I say again, I voted against the ruling of the Chair on two occasions because I thought the Chair was wrong and that the committee proposal should be considered by the Senate. It is now being considered by the Senate. The Senator from Georgia is offering an amendment to it which greatly improves the committee proposal.

I shall support the proposal of the Senator from Georgia.

Mr. NUNN. I thank the Senator from Virginia for his statement and his understanding of this issue.

Mr. President, I had begun to quote from a letter of June 5 to Senator STENNIS from Secretary of Defense Harold Brown. I will quote that letter on the relevant portion in toto. It states:

> I urge the Senate to approve the same bill that passed the House. The amendment to the House bill added by the Senate Appropriations Committee would allow those who conscientiously object to war in any form to express that belief at the time of registration. Such an expression, at that time, would serve no useful purpose. A later exemption on this basis could not be established by this essentially meaningless action. But an officially invited indication of intent would mislead some to think it guaranteed an exemption. This sort of information is appropriate to the process of classification, not registration. Finally, the amendment added by the Senate Appropriations Committee could serve to entice many young men (the Committee estimates as many as 40%) to make a mockery of the act of registration by appearing to take back with one signature the responsibility they will have recognized with another.
>
> If accepted by the Senate, this, or any other amendment, would require further action by the House and would, therefore, delay registration even more—at least until early autumn. Such a delay would be highly undesirable, and would be viewed abroad as evidence of a lack of American resolve to meet the grave international challenges we face.

Mr. President, I assure we are going to be voting on the Nunn amendment to the committee amendment at some point within the next hour or so. Rather than taking more of my time that I have limited under the cloture motion that has been approved by the Senate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I rise in support of the Nunn amendment.

On the issues that have been brought forth here, I have some concern, of course, with the conscientious objector proposition. I could not go, though, as far as suggested by my friend from Oregon because I believe that the suggestion by the Senator from Oregon would simply cause great harm to the registration process that many of us feel is critically necessary at this particular juncture.

At the same time, I believe it is fundamental and, therefore, a historic part of our conscription process that legitimate—and I emphasize the word "legitimate"—conscientious objectors have a chance to state their case for proper appeal.

Therefore, I believe that the amendment that has been suggested by Senator NUNN is one that I can support in good conscience.

I agree completely with the brief explanation that I heard Senator HATFIELD give on the floor of the Senate within the last hour. That very simply is that while the Senate, if it adopts the amendment offered by the Senator from Georgia, is saying that we recognize that there are some who have legitimate conscientious objector interests and they should be taken into consideration. It does, indeed, as the Senator from Oregon has pointed out, put this over until some future time if—and I emphasize the word "if"—it is the decision of the Congress of the United States that we must return to some type of a full draft system.

Therefore, it seems to me that the amendment offered by the Senator from Georgia is probably the best of all worlds that we could have to address this particular issue.

It is true, Mr. President, that if we adopt the amendment offered by the Senator from Georgia, we will have to go back to conference with the House of Representatives on this particular issue.

According to the letter just read into the RECORD by the Senator from Georgia, which was sent by the Secretary of Defense, that would cause some delay. However, I suggest that this is not an issue that would cause great consternation between the Senate-House conference committees, and I believe it could be resolved rather simply.

I wish the Senator from Georgia could find himself in a position to support the Nunn amendment, because I believe that the Nunn amendment goes a considerable way to addressing the issue about which the Senator from Oregon is concerned.

I hope all my colleagues in the Senate, before we vote on the Nunn amendment in the very near future, will recognize and realize that the Nunn amendment, in my opinion, is a reasonable compromise, because it proceeds with the matter of registration and still allows and identifies that there is a sense of the Senate that we need to take into consideration legitimate conscientious objectors, only when and if we find it necessary to return to a military draft.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EXON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

Who seeks recognition?

Mr. ROBERT C. BYRD. Mr. President, I shall take just a minute, hoping that Senators will be prepared for a rollcall vote. If no Senator seeks the floor, the Chair will be putting the question and the vote will occur on the amendment by Mr. NUNN to the amendment by Mr. HATFIELD.

Mr. BAKER. Mr. President, I have sent word to the distinguished Senator from Oregon (Mr. HATFIELD) that we are ready to proceed. I believe that the Chair will indulge me, with the agreement of the majority leader, and if we can find Senator HATFIELD in a few minutes, we shall be ready to proceed in very short order. While we are trying to do that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The amendment of the Senator from Georgia to the committee amendment.

Mr. HATFIELD. I thank the Chair.

Mr. President, at an appropriate moment, if everyone who wishes to speak has spoken, I shall make a motion to lay on the table the amendment of the Senator from Georgia to the committee amendment.

Mr. NUNN. Mr. President, I understand the position of the Senator from Oregon and understand that he will move to table. I do not need a lot more time on this amendment. I think it has been discussed pro and con a good bit this day.

I do repeat, though, that unless my amendment is attached as a part of the committee amendment, the committee amendment itself is very misleading. Conscientious objectors are going to feel that they will be given some exemption or some status that is different from those other people who register without signing some form if the committee amendment fails. That will be false. They will not be given any status. There is no recognition that they will be given, there is no exemption. They will simply be voicing their own conscientious views. There is an appropriate time and place for that. The appropriate time and place for that is under classification, which has historically been the place that we have had the expression of conscientious objections.

I think it ought to be repeated that, under the registration procedure, there will be no evidence offered by the conscientious objectors, there will be no examining body to determine if they are sincere in their beliefs.

There will be no category of conscientious objector. We will not know whether that particular individual is willing to serve in the military in a noncombat position, or whether that individual is willing to serve in a civilian position, and all those are directly relevant.

I also say, Mr. President, that there will be no provision for those who are physically or mentally unable to serve. The people who are blind, deaf, lame, will have to file their address and name if this amendment becomes the law, and the conscientious objector will have a special exemption.

I do believe conscientious objectors should have an exemption, but I believe it ought to be on classification and not on registration.

This would greatly complicate the procedure and slow down the whole registration. It would make it much more difficult and delay it.

I urge my colleagues to vote against the motion to table the Nunn amendment to the committee amendment when the Senator from Oregon makes that motion.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, there is nothing misleading about this amendment whatsoever.

I think to state that is to denigrate the intelligence of the American public.

It has been very clearly stated by the Senator, and the record in the Committee on Appropriations, as well as here on the floor, that this committee amendment does nothing to establish classification. It merely preserves the historic right of people to make a declaration of intent at the time of registration.

That is what we have done in every kind of selective service system we have had. At the time of registration, the individual had the right to declare his intent by a form 150 that was either handed him at the time or mailed to him very soon thereafter.

The Nunn amendment destroys that traditional historic right of the people to declare their intent at the time, and the Nunn amendment also invites massive noncompliance.

If we are interested in developing a generation of felons here, and we are going to have enough problem with compliance without denying this historic right, then we should vote against tabling the amendment.

But if we want to preserve the historic right that we have established through selective service programs in the past, we should vote to table this amendment, because the Committee on Appropriations has preserved the historic right. The Nunn amendment destroys the historic right and invites noncompliance.

This specious argument that somehow we should provide for the helpless, the lame, the blind, the handicapped, is nothing but throwing sand in the air, hoping it will light in our eyes so that we do not see the real issue.

That is a matter that will be determined at a time of classification, as well as the classification of conscientious objector. But the conscience, the matter of conscience, the matter of intent to declare that conscience, is different than being handicapped.

Besides, I, for one, will move, if we get to that place, which I hope we do not in peacetime, to the place of establishing a draft, to provide the right of handicapped people to serve their Nation in military uniform.

There are many positions they could occupy. Having spent over 3 years in a world war in the U.S. Navy, I know of many positions that could have been effectively handled and performed by people we could classify as handicapped, denying them the right to defend their country in time of national emergency.

I think this Senate and the Congress generally, have done much to improve the lot of the handicapped; access to public buildings, educational benefits and rights. I cannot conceive that this Congress would continue to deny those who may be physically handicapped from occupying important positions in our military if that be their desire.

Consequently, that is entirely a specious argument.

I think if one person, one individual, goes to jail because of the Nunn amendment, it would be a great tragedy.

I know that many more, perhaps tens of thousands, will be prosecuted, if we prosecute under this regulation, or this policy, if we decide to fulfill it under the President's request, will be imprisoned, or at least prosecuted and leading to possible prison. That is why I want to minimize that kind of situation for our young people.

The Nunn amendment certainly exacerbates what will be a difficult policy to administer in the first place, and by voting that amendment down and supporting the committee amendment we will reduce measurably that particular issue in the administration of the policy, which I assume by the vote this morning ultimately will prevail.

But I also want to make the record very clear to the majority leader and others that it is my intent to utilize even the full 100 hours we have under the cloture motion. So that no one is misled and no one is caught by surprise, I say that I have about 75 amendments at the desk. I shall strive in every legitimate parliamentary procedure that is open to me to continue to delay this as long as possible.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. HATFIELD. I yield to the majority leader and then I want to make my motion.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. He has made clear what his intentions are. I respect him for that. I suppose we just have to govern ourselves accordingly. But I admire him for his courage and his determination, and I respect him and admire him for laying his cards right out on the table.

I was going to ask him later what his intentions were, but I do not need to ask him now. He has stated what his intentions are. I thank him.

Mr. HATFIELD. Mr. President, the majority leader has been very fair and very helpful. I thank him again.

That is why I felt I should lay my cards out on the table and catch nobody by surprise. We can plan accordingly. But I wanted to mention this for the record at this time.

Mr. President, I move to table the Nunn amendment to the committee amendment and I ask for the yeas and nays.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Nunn amendment to the committee amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from IDAHO (Mr. CHURCH), the Senator from ALASKA (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—44

Armstrong
Baker
Baucus
Bayh
Biden
Bradley
Bumpers
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Hatch
Hatfield
Heinz
Javits
Kassebaum
Laxalt
Leahy
Levin
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pell
Percy
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stafford
Stevens
Stevenson
Tsongas
Weicker

NAYS—49

Bellmon
Bentsen
Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Dole
Domenici
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Lugar
Mitchell
Morgan
Nunn
Pressler
Pryor
Randolph
Ribicoff
Sasser
Simpson
Stennis
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—7

Church
Gravel
Kennedy
Long
Magnsuon
Mathias
Williams

So the motion to lay on the table Mr. Nunn's amendment (No. 1886) was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Georgia.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

The PRESIDING OFFICER. Are any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—51

Baker
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Dole
Domenici
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Lugar
Mitchell
Morgan
Nunn
Pressler
Pryor
Randolph
Ribicoff
Sasser
Simpson
Stafford
Stennis
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—42

Armstrong
Baucus
Bayh
Biden
Bradley
Bumpers
Cohen
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Eagleton
Hatfield
Heinz
Javits
Kassebaum
Laxalt
Leahy
Levin
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Fackwood
Pell
Percy
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stevens
Stevenson
Tsongas
Weicker
Young

NOT VOTING—7

Church
Gravel
Kennedy
Long
Magnuson
Mathias
Williams

So Mr. Nunn's amendment (No. 1886) was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from North Dakota (Mr. Young).

Mr. YOUNG. Mr. President, as the ranking member of the Senate Appropriations Committee, I wish to designate the senior Senator from Oregon (Mr. Hatfield) for the handling of this bill for consideration by the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, may we have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask that the time I consume be charged against me and not against Mr. Thurmond.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, technically Mr. Proxmire is the manager of this bill. Under the cloture rule, Senators may yield to the manager of the bill and to the ranking manager and to the majority and minority leaders up to a total of 2 hours, making it a total of 3 hours. Is that correct?

The PRESIDING OFFICER. The Senator is stating it correctly.

Mr. ROBERT C. BYRD. Mr. President, Senators may yield to Mr. Proxmire up to a total of 2 hours. He has 1 hour under the rule. They may do the same for the minority leader, the majority leader, and for the ranking manager of the bill. I believe the ranking manager has just been designated as the Senator from Oregon, Mr. Hatfield.

Now, may I ask the Senator from Wisconsin (Mr. Proxmire) if it is agreeable to him, with the understanding that this is not to establish a precedent—technically, he is the manager of the bill—if it is agreeable to him that, if Senators wish to yield the time up to a maximum of 2 hours to the manager of the bill on this side, that that manager, for the purposes of handling this bill under the cloture situation, would be either Mr. Stennis or Mr. Nunn.

Mr. PROXMIRE. Mr. President, I think that is only fair and I would intend to certainly do that. That was my absolute intention.

But I do feel, as chairman of the subcommittee in charge of the resolution, I want to maintain my authority over the bill. But, as I told Senator Stennis and Senator Nunn, I would be delighted to have them handle the 2 hours or whatever I have, because that is only fair.

Mr. ROBERT C. BYRD. Mr. President, is it my understanding that, based on my conversation with Mr. Stennis, that Mr. Nunn should be designated as the manager of the bill on this side of the aisle for the purpose of controlling that 2 hours if any Senator is wishing to yield?

Mr. STENNIS. That is correct.

Mr. President, may I thank the Senator from Wisconsin for his fine attitude about this matter all the way through since he held the hearings.

Mr. ROBERT C. BYRD. Very well, Mr. Nunn will be the manager of the bill on this side.

Mr. HATFIELD. Mr. President, will the Senator yield for a question on this point? In the hours that are yielded to the respective managers, what form must that action take on the part of the Senator willing to yield such hour?

Mr. ROBERT C. BYRD. Mr. President, a Senator who wishes to yield such time needs only to stand up on the floor and say, "I yield to Mr. Hatfield" or Mr. Nunn, or whomever.

Mr. HATFIELD. As a matter of official record?

Mr. ROBERT C. BYRD. Yes. But, beyond that, it would require unanimous consent for any Senators to yield any of their time to any other Senators.

Mr. President, for the purpose only of attempting to indicate to my colleagues what the situation is so that they may govern themselves accordingly, let me say this: Many of the Senators were not on the floor when Mr. Hatfield indicated—and I would prefer that he indicated it in his own words so that I do not misrepresent him—as to what his intentions are now that cloture has been invoked.

Would the Senator do that, please?

Mr. HATFIELD. Mr. President, I am happy to; I assume on the majority leader's hour.

Mr. President, I indicated to the majority leader and to those present in the Chamber at the time that I had no desire to play games or to provide any surprises and that I had every intention of utilizing every parliamentary procedure open to me to fully use the 100 hours that are allocated under the cloture rule.

In other words, I have every expectation of pushing this issue to final vote as far down the road as I can, and I only have 100 hours to do it. Now, I do not control all of those 100 hours, but I shall use such things as rollcalls, quorum calls, and every other such parliamentary procedure that is open under the rules in order to use up, fully exhaust, the 100-hour period.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

Senators will understand that what I say is not with any animus toward the Senator from Oregon. I admire him; I respect him. He is my friend and he will be my friend after this matter is disposed of. He has said, without any equivocation, that it is his intention, insofar as he is able to do so, to fully utilize the entire 100 hours allowed under the cloture rule.

I think that is fair. He has laid his cards on the table and he has done so voluntarily earlier today. So he has made no bones about it. I respect him for that.

Let me say to the Members of the Senate that, after today, only 55 working days remain prior to October 1, not counting Saturdays. During those 55 working days—and any Saturdays that are included—the Senate has an enormous workload. It has the first concurrent budget resolution, which is still in conference. Once that is disposed of, the Senate will have the supplemental appropriations bill, which involves black lung payments, trade assistance, and so on.

It has 13 regular appropriation bills yet to enact. There remain 50 or more expiring authorization bills. There is the Alaska lands bill. There are other measures. The second concurrent budget resolution, for example, will be coming along. The extension of the debt limit will have to be faced up to again, and maybe again and again. I cannot say.

May I have the attention of Senators, Mr. President? What I am saying affects every Senator here and his schedule. I do not want any misunderstanding to be abroad. This is just a preview of what the Senate has remaining before it.

One hundred hours would be 8 12-hour days plus 4 hours, or it would be 12½ 8-hour days. The Senate just cannot afford to spend that kind of time on this joint resolution. We have already been on this measure for 4 days. The committees have spent time on it. The House spent time on it. If the amendment by Mr. HATFIELD, as amended by the amendment by Mr. NUNN, is agreed to, this measure has to go to conference if the House does not accept the Senate amendments. That would mean we would probably have another filibuster on the conference report.

So I say to my friends, we are up against a rather sobering problem and we might as well think about it now.

We have all of this workload and we only have 55 days, unless we crank in Saturdays, until October 1.

We can, of course, go beyond October 1. We can come back after the elections. We can come in on Saturdays. We can come in early and we can stay late. But we are going to have to do some of these things, if not all of these things, under the very best of circumstances to complete what work has to be done before this Senate adjourns sine die.

May I say to my friends that I hope they will be very understanding and as cooperative as they can be as we deal with this postcloture filibuster. That is what it is. I say that with all respect to the Senator from Oregon. He has the right to utilize the rules, but we can also utilize the rules.

I want to try to eclipse that 100 hours as much as possible, but that will require the cooperation of Senators. I would hope that Senators would not use their 1 hour if they can avoid it. If they want to use 10 minutes, fine, or whatever they want to use. If they want to use the hour, fine. But keep in mind that this Senate can go 100 hours on this measure and no other measure can be taken up except by unanimous consent until the business now before us is disposed of. That means that if the conference report on the first concurrent resolution is brought in that door, it cannot be taken up except by unanimous consent until this matter is first disposed of.

The distinguished Senator from Oregon has said he is going to utilize the rules. He has that right. He feels strongly about this matter. He speaks with conviction. He has stated what his intentions are. I can only say that I admire him but that I, too, will attempt to use the rules as best I can to bring this to a close as early as possible. But it is going to require the cooperation of Senators on both sides of the aisle.

Senators should know what they are doing. Know that we may be here all night more than one night. We cannot afford to spend 12½ 8-hour days on this joint resolution now. We have already spent 4 days on it. We cannot afford to do that, with only 55 days remaining. Who want to be in here on Saturdays? I do not want to be in on Saturdays, but every day we spend on this joint resolution, is 1 off of the 55, and every day we spend on this matter may be a Saturday session in the long run.

So I say to my friends, schedule your days accordingly. Do not get too far away from the Senate because there may be many quorum calls and rollcalls tonight.

Mr. BUMPERS. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I will be happy to yield.

Mr. BUMPERS. The Senator talked about the amount of time we could yield to the floor managers, a total of 2 hours which gives them 3 hours, counting the 1 hour of their own time.

Mr. ROBERT C. BYRD. That is correct.

Mr. BUMPERS. Can we yield to other Senators debating amendments?

Mr. ROBERT C. BYRD. Only by unanimous consent.

Mr. BAKER. Mr. President, I am opposed to the Hatfield amendment and I shall vote against it when that time arrives. I am in favor of the joint resolution and I will vote for it. I have lost count of how many cloture motions are now on hand and available to file from day to day which are no longer necessary since cloture was invoked with my vote on the first try.

I think we need draft registration and I will support it.

Mr. President, I owe a responsibility as well to the Senator from Oregon.

I have one slight departure from the majority leader's statement. I, too, do not wish the Senate to spend 100 hours on this measure, but I owe the obligation to protect the rights of the distinguished Senator from Oregon to make his cases as fully and abundantly as he may wish.

So I will join in trying to encourage brevity, in trying to see that we proceed as promptly as possible. I will not join in trying to terminate the rights of the Senator from Oregon in the debate.

One other thing: Notwithstanding that I will oppose the Senator from Oregon, I want our majority leader to know that under the rules, as I understand them, he and I are entitled to receive on yielding 2 additional hours. So that there is no misunderstanding, I will solicit Senators to yield to me those 2 hours so I can make them available for further debate on this side. I cannot yield the 2 hours to the Senator from Oregon since he has a right to extra time as minority manager of the bill. But that will be my contribution to full and fair debate.

I will conclude now by saying I urge Members of the Senate to adopt this joint resolution. I think we need registration. I hope this measure will be abbreviated as much as possible, but I will protect to the full extent of my abilities the right of the Senator from Oregon to make his case as fully as he can.

(Mr. BAUCUS assumed the chair.)

Mr. ROBERT C. BYRD. Will the Senator from South Carolina yield to me on my own time?

Mr. THURMOND. I yield.

Mr. ROBERT C. BYRD. Mr. President, I yield to nobody in this body, on the other side of the aisle or on my own, in protecting the rights of other Senators. I, too, will protect the rights of the Senator from Oregon. I have in the past protected the rights of the minority leader—once against my own Vice President. So I will protect his rights, but within the rules I will do everything I can in protecting the Senate's right to bring this to a close. But that is up to the Senators. Senators may keep it going.

I call this to the attention of Senators, and then I will sit down, that any Senator who wishes to yield time back may do so under the cloture rule and the time yielded back comes off the 100 hours.

Mr. STONE. Will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STONE. How and when does a Senator yield back his 1 hour? Is that now appropriate?

Mr. ROBERT C. BYRD. A Senator may deal with that at any time.

Mr. STONE. This Senator from Florida yields back his 1 hour, Mr. President.

Mr. HATFIELD. Will the Senator from South Carolina yield on my time?

Mr. THURMOND. I yield, Mr. President.

Mr. HATFIELD. Mr. President, I appreciate the efforts of trying to resolve the Senate business and on an expeditious basis, and I appreciate the majority leader giving us that list of vital and important legislation.

Mr. President, I know of no issue that the Senate will undertake in this particular Congress that will be of more importance to our Nation than the one that we have before us now. It literally involves the potential lives of our young people and there is no issue that, to me, takes precedence over that. I say that I expect to push the Senate to the full use of the 100 hours, because there are many unresolved questions, questions that have not even been debated on this floor.

When the majority leader says that the House took up the issue, he implies that it gave full consideration to the question. The House of Representatives did this in 1 day—1 day.

Let me say that because cloture was

laid down today, this precludes our being able to consider such an amendment as is to be offered by the Senator from Kansas (Mrs. KASSEBAUM) involving the possibility of registering women. That matter has not even been brought before this body in terms of a possible vote. It involves such matters as the right of privacy. It involves such matters as enforceability.

These are very serious parts of this whole program that have not yet been debated or voted on on this floor. To run the pressure of time upon us at this moment and to put the onus on those of us who are trying to defend the civil rights, the human rights of the people of this Nation, the 19- and 20-year-olds, I think is not necessarily quite an accurate picture.

I have no alternative. I have been put in this position by the leadership that has, in effect, said, "We are going to cut off debate after three and a half days." Let me remind the leadership that we set aside this issue frequently to take up other Senate business because we were cooperative on it and wanted to maintain the dual activity of the Senate.

Mr. President, I only want to say this: I think the American people have the right to have this matter fully debated, fully aired. I do not plan to make a telephone-book filibuster. I have not done so up to this point. I think if anyone takes the time to read the Record, they will know there has been substantive debate. It has been on the issue, it has been on the subject. Therefore, that is what I plan to maintain, that kind of discussion. We are not engaged in a filibuster on the telephone-book reading procedure that we have seen in the past.

Mr. President, I am sure there are many Senators who have not yet been heard who want to use their hour fully to express their viewpoint. So it is not going to be a waste of time. It is going to be a focus upon the issue that is most important to the American people.

Mr. DURKIN. Mr. President, I yield back my hour.

Mr. BAKER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, is it possible to yield back the hour under the rules as they now stand?

The PRESIDING OFFICER. Will the Senator please restate his question?

Mr. BAKER. Mr. President, I did not hear the Chair.

The PRESIDING OFFICER. Will the Senator please restate his question?

Mr. BAKER. Is it possible to yield back the hour provided for in the rules with the effect of reducing the 100 hours permitted under the rules?

The PRESIDING OFFICER. The Chair is of the opinion that a Senator may yield back his 1 hour. However, that does not reduce the total 100 hours available.

Mr. BAKER. Mr. President, may I inquire what happens to that hour? Who has control of that?

The PRESIDING OFFICER. It is the understanding of the Chair that no Senator would control that hour.

Mr. BAKER. I am sorry?

The PRESIDING OFFICER. It is the understanding of the Chair that no Senator will control that time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I think the minority leader has raised a pertinent question, Mr. President. Let me read the rule: "After no more than 100 hours of consideration"—it does not say it has to be 100 hours. It says, "After no more than 100 hours of consideration of the measure, motion, or other matter on which cloture has been invoked."

Of course, if all Senators yield back their hour, who can do anything? What do we do, just sit here for 100 hours and look at the Chair?

When Senators yield back their hour, that should come off the 100 hours.

Mr. LEAHY. A parliamentary inquiry, Mr. President.

Mr. BAKER. I have the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BAKER. A further parliamentary inquiry: Is it not true, Mr. President, that if a Senator yields back his hour, the 100 hours remains and might be consumed in a number of ways—in quorum calls for instance, or a number of other devices that would not require the control of an individual Senator?

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. BAKER. And the 100 hours provided for in this rule XXII is not the sum total of 100 hours, but rather, the 100 one-hours provided for under the rules.

Mr. ROBERT C. BYRD. Will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, if what the Chair says is true, then the rule would not read as it reads. It reads "After no more than 100 hours of consideration." It can be 99 hours, it can be 90 hours, it can be 50 hours. I am sorry to have to differ with the Chair, and I do so respectfully.

What is the purpose of cloture? The purpose of cloture is to bring the matter at issue before the Senate to a close as expeditiously as is possible. If 99 Senators yield back their hour, what, under God's heaven, are we going to do for the remaining 99 hours? It just is not reasonable. It is not logical in the context of the meaning of the cloture rule and the purpose of it.

Mr. LEAHY. Mr. President, will the Senator yield to me on my time for a parliamentary inquiry?

Mr. BAKER. Do I have the floor, Mr. President?

Mr. THURMOND. Mr. President, I believe I have the floor and I have yielded and yielded. I wonder when I am going to get to speak for just a few minutes.

Mr. BAKER. If I may have the floor, Mr. President, I have one further thing to say.

Mr. THURMOND. Who wants the floor? The minority leader? I yield to him.

Mr. BAKER. All I wanted to say, Mr. President, is that I recall in 1979, there was a Republican proposal for a rules change that would have done precisely, I believe, what the majority leader has suggested; that is, permit Senators to yield back their time and reduce the 100 hours. That was proposed here, on the floor, was resisted by the majority, and defeated.

Mr. President, it is my contention, and I am gratified that the Chair agrees and has so ruled, that the yielding back of an hour has no effect on the 100 hours. Indeed, there are any number of things that can be done in that 100 hours. The 1 hour is for debate. The 100 hours can be for the calling up and reporting of amendments, for quorum calls, for any variety of other things that do not recall the 1 hour provided for, under rule XXII, for debate.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Mr. President, the parliamentary inquiry is, what is the effect of time being yielded back? Does it have no effect whatsoever on the rule?

The PRESIDING OFFICER. It is simply a statement of the Senator to the effect that he has no intention of using his 1 hour.

Mr. LEAHY. A further parliamentary inquiry. If 99 Senators yielded back all their time and one remaining Senator yielded back 45 minutes, then, within a matter of 10 or 15 seconds of that time, called up an amendment at the desk and asked for the yeas and nays and vote, is it correct that he might be able to string that out for 100 hours, that 15 minutes? Ninety-nine and a half hours having been yielded back so somebody might be able actually to string out 100 hours?

The PRESIDING OFFICER. The Senator is correct. It is possible.

Mr. LEAHY. I thank the Chair.

Mr. THURMOND. Mr. President, I rise in support of this joint resolution. This is a matter upon which I can speak at considerable length, but I am going to cut my remarks to about 12 minutes.

Mr. President, to any nation, its security is a function of its military capability. In order to maintain a reasonable level of security a nation must have the ability to mobilize human, natural and material resources within a short period of time. Today in the Senate we are locked in a debate as to whether or not this Nation will undertake a very limited step to mobilize its human resources in the event of a national emergency.

This limited step is embodied in House Joint Resolution 521 which transfers from the Air Force to the Selective Service System $13.2 million to allow that System to initiate registration of young men as recommended by the President.

This resolution has passed the House—now it is the role of the Senate to exercise its judgment. I strongly support this legislation, and urge my colleagues to support it also.

SIMPLE POSTAL REGISTRATION

As stated in the Appropriations Committee report:

> The President's draft registration plan

> calls for the U.S. Postal Service to undertake the task of face-to-face registration. In June of this year, young men, ages 19 and 20 would be asked to go to their local post offices to register, where they would fill out a simple form with their name, address, date of birth and social security number.

Subsequently, the registrant would receive a short letter from the Selective Service System, indicating that he had been registered, and asking that the system be kept informed of a change in address. In January of next year, all 18-year-olds would be asked to register in the same manner, thus reinstituting continuous registration for those who reach the age of 18 in the future.

Mr. President, it is obvious that this plan constitutes only a minimum registration of our manpower pool. I would favor a more comprehensive plan to include classification, but the issue before the Senate now is this austere plan, proposed by the President.

Why should this appropriation be approved? Initially, I would like to give my thoughts as to why it is necessary. Then, I would like to quote from our civilian and military leaders as to their opinions on this important issue. Finally, I will summarize my views.

WHY WE NEED REGISTRATION

First, testimony before the Senate Armed Services Committee is overwhelming that without a registration system in place our Nation could not meet its manpower needs in any significant national emergency.

It is obvious from military exercises that we simply could not fulfill mobilization plans in a timely and orderly way without registration. Army Chief of Staff Edward Meyer stated during Senate hearings:

> Mobilization accomplished during a war is wasteful, clumsy and potentially disastrous.

He continued:

> A system of selective service is mandatory.

DANGEROUS PERIOD

Second, the world has become more dangerous in the past year and I firmly believe that if we show the resolve to meet this and future crises, it is far less likely we will have to engage in hostilities anywhere.

We are entering a period where our Nation will no longer enjoy a strategic equivalence with the Soviet Union. This will be a dangerous period which will last for at least 5 years, possibly more depending upon how rapidly we move to correct our weapon shortages. It would be foolish to enter this period without some capability to mobilize manpower quickly in the event of a perceived or real military crisis.

SERVICE OBLIGATION

Third, I think it is past time that we tell our young people they have an obligation to be prepared to serve their country if necessary.

Many of our young people are willing to give a small period of their time to help strengthen our forces to deter any aggressor. However, they are being told that someone else will do it if these volunteers are paid sufficiently. The honor and duty of military service is being degraded when it should be paramount over any financial considerations.

VOLUNTEER FORCE INADEQUATE

Fourth, the volunteer concept is not meeting our peacetime needs. It is unaffordable, it cannot be depended upon in emergencies and is unfairly exempting the middle and upper classes of our society from military service.

Our military needs to represent our people, and I believe registration will start moving us back toward that concept. A people unwilling to defend themselves will soon have nothing to defend.

Mr. President, I would like to now draw attention to the wide support for restoring registration.

VIEWS OF LEADERS

The Senate should give great weight to the views of our elected and appointed leaders who have the primary responsibility to maintain adequate forces and respond to our security needs in an emergency. I would like to quote from some of these officials:

President Jimmy Carter:

> Registration for the draft is needed to increase our preparedness and is a further demonstration of our resolve as a nation.

Secretary Harold Brown:

> The registration of men should not be delayed to include the registration of women.

Gen. David C. Jones, Chairman of the Joint Chiefs of Staff:

> This manpower situation is further compounded by the lack of a responsive Selective Service System to meet mobilization manpower needs of the Services.
>
> Since registration is one of the most crucial aspects of manpower mobilzation the establishment of a mechanism which provides for peacetime registration is needed now.

Gen. Edward Meyer, Army Chief of Staff:

> Volunteering will not produce sufficient military manpower for a large-scale protracted war. A system of selective service is mandatory. Mobilization accomplished during a war is wasteful, clumsy and potentially disastrous.
>
> Today, the Selective Service System, in deep-standby status, would require 85 days to deliver the first inductees from a cold start. Approximately 100 additional days are required to process, train and transport these inductees to their assignments in theater. This permits twelve weeks of pre-deployment training as required by law. The President's plan would assure the Selective Service System a capability to deliver the first inductees twelve days after mobilization. Delivery of the first trained inductees to theater would be improved from M+85 to M+12, for a saving of 73 days.

Mr. President, if the majority leader is going to hold a conference, I wonder if he could not hold it in the cloakroom, or somewhere?

Mr. ROBERT C. BYRD. Mr. President, I apologize to the Senator. He is entitled to be heard, and under the rules there should be order in the Senate. I apologize to him.

Mr. THURMOND. I think it is well for the majority leader to set an example. I thought he wanted to do that.

Dr. John White, Deputy Director of the Office of Management and Budget:

> Peacetime registration helps us to increase our preparedness, assures our ability to respond and further demonstrate our resolve.

Army Secretary Clifford Alexander:

> It seems to me that a limited registration would be in order so that the availability of people would be in front of us.

Gen. Bernard Rogers, NATO Commander, former Army Chief of Staff:

> As a minimum, we should go to registration just as soon as we can.

Adm. Thomas B. Hayward, Chief of Naval Operations:

> I am convinced that registration is a logical and sensible thing to do.

Gen. Lew Allen, Jr., Chief of Staff, U.S. Air Force:

> I support registration and limited classification.

Gen. R. H. Barrow, Commandant, U.S. Marine Corps:

> Registration is one step that I do concur with wholeheartedly.

Mr. President, the Senate should also be aware that the Joint Chiefs as a group have long favored registration and last year took the extraordinary step of so advising Secretary Brown of their position as a group.

In addition, Mr. President, the American public was asked the question in April of 1979 as to whether or not they supported registration of males and the response was 76 percent in favor. Doubtless the percentage would be even higher today in view of the crisis in the Middle East, which took place after this particular poll.

Mr. President, I think this great unanimity in our civilian and military leaders, and the public as a whole, on this subject should be very persuasive on the Senate. We are merely being asked to fund registration, not begin the draft at this time.

DRAFT MAY BE NEEDED

It may be come necessary to return to the draft and I am of the opinion that such a step would be in our national interests. But if the draft does return, it should be as fair as possible, because I believe that the inequity of the draft during the Vietnam war was a major factor in the problems and results of that period.

In conclusion, I would like to summarize my points as to why we need registration now: First, we lack the capability to mobilize promptly if it should be in our national interest to do so. Second, the world situation is more dangerous today and will be more dangerous in the immediate years ahead. Third, I believe our youth have an obligation to be ready to serve if needed and that they will respond to that need. Fourth, the all-volunteer concept is too costly and has not developed a representative military force.

Mr. President, the registration in this resolution is a very modest step to deter aggression and strengthen our military potential. If we fail to take this modest step, I predict we will in effect encourage those who are steadily capturing the free nations of the world and moving rapidly to strangle America through denial to us of essential natural resources. We must show our resolve, and I urge we begin immediately.

Mr. President, I reserve the remainder of my time.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 1805

Mrs. KASSEBAUM. Mr. President, I am appreciative of the majority leader's desire to move ahead with the business of the Senate. It certainly is not my intention to delay it any further than necessary.

In a moment, I will call up my amendment No. 1805, which is an amendment to the committee amendment. It is very important and crucial to have a debate on this amendment.

It has been suggested that I consume my hour and that of my cosponsors before calling up the amendment, but that resembles a colloquy instead of a debate. Thus, I will call up my amendment; and when the Chair rules it nongermane, I will appeal that ruling.

I am disappointed that I have to handle it this way, Mr. President, because we had hoped to work out some other arrangement. However, that not having been successful, I hope the Senate will indulge a debate on this important matter.

Mr. President, I call up my amendment No. 1805.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM) proposes an amendment numbered 1805:

On page 2, line 14, strike the period and insert a comma and the following language: "or shall be made available for implementing a system of registration which does not include women.".

● Mr. DOLE. Mr. President, I want to commend the distinguished sponsors of this amendment, Senators KASSEBAUM and LEVIN, dealing with women being registered for the military draft. Because of the controversial and sensitive nature of this issue my distinguished colleagues have served the Senate well in providing an opportunity for thorough debate.

REGISTRATION: AN EMPTY GESTURE

Mr. President, in recent days I have expressed my opposition to registration and the draft in general and now I must extend this opposition to include this amendment.

Mr. President the role of women in the Armed Forces is due to two major factors. First, since the end of the draft and the beginning of the All-Volunteer Force in December 1973, the military services have had difficulty in recruiting and retaining enough qualified males, thereby turning attention to recruiting women. Second, the movement for equal rights for women has led to demands for equal opportunity in all fields, including national defense. Thus, women have been recruited in increasing numbers and assigned to a wider variety of occupations as one method of meeting shortfalls in enlistments by qualified men.

Parallel with the increase in the numbers of women in the military services has been a gradual removal of restrictions against them. During World War II, women served in the various services under temporary arrangements and in consistent policies.

Mr. President, the fact is that women have, for several years now, played a vital role in our military without having had to draft one of them. Mr. President, I want to make it very clear that I am not opposed to females serving in the defense of their country. If women want to serve their country that option is open to them now as it has been for several years. The matter of the fact is, that I am opposed to the mandatory conscription of any one.

THE ALL-VOLUNTEER FORCE

There are those, Mr. President, who are quick to point to the fact that the All-Volunteer Force is not working, thus justifying the registration of our young men and women for potential military service.

Mr. President, I have often said before that if Congress would have paid attention to the needs of the All-Volunteer Force in its infant stage we would not have the manpower problems we have today. While these problems have reached a level of extreme seriousness I still believe that we have several options available to us today other than the first step toward the military draft; namely, the registration for military service.

Mr. President, once again, I want to commend Senators KASSEBAUM and LEVIN for their service to the Senate in providing this opportunity to debate this very important issue. Even though I do not intend to vote for this measure, I greatly appreciate the commitment and dedication in which they have pursued this measure.●

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kansas, as an amendment to the committee amendment.

Mr. NUNN. To the committee amendment. This is in the form of an amendment to the committee amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, at some point, I will raise the question of germaneness on this amendment, but I should like the matter to be discussed. I have no objection to it being discussed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NUNN. Mr. President, I object at this point. I will not object for long. I want the majority leader to be here, if the Senator from Kansas will give us about 5 minutes.

Mrs. KASSEBAUM. I will be happy to do so.

Mr. NUNN. At this point, I object.

Mr. HATFIELD. Mr. President, a parliamentary inquiry. From whose time is this being taken?

The PRESIDING OFFICER. The quorum call is in progress. Accordingly, a parliamentary inquiry is not in order.

The legislative clerk continued the call of the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mrs. KASSEBAUM. What then is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kansas which is an amendment to the committee amendment.

Mrs. KASSEBAUM. I thank the Chair.

Is the Chair prepared to make a ruling on that amendment?

The PRESIDING OFFICER. The Chair is prepared to make a ruling unless the Senator wishes to withdraw the amendment.

Mrs. KASSEBAUM. Mr. President, I do not wish to withdraw the amendment.

The PRESIDING OFFICER. Under the precedents of the Senate, cloture having been invoked, the Chair is required to rule out of order amendments which on their face are not germane. The amendment offered by the Senator from Kansas is not germane. Accordingly, the amendment is out of order.

Mrs. KASSEBAUM. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, is that motion debatable at this time?

The PRESIDING OFFICER. The appeal is not debatable.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator may have 1 minute to debate the appeal and that there may be 1 minute on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, let me just say that I asked the authors of this amendment last week if they would bring this amendment up before cloture was voted on. I was perfectly willing to debate this issue. It certainly is an issue that is important.

Our committee and subcommittee have considered it at length. I was perfectly prepared to debate the issue and vote on it.

Now that cloture has been invoked, we are in a different posture. The authors of the amendment are aware of the fact that we served notice that this eventuality could take place and if it did, I would be opposed to any nongermane amendment after cloture.

So it is unfortunate. I do think we have a right to debate this amendment and will have an opportunity to debate it on the authorization bill that will be forthcoming within the next 30 days.

Mr. President, I reserve the remainder of my time.

Mrs. KASSEBAUM. Mr. President, as I said earlier, it is not my intent to try to delay. We had tried to work out an agreement which we were not able to do, and I wish very much to have a debate on this amendment, as others have said that they would so desire as well.

So I will yield back any of my remaining time so we may move ahead with this vote.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Carolina (Mr. Hollings), the Senator from Washington (Mr. Magnuson), and the Senator from North Dakota (Mr. Williams) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

The PRESIDING OFFICER (Mr. Pryor). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 37, nays 55, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—37

Bentsen
Biden
Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
DeConcini
Durkin
Exon
Ford
Garn
Glenn
Hart
Heflin
Huddleston
Inouye
Jackson
Johnston
Matsunaga
Melcher
Mitchell
Morgan
Nelson
Nunn
Randolph
Ribicoff
Sasser
Stennis
Stevenson
Stewart
Stone
Talmadge
Warner
Zorinsky

NAYS—55

Armstrong
Baker
Baucus
Bayh
Bellmon
Boschwitz
Bradley
Cannon
Chafee
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Eagleton
Goldwater
Hatch
Hatfield
Hayakawa
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Leahy
Levin
Lugar
McClure
McGovern
Metzenbaum
Moynihan
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Tsongas
Wallop
Weicker
Young

NOT VOTING—8

Church
Gravel
Hollings
Kennedy
Long
Magnuson
Mathias
Williams

The PRESIDING OFFICER. The decision of the Chair is not sustained as the judgment of the Senate.

The question is on agreeing to the amendment offered by the Senator from Kansas (Mrs. Kassebaum) to the committee amendment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to yield some time to the Senator from Maine, just a few minutes.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, what was the request? I did not understand it.

Mr. President, I do not believe, under the rules——

The PRESIDING OFFICER. The Senator from Kansas has the floor at the moment.

Mr. NUNN. Mr. President, you asked if there was an objection. I object.

The PRESIDING OFFICER. The Senator from Georgia objects.

Several Senators addressed the Chair.

Mrs. KASSEBAUM. Mr. President, I yield to the Senator from Kansas (Mr. Dole).

Mr. DOLE. Mr. President, this Senator from Kansas yields 30 minutes to the Senator from Tennessee (Mr. Baker) who could yield 30 minutes to the Senator from Kansas (Mrs. Kassebaum).

Mr. NUNN. Mr. President, the question is whether it comes out of the time of the Senator holding the floor. If that is the question, if it is unanimous consent to have the time counted against switching time, I would have to object. If it is simply for the purpose of putting something in the Record, I think the unanimous-consent request has to state that.

The PRESIDING OFFICER. The Senator from Kansas has the floor. The objection has been heard to her request.

Mrs. KASSEBAUM. Mr. President, I yield to the minority leader.

Mr. BAKER. Mr. President, I think we are making a mountain out of a molehill. All the Senator wants to do is put something in the Record. He has an hour of his own.

Mr. NUNN. Mr. President, will the Senator from Kansas yield to me for a moment?

Mrs. KASSEBAUM. Mr. President, I am happy to yield.

Mr. NUNN. Mr. President, the question is whether we are going to begin switching time around. As long as the Senator from Kansas is not requesting anything by the time and simply yielding for that purpose, I withdraw my objection.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, all debate has to be germane, also. I do not have any objection to the Senator taking 30 seconds and putting something in the Record. But I do want to state that I am going to reserve my rights to object if Senators start transacting morning business or speaking on nongermane matters.

Mrs. KASSEBAUM. Mr. President, the Senator from Maine cannot remain in the Chamber. He would like to introduce his statement for the Record, which is pertaining to my amendment. So I just yielded some time to him before I continue with my debate.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, if I could perhaps clarify this, the majority leader requested me to help chair a meeting in the Indian Affairs Committee. I was simply going to rise to express my support for the amendment offered by Senator Kassebaum and Senator Levin.

If it is determined at some point that registration is needed, whether in a pre- or post-mobilization plan, there is no rational basis for excluding women. Women have proven a valuable asset to the military, and they are performing a wide variety of military jobs with distinction.

Over 90 percent of all military occupations—basically, all those not related to combat—are now open to women. Defense Department studies have found that unit performance is not impaired by the presence of females. A 1972 naval experimental assignment, on the U.S.S. *Sanctuary*, found that women performed every shipboard function with "equal ease, expertise, and dedication" as their male counterparts.

A Defense Department study, "The Use of Women in the Military," concentrated on enlisted women. The analysis included promotion, accession prospects, retention, distribution of occupational groups, attrition, physical differences, cost comparisons, deployability, and combat restriction. The results showed that there was little difference between the performances of men and women. The study also indicated that more women were willing to enlist than were being taken and that women could be used to a much more productive extent.

Those findings are in line with the conclusions of a Brookings Institution study, prepared by Martin Binkin and Air Force Lt. Col. Shirley Bach. They concluded that the number of enlisted women in the Armed Forces could be increased by up to 33 percent.

At present, 150,000 service members, or about 9 percent of our Armed Forces, are female. The services intend to increase this number to about 250,000 women in 1985. Sufficient numbers of women are now volunteering to meet the services' requirements, just as the numbers of male volunteers since the advent of the Volunteer Force have run about at the level of requirements.

In time of mobilization and conscription, however, it may be necessary to significantly expand the size of our forces in a very short period of time. The requirements for combat soldiers will be high, but so will the requirements for the large numbers of military personnel who fill noncombat roles. What will happen if there are not enough women volunteers to meet the target of 250,000 by 1985? Will we take male draftees who could fill combat positions and place them in noncombat positions intended for women?

Debate about assignment of women to combat roles unnecessarily clouds the central issue—how the Nation can best meet its personnel requirements in time of mobilization.

The issue of women being directly assigned to combat positions has not been challenged. Neither the Defense Department nor the other administration witnesses were in favor of assigning women to "combat" positions. Neither suggested that women and men would have to be drafted in equal numbers. All assumed a separate draft that would select women only for those positions which have been identified by the military as capable of being filled by women.

As Selective Service, Defense Department, and Office of Management and Budget witnesses said at a March 19 hearing of the Armed Services Committee's Manpower Subcommittee:

> The President's request for authority to register young women recognizes the reality that women are already providing all types of skills in every profession, including the military. The fact that women can perform effective service in the military is strongly supported by their record in past wars and in the peacetime Armed Forces. While often unrecognized, women have played an important role in the defense of the Nation in previous wars.

As the witnesses pointed out, women served as Army nurses and telephone operators in World War I. In World War II, Navy and Coast Guard women served as nurses, mechanics, truck drivers, parachute riggers, airtraffic controllers, and typists. Women landed on the beaches of Normandy and served in the South Pacific, North Africa, and during the invasion of Italy. In Vietnam, more than 7,000 women served in support roles which qualified for combat pay.

Our military services have opened many new jobs to women in the past few years. Today, 46 percent of all enlisted women are in nontraditional jobs. As administration witnesses told this subcommittee:

> The work women in the Armed Forces do today is essential to the readiness and capability of the forces. Our experience shows women performing well in a wide variety of jobs; being promoted as soon as men on the average; having higher test score averages and rates of high school completion. The President's decision to ask for authority to register women is therefore based on considerations of performance and equity.

The administration witnesses suggested that the question should be why women should not be registered, rather than why they should be. I agree with the contention that the burden of proof falls on those who would exclude women from this obligation.

If there is a mobilization, we will need a large infusion of both combat and nocombat personnel. It simply does not make sense to eliminate over half the eligible population of this Nation from consideration to fill those noncombat roles.

I share fully the position stated by the administration at the March 19 hearing:

> Finally, we would emphasize that although the equity argument is important, it does not lead to the conclusion that men and women should be inducted in equal numbers. Equity is achieved when both men and women are asked to serve in proportion to the ability of the Armed Forces to use them effectively. The administration's firm policy is that women will not be assigned to units in which close combat would be part of their duties. At the time of mobilization, the criterion of military efficiency will determine how many women will be used. The rate of induction for women as well as men will be determined by military need.

That hearing brought out the fact that the administration had not given sufficient consideration to those changes in the law which are necessary so that the services can draft according to their needs. I would hope that effort is underway right now. If we should face an emergency, we must be able to meet it with the full and most effective use of all our resources—which includes the talents of both our men and women.

Contrary to the conclusion of the Armed Services Committee, I believe that the constitutionality of excluding women remains to be resolved. No one who has addressed the issue of constitutionality has adequately resolved the following question: If the Department of Defense states it can accept 250,000 women by 1985, if mobilization occurs at that time, and if we have an insufficient number of women volunteers for those positions, what is the rational basis for drafting men for those noncombat positions?

So, I feel that registration of women, if there is to be a registration at some point, is essential. Not to include them would be to deny their capabilities and the excellent level of service they have given to their Nation.

The incompleteness and superficiality found in the administration's treatment of the registration of women is endemic to the entire draft registration proposal. The Department of Defense apparently has not made the determinations on the mobilization requirements in specific areas. Replacement estimates are gross figures based on various scenarios. What needs to be developed are specific plans for the mobilization scenarios, with approved personnel policies for assignments, tour lengths and other elements. Specific combat/noncombat personnel requirements should be established, and thought should be given to the implications of having a significant number of active duty personnel in the force with statutory combat restrictions.

Further, there needs to be a ruling on the procedures to be used in the event of a draft: After classification, should there be two lists of eligibles prepared, one for combat-qualified personnel and the other for those physically/mentally qualified for other than combat positions? If this were done, women and those men not qualified for combat positions would still have the opportunity to be called on in a time of national emergency. Many in the noncombat group have skills and abilities that could be valuable to the security of the Nation in a national emergency.

The issue of use of women after mobilization and development of complementary draft-eligible listings should properly be addressed before mobilization, but after the implementation of the basic mobilization systems. Not all men can serve in combat. This is not necessarily a reason why they should not be included on the draft-eligible listings for other than combat requirements, with separate draft calls for each category depending on the requirements on the Nation.

The issue has been looked at in terms of the peacetime environment in which the Defense Department, indeed the Nation, is currently operating. We have to look to the future, to the type of catastrophic national emergency under which Congress would authorize the President to induct young people to meet our manpower requirements in mobilization. How can we be certain that we can afford to ignore the capabilities of half our population in such an emergency? How can we be certain that the next war will be like the last one, or the one before that?

To exclude the involuntary service of women out-of-hand would be imprudent. At the very least, the Defense Department should be required to provide detailed plans and programs for the induction and use of women, along with noncombat-qualified males, in a national mobilization effort. Only then will Congress be able to determine if this valuable resource should be ignored in maintaining the security of the Nation.

Mrs. KASSEBAUM. Mr. President, I am appreciative of——

The PRESIDING OFFICER. Will the Senator from Kansas suspend momentarily? There will be order in the Senate.

The Senator may proceed.

Mrs. KASSEBAUM. Mr. President, I am appreciative of the support that I have had on this amendment in order to have a debate on this issue, because I do feel that it is an important one and I think a number of Senators do also.

Registering women as well as men is a matter of simple commonsense and equity. The number of women in the armed services has increased dramatically in recent years, and they now comprise over 8 percent of our military manpower. This number is expected to grow to 12 percent by 1985. By all accounts, women in the service are performing well and are making significant contributions to our defense capability. In the event of mobilization, women as well as men will be needed—just as they have been needed in past conflicts.

In mentioning the need for women in the service, I want to make it clear from the outset that I am not talking about placing women in combat positions. President Carter, Defense Secretary Brown, the Joint Chiefs of Staff, and the NATO Commander, General Rogers—all of whom have endorsed the inclusion of women under registration—are not talking about women in combat. In the past, women have served in key noncombat positions; and they have done so because they were qualified to do the job.

To place the combat issue is perspective, we should keep two things foremost in mind. One, the nature of the military today is such that—even with current restrictions against women in combat—there are few occupational specialities within the services from which women are excluded.* Second, efforts to link the questions of registering women and placing them in combat involve an insupportable leap in logic. The recent graduation of the first women to enter the service academies calls to mind that an attempt was made during debate over admitting women to link the academy and combat issues. Congress correctly rejected the idea that these concepts are linked.

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*Number of occupational specialities closed to women by service: Army: 22 of 345. Air Force: 4 of 230. Navy: 16 of 99. Marines: 4 of 38.

It is significant, I feel, that a Selective Service report issued this January included assumptions regarding the number of women who would be needed within the first 6 months of mobilization. This is an illustration of the extent to which women have become accepted as an important feature of our defense establishment. It certainly represents an important step forward in planning efforts as compared with those in the past. Numerous examples exist of past failures to acknowledge that women as well as men would be needed to meet defense requirements. In hearings before the House Armed Services Committee, Maj. Gen. Jeanne M. Holm offered a striking example of this type of planning failure in World War II in noting that:

> The Army could not make up its mind how many women they wanted or could use. First, they decided to take 25,000 but then discovered they could use 1.5 million but reluctantly realized that they could not get that many without a draft, so they settled for 150,000 within a year only to find that that was also unrealistic.

Given the growing role of women in the military, I do not feel we can continue to deny the contributions of women by excluding them from registration.

Perhaps even more important, is the fact that women should not be excluded from participating in a process which represents commitment to our Nation and its principles. Whether or not registration effectively enhances our military mobilization capability, this concept of commitment is crucial. Registration instills a sense of responsibility and awakens young people to the necessity for active involvement in the political process. This is true for both men and women. Failure to include women will lead only to divisiveness at a time when the development of a national unity is essential.

I feel strongly that the Senate must address this issue now. House Joint Resolution 521 provides us with the best opportunity for full floor consideration of the registration issue by this Congress. I recognize that we will need to act later to amend the authorizing legislation in order to assure that women will not be left out of the registration process, and I feel we can and should act quickly in doing so. In the meantime, we risk doing more harm than good by disregarding this crucial issue of equity at this time.

Again, I want to emphasize that equity is the key issue which my amendment addresses. The question before us is not "Should there be a peacetime draft?" The question is not even, "Should anyone—male or female—be registered?" The issue of registration is the one we will address when we have an up and down vote on the joint resolution itself, and that vote will reflect the feelings of this body as to the registration question.

What we are considering now is simply: "If we are to have a system of registration, should we or should we not apply it equitably to men and women?" I strongly believe that the establishment of a registration process which ignores this basic question of equity and which disregards the need to include young women as full participants in our society is ill-advised, divisive, and possibly counterproductive.

Mr. WARNER. Mr. President, I rise in opposition to the amendment of my distinguished colleague from Kansas. As a member of the Senate Armed Services Committee's Subcommittee on Manpower and Personnel and also as a lawyer, I have taken considerable interest in this issue. I have taken a special interest because I firmly support this Nation moving toward a goal of striking down inequities between men and women in all phases of life, save one: the military. And why do I take that position?

Mr. President, if we go back in history, this Nation has never intentionally sent women into combat situations. I do not foresee across the Nation any mood or any reason for a change in that time-tested, historical precedent.

Were my distinguished colleague successful in establishing by law equity as she so strongly suggests, equity as a principle, and thereby require both men and women to be subjected equally to any registration, my judgment as a lawyer and as a Senator is that that would be the first step toward the Federal court system providing for equity throughout the military career of a woman.

I think my colleague would agree that presently in the military, in accordance with the long-tested practice of the United States, there is discrimination by which, from the Commander in Chief on down to subordinate commanders, military commanders are permitted to make personnel assignments based on gender. Women are prohibited from performing certain functions in the military and are prohibited from certain assignments—most notably combat assignments.

Now, if the Federal court were to determine that Congress, speaking for the people, is reversing this time-tested principle and establishing as the first step in the military career, namely, draft registration equality, then the courts would be hard put at some later phase in the military career to reimpose inequality such that a commander's discretion to exclude women from combat would continue.

That is the reason that I rise in opposition to my colleague's amendment.

Again, in short, it is my deep concern that the Federal court system will determine that the Congress has expressed, in accordance with the Senator's very persuasive argument, that at long last equity should be established in a military career between men and women.

It starts with registration and, therefore, it cannot be reimposed at any point throughout a military career, and that will provide a basis for the Federal courts to strike down a long line of decisions whereby a Commander in Chief and subordinate commanders have precluded women from serving in combat positions.

Mr. President, I yield to the distinguished Senator from Kansas who wishes to reply to my question.

Mr. JAVITS addressed the Chair.

Mrs. KASSEBAUM. If the Senator from New York will allow me just a minute, I would like to respond briefly to the Senator.

The PRESIDING OFFICER. Would the Senator suspend momentarily?

The Senator from Virginia may yield for a question only.

Mr. WARNER. That is right. I am yielding to the Senator from Kansas for the purpose of a question.

Mrs. KASSEBAUM. Will the Senator yield for a question.

Mr. WARNER. Yes.

Mrs. KASSEBAUM. Because I think this raises a point that is really not germane to this argument.

We are not talking about combat. As a matter of fact, it has been determined the courts defer to Congress when and if we would have an issue before us of draft registration and then that would be, as has been determined in the past, excluded from women's participation.

I feel that, really, this is not the heart of this issue because I think commonsense and good judgment will prevail, if and when we would have that issue, in the fact that we would draft to a need and that could not even become an issue that the courts would decide.

Mr. WARNER. Yes. But that kind of a situation would be sure to bring a court suit where some young man would bring suit saying that he is being forced into combat unfairly while women are exempted to some degree. He will argue that he was registered and drafted on a coequal basis, and therefore he thinks it is inequitable to be forced into combat when women are not sent to combat because of discrimination, quite frankly.

So I say to the Senator, if the Congress speaks to this issue and makes a law which treats men and women equally for purposes of registration, there is the danger that the Federal courts will construe that as being the first step in a military career and thereby striking down the right of the Commander in Chief, as it now is exercised under court decision, to practice discrimination and exclude women.

Mrs. KASSEBAUM. I would like to point out to the Senator from Virginia that, indeed, it was the subcommittee of the Armed Services Committee that said the courts would defer to a decision of Congress at that time when we were debating a draft registration issue.

Mr. WARNER. But Congress cannot decide for purposes of registering for the benefit of draft, for the benefit of boot camp, to have equality and then all of a sudden arbitrarily stop equality, or equity as the Senator has said, at some point, and then only men go forward.

Mrs. KASSEBAUM. As I say, I do not believe this is the issue now because it is something that would be determined where there would be a need.

That, I think, would hold precedence if and when we would be discussing conscription.

Mr. WARNER. I yield to the Senator for the purposes of a question.

Mr. JAVITS. I need the floor on my own time, unless I can get unanimous consent to be yielded to and use my own time.

The PRESIDING OFFICER. I say to the Senator from New York that the Senator from Michigan was on his feet at an earlier stage before the Senator from New York. The Senator from Virginia at this moment still has the floor.

Mr. WARNER. Mr. President, I will momentarily yield the floor. First, however, I would like to read to my colleagues the report of the Subcommittee on Manpower and Personnel of the Senate Armed Services Committee on the rejection of legislation requiring the registration of women.

The report is as follows:

REPORT OF THE SUBCOMMITTEE ON MANPOWER AND PERSONNEL ON THE REJECTION OF LEGISLATION REQUIRING THE REGISTRATION OF YOUNG WOMEN UNDER THE MILITARY SELECTIVE SERVICE ACT

The Subcommittee rejected a proposal to require the registration of young women under the Military Selective Service Act.

Mindful of the Congress' constitutional duty under Article I, section 8, "to raise and support Armies," to "provide and maintain a Navy," and "to make Rules for the Government and Regulation of the land and naval Forces," the committee has carefully analyzed deficiencies in our mobilization capabilities. The Committee has expressed its serious concern over manpower problems that are so severe that the Military Services are not now capable of meeting our national security requirements in terms of manpower in the event of mobilization. Peacetime registration will solve some, but not all, of these problems.

In 1979 the Committee reported a bill (S. 109) mandating peacetime registration of males. President Carter, in his State of the Union Address in January 1980, recognized the need for registration to improve our defense posture. The issue of whether women should be registered became a dominant part of this discussion, confusing the real military issues. The Subcommittee on Manpower and Personnel held several additional hearings in 1980 on the registration plan presented by the President, on the question of including women in the plan, and on the military issues involved in registration and conscription. The Committee remains convinced that registration is vitally necessary and that women should not be included in any registration and induction system. This judgment is based upon the Committee's assessment of the military needs of the nation, and its comprehensive study of the registration issue. It is also based on the Committee's assessment of the societal impact of the registration and possible induction of women.

In the Committee's view, the starting point for any discussion of the appropriateness of registering women for the draft is the question of the proper role of women in combat. The principle that women should not intentionally and routinely engage in combat is fundamental, and enjoys wide support among our people. It is universally supported by military leaders who have testified before the Committee, and forms the linchpin for any analysis of this problem. History gives examples of women who fought alone and with men during past periods of strife. Women have defended themselves against attack and have been inadvertently drawn into combat activities in defense of their country. Although such examples exist, throughout history women have not regularly participated in combat and no society has ever relied on conscription of women primarily for combat roles. Current law and policy exclude women from being assigned to combat in our military forces, and the Committee reaffirms this policy. The policy precluding the use of women in combat is, in the Committee's view, the most important reason for not including women in a registration system.

Registering women for assignment to combat or assigning women to combat positions in peacetime then would leave the actual performance of sexually mixed units as an experiment to be conducted in war with unknown risk—a risk that the Committee finds militarily unwarranted and dangerous. Moreover, the Committee feels that any attempt to assign women to combat positions could affect the national resolve at the time of mobilization, a time of great strain on all aspects of the Nation's resources.

Women now volunteer for military service and are assigned to most military specialties. These volunteers now make an important contribution to our Armed Forces. The number of women in the military has increased significantly in the past few years and is expected to continue to increase. Only 6 percent of the enlisted skills in the Army are closed to women as a result of the exclusion of women from combat. But these include infantry specialists, armor specialists, combat engineers and positions in field artillery and air defense.

It is in these skills, and more specifically in the very large number of positions needed to be filled in infantry and armor skills, where mobilization manpower is so severely short. It is also these skills that are most difficult to recruit for during peacetime. The Personnel Chiefs of the Army and Marine Corps, for example, testified that it is in these combat skills where the All-Volunteer Force has failed to supply sufficient recruits, and where current strengths of combat units is often woefully inadequate. In peacetime, although only 6 percent of Army enlisted skills are closed to women, fully 42 percent of all billets filled by enlisted personnel in the Army are in specialties, skills or units not available to women. These incude non-combat positions in close support units that could come under enemy fire.

All the Military Services testified at length about their mobilization plans, and the place of women in those plans. Both the civilian and military leadership agreed that there was no military need to draft women. Because of the combat restrictions, the need would be primarily for men, and women volunteers would fill the requirements for women. The argument for registration and induction of women, therefore, is not based on military necessity, but on considerations of equity. The Army and the Marine Corps testified that because of present shortages in combat arms and the nature of the emergency situation envisaged, the primary need is for combat replacements from the induction system. Selective Service plans provide for drafting only men during the first 60 days, and only a small number of women would be included in the total drafted for the first 180 days.

In addition, there are other military reasons that preclude very large numbers of women serving. Military flexibility requires that a commander be able to move units or ships quickly. Units or ships not located at the front or not previously scheduled for the front nevertheless must be able to move into action if necessary. In peace and war, significant rotation of personnel is necessary. We should not divide the military into two groups—one in permanent combat and one in permanent support. Large numbers of non-combat positions must be available to which combat troops can return for duty before being redeployed.

It is also clear that an induction system that provided half men and half women to the training commands in the event of mobilization would be administratively unworkable and militarily disastrous. It has been suggested that all women be registered, but only a handful actually be inducted in an emergency. The Committee finds this a confused and ultimately unsatisfactory solution.

First, the President's proposal does not include any change in section 5(a) (1) of the Military Selective Service Act, which requires that the draft be conducted impartially among those eligible. Administration witnesses admitted that the current language of the law probably precludes induction of men and women on any but a random basis, which should produce roughly equal numbers of men and women. Second, it is conceivable that the courts, faced with a Congressional decision to register men and women equally because of equity considerations, will find insufficient justification for them inducting only a token number of women into the Services in an emergency. Indeed, it is hard to see how the equity which is the aim of advocates of an equal registration system is achieved by a system under which a vastly larger number of men than women would actually be called to duty. If the Congress were to mandate equal registration of men and women, therefore, we might well be faced with a situation in which the combat replacements needed in the first 60 days—say 100,000 men—would have to be accompanied by 100,000 women. Faced with this hypothetical, the military witnesses stated that such a situation would be intolerable. It would create monumental strains on the training system, would clog the personnel administration and support systems needlessly, and would impede our defense preparations at a time of great national need.

Other administrative problems such as housing and different treatment with regard to dependency, hardship and physical standards would also exist.

Finally, the Committee finds that there are important societal reasons for not changing our present male-only system of registration and induction. The question of who should be required to fight for the Nation and how best to accomplish that end is a social issue of the highest order, with sweeping implications for our society.

In addition to the military reasons, which the Committee finds compelling, witnesses representing a variety of groups testified before the Subcommittee that drafting women would place unprecedented strains on family life, whether in peacetime or in time of emergency. If such a draft occurred at a time of emergency, unpredictable reactions to the fact of female conscription would result. A decision which would result in a young mother being drafted and a young father remaining home with the family in a time of national emergency cannot be taken lightly, nor its broader implications ignored. The Committee is strongly of the view that such a result, which would occur if women were registered and inducted under the Administration plan, is unwise and unacceptable to a large majority of our people.

In concluding that a registration and induction system involving only male citizens is the best course to ensure the country's preparedness and its ultimate ability to protect itself, the Committee was mindful of arguments made by some critics of registration that the Constitution requires both men and women to be treated equally. The argument rests on an interpretation of the principle of equal protection that would mandate an equal sharing among men and women of the burden of registration and conscription. The Committee has carefully considered constitutional arguments raised in detailed statements from opponents of a male-only registration and induction system.

In the Committee's view, the arguments for treating men and women equally—so compelling in many areas of our national life—simply cannot overcome the judgment of our military leaders and of the Congress itself that a male-only system best serves our national security. The Supreme Court's most recent teachings in the field of equal protection cannot be read in isolation from its opinions giving great deference to the judgment of Congress and military commanders in dealing the management of military forces and the requirements of military discipline. The Court has made it unmistakably clear that even our most fundamental constitutional rights must in some circumstances be modified in the light of military needs, and that Congress's judgment as to what is necessary to preserve our national security is entitled to great deference.

The Committee took note of an opinion by the Justice Department analyzing the legal issues and concluding that male-only registration is constitutionally defensible. In addition, the Committee's own General Counsel, the Congressional Research Service and several independent legal scholars furnished the Committee with opinions supporting the constitutionality of male-only registration. These documents, along with the opposing views, are reprinted in the Committee's hearings on this matter.

Therefore, while taking seriously the constitutional arguments raised by opponents of a male-only system, the Committee concludes that there is no constitutional impediment to the exclusion of women from registration and induction, and based on the following specific findings rejects the proposal to register women. Further, for the reasons outlined above, the Committee concludes that peacetime registration of men is necessary.

SPECIFIC FINDINGS

(1) Article I, section 8 of the Constitution commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and makes rules for government and regulation of the land and naval forces, and pursuant to these powers it lies within the discretion of the Congress to determine the occasions for expansion of our armed forces, and the means best suited to such expansion should it prove necessary.

(2) An ability to mobilize rapidly is essential to the preservation of our national security.

(3) A functioning registration system is a vital part of any mobilization plan.

(4) Women make an important contribution to our national defense, and are volunteering in increasing numbers for our armed services.

(5) Women should not be intentionally or routinely placed in combat positions in our military services.

(6) There is no established military need to include women in a selective service system.

(7) Present manpower deficiencies under the All-Volunteer Force are concentrated in the combat arms—infantry, armor, combat engineers, field artillery and air defense.

(8) If mobilization were to be ordered in a wartime scenario, the primary manpower need would be for combat replacements.

(9) The need to rotate personnel and the possibility that close support units could come under enemy fire also limits the use of women in non-combat jobs.

(10) If the law required women to be drafted in equal numbers with men, mobilization would be severely impaired because of strains on training facilities and administrative systems.

(11) Under the Administration's proposal there is no proposal for exemption of mothers of young children. The Administration has given insufficient attention to necessary changes in Selective Service rules, such as those governing the induction of young mothers, and to the strains on family life that would result from the registration and possible induction of women.

(12) A registration and induction system which excludes women is constitutional.

Mr. President, I ask unanimous consent to have printed in the Record the Yale University letter of May 2, 1980, addressed to Senator Nunn. That letter addresses the issue women and conscription and is signed by three distinguished professors of law at the Yale Law School.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Yale University Law School,
New Haven, Conn., May 2, 1980.

Hon. Sam Nunn,
Committee on Armed Services,
U.S. Senate, Washington, D.C.

Dear Senator Nunn: We are glad to respond to your request for our opinion on the constitutionality of conscription limited to men. This letter will not consider whether the United States should restore the draft at this time, or whether it is wise policy to draft men without drafting women. It will be confined to the question whether recent judicial rulings on equality between the sexes under the Constitution—or, indeed, the possible ratification of the Equal Rights Amendment—would prevent Congress from drafting men for the armed forces without also drafting women.

We conclude that it is and will continue to be possible for Congress to conscript men, or women, or both men and women, in the exercise of its constitutional discretion to raise and support the armed forces it deems necessary and proper to defend the interests of the nation. If Congress should decide that the conscription of men is an appropriate way to create the kind of armed forces the United States requires to deal with threats to its security, as Congress perceives those threats, no court could challenge its decision. Under the Constitution as it stands, and under the Equal Rights Amendment, if it should be ratified, Congressional decisions of this order are "political questions" entrusted by the Constitution to the judgment of Congress. In such instances, the sole restraints which protect the people against the abuse of authority, as Chief Justice Marshall remarked of a related Constitutional power, that of declaring war, are "the wisdom and the discretion of Congress, their identity with people, and the influence which their constituents possess at elections."

The ultimate test for law, Justice Holmes often pointed out, is that it makes sense—makes sense, he carefully insisted, in terms of what is regarded as just and convenient by a particular culture at a particular stage in its historical development. To understand law, Holmes wrote:

"Other tools are needed besides logic. It is something to show that the consistency of the system requires a particular result, but it is not all. The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed."

In the perspective of Holmes' standard, the question whether Congress can raise military forces by conscripting men of a certain age answers itself. Those who wonder whether conscripting men without conscripting women would violate modern constitutional rules about the equal dignity of men and women are simply pressing precedent beyond the boundaries of logic and good sense. Recent judicial decisions on the subject rightly demand punctilious equality between men and women in systems of education and social security, for example, and in various administrative arrangements of the military establishment where the situation of men and women is in fact the same. But the considerations of policy governing those cases cannot be applied mechanically to the altogether different problem of organizing, training, and using the armed forces in combat.

The duty and power of Congress "to raise and support" a military establishment are its ultimate responsibilities. In the end, the survival of the Republic depends upon the skill, leadership, and spirit of its armed forces. Now, as always, they are the foundation of the state. In the exercise of its constitutional authority, Congress must determine what kind of armed forces are needed to defend the vital interests of the United States, both by deterring war and, if deterrence fails, by winning it.

Like every other power under the Constitution, the war power is subject to a number of constitutional limitations, some enforced by the courts, and others by custom and by the political process.

Analysis of the question you have posed should begin with two related axioms the Supreme Court has invoked several times in discussing the constitutional character of the war power. The first is that "the war power is the power to wage war successfully", in the telling words of Chief Justice Hughes. The second is Justice Goldberg's comment that the Constitution "is not a suicide pact". These twin axioms color the interpretation of every aspect of the war power.

That being said, it is equally axiomatic that the war powers of Congress and of the President are to be read with and limited by the other provisions of the Constitution. The signers of this letter are firm advocates of the view that the war powers of Congress and of the President are subject to constitutional scrutiny by the courts in appropriate cases and by Congress and by public opinion in all cases.[1]

One class of constitutional limitations on the exercise of the war power is represented by Ex parte Milligan, 71 U.S. (4 Wall.) 2 (1866), and Reid v. Covert, 354 U.S. 1 (1957), two decisions of supreme importance in maintaining the balance between the civil and the military power. Those cases struck down as unconstitutional laws under which civilians were tried by military tribunals. There is little challenge nowadays to the proposition that civilians be tried in civil courts and not before courts-martial or military commissions when—in the opinion of the courts—it is possible for the courts to function.[2]

Gillette v. United States, 401 U.S. 437 (1971), represents another familiar and important constitutional problem with respect to the powers of Congress over the military system. In that case, the Supreme Court rejected the claim that it was unconstitutional for Congress to exempt from military service only those who by reason of religious training and belief are conscientiously opposed to participation in war in any form. One of the appellants in Gillette objected to participation in the Vietnam conflict because of his "humanist approach to religion", the other, a devout Catholic, because he thought the Vietnam war was an "unjust war" under Catholic doctrine. Neither appellant would refuse to serve in wars he considered wars of national self-defense or otherwise "just" wars. Both appellants relied inter alia on the establishment clause of the First Amendment, objecting to the preference granted by statute to conscientious objectors whose views were based on religious belief.

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[1] See E. V. Rostow, *The Japanese American Cases—a Disaster*, 54 Yale Law Journal 489 (1945).

[2] It must be conceded that Korematsu v. United States, 323 U.S. 214 (1944), and Ex parte Quirin, 317 U.S. 1 (1942), qualify the force of this generalization.

However illogical it may be to distinguish between those who are conscientious objectors to war on the basis of religious belief and those who are pacifist by non-religious philosophical conviction, and between those who object to all war rather than to a particular war, the Supreme Court upheld these distinctions as well within the discretion entrusted to Congress by the Constitution. As earlier cases had indicated, exemption from the obligation of military service is a matter of grace so far as Congress and the Constitution are concerned—a "happy tradition", in the words of Chief Justice Hughes—and not a matter of constitutional right. Hamilton v. Regents of the University of California, 293 U.S. 245 (1934), United States v. Macintosh, 283 U.S. 605 (1931). And the overriding imperatives of military necessity, as declared by Congress, would have made any other rule for conscription hopelessly complex, and perhaps unworkable.

II

The Gillette case is in itself sufficient modern precedent to sustain the constitutionality of a conscription program confined to men. After all, discrimination based on religion is quite as dubious constitutionally as discrimination based on sex. We shall, however, also consider some of the recent cases on discrimination between men and women much discussed by opponents of the draft. We do not believe that the recent development of constitutional law represented by those cases weakens Congress' power to enact a draft which would conscript men without conscripting women. The Equal Rights Amendment, if ratified, would not alter this conclusion.

Much has been made of the announcement of new tests to be used in determining the constitutionality of gender based distinctions under the Fifth and Fourteenth Amendments. Discrimination by gender is a "suspect classification", it is said, and courts will no longer be satisfied by a showing that there is a "rational basis" for a Congressional decision to draft men without drafting women. Such a decision by Congress should be upheld only if the government meets a heavy burden of proof and satisfies the courts after "strict scrutiny" that "compelling" governmental interests justify the decision of Congress.

It is doubtful in our view whether these contrasting formulae have real rather than symbolic legal significance. But the issue is irrevelant to the problem addressed in this letter. A Congressional decision to conscript men but not women would be upheld under the most severe and suspicious version of the constitutional test. The issue is rooted in the nature of the problem of organizing military forces capable of victory under contemporary circumstances. The case for conscripting men only would overcome any burden of proof, however phrased.

In order to examine the question in terms of Holmes' thesis quoted at the beginning of this letter, we start with the proposition that American society today will not consider drafting women for combat service. Whether this conviction is a moral judgment or a prejudice, a "felt necessity" or an echo of earlier, chivalric beliefs about the proper role of women in life, the existence of the belief is a fact reflected in statutes no group in Congress would now change, and no court would declare unconstitutional.[8]

Under the statutes women cannot be assigned to combat duty. It follows that when and if Congress decides to resume conscription, it will face a simple mathematical problem. In order to raise armed forces large enough to deter and if necessary defeat the formidable military establishment of potential enemies, a considerable call-up of men would be necessary. If the Constitution should be interpreted to require Congress to treat men and women alike in the draft, Congress would have to draft far more women than it needs to staff non-combat jobs in the military. As a result, the equal drafting of men and women would cause great and unnecessary disruption to no purpose that could not be served better by the enlistment of women in appropriate numbers for non-combat service.

Thus the essential problem faced by Congress in deciding whether to draft men but not women is altogether different from the policy considerations which led to the laws and regulations reviewed in cases like *Frontiero* v. *Richardson*, 411 U.S. 677 (1973). That case held unconstitutional a statute which provided that for the purpose of obtaining increased quarters allowances and medical and dental benefits, a serviceman may claim his wife as a dependent whether or not she is in fact dependent, whereas a servicewoman may not claim her husband as a dependent under these programs unless he is in fact dependent on her for more than half his support. The difference in treatment of men and women was unconstitutional, the court ruled, although a majority could not agree on a rationale for the judgment. Clearly, both on the record and beyond the record, there was no evidence of a governmental interest which might explain or justify the difference in treatment beyond shadowy reasons of habit. In this, *Frontiero* was like *Reed* v. *Reed*, 401 U.S. 71 (1971), which held unconstitutional an Idaho statute preferring men over women in the appointment of administrators of estates. No ground was advanced to persuade the Court that the statutory preference rested on any ground more cogent than the notion that "women's place is in the home."

Owens v. *Brown*, 455 F. Supp. 291 (D. Col., 1978), illustrates the way in which the issue presented to us for comment would (and should) be handled by the courts. *Owens* dealt with the constitutionality of a statute barring the assignment of female personnel in the Navy to duty on vessels other than hospital ships and transports. The statutory provision had been added to the bill without discussion in 1948, and had not been proposed by the Defense Department. The Court fully recognized the deference it owed to decisions derived from the discretion of the Congress and the President on complex matters of military judgment. But this case did not concern "the validity of a statute that precluded women from being considered for combat shipboard assignments. (455 F. Supp. at pp. 306–307). In such an event, the Court said, the defendant's line of reasoning would have force. The rationale behind the statute involved in *Owens'* was obscure; no persuasive governmental interests had been advanced in its support; the Court concluded that the statute was overboard and discriminatory in hampering the careers of women in the Navy as compared with men, without contributing significantly to efficiency, morale, or discipline.

Some military regulations which discriminate between men and women have been upheld.

Of these, the most important is *Schlesinger* v. *Ballard*, 419 U.S. 498 (1975). There the Supreme Court approved a statute providing different rules for men and women in the Navy with respect to mandatory discharge for failure to earn promotion. At that time, male line officers in the Navy were discharged if they were not promoted within nine years. Women officers were given thirteen years before discharge for failure of promotion. The Court upheld the difference in treatment as constitutional. The Court said:

"In both *Reed* and *Frontiero* the reason asserted to justify the challenged gender-based classifications was administrative convenience, and that alone. Here, on the contrary, the operation of the statutes in question results in a flow of promotions commensurate with the Navy's current needs and serves to motivate qualified commissioned officers to so conduct themselves that they may realistically look forward to higher levels of command. This Court has recognized that "it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise." *Toth* v. *Quarles*, 350 U.S. 11, 17. See also *Orloff* v. *Willoughby*, 345 U.S. 83, 94. The responsibility for determining how best our Armed Forces shall attend to that business rests with Congress, see U.S. Const., Art. I, § 8, cls. 12–14, and with the President. See U.S. Const., Art. II, §2, cl. 1. We cannot say that, in exercising its broad constitutional power here, Congress has violated the Due Process Clause of the Fifth Amendment."

Another typical instance of such a result is *Campbell* v. *Beaughler*, 519 F. (2d) 1307 (C.A. 9th, 1975). There the Ninth Circuit upheld a Marine Corps regulation prescribing different rules for men and women with regard to hair styles and wigs. The regulation was justified, the Court said, by the necessities of combat and combat training. Those necessities do not apply to women Marines, who do not train for combat.

So far as the issue considered in this letter is concerned—the drafting of men without drafting women—it is difficult to imagine any way in which the reasoning of the recent Supreme Court decisions would be altered by the ratification of the Equal Rights Amendment. Section 1 of the Amendment provides that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." That provision could hardly be interpreted to invalidate the statutes which now forbid the assignment of female military personnel to combat. But, as we have seen, the conviction that women should not be compelled to engage in armed combat is the heart of the matter, so far as the pattern of draft legislation is concerned.

III

We can see no constitutional obstacle to the proposition that Congress may enact laws providing for the conscription of men for military service without conscripting women. The conflicting interests Congress must balance in making this fundamental judgment cannot be compared to those at issue in cases dealing with gender based discrimination in welfare systems, the administration of estates, establishing the age at which people may drink liquor in public, or the other controversies which have been litigated.

Yours sincerely,

Joseph W. Bishop, Jr.
Robert H. Bork.
Eugene V. Rostow.

The signers of this letter are Professors of Law at the Yale Law School.

Mr. WARNER. I yield the floor, Mr. President.

Mr. JAVITS. Mr. President, may I ask the Senator from Michigan a question?

Mr. LEVIN. I am happy to yield 5 minutes to the Senator from New York.

Mr. JAVITS. I thank the Senator.

Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I am moved to respond to the point just made by Senator Warner in this way, that I think it would be very difficult to apply in the courts the doctrine he uses, because not everybody is assigned to combat if one is a man. One might be assigned to a typewriter, or an adding machine, or numerous other noncombat activities.

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[8] An aberrant case to the contrary was quickly overruled. United States v. Reiser, 394 F. Supp. 1060 (D. Mont., 1975), reversed, 532 F. 2nd 673 (C.A. 9th, 1976).

It seems to me that it is well within the power of the Commander in Chief to determine what will be one's duties once one is in the Armed Forces.

Women should not be in combat. They will not be in combat, and no court will make any Commander in Chief put them in combat any more than the court can make some Commander in Chief put a new recruit into combat.

But, be that as it may, Mr. President, I think that answers the question.

I would like to ask the author of the amendment a question.

There are women in this country who have a conscientious objection to registering at all, even under this law, under which my colleague would qualify them.

By the way, I support her fully and will support this amendment.

But I would like to get one legal question settled, as there is this conscientious objection on the part of some women. I am speaking of orthodox Jewish women. In many cases, they will be unable to accommodate their objection by checking the box originally—but no longer—in this bill, because they have to register to check the box.

So I ask my colleague this, under section 453 of title 50 of the United States Code, War and National Defense, the provision to which I refer relates to actual registration which the President has the power to impose.

Let us remember, all we are doing here is dealing with an appropriation.

That gives the President such power, that is, relating to registration, that calls for registration at such time or times, and place or places, and in such manner as shall be determined by proclamation of the President and by rules and regulations prescribed thereunder.

Therefore, is it the legislative intent of my colleague from Kansas that the President may decide that under rules and regulations which he has the power to make, once registration is affixed, this particular group of women, or whatever of them choose to avail themselves of it, may be excused from registration altogether; will the President continue to have that power under this amendment? Also, would the Senator support an appropriate amendment at a later time the resulting condition of which would be to accomplish making section 453 appropriate to the registration of women?

Mrs. KASSEBAUM. Mr. President, I respond to those questions of the Senator from New York by saying yes, certainly, I would regard that as the intent of the legislation, that the President continues to have the power he does now on this.

Mr. JAVITS. I thank my colleagues.

Mr. WARNER. Will the Senator yield for a question?

Mr. JAVITS. Yes.

Mr. WARNER. I refer to this provision which I am informed applies only to men. Perhaps this issue can be clarified by my distinguished colleague.

Mr. JAVITS. I think what I am trying to ascertain is this, once this amendment is passed, it would have to apply to women, as well, if it is passed.

Mr. WARNER. As drafted by the Senator from Kansas, I do not believe that it would change.

Mr. JAVITS. I thank my colleague.

If that is the view of the staff and if this amendment passes, I will take a good hard look at it and an appropriate amendment will be required at a later time making the same provision for women as for men in section 453.

Mr. WARNER. I expressed it as my view, although I have the benefit of counsel here.

Mr. JAVITS. Yes. That is very important, because it is a matter of first impression to me.

Mr. WARNER. As my distinguished colleague will note, because of his statement to that effect, does the Senator feel that the Federal courts would not turn aside the longstanding precedent of excluding women from combat? What is it that my colleague feels is now the basis on which the Commander in Chief excludes them from combat?

Mr. JAVITS. I think it is competence and fitness for combat. The Commander in Chief cannot be ordered by any court. That is his judgment.

Mr. WARNER. Right now, based upon my interpretation of the rulings of the Supreme Court of the United States, the Court has held that, under the Constitution of the United States, the power to establish the President and the Congress have the power to establish rules providing discrimination, such that only men go into combat. The Court's interpretation of the Constitution gives the President and Congress jointly that power, which literally has been the law of the land for over 200 years.

My concern is that if we take the first legislative initiative in our history to provide for equity between men and women at the first step in their military careers, the Federal court system will say "Equity at the beginning, equity throughout."

Mr. JAVITS. I am sorry—I do not go with the Senator on that. I believe that the power of the Commander in Chief would continue in that case for women as it would for men.

Mr. WARNER. At what point, then, in the military career, in the Senator's judgment, could the President reimpose discrimination?

Mr. JAVITS. He is a commander. It is not a discrimination. I have given the Senator an example. Does everybody go into combat who is a man?

Mr. WARNER. No, but right now——

The PRESIDING OFFICER. The Senator from New York has used 6 minutes of his time.

Mr. JAVITS. I yield myself 1 additional minute.

Mr. WARNER. At this time, the practice of discrimination is solely on the basis of sex, as to who can qualify to go into combat positions and who cannot. Some men cannot for example, measure up to the arduous requirements for combat and for that reason do not qualify. They, by virtue of failing to qualify, become ineligible to go into combat.

Mr. JAVITS. Is the Senator contending that a court can make a Commander in Chief designate certain men for combat and make the judgment that they do qualify for combat?

Mr. WARNER. I contend that the court could require the Commander in Chief to give each man equal opportunity to qualify for combat. The President exercises that discretion now, within the framework of rules controlling only men; but if we establish a legislative precedent treating women equally, the President would likely lose his discretion by Federal court rulings.

Mr. JAVITS. That is what Senator KASSEBAUM is contending for—that he should have the same power over women that he has over men. We are confident that they will not be sent into combat.

Mr. WARNER. On what basis?

Mr. JAVITS. On the basis of the wisdom of it and our particular views about it, and the general views of the country.

Mr. WARNER. I am certain that there are women who will go into training and who can qualify, by virtue of their skills and their determination, to fight alongside men in combat—and fight as well, if not better.

Mr. JAVITS. We are not arguing that issue. The issue is, will they be assigned? The issue is not what they want or like.

Mr. WARNER. On what basis can the Commander in Chief then say to a woman who is capable of training and volunteers to go into combat—on what basis can the Commander in Chief say, "No"?

Mr. JAVITS. From the point of view of the morale of the Armed Forces, he considers it inadvisable. That is his judgment.

Mr. WARNER. For the morale?

Mr. JAVITS. What I am saying to the Senator is that I do not see what is to compel the Commander in Chief to act.

Mr. WARNER. A Federal court ruling that Congress has determined that there shall be equity between men and women throughout their military careers, and that means from the beginning to the end.

Mr. JAVITS. I do not agree with the Senator in that at all. I do not believe that the Federal courts will take that authority over a judgment of the President.

Mr. WARNER. A judgment based on what fact?

Mr. JAVITS. If the Senator will do this on his own time——

Mr. WARNER. Mr. President, I do this on my own time. I will take the questions on my time.

Mr. JAVITS. Based upon the organization of the military forces of the country and what is best for them—that is all I am saying.

The Senator from Virginia is contending that that judgment can be made by a court; and I feel that when it comes to men and women, it will not be. That is a matter of my judgment, too. Vive la difference—that is the difference.

Mr. WARNER. I thank the Senator.

Mr. GOLDWATER. Mr President, will the Senator yield?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. JAVITS. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan has been on his feet for some time. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I am a cosponsor of this amendment with the Senator from Kansas (Mrs. KASSEBAUM), and I should like to respond to the Senator from Virginia.

He said that if we provide for the registration of women, a Federal court is going to order that women go into combat. I do not know of any opinion which supports that.

This recommendation came from the President of the United States. Presumably, it is based upon the advice of the Attorney General of the United States. I do not know of any court opinion, I do not know of any legal opinion of a lawyer, private or public, which supports the position of the Senator from Virginia that if the Senate of the United States decides that it wants to register women, somehow or other that is going to require that women go into combat.

I remind the Senator from Virginia that the same arguments were made and Congress lifted the prohibition on women going to the military academies. The same argument was made: If you allow women in the military academies, let the women go to West Point and the Naval Academy, women are going to end up in combat.

The same arguments were heard on the floor of the Senate, and that has not been the result. The result has been that women have volunteered for the services, have served this country well, nobly, and admirably, and the commanders of women have said that they are on a par.

Nobody has suggested any more that because women are allowed into the academies and into the Armed Forces, there is some logical conclusion mandated that they must go into combat.

I ask the Senator from Virginia this question: Let us take a woman now in the Military Academy or in the armed services. She starts a case in the Federal court, saying, "I have been allowed into the Army; I have been allowed to take this first step; the academy has been opened to me. I now qualify for combat."

Does the Senator from Virginia think the court would uphold that case?

Mr. WARNER. In my judgment, the Federal court would uphold the right of the Commander in Chief to deny that woman the opportunity to volunteer for a combat position. The basis upon which the court would do it is a long line of decisions which have sustained the right of the Commander in Chief, not to let women go into combat because that is the pulbic policy of our Nation. Further there are statutes and regulations excluding women from combat.

The point I wish to raise with my distinguished colleague from Michigan as to the distinction between women serving today is that every woman in uniform today is there by virtue of the voluntary action her part of enlisting, and that is the way it has been throughout the history of our country. The proposed draft registration law would be the first turning point, where a woman is brought into military service by an involuntary act. That is the distinction.

Mr. LEVIN. I agree with the Senator from Virginia—that is a distinction. It is a distinction without a difference, for two reasons.

No. 1, the Senator from Virginia says that because the public policy of the country—these are his words—is that women should not go into combat, a Federal court would not grant that, under present circumstances.

I agree with the Senator on that point. But the sentiment of the country remains the same, that women not go into combat. It has been made clear in the legislative history of this amendment, by Senator KASSEBAUM and everybody else speaking for this amendment, that it is not intended that this lead to women in combat. There is a law prohibiting it. There is no effort to change that law. There are military regulations prohibiting it, and there is no effort to change those regulations.

I do not know of one opinion—and I ask the Senator from Virginia if he has a legal opinion—supporting his position. If he has such an opinion, I wish he would bring it forward, so that we could share it with the Attorney General of the United States and the Justice Department, and we can get their counteropinion on it. Obviously, before the President of the United States offers this kind of proposal to Congress, he has checked it out with the Attorney General of the United States.

Mr. WARNER. I have submitted for the RECORD, as part of my colloquy, opinions on this point by distinguished legal scholars, upholding the right of an all-male draft registration law.

In response to my colleague's very interesting point, with which I disagree—nevertheless, in response to it—that a woman who has volunteered has a greater right to go into combat, I point out that at the time she volunteered, she had implied or actual knowledge of the fact that she would be denied the right to go into combat. She accepted the contract of enlistment, with either implied or actual knowledge that at some point in her military career, discrimination would be practiced in the form of denial of the opportunity either to be trained for or to serve in a combat position.

Mr. LEVIN. That is the way the registration system would work for women who registered, who also would know. At the time that registration system went into effect, the court would know the intention of Congress, very clearly stated, that there would be no combat roles for women.

Mr. WARNER. If my colleague will yield for one additional point, I think it is very unfair to a woman to place her involuntarily in a system which the Senator himself said has discriminatory practices, and they are forcing her involuntarily into that system where she will be confronted against her will with discriminatory practices, namely, she will not be permitted to have the same job opportunities as the man with whom she trains.

Mr. LEVIN. Mr. President, let me proceed by saying that we do not need a peacetime registration, a point which I made yesterday, which is not the issue at the moment, but as background I simply reiterate my belief that we do not need peacetime registration at all. I am convinced that while we need to improve our mobilization capability there are equally effective alternatives which are less costly in social and economic terms, but while I reject that conclusion that there is a need for registration, as I indicated in the Chamber yesterday, I am sympathetic to one of the positions which has been advanced by advocates of registration.

I think Senator BOREN, particularly, eloquently advocated this position yesterday. And that position suggests that members of our society have an obligation to be involved in the affairs of their country. They have an obligation to shape the policies of this Nation and they have an obligation to defend this Nation.

I certainly agree with that position which is offered by the proponents as the moral foundation for their call for registration, even though I do not share their conclusion.

But since I do believe in that obligation, if we extend it at all by way of registration, I think it should be extended to all members of our society, to men and to women. I wish to see all citizens who have something to contribute given the opportunity to make that contribution.

I start, then, from this basic premise that while I oppose registration because it is not needed and there are other alternatives, my opposition is rooted in practical rather than philosophic terms. I am not opposed in principle to requiring members of this society to serve their country or, as in the registration proposal before us, to indicate their possible eligibility to serve through the act of registration.

Indeed, I believe that act while not needed does remind people of what they owe to this country, but the extent that this reminder is a desirable goal, to that extent I would not want to see women excluded from being a part of it.

As I read the Constitution and the emerging law of this Nation, there is an overriding justification for registering women in terms of consistency with and fidelity to the concept of equity.

We have not, it is true, registered or drafted women in the past, but there are a lot of things we have not done in the past which we do now. Times change, Mr. President. We live in a society which recognizes that laws, customs, and mores evolve and grow.

Years ago we accepted the concept of separate but equal. It was the law of the land and it was the custom of our culture, but our law and our customs change. We recollect that the doctrine of separate but equal denied basic values of equality and equity.

Years ago women could not vote. We corrected that inequality. Years ago women were not eligible for the military academies. We corrected that inequality as well. We just modified the law.

I think we are in a similar position in terms of the emerging struggle for other civil rights for women.

Most Members of this Chamber I believe have endorsed the Equal Rights Amendment to the Constitution. It represents a growing recognition of the role that women have and should be guaranteed. It just does not seem to me to be consistent or proper for us to talk of opportunity on the one hand and deny responsibility on the other.

But what opponents seem to suggest is that the principle of equity is overcome by more practical concerns about how registration of women would impact on our military capacity, and I wish to spend a few moments addressing that argument

Let me begin by saying that there is a clear military justification to register women. I have reached that conclusion because as a member of the Armed Services Committee I have had an opportunity to study the role women now play in our military forces, and I have been impressed by it, and let me spell out those conclusions that I have reached as a result of this study.

First, women in noncombat positions have made significant contributions to the military. No one disputes that point. Women are now restricted and should in the future be restricted to noncombat roles. Our society mores allow no other conclusion.

But within the context of this limitation, even the Manpower Subcommittee in their report rejecting registration for women indicated that "Women now volunteer for all military services and are assigned to most military specialties. These volunteers now make an important contribution to our Armed Forces."

The committee appears to commend the increasing number of women who volunteer for the services and expresses the hope that such trends will continue.

Clearly, then, women have made significant contributions in noncombat roles and they can be expected to continue to make the same sorts of contributions in the same noncombat roles in the event that mobilization is required.

Second, in the event of mobilization there will be a military role for an increased number of women. While the Manpower Subcommittee concluded there would be no need specifically for women in the event of mobilization, they did not deny that there would be a valid and valuable use for women after mobilization.

In fact, they received testimony from Richard Danzig, the principal Deputy Assistant Secretary of Defense for Manpower, which indicated that of the 650,000 people needed after the first 6 months of mobilization, at least 80,000 could usefully be women with no women going into combat roles.

They have also had the opportunity to study the Maxivac and the Rostker reports which indicate that the Armed Forces could absorb up to a 35-percent female base without in any way interfering with combat readiness.

So while there may not be a military need for women, there is a significant military justification for using them in a period of mobilization.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. LEVIN. I am happy to yield for a question.

Mr. WARNER. During the course of the testimony that our subcommittee took on this question of including women in registration, Chairman Nunn put to the President's witness the following question:

> If the lottery wheel, or whatever device determines which individual goes, falls on a young woman, say, of 21 or 20, whatever her age may be, who is married and just had a baby, does she get called up or does she remain home with the child?

The answer was she must go and the husband stays with the 6-month-old baby.

That is the way this particular law is written. There is no exclusion in the present law. How does my distinguished colleague propose to have equity and at the same time protect a young mother from surrendering child care and going off to boot camp leaving the baby with the husband?

Mr. LEVIN. I have a lot of confidence in this Congress and in our military that they can devise regulations to avoid that kind of absurdity.

I have a great deal of confidence that the military and this Congress can handle this problem, as well as other classification problems.

But let me remind my friend, in partial answer to this question, that under the terms of the very resolution he supports, this is not a draft bill, this is not a classification bill. This is nothing but a registration bill. We are not here to answer every question as to how everybody is going to be classified.

We heard this morning that conscientious objectors were not the issue here; that later on during classification debates we could take care of that problem.

We can take care of the problem the Senator from Virginia opens during the classification debates.

Mr. WARNER. But your amendment simply states, and I quote:

> On page 2, line 14, strike the period and insert a comma and the following language: "or shall be made available for implementing a system of registration which does not include women.".

Mr. LEVIN. It is perfectly clear and perfectly responsive to the question of the Senator. Women should be included. How they are classified once they are included is a separate question down the road, and whether or not they are even inducted is a separate question down the road. We went through this whole thing this morning on CO's.

Mr. WARNER. But I draw to my colleague's attention the fact that the law is on the books. It makes no provision at this time for excluding a young mother. Our Nation could be drawn into an emergency military situation tomorrow and this is the operable law. If the Senator were to prevail in his amendment, the amendment would then require women to go register and become eligible for a draft irrespective of their family situation.

Mr. LEVIN. There are two answers to that question that I will get to in a moment in my remarks, but let me briefly be responsive. First of all, we have had a commitment in statements from Senator Stennis that there are going to be hearings on the classification system and on the Selective Service System.

The problem raised by my friend from Virginia can be adequately dealt with during those hearings.

Second, the Selective Service System is dormant. It is not now activated. The President will have to request us to activate it and, as part of any request, the President could exclude women if we are not ready with this kind of classification or, if we are ready, could allow women to be registered.

But there is, No. 1, a time to do this and, No. 2, there is a forum to do what the Senator from Virginia suggests; and, No. 3, before this Congress ever allowed the drafting of women upon request of the President I have enough confidence in us that we would do the right thing by pregnant mothers and all of the other women for whom the Senator has expressed concern, just as we would do the right thing about conscientious objectors and other classifications of people who should have some protection.

As I indicated, Mr. President, while there may not be a military need for women, there is a significant military justification for using them in a period of mobilization, and that justification is they do excellent work and that there are significant opportunities for them to make a real and meaningful contribution in noncombat roles.

Third, the Manpower Subcommittee itself seems to accept the fact that there will be a justification for an increased number of women in the postmobilization force structure. They said in their report that combat restrictions would result primarily in a pressing need for combat personnel, in other words, men, and a point I accept, and here I quote to you that "women volunteers would fill the requirements for women."

I want to repeat that: the Manpower Subcommittee said that "Women volunteers would fill the requirements for women." In short, the Manpower Subcommittee seems to acknowledge specifically a requirement for women, and raises no practical or theoretical objection to increasing the number of women in our Armed Forces after mobilization. They simply say they believe we can attract a sufficient number of female volunteers to meet our requirements.

In response, I would simply indicate that they have no empirical data that I know of to support that claim. In fact, testimony before the subcommittee suggested that there were not sufficient data available to draw any conclusions. Robert Pirie, Assistant Secretary of Defense for Manpower, in February of this year told the committee that "Perhaps sufficient women volunteers would come forward to meet this need, perhaps not.

Having our young women register in advance would put us in a position to call women if they do not volunteer in sufficient numbers."

Clearly the evidence that I am aware of suggests that there is a use for more women in a mobilization, and that we cannot be assured that sufficient numbers of women will be achieved through volunteers.

If more women can be used in the services, and if there is uncertainty about our ability to achieve that level through volunteers, then there is additional reason to register women and to remove the uncertainty. That, after all, is the thrust of the entire argument used by proponents of registration of men to justify their position.

Mr. President, while both equity and military utility justify registration of women there are still some who suggest that there are compelling disadvantages which ought to cause us to reject that policy. These alleged disadvantages do not inhere in the act of registration. Rather they arguably flow from the decision to turn to that registration base in a period of mobilization.

If we read the Manpower Subcommittee report we will find that the alleged disadvantages flow from the decision to draft people from the registered base rather than from creation of that registration base.

Some opponents of this amendment argue if we made a decision to draft under current law we could very well be required to draft an equal number of men and women. Such an action would significantly impair our need to meet vital combat needs. That concern might be an important consideration, if it were not easily correctable, as I have indicated in my prior colloquy with my friend from Virginia.

For those who advance this argument, they do so on the basis of existing law which requires, in essence, that a draft be conducted in an impartial manner. They fear the requirement of impartiality would result in an equal number of men and women being drafted, and they legitimately indicate that such numerical equality would not be consistent with, indeed might even interfere with, our most pressing military needs.

But this argument ignores the fundamental fact that before any man or any woman can be drafted, Congress must reauthorize the Military Selective Service Act, an act which now lies dormant.

There are two available occasions to correct any deficiency which would require us to draft an unneeded number of women: First, Chairman STENNIS indicated that he was interested in seeing the Armed Services Committee do a thorough analysis of the act, and I also believe that Senator NUNN and others who seek to reestablish the draft would not move in that direction if we registered women until they had done a thorough analysis of the act and suggested the appropriate modifications.

Since as far as I know, at least, we have no immediate plans to mobilize, we have the time we need to revise the Selective Service Act and accommodate, where necessary, our decision on registering women and make them eligible for the draft.

But, second, if we were confronted in the interim period with an immediate need to mobilize and a draft authorization were requested, and if the underlying law had not been modified to take into consideration the fact that women are registered, any congressional authority to draft people could simply include the proviso that the act shall not require that an equal number of men and women be called into service.

Based on the report of the Manpower Subcommittee, such a proviso would be constitutional since, as they say and as my friend and as the sponsor of this and the author of this amendment, the Senator from Kansas, has indicated, the courts would defer to Congress judgment regarding our military needs.

Finally, let me urge that opponents of this amendment remain consistent in their arguments. As I read the record they appear to have indicated that the bill we have before us is a call for registration, not a call for the draft. They have held that these issues are separate. Indeed, the bill itself reads that way. If that is, in fact, the case then how can we reject registration because only an unpredictable request to draft people would allegedly cause these problems? Either the issues are separate or they are not. If they are, then I suggest their arguments against registration of women are premature. If the issues are not separate, proponents of the bill should drop their argument that a call for registration is not a call for the draft.

Mr. President, let me summarize the arguments I have made. First, I believe that notions of simple equity in understanding the role of women in modern society and the desire to foster a sense of social consciousness require us to register women if we register men.

Second, if we ever have a draft, I believe that woman should be drafted in reasonable numbers for noncombat roles in order to help us meet our military requirements in a time of mobilization. The evidence clearly indicates that they can help us meet those requirements and that we cannot be assured that a sufficient number of females would volunteer in the absence of a draft. Third, within reasonable restraints related to retaining the noncombat restrictions now placed on women and modifying the existing requirement that a draft fall evenly on all members of the registration pool, there is no military disadvantage to registering women or drafting them.

Mr. President, I suspect that the arguments I have advanced here may rest too heavily on my own belief that women ought to be drafted, if there ever were a draft, in reasonable numbers to fill noncombat roles. For my colleagues who neither accept nor reject that notion—who want more time to study the issue—I would say that this amendment does not require us to draft women any more than it requires us to draft men. It simply enables us to effectively implement that decision if we choose to make it at a later time. It does not foreclose the option to reject the draft for women—in fact, it gives us more options than we will have if the amendment is defeated.

Mr. President, let me conclude by returning to what I consider the basic issue, the principle of equity. I believe that equality requires, as nearly as possible and as nearly as consistent with our values and mores, equal obligation and equal opportunity. That is all that this amendment offers women and that is all that it requires of them, and that is all that it says to all Americans. We can accomplish the goal of equity without any negative military consequences. And my sense of values leads me to conclude that, if that is the case, then we ought to vote for this amendment and we ought to vote for equity. To do other than that, Mr. President, is to turn our backs on the evolution of civil and constitutional rights which we have witnessed and been a part of in this last decade. To do other than that is to deny over one-half of this Nation the right and the duty and the obligation to help defend this Nation when the time comes to do so. To do other than that is to reject the requirements that our emerging sense of humanity has imposed upon us.

To do other than that is to ignore the personhood of half of our citizens and the contributions women have made in large and growing numbers in our armed services.

Mr. President, I am proud to be a cosponsor of this amendment and I congratulate Senator KASSEBAUM for offering it and for fighting so eloquently and, so far, successfully for its adoption.

I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield to myself a portion of my 1 hour's time on this particular legislation.

Mr. President, I have been most intrigued by the debate up to this point. It is a hot one. We have been talking about registration, but it sounds like we are talking about the draft. It is much like talking about land use planning and suddenly discussing the subject of zoning. There are two distinguishable issues but they are just as hot.

I commend my colleagues for their tenacity and perseverance, and especially my seatmate back here, Senator KASSEBAUM and my fine friend, Senator LEVIN. I wish to speak in support of their efforts and wish to note that I am honored to cosponsor their amendment.

Mr. President, I have been seriously concerned in recent years that the absence of a compulsory registration system has eroded the ability of our Armed Forces to meet our military manpower requirements in the event of a national emergency. Without some system of prior registration, I personally believe that it will require at least 3 months of time from a mobilization order before the present Selective Service System would be able to provide its first conscripts for the military services. I believe that such a delay in this Nation's mobilization capability is wholly unacceptable and that it directly affects our ability to present a credible military deterrent against aggression or intimidation.

I believe, Mr. President, that this Nation can, with no harmful intrusion into the lives of our young adult citizens, institute a military registration procedure.

Such registration would enable our armed services to meet their mobilization needs—literally within days of initiating the necessary order to do so.

I am prepared to support compulsory registration, to include medical examinations and classification, in order to assure that we have this ready access to a pool of qualified individuals in the event the reinstitution of the draft becomes necessary. But we are not talking about the draft only registration.

Mr. President, I am also very concerned that this Nation's "All-Volunteer Force" cannot attract the necessary numbers of qualified individuals to maintain its defense responsibilities. We are truly selling ourselves short if we look upon military service as simply "just another job,"—available primarily to those in society who have the fewest employment opportunities or alternatives.

The armed services must expect of its personnel a commitment to accept a certain inconvenience and personal risk—to an extent which no other employer can reasonably ask of an employee within our society. Such a commitment should be the natural result of a sense of civic responsibility and it can be undermined, if we think of service in the military as being induced solely on the basis of "wage and fringe benefits."

The all-volunteer approach to defense, as well as the abuses found in the granting of exemptions and deferments characteristic of the Selective Service System during the Vietnam conflict, insulates a significant segment of our society from sharing in the burden or the obligation of military service. The defense of this Nation is the responsibility that should be shared as equitably as possible, with men and women participating, regardless of an individual's economic or social position in this society.

It would be interesting to note—and I would appreciate someone furnishing the information—how many sons of those who served in Congress between 1965 and 1975 were drafted into the Army to fight in Vietnam.

I would venture to say that few, if any, were so engaged during that 10-year period of time, or ever had any reasonable apprehension that they would ever be subject to the draft. Yet, by the thousands, young men throughout this land were inducted each month to fight and sometimes die in the war which few, if any, of them ever understood.

Personally, I have always been a bit strained to understand the political motivations of those in our Government who undertook to commit 500,000 U.S. troops in the Republic of Vietnam. I can understand that the North Vietnamese were fighting a protracted war of aggression against the South and I can even understand that our Nation may be called upon to assist an ally in a time of need.

But I shall not understand why the President and his advisers committed our youth to a struggle in behalf of a South Vietnamese nation unwilling itself to make the sacrifices necessary to match their adversary in the desire to prevail.

Well, we fought a war that we were politically unwilling to take the risks necessary to win, so very possibly we fought only to demonstrate our willingness to fight.

Some in this Chamber, Mr. President, might believe that the way to avoid such a mistake in the future is to deliberately weaken our Defense establishment to insure that we never again possess the capability of undertaking such a war. I must categorically state that I believe that such an argument or policy is totally vacuous and irrational. In these times of increasing tensions and dangers, we cannot afford the folly of unpreparedness. The time has long since passed—if it was ever really there—when we could retreat behind our two ocean frontiers and ignore the world about us. We must have a strong military and we must insure that the members of our armed services possess the necessary intelligence and level of technological skills necessary to fight and win if ever committed.

I was impressed by what my colleague ROGER JEPSEN said the other day. He said:

> There are several things worse than war, and they all come from defeat. Those things are bondage, torture, and slavery, and then you use your own imagery to fill in the blanks.

The only rational way to avoid the pitfalls of a Vietnam is to insure that the armed services represent a true cross section of our society, of all social and economic levels, and both sexes. The President who commits such a force must commit not just an insular element of a society, but the whole society itself, and he and this Congress must assume the political risks that such a commitment calls for.

Therefore, Mr. President, I am prepared to support the pending legislation in the hope that it will eventually lead to an equitable system of national service in which military service on active duty or in the Reserves would be available options, and that there would be other options which would include various public employment programs. That is very important to me in this kind of legislation. Such a system would emphasize voluntary participation, but if the strength of either the Active or Reserve Forces should fall below necessary authorization levels, then, and only then, would a draft based upon a universal lottery be conducted in order to make up the shortfall.

I cannot envision, Mr. President, any equitable system of national service that does not include young women as well as young men. I do not support the assignment of women to direct combat roles in our military. I have not heard anyone propose that. I do not believe that our society would tolerate it, and I know I could not bring myself to support their inclusion in the ranks of our infantry, our armor, and our artillery combat battalions. But women are citizens as we are, and they are fully capable of assuming the responsibilities that citizenship entails. I can see no logic in excluding them from the requirement for registration.

Mr. President, in concluding, I have two young sons aged 21 and 23 whom I love quite dearly. They would both be registered under the pending legislation and, therefore, subject to conscription in the event of national emergency. I also have a daughter who will reach her 18th birthday within the year. We have had some rather fascinating family discussions on this subject. We have carefully reviewed this searing issue. They are not martyrs nor are they dogooders. They just say, "Well, why not, pop? It looks like it should be done."

Under the provisions of the Kassebaum-Levin amendment my daughter would be treated no differently than my two fine sons. If we must, at some later time, have conscription, I would think it appropriate that she be included as she has requested. I cannot imagine that I would feel any less concern in having one of my sons face the uncertainties of military service than I would if my daughter were to do so.

In all of the shot and shell which will swirl around this issue of registration of women, there has been one piece of writing that seems to stand out for me, an article from the Washington Post of February 2, 1980, by Ellen Goodman, entitled "Drafting Daughters."

I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DRAFTING DAUGHTERS

BOSTON.—My daughter is 11, and as we watch the evening news, she turns to me seriously and says, "I don't like the way the world is doing things." Neither do I.

My daughter is 11 years and eight months old, to be precise, and I do not want her to grow up and be drafted. Neither does she.

My daughter is almost 12, and thinks about unkindness and evil, about slaughtered seals and war. I don't want her to grow up and be brutalized by war—as soldier or civilian.

As I read those sentences over, they seem too mild. What I want to say is that I am horrified by the very idea that she could be sent to fight for fossil fuel or fossilized ideas. What I want to say is that I can imagine no justification for war other than self-defense, and I am scared stiff about who has the power to decide what is "defense."

But now, in the last days before President Carter decides whether we will register young people and whether half of those young people will be female, I wonder about something else. Would I feel different if my daughter were my son? Would I be more accepting, less anguished, at the notion of a son drafted, a son at war?

Would I beat the drums and pin the bars and stars on his uniform with pride? Would I look forward to his being toughened up, be proud of his heroism, and accept his risk as a simple fact of life?

I cannot believe it.

So, when I am asked now about registering women for the draft along with men, I have to nod yes reluctantly. I don't want anyone registered, anyone drafted, unless it is a genuine crisis. But if there is a draft, this time it can't touch just our sons, like some civilized plague that leaves daughters alone to produce another generation of warriors.

I know that, realistically, we will have to register women along with men anyway because the courts will require it. Women may not have won equal rights yet, but they have "won" equal responsibilities. A male-only draft would surely be challenged and likely ruled unconstitutional.

But at a deeper level, we have to register women along with men because our society requires it. For generations, war has been part of the rage so many men have held against women.

War is in the hard-hat yelling at an equal-rights rally, "Where were you at Iwo Jima?" War is in the man infuriated at the notion of a woman's challenging veterans' preference. War is in the mind of the man who challenges his wife for having had a soft life.

War has often split couples and sexes apart, into lives built on separate realities. It has been part of the grudge of self-sacrifice, the painful gap of understanding and experience between men's and women's lives. It is the stuff of which alienation and novels are written.

But more awesomely, as a male activity, a rite of passage, a test of manhood, war has been gruesomely acceptable. Old men who were warriors have sent younger men to war as if it were their birthright. The women's role until recently was to wave banners and sing slogans, and be in need of protection from the enemy.

We all pretended that war was civilized. War had rules and battlegrounds. War did not touch the finer and nobler things, like women.

This was, of course, never true. The losers, the enemies, the victims, the widows of war were as brutalized as the soldiers. Under duress and in defense, women always fought.

But perhaps, stripped of its maleness and mystery, its audience and cheerleaders, war can be finally dis-illusioned. Without the last trappings of chivalry, it can be seen for what it is: the last deadly resort.

So if we must have draft registration, I would include young women as well as young men. I would include them because they can do the job. I would include them because all women must gain the status to stop as well as to start wars. I would include them because it has been too easy to send only men.

I would include them because I simply cannot believe that I would feel different if my daughter were my son.

Mr. SIMPSON. I know, Mr. President, that some of my colleagues support the pending amendment, not out of any conviction for what it will do, but in the hope that, if adopted, it will effectively kill the pending registration legislation. I want my colleagues to know that I support the Kassebaum-Levin amendment for what it really does, and if it should fail, I will still lend my full support to reinstituting compulsory registration and vote for passage of the pending legislation.

I commend my two colleagues once again for their sincere and very authentic expression on this amendment. It is quite typical of them both. I have come to greatly admire and respect them as persons.

Mr. President, rather than yield back the remainder of my time, I shall reserve it under the previous order of the majority leader.

Mr. GARN. Mr. President, I yield myself such time as necessary from my 1 hour.

First of all, Mr. President, let me explain my position very clearly on the issue of registration in general. When the time comes, I will vote against registration of men as well this proposal to register women.

The reason I will vote against the registration of men is because I think the proposal by the President is entirely cosmetic and superficial. As an answer to Afghanistan, I am sure the Soviet Union is just quaking in their boots at this daring, strong proposal to send our postcards and find out where our young people are, with no classification, with no physicals, with a very difficult time enforcing it. It really is a great stroke of genius on the part of the President.

But that is not the only reason I oppose it, because it is superficial and does not really accomplish anything as far as mobilization, as that it ignores the real manpower problem of the military.

Besides having served on the Manpower Subcommittee of the Armed Services Committee and now in Defense Appropriations, I served 4 years active duty as a Navy pilot and 20 years in the Air Force Reserve as a pilot. So I know something firsthand about the military. The real manpower problem is not new recruits. The real manpower problem is the incredible hemorrhage of skilled, trained, technicians, highly-skilled enlisted personnel who are skilled in computer technology, in radar, fire control, all sorts of very technical systems, who are getting out in droves; of pilots and navigators, officers who cannot afford to stay in any more. But we do not address that problem.

Even if we started a draft tomorrow, forgetting a cosmetic registration, it would do nothing about this hemorrhage of skilled personnel leaving.

Where would we have the bases to train them, as we close down more military installations to save money? Where would we have the equipment to train them, as we do not provide enough operation and maintenance funds, provide spare parts for our aircraft, when we have a military budget that will produce a net loss in the number of ships over the next 5 years, a net loss of tactical aircraft, when we continue to cut our defense budget in terms of real expenditures year after year, when we continue to have more than 100,000 military personnel on food stamps? And we wonder why they get out?

And then our answer to the manpower problem is a cosmetic draft? That is why I am opposed to registration. I should have said "registration," not "draft," because even a draft would not solve that manpower problem.

I am afraid that if this passes, then we will gloss over and we will forget the real problem. Nothing will be done about it. The President can go to the carrier *Essex* and say, "We need $1 billion more for more pay," and then the next day tell the Congress that we are spending too much for defense. I do not know how he rationalizes those two positions, but that is what he said. He has had five defense budgets in 5 months.

I do not know which one he stands on, but the big plank of his answer to the Soviets is, "Let us register."

I suggest we have the cart before the horse and we ought to reverse it and do something about the Reserves. We should do something about this hemorrhage of manpower before we start with our 18-, 19- and 20-year-olds, talking about registration.

But to the immediate issue of the Kassebaum amendment, I say at the outset that some of the things I am going to say I certainly do not attribute the motivation to my distinguished colleague from Kansas in offering this amendment. I have discussed it with her. I know why she is introducing it.

I want to make that clear at the outset, that on a lot of my opposition to this amendment I do not attribute her motivation for offering it to these various reasons that I oppose it.

First of all, in answer to this message of equity we just heard from my distinguished colleague from Michigan, it seems to me we cannot have it both ways. We talk about this being equitable and then, to every problem brought up with the registration, or possible future draft of women, his simple solution was that he had enough trust in the Congress of the United States to make exceptions.

How can women have it both ways? Yes, we want equality with men. Yes, we want to be registered. Yes, we want to be drafted, if that comes in the defense of our country, but then please carve out all kinds of exceptions that discriminate once again.

So the argument of equity does not make a great deal of sense to me.

I certainly believe that women have a valuable role in the military if they want to volunteer.

I would not even object, and this may surprise some, to removing the combat restrictions to volunteers. If one wants to volunteer, let him.

But to talk about drafting them involuntarily violates all the principles I have grown up with.

Maybe I am old fashioned, and I am sure some people will accuse me of living in the 18th or 19th century, but I was brought up to believe that the basic fundamental unit of Government in this country was the family. This country was based on the family unit and a belief in God, and a belief in a religious heritage of whatever denomination, and that a family was composed of a mother and a father and children. But today, we have a family conference going on that will not define a family.

It is easy for me to define. I had a mother, a father, and some sisters. I have a wife and I have children. That is a family. But today we will argue about whether homosexual partners are a family. So we have a conference on families that will not define one.

What is it that we have come to in this country when we cannot define a family?

I see a whole series of developments undermining the most important unit of Government in this society, and that is a family, from abortion to pornography, to homosexual rights, to what we see on TV, the permissiveness.

Yes, I am old fashioned, I am traditional, and I am proud of it.

This is another part of the degradation of the family, taking women out of the home.

I am certainly not here to say that women should not have equal job opportunities, equal rights in pay. I agree with all of that. But on the basis of equity to say that we are involuntarily someday in the future possibly going to take them out of their homes, I cannot even conceive of that in the tradition of the American family and what it has meant to society.

The divorce rates are going up. Look at the conditions. What we can see on TV today is something we had to go behind a billboard to see when I was a kid. But boy, we can see it on TV now. This whole process, these bits and pieces, chipping away at the American family.

I am not about to be a part of that. I am not about to vote for one more strike against the American family and the traditionalism we have known in this country.

I happen to know something about children without a mother. It has only been 4 years since my wife was killed in an automobile accident and left me with four children to raise.

No matter how much we want to say we are equal in those child rearing areas, we are not. A father cannot replace a mother and that closeness. I tried. I tried. I did not do nearly as good a job of it.

So what my distinguished colleague from Virginia said a few moments ago about resolving those differences, do we take a woman away, leave a 6-month-old child with a father?

How ridiculous can we get when we cannot recognize anymore in the popular fad of the times, that we are going to try to have unisex and make everybody equal, that we cannot recognize that there are basic fundamental physical and biological differences between men and women?

We better believe I am emotional about this. I just do not think it fits.

How did we win World Wars I and II, the Spanish-American War, the War of 1812, without drafting or registering women?

How far do we carry this ridiculous game of equality, on the basis of equity?

I am the father of six. I have four sons and I have two daughters. I do not care to have any of them drafted. I hope none of them have to have the military service that I have had. I hope we never reach a point where we have to draft any young people anymore. But if we do, fine, my sons will go, whether I want them to, or not.

But to take my daughters away from their careers, whatever that may be, or their families and husbands, or their children, or even the contemplation or thought of that, I do not understand in the basic context of the way American society has grown.

If we want to continue to take one piece or another away from the American family, we will suffer the consequences. We are.

Again, I plead guilty to being old fashioned and traditional. No doubt about it, I am.

Sometimes I wish I was born and lived in the century I am often accused of living in in my votes on the Senate floor, when mothers were mothers and fathers were fathers, and children had respect for the family when they were together, and not dragged from the home.

I will not continue to take any more time.

If anybody has any doubts, and I hope they will not, I hope they have gathered from my statement that I am opposed to this amendment.

Mr. GOLDWATER. Will the Senator yield to me?

Mr. GARN. I do not have the right to.

Mr. GOLDWATER. So that I might use a few minutes——

Mr. GARN. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to agree with everything the Senator from Utah has said, particularly about the family. But probably more particularly about the way our potential enemy is outproducing us, outgunning us, making it almost impossible for combinations of men and women to even think of having any chance.

Do we realize that last year the Soviets gave away—gave away—more aircraft than we are going to buy this year for our Armed Forces? And we will buy less than 400.

We have that many run into mountains, dive in the ocean, and so forth, call it attrition.

I wanted to bring that up. But I did want to point out to my very good friend from Kansas about this whole matter of women being called up in the draft.

I am afraid that sometimes we associate a callup in the draft with combat. I think sometimes we associate the attendance at the Military Academy as an automatic open sesame to combat.

Now, this is not so. There is a law that we will have to repeal that prevents a woman from going to combat. There are regulations that prevent women from going to combat.

But here is a strange but. I remember—I think it was 2 years ago—at the first meeting of the Armed Services Committee when the Joint Chiefs were over, and General George Brown was still alive. He was chairman of the Joint Chiefs. I asked him if he would support legislation that I planned to introduce that would prohibit, again prohibit, women from ever going to combat.

He looked at me and said, "Senator, what is combat?"

Those of us who have been to war think of it as somebody getting shot, or shot at. He told me that in Vietnam he had given over 200 Purple Hearts to women.

Look at a Purple Heart holder sitting behind a desk. These women served as nurses; they served in ambulances. They were in combat, although technically they were not.

I am thinking today of a young girl who flies with my old National Guard outfit in Arizona as a copilot on a KC-135 tanker. These crews fly overseas almost constantly.

Let us say that the aircraft she was assigned to was given a mission of refueling a C-141 or a C-5, on its way to a combat zone, and the aircraft was attacked. If she were killed or wounded, she would have been in combat, although there was nothing in her orders—there is nothing in the orders any man ever has received in the military—stating specifically, "You are going to combat." It just says where you are going, and after you have been there a while, you figure out whether you are in combat or not.

I mention these things because I have heard on the floor today—and I have heard it debated time and again—about women in combat.

I am not going to support the amendment of the Senator from Kansas because I have a very deep, inborne, ingrained feeling about women ever engaging in combat. But women serving in the forces, yes.

I flew with women in World War II, and they were every bit as good in the aircraft as any man. I would not want to hear them bop, bop, bop with a gun.

The same would apply to women on Navy ships and women who might carry a pack and go too close to the front, in the Army.

As to women serving in the services, I have no argument. I do not think they should be drafted; it should be a voluntary thing. If a woman wants to enlist for any service, let her do it.

I do not even know yet whether I am going to vote for this measure. The more I hear, I am beginning to believe that debate probably means a little something. The debate of the Senator from Kansas has not swayed me. A little she says causes me to tumble a bit. But I want the Senator from Kansas to know my feelings.

I believe that before we are through with this whole subject, we will have to sit down with the military and figure out what they are talking about when they talk about sending a body to combat. That is all I have to say.

Mrs. KASSEBAUM. Mr. President, I should like to reply to my good friend the Senator from Arizona, whose wisdom I admire greatly and respect.

I do not wish to see women on the front line being shot at, either. As he has said, it does become a question of determining what is a combat area and what is a combat zone. But that is not what we are voting on today.

What we are voting on today is what gives us the best registration policy. If registration is worthwhile, if it serves the purpose, how do we design it so that it does serve the best function?

I have given a great deal of thought to it, because I have four children—three sons and a daughter—aged 18 to 23; so it has been a debate we have had within the family as well.

I have felt that if registration is to have a purpose, the best purpose it can have—because it does have minimal functions so far as military mobilization is concerned—it does have a purpose in having young people stop and think about what commitment they are prepared to make for their country.

I certainly regard myself as a traditionalist, too, and desire to do all we can to strengthen family life. I do not wish to see my sons go, any more than I wish to see my daughter go.

What we are talking about today is not a question of gender so much as a question of what would be the best way to draft registration legislation. I believe it is to show a national determination. It should require that both young men and young women register. It should be universal. It should extend to ages 18 to 26, at least. It should be something we regard as a civic duty and part of the political process of this country.

Under that type of registration, I think it does serve a useful function, because it is an important part of an educational process to stop and think about what our commitment is to our Nation and the principles it embodies.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mrs. KASSEBAUM. I yield.

Mr. WARNER. Throughout my career and lifetime, particularly when I was in the Department of Defense, for many years, I fought hard to try to open job opportunities in the Department of the Navy for women; and we made great progress from 1969 through 1974. As a matter of fact, in that period of time, more job opportunities were open for women than at any other time in the history of the U.S. Navy, including the first experiment to run a ship almost entirely crewed by capable women.

I will continue to fight steadfastly to improve the job opportunities for women in the armed services of the United States. They have fulfilled their missions extremely well throughout our history.

However, what troubles me is that we are now turning the corner and involuntarily—through this proposed registration law and potentially a draft—involuntarily taking a woman into a system which now has built-in inequities and discrimination and making her survive against her wishes in that system.

Mrs. KASSEBAUM. In response to the question he has raised, I say to the Senator from Virginia that we are not talking about the draft. I do not regard this as a first step toward the draft. What we are talking about, as I said earlier, is what will be the best registration policy.

Mr. WARNER. Do I correctly understand the Senator to say that if it became necessary at a future time—and I am not suggesting now—that there are circumstances compelling this body to look at a draft. I would vote against it today, if we had the proposal for a draft before the Senate. But is the Senator suggesting that we have one law with equity between men and women for registration, and then, if we were compelled to go to a draft law, it would not have a comparable equity?

Mrs. KASSEBAUM. I am suggesting that at the time we are required to discuss conscription and vote on that legislation, we would shape it to the needs of the country and the armed services at that time.

Mr. WARNER. How would the provisions with respect to men and women differ between a registration and a possible draft? I think we are establishing very important legislative history, if the amendment of the distinguished Senator is accepted, a history that says that the first step in a military career is that men and women should be treated equally.

Mrs. KASSEBAUM. The point I am making—and it has been said many times today—is that wisdom and good judgment would prevail on what the needs are and how we meet those needs. In fact, it has been determined by the armed services that most of the needs for the areas that women fill now would be met voluntarily. So we only are going to draft either men or women to where there is that need.

Mr. WARNER. Then, why go to the expense and the inconvenience and the deprivation of privacy of women by compelling registration now, unless we know there is a need, and when there is not one?

Mrs. KASSEBAUM. We are talking about what is the best for registration. I believe it enhances compliance if both men and women feel this is an obligation.

It adds strength to what we are trying to do here with the national determination to show resolve, to show what we would be willing to do if we were faced with a crisis in our country and the need to turn to conscription.

So we are not even trying, nor should we be trying, to figure out how we would address conscription. That is my point. I feel that today the issue at hand is what gives us the best registration.

Mr. RANDOLPH. Mr. President, I ask the Senator from Kansas to yield.

The PRESIDING OFFICER. Does the Senator from Kansas yield the floor?

Mrs. KASSEBAUM. I am not going to yield on my time. I will be happy to let the Senator speak on his time.

Mr. RANDOLPH. I wish for her to remain ready to counsel with me in a colloquy. That is what I desire to do, on my time, of course.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I say to the Senator from Kansas (Mrs. KASSEBAUM) that I shall support her amendment in which she is joined by the able Senator from Michigan (Mr. LEVIN) on the rollcall that will be coming sooner than later, but whenever it comes, I will support it.

I have taken the position that she espouses for many years. My decision is not shaped quickly. My position on this issue is known in West Virginia through addresses before many groups, and through the media. I feel that it is very, very important that the womanpower as well as the manpower of this country be assessed.

I believe that this fact is important. We are not deciding about a draft vote. We are discussing a registration of the womanpower of this country. There is a basic question embodied in the amendment.

It takes courage for the Senator from Kansas to speak as she has in reference to these matters, not that we do not respect the conscience of every Member in this Chamber, but we must not forget that she is the only lady in the Chamber of 100 Members. Yet she is asking us to do something that is reasonable and just. I hope some of us may have second thoughts and hopefully support her amendment as I will support it. In so saying I do hope that my colleagues feel that this is a problem which should not cause divisiveness between women and men. Women are full partners with men. In future years more, not less, women will serve in the Senate.

When we face the problem of possible use of the womanpower and manpower in a conflict which endangers our security, the Senator from Kansas says the matter of the draft will be before us. That is a separate matter. Is that not correct?

Mrs. KASSEBAUM. Absolutely.

Mr. RANDOLPH. Absolutely. It is a separate matter.

Sometimes we are inclined during this debate to think that there is no reason for us to be concerned with registration, frankly, of either men or women.

I am not critical of my colleagues, when I make this observation.

I remember on the 12th of August 1941, I was one of the Members of the House of Representatives who at that time had a difficult decision to make. I recall when the draft vote was taken on that tense evening. The vote was 203 to 202 for the extension of the draft. I remember certain speeches. I am not looking back and thinking harsh of those who said in essence that anyone who would vote for the draft was a warmonger. It was said, also, that no nation would think of going to war, against us, of attacking the United States of America; we had absolutely nothing to fear. The lady from Kansas will remember from a reading of history that rollcall came on August 12. Nothing would happen, they said. Yet on December 7 we were struck by air and sea at Pearl Harbor.

I am not attempting to wave a flag in any sense, but there is the realism of the situation. We live in a world of instability. I hope the amendment will be carefully considered by the membership as we vote, not for a draft but a vote addressing itself to the womanpower and the manpower available, if indeed a conflict would involve the United States. I pray every day and I do with my cherished friend from Oregon, MARK HATFIELD, that war will never come. But I do know that in August 1941 debaters in the House, said no nation was interested in attacking us. We were attacked just a few months later.

I am a worker for understanding and peace. In 1945 I introduced a bill to create a Department of Peace. With Senators HATFIELD and MATSUNAGA, and other Members I now sponsor an Academy of Peace.

It is my deep down feeling from a reading of the history, indeed somewhat of a student of that crucial period, that I say to my friend from Virginia, Senator WARNER, that the closeness of that 203-202 vote even possibly was a strong factor causing the Japanese in their thinking process to embrace a feeling that the United States of America was weak. They thought that was the time to strike; there was no feeling in America that any possible calamity like the war could take place. My colleagues, they felt that that was the time to act. I have documentation for this belief.

I appreciate the lady from Kansas yielding to me. Perhaps it is not important for me to state how I shall vote. I shall vote with a clear realization of my responsibility, knowing that in West Virginia there will be constituents who will oppose my vote. I hope there are citizens in our hills who will support my action. But I do it in conviction and conscience. Womanpower and manpower registration is in nowise a draft. Does the Senator agree?

Mrs. KASSEBAUM. I certainly do, and I am very appreciative of the very thoughtful remarks on this issue of my colleague from West Virginia. He makes a strong case.

Mr. RANDOLPH. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Kansas and the distinguished Senator from Michigan. The intent of this amendment is to require that any registration plan, if we have a registration plan, include women as well as men.

I have attempted during the course of this afternoon to listen to the various arguments which have been very, very eloquently presented by both sides on this momentous and, as my friend from Wyoming, Senator SIMPSON, has called it, searing issue that is before this country. I think that the distinguished Senator from Kansas, as the main proponent of this amendment, has offered extremely relevant and very articulate statements in support of it.

I could not help but be impressed and inspired by the most recent remarks offered by our friend from West Virginia, the distignuished Senator RANDOLP, who, if my memory serves me correctly, is one of the three Members of the present Senate who was a voting Member of Congress in August of 1941 when the Selective Service System was inaugurated. Also serving at that time were the Senators from the State of Washington, Senator MAGNUSON and Senator JACKSON.

I think that his statement today in support of this amendment is a statement of great wisdom and of great courage. It is a statement from a man who not only senses history but has been a part of making history for this country.

Mr. President, also he has discussed womanpower and manpower. It is very important to touch upon this for a moment because that is what this debate is about, not whether women will be included in a draft.

I look at this debate and this issue as stopping far short of the decision as to whether or not we are going to draft women or send them into combat.

What this debate is about today is identifying that power, finding that womanpower, finding that manpower—locating that source and knowing where it is in case we need it.

I support this amendment today for two reasons. I believe that it is going to serve a good purpose, and I do not believe that it will have a harmful effect. Let me explain both of these points briefly.

First, I believe that this amendment is designed to recognize the very significant role that women play in our society in general and the military in particular. Our approach to questions of civil rights has changed significantly in the past 30 years. We now acknowledge that a number of groups once excluded from the mainstream of the social and economic system do have and must have an equal role in building a just and a secure society. Women have certainly demonstrated that fact beyond dispute. In the military they now constitute approximately 8 percent of our active personnel. The first women to graduate from our service academies distinguished themselves in their academic studies and will certainly distinguish themselves in their ability to apply their knowledge and abilities in real world situations.

It seems to me a question of basic equity to say that women entitled to the benefits of full citizenship in this Nation should also have the full responsibilities of that citizenship. Including them in a registration system makes it very clear that women are considered full members of our society.

I think that statement is one that needs to be made and one that ought to be made. In the act of affirming our commitment to full participation of women in the duties and obligations of citizenship, I think we made an important statement and an important claim for the inclusive nature of democracy.

But, Mr. President, I do not think many Members really disagree with the powerful pull of the equity argument. I believe that their feeling is that the good this amendment does is outweighed by negative effects which they might associate with it. Let me identify some of these apprehensions and hopefully in a few moments try to dispel them.

First, some people fear that this amendment will require women to serve in combat. This is not true. This amendment provides that women will register—not that they will be drafted, and not that if they serve, they will serve in combat. I have spoken to the authors of the amendment and that is clearly their intention and clearly the way the legislative record of this amendment ought to be read.

Second, some people fear that this amendment will unjustifiably impede our ability to mobilize. They reason that a fair interpretation of the law may require us, should we need to mobilize, to take in men and women in equal numbers. And because women cannot serve under current law and regulations in combat, they fear that training centers will be filled with people who will not be able to meet our pressing combat needs. I understand that fear—but, again, it is simply not an accurate reading of either this amendment or the legislation we have before us. This amendment and this resolution do not address the question of the draft—it is a separate issue. The power to register does not confer the power to draft. We must make that point clear. We will not have that power until and unless the President of the United States comes to the Congress and asks us to revive the underlying military selective service law. And if that time ever comes—and we hope it does not—and particularly if it comes before the Congress has had an opportunity to study the entire issue and reform the law on its own—it would be possible for the Congress to give the President the authority he seeks but direct that it not apply to women.

Mr. WARNER. Mr. President, will the Senator yield at that point?

Mr. PRYOR. I would be happy to yield to the Senator from Virginia for a question.

Mr. WARNER. We continuously hear about the question of equity, equity for registration, but suddenly you get to the question that if we are forced to the draft we start up with equity; is that the point the Senator is making?

Mr. PRYOR. The point I am making is that the issue of registration and the issue of the draft are two separate issues.

Mr. WARNER. I agree with the Senator.

Mr. PRYOR. The issue we are talking about today, I say to my friend from Virginia, is the issue of identifying the actual location of the womanpower and the manpower in this country. We must identify where the people are and how they might—and I underline "might"—be called up in a time of emergency.

Mr. WARNER. I concur with the Senator in that. But we should only put the American taxpayers to the expense, an added expense, of registering women if there is some forseeable need for that information. Yet I continually hear when we approach the separate issue of the draft we can suddenly begin to abandon the equity argument and just draft in disproportionate numbers as the case indicates needs for the services.

Mr. PRYOR. The answer to my friend from Virginia's question is that those decisions will be worked out in this Chamber and in the other body in cooperation with the Chief Executive of this country if and when we have to revive the full-scale draft, and only, I assume, in case of an emergency.

Mr. WARNER. In that event would the Senator's position again be just as vehement on the question of equity in the draft?

Mr. PRYOR. The Senator from Arkansas, if he is a Member of this very illustrious body at that time, is going to look at the facts as they are presented at that particular moment which might include: First, are we under attack; second, are we under imminent siege or invasion; and third, what is our military posture as it relates to world affairs at that time? I cannot answer those questions at this time.

I can say this: If we reach that critical point in our history, the Senator from Arkansas, and, I only can assume, the Senator from Virginia will be very glad that this country at least has compiled the names of those people who might be eligible to serve in one capacity or another.

Mr. WARNER. Well, we know statistically that somewhat slightly under 2 million men and women become 18 each year. Our current needs of the services are several hundred thousand persons. One of the principal reasons for the registration law is to induce the young people to volunteer for the All-Volunteer Force. But I am still unconvinced that we must go to the added expense to the American taxpayers to register women, to have their privacy invaded by disclosing where they are when there is no apparent or foreseeable need that those numbers would be required by our military. As a matter of fact, all historical data point in the opposite direction.

Yet the argument of equity—and I have made notes here—you want women to be considered "full members of our society." If that is the case when it comes time for the draft it would seem to me that the Senator would be compelled to say, "You are full members of society and now you are going to have to be drafted in equal numbers."

Mr. PRYOR. I think the Senator knows, and I hope I have made my point clear, that the Senator from Arkansas does not support a peacetime draft. I do support a peacetime registration in order that we can at least be prepared in case of an emergency. If we have registration, that system of registration, should be one that is equitable; and to achieve equity, it should give the female portion of our population an opportunity to serve in the armed services of this country by affording them the right, and certainly the responsibility, of registering.

I would like to conclude, Mr. President, by saying that a point I wish to stress this afternoon is that many of those who oppose this amendment perceive a harmful consequence flowing not from act of registration but rather from the act of conscription.

However, we are not considering the issue of conscription today, and I think they are making a mistake in their perception of the issue at hand. Because, once again, before anyone in this country is drafted, we will have had the opportunity to study this issue and decide if we want women to be drafted and, if so, in what capacity we want them to serve.

Also, if the President requested a mobilization, the Congress at that time, in its own judgment, could restrict or not restrict the applicability of the selective service law with language which makes it clear that women shall not be drafted. It would be our decision and our responsibility to consider every alternative. As the Armed Services Committee report has indicated, the courts have been willing in the past to honor such expressions of congressional intent when justified, as this one might be, by military necessity.

Thus, Mr. President, I find in this amendment a reaffirmation of a basic principle of equity under the law—equal treatment and equal obligations for all citizens. And I contrast that with the fears expressed about the impact this would have on our Nation if we needed to mobilize—but I find those fears based in the erroneous belief that a mobilization decision would be tantamount to a decision to draft equal numbers of women and compel them to serve in combat. That is not what we are talking about today. I reject that premise, and I reject that analysis of this amendment.

As a result, I find this to be a most worthy amendment, and I am very proud today to support it.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. MITCHELL). The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield myself such time as I may need.

Mr. President, I support the amendment of the distinguished Senator from Kansas (Mrs. KASSEBAUM) and the distinguished Senator from Michigan (Mr. LEVIN) and others.

I should state at the outset of my remarks that I do not support it because I am in favor of registration, peacetime draft, or conscription. In fact, I think that the major bill that we have before us today, the registration joint resolution, is simply a thinly disguised effort to kill the All-Volunteer Force, and if it is enacted that will be the eventual result.

It gives us a chance to hide the failures of providing adequate pay for the military, the failure to provide adequate funds for the readiness of our conventional forces, the failure to provide the requisite incentives for retention, if not recruitment. All of it adds up to first step and a concentrated effort to do away with the All-Volunteer Force.

But if we do that and if, indeed, we do have registration, in today's society, Mr. President, I certainly think that a bad system is then made totally illogical. If you exclude women from registration, nothing that we can do, in my estimation, is going to make the idea of registration sensible or palatable. If we are to retain any sense of logic, any sense of equality, any sense of reasoning, then it must apply to both men and women.

I have listened to a great deal of the debate here this afternoon, both in the Chamber and back in my office. I have not heard any argument for the exclusion of women in registration that makes sense in 1980. I have heard discussions of the history of the military for the past 200 years. I have heard statements about the history of our country and the fact that we have not had women in previous drafts or registrations.

I would also point out, however, that we have never had such a baseless justification for taking the first step to peacetime conscription as we see on the floor of the Senate here today.

We talk about a society which has vastly changed. During much of the time when there was no talk of registration or even a draft of women, women were not allowed, in most States, to own property, to vote, to be individuals in their own right, to bring suit, or to have that standing before the courts that men had. Are we suggesting that we should be returning to that kind of a situation? I think not.

Everything has changed. The idea of employment rights and responsibilities. Our laws are designed to provide the same rights and responsibilities in employment for both men and women. Our laws are designed to provide the same rights and responsibilities for the holding of property for both men and women. Our laws are designed to provide the same rights and responsibilities of voting for both men and women. Our laws are designed to provide the same rights and responsibilities in lawsuits for both men and women.

And in fact, if you go down through the list, in virtually every instance the laws, rights and responsibilities are the same. Now, having provided the same laws, rights and responsibilities for both men and women, should we leave a glaring exception in registration?

I cannot help but think, Mr. President, that many in the country who support the idea of registration with the idea that it would be the first step in the return to a draft and peacetime conscription would be horrified at the idea that it might include women. This shows that the basic inequality of the whole thing may be held up to public scrutiny. If, indeed, it included both men and women, perhaps more people in this country would raise the question of why we need a peacetime draft in the first place.

As I said earlier, Mr. President, prior to the cloture vote, our problem today is retention far more than recruitment. Our other problem today is readiness. And we do not get these through preregistration. We get these by making a military life one that appeals to people because of their patriotism, but also allows them to retain their own dignity: One that says that if you are a technician on a ship, required to utilize millions of dollars of radar equipment and responsible perhaps for the lives of hundreds of others, that we are not going to reward you in that position with a salary that has you placing a distant second to those on welfare. We cannot tell you that you will make it only if we make food stamps available on the side. No, Mr. President, what we must do is to set a decent pay schedule, make the best training schedule, and to make a military career a career of which a person can be proud.

We cannot do this by putting in a registration system in the first place, and, having said that, we definitely do not establish one that excludes half of the people in our country. It is bad enough that in the past, Mr. President, we have left loopholes in our registration and draft schemes—loopholes large enough to drive an M-60 tank through; loopholes that said if you are rich and well-connected enough to continue on in college as a student, you might escape the rigors of the draft; loopholes of the type Senator PROXMIRE discussed this morning available to those who could afford lawyers, but not available to anybody else. But here, Mr. President, in the joint resolution before us, we find ourselves creating as large a loophole as conceivable, that is, a loophole that automatically excludes half of our population.

Mr. President, I do not like registration. I do not like the idea of the peacetime draft or peacetime conscription. But if we are going to have it in today's society, Mr. President, in today's age, at a time when our legal rights and responsibilities are based on the equality of sexes, then we cannot have it without equality of the sexes.

I would hope that the Senate would reject the whole joint resolution, but if it does not, I would hope that it would make it an equal piece of legislation. It is not now. It would come closer with the amendment of the distinguished Senator from Kansas and the distinguished Senator from Michigan.

I should make it very clear, Mr. President, if we have a time of emergency where our military must be substantially improved by registration or by a draft, I will support them. I would support it eagerly. But that is not the case. The only ready force we have today is our All-Volunteer Force. The 100 hours of time being spent by this body could be far better spent in debating and passing legislation to improve the condition of our current force, our All-Volunteer Force. It would be far better spent in giving the money and the support necessary to make the All-Volunteer Force work and not taking a backdoor road to kill it.

Mr. President, having said that, I will reiterate just one more time if we are going to have registration, let us make it equal.

Mr. President, I reserve the remainder of my time.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if there are no other Senators wishing to speak, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kansas yield the floor?

Mrs. KASSEBAUM. I am glad to yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, let me say a few things about the Kassebaum amendment. I think a great number of people are probably not clear as to exactly what this amendment does and does not do. The joint resolution we are amending is very simple. There is a proviso that reads as follows in the original joint resolution and the amendment by the committee as amended by the Nunn amendment:

> *Provided*, That none of the funds made available by this joint resolution shall be available for instituting or taking action to draft any individual for military service or be used for production of any selective service form used for classification which does not permit a registrant to have the option of stating that such registrant is conscientiously opposed to participation in war in any form pursuant to section 6(j) of the Military Selective Service Act.

That is the way the amendment reads now.

The Kassebaum-Levin amendment would add after the word "Act" the following language:

> or shall be made available for implementing a system of registration which does not include women.

Mr. President, there are many people who believe that this amendment authorizes the registration of women. This amendment does not authorize the registration of women. I am not trying to in any way characterize the descriptions that have been given of it because I was not on the floor when they were given. I will let the Senator from Kansas speak to that point.

I want to make it clear to my collegues that this amendment does not authorize the registration of women. What it does do is prohibit registration of men unless the Congress first votes another law for the authorization of the registration of women.

Mr. President, if this amendment passes and becomes law, instead of giving the President of the United States additional authority and money, we are really taking away the authority he has now. If this becomes law, unless the Congress authorizes the registration of women in specific legislation, the President of the United States would not be able to have registration of males even if a war was declared unless and until Congress authorized the registration of women.

This is the reason this measure should not be dealt with in an appropriation measure. It should be dealt with, in my view, in detail in an authorization bill. I know the Senator from Kansas and I know her view is to authorize the registration of women. But this amendment does not do that. It holds up the entire registration process and says that we will have no registration unless and until the Congress of the United States authorizes the registration of women.

We are in a position where the House of Representatives Armed Services Committee and the Senate Armed Services Committee both voted down the registration of women. That does not preclude the Senate or the House from making a different decision. We all know how the system works. But what we are faced with here is an amendment that would preclude any registration until such time as the Congress decided by a majority vote in both bodies that we would authorize the registration of women.

If the Congress does not decide this year to authorize the President to register women, and there is every indication that will be the case at least on the House side, then we are in the unique position of taking away the Presidential authority for registration, even in an emergency.

If we had an emergency, the President of the United States would not be able to utilize his existing authority to register males and to classify males, even if Congress got an emergency appropriation bill through for the money, because this amendment would preclude that such time as the Congress authorized the registration of women.

I am sure the answer will be that that is the intent of the authors, that they do not want any registration until such time as we register both males and females.

I do not believe that represents the viewpoint of a majority of this body. But we do not have people on the floor now. What we may very well have is people coming over thinking they are voting to authorize the registration of women, not thinking they are disrupting the whole process, and, therefore, voting for the Kassebaum-Levin amendment.

Mr. President, every Senator and all the staff members, and others listening to this debate, should recognize that this takes away the existing authority of the President to respond to emergencies because he could not—he could not—utilize his existing authority if this becomes law until such time as the Congress has authorized the registration of women.

I urge my colleagues not to vote for this amendment. I urge my colleagues to vote down this amendment at the present time.

The Senator from Kansas and the Senator from Michigan can bring up the authorization of women on the military authorization bill which will be here within 2 or 3 weeks on the floor. At that time, we can provide any provision that anyone wants about this. That bill will be in conference with the House Armed Services Committee, the appropriate body to consider that. I think we can have a meaningful debate on the subject, and it should be debated.

Our committee went into very great detail. We found that there was no military necessity cited by any witnesses for the registration of females.

The main point that those who favored the registration of females made was that they were in favor of this because of the equality issue, which is, of course, a legitimate view. But as far as military necessity, and that is what we are primarily, I hope, considering in the overall registration bill, there is no military necessity for this.

Our committee made several findings.

I understand my friend and colleague from Virginia has put the committee and subcommittee report into the Record, is that correct?

Mr. WARNER. The Senator is correct.

Mr. NUNN. We made several findings based on that testimony. I refer anyone to the Record on that.

Mr. President, I would like very briefly to read the specific findings:

SPECIFIC FINDINGS

> (1) Article I, section 8 of the Constitution commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and makes rules for government and regulation of the land and naval forces, and pursuant to these powers it lies within the discretion of the Congress to determine the occasions for expansion of our armed forces, and the means best suited to such expansion should it prove necessary.
>
> (2) An ability to mobilize rapidly is essenitl to the preservation of our national security.

(3) A functioning registration system is a vital part of any mobilization plan.

(4) Women make an important contribution to our national defense, and are volunteering in increasing numbers for our armed services.

(5) Women should not be intentionally or routinely placed in combat positions in our military services.

(6) There is no established military need to include women in a selective service system.

(7) Present manpower deficiencies under the All-Volunteer Force are concentrated in the combat arms—infantry, armor, combat engineers, field artillery and air defense.

(8) If mobilization were to be ordered in a wartime scenario, the primary manpower need would be for combat replacements.

(9) The need to rotate personnel and the possibility that close support units could come under enemy fire also limits the use of women in non-combat jobs.

(10) If the law required women to be drafted in equal numbers with men, mobilization would be severely impaired because of strains on training facilities and administrative systems.

(11) Under the Administration's proposal there is no proposal for exemption of mothers of young children. The Administration has given insufficient attention to necessary changes in Selective Service rules, such as those governing the induction of young mothers, and to the strains on family life that would result from the registration and possible induction of women.

(12) A registration and induction system which excludes women is constitutional.

Mr. President, that ends the quote.

We are in a situation where this issue has not been addressed by the administration in detail. The President, of course, said he was in favor of registration of women.

When the administration witnesses testified, lo and behold, we found they had made no provision whatsoever, made no plans whatsoever, to exclude mothers of young children.

Maybe that is what the Senate wants. Maybe we want to treat the mothers of young children exactly the same as the fathers of young children.

But I do not believe the Senate is prepared to go on record in that respect today. I do not believe the Senate is prepared to say that we are going to, basically, tell the President of the United States to go ahead with his plan on registering women, at the same time withholding authorization because this is not an authorization for that, and hold up the registration of males.

I just do not believe the country, and maybe I am wrong, but I do not believe the country is prepared to see if we have a draft, and we must recognize that the law requires now, and this does not change that law, that there be an impartial draft, if there is a draft.

This means that if women are registered, as I read the law, that they would have to be drafted in equal numbers if there were a draft.

This means, Mr. President, that we are going to have, if that eventuality occurred, and I hope it will not, but if it occurred, we could have and would have thousands of women getting drafted.

In any event, if we went to a draft with young children at home, I suppose under many cases we could very well have the fathers not receiving draft notices under a lottery system, which is what we would have to go to under present law, and, therefore, we would be in a position of having fathers staying home, in many cases hundreds, perhaps even thousands of cases, fathers staying home while mothers are shipped off for military service under a draft.

I just do not believe my colleagues in the Senate, after thinking about that, are prepared to take that kind of bite in one big hunk today. I do not believe they are prepared to do that. But, unfortunately, at the present time, we do not have very many people on the floor. I hope there are people listening to this debate. I think people ought to recognize what this amendment really does.

This amendment precludes registration of males even in a wartime situation unless and until the Congress authorizes the registration of females.

So we would be in a very bad position if we would have an emergency come up. If the President decided to register males, even if Congress gave him the authorization overnight, unless we also gave him the right in that kind of emergency, to register females, then he would have no authority whatsoever to go forward with registration of males.

Imagine the situation where we have some emergency, some possible mobilization, and the President saying, "I need an emergency appropriation for the registration of males." The President saying, "The present law precludes me from registering males unless you authorize females, so I also need an authorization for female registration." And the President saying, "The present law says that I have to draft impartially, therefore, unless you change that law, I have to draft females and males equally," and then the draft, in any event, going out.

We are in an emergency, and all over this country having young mothers get draft notices, and perhaps their own husbands not getting draft notices under a lottery.

I do not believe this has been thought through, Mr. President, in this amendment. I know the authors are very sincere and that they feel deeply about the issue. I respect their views on this.

But if we pass this in this form on this night, there are going to be a lot of people, when they find what this really does and what the consequences are, that will finally decide that what they thought was support by their constituents and the American people will suddenly unwind, because there are a great number of people who have not thought it through or the consequences of this issue. They have not recognized that the present law requires impartiality in any draft, and that means we draft from the pool that exists, and when we put women in the pool we would be requiring they be drafted, in my opinion, under present law, in equal numbers.

If somebody wants to amend that law to provide the President has authority to draft in unequal numbers, that is a legitimate point. Perhaps we should do that.

If so, what unequal numbers are we going to permit the President to draft under?

The President says they need only about 80,000 females, that it would be something like——

Mr. WARNER. It would be less than one-fourth.

Mr. NUNN. Less than one-fourth. The President does not have that authority now. The President has not thought that through. His witnesses did not recognize that they have that authority when they testified.

If we want to give him that authority, we had better think it through. Are we going to establish in law that if you go to a draft, are you going to draft five males and one female? Has anybody thought that through so far as equal rights are concerned?

I think the Senate is getting far ahead of itself. It would have been much better if we had brought this up on an authorization bill, and my colleagues should recognize what they are voting on tonight. When they pick up an analysis in 2 or 3 days, in a magazine, written by one of the thoughtful members of the news media, and they give it more than superficial treatment, and they start thinking this through, thinking about the possible consequences, my colleagues are going to find that what they voted for and what they got are not recognizable, because it is entirely different, in terms of the consequences, from what people may think.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. NUNN. I will be glad to yield for a question.

Will the Senator ask it on his time?

Mr. RANDOLPH. Yes, on my time.

Mr. NUNN. I yield the floor, and I will let the Senator be recognized on his time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I say to the very informed Senator who has been speaking—I use these words advisedly—the very knowledgeable Senator who has been speaking, that I would not want him to imply that those who vote for the Kassebaum amendment do so and are not informed.

The news commenator referred to, may be very thoughtful, but I am very thoughtful, too, as I cast this vote. I support the Kassebaum and Levin amendment.

Do not misunderstand me. I am not critical. When I vote for the amendment, I will know what I am voting for.

I ask the Senator from Kansas and the cosponsor of the amendment, the Senator from Michigan (Mr. LEVIN) if they will give me the opportunity to cosponsor their amendment.

Mrs. KASSEBAUM. Mr. President, I will be more than happy to do so. I ask unanimous consent that the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. I thank the Senator.

Mr. WARNER. Mr. President, I compliment the Senator from Georgia for very clearly describing the legal effect of the amendment of the Senator from Kansas.

I hope the Senator from Kansas will take this opportunity to respond to the Senator from Georgia and his interpretation of the legal effect.

We are about to vote; and as I sit here, I have alined myself with my colleague from Georgia. He has clearly explained what is my understanding of the operative effect of the amendment, and I am not certain that a number of my colleagues understand this technical point fully.

I yield at this point to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will be happy to do so. I thought we had explained clearly exactly what would take place under this amendment.

I say to my distinguished colleague from Georgia, who has a keen knowledge of the defense needs of this country, that we would have to address this issue on the authorizing legislation which can be brought up at any time. But the point is that we are addressing a policy issue today which certainly has an effect on the authorizing legislation.

Regarding the particular amendment and the question the Senator raises, if we are faced with a crisis tomorrow and if this amendment is adopted, under which the President does not have the authority to register men unless women are included, all we would need to have, because this is an appropriation bill, is another appropriation bill that would give him the funds needed to register men.

Until we finally address this issue on the authorizing legislation, it would not be something that would be in the President's authority. Until then, he has the authority, all he would need is funding. What this does is speak entirely to the money issue that would not be in effect for men until it would include women.

Mr. NUNN. In response to the Senator from Kansas, I point out that one of the problems here is that there is not any money in this bill, and I do not believe there are any pending amendments to add money, that would provide money for the registration of women. This bill provides enough to register males, but the Senator's amendment would preclude the registration of males until you register females. This means that if this amendment is adopted, you cannot register males without registering females, because you do not have enough money to register both.

Basically, we are saying to the President, "Do the job, and we are not going to give you the money to do it." I do not know how that could be handled. The President would have to ask for another appropriation, and we would go back to this again.

Mrs. KASSEBAUM. I say to the Senator that what this measure does is to provide money for the registration of 4 million individuals, and this still will be a question of registering 4 million individuals. I believe that we are not going to register that many even before the end of fiscal year 1980 in any event. Therefore, there is money for 4 million individuals. Under this amendment, if it were adopted, it would be men and women. Then the determination would be made as to whether it would be only 19-year-olds or what would be the best way to address 4 million individuals, both men and women, because that is what was stated in the orginal legislation.

Mr. NUNN. I wish we had a pending amendment that would address that issue along with this, because the President asked for more money to begin with, because he wanted to register both males and females. But this appropriation measure provides only for the registration of males. So the President's whole plan would have to go back to the drawing board. He would then have to adjust for the number of people to be registered in each age group. I do know that we are mandating by this amendment, if we adopt it, the registration of females but not providing the money to do it, under his present plan.

Mrs. KASSEBAUM. It was my understanding that it was an amount of money for the registration of 4 million individuals; and it was assumed, of course, since the authorizing legislation is only for men, that it would be 4 million men but that obviously need not be the case.

Mr. NUNN. The President requested $20 million. The Appropriations Committee has cut that down to $13 million which is what we have before us now. The reason he requested $20 million is because he felt it would take $20 million to register males and females. So the Appropriations Committee has cut that down, but now we are going to do a sort of trick to the President. We are going to tell him, "We are not going to give you the money to do what you set out to do, but we are going to tell you to do it anyway, but we are not going to give you the authority to do it. You just cannot register males until you register females, but we are not going to give you money to register females."

If this passes, then others of my colleagues are going to have to figure out where we stand because the Senator from Georgia will not know.

Mr. LEVIN. Mr. President, first of all, I wish to comment on some of the remarks of our colleague from West Virginia, Senator RANDOLPH, who is living history in this Chamber. His comments both on the history back in the early 1940's and his comments on the importance of including women if we are going to have registration so we can make use of womenpower, proven womenpower as well as manpower, I think struck the mark head on.

Just as Senator KASSEBAUM welcomed his cosponsorship, I also am very much flattered by the fact that he sees fit to cosponsor this amendment. It means a great deal to the supporters of this amendment and to its future.

Relative to some of the points that have been made by the Senator from Georgia, in the first place the Senator has indicated that if this amendment is adopted the President is going to have to register both males and females if he is going to register males, and I would say that is exactly the point of the amendment. I do not think that the purpose that he has described or the effect he has described is any different than what was intended. It is intended that the President register both if he is going to register males. I think that intent has been carried out.

The Senator from Georgia then points out what happens in the event of a real emergency and if we have not corrected some of the problems in terms of equal numbers, in terms of impartiality and the underlying authorization. First of all I wish to say he is in a very critical position to correct that authorization bill, to amend it, to correct the underlying law so it does not have the effect that he fears. That underlying law will be in front of us within 30 days. We will be able to make those corrections that are necessary at that time. But that is no reason certainly on this appropriation bill not to do what is just and not to do what is equitable.

Second, the Senator from Georgia has pointed out what happens if there is an emergency and what happens if there is a war; the President could not register males under this amendment. The truth of the matter is that given our state of the law, if there were an emergency or if there were a war, the President could not even draft males, could not begin the draft without the consent of this Congress. In any event, if there is an emergency, the President must come to this Congress for authority. Even if we adopted male only registration and there were an emergency, the President could not draft in case of an emergency. He would have to come here for authority because the existing draft law is dormant. The authorization for the President to draft even males has run out. There is no reason why, if the President must come here for authority to draft even males, that we would not have the power at that time to do what is necessary in that emergency if we also require the registration of females at this time.

So the emergencies which have been described by the Senator from Georgia are not emergencies at all because, in any event, Congress must act in the event of an emergency to draft even males if we leave it that way.

The parade of horribles just does not work.

What are we going to do about women with children? The answer is that there is an authorizing committee that can correct the underlying law to make it sensible. The sponsors of this amendment have great confidence in the Senator from Georgia and others with him on his committee to correct the inadequacies of the underlying law.

Mr. President, this amendment really is a signal. This amendment is an important signal that this Senate wants equity in the area of registration. It is a signal to the authorizing committee. As Senator NUNN sits on that committee and chairs the subcommittee, it is a signal that we want equity in the area of registration, and we want equity as far as we can get it in the area of services.

The Senator from Virginia has said that the equity is not perfect because women cannot go into combat. Why would you want to take the first step if women are not forced into combat and you cannot have perfect equity? The answer to that is you want as perfect equity as possible. Even though our current mores prohibit and understandably so women from serving in combat that is no reason why we should not utilize their service in noncombat jobs.

I think Senator KASSEBAUM's amendment is an extraordinarily important step both toward strengthening our military service and in the march for equality for women in this country.

Mr. CULVER. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I intend to speak briefly on another occasion. Now I simply wish to indicate my support for the Kassebaum amendment.

I believe that about 8 percent of our Armed Forces today are women. That contrasts with 2 percent in 1973. The goal of the Defense Department is to achieve 12 percent by 1984. The trend is up.

We are not talking about instituting a draft now. We are just talking about registration to be prepared. If we are in an emergency I should think we should call upon all the resources this country has to offer. Obviously women compose half of our national human resources.

I can well remember when we debated the issue whether or not women could serve on the floor of the Senate as pages, and we took 6 months to debate that issue. The question was were they really competent to do that job? I think we have demonstrated and proven that women are equally competent as men and sometimes even have superior competence.

I do believe we are sending a signal. We ought to send a signal that in case of emergency all the human resources in this country will be utilized. I think women would be proud to serve their Nation in time of peril and in time of need.

We have preached all over the world that other countries rule out half their personpower if in their economic structure, their political structure, and their social structure they do not fully utilize all of their population in building their nation. In time of peril we need to call upon all of our resources, and women demonstrated year after year when I served with them in the Navy years ago their competence in defending their Nation in a time of need.

I respect very much the amendment and intend to vote for it.

Mr. HATFIELD. Mr. President, I wish to speak to the issue of the constitutionality of the Military Selective Service Act which applies to men only. It is my firm belief that the courts have a responsibility and, quite possibly, will invalidate a male-only draft registration as an unconstitutional sex-biased classification. It will violate the 5th and 14th amendments to the Constitution.

Preliminarily, I emphasize that it is current fifth amendment doctrine that establishes the constitutional infirmity of a males only draft registration requirement. The belief that women will be protected from registration or induction until the equal rights amendment is ratified is based on misconception of the current state of the law.

The exemption of women from prior draft registration requirements was seldom questioned. Where it was challenged on constitutional grounds, it was upheld with little analysis. However, today, as a result of two major developments since the end of the last draft, the outcome of a constitutional analysis of a draft registration limited to men will differ. First, in 1976, the Supreme Court established a heightened review standard for sex-based classifications against which such a statute would be measured. Second, the influx of women into the military during the 1970's provided substantial evidence that women are capable of high quality performance in most, if not all, military skills. This evidence strongly suggests that a males-only draft registration requirement would not meet the heightened review standard.

During the late 1960's and early 1970's, the courts that upheld compulsory military service for men alone applied what is called the "rational basis" model for equal protection review. That is, if the classification is rationally related to a legitimate governmental objective, it will survive judicial scrutiny. This model contrasts with that employed for classifications which either infringe on fundamental rights or are denominated suspect. Such classifications must be based upon compelling governmental objections and be necessary to their accomplishment. Historically, gender classifications were analyzed under the rational basis model and were virtually insured of passing constitutional muster.

The turning point came in 1976. That year in Craig against Boren, the Supreme Court articulated for the first time a heightened standard of review for sex-based classifications. It established that such classifications will fail unless the legislative objective to be served is important and the classification is closely and substantially related to the objective. Since Craig, the Court has repeatedly reaffirmed that gender-based legislative classifications must be tested by this new, stringent standard and has held many such classifications unconstitutional.

Significantly, the cases cited by a Department of Justice memorandum in support of its position that the Supreme Court would apply the equal protection guarantee to military matters with special circumspection were decided in 1971 and 1975, before the enunciation of this new, heightened review standard. And there has been no indication of judicial retreat from that standard in military cases.

In addition to establishing an elevated review standard for sex-based classifications, the Supreme Court has also made clear since the last draft that in scrutinizing such classifications it will be guided by two basic principles. First, gender classifications based on stereotypical notions about women will not be tolerated as a proxy for some other individual characteristic. Second, gender classifications which appear to favor women will not be protected from scrutiny.

Application of the legal principles I have outlined to compulsory draft registration limited to men demonstrates the constitutional infirmity of such a classification. Initially, it is clear that deference to congressional judgment in military matters will not preclude meaningful judicial review. Courts, including the Supreme Court, have repeatedly decided the reach of the equal protection guarantee of the fifth amendment in cases brought by women challenging gender discrimination by the military. And, although there is judicial support for the proposition that involuntary conscription may be necessary to satisfy a vital governmental objective in maintaining the national security, it does not follow that the imposition of this obligation on men alone is "closely and substantially" related to the accomplishment of that objective.

It bears emphasis that the heated debate over whether women should be assigned to combat units is not central to determining whether a males-only draft registration furthers the objective of maintaining the national security with a combat-ready military. Congress has already recognized this in an analogous context. In 1975, it enacted legislation permitting women's entrance into the military academies in spite of the Pentagon's principal objection that the academy issue and the combat question were inseparable. It repeatedly heard testimony from military officials to the effect that:

> The issue of whether women should become cadets at West Point is tied directly to the basic question of whether Americans are prepared to commit their daughters to combat.

It nonetheless resoundingly passed the amendment to permit women's entrance without legislating on the inflammatory combat issue. This year we graduated the first classes of women from our military academies. These women were among the highest ranged of the graduates. They performed admirably and are unquestionably well-qualified to be leaders of our military.

The preception reflected in the 1975 congressional judgment that the two issues are separate is altogether accurate. The percentage of individuals eligible for the draft who actually end up in combat positions is so small that whether or not women should be assigned to them is largely irrelevant to determining whether or not they should be excluded from a draft. In the last draft, less than 1 percent of those eligible were inducted and subsequently assigned to a combat unit. If women were added to the pool, the statistical chance of an individual being drafted and assigned to a combat unit—whether or not there was a female combat exclusion—would be negligible. See *United States* v. *Reiser*, 394 F. Supp. 1060, 1067 n. 11 (D. Mont. 1975). Even in the basic Army infantry division nearly two-thirds of the troops serve in a support capacity. For every person on the front line, there are large numbers of administrative, clerical, technical, logistical, medical, and maintenance personnel performing support functions.

Even applying the military's own broader exclusionary classifications, many positions are "sex-interchangeable," The Army estimates 286,000 out of 567,000 jobs can be filled by either sex. The Air Force calculates 94 percent of enlisted jobs are interchangeable. While figures are not yet available, the number of Navy jobs open to women should have increased dramatically since judicial invalidation of the statute precluding females from serving on ships. Thus, whether or not women are assigned to combat, it is clear that they are qualified for a full range of noncombat positions.

The absence of a substantial relationship between exclusion of women from a draft registration requirement and national security is underscored by changes in military policy which reflect the military's recognition that women's enlistment actually furthers its goal of fielding an effective force. In 1972, the decision was made to increase the proportion of women in the military. At that time, women constituted only 1.9 percent of all military personnel. That percentage grew to nearly 6 percent in fiscal year 1977, is around 8 percent now and is programed to reach 12 percent by fiscal year 1984.

Moreover, the vast majority of occupational specialties have recently been opened to women in all branches of the military. Only 22 of a total of 345 military occupational specialties in the Army remain closed to women. Only 4 of the 230 specialties in the Air Force are closed to women and one of those is being tested to see if women can satisfactorily perform all aspects of the specialty. In the Navy, only 16 of 99 ratings are closed to women and this is expected to drop to 11. In the Marines, women are excluded from only 4 of the 38 occupational fields.

That women's exclusion from a draft registration requirement does not substantially further present-day military purposes finds further support in recent studies of the impact of women on military effectiveness. In 1978, the Department of Defense found that "women represent a major underutilized manpower source," Department of Defense, America's Volunteers 69 (1978). In a 1977 study it found that:

> In view of the reduction in the number of young men expected in the labor market in the 1980's and 1990's, it would seem prudent that the Army should pursue a more ambitious program to find ways to use more high quality women to meet their enlisted requirements. It would appear that more realistic constraints in their personnel programs would permit significantly larger increases by 1981. Office of Assistant Secretary of Defense, Background Study, Use of Women in the Military 46 (1977).

One study, conducted by the Army Research Institute in October 1977, concluded that unit performance in an intensive 72-hour field exercise was not impaired by female content of up to 35 percent, the maximum percent tested. Another, a May 1978 test, reveals that in a several weeks extended exercise, which included 3 weeks in field conditions, up to 10 percent women, again the maximum percent tested, did not hinder unit performance. In 1972, the Navy's experimental assignment of females to the U.S.S. *Sanctuary* revealed that women perform at "every shipboard function with equal ease, expertise, and dedication as men do." Indeed, in 1978, based on the *Sanctuary* experiment and impressive additional documentation, the statutory prohibition against women serving on board naval ships was held unconstitutional under the equal protection component of the fifth amendment.

In the face of the above experience and data, the conclusion of the Department of Defense that "women are demonstrating that they are capable of playing an even larger part in the national defense" was unavoidable. Although the outer parameters of women's participation may be unclear, their ability to perform a substantial role in the military has been well documented and widely recognized in this decade.

Once the combat issue is put in proper perspective and the evidence of women's recognized ability to perform military functions is assessed, it becomes apparent that an exclusion of women from a draft registration requirement would be the product of the archaic notion that women must remain "as the center of home and family." One court apparently recognized as much about the Congress which enacted the prior draft law. In upholding that law's exclusion of women, the court stated:

> In providing for involuntary service for men and voluntary service for women, Congress followed the teachings of history that if a nation is to survive, men must provide the first line of defense while women keep the home fires burning.

At one time judicially accepted, such romantically paternalistic underpinnings of sex-based classifications are intolerable under current equal protection doctrine. Overbroad generalizations concerning one sex or the other no longer can be used to substitute for a functional, gender-neutral means of distinguishing between the physically unfit and the able bodied. The paternalistic attitude inherent in exclusion of women from past draft registration requirements not only relieved women of the burden of military service, it also deprived them of one of the hallmarks of citizenship. Until women and men share both the rights and the obligations of citizenship, they will not be equal.

In sum, when the evidence of women's participation in the military since the last draft is measured against the new heightened review standard for sex-based classifications, it is clear that their exclusion from a draft registration requirement will not adequately "closely and substantially" relate to the maintenance of the national security. Consequently, should Congress reinstitute a compulsory draft registration requirement using sex as a proxy for an individual's capacity to discharge military duty, there can be no doubt that litigation would be brought and that the legislation would almost certainly be invalidated as violative of the equal protection component of the fifth amendment. I urge the adoption of Senator KASSEBAUM's amendment.

Mr. President, I ask unanimous consent that an article from the Washington Star entitled "Army Can Triple Use of Women in Support Roles, New Study Says" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARMY CAN TRIPLE USE OF WOMEN IN SUPPORT ROLES, NEW STUDY SAYS

(By Robert Kaylor)

A year-long study indicates the Army can more than triple the number of women who support combat units and not lose effectiveness, military sources said yesterday.

The conclusion is contained in a soon-to-be-released report on the results of Project Max Wac, which studied the impact of using women—numbering between 5 and 35 percent of total strength—in five different types of support units during three-day field exercises.

Sources said the study showed that with 35 percent of total strength made up of women, the units were able to fulfill their missions.

In addition to military police and transportation units, the women were tested in signal, medical and maintenance outfits. There were a total of 55 tests of units of company size—about 150 to 200 total members each.

The normal number of women in such support units now does not go above 11 percent.

Sources said, however, that before drawing conclusions whether numbers of women soldiers can be boosted so sharply on a regular basis, the Army is awaiting the results of other studies.

Among them is one which compared the performance of women against men in similar jobs during a two-week field exercise in West Germany last fall to see whether fatigue and stress over a long period cut down effectiveness. A report on that study is expected next March.

About 6.5 percent of the Army's total active strength of approximately 785,000 now consists of women soldiers. The Army's goal is to raise that to 10 percent—a total of about 80,000 women—in the next five years or so.

Women are now barred from "combat" jobs—such as in infantry, artillery and tank battalions—and as a result also have been excluded from posts in the headquarters of battle formations such as divisions.

The Army is now considering changing its definition of "combat" to allow women to be assigned to divisional headquarters or to behind-the-lines jobs in artillery units. Some sources predicted female soldiers would go into such jobs within the next year.

Mr. HATFIELD. Mr. President, I do strongly support this amendment by the Senator from Kansas. I say that even though I really have a certain sense of ambivalence because I really think that this matter will be taken to the court eventually before it ever becomes implemented, the whole question in which we are involved here today; and therefore it seems to me that if this amendment is voted down we have another issue upon which we can challenge the constitutionality of this act if it becomes the law or becomes a policy, and probably that would add to our possibility of winning it in the court as opposed to our ability to win it in the Senate or in Congress. But in spite of that sense of ambivalence on that legal question and the possibility of raising this in a court action later on I do want to indicate to the Senator from Kansas that I shall vote for this and I urge it be passed by the Senate tonight.

Mrs. KASSEBAUM. Mr. President, I have called for the yeas and nays.

I am very appreciative of those who have given us the opportunity to have this debate and I hope those who support me in giving me this debate as well as Senator LEVIN on this amendment will also support us in the law.

I do call now for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I rise in opposition to this amendment.

All of the military services testified at length about the mobilization plans before the Armed Services Committee in their testimony about the place of women in those plans. Both the civilian and military leadership agreed that there is no military need to draft women. Because of the combat restrictions, the need will be primarily for men, and women volunteers would fill the requirements for women. The argument for registration and induction of women, therefore, is not based on military necessity but on considerations of equity.

We are concerned with the national security of this country. The Army and the Marine Corps testified that because of present shortages in combat arms and the nature of the emergency situation envisaged, the primary need is for combat replacements from the induction system. Selective Service plans provide for drafting only men during the first 60 days, and only a small number of women would be included in the total drafted for the first 180 days.

In addition, there are other military reasons that preclude very large numbers of women from serving. Military flexibility requires that a commander be able to move units or ships quickly. Units or ships not located at the front or not previously scheduled for the front nevertheless must be able to move into action if necessary. In peace and war, significant rotation of personnel is necessary. We should not divide the military into two groups—one in permanent combat and one in permanent support. Large numbers of noncombat positions must be available to which combat troops can return for duty before being redeployed.

It is also clear that an induction system that provided half men and half women to the training commands in the event of mobilization would be administratively unworkable and militarily disastrous. It has been suggested that all women be registered, but only a handful actually be inducted in an emergency.

Fellow Members of the Senate, you will find this to be a very confused and, ultimately, unsatisfactory solution. I believe we must be honest and face up to a situation we have existing, and that is increasingly worrying the people of this country, and that is the military deficiencies and, among them, our military manpower problem.

We have a readiness problem and a mobilization problem. But our problem is not the lack of accessibility for service for the female or the women population of this country. They have that opportunity now and they are serving and, in most cases, serving very well.

But to register, the proposed registration for, women subsequently in the event of mobilization when we consider a draft is not in the best interests of this Nation. It is contrary to military preparedness. In fact, it works in a negative way on that basis, as testified to by all military and civilian opponents who appeared before the Armed Services Committee.

Therefore, I urge rejection of this amendment. I thank the Chair.

Cries of Vote! Vote!

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I just want to repeat, while we have Senators on the floor, what I said a few moments ago. I am not sure how many Senators recognize what it does and does not do.

This amendment precludes the registration of males until Congress authorizes the registration of females. This means that the amendment basically prevents registration. It takes away the authority of the President, which he already has under the law, until and unless Congress authorizes the registration of females.

This amendment does not authorize the registration of females. We are in the unusual position of having the President requesting $20 million to register males and females. The Appropriations Committee knocked out $7 million, and now, if this amendment passes, we are saying to the President, "We are giving you the authority—we are giving you the money to register males but we are telling you you cannot do it until you register females, but we are not giving you the money to register females or the authority to register females." So we are really sending about as big a bag of mixed signals to the White House, to the American people, as anything I can think of.

I will leave it to others to explain, if this amendment passes, what the Senate position is because the Senator from Georgia would be confused as to that Senate position because we do not have the money here, we do not have the authority here, and we are simply saying that you cannot register males until you register females. We are not giving the President the authority to register females nor are we giving him the money.

Mr. President, that completes my statement on this amendment. I hope my colleagues will vote against the amendment and we will have, as far as I am concerned, an up or down vote on the amendment.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 40, nays 51, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—40

Baker
Baucus
Bellmon
Bentsen
Bradley
Burdick
Cannon
Chafee
Cohen
Cranston
Culver
Danforth
Eagleton
Glenn
Hayakawa
Heinz
Javits
Kassebaum
Leahy
Levin
McClure
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Simpson
Stafford
Stevens
Stevenson
Tsongas
Weicker
Williams

NAYS—51

Armstrong
Bayh
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Garn
Goldwater
Hart
Hatch
Hatfield
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Laxalt
Lugar
Magnuson
Matsunaga
Melcher
Nelson
Nunn
Ribicoff
Roth
Sasser
Schmitt
Schweiker
Stennis
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—9

Biden
Church
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan

So Mrs. KASSEBAUM's amendment (No. 1805) was rejected.

Mr. RANDOLPH. Mr. President, we cannot hear the vote.

The PRESIDING OFFICER. There were 40 yeas and 51 nays. The amendment was rejected.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, and so that Senators may inform their families—Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators and so that they might inform their families, the Senate will be on this joint resolution until action is completed on the joint resolution, unless per chance, and I do not expect this, unless per chance there would be some willingness to enter into a time agreement at some point that would see us wind up action on this bill at a reasonable time. But unless there is such, the Senate will be on the joint resolution until action is completed on the joint resolution, which means if we have to go all night, all day tomorrow, all tomorrow night, all day the next day. That is the way it will have to be. I do not want it this way. I prefer that it not be this way. Cloture has been invoked, and it has been indicated that the rules will be utilized to the maximum extent possible to run out the 100 hours. I do not think the majority leadership has any alternative but to take the position I have just stated.

Mr. BAKER. Mr. President, I had no idea that this offer would be accepted, but there has been a conversation on this side of the aisle about the possibility of recessing tonight at some decent hour and then reconvening tomorrow at a fairly early hour, but attempting to get unanimous consent that the time we are in recess would count against the 100 hours provided for in the rules. I believe the Senator from Oregon would agree to that arrangement. He is on the floor and can speak for himself. That might be one way to accommodate the purposes of the majority leader to prosecute the debate on this measure and provide some degree of relief for all those here.

Mr. McCLURE. Will the Senator yield?

Mr. BAKER. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I am not certain about the effort being made now to either blackmail those who are involved in this legislation to give up their rights under cloture or, in effect, reduce the 100 hours which this Senate has agreed upon to be used under cloture. I certainly am not going to suggest to the Senator from Oregon or anyone else that they not agree to this offer. But the Senate has debated at length the question of what ought to be done postcloture, and we decided after extended debate that there would be a limit of 100 hours, that that would be the upper limit.

Now, as I see it, an effort is under way to reduce the rights of individual Members under a postcloture condition to somewhat less than the rule permits.

If it is the desire of the Senate to change the postcloture rule, I will enter that debate with anyone else as to what might be done under a postcloture situation. But it does not seem wise to me to indicate that simply because we have now a cloture situation that Members of the Senate, each individual, every 100 Members—or perhaps I should say all the other 99 Members—have to be in the position of either giving up their rights under the rule or paying the price of inconvenience to themselves and rather unusual procedures on the floor of the Senate.

Mr. BAKER. Mr. President, I will not prolong this much longer except to say on the very important point raised by the Senator from Idaho, we had a colloquy earlier today and a ruling from the Chair that notwithstanding any time yielded back by an individual Senator, it would not reduce the 100 hours provided for under rule XXII. The suggestion I made just now was slightly different than that. The suggestion I made was the possibility that we recess at a fairly reasonable hour and convene again in the morning at a fairly early hour with the hope that those involved in the debate might agree the intervening time between now and in the morning would be charged as if debate had ensued.

Now, really, about all it amounts to is the conservation of energy and the night's sleep.

But I do not see that there has been any great rush to support that proposal. So I assume from the extensive silence I observe on the floor that nobody thinks well of that except me, and I will withdraw the suggestion.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WARNER. Is it appropriate to make a motion?

The PRESIDING OFFICER. It depends on the Senator's motion.

Mr. WARNER. I move to table the committee amendment, as amended, and I ask for the yeas and nays.

The PRESIDING OFFICER. That motion is in order.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be 2 minutes to the side on the tabling motion.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I am not sure what our status is.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I did not yield the floor. I made a unanimous-consent request. I do not lose the floor.

The PRESIDING OFFICER. The Chair apologizes.

Mr. HELMS. The Senator sat down.

Mr. HATFIELD. The Senator sat down.

Mr. ROBERT C. BYRD. I am sorry the Senator saw me sit down.

Mr. HATFIELD. Mr. President, I ask that the quorum call proceed.

Mr. ROBERT C. BYRD. The Senator is correct. I am sorry that I sat down.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

There is pending a unanimous-consent request that there be 2 minutes for debate on each side in connection with the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. ROBERT C. BYRD. Now the motion before the Senate.

The PRESIDING OFFICER. The motion to table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not more than 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that there is a desire on the part of some Senators not to have the vote on the motion to table until 9 p.m.

I ask unanimous consent that the vote on Mr. WARNER's motion to table occur at 9 p.m.; that until 9 p.m., the Senate stand in recess, with the understanding that the time be charged against the overall 100 hours; that upon reconvening at 9 p.m., the Senate proceed immediately, without a quorum call, to vote on the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, reserving the right to object, I ask the majority leader to yield for a question.

Mr. ROBERT C. BYRD. I yield.

Mr. HATFIELD. As the majority leader understands, this matter of moving to table committee amendment carries with it certain implications. Of course, we are in a situation in which surprises and catching the opposition off guard is a fair ball game.

But I wonder if, before we vote, say, at 9 o'clock, we can call for the return of the Senators who are now leaving the Senate—to attend to other matters—in some way to get some kind of a gentlemen's agreement or understanding that when we come back, at least 1 or 2 minutes can be given to either side to give some kind of explanation as to the impact and the implications of this motion.

To make the motion and then adjourn, so to speak, and go from the floor and off the Hill and come back and vote immediately on a motion has given no one an opportunity to really understand the full implications of the motion.

I would be happy to take the next hour to explain it on my own time, if anyone were here to listen. The majority on my side, the Republican side, will be leaving the Hill, and I will be speaking to an empty Chamber. I should like a "gentlemen's agreement" that we are going to be back in our seats so that we will understand that prior to the vote on this motion, we will have at least 1 minute or 2 minutes on each side, and we will know what the vote means.

Mr. BAKER. Mr. President, reserving the right to object, I say to my friend from Oregon that the request is being made largely to accommodate—I suppose entirely to accommodate—the convenience of Members on this side. I am making arrangements, together with the minority staff and the assistant Republican leader, to transport people to another engagement and for them to be back here at 9.

I assure the Senator from Oregon that we will do that and will do it efficiently.

His request for a limited amount of time to explain the situation after we return at 9 is entirely in order, and I hope the majority leader will consider modifying his request to accommodate the additional points.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, does any Senator on my side of the aisle wish to utilize any of the time between now and 9 o'clock in speaking on the matter?

I see no indication.

Mr. HATFIELD. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HATFIELD. I do not want to delay this procedure, but I say to the majority leader and the minority leader that in 1 minute, at this point, when we have this kind of attendance, I could describe this matter as I see it, so far as protecting my rights is concerned, and to explain to Senators why I oppose this motion. I could do it in 1 minute and get this out of the way, so that when we come back at 9 p.m., we could go right to a vote.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object——

Mr. MAGNUSON. Why 9 o'clock?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that——

Mr. MAGNUSON. Why do we not vote on it now, and then we can go?

All right, I will not object.

Mr. BAKER. I thank the Senator from Washington.

RECESS UNTIL 9 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 9 p.m. today, with the understanding that the time utilized during the recess will be charged against the 100 hours; that immediately upon reconvening at 9 p.m. today, there be a 10-minute time limit for debate on the motion to table, the time to be equally divided between Mr. HATFIELD and Mr. WARNER; that upon the expiration of the 10 minutes, without any further debate and without any quorum call—that there be no quorum call in order—the Senate proceed immediately to vote on the motion by Mr. WARNER to table the committee amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, that is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will not object, but I reserve the right to object for this reason:

The Senate has now decided that the 100 hours of debate under postcloture provisions will be 98½ hours.

I ask the Members of the Senate to ponder for just a moment where this procedure leads us with respect to the rights of each of us in a postcloture situation.

Mr. President, I do not object.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, I object.

I certainly do not want to take away the rights on the other side. If Senators are interested in staying here, I will stay here and listen to anything that has to be said. As I understood the agreement, we are trying to accommodate the people on that side of the aisle.

If the Senator from Idaho wishes to stay here I will be glad to stay here to protect the rights on this side of the aisle, just in order to show that we wish to cooperate as much as we possibly can.

Mr. McCLURE. Mr. President, reserving the right to object, I thank the Senator from Nebraska for his offer. There will come a time, I say to the Senator from Nebraska, when he may be concerned about his rights under the postcloture rule, and that is all I am concerned about, whether or not there are 100 Members of this Senate who have equal rights or whether there is 1 Member and 99 others, 1 Member who has a different right than the other 99.

I am trying to protect the rights of the Senator from Idaho.

I thank the Senator for his offer.

Mr. ROBERT C. BYRD. Mr. President, we are trying to accommodate our friends on the minority side by my request.

If the Senator from Idaho wishes to object, that means we have to vote immediately on the motion to table.

There being no objection, the Senate, at 7:40 p.m., recessed until 9 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LEAHY).

The VICE PRESIDENT. The question is on the motion to table, in which 10 minutes has been allotted for debate.

Who yields time? Who yields time? Who yields time?

Time will be charged equally against both sides.

Both sides have 3 minutes remaining.

Mr. HATFIELD addressed the Chair.

The VICE PRESIDENT. The Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The VICE PRESIDENT. There are 3 minutes remaining on each side on the unanimous consent to debate the motion to table the committee amendment as amended.

Mr. HATFIELD. Mr. President, the motion that is now pending to table the committee amendment, as amended by the Nunn amendment, is very, very clearly a parliamentary effort to not only call this whole amendment down but, in effect, to preclude amendments from being offered that are now pending at the desk that deal with substantive issues, that deal with questions that have not been debated here, that will not be eligible for debate.

It seems to me that, again, it looks as though—at least it seems to me—that this is an effort to turn down the possibility of receiving facts or information. It has every earmark of people who have their minds made up, who do not want to be confused by the facts.

I feel that, this being the significant issue that it is in which it is dealing with the lives of 19-year-olds and 20-year-olds and, beginning next year, 18-year-olds, we ought to air all of the issues related to this policy. I hope that the Senate will give us an opportunity to raise these amendments that have been pending at the desk, that have been clearly established as legitimate amendments up to this point. I feel, therefore, that we are being denied the opportunity to present information to this body on aspects of this matter which are very important, not only to the lives of these young people directly affected, but to the whole American system.

Mr. WARNER addressed the Chair.

The VICE PRESIDENT. The Senator from Virginia.

Mr. WARNER. Mr. President, out of senatorial courtesy, I advised my colleague, the distinguished Senator from Oregon, that that is precisely the nature of my motion and the consequences are as he has accurately outlined them.

I feel that my colleagues have had the opportunity to hear a full range of debate on all the basic issues raised by the amendment.

Mr. President, I yield the floor to my colleague from the majority, Mr. NUNN.

Mr. NUNN. Mr. President, I know time is short and the hour is late, but it is going to get later.

The committee amendment was that conscientious objectors be considered on classification. I think all of us favor that. In fact, that is already part of the current law.

The value of tabling this committee amendment, as amended by my amendment, is that it will eliminate procedural problems with the House, it will make a conference less likely, unless we have other amendments. It is also opposed vigorously by the Department of Defense. So I urge my colleagues to support the motion of the Senator from Virginia to table the committee amendment, as amended.

The VICE PRESIDENT. Who yields time?

Mr. WARNER addressed the Chair.

The VICE PRESIDENT. The Senator from Virginia.

Mr. WARNER. Mr. President, to accommodate the Senate, I will yield back the remainder of my time.

The VICE PRESIDENT. Is all time yielded back?

Mr. WARNER. Mr. President, I yield to the Senator from Minnesota (Mr. Boschwitz).

Mr. BOSCHWITZ. Mr. President, may I ask the distinguished Senator from Oregon (Mr. Hatfield) once again—I was a little bit late and did not hear the Senator's explanation. I wonder if the Senator could proffer it again.

Mr. HATFIELD. Mr. President, I merely indicated to the Senate that this calls down all the pending amendments that deal with substantive issues. We will not be able to have consideration of them, even for an appealing of the ruling of the Chair. Therefore it seems to me that it is unfair to do that at this time.

It also calls down the amendment that this Senate voted, that was offered by the Senator from Georgia (Mr. Nunn) on the matter dealing with conscientious objectors. The committee amendment dealt with it in a certain way, the Senator from Georgia amended it, and the Senate, in good faith, supported the Senator from Georgia. Now the Senator from Georgia is supporting the idea of calling down the whole thing in order to stop us from calling up other amendments, because they have been worded in conformity to the committee amendment.

The VICE PRESIDENT. Who yields time?

Mr. BAKER addressed the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, might I inquire: What is the parliamentary situation at this time?

The VICE PRESIDENT. In a minute and 20 seconds, we will vote on the motion to table.

Mr. BAKER. Mr. President, I thank the Chair.

I have previously stated on the floor that it is my intention to vote for this bill. It is my intention to support registration. I think it is a prudent and wise step to take at this time.

I have attempted, in the course of the last several hours and last few days, to protect the rights of those who disagree with that point of view and to assure that they had an opportunity to make their case. I believe that, under these circumstances, the purposes of all Senators have been well served.

Mr. President, I take this opportunity to express my appreciation to the majority leader for arranging the time, the brief time this evening, so that other matters could be attended to.

I intend to vote in favor of the motion to table.

The VICE PRESIDENT. All time has expired.

The question is on agreeing to the motion to table the committee amendment as amended. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from New Hampshire (Mr. Durkin), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

Mr. WARNER. Mr. President, regular order.

The VICE PRESIDENT. Are there any Senators wishing to vote?

The result was announced—yeas 63, nays 24, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—63

Baker
Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Helms
Huddleston
Inouye
Jackson
Jepsen
Johnston
Laxalt
Levin
Lugar
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Roth
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Zorinsky

NAYS—24

Armstrong
Bellmon
Boschwitz
Chafee
Cohen
Culver
Danforth
Dole
Hatfield
Heinz
Humphrey
Javits
Kassebaum
Leahy
Magnuson
McClure
Melcher
Packwood
Proxmire
Riegle
Sarbanes
Schweiker
Stevens
Weicker

NOT VOTING—13

Biden
Church
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Talmadge
Young

So the motion to lay on the table the committee amendment, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

Mr. ARMSTRONG. Mr. President, will the Chair state the question?

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

Mr. WARNER. Mr. President, regular order.

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 67, nays 19, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—67

Baker
Baucus
Bayh
Bentsen
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Helms
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Lugar
Magnuson
Matsunaga
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Roth
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—19

Armstrong
Bellmon
Boschwitz
Cohen
Culver
Danforth
Dole
Hatfield
Heinz
Humphrey
Javits
Leahy
McClure
Melcher
Packwood
Riegle
Sarbanes
Schweiker
Stevens

NOT VOTING—14

Biden
Boren
Church
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Talmadge
Young

So the motion to lay on the table the motion to reconsider vote No. 183 was agreed to.

The VICE PRESIDENT. The Senator from Georgia is recognized.

AMENDMENT NO. 1823

(Purpose: to reduce appropriations relating to the storage of registration forms)

Mr. NUNN. Mr. President, I call up amendment No. 1823 and ask for its immediate consideration.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes amendment numbered 1823:

On page 2, line 5, strike out "$13,295,000" and insert in lieu thereof "$13,285,000".

Mr. NUNN. Mr. President, this is an amendment to reduce by $10,000 the appropriations relating to the storage of registration forms, and at the appropriate time I certainly hope we can get a vote on it and hopefully tonight, but I think we should have plenty of time to discuss it.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the role.

The legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 6 Leg.]

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

The PRESIDING OFFICER (Mr. LEAHY). A quorum is present.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move to recess until 9:30 a.m. and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, that motion is not in order calling for a recess until 9:30 because we have an order to come in at 10.

The PRESIDING OFFICER. The majority leader is correct. There is an order entered that when the Senate completes its business today it stand in recess until 10 a.m. tomorrow.

Mr. HATFIELD. Mr. President, I move to recess pursuant to the previous order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted who wishes to vote?

The result was announced—yeas 26, nays 60, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—26

Armstrong
Bellmon
Boschwitz
Cohen
Danforth
Durenberger
Garn
Hatch
Heinz
Helms
Humphrey
Javits
Kassebaum
Laxalt
Lugar
McClure
Packwood
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Wallop
Weicker

NAYS—60

Baker
Baucus
Bayh
Bentsen
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
DeConcini
Dole
Domenici
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Huddleston
Inouye
Jackson
Jepsen
Johnston
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Zorinsky

NOT VOTING—14

Biden
Boren
Church
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Talmadge
Young

So Mr. HATFIELD's motion to recess was rejected.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 7 Leg.]

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

The PRESIDING OFFICER. A quorum is present.

The pending question is on the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to table the motion of the Senator from Oregon (Mr. HATFIELD) to reconsider the vote by which the Senator from Oregon's motion to recess was not agreed to.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote who have not voted?

The result was announced—yeas 65, nays 19, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—65

Baucus
Bayh
Bentsen
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Helms
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Leahy
Levin
Magnuson
Matsunaga
Melcher

Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stevenson
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—19

Armstrong
Baker
Bellmon
Boschwitz
Cohen
Danforth
Hatfield
Heinz
Humphrey
Javits
Jepsen
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Simpson
Stevens

NOT VOTING—16

Biden
Boren
Church
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Stennis
Talmadge
Tower
Young

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. HATFIELD. Mr. President, I move to postpone the joint resolution indefinitely.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 8 Leg.]

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate will be in order.

The pending business is a motion by the Senator from Oregon to indefinitely postpone the bill.

Mr. HATFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I move to table the motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. I am sorry, the Chair did not hear the Senator.

Mr. HATFIELD. I move to table the motion to postpone indefinitely.

The PRESIDING OFFICER. Is the Senator asking for the yeas and nays on that?

Mr. HATFIELD. I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second on the tabling motion? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the motion to indefinitely postpone the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted who wishes to vote?

The result was announced—yeas 78, nays 8, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—78

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
DeConcini
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Lugar
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—8

Armstrong
Bellmon
Danforth
Dole
Leahy
McClure
Proxmire
Wallop

NOT VOTING—14

Biden
Church
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Stennis
Talmadge
Young

So the motion to lay on the table the motion to indefinitely postpone was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which this action was tabled, and, Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the motion to reconsider is dilatory. The vote in favor of the previous motion was 78 votes. The motion is plainly dilatory and I make that point of order.

The PRESIDING OFFICER. The Senate will be in order. Just a moment.

Let the Chair see the tally sheet.

Under the precedents of the Senate, the Chair would have to hold that the motion is dilatory.

Mr. HATFIELD. Is what? Will the Chair repeat the ruling, please?

The PRESIDING OFFICER. Under the precedents of the Senate, in light of the last vote, the Chair would have to hold that the motion is dilatory.

Mr. HATFIELD. I appeal the ruling of the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader was seeking recognition.

Mr. BAKER. Mr. President, I seek recognition on my own time. Mr. President, I know of no precedents of the Senate heretofore, and I would inquire of the Chair, is there any previous precedent that would support a ruling by the Chair that a motion is dilatory under the provisions of rule XXII simply because, as I understood the Chair to rule, the vote was lopsided, one way or the other? I know of no such precedent. I have participated previously in ruling out of order amendments that were clearly dilatory under rule XXII and on their face. But I believe this is clearly a different situation. I know of no precedent. I inquire of the Chair if there is such a precedent.

The PRESIDING OFFICER. Will the distinguished minority leader suspend for a moment?

Would the Senator from Oregon restate what his motion was prior to the ruling of the Chair?

Mr. HATFIELD. The Senator from Oregon made a motion to reconsider the vote by which the matter had been tabled. The Senator from Oregon voted on the prevailing side.

The PRESIDING OFFICER. The Chair reverses itself. The motion is in order.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum. I have already moved to reconsider and now I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is aware of 50 Senators in the Chamber, in excess of 50 Senators in the Chamber. The Chair will ask the Parliamentarian if it is necessary to have a quorum call under the circumstances.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. Under the precedent 2½ years ago, the Chair had ruled that there was a quorum and observed a quorum right after we had had a rollcall.

The Chair after reversing itself on the other matter, is aware of a quorum.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state his inquiry.

Mr. BAKER. Mr. President, I recall that precedent because I participated in establishing it, and I recall as well that the precedent that permits the Chair, I believe, to observe the presence of a quorum follows on after a vote without any intervening motion or business. That is not the situation here, Mr. President. I think this precedent does not apply.

I would also point out, Mr. President, that under the precedents at that time we had been involved in the Abourezk/Metzenbaum filibuster, post cloture filibuster, for days. It was an entirely different thing. We have been involved here for a matter of hours in post cloture.

I respectfully suggest that to invoke this precedent at this time is to substantially increase the scope of that precedent and is improper.

The PRESIDING OFFICER. So the Chair can thoroughly understand the minority leader, the minority leader is saying that if the Chair sees 51 Senators after a vote that is different than if the Chair sees 51 Senators 60 seconds after a vote?

Mr. BAKER. Of course not. What I am saying is, No. 1, no point of order has been made. I suppose that may happen, but none has been made so far. No. 2, that we have an entirely different factual situation, that it does not follow on the pattern that was established in that precedent. It was a rather severe precedent and it should be followed, in my judgment, only in the most careful circumstances. This is not an analogous situation and it should not be invoked in this case to deprive the Senator from Oregon of his rights.

The PRESIDING OFFICER. The Chair was willing, as the astute minority leader knows, to reverse itself on what has been a subjective call of the Chair on dilatory matters, even though the Chair was convinced it had adequate precedents to sustain its earlier rulings on subjective matters. The Chair, however, speaking both as Presiding Officer and in his capacity as Senator from Vermont, would find it would view intolerable the inability of the Chair's own logic to look out here and see substantially in excess of 51 Senators and declare we need a rollcall for a quorum. Possibly some subsequent Presiding Officer may feel differently than the present Chair.

Mr. BAKER. I thank the Chair. I would remind the Chair that the call for a quorum and the ascertainment of a quorum is not a prerogative of the Chair but it is a constitutional right. I would suggest that the Chair's ruling should not apply in this case.

The PRESIDING OFFICER. Under the precedent which the Chair cited before which the minority leader is aware of and participated in, there was no mention of intervening business by the Chair. If the minority leader would like, I will be glad to read the transcript of that matter.

Mr. BAKER. Mr. President, I will read that. I will yield now to the Senator from Oregon so he can make his motion.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Will the Chair state the question so Senators may be guided? If we wish to sustain the Chair, how do we vote?

The PRESIDING OFFICER. The question is, Shall the decision of the Chair that the call for a quorum under the present circumstances, the Chair having ascertained a quorum being present, was dilatory, and should that ruling stand as the judgment of the Senate? A yea vote would agree with the Chair.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. BOREN). The clerk will suspend. Will Senators please clear the well? The Senate will be in order.

The clerk may proceed.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the the Senator from Maryland (Mr. MATHIAS) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators present desiring to vote?

The result was announced—yeas 52, nays 34, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—52

Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
DeConcini
Eagleton
Exon
Ford
Glenn
Hart
Hayakawa
Heflin
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stevenson
Stewart
Stone
Tsongas
Weicker
Williams
Zorinsky

NAYS—34

Armstrong
Baker
Bellmon
Boschwitz
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Heinz
Helms
Humphrey
Javits
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner

NOT VOTING—14

Biden
Church
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Stennis
Talmadge
Young

The PRESIDING OFFICER. On this vote, the yeas are 52; the nays are 34. The ruling of the Chair stands as the judgment of the Senate that the call for the quorum was dilatory.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays on my motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on the motion to reconsider the vote by which the motion to lay on the table the motion to postpone indefinitely the consideration of the bill was agreed to. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 14, nays 71, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—14

Armstrong
Bellmon
Boschwitz
Danforth
Hatch
Hatfield
Heinz
Humphrey
Javits
Laxalt
Lugar
McClure
Packwood
Stevens

NAYS—71

Baker
Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hayakawa
Heflin
Helms

Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NOT VOTING—15

Biden
Church
Cohen
Durkin
Goldwater
Gravel
Hollings
Kennedy
Long
Mathias
McGovern
Morgan
Stennis
Talmadge
Young

So the motion to reconsider the vote by which the Senate agreed to the motion to lay on the table the motion of the Senator from Oregon to indefinitely postpone the joint resolution was rejected.

AMENDMENT NO. 1823

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. Mr. President, what is the pending issue or question or business before the Senate?

The PRESIDING OFFICER. The pending question is amendment No. 1823, offered by the Senator from Georgia (Mr. Nunn).

Mr. HATFIELD. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Georgia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Kansas (Mrs. Kassebaum), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 15, nays, 69, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—15

Armstrong
Bellmon
Culver
Danforth
Heinz
Laxalt
Leahy
McClure
Packwood
Proxmire
Riegle
Sarbanes
Stevens
Wallop
Weicker

NAYS—69

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Levin
Lugar
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Ribicoff
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Warner
Williams
Zorinsky

NOT VOTING—16

Biden
Church
Cohen
Goldwater
Gravel
Hollings
Javits
Kassebaum
Kennedy
Long
Mathias
McGovern
Morgan
Stennis
Talmadge
Young

So the motion to lay on the table Mr. Nunn's amendment (No. 1823) was rejected.

[The foregoing are the Senate proceedings which occurred up until 12 o'clock midnight, June 10, 1980. The proceedings which occurred thereafter will be printed in the Record of June 11, 1980.]

EXTENSIONS OF REMARKS

ENERGY DEMAND AND THE GNP—FACTORING IN ENERGY CONSERVATION AS NEW ENERGY SUPPLY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. BROWN of California. Mr. Speaker, while it is now rare to hear claims that energy demand increases lockstep with GNP, and while it is now common to hear discussions about the potential of energy conservation, I believe the extent of our energy supply potential from conservation is often overlooked.

The Los Angeles Times recently published an excellent overview on this topic, which I would like to bring to the attention of my colleagues. If we remember that the term "energy conservation" includes energy efficiency, and not simply the reduction in energy use, we can better realize the potential of energy conservation.

The traumas of the U.S. automobile industry in adjusting to the need for energy-efficient automobiles serves to illustrate both the magnitude and potential for energy conservation. I commend the following article to my colleagues:

[From the Los Angeles Times, June 9, 1980]

CONSERVING: NEW PRODUCT IN U.S. FUTURE?

(By Sandra Blakeslee)

When figures recently released by the Department of Energy showed that energy consumption actually dropped in 1979 while the gross national product increased, some energy experts in the United States were not surprised.

For some time now a new generation of experts and consultants on energy has insisted that curbing consumption does not have to lead to a decline in growth. To the contrary, they say, conservation can be viewed as a means of "supply"—no less productive than a new power plant or oil rig.

The debate between these experts, and those who insist that increasing the supply of oil, gas and coal is still the best hope for solving the nation's energy crisis, is not likely to end in the near future. But the Energy Department's figures, coupled with other findings on reduced energy demand suggest that the nation's energy appetite could be curbed without dislocating the economy.

When energy consumption dropped by a fraction of 1% last year while the GNP grew by 2.3% (after adjusting for inflation), it was the first time in more than 25 years that energy used failed to grow in a non-recession year. And there are compelling reasons why, according to Lee Schipper, a physicist at the Lawrence Berkeley Laboratory who is collecting data on conservation.

Among Schipper's findings: Between 1972 and 1980, fuel use for space heating per house has declined at least 15% nationwide and is down 30% in some regions; industrial energy use is almost the same as it was in 1972, despite a 20% increase in real industrial output; certain new refrigerators on the market today use 50% to 60% less energy than comparable models sold a year ago.

"These figures show unambiguously that conservation has delivered the equivalent of four to five million barrels of oil a day since 1972—greater than any other source of energy supply," Schipper said.

The debate over the extent to which conservation can substitute for increased energy supplies raises questions about social values, environmental quality and future life style. Billions of dollars are at stake, as well as, some would argue, the security of a nation that has come to import half its energy. Some of the nation's largest institutions—banks and utilities—have been drawn into the fray.

Recent studies at Princeton, Harvard, the University of California, Berkeley, and Carnegie Mellon Institute have examined every conceivable "end use" of energy in America—at all the machines and processes that are powered by electricity and by oil, gas and coal. The researchers wanted to calculate how much energy is used to run the nation compared to how much is actually needed.

Their prediction: by the year 2000 the nation can double its population and expand its economy without using more energy that it uses today. It may even use less.

The key factors will be conservation and efficiency.

California is viewed as the nation's leading laboratory for innovative ideas about energy supply and use, and its experience has convinced state planners that conservation does not mean life-disrupting sacrifices—just thoughtful adjustments.

Conservation, California energy planners say, is a dynamic process that requires "fixes" in the home and in industry:

A family in El Monte insulates its ceilings and walls and cuts heating bills in half; a homeowner in Hollywood installs double-glazed windows and makes the air-conditioning of his house more efficient; a tenant in Santa Monica puts a Styrofoam pad up the chimney in his apartment and cures a common energy "leak."

On a larger scale, a builder in Riverside puts energy-efficient stoves, refrigerators and heat pumps in a new housing development; a hospital in Beverly Hills installs solar panels on the roof and cuts gas bills by 80%.

On the freeways, commuters drive more fuel-efficient automobiles or they form car pools or ride the bus.

To promote "fixes" at the household level, the California Public Utilities Commission recently ordered utilities to offer low-interest or no-interest loans to customers for insulating their houses and installing solar hot water heaters. Home audits will be offered next year to show consumers where they could be saving energy.

The PUC is promoting economic incentives to encourage builders to put up energy-efficient houses, and the Energy Commission's building efficiency standards are being copied by the federal government.

Although conservation is finally catching on, a number of government officials and business leaders believe that, even though it is important, it cannot be viewed as a predictable or reliable "supply" of energy. Rather, supply is realistically a matter of oil, coal, gas and uranium. And it is a matter of massive investment in synthetic fuels, such as oil squeezed from coal shale and of advanced nuclear technology.

To these groups, conservation is the handmaiden.

When the energy crisis hit in 1973 after the Arab oil embargo, the nation turned to its established experts for answers, according to Daniel Yergin, a Harvard Business School professor who helped write "Energy Future," a best seller that strongly touted conservation and efficiency.

"Not surprisingly," Yergin said, "they held the view that the past is a good guide to the future. After all, this was their whole career and it was human nature to be supply oriented."

This was the same generation, Yergin said that harnessed nuclear power for peaceful purposes, the one that developed synthetic rubber and put men on the moon. Now it wants synfuels.

"It's not that people are against conservation," Yergin said. "It's just that they haven't taken it seriously."

As an industry executive put it: "This country didn't conserve its way to greatness, it produced its way there." Said another: "The trouble with conservation is it's too damn feminine."

This is the debate: one group is supply oriented and the other is demand oriented, and they offer fundamentally different solutions to the energy puzzle.

If the scorecard were tallied today, the supply side would appear to be ahead. The federal government spends $4 to increase supply for every $1 it spends to reduce demand.

The belief that there is great flexibility in how much energy is required and how much is used for any one purpose was developed by a group of influential physicists, most of them in their 30s, who were drawn into the energy debate after the 1973 energy crisis, according to Yergin.

"Physicists," Yergin said, "have provided careful scientific reasoning and explanation for conservation using the second law of thermodynamics," which states that it is impossible to convert a given quantity of heat completely into work. There are always losses in the conversion.

Great increases in the efficiency of conversion are possible, Yergin said, but no one paid any attention to the conversions when energy was cheap.

The National Academy of Science began to pay attention five years ago when it initiated a major study of the nation's energy problems. The academy's final report, issued in January, was remarkable, according to Jack Hollander, an associate director of the Lawrence Berkeley Laboratory, because it proved to the nation's scientific establishment that energy use and the gross national product do not have to increase in lock-step fashion.

The belief that any decrease in energy productivity would result in a lower GNP—

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and thus a lower standard of living—was common a few years ago.

The academy of science report showed, however, that in 2010 the United States could thrive on 20% to 40% less energy than it uses today, which is about 78 quads. (A quad is a quadrillion British thermal units or a million billion times the amount of energy it takes to raise one pound of water one degree Fahrenheit. One quad represents enough energy to heat 20,000 California homes for a year.)

According to recent figures from the Department of Energy, this trend may already be under way. Total energy use in 1979 was 78.02 quads, slightly less than the 1978 level of 78.15 quads.

Depending on the aggressiveness of conservation policies and the price of energy, the nation could use a low range of 50 quads or a high range of 140 quads in 2010, the Science Academy report said.

But if the nation were wasteful, it would require 240 quads of energy in 2010.

The study "elevated conservation as a supply by putting it in economist's jargon and giving it good theoretical underpinnings," Hollander said.

Schipper said that Japan uses a third, France half and Sweden six-tenths as much energy as is used in the United States—with comparable or higher standards of living. The Comparison takes into account different transportation, industrial and demographic features.

A Swedish power plant, Schipper said, produces 29% electricity, 24% captured or cogenerated heat (used for many purposes) and 47% waste heat.

A U.S. power plant, he said, produces 31.5% electricity and 68.5% waste heat.

The United States will soon approach "zero energy growth," Schipper contends, "simply because conservation is profitable."

The 1974 to 1978 improvements in conservation are remarkable, he said, because real price increases for energy were mild. "But the 1979 price hikes are going to stick much more than the '73 hikes," he said, "and have shown us all kinds of holes in the walls to plug up. We have a whole new league of energy conservation available."

Yergin estimates that better insulation would save one-third of the energy used in homes and buildings—the equivalent of two million barrels of oil a day and the output of 75 large nuclear power plants.

The energy "needlessly wasted" in the United States is equal to all the oil presently imported, about 8 million barrels a day, Yergin contends.

At the end of 1978, Yergin said, the nation paid $800 million a week for that oil. It now pays $1.7 billion a week.

But if the nation were to reduce industrial waste by 30%, residential and commercial waste by 40% and transportation waste by about 50%, 8 to 11 million barrels of oil a day would be saved, he predicted.

Other experts say that attaining zero energy growth would cut oil imports in half by 1990—automatically—without the need for huge coal or nuclear projects. Imports would fall, they insist, even as domestic oil and gas outputs continue to decline.

This is because small "fixes" add up to large savings, according to the Alliance to Save Energy, a Washington conservation group, which estimates that:

If all American households cut the use of dishwashers by one load a week, the aggregate saving would total 3.25 million barrels of oil a year.

If all home hot water heaters were properly insulated and shower heads had flow restricters, 240,000 barrels of oil would be saved each day. That is equivalent to a cut of $9.6 million a day in the nation's trade deficit.

If all commercial establishments (banks, apartment houses, stores, supermarkets) recycled lost heat, the saving would be 750,000 barrels a day. More efficient lighting would yield 350,000 barrels a day.

If industry captured waste heat nationwide, 1.4 million barrels could be saved and recycling of materials would get another 700 million barrels a day.

A 30% improvement in auto fuel economy alone would save 3 million barrels of oil each day.

But many energy experts contend that such estimates amount to hopeful guessing and that conservation has its limitations.

"At its ultimate attainment, conservation represents poverty," said Harry A. Logan, president of United Refining Co. in Warren, Pa. "Conservation is virtuous, but very difficult to translate into meaningful programs."

"Clearly there are conservation techniques that are less expensive (than traditional means) in providing energy," said Rene Males, an energy analyst with the utility-backed Electric Power Research Institute in Palo Alto. "But it is uncertain how far it can go. The Harvard group says half our additional energy requirements can be met by conservation. The National Academy of Science says half or maybe all. But they just don't know for certain. Both more supply and conservation are needed."

It is "terribly dangerous" to assume the energy-to-GNP ratio can be safely reduced, according to Robert Cannon, a professor of aeronautics and astronautics at Stanford University who worked on the National Academy of Science study and dissented from its report.

The energy-to-GNP ratio fell only once before, he said, beginning in 1923. Six years later came the Great Depression.

The debate aside, there are very real barriers to conservation as a means of supplying energy and all are at issue in California, according to the state Energy Commission.

One barrier is called "misplaced incentives"—that is, who benefits from and who pays for conservation and energy efficiency. A landlord whose tenants pay their own utility bills has no incentive to insulate his building.

Despite existing efficiency codes, California builders are still putting up structures that use more energy than they should, according to the Energy Commission. And although energy savings of up to 60% to 70% are possible, it is still not clear who will bear the extra construction costs.

In the Pacific Northwest, where hydroelectric power is still cheap, all-electric office buildings and subdivisions continue to be constructed. No one will buy the more expensive, heavily insulated houses, builders say, when all-electric buildings cost less.

Another barrier is financing. Once a homeowner decides to insulate or install a solar hot water heater, where in these inflationary times can he get the best loan?

Current federal legislation bars utilities from lending customers money to reduce energy use, although the subject is under renewed debate in Congress. California has applied for a waiver.

Lobbyists for utility groups and banks generally want utilities kept out, according to PUC president John Bryson. Banks want to keep the business.

But a few utilities, including Pacific Gas & Electric Co., based in San Francisco, are arguing to be allowed in, Bryson said. They can offer customers reduced interest on loans and still come out ahead. They can also bolster customer confidence by guaranteeing the workmanship on solar devices and insulation.

Another barrier to conservation is rate pricing. Despite higher bills, customers still are not paying what it costs a utility to go out and secure new supplies. Rather, customers pay average costs—rates based on cheap energy from old power plants plus expensive energy from new plants.

If customers had to pay the full replacement costs for new electricity supplies, they would conserve more.●

FLOOD REMEMBRANCES AND PREPARATIONS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. MURTHA. Mr. Speaker, recently, I spoke at a memorial ceremony remembering the 1889 Johnstown Flood which killed 2,209 people and stands as one of our greatest natural tragedies.

Of course, Johnstown was hit by floods again in 1936 and 1977. In my remarks I noted that the surest protection for any flood-prone area was National Flood Insurance. This was invaluable in rebuilding our area.

Yet, I note that in Pennsylvania over the last 16 months nearly 35,000 policies have been dropped. Certainly, in times of recession and high unemployment, we all look for ways to cut back and save money. Flood insurance, though, is an area where we cannot afford not to be protected.

I insert the prepared remarks I had for the Johnstown 1889 Memorial into the Congressional Record and place it as a reminder to the Members from flood-prone areas to encourage their citizens to obtain or renew their flood insurance policies.

Remarks for 91st Anniversary Commemorative Ceremony of the Johnstown Flood of 1889, Johnstown Flood National Memorial, May 31, 1980

Nearly all of us remember stories of the 1889 flood passed down to us through generations of story telling. The memories are so clear that it is almost as though we lived through it ourselves.

There were three feet of water in the streets of downtown Johnstown after a constant 36-hour rain. By 3 p.m. on this day, 91 years ago, ten inches of rain had accumulated behind the South Fork Dam. It collapsed from the strain and 20 million tons of water started an hour long, 14 mile devastating journey toward the city. After it hit, the city was reduced to a mass of debris. The total deaths reached 2,209. One-third of the bodies recovered were never identified. Many bodies were never found. Over 4,000 persons were injured and total property damage reached $17 million.

When I was preparing these remarks, I thought back to what a different world our ancestors lived in during the 19th century. While it was some 30 years before the Johnstown flood, I have a packet of letters of a relative of mine that has been handed down from generation-to-generation ever since the Civil War. In our modern, technologically sophisticated world, it is difficult to think back to that time—my ancestor writes of his travel by foot, rail, and steamer taking several days to get from West Virginia to central Pennsylvania. One letter tells of how it was several days before word from Washington reached him in Pennsylvania that President Lincoln had been assassinated; news of Civil War battles only a couple hundred miles away took days to hear about.

Think about how different the world was when our ancestors were hit by that flood 91 years ago. When the 1977 flood hit, I knew about it in Washington within a few hours; yet in 1889 many parts of the country did not know about it for days. In the last three years over $300 million in Federal aid has come into the area to help rebuild; yet in 1889 there was virtually no Government help. Within a few hours in 1977 we could bind the community together through radio and television reports; yet in 1889 consider the isolation of the citizens, who had difficulty knowing what was happening between Moxham and East Conemaugh. One of the jobs we spent a great deal of time doing in 1977 was patching relatives from outside the area through to their families by telephone or shortwave to let them know they were safe, in 1889 it could be days before you knew about the flood and agonizing days more before you would know if your relatives were safe.

Yet, in making those comparisons, I also noted one great similarity. That is the dedication and spirit of the people within our community. Within 24 hours of the 1889 devastation, a new police force had been formed wearing badges cut from tin cans, a makeshift hospital was open, and committees organized to deal with rescue, supply, and finance. Of course, we know first hand that that spirit was still alive in 1977.

Let me tell you something. We've had hundreds of disasters around the country since July 20, 1977, and after those disasters occur, it never fails that a Congressman from that area or some Government representative will walk up to me and say, "Now, that I've been through it, Jack, I don't understand how Johnstown has done it three times. The people in that area must have an uncommon spirit to have accomplished what they have, to have rebuilt their community three times and held it together." Of course, I know that's true.

I know that Walter Pierson is going to talk about flood prevention, but in closing I want to stress one of the points I'm sure he will also make—the need for flood insurance.

I mentioned that we received over $300 million in Federal aid, but I have to report that right now, that kind of funding simply is not available. The budget is being reduced to reach a balanced budget. In fact, at this exact moment the disaster fund is broke—if a flood reoccurred in our area today, the Federal Government response would be greatly limited.

The sure way for every citizen to protect himself is through flood insurance. The Federal Government uses tax dollars to subsidize this insurance, so it's cheap. It's also easy to obtain—you can get it through your regular insurance agent or call my Johnstown office and we'll put you in touch with the people operating the National Flood Insurance program.

Coincidentally, then-Governor Milton Shapp and I had undertaken a drive to sell flood insurance in the spring of 1977. You'll remember there were very deep snows that winter and we were concerned that with the spring melt there would be considerable flooding. well, it didn't flood that spring, but we helped convince a lot of people to buy flood insurance and they were protected when the July flood occurred.

In fact, there were 7,236 policies with coverage of almost $151 million in participating communities. Nearly $26 million in flood insurance claims were paid to 2,592 policyholders in the disaster area. Claims in Johnstown alone totaled 1,210 and over $17 million.

Now, in these times of recession, many people think about not renewing their policies. But I urge everyone living in the flood plain to take the insurance if you don't have it; to renew it if you already do. There is nothing in my mind that is more important to protect yourself.

We all live with memories of 1977, and we remember directly, or by the stories we have heard about the impact of 1936 and 1889.

We now live in a new era, vastly different from the world almost a century ago which we remember and commemorate today. From Washington I see the multitude of problems that we face as a Nation, a State, and a community. But I also see the spirit, dedication, and commitment of the people throughout the United States and our community. That spirit was present in 1889 and is still present today. As we meet this morning to commemorate our ancestors and learn from their experience, let us also use this occasion to rededicate ourselves to that spirit that has served us so well in the past and will continue to serve us today and in the future.●

REPRESENTATIVE SKELTON HONORED

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. IRELAND. Mr. Speaker, recently the ranking majority member of the Subcommittee on Special Small Business Problems, IKE SKELTON, was honored by a small business group. IKE was presented with the 1980 Congressional Award by the Independent Bakers Association. He was honored along with Senator HOWARD H. BAKER, JR. at a reception in the Rayburn House Office Building on the night of June 4. The following morning he was the guest speaker at the IBA annual convention at the Washington Hilton.

IKE was honored for his testimony before three Federal agencies on the subject of further labeling changes for the food industry. He told the agencies their proposed changes would be costly and probably be of little value to the average consumer. A couple of months later investigators from the General Accounting Office reached the same conclusion after a study of the agencies' proposals.

IKE SKELTON has been a tireless worker for all small business, and I am pleased that his work was recognized by the Independent Bakers.●

SUPERFUND LEGISLATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. EDGAR. Mr. Speaker, the need for swift passage of the hazardous waste superfund legislation to clean up abandoned disposal sites has never been more apparent. The Environmental Protection Agency's report about chromosome damage to the residents of Love Canal reemphasizes the threat these uncontrolled and abandoned sites pose for public safety and the environment.

Because of the amount of hazardous and toxic wastes produced by industries in our region, the Northeast and Midwest are particularly vulnerable to this problem. According to the Mitre Corp., 54 percent of the Nation's hazardous wastes will be generated in this region in 1980, yet the limited number of safe dumpsites means that these substances probably will continue to be dumped carelessly in landfills, lagoons, and other improper dumpsites. The General Accounting Office has estimated that industries in Pennsylvania produce about 8.7 million tons of hazardous wastes annually, but the State only has the capacity to handle safely one-tenth of this amount. In short, the absence of an effective system for managing these wastes, which will be resolved through quick implementation of the Resource Conservation and Recovery Act, can only add to the need for a strong and effective mechanism to clean up abandoned sites.

I recently received a letter from Dick Thornburgh, Governor of Pennsylvania, indicating his support for the recommendations adopted by the National Governors' Association regarding the structure of any superfund bill considered by Congress. These suggestions address the issues of financing, scope, liability, and the Federal/State roles. Since the full House probably will be considering at least one of the superfund measures shortly, I would like to submit these recommendations for the benefit of my colleagues:

The Subcommittee on the Environment of the National Governors' Association met on March 17, 1980. The Subcommittee reviewed its policy on the need to increase the legal authority and the financial ability to respond to and to remedy threats posed by hazardous chemicals. The following are Subcommittee recommendations on provisions which should be included in a hazardous materials response or "Superfund" bill.

A. SCOPE OF THE BILL

1. Congress should establish a systematic and phased effort to identify, assess and control inactive or abandoned hazardous waste sites. A federal fund should be created to assist the federal government and the states in alleviating the threat posed by hazardous chemicals.

2. Money from the federal fund should be provided to the states for emergency response at commercial, state and local, and

federal abandoned sites and for containment and treatment or disposal, either on or off site.

3. Authority to remedy hazardous chemical releases should also apply to sites receiving interim permits under the Resource Conservation and Recovery Act (RCRA).

4. Hazardous substances should be broadly defined to include chemicals listed as hazardous in Sec. 112 of the Clean Air Act, Sec. 307(a) and Sec. 311(b) of the Clean Water Act, Sec. 7 of the Toxic Substances Control Act, and Sec. 3001 of the Resource Conservation and Recovery Act (RCRA).

5. Additional oil spill legislation is needed, but need not be part of a hazardous substances response bill.

B. Emergency Response Fund

1. Congress should establish an emergency response fund composed of contributions from an industry-based fee and general appropriations. The National Governors' Association anticipates the fund being initiated by Federal revenues and sustained by the industry fee.

2. There should be no per site expenditure ceilings for emergency response or for containment and cleanup.

C. Liability

1. Legislation establishing a hazardous substances response fund should impose strict, joint and several liability on owners, operators, and others, if they have caused the release of hazardous substances from waste facilities.

D. State Role

1. If states have assumed full responsibility for implementing RCRA programs, they should be entitled to obligate trust funds for emergency response and containment and cleanup at sites which are listed in the National Contingency Plan. Where an emergency response is required at a site not listed in the National Contingency Plan, a rapid approval process should be devised whereby EPA could approve a state emergency response plan within 24 hours of submission.

2. If the costs to a state for emergency response and containment and cleanup exceed $500,000 per site, approval by the administrator of EPA should be sought.

3. States which have not assumed full responsibility under RCRA should be offered the option of taking emergency response and containment and cleanup actions if the administrator of EPA determines they possess the desire and technical capability to do so.

4. State containment and cleanup priorities should be incorporated in any revised National Contingency Plan.

5. Whenever possible states should be allowed to conduct their own inventories of inactive or abandoned hazardous waste sites. Federal fiscal and technical assistance should be made available. In consultation with the states, the federal government should establish standards so that the final national inventory will be uniform and compatible.

6. Federal assistance to states for conducting inventories and taking remedial action at inactive or abandoned waste sites should be retroactive to July 1, 1977. States should not be penalized for taking action to protect the health and safety of their own citizens while the federal program has been under debate.

7. State funds and authority to respond to hazardous chemical threats should not be preempted by new federal law.

E. State/Federal Financial and In Kind Obligations

1. The per site mandatory state financial or in kind contribution for emergency response or containment and cleanup should not exceed 10 percent.

2. The per site mandatory state financial or in kind contribution for remedial action at those sites which are owned by states or their political subdivisions should not exceed 25 percent. Where it can be demonstrated that states acquired the problem site to protect the public health and safety, the 25 percent requirement should be waived.

3. States must be permitted to recover all or part of their mandatory financial obligation through litigation.

4. The goal of all containment and cleanup actions should be the permanent detoxification and destruction of waste and contaminated media. To the maximum extent feasible this goal should guide state and federal efforts. States should not be required to assume long-term maintenance responsibilities, unless funded accordingly by the federal government.

5. If the federal government requires of states the guarantee of the availability of an alternative waste disposal facility as a condition for providing assistance, the facility should meet RCRA requirements not simply those established by the administrator of EPA.

F. Notification

1. Where persons who have improperly discharged hazardous substances are required to contact the appropriate federal agency immediately, provision should be made that the appropriate state agency is also contacted immediately.

G. Expanded Uses of the Fund

1. The fund should be permitted to fund state laboratory and research facilities in order to establish and maintain damage assessment and response capability at the state level.

2. State research projects such as the development of mobile or portable on-site response, treatment or containment technology should be eligible for support from the fund.

Incorporate into Superfund a provision which increases annual funding for hazardous waste disposal research and development by as least $10 million per year.●

SUPPORT FOR THE ACP

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HOPKINS. Mr. Speaker, conservation and the simultaneous planned usage of our resources is the one reason we are able to maintain our place in the world agricultural community. Americans are better fed at lower costs, and export more food and fiber items than any other nation on Earth. This increased production of quality food items is no accidental occurrence. Only through proper management and constant attention to our farmlands can we hope to continue our history of protecting and preserving our fertile lands to gain ever-increasing yields of food and fiber.

The agricultural conservation program is a longstanding program which promotes and exemplifies this ideal. By conserving and improving water resource quality, controlling animal waste pollution, controlling erosion, conserving wildlife, improving our forests, and encouraging cooperation toward common goals the ACP has gained the acceptance and support of both the Congress and the American farmer. This longstanding program, benefiting from the personal cooperation of our farmers, and with Federal cost sharing, serves as the basis for our ongoing efforts to maximize our food and fiber production while preserving the productivity of our prime farmlands for future generations.

I fully support the action of the Appropriations Committee in restoring much-needed funding for the ACP. Past Congresses have seen the wisdom of this program, and have supported restoration of ACP funds. With the support of the full House, this program will continue to benefit all Americans through the cooperative conservation and management of our agricultural resources.●

PAUL SIMON RELEASES PERSONAL INCOME DETAILS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. SIMON. Mr. Speaker, for the 25th straight year, since I first held public office, I am releasing a detailed and complete account of my personal finances. The disclosure goes far beyond the requirements in the House rules.

Since I was first elected to the House in 1974, I also have required my personal staff members who earn more than $20,000 a year to make similar disclosures.

I release these statements each year because I believe that the people have a right to know as much as possible about their elected officials and that the officials have a responsibility and an obligation to make it as easy as possible for people to exercise that right.

I also believe that if each Member of Congress released detailed financial statements, that the opportunity for and suspicion of conflicts of interest would be reduced. My financial statement and those of my staff members follow:

INCOME FOR 1979—PAUL AND JEANNE SIMON

	In dollars
Salary, U.S. House of Representatives	58,027.02
U.S. Treasury, official expenses	2,422.27
Rental income, Carbondale home	967.50
Thrifty-Vent, refund	300.00
University Bank of Carbondale, refund of overpayment	252.00
Insurance refund, Carbondale home	141.00
General Telephone Co., refund	17.03
Salary, National Advisory Council on Women's Educational Programs (Jeanne)	7,080.48
Advisory Committee on White House Conference on Libraries per diem and reimbursement (Jeanne)	431.23
Baltimore Sun, article	100.00
New Catholic World, article	100.00

INCOME FOR 1979—PAUL AND JEANNE SIMON—Continued

	In dollars
Book royalties	2,029.58
Paul Simon for Congress, reimburse campaign expenses	1,257.99
Sale of Carbondale House [1] (less expenses of sale cost $36,818)	51,550.00
Sale of Maremont stock (10 shares purchased January 1961 for $110)	546.00
Sale of S–W Life Corp. stock (100 shares purchased October 1979 $3,537.15)	4,251.00
1979 honoraria and travel reimbursement for appearances:	
American Council For Capital Formation	1,000.00
American Council For the Teaching of Foreign Languages	458.70
American Council of Life Insurance	1,000.00
American Translators Association	250.00
Brookings Institution	600.00
University of Chicago	910.00
Columbia University	100.00
ESMARK, Corp.	500.00
General Electric	1,059.00
Illinois Petroleum Marketers Association	1,000.00
University of Illinois	620.20
Lutheran Council in U.S.A.	250.00
National Council for Resource Development	500.00
National Rehabilitation Association	221.56
Planned Parenthood Federation of America	310.50
Southeastern Illinois College (donated to college foundation)	200.00
Suncom Industries	44.00
Susquehanna University	250.00
Syracuse University	586.14
Dividends:	
Adams Express	202.32
A.T. & T.	8.00
Bethlehem Steel	7.50
Borg-Warner	41.50
Borman's	1.60
Brunswick	.78
Chrysler	.40
Crown Zellerbach	12.00
Fairchild Industries	8.80
Fruehauf Corp.	9.20
G–M	15.00
Gulf & Western	.75
Hardees	9.60
Harper & Row	7.20
Lear Siegler	18.00
Maremont	9.75
M.I.G.	31.52
National Steel	5.20
Mut'l R.E.	2.50
Norton Simon	12.05
Pepsico	12.84
Ralston	6.96
Scott Paper	3.60
Texaco	29.68
Warner-Lambert Co	5.16
Westinghouse Electric	3.92
Interest:	
Mobil Corp.	8.50
Fairfield Communities, Inc.	195.00
Ellis 1st National Bank	5.50
University Bank	1.89
Citizens S. & L.	40.32
Carbondale National Bank	30.07
Dreyfus Fund	150.34
[1] Total 1979 income, Paul and Jeanne Simon	140,230.71

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[1] Property purchased in 1978 near Makanda for building a house.

GIFTS WITH A VALUE OF MORE THAN $25

In 1976 I publicly stated that I would list all gifts with a value of more than $25 as part of my yearly financial statement. The gifts I received in 1979 valued at more than $25: Set of knives from Saline Valley Savings & Loan, Harrisburg, Value Unknown.

INCOME OF CHILDREN, SHEILA AND MARTIN SIMON

Sheila: Total of $1,630.77, including—interest from Citizens Savings & Loan of Potomac, Md., $113.70; interest from United Savings & Loan of Troy, Ill., $29.88; interest from Carbondale Savings & Loan, $1.66; dividends from Ford Motor Co., $3.90, A.T. & T., $9.80; and Fabric Tree Group, wages, $1,471.83.

Martin: Total of $170.24, including—interest from Citizens Savings & Loan of Potomac, Md., $1.66; interest from United Savings & Loan of Troy, Ill., $29.88; dividends from Ford Motor Co., $3.90, A.T. & T., $9.80; lawnmowing income, estimated, $125.00.

NET WORTH STATEMENT—PAUL AND JEANNE SIMON, AS OF JAN. 1, 1980

	In dollars
Assets:	
Bank of Maryland checking account balance	305.34
House of Representatives checking account balance	349.83
University Bank of Carbondale, savings account balance	74.88
Citizens Savings & Loan, Potomac, savings balance	1,105.78
Carbondale National Bank, savings balance	624.09
Ellis First National Bank, savings balance	255.50
U.S. savings bonds	993.75
General American Life Insurance, cash value	2,766.48
Polish National Alliance Insurance, cash value	1,070.00
Congressional Retirement System, cash value	20,277.93
Illinois General Assembly Retirement System, cash value	16,233.00
Condominium, Tarpon Springs, Fla., 1979 purchase	81,000.00
Residence, 11421 Falls Road, Potomac, Md., 1974 purchase price	126,000.00
1976, 1977, 1978 improvements to Potomac home	17,254.00
10.2 acres near Makanda, purchased Oct. 24, 1978, on which we plan to build a home	21,500.00
Furniture and presidential autograph collection	15,000.00
1965 Ford Mustang	150.00
1978 Ford Fairmont	2,600.00
Stock and bond holdings with number of shares:	
Adams Express, 162	2,065.50
A.T. & T., preferred, 2	109.00
Bethlehem Steel, 5	105.63
Borg-Warner, 20	717.50
Borman's, 8	41.00
Brunswick, 1	13.38
Chock Full of Nuts, 10	43.75
Chrysler, 2	13.50
Crown Zellerbach, 6	261.00
Curtis Publishing, 2	1.25
Dreyfus Fund	2,500.00
Fairchild Industries, 8	344.00
Fairfield Communities	1,820.00
Fruehauf, 4	111.00
General Motors, Inc., 10	500.00
Gulf & Western, 1	518.50
Hardees, 40	510.00
Harper & Row, 10	110.00
Lear Siegler, preferred, 8	456.00
Massachusetts Investors Growth, 33	344.19
Mutual Real Estate, 25 (approximate value)	62.50
National Steel, 2	53.00
Norton Simon, 10	160.00
Norton Simon, preferred, 1	36.50
Pacific Gas & Electric Co., 50	1,150.00
Pepsico, 12	298.50
Ralston Purina, 12	132.00
Rohr Industries, 3	42.75
Scott Paper, 4	73.00
Texaco, 14	390.25
United M. & M., 8	48.00
Warner Lambert, 4	80.00
Westinghouse, 4	80.50
Jet-Lite, 120 (approximate value)	300.00
Mobil debenture bond, $100, 8½ percent	100.00
Total assets	320,652.78
Liabilities [1]	
National Bank of Washington, personal note	2,000.00
First National Bank of Collinsville, personal note	15,000.00
National Savings & Trust, mortgage	88,687.91
Franklin Federal Savings & Loan Association	60,622.60
Total liabilities	166,510.51
Net worth	154,142.27
Assets of children, Sheila and Martin Simon:	
Sheila:	
A.T. & T., 2 shares	104.00
Ford Motor Co., 1 share	31.75
United Savings & Loan, Troy	625.04
Israel bond	160.00
Maryland National Bank, savings	427.58
Mutual Real Estate Trust, 10 shares	25.00
Maryland National Bank, checking	98.29
Total	1,471.66
Martin:	
A.T. & T., 2 shares	104.00
Ford Motor Co., 1 share	31.75
United Savings & Loan, Troy	621.95
Citizens Savings & Loan, Potomac	32.15
Israel bond	160.00
Mutual Real Estate Trust, 10 shares	25.00
Total	974.85

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[1] In addition to these obligations, there is approximately $6,000 per year obligation to Wittenberg University in Springfield, Ohio, for Sheila's education expenses.

STAFF DISCLOSURES—SUBMITTED TO CONGRESSMAN SIMON IN APRIL, 1980

VICKI OTTEN, LEGISLATIVE COORDINATOR

1979 income other than government: University of Maryland Graduate School of Social Work, $400.00; dividends, Commonwealth Edison, $120.00. (Husband, William Henry Barringer, is an attorney with Arter, Hadden and Hemmendinger, practicing international law. The firm is a registered foreign agent for Japan Iron and Steel Exporters Assoc. and the Banco de Brazil.)

Sources and amounts of indebtedness over $500: Home mortgage, Eastern Liberty Savings & Loan, Washington, D.C., $29,473.00; 1977 Toyota Celica, First Virginia Bank, $1,970.

Stocks and bonds owned: 50 shares Commonwealth Edison, $1,190,000; Wright Patman Credit Union shares, $214.00.

Property owned: Home in Washington, purchased in 1978 for $40,000 with $15,000 in renovations in 1978; 1977 Toyota Celica purchased in 1977 for $5,800.00; 1969 Volkswagen Bug purchased in 1970 for $800.00.

RAY BUSS, DISTRICT ASSISTANT

1979 income other than government: Rental income, $6,464.71.

Sources and amounts of indebtedness over $500: King City Federal Savings & Loan, $103,000; Installment Loan, City National Bank, $3,000; Personal notes, Salem National Bank, $6,500.

Property owned; Apartment house, $142,500; household furnishings, $15,000; Buffy Bear (sheepdog), $135.70; Brandy (younger sheepdog), $160.48; 1980 Pontiac (Grand Prix), $8,200.

NICK PENNING, LEGISLATIVE ASSISTANT

1979 income other than government: Interest, Wright Patman Credit Union, $20.53; Payment for article, Journal Newspapers, $25.00.

Sources and amounts of indebtedness over $500: Robert Heltzel Co., home mortgage, $43,885.

Stocks and bonds owned: Wright Patman Credit Union shares, $331.12; Springfield Sacred Heart Credit Union, $24.32; U.S. Savings Bonds, $300.

Property owned: 1976 Dodge, purchased in 1976 for $4,354; Arlington, Virginia, residence purchased in 1977 for $49,700.

RAY JOHNSEN, OFFICE MANAGER

1979 income other than government: Rental income, $7,540; Metropolitan Life, interest, $27.00; General American Life, interest, $168.17; Cottonwood Junction, interest, $235; Mo. Portland Cement, interest, $507; Wright Patman Congressional Federal Credit Union, interest, $10.78; First Federal Savings & Loan, interest, $506.94; Christ Lutheran Church, interest, $70; General Motors, Inc., dividends, $137.77; Roodhouse Record, dividends, $216; Alpha Portland Cement, dividends, $16.56; Miller Real Estate, $1,612.50.

Sources and amount of indebtedness over $500: Washington and Lee Savings & Loan, $23,808; Illini Federal Savings & Loan, $26,136.

Stocks and bonds owned: Wright Patman Congressional Federal Credit Union, shares, $250; 175 shares Cottonwood Junction, $17,500; Series E U.S. Bonds, $993.75; Mo. Portland Cement bonds, $5,000; 400 shares, Laclede Steel, $4,000; 24 shares, Alpha Portland Cement, $348; 21 shares; General Motors, $1,050; Christ Lutheran Church, Orange, California, bond, $1,000.

Property owned: State of Illinois Employees Retirement System, $1,772.01; residence, Arlington, Virginia, $95,000; home and apartment, Troy, Ill., $30,000; duplex, Troy, Ill., $37,000; household furnishings $15,000; 1978 Chevrolet, $4,000; 1975 Volkswagen, $1,000.●

THE DEAN OF WEATHER WATCHERS

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mrs. SMITH of Nebraska. Mr. Speaker, Mr. Edward H. Stoll of Elwood, Nebr., is the unchallenged dean of the National Weather Service's 11,650 cooperative weather observers.

Mr. Stoll has been a cooperative weather observer for over 74 years and has recorded more than 26,000 individual daily observations. Now retired from active farming, he still continues to take daily observations on the same farm his parents brought him to when he was only 1½ years old.

Mr. Stoll, who is in Washington today and will be meeting the President tomorrow, celebrated his 94th birthday on September 26, 1979.

Over the years, he has won every award the Weather Service had to offer its unpaid observers—length of service emblems, the John Campanius Holm Award, the Thomas Jefferson Award, and letters of commendation from Presidents and the Secretary of Commerce. In 1975, a new award was created in his honor—the Edward H. Stoll Award. It is given to any cooperative observer who has completed 50 years, or more, of continuous service.

In 1976, the National Weather Service told the story of Mr. Stoll and his dedication to doing a job successfully. I would like to share that story with my colleagues:

A NEW AWARD HONORS THE DEAN OF THE WEATHER-WATCHERS

(By Nancy Pridgeon)

What do you give a man who's got everything?

That quandary faced the National Weather Service's Substation Networks Management Branch when Edward H. Stoll approached 70 years of officially reporting the weather from his farm near Elwood (pop. 601), in Gosper County, Nebraska.

At 89, he had been a cooperative observer since October 10, 1905. Over the years, he had won every award the Weather Service had to offer its unpaid observers—length of service emblems, the Holm Award, the Jefferson Award, letters of commendation from the Secretary of Commerce and Presidents.

National Weather Service Central Region Headquarters in Kansas City wanted very much to do something special for Stoll's anniversary. No one—ever before in history—had kept a non-stop record of the character of each of the more than 25,500 days that make up 70 years. His unique achievement called for a unique recognition.

The Edward H. Stoll Award, a length-of-service certificate, was the brainchild of Bernard E. Spittler, chief of Substation Management for Central Region Headquarters. Together, he and Central Region Director Charles G. Knudsen wrote to Weather Service Headquarters in Silver Spring, Md., proposing the special award.

But Stoll would not be the award's only recipient. Once established, it would be given annually to any volunteer who had completed 50 years or more of continuous service. Between five and ten individuals reach that milestone each year.

Weather Service Director Dr. George P. Cressman heartily endorsed the idea and started the request moving through channels. The award was approved by NOAA and sent on its way for Commerce Department approval. At first, there was some hesitancy about naming the award for a contemporary observer—other volunteer observer awards were named for weather heroes remote in time. Finally, all objections were overcome, and the Edward H. Stoll Award was born.

He heard about the new award when Spittler called to tell him what the Weather Service had done. Surprised and pleased, Stoll responded with characteristic aplomb.

"I noted the day," he said, "and I kind of wondered if the folks at Weather Service would take a special note of it. But then I thought, 'They've done so much for me already that maybe this time I'll just be getting a letter.'"

About the new award, Stoll said he felt "real good"—and thankful he's had his health all these years.

"It's a tragedy," he feels, "for anyone to come down to the end of life's journey having given no service to their God, their country, or their fellow man."

Stoll is a man who has lived by this philosophy. As to his 70 years of service, Stoll says anyone can do it—if they start young enough and if they have the patience to stick to it.

"There's a 13-year-old observer here in Nebraska right now," he said, "and she may beat my record yet—if she keeps at it."

Stoll was barely 19—he was born September 25, 1886—that October day in 1905 when a neighbor came bringing the official weather instruments to the Stoll place. He was moving away, he told Stoll, and added, "it's your job now."

The young Stoll had no way of knowing he'd be at it so long. Nor that he'd live all his life on the Nebraska farm he was brought to from Kansas in 1888, when he was only one-and-a-half years old.

The Great Plains of the late 1880's were still being settled by pioneer farmers, well aware that their success could depend on a knowledge of the climate.

Only a few scattered observers had kept an eye on the weather before 1870, but in 1869, when the "Golden Spike" united railroads from coast to coast, transcontinental travel by rail became a reality. In the 1870's and '80's, the railroads promoted an organized network of weather observers to assure the safety of passengers and freight. Many of the early observers were railroad agents. Others were crop-oriented farmers.

Early observers frequently noted prairie fires and dense smoke in their reports. Lack of good roads made mailing the monthly reports difficult. There were other problems, too.

In December, 1890, William Waterman of Hay Spring, Neb., wrote, "Report is late this month on account of Indian scare. Too much confusion to get time to make report."

Edward Stoll was just four at the time. Fifteen years later, he began his own weather observations. The year before he began, 1904, the Kinkaid Act opened Nebraska's range land to homesteaders, and Nebraska was on its way to becoming part of the nation's breadbasket.

On the 320-acre Stoll farm, the main crops were wheat, corn, and milo—an early-growing, drought-resistant grain sorghum important for cattle feed. Through the years, each morning at 7 o'clock, Stoll recorded the 24-hour precipitation, the kind of day, the winds, storms and their duration, and anything unusual about the weather.

He recalls 1915 as the wettest year—36.64 inches of precipitation. The driest was 1934 with only 12.37 inches of moisture recorded. This was one of the Dust Bowl years.

He noted the Republican Valley flood—May 31-June 1, 1935—that killed 101 persons. He noted a tornado that killed a neighbor. And a rainbow that shone one Thanksgiving Day.

But the storm most vivid in his memory is the November 18, 1948 blizzard.

Blizzards are expected occurrences in the Plains states. A blizzard combines winds of 35 miles per hour or more, falling and blowing snow, and temperatures of 20 F or lower. Nearly every year on the Great Plains, a storm classified as a blizzard occurs. Severe blizzards with windspeeds 45 miles per hour or more, dense snowfall and temperatures below 10 F happen every few years. Stoll has recorded 22 such severe storms.

The Year of the Great Blizzards was 1888 when a January storm covered ten Midwestern states with great loss of life, and a March storm blanketed the Eastern Seaboard from Maryland to Maine, killing 400 persons, 200 of them in New York City alone. Stoll admits he doesn't remember these storms, but the November 18, 1948 storm was one of the most severe winter storms on record.

The 1948 storm covered northeast and east-central Colorado, the western two-thirds of Kansas, and most of central and northeastern Nebraska. Sixty to 80 mile per hour winds filled the air with blowing and drifting snow, reducing visibility over the area to near zero. Communities were isolated for days by drifts up to 20 feet high. The death toll was three persons in Kansas, one in Colorado, and six in Nebraska. Property losses in the three states—much of it in livestock—ran into the millions.

"A very peculiar stationary storm," Stoll called it, adding that it struck Elwood around 3 a.m. but didn't reach Arapahoe, nine miles away, until later that afternoon.

Measuring precipitation during a blizzard presents its problems.

"I've walked a half-mile or more many times just to find a level field to measure the snow," Stoll said. He's measured more than a hundred feet of snow over the years.

As much as he's interested in the weather of the past, Stoll is just as interested in what's happening today. Now retired from active farming, he still lives on the home place, still records the weather each morning.

"This has been a peculiar year," he said in late 1975. "June 1975 was the wettest month in 70 years—11 inches of precipitation. We've had 25.08 inches of precipitation to date but it's still a dry year."

Stoll—who began his observations before anyone in present-day National Weather Service was even born—is now the unchallenged dean of the Service's more than 13,000 cooperative observers who collectively record millions of observations each year.

Weather records, like fine wines, improve with age and form a fund of information, a data base, for comparisons and, in some cases, long-range forecasts. Once a month, the observers mail their records—kept on forms furnished by the Weather Service for the purpose—to NOAA's Environmental Data Service. At the EDS National Climatic Center in Asheville, North Carolina, the records are processed—punched on computer cards and stored—ready for instant retrieval when the need arises.

Many individuals in the program have compiled records for 30 to 40 years. Some station records have passed from father or mother to son or daughter, and then in turn to grandson and granddaughter, for decades of weather records from a single family. In some cases, companies or institutions have been hosts to official weather stations and have designated employes to keep the records.

The Stoll award will be given to individuals only, but the Weather Service has no volunteer who has completed a length of service approaching Stoll's 70-year record.

The Jefferson award is given each year for unusual and outstanding accomplishments in the field of meterological observations. Jefferson, writer of the Declaration of Independence and third President of the United States, kept an almost continuous record of the weather from 1776 to 1816. Usually no more than five persons annually are chosen for the Jefferson award.

The Holm award is given each year for outstanding observer accomplishments. John Campanius Holm, a Lutheran minister, took the earliest known weather observations in the United States in 1644 and 1645 at Fort Christina, near what is now Wilmington, Del. About 30 persons a year are chosen for the Holm award.

Criteria for selecting the Jefferson and Holm award winners include complete, legible and accurate records extending over a long period of time, care of instruments, timeliness, observations recorded under hazardous conditions, unusual efforts to maintain continuity of the records during illnesses, absences or equipment failure, independent preparation or publication of climatological summaries, dissemination of weather information to the public through local news media, and enthusiasm for sharing one's knowledge with school groups and others. As a corollary, Jefferson and Holm winners are consistently held in high esteem by their communities.

The Jefferson and Holm awards were established in 1959. Stoll was among the first group of 25 volunteers to receive the newly created Holm award in 1960. At that time, he said:

"It has meant a lot to me during these years to be a weather observer, and the greatest satisfaction is to know that I have rendered some voluntary service to my country."

But his farm and the weather weren't the only boundaries of Stoll's life. After the loss of his wife, he raised his two children. Through most of his active years, he was an insurance agent. And a Sunday School teacher. And a member of the soil conservation and weed district boards in his community. He found time to speak before many organizations throughout Nebraska on his lifelong interests—the weather, and soil conservation practices.

In 1970, Stoll was named an Outstanding Citizen of the State of Nebraska by the South Platte United Chamber of Commerce. In October, 1970, an Edward H. Stoll Recognition Banquet was held in Arapahoe, Neb., where 200 of his fellow citizens paid tribute to his years of service as a weather observer and as a pioneer in soil conservation.

At the banquet, Stoll received a Weather Service Centennial Medal, a certificate from the American Meteorological Society for his contribution to the science of meteorology, a letter of appreciation from NOAA Administrator Dr. Robert M. White, a gold-plated rain gage—and was commissioned an Admiral of the Nebraska Navy.

In 1973, Stoll received the Jefferson award, the highest honor the National Weather Service could then bestow on him. He summed up his philosophy that every person owes some free service to his country by saying:

"Service is the rent you pay for the space you occupy as you go through life."

In 1975, Stoll became the first recipient of the National Weather Service's newest accolade for its volunteer weather observers—the Edward H. Stoll Award—fittingly named for a man who has practiced what he preached.●

HISPANICS HAVE TO WORK CLOSELY WITH BLACKS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. LELAND. Mr. Speaker, Bob Garcia, my distinguished colleague from New York, recently wrote an article which appeared in the New York Times. The article is a very perceptive report on the importance of cooperation between our black and Hispanic communities as we confront and attempt to solve the common problems that plague these distinctive communities.

Congressman Garcia and I cochair the Black/Hispanic National Democratic Coalition which was recently established in an attempt to deal with these common problems on the national level and to give some coherent direction to cooperative efforts on the grassroot level throughout this country.

I commend this article to my colleagues of the House and I insert it in the Record:

[From the New York Times, May 30, 1980]

Hispanics Have To Work Closely With Blacks

(By Robert Garcia)

Washington.—Blacks and people of Hispanic descent are natural allies. They share the bitter experience of poverty and powerlessness. The needs of both groups are strikingly similar: protection from discriminatory practices, better educational and employment opportunities, improved housing and health-care services. Since both groups disproportionately shoulder the hardships imposed by cutbacks in domestic spending, the arguments for black and Hispanic cooperation are compelling.

However, there is one issue that has the potential to bedevil relations between the two minorities: immigration and undocumented aliens. For example, it is clear that blacks' frustrations in Miami were aggravated by the recent surge in Cuban refugees. What can blacks and people of Hispanic background do to lessen the possibility of conflicts on this issue?

The Hispanic community is sympathetic to the influx of undocumented workers, most of whom come from Spanish-speaking America, but many blacks fear that this influx of undocumented Hispanic workers undermines their already precarious economic position. While studies need to be completed before it is possible to state categorically what the impact of the undocumented workers actually is, Hispanics have to be particularly sensitive about how blacks perceive the issue. Hispanics have to realize that the Haitian refugees in southern Florida are being discriminated against. We cannot allow the Federal Government to accept the new wave of Cuban refugees with one hand while deporting the Haitians already here with the other. Hispanics have to work closely with blacks to see that the Haitians are accorded the same treatment as the Cubans.

Hispanics and blacks also should begin to attack the fundamental causes of the illegal immigration into the United States: the extreme poverty of many of the nations rimming the Caribbean basin. If the United States does not substantially increase its effort to promote economic development and family planning in these countries, the pressures propelling emigration will become even more enormous.

In particular, Hispanic leaders can play a vital role in facilitating an agreement between the United States and Mexico that would establish a more realistic and mutually satisfactory regulation of the influx of Mexicans.

Hispanics have to begin working to establish a new consensus on immigration policy. We have to come to terms with the prospect that we may have to moderate our present laissez-faire attitude toward undocumented workers or run the risk of jeopardizing the prospects of close ties with the black community. Hispanics cannot afford to lose the good will of blacks, for only by joining forces will blacks and Hispanics ever have the power to reorient this country's national priorities so that they adequately reflect the needs of minorities.

If black and Hispanic leaders do not act on the premise that they are natural allies, they will condemn their respective communities to fight over this nation's crumbs.

There are several heartening examples of black and Hispanic leaders vigorously championing cooperation between the two minorities. The establishment of the black and Hispanic Democratic coalition in the House of Representatives is a testament to the recognition by the minority legislators of their mutual interests. The efforts of the black-led National Urban Coalition and the Hispanic-led National Council of La Raza to forge close links between the two groups are particularly encouraging.

One clear success story has been New York's black and Puerto Rican caucus, which is now in the position of being able to force major concessions from the New York State Assembly's Democratic leadership. The formation of similar black-Hispanic alliances on the state level could drastically alter the politics of California, Florida, Illinois and Texas.

Recently, black and Hispanic national leaders have been working overtime trying to prevent the wholesale gutting of social-welfare programs by Congress. We have been unable to forget, as some of our Congressional colleagues apparently have, the price our communities can pay for Federal neglect: conflagration.●

A TRIBUTE TO DONNA McLAIN

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GOODLING. Mr. Speaker, yesterday I had an opportunity to spend 1½ hours in a high school assembly program scheduled to honor Donna McLain, daughter of Mr. and Mrs. Ronald McLain. Donna is a senior at Eastern High School in Wrightsville, Pa. She has amassed a total of seven gold medals in cross-country and track, as well as two State silver and one State bronze. She has also won 11 gold medals in district competition and 11 gold medals in county competition. Donna also holds two gold medals in National Junior Olympics competition.

Other than her athletic accomplishments, she is also president of the senior class, president of the gym club, treasurer of the varsity E club, and has received a full scholarship to the University of Tennessee. Donna is truly an outstanding, personable young lady; and a real credit to her peers, her family, and her school. Perhaps one day we will read of Donna's international Olympic accomplishments, because she is very determined and dedicated. I am proud to salute one of America's outstanding teenagers.●

INTERNATIONAL TERRORISM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HAMILTON. Mr. Speaker, I insert my Washington report for Wednesday, June 11, 1980, into the CONGRESSIONAL RECORD:

INTERNATIONAL TERRORISM

The illegal and inhumane seizure of 50 Americans in Iran has shown us that international terrorism is a force to be reckoned with in today's world. Politicians, diplomats, businessmen, tourists, and ordinary citizens continue to be targets of bombing, kidnapping, hijacking, ambush, and other forms of terrorist assault. The terrorists, whether they seek ransom or the release of prisoners as an immediate goal, are desperate people who believe that violence is necessary to achieve the political results they desire. By turning away from all peaceful means of redressing their grievances, the terrorists hope to dramatize their views and provoke represssion as a way to broaden their narrow base of support.

A glance at the statistics on international terrorism reveals reason enough for concern. At least 587 people were killed by terrorists worldwide in 1979, the highest figure on record. Twenty-six embassies or consulates were taken over by terrorists in the same year, and ten more were occupied in the first four months of 1980. American firms and their personnel suffered 74 terrorist attacks during 1978 and 1979. The list of recent terrorist tragedies is long and grim: 36 Israelis and nine assailants who commandeered their bus were killed when the bus exploded during a gun battle; the U.S. ambassador to Afghanistan was kidnapped and then killed as his captors fought with police; a member of the British royal family was blown up by a bomb as he sailed in his boat; two U.S. servicemen were shot to death as they walked on a street in Izmir, Turkey. Scarcely a week seems to pass without reports of events like these.

Several factors lie behind the rising tide of international terrorism. Some instances may be due to the growing identification of people with their own ethnic or national group, especially when that group has been persecuted by others. Increasing economic disparities are important factors, as are the unresolved conflicts that simmer in so many parts of the world. Still other causes are the emergence of "patron states" that condone or even encourage terrorists, the revolution in telecommunications, and the availability of the weapons necessary for basic terrorist operations. Some terrorism is simply a response to terrorism itself: groups dismayed by the inability of governments to control terrorism may decide to take matters into their own hands and "fight fire with fire."

Whether terrorism is effective in promoting political change is open to question. Some argue that while terrorists frequently acquire money, release prisoners, and gain publicity, they seldom recover lands, reunite peoples, or overthrow governments. Moreover, their ranks are often decimated in full-fledged confrontations with governments. Others say that terrorists have the odds with them. One study of hostage-taking showed that the terrorists involved avoided punishment 79 percent of the time, got all they demanded 29 percent of the time, and escaped unharmed 67 percent of the time even when no concession was made to them. Furthermore, more than one terrorist has secured recognition as a world leader. No matter what the successes or failures of terrorism, however, most experts think that it will intensify in the years ahead. The evidence of collaboration among terrorist groups is strong. Some groups may be upgrading their capabilities, and others organized around new causes may come forward. Operations may become more destructive as terrorists try to keep public attention, and countermeasures may provide less deterrence as terrorists learn how to circumvent them.

Steps against international terrorism have been taken at many levels. In the United States special committees have been set up to oversee anti-terrorist policy. Immigration and customs procedures have been tightened, and airport security has been strengthened. The federal government has provided more protection for American diplomats and businessmen abroad. Under present law, the President may take action against countries that harbor terrorists by suspending civil air transport links with them, cutting off their military and economic aid, controlling U.S. exports to them, and denying their exports duty-free entry into this country. Regional cooperation against terrorism is also helpful. For example, the police chiefs of 17 major European cities have discussed their anti-terrorist efforts, and members of the European Community have moved to implement an international convention on the suppression of terrorism. Helpful too was last year's adoption by the United Nations of an international accord calling on all nations to prosecute or extradite all hostage-takers without exception.

In my view, the terrorist incidents of the past months hold several lessons for us. First, our policy of resisting terrorist extortion is sound. It underscores our belief that there will be no peace if we capitulate to terrorist demands. Second, we must show all governments that it is in their interest to oppose terrorism. As long as terrorists enjoy official approval of any kind, they pose a threat to legitimate government everywhere. Third, our response to hostagetakers must be flexible since talk is sometimes just as effective as force. Flexibility allows us both to be firm and to save innocent lives. Fourth, where force is necessary we must be prepared to accept failure despite our confidence that we can succeed. No amount of training or planning can eliminate all possible pitfalls. Fifth, we must realize that terrorism thrives in a climate of social and economic injustice. The best antidote to terrorism may be the policy that helps correct elementary inequities over the long run. Finally, we must not overreact to terrorism. If we deprive our own citizens of their civil liberties or restrict the press' freedom to cover terrorist incidents, we may lose the war against terrorism even as we win a few battles.●

H.R. 7023

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HOPKINS. Mr. Speaker, today I am inserting in the RECORD the names of additional cosponsors to the bill H.R. 7023, which directs the National Institute of Arthritis, Metabolism, and Digestive Diseases to conduct a clinical study of the safety and efficacy of the drug dimethyl sulfoxide (DMSO) for use by patients with arthritis. This brings the total number of cosponsors for this bill to 84.

According to witnesses at a recent hearing conducted by the Select Committee on Aging, DMSO is a promising and very low-cost medication which is effective in relieving pain, inflammation and swelling. DMSO offers a ray of hope to our Nation's 31 million arthritis sufferers, who experience the chronic pain of a crippling disease for which there is no known cure. Each year, millions of them are lured abroad to clinics which promise DMSO to arthritis victims—but often deliver much more dangerous and costly remedies.

Unfortunately, because DMSO is so cheaply produced and consists of such a common molecule that it is considered unpatentable, little progress is being made toward securing FDA approval of DMSO. By taking this step, and mandating clinical trials be conducted by the National Institute of Arthritis, we may be able to help make a low-cost and effective pain reliever available to millions who are now in pain.

Pursuant to Clause 4 of rule XXII of the rules of the House of Representatives, the following sponsors are hereby added to H.R. 7023.

1. Representative Ullman
2. Representative Guarini
3. Representative Garcia
4. Representative Bedell
5. Representative Railsback
6. Representative Gray
7. Representative Weaver
8. Representative Grisham
9. Representative Mikulski
10. Representative Hubbard
11. Representative C. Collins
12. Representative Fenwick
13. Representative Stokes
14. Representative Symms
15. Representative Snowe
16. Representative Perkins
17. Representative Carter
18. Representative Snyder
19. Representative Luken

20. Representative M. Edwards
21. Representative Scheuer
22. Representative D. Crane
23. Representative Latta
24. Representative Rousselot
25. Representative Lewis
26. Representative Jeffries
27. Representative Daschle
28. Representative Devine
29. Representative Lee
30. Representative Campbell
31. Representative Beard
32. Representative Derwinski
33. Representative Bafalis
34. Representative Lent
35. Representative Regula
36. Representative Porter
37. Representative Hagedorn
38. Representative English
39. Representative Lederer

LARRY J. HOPKINS.●

THE ROLE OF GOVERNMENT IN THE EIGHTIES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GILMAN. Mr. Speaker, a few days ago I was pleased to share with my colleagues the winning essay and the second and third place winners in a contest I conducted in the 26th Congressional District of New York on the subject of the role of Government in the eighties.

Because of the interest shown in these essays, I am pleased to share the writings of the honorable mention winners.

The essays follow:

THE ROLE OF GOVERNMENT IN THE EIGHTIES

(By Hugh Brady, Pearl River High School, honorable mention winner)

The role of government in the 1980's will have a major impact on our lives and generations to come. Our economy, the energy sources of the future, and the security of the world will weigh heavily upon the decisions that the United States Government will make in the 1980's.

Of major concern to most of the world is the condition of the United States economy. The government will play an important role in strengthening our economy, and one of the most important means to achieve that goal will be to reduce our dependency on imported oil. In order to do that, the government will have to play a major role in the financing and research of alternative energy sources.

Most of the important decisions regarding alternative energy sources will be made by the government. The government will have to pass laws dealing with the environmental risks that some of these energy sources pose. Generations to come will be greatly influenced by the decisions our government will make.

Future generations will also be influenced by the decisions our government will make in terms of foreign policy. The United States will play an important peacemaker role in the Middle East, as well as try to improve relations between itself, Russia and China.

The United States Government will have the most influential and important role in the world in the 1980's. The policies and decisions it makes in economics will affect the way the world lives, the finding of alternative energy sources will have a great impact on the future, and its foreign policy will play a major role in the security of the whole world.

THE ROLE OF GOVERNMENT IN THE EIGHTIES

(By Joanne Bea, Port Jervis High School, honorable mention winner)

The role or I should say roles that the government plays are a very important part, and I would say especially now in the Eighties. Government has a lot of very important decisions to make with all the problems we are facing today.

The Eighties have even started bad with the Iran Crisis and the problem with drafting women. This, of course, gets thrown at the government. I know that the government's job is to handle this, but I feel that they will certainly have their hands full in this new decade with the possibility of war on hand.

The government has many, many tricky problems to solve. Whatever they choose to do, they are hurting someone, which cannot be helped. They are not God, but they are expected to act as such.

This decade the government has the problem of a possible war to solve, which is getting closer to becoming a reality. Another war can easily destroy the entire world and the government has this lying heavily on their shoulders, along with everything else.

I feel that government should do what they feel is right. With all the pressures they have, this is hard to do, but they have performed a well-done job so far. So I am pretty confident that the Eighties will be just as good as any other decade.

I, for one, am grateful for their hard work and dedication and applaud them for their job thus far.

THE ROLE OF GOVERNMENT IN THE EIGHTIES

(By Marta Molins, Clarkstown South High School, honorable mention winner)

The beginning of the 1980's will bring the dawn of a new role for the government of the United States. During the 1970's the general attitude of Americans toward their government was apathetic. After the Watergate scandal most people lost their faith in government, and with it, their interest. Big business took over and kept government officials in office. The people, who didn't care enough to see what was going on, let it continue. But, now people are awakening and they are once again becoming involved in the government. The citizens are speaking out for what they want and money-makers will no longer rule our country.

The Presidential election will prove to be a turning point. The new President will have many changes to make. He will now have to answer to the people. The people, in return, will obey the government. This basic feeling of being involved in government will control the people, it is the people who will ultimately control the government.

If the government can keep that approach, as I feel it will, the 1980's will be a decade of stronger governmental control. But, unlike the circumstances in the novel, *1984*, by George Orwell, people will retain their freedom. But, they will freely choose to support their government, because the government will be working for them.

The 1980's will be a time when all governments will need the support of their citizens. With tension mounting in the Middle East there is an impending threat of war. People in many parts of the world are beginning to get restless.

During a time of war people must be willing to make enormous sacrifices. The government must concentrate all efforts on its enemies, not its citizens. So in the 80's, the people must be, and will be willing to make that sacrifice and become the government of the 1980's. The government will control the decade of the 1980's because the people of the 1980's will support it.

THE ROLE OF GOVERNMENT IN THE EIGHTIES

(By Jesse Newman, Port Jervis High School, honorable mention winner)

The first thing the government will need to do in the eighties is to see to national defense. To rebuild America's armed forces to equal or better Russia's.

Next, the role of our government in this decade will be a mediator's between disputing groups whose interests differ. The government will have to be a referee in any of the fights started by opposing groups and stop the fights for reasons of danger to the country if they are not stopped. The government takes the side of the general population or else it dictates to one side or another, which is dangerous.

To me it seems that the eighties will be decisive as to space technology, and if this will be so the government will have to take steps to make sure that this country will not be second.

Just as separation of power of the three branches of the Federal Government must remain clear and distinct, so must the division of power on 3 levels. The tendency in recent years of the Federal, state, and local, to interfere in each other's jurisdiction should be avoided. No level of government can take on all responsibilities alone. One man cannot be allowed to act as a whole government. Many of these things will have to be redefined in the 1980's.

The role of the U.S. Government during the 1980's should be to form on alliance with Israel to put an end to the Russian-Arab advance. The Russians want to Cubanize the Middle East. Israel shares with America respect for freedom and the rule of law. Israel actively opposes Russian advances in the area designed to control most of the world's energy.

THE ROLE OF GOVERNMENT IN THE EIGHTIES

(By Edward C. Miller, Nyack High School, honorable mention winner)

The role of government in the eighties is simply to make our wonderful country, the U.S.A., prosperous again! Before we try to solve world problems, the government should intensify its energies exclusively in our own country to regain our sound economy, pride, and respect.

The major role of government in the eighties is to have an all out war on oil, not Russia. If our country hits rock bottom, Russian will walk all over us without firing a shot. The government must do all it can to rid our country of its dependence on foreign oil.

Efficiency in the use of our natural resources is the key to prosperity, independence from O.P.E.C., and reduced inflation. The government should initiate strict regulations on our automobiles and homes to quickly bring them up to the maximum level of fuel efficiency. Harsh taxes, such as the Windfall Profits Tax, would help deter car owners from driving while simultaneously encourage car manufacturers to increase the mileage ratings of their cars. Mass transit should be updated and implemented since it is the cheapest way to transport people. All energy programs must be generously supported by the government. Conservation should be made our national policy.

Presently business is being choked out of existence by bureaucracy and taxes. The government should simplify the system and provide incentives for business to expand and hire more people.

The role of the government (and the rest of Americans in the U.S.A.) is to communicate and work very hard together, because if we don't, we may find ourselves tied up in a very frustrating situation—the depression of the eighties.●

SENIOR CITIZENS HARD HIT BY INFLATION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. MURTHA. Mr. Speaker, no one has been harder hit by inflation than the older American living on a small, fixed income.

Congress must focus on economic hot spots, areas particularly suffering from the inflation-recession squeeze, such as the housing and auto industries, steelworkers, miners, and the aged.

Some specific economic steps for the retired include:

One. Eliminate the social security earnings ceiling on outside income for social security recipients—the 1982 limit will be $6,000—so more older Americans can supplement their social security.

Two. In figuring the annual social security cost-of-living increase, use an older Americans economic index that more accurately reflects their special costs.

Three. Provide tax credits to employers to hire older Americans, so there are more full- and part-time job opportunities.

Four. Improve the low-income energy assistance program so more low-income retired persons are protected against skyrocketing fuel bills.

Five. Create incentives for local governments to drop nuisance taxes on retired citizens.

Coupled with the general attack on inflation and recession, such steps can remove the fears of economic poverty from millions of senior citizens.●

THE OTEC ALTERNATIVE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. OTTINGER. Mr. Speaker, there is increasing interest in all forms of renewable energy as we as a Nation assess our energy future in light of the escalating cost of fossil fuels. Ocean thermal energy conversion (OTEC) ranks among those renewable energy options worthy of current consideration and exploration.

In remarks recently presented at the Seventh Ocean Energy Conference, Congressman DON FUQUA, chairman of the Committee on Science and Technology, praised the work already completed by the private sector toward OTEC technology development and outlined the legislative proposals before Congress for the future demonstration of OTEC.

I want to commend Chairman FUQUA for his leadership in spearheading the Science Committee's initiative in this area. And I would recommend the text of his remarks to my colleagues as important reading to examine the diverse possibilities of using an old environment in many new ways:

REMARKS BY HON. DON FUQUA

I am very pleased to be here today to participate in this year's convocation. Although the Ocean Energy Conference is an annual event, this year seems to be of special significance because ocean energy development is at an important crossroads with exciting prospects for the future.

Through perserverance and dedication the private sector has pursued a path of innovative development to reach the present state-of-the-art. They are to be congratulated.

Through commitment and concern Senators Matsunaga and Inouye and Congressman Studds have developed legislative proposals which collectively could promote the demonstration, licensing and financing of OTEC facilities.

As many of you are aware, the Committee on Science and Technology has just conducted a one day OTEC workshop to begin its initiative. The workshop brought together the principal participants from industry, the administration and Congress in an effort to develop a consensus among them for the most acceptable legislative approach to insure the establishment of a strong program for OTEC which will lead to an early demonstration of OTEC technology. This information was intended to serve as the basis for fashioning a clean bill to be considered by the Science Committee's Subcommittee on Energy Development and Applications. We felt that workshop session was particularly important at this juncture to reconcile different opinions within the OTEC community as to the best approach. In addition, the workshop brought forth some frank and candid discussion from all participants about other improvements needed in the OTEC effort which cannot be solved by legislation.

Some of the major conclusions of the workshop session were as follows:

1. There is an urgent need for the Federal Government to move forward quickly and demonstrate a commitment to the early commercialization of OTEC and the development of a viable industry.

2. In order to carry the technology from this demonstration stage to eventual commercialization, the private sector needs a combination of reasonable incentives, both financial and legal, as outlined in the legislation sponsored by Senator Inouye and Congressman Studds.

3. Multiple industry participation in the pilot plant phase and the establishment of a competitive OTEC supplier industry are essential to meet our objectives.

4. An open planning and advisory process in which all parties interested in OTEC development can participate will be vital to appropriately plan and implement the program activities in the final agreed-upon legislation.

The workshop participants generally agreed that both pieces of current legislation, the RD&D and financing-licensing bills, should move forward in this Congress with only minor modifications.

Based on these conclusions, I have introduced a clean bill, H.R. 7474, on ocean energy development, incorporating these minor changes. I am hopeful that the schedule of events will be moved very quickly.

On June 5, Congressman Ottinger's Subcommittee will hold a hearing on our new bill with plans to move directly into subcommittee mark-up following the hearing. Although the schedule will be tight, I hope to arrange full committee mark-up for June 10. If we are successful to this point, my intention is to request the House leadership to schedule the bill for floor action under Suspension of Rules at the earliest time possible. I am optimistic about our prospects for success.

If our bill for a strengthened OTEC program emerges from the House, I will work to encourage an early Conference Committee meeting with key Senate Members.

These legislative objectives will establish a framework for large-scale demonstration of the technology as we begin to assess the results that come in from the OTEC 1 facility. A strong leadership role on the part of DOE will be especially critical at this time to give the program direction.

The long-term perspective for ocean energy is as exciting as it is diverse. Any discussion of long-range possibilities, however, will also stir up the tired debate of centralized versus decentralized energy production. Let me make it clear at the outset that I do not believe this debate is even relevant. To my mind, we do not have the luxury of choosing one to the exclusion of the other. We should be open-minded and flexible enough to accommodate a combination of energy alternatives without philosophical bias. Our judgment should rather be spent on which energy technology can be most efficiently and appropriately used in a given situation.

In assessing energy technologies in general, one cannot help but be impressed by the uniqueness of the ocean thermal alternative. The renewable nature of the basic resource affords us the comfort of planning on not just a dependable source but a permanent source, on not just an intermittent source but an uninterrupted source. Given this assurance, we can then develop not only the apparent applications for ocean energy but also explore other innovative applications.

For centuries man has used the oceans for both food and commerce. But Homer said, "Ocean, who is the source of all". We are just beginning to understand the vastness of that implication—although I think it would be accurate to say that Homer's context of "all" was much more limited than our own.

We will begin the demonstration of ocean energy use in the two most evident directions, the generation of electricity for use by coastal and island communities and the generation of electricity to produce an energy intensive product on board a grazing OTEC facility.

To address the first, generation of baseload electrical power and its transmission to an islands or coastal population, we can immediately identify areas of application such as the Gulf Coast of Florida, the state of Hawaii and the islands of Guam and Puerto Rico. It would be short-sighted, however, to assume that the domestic utilization of the technology in this manner would necessarily be its broadest value. The prospect of exporting OTEC hardware to developing countries is not only enticing from a balance of payments prospect but most essential in helping developing-world nations establish a posture of energy independence.

The second avenue of demonstration, producing an energy intensive commodity on board a grazing OTEC plant, is restricted only by the limits of our imagination. Ammonia is perhaps the most promising initial product envisioned for manufacture on an OTEC vessel. Since the current production of ammonia requires depletion of our supply of natural gas and because ammonia is valued highly for numerous residential, agricultural and industrial uses, it is an appropriate candidate for our first attempt. The primary use of ammonia in the U.S. is, at present, for fertilizer which makes possible our bountiful yields of corn, wheat and other foodstocks.

Perhaps even more important in the long-term is the potential for utilizing ammonia in fuel cells to produce electricity. Several companies are already working on this fuel cell development. When the process is perfected it could possibly be used to meet energy needs on both extremes of the power market spectrum. In large population centers, peak-load requirements could be fulfilled by an ammonia/fuel cell process, while in rural communities the distribution and storage of ammonia for fertilizer would make it readily available for use in fuel cells to generate power to customers in remote geographical areas.

Further down the road one can envision the use of OTEC energy for deep ocean mining. This is an area of particular interest because of growing concern over a materials short-fall in the coming decade. We all know that varied and abundant supplies of minerals have been a significant factor in America's industrial growth. We will need a continuing domestic supply of these resources to assure the health of our industrial base. This supply has become increasingly important because many third world nations are recognizing the political pressure of withdrawing a particularly scarce mineral from the world market. This places any nation with limited domestic supplies in an extremely vulnerable position.

The sea offers an attractive alternative as our landside reserves of important minerals continue to be drawn down and both environmental and political constraints limit access to those that do remain.

We are all painfully aware of the global energy dilemma and I believe if we are not prudent in our planning now we will be faced with a similar dilemma regarding basic materials in the years to come.

Ocean energy is an international resource in the broadest sense. Both its development and its use can be a major global cooperative effort. Currently France and Japan have done admirable initial work. If we cooperate with other nations in furthering the technology development, it can only mean earlier commercial utilization for us all.

It seems to me, however, that we are just beginning to understand and explore the potential of the oceans. The more we learn, the greater and more diverse the possibilities appear.

Those of you who have been pioneers in ocean energy are plotting new voyages for us in an old and familiar environment. You have fashioned new tools and vessels. You have given us a unique and important perspective of a resource common and constant to us all.

Those of us who are committed to help you share your enthusiasm and wish you well.●

REVIVING INNOVATION AND PRODUCTIVITY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. BROWN of California. Mr. Speaker, in the March 27, 1980 issue of Electronics magazine, an editorial highlighted the 1980, Institute of Electrical and Electronics Engineers (IEEE) Conference on U.S. Technological Policy. The IEEE is an organization of over 180,000 engineers and scientists in electrical engineering and allied fields dedicated to promoting engineering and scientific endeavors.

The IEEE conference topic, "Global Competition in the 1980's," was very timely, occurring during a period when America is experiencing a loss of world leadership in innovation and productivity. The president of IEEE, Leo Young, suggests a holistic, long-term approach toward solving this problem.

I agree with Leo Young about the need for a holistic approach, and I have introduced H.R. 6910, the National Technology Foundation Act of 1980. H.R. 6910 is a vehicle that can be used to promote discussion of alternatives for effectively organizing the efforts of Federal Government to facilitate technology development in America. I plan to hold hearings on the bill in the Subcommittee on Science, Research, and Technology.

The editorial follows:

A GOOD PLACE TO START THE COUNTERATTACK

The drumbeat grows louder: the U.S. is in danger of losing its preeminence as the world's leader in electronic technology and productivity. There is no doubt that there is a growing problem, but thus far solutions have been mostly of the shoot-from-the-hip variety generated by anger and frustration.

However, Leo Young, president of the Institute of Electrical and Electronics Engineers, has broached a plan that could be the first controlled step toward an orderly countereffort. Speaking last month at the IEEE 1980 Conference on U.S. Technological Policy, a meeting subtitled "Global Competition in the 1980s," Young urged a "holistic, long-term approach," starting with a presidential commission empaneled to study the engineering profession as a whole. Such a study would include the supply of engineers, the "quality and scope" of their education, innovation and productivity in industry, the professional needs of engineers, and, perhaps most important, "the possibility of a focal point for engineering in government—perhaps even a cabinet-level position."

Technology must be recognized as a national priority, says Young, and after that, engineering must receive the kind of special consideration from the Federal government that is accorded medicine, law, science and agriculture. A White House request for an evaluation of engineering and science education, due in July from the Department of Education and the National Science Foundation, is not enough, Young says, for education is only part of the problem. The White House is expected to take no action on Young's program until it receives that evaluation.

Young's initiative is an idea whose time has come. He is on target when he says that technology too often has been used as a whipping boy, whereas "greatness will be restored to this country only as engineers transform the findings of scientists into technological solutions."

WORKING ON AMERICA'S WEAKNESSES

At the same meeting, Hans M. Mark, secretary of the Air Force, lamented what he called a general retreat in the U.S. during 1945-1970 from the intensive development and application of new technology that characterized the nation from 1860 through World War II. "We had found a way to pass through the gate to a world where the 'quality of life' would be enshrined as the highest good and no entry fee would be required," he says. In the 1960s, Mark adds, the vogue words were "service economy" and "post-industrial society." The inevitable result was a weakening of America's productive ability. Now, it is time to "reindustrialize" the U.S. or become what Prof. Amitai Etzioni of Columbia University characterizes as a "siesta society"—one in which basic productive industry gets short shrift, with the result that nothing works very well.

What must be done? Mark maintains that, to make a conscious national effort at technology development aimed at reindustrialization and modernization of the industrial plant, we first must start with people: make it attractive for young Americans to go into technical and engineering fields. Then, we must lead with our traditional technological strengths—aviation, electronics, synthetics, and so on—while striving to develop new ones where we have serious problems. Young's plan offers a good way.●

CONTINUE FUNDING FOR DIABETES RESEARCH

HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GRISHAM. Mr. Speaker, last week I had the pleasure of receiving a most unusual form of correspondence—a 20-foot scroll was delivered to my office by Mrs. Cristine Ford, the president of the Greater Long Beach Area Chapter of the Juvenile Diabetes Foundation. This scroll contained the messages of the fifth graders of Rancho Santa Gertrudes School on Gallatin Road in Downey, Calif., and was signed by David Bradford, Deeann Alvarado, Gil Nava, Tina Polselli, Nam Lee, Pedro Padilla, Tiffany Theodore, Jacque Martin, Shellena Gjerde, John Peterson, Tina Ford, Ashlyn Pentoney, Kelle Saunders, Paul Attyah, Teresa Montero, Johnell Poulsen, Christy Mayfield, Ronald Kim, Anessa Koh, Nerfen Escobar, Katrina Toussieng, Chris Baumann, Jayson Bernstien, Chris Flicker, Mike Flauben, Lisa Garcia, Diane Burgos, Jesse Martel, Sophie Anton, Gina Castillo, Ceser Brambila, Jose DelToro, Sean Kroener, James Hawes, Cindee Lund, Steve Jackson, Jorge Solis, Denny Ng, Anna Valenzuela, Sandra Carrillo, Brenda Aguilera, Christy Mayfield, Nancy Trimble, Sean McConnell, and Kristy Hatfield. The messages of these youngsters expressed their deep concern that Congress continue and increase the funding of diabetes research. I was deeply moved by this demonstration of their commitment to such a worthwhile cause, and I would like to assure each and every one of them that I share that commitment.●

THE THIRD WORLD—U.S. OPPORTUNITY FOR SURVIVAL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. DIXON. Mr. Speaker, declining economic conditions necessitate that we utilize all of our technological and diplomatic savvy to solidify our relations with the developing world and preserve our natural resources. Douglas J. Bennet, Jr., Administrator for the Agency for International Development, expounded upon this subject matter in his remarks before the National Council of Community World Affairs Organization. Mr. Bennet delineated the importance of consolidating efforts by the Third World and the United States to solve the many complex problems which we will face in the future. I would like to share Mr. Bennet's remarks with my colleagues:

NEW YORK, *May 23, 1980.*

THE THIRD WORLD: U.S. OPPORTUNITIES FOR SURVIVAL

(By Douglas J. Bennet, Jr., Administrator, Agency for International Development)

Today, anyone who watches the evening news is exposed constantly to the Third World—a Third World in turmoil. And the question is no longer whether the Third World matters to America, but whether and how we can cope with the changes occurring there.

Fifty-three Americans held hostage in Iran can amply testify to the reality of this turmoil, for they are experiencing the fallout of a development process gone awry. And they know only part of the story. For if one looks at what has happened around the world since November 4, the day they were captured, one is forced to wonder how those hostages will ever recognize the world into which they will one day—hopefully soon—reemerge.

In the months since November 4, the Soviets have invaded and taken over Afghanistan and changed the way in which much of the Third World—not to mention the world as a whole—regards the Soviet Union. In the Caribbean Basin, Cuba's revolution has soured, launching tens of thousands of its citizens in an awesome flotilla to freedom and economic opportunity in the United States. They join thousands of Haitians who are also seeking greater opportunity and liberty on our shores. Liberia, a staunch friend of America in Africa, has had its own revolution. In Zimbabwe, just to confound the skeptics, war gave way to peace, a free democratic election, and to an apparently moderate government pragmatically committed to rebuilding that country.

We can all think of other turbulent situations—in Cambodia, Uganda, Chad, El Salvador, and Nicaragua.

And we cannot assume that these events are aberrations. There is no reason whatsoever to believe that the next six months—or six years—will be any calmer than the last six months.

Nor will we simply be observers of this Third World turbulence. We will be affected directly. Interdependence—which is one name for what is happening today in Key West and Miami Beach—is a demonstrated reality. Those people arriving in boats are here to become Americans because the human rights and economic development performance in their own countries is grossly inadequate. There are millions more who live in similar situations, and who will be coming to our country in the years ahead.

Every gasoline-using driver in America engages in this interdependence daily. So do increasing numbers of American workers and businessmen. Third World countries are the largest and fastest growing customers for U.S. exports. Our Third World markets are growing fifty percent faster than our industrial country markets. One-third of our wheat, cotton, and rice, and some forty percent of our manufactured goods exports are sold to Third World countries. Well over a million jobs depend on those exports. Thirty percent of our raw material imports are from the Third World: Virtually all our tin and rubber, most of our bauxite and cobalt, and nearly half of our petroleum.

In ways undreamed of by imperialists and revolutionaries a generation ago, what happens in one part of the world now intimately and directly affects other parts. What Third World countries do affects us; what we do affects them. The basic issues in U.S.-Third World relations—trade, migration, financial adjustment, economic development, use of global commons, etc.—are increasingly urgent, to us and to them.

So the issue before us and them—all of us together—is whether we can manage our mutual affairs successfully, so that we can serve our increasingly close mutual interests.

The Brandt Commission on International Development Issues called its recently published report, "North-South, A Program for Survival"—and they mean it. Chaired by Willy Brandt, who won a Nobel Peace Prize for his contributions to East-West relations, and composed of a blue ribbon, yet diverse, group of international leaders, the Commission concluded that for the 1980s North-South relations are the "great social challenge of our time. We want to emphasize," Brandt reported, "our belief that the two decades ahead of us may be fateful for mankind."

Survival. Fateful. The turbulent events of the past few months attest that this is not hyperbole. The Brandt Commission further asserts that today's economic crises, far from providing excuses for avoiding action, provide added reason to accelerate action. "It is precisely in this time of crisis," says Brandt, "that basic world issues must be faced and bold initiatives taken."

Can the United States respond? Assuming that our people are now awakened, concerned, and yet uncertain about the new turbulence around us, can we say to them: "Don't be alarmed. There are opportunities for us in this turbulence, as well as danger. We *can* protect our interests. An interdependent world can be better for everyone. We *are* prepared to address the challenge." That challenge is no less urgent, in terms of American self-interest, than maintaining nuclear deterrence or strengthening our alliances.

In responding to short term crises, our experience with Nicaragua illustrates both the opportunities and the difficulties. Because of our insistence on basic human rights, we were on the right side of the revolution in Nicaragua. Because we had previously succeeded in turning the Canal over to the Panamanians, we were already viewed throughout Latin America as having renounced imperialism. In Nicaragua today, there is a good chance for a pluralistic society with a strong private sector. And yet after nine months the United States still has not been able to come up with a promised $75 million in assistance to back up our very obvious interests, because of institutional rigidities which have prevented Congress from acting.

We have been more successful in El Salvador and Honduras. In both countries we have been able to speed our development assistance and project planning to visibly demonstrate that progressive policies can be implemented to benefit poor people. In El Salvador, with AID assistance, a beleagured moderate government has fended off both rightist and leftist attacks largely on the strength of an agrarian reform that puts land in the hands of the tillers. Honduras, threatened by turbulence in surrounding countries, has used our aid both to help poor people and to give the government the confidence to conduct free and democratic elections. In newly independent Zimbabwe, we were the first country officially to open an embassy, and our prompt development aid serves not only to help in post-war recovery but to demonstrate our backing for peaceful solutions and democratic processes.

Because we stand for human rights . . . because of the Soviet Union's flagrant trampling on the aspirations of independent Afghan people . . . because we have improved our relationships with black Africa . . . because Castro's authoritarian state is floundering in the Caribbean . . . because we have demonstrated over 30 years our commitment to helping these countries with economic development, which is what counts most to them . . . because we have the resources if we will use them . . . the United States has the opportunity to identify itself with the cause of progress and equity in the Third World now. These are opportunities we must seize.

While we cope with short term crises, we cannot ignore longer term, quieter crises:

—The globe's population will increase by half in the next two decades and for some poor countries will double unless we do now what we know must be done to stop it.

—Hunger will spread, unless we do what we already know how to do to grow more food around the world.

—Deforestation will create further irreparable losses in the world's productive resource base, as people push out farther and farther looking for fuel, farmland, and pasture; we know what to do to reverse this disintegration of our environment.

—Energy shortages and oil costs, which are substantially disrupting our own society, can easily bankrupt Third World countries and disrupt the global financial structure—unless we can recycle petrodollars through those struggling economies.

There are two very important points to understand about these longer term crises:

—First, they are manageable. Based on what we know today, we do not have to walk into a Malthusian trap. We know, for example, that dramatic fertility reductions are possible where governments decide to make a family planning option available to their people, and where the people themselves—particularly women when they are given the opportunity to earn even a meager cash income—decide that their own prospects are better with fewer children.

—Second, whatever help may come from the industrial world (and I will talk about foreign assistance in a minute), the largest part of the development task is, and must be, the responsibility of Third World nations themselves. Their governments are the only ones that can elicit the active engagement of their people by giving them a stake in their societies. Their governments are the ones that determine how resources are to be distributed—fairly, or unfairly. Their governments are the ones that determine whether farmers receive a fair price for growing food, or whether they are squeezed into subsistence by efforts to keep food prices down for city dwellers. It is they who determine whether rigid ideology or fair-minded pragmatism is more likely to produce economic development and social justice for their people.

For those who have the impression that the Third World remains stalled in poverty, there are hopeful facts to keep in mind. Indeed, overall gains in Third World development have been remarkable. Average life expectancy has increased from 35 to 50 years. In the past 25 years, primary school enrollment has quadrupled and secondary school enrollment has increased ninefold. The percentage of adults in low-income countries who can read and write rose from 10 percent to 24 percent between 1960 and 1974 alone. India has just survived its worst drought in a century on the strength of its own home-grown reserves, and the World Bank is now predicting—believe it or not—that India, given current consumption patterns, will not have a food grain gap for the next 20 years. Population growth rates have dropped dramatically in a number of countries. Smallpox has been eradicated.

Third World nations are increasingly able to borrow in private capital markets for development projects. Brazil's per capita income has jumped from $300 to $1400 in recent years, enough to qualify it as a middle-income, and no longer a poor country overall. Taiwan's per capita income has increased from $100 in 1950 to $1750 in 1979, and it is distributed equitably. Literacy in Taiwan has increased from 54 percent to 82 percent, and despite a 50-percent increase in population, soaring farm production has permitted self-sufficiency in food. Similar progress can be reported from other countries in Asia and Latin America.

The down side is that we need 2.6 million more hectares of trees planted each year to stay even with fuel needs between now and 2000. We need to increase food production by 50 percent—at a total investment cost of about $100 billion—to meet demand at present levels of consumption by 2000; and if we are successful in raising incomes, present consumption levels will not be enough. And none of this counts the costs of urbanization, industrial development, health, and education.

Foreign aid is obviously an important contributing factor in the development process. It represents a transfer of resources and technical know-how that can allow a recipient country's own resources to come into play. Except for the countries that can find substantial oil or other mineral resources to convert into investment and consumption imports, foreign assistance represents the only chance for breaking out of the cycle of poverty.

The case for foreign assistance should not be so hard to make. Twenty-five years ago, South Korea, devastated by war, was considered a basket case. Its economy was in ruins; it had no natural resources; its annual per capita income was $50 a year. Today, partly as a result of U.S. economic aid, Korea's economy is booming, however uncertain the political outlook may be. Average per capita yearly income is $1500. Fortune magazine lists nine South Korean firms in the world's top 500 businesses. The U.S. provided a total of $3 billion in economic assistance to Korea over the last 25 years. In 1978–79 alone, American farm exports to South Korea were $1.4 billion.

Development does take time. On the other hand, many of today's Third World growth rates are considerably higher than were ours at comparable levels of development. And in some countries, the need for concessional assistance is decreasing.

When the United States started assisting Korea, we were virtually alone as a donor. Today we are still the world's largest donor, but all the industrialized countries, except for Italy and Finland, and many OPEC donors, contribute substantially more of their gross national product to development than we do.

To meet the basic development needs of the poorest countries of Asia and Africa by the end of the century, the Brandt Commission projects a requirement of $4 billion in additional annual concessional assistance from the entire donor community. Let's suppose the United States offered to contribute one-quarter of this amount, or $1 billion, and challenged others to put up the other $3 billion. That would mean an annual increase in our overall foreign assistance budget request of 11.5 percent, or an amount equal to one-fifth of 1 percent of our entire federal budget. And it could make a difference in deciding whether people in this world have enough to eat and stay healthy and whether their countries—and ours—can adjust to this turbulent world.

The United States can play the important leadership role it takes. We've done it before and have succeeded more than we realize. We know how to achieve development: how to grow more food, how to manage population growth, environmental degradation, and energy requirements, and we know the importance of equity and of participation. We have an aid agency with expert missions in 71 countries, an asset which is unique among donors. We have the largest number of private voluntary organizations concerned with development, and a generous U.S. public that contributes through them over and above what we contribute through out tax dollars. We have pioneered with our Peace Corps. There are about 6,000 Peace Corps men and women in the field today. There are more than 80,000 Americans who have had Peace Corps experience and who represent a resource of development knowledge and of Third World sensitivity that exists nowhere else in the industrialized world. The U.S. should not only be first in funds but first in developmental leadership.

I have talked mostly about our bilateral relationship with Third World countries, and suggested that this is a relationship which the United States is especially well equipped to handle constructively. I feel no less hopeful about our opportunities to play a constructive and beneficial role in multilateral forums and institutions.

Because the problems of development cannot be resolved bilaterally, we rely very heavily on international institutions. The United Nations agencies have made a considerable contribution and are adapting themselves to the new needs of the times. The International Monetary Fund (IMF) has shown encouraging flexibility in assisting low-income countries to strengthen their economic policies and to cope with the soaring costs of vital imports. UNICEF, WHO (World Health Organization), FAO (Food and Agricultural Organization), and others have contributed enormously to ameliorating the problems faced by children and others in health and in agriculture. The ILO (International Labor Organization) served as the catalyst for giving international respectability to the concept of meeting basic human needs. The UNDP (United Nations Development Program), of course, serves as the major U.N. arm for development.

Beyond these, the political forums of the United Nations are increasingly important to development. For the turbulence we have been experiencing over the past several months demonstrates the interrelationship between economic and social conditions on the one hand, and political instability on the other.

There is more we can do, for example, to bring to bear on development the resources of the deep seabed and to devise methods of automatic international taxation. To do so, we need to unleash our creativity and muster our political will.

Within the U.N. framework, as outside it, we share many mutual interests with the Third World—human rights, economic opportunity, social justice, and peace.

We need to support our sometimes maligned U.N. institutions, not only because they're "the best we've got", but because they have done a lot both through the political forums they provide and through their development arms.

The case has never been stronger than it is today for the United States to exert the leadership that is needed. If the Brandt Commission is correct—and I am convinced it is—nothing less than our survival is at stake.●

IRRELEVANT WEEK

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. BADHAM. Mr. Speaker, the annual Irrelevant Week in Newport Beach, Calif., is upon us again and it is my duty to report to this honorable body that for the first time in 5 years, there is what many might consider grievous news.

Grievous because in all preceding years, when the last man drafted by the National Football League was brought to Newport Beach to be honored, if it can be called that, it was almost with the assurance each year that he never would make the team which had drafted him.

However, there were ominous signs last year when the Irrelevant Week player, a wide receiver, managed to get into two preseason games before he was cut. Fortunately, the record was unsullied because he failed to catch a pass. Of course, none was thrown to him.

This year the last player drafted stood a good chance of upholding the fine tradition of Irrelevant Week, but he messed up the system by signing with a Canadian football team and the next-to-last player became the Irrelevant Week honoree.

This year the honor goes to Kevin Scanlon, who has been drafted by the Los Angeles Rams, also known as the

Anaheim Rams, at least in some circles.

While Scanlon had an outstanding record at the University of Arkansas, his task of making the big team is formidable. After all, the Rams went to the Super Bowl this last January on the combined arms of Pat Haden, Vince Ferragamo, Jeff Rutledge, and Bob Lee, all of whom are back and well for 1980.

Four quarterbacks were needed because two; Haden and Ferragamo, were injured at various times during the year and put on the injured reserve list. So in order to make the squad, or play in even one Rams game, Scanlon has to climb over the backs of four rather talented signal callers.

But Scanlon is not without credentials. He completed 66 percent of his passes last year at Arkansas and was named the Associated Press offensive player of the year in the Southwest Conference. He was the unanimous choice as the league's top quarterback, throwing for 92 completions, 1,212 yards, and 9 touchdowns with only 6 of his 139 passes intercepted.

Indeed, Arkansas was picked to finish sixth at the start of 1979 in the Southwest Conference because of questions about the quarterbacking, but did so well that the team was rated sixth by the Associated Press and seventh by United Press International.

I submit to my colleagues in the House that Irrelevant Week could become a casualty this year and the whole concept placed on the injured reserve list, if not cut, if Scanlon makes the team.

Irrelevant Week, of course, is celebrated to honor those who did not finish first, or second, or third or in the top 10, to make the point that there are people and institutions in this great land who should be recognized for what they are.

Kevin Scanlon is one of nine brothers and sisters in an obviously prolific household, with all of the offspring having first names beginning with the letter K—Karen, Kim, Kathy, Karol, Kerwin, Kelly, Kieran, and Kristopher.

In sports parlance, K stands for knockout in boxing and K stands for strikeout in baseball. I sincerely hope that neither happens to Kevin.●

SIXTIETH ANNIVERSARY—PEACE TREATY OF TRIANON

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. RITTER. Mr. Speaker, last week I was honored to have been invited to speak before leaders and members of the American Hungarian community here in Washington on the occasion of the 60th anniversary of the signing of the peace treaty of Trianon.

I would like to repeat some excerpts from the remarks I delivered on that very special occasion last week, as a tribute to the American Hungarian Federation, its membership, and leadership, as well as to all Hungarian Americans, including the many thousands who live in the Lehigh Valley of Pennsylvania.

The text of the speech follows:

ADDRESS BY U.S. REPRESENTATIVE DON RITTER (PA.) ON THE 60TH ANNIVERSARY OF THE PEACE TREATY OF TRIANON

Mr. President, distinguished colleagues, guests, ladies and gentlemen: It's a deep honor for me to be with you today on this solomn yet special occasion. I deeply admire the work that you have done as leaders of the American Hungarian Community. You've been tireless in your determination to bring the Hungarian people's quest for justice and freedom to our leaders and to the American people.

My father came to this country from Hungary to seek a new life and a new destiny here. I've been in Congress 17 months, and the first thing I did after taking office last year was launch an idea to encourage Hungarians and other ethnic Americans in my District to help me carry out my congressional tasks. I set up a Citizens Ethnic Advisory Council, which includes strong representation from the Hungarian-American community.

One of the greatest successes of that Advisory Council came last November. More than 500 people came together for a massive commemoration and celebration of the 1956 Hungarian Revolution. I can barely describe the emotion of that day, other than to say it was one of the proudest moments of my service in the U.S. Congress.

Breathing that kind of spirit from our ethnic communities into our U.S. leadership is vital. I've called for more ethnic input into U.S. foreign policy, and I'll continue to do so.

The occasion which brings us together today is a somber one: The 60th anniversary of the infamous Peace Treaty of Trianon which cut the Kingdom of Hungary into four parts. Instead of the multinational Hungarian Kingdom which promoted cultural development of its nationalities, Central Europe became the homeland of many multinational states, each professing to be a nation state and oppressing its national minorities.

Today, from the perspective of 60 years later, we see that the injustices so keenly felt by the proud Hungarian people are still with us.

Over four million Hungarians still remain outside Hungary in the Carpathian Basin. Romania alone has 2.5 million in Transylvania, an ethnic group too large to digest and too large to liquidate despite Romanian attempts at cultural suppression. Even the U.S.S.R. now boasts of a Hungarian population as the Carpatho-Ukraine was forcibly taken from Czechoslovakia in 1945 with its mixed Hungarian-Ruthenian population.

The United States always had reservations about the Treaty and sympathy for the national minorities. President Wilson insisted originally on plebiscites which would have redrawn the frontiers in favor of Hungary. He favored the retention of several frontier areas by Hungary. And the U.S. Senate refused to ratify the Peace Treaty of Trianon.

In 1946, the American delegation to the Paris Peace Conference suggested the return of the frontier areas on the Hungarian-Romanian border to Hungary, an idea that was vetoed by the Soviet Union.

Today, the problem of national minorities remains with us in Central Europe, particularly the Hungarian-Romanian problem in Transylvania and the nationality problems within Yugoslavia. The Hungarian minority in Romania is badly mistreated.

When we look at the Hungarian people's plight, we recall the fragility and hypocrisy of the Helsinki Declaration on Security and Cooperation of Europe of 1975.

That Declaration guaranteed the human rights and the cultural rights of the peoples of Europe. But what do we see today? Heightened repression in the U.S.S.R., East Germany and Czechoslovakia which bears upon Russians, Ukrainians, Baltics, Hungarians, Germans, Czechs and Slovaks alike. Continued repression in Romania. Signs of tension and disintegration under the collective leadership in Yugoslavia following the death of Marshal Tito. A deteriorating economic situation in Poland and, to a lesser degree, in Hungary, were the undercurrent of national opposition to tyranny still retains some of the gains made in the expression of thought during the past two decades.

We see the Hungarian minority mistreated in Romania, sharing the heavy burden of repression in Czechoslovakia, worrying about its future in Yugoslavia and remaining silent in the frontier regions of the Soviet Union. All under the rule of enforced Marxism-Leninism.

Today I pay tribute to all those who have stood against oppression, Communist dictatorship and loss of freedom. The freedom fighters of Hungary of 1956 have shown the world the courage and valor that alone can resist and conquer Communist oppression. The silent but tenacious Hungarians in the successor states, despite pressure, denationalization attempts and oppression, remain true to their language and culture.

Finally, the people of Hungary try to recover their national culture and tradition despite the straitjacket of enforced Communism. Countless Hungarians today put their conscience above the grim political reality. Like these brave sons and daughters of Hungary, you, as leaders of the American Hungarian community and the American Hungarian Federation, have carried high the torch of freedom. You cherish the liberty of this country as deeply as you pray for the freedom of your ancestral nation. Please be assured this is one U.S. Congressman who joins you in your determination that the Hungarian people inside and outside the borders of Hungary will some day know both freedom and justice. Ishten ald meg a magyar.●

THE SPIRIT OF HELSINKI—1980

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HARRIS. Mr. Speaker, another year has passed and the Soviets are still playing games with the lives of Yakov Rachlenko, his recent bride, and his mother, Vina Belkina. Even when the emigration figures were reasonable, Yakov and Vina Belkina were being told time and time again—no visas. Now that emigration figures are almost nonexistent, their chances of being reunited with their family in Israel become slimmer and slimmer.

Russian authorities restrict emigration just as they restrict other freedoms. Their fear, of course, is that the Soviet system essentially could not withstand the impact of giving its citizens any type of choice.

Refuseniks who are caught up in this terrible situation need our help and encouragement. They must be reassured that while the Soviet authorities continue to suppress human rights within their borders, the United States will intensify its national commitment to them and to other oppressed peoples of the Soviet Union.●

THE OTHER REFUGEES

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. **SAWYER.** Mr. Speaker, the severe emergency situation which the United States is now faced with following the recent admission of more than 60,000 Cuban refugees clearly indicates the United States failed to adopt a comprehensive immigration and refugee policy as part of the Refugee Act of 1980, which became law earlier this year.

The basic policy question remains unanswered: Can the United States continue to offer unlimited asylum to the millions of people around the world who want to leave their own countries and come here?

During congressional consideration of the Refugee Act, an amendment was offered to count refugees against an overall immigration ceiling which recognizes that the United States must demand other countries assume their fair share of the refugee burden. A recent article by Washington Post columnist Clayton Fritchey discusses this concept as part of the answer to the growing worldwide refugee crisis.

The article follows:

THE OTHER REFUGEES

The hard-earned lesson of the Cuban refugee phenomenon is that it cannot be resolved independent of Washington's immigration policy in general. or without regard for America's obligations to a multitude of refugees from other countries.

In an understandable but ill-advised burst of sympathy, President Carter welcomed the Cubans with "open arms" (construed as a blanket invitation), but he has since discovered that he was not reflecting U.S. public opinion. The latest national polls show that Americans, by more than 3 to 1, regard the Cuban influx as "bad" for the country.

While that doesn't necessarily mean the public is indifferent to the plight of the Cubans, it does show that there is a widespread (and well-founded) feeling that a problem as vast and global as the disposition of refugees cannot be handled effectively on an emotional, ad hoc basis, as with Cuba.

More than 3,000 refugees a day have been pouring into Florida, with the total already exceeding 60,000. If they kept on coming at that rate, there would be a million within a year. Anything remotely like that would simply wreck the carefully drawn plans of Congress to deal with the overall refugee problem in an orderly, non-discriminatory way.

"The integrity of the immigration system itself is being threatened," warns an experienced congressional staff expert. "You've got 13 or 14 million refugees worldwide, out of which you've got to select a couple of hundred thousand for admission to the U.S."

The State Department reports that it gets four million visa applications a year from people who want to immigrate to the United States. The upshot is that there is a long wait, even in some preference categories. If, as seems to be the case, many of the Cubans are economic rather than political refugees, should they be accepted ahead of millions of others who have been waiting a long time to come to the United States through the normal immigration system?

In an effort to update the system, Congress recently passed the Refugee Act of 1980. Signed by Carter on March 17, it sets an annual limit of 270,000 on ordinary immigrants. It also authorizes admission of 50,000 refugees a year, although the president, after consultation with Congress, may raise the ceiling for "special humanitarian" reasons.

The new law establishes for the first time precise procedures for admitting and resettling refugees, but the rules have been largely ignored in the frenzied flood from Cuba, which caught the government by surprise. Apparently, the White House now intends to bypass the law (and consultation with Congress) by treating the Cubans as applicants for "asylum" rather than as refugees, but this will surely raise new questions on Capitol Hill.

Roger Conner, director of the Federation for American Immigration Reform, thinks the President should set a definite overall annual ceiling for all refugees. Then, he says, "if Carter wishes to admit more Cubans, he would have to admit fewer people from Southeast Asia, the Soviet Union, Mexico or wherever."

When Conner was asked if there is a special case for those Cuban refugees who want to be reunited with their families in the United States, his answer was: "If a Mexican-American rented a truck, drove to Mexico, picked up all his relatives and drove back across the border, we'd impound the vehicle and imprison him for smuggling. Try to explain to Mexican-Americans the difference between that and what the Cubans in Miami are doing."

It is said that the Cubans landing in Florida are "voting with their feet," but the same can be said of millions of other refugees around the world who also have been fleeing poverty and repression. There are six million to eight million illegal aliens in the United States, mostly impoverished Mexicans who literally voted with their feet when they slipped across the American border.

There are now over seven million U.S. citizens out of work, with 700,000 losing their jobs just last month. Hence, it is hardly surprising that the public does not welcome a chaotic avalanche of refugees. Nevertheless, Americans need not feel defensive about this, for we have accepted more immigrants and refugees this year than the rest of the free world combined.

Moreover, most Cubans, on balance, are better off than the would-be refugees in neighboring countries of the Caribbean and Central America, where poverty, disease, illiteracy, repression and internal strife are more extreme than in Castro's domain.

If our government is genuinely concerned with the welfare of the Cubans, it could quickly improve their standard of living by lifting the harsh trade embargo we have imposed on the island for almost 20 years. Although the embargo was aimed at Castro, the end result has been to punish not him, but his helpless constituents.

As Senator George McGovern has pointed out, "It does not make sense for us to trade with the two biggest communist countries—China and Russia—while claiming it would be dangerous to trade with a tiny island such as Cuba."

Like many others, the senator wonders if the "current confusion over the flood of Cuban refugees" could not have been prevented if the United States had joined most of the other major powers in maintaining regular diplomatic and trade relations with Cuba.●

DO NOT LET THE ZEALOTS KILL SOLAR ENERGY OPTIONS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. **WYDLER.** Mr. Speaker, it is worth noting that the GAO has come forward with a very timely report on the progress of one element of the solar energy program. The report is "Federal Demonstrations of Solar Heating and Cooling on Commercial Buildings Have Not Been Very Effective." I think this report is important, not only in communicating the realities of the status of solar heating and cooling technology, but in raising certain other important issues about the Federal solar program. I believe that the solar heating and cooling demonstration activity was pushed hard by the solar advocates within and outside the Congress, but this was done all out of proportion to the maturity of the technology and its real potential for commercialization. GAO points out that the program included many high-risk projects and thus it should have been characterized as a technical test program and not a commercial demonstration of solar heating and cooling. I believe that the GAO evaluation of the $44 million spent on 238 projects is convincing evidence that the program was essentially a failure.

I hope my colleagues will look carefully at the recommendations of the GAO to the DOE on the subject of corrective action. I should also remind my colleagues of the fact that HUD was substantially involved in this solar heating and cooling activity. As a conferee on the synfuels bill, I can only hope that the HUD role in the solar and conservation banks proves to be more successful than in the solar and heating demonstration. The banks will provide hundreds of millions in subsidies for solar schemes, many of which are not yet available in proven commercial systems. Mr. Speaker, I am afraid the solar advocates pushing these technologies may be the worst enemies the solar program has inside and outside DOE. The summary of the GAO report follows:

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS: FEDERAL DEMONSTRATIONS OF SOLAR HEATING AND COOLING ON COMMERCIAL BUILDINGS HAVE NOT BEEN VERY EFFECTIVE

DIGEST

GAO reviewed the Department of Energy's program for demonstrating solar heating and cooling on commercial buildings and found that—

Most projects funded under the program have not demonstrated that solar heating and cooling are practical,

Data dissemination has not been very successful, and

The extent the program has aided in developing a viable solar industry is unknown.

MOST PROJECTS HAVE NOT DEMONSTRATED PRACTICALITY

As of July 1979, the Federal Government had spent over $44 million on 238 solar projects on commercial buildings. While these projects have provided invaluable hands-on experience for builders, installers, and others integrally involved with the program, most of the projects funded have not demonstrated that solar heating and cooling of buildings are practical—many of the projects were not operating properly and most projects were not cost effective.

Very few commercial demonstration projects were operating as designed. As of June 1979, only 104 of the 238 projects funded had been constructed and each project's related solar system started up. Of the 104 projects, 55 (or 53 percent) were either down, partially operating, or were being tested. Additionally, neither the Department of Energy nor the project owner knew how much energy many solar systems were contributing. Of those with data available, many were not providing the expected energy.

Most projects funded under the program are not economically viable. GAO's analyses showed that most projects were not expected to pay for themselves within the 3 to 5 years generally required by industry, and most projects had expected energy costs several times greater than the most expensive alternative fuel.

The program's failure to demonstrate practicality was largely attributed to the Department's lack of a definition of practicality, the absence of a strategy for supporting projects meeting that definition, and the Department's failure to emphasize cost-effective systems in choosing projects for support. Another factor was the Department's funding of projects based on sketchy design data contained in project proposals.

DATA DISSEMINATION HAS NOT BEEN VERY SUCCESSFUL

The Department of Energy has established a data dissemination program to provide reliable, objective information to enable individuals and organizations to make decisions on the purchase and use of solar heating and cooling equipment. The data dissemination program cost for commercial demonstrations, through fiscal year 1979, exceeded $13 million. The benefits from this program thus far have been limited. Site data collection and analysis have been relatively slow, with only a few sites actually providing reportable data. Some sites will probably have no data collected. Additionally, it is doubtful that the information collected and disseminated primarily through the Department's Technical Information Center at Oak Ridge, Tennessee, is reaching much of the target audience.

EXTENT THE PROGRAM HAS AIDED IN DEVELOPING A VIABLE SOLAR INDUSTRY UNKNOWN

The Department of Energy had not translated its definition of what constitutes a viable solar industry into specific measurable goals by which it could measure the industry's progress and develop strategies for stimulating the industry.

While the industry has grown considerably and the Department has implied in hearings and program documents that its program is generating private buying, GAO's analysis indicated the Department does not know what effects its program is having. GAO believes it is doubtful that the demonstration projects have stimulated much additional buying because most projects did not show solar energy systems to be practical.

RECOMMENDATIONS TO THE SECRETARY OF ENERGY

Because most solar projects on commercial buildings were not demonstrating that solar heating and cooling are practical and because of the large number of projects with operational problems which can serve as disincentives to the widespread use of solar energy, the Secretary of Energy should:

Evaluate all solar demonstration projects on commercial buildings to identify the magnitude of each project's problems, what it would take to correct the problems, and the likelihood that the project will show solar to be practical. Action should be taken to correct the problems identified.

Take specific actions to increase the likelihood of funding projects which demonstrate solar to be practical, thereby encouraging more use of solar heating and cooling.

To improve data dissemination, the Secretary of Energy should:

Devise a means to determine the amount of energy being provided by each demonstration project. Such information is critical to evaluating the system's practicality and will also add meaning to manually collected data.

Direct the Technical Information Center to expand its criteria for adding groups to its mailing list to ensure that more industry user groups are reached.

Place greater emphasis on making user groups aware of the availability of data produced from demonstration projects.

Because the Department of Energy does not know whether its program is aiding in developing a viable solar industry, the Secretary of Energy should develop appropriate measurements to gauge the impact of its solar demonstrations on commercial buildings, and, if appropriate, develop alternative strategies or options, including legislative proposals, for encouraging the widespread use of solar on commercial buildings. The Secretary should present the options with probable costs and impacts to the Congress for its consideration in funding further solar programs.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Even with improvements to the program, GAO questions whether the demonstrations will promote widespread use of solar. In carrying out GAO's recommendations, the Secretary of Energy may be developing and reporting to the Congress alternative strategies for encouraging widespread use of solar heating and cooling of commercial buildings and for developing a viable solar industry. To the extent such strategies include new legislative proposals, the Congress will have to carefully weigh the costs and associated impacts of each such proposal in order to decide which are best for achieving the program's intended effect.

AGENCY COMMENTS

In its comments the Department of Energy agreed with GAO's recommendations with one qualification. In the Department's opinion, GAO's criticism of the economic viability of the demonstration projects failed to take into account the intent of the Congress when it passed the Solar Heating and Cooling Demonstration Act of 1974. GAO, however, disagrees with the Department's interpretation of legislative intent.

The Department also suggested three additional recommendations concerning the premature nature of the demonstrations. GAO believes it has adequately covered the thrust of two of these recommendations and disagrees with the merits of the third.●

PRIMING THE SMALL BUSINESS PUMP: INITIATIVES FOR REGIONAL ACTION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● **Mr. EDGAR.** Mr. Speaker, on June 5, I had the opportunity to speak at a conference on "Solutions for Problems in Smaller Businesses" sponsored by the Smaller Manufacturers Council. I accepted the invitation to speak at this conference because of my firm commitment to small business as the cornerstone of our Nation's economy. I include my remarks for the CONGRESSIONAL RECORD:

PRIMING THE SMALL BUSINESS PUMP: INITIATIVES FOR REGIONAL ACTION

I am happy to be with all of you today for at least two reasons. First, I'm always excited to address a gathering of small-business men and women. It is largely your collective ingenuity and enterprise that have powered the engine of American growth and prosperity. Those of us in Northern states should be particularly appreciative, simply because small manufacturers have been the bedrock of this region's industrial strength.

Second, because I am here as chairman of the Northeast-Midwest Congressional Coalition, I would like to invite you into the fold of those who believe our region's economic future and security hinge on greater cooperation between business, labor, and government. These economically troubling times demand no less.

As you know better than anyone else, America's prosperity is not always spread equally across our society. Nor, for that matter, are our economic problems. Our congressional coalition, in seeking to revitalize the economies of states in the Northeast and Midwest, has learned all too painfully that when the nation's economy begins a downslide, we feel the adverse effects first . . . and are the last to recover from their toll.

Likewise, small manufacturers in America are the most sensitive to national economic conditions. While you have the most to gain from prosperity, you also have the most to lose from a recession. And that's why small businesses, particularly those in the Northeast and Midwest, today have ample cause to be concerned. There is no more harmful damper on business growth than economic uncertainty. When the economic forecasts look gloomy, who can blame businesses in our region for acting with a good deal of hesitancy?

In late 1976, following an earlier recession, some of us in Congress became concerned that the tables of prosperity in the United States were turning away from the Northeast and Midwest. In short, America's traditional industrial heartland had begun an economic tailspin. While the main villain was a national recession, our worry was that some fundamental shifts in the economy were somehow leaving states in our region behind. Our region's economic growth had slowed dramatically, and in some places, there was virtual stagnation.

So a number of us formed the Northeast-Midwest Congressional Coalition, which today has 213 members—Democratic and Republican—representing states from Maine to Maryland to Minnesota. We have been saying, rather energetically I think, that the different regions of the nation have different needs, problems, and potential contributions, and that federal policy should be responsive to those differences.

I am here today to suggest the need for regional action in developing solutions to the platter of problems which face our nation's small businesses. We must face up to the fact that federal neglect of the problems of small business has hurt the Northeast and Midwest far more than other sections of the nation. Over the last four years, the Coalition has waged a kind of "guerrilla warfare" to help rescue our region from massive economic problems. We have learned that regional competition—solidarity, if you will—can make a big difference in Congress. But while we have been successful in educating and legislating, much remains to be done.

I hope that many of you have had a chance to read the detailed report to the president recently issued by the White House Commission on Small Business. It correctly identifies at least two problems that have fundamentally weakened our nation's—and region's—economy.

First there are problems of deterioration. We must regenerate our renewable resources, we must renovate our aging plant and equipment, and we must restore our leadership in world markets.

And there are problems of lethargy. As the commission's report said, "We must stoke the embers of competition and revitalize our innovative genius."

I believe the reason for the neglect of our nation's small businesses arises not so much from any sort of hostility, but from indifference. Our work plainly is cut out for us, and that work is doubly important in the Northeast-Midwest region.

The Coalition's research has found that nearly 90 percent of the nation's population growth between 1970 and 1978 was outside the Northeast-Midwest region. Our 18 States lost nearly two and a half million residents and nearly three-quarters of a million manufacturing jobs during the same period.

These losses, plain and simple, have had devastating effects on our region's economy. They affect everything from job opportunities to the distribution of federal funds for social programs; from the quality of life in our communities to representation in Congress.

Without delay, all of us—including members of Congress—must recognize that fostering the growth of small businesses represents a large part of the answer to our economic problems. As David Birch's pioneering studies at the Massachusetts Institute of Technology have shown, small businesses provide nearly nine out of every ten new jobs in the nation's private sector. So this is a lesson we cannot afford to overlook as we reshape federal policy to be more responsive to this region.

Several years ago, many of us believed that there was some sort of mass industrial exodus to the Sunbelt. But, as David Birch has shown, businesses have not really been closing up—lock, stock, and barrel—and moving to the South or West. The so-called "death rates" of firms have been about the same in all parts of the nation.

To find what really has been at the root of the problem, we should look to business births and expansions. When entrepreneurs choose to start up a new enterprise, they more frequently are looking to the South and West. And when businesses expand their operations, the same holds true.

Why should that be?

It is, I think, because of our indifference to the needs of small businesses. We have fallen short in providing suitable climates for a flourishing small-business economy in our region. Last year, in South Carolina, I saw first-hand how state and local government "greases the wheels" for business growth and expansion. It is a top priority there. Northeastern and Midwestern states must make it a top priority as well.

As we all know, the region's industrial centers are in deep trouble. According to Money magazine, for example the 10 U.S. cities with the worst job-growth prospects through 1985 are all older industrial centers of the Northeast and Midwest. The 10 with the best prospects for job growth are all in the Sunbelt.

We must do more than wring our hands in frustration. There must be an across-the-board effort toward revitalization.

In the last two years, our coalition in the House of Representatives has successfully fought for some important tax initiatives—first steps in the effort to breathe new life into urban America.

A new 10 percent investment tax credit for rehabilitation is encouraging firms to stay—and expand—in our cities. In this way, the tax system now helps favor renovation rather than relocation.

And a new targeted jobs tax credit supported by our coalition is helping relieve structural, or chronic, unemployment, by providing businesses with a tax advantage for hiring members of disadvantaged target groups.

In these and other ways, small enterprises have been helping to revive urban areas and provide communities with the strength and stability to weather the economic turmoil brought on by high unemployment and recession. So we ought to be rewarding small businesses in these efforts, not penalizing them.

Small businesses must work harder to survive. But because of their small size, they often face substantial obstacles to growth. As a result, we must constantly try to strip away some of these obstacles—roadblocks, really. For as long as they are in place, our region's productivity and potential for growth will be shackled.

For several years now, the Coalition has spent a good deal of time and energy seeking to change the procurement policies of the federal government. We believe that federal department and agencies ought to use their enormous buying power to stimulate economic growth in the sectors and communities where such growth can do the most good. The nation's procurement policies ought to be aimed not only at getting the government the goods and services it needs at competitive prices, but in getting the "biggest bang for the buck" in terms of economic stimulation.

In this respect, we've been among the most vocal advocates for the procurement set-aside programs. We've tried, in this watchdog role, to make our bark heard throughout the federal government. The bureaucracy has been altogether too sluggish in meeting set-aside goals for small businesses and for firms in high-unemployment, or labor surplus, areas. These goals will be meaningless until at least two constituencies—those in the private sector and members of Congress—become more active in monitoring compliance with set-aside goals and demanding higher standards of performance.

In the last two years, one of the Coalition's prime legislative goals has been the repeal of the Maybank amendment to the defense appropriations bill. For more than a quarter of a century, this little-known amendment has prevented the Pentagon from targeting some of its purchases of non-strategic goods and services to private companies in high-unemployment areas.

In other words, the Pentagon is exempted from a policy which applies to all other government departments and agencies. We support repeal of the Maybank amendment because we believe the Defense Department should diversify its pool of contractors and suppliers, and because such targeting could create many more new private-sector jobs in the areas that need them the most. And, as Harry Truman believed when he first signed the executive order creating this targeting policy, our nation's military preparedness is enhanced by a broader industrial base—a base that can be more quickly mobilized for production in the event of a national emergency.

Last year, our effort to repeal the Maybank amendment—and return to a goverment policy President Truman set forth in economic times similar to those we face today—fell short by only thirteen votes. This year, with your help, we can get the Maybank amendment repealed and open up some of the Pentagon's purchasing power to private firms located in high-unemployment areas, the kind of areas that dot all of Pennsylvania.

Right here in our state, we've been trying to keep open one of the Pentagon's major purchasing offices—the Defense Contract Administration Services Region headquarters, or DCASR. The Defense Department wanted to move this office—the most efficient one in the nation—to a suburban location near Atlanta, Georgia.

As many of you know, this DCASR office serves nearly 6,000 firms, many of them small businesses, in the surrounding region. At our request, the General Accounting Office looked into the situation and recently issued a study documenting millions of dollars in savings to the government from keeping the office in Philadelphia. Those findings, coupled with the administration's urban policy of locating federal facilities (wherever possible) in urban areas, gives us a good shot at keeping needed jobs and business in Pennsylvania and the neighboring states. And, if the DCASR office is kept open, many of our state's businesses will not be disadvantaged by higher communication and transportation costs.

Let me note that this nation is not only in a new decade, it is in the midst of a national election year. We have a political debate unparalleled in recent years, and it presents a remarkable opportunity. It's really our obligation to help shape the dialogue and debate, to go beyond the style of the candidates and make them face up to the future of American small business. What are their real commitments, and how would the nation's small businesses fare under their respective administrations?

And I hope you will look closely at the issues most directly tied to the economic future of the Northeast-Midwest region. Our "shopping lists," so to speak, ought to contain many of the same items.

Collectively, those of us here must be the watchdogs—the watchdogs against empty rhetoric and empty promises to the nation's small businesses. We must hold the candidate who prevails accountable. If we don't, no one else will.

And more important, we must be prepared to keep those questions raised throughout the course of the campaigns, including the platform deliberations, to let all candidates know that the problems and needs of small businesses must be addressed and that there is an active, informed constituency out there.

In closing, there's one caveat . . . we must not depend too much on the promises of candidates and the ability of one president to put our region and its small businesses back on the road to full vitality and prosperity. There's much that can be done in Congress, in state legislatures, and in municipalities all across the region to strengthen and reshape our commitment to the small-business community. Rather than waiting for change to "trickle down," we can generate change from the bottom up.

I've outlined a few of my concerns about the future of the nation's small businesses, particularly those in the Northeast and Midwest. I believe the opportunity for real and meaningful change exists, and I am hopeful that we can seize that opportunity as we head into the 1980s. Small business must once again be a full partner in the nation's economic growth.●

TRIBUTE TO JOHN M. GOLDEN

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GIAIMO. Mr. Speaker, on June 4, 1980, John M. Golden of New Haven, Conn., died at the age of 84. John M. Golden was for more than 40 years the Democratic political leader of the New Haven area and for many years the Democratic National Committeeman from the State of Connecticut. John Golden was the person most responsible for encouraging and aiding my political career. He was my friend, my adviser, and my political mentor.

The outlines of John Golden's story are well-known. Born in Old Saybrook, Conn., a resident of New Haven for most of his life, he became active in the Democratic Party some 60 years ago and went on to become a ward chairman, town chairman, and national committeeman. It is one of the ironies of politics that this sagacious leader who helped to elect Presidents, as well as candidates for lesser offices, held elective office himself for a very brief period.

John left the imprint of his character on the social, religious, cultural, and political life of his community and nation; all of which have been enriched by his presence and activities. His humanity touched all peoples of all races, religions, and national origin. John Golden was a giant in our community. He will be missed by us all.

I had the privilege of delivering the eulogy at John Golden's funeral Mass in New Haven last Saturday, and I ask unanimous consent to insert the text of the eulogy at this point in the RECORD. I believe it expresses how we in the New Haven community felt about John M. Golden.

Every community has its giants. Ours was John Golden, and oh what a man he was. Outstanding Catholic layman, benefactor, politician, and businessman, John Golden in his lifetime profoundly influenced events in our town and in the lives of its people.

Who among us was not touched in some manner by John? Who among us has not been enriched by contact with him? Who among us can ever forget him?

One of the joys of my life is that John Golden was one of my dearest friends. He was my most important sponsor and adviser at a very critical point in my young life. He helped and advised me in so many ways in the early fifties just after I had lost my own beloved father. He encouraged me to seek a major political career, and I can say unequivocally that without John Golden I would never have been your Congressman these past 22 years. Throughout the years I had the honor and benefit of John's support and, as recently as the early 1970's shortly before he became ill, he nominated me for Congress in the Wallingford Convention.

John was a kind, considerate, and compassionate man who felt deeply about his fellow man, understood the suffering and ambitions of his fellow man, and spent his entire life trying to alleviate the one and advance the other. That is what led him to politics, an art he practiced with consummate skill and extraordinary results. It is not an overstatement to say that John Golden was responsible for making more political and professional careers than any other local citizen in memory. The names of those whose careers he boosted into political orbit are well known to us: Mayor John Murphy, Mayor Dick Lee, Congressman and Judge Jim Shanley, Congressman Jim Geelan, Sheriff J. Edward Slavin, Governor and Senator ABE RIBICOFF, Gov. John Dempsey, and many more.

John was Mr. Democrat to us all, irrespective of political parties. He was a warm, understanding leader who was guided as much by his heart as by his head.

Above all, John had a beautiful sense of humility and a lovely touch of modesty—clearly the result of his intense religious faith.

John walked easily between the worlds of national political figures and local ward workers.

He remained unchanged and unspoiled by those historic relationships. I recall on so many occasions when he would return to us in his hotel suite after an important strategy meeting with national figures just to be with his boys from New Haven, at ease with his own, treasuring their companionship so much more.

John had a lifelong devotion and love for Camp Palmer, the summer camp for needy youngsters, which he founded and supported almost singlehandedly for many years. He felt deeply about these young people lacking the opportunity to enjoy a summer in the healthy outdoors. He saw to it that they got it, and I believe that many a boy's life was turned around for the better by the heartening experience at Camp Palmer.

Other beneficiaries of his love and generosity, of course, were the Knights of St. Patrick, whose annual St. Patrick's Day dinner is one of this community's most important social events; St. Raphael's Hospital, which always retained his interest and his devotion and his assistance; and, of course, his beloved Albertus Magnus College. There were many other areas of interest in John's full and rich life—interests of a political or civic or cultural nature.

But to really understand John you had to know and realize the predominant role which the church played in his life.

He loved God passionately. He loved Holy Mother Church in the same manner. No one will ever know how much he did for the church. The number of young priests and nuns and not so young priests and nuns who were the beneficiaries of John Golden's assistance will never be known. He wanted it that way; his modesty and humility demanded it. But those of us who watched him closely throughout the decades suspect that his assistance was limitless.

John Golden, above all things, was the committed Catholic layman.

But John left the imprint of his character on the entire community. His humanity touched all peoples of all races, religions, and national origin—long before it was mandated by law or fashionable to do so. He did it because he was the true Christian gentleman. He truly understood the great commandment of loving God and your fellow man.

John Golden was a beautiful person. To know him was to know a legend. To have had his friendship is an honor and privilege which you and I will cherish for all the rest of our days.

I mourn his passing, of course, as does every one here. But we console ourselves knowing that he rests easily now. His work is over—his travail has come to an end. And Heaven in all its glory and happiness is a bit happier today because John Golden has arrived.

I extend my deepest affection and love to his loving and loyal wife Alice and to Margaret and Frances, his devoted daughters.

We are so sorry to lose him, but we are so happy to have known him.●

ON EXCELLENCE IN EDUCATION

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. SHELBY. Mr. Speaker, as many of us stand before graduating classes of high school and college seniors this year, having been called upon to speak a few memorable words of wisdom with which to send them on their way, we can find inspiration from some remarks given recently in my hometown of Tuscaloosa, Ala.

Dr. Richard Thigpen, a longtime friend who currently serves as the esteemed vice president for academic affairs, University of Alabama, offered some meaningful comments on the value of excellence in education before a Tuscaloosa audience recently. While I cannot reproduce here today his speech in its entirety, I urge my colleagues to ponder an especially pertinent passage which is as follows:

> In Paul's Epistle to the Romans, he wrote, "Give tribute to those to whom tribute is due, honor to whom honor is due." Today, I am following Paul's admonition. I am here to pay tribute and give honor to those young people of this country who—through their scholarship, their leadership, their service and other achievements—have brought distinction to themselves, their teachers and parents, and more importantly to the enterprise of "education" and "human learning."
>
> Indeed, it is the latter—the enterprise of education and learning—which I want to talk to them and to you about briefly today. And the simple question is, "Why do we honor 'excellence' in learning and education?" The problem with that question, as with the enterprise itself, is that we are so close to it, and it looms so large with us, that we often fail to really "see" what it is and involves.
>
> Once I was in Chicago on business—university business; and I decided to "see" the famous Sears Tower, the largest building in the world. So, I took a cab from my hotel, and then walked to the entrance of that gargantuan structure. Yet, when I stared up at the building, all I could see was a sheer wall that seemed to stretch up to the clouds. So, to get a better perspective, I began to back away from the building; and I backed away and backed away. Yet, it was only when I took another cab and went miles away—in fact, almost back to my hotel—that I really could "see" the structure as it really was.
>
> Many times we are like that . . . in all our work and endeavors, but most certainly in education; we're standing to close to really "see" it. So, today, as we pay tribute—well-deserved tribute—to those young people of this country who have achieved in scholarship, leadership, and service—I suggest we "back away" for a few moments, and ask the question . . . "Why honor and pay tribute to 'excellence' in learning . . . in 'education'?"
>
> #### 1. PROBLEM SOLVING
>
> First, we pay tribute to "excellence" in education because it provides us with people and ideas to solve problems. George R. Kirkpatrick once said, "Nature gave man two ends—one to sit on and one to think with. Ever since then, man's successes or failures have been dependent on the one he uses most." That statement speaks not only to the value of "learning" but to the practical value of using what we learn. It was, after all, learning that drove mankind from the Dark Ages; it was learning that brought medicine from the realm of magic to the science of healing; it was learning that brought engineering from the pyramids to the exploration of space. It was learning that turned the desert into cropland and made the seas into the field which will feed the world tomorrow. And today, it is learning that makes the exploration of the human mind a humane endeavor for human well-being. Moreover, it is learning that will, practically speaking, determine our future in this state, our growing sunbelt region and the nation. More every day, too, we are made aware that this earth is a place of limited resources; and as those resources become more limited, there will be more—not less—problems to solve. Problem solving, too, has always been the key to our civilization; and the only real key to problem solving is in "learning."
>
> Secondly, we also pay tribute to "excellence" in education, and learning, because it provides us with people who bring creativity to the world. That doesn't mean that you honorees should be artists or musicians, poets or philosophers. It does mean, however, that you use your creative genius—your own special talents—to add something to this world.
>
> Creativity, after all, is the fire of life in any profession, in any human effort. (In fact, I don't believe you could be a good—or at least a happy and good—garbage truck driver without creativity.) The genius of Albert Einstein was creative genius; the genius of von Braun was creative genius; the genius of Abraham Lincoln, Thomas Jefferson, and George Washington Carver was a creative genius; the genius of "Bear Bryant" is a creative genius.
>
> So, in honoring "excellence" in learning, we also honor individual creativity; and without creativity, we add little to the world.
>
> A third reason we honor "excellence" in education is because it provides our world with "values" which preserve the quality of our lives.
>
> It is easy to speak of "problem solving" and "creativity" as outcomes of the learning process. It is somewhat more nebulous (and I might add, in some cases, heretical) to speak of value as resulting from education and learning. But I support that contention, for two reasons:
>
> First of all, I think we can never accept the premise that education is an "amoral" enterprise. Granted, the role of education, certainly in our universities, is not to indoctrinate, not to proselytize specific beliefs with evangelical fervor. Yet, at the same time, we all recognize that in this world there is the good and bad; there is the noble and the base; there is the humane and the selfish. And it is education's job to allow the full range of human values to be laid bare, so that students—so that our society—may see those values and have their own capacity to judge.
>
> Events of recent years suggest to me that education may not have taken this role as seriously as it should. For among out graduates, we sometimes find: lawyers who may not have a sense of justice; doctors who may not have compassion; engineers who may not have a concept of the quality of life; and writers who may have little sense of the human condition.
>
> And if this nation is to maintain a collective "character"—as we always have prided ourselves—and not become a moral grab-bag, we must recommit ourselves to a "moral" role for education. We must, so that generations to come will have an ability to judge, and to discriminate and to make sound value judgments.
>
> A second reason I would argue for "values" in education is that, in the last analysis, all learning is "humanistic" * * * it prepares people for "life" as well as "work." Many of you honorees may aspire to be accountants, or mathematicians, or engineers, or scientists. You may see those professions as completely removed from the human circumstance, from what, academically, we call the "humanities." But if you do, in my opinion, you make a mistake about learning. For 99.9 percent of the courses taught at the University of Alabama—or anywhere—are about "people," the way they live, the way they govern themselves, or the ways in which they order their world and their knowledge.
>
> Simply stated, there are "two" reasons for pursuing education: to improve your own condition, or to improve that of others. Either is noble enough to warrant your efforts; but by pursuing the latter—by helping others and preparing yourself to help others—you may find the greatest benefit for "yourself."
>
> If education loses sight of that—of the impact of our enterprise on the human condition and on "values"—then our schools and colleges, themselves, may no longer be worthy of honor.
>
> Fourth, and finally, we pay tribute to "excellence" in education because it provides our world with those who will "lead" us to a better tomorrow.
>
> Leadership has been defined as many things to many people. But the definition I prefer is by George W. Curtis, eminent orator and scholar. He said, "Leadership is not servility to the mob; it is not giving vehement voice to popular frenzy, that makes a leader. That makes a demagogue. Leadership is the power of kindling in others a sympathy and trust which will eagerly follow." In other words, a leader thinks and moves ahead of the crowd but always in a way which inspires others to follow. It is thinking so as to make others think; feeling so as to make others feel that makes a leader; it is, in sum, bringing out the best in ourselves and in other people.
>
> That ability to influence and motivate others, to help them think great thoughts, to help them share your hopes and dreams, is the single most important job of leaders. And ironically—or not so ironically—that may also be the single most important job of "education."
>
> #### CONCLUSION
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> So, in conclusion, let me again congratulate each and every honoree on the distinction you have achieved—in leadership, scholarship, and service. Let me also remind that occasions such as this are not only important for what they do, but for what they mean * * * in this case for the enterprise of education and learning. And that enterprise—grounded as it is in human problem solving, in creativity, in the inculcation of values, and the development of leadership—is, like each of you today, worthy of our tribute, worthy of our honor.
>
> So, as in Paul's Epistle to the Romans, let us today "give tribute to those whom tribute is due, honor to whom honor is due."

Dr. Thigpen's remarks are indeed words of wisdom which are definitely inspirational to both students and adults and worth passing on to any audience.●

COLOR TV IMPORT AGREEMENTS SHOULD BE EXTENDED

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● **Mr. QUILLEN.** Mr. Speaker, I have today sent letters to President Carter and Ambassador Askew urging them to support a 3-year extension of the orderly marketing agreements with Japan, Taiwan, and Korea to assist the American color television industry to restore its competitive health. I hope my colleagues will also urge the President and our trade Ambassador to support this necessary extension of the import relief scheduled to expire this month.

The 1977 import relief program for the American color television industry must be extended for an additional 3 years, as the law allows. After the July 1977 orderly marketing agreement became effective with Japan, Taiwan and Korea continued to flood the American market with color television sets. Since agreements were not reached with Taiwan and Korea until February of 1979, the three-country program has actually provided only 17 months of relief.

The flood of imports from the Far East has already destroyed the American black-and-white television industry. Without an extension of these three agreements, our declining color television industry faces a similar fate. Direct employment in this industry has fallen from 42,000 in 1972, to 26,000 in 1979. Including employment in allied industries, there has been a loss of 40,000 jobs since 1972. There were 25 American-owned companies 20 years ago. Today there are six.

Meanwhile, imports have flooded the American market. From 1972 to 1976, imports doubled from 1.3 million sets to 2.8 million sets. The orderly marketing agreements have provided some relief to our domestic television industry, but they have not been detrimental to our total economy or to the American consumer. In fact, color television prices are lower today than they were in 1976.

The International Trade Commission has recommended an extension of the orderly marketing agreements with Taiwan and Korea, but not with Japan. This would be a mistake. The 3-year extension should be applicable for all three agreements in order to achieve the desired results. The past 17 months have been beneficial, but an additional 3 years as allowed by the law is necessary to give the American color television industry a fighting chance to survive.●

IN HONOR OF WILLARD SWEEDER ON HIS RETIREMENT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● **Mr. LUKEN.** Mr. Speaker, the education of our Nation's children has never been more important than it is today. We have just finished a difficult decade in which inflationary pressures, a maturing population, and technological changes have presented our schools and educators with new problems and new challenges. Increasingly, the burden of coping with these new challenges has come to depend on the dedication and resourcefulness of its administrators.

One such dedicated administrator is Willard Sweeder, who is retiring as principal of Oak Hills High School. During his 40 years of service to Oak Hills, Mr. Sweeder has witnessed the changes in education that have occurred since the pre-World War II era. During that time, the Oak Hills School District has grown from a collection of small, fragmented schools to its present enrollment of over 8,300 students. Mr. Sweeder, principal at the high school since 1967, has in his charge 2,300 high school students, a figure which included 500 students in one of the area's finest vocational education programs.

Mr. Sweeder's friends and colleagues characterize him as a man of intense loyalty to the students, faculty, and parents of Oak Hills. He is known as a forceful man, as well as an innovator who will explore many avenues leading to a solution. He will not hesitate to make decisions or to enforce them.

While students throughout his tenure have benefited from his able leadership, his last months at Oak Hills have been especially successful. The district passed its first tax levy in 10 years, thanks in large part to Mr. Sweeder's leadership and drive. And the Oak Hills Highlanders baseball team just recently returned from the State baseball tournament as the State champions.

On the occasion of his retirement from education and the Oak Hills schools, I wish to join his family, students, friends, and colleagues in expressing to Willard Sweeder our gratitude for all he has done, and to extend my warmest wishes for the future.●

WILLIAM J. ALLEN

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● **Mr. HOPKINS.** Mr. Speaker, I would like at this time to share with my colleagues the following verse:

> There is no nobler occupation,
> Nor one of more value to the state,
> Than that of the person
> Who teaches the rising generation.

Mr. Speaker, those words were written by a Roman named Cicero many thousands of years ago. But they were brought to life by a Lexingtonian named Bill Allen during the last 31 years.

Bill has long been among the best known and most respected educators in a community which takes great pride in its commitment to quality education. As Bill moves from education to some new field of endeavor, his colleagues will miss him, generations of students will remember him, and his family and friends will be justifiably proud of him.

For my part, I would simply say: "Well done, Bill!" and include in the RECORD at this point a recent article from the Lexington Herald highlighting Bill Allen's last day as principal of Tates Creek Elementary School:

[From the Lexington Herald, May 29, 1980]

TATES CREEK ELEMENTARY TEACHERS, PUPILS GIVE FOND FAREWELL TO WILLIAM J. ALLEN

(By Jennifer Hewlett)

For 17 years, William J. Allen has served as Tates Creek Elementary School's television repairman, resident practical joker, "pepper-upper" and last, but not least, principal.

He's been a jack of all trades, as teachers and students put it.

Wednesday, the final day of classes this academic year for Fayette County students, was also the last day of school for Allen. The 54-year-old principal, who came to Tates Creek Elementary when it first opened its doors in 1963, has decided to retire.

Students and teachers held a special program for Allen in the school's gym, which was recently named the William J. Allen Gymnasium, to make the day one he would never forget.

"This is a really special day for Mr. Allen and all of us," sixth-grade teacher Martha Cochran said as the students filed into the gym for the program. "We're going to show him just how much he means to us."

The principal with the curly white hair strolled into the room just as his admirers began singing "For He's A Jolly Good Fellow."

He sat down in a large yellow wicker chair that was placed on the stage just for him, and listened and watched while each class performed its own special parting message.

Second-graders held up large blue cards—each bearing a letter in Allen's name—and recited a poem.

"W is for his willingness to work on our TVs," they said.

"I is for his interest in his birds, dogs and his bees.

"Double L is for the double dose of love he has for us.

"I is for his impatience as he waits for the late bus.

"A is for his ambition to have the best for us.

"M is for the messages just before the bell.

"J is for the jokes he always loves to tell.

"A is for Allen, the new name for our gym.

"Double L is for the double dose of love we have for him.

"E is for the excitement he shared with us each December.

"N is for the nice thoughts we'll all have to remember."

Allen tapped a rolled-up document—a special memento prepared by first graders—against his hand and tried to smile during each performance. But by the time the sixth-graders came to the stage to sing their own words to the theme song of The Muppet Movie, the principal could no longer hold back his tears.

"I won't be able to say very much up here . . .," he said at the end of the program. "I love every one of you."

He hugged five little girls who were sitting on the edge of the stage, sobbing away. "Don't cry," he said. "You all will get me going again."

Tates Creek teachers also expressed sadness about Allen's departure.

"His finest quality is the way he stands behind his teachers," said first-grade teacher Caroline Oplas.

Fifth-grade teacher Barbara Head described Allen as an optimist. "He can see humor on a dark day," she said.

Among those who will miss Allen the most is Mary Lowe, a third-grade teacher who has been the butt of many of the principal's practical jokes throughout the years.

She recalled the day she got entangled in wire that he had strung throughout her classroom and the time he hid her car.

"One day I told him I needed a new pencil sharpener. I found out he had taken the insides out of (the old pencil sharpener) so it didn't work," she said.

"We just love him," Ms. Lowe said. "He's been like our family."

Allen, a native of Bullitt County, said he decided to retire from education because it was time for a change in his life.

He has spent 31 years as an educator—27 of them as a principal at schools in Kentucky and Indiana.

Dr. Ken Kron will be the new principal at Tates Creek Elementary.

Allen said he hasn't made definite future plans. His immediate plans are to take a vacation in Florida.

"I like to boat, sail, fish and hunt. I might do some part-time work," he said. "I'll do something. I'm not going to just sit on my seat."

Allen took some things home with him to remind him of his days at Tates Creek Elementary. Among them is a note he received several years ago from a parent who "didn't want her daughter taking 'jim' with no clothes on."

"I've gotten a lot of funny notes from parents," he said.●

COASTAL ZONE MANAGEMENT IMPROVEMENT ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. STUDDS. Mr. Speaker, today I wish to call my colleagues' attention to the Coastal Zone Management Improvement Act of 1980, a bill which continues our national interest in and commitment to the wise use and management of our coastal resources.

In 1972, Congress passed the CZM Act (CZMA) which stated clearly for the first time that it was in the national interest to preserve, protect, and where possible develop the coastal resources of our Nation. We reaffirmed this commitment in 1976 by amending and reauthorizing the CZMA. We are now, once again, faced with this opportunity and challenge.

Recently, the Committee on Merchant Marine and Fisheries favorably reported to the House the Coastal Zone Management Improvement Act of 1980, H.R. 6979. I introduced this bill as a response to the apprehensions and recommendations expressed in a series of local and regional hearings held throughout the Nation to investigate the effectiveness of the CZM program. The testimony we received in these hearings and the information that we have gathered over the past year has led me to conclude, quite simply, that a failure by the Congress to reauthorize the CZM Act would constitute a major setback in our efforts to protect our coastal environment.

H.R. 6979 maintains and strengthens the basic concepts of the original act, while incorporating several new provisions to enhance the implementation and enforcement of the CZMA. The bill clarifies our national coastal policy, requires States to adequately address national concerns in coastal management and provides clearer procedures for State management program evaluation. H.R. 6979 also contains a new coastal resource improvements section to assist the States in providing public access to coastal areas and in redeveloping underutilized urban waterfront and port resources. State participation in the CZM program remains strictly voluntary, yet the bill reaffirms the necessity of protecting and preserving our finite coastal resources. These modifications and new provisions to the CZMA should serve as a further incentive to all the coastal States to join in this program which is so essential to the future of our coasts.

By the end of this year, it is expected that 26 of the 35 eligible States will have approved management programs. Many of our States have been involved in long and arduous battles over the effective management of their coastal zones and their decision about whether to continue to engage in these battles depends largely on the nature of the message they receive from the Congress. They are not merely looking for an increase in authorizations—indeed our legislation does not increase the net authorization level—but they are looking for a strong signal from Congress that it truly is in the national interest to protect our unique coastal resources.

In the days to come, H.R. 6979 will be before you for your consideration. The protection and development of our coastal resources is not merely a parochial concern, but one which affects us all. Inherent in coastal management is an awareness that the richness and bounty of our coasts is a natural resource that deserves to be protected for all people from all sections of our country. It is incumbent upon us all in the "Year of the Coast" to reconfirm our national commitment to the wise use and management of our coastal areas.●

SERVICES CONTRACT MESS: WHO GETS UNCLE SAM'S BUSINESS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. DERWINSKI. Mr. Speaker, Les Fettig, a former administrator for the Office of Federal Procurement Policy in the Office of Management and Budget, writes with clarity and insight on H.R. 4717, the much trumpeted but misdirected bill dealing with Federal services contracts. As Fettig points out, the claims made for the bill do not square with reality. It would not result in Government economy. As a matter of fact, it would effectively reverse the concept of the personnel ceiling established in the 1978 Civil Service Reform Act. For the benefit of colleagues who may have been misled by the headlines generated by H.R. 4717, I recommend Fettig's article which appeared in the June issue of Government Executive:

SERVICES CONTRACT MESS: WHO GETS UNCLE SAM'S BUSINESS

Beware. Your household may have been captured by a "shadow family."

How? Well, just think. We rely on private businesses to do our shopping, buy our clothes, service our cars, paint our homes. And, moreover, we solicit the independent advice of private experts—consultants—for our medical, legal and banking information.

The net result? Could it be that your family's "almost being run by consultants;" that our vital family needs are held captive to uniformly greedy and incompetent business men and women; that perhaps we should try to do everything ourselves—or rely on government to do it all?

That's about where you're left if you follow the logic of Congressman Herbert E. Harris II (D-Va) and Senator David Pryor (D-Ark) when they lead the chorus attacking villainous government contractors—"consultants"—who create a "shadow government."

Harris has also been pushing new legislation—H.R. 4717—which, if enacted, would make you give up your sons and daughters if your family DIDN'T do it yourselves. Under the Harris bill, Federal managers would automatically lose their civil service personnel allotments if they contracted out with private firms. This, obviously, is not a pleasant prospect for Federal managers—or for private company employees whose jobs are now threatened.

What's at stake are the political fortunes of rivalrous union leaders and politicians. More important, the financial fortunes and job security of the workers—both civil servants and private sector wage earners—are caught up in this struggle.

Sadly, this latest political theater is also tearing down some hard-won management reforms put into effect only last year to give taxpayers better economy and to give Federal workers better job protection.

IDEOLOGICAL CURRENTS

This issue over Government contracting masks a contest between larger forces marshalled along deeply divided ideological lines.

On the right, Ronald Reagan and some Libertarian Party candidates would like to "privatize government," replacing monopolistic Government service activity with competitive private firms.

On the left, Harris has aligned himself with those who favor more direct—and indirect—Government activity to meet the needs of the public.

Against that backdrop, both sides see gains to be made by shifting the balance of Federal spending between contract and "in-house" activity.

The Federal Government contracts for something over $110 billion worth of goods and services each year, purchasing everything from pencils to weapons systems, janitorial services to consultant reports.

"In house," Uncle Sam itself owns and operates over 21,000 separate commercial and industrial activities, using civil servants for everything from shipbuilding to running R&D laboratories and laundries.

Historically, the U.S. economy evolved around private enterprise, although the Federal Government's share of economic activity has gradually grown to about 22% of the Gross National Product, a bench-mark of growing concern. Even Senator Kennedy was quoted as supporting a lessened Federal role, down to the 18.9% projected in President Carter's out-year hopes for 1983. With some notable exceptions—such as arsenals during wartime and in energy—the U.S. has never had much of a tradition of relying on Government owned and operated "public" enterprise, as do some other socialist democracies like Sweden and Great Britain.

Not surprisingly, then, the Federal Government has pretty much relied on the private sector for needed goods and services, a policy formally on the books since Lyndon Johnson's Administration. Much like the average family consumer, the Government has generally tried to shop around in the marketplace before establishing its own in-house commercial or industrial activity.

Just as with a typical consumer also, the Government always recognized exceptions where a "do-it-yourself" approach made better sense, such as when costs were way out of line.

All that sounds simple enough. But there has been a big problem with Government contracting-out decisions. The common sense of relying on the private sector except in certain cases were pretty much left at that.

As a result, agency decisions on where to put the work bordered on the whimsical, as often owing to a department head's personal tastes as to good economics or any consistent guidelines of propriety—and leaving Harris and Pryor plenty of "horror stories" to trumpet.

Some Government officials leaned towards an "empire building" approach with visions of large ranks of civil servants justifying higher supervisory ratings and pay. Others, faced with artificial hiring limits imposed by the "bloated bureaucracy" advocates—or just not wanting to be bothered managing people—were only too happy to put the work out on contract, cost and propriety be damned.

This random state of affairs persisted for so long that even the Mad Hatter would have been hard pressed to invent any common logic behind spurious decisions made in identical circumstances, sometimes within the same agency.

PARANOIA AND WEEPING

Suffering most through it all were the workers—and not just civil servants. Private company employees, too, would find themselves abruptly threatened with the loss of their jobs by aberrant contracting decisions which had about as much predictability as a tornado.

Federal employees justifiably turned paranoid over leaks to local papers that the Air Force, say, was about to turn over their jobs to private contractors. Private company employees literally wept at Congressional field hearings because the work they had built whole careers around was rumored to be slated for in-house NASA employees.

This was no way to run a Government—and it was no way to treat the workers, public or private.

The Carter Administration spent two full years reconstructing the rules for contracting out, led by a statutory arm of the Office of Management and Budget, the Office of Federal Procurement Policy (OFPP).

After exhaustive rounds of public notice and negotiation with all affected parties, a new OMB Circular A-76 went into effect on May 1, 1979, containing many "firsts" designed to bring some badly needed stability and equity to these decisions. Under the new regulations, now being adopted—

Each agency must compile, for the first time, a complete list of all ongoing contracts and in-house commercial operations. Each one must then be scheduled in advance for review sometime over the next five years—no surprises—to test where the work properly belongs.

A new listing of "governmental functions" automatically reserves certain work for government performance—including activities related to discretionary use of government authority, monetary transactions and entitlements, and in-house core capabilities needed even if the private sector could do it all and do it more cheaply—things like independent research and testing capability.

For less sensitive kinds of work, a rigorous cost comparison must be made, taking into account all factors in a standardized manner for the first time. A comprehensive "Cost Comparison Handbook" was also issued after several rounds of public review.

Cost comparison factors include a blatant bias to guard against the turmoil of abolishing Federal jobs. Not unless a private company can perform the non-sensitive work at least 10% more cheaply will a conversion of ongoing government operations be made.

In the event there is a conversion, Federal workers are nevertheless given new protections by (1) a legal requirement, cleared by the Justice Department, that they have first rights to the contract jobs; (2) first priority for other Federal openings, if they prefer; and (3) Government-paid retraining, should they desire.

Arbitrary ceilings on the number of allowed Federal workers must give way if the agency can show, by the book, that the work should be done in-house but not enough slots are available. OMB will process these cases annually during the budget preparation process.

For brand new work, where no Federal jobs are at stake, the private sector gets the bias. Not unless a government-run operation can beat the industry by at least 10% in personnel costs and 25% on plant and equipment will the government go through the added expense of starting up another commercial or industrial business.

SQUEEZING ECONOMIES

The new rules have already begun to be successful in turning the trick of both getting Government to operate more economically and protecting Federal employees.

In 1979, the metal refining operation of the Government's New York assay office was scheduled for conversion to contract operation. OFPP intervened because contract costs had not been based on firm bids, as the new rules require. The result? The in-house operation was reorganized and trimmed down to project a 25% productivity improvement and staff reduction from 250 down to 192—all through natural attrition, not a single lay-off.

In another case, the Air Force decided to convert an in-house laundry to a contract based on a $30,000 cost saving estimate. The General Accounting Office, called in to review the case, said the Air Force calculations were incorrect. Actual savings were about $387,000. Of the 26 Federal employees affected, one retired, two others found other outside jobs and the rest were offered other positions on the base.

REACTIONS

For awhile, it looked like the new system was secure. Don Mace, writing in the Federal Times said,

"When Fettig became OFPP director, he faced one of the toughest jobs in Government. He had to gain the confidence of warring factions—federal unions and contractors.

"Judging from interviews with both industrial and union representatives, he has been successful.

"A private sector official representing a dozen large contractors said that he was pleased with Fettig's approach which allowed each interested party a chance to present his views in person."

Kenneth T. Blaylock, President of the 300,000-member American Federation of Government Employees (AFGE), said in congressional testimony "that OFPP, on balance, has brought about some real and needed improvements in this area. Our views have been listened to and considered carefully, even though they are not always fully accepted."

But things didn't stay calm for long. Blaylock, who originally played a major and constructive role in winning the new protections for his membership, almost lost his election for the union presidency in 1978. And with his rival, Royal Sims, AFGE national vice president for Pennsylvania, whipping up Senator John Heinz (R-Pa) and Rep. Doug Walgren (D-Pa) to join the contracting-out charge of "shadow government," Blaylock hasn't had many kind things to say lately about the Administration package he had earlier endorsed.

The chic "shadow government" sophistry also built steam when former HEW Secretary Joe Califano grabbed off some headlines in congressional testimony. He added up all the money HEW dispenses—including Social Security checks—divided that by an average salary and found, presto, Uncle Sam must be supporting an enormous "shadow workforce."

With the subject picking up plenty of ink in the Washington Post and other newspapers, Congressman Herb Harris wasn't far behind. A Harris newsletter to his constituents, many of them Federal employees, disclosed the "shocking" revelation that "$150 billion annually" was creating "a shadow Government composed of an estimated 8 million outside contract employees—almost four times the number of fulltime Federal employees."

Using Califano's carnival accounting system, Harris didn't say whether he meant to nationalize Boeing and Weyerhaeuser and Scripto or whether the airplanes, paper and pencils bought by the Government should be newly produced by civil servants in Federal arsenals. The emotional headline was simply, "Federal Contracting Costs Taxpayers Billions."

Ever vigilant, neither Harris nor his Civil Service Subcommittee staff even bothered to respond to invitations for comment during the two years spent by the Administration building the new controls. Instead, Harris has pushed new legislation with a new twist that Federal managers would have to give up employee slots if they contracted out—and claiming he would save $10 billion.

Needless to say, the media and legislative bunglings have been something less than helpful to agency managers already struggling to put the Administration's new A-72 rules into effect. If even a few activities wind up being done more economically and even a handful of workers enjoy new protections, we should probably be grateful.

This contracting-out issue, like so many in Government today, doesn't lend itself to grandiose oversimplification of "bloated bureaucracy" or "shadow Government." That's all fine for generating some headlines and a righteous sense of indignation among people who don't know better—but of very little help in building needed Government economies or job protections for the people who need them badly.

And, sadly, it is the workers who are made the political patsies. Private sector unions whose members depend on Government jobs have been quiet. Why? The AFL-CIO feels the public unions, like Blaylock's and Jerry Wurf's American Federation of State, County and Municipal Employees (AFSCME) are the growth stocks for organized labor to build their union dues—they get the upper hand.

And Federal workers, galvanized by being kicked once too often by the Carter Administration, fall into the willing arms of sideshow politicians and rivalrous union leaders practiced in reciting all the words a jilted lover wants to hear. If the setting were a TV soap opera, we'd all "tsk" knowingly.

So the next time you're tempted to repeat the exasperated questions, "Why can't government get it's act together?" and "Why does the waste go on?", stop and reflect for a moment.

Perhaps the contracting-out issue will give you some not so amusing answers.●

ADDRESS BY PRESIDENT HARRY S. TRUMAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. SKELTON. Mr. Speaker, recently the original handwritten document of a speech delivered by the late President Harry S. Truman on the 75th anniversary of Wentworth Military Academy in Lexington, Mo., on November 14, 1954, was located. His speech, at that time, spoke about the need for education, training, and leadership, and how they affect military policy and the safety and freedom of our country and the world.

Although this speech is 25 years old, the advice given then is appropriate in today's world.

I commend the reading of this speech by President Truman to members of this body:

ADDRESS BY PRESIDENT HARRY TRUMAN ON THE OCCASION OF THE 75TH ANNIVERSARY OF THE WENTWORTH MILITARY ACADEMY, LEXINGTON, MO., NOVEMBER 14, 1954

It is a very great pleasure to be with you today to help celebrate the 75th birthday of Wentworth. Yours is a great school and it has been an asset to the Middle West.

Lexington is a grand old town with much history in connection with the opening of the great west.

I am always glad to come to this community because of its relationship to the county where I live.

I shall talk to you today about education, training and leadership, particularly as it affects military policy and the safety and freedom of the country and the world.

In 1792 George Washington, President of the United States, asked Congress to start a military training program for the safety of the country. He was not successful in obtaining it.

President after President has made the same request. We have made progress but we still have not integrated universal trainign programs.

Our Government is founded on the principle of the consent of the governed. We believe that government is the servant of the individual and not his master. Jefferson like Washington and Hamilton was well aware that a strong military establishment was vital to the preservation of our liberty. All these early patriot leaders knew that effective military forces are not possible without proper training and able leadership. They all remembered Washington's struggle for men and leaders to win the Revolution.

But there were men in those early 1800's who said that a strong national defense would cost too much, that we could not afford it, and that we should find some magic formula for achieving security without having to pay for it. That point of view is echoed today.

The spirit of our people has never been warlike. Our ancestors came to this country to find peace and freedom. That is what we have always wanted. That is what we want now.

But there is a great difference between being peaceful and being passive. It's impossible to have world peace unless we are able and willing to stand up for our rights and the rights of the free world.

We know now after long experience that we cannot have lasting peace unless we work actively and rigorously to bring about conditions of freedom and justice in the whole world. The free countries can, by proper and adequate defense measures, make it clear that aggression will be doomed to failure. The free nations by economic and political means can build up their strength so as to be safe from communist infiltration and subversion.

If we are to succeed in maintaining a free world we must have steady nerves and stout hearts. There is no magic or quick solution.

We have the powerful moral forces, we have liberty and justice as our code. We must have military strength to back them up.

The welfare of the nation and the world is in the hands of its young men. They must attain the knowledge and ability to carry on.

We must remain strong not because we plan or want to impose our views upon the world by force or do battle with any nation. We must remain strong in order to retain the leadership which the world expects of us. With all our resources, we must exercise that leadership on behalf of a world of peace and harmony among all nations and all peoples. That is not only our moral duty; it is a firm obligation which we have undertaken as a member of the United Nations. This obligation requires training and leadership along with a first class education.

Institutions such as this great school give young men lessons in leadership training and the fundamentals of a good education. These good schools bring out leadership talents to (sic).

Do you know what constitutes a leader? It is a man or a woman who can persuade people to do what they should do without being persuaded—and frequently they are against it.

A leader must also have the ability to persuade people to do what they do not want to do and like it. This can be done by hardwork if the leader is intelligent, energetic and honestly believes that what he advocates is right.

Never before in the history of the world has a great nation followed the path which we followed after the German and Japanese surrenders in 1945. We helped to rehabilitate the defeated countries just as we did our allies.

Never in the history of the world had that happened before. It comes very nearly being the Golden Rule on a world basis.

Young men and young women study your history, study the great leaders in history and try to live by the Ten Commandments and the Sermon on the Mount.

You will be happy, you will make others happy and the country will be safe for the future.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present on Wednesday, May 21. Had I been present, I would have voted as follows:

Rollcall No. 249, "yes."
Rollcall No. 250, "no."
Rollcall No. 251, "yes."●

FARM FAMILY LIFE

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. JONES of Tennessee. Mr. Speaker, I would like to bring to the attention of my colleagues an essay by Mr. Forrest Bradley which appeared in the May 31, 1980, edition of Farmland News. Titled "Our Best Hope for a Better Tomorrow: The Farmer's Son," the essay draws an intimate picture of farm family life and the uniquely close relationship between a young man and his parents.

Having been raised on a farm myself, I have a special appreciation for the traditions and values instilled by a farmer on his son. I also know well the struggles and growing pains of a young man as he strives to meet the demands of this lifestyle. Agriculture is not an easy profession, but it can be a most rewarding one. I am forever grateful for having had the advantages of a rural upbringing, and I see this attitude reflected more and more each day in others.

The text of Mr. Bradley's essay follows, and I believe it offers a rare insight into a way of life of which I am proud to have been a part:

OUR BEST HOPE FOR A BETTER TOMORROW:
THE FARMER'S SON

A farmer's son is the living symbol of his father's dreams. From the time he first clambered over his Dad's old tractor, he has been flesh-and-blood proof of his family's love for the soil. As he worked on the farm, at small chores and then as a regular "hand," he has been a willing student for the lessons his Dad learned the hard way. Oh, sure—there were times when he questioned his Dad's wisdom. Like every young man reaching for understanding in a chaotic and confusing world, there were times when he resisted good advice.

But now, grown to manhood, his energetic and disciplined habits are a secret source of pride for his Dad. And when he turns to his father and says, "Dad, I appreciate all you've done for me!"—the sparkle that comes to his Dad's eyes combines with a small tear to make all the world look brighter.

A farmer's son is a special joy to his Mom. The lasting bond that forms between a son and his mother is doubly strong for the boy who grows up on a farm. His Mom is the one who helped him gain his first appreciation for the animals and birds and all of God's living things. Mom was there to offer subtle guidance to a young boy in search of manhood. And Mom could do just about anything. She could comfort him when he was ill, bake his favorite cake for that special day and help him when the homework got long and the time short. A farmer's son is the reflection of his mother's virtue and of her dedication. The love he learned from her example steadies him in his life's journey.

A farmer's son is the one best and surest hope for a troubled world. Around the globe, it is the farmers' sons who feed mankind. Yes—a farmer's son is the assurance we have that tomorrow will be a reality. A farmer's son is the hope for a world that faces the prospect of too little for so many on a crowded globe. Politicians may take him for granted and the public may groan when they go to market, but it is the farmer's son who makes it possible to choose among an abundance never before seen in this world.

Yes, the farmer's son is as true V.I.P.—he is Versatile, Important and Productive. He struggles with wind and storm and meets the challenge of a searing sun or a raging flood. He knows the value of hard work and the pleasure of well-earned rest. He has infinite faith that tomorrow will somehow be all right—a faith that he learned from his Mom and Dad. As long as we have the farmer's son, we are assured of a better tomorrow.●

TRIBUTE TO DOROTHY W. PITTS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. DELLUMS. Mr. Speaker, on May 7, 1980, Dorothy W. Pitts celebrated her 40th class reunion at Howard University of Washington, D.C. Ms. Pitts has made outstanding contributions to our community in the Eighth Congressional District. I ask my colleagues to join me in commending and congratulating her, and I wish to share with you a brief acknowledgement of her contribution and accomplishments significant to humankind.

Dorothy W. Pitts has devoted her entire adult life to her community. She is a recognized leader and champion for youth, adults, and particularly the aged. Her primary interest is to improve the life of the senior citizen. As a result of her sincere commitment to the aged, she is known nationally as a specialist regarding the unique concerns and problems of the elderly.

Ms. Pitts has held and holds many distinguished positions associated with her service to humankind; they include:

Chief of Division on Aging, City of Berkeley, 1978.

Founder of the Board of Directors for the Northern California Caucus on Black Aged.

Second Vice-President and Chairperson of Economics Development Committee of Progressive Women, Inc.

Chairperson of the Committee on Elderly Women for California State House Conference on Aging.

Member, Berkeley Bay Area Alumni Chapter Delta Sigma Theta Sorority.

Former President of the University YWCA.

Member, National Council of Negro Women.

Member, East Bay Area Club of National Association of Negro Business and Professional Women's Club, Inc.

Founder, Black Women Organized for Political Action.

Member, Le Moyne, Onen College Alumni Association.

Member, Howard University Alumni Association.

Mr. Speaker, I sincerely admire Ms. Pitts for her courage, strength, and sensitivity. In these times of tremendous hardship, chaos, and uncertainty, it is impossible to measure the value of Ms. Pitts to California and the entire Nation. "She's always there when needed," is a phrase oftentimes used to describe her value to the community she serves. I must add that she fulfills her commitments without expecting or taking rewards for the tedious tasks she undertakes for all in need of her services.

At the moment Ms. Pitts is actively working on methods to bridge existing gaps between youth and the aged. Ms. Pitts seriously feels that by bridging this gap a better understanding between youth and the aged will develop and a restructuring of the family unit will eventually emerge.

My colleagues and I pay tribute to a human being whose actions, if imitated by others, would bring about a better world. A world of compassion, caring, and honesty would be ours, for Ms. Pitts has truely shown by her deeds to be worthy of this tribute. Although many have sacrificed time, energy, and material goods for the advancement of humankind, all to often their contributions are not recognized until too late. Therefore, it is my intentions to make the Nation and the world aware of the work of a unique human being, Ms. Pitts, in hopes that her spirit will spread and eventually foster a better understanding among all people. It is through the efforts of people like Dorothy W. Pitts that hope for the world is retained and dreams of a "world of peace" are fostered. I salute you, Ms. Dorothy W. Pitts, a fighter for all humankind.

Therefore I ask my colleagues, to please join me in paying tribute to a member of a rare breed—the crusaders for justice, freedom, and equality for all people.

Ms. Pitts, you are deeply appreciated for all you have done for so many.●

ITALIAN NATIONAL DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. RODINO. Mr. Speaker, the citizens of Italy celebrated the 34th anniversary of the founding of the Italian Republic last week, and I want to pay tribute to them on this special occasion. The relatively short history of this democratic nation and our ally solidly attests to the courage, fortitude, and wisdom of the Italian people.

In the aftermath of World War II, Italians were determined to rebuild their devastated country under a republican form of government. For over three decades, Italy has passed many tests of its democracy, including poor economic conditions, social unrest, and domestic terrorism. Italy has met these challenges with renewed commitment to its democratic principles.

The transformation of Italy in the past 34 years complements the history of a society which constitutes the genesis of Western civilization. After a 3,000-year history, Italy's new republic has retained the traditional Italian concern for human values and the search for knowledge. The cultural contributions of the Italian people are too numerous to list, but names such as Da Vinci, Michelangelo, Titian, Verdi, and Puccini in the arts, and Galileo, Marconi, and Fermi in the sciences give some indication of the Italian dedication to improving human existence.

Mr. Speaker, I am privileged to count myself among the millions of Americans of Italian origin who have woven the rich fabric of their heritage into the tapestry of American life.

I ask my fellow Americans to join me in honoring the Italian Republic on its birthday and to salute its people as our allies and friends.●

THE ADMINISTRATION'S VIEWS ON FEDERAL RECLAMATION LAWS AND PROGRAMS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. UDALL. Mr. Speaker, on Tuesday, June 10, the Interior and Insular Affairs Committee began marking up H.R. 6520, a bill to revise requirements under the Federal reclamation laws. Because each and every aspect of this bill from acreage limitations to the statement of purpose of the reclamation program is surrounded by controversy and debate, I thought that this newspaper statement by Secretary of the Interior Cecil Andrus would be helpful and informative to all the Members of the House:

THE ADMINISTRATION ON WESTERN WATER

In its Wednesday editorial, "Farms, water and the West," The Star deplored what is called "populist bombast" and ridiculed the Carter administration's drive for a law that would restrict federally subsidized project water to family-sized farms owned by people who work the land themselves.

We are quite willing to go along part way with those who believe the 160-acre limit in the Reclamation Act of 1902 should be increased. We will compromise on a larger figure, as long as there is a real and reasonable limit. We have suggested a limit of 960 acres. But we cannot compromise on a basic principle, and we think your readers deserve to know why.

The central issue is not all that complicated. Shall this special federal subsidy, which was designed to promote family farms, worth hundreds of dollars per acre, be limited to working farmers, or should a major part of it be allowed to go to a small group of large land owners, some of which are corporate, absentee and on the Fortune 500 list? Should the average taxpayer foot the bill for this obvious inequity?

Please understand that nobody is threatening to confiscate private land; the only question is how much of that land should be watered with federal support. Some 85 percent of the land we are discussing lies in several California valleys where crops may be grown the year around. Because of past inconsistencies in administering the 1902 law, there are now some very large holdings receiving federal project water, although the law's intent was to provide better opportunity for family farmers in the West.

Is family farming on a modest-sized piece of irrigated land a romantic dream in 1980, based on notions long out of date? Not according to a group of studies recently conducted by the Interior and Agricultural Departments.

The experts found that more than 96 percent of all farm operations in the Reclamation program contain 640 acres or less, and that more than 97 percent are within the 960-acre limit. An overwhelming majority of individual farm owners in the program own 160 acres or less—91 percent, in fact. And more than 97 percent of the farm operators already live within 50 miles of their farms. So the concept is working and working well.

The Star says, in effect, "What's the fuss, then?" The answer should be clear. It is simply unfair for the remaining small percentage of large and absentee operators to use this kind of federal subsidy to get even richer. Because water supplies are, and always will be, finite, the result is that smaller, independent farmers who would like to get into the program are shut out.

In an era when, the pollsters tell us, Americans tend to be cynical-about government programs and how fairly they are being administered, these points need to be considered.

Consider this figure, if you will: About 3 percent of the land owners are irrigating 31 percent of the land in the program.

Granted, bigness is not evil in and of itself. Certain other kinds of subsidies to large business operations may well be justified on their individual merits. But the Reclamation program is unique. It is limited to the arid and semi-arid parts of the West. It affects only 25 percent of the farms in that region—only 1 percent of all farmland, nationwide. It was designed to help establish farming communities based on owner-operated farms, and to broaden opportunities for ordinary people who are willing to work hard enough.

The Star editorial asserted that economies of scale outweigh other factors. But the Interior-Agriculture studies showed that bigger operations are not necessarily more efficient—in fact, that in the great majority of cases maximum efficiency in this program is achieved on farms of 600 acres or less, and in many cases much less. Please remember that 640 acres is a square mile—not a little operation by any standard. People who work their own land have an incentive to look harder for ways to improve efficiency.

The bill passed by the Senate, and the one before the House Interior Committee, are simply unacceptable in their present form. They contain no residency requirement that owner-irrigators must live on or near their land. The House version would allow virtually unlimited leasing, which gives large land owners a loophole big enough to drive a tractor through.

Both bills contain special exemptions by which some of the richest areas are exempted from any limitations on acreage to be irrigated by federal project water. Both bills, but particularly the House bill, contain serious inconsistencies and drafting defects which make it nearly impossible to administer. The bills would allow further inroads of bigness at the expense of the average farmer.

This administration supports legislation to clarify and strengthen the program, not to weaken and confuse it. We want to protect the hardworking 97 percent rather than promote the interests of the privileged 3 percent. If that is populism or romanticism, then we need to redefine a lot of basic assumptions in this country of ours.●

MOTHER TERESA OF CALCUTTA

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. MAZZOLI. Mr. Speaker, if there is anyone alive who understands the worth and the profound value of human life, it is Mother Teresa of Calcutta, the winner of the 1979 Nobel Peace Prize.

Mother Teresa works among the poorest of the poor. She ministers only to the abandoned, the diseased, the dying.

If there were any merit to the argument that abortion is the correct way to control the world's population of unwanted, unloved, and defective humans, Mother Teresa would surely embrace such an argument.

The last thing this sainted woman and her growing band of followers need are more clients.

But, of course, abortion is a heinous and morally bankrupt act, and Sister Teresa condemns it for the abomination it is.

Mother Teresa minces no words as the following news item from the New York Times of June 8 illustrates:

MOTHER TERESA, IN BERLIN, BITTERLY ASSAILS ABORTION

WEST BERLIN, June 7.— Mother Teresa of Calcutta, winner of the 1979 Nobel Peace Prize, bitterly condemned abortion today, saying it amounted to murder.

"Abortion is nothing but pure murder; it is not an answer to anything," the 69-year-old Albanian-born nun said at a news conference in West Berlin, where she was guest of honor at a five-day gathering of nearly 100,000 Roman Catholics.

"Countries that allow abortion are poor countries and fear children," Mother Teresa said. She urged that the practice of adoption become easier and more widespread and said this provided a solution to the problem of unwanted children.

Mother Teresa, who was honored for her work among poor and orphaned children in India, made abortion the main theme of her acceptance speech when she received the prize.

Mr. Speaker, I say more power and long life to Mother Teresa. She is a beacon of strength, decency, and good for the troubled and morally lax world in which we live.●

YEAREND SPENDING WASTES BILLIONS

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HARRIS. Mr. Speaker, as chairman of the House Civil Service Subcommittee on Human Resources, I have been conducting a major investigation into wasteful Federal contracting and yearend spending sprees. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally mandated objectives. Rather, the funds are being pushed out in the final weeks of the fiscal year on questionable contracts and grants.

Funds are being diverted from the purposes laid out by Congress, causing millions, perhaps billions, of dollars to be wasted on unnecessary projects and purchases during the last 2 months of the fiscal year. Federal agencies operate under a "use-it-or-lose-it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal testified that yearend spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

If Congress is going to get serious about trimming Federal expenditures and balancing the budget, we must put a lid on these wasteful yearend spending practices. I intend to offer a yearend spending amendment to the fiscal year 1981 appropriation bills which the House will begin considering later this month. My amendment would prohibit Federal agencies from spending more than 20 percent of their budget in the last 2 months of the fiscal year. A 20-percent limitation would send a clear message to every Federal agency that Congress will no longer tolerate wasteful yearend spending.

I am releasing a GAO report today which confirms serious yearend spending abuses at four major Federal agencies—HEW, EPA, Interior, and HUD—and endorses my yearend spending limitation as a step which will force better planning and contribute to more prudent contract and grant activity. According to GAO "wasteful yearend spending occurs when an agency finds itself near the close of the fiscal year with substantial amounts of unobligated funds. Treasury figures for fiscal year 1979 indicate that these four agencies spent considerably more than 20 percent of their budget in the last 2 months of the year; 47.2 percent at HUD, $16 billion; 41.7 percent at EPA, $2.26 billion; 22.9 percent at HEW, $14.3 billion; and 23.1 percent at Interior, $1.36 billion. Their expenditures in excess of 20 percent amounted to $12.46 billion.

In its review of yearend spending at these four agencies, GAO explained "waste occurs through the funding of low-priority projects, the stimulation of demand for unplanned, nice to have products or services, shortcutting the procurement process that lessens competition, or inadequate prerequisites for the negotiation of sole-source contracts."

In addition, the GAO found that "other mechanisms used to dispose of excess funds are premature funding of existing contracts beyond current period needs and the award of Small Business Act section 8(a) contracts months before a subcontractor, who will actually provide the supply or service, has been selected."

The GAO also maintained that HUD and HEW and "prerecorded future obligations in order to prevent funds from lapsing, give the appearance of greater achievement than actually transpired, or recognize potential liabilities that are at best speculative."

I feel strongly that this new GAO report provides further evidence that Federal agencies are ignoring OMB directives to curtail wasteful yearend spending. It's easy to be shocked by waste and pay lipservice to its elimination, but if Congress is going to control wasteful yearend spending, legislative action is needed. It's time to stop rewarding waste and inefficiency and provide firm direction and incentive by rewarding Federal agencies which are thrifty and return unused funds to the Treasury. Adopting my yearend spending amendments to the fiscal year 1980 appropriation bills will put agencies on notice that Congress is not going to tolerate this wasteful practice.

The text of the GAO report on yearend spending follows:

U.S. General Accounting Office,
Washington, D.C., June 5, 1980.

Hon. Herbert E. Harris II,
Chairman, Subcommittee on Human Resources, House Post Office and Civil Service Committee, House of Representatives.

Dear Mr. Chairman: In accordance with your request we have performed a review of year-end procurements by four civilian agencies—Environmental Protection Agency (EPA), Department of Housing and Urban Development (HUD), Department of Health, Education, and Welfare (HEW), and Department of the Interior (DOI). These agencies were selected because they had some of the highest proportions of year-end procurement obligations. This is an interim status report briefly summarizing our findings.

We have previously testified before the Subcommittee on Legislation and National Security, House Committee on Government Operations on March 25, 1980, concerning the surge in year-end spending and possible ways of dealing with this problem. We also testified before your Subcommittee on May 8, 1980, concerning the special problem at HUD and its premature recording of obligations in its assisted housing program. HUD obligated about 49 percent of its 1978 obligations in September. The bulk of HUD's apparent year-end spending was not supported by actual contracts but rather by commitment and reservation documents, many of which were ultimately cancelled prior to executing a contract.

We also found that HUD awarded one-third of its Small Business Act, Section 8(a) contracts in the last month of the fiscal year. These awards provide a mechanism to spend excess funds even though the agency is unprepared to award a subcontract to the firm that will actually perform the contract. Section 8(a) awards are made to the Small Business Administration which acts as an intermediary, and it may be many months before a subcontract to perform the actual work is awarded.

Our review at EPA indicated that in both 1978 and 1979, over 30 percent of its funds were obligated in the last month of the year. A review of the contracts awarded by EPA's Research Triangle Park, North Carolina location, showed that although many shortcuts had been taken in connection with these year-end procurements, the justifications appeared to be adequate. Some of the justifications were complicated and required some explanation, but they seemed to reflect a definite need.

We found several EPA contracts where the year-end urgency to award a contract limited achievement of the objective sought by the award. An example follows.

A large, complicated contract awarded late in the fiscal year appeared to have been limited in its effectiveness because of either the rush to meet the deadlines or poor judgment by the program managers. We questioned the need to award this contract at this time and obligate $3.2 million where one of the major requirements for successful performance, the cooperation of a satisfactory host utility to demonstrate an innovation, had not been obtained. The agency official stated that this was consistent with other contracts for similar research. However, significant work had not started on this contract, and a host utility had not been located 12 months later, even though an additional $1.1 million had been provided as incremental funding.

Our work concerning the Department of Interior year-end spending surge was performed at the Denver Procurement Office of the Bureau of Mines (BOM), and at the Albuquerque area Office of the Bureau of Indian Affairs (BIA). We found many examples of shortcuts in the procurement process, e.g., failure to (a) announce in Commerce Business Daily (CBD), (b) prepare determinations and findings, (c) perform price or cost analysis, (d) prepare a memorandum of negotiation, (e) consider socio-economic matters and (f) make use of the master bidders list.

One example of how year-end money is expended is found in a BIA road grader procurement. In May 1979, a requisition for a single road grader was submitted. This was advertised in the CBD. In August 1979 a new IFB was issued for 1 grader plus 3 on option, if funds were available. Sometime during September 1979, BIA became aware it had funds available and calls were made to possible users to find out who wanted a road grader. On September 24, 1979, a contract was awarded for 8 road graders for $460,440 based on a bid for 4 road graders. On October 5, 1979, a modification added 3 more graders with contractor acceptance dated September 28, 1979. The contract is now for 11 graders at $633,105. Obligations for this amount are recorded in varying amounts to 12 different accounts, none of the accounts charged belong to the organizations receiving the graders and only a few of the accounts can be construed as having anything to do with road graders.

In our examination of the Department of Health, Education and Welfare (HEW), we reviewed year-end obligations and contracts at the Public Health Service (PHS), Social Security Administration (SSA), and the Office of Education (OE).

At SSA the bulk of the year-end spending surge occurred in the area of discretionary grants rather than in contracts and purchase orders. In the fourth quarter SSA expended 63.2 and 70.4 percent of its discretionary grants for fiscal years 1978 and 1979, respectively. Although we noted no problems in the evaluation and award of the grants, we did find two grants awarded after year-end that were recorded as obligations against the preceding year's appropriations. This occurred because SSA followed a policy of recording obligations based on an internal approved list of proposed grants. This policy was adopted because of the inability of program components to transmit the necessary documents to process grant awards prior to the close of the fiscal year. The agency's practice is improper and obligations so recorded are invalid.

The Public Health Service awarded 19 percent of the number of its contracts and 20 percent of its contract dollars in September 1979. Our examination of selected transactions as several subagencies of the PHS disclosed no significant deficiencies in the purpose of the year-end contracts or the manner in which they were awarded.

Our review at the HEW Office of Education (OE) showed, for fiscal year 1979, OE obligated $183.6 million for procurement. Sixty percent of the awards were in the fourth quarter and 47.6 percent was awarded in the last month of the fiscal year. A review of contracts awarded by OE showed some shortcuts in the awarding process and a lack of documentation of required information in some of the contract files. On the other hand, our review of OE grants for fiscal year 1979 showed a major improvement in year-end awards. In fiscal year 1978, OE awarded 76.9 percent of the total fiscal year awards in the final quarter versus 27.8 percent for that same quarter in 1979.

We found the Office of Education had an internal conflict over the award of certain year-end contracts that were ultimately signed by high agency officials. The Grant and Procurement Division (GPMD) refused to sign 18 contracts that were then eventually signed by high level agency officials on the last day of the fiscal year. This undermining of GPMD authority may result in incomplete files and unjustified sole-source contracts being awarded. The OE year-end surge also causes an overflow workload for GPMD and program offices' employees that resulted in high overtime costs for GPMD employees.

In summary, the reasons for these unbalanced expenditures by Federal agencies are myriad. Not all of the year-end surge in expenditures is avoidable or wasteful. Some year-end obligations are illusions in that they do not represent the actual expenditure of funds. It seems that certain agencies have pre-recorded future obligations in order to (a) prevent funds from lapsing, (b) give the appearance of greater achievement than has actually transpired, or (c) recognize potential liabilities that are at best speculative.

A certain amount of wasteful year-end spending occurs when an agency finds itself near the close of the fiscal year with substantial amounts of unobligated funds. Waste occurs through the funding of low priority projects, the stimulation of demand for unplanned "nice to have" products or services, shortcutting the procurement process that lessens competition, or inadequate prerequisites for the negotiation of sole-source contracts. Other mechanisms used to dispose of excess funds are premature funding of existing contracts beyond current period needs and the award of Small Business Act Section 8(a) contracts months before a subcontractor, who will actually provide the supply or service, has been selected.

We believe that much of the year-end procurement and grants are awarded for proper purposes, but the timing suggests poor planning. In this connection, several agencies have contended that the appropriation and apportionment process absorbs several of the early months of the fiscal year thus causing a bunching up of procurement at the end of the year. We do not believe this is a valid argument since most agencies can make reasonable estimates of appropriations that will be made available to them and can proceed with many of the preliminary tasks before the beginning of the fiscal year and in connection with projects of the highest priority.

In addition, we understand that there are many legislative proposals, including the one proposed by your Subcommittee, that would place limits on the percentage of total expenditures during the last several months of the fiscal year. While such measures will not in themselves prevent wasteful expenditures, we believe they will force better planning and contribute to more prudent contract and grant activity.

We expect to make a draft of our full report available to your Subcommittee before the end of this month.

Sincerely yours,

J. H. STOLAROW,
Director. ●

NATIONAL UNITY DAY

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. BROWN of Ohio. Mr. Speaker, several weeks ago one of my constituents, Mike Griffith of Caledonia, Ohio, presented to me an idea for a unique show of national unity in America which I want to share with my colleagues.

For several years, Mr. Griffith has been concerned that the former spirit of American unity and patriotism has been under erosion. I agree. The trials of our country over the past two decades have been great: The assassinations of a President and other prominent Americans, the devisiveness of Vietnam, Watergate, Abscam, and Koreagate, the civil rights, struggle, drugs and pornography invading our homes and schools, the pain of the worst inflation in recent history, the decline of our influence abroad and many other destructive forces have weakened the American spirit. During the Bicentennial of 1976 there were many exciting celebrations of American brotherhood and patriotic renewal throughout the Nation. I believe that most of us expected that in the years following, there would be a residual impact that would continue to breathe a renewed spirit into Americans that would shore up and rebuild some of the weakened foundations of our patriotic heritage.

Unfortunately, I agree with Mr. Griffith that much of our hope was short lived. Many of the expectations were only half realized. Some, because of the onslaught of inflation and further big government regulation on all of our lives, have actually taken a turn for the worse.

For the most part, much of any renewal of the American dream of individual freedom and initiative is going to have to be reshaped right here in Washington where the problems started in the first place. This has got to come through the reform of Government that will allow the real power in America to flow from Washington back to the citizens in the form of less burdensome taxation and Government regulation and an economy that can reduce the inflationary pressures that have too often been the result of Washington's fiscal mismanagement.

But Americans are also looking for ways in which they can show their own collective spirit of unity and purpose, and it is in one of these methods that Mr. Griffith raises his idea for a display of unity that would, literally, stretch across the breadth of the Nation.

Mr. Griffith proposes that a route across the Nation be selected that would stretch from the Atlantic coast to the Pacific. Plans would be outlined for Americans to line up along the route on a designated day, and when all are in place, grasp hands and express their brotherhood and patriotism for the few moments that would culminate the exercise. For these few moments Americans would be joined in one 3,000-mile human chain symbolizing our unity as a Nation and as a people.

Naturally, the logistics of such an exercise seem, at first, to be unmanageable. Mr. Griffith's calculations show that it would take a ribbon of 4 million Americans, standing side by side and reaching out to grasp the hands of the person on either side to create the unbroken chain from coast to coast. In the vast stretches of the Plains States, across the Rocky Mountains and the western deserts, a massive coordination effort would have to be undertaken to bring the right numbers of people together to complete the chain. Because of the time changes across the country, additional planning would have to be undertaken to assure that all of the people are in the right places at the right times.

But, this would be a people exercise, and we do know from experience such as the Bicentennial of 1976 that the citizens of this great land are capable of formulating and carrying out extraordinary accomplishments, even despite Government's sometimes oppressive frustrations. Maybe this would be one of those times.

Mr. Griffith has asked me to bring this proposal to the attention of my colleagues to see if there is any significant interest in joining his effort. I have included his recent letter to me, and also a list of the congressional districts through which the proposed human chain would run from the Atlantic to the Pacific coasts. If you think there would be interest within those districts—or even those from other areas—from service clubs, veterans organizations, scouts, chambers of commerce, et cetera, Mr. Griffith would appreciate hearing and he will contact those interested with additional information. The address is: Michael L. Griffith, chairman, National Unity Foundation, 5443 Timpson Road, Caledonia, Ohio 43314.

Mr. Griffith's letter and additional material follow:

NATIONAL UNITY FOUNDATION,
Caledonia, Ohio, May 16, 1980.

Re "National Unity Day" for "Hands Across the Nation."

Mr. CLARENCE J. BROWN,
House Office Building,
Washington, D.C.

DEAR SIR: In light of the unsettling events now occurring and those in our recent past, most notably our seemingly unresolvable dilemma with Iran, the pressure of Soviet troops in Afghanistan, alarming inflation and refugees by the score, it is gratifying to see a growing patriotism, more appropriately, a growing Americanism. We all shared in a pride of gold earned at the Winter Olympics in Lake Placid. We, the National Unity Foundation, feel now is the time when all Americans, be they black or white, athlete or farmer, blue collar or white collar, to expand that pride, not as onlookers or cheerers, but as participants; participants in a demonstration to the world of patriotism and a reawakening of American conscience and freedom.

We are proposing the organization of a day in which *all* people of this great Nation who wish to participate would form a line, hand in hand, and raise their voice in National pride and National unity. This unbroken line should occur most logically on July 4, 1981. We are further proposing that the line of unity would extend from the *Atlan-*

tic Ocean to the *Pacific* Ocean through the very heart of our home and country.

We realize the coordination and logistics of such an event are awesome, but as history has shown, we can rise to seemingly insurmountable heights of achievement as a Nation. Instead of demonstrating as individuals of special interest groups, we hope all Americans can join together as a start of a new era of American determination, pride, and dignity, demonstrating our hopes, beliefs, and enthusiasm for the future of The United States of America. Attached is a preliminary organizational outline and a proposed route. An estimated 4.5 to 5.5 million people would be involved.

Any suggestions and/or support that you could possibly provide to assist in making this day a reality would be valued most highly.

There is a voice in this land crying out. Let us all now stand up and answer it!

Yours very truly,

MICHAEL L. GRIFFITH,
Chairman.

Enclosure.

LIST OF CONGRESSIONAL DISTRICTS THROUGH WHICH PROPOSED HUMAN CHAIN WOULD RUN FROM ATLANTIC TO PACIFIC COASTS

State	District number	Representatives	Senators
Maryland	4	Marjorie S. Holt—R	Charles McC. Mathias, Jr.—R
	5	Gladys N. Spellman—D	Paul S. Sarbanes—D
	6	Beverly B. B. Byron—D	
	8	Michael D. Barnes—D	
District of Columbia	1	Walter E. Fauntroy—D	
Pennsylvania	9	Bud Shuster—R	Richard S. Schweiker—R
	12	John P. Murtha—D	Henry John Heinz III—R
	21	Don Bailey—D	
	22	Austin J. Murphy—D	
West Virginia	1	Robert H. Mollohan—D	Jennings Randolph—D
			Robert C. Byrd—D.
Ohio	3	Tony P. Hall—D	John H. Glenn, Jr.—D.
	7	Clarence J. Brown—R	Howard M. Metzenbaum—D.
	8	Thomas N. Kindness—R	
	10	Clarence E. Miller—R	
	12	Samuel L. Devine—R	
	15	Chalmers P. Wylie—R	
	18	Douglas Applegate—D	
Indiana	6	David W. Evans—D	Birch Bayh—D.
	7	John T. Myers—R	Richard G. Lugar—R
	10	Philip R. Sharp—D	
	11	Andrew Jacobs, Jr.—D	
Illinois	22	Daniel B. Crane—R	Charles H. Percy—R.
	23	Charles M. Price—D	Adlai E. Stevenson—D.
	24	Paul Simon—D	
Missouri	1	William L. Clay—D	Thomas F. Eagleton—D.
	2	Robert A. Young—D	John C. Danforth—R.
	4	Ike Skelton—D	
	5	Richard Bolling—D	
	8	Richard H. Ichord—D	
	9	Harold L. Volkmer—D	
Kansas	1	Keith G. Sebelius—R	Robert J. Dole—R.
	2	James E. Jeffries—R	Nancy L. Kassebaum—R
	3	Larry Winn, Jr.—R	
Colorado	1	Patricia Schroeder—D	Gary Hart—D.
	2	Timothy E. Wirth—D	William L. Armstrong—R
	4	James P. Johnson—R	
	5	Kenneth B. Kramer—R	
Utah	1	Gunn McKay—D	Edwin J. Garn—R.
	2	David D. Marriott—R	Orrin G. Hatch—R.
Arizona	3	Bob Stump—D	Barry M. Goldwater—R
			Dennis DeConcini—D.
Nevada	1	James D. Santini—D	Howard W. Cannon—D
			Paul Laxalt—R.
California	37	Jerry Lewis—R	Alan Cranston—D.
	36	George E. Brown, Jr.—D	Samuel I. Hayakawa—R
	40	Robert E. Badham—R	

PROPOSED ROUTE OF HUMAN CHAIN FROM ATLANTIC TO PACIFIC COASTS

State	Number of districts	Route	Miles
Maryland	4, 5, 8, 6	301, 50, 270	[1]150
District of Columbia	1	50, 270	
Pennsylvania	9, 12, 21, 22	70, 76	162
W. Virginia	1	70	15
Ohio	18, 10, 12, 15, 7, 3, 8	70	230
Indiana	10, 11, 6, 7	70	160
Illinois	22, 24, 23	70	162
Missouri	1, 2, 9, 8, 4, 5	70	240
Kansas	3, 2, 1	70	400
Colorado	5, 1, 2, 4	70	450
Utah	1, 2	70, 15	380
Arizona	3	15	30
Nevada	1	15	130
California	37, 36, 40	15	245
Total			2,754

[1] Includes the District of Columbia

Proposed: The National Unity Foundation—A Non-Profit Organization.

Purpose: To establish a day of National pride and unity for *all* citizens of the United States of America.

Funding: By donations from private citizens, groups, and organizations to cover operational expenses. (Media Campaign, etc.)

Organization: [The organization chart is not printed in the Record.]●

A TRIUMPHANT FAMILY BUSINESS

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GOLDWATER. Mr. Speaker, in this era of difficult economic outlook, a firm in my 20th Congressional District of California is proving that with perseverance, foresight, and quality of product, a family-owned business can survive, and survive admirably.

Raznick & Sons, with Aaron Raznick at the helm of his Woodland Hills, Calif., company, is celebrating its 50th year of business. He and his family and employees have received national awards for his construction at Harbor Walk, the Encino Medical Towers, and the Forest Hills Building, among others. His buildings have incorporated the latest energy-saving technologies, and Mr. Raznick was a pioneer in the concept of open space and environmental beautification. He and his firm have much to be proud of, and I join all those who are happy indeed to wish Raznick & Sons a very joyous aniversary.●

BUSINESS AND THE HUMANITIES: A JOINT VENTURE IN INDIANA

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. BRADEMAS. Mr. Speaker, I have been impressed with the cooperation between the Indiana Committee for the Humanities and the business community in my home State of Indiana.

The following article, from the March 1980 issue of the magazine, Indiana Business & Industry, discusses this partnership; and I insert the article in the RECORD:

BUSINESS AND THE HUMANITIES: A JOINT VENTURE

(By Mark Rozeen)

Fall, 1978. Notre Dame University, South Bend. Twenty corporate executives attend a special seminar. The subject: Business ethics. The preparation: Each executive is asked to select an ethical problem he or she actually faced while in business. Every executive, in addition, is asked to bring a junior executive to the seminar—someone who, in the course of a promising business career, might face a similar ethical problem.

Joining the senior and junior executives are professors of business, philosophers and religious leaders. The goal: Through a "case study" of actual life experiences, university teachers are to be given a more realistic and pragmatic picture of give-and-take in the modern business world. At the same time, business leaders are to be encouraged to view their work in a larger social context.

The Notre Dame seminar was a humanities project sponsored by the business school and the department of philosophy. It was made possible through a grant from the Indiana Committee for the Humanities.

Who is this Indiana Committee for the Humanities that gives grants to explore the ethical problems faced by business executives?

In 1965, a new federal agency, the National Endowment for the Humanities, was created by Congress. The National Endowment for the Humanities was desiged to promote the study of history, philosophy, literature, ethics, jurisprudence, comparative religion, archaeology and other subjects in the liberal arts and social sciences—just as the National Endowment for the Arts was charged with stimulating drama, dance, painting, music and the like.

But by the early 1970s many people began to wonder if the National Endowment for the Humanities was truly national. To some, it seemed "elitist," supporting primarily esoteric projects conducted by academic researchers in just a handful of universities, mostly on the East and West coasts. Critics asked some hard questions: "Are the humanities only found in the ivory tower? Are books and lectures the only vehicles for discovery, expression and exchange of ideas? Are New York and California culturally more important than North Dakota and Indiana?"

The answer was a resounding "no!" In the first years of the 1970s, the National Endowment for the Humanities reaffirmed its commitment to serving all the people by giving grants to independent committees for the humanities in all 50 states. The Indiana Committee for the Humanities, formed in 1972, was one of the first state humanities committees.

The Indiana committee is not simply a child of federal parents. Partnership between the public and private sectors was the midwife in the birth of the new organization. The National Endowment for the Humanities employed a simple truth in funding the Indiana effort: The people of Indiana know the Hoosier state better than the bureaucrats in Washington. If the goal of the state committee is to serve Indiana residents, then Hoosiers should decide how the money is spent.

So—seven years ago, the Indiana Committee for the Humanities was established as an independent, non-profit organization. It is truly an *Indiana* committee for the humanities. It is not the Indiana office of the National Endowment for the Humanities: the committee sets its own goals, guidelines, policies and priorities. The Indiana committee applies to the National Endowment for the Humanities for a block grant, some $400,000 each year, which is, in turn, regranted by the Indiana committee to other non-profit groups throughout the state.

These federal funds are only part of the story, however. Support from within the Hoosier state is equally important to the Indiana committee. Significantly, it is not a state agency in any way supported by tax dollars allocated by the Indiana General Assembly. Instead, the applicants for funds from the committee are asked to share the total cost of their projects. Every grant awarded by the Indiana committee for the Humanities is matched by an equivalent contribution of time, materials, services and funds from the local sponsor.

The committee, in addition, seeks donations from individuals, business and foundations to support general activities and specific projects. Every dollar contributed by an outside donor is matched by another dollar from the National Endowment for the Humanities' special "Gifts and Matching" program. Last year 75 donors contributed nearly $60,000 to the Indiana Committee for the Humanities. When matched, this $60,000 became $120,000 in new funds.

Partnership is the dominant theme of the committee membership as well. The Indiana Committee for the Humanities is governed by a board of 24 volunteers from throughout the Hoosier state. Half of the members are from universities and colleges, and half are business and community leaders.

Business people have always been at the forefront of the Indiana Committee for the Humanities. Virginia Ball, Muncie, was a founding member. Thomas Binford, Chairman, Indiana National Corporation, Indianapolis, is the current vice chairman of the committee. Muncie business executive Martin Schwartz is a past chairman of the Indiana group and founder of the Federation of Public Programs in the Humanities, the association of state humanities committees from around the nation.

Other committee board members include Elizabeth Blumberg, Terre Haute, who is also on the board of Blue Cross/Blue Shield of Indiana; Ian Rolland, chairman, Lincoln National Corporation, Fort Wayne; and Judith Head, president, Legislex, Columbus.

Partnership is also a criteria for awarding grants. The Indiana Committee for the Humanities is not interested in pure research, the development of college courses, scholastic publication and university fellowships. Rather, the bottom line for the committee is a blend of the university and the general community. Each humanities project involves both academics and the adult out-of-school public in the planning and presentation of programs; projects just by and for people on campus are not supported by the committee. The goal is to stimulate events where university and community come together for an open exchange of ideas.

But what kind of project does the Indiana Committee for the Humanities support?

Not surprisingly, the committee has a special interest in Indiana subjects. Over one-third of the projects it funds explore Hoosier history and folklore. Indiana's cultural past is an integral part of its identity as a state. This unique heritage provides a spectrum of colors which must be added to any picture of life in Indiana.

For example—three small Indiana communities, Frankfort, Jasper and Sullivan, have been awarded funds to hire full-time historians to live and work in their towns for purposes of doing research and making public presentations. Another small town, Rushville, is updating its county history through oral interviews with senior citizens about life in the 1920s and 30s. In Fort Wayne, civic groups have banded together to discuss historic preservation, while ethnic groups in northwestern Indiana are exploring the cultural diversity of the Calumet region.

Television, radio and film are especially suited to focus on Indiana life and lore. A statewide radio series is aired weekly on nearly 30 commercial and public stations. Each program employs drama, news reports, interviews, documentaries, music and historical enactments to illustrate past and present Hoosier culture. A similar statewide project is under way through a network of Public Broadcasting Service television stations. In Evansville, a young film maker is producing a movie about the heritage, traditions and values which help shape the music of a popular bluegrass music group, and home-grown Indiana folk music is being examined in a Fort Wayne radio series, "Indiana Hoedown."

History and culture are important parts of the quality of Indiana life, but so are the current public-policy issues which confront Hoosiers each day. A group in Valparaiso is discussing the American criminal justice system and how it compares to the systems in other countries. In Indianapolis the Lawyers' Commission has focused upon the social and legal implications of violent crime. A Bloomington psychologist is conducting public programs about the elderly in American society. A coalition of civic and university groups in Upland and Marion are taking a hard look at the changing roles and expectations of women. Race relations have been scrutinized as well, both in an Indianapolis symposium on African/American relations and in retrospective looks at the 1954 "Brown *vs* Board of Education" desegregation decision by people in Terre Haute and Michigan City.

Significantly, many of these discussions of public issues directly involve the business community. A series on professional ethics in Greencastle, for example, complements the Notre Dame seminar on business ethics in South Bend. Community task forces designed to set priorities for urban growth in the 1980s have achieved widespread public involvement in Indianapolis and Fort Wayne. The residents of the Gary/Hammond area, together with the major industries in the region, are discussing the social and environmental effects of pollution. At the other end of the state the historical society in Madison is asking what, if anything, has happened to the American work ethic, and the Region 6 Indiana Vocational Technical College in Muncie is developing a series on the history and future of the automobile industry, which is the lifeblood of many central Indiana towns.

The Indiana Committee for the Humanities would like to sponsor more projects on Hoosier culture and history, critical public-policy issues and questions of interest to the business community. To find out how to apply for a grant, or simply to learn a bit more about the committee and its projects, write The Indiana Committee for the Humanities, 4200 Northwestern Ave., Indianapolis, Indiana 46208.●

H.R. 7535

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. FAZIO. Mr. Speaker, today I am introducing H.R. 7535 in an attempt to call attention to a problem that affects more than 10,000 teachers and administrators in our overseas dependent school system. Under current practice, teachers and administrators cannot accrue more than 75 days sick leave. No other group of Government employees has such a limitation applied to them. This provision has the effect of causing these employees to either use sick leave in excess of 75 days or lose it. Such a requirement is not only arbitrary but it also fosters inefficiency in the operation of the overseas school system by giving employees an incentive to use sick leave when they are not really ill. This causes the school system to function at less than full efficiency.

My bill addresses this problem by permitting an unlimited accrual of sick leave. The Department of Defense has estimated that no additional costs are required by enactment of this bill. Commonsense tells us that increased efficiency and higher morale will result. This bill can have an important positive effect on the functioning of our 10th largest school system. It will not result in any increased costs and will correct what amounts to an injustice for over 10,000 employees.●

TRIBUTE TO NICK BROOKS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GILMAN. Mr. Speaker, in a lifetime, one is likely to come across some unforgettable people whose lives touch on ours in a special way, people who can change another life. There are two people in my 26th Congressional District in New York, from Newburgh, who have touched upon my life in such a special way. They are George and Gladys Brooks whose son, Nick, USN, has been missing in action in Laos since January 2, 1970. On May 18, Nick's parents remembered his 37th birthday. I know that I would care for Nick, as much as I care for George and Gladys, if ever I have the opportunity to meet him.

This year, we commemorated the 10th anniversary of Nick's capture during the Vietnam war. In 10 years our world has changed perceptibly, the war in southeast Asia has ended, a majority of servicemen serving in Vietnam have returned home to adjust to a very different world from the world they left. For some—for the families of our 2,500 missing in action—the war is a real in 1980 as it was a decade ago. These special families continue to search for the answers to the many questions they have about their missing sons and husbands; and their lives are filled with memories and possibilities. And yet, the days blend together in uncertainty, and the days become months, then years, then a decade.

Last year at the annual convention of the National League of Families, family members prayed that next year they would not be in Washington again, hoping that there would be no need to return to another annual meeting, another vigil at the White House or another memorial of hope. And yet, the answers have not come—although there are many, many clues—not this year at least. In fact we will see the same families at this year's meeting in June, and we will hope and pray that maybe this meeting will be the last.

Ironically, a month after Nick's 10th anniversary, Mr. and Mrs. Brooks received a letter from the Navy stating that a finding had been made that their son had been presumed killed in action. This is ironic because Nick's status review, which took place in the fall of 1978, had resulted in a majority opinion that Nick was still alive—two out of three hearing officers having been opposed to classifying Nick as dead. In fact, there is evidence which indicates that Nick was captured by the enemy on January 2, 1970, tied to a tree and thereafter escaped. His whereabouts were never completely determined—and yet the presumptive finding of death was delivered, despite the absence of new and substantive information in support of that conclusion.

And Nick, if he is still alive, does not know that there are some who remember him every day and pray for his return. I have worn his bracelet for years, and will continue to wear it until we resolve the issue of our missing in action—the least we can do to keep their memory alive.

From all we know about him, Nick Brooks was an all-American boy—involved in all the activities which American kids are involved in. But Nick was no ordinary boy. He soon established a reputation of excellence, as evidenced by his award from the Naval Academy at Annapolis for freshman excellence. Nick was a valuable and treasured asset to his family, to the Navy, and to our Nation.

Even though we are not certain what has happened to all of our missing in action, we do know that Nick did resist his capture. There are reports which indicated that Nick did fight for his life, escaped from the enemy, and exhibited a real will to live. Beyond the shadow of a doubt, Nick wanted desperately to live, to return home, to continue his excellence unemcumbered. I am saddened to think that we had to share his excellence with an enemy. How proud we would be to have him here in our midst right now—a family member who has come home.

I hope that the family of Nick Brooks and the families of all of our missing in action will find some consolation and hope in the fact that there are some of us in the Congress who will continue to press for the return of our Americans from Vietnam and Laos, and also will continue to revere their memories and pray for their well-being and survival, if they are alive.

Happy birthday, Nick Brooks, wherever you are.●

HOUSING AND COMMUNITY DEVELOPMENT ACT—H.R. 7262

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GOLDWATER. Mr. Speaker, I would like to take time this afternoon to bring to my colleagues' attention an extremely important issue we will be considering later this week in the Housing and Community Development Act, H.R. 7262. The particular element of the bill I refer to is the 2-year extension of the implementation of the Department of Energy/Housing and Urban Development building energy performance standards (BEPS), section 315 of the bill.

These standards, as proposed by DOE, would assign energy consumption budgets to all new buildings designed and constructed after the BEPS take effect. These budgets are designated energy consumption figures on 1,000 Btu (British thermal unit) per square foot per year basis. The proposed standards also assign standard building operating conditions, a complex standard evaluation technique (based upon computer simulation) and a fuel use weighting factor concept. Any building not designed to meet these budgets would be liable for Federal sanctions of prohibition of access to any Federal financing; FDIC, FHA, FmHA, VA, and so forth; pending congressional approval.

This 2-year extension is critical to the adoption of rational performance standards for energy-efficient buildings. It is broadly supported by virtually all phases of the design, construction, and building trades industries, a coalition of over 1 million contractors, engineers, homebuilders, businessmen, manufacturers, material suppliers, commercial building owners and managers, industrial and office park developers, State building code officials, and utility companies. Members of this group comprise the leaders in all our districts. I know you must have received a great deal of correspondence from them on this issue as I have. I urge you to read it carefully.

Not only is the private sector virtually unanimously in support of the extension, on May 30, 1980, the President's Council on Wage and Price Stability recommended that "DOE and Congress reassess the desirability of BEPS and consider replacing it with other conservation programs or, at the very least, postpone its effective date."

Also on April 30, 1980, the National Institute of Building Sciences, the body established by Congress to provide current information on the design and construction industry, published a report recommending that "promulgation of BEPS should be deferred until the technical and structural deficiencies in the proposed standards have been corrected and the manner in which they will be implemented has been determined * * *." NIBS further recommends that DOE "develop a BEPS implementation strategy and program that will minimize administrative costs and disruption of the normal building regulatory process at the State and local levels."

As it stands today, no implementation strategy has been developed and no accurate projections exist on the administrative costs associated with the program. Additionally, the impact of increased housing costs, design liability, and fuel use policy remain unanswered. However, despite these very big variables, a small segment of the industry remains firmly and vocally opposed to the extension.

It appears that the primary supporters of immediate implementation of BEPS are those groups slated to be prime benefactors of the program. The American Institute of Architects, for example, received over $6 million in research money to develop parts of the standards through their research arm. As a result of this involvement, the proposed BEPS require design certifications by qualified design professionals—primarily architects—to evidence compliance with the rules.

The American Gas Association, and gas utility companies at large, strongly support immediate implementation. This is no surprise given the fact that the BEPS weighting factors favor the use of natural gas in all building types, in all climates by a factor of 3 to 1.

In addition, the Consumer Energy Council of America has received DOE moneys to conduct an analysis of BEPS' impact on homeownership and consumers in general. Even though CECA defined numerous deficiencies in the standards, they remain supportive of promulgating a flawed regulation. They are a large recipient of intervenor funding to lobby DOE on behalf of the proposed standards.

Chief among the many flaws in the November 1979, DOE notice of proposed rulemaking are:

1. The use of "weighting factors" to influence the type of fuel incorporated into a new building design. The proposed weighting factors severely discriminate against the use of electricity for heating and cooling (even if generated by renewable sources such as hydroelectric) while encouraging increased reliance on natural gas and oil as fuel sources. This is clearly contrary to our national goal of reducing reliance on foreign energy supplies.

2. The BEPS proposal is extremely complex and suggests the use of expensive computer analyses to determine compliance with the established budget levels. Estimates are that a single computer test could cost from $300 to $6,000, depending upon the building type or size.

3. Educational programs for designers, contractors, code officials, inspectors and others will be needed to train those who will use the standards. The change from prescriptive to performance standards may disrupt the construction industry for an unpredictable period of time.

4. Liability issues for design professionals who are asked to "certify" compliance with BEPS have gone unresolved. If actual energy consumption differs from what the architect "certifies", legal action may result.

Mr. Speaker, these are just a number of the problems existing with the BEPS program. I suggest to my colleagues that we not listen to the special interests on this issue and rationally consider the only real alternative we have: The 2-year extension of the program. Congress instigated the concept of performance standards for energy consumption. I believe that we have a responsibility to make them work.●

TRUCK DEREGULATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. COLLINS of Texas. Mr. Speaker, deregulation of the trucking industry will not mean more goods will be transported. It could lead to higher prices and less service for the average consumer.

Look at the record of Merchants Motor Lines based in Abilene, Tex. Merchants delivers goods in Texas and the Southwest. According to their president, Mr. Richard F. Bacon, Merchants' ratio of inbound to outbound tonnage for 15 Texas cities for the month of March 1980, shows the imbalance which faces the trucking business.

THE RATIO OF INBOUND TO OUTBOUND—BASED ON MARCH, 1980 TONNAGE

Abilene	4-1.
Amarillo	2.42-1.
Beaumont	1.20-1.
Big Spring	1.25-1.
El Paso	1.97-1.
Lubbock	3.68-1.
Midland	9.26-1.
Odessa	1.96-1.
Pampa	1.71-1.
San Angelo	4.57-1.
San Antonio	2.77-1.
Waco	1.86-1.
Wichita Falls	1.42-1.
Dallas[1]	1-4.20.
Fort Worth	1-4.44.

[1] In March alone, this is an imbalance of 63,177,850 pounds.

This company serves 600 communities daily in Texas of which 50 are strictly inbound consumer. These include Mineral Wells, Weatherford, Breckenridge, Albany, Snyder, Sweetwater, Roby, Rotan, Pecos, and Monahans. The inbound to outbound ratio for these smaller cities is closer to 10 to 1.

Obviously, if trucking is deregulated, major carriers will only go from large market to large market. Who will serve Cisco, Ranger, Toyah, or Van Horn? These smaller cities will definitely be the losers. The regulated carriers already have empty backhauls just as the private trucks have. Change in regulations would only intensify and make worse the present negative operation. Under deregulation, many of America's small towns and cities will not be serviced by the trucking firms.

Deregulation risks serious damage of the general commodity trucking industry. If we eliminate collective ratemaking the larger shippers would have an unfair advantage over small- and medium-sized shippers. The big companies could demand price and service breaks from trucking businesses dealing with high-volume shipping contracts.

Of added importance is the fact that continued regulation of the trucking industry remains one of our major tools in the fight against inflation. Remember, the costs of moving freight by regulated motor carriers have increased much less than the average price for consumer goods and services. Between 1967 and early 1979, the escalating cost of these general products, as measured by the Consumer Price Index, rose almost 28 points higher than those of regulated freight service.

We have all had cause for reconsideration of deregulation after the airlines experience. When airlines were deregulated the air rates were increased, service was cut back and the major airlines had serious financial losses.

Some regulation for balance is needed. We have rules to drive on the right side of the road; if you turn left, you should turn from the left-hand lane; you stop at red lights; you do not pass when you lack adequate view. By the same thinking, we need minimum, but adequate, regulation of route structure.●

HOUSE CONCURRENT RESOLUTION 323

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. BIAGGI. Mr. Speaker, I was proud earlier today to join in a unanimous vote in favor of House Concurrent Resolution 323. This resolution commends the American military personnel who participated in the attempt to rescue the hostages in Iran. This mission although ultimately unsuccessful was not doomed because of the personnel involved; rather the combination of unforeseen circumstances and breakdown of equipment.

The fact is, the American public remains united in support of the safe release of our hostages. It is shameful that the Government of Iran, in open and continued defiance of international law continues to hold our hostages.

As we consider this resolution, and its commendation of those who survived the military mission, let us also pay a special tribute to the eight Americans who lost their lives in this mission. They were true veterans in the fight for freedom—the freedom which has been denied to our hostages for more than 210 days.

I am especially supportive of the provisions in this resolution which call on our Government to freeze Iranian assets and make them available to American claimants for damages against Iran and the hostages, their families, the survivors of persons killed during the rescue operation and those injured during the operation and their families.

Finally, Mr. Speaker, it is appropriate during the course of our considering this legislation that we pay tribute to the President, our Commander in

Chief for his unwavering efforts to gain the safe release of our hostages. This crisis has been an enormous test of wills and ours has proven to be calm and strong. The rescue mission according to those who saw it in detail was brilliant. The failure of the mission should not be a signal to abandon other rescue missions. The American people in their unity behind the release of the hostages will be supportive of all reasonable rescue efforts.

The Nation owes our servicemen who participated in this mission a special thanks. Hopefully House Concurrent Resolution 323 is one step in that direction.●

PEACE AND JUSTICE IN IRELAND

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. MAVROULES. Mr. Speaker, on Saturday, June 7, my esteemed colleague and good friend, MARIO BIAGGI, spoke before the Ancient Order of Hibernians and Ladies Auxiliary in Peabody, Mass. I took great pride in introducing this remarkable individual who has been in the vanguard of bringing to light the gross abuses of human rights in Northern Ireland. MARIO BIAGGI is to be commended for his commitment to this worthy cause, and I would like to take this opportunity to insert the text of Mr. BIAGGI's remarks.

The following is the text of the speech of the Honorable MARIO BIAGGI, chairman of the Ad Hoc Congressional Committee for Irish Affairs, before the Massachusetts State Board of the Ancient Order of Hibernians and Ladies Auxiliary.

I wish to thank my colleagues in Congress and good friend Nick Mavroules for his kind introduction.

Very few members who I have seen over 12 years in Congress have committed themselves as early and effectively as Nick has to the Irish question. He serves as one of the Executive Committee members of the Ad Hoc Congressional Committee on Irish Affairs which I am privileged to chair. He is there when the Committee needs him and the progress we have made is due to men of dedication like Nick Mavroules.

It is a pleasure for me to be here tonight to address the 89th Annual Dinner Dance of the Massachusetts State Board, Ancient Order of Hibernians and Ladies Auxiliary. It is always an honor to be in the greater Boston area which is the very rockbed of Irish-American political activism, especially with respect to the issue of peace and justice in Ireland.

I hold a special place in my heart for the Ancient Order of Hibernians and the Irish National Caucus, both of which are represented in great numbers here tonight. It was these two outstanding organizations, working together who were inspirations behind the creation of the Ad Hoc Committee, founded by me, on September 27, 1977. Your President, Gerry Sexton, has been a leader par excellence in this cause. I also wish to salute Jack Connelly, one of the most distinguished national leaders of the AOH as well as Dave Burke, similarly a national leader, and finally, Joe McHugh, local leader of the Irish National Caucus. I work very closely with the AOH and the Irish Caucus in Washington. You, the members of the AOH, are ably represented by Robert Bateman, your National Historian and official liaison between the AOH and the Ad Hoc Committee. As far as the Irish National Caucus is concerned, theirs is a commitment which is steady, effective and gaining increased national attention and visibility. Father Sean McManus and Rita Mullen of Belfast provide truly outstanding leadership in the pursuit of peace, justice and human rights for Ireland.

Let me briefly put into some perspective the significance of the Ad Hoc Congressional Committee for Irish Affairs. In our almost 33-month history, we have succeeded in one very broad, but critically important area—we have raised the Irish question from a position of relative obscurity to one which now enjoys and commands national and international attention. Nowhere is this more apparent than in the institution of Congress. When I first began to address the Irish question in 1969, I was one of perhaps three or four lonely voices in the wilderness. As the 1970's moved along, additional voices began to be heard and by the time 1976 came along, the Irish question had been catapulted into the Presidential campaign by virtue of a meeting held between candidate Jimmy Carter and the leadership of the Irish National Caucus.

By the time your past National President Jack Keane asked me to form a new Committee in Congress for Irish Affairs, the Irish question was receiving higher levels of attention in Congress. Therein lies one of the most important elements of the Ad Hoc Committee. It was able to take the burgeoning movement made up of individual members of Congress and provide a type of umbrella under which the unity of purpose could be established. The best indicator of the increased attention which the Irish question now enjoys in Washington is reflected in the size of the membership of the Ad Hoc Committee. We began initially with 30 members. Today we boast 132 Members of the House and Senate, making the Ad Hoc Committee the largest of its kind in Congress. Our members represent leaders from both the Democrat and Republican parties. Our members include the third most powerful Democrat in Congress, John Brademas, half a dozen Committee chairmen, including Peter Rodino of the House Judiciary Committee and leading Republicans, like Hamilton Fish of New York.

We have taken the Irish question to many forums in Washington and around the nation. The pages of the Congressional Record, a highly respected document read daily by thousands in this nation and by all foreign embassies in America have been filled in recent years with statements deploring violations of human rights, and violence in Northern Ireland. We have introduced a specific piece of legislation on the Irish question. House Concurrent Resolution 122 which I introduced last May, calls on the British government to embark on a new peace initiative for Northern Ireland which restores all lost human rights and promotes self-determination. This legislation is cosponsored by over 100 Members of Congress, a true testimonial to the support which exists in Congress on behalf of peace and justice for Ireland. Yet, despite this strong level of support, we are unable to get the House Foreign Affairs Committee to schedule hearings. I assure you tonight that this issue will be pursued until we are successful.

We intend to attach the Irish question to the platforms of both major political parties at their upcoming conventions. Testimony has already been presented at the Republican Party Platform hearings and I intend to deliver similar testimony before the Democratic Party platform later this year. Further, I am prepared to lead whatever effort is necessary on the floor of the convention to insure that a strong Irish plank is a key part of my Party's national platform.

I wish to discuss the status of a vitally important issue involving the Ad Hoc Congressional Committee for Irish Affairs. Last July 12, I went to the House floor with an amendment to the Department of State's annual budget bill. My amendment sought to prohibit the sale or export of any United States weapons to Great Britain for use in Northern Ireland. This followed disclosures that in January of 1979, the State Department had approved the sale of 3500 advanced United States weapons including .357 Magnum rifles to the Royal Ulster Constabulary, the main police force in Northern Ireland. This sale was approved notwithstanding the fact that the RUC had been charged by Amnesty International with human rights violations involving their treatment of prisoners and prison suspects. These charges were later confirmed by the British government appointed Bennett Commission.

My amendment was introduced because this sale was in clear violation of Section 502(b) of the Foreign Assistance Act which prohibits the sale or export of any United States weapons to any nation or organization which engages in a persistent pattern of human rights violations. My amendment led to a first time discussion on the House floor of the Irish question. For approximately one hour on July 12, myself and some 15 of my colleagues including Mr. Mavroules, spoke on the need to prevent future U.S. arms sales to the Royal Ulster Constabulary. The amendment led to a commitment by the House Foreign Affairs Committee Chairman that a full investigation and hearing would be held in the matter. This was done some two weeks later. Following the hearing, the Department of State announced on August 1, 1979, that they had suspended all pending and future sales or shipments of United States arms to the RUC pending "a full review of existing U.S. policy in Northern Ireland."

This was a truly significant victory for the Ad Hoc Committee and also for the integrity of United States foreign policy which has as its very cornerstone respect for human rights. The action brought outcrys from London and Dublin but these outcrys were accompanied by new found recognition that the Ad Hoc Committee was a force in the United States to be reckoned with.

Practically from the very first day that the suspension was invoked rumors have surfaced which state that the ban would be lifted. The rumors were especially prevalent in December right before British Prime Minister Margaret Thatcher paid an official State visit to the United States. Mrs. Thatcher did in fact come to the United States with designs on having the suspension lifted and the flow of arms resumed. She presented her case to President Carter in their December meeting and the President refused to lift the suspension on the grounds that the "review" had not been completed. The significance of the President's action must not be overlooked. President Carter by his actions demonstrated once again to the Irish American community that he was an advocate in the cause of peace and human rights for Ireland. President Carter, in August of 1977, became the first American President ever to address the Irish question. In a national message, he called for peace for Ireland and offered, once peace was achieved, to join with other nations in providing economic assistance. His action in December was just as important, for he told the British government that our commitment to human rights is universal.

In recent weeks, there has been a new outbreak of rumor fever about the status of the arms sales. One of the most publicized of all rumors came from the Dublin based HIBERNIA newspaper which stated with certainty that a lifting of the suspension was imminent. In addition to rumors, a number of leading American newspapers in prominent editorials have called for a resumption of arms sales to the RUC. The New York Times, in an editorial dated May 28, claimed that the arms suspension "had no basis in law or logic" and should be lifted. In a letter to the editor, I responded by stating that "Guns should not be sold to police organizations which do not respect human rights." The Royal Ulster Constabulary, in addition to its past poor human rights records, has not improved in any reasonable fashion. In my letter I make reference to a report by one of Ireland's leading legal authorities, Mr. Rory O'Hanlon, in which he states that complaints of brutality by the RUC remain alarmingly high. My letter adds Our hope is that there will come a time when the RUC will again be able to receive United States arms. That time cannot and will not come until there are major improvements in their human rights record. This letter, I might point out, is awaiting publication in the Times.

In an effort to quell the rumors, I, along with 17 of my colleagues in the Ad Hoc Committee, wrote to the new Secretary of State, Mr. Muskie, to be given the current status of the arms suspension. I am happy to report that the Secretary has advised me that the suspension will continue and there are no plans for any change in the U.S. policy. The review is still ongoing and while this is the case, the suspension will stick.

Our efforts on behalf of suspending guns to the RUC stems in large part from the Ad Hoc Committee's strong aversion to violence of all varieties in Ireland. In some respects the institutional violence practiced by authorities in the North serves as a catalyst for the civilian violence. All violence is wrong and must be ended if there is to be any hope for peace. No one has sought to end violence in Ireland more than myself. I traveled to Belfast and Dublin in late 1978 to personally contact various political parties and paramilitary organizations to urge their participation in a peace forum to be sponsored by our Ad Hoc Committee in Washington. I sought to make as a precondition to participation that an across-the-board cease fire be agreed. Every major paramilitary organization but one greed and the effort almost succeeded.

Violence is still a major blight on the Ulster scene. Just this past week a leading Protestant Irish political leader was assassinated. The Ad Hoc Congressional Committee will continue to speak out against violence and will work to advance the cause of peace and justice.

The prospects for peace in Ireland are better in 1980 than they have been for some time. The government of Margaret Thatcher and especially the leadership of Lord Carrington have shown to the world an ability to tackle thorny issues and emerge with peace. This was best illustrated in their remarkable accomplishments in Rhodesia—now Zimbabwe. Here, the British brought all parties to the dispute including the guerrillas into the peace process and when an agreement emerged, it was endorsed by all, thus insuring its durability. I have repeatedly urged Prime Minister Thatcher to embark on a similar all parties conference in Ireland.

Optimism about future peace also exists because of the new and dynamic leadership in the Irish Republic's government. Prime Minister Charles Haughey has stated emphatically that he intends to make peace in Northern Ireland and unification of Ireland a key priority of his administration. This is a far better approach than that of his predecessor. I fully support Mr. Haughey's position that an Irish dimension must be made part of any negotiations involving the British government.

The recent meeting between Prime Ministers Thatcher and Haughey was a positive starting point and hopefully more meetings will be held. I maintain that the United States has a role to play in the peace process in Ireland. It is a role of a neutral broker. It is not a role under which we would offer and attempt to force a solution. The Ad Hoc Committee exists and will continue to exist to insure that the Irish question is addressed in an adequate fashion by the Congress and the Administration.

I close with the observation that the Irish American community has and will continue to play a critical role in the success of the Ad Hoc Committee. It was the grass roots efforts of the community which helped us acquire 130 Members. It should be the continued activism of the community which will result in the election of new pro-Irish Members of Congress. The Ad Hoc Committee is here to stay and with your continued support, we will achieve our main goal--peace for all of Ireland.●

NATIONAL PORT WEEK

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. MURPHY of New York. Mr. Speaker, I am pleased to announce that in the first week during which cosponsors were sought for House Joint Resolution 551, proclaiming "National Port Week," 58 Members have asked to have their names associated with this popular resolution. Chairman BIZZ JOHNSON of the Public Works and Transportation Committee and cochairman, with me, of the Congressional Port Caucus, joins me in urging other Members to cosponsor House Joint Resolution 551 so that the requisite number of sponsors is reached in time for the President to sign the proclamation. We thank those Members who have already responded with enthusiasm to the call to join in recognition of our Nation's ports.

Our colleagues who have associated themselves with House Joint Resolution 551 as cosponsors are:

1. Mr. Ambro.
2. Mr. Anderson of California.
3. Mr. Annunzio.
4. Mr. Archer.
5. Mr. Boner.
6. Mr. Breaux.
7. Mr. Clay.
8. Mr. Coelho.
9. Mr. de la Garza.
10. Mr. Dicks.
11. Mr. Donnelly.
12. Mr. Duncan of Oregon.
13. Mr. Edgar.
14. Mr. Emery.
15. Mr. Evans of Delaware.
16. Mr. Evans of the Virgin Islands.
17. Mr. Fazio.
18. Mr. Flippo.
19. Mr. Florio.
20. Mr. Giaimo.
21. Mr. Ginn.
22. Mr. Green.
23. Mrs. Holt.
24. Mr. Jones of North Carolina.
25. Mr. LaFalce.
26. Mr. Lagomarsino.
27. Mr. Lederer.
28. Mr. Lloyd.
29. Mr. Lungren.
30. Mr. Markey.
31. Ms. Mikulski.
32. Mr. Moakley.
33. Mr. Moore.
34. Mr. Murphy of Illinois.
35. Mr. Murphy of Pennsylvania.
36. Mr. Myers of Pennsylvania.
37. Mr. Nowak.
38. Mr. Oberstar.
39. Mr. Patten.
40. Mr. Pepper.
41. Mr. Rahall.
42. Mr. Richmond.
43. Mr. Roberts.
44. Mr. Roe.
45. Mr. Scheuer.
46. Mr. Shumway.
47. Mr. Solomon.
48. Mr. Stanton.
49. Mr. Traxler.
50. Mr. Van Deerlin.
51. Mr. Weaver.
52. Mr. Whitehurst.
53. Mr. Winn.
54. Mr. Wyatt.
55. Mr. Young of Alaska.
56. Mr. Young of Florida.
57. Mr. Young of Missouri.
58. Mr. Zeferetti.

JOHN M. MURPHY.●

ANYTHING YOU CAN DO THEY CAN DO, TOO

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GRASSLEY. Mr. Speaker, since the days of Greece and Rome, Western civilization has set a premium on physical perfection: Beauty and brawn are often rewarded with prestige and opportunity unknown by men and women of ordinary physical endowments.

Unfortunately, such a caste system tends to negate the dignity and worth of handicapped citizens, while stifling their freedom to pursue full, productive lives and maximize their potential. Such a loss impoverishes us all, for the lives of handicapped Americans frequently offer treasures which could greatly enhance a broad spectrum of this society and the world.

A message recently published by United Technologies in the Wall

Street Journal, eloquently addresses this issue. That message, as follows, should challenge the attitudes of all Americans, and help shape policies encouraged by this Congress:

ANYTHING YOU CAN DO THEY CAN DO, TOO

While you flex your muscles in front of your morning mirror and congratulate yourself on your nimble brain, consider this: The light over your mirror was perfected by a deaf man. While your morning radio plays, remember the hunchback who helped invent it. If you listen to contemporary music, you may hear an artist who is blind.

If you prefer classical, you may enjoy a symphony written by a composer who couldn't hear. The President who set an unbeatable American political record could hardly walk. A woman born unable to see, speak or hear, stands as a great achiever in American history. The handicapped can enrich our lives. Let's enrich theirs.●

BILL RASPBERRY'S ILLUSION OF BLACK PROGRESS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GRAY. Mr. Speaker, I would like to commend columnist William Raspberry for his article that appeared in the May 28 Washington Post focusing on the illusion of black progress toward social and racial equality in this country.

Mr. Raspberry points to the need for America to look beyond the illusion of significant progress toward racial equality. In my congressional district, for instance, the unemployment rate for black youths is approximately 60 percent. That is not an illusion; it is fact. Mr. Speaker, we in the Congress must intensify the focus of our programs and social conscience toward the black community, which is still catching the short end of the stick during these times of budgetary neglect. Or, we must face the bitter prospect of another Miami.

I offer Mr. Raspberry's article for the RECORD, in order to share with my colleagues this meaningful perception of the problems:

THE ILLUSION OF BLACK PROGRESS

(By William Raspberry)

There are some blacks for whom it is enough to remove the artificial barriers of race. After that, their entry into the American mainstream is virtually automatic.

There are other blacks for whom hardly anything would change if, by some magical stroke, racism disappeared from America.

Everybody knows this, of course. And yet hardly anyone is willing to say it. And because we don't say it, we wind up confused about how to deal with the explosive problems confronting the American society, confused about what the problem really is.

HEW Secretary Patricia Roberts Harris came close to talking about it during her Sunday appearance on ABC's "Issues and Answers," but at the last minute, even she veered away.

"I think that the white community believes, because of people like me, who are black [and] who have significant roles in determination of policy in this country, that we have solved the problems," Harris said. "But black people are angry about the assertion that they have everything they are entitled to and everthing they need. They don't."

Her frustration, widely shared, is over the fact that white America looks at the smart, well-educated, influential and successful blacks, whose numbers are growing, and wonders what the hell we are talking about when we discuss the "illusion of black progress."

Illusion? How many Cabinet secretaries, how many millionaires, how many journalists and judges and legislators and mayors do we have to have before we can acknowledge that the progress is genuine?

White people look at the growing number of Pat Harrises, for whom it was enough to remove the blatant barriers of racism, and wonder why we refuse to acknowledge our progress.

Pat Harris looks at our bottom-of-the-barrel poor, the powder keg that could explode in virtually any large American city, and wonders why white America fails to acknowledge the near-total absence of progress.

And astonishingly, we cannot bring ourselves to say that we're talking about two different groups of people. We speak of ourselves as a unity, and in some ways we are. But in other ways, we clearly aren't.

William Julius Wilson tried to say something like this in his controversial book, "The Declining Significance of Race." But his painstaking effort was attacked on the false ground that he was contending that race was no longer an important determinant of success in America.

Wilson, himself black, knows better. All he was trying to say is that race is a less significant barrier than it used to be and that the characteristics we describe as "class" are becoming more significant.

Maybe "class" is too loaded a concept to use in discussing black progress. But some way must be found to distinguish between the problems facing Pat Harris and the problems facing young, uneducated, hopeless, frustrated and bitter blacks in the big-city ghettos.

It serves no purpose, it seems to me, to contend that blacks are an economic unity, and it can do some harm, at least to the point of leading us to ineffectual remedies.

Affirmative action programs, for instance, can be very effective in increasing the rate of progress for blacks who already are doing reasonably well. Special admissions programs can increase the number of blacks in medical and law schools. But you have to be a college graduate to begin with. Similarly with special programs designed to increase the percentage of blacks in high-level government jobs, or in the Foreign Service, or on university faculties.

The purpose of these programs is to ensure that the racial barriers have in fact been removed.

But for that undigested lump of black Americans at the bottom of the barrel, removing racial barriers doesn't mean a thing. Why should the black grade-school dropout—jobless, skill-less and encumbered with a prison record—care that the percentage of black GS16's is increasing?

For him, racism is not a barrier subject to removal by fiat but a chronic disease that has sapped his ambition, stunted his education and left him a vocational cripple. Eliminate racism tomorrow, and he will remain as crippled as before. Pat Harris might sympathize with his plight, but she wouldn't hire him either.

And yet he represents the group that constitutes a threat to all of us and for whom solutions must be found. Rewarding ambition and drive is fairly easy, once the decision is made to do it. Instilling ambition and drive in the first place is a lot tougher.

And while we are trying to rehabilitate those people who have been crippled by the long-term effects of racism, we also have to find ways to stem the flow of new cripples into the pool.

That is a tough order, and it is made no easier by our refusal to acknowledge the problem for what it is.●

VOTE ON GAS TAX PROPOSAL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. FAZIO. Mr. Speaker, as you know, on Wednesday, June 4, the House passed House Joint Resolution 531. Unfortunately, due to a previously scheduled trip to my district, I was absent from the House that day. However, I had intended to be paired against the resolution, in support of the President's proposed fee on imported oil or the so-called 10-cent-a-gallon gasoline tax. For reasons beyond my control, I was not paired on that vote and I would like to take this opportunity to state, for the RECORD, that had I been present on June 4, I would have voted "no," in opposition to the resolution.

As one of only 34 Members of the House to support the Presidential veto last Thursday of the same measure, I think it is important to have the RECORD reflect my consistent support of the fee. I supported the President's proposal for many reasons.

Most importantly, the tax would have given Congress and the administration the means to focus the attention of the American public on our critical energy situation which has led us to the point where we are dangerously overdependent on oil from exporting nations in OPEC. We now rely on OPEC imports for over 40 percent of our total energy needs and a great deal of that goes to power our automobiles and trucks. In fact, one out of every nine barrels of oil consumed by the non-Communist world is burned on America's highways. And, one-third of this amount—2.5 million of the 7 million barrels of gasoline consumed every day—is wasted in unnecessary, optional driving.

It was a modest tax proposal, one that would not overburden the American people. But it would have shown the OPEC countries and our allies, which have taxes that by comparison dwarf our existing 14-cent-per-gallon tax, that we intend to take decisive steps to encourage conservation and curb our demands on the world's OPEC-dominated supply of oil.

As this Nation's elected Representatives, we also had an opportunity to begin to chip away at the huge OPEC oil bill which is threatening to top $90 billion this year, up from last year's $60 billion figure. This is more than all of the Fortune 500 companies made last year, equal to approximately $400 for every man, woman, and child in America and about twice that we spend each year operating and maintaining our Armed Forces.

The failure of Congress to support the fee, which would have moved us a few steps closer to lifting this inflationary burden from the backs of the American taxpayers, can only be characterized as a head-in-the-sand approach to our basic energy supply/demand problem which impacts the economy and every facet of American life. And even worse, judging by Congress overwhelming condemnation of the tax, despite the rhetoric from a few opponents for an even stiffer tax, there is no evidence to suggest that Congress will confront this problem head on and discuss it openly and honestly with the American people.●

CONFRONTING REALITY OF THE RECESSION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. DERWINSKI. Mr. Speaker, in Washington, the debate continues over our country's worsening economic situation. However, more often than not, the views expressed are theoretical in nature, rather than direct observations gained from reactions of the grassroots constituency, who are hit the hardest from the rising inflation rate.

The June 4 edition of the Pioneer Press Newspapers, serving suburban Cook County, Ill., editorializes on the adverse affects of the recession on the individual consumer. I insert the editorial at this point:

CONFRONTING REALITY OF THE RECESSION

The long-feared and much announced recession of 1980, originally scheduled to begin in 1979 is on us with a vengeance.

Factories in the west suburban area are laying off workers by the score. The local automobile sales industry is the hardest hit. Sales are down and businesses are closing. Filings of chapter 11 bankruptcy have hit several other businesses. Creditors and debtors alike—including the consumers of goods bought with plastic money—are caught in a bind caused by high interest rates, the much heralded consumer loan crackdown, and spiraling inflation.

President Jimmy Carter put his official seal on the business slowdown last weekend when he announced that the recession will be deeper than he and his economic advisors first suspected.

The advent of financial ruin was forecast by last summer's virulent inflation rate. The basic problem is, government is ill-equipped to handle inflation in a rational manner.

Legislators tread gently on federal grant programs because each has its own built-in constituency. Social Security has millions of voters behind its programs. The defense budget has staunch defenders in the industries that vie with each other for huge military contracts. Local government howls at the thought of a cutback in revenue sharing funds dispensed by congress to state and local bodies.

It's much easier to pass spending legislation that it is to cutback. Consequently, the federal budget balloons to gargantuan proportions, fueling the inflation by forcing government to expand the money supply to pay for spending programs legislators are anxious but unwilling to fund with a hike in taxes.

Because of its inability to keep the federal budget under control, the administration is forced to come up with roundabout programs to cut down on consumer and capital spending: force interest rates to the roof, place artificial restrictions on consumer credit and beat the bushes for the much maligned and basically ineffectual voluntary 7 percent wage increase guidelines.

Since these solutions are not up to the task of inflation fighting, the draconian measures of a planned recession eventually become inevitable. As the economy becomes increasingly shell-shocked by prices rising beyond control, government cools down commercial activity by pushing interest rates through the roof.

The buying of capital and consumer goods decline, industry slows down because workers are producing products for which there is no market. Layoffs begin and the plunge accelerates as jobless workers must trim their spending even further, putting more out of work.

As the recession deepens in an election year, Congress and the administration are tempted to employ a quick-fix tax cut to stimulate spending and create jobs. This has the effect of pumping up spending beyond the natural productive capability and increasing the federal budget deficit.

Around we go again.

The consumer is not entirely blameless for this cruel cycle of unemployment and a declining dollar. The modern tendency to rely on easy credit, chronic neglect of the traditional family bank account, two cars where one will do all contribute to the deteriorating economic situation. The cycle cannot be broken without a change in consumer habits away from the high-cost, pre-packaged, disposable goods to products with more real and lasting value.

This is one long-range solution to the complex and nagging problem of the world's strongest economy buckling at the seams. The more immediate danger is the personal jeopardy of a family beset by unemployment.

Some help is at hand. In response to West Proviso Herald news articles about the worsening economic situation, Proviso Family Service is sponsoring a counseling seminar for laid-off workers. The seminar, to be held from 9 a.m. to noon June 12 at 9855 Roosevelt Rd, Westchester, deals with the problems of the recently unemployed: How to cope with 40 more hours of time a week; career decision-making; budgeting with less money; unemployment benefits and what to do when your benefits run out.

Attendance at this is a good first step in confronting the economic realities of recession and promises to propose real solutions to the question of How to weather the latest economic storm.●

CRITIC AND SERVANT—THE ROLE OF THE UNIVERSITY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. PURSELL. Mr. Speaker, recently I had the pleasure of participating in the inauguration of Dr. Harold T. Shapiro as the 10th president of the University of Michigan. President Shapiro has an impressive background as a nationally known economist, scholar, teacher, and administrator. The university is truly fortunate to have him at its helm.

As the Representative from Michigan's Second Congressional District, where the University of Michigan's main campus is located, as well as a member of the House Appropriations Labor/HEW Subcommittee, I have worked closely with Harold and observed firsthand the attributes that qualify him for this important position. I want to take this opportunity to offer my personal congratulations and best wishes.

In addition, I would like to share with my colleagues Dr. Shapiro's inaugural address entitled, "Critic and Servant—The Role of the University," in which he speaks of the relationships between society and its universities that are involved in meeting the challenges of the 1980's. I particularly want to draw attention to his emphasis on the scope of academic freedom and degree of commitment required, if we are to achieve a high degree of success in this effort:

CRITIC AND SERVANT—THE ROLE OF THE UNIVERSITY

(By Harold T. Shapiro)

THE UNIVERSITY AND SOCIETY—TRADITIONS, NEEDS, AND PROSPECTS

Of course, the University of Michigan has its origins not only in its own particular conception, but in the more general traditions of higher education in America. I would like to consider certain aspects of this more general tradition in order to bring before us a sharper perception of the relationship between the University and society and its future prospects.

American universities have their initial roots in the universities of medieval Europe. Even the ivy was brought from the university in Salerno to the walls of many of our earliest universities. A very important additional infusion of European influence came from the German universities of the 19th century, where modern training in science was being pioneered. In the United States, however, these influences underwent many important transformations in the construction of a very distinctive system of higher education.

One of the more significant transformations, in my judgment, was that American universities were always responsible to and, to a certain extent, shaped by the communities that founded them. Unlike certain of their European counterparts, they were never completely self-governing bodies of scholars and students.

Thus, from the very beginning, American universities had to balance their responsibilities to the world of scholarship with important responsibilities to the communities that supported them. This was true both of the early private universities as well as the great public universities that followed them. This tradition has important consequences for the current role of American universities and their responsibilities in our society.

The relationship between the modern university and society is a very complex and a very fragile one. The complexity and fragility stem from the university's dual role as society's servant and as society's critic. On the one hand, the university has the responsibility for training and research functions that serve society's current economic and cultural life. On the other hand, the university has a fundamental responsibility to be critical of society's current arrangements and to construct, entertain, and test alternative visions of organizing society's institutions, alternative approaches to understanding nature, and to rethinking society's values.

Over time, society's support for this dual concept of the university as an institution both serving and criticizing society has been ultimately sustained by faith in rationalism, faith in knowledge and science, and the resulting notion of human progress. Perhaps one of the most distinctive ideas of Western civilization is the idea that nature, by itself, cannot achieve its full potential. Rather, what is needed is a mutually beneficial interaction between nature, science, and mankind. The university plays an increasingly central role in this process. In the end, we all live under the sway of ideas, and the idea of progress both in our material and moral or spiritual condition has been an increasingly dominating idea of Western thought. In my view, the university now plays a critical role in strengthening the positive correlation between progress in science and the development of new knowledge, and progress in the moral and spiritual sense.

As we look to the future of our universities and their relationship to society, however, it is important to look specifically at the nature of our educational and research programs. Are these programs adequate to meet the traditional dual roles of the university as society's servant and society's critic?

What are the specific types of programmatic objectives that enable the universities to meet their responsibilities to the world of scholarship and the society of which they are a part? We can, I believe, identify three major categories of necessary commitments in this respect.

(1) The responsibility for general and professional education.

(2) The responsibility for the development of new knowledge.

(3) The responsibility for advanced research training.

I would like to spend a few moments to amplify my view of a universities responsibility for general and professional education. The ultimate purpose of a general education is twofold. The first is to provide students with an understanding of what our society is, how it came to be that way, and how it relates to the larger human family. The second is to provide our students with that kind of knowledge and understanding that contributes to their ability to improve our concept of civilization, comprehending that the concrete present is but one alternative. In this context it is clear that not only training in science, but scholarly exposure to history, literature, and philosophy have direct relevance to society's most important goals: this knowledge puts our immediate concerns in the broadest possible human context. Without the understanding that flows from study in the humanities, we must fail to understand critical dimensions of the human experience and too easily deny the intractability of certain aspects of the human condition.

Thus, we have responsibility for providing an education that not only develops an individual's technical expertise, but relates an individual's experience to the broad human landscape of which we are a part, and moves them to a purpose and capacity beyond themselves.

The same approach governs professional education at a university. Professional education normally refers to the acquisition of skills for a particular purpose. At a university, however, it must also be involved in the extension of knowledge. Further, it must proceed within a critical framework that not only refuses to accept things as they are, but works to bridge the gap between professional practice and theoretical knowledge.

These are the fundamental characteristics of our educational programs that we must preserve in the years ahead. In addition, for reasons I will discuss shortly, our society has a great stake in maintaining the research capacity of the universities, especially the major research universities. Given our society's needs, attitudes, and resources, what are the near-term prospects of achieving these objectives?

On the one hand, American universities are generally seen to be at some risk in a decade that is widely assumed to be characterized by falling student enrollments and by a general tightening of the resources available. Such developments would, of course, impact not only on the educational function and fiscal capacity of universities, but on the essential research capacity of our society.

On the other hand, the need for advanced training and research has never been greater. Globally we are on the brink, I believe, of another technological breakthrough in industrial and agricultural processes, and the extent of U.S. participation in these developments and the economic growth that will result is uncertain. Fortunately or unfortunately, this is dependent, in part, on the viability of the major research universities—of which this state is well endowed. In the United States we do not have "on line" any other institutions that can fully substitute for the traditional role of the universities in basic research and development. Perhaps by the year 2000 we will have a larger spectrum of research institutions in this country as exist elsewhere. But for the next decades here in the United States, our research and development capacity is inextricably tied to the health of the research universities.

In addition, we need new, creative ways to deal more effectively with a large number of outstanding social issues. Consider the challenge of the revitalization of the inner cities, the challenge of access to a full share of society's opportunities to minorities and women, or the challenge of a creative mediation of the conflicts that arise from time to time between traditional values and new developments in science. The solutions to these problems—and similar challenges—require careful, critical analysis of alternative ways of doing things and of organizing society's institutions. The need for an informed and thoughtful electorate has never been greater.

Moreover, we can fully anticipate that in the next decades important changes in our modes of thinking will be both necessary and substantial. The world will never again be so centered on Western Europe and North America and on the cultural history and experiences of these people and this particular civilization that has dominated world affairs in the last few centuries. We must, therefore, develop a new awareness, openness, and responsibility not only to certain populations in our own society, but to others around the world whose cultural development and expression we have yet to adequately appreciate.

For these reasons, and others, I believe our future as a society is importantly related to the vitality of our universities. What other institution can provide the humanistic understanding, the scientific developments, the technical training, the critical analysis, and the aesthetic experiences that can—at their best—produce both the new knowledge necessary and a thoughtful, informed citizenry capable of more wisely meeting the complex challenges of the next decades.

The major question that remains, however, is whether and how the society on the one hand and the universities and their faculties on the other will act in order to meet these needs and thus jointly realize our creative potential. Each decade in our history has its own challenges and requires new responses in order to enhance and contribute to what is a noble tradition.

In my judgment, a convenant of three commitments is required:

(1) Even in these difficult times, society must commit resources sufficient to attact quality talent to these institutions—both as students and teachers. It is not ordained that universities and their faculties be always richly endowed, but resources consistent with their role and mission are an absolute necessity.

(2) Society must continue to preserve the university's essential freedom to remain a critic of existing arrangements—whether in science or society. Our future depends even more on freedom retained than on full funding retained. New knowledge does not always require funds, but it does require freedom to determine the basic priorities of our critical investigations. This freedom is essentially an individual freedom, and we should not lose sight of the fact that at times academic freedom is threatened not only by forces external to the university, but by our colleagues among the students and faculty with little respect for views other than their own.

(3) The university community must show evidence of a commitment to its tasks and a capacity to make difficult decisions that rise above purely parochial concerns and demonstrate that it is deserving of such special responsibilities and treatment. Thus, the free exercise of reason, so essential to a university's life, cannot be confused with loose speculation. It must instead be associated with disciplined, unprejudiced testing of alternative ideas. Enlightenment does not emerge from the free association of emancipated minds at "rap sessions." The development of knowledge often proceeds in what may seem to be a wild and unpredictable way, driven by the powerful imaginations and impatient energies of creative investigators. In fact, however, it is given structure and direction by the disciplined use of reason in the evaluation of ideas, new and old.

If we in the university community are willing to use society's resources with discrimination and care and to rededicate ourselves to the truly important tasks facing us, the decade of the 1980's can be one of an opportunity gained—an opportunity to turn fully to the issues where we can make our greatest contribution. We cannot simply wish away the difficult sections of the road before us, but we must not allow the difficulties to govern our course. To quote Emerson: "This time like all times is a very good time if we but know what to do with it."

We recognize that society has other important needs, besides those represented by universities. There are needs in health, in energy, in the inner cities, in old-age security, etc. To qualify for support in view of these other pressing and legitimate needs, we must demonstrate our capacity to actually perform the functions we speak so fondly of and not to be sidetracked to less worthy efforts. The 1980's will surely be a time of testing for us all.

It will require courage—both by faculties and legislators—to look beyond the enormous pressures of daily events and look to the preservation of the truly sustaining values of our society and the institutions that support them. It is difficult to rescue from our daily distractions the capacity to dedicate ourselves to the critical long-run concerns of society. The university and the fundamental ideas it embodies is one of these concerns. I hope the community of scholars—both students and faculty—here at the University of Michigan will demonstrate that the University upholds its part of the covenant and is worthy of such special consideration.

The University of Michigan is preparing for the 1980's in an adventurous and optimistic mode. We are confident of our sense of community and our capacity to generate a quality response to the challenges ahead of us. We are completing new libraries and associated facilities to support our continuing commitment to scholarship. We expect, with the citizens of the State of Michigan, to build a great new Medical Center and have begun the development of new facilities for our College of Engineering. Most important of all, we are focusing our efforts on attracting and retaining outstanding faculty and students.

We do not intend to stand politely by and thus risk slipping backward during the coming decade. Rather, we eagerly face the challenge ahead of us and commit ourselves, in a spirit of both pride and humility, to do whatever it takes to maintain and enhance the distinction of our programs and our responsibilities to the community. We should be aware, however, that this effort will severely test our resolve, and perhaps even our sense of community. It is easy to talk of distinction, a challenge to actually pursue it, and a great victory to actually attain it. In this effort, we will need the support of all the collaborators in our past successes—our sister institutions of higher learning, our alumni and friends, the citizens of the State of Michigan and, of course, our distinguished faculty, staff, and students. I have every confidence that we will exceed, and that the most exciting days of our long intellectual adventure lie ahead of us.

Thank you.●

FIRST AMERICAN WOMAN IN OSTAR

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mrs. HOLT. Mr. Speaker, last Saturday, June 7, the Observer Single-handed Trans-Atlantic Race, began from Plymouth, England, with its destination, Newport, R.I. My constituent, Judy Lawson of Annapolis, is the first American woman to qualify for this 3,000-mile solo Atlantic crossing, which is considered the most demanding and dangerous sports event of our time. The OSTAR is held every 4 years by the London Observer and the Royal Western Yacht Club and this year more than 100 sailors from 18 countries will be participating. Judy, who last year became the first woman to compete in America's only solo ocean race, the 635-mile Newport to Bermuda classic, has logged over 25,000 miles in ocean sailing during the past 20 years. Her goal is to finish within 27 days, which would break both the women's and small boat records by at least 1 day, and put her in Newport on Independence Day. Racing in what may be the roughest seas in the world, takes guts, training, and stamina, but taking risks is part of any worthwhile life and Judy welcomes the challenge of pitting herself against the elements. I wish her favorable breezes and hope that she gets the gun at the finish line.●

FIGHTING RECESSION REQUIRES ABANDONING OUTDATED ECONOMIC NOTIONS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GINGRICH. Mr. Speaker, it is apparent that the current recession will be one of the three or four worst of the 20th century. It is the legacy of 15 years of erratic monetary policy, with the attendant problem of the collision of the progressive income tax code and high inflation. The heirs of John Maynard Keynes thought they could forever manage demand and fine tune the vagaries of the business cycle. Yet today we are halfway through our 11th straight year of stagflation, and the fine-tuning capabilities of this Congress were shown by our passage on May 7 of a budget containing a $96 billion tax increase—just as the recession was starting to snowball.

The most optimistic estimates show us being stuck with 7.5 percent inflation even at the bottom of the recession. It is not inconceivable that we could face double-digit unemployment and double-digit inflation at the same time.

So what will happen now? This House will soon be freed by the recession the Congress spawned from the uncomfortable burden of trying to balance the budget. When deficit spending again becomes the order of the day, will this House repeat the mistakes of 1975-77?

Congress, in its own initiatives and by using its two-thirds majorities to force policies on President Ford, sought recovery from the 1974-75 recession through tax rebates, temporary tax cuts that promoted consumption at the expense of production, doubled CETA funding, and greater use of food stamps and public works. All of this, the recession and the steps supposedly taken to cure it, resulted in deficits totaling $179 billion over 3 fiscal years.

The end product of this pump-priming was to reignite inflation and a failure to return unemployment to its traditional level of less that 5 percent. The large deficits of 1975-77, paid for in large degree by excessive money supply growth, created the roaring inflation of 1978-80. Fiscal policies designed to produce full employment without inflation now produce inflation without full employment.

The so-called antirecession actions of 1975-77, if repeated this year, could easily produce an economic crisis by 1982. Demand-side pump-priming is as dangerous as it is obsolete. We cannot rely on tax rebates and other such short-term gimmicks whose only objective is to stuff devalued money into people's pockets while the Nation's factories and output decline. If we try to inflate our way out of the present recession, we will have 20 percent inflation and an unemployment rate above 7.5 percent after the recovery.

There is no sure or easy way out of this quagmire, but there is one with a high probability of success. We should implement permanent across-the-board rate cuts in the Federal income tax, which will stimulate demand in the short run and supply over the longer term. Besides sweeping tax reduction, we also need tax reform, of the type that will reward savings and investment and thereby help America boost its productivity and rebuild its industrial base.

This program would be a proper, balanced approach to the problem of restoring steady, noninflationary economic growth. It must be combined with continued restraint by the Federal Reserve Board. We have been on a roller coaster for a decade, a roller coaster consisting of inflationery peaks and recessionary dips. Each time we complete a cycle the ride becomes more terrifying. We need to get off the roller coaster. We must stop upping the ante on the pain levels represented by the rates of inflation and unemployment. We must stop treating 220 million Americans as if they were one collective engine, to be sped up or braked by a driver known as the Federal Government.

The unemployment rate and the inflation rate are not indicators on a dashboard, they are composite figures representing the pain felt by millions of Americans. When we in Congress begin to make our economic decisions based on commonsense estimates of how our actions affect the problems and the opportunities, punishments and incentives held out to individual Americans as they chart their lives, we will be much closer to restoring prosperity and ending inflation.

Much work needs to be done to move our focus away from outdated economic notions and toward the concept of economics as a behavorial science. University of Georgia Prof. James Green has written an article which I consider a landmark in the nascent effort to change the way people and politicians view economic data and make economic decisions. Professor Green's column appeared in the May 18, 1980, Atlanta Constitution, and I commend it to all my colleagues as we look for a way out of our present troubles:

IT'S POLICY, NOT PARTY, THAT COUNTS IN RHETORIC

(By James Green)

Rhetoric of the political campaign is so loud and omnipresent most of us simply stop listening. No, we don't turn off the TV. . . . We just stop hearing the political gobbledygook.

There is, however, a distinct difference in the rhetoric to which we should be paying close attention. Each of us should be asking ourself: "Which is most important in the election—party or policy?"

For example, both President Carter and Sen. Ted Kennedy speak at length about the need to create jobs in this time of recession. Ronald Reagan speaks of creating "productive" jobs. What a difference a single word can make in policy and actions.

Carter's job concept runs in terms of CETA and "make-work" jobs that are inflationary and seldom if ever add goods or services to the stock of consumer goods. Neither do they teach a work discipline. Reagan, on the other hand, has adopted Rep. Jack Kemp's (R-N.Y.) concept that we need to re-create "incentives" in meaningful productive jobs.

If we look closely we recognize that wealth and real income are created in only five ways:

Agriculture
Fishing
Mining
Manufacturing and Processing
Construction

Note that these are private sector activities. Government creates no wealth or real income.

Incentive economics built this nation's economic base. We know that the more heavily a particular product is taxed, the less of that product will be produced.

A controversial built-in incentive is the Roth-Kemp proposal to reduce tax rates by 30 percent over a three-year period. Critics call this inflationary. Not so, provided an equal amount of fat is cut from federal spending. Reagan and Bush buy this. We have excess industrial capacity which expanded consumer spending would bring onstream. We also have a big backlog of capital formation that needs to expand and modernize our productive technology.

A permanent lowering of tax rates provides a real incentive to save and invest. Clearly, a reduction in federal spending and income redistribution will emphasize savings and investment and de-emphasize consumption. In contrast, Carter's one-time tax cut leaves the tax burden unchanged. As a windfall, Carter's tax reduction emphasizes consumption, increases inflationary pressures and discourages savings and investment.

More than this, Carter and Kennedy refer only to economic aggregates. Their economy concept is that of a machine that responds to a step on the accelerator. Bush and Reagan, following Kemp's lead, look at economics as a behavorial science. Individuals and incentives are recognized as the common economic denominator. Both Carter and Kennedy individual merit is lost. We become cogs in a mechanistic macroeconomic concept. When merit goes, so goes individualism and emphasis on opportunity. Reagan and Bush are calling for a return to individual worth, merit and opportunity.

All this comes from a life-long Democrat. As a professional economist, however, it is clear to me that in this election, policy is more important than party.

Listen to the political rhetoric. It has economic connotations in every concept expressed.●

THE RED SHADOW EXPANDS IN THE CARIBBEAN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HANSEN. Mr. Speaker, today, the world's spotlight is on thousands of Cuban refugees running from Castroland, thousands voting with their feet, running and swimming for their lives, telling all of us still free to listen that communism or Marxism is an impossible life.

I find very little satisfaction in saying to my colleagues, I told you so. When the Panama Canal was being given away, I warned my colleagues and the general public that this giveaway was contrary to the national interest. When Nicaragua was being turned over to the Sandanista, I warned this country that the dangers were coming closer. When the Soviet Union sent Mig-23's to Cuba, I warned again, and when the existence of Soviet combat brigades in Cuba was revealed to the public, I warned once more. But I was not the only one doing some warning.

When President Carter visited Mexico, he was warned by Mexico's President Portillo that while he, Portillo, did not have any particular love for Somoza, if Carter allowed Nicaragua to go Communist, it would force Mexico to move to the left. So, regardless of the advice, President Carter was getting from his own national security staff, whether this advice came from the left or the right, the President of Mexico did tell the American President what would happen if the Communists took control of Nicaragua.

As many of us realize, the Sandanistas in control of Nicaragua are now going through their historic gestation period, that period Cuba went through when Castro was consolidating his power, putting all the Communists in place. The only two nonleftists serving on Nicaragua's original junta have departed. Now, only the hard-line leftists remain. Today over 1,300 Cuban teachers from Castroland are indoctrinating Nicaraguans on how to live and what to expect under communism.

It is too bad the Nicaraguans are unable to hear that truth in time from the tens of thousands of Cuban refugees running away from Cuba.

Mr. Speaker, it was encouraging to me to read in the Washington Post on May 13, 1980, that our Speaker, THOMAS P. "TIP" O'NEILL, has said publicly it is very questionable whether the bill authorizing $75 million in economic aid to Nicaragua can be saved. Speaker O'NEILL said he wants proof that the aid bill is worth trying to save.

Administration pressure has changed that as Majority Leader JAMES WRIGHT takes a cosmetically assuring trip to Nicaragua in exchange for the votes to pass the aid bill. No doubt he will have glowing reports which will delay the realities of Nicaragua becoming a new mainland Cuba helping to convert the Caribbean into a Soviet Red Sea, which threatens 70 percent of the oil imports of the United States.

American leaders have simply got to realize what is happening on our southern doorstep in the Caribbean and Central America. The veterans of this country know only too well what is happening. As a senior member of the Veterans Committee, I am only comforted by the fact that there are 90,000 informed veterans in Idaho and millions across the United States who are tired of giving away the country they fought so hard to defend. And they are fighting to turn this disastrous trend around.

The American Legion's national commander, Frank I. Hamilton, is one of the most knowledgeable leaders in the United States. On April 24, 1980, Commander Hamilton delivered one of the toughest and most courageous speeches that I have seen in years. Commander Hamilton went after the cause of the leaderships' failure. He went after the leftwing think tank, the Institute for Policy Studies, and he did it with precision and with emphasis.

Too often our leaders who are trying to save the United States are being outthought, outfought, and outmaneuvered by the pacifistic left thinkers. These leftists have positioned themselves in key policy position roles in our Government. They are the real culprits and they must be stopped.

I am inspired by Commander Hamilton's courage and the leadership he is providing to the American Legion and all veterans throughout the United States and feel he is a modern-day Paul Revere trying to arouse America in time.

I commend his outstanding speech to my colleagues:

THE SOFT UNDERBELLY

Gentlemen, it is a great personal pleasure for me to be here to talk to you about our favorite subject: the security of the United States. I feel a little bit like I'm preaching to the choir, yet at the same time, I think I've got a story to tell, which some of you might not know, and which will give you an idea of the direction The American Legion is taking.

As I go around the country talking before different Legion groups, the mood is obvious. There is a growing dissatisfaction with what is taking place in Washington. There is a feeling of frustration that our government is not providing the leadership in resolving, not only our own problems, but leading our allies in resolving world problems. Often this frustration approaches anger as veterans realize that the freedoms they have fought so strongly for are being eroded through vacillation, indifference and a constant barrage of liberal ideas which are destroying the fabric which made our country great.

Gentlemen, the Republic is in deep trouble! We are living in times when each of us must stand up and be counted. The time for excuses is gone. The situation is serious. In saying that, I'm not going to stand up here and tell you about how we've been led down the primrose path to the Rose Garden on our way to accepting strategic parity, a policy which has slid us into second place. . . . and I'm not going to talk about what we have to do in the immediate future to develop our Armed Forces so we are "second to none."

What I do want to talk to you about is that region which we use to call our backyard. That one we took for granted because they were just a "bunch of banana republics" that weren't even worth bothering about. Those were those places we used to have to send in the Marines to just straighten out their personal in-fighting. Somehow that image has stuck. Oh yes, Fidel Castro has been a bit of a thorn in our side. After all, we thought we were going to overthrow him back in April 1961, but the Bay of Pigs failure took care of that abortive effort.

Somehow we just wanted it to settle down * * * and at the same time we wished those Cuban exiles in Florida would just appreciate what we'd done for them in letting them come to the United States to earn a living, and not cause us so many problems with their ranting and raving over Fidel Castro, communism and the Soviets * * * "only 90 miles from home."

Well, the point of it all is * * * that little problem won't go away * * * and it keeps growing bigger all the time. Like most Americans, I got all excited when President Kennedy stood up to the Soviets during the Cuban missile crisis and made the Russian bear back down, dismantle his "rockets" and take them home. We had met the Soviets face to face, eyeball-to-eyeball and they had blinked! American pride was assuaged! We had avenged our failure at the Bay of Pigs * * * our national honor was saved. (But I wonder how many looked back and realized that if we hadn't lost heart at the Bay of Pigs, we wouldn't have had a Cuban missile crisis!) And not too many people talked about the Intermediate Ballistic Missiles we had removed from Turkey and Italy at the same time.

It was said they were obsolete and were too costly to maintain. After all, they took about 30 minutes to launch. No one spoke of the added complexity those missiles presented to the Soviets in their targeting or the problems they created for them in a first strike option. No one mentioned how having missiles in those countries not only kept them in the front lines geographically speaking in any exchange of missiles, but kept them in the forefront politically in our NATO alliance. But that has long been forgotten.

Shortly after I became National Commander, I decided that I would see for myself what was going on with our Caribbean Basin policy. I visited our Caribbean Contingency Joint Task Force at Key West, Florida and learned a lot about the growing threat and the destabilizing efforts of Fidel Castro in the Basin. A trip to Mexico and Panama with conversations with our Ambassadors and U.S. military leaders did not reassure me; in fact, I was struck by a complete lack of effectiveness of our regional foreign policy. Remember, President Carter had gone public over a new crisis in Cuba. Our intelligence revealed the presence, not just of Soviet military advisers, but of an organized Soviet army unit—a combat brigade! We would not tolerate the status quo, the President said. A Soviet army brigade in Cuba—that was unacceptable. However, a few days later, we accepted it! After all, the Soviets had assured us that those troops had been there for some time, and they were not an organized military unit. We should have expected this reaction from this Administration as when the Soviets introduced Mig-23 Floggers in Cuba, we had entered into the same semantic arguments about whether these fighters were the air defense model of this aircraft, or whether they were the close air support version, capable of carrying tactical nuclear weapons.

Our intelligence was made the scapegoat in this instance too * * * no one could decide which ones they were, so the issue dropped out of sight. No one cared to listen to those who spoke of how within 30 minutes bomb-carrying racks could be attached to the aircraft's wings. No one seemed to remember that when Kennedy was President, the Cuban missile crisis did not only involve missiles. We also asked the Soviets to remove their IL-28 tactical jet bombers. They were offensive weapons systems we said, and we insisted that they be removed along with the missiles. The Soviets replied no. The missiles were theirs, but the IL-28 jet bombers had been turned over to the Cubans. But Kennedy insisted, and in fact, the IL-28s were removed from Cuba. But today, we don't worry about offensive, capable jet fighter bombers carrying tactical nuclear bombs * * * they aren't missiles, so let's forget about them.

Another case, more recently: On March 25 of this year, Franklin D. Kramer, Principal Deputy Assistant Secretary for International Security Affairs, Department of Defense, revealed in public testimony before the House Subcommittee on Foreign Operations, Committee on Appropriations, that "the Hondurans believe, and our intelligence agrees, that their territory is being used as a conduit for men and weapons into El Salvador by insurgents with Cuban support, and they are also concerned that should El Salvador fall to the extremist left forces, Honduras will be among the next primary targets."

That's where we are today. The Cubans have trained revolutionary groups for years preparing the way for communist groups to overthrow rightist authoritarian forms of government. Nicaragua has gone the Marxist way while some of our leftist intellectual sympathizers state that the government isn't communist or Marxist. They say the government is reflecting the necessary pluralism so important to run the country today. They add, "Look at the problems they are having from leftist elements." In fact, the only problems the communist Sandinistas are having from the far left are from those far-out Trotskyites, who are so radical that even the communists have trouble controlling them.

And what is going on in El Salvador? The U.S. Government is backing a group that is hanging on for dear life, being attacked from the right and the left. But what are we requiring of them for our support? Economic measures which at best are socialistic; measures that the Department of State wouldn't dare recommend to this country.

While U.S. efficiency in agricultural production continues to increase significantly through greater economies of production with less people working larger farms, we find our U.S. Ambassador to El Salvador insisting that the large, efficient coffee, cotton and sugar cane plantations be broken up into small units to be distributed among the peasants, obstensibly to improve their economic lot.

On the surface this may appear to be a fair objective but when we consider the type of crops being harvested and the efficiencies obtained through modern techniques, we find that this would inevitably destroy the economic viability of the nation. All this coercion by our government takes place without the apparent knowledge of the American people. Our own government is fostering upon other countries * * * no, demanding that other countries * * * in order to gain our support, nationalize banks, redistribute the land, adopt communist economic principles that are a proven failure in Castro's Cuba.

How did we get there? Did it just happen to us? Not on your life! Leading elements of this U.S. Government moved in that direction consciously, deliberately, calculatingly and in fact, openly. But most of us were too fuzzy headed to notice it. And besides, it was happening in Latin America—and what does that matter to us in relationship to the security of the United States? Talk about the soft underbelly of Europe that Churchill was so fond of commenting on to his U.S. allies! Our soft underbelly is through the Caribbean Basin, and most of us are too intent on the possibilities of confrontation with the Soviets on the plains of Europe, and now in the Persian Gulf, to see the steady erosion taking place to our south that is effectively undermining our ability to control our economic life lines; those sea lanes that bring that precious oil to the United States through the Caribbean from the Middle East, around South Africa * * * and from Alaska, transiting the Panama Canal.

The "Blue Print" for our current Latin American policy was formulated in the Center for Inter-American Relations by a Commission on United States-Latin American Relations chaired by Sol M. Linowitz. There were two reports, one published in October 1974 and another on December 20, 1976. These two studies, plus another one called The Southern Connection by the Trans-national Institute, a Program of the Institute for Policy Studies and published in February 1977, accurately details our present U.S. foreign policy in Latin America.

It is a disastrous policy, which is basically defeatist in nature, abandoning U.S. responsibilities in the region, forsaking any 20th Century concept of the Monroe Doctrine and advocating the acceptance of any pluralistic ideology thrust upon the New World. A careful review of these studies reveals several interesting facts. The first two, chaired by Sol Linowitz, were supported by many distinguished individuals in the academic, financial and business world. The third, published by the openly radical and leftist Institute for Policy Studies (IPS), includes the names of staffers who contributed to all three studies and proudly announces its approval of the December 20, 1976 Linowitz Report and the fact that several of those who had prepared the IPS study had contributed to the Linowitz Report in different ways.

One name leaps out from the IPS study; it is Robert Pastor who is now, and has been since the present Administration has been in office, the principal Latin American adviser in the White House, working for the National Security Council. If there is any doubt as to the far left orientation of the IPS group, it is dispelled by their own acknowledgement in the preface to the study of their thanks to the late Orlando Letelier, "colleague and friend," who had read the first draft of the report.

As has been pointed out in the press, when Orlando Letelier was murdered, he was a self-professed Marxist and was known to have been receiving money from Castro's Cuba. So he was working as an instrument of the DGI, the Directorate General of Intelligence, which is a completely controlled instrument of the Soviet KGB. Safe to say, that he received his money as an agent of influence. Today his wife, Isabel Letelier, lectures to Americans on Cultural Ferment in Latin America for the Washington School, created by the Institute for Policy Studies.

To further illustrate the problem: On March 25, one of The American Legion staffers was appearing before the Subcommittee on Foreign Operations of the Committee on Appropriations, U.S. House of Representatives, in support of a Department of Defense sponsored Administration request for assistance funding for El Salvador and Honduras. While there, Ambassador Murat Williams appeared as a witness against the appropriations. He had been Ambassador to El Salvador from 1961–64. He said nothing about the Cuban sponsored subversion through Honduras against El Salvador confirmed by U.S. intelligence, only recommending that El Salvador be allowed to settle its own problems.

What was of greater interest were his comments to a Congressional staffer that Robert Pastor had asked him to testify. So, while top ranking government officials at the Departments of Defense and State were publicly supporting the Administration's reprogramming funds for the governments of El Salvador and Honduras, the principal adviser on Latin American affairs in the White House was subverting his President's policies by asking a witness to testify in opposition!

Lest you think I'm just harping at this Administration, I need to add that many of the Sol Linowitz Commission recommendations made in late 1974 were being implemented by the previous administration. What we now find is that they have been fully accepted and are being daily implemented as a basic guide and blue print for U.S. foreign policy in Latin America. The results are an ever increasing acceleration downwards in our ability to favorably influence our southern friends.

Early on during the present Administration, the first National Security Council guidance to the government bureaucracy was to proceed expeditiously with the Panama Canal Treaty. Sol Linowitz was given the green light for the give away and the Joint Chiefs of Staff caved in. Days later, inter-agency groups, under State Department chairmanship, met to formulate our U.S. policy for Latin America. After meeting several times with representatives, who cut across the entire gamut of the bureaucracy, the meetings ceased. Department of Defense officials wondered. Army, Navy, Air Force and Marine Corps officers couldn't fathom it. They never met again.

According to Sol Linowitz and the State Department, the Panama Canal Treaty was the key to all our Latin American policies. The U.S. was proceeding expeditiously with Human Rights, reduction of arms sales and the virtual elimination of our U.S. military groups throughout Latin America, but still the U.S. couldn't reach an agreement, within the government, resulting in an officially enunciated policy on Latin America. To this day, none has been announced. How does this Administration operate without an official policy? The answer is that the course is not without guidance. It just wasn't developed within government. The policy was written by the Sol Linowitz commission and supported by the Institute for Policy Studies in their report, "The Southern Connection," and is being promulgated by Robert Pastor in the White House and supporters of this policy in the Department of State.

If any of you have read these reports, there would be no doubt in your mind. The "Blue Print" for our disastrous policies in Latin America are being closely followed today. Our actions and responses are not haphazard accidents and muddling meanderings through the maze of events. Our actions are closely following and adhering to the Blue Print. One can well ask how is it that Zbigniew Brzezinski, who is such a hard liner on communism and the Soviets, can tolerate this bankrupt, defeatest policy in Latin America and the presence of Robert Pastor on his staff?

I don't have the answer. I ask the same question. We do know that Sol Linowitz, Robert Pastor and others active in the Institute for Policy Studies, played a key role in writing the Blue Print for our Latin American policies, and have been implementing them throughout this Administration. We do know that Sol Linowitz, after negotiating the Canal give-away, now plays a key role as Ambassador in negotiating between Egypt and Israel in the Middle East.

Was the Panama Canal Treaty the key to our successful relationship in Latin America? Take a look at those relationships now. Never in our history have we been in worse shape than we are now. We have forsaken our friends, alienated those who respected us and earned the scorn and contempt of our enemies.

Gentlemen, while our situation is serious in many parts of the world in our direct confrontation with Soviet strength, let us not forget our soft underbelly. Let us not forget that when we humiliated the Soviets during our confrontation with them during the Cuban Missile Crisis, they swore their revenge.

They are humiliating us in Cuba today with their military presence, their continued build-up of Soviet military strength and the unchallenged role of their surrogate, that Trojan Horse—Cuba, in their active role in Africa and in Latin America. Just this past Monday in the Washington Post, Jack Anderson wrote of our U.S. intelligence's discovery of "several large holes the Russians are digging near the Cuban city of Matanzos." He asks, "Are they an innocent feature of a suburban housing development, or underground silos for nuclear missiles aimed at the United States?" He goes on to write about the extension of a runway to 9,000 feet, thus making a third airfield capable of accommodating the Soviet's Backfire bomber in Cuba.

In a letter I wrote President Carter on March 5, I urged him to immediately formulate policy goals and objectives for the decade of the Eighties in the Caribbean Basin. I told him that I believed we were succumbing to communist subversion and infiltration without a shot "being fired in anger." We need a coherent Latin American policy. We need to take action in the Caribbean Basin, not only in our own interests but in the interests of our Latin American neighbors who are looking to us for leadership.

In a greater sense, we must consider the effects our indifference or lack of courage has on our world allies and the Third World. They are not unmindful of our inability to maintain harmony in our accepted, direct sphere of influence. As we evidence weakness elsewhere, particularly with Iran over the hostages, our faint-hearted allies can be expected to react by accommodating with the Soviets and the Cubans. These are very real dangers for the United States.

In a response to my concerns, expressed to President Carter, I received an answer from the Assistant Secretary of State for Inter-American Affairs, William G. Bowdler. I was struck by his comment that "Central America's travail was not caused by Cuba." One can guess what he means, though he doesn't spell it out. He admits that Cuba benefits from the problems but he does not describe the effects of over 20 years of Castro's communism, training cadre to foment revolution and supporting subversion throughout the hemisphere. What we are failing to do is recognize that Cuba is our problem. We are the only one's that can do anything about Cuba and yet we treat Castro's efforts to undermine and overthrow countries as though we had little interest in the outcome. We give the impression that if a government needing assistance is willing to bring about a change in its leadership through the creation of a new pluralism, we might be forthcoming.

As we allow the Soviets to increase their military build-up within Cuba, we drift further from the day when we would have the courage to do something about it. We have tacitly accepted the Soviet presence and have placed ourselves in such a position of weakness that the likelihood of any resistance to increased Soviet presence in Cuba by this Administration, regardless of intelligence confirmation, is not worth debating. It, therefore, becomes our duty to send out the clarion call for action!

Just because there is no massed military force now south of our borders, that presents a challenge to our sovereignty—let us not be unaware that we can be defeated piecemeal, as country after country is devoured by communism and our vital supply lines and access to raw materials are relentlessly and inexorably strangled and cut off. Let the United States choose where we will meet the Soviets and their challenge to our way of life. Let's now meet the challenge in our backyard, where we have interior lines and ability to take advantage of those Principles of War—mass and concentration.

Think about it!●

PROTESTS TO SOVIET UNION

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HOLLENBECK. Mr. Speaker, last week, I dispatched to Moscow an urgent communication for Leonid Brezhnev and Mikhail P. Georgadze concerning the pending executions of Raphail Adziashvili and Mamed Abasov. Both of these men were sentenced to death despite the fact that the prosecutor apparently had not even sought this penalty for their charge. They were convicted along with 52 others of economic crimes.

Now I ask you, Mr. Speaker, as I ask the rest of my colleagues in this distinguished Chamber: Given the poor human rights record which we all realize exists in the Soviet Union, how can we not protest such a blatant disregard of fundamental human principles? Of course, I realize the Soviets detest interference in what they consider their own internal affairs. However, there are certain truths which transcend territorial sovereignty and demand reaction from the world community in order to help prevent reoccurrences.

As I speak, time is running out for Raphail Adziashvili and Mamed Abasov. I hope that Americans will familiarize themselves with this deplorable situation and relay their protests to the Soviet Union.●

NEEDED: A NEW GI BILL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, anyone concerned with the defense posture of this great Nation knows that the paramount issue is manpower—recruiting and retaining the competent and qualified people needed to serve in our Armed Forces. This issue is a festering wound; there is no question that it needs attention. The debate concerns the type of treatment to be administered.

I have, since its inception, championed the All-Volunteer Force (AVF) concept as being consistent with the founding principles of these United States. With the AVF, the quality of U.S. Forces is directly related to the amount taxpayers are willing to pay to enjoy their precious security of life, liberty, and property. At present, those who serve to protect us are not receiving adequate compensation.

Today's New York Times carries an excellent article by my friend in our companion body, Senator WILLIAM ARMSTRONG, Republican, Colorado. He has obviously followed the issue closely and has given the topic much thought, for his proposal has merit and should be given attention. I commend it to my colleagues' attention and include it in the RECORD at this point:

NEEDED: A GI BILL

(By WILLIAM L. ARMSTRONG)

WASHINGTON.—When Congress killed the G.I. Bill in December 1976, the Army gloomily concluded that the pool of potential recruits would shrink by as much as 36.7 percent. Today, the Army has the right to tell Congress: "I told you so." Defense Department officials estimate that the Army is 50,000 short of its peacetime strength of 774,000 and 80,000 below projected wartime requirements.

Military manpower problems have gotten so bad that it is doubtful our armed forces could respond effectively to a major crisis. All Army units in the continental United States, except the 82d Airborne Division, are substantially under strength. The Navy, in April, had to tie up a frontline ship, the oiler U.S.S. *Canisteo*, for lack of skilled sailors to man it.

Along with the decline in numbers, there has been a precipitous drop in aptitude. Army manuals have been rewritten, downward, to eighth- and even seventh-grade levels, but commanders still report that many soldiers have difficulty understanding them.

With world tensions rising, it is vital that Congress take action now to improve both the quantity and quality of the young men and women entering the armed forces. A step that some advocate is resumption of the peacetime draft, but, in addition to being divisive, the draft is a cumbersome, expensive means of resolving a relatively small recruiting shortfall. Furthermore, a two-year draft would not fill the Army military occupation specialities where shortages are most critical.

A far more effective, and cost-effective, step would be to reinstitute G.I. Bill education benefits nearly on the scale of those provided by the World War II G.I. Bill. That bill and successive G.I. Bills have proved to be among the most successful Government social programs ever instituted, returning to the Treasury in tax revenues several times their costs as a result of increased earnings by veterans who otherwise would not have been able to afford to continue their education.

The rate of attrition in the Army is nearer 40 percent than the 18 percent that the Army, in March 1975, predicted Congress would find "unacceptable." Properly tailored educational incentives almost certainly would bring into the armed forces at least 50,000 high-quality-recruits each year. This would be enough to resolve current recruiting shortfalls, and to replace, in all the armed forces, 15,000 to 20,000 enlistees from the lowest mental-aptitude levels with recruits from the highest categories.

On April 22, a proposed G.I. Bill of 1980 was introduced in the Senate. It is based on comprehensive research done by Prof. Charles Moskos of Northwestern University, a prominent military sociologist. Under the bill, a serviceman or woman who completes two years of honorable service would earn the following benefits: 100 percent of tuition and fees at an accredited college or university, to a maximum of $3,000 a year, for a maximum of four years, and a subsistence allowance of $300 per month while enrolled in an accredited college or university, for a maximum of 36 months.

Because two years of honorable service would have to be performed before a serviceman would become eligible for benefits, there would be no cost for the G.I. Bill in the 1981 and 1982 fiscal years.

If 50,000 new recruits took advantage of the G.I. Bill benefits each year, the cost would be about $840 million in fiscal 1986, the first year in which there could be four classes attending school under the program.

After luring high-quality people into the armed forces, the next step would be to encourage them to stay by providing fair pay. Many military families struggle at near-poverty levels. For example, a plane handler on an aircraft carrier works 100 hours a week for less pay than a 40-hour-a-week cashier at McDonald's.

To correct this inequity, in April a National Defense Compensation Act was introduced in the Senate: a four-part package of pay raises that would enable military families to meet basic financial obligations. The raises range from 9 percent for lower grades to 100 percent for special-duty pay such as submarine and parachute pay. Many of these special pays have not been increased since 1955.

Prospects are growing for approval of some form of military pay raise. President Carter recently said that he would support a pay package that would include higher pay for sea and flight duty, an increase in food allowances, and higher housing allowances in high-cost areas of the United States. This Senate legislation, already introduced, is a useful first step. With its approval and, I hope, acceptance of a more-extensive across-the-board pay package, we will be able to provide military families with a living wage.

With the G.I. Bill to boost recruiting, and pay increases to ease the retention problem, the all-volunteer military forces can be preserved and we can end the disgraceful treatment of Americans in military uniform.●

IN PRAISE OF M. D. ANDERSON HOSPITAL AND TUMOR INSTITUTE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. HUBBARD. Mr. Speaker, I would like to share with the Members of Congress the following letter from my close friend and former law partner, Dennis L. Null of Mayfield, Ky. Many friends of mine have died with cancer. Dennis Null's father, Harry Null, was informed he had lung cancer earlier this year. I contacted several experts about cancer research and Harry Null was admitted on January 16, 1980, to the M. D. Anderson Hospital and Tumor Institute in Houston, Tex. Information I have gathered in recent months convinces me that this hospital is our Nation's finest cancer research facility. The text of Dennis Null's June 4, 1980, letter is as follows:

Pursuant to our agreement, I would like to report to you on the case of my father at the M. D. Anderson Hospital and Tumor Institute in Houston, Texas.

As you are aware, I first called you at your home on January 14, 1980. I informed you that my father had been diagnosed as having lung (small cell) cancer which was considered inoperable. The prognosis was not good. Since my father had no previous medical problems and the condition was diagnosed in a small Virginia hospital, I sought your help in finding a second opinion. Several options were presented after your research and we decided to go to Houston.

My father arrived in Houston on January 16. He was seen by Dr. Clifton Mountain and Dr. Manuel Valdivieso, who confirmed that my father had lung cancer and it was inoperable. However, he advised us that with the help of research grants, the hospital had available a sterile environment for treating cancer patients. This environment calls for total isolation of the patient for approximately 10 weeks while receiving massive doses of chemotherapy. Since there appeared to be no alternative, my father decided to accept the treatment. After you requested that I keep you aware of the developments in this case, I made two subsequent trips to Houston. I have thoroughly viewed the hospital and report as follows:

(1) This hospital, and the staff, are working hard to fight cancer. My father was accepted in the expensive research program with no regard to race or financial condition. He was not considered on the basis of residence or political connections. The type and extent of his cancer was the sole criteria used.

(2) From talking to other patients and families of patients, I believe that my father's experience with Anderson Hospital is the norm, rather than the exception.

(3) The staff at Anderson appears to take the time necessary to explain the medical situation to those involved.

(4) The intensive induction chemotherapy my father received appears to have resulted in an excellent response. It further appears that his prognosis has been improved as a result of this treatment.

(5) Cancer is a disease which is extremely debilitating for the patients and a source of suffering for the families. It affects so many Americans. It would appear to me that Congress should launch an all out war on this disease. Research centers, such as M. D. Anderson, offer a viable alternative to simply waiting for a dramatic cure. The "cure", if one is to come, will only be the result of extensive research.

Sincerely yours,

DENNIS L. NULL,
Attorney-at-Law, Mayfield, Ky.●

EAST ORANGE RECOGNITION AWARDS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. RODINO. Mr. Speaker, on Friday, May 30, a very special event was held in New Jersey's 10th Congressional District—the 1980 Recognition Awards ceremony at East Orange High School. The ceremony was hosted by East Orange Mayor Thomas Cooke, a man who is vitally concerned with the spirit of the community in which he lives. Tom Cooke is seriously committed to helping the youth of East Orange fulfill their individual potentials and work for the common good.

The mayor's goal has been to reward human achievement especially among those who have not previously been recognized but who make daily contributions to the community. Although the award recipients are too numerous for me to list here, I want to describe the categories of awards because they represent many areas of service and special achievement. For example, Mayor Cooke distributed community talent awards, International Year of the Child awards, awards for the Martin Luther King, Jr., memorial program for talent, the holocaust program, the black heritage program, as well as talent recognition awards, community volunteer service awards, special awards, community achievement awards, best employees awards, and awards for municipal employees with 5 or more years of service. Mayor Cooke also provides awards to community organizations and churches.

Mr. Speaker, the ceremony was a delightful evening of entertainment, with music from Mozart, Schubert, Gershwin, and others performed by East Orange residents. The affair was a product of a combined effort by Mayor Cooke, the East Orange City Council, and many concerned citizens.

I was privileged to attend this important function and I want to add my congratulations to all those special individuals and organizations who received awards for their conscientious work for the East Orange community.●

A TRIBUTE TO FATHER NICHOLAS BILLIRIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. ANDERSON of California. Mr. Speaker, in recognition of outstanding spiritual leadership in church and community affairs, the parish council of the Long Beach, Calif., Greek Orthodox Church will sponsor a testimonial dinner for Father Nicholas Billiris this June 13. During and before his 30 years as minister of the Long Beach area Greek Orthodox congregation, Father Billiris has demonstrated a living pattern of generosity and achievement. Today, I honor this man by sharing with my colleagues here in the Congress a brief review of his many accomplishments.

Father Billiris was born on the Mediterranean island of Kalymnos on June 8, 1915, during the Italian occupation. He received his early education on Kalymnos, graduating from high school in 1932. In 1939 he escaped the Italian-ruled area and fled to Greece. Upon declaration of war by the Italians against Greece in 1940, he volunteered for military service.

He fought for the next 5 years in the 1st Greek Brigade, with the 8th British Army, and then with the Greek 3d Brigade. The bravery he displayed during those years was rewarded by six decorations, including two awards of the Outstanding Achievement Medal. He also received the King George Special Award; the African Star Medal; the Bronze Cross; and the Silver Medal for Bravery.

Following his discharge in 1945, he completed his studies at the University of Athens School of Theology. In 1946 he married Calliope Zervos and in 1947 they came to the United States.

He spent his first 2 years in this country in New York City, where he was ordained as a deacon. In 1949 he was ordained a priest and began his ministry in Long Beach.

Through his character and hard work, Father Billiris has earned growing personal respect. And as his stature in the community has risen, he has progressed within the church as well. In June 1952, he was promoted to the office of Economos by his grace, Bishop Athenagoras of Elaia, and in August 1970 to the office of Protopresbyter by his grace, Bishop Meltios of Christianoupolis. Father Billiris served as a member of the Ecclesiastical Court under Bishop Athenagoras, Bishop Demetrios, and Bishop Meltios from 1951 to 1979.

Now, after almost 31 years of service, his ministry commands a wide and varied following. Citizens come from as far away as Downey, San Pedro, Wilmington, and South Gate to hear his Greek services and to worship at the church he oversees. His congregation is a strong one, and with the foundation prepared by Father Billiris, is certain to remain strong for many more years.

My wife, Lee, joins me in congratulating Father Billiris for his many years of invaluable service to his community. He has far exceeded his required duties. We are proud to know him as a friend and honor him as a leader. Our best wishes for continuing success go to Father Billiris, his wife, Calliope, and their two daughters, Barbara and Irene.●

THE 60TH ANNIVERSARY OF THE PEACE TREATY OF TRIANON

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. DOUGHERTY. Mr. Speaker, on June 4, 1980, Hungarians all over the world commemorated the 60th anniversary of the Peace Treaty of Trianon. This treaty, which was supposed to implement the noble ideals of President Wilson's 14 points on national self-determination, fell far short of its mark and became a document of French security policies to the detriment of Hungary, whose Prime Minister was the sole opposing voice against the war in the Crown Council of Austria-Hungary in July 1914.

Hungarians throughout the world commemorate the anniversary of the treaty in mourning, for over 70 percent of the territory and over two-thirds of the population of the Kingdom of Hungary was taken away from the Hungarian state. Over 3.3 million Hungarians were placed under foreign rule and were mistreated, especially in Romania, despite the Minority Protection Treaties between the allies and the successor states of Austria-Hungary in 1919. The problems created by the treaty, the authors of which refused any suggestions for plebiscites for adjudicating claims, helped first Hitler, and later Stalin, to divide and conquer the area.

The United States did not favor the treaty. Gen. Harry Bandholtz, our representative at the Allied Military Mission in Budapest in 1919-20, acidly criticized the smaller allies' intrigues to gain Hungarian-inhabited areas, and the U.S. Senate has never ratified the treaty. Even in the hostile atmosphere after World War II, the American delegation to the Paris Peace Conference of 1946 suggested frontier adjustments in Transylvania in favor of Hungary, only to be vetoed by the Soviet Union.

Unfortunately, the consequences of the treaty were not only historical. Even today, about 4 million Hungarians live in the surrounding states around Hungary, most of them—2.5 million—in Transylvania, which is now part of Romania. Indications are that the systematic denationalization of the Transylvanian Hungarians, despite worldwide criticism, is designed to eliminate this large ethnic group in the next two to four decades.

In Czechoslovakia, Hungarians share the unkind fate of all the people under Soviet occupation but, in addition, complain of few educational opportunities on the secondary and postsecondary level. In Yugoslavia, their educational opportunities are better but their fate is uncertain in the wake of the death of President Tito.

There is a small, mostly silent, minority of Hungarians in the Soviet Union. The U.S.S.R. insisted that President Benes of Czechoslovakia turn over to the Soviets the Province of Carpatho-Ukraine in 1945 with its mixed Ruthenian-Hungarian population. Now 200,000 Hungarians are subject to direct Soviet control and have the colonial status of all the nationalities in the Soviet Union.

The American Hungarian Federation is wise to continue to remember the treaty and its consequences. And, although there is little we can do at the present time, I urge my colleagues to at least take notice and denounce the Communist and nationalist oppression of the Hungarian national minorities in Central Europe, particularly in Romania.●

FATHER JOSEPH M. DOYLE HONORED ON HIS 40TH ANNIVERSARY TO THE PRIESTHOOD

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. GUARINI. Mr. Speaker, a very dear and personal friend of mine is being honored for giving a lifetime of service to God and man. His contributions have been most noteworthy, and for the edification of my colleagues, I respectfully submit my feelings regarding this great man.

Father Joseph M. Doyle, moderator for the St. Ann's Senior Guild of St. Ann's Home for the Aged in Jersey City, was born in Jersey City on May 7, 1912. He graduated from St. Paul's Grammar School and St. Peter's Prep prior to his graduation from St. Peter's College, where he received a bachelor of arts degree. He also completed masters course work at Seton Hall University in the pastoral counseling program of the Archdiocese of Newark, N.J.

Father Doyle was ordained on May 18, 1940, by Archbishop Walsh at St. Patrick's Pro-Cathedral. He served 21 years at St. Thomas the Apostle, Bloomfield, where he was administrator twice, and St. Joseph the Carpenter, Roselle for 6 years where he was once administrator. He was pastor at Most Blessed Sacrament, Franklin Lakes, 10 years, and for 3 years has been chaplain at St. Ann's Residence and archdiocesan coordinator for Widow-Widowers Apostolate, for which he was recently cited.

His activities have included, at a parish level, Holy Name Society moderator; Rosary Confraternity moderator; C.Y.O. programs—Bloomfield and Roselle; sex education talks to upper grammar grades; C.C.D. teaching, high school level; C.W.V. (Catholic War Veterans) chaplain.

At a civic level, his activities include fire chaplain, Bloomfield, Roselle, Franklin Lakes; Blood Bank: Committee, Franklin Lakes; Memorial Day program committee—6 years; youth council, appointed by Franklin Lakes mayor; P.O.W. "Welcome Home" committee and program; Franklin Lakes 50th anniversary committee.

At a diocesan level, he was active in Communications Apostolate (Legion of Decency) slide talks lectures to civic and church groups; Family Life Apostolate—executive board; Cana conferences around the archdiocese, 10 years; "anniversary couples" annual program and committee; C.O.P.O. (Catholic One Parent Organization) in each county of the archdiocese; marriage counseling, cases assigned by Catholic charities.

Father Doyle also taught high school for 6 years at Roselle Catholic and at Girls Catholic in Roselle, and was director of Girls Catholic High School.

Father Doyle has written one volume of poetry "Peacock Preenings," with another in preparation, "Peacock Graffiti."

The peacock is the symbol of the St. Peter's College, near and dear to all of us in Jersey City.

I am proud to have served as a member of its board of regents.

On Sunday morning, June 15, 1980, 45 priests will be joined by Bishop Jerome A. Pechillo, auxiliary bishop for Hudson County. After this concelebrated Mass to be held at St. Paul's Church in Greenville, a reception will be held in his honor in Bayonne, N.J.

Father Doyle's contributions are endless. He has counseled young and old. Indeed he has harbored those in need—building today for the world of tomorrow. Helen Keller's quotation befits him excellently:

> The commonwealth of the future is growing surely out of the state in which we now live * * *. Each hand will do its part in the provision of food, clothing, shelter, and the other great needs of man, so that if poverty comes all will bear it alike, and if prosperity shines all will rejoice in its warmth.

He has shown respect for his fellow man and is a believer in fair play and social justice for all.

I believe the quotation that Helen Keller made in Little Falls, N.Y., in November 1912 sums up our beloved Father Doyle:

> When indeed shall we learn that we are all related one to the other, that we are all members of one body? Until the spirit of love for our fellowmen, regardless of race, color or creed, shall fill the world, making real in our lives and our deeds the actuality of human brotherhood—until the great mass of the people shall be filled with the sense of responsibility for each other's welfare, social justice can never be attained.

He has inspired all those his hand has touched with his leadership and love. He has led each hand to do its part, alleviating the needs of man. We have learned to love Father Doyle as we rejoice in his warmth and spirit of service.

It is my proud privilege to be invited by his sisters Catherine and Margaret Doyle of Jersey City, and Sister Margaret Josephine, O.P., of Newburgh, N.Y., to share in the joy of the fortieth anniversary in the priesthood of their brother, at the Mass and family reception to be held on June 15.

I am pleased because Father Doyle is my brother also.●

TRIBUTE TO CLARENCE MITCHELL, JR.

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. CORMAN. Mr. Speaker, on Monday, June 9, 1980, President Carter presented the Medal of Freedom Award to Clarence Mitchell, Jr., and 13 other distinguished Americans.

Clarence Mitchell, Jr., deserves that award and all of the honor, pride, and esteem that accompanies its bestowal. He also deserves the endless thanks and appreciation of the citizens of this great Nation for the life-long devotion he has given to achieve justice, equality, and human dignity for all Americans. It is because of Clarence Mitchell's unending and unyielding efforts that this country has come much closer to attaining those very important goals.

It is with the greatest respect that I join with my colleagues to pay tribute to Clarence Mitchell, Jr., the highly deserved recipient of this country's highest civilian award.●

SHORT-TIME COMPENSATION BILL: AN ALTERNATIVE TO LAYOFFS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mrs. SCHROEDER. Mr. Speaker, what originally looked like a "short and shallow" economic downturn now appears to be a full-blown recession. Some economists predict that the recession of 1980 will be one of the two worst since the Great Depression. Already, the automobile, rubber, steel, and construction industries have laid off thousands of workers. Economic history demonstrates that unemployment in these industries foreshadow unemployment throughout the economy.

Recessions do not inflict all segments of society equally. The brunt is borne by those who are laid off. It is quite clear what type of worker is most likely to be laid off. It is the least skilled, the most recently hired, the minority worker, the female worker, who is likely to lose work.

The physical and psychological consequences of long-term layoffs are devastating. Imagine what the loss of income, benefits, health insurance, and job status does to an individual. The agony of being unable to meet mortgage and car payments is intense.

Those laid off are, of course, not the only ones hurt by recession. Revised production schedules and bumping procedures often mean that retained workers end up in lower paying jobs or in jobs which they find unsatisfactory. Companies find significant reductions in productivity from reorganizations, retraining, and disruption caused by layoffs.

The taxpayer is hurt as well. The Congressional Budget Office estimates that for each additional percentage of unemployment, Federal entitlement programs cost $5 to $7 billion more. For each new percentage point of unemployment, tax revenues decline by $20 to $22 billion.

I believe that there exists a way to reduce the negative impact of a recession. Today I am introducing legislation which would create an alternative to costly layoffs. The Short Time Compensation Act of 1980 encourages States to permit payment of unemployment compensation (U.I.) benefits to employees who are laid off partially. It encourages work sharing as an alternative to layoffs. Under this legislation, workers will be paid their regular wages for the time they work and prorated U.I. benefits for the time they do not.

Currently, only the State of California is able to pay unemployment insurance for a partial layoff. This bill authorizes the Secretary of Labor to develop model legislation, make grants, and provide technical assistance to States in developing, enacting, and implementing short time compensation programs.

The bill proposes a voluntary approach: Use of short time compensation will be voluntary for States, employers, and employees in unionized firms. While State experimentation is encouraged, the legislation contains some basic guidelines to protect employees and the integrity of the unemployment compensation trust funds. It also establishes a controlled demonstration project.

Although short time compensation is a relatively new concept in this country, it has been used for decades in Western Europe as an important tool to combat layoffs. In the last recession, more than 770,000 German workers received partial compensation.

California has had a successful short time compensation program since mid 1978. It has worked well: California workers, employers, and unions seem satisfied with it. The legislation was originally introduced by Senator William Green, chairman of the Industrial Relations Committee, in the aftermath of passage of proposition 13. Last year, however, the program was extended by the State legislature.

The advantages of short-time compensation to workers is obvious. It preserves their job attachment and fringe benefits. It also may be a better way of doing business for employers as well. Even though it costs them more to maintain fringe benefits, it reduces their costs of rehiring and training. Short-time compensation can improve longrun productivity since it helps employers retain a skilled work force.

The legislation can also benefit unions. A number of unions have collective bargaining agreements that call for work sharing among employees before layoffs are permitted. However, under current law in most States, this work sharing has to be done without compensation. My bill would allow the payments of U.I. benefits to workers in those unions who already use reduced work hours before resorting to layoffs.

Short-time compensation is a cost-effective way to fight unemployment. The cost of my bill to establish this 3-year experimental program totals $10 million. Since employers will be required to certify that the use of short-time is in lieu of an equivalent number of hours of full-time layoffs, it should not be more costly to the U.I. trust funds. Moreover, employers who are at their maximum tax rate can be charged an additional surtax or be required to reimburse the trust fund for their utilization of short-time compensation.

Use of short-time compensation would have a stabilizing force for the local economy. Employees on short-time compensation will come closer to maintaining their normal incomes, especially since they will have reduced work-related expenses and U.I. benefits are nontaxable. In addition, their increased purchasing power will sustain local businesses and help the State's economic recovery, since there will be greater tax revenues for the State.

Since we seem to be headed for an extremely serious recession, I think it is a good time for Congress and the States to test this alternative to layoffs.

Mr. Speaker, I insert the bill in the RECORD as introduced:

A bill to encourage States to provide unemployment benefits to certain partially unemployed workers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Short-Time Unemployment Compensation Act of 1980".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to encourage States to provide partial unemployment benefits to individuals whose workweek is reduced pursuant to an employer plan under which such reductions are made in lieu of total layoffs.

SEC. 3. DEVELOPMENT OF STATE PROGRAMS.

(a) RESPONSIBILITIES OF THE SECRETARY OF LABOR.—

(1) The Secretary of Labor (hereinafter in this Act referred to as the "Secretary") shall develop legislation which may be used by States as a model in developing and enacting short-time compensation programs.

(2) The Secretary may make grants, and provide technical assistance, to States to assist in developing, enacting, and implementing short-time compensation programs.

(3) States are encouraged to experiment in carrying out the purpose and intent of this Act. However, to assure minimum uniformity, the Secretary may require the provisions contained in subsections (b) and (c).

(b) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this Act, the term "short-time compensation program" means a program under which—

(1) Individuals whose workweek has been reduced pursuant to a qualified employer plan by at least 10 percent will be eligible for unemployment benefits,

(2) The amount of unemployment benefits payable to any such individual shall be at least a pro rata portion of the unemployment benefits which would be payable to the individual if the individual were totally unemployed,

(3) Short-time compensation benefits attributable to services with employers who have positive reserve accounts shall be financed by the usual manner of charging reserve accounts by experience rating,

(4) Employers with negative reserve accounts may be required by the State to make reimbursement to the Trust Fund quarterly for costs attributable to utilization of short-time compensation benefits charged against their reserve accounts or charged a surtax by the State,

(5) Eligible employees may apply for and collect short-time compensation or regular unemployment compensation benefits, as

needed; but no employee may collect more than the maximum unemployment compensation benefit to which they would have been entitled for full-time unemployment, and

(6) Eligible employees will not be expected to meet the availability for work or work search test requirement while collecting short-time compensation benefits. However, they must be available for their normal workweek.

(c) QUALIFIED EMPLOYER PLAN.—For purposes of subsection (b), the term "qualified employer plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees rather than total layoffs if—

(1) The employer's short-time compensation plan is approved by the State agency,

(2) The employer certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of total layoffs which would result in an equivalent reduction of work hours,

(3) The employer continues to provide health and pension benefits to employees whose workweek is reduced under such plan at the same level as provided before such reduction, and

(4) In the case of employees represented by a union, the appropriate official of the union (or union hall) has consented to the plan and implementation is consistent with employer obligations under the National Labor Relations Act.

(d) STATE.—For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

SEC. 4. DEMONSTRATION PROJECTS.

(a) GENERAL RULE.—The Secretary shall conduct 1 or more controlled demonstration projects for purposes of evaluating the effectiveness of short-time compensation programs.

(b) PROJECTS CONDUCTED IN COOPERATION WITH STATE AGENCY.—Any demonstration project under subsection (a) shall be conducted in cooperation with the State agency which administers the unemployment compensation law for the State in which such project is conducted.

(c) COST PAID BY SECRETARY.—The costs of administering any demonstration project conducted under subsection (a), and of the benefits paid under such project, shall be paid by the Secretary.

SEC. 5. REPORTS.

(a) INTERIM REPORTS.—The Secretary shall submit to the Congress 2 interim reports on the implementation of this Act. The first of such interim reports shall be submitted on or before October 1, 1982.

(b) FINAL REPORT.—Not later than October 1, 1983, the Secretary shall submit to the Congress and to the President a final report on the implementation of this Act. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

For the fiscal year beginning October 1, 1980, and the 2 succeeding fiscal years, there are authorized to be appropriated from the general fund of the Treasury such sums (not to exceed a total of $10,000,000) as may be necessary to carry out the purposes of this Act.●

OUR GLOBAL ILLITERACY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. SIMON. Mr. Speaker, in April, our colleague JOHN BRADEMAS addressed the Florida State University in Tallahassee. His remarks, titled "Our Global Illiteracy" speak directly to a problem this country is facing which does not make national headlines, but should be of grave concern to all of us. Last year, I served on the President's Commission on Foreign Language and International Studies. The overwhelming conclusion of this Commission is that the drastic decline in foreign language and international education at all levels of our education system presents very real economic and security threats to our national stability.

This address raises the very issues we will have to confront in budget debates, appropriations bills, and approaches to our national security if we are going to turn around a parochial and damaging policy and move to reassume a strong position within the international community. I applaud our colleague for a very fine and perceptive speech.

OUR GLOBAL ILLITERACY

I count it an honor to participate in this lecture series on "Literacy in America" at Florida State University and to follow such distinguished figures as William Styron, Sir Huw Weldon and Carman St. John Hunter, and I want to thank Dr. Leon Golden, the Director of your "Program in the Humanities", for having invited me to be with you.

I. THE WORLD TODAY

In contemplating this trip to Tallahassee, I found myself thinking back to 1958, the year I was first elected to Congress, for that, too, was a time when events occurring outside the United States—Sputnik in that case—were exerting a profound influence on our thoughts and actions here at home.

Much the same process is going on today—except that the range of outside events is so much broader than it was then. On the "CBS Evening News" one week ago, for example, the first twenty-two minutes of the thirty-minute program were devoted to foreign affairs. To be sure, it was a major news day—President Carter had just announced an end to diplomatic relations with Iran. And the matters reported surely warranted our attention.

But, in terms of news coverage, last Monday's was not that different from other news broadcasts. Increasingly in recent years, foreign affairs have come to play a major role in the news we see and read every day. Beyond issues clearly international are still others, seemingly domestic, but which also affect and are affected by world events: the price of shoes in Maine, the prosperity of farmers in Wisconsin, the sales of cars made in Detroit, the cost of raising cattle in Florida.

This intermingling of foreign and domestic concerns should not surprise us. America's involvement with the rest of the world grows almost daily.

Our exports of goods and services increased 202 percent between 1960 and 1976.

Our imports over the same period grew by 246 percent.

Our direct investment abroad rose by 123 percent.

Foreign investment in our country expanded by 77 percent.

These changes have occurred not only in trade but in travel as well.

Twice as many Americans traveled abroad in 1976 as in 1960 while the number of foreign visitors to the United States more than tripled over that same period.

These figures tell only part of the story, for there are other changes in the way Americans now relate to the world. Let me cite just two:

Sharply intensified competition for what are now viewed as finite resources of food and fuel; and

The emergence of new actors on the international stage; nations with newly acquired power through their control of these resources; and multinational corporate giants.

As one commentator has put it, "With America seriously buffeted by overdependence on oil . . . lagging economies and . . . continued political unrest in many parts of the globe, what was until recently the American century has turned into the global century."

I want to discuss with you this morning how well we have prepared ourselves to understand changes like these and others.

II. THE IMPORTANCE OF UNDERSTANDING

For surely none of us would argue that in a world characterized by developments like these, "a world," in Harland Cleveland's phrase, "Where Everthing Leads to Everything Else," we can prosper, indeed, survive, without a deeper and broader knowledge of the other peoples and cultures that populate this planet.

I have several points in mind here.

First, in respect of our national security, an effective foreign and defense policy demands specialists educated to understand events—and the people and forces that shape them—throughout the world. We cannot rely on guesswork.

Second, in the economic sphere, the competition for foreign trade grows ever stiffer. Already, one of every eight American industrial jobs, and one of every five American agricultural jobs, depend on international commerce. We must have people who can work intelligently with Government and business leaders in Swiss banks, Arab emirates, and Chinese trade councils.

Third, in politics, rational consideration of, and support for, the policies of our government require an informed and knowledgeable public. No wonder it is difficult to get together a national energy policy for this country when public opinion polls tell us that most Americans have not even known that we import from abroad half the oil we consume.

As a Texas State legislator once said, "Folks are generally down on what they ain't up on!"

Finally, the understanding and sensitivity we bring to our dealings with other peoples is vital to their view of us. Many of the foreign students now living in the United States, for example, will constitute the next generation of political, economic and scientific leaders in their countries. The knowledge and attitudes they acquire about our knowledge and attitudes will shape their view of America for years to come, with consequences we cannot ignore.

A greater appreciation of foreign cultures and foreign tongues pays dividends at home as well. Surely no one living in Florida can be oblivious to the several cultures and tongues that mingle here and the contributions—economic, cultural and political—they mean to your State.

For all these reasons, then, we in America need to enhance our knowledge of that vast portion of the world, mostly non-Western, different from us. "It is axiomatic," wrote one commentator—"and the first step to international consciousness—that once another language is mastered it is no longer foreign, once another culture is understood, it is no longer alien."

How well have we done?

III. OUR GLOBAL ILLITERACY

We have not done very well.

Just last fall, in fact, that discouraging news was delivered to President Carter. A 25-member Commission which he appointed, headed by James A. Perkins, the former president of Cornell, reported on the results of its year-long examination of foreign language and international studies in the United States. This inquiry involved lengthy hearings and testimony from more than a thousand persons.

The Commission members said they were "profoundly alarmed" by what they learned. Here are some of the reasons they gave:

Over 40 percent of twelfth graders in a recent survey were unable to place Egypt correctly on a map, while over 20 percent were equally ignorant about the location of France or China.

Only 5 percent of prospective teachers take even a single course relating to international affairs or foreign peoples and cultures as part of their professional preparation.

Only 15 percent of American high school students now study a foreign language—down from 24 percent in 1965.

Only one in twenty high school students studies French, German or Russian beyond the second year. Four years are generally considered a minimal prerequisite for usable language competence.

Only 8 percent of American colleges and universities now require a foreign language for admission, compared with 34 percent in 1966.

There are an estimated ten thousand English-speaking Japanese business representatives on assignment in the United States. By contrast, there are fewer than nine hundred American counterparts in Japan—and only a handful of these have a working knowledge of Japanese.

Federally financed foreign language and area studies fellowships fell from a peak of 2,257 in 1969 to 828 in 1978.

American participation in exchange programs is declining at a time when other nations are expanding such efforts. A recent study by the General Accounting Office found that, compared to both allies and potential adversaries, American investment in these programs is proportionately the lowest of any of the countries surveyed.

Not comforting

These statistics are not comforting. If King Charles V was correct centuries ago in saying that "to possess another language is to possess another soul", America has been losing souls at an alarming rate.

The Perkins report concluded that "America's incompetence in foreign languages is nothing short of scandalous, and it is becoming worse."

Nor is the President's Commission the only messenger bearing bad news. A 1977 survey of business schools, for example, found that 75 percent of recent Ph. D.'s and D.B.A.'s had taken not a single course in business school dealing with international affairs. Another 10 percent had taken only one such course. Clearly, our lack of knowledge of the world is not limited to the so-called general public. Our "leaders of tomorrow" in business and industry appear to be no better off.

Our national "global illiteracy" was brought home to me again over a year ago with the start of the crisis in Iran. I wondered how well equipped we were as a Nation to understand the roots of our troubles there and, more broadly still, the revival of Islam that appeared to be sweeping across a wide arc of nations from Egypt to Pakistan.

So I asked some questions about the state of Islamic studies in the United States.

I found that there are currently only eleven centers of Middle Eastern studies in this country.

There are, including these eleven centers, some twenty-five colleges and universities in the entire country that offer Middle East studies programs. Beyond these twenty-five, three or four theological seminaries have Islamic programs; but there is only one college in the United States with a comprehensive "Muslim world" program—Ricker College in Houlton, Maine.

The total number of students in Middle East centers and college programs throughout the United States is no more than two thousand.

Of the twenty-five colleges with Middle East programs, most offer Judaic rather than Islamic studies; and, in the latter group, most courses deal with anthropology, social history or literature; few with the Islamic religion.

Another leading scholar, at Harvard, reminded me that Islamic studies cover a wide geographical area, including not only Iran and the Arab states but the Philippines and Indonesia, sub-Saharan Africa, Spain and Turkey as well. He might have added the Soviet Union!

Small numbers of specialists

Although, he said, there may be several hundred persons in Iranian studies in the United States today, those who could be called "Persian specialists", knowledgeable in the language, history, culture and society are, he said, "far, far smaller" in number.

Another Middle East scholar, from Columbia University, bewailed the great scarcity of Iranian specialists at the Department of State and asserted that from the time major troubles in Iran began last year, it was "ages" before the State Department believed that the religious dimension of the Iranian situation was significant.

Nor have we sufficient specialized knowledge, he said, to deal with other potential danger spots such as Turkey with the Kurds, the Sudan and Somalia.

I remember still how the great Harvard Sinologist, John King Fairbank, once declared that when the Vietnam war began, there were no more than half a dozen senior scholars in the United States who knew the language, culture and history of the nation that became the locus of one of the great tragedies of American history.

And I read now how in Teheran in 1978, only nine of our sixty Foreign Service officers could even speak Persian. We seem to have learned little from our own history!

IV. REASONS FOR THE DECLINE

Now, how has this happened? How have we permitted our knowledge of the world, and our ability to deal with other nations in their own languages, to deteriorate so badly?

The short answer is: there are many reasons.

Let me read you the following sentence:

The Congress hereby finds and declares that a knowledge of other countries is of utmost importance in promoting mutual understanding and cooperation between nations; that strong American educational resources are a necessary base for strenghtening our relations with other countries; that this and future generations of Americans should be assured ample opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and that it is therefore both necessary and appropriate for the Federal Government to assist in the development of resources and trained personnel in academic and professional fields, and to coordinate the existing and future programs of the Federal Government in international education to meet the requirements of world leadership.

A ringing declaration, wouldn't you agree? We wrote that language fourteen years ago as an introduction to the International Education Act of 1966, a measure I authored after chairing a special Task Force on International Education in the House of Representatives. Although the act, aimed at strengthening the resources of American colleges and universities in international studies and research, was signed into law by President Johnson, Congress never appropriated a penny to turn these words into real programs.

Perhaps because of its title—"International Education"—The act was viewed by some as more foreign aid: A red flag to many in Congress then as now. I cannot help thinking, however, that the commitment to knowledge we sought nearly fifteen years ago would, if fulfilled, have long since borne fruit in many ways.

The failure of Congress to vote money for the International Education Act had other, less direct, consequences. With passage of the legislation, and in anticipation of major federal funding, foundations which had been providing the bulk of support for international studies in our colleges and universities began to withdraw from the field. This process continued even after it became apparent that federal money would not be forthcoming.

Private funds disappeared

As a result, private funds for international studies in this country virtually disappeared. For example, money for this purpose from the Ford Foundation, which provided $242 million in the 1960's, fell to $4 million by 1978. By 1978, private foundations overall were earmarking only 4.5 percent of their grants for international studies while only 2 percent of all education grants from corporations were directed to such programs.

To find other reasons for the decline of foreign language and international education, one must look to the schools and colleges and universities. Developments there in recent years have had a major impact. I shall mention several:

First, the "vocationalization" of college education generally.

As students have become more and more preoccupied with finding a job after graduation, they have been less willing to "waste their time" taking courses the value of which in the job market is not immediately apparent. And, as job prospects for teaching positions in language or international education have dimmed as a result of the decline in the school-age population, so has the incentive to enter these fields.

Second, the poor caliber of instruction in these areas.

I have earlier spoken of the general lack of exposure to international affairs of most teachers, including, it seems apparent, teachers of subjects with an international component. In this case, what they don't know will hurt them!—and their students as well.

Fred Hechinger, education writer for the New York Times, raises a related but different point. He questions whether there is a good match between language teachers and language students.

Hechinger says that "much of what is wrong with modern language scholarship . . . (is that) the field is concerned with practically everything except language. . . ."

He cites examples from the program catalogue of the modern language association: "The development of literary consciousness in 16th century French literature", "cognitive psychology and the teaching of literature" and "historical germanic syntax: The methods and results."

Hechinger concludes: "Good scholarly topics all, but, in the view of some foreign language experts, not the kind of academic model that encourages college-bound high school students to choose a foreign language. University faculty members engrossed in such scholarship are not likely to take much interest in teaching foreign language to undergraduates or preparing foreign language teachers."

Hechinger's point is sound: Of course, we need scholars, but we need teachers, too.

Other problems

There are other problems. For example, of the 15 percent of the nation's high school students who study a foreign language, only 2 percent ever reach the third year.

"The most common experience for American students of foreign languages," said one of the Perkins Commission staff members, "is to endure the most difficult and least rewarding phase without gaining access to the natural rewards that make such study tolerable . . . quitting after a year or two, their experience is marked by understandable bitterness and frustration. Later, when such students find themselves on local school boards, they act upon this unsuccessful learning experience, to the detriment of foreign language programs."

Even worse than brief exposure to a foreign language is none at all, but many colleges and universities—at least during the sixties and early seventies—sought to respond to student calls for greater flexibility and more relevance in curriculum by simply eliminating language requirements. Not surprisingly, many high schools responded to these moves by severely curtailing or dropping their language programs.

Now there is a new and widening concern: Balancing budgets. Schools and colleges and universities, increasingly strapped for money, react by cutting back what some see as frills: Teaching about another culture, another language.

And, finally, after this litany of political, educational and financial factors, is an emotional one: In recent years many Americans, deeply disturbed by what had happened to us in Vietnam, grew tired of the world and closed their doors—and minds—in a new wave of isolationism.

VI. SIGNS OF PROGRESS

But I see some signs of hope.

The report of the Perkins Commission was discouraging, but the existence of the commission demonstrates our willingness to analyze out situation—the first step toward improving it.

Let me recite some reasons for cautious optimism about the future of international studies in the United States.

First, having just noted the elimination of language requirements by many colleges and universities, I should point out the emergence of a counter-trend: The rebirth of the "Core Curriculum." At Harvard, Stanford and elsewhere, universities are rethinking the changes of recent years and rethinking, too, what students today should be getting in the way of an education. Foreign language requirements for a B.A. at Florida State were never abandoned, but elsewhere, curriculum requirements are being reimposed, and a new emphasis is being placed on learning about societies and civilizations unlike our own.

Second, the American people as a whole are paying more attention to international affairs. Network news broadcasts are apparently enjoying their highest ratings in years. Late evening news specials are rivaling the popularity of well-established talk shows. It was no accident that ABC television named its revamped news offering. "World New Tonight."

Third, we are seeing sharp increases in attendance at museums throughout the country, particularly for exhibitions from abroad. As Author of the Arts and Artifacts Indemnity Act, which made possible the exhibition in this country of exhibits such as "The Treasures of Tutankhamun", "The Splendor of Dresden", "The Gold of Peru", and "The Great Bronze Age of China", I am naturally especially pleased by this development.

Exposure to millions

Literally millions of Americans have now been exposed to these exhibits, remnants of other times and civilizations, and the response has been extraordinary. In some cities where these exhibits have been on display, courses have been organized, at the museums and elsewhere, to help people better understand the vibrant cultures that gave rise to the marvels they have seen before them.

There is yet another straw in the wind in a headlines like this one in the New York Times "Careers" column several weeks ago: "Language Skills Now in Demand."

"For college graduates who majored in foreign languages and have had trouble finding jobs (the article reads), all is not lost. In fact, the future looks brighter for them, and even for those who study languages on their own, than it has in years.

"Why the change? (the writer asks.) Many European companies have been investing in or buying control of American companies. And their demand for employees with foreign language skills has already begun to show up in job advertisements. . . .

"Obviously (the article notes), anyone working in a responsible position for a foreign-owned company would fare better knowing the language. In fact, rising to an upper management position might depend on it."

Finally, there are what I consider new and exciting efforts on the part of concerned citizens and organizations to heighten our awareness of international and foreign language studies.

The Council on Learning, the non-profit organization which publishes Change magazine, is attempting to do just that. The council, together with more than twenty educational groups and the support of the national endowment for the humanities, has launched its "education and the world view" program to stimulate a new national debate on how better to educate the Nation's college students for life in an interdependent world.

Elements in program

The program will include these elements:

An examination of outstanding college programs in international studies to find a basis on which to improve others;

A survey conducted by the educational testing service among college freshmen and seniors to measure their level of knowledge and understanding of world issues;

A conference of academic leaders to be held later this year to discuss the survey findings with a view to future educational policy;

A special issue of Change, spreading the results of the conference to educators and other interested parties, and

The publication late this year of a book on curriculum changes and teaching strategies, and the production of kits for faculty workshops and curriculum committees.

We need to learn more about what there is to learn, and I hope the council's effort, and others like it, will publicize the good work that is being done in the fields of international and foreign language studies and lead to even greater progress throughout the country.

VII. REMEDIES AND RESOURCES

To this end, the Council on Learning has already reached some preliminary findings about factors that make for successful college level programs, in international studies, regardless of the size of the institution or the particular discipline involved. These findings ought to serve as recommendations as well, and among them are these:

That there must be "some real commitment" by top-level faculty and administrators to having an international dimension in the curriculum.

That there be faculty involvement from the start, especially if the initiative comes from the institution rather than the department, so that what is done is done with the faculty, not to them.

That students are moved into other countries and cultures as quickly as possible, because (the council is finding) "rewards from immersion expand the learning experience exponentially and generate greater interest among students to go even further in these areas."

That programs be multiple- rather than single-disciplinary, better to help students understand that "real world" problems cannot be fitted into pigeonholes.

These are just some of the early recommendations of the Council on Learning project, but initiatives have been coming from other sources, too.

Valuable suggestions

The Perkins Commission, for example, has offered over one hundred specific suggestions, including these which I thought especially valuable:

Schools, colleges and universities should reinstate foreign language requirements. Florida State, as I said earlier, should have no trouble complying with this suggestion.

The Department of Education should provide incentive grants to schools and postsecondary institutions for foreign language teaching. This funding should increase for higher-level studies, and for less commonly taught languages.

The New Department of Education should support high schools that would specialize in language and international studies, initially in major population centers, to serve as national models. These schools should offer intensive and advanced language and international studies in addition to regular courses.

All State Departments of Education should have foreign language specialists on staff.

The National Institute of Education and the National Science Foundation should increase their support for research on how international education can be most effectively provided in elementary and secondary schools.

The Federal Department of Education should fund a system of national centers, university-based, for advanced international training and research: Some to focus on major world regions and others on major international issues such as arms control or energy or food.

Graduate professional schools should recognize the need for an international dimension and include international studies in their curricula. In the years ahead, we shall need more lawyers, scientists, and businessmen who can speak Chinese or Russian or read contracts in Arabic.

Colleges and universities should encourage and support more international exchanges of students, teachers and researchers and provide more opportunities for their students to study abroad. Once again, Florida State has been among the leaders in this regard, with your centers in Florence and London as well as Panama and the new center in Costa Rica—and language study programs in France and Spain.

Knowledge of Spanish

Let me here interject that, though I am now a practicing politician, I really consider myself a frustrated Hispanic scholar.

In grade school I thought I wanted to become an archaeologist specializing in the Mayas and so started studying Spanish. As an undergraduate at Harvard, I spent a summer in Mexico working with Aztec Indians and thereby had a chance to practice my Spanish while later, as a graduate student at Oxford, I wrote a Ph. D. dissertation on the role of the anarchist movement in Spain during the 1920's and the first years of the Spanish Civil War.

Much of my research nearly thirty years ago consisted of interviewing—in Spanish—Spanish anarchists living in exile in the south of France.

Years later, as a Member of Congress, I have found useful my knowledge of Spanish in a variety of ways, most recently, this January, when I led a delegation from the House of Representatives to Spain. There we visited Madrid, Barcelona and Seville, and I was able to speak—in Spanish—not only with the Prime Minister and the President of the Spanish Cortes, or Parliament, but also with old friends whom I had known twenty years ago, when we were all students, but who are now leaders in the Government of their country.

Who would have thought that my interest in Spanish as a seventh grade schoolboy would have made it possible for me to enjoy such an experience all these years later and, hopefully, to make some contribution to my own country?

American business and labor should give higher priority to foreign language and international studies training in their staff recruitments, and should encourage colleges and universities to make such training part of their programs in business and labor studies.

Community colleges, with their special commitment to citizen education, should be given special attention in expanded international education efforts.

Finally, we should make far better use, in intercultural and language training, of America's ethnic and linguistic minorities, as well as foreign students and visitors to the United States, Peace Corps veterans and other Americans with extensive experience abroad.

CARRYING OUT RECOMMENDATIONS

As you all understand, recommendations, even by so prestigious a body as a Presidential Commission, are just that: Recommendations. White House Counsel Stuart Eizenstat, who received the Commission's Report, promised only that the President would "seriously consider" them. And many of the proposals, of course, concern matters of educational policy which are within the purview of school administrators and State and local educational leaders.

Nonetheless, some of us in Congress have been busy in recent months trying to follow up both on the particular recommendations of the Perkins Commission and, equally important, on the public reaction to its distressing findings.

For example, several of us in the House of Representatives have worked to get President Carter to agree to additional funding for NDEA title VI programs.

An excellent report just published by the Carnegie Council declared that title VI funds, together with major foundation support, "have been essential to the development and maintenance of international and area studies . . . overall (the report continues) title VI has been remarkably successful. It has produced an impressive pool of area and international specialists and provided international education to many thousands of undergraduates."

In addition, title VI has been of great help in strengthening foreign language study, especially in the less commonly taught languages.

Over eighty languages have been designated as priority languages for title VI funding since 1959, and in 1976-77, a total of ninety-two modern and sixteen ancient languages were offered at NDEA centers.

I stress the value of NDEA title VI to underline our distress at the way funding for the program has failed even to keep pace with inflation in recent years. In fact, in constant dollars, money for title VI actually decreased by over 40 percent between 1967 and 1978!

It was to try to reverse this trend that eight Members of the House wrote last fall to President Carter urging him to press for a major increase in title VI funding for fiscal year 1981. You will understand how important this issue was to us when I tell you that among those who signed the letter were Congressmán Zablocki, the chairman of the House Foreign Affairs Committee, and Speaker O'Neill, who seldom joins in such letters.

Our effort was successful: The President agreed to request a 50-percent increase in title VI funds for fiscal year 1981. Although the current effort to balance the Federal budget next year makes any such numbers highly tentative, the President's request, I believe, indicates his appreciation of the importance of such programs.

Other efforts

The title VI effort is not the only one in the House. My distinguished colleague, Congressman Paul Simon of Illinois, for example, who chairs the Subcommittee on Select Education which I headed for ten years, is introducing legislation to implement the Perkins Commission's recommendation of incentive grants to schools, colleges and universities for teaching foreign languages.

Congressman Leon Panetta, an outstanding young legislator from California, who served with Mr. Simon on the Perkins Commission, is sponsoring a bill to provide Federal grants to students—undergraduate as well as graduate students—for foreign language study.

And one of the most highly regarded Members of the House, Florida's own Sam Gibbons, has proposed legislation encouraging greater coordination between international and foreign language studies, on the one hand, and business, on the other.

In addition, to help preach the Gospel about these issues within Congress, I have joined nearly two dozen other Members of the House in a working group on foreign language and international studies.

Indeed, to make sure that the message hits home, Congressman Simon and I have been conducting our own survey of the foreign language abilities of each Member of the House and Senate! The returns are still coming in, and I am sure we shall see some very interesting results!

These, then, are just some of the ways in which a number of us in Congress have been working to increase our Nation's "global literacy." The variety of approaches I have cited will, I believe, help us both build on those programs already in existence—at the State Department, the Humanities Endowment, the International Communications Agency, among others—as well as make use of other resources as yet untapped, in our schools, universities, business firms and elsewhere.

VII. SUMMARY

Now let me summarize what I have tried to say to you today in my assessment of at least one dimension of the state of literacy in America.

I have said that, in a world like this, it is imperative that the people of our country know far more than we know now about the hundreds of million of peoples—and their cultures—of this planet who are not inhabitants of the United States of America.

Our economy, our security, our very civilization depend in large part on how successfully we overcome our general illiteracy about the rest of the world.

I have suggested to you some of the reasons I believe this to be the case even as I have recited some of the deficiencies that dramatize our ignorance.

I have indicated as well several of the factors that explain why American schools and universities have fallen short in international education, generally, and modern foreign languages, in particular.

But I have not painted a picture of unrelieved despair.

I have given you some signs of hope for the future of international studies in the United States, and I have described to you a number of concrete efforts now underway both in Government and outside it.

We Americans live in a time of danger and a time of hope.

We live in a relationship with the other superpower, the Soviet Union, that is characterized at once by uneven degrees of cooperation and the most intense competition.

We live in continuing collaboration—and confrontation—with our allies in Western Europe and Japan.

We live in a wide diversity of relationships with the poorer countries of Africa, Asia and Latin America.

In such a time and in such a world, we need to know not only how to read, write and understand the languages and culture of our own Nation, but of the other nations of the world as well.

Only then will we be truly literate.
Only then will we be truly secure.
Only then will we be truly free.●

DEEP SEABED HARD MINERALS RESOURCE ACT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. SIMON. Mr. Speaker, I was unable to be present for yesterday's debate on the Deep Seabed Hard Minerals Resource Act. As I feel that this legislation lays the foundation for consideration of the Law of the Sea Treaty by the Congress, one of the most controversial and important international treaties which will come before the Congress, I insert the following statement in support of the legislation passed yesterday:

I support passage of this bill because it is consistent with our country's desire to successfully conclude a Law of the Sea Treaty. While meeting the legitimate research and exploration needs of the domestic mining industry, it provides a reasonable time for the Treaty to come into force before the beginning of large-scale commercial mining operations.

I would like to pay tribute to Elliot Richardson, The Special Representative to the President for the Law of the Sea Conference, who has played a key role in safeguarding the vital interests of the United States during the Law of the Sea negotiations. He has won assurances that the Treaty will protect freedom of navigation and overflight in the so-called "economic zones" of coastal resource jurisdiction of up to 200 miles from shore. The Treaty will protect the legal rights of passage of commercial and naval ships through international straits as well as U.S. interests in such areas as fisheries, marine mammals, environmental protection and dispute settlement.

The exact framework of the international regime will almost certainly differ from our domestic regime in some respects. I would draw the attention of my colleagues to the fact that section 201 protects the mining industry only from "significant new economic burdens" which effectively prevent the continuation of mining operations on a viable economic basis. This language is not intended to refer to the Treaty financial obligations which exceed those provided for in Title IV of this bill, nor to obligations to sell technology on reasonable commercial terms and to conduct limited exploration for the mining operations of the international community.

The "grandfather clause" in Title II of this bill expresses the sense of Congress that the Treaty should provide the mining companies with assured access to the mineral resources of the Seabed and security of tenure for any companies authorized to proceed with research and exploratory activities under the terms of this bill. Title II further affirms that these aims should be determined by the totality of the provisions in the Treaty.●

HOUSE OF REPRESENTATIVES—*Wednesday, June 11, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

I cry my voice to the Lord, with my voice I make supplication to the Lord, I pour out my complaint before Him, I tell my trouble before Him.—Psalms 142: 1, 2.

Gracious Lord, from whom we receive faith and in whom we trust, minister to us in the depths of our being. Where we have been weak, give us strength; where we have missed the mark, grant us pardon. O Lord, who hears the prayers of all and who knows us by our names, fill us with renewed dedication for the work of Your Kingdom, that justice will flow down like waters, and righteousness like an ever flowing stream. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1717. An act to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications.

RESOURCE CONSERVATION AND RECOVERY ACT REAUTHORIZATION

(Mr. D'AMOURS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. D'AMOURS. Mr. Speaker, on any given night, trucks loaded with toxic substances drive the highways of northern New England to dump their poisons in rural woodlands and streams.

An enterprising Associated Press reporter from New Hampshire named Andrew Schneider, who is writing a series of investigative articles about the illegal dumping of hazardous waste in northern New England, recently found out how difficult it is to confront this issue. Last Friday night, while working on his story, Mr. Schneider was attacked and severely beaten by thugs who then stole his tape recorder and notes. Mr. Schneider was hospitalized for 3½ days as a result of this vicious beating.

S. 1156, the Resource Conservation and Recovery Act reauthorization, which is currently in conference, would among other things strengthen the investigative authority of the Justice Department by giving it and the EPA subpena powers, and would make it a felony to damage and endanger our environment through the illegal transport and dumping of hazardous waste.

I hope the conferees will act expeditiously to report S. 1156 so the Government can get the authority it needs to attack this serious problem.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5200), to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 371, nays 6, answered "present" 2, not voting 54, as follows:

[Roll No. 309]

YEAS—371

Abdnor
Addabbo
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Gingrich
Holt
Jones, Okla.
Lloyd
McDonald
Wilson, Bob

ANSWERED "PRESENT"—2

Ottinger
Steed

NOT VOTING—54

Akaka
Ambro
Anderson, Ill.
Andrews, N.C.
Applegate
Ashley
Biaggi
Blanchard
Boggs
Bonker
Buchanan
Butler
Davis, S.C.
Derrick
Dingell
Dodd
Donnelly
Eckhardt
Edwards, Okla.
Evans, Ga.
Ford, Mich.
Fountain
Giaimo
Gilman
Gray
Hall, Ohio
Hammerschmidt
Heckler
Heftel
Holtzman
Jenkins
Jenrette
Lowry
McKinney
Marks
Mathis
Mikulski
Mitchell, Md.
Moorhead, Pa.
Nedzi
Nolan
Oakar
Patten
Pepper
Railsback
Ratchford
Reuss
Runnels
Santini
Stack
Thomas
Thompson
Vanik
Wilson, C. H.

☐ 1020

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5200, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. EDWARDS) will be recognized for 1 hour, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I yield 8 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, at the outset, I wish to commend the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California (Mr. EDWARDS) as well as the members of the subcommittee for an outstanding job in bringing to the House a bill, H.R. 5200, which represents the best thinking on all aspects of insuring that fair housing will become a fact.

The Fair Housing Amendments Act of 1980 is one of the most important civil rights proposals to be presented in over a decade. The adoption of this bill will mark a turning point in our Nation's commitment to nondiscrimination in housing. It will signify a historic change in two important aspects. First, we will have determined to go beyond a mere statement of principles on fair housing, to create an effective and meaningful enforcement system. Second, it will extend the protections of the Federal Fair Housing Act to disabled Americans

In 1968, when the Fair Housing Act was adopted, it was viewed as a great victory for civil rights. Indeed, the passage of that measure was the final and probably the most difficult in the series of comprehensive civil rights statutes enacted in the decade of the sixties. The path was long and hard.

Following the passage of the 1964 Civil Rights Act, efforts were first begun to secure legislation that would prevent racial discrimination in housing. In 1966, I managed that precedent-setting bill successfully on the House floor, but in the Senate, the climate for civil rights efforts had shifted, and the bill could not get off the ground. Accordingly, when the next Congress considered civil rights measures only a very narrow bill was proposed—H.R. 2516, which would protect blacks and civil rights workers by outlawing racially motivated acts of violence against persons exercising 14th amendment rights. At this stage, the bill was anything but a landmark measure.

After the House passed H.R. 2516, however, historic events were to occur which would change the course of history. President Johnson sent a special message on civil rights to Congress, calling for a much broader measure, including provisions on fair housing. However, a filibuster that lasted 33 days was ended only when the minority leader, Senator Everett Dirksen, lent his support to a compromise substitute. Cloture was obtained and the bill passed the Senate. It was the Dirksen substitute that ultimately became the 1968 Civil Rights Act.

The modest House bill had thus been transformed on the floor of the Senate, but there was now the danger that the House—now more conservative than in 1966, would not pass the Senate bill.

The assassination of Dr. Martin Luther King completely altered the situation. His death and the disorder that followed led to irresistible pressure for speedy passage of the Senate bill. The Rules Committee allowed only 1 hour of debate, and permitted only to vote the Senate bill up or down. The vote on April 10 was 229 to 195 to accept the Dirksen substitute.

The history of the 1968 Fair Housing Act is not only fascinating, it also illuminates the cause of our present dilemma. We now have a fair housing law that stands for the most important of principles, but reflects the compromise required to secure passage.

Now 12 years later, the time has come for us to review the efficacy of that statute, and based on our experience, to update it so as to insure that it will be a more effective tool in the struggle for equal housing opportunity.

Despite the present law, discrimination persists and highly segregated housing patterns still exist across the Nation. It is incumbent upon us, therefore, to strengthen this important weapon in the battle against discriminatory housing. The Fair Housing Amendments Act will provide that strength.

I support H.R. 5200 because it will do the job and do it well. Minor tinkering with the present enforcement system will not. Private enforcement in the courts, with occasional help from the Department of Justice, has not begun to rectify this enormous social problem and there is no reason to believe that it ever can. Proof of this fact is apparent all around us as we observe the redlining and other unfair practices taking place daily.

The proposal in H.R. 5200 is neither unique nor untried. Not only is its administrative enforcement system similar to that found in many other Federal agencies, it is also almost identical to that utilized by States that have a proven record of effectively enforcing their State fair housing laws. In many States, including New Jersey, the State fair housing agencies have been empowered not only to investigate and conciliate, but also to issue administrative orders that include the full range of remedies, including damages, and orders to make the disputed unit (or its equivalent) available to the victim of discrimination. The highly successful experience of those agencies bears out a prediction made about H.R. 5200—administrative enforcement is effective primarily because it is there as a possibility, and not because it must be used often. Cases before those State agencies are almost always settled prior to hearing. Unlike the situation under current title VIII, respondents must take conciliation efforts seriously. The result is greater efforts at accommodation and greater respect for the law.

We must resist any measures that weaken the enforcement provisions of this bill. It would be a travesty once again to enact a fair housing law that promises more than it can deliver.

The second historic feature of this bill is its inclusion of handicapped persons within title VIII coverage. In the last few years, we have become increasingly aware of and sensitive to the problems of the handicapped. However, this bill will mark the first time a major civil rights statute will be expanded to cover the rights of the disabled. It is altogether appropriate that we do so. The problems of discrimination against the handicapped are very similar to that suffered by racial and ethnic minorities and women, and they occur primarily because of the same kind of misunderstanding and fear. Again, adoption of these provisions is warranted primarily to perfect the promises we have already made. Congress has already made the determination that society will benefit by including the handicapped in the mainstream of American life. But without access to housing, that simply cannot be achieved.

The promise of America is the promise of a nation dedicated to equality and opposition to discrimination. That is the promise we must keep.

In conclusion, then, I believe this bill is the logical and necessary next step in our attempt to deal with housing discrimination. The effort that we began in 1966 must be completed, so that all Americans can be assured of freedom of choice in choosing their homes. It is not enough to establish the goal of fair housing—we must also provide the means to achieve that end.

☐ 1030

The CHAIRMAN pro tempore (Mr. COELHO). The Chair recognizes the gentleman from Illinois (Mr. McCLORY) for 1 hour.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I want to commend the subcommittee and the full committee for their work in producing this very worthwhile and very important piece of legislation. I agree substantially with the remarks made by the chairman of the full committee, my colleague, the gentleman from New Jersey (Mr. RODINO). I want to join in paying tribute to the late Senator Dirksen for his monumental work in bringing about this whole principle of fair housing and equal access to housing which he undertook to do.

Mr. Chairman, I believe H.R. 5200, by and large, is a good bill worthy of our support. There are portions of this bill which are controversial and I expect that these will be debated at length during the amendment process.

Several members of the minority on the Judiciary Committee, including Mr. RAILSBACK, Mr. FISH, Mr. BUTLER, and I, worked to fashion a compromise proposal which struck a balance between the administrative procedures initially contained in this bill and justifiable opposition to expand administrative authority as originally proposed. It was our view that we wanted to assure due process and equal protection of the laws. The bill as originally offered would have given virtual unlimited expression to the institutional bias of an administrative law judge.

Briefly, I can summarize the compromise proposal by saying that it permits an appeal from a ruling by an administrative law judge to the Federal district judge in the jurisdiction in which the property in question is located. Such an appeal is subject to a de novo determination on the part of the Federal district judge. Such a de novo determination grants the right of the Federal judge to review, modify, alter, or erase, the ruling of the administrative law judge. We feel that this authority is sufficiently broad to deter any attempt to create a kangaroo court out of the administrative process.

In addition, Mr. BUTLER will offer an amendment to strike a provision in the bill which permits HUD to make millions of dollars in grants to State and local groups, including private organizations whose responsibilities include "eliminating housing discrimination." This amendment, it seems to me, should be adopted.

I should note also that I have had, and continue to have, certain misgivings about the provisions in this bill which are directed to the insurance industry. Unlike many other links in the housing chain, the insurance industry is heavily regulated, both at the State and Federal levels. It is my belief that a considerable number of States have already specifically prohibited discrimination based on factors or characteristics similar to those sought to be outlawed by this legislation. To meet complaints that access to insurance is being denied to minorities, virtually every State, so far as I know, which has a property insurance availability problem, has established a mandatory insurance company pooling mechanism, commonly known as a FAIR plan. These FAIR plans are not unlike uninsured motorists' insurance and are designed to protect the person who cannot obtain insurance. It is important that we guard against the federalization of the insurance industry.

I am a former member of the Subcommittee on Civil and Constitutional Rights and I have given thoughtful attention to the Fair Housing Amendments Act. I believe that there is a need to strengthen title VIII.

In my view, the minority compromise developed in the Judiciary Committee should allay the fears of those who distrust the administrative process. Accordingly, I am not prepared to agree with those who may wish to support adoption of Mr. SENSENBRENNER's amendment.

This bill is a worthwhile attempt to remedy some of the deficiencies which have surfaced in the 12 years since the 1968 act was passed. It should go forward. The vote in committee was overwhelmingly in favor of this bill. The vote among the Republicans was divided only on the issue of Mr. SENSENBRENNER's amendment. I am hopeful that this measure may have strong bipartisan support for the main provisions which the Committee on the Judiciary is recommending to the House.

Mr. EDWARDS of California. Mr. Chairman, I yield 12 minutes to the gentleman from Massachusetts (Mr. DRINAN), the coauthor of this legislation. He and I wrote the bill many years ago. The gentleman from Massachusetts is a distinguished lawyer and national leader of civil rights and humane causes. He has been a responsible and influential member of the House Committee on the Judiciary for many years. He is leaving us to all of our sorrow.

Mr. DRINAN. I thank the gentleman for his kind remarks.

Mr. Chairman, 3 years ago the distinguished gentleman from California (Mr. EDWARDS), chairman of the Subcommittee on Civil and Constitutional Rights, and I introduced H.R. 3504 which was the predecessor of H.R. 5200, the Fair Housing Act amendments. In those 3 years the subcommittee held a number of hearings on this legislation and made a series of revisions in it. The bill before us today carefully balances the interests of those who may be victims of housing discrimination and those who may be subject to its enforcement provisions.

This House owes a great debt of gratitude to our esteemed colleague, Congressman DON EDWARDS, for his persistent efforts in perfecting this legislation and in bringing to this House a bill that enjoys broad-based support. I thank him and his fine staff for their commitment to this important project.

In 1968 when Congress enacted the Federal Fair Housing Act, the bill was largely a product of a floor amendment offered by then-Senator MONDALE. The Johnson administration in pressing for on Omnibus Civil Rights Act in 1967, had, by the early part of 1968, abandoned any hope for fair housing legislation. As a consequence the task of enacting a fair housing statute fell to the Congress. Then-Senator MONDALE, having conducted a number of hearings on equal educational opportunity, perceived that the long-term solution to segregated schools was integrated neighborhoods. Thus when the Civil Rights Act of 1968 came to the Senate floor, Senator MONDALE and other supporters of a fair housing statute offered title VIII as an amendment to the bill. Thereafter in the aftermath of the assassination of Dr. Martin Luther King, Jr., the Congress passed and President Lyndon Johnson signed the Civil Rights Act of 1968.

In the 12 years since the passage of title VIII, the courts have decided a number of cases arising under the Federal fair housing statute and have given it the broadest application to advance the goal of equal housing opportunity and the achievement of racially integrated neighborhoods. While the courts have given title VIII a generous interpretation, a number of obstacles remain to the achievement of equal housing opportunity. Studies have shown that since 1968 large numbers of minorities have moved into previously segregated neighborhoods. Notwithstanding that progress, other studies have demonstrated that housing discrimination persists and that in some instances racial residential patterns of segregation are intensifying.

In view of the continuing barriers to fair housing opportunity, it is necessary to improve the enforcement mechanism for title VIII. Secretaries of Housing and Urban Development under the past two administrations, both Republican and Democrat, have agreed that the lack of adequate enforcement powers is the single greatest deficiency in title VIII. Secretaries Hills, Harris, and Landrieu affirmed the urgent need for additional administrative and judicial tools for enforcing the proscriptions of the act.

It should be recalled that the Civil Rights Act of 1968 was passed in the immediate aftermath of urban unrest borne, in part of the serious problem of housing discrimination and its attendant consequences for equal educational and employment opportunities. With great sadness we see that pattern recurring in the racially segregated neighborhoods of

Miami. The recent events in that city remind us once again of the need for strong legislative action to eliminate once and forever the scourge of racial discrimination. H.R. 5200 is a vehicle to achieve those results.

As I noted earlier the courts generally have construed existing title VIII liberally. For example, under the statute, the victim of discrimination may establish a prima facie violation of the act by showing that the defendant's conduct has a disparate impact or discriminatory effect. This "impact" or "effects" test has been especially important in those law suits under the Fair Housing Act challenging exclusionary land use devices as racially discriminatory. While the courts of appeals in the Black Jack, Rizzo, and Arlington Heights cases have announced different formulations of the effects test, they are in agreement that intent to discriminate need not be shown. Of these different formulations, the opinion of the eighth circuit in the Black Jack case is best calculated to advance the purposes of the Fair Housing Act.

H.R. 5200 affirms the effects test as the proper construction of title VIII. The only exception made by the bill to that standard is contained in the amendment to section 807. That provision would require the plaintiff to prove an "intent to discriminate" when challenging minimum lot sizes as a violation of the statute. In construing a similar intent requirement in the National Labor Relations Act, the Supreme Court held, in the Radio Officers' Union case, that a person is presumed to intend the natural, reasonable, or foreseeable consequences of his or her conduct. The minimum lot size amendment in section 807 should be construed in the same manner.

Mr. Chairman, I would like to address the main features of H.R. 5200. The principal thrust of the bill is to enhance and strengthen the enforcement mechanisms under title VIII. Recognizing that litigation is frequently expensive and time consuming, the bill seeks to establish a streamlined and efficient administrative remedy for complaints of housing discrimination. The bill encourages victims of discrimination to bring their complaints to Federal and State human rights agencies for informal resolution, and if necessary, for formal disposition. Because State and local agencies can play a vital role in resolving complaints of housing discrimination, the bill requires HUD to refer all complaints to State or local agencies which have been certified by the Secretary of HUD as "substantially equivalent," that is, they have the same authority as HUD to remedy complaints. Such referrals are irrevocable, and must be resolved by the State or local agency according to State law. HUD, unlike the Federal Equal Employment Opportunity Commission, does not have the power to reassert jurisdiction over the complaint.

In some instances, however, a complaint may arise in a locality which does not have any human rights agency, or does not have one which has substantially equivalent remedies as those under title VIII. It then becomes the responsibility of HUD to process such a complaint. Throughout the enforcement process by HUD, the bill places great stress on informal resolution of the complaint, encouraging HUD to resolve complaints by informal methods of conciliation and negotiation. At all times in the proceedings, the power to terminate the process rests in the hands of the person accused of violating the statute. At any time, the respondent may agree to comply with the law and thus conclude the HUD proceeding.

If, on the other hand, the respondent wishes to contest the allegations of discrimination, a number of procedural safeguards are available. First, by giving the respondent the opportunity for a "hearing on the record," the bill keys in all the procedural protections contained in sections 554, 555, 556, and 557 of the Administrative Procedure Act (now contained in title 5 of the United States Code). In some instances, for safe measure, the bill restates the safeguards of the APA. For example, H.R. 5200 requires the administrative law judges to "make findings of fact and conclusions of law" in conjunction with the formulation of an appropriate order, which the APA also requires.

It should be stressed that the administrative law judges are required by law to be impartial adjudicators They are not handmaidens of the agency. They are selected pursuant to congressional mandates and civil service requirements calling for selection based on merit. Applicants must be licensed attorneys with at least 7 years of experience gained in a judicial capacity or in the trial of cases before administrative or judicial tribunals.

It must be underscored that the bill contains carefully formulated time limits on the entire administrative process, which are designed in part as protections for the respondent. First, the complaint alleging discrimination must be filed with HUD within 1 year after the alleged violation occurred or terminated. Second, HUD must refer the complaint to a certified agency within 30 days. Third, if there is no certified agency available for referral, HUD must within 270 days investigate the complaint and determine if there is reasonable cause to believe that the respondent has violated the statute. Fourth, if the respondent requests a hearing before an administrative law judge, the respondent must be given at least 30 days to prepare for the hearing.

Fifth, after the judge enters an order at the conclusion of the hearing, any aggrieved person, which of course includes the respondent, has 30 days to seek review of such order in an appropriate U.S. district court. Normally appeals of such administrative orders are taken to the courts of appeals. The unprecedented judicial review provision of H.R. 5200 was carefully worked out to accommodate those who felt it was necessary to address the concern of some that HUD would not provide an impartial forum for hearing such complaints. While the provision is an appropriate compromise, it does single out housing complaints to HUD for special and unique treatment unlike complaints made to other administrative agencies.

After the petition is filed in the court, the district judge is directed "to make a de novo determination of the adequacy of the findings of fact and conclusion of law to which objection is made." Section 811(c). This de novo review simply means that the judge should make an independent evaluation of the evidence introduced at the hearing before the administrative law judge. It is not a "trial de novo" as defined in section 706 of the Administrative Procedure Act. In special circumstances the district judge may supplement the hearing record or send the case back to the administrative law judge for the taking of additional evidence. This procedure. although unique in administrative law has some support in the Supreme Court's Overton Park decision.

The distinction between a "de novo determination" and a "trial de novo" is especially critical when viewed in light of a person's right to a jury trial under the seventh amendment. If the proceeding in the district court were truly a trial de novo, then the parties to that proceeding would have a right to a jury trial as stated by the Supreme Court in Curtis against Loether. However, since the proceeding in the district court is in the nature of an appellate process, even though the judge is making a "de novo" determination, the right to jury trial does not attach. Of course, as the bill makes clear, the district judge may reduce or increase the damage award or the civil penalty entered by the administrative law judge and that modification in the order may be undertaken by the district court sitting without a jury.

To avoid duplication, H.R. 5200 provides that the right of the complainant to sue in court terminates when HUD or the State or local agency commences "the hearing on the record" with respect to the complainant's charge. Of course, that assumes that HUD or the State agency, as appropriate, conducts a hearing which embraces the entire charge filed by the complainant. If the administrative hearing addresses only a part of the charge, the complainant would not be precluded from instituting litigation to resolve those portions of the charge which were not presented to the administrative law judge at either the State or Federal level.

H.R. 5200 provides modest but important protection against housing discrimination to disabled persons. The American Coalition of Citizens with Disabilities estimates that there are 36 million disabled Americans. Thirty-seven States and the District of Columbia have enacted laws to protect disabled persons against discrimination in housing and/or public accommodations. Under regulations implementing section 504 of the Rehabilitation Act of 1973, HUD and other agencies are barred from discriminating against the disabled in federally assisted programs.

As the hearing record on H.R. 5200 shows, discrimination against the disabled is rooted in the same myths and stereotypes which have resulted in discrimination against other minorities and women who find protection in title VIII. Housing discrimination against the disabled often takes the form of a refusal to rent, requiring an increased security deposit or a higher rent because it is presumed that a disabled tenant is more of a risk. Such a concern is unfounded. Studies show that disabled tenants are no greater a safety risk than nondisabled persons. Where fears and prejudices are the justification for an act of discrimination, it is appropriate to include proscriptions against these actions within the framework of existing civil rights statutes.

In 1976, disabled persons in this Nation achieved a great victory with the signing of regulations to secure their rights under section 504 of the Rehabilitation Act of 1973. These regulations gave life and body to the skeleton of enforcement contained in section 504 itself. Thus for the first time discrimination against the disabled in federally assisted programs was outlawed and teeth put into the statutory prohibition. It is appropriate to recall the words of then-Secretary of HEW Joseph Califano when he signed those regulations into law:

> Section 504 represents the first federal civil rights law protecting the rights of handicapped persons and reflects a national commitment to end discrimination on the basis of handicap. . . . It establishes a mandate to end discrimination and to bring handicapped persons into the mainstream of American life.

H.R. 5200 would extend that protection for disabled persons to the area of housing and assist the process, begun with the passage of section 504, of bringing the handicapped into "the mainstream of American life."

Because of the similarity of problems which might arise in the enforcement of the revised title VIII regarding disabled persons, the courts and the administrative agencies should look to the section 504 regulations as important guidelines in construing the act. In many cases, those regulations will provide the beacon light to illuminate murky areas of title VIII. Of course, nothing in those regulations may derogate from the express prohibitions in title VIII, nor from any legal defenses contained in the act. The regulations should, however, be consulted for the light they shed on enforcing the protections for disabled persons contained in title VIII.

Nothing in H.R. 5200 increases the liability of landlords who rent to disabled persons. As a general rule of tort liability, there is no continuing obligation upon anyone, whether disabled or not, after possession of the dwelling has been transferred, and this bill does not impose any additional tort liability.

Nor does H.R. 5200 contain any retrofitting requirement for the landlord. The owner of the property may, if she chooses, enter into an agreement with the disabled tenant for restoration of the premises when vacated. Any changes made to accommodate the tenant's disability are made at the tenant's expense unless the landlord voluntarily assumes such costs.

It is anticipated that the issue of modification of the premises to accommodate a disability will be determined by the "rule of reason" embodied in the bill. The test is: Will the change be incompatible with an established rule, policy, practice, or service or will it decrease the marketability of the building?

It should be noted that in many instances the landlord may well find it advantageous to retain any modification in the premises made to accommodate a disabled person, and even to undertake such modifications herself. A recent study by Interface Architectural Consultants, a firm specializing in the design of accessible buildings, found that as much as 56 percent of the population needs barrier-free premises at a given time. Young children, persons suffering with arthritis, heart disease, or respiratory problems, those with broken limbs, and some older Americans would benefit substantially from a barrier-free environment and accessible dwellings.

H.R. 5200 modifies the attorney fee provision of title VIII. Under existing law, only plaintiffs who are not financially able to assume the cost of a lawyer may recover counsel fees. For the means test of current law, the bill substitutes the traditional approach contained in other civil rights laws, such as title II and VII of the Civil Rights Act of 1964 and the Civil Rights Attorney's Fees Awards Act of 1976. The new section 814 should be construed consistent with those earlier attorney fee provisions. For example, the Supreme Court in the Piggie Park and Northcross decisions held that persons seeking to enforce the Federal civil rights laws should, if they prevail, ordinarily recover their counsel fees. Similarly, as the Court stated over 100 years ago in The Schooner Peggy case, and reaffirmed in Bradley against Richmond School Board, changes in the law should apply to all cases pending at the time the law becomes effective, unless such application would produce a "manifest injustice." That principle applies to the attorney fee provision of H.R. 5200 as well as all the other provisions contained in it.

These established principles for awarding fees have been developed in the context of the traditional lawsuit in State or Federal court where the person seeking to enforce the civil rights statute is the plaintiff and the alleged violator is the defendant. However under H.R. 5200 those roles may be precisely reversed in judicial review proceedings of administrative law judge orders under section 811. In these proceedings the plaintiff or petitioner may be the alleged violator and the defendant or the defendant-intervenor may be the person seeking to enforce title VIII. In those circumstances, the Piggie Park-Northcross presumption would run in favor of the defendant or the defendant-intervenor.

Similarly under existing title VIII and under H.R. 5200, a plaintiff may bring a title VIII suit in a State court. Additionally under H.R. 5200, the aggrieved person may be required to pursue his or her claim of housing discrimination before a State administrative agency. In both circumstances the victim of the discrimination, who prevailed either before the State agency or in the State court, is entitled to recover attorney and expert witness fees incurred in pursuing the claim.

Under section 814, of course, the State administrative agency and the State court, in awarding attorney and expert witness fees, are required to apply Federal standards as developed by the courts. Alternatively, a title VIII complainant, who prevails before the State administrative agency, may recover his or her attorney and expert witness fees through an independent lawsuit in State or Federal court, which was the avenue approved in identical circumstances under title VII by the Supreme Court in Carey against New York Gaslight Club.

Since attorney fees and expert witness expenses are an important part of the remedy which may be given to the complainant and other victims of discrimination, HUD should consider the availability of such fees under State law when it is certifying a State or local agency as "substantially equivalent" under the revised title VIII. Indeed section 810(a)(3) of the amended act expressly directs HUD to evaluate "the remedies available to such agency" during the certification process. Because counsel fees and expert witness expenses are critical parts of any remedial scheme, their absence in State law would cast serious doubt on whether that law is "substantially equivalent" to title VIII.

However, as noted earlier, title VIII complainants, whose cases are referred by HUD to a State or local agency, may recover their counsel and expert witness fees from the State or local agency under section 814(b) or in a separate action under section 814(a). That is what this bill contemplates and the courts should construe section 814 in that manner. As so interpreted, HUD could certify a State or local agency as "substantially equivalent" even though the State law does not provide counsel fees or expert witness expenses. If, however, the courts should deny such fee awards, then State laws without fee provisions would not qualify as substantially equivalent.

The absence of counsel fees and expert witness expenses under section 814 or under State law when HUD refers a complaint to a State or local agency would act as a great deterrent to invoke the administrative processes provided under the bill. That deficiency would be a tremendous disincentive to utilize HUD or State agency remedies. To avoid that result, section 814 must be interpreted to allow fees before State or local agencies, and HUD should also use the certification process to examine whether such fees are available under State law.

H.R. 5200 carries forth existing case and statutory law regarding "standing," which simply defines those persons who may challenge discriminatory housing practices. The bill uses the phrase "person aggrieved" to define those who may file complaints with HUD or in the courts, or petition for review of the administrative law judges orders. The "aggrieved person" language of title VIII should not be construed to limit the rights of "interested parties" or "interested persons" to participate in the HUD administrative proceeding under the Administrative Procedures Act as set out in sections 554 (c) and 555(d) of title 5.

H.R. 5200 codifies the decisions of the courts of appeals in the Shannon and Otero cases. Those decisions simply say that aggrieved persons have a right of action against HUD or HUD recipients for violations of title VIII, including section 808. The Otero case also makes plain that recipients of Federal assistance under programs and activities relating to housing and urban development are equally bound by the affirmative action requirement of section 808(d) and section 808(e)(5).

Mr. Chairman, housing is a very basic right which is often vital to both educational and employment opportunity. A recent survey of the practices of nearly 3,200 real estate sales firms and rental agencies in 40 metropolitan areas found that the probability of a black homeseeker encountering discrimination would be 75 percent in the rental market and 62 percent in the sales market. The promise of fair housing opportunity made in the original 1968 act is long overdue. H.R. 5200 affords us the means to honor that promise and I urge its adoption.

☐ 1040

Mr. RAILSBACK. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. FISH).

☐ 1050

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will be happy to yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 5200, a bill which may very well be the most important civil rights bill to reach the House floor in over a decade, as it seeks to assure equal housing opportunities for all citizens irrespective of race, creed, nationality, religion, sex, or handicap by amending title VIII of the 1968 Civil Rights Act.

The primary shortcoming in the existing law derives from the almost total dependence upon private remedies. Present law, while giving HUD the responsibility to receive and investigate complaints of housing discrimination, fails to give HUD any authority to remedy the violations its investigations reveal. Where HUD fails to achieve a remedy for the violation through conciliation, aggrieved individuals are left to seek redress through private civil actions. While the court route is adequate for those who can afford to hire legal counsel and pay for alternative housing, this does not afford a viable alternative to the majority of Americans. The immediate problem—an inability to obtain the desired housing—is not resolved expeditiously enough in the courts to help most individuals who experience such discrimination. These private remedies are certainly not adequate for minorities who are generally discrimination's victims.

The consequence of HUD's powerlessness, is that HUD is unable to get respondents to take the conciliation process seriously. Victims, too, do not perceive conciliation as offering any real hope of relief. In the entire country, fewer than 4,000 complaints have been filed with HUD under title VIII in any given year. HUD estimates that more than 2 million instances of housing discrimination occur annually. More pointedly, a recent nationwide survey of the practices of nearly 3,200 real estate sales firms and rental agencies in 40 metropolitan areas found that the chances of a black encountering discrimination when seeking to buy a house is nearly 62 percent, and a staggering 75 percent when seeking to rent.

Today's discrimination now often takes subtle but effective forms. Some examples of housing practices that are currently unlawful, but which continue unchecked because of the lack of effective enforcement include:

Providing a member of a "protected class" racial or ethnic minority—with information different from that provided to others thereby making the dwelling less "available";

"Steering"; that is, suggesting that blacks seek housing only in black or integrated neighborhoods, and whites only in white neighborhoods;

Requiring different terms of sale or rental for certain races; that is, higher interest rates, down payments, security or cleaning deposits, and so forth; and

"Redlining"; that is, refusing to finance or insure a dwelling because of the racial composition of the neighborhood.

H.R. 5200 will strengthen the fair housing section of the 1968 Civil Rights Act in several key areas. Most importantly, however, this bill will finally give HUD the authority it needs to effectively enforce the Federal fair housing law, without compromising the rights of those against whom discrimination complaints are brought.

The fair housing amendments would create an independent administrative law judge (ALJ) and administrative court process to hear housing discrimination cases. Those judges, whose independence is already assured by existing Federal law, would issue final orders subject to an appeal in the local U.S. district court and thereafter the court of appeals. This administrative alternative is far better suited to handle the large majority of discrimination cases, which arises from simple questions of law and fact, than the present private process. It will also respond to the high costs of litigation and the inordinate length of time involved before the final resolution of these cases, while retaining the right of the individual to go directly to the court for relief if he so desires or if the nature or complexity of the case makes it appropriate.

Another important feature of H.R. 5200 is the improvement it offers in its clarification of what constitutes unlawful discrimination by specifically including mortgage redlining and the discrimination in the provisions of hazard insurance and property appraisals. H.R. 5200 also expands the housing rights of the more than 35 million handicapped individuals in the United States.

The effects of housing discrimination on both the individual and society are truly pervasive. To the individual it means economic hardship, loss of job opportunities, humiliation, and alienation; to society, it has meant the creation of the massive problems affecting our neighborhoods, schools, and our economy. H.R. 5200 will not eliminate those problems, but it will help alleviate one of the most persistent and unjustified causes. Accordingly, I urge your support for this bill, and yield back the balance of my time.

Mr. FISH. Mr. Chairman, my father, Hamilton Fish, spoke at the John Wesley American Zion Church in Washington, D.C., on January 2, 1928, the 65th Anniversary of the Emancipation Proclamation. At that time—52 years ago—he assessed racial progress and looked ahead.

> All the colored people ask is an equal right to educate their children, to work for wages and enjoy the fruits thereof, to own property and be afforded the protection of the laws and the Constitution for their civil rights, property, and lives. They ask justice, no more and no less.
>
> It is manifest, as both races have lived peacefully together since Emancipation and both have prospered and increased, that the future will show a continuation of the remarkable progress, and that 65 years hence, in 1993, there will in all probability be 35,000,000 colored people in America enjoying equal rights and opportunities in all trades and professions, and having more of their own banks, industries, literature, music . . . political organizations, and Members of Congress. Much of this we will see in our day and generation, and although it is not given to us to unveil the future, but judging it from the progress made in the past, the destiny of the colored race in America is not only secure, but it is exceedingly bright.

My father's words, spoken over 50 years ago, point to the great strides that black people had made since Abraham Lincoln signed the Emancipation Proclamation, and as well—he predicted that progress would continue on an upward course throughout our Nation's history.

I would not be in his tradition, or in the tradition of my party, however, if I were to say that our efforts to bring about equal opportunity and equal justice for blacks and all minorities are over. Advances in the cause of civil rights have been made. In 1964, 1965, and 1968 this House acted forthrightly to outlaw practices incompatible with our Constitution.

Fair housing is a major unattained goal.

In 1968, the Congress declared it unlawful to discriminate on the basis of race, color, religion, sex, or national origin, in the sale, rental, or financing of homes. Based on the equal protection clause, for the first time a statutory right to equal access to housing for all individuals was established.

We bring H.R. 5200 to the House today because experience has shown that this right has not been available to many persons over the past 12 years. The existing methods of relief for the victim of discrimination simply have not worked. Conciliation is voluntary and can be ignored with impunity. Federal court proceedings have averaged 20 months.

In 1978, a nationwide survey showed that blacks have an 85-percent chance of being discriminated against by rental agents when seeking an apartment; a 48-percent chance when seeking to buy a home.

A recent survey in Richmond, Va., found overwhelming evidence of rampant racial steering—the practice of "directing prospective home buyers interested in equivalent properties to different areas according to their race."

This survey shows that selective directing of sales efforts by real estate agents of blacks away from white neighborhoods affects the racial transition process in a subtle, concealed, and illegal manner. The Richmond survey indicates that there are two separate, distinct, and unequal housing markets—one for whites and one for blacks, contributing to and perpetuating segregated housing patterns.

Persistent and pervasive discrimination exists today up and down the housing chain—real estate agents, appraisers, insurers, landlords, and private homeowners—despite the existence of a law prohibiting such acts. Discrimination, which is tantamount to the denial of an individual's fundamental constitutional right to equal access to housing, clearly frustrates what Congress intended in enacting the 1968 civil rights law.

The new enforcement system embodied in H.R.5200 is needed to fulfill the promise of the 1968 act. It is simple, efficient, and relatively inexpensive. Either an aggrieved party or HUD would be able to file charges in a case of alleged discrimination and the party so charged would have to engage in a conciliation process. The two sides are required to side down and attempt to work out a mutually agreeable solution. What if during the conciliation process HUD believes that reasonable cause exists that the charge is true, and the filing of charges would be in the public interest? The options for the Department are then to either request the Attorney General to file charges in a civil action, or, in order to relieve the courts of congestion and reach a speedy decision, in minor cases, to file a complaint with an administrative law judge for a hearing on the record.

To expedite decision, HUD would be required to refer complaints to States, presently 22 in number, whose laws and enforcement procedures are certified as sufficient to guarantee the right to equal access to housing. This referral system will obviate the need to engage the administrative decisionmaking process.

It is my belief that a vast majority of cases will be decided through conciliation under H.R. 5200. The caseload of the courts should be decreased. The administrative hearing process, which works efficiently and effectively in 16 Federal agencies, should be accorded the presumption of impartiality and fairness. Amendments will be offered and accepted that clearly express as policy the independence of administrative law judges. They emphasize conciliation even after a hearing. This bill protects the rights of the respondent by providing for a judicial review broader than that required by the Administrative Procedure Act.

I also believe that the provisions of the Fair Housing Amendments Act will ultimately alleviate the collateral problems caused by segregated housing, especially busing, and will assist those in the real estate business who wish to obey the law. Mortgage redlining will no longer be tolerated, and the disinvestment of communities by lenders on the basis of race that leads to the decay of neighborhoods will cease.

As Members of Congress we have the opportunity today to further a great cause that ennobles us and our institution—a cause which right-thinking people simply know is right. By making fair housing a reality, we are at one of those moments when it is within our power to further the dream of our Constitution.

Mr. EDWARDS of California. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Chairman, I want to begin by commending our colleague from New York (Mr. Fish), a member of the Judiciary Committee, who has, I think, very eloquently summed up the case for this legislation.

We now have before us the method of making real the dream of fair housing for so many millions of people who are waiting and watching to see what the Congress will do. I suppose, Mr. Chairman and my colleagues, law evolves slowly in every case through a deliberative and rational process. It took until 1968 for us to speak to this question in law, and now after 12 years of that experience or more, we now realize we have to put some teeth into the existing law if we are going to make it effective.

My colleagues from California (Mr. Edwards) and Massachusetts (Mr. Drinan), who wrote this law, have done an excellent job. I think the time has come when the question of race discrimination in housing must be squarely addressed. I am hoping that this session of the Congress is up to that great challenge. I know it is not easy, but this is the test of our Congress. This is what we are all about, and now is the time for us to make a modest implementation of the means to make fair housing work in the United States of America.

□ 1210

There is no question that there is a problem in housing, and I say to the Members that there is no way that we can enjoy any of our other rights as long as racial discrimination in housing is as flagrant as it is. There is no way that we can enjoy the full opportunities of employment and the satisfaction of raising our families wherever we want and of living wherever we want until this one important right is secured by the implementation legislation before us. By merely allowing an administrative judge to make a decision from which there can be an appeal, we will not have satisfied the basic right of racial equality in housing, that is so desperately needed and so appropriate at this time.

I would like to close by pointing out to the Members that all those who have been concerned about busing now have an excellent method to dispose of the busing problem. I think that we ought to acknowledge the fact that many of the busing orders derived from the fact that there are unfair housing patterns and practices in the United States, and for all who have decried that remedy—and there have been times when I have taken exception to it in particular instances myself—here is a way of dealing with it by making the opportunity of housing open to everybody.

We have modified this legislation in the full committee. The subcommittee came forward with a much tougher bill, in my view, and it was compromised already in the full Committee on the Judiciary.

I can say to the Members that the civil rights and fair housing advocates across this land are not prepared to accept any weakening amendments to the legislation, particularly the one that would in effect gut the administrative judge's ability to bring about its implementation.

So, Mr. Chairman, I would point out that history can be made today in the House of Representatives. This is our chance. I know the lobbies are strong against this bill. I know that certain business interests are opposed, but it seems to me that if this Congress is to meet the challenge of civil rights progress, we must pass this legislation, and I urge upon my colleagues to accept the fair housing legislation before us now without amendment.

Mr. HYDE. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Chairman, in 1968 the fair housing law was enacted with the intent of preventing racial discrimination in housing sales and rentals. H.R. 5200 was introduced to address some of the shortcomings of the present law, specifically the creation of a new fair housing enforcement mechanism within HUD.

HUD should be the last agency to be given increased enforcement powers. In the last two reports issued by the Civil Rights Commission, HUD was severely criticized for its lack of enforcement guidelines, poor dispute conciliation methods, slow investigatory procedures, and poor enforcement staff.

H.R. 5200, besides giving HUD the power to initiate, investigate, and prosecute complaints, also allows for HUD administrative law judges to adjudicate complaints. Other shortcomings include the following:

First, not actually assisting the victims of discrimination. The only sanction available under the bill is a $10,000 civil fine, which goes to the Government and not to the victim, and injunctive relief.

Second, allowing only seven administrative law judges to adjudicate fair housing complaints. This is not even one ALJ per HUD regional district.

Third, allowing for concurrent jurisdiction by HUD and State agencies over fair housing cases. Proponents have argued that many of the fair housing cases will be referred to the 22 certified State agencies. What proponents fail to mention is that current HUD regulations force these certified State agencies to enter into agreements with HUD that would allow HUD to keep jurisdiction over fair housing cases. H.R. 5200 does not prevent HUD from coercing States into contracting away their rights as to exclusive jurisdiction.

Fourth, allowing zoning cases to be handled by an administrative law judge. The February 5, 1980, Federal Register specifically states this intent. Proponents of H.R. 5200 have argued all along that this was not the case. These same people are now endorsing a proposal to only adjudicate zoning complaints in court. If it is unfair to hear a zoning case before an administrative law judge then it is unfair to hear any case before an administrative law judge.

Fifth, section 811 of the bill is not eliminated, HUD will continue to have the capacity to use the administrative tribunal as the primary forum for achieving its comprehensive program for redefining and restructuring of neighborhood communities and living patterns. So long as section 811 remains intact, HUD has the capacity to second guess the motive of every local and State ordinance, law, rule, regulation, or policy before its own tribunal.

Finally, the de novo review contained in the bill is inadequate. The committee report language indicates that the administrative record is to be relied upon and the "special expertise of the adminstrative law judge is to be deferred to." That hardly gives an appellant a fair day in court before an impartial tribunal.

To address all these shortcomings, the gentleman from Missouri (Mr. VOLKMER) and I are offering an amendment which will truly put teeth in the law. Highlights of the Sensenbrenner-Volkmer amendment include the following:

First. Utilization of the 515 U.S. district court judges and the 237 magistrates, thereby insuring a speedy hearing of the issues. I would remind the Members, Mr. Chairman, that the bill, as reported from the committee, only contemplates seven administrative law judges to hear all complaints arising under this act.

Second. Encouraging the settlement of disputes through conciliation by providing sanctions against those who refuse to attempt conciliation in good faith.

Third. Providing direct relief to actual victims of housing discrimination, rather than merely enriching the Government, through the award of monetary damages thereby avoiding the constitutional problems inherent in the administrative law judge approach.

Fourth. Specifically providing a mechanism for binding arbitration of disputes, with HUD having the ability to enforce any such awards administratively;

Fifth. Allowing the Department of Justice to institute suits on behalf of individual victims of discrimination. This would be an expansion over the present power of the Department of Justice only to institute suits where a pattern or practice of discrimination is alleged;

Sixth. Maintaining the Department of Justice as the lead enforcement agency, thereby insuring a coordinated enforcement effort;

Seventh. Maintaining the current law requirement of expediting fair housing cases in court, contrasted to the 270-day delay within the administrative proceeding that is contained in the committee's bill; and, finally

Eighth. Mandatory referral to certified State agencies for 90 days of all cases. This will eliminate the yo-yo effect in H.R. 5200 which allows both HUD and State agencies to have concurrent jurisdiction.

Recently we improved the judicial system by increasing the number of U.S. district court judges and greatly expanding the authority of magistrates. In times which requires fiscal restraint, is it not logical to create a parallel system of administrative law judges to handle fair housing cases?

□ 1110

Mr. Chairman, Clearly, it is not logical to create an additional bureau within the Department of Housing and Urban Development. We should utilize the existing court structure and not create an expensive addition to the Federal bureaucracy. The Sensenbrenner-Volkmer amendment accomplishes this purpose, and I urge the committee's support of this amendment.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, I wonder, has the Department of Justice taken a position on the gentleman's proposal?

Mr. SENSENBRENNER. I have not received any communication one way or the other from the Department of Justice. I assume, as loyal followers of the administration, they would be opposed to my proposal, but nonetheless, on the law and on the facts, I believe that the Sensenbrenner-Volkmer amendment has merit.

Mr. BETHUNE. I would like to follow that up with this question: It does appear that there has been considerable lobbying one way or the other for the various proposals that are coming to the floor. The gentleman from Michigan mentioned the interest of civil rights advocates and the gentleman in the well seems to be making the point that the administrative tribunal would have shortcomings, one of which is that such tribunal might somehow be subject to the political force that might be in power in the administration at the time.

Listening to the arguments here, I suspect that there might be some validity to that. I wonder, why is the magistrate's forum superior, then, in the gentleman's mind? Is it then insulated from such forces, and could the gentleman expand on that, please?

Mr. SENSENBRENNER. The magistrate's forum can be utilized under the Magistrates Act by consent of all parties involved. Magistrates are appointed by the district judges in the district in which the magistrate serves. Under the committee bill, the administrative law judges are appointed by the Secretary of HUD. In effect, under the committee bill, it makes HUD the prosecutor of the case, it makes HUD the judge of the facts, and it makes HUD the executioner of the judgment.

I think that when you are considering a complaint of discrimination, which is a very serious allegation, a person who is complained against ought to have his day in court. And utilizing the Federal district courts and the magistrates will insure that an impartial trier of fact, somebody who does not get their paycheck from the Department of Housing and Urban Development, will end up making the determination of whether somebody is in fact guilty of discrimination or not.

Second, the administrative law judges cannot constitutionally award damages to either victims of discrimination or innocent third parties. The only penalty that is available to the administrative law judge in this bill is a $10,000 civil fine which accrues to the Government.

The victim of discrimination, who cannot get the house or who cannot get the apartment and who has to spend some time in a motel waiting for the administrative procedure to reach a determination, cannot even be reimbursed for his hotel bill for the period of time he had to sit there.

Similarly, the innocent third party, somebody who sold his home because he was transferred to another part of the country, if his closing was delayed as a result of a complaint of discrimination filed and he loses the house in his new city because he could not get the money from the sale of his old home, because he could not close the house sale, cannot be reimbursed under the administrative law judge proceeding.

Under the Federal district court, anybody who is aggrieved and who is injured can get compensatory damages and, if the situation warrants, punitive damages as well.

Mr. BETHUNE. I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman, I yield 10 minutes to the distinguished gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, I rise today with strong support for the legislation now before us. I commend the Committee on the Judiciary and the able chairman of the Subcommittee on Civil and Constitutional Rights on their dedication to this issue and the care with which this bill was drafted. H.R. 5200 received careful scrutiny and debate throughout the committee's deliberations and the final product, supported by a strong bipartisan majority of the Judiciary Committee, deserves the support of my colleagues on both sides of the aisle.

Although there have been improvements in the area of housing discrimination since passage of title VIII of the Civil Rights Act of 1968, for the past 11 years title VIII has remained a statement of goals, rather than an active force against discrimination in the housing market. Housing discrimination continues to be an all pervasive factor against the evolution of an equal and integrated American society. All Americans suffer from the ills of segregated housing, which deny us the opportunity to break down prevailing racial barriers and impacts upon the educational and employment opportunities of the victims of discrimination.

It is important that we assess in human terms the real impact of the legacy of generations of discriminatory treatment in housing against certain groups in our society. As a professional educator, I know only too well that discrimination in our public schools is closely intertwined with the evils of bias in the housing market. Housing discrimination lies at the root of our segregated educational system. When we survey the patterns of segregated housing in this country, it is no wonder that much of the Nation's public school system continues to suffer the ills of racial segregation, 25 years after its unconstitutionality was declared. I would say to those of my colleagues who have consistently voiced their opposition to remedies to educational segregation such as busing, that eradication of housing discrimination through the enforcement mechanisms in H.R. 5200 will move us in the direction of alleviating other forms of segregation without the need for artificial remedies.

In the 11 years since passage of title VIII, the absence of effective enforcement mechanisms have surfaced as the critical factor in our inability to eliminate housing discrimination. The Department of Housing and Urban Development, although charged with responsibility for enforcing title VIII, has been limited to the process of conciliation and persuasion as their only available enforcement tools. The extremely small percentage of complaints that have been resolved through the conciliation method is evidence enough that the enforcement powers of HUD must be strengthened. Currently, there exists little incentive for a respondent to agree to a remedy, or even enter into the conciliation process. For the most part, these parties can be assured that they run no risk of further proceedings; hence they are encouraged, rather than discouraged, from continuing their discriminatory actions.

Our judicial system, by and large, has been true to the objectives of the fair housing law. Indeed, much of the clarification of law that this legislation achieves is a result of prior court rulings. However, judicial relief is not readily available to the great majority of Americans who are victimized by housing discrimination.

Beyond the obvious and insurmountable financial obstacles which face individuals seeking judicial relief, judicial proceedings can be lengthy due to technical and cumbersome court procedures which create a greater opportunity for delays in proceedings for reasons unrelated to the merits of a case. It is obvious that housing cases, more than in any other area, demand a speedy forum for relief. In many instances, a complainant may eventually receive a favorable judicial ruling, but in the meantime the unit in question may have already changed hands. Thus, the question of relief is rendered moot.

The provisions of H.R. 5200 relating to administrative enforcement mechanisms within HUD are the product of careful scrutiny and compromise. They have been tailored to remedy current law, which places impossible burdens on the individual victim, while protecting the rights of all parties involved in a fair housing dispute.

While explicitly encouraging conciliation throughout the process, the committee has recognized the necessity of administrative enforcement of fair housing law. The use of HUD administrative law judges to rule on disputes is of paramount importance if we are to achieve effective enforcement of the law. Numerous State and local fair housing agencies have already seen fit to provide administrative authority to resolve fair housing cases. Adequate safeguards have been included in the bill to protect litigant's rights in the administrative hearing, and a thorough review of the administrative law judge's findings in the district courts is assured. In short, H.R. 5200 provides for an effective and fair avenue to resolve fair housing disputes through complementary processes of conciliation, administrative enforcement, and judicial action.

In addition to the vital enforcement mechanisms contained in the legislation, the inclusion of "handicap" as another prohibited ground for discrimination in housing is of great importance to the many Americans who find themselves denied their rightful choice of residence due to a physical handicap. I fully support this provision. This inclusion will insure that an individual is not discriminated against in housing activities on the basis of a handicap and allow the individual to make reasonable accommodations at his or her own expense, while protecting the owner of property from any financial burden.

I urge my colleagues to oppose the amendments to be offered to this legislation which seek to effectively undo the carefully crafted bipartisan compromise which the Judiciary Committee has presented us with. I am dismayed at some of the Civil Rights Act, but seek to add legitimacy to actions which serve only to perpetuate discrimination against Americans on the basis of their race, religion, or national origin.

After the events of recent weeks, no one in this Chamber can doubt the precarious state of race relations in this Nation. I will not delude myself for others in rhetoric by proposing that this legislation will mark some miraculous movement toward equality for all Americans and tolerance of our differences. It is my sincere hope that passage of this legislation will at least lead us away from the recalcitrance that we have witnessed in achieving an equal society, and mark a firm new commitment to that goal.

□ 1120

In 1976 we celebrated the 200th anniversary of the founding of this great Nation and we engaged in all kinds of ceremonialisms and enunciations of the espousal of equalitarian principles. However, we know that at the root of so many of the difficulties in our society is the housing pattern in which certain groups of people live in specified areas in a given community or in a given district and that many of the attendant problems that have arisen go right back to the root of this segregated housing pattern. Our neighborhood schools should be reflective of the multifacetedness of this society. We would not have to talk about artificial remedies like "quotas" and "busing" and all of those words that evoke fantastic emotionalism in this Chamber. If we would but have the conscience and the morality to move in this positive direction as we proceed into the 1980's of trying to finally achieve a fair housing law that would bring together Americans regardless of their race, creed, or color, a fair housing law that in the final analysis will actually bring about an integrated school system, because the schools will be reflective of the different kinds of people that make up America then we would not have to spend hours upon hours of debate in this Chamber debating such words as quota and all other terms that almost cause people to have heart attacks.

The only reason we have to use these artificial instruments is because we have neither the morality nor the conscience to do that which is right.

Mr. Chairman, we have just celebrated the 200th anniversary of this country a few years ago. It is my hope that we will begin to make additional progress toward achieving fairness and justice for all Americans.

Mr. HYDE. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I would like to begin by congratulating the distinguished chairman of the subcommittee, the gentleman from California (Mr. EDWARDS) for leading a very lengthy and a very difficult fight to try to improve and provide a meaningful enforcement mechanism in the Civil Rights Act of 1968.

I also want to congratulate one of the

gentlemen who is retiring from this body, the gentleman from Massachusetts, Father DRINAN, with whom I seldom agree on anything, but I want to recognize that he has been dedicated and committed to the area of civil rights, and this happens to be a bill which I agree with him about.

In addition, I want to mention that there are some people on the minority side that I believe have played a very meaningful role in improving the bill. Among those is the ranking minority member of the subcommittee, the gentleman from Illinois (Mr. HYDE). I know that the gentleman from Illinois (Mr. HYDE) has some problems with some of the provisions, but he did support it in subcommittee. He supported it on final passage and has played a very leading role, along with the gentleman from Illinois (Mr. MCCLORY), the gentleman from New York (Mr. FISH), the gentleman from Michigan (Mr. SAWYER), and the gentleman from Virginia (Mr. BUTLER).

Mr. Chairman, on April 10, 1968, the Civil Rights Act amendments, section VIII of which dealt with the area of fair housing, was passed by a vote of 250 to 172.

I am very proud that 100 Republicans voted for that bill on final passage, along with 150 Democrats.

It was the first major statutory effort to outlaw housing discrimination. It held out hope and it held out promise for many Americans that had been discriminated against by different discriminatory practices. Despite that effort, the promises held out by that legislation have clearly never been realized.

Empirical evidence gathered over the last few years in a number of hearings indicates that discrimination still persists in some areas, and further, that there was a serious omission in the law that we enacted. Putting it simply, there is no adequate enforcement mechanism in the 1968 Fair Housing Act.

Well, why is that? One of the reasons is that many American citizens have no idea that they are being discriminated against in the first place, when discrimination has, in fact, occurred.

Second, they are not aware of what recourse is available for them to deal with discrimination.

Third, those who are aware may not wish to go through the expense and the time-consuming process of going to court.

This particular bill represents a compromise reached by a number of us on the minority side that believed that the original bill did not afford sufficient protection for a defendant, and for that reason worked out a compromise with the so-called Civil Rights Coalition.

This legislation has been billed by the Civil Rights Coalition as the most important piece of civil rights legislation in the last decade, and I concur in that. While title VIII of the Civil Rights Act of 1968 gave the Department of Housing and Urban Development the responsibility to receive and investigate complaints of housing discrimination, it did not give HUD any real power to remedy the housing violations that its investigations revealed. HUD can only strive for conciliation between the parties involved, and if that fails, the aggrieved individuals are left to seek redress through private civil action.

□ 1130

Because of the cost and delay involved, the individuals usually decide to forego seeking vindication and look elsewhere for housing. Alternative enforcement under title VIII is limited to "pattern and practice" cases brought by the Attorney General. These enforcement procedures are grossly inadequate. Discrimination continues to persist.

One of the main purposes of this bill is to provide an enforcement mechanism that will provide the means to halt discrimination in housing practice. In other words, to fulfill the promise of the 1968 act. While the bill was still in committee, I assisted in working out an enforcement compromise which I feel carries out the purposes of the new bill, but at the same time safeguards the rights of the alleged discriminator.

This enforcement compromise first of all emphasizes conciliation and also includes the mandatory referral of a complaint to a certified State housing agency, of which there are now 22 (with 5 awaiting certification) without a right of recall by the Secretary. It then provides for a hearing before an administrative law judge (ALJ) after a decision has been made by HUD to file an administrative complaint rather than refer the matter to the Department of Justice as it may do in section 810(c). Since this hearing is "on the record" as required by section 811(a), all the due process advantages of the Administrative Procedure Act (APA) attach.

Because the ALJ's involved would be employees of HUD, and therefore might have an institutional bias which cannot be satisfactorily protected by the APA, I felt, as did some of the other Members on our side, that there must be a way to design an enforcement mechanism that did not rely exclusively on the so-called APA to guarantee impartiality. It occurred to me that in the last Congress the Subcommittee on Courts, Civil Liberties and the Administration of Justice, of which I am a member, passed into law the Magistrates Act, which provided for an appeal from the decision of a magistrate to a Federal district judge. The judge could then make a de novo review and determination.

Similarly, under the compromise enforcement procedure, once a decision has been made by the ALJ, his ruling or order can be appealed to a Federal district court for a de novo determination. Additionally, the court on its own initiative can call additional witnesses, and I want to make this point very emphatically, the court on its own initiative can call additional witnesses where there is a compelling need or when witnesses were excluded by the ALJ.

I believe the right of judicial review, in a Federal court located where the property in question is located, guarantees that justice will prevail over the order of a potentially biased administrative law judge.

I feel that the passage of this legislation would provide a flexible and effective means by which to achieve the goals embodied in the Civil Rights Act of 1968. It would make possible the right of equal opportunity in housing, and I urge my colleagues to join me in supporting this bill.

In addition I want to make some comments about the comments made by the gentleman from Wisconsin. As I understand it there is going to be an amendment offered by the gentleman from Oklahoma (Mr. SYNAR), which is designed to do some things which I believe afford even further protection under the bill and which I can support.

For one thing, if the Synar amendment is adopted, it is my understanding that HUD will no longer appoint the administrative law judges, but rather they will be appointed impartially.

In addition, it is my understanding that land use cases will not be assigned to an ALJ, but rather will be handled by a court like they are right now.

Also, I want to make the point that an aggrieved party, and this is very important, has the election or the right to choose whether to go to court or whether to go in to the administrative law proceeding. In other words, that election is on the part of the aggrieved party, and no one can take it away.

I want to make the point that the Attorney General can intervene in the private actions, which I think is good.

In addition, let me say in the original bill that we modified by the compromise there was no mandatory reconciliation, there was no mandatory referral to a State grievance mechanism. In addition, there was no appeal, no de novo appeal to the district court. Rather, one had to go directly from the ALJ all the way up to the Court of Appeals, and in that case the typical, traditional appellate standard would prevail. That standard is: there had to be no substantive evidence in support of the lower court decision in order to overturn.

In the original bill the HUD Secretary could have modified the ALJ's decision. We knocked that out.

I would say to my colleagues there have been many, many changes, some of them effectuated by the subcommittee. With efforts by the gentleman from Illinois (Mr. HYDE), I think we have a fair bill. I want to say if the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER), is adopted—and I do not like to say this—in my opinion, it completely would abrogate what is the most important thrust of the bill and that is to permit expedited hearings and expedited resolutions but in fair manner.

Mr. EDWARDS of California. Mr. Chairman, this bill has been a product of much hard work over the years and much compromise. Key to the success of the bill, which I feel is assured, is the imaginative appeals process worked out by the gentleman from Illinois (Mr. RAILSBACK); the gentleman from New York (Mr. FISH); the leadership conference on civil rights; and the Departments of Justice and HUD. Both of these gentlemen deserve very much credit for that appeals process, which is an ingenuous and fair device, and all of the other improvements that have been made steadily in this bill over the years and over the months.

Mr. Chairman, I now yield 10 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I do not believe I will take my full time, but I would like to go over some parts of the bill and some of the things that have been mentioned here earlier in the debate.

First, I wish to commend the gentlewoman from New York (Mrs. CHISHOLM), for her statement, and also the gentleman from New York (Mr. FISH), for reviewing some of the problems with discrimination in this country.

I think it noteworthy that perhaps the only city that I have heard mentioned during this whole debate to which we should look to for the problems of discrimination has been the city of Miami which was mentioned earlier. I do not think that is true. I think we have to look at it and be practical and matter of fact. Let us realize we have discrimination, because of race and religion, whatever it may be, throughout this country. It exists in the Northeast in New York, in Boston. We have seen that it exists in Detroit. It exists in Chicago. It exists in St. Louis, Los Angeles, wherever we go. It is not only in the South. Let us not look to that old thing. It is all over.

Now what we are trying to do with this bill is make it so that people will be able to get housing anywhere they desire without being discriminated against because of race, religion, or other grounds, that they will be afforded the same opportunity in obtaining that housing as anyone else.

☐ 1140

We know that because of circumstances that exist in this country and that have existed for a good many years we have discrimination in housing. We all know that. It is a state of mind with a number of people, many people in this country. Many people right now say, I do not want certain people to live next to me, or in my subdivision, or in my area. We know that. All right, how are we going to correct it?

I feel that the proper way to correct it is to provide the necessary tools to the people who are being discriminated against, and through government agencies to provide for corrective measures in the most objective way possible so there will not be discrimination in providing the remedy. I think that we can do that through the bill with the Sensenbrenner-Volkmer amendment.

In that amendment basically one of the first things that we do that is very important is that we strengthen the conciliation process. As one on the subcommittee who attended almost all the hearings, it became very apparent to me that during the hearings, and examining the original bill as introduced, conciliation was abandoned, completely abandoned as an attempt to provide for a remedy for discrimination. I thought this was wrong and that the best way to attack the problem was to strengthen the conciliation. You will find that in the Sensenbrenner-Volkmer amendment. There are incentives there for conciliation so that it can be done. The remedy can be arrived at a lot quicker if you want to do it quickly than either through ALJ's or through the courts.

The other thing that bothers me about the bill is the use of ALJ's, and it became apparent to me that we are abandoning the court system that we have for this much-needed remedy throughout this country in this bill. This court system, which we just recently enlarged through additional judges, this court system which helped through the Magistrates Court Act, and which I would like to see go a little further so that we could use the magistrates more—the bill we abandoned in favor of ALJ's. How many ALJ's do we have? Very few. To handle 3,000 complaints a year in this country, we are going to have 7 ALJ's? No way. I disagree with that. I think that if you want a proper, objective remedy, use that court system and make it work, and it can be done.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding. As the gentleman knows, I am not on the committee. I am, however, trying very hard to get a handle on this issue. It occurs to me that there is not an adequate enforcement remedy in place at this time, and the quest here is to find a remedy. There should never be a right without a remedy.

Mr. VOLKMER. That is correct.

Mr. BETHUNE. In trying to do that—and I am as sincere as I can be on this—we are trying to determine which would be the best court of first instance.

Mr. VOLKMER. That is correct.

Mr. BETHUNE. And are we looking for a fair tribunal, or are we looking for a forum where the ultimate goals of one political force or another might prevail?

Mr. VOLKMER. Yes; I would like to point out that that political force is a two-edged sword. It can go both ways.

Mr. BETHUNE. It depends on the administration in power at the time.

Mr. VOLKMER. That is correct.

Mr. BETHUNE. So my sincere inquiry is, What should be the court of first instance? Should it be a fair tribunal, or should it be a forum wherein a political force might have some influence?

My question to the gentleman is, and I really want to know the answer to this, Why should we not give it to the magistrates? Is the magistrate forum a better place, as the gentleman from Wisconsin (Mr. SENSENBRENNER) has suggested? Are they not impartial? Are they not able? Are they not capable of handling this problem?

Mr. VOLKMER. If we deny these things, then we condemn our magistrate court system, in my opinion. I say that they are, and they are the proper place to have the initial proceeding, and that it is the objective place, and there is no influence that can be brought upon them. And you have numbers and availability throughout this country in every district. You are not relegated to a few who have to run all over the country. I would say it is the best avenue, much referred to ALJ's.

Mr. BETHUNE. It has been suggested that it would gut the bill.

Mr. VOLKMER. I know that has been suggested, but I believe that if any Member here personally feels I am trying to gut the bill, that is their prerogative. But I would like for any Member to look at my record in this regard, not only in housing but also in all matters of civil rights, and I do not think that they can come up with that. I personally feel that it is more proper, like I said before, to strengthen the system that we have and use that system rather than abandon it.

Mr. BETHUNE. I thank the gentleman.

Mr. VOLKMER. One other thing in regard to that, I would like to point out a deficiency within the bill. I believe the gentleman from Wisconsin has earlier commented on it. I would like to elaborate on it a little further, where the courts are much superior to the ALJ's. Within the court system a complainant can get damages, not only out-of-pocket expenses, but he can also recover damages for discriminatory practice. Can he do so with an ALJ? Under the bill, you can get up to a $10,000 civil penalty. That does not go to that complainant out there who has been discriminated against. No. That goes to the U.S. Treasury. What else can you get? It says, other remedies. Let us look at that, and let us look at article VII of the Constitution. Let us look also at Supreme Court cases. Then if you want, you can look at the opinion of the Assistant Attorney General of the United States and his opinion, who all say—and it is my opinion—that you cannot have an ALJ giving civil damages and have it be constitutional. It is unconstitutional, in my opinion. So says Mr. Hammond of the Attorney General's Office of the United States, the General Counsel. He says that it is very questionable for ALJ's to award damages. There is no question in my mind.

You want a speedy remedy. You use the ALJ, and that ALJ awards civil damages. You have got a Supreme Court case. How long does it take for a Supreme Court case? You cannot say that about the Volkmer-Sensenbrenner amendment. No way. Can they tie the case up that long? I have got an opportunity if I want, to tie the case up 6 or 7 years on the constitutional issue in every case in which civil damages are awarded. If you do not give civil damages, what have you done for that individual who has been discriminated against? You say, Well, we gave him the property. No way. Read this bill, because if that property has been sold in the meantime to a bona fide purchaser for value the purchaser keeps it. No way does the complainant get that property. That property still goes to that purchaser. The complainant still has not gotten a thing.

I think you people should read it and understand that, in my opinion, your ALJ process is not going to work.

The other thing I would like to comment very briefly on is that the gentleman from Oklahoma (Mr. SYNAR) previously mentioned or circulated an understanding that there will be amendments to the bill. However, it is my understanding now that he will be offering a substitute—and correct me if I am wrong—for the Sensenbrenner-Volkmer amendment. I urge the Members not to vote for that substitute because, although it does do some things to strengthen parts of the bill, they are very minor, and will have little effect on the bill. I feel that it is nothing more than a subterfuge in which to try to defeat the Sensenbrenner-Volkmer amendment. The Synar substitute—not amendment but a substitute—should be defeated.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the distinguished and learned gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I have lived with this bill in one capacity or another for several years, and based on my analysis from time to time and views of it, I think I have systematically gotten myself in a position where I have a constituency of about one with regard to unanimous agreement with me as to this bill. Nevertheless, I would like to take a few minutes to share with you some of my views based on my attendance and membership in the subcommittee during the last Congress, and membership on the committee.

Within the context of the constitutionally protected rights against discrimination on account of race, creed, or sex, I do not view this as major civil rights legislation.

□ 1150

In my view, it is a modest progression and improvement of enforcement of a Federal policy which has been enshrined in statute since 1968. In my view, the committee has an approach which is eminently fair and reasonable expansion of existing policy. For reasons to be mentioned later, I consider it more reasonable than the approach of the gentleman from Wisconsin and the gentleman from Missouri but nevertheless both, however, will improve the enforcement procedures of the legislation so in my view whatever the results of our action here today, I do not think they jeopardize, but improve, the enforcement procedures.

Mr. Chairman, I have some suggestions about the procedures which we have adopted, which the committee brought to you, which I am hopeful will tighten the timetable so that the process will improve, and I think that is important. Likewise, while I am not familiar with all the substitutes to be offered by Mr. SYNAR, what I know of it indicates that clearly these will be further improvements on the committee bill and I would urge their adoption.

Mr. Chairman, the key to the process, the key to the improvements in the enforcement process in my judgment is its emphasis on State enforcement. Twenty-two States, including mine, now are certified for their enforcement process under the existing law and, of course, they have to accommodate to the new provisions of law in order to remain certified. In order that the membership might be fully aware of what I am talking about, I would quote for a moment from the bill, on page 21, line 7:

> (3) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency.

In my judgment, Mr. Chairman, this is a very significant portion of the bill.

If I could have the attention of the gentleman from California (Mr. EDWARDS), I would like to question the gentleman from California on the question of the subject of the HUD certification of the State and local housing agencies.

As I understand the bill, one of its principal purposes is to spread the burden of discriminatory housing enforcement throughout the States by way of State and local agencies which are certified as being, and I quote from the bill, "substantially equivalent" to the Federal agency created by this bill. It is my understanding that substantially equivalent means the right protected by the State agency, the procedures followed by the State agencies, the remedies available to the State agency and the availability of judicial review from the State agency's action are substantially equivalent to those created by this legislation. Is that a fair summary?

Mr. EDWARDS of California. The gentleman from Virginia is correct.

Mr. BUTLER. I thank the gentleman.

Now, Mr. Chairman, if I may continue, toward that end, as I mentioned before, some 22 States now have certified agencies, including my State of Virginia.

If I may have the further attention of the gentleman, throughout consideration of this bill, extensive efforts have been made by Representatives of both sides to more fully guarantee the complaints of housing discrimination are first processed through the competent State agencies before being reviewed and acted upon by HUD.

For example, during subcommittee consideration, the ranking minority member, the gentleman from Illinois (Mr. HYDE), was able to change the language of the bill to make referral mandatory rather than discretionary. In full committee, the Railsback compromise eliminated the need for the consent of the aggrieved person as a precondition to referral.

The gentleman from New Jersey (Mr. HUGHES) offered an amendment which was adopted, deleting the Secretary's right to recall a complaint once it has been referred to the State agency.

I offered an amendment which would help tighten the time period within which the referral must take place.

I offered another amendment which was also adopted designed to place a 90-day cap on approval of the State's request for certification. If HUD fails to object to the request within that 90-day period, the State or local agency is automatically deemed certified.

If the Secretary chooses to object to certification within that period, he must provide the agency with an explanation specifically outlining his reasons and the Secretary's decision as to whether the State agency is substantially equivalent to the Federal agency is subject to review by the appropriate Federal court.

I hope the gentleman from California (Mr. EDWARDS) will agree that the meaning of "substantially equivalent" is very important and I want to clarify that.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield the gentleman from Virginia 2 additional minutes.

Mr. HYDE. Mr. Chairman, I yield the gentleman from Virginia 1 additional minute.

The CHAIRMAN pro tempore. The gentleman from Virginia is recognized for 3 additional minutes.

Mr. BUTLER. Mr. Chairman, I want to clarify what we mean by substantially equivalent. Based on our experience in Virginia, it is likely that our general assembly will alter the existing statute in an effort to retain the State's present certification. It is also likely that any change in our present statute will enable the existing State agency, which is now the Virginia Real Estate Commission, to entertain or originate complaints, investigate those complaints and make recommendations for punishments, including a fine or injunctive order. The order will probably be issued by the existing agency or an officer thereof, following a review of the facts. If it should decide to contest the order of the State agency, he will in all probability be entitled to an appeal to the General District Court of Virginia, which is a court not of record, wherein he will be entitled to a trial de novo with appeal as a matter of right to the circuit court, which is a court of record wherein he will again be entitled to a trial de novo in its entirety.

I have submitted this question to the gentleman earlier. I would ask if the gentleman would agree that a State which creates an agency along these lines I have described, should be certified by HUD within the meaning of this statute.

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, I certainly believe that it should, and would.

Mr. BUTLER. I thank the gentleman very much.

Mr. Chairman, I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. SYNAR).

Mr. SYNAR. Mr. Chairman, I rise to associate myself with the remarks of the distinguished committee chairman and subcommittee chairman and to briefly comment on some amendments to the committee approach which I intend to offer on the floor.

I want to reemphasize two points:

First, there is a legitimate need for amending the Fair Housing Act of 1968.

There is tremendous support for including the handicapped under the coverage of the act; and

Second, we all recognize that there is a need to improve the enforcement process. The approach embodied in the existing law simply does not work.

The only tool available under current law—short of a long, drawnout, and expensive Federal court case—is conciliation. And conciliation alone just does not do the job. Right now, few agree to conciliate and fewer still actually reach a conciliation agreement. Less than 1 in 12 complaints filed with HUD—1 in 12—are successfully conciliated. And my own experience, as well as the experience of HUD, is that the current, toothless law discourages many, if not most, legitimate complainants from ever filing a complaint.

We focus, then, on one question. Not, should we improve enforcement; but, how do we improve enforcement?

Critics of the bill would try to improve enforcement by simply stressing conciliation—but I ask my colleagues to consider that idea closely. Conciliation, by its very definition, can have no final, binding authority. By its very nature, conciliation will always favor those who have the time and the money to drag out the process and then go into Federal court.

However, conciliation is obviously the most desirable solution to a fair housing complaint and, no matter how small the percentage of its success, it should be encouraged. My amendments will strengthen the conciliation process significantly.

But when conciliation does not work, and it is not going to a high percentage of the time, the very nature of the controversies involved in a fair housing complaint demands that both parties have access to a legal forum which can respond quickly and fairly.

Opponents of the committee bill are concerned that HUD is being set up as investigator, prosecutor and judge of a fair housing complaint. Although I believe the de novo review provided in the bill takes some of the wind out of that argument, it also concerns me. I will, therefore, introduce amendments to totally separate the administrative law judges from the investigative and prosecutive elements of HUD. In this way, I think we can eliminate concerns over the fundamental fairness of the process, insure the speediness which we all know we need, and get on with the business of giving this country a fair, workable Fair Housing Act.

□ 1200

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just wanted to make sure that procedurally everyone knows what is going on. The gentleman mentioned that he is going to offer amendments. Was he going to offer a substitute amendment for the Sensenbrenner-Volkmer amendment?

Mr. SYNAR. Depending on the choice of the Congressmen from Wisconsin and Missouri, we plan to offer amendments if they go section by section; but, if they offer their amendments en bloc, we will then offer amendments as a substitute for their amendments.

Mr. VOLKMER. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, the intent of this legislation, which is to prevent discrimination in housing based upon race, religion, color, national origin, sex, or physical handicap, is certainly a worthy goal. When Congress enacted title VIII of the Civil Rights Act of 1968, it went on record as enunciating this as a rightful and necessary policy. There is no argument about the fact that we need to make this policy a workable reality. The debate here today is how to bring about this desired end in the best possible manner.

When H.R. 5200 is considered under the 5-minute rule, it is my intention to support the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER), and cosponsored by the gentleman from Missouri (Mr. VOLKMER). Their amendment recognizes that the creation of a new bureaucracy at HUD to deal with fair housing is an ill-advised approach. The aim of this legislation is to provide individuals who are discriminated against with respect to housing choices, a more effective range of legal remedies. Unfortunately, the mechanism chosen by the Judiciary Committee is likely to result in an imbalanced, inefficient, and potentially unfair system.

Section 811 of H.R. 5200 essentially makes the Department of Housing and Urban Development the investigator, the prosecutor, and the judge in discrimination cases. Even though there may be an amendment offered as suggested by the previous gentleman in the well, I do not think keeping it within the one agency can take away all of these arguments, that would put within the Department all of these powers. The approach is inconsistent with the "separation of functions" principle that is present in the Federal Administrative Procedures Act. As it now stands, this bill would give sweeping powers to the ALJ's at HUD, who are career civil servants and not ultimately responsible to any constituency, would permit the ALJ's to impose fines up to $10,000 in cases where he believes housing discrimination exists. This same provision authorizes ALJ's to issue injunctions, presumably directing the sale of a particular piece of property.

The Sensenbrenner-Volkmer amendment would strike this administrative enforcement section of H.R. 5200. This arbitrary and unresponsive approach would be replaced with a procedure allowing the Department of Justice to bring a court action on behalf of an aggrieved individual. This amendment would also strengthen the conciliatory process, which occurs at the initial stage when a complaint is filed. Sanctions could be imposed against persons who refuse to make a good faith effort to conciliate. Binding arbitration would also be allowed under the amendment.

To me, it makes eminently good sense to judge fair housing complaints in a court setting rather than inside a bureaucracy. It would not matter to me whether this was a fair housing bill, whether it dealt with any other subject matter; if it is a case that a court should have jurisdiction over, I think that we are violating the rights of all individuals when we force them to go into a bureaucratic agency in search of justice. Justice is not available there.

I think that it is a fact that should also be considered that many of our cities throughout the country are very concerned that their responsibility to zone property within their communities to require minimum building requirements without interferance would be barred by this legislation.

There are 515 U.S. district court judges, and 237 U.S. magistrates who will be utilized to expedite and settle litigation. HUD, on the other hand, has only seven ALJ's to cover the entire United States. This amendment would provide genuine relief to the actual victims of discrimination by awarding compensatory damages where a pattern of practice is found.

In summary, the Sensenbrenner-Volkmer amendment means a more balanced approach for both parties in a fair housing dispute. It also means a quicker and more professional resolution of these serious questions. I strongly urge the Members of the House to support the amendment at the appropriate time, and keep justice within the court system of this country.

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 12 years ago, this House debated the bill that was to become the Fair Housing Act. At that same moment, the streets of Washington were aflame, ignited by the anger and frustration many young blacks expressed following the wanton murder of Martin Luther King, Jr. It took that kind of tragedy to shock this country and the Congress into admitting the cruel unfairness of discrimination in housing. A simple proposition, but one that was met with bitter resistance. The consequence of that resistance was the creation of an imperfect system—one that established principles in which we can take great pride, but one that rested on a system of enforcement that was doomed to fail us.

There is a sense of déjà vu about our predicament today. Rioting in one of our great cities again has been sparked by a peoples' feeling that they have been shut out of the system. Again, the deeper seed of this tragedy is the continuing and pervasive economic and social exclusion of blacks from the good life America promises.

The ghetto of Miami is not unique. The patterns of discrimination that force blacks to live in decaying, cramped, and overpriced housing exist across the country. The fact is that, 12 years after the Fair Housing Act, there is constant and continuing defiance of the law. To be sure, most discrimination has gone underground, and is subtle enough to be undetected unless the home seeker is wary. But it is there, and it is the underlying cause of our increasingly separate and unequal housing supplies. That separation, in turn, is a root cause of segregation in schools, in the market place, and so on.

So today we begin to try to fulfill the promise we made 12 years ago. I believe that the bill as reported by the Committee on the Judiciary will do just that. I firmly believe that the approach of my colleagues from Wisconsin and Missouri—albeit well intentioned—will not. In fact, the Sensenbrenner/Volkmer amendment does little more than tidy up the status quo. To the extent any so-called improvements are offered, they are either restatements of existing alternatives (such as reliance on arbitration or magistrates) or giveaways that merely confirm the belief that discrimination is not to be treated as a serious matter.

The message of that approach is clear—fair housing enforcement is not important.

Yes, the amendment says, administrative enforcement is all right for claims involving all matters of other disputes, but not civil rights.

Yes, the amendment says, victims may suffer damages, and they ought to be compensated, but let us put a lid of $500 on that.

Yes, victims ought to have access to relief, but if they cannot hire an attorney with $500, too bad.

Yes, victims ought to have their day in court, but let us not clutter the regular docket—let us give it to the magistrates.

The proponents of the Sensenbrenner/Volkmer approach argue that administrative enforcement is inherently unfair. I find it hard to accept the accuracy of this characterization precisely because the only time I have ever heard it used is with respect to civil rights enforcement.

I also find it incredulous because it flies in the face of reality—in over 20 States, fair housing laws are now being enforced with mechanisms that are substantially the same as that which H.R. 5200 would provide to the Federal Government and no one is complaining, not even the National Association of Realtors.

Furthermore, this position ignores the numerous and profound changes that have been made in this bill since it was first introduced. H.R. 5200 as reported by the Committee on the Judiciary is a compromise position. Limitations on authority have been agreed to which are unprecedented in administrative enforcement systems. They include the following:

First. The Secretary has no adjudicatory power. The ALJ's decision is the final administrative order.

Second. The ALJ may not issue any temporary cease and desist order.

Third. The ALJ's order is subject to review in the district court using a standard of de novo review of the record.

All these changes must be viewed in the context of the mechanisms already in place that assure the independence and impartiality of the ALJ's. This will be further strengthened by the amendments to be offered by my colleague from Oklahoma (Mr. SYNAR).

When the National Association of Realtors first began discussing this bill with us last year, their spokesmen expressed the belief that availability of temporary administrative orders and a substantial evidence standard on appeal were what made the bill so onerous. Those have both been eliminated. Yet their position continues. Is it, as the Washington Post succinctly put it, simply that they do not want an effective system at all?

The National Association of Realtors certainly does not speak for the vast majority of Americans. It also, I believe, does not speak for most real estate agents and brokers, who must resent the implication that all in their profession seek some advantage by violating the law. The National Association of Real Estate Brokers, for one, rejects this. In a letter to all the Members of the House, that organization stated:

> We are writing to urge your full support for H.R. 5200, the Fair Housing Amendments Act of 1980. In particular, we desire to correct the impression that may have been left in the wake of lobbying efforts by others in our profession, to the effect that all real estate agents, brokers, salesmen, or appraisers oppose fair housing and oppose the creation of an effective enforcement system.
>
> Administrative enforcement is a fair, effective, and necessary addition to the Fair Housing Act. We have noted its efficient and effective use by a number of state fair housing agencies. The opposition may, therefore, be based upon the conclusion that it will actually work. As professionals in the selling, brokering, and appraising of real property, who desire to abide by the law, and who seek no advantage by resorting to discriminatory practices, we welcome such a change. It will be good for our business and good for the country.

It has been said repeatedly that this bill seeks to fulfill the promise first made in 1968. Indeed, that is the case. We must not lose sight of the fundamental purpose of this bill—to make fair housing a reality. Precisely because this is a civil rights measure, it is incumbent upon us to set aside special interests, to view the policy and legal arguments with unbiased eyes. If you do this, I believe you will join me in concluding that H.R. 5200 should be adopted without crippling amendments.

And finally, Mr. Chairman, I have already alluded to the fact that many States already have in place laws that are substantially equivalent to H.R. 5200. A major goal of this legislation is to encourage the States to assume full responsibility for fair housing enforcement. The Department of Housing and Urban Development shares this goal, and has already begun to assist States and localities which desire to bring their laws and practices up to the Federal standard. This effort will intensify when H.R. 5200 is enacted. Technical and financial assistance to these uncertified agencies will enable them to achieve substantial equivalency and take over this responsibility.

Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, it is incredible to me, who has had the honor of serving here since we went through the 10 days of debate on the Civil Rights Act of 1964, and more incredible in light of the involvement in the sorry, dreary history, that this last remnant of virulent malpractice survives as yet.

Going back to the very, very dark ages after the war, we had veterans who had served and had been maimed and came back, but simply because their name was Martinez, or they were identified as Mexican, they were denied under the restrictive covenants then in existence the right to acquire—forget about renting—property. Then, we had the sorry plight even then, predating the 1954 Supreme Court decision and the May 3, 1948, decision in the Supreme Court outlawing restrictive covenants based on race, color, or creed.

We, the people who come from this segment known as Mexican or Mexican-American, were the beneficiaries of the bravery of the freedom-loving blacks who were the only ones who were able to generate the moneys in St. Louis to go to the Supreme Court, a fight that was successfully concluded in 1948. So, we were able to win the Puente against Humphreys case in San Antonio, Tex., soon after that decision, the restrictive covenant decisions of Texas.

But, today here in this pending bill we have a unique refugee from the Civil Rights Act of 1964. It is a very modest bill after it was properly corrected in the original version. I am sorry to report there still is discrimination, particularly in housing, and therefore the need for this legislation.

It is cruel. It reflects economic situations that we must address ourselves to sooner or later as time will permit. Nevertheless, this bill I consider to be modest. The idea that the amendment known as the Sensenbrenner-Volkmer amendment is in any way anything other than a gutting of the main reason for this legislation just defies logic, because what the Sensenbrenner-Volkmer amendment does, as I read it, is to go back and leave the situation where it is, where the magistrates do have jurisdiction, if both parties voluntarily agree to go to arbitration—now, can you imagine a discriminator voluntarily going to the magistrate?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Certainly, I yield.

Mr. SENSENBRENNER. Is the gentleman from Texas aware that if both parties do not voluntarily go to the magistrate, then the case goes into the Federal district court with a statutory priority to the head of the civil calendar, as in my amendment?

My time is up.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I supported this bill in committee. I took a position against the Sensenbrenner amendment—now the Volkmer-Sensenbrenner amendment—in committee.

I was assured that the compromise that had been worked out provided a backstop of a de novo review in the U.S. district court for the party that might aggrieved by the decision. I now read on page 10 in the committee report that this bill does not contemplate a de novo review in the Federal district court, and I have to say, with that particular interpretation, if that remains in the bill or if the bill maintains that interpretation, that I do not feel I can any longer support the bill, and I will at least strongly support the Sensenbrenner-Volkmer amendment.

I have had bad experiences with administrative law judges over the years, for several reasons. No. 1, they tend to be the creatures, no matter how you word it, of the agencies to which they are attached. This agency—in this case, HUD—is charged under the law with gathering the evidence for the complainant and presenting it to its own administrative law judge, who then can issue injunctive orders or levy fines up to $10,000. There is no de novo review apparently, at least as the report interprets it, and the report says that even the taking of additional evidence should be very sparingly exercised. It is not meant to be a broad appeal process to the Federal district judges.

The second great problem with administrative law judges, in addition to the in-house nature of the proceeding, is that we as human beings tend to want to make more complex anything we do, particularly if what we do is limited to just one narrow phase of one statute. The administrative law judges, uniformly tend to read more and more into their single statute. They tend to find more and more subtleties and make more and more extended interpretations so as to satisfy themselves that they are dealing with a very complex and intricate situation until, when we finally take one of them on appeal up to a general court of law, it is almost impossible for any normal judge to understand how they can be reading the things they are reading into these various statutes.

I think that is true in the workmen's compensation field, it is true in the unemployment insurance cases, and it is true, I am sure, in cases such as this. I have listened to the experts testify in busing cases, and one just cannot believe the philosophies and theories and mechanisms they have developed in their own expertise of thinking out what is evidence of some kind of a pattern of discrimination.

So, Mr. Chairman, I just want to say that while I did oppose the Sensenbrenner amendment, now that I have seen the interpretation placed on what I thought was a compromise, I am now inclined to strongly support the Sensenbrenner-Volkmer amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding this time to me, and I rise in support of this legislation.

Mr. Chairman, I rise in support of H.R. 5200, the Fair Housing Act Amendments of 1980. These amendments will extend equal opportunity in housing to all Americans.

The Fair Housing Act would amend title VIII of the 1968 Civil Rights Act. Although the 1968 Civil Rights Act has helped to diminish many forms of discrimination, housing discrimination is still too prevalent because of the enforcement and substantive limitations of the 1968 law. The bill before us today would remedy these problems by providing a strong, workable enforcement mechanism, and by broadening the scope of the legislation to open housing options to handicapped persons and to preclude the evils of insurance redlining.

The extent of unlawful housing discrimination throughout the country is appalling. A recent nationwide study commissioned by HUD which used black and white "testers" to determine discrimination, revealed that blacks seeking rental housing have an 85-percent chance of experiencing discrimination at least once; blacks attempting to purchase a house have a 48-percent chance of experiencing discrimination. In a similar study in Dallas, Tex., it was shown that a dark-skinned Mexican-American has a 96-percent chance of facing discrimination while seeking a place to live. This discrimination is often very subtle. Some landlords and real estate agents, although they will show minorities their properties, will quote excessively high prices, downpayments, and long waiting periods and will conceal available housing in white neighborhoods.

The bill before us would provide an efficient enforcement mechanism which would encourage conciliation and cooperation in housing discrimination complaints. The present means for enforcing title VIII of the Civil Rights Act is through either voluntary conciliation or else lengthy and costly litigation. Few realtors will voluntarily conciliate with aggrieved persons, and few people seeking housing have the time or money to pursue a lengthy court suit. The HUD administrative enforcement process which would be provided by this bill can significantly ease these problems. The enforcement powers of HUD would serve as a major incentive for landlords and realtors to conciliate with aggrieved parties; they would likely prefer conciliation to the alternative of an administrative hearing presided over by an administrative law judge. Administrative law judges could order appropriate forms of relief including compensation payments, comparable housing relief, the award of a prevailing party's cost and fees, and the assessment of a civil penalty of up to $10,000. Because of the magnitude of these penalties, most cases should be resolved by conciliation, and only the most problematic would have to go through the administrative hearing process.

Critics of H.R. 5200 oppose granting HUD the power to investigate, judge and prosecute allegations of discrimination because they believe it grants too much power to one agency. The bill, however, insures separation of investigative and trial functions from the judicial function within the agency. The Secretary of HUD would be completely excluded from influencing the judgments of the administrative law judges whose decisions would not be subject to the review of any HUD employee. Also, appeals could be brought in Federal district courts if either party chose to challenge a decision. Other opponents assert that power would be taken away from local and State governments and be subsumed by HUD. This is far from the truth. Under most circumstances, HUD would automatically refer complaints to the 24 States and 80 localities who have HUD-certified "substantially equivalent" procedures and remedies for housing violations. For example, in New York City, complaints would be referred to the Human Rights Commission, and in other parts of New York, complaints would be referred to the certified State agency responsible for enforcing its fair housing law. If the local agency chooses not to accept the referral, it would go back to HUD.

The procedures provided in this bill would not replace or interfere with the fair housing operations of New York or the 24 other States which have them. In fact, it would indirectly help the functioning of these city and State agencies in several ways. It would be an additional encouragement to realtors to conciliate because they most likely would prefer conciliation on the local level as opposed to dealing with the Federal Government. The knowledge that HUD would step in if they are not doing a good job would encourage local governments to be more thorough and efficient. Finally, if the local agencies are backlogged with too many complaints, they could refer some cases back to HUD. This would expedite processing additional cases.

H.R. 5200 would also extend fair housing protection to handicapped persons. As the American Council of the Blind has stated "it would attempt to eliminate the insidious attitudinal barriers which keep handicapped persons isolated and outside the mainstream of American life." Property owners would not be required to modify dwellings, but handicapped tenants would be allowed to alter apartments at their own expense and would be required to restore it to its original condition. Most importantly, the law would forbid rental agents from denying apartments to handicapped persons because of prejudicial assumptions that our disabled citizenry pose a greater potential for liability.

These fair housing amendments also deal with important real estate financial transactions in which discrimination occurs which the 1968 law overlooked. By making it illegal to discriminate on the basis of race, color, religion, sex, handicap, or national origin in appraising real estate, granting secondary mortgages, and providing hazard insurance, basic processes in housing finance, H.R. 5200 would make fair housing more attainable.

Several amendments have been proposed which would gut the essential features of H.R. 5200 and must therefore be rejected. One would eliminate the bill's administrative enforcement mechanism and perpetuate the ineffectual status quo by requiring victims of housing discrimination to rely on the Federal courts. It has been amply demonstrated that relying on the courts is too costly and time consuming for most victims of housing discrimination. As a result, few cases are ever brought to trial. Clearly, this amendment would undermine the central purpose of this bill, and I urge its defeat.

Another amendment would allow appraisers to use "all relevant factors" in deciding the value of property. This would permit appraisers to use race, religion, national origin, sex, or handicap in the determination of property values. By allowing appraisers to attach a value to the racial composition of a neighborhood, undervaluation of property might result, making financing difficult to obtain, and therefore contributing to the destructive phenomenon called redlining. Permitting appraisers to use these relevant factors in value assessments would thwart both the spirit and workability of the fair housing amendments, and I am confident the House will reject this amendment as well.

Mr. EDWARDS of California. Mr. Chairman, I yield the balance of my time, which, I believe, is about 2½ minutes, to the distinguished gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Chairman, 12 years ago, the 1968 Civil Rights Act was passed which attempted to outlaw discrimination in housing. However, several years after the passage of the Fair Housing Law, a major flaw surfaced which was the lack of an effective enforcement mechanism to assist victims of discrimination, especially the poor and minorities, whose only course of action is solely the courts, which are extremely expensive and involves much time.

Recent studies commissioned by HUD reveals that blacks seeking a rental unit have an 85-percent chance of encountering at least on instance of discrimination and a 48-percent chance of being discriminated against while looking for a home to purchase. Dark-skinned Mexican Americans, according to a similar study in Dallas, Tex., have at least a 96-percent chance of experiencing discrimination. Today, 12 years later, discrimination is still widespread in housing, though its forms are usually subtle, and sometimes difficult to detect.

It is, however, consequences of mainstream activity, bolstered by the law that ultimately supports racial prejudices and fears, and more often than not it is exploited for economic gains. Thus, as communities change from white to black, unscrupulous investors and property owners reap large profits. Spreading rumors of property devaluation, these investors exploit the basic racist fears of the white owner, these whites abandon their homes to speculators who then double the prices and sell to minorities, who desperately seek housing. And more often than not, limited cash of the minority buyer and the banks' practice of denying minorities loans as poor risks, force the buyer to secure a second mortgage at a very high rate of interest.

Realtors are opposed to discrimination, however, statistics certainly indicate to me that discrimination is still practiced. Some of the opponents desire to weaken the bill which would only perpetuate the status quo and the current system of handling only "practice and patterns" in housing discrimination cases. The appraisers clearly state that "all relevant factors" must be considered to give a full and accurate estimation of the property and of course we all know that in many cases the term "all relevant factors" refers primarily to the racial composition of the neighborhood.

The hazardous insurance industry argues that they are regulated by the States under the McCarren-Ferguson. I assert that State insurance antidiscriminatory laws lack coverage and authority to provide adequate detection and correction. If the realtors, appraisers, and the hazardous insurance industry are not accounted for under the current law, then fair housing will remain in its current state—as a promise, rather than a reality.

As long as we permit these unconstitutional practices, then we will continue to have segregated schools, thereby forcing the continuation of busing, the same trend follows as industry leaves the inner city environments and relocate to the suburbs, where minority workers do not have equal access to the social, political, and educational institutions. It is particularly interesting to note that much of the civil rights laws made in the sixties occurred during a violent and turbulent era of our history. Twelve years later, when demonstrations and early signs of tension is on the rise in our country, we are again faced with promulgating more effective civil rights laws with efforts aimed at minimizing discrimination and allowing greater accessibility to other institutions.

The enforcement mechanism to be used by HUD will be nothing new. We have administrative procedures in many other areas: To expel aliens, to act on labor complaints, to adjudicate utility rates, all of which can be appealed to the courts. So should housing complaints. This then would authorize HUD to use an administrative process to enforce fair housing under title VIII of the Civil Rights Act of 1968, thereby allowing fair housing to become that reality, rather than merely that promise.

Thank you.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, despite the legislative struggles in which disadvantaged persons have participated during the past decade, housing discrimination still persists in America. The Fair Housing Act Amendments of 1979 (H.R. 5200) adds the handicapped to the list of citizens who have been discriminated against. In addition, H.R. 5200 strengthens the original Fair Housing Act to empower the Department of Housing and Urban Development to act more effectively on behalf of those persons who filed complaints. Thus, the fair housing amendments should be treated as an integral component of our national fair housing policy.

Although it is difficult to assess the effect of discrimination in housing, its impact on the quality of life in our country is undeniable. Discriminatory practices in housing have attributed to the disparities between black and white Americans in health, education, unemployment, earnings, and income. These practices have created unnecessary barriers for a disproportionate number of Americans which serve to fragment the social fabric of our society.

While income, location, and price are primary factors which determine one's chance of being adequately housed, the chance of being inadequately housed is greater for poor blacks than poor whites, because of race. In fact, the chance of a black family being inadequately housed because of race is about one in four compared to less than one in five chances for their white counterpart. Similarly, the disparity exists between families where the head of a household is under 30. Given the successes in income and educational attainment for some blacks, this statistic is particularly alarming.

Discrimination based on race, sex, age, and household size, despite the economic and social gains made by a few, is consistently the experience of the majority of black Americans and other minorities. Consequently, there is ample evidence which calls for significant strengthening of existing housing discrimination law.

Enforcement is the key to present housing discrimination problems. Under existing law, HUD is mandated to insure that the practice of fair housing is implemented. However, it has no real enforcement powers. The only method which HUD is presently empowered to use to stop housing discrimination is conciliation. Former HUD Secretary Carla Hills stated that this method, though laudable in its intentions, is "an invitation to intransigence." The present instrumentalities—namely, the Federal magistrate system—would impose a crushing cost upon the aggrieved persons who are least able to bear the financial burden. Thus, the existing law, and some of the amendments to be offered during the course of this debate, would succeed only in eliminating the discrimination while the disease continues to eat away at the lives of millions of Americans.

The existing law is simply inadequate.

Since the vast majority of HUD's housing discrimination cases involve limited legal suits and relatively small financial losses, litigation through private suits or the Justice Department continues to be totally inadequate to meet the need. Accordingly, under the Fair Housing Act Amendments of 1979, equitable, speedy, and inexpensive remedies would be available through the HUD administrative mechanism.

HUD also would be empowered under this legislation to receive and investigate complaints, conduct hearings, and issue orders to remedy housing discrimination—including temporary relief. This would facilitate the Justice Department's role in enforcing the fair housing laws. Judicial review of these orders would still be available through a court of law which recognizes appeals.

The bill provides that the Secretary of HUD and the person who has made a discrimination complaint may choose between the administrative and judicial forums. This feature will substantially minimize the role of the Federal Government in State affairs where there is a substantially equivalent method for resolving fair housing complaints. Thus, there is no possibility of administrative overlap and unnecessary duplication of effort. Another major procedural change, as provided in H.R. 5200, is the lengthening of the statute of limitations from 180 days to 3 years the changes in the basis for awarding attorney's fees and costs.

The role of the Attorney General is clarified in the Fair Housing Act Amendments of 1979. The Justice Department, for example, would have the authority to bring suits at the request of the Secretary of HUD—where there has been a finding of reasonable cause, upon violation of an administrative order or to collect a civil penalty imposed by the Secretary. Up until now, a pattern or practice of discrimination had to be proved by the Justice Department. This legislation would remove this limitation and permit the Attorney General to seek monetary damages in this class of cases.

A major problem with the enforcement of fair housing legislation is that discrimination become less obvious, and thus harder to detect. One of the methods used to escape from fair housing laws is in the dispensation of property insurance or property financing. Insurance discrimination is a serious national problem. Despite claims that insurance underwriting is based upon objective data, the decision as to whether or not a family receives adequate homeowners insurance is still based upon subjectivity and unfairly discriminatory factors.

This legislation would make the unfair dispensation of property insurance a condition of discrimination. A few Members in this Chamber are of the opinion that "all relevant factors" should be used in determining the value of property. There is some moral ambiguity about this argument, since the only "relevant factors" in question are discriminatory—namely, the use of race, sex, color, creed, or handicap—in determining property values. Real estate appraisers cannot be exempted from their fair housing obligations any more than the Nation's property owners or lending institutions. Since the implementation of the Fair Housing Act of 1968, there has been no evidence whatever to indicate that excluding racial and other discriminatory factors causes property values to decline. There are many proven indicators which can and should be used by appraisers without resorting to antibellum practices which are neither constitutional nor helpful to the economy.

The major problem with housing discrimination in America is that everyone professes to oppose it. They claim that it is antithetical to the principles of affirmative action and the principles of civil liberties. Yet when the time comes to enforce these lofty altruisms, the proponents of fair housing dwindle both in stature and in number. For this and many other reasons, the goal of equal opportunity in housing must not be compromised. To the extent that we compromise the principles embodied in the current fair housing laws, we will witness further erosion of our housing policy. As long as any American does not share equally in the housing improvements in this country because of discriminatory practices, the Congress will have failed all of the American people.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have mixed emotions about this bill.

When this Congress began, the bill before the subcommittee was H.R. 2540, introduced on March 1 of last year by Chairman Don Edwards and Congressman Bob Drinan. While I applauded the motives behind it, I was dismayed to see some of what it contained. As an example of bureaucratic power it had few equals. As first considered, H.R. 2540 was quite extreme. Among other things, it contained the following:

First. A nonreviewable "cease and desist" power residing in the Secretary of HUD. As introduced, the Secretary, after an opportunity for hearing, would have the power to "order temporary or preliminary relief pending the final disposition of [the] charge." The importance of this provision was that the Secretary, Patricia Harris, could, on her own motion, enjoin a housing project at considerable cost to the developer, until an administrative proceeding, which she could control and manipulate, would be initiated and appealed through the Federal appellate court system. Many months, perhaps even years, could pass before this process becomes complete. In the meantime, the developer might go bankrupt. What an incredibly coercive power this would have been.

Supporters of this bill will still claim that "cease and desist" remains as an equitable power retained by the administrative law judge (ALJ). However, this very dangerous authority was dropped from the bill during subcommittee markup. In its place, we were able to forge substitute language which now requires that any action for such an injunction must go before a Federal court. This way, the Rules of Civil Procedure apply and a Federal judge, not HUD, and certainly not the Secretary of HUD, will determine whether temporary relief is indeed appropriate. I offered another amendment in full committee to specifically reference rule 65 of the Federal Rules of Civil Procedure. That rule requires that even in the event an injunction should issue, a surety bond must accompany it.

Second. Proposed section 811(a) of H.R. 2540 would have permitted the Secretary to modify, in whatever way she chose, any decision of the ALJ. During subcommittee markup we were able to insert language which affirmatively prohibited the Secretary from playing any role whatsoever in the administrative review process.

Third. As introduced, H.R. 2540 would have allowed the Secretary of HUD to issue subpenas and the like even if they were merely "related" to an ongoing investigation of housing discrimination. That seemingly insignificant change represented a substantial departure from the existing requirement that all such subpenas must be "reasonably necessary in furtherance of [any] investigation." When I first saw this language, my reaction was that such a power could open up the possibility for endless administrative witchhunts. At subcommittee, we returned the bill to existing law.

Fourth. Initial referral to certified State agencies was discretionary in the Secretary. If she chose to initiate an action in Washington, the State would have little alternative but to stand aside, regardless of the competency of its enforcement machinery, and watch the Federal Government deal with any claim of housing discrimination. Once again, in subcommittee we were able to change that provision in such a way as to make the Secretary's referral mandatory.

There were other portions of this bill which were a source of concern to me. For example, the administrative procedure contained in proposed sections 810 and 811 give me pause for alarm. While the administrative law judge's proceedings do come within the statutory coverage of the Administrative Procedure Act (APA) and carry with them certain due process rights guaranteed by that act, the administrative law judges are nevertheless employees of HUD and as such cannot help being institutionally biased in favor of HUD's point of view and its mission to homogenize all neighborhoods. They are not the objective dispassionate persons whom I want to see conducting "hearings" between rival parties. For this reason, I plan to support the amendment by the gentleman from Wisconsin (Mr. Sensenbrenner) to strike the administrative remedy and instead refer all individual complaints to the Department of Justice for its ultimate review and consideration. I agree with him that this approach is far more fair than the potentiality for abuse under the administrative system.

I think another point needs your attention on the subject of the Sensenbrenner amendment.

Throughout the period during which this legislation has been considered, and that includes the last two Congresses, much has been said about the failures of title VIII of the 1968 Civil Rights Act.

We have been told that the Government is powerless to adequately respond to complaints as they have been received alleging housing discrimination. A better enforcement mechanism, we have been told, is absolutely necessary if we are to create an incentive to participate in a conciliation process. I quite agree, but hasten to add a Federal judge in Cleveland this week issued a judgment under the existing law hailed as a far reaching civil rights victory.

But do not fall victim to HUD's rhetoric and its attempt to characterize your vote on this amendment in terms of whether or not it "guts" the bill. If the Sensenbrenner amendment passes, the conciliation process will be buttressed by the threat of a referral to the Department of Justice. This is no gutting amendment. It may interest you to know, that as a matter of practice, Justice may then assign litigative responsibility back to HUD, maintaining control in the process. Any attempt to represent the Sensenbrenner amendment as a gutting amendment is just wrong. We must keep in mind that in voting on Mr. SENSENBRENNER's amendment, we are voting on an enforcement procedure only. Our vote on the bill itself will come later; you can be assured that it will not diminish its effectiveness with the passage of Mr. SENSENBRENNER's proposal.

At the appropriate time, I expect to offer another amendment which has been referred to as a gutting amendment. I have circulated a "dear colleague" letter in an effort to familiarize you with the merits of my proposal and I will discuss it more fully when amendments are considered. Suffice it to say that my amendment would permit appraisers, who owe a fiduciary obligation to their employers, in most cases lending institutions and/or the Federal Government, to consider all factors shown by documentation to be relevant to the appraisers' estimate of fair market value of real property. My amendment also includes a proviso that such factors shall not be used by the appraiser with the intent to discriminate against any person for the purpose of denying rights guaranteed by the bill. Please keep in mind that the purpose of this amendment is simply to protect lending institutions and the Federal Government, which on occasion has fallen victim to shoddy appraisal tactics, from accepting collateral which is not honestly accurately appraised. Surely we recall the FHA-insured housing scandals of the early seventies. Any factors shown by documentation to be relevant to fair market value should be included in a professional appraisal. That collateral is supposed to last for 20 to 30 years and the lending institution and its depositors are entitled to the facts as to its prospective value.

My colleague from Virginia (Mr. BUTLER) has drafted a number of amendments dealing with important aspects of this bill. I expect to support him in his efforts and Mr. SENSENBRENNER in his. Properly drafted, this bill can be a monumental step forward in the area of civil rights. If it emerges as a jurisdictional power grab by HUD, the entire legislation may well be doomed.

Mr. HYDE. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from the Virgin Islands (Mr. EVANS).

Mr. EVANS of the Virgin Islands. Mr. Chairman, I rise today in support of H.R. 5200, the Fair Housing Act Amendments of 1980, a bill which I have the honor and pleasure of cosponsoring, along with 56 of my colleagues.

Mr. Chairman, title 8 of the Civil Rights Act of 1968 prohibits housing discrimination based on race, color, national origin, religion, or sex. Unfortunately, however, this title of the Civil Rights Act has not been able to prevent housing discrimination, and this country has been the worse for that.

The major reason for this predicament and the reason that H.R. 5200 was introduced centers around the fact that this act lacks an effective means of enforcement to protect victims of housing discrimination. There exists a critical need for the creation within the Department of Housing and Urban Development of an administrative enforcement system subject to judicial review—and I shall refer to this later—to bring about conciliation of involved parties. There exists also a critical need for expeditious resolution of individual housing discrimination complaints, including a hearing and an adequate followup.

Furthermore, there exists a need for a long overdue examination of the Civil Rights Act of 1968 to include handicapped persons.

Additionally, I believe that the time has arrived for the U.S. Congress to prohibit discrimination in the home insurance industry and market.

Last, there should be better enforcement applied against redlining and racial steering, two practices which are still very, very common in the housing field.

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H.R. 5200 encompasses these critical needs within its provisions.

Mr. Chairman, the principle of discrimination in this country has been outlawed in several fields many times. In the area of housing, it was outlawed by the Fair Housing Act of 1968. Yet it persists. Housing is basic to many of our other problems. When you have unfair housing practices, you set the need for such things as busing, and then we have another issue there. If you did not have unfair housing practices, you would not have the problems you now have with segregated schools. It seems to me that if we come out and say that we are in favor of fair housing, and then we set about to emasculate the act so that it becomes impossible of enforcement, we are being hypocritical with ourselves. I am sure that we do not want to indulge in this practice.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. EVANS of the Virgin Islands. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman for his very fine and cogent statement, and I associate myself with his remarks.

Mr. EVANS of the Virgin Islands. I thank the gentleman.

Mr. Chairman, it seems to me that the time has come for us to look the American public, both the majority and the minority, straight in the eye and mean what we say. I am reasonably sure that, should I put the question to the Members of this House, "Please put your hand up, which one of you is against fair housing," I am sure I would not see a hand. And yet we set about piece by piece to emasculate and dismember and completely destroy the enforcement qualities of this act. No law is any better than its ability to be enforced. This is not theoretical. We know that fair housing is not being enforced.

I have heard remarks about bureaucracy, and I suspect that those who claim that we do not want to put the administration of the Fair Housing Act into the hands of the bureaucrats of the Federal bureaucracy are trying to label the mechanism by which we enforce this with a term that has become anathema to us all. None of us like the term "bureaucracy" applied, so I consider it somewhat misleading and unfair to prejudice the passage by trying to label it as an act of the "bureaucracy." I think that we must study this on its very merits.

None of us can say truthfully that we are not aware of acts of housing discrimination. I have seen it in many forms. I personally have had the experience where I tried to get a piece of property for a friend of mine who happened to be Jewish, and it turned out that he was discriminated against. And I must confess at the time that I was naive enough to not recognize what was happening. I think I would now.

Mr. Chairman, we have to set about, if we mean to be honest with the American public, to tell them once and for all when this Congress passes a law which the majority wants, we intend that that law should be enforced and we intend to stop not what has become loopholes—these are not loopholes any more, they are portholes and archways through which the entire intent of the law is destroyed because people are able to find ways to get around it. And we sit here and argue about whether we should go to the courts first or whether we should have an administrative law judge first.

In the first place, there is not a single one of us in this Chamber who does not recognize the expense of taking routine matters to court. It is only a very small percentage, especially of the poor minorities, who would be able to accept the cost, where the majority would just say, "Well, I will drop it, I am going to lose anyhow."

My friends and colleagues, we have a situation which we must face up to. We have racial discrimination, we have discrimination based on other factors in housing. The amendment as proposed would destroy the intent of this act and, therefore, we should vote against it.

Mr. Chairman, I would like to yield at this time to my friend and colleague, the gentleman from New York (Mr. Fish).

Mr. FISH. I thank my colleague from the Virgin Islands very much for yielding and I, too, would like to be associated with his remarks, because I know they came from the heart as well as from learning.

Misleading statements have been made that H.R. 5200 does not provide for compensation for the victim of discrimination.

What is overlooked is that the administrative law judge route is a conscious election of remedies by the complainant. He can elect alternatively under H.R. 5200 to file his own private action at his expense or at the expense of a public interest firm. If he does elect this course, the complainant may receive compensatory and/or punitive damages in Federal court.

It is important to keep in mind the administrative remedy is intended for minor cases where injunctive relief is appropriate.

Furthermore, if the private action is of sufficient importance, the Attorney General of the United States may intervene at his cost. Again, the complainant can recover damages.

Mr. Chairman, we also have heard that magistrates, because of their number, will be more effective than administrative law judges. The Magistrates Act cannot be changed by an amendment to the Fair Housing Act. An individual must file suit at his own cost, and the respondent must agree to appear before the magistrate. We are then told if the respondent does not agree, the case must go to Federal court. This puts us back where we have been for a dozen years. The average time cases take in Federal court is 20 months. It is precisely this costly, protracted remedy that has proven ineffective.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. EVANS of the Virgin Islands. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, under the Sensenbrenner-Volkmer amendment, the election of remedies procedure is eliminated.

Section 812 of the bill, relating to private enforcements, specifically prohibits anybody who has filed a complaint with the Secretary of Housing and Urban Development, and said complaint has gone to hearing, from being able to commence a private suit in the Federal district court or in any other court to recover damages against someone who is guilty of illegal discrimination.

Administrative law judges are constitutionally restricted from awarding compensatory and punitive damages, something that Federal district courts are not restricted.

The remedies are unlimited, as far as the Federal district court is concerned. They are severely limited, as far as the administrative law judge is concerned, and that is why going into court is essential to provide for not only reimbursement of victims, but also reimbursement of innocent third parties who have had nothing to do with the transaction.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. EVANS of the Virgin Islands. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to make it very clear—and I believe there now may be a misunderstanding because of the statements of the gentleman from Wisconsin—the only time that a person is not permitted to elect to go into court is if that person and not HUD, but that person, has actually initiated a complaint by the administrative law judge.

Now, even then, if the private person wants to go into court, he or she is permitted to do so unless the hearing has actually commenced. So what better option do you have? It is strictly dependent upon the option or the election of the individual. They can have either remedy.

Mr. EVANS of the Virgin Islands. Mr. Chairman, I would like at this time to exhort my colleagues to support H.R. 5200. It seems to me that we would be solving several problems or attacking several problems at the same time. Perhaps we would have fewer ghettos if we had full enforcement.

● Mr. DIXON. Mr. Chairman, I rise in favor of H.R. 5200.

The question we must answer is whether we will continue to live with a system of law that guarantees equal justice but a system of enforcement only for the rich.

Title VIII of the Civil Rights Act lacks adequate enforcement power for the victims of discrimination. Housing discrimination remedies are weaker than in any other area of discrimination, and our commitment to fair housing is mute without enforcement.

H.R. 5200 would give the Secretary of HUD discretionary authority to refer complaints not simply to a State that has a strong law on paper but one that has an effective law in practice. There are at least 20 States that have been certified by HUD as having "substantial equivalency status," which means these States have cease and desist authority to obtain temporary relief and adequate resources to carry them out. A true remedy in a housing discrimination case is an expeditious remedy for all parties involved.

We are all well aware of the civil rights legislation that has been passed—yet, H.R. 5200 will complete the effort begun in the 1960's by providing effective procedures for achieving equal housing opportunities. This legislation will provide a system of fair, effective, and efficient justice.

A nationwide study of the housing market recently conducted by the U.S. Commission on Civil Rights showed that a black person has a 62 percent chance of encountering discrimination on a home buying search, and a 75 percent chance in a search for rental housing; discrimination in housing still exists.

Unfortunately, I am only too well aware of the problems that have been perpetuated by segregated neighborhoods. Adverse affects are seen in: Mortgage redlining which causes refusals to finance or insure dwellings because of the racial composition of the neighborhood; discrimination in providing hazard insurance; discrimination in the making of appraisals, busing to achieve integration in schools, limited access to jobs—to name but a few.

If we sincerely believe in the concept of equality, then I see no reason why we cannot utilize administrative law judges, under the guidelines of the present Administrative Procedure Act, to join with our Federal court judges in upholding the principles of equality and social justice. Why should public protection from discrimination in housing be different than public protection from stock manipulation, commodities, or the like?

As we embark upon the 1980's, let it be said that the 96th Congress had the courage and wisdom to enact the means to achieve fair housing. If we are to extinguish the flames of racial intolerance and hatred, which have recently engulfed one of our major cities, we must acknowledge the importance of fair housing. Housing discrimination has only worked to isolate and polarize our country. It weakens our society, and should not be encouraged by protecting landlords, or sellers, who discriminate.

Let it not be said that this Congress was not prepared to take a positive stand. I urge my colleagues who believe in equity, fairness and due process of law to join me in supporting H.R. 5200.

It is ironic that the original fair housing legislation was passed by this body in the aftermath of riots ignited by the assassination of Dr. Martin Luther King. We must not wait longer for the tensions of discrimination to again make cities battlegrounds. Our country and this Congress has made a commitment to fair housing, and this legislation is necessary if we are to keep it.

I urge my colleagues to pass this important legislation, and to oppose the weakening amendments which will be offered.●

● Mr. STOKES. Mr. Chairman, I rise in support of the Fair Housing Act Amendments of 1980 and applaud the leadership and direction of my distinguished colleague from California (Mr. Edwards) in this effort.

I ask this body to recognize its obligation to pass this legislation. The 13th amendment of the Constitution has entrusted Congress with the power and responsibility to remedy the "badges and incidents" of slavery. In the words of Supreme Court Justice Stewart:

> When racial discrimination herds men into ghettos and makes their ability to buy property turn on the color of their skin, then too it is a relic of slavery.

This Congress is now provided the opportunity to fulfill its constitutional duty by burying this relic and ensuring that equal housing opportunities become a reality.

This bill is not an attempt to modify current law. It is an attempt to realize the intent of the law and provide viable methods to enforce that law. The protected class would be expanded to include handicapped individuals and affected industries would be clarified. In other respects, however, the text of the law would remain essentially unchanged. H.R. 5200 still preserves the rights of States and local agencies and encourages the process of conciliation. Yet, evidence reveals that these avenues alone are not enough.

According to a recent study conducted by the Department of Housing and Urban Development, a black American has a 48 percent chance of encountering discrimination when purchasing a home. The chance is increased to 85 percent when a black family seeks rental housing. And certainly other minorities are not unaffected. Hispanics, Asians, Native Americans, the disabled, and women continue to be denied the fundamental right to equal access to housing.

Title VIII of the 1968 Civil Rights Act established a clear national policy prohibiting discrimination in housing. Yet, this policy is, and will remain, ineffectual until we provide the proper mechanisms for enforcement. As long as victims of discrimination are forced to compromise fundamental rights, the law is, in effect, barren.

The administrative hearing process as prescribed in this bill is effective, efficient and just. This system was first established nearly 50 years ago and is now in use in 17 Federal agencies. The provisions in the Administrative Procedure Act have served consistently well in guaranteeing an impartial hearing. The hearings are fully separated from political considerations and from established policies which an agency may have. This bill offers additional protections for both parties with a de novo judicial review of the administrative law judge's findings.

Finally, it is the expressed intent of H.R. 5200 that the administrative law procedure be used only as a last resort after local remedies and conciliation are exhausted.

But when an administrative law judge does determine a complaint to be well-founded, the authority is given to provide full relief from the effects of improper actions. Authorized remedies are not limited to civil penalties. The legislation before us permits financial remedies which include civil penalties and monetary damages. In addition, it allows injunctive relief such as ordering rental of a unit, or granting of a loan to the complainant. This broad range of enforcement possibilities is essential if this new complaint mechanism is to be fully effective. A victim should, and indeed must be able to expect immediate and tangible relief.

This legislation will not eliminate discrimination in housing. It simply provides the proper mechanisms to begin the struggle towards abolishing this insidious practice. If we do not provide adequate means to enforce the law, we will continue to deny Americans this essence of civil freedom. If we do not pass this measure, we will fall short of our responsibility to bury this relic of slavery.

If we truly intend to eliminate housing discrimination, if we intend to fulfill our constitutional duty to provide all Americans with equal civil freedoms, then we must pass H.R. 5200.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5200, the Fair Housing Act Amendments of 1980.

As a Hispanic, a minority to which this bill is so important, I wish to commend Chairman RODINO for his leadership and my colleagues DON EDWARDS and TOM RAILSBACK for their work on a bill that went through almost 4 years of hearings.

H.R. 5200 is, in my opinion, a well-balanced bill which will speed up considerably the process of justice to the millions of Hispanics, blacks, handicapped, and other Americans and residents of this country who are denied housing because of their race, religion, color, national origin, or sex. With your permission, Mr. Chairman, I would like to quote from a letter written by Secretary Landrieu to Chairman RODINO expressing the administration's support of the bill:

> H.R. 5200 is perhaps the most important civil rights bill to reach the House floor in over a decade, and it has the firm backing of this Administration.
>
> Because the right to equal opportunity in housing is not backed up with an effective administrative enforcement mechanism, HUD has often been unsuccessful in enforcing individual rights under the fair housing law. Under existing law, HUD may only investigate charges of discrimination and attempt conciliation in the more than 3,000 complaints it receives each year. If conciliation fails, as it frequently does because of the voluntary nature of the procedure, the individual's only recourse is to file a lawsuit on his own behalf. Because of the cost and delay involved, individuals usually decide to forego vindicating their rights, and look elsewhere for housing. This makes HUD powerless to redress violations against the law it is required to enforce. And the Attorney General may only act if a case involves a pattern or practice of discrimination.

These are powerful and convincing reasons to vote for this bill which essentially provides more effective enforcement mechanisms by putting in place a mechanism within HUD presided over by administrative law judges for enforcement of fair housing laws. It also provides for the investigation of alleged discriminatory housing practices at the initiative of HUD or an aggrieved party.

The provision of time limits for each step in the process that would be established and the administrative law judges to resolve such practices is a vitally needed step in the administration's arsenal of civil rights and fair housing laws.●

● Mr. BROWN of California. Mr. Chairman, overt racial discrimination remains in one major sector of American life—that of housing. Congress and the courts have acted to eliminate discrimination in education, voting, and employment, but many minorities are not free to live where they choose.

The basic purpose of this legislation is to permit people who have the ability to do so to buy any house offered to the public if they can afford to buy it. It would not overcome the economic problem of those who could not afford to purchase the house of their choice.

Mr. Chairman, the words I have just spoken are appropriate for today, but the truth of the matter is that they were originally spoken on the floor of the Senate 12 years ago by then Senator Mondale when considering the fair housing provisions of the 1968 Civil Rights Act.

Despite 12 years of Federal law prohibiting discrimination in the sale or rental of housing, discrimination continues to persist against racial minorities, handicapped persons and others. Studies by the Department of Housing and Urban Development show that, in 1980, a black seeking a rental unit has an 85-percent chance of encountering discrimination. A Hispanic in Dallas has between a 65- and 95-percent chance of encountering discrimination, depending on whether has skin tone is light or dark. These facts are disturbing.

The 1968 Civil Rights Act was intended to specifically address this kind of overt discrimination. Now, we find that discrimination exists in areas beyond the sale or rental of housing, like mortgages and home insurance.

Why is this problem so pervasive if this law has been on the books for so long? One answer comes from the U.S. Commission on Civil Rights. In its annual report, the commissions concluded, among other things:

Title VIII is a weak law that does not provide effective enforcement mechanisms for insuring fair housing; and

HUD, which is charged with the overall administration of the law, lack enforcement authority.

So, 12 years ago, we enacted a law in direct response to a showing of discrimination in housing and, more significantly, in response to the rioting in major urban areas, and then failed to give the appropriate agency any enforcement authority.

Now, more than ever, the time has come for an effective fair housing bill. Projected demand for housing will far exceed the available supply in the next decade. If the patterns of discrimination that now exist continue into the 1980's, any gains we have made over the last decade will be lost.

And, if our social indicators are still correct, the rioting in Miami should be a warning to the Members of this body of the critical situation in our Nation's black communities.

I urge my colleagues to give their wholehearted support to this legislation and to oppose any amendments that would weaken its effect.●

● Mr. RANGEL. Mr. Chairman, I would like to take this occasion to urge my support for the approval of the Fair Housing Act Amendments of 1980 (H.R. 5200). Its passage would secure a foundation for the struggle for equal opportunity that we must dedicate ourselves to in the next decade.

Recent studies have shown that housing discrimination is still a major problem in the United States; one report commissioned by the Department of Housing and Urban Development (HUD) found that blacks seeking rental housing have an 85-percent chance of encountering some form of discrimination, either explicit or implied.

Despite the current Federal fair housing laws, title VIII of the Civil Rights

Act of 1968, equal housing opportunity exists as an empty promise to many, and a tangible reality to extremely few. In 1977, only about 3,400 complaints were filed with HUD, despite the evidence that instances of housing discrimination were far more widespread. Only 277 cases were successfully arbitrated, and in only one-fourth of those cases was the contested housing obtained by the victim of discrimination.

The passage of H.R. 5200 is essential if we are to end this insidious practice of discrimination in the present housing market. The critical flaw in the 1968 legislation is that it does not provide an effective enforcement mechanism; the Justice Department can only provide remedies in cases of widespread abuse, and HUD can only urge the parties to agree, without legitimate administrative authority to back up its conciliation efforts. Very few of those involved in the process, both the alleged discriminators and the victims themselves, put much faith in HUD and its power to institute fair practices.

Obviously legislation is desperately needed that will improve the efficiency of HUD without bogging down the system in cumbersome bureaucracy.

H.R. 5200 would strengthen the fair housing section in three key areas: First, it provides HUD with the authority to enforce conciliation agreements by creating an independent administrative system, subject to judicial review, to hear individual housing discrimination cases; second, it clarifies the coverage of the act by allowing the Department of Justice to broaden its responsibility and bring individual cases rather than just group cases to court; and third, it extends the coverage of the law to the handicapped, an important and often overlooked minority which suffers much from discrimination in housing.

With the implementation of these three major provisions we can assure that the victims of this practice are protected by the law and that both sides respect the enforcement of the law. H.R. 5200 will enable the Government to bring about the reality of fair housing promptly and effectively, reducing the expense for all those involved, and especially for the individual victim of discrimination. It is critical that this piece of legislation be approved, for anything less will perpetuate the problems so many encounter when they simply seek a place to live and are turned away on account of an outright injustice.●

● Mr. DODD. Mr. Chairman, I rise in strong support of this most needed legislation. Fair housing was a major civil rights issue in the past decade. The social legislation of the 60's was incomplete until passage of title VIII of the Civil Rights Act of 1968, commonly referred to as the Fair Housing Act. As you know, this significant piece of legislation made it illegal to discriminate on the basis of race, color, religion, sex, or national origin in the selling or renting of housing. Title VIII represented an important step in the Nation's quest for equal opportunity and freedom of choice for all Americans.

However, there were two glaring omissions in the current Fair Housing Act—the lack of administrative enforcement powers and the exclusion of handicapped from the protections of the act. H.R. 5200, The Fair Housing Amendments of 1979, would rectify the weaknesses that exist in the current law by providing an administrative process to enforce fair housing laws and prohibit the discrimination of handicapped individuals.

The problems of our Nation's 35 million handicapped citizens have only recently received increased attention from the Federal, State, and local governments and the public. Significant progress has been made to help handicapped individuals realize their full potential. The Federal Government has promoted deinstitutionalization of the handicapped for about the last 10 years. Through vocational rehabilitation, prohibitions against discrimination of the handicapped contained in the Rehabilitation Act, and through the Education of All Handicapped Children Act, the Federal Government has sought to better prepare the handicapped to live independent lives.

The goal of independent living, however, can never be achieved until statutory protections against the discrimination of the handicapped in housing are enacted. This bill provides these needed protections and one of the major difficulties that the handicapped have experienced, the reluctance on the part of realtors, homeowners rental agents, and so forth, to treat the handicapped on an equal basis and the tendency to prejudge a handicap as a barrier to housing that is to be rented or sold will be eliminated.

Mr. Chairman, often those of us in open society tend to think of our human and constitutional rights in abstract terms without any real understanding of how these rights impact our lives. Most of us have never suffered the indignity of being denied access to a public place or to a home. The human and constitutional rights of equality and fairness will now apply to the millions of handicapped individuals of this Nation.

The need today that we fulfill by expanding the coverage of Federal nondiscrimination policy to individuals with handicaps is so important. Although, H.R. 5200 will not eradicate discrimination against handicapped individuals it is another important step toward the establishment of full civil rights for this Nation's handicapped. I urge my colleague to support these important amendments to the Fair Housing Act.●

● Mr. HALL of Ohio. Mr. Chairman, I rise in support of H.R. 5200, the Fair Housing Amendments Act of 1980. I am pleased to have this opportunity to speak on behalf of the most important civil rights bill to be considered by this 96th Congress.

Some of our citizens may wonder why we are voting on a fair housing bill. The Civil Rights Act of 1968 already requires equality of housing opportunity for all Americans, and it establishes a clear national policy against housing discrimination. Since this law is on the books at this time, why is additional legislation necessary?

The answer is that the Civil Rights Act of 1968 does not provide an effective enforcement mechanism to make the promise of fair housing for all Americans a reality. Recent studies demonstrate that housing discrimination still is a major problem in the United States.

One recent nationwide survey, commissioned by the Department of Housing and Urban Development, found that blacks seeking a rental unit have an 85 percent chance of encountering at least one instance of discrimination. The chances of a black encountering discrimination when looking for a house to buy is nearly 50 percent, according to the same study. HUD estimates that more than 2 million instances of housing discrimination occur each year. In the entire country, however, not more than 4,000 complaints have ever been filed with HUD under the Civil Rights Act of 1968 in any year, despite the evidence that discrimination is widely practiced.

Perhaps because of the Civil Rights Act of 1968, discrimination is not as blatant as it used to be. Nevertheless, it does continue in subtle but effective forms. Some examples of housing practices that are currently unlawful, but which continue because of the absence of effective enforcement include:

Providing a member of a racial or ethnic minority with information different from that provided to others, which makes the dwelling less "available," for example, that the unit is not available, the agent is not authorized to sell or rent, and so forth.

"Steering," that is, suggesting that blacks seek housing only in black or integrated neighborhoods, and whites only in white neighborhoods;

Requiring different terms of sale or rental for minority groups, for example, higher interest rates, down payment, security or cleaning deposit, and so forth; and

"Redlining," that is, refusing to finance or insure a dwelling because of the racial composition of the neighborhood.

Under the present law, enforcement is very limited. HUD is given the power to hear and investigate complaints of housing discrimination. However, even if HUD finds that an individual has indeed been discriminated against, there is little HUD can do except to try to bring the two parties together for "conciliation." Many refuse to consider conciliation at all; fewer still agree to any kind of settlement that rectifies an act of discrimination. In the words of former HUD Secretary Carla Hills, "the present law, in relying upon conciliation, is an invitation to intransigence."

Another alternative presently available is for the victim to file suit in a Federal district court. Few victims of discrimination can afford the time and money and few private attorneys are interested in handling discrimination cases when they might be paid no more than whatever attorneys fees the judge orders the losing party to pay. It is also important to keep in mind that, in fair housing cases, the average time between filing and disposition has been 21 months.

The third enforcement mechanism available under the 1968 act allows the Attorney General to bring suit in Federal courts in cases where a "pattern and practice" of discrimination is alleged. However, the Justice Department is not empowered to initiate suits on behalf of individuals claiming housing discrimination. Unless a particular case raises legal or factual issues of great national importance, it will not be taken by the Justice Department.

In summary, current law gives HUD the responsibility to receive and investigate housing discrimination complaints, but limits its enforcement powers to "conciliation." The Justice Department only can become involved in housing discrimination complaints that represent a "pattern or practice." Finally, the court route is adequate only for those discrimination victims who can afford to hire legal counsel and pay for alternate housing. The immediate problem—the inability to obtain housing—is not resolved expeditiously enough in the courts to help most persons who experience discrimination.

While we have the Civil Rights Act of 1968, it is not working effectively to end housing discrimination. As the House Judiciary Committee report on H.R. 5200, the Fair Housing Amendments Act of 1980, notes:

> The effects of housing discrimination on both the individual and the society are truly pervasive; because free access to housing is basic to the enjoyment of many other liberties and opportunities, discrimination against minorities, women, and the handicapped has far reaching consequences. To the individual it means economic hardship, loss of job opportunities, humiliation, and alienation. To the society, it has meant the creation of the massive problems we now face, including the trauma of school busing to compensate for segregated housing patterns.

The legislation before us would put teeth in the Civil Rights Act of 1968 by giving HUD the necessary administrative power to enforce the law. The Fair Housing Amendments Act of 1980 would create independent administrative law judges and an administrative court process to hear housing discrimination cases.

As under the current law, individual complaints of housing discriminaton would be filed with HUD. HUD then would be required to refer the complaint to a certified State or local fair housing agency if one exists in the jurisdiction. If there were no State or local agency, or if the agency did not act within 90 days, HUD would investigate and, where appropriate, attempt to work out a voluntary agreement between the parties through conciliation. If conciliation failed, HUD could file a complaint with an administrative law judge or refer the matter to the Attorney General for possible action in a Federal court.

The administrative law judge would hear the complaint presented by the aggrieved individual's private attorney or an attorney appointed by HUD. After the hearing, the judge would issue conclusions on whether discrimination had occurred. The judge could order any form of relief that is legally appropriate, including payment of compensation, the award of a prevailing party's costs and fees, and the assessment of a civil penalty of up to $10,000. If either party were dissatisfied with the decision, an appeal then could be made to a Federal district court within 30 days.

I should point out that H.R. 5200 in no way inhibits the right of an individual to file civil actions to remedy civil rights violations relating to housing, and it extends the statute of limitations on violations from 180 days to 2 years. Further, the Attorney Generals' existing authority to initiate civil actions involving a pattern or practice of housing discrimination would be maintained, and the Attorney General also would be permitted to bring suit upon referral of a case by HUD.

In addition to providing protection from discrimination in housing because of race, color, religion, sex, or national origin, the bill changes current law to prevent discrimination because of handicapped status. Therefore, it would be unlawful to refuse to rent or sell to a blind, deaf, retarded, or otherwise physically or mentally disabled person because of that person's disability.

This legislation will not end all housing discrimination or the problems associated with such discrimination. However, it will set up the procedures to make the fair housing pledge of the Civil Rights Act of 1968 meaningful for more of our citizens. It will provide action and justice where they have been lacking.

I think the New York Times gave the simplest and strongest argument in support of the Fair Housing Amendments Act of 1980 in its editorial of May 28, 1980:

> The 1968 law notwithstanding, housing discrimination is a fact of life. The new bill could change that.

In my opinion, this is reason enough to support this important legislation. I hope that my colleagues will join with me in voting in favor of H.R. 5200.●

● Mr. DERWINSKI. Mr. Chairman, I urge the House to approve the Sensenbrenner-Volkmer amendment to H.R. 5200. This will preserve the historic principle of keeping adjudication in the judicial branch, rather than giving HUD authority to make judicial rulings on fair housing.

The Sensenbrenner-Volkmer amendment will remove the clumsy HUD administrative machinery which would be set up under the committee bill. It will use congressionally mandated Federal magistrates to expedite procedures. It provides for the Attorney General to take private civil cases on behalf of individuals to the courts. It provides new conciliation and arbitration processes to resolve these cases. And the amendment allows HUD to seek "cease and desist" orders.

We must not give HUD authority to both fund fair housing cases and then prosecute the same cases. The judiciary should retain its traditional authority to decide if there has been wrongdoing in the area of fair housing.

The Sensenbrenner-Volkmer amendment will uphold proper legal procedures and protect individual rights. Further, it will prevent the expansion of administrative authority which the American people have clearly indicated they oppose.●

● Mr. LUNDINE. Mr. Chairman, I wish to express my support for H.R. 5200, the Fair Housing Act Amendments of 1980. The legislation amends title VIII of the Civil Rights Act of 1968 to correct a number of deficiencies in existing Federal fair housing law.

Twelve years after the enactment of the Fair Housing Act of 1968, discrimination in the sale and rental of housing remains a serious national problem. Recent studies provide ample evidence that housing discrimination, in both its overt and more subtle forms, can be found in every part of the country. One nationwide study, for example, found that black families seeking rental housing have a 72 percent chance of encountering at least one instance of discrimination if they contact four rental agents. Black families seeking to purchase a home were found to have nearly a 50 percent chance of experiencing racial discrimination. Studies conducted in New York City, Dallas and Los Angeles reveal similar patterns of discrimination against blacks, Hispanics, and other minorities.

The Department of Housing and Urban Development estimates that over 2 million instances of housing discrimination occur each year. Few of these are ever reported and even fewer ever result in any form of restitution to victims of discrimination. Under current law, HUD is permitted only to hear and investigate complaints of housing discrimination. If it finds that discrimination has occurred, it can only encourage the parties to settle their differences through conciliation. HUD has no power to require conciliation nor can it enforce any conciliation agreement.

This provides little incentive for victims of discrimination to file complaints with HUD and even less incentive for those charged with discrimination to cooperate. Of the 4,000 fair housing complaints filed with HUD last year, less than 300 resulted in any form of voluntary agreement.

The courts have also proven to be of limited help to victims of discrimination. Few of the people most likely to be subjected to discrimination—racial and ethnic minorities, single women, the elderly and handicapped—have the money to hire attorneys to take their case to court. The Justice Department has no authority to initiate discrimination cases on behalf of individual victims and is empowered to prosecute only those cases in which a definite "pattern or practice" of discrimination can be established.

It is easily understood why those who feel they have been victims of housing discrimination seldom seek redress. Deprived of both legal and administrative remedies, they have little choice but to acquiesce in an act of unlawful discrimination and hope they can find housing elsewhere.

The proposed amendments would remedy this situation by creating an administrative enforcement system which could insure individual victims of housing discrimination that their complaints would be heard and acted upon with minimal cost and delay. Used in conjunction with appropriate court action, the system would strengthen HUD's capacity to enforce current fair housing laws, without compromising the rights of those against whom discrimination complaints are filed.

The measure would authorize HUD to investigate alleged acts of discrimination upon request of aggrieved parties. Upon finding "reasonable cause" to conclude that discrimination has occurred, HUD can attempt to resolve the situation through conciliation. Should conciliation fail, HUD could either bring the complaint before an administrative law judge or refer the matter to the Attorney General for possible action in a Federal district court.

The administrative judge would hear the complaint presented by a HUD attorney on behalf of the aggrieved party. The hearing process would insure both parties due process of law, including the right to counsel, to subpena evidence and to present and cross examine witnesses and evidence. Following the hearing the judge would issue a decision on whether an act of discrimination had occurred. The court would be empowered to award attorney's fees, to impose civil penalties of up to $10,000 and to order appropriate relief, including the provision of "equivalent" property for sale or rent to aggrieved parties. All decisions of the administrative judge could be appealed for de novo review by a Federal district court.

The administrative process provided in the legislation benefits from a simplicity that guarantees that complaints will be resolved quickly and at less cost than in a court proceeding. More importantly, by insuring that a judgment will, in fact, be rendered, it provides greater incentive for the parties in a complaint to reach a voluntary agreement through conciliation.

Mr. Chairman, I have studied at length the arguments of those who believe giving HUD this enforcement authority would be both unnecessary and unwise. I must say that I share their concern regarding an administrative process that would, in effect, place HUD in a position of investigating, prosecuting, and judging fair housing complaints. My specific concern in this regard is for the integrity of the administrative judges. I am not entirely satisfied that these judges will be completely free from HUD's influence in all cases.

This does not mean, however, that the entire enforcement mechanism should be striken from the bill as a number of my colleagues suggest. I believe that additional guarantees can be incorporated in the legislation to limit HUD's ability to influence fair housing judgments.

As currently proposed, HUD's administrative system would be subject to the restrictions imposed on all administrative enforcement systems by the Administrative Procedures Act. The legislation provides an additional safeguard by explicitly excluding all HUD officials from any action involving a judgment of an administrative judge. It further provides that all judgments be subject to de novo review—a broad appeal process which permits a Federal district court judge to independently decide the outcome of a case, based on the hearing record and any additional evidence.

To further guarantee the integrity of administrative judgments, I support the adoption of a number of perfecting amendments offered by my colleague from Oklahoma (Mr. SYNAR). One amendment explicitly removes administrative judges from the supervision or direction of anyone within HUD who performs either investigative or prosecutive functions and prohibits judges from consulting with such persons in an ex parte manner. It would also limit the authority of the HUD Secretary in both the appointment and removal of administrative judges, requiring that judges be selected from a list of persons deemed qualified by the Office of Personnel Management and that they be removed only for cause and only after a hearing before the Merit System Protection Board.

An additional amendment would strengthen the emphasis on conciliation in the legislation by requiring the Secretary to certify that conciliation had been attempted prior to the commencement of any administrative action. Additional opportunity for conciliation would be provided by a required 5-day delay in the issuing of administrative judgments, during which time a voluntary agreement would still be encouraged and recognized. A final amendment would limit HUD's authority regarding zoning and land use cases, requiring that the Secretary refer all such cases to the Attorney General.

I should add, Mr. Chairman, that the legislation contains another important limitation on HUD's administrative authority in the requirement that housing discrimination complaints be referred to certified fair housing agencies in the State or locality where a complaint originates. Currently, 22 States possess fair housing laws that have been certified as equivalent to the Federal statute. Another five States are in the process of certification. For these States, which include my own State of New York, fair housing complaints would be handled in much the same manner as they have been, with only minimal change effected by the legislation. HUD would be required to refer complaints to appropriate State and local agencies and could initiate administrative action on these complaints only if a State agency fails to take action.

I believe the guarantees incorporated in the legislation, together with those proposed in the Synar amendments, will provide HUD with needed enforcement authority without compromising the rights of those against whom fair housing complaints are filed. The enforcement mechanism provided by the legislation is the product of much debate and compromise, reflecting both Democratic and Republican concerns and viewpoints. I believe the legislation is worthy of support and urge its adoption.●

● Mr. SYMMS. Mr. Chairman, I am quite sure that most of the Members in this body have been denouncing the growth of the Federal bureaucracy and have been repudiating the continuing intrusion of big government into the lives of their constituents. I will also wager that most of the Members of this body have promised to do something for the little man, the taxpayer and the homeowner.

A vote for the Sensenbrenner/Volkmer amendment is a vote for sensible Government. Passage of this bill, as it presently stands, would be a dramatic intrusion of the Federal Government into local affairs. A vote against the Sensenbrenner/Volkmer amendment is a vote for the very thing that most Members have been denouncing in speeches back home.

HUD and the Carter White House have attempted to assure Members that its administrative court would not hear cases challenging local zoning regulations. Yet, absolutely nothing in this legislation would preclude HUD from bringing a zoning case before its in-house court.

HUD and the Carter White House are also telling us that this legislation would preclude the HUD court from hearing cases arising in States which now have HUD certified State agencies to handle discrimination cases. Twenty-two States have these agencies. Under H.R. 5200, HUD is required to refer any complaints arising in those 22 States to the State agency. This provision is lauded as proof that HUD would not interfere in cases arising in those 22 States.

However, as the saying goes "What you can't legislate, you regulate" has proven true once again. In the May 14, 1980 Federal Register, page 31880, HUD negates the supposed protections for certified States in H.R. 5200. These final regulations mandate that before a State agency becomes certified to receive discrimination cases it must sign an agreement eliminating the exclusive jurisdiction supposedly afforded certified States under H.R. 5200.

In addition to which, HUD and the Carter White House are pushing legislation which gives HUD a blank check. HUD becomes the complainant, judge, jury, and prosecutor under the bill as it is presently written. A true victim of discrimination wants two things: Prompt action and a place to live of his or her choosing. Section 811, which establishes the HUD Administrative Law Tribunal, provides neither.

First, the HUD administrative procedure takes time. HUD is given 9 months before the hearing begins. After that additional periods of time for review are required as well.

Second, by the time all of the HUD paperwork is completed, the HUD judge cannot provide relief quickly enough to satisfy the need for a place to live.

Third, normally, complainants could then obtain satisfaction by being awarded a fine, perhaps even punitive damages. Under H.R. 5200, the HUD judge can assess penalties but cannot award the aggrieved individual any of the damages—HUD keeps the profit.

The Sensenbrenner/Volkmer amendment provides a significant improvement in the current law. We should not allow citizens to be brought by HUD into the HUD court. Recourse to courts of law, not administrative tribunals run by bureaucrats, is the fairest method of settling housing cases.●

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fair Housing Amendments Act of 1980".

SHORT TITLE FOR 1968 ACT

SEC. 2. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting immediately after the comma at the end of the enacting clause the following: "That this Act may be cited as the Civil Rights Act of 1968.".

SHORT TITLE FOR TITLE VIII

SEC. 3. Title VIII of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting immediately after the title's catchline the following new section:

"SHORT TITLE

"SEC. 800. This title may be referred to as the 'Fair Housing Act'.".

AMENDMENTS TO DEFINITIONS SECTION

SEC. 4, (a) Section 802(f) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by striking out "section 804, 805, or 806" and inserting "this title" in lieu thereof.

(b) Section 802 of such Act is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment; but such term does not include any current impairment that consists of alcoholism or drug abuse, or any other impairment that would be a direct threat to the property or the safety of others.

"(i) 'Aggrieved person' includes any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur.".

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that sections 1, 2, 3, and 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

□ 1230

Mr. BUTLER. Mr. Chairman, reserving the right to object, for the purpose of clarification, the gentleman is asking us at this moment to submit any amendments which we might have to the first four sections. It is the gentleman's intention thereafter to go one section at a time until we have completed the bill, or how does the gentleman propose to proceed?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, I believe that when we come to sections 7 and 8, it would be more convenient to make the same request, because that has the enforcement machinery and is mentioned in both sections. Other than that, I think we should go section to section.

Mr. BUTLER. So after 4 will come 5.

Mr. EDWARDS of California. That is correct.

Mr. BUTLER. And after 5 will come 6 and after 6 will come No. 7 and then 8?

Mr. EDWARDS of California. That is correct.

Mr. BUTLER. I hope I can keep track of that.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. EDWARDS)?

There was no objection.

The CHAIRMAN. Are there amendments?

AMENDMENTS OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer amendments to section 4.

The Clerk read as follows:

Amendments offered by Mr. BUTLER: On page 3, strike out line 12 and all that follows through line 19.

On page 3, line 20, strike "(f)" and insert in lieu thereof "(h)".

On page 6, line 10, after the period, insert a closed quotation.

On page 6, line 9, strike out "handicapped.".

On page 6, strike line 11 and all that follows through line 7 on page 8.

On page 8, line 8, strike out "(e)" and insert in lieu thereof "(d)".

On page 8, line 20, strike out "handicap".

On page 31, strike line 1 and all that follows through line 8, and redesignate succeeding sections accordingly.

On page 31, strike lines 9 through line 5 on page 32 and redesignate succeeding sections accordingly.

Mr. BUTLER (during the reading). Mr. Chairman, I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

(By unanimous consent, Mr. BUTLER was allowed to proceed for 5 additional minutes.)

Mr. BUTLER. Mr. Chairman, the Fair Housing Act, in its present form, prohibits discrimination in housing which is based on race, color, religion, sex, or national origin. H.R. 5200 would add handicapped persons to the protected classes. This is a big step.

Those who are concerned about the need to improve the existing protections against racial and sex discrimination should bear in mind that this new class of protected persons will command a substantial, and perhaps disproportionate, amount of Federal resources committed to the fight against discrimination in housing.

The reason we can expect protecting the handicapped to be so expensive is the easily predictable and extensive explanations which will be required by Federal regulations, guidelines, and the like.

Regulations concerning the handicapped already exist for a number of housing related programs. For example, there are regulations which discuss standards for the design of publicly owned residential structures in order to insure that the handicapped will have ready access to them (24 CFR, part IV); which discuss standards and procedures relating to providing rent supplement payments (24 CFR part 215); which discuss school construction policies regarding the handicapped (41 CFR, parts 112–113); and which promulgate standards and procedures for providing housing insurance for handicapped persons (24 CFR, part 231).

There are also a number of Federal regulations, apart from housing, which involves the handicapped. Some of them define handicapped for purposes of eligibility under the Small Business Act (13 CFR, part 118); include handicapped among those eligible for certain student loans (20 CFR, sec. 1087ee); describe special learning programs for children with learning disabilities (20 CFR, sec. 1461); and define handicapped for eligibility under certain public contracts (41 CFR, sec. 48b). In all, there are some 20 different definitions of "handicapped" in the Code of Federal Regulations, only 8 of which relate to housing.

The definition of handicapped which has been settled upon for this bill is one of the options already available in existing Federal statutes. Specifically, section 4b of H.R. 5200 tracks section 504 of the Rehabilitation Act of 1973 by defining handicapped as meaning, with respect to persons:

> (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such impairment.

Interestingly, this very same definition has recently come under attack following examination by those who will be obliged to interpret what it means. On March 6, 1980, the Federal Communications Commission (FCC) issued a report concerning the extent to which the handicapped, as defined in the Rehabilitation Act, should be included in its equal opportunity rules. Briefly, the Commission noted that:

> The individuals covered are so diverse that case-by-case employer/employee resolutions will frequently be necessary if all are to be treated fairly. The definition, for example, encompasses individuals who have

suffered cosmetic disfigurement, and, at the same time, individuals suffering from mental illness such that the illness substantially limits their life activities. (See Commission report, page 11–12)

In addition, a Washington Post article reporting on the above findings of the FCC quoted an FCC official's description of the definition, as "one of the most absurd ever written by Congress or the bureaucracy."

This is also the definition adopted for use in H.R. 5200.

It is important to note, of course, that there are many protections for the handicapped in existing housing statutes. For example, under law already on the books, the Secretary of HUD is authorized to: make loans to public or private groups which provide housing and related facilities for the handicapped (12 U.S.C., sec. 1701(q)); carry out research on housing designs, structures, facilities and amenities which most appropriately meet the needs of the handicapped (12 U.S.C., sec. 1701(z)); and provide rent supplement payments for lower income persons who are handicapped (12 U.S.C., sec. 1701(s)).

Existing law also: prohibits discrimination, exclusions, or denial of benefits against qualified handicapped individuals by any program which receives Federal assistance (29 U.S.C., sec. 794); provides for special low-income housing projects for handicapped persons (42 U.S.C., sec 1438); permits the Secretary of Agriculture to grant financial assistance for farm housing for the handicapped (42 U.S.C., sec. 1471); provides criteria for loans to build housing for handicapped persons in rural areas (42 U.S.C., sec 1490(a)); and creates urban development action grants for housing which addresses the needs of the handicapped (42 U.S.C., sec. 5304).

In reality, the only housing for the handicapped not specifically addressed by existing law, and therefore the only real target of the proposed change, is the private housing industry, and it is fast drying up.

Add the potentiality of Federal regulation to the fragile health of the housing industry caused by today's economic problems, and you have a compounded chilling effect on housing starts and the jobs they create. It is an industry without any need for further Federal regulation.

Section 12 of H.R. 5200 provides some insight into what the regulators at HUD have in store for the housing industry. That section authorizes the Architectural and Transportations Barriers Compliance Board to provide a report, which the Congressional Budget Office estimates will cost $1 million, concerning:

(1) the extent to which architectural barriers and other obstacles are depriving handicapped persons of housing;

(2) the extent to which private, public or cooperative public and private efforts have increased the availability of housing for the handicapped in the private market; and

(3) *the cost of retrofitting existing units to make them suitable for the handicapped.* (Emphasis added.)

The inescapable result of studies like this is always increased Federal regulation.

Only three witnesses testified on that important aspect of H.R. 5200, which concerned discriminatory housing practices affecting the handicapped. Their testimony, however, was limited to explaining the problems attendant to the more familiar handicapped: the physically and developmentally disabled.

No attention was given in the hearings to those whose "handicap" is not so apparent but who have nevertheless been held by various courts to be entitled to the protection of other statutes. As proof of this claim, I need only cite a Federal district court decision in Pennsylvania which held that persons with a history of drug abuse, including present participants in methadone maintenance programs, are "handicapped" within the meaning of the Rehabilitation Act. *Davis* v. *Bucher,* 451 F. Supp. 791, 796 (1978). Remember that the definition in the Rehabilitation Act is identical to the definitions first considered by the committee.

Similarly, the Wisconsin court has held that asthma can be considered a handicap when it makes "achievement" unusually difficult. *Chicago* v. *State Department of Industry, Labor, and Human Relations.* 62 Wis. 2d 392.

In my judgment, the potential for regulatory disaster far outweighs the benefits to be derived from the inclusion of the handicapped in this bill. As I said earlier, H.R. 5200 undertakes to do too much with too little thought given to the possible consequences. It is my sincere hope that my colleagues in the House will conclude as I have that it would be unwise to add protection of the "handicapped" to this legislation at this time. It is enough for the present to develop an effective enforcement procedure.

We should recognize that what we are doing in strengthening the enforcement procedure we are shifting the balance.

Given the uncertainty of exactly what we mean by handicapped, we should not put individual Americans in the position of having to defend charges which are nil; to

Remove exemption of individuals;
Make HUD the enforcer;
Expand individual cause of action.

□ 1240

The potential for regulatory disaster far outweighs the benefits to be derived from including handicapped people in this legislation. In my judgment, what we are doing with this bill is improving enforcement procedure. Let us just stop there. That is enough. We should not expand it to take on entirely new areas of the handicapped.

I will tell my colleagues why I am really concerned about it, because in this legislation, and in a moment the gentleman from Texas (Mr. HALL) will offer an amendment which will hopefully put this back where we were with reference to such present exemptions, but bear in mind in this bill we are making the Department of HUD the enforcement officer. We are giving them all sorts of investigative authority.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. HYDE. The gentleman's position is making HUD the investigatory authority, not mine. But are not handicapped people discriminated against? Are they not?

Mr. BUTLER. Would the gentleman tell me exactly what handicapped people he is talking about?

Mr. HYDE. You know them when you see them.

Mr. BUTLER. I will now reclaim my time, because that is one of the problems. That is one of the problems. We do not know them when we see them. We do not know who they are. That is how when we passed the rehabilitation act, did we know then that we were talking about drug abusers? Did we know then that we were talking about alcoholics? Did we know we were talking about all of these people?

Mr. HYDE. If the gentleman will yield, that was taken out of the bill.

Mr. BUTLER. I will say to the gentleman you cannot take it out of the law. If the gentleman will understand me, we have made modifications under the law, and those modifications, which are here, are still in the law, and that problem is still there. That is what I am saying to the gentleman. We really cannot identify the handicapped from a loose definition of this nature. All we know, all we know is that when the regulators at HUD start getting in on this thing they are going to expand the definition.

Mr. DRINAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I urge rejection of this amendment.

Extensive testimony was received in both the 95th and 96th Congress on the need to expand the protection of title VIII to disabled persons. Besides receiving testimony from disabled citizens advocacy groups, such as the American Coalition of Citizens with Disabilities and the American Council of the Blind, many of the other witnesses, such as the Leadership Conference on Civil Rights and the National Low Income Housing Coalition, spoke in support of this provision.

Mr. Chairman, discrimination against disabled citizens is rooted in the same myths and misconceptions that have traditionally resulted in discrimination against historically recognized minorities as well as women, both of whom find protection in title VIII.

I would remind my colleagues that in 1976 regulations were signed implementing section 504 of the Rehabilitation Act of 1973 outlawing discrimination based on disability in federally assisted programs.

Mr. Chairman, in numerous ways in recent years laws and policies have been changed in order to foster the movement of handicapped into the mainstream of American life. Surely access to private housing is the key element in that endeavor. Job opportunities, vocational and educational services, special transportation, all of these are worthless if the disabled are unable to move so that they can obtain housing in the area where they are working.

It is also important, Mr. Chairman,

to remember that this is a very, very modest proposal. Not all handicapped persons are covered in this bill. The definition excludes, as the gentleman from Virginia has noted, all current alcohol and drug abusers, whether or not they constitute any danger, and anyone else whose impairment constitutes a direct threat to the safety or property of others.

Second, the coverage of the bill regarding handicapped persons makes it very clear that unreasonable disruption of accommodations in practice are not required. If the handicapped person cannot conform to existing reasonable rules, then there is no requirement to change them.

Again, Mr. Chairman, the point is clear. Most handicapped Americans can and want to move into the mainstream.

Third, to the extent special needs are present, the bill's coverage is very limited. Some physical handicaps are such that without changes in the premises the unit would not be acceptable. Alterations are permitted under the bill, but only if, first, they are not at the expense of the owner; second, when they do not materially decrease the marketability or value of the building; third, interfere with the use of the land; and fourth, in the case of a tenancy, the tenant may be asked upon vacating to fully restore the premises to their original condition.

Mr. Chairman, this bill makes a modest first step toward coverage of the handicapped. It is far less comprehensive than the original proposal in this bill. This is nonetheless a compromise that organizations representing the rights of handicapped believe is a forward and necessary step, and I urge approval of this particular provision and defeat of the amendment offered by the gentleman from Virginia.

Mr. McCLORY. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I know that the problems of the handicapped are extremely difficult problems to deal with. I cannot help but feel in connection with housing, that to permit arbitrary discrimination against a handicapped person, and to not include the handicapped as those whom we want to protect against discrimination would not be right. While it is difficult to deal with, we do endeavor to deal with the problem in this legislation. It is one of the two major parts of this bill that we are working on here today.

In order to try to recognize that handicap is an element of discrimination, we have included it by definition, and we have then provided against utilizing of this as an excuse for refusing to rent or to sell to a person who is experiencing or suffering from a handicap.

It is true that we do not want to impose new financial burdens on the housing industry, and that is certainly not in any way the intent of this measure. In order to make sure that the owners of buildings are not to be subjected to additional expense, either when confronted with the problem of making a sale to a handicapped person or renting to a handicapped person, we have provided that the expense of any alterations that may be required must be borne by the handicapped person.

□ 1250

We have even gone to the extent of saying that if following the handicapped persons tenancy the property needs to be restored, the cost of restoring the property must be borne by the handicapped person. There is a strong feeling that if we pass this bill and we include handicap as one of the elements of discrimination which we are trying to guard against, it will encourage those who construct houses, and those who sell houses and rent houses, to take into account the rights of the handicapped to be good tenants or purchasers of homes.

There must be many handicapped persons who are war veterans, who have suffered wounds and physical conditions as a result of war service. For the most part, persons are handicapped without any fault of their own. So it is not just humanitarian, it is recognition of a fact of life, it seems to me.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to my distinguished colleague from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I agree with the gentleman from Virginia that this does open up a very difficult area requiring a prolixity of regulations but the alternative is to deny handicapped people any right to nondiscrimination in housing. You balance those two situations, and you have to come down in favor of helping the handicapped to be treated like other people when it comes to housing.

The risk of overregulation is there. It will require some oversight and vigilance on the part of this Congress, something it is not well known to do, but, nevertheless, the greater evil would be to permit handicapped people to be excluded from the number of people that we are seeking to protect and to guarantee access to housing. So I am unwilling to exclude the handicapped, even given the difficulty of having to write regulations.

Mr. McCLORY. I thank the gentleman for his contribution, with which I agree.

I just want to add that the bill provides for a one-House veto of regulations, and that if there are regulations which are too burdensome or are unreasonable, this House would have the right to veto any such regulations of the Department.

Mr. Chairman, I yield back the remainder of my time.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Before stating my specific objections to the amendment, I want to clear up some things that the distinguished gentleman from Virginia said, which I think might be misleading. He warned minorities and women that if this feature of the legislation is retained, it would reduce the amount of money available for enforcing fair housing legislation for minorities and women. I am not at all sure that I agree with that, but as one minority—and I can speak only for myself—I would say that at no point would I as a member of a minority group be so selfish as to say that I will let another group continue to bear discrimination merely to protect my own group. I think that is wrong, and I think the vast majority of minorities and women would take the same position.

I do not believe that our funding would be cut, but if it is, I think we would take the position that discrimination against any group is wrong and, therefore, we would be willing to bear that sacrifice. That is point No. 1.

Point No. 2: The gentleman has indicated that it would be only the private sector who would bear the burden, if it is a burden, of this legislation. Just 3 weeks ago I addressed a graduating class for the Maryland School of the Blind. It is located in Baltimore County. I was amazed to see those young people who are either totally blind or suffer from a serious visual impairment perform so well. I was amazed to see their bright, acquisitive minds demonstrate themselves. One young woman, who was graduating, received a $750 scholarship to go to the University of Maryland School of Social Work. If the State is willing to bear a responsibility for meeting the educational needs of the handicapped, then why should not the private sector, acting out its social conscience, take on some responsibility? Unless it does, unless we turn down the gentleman's amendment, what we are saying to every handicapped person who wants to get out on his or her own to find housing is, OK, we can put you in public housing, but we can never put you in private housing. We will never guarantee that you will not be discriminated against in private housing. That is wrong.

What more can we do for the private sector? There are four protections accorded the private sector—four in this legislation. I do not know what more we can do to make it easier for the private sector to meet its responsibility vis-a-vis the handicapped. I would hope that this amendment would be defeated.

Of course, there are going to be problems. Of course, there are going to be regulations. But all of us who are so concerned about problems of implementation and the problems of regulation ought to do just one thing: Go to any institution in our districts and look at the handicapped and see if we do not, in the balance, feel that making them free from discrimination in housing is worth the risk of temporary bureaucratic legislation or regulation.

Let us defeat this amendment. It is wrong.

Certainly I never question the motivation of any Member in terms of offering an amendment. I do speak to the end result, and the end result, if the gentleman's amendment prevails, would be a perpetuation of discrimination against those who are handicapped.

Mr. Chairman, I yield back the remainder of my time.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am reluctant to rise in opposition to the amendment after my two colleagues from Illinois (Mr. McClory and Mr. Hyde), and the gentleman from Massachusetts (Mr. Drinan), and the gentleman from Maryland (Mr. Mitchell) have spoken so eloquently. It is kind of like gilding the lily. But let me tell you that we are not only hurting those who are handicapped, we are hurting ourselves if we do not defeat this amendment.

Let me give you, if I may, a personal illustration. Back a few months ago in our office we decided to employ someone named Marilyn McAdams. Marilyn McAdams has completed most of her work for her doctorate. She is a very talented person from Carbondale, Ill., who is now functioning in a clerical position. Marilyn McAdams has to get around in a wheelchair, so we offered her a job, not out of sympathy but we wanted a talented person in our office, and she happens to fit those particular talents. But trying to get housing for someone in a wheelchair anywhere near Capitol Hill, is extremely difficult.

Mr. Chairman, it is a tough job, getting housing for someone in a wheelchair. As of right now she is on some waiting lists and the nearest we hope to get is that we can get her in housing this August.

Mr. BUTLER. Will the gentleman yield at that point?

Mr. SIMON. Let me just make two more points, and then I will be pleased to yield to my colleague from Virginia.

Since I have gone through this experience, I have looked around, and I have noticed how few people who are employees of the House and Senate are in wheelchairs around here. And there is a reason; we are touching one of the reasons today. She is not producing fully, given her potential, because she is held to a clerical job because of the housing situation.

Let me give you one other illustration, and it does not directly bear on housing but it bears on this whole matter of utilization of handicapped people. I am sure my colleague, the gentleman from California (Mr. Rousselot) will be interested in this. In the State of Arkansas under vocational rehabilitation they made access to an education available to a paraplegic who became a physician. That physician now has paid more in taxes than it cost for vocational rehabilitation for the first 20 years in the State of Arkansas.

Make opportunity available, and continue it in this legislation in a commonsense way. The handicapped people have to pay for any changes in the structure.

□ 1300

My colleague from Virginia (Mr. Butler) assumes in his amendment that those who administer the program will not use commonsense. I differ with that conclusion.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Virginia.

Mr. BUTLER. Would the gentleman say the weight of the evidence in our disagreement on that point is on my side or on the side of the gentleman from Illinois?

Mr. SIMON. The gentleman can find examples where people in the Federal bureaucracy do not use commonsense but I think we can find many more where they do.

Mr. BUTLER. Mr. Chairman, I think the gentleman and I have a basic disagreement. I would like to emphasize it. As the gentleman says the problem is, those people who write the regulations, do not use commonsense. I should think if I was looking for an agency that has more of those people, I would suggest that perhaps we have found one. I would have to suggest what those people do, most of them, is write regulations. That is the danger. That is the thing that frightens me about this because we are launching a very wide definition of what is handicap. When the regulators get through with that, when we impose those particular complaints with the American people, HUD can say that someone is handicapped who has no visible evidence of any kind of handicap but perhaps has a history of some modest kind of problem that perhaps is only apparent to the man. That man under the regulations would be a handicapped person. The person who denies him housing is exposed to all of the lawsuits we create, all of the lawsuits brought about by publicly paid attorneys, all of those problems.

Mr. Chairman, I think we have gotten to the point where we get so much abuse from our constituents about not being cautious when we legislate, complaints about launching permission to write regulations in such broad language, this is the time when we have to start drawing the line. This is where overregulation starts.

Mr. Chairman, I am totally sympathetic with the problems of this young lady and I would suggest to the gentleman I am not at all sure exactly what this bill is going to do for her. It is going to be difficult to say, for example, how the Federal Government will help her in this particular transaction.

The CHAIRMAN pro tempore (Mr. Bennett). The time of the gentleman from Illinois (Mr. Simon) has expired.

(By unanimous consent, Mr. Simon was allowed to proceed for 1 additional minute.)

Mr. SIMON. I yield further to the gentleman from Virginia.

Mr. BUTLER. The gentleman does realize, of course, wherever there is a federally assisted program right now, we cannot discriminate against the handicapped, and right now when we have federally assisted programs they make provision for a certain number of things. We are talking about the physically handicapped, of course.

Mr. SIMON. Mr. Chairman, I must reclaim my time because I have about 30 seconds left.

I think the bill is written in such a way that commonsense is going to be used and second, I would assume those who write the regulations are going to read the dialog that you and I are partaking in here and the legislative intent, the report language, so that commonsense will be used. Finally we have the safeguard of the one-House legislative veto if the regulations are unreasonable.

Mr. Chairman, I think the legislation as drafted is sound and I hope the amendment of the gentleman from Virginia will be defeated.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Virginia (Mr. Butler).

The question was taken; and on a division (demanded by Mr. Butler) there were—ayes 6, noes 9.

So the amendments were rejected.

The CHAIRMAN pro tempore. If there are no further amendments to section 4, the Clerk will read.

MODIFICATION OF OWNER-OCCUPIED EXEMPTION

Sec. 5. Section 803 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended—

(1) by inserting "and before the date of the enactment of the Fair Housing Amendments Act of 1980," immediately after "1968," in subsection (a)(2);

(2) by striking out "Nothing in section 804 (other than subsection (c))" in subsection (b) and inserting in lieu thereof the following: "Before the date of the enactment of the Fair Housing Amendments Act of 1980, nothing in section 804 (other than subsections (c) and (e))";

(3) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b)" and (d)" in subsection (c); and

(4) by adding at the end the following:

"(d)(1) After the date of the enactment of the Fair Housing Amendments Act of 1980, subject to the provisions of section 807, the prohibitions set forth in section 804 of this title shall apply to all dwellings, except that the prohibitions set forth in subsections (a), (b), and (d) of section 804 shall not apply with respect to any room or unit in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as the owner's residence, but only if such room or unit is sold or rented—

"(A) without the use of any manner of the sales or rental facilities or the sale or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or any employee or agent of and such broker, agent, salesman, or person; and

"(B) without the publication, posting, or mailing of any advertisement or written notice in violation of section 804(c) of this title.

"(2) Nothing in this subsection shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.".

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. HALL of Texas: Page 4, strike out line line 9 and all that follows through line 17 on page 5 and insert in lieu thereof the following:
>
> (2) by inserting "and (e)" after "subsection (c)" in subsection (b); and
>
> (3) by adding at the end of subsection (a) the following new paragraph:
>
> "(3) After the date of the enactment of the Fair Housing Amendments Act of 1980, to all dwellings except as exempted by subsection (b)."

Mr. HALL of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HALL of Texas. Mr. Chairman, the purpose of this amendment is to restore the "old Mrs. Murphy" exemption and the exemption for the person who owns three houses or less, and leases two of them. As our distinguished colleague from Virginia (Mr. BUTLER) so ably notes in his supplement views which appear in the committee report:

> The reasons for these two exceptions are clear: Private persons not engaged in the business of renting or selling houses are not themselves the causes of housing discrimination; they are not suited to extensive federal regulation and control; and they do not generally have the sophistication or the resources to understand fully what is expected of them.

Indeed, the two exemptions provided in existing law were carefully thought out with good honest reason; they were worked out in good faith to address legitimate circumstances and situations.

Before looking into those situations, it would be beneficial, I believe, to review the two exemptions which my amendment is designed to reinstate.

The single-family house sold or rented by the owner. This exemption permits the bona fide owner of as many as three single-family dwellings, whether or not he is the resident therein, to sell or rent, exercising his own preferences in so doing, as long as he does not use a real estate agency or salesman. An owner in these circumstances is limited to the sale of one home in which he is not the actual resident during any 2-year period. Further, a proviso makes absolutely clear that the extension of this exemption will be quickly withdrawn if the single-family homeowner in fact has any interest, however remote, in "more than three such single-family houses at any one time."

The text of this exemption reads as follows:

> Nothing in section 804 (other than subsection (c), shall apply to—
>
> (1) any single-family house sold or rented by an owner: *Provided*, That such private individual owner does not own more than three such single-family houses at any one time: *Provided further*, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: *Provided further*, That such bona fide private individual owner does not own any interest in nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time . . .

As it presently reads, therefore, the law prevents a situation in which an individual could possess three homes, could sell one, could replace that house by purchasing another house, could again sell one, could purchase another house, and never own more than three houses at one time. There can be no more than one sale, carrying the exemption, in any 24-month period. The Fair Housing Act further blocks a trick transaction in which the owner of the house might have his wife as the owner of three houses, his progeny—no matter how numerous—the owners of three houses apiece, thus enabling, by participation in these trick transactions, the owner to really exercise control or dominion over a great number of houses. Existing law reads that when a "bona fide private owner does not own any interest in nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time * * *" only then will the exemption apply.

Mrs. Murphy exemption. The rental of rooms or units in a four-family owner-occupied dwelling where the owner has one of the units as his or her living quarters.

Mr. Chairman, I reemphasize, the reasons for these two exceptions were carefully thought out and, I might add, the 15-day hearing record, so far as I can surmise, does not have or carry a single reference as to why we must remove the exemptions and extend the law to these heretofore exempt persons.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. HALL of Texas was allowed to proceed for 3 additional minutes.)

Mr. HALL of Texas. Mr. Chairman, the language of H.R. 5200 would not exempt the owner of a single-family dwelling in the following situations, among others; which were considered by the Congress as deserving exemption when the 1968 Fair Housing Act was passed:

First. An owner, because of health reasons, is required to go to Arizona for a period of 2 years and wishes to rent his single family dwelling located in an eastern State. Under existing law, the owner is exempt from title VIII. Under H.R. 5200, the owner would not be exempt and would be subject to possible HUD administrative action initiated by an allegedly aggrieved person or by the Secretary.

Second. A serviceman or a foreign service officer departs overseas on an assignment of considerable duration. If he decides to rent his single-family house, under existing law the exemption applies. Under H.R. 5200, the serviceman or foreign service officer is no longer exempt from coverage of the fair housing title and could become subject to the HUD enforcement provisions.

Third. A widow owns and lives in a single-family dwelling on a farm which contains one other single-family dwelling, the tenant therein being her son. The son moves to another State. Under present law, the widow, should she decide to lease the vacant house, is exempt from the coverage of the Fair Housing Act. Under H.R. 5200, the widow cannot qualify for exemption because she does not reside in the vacant house which she owns and which is on the farm which she owns. She is open to possible investigation by HUD.

Fourth. An individual lives in his own single-family dwelling located on a 1-acre lot. He decides to build a guest house on the lot. Misfortune forces him to parcel the lot and sell or lease the house thereon. Under present law he is exempted from coverage of title VIII. Under H.R. 5200, he cannot qualify for exemption because he does not reside in the vacant house, of which he is the owner.

Twelve years ago the Congress looked at similar situations and clearly stated its intention to provide for a "clear-cut exemption in the case of single-family dwellings, especially when the owner rents or sells the dwelling without the assistance of a real estate salesman or agency." These examples remain pertinent and valid.

Today, as was the case 12 years ago and as will remain the case, hundreds of thousands of servicemen and servicewomen, and thousands of Foreign Service officers are away from home and want to lease their homes and not lose any rights to them, including their right to lease them to persons of their own choosing. They would not lease to a convicted felon, to a known alcoholic. The fact is that there are such things as individual rights, property rights and individual preferences of many kinds when it comes to selling or leasing one's property or homes.

Whether it be the case of a Mrs. Murphy who needs to rent out a portion of her dwelling space to secure income necessary for her subsistence, or whether it is a member of the Armed Forces who wishes to lease his home until such time as he can return to it, or whether it is a Mrs. Murphy, such as the case of the farmer's widow, who owns a second home rather than a 4-family dwelling and who wishes to exercise her personal preference, no matter what may be the irrationality of her preference, for the purpose of her own protection, these individuals, were not meant to be nor should they be subject to the fair housing provisions from which they are presently exempt.

They should not be potentially subject to Federal Government harassment. They should not be treated as common criminals opened to public embarrassment and potentially subject to an economic death sentence to be administered by the very same agency which serves as investigator/prosecutor and judge, and all this without the benefit of jury. This is not my idea of fairness or due process and I urge my colleagues to restore the two exemptions as they presently exist in law.

□ 1310

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

As the gentleman points out, the amendment leaves substantially the same rule with regard to Mrs. Murphy's boarding house. If the owner lives in a unit of four or less, the owner still has the right to choose those who will share a dwelling with him or her. So, we really did not change that in the bill except, of course, where the owner uses a broker or advertises in a discriminatory manner.

What the amendment of the gentleman from Texas would do is exempt sales of single-family dwellings by the owner unless, of course, a real estate broker is used. The gentleman from Texas goes back to existing law.

Now, we are talking about a sale where there is no legitimate right of privacy, which there is in Mrs. Murphy's boarding house, and we are preserving that. What legitimate interest is protected by the Hall amendment? It would exempt almost all sales of single-family homes where brokers are not utilized. Since the owner will no longer be living there, there is no privacy interest.

The gentleman from Texas argues that the reason for this amendment is to avoid coverage of ordinary people, and to focus instead on commercial enterprises; that is, if the owner is not in the business of selling homes on a fairly large scale, then society has no interest in prohibiting his or her discriminatory uses.

The Committee on the Judiciary debated this amendment, considered the logic, the arguments of the gentleman from Texas, and by a vote of 8 to 21 the amendment was rejected.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I appreciate the views of the chairman, and of course he knows that I disagree with him. But, the gentleman from Texas made one statement. He said that as far as he was able to determine, the hearing record is silent as to the reasons why we have removed this exemption. Is that not a fair statement, or can the gentleman cite for us some portion of the record where this substantial change in exemption is discussed?

Mr. EDWARDS of California. I think that is a relatively fair statement, yes. That is correct.

Mr. BUTLER. I thank the gentleman.

Mr. EDWARDS of California. Why should the large-scale owner be held to a different standard than the typical home seller? We are not talking about imposing any burdens on the seller. The seller's only responsibility—and this is a responsibility that all Americans should bear—is not to discriminate in the sale of a house on account of race, national origin, sex, or religion. Most Americans undoubtedly do that, and I think that we do them a disservice by assuming that there is a desire or need for the single home exemption.

Finally, the kind of transaction that would be exempted by the Hall amendment is a most common means by which homes are purchased. We are talking about millions of sales. The exemption suggested by Mr. HALL would leave a gaping hole in the public policy against discrimination in housing.

Mr. Chairman, I urge a "no" vote on the amendment.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield for one question?

Mr. EDWARDS of California. Yes.

Mr. HALL of Texas. If H.R. 5200 is passed in its present form, would the gentleman state whether or not, if a widow woman owned a duplex and lives in one side of the duplex, would she have the right herself or through a real estate broker to lease or rent the opposite side of the duplex?

Mr. EDWARDS of California. Yes; to anyone she desires.

Mr. HALL of Texas. Could she do that through a real estate broker?

Mr. EDWARDS of California. Yes, she would be required through a real estate broker not to discriminate. She can discriminate if she leases it herself.

Mr. HALL of Texas. Under the existing law? That still is the law.

Mr. EDWARDS of California. Under the present and existing law, if she lived in a dwelling with four or less units, then she can lease or sell to whomever she desires without regard to discrimination, yes.

□ 1320

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the distinguished chairman of the subcommittee has set forth the substantive arguments against the gentlemen's amendment. I want to speak very briefly on another danger that I see for the whole effort of fair housing in the event that the gentleman's amendment should be agreed to—and obviously I hope that it will not.

I think what my colleagues have got to recognize is that there is still continued, unrelenting opposition to the implementation of fair housing.

According to a release of Friday, January 4, 1980:

> The Department of Justice obtained a consent decree today forbidding the owner of a real estate firm in Kansas City, Missouri, from discriminating against black persons in the rental of apartments.

February 13, 1980:

> The Department of Justice filed a civil suit today charging the City of New York with twice preventing the construction of low-income housing in all-white neighborhoods.

March 7, 1980:

> The Department of Justice filed a civil suit today charging a city in Michigan of discrimination in the development of low-income integrated housing in an all-white Detroit suburb.

March 25, 1980:

> The Department of Justice obtained a consent decree today forbidding a real estate firm in a city in Virginia from discriminating against black persons in the rental of apartments.

April 11, 1980:

> The Department of Justice obtained a consent decree today forbidding the owner of some 200 apartment units in New Jersey to discriminate in renting to black persons.

April 23, 1980:

> The Department of Justice filed a civil suit today charging the owner of two apartment complexes in Indiana with discriminating against blacks and women in the rental of apartments.

Mr. Chairman, this goes on day after day. If we read our mail from the Justice Department, we know there has been continued unrelenting pressure against providing fair housing opportunities to blacks and other minorities. My argument is that the gentleman's amendment, in addition to all of the substantive flaws that it has, will simply embolden folks such as these to continue to resist against what is basic in our society, an opportunity to live and rent and purchase where we want.

Mr. Chairman, I would urge speedy defeat of the gentleman's amendment. It is a bad amendment, bad in many senses, but bad especially in the sense that it will embolden those who are of a racist bent and have a racist attitude to continue their racist practices.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I would emphasize some points that have been made by the gentleman from Texas (Mr. HALL), and I do first, however, wish to congratulate him on advancing this amendment at this point.

I would not, Mr. Chairman, take issue at all with the gentleman from Maryland (Mr. MITCHELL), who suggests that racial discrimination is rampant in this country. I support the enforcement procedures of this bill, and I would tell the gentleman that the problem which was addressed in his argument is one which needs greater attention.

The problem which concerns me is this: Why are we removing these exemptions, the "little people" exemptions, from this legislation? We are not exempting them to make them free to discriminate. That is not our purpose, and that is not my concern.

I am concerned about "Mrs. Murphy," and I am concerned about the guy who owns one or two or three houses. I have in mind a particular friend of mine who has worked his way through the years as a painter. He has made a little money here and he has made a little money there, and the way he has provided for his retirement plan is that he has bought a house, he has bought a second house, and he has bought another house. Now he has three houses, and the rental he expects to receive from them is going to be his retirement income.

I have in mind the man who dies and leaves a widow with a house, and she has to take in roomers. That is, of course, "Mrs. Murphy."

What are we going to do for those people when they are suddenly confronted by HUD?

We realize, too, that we have the request or the suggestion that we have retained in this bill, the broad language of the handicapped provision. For example, what are we going to do for those little people who are suddenly confronted by the awesome power of the Federal Government when the HUD enforcement officer comes around and says, "You denied quarters to persons because they were handicapped?" The idea is that if you look at the handicapped, you know they are handicapped because they look handicapped. That could be the reason asserted, but that is not the real reason, and that is the problem. Those people who deny housing do it for a reason, but that is not the real reason.

What are they going to do when they are confronted with the awesome power of HUD or the Legal Services Corporation?

We are gradually tipping the balance against the small people who are really struggling with just three houses, the small people like Mrs. Murphy, who is just struggling to rent four rooms. They are struggling, and when they are confronted with the awesome power of the Federal Government, what are they going to do? They are going to give up.

I do not think that is right. I do not think we ought to put them in that position.

As the gentleman from California said, there is no record supporting removing this exemption. In the absence of any record and in the presence of my real feeling that the balance is shifting against these little people, I would urge the gentleman from Maryland (Mr. MITCHELL) to reconsider, and I urge my friends to support this amendment.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am pleased to yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, there is no doubt in my mind and there ought not be any doubt in the mind of any Member on this floor that the little people are presently protected. There are just a small number of units involved.

Let us look at the other side of the coin. Suppose we have a guy in real estate housing who has 1,000 units or 500 units and he does not want to accept black people. So he says, "Here is what I will do. I will break each one of my holdings down into six units," or some figure that he will set up. He says, "I will have a separate company for each one, and, therefore, by using that device, I can avoid compliance with the law and I can continue to discriminate against people."

That is the danger, and that is the emboldening process I see that I think is so very dangerous.

Again, Mr. Chairman, I reiterate that I would love to see this amendment defeated quickly, overwhelmingly, and effectively.

Mr. BUTLER. Mr. Chairman, if that is a serious suggestion, as advanced by the gentleman from Maryland, this is one reason we are talking about going back to the existing law. If there were such a situation of fragmentized ownership in order to get around this act, then it should have been in the record, and as far as I know, it is not in the record. It may be true in the gentleman's experience, but I was not aware of it.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, I would like to inquire of the gentleman from Maryland (Mr. MITCHELL) about the situation of the person who is trying to circumvent this amendment.

I am proposing to reinstate existing law, which reads as follows:

> For the purposes of subsection (b) a person shall be deemed to be in the business of selling or renting a dwelling if (1) he has in the preceding 12 months participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. BUTLER) has expired.

(By unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. HALL of Texas. So, Mr. Chairman, I believe if the person did what the gentleman from Maryland indicated a moment ago, if he did break the units down, into smaller units, he automatically comes under the provisions of this law and would be eliminated from any exemptions about which I am speaking.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am not quite certain that I concur with the gentleman's interpretation, but that was really not the burden of my argument. My argument against the gentleman's amendment essentially rests on the premise; First, that there is racism in America; second, there is continued hard fighting against providing fair housing opportunities; and third, in the event that the gentleman's amendment should be agreed to—and I hope it is not—it will simply encourage those people who do not want to do the right things in this country.

Mr. Chairman, that is the thrust of my argument.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment a clarifying question, if I may.

As I understand it, the gentleman would provide an exemption for both sales and rentals of a building where the owner no longer occupies it. I can see the argument he made, that if an owner is temporarily leasing his home and renting it with the intention of returning, he may want to feel that he can rent it or refuse to rent it to anyone that he chooses, because this is his home and he does not have to have anyone living there that he does not want. I can understand that.

But when it gets down to the sale of that home, what possible interest has he left once he has determined he is going to move out?

I wonder if the gentleman could clarify whether his amendment is attempted to apply to sales of homes by the owners of those homes.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Texas.

Mr. HALL of Texas. Mr. Chairman, it is my position in these amendments that it should not be the purpose of this Congress to bring down all of the resources of HUD on a person who owns a house and who wishes to rent or sell that house.

☐ 1310

In 1968, after much deliberation, the Congress saw fit to make an exemption which would cover what the gentleman from Ohio is speaking of now, and there has been nothing in the record in the 15 days of hearings, as I understand the testimony here today, that has shown any need to expand the coverage to eliminate these exemptions.

If a person owns a house and wishes to rent or sell that house individually, without going through a real estate agency—although they can still utilize attorneys, escrow agents, and abstract companies—I do not believe that all vestiges of the rights of ownership should be taken away from that person.

I am not saying that there might not be discrimination in this world, and we are going to have it when the gentleman and I are dead and gone. I think we both realize that. I want to do everything that I can to eliminate it, but I do not want to take away all of the rights and vestiges of ownership in doing that. I think if you tell a person that he cannot sell or rent his one house, we are going too far. I do not think that H.R. 5200 is meant to try to cure all of the ills of our community by removing the ex-

Mr. SEIBERLING. I think the gentleman makes a good argument in dealing with the rental by an owner of his own house. It seems to me that one of the perquisites of ownership is that he ca perquisites of ownership is that he can llet anybody in his house that he wants to and he can refuse to let anyone into his house, if only because he does not like the way he ties his tie or for any other reason, arbitrary or rational. But when we get to the sale of the house, where the owner is in the process of divesting himself of the ownership, the only exemption, it seems to me, that should be made is the exemption where he sells it himself. If he sells it himself, without the use of an agent, then it seems to me that perhaps he should not have to have the kind of legal sophistication that we can expect from a professional real estate agent or from someone who owns and sells real estate as a regular business.

I want to ask the gentleman, would his amendment exempt owner sales, where the owner uses a professional real estate agent?

Mr. HALL of Texas. No, sir. It is only when he, when he sells it himself or rents it himself.

Mr. SEIBERLING. I see. In that case, I would like to ask the distinguished chairman of the subcommittee, whose position I generally have supported, as the gentleman knows, what real objection there is to this amendment?

Mr. EDWARDS of California. If the gentleman will yield, the gentleman from Ohio made the point very well, and that is that we are talking about millions of sales on a daily basis throughout the country where the owner is selling the house or renting the house himself. But there are no privacy considerations because, as the gentleman from Ohio pointed out, the owner is moving away or has already moved away, so there is no reason to exempt these millions of sales from the provisions of the law.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, I understand there is no privacy consideration when the owner is in the process of divesting himself. But the question is, Should that owner, who may not understand the niceties of the fair housing laws, be held to a standard that maybe is unrealistic? To that extent, it seems to me that the gentleman from Texas has a point. It seems to me, also, that it would make this bill a more salable commodity if we did not have in it something that is going to subject an ordinary citizen who is trying to sell his house on his own—maybe he is foolish, maybe he ought to have professional advice, but nevertheless he is trying to do it himself—to complex legal standards which may entail possible fines and other penalties.

So I still think that if all that the amendment offered by the gentleman from Texas does is to exempt the person who leases or sells his own home without employing a professional realtor, we would be well-advised to consider going along with it, because I do not really see that there are likely to be very many owner sales where there is no agent involved. Perhaps the gentleman can enlighten me as to what percentage of total sales of individual houses and housing units in this country are actually done by the owner versus a real estate agent?

Mr. HALL of Texas. I could not answer that question. Maybe the chairman of the committee could.

Mr. SEIBERLING. Could the chairman enlighten me on that?

Mr. EDWARDS of California. The estimate we have, if the gentleman will yield, is 20 percent.

Mr. SEIBERLING. Twenty percent. Well, that is a substantial number. But even so, we are balancing some equities here, and I think this bill would have a much better chance if we did not snare the little homeowner acting on his own behalf.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. HALL).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DISCRIMINATORY HOUSING PRACTICE AMENDMENTS

SEC. 6. (a) The catchline of section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

(b) Section 804 of such Act is amended by inserting ", 803(d)," immediately after "803(b)".

(c) Section 804 of such Act is amended by adding at the end the following:

"(f) For a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contact of insurance against hazards to a dwelling because of the race, color, religion, sex, handicap, or national origin of persons owning, or residing in or near, the dwelling.

"(g) (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, a dwelling to any person because of a handicap of a prospective buyer or renter or of any person associated with such buyer or renter unless such handicap would prevent a prospective dwelling occupant from conforming to such rules, policies, and practices as are permitted by paragraph (2) of this subsection.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of handicap. For purposes of this paragraph—

"(A) discrimination includes—

"(i) refusal to permit reasonable modifications of premises occupied, or to be occupied, by persons with a handicap which are necessary to afford such handicapped persons access to premises substantially equal to that of nonhandicapped persons, but in the case of a rental, only if the renter makes an agreement to restore the premises to the condition which existed before such modification, reasonable wear and tear excepted; and

"(ii) refusal to make reasonable accommodations in policies, practices, rules, services, or facilities, when such accommodations are necessary to afford handicapped persons enjoyment of dwellings substantially equal to that of nonhandicapped persons; and

"(B) discrimination does not include—

"(i) refusal to make alterations in premises at the expense of sellers, landlords, owners, brokers, building managers, or persons acting on their behalf;

. "(ii) refusal to make modification of generally applicable rules, policies, practices, services, or facilities where such modification would result in unreasonable inconvenience to other affected persons; or

"(iii) refusal to allow architectural changes to, or modifications of, buildings which would materially decrease the marketability or value of a building or alter the manner in which a building or its environs has been, or is intended to be, used.".

(d) Subsections (c), (d), and (e) of section 804, and section 806 of such Act are each amended by inserting "handicap," immediately after "sex," each place it appears.

(e) Section 805 of such Act is amended to read as follows:

"DISCRIMINATION IN CERTAIN TRANSACTIONS THAT AFFECT HOUSING FINANCING

"SEC. 805. It shall be unlawful for any person whose business includes the making, purchasing, or insuring of loans, or selling, brokering, or appraising of real property, to deny or otherwise make unavailable a loan or other financial assistance which is for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of race, color, religion, sex, handicap, or national origin.".

(f) Section 807 of such Act is amended by adding at the end the following: "Nothing in this title shall prohibit a minimum lot size requirement for residences unless such requirement is imposed with intent to discriminate against a class protected by this title.".

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: On page 8, line 12, after "805.", insert "(a)".

On page 8, line 21, strike out the close quotation mark and the period which follows.

On page 8, immediately after line 21, insert the following:

"(b) Notwithstanding any other provisions of this title, it is not a violation of this title (Title 8 of the Fair Housing Act) for a person engaged in the business of furnishing appraisals of real property to take into consideration or to report to the person for whom the appraisal is being performed all factors shown by documentation to be relevant to the appraiser's estimate of the fair market value of the property; *provided*, That such factors are not used by the appraiser to discriminate against any person for the purpose of denying rights guaranteed by this title.

Mr. HYDE. Mr. Chairman, this amendment is designed to remedy a problem which we have had with this bill since its consideration began. In short, it is designed to permit appraisers of real estate to take into consideration in their appraisal all relevant and documentable factors which affect the fair market value of the property he or she is asked to examine.

During subcommittee consideration, we heard testimony from representatives of the Society of Real Estate Appraisers which indicated that this bill as drafted creates a conflict between the market value of the property and HUD's desire to eliminate all references in appraisals to race, ethnic origin, churches, quality of neighborhood, et cetera, even if relevant and even if documentable.

During the markup, the subcommittee agreed that appraisers should be allowed to make such references where documentary evidence exists to support their use. Staff was instructed to draft report language to accomplish this end, but in the interim this proved to be impossible. As a result, I am offering this amendment for the purpose of allowing appraisers to use such references, as are supportable by documentation and are relevant to market value.

This amendment failed in full committee by a 12-to-17 vote, principally because 8 members voted against it by proxy. I trust the sentiment of the House will reflect a different view.

Incidentally, the gentleman from North Carolina (Mr. GUDGER) is also offering this as cosponsor.

If a factor does not impact on market value, if it cannot be documented, then it cannot be used in the appraisal report. Unless all factors impacting on market value are reported, there is a danger of a fictitious market value.

We are told that comparable sales ought to be enough. We are told by the regulators that words like church, synagogue, pride of ownership, prestigious neighborhood, declining neighborhood, poor schools, are of no value whatsoever and, actually, are racist and discriminatory.

□ 1340

Let me simply say, comparable sales are not the last word in appraisals. In many areas there are no comparable sales. There are sales that are distressed when people are transferred and must move. Deaths occur and homes are sold under less than ideal conditions.

What is important are the trends in a community, not necessarily comparable sales.

What is the first thing you want to know when you are going to move into a neighborhood? How are the schools, the quality of the schools? But no, that cannot be mentioned under existing rules. Appraisers are barred really from telling the truth.

We heard testimony about a home that was near a Jewish community center in Houston. It was within walking distance. That home was worth more solely because it was placed within walking distance of this Jewish community center; but without this amendment, the appraiser would be barred from putting that in the appraisal.

Now, I would like to point out, the appraiser has no stake in the sale. He is not the broker. He is not the owner. The appraiser is a professional person trying to do a professional job and all we are asking is that the appraiser be permitted to tell the truth as to what the value is and what the basis for that appraisal is, if it is relevant, if it is documentable, and if there is no attempt to discriminate.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I would be happy to yield to my friend, the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, the gentleman from Illinois made some reference to the quality of the school. Is the gentleman's interpretation of the bill that an appraiser could not state the national scholastic average or some standing events of a neighborhood school?

Mr. HYDE. That is correct.

Mr. JACOBS. That is a provision of the bill?

Mr. HYDE. No, no. They are barred from mentioning that under existing law.

Mr. JACOBS. But I say, without referring to race, just simply saying that the scholastic average of the school is thus and so on a national average, is the gentleman quite certain that the bill prohibits that?

Mr. HYDE. If the house is located in a community that is served by good schools, by good quality schools, you could not say that.

Mr. JACOBS. But just specifically the fact of the average of that school's academic standing, I am asking for information.

Mr. HYDE. Well, I am suggesting that without this amendment, that language would be proscribed.

Mr. JACOBS. Maybe somebody could answer the question.

Mr. HYDE. Well, I thought I did. You cannot use that language. You cannot refer to the quality of the schools.

Mr. JACOBS. Would the gentleman cite the language in the bill, be kind enough to do that?

Mr. HYDE. It is by Federal regulation, by Federal Home Loan Bank Board regulations, Federal Home Loan Mortgage Corporation regulations, HUD regulations, a whole litany of things have been forbidden to be used.

Mr. JACOBS. I thought we were talking about the bill itself.

Mr. HYDE. I am trying to remedy the proscription in the law now by permitting appraisers to tell the truth so long as it is relevant, documentable, and not for purposes of discrimination.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will yield finally, to my friend, the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(At the request of Mr. RAILSBACK, and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, would the gentleman yield?

Mr. HYDE. I yield.

Mr. RAILSBACK. Mr. Chairman, I wanted to make it very clear, and I think this is what the gentleman from Indiana was asking, there is nothing in the bill that really deals with the subject that is being dealt with by the gentleman in the well. The gentleman in the well is trying to deal with a problem that exists by reason of a court decision, as well as some activities by some of the regulatory agencies.

Mr. HYDE. That is correct.

Mr. RAILSBACK. This is a response to what the gentleman believes is the state of existing law, in which the gentleman may very well be right.

Mr. HYDE. That is correct.

Mr. RAILSBACK. But I wanted to make that very clear.

Mr. HYDE. May I point out that the Committee on the Judiciary of the other body has adopted a very similar amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for yielding. I would like to compliment the gentleman for offering this truth in appraisal amendment. I think it is necessary that it become part of this legislation.

Mr. Chairman, I rise in support of the Hyde amendment. This amendment would allow appraiser to do their important work honestly, thus benefiting all members of our society. I strongly believe that this amendment will protect all Americans.

Many times inflated appraisals have victimized low- and moderate-income minorities living in the inner cities—the very groups this legislation purports to protect. And they will continue to be cheated if the Hyde amendment is not passed. They will be assaulted by a most cruel foe—falsehood.

This amendment will protect these persons, as well as all others who make real estate transactions, by insuring that all Americans will have access to the accurate information needed to make a wise and prudent investment. When most people purchase a home, they more or less sign their lives away to the mortgage company. It is the biggest single investment most people ever make, and one they may be tied to for 30 years or more. How tragic it would be if we as lawmakers passed this legislation without amendment and therefore denied millions of families and individuals a complete appraisal picture. We have passed freedom of information laws. We should understand that every citizen must have access to trustworthy and truthful information. We must protect this vital right by passing the Hyde amendment.

Furthermore, keep in mind that this amendment will protect all Americans without increasing discrimination. This amendment will fight against discrimination in housing. The language of the amendment explicitly states that relevant factors can be reported by appraisers only if they are supported by documentation and they are not used to discriminate against anyone seeking a housing loan.

Thus, a vote for the Hyde amendment is a vote for nondiscriminatory housing as well as a vote for fairness and honesty in all market transactions. This amendment is a significant improvement to the original bill, and I therefore urge passage of the Hyde amendment. Thank you.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentleman upon his amendment. I do think that it is necessary that we make it quite clear that in all aspects of the law of the Fair Housing Act and in all litigation hereafter and in all matters where appraisals are involved, we are not going to change the current law as far as the professional appraiser is concerned.

I have tried, I guess, a hundred lawsuits involving fair market value. I find it incredible to believe that any departmental regulation or any other rule or regulatory decision of a regulatory body could restrict the power of an appraiser to render what he is employed to render, a fair market value opinion.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Hyde) has again expired.

(At the request of Mr. Gudger, and by unanimous consent, Mr. Hyde was allowed to proceed for 2 additional minutes.)

Mr. GUDGER. Mr. Chairman, if the gentleman will yield further, would the gentleman comment on comparable value?

Mr. HYDE. Well, comparable sales is certainly one very useful tool to determine the fair market value of a home; but it may be very misleading. It may not be the final one or even the determinational one, depending on the community.

In inner-city communities, many times there are not comparable sales. Sometimes comparable sales result from a transfer of a family, death in the family. They are useful, but they are not the sole and only factor to be used in giving an appraisal.

Mr. GUDGER. Let me ask the gentleman this. As to the determination of fair market value and as to the use of comparable sales in determining what is market value, is it possible to delete these considerations which the gentleman's amendment would allow to go into the full and fair market value appraisal?

Mr. HYDE. Well, it depends on the situation. If the house is in the center of a Chinese community, such as we have in Chicago, a very wonderful area, it seems to me the mortgagee ought to be able to know that the resale of that house, should a foreclosure be necessary, might be limited to a Chinese family.

These things are not done for purposes of discrimination. They are relevant. They are documentable, and they are not done to discriminate. They have an impact on the value of that house as collateral for a loan in the future.

Mr. GUDGER. Does not the gentleman's very amendment specify that no artificial values are to be considered and that nothing is to be done to the disadvantage of any group because of these ethnic considerations?

Mr. HYDE. Absolutely. It is just to forestall a malpractice liability for an appraiser who has to put a figure down, but is foreclosed from telling the truth as to how he arrived at that figure and what the prognosis is for the lending institution who is going to hold the title of that home as security.

Mr. GUDGER. One final question. Does the gentleman's amendment in any way preclude the appraiser from revealing any of these considerations which he has mentioned within his fair market value figure by breaking down how he arrives at that figure on these considerations?

Mr. HYDE. No.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am afraid that even after everybody speaks on this amendment—and I hope there are not too many—because regardless of how many people try to explain this amendment, very few people are going to be able to understand it. It is a hard thing to understand. I do not think the appraisers themselves understand it very well.

First, let us remember that the appraisers, and they are a fine group of people, have been operating under this law for a substantial period of time. They are covered and they are doing very well. You do not hear any complaints from the banks or the savings and loans for whom the appraisers work, to whom the appraisers give their reports, that there is anything wrong with the law.

This bill does not create any new law insofar as the appraisers are concerned. It codifies the existing law. The way appraisers determine their values and write their reports is that they go out, they look at comparable sales prices, employment stability, marketing time, rent levels, vacancy rates, level of municipal services, and so forth. That is the way appraisers operate today. That is the way they should be operating.

□ 1350

If this amendment goes through, however, they will be able to include "all other factors."

Now, what does "all other factors" mean? It is a euphemism for race, r-a-c-e. The sole purpose of this amendment is to permit appraisers to include in their reports the racial composition of a neighborhood and to let that data affect their estimate of value.

They cannot do that now and they want to do it, and they should not be able to do it.

No other party in the real estate chain, financial institutions, brokers, sellers, landlords, and so forth, is permitted to let racial factors influence their decisionmaking. This is the very purpose, this is the very heart of fair housing.

Do my colleagues want to see in appraisals "A black family moved into the neighborhood"? That is what this amendment will permit. That is exactly what the appraisers want to do.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, the amendment simply says "if relevant." Now, what the gentleman cited, by definition, is irrelevant. "If documentable and not for purposes of discrimination," but surely there are such things in America as ethnic communities. I have many in my district, Polish communities, Lithuanian communities. Does that not have an affect? Is it not relevant on the resale value of a home if it is smack dab in the middle of one of those very strong, very prideful ethnic communities? I do not say it should be used to discriminate, but if it is a fact, if it is relevant to the future value, the resale value of their home, why not? We require the looking at ethnicity for affirmative action, but we forbid it when it comes to making appraisals. I do not understand that.

Mr. EDWARDS of California. I wonder if the gentleman from Illinois would like to see the clerk at the bank write across a loan application "The applicant is a black person." "The applicant is a brown person," or "is this" or "is that?" That is what we are talking about.

To get back to what I said earlier, I want to remind the body, Mr. Chairman, that I said it was going to be very difficult to understand this issue. It is a very difficult issue. The appraisers are doing very well now under current law. Yet they want to change the law. We do not want them to change the law. Their clients do not ask for a change in the law.

I ask for a "no" vote.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Yes, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I as a lawyer and as a property owner have been through many appraisals and I have never seen an appraisal where the appraiser said that a neighborhood was mainly white, or black, or any other race, or was impacted, or some other factor dealing with race. Such factors are not mentioned because they are unnecessary and, therefore, irrelevant to determine the value of the property. The way an appraiser appraises property is to look at recent sales of other similar types of property in the general area and compare those particular properties with the property in question.

The CHAIRMAN. The time of the gentleman from California (Mr. Edwards) has expired.

(At the request of Mr. Seiberling and by unanimous consent, Mr. Edwards of California was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. If the gentleman will continue to yield, the appraisers then figure out, on the basis of property price trends in that neighborhood, what the value of that particular property is. There is no reference and no need to refer to the racial character of the neighborhood, or the buyer, or the seller, or any other racial, national, religious, or similar factor. The appraisal is based on what comparable properties have sold for. Since it is not necessary to refer to such factors in order to make a sound appraisal, this amendment, by authorizing reference to such factors, would open up a huge breach in the fair housing law.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Of course I yield to my friend, the gentleman from Illinois.

Mr. HYDE. If it is not relevant, then it does not belong in there, and this amendment will not protect it. The amendment says it has to be relevant. The gentleman, by definition, has made it irrelevant, so it is not protected.

Mr. SEIBERLING. All I am saying, if the gentleman would yield, is that it is not necessary to introduce this kind of a factor into an appraisal of the value of a piece of real estate. By introducing it through the device of this amendment we would be saying OK, folks, here is one that you can put in your appraisal as a signal to the world. It seems to me it would be a very serious breach of the fair housing principle.

Mr. EDWARDS of California. Mr. Chairman, if I may reclaim my time, race is an unreliable indicator of value, and appraisers agree. Here is a policy statement of the American Institute of Real Estate Appraisers:

> Racial, religious and ethnic factors are deemed unreliable predictors of value trends or price variance.

Also here is a statement of the Society of Real Estate Appraisers:

> The Society of Real Estate Appraisers does not teach that neighborhood stability or value are necessarily affected, positively or negatively, by the movement into or out of a neighborhood of a different racial, religious, or ethnic group.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has again expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 30 additional seconds.)

Mr. EDWARDS of California. Mr. Chairman, this amendment would open Pandora's box. I ask for a "no" vote.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment because I think this amendment simply attempts to allow appraisers to utilize in their appraisal all relevant factors that ought to be considered in determining the value of the property they are requested to evaluate. Sometimes in listening to today's debate I think we are talking about a different amendment than the amendment that is being presented on the floor.

The amendment before us talks about the fact that you can use all those factors which are relevant and documentable, and then it also says, "Provided that such factors are not used by the appraisers to discriminate against any person for the purpose of denying rights guaranteed by this title."

The purpose of this amendment simply is to get rid of the abuse of regulation that has occurred in interpreting present law. If my colleagues will look at the large number of the "Dear Colleagues" that have been sent around, they will find a number of different arguments that have been presented.

But one that I think is extremely relevant is the assertion, as suggested in a letter from those who are against this particular amendment, that certain proven indicators of property value are sufficient for the purpose of determining property values fairly. Unfortunately, many of these indicators are no longer allowed to be utilized in the appraisal process. For instance, factors dealing with "employment stability," such as typical occupation of a resident of a neighborhood, or typical gross income of a neighborhood have been eliminated by the Farmers Home Loan Bank Board. "The quality of schools," has been eliminated as a factor by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. Remaining economic life and effective age of the property are concepts that have virtually been eliminated by the FHLMC. In other words, what has happened is that Federal agencies, in interpreting the law as the Congress wrote it a number of years ago, have gone far beyond that.

In another example of such regulatory excess the FHLBB has prohibited appraisers from using a number of words or phrases such as "church," "synagogue," "pride of ownership." It seems to me that this has been an abuse of the process and it certainly extends the law far beyond what anyone assumed it would be at the time it was passed.

So what this amendment seeks to do is really bring a little common sense into the application of the law. I repeat, that if my colleagues will look with precision at the specific amendment, they will see that it says that these have to be relevant factors, they have to be documentable, and it specifically provides that such factors cannot be used in a discriminatory fashion.

Now, what else can one do except to say that the appraisers are supposed to use those relevant figures, and they are not to use them to discriminate? Essentially what we are asking for is truth in appraisal.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I have not mentioned race. The opponents have brought the subject up. It is not in the amendment whatsoever. "Relevant factors" is in the amendment. If they say it is relevant, then it is relevant.

But, are not quality of schools relevant? You cannot however, mention them under the existing law now.

Are not the presence of churches or the nearness of synagogues maybe relevant to the future value of a piece of property? Is a house in Georgetown more valuable because it is in a prestigious neighborhood then, say, one in Cleveland Park?

Why not permit appraisers to tell the truth as long as the facts they are mentioning are relevant, no matter what they are, and documentable, and not interposed for the purposes of discrimination? That is all we are asking.

Mr. LUNGREN. If I can reclaim my time, I would like to direct my colleagues to a 1972 report on defaults to FHA insured home mortgages in Detroit. This report was an antigrowth of an investigation to determine why they had this high rate of default. The House Committee on Government Operations placed part of the blame on the fact that the appraisals were inflated and that, therefore, with inflated appraisals the people who obtained the houses were unable to continue the payments on them. The end result of all this was that the very legislation which was aimed at helping those of low and moderate incomes, particularly low and moderate minorities within inner cities, were hurt because the program itself was hurt.

□ 1400

Essentially one of the things that leads to inflated appraisals is the fact that all relevant and documentable factors have not been taken into consideration. One of the reasons they are not taken into consideration is that the law does not allow them to be taken into consideration.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield for a question?

Mr. LUNGREN. I will be happy to yield to the gentleman.

Mr. MITCHELL of Maryland. I have to do this a little slowly. Paul Laurence Dunbar was a very famous black poet.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MITCHELL of Maryland, and by unanimous consent, Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. MITCHELL of Maryland. If the gentleman will continue to yield, there are many all-black high schools around this Nation named Paul Laurence Dunbar High Schools. I think there are many whites who recognize the name of Paul Laurence Dunbar. An appraiser puts into the record: "In close proximity to your home is the Paul Laurence Dunbar High School." What, if any, reaction does the gentleman think that would cause for a prospective white buyer who might be familiar with the fact that Paul Laurence Dunbar is a black poet, and that, in general, high schools named after Paul Laurence Dunbar are black high schools? Does the gentleman think that would have a positive reaction on the part of a possible purchaser?

Mr. LUNGREN. I think the gentleman creates a strawman in this instance. Under the authority of this amendment it may not be necessary for them to mention the name of the school. We are talking about the factor of quality of school, and if it is utilized in such a way to actually accomplish discrimination, then under the terms of this amendment it would not be allowed.

Mr. MITCHELL of Maryland. Will the gentleman yield further?

Mr. LUNGREN. I will be happy to yield to the gentleman.

Mr. MITCHELL of Maryland. The gentleman makes my very precise point. It is not required that the name of the school be mentioned, nor is it precluded. Therefore, the gentleman will have injected the fact of race.

Mr. LUNGREN. First of all, it has to go through the hoops of determining whether it is relevant and it is documentable, and it seems to me it would be far easier to talk about the quality of the school that is available as opposed to naming the school, and a reasonable interpretation would be that in naming the school there was a discriminatory purpose.

Mr. MITCHELL of Maryland. In the amendment supported by the gentleman, you do not have that guarantee.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment and want to be identified with the remarks of the gentleman from California (Mr. LUNGREN).

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. EVANS of Indiana. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Indiana.

● Mr. EVANS of Indiana. Mr. Chairman, everyone in this Chamber is in favor of fair housing—no one would argue against the ideal that our standards and procedures for those who are consumers and for those in the industry should be equitable.

In the past we have initiated Government policies with the honorable intention of eliminating discrimination and unfair practices in the housing-real estate marketplace. In most cases those Government policies have not only failed in their intended goals, but also have resulted in more Government intrusion into private business as well as compounded paperwork and redtape resulting in additional costs being passed along to the consumer.

I would have hoped that our past experiences with RESPA and with the alarming default rate for HUD housing that this body would have learned a lesson that we cannot mandate what can or cannot be considered, used and/or reported in dealing with a free market industry. There presently are very stringent guidelines and lengthy reports HUD requires from real estate appraisers. To mandate additional Government procedures should, in essence, require appraisers to ignore marketplace realities. The result would be fictitious and misleading market values.

I seriously doubt anyone in this Chamber would consider buying a home without knowing all the relevant information, and would not give any weight to market values that did not reflect a professional and complete appraisal. It is unrealistic and unfair to the American people and to private industry to force this on them. It will do no more than create false market values and add another expensive layer of bureaucratic paperwork for private industry.

I urge the adoption of this amendment.●

Mrs. CHISHOLM. Mr. Chairman, my good friend, the gentleman from Illinois (Mr. HYDE) indicated that the word "race" was injected into the debate by persons "on the other side of the aisle." I think we know well enough now that it is not always necessary to actually use the actual word, but there are certain what we call code words that evoke certain things in people's heads almost immediately.

Mr. Chairman, I rise in strong opposition to the amendment. This amendment represents another attempt to circumvent the spirit and intent of title VIII of the Civil Rights Act. What we have been attempting to accomplish since 1968 is to foster housing activities in which racial, ethnic and religious factors are irrelevant. It is inconceivable that we would now allow an integral part of the real estate chain, the appraiser, to take into consideration "all relevant factors" in determining the value of property. Passage of this amendment would effectively exclude appraisers from coverage under title VIII, contradicting court rulings holding that the fair housing law covers the activities of the appraisal industry, and foster potential discrimination by appraisers and other participants in the real estate chain.

The complex process of consumation of a housing sale involves a number of key participants who are responsible for a number of key decisions. Allowing the appraiser, an integral part of the process, to rely on racial or ethnic factors prohibited by title VIII, would break an essential link in the housing process and undermine the spirit and purpose of the fair housing law. Adoption of this language would only enhance perpetuation of racial stereotyping in the determination of real estate value.

I strongly urge my colleagues to reject the amendment.

Mr. HYDE. Mr. Chairman, will the gentlewoman yield to me?

Mrs. CHISHOLM. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentlewoman for yielding. I just want to understand the gentlewoman's argument. Did she say that my amendment exempted appraisers from the purview of title VIII?

Mrs. CHISHOLM. It would exclude them from title VIII.

Mr. HYDE. I respectfully submit if she would read section 805 on page 8, they are specifically included; they are not exempted by my amendment.

Mrs. CHISHOLM. I disagree with the gentleman. I really disagree with him.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment proposed by my colleague, the gentleman from Illinois, which seeks to exempt the entire appraisal industry from the provisions of the Fair Housing Amendments of 1980.

In considering fair housing amendments, the Judiciary Committee made it clear that it wished to achieve greater specificity in substantive coverage, including clarification of the factors to be considered in making appraisals. The bill, and particularly section 805, makes it clear that no link in the real estate chain can engage in discrimination or consider race as a factor in any stage of selecting or evaluating a home. Existing law as embodied in a 1977 Federal district court decision which held appraisers subject to the provisions of the Fair Housing Act of 1968 is not and should not be changed in H.R. 5200.

There is a very sound reason for not adopting the amendment presently being considered. If we permit consideration of race as a factor in evaluating a home, regardless of the claim of "first amendment rights" and "fiduciary duties" of the appraisers, we are in fact legitimizing the inclusion of race as a factor in housing. Up and down the real estate chain, realtors, financial institutions, and insurers will know that appraisers will be basing their evaluation of property in part on racial considerations. This will infect the entire process of selecting, buying, selling, and financing homes in a discriminatory manner.

The appraisers claim that they are not part of the housing chain, and that their sole duty is to report the truth to the financial institutions. They assert that if that truth includes racial composition of a neighborhood, then it is their fiduciary duty to inform the banks of this fact. What the appraisers have not mentioned is what use this information is put to.

In a typical sequence of buying a home, the individual selects a home and requests financing. His selection is based on his own personal desire for a house in a particular neighborhood. As an individual, this decision is based on many factors, all of which he is free to consider. Following a decision to buy, the individual seeks financing at a local bank or lending institution. The bank, in turn, hires an appraiser to estimate the market value of the property. The appraiser's estimate is used by the lender in determining whether the property will provide sufficient collateral for the loan. If the appraisal is lower than the mortgage requested, and is based in part on racial and ethnic composition of the neighborhood, then the loan may be denied or given on less advantageous terms. We are all familiar with the results of such disinvestment by financial institutions—the decay and deterioration of neighborhoods. As it is clearly illegal for the lender to base its decision on racial factors, what then is the purpose and effect of considering racial and ethnic factors in the appraisal report? As I see it, either the report is useless, or the lender and every other participant in the real estate chain becomes immune from the requirements of the Fair Housing Act by hiding behind appraisal reports.

The American Institute of Real Estate Appraisers has enunciated a policy that "racial, religious, and ethnic factors are deemed unreliable predicators of value trends or price variance." Even more telling is the statement of the National Society of Real Estate Appraisers:

> Race, national origin, and religion have never been reliable indicators of value, but reliance on these factors is not just misleading and unnecessary; it is also anathema to the very concept of fair housing. We perceive the effort to sanction this reliance as an attempt to revert to the situation prior to the passage of the Fair Housing Act in 1968 when assumption about the negative impact of these factors created the problems of redlining.

The argument for an exemption from the law rests on the first amendment right of free speech. The first amendment protects an individual's right of free speech, not the ability of a commercial enterprise to say whether it chooses in selling, buying, or evaluating merchandise. The right of free speech has never been absolute in a commercial setting.

No one doubts that a used car salesman cannot say "This car is 100 percent perfect" and thereby mislead the consumer; likewise we can deny the right to the appraiser to make statements regarding the racial composition of a neighborhood thereby perpetuating the myth that minority families depress property values.

In 1968 Congress established a statutory right to equal access to housing. The inclusion of racial and ethnic factors in evaluating homes may result in lower property values thereby making an individual's equal access to housing more difficult. H.R. 5200 attempts to protect that individual right by codifying case law restrictions on appraisers. This legislation assumes, and properly so in my judgment, that the benefit of the right of commercial free speech is outweighed by the need for protection afforded the individual to live where he chooses. The proposed amendment would reverse this assumption and would permit appraisers to violate that individual right.

The other major argument in favor of exempting appraisers is their "fiduciary duty" to report all facts to financial institutions. Under any test this claim should fall as a matter of policy before our efforts to guarantee the individual equal access to housing.

I think it is important to keep in mind there is no indication from the financial institutions to which the appraisers owe this duty of any request that they specifically include racial and ethnic factors in their reports. The financial institutions are subject to the same fair housing laws. They are prohibited from considering racial and ethnic factors in choosing the people to whom they lend money and in determining the value of the collateral offered by that person. To permit appraisers to mention racial and ethnic factors automatically inserts race into the deliberations of the lender as to the amount or the actual granting of a loan.

I have not yet heard of the prosecution of an appraiser for failing to meet his or her fiduciary duty by not mentioning racial and ethnic factors in a report to a financial institution. It is not the person owed the fiduciary duty who is stating all factors must be included—it is instead the appraiser who claims it is part of his fiduciary duty. No testimony was given before the Subcommittee on Civil and Constitutional Rights that financial institutions included among the responsibilities of appraisers the duty to report racial and ethnic factors.

I believe that the Fair Housing Act amendments as applied to all components of the housing industry is just and equitable. I urge a vote against this unwarranted and unnecessary exemption from the provisions of the Fair Housing Act Amendments of 1980 in order to assure fair housing for all Americans.

☐ 1410

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

The gentleman mentions the American Institute of Real Estate Appraisers. First of all, they handle commercial largely, rather than residential.

In any event, Mr. Chairman, they had a communication with the chairman of this subcommittee, the gentleman from California (Mr. EDWARDS) and this is what they said about the agreement in the policy statement.

> Your Committee is hereby informed that the Institute's agreement does not prevent appraisers from mentioning racial and religious factors and does not prevent appraisers from making negative evaluations based upon racial, religious and ethnic factors.
>
> * * * * *
>
> In particular, the stated policies discourage the use of stereotyped or biased presumptions relating to race, color, religion, sex or national origin and unsupported presumptions relating to neighborhood life cycles in the appraisal process. At the same time, the Institute holds that the professional appraiser must be free to investigate and report facts and to examine any of the social factors for possible relevancy.

May I just conclude, Mr. Chairman, by saying this does not exempt the appraisers from the umbrella of H.R. 5200 by specific language in the bill.

Mr. FISH. The gentleman uses the term social factors in quoting from the American Institute of Real Estate Appraisers.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. FISH. That they define racial, religious and ethnic factors as unreliable, simply means that they do not consider those as the social factors the gentleman was addressing.

Mr. PEYSER. Will the gentleman yield?

Mr. FISH. I will be glad to yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding. I have been listening to the debate. I must say the gentleman's very thoughtful and calm statement on this issue is a very telling one and one that would certainly convince me had I been in doubt previously, that this amendment should be opposed. In many ways, this amendment is sort of formalizing what used to be known as a "gentleman's agreement." At that time, it went against another ethnic group but it was just as repulsive as it is in using race as a method of determining value of homes.

Mr. FISH. Mr. Chairman, it is even worse than that. Rather than just formalizing it, it would legitimize it, whereas it is not lawful today. It is really a severe step backward.

Mr. PEYSER. Mr. Chairman, I agree with the gentleman and I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will be happy to yield.

Mr. SEIBERLING. Mr. Chairman, I think the gentleman has made a very fine statement and has brought out the real issue here.

Mentioning anything such as race, religion, or similar factors is unnecessary to appraise the appropriate value of a house or a property, which is usually determined by reference to the sale price of comparable properties in the area, with appropriate adjustment for specific differences in the physical site and other objective factors.

If this amendment passes, in effect, we would be legitimizing redlining as long as it is done by the appraiser, and an appraiser is indispensable in most real estate sales. So it seems to me there is a very fundamental issue posed by this amendment, and the gentleman from New York has brought it out very thoughtfully and very well.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. RODINO and by unanimous consent Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. RODINO. Will the gentleman yield?

Mr. FISH. I will be happy to yield to the gentleman from New Jersey.

Mr. RODINO. I think the gentleman has placed the emphasis where it ought to be. What is attempted by this amendment is to legalize what is already unlawful under present law. The amendment is contrary to the spirit of the law that is known as the fair housing law which we are now seeking to improve. Instead of improving and assuring that we would enforce what we passed originally, a modest compromise at that time, we would be going the other direction and weakening the law by allowing appraisers who are not now permitted to consider racial factors, in their appraisals. I say that, notwithstanding the fact I think the gentleman is genuinely interested in assuring that appraisals are fair. Nonetheless, when the gentleman rejects this requirement, that all factors be considered, including racial factors, he is proposing a breach in the law that presently stands. A racial factor is interjected that should not be there. That is contrary to the spirit of what we are attempting to do through the assurance of fair housing. I hope the amendment is defeated.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will be happy to yield.

Mr. HYDE. Mr. Chairman, I am not trying to legitimize racism, discrimination, or anything. If the gentleman would take the time to read the amendment, any injection of race, religion, ethnicity, quality of schools, prestigious neighborhood, the crime-ridden riot-prone neighborhood, these things have to be relevant, first of all, to be protected, they must be documentable, and they must not be interjected for purposes of discrimination. It just permits an appraiser to do a professional job, fulfill his fiduciary commitment to the loan institutions, and face up to the real world, that is all.

Mr. GUDGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate with a great deal of interest. It seems to me that what we are seeing here is an attempt to portray the appraisal amendment offered by the gentleman from Illinois (Mr. HYDE) as a subterfuge for racial discrimination. I do not read any such language into the proposed amendment. The amendment is simple. Its language is clear. It reads:

> It is not a violation of this title for a person engaged in a business of furnishing appraisals of real property to take into consideration or to report to the person for whom the appraisal is being performed all factors shown by documentation to be relevant to the appraiser's estimate of the fair market value of the property.

Now, Mr. Chairman, any professional appraiser is obligated under the ethics of his profession to do exactly that. What he is rendering is his opinion as to the commercial value, the fair market value of the item under appraisal.

The Supreme Court in Linmark Associates against Township of Willingboro affirmed the first amendment right of appraisers to report and the right of their clients to receive truthful and factual commercial information.

In every instance where I have employed the expert opinion of an appraiser, my undertaking with him was to pay him an appropriate fee for him to render to me his professional appraisal as to the fair market value of the subject property. He then was privileged to break it down as to how he arrived at that fair market value appraisal.

Mr. Chairman, all the Hyde amendment does as I interpret it, is to assure that when I contract with someone for such an appraisal I get what I am entitled to under the Supreme Court decision to which I just referred: That is the truth, the value of that property in his truthful opinion and every element going into that opinion which is relevant is privileged for him to reveal to me. That is all the Hyde amendment says.

Mr. Chairman, the Hyde amendment does go on and say that on the matter of ethnic concern, that such factors are not to be used by the appraiser to discriminate against any person for the purpose of denying rights guaranteed by this title.

So the amendment by its very words, Mr. Chairman, excludes any reasonable interpretation that it is intended to have any ethnic consideration.

□ 1420

It is merely designed to let the appraiser speak the truth. Now, I am rising in this instance because I am concerned about a profession, a profession relevant to my own profession of law; a profession of real estate appraisers in this land. They are entitled to speak the truth, and that is all the Hyde amendment says—that they are entitled to speak the truth and to render a report which takes into consideration all relevant considerations bearing upon the question of fair market value.

My humble opinion is that this amendment should be the law if it is not the law; and if it is not the law now, it is needed that it be declared to be the law so that this honorable profession may continue to speak the truth in a commercial field of high importance to matters in controversy in this country and to the administration of the fair housing law.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I will be happy to yield.

Mr. SIEBERLING. The gentleman, as usual, makes a very well-considered statement. I would just like to ask him two questions.

First, since there is a Supreme Court decision that says that under the first amendment the appraiser is entitled to speak his mind, then why do we need this amendment since they are protected already by the Constitution, as the gentleman has just said.

Mr. GUDGER. I interpret the amendment as designed to make quite clear by the language of the act that no regulations and no interpretations of the act shall be made in a form inconsistent with what the law is that I have just read from the Linmark Associates decision.

Therefore, I think that it is certainly doing no violence to the law, but merely declaring what is, by the Supreme Court's own decision.

Mr. SEIBERLING. The Housing Act cannot override the Constitution as interpreted by the Supreme Court.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(At the request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. GUDGER was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. If the gentleman could let me ask the other question, the difficulty with the Hyde amendment is that while it states that it does not apply to action by the appraiser with the purpose of racial discrimination, it does not deal with the effect of the appraiser's action. The effect is the problem here, not just the purpose.

Mr. GUDGER. I would like to respond to that. I think the proviso is misunderstood by the distinguished gentleman from Ohio. The proviso said, provided that such figures—these are the figures going in to make up the ultimate opinion of fair market value—provided that such figures will not be used by the appraiser to discriminate against any person for the purpose of denying civil rights.

I certainly think that needs declaring within this amendment, within the law, that it is the intent of the Fair Housing Act that nothing be done in the course of the appraisal or in the course of marketing or in the course of lending which would in any way discriminate against any person because of race, sex, or any other consideration.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I will be happy to yield.

Mr. MITCHELL of Maryland. Mr. Chairman, I am very, very sympathetic with the position that the gentleman is taking; sympathetic in terms of the motivation behind it. The gentleman and many Members of this House are absolutely free of any racial prejudice. You are; Mr. HYDE has no racial prejudice, and from this perspective no damage would be done because you gentlemen do not even think in terms of race. But, what my colleague from Ohio was saying is, there is another perception out there, a perception that says race is relevant, and if it appears in an appraisal and involves a black person or another minority person, then it is going to have a negative bearing.

All that I am suggesting to both gentleman is, come down out of the clouds, out of this race-free bias, where you just do not have this bias. Come down and look at the real world and how it operates.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

(By unanimous consent Mr. GUDGER was allowed to proceed for 2 additional minutes.)

Mr. GUDGER. I thank the chairman. I rise to respond to the suggestion made by the distinguished gentleman, and my friend, from Maryland. We live in a land in which already the law is clear. No person because of race, because of sex, because of situation, can be deprived of the right to move into any neighborhood in the United States, and all of us believe in that and believe in it sincerely.

Mr. MITCHELL of Maryland. If I may interrupt just one more time, was the gentleman on the floor when I read the Justice Department's statement that comes across our desks every day about the number of cases involving racial discrimination in housing? Was the gentleman on the floor earlier?

Mr. GUDGER. I was not, I regret, on the floor at the time of that particular reading. However, I do point this out; that there is no place in this land where any racial prejudice can be practiced to the exclusion of the right of any purchaser. Therefore, if we all have equal rights under the law to the availability of housing here, there, or yonder throughout the United States, this race circumstance is not a factor as such, I think, and the gentleman from Illinois has already pointed that out in his earlier comment.

I submit that the only way we can be fair to an honored profession—and I refer to the appraisers as members of an honored profession—is to let them speak the truth. That is all I see in the Hyde amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I would like to respond to my friend from Maryland. I appreciate his overgenerous comment that I possess no prejudice. I fear that I do. I possess all sorts of prejudices.

Mr. MITCHELL of Maryland. Racial?

Mr. HYDE. Yes, I possess racial, religious, political, ethnic—all sorts of them, but I try to fight against them. I try to resist them just as the gentleman does and every human being that ever lived. It makes a burlesque of human nature to say that one is without prejudice. Yes, the effect could result in a discriminatory situation. That is lamentable, but is not intended. But, it could result.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

(At the request of Mr. Hyde and by unanimous consent, Mr. Gudger was allowed to proceed for 2 additional minutes.)

Mr. HYDE. The effect could well result in a discriminatory situation. If that were the only interest involved, it would prevail. The gentleman would be absolutely right and I would be totally wrong. But, there is another interest. The interest is that of the lending institution knowing whether its collateral will still be there 20 years from now, and what its value will be. That interest also protects minority interests. It keeps lending institutions in the lending business. They have an interest; their depositors have an interest, and so I say that we have to consider other interests than only whether an unintended discriminatory effect will occur.

Mr. MITCHELL of Maryland. Two quick comments. I am saddened by the gentleman's admission of racial——

Mr. HYDE. The gentleman does not have any?

Mr. MITCHELL of Maryland. I have not finished.

Mr. HYDE. The gentleman is without racial prejudice?

Mr. MITCHELL of Maryland. I have not finished. I am saddened by the gentleman's admission that he has racial bias, but I am delighted by his statement that he fights against them. According to his argument, what we now come down to is whether or not discrimination can be permitted in the interests of the lending institutions. That is his argument, and that is the more argument for the defeat of the amendment.

Mr. GUDGER. Mr. Chairman, a final word, if I may before yielding back my time, to say this: Let us let the appraisal profession speak the truth, and that is what I think the amendment offered by the gentleman from Illinois is designed to do.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will just take a minute or two. As I listened at the very beginning of this discussion, and I heard the gentleman from Illinois state his position as to the reasons for his amendment, I must tell the Members that my immediate reaction was positive until I started to think about what we were really talking about here.

I think the key to it was when we used the word "synagogue" in terms of an appraisal, and the gentleman used that word—50, 60 years ago, if one had said "synagogue," and maybe after that for the rest of the country, where you use the word "synagogue," it would turn people off. I am delighted that we have come a long way, but nevertheless it was injected.

I believe that in terms of what we are trying to do here, the purchase of a home, the purchase of a place to live, in terms of most Americans is the single most critical decision that they are going to make.

☐ 1430

That decision takes in all the factors surrounding the situation—the schools, the neighborhood, the type of people who live in that neighborhood, and whether in fact they want their children to go to the same school or schools as some of those people.

The point I am trying to make is that as far as I am concerned, what we have failed to do or what we have been able to do in terms of eliminating discrimination will be injected all over again, and I know that is not the gentleman's intent nor his purpose.

Nevertheless, as a lay person, as a person who is not involved in real estate and as a person who is not an attorney, I can assure the Members that everything I hear and everything that has been said will lend itself to further discrimination and to people shying away from certain neighborhoods.

I speak as an authority on what has happened to neighborhoods, because most of my district has been literally wiped out, whether it was wiped out by redlining of insurance companies or wiped out because now more Hispanics and blacks are moving into the area and other people are shying away.

The tendency, in terms of whether we say something is relevant, is, I believe to say that the place where a person lives is the most relevant in terms of that person's life or that person's family.

So what we are doing here by this amendment, if it should pass—and I would hope that it does not pass—is that we would be going back to square one, and much of the good work the gentleman from Illinois has done in the years he has been here, as it deals with discrimination, would be wiped out in one fell swoop.

Mr. Chairman, I would urge all my colleagues not only to vote against the amendment but to make certain that other amendments similar to this have no chance of passage in the consideration of this bill.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I am delighted to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, my colleague mentioned that the purchase by an individual of a single-family home, a condominium, or whatever it is, is one of the most important items that that person buys in his lifetime, and I agree with that. But the appraisal goes to the lender, not the purchaser.

The gentleman also mentioned something else in his remarks. He gave us a whole list of judgments that an individual makes when he goes to purchase a home.

Now, why would the gentleman deny the person or the institution that is going to lend the money the same evaluation of factors?

The gentleman mentioned the term, "types of people." What did the gentleman mean by that?

Mr. GARCIA. I will tell the gentleman what I am talking about.

Mr. ROUSSELOT. The gentleman mentioned "types of people." I heard him say that.

Mr. GARCIA. What I am trying to talk about, frankly, is race. I am talking about Hispanics, I am talking about blacks, I am talking in certain instances about those of the Jewish faith, and I am talking about Asians. That is what I am talking about.

Mr. ROUSSELOT. Do they make judgments on where they buy on the basis of "types of people"?

Mr. GARCIA. I think everybody does, sure.

Mr. ROUSSELOT. Oh, I see. Then I do not quite understand, if the individual can make that judgment, why we will not allow a lender to have information that tells him that it is an Hispanic neighborhood or that there might be other Hispanics living in the area. Maybe he is a Cuban or a Puerto Rican.

Mr. GARCIA. Mr. Chairman, if I may take back the balance of my time, I would say that the gentleman from California (Mr. Rousselot) is usually eloquent in matters such as this.

Mr. ROUSSELOT. I appreciate that.

Mr. GARCIA. But I would just like to say this to the gentleman from California.

The CHAIRMAN. The time of the gentleman from New York (Mr. Garcia) has expired.

(On request of Mr. Rousselot, and by unanimous consent, Mr. Garcia was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. Mr. Chairman, I would just like to say to the gentleman from California (Mr. Rousselot) that unless one understands on a personal basis how one feels on a personal basis, it is pretty hard to understand, and in fact I could spend the few minutes we have left in the course of this debate to try to get that point across to him. Now, it really is extremely important for the others to understand, and I would just hope that this might be something that the gentleman could understand.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I think it is important to point out once again, in response to my friend, the gentleman from California (Mr. Rousselot), that the people who pay for these appraisals, the people who rely on the appraisals and who make their living in reliance on the appraisals—the banks, the savings and loans, and the homeowners—are not making this request for a change in the law. They are doing very well with the present law.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I just want to talk a bit about what this amendment does and what it seems to purport to amend. If we are going to put an amendment in a bill, we ought to know what it is changing.

The section that is dealt with by this amendment, or the section restricted by it, is section 805. If I may read that in its pertinent language, it simply says this:

> It shall be unlawful for any person . . . to deny . . . a loan . . . because of race, color, religion, sex, handicap, or national origin.

Now, that is the essential language of provision 805. If anybody can find me anything in that language that says that an appraiser may not say that there is an educational institution operated by the Jewish faith, by the Catholic faith in the area appraised, or if there is any Member here who can show me how that denies an appraiser to exercise the right of using such factual bases of his appraisal, I should like to hear from him.

If the language is not clear in that section—and I think it is—or if it is misinterpreted by administrators, let us get to the heart of this section and change it. But this amendment does not do this; it merely confuses and complicates matters.

What I am suggesting to the Members is that the amendment causes far more mischief than it cures. Let us look at it for a moment. It says that an appraiser may take into consideration factors shown by documentation to be relevant to the appraiser's estimate.

Does that mean that unless he can document everything he says which might possibly be interpreted to have an effect on his determination of the value of the property—like the proximity of a Jewish synagogue or a good educational system—that we should read the negative interpretation into it, and that, therefore, he would be presumed to have discriminated on racial grounds?

Now, we may say that this is all taken care of by the proviso. It says that: Provided that such factors are not used by the appraiser—mind you, the words are "by the appraiser"—to discriminate against any person for the purpose of denying rights.

It is not the appraiser who will deny the rights. The appraiser may quite honestly, after being requested by a seller of property who wants to discriminate, report things about a piece of property, for instance that there is a predominantly black school in the vicinity or a tendency toward black occupancy of the neighborhood, that is supported documentatively. He may not intend to discriminate, he may have no such purpose, but the person who wants to preserve a white neighborhood may have that intent, and such person—like a real estate person or a banker—is not covered by the proviso here listed.

It says that: Provided that such factors are not used by the appraiser. It is not the appraiser who denies the loan; it is the banker. It is not the appraiser who denies the sale or refuses to purchase it; it is the seller or the purchaser.

So this proviso addresses the wrong person. The appraiser, if he has merely stated factually matters which are used then to trigger a denial or discrimination by a banker or a real estate person, has insulated that banker or real estate person by his act because the banker or real estate person stands behind the appraiser, and the appraiser becomes his curtain and his insulator against legal action under this act.

☐ 1440

I am suggesting to the Members that this is an extremely faulty amendment and it raises a lot of questions that will be long litigated as to: What is shown by documentation, What is shown or what is not shown to be relevant. All of these matters are mischievous, will tend to permit discrimination through the guise of the use of an appraiser. I suggest very strongly that this language is extremely mischievous and will do much harm to the bill.

AMENDMENT OFFERED BY MR. JACOBS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HYDE

Mr. JACOBS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS as a substitute for the amendment offered by Mr. HYDE: Page 8, line 12, after "805" insert "(a)".

Page 8, line 21, strike out the close quotation mark and the period which follows.

Page 8, immediately after line 21, insert the following:

(b) Notwithstanding any other provision of this title, it is not a violation of this title for a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, or handicap.

Mr. JACOBS. Mr. Chairman, the purpose of the proffered amendment, as stated, is to let appraisers speak the truth. More than half a century of experience and evidence has led the Congress to believe that the truth is that the mere race of a person or persons living within a given neighborhood does not determine the value of houses in that neighborhood. That truth is embodied in the law. It is a matter of law. The proffered amendment would change that finding, that determination, all that experience which went together to make the present law of the land.

However, during the colloquy, I have been persuaded that there are judicial interpretations of the law that probably do not and should not meet with the agreement and the approval of the Congress that passed that law; namely, that under existing law, an appraiser is prohibited from stating to a lending institution or others, prospective purchasers, the scholastic standing of a school in the neighborhood, the condition of the physical plant of the school in the neighborhood. Therefore, I think that, in order for the Congress to change the false interpretation of what I believe congressional intent to be in this prohibition, the substitute is in order.

The substitute simply says that race cannot be taken into consideration, religion, the other proscribed factors cannot be taken into consideration. It says, at the same time, that any other factor—and the scholastic standing of the school in that neighborhood is another factor—can be taken into consideration.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Illinois.

Mr. HYDE. Then the gentleman has answered the previous question of the gentleman from Texas, because the gentlemen, then, would forbid the mentioning of church or nearness of churches or synagogues by excluding religion; is that correct? So if the community is near a church, near a synagogue——

Mr. JACOBS. I think, probably. I am not certain. I will say to the gentleman that the intent would be that the character, so-called religious character, of a neighborhood could not be taken into account. The mere existence of a synagogue or a Catholic church——

Mr. HYDE. If it were in an Amish community, then that could not be mentioned in the appraisal; is that correct?

Mr. JACOBS. I beg your pardon.

Mr. HYDE. If it were in a community of Amish—Amish, A-m-i-s-h, a community of religious people—that could not be mentioned in the appraisal, even though it would definitely impact on the resale value of the foreclosed property, but under the gentleman's amendment that would be verboten?

Mr. JACOBS. Why would it impact on the resale value?

Mr. HYDE. Because only another Amish might want to buy it.

Mr. JACOBS. Oh, "might." Suddenly we get into the subjective: It definitely would impact, and then all of a sudden it "might" impact. That is the very thing that is wrong.

Mr. HYDE. The gentleman would be a superb real estate salesman to sell it to other than an Amish.

Mr. JACOBS. That is the problem. That is the problem with saying that there are so many blacks living in this neighborhood, there are so many Amish living in this neighborhood, so many Zoroastrians who live in this neighborhood, whatever it might be, it comes down to "might," it might have an effect. We know darn good and well that when you do inject race it does have an effect, it has had an evil effect for half a century. And I might say to the committee that I am among those in the House of Representatives who do not favor long-distance busing for racial balance. Whether I am right or whether I am wrong, that is my honest view about it. But I have never heard anybody who said he was opposed to long-distance racial busing who did not also say in the same breath that fair housing is the proper answer. When a person of good character achieves the income to afford property in that neighborhood, that person should in no way be discriminated against. I think that the amendment in chief would turn back the clock, turn back the clock past the sixties and into the fifties and forties and thirties of this country, and it ought not happen.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. JACOBS) has expired.

(On request of Mr. EDWARDS of California and by unanimous consent, Mr. JACOBS was allowed to proceed for 30 additional seconds.)

Mr. EDWARDS of California. If the

gentleman will yield, we have examined the amendment on this side, and if it resolves the problem—and I think it does—we would accept the amendment on this side of the aisle.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Illinois.

Mr. HYDE. We emphatically do not accept the amendment on this side.

Mr. JACOBS. I take no personal offense.

Mr. HYDE. I thank the gentleman. I kind of wish he did.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS) as a substitute for the amendment offered by the gentleman from Illinois (Mr. HYDE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 156, not voting 20, as follows:

[Roll No. 310]

AYES—257

Addabbo
Akaka
Alexander
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Cleveland
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Dicks
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Emery
English
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hutchinson
Jacobs
Jeffords
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Myers, Pa.
Natcher
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—156

Abdnor
Albosta
Ambro
Andrews, N.C.
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Davis, Mich.
Derwinski
Devine
Dickinson
Dingell
Dornan
Duncan, Tenn.
Edwards, Ala.
Erdahl
Erlenborn
Evans, Ga.
Evans, Ind.
Findley
Flippo
Fountain
Frenzel
Gingrich
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Loeffler
Lott
Lungren
McDonald
McEwen
Madigan
Marlenee
Marriott
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Porter
Quillen
Rhodes
Roberts
Robinson
Roth
Rousselot
Rudd
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Wampler
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Winn
Wyatt
Wydler
Wylie
Young, Fla.

NOT VOTING—20

Anderson, Ill.
Buchanan
Davis, S.C.
Donnelly
Giaimo
Gilman
Jenrette
McKinney
Mathis
Mavroules
Nedzi
Patten
Reuss
Runnels
Solomon
Thompson
Wilson, Bob
Wilson, C. H.
Wolff
Young, Alaska

☐ 1500

Mr. APPLEGATE changed his vote from "aye" to "no."

Messrs. DOUGHERTY, BINGHAM, CONABLE, RITTER, CAVANAUGH, KEMP, and McKAY changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. MINISH). The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE), as amended.

The question was taken.

The CHAIRMAN pro tempore. The Chair is in doubt. All in favor of the amendment will please stand.

PARLIAMENTARY INQUIRIES

Mr. GLICKMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GLICKMAN. Mr. Chairman, what are we voting on? I cannot hear.

The CHAIRMAN pro tempore. The Committee is voting on the Hyde amendment as amended by the Jacobs substitute.

Mr. GLICKMAN. I thank the Chair.

Mr. VOLKMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. As I understand we are in the process of a vote at the present time. We are in the process of a vote at this time; is that not correct?

The CHAIRMAN pro tempore. The Committee now voting by division on the Hyde amendment as amended by the Jacobs substitute.

Mr. VOLKMER. We are in the process of the vote with the ruling that the Chair was in doubt and asking all Members to stand who are in favor of the Hyde amendment?

The CHAIRMAN pro tempore. The gentleman is exactly correct.

Mr. EDWARDS of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. EDWARDS of California. Mr. Chairman, was not the Jacobs proposal a substitution and not an amendment?

The CHAIRMAN pro tempore. A substitute for the Hyde amendment.

Mr. EDWARDS of California. Mr. Chairman, has the Chair called for the vote? Mr. Chairman, will the Chair please call for the vote again?

The CHAIRMAN pro tempore. The result of the vote on the substitute was ayes 257 and noes 156.

All in favor of the Hyde amendment, as amended, will stand and remain standing until counted.

The ayes will be seated and the noes will rise.

On this vote by division, the ayes are 151 and the noes are 68.

So the amendment, as amended, was agreed to.

☐ 1510

The CHAIRMAN pro tempore. Are there any further amendments?

If not, the Clerk will read.

The Clerk read as follows:

FUNCTIONS OF SECRETARY

SEC. 7. (a) Section 808(c) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended—

(1) by inserting after the first sentence the following: "The Secretary shall so delegate such functions, duties, and powers with respect to hearing, determining, and ordering under section 811 of this title.";

(2) by striking out "5362" and inserting "5372" in lieu thereof;

(3) by inserting "and hearings" after "possible, conciliation meetings"; and

(4) in the last sentence, by striking out "to other hearing examiners or to other officers in the Department, to boards of officers or to himself,".

(b) Section 808(d) of such Act is amended by inserting "(including any Federal agency having regulatory authority over financial institutions)" after "urban development".

(c) Section 808(e)(3) of such Act is amended by inserting "financial and" immediately before "technical".

(d) Section 808 of such Act is amended by adding at the end the following:

"(f)(1)(A)(i) Simultaneously with promulgation or repromulgation of any rule, issued for the purpose of compliance with this title, the agency promulgating such rule shall transmit a copy thereof to the Committees on the Judiciary of the House of Representatives and the Senate. Except as provided in clause (ii) of this subparagraph, rules other than emergency rules shall not become effective, if—

"(I) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule promulgated by   dealing with the matter of   , which rule was transmitted to Congress on   .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third being filled with the date of transmittal of the rule to Congress; or

"(II) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(ii) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in clause (i) of this subparagraph.

"(B)(i) An agency may not promulgate a new rule or an emergency rule identical to one disapproved under this paragraph unless an Act of Congress is adopted affecting the agency's powers with respect to the subject matter of the rule.

"(ii) If an agency proposes a new rule dealing with the same subject matter as a disapproved rule, the agency shall comply with the procedures required for the issuance of a new rule, except that if less than 12 months have passed since the date of such disapproval, such procedures may be limited to changes in the rule.

"(2)(A) Either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule. The matter after the resolving clause of such a resolution shall be as follows: 'That the ——— directs ——— to reconsider its rule dealing with the matter of ——— which rule is found at ———.' (or if a new rule 'was transmitted to Congress on ———.'), the first blank being filled with the House of Congress adopting the resolution, the second blank being filled with the name of the agency issuing the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the citation to the rule in the agency records or, if it is a new rule, the date on which it was transmitted to Congress.

"(B)(i) If a resolution for reconsideration of a rule, other than an emergency rule, is adopted by either House within 90 calendar days of continuous session of Congress after the date the rule was promulgated, the rule shall not go into effect. The agency shall reconsider the rule and within 60 days either withdraw or repromulgate the rule with such changes and with such public participation as the agency determines appropriate. If the agency takes no action within 60 days such rules shall lapse. If promulgated, the rule shall be subject to congressional review and go into effect as provided in this subsection.

"(ii) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule, other than an emergency rule, no committee of either House of Congress has reported or been discharged from further consideration of a resolution of reconsideration of a rule, the rule may go into effect at the end of such period. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation.

"(C) One hundred and eighty days after passage of a resolution for reconsideration with respect to a rule which has taken effect, the rule shall lapse unless repromulgated by the agency. Unless excepted by subsection 553(a) of title 5, United States Code, the agency shall, not less than 60 days prior to repromulgating such a rule, give notice of a proceeding to consider its repromulgation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of title 5, United States Code, except that the exceptions contained in the matter which follows paragraph (3) in section 553 (b) shall not be available to the agency and the agency shall hold a hearing for oral presentations. Rules repromulgated pursuant to this clause within 180 days of the passage of the resolution for reconsideration shall take effect as provided in paragraph (1)(A) of this subsection; and during the period for congressional review provided in that paragraph the reconsidered rule may remain in effect.

"(D) A concurrent resolution of disapproval supersedes a resolution for reconsideration of the same rule or part thereof.

"(3) If a resolution of Congress disapproves or directs reconsideration of a rule which was being promulgated subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the agency of its responsibility for adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"(4) For the purposes of this subsection—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"(5)(A) The provisions of this paragraph are enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraphs (1) and (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B)(i) Resolutions of disapproval and resolutions for reconsideration of a rule shall, upon introduction or receipt from the other House of Congress be immediately referred by the presiding officer of the Senate or of the House of Representatives to the standing committee having oversight and legislative responsibility with respect to this title in accordance with the rules of the respective House; and such resolutions shall not be referred to any other committee.

"(ii) If a committee to which is referred a resolution which has not been adopted by the other House of Congress, does not report out such resolution—

"(I) within 45 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove or to require reconsideration of a rule pursuant to paragraphs (1)(A) or (2)(B) of this subsection; or

"(II) within 90 calendar days of continuous session of Congress after referral, in the case of a resolution to require reconsideration of a rule pursuant to paragraph (2)(C) of this subsection;

it shall be in order to move to discharge such committee from further consideration of such resolution.

"(iii) If a committee to which is referred a resolution which has been adopted by the other House of Congress does not report out such resolution within 15 calendar days of continuous session of Congress after referral, in the case of a resolution to disapprove a rule pursuant to paragraph (1)(A) of this subsection, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(iv) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a resolution of disapproval or for reconsideration with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C)(i) Except as provided in clauses (ii) and (iii) of this subparagraph, consideration of a resolution of disapproval or for reconsideration shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(ii) When a committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(iii) Debate on the resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit, the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed or disagreed to.

"(6) Congressional inaction on or rejection of a resolution of disapproval or of a resolution for reconsideration shall not be deemed an expression of approval of such rule.".

ENFORCEMENT CHANGES

SEC. 8. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by striking out sections 810 through 815 and inserting in lieu of the matter so stricken the following:

"ENFORCEMENT BY SECRETARY; PRELIMINARY MATTERS

"SEC. 810. (a)(1) Whenever an aggrieved person, or the Secretary on the Secretary's own initiative, files a charge alleging a discriminatory housing practice, the Secretary shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within 10 days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Secretary shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and choice of forums provided under this title. Such charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Secretary requires. At any time after the filing of a charge, the Secretary shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year. An aggrieved person shall file a charge under this section with the Secretary not later than one year after the alleged discriminatory housing practice occurred or terminated. The Secretary may also investigate housing practices to determine whether charges should be brought under this section or new rules should be made under this title.

"(2)(A) In connection with any investigation of such charge, the Secretary shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(B) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary under clause (A) of this paragraph.

"(C) Witnesses summoned by subpena of the Secretary under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(D) The Secretary or other party at whose request a subpena is issued under this title may enforce such subpena in appropriate proceedings in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(E) Any person who willfully fails to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in such person's power to do so, in obedience to the subpena or lawful order of the Secretary under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Secretary shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Secretary's subpena or other order, or shall willfully fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"(3) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency. Except with the consent of such certified agency, the Secretary shall, after that referral is made, take no further action with respect to such charge, if the appropriate State or local law enforcement official has, before ninety days after the date the alleged offense has been brought to such official's attention, commenced proceedings in the matter, and, having so commenced proceedings, carries forward such proceedings with reasonable promptness. An agency shall be certified under this paragraph if the Secretary determines that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to such agency, and the availability of judicial review of such agency's action, are substantially equivalent to those created by and under this title. Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency. Any State or local agency may submit a written request for certification to the Secretary. Unless the Secretary interposes a written objection within 90 days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Secretary objects within the prescribed 90-day period, he shall provide the State or local agency with an explanation specifically outlining the reason for his decision, and such decision shall be subject to review by the appropriate United States district court.

"(4) The Secretary and other Federal agencies having authority to prevent housing discrimination shall cooperate and seek to avoid duplication of effort in the exercise of their several authority. The Secretary and such other Federal agencies shall notify each other of any allegation of housing discrimination which may be within their respective responsibilities. The Secretary or such other Federal agency shall, upon such notification, take additional appropriate action.

"(b) If the Secretary concludes on the basis of a preliminary investigation of a charge that the Secretary is unable to obtain voluntary compliance and prompt judicial action is necessary to carry out the purposes of this title, an action may be brought on behalf of the Secretary for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. An application for relief under this paragraph shall not affect the initiation or continuation of administrative proceedings under sections 810 and 811 of this title.

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall file an administrative complaint under section 811(a) of this title or refer the matter to the Attorney General for the filing of an appropriate civil action under section 813(b) of this title. Such determination in the case of a charge made by an aggrieved person may not be made later than 270 days after the filing of such charge. After each investigation under this section, the Secretary shall provide to each aggrieved person and each respondent a copy of the findings of such investigation.

"ENFORCEMENT BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; HEARING PROCESS

"SEC. 811. (a) Upon filing an administrative complaint, the Secretary shall cause a copy of such complaint to be served on the respondent, together with a notice of opportunity for a hearing on the record at a place and time (not less than thirty days after the service of such complaint) specified in such notice. On the request of the respondent and with the consent of all other parties, a hearing may be rescheduled for a time earlier than the time specified in such notice. Any resolution of a charge or complaint by means of conciliation shall require the consent of the person who filed the charge, and any such resolution following the service of a complaint under this subsection shall also require the approval of the Secretary. The respondent shall have the right to file an answer to the administrative complaint and to appear in person or otherwise and give testimony at a hearing on the record. Any aggrieved person may be allowed to intervene in the proceeding, to appear in person or otherwise, to obtain the issuance of a reasonable number of subpenas in the manner set forth in section 810 of this title, and to present testimony. After the conclusion of such hearing, the administrative law judge conducting the hearing shall make findings of fact and conclusions of law, and may issue an order providing such relief as may be appropriate, and may impose a civil penalty of not to exceed $10,000. No such order shall affect any contract of sale, encumbrance, or lease executed before the issuance of such order, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title. The Secretary is not authorized to modify any order under this section, or the decision of the administrative law judge.

"(b) The findings of fact and conclusions of law made with respect to a final order issued under subsection (a), together with a copy of such order, shall be served on each aggrieved person and each respondent in the proceeding.

"(c) Any petition for judicial review of a final order under subsection (a) shall be filed in the Federal district court for the district in which the property is located not later than 30 days after service of such order. The petition may be amended after a reasonable opportunity to review the record of the administrative proceedings. For the purposes of judicial review of such an order, any aggrieved person shall be deemed a party in the administrative proceeding reviewed. The petition shall contain written objections to such order and shall specify those portions of the record or findings of fact and conclusions of law to which objection is made. The court shall make a de novo determination of the adequacy of the findings of fact and conclusions of law to which objection is made. The court may receive further evidence, or recommit the matter to the administrative law judge with instructions, if such evidence was improperly excluded by the administrative law judge or if the court determines that there is a compelling need for further evidence to support a factual determination. To the extent that further evidence is received by the court, such evidence shall be deemed a part of the record and shall be considered in the determination of whether to accept, reject, or modify the findings of fact and conclusions of law of the administrative law judge. Based on a review of the record as a whole, the court may accept, reject, or modify, in whole or in part, the findings of fact and conclusions of law made by the administrative law judge. All proceedings under this subsection in the Federal district court shall be given precedence over other civil proceedings pending therein and shall be in every way expedited.

"(d)(1) Any person who violates a final order under subsection (a) shall be subject to a civil penalty assessed by the administrative law judge holding the hearing of not more than $1,000 for each day during which such violation continues after the date on which such final order becomes unreviewable.

"(2) For the purposes of paragraph (1) of this subsection, a final order becomes unreviewable—

"(A) if a petition for review has not been filed in the appropriate Federal district court on the day 30 days after the service of such final order, or

"(B) if such a petition is so filed within such 30-day limit, on the date on which the last appellate court's decision becomes final and not subject to any further appellate proceeding.

"(e) The United States district courts shall have original jurisdiction over petitions for judicial review of final orders under subsection (a) of this section without regard for the amount in controversy.

"PRIVATE ENFORCEMENT

"SEC. 812. (a)(1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than two years after the alleged discriminatory housing practice occurred or terminated.

"(2) After an aggrieved person has commenced a civil action under this section, the Secretary may not commence or continue proceedings toward the issuance of a remedial order based on such charge.

"(3) An aggrieved person shall not commence a civil action under this subsection with respect to a charge made by that person to the Secretary if the Department of Housing and Urban Development (or a State or local agency to which the Secretary refers such charge) has commenced the hearing on the record with respect to that charge.

"(4) Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance.

"(b) Upon application by an aggrieved person, any trial or appellate court may, in such circumstances as it deems just, appoint an attorney for such person and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, which may include money damages, equitable and declaratory relief, and, in the case of a willful violation, punitive damages.

"ENFORCEMENT ROLE OF ATTORNEY GENERAL

"SEC. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court (1) to enforce any final order under section 811(a) of this title that is referred for enforcement by the Secretary; (2) to collect any civil penalty assessed under section 811 of this title; and (3) to remedy any discriminatory housing practice (A) with respect to which the Secretary has made a finding that reasonable cause exists under this title and (B) which the Secretary refers to the Attorney General for enforcement under this subsection.

"(c) The court may award such relief in any civil action under this section as is authorized in section 812(c) of this title in cases brought under that section.

"(d) A person may intervene in any civil action commenced under this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person.

"ANCILLARY AND PROCEDURAL MATTERS RELATING TO ENFORCEMENT

"SEC. 814. (a) In any action or proceeding under this title, the court, in its discretion, may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney and expert witness fees as part of the costs, and the United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of any interlocutory order which determines substantial rights of the parties.

"(b) In any administrative proceeding based on a charge under section 810(a) of this title, any prevailing party (other than the United States with respect to attorney fees) may be awarded reasonable attorney and expert witness fees as a part of a final order under section 811(a) of this title.

"(c) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

"(d) Any sale, encumbrance, or lease executed before the issuance of any court order under this title, and involving a bona fide purchaser, or encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this title shall not be affected by such court order.

"EFFECT ON OTHER LAWS

"SEC. 815. (a) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this title shall be effective, that grants, guarantees, or protects the same rights as are granted by this title; but any such law that purports to require or permit any action that would be a discriminatory housing practice under this title shall to that extent be invalid.

"(b) Nothing in this title shall be construed to repeal, supersede, or diminish the protection provided to handicapped persons by any other Federal law.".

PARLIAMENTARY INQUIRY

Mr. EDWARDS of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. EDWARDS of California. What section is the Clerk reading? I cannot hear.

The CHAIRMAN. Section 7.

Mr. EDWARDS of California. I thank the Chairman.

The Clerk resumed reading.

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that sections 7 and 8 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BUTLER. Reserving the right to object, Mr. Chairman, and I will not object, in the orderly course of things section 7 would come up separately according to my earlier understanding, and I have an amendment to section 7. Continuing with my reservation of objection, if I may, Mr. Chairman, the gentleman from Wisconsin has expressed the desire to go forward, and I do not want to interfere with that. I cannot bear to see a grown man cry. But I had in mind, Mr. Chairman, that I am losing some time here, and if we are going to have a correction at the end, then I would like to have some reassurance from the gentleman from California that there would be no effort to cut off debate on the other amendments as the day grows longer.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding. The gentleman knows I have never requested to cut off debate and will not at any point in this bill or any other bill.

Mr. BUTLER. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENTS OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SENSENBRENNER:

Page 9, strike out line 4 and all that follows through line 18 and insert in lieu thereof the following:

SEC. 7. (a) Section 808(c) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by striking out "5362" and inserting "5372" in lieu thereof.

Page 18, strike out line 10 and all that follows through line 6 on page 30, and insert in lieu thereof the following:

"ENFORCEMENT BY SECRETARY; PRELIMINARY MATTERS

"SEC. 810. (a) Whenever an aggrieved person, or the Secretary on the Secretary's own initiative, files a charge alleging a discriminatory housing practice, the Secretary shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within 10 days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Secretary shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and choice of forums provided under this title. Such charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Secretary requires. An aggrieved person shall file a charge under this section with the Secretary not later than one year after the alleged discriminatory housing practice occurred or terminated. The Secretary may also investigate housing practices to determine whether charges should be brought under this section or new rules should be made under this title.

"(b)(1) In connection with any investigation of such charge, the Secretary shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(2) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the names of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary under paragraph (1) of this subsection.

"(3) Witnesses summoned by subpena of the Secretary under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(4) The Secretary or other party at whose request a subpena is issued under this title may enforce such subpena in appropriate proceedings in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(5) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in such person's power to do so, in obedience to the subpena or lawful order of the Secretary under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Secretary shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Secretary's subpena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"(c) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency.

The Secretary shall, after that referral is made, take no further action with respect to such charge, if the appropriate State or local law enforcement official has, before 90 days after the date the alleged offense has been brought to such official's attention, commenced proceedings in the matter, and, having so commenced proceedings carries forward such proceedings with reasonable promptness. An agency shall be certified under this subsection if the Secretary determines that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to such agency, and the availability of judicial review of such agency's action, are substantially equivalent to those created by and under this title. Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency. Any State or local agency may submit a written request for certification to the Secretary. Unless the Secretary interposes a written objection within 90 days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Secretary objects within the prescribed 90-day period, he shall provide the State or local agency with an explanation specifically outlining the reason for his decision, and such decision shall be subject to review by the appropriate United States district court.

"(d) The Secretary and other Federal agencies having authority to prevent housing discrimination shall cooperate and seek to avoid duplication of effort in the exercise of their several authority. The Secretary and such other Federal agencies shall notify each other of any allegation of housing discrimination which may be within their respective responsibilities. The Secretary or such other Federal agency shall, upon such notification, take additional appropriate action.

"REFERENCE FOR FURTHER ENFORCEMENT

"SEC. 811. (a) If the Secretary concludes on the basis of a preliminary investigation of a charge that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may refer the matter to the Attorney General and the Attorney General may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(b) At any time after the filing of a charge, the Secretary shall endeavor to resolve such charge by conciliation. If any party against whom a charge is filed refuses to participate in the conciliation process, the Secretary may grant to the aggrieved person not more than $500 for the legal fees and other expenses of commencing a civil action under this title against that party so refusing. Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who makes public any information in violation of the immediately preceding sentence shall be fined not more than $1,000. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. If the conciliation agreement provides for such arbitration, the Secretary may issue such orders as are necessary to enforce such agreement, including an order that the breaching party pay to the other party not more than $500, after determining that there has been a breach of that agreement.

Any arbitration that results from a conciliation agreement under this section may award appropriate specific relief to the person aggrieved and damages of not more than $500 for actual loss, insult, or emotional distress.

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall refer the matter to the Attorney General for the filing of an appropriate civil action under section 813(b) of this title. Such determination in the case of a charge made by an aggrieved person may not be made later than 270 days after the filing of such charge. After each investigation under this section, the Secretary shall provide to each agggrieved person and each respondent a copy of the findings of such investigation.

"PRIVATE ENFORCEMENT

"SEC. 812. (a)(1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than two years after the alleged discriminatory housing practice occurred or terminated.

"(2) Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance.

"(b) Upon application by an aggrieved person, any trial or appellate court may, in such circumstances as it deems just, appoint an attorney for such person and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, which may include money damages, equitable and declaratory relief, and, in the case of a willful violation, punitive damages not to exceed $10,000.

"(d)(1) It is the sense of the Congress that United States magistrates should be used by the courts to the maximum feasible extent to expedite litigation under this section.

"(2) The Secretary shall to the maximum feasible extent provide technical assistance to persons requesting it who anticipate they may file charges under this title or commence civil actions under this section. Such assistance shall include the filling out of forms, investigation, and evidence gathering.

"ENFORCEMENT ROLE OF ATTORNEY GENERAL

"SEC. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court to remedy any discriminatory housing practice (1) with respect to which the Secretary has made a finding that reasonable cause exists under this title and (2) which the Secretary refers to the Attorney General for enforcement under this subsection.

"(c) The court may award such relief in any civil action under this section as is authorized in section 812(c) of this title in cases brought under that section.

"(d) A person may intervene in any civil action commenced under this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person.

"ANCILLARY AND PROCEDURAL MATTERS RELATING TO ENFORCEMENT

"SEC. 814. (a) In any action or proceeding under this title, the court, in its discretion, may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney and expert witness fees as part of the costs, and the United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of any interlocutory order which determines substantial rights of the parties.

"(b) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

"(c) Any sale, encumbrance, or lease executed before the issuance of any court order under this title, and involving a bona fide purchaser, or encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this title shall not be affected by such court order.

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, these are the amendments that modify the enforcement provisions of this bill. They have generated quite a bit of controversy both in the Committee on the Judiciary and during the general debate on this piece of legislation this morning. Basically what these amendments, which are cosponsored by the gentleman from Missouri (Mr. VOLKMER) and myself, do is eliminate the administrative enforcement mechanism contained in this bill and provide for enforcement in the Federal district court, with the encouragement of the use of magistrates pursuant to the Magistrates Act of 1980 recently enacted into law.

I feel that these amendments provide for better adjudication of fair housing complaints in a court setting because, first, better access is provided and speedier adjudication of the issues through the utilization of 515 U.S. district court judges and 237 magistrates, contrasted to the 7 administrative law judges that are proposed in the committee bill.

Second, these amendments provide direct relief to the actual victims of discrimination. These amendments provide for direct relief to the actual victims by allowing a court to award compensatory and punitive damages, thereby avoiding the constitutional problems in this respect contained in the administrative law judge approach contained in the committee bill.

Aside from these arguments which I believe are quite telling in favor of the amendment, there are a number of other strong points in favor of the Sensenbrenner-Volkmer approach.

First, these amendments provide for mandatory referral of fair housing complaints to a State or local agency within 30 days after receipt of a complaint. Under the amendments HUD is not permitted to take any further action for 90 days after a referral so as to give the State and local agencies time to commence and carry forward proceedings.

H.R. 5200 as reported by the committee is in tandem with the HUD final regulations published in the May 14, 1980, Federal Register which I inserted in the CONGRESSIONAL RECORD of May 21 when the rule for consideration of this bill was adopted.

Those regulations, as a condition to State agencies' obtaining financial and technical assistance, require the state agency to return to HUD any complaint that is referred there on the demand of HUD, so HUD can pick and choose which cases it will carry forward under these regulations, irrespective of whether a state agency has become involved. That duplicates efforts. It further allows HUD to get involved in local zoning ordinance questions and to draw into question decisions that have been made by local and State agencies.

Second, in support of the Sensenbrenner-Volkmer amendments, there is mandatory conciliation language. The conciliation is mandatory on the part of HUD. Under the Sensenbrenner-Volkmer amendments, if any party refuses in good faith to submit to conciliation, the Government is allowed to advance to the alleged victim of discrimination $500 in order to commence a lawsuit in the Federal district court.

The Sensenbrenner-Volkmer amendments allow for binding arbitration in a conciliation agreement and, furthermore, if a party breaches a conciliation agreement that provides for binding arbitration, the Secretary of HUD can also give $500 for legal expenses to the nonbreaching party. Furthermore, any arbitration agreement that results from a conciliation agreement may award appropriate specific relief to the aggrieved person and up to $500 for actual loss, insult, or emotional distress.

Finally, the Sensenbrenner-Volkmer amendments say that it is the sense of Congress that U.S. magistrates should be used by the courts to the maximum extent feasible to expedite this litigation. This is contrasted to the 270-day maximum period that the Department of Housing and Urban Development is allowed to process fair housing complaints under the committee's bill.

I would urge the members of the committee to support the Sensenbrenner-Volkmer language.

The true victim of discrimination wants two things promptly: Action, and a place of his or her choosing to live. The section 811 HUD tribunal in the committee bill provides neither. First, the HUD administrative procedure is too time consuming. HUD is given 9 months to do its investigation, refer the case, conduct conciliation, and render a decision.

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Once the hearing begins all attempts at conciliation must halt. Additional periods of time for review are required as well. By the time HUD's redtape is satisfied the HUD judge cannot provide relief quickly enough to satisfy the need of a place to live. Normally complainants could then obtain their satisfaction by being awarded a fine and perhaps even punitive damages in case of an outrageous situation.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 3 additional minutes.)

Mr. SENSENBRENNER. The HUD judge cannot make awards for damages to either victims or innocent third parties since there is no jury trial as required by the Constitution.

Mr. Chairman, in summary, the Sensenbrenner-Volkmer amendment provides the better enforcement mechanism because:

First. It improves the complainants access to the system and speeds resolution of the issue;

Second. It provides the best relief to the actual victim of discrimination while maintaining fairness; and

Third. It provides the most incentive to settle disputes without resorting to formal procedures.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to commend the gentleman for his amendment.

There have been previous statements, Mr. Chairman, on this floor and earlier during discussion on the rule and in media and statements in regard to this amendment that it basically guts the bill. Is that correct? The gentleman has heard such statements?

Mr. SENSENBRENNER. Whoever has made those statements has not read the amendment.

Mr. VOLKMER. Is it not true there is no intent on our part in any way to "gut" the bill, that the purpose of this amendment is, in our opinion, to strengthen enforcement better than what the bill does?

Mr. SENSENBRENNER. There is emphatically no desire on the part of the gentleman from Wisconsin to gut the bill. There is a legitimate dispute over what is the most effective means to enforce the fair housing law. I sincerely believe that the amendment which the gentleman and I have proposed is more fair, more effective and speedier than the bureaucratic mishmash as contained in the committee version of the bill. That is why I have introduced this amendment. I believe that is why the gentleman has cosponsored the amendment.

Mr. VOLKMER. I believe the gentleman made a point which should be emphasized that in the case of a person who has been discriminated against, as between the bill and the amendment, the amendment will afford more relief to that person than will the bill using the ALJ process?

Mr. SENSENBRENNER. Under the administrative law judge process, once a complainant complains to the Department of Housing and Urban Development and the case has gone to hearing, the complainant is forever barred from suing in any court, Federal or State, to get his out-of-pocket expenses or to receive punitive damages in case punitive damages are warranted.

Mr. VOLKMER. Also, those administrative law judges who may be appointed could be subject to administrative pressures? They would be part of the administration; is that not correct?

Mr. SENSENBRENNER. Under the committee bill the administrative law judges are appointed by the Department of Housing and Urban Development and their paycheck comes from the Department of Housing and Urban Development.

Mr. VOLKMER. Is it not true that during the hearings on the bill, as far as conciliation is concerned, there were statements that, during the hearings, conciliation had not worked?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. VOLKMER, and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Will the gentleman continue to yield?

Mr. SENSENBRENNER. I do yield to the gentleman from Missouri.

Mr. VOLKMER. That conciliation not work because there is no teeth to the conciliation process?

Mr. SENSENBRENNER. That is correct. The Sensenbrenner-Volkmer amendment addresses the allegation that conciliation has not worked by providing for $500 in suit money for filing fees and attorney fees for a victim of discrimination, where the other party refuses to submit to conciliation in a good faith effort.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding.

(At the request of Mr. MOTTL and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 4 additional minutes.)

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I rise in support of the Sensenbrenner-Volkmer amendment.

At the heart of debate on this bill is a very simple concept. That concept is due process of law.

This means that the law will impose no penalty on anyone without first affording him a full and fair hearing before an impartial judge.

In our Government of separated powers, due process is fostered through an independent legislative body, an independent executive who prosecutes violations of the law, and an independent judiciary which sits as a neutral adjudicator.

In certain areas of regulation, usually economic and technical in nature, Congress has created independent regulatory agencies vested with some powers from all three branches of government.

But the civil rights and liabilities of individuals are not on the same level as trucking rates, radio licenses, and airline fares.

Litigation involving civil rights, which are guaranteed not only by law but the Constitution, itself, deserves the highest degree of due process we can offer—the due process afforded by a court of law.

The bill before us, however, leads us down a road that no thoughtful American should be willing to travel.

This bill would create a prosecutor and judicial system solely within one executive department, the Department of Housing and Urban Development, for the purpose of adjudicating fair housing complaints.

For those willing and able to bear the extra cost and delay, there would be a limited right of review in Federal district court of these administrative judgments. But this review would be far short of a Federal court trial de novo on all issues.

I submit that it is one thing to subject regulated industries, with their legions of lawyers and lobbyists, to the perils of Washington's administrative law system.

But it is quite another to export this system to the States and communities—to subject the ordinary house seller, landlord and local government to a quasi-judicial proceeding in which all the cards seem to be stacked against the accused.

Assuming the unlikely prospect that the seven administrative law judges authorized by this bill could handle the workload, the effect of this bill would be to install in every community in the Nation a HUD court to second guess not only private decisions to sell or not sell, to rent or not rent, but public decisions relating to zoning and other housing matters.

Mayor Paul Cassidy of Parma Heights in my own district described the encroachment of this bill in this way:

> In our enthusiasm for eradicating some of the injustices which historically have befallen many of our fellow Americans . . . we cannot continuously adopt legislation that erodes local control of our affairs until our Government becomes . . . an unbelievable monolith with policy dictation arising in Washington and being distributed to the 50 States.

So let us leave fair housing litigation in the courts of law where it belongs—where these cases can be fairly contested before impartial judges and magistrates.

By contending that most fair housing cases involve relatively simple questions of law and fact, supporters of this bill defeat their own argument that we need a new, specialized bureaucratic layer to handle these complaints.

We have U.S. attorneys located across the land. We have Federal magistrates and 152 new Federal judges in Federal courts.

I urge adoption of this amendment, then, to preserve the time-honored institutional roles of these officials in civil rights litigation.

Our system of justice, and the principle of due process that it represents, deserves more credit than it gets in this bill.

I thank the gentleman for yielding.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the last time the Congress considered major legislation affecting civil rights in the housing industry was on April 10, 1968. The atmosphere at the time of the House consideration was one of extreme tension and emotion. Dr. Martin Luther King had been shot on the night of April 4. Riots and other forms of violence had spread across the Nation finally engulfing 115 cities and towns. The Nation's Capital was in a state of seige. Over 13,000 troops guarded Washington, D.C. Stores within three blocks of this Chamber were boarded up to prevent looting. It was a time of turbulence in other respects as well. The night before, President Lyndon Johnson had announced he would not seek a second term. It was also day 79 for the crew of the *Pueblo* being held captive by the North Koreans. In the midst of the violence, and the chaos the House passed the 1968 Civil Rights Act which included the original "fair housing" provisions we are about to reconsider today.

On that day in April of 1968 the House was confronted with a closed rule on a greatly changed piece of legislation. In August 1967 the House had passed a 6½-page civil rights reform bill, but by April the Senate had expanded the bill to 50 pages adding many far-reaching provisions. I supported that bill in August of 1967, but opposed the monstrosity in 1968. Today, in an atmosphere no less turbulent, but hopefully, more reasoned, the House has an opportunity to work its will to avoid the problems caused by the basic legislation passed so long ago. The proponents of this bill are quite right when they state that this is a landmark piece of civil rights legislation. It is however, not a bill that addresses the civil rights of minorities in American society, but legislation that can potentially usurp the civil rights of every citizen in favor of enhanced power to the Federal bureaucracy. What we do here today will show the Nation whether the mistakes of the past have become the object lessons from which this House can chart the course for tomorrow.

The greatest strength our federal system of government has is its inherent ability to assure freedom. The division of authority between the National Government and the States, and between three branches within the National Government, offers protection to our citizens far beyond any other form of organization. Our Constitution was very explicit in its intention to prohibit one branch or one level of government from becoming dominant over the others. As we have all seen over the years, this framework has been very resistant to attempts to usurp the powers of one entity by another. However, many of us have begun to see a pattern emerging from diverse efforts within all three branches of the Federal Government to erode the rights of local government. With such erosion comes the endangering of the freedoms every citizen holds dear.

The legislation we have before us today, H.R. 5200, marks a new milestone in the efforts of a few to consolidate power to the detriment of the many. In the name of civil rights for minorities this legislation embarks on a dangerous course toward bureaucratic tyranny. The proposal to bring investigation, prosecution, hearing, judgment, and punishment under one authority undermines the basic protections afforded by our system of government. It would be an unconscionable act of historic proportions should this House agree to such a thing.

There are many in the bureaucracy who have long held the federal system in contempt. To them the system of checks and balances and the principles of federalism are anachronisms that encumber their achievement of so-called social progress. This attitude is reflected in the bill report to H.R. 5200. On page 4 the report defends the need for this legislation by stating:

> The primary weakness in the existing law derives from the almost total dependence upon private efforts to enforce its provisions.

The report goes on to criticize the failure of existing law because "aggrieved individuals are left to seek redress through private civil actions." What both of these passages refer to is the fact that the courts, not HUD, are the vehicles for enforcing the law. The report goes on to complain, not about the aggrieved parties, but how HUD has been hampered in its enforcement efforts. I question why such concern should be raised about HUD frustration when the goal, according to the proponents of this legislation, is justice for the aggrieved. I further question the report's degrading of the civil courts. The framers of the Constitution did not view the courts outlined in article III as some terrible fate "individuals are left to seek redress" from. I fail to see why the framers of this legislation consider them such. It raises, in my mind, the question of just what was the problem intended to be addressed by this bill.

A close reading of the bill, itself, discloses other disturbing indications that this legislation may be moving in a direction most Americans would find unsettling. On page 4 the jurisdiction of HUD over existing housing is expanded beyond the 1968 act. On page 6 the first mention of insurance as part of housing is found. In section 7 of the bill the uneasy specter of major new Federal powers comes clearly into view. This section adds the following new parenthetical statement to section 808(d) of existing law, "(including any Federal agency having regulatory authority over financial institutions)." The gentleman from Virginia (Mr. BUTLER) stated in his views on page 64 of the bill report that this new addition "is subject to interpretation that the Secretary of HUD shall have authority to impose affirmative action plans on independent Federal agencies to further the purposes of this title." This issue is clearly one of bureaucratic encroachment on other Federal turfs. The creation of new spheres of authority for HUD only furthers the power of HUD, it does not further freedom or civil rights. Such consolidation, will, in fact, undermine interagency checks and balances against regulatory abuses.

Immediately following the new regulatory authority is a new provision calling for the financing of local and private organizations and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory practices. The bill report assures that this provision does not "require funding; it merely permits it". The CBO cost estimate tells a different tale:

> The bill also allows HUD to give financial assistance to private agencies that work against housing discrimination. The financial aid HUD gives to private agencies will be used for counseling individuals and testing cases to see if there is probable cause for court action. It is estimated that approximately forty agencies will receive $100,000 each in 1981, and that the number of agencies will increase by 10 percent per year. Agencies concerned with housing discrimination against the handicapped are expected to account for a significant portion of this growth. It is also assumed that the amount of aid per agency will remain at $100,000 a year. It is estimated that 90 percent of each year's funds will go to the agencies in the first year, with the remaining 10 percent spent in the following year.

In effect, the insertion of two words "financial and" into current law creates a major new growth industry within the HUD bureaucracy.

These concerns are minor compared to the blatant consolidation of judicial and administrative power mandated under section 8 of the bill. This is the section relating to a revised grievance procedure that invests the power to initiate, investigate, subpena, try, judge, and sentence all within HUD. The aggrieved party to specific cases may also request information, but only "upon written application to the Secretary". Local jurisdictions may undertake the case but only if the Secretary decides their procedures and remedies are "substantially equivalent to those created by and under this title." In other words, the 10th amendment to the Constitution is stood on its head to now read "The powers not reserved for HUD by this bill, may be offered to the States, if HUD so decides."

The prospects for bureaucratic expansion and abuse rise further later on in section 8. On page 22 the criteria for "substantially equivalent" are also premised on the certification, by the Secretary of HUD, of these local and State agencies. This certification takes into account "the current practices and past performance, if any, of such agency." Some interpretations are already showing how this section will open the door for zoning and other local land use policies to fall under HUD auspices. As early as February 16, 1979, the Washington Post was quoting committee staff as saying that this provision, coupled with other wording in the bill, "would empower the Secretary to hear cases involving exclusionary practices of local government as well as actions by private parties." Attorney General Benjamin Civiletti has also announced the intention of the Government to move against bias in local zoning. If it is the intent of this administration to carve away one of the last major functions of local government, this bill has the blueprint embodied within its provisions.

The court system developed within section 8 of H.R. 5200 is the finest example of how those who find article III of the Constitution cumbersome, would like to redesign the judiciary. An administrative law judge employed by HUD would review a case brought by HUD on behalf of an aggrieved party, with evidence gathered by the Secretary of HUD or one of the dozens of new "testers" or investigators. The HUD ALJ would meet in a HUD facility with HUD lawyers arguing the case brought by HUD. When the HUD case was decided by the HUD ALJ the penalty would be enforced by HUD. Review of the case by the article III courts could occur only through a de novo determination of the adequacy of the findings of fact and conclusions of law to which objection is made. This incredible travesty of justice is laid out on pages 18 to 30 of the bill. A more blatant attempt to stack the deck for the bureaucracy against the citizenry it is supposed to serve would be hard to find.

Mr. Chairman, at the onset of these remarks I drew some parallels between the mistakes made in 1968 and the mistake that might be made today if this House passes this bill. I would like to close with some thoughts that I raised back in April of 1968. The issue before us today is indeed civil rights, but it is the civil rights of the citizens of be free from Government excess. The right to own property, the right to conduct commerce, the right to a fair trial, the right to a jury trial when property and compensation are involved, all are embodied in our Constitution and are protected by the system of federalism. These rights are under constant danger by those who, for whatever purpose, would endanger them all for the sake of specific policy objectives. The consolidation of power in the hands of a few is the most fundamental threat against our system. In 1968 I spoke to this point, I would share those thoughts with my colleagues here today:

> Our great Americans have echoed the same plea. Take just a few statments to recognize the importance of constitutional limitations on big government:
>
> Thomas Jefferson: "In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."
>
> Thomas Hobbes: "Freedom is political power divided into small fragments."
>
> James Madison: "The accumulation of all powers legislative, executive, and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny."
>
> Woodrow Wilson: "Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is a history of the limitation of governmental power, not the increase of it. When we resist therefore the concentration of power, we are resisting the processes of death, because concentration of power is what always precedes the destruction of human liberties."
>
> John Locke: "Freedom of men under government is to have a standing rule to live

by, common to every one of that society, and made by the legislative power vested in it; a liberty to follow my own will in all things, when the rule prescribes not, and not to be subject to the inconstant, uncertain, unknown arbitrary, will of another man."

John Adams: "Property must be secured, or liberty cannot exist."

As in 1968, I suppose it is fair to say that few people seem to care about these principles any more. I for one do and will as long as I live. If this Chamber passes this legislation it will be difficult for me to be proud of the deed, for another giant stride will have been taken down the path of irresponsibility.

AMENDMENT OFFERED BY MR. SYNAR TO THE AMENDMENTS OFFERED BY MR. SENSENBRENNER

Mr. SYNAR. Mr. Chairman, I offer an amendment to the amendments.

The Clerk read as follows:

Amendment offered by Mr. SYNAR to the amendments offered by Mr. SENSENBRENNER: In the amendment offered by Mr. SENSENBRENNER, strike out "Section 808(c) of the" and all that follows through " "5372" in lieu thereof." and insert in lieu thereof the following:

Section 808(c) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended—

(1) by striking out the second sentence and inserting in lieu thereof the following: "The Secretary shall delegate such function with respect to hearing, determining, and ordering under section 811 of this title to administrative law judges appointed by the Attorney General and serving in the Department of Justice in compliance with sections 3105, 3344, 5372, and 7521 of title 5 of the United States Code.";

(2) by inserting "and hearings" after possible conciliation meetings";

(3) by striking out the last sentence and inserting in lieu thereof the following; "An administrative law judge conducting a hearing under section 811 of this title may not consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate. An employee or agent engaged in the performance of investigative or prosecuting functions for the Department of Housing and Urban Development in a case may not, in that or a factually related case, participate or advise in any decision made in such hearing except as witness or counsel in public proceedings. A person may become an administrative law judge for hearings under section 811 of this title only by appointment from the administrative law judge register established by the Office of Personnel Management as the result of competitive examination. A person may not function as an administrative law judge in such a hearing if such person has, within the 2-year period immediately before the commencement of such hearing, been an employee or agent engaged in the performance of investigative or prosecuting functions for the Department of Housing and Urban Development. An administrative law judge position may be filled by appointment from that register or by reinstatement, reassignment, transfer, or promotion of a person who has formerly received an appointment from that register. Such an administrative law judge is removable by the Attorney General only for good cause established and determined by the Merit Systems Protection Board after opportunity for hearing and upon the record thereof.".
and strike out "SEC. 810. (a)" and all that follows through the end of the amendment offered by Mr. SENSENBRENNER and insert in lieu thereof the following:

"SEC. 810. (a)(1) Whenever an aggrieved person, or the Secretary on the Secretary's own initiative, files a charge alleging a discriminatory housing practice, the Secretary shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within 10 days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Secretary shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and choice of forums provided under this title. Such charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Secretary requires. At any time after the filing of a charge, the Secretary shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year. An aggrieved person shall file a charge under this section with the Secretary not later than one year after the alleged discriminatory housing practice occurred or terminated. The Secretary may also investigate housing practices to determine whether charges should be brought under this section or new rules should be made under this title.

"(2)(A) In connection with any investigation of such charge, the Secretary shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(B) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary under clause (A) of this paragraph.

"(C) Witnesses summoned by subpena of the Secretary under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(D) The Secretary or other party at whose request a subpena is issued under this title may enforce such subpena in appropriate proceedings in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(E) Any person who willfully fails to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in such person's power to do so, in obedience to the subpena or lawful order of the Secretary under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Secretary shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Secretary's subpena or other order, or shall willfully fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"(3) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency. Except with the consent of such certified agency, the Secretary shall, after that referral is made, take no further action with respect to such charge, if the appropriate State or local law enforcement official has, before ninety days after the date the alleged offense has been brought to such official's attention, condemned proceedings in the matter, and, having so commenced proceedings, carries forward such proceedings with reasonable promptness. An agency shall be certified under this paragraph if the Secretary determines that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to such agency, and the availability of judicial review of such agency's action, are substantially equivalent to those created by and under this title. Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency. Any State or local agency may submit a written request for certification to the Secretary. Unless the Secretary interposes a written objection within 90 days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Secretary objects within the prescribed 90-day period, he shall provide the State or local agency with an explanation specifically outlining the reason for his decision, and such decision shall be subject to review by the appropriate United States district court.

"(4) The Secretary and other Federal agencies having authority to prevent housing discrimination shall cooperate and seek to avoid duplication of effort in the exercise of their several authority. The Secretary and such other Federal agencies shall notify each other of any allegation of housing discrimination which may be within their respective responsibilities. The Secretary or such other Federal agency shall, upon such notification, take additional appropriate action.

"(b) If the Secretary concludes on the basis of a preliminary investigation of a charge that the Secretary is unable to obtain voluntary compliance and prompt judicial action is necessary to carry out the purposes of this title, an action may be brought on behalf of the Secretary for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure. An application for relief under this paragraph shall not affect the initiation or continuation of administrative proceedings under sections 810 and 811 of this title.

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall file an administrative complaint under section 811(a) of this title or refer the matter to the Attorney General for the filing of an appropriate civil action under section 813(b) of this title. The Secretary shall so refer any such matter in which land use controls are claimed to be in violation of this title. Such determination in the case of a charge made by an aggrieved person may not be made later than 270 days after the filing of such charge. After each investigation under this section, the Secretary shall provide to each aggrieved person and each respondent a copy of the findings of such investigation.

"ENFORCEMENT BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; HEARING PROCESS

"SEC. 811. (a) Upon filing an administrative complaint, the Secretary shall cause a copy of such complaint to be served on the respondent, together with a notice of opportunity for a hearing on the record at a place and time (not less than thirty days after the service of such complaint) specified in such notice. On the request of the respondent and with the consent of all other parties, a hearing may be rescheduled for a time earlier than the time specified in such notice. Any resolution of a charge or complaint by means of conciliation shall require the consent of the person who filed the charge, and any such resolution following the service of a complaint under this subsection shall also require the approval of the Secretary. No hearing may commence under this section until the Secretary certifies that conciliation has been attempted with respect to the charge or complaint on which such hearing is to be held. The respondent shall have the right to file an answer to the administrative complaint and to appear in person or otherwise and give testimony at a hearing on the record. Any aggrieved person may be allowed to intervene in the proceeding, to appear in person or otherwise, to obtain the issuance of a reasonable number of subpenas in the manner set forth in section 810 of this title, and to present testimony. After the conclusion of such hearing, the administrative law judge conducting the hearing shall make findings of fact and conclusions of law, and may issue an order providing such relief as may be appropriate, and may impose a civil penalty of not to exceed $10,000. The administrative law judge shall not announce or otherwise make available such findings of fact, conclusions of law, or such order before 5 days after the conclusion of such hearing, and the parties may resolve the charge by conciliation during that period. No such order shall affect any contract of sale, encumbrance, or lease executed before the issuance of such order, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title. The Secretary is not authorized to modify any order under this section, or the decision of the administrative law judge.

"(b) The findings of fact and conclusions of law made with respect to a final order issued under subsection (a), together with a copy of such order, shall be served on each aggrieved person and each respondent in the proceeding.

"(c) Any petition for judicial review of a final order under subsection (a) shall be filed in the Federal district court for the district in which the property is located not later than 30 days after service of such order. The petition may be amended after a reasonable opportunity to review the record of the administrative proceeding. For the purposes of judicial review of such an order, any aggrieved person shall be deemed a party in the administrative proceeding reviewed. The petition shall contain written objections to such order and shall specify those portions of the record of findings of fact and conclusions of law to which objection is made. The court shall make a de novo determination of the adequacy of the findings of fact and conclusions of law to which objection is made. The court may receive further evidence, or recommit the matter to the administrative law judge with instructions, if such evidence was improperly excluded by the administrative law judge or if the court determines that there is a compelling need for further evidence to support a factual determination. To the extent that further evidence is received by the court, such evidence shall be deemed a part of the record and shall be considered in the determination of whether to accept, reject, or modify the findings of fact and conclusions of law of the administrative law judge. Based on a review of the record as a whole, the court may accept, reject, or modify, in whole or in part, the findings of fact and conclusions of law made by the administrative law judge. All proceedings under this subsection in the Federal district court shall be given precedence over other civil proceedings pending therein and shall be in every way expedited.

"(d)(1) Any person who violates a final order under subsection (a) shall be subject to a civil penalty assessed by the administrative law judge holding the hearing of not more than $1,000 for each day during which such violation continues after the date on which such final order becomes unreviewable.

"(2) For the purposes of paragraph (1) of this subsection, a final order becomes unreviewable—

"(A) if a petition for review has not been filed in the appropriate Federal district court on the day 30 days after the service of such final order, or

"(B) if such a petition is so filed within such 30-day limit, on the date on which the last appellate court's decision becomes final and not subject to any further appellate proceeding.

"(e) The United States district courts shall have original jurisdiction over petitions for judicial review of final orders under subsection (a) of this section without regard for the amount in controversy.

"PRIVATE ENFORCEMENT

"SEC. 812. (a)(1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than two years after the alleged discriminatory housing practice occurred or terminated.

"(2) After an aggrieved person has commenced a civil action under this section, the Secretary may not commence or continue proceedings toward the issuance of a remedial order based on such charge.

"(3) An aggrieved person shall not commence a civil action under this subsection with respect to a charge made by that person to the Secretary if the Department of Housing and Urban Development (or a State or local agency to which the Secretary refers such charge) has commenced the hearing on the record with respect to that charge.

"(4) Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance.

"(b) Upon application by an aggrieved person, any trial or appellate court may, in such circumstances as it deems just, appoint an attorney for such person and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, which may include money damages, equitable and declaratory relief, and, in the case of a willful violation, punitive damages.

"ENFORCEMENT ROLE OF ATTORNEY GENERAL

"SEC. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court (1) to enforce any final order under section 811(a) of this title that is referred for enforcement by the Secretary; (2) to collect any civil penalty assessed under section 811 of this title; and (3) to remedy any discriminatory housing practice (A) with respect to which the Secretary has made a finding that reasonable cause exists under this title and (B) which the Secretary refers to the Attorney General for enforcement under this subsection.

"(c) The court may award such relief in any civil action under this section as is authorized in section 812(c) of this title in cases brought under that section.

"(d) A person may intervene in any civil action commenced under this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person.

"ANCILLARY AND PROCEDURAL MATTERS RELATING TO ENFORCEMENT

"SEC. 814. (a) In any action or proceeding under this title, the court, in its discretion, may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney and expert witness fees as part of the costs, and the United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of any interlocutory order which determine substantial rights of the parties.

"(b) In any administrative proceeding based on a charge under section 810(a) of this title, any prevailing party (other than the United States with respect to attorney fees) may be awarded reasonable attorney and expert witness fees as a part of a final order under section 811(a) of this title.

"(c) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

"(d) Any sale, encumbrance, or lease executed before the issuance of any court order under this title, and involving a bona fide purchaser, or encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this title shall not be affected by such court order.

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

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Mr. SYNAR. Mr. Chairman, during the last 4 hours I think that we have come to the conclusion on one basic agreement; that agreement is that we need to strengthen the enforcement provisions of the Fair Housing Act of 1968. Now, the subcommittee and the full committee feel that the best way to accomplish this better enforcing of the Fair Housing Act is through the administrative law judges under HUD.

Now, my friends from Missouri and Wisconsin feel we should rely upon the Federal court system because of what they consider is an inherent lack of impartiality within HUD. I rise this afternoon to offer the middle ground between these two proposals which enforce the impartiality of the court proceeding, but will guarantee the ready access to a fair judicial resolution of any complaint on housing.

Now, why do I introduce this middle ground today? Existing law, even as modified by the Volkmer-Sensenbrenner amendment, is still going to be too costly. It is still going to be too costly because most cases are going to end up in Federal district court. I need not remind the Members of this House of how cumbersome and burdensome the Federal court system is at the present time.

Conciliation must be strong enough to work. As I said earlier this morning in the opening remarks during general debate, only 1 out of every 12 cases brought to conciliation are ever resolved, and these are only the reported complaints that go to conciliation within HUD.

Now, after the committee reported this bill and I began visiting with Members of this body about their concerns with the Fair Housing Act, I found the Members of this body were unhappy with many parts of this bill. I offer amendments today which I think are going to make this bill more workable. As I visited with many of you over the last couple of weeks, many of you were concerned about the ALJ impact on local government, local land-use control and zoning. I share this same concern, being from a rural State, and one who believes in the autonomy of local and municipal government. I think it would be an infringement to allow the Federal Government through HUD to get into these matters.

Even though the Secretary of HUD has assured our committee that they would at all times refer cases of local control of land use to the Justice Department, I felt it was imperative, and therefore I offer as the first part of this amendment, a guarantee that this promise by the Secretary of HUD will be carried out, and that HUD will not get involved in local matters of land-use control, and that they will be referred to the Attorney General.

Second, when I visited with a number of you about your concerns about this bill, you mentioned to me the problems you had with the conciliation process and how it would work. I want the conciliation process to work. I still think it is the most preferable method available to us to enforce fair housing. In fact, I believe that conciliation is so important that I am offering within these two amendments, two opportunities for the parties to come to conciliation; two opportunities for these parties to resolve the matter before the use of the ALJ or before going to Federal district court.

First of all, my amendment would require the Secretary to certify that conciliation was tried prior to a hearing by the ALJ. Now, we are going to have some success in this—not a great amount of success. As I said, only 1 out of every 12 cases brought to HUD today ever work, but we are going to alleviate some of the problems in that process by, second, after the hearing by the ALJ, after these two people have had their day in court and the evidence has been presented, we want to give them a 5-day cooling off period by which both parties can come together and say that we now know the facts and the problems and the causes, and we are giving them the opportunity to have conciliation at that point—therefore giving them two opportunities to have conciliation. I think this is good for both of those parties.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent, Mr. Synar was allowed to proceed for 5 additional minutes.)

Mr. SYNAR. Finally, as I visited with a number of you about your concerns about the enforcement of the Fair Housing Act, the No. 1 thing that continued to reoccur was your concern about the impartiality of the administrative law judges. Opponents have said, and properly so, that under the committee bill HUD would be the investigator, the prosecutor, and the judge. I share that concern. Therefore, the final part of my amendments address that central issue.

We will take, if my amendments are accepted, the ALJ's out of HUD and into the Justice Department. This will guarantee their autonomy from the investigative and prosecutive parts of HUD. Second, the ALJ's will be appointed by the Attorney General from a list of three per vacancy, supplied by the Office of Personnel Management, not by the Secretary of HUD. These ALJ's will work for and be paid by the Justice Department, and not HUD.

Now, if that is not enough guarantee of impartiality, I think we have another innovation we are adding to this bill, and that is this: That an ALJ may not serve or may not have served in the investigative or the prosecutive function under HUD for 2 years prior to the time of being a judge or a hearer. Second, that an ALJ can only be removed for cause after a hearing before the Merit System Protection Board. Finally, that an ALJ may not have ex parte communications with anyone who supervises or who is in fact an investigator or prosecutor for HUD.

Now, if you want impartiality of the process; if you want the speediness of a process which we fail to have under the Fair Housing Act of 1968; if you want a guarantee that HUD will not involve itself in local and municipal zoning and land control use matters; and finally, if you prefer conciliation as the method of solving the problem, but see that it by itself is not guaranteeing the answer to that problem, I think that this middle ground between the Sensenbrenner-Volkmer amendment and the committee bill offers you the most equitable solution to an improvement of the Fair Housing Act of 1968.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. We worked long and hard in order to put this administrative proceeding together in a way which we thought would be fair and equitable, with virtually a full de novo hearing before a district judge if it was felt there was unfairness before the administrative law judges.

As I understand it, there are two principal changes that are made from the committee bill and the gentleman's amendment, which would be, one, that the administrative law judge must be a dispassionate administrative law judge not connected with the Department of HUD.

Mr. SYNAR. The gentleman is totally correct.

Mr. McCLORY. The second part is with regard to local zoning laws and ordinances that affect housing in the community, that those laws would be subject to judicial review by a district judge and not review by the administrative agency.

Mr. SYNAR. The gentleman is correct.

Mr. McCLORY. Those are the primary changes.

Mr. SYNAR. There is a third part to that amendment; that is, since we have found that conciliation is the preferred method, what we want to do is still encourage conciliation by giving the parties two opportunities to have conciliation before any administrative law judge takes a hearing or it does go to Federal district court.

□ 1540

Mr. McCLORY. Mr. Chairman, if the gentleman will yield further, referring to the mediation proceeding, the mediation proceeding will not delay the proceedings so that the person would be thwarted because of the delays. It is because of the existing delays that he has really been frustrated.

Mr. SYNAR. Mr. Chairman, the gentleman is correct. By using these amendments and applying them to the 1968 act, we will have a speeding-up of the process and an end to the delays that have occurred since 1968.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to my friend, the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to commend the gentleman from Oklahoma (Mr. Synar) for really improving the compromise that was reached by a number of us who also shared many of the gentleman's concerns. I do want to mention the understanding that we have of the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. Synar) has expired.

(By unanimous consent, Mr. Synar was allowed to proceed for 4 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield further?

Mr. SYNAR. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, it is further my understanding that under the gentleman's amendment now an administrative law judge can only be fired for cause and after a hearing before the Merit System Protection Board, which would again further insulate that ALJ from any pressures brought by HUD or by anyone else for that matter; is that correct?

Mr. SYNAR. The gentleman is correct. And that was one of the benefits we sought in isolating them.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield further, I will just make this point: That there are now many, many changes in the original administrative law procedure. Among others, we now have mandatory conciliation, mandatory reference to State agencies that have grievance mechanisms. In addition, we took away the power of the Secretary of HUD to modify. We have done away with that.

Mr. Chairman, it is my feeling that the gentleman's amendment is worthy and meritorious, and it further improves the bill. I really do not see now how the realtors or anybody can object.

Mr. SYNAR. Mr. Chairman, I appreciate the gentleman's comments. The gentleman from Illinois (Mr. RAILSBACK) has been a very strong proponent in the improving of the 1968 Fair Housing Act.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the gentleman states in his presentation that he has strengthened conciliation in two instances. I agree, of course, that conciliation should be strengthened, and I commend the gentleman for attempting to do so. It has bothered me all along in the deliberations on the bill that other members of the subcommittee basically did not do so, and it was through the efforts of the gentleman from Wisconsin (Mr. SENSENBRENNER) and myself, I believe, that now for the first time it has been recognized as something that should be done.

But as I understand it, the first thing the gentleman proposes is that the Secretary must certify that conciliation must have been attempted before an ALJ can begin a hearing; is that correct?

Mr. SYNAR. That is correct.

Mr. VOLKMER. Now, by the word, "attempted," do we mean that the Secretary receives a complaint and then notifies the person who is supposedly discriminated against, or the firm, and that is sufficient so that they should conciliate?

Mr. SYNAR. Mr. Chairman, I think the gentleman from Missouri (Mr. VOLKMER) can make the basic assumption that an attempt or a trial at conciliation must be certified by the Secretary of HUD, and the certification would be that the two parties at least sat down.

Mr. VOLKMER. What if I refused?

Mr. SYNAR. What if you refused?

Mr. VOLKMER. Let us say I just did not come in; I ignored it. That is being done today. Let us say I ignored it. What happens? Do you still have to wait for me to come in before you start the ALJ process?

Mr. SYNAR. The complainant at that point has the option to use the Federal district court and go into Federal district court or continue with the administrative process.

Mr. VOLKMER. But the gentleman does not have the strength that the gentleman from Wisconsin and I have in our amendment on conciliation; does he?

Mr. SYNAR. But the problem, if the gentleman will allow me to answer, with the Sensenbrenner-Volkmer approach to conciliation is this: That you have compulsory arbitration. You have arbitration, and the parties must agree, in conciliation to arbitrate, and if you cannot have basic conciliation, then there would not be an agreement to have arbitration either.

Mr. VOLKMER. Mr. Chairman, I disagree with that. I can see that many times we may have people who will not sit down to conciliation but they will agree to an arbitration.

Not only that, we have provided a bond for persons to file a suit; the gentleman does not.

Mr. Chairman, we feel that we have a much stronger conciliation than the gentleman envisions.

The thing I see in the second argument is that we have not lost anything in our amendment, because there are constant negotiations taking place, and there is a mere 5 days provided after the hearing to cool things down a little bit. That is no more than what would usually occur anyway, because usually decisions are not rendered on the same day the hearing ends. Under the ALJ system, it takes several days anyway.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. SYNAR) has again expired.

(On request of Mr. WYDLER, and by unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I just want to clarify for the committee the provision that the gentleman has now inserted in his amendment concerning who these administrative judges are going to be.

If I understand what the gentleman has described to the House, they are going to be employees of the Department of Justice. Is that what the gentleman says?

Mr. SYNAR. That is correct.

Mr. WYDLER. Where would they conduct the hearings?

Mr. SYNAR. Obviously when the mechanism is placed under the Department of Justice, the proper place will depend upon where the seven circuit ALJ's will be. It is estimated that by the year 1981 there will be approximately 6,000 cases nationwide, and that the ALJ's will go into those areas where they can resolve these issues.

Mr. WYDLER. Will they be working on property of the Department of Justice, or are they going to be working on property of the Department of HUD? Where are they going to be working? Where are they going to sit down?

Mr. SYNAR. Mr. Chairman, with all due respect to the gentleman, I do not think that is really an important issue.

The issue is whether the ALJ's will be autonomous and isolated from the HUD investigatory and prosecutory process. We guarantee that by putting them in the Department of Justice. Whether they meet in a Department of Justice facility or a HUD facility, to me, is very unimportant.

Mr. WYDLER. Mr. Chairman, if the gentleman will yield further, I think it is extremely important.

We have been told from the beginning of this discussion that they will be insulated and that we did not have to worry about that, and now the gentleman is retreating step by step and in effect admitting that it was not fair, the way the gentleman provided it in the first instance.

I am asking what the gentleman is really providing now. If these men are technically on the payroll of the Department of Justice but are really working for HUD—which is what I think will happen; they will be working for HUD, they will be accountable to HUD and will follow HUD regulations—we are not really changing anything at all.

Mr. Chairman, I ask the gentleman, where are they going to work? From whom are they going to get their orders?

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. SYNAR) has once again expired.

(On request of Mr. GLICKMAN, and by unanimous consent, Mr. SYNAR was allowed to proceed for 3 additional minutes.)

Mr. SYNAR. Mr. Chairman, before I yield further to other Members, if I may, I will respond first to the gentleman from New York (Mr. WYDLER).

I think what we have here is a clear difference between the wording of the language, because they are appointed by the Attorney General and not by the Secretary of HUD.

Second, we have done this through the merit system of appointment, by the Office of Personnel Management, and it is guaranteed that a judge will not come from the prosecutory or the investigatory wing of HUD for 2 years prior to their appointment. They can only be removed for cause.

Finally, they will not now be in ex parte communication with anyone in the investigating or prosecuting functions of HUD. That by itself, we believe, is very meritorious and will guarantee their autonomy from HUD. The place of meeting, whether it is HUD or the Department of Justice, is insignificant to the whole matter.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, first of all, I think this is a good amendment, and I am going to speak to it later on.

As I understand the gentleman's amendment, the ALJ's will not be employees of HUD, and we can state that unequivocally?

Mr. SYNAR. The gentleman is correct.

Mr. GLICKMAN. They are employees of the Department of Justice of the United States?

Mr. SYNAR. They work for the Department of Justice, and they are paid by them.

Mr. GLICKMAN. Therefore, what office space they use, what pens they use, and what stationery they use is unimportant; it will be as if they were otherwise employees of the Department of Justice?

Mr. SYNAR. The gentleman is totally correct.

Mr. GLICKMAN. Mr. Chairman, I think this is significant, because for the first time what we are doing here is we are pulling ALJ's out of the department in which a case is brought.

While I realize and I am sure the gentleman from Wisconsin would not agree with this amendment—and I was unsure about this whole issue until this amendment was brought forward—we now truly have for the first time, at least on paper, independent administrative law judges who are not employed by the agency that brings the case. As I read the amendment, that is absolutely clear and unequivocal.

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Mr. SYNAR. I thank the gentleman, and I appreciate the gentleman's comments.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding, and I want to congratulate the gentleman from Oklahoma and associate myself with his remarks. I think the gentleman has worked out a very, very good compromise here, and I hope the amendment is overwhelmingly adopted.

Mr. SYNAR. I thank the gentleman for his comments.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, I want to commend very strongly the work of my colleague, the gentleman from Oklahoma, for performing a great service here. I spent a great deal of time trying to get to the bottom of this issue and trying to find a middle ground between the committee position and the amendment that was before the floor. As many of the Members know, I was going to offer an amendment in the nature of a substitute which would give original jurisdiction for these matters to the magistrates. However, that particular amendment is subject to a point of order. The reason I chose that was because of this issue of HUD administrative law judges being unable to be impartial in a case of this nature. By removing the ALJ's to the Justice Department I think the gentleman has answered that question very well, and I think the gentleman's amendment deserves support.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. SYNAR) has expired.

(On request of Mr. JONES of Oklahoma and by unanimous consent, Mr. SYNAR was allowed to proceed for 3 additional minutes.)

Mr. JONES of Oklahoma. If the gentleman will yield further, there are a couple of other questions I wish the gentleman would clarify.

First of all, if the party who loses at the ALJ level wants to appeal this, under the gentleman's amendment will a de novo review be allowed at the district court?

Mr. SYNAR. The gentleman is correct. Under this amendment, a decision by the ALJ is appealable to the Federal district court, which will get a de novo review, which means that the judge at the Federal district court level will review not only the evidence of the ALJ hearing, but can ask for additional evidence and will make an independent decision without prejudice based on those facts.

Mr. JONES of Oklahoma. Another question deals with the damages that an ALJ can give to a complainant. The charge was made that under the committee bill a complainant really cannot receive compensatory damages, cannot be made whole for the discrimination that occurred. Can the administrative law judge in the Department of Justice under the gentleman's amendment give compensatory damages to the complainant?

Mr. SYNAR. We do have within this amendment the advantage of having a $10,000 fine. We feel that this will be a sufficient deterrent for those who will discriminate.

Again, I would like to point out to the gentleman that any decision made by the ALJ will also be allowed to be appealed to the Federal district court.

Mr. JONES of Oklahoma. What if you have a genuine complaint?

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield on that point?

Mr. SYNAR. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I think the answer to the gentleman's question is "No," the ALJ cannot give compensatory damages. And that is true.

However, it is also true, is it not, that the aggrieved party has an option, and that option is that an aggrieved party can file a lawsuit in the Federal district court, just as they now can, and then they could get compensatory damages, they could get punitive damages, they could get injunctive relief, and all of those remedies? The only time they are precluded from doing that is if they filed the complaint first with the ALJ and then the hearing commences. But up until the time that hearing commences, they have that option and that election.

Mr. SYNAR. I appreciate the remarks of the gentleman from Illinois. That is exactly right.

Mr. JONES of Oklahoma. If the gentleman will yield I thank the gentleman for his comments. The main question about the de novo review and the impartiality of the ALJ's, I think, have been answered by the Synar substitute, and I intend to support it.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, as someone who was involved in the enforcement of civil rights laws at HEW, I think there is a role to be played in having the combination of the administrative process as well as the legal process. I think you need both arms in terms of enforcing civil rights laws. The one problem I saw at HEW, however, was the fact that administrative law judges were in fact located within HEW and were responsible to pressures within HEW. I think the fact is that if administrative law judges were located within HUD, they also would be subject to the pressures within HUD.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. SYNAR) has again expired.

(On request of Mr. PANETTA and by unanimous consent, Mr. SYNAR was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. If the gentleman will yield further, the fact is they would be subject to those pressures. We ought to at some point consider a law that in fact separates all administrative law judges out of the agencies that they are part of and truly made them an independent force. And until we do that, I think we are going to have problems in terms of the administrative process.

What the gentleman's amendment does is to try to establish that kind of independence. I think it is an excellent step to try to bring some degree of independence to the administrative law judges so that they can implement it without the internal pressures that can be brought within an agency. I commend the gentleman on his amendment.

Mr. SYNAR. I thank the gentleman for his comments.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I want to compliment the gentleman from Oklahoma for a legislative compromise that I am sure, as I listened to the discussion here, assuages the fears of those who are lawyers and concerned about the judicial process.

I want to assure the gentleman that, from the standpoint of the real estate industry, the major concern was, in the words of a layman, having a stacked deck.

I think the gentleman's amendment addresses those fears. The real estate industry, for instance in the State of California, led by the realtors, has never condoned discrimination in recent years. Their only concern was the idea of having the judge and the prosecutor and the jury being in one department. The gentleman's amendment solves that question. The real estate industry will be happy. Obviously, those concerned with the judicial process will be happy. It seems to me that it is the proper solution of this question, and I urge the adoption of the gentleman's amendment.

Mr. SYNAR. I appreciate the gentleman's comments.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Chairman, I would like to ask my colleague, the gentleman from Oklahoma, in your language in which you insulate the administrative law judges from the Department of HUD, what was the restriction there?

Mr. SYNAR. There are a number of restrictions that will guarantee their autonomy. First of all, they will be appointed by the Attorney General versus the Secretary of HUD.

Second, they will be chosen from a list of three per vacancy supplied by the Office of Personnel Management.

The ALJ will work for and be paid by the Justice Department and not HUD.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. SYNAR) has again expired.

(On request of Mr. TAYLOR and by unanimous consent, Mr. SYNAR was allowed to proceed for 4 additional minutes.)

Mr. SYNAR. These two alone should be enough to make them autonomous, but we have included three other provisions. First of all, we have guaranteed that no one who has served in an investigative or prosecutive function within HUD within the prior 2 years of being appointed a judge for a hearing can be an ALJ under this provision.

Second, an ALJ can only be removed for cause, only after hearing before the Merit System Protection Board.

And, finally, the ALJ may not have ex parte communications with anyone who supervises or is in fact an investigator or prosecutor for HUD.

We think these five provisions are going to isolate and guarantee their autonomy.

Mr. TAYLOR. If the gentleman will further yield, the gentleman does not say that he could not have been some other kind of employee for HUD, that he might have been a loan officer, that he might have been in some other type of employment or classification within the department.

Mr. SYNAR. There is no restriction there, but the major complaint on any ALJ within administrative law is that in the past, within an agency, they have been investigator, prosecutor and judge. We are trying to attack that.

Mr. TAYLOR. I am very familiar with that. We have been in some very extensive investigations in Post Office and Civil Service relating to administrative law judges, and the Department of OPM has been before our committee asking for a vast review and a revision of our administrative law judge code because they have run into some very difficult problems with administrative law judges, basically that the old theory goes around to BYOJ bring your own judge, and I fear that, while the gentleman has separated this, maybe they are not brothers any more, but I fear they may be cousins as they move forward. I would reiterate the question that was asked by the gentleman from New York: Where are these people going to sit? Who are they going to be beholden to? I think this is very important. You know, we have a judicial system in this country, and it is there and there only, within the established judicial system, that I believe true justice can be rendered. While I think that the gentleman from Oklahoma is making an effort to rectify this administrative law judge fallacy, I still fail to see any reason why this cannot be handled through the courts. This Congress has been very generous in its expansion of the judiciary system, both Federal magistrates and the district Federal judges, and it seems to me that the Volkmer-Sensenbrenner amendment, which would refer it to our judicial system, maybe would best bring about a rendering of a decision that will be fair to both parties and impartial.

Mr. SYNAR. I appreciate the gentleman's comments.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, I have been listening carefully. It occurs to me that the gentleman is trying to create an administrative law judge who is not really an administrative law judge, he is a little different. And as I sat and listened to the debate, I was hopeful that someone with great background and expertise in administrative law matters would rise and tell us why we have not thought about this before. Why have we not isolated the administrative law judge from the department involved before? The gentleman from Kansas indicated that he thought it was an excellent idea. So as I listened, it occurred to me that there must be some difference between administrative law judges and magistrates and district court judges on the other hand. There must be a perceived difference. I think the difference is that administrative law judges tend to advocate the policy of the department, in many instances, the policy that underlies the reason for the law.

The gentleman has named some factors that tend to isolate. I am concerned as to whether or not we are not rushing into this very quickly and whether we are doing all that we can to create the isolation that the gentleman seems bent on achieving.

☐ 1600

You have set up no ex parte communication. That is just one of many rules that a judge or a magistrate must abide by. Those are good rules.

I would observe, I do not think that moving them out of the department, by the way, is that critical a factor. For instance, U.S. district court judges and U.S. magistrates are in the very same department of Government as are FBI agents and others.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(By unanimous consent, Mr. SYNAR was allowed to proceed for 4 additional minutes.)

Mr. BETHUNE. Mr. Chairman, will the gentleman continue to yield?

Mr. SYNAR. I yield to the gentleman from Arkansas.

Mr. BETHUNE. So I would observe that there must be something then that makes us feel comfortable about Federal district court judges and U.S. magistrates, even though they are in the same department as the U.S. attorneys and the FBI and those who tend to prosecute those cases.

I think there is an aura about magistrates and judges that they are going to be impartial and that they are not going to try to carry out the policy of a particular branch of government. They are charged with all those responsibilities that attend our judicial system.

So that I know that in the gentleman's amendment, certainly it is an improvement and it attempts to chip away and to create an isolation or an insulation, however we want to look at it, that would tend to equate this new breed of cat that the gentleman is trying to construct with a magistrate and a Federal district court judge; but I just wonder, I have never heard anybody say here today really, what is wrong with giving it to the magistrates? We have already got all that in the magistrates. They have this image and they have this reputation. So I really have not heard any solid arguments why we should not do that.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I simply want to say in response that in just a minute I hope to be recognized to say what I personally think is wrong with using the court procedure. One thing is that there are 3½ pages of statutory priorities that must be taken up by Federal district courts, also a great backlog, and many, many reasons.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I think the gentleman from Arkansas raises some good points; but I would say the following:

First, the sole purpose of using ALJ's as opposed to Federal judges is twofold. Second, as a general rule, we consider as a general rule that maybe they have more expertise in their subject area.

Second, you will get a more expeditious and fair hearing.

Now, I agree with the gentleman, in my judgment all administrative law judges ought to be removed out of agencies and put into a separate administrative law court; but in terms of housing discrimination cases, in my judgment the victim of discrimination will have a much more expeditious hearing through the administrative process and then, if it is not fair, it goes back to a complete de novo hearing in the legal process, or in the court process, than he would if he had to go initially into the court process, and you will resolve 98 percent of the cases, either through conciliation or through the administrative hearing without having to burden the courts in the long run, unless you have a grievous case.

Now, I would prefer putting all these judges under the administrative conference of the courts, instead of the Justice Department; but at least this is a first step and I think a responsible one.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding. It just occurred to me that two of the last speakers that addressed this issue may have left the interpretation that access to Federal courts is not available under the gentleman's substitute, or H.R. 5200. I think we ought to clear that up, because it is an election of remedies, as I tried to explain earlier today, that leads us into the administrative remedy, a conscious election of remedies.

Clearly, under H.R. 5200, a complainant could go directly to a Federal court utilizing the precise remedy that the gentleman from Wisconsin (Mr. SENSENBRENNER) is advocating.

Is it not the case that in the gentleman's substitute this option of election to go to Federal court is still available?

Mr. SYNAR. The gentleman is correct and I appreciate the gentleman clarifying that, if that has been misunderstood.

Mr. FISH. Likewise, jurisdictionally a complainant can go to a magistrate as long as he has the consent of the respondent.

Mr. SYNAR. That is an important point that the gentleman makes. There must be an agreement and consent on both parties to go to the magistrate.

Mr. FISH. Of course, that answers part of the question that was raised as to what is the matter with limiting the entire process to the magistrate, because it does require consent. It also is costly, is that not the case, the cost is at the basis of the whole situation.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

(By unanimous consent, Mr. SYNAR was allowed to proceed for 5 additional minutes.)

Mr. FISH. Mr. Chairman, will the gentleman yield further?

Mr. SYNAR. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, it is also true, is it not, that one of the objections to limiting redress to the magistrate's court is that you go there on your own cost as a complainant; whereas under the administrative remedy, the cost is borne by the Government, not by the individual.

I think we then have got to turn to answer some of these questions to consider the compensatory aspects of this. We have been told by advocates of the amendment that the gentleman wishes to substitute for that the committee bill is derelict in its compensatory provisions. I want to see if there is any change in the gentleman's amendment.

It seems to me that considering the total compensatory damages and equitable relief that can be awarded a victim of discrimination, that the Sensenbrenner-Volkmer system is clearly inadequate, that under the committee bill the administrative law judge can make a complainant whole by ordering the respondent to provide an equivalent dwelling if there are remaining homes in a development. A landlord can be ordered to rent a substantially similar apartment and the fine, as the gentleman pointed out, is a far greater deterrent than simply the award of $500.

So it seems to me that under the Sensenbrenner-Volkmer amendment, the absolute maximum legal and equitable compensation to the victim, as well as penalties of $1,000, is clearly inadequate and lacking in equitable relief that is in the committee bill.

It is my understanding that that equitable power in the administrative procedure remains in the gentleman's amendment.

Mr. SYNAR. That is correct.

Mr. FISH. Well, I am very happy to join with my other colleagues in supporting the gentleman's amendment. I think that he has met, by and large, the main objections that have been voiced by Members of Congress over the past several weeks, as we have all considered this legislation. I think it is a big improvement on the committee work. I say that honestly and frankly, having been part of the labors of the committee.

Mr. Chairman, I urge a strong vote for the amendment.

Mr. SYNAR. Mr. Chairman, I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to mention that in trying to reach a compromise that would afford some protection for an alleged discriminator, one of the options we considered, those of us that were concerned about the original bill, was the use of magistrates. At one point we thought that what we may be able to do is actually use some kind of a mandated procedure by which these cases which may be relatively small and not involve a lot of money and may only involve injunctive relief, that they could be mandatorily assigned to a magistrate. In checking it out, it was the feeling of us, and I think Members on both sides of the aisle, that it would be violative of due process and that we could not do that.

Then we asked ourselves, what other options are there? One other option was to provide the right to appeal, rather than to a court of appeals to a district court; but rather than have any kind of an appellate standard govern the actions of that appellate court, we thought it would be far better and provide far more independence and more fairness to say that we are going to do what we did in the Magistrate Act, which is where a party objects to an ALJ's findings, then there is the right of a de novo or a fresh or a new review, and not only that, but the right of that district court judge to actually make a de novo determination, not bound by the conclusions of law reached by the ALJ, and furthermore, giving that district court judge where it is believed there is a compelling need the right to summon additional witnesses, take additional evidence, or where witnesses have been excluded by an ALJ.

□1410

Then there is the further right to appeal to a court of appeals.

When I read the Sensenbrenner amendment—let me say this about the gentleman from Wisconsin (Mr. SENSENBRENNER), he has attempted to be constructive, we happen to disagree on this particular issue—but the problem, as I see it, and I think this is significant, is in giving sole jurisdiction to district courts rather than the ALJ's. I remembered attending an American bar meeting and also receiving correspondence from the Department of Justice where it was pointed out to me that there are 3½ pages right now of statutory priorities. In other words, cases that have to be given a priority. Everything from the Speedy Trial Act to the Federal Election Campaign Act, the Freedom of Information Act, the Commodity Exchange Act, the Federal Environental Pesticide Control Act, the Stockyards Act, the Sugar Act, the Federal Seed Act, and so forth.

My concern is if we leave this with the courts, the only language in the Sensenbrenner-Volkmer amendment that relates to magistrates is simply directory, it is not mandatory. It says it is the sense of Congress that we use magistrates to expedite and obtain a resolution of the complaint.

That is not the same as what we are doing, which is to try to provide more expedited access to justice. As the gentleman from Kansas mentioned it is far less expensive than going into the district court. There is no question also but what the civil rights people who originally did not like the idea of de novo review or de novo determination now support this. They are going to, I think, support the Synar amendment, but in any event, I support it because I believe it further insulates, further assures the integrity and fairness of the procedure, and I hope we adopt the Synar amendment.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I agree with the gentleman from Illinois (Mr. RAILSBACK), on the point of magistrates. Even as referred to in the Sensenbrenner amendment I think it is most unfortunate. A magistrate, after all, is an adjunct only of the U.S. district court.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(At the request of Mr. KASTENMEIER and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes).

Mr. RAILSBACK. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. This House and the Congress in this Congress, the 96th Congress, has twice spoken on this question. First of all, the magistrates have no authority to act on their own. They derive their authority from the court itself.

Second, they may not act on cases unless both parties agree to the magistrate. As a constitutional basis for the act, the Magistrates Act that just passed this Congress, has that assurance given and written into the act. Therefore, I think it is unfortunate that the illusion is made to magistrates. The magistrate, after all, stands as not a separate tier in the judicial system, but solely as an adjunct to the court.

One of the understandings was that there would not be categories of cases assigned to magistrates specifically, but rather generally by the courts so that the class of justice, the demand, ultimately the right in parties to have the Federal court itself, the district judge, decide cases remains.

Therefore, I think this illusion in the Sensenbrenner amendment to the magistrates is unfortunate. It will not overrule statutory law in that connection. I support the Synar amendment.

Mr. RAILSBACK. I thank the gentleman from Wisconsin.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I am happy to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I am a little confused about the gentleman's argument. Maybe the gentleman could qualify what he said. He said, if I understood, in the first case the committee had done a good job because it had provided the courts could make a de novo review of these decisions of the administrative law judge if the parties were willing to pay for it and take the time to get it. Then the gentleman said it was very bad to do this, to require people to go into court, as the Sensenbrenner amendment is proposing, because there were 3½ pages that would be required to be heard first.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

(At the request of Mr. WYDLER and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. I am happy to yield to the gentleman from New York.

Mr. WYDLER. I do not understand exactly why those priorities would not be the same kind of a bar to the review the gentleman is suggesting everybody can get so easily.

Mr. RAILSBACK. May I try to respond by saying and making very clear this is not a trial de novo. It is not a full-fledged trial. What it is is a de novo review based on the record, and then a de novo independent, fresh judgment decided by that district court judge, but on the record that exists. If he needs additional evidence or he feels there is a compelling need, then he would have the right to call additional witnesses.

Mr. WYDLER. I am glad the gentleman clarifies that.

Mr. RAILSBACK. It is certainly less expensive.

Mr. WYDLER. So the parties are not going to get the case tried, they are going to have the record that was put together below. But I am still saying the parties will have to wait their turn in the court when they want to go there, they have to get on that line the gentleman is talking about, the 3½-page line to be reached in turn and so on. So the people do not have the kind of relief the gentleman really thinks he is giving them when he says they can just take a review in court. It is not that simple.

Mr. RAILSBACK. Actually there is a very limited period of appeal from the ALJ's decision. It is an expedited procedure. It is our feeling that the people who are going to be commissioned to do this work would be devoting full time to these cases.

Frankly, I feel very strongly, as did Carla Hills, who was our Republican former Secretary of Health, Education, and Welfare, that the existing enforcement mechanism is very bad. I agree with that. This is a genuine effort to try to improve that, but at the same time, assure some fairness.

Mr. WYDLER. If the gentleman would yield further. I would also like to clarify a little bit for the committee what is going on here. I have received all of these letters in my office, and I imagine they have gone to every other Member of the House, all of these letters from various organizations, the Urban League, civil rights organizations, what have you, saying, do not vote for any weakening amendments, vote against these weakening amendments that are going to be offered.

Mr. RAILSBACK. We think these are strengthening amendments.

Mr. WYDLER. They say do not vote for these weakening amendments.

Mr. RAILSBACK. We think these are strengthening.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. I just want to say that I have received letters, too. I received letters from mayors that had received a letter from the gentleman indicating there were going to be all kinds of problems with land use. Something like 4,000 mayors got letters saying that we were going to, I guess, change the law relative to land use cases. I think we have been lobbied, the gentleman knows I think that we have been lobbied very heavily on both sides.

Mr. WYDLER. The gentleman would admit that is true.

Mr. RAILSBACK. I think we both have been lobbied.

Mr. WYDLER. The gentleman then would admit that it is true what I told the mayors, is it not?

Mr. RAILSBACK. I think we are both trying to correct what both of us preceive as an abuse, or rather, an omission in the fair housing laws, trying to strengthen the enforcement mechanisms. I think it would be less expensive to go this way and be much more expeditious. I strongly favor the Synar amendment which provides further protection.

Mr. WYDLER. If the gentleman will yield further, I just want to discuss that letter that I sent to the mayors, because I think it is important. We received a lot of heat over that letter. Actually, all that letter did was to let the mayors know what was going on. They took it from there. And I said to the mayors then that is what is going to happen when the people of the country find out what is going on, but what I said to the mayors was this opened them up, and opened up their zoning laws to review by HUD. A lot of people denied that.

Mr. RAILSBACK. I do not attribute any bad motives.

Mr. WYDLER. That is what the part of the Synar amendment we are discussing says clearly, that that cannot be done.

Mr. RAILSBACK. I certainly do not attribute any bad motives to the gentleman at all.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the last word, and rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the Synar amendment before the Committee at this present time. It is not a compromise. It is a mere cosmetic attempt to get at the very substantial problems that are created by the administrative law judge enforcement mechanisms.

□ 1620

The only good thing that the Synar amendment does is that it takes the appointment of the administrative law judges out of the Office of the Secretary of the Department of Housing and Urban Development and puts them on the payroll of the Department of Justice. But all of the other deficiencies in the administrative law judge approach that have been debated in this case for 6 hours now are still in the Synar amendment. For example, the administrative law judge, whether he is paid by HUD or paid by the Department of Justice, cannot award damages to either victims of discrimination or innocent third parties. The only other way that problem is resolved is by getting rid of the administrative law judge enforcement mechanism through the adoption of the Sensenbrenner-Volkmer amendment.

Second, there is no trial de novo in a Federal district court of the administrative law judge's findings, and I would refer the members of the committee to pages 22 and 23 of the committee report on this bill which says, and I quote, referring to the review procedure:

> However, this supplementation procedure is intended to be utilized sparingly—only in those cases where the evidence was improperly excluded below, or some other factor supports a conclusion, as provided in the bill, that there is "a compelling need for further evidence to support a factual determination." It is not intended that the judicial review be transformed into a trial *de novo*. To the maximum extent possible, the record established in the administrative proceeding should be relied upon. This will diminish duplication of effort, and take advantage of the special expertise of HUD administrative law judges with respect to housing and title VIII violations.

The only thing that is changed by the Synar amendment is that it strikes out HUD and Department of Justice administrative law judges. There further is no prohibition in the Synar amendment against administrative law judges handling zoning cases, and there further is no prohibition in the Synar amendment in the Department of Housing and Urban Development prosecuting zoning cases in the administrative law judge court. The Synar amendment says that the Secretary shall refer any such matter in which land-use controls are claimed to be a violation of this title to a certified State and local agency, but every one of those certified State and local agencies has to sign an agreement with HUD that allows HUD to take back any case that they want to prosecute and appeal those regulations which appeared in the Federal Register of May 14, 1980, in the CONGRESSIONAL RECORD of May 21 at page H3910. So the Synar amendment does not get rid of this yo-yo effect. It might require referral of a zoning case to the State agency, but it will allow the Department of HUD to take it back as soon as the State agency has received the copy of the complaint.

Finally, the Synar amendment prohibits a victim of discrimination from instituting a court action for compensatory or punitive damages once an administrative law judge hearing has begun. It is the same kind of election of remedies that has been criticized rather repeatedly in the committee bill as being deficient. This last-minute attempt at an amendment in the nature of a substitute is really no compromise.

The gentleman from California (Mr. STARK) says that the adoption of the Synar substitute takes away the stacked deck. I would strongly disagree. It might take one king out of the stacked deck, but there are still three kings remaining, and when you are playing poker, usually when you have got a hand of three kings you win.

I would urge rejection of the Synar amendment and adoption of the Sensenbrener-Volkmer amendments so that everybody will have justice done in a judicial proceeding.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. VOLKMER, and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 4 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

The gentleman referred to the substitute amendment offered by the gentleman from Oklahoma (Mr. SYNAR) which, of course, if adopted would do away with the gentleman from Wisconsin's and my amendments completely, delete them, get rid of them. Talk about getting an amendment, this is what you call gutting an amendment.

As far as the land use, as I understand it—perhaps the gentleman from Oklahoma (Mr. SYNAR) if he wishes to, may wish to join in this in a minute—I find that the referral is on page 8 of the gentleman from Oklahoma's amendment; is that correct?

Mr. SENSENBRENNER. That is correct.

Mr. VOLKMER. It just says:

> The Secretary shall so refer any such matter in which land use controls are claimed to be in violation of this title.

That is the only reference to land use zoning cases; is that correct,

Mr. SENSENBRENNER. That is correct. If I may reclaim my time, the HUD regulations which I referred to earlier read as follows, and this is required of every State agency in order to be certified to receive these cases from HUD.

> (b) That the agency has entered or is prepared to enter into a formal written agreement with the Department negotiated with the appropriate Regional Office of Fair Housing which provides for the dual filing of all complaints of housing discrimination cognizable under both Title VIII and State or local law.
>
> (c) That the agency will establish a means of selectivity waiving its exclusive processing authority over those complaints of discrimination with respect to which the Department has identified an interest or concern based on Department initiated systemic enforcement activity.

That means that the Department of HUD can take back from the certified State agency any case relating to zoning, notwithstanding what is contained in the Synar amendment.

Mr. VOLKMER. Correct me if I am wrong. Any statement made by any proponent of this amendment that this puts all land use cases and all-zoning cases back in the Federal court is not quite accurate; is that not correct?

Mr. SENSENBRENNER. There is no prohibition that I see in the Synar amendment that prohibits administrative law judges from handling questions of zoning.

Mr. VOLKMER. It does say that these will be referred and could be referred back but in the 22 certified States it could be handled administratively; is that correct?

Mr. SENSENBRENNER. That is correct.

Mr. VOLKMER. And in the remaining States the only reference would be to refer the matter to the Attorney General for appropriate civil action; is that correct?

Mr. SENSENBRENNER. That is correct.

Mr. VOLKMER. But there is no prohibition in here at all, as the gentleman has mentioned, about the administrative process in regard to zoning; is that correct?

Mr. SENSENBRENNER. That is correct.

Mr. VOLKMER. There have been conflicting statements, as I understand, by the proponents of this legislation, one from the gentleman from Illinois, whom I do not see at the present time, in answer to the gentleman from Oklahoma who is not the sponsor of the amendment but another Member from Oklahoma, inquiring as to damages under the administrative law judge system. It is my understanding the gentleman from Illinois (Mr. RAILSBACK) said—and it is my opinion also—that compensatory damages are not permitted. As I understand, the gentleman from Oklahoma, the Synar amendment sponsor, also takes that position, which I believe is the accurate position.

Mr. SENSENBRENNER. There is no difference between the inability of the HUD administrative law judge to award compensatory damages and the inability of the Department of Justice administrative law judge to award compensatory damages. Both of them cannot do it.

Mr. VOLKMER. This all goes back to article VII of the Constitution, and the problems in regard to that—jury trials, and those things; is that correct?

Mr. SENSENBRENNER. The gentleman from Missouri is accurate, I can state.

Mr. VOLKMER. I think it is very clear. I have a memorandum from the Assistant Attorney General.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HUGHES, and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank my colleague from Wisconsin for yielding, a very distinguished member of our committee. I want to say to my colleague that I was at one point very sympathetic to his amendment in committee because I, too, am troubled by the entire perception of agencies, housing, and administrative law judges, and I am hopeful that in time we can develop an independent court and take administrative law judges out of all of the agencies, not just HUD, and give them the kind of independence that will reassure the public that they are, indeed, independent in decisionmaking.

But the gentleman also in his argument has made some other points that give me some concern, because in committee I was the member that offered the amendment that would require HUD to give to certified agencies the authority to follow up where they have an appropriate procedure or mechanism for complaints, because it should be done in the State agency. As I understand the gentleman's argument, the Synar amendment does not address that, and he is right. The Synar amendment does not address that because it is not a part of the section that Synar deals with. It is another section. I do share some of the gentleman's concerns, but I feel that in committee we addressed most of those concerns.

One of the things the gentleman indicates his concern with is that the agency will be able to retrieve. HUD can retrieve perhaps from a certified State agency a complaint of discrimination. That was not the intent of the amendment, and I believe that the committee is going to make it very clear that that was not the intent. that we want the State agency to actually follow up on complaints where they are certified.

□ 1630

Mr. SENSENBRENNER. If I may reclaim my time, I agree with the gentleman from New Jersey's thesis that these complaints should be processed at the State or local levels to the fullest extent possible. However, the bureaucrats in HUD have not gotten the message because the Committee on the Judiciary reported out this bill following the debate and adoption of the amendment the gentleman from New Jersey offered in committee sometime in February or March of this year.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 3 additional minutes.)

Mr. SENSENBRENNER. Yet on May 14 HUD published its regulations relative to the certification of State agencies in the Federal Register and those regulations which are the strings that are attached on the certification of State agencies, do precisely what I said a little earlier this afternoon in quoting from the regulations themselves and that is to allow HUD to selectively take back any case that is referred to a certified State agency in the discretion of the Secretary of the Department of Housing and Urban Development.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. SENSENBRENNER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I share the gentleman's concern but I do not think the Synar amendment is directed to that issue, in all honesty. I think the gentleman is arguing the Synar amendment and the Synar amendment does not even pretend to deal with that section.

Mr. Chairman, I would tell the gentleman I would be happy to work with the gentleman in making certain that this legislation makes it clear that my amendment in committee was offered and was accepted by the chairman of the subcommittee with the understanding that HUD would not have the authority to withdraw indiscriminately matters that were referred to a State agency, was certified and when the gentleman desires to offer such an amendment I will be happy to work with him but I think it just clouds the issue to bring it into the Synar amendment because I do not think this is the area where we can deal with it.

Mr. SENSENBRENNER. Reclaiming my time, the proponents of the Synar amendment argued in its behalf that the provision on page 8 of the amendment would send all of the zoning cases to certified State agencies, so the issue of zoning cases and what HUD was doing, was raised not by me but by proponents of the Synar amendment. I am simply saying that reference is cosmetic due to the regulations which HUD itself has published. I would think if we wanted to have State agencies handle zoning matters, it would have been expressly stated in the amendment. It is not.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I want to go back to where we were about an hour ago and try to talk, because this amendment has just been thrown out here on the floor, the Synar amendment, you know, and we have not really had it before us. I want to try to find out exactly how this system is going to work. If the gentleman will indulge me I would like the gentleman to give us ideas on how he thinks this is going to work.

Under the amendment that has been offered, it says Secretary—I presume that means the Secretary of HUD—shall delegate such function with respect to these hearings to administrative law judges appointed by the Attorney General.

Does the gentleman conceive these are going to be new administrative law judges, set up by the Attorney General or are these going to be the current administrative law judges in the Attorney General's office or what?

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYDLER and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 3 additional minutes.)

Mr. WYDLER. If the gentleman will continue to yield, are these going to be new administrative law judges? Are these going to be the old ones who will have other cases, or will they just be working on these cases? What does the gentleman think this language means?

Mr. SENSENBRENNER. It just does not say in the amendment but the amendment does say that the Secretary of HUD shall delegate functions to the administrative law judges. That hardly sounds like a declaration of independence.

Mr. WYDLER. Will the gentleman yield further?

Mr. SENSENBRENNER. I do yield.

Mr. WYDLER. Mr. Chairman, under the system being established here, we are going to have to have two classes of administrative law judges, if I understand it right, in the Attorney General's department. You are going to have category A and category B. One will be the ones they have now who are hired under those rules and regulations. Then you will have a second category who will have to meet all those regulations plus the specific regulations designed in this legislation to further restrict their appointment and the way they serve, is that not correct?

Mr. SENSENBRENNER. That is correct.

Mr. WYDLER. So the administrative law judge department, when they assign a man to that case they are going to have to determine whether this is a case from HUD and if it is a case from HUD is it a case that comes within the sense of this particular legislation? Then we have to send somebody down from category A. If not, then we send down someone from category B. That is the way it would work, is it not? I am trying to figure out how this thing is going to work.

Mr. SENSENBRENNER. Mr. Chairman, those are the kinds of organization charts that make for lots of $50,000-a-year bureaucrats to figure out downtown.

Mr. WYDLER. Then I ask a question that was kind of sloughed off but I think it is a very significant question: Where are they going to conduct the hearings? We are trying to separate them out of HUD but if they are going to hold the hearings down in the HUD hearings rooms with the prosecutor down the hall and then another fellow sitting up here holding hearings and they can go out and have coffee together in the middle of the hearings, I do not think the person coming in makes the distinction that they are not working for the same boss, which is what this is supposed to obviate. Is that not a fact?

Mr. SENSENBRENNER. It is a fact and if I may make another point, it is my understanding that only 7 administrative law judges are to be appointed to hear 6,000 cases around the country and these judges have to ride circuit so that the hearings would be held in the communities where the complaints were filed.

Mr. WYDLER. If the gentleman will yield further, those seven judges have disappeared. With the adoption of this amendment they would have nothing to do so I hope we are not going to appoint those seven administrative law judges in HUD because they would be people without a job. So they have disappeared but we are going to end up with some unknown number of administrative law judges that have to be new, I guess, because they have to meet all these new special requirements that have been imposed on these particular people in the Department of Justice.

Mr. Chairman, can the gentleman explain to me about the staff for these administrative law judges. Where is that going to come from? I see no mention of it in the amendment.

Mr. SENSENBRENNER. There is no authorization for the Department of Justice to provide any support staff for the administrative law judges. I imagine that would have made the amendment out of order if it was contained in it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. WYDLER and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 1 additional minute.)

Mr. WYDLER. If the gentleman will yield further, if that is a fact, would the staff not be the staff that would come from HUD? That is where the staff is provided for, as I understand it.

Mr. SENSENBRENNER. I would assume so.

Mr. WYDLER. Mr. Chairman, that is going to another administrative mess, is it not? We are going to have new administrative law judges appointed by the Attorney General who make a new category of administrative law judges in the Department of Justice, who are staffed with people from HUD and that is supposed to give the public a fair shot.

Mr. Chairman, I really think everyone in the committee and the House should take the advice of all those groups who wrote and said, "Do not accept these weakening amendments," and vote down the Synar amendment.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Texas.

Mr. WHITE. I thank the gentleman for yielding.

While the Synar amendment is certainly a step in the right direction I think it ignores or overlooks the very basic problems that this bill has and I would like to point these out and see if the gentleman agrees.

In the particular bill on page 19, subsection 2(a), it states:

> In connection with any investigation of such charge, the Secretary shall at reasonable times have access to and right to copy any information that is reasonable and necessary.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. White and by unanimous consent, Mr. Sensenbrenner was allowed to proceed for 5 additional minutes.)

Mr. WHITE. As I read the bill, by saying "any information" without any restrictions in the wording, this rides roughshod over the Privacy Act.

Going back to the original law that is being deleted from the law if this bill does pass intact, it states that he may have reasonable time to take these steps and so on but then it says, "provided however the Secretary first complies with the provisions of the fourth amendment relating to unreasonable searches and seizures."

This was absolutely left out of the new version of the committee bill that was reported out. Is this not an erosion of the fundamental law of this Nation and an erosion of the Privacy Act that this Congress has passed?

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. EDWARDS of California. Our colleague from Texas makes a point that is really without merit because it is just a restatement of the present law. We did not change the law at all.

Mr. WHITE. You did indeed. You left out the provision that we cannot ignore, we have to comply with the provisions of the fourth amendment relating to unreasonable searches and seizures and you put in the law "any information." "Any information" does not appear in the law that you are trying to amend.

Mr. EDWARDS of California. I assure the gentleman there is no way that we by statute or by anything we do on the floor of this House do abrogate the fourth amendment to the Constitution.

Mr. WHITE. You cannot abrogate the Privacy Act though, and I think this does as a matter of fact.

Going back to the federal system, as to rights of States to some autonomy, under the present law, the States would have the right to have their courts having similar jurisdiction to adjudicate in a State and they must have first priority to consideration as I understand the law.

☐ 1640

Mr. SENSENBRENNER. Yes, that is correct.

Mr. WHITE. Under this bill as proposed to this Congress, it first says the Secretary shall certify which State agencies can consider these particular measures, and the State agencies must get permission from the Secretary before he would certify any particular State agency, which is a nationalization of what is otherwise State and local autonomy.

Mr. SENSENBRENNER. The gentleman from Texas is correct. Pursuant to the regulations that I quoted in my colloquy with the gentleman from New Jersey (Mr. Hughes), the Secretary is allowed, even after a referral to a State agency, to take the case back and to prosecute it on the Federal level, so the State agencies which are certified by the Department of HUD act at the sufferance of the Secretary of HUD.

Mr. WHITE. So, he has the control on whether a State will be indeed permitted to consider.

Now, let us go to one other point. On page 20, subsection (e), it states there, relating to willfull refusal to attend or testify. This is somewhat tracking the present law except in the present law it states that at one point the Attorney General shall conduct all litigation. The Secretary participates as a party or as amicus pursuant to this act.

Then, the penalties relating to fine and imprisonment, which obviously and clearly relate to a district court, under the powers that are sought by this particular bill, it states a fine of no more than $1,000, and by my reading places that power of finding within the Secretary of HUD. So, he for the first time would have power to fine.

In other words, you are moving and changing a whole part of law, creating a new part of law, giving power to the Secretary to fine when he issues a subpoena.

Mr. SENSENBRENNER. Just to clear up the record, it is not me proposing. It is the committee.

Mr. WHITE. I am talking about the committee, of course. Does the gentleman agree with me?

Mr. SENSENBRENNER. I agree with the gentleman on that.

Mr. WHITE. Therefore, I believe the gentleman's amendment to delete this section is probably more proper, rather than to instigate a whole body of new law that will do violence to existing fundamental law that is in our judicial system today.

Mr. SENSENBRENNER. Yes, I agree with the gentleman from Texas.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, while H.R. 5200 purportedly is to strengthen the enforcement of the Fair Housing Act of 1968, it devises a new administrative mechanism within HUD that can only complicate, confuse, and frustrate enforcement.

By dispensing justice through administrative fiat, the accused are denied due process and the aggrieved will lack full redress and restitution. The bill as written carries with it the prospect of mischievousness and bureaucratic zealotry.

It is prudent we stick to constitutionally prescribed avenues of redress through the Federal court system rather than striking out on some unprecedented course.

The guarantee of civil rights in the country whether for voting, employment, housing or whatever, is too important to be lodged in the bureaucracy. Nor should the enforcement of civil rights abrogate other rights protected by law.

Mr. Chairman, the Sensenbrenner amendment makes eminently good sense. Adjudication belongs in the courts, not the executive branch and certainly not in an administrative agency. I support the Sensenbrenner proposal which would insure a fair and unbiased hearing of the issues and allow for compensatory and punitive damages to be awarded to the actual victim of discrimination.

Mr. SENSENBRENNER. I thank the gentleman from Ohio.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if I could have the attention of my colleague from California, the distinguished chairman of the subcommittee. During the debate on the Sensenbrenner amendment, reference has been made periodically to the possibility that under regulations now being promulgated by HUD, that a complaint referred to a State agency might indiscriminately be pulled back by HUD for HUD to dispose of it.

My colleague may remember that in the committee I was extremely concerned about this whole section of the law. In fact, we struck major portions of this section to make it abundantly clear that where the State had the capability of processing and handling expeditiously complaints of housing discrimination, that the State actually go forward with it and HUD not take the case.

I wonder if my colleague can respond to the suggestion that possibly, under the regulations as promulgated by HUD, HUD could indiscriminately destroy what, in effect, was the intent of the amendment offered in committee.

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, in the markup of this bill in the full Judiciary Committee, the gentleman from New Jersey made immense contributions, and one of them was the amendment that he refers to.

I think we ought to make it very clear in this record, this legislative record, that it is not intended that consent be coerced, by linking it to funding or any other inducement. The consent requirement is intended to benefit the certified agencies, by providing the authority to return a charge to HUD when the agency—for whatever reason—is unable to handle the case. Typically, this has arisen when the agency's backlog is such that it is unlikely that the charge can be handled in a timely fashion. It may also arise when the investigation and prosecution may require more resources than is available at the State or local level. There may also be situations where the case is part of a pattern or practice of discrimination that cuts across State lines. In such situations, it may make sense for the Federal agency to retain jurisdiction over those cases. However, I believe this can be worked out on a case-by-case basis. It is not intended that HUD, alone, make this decision.

I understand that HUD has recently issued interim regulations pursuant to the existing law, not, of course, H.R. 5200. One aspect of those regulations appears to condition eligibility of certain funds to "selectively waiving exclusive processing authority" over cases with which HUD has "initiated systemic enforcement activity." The Department has assured me that "waivers will rarely be sought," and then, only when the State or local agency agrees that the case "raises issues which reach beyond the geographical jurisdiction of a given State or local agency or represent instances of national precedential significance."

While I agree that the present law permits this regulation, in light of the Committee s discussion, I do not believe that it is consistent with H.R. 5200. Rather, I believe these arrangements should be worked out on a case-by-case basis, without linkage to funding.

Mr. HUGHES. What the gentleman is saying, in effect, is that the intent of the legislation, the intent of the committee as finally found in the legislation, is that a certified State agency, where it has the capability of going forward with an investigation following a complaint of discriminatory practices, shall have the prime responsibility for going forward and HUD will not defeat that intent either by use of a consent arrangement that extracts from the State or by regulations that would enable them to retrieve a complaint under circumstances other than the gentleman described, where it is beyond, basically, the capability of the State to handle it or where it cuts across State lines and it makes sense under those circumstances to handle it at the Federal level.

Mr. EDWARDS of California. The gentleman is exactly correct.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I would address a further question to the gentleman from California, because the regulations to which he refers, the Department of Housing and Urban Development regulations issued on Wednesday, May 14, 1980, section 111.107, called, "A Criteria for Contributions Proposals," the thrust of these regulations as I read them is that a condition of sharing in the largesse of the Federal Government——

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(At the request of Mr. SENSENBRENNER and by unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. A condition of participation in the Federal largesse was an agreement to establish a means of selectively waiving its exclusive processing authority over those complaints. I understood the gentleman's response to the gentleman from New Jersey is that this may or may not be permitted under existing law, but clearly as a result of what we have done in H.R. 5200, this sort of condition would be contrary to the law.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield.

Mr. EDWARDS of California. The gentleman is correct. The regulations would have to be changed if they apply to H.R. 5200. May I point out that this legislation contains a legislative veto, so the regulations will have to come to us and we can veto them.

☐ 1650

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, I say that this has been one of the most exciting days as we have had so many born-again advocates of the legislative veto.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my colleague, the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, with all due respect, I must emphatically disagree with my colleague, the gentleman from California (Mr. EDWARDS).

I would refer the committee to section 810(a)(3) of the committee bill, which appears on page 21, and I quote:

> Except with the consent of such certified agency, the Secretary shall, after that referral is made, take no further action with respect to such charge. . . .

Now, what is being proposed in the regulations that HUD handed down in the Federal Register of May 14, 1980 is that every agency, in order to be certified, must consent for a carte blanche rereferral of cases back to the Secretary of the Department of Housing and Urban Development. There is no exemption in the committee bill that would make these regulations not in conformance with law. The regulations that have been promulgated by the Department of Housing and Urban Development are in anticipation of H.R. 5200 becoming law.

So I do not think anybody should be fooled. If HUD goes ahead with the regulations as published in the Federal Register last month, then we cannot have the yo-yo effect of a case being referred from HUD to a State agency and being called back.

Mr. HUGHES. Mr. Chairman, let me just say in response that I think that the amendment offered in committee makes it very clear that it was the intent of the committee that where a certified agency has the capability of moving forward, that that be the case, and I think that the record makes it very clear that that is exactly the intent. If HUD's regulations are not in compliance with that particular feature of the law, then they are not in compliance with the law.

I think the record makes it very clear that that was the intent of the regulation. We want the States to go forward if they have the capacity. If they do not have the capacity, that is something else again.

Mr. Chairman, let me also make an inquiry of my subcommittee chairman on another point.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. Mr. Chairman, I would say to the subcommittee chairman that I have also heard it argued—and it has been argued directly to me and, I presume, to many Members—that HUD could defeat the intent of the committee by indicating that a State does not have a comparable procedure. It was the intent of the committee in markup that if a State has the capability of expeditiously processing housing discrimination complaints and the track record in the State is fairly good with regard to its procedures, then HUD would have to certify that State.

I will ask the gentleman, is that not correct?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, that is correct. The State regulations, of course, do not have to be exactly equivalent, but they certainly have to be substantially equivalent. HUD has already. under the old law, certified, I believe, 22 to 24 States without any great difficulty, and we do not anticipate any great difficulty under H.R. 5200.

Mr. HUGHES. For example, if a State does not have an administrative law judge proceeding, does that necessarily deny the State the opportunity to set up its mechanisms to process housing discriminatory complaints?

Mr. EDWARDS of California. Mr. Chairman, we would encourage all of the 50 States to set up such proceedings.

Mr. HUGHES. Or similar procedures by which they could process complaints.

For instance, is there anything wrong with the attorney general in a State setting up procedures through a magistrate system or some other system that in fact could give the parties their day in court?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, if the proceedings and the apparatus set up within the individual State is substantially equivalent and provides substantially equivalent service, then HUD would have no choice but to certify it.

Mr. HUGHES. So, Mr. Chairman, what the gentleman is saying is that it does not have to be an exact replica of the federal system as long as the States indicate that they have the capability of processing expeditiously discrimination complaints, and under those circumstances we want to encourage HUD to certify such a State agency?

Mr. EDWARDS of California. That is correct.

Mr. HUGHES. Mr. Chairman, I would like to say in the closing minute or so that I have that a lot has been said about the Synar amendment, and it has been suggested that it does not provide a proper mechanism, it does not set up an independent corps of administrative law judges, and it does not provide a total de novo appeal.

I want to say to my colleagues that that is just so much windowdressing. I believe that the Synar amendment actually addresses the major concerns that have been expressed to the committee, and I intend to support the Synar amendment. It is a step in the right direction.

It is my hope that in the months ahead we can develop legislation that will take administrative law judges out of all the agencies and develop an independent corps that will reassure the public that they will get their day in court.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to sound one slight discordant note in the orchestration of the regulatory overkill in the legislative veto that the gentleman from California (Mr. EDWARDS) referred to as our fallback position.

I have a letter of June 5 from Mr. Civiletti to Secretary Hufstedler.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(On request of Mr. HYDE, and by unanimous consent, Mr. HUGHES was allowed to proceed for 30 additional seconds.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

Attorney General Civiletti informs Secretary Hufstedler that the legislative veto is really unconstitutional and she can ignore it. I suspect by analogy that would be the same advice to Secretary Landrieu.

Mr. HUGHES. Mr. Chairman, we will work with the gentleman and make sure that that does not happen.

Mr. WRIGHT. Mr. Chairman, I take this time to pursue in one additional dimension the subject under discussion by the previous speaker, the gentleman from New Jersey, with specific reference to one provision which appears in the committee bill, in the Sensenbrenner amendment, and in the Synar amendment to the Sensenbrenner amendment.

Provision is made for the referral of complaints to State or local public agencies where those State or local agencies demonstrate that within 90 days they have commenced proceedings and are carrying those proceedings forward with reasonable promptness. I believe the same language occurs in each of the three documents before us, the committee bill, the Sensenbrenner amendment, and the Synar amendment.

Each of those documents defines a State or local agency eligible to be certified as one in which it can be determined that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to that agency, and the availability for judicial review are substantially equivalent to those created by this bill.

Now, for one reason or another, the human rights commission, a local agency in my city, declares that this language would render them ineligible as an agency with the capability of taking action or recommending a resolution of problems arising under this title.

The human rights commission in my community has performed some noteworthy and successful mediation and arbitration services where questions were in dispute.

Is there some reason known to any of the prime sponsors of these documents why the human rights commission in my city operating, as, of course, it must under the prevailing Texas law, would be ineligible as a local agency to which such cases might be referred in the first instance?

Mr. EDWARDS of California. Mr. Chairman, will the distinguished majority leader yield?

Mr. WRIGHT. Of course, I yield.

Mr. EDWARDS of California. Mr. Chairman, we would certainly hope that the human rights commission of Fort Worth would make every effort to become a certified agency, which it is not at the moment.

There are a number of agencies similar to the agency in the city that the gentleman represents that have qualified, and I am sure that after this becomes law, with the good record of the gentleman's local agency, they can get in touch with HUD and qualify as a certified agency.

Mr. WRIGHT. Is the gentleman aware of any peculiarity in the Texas law which would render a local agency ineligible for referral?

Mr. EDWARDS of California. There is not the equivalent Texas State law, but that is no reason why local communities such as Fort Worth, to my knowledge—I am not an expert on Texas law, of course—could not qualify by enacting a local ordinance.

Mr. McCLORY. Mr. Chairman, will the gentleman yield to me?

Mr. WRIGHT. Yes, of course, I yield to my friend.

Mr. McCLORY. Mr. Chairman, it is my understanding of the law—and I am looking at page 22 now—that if there is an objection on the part of HUD that any local or State agency does not qualify, then they have to give specific reasons why, and following that the matter can be brought to the U.S. District Court to decide the issue judicially.

Presumably, if the local agency met the general standards or followed the general intent, then HUD would be required to accept them as the agency to enforce the provisions.

□ 1700

Mr. WRIGHT. For one reason or another, the people in Fort Worth who manage the Human Relations Commission there believe that they could qualify if the language were to be changed so as to provide that the appropriate State or local political subdivision has a State or local law prohibiting the unlawful housing practices alleged and establishing or authorizing the State or local authority to grant or seek relief from such practices or to institute criminal proceedings with respect thereto.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. It is difficult for me to discern the nuance of difference which lies between the language which those who speak for the Human Relations Commission in my city declare would render them eligible and that which they believe renders them ineligible.

I wonder if the author of the Sensenbrenner amendment could shed any light on that.

Mr. SENSENBRENNER. Mr. Chairman, will the distinguished majority leader yield?

Mr. WRIGHT. Of course, I yield.

Mr. SENSENBRENNER. The language is not identical relative to HUD's relationship with certified State agencies in my amendment contrasted to either the committee bill or the Synar amendment. The Sensenbrenner-Volkmer amendment requires a mandatory referral of any complaint to a certified State agency within 30 days after it is received by HUD. Thereafter, HUD is prohibited from grabbing the case back for 90 days, and there is no specific coercion that is contained in the Sensenbrenner-Volkmer amendment that requires agencies as a precondition of certification to agree to send those cases back that HUD wants to take back.

It is true that the State or local law must be substantially equivalent in all three versions of the bill. If the Texas law or the Fort Worth city ordinance is not substantially equivalent, I would not hold out hope to the gentleman from Texas for speedy certification. HUD just certified the South Dakota and Delaware agencies as being adequate. In one case it took 5 years and in the other case it took 7 years, and I am afraid that the people on the gentleman's Human Relations Commission would not be quite so patient.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Previously there have been colloquies and discussions on what would qualify as certified in the event that the bill passes as it is now before us without amendment or if it passes with the Synar amendment, which would be with the ALJ's. There has been discussion as to what enforcement powers these local agencies or the States are going to have to have.

Of course, most of us, basically, right now have only our State court systems that enforce the law.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has again expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. If the gentleman will yield further, I think we ought to bear in mind one thing, that even though there have been assurances on this floor that in all probability that those same court systems could operate as comparable to ALJ's, that is not what is in that bill. There is not anything that says that in that bill. And if I know the administrative agencies, there is a very good chance that before Fort Worth, the State of Texas, the State of Missouri, or anybody else, those that are presently certified, will either be certified or remain certified unless they have administrative tribunals in order to hear these complaints, as well as a court system as set out in the bill, because to be comparable you would have to do so, I warn everybody that they may be setting something up in their own States in order to qualify; and if you do not, and then these presently approximately 22 jurisdictions are no longer certified, then we are going to need a lot more than seven ALJ's to take care of all of these complaints on a national basis, and it will be only a national matter and not a local matter any longer. You would have no local input into it.

Mr. WRIGHT. I thank the gentleman for his explanation.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that we want to get on to a vote on the Synar amendment amending the Sensenbrenner amendment, and I hesitate to take time; but I do want to emphasize that I was one of those who worked hard to develop a compromise measure which is, in essence, the committee bill. In doing so, I want to emphasize, too, that I had strong opposition to the original bill as drafted and felt that it was necessary to amend that measure in order to provide these guarantees of equal access to justice, of equal protection of the laws, of the right to appeal and have a de novo determination before a district judge and to have a full and fair review, with the right in the court to secure additional evidence, and many of the other safeguards that I think are inherent in the very rights that we enjoy as Americans.

However, I likewise feel strongly that we are dealing with a very fundamental subject here, that of housing. We talk about housing and housing patterns, and in some way or another, in the course of this debate, the subject of busing gets involved. And yet we know that one reason for busing people is because the housing patterns are such that people's access to education is not always available because of housing patterns that we have developed. Likewise, we know that in the course of the discussion here we have lauded the late Senator Everett Dirksen for his leadership in providing in the Civil Rights Act of 1968 this right of fair housing, or open housing. It was an important issue which we dealt with and which we struggled with before.

So, in a sense, what we are trying to do here is simply to provide a mechanism or a basis for more housing opportunities for more people in areas where they want to and are economically able to live. It seems to me that that is basically what we are doing in the committee bill. We are assuring at the same time that we are not going to have an agency or a bureaucracy that is going to subvert the rights and interests of individual Americans, either their individual rights or their property rights.

I feel very strongly about the measure that we have developed, and I want to laud the gentleman from Oklahoma (Mr. SYNAR) for bringing about some refinements which I think provide added protections and added assurance that this mechanism that we are developing is one that will guarantee that the rights and the interests of individual Americans are protected. I am hopeful that we can see this change in this year and in this Congress.

I know it is a difficult vote, perhaps, for some, and I know that there have been strong pressures brought to bear on a great many of us; but I think that if we consider this subject fairly, we consider this subject on the basis of trying to eliminate discrimination among Americans with regard to this broad subject of housing and neighborhoods and where people live and where they can live and where they should have the opportunity to live, I cannot help but feel that this legislation is very constructive in that direction and should be most helpful in promoting a harmonious community and nation.

I want to urge the Members on this side of the aisle particularly to give earnest consideration to what I have said and what I think this legislation seeks to accomplish as far as dealing fairly with American citizens, without discrimination on the basis of color, race, national origin, religion, sex, or handicap.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would like to associate myself with the gentleman's remarks.

The issue here is trying to eliminate housing discrimination so we do not have to deal with issues like school busing and the like. And what we are trying to do is come up with a fair and reasonable approach to do it that does not unduly prejudice the people in the industry, realtors and the housing industry, and at the same time provide an expeditious way so that a person who has been discriminated against does not have to wait months and months and months before a decision is made. I think that particularly with the Synar amendment, we have a good balance. I would agree with my colleague, the gentleman from Illinois, and I hope that my colleagues support the Synar amendment.

Mr. McCLORY. I agree with the gentleman and thank him for his contribution.

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Synar amendment.

I do not want to take a lot of time, because there has been a lot of time taken. But I think that we have got two bits of window dressing in this thing when we are dealing with administrative law judges.

☐ 1710

One, a trial de novo, which incidentally the committee report says on page 10 does not contemplate a de novo review; but aside from that, there is no way a Federal district judge is going to reweigh facts on a printed record. His entire training and his entire background and the thrust of all appellate review is that you do not test the credibility of witnesses that you have not seen and you do not pass on the weight of the testimony of various witnesses whose demeanor you have not been able to observe. That is what they are going to do, typically what they do when they review agencies, notwithstanding what has been said. If they are going to do it on the printed record, they are going to accept findings of facts where there is some evidence that supports that finding. There is no way they can do it any different, no matter what we say in the bill, because they are too good lawyers on the average to think they can put themselves in the position of deciding whether Joe Doakes or Mary Jane Smith are telling the truth and they are disagreeing.

This question is going to be inherently a question of fact and therefore, no matter what you do in the bill, is going to be reviewed as any other agency proceeding will be reviewed.

Now, second, this idea of insulating an administrative law judge is also window dressing. The average administrative law judge operates in a narrow specialized field, but namely a whole broad statular act. Here you have administrative law judges who are trying one question of fact continuously and nothing else and these are going to be fact questions, namely, was there discrimination in housing. They are going to get so inundated and so saturated with the position of HUD on everything that constitutes discrimination, day in and day out, it is not going to accomplish a thing to ship them over to the Justice Department.

They are one-question judges. That is why I find merit in going to the Federal district court and/or even magistrates, because they are not being saturated with single questions and single points of view. That is why the American Bar Association has taken such a consistent and strong position against specialized courts, because of that very reason, developing these biases, being hammered every day with specific points of view and you lose the ability to see the forest for the trees.

That is tremendously magnified in this case, because these are not just single-purpose courts, like a patent court or something else which they oppose on that ground, but here is virtually a single-issue court which is getting buried in 6,000 cases a year on one point.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. Surely, I yield.

Mr. HALL of Texas. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Michigan, because as he gave his testimony, I can remember back over a period of 28 years practicing law in Texas exactly what the gentleman is saying has happened, that the Federal judiciary, as the gentleman indicated, by and large are astute attorneys. They are schooled in other than one facet of any particular question.

I think that everything that the gentleman said is eminently correct. I must give one illustration that occurred to me personally a few years ago in which we were trying, I was representing a school district in east Texas, trying it before an administrative law judge. That was after the promulgation of the Charlotte-Mecklenburg case dealing with school segregation, which every lawyer in America was familiar with. We had tried our case for half a day in Dallas when the administrative law judge off the record asked both me and the attorney for the Government whether or not Charlotte-Mechlenburg was an attorney for the plaintiff or the respondents.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. Surely, I yield.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding. I have saved in my file on this matter a letter I received May 20 from two distinguished Members of this House who were supporters of a Member from California who was recently the subject of disciplinary proceedings. In this letter advocating his interests, they asked:

> Are you willing to defend yourself before a committee that initiates its own complaint against you, conduct their own investigation on the complaint, and then makes their disciplinary recommendations?

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. HYDE, and by unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman yield further?

Mr. SAWYER. Yes, I yield.

Mr. HYDE. Well, I suggest if it is a star chamber proceeding for us, what is it for some poor landlord or realtor?

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. Yes, I yield.

Mr. BETHUNE. Mr. Chairman, I would like to underscore what the gentleman said. I think it is the best point that has been made all day. We are creating a new breed of cat here in these new administrative law judges that we are attempting to insulate. They will be one-issue judges.

Having practiced at the bar for some 15 years and tried many cases, I think the worst thing that can happen to a lawyer or an advocate on either side is to encounter a judge who has grown tired. His workload has become routine. He is indifferent and insensitive.

The point I would like to add is that this insensitivity can work both ways. We know not which way it will work ahead of time; but a mind-set can develop in a human being who is sitting in a judicial capacity. We do not know what the mind-set will be, but it will develop.

Mr. SAWYER. Mr. Chairman, I may say that while we have specialized judges, like bankruptcy judges or former referees, they are dealing with a whole broad act involving lots of different questions and variations within the act, but even they get rather myopic or develop tunnel vision; but imagine: With just one single issue, which this is, with 6,000 cases a year, they are going to be so totally immersed in the HUD point of view that you might as well forget your hearing.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be happy to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I just want to point out that the thing that the gentleman and I worked on so hard was the subject of the court review. We specifically wrote into the bill that the court would have the right to receive additional evidence and to have other great latitude, and we called this a de novo determination. It is not a decision on the record, but it is a de novo decision with opportunities to receive additional evidence and to review a broad base of evidence in adjudicating the case.

Mr. FISH. Mr. Chairman, I am glad the gentleman from Illinois brought that up, because it is the answer to what the previous speakers were talking about, that behind every ALJ's findings is this de novo determination option in Federal court by a party that wishes to take it there. At the discretion of the court, you could have an entire trial. It is a very broad power.

Mr. HYDE. Mr. Chairman, would the gentleman yield to me just for a second before he launches into his oration?

Mr. FISH. Surely.

Mr. HYDE. Mr. Chairman, I want to commend the gentleman from Duchess County and the gentlemen from Lake Bluff and Lake Forest for their contributions to this bill, and while I do not agree with their positions, they have been eminently productive and I want to commend them for their work.

I thank the gentleman for yielding.

Mr. FISH. Well, I thank the gentleman from Illinois, who has been leading the debate on our side. He has been extremely fair with us and is absolutely right.

Mr. Chairman, I hope that I am closing debate for the minority and can make an appeal that I think might be in order here that surely I think we could all find parts of H.R. 5200 and the Synar substitute that are not entirely to our liking; but that the option we have coming up shortly for a vote, I trust, is for the Sensenbrenner-Volkmer amendment, which I submit is a work product that has far less in it in terms of trying to reach the problems of enforcement relief for complainants that we are trying to reach today, that the concerns that have been expressed, concerns that I share regarding increasing HUD's discretion and authority, I submit would be furthered by the Sensenbrenner-Volkmer amendment.

In fact, that amendment vests unreviewable discretion in the Secretary of HUD. The enforcement mechanism is entirely in one person.

Mr. Chairman, I rise in opposition to the amendments proposed by my distinguished colleagues, Mr. SENSENBRENNER and Mr. VOLKMER, which seeks to eliminate the administrative enforcement provisions from the Fair Housing Amendments Act of 1980, and in favor of the Synar substitute.

As we are all aware, the major problem with the Fair Housing Act of 1968 is its lack of an adequate enforcement mechanism. Over the past several years, the Subcommittee on Civil and Constitutional Rights has considered proposals to put teeth into the enforcement of the fair housing laws.

During the course of this debate, many concerns have been expressed concerns I share regarding increasing HUD's discretion and HUD's authority over administrative law judges involved in decisions on fair housing complaints. The amendments of Mr. SYNAR assure that the administrative law judges will be independent of any influence by HUD in a decision on the merits in a fair housing case. Further, the amendment providing for a 5-day period after the conclusion of a hearing for the parties to attempt final conciliation assures that every method of pursuing agreement between the parties remains available until the differences are truly irreconciliable. I believe that these amendments insure the fairness and impartiality of the administrative law judges and give the parties more than ample opportunity to settle their differences.

The Sensenbrenner-Volkmer amendment appears, in its face, to replace the administrative system with a judicial court process that will not involve administrative authority. A detailed examination of the amendment, however, reveals that the proposal will actually increase the authority of HUD and provide inadequate relief for the victim of discrimination.

Under the Sensenbrenner-Volkmer amendment, the Secretary of HUD is authorized to render decisions affecting the disposition of cases in two separate situations. First, if a respondent does not participate in conciliation, the Secretary, without the benefit of a hearing, can award up to $500 to the complainant to pursue the matter in court. Second, if the conciliation agreement provides for arbitration and the respondent refuses to arbitrate, the Secretary determines whether the agreement has been breached and can award up to $500 to the injured party. Under the proposed amendment, there would be no appeal from these decisions by the Secretary. Clearly, this system has the trappings of an administrative enforcement mechanism, which consists entirely of one person. Further, it grants unchecked and unreviewable discretion to the Secretary of HUD.

Under H.R. 5200, if conciliation fails, the Secretary has two choices: He can refer the case to the Attorney General or file an administrative complaint before an administrative law judge. In order to further encourage conciliation, the parties under the Synar substitute will be allowed 5 days after the termination of the hearing to engage in final conciliation proceedings. Unlike the Secretary's decisions under the amendment, the ALJ's findings are subject to de novo determination by a Federal district court judge. At the discretion of the court, this could be an entire trial.

The relief granted to the complainant and the deterrent effect of the penalty for committing an act of discrimination are both greater under H.R. 5200. The administrative law judge is empowered to grant "such relief as may be appropriate"—primarily injunctive relief—and impose a fine of up to $10,000 on the respondent. The threat of a $10,000 fine is much more of a deterrent than the $500 that can be awarded for actual and emotional loss under the Sensenbrenner-Volkmer amendment. If the purpose of enforcing the fair housing laws is to sufficiently resolve the dispute and prevent future acts of discrimination, the Sensenbrenner-Volkmer amendment is sorely inadequate.

The magistrate system set forth in the Sensenbrenner amendment does not replace the administrative enforcement system. The only time a magistrate may be involved in a fair housing case is if an individual files suit at his own cost and if the respondent agrees to appear before a magistrate. This is the current procedure under the Magistrates Act and cannot be changed by the amendment. Thus, this remains the magistrate procedure under H.R. 5200 as well. Any individual can go to court today and request a hearing before a magistrate. Therefore, the language added by my distinguished colleagues is superfluous.

It is precisely the prolonged, expensive remedy of court action proposed by the Sensenbrenner amendment that has proven ineffective. The magistrate system does not replace the administrative enforcement system either in terms of numbers or effectiveness. First, the amendment has no mandatory requirement to appear before a magistrate. Such a requirement may in fact be of doubtful constitutionality. Second, the cost to the complainant to appear before a magistrate is the individual's own expense. To appear before an administrative law judge, HUD would pay the court costs. Thus, the individual's cost is much greater when appearing before a magistrate. Third, it is clear that the administrative enforcement mechanism of the Sensenbrenner-Volkmer amendment is performed by one individual—the Secretary of HUD.

The administrative process of H.R. 5200 squarely meets the problems of delay, cost, and ineffective relief—the Sensenbrenner-Volkmer amendment merely perpetuates a difficult and time-consuming procedure of 20 months delay in court, with no adequate alternative.

I believe that careful scrutiny of the Sensenbrenner-Volkmer amendment reveals that the same problems of ineffective enforcement of the fair housing laws will continue if the amendment is adopted. There will be delays while the Secretary of HUD travels around the country to conciliation hearings or the complainant and respondent come to Washington to appear before the Secretary. The relief that can be granted by the Secretary or the arbitration process is completely inadequate to truly compensate the victim of discrimination and to deter future acts of discrimination.

I urge defeat of the Sensenbrenner-Volkmer amendment and support of the administrative and judicial enforcement system under H.R. 5200 as amended by Mr. SYNAR, as it affords the fastest, fairest, most efficient and complete relief to the victim of discrimination.

□ 1720

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the gentleman for his role both in committee and on the floor here on this momentous legislation.

Mr. Chairman, I wish to record my support for the Synar amendment. I support the amendment because it restores and strengthens a key provision of H.R. 5200, which would be eliminated by the Sensenbrenner amendment. This is the provision for administrative remedies through administrative law judges.

We should recognize the Sensenbrenner-Volkmer amendment for what it is—an attempt to reject the bill by deleting its single most important provision. The effect of the amendment would be to continue the present ineffective system of nonenforcement.

Proponents of the amendment argue that "a day in court" (as opposed to an administrative hearing) is necessary to protect the rights of all parties, including those discriminated against. To argue that we must deny administrative remedies to victims of discrimination in order to protect their rights is equivalent to the ultimate absurdity of the Vietnam war; namely the statement of a field commander who explained: "We found it necessary to destroy the village in order to save it." It is reminiscent of court decisions in the early part of this century which struck down child labor laws on the grounds that children had a right to work more than 12 hours a day. Additionally, the fact is "a day in court" is guaranteed under the bill to either party who is not satisfied with the decision of the ALJ.

Private suits under present law are, effectively, not available to the poor, who are the most frequent victims of discrimination. Administrative relief is necessary. Likewise, suits by the Attorney General, as authorized currently, do not provide adequate relief for individual victims. These suits are presently authorized only if a "pattern of practice" of discrimination exists. It is not available in individual cases.

The ALJ hearing procedure provides the best features of both the court remedy and administrative remedies in that:

First. It is relatively inexpensive, practical, and quickly available;

Second. ALJ's are guaranteed independence from HUD control or direction, just as courts are independent. The Synar amendment makes this independence even stronger;

Third. Before ALJ hearings are permitted, equivalent State or local enforcement machinery must be found to be unavailable. If it is available, the case must be referred to the State or local agency;

Fourth. HUD must first attempt to conciliate the case before the administrative hearing can be ordered; and

Fifth. An appeal is provided to the Federal district courts from decisions of ALJ's.

Twelve years of experience under title VIII have demonstrated the need for an effective mechanism whereby persons victimized by housing discrimination may seek an immediate, locally available, fair and expeditious review of, and, if appropriate, relief from the discrimination. The Synar amendment provides this, and I urge its adoption.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word, and rise in opposition to the Synar amendment.

Mr. Chairman, I know the time is drawing late and people wish to vote on this, and I think there has been considerable discussion. But there is one area I think we should elaborate on a little bit more, and that is what does the Synar amendment actually do.

One thing for sure it does and that is, if my colleagues want to do it that is fine, but one thing is does is it sure gets rid of the Sensenbrenner-Volkmer or Volkmer-Sensenbrenner. It kills it. It is dead. My colleagues will never have it that way if they vote for the Synar amendment. If they want to do that, that is fine, but let us recognize that that is really the main purpose of it, because what else does it do other than that? Not very much. Not as far as the bill is concerned. We still have the ALJ process.

There is one thing it does do that I agree with, and it amazes me that those espousing the bill are so much in favor of it, where before we could not even get them to first base on it, and that is it does take it out of HUD as far as the appointing process is concerned and puts it over in the Attorney General. But that is a small bit when we look at the total picture of what we are doing here.

We are not just passing a law for Federal enforcement of fair housing. This law also applies to State and local governments if they wish to have their enforcement mechanisms. Let us remember that. They have to be comparable.

Now, what are we going to compare them with? We are going to compare them with what is here. That is what we are going to compare it with. If that is what my colleagues want to do and that is what they want to be required, that is fine, but how many presently have within their States a system for administrative tribunals, administrative law judges, to hear these cases as against how many presently have local court systems which can be utilized under the Volkmer-Sensenbrenner on the Federal level?

What else does it do? It does not take care of the damages. The bill nor the Synar amendment takes care of damages for a person who has been discriminated against, not for compensatory damages. We do, they do not. That is all there is to it. It is a question of whether we want to do that or not. I feel very strongly that they should be compensated if they have been wronged. I believe they should receive damages for being wronged.

What happens in the zoning? In the Synar amendment we do not really take care of that. It does not really go away to the courts like my colleague may have been led to believe. It really does not do that. It is still there. It is still there and it will remain there. Under the Volkmer-Sensenbrenner it is gone. My colleagues will not have to worry about it. They will not have to worry about administrative hearings in regard to their local zoning in regard to housing.

I think it very important that especially those who have States that are comparable and have been certified that they realize actually what they are doing in regard to the comparability process for their States to remain certified and for those who wish to be certified in the future. They will have to have comparability to this.

One other thing I think is very important as to whether or not we want to go along and we believe everything that HUD will do in regard to everything we say on the floor is what they should do, even the chairman of the subcommittee. We have one instance in regard to that right now before us. Just this last month on May 14 what did HUD do? Now HUD knows what we have been writing in this bill and what has come out of the full committee in this bill. They know that we said that they should not pull these cases that have been certified to those States that are certified by this process, they do not pull those back without consent of that State agency. So what did they do? HUD promulgated a regulation that is going to require that State agency to consent in advance to have it back. So they negate exactly what we are saying should be done.

In my opinion, if we need to correct this, I think we do, and later on I do not think we are going to finish this bill today, but later on I think we are going to have to write language in here to specifically take care of our bureaucratic process, to say that that consent can only be given after the case has been certified and only on a case-by-case basis. That is the only way to take care of some of these bureaucratic processes.

I feel very strongly that the Volkmer-Sensenbrenner amendment will provide a mechanism for proper enforcement for housing and discrimination against housing in this country. I think it is a lot better than the bill, that it is a proper way to do it, and I urge Members to vote "no" on the Synar amendment, and "yes" on Sensenbrenner-Volkmer.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment being offered by my colleague, Mr. Sensenbrenner, to delete section 8 from the bill.

Section 810, as written, would not be fair to those individual States, like my native State of California, which already have especially good and fair housing laws.

H.R. 5200, if enacted, would change present law (Public Law 90–284) to create unprecedented enforcement powers for a Federal agency. This is a danger to the rights reserved to the States and is in conflict with the U.S. Constitution.

If not deleted, section 810 would, among other harmful enlargements of enforcement authority, secure HUD's right to continue in dual action with the individual States. This authority could give HUD the power to preempt State law and thus could strangle the ability of the individual States to demonstrate that they can act in a right and proper way to protect their own citizens from discriminatory practices without the intervention of the Federal Government. For example, the State of California has what are widely recognized as just housing laws.

When the people in this "land of the free" are nearly suffocated by oppressive rules, regulations and redtape, it is unconscionable that we would be expanding the powers of the Federal Government.

Mr. HANLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one important aspect of the fair housing legislation under consideration today is the rôle of administrative law judges in proceedings at the Department of Housing and Urban Development. An amendment offered by Mr. Synar would change existing law regarding the appointment and authority of administrative law judges within HUD. The Committee on Post Office and Civil Service, which I chair, recently completed 2 days of hearings on H.R. 6768, a bill to revise the process for the appointment and oversight of administrative law judges. We anticipate markup later this month. Although the Synar amendment and the legislation which my committee is considering may take different approaches to ALJ appointment and oversight, they are directed at the same goal—insuring the independence, impartiality, and competence of the key figures in administrative proceedings. Consequently, although the appointment of administrative law judges falls within the jurisdiction of the committee I chair, I raise no objection to the Synar amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. Synar) to the amendments offered by the gentleman from Wisconsin (Mr. Sensenbrenner).

The question was taken; and on a division (demanded by Mr. Volkmer) there were—ayes 26, noes 25.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 204, not voting 24, as follows:

[Roll No. 311]

AYES—205

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Cavanaugh
Chisholm
Clinger
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Gaydos
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Horton
Howard
Hughes
Hutchinson
Jacobs
Johnson, Calif.
Jones, Okla.
Kastenmeier
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McDade
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Peyser
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Zablocki
Zeferetti

NOES—204

Abdnor
Albosta
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Bennett
Bethune
Bevill
Boner
Bowen
Breaux
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dingell
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Findley
Fithian
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gephardt
Gingrich
Ginn
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Pashayan
Paul
Perkins
Petri
Pickle
Porter
Preyer
Quayle
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—24

Anderson, Ill.
Beard, Tenn.
Brinkley
Buchanan
Clay
Davis, S.C.
Donnelly
Garcia
Giaimo

Jenrette
McCormack
McKinney
Mathis
Mavroules
Murphy, N.Y.
Nedzi
Patten
Reuss
Runnels
Santini
Symms
Thompson
Williams, Mont.
Wilson, Bob

□ 1740

Mr. GOODLING changed his vote from "aye" to "no."

Messrs. ULLMAN, STAGGERS, and GAYDOS changed their votes from "no" to "aye."

So the amendment to the amendments was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SYMMS. Mr. Chairman, on the vote on the Synar amendment to H.R. 5200, due to either a technical problem or the loss of a voting card, I was not recorded. Had my name been recorded, I would have voted "no" on the Synar amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. SENSENBRENNER), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 345, noes 66, not voting 22, as follows:

[Roll No. 312]

AYES—345

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOES—66

Archer
Ashbrook
Badham
Bafalis
Broyhill
Burgener
Carney
Coleman
Collins, Tex.
Corcoran
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Grassley
Grisham
Guyer
Hammerschmidt
Hansen
Harsha
Hinson
Holland
Holt
Ichord
Jeffries
Jones, N.C.
Kelly
Kramer
Latta
Leath, Tex.
Lent
Lewis
Lott
Luken
McDonald
McEwen
Marlenee
Marriott
Miller, Ohio
Mollohan
Moorhead, Calif.
Myers, Ind.
Nichols
Paul
Quillen
Robinson
Rousselot
Rudd
Satterfield
Sensenbrenner
Shelby
Shumway
Shuster
Snyder
Solomon
Stangeland
Stockman
Stratton
Stump
Symms
Taylor
Whitehurst
Whittaker
Wylie
Young, Fla.

NOT VOTING—22

Anderson, Ill.
Beard, Tenn.
Brinkley
Buchanan
Clay
Davis, S.C.
Donnelly
Garcia
Giaimo
Jenrette
McCormack
McKinney
Mathis
Mavroules
Murphy, N.Y.
Nedzi
Patten
Reuss
Runnels
Santini
Thompson
Williams, Mont.

□ 1800

Messrs. FOUNTAIN, BONER of Tennessee, and LAGOMARSINO changed their votes from "no" to "aye."

So the amendments, as amended, were agreed to.

The result of the vote was announced as above recorded.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5200) to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 307) entitled "Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980.".

And that the Senate further insist upon its amendment to the above-entitled concurrent resolution.

REPORT ON H.R. 7542, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1980

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 96–1086) on the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

INTRODUCTION OF A BILL TO ESTABLISH A COMMISSION ON THE INTERNATIONAL APPLICATION OF ANTITRUST LAWS

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. McCLORY. Mr. Speaker, today I am introducing a bill to establish a commission to make a comprehensive study of the international application of the antitrust laws of the United States and to make necessary recommendations for reform. A companion bill was reported from the Senate Governmental Affairs Committee by a vote of 10 to 0 on May 15.

For many years, some members of

the business community have maintained that the antitrust laws are injurious to or are a deterrent to American exports and investments abroad, while the Department of Justice has argued to the contrary. Because the principal focus of both enforcers and scholars of our antitrust laws has been domestic, and not international, this debate continues to this day without much new light coming from either side. In the meantime, however, our overseas trade deficit continues to climb—to nearly $30 billion in 1979 and to $12.2 billion in the first quarter of this year alone—and U.S. businessmen are confronting ever more rugged competition from monopolistic foreign buyers and sellers, particularly in the form of foreign state-owned or mixed enterprises.

The commission established by my bill will be directed to make the thorough, objective inquiry into the international trade ramifications of the U.S. antitrust laws which our national interest increasingly demands, either putting the charges to rest, or, on the other hand, defining areas and types of injury meriting changes in our antitrust laws or their administration.

The Commission will have a membership of 18 persons, appointed by the President and drawn from both Houses of Congress and the private sector on a bipartisan basis and from the executive branch. The chairman will be designated by the President. The Commission is directed to conduct a comprehensive study of and make recommendations concerning the effect of U.S. antitrust laws on the ability of U.S. firms to compete effectively abroad and how those laws interrelate with those of other nations. The Commission's report will be transmitted to the President within 1 year after its first meeting. The experience of the National Commission for the Review of Antitrust Laws and Procedures suggests that an appropriation of $550,000 will enable the commission to hire staff, conduct hearings, and publish its report.

The questions to be answered by the Commission abound: Does uncertainty in the application of antitrust laws in the foreign commerce area inhibit U.S. firms to the detriment of our national interest? If so, should American firms be accorded greater immunity from our antitrust laws in order to compete on equal terms overseas? How should we confront demands by overseas host countries on American companies for boycotts, secret cartel activities and other actions which are contrary to our antitrust laws? What should be the relationship between antitrust and foreign economic policy generally, and under what circumstances, if any, should other national policies override antitrust policies? Should antitrust laws be applied in the same manner in international trade as in purely domestic cases?

Among the specific concerns of the Commission of particular importance, in my opinion, will be the application of our antitrust laws to joint ventures, mergers, acquisitions, and distribution and licensing arrangements between American and foreign corporations. Under some interpretations of the antitrust laws, particularly by the Federal Trade Commission, "defensive" joint ventures between United States and foreign companies which would have the effect of protecting American enterprises and the jobs of American workers from going the way of our vanished domestic television manufacturing industry may be found to be illegal. If the end result of such an interpretation is severe injury to our own economy and rich rewards for our foreign-based competitors, it may be concluded that something is basically wrong with our antitrust laws as they are applied to international business arrangements and transactions.

It is my hope and my expectation that the Commission established by this bill will deal forthrightly with these and other relevant issues and provide the Congress and the administration with the informed policy guidance and legislative recommendations which characterized the recent National Commission for the Review of Antitrust Laws and Procedures. I should note that the National Commission did not deal with the international application of our antitrust laws except for an examination of the Webb-Pomerene Act.

Mr. Speaker, I intend very shortly to circulate a letter inviting my colleagues to cosponsor this important legislation, but I would anticipate that letter by extending such an invitation at this time to my fellow Members who share my concern regarding possible restraints on the ability of American business enterprise to compete successfully in the international marketplace.●

☐ 1810

TRIBUTE TO HON. ROBERT F. DRINAN

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 60 minutes.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Speaker, today we pay tribute to one of the most distinguished and respected Members of the House, Congressman ROBERT F. DRINAN. As a Member of Congress Father DRINAN has served the people of his district, the State of Massachusetts, and the entire Nation with dedication and conviction. Because of his dedication to his priestly duties, he must now end his prolific career in the Congress, and continue his pursuit of peace and justice through other means. The House will lose one of its most effective voices when he leaves at the close of this 96th Congress.

The list of Father DRINAN's legislative achievements is a long one. As chairman of the Subcommittee on Criminal Justice of the House Judiciary Committee, he authored a thorough and scholarly revision of the U.S. Criminal Code. He has left an indelible mark on the areas of civil rights, housing, and consumer affairs. He has been a leader in the fight for human rights around the world, with notable successes in behalf of Soviet Jews and oppressed peoples in Central and South America. He has led the international effort to obtain the release of the Soviet dissident, Anatoly Scharansky. He has courageously continued these efforts in the face of growing Soviet hostility toward Western influence and ever-increasing Soviet disregard for human rights. Since his election in November of 1970 his compassionate and learned voice has consistently won support from the membership of the House.

Congressman DRINAN has been at the forefront of legislative change during one of the most volatile periods of American political history. He was instrumental in bringing an end to one of the most brutal tragedies of our time, the war in Vietnam. That conflict created a deep rift in our society, a rift which his efforts have helped to heal. While challenging our Government's authority to participate in that war, he never wavered in his deep belief that obedience to authority is essential in any successful civilization. He fought against the war, within the system he so deeply respects, challenging that system, but, at the same time, strengthening it. Ironically, it is his respect for the authority of Pope John Paul II and his sense of duty to the church which led him to leave the Congress in which he has worked so hard and accomplished so much.

The House will miss the courage, support and scholarly counsel which Congressman DRINAN has given over the last 10 years. How fortunate we are that his work will continue in other fora. Today we express our thanks to our colleague Father DRINAN, our best wishes for success in his future endeavors, and our support as he reaches a difficult crossroad in his career. And, Mr. Speaker, whatever his future labor, he will bring to it the same brilliance, concern, dignity and class with which he served his country, State, and district.

Mr. Speaker, one of the finest tributes paid to Father DRINAN was delivered by Timothy S. Healy S.J., president of Georgetown University. His brilliant scholarly moving words were spoken within his commencement address at Seton Hall University. I commend this beautiful, magnificent tribute to Father DRINAN to the attention of the Members of Congress. I include Father Healy's tribute as part of my remarks:

[From the Washington Star, May 19, 1980]

THE DEPARTURE OF CONGRESSMAN DRINAN

(By Timothy S. Healy, S.J.)

Barrels of ink have gone, in America and abroad, to analyze the removal of Father Robert Drinan from Congress by order of the Papal Secretary of State.

Some claim that the Pope is demonstrating to the communist masters of Eastern Europe that he can make Church discipline stick and keep churchmen out of politics.

Others feel the prohibition looks rather to Central and South America, where the involvement of Church people in government and anti-government is a matter of worry to the Vatican.

There are those who think that Father Drinan's advertised liberalism made him so many enemies within the Church that the Vatican merely responded to local pressures.

Finally, it may well be that Pope John Paul means quite literally what he said in Mexico about priests not holding public office. Until the Holy See chooses to unbuckle and let us share the secrets of its bosom, all the ink spent will serve very little purpose.

In accepting the papal order, however, Father Drinan has made serious statements on which we can work. His obedience says three things about the Church in whose service he has spent his life. All three are worth listening to, and all three seem to me to have validity beyond the confines of one church.

The first statement that his withdrawal makes is that self-fulfillment even in the Church has an institutional as well as a personal dimension. Father Drinan was a good congressman. His friends know how much he enjoyed his years in the House despite the controversy which what he said and did provoked.

He began his congressional career as an act of protest against the monstrous folly of Vietnam. During his decade in Congress he defended the refugees that sad war thrust out. He fought for the civil rights of people large and little in Nicaragua, Guatemala and San Salvador. Again and again he flailed out against what he felt to be corruption and cruelty in the governments of this and other nations.

Stuart Hampshire says that a man can build a working morality for the late 20th century on crying out in every forum against bestiality and stupidity wherever they occur. This Robert Drinan did for 10 long years in Congress and did it well.

Still, when the time came to be silent and withdraw, he accepted it. He knew in his heart that the values of his priesthood and his service to the Church far outweighed any individual dream or desire that he might have. As the sense of national limit crowds in on us, we will all have to learn to put a general good first. It will be no easier lesson for us than for him.

The second statement concerns authority and obedience within the Church or any large organization. He was not threatened by the Pope, nor does his reaction smack of fear. He understands clearly that his is only one voice among many.

Any organized body like a church (or for that matter a national government) must have those within it who can speak with authority and whose authority does not derive from a whim of a moment. In any large organization that authority, as Father Drinan knows, cannot depend upon the timing, the delicacy, the astuteness or even the appropriateness of its exercise.

Authority works best through belief, not through fear or compulsion. In the Church, the Pope can command because the rest of us will listen. His reach and his power work because they are honored and obeyed. Each time they are, they are also affirmed. By obeying his command, Father Drinan has both strengthened and honored the authority he acknowledges.

Perhaps that statement is all the more important at a time replete with so many "prophets" standing in romantic loneliness against authority itself. We have seen our fill of self-appointed Antigones playing tag with Creon's cops! In many quarters, in both nation and church, this rout has worn its honors out. That Robert Drinan did not join it is a tribute to both his faith and his intelligence.

His final statement tells of the pull that history can have upon our individual actions and of how tradition can shape even our dreaming. Many years ago as a young Jesuit he knelt to promise a special obedience to the Holy See. He knew then, as he knows now, that this obedience could never bind him to anything which his conscience told him was wrong. He also knew that it could bind him to positions with which he disagreed, to actions which he felt were poorly timed or inappropriate. Many years later authority called upon that obedience and he delivered on his promise.

His delivery was not only personal but corporate. In acting as he did, he reminded all the world of the special loyalty which Ignatius of Loyola wished his sons to show to the Bishop of Rome.

Traditions, especially good ones, can be costly. We are finding this out as we face the fragile armada in the Florida seas, challenging Americans to be true to a tradition of freedom.

History caught up with Father Drinan in the eye of a similar storm, and at great personal cost. In answering its call he proclaimed his oneness with generations of men who have over many centuries demonstrated their readiness to stand for the interests of the Holy See even when one or another pope could not see or did not care to honor it for what it was.

Robert Drinan has reminded all of us of a "world where promises are kept." He has also in the cost of his kept promise shown us a "world where one can weep because another wept." In these last days, faced with the mysterious silence of the Holy See, I have been thinking of him as a friend and a brother. His plain, his dignity and his obedience have renewed and honored both ancient titles.

I yield to our distinguished Speaker, the gentleman from Massachusetts (Mr. O'Neill).

Mr. O'NEILL. Mr. Speaker, it is with strong emotional feelings that I rise to join my colleagues from Massachusetts, Ed Boland and Sil Conte, who have called this special order to honor one of the most energetic, scholarly, and talented Members who has ever represented Massachusetts in the House of Representatives, Robert F. Drinan, on the occasion of his retirement.

In the noblest and finest way Bob Drinan has been the most indefatigable crusader in the House of Representatives for the past decade. To those who have always been concerned with the cause of human dignity and individual freedom, and to those who have firmly believed in the right of all peoples to, "life, liberty and the pursuit of happiness," Father Drinan has been the wayshower.

Always adhering to the principles of honor and decency, strong moral character and conviction, and animated by a passion for public service, Congressman Drinan was first elected to the House on strong anti-Vietnam war sentiment. He quickly became a House leader in the movement to end America's illegal and immoral participation in Vietnam's civil war. I can recall vividly our mutual and cooperative efforts in 1972 to win support from the Democratic Caucus for the first resolution that ever received a majority vote in the House to terminate American involvement in Vietnam.

A few years later, Father Drinan became the conscience of the House to preserve the integrity of the constitutional process. As the first Member to introduce a resolution calling for the impeachment of Richard Nixon, Father Drinan had no doubts about his constitutional responsibility. He knew that at stake was not the crisis of one administration, nor the crisis of the Presidency; as a lawyer and a member of the Judiciary Committee, Bob Drinan saw it for what it was, the crisis of our republican form of government.

In recent years and months Father Drinan has been in the forefront identifying the struggles of human beings throughout the world who seek freedom from oppression and tyranny. Father Drinan has advocated especially the cause of Soviet human rights activist, Anatoly Shcharansky, and has supported countless other cases of Soviet Jewish dissidents. Father Drinan has strongly defended the constitutional rights of the accused; he has been a staunch supporter of the domestic struggle for racial equality, and he has been a good and loyal friend of Israel.

To chronicle all the social and liberal causes that Bob Drinan has supported could not alone pay him the tribute that he deserves. Throughout his career in the Congress Father Drinan has used his legal training and analysis to marshall the facts, search for the compelling arguments and eloquent phrases which would move people and events; and he has used his Jesuit training and strong faith in God and devotion to his church to direct him to advance the causes and ideas which were in the best interests of humanity. Strictly adhering to the Jesuit motto, "For the greater glory of God," Father Drinan has been guided to do what was right, to try to persuade others to that right and to adhere to it, and to leave the consequences to providence.

Bob Drinan's chosen secular profession has been the law, and for the last 10 years, the vocation of Congressman, representing the Fourth District of Massachusetts. His princely calling in the priesthood, and as a Jesuit trained lawyer, Bob Drinan was the first Roman Catholic cleric elected to the House and only one of two to ever serve in the Congress. He possessed a rare and unique combination—the noble and inimitable attributes of the secular law and the priestly qualities of compassion and sensitivity. His service in the House has embodied this rare and unique combination that has indeed made an indelible mark on the annals of our national heritage and our democratic way of life.

"I am proud and honored to be a priest," said Father Drinan, and it is because of this special calling that Bob Drinan will end his service in the House of Representatives at the end of the 96th Congress. We know, Bob, that in all your future endeavors you will fulfill the Jesuit obligation "for the greater glory of God." We wish you well, and yet we implore you not to retire from public life and service even though you are retiring from public office.

Robert F. Drinan has much to offer and more to give, and we all need his continued advice, guidance and counsel. May God's blessings go with you.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the distinguished gentleman from Massachusetts and our colleague, the Honorable Silvio Conte.

Mr. CONTE. Mr. Speaker, it is with great pleasure that I take this opportunity to pay tribute to Congressman Drinan on the occasion of his retirement from this body.

During my 22 years in this House, I have seen few men who possess Bob Drinan's commitment and devotion to public service. Of those who have sat on the floor of this House, not many can truly be called men of conscience. Not many have been unwavering in their dedication to the fulfillment of the public good. Bob Drinan has been the exception—the exceptional legislator.

Before his election to this body, Bob Drinan served with distinction as the dean of Boston College Law School. As an alumnus of that august institution, I count my blessings that I was his peer and not his pupil. At the law school through the practice of Socratic dialogs, he honed the skills that he would later display in hearings before his committees. Those who came before him spouting platitudes and slogans such as "national security" and "executive privilege" quickly became aware that their evasive tactics would not succeed.

In the short time he has been in the House, Bob has had many adversaries—those who exploit the elderly, the poor and uneducated, those who stifle dissent and discussion; those who mindlessly mouth the myths of militarism; and those who are willing to sacrifice justice for expediency.

Throughout his career he has fought battles in many fields. In following his own conscience in opposing the Vietnam war, he awakened our Nation. In helping to abolish the House Internal Security Committee, he vanquished from our memory the last vestiges of the McCarthy era. As a member of the House Judiciary Committee, he led the impeachment inquiry into the actions of a President who had exceeded his authority. His actions produced unity, not divisiveness. By laying open these wounds, he prevented them from festering, and allowed them to heal.

Bob Drinan's dual training as lawyer and priest has combined to instill in him a true sense of justice. As a member of the Judiciary Committee, he coauthored a major revision of the Federal copyright, patent, and bankruptcy laws and authored legislation to protect the freedom of the press. Recently, he has tackled, as chairman of the Subcommittee on Criminal Law, a comprehensive review and revision of the U.S. criminal laws. This product of an astonishing 156 markups, when enacted, will greatly enhance the fairness and stability of our legal system.

Bob Drinan has also shown an interest in another type of justice, one that is linked with compassion and understanding for the plight of the downtrodden in this country and around the world. His efforts on behalf of Soviet Jews and dissidents, the Wilmington 10, and prisoners in Latin America are well known. His actions to strengthen the Voting Rights Act, bolster the Fair Housing Act, and abolish mandatory retirement of the elderly are emblematic of his sense of purpose and pursuit of justice.

Although ever aware of the needs of those throughout the country and the world, Bob Drinan has by no means ignored his district. He has spent countless hours talking to constituents about their opinions and problems. He has fought tirelessly and successfully to save 6,000 jobs at Fort Devens.

One could go on and on, listing his accomplishments over the course of the last 10 years, but this would paint a misleading picture of Bob Drinan. Despite his substantive successes—and he has had many—Bob is ultimately a man of spirit, not temporality. In his essence, he is boundless energy mixed with sensitivity and equity.

His retirement at the end of this term is a loss not only to those in the fourth district or to those in this body. It is a loss to those throughout the world who have suffered or will suffer, who are persecuted or will be, who are young and will someday be old.

It is with sadness that I bid him goodby, but it is with hope that I look forward to his continuing efforts in the pursuit of justice and fairness in society.

Mr. BOLAND. I thank the gentleman from Massachusetts for his remarks.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the distinguished gentleman from Massachusetts (Mr. Moakley).

Mr. MOAKLEY. Mr. Speaker, I rise on behalf of my colleague from the Commonwealth of Massachusetts, Robert Drinan, who has served this body and the Nation so well during the past 10 years.

It is indeed unfortunate that the House of Representatives will lose a man the likes of Robert Drinan; a man whose tenure in the House has been so marked by his judicial brilliance and unending and unyielding concern for this Nation and the world's underprivileged.

Perhaps never in the history of the House, has any man been so prepared and so well groomed to be named to the House Judiciary Committee. His decade of service to the Boston College Law School, both as a lecturing professor of law, as well as dean of the law school, clearly prepared him to wrestle with some of the most tormenting issues of the century. Robert Drinan's strong voice was heard in ever-increasing levels during our national debate over the Vietnam war. Father Drinan's concern over issues of morality and the manner in which they interrelated with government, highlighted by his conduct in the Judiciary Committee during the Watergate hearings, helped the Nation put matters into a more proper perspective. Father Drinan's consistently genuine appeals for the Nation's and the world's unfed, young, old and sick; those not capable of communicating their predicament to responsible individuals and governments, played a major role in alleviating, at least to a small degree, the rampant misery endured by such a large number in this world.

Father Robert Drinan is, I think, the epitome of the word "activist." If anyone could ever relax on the auspicious laurels of a well-lived life, it would be Robert Drinan. I am sure, however, that this body, the Nation and the world will be hearing a good deal more from Robert Drinan as a spokesman for the concerns which have been the hallmark of his 10-year career in the U.S. House of Representatives.

I wish Bob Drinan well in the years to come and look forward to working with him on ever-widening issues.

□ 1820

Mr. BOLAND. Mr. Speaker, I yield to the gentleman from Illinois (Mr. McClory), who serves on the Committee of the Judiciary with Father Drinan.

Mr. McCLORY. Mr. Speaker, it is a pleasure for me to pay tribute to one of my outstanding colleagues on the House Judiciary Committee, Congressman Robert Drinan, who is retiring.

This may be the first occasion on which anyone has referred to Father Drinan as "retiring," since he is one of the most outspoken members of our committee. It is characteristic of Father Drinan that he was first drawn to seek election to Congress 10 years ago by an issue, the Vietnam war, on which he had deep moral convictions.

This deep sense that political issues should be judged from a basis of moral principle has remained with him throughout his career in the House. But he has not fallen into the trap of considering himself morally superior to those who oppose him on a given issue.

This is very important. It has enabled Father Drinan to raise issues of moral principle without sacrificing his effectiveness. One moral issue on which Father Drinan has been notably active is the issue of human rights. I wish particularly to commend the persistent and effective way in which he has sought to force the Soviet regime to respect the human and legal rights of its subjects. Although Father Drinan's voice will be sorely missed in Congress on the subject of human rights, I am confident that his voice will continue to be heard even after next January because of his deep commitment to human rights throughout the world.

One of the most important issues with which Congressman Drinan is currently concerned is the massive job of recodifying the Federal criminal laws. This is not a glamorous issue and it is filled with controversy, but Congressman Drinan's patient labors have brought this imposing task closer to completion than most would have thought possible only a few months ago.

It is certainly to be hoped that Congressman Drinan will see the fruition of his labors with passage of the Criminal Code this year. But even if that should not occur, there will be no question that when a new Criminal Code is adopted, Congressman Drinan's indispensable contribution will be acknowledged.

Having the chance to know Father Drinan as a colleague on the Judiciary Committee, I can say one thing with assurance. When he retires next January, he will not lack for things to do. Nor will he suddenly lose all his political influence. The intensity of his commitment, as well as the general respect in which he is held, will insure that his voice will still be heard.

Mr. BOLAND. Mr. Speaker, I yield to the distinguished gentleman from California (Mr. Danielson), who served with such distinction on the same Committee of the Judiciary as Father Drinan.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman from Massachusetts (Mr. Boland), who I think epitomized the many wonderful things of Father Bob Drinan as well as anyone can possibly state them.

Bob Drinan and I came to Congress at the same time in the 92d Congress. It has been my very great privilege to sit next to him in the Committee on the Judiciary for 10 long years.

We also served together on the same subcommittee of that committee for a number of years.

Very many laws have been passed in which he has participated, all of which have a great impact upon civil rights, constitutional rights and human rights; among them, I might add, such spectacular proceedings as the impeachment proceedings of 1974, which were very burdensome, but in which he acquitted himself beautifully.

Also, we had the unique privilege for the first time in American history of passing upon the qualifications of two Vice Presidents, Mr. Ford and Mr. Rockefeller, who came to office through the provisions of the 25th amendment.

Father Bob Drinan is an outstanding lawyer, as is evidenced not only by his work on the committee, but by the fact that he was once dean of the College of Law, I believe it was, at Boston College.

He is a great personal friend and I respectfully submit that his record among our colleagues and as a Member of Congress is preeminent and he will be known for a long time.

Mr. BOLAND. Mr. Speaker, I yield to the gentleman from Kentucky (Mr. Hubbard).

Mr. HUBBARD. Mr. Speaker, I thank the gentleman very much for taking this special order, I would say to the gentleman from Massachusetts.

Mr. Speaker, briefly, I would state that I appreciate so much the leadership given each of us in the House of Representatives by Father Robert Drinan of Massachusetts. Indeed, many of us, including this speaker, regret his leaving this body at the end of this Congress. We wish him godspeed, the very best of everything. The Congress of the United States is a better institution because of this great American, Robert Drinan.

Mr. BOLAND. Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. Pepper).

Mr. PEPPER. Mr. Speaker, I thank the able gentleman from Massachusetts for yielding to me.

We often hear it said that a certain man was a good and great man. I know of no man to whom that commendation may be more aptly applied than to Father Robert Drinan, whom we affectionately call in this House Bob Drinan.

It has been my good fortune to have Bob Drinan, a member of the Committee on Aging of the House, during my chairmanship of that committee. I have had no member more loyal, more faithful in his attendance, more diligent in the work of the committee, more dedicated to the objectives of the committee than Bob Drinan.

I well remember the privilege I had of having a hearing on behalf of that committee in Bob Drinan's district. I saw there the affection that his constituents had poured out very generously upon him. I saw how earnestly he advocated the principles that they were seeking to establish in that hearing. That happened to be a hearing which was a preliminary to the legislation later recommended by that committee, later adopted by the House and the Senate and approved by the President, the antimandatory retirement legislation, a landmark in the legislative history of this Congress and this country.

Not only did Bob Drinan faithfully support the measure enacted by the Congress, but in the getting of the compromise that made it possible to pass the legislation, we had to accept certain exemptions from the application of that law. The very next day after the President's signature on that bill, Bob Drinan joined me in the introduction of legislation which would eliminate the ceilings that remained and make it so that in America a man or a woman would be judged for their competence and their qualifications, not have as a handicap the years that they might have enjoyed life.

Not only in that time, but even very recently Bob Drinan was also a pioneer in that very critical field. This morning we had a hearing of that committee on the critical subject of the abuse on elderly people, usually parents or grandparents, by members of their respective families of the elderly individuals. Bob Drinan had held a hearing on that very same subject in his district a year before and I quoted in my opening statement this morning some of the findings, important findings that they were, that Bob Drinan made as a report from the hearing that he had conducted a year before.

I am not competent to judge by what authority Bob Drinan is no longer to be one of our colleagues, but I can speak from the point of view of this House, I believe, that we have lost one of our most dedicated Members. We have lost one of our Members who found in politics a new ministry as dear to his heart as I think his professional labors in behalf of his God; for his work was to Bob Drinan a means of lifting and lightening the load upon the backs of oppressed humanity and making life better and brighter as the spiritual leader always seeks to do to his fellow human beings.

□ 1830

So, I regret as a friend, I regret as chairman of the committee on which we were honored by his membership, and, I regret as a Member of this House to see Bob Drinan go.

Mr. Speaker, I close with these words: One of my favorite quotations has always been what Antony said as Shakespeare reports it when he looked upon the fallen body of his foe, Brutus, upon the battlefield of Philippi. The words he said then of the fallen Brutus might with equal aptness be applied to our comrade and our colleague and our friend who is leaving us here, Bob Drinan. Those words were:

> His life was gentle, and the elements
> So mix'd in him that Nature might stand up
> And say to all the world, "This was a man!"

Mr. BOLAND. I thank the gentleman from Florida.

I am pleased to yield to the distinguished gentleman from Illinois (Mr. O'Brien).

Mr. O'BRIEN. Mr. Speaker, a comparison of our voting records would be a poor measure of the degree of respect and affection with which I hold Father Bob Drinan. I believe I am a better Congressman for having met him. I think his presence in the honored place in which we serve had added its own certain luster.

Thank you, Mr. Speaker.

Mr. BOLAND. Mr. Speaker, I am delighted to yield to the distinguished chairman of the Committee on the Judiciary (Mr. Rodino), with whom Father Drinan has served for a long period of time on the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I am proud to join with my colleagues in honoring the distinguished career of Congressman Bob Drinan.

The gentleman from Massachusetts, whom I refer to with reverence as Father Drinan, has been an invaluable member of the House Committee on the Judiciary.

As chairman of the House Judiciary Committee, I want to thank Father Drinan for the wisdom, the intellectual vitality and the sincere dedication that he has brought to the committee's work over the past 10 years.

I remember especially his contributions during a time when the foundations of our democratic system of government were challenged. At that time Father Drinan's outspoken adherence to the rule of law, his integrity and his moral guidance helped our Nation take the right course of action which allowed our democracy to endure.

The Judiciary Committee will miss Father Drinan—who is perhaps the hardest-working member of the committee. I have been privileged to work with him on many issues, which were of central concern, including the Voting Rights Act and the Fair Housing Act which the House considered today. As chairman of the Judiciary Subcommittee on Criminal Justice he has labored hundreds of hours to revise the Federal Criminal Code, and I am confident that his leadership in this area will leave a lasting contribution to the criminal justice system.

Throughout his tenure the gentleman from Massachusetts has remained a staunch defender of human liberties. In this area he has no peer. Victims of civil rights violations or age discrimination, prisoners of conscience, and all those who fight for peace throughout the world have found an unwavering ally in ROBERT DRINAN. He accomplished what every good Representative sets out to do—he has stayed in touch with his constituents' needs and he has articulated their aspirations.

Mr. Speaker, Father DRINAN has done more. He has ennobled this institution through his commitment to conscience. He now leaves us in that same way and we are enriched by his having been here.

I join my colleagues in wishing him well in his continuing efforts to do for humanity what needs to be done, and that is to enrich their lives spiritually as well, and in so doing I express my deep admiration for a man who believes in human liberty, in human rights and in human beings.

Mr. BOLAND. I thank the distinguished gentleman from New Jersey.

Mr. Speaker, I yield to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise today to pay tribute to our very distinguished colleague, BOB DRINAN.

For the past decade Father DRINAN has been a unique and decisive voice within this body. Throughout his career he has stood as an unwavering representative of our national conscience and a vigilant reminder of this country's moral responsibilities both at home and abroad. As an eloquent defender of international human rights, he has spoken out time and again for the victims of oppression and has traveled on special missions to Latin America, the Soviet Union and Indochina.

His tireless efforts to halt the war in Vietnam were expanded later in his advocacy of a rational military policy and a call for national leadership to end a senseless and misguided arms race. Deeply disturbed about the tarnished credibility of the United States abroad, he wrote in an article published in the Christian Science Monitor that—

> The recent world crises, rather than making the base for pouring in more weapons to already unstable regions of the world, point to the desperate need for arms control.

I am pleased that in my two terms as a Member of Congress I have had numerous opportunities to work closely with BOB DRINAN and served with him on the Subcommittee on Government Information and Individual Rights of the Government Operations Committee. In that time I could not fail to admire his willingness to address even the most sensitive political and social issues. He played an instrumental role in the struggle for Soviet Jewry, particularly in his efforts on behalf of Anatoly Shcharansky, for which he received wide and much deserved recognition in the Jewish community. I also joined with him to nominate Archbishop Romero for the Nobel Peace Prize and commend his exhaustive personal attempts to protect the Archbishop from the violence which ultimately took his life.

On the House Judiciary Committee he worked vigorously to protect the freedom of the press, coauthored major civil rights legislation and introduced the first resolution for the impeachment of Richard Nixon.

Despite the often bitter debate on domestic policy, on no occasion did he turn away from the tremendous challenges made to the rights of women, minorities and the poor. BOB DRINAN brought to the House the singular qualities of an insightful spiritual leader and a committed and outspoken public official. His great talents emerged in combining and focusing these attributes as an advocate for some of the most vulnerable members of American society. In an address last year he again underscored the value of political activism.

> We need moral leadership as never before . . . We need the voice of religion. Do not be deterred by those voices that tell you time and time again to go back to your churches and forget about all these great problems.

I am certain that our colleague will have many opportunities in the future to carry on the message he has so persistently expressed in his congressional career. His presence will be sadly missed, but his efforts will continue as a rare source of encouragement to all of us who have had the privilege to work with him.

Mr. BOLAND. I thank the gentleman from New York.

I now yield to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to a great American, a great Congressman, and a great friend—Father ROBERT F. DRINAN. All the world knows that the gentleman from Massachusetts will be leaving the Congress at the expiration of this term. I am sure I speak for all of my colleagues in the House when I say that we will all miss him. However, we must also give thanks for having had the opportunity to serve with him in Congress.

The year 1980 has tested the faith of all civil libertarians across the Nation. In January we lost Justice William O. Douglas, who died after carving out an exemplary record in the name of individual liberties during his long tenure on the Supreme Court. We are now faced with the distressing prospect of losing the congressional services of Father DRINAN, whose record in support of civil liberties is unmatched in this Congress.

Since entering the Congress in 1975 I have had the distinct pleasure and privilege of serving with Father DRINAN on the House Judiciary Committee. Over these years I have watched him serve as an outspoken advocate for those who need representation and protection the most, that is, the oppressed, the indigent and the underprivileged people of this Nation. I will watch Father DRINAN leave the Congress with a sense of foreboding because those people will be losing an articulate and fervent spokesman at a time when the number of their advocates is already on the decline. During his tenure in Congress, Father DRINAN served as a reminder that the Government is the strongest when it protects the weak.

The departure of Father DRINAN leaves a great void that will be hard to fill. His dedication, drive and determination is the model for a legislator who sees a Congressman's job as the protection of the rights and civil liberties of every individual.

☐ 1840

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding.

I would just like to make a comment on the manner in which Father DRINAN leaves the House of Representatives. I think it involves values, and it is an index to the character of the man. The Scriptures say, What shall it profit a man if he gain the whole world and suffer the loss of his immortal soul? Father DRINAN's church has interpreted its requirements as prohibiting his further service in civil office in the Congress. Father DRINAN has acceded to the higher value of his religion in complying with the Papal decision.

Kipling wrote something about starting again at your beginnings and never breathing a word about your loss.

I recall the words of John F. Kennedy when he ran for President in 1960. He said that, I do not speak for my church on matters of morals, and my church does not speak for me on matters of public policy. As a witness to some history in the House of Representatives, I should like now to bear witness to the fact that Father DRINAN's church did not speak for him in terms of his civic duties to serve as a Member of the House of Representatives, serve his own constituency, and in a larger and institutional sense, serve the entire constituency of the citizens of the United States. Yet on the choice of serving in the Congress, serving in civics, he does accept the higher call of his religion. That is a distinction which I think involves tremendous character on both counts. It is for that reason, regardless of how Father DRINAN may have come down on this or that issue, with whom he agreed to disagreed in the House of Representatives, that I salute him as one of God's noblemen and count it a privilege to have served in the House of Representatives with him.

At this time I would like to quote the admonition of Christ Jesus to "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's."

Mr. BOLAND. I thank the gentleman.

Mr. Speaker, I now yield to the distinguished gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. I thank the gentleman for yielding.

Mr. Speaker, I want to join my colleagues here in commending the gentleman for taking the special order and giving us the opportunity to pay tribute to one of the most unique individuals who has ever served in this House.

Mr. Speaker, it is my pleasure to join this afternoon in honoring Father Robert Drinan. I was planning to say just a few words about the highlights of his career, but in reviewing his record, I realize that his entire tenure in Congress has been worthy of note.

From his election to the 92d Congress on an anti-Vietnam war, pro-human-needs platform through his announcement on May 5 that he would not seek reelection, Representative Drinan consistently worked to better the House, his district, and the Nation.

In the House, he fought tirelessly for much needed reform. One of his major triumphs was the abolition of the Internal Security Committee in 1975. More than just a reformer, though, Father Drinan has been an example to us all in his day-to-day activities.

Over the past 10 years, he has carved out a unique role in Congress as a relentless proponent of human and civil rights. I dare to suggest that there is no more tough minded investigator, no more conscientious legislator, no more thoroughly committed humanitarian in this or any legislative body in the world. From gun control to the elimination of the draft to improvements in social security and veterans benefits to a revision of the Criminal Code to the fair housing amendments that we debated earlier today, Bob Drinan has worked to make the Nation safer, healthier, happier, and more just.

As a member of the Judiciary Committee, he was a leading critic of President Nixon during the impeachment trials and wrote the first impeachment resolution. A colleague summed it up very well. "Father Drinan's career has been singularly outstanding in his unwavering opposition to injustice."

While running in his first congressional campaign, Bob Drinan once said:

> I've written books and I'm a professor—but who reads books and who listens to professors? It's the Congress that turns it around and I should be there.

In his 10 years as representative from the fourth district in Massachusetts, Father Drinan has not only been listened to, he has played a major role in turning us, and the Nation, in the right direction. It has been both a pleasure and an honor to serve with Father Drinan these past 6 years. I know that we will continue to hear from him as he applies his valuable skills and unusual personal resources to another endeavor.

Mr. BOLAND. I thank the gentleman.

Mr. Speaker, I am pleased now to yield to the distinguished gentlemen from Massachusetts (Mr. Studds).

Mr. STUDDS. I thank our distinguished Dean for yielding.

Mr. Speaker, in one regard at least, I have to take some gentle exception to the tone of these proceedings. One would think we are mourning the departure of the soul of Father Drinan. This is not a set of eulogies for someone who has departed this Earth, although it is frequently tempting to confuse cosmic truth with service in the U.S. Congress.

I think George Bernard Shaw said, "Life is far too important to be taken seriously." It does seem to me that we are taking this too seriously. If, as the Speaker said, Father Drinan might be watching these proceedings on television in his office, probably by now on his second Dr. Pepper, he will hear those of us who have worked with him over the years make some acknowledgment that he was, and I suspect still is, a human being and endowed, among other things, with that most important of all attributes, a sense of humor.

True, the Massachusetts delegation has lost its chaplain. And I say this as the only Yankee in this entire delegation. In my district Father Drinan is often known as "Our Father who art incongruous." It is, at least, a unique image that he has in the southeastern part of the State.

I almost first came here in 1970 when Father Drinan did. Unfortunately, we both ran for Congress at the same time. My colleagues will recall the difficulty of getting coverage in Massachusetts in 1970 because a national phenomenon was seeking public office in our State; namely, Father Drinan. There was a Jesuit priest seeking public office, and those with less spectacular credentials had difficulty focusing a great deal of attention on our own races.

Father Drinan arrived in the Congress 2 years before I did. However, we worked closely together. We ran together in 1970 and 1972, and thereafter, on very similar platforms. Several Members referred to the fact that Father Drinan came to this office in pursuit of the effort many of us shared in those days, to bring an end to the tragic involvement of our country in Southeast Asia.

When I did arrive here, Mr. Speaker, I noted that I was 1 of 4 members in a 12-member delegation from Massachusetts who were bachelors. My colleagues will recall that these four were our former colleague, Mr. Donohue, our colleague in the well at this moment, Mr. Boland, who at the time was still in the blissful state of nonmatrimony, myself, and Father Drinan. What our colleagues may not recall is that there was a pool in the delegation at that point as to who would be the most likely first to fall to matrimony. My colleagues will also remember that the betting come out on Father Drinan at the time.

I also recall very clearly coming onto the floor my first month, and I saw Father Drinan and our former colleague, Congressman Harrington. These were the days of the beginning of the major transformation in the Massachusetts delegation. And Father Drinan and Congressman Harrington were talking to one another. One of our colleagues from Mississippi stood there watching them talk to one another, thought for a moment, looked at Father Drinan up and down, and then looked at Congressman Harrington up and down, and looked at me—this young freshman from Massachusetts—very carefully up and down, and he said in words I will have to paraphrase because of where I am speaking, "y'all send the gol-derndest folks down here," which, of course, is the tradition in Massachusetts, to send the "gol-derndest folks" down here.

I want to say I have been reassured by Father Drinan that the rumors that have swept the Massachusetts delegation about a possible extension by the Pope of his ban are not true. While it is true that the Pope's edict does extend to the participation of the Catholic clergy in politics, I have been assured that it is not true that the Pope has extended that ban to participation of the Catholic laity in politics.

The gentleman from Florida, Mr. Pepper, reminded us that one of Father Drinan's legislative accomplishments was the anti-mandatory-retirement statute. In retrospect, it becomes clear that Father Drinan forgot a very crucial component of that subject in working on that legislation.

If Father Drinan is indeed, watching, I should share with him now—I do not have the precise text in front of me—a letter I received from one of my constituents several years ago from Cape Cod, which is about as far away from Father Drinan's district as one can get in Massachusetts. Although there are those on Cape Cod who have not always realized this, Father Drinan's voting record and my own are very similar. I received a letter from one of my constituents that was highly laudatory of my own behavior as his Representative, and of my voting record, although he did acknowledge that I was perhaps a bit too liberal for his taste, but on balance he thought I was working hard and deserved his support. However, he added a postscript:

> By the way, is there any way I can work against that mad man Drinan?

It is a letter I promise Father Drinan I will get and share the original with him.

Finally, may I say, Mr. Speaker, that in all seriousness, if there is one thing Father Drinan represents, I think it is that which is best in people in public life, and that is whatever he did, and whatever he said, and however he voted, all of us knew with absolute certainty, whether we agreed with him or not, that he did what he did, and he said what he said, and he voted as he voted because he thought it was right. No constituency can ask more of any Representative, and I think it is only fitting that his own delegation should pay this tribute to him.

☐ 1850

Mr. BOLAND. I thank the gentleman from Massachusetts.

I am pleased to yield to the distinguished Member from Massachusetts (Mr. Early).

Mr. EARLY. Mr. Speaker, I want to congratulate my good friend, the gentleman from Massachusetts (Mr. Boland), for taking this special order.

Mr. Speaker, I am happy to join in this well-deserved House tribute to an outstanding member from my own State delegation, Father Robert F. Drinan, S.J., who has so ably represented the

Fourth Massachusetts Congressional District here for the past 9½ years and who is retiring at the end of this year.

Father DRINAN came here in January of 1971 with exceptional credentials. He received bachelor of arts and master of arts degree, from Boston College in 1942 and 1947 respectively. He was awarded his bachelor of laws degree from the Georgetown University Law Center in 1949 and his master of laws degree from the same center in 1950. In 1954, he earned the degree of doctor of theology from the Gregorian University in Rome. He was dean of Boston College Law School from 1956 to 1970 and was widely recognized as a distinguished professor of family and constitutional law as well as a noted author and lecturer. Beyond this remarkable background his whole mature life as a priest of the Jesuit Society was, and is, formally dedicated to the betterment of mankind in his State, in his country, and throughout the world.

No one has more truly and completely fulfilled the dedication and commitment to improve the quality of life for his fellow men and women than BOB DRINAN, as a priest and a national legislator. Practically since the day he entered the House of Representatives he has been a continuously eloquent pleader for the legislative recognition, strengthening and expansion of human rights, freedom, justice, and dignity for all individuals everywhere. Through the years he has steadfastly pursued these objectives as a most persuasive and effective member of the House Committees on the Judiciary and Government Operations as well as the Select Committee on Aging. In all his personal, priestly and legislative activities, during the nearly 10 years he has served here, BOB DRINAN has brought honor and respect upon himself and the Congress. He has consistently promoted renewed confidence in the integrity of the congressional legislative process among the people of his constituency, which is the most important basic obligation of us all.

His extraordinary forthrightness, honesty, energy, diligence, and perseverance provide an inspiring example to those of us who now serve here with BOB DRINAN and those who will come to serve in this House in the future. I know the entire House membership wishes Father DRINAN well in all his future endeavors and I am equally certain that his intense concern for the physical and spiritual welfare of all his fellow human beings will never cease.

Mr. BOLAND. I thank my colleague from Massachusetts.

Mr. Speaker, I yield to our colleague from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Springfield for having put together this session this afternoon.

Mr. Speaker, I feel like I am at an Irish wake to the extent that we have a corpse in the casket but he has the opportunity of looking up at us and listening to what we have to say about him. In this instance, I think he is going to be pleased because all he will hear is good, because he is a good man, if not a great man, a man who dedicated himself to God and to the advancement of humanity.

Mr. Speaker, I had the privilege of having Father DRINAN as a dean at my law school in Boston College while I was a law student and the same honor of being able to serve with the gentleman as a Congressman a brief few years later. Having seen Father DRINAN in both forms, I have perhaps the unique opportunity, at least among those who serve in the Congress, of having seen him play the role of the catalyst, of the idealist, of the man who continues to push others when they say they can go no further in trying to strive for excellence and stand up for an ideal. That is the role Father DRINAN played not just in law school and not just here in Congress but throughout his entire life and that is the role he plays best and the one that I think characterizes his character and the way in which he dedicated his life.

Father DRINAN thought of this place as his parish and we as his congregation and I think we are going to be the poorer for it, not to have a man of his unique dedication in this body, because all too often we find ourselves temporizing, we find ourselves making compromises with ourselves and with the principles that we say we believe in. When Father DRINAN enters the room, we know what we should believe in, we know what we should be standing for, we know what we should be fighting for because he did not make those kind of compromises. I guess what I always felt when he was in the room was that while many of us were always thinking about the next election, he was only thinking about the next generation, no matter what it might have meant to him in personal inconvenience or political trouble back in his district, that he was making the kind of fight that other people in many instances did not have the moral courage to make. The moral quality Father DRINAN added to the quality of debate in this Chamber I think will not appear here again. To me that will be a great loss because there is a small handful of people in this body to whom you can look and know that they are giving you the essence of who they are at all times. There is no trimming, there is no compromising, it is the way it ought to be.

When people send Representatives to Congress or when we are speaking for the principles that we are supposed to believe in, we are supposed to be the embodiment, we are supposed to be the eyes, the ears and the voice of the people back home who sent us here. Father DRINAN was that. Whether people agreed or did not agree with him they always knew where he stood.

Mr. Speaker, I think one of the real ironies of Father DRINAN's career, at the very end, in the very last term he was allowed to serve here in Congress, that he was unopposed. That through all the political trouble that he had, all of the opposition that he initially suffered and had to endure in the early part of his career, that finally the people in his own district came to appreciate, came to indeed admire the man who he was. In his early opposition to the war in Vietnam, his call for the impeachment of Richard Nixon—not on Watergate but rather on the invasion of Cambodia—all of those issues that most people in America were afraid to stand up on he stood up on and took the political heat back in his district.

Ten years later, at the moment in which Father DRINAN has finally reached a point of acceptance and understanding by his district, he is torn away from this body and torn away from us.

Mr. Speaker, I think the real sadness that he will not be able to enjoy the fruits of 10 years of laboring in his district to try to bring a better understanding of the real responsibilities that this body has in the world and in our country which is to further human understanding, to further the cause of the nonviolent resolution of human conflict. I am sad that he will not be here because for all of us who had to raise our eyes to see Father DRINAN's vote on the board to know "which way the priest was voting," that we will not have the real moral pressure that he was able to exert upon all of us to fight for those principles to the same extent and with the same amount of compassion and commitment that he did.

Mr. Speaker, I do not think we ought to think of this as a eulogy because Father DRINAN has many more productive years to live and many more endeavors and fights to engage himself in before he calls it a career. I think all of us should be thankful that Father DRINAN will still be around and about and picking up the cudgel, picking up the torch of fights that others do not even know are fights or do not have the courage to stand up and turn into the kind of battles that Father DRINAN has so often used this form to fight.

Mr. Speaker, I am saddened that Father DRINAN is leaving, but I am glad that he has had this opportunity to use this body as his parish for 10 years. Not to become some emissary from the Vatican, but rather just to become a conduit for the Judeo-Christian principles in which we all believe as a people and to stand up for the ideals, to send forth that ripple of hope that the idealist has the opportunity to give us and so often we ignore in our political expediency.

Mr. Speaker, I thank the gentleman from Springfield for giving us this opportunity and I congratulate the gentleman from Newton for the career that he has had here and I offer him best wishes on any endeavor that he may undertake in the future.

☐ 1900

Mr. BOLAND. Mr. Speaker, I am delighted to yield to the newest member of the Massachusetts delegation, one of its most able members, the distinguished gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Speaker, I have to join with some of the previous speakers who have commented of the melancholy tone of some of the speaking that has gone on today. I think it is justified in some instances, but I think it is important that I point out that this melancholia is on our part because we are not going to have the privilege of serving with Father Drinan in the next Congress, and the sadness is on our part because we are not going to have the pleasure of his company on this floor, in our committees, and in our workings in Massachusetts and in Washington in the next Congress.

But, the sadness should not be on the part of Father Drinan. It should not be on the part of the people whom he served and whom he will continue to serve throughout the rest of his career. He has been a distinguished Member of this body. He has done a remarkable job not only for the people of the Fourth Congressional District in Massachusetts, not only for all of the people of the Commonwealth, but indeed for all of the people in this country throughout the last decade.

I approach our colleague from a little different perspective than some of the rest of us. When I first heard of Father Drinan as a candidate for Congress 10 years ago, I was just completing my freshman year in college and was involved in some political activities connected with the war in Vietnam at that time, and was motivated and inspired and moved to further my ambitions in politics, to further my commitment to those issues because he was there and other members of the Massachusetts delegation were there at the barricades, fighting for the things they thought were important at a time when they were not always the recipients of accolades and bouquets and praise not only from Members of this body, but from people back home.

He stood for some very important principles then. He stood for some very important principles throughout his whole career in the Congress and he managed, I think much to our gratitude, to accomplish an awful lot in the last 10 years whether we are talking about the closing days of the war in Vietnam and his efforts, successful, to bring that war to a quick close; whether we are talking about the impeachment of President Nixon and what that meant to our Nation's history; whether we are talking about the question of Soviet Jewry; whether we are talking about the question of refugees or even the question of the criminal code which is being dealt with in this Congress.

Father Drinan has played a very, very important role in molding public policy in this country and seeing it through some very difficult times. I think we all owe him a very great debt of gratitude. But, I do not think that we should be melancholy today, because Father Drinan's career will continue beyond the Congress. I suspect he will go on to even greater accomplishments in the years ahead. For that, we all should be very, very happy.

We are going to miss him here, but we are particularly going to miss him in Massachusetts where he has worked so hard for the constituents of the Fourth Congressional District.

We are going to miss him on all of those tough issues, those issues where it is sometimes difficult politically to cast a vote, because he led the way in many of those things. We are going to miss him on many of those issues where he was such an expert and where we looked to him for guidance. We are going to miss him on those issues where peoples' lives were at stake and where great moral issues had to be resolved and where he gave us particular guidance in.

We are going to miss him because we enjoyed his company, but we are not going to lose him as a friend. We are not going to lose him as a servant to this Nation or to the world. Massachusetts is not going to lose him. I hope the Democratic Party is not going to lose him.

I am confident that years ahead are going to be great ones for Bob Drinan. I am confident that we are going to be able to continue the partnership we have had throughout the past several years on all of those great issues, and I am confident that the world will look and consider itself a much better place for the service he has given it, and the services he will give it in the years ahead.

Mr. BOLAND. I thank the gentleman.

● Mr. ZABLOCKI. Mr. Speaker, the Congress of the United States and the American people as a whole have been benefited immeasurably by the service in this body of Father Robert Drinan.

For the past 10 years, he has brought to these Halls a wisdom, a dedication, a passion for the well-being of people which is the mark of a distinguished legislator.

He has worked hard for the causes in which he believed. He has time and again demonstrated courage and leadership in dealing with the difficult issues of our time.

Now, because of his calling in the service of the church, he is unable to retain a seat in the Congress which I am sure would otherwise be his for a long time to come.

We will miss him. But we know that in his future will be many years of further distinguished service to mankind.●

● Mr. GIAIMO. Mr. Speaker, I am always saddened when I learn that a colleague with whom I have worked for a number of years will not be returning to the next Congress. Particularly this is true when that individual is an effective representative, a close friend; one concerned with the problems of the aged, the poor, and the infirm; one who on occasions is a respected and a fair adversary; and above all, one who has earned my respect and that of his other peers.

Such would have been my sentiments had Congressman Robert F. Drinan decided to retire for the usual reasons given by those of us who decide not to return to the Congress upon the completion of their term. In this case, however, my feelings for Father Bob Drinan are not only reaffirmed and fortified, but also I am truly filled with admiration for this Jesuit priest who will relinquish a 10-year congressional career at the behest of the Holy Father, Pope John Paul II.

Being mindful of the fact that his ordination in 1953 meant that he had freely accepted the vows of poverty, chastity, and obedience, this reaffirmation of his decision to honor those vows 27 years later places him in a class by himself. He accepted the newly defined directive gracefully and with an uncommon humility. A lesser man might have sought a way out, but Father Drinan remains true to his word, his vows, and to his conscience. He has always remained a priest, and for this I respect him enormously.

Whatever assignment the future may bring, Father Drinan's experience in the Congress of the United States will enhance his ability to serve. I know that he will pursue any subsequent assignment he receives with a better understanding of the special problems faced by our less fortunate citizens. He will serve, as he has served in the Congress, not only with distinction but also with an increased understanding and dedication to the Jesuit motto of "Ad Majorem Dei Gloriam."●

● Mr. DONNELLY. Mr. Speaker, it is indeed fitting that the House convenes today in special orders to hear expressions of commendation for our esteemed colleague, Robert Drinan.

Congressman Drinan's untiring work as chairman of the Subcommittee on Criminal Justice is clear evidence not only of his well-noted legal expertise, but also, his deep concern for equal justice for all Americans.

That concern for his fellow man extends far beyond our national borders. One cannot question that the disadvantaged people of our world will be losing one of their true champions when Bob Drinan leaves the Congress. We would do well to remember his high level of compassion and commitment to mankind.

Throughout his 10 years of service, his constituents in the Fourth Congressional District of Massachusetts have exhibited a heartfelt affection and respect for their Congressman. Their Representative has served them in the highest tradition.

Bob Drinan's forceful voice has never waivered during the past 10 years when the world we live in has faced turbulent times. I believe that Congressman Drinan's social concern will continue undiminished in the years to come, and I join my colleagues in praise of this good man. We wish him well.●

● Ms. HOLTZMAN. Mr. Speaker, I deeply appreciate the opportunity today to pay tribute to my good friend and colleague Bob Drinan. Since coming to Congress as one of the first Members elected on an anti-Vietnam war platform, Bob has tirelessly fought for individual rights and human dignity. His accomplishments in the House of Representatives should stand as an impressive standard for any Member to match.

Bob has authored and fought for a comprehensive revision of the U.S. criminal laws.

He has coauthored major civil rights legislation such as the amendments to the 1975 Voting Rights Act.

He introduced one of the first resolutions calling for the impeachment of Richard Nixon and never waivered from the onerous task before the committee.

He fought hard and effectively to abolish the House Internal Security Committee.

He has been an active and forceful champion of human rights traveling around the world on missions for Amnesty International.

As a Congressman, BOB DRINAN has always been a leader, and he will be deeply missed.●

● Mr. SENSENBRENNER. Mr. Speaker, it is with great admiration and sorrow, that I say goodbye to our distinguished colleague and friend ROBERT F. DRINAN. He has served his country in a manner that has brought honor and respect not only to himself, but to the entire House as well. His leadership and outspokenness in the House will truly be missed.

ROBERT DRINAN has been an invaluable part of the House Judiciary Committee through his cosponsoring of major civil rights legislation including the 1975 strengthening amendments to the Voting Rights Act and his work on the fair housing amendments. He also cosponsored major revisions of the Federal copyright, patent, and bankruptcy laws while a member of the Judiciary Committee. His insight and guidance in dealing with these matters has proved to be a great benefit for all those concerned.

As a human rights advocate, ROBERT DRINAN is unparalleled in his efforts to preserve and enhance human rights around the world. He has traveled to Moscow on behalf of Soviet Jews and dissidents, such as Anatoly Shcharansky, the Soviet dissident who was unjustly tried and convicted of spying for agents of the U.S. intelligence community. ROBERT DRINAN played a pivotal role in securing a more humane treatment of Shcharansky. His work during these trips have made it possible for many to realize the benefits of freedom and their human rights.

The constituents of his Massachusetts district are also grateful for the work and time he has given to help them. Representative DRINAN stopped the closing of Fort Devens and saved 6,000 jobs for the people in his district. He has visited his district, holding open public forums, almost every weekend, and spends countless office hours helping those who have problems with the Government.

The record ROBERT DRINAN has compiled over the past 10 years is outstanding in itself. Yet, it is also a tribute to a man who has devoted his life to the well-being and concern of others. His absence from the House will be sincerely missed and I wish him the best of luck.●

● Mr. BROWN of California. Mr. Speaker, like most Members, I was shocked and disappointed to learn that our friend and colleague, BOB DRINAN, was forced to decide between his religious obligation and his congressional career. To yield to authority with such obvious pain is to uphold a faith in a humbling way. Humility is purpose enough for any faith.

As one who served with Father DRINAN during most of the past 10 years, I can attest to his extraordinary dedication and contribution to the legislative process. American politics is losing a most effective man. The concern of many when Father DRINAN first ran a decade ago, that priests in politics posed a threat to the doctrine of separation of church and state was put at ease. His service did much to calm those concerns—especially from the state's point of view. With his quiet demeanor and quick adjustment to the ways of Congress he was reassuring. The Congress will miss his presence.

Each of us has a special memory of BOB's congressional service. One of my own was his dogged efforts to promote energy conservation and solid waste recovery at a time when congressional interest was low, and the administration was hostile. It is a sign of progress to note that the legislative efforts Father DRINAN led 5 years ago are now the laws we are improving upon by amendment. While this was undoubtedly not one of the most noted aspects of BOB's career, I mention it here because it demonstrates the breadth of that career.

I enjoyed working with Father DRINAN, and he helped display a church that is multifaceted. His acceptance of its direction reveals still more of the complexity of man.●

● Mr. PEYSER. Mr. Speaker, ROBERT DRINAN's devotion to hard work, and his dedication to the House of Representatives, will be missed. His retirement from public service will be a loss to everyone.

For 10 years, our colleague's record in the House has been outstanding. His work on the Judiciary and Government Operations Committees and Select Committee on Aging has bolstered their service to the House and to the country. His commitment to reform of the Criminal Code, and his advocacy of human and civil rights have served as an inspiration to us all.

I personally wish to thank Congressman DRINAN for his service to the House, and I hope we continue to hear his voice on matters of concern to us all.●

● Mr. GILMAN. Mr. Speaker, it is with sincere regret that I note the retirement of my colleague, neighbor, and friend, the gentleman from Massachusetts, Father ROBERT DRINAN.

Throughout his 10 years of service to his district and to his country as a Member of the House of Representatives, Congressman DRINAN has been a human rights leader and a dedicated advocate of social justice. He has involved himself in the issues most critical to the democratic process and has comported himself with honor and dignity, placing the greater good of the larger community he serves above any thought of political advantage.

Congressman DRINAN, as chairman of the House Criminal Justice Subcommittee, has strugglled valiantly for several years to prepare a major revision of the Federal Criminal Code for consideration by the House.

Father DRINAN has fought for legislation protecting personal privacy and civil liberties, and has participated in human rights missions to Argentina, to the Soviet Union, and to Central America, displaying great personal courage while doing so. He has just returned from playing a central role in the meeting of the Foundation of the Friends of Anatoly Shcharansky at The Hague.

I have had the honor and privilege of working side by side with Congressman DRINAN in constructive efforts to promote respect for human rights and individual liberties as an integral part of our Nation's foreign policy. Having worked closely with him in seeking the release of Jacobo Timerman from Argentina and Anatoly Shcharansky from the Soviet Union, I have had the opportunity to assess—and admire—his concern, his work, and his devotion to the cause of human rights.

As Father DRINAN prepares to leave the Congress, I join with my colleagues in wishing him success, health, and happiness in whatever new endeavors he may pursue.

Congressman DRINAN said that he came to Congress "to work for justice in America and peace throughout the world." He has pursued these goals with an honor and dignity that will long leave its mark on the Congress, our Nation, and the world.●

● Mr. LELAND. Mr. Speaker, I rise to pay my respects to one of our most distinguished colleagues, ROBERT DRINAN, a man who embodies the highest Christian and civic ideals. His commitment to human rights in Latin America and throughout the world provides an inspiration to us all.

Father DRINAN has always recognized that social progress, order, security and peace of each country are necessarily connected with the social progress and peace of all other countries. The universal peace which we all fervently desire can only be achieved by the universal extension of human rights. We cannot selfishly limit our concerns to just ourselves or those within our borders.

We live in an interdependent world in which our actions affect others throughout the world, and their actions affect us. We cannot expect them to respect us, unless we respect them. We cannot expect world peace, until there is a universal respect for human rights. We must all come to recognize, as did Father DRINAN, that wherever there is a human being, there are God-given rights inherent in that being, whatever may be the sex, complexion, or nationality.

Because of his deep, unwavering moral commitment to universal justice, Father DRINAN often assumes positions which are politically unpopular both among many of his colleagues and within his home district. He does not worry if his position is the best one for votes either in the House or back in the district.

Rather, his concern is whether or not his position is morally right. His constituency is a truly Christian constituency, universal mankind. As a strong Christian, he revolts against all injustices, and especially against all those which are furthest from himself.

Father DRINAN demonstrates that our whole life is startlingly moral, that there is an intrinsic connection between the moral order and public authority. Our moral and religious convictions guide our political deliberations and actions. Indeed, as even such a secular authority as Bertrand Russell pointed out, without civic morality, communities perish;

without personal morality, their survival has no value. Father Drinan's actions demonstrate that personal and civic morality are not everywhere separate or in decline. To the contrary, for him they are inseparable and of the highest quality and importance.

At the same time, Father Drinan's decision to follow the directives of the church reveals that the rights which he as a man recognizes for himself are relative to the duties which he accepts for himself. The source of Father Drinan's inspiration and moral authority is unquestionably the church. If he were to challenge that source, he would imperil his personal authority. As a Catholic, it is his right to speak out for all mankind, but his duty is to submit to the will of the church.

I deeply lament the church's decision to limit Father Drinan's political behavior, but I also recognize that Father Drinan's decision to follow the directive reaffirms his commitment to universal morality. While morals and politics are inseparable within each individual, Father Drinan recognizes that they are separable as institutions and that the authority and legitimacy of each can only be assured by maintaining that separation.

His presence will be greatly missed, for there are few who better affirm the faith in the dignity and worth of human persons, in the equal rights of men and women and of nations large and small. As a Catholic, I feel a great empathy with Father Drinan and suffer a personal dilemma in accepting the Pope's decision for it is said in the Lord's prayer, "Thy will be done on earth as it is in heaven." ●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable Robert F. Drinan, who is retiring from Congress at the close of the 96th Congress, and I am honored to join my colleagues Edward P. Boland and Silvio O. Conte in this special order.

Bob was first elected to the 92d Congress, and over the last 10 years he has proved himself a capable legislator and fully worthy of the trust and confidence of his constituents of the Fourth Massachusetts Congressional District. He has served with distinction as a member of the House Judiciary Committee, the House Government Operations Committee, and the House Select Committee on Aging.

I extend my warmest best wishes to Bob as he continues his life of service as a Jesuit priest in dedication to the highest ideals.●

● Mr. ADDABBO. Mr. Speaker, it is with great honor and pleasure that I take this opportunity to pay tribute to Representative Robert F. Drinan, colleague and friend.

In the past 20 years I have served in the House of Representatives, I dare say I have had the privilege of working with no one more concerned with civil and human rights, as well as social justice, than Father Robert Drinan. As an outspoken advocate for improving laws relating to civil liberties, copyright privacy, the war in Vietnam, and abolition of mandatory retirement based on age, he has taken stands on issues many would choose to avoid.

When he took an interest in an issue, he gave it his all, devoting as much time and energy as possible. His hard work has certainly paid off as chairman of the Subcommittee on Criminal Justice, member of the House Government Operations Committee, and as a member of the Select Committee on Aging, where he earned the respect of his colleagues for his knowledge.

Of the many issues that have become part of his life, perhaps one of the most important has been his concern for universal human rights. As a Congressman he participated in important human rights missions to Argentina, Central America, and, among others, the Soviet Union.

He was one of the first American Representatives to take an interest in the plight of the "boat people," traveling to Indonesia and Southeast Asia, giving an important impetus for congressional action. In addition, he has been actively involved in an attempt to have Anatoly B. Shcharansky freed from a Russian prison, and allowed to emigrate to Israel.

I know Father Drinan leaves Congress with heavy heart but with the respect of all his colleagues both temporal and spiritual. Father Robert Drinan should leave Congress content in the fact that he has done much to improve the civil liberties, social needs, and human rights for millions of people in this country, as well as in other nations which work I know he will continue. It was a distinct privilege to have worked with him, and it goes without saying that he will be missed by everyone on Capitol Hill. I wish him the best of luck and good health for years to come.●

● Mr. RAHALL. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute to Robert F. Drinan. For 10 years this body has benefited from his presence and his insight.

His decision to retire from the House of Representatives was unique. He was not leaving to spend more time with his family, he was not leaving to pursue a new career. Robert Drinan is leaving the House of Representatives because he is committed to his chosen vocation, the priesthood.

I wonder how many of us in this Chamber would have made the same choice as Bob Drinan. It certainly was not an easy one to make, and my respect for him has increased because of that decision.

Robert Drinan was ordained a priest in 1953. He was a member of the Society of Jesus, an order of priests best known for their teaching. Robert Drinan was a teacher for 14 years as he served as dean of the law school at Boston College.

In 1970, he came to Congress as an opponent of the Vietnam war. He was the first Congressman to introduce a resolution to impeach Richard Nixon and voted to do just that as a member of the House Judiciary Committee.

His time in Congress has had a foundation based on principle and commitment. His decision to leave Congress is based on this same foundation.

I am proud to have served with him, and I know we have all learned from him. I wish him the very best.●

● Mr. LEHMAN. Mr. Speaker, I know that you and all the Members of this House were as disappointed as I was at learning of Bob Drinan's decision to step down from public office. The great sense of loss that is shared by us all is balanced by recognizing and understanding the admirable strength of conviction revealed by such a decision. To continue the good work that Bob has performed during his tenure in the House would have been a decision easily understood, yet Bob made the difficult but more admirable choice. That was not really surprising, for Bob Drinan excels at the ability to balance moral imperatives with the complex issues of government and politics. A political leader who is first and foremost a person of conscience and also possesses a sensitivity to the ethical implications of the decisions made by government is a special quality to have and is deserving of respect and commendation.

Bob's absence in the House will be strongly felt by the Soviet Jewry movement. His leadership in seeking freedom for Soviet Jews and other dissidents will be missed. His work as chairman of the International Committee for the Release of Anatoly Shcharansky is in large part responsible for the worldwide attention that has been and must continue to be given to the human rights violations by the Soviet Union. The work will undoubtedly go on, and I know that Bob will continue to be involved in seeking freedom and justice for Anatoly Shcharansky and other prisoners of conscience.

Bob Drinan has been an inspiration to me, and I would like him to know of my great respect and admiration. I am pleased to have this opportunity to express my thanks to Congressman Robert F. Drinan.●

● Mr. DERWINSKI. Mr. Speaker, like many Members, I will miss our highly respected colleague, Bob Drinan, when he retires at the end of this session. This is especially so since Bob's service as well as his retirement has had many unique aspects.

Bob Drinan is an outstanding student of the law, a dedicated Representative of his congressional district, and a perceptive scholar of the events of history.

In addition, I wish to emphasize the personal inspiration and the encouragement that Bob has provided not only as a colleague, but also in his extra dimensional service as a Roman Catholic priest, and more specifically as a member of the Jesuit order. Having received my college education from Chicago's Loyola University, a Jesuit school, I have often wondered what grades I would have received in some of my subjects if Bob Drinan had been my instructor.

I extend my best wishes to Bob in the years ahead as he returns to his priestly and academic career.●

● Mr. GONZALEZ. Mr. Speaker, I will miss Robert Drinan. The House has been distinguished by his service, and we owe him a debt of gratitude.

I think of a member of the Jesuit order as one who is committed to careful scholarship and deep thought. At the same time a member of that order is one who holds deeply to principle, one who is fired not only by zeal, but by courage.

My friend from Massachusetts is just such a person—learned and careful in thought, deeply studious, deeply committed to the principles of law, and a true seeker after justice. He is a man gifted with a deep and abiding conscience, one who is never afraid to give voice to his honest feelings.

ROBERT DRINAN is now called to other work, and in strict and faithful obedience to his conscience he will go. For he is a follower of his conscience. He follows the oath he takes—be it his oath to the Constitution, or his vows to a religious vocation. Being the man of conscience that he is, ROBERT DRINAN has never had to explain away any abandonment of his own conviction—for he has stood by those convictions.

It is a rare politician who can combine as ROBERT DRINAN has the gifts of scholarship, thought, and dedication to principle. His are rare gifts, and he has willingly shared those gifts with those of us who have had the good fortune to serve with him. He will be missed.

● Ms. MIKULSKI. Mr. Speaker, I rise today to express my deep sorrow and regret that our colleague, ROBERT DRINAN, will be leaving the House at the end of this session of Congress. Since I entered the House in 1976, Representative DRINAN has been a good friend and invaluable ally; he has also served as a source of inspiration and leadership.

In his 10 years in the House, Congressman DRINAN has been the champion of many different crucial issues of national and international concern. His has been a voice for social justice, truth and equality. In foreign policy, he was a leader in our Nation's efforts to end the war in Vietnam, speaking out against our Nation's involvement and cosponsoring numerous bills to discontinue the U.S. role in the war. Representative DRINAN has been unswerving in his advocacy of a strong American commitment to the state of Israel. He is known around the world as a human rights advocate, having traveled to Moscow and to Argentina on behalf of political and religious dissidents.

Congressman DRINAN has been a great friend and advocate for the rights of all people. He is a strong supporter of the rights of American women. He coauthored major civil rights legislation, including the 1975 strengthening amendments to the Voting Rights Act. He introduced the first resolution for the impeachment of Richard Nixon and he actively participated in the impeachment inquiry as a member of the House Judiciary Committee.

BOB DRINAN has been a tireless fighter to help people and improve our world. At a time when our Government seems to be turning its back on many of the commitments which it has made in the past to helping the disadvantaged, his absence will be missed even more.●

● Mr. RANGEL. Mr. Speaker, I would like to join with the Members of this House in praising the long and distinguished congressional career of our fellow colleague, Father ROBERT DRINAN, who has served his constituency and the Nation with honor and diligence since his election to the 92d Congress in 1970.

I especially would like to call our attention to Congressman DRINAN's superior achievements in the history of the civil rights movement. Father DRINAN has won the reputation as an internationally recognized and respected human rights advocate, traveling at home and abroad as a champion of freedom defending the civil liberties of citizens of every nation, every race, every religion.

In particular, as a member of the House Judiciary Committee, Congressman DRINAN has coauthored essential civil rights legislation, including most recently the Drinan-Edwards amendment to the Fair Housing Act, a provision that would protect the fundamental civil liberties of disabled persons, and would provide this often neglected minority with adequate housing.

As a member of the House Subcommittee on Civil and Constitutional Rights and as chairman of the House Subcommittee on Criminal Justice, Father DRINAN has carried on a constant battle against the evils of discrimination. In 1977, Congressman DRINAN traveled to North Carolina to speak on behalf of the Wilmington 10, defending this group that was falsely convicted of instigating racial violence, and sentenced by a criminal justice system that was distorted by obvious racial overtones.

As a fellow member of the House Judiciary Committee in 1974, it was my great privilege to serve with Congressman DRINAN during the impeachment proceedings against Richard Nixon. Congressman DRINAN introduced the first resolution for the impeachment against Mr. Nixon, and it was this same independent strength of character and judgment which characterized Father DRINAN's exemplary performance throughout the entire inquiry. This period of unparalleled historical and political significance demanded the judiciousness and wisdom that leaders such as Father DRINAN displayed.

I cannot begin to enumerate the capabilities and accomplishments of our illustrious colleague, so I will finish by once again paying tribute to the notable political career of Father DRINAN. I note, not without a touch of sadness, that his term in Congress may be over, but I know and look forward to his continued participation in national and world affairs and to his active role in the constant struggle to defend and extend human rights to all people.●

● Mrs. CHISHOLM. Mr. Speaker, I would like to take this opportunity to commend ROBERT DRINAN for his work in Congress for the past decade. It is rare that we find a man of his ability, compassion, and diligence.

As a member of the House Judiciary and Government Operations Committees, BOB DRINAN demonstrated an incredible capacity to serve the interests of the poor and disadvantaged. As one of the persons most responsible for the formulation of the Criminal Code bill, BOB exhibited a willingness to reform deficiencies in our Federal criminal laws. Despite the controversial nature of this legislation he steered the bill through the Criminal Justice Subcommittee in masterful fashion.

It is unfortunate that the Vatican's recent edict prohibiting priests from elective service will result in our losing one of our finest Members. I am sure that Father DRINAN will continue to work strenuously to protect the rights of the least of those in our country and will continue to speak vociferously in support of those causes and issues he believes in. Father DRINAN's record, both in public and private life, has been exemplary.●

● Mr. BROOKS. Mr. Speaker, ROBERT F. DRINAN has been a most valuable Member of this House since being elected to the 92d Congress in 1970. I wish to join with his many friends in paying well-deserved tribute to his outstanding service to the Congress and to this country.

I have personally had an opportunity to witness his dedication, effectiveness, and determination since I have been privileged to serve with him on the Committee on Government Operations, as well as the Judiciary Committee. He has always been constructive and his work on behalf of the House of Representatives, his district, and the Nation has been exceptional. Father DRINAN has my admiration, respect, and appreciation.

I want to thank him for his friendship and to wish him every future fulfillment as he continues his service to mankind.●

● Mrs. SPELLMAN. Mr. Speaker, I have heard it said that "a man who fights for his ideas is truly alive." I can think of no more appropriate description—no more fitting way to summarize—the individual we are pausing to recognize today than to say he is truly one who "fights for ideas."

Father ROBERT F. DRINAN has represented the Fourth Congressional District of Massachusetts for 10 years. And in that time, he has never shied away from a controversial position or abandoned an unpopular cause he felt was just. In many mays, he has been our conscience in this Chamber, pointing the way on important matters and blazing trails for others to follow.

In the early years, he led the way in getting this country out of a war it never should have been in. Later, he was a forceful advocate for impeachment of a President who had violated the Nation's trust. But it is on yet another very sensitive issue—abortion—that Father DRINAN has been perhaps most courageous. While personally against abortion, Father DRINAN has remained a steadfast supporter of those who feel we cannot impose the views of a few on the group when such a personal, sensitive matter is involved.

Always, Father DRINAN has had an overriding concern for the downtrodden, the underrepresented and for the less fortunate among us. He has fought for those in the dawn of life, our children; those in the twilight of life, our elderly, and those in the shadows of life, our poor, our needy, our sick, and our handicapped.

I am reminded of a comment of the late Hubert Humphrey, whom I know Father DRINAN admired as much as I did. "Life's unfairness," Hubert said, "is not irrevocable; we can help balance the scales for others, if not always for ourselves." Father Drinan has spent his life seeking to "balance the scales" and we are all better for it.

No doubt he owes his compassion for and empathy with the disadvantaged in part to his background as a priest. For despite his vigorous advocacy and devotion to public service, Father Drinan remains, above all, a Man of God. His caring and sympathy know no bounds. He is ever ready to comfort the troubled, counsel the disturbed or simply offer an understanding hand to those in need of spiritual help. His personal life reflects the modesty of his character. Throughout his decade in Washington, he has spurned the lavish homes of many of his colleagues for a simply dormitory in which he lives with his fellow Jesuits. And when, last month, he faced a most difficult decision—one that pitted his desire to serve his constituents against his desire to serve his church—he did not waiver. Those of us who know him had no doubt which way he would turn.

That he will be missed—greatly—by both his colleagues in the House and his constituents in Massachusetts goes without saying. That this Chamber will seem somehow empty without his presence is extreme understatement.

But, Mr. Speaker, we can all take solace in knowing that his dedication and service have not gone unnoticed. His accomplishments will be remembered long after many of us here are gone. His commitment to that in which he believes will serve as a shining example for those who come after him. The late Harry S. Truman, who, like Father Drinan fought hard for his "ideals," advised that, "if we do our duty, history will do us justice." Father Robert F. Drinan most certainly has done his duty in this Chamber. And for that, I have no doubt that history will do him justice.●

● Mr. GIBBONS. Mr. Speaker, I note with regret the retirement of Robert Drinan from Congress. I have known Bob since he took the oath of office here in Washington a number of years ago and have watched his hard and courageous work on causes that were sometimes not popular.

Congressman Drinan has been an excellent Member of Congress. He brought to the Congress a broad background of experience, as well as a finely tuned mind. He has been a tireless worker, who sought to understand the issues and made up his mind after giving everyone a fair chance to be heard.

I am sure that as Bob returns to take up his work for the church that his presence here in Congress will be sorely missed, and I wish him well.●

● Mr. STOKES. Mr. Speaker, I would like to take this opportunity to thank my distinguished colleagues, the Honorable Edward P. Boland and the Honorable Silvio O. Conte, for reserving this time to honor one of our most outstanding Members of Congress—the Honorable Robert F. Drinan. We all are acquainted with the circumstances surrounding the distinguished Congressman's decision not to run for reelection. Accordingly, it is appropriate that we take this time to honor this man of unequivocally high ethical and social convictions.

While I am sure that my colleagues shared my initial skepticism about Congressman Drinan's decision, we must now realize, perhaps more than ever before, that he holds himself responsible to a higher order. His steadfast determination to adhere to this higher order and sacrifice worldly rewards sets a shining example for each member of this legislative body.

Just as this action underscores his allegiance to his religious convictions, he always has exemplified an uncanny sensitivity and allegiance to the civil and human rights of all people and high ethical standards during his tenure in Congress. This unflappable allegiance has led him to sometimes unpopular but always just stances on a variety of issues ranging from criminal justice reform, the Vietnam war, the impeachment of former President Nixon, a homeland for the Jews and fair housing.

During his all too brief tenure in the U.S. House of Representatives, he has been tireless in his efforts to transfer this profound compassion and sense of justice—this same humanistic approach to world affairs—to other Members of Congress. To our great fortune, he has brought to this sometimes cold and callous Chamber a keen sensitivity to the injustices that engulf every facet of world affairs.

Although he will have only served 10 years in Congress by the end of this term, he has made a great impact which is comparable to even the longest serving Member of Congress. For, Mr. Speaker, his accomplishments are not temporary but achievements which will stand the test of time and right some of the wrongs in our society while serving as a model for future legislative actions by this Congress.

Mr. Speaker, one only needs to look at his accomplishments on behalf of social and criminal justice to note that Congressman Drinan has been a peaceful yet effective soldier in Congress. He was one of the first Members of Congress to be elected on an anti-Vietnam war platform at a time when it was not fashionable to be antiwar and propeace in this Nation. Following his early commitment he sponsored much of the original legislation aimed at ending U.S. military involvement in the Vietnam war and subsequently filed suit in Federal district court challenging President Nixon's authority to invade Cambodia without congressional approval.

He has not relegated himself to foreign policy and world affairs solely from the American perspective. Rather, he has worked to facilitate the Jewish people's right to a national homeland and worked for the freedom of Soviet dissidents far in advance of any serious U.S. efforts in these areas. I am sure that my colleagues will agree that he has been the beacon of light which has opened our eyes to the devastation and denial of human rights both here and around the world. He has also been the spark of courage that many of us needed to stand up and speak out on these issues.

Following his inclination for high ethical standards, Congressman Drinan introduced the first resolution for the impeachment of President Nixon and actively participated in the impeachment inquiry as a member of the House Judiciary Committee. He also played the leading role in the abolishment of the House Internal Security Committee which was formerly known as the House Un-American Activities Committee.

Finally, Mr. Speaker, I would be remiss if I did not mention that Congressman Drinan was a great statement in terms of civil rights. He worked on behalf of the Wilmington 10 while the Federal Government was merely watching the situation. He has coauthored major civil rights legislation including the 1975 strengthening amendments to the Voting Rights Act, the Drinan-Edwards amendments to the Fair Housing Act. As chairman of the House Subcommittee on Criminal Justice, he has authored comprehensive revisions to the U.S. criminal laws.

Needless to say, he has been a positive catalyst in this Congress. Instead of dwelling on how much we will miss Congressman Drinan, I think that it is more appropriate at this juncture to point out the challenge he will leave us. His adherence to his ideals will challenge us to cling to our convictions even in the face of material gain or the "safest route." Just like Congressman Drinan, we are all accountable to a higher order.

Therefore, at this time, Mr. Speaker, I join my colleagues in honoring Congressman Robert F. Drinan and wishing him well in his future activities.●

● Mr. BINGHAM. Mr. Speaker, I am grateful to our colleagues from Massachusetts, Messrs. Boland and Conte, for giving us this opportunity to express our feelings about the impending retirement of Father Robert Drinan from the House.

The news that His Holiness, Pope John Paul, had issued a decree forbidding ordained priests from running for political office came as a painful blow to many of us in this House.

Questions bubbled up in our minds: Why should such a decree be issued at this particular time, when political activity on the part of Roman Catholic prelates has been for centuries an accepted activity, never disapproved by Pope John Paul's predecessors? Was the decree aimed at Father Drinan as many in this country supposed, though Father Drinan himself rejected this theory? Could the Pope have realized how much harm to the Roman Catholic Church his decree would do, particularly in terms of that church's standing among non-Catholics around the world? Did His Holiness give full consideration to the enormous value to his fellow human beings of the work being done by Father Drinan in this country and by many other priests in this country and elsewhere in the world, especially in Latin America, where their middle-of-the-road influence is so desperately needed?

In the current Congress, Father Drinan has been chairman of the Judiciary Committee's Subcommittee on Criminal Justice. Under his leadership that subcommittee has completed work on the monumental task of revising the U.S.

Criminal Code, and it is to be hoped that that revision, with perhaps minor modifications, can be enacted into law before the 96th Congress adjourns.

In the next Congress, assuming continued Democratic control of the House, it would have been natural for Father Drinan to assume the chairmanship of the Subcommittee on Immigration, Refugees, and International Law. With the ever-mounting problems created by the flow of refugees into this country, and the passionate desire of many others to come to our shores, what work could have been more important?

What seems to me so puzzling about the Pope's decree is that it results in a kind of discrimination in favor of the church's high officials and against the rank and file of the priesthood. By virtue of his office, the Pope exerts enormous influence in the world of secular politics; so do some cardinals and, to a lesser extent, bishops. But the voice of a simple priest is not very loud nor is his influence very great, unless he can magnify it by achieving public office or other quasi-public positions.

In order not to burden the Record, I will not at this point try to recount Father Drinan's many achievements as a Member of this House. Others will do so, I have no doubt. Let me just say this: for the last almost 10 years Father Drinan has been one of the most outstanding Members of this House. His enthusiasm, his energy, his dedication, his courage, his humor—above all, the intensity of his caring—have been an inspiration to all of us.

For me, it has been a privilege to work with Father Drinan. He has become a valued friend.

It is my hope that the Pope's unprecedented and unfortunate decree will be withdrawn—or at least substantially modified, so that Father Drinan can resume his important work in public life. Until that day comes, I trust that our friend and colleague will continue to find constructive ways to serve his God and his church, as well as his community, this Nation, and the world.●

● Mr. FASCELL. Mr. Speaker, I am honored to join our colleagues and pay tribute to Congressman Robert F. Drinan, who will be leaving us at the close of this 96th Congress. Bob Drinan's dedication and leadership are well esteemed here; he has earned the respect of both his allies and opponents alike. It has been my distinct pleasure to serve with Bob on the Government Operations Committee and in the House for the last 10 years.

Bob Drinan has achieved a remarkable record of service and accomplishment. On matters of conscience, he has never been silent or too timid to espouse unpopular opinions. Before coming to Congress, Bob served for 14 years as dean of the Boston College Law School where he became a dedicated defender of the legal rights of the poor. In 1970, his first congressional election was won on a vigorous anti-Vietnam war platform that brought attention not only to our servicemen in action, but also to the sufferings of the Vietnamese civilians. He subsequently sponsored much of the original legislation aimed at ending American involvement in Indochina.

In the House Judiciary Committee, Bob Drinan has been an unshakable guardian of the first amendment and of civil liberties. He is an influential human rights advocate whose achievements are esteemed worldwide. Bob has never lacked the courage to speak up when he sees the infringement of human rights. From his missions to Argentina and Central America, to Soviet Jewry and dissidents in the U.S.S.R., Bob's voice is heard and gratefully respected.

Bob's earned reputation as a spokesman for the American consumer is surpassed by none: the Consumer Federation of America has honored Bob for having the best voting record on consumer issues in the entire House.

And in the impeachment inquiry against former President Richard Nixon, Bob Drinan was not only a vital participant, but was also responsible for introducing the first impeachment resolution.

Bob has served with wisdom, dignity, and firm commitment. We have all benefited from Robert Drinan's legislative skills over the last 10 years, and his presence here will be sorely missed. I am happy to join our colleagues in extending my very best wishes for a healthy, and, I am sure a distinguished, future.●

● Mr. MAZZOLI. Mr. Speaker, I would like to join with other Members of the House in wishing well to our colleague and friend, the Honorable Robert F. Drinan, who has decided not to seek reelection after serving in the House for 10 years.

A scholar, legislator, and humanitarian, in his 10 years in the House Father Bob Drinan has commanded the respect of all of us in his efforts for peace, justice, human rights, and integrity in government.

While Bob's leadership and dedication to championing the cause of the oppressed will be sorely missed within the Congress, I know his influence will continue to be felt all across the Nation.

We all wish Bob the best of health and happiness and further success in whatever field of service to God, country, and fellow person he chooses to follow.●

● Mr. DERRICK. Mr. Speaker, today I join my colleagues in the House in wishing farewell to a fellow Member from Massachusetts, Robert F. Drinan. In so doing, however, I cannot avoid voicing my sincerest regrets regarding the circumstances surrounding Bob's decision not to run for reelection.

The House of Representatives, Mr. Speaker, will be the real loser in this, for the past decade has witnessed few if any more dedicated Members in its service. Throughout his career in the House, Bob Drinan has established and maintained a record of conscientious and distinguished service.

While I have never had the privilege of serving with Bob on committee, his work on the House Judiciary Committee, Internal Security Committee, Government Operations Committee, Select Committee on Aging, and chairmanship of the Criminal Justice Subcommittee has clearly exemplified Bob's tireless dedication to service in this body, and more importantly, to the citizens of this Nation.

Bob Drinan, Mr. Speaker, has consistently provided a voice in this body for those in our population who have, at times, lacked an effective and committed spokesman. I am here referring to that segment of our society, who for a variety of reasons, have not possessed the economic or political influence to demand that their voice be heard; the poor, the aged, the handicapped.

While I do join my colleagues today in voicing my deepest regrets at the departure of Bob Drinan from the House of Representatives, I am assured that Bob's dedication to both his church and his country will not falter as a result of this. Bob, I wish you the best of luck on what I am sure will be a continued career of distinction.●

● Mr. KINDNESS. Mr. Speaker, on May 1, 1846, a convention at Petersburg, Ill., nominated Abraham Lincoln as a candidate for Congress.

The 37-year-old attorney was to face Peter Cartwright, a famous old-fashioned circuit rider, evangelist, and Jackson Democrat.

The campaign was a rough one. On more than one occasion Lincoln was called upon to respond to accusations that he held drunkards as good as Christians, that he was a "deist" who believed in God but not in the divinity of Christ or the doctrine of atonement, and that he had called Christ "a bastard."

During the course of the campaign, Lincoln attended a religious meeting where Cartwright was in the pulpit. At one point during his message, the evangelist said:

> All who desire to give their hearts to God, and go to Heaven, will stand.

A sprinkling of men, women and children rose to their feet. The preacher then exhorted:

> All who do not wish to go to Hell will stand.

All stood—except Lincoln.

Then, in his gravest voice, Cartwright noted:

> I observe that many responded to the first invitation to give their hearts to God and go to Heaven. And I further observe that all of you save one indicated that you did not desire to go to Hell. The sole exception is Mr. Lincoln, who did not respond to either invitation. May I inquire of you, Mr. Lincoln, where are you going?

Lincoln arose slowly:

> I came here as a respectful listener. I did not know that I was to be singled out by Brother Cartwright. I believe in treating religious matters with due solemnity. I admit that the questions propounded by Brother Cartwright are of great importance.
>
> I did not feel called upon to answer as the rest did. Brother Cartwright asks me directly where I am going. I desire to reply with equal directness: I am going to Congress.

I have often reflected on that story, wondering whether election to this great legislative body is more like going to heaven or going to hell. Having been reared in the Presbyterian Church, I have been limited to those two options.

But for the past year and a half, I have been working with Father DRINAN on the Criminal Code and I have learned of a third option. It is called purgatory: a state in which the souls of those who have died in grace must expiate their sins.

That sounds a lot like the Criminal Justice Subcommittee.

Since the beginning days of the 94th Congress, I have had the opportunity to share several committee and subcommittee assignments with Father DRINAN.

In the 94th Congress, we served together on the Judiciary Committee and the Subcommitee on Civil and Constitutional Rights.

In the 95th Congress, we served together on both the Judiciary Committee, the Government Operations Committee, and the Subcommittee on Environment, Energy, and Natural Resources.

In this Congress, we are working together on the Government Operations Subcommittee on Government Information and Individual Rights and the Judiciary Subcommittee on Criminal Justice.

When I think of the many battles we have joined, as allies and as adversaries, I am impressed by his unflinching devotion to two simple, yet profound, concepts: Justice and individual freedom.

It is because of his dedication to those two concepts that a more liberal Member of the majority and a more conservative Member of the minority have found common ground, "common cause" if you will.

In the Subcommittee on Government Information and Individual Rights, a subcommittee with jurisdiction over the Freedom of Information and Privacy Acts, we have shared a mutual interest in the rights of individuals, an interest which transcends political labels.

In the Criminal Justice Subcommittee, Father DRINAN has presided over a massive effort to codify Federal criminal law, a task which has involved an examination of—

All of man's worst deeds, which have been studied, described, and set against the interests of society;

All of the concerns of the accused; and

All of the rights of a free people, which are to be protected in the Federal criminal law.

That is an extraordinary task which has been matched by extraordinary leadership.

Adlai Stevenson was once characterized as a "political bird of paradise." Those same words can be used to describe BOB DRINAN, a man of enormous energy, inspiring dedication and irrepressible wit.

Serving in the House of Representatives with BOB DRINAN has been one of the colorful and challenging and rewarding experiences of my life, and, like many who sit across the aisle from him, I am going to miss him.●

● Mr. CHAPPELL. Mr. Speaker, I am pleased to join my colleagues in honoring the Congressman from Massachusetts, Father ROBERT F. DRINAN on the occasion of his retirement from the U.S. House of Representatives. Throughout his congressional career, Father DRINAN has held stauchly to his views as a proponent of basic human and civil rights.

In pursuit of human rights, he traveled to Moscow on behalf of Soviet Jews and dissidents, to North Carolina on behalf of the Wilmington 10, and to Central America as the leader of human rights missions sponsored by Amnesty International and the Unitarian Universalist Service Committee. He demonstrated his concerns against Soviet oppression by chairing the International Committee for the Release of Soviet dissident Anatoly Shcharansky.

Additionally, our colleague from Massachusetts has been an ardent supporter of the Jewish people's right to a national homeland; he has been unswerving in his advocacy of a strong American commitment to the state of Israel.

I know Father DRINAN will be long remembered by his colleagues and his country for his many accomplishments. His dedication and commitment to the Nation, his constituents, and this body represent the highest sense of dedication to the ideals and principles which made this country great.

His calm, deliberate demeanor and gentlemanly manner is the epitome of a true statesman. His high moral purpose in dealing with complex and often ambiguous national and international issues is a hallmark of his impeccable character. The House is certain to be a better deliberative body for his having passed our way.●

● Mr. WON PAT. Mr. Speaker, it is with great pleasure that I join my colleagues on this occasion to salute our great friend, Congressman ROBERT F. DRINAN, who is leaving the House at the end of this term.

Father DRINAN is a man who has contributed far more to this historic body than he has received. He has served as a conscience for the Congress and in this capacity has reminded us of our moral obligations to the people of this country and to ourselves as well.

I have been equally impressed with his ever ready grasp of complicated subjects. His hallmark can be seen on many of the key measures passed by Congress in recent years. The poor, the underprivileged, the elderly of this Nation owe Congressman DRINAN a great deal of gratitude for representing their interests and for obtaining important legislative benefits for them.

Several years ago, I was privileged to lead a delegation from Guam in testimony before the House Judiciary Committee. There I saw first hand the keen questioning mind of Congressman DRINAN in operation. He was then and is now a man who retains a remarkable degree of interest in the affairs of his fellow mankind and we on Guam are most appreciative of his concern for our well-being.

While I certainly regret the decision which led Father DRINAN to leave our midst, I fully respect his prompt acceptance of the reality of his life which led to his departure. Personally, I believe that this country has lost a very important public servant and we are the lesser for this loss.

While he will be gone from Capitol Hill, I encourage Father DRINAN to not forsake his interest in the affairs of his country. It is my sincere hope that we will hear from him often in the future because we need his sage counsel more now than ever before.

Mr. Speaker, I thank Representatives ED BOLAND and SILVIO CONTE for requesting this special order on behalf of our friend ROBERT DRINAN.

● Mr. VAN DEERLIN. Mr. Speaker, I have always thought Father DRINAN had a bit of an edge on the rest of us. I, for one, due to a fairly strict religious upbringing, have always called him Father—not BOB, or one of the many less formal modes of address used in the cloakrooms and passageways of this institution.

But my respect for his position in the church went beyond this. I have always been especially attentive to his comments during debates—believing that, as a man of the cloth, he would try a little harder to speak from moral rather than expedient motives. I was never disappointed.

Whether we agreed with him or not, he has, throughout his career continued to shine the light of moral responsibility into the murky corners of politics. This has been especially important in an era that substitutes "body counts" for slain soldiers and talks of "megadeaths" and "deterrent capability" instead of nuclear holocaust. During Vietnam and the Watergate, the country needed to be brought back from the "value-free" world of the technocrats into the real world of human beings. Father DRINAN helped do that.

For this, as well as for his hard work in the day-to-day matters that make the House run, he will be remembered. The loss of his voice is a great loss to the Congress. I hope it will continue to be heard.●

● Mr. SOLARZ. Mr. Speaker, ROBERT F. DRINAN, an individual I have come to know and respect in recent years, will be leaving us in November. The dedication, long hours of toil and steady determination to get the job done should serve as a model for us all to emulate. He has been an outspoken critic of injustice and a champion to all who believe in human rights and to all who suffer under the heels of dictatorships and repressive regimes on both the left and the right. He has fought for the freedom of mankind. Whether it was the Soviet Union, or Cambodia, or Africa, Father DRINAN was always there to stand up for what he believed was right and for the basic freedoms Americans have always supported.

It has been an honor for me to serve in the House with Father DRINAN. It seems to me that it is a real pity that such an outstanding and committed public servant must leave elected political office if he is to continue to live up to his religious obligations as a Jesuit priest.

We will all miss his guiding force on behalf of a strong and equitable human rights policy and his ability to focus clearly and succintly on both domestic and international problems. The loss of his understanding and compassion will be strongly felt here as we continue to work to aid the oppressed in our own Nation and around the world. Father DRINAN traveled half way around the world last year to inspect the conditions of the Indochinese refugees and to urge a more generous asylum policy on our friends in Southeast Asia.

Here at home, he worked tirelessly on the reform of the Criminal Code, despite the many problems and prejudices surrounding this issue.

Even though he is stepping down from his work for the U.S. Government, I am sure he will continue his efforts to improve the quality of life at home and abroad.

I cannot help but admire his record in the House over the last 10 years—as one who has consistently voted for the benefit of others, he has unselfishly used his time and energy to make America a better place in which to live. I consider myself privileged to have known this man, this brilliant legislator, this compassionate idealist and deeply committed minister of his faith. I am saddened to bid him farewell and I only hope he is as successful in his future endeavors as he has been in the House of Representatives.●

● Mr. VANIK. Mr. Speaker, it is with great regret that we see Congressman DRINAN leave the House of Representatives. His contributions in the human rights area will long be remembered and it will be difficult to replace his continuing efforts. It is this continuing effort that must be made, and without Congressman DRINAN's presence and persistence, I am afraid we may become too quiet once again. The human rights area is not an easy issue, but Congressman DRINAN has made this his crusade. We must continue to make progress in this area in order that many of our other urgent issues will be settled.

We all must commend Congressman DRINAN for his sense of obligation to the commands of another great institution, but we must continue, in his behalf, the causes which have become his legend.●

● Mr. HARKIN. Mr. Speaker, I am glad to join my colleagues in honoring my friend and colleague Father ROBERT DRINAN. His advice, friendship, and example have been an inspiration to me since the day I entered the Congress. His wise counsel and moral leadership will be sadly missed as he leaves the House of Representatives at the end of this term.

Recently, BOB DRINAN led a delegation to Central America to investigate human rights problems in El Salvador and Guatemala. Upon his return, Representative DRINAN reported the following:

> By the mere presence of the human rights group of which I was a member, we almost forced the people of Guatemala to react to the importunate call to observe the sacredness of human rights. In a dialogue, eighteen members of Guatemala's Congress spoke about human rights and were compelled to praise the initiatives of the American government in relentlessly pointing to the preciousness of human rights.

The U.S. human rights initiatives which have made such an impression around the world and provided a spark of hope for the tortured, the oppressed, and the imprisoned have no firmer supporter than BOB DRINAN. His is the voice of the silenced, the disappeared, the hungry, and the neglected. Indeed, Representative DRINAN has not only forced repressive governments around the world to take human rights considerations more seriously, but he has been the conscience of this Congress on the issues of peace, justice, and human dignity.

It is with grateful appreciation and profound respect that I wish my friend ROBERT DRINAN well in the years ahead, as he continues his mission on behalf of the poor and powerless of the Earth.●

● Mr. WOLFF. Mr. Speaker, I wish to join my colleagues today in paying a tribute to BOB DRINAN that can only be an understatement of his outstanding qualities.

I was deeply disappointed to hear of his retirement from the House of Representatives, and in fact, when I visited Rome just 2 weeks ago, I conveyed this disappointment to the Vatican. In a meeting with Cardinal Caseroli, I expressed my feeling that the United States as a nation will gravely miss Father DRINAN's presence in Congress. The cardinal replied that His Holiness had not directed his words at Father DRINAN, but rather, at all priests who were involved in political activity.

I happen to agree with much of BOB DRINAN's politics, but I am sure that even those Members of Congress who do not always agree with him have great respect for the strength of his convictions and for his willingness to stick to these convictions in a face of tremendous pressure. BOB DRINAN has displayed this quality on numerous occasions as a member of the House Judiciary Committee, and through his other roles on Capitol Hill.

When BOB DRINAN leaves the House of Representatives, this body will be losing one of the greatest humanitarians amongst us. In his work for the rights of Soviet Jews, he has earned my personal gratitude many times over. As chairman of the Subcommittee on Asian and Pacific Affairs, I have followed with admiration his outstanding work on the Cambodian refugee and Vietnam boat people holocausts. Over the years, I have noticed that whenever a people, or a nation, is suffering, BOB DRINAN adopts these people or that nation as his own, and follows through with hard work underscored by a deep compassion.

Congressman DRINAN is retiring, but he is not quitting. I have grown accustomed to his unfailing optimism, and I know him far too well to doubt that he will continue his hard work as a humanitarian on an international level for many years to come. I will be turning to him for advice in the future, as will many of my colleagues. He may be losing his congressional office, but he will never lose his influence, nor the great respect we feel for him.●

● Mr. BARNES. Mr. Speaker, during his 10 years of distinguished service in the House of Representatives, the gentleman from Massachusetts, Father DRINAN, has gained an international reputation as a spokesman against tyranny and a defender of the oppressed. He has also brought a unique perspective to this institution which will be sorely missed in the years ahead.

Shortly after I came to this body last year, I had the privilege of speaking, along with Father DRINAN, on behalf of Anatoly Shcharansky at a vigil across the street from the Soviet Embassy here in Washington. The gentleman from Massachusetts has been the leader of a world outcry against the Soviet Union's unjust, harsh, and inhumane treatment of Shcharansky and other dissident freedom fighters. He has been extremely effective in using the moral authority of his offices—both secular and clerical—against injustice. I hope that he continues his efforts in the years ahead, for his leadership is still vitally needed on many unfinished tasks.

Having served with Father DRINAN on the Judiciary Committee, I can also attest to the incredible energy he has brought to his legislative duties, especially on behalf of the fair housing legislation considered earlier today by the House and reform of the Criminal Code. The complex and controversial bill recodifying the Criminal Code could never have advanced so far in the 96th Congress without the extraordinary effort organized by the gentleman from Massachusetts in his role as chairman of the Subcommittee on Criminal Justice.

Mr. Speaker, the House is losing a valued Member, an able lawyer, and a spokesman for justice and morality, and the people of the Fourth District of Massachusetts are losing a diligent representative of their interests. The American people will benefit if Father DRINAN continues, as I know he will, to apply his talents to public service in the Nation and the world.●

● Ms. OAKAR. Mr. Speaker, all of us in this body will miss the presence of our distinguished colleague from Massachusetts, Father BOB DRINAN. His unflagging commitment to justice has marked his 10 years of service in this House. There has hardly been an important national issue facing this Nation in the last decade that has not benefited from the strong voice of Father DRINAN. When this Nation was embroiled in the conflict in Vietnam, he spoke out courageously and sponsored some of the first legislation calling for an end to the bloody U.S. involvement in that war. When the Watergate controversy threatened the very existence of constitutional government, BOB DRINAN became one of the chief, steadying influences in the impeachment inquiry of the House Judiciary Committee.

As a fellow member of the Select Committee on Aging, I am also aware of Father DRINAN's deep concern for the elderly. He has been a leader in the fight against age discrimination in this country. He has been an important force in all of the committee's work and we will miss him very much.

In the area of human rights, BOB DRINAN has traveled all over the world supporting the rights of those who have been harassed and imprisoned for their political beliefs. He has been a leader on behalf of Soviet Jews and has served on missions to Latin America sponsored by Amnesty International and the Unitarian Universalist Service Committee. He has never hesitated to speak out publicly in an effort to right wrongs that he sees. The Congress will be the poorer without his stirring calls for justice.

I will miss Father Bob Drinan very much and I know that everyone joins me in wishing him every success in his future work. On a personal note, as one who received a master's degree from John Carroll University and as one who is a member of a Jesuit parish in Cleveland, Father Bob Drinan represents the best in terms of the principles of the Jesuit order. I know Father Drinan will do outstanding work no matter what his field of endeavor. May God bless him and his work.●

● Mr. ROSENTHAL. Mr. Speaker, I am honored to rise to acknowledge the contributions of Robert F. Drinan as a national legislator and a true humanitarian.

During his 10 years in the House, I have enjoyed the privilege of serving with Father Drinan on the Government Operations Committee. For 4 of those years Father Drinan was the mainstay of my Subcommittee on Commerce, Consumer, and Monetary Affairs. The legal skills he displayed during extensive hearings and investigations were a model of their kind. No witness, no agency, no issue escaped his quick and penetrating analysis. I was pleased to work with and learn from this distinguished scholar.

I will never forget the range of compassion Father Drinan has shown over the years for people all over the world. His righteous indignation helped protect the children of America from dangerous sleepwear treated with the chemical Tris. His humanitarian work with the nations of Latin America and his worldwide concern for refugees has led to a lifelong career as one of America's outstanding spokesmen for human rights and liberty.

It is with deep regret that I see Robert Drinan leave this House. My regret is not only professional, but highly personal as well. I have enjoyed the benefits of his comradeship and friendship as I have admired his principles and good works. It is never easy to watch a valued and successful Member retire from active elective office. In the case of Father Drinan the loss is enormous. It is my firm belief that he will continue in new battlefields to represent the values and ideals he has symbolized so well during his tenure in the U.S. House of Representatives.●

● Mr. STARK. Mr. Speaker, my basic premise is that none of us is irreplaceable, but that some people are harder to replace than others. Bob Drinan falls into the "difficult to replace" category and I am sad to see him leave this House. I am especially saddened because he is leaving even though neither he nor his constituency shows evidence of unhappiness with the existing representative relationship.

For nearly 10 years, Bob Drinan has been a valued Member of this body. He has provided leadership on a great number of the important issues that faced us during those years. He has been dedicated in his pursuit of the national interest and protective of the rights of many of those in our society and elsewhere who otherwise would have lacked an effective advocate.

Mr. Speaker, after Father Drinan's retirement became a fact, the pages of this Record have carried moving statements about his service. I refer especially to the Richard Cohen article reprinted May 8 at page 10503 and the letter from Rabbi Richard M. Yellin of Chestnut Hill that appears at page 11879, the May 20 Record. These statements describe a humane and effective legislator. Human rights violations, peace, justice, and poverty are his concerns. They were during his service in this House and I am certain they will always be his concerns—and that he will continue to be effective in his efforts to make this country and this planet a safer, more secure, and happier place.●

SYNTHETIC FUELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Paul) is recognized for 30 minutes.

Mr. PAUL. Mr. Speaker, the administration's three-part plan to restore energy abundance and independence will give us neither. The outrageous $227 billion tax helps to seal the fate of a faltering economy in desperate need of massive tax reductions. The Energy Mobilization Board—or fast-track legislation—is no substitute for repeal of the laws and regulations that hamper energy development, or for returning to local responsibility the protection of the environment through the common law. Sidestepping or arbitrarily voiding laws is bad precedent, and will result in more bureaucracy, not less. The third part of the energy plan is equally destructive to energy production and deserves our special attention.

The synfuels bill calls for $25 billion, the first of an $88 billion program for the development of synthetic fuels. With our energy crisis, who could object? Does anybody really care that the technology for making gasoline from coal is more than 40 years old? Does anybody consider that the corporate recipients of these confiscated dollars are delighted that the expense of building new plants are being passed on to the middle-class patsy?

The risks will be borne by the defenseless—the profits will be reaped by the corporate welfare giants.

The promises of more abundant and cheaper energy for the taxpayer will never materialize, and when this is discovered the taxpayer is going to be very angry.

If the Congress and the bureaucrats can create consumer shortages when there are no actual shortages, how can we expect the same people to provide an abundance of new energy from scratch? Seeking to turn these destroyers into producers is absurd.

The 4-year debate in Congress over development of synthetic fuels has been misdirected. The environmentalists' reservation about synthetic fuels are well founded. However, since Government is the greatest polluter of all it is not surprising to see the American taxpayer forced to pay $25 billion to finance his own environmental hazards. How can anyone object if the program is pushed in an atmosphere of panic?

Although the environmental issue was raised in 1976, it now has been brushed aside by the fear of more DOE-created shortages. The Energy Mobilization Board will also nullify any environmental protection gained through Federal or State legislation. Forced use of coal over gas and nuclear will also increase the danger to our environment.

Fancy oratory has been heard over how much should be spent on this program. Figures ranging from $3 to $88 billion have been mentioned.

But everyone seems to be satisfied with the $25 billion planned in this legislation. The only comforting feature about this amount is that it will cause less damage than one would assume. With a 20 percent inflation rate—in real terms—over a 4-year period, in terms of today's dollars this will amount to less than half of the appropriated amount in spending power. The danger exists, however, that the foolish notions of Government intervention will prevail, and massive new subsidies will be acquired, to make up for the loss.

The real debate regarding synthetic fuels has never occurred: Can we know if, when, and which synthetic fuel should be produced, and it is a proper function of the State to do so? Are we, the Congress, even with the help of our bureaucrats and scientists, capable of knowing and interpreting the market? Can one person, or one body like the Congress, even with massive computer technology and numerous economic models, know that which requires millions of voluntary choices in every other area of the economy?

When one realizes that a market economy is controlled by consumers making purchases and withholding purchases—something even the smartest businessman can only gamble on—it becomes apparent how foolish we are to pretend we know just when and what to do with regards to developing new fuels. Thinking otherwise demonstrates an unbelievable intellectual arrogance or a remarkable naivete.

The May 1980 issue of Research Reports, published by the American Institute for Economic Research stated it quite clearly:

> Governmental interference in the marketplace to "stabilize" production of any good imposes involuntary choices on the public by (1) increasing taxes to support the artificial production of a good and (2) limiting consumers' ability to purchase goods they actually desire. So-called stabilization programs actually benefit a small group at the expense of the public. . . .
>
> Voluntary cooperation is fostered by competition in the marketplace. It does not require governmental "direction"; it requires merely a set of rules that prohibits such acts as fraud and theft. The marketplace adjusts the actions of consumers and producers so that economic activity is geared to satisfy market participants to the greatest extent without infringing upon anyone's rights.

> In fact, centrally planned programs not only distort economic activity by causing surpluses in production in some areas (e.g., certain agricultural products) or shortages in other areas (e.g., crude oil), they also wrongly suggest to people that the political process can solve their economic problems. . . .

The question of whether or not our wisdom is superior to the market, or whether we are wise enough to know the market, is never raised. It is simply assumed we know what is best and that we can interpret the market. This erroneous assumption, which has directed legislation here in this body for so many years, has brought us to the economic, monetary, and political holocaust we face.

When a government presumes to know what is best for the people in economic terms, it must follow that it presumes to know what is best for everyone in social terms as well. If a warm house and adequate energy become the responsibility of the State, well-spent leisure, good books, health habits, and the like, must also be the concern of the State. With the concession, that economic and social concerns are no longer the responsibility of the individual, no personal liberty remains. We all become puppets of the State, except, of course, for the smart ones—the planners—who know what is best for all, the puppeteers—that is, the Congress, in collaboration with the bureaucracy and the special interests.

The puppeteers are not limited to the left or to the right. The worst on the left are the so-called consumer protection groups and the welfarists who ignore economic freedom and the right to private ownership of property; and on the right we find the giant corporations and international bankers who manipulate government to their own advantage and others careless about protecting personal liberty.

This explains the widespread support from both the right and the left for the Government synthetic fuels program. The common denominator that brings these two groups together is the ignorance, or the abhorrence, of the voluntary market economy. This, however, is not hard to understand, because both groups make the same fundamental error—accepting the interventionist economic philosophy. They are usually only distinguishable by their appeals to different special interest groups.

Ludwig von Mises stated it quite clearly in his essay, "Politics and Ideas," when he said:

> Under interventionist ideas it is the duty of the government to support, to subsidize, to give privilege to special groups. . . . What we see in the reality of political life practically without any exception is a situation where there are no longer real political parties in the old classical sense, but merely pressure groups. Pressure group politics explains why it is almost impossible for all governments to stop inflation. As soon as elected officials try to restrict expenditures, to limit spending, those who support special items in the budget come and declare that this particular project cannot be undertaken or that that one (synthetic fuels) must be done.

If this is not understood, and if it does not become quite clear to the American people why $25 billion will be spent on 40-year-old technology, the economic and political holocaust will be hastened. As other areas of the economy deteriorate (we have already seen it in the automobile, railroad, and steel industries) and the same approach is used, a Socialist (nonmarket) economy of the Fascist variety will soon be with us.

Quite simply, we as Congressmen cannot know what is best and we cannot know what the market is saying—it is too complex. All attempts will fail and only serve to distort the information that true entrepreneurs rely on and are struggling with, to make some reasonable decisions. (The big difference being it is their risk, not the taxpayers', thus prompting better judgment.) Government action, as with the synthetic fuels legislation, is counterproductive, and the benefits claimed from such projects will be so costly that no net gain can be achieved—it will be nothing more than a corporate CETA program, and is doomed to fail economically and become corrupt politically.

A "no" vote on this massive boondoggle is not a "no" vote on synthetic fuels. That is not the issue. The issues are who takes the risk, who pays, who benefits, when and which fuels do we make, do we heed constitutional restraints, and do we consider the immorality of theft and forced wealth redistribution? To argue that without a synthetic fuels program we will have insufficient energy is fallacious. The evidence clearly shows we are more likely to have insufficient energy supplies with Government interference than without.

For those who agree that we need synthetic fuels development, a "no" vote is a must. It is the only consumer and environmental protection vote available to us.

Casting a vote for the market puts all the responsibility and risk on the potential profitmaker. No fast track legislation would be needed to circumvent environmental protection afforded by private property rights.

If wrong decisions are made by the investor about when and which fuel to manufacture, he loses and the taxpayer does not. And the information gained is of great value to the next private planner. When the Government "planner" fails, the taxpayers suffer, the market is drastically distorted, and only misinformation is obtained. Government never makes proper corrective actions, it only pursues with a vengance its previous mistakes—to prove they were not mistakes—by throwing more money—wealth extracted from productive American citizens—down the ratholes of market manipulation. When losses are hidden or distributed to the public—as it is with Government errors—the significance of miscalculation of the market is not readily apparent. Perhaps oil supplies are more plentiful and more practical than are synthetic fuels, or electric cars, powered by nuclear-generated electricity, may be more advantageous: only the market knows, not you or I.

As a matter of historical fact, we know that Government intervention has prevented the natural development of clean and safe alternative energy sources. The setting of natural gas prices at an artificial low level by the Federal Government in the 1950's caused the wasteful and uneconomic use of this precious energy resource.

Politically set utility rates impose no higher cost on customers in distant areas, yet delivery costs are higher. That is, urban customers, including the poor, are forced to subsidize suburban and exurban homeowners.

If people in remote areas paid the market cost of delivery, alternative sources such as wind, solar, and others would not have atrophied. They would have been economically competitive many years ago.

Political intervention also undermined alternative energy through the Rural Electrification Administration. In their essay, "Property Rights and Natural Resource Management," published in Literature of Liberty, Richard Stroup and John Baden of Montana State University note:

> Perhaps the most important factor fostering the decline of our indigenous alternative energy industry was an unintended consequence of a desire to "do good." The Rural Electrification Administration (ERA) was established during the 1930's to subsidize power delivery to people in rural areas. The federal government guaranteed two percent loans and eliminated income taxes to rural power co-ops. Thus, the general citizen picks up a portion of the cost of delivering expensive power and hence reduces the market incentive to develop alternative systems.
>
> Although REA legislation was enacted in the 1930's, the demise of the windmills and wind generators was postponed for another two decades, the time required for electric wires to be strung throughout the Central and Western states. Marcellus Jacobs, founder of the once successful "Jacobs Wind Electric Co.," stated that without question, the spread of REA subsidized power facilities signaled the end of his business. The solar water heating industry, resurging after World War II, was also stunted by cheap electric rates. Like wind power and solar water heaters, the ultimate demise of eighteenth and nineteenth-century tidal power can also be attributed to the subsidized introduction of cheap electricity.

Having once halted the natural development of these alternative energy sources, we now want to subsidize them, when technologically their day may have passed. Even worse, we are on the verge of subsidizing dirty synthetic fuels.

The question is whether or not private citizens, entrepreneurs, and consumers should make the decisions on how, when, and where synthetic fuels and alternative energy sources should be developed, or whether the decisions should be made by Government officials at the taxpayers' risk. This question has moral as well as economic and constitutional dimensions. The economic fallacy of Government control, if not obvious today to the majority, will be obvious to economic historians of a later generation. Unfortunately, it will then be too late to help warm, light, cool, or transport Americans as they would like.

The tragedy about discussing the constitutional argument against such a program is that the mere suggestion of such a point is ridiculed. Here in Congress the Constitution is whatever one wants it to be, and, unfortunately, there is minimal understanding of its true meaning. It bewilders many if the issue of constitutional restraint is raised on a specific piece of legislation, since we have drifted so far from the original intent of its limitation of power in our everyday legislative activities. It is an argument foreign to most and, sadly, of no consequence. The Constitution is simply not used as a guide in our legislative process. It is only used in a circuitous manner to support efforts to concentrate power or justify some, occasionally correct, minor point. There is little hope for building limited-Government, private-property, free-market principles, if this attitude toward the Constitution does not change in the next election or two.

The moral argument could be the most convincing, since the Congress is made up mostly of fair-minded persons truly concerned about the welfare of their constituents and the Nation.

When it is realized that this is corporate welfare at the expense of the poor and that new energy will not likely result, rejection of this approach will be easy, since it is morally wrong as well.

Is it fair for the poor to assume the risks and the rich to reap the rewards?

Is it fair to encourage coal burning at taxpayers' expense and hinder the developers of possibly cleaner and safer alternatives such as nuclear and solar?

Is it fair to make gasoline at a higher cost—when cheaper sources are available—just because you think it might be necessary later?

Is it fair or morally consistent to have people sent to jail for distilling their own alcohol—now that the taxpayer is being asked to subsidize such distillation?

Is it fair to tax the middle class and the producers to subsidize the whims of the corporate statists?

Is it fair to distort and hinder the market and pretend we know it when we do not—delaying a real solution to our problem?

Is it fair to override local and State laws, set up to protect the right to own and control private property, by fast-track legislation?

Is it fair to eliminate the rights of the consumer, afforded him through the market economy and free choice, and burden him with high costs, dirty fuels, poor service, shortages, and harassment?

Is it fair to give the Government bureaucrats the power to tax, spend, regulate, redistribute wealth by force, distort, and manipulate a whole industry if you, as a private citizen, cannot do the same?

Is it fair to burden millions who will suffer the consequences of Government's blunders, and make them the helpless victims of your arrogance?

Is it fair to say there are real energy shortages when Government regulations and Government-caused inflation are at fault, concocting an atmosphere of unnecessary fear, that prompts passage of such legislation?

Is it fair to pass laws curtailing private monopolies, and then make Government the biggest monopolist, passing on benefits to a few special interest groups?

Is it fair to control people, and diminish individual liberty, for the sake of collective demands?

Is it fair? Obviously not.

The synthetic fuel bill is unconstitutional and economically unsound. But above all else, it is not fair. It is not morally acceptable. It is special interest legislation at its worst. It should be rejected outright.

All evidence available, past and present, shows us that interventionism and socialism always fail and cannot solve the problems of providing for the needs of the people, whether it is energy or food. The only thing command economics can offer is temporary relief for a few, not by production, since Government produces nothing but paperwork, but by theft and forced redistribution, causing eventual economic pain and suffering for everyone at the expense of our freedoms.

All evidence available to us shows, to the contrary, that freedom and the market does work, and work exceptionally well. The good news is that freedom can provide for our needs; Government intervention and control always fail. I vote for freedom and fairness and against the synthetic fuels bill.

□ 1920

THE 1981 BUDGET—A BALANCING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 60 minutes.

ECONOMIC CRISIS

● Mr. GREEN. Mr. Speaker, my votes on the first concurrent budget resolution for fiscal year 1981 are based on my conviction that we must have a balanced budget, but our spending priorities must be carefully ordered. I believe that—at least at the revenue levels projected by the House Budget Committee—a balanced budget is a step that must be taken in the battle to address our extraordinary economic problems.

The 1976 inflation rate was a modest 4.8 percent. Last year the Consumer Price Index (CPI) rose by over 13 percent and prices recently were increasing at an annual rate of over 18 percent. This incredible inflation has placed a terrible burden on our country's citizens and is especially severe in its impact on the poor and the elderly. We have also recently witnessed declines in productivity and all indications are that we are now in a long-anticipated recession. Truly, we are in an economic crisis.

In my remarks today I would like to discuss our economic difficulties and highlight three broad actions we need to take: Gain energy independence, cut Government spending, and spur productivity. I will then set forth my own spending priorities and indicate where I think spending should be increased. Finally, I want to discuss the first concurrent resolution on the budget for fiscal year 1981 which the House recently considered and the amendments which were offered to that resolution.

ENERGY PROBLEMS

A major contributor to our current economic problems has been the sharply rising cost of energy. Energy prices rose by 37.4 percent in 1979. Between December 1978 and early 1980, the average or "composite" price of a barrel of oil to U.S. refiners increased from just under $13 to approximately $26. In dollar terms, the United States paid about $6 billion a year to the oil exporters prior to the 1973 embargo, but we now are paying them about $100 billion a year for imported crude supplies.

Prof. William D. Nordhaus of Yale University and a former member of the Council of Economic Advisors recently observed that the "energy problem is above inflation, above the productivity decline, above the recession because it is behind all of these problems." I agree with Professor Nordhaus; there can be no doubt that energy is inextricably linked to all of these economic difficulties.

The extraordinary energy price increases we have been paying are the result of past unrealistic Government policies, the difficulties of the Carter administration in forming an energy policy, and the unconscionable and devastating tactics of the OPEC cartel. Past policies of "energy regulation" kept prices artificially low, below their true market value. This not only discouraged exploration for additional oil, but it also discouraged development of alternative sources of energy, such as solar. In addition, those low prices served as a subsidy to the rich, a subsidy which is now being paid through inflation by the poor and those on fixed incomes. In a recent briefing, Daniel Yergin, the coeditor of the influential book "Energy Future," told Members of Congress, "Price controls were more a subsidy to the rich than to the poor because in relative terms the rich use far more energy * * *"

ENERGY SOLUTIONS

I am pleased, however, that this Congress has begun to make significant progress in putting together a meaningful energy program. For example, I cosponsored the Solar Bank bill and, during committee consideration of that proposal, I authored a series of amendments which resulted in a major expansion of the bill to include energy conservation measures. I also cosponsored the House synthetic fuels legislation and feel that this will contribute greatly to our long-term energy solution. The Congress is completing its work creating an Energy Mobilization Board and, although the House did not back the version of the Board which I cosponsored with Representative MORRIS UDALL and which was supported by the solar lobby, I am encouraged that reasonable legislation may soon be finalized. In addition, I have supported legislation to increase and improve safety features for nuclear powerplants, cosponsored legislation to extend solar and energy conservation tax credits to rental housing, amended last winter's home heating assistance bill to include renters, and introduced my own home heating assistance bill for the next three winters. These and other actions will begin to put us on the road to energy independence.

Considerable attention has been given to the President's attempt to impose an oil import fee, which would have resulted in a 10-cent-a-gallon increase in gasoline and which was scheduled to go into effect May 15. A Federal judge ruled that the manner in which the fee was to have been administered was illegal and, while that question was being appealed by the President, the House and Senate voted by overwhelming margins on June 4 to disapprove the fee. While I favor measures which would encourage conservation, there is considerable disagreement among experts as to whether or not the import fee would achieve significant conservation. Clearly, the fee would have been inflationary, as was confirmed by Treasury Secretary Miller before the Ways and Means Committee May 14. Additionally, I was troubled by the possibility that the fee might not in practice be limited strictly to gasoline, but might also increase the price of home heating oil. Finally, I did not think it proper for the President to impose such a fee unilaterally. It is the constitutional responsibility of the Congress to levy taxes and any such gasoline increase should be the result of congressional action. Consequently, I joined with 375 of my House colleagues in disapproving the fee (versus only 30 who supported it) and voted with the House the following day in overriding the President's veto of the fee disapproval. A disturbing feature of this controversy is that the House Budget Committee was counting on the anticipated $10.3 billion in revenue from the fee to help balance the 1981 budget. The committee's miscalculation of congressional intent has now made our task in that regard that much more difficult.

I should note, however, that imposition of such a fee would not have given the United States protection or security from OPEC whims. Only a large stategic petroleum reserve would give us that kind of short-term protection, and I am very disappointed that the President has recommended cutting back purchases for the reserves, which has never reached the levels Congress has directed. As one national newspaper recently editorialized:

> The retreat from the strategic petroleum reserve is a national embarrassment, and a dangerous confession of failure. Instead of providing protection against future disruptions in this country's oil supply, the reserve has become a prominent symbol of American vulnerability.

I hope that the actions I have just advocated will reduce that vulnerability.

LESS GOVERNMENT SPENDING

I voted against the budget resolutions for fiscal years 1979 and 1980 because I thought they contained unnecessarily large deficits which were inflationary and because I thought the spending priorities in those budgets were grossly misplaced. I continue to feel that we need to moderate Government spending in general and cut back spending for certain programs.

Indications are that we can decrease the $100 billion cost of complying with Government forms and regulations by making our regulatory process more cost-effective. In an effort to bring about that more efficient approach toward some of our Government programs, I have cosponsored the Regulatory Agency Abolition Act. This bill would bring up Federal independent agencies for review every 3 years and these agencies would be abolished unless Congress determined that they were effective in accomplishing their general purposes and in promoting the general welfare of the public.

In addition, I supported the Depository Institutions Deregulation Act, which has now been signed into law. This law will lessen the restrictions on banks and savings and loans and allow them to pay higher interest rates to depositors. Obviously, this will also reduce the cost to the Government of regulating such activity.

Because I feel that Congress should set a spending example, I voted both this year and last against legislation to increase the amounts of money the House spends on its own committee functions where I thought the proposed increases were unreasonable and exceeded the inflation rate.

More importantly, I believe that even more significant cuts can be made in certain Government programs, such as tobacco and other agricultural subsidies. Without question, the tobacco subsidies are particularly unjustified and should be phased out entirely. I do not see how the Government can explain such subsidies when we know the health hazards involved and when the Government is spending large sums on education and to fight the effects of tobacco use. The agricultural subsidy programs create increased prices in the supermarket for consumers and, as in past years, I would call for an initial reduction of 10 percent in those subsidies, which would result in a savings of $170 million.

In the past we have also allowed outrageous expenditures for various "pork barrel" water projects. Most of these projects (which are often intended as flood-control measures) are in Western and Southern States and often benefit only certain special private businesses and, thus, are not truly public projects at all. Others of these projects have serious environmental drawbacks. Consequently, I voted earlier this year for an amendment to H.R. 4788 to remove authorization for 15 water projects, most of which were in the Midwest and South. The total estimated Federal savings in this amendment is nearly $3 billion. In voting for this amendment, I was pleased to have the backing of the Sierra Club, Friends of the Earth, Defenders of Wildlife, the Environmental Defense Funds, the National Wildlife Federation, and other environmental groups. The elimination of these projects will encourage planning for sounder alternatives to regional water resources needs. Because I felt that H.R. 4788 contained so many wasteful and environmentally dangerous projects (even after the elimination of the 15 just mentioned), I voted against the bill on final passage. I feel that I should point out that I did this even though the bill did contain a provision to continue with plans for a third water tunnel for New York City, a provision and a project which I strongly support and for which I have worked to gain passage by testifying for it and discussing its need with my colleagues. As a result, my decision to vote against the bill was a difficult one; but I did not feel that I could support a bill with billions of dollars worth of unjustifiable projects in addition to the greatly needed New York water tunnel. Of course, the bill did pass and the planning for the water tunnel continues.

LESS DEFENSE SPENDING

I recognize the current critical needs of our Armed Forces, but I am not one who thinks that the defense budget should be immune from the same scrutiny which others in the Congress are giving social programs. There are areas of the defense budget which can be reduced and we should not hesitate to criticize waste wherever we find it.

At no time in recent history has our military been in such need of major overhaul. We face major challenges in meeting additional requirements in the areas of nuclear weaponry, traditional hardware and personnel. Unfortunately, the President's budget and the defense authorization bill (H.R 6974) devote too much money to new weaponry at the expense of personnel, training, and equipment maintenance.

Earlier this year I sent a detailed letter to the Secretary of Defense inquiring about the proposed MX missile program and asking for specific answers about how the new system would fit in with air and sea nuclear capabilities. I would refer my colleagues to the March 25 CONGRESSIONAL RECORD (page 6437) for my statement on this issue and copies of my correspondence with Secretary Brown. After studying the Secretary's careful response, I concluded that the President and the Department of Defense have failed to make a convincing case for the huge and extremely expensive MX missile program. I submit that development of the MX would be inconsistent with our present deterrence theory as embodied in air and submarine based nuclear warheads. Any MX style silo-busting capability which might be needed could be delivered from our submarines, which will be more secure anyway, especially absent Senate ratification of the Strategic Arms Limitation Treaty (SALT II). On May 14 I voted for the Dellums amendments to the Defense Department authorization to delete the

MX from the bill and, after that failed, voted for an amendment which would have deleted $434 million of the $500 million project. This would have left enough to study further the need for the missile. Such study seems to me to be prudent, especially given the fact that the Defense Department recently announced a major revision in the proposed system from a circular "race track" design to one of moving the missiles up and down long linear roadways. As one member of the Armed Services Committee noted when we voted on the issue, "It's a little silly to commit half a billion dollars to go full speed ahead on a system they just came up with last week."

In addition, I question the need for another aircraft carrier. The last 2 years the Congress debated at length the relative strengths of conventional and nuclear aircraft carriers and decided to proceed with a new nuclear powered carrier at a cost of $2.1 billion. Beyond that, we are going to spend $305 million to recommission another carrier, the *Oriskany*.

Recently, Navy ships have had to remain in port due to shortages of personnel, and a significant percentage of our combat aircraft is inoperative due to lack of parts. A legitimate question should be raised as to where we are going to get the personnel to staff these additional ships and to maintain the aircraft on them when we cannot adequately staff the ships we have at present. Thus, it would be more efficient and effective to address the Navy's personnel needs. I know that this is a point which the ranking minority member of the Defense Appropriations Subcommittee has made in his committee for some time, but without success. Apparently, the fascination with hardware is more persuasive than efficiency to many Members of the House.

In short, I believe that the Congress is placing a dangerous overemphasis on hardware instead of personnel and I would refer interested Members to my relevant statement on the draft which appeared in the Record March 5, 1980. It must be obvious to all that every dollar we spend on duplicative or overly-sophisticated weapons systems is a dollar taken away from the crucial personnel problems facing the military. Any further savings could go toward certain increases in nonmilitary domestic programs which I favor. Shortly, I will discuss my votes on the various amendments to the 1981 budget resolution and I will have further comments on defense spending at that time.

ECONOMIC PRODUCTIVITY

To attack inflation and make progress toward solving our other economic problems we need to work for energy independence and cut Government spending. Third, we also need to address the serious issue of declining productivity in America.

In 1978 our economy crossed the $2 trillion threshold. According to a report by the Joint Economic Committee—

> If Americans had saved and invested a bit more, if the nation had grown only 1½ percent faster each year since 1950, the United States would now have more than a $3.5 trillion economy instead of the $2.4 trillion registered in 1979. Incomes would be 50 percent higher than they are now, and jobs would be plentiful. Federal revenues would have been $250 billion higher in 1980, and there would have been enough to provide for balanced budgets and greatly expanded health and social spending with enough left over to permit lowering income and payroll taxes instead of raising them.

Of course, that sounds like a very rosy picture and, unfortunately, we did not attain that level of economic expansion. Clearly, growth is critical; and savings, investment, and productivity are critical to growth.

In a separate statement on the issue, the chairman of the Joint Economic Committee observed:

> There is only one way . . . to absorb higher energy costs without higher inflation. And that is to increase productivity in our economy. Increased rates of productivity are the only known antidote to higher costs induced by higher energy prices. In recent years, we have seen our trading partners, like West Germany and Japan, prosper in the era of the OPEC cartel, and these nations are far more dependent than we on expensive imported energy. The secret of their success is not hard to determine: it is rapidly increasing rates of worker productivity, fueled by incentives for investment in modern plant and equipment. By making their economies more efficient, nations like Germany and Japan have been able to cope with rising energy costs. Our economy, with productivity on the decline, has actually magnified the impact of the energy problem.

In my opinion, our present tax structure is the most formidable obstacle to capital formation and growth. As one solution, therefore, I have cosponsored H.R. 4646, the Capital Cost Recovery Act, which would increase tax incentives to invest in new equipment and spur productivity. I am very hopeful that we will see enactment of this legislation before the end of the year.

BILL GREEN BUDGET PRIORITIES

The budget proposal which the President submits to the Congress in January of each year is the administration's most comprehensive and detailed statement of policy. It is the most fundamentally political statement the President makes and, in one document, tells the people where his priorities lie. I criticized the President's January proposal because of its inflationary $16 billion deficit and its misplaced spending priorities.

As we all know, in March of this year, the President announced a major revision of his January proposal by calling for significant cuts in many programs, increasing certain taxes and, thus providing for a balanced budget. As chairman of the Republican Urban Policy Task Force, I severely criticized the President's revised budget as one which ignores his previously stated urban policy and abandons programs to help our cities.

Although I do not like many of the details of the March revision, we must recognize that we have run up a $240 billion deficit over the past 5 years and balancing the budget will have an enormously favorable psychological impact on our economy. It will provide a welcome signal at home and abroad that we are serious about dealing with our economic problems.

Given the tremendous emphasis the President has placed on the balanced budget issue, I think it is important for Congress to support the President on this point. For the Congress to rebuke the President at this time on such a basic matter would have profoundly detrimental effects politically and economically. Therefore, I voted for the first concurrent resolution on the budget for fiscal year 1981—which is roughly the President's proposal—but having done so, I want to stress that the priorities in that budget—which was adopted by the House May 7—are not in all cases my own priorities, a matter on which I expressed myself by my votes on amendments to the proposal. By cutting the areas I have already mentioned—agricultural subsidies, public works projects, others—we will be able to provide funding for certain Government programs which are important to me as well as work toward a balanced budget.

RESTORING CUTS

Food stamps.—In 1977 the Congress placed a ceiling on food stamp expenditures. Such a cap is totally without justification and recently resulted in a near crisis as spending for the program approached that ceiling. With the threat of the entire food stamp program being shut down, the Congress raised the spending ceiling and provided enough money to continue the program until the end of September. Clearly, this is an unreasonable way to proceed. Given the skyrocketing costs of food items and the great need for assistance which the stamps provide, I favor elimination of the spending ceiling and appropriation of sufficient funds to support the program adequately.

Social and education programs.—No one has ever claimed that balancing the budget would be a simple or painless process. It is obvious that cuts have to be made somewhere. However, I do not think that we provide for a sound America when those cuts come disproportionately from social and educational programs, as they would under the Carter budget. I would use some of the money saved from the cuts I have proposed above—defense, for example—to restore the cuts in social programs and education which the President would reduce. In a moment I will outline in some detail the amendments to the budget resolution and I will discuss the programs further at that time.

Strategic petroleum reserve.—The President's March budget revision called for reductions in the Department of Energy of nearly $1.3 billion, with the bulk of the savings resulting from a delay in oil purchases for the strategic petroleum reserve from June 1980 to June 1981. Despite some signs of a short-term oil glut, given the highly volatile political situation in the Middle East, this is a very dangerous move. Further disruption of foreign oil supplies could result in disaster for the United States. Current supplies in the strategic petroleum reserve are only about 90 million barrels, which is roughly 400 million barrels below what the Congress scheduled for the reserve by this time. Some reduction in purchases for the reserve may be appropriate; deferral for a year of the entire amount is perilous.

NEW PROGRAMS

Welfare reform.—The current welfare system is inadequate to meet the needs of this country's poor, elderly, unemployed, disabled, and others who use the various assistance programs. In November of last year I strongly supported and the House passed the welfare reform amendments (H.R. 4904), which would make a number of improvements, including allowing SSI recipients to receive cash in lieu of food stamps. Many SSI recipients who are in need and who are eligible for food stamps do not apply for them because they are either disturbed at what many of them perceive to be the stigma of stamps or intimidated by the application process. Consequently, cash benefits would provide significantly increased benefit to many needy individuals. Unfortunately, the President has asked that the reform bill be put off for a full year and since then the legislation has languished in the Senate with little prospect of favorable consideration. We have waited too long for welfare reform already and I view delay of this new program as just another example of asking the poor to bear the burden of balancing the budget. This is certainly one new program to which I would devote some of the savings I have called for in other programs.

Expansion of medicare and medicaid.—In the opening weeks of this Congress I introduced the Medicare Reform Act (H.R. 1296) and the social services entitlement amendments (H.R. 1666). The first bill greatly expands coverage under medicare and liberalizes benefits. For example, it eliminates the second waiting period for reentitled disability beneficiaries. The second bill amends title XX of the Social Security Act to increase the social services entitlement ceiling and to provide for the reallocation of unused funds from a State's allotment to other States which need additional funds. I am very pleased and encouraged that the Ways and Means Committee took many provisions from my bills and incorporated them into legislation now awaiting action by the full House (H.R. 3990 and H.R. 4000). Clearly, there is a need here and I would use a portion of my legislative savings to begin these major new program expansions.

SOCIAL SECURITY

Last year the President's Advisory Council on Social Security recommended that social security benefits be taxed as income. I think that this is another way of asking the least able of our society to balance the budget and I will work against any efforts to carry out this suggestion. A subcommittee of the House Aging Committee, on which I serve, conducted hearings on this matter, and I reiterated my strong opposition at that time and have since cosponsored legislation to prevent any such tax.

At present social security benefits are increased annually by the rate of inflation as measured by the CPI. Some have suggested modifications to keep the benefits somewhat below the index. Inflation is already exacting a heavy toll on our senior citizens and I believe that the least we can do is to give them the full increase to help keep pace with inflation and provide them with some measure of dignity. Thus, I also oppose any change in the method of computing the annual cost-of-living increase due social security recipients.

One problem with social security which has been particularly troubling to me has been that of financing. Even with the significant tax increases voted by the last Congress, the various trust funds continue to be in some danger. I am committed to placing these trust funds in a secure position. Our senior citizens should have a system they can count on and should not have to worry about the system running out of money.

In order to shore up the social security system, I do not believe that it would be prudent to support the trust funds with money from general revenues. I do not think that this provides security for our elderly because, for many years now, the general revenues have been considerably in deficit and may continue to be so. I believe that it is in the best interests of the recipients to maintain the independence and integrity of the trust funds and to devise a financing system which will support itself and which will not have to be subsidized with uncertain general revenues.

To that end, I have introduced legislation which would, among other things, gradually raise the social security retirement age from 65 to 68. In order to avoid confusion it is necessary for me to emphasize several aspects of this proposal. The retirement age would be raised gradually over a dozen years and that process would not begin until the year 2000 and, thus, no one now in retirement would be affected. No one who is now planning his or her retirement would be affected. My legislation recognizes the demographic fact that, as the postwar baby boom reaches retirement age, we are going to have a relatively great number of people taking out of the system and a relatively small number paying into the system. It also recognizes that people simply are living longer.

The great advantage of this legislation is that it benefits senior citizens by guaranteeing them a sound social security system. In fact, my bill would make the system secure for three-quarters of a century. In addition, the bill would remove provisions in current law which discriminate on the basis of gender, provide for universal coverage, and would allow borrowing between the trust funds.●

THE BUDGET PROCESS IS A SHAM AND DISGRACE UNDER THE DEMOCRATS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 5 minutes.

● Mr. RUDD. Mr. Speaker, the staff of the House Budget Committee has just informed those of us on the committee that Democratic House-Senate budget conferees have cut a deal to reduce long-term defense spending by $800 million in order to meet liberal demands for further enlargement of domestic social programs.

The budget process is a sham and a disgrace under the liberal Democratic majority. They are engaged in "buying votes" with taxpayer dollars for more Government handouts, while they prevent our military services from taking proper steps to counter the 3-to-1 Soviet advantage in production of new ships and other more sophisticated conventional weapons.

This deal to cut funds from military shipbuilding and aircraft procurement, and to further increase spending for food stamps and other social welfare programs, was made without convening a formal meeting of House-Senate conferees or consultation of Republicans appointed by both Houses to work out a compromise 1981 budget.

However, since they have the votes to push through this prearranged deal, I anticipate that a conference meeting will probably be called to formalize the package before it is brought to the House floor for a final vote.

This is therefore, your typical backroom deal, without any consideration of our national interests. The liberal Democratic leadership is only interested in counting up big city votes and placating vested interests who are clamoring for more money from the Federal trough.

We have crises in our defense posture and in our economy, which are ignored by this swelling of domestic spending programs. The Soviets are building military ships and submarines at top speed in order to have a 775-ship fleet by 1985, while our shipbuilding program is not even sufficient to replace vessels going out of service from our current 462-ship Navy.

After completing their shell game, this $613.6 billion budget deal cut by the Democrats destroys any hope of a balanced budget next year. I doubt that the supposed surplus of $200 million will even cover the growing deficit in unemployment funds, and this 1981 budget does not include any money to continue the damage repair following the volcanic eruption of Mount St. Helens.

By the time the President and liberals in Congress have had a few more months to add some more plums to this Christmas tree for recipients of Federal largesse, it will have a deficit of at least $40 billion. So why does the Democratic leadership continue the fraud of calling this a "balanced" budget?

No effort has been made to cut spending in Federal social welfare programs, which are full of waste and abuse. I have received hundreds of letters telling me of food stamp recipients who buy expensive steaks, custom-decorated bakery items, and other luxuries with food stamps, but no effort has been allowed to force some needed reforms to eliminate such abuses and reduce costs in this $10 billion program.

This budget is proof enough that the current Federal budget process is a failure. Congress must pass tough legislation limiting Federal spending to no more than 18 percent of the gross national product, which would require an immediate cut of $35 billion from overbloated Federal programs.

Congress has got to come up with a way of preventing these annual $100 billion increases in tax collections, which the liberals are imposing through this 1981 budget to finance ever-higher domestic social welfare programs, because these unconscionably higher taxes only take money out of our productive economy and add to inflation and unemployment.●

H.R. 5200: FAIR HOUSING IS FLAWED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

● Mr. ASHBROOK. Mr. Speaker, one of the primary defects of the so-called fair housing bill is the arrangement of the administrative proceedings within HUD. These proceedings do not provide adequate separation of interests of the various participants in the proceedings to assure an open and fair forum. More specifically, the trend toward bureaucratic solidarity for insuring survival will be enhanced by having the judge, jury, investigator, prosecutor, and baliff all be HUD employees.

One of the great cornerstones in the foundation of our system is the intentional division of authority and responsibility within the Government. The framers of the Constitution reasoned that such a division would prevent any consolidation of power that may work to the detriment of the Nation as a whole. This concept has since been approved by scholars from all points of the political spectrum. Unfortunately, these scholarly endorsements have been lost on the drafters of the bill H.R. 5200. In their zeal to unburden HUD of any encumberances in enforcing the 1968 Civil Rights Act, they have set the stage for regulatory abuse on a grand level.

In going against the time-honored method of assuring checks and balances through divided rule, the drafters of the fair housing bill have set up what amounts to a kangaroo court to hear cases brought by HUD. Such an arrangement will be detrimental to those seeking justice in this system, to those in the housing industry who may fall victim to the system, and to the system itself. If the only goal of these arrangements is to assure adequate redress of grievances then this legislation is bound to fail. As cases come before the HUD tribunals and are challenged later because of systematic failures in fairness, then the overall cause of civil rights will suffer. No question or doubt should be possible as to the fairness of the proceedings. Unfortunately the arrangements in H.R. 5200 are a blueprint for such charges to be raised.

As in many cases of bureaucratic consolidation and usurpation of authority, the true victim is the individual citizen or small businessman who will fall under the jurisdiction of the legislation. In H.R. 5200 the main victim will be the small realtor or insurer who will have to confront this travesty of law and judgment.

For these future victims of this bill there is an added concern. The bill provides for HUD to initiate investigations on its own behalf. These investigations may follow-up on actual complaints or may be "fishing expeditions." The people who will carry out these investigations are called testers. These "testers" have been financed by HUD for a number of years. Their record of developing cases has been a dismal one within the court system. On December 28, 1979, a Federal court ruled against HUD in the case Village of Bellwood against Dwayne Realty. In the opinion, the court directly criticized the role of the testers:

> (I)n this case, the testers were not disinterested witnesses. They instigated this suit; they tested Dwayne Healy in order to advance economic and nonecomonic interests of theirs they thought were at stake; and they were candid in admitting to having strong feelings against real estate brokers in general . . .
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> When a person has an interest in the outcome of a case; when he harbors strong feelings against a party, the tendency is for him to shape his sensory reactions so that they fit the testimony he wants to give.

To assure a forum for the testers that will not be as subject to challenge H.R. 5200 creates the administrative proceeding. In this form the testers may find less skeptical analysis of their findings and claims. They will also find that their impartiality will not be as subject to question as the appeals process can only make de novo judgments of the administrative law judge's ruling. In other words, the actual testimony of the testers cannot be independently challenged by outside evidence.

The role of the testers is a critical one. Their findings have already been the basis for many HUD generalizations about the present state of civil rights in the housing market. One of these generalizations was a major report on civil rights published by HUD as part of the hearing record of the House Judiciary Committee. This report has been quoted extensively by proponents of H.R. 5200 as the reason the legislation is needed. A review of the findings and the methodology used to obtain them reflects an incredible lapse of analytical research guidelines. It raises clear questions as to whether the generalizations were drawn up and then the research was tailored to fit the conclusions.

In the HUD report in question the testers, one white and one black, made contact with 3,200 real estate offices during the course of the study. However, their methods of conducting the survey were questionable at best:

The methodology employed is that two testers would enter a real estate firm with the white tester always going first and the black tester to follow within 32 hours. In many cases, black auditors' site visits were on the day following their white teammates' visit;

There is a serious omission in the methodology used since the testers did not always interface with the same sales agent when visiting a particular office. The auditors were not permitted to schedule appointments but "came in off the street" in looking to satisfy their housing needs. This fact resulted in auditors talking with whomever happened to be on floor duty at the particular time. The agent was the same in only one out of four cases. This obviously has an important bearing on the results. Salespersons in real estate are for the most part independent contractors and, therefore, are not under the strict control of the broker. Accordingly, they can conduct their business in a manner which suits their own particular style;

Each auditor was to request housing by price, size, and general neighbor location only. The firms to be audited in the sample were selected from newspaper ads. However, the testers were under no circumstances to admit that having seen a newspaper ad was the reason they had stopped at that particular office. Auditors were instructed to state that if asked how they happened to come in the office that they "had heard about the agency from an acquaintance or saw the sign in the window or noticed their listing in the yellow pages (make sure they are listed). Use a plausible explanation, but make sure that you never refer to a current advertisement";

The methodology of the sample did not allow agents to utilize the most open of all sales techniques, that of inviting the individual to look at the entire listing of homes available and select from that list. That method is an effective sales practice which is in widespread use. Rather, auditors in the sample were instructed to ask the sales agent to recommend properties which would suit their particular needs. This in itself would seem to suggest steering as real estate agents would try to sell their own listing first rather than cobroker listing of coworkers or other firms. The procedure used in the sample tried to bypass an accepted practice in common use to get to an investigation of personal behavior rather than business behavior; and

The study assumes that people can perfectly replicate their responses to a given set of stimuli even in the most inconsequential acts such as offering a cigarette, shaking a hand, et cetera. However, the fact remains that in 74 percent of the cases a different sales agent was visited.

Not satisfied with the shoddy research methods the testers developed a long list of trivial actions on the part of the agents which were used to determine discrimination. Some of these actions included whether or not a cigarette was offered, did the agent shake the hand of the client, or whether there was much of a wait before an interview. Since a different agent was visited 74 percent of the time, the study recorded a high number of instances where the two testers were treated differently. While whites were more often favored according to the measures used, there was also a high rate of "discrimination" against whites. These findings may be a reflection of different salesmanship styles more than any racial bias, but the report does not address this possibility.

COURTESY

[In percent]

	No difference	Occurred for white only	Occurred for black only	Net difference
Shorter wait before interview	70	20	10	10
Did anyone offer drinks, cigarettes, etc	73	16	11	5
Did anyone ask you to be seated	69	19	12	7
Did anyone chat informally with you while you waited	64	18	18	0
Did agent introduce self	73	17	9	8
Did agent ask your name	86	8	6	2
Did agent shake your hand	65	19	16	3
Did agent address you by title	56	23	21	2

Notes: (1) Percentages in 1st 3 columns may not total 100 because of rounding. (2) In a large number of cases (74 percent) the agent was different. In addition, a fair number of blacks' visits were in the late afternoon when the agent might be trying to close a deal, had a tough day already, or trying to get home for a social engagement. These visits occurred at the busiest time of the year (May/June) and walking in off the street because of seeing a sign is not the usual method of gaining clients.

SERVICE

[In percent]

	No difference	Service accorded white only	Service accorded black only	Net difference
Longer interview[1]	6	56	39	17
Offer of literature	72	14	14	0
Offer of business card	70	16	14	2
House style desired	62	20	19	1
Special house features desired	64	15	21	−6
Special neighborhood features desired	83	9	9	0
Request for phone number	72	15	12	3
Agent recorded information	61	20	19	1
Offer of assistance to obtain financing	62	19	18	1
Invitation to call again	86	10	4	6

[1] Whites' interviews average 1 hr and 40 min, while blacks' averaged 1 hr and 25 min.

Notes: (1) Percentages in 1st 3 columns may not total 100 because of rounding. (2) Again different agents being independent contractors have different styles.

The report glosses over the "white discrimination" figures by creating a "net difference" figure for each category of behavior. From this spurious set of statistics the report finds that there is around a 30-percent discrimination rate for blacks. This is dubious enough, but HUD then goes on to project the probability of blacks encountering discrimination. Based on the numbers the HUD figure rises to the 75 percent quoted on page 4 of the bill report to H.R. 5200.

The incredible story of how HUD developed the 75-percent discrimination figure is just one of many indications that there is plenty of room for abuse in the testers program in HUD. It also shows why there is a need for further restriction on HUD enforcement powers, not for any expansion of such authority. The administrative courts are totally inadequate forums for small businessmen to challenge the HUD findings. Unless the Congress wants to unlease a new generation of governmental harassment and abuse in the housing industry, which will be directed toward the real estate and housing finance sectors, it should vote down H.R. 5200. The housing industry is struggling against over regulation and a recession, it should not be subjected to further punishment.●

ENERGY REPORT NO. 5: ALCOHOL FUELS—THE HOME-GROWN ALTERNATIVE LIQUID ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● **Mr. ALEXANDER.** Mr. Speaker, very soon this body will be voting on the conference report concerning the Energy Security Act of 1980. I commend the House-Senate conferees for their diligent labors in bringing forth this "energy independence" legislation. This bill, I believe, represents a major cornerstone in the national energy strategy. The Energy Security Act of 1980 covers numerous aspects of energy production and conservation, including the Nation's first full-scale synthetic fuels production program. Also provided, are economic incentive programs and a celar delineation of Federal agency responsibilities for alcohol fuels.

While this bill underscores the urgency of moving from an oil-dependent to an energy-diversified economy, I would like to center my remarks around one particular energy source—alcohol fuels derived from renewable resources.

We remember only too well the chaos that resulted when our foreign oil supplies were disrupted. For that reason, alcohol fuels, particularly the gasoline blend known as "gasohol," are attracting increasing attention from the driving public and transportation sector. Alcohol fuels are an alternative liquid energy, a domestic resource which can help free us from the foreign oil stranglehold. Stranglehold is, in fact, an appropriate word. Because we must depend on foreign suppliers to satisfy almost one-half of our oil needs, the United States has been forced into compromising political postures and awkward military situations. Because of America's vulnerability, the OPEC nations are emboldened to heap one price increase upon another. For 1980, the bill for imported oil will be $90 billion. To put this figure into some kind of perspective, I would remind my colleagues that the net income of the entire Fortune 500 companies—all 500 combined—is less than $80 billion. This outpouring of America's wealth, at the rate of $10 million an hour, every hour of every day, has more to do with our inflation rate, the value of the dollar and our balance-of-payments deficit than any other economic factor.

It is imperative that we aggressively pursue every reasonable domestic energy alternative. To do less, is to continue to jeopardize America's security—political, military, and economic.

As a member of the National Alcohol Fuels Commission, I have espoused alcohol fuels as the only immediately available liquid fuel alternative. Alcohol fuels derived from renewable biomass are nothing new. Henry Ford envisioned his automobiles and tractors being powered by farm-produced alcohol fuels, but cheap petroleum thwarted his plans. Now, the days of cheap and readily available petroleum are past, and alcohol fuels have been rediscovered.

In a nation of 154 million vehicles and 142 million drivers, the transportation sector currently accounts for more than one-half of U.S. oil consumption and one-quarter of all energy consumption. Oil use in transportation is approximately 10 million barrels per day (150 billion gallons per year). This figure breakdown to about 100 billion gallons of gasoline a year and the remainder for diesel fuel and other refined oil products. Obviously, if we can free the transportation sector from a fossil fuel dependency we will have freed America from the need for foreign oil.

In January 1980, the President announced an alcohol fuel production capacity goal of 500 million gallons by the end of 1981. This goal represents a quadrupling of the 1979 production capacity. The Energy Security Act calls for an even greater effort—800 million gallon production capacity by the end of 1982. In addition, the act sets forth a national alcohol fuel production goal for 1990 equal to 10 percent of the estimated gasoline consumption in that year. Based on present projections, it is estimated that by 1990 U.S. gasoline consumption will be about 85 billion gallons annually—a reduction of 15 billion gallons compared to present consumption.

Certainly alcohol fuels derived from biomass would appear to be a vital contributor to securing America's energy independence. Unquestionably, the urgent need is for an alternative liquid energy source, and the American farmer has shown his anxiousness for getting into competition with OPEC. The American farmer has the capability and the capacity to be a producer of energy—alongside that of food, feed, and fiber.

I would ask my colleagues to consider the great security and strength that would result if we succeeded in just freeing the agricultural community from its oil dependence. Recent Department of Agriculture figures indicate that agricultural production depends on petroleum-based fuels for a full 93 percent of its needs. All the gasoline and diesel fuel used in farming is equivalent to about 7 billion gallons of oil annually. Clearly, farmers and consumers have much to gain in releasing American agriculture from its potentially disastrous dependence upon increasingly expensive and easily interruptible petroleum-based fuels.

Using domestically-produced alcohol fuels as an alternative to imported oil leads to many substantial benefits—America's wealth stays at home, the trade deficit is greatly reduced, and with increased dollars for investment at home, additional jobs and business opportunities result. Young Americans deserve a chance for a standard of living at least equal to what their parents have known. But, they will not have it if the United States remains hostage to the economic and political demands of the foreign oil producing countries.

At the present time, alcohol fuel (ethanol) is being produced largely from grain crops, principally corn. While the U.S. Department of Agriculture attitude toward grain-derived alcohol fuel has been rather circumspect, USDA does concede that "5 or 6 percent of each year's grain crop would be available" for fuel production. Using corn alone, this would be sufficient to meet the 1982 production goal envisioned by the Energy Security Act. It must, of course, be recognized that only the corn's starch content is being used to make alcohol fuel. Besides its energy contribution, corn can be processed to remove the germ, gluten, oil and many other products valuable for food and feed. Another point which must be emphasized is the 95 percent of U.S. corn production is used for animal feed—only 5 percent goes toward direct human consumption.

Today's technology uses grain crops, but within the next 5 to 7 years we will see the widespread commercialization of cellulosic conversion. Agricultural residues (such as cereal straw, corn cobs and stalks, and sugar cane bagasse), forest product wastes, and air-classified municipal solid wastes will become the basic feedstocks for alcohol fuel production. In terms of quantity, more than 600 million tons of cellulosic material is available annually—enough to produce 22 billion gallons of ethanol (200 proof) a year. The estimated investment cost for this alcohol fuel production capability would be $30 billion—or what we now pay for 4 months worth of foreign oil.

Using indigenous cellulosic wastes and the starch content from grain crops, the United States has the potential of making a major assault against the foreign oil weapon. With an aggressive national alcohol fuels program, we can displace the equivalent of about one-fifth of the oil we must now import. If we refine the technology that will allow conventional engineers to efficiently use fuel alcohol of less than 200 proof, we can displace a significantly higher percentage of imported oil.

Lately, various critics have appeared who question the wisdom of pursuing an active alcohol fuels effort. They have assailed the use of grain crops for alcohol fuel production, labeled the alcohol fuel conversion process an energy sink, and dismissed as insignificant the contributions of domestically produced alcohol fuel to meeting national energy needs.

I would like to assure my colleagues that specious logic underlies the arguments of these critics. Alcohol fuels can and will play an important part in securing the Nation's energy future. The farm community is beginning to look at alcohol fuel production as part of an integrated process. Consider, for example, methane derived from animal waste is used as the fuel source for alcohol fuel production; the alcohol becomes the fuel for farmstead equipment; while the production byproduct, distillers dried grain, is used as a high-protein feed supplement. Imagine the benefits when urban centers can process municipal solid wastes into alcohol.

America can reclaim its energy self-sufficiency but it will depend on a mixed energy policy—on many incremental sources and technologies. Moving actively forward with alcohol fuels is a step toward energy security, and any step is more significant than continued procrastination or waiting for the "big breakthrough" or simple solution.

This week the OPEC jury has gathered once again to argue about how high to make the next oil price increase. Domestically produced alcohol fuels represent the first homegrown challenge to the OPEC cartel. Alcohol fuels are here and now, and time is money. In the time it has taken to present this speech, Americans have enriched the foreign oil producers by $1.5 million.●

A TRIBUTE TO CY VANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

● Mr. ZABLOCKI. Mr. Speaker, Cyrus Vance has been a truly distinguished Secretary of State and an outstanding member of the Cabinet. His departure leaves a large void to fill. We are fortunate that the President has prevailed on Senator Muskie to carry on the important responsibilities of this office.

We on the Foreign Affairs Committee particularly regret Cy Vance's departure because of the frequent and close relationships we had with him, starting well before he came to Washington as Secretary. For many of us he had been, and will continue to be, a personal friend.

Whether one knows Cy Vance personally or not, he deserves the highest regard and commendation from all because of the faithful and talented service he has given to the United States under several different Presidents throughout this critical period in our Nation's history. He has served with great distinction on special Presidential missions, as a top Defense officer and as the head of our foreign policy establishment. He will be greatly missed from the daily Washington scene, but we hope we will continue to benefit from his counsel from time to time on foreign policy matters.

One of his most impressive speeches was delivered at the Harvard University commencement exercises last week. I commend the speech to all Members and others concerned about the world situation which the United States faces in the decade ahead.

It is appropriate to note that the former Secretary continues to emphasize the importance of the SALT II treaty. The treaty is indeed in the best interests of the United States and of the security of the world as a whole. It deserves our fullest support for timely ratification.

Mr. Speaker, I wish all success and happiness to Cy Vance in his future endeavors, and include the text of his speech in the RECORD.

SPEECH BY CYRUS R. VANCE AT HARVARD UNIVERSITY ON JUNE 5

Yours is the first Harvard class to graduate in the decade of the 1980's. The decisions our nation makes now will shape the future of that decade.

We can either work to shape, in a wise and effective manner, the changes that now engulf our world or, by acting unwisely, become shackled by them.

It is a time to set and stick to basic goals. Neither we nor the world can afford an American foreign policy which is hostage to the emotions of the moment.

We must have in our minds a conception of the world we want a decade hence. The 1990 we seek must shape our actions in 1980, or the decisions of 1980 could give us a 1990 we will regret.

BASIC GOALS ARE DEFINED

Supporting the efforts of third world nations to preserve their independence and to improve the quality of life for their people, particularly those hovering at the edge of survival; strengthening the health and well-being of our economic system within a strong international economy.

These are the decisions, along with preserving the military balance while effectively managing our competition with the Soviet Union and fostering strong alliances of free nations—these are the decisions we should make now.

These goals are ambitious. It would be naive to think otherwise. But unless our reach is bold, our grasp will fall far short.

Let us keep in mind the world from which we start: a world undergoing rapid change, with growing expectations, better education, quickened communications; a world in which neither the United States nor any other country commands a preponderance of power or a monopoly of wisdom. It is a world of conflicts, among nations and values, among social systems and emerging new interests. It is a world in which competitive superpowers hold in their hands our common survival, yet paradoxically find it beyond their power to order events.

REJECTING THE GLOOMY OUTLOOK

There is a disturbing fear in the land that we are no longer capable of shaping our future. Some believe that we have lost our military muscle; others worry that our political will has been sapped.

I do not accept this gloom. It discards the abiding pragmatic philosophy that has characterized America ever since its founding.

I consider mistaken the view that we and we alone are responsible for all the confusing changes that we see around us. This is a serious misreading of our condition, a perverted hubris that overestimates our power and our responsibility for ill and underestimates our capacity for good.

The international diffusion of power and intellect is a fact. It will not change. It requires fresh and vital forms of action, not regret and pining for supposed "good old days."

What is to be regretted is a reluctance to relate our basic purposes to these new conditions. Yesterday's answers will not provide tomorrow's solutions.

It seems to me that much of the current dissatisfaction with the world and our role in it rests on certain fallacies. These illusions must be exploded before our nation can chart a coherent and determined course in foreign policy.

The first fallacy is that a single strategy—a master plan—will yield the answers to each and every foreign-policy decision we face. Whatever value that approach may have had in a bipolar world, it now serves us badly. The world has become pluralistic, exposing the inadequacy of the single strategy, the grand design, where facts are forced to fit theory. Given the complexity of the world to which we have fallen heir, the effect of a single strategy is to blur this complexity and to divide nations everywhere into friends and enemies.

FEAR OF GETTING SECOND BEST

A second widely accepted fallacy is the fear of negotiation, the worry that somehow we will always come out second best in any bargain. This fallacy assumes we have a realistic alternative of going it alone, of not bothering to recognize the legitimate interests and desires of other peoples. Without the fair bargain, achieved through negotiation and diplomacy, there is only a misguided, failed effort to impose one will upon another.

Denying others a fair bargain and its benefits will not alter their behavior or reduce their power; it will simply have the effect of denying ourselves the same advantages. If America fears to negotiate with our adversaries, or to bargain fairly with third world nations, we will not have a diplomacy. And we, no less than others, will be the loser.

A third myth that needs to be exploded is that there is an incompatibility between the pursuit of America's values in our foreign policy, such as human rights, and the pursuit of our interests.

Certainly the pursuit of human rights must be managed in a practical way. We must constantly weigh how best to encourage progress while maintaining an ability to conduct business with governments—even unpopular ones—in countries where we have important security interests.

CHOICE: FREEDOM OR CONVULSION

But we must ultimately recognize that the demand for individual freedom and economic progress cannot be long repressed without sowing the seeds of violent convulsion. Thus it is in our interest to support constructive change, as we did, for example, in the Dominican Republic, and are seeking to do in Central America, before the alternatives of radicalism or repression force out moderate solutions.

We know from our own national experience that the drive for human freedom has tremendous force and vitality. It is universal. It is resilient. And, ultimately, it is irrepressible.

In a profound sense, then, our ideals and our interests coincide. For we have a stake in the stability that comes when people can express their hopes and build their futures freely.

Further is the dangerous fallacy of the military solution to nonmilitary problems. It arises in particularly acute form at times of frustration, when the processes of negotiation are seen as slow-moving and tedious.

American military power is essential to maintain the global military balance. Our defense forces must be modernized—and they will be. But increased military power is a basis, not a substitute, for diplomacy.

I have heard it argued that our response to a changing world must be a new emphasis on American military power and the will to use it. This is reflected in proposed new budget priorities in the Congress, in which unnecessary defense spending squeezes out domestic programs and foreign assistance. There is near-consensus on the need for defense increases. But it is illusion to believe that they are a substitute for the diplomacy and resources needed to address such problems as internal change and basic need in other nations or a battered international economy.

THE RIGHT TO SHAPE THE FUTURE

The use of military force is not, and should not be, a desirable American policy response to the internal politics of other nations. We believe we have the right to shape others. We must clearly understand the distinction between our readiness to act forcefully when the vital interests of our nation, our allies and our friends are threatened, and our recognition that our military force cannot provide a satisfactory answer to the purely internal problems of other nations.

Finally, there is a pervasive fallacy that America could have the power to order the world just the way we want it to be. It assumes, for example, that we could dominate the Soviet Union—that we could prevent it from being a superpower—if we chose to do so. This obsolete idea has more to do with nostalgia than with present-day reality.

Spread over the widest territory of any nation on earth, the Soviet Union has its own strategic interests and goals. From a state of underdevelopment and the ravages of war, it has built formidable military and industrial resources. We should not underestimate these resources any more than we should exaggerate them. We must preserve and manage a position of essential equivalence with the Soviet Union. It is naive to believe that the Russians will play by our rules any more than we will accept theirs. It is naive to believe that they—any more than we—would willingly accept a position of second best in military strength.

A dangerous new nostalgia underlies all these fallacies—a longing for earlier days when the world seemed, at least in retrospect, to have been a more orderly place in which American power could, alone, preserve that order. That nostalgia continually erodes confidence in our national leadership for it encourages expectations that bear no relationship to reality. And it makes change in the world's condition seem all threat and no opportunity. It makes an unruly world seem more hostile than it is. The fact is that we are a people who not only have adapted well to change but have thrived on it.

SELF-INDULGENT NONSENSE

The new nostalgia leads us to simplistic solutions and go-it-alone illusions, diverting our energies from the struggle to shape change in constructive directions. It is self-indulgent nonsense, bound to lead us into error, if not disaster.

What course is open to us now?

Our real problems are long term in nature. It will not do to reach for the dramatic act, to seek to cut through stubborn dilemmas with a single stroke. Against the real problems now facing us this approach will not only fall far short but also create new problems.

Obviously, immediate crises have to be dealt with as they occur. And we should learn from these events. But they should never be allowed to distort our foreign-policy goals.

As a global power the United States has an extraordinary range of interests. That is why we must make sure that our pursuit of the desirable does not interfere with our achievement of the essential.

If by 1990, we have not made progress in the four basic areas I listed earlier, the world will indeed be the inhospitable place many now fear it is. In each area we can make progress—if. If we listen to our hopes no less than our fears. If we are prepared to sacrifice now for our future good. And, most important, if we work with other nations to resolve problems none can solve alone.

First, we must preserve the global military balance and achieve, as well, balance in our political relations with the Soviet Union.

Our military strength is important to our own safety, to a strong foreign policy free from coercion, to the confidence of allies and friends, and to the future of the reciprocal arms control and other negotiations. Our strength also buttresses regional balances that could be upset by the direct or indirect use of Soviet power.

ARMS CONTROL TERMED VITAL

Maintaining the military balance will be expensive. To limit the costs, and to increase our safety, we must have an effective arms-control policy as an integral part of our security policy.

Yet when the historian of 1990 looks back upon the year 1980, I believe a profound mistake may well be identified: a failure to ratify the SALT II treaty. As a symbol of our hopes for a more peaceful world, as a commitment to work toward better security through arms control and as a process of trying to work out differences with an adversary, this treaty stands at the very heart of a sensible and far-seeing American foreign policy.

Without this treaty our efforts to prevent the spread of nuclear weapons will be in jeopardy. If the United States and the Soviet Union fail to make real headway eliminating nuclear testing, nonnuclear nations will have less reason for their own restraint.

Without this treaty both sides will have more nuclear weapons than with it. In particular, the Soviet Union will have thousands of additional nuclear warheads.

Without this treaty it will be much more difficult for us to undertake reliable planning for our military forces since we will not be in as good a position to know what is going on within the Soviet Union. The treaty bans practices that would prevent each side from being able to verify compliance with its terms.

CONFLICT OR COOPERATION

Without this treaty there is bound to be less emphasis placed in both of our societies on conciliation of differences without conflict. Political elements who wish to emphasize conflict over cooperation will be strengthened.

Without this treaty the process of arms control might be dealt a blow from which it could not recover. Can anyone doubt that this will make the coming decade more dangerous?

It is not too late, but it may soon be. I believe that the Senate must ratify the SALT II treaty before the end of this year. Certainly we must continue our firm and sustained response to Soviet aggression against Afghanistan. But neither that aggression nor the fact that this is a political year are sufficient grounds for a failure to act in our own national interests. I am aware of the political difficulties in acting at this time. But if we fail to act we will someday ask ourselves why we were blinded by considerations of the moment and lost a vital long-term opportunity. It is far too easy, in an election year, to let what may seem smart politics produce bad policies.

Both the United States and the Soviet Union will have to work even harder in the years ahead to avoid extremely serious confrontations. How we conduct our relations with the Soviet Union will perhaps be the most significant test of our maturity of judgment, our clearsighted recognition of real interests and our capacity for leadership.

FROM DETERRENCE TO INCENTIVES

It is foolish and dangerous to believe that we can manage this relationship by deterrence alone. We also will need to provide positive incentives.

We must use both our strength and the prospects of mutually beneficial agreements to help shape competition with the Soviet Union. We must work for implicit if not explicit agreements to bound our competition by restraints, by a kind of common law of competition.

The means to implement this goal will rest on patience, steadiness, clarity and consistency. In our approach toward Moscow we cannot afford wild swings from being too trusting to being hysterical. And even as we maintain a steady course we must recognize that it will require constant effort to mold that common law of competition. That effort must include both deterrence and the possibility of cooperation where our interests coincide.

We must also think anew about how to manage our affairs with the People's Republic of China in relation to those with the Soviet Union. Even as we act to develop nonmilitary ties with China we should strive to restore a more balanced approach to both countries.

NURTURING STRONG ALLIANCES

A second and paramount goal for our nation should be to nurture strong alliances among free nations.

But there is no gainsaying that relations among the industrial democracies are uneasy. We must address the causes for this; they may well be more fundamental in origin than we care to admit.

We must find better ways to coordinate our policies in areas beyond our territories, for it is there that we increasingly face new problems. While our immediate interests may sometimes diverge in such areas, our basic interests run in parallel and, accordingly should provide grounds for common action.

Our allies must recognize that while the American nuclear shield is unshakeable and our commitment to the common defense is firm, they cannot expect America to bear a disproportionate share of the burdens of deterrence.

We, for our part, must accept the other side of the same coin. We need common efforts because we cannot bear all the burdens ourselves, nor do we have all the answers. The price to us will be a willingness to consult and adjust for the sake of allied agreement. Consultation cannot be a substitute for a clear sense of direction. But there is no point in consulting if we are unwilling then to adjust our course for the sake of a common purpose.

POTENTIAL COCKPIT OF CRISIS

Partly because of the strength of our alliances, it is the third world—more than our alliance areas—that is likely to be the cockpit of crises in the coming decade.

We must first be clear on the nature of our challenge there.

Certainly, as we have seen in Afghanistan and elsewhere in the third world, Soviet actions pose threats we must meet.

But we will meet them ineffectually if we react only by imitating Soviet tactics—emphasizing the military at the expense of the political and disregarding the indigenous yearning of third world nations for true independence and economic justice.

We must recognize the strong sense of national pride—and fierce independence—of developing nations. Having fought to throw off the burden of outside domination, they will strenuously reject the efforts of other nations to impose their will. We should respect and reinforce that spirit of independence. Our interests are not served by their being like us but by their being free to join with us in meeting the goals we share.

Support for the political independence and economic growth of the poorer nations is important primarily because these nations matter in their own right. Their conflicts could also become our wars. Our trade with them is increasing. Their instabilities can affect our interests in many ways.

Our own national interests are served when we support the security of third world nations with our assistance. When we help them develop their economies, we not only meet pressing human needs, we invest in important trading relationships. Our interests are served by supporting peaceful change within those nations and by encouraging the peaceful resolution of their conflicts.

ABSENCE OF A REALISTIC PLAN

For example, our interests are clearly served by our efforts to help resolve the Arab-Israeli conflict and bring peace to this troubled and vitally important region.

In 1990, as in 1980, the problems of the third world will remain a central challenge to our wisdom. No realistic plan yet exists to defuse the potential dangers or resolve all the anguish of hundreds of millions of people living in degrading poverty. But over the next decade the United States can make a difference with regard to the severity of those problems—in helping create progress and hope, in not disregarding the violence and suffering of despair.

To make that difference we must first accept our differences with third world nations, yet work with them where our interests coincide. Peace came to Zimbabwe because of the ability of Britain and the United States to work with the African nations of the region. Had the opponents of improved relations with Mozambique, Zambia, Tanzania and others had their way, the situation today might well have been far different. The logical corollary is clear; it makes no sense not to recognize the Government of Angola, a Government with which we have cooperted in the search for peace in southern Africa despite fundamental differences on other issues.

It is imperative that we also put our resources behind our policies.

American aid programs comprise less than 1.5 percent of our Federal budget. They—not rhetoric, not good will—are what make the most difference in supporting our third world diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in the Congress and elsewhere.

"DISGRACEFUL" DEFICIENCY IN AID

The result is—I can think of no other word—disgraceful.

Our security assistance has declined by 25 percent over the past 20 years.

The United States ranks 13th among the 17 major industrial powers in percentage of G.N.P. devoted to development assistance. We will likely soon drop another notch.

We are far in arrears in meeting the pledges we have made to the multi-lateral development banks—and likely to slip still further.

It is not enough to strengthen our defenses. We must also increase the resources needed to support our diplomacy, a diplomacy designed to reduce the chances our military forces may be needed.

Other nations do not want the rhetoric of American leadership; they want its substance. And we must provide it. The U.N. global negotiations on relations between developed and developing countries—opening this fall in New York—offers a prime opportunity for us to demonstrate that leadership.

This brings me to a fourth goal for the decade: a strong American economy in a strong international economy.

I ask you to ponder the implications for our future of two stark statistics:

According to the International Energy Agency, based on current trends, by 1985 world demand for oil is likely to outstrip global oil production by two million barrels a day. Consider the implications of this fact for world oil prices, and our own economy; for the hard pressed economies of the poorer nations; for relations among the industrial nations, if there is a new scramble for energy.

DOMESTIC PRODUCTIVITY DECLINE

The other statistic is domestic in nature: Productivity in the United States declined in every quarter of 1979 after the rate of increase in our productivity had steadily slowed over the previous two decades. Decreasing productivity not only fuels inflation. It undercuts our trading position and the strength of the dollar. And declining productivity means increasing domestic pressures for protectionism.

In both cases—meeting the energy crisis and addressing the problem of productivity—we cannot rely on the genius of some economist with a new solution. We need acts of political will.

If the U.S. and the other industrial countries do not act decisively to reduce our levels of energy consumption, and particularly our demand for oil, we will stand on the brink of economic disaster by the end of the decade—or sooner. The effort must be made now.

The President recognized the danger posed by our energy dependence and, from the earliest days of the Administration, sought comprehensive legislation to deal with it. Public skepticism and Congressional inaction have delayed the full implementation of his program for three costly years. In the meantime the oil exporters have added price increase after price increase at will and used their oil power for political ends. This will not change unless we are willing to let domestic energy prices reflect the reality of the marketplace and to tax excessive use ourselves instead of letting OPEC do it for us; unless we produce more energy-efficient cars and houses and appliances and channel sufficient resources into developing alternative energy sources; unless we share equitably with other industrial countries the burden of conservation and stand together against unjustifiable price increases.

A QUESTION OF NATIONAL WILL

U.S. productivity declined in every quarter last year. Solving that problem will also be costly. But there must be reduced consumption and a higher rate of capital investment; a willingness to shift from obsolete industries instead of propping them up with protectionist trade barriers; incentives for innovation; responsible prices and wage demands by industry and labor. Each is at root a question not of economic theory but of national will.

Meeting the four challenges I have described depends not on quick fixes, new gimmicks, bluffs or threats. It requires steadiness, political will, and understanding of a world in change.

If we are prepared to accept the implications of a world of diffuse power, and work with others where we cannot succeed alone, there need be no insurmountable barriers to our progress.

There should be no mystery about how to manage East-West relations with realism and prudence, creating more cooperative alliances, addressing the problems of third world nations and acting now to strengthen our economy for later.

The mystery will be for the historian of 1990, if—blinded by the new nostalgia—we fail now to shape our future. The puzzle will be why we reacted against change in the world and did not seek to shape it. The historian will then conclude that ours was a failure not of opportunity but of seeing opportunity; a failure not of resources but of the wisdom to use them; a failure not of intellect but of understanding and of will.

It need not be so. For now, as always before, our destiny is in our hands.●

THE AMERASIAN CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. KOSTMAYER) is recognized for 5 minutes.

● Mr. KOSTMAYER. Mr. Speaker, I rise to express my deep concern over the continuing plight of Amerasian children throughout Asia. Since coming to Congress in 1977, I have had the privilege of working with the Pearl S. Buck Foundation, an organization in my district which is dedicated to the welfare of the world's displaced children. The Pearl S. Buck Foundation, and its director, John A. Shade, have long championed the cause of Amerasian children—the half-American, half-Asian children born to American servicemen overseas. Today, I would like to share with my colleagues a speech recently given by Mr. Shade which portrays the tragic dimensions of this problem and the bleak future these children face:

SPEECH BY JOHN A. SHADE

My cause is that of the Amerasian children—the half-American, half-Asian children born of American servicemen overseas.

War babies are nothing new. But no previous historical occurrence has had such severe human and cultural consequences as has the experience of the Amerasian children. Unlike the war babies of Europe, the Amerasian children continue to be born in great numbers during peacetime and are not readily assimilated into Asian cultures and societies like the European children.

On the contrary, born of mixed-race into homogeneous societies, these children represent disorder in an otherwise ordered world—they are a cultural intrusion as well as an uncomfortable memory.

Illegitimacy matters little—it is the absence of the father—keystone to Asian society—which exacerbates an already difficult situation. Without the father, his child legally does not exist. The proof: the words used to refer to such children—Hapa and Haafu—half a person; Farang—foreigner, and other contemptuous epithets denoting not only inequality but denial.

So what? O.K. Let's forget them. They exist among the lowest socioeconomic profiles in nine Asian nations—three of them socialist, or communist. In times past they have been denied family, a name, food and shelter, education, citizenship—sound familiar?—the basic rights of the child adopted in 1959 by the U.N. general assembly. In two historical instances, the world has witnessed the outright murder of such children—in 1954 in Korea and in 1975 in Vietnam. These children have been sterilized and emasculated so as not to intrude further, culturally.

And forget that in Asia the children are the chattel of the father. Forget, also, that their fathers were—and are—American. We believe half-Americans are Americans.

All this fuss over a few kids?

Korea, 3,000–6,000.
Thailand, 11,000.
Philippines, 30,000.
Taiwan, 3,000–5,000.
Okinawa, 1,000–3,000.
Japan, 10,000–50,000.
Vietnam, 15,000–25,000.
Laos/Cambodia, 3,000–6,000.

How can there be so many Ameraisan children?

1. Philippines: In 1921 a U.S. military census showed 18,000 mestizoes (half-American, half-Filipino) in the Luzon area of the Philippines. The U.S. has had troops in the Philippines with few exceptions since 1898. Two U.S. bases are presently operating there with tens of thousands of G.I.'s.

2. Korea: Since 1952, U.S. troops in varying numbers have been stationed in Korea. Present troop levels are in excess of 50,000 U.S. G.I.'s. Wartime levels of U.S. forces topped a quarter million!

3. Thailand: During the Vietnam war large numbers of U.S. troops were stationed in Thailand. Airbases were operated from Royal Thai soil. More than 5,000 G.I.'s visited Bangkok and Chiengmai each month for R & R.

4. Okinawa: Thirty-four years of troop deployment in Okinawa has produced a high percentage of mixed-race children in the Ryukyu Islands. U.S. troops are still stationed there in large numbers.

5. Taiwan: U.S. troops have been withdrawn. For twenty years U.S. forces were deployed in the area in large numbers. The children are growing up. They range from two to three years of age to young adulthood.

6. Vietnam, Laos, Cambodia: Hundreds of thousands of U.S. military personnel were called upon to be present in this region. A representative of the Socialist Republic of Vietnam has stated recently that more than 15,000 Amerasian children are to be found in the area from Ho Chi Minh City, south, in the SRVN.

This problem began in Asia in 1898 at the time of another war.

There is only one government which has exceeded the irresponsibility that has been described so far—that of our own Government. We refuse to officially recognize "the flesh of our flesh and the blood of our blood" and we have refused this responsibility since 1898, since which time we have visited some two million plus additional lives in miserable condition upon already overpopulated Agrarian societies in Asia at the very time when other nations—the British, the French, the Dutch—offered citizenship, educational and social welfare benefits to their progeny.

Since 1898 and the Spanish-American War, no American head of state has as much as addressed this human rights question—not even the most outspoken human rights advocate this Nation has seen in ten years, Jimmy Carter.

The children need help. Only the United States can help them. Only Jimmy Carter can make that help available.

In the meantime, we will continue to do what we can in sponsorship, placement and development. Unfortunately, we are only scratching the surface.

One last note—as if their condition was not bad enough—the Amerasian children are now becoming refugees. Signs are appearing in the Vietnamese press, similar to statements directed toward the ethnic-Chinese minority a year or two ago—"The half-breed children may leave if they can find their way". We ask, with or without their mothers? Orderly departure, or catch as catch can, we ask.

Ladies and gentlemen, Vietnamese Amerasians are already enrolled on our programs in Thailand and the Philippines. August to September of '80 will likely see less than an orderly departure of still more ethnic Chinese, and—we fear—the Amerasians—our children.

Recently, this organization has been tested or so it would seem. We are receiving letters from Vietnam, well documented, with photo copies of passports, permanent residency forms and the like. We believe that as many as 1,000 U.S. nationals are in Vietnam, 15,000 stateless Amerasian children and, perhaps, a handful of P.O.W.'s.

Since 1975, the only families in Vietnam that have been officially reunited with relatives in the United States have accomplished this through unique circumstances, using channels developed by individuals in arrangements that have been granted almost as a favor by the Vietnamese officials.

Mindful of this, we stand prepared to be of help to all three categories of human beings, certainly, with special interest to the Amerasians.

But we are a small organization and few in number. You, now, are aware of the problem. Will you help? ●

LAFALCE TESTIMONY ON EXPORT TRADING COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, this country has not enjoyed a trade surplus since 1975, and there is no indication that the situation is going to improve without meaningful steps to create a national policy on exports.

At the center of that national policy must be U.S. export trading companies, which would provide financial, informational, marketing, and technical assistance to small- and medium-sized companies. The Foreign Affairs Subcommittee on International Economic Policy and Trade has been holding a number of hearings on various bills which would facilitate the creation of these companies. On June 10, I submitted a statement on H.R. 7310, the Export Trading Company Act of 1980, which I introduced on May 8.

I want to share that statement with all of my colleagues, in order to reinforce the need for prompt legislative action by Congress to encourage and facilitate the establishment of U.S. export trading companies.

The statement follows:

STATEMENT OF HON. JOHN J. LAFALCE

Mr. Chairman and other Members of the Subcommittee, it is both an honor and a pleasure to testify concerning export trading companies; and I want to take this opportunity to applaud you for moving so expeditiously on this issue.

During the past three years, the U.S. has managed the dubious distinction of amassing approximately $90 billion in trade deficits, which has contributed to the precarious condition of the U.S. dollar. Those record trade deficits were the result of both slow export growth and the rapid growth of imports. Quite simply, there are two ways to rectify that distressing situation. First, we could take action to encourage and boost exports. Second, we could take action to restrict imports.

That second option is once again attracting attention and support in recent months. Certain sectors of the economy have been unable to compete with their counterparts in other countries and have resorted to loud demands for protection from foreign competition. However, those demands must be generally resisted. Tariff protectionism is often inflationary, because it protects expensive domestic goods from competition by cheaper and more efficiently produced foreign goods. Tariff protectionism also discourages innovation and productivity, because it removes a powerful economic incentive for technological breakthroughs.

From a historical perspective, tariff protectionism is a very dangerous policy to initiate. For example, during the late 1920's and the early 1930's, many countries established high tariff walls around their economies and engaged in general trade wars with each other. The U.S. was not immune to this temptation, and it established its own extremely high tariff through the Smoot-Hawley Act. The end result of those actions was an intensified world-wide depression and, indirectly, the outbreak of the Second World War.

I did not make this digression into an attack on protectionism idly; I merely wanted to focus in on the importance of the first option and to emphasize the fact that it is our only real option in a rational sense.

There are some things the Congress cannot do to encourage exports. The Congress would experience considerable difficulty in legislatively mandating that every U.S. business proprietor learn at least one foreign language, which is unfortunate, because American businessmen generally lack any linguistic skills. This puts American businessmen at a disadvantage in places, such as Sri Lanka, Brazil and Niger, where their foreign counterparts may speak the local language or multiple international languages, such as Spanish, French or German.

However, there are measures which Congress can employ which would provide significant incentives for U.S. exporters. One of the most important measures would be Congressional approval for the establishment of U.S. export trading companies, and, therefore, I have introduced H.R. 7310, the Exporting Trading Company Act of 1980. Other important export trading company bills have been introduced by Congressman Jonathan Bingham, Congressman Don Bonker, Congressman Les AuCoin, and Congressman Henry Reuss. I know that we all share a common goal of passing a bill which will result in the creation of U.S. export trading companies, and I believe that we can achieve that goal through cooperation and compromise.

NEED

Small businesses, medium-sized firms, and smaller agricultural cooperatives do not export U.S. goods and services which could be highly competitive abroad in terms of both price and quality; and part of that failure stems from the fact they have inadequate access to export trading services.

Smaller concerns do not export, because exporting involves unfamiliar economic risks and requires highly specialized knowledge about foreign markets and skills for complicated negotiations. Although greater efforts to encourage and assist U.S. producers to export can often be of assistance, the marginal costs of fully developing their export opportunities abroad will be prohibitive for many, if not most, producers. Meaningful export success will largely depend on intermediaries which could do the actual exporting for U.S. companies. Export trading companies can diversify trade risks and can easily develop economies of scale in marketing, transportation, financing and other export trade services.

A few U.S. trading companies and trade associations do exist, but they specialize in raw materials and agricultural commodities and do virtually nothing to expand exports of U.S. manufactured goods. Some export management companies do provide a full range of export trade services, but these companies generally tend to be small and shallowly capitalized firms specialized along product lines.

Foreign trading companies exist in Japan, the Republic of Korea and many Western European countries. These companies have made significant contributions to the growth in exports from all of those countries, although the Japanese experience has been by far the most notable. The best known Japanese trading company is Mitsubishi, but there are many other companies, which have helped make Japan one of the most export-oriented countries in the world.

It may seem surprising that the free market has not produced U.S. export trading companies to compete with foreign export trading companies, but a combination of factors have effectively hampered the operation of the free market in this area. Regulations prevent U.S. financial institutions from involvement in the provision of export trading services, which is a severe restriction on the financing ability of any U.S. export trading company. There is considerable confusion and uncertainty concerning the applicability of antitrust statutes to cooperation among export trading companies. Although some huge corporate conglomerates have developed considerable export expertise, that is of little value to other smaller firms which have no experience in this field.

Mr. Chairman, throughout U.S. history, American businesses have been spoiled, because the vast and growing nature of our domestic market has offered seemingly limitless opportunities for domestic businesses. However, as the world has become more and more interdependent, the need has grown for increased U.S. exports, in order to finance our imports and to provide employment opportunities for U.S. workers. Although this country is an ethnic potpourri, American businessmen know a great deal less than their foreign counterparts about foreign customs. Because of political or cultural factors, foreign markets can differ widely in nature; and American businessmen are often perplexed by those differences. Export trading companies can help fill all those gaps.

GOVERNMENT PARTICIPATION

Export trading companies in other countries receive significant government assistance in a number of ways. For example, Japanese export trading companies are eligible for financial assistance from the Japanese equivalent of the U.S. Export-Import Bank.

There are two possible approaches to providing U.S. export trading companies with the ability to compete with their foreign counterparts.

First, sole utilization of the Export-Import Bank, which is the approach in H.R. 7310. Export trading companies would be eligible for Exim loans and loan guarantees to meet up to 50 percent of export-related operating expenses to a maximum of $1 million in one year or $2.5 million in total. In addition, these companies woul be eligible to participate in all programs of the Export-Import Bank. Lastly, the Exim-bank could guarantee 80 percent of short-term "bridge loans" for export trading companies, which could be very helpful for small businesses, which encounter serious financial barriers, when selling abroad.

Second, Eximbank financing could be restricted to the guarantee of "bridge loans". The Department of Commerce and the Small Business Administration would thereby be authorized to provide start up and operating assistance to export trading companies.

Whichever method is chosen, I believe that government participation is mandatory from both a financial and a psychological viewpoint.

TAX TREATMENT

H.R. 7310 would extend the Domestic International Sales Corporation (DISC) treatment of all their income to export trading companies. That would include income from export service, which is not presently covered by DISC. This is important, because services can be a very significant component of exporting.

H.R. 7310 would also provide an exemption for export trading companies from some of the Subchapter S requirements of sections 1371 and 1372 of the Internal Revenue Code. This would allow these companies to use the provisions of the subchapter without limiting the foreign source income of these companies to less than 20 percent per year, as stipulated in present law. Export trading companies simply could not comply with that existing statutory restriction.

ANTITRUST LAW MODIFICATIONS

The Webb-Pomerene Act, which was signed into law in 1918, permits U.S. companies to form export trading associations to promote foreign sales, by extending immunity from the antitrust laws to these associations. Although that Act had laudatory goals, the historical experience associated with Webb-Pomerene has been very unsatisfactory.

Two Federal Trade Commission studies have found that Webb-Pomerene has not contributed to increased exports in any meaningful manner. Export trading associations tend to be cumbersome in nature and very limited in scope. Furthermore, businessmen have long complained that there is a great deal of uncertainty about the antitrust provision in Webb-Pomerene, because it is somewhat vague and confusing.

A report issued on April 4th by the Congressional Research Service reached the same conclusions as the FTC concerning the extremely limited value of export trading association.

All of the bills before the Subcommittee share one common feature. They would all extend the antitrust provisions under the Webb-Pomerene Act to the export activities of export trading companies. Activities means both goods and services. If export trading companies are to promote U.S. exports, particularly from small and medium-sized firms, they must be able to establish a close relationship with domestic manufacturers to exploit the traditional U.S. strength in producing new and innovative products. Without this exemption, that relationship will be lacking.

Ironically, permitting this exemption from antitrust laws will in the long-run encourage competitiveness within the U.S. economy, because export trading companies will be most helpful to small and medium-sized firms which lack export-oriented skills and experience. Multinational conglomerates have no need for export trading companies because of their very nature.

BANKING PROVISIONS

Mr. Chairman, I believe that the most important part of a bill to facilitate the creation of U.S. export trading companies will be a provision to allow for participation in these companies by financial institutions. Without that participation, an export trading company bill would be little more than a Sense of Congress Resolution.

At the present time, there are three basic legislative prohibitions against investments in export trading companies by financial institutions. First, the Edge Act prohibits an Edge Act Corporation from investing in any corporation "engaged in the general business of buying or selling goods, wares, merchandise or commodities in the United States." Second, the Glass-Steagall Act generally prohibits a national or state bank from acquiring for its own account "any shares of stock of any corporation". Third, the Bank Holding Company Act generally prohibits a bank holding company from engaging in nonbanking activities or from owning or controlling shares of any company that is not a bank.

H.R. 7310 and similar bills would override those specific prohibitions, but only in the case of export trading companies. I want to emphasize that this would otherwise leave intact the general prohibitions.

H.R. 7310 and companion bills contain strict provisions to ensure that bank involvement in export trading companies does not lead to conflicts of interest, unsound banking practices, or unfair methods of competititon. As the co-author of the Financial Institutions Regulatory Act of 1978, I was very concerned about the need to avoid this type of situation concerning the connection between financial institutions and export trading companies.

As a further safeguard, the Comptroller of the Currency, the Federal Reserve Board and the Federal Deposit Insurance Corporation are authorized to strictly regulate financial institutions which participate in export trading companies. H.R. 7310 wou'd allow banks, bank holding companies and Edge Corporations to invest up to five percent of their capital in no more than 50 percent of the voting stock of an export trading company without the prior approval of the appropriate federal banking agency. Investments above either figure would be subject to the prior approval of the appropriate regulatory agency, and financial institutions would be prohibited from investing more than ten percent of their total capital in one or more export trading companies.

I believe that these restrictions will effectively protect the fiduciary integrity of banks, bank holding companies and Edge Corporations, while allowing them to provide suitable assistance to export trading companies. This would not only help increase U.S. export, but it would also allow U.S. financial institutions to compete on a more equal basis with their foreign counterparts. At the present time, foreign banks do control trading companies, as, for example, in the case of the Hongkong & Shanghai Banking Corporation, which has a controlling interest in the Hutchinson Whampoa Ltd.

I well realize that these provisions constitute a conscious change of historical policy of separating banking from commerce; but I also realize that the lagging rate of U.S. exports demands such a departure under carefully controlled conditions.

ACTION ELSEWHERE

On May 15th, the Senate Banking Committee reported out S. 2718, which is a modified version of a number of bills before the Subcommittee. It is my understanding that the Senate Finance Committee is expected to act soon and send S. 2718 to the Floor of the Senate.

The Administration has indicated in a very strong fashion that it supports legislation to facilitate the establishment of U.S. export trading companies. I know that Ambassador Hormats and Under-Secretary Herzstein will testify after me, and I welcome their support for this important legislation.

CONCLUSION

Mr. Chairman, experts have estimated that at least 15,000 to 20,000 small and medium-sized businesses could participate in exporting, but they do not do so for lack of technical and financial assistance. Export trading companies would help correct that truly lamentable situation, by providing both types of assistance within the private sector.

This country must have a comprehensive and meaningful export policy, and export trading companies must be a central component of that policy, because they would help restore this country's competitiveness with other Western countries, which already have dynamic and effective export trading companies.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. BRINKLEY (at the request of Mr. WRIGHT), after 3 p.m. today and for the balance of the week, on account of a death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CARNEY) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 20 minutes, today.
Mr. GREEN, for 60 minutes, today.
Mr. CLEVELAND, for 20 minutes, today.
Mr. RUDD, for 5 minutes, today.
Mr. ASHBROOK, for 30 minutes, today.

(The following Members (at the request of Mr. TAUZIN) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. ALEXANDER, for 10 minutes, today.
Mr. ZABLOCKI, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. KOSTMAYER, for 5 minutes, today.
Mr. LEVITAS, for 10 minutes, today.
Mr. LAFALCE, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CARNEY) and to include extraneous matter:)

Mr. YOUNG of Florida in five instances.
Mr. MICHEL in two instances.
Mr. RAILSBACK.
Mr. GREEN.
Mr. WYDLER.
Mr. RUDD.
Mr. DORNAN.
Mr. SEBELIUS.
Mr. HOLLENBECK.
Mr. WHITEHURST.
Mr. KEMP.
Mr. TAYLOR.
Mr. SOLOMON.
Mrs. HOLT.
Mr. FISH.
Mr. GILMAN.
Mr. KINDNESS.
Mr. MCCLORY.

(The following Members (at the request of Mr. TAUZIN) and to include extraneous matter:)

Mr. LUNDINE in two instances.
Mr. MOAKLEY.
Mr. STARK.
Mr. ADDABBO.
Mr. WALGREN in two instances.
Mr. GAYDOS in two instances.
Mrs. SCHROEDER.
Mr. HUBBARD.
Mr. DRINAN.
Mr. FORD of Michigan.
Mr. DONNELLY.
Mr. MOFFETT.
Mr. BOLLING.
Mr. MCCORMACK.
Mr. FROST.
Mr. FAUNTROY.
Mr. LEVITAS.
Mr. MINISH in two instances.
Ms. OAKAR.
Mr. PATTERSON.
Mr. LONG of Maryland.
Mr. SOLARZ in two instances.
Mr. DODD.
Mr. FLIPPO.
Mr. BONKER.
Mr. EDGAR.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1717. An act to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6285. An act to amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets.

ADJOURNMENT

Mr. JACOBS. Mr. Speaker, in memory of former Representative Lowenstein's first oration to the House of Representatives, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, June 12, 1980, at 10 a.m.

EXECUTIVE COMMUNCATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4583. A letter from the Secretary of Agriculture, transmitting the 5-year national plan for renewable resources extension programs, pursuant to section 5(a) of Public Law 95-306; to the Committee on Agriculture.

4584. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of June 1, 1980, pursuant to section 1014(e) of Public Law 93-344 (H.

Doc. No. 96-327); to the Committee on Appropriations and ordered to be printed.

4585. A letter from the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, transmitting the first annual report on the rehabilitation loan program authorized by section 312 of the Housing Act of 1964, as amended, pursuant to section 312(k) of the act (92 Stat. 2081); to the Committee on Banking, Finance and Urban Affairs.

4586. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the President's intention to exercise his authority under section 614(a) of the Foreign Assistance Act of 1961 in order to furnish assistance to Yugoslavia, pursuant to sections 652 and 620(f) of the act; to the Committee on Foreign Affairs.

4587. A letter from the Acting Assistant Secretary of State for International Organization Affairs, transmitting a report issued by the United Nations Joint Inspection Unit, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4588. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to India (Transmittal No. 80-67), pursuant section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4589. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Austria (Transmittal No. 80-68), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4590. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense services to Saudi Arabia (Transmittal No. 80-69), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4591. A letter from the Director, Federal Emergency Management Agency, transmitting notice of a proposed revision of an existing records system, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4592. A letter from the Comptroller General of the United States, transmitting a report on the impact of tiering and constraints on the targeting of revenue sharing aid (PAD-80-9 June 11, 1980); to the Committee on Government Operations.

4593. A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of a proposed temporary water service contract between the United States and the Westlands Water District, pursuant to Public Law 95-46, section 3; to the Committee on Interior and Insular Affairs.

4594. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his annual report for fiscal year 1979, pursuant to 28 U.S.C. 604(a)(4), together with the reports of the spring and fall meetings of the Judicial Conference of the United States held in 1979; to the Committee on the Judiciary.

4595. A letter from the U.S. Trade Representative, Executive Office of the President, transmitting the final instruments and texts of the multilateral agreements negotiated under section 102 of the Trade Act of 1974 during the Tokyo Round of the Multilateral Trade Negotiations, pursuant to section 2(b)(1) of Public Law 96-39, together with a copy of the Geneva (1979) Protocol to the General Agreement on Tariffs and Trade negotiated during the Tokyo Round under section 101 of the Trade Act of 1974, pursuant to section 162(a) of the act; to the Committee on Ways and Means.

4596. A letter from the Comptroller General of the United States, transmitting a report on the Marine Corps military pay system (FGMSD-80-49, June 10, 1980); jointly, to the Committees on Government Operations and Armed Services.

4597. A letter from the Comptroller General of the United States, transmitting a report on cooperation in agricultural assistance (ID-80-29, June 11, 1980); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and Foreign Affairs.

4598. A letter from the Comptroller General of the United States, transmitting the first annual report on the activities of the Merit Systems Protection Board and the Office of the Special Counsel, pursuant to 5 U.S.C. 2304(b) (FPCD-80-46, June 9, 1980); jointly, to the Committees on Government Operations and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. H.R. 7121. A bill entitled: "Soybean Emergency Act of 1980" (Rept. No. 96-1031, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. H.R. 7542. A bill making supplemental appropriations for fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes. (Rept. No. 96-1086). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 7142. A bill to eliminate any cross compliance requirement as a condition of eligibility for loans and purchases in the case of 1979 crop soybeans thus providing soybean producers with a needed source of short-term credit during their financial crisis; with amendments, and referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344. (Rept. No. 96-1085, pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 7542. A bill making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

By Mr. CARR (for himself, Mr. Bonior of Michigan, Mr. Conyers, Mr. Traxler, and Mr. Wolpe):

H.R. 7543. A bill to prohibit the inclusion of a scenic shoreline drive in the management plan for the Pictured Rocks National Lakeshore in the State of Michigan; to the Committee on Interior and Insular Affairs.

By Mr. COTTER (for himself, Mr. Dodd, Mr. McKinney, Mr. Ratchford, and Mr. Moffett):

H.R. 7544. A bill to designate the U.S. Federal Building in New Haven, Conn., as the "Robert N. Giaimo Federal Building"; to the Committee on Public Works and Transportation.

By Mr. DAVIS of Michigan (for himself and Mr. Oberstar):

H.R. 7545. A bill to amend the Trade Act of 1974 in order to extend eligibility for adjustment assistance to workers providing essential parts and essential services with respect to articles adversely affected by import competition and to workers providing raw materials for such essential parts; to the Committee on Ways and Means.

By Mr. DERRICK:

H.R. 7546. A bill to provide for the establishment of a Foreign Service grievance procedure; to the Committee on Foreign Affairs.

By Mr. FORD of Tennessee (for himself and Mr. Duncan of Tennessee):

H.R. 7547. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of industrial development bonds; to the Committee on Ways and Means.

By Mr. JONES of Tennessee (for himself and Mr. Madigan):

H.R. 7548. A bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes; to the Committee on Agriculture.

By Mr. LEWIS:

H.R. 7549. A bill to authorize the generation of electrical power at Palo Verde Irrigation District diversion dam, California; to the Committee on Interior and Insular Affairs.

By Mr. McCLORY:

H.R. 7550. A bill to establish a commission on the international application of antitrust laws; jointly, to the Committees on the Judiciary and Foreign Affairs.

By Ms. OAKAR (for herself, Mr. Pepper, and Mr. Ratchford):

H.R. 7551. A bill to provide financial assistance for programs for the prevention, identification, and treatment of adult abuse, neglect, and exploitation, to establish a national center on adult abuse, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Education and Labor.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 7552. A bill to amend title 10 United States Code, to clarify the authority of the Armed Forces to conduct safety investigations of accidents involving aircraft of the Armed Forces and to protect from public disclosure certain parts of reports of such investigations; to the Committee on Armed Services.

By Mr. ROSTENKOWSKI:

H.R. 7553. A bill to amend the Internal Revenue Code of 1954 to exempt from tax interest received on portfolio debt investments in United States of nonresident aliens and foreign corporations; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.J. Res. 567. Joint resolution providing for the designation of the first week in May of each year as "Be Kind to Animals Week"; to the Committee on Post Office and Civil Service.

By Mr. FISHER:

H. Con. Res. 361. Concurrent resolution expressing the sense of the Congress regarding the biennial cost-of-living adjustments for Federal retirees; jointly, to the Committees on Armed Services and Post Office and Civil Service.

By Mr. HAMMERSCHMIDT:

H. Con. Res. 362. Concurrent resolution urging the President to take certain actions with respect to the flight of Cuban natives from Cuba; to the Committee on Foreign Affairs.

By Mr. PURSELL (for himself, Mr. Brodhead, Mr. Davis of Michigan, and Mr. Blanchard):

H. Con. Res. 363. Concurrent resolution urging the President of the United States to enter into negotiations with representatives of the Government of Japan with respect to a temporary restraint in the exportation of automobiles into the United States, an equitable relationship between prices charged in domestic and foreign sales, and elimination of trade barriers affecting purchase of American products; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. HOLLENBECK:

H. Res. 705. Resolution expressing the sense of the House of Representatives that vandalism of patriotic monuments should be punished to the fullest extent of the law; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1180: Mr. Bevill, Mr. Chappell, Mr. Dannemeyer, Mr. Quayle, Mr. Badham, Mr. Winn, and Mr. Philip M. Crane.

H.R. 3606: Mr. Edwards of Oklahoma.

H.R. 4796: Mr. Lent.

H.R. 5610: Mrs. Byron and Mr. Daschle.

H.R. 5692: Mr. Barnard, Mr. Conable, and Mr. Edwards of Oklahoma.

H.R. 5862: Mr. Mathis, Mr. Kogovsek, Mr. Goldwater, Mr. Brinkley, and Mrs. Boggs.

H.R. 6540: Mr. Hall of Ohio.

H.R. 6637: Mr. Loeffler.

H.R. 6718: Mr. Blanchard.

H.R. 7023: Mr. Ullman, Mr. Guarini, Mr. Garcia, Mr. Bedell, Mr. Railsback, Mr. Gray, Mr. Weaver, Mr. Grisham, Ms. Mikulski, Mr. Hubbard, Mrs. Collins of Illinois, Mrs. Fenwick, Mr. Stokes, Mr. Symms, Mrs. Snowe, Mr. Perkins, Mr. Carter, Mr. Snyder, Mr. Luken, Mr. Edwards of Oklahoma, Mr. Scheuer, Mr. Daniel B. Crane, Mr. Latta, Mr. Rousselot, Mr. Lewis, Mr. Jeffries, Mr. Daschle, Mr. Devine, Mr. Lee, Mr. Campbell, Mr. Beard of Tennessee, Mr. Derwinski, Mr. Bafalis, Mr. Lent, Mr. Regula, Mr. Porter, Mr. Hagedorn, Mr. English, Mr. Lederer, Mr. Bauman, Mr. Cheney, Mr. Courter, Mr. Philip M. Crane, Mr. Dornan, Mr. Kemp, Mr. Kindness, Mr. Livingston, Mr. Quayle, Mr. Roth, Mr. Shumway, Mr. Spence, Mr. Stockman, and Mr. Loeffler.

H.R. 7248: Mr. Hillis and Mr. Whittaker.

H.R. 7332: Mr. Wolpe and Mr. Albosta.

H.J. Res. 254: Mr. Coelho, Mr. Van Deerlin, Mr. Stokes, Mr. Brown of California, Mr. Fazio, Mr. Richmond, Mr. Kildee, Mr. Ratchford, Mrs. Chisholm, and Mr. Fithian.

H.J. Res. 300: Mr. Zeferetti, Mr. Atkinson, and Mr. Lujan.

H.J. Res. 389: Mr. Roe, Mr. Ford of Michigan, Mr. Harris, and Mr. Leach of Iowa.

H.J. Res. 485: Mr. Traxler and Mr. Roth.

H.J. Res. 504: Mr. Clausen.

H. Con. Res. 320: Ms. Mikulski, Mr. Murphy of Illinois, and Mr. Stokes.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5200

By Mr. KRAMER:

—On page 23, strike lines 8 through the word "title." in line 13, and insert in lieu thereof the following:

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall refer the matter to the Attorney General for the filing of an appropriate civil action under section 813 (b) of this title, or, if the complaint is on behalf of an aggrieved person whose bona fide attempt or offer to purchase, sell, lease or rent, or whose bona fide attempt to obtain insurance or financing for a dwelling has been denied on the bases of race, color, religion, sex, handicap, or national origin, or made subject to terms of purchase, sale, lease, rental, or acquisition which discriminate on such bases, file an administrative complaint under section 811(a) of this title."

H.R. 6413

By Mr. WEISS:

—Page 2, line 19, strike out "$295,800,000" and insert in lieu thereof "$272,300,000".

H.R. 7262

By Mr. LOEFFLER:

—Page 22, after line 20, insert the following new section:

PUBLIC PARTICIPATION

Sec. 115. Section 104(a) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting the following after "general locations of proposed housing for lower-income persons," in paragraph (4)(C): "including an assessment of the locations most likely to be utilized for such housing,"; and

(2) by striking out paragraph (6)(C) and inserting in lieu thereof the following: "(C) held public hearings to obtain the views of citizens on (i) community development and housing needs, (ii) general locations of proposed housing for lower-income persons, especially the locations specified by the applicant as most likely to be utilized for such housing, and (iii) the impact of such housing on public facilities and services near such locations; and".

SENATE—*Wednesday, June 11, 1980*

(Legislative day of Thursday, January 3, 1980)

[Continuation of Senate proceedings of Tuesday, June 10, 1980, and which occurred beginning at 12 o'clock midnight.]

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was rejected.

The PRESIDING OFFICER. The Chair will hold that that motion is dilatory and out of order.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Will those seconding the motion please so signify?

There is not a sufficient second.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, that quorum call is out of order.

The PRESIDING OFFICER. The Chair holds that the call for a quorum is out of order.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, the appeal is dilatory because it deals with a ruling of the Chair that the quorum call is dilatory.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question is the appeal of the ruling of the Chair. There has been a request for the yeas and nays, and the Chair is ascertaining if there is a sufficient second.

Mr. BAKER. Mr. President, I renew the request for the yeas and nays on the appeal of the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. ROBERT C. BYRD. It is an appeal on the ruling of the Chair that the suggestion of the absence of a quorum was dilatory. One being dilatory, the other necessarily follows being dilatory.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Under the precedents of the Senate, the Chair will rule that the appeal of the ruling of the Chair is not dilatory.

The question is, Shall the decision of the Chair stand as the judgment of the Senate that the motion to reconsider is dilatory.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 31, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—53

Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hayakawa
Heflin
Huddleston
Inouye
Jackson
Johnston
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Sarbanes
Sasser
Stevenson
Stewart
Stone
Tsongas
Warner
Williams
Zorinsky

NAYS—31

Armstrong
Baker
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Cochran
Danforth
Hatch
Hatfield
Heinz
Helms
Humphrey
Javits
Jepsen
Laxalt
Lugar
McClure
Packwood
Percy
Pressler
Riegle
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Wallop
Weicker

NOT VOTING—16

Biden
Church
Cohen
Goldwater
Gravel
Hollings
Kassebaum
Kennedy
Long
Mathias
McGovern
Morgan
Stennis
Talmadge
Tower
Young

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 31. The ruling of the Chair stands as the judgment of the Senate and the motion to reconsider falls.

AMENDMENT NO. 1823

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

Mr. BAKER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the amendment.

Mr. HATFIELD. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 17, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—66

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
DeConcini
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatch
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Laxalt
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Pryor
Randolph
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—17

Armstrong
Bellmon
Culver
Danforth
Dole
Garn
Hatfield
Heinz
Javits
Leahy
Lugar
McClure
Packwood
Proxmire
Riegle
Sarbanes
Stevens

NOT VOTING—17

Biden
Church
Cohen
Goldwater
Gravel
Hollings
Johnston
Kassebaum
Kennedy
Long
Mathias
McGovern
Morgan
Ribicoff
Stennis
Talmadge
Young

So the amendment of the Senator from Georgia was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The PRESIDING OFFICER. (Putting the question.) Those in favor will signify by saying "yea;" those opposed, "nay."

The motion is agreed to.

Mr. HATFIELD. Mr. President, I demand the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that comes too late.

The PRESIDING OFFICER. The motion has already been agreed to.

Mr. HATFIELD. Mr. President, I was on my feet and I asked for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the announcement by the Chair be vitiated so the Senator may be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, will the Chair state the question?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which Mr. NUNN's amendment (No. 1823) was agreed to. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota, (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 12, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—70

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Hart
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Levin
Lugar
Magnuson
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tsongas
Warner
Weicker
Williams
Zorinsky

NAYS—12

Armstrong
Bellmon
Danforth
Hatch
Hatfield
Heinz
Javits
Laxalt
Leahy
McClure
Packwood
Wallop

NOT VOTING—18

Biden
Church
Cohen
Goldwater
Gravel
Hollings
Johnston
Kassebaum
Kennedy
Long
Mathias
McGovern
Morgan
Ribicoff
Stennis
Talmadge
Tower
Young

So the motion to lay on the table the motion to reconsider the vote by which the Senate agreed to Mr. NUNN's amendment (No. 1823) was agreed to.

Mr. HATCH and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER (Mr. STONE). The Senator from Utah.

Mr. HATCH. Mr. President, under the Senate rules, I yield my remaining hour to the Senator from Oregon, and I yield the floor to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I yield 1 hour of my time to the distinguished Senator from Oregon.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. HEINZ) for yielding their hours.

I inquired of the Chair as to the total amount of time I have remaining, with the addition of the 2 hours that have just been yielded to me as the majority manager of the bill.

The PRESIDING OFFICER. The Senator has 162 minutes.

Mr. HATFIELD. Mr. President, I yield myself whatever time is necessary.

I should like to inform the Senate as to what my plan is, as the minority manager of the bill. I cannot speak for anyone but myself. I expect to speak at this point for about an hour, to give people an opportunity to get a little rest, to get a little escape from the floor. I hope a number of Senators will join in taking an hour following my hour, and thereby not put in any quorum calls or anything else to disturb our other colleagues.

I have no way to guarantee that. If anyone wants to put in a quorum call, that is his right. But that is what my plan is.

As I said to the majority leader early on today, there is no secret strategy or agenda on my part. I have made amply clear what I plan to do, and I have been following that plan since I announced it to the entire Senate. So I do not play games. I put my whole deck of cards face up on the table.

I also want to make very clear that I have no desire to hold anyone here, on the floor of the Senate or even in their offices. I am very happy to have the 100 hours continue to run against the clock, by even suggesting a recess until 10, 11, or 12 o'clock tomorrow, and let everyone go home. That is not my decision to make.

I want to make it amply clear I have no desire to hold any Senator here for an unreasonable period of time, but I have also made it very clear, which I think the majority leader fully understands, that I will do everything I can in a parliamentary way to push the full limit of the 100 hours that is provided under the rules of cloture. So, again I want to apologize to my colleagues, as I have to some of my colleagues individually.

I feel like in one way I have been forced into this particular situation by what I considered a premature application of cloture. But that is just one person's viewpoint. I would like to have been able to take up these substantive amendments one by one, amendments which call for consideration of such issues as the rights of privacy and other such very important ones, but I am precluded from doing so. We have had rulings from the Chair that have obviously put me into that situation.

Mr. NUNN from Georgia had adopted one of my amendments which obviously forecloses my being able to consider any other of my amendments dealing with the cost of this program.

Therefore, I have been reduced to a parliamentary kind of delay, which is certainly not a pleasure on my part. I am getting no kind of therapy out of it, any kind of an ego trip, or anything else. I want to assure my colleagues of that. I very deeply apologize for having maintained this kind of session up until 1 o'clock.

I indicated early on, in fact, around 9 o'clock tonight, that I would be very happy to have this Senate recess until some reasonable hour tomorrow and let the clock run, not asking for a recess as we have in the past, and pick up the filibuster thereafter, but to let the clock run.

That has evidently been tried out. I have not made any communication. I am only speaking through third parties, but I understand that proposal has been rejected. Therefore, I shall have to proceed to carry the burden of this continued discussion because, of course, everyone understands that unless someone is speaking then there will be quorum calls or the question will be put to a final vote. I do not plan to permit that to happen as long as I can forestall it.

I just wanted to make very clear where we are and why we are here and my desire to extricate ourselves out of a very inconvenient situation, but again, that is not within my power to determine.

Mr. President, I would like to speak to the issue and I expect to speak for about an hour, the time that I have, so anyone who wants to get some rest may certainly do so.

Mr. ARMSTRONG. Mr. President, before the Senator continues, I wonder if he will yield to me for a moment on my time.

Mr. HATFIELD. I will be happy to.

Mr. ARMSTRONG. Mr. President, if I understand the situation correctly, the Senator from Oregon is trying both to do his duty as he sees it on the bill by delaying the inevitable vote in the hope that his points of view, which I share, by the way, will prevail, and yet at the same time to do so in a way that is the least inconvenient to his colleagues. But it seems to me the very point of this exercise is that we are all being inconvenienced. Before too many Senators leave the room, I want to say on behalf of the Senator from Colorado, when I rise to speak, following the Senator from Oregon, it will not necessarily be my purpose to follow his example.

Indeed, when he made the generous offer of permitting all of us to go home, to take the night off and leave the clock running, which is an offer more generous than he needs to make, and not in keeping with the customs and traditions of the body, for him to suggest that he and others who are trying to keep this thing going should bear the burden while everyone else can go take a nap, those who do not have the burden, seems to go too far. I would hope there would be someone in the Chamber who would reconsider the offer he has so generously made. If they do not, I am going to guess that other speakers through the night will not follow his example. I would expect there will be many rollcalls through the night simply because if some of us are going to have to bear the burden it serves no purpose for us to do so unless the entire body bears the burden. So we are going to be here and voting, I will say to the Senator.

Mr. DOLE. Will the Senator yield?

Mr. ARMSTRONG. I am happy to yield.

Mr. DOLE. Will the Senator keep speaking for several hours until 8 in the morning?

Mr. ARMSTRONG. I will say I am not eager to speak at any hour, to occupy the floor for any hour. I would urge those who are in charge of the scheduling to accept the generous offer of the Senator from Oregon and let us go home and get a good night's sleep. That seems to be the best resolution of the problem. But when it comes my turn to speak, I would be surprised if I could speak at length without offering motions to return the bill to the committee, to adjourn for various times, to adjourn sine die. There are a lot of good motions, some of which in the dark of the night might very well pass.

Mr. HATFIELD. I thank the Senator from Colorado. All I can say is I can guarantee the Members 1 hour for whatever the Members wish to do with that hour before any other quorum calls will occur or any call back to the Chamber will occur. I cannot make any guarantee to go beyond that 1 hour.

Mr. President, I would like to address the general issue of the registration plan, the proposal which is before us, because there are many facets to this plan or program, and I think it bears a close scrutiny of each part of it, of each section, and of the implications.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

Mr. HATFIELD. Mr. President, could we have the well cleared, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, the first part of this measure that I would like to draw attention to has to do with the basic question of enforceability. I have always been deeply committed to the proposition that if a rule or regulation is noted more by its violation than by its observance, then that rule or law should then possibly be repealed or modified, or some action should be taken to eliminate the nonobservance.

I think that was the national experience in the matter of prohibition. I think we all recall when a number of people felt they could legislate people's morality, that they could pass a law that would prohibit people the access to alcoholic beverages and thereby create a more moral climate or a higher moral climate. Of course, these people were well-meaning, but misguided from the standpoint they had not seen or they had not looked through to the point of enforcement. They had no plan for enforcement except to say that it was going to be enforced by Federal authorities and, therefore, the action was taken with poor preparation for enforcement.

We all know the problems that resulted therefrom, that enforcement was not an easy task. There was great effort made by Federal authorities to enforce prohibition, but they found it impossible to do so because basically it did not have the support of the people and they had not prepared for the kind of enforcement machinery that would make it succeed.

Mr. President, I would like to have order in the Chamber. If Members would like to get a rest, I would hope they would rest in their offices.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order.

Mr. HATFIELD. I assume there is only one session here at a time, Mr. President.

Mr. President, I think there is an analogy in this particular policy that we are legislating in that when the Appropriations Committee had its hearing and thereafter, the administration at no time could present to the committee any evidence or any kind of program that indicated that they had given careful consideration to enforcement and all that that would entail.

What are those problems of enforcement?

Well, first of all, I think we have to recognize that we expect that everyone is going to comply who understands, who has been informed, and who has a clear mind as to what his responsibilities are under this policy.

What is the responsibility of the Government to make sure that everyone who is in the 19- and 20-year-old age bracket, and then next year those who will be 18 years of age? What is the expectation that we can have in making certain that they fully understand their legal responsibilities?

Bear in mind we have had no registration for a decade. Bear in mind we have had no program that has called upon our 19- and 20-year olds to register. So, in effect, this is a new requirement, a new demand upon them.

Well, one might say they have all known about this because they are aware of the debate that has been going on in the Congress and when the time comes, and it appears inevitable now that the Congress will pass this and the President will sign it into law and have this appropriation, they will have become aware that this will be their responsibility, to comply.

Well, that is not a valid basis upon which to base that kind of judgment because, first of all, this debate only occurred for the length of 1 day in the House of Representatives, hardly noted. This debate has occurred for a period of days in the Senate. It had some attention in the Appropriations Committee. We started this bill last Thursday. We went Thursday, Friday, Monday, and today.

Because we are so close to the issue and we are responding to rollcalls, and we all have our viewpoints which we have expressed, and we have a record of written statements or statements made on the floor, we assume because we are so close to this whole situation that everyone knows about it and everyone is fully aware.

Mr. President, I recall my first experience in the legislative body back in 1951 when I was elected to the House of Representatives from the State of Oregon. I had made a speech on the floor of the House, and I thought it had been a very good speech. I was very pleased with the results of the comments that fed back to me from the Members of the House. I sort of assumed that everyone in the whole State of Oregon was aware of this great speech that I had offered on the floor of the House.

I remember a man by the name of Giles Fletch, who had been in the House of Representatives of the Oregon legislature for many years. He was a great sage. He commented to me, "Remember that every mile distance that you move from the Capitol building in Salem, Oregon, will be in ratio a dimunition of what the people know or understand to have happened in the Capitol. We who are here assume that whatever we utter as pearls of wisdom on the floor will be broadcast to everyone in the State. But it is amazing how the further you move away from the Capitol the fewer people will really have heard, and perhaps the fewer people who really would have cared what you said on the floor of the House."

I think we have to keep that perspective. What has happened here in the Senate Chamber has not necessarily been broadcast throughout this Nation so that every man, woman, and child, or perhaps even a majority, have been aware of this particular issue or this debate.

Therefore, it is all the more incumbent upon the Government to communicate this requirement that will be enacted, this requirement that imposes upon the 19- and the 20-year-olds, and next year the 18-year-olds, their responsibility to register their name and current address with the Federal Government.

In this budget there is some $200,000 to $400,000 identified as money for this kind of public communication, this kind of public education.

I think it is interesting to note that when that testimony was given as to how they planned to use it, at least at that time the plan was to buy 30- and 60-second spots.

I think this is very interesting, too, because anyone who has been a candidate for public office in the last few years particularly knows how much time you can buy on the tube on TV and on radio in 30- and 60-second spots for $200,000 and $400,000. We have campaigns now for the Senate that have exceeded $1 million in States of relatively small population, and most of those budgets are being expended for the communication media, for advertising, for communicating. And here we are expecting that the young people of this Nation, in that age category particularly, are going to get the message of this new requirement through this modest and, I think, predictably incomplete or inadequate program of public education.

That is our responsibility. I think, therefore, because we are not meeting that responsibility, we can expect a higher percentage of noncompliance.

I have no way to predict the percentage of noncompliance. I can only say that in my opinion we have created in this legislation, by either acquiescence, by failure, or by design, three very specific obstacles to full and proper public understanding.

No. 1, we have not provided adequate sums for public broadcast and public education.

No. 2, we have, by the action of the Senate today, denied those who have a moral religious persuasion against war and, therefore, are persuaded they have no way in which they can commit their bodies to military action and they want to withhold their bodies by declaring themselves to be conscientious objectors—we have denied them that right to declare that intent by the action this Senate took today contradicting, repealing, in effect, what had been determined by the Appropriations Committee; namely, there shall be no box on the registration form for anyone to check off as their intent to seek a conscientious objector status.

That is going to increase substantially the noncompliance to this policy of registration.

This, in effect, is by design.

Third, Mr. President, is the very issue itself. We have had estimates from the Defense Department that it may be—they minimize the whole noncompliance issue, of course. They make a judgment that there may be 2 percent noncompliance. There are other estimates that have been made, I think, that might be just as easily justified, that raises that to a 10-percent figure. If it is 2 percent, the most conservative figure—2 percent of the 4 million manpower pool that would be created by this registration requirement of 19- and 20-year olds—then we are talking about 80,000 persons who would be subject to prosecution; 80,000 to 400,000 if you want to take the higher estimate of noncompliance of 10 percent. Four-hundred thousand.

Let us say that we take the lowest figure, the conservative figure of 80,000 and we come back to my thesis that I started out on. That was simply that the compliance problem is going to be exacerbated by the failure to have a plan in place, with personnel and all the other requirements for enforcement. What is going to happen is that we are going to end up having this Congress appropriate far more money than $13 million that we are appropriating at this time merely to set up the operation. We are going to find ourselves being asked for sums of money to set forth the machinery that has yet to be announced or yet to be described or yet to be even planned. I suggest it is going to cost far more of the taxpayers' dollars to set up the machinery after the fact than if we had planned properly for it before we embarked upon this action.

I know there are those who will say, but the administration has assured us that there is not any problem here, that they will be able to handle it. Let me quote again from that great profound statement made by Mr. John White, Deputy Director of the Office of Management and Budget, who represented the White House before our committee. He said:

> I do not think it will be an issue. I think young people will register, as they have always in the past. I don't think it will be a problem.

Well, if I ever heard an ostrich speak, that was the ostrich. I think it really is almost an insult to the intelligence of anyone who sat there and listened to this kind of rather irresponsible response to a very profound question.

Let me say this gives me greater concern when those representing this administration can offer nothing more than saying. "Oh, it won't be an issue," when they are ignoring their own estimates of non-compliance. 80,000? What does that mean?

Let me suggest that probably, when they begin to see the magnitude of this problem, they will initially start making selective enforcement. They will initially go out here to this little town and to this little town over in another State, to a few towns across the country, and they will pick out someone that they will have tracked down somehow for noncompliance, and they will prosecute to the hilt—especially if it is some individual who is not a middle-class or upper-income bracket person. Those persons are usually able to get themselves a lawyer pretty quickly. I would not be surprised if he found some individual in a lower economic bracket who may not have the wherewithal to call in legal counsel.

Boy, they will bring him before the court and they will prosecute and they will probably get a conviction. Then he will be the shining example of what happens to those who do not comply, so that the whole idea then is to make an example out of those few because they have no plan to enforce this in an equitable, nondiscriminatory way.

I should like to have someone take a census at that point and see how many will be bank presidents' sons or how many lawyers' sons or doctors' sons or politicians' sons, or anybody else who occupies a place of prestige or any kind of position in the local power structure.

Be that as it may, that is conjecture. But I think too often, we have seen our laws indiscriminately applied in such ways as to try to make case examples.

I am not suggesting that there is some kind of back-room plot or conspiracy that is geared into this kind of prosecution. I am only suggesting that it is impossible to prosecute 80,000 noncompliant people for a number of reasons.

How are they going to track them down? How are they going to find them? How are they going to identify those who have not complied?

"Well," some have said, "they will go to the social security rolls. They will go to the social security files and they will compare the social security files with the list of those who have signed up, and they will be able, through elimination, to determine the ones who have not signed up."

Well. Mr. President, let me remind ourselves that the social security law is very clear. That is that it shall not be used as a reference or as a research center for any other than a social security question.

So what is going to happen? Oh, we shall have the advocates come running back here and say, "We have to amend the Privacy Act," or "We have to amend the Social Security Act in order to give the Selective Service the authority, the power, to go into those social security records to use them as confirming or as records to indicate who has not complied with the registration requirement."

You see, Mr. President. noncompliance is one of those issues that the Senate has shielded itself from and again, using the comparison to the ostrich, the Senate was a big ostrich today, too. The Senate wanted to stick its head in the sand and pretend that something had been solved, or that there was no problem, by the very action of cutting off the possibility of raising the question of social security records to either put the Senate on the record to reaffirm the Privacy Act or to put the Senate on record as favoring some kind of modification of the Privacy Act or the Social Security Act. But, no, the Senate did not want to hear this today.

I know that these things will have to be proven one way or the other as we go into the experience of registration. I would like nothing better than to be proven wrong by my projections of what I think will occur, because they will not be pleasant. They will not be pleasant experiences.

Then we shall hear the voices raised in great self-righteousness that, somehow, we have enacted the right law and people have not responded properly. Well, let the RECORD show, Mr. President, that these issues were before the Senate in a form to be debated and discussed, and the Senate said no. The Senate said, "We don't want to hear these issues." The Senate said, "We do not want to vote on these issues." The Senate said, "We want these issues to go away."

Well, they will not go away. The Senate has embarked upon a course of action, but I am sure they will rue the day that more careful thought, more careful debate had not been given. Therefore, we will be in the process, we will be forced into the situation of trying to put Humpty Dumpty back together again.

Oh, we will put Humpty Dumpty back together again some way, but I think it will be at the expense of what we have traditionally thought of to be the greatest deliberative body in the world. It will be at the expense of the reputation of the U.S. Senate.

The House of Representatives gave but 1 day to this issue—1 day. The great deliberative body of the Senate could be expected by some or was expected by some to apply its tradition to this monumental issue that confronts this Nation as we begin the machinery to the return of the draft.

I commend my colleagues on the other side of this issue for being totally up front, for being totally forthright that they recognize that this particular action does nothing—absolutely nothing—to solve the personnel problems that we have today in the military, particularly the Army, those personnel problems that deal with the exodus of the skilled and the technically trained people because of the noncomparable compensation that they have in the military and their desire to better themselves by leaving the military for civilian employment. This does nothing to correct that problem.

They have been very honest about it and they have also been very honest that their intent is to get the draft. They want the draft. They believe that the draft is going to answer all of these other problems. And what an illusion that is. What imagination, that, somehow, drafting 18-year-old and 20-year-old young men is going to solve the exodus problem that we have today of junior officers and high enlisted rated personnel who are skilled technicians. That is complete illusion.

The draftees cannot refill those voids in the military personnel picture. The draftees are not going to, even if they had a skill, if they had one of the high technical skills which they, on the average, do not have.

Bear in mind, we shall have student deferment if we reinstitute the draft. We shall have to make it discriminatory because we could not accommodate 4 million or 6 million people in a training program at any one time. We shall have to make it discriminatory. Therefore, we shall have student deferments and those who would most likely have those skills will be deferred from military service, as we have done in the past. What we shall have again will be that many of those in the lower educational brackets, those who cannot afford to go to college, will be caught up in the net. And they are not the ones who are going to provide the answer to our present shortages in the technical skill areas of Army personnel.

If there were such, what is the average length of service? Based upon our experience in Korea, which is the latest draft program that we have, we find the average length of service was 18 months out of a 2-year requirement. A 24-month requirement; average length of service 18 months. And if you consider the 4 to 6 months requirements for basic training and for any advanced training, what are you getting? You are getting about 1 year to 14 months of service and that kind of turnover rate does not strengthen a military unit. It weakens the military unit.

It weakens it because of the high rate of turnover and it weakens it because of the grousing, the discontent of those who have been coerced into military service against their will.

No organization, including a U.S. Senator's office or a platoon in the Army or a ship in the Navy, can have an efficient operation if you have that rate of turnover amongst a major part of the personnel. I am proud to say that, by every survey that I have been able to make, my office probably has the smallest or the lowest amount of turnover of any office on the Hill. Because of that and other factors that we have indicated in publications about the office operation that was published by the Herman Miller Co., that has been written up by Fortune magazine, by CBS, by the Washington Post, and other observers, that we have probably the most efficient operation of any office on Capitol Hill. The U.S. Navy sent over a team to review the office procedure. The White House sent over a team headed by Mr. Eizenstat to review the office procedure. Most of my colleagues in the Senate have either their administrative assistants or others of their staff come to see the procedure, as well as a majority of the House of Representatives.

I am not saying this to brag. It happens to be that I am very interested in administration. It happens to be most of my political career was in administration. It happens to be my educational career was in administration. I happen to like it. I happen to devote my time to giving leadership in the administrative procedures in my office.

My only point in raising this particular example at this time is merely to say that I happen to have a little background and experience in administration—8 years as a Governor and 2 years as a secretary of state in public life; as the dean of a university, which was an administrative position—to recognize that turnover of personnel weakens the administrative unit in which you have responsibility.

Consequently, when we talk about this kind of plan, there have been many illusions raised, many, I think, misunderstandings and even, perhaps, misconceptions about what this will do and what it will not do. It all comes back again to the enforceability of this policy.

I recognize that the President has the authority to set up a registration procedure without any action on the part of the Senate or the Congress in general. The President has asked for $13.3 million in order to create a particular system of registration. That is why we are called upon now to appropriate the money for that purpose. That is under the so-called justification that the President wants to send a symbolic message to the Russians.

Let me remind ourselves that a few months before that, the President of the United States had said very clearly that he was opposed to registration. He was opposed to registration. Then he decides that perhaps, a 180-degree turnaround would, somehow, serve his foreign policy or whatever reason that he might have had. But what he gave to the committee was, "I want to send a symbolic message to the Russians that there is a resolve in this country that we are going to withstand the adventurism of the Soviet Union as represented by their invasion of Afghanistan."

I am adding that editorially as an assumption, to give the President more credit, perhaps, than he deserves.

But I suppose we should not be surprised at the reversal of the field that the President has engaged in from time to time.

I understand that just today he has announced that he will debate Mr. JOHN ANDERSON, after all; and it was exactly the opposite just a few days ago, when he expressed his refusal to debate Mr. JOHN ANDERSON, on the basis that he did not want to have to debate two Republicans. Well, anybody can change his mind. I am not criticizing the President for that. All I am saying is that it is awfully hard to keep up with someone who reverses his field so frequently.

However, if that is his new position—and I hope we at least will be able to take a sight on it long enough here to make a decision—I still have not given up the possibility that the President may change his mind again tomorrow and say, "I don't need registration." Assuming that he stands by this particular request, it is on that justification, the justification that he wants to send a symbolic message to the Russians.

That, in itself, is a somewhat specious argument. That assumes that the Russians are dummies or are so illiterate that they cannot recognize what a list of names represents, as against substantive military strength.

The President received on his desk, on

January 16, a report from his own Selective Service agency that clearly said that premobilization registration was unnecessary and redundant. The worst case scenario that the Defense Department could conceive indicated that they needed 30 days for the first registrants to be classified, examined, inducted, and ready for training. The Selective Service report that the President had on his desk on January 16, after the Afghanistan invasion, stated very clearly that registration was not necessary, that they could do it in 17 days, beating the Pentagon's requirements of 30 days.

So the President comes along and says, "We want to beat that record by another 3 or 4 days, so we want this very expensive system that is going to cost $13.3 million to develop registration now."

That includes training local draft boards and includes many other things. I offered in the committee—if the President is so desirous to make sure he has everything in place and ready to go for instantaneous registration—an amendment to give him $4.7 million. Let him buy himself a computer—$4.7 million to buy him a computer—and no green stamp books included. Buy his computer and put it in place and have it ready to go any time he needs to register the young men.

But, oh, no, the White House did not want that at all. They put their representatives to work up here on the Hill, and they said to the committee members, "Don't go for that. We want the full $13.3 million." In effect, what they are saying to us is, "We are not looking at just registration. We want, and we are planning to move right into, the draft, with legislative requests to follow."

Mr. President, I think that when one looks at this kind of issue and realizes that the President has not established justification for this, the White House has not given us any kind of plan for enforcement, the White House and the administration obviously have not been able to show any plans, because they have not developed any plans. I do not think I am exaggerating much to say that until the committee raised the questions, I wonder if anybody ever gave any thought as to how they are going to enforce it.

It is a very interesting political observation that Senator KENNEDY, who is still challenging the President for the nomination—and I do not know whether the President has the nomination locked up. That is not really a great concern of mine, from my side of the aisle. I only observe that Oregon is one of the few States in the Union that legally binds the delegates to support the preference primary winner. I do not know how many other States do this, but I think a minority of the States really bind the delegates.

However, whether Senator KENNEDY is successful or not is not the issue. The issue simply is that Senator KENNEDY has given very careful consideration to this question.

A few years ago, Senator KENNEDY and I stood on this floor and debated the draft question, and he was on the other side. He wanted the draft to continue; I was opposing it. But, as I said about the President, everyone has a right to change his mind, and Senator KENNEDY has changed his mind on the question—before he was a candidate, having nothing to do with his candidacy, but through convictions and through experience in seeing this draft work and reviewing its past experience.

Senator KENNEDY has come out very clearly in opposition. I introduced into the RECORD today, at his request—because of his inability to be here—a hard-hitting speech that he wanted to be part of this RECORD, to indicate that he was standing shoulder to shoulder with the Senator from Oregon in opposition to this registration proposal.

Earlier, I read into the RECORD a very excellent statement that was offered by Representative JOHN ANDERSON, the Independent candidate for President, who stated his position to be in opposition to registration.

I introduced into the RECORD a 2-page letter from the former President of the United States, Mr. Gerald Ford, who has taken a very strong position against registration.

That is an interesting combination of people, politically speaking. But let me add one more, to make it even more interesting, and that is the name of Governor Ronald Reagan of California, who, in all probability, will be my party's nominee for President of the United States this year, who likewise has taken a strong position in opposition to this registration program.

Mr. President, if only the Senator from Oregon stood here in opposition, I can hear many people say, "Well, what do you expect? That is in keeping with his position on matters of war and peace and military, and so forth, and so on. What can you expect?" Or they might say, "Well, he is one of those Republican liberals, and you would expect that because of his political philosophy."

However, you cannot brush aside that situation in such simplistic terms. No one would accuse the potential nominee of my party of being a Republican liberal. Governor Reagan is one of the high apostles of conservatism.

Mr. ANDERSON who will be an Independent candidate, a Republican, would be considered a moderate Republican, a middle-of-the-road Republican.

So here we have three Republicans of great variation of philosophy but in agreement on this one issue.

I am going to do all I can to urge Governor Reagan to carry this issue to the people, to carry this issue to the 19-year-olds and the 20-year-olds and the 18-year-olds and their mothers and their fathers, and indicate to them that a vote for Governor Reagan for President in 1980 is going to be a referendum on this call by the President to reinstitute the draft, and let Mr. Carter defend that role or that position.

I cannot speak for every State, but in the State of Oregon, 86 percent of the young people in this age bracket oppose the draft. You might say, "Well, you would expect them to, because it impacts upon them most directly." Interestingly, however, the mail I am receiving from my State and the communications I am receiving from my State indicate that there is a high percentage of their parents and people in the middle-aged groups and older groups who likewise disapprove of and oppose the draft.

Why should people who place great value on the lives of their sons and daughters, who may be subject to the draft because of Carter policy, vote for Mr. Carter? Even though the American public are deeply concerned about the economic problems and about the foreign policy of this Nation, when it comes to their own blood, when it comes to their own sons and daughters, I think the overwhelming majority will place a higher value on them and the policies that impact upon them and the way they cast their vote in the November elections than any other issue.

People have said to me, "I have been a Democrat all my life. I have never voted for a Republican. But let me tell you that if it means holding my son or daughter out of a compulsory, coercive draft system, I will vote for Governor Reagan."

As a liberal Republican, I could go on the campaign trail with great fervor in support of Governor Reagan on this issue. Otherwise, it might have been a little difficult for me to get out on the campaign trail, on just basic philosophical differences that we have. But I feel so deeply and I feel so convinced that this policy is the wrong policy that all the other differences I might have with Governor Reagan pale into insignificance when he is so right on the most basic, fundamental issue of all time, and that is the issue of life and death for my two sons and for my two daughters. I only speak there as a father, not necessarily as a Senator.

I have my loyalty and my deep commitment to my family, which transcends any commitment I have to any political party or to any political personality or to any political philosophy. I do not think I am unique in that.

I know that this is not an issue that Governor Reagan has come to lightly. It happens that one of his closest advisors, one of the men who is on his issues committee, is Dr. Martin Anderson, of the Hoover Institution at Stanford University, my old alma mater. Dr. Martin Anderson probably has researched more extensively the issue of the draft than any other person in this country today, and he has published the most exhaustive bibliography on this subject, under the press of the Hoover Institution.

Dr. Martin Anderson is in that key advisory role and has explained and discussed and described in great detail this whole issue to Governor Reagan. I am sure that it was upon that basis, not some momentary reaction or off-the-top-of-the-head reaction that Governor Reagan gave this issue very thoughtful consideration, under the counsel and advice of Dr. Anderson.

In addition, one of Governor Reagan's advisers on economic affairs is Dr. Milton Friedman. Dr. Milton Friedman, who was formerly at the University of Chicago, who is a Nobel Prize winner in economics and is now at the Hoover

Institution of Stanford University, is probably one of the most profound thinkers today on this subject. He has been on many platforms and has debated many people in his opposition to the draft. He also is a high apostle of conservatism.

So what I am saying is simply this: I am deeply committed to try to defeat this issue. But, at the same time, I want to make clear that it carries with it every kind of political advantage that one candidate for the Republican nomination would want in the election year of 1980. That may be the only way the people of this country will have an opportunity to express their own views.

Not one Member of the Senate is eligible for the draft. Not one Member of the Senate will be subject to the draft. We are debating an issue that will have an impact on the lives of young men and women of this Nation, eventually, who are all beyond the doors of the Senate. Not one of them can come in here and speak on this floor. Not one 19-year-old or 20-year-old young man in this country today has the right, the privilege, to be heard. We are making that determination—we who are 50-year-olds or more, or even less. Not one of us is subject to the draft.

It has been said many times that the old men create the war and the young men have to go out and fight it. I would to God that somehow we could reverse that policy and let the young people determine the question of war, and then we who have fought wars previously would be required to fight the wars. I wonder how anxious we would be to rush into all these policies that set up the whole machinery for coercive, involuntary servitude, Prussian-type personnel recruitment, if we were subject to it.

It is so easy for us to send out the 19-year-olds, send out the 20-year-olds. Mr. President, I am sure there is not a person in this Chamber who really would want war or would design for war, and I am not making any such charge.

What I am saying is that it is easy to vote somebody else into a position or role, knowing full well that we do not have to comply.

If anyone thinks that is an exaggeration, let me remind the Senate what we have done frequently in the past.

We exempt ourselves from the same health requirements for those who are foodhandlers that we require of the community in the District. What happened? Because of our failure to have the same standards that were required of other foodhandlers in the District, tuberculosis broke out in the Senate food service a few years ago. One person died, others were infected, and many had to take medical treatment, because we had exempted ourselves.

I wonder how many of the elevators around this building and other parts of Capitol Hill would qualify before they started the replacements under the safety regulations. How many operations could function the way the U.S. Senate functions about complaints and the rights of employees to have their complaints reviewed?

We do a fine job of excepting ourselves from rules and regulations so we will, as we always have, take the traditional view that it is the young man who must be called to fight the war.

All I am suggesting here, Mr. President, is that we have a very, very profound issue that has an impact, a potential impact, of life and death upon 4 million to begin with. That will escalate to 6 million, 8 million, 10 million, 12 million, to geometrically expand as we move from the 19- and 20-year olds down to the 18-year-olds and then as the 17-year-olds become 18-year-olds. To all of those millions of young Americans the Senate has said, "Do not bother us about all the details of enforcement, the equity or inequity, the rights of privacy. Do not bother us with those issues. Let us undertake this."

How many things we have undertaken on a national basis that we have regretted, whereas, if we had been more careful in the enactment procedures and if we had been more concerned about pilot projects in some of these national programs,we would have been far more successful.

Look at medicare. I could give many other examples where we are trying to dig ourselves out. Every year we try to dig ourselves out of the food stamp program mess that we are in. Now we are cranking up another mess. We are cranking up a great issue here, a great program, to send out our dragnets and pull in the 19-year-olds and 20-year-olds, and when they do not comply, when they do not register because they have not received the word or because they did not have a chance to express their intent to declare a conscientious objector role, which, by the way, has historically and traditionally been the right of every young person in this country. In every registration we have had in the past, at the moment of registration he was given form 1050, either at the time or mailed immediately thereafter, so that he could declare his intent. After the Committee on Appropriations of the Senate provided that traditional and historic right, this Senate, tonight, said, "No, we abolish that right. We are going to demand registration, but we are going to abolish the historic right for that declaration of intent, and then we are going to create that many more noncompliance cases without machinery for enforcement."

That is what I call the mess. What we are doing is creating a generation of felons by design, a generation of felons. Then we will say, "Oh, the young people are not patriotic. They are not patriotic."

The young people have been denigrated on this floor by the proponents of this measure day after day by saying, in effect, "We have to coerce them into the military service or there are not going to be any volunteers higher than the monthly average we have now in the case of a national emergency and the need to mobilize the Nation." They said, and we have heard it so many times, "There will be 52 percent vacancies" or "There will be 48 percent vacancies" or "This or that other deficiency." All of that is predicated on one or two misrepresentations: First, that we will have the exact same Selective Service System that is in place now rather than a beefed up one, and, second, that there will not be any increase of volunteers over the current levels.

History absolutely contradicts that assumption. History contradicts it. All I have to do is to quote the one example of history that is set in the record: that we had over 300,000 young people volunteer within a 2-month period after Pearl Harbor.

Mr. President, how much time do I have available? Give it to me by hours, please.

The PRESIDING OFFICER. The Senator has 1 hour and 37 minutes remaining.

Mr. HATFIELD. I thank the Chair.

Mr. President, I am going to close at this time. I have tried to give as much time for my colleagues to get a little relaxation as possible. I am very happy to yield the floor to a relief pitcher at this time.

I want to say just one more word before I yield the floor. There are two men particularly that I would like to say I have been in harness with during this time, amongst many others. One is Senator ARMSTRONG, of Colorado, and the other is Senator NUNN, of Georgia. I think this is one of those interesting things that confuses and confounds casual observers of the U.S. Senate but what really gives the real character to the U.S. Senate. Senator ARMSTRONG and I are of the same political party but are of a little different political philosophy within the party. Senator ARMSTRONG and I have come out on the same end of this issue and perhaps through different reasoning or for different reasons.

We have something far greater in common than our political label. That is that we have a common spiritual faith that articulates the basic theology that we share. We have that kind of relationship that I treasure and which transcends any other differences. Again I emphasize the point that we are of like mind on this issue.

He has been one of those stalwarts who has given great leadership to the matter of trying to avoid this whole issue by taking the preventive action of bringing our military pay program into comparable status where there would not be these deficiencies that those who are advocates of this measure are trying to solve, when we know this does not solve such problems.

He has been one of those leaders. Senator ARMSTRONG has offered these amendments not as a member of the Armed Services Committee but as a person deeply committed and concerned about the status of our military. I commend him for that.

But, again, across the aisle in the role of opposition, which further and perhaps even more confounds some of our casual observers of the Senate, is the leader of the opposition to my point of view, Senator NUNN, of Georgia. Again, our common faith and spiritual relationship transcends our political differences. He is a dedicated man who wants to see this Nation strong and wants to see the defenses of this Nation strong. I would not in any way raise any question as to his intent and purpose behind the advocacy of this measure. But I likewise want to see a strong America. Even though we disagree on this, this has nothing to do in any way with our personal friendship. I treasure these friendships.

I have been tenacious in the pursuit of this issue. If I have in any way offended any of my colleagues in the pursuit of this issue I ask their forgiveness for the simple reason that I treasure their friendships and do not want anything to rupture them.

But I must also very clearly state that I have to take my hat off to no one and I do not take a second or back seat to anyone in the commitment to this Nation's defenses, to this Nation's military strength, and to this Nation's national security. I only want to say that I have to agree with former Secretary of Defense McNamara, probably one of our great Secretaries of Defense, when he stated so clearly that national security cannot be reduced to a simplistic notion of simply a military question. National security incorporates and encompasses far more than purely the military establishment.

What I have tried to indicate here is that the will of the people, the support of the people, the commitment of the people as expressed through national goals and national purpose, is as important to our national security as is our hardware. It is not an either/or but a matter of a composite of all these factors. A strong, productive, noninflation-riddled economy is a fundamental part of our national security, and a less dependence on imported energy is a fundamental part of our national security. We are neglecting these factors as we throw up the illusion that somehow we are doing something about our national security, that we are doing something about the solving of our military personnel problems, and that we are doing something about national security by adopting the first step toward a coercive military procurement plan.

It will do precisely the opposite. It will weaken our Military Establishment by the turnover and the discontent of the coerced recruits, the conscripted recruits. It will not strengthen our national will and purpose in terms of consensus, but it will divide us.

It will not strengthen our economy or lessen our dependence upon imported energy because every dollar will be a dollar less that we can apply to solving these other problems.

Let me close with a quotation from General Eisenhower. He said:

> A time comes in a nation's life when an additional dollar spent for military hardware far from strengthening the national security will actually weaken the national security because, in a final sense, it is a theft from those who are hungry and not fed and those who are cold and not clothed.

Let us ponder the wisdom of that observation by General Eisenhower. I suggest that we are adopting that precise act here by this policy of registration in that we are denying the needs of those who are hungry and not fed, who are cold and not clothed, and that we are not strengthening our national security by this action but we are weakening it.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, may I inquire how much time remains to me?

The PRESIDING OFFICER. The Senator has 57 minutes remaining.

Mr. ARMSTRONG. Mr. President, I yield myself 56 minutes reserving, therefore, 1 minute for possible use on another more auspicious occasion.

It is an honor for me to come before the Senate at this hour and to follow the distinguished Senator from Oregon. I am complimented beyond proper expression by his characterization of our relationship, that we are in harness on this issue. I take it to be a compliment, and I so regard it. I have long admired the Senator from Oregon for many reasons, because he is a distinguished author, a great statesman, a great legislator. He has proven in the last few days that he is a man of utmost physical stamina. Just an hour ago here on this very floor he proved that he is also a man of great patience.

It was the suggestion of the Senator from Oregon that what we ought to do is some of us each take an hour and talk through the night so that our colleagues could go to sleep. In view of the reason that we find ourselves in this predicament, it seems to me that this is not only patience but almost saintly of him to be so forbearing in his attitude.

As I begin my remarks on this, I am going to suggest to the Senator from Oregon that he go home and get a good night's sleep. I am going to abide by his suggestion. I hope to do nothing that will precipitate a rollcall vote during my tour of duty here on the floor. I want to say to him that I want to spell out, and I intend to spell out clearly for the record tonight, why we are in this fix, and it is my intention to offer apologies to a lot of Senators, including the staff, other Senators, and the Nation, because this is a preposterous procedure that we are going through, which is unbecoming to the Senate of the United States, which does not reflect credit upon the Congress, and which is not caused by the Senator from Oregon but because the leadership of the body has threatened or attempted to foreshorten the 100 hours of postcloture consideration of this bill, by threatening certain parliamentary maneuvers which are contrary to that 100 hours and which infringe the rights of Senators.

That is an issue that is separate from the merits of the bill. It so happens that I support the Senator from Oregon enthusiastically on the merits of the bill. It is a bad bill for reasons that I intend to discuss at length. But beyond that, what the Senator from Oregon is doing is leading the fight to protect the rights of all Senators. Not just Republican Senators, not just minority Senators, not just the Senators who are opposed to this particular piece of legislation, but every Senator has a stake in not permitting anyone to run roughshod over the rights of Senators. One of the rights of Senators is to that 100 hours, to a portion of the 100 hours, of postcloture debate.

Well, just to recap the way we got into this fix we are in tonight is that there was a threat made that all of the pending amendments would be tabled summarily and, therefore, that time would expire and Members would not have the opportunity to offer amendments or to proceed. So we have no choice but to talk it out.

Upon the advice of the Senator from Oregon and upon the advice and specific request of the minority leader, I have agreed that I am not going to do anything willingly, or intentionally, at least, that will cause a rollcall vote to occur so that the 96 Members of the Senate who are not on the floor at the present time can have a nap.

I want to remind anyone who might chance to read someday this portion of the RECORD of a very significant fact, which is this: When you play hardball, you invite somebody to come to bat. I just want every Senator to know that by the next time this occurs I am going to have some ideas in mind so that the burden will not be borne by the handful who are trying to preserve the rights of Senators alone, but by all Senators because it seems to me that is only fair.

I stress again that the reason that we are in this fix is not because of the intransigence of the Senator from Oregon but because of the intransigence of others. The Senator from Oregon said, "Let us go home, get a good night's sleep, and leave the clock running."

So all we are doing is inconveniencing those who have to come to the floor and speak, those like the distinguished Senator from Alabama who have to come to the floor to listen, and those like the distinguished Senator from Michigan who have to come to the floor to preside.

From the lack of participation by other Senators at this moment, one might speculate that some have cultivated the ability to sleep with their eyes open, and at the proper moment I will address inquiries to the Chair and to others in the room to find out, indeed, if this is true.

Mr. President, I just want to formerly tender my apologies to those who are being inconvenienced. I note on the floor the presence of several members of our staff who seem to be in the state of advanced fatigue, but who are bearing up under this experience with utmost cheerfulness. I would say to the younger members of our staff when I was their age, I thought it was a big thing to stay up so late at night but was not permitted to do so. Now being permitted to do so, I think it is horrible.

I would suggest that upon that happy moment when my party takes control of the U.S. Senate, one of the first actions I hope we will take will be to put an end to the barbarous and unsatisfactory practice and counterproductive practice of these night sessions.

Years ago when I became the majority leader of the Colorado Senate on the very first day that I assumed that position of leadership, I put through a change in the Senate rules in the Colorado Senate which simply provided that no bill could be adopted unless upon a two-thirds vote if the motion was made after 6 p.m. in the evening. The effect of this commonsense provision was to end the night sessions and for many years thereafter those horrible, drunken, disgraceful, counterproductive night sessions which had previously characterized the legislature in Colorado just did not occur.

I regret to say that after some years somebody got the bright idea of repealing my 6 o'clock rule and they did so and have since resumed those bad sessions.

Mr. President, I would like to inquire if tonight's session of the Senate is being televised?

The PRESIDING OFFICER. Is that a parliamentary inquiry?

Mr. ARMSTRONG. Yes, it is, Mr. President.

The PRESIDING OFFICER. Not to the knowledge of the Presiding Officer.

Mr. ARMSTRONG. Mr. President, would it be in order—I am not so moving, but would it be in order for me to move that the balance of the debate tonight be televised?

The PRESIDING OFFICER. The Chair advises the Senator that rule XXII does not envision such a motion.

Mr. ARMSTRONG. Would it be in order for me to ask unanimous consent that the balance of tonight's proceedings be televised?

The PRESIDING OFFICER. That request would be in order.

Mr. ARMSTRONG. Well, Mr. President, if I were to make that request, it would not in any way awaken my sleeping colleagues, I presume. I presume that even if the request were granted, it would not awaken the sleeping television reporters. But it seems to me to be a useful precedent to set to begin to open up this Chamber. Therefore, I do ask unanimous consent that the balance of the proceedings be opened to televising.

The PRESIDING OFFICER. Is there objection?

Mr. STEWART. I object.

The PRESIDING OFFICER. There is an objection.

Mr. ARMSTRONG. Oh, it is a disappointment to me, Mr. President, that the Senator feels constrained to object. Would he care to say why he objects to such a request?

The Senator from Colorado notes that the Senator from Alabama's eyes seem to have glazed over at the thought of televising these proceedings and I shall be back another day to take up that question. Although, of course, there are no television cameras clamoring for admittance to this Chamber, I say to the Senate that I think there should come a time when we should begin televising proceedings of this body. If we did so tonight, I have a feeling we would not be in session at this very moment because, if all of this were being televised and recorded on videotape so that it could be shown on the network news tomorrow night, with the possibility that the Senate would be seen across the Nation doing what we have been doing, say, the last 8 or 10 hours, I think we would not do it.

I think there are a lot of the high jinx that are a part of life in this body that would be seen to be foolish and counterproductive and even a source of holding the Senate up to ridicule if it were seen on television. So, at the right moment, I shall renew my request for unanimous consent that we televise the proceedings and I hope that, upon reflection, other Members will think well of that idea.

Mr. President, it is very hard to imagine, in this day and age, that an employer in the United States could get away with:

Paying new employees less than the minimum wage.

Paying skilled journeymen who have been with the firm for a decade or more so little that they have to get food stamps in order to feed their families.

Forcing employees to work 20 to 100 hours overtime each week without additional compensation.

Holding cost-of-living increases below the rate of inflation for 7 of the last 8 years.

Surely if the Government ever found out about such a latter-day Simon Legree, it would fall upon him like a ton of bricks. There would be Federal inspectors everywhere, court actions and congressional investigations.

But this sweatshop is owned and operated by the Government itself. The situation outlined above is not an excerpt from a Dickens novel, it is the actual state of affairs in the U.S. Armed Forces today.

When the All-Volunteer Force (AVF) was created in 1973, Congress pledged to keep pay and benefits for service personnel comparable to those in the private sector. But Congress has reneged on that pledge, and we are all paying the price for Congress recklessness and dissimulation.

The Armed Forces today are smaller in number than at any time since 1950, yet they are having grave difficulty meeting their peacetime manpower requirements. Last year, for the first time, all of the Armed Forces failed to meet their recruiting goals.

Along with the decline in numbers, there has been an even more disturbing decline in aptitude. The number of high school graduates has declined precipitously, and an increasing proportion of high school graduates have come from the bottom half of their classes.

This Nation's military manpower problems are so serious it is unlikely our armed services could be effective in responding to a major crisis. Almost all of our Army units based in the United States report serious personnel shortages. The Navy, which faces a similar dilemma, recently was forced to tie up a front line ship for lack of skilled sailors to operate it.

There are those who claim the solution to the military's manpower problem is a return to the peacetime draft. But there is no evidence to indicate resumption of the draft will solve the problem and much to indicate that it would not.

The military manpower problem is primarily a problem of retention, not recruitment. Shortages are most severe in the middle officer and noncommissioned officer grades especially in the combat arms and in highly skilled specialties such as pilots and nuclear submariners. The shortage of NCO's in the Army alone last year (46,000) was greater than the entire recruiting shortfall in all of the Armed Forces combined (30,000).

A draft can prevent a shortage of privates, and the existence of a draft can prevent a shortage of second lieutenants. But a draft cannot prevent a shortage of corporals and sergeants, captains and majors. And it is among the corporals and the sergeants, the captains and the majors where the manpower shortages are concentrated. Each of the Armed Forces actually was overstrength last year in the three lowest enlisted and the two lowest officer grades, the only grades that would be affected directly by resumption of the peacetime draft.

The cause of the decline in retention is no secret. A chief petty officer with 17 years military service earns no more than a union-scale janitor or a unionized grocery clerk in San Jose, Calif. A sergeant with a wife and two children to support qualifies for food stamps at most posts in the United States.

Regular military compensation—base pay plus allowances for housing and food—has fallen between 12 and 24 percent relative to the cost of living for each pay grade since 1972. The average salary for enlisted men—including base pay, all allowances, miscellaneous payments and moving expenses—is $9,900. The Bureau of Labor Statistics estimates an income of $11,546 is required for a family of four to maintain a "lower level" standard of living.

The inevitable result of this erosion of pay and benefits is that many qualified, motivated, patriotic men and women are discovering that they, literally, cannot afford to serve their country. Survey after survey of military personnel makes it clear that erosion of pay and benefits is the principal reason why so many servicemen formerly on career tracks are leaving the service.

Mr. STEWART. Will the Senator yield at that point?

Mr. ARMSTRONG. I shall be delighted to yield for unlimited purposes.

Mr. STEWART. I do not want the Senator to yield for unlimited purposes.

Mr. ARMSTRONG. And for an unlimited time.

Mr. STEWART. I am sure his melodic voice is keeping most folks here entranced, as it is me. I would not want them to be denied that benefit. But I do want to say that I agree with the Senator on his comments about the pay of our military personnel. I disagree with him about the issue.

Mr. ARMSTRONG. Mr. President, I beg the Senator's pardon, I could not quite hear.

Mr. STEWART. I disagree with him about the issue at hand, but I agree with him on his comments here at this point in time. At some later date, I shall be glad to take up with him a discussion of his earlier motion, which I was obligated, I am sure he understands, to object to.

Mr. ARMSTRONG. Mr. President, I thank the Senator for his observation. I very much welcome his expression of support for a military pay raise and, of course, I understand that he was obligated to object to my request to televise the proceedings.

Let me suggest to the Senator that, at the right time and in the right setting, which I trust will not be 2:30 a.m., I might take up with him again both issues, including the televising. I hope that, at the right time, when the proper groundwork has been laid and the proper discussion had with leaders on both sides, we will adopt a proposal to televise the proceedings of the Senate, which I think will be a good and useful thing for the country. In the meantime, I thank him for his observation and his comments about the need for a military pay raise.

There can be no solution to the military manpower problem that does not address the problem of retention, and there can be no solution to the retention problem that does not include a substantial increase in military compensation.

On April 30, I introduced Senate bill 2629, the National Defense Compensation Act of 1980. It would provide "catch-up" pay increases, over and above cost of living increases of 9 percent for the three lowest enlisted and the two lowest officer grades, and 18 percent for the career enlisted and officer grades. The National Defense Compensation Act also would provide for 100 percent increases in selected special duty pays, such as flight pay and submarine pay. The pay increases would be phased in over 3 years.

A recent Navy study has indicated that "catchup" pay increases along the line proposed in my bill will restore rates of retention to acceptable levels.

If the retention problem is solved, there no longer will be a recruitment shortfall at present authorized strengths because the shortfall that does exist resulted from unreasonably high demands imposed by abysmal rates of retention.

In short, Mr. President, a return to the draft will not solve the military manpower problem, but paying our service men and women a living wage coupled with restoration of GI bill education benefits, which I also want to discuss at some length tonight—will make it unnecessary for us to return to the draft. To reinstate conscription for any reason would be unfortunate. But to go back to the draft simply because Congress is unwilling to pay our service men and women a living wage is unconscionable.

Mr. BRADLEY. Mr. President, will the Senator yield so I may place a statement in the RECORD?

Mr. ARMSTRONG. Mr. President, I would be delighted to yield, but I hope that the Senator will feel free to read his statement into the RECORD and not be constrained on my account merely to insert it.

Mr. BRADLEY. I shall take the Senator's recommendation under advisement during the period that I have the floor.

Mr. President, I shall vote against House Joint Resolution 521. I ask unanimous consent that the balance of my remarks be printed in the RECORD at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey?

Mr. ARMSTRONG. Well, Mr. President, I was about to reserve the right to object on behalf of many of us who would like to hear the statement, but I know the Senator has other demands on his time. Therefore, I shall not object and I shall look forward to reading his statement when it is published in full in the RECORD.

I must say to the Senator that I noticed a rustling in the gallery, a sense of disappointment that appeared on the faces of many who have come here at this hour, hoping to hear his statement presented.

Mr. BRADLEY. I thank the Senator very much for not objecting. This is actually a statement that I have made many times across the State of New Jersey and for my constituents, it would not be new, although it would be for the Senator to hear it.

Mr. President, I shall vote against House Joint Resolution 521, which provides money for a resumption this summer of draft registration. I do not believe registration alone, as contemplated by the President in this proposal, will improve our national defense. It certainly does not address our most critical defense manpower problem, which is the retention of highly skilled personnel and the improvement of the quality of our Armed Forces. Moreover, this registration program actually will hurt our mobilization efforts by imposing on the Selective Service System a requirement that it cannot discharge now, and will not be able to discharge for another 2 to 3 years.

Most important, however, this proposal is a stalking horse for a resumption of a peacetime draft. I have no inherent opposition to a draft, if one is justified. But if we are to reject the Volunteer Army and return to conscription, we should do it openly, candidly, and after full consideration of all the ramifications of such a move. Unfortunately, we have not had that kind of debate. Those who would return the country to a draft have to meet a very high burden of proof. In my judgment, that case has not been made. It has scarcely even been attempted in this debate. I am not prepared to vote against the Volunteer Army, symbolically or otherwise, until I am persuaded it has failed. I am not so persuaded at this time.

A number of reasons have been advanced in support of this proposal. They are not persuasive. It has been argued that premobilization registration is necessary to be prepared in the event an emergency requires a return to conscription. We have heard varying statements of the amount of time required between M-day and the production of enough manpower to the services to begin basic training.

In recent years, there has been quite a discrepancy between what Selective Service could do, and what the Defense Department needed to be done. The Defense Department says it needs 100,000 people presented for induction by M +60—60 days after mobilization. As recently as last year, CBO stated that Selective Service would be fortunate to provide that number by M+110 days. Selective Service now says that under its new plan it can meet this goal in M +28—without prior registration. We can only marvel at the organizational ability that has in a few short months not only made up a deficit of 50 days, but managed to do so well as to create a 32-day margin of safety.

There is no question that until now Selective Service has been incapable of performing the mission imposed by law. Until the last few weeks, it had less than 100 full-time employees, most of another vintage, what seemed to be a "permanent" Acting Director, an antiquated recordkeeping system, and totally unrealistic and untried mobilization plans. Things were so bad at Selective Service that some people called for its outright dissolution, figuring that starting from scratch in an emergency would be better than having the existing organization try to operate in a crisis it could not handle.

Fortunately, things seem to be improving. A good start has evidently been made on a computer system; there has been an important and refreshing infusion of fresh blood; and mobilization plans contain encouraging elements of realism.

But still the question arises as to how much more time would be saved if we resumed registration this year, rather than at M-day. The Director of Selective Service stated only 7 days would be gained. Others claim 13. That may turn out to be an important 7 or 13 days. But on the face of it, the implications of returning to registration, and what it imports as a return to a peacetime draft and an end to the AVF, to me makes this small saving in time insufficient justification.

I said at the beginning of my remarks that I thought adoption of this proposal would have a net deleterious effect on defense preparedness. I believe that imposing the responsibility for conducting registration on Selective Service is a bad idea at this time. The start being made to get the organization on its feet, to shape up its plans and operations, and to make it better able to handle its responsibilities—all these things will take time, perhaps 2 to 3 years with sufficient funds, support, and will.

The requirement to conduct an operational program of registration is like asking Selective Service to do the marathon before it has learned to stand on its own two feet and walk. This is too much too soon, and for no important end or benefit. The thought of imposing on the newly recovering agency millions of pieces of paper, a heavy load on a computer system just being established, a manpower responsibility of processing all that information, a series of lawsuits, an enforcement problem that may number in the hundreds of thousands, and all the controversy attendant on registration—all this is just not realistic or wise at this time when it has so much other work to do first. I am persuaded that the best path to improved military manpower preparedness and a stronger defense establishment is to move slowly and carefully, and not by overburdening and crushing this institution before it is back in operation.

Those who have consistently supported registration believe that the Volunteer Army has failed to provide enough high quality recruits and to keep them long enough. It is true that the services have had shortages in recruitment in the last few years. Also, as we look further into the 1980's, demographic trends seem to indicate that the pool of young people may not be large enough to support a volunteer force.

The Volunteer Army has additional problems. Although evidence is disputed, it has become fairly evident that the quality of recruits has fallen, both in terms of their test scores on entrance examinations, and in terms of their educational levels. In fact, it appears that the overall level may be much lower than we have thought, since apparently the computer system from which this information is obtained seems to have been misprogramed and has been giving out more encouraging information than is warranted.

We must also recognize that the drop-out rate for new recruits is extremely high. The portion of recruits who do not complete their first 2-year enlistment approaches half.

The high drop-out rates on original enlistment are very troublesome. Yet they are an unavoidable consequence of a volunteer system. Young people enlist because they think they want to be in uniform. But many make a mistake. They cannot take the discipline and the training required of being in service, and they quickly leave. This is merely the reverse side of a draft, in which individuals who do not like or cannot take the military nonetheless have to stay—or else. And the "or else" is the threat of court-martial for misbehavior, or discharge on less than honorable conditions, which result in permanent hardship through the rest of the young person's life.

Many would scrap the AVF in light of these deficiencies. But I believe that much more can and should be done before we consider it a failure. Recruiting can be increased, and the effort to attract young people improved. Service in the Armed Forces has to be made attractive, and more attractive than other civilian alternatives. That costs money, and more money than we have been willing to spend thus far.

Other deficiencies of our manpower situation have only a tangential relationship to registration. The greatest manpower need we have is for trained individuals who can operate the complex weapons of today's military. No first-term recruit does that. We need career people, not just more 2-year men. Neither registration nor even a resumption of a draft can get us that.

In fact, there are many who contend, with merit, that if we were to return to the draft, it would attract fewer people who are likely to make military service a career. This is because a draft naturally will result in a decline in pay levels and other efforts that make the service more attractive. It will also lead to a decline in the effort to attract better qualified personnel. While we would get some better quality personnel through the draft, they generally will not stay after their first term is up. To this extent, then, the draft may actually hurt our manpower position, not help it.

Another major reason often advanced for a return to registration and the draft is the sorry state of our Reserves. Under current military planning, we rely on the Reserves—and a rapid mobilization of the draft—to make up shortages in manpower and replacement requirements in the event of a major and continued conflict on the ground in Europe. We can put aside for this discussion very cogent questions about the likelihood of such a conflict, and assume that we do, under this scenario, need a large and well-trained Reserve system. But the draft—and certainly not registration alone—has little to do with reserve levels. Except during the Vietnam era, there has been no direct relationship between the size of Reserves and the draft. In fact, during most of the pre-Vietnam period, the Reserves remained under-strength. The excess of Reserves during Vietnam was probably the result of young people preferring the safety of the Reserves over the risks of being drafted into the regular Active Duty Forces.

We come at last to the final issue, the clash of symbols. The President has made his case on the importance of sending a message to the Russians about our determination to oppose aggression, especially with respect to Afghanistan. I have nothing against messages, but I should state that very often sending a message is more imporant to the sender than to the receiver.

The Russians have gotten the point about Afghanistan from the Olympics boycott, the increased defense budget, the suspension of SALT II, the cutback of cultural and economic ties, and from our other reactions. Registration is a small additional message if it is any message at all. Now, a full draft and mobilization, that would be message indeed. But clearly, also, too strong a signal and inappropriate.

We should not underestimate the danger of sending the wrong message. There is a very real possibility that noncompliance could be large. It is no easy thing to inform 4 million young men in 2 weeks time that they have to register at their neighborhood post office. And under this proposal, there is no way of knowing who has registered and who has not. Unlike registration systems of the past, there will be no draft cards, and thus no requirement that young men have proof of registration on their persons at all times. While the penalty remains the same—5 years in prison and a $10,000 fine—there can be no realistic enforcement. During the Vietnam era, nonregistration was estimated at 1 to 2 percent, although it well could have been higher. Some estimates put nonregistration at 10 to 20 percent this time. But noncompliance could be much higher than even that. We may end up with massive nonregistration and hundreds of thousands of young men potential felons.

There is also another kind of message the President may mean, and that is one directed at the American people. It may be that he wants to bring home to Americans the fact that we are in a new and dangerous era of confrontation with the Russians. If that is his point, the message is directed to the wrong group. It will matter little to the average citizen if a small part of the population—4 million 18- and 19-year-olds—have to register.

In these perilous times, our national leadership has to persuade the American people of the real dangers we face to national security. These are not military dangers alone, and not merely the remote possibility of a massive land war in Europe. More likely—in fact, very possible—is the danger that our oil supplies will be interrupted. This may come from Soviet military adventures in the Middle East, or from regional instability. Even if we have the strength to reply to military threats, we still must cope with the loss of irreplaceable oil. To provide security against this danger, we must convince Americans that the unpleasantness of coupon rationing system or a gasoline tax and the cost of a strategic petroleum reserve are minor beside the massive economic disruption of an imported oil crisis. This message has not yet gotten to the American people. It has not even gotten to Members of Congress.

Although much of the case in favor of registration is not persuasive, it would be wrong to think this is a meaningless vote. It is in fact a test vote on a return to a peacetime draft. While the President has not acknowledged this, other supporters and opponents recognize that this is a vote to reject the AVF and return eventually to the draft.

I would much prefer if this debate addressed in its fullest the question of volunteer versus compulsory military service. Such a debate would necessarily have to address as well the question of the duty all citizens have to improving the well-being of their country. In our society, we seem to have accepted the proposition that a citizen owes his country three basic obligations—answering the military draft, when we have one, paying taxes, and obeying the law.

There is more to patriotism than this. Each of us derives manifold advantages from being part of this Nation. Few of us ever get a chance to repay adequately. While many citizens volunteer time, energy, or financial resources in social and charitable activities, most citizens do nothing. They are proud to be Americans, and they are quick to take umbrage at foreign slights or foreign dangers. But these Americans do nothing else much.

I believe the time has come to think seriously about a new kind of national obligation—a system of national service, offering to all citizens the opportunity to devote a period of time to society.

I am pleased to be cosponsor of legislation that would establish the mechanism for a thorough consideration of this proposal. The bill, S. 2159, was introduced by Senator TSONGAS earlier this year. It has been joined with the domestic violence legislation, which will soon be considered by the Senate. This Presidential study will build on a very excellent study by the committee for the study of national service published in January of last year, and a conference they held the following May.

It is my hope that the legislation will be acted upon favorably before very long, and that we will thus explore the proposal for national service in detail. In this process, we will consider whether national service should be compulsory or voluntary; and whether it should be an integral part of military conscription or independent. Rather than taking a back-door, sidling approach to the draft as this registration proposal does, we should review the operation and precepts of a volunteer force in the larger context of universal national service.

Mr. President, for the reasons I have discussed, I oppose House Joint Resolution 521.

Mr. ARMSTRONG. Mr. President, before I move on to a discussion of the need for a GI bill, I want to go back to the observation which I made earlier about the parliamentary situation we find ourselves in and the point which was suggested to me that when you play hardball, you invite somebody to come up to bat.

I would like to address to the Chair the inquiry of whether or not it would be in order for me to ask unanimous consent that this motto be inscribed in stone above one of the portals of entry in the Senate.

The PRESIDING OFFICER. Does the Senator wish to specify to which portal he refers so that the Chair may rule?

Mr. ARMSTRONG. Well, Mr. President, let me ask if it would be in order to ask unanimous consent that it be inscribed over the northeastern portal of the Senate Chamber.

The PRESIDING OFFICER. The Chair thanks the Senator for that clarification. The Chair would have to consult with the Sergeant at Arms, and the Parliamentarian feels he is not in a position to give adequate advice on that matter.

Mr. ARMSTRONG. Mr. President, I thank the Chair. I thank the Parliamentarian. I congratulate all concerned on their handling of this inquiry and I compliment them on their sensitivity to the magnitude of this inquiry. I shall think more on it.

I inquired earlier today of one of my colleagues as to what was the meaning of the Latin expression which, in fact, is chiseled in stone above the entry portal immediately to my left. Several Latin scholars among the Senators looked carefully at it and it was the consensus of those who know best the meaning of such expressions that what that means is, roughly translated, "This is not a line-item committee." However, I have this matter under advisement and I, perhaps, shall also consult the Sergeant at Arms to determine in fact what is the meaning of that expression.

Mr. President, I should now like to turn to a few observations about what happened when Congress killed the GI bill in December 1976. Senators may remember that the Army gloomily predicted that the pool of potential recruits would shrink by as much as 36.7 percent. Well, today, friends, the Army has every reasons to say to Congress, "We told you so."

Defense Department officials estimate that the Army is 50,000 short of its peacetime strength of 774,000 and 80,000 below projected wartime requirements.

Military manpower problems have gotten so bad that it is doubtful our Armed Forces could respond effectively to a major crisis. All Army units in the continental United States, except the 82d Airborne Division, are substantially under strength. The Navy, in April, had to tie up a frontline ship, the oiler U.S.S. *Canisteo*, for lack of skilled sailors to man it.

Along with the decline in numbers, there has been a precipitous drop in aptitude. Army manuals have been rewritten downward, to eighth- and even seventh-grade levels, but commanders still report that many soldiers have difficulty understanding them. Unfortunately, however, this development, coming at a time when the Army is increasingly technologically based, still is not meeting the need for technical manuals which can be understood by the large proportion of troops.

Let me restate the problem: The Army and other services are becoming more technological, the machines more complex. Yet, in order to try to pitch the instructional material at a level of comprehension appropriate to the recruits, we are rewriting the training manuals downward from 10th-grade reading level to 8th- and even 7th-grade reading levels.

With world tensions rising, it seems to me that it is vital that Congress take action now to improve both the quantity and quality of the young men and women entering the Armed Forces. A step that some advocate is resumption of the peacetime draft, but, in addition to being divisive, the draft is a cumbersome, expensive means of resolving a relatively small recruiting shortfall. Furthermore, a 2-year draft would not fill the Army military occupation specialities where shortages are most critical.

A far more effective, and cost-effective, step would be to reinstitute GI bill education benefits nearly on the scale of those provided by the World War II GI bill. That bill and successive GI bills have proved to be among the most successful Government social programs ever instituted, returning to the Treasury in tax revenues several times their costs as a result of increased earnings by veterans who otherwise would not have been able to afford to continue their education.

The rate of attrition in the Army is nearer 40 percent than the 18 percent that the Army, in March 1975, predicted Congress would find "unacceptable."

Properly tailored educational incentives almost certainly would bring into the Armed Forces at least 50,000 high-quality recruits each year. This would be enough to resolve current recruiting shortfalls, and to replace, in all the Armed Forces, 15,000 to 20,000 enlistees from the lowest mental-aptitude levels with recruits from the highest categories.

On April 22, a proposed GI bill of 1980 was introduced in the Senate. It is based on comprehensive research done by Prof. Charles Moskos of Northwestern University, a prominent military sociologist. Under the bill, a serviceman or woman who completes 2 years of honorable service would earn the following benefits: 100 percent of tuition and fees at an accredited college or university, to a maximum of $3,000 a year, for a maximum of 4 years, and a subsistence allowance of $300 per month while enrolled in an accredited college or university, for a maximum of 36 months.

Because 2 years of honorable service would have to be performed before a serviceman would become eligible for benefits, there would be no cost for the GI bill in the 1981 and 1982 fiscal years.

If 50,000 new recruits took advantage of the GI bill benefits each year, the cost would be about $840 million in fiscal 1986, the first year in which there could be four classes attending school under the program.

After luring high-quality people into the Armed Forces, the next step would be to encourage them to stay by providing fair pay. Many military families struggle at near-poverty levels. For example, a plane handler on an aircraft carrier works 100 hours a week for less pay than a 40-hour-a-week cashier in a fast-food restaurant.

To correct this inequity, I also introduced in April the National Defense Compensation Act, to which I referred earlier:

A four-part package of pay raises that would enable military families to meet basic financial obligations. The raises range from 9 percent for lower grades to 100 percent for special-duty pay such as submarine and parachute pay. Many of these special pays have not been increased since 1955.

Prospects are growing for approval of some form of military pay raise. President Carter recently said that he would support a pay package that would include higher pay for sea and flight duty, an increase in food allowances, and higher housing allowances in high-cost areas of the United States. This Senate legislation, already introduced, is a useful first step. With its approval and, I hope, acceptance of a more extensive across-the-board pay package, we will be able to provide military families with a living wage.

With the GI bill to boost recruiting, and pay increases to ease the retention problem, the All-Volunteer Military Forces can be preserved and we can end the disgraceful treatment of Americans in military uniform.

Mr. President, probably no issue before Congress has generated so much heat, or so little light, as the debate over restoration of the military draft.

The Soviet invasion of Afghanistan, and President Carter's call for draft registration in the wake of it, has brought into the open a controversy that has been simmering behind closed doors in the Pentagon and in the Armed Services Committees of the House and Senate for the last 8 years.

The debate is especially intense because the draft appears to bring into conflict two fundamental principles of American democracy:

The first principle is liberty. Ours is a free society, and there should be no place in a free society for involuntary servitude, which is what a draft amounts to.

The second principle is duty. Freedom is not free. A price has to be paid to maintain it. Each citizen has an obligation to serve if his or her service is required to preserve freedom.

The debate has been intense and emotional, and unfortunately, in intense and emotional debates, the facts tend to get lost in the flood of rhetoric.

I think it is time we toned down the rhetoric and looked more closely at the facts. I am opposed, as is the Senator from Oregon and many others, to the principle of a peacetime draft. But, surely, some could argue that it is better to give up some of our freedoms for a little while than to lose all our freedoms forever. That seems right to me. So I modify my basic presupposition against the draft in these terms. I am against the draft if we do not need it. If it can be compellingly shown, particularly in a wartime setting, that we do need it, then I am for it, or, at the very least, I will seriously consider it.

I have no doubt that we would reinstitute—and I expect that I would vote to reinstitute—the draft if the United States becomes involved in another shooting war. Otherwise, I cannot see how we could proceed, particularly if it were a prolonged war, on the World War II model.

But the real question is not what might happen in wartime. The question is whether or not the draft is the only way or the preferred way to obtain the quantity and quality of men and women we need to maintain our peacetime defense forces at required levels.

At first glance, supporters of the draft would appear to have a strong case. The congressionally authorized strengths of our Armed Forces are at the lowest levels since 1950, yet all the services have been unable to meet those end strengths. Even larger shortfalls loom in the Reserves. Along with the decline in quantity, there has been a decline in quality. Fewer incoming recruits today have high school diplomas, and a greater proportion of the high school grads come from the lower half of their classes. Educational levels in the Armed Forces have dropped so much that a recent Army survey indicated only one tank crew in four could train its gun properly.

But when we look a little more closely, the case for the draft fades away. All the Armed Forces are overstrength in the lower enlisted grades. The shortages are among NCO's and the middle officer grades, people who would not be drafted in any case. The blame for this shortfall rests not with the All-Volunteer Force, but with a Congress that pays professional military people so little they have to leave the service in order to provide for their families.

There remains the problem of quality in the lower enlisted grades, but even that is more the fault of a chintzy Congress than of an inherent defect in the All-Volunteer Force. No sooner was the AVF created than Congress cut out the one inducement for enlistment for college-eligible males—the GI bill.

I am convinced we can solve our peacetime military manpower problems if we provide an appropriate raise in pay for the career force, and restore the GI bill benefits. There is no cheap way to solve our military manpower problems. But the draft is no solution for the most pressing of those problems, and not the most cost-effective means of solving the remainder.

So I say that the more light we shed on the subject and the less passionate rhetoric we bring to bear on this question, the more quickly we will cool off the apparently rising sentiment for a resumption of the draft.

Mr. President, over the weekend, the Rocky Mountain News, in Denver, Colo., published a series of articles and discussions about the Nation's defense requirements—military personnel and so on. Among the items they published was a very insightful editorial which I should like to quote briefly, and then I will ask that the remainder of the editorial—in fact, the complete editorial—be printed in the Record, because it makes some interesting points.

I hope that in the morning, when they come to the office, the Members will read it, as published in the Record. Perhaps if they do so, they will return to the Chamber later in the day, full of the conviction I have that this is an undesirable piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I am embarrassed to say that while I have brought a folder full of extraordinarily interesting and meaningful clippings from the Colorado press, the specific clipping for which I have been searching has not come to my attention. Upon the conclusion of my remarks, I will look for it and hand it in at the desk, because it does make a point that it seems to me needs to be made and needs to be considered very seriously by my colleagues in this body.

Mr. President, I should like to share with my colleagues some facts and figures that relate to an amendment I have proposed, together with the distinguished Senator from Hawaii (Mr. Matsunaga), related to the military pay cap.

I have been discussing in general terms the last few minutes the need for a pay raise, but I think it is important to be very specific about how I hope and expect to accomplish the pay raise to which I have referred.

There are several pieces to the package. One is the National Defense Compensation Act, to which I referred earlier, which is a catch-up bill designed to increase various pay grades by 9 percent in the lower enlisted and officer grades and by larger amounts in the upper grades.

In addition to the catch-up or past shortfalls in the amount of pay, Senator Matsunaga and I have advocated a lifting of the pay cap which was imposed by the President and which was previously imposed by successive Presidents of the United States.

It was our purpose, in an amendment we offered to H.R. 5168, to lift, as of January 1, 1980, the pay cap, the effect of which would be to increase military pay 3.4 percent for fiscal year 1980 above the 7-percent cap imposed by President Carter. For fiscal 1980, that would bring the pay increase to 10.41 percent, which is the amount that the pay agent determined is necessary to maintain pay comparability—not to give a windfall to military personnel, but just to maintain pay comparability.

The cost of that would have been approximately $472 million. It could have been funded without exceeding budget guidelines for the defense function contained in the budget resolution and without diverting funds from maintenance or weapons procurement.

Among those who joined me and the distinguished Senator from Hawaii (Mr. Matsunaga) in cosponsoring the amendment are Mr. Bayh, Mr. Boschwitz, Mr. Chafee, Mr. Cohen, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Durkin, Mr. Goldwater, Mr. Hart, Mr. Hatch, Mr. Hatfield, Mr. Hayakawa, Mr. Humphrey. Mrs. Kassebaum, Mr. Leahy, Mr. Lugar, Mr. McClure, Mr. McGovern, Mr. Pressler, Mr. Proxmire, Mr. Schmitt, Mr. Simpson, Mr. Stone, Mr. Thurmond, Mr. Wallop, and Mr. Warner.

Unfortunately, despite this distinguished roster of cosponsors and despite the fact that, really and truly, we were on the side of the angels with an amendment which was well justified by the facts and urgently needed by the underpaid military families of the Nation, we were not successful on the first two occasions we offered the Armstrong-Matsunaga amendment.

However, I call the attention of those perceptive and alert Senators who are on the floor at this hour, and others around the Nation who are watching this proceeding and who will read the transcript of what is being said here tonight, to several reasons why this amendment should have been agreed to and the reasons why I believe that when this amendment is next offered on the floor of the Senate, within the next 30 days, when we take up the military procurement bill, I believe it will be agreed to.

Here are some of the reasons:

First, the chairman of the Joint Chiefs of Staff and each of the service chiefs have identified manpower as the most critical national security problem for the 1980's.

DOD and service manpower studies indicate erosion of pay and benefits is the principal cause of the manpower problem.

This year, for the first time, each of the Services missed its recruiting goal. Army and Navy have missed their goals for the last 3 years.

First and second term retention of NCO's is dropping precipitously. Navy retention of second-termers is down to a "wholly unsatisfactory" 48 percent.

The mental ability of recruits is dropping. Army manuals are being rewritten downward from an 11th to an 8th grade reading level.

Military purchasing power has fallen to 83 percent of the minimum wage.

Average pay for enlisted men, including allowance, is $9,900. The Bureau of Labor Statistics say $11,546 is required for a lower standard of living for a family of four.

The pay scales for military personnel

are so low that 100,000 military families are eligible for food stamps.

Base pay has fallen, relative to inflation, every year since the All-Volunteer Force was created.

Before I continue pointing out additional reasons why this amendment is so urgently needed, I note the presence on the floor of the distinguished minority leader. I wonder if he is here to advise us that the majority leader has relented and has urged us to go home; or, I wonder if he has come here to advise that the leadership is ready to accede to my request that the remainder of tonight's proceedings will be open to television cameras.

Before the minority leader came to the floor, we had a discussion on that, and it was the consensus that televising would be a wonderful thing to do for those viewers around the country who had insomnia; that this would be more wholesome than the 95th rerun of "King Kong."

Mr. BAKER. Mr. President, if the Senator will yield, the answer is "No" to each inquiry and, instead, that those of us who have been listening in our respective offices on the loudspeakers were missing the best show in town. So we came to see, firsthand, the source of the eloquence that was emanating from this Chamber, to observe, firsthand, the inscriptions over the entrance portals in this historic place, and to follow the good example of the distinguished junior Senator from Colorado as he perseveres tonight for 2 more minutes, until the distinguished Senator from Alaska arrives, no doubt alert and in equally good form and prepared to relieve the Senator from Colorado in a dissertation that will occur through the remainder of this evening.

Mr. ARMSTRONG. Mr. President, I am complimented by the generosity of the observation of the distinguished minority leader.

I detect in his comments a willingness to entertain the thought of televising these proceedings and even to chisel some appropriate remarks on the lentils above our entry portals.

I do not know if the minority leader heard about the specific inscription which was suggested to me just before I wrote this speech. It is to this effect: That when you play hardball, you invite somebody to come up to bat. The reason why I think that is such a worthy observation is that the next time this situation arises, I am not so sure that I will be as willing to be as patient as the minority leader, who is known for his patience as well as for many other outstanding qualities of leadership.

On that note, Mr. President, and since the minority leader has cautioned me that my time is about to expire——

Mr. BAKER. That is not exactly what I did. I am not willing to characterize it that way.

We were both looking anxiously toward the entrance to the Chamber, and I do believe that the Senator from Alaska is arriving on the scene. He appears to be in good form, with grace and energy in his step.

Mr. ARMSTRONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 12 minutes remaining.

Mr. ARMSTRONG. Mr. President, unless the Senator from Alaska is clamoring for recognition, I shall go ahead and use up the remaining 12 minutes of my time. I note he has entered the Chamber with a characteristic degree of enthusiasm in his step, without any notes at all. I gather it is his intention not to speak from prepared remarks but from the wealth of his experience and background and from the depths of his heart's concern about this issue. I welcome him arriving at this unusual hour. Twelve minutes from now those who are still in the Chamber will be most welcome to remain here after that time. I am sure there will be a wonderful, significant, and entertaining contribution to the life of our country.

The PRESIDING OFFICER. The Chair will caution the Senator from Colorado his remaining time did include the minute the Senator wished to reserve.

Mr. ARMSTRONG. I would like to be cut off at the time when I would reserve the 1 remaining minute just in case, as the debate ends a few days from now, I have one last oar I want to put into the water, that I still have 1 minute remaining.

The PRESIDING OFFICER. The Senator has 10 minutes now remaining.

Mr. ARMSTRONG. I thank the Chair.

Let me point out some of the reasons why my pay raise amendment, offered in conjunction with Senator MATSUNAGA and many other Senators, should have been adopted and will in all probability be adopted certainly before the summer is out and in fact probably before the month is out when we take up the military procurement bill on the floor. I have mentioned a number of reasons. Let me also point out some additional ones.

Failure to halt the erosion in pay and benefits almost certainly will force reinstitution of the military draft. Indeed, the very bill which we are considering at this moment is symbolic of that likelihood.

Reinstatement of conscription will not solve the most serious part of the manpower problem, retention. That can be accomplished only by paying our servicemen and women a living wage.

Mr. President, just some facts. I think so often when we get into these areas it is easy for us to become overemotional, to even become emotionally overheated. Let me just cite some plain down-to-earth facts to highlight how serious the problem really is.

First, the Navy is short nearly 20,000 midgrade skilled personnel.

Second, overall, the Navy is short 2,600 midgrade officers.

Third, ship and aircraft squadron manning is at 85 percent of combat readiness level.

Fourth. last year the Navy retained less than half of its petty officers who were completing their second enlistments.

Fifth, naval aviator retention levels are predicted at 28 percent in fiscal 1980.

Sixth, the retention rate for naval officers and midterm petty officers is 15 to 20 percent below optimum levels.

Seventh, in 1979 the Navy experienced reenlistment shortages in 59 of its 85 major enlisted skill areas.

Eighth, pay caps on governmental raises in 1975, 1978, and 1979 resulted in pay raises for the military which substantially lagged behind the rise in the cost of living.

What it means is that today the average military family is making 18 percent less after adjusting for inflation than they were 6 years ago.

Well, what it comes down to is this, Mr. President: We do not have to reinstate a draft. We do not have to conscript people to fulfill the defense needs of this country. We do not have to engender the bitterness and controversy that peacetime conscription would surely bring about. We can make the All-Volunteer Force work if we will do about three simple things. May I summarize?

First, let us adopt the Armstrong-Matsunaga amendment to lift the pay cap.

Second, let us adopt the more broadly based National Defense Compensation Act to give these military personnel a catch-up pay raise.

Third, let us bring into the Armed Forces a fresh supply not only of larger numbers of qualified recruits but of well qualified young people, the upward mobile, college-bound young people, who would be attracted by the reinstitution of the GI bill benefits.

Mr. President, at this time I would like to submit for the RECORD an article from the Navy Times of February 4, 1980, in which the distinguished former Secretary of Defense Melvin Laird discusses the need for a pay raise for military personnel. The headline is "Laird Blasts Military Pay as Inadequate." I ask unanimous consent that this item be printed in the RECORD. Mr. Laird explains exactly why this is the case.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LAIRD BLASTS MILITARY PAY AS INADEQUATE

(By Tom Philpott)

WASHINGTON.—Former Secretary of Defense Melvin R. Laird blames the "deplorable state" of military pay and benefits for severe recruiting and retention problems in the services that now threaten to collapse the all-volunteer force.

Laird, President Nixon's defense chief from 1969 through 1973 when the AVF began, says the government has reneged on its pledge to provide a "decent and competitive standard of living" for military volunteers.

Laird presents his views in a new policy paper sponsored by the American Enterprise Institute entitled "People, Not Hardware, Highest Defense Priority."

"I am certain," he says, "that unless we compensate our people adequately, the all-volunteer force will not work and we will do irreparable harm to the prestige of military service and to the military family."

Laird says President Carter's FY '81 budget does little to solve the pay problem. He urges the administration and Congress to support 10 initiatives to improve service compensation including an immediate 17 percent across-the-board increase in military pay that would cost more than $5 billion.

Laird also proposes:

Linking future military raises directly to the rate of inflation as measured by the Consumer Price Index. This could cost an additional $750 million per year, he says.

An end to reallocation of military raises so that basic pay, quarters and food allowance go up by the same percentage with each raise.

"Decoupling" military and civil service pay so that military raises can be higher in response to the tighter recruiting market expected in the 1980s.

Establishing a variable housing allowance for people living off-base in high-cost areas. (Estimated cost: $1 billion per year.)

Full reimbursement of travel expenses for service people. (Cost: $1 billion per year.)

Special pay for skills in short supply. Laird says the pay should be similar to doctor pay and would be provided on top of the regular re-enlistment bonuses (Cost: $2 billion.)

Higher fee schedules for the Civilian Health and Medical Program of the Uniformed Services based on Blue Cross and Blue Shield programs so Champus patients pay less for medical care. (Cost: $300 million.)

An increase in enlistment bonuses for combat arms from $2500 to $5000 with annual hikes in bonuses based on changes in the CPI. (Cost: $40 million.)

A "barracks" cost-of-living allowance for people living in single quarters or aboard ships homeported overseas. The barracks COLA, proposed already by the Pentagon would equal 35 percent of the overseas allowances paid to persons living off base. (Cost: $47 million.)

Laird says some officials will argue that these steps will boost personnel costs to more than 60 percent of the defense budget, making it more difficult to compete with the Soviets who spend only 17 percent of their military budget on manpower.

But, he says, the extra costs are neither "immense" nor "unreasonable" when measured against a $157 billion defense budget next year, a trillion-dollar five-year defense plan, or the $4 billion spent each year on youth job programs.

As the administration moves to increase defense spending, Laird says, "we had better make sure we understand where the essence of our national defense lies. It lies in the quality of our combat and combat support personnel, officer and enlisted, which undergirds our entire defense effort."

Laird's report uses Defense Department statistics showing military purchasing power has declined an average 18 percent since 1972. At least 100,000 and possibly 275,000 military families are eligible for welfare assistance, he says. Basic pay for 580,000 military people in grades E–1 through E–4 falls below the government's minimum wage for civilian employment.

Mr. ARMSTRONG. Mr. President, earlier today, just about an hour ago, I was speculating upon the meaning of the Latin phrase which is engraved above the entry portal to my left. It is the phrase, and I trust I am pronouncing it correctly, Annuit Coepteus. I want to correct the Record. I will say to the Senator from Alaska and the Senator from Kentucky that I looked at that and I thought it meant, when translated, "This is not a line item committee." In fact, I have been advised by staff in the interim it means "God has favored our undertakings." Evidently it is related in some way to the funeral industry.

Mr. President, I am also mindful, as the time allocated to me expires, of the wisdom contained in the 15th chapter of the Book of Proverbs. It seems to me that the first half of the 21st verse of Proverbs 15 sums up so well the experience which I have had this last hour. It says:

> If a man enjoys folly, something is wrong.

Mr. President, this has been a meaningful and significant time for me to share all these views, but I am not sure how much of this meaningful and significant experience I can really stand in the future because my normal hour for going to bed is right around 10 o'clock.

With the expectation that my time is about to expire, let me close with the same thought that I began, that this is really, in its essence, an unfortunate and unworthy exercise brought on because of the intransigence of those who would not agree to the suggestion of the distinguished Senator from Oregon that we all go home, leaving the clock running, thereby protecting the rights of Senators to have 100 hours of post-cloture debate, and to do so in the most expeditious and convenient manner without in anyway inconveniencing unduly any Senators.

I hope that the next time the situation arises we will be able to handle it in that way.

In the meantime, Mr. President, I note the arrival in the Chamber of the distinguished Senator from Alaska, the minority whip. It is with utmost pleasure that I yield the floor in anticipation of his observations and comments about the pending legislation.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I appreciate those fine comments of the Senator from Colorado. I wonder if my good friend would like any of my time. I would be most happy to yield to him. I have been enjoying his remarks. I do commend him for his leadership in the field concerning pay increases for our armed services. I would be happy to continue to listen to him continue to explain his programs. Would the Senator like to have some of the time of the Senator from Alaska?

Mr. ARMSTRONG. Mr. President, as is so often the case, the Senator from Alaska is unduly generous, far beyond what I deserve. I know that there are many in the Chamber who are awaiting his comments and his contribution to this debate. While I appreciate his generosity in suggesting that I might continue, it would be a disappointment to others if I were to do so when they are expecting him to speak.

Mr. STEVENS. I thank the Senator from Colorado.

Mr. President, as one who did return to his home and who sought to engage in the normal activities that a normal human being pursues at this hour, if I seem a little deliberate in what I am saying it is because I have just awakened.

I know the distinguished Senator from Kentucky has not had the pleasure of an hour or two of sleep, but I am hopeful that perhaps my comments will assist in putting him to sleep.

Mr. President, I am one who does support registration as an attempt to alert our citizenry to the problems we face as far as the armed services are concerned. However, I want to make it very plain that I do so while at the same time supporting the activities of the Senator from Oregon to make certain that we all know what we are doing as we try to do a 180 and go back to the time when we would be prepared to call young people to serve our country in the armed services on the basis that it is not that of a volunteer.

I am one who was called in World War II as a draftee. That was wartime. I have never had any personal feelings against that call. I do have some very deep-seated feelings, however, about the use of any kind of draft in peacetime.

I think that the activities of the Senator from Oregon, making us all realize the seriousness of the proposition before the Senate, should be commended, and, as the record will show, I supported his efforts to try and properly delineate the action we are taking. I am not certain that he and I agree in the final analysis because, as I said, I am willing to vote to reinstate the concept of registration. I would be unwilling at this time to vote to reinstate a draft until we have pursued every single possible attempt to be able to maintain our defense capability in terms of manpower without a Selective Service System being put into effect once again.

I happen to also share the feelings of the Senator from Colorado that the chief problem we have is that of recognizing the necessity to adequately compensate those who serve this Nation in the armed services.

When the basic opportunity grants are before the Senate this year, I intend to offer a series of amendments, one of which will provide that basic opportunity grants will be available only to those people who have agreed to serve our Nation for a period of time that is commensurate with that amount of time they would finance in seeking their education under the concept of using taxpayer funds to assist them. That is what I understand the Senator from Colorado is talking about when he talks about his proposal to return to the concept of the GI bill. There are others with similar approaches. I think they must be examined carefully.

What we are really saying is, if we look at the budget today, there are vast amounts of money going to assist people who are desirous of continuing their education of going into the college levels and beyond. Those people, if they are going to have the assistance of the Federal Treasury in pursuing their education, ought to be willing to make the same commitment that we require of the young physician to whom we give financial assistance from the Treasury. That person must make a commitment to serve in some capacity, either in the Public Health Service or in the military, as a physician once medical school is completed.

What we are saying is the same thing with regard to those people who seek financial assistance to continue their education. I hope that the Senate will give serious consideration to the proposals which are going to be made this year to try and restore some of the incentives to voluntary enlistments. They are not alone the incentives that the Senator from Colorado mentioned, although his alone are in fact that prime or root cause of the problem we are trying to address, which is that our military pay is just not sufficient to induce the voluntary enlistments that we need to maintain our Armed Forces.

Mr. President, one of the interesting things that I found as I listened to this debate here is that not many people have read the report which is before us. It is a report from the Senate Appropriations Committee on this joint resolution, on the subject of military draft registration. I am hopeful that some people will read that report. Just so that we can be assured that some of the items in it are before the Senate, I would like to read some of them. I am certain my good friend, the Senator from Kentucky, would like to follow through as I read this report. It will be something that will assist both of us to understand the problems we face not only in the armed services but in terms of the tactical problems facing the Senate.

One of the difficulties I have with the proposition we have here is that of draft boards. I think the concept of instituting registration is one thing, but the concept of the whole draft board procedure and the classification procedure is another thing. I really do not agree that classification is necessary now. I do believe that registration is necessary now. It seems to me that there are two separate problems. If we have registration, those people required to register are going to have to think about the possibility that we may find it necessary indeed to reinstitute the draft.

In thinking about that, it is my opinion that we will, in fact, stimulate voluntary enlistment by those people who will want to get their military service behind them and put their time in the military in accordance with the best timing as far as their own career is concerned.

But that does not mean, in my opinion, that we need draft boards all over the country to commence their activities, to have them reestablish draft boards.

When we were before the Appropriations Committee that question came up.

I might say it was my understanding, as a result of that discussion, that draft boards were not going to be reinstituted by the proposition before us. Some of the amendments of the Senator from Oregon seek to clarify that. Just so there will be no question about that, on page 50 of this hearing record, there is a question that was asked by Senator Proxmire of Dr. Rostker. In that, Senator Proxmire asked:

> If a court were to rule in his favor, that would mean that the Selective Service System might have to reestablish draft boards and area offices and start classifications. Wouldn't this seriously jeopardize your present registration-only plan?
>
> Dr. Rostker. No. The question of classification addresses classifying as soon as practicable. It is the position of the administration that that is not necessary at this time.

If there is that position still represented by the administration, that there is no intent to pursue classification at this time, I do not see why some of the assurances that are sought by the Senator from Oregon would not be in order. As a matter of fact, I hope that we, in the process of considering this resolution, do in fact settle the question of whether we are going to have draft boards and the extent to which they will be involved in this phase of registration only. That was the proposition that I thought we were asked to address. I am hopeful that it will be clarified before the resolution comes to a final vote.

I also recall with some interest the comments of Senator Mathias at the hearing and I would like to put them in the Record also. This appears at page 52 of the report, for those who might be interested in the colloquy.

Senator Mathias said:

> Mr. Chairman, in addition to the questions I have submitted, I am curious about one thing, and that is this: Any future war, long or short, is going to demand an array of talent unlike the kind of talents that have been necessary in the past. I am told General Stewart's Cavalry, for example, were generally around 18 years old. If you got to be 21, you were overage for that duty. But on the rare occasions when I get on an airplane and look up in the cockpit, I do not find any 18-year-olds or even 19- or 20-year olds. It is more likely to be a 50-year-old captain and flightcrew——
>
> Senator Proxmire. And a 60-year-old stewardess.
>
> Senator Mathias. Well, that raises the question of women, which I think is an important question. You do find women on airplanes as part of the active crew of the plane. I think that is some indication to us just as a practical matter of the kind of talents we are going to need in a war if, God forbid, we have one.
>
> If you are really serious about sending a message to the world, and if we are prepared to make an expenditure of millions of dollars in sending that message and at the same time accumulating some information, why isn't it sensible to make a more thoroughgoing inventory of national talent that may be needed in a conflict in the future?
>
> Mr. White. Senator, I think that is a very good question.
>
> First of all, we obviously have on active duty an array of that talent. It is very good talent. Second, we have a backup array that is matched against the Reserve requirements, against the active requirements by the Reserves. The Reserves are formed to supply talent. Beyond that, we have an individual Ready Reserve which is a pool of people who have been trained for military service. Beyond that, we have military retirees who also could serve, if necessary. And then beyond that, we have the inductees.
>
> I think we have a vast array of talent available, and I certainly think you are right that we ought to continue to assess what our talent needs will be in the event of mobilization.
>
> General Meyer. May I comment? The only added thing you should put into the equation, Senator Mathias, is that today the shortfalls in the Active component, Reserve components—USAR, and the National Guard—are primarily young combat arms men, infantrymen.
>
> You don't see 50-year-old infantrymen running around out there. I am not saying they couldn't. I am saying that physical stamna is necessary. Many of the skill shortages we are talking about are principally in those areas.
>
> While I agree completely with what you say about evaluating the total capability of the Nation to be able to support our needs of mobilization, and until we are able to fix the Active components—the USAR and the National Guard—that the needs are principally in the area of combat arms men.
>
> Senator Mathias. I suppose what I am really interested in knowing is whether you have been thinking about how you would get the kind of inventory of talent that might be needed in a war of the future. If we were granted the premise that we have a mechanism to take care of the problem that General Meyer talks about, of getting the physically active, young people, I think you would also agree that there are other skills that are going to be necessary, and if you are going to get one, it may be equally necessary to get the other.
>
> Dr. Pirie. Senator Mathias, we generally think about this in the framework of retaining talent in the Reserves. And we have a number of things under way to encourage people to stay longer in the individual Ready Reserve, including a legislative proposal which will pay bonuses to people who will be willing to stay an additional 3 years in the individual Ready Reserve beyond their obligation.
>
> This will allow us to keep on people whose skills we need and that kind of thing.
>
> There are equivalent programs in the Selected Reserve for people in the skills we need. We do not have a program to inventory military skills beyond the military obligation point for the population at large.
>
> Senator Mathias. Of course, Mr. Secretary, I have to bite my tongue to prevent myself from recalling the various attempts we have made in the Congress to strengthen, expand, or even maintain the strength of the Reserve components at various times. But I guess the record speaks for that, and we do not have to go into it today.
>
> If we look at the career retention rate, both in the Reserve and the Regular, they are pretty discouraging. Are we making any attempt to follow these people once they leave, either the Regular or Reserve component, so we know where they are, so that you can resurrect them if you need to? That would be one method of following the talent that may be necessary.
>
> Dr. Pirie. We do, as I say, Senator, follow the people who have a residual military obligation.
>
> Senator Mathias. That you obviously do; I am talking about the people who go out and cut all their ties, say, "We are through," and they may be through at that moment, but they are patriotic Americans, and they have skills, and they recognize a lot of those skills came from their military training and their military education. Is any effort being made to trace them, to follow them, to keep in touch with them?
>
> Dr. Pirie. With respect to retired personnel, there is, Senator Mathias.
>
> Senator Mathias. Well, you send them a check. I am not talking about that.
>
> Dr. Pirie. Even retired Reserves, before we give them their checks, we keep some tab on them. Those who have completed their military obligation have no further connections; no, we do not have a program to keep track of them. I think it is an attractive idea.
>
> Senator Mathias. I don't want to belabor this. I would conclude by saying I think this committee, certainly under our chairman, has established a reputation for being concerned with economic and effective operation. I have heard him make the offer that he would adjust an agency's manpower in accordance with the work product of their departments. That is a kind of high standard of efficiency that we seek in this committee. If we are going to take steps in this direction, I think we ought to be assured the

> steps we are being asked to take are ones which will be effective, and we will be efficient and economical in the broad sense of the word. If we are going to get started down this road, let's make sure we really do something, not just make a gesture which costs a significant amount of money and ends up as being a rather insignificant contribution to the national posture.
>
> Mr. WHITE. Senator Mathias, if I may, I think it is very important to underline, from our point of view, that this is a real act in terms of military preparedness, something that is needed, something that we are deficient in. We have a Selective Service System which we all know is not in good shape. That is unfortunate. I think what we need to do in that regard is get on with the business of getting it into good shape so that it is a real asset in terms of our ability to respond in the event of a mobilization.

Mr. President, a series of questions were submitted in terms of our committee. Let me elaborate a little on what Senator MATHIAS was talking about.

I happen to agree that it seems to me we are going through the process of reinstating selective service on the basis that the military states it primarily needs help in locating the combat infantryman. If that is the case, certainly, there must be a system that would be more efficient. I believe that the symbolism of the Selective Service System and reinstatement of registration ought to go far beyond locating just the combat infantryman. If Members of the Senate will examine this record, they will see that, primarily, that is what the military is talking about, what the administration is talking about, as we seek to reestablish registration.

Indeed, if that is the case, then I think Senator MATHIAS' point ought to be pursued and we ought to consider changing this to be a registration process which will lead to an inventory of our national talent, which would be available in the event of the reinstitution of the draft.

That, of course, would require the reinstitution of the classification system. Here again, it leads to some of the conflicts that I think could have been worked out in a period of debate because, as I said, we were told categorically that this was not a process of reinstitution of the draft system; it was solely a reinstitution of the registration boards of the draft and they were not looking to reinstitution of the draft boards.

Mr. President, you will recall that I read the statement which said that it was the position of the administration that it is not necessary to reinstitute classification; that this is a registration-only plan, as Senator PROXMIRE stated.

On page 58 are some of the questions that were submitted by Senator PROXMIRE and the responses. Let me read the one concerning reestablishment of local draft boards.

Senator PROXMIRE's question was:

> QUESTION. On page three of your budget justifications, you say that classification of our young people would require the immediate reestablishment of local draft boards, and physical examinations would have to be repeated at the time of induction. You go on to say that the President has decided not to reinstitute classifications and examinations at this time, and that "neither of these additional steps was thought to be appropriate in the pre-mobilization context." Yet I notice on page 10 of your budget, you indicate that you intend to start recruiting local board members in fiscal year 1981 and train these members at 85 training conferences held across the country. Now I can understand the need to develop a training program for prospective local board members, accumulate the names of prospective board members, and develop some recruitment criteria. But by actually recruiting local board members aren't you, in fact contradicting your statement that the reestablishment of local boards was inappropriate in the pre-mobilization context?
>
> ANSWER. We do not believe that the statement that the classification and examination of registrants is not appropriate in a pre-mobilization context is inconsistent with efforts to select and train local board members. Classification and examination of registrants is a very costly process and does not improve the responsiveness of the System; thus the decision was made to proceed with only registration. Should an emergency occur and induction authorized, registrants would be classified and examined after receiving an induction order. In this situation, we would immediately reconstitute the local draft boards to process the claims. It is crucial that we select and train draft board members now so they can begin to function within a matter of days after mobilization. Local draft boards are a key element of the Selective Service System. They are at the basis of a system that decides in a fair and equitable manner who shall serve when not all serve. To insure that capacity even in a standby status, members must be recruited and trained as a part of the Selective Service revitalization.

If the Chair is confused, I might say, so am I, because I, too, supported the concept of registration only. I was quite disturbed to find out that this proposal does, in fact, cover the reconstitution of local draft boards, because once those people are, in fact, appointed and trained, I think there will be substantial pressure to reinstate the draft system—not for the purpose of a total national emergency, which I am willing to support, but for the purpose of meeting the deficit in the number of people who are willing to volunteer primarily for that task, which is the task that the military seems to be worried most about, that of the combat infantryman.

It is my hope that before we are through, the Senate will clarify this proposition as has been requested by my good friend from Oregon in some of his amendments. That does not seem to be possible in this post-cloture mode. For that reason, I am sorry that we are in it and we are in it, I think, prematurely.

I think we are into a process that some of us who support the registration-only concept find ourselves in a difficult position of being asked to support those who support not only registration but also support the little tentacles that will automatically take us into the classification process, almost unwittingly, if the proposals of the Senator from Oregon are not duly considered and those that are necessary are adopted by the Senate.

For example, I supported the proposal that became the committee amendment that was before the Senate, which now has been disposed of. It seems to me that the Senator from Oregon had a proper suggestion at this period of time when the question of compliance is so strongly raised by many people, including those in the armed services, that we should reassure those who register that at the time they are put through the classification process, there will be no question about the procedure to consider the conscientious objectors and their ability to raise the question of their conscientious objections appropriately at the first possible time.

I turn to some of the questions that were submitted by Senator MATHIAS as a result of the hearings we held. These appear commencing at page 70 of the hearings. The first question submitted by Senator MATHIAS was this:

> QUESTION. The fact sheet issued by the White House on February 8 states that the President's decision on registration was intended to demonstrate the nation's resolve and strengthen our defense posture in light of Soviet aggression in Afghanistan. The President also cites the savings in time that would be realized in the event of mobilization. He states that the effectiveness of strengthening the Selective Service System and instituting the registration could increase our readiness "from several weeks to several months".
>
> I would like to explore the effect registration will have on our defense capabilities and try to identify the specific national defense benefits resulting from registration.
>
> ANSWER. The reinstatement of peacetime registration will increase our preparedness, assure our ability to rapidly expand our peacetime forces in time of war or national emergency and demonstrate further our resolve as a nation. Registration during peacetime provides great benefit because it eliminates a significant task that would have to be accomplished during the turmoil of mobilization. It will create an assured data bank involving millions of transactions in a period of peace that would otherwise have to be accomplished during a state of emergency. Registration in peacetime will yield real gains—in certainty, in efficiency, in freeing ourselves for other activities at mobilization and also for the registrants themselves, in the order, equanimity and equity with which the induction process is conducted at mobilization.

Let me restate that:

> Registration in peacetime will yield real gains—in certainty, in efficiency, in freeing ourselves for other activities at mobilization and also for the registrants themselves, in the order, equanimity and equity with which the induction process is conducted at mobilization.

The next question was this:

> QUESTION. In your January 16 draft report, you describe five options that could be employed to meet DOD manpower needs. One of these options (Option 1) entitled "Post-Mobilization Participatory Registration" calls for registration via the postal service, just as in the President's plan except that registration occurs after a notification of mobilization. The draft report states that under this option, registration would occur at M+4 and induction notices would be issued on M+7. Inductions would begin on M+17 at a rate of 7,000 per day. With this sustained rate, the required 100,000 inductions could be made by M+35 and 650,000 inductions by M+125. Of all the options studied in this report, this option is recommended as the most acceptable.
>
> Have there been any changes in the capability of the Selective Service System to achieve the induction rate specified for this option?
>
> Even with no pre-registration, it appears that for both the short term (M+60) and the long term (M+180) will be well ahead of the DOD requirements.

You further conclude that this option presents the most cost effective method of meeting our requirements and that "The reduced delivery time provided by the other options is redundant and unnecessary."

What specific organizational or logisitc factor could modify your conclusion relative to effectiveness and cost of this option?

Which of these factors, if any, have developed since January 16 to the extent that they now invalidate this plan?

Answer: I believe my letter of March 3 to Chairman Boland addresses these issues. As I stated in that letter, the projected timetable for the post-mobilization registration plan assumed that the system was completely established and that everything would work exactly as planned. The experience of working through the detailed plans for a spring registration this year has shown that a number of the assumptions on which the timetable was based were overly optimistic.

For example, the January 16th draft timetable assumed that with pre-positioned registration material we could fully activate the Postal Service, distribute registration materials, undertake an effective public information program and get an appropriation through Congress, all in three days. Our best judgment today, after intense work with the USPS is that even under the best of circumstances it would take considerably longer to activate the system.

Another factor which has come under close examination over the last several months is the movement of completed registration forms from registration sites to data processing centers. In the January 16th draft, we assumed that in less than 24 hours we could sort at least one million registration forms, move the forms from 34,000 local post offices, through 300 regional centers and deliver them to as many as 13 IRS/SSA keypunch facilities. Within 48 hours, we would have to process two million forms. Further consideration of transportation requirements, the possible impact of fuel shortages, and the uncertainty of weather conditions, as well as other external constraints makes a substantial upward revision in these estimates necessary.

I do believe that given sufficient resources, and the time necessary to develop our operating procedures, train people and test our plans, we could be able to meet the 1977 DOD requirements with a post-mobilization plan. Our experience since January 16th, however, shows that we could not register in four days, start to issue induction orders in seven, or begin inductions in seventeen days. Nevertheless, I cannot stress too strongly that even the best standby registration plan cannot provide the assured capacity of an up and running system.

Given the serious challenges to our vital interests that have arisen in Southwestern Asia, I believe that the desire to eliminate as much uncertainty as possible, at a reasonable cost, was foremost in the President's mind when he substituted actual registration for a contingency plan. In my judgment, the President's action was prudent and has my full support.

That was the answer supplied by the general in response to the question by Senator Mathias.

Now I will go to the question of post-mobilization again. Senator Mathias also asked this question:

Question: On that point, let me quote from Page 21 of the January 16 report. The report considered the effects of failures in the Postal Service (USPS) and the Armed Forces Examining and Entrance Stations (AFEES) components of the registration System and concluded:

"That substantial combinations of failures in both systems could be sustained without compromising the delivery schedule. For example, if the USPS could not register until M+5 and data entry began not two days, but four days after registration (M+9) and induction letters did not go out one day, but two days after keypunching (M+11), and if we allowed fourteen days to report to the AFEES, instead of ten days, the AFEES would still provide a hedge in meeting DOD requirements. In sum, over a reasonable range of failures in both the Selective Service and the AFEES, the system is capable of inducting 100,000 people by M+60."

Under this failure scenario, registration would not begin until the fifth day after mobilization and the Postal Service would have four days to register and transport the forms. In addition, there is room for other slippage in the process, in fact eight days of slippage before the first inductee reports for training, and given all of this we still meet the DOD requirements.

Answer: Given the knowledge gained thus far from our efforts to plan for a spring registration, including a better determination of the lead times required for public affairs, printing, training, etc., and a more definitive description of the procedures required to move the completed forms from the post offices to data entry sites, transcribe the data, and correct the errors, it is clear that we were overly optimistic with the time estimates given in the January 16 draft report. In working out these details, it has become evident that there is ample opportunity for a slippage of eight or more days to become a reality. And, of course, the draft report assumed a Selective Service capability that does not exist.

The principal issues, however, concern more than the number of days assumed or deduced in previous calculations. Peacetime registration will give added assurance that a wartime mobilization system will work—that is, peacetime registration helps to insure that DOD's needs can be met and that the system that meets those needs operates fairly and equitably.

Mr. President, as the members of the Appropriations Committee raised questions concerning the President's decision not to follow the option that was recommended in the January 16 report but, instead, to put in effect a premobilization registration system, we concluded—and I was one of those—that under the circumstances, we were prepared to adopt the registration-only option that the President had supported; but at the same time we did seek to limit that option to just that.

I hope that the Members of the Senate who are involved in this exercise of the post-cloture procedure will stop and think about what they are doing, because there are some amendments here that I really believe need serious consideration. They are amendments that have been offered to assure that we are putting into effect only that part of the system which is registration.

I, for one, again wish to state that I do not support the concept of reinstituting the draft boards now. My understanding of the testimony and the presentation of the administration to the Appropriations Committee was that the administration did not need them. The clarifications that are sought by the Senator from Oregon, which he sought before the committee—and which he still seeks now, in terms of the proposition that is before the Senate—are necessary.

I am prepared to support and I will support the concept of registration only. I do not support and will not support, except in a period of declared national emergency, the reinstitution of the draft, particularly the reinstitution of the draft solely to meet the problems created by the lack of voluntary enlistments when many of us believe that those voluntary enlistments are not forthcoming because of the circumstances under which members of the armed services are paid and because of the lack of incentives to young people to enlist in the armed services.

Mr. President, I see my good friend from Connecticut is here, and I wonder whether he seeks to pursue a statement for the Senate concerning this issue. I cannot yield time to the Senator, but I ask him whether it is his intent at this time to make a statement on the measure before the Senate.

Mr. WEICKER. That is correct. I say to my distinguished colleague and friend from Alaska that it is my intention to discuss this matter for the period of time which is allotted to me under the rules.

I usually find that I hit my best stride at 4 o'clock in the morning on important issues. So it is with that in mind that at such time, I will go ahead and start running.

Mr. STEVENS. Mr. President, how much time remains for the Senator from Alaska?

The PRESIDING OFFICER. Ten minutes.

Mr. STEVENS. Mr. President, I will summarize my participation by saying again that I am prepared to support registration only. I am not prepared to support draft boards. I am not prepared to support the classification procedures at this time. I would prefer that the President had accepted the first option in the January 16 report and set up a process for a postmobilization induction process. That has not been selected by the President. His decision has been justified now by the Department of Defense, but it was justified only in the limited concept of registration only.

I urge the Members of the Senate to make certain that this procedure we are asked to approve will accomplish just that—registration only and nothing more.

I reserve the remainder of my time.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I intend to express myself on this very important issue at this very early hour.

I must confess, from the procedural point of view that I do not know who is in charge of this exercise, but whoever it is apparently does not consider it important enough to have clear minds on the floor of this Chamber to discuss it.

I might add that I happen to be in opposition to the position expressed by the distinguished Senator from Oregon (Mr. Hatfield), and yet I think procedurally it is a travesty to debate this subject in this manner. It is to me a very clear mark of the lack of leadership, which has been the case over the last several years in this body. I do not think the Nation is done any particular favor by choosing this method of debate.

So, however I disagree with Senator Hatfield on the substance of the issue, I have even greater disagreement with the majority leader as to the style of the debate on this issue.

I received, as have my colleagues, a great amount of correspondence on the matter of registration. I would say the majority of it is opposed to registration. Nobody, by being for registration, is going to make any political points. The entire difficulty as I perceive it in the Nation today is that too many people have been making or trying to make points in the tough choices confronting the country or typically throughout the world, and consequently, we are not believed. Our difficulty throughout the world is that no one feels the United States will take those actions necessary to defend the principles which it espouses. I think it has been all too clear in the matter of energy where we proclaim our intended independence from OPEC, where we criticize the monopolistic prices imposed upon us by that body, and yet when it comes time to engage in any acts of preparedness, any acts of self sacrifice, the United States is nowhere to be found.

I think these two topics, draft registration and energy, are very much analogous insofar as the nonresponse of this country is concerned to the difficulties that have been posed to us.

Here is a country that has done nothing in terms of conservation and has done very little in terms of additional production, both of which actions to be meaningful require self-discipline and self-sacrifice. Yet no such action has been forthcoming.

In the area of conservation, twice I have stood on the floor of this body and advocated minimal conservation steps, which need to be taken specifically a 6-day week for the automobile. Twice, once in 1977 and then again in 1979, I was defeated by overwhelming margins on just such a simple proposal. I believe the vote was 83 to 7 in 1977 and 79 to 10 in 1979.

No effort to impose any sort of mandatory conservation burden on the shoulders of all Americans has come about. It goes unremarked that for the last 5 years, I guess, the poorest elements of our society, the weakest elements of our society, have borne the conservation burden as we have had a system called Rationing by Price. They are the ones who have had to conserve in the sense that they could not afford either the cost of heating oil or the cost of gasoline. But those elements of our society being the weakest in economic terms are also the weakest in terms of political clout and, therefore, unable to protest meaningfully the extra duty placed upon their shoulders by a majority of their fellow Americans.

Now some will say, "How do these two subjects mesh? What are their similarities?"

Well, there is a tough aspect, I suppose, that attaches to the defense of this Nation in that it is something that cannot be bought or shunted off to a few. It is something that has to be borne by all.

I was here when the Volunteer Army was born. I opposed it. I thought it was a very clever political ploy to, in effect, turn over the disagreeable duty, the military defense of this Nation, to a paid few. It came at a time when people were very much dissatisfied with the policies of government, Republican and Democrat, which had brought us into an unpopular war, which had, in fact, waged that war unconstitutionally. You had what could be termed an illegal war but probably more importantly in terms of support and in terms of justification a very, very unpopular war throughout the country.

It was to get away from this as completely as possible that the alternative of a volunteer army was proposed. I could not help but think at the time of that legislation of those days when, during the Civil War, one could buy his way out of service owed his Nation. In effect, what America was saying with the Volunteer Army was, "We want to buy our way out of whatever obligations we have to defend our country."

It was a very attractive proposal offered by the incumbent administration against a backdrop of dissatisfaction with the political, the military, and the diplomatic policies of this country.

So it was accepted. The whole disagreeable issue of service to one's Nation did not have to be confronted, did not have to be faced up to. It was a resolution both of our manpower problems and political problems, and it buried, politically, Vietnam, an era that most believed even at that time was best forgotten.

Now, as we confront this issue again, we are once again having to confront the costs of our principles and this generation of Americans is being asked to pay the bills, the charges made 15 and 20 years ago. The strength of the United States of America in the sense of its military has always been the fact that it has been a mix of professional and civilian. Indeed, if the draft system was unjust and inequitable, then that should have been addressed. But to say that there was no obligation upon anyone who did not care to serve is just preposterous.

I might add, we are even trying now to avoid the financial cost as to what is required to have an adequate and professional Army, a solely professional Army, as we try to "balance the budget," and in doing so, continue to penalize the personnel presently in the armed services.

I have long been an advocate not of the old draft system but of universal service in this country. I figured everybody owed some portion of their life to strengthening their Nation, not necessarily in military terms. It could very well be in the field of education, or urban assistance, or medicine. It could very well be exhibited by activities in organizations such as the Peace Corps or VISTA. But everybody owed a portion of their talents, of their resources, of their energies, to the strengthening of this Nation, men and women. I argued that point at the time we had the debate on the Volunteer Army. I continued to propose it during all those years when the Congress and the Nation were silent on this entire matter of service to the Nation. And I still believe it today.

Insofar as the type of system, which is really not up for a vote here at all, I favor that which would involve men and women and would permit them to offer their talents in the fields of their choice, but there would be no question but that at least 1 year, a year and a half, or 2 years would be owed by every young person to the service of their Nation.

And it should not be something that one can buy their way out of.

Now something of far narrower scope is involved here before us in this Chamber. It is merely to administratively get a handle on who is available in times of emergency for the defense of their country. It does not impose any particular system. It is no more the system that was utilized during the days of World War II or Vietnam than it is a system of universal military service which I have advocated. It is merely an administrative prologue to that which then has to be determined as fulfilling the concept of service to the country.

There are those who will see it as being synonymous with a draft, and in light of the rather slippery actions of Government, both the legislative and executive branches over the past years, I do not think that it is an unfair or unpatriotic assumption in the minds of those people. But cynicism cannot be responsible for either a lack of legislation or bad legislation. The simple fact in my mind is, and I know the military will dispute this, that the Volunteer Army is not working. We do not have the caliber of personnel involved in the military effort on behalf of this Nation that the Nation deserves. The reason for that is very simple. It is nothing extraordinary. It is that we are not availing ourselves of the entire talent pool existent in this country.

I have long said that politics and Government has suffered since it has become a rich man's business or a rich woman's business. Those of more modest means cannot afford to be in politics and Government and, therefore, politics and Government suffer because we do not have available to us all of the talent residing in this country.

It is no different in the sense of the military. All the talent is not available. All the talent is on the sidelines paying their way out of service to their Nation.

If indeed there is opposition to this simple measure, ascertaining where the people are, can you imagine, Mr. President, what would happen were a universal military service proposal before this body?

I hear people say, "I am not for this system but I am for another system." And I might ask, "If it were universal service, would that be all right?"

"No, it would not be."

No one wants to go on the streets of this Nation or on the Senate floor and make the sacrifices necessary to produce meaningful results be it energy, be it in standing up to the Soviet Union, be it in strengthening our own Nation internally, domestically. Everybody likes to talk a good game but nobody wants to do anything when it comes to the sacrifices required either in terms of life style or in terms of money.

(Mr. GLENN assumed the chair.)

Mr. WEICKER. The world perceives this and it is the reason why the world disrespects and/or disavows the United States at this juncture.

I started off by saying this is very much analogous to the energy situation, and it is. Here is this gutless U.S. Senate and House which just refused to pass a 10-cent import fee yesterday, and I understand the gas went up 11 cents a gallon at the pumps. Saudi Arabia a week or 10 days ago raised their price $2 a barrel, but there was not a peep out of the U.S. Senate or the House. I want to see how many speeches are made here condemning the 11-cent per gallon price increase.

Is it small wonder why we can expect nothing but further increases and further instability of supply in the months and the years ahead? If 5 years ago we had taken those steps of mandatory conservation, of rationing, of decontrol and deregulation to up our production, if we had diverted highway trust funds into bus and rail mass transit systems, if we had gone ahead and devoted the monetary resources of Government to develop the difficult technologies of energy, if we had done all these things which admittedly would have cost in terms of a change in lifestyle, in terms of tax money, if we had done all this 5 years ago we would not be stumbling around in the woods today. We would not be in the position where we have to swallow everything that OPEC shoves down our throat.

I do not think we would have any hostages in Iran.

We keep talking but we do not act.

Well, the situation is no different when it comes to our military preparedness. We want a bargain, a cheap Volunteer Army.

We want the fewest possible people to be involved in the defense of this country, and the Soviet Union is well aware of this. So they continue to pursue their path of adventurism. They look at U.S. experience in the area of energy and say, "Here is a nation that will not even get out of its automobiles in defense of its principles. Why, if they are unwilling to do that, certainly, they are not about ready to either spend the money or commit themselves, personnel-wise, to creating a military that can stand up to aggression wherever it occurs or whoever starts it."

I do not think the fault, if you will, or the reason for the opposition to this issue is something that can be pinpointed upon the young people of this country on college campuses. I think it starts right here in the U.S. Senate, right here in the U.S. Senate, where only, as I say, 10 or a dozen Senators have the guts to go ahead and do what is necessary in terms of energy policy. So the world and the rest of this country look at the leadership of the Nation and say, "Certainly, if they are not going to go ahead and set the example, why should I?" We boil it all down to the lowest common denominator of commitment.

No, I think that I very much disagree with the position taken by the distinguished Senator from Oregon (Mr. HATFIELD). A careful look at the legislation makes it clear that we are not talking about the draft. I want to reiterate that on the floor so there will be no confusion on this melding together of the two terms, "draft" and "registration." It is not a draft; it is registration. This is the census, if you will, as to what it is that we have available to us should an emergency occur. It does not say how we are going to utilize our manpower resources or how they are going to be tapped. We just know what it is that we have. There is no excuse for not doing that.

I have spoken out very forcefully against the Carter administration's allusions to committing the United States to the Persian Gulf area as being an area in our vital interest. I have spoken out against the saber-rattling of the administration of Mr. Carter and others who go running around the Middle East and, in a very cavalier fashion, are willing to commit our young people to the defense of that area and of the world. I have said loud and clear that I would not commit one young person to the Perisan Gulf states area in the absence of doing those things at home which would no longer make it an area in our vital interests.

Why should somebody go over there and serve in the military and risk their lives, when, indeed, this Nation is not willing to engage in rationing or mandatory conservation, when it is not willing to go ahead and impose the 10-cent oil import fee, when it is unwilling to break the highway trust fund and divert those moneys to mass transit, to rail and bus?

These are things which have to be done and we would then no longer have the Persian Gulf states as being in our vital interest.

Now, when we do that, when we do all the things I have enumerated and still there is a shortfall which imperils the United States and, therefore, the free world—fine; then we can go to the second option, which is to consider the use of troops in that area. But not until we have done the basic, not until we have involved ourselves in the basic types of actions I have described. So I am vehemently opposed to any commitment of military personnel to that area of the world. Certainly, I am not going to ask any young American to die over that area of the world.

If there is confusion, therefore, on the issue of draft and registration being put together, let the Carter administration take the blame for it, because, indeed, at the same time they sent their registration proposal to the Congress, they were involved in their saber-rattling act in the Middle East.

I have supported the War Powers Act in the sense of making sure that any decision toward armed conflict in the future would truly involve Congress, the legislative branch, and not leave it as a matter of sole discretion of the executive branch.

Having said all of this and these having been my positions over the years, I think it is essential that, at least from the administrative point of view, we be in a position to respond to any emergency that might occur, to any attack on us.

I sat, as a member of the Committee on Appropriations, through the debates on this matter. I think that the only issue that is a surprise to me is the small amount of money requested. Certainly, this is not something that even, in a balanced budget area, is going to be determined on the question of how much money is being spent. The money is minimal. What can you do with $13 million? Very, very little. But a message has to be sent that the United States is willing to stand up in defense of its principles, of its ideals, of the matters that it professes to believe in to the rest of the world.

If we say no to this simple matter of registration, why, the rest of the world will not believe in anything that we say. They say the doing will never happen.

A good military in this Nation will depend upon the professional and the civilian, on rich and poor alike, on persons from all of the geographic areas of this Nation, of all ethnic groups, of all colors, of all religious background—the entire pool which is called the United States of America. That is what is going to produce a sound military. And we cannot buy our way out of the disagreeable fact that each one of us is going to have to give of ourselves.

Now, as I briefly mentioned earlier in my remarks, I do not think that patriotism is something that is signified solely by service in the military. I am reminded of a book which has illustrations drawn by Peter Speer. The book is an illustrated account of the Star-Spangled Banner. The illustrations that are attached to the first verse of the Star-Spangled Banner show the traditional scenes of the bombardment of Fort McHenry, the type of battle scene that we have become used to in our own mind's eye of the occurrences of that evening, which were written down and have become our National Anthem.

But in illustrating the second and third verses of the National Anthem, the artist then, in describing the strength of the country, has scientists at work in a laboratory. He has farmers on their combines in wheat fields. He has bulldozers razing urban slum areas. He has scientific or NASA personnel landing on the moon—all these other elements which also comprise the strength of the United States aside from the more traditional military concept of what strength is about.

I suppose that is what I speak for in terms of the universal military service, that I think it possible to be of service to one's nation in many different ways, aside from being a member of the Army, the Navy, the Air Force, the Marines, the Coast Guard. As I went through college, we only had one option open to us and that was the military service. But I think that should be expanded to work in the cities, in the slum areas, the ghetto areas of our cities, to make them better in terms of concrete and steel and mortar and to make them better in terms of the people that reside in them and the opportunities that are afforded to them.

That is important. That can strengthen the United States of America.

To work in the area of education. It is the mind, the status of the minds of this Nation, that is a real measure of our strength. That is important.

There are many ways that one can serve. Remember this: In the final analysis, the real security of the United States of America is its people. Indeed, if its people are uneducated, if its people are ill housed, if its people are underfed, if its people have no opportunity for a job, then there is a serious deficiency in our national security.

We can get all the greatest weapons systems in the world, and a professional army traipsing around all over the place. But if we do not have a motivated people, then all the aforementioned is meaningless. All I have to do is turn to the most recent historical example, Iran. That was the finest army money could buy—the finest army money could buy. It lasted 2 hours—2 hours. I wonder how long ours would last under real pressure in a nation which has tried to buy itself out or, to put it in a more positive sense, has tried to buy its patriotism, has tried to buy its security.

I suppose the other analogy that one could make in this whole situation, when you mention energy, is how they could change their individual participation over the years to just trying to pay one's taxes and hope everything goes all right and how there has been a decline in the quality of government, what government creates.

I come from New England. Let me start from the beginning on that account. At the outset, the politics of this country consisted of a town meeting—literally, everybody in the town participating. Everybody in the town was the government.

Then we moved from that to the representative town meeting, where representatives were chosen for *x* number of people. Then we went to the mayor and the council form of government. Then we finally ended up with town managers, slowly removing the people from any participation in the government.

You show me a community where large numbers of the community are involved in the government rather than just paying for the government and I will show you good government, honest government, fiscally prudent government. And you show me a situation where they are merely involved to a point where people merely pay taxes, period, and I will show you the misuse of that tax money and government that is not so good.

Well, our representative democracy can do many things, but it cannot run itself. People complain today about the quality of government and what it is that government creates and they complain about the men and women who serve. All this from a nation which, in 1978, during the congressional elections—and that is an important election, a congressional election in that it involves the entire United States of America—where 35 percent of the registered voters of the Nation voted. Thirty-five percent.

In other words, put on a percentage basis, 18 percent determining the Government of the United States.

This is just not good enough and you are not going to get good government when 18 percent participate and you are not going to get a good defense and a good military when 1 or 2 percent participate.

The country is too damned lazy to even go to the polls for 2 minutes 1 day a year. Then it complains about the result of that laziness.

You are darn right you are going to get a lot of incompetents when only 18 percent are determining the Government of the United States of America. And, yes, you are not going to have a strong military when only 1 or 2 percent are directly involved in that military.

There is no way that I am going to turn to my sons—and I have five of them—and say, "You can enjoy this Nation and its future, the opportunities that it presently affords, without giving of yourself to that country in some form".

That is the message that has to go out: "There is no way that you are going to be able to buy your way out of the obligation to this Nation."

The greatest value that you have is that which resides within your spirit and your soul, what it is that you feel is important. That which flowers inside of you is something that you have to give to your country. Maybe it is that you will be a great pilot or the captain of a ship or commander of an artillery battalion. But maybe it is also that you have a talent to teach other people, to heal other people, to feed other people. These are just as important. But it is not something that you can wish; it is something that you are going to have to do.

Maybe it is that your talent is in representing people and being part of a representative democracy, but it is something you are going to have to do.

It is the same as when I said that if we are going to have energy independence, it was something we were going to have to do. There is no point in sitting there and bellowing at the rest of the world and complaining about OPEC and wringing on our hands, when we are unwilling to take the burden of conversation on our shoulders, when we are unwilling to break with the traditions of the past as to where we allocate our moneys. We are not going to wish our way into energy independence.

The recent events in Afghanistan show as well as anything else the American response to challenge. I recall that it occurred at the time of the Iowa caucuses—there was not one Presidential candidate who stood up there at the time of those caucuses and laid it on the line as to what had to be done, for fear of alienating the farmers.

As a Senator from a Northeastern State, I want to make clear right now that the burden of our response to the Soviet Union should not be placed just on the shoulders of the farmers. We should be embargoing everything that is manufactured in the Northeastern part of the United States. The blue-collar workers should be involved, along with the farmers, management with labor. Everybody should be involved. It should be a total embargo.

How in the world can you have a half response to total aggression? We want this so that we can have our profits and continue our trade and continue to make money. There are times when you cannot do that.

We have tried to argue that we could have our principles intact and our oil, and that has not worked.

The Soviet aggression in Afghanistan is absolutely identical to that of Nazi Germany in Poland and Czechoslovakia at the end of the 1930's and beginning of the 1940's.

What do you think the response of this Nation would have been had the invasion been of Poland or of Czechoslovakia or of Italy or of Ireland or any of those nations which contribute significantly to the ethnic mix of the United States of America? What do you think would have happened? Do you think we would have a sort of little trade embargo and a little response on the Olympics and that would have been it? You know just as well as I what the problem is. Not many Afghans live in the United States. Most of the Nation does not even know where Afghanistan is. That is the way we measure our response, instead of measuring it on the basis of principle, and the principle is absolutely the same.

When it comes time to respond, it means that you respond totally. Many of my young friends turn to me and say, "Do you think we should go ahead and boycott the Olympics? Do you think we should mix politics and sports?"

My response is, "How many Afghans are going to attend the Olympics in Moscow in 1980?" The answer is, "None." They are either dead or they are in captivity.

We want to have our games and our principles. We want to have our oil and our principles. It does not work that way. Sacrifice in terms of money and lifestyle when it comes to energy. Sacrifice when it comes to participation in Government. Sacrifice when it comes to money and in some terms careers when it comes to how we perceive aggression around the world. All this is necessary. These are the things I believe in, not as one who stood here as a defender of large defense expenditures. I do not think I received 10 or 12 votes the other day when I presented the Carter defense budget, when I wanted to cut the $2.6 billion which represented the last 1.6 percent of priorities in the Defense Department's list. I was bombed out.

I do not believe that the military, in terms of hardware and expenditure, is our response to everything around us. I certainly believe that there is no way the United States of America and the free world can be defended except with people and except with their demonstrating the will to defend, should that be necessary.

Our job is to make certain, on the floor of the Senate—and it is the job of the President—that military force will not be necessary, in every possible way. But sticking our head in the sand certainly is not the way, nor is running away from the harsh reality of the fact that there is a cost to all this. That is not the answer. That is really at issue here today.

It is not the $13 million. It is not the fact that anybody is voting on a draft system. It is the fact that, be it our defense or our politics or our energy, nothing is going to cure itself. It should involve all of us.

Yes, I think the Senate—I have expressed this many times—and the House and the President and politicians in general have been very deficient in studying the example of sacrifice. To that extent, we are responsible for the fact that at any time a disagreeable measure comes to pass and we have to turn to the American people, they look upon us as trailing the parade rather than leading it. Therefore, they are all the more reticent to take the leadership role on themselves.

I remember that I spent my 2 years of service in the Army artillery. I confess that I enjoyed all the special prerequisites of being an officer. I enjoyed my term of duty more as an officer than I would as an enlisted man—whether it was the messhall or the Jeep instead of the 2½ ton or the private head rather than the general facilities—all those were the perks, the privileges of rank.

I remember that one evening, on a firing exercise, I commanded a 155 gun battery. One of the guns misfired, and the chief of the firing battery, Sergeant Johnson, came up to me and suggested that I do my particular duty. I cannot remember all the details as to how that was done, but I believe he had to pull the lanyard once more and wait 30 seconds and open the breech block. All of a sudden, there came the responsibility.

The difficulty with this Nation today is that nobody wants to clear the breech. Everybody likes the privileges, but nobody wants to go ahead and clear the breech. They will not do it.

We are paid to do that, also. I think it is great being a United States Senator because of the facilities that are available, the colleagues with whom I associate, the publicity we get. All this is great. But there come those difficult moments, and we have had difficult moments in terms of energy, and we flunked, period. We did not clear the breech.

We got a difficult challenge with Afghanistan, and we have not cleared the breech. We have a difficult challenge on the condition of the military, and we have not cleared the breech.

Those who argue against me may say there has to be a better system. I am sure that is so, but that is not at issue here.

I remember when I was a mayor that every time you would want to have a municipal facility put someplace in the town, there would be 50 different groups saying, "We are all for the facility, but there is a better place over here." Nobody wanted it near them.

You tell them you are going to have the strongest possible military without the inclusion and participation of the talent that is available across this country. How are you going to do it with only 1 or 2 percent of this Nation? You cannot do it in government; you cannot do it in the military; you cannot do it in any area of endeavor in the United States of America, unless you avail yourself of everyone and all their talent.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. WEICKER. I wish I could yield to my good friend from West Virginia. He is one of the kindest, politest people I have ever met. Not only that, to me he is the symbol of history in what he has seen transpire over the years he has served in this body—through all sorts of adversity, domestic and international. He knows the prices that have to be paid in terms of money, in terms of flesh and blood, but also in terms of courage. He has seen it all, as none of us has seen it.

Unfortunately, I am here to speak my piece and then to make certain that somebody else speaks his piece. I do not want to seem personally rude to the Senator from West Virginia, because he is the last person I would do that to in this Chamber.

Does the Senator have a question?

Mr. RANDOLPH. Yes, I have a question.

Mr. WEICKER. I yield for a question.

Mr. RANDOLPH. Mr. President, I am grateful to the Senator from Connecticut for giving me this opportunity. It is not a cursory comment to commend him, although that should be done, and I do it.

The subject matter he discusses, even at 7 minutes of 5 in the morning, covering many facets of the failures of the American people and, in fact, the human race, are certainly worthy of his speaking and, hopefully, people will read his words. Yes, I trust the RECORD will be read by many people.

I agree with the Senator about the failure of the American people to participate in the use of the ballot. Its use is not only a right in our country but a responsibility as well.

The failure to use our American ballot means that the right to use it is causing that franchise of freedom that he has been speaking about and the responsibility he has been stressing—to use a trite expression—to go down the drain.

As to the figures my friend used in reference to the congressional elections in 1978, I do not desire to differ with the percentage he gave, except to indicate that in my study of those figures nationwide, for Senate and House contests, only 34 percent of the American electorate eligible and registered to vote, actually cast their ballots. I am not critical of the 1-point differential. The Senator used the figure of 35 percent. My reading and study showed 38 percent.

If the Senator will permit, the low voting record is, in a sense, a tragedy. It is not where you stand on an issue. When we are called to follow through by voting at the polls, people are not there—young man or young woman, middle-aged America, even older Americans—are not using the ballot given to us by the Founding Fathers—and mothers—of this Republic.

We hear about the majority, in the slang expression, as calling the shots over the minority. What is really happening today is that the majority of the minority is working its will over the remainder of the minority. Yes, with less than 50 percent of our people at the polls, it is a false majority over the minority. It is a majority, I repeat, of the minority over the minority.

My colleague does well at this hour to call attention to this situation.

I have studied recent primaries in the States and we see a shocking disregard of the use of the American ballot. I do not want to belabor this point except to say that what we are discussing at this early morning hour will be made part of the record. There are some who will read it. We never know where some word spoken which is on the record may help someone in the exercise of his or her franchise in November, when the national elections take place.

If I have said nothing more than to indicate how important it is to follow through on the words of Washington in his Farewell Address, written but never spoken, when the Father of our Country said these words—of citizen by birth or choice of a common country, that country has a right to concentrate affection—that is important.

A study of the word affection as used in those days meant your all-out effort. That is what the Senator from Connecticut has been speaking about, the failure of so many persons, so many citizens, to recognize that the building process of this Republic has apparently, in a sense, fallen apart. In talking about the ballot, I must say that the decision process is something that the Senator makes and others make. But when we press down on the fact that the people of the country are not casting their ballots at the polls, we have become a county where it is a minority, is it not, which is speaking rather than the majority?

I think a citizenship education program, and I am sure the Senator has advocated it though not necessarily in these words, should be a part of the educational process in this country, not only the rules of geometry and all the curricula that people study at all levels, but a citizenship education which must be built in. That comes only through the cooperation, of course, of parents and teachers as well as students who are part of the process of growing up in the American system, in our republican form of government.

I believe in motivation through positive thinking followed by affirmative action. And yet there are signs which cause a fear for the future of our country.

I am grateful that the diligent Senator has given to speak. He has made a contribution to our discussion even though we realize that the situation involved could be called parliamentary or legislative ledgerdemain. I usually desire to come to grips with subject matters and vote. Yet, it takes more time on some subjects than others.

We have an opportunity and a challenge in 1980 to turn this Nation around before time runs out on us. I would hope that we could have not 34 percent of the people participating in the ballot in 1978. Even in 1976 in a Presidential battle only 52 percent voted. I appeal now for 75 or 80 percent of the electorate at the polls in November. We would be nearer the figures of other countries in the world that do not have our background of constitutional participation with the ballot as we have had for more than 200 years. I refer to New Zealand, to Australia, and other countries where 90 percent or more of their electorate participate.

I endorse the challenge the Senator has given, not only to the Members of the Senate, at this early morning hour but to the people of the United States as a whole. Our problems, as the Senator has said, are momentous; they are constantly mounting. So often we fail to act before the fact, we act after the fact.

Mr. WEICKER. I thank my distinguished colleague for his comments, who has seen more history than anyone on this floor, and who understands what is necessary in terms of everyone participating.

People come up to me as they do so many politicians and they tend to deride their own system of Government. They say, "Well, all politicians are crooks; they all have their hands in the till; they all do not care."

I say to them, "Well, this is a representative democracy and, indeed, if that is what you attribute to me, what are you?"

Well, if there is no "you" out there, if there is no participation, without question you are going to get second-rate Government. On the other hand, if they give expression to the best that resides in them, it is going to find its way to the floor here.

People ask me, "How am I going to know when we have an energy policy?" Do you know how I respond, Mr. President? I say, "When you personally can tell me how you are involved."

That has been the difficulty, that nobody out there has been personally involved. The reason they are not is because there has been no policy.

The same holds true in our relationships with the world. The world is not going to believe the United States of America when it only goes halfway in defense of its principles. There is no such thing as half an embargo in relation to an invasion, or half of a boycott.

If principles are worth anything, it is total embargo, it is total boycott, even at sacrifice to ourselves, even at sacrifice, yes, to all those young people who trained for the Olympics, at the sacrifice of my workers in Connecticut who manufacture goods to be sold to the Soviet Union, the sacrifice to the farmer who grows grain. It is all of us working together saying to that type of activity, "No, no." It is not something that is just the sole responsibility of the President of the United States. It is something that has to involve all of us.

Yes, all of us have to be available to the Armed Forces of the United States or, indeed, as I have expressed before, not to the Armed Forces only but to the laboratories of this Nation, to the schools of this Nation, to the urban programs of this Nation, all of us. When that happens, believe me we will have a product that we can be proud of.

I have stood here, as I have said before, and it is not popular in the energy field, speaking for rationing and mandatory conservation. But if we had been for it we would not be in the problems we are in now. How long have we been wandering around these energy woods with no prospects of lower prices and stable supplies? Is that to be preferred to biting the bullet, to giving the hard answers and having these matters once and for all resolved?

I understand we have a terrible difficulty right now in our armed services, and I do not think it is with our weapons systems. I think it is with our people. I think it is with our people who serve. I do not think we should have an all-volunteer army or professional army. And I think the problem is with those who are available or would be available in times of emergency. It is a people problem. To send a message here that we cannot take the most basic, minimal administrative step, which believe me shows that we will certainly not have anything more extensive within this Nation will mean that the Soviet Union will once again read the United States and find us wanting. That is what worries me. Every time they do that the aggression comes closer and closer to us. There is no avoiding the final result.

The PRESIDING OFFICER (Mr. PRYOR). The Senator's 60 minutes have expired.

Mr. WEICKER. I will yield to my good friend, the minority leader, and say that the time has come for this Senator to clean the whiskers from his face and to put a clean shirt on his back.

Mr. BAKER. Mr. President, I thank the Senator from Connecticut. He has done a great service by his presentation this morning. I am grateful for it and I am sure all of our colleagues are. The remarks he has made have contributed significantly to the debate which is ongoing here. It comes at a time that is awkward and difficult. It is now 7 minutes after 5 in the morning. But the difficulty and awkwardness of the hour and the circumstances increase our appreciation for the commitment he has made today.

Mr. President, it has been my privilege now to serve in the Senate and to represent my native State of Tennessee since January of 1967. In the scope of Senate service, that is not a long time. I see my friend and distinguished chairman of the Environment and Public Works Committee on the floor at this moment who has served much longer and with such great distinction.

In the course of that time, I cannot honestly say that I recall a period when I felt that this country required a rededication and redetermination of our willingness to defend our vital interests and to remain strong more than I find today. America has not lost her will and she has certainly not lost her way. But America has neglected in recent years the requirement that we maintain our military strength and the vitality of our defense organization.

I think for one, Mr. President, it will be necessary not only to reauthorize the military draft registration and provide the funds on an interim basis for that purpose, which is the objective being sought at this moment, but it is well to provide significantly greater resources for the procurement of military hardware than we have done in the recent past.

We are being outspent at an alarming rate by the Soviet Union. That fact, standing alone, would not be sufficient to convince me. We need to redouble our efforts and to commit greater sums of money from our national Treasury to the procurement of advanced military hardware.

Even the uncontestable fact that the Soviet Union is spending a far greater percentage of their gross national product for military purposes than we are standing alone would not convince me of that necessity.

But, Mr. President, any fair, impartial evaluation of the relative military strength and readiness of the United States and the Soviet Union will disclose, I believe, that both in terms of manpower and equipment the United States is slipping steadily in relation to the strength of our principal military adversary in the world, the Soviet Union.

I am concerned, Mr. President, for the lack of funds for research and development of new weapons systems. The United States has always prided itself on being in the vanguard of scientific and technological advancement. But of late it is clear that new inventions and developments in the field of the so-called exotic weapons systems are coming more frequently from the efforts of the Soviet Union than from our own efforts. I think that fact is directly attributable to the failure of this Nation to provide adequate funds for research and development on military systems.

In terms of airplanes, tanks, wheeled vehicles, the Soviet Union by most accounts is clearly superior to the United States. Only in submarines, in aircraft carriers, and certain other special systems do most experts acknowledge that the United States is the world leader.

In terms of active military personnel, it is true, as some have pointed out in this debate, that the disparity between the active military forces of the United States and the Soviet Union is not so terribly great. It is estimated, for instance, that the Soviet Union has something on the order of 4 million men under arms and that the United States has something under 3 million. The situation really is not even that favorable to the United States because the real test of the strength of these two nations in terms of personnel under arms should be read from the state of the readiness of our Reserves.

The United States has about 1 million men in our Reserves, at least those reserves that might be counted upon in a creditable basis for mobilization purposes. I am told that the Soviet Union has more than 15 million men in its reserve components.

Thus, Mr. President, we have reached the place where we must address the most difficult and expensive of all the items of military preparedness, the personnel question. How does the United States begin to close the gap that exists between our two countries?

I support this proposal. I supported the proposal as President Carter first announced it. Not because I favor the reinstitution of a peacetime draft. Indeed, I would not now favor the reinstitution of Selective Service. But it is because I believe that registration is a prudent step to take given today's world circumstances.

There is time still, Mr. President, for us to decide in further debate, at another time, how we will proceed beyond this initial providing of funds for the resumption of military draft registration, beyond this proposal for $21,895,000 in the current fiscal year and $24.5 million in 1981. Shall we, for instance, in the next step, provide for some sort of classification for military service? Shall we provide for a distinction between the obligation to serve in the Reserves and the obligation to serve in the Active Armed Forces of the United States?

I would note parenthetically that it is my personal view that we should give the earliest attention to the question of repopulating the Reserve Armed Forces of the United States. I think if we addressed that problem we would find a far more favorable response in this body under today's circumstances than would a serious proposal for the reinstitution of military draft registration for active service in the Armed Forces.

Mr. President, it has been a matter of interest to me that since the proposal given on national television by President Carter there has not been a great hue and cry of opposition around the country. The campuses of colleges and universities around the Nation have not gone up in incendiary demonstrations. I count this observation as an evidence of the maturity of today's young generation.

I also find the national reaction to be a hopeful sign, a sign that the trauma of Vietnam, the indecision and uncertainty of national will that occurred at that time and followed in the wake of Vietnam, is healing, and a reassurance that America still has the will to implement an effective and useful foreign policy, for no foreign policy can prosper and endure if it does not have popular support among those who will implement it.

As is so often pointed out, it is the young men and it is the young women of the Nation who must serve as the extension of the foreign policy that those of us who are no longer so young may put into place.

So the relative tranquility on our Nation's campuses in the wake of a proposal for the reinstitution of the military draft registration is a hopeful and encouraging sign to me that the wounds of the Nation are healing, and that the lesson of Vietnam has not so traumatized America that she is incapable of leading or providing for her own defense and foreign policy.

I have seen much of America's young generation from a close perspective through the friends and peers of my own family, my own children, who are grown; from the vantage point of a campaign platform as I have traveled about the country seeking my party's presidential nomination. I wish to report to the Senate that they are a good generation. They are brave, calm. They are mature. They are understanding and determined.

They are not seized with bravado and false courage or even the patriotic enthusiasm that has characterized some generations; but, rather, have a steadiness, an understanding that I think will serve them well in the years ahead.

I find, to a remarkable degree, a realization that we live in a hostile world and that it is necessary realistically to face the fact that we must remain strong.

I am determined that our Nation shall remain strong, Mr. President—socially, economically, and militarily. Of those three, I think that our military strength requires the greatest attention at this moment in our history. So, Mr. President, at this early hour in the morning, as the debate on this issue has continued for some days now, it is my purpose to rise and say that I shall support this measure.

I shall support the request for the funds to provide for the resumption of military draft registration. I shall address the remaining problems that occur, in terms of classification and further implementation policies that must flow from this measure as the need arises.

I shall attempt to provide every opportunity for my friend and colleague, the Senator from Oregon, to present his opposition to this measure. I shall guard his prerogatives and his privileges as jealously as I know how. But I shall oppose his point of view and I shall vote for this measure.

Mr. President, I see that the distinguished Senator from Oklahoma is on the floor at this moment. I have no desire to impose on his time. If he wishes to carry the debate at this moment, I am glad to yield to him.

Mr. BELLMON. Mr. President, I thank my friend from Tennessee. I am not sure it is any desire to carry on the debate that brings me here at this hour, but I have been requested to make some comments and I shall be glad to do that for the next hour or hour and a half or so, so the Members can absent themselves for breakfast and to rest up a bit.

Mr. BAKER. Mr. President, I thank the Senator. I think what he has said is not overdescribed as willingness. It is about 5:25, and I have a request from another Senator with equal enthusiasm to speak at 6. So if he will be willing or in a position to proceed for that time. I believe the Senate will be glad to hear him.

Mr. BELLMON. I shall be happy to go until 6:30, if necessary.

Mr. President, at the outset, I believe it might be in order for the Senator from Oklahoma to describe his own personal attitude toward the draft and toward the military service and perhaps even his own experience.

At the time World War II broke out, the Senator from Oklahoma was of draft age. I was a student at a university and I remember very vividly being in the student body that was called together to hear President Roosevelt make his announcement of a declaration of war against Japan. I remember the pall that seemed to fall over the student body as we all realized that we faced the uncertainty of military service.

It was only a short time until I volunteered for service in the U.S. Marines.

It seemed to me that the entire climate of the university changed when young people began to realize that they were no longer in any way to have command over their own lives, but, rather, that this situation was bigger than they were and that it had to be dealt with before young people—men or women—could plan for their future. It seemed to me that that attitude continued after World War II was over because of the fact that the draft remained and young people felt that they had the threat of an obligation which had to be met before they could plan their own lives. It is for that reason that I was very pleased, soon after I came to the Senate, that we were able to end the draft and go to the volunteer concept.

There is another advantage, as far as the Senator from Oklahoma is concerned, to getting away from a draft. That is that, under a draft, the military finds itself populated with unwilling participants, people who came into the military service under duress, people who came in only because they are forced to enter the service, often against their will. One of their first acts is to find out the will have been fulfilled. They get a calendar, circle that day in red, and from that point on, their whole attention is directed toward living out the 2 or 3 years or 4 years, whatever the commitment may be, and at the first moment, they absent themselves from the service and have no interest in any further connection with the military.

I was in a volunteer service, the Marine Corps. Our people were all there because they wanted to be there. It was no accident that the U.S. Marines were given some of the most difficult assignments of World War II and it was no accident that they were able to meet those assignments without, in any case, any lack of will on the part of the Marines who made up those various fighting units.

When we look at what has happened under the volunteer concept of the military in not only the Marine Corps, but all branches of the service, we find several interesting things. First, the manpower needs of the various branches of the service are, for all practical purposes, being met.

I am a member of the Committee on Appropriations. I have heard various members of the military service testify as to both the numbers of personnel that they have been able to enlist under the volunteer concept and, also, as to the behavior of these individuals after they have put on the uniform.

For instance, we find that, right now in fiscal year 1980, the various units, various branches of the military service are virtually able to recruit as many personnel as are needed—some of them, as a matter of fact, are recruiting slightly more than are needed. When we realize that, under the various pay caps that Congress has voted in the last 5 years—and the pay is now roughly 20 percent and, in some cases, 25 percent less than it was when the volunteer concept was first adopted—it is rather remarkable that the military has been able to do as well as it has in attracting the number of people that are needed.

In addition to that—and it is difficult, of course, to measure the capability of people who come into the military service—we find that in such areas as the numbers of recruits who have high school diplomas, that number is going up. We find that in areas such as disciplinary problems, those problems are going down.

We find that the members who remain in service make careers of the military and, in this way, acquire technical skills that the modern military force demands, that the retention is considerably higher than it was before the draft was put in place.

So, as far as I can see, on all fronts, we have no need to abandon the present system and go back to compulsion, which was failing before the volunteer concept was adopted and which is almost certain to fail again. It simply means that we have a military force made up of individuals who do not want to be in uniform and, as I have said earlier, who will take off the uniform at the first possible opportunity.

Mr. President, if that is the case, and I am convinced that it is because of the facts that have been already presented to the Senate, which are here in abundance, one wonders why we now are confronted with the issue which is before the Senate, why President Carter and others are pushing for a draft. I am sure that there are many who do this out of a conviction that if war should come, we would need a draft. In that case, I will certainly support the use of a draft, even though I am certain that, as happened in World War II, if the country faced an immediate threat and the President put out a call for volunteers, all branches of the military service would be overwhelmed with more people than they could possibly train in a short time.

As to the President's present commitment to the draft, it seems to me that it grew out of the experience in Iran and in Afghanistan and also what happened to the Nation's political climate when those events occurred. It strikes me that citizens of the United States are increasingly concerned and increasingly angry at what they perceive to be the inability of the United States to deal with the Russian takeover of countries—not only Afghanistan but Angola, Ethiopia, South Yemen and, of course, most recently and most flagrantly, Afghanistan; and, also, the inability to get back our hostages from the Iranians. It strikes me that President Carter has been trying, in this way, perhaps to show the commitment or show the American voters that he is determined to be a strong President and he is determined not to have the United States seem to back down or seem to be a helpless giant in the face of these situations.

The Cuban refugee problem has added further to American citizens' feeling that this country is somehow being pushed around. If that is the case, I can understand it. There is, perhaps, a need to sort of show some muscle and to demonstrate that the United States is not going to sit still when actions have happened around the globe which are contrary to our beliefs and contrary to our interests.

But I cannot accept the draft as being necessary and as making any genuine difference so far as this country's ability to deal with the kinds of problems we see now in the international arena.

Going to a draft is a preparation for a major conflict where millions and millions of people are needed in uniform and certainly is not indicated so far as the present problems in the international arena are concerned. It looks to me more like a political move on the part of the administration and it is a price that I feel is far too high to pay for the very modest benefits that might come so far as our relationship with the Soviet Union at this time or so far as making any difference with the hostages or with Cuba are concerned.

Mr. President, the issue immediately before the Senate is to approve the so-called transfer of funds to allow the President to institute a post card registration of young men born in 1960 and 1961. In his state of the Union address in January, President Carter stated he wanted an immediate premobilization registration as a signal of unity within the United States to send to the Soviet Union in response to their invasion of Afghanistan. Since it is now June and the funding of his plan has not been approved by the Senate, no signal to the Soviets is likely to be sent. It should be obvious that this Nation is not united when it comes to any move toward peacetime conscription. There are several complex points to be considered before stamping approval to this questionable post card registration.

President Carter requested a transfer of funds from the Air Force military personnel account to register men and women. The House of Representatives passed the resolution that is now before the Senate to provide $13 million to register men only. Congress has sensed that this Nation is far from accepting any form of drafting women. There is little doubt that as soon as the President signs any bill we may pass, a court case will be filed for a determination of the legality of registering men only.

It now appears that the suggested transfer of funds from the Air Force budget was a bookkeeping maneuver to get the issue before Congress. This transfer was reported to be to avoid raising the spending ceiling in the 1980 budget. Already, however, the House Committee on Appropriations and the defense subcommittee of the Senate Committee on Appropriations have added an additional $8 million in the fiscal year 1980 Defense Supplemental to help make up the deficit to the Air Force. This very questionable tactic deserves notice. I was certainly misled by testimony before the HUD subcommittee into believing no additional moneys were needed.

The Selective Service System has been in a deep standby position for several years. By their own estimates, Selective Service will not have a data processing system or claims process until 1981. The much debated Selective Service draft report request of $4.7 million would provide the funds necessary to set up an efficient system for draft registration. The HUD and Independent Agencies Subcommittee of the House Committee on Appropriations was convinced that this was correct and recommended to the full Committee on Appropriations that the $4.7 million be provided to get the Selective Service System in good working order.

Inconclusive and conflicting figures have been provided by the administration, the Department of Defense, and the Selective Service System to determine the advantages or disadvantages of premobilization registration. In his letter of March 3, 1980, to Congressman BOLAND, chairman of the House Subcommittee on HUD and Independent Agencies, Bernard Rostker, Director of the Selective Service System, stated:

> I do believe that given sufficient resources and the time necessary to develop our operating procedures, train people and test our plans, we could be able to meet the 1977 DOD requirements with a post-mobilization plan.

Defense Secretary Harold Brown stated in a March 6, 1980, letter to Congressman NORMAN DICKS that—

> We could not count on inductees being available during the first month after mobilization without peacetime registration.

Yet, in 1917, 10 million men were registered in one day; in 1940, 17 million men were also registered in one day—without computerization. It is clear that more conclusive data to determine manpower needs, training capability, rapid deployment, and equipment needs for mobilization should be presented by the administration before intelligent decisions can be made by the Members of Congress.

Proponents of registration firmly assert that registration and the draft are two separate issues. It is true that the Congress of the United States must decide whether or not to draft young men and/or women and it is true that the President has the power to reinstitute registration. It is also true that it is one step closer to conscription to have registration in running order. Leaders of the Armed Services Committees have stated that we need a peacetime draft. The administration has stated opposition to a draft at this time; however, seven short months ago, the administration opposed pre-mobilization registration. How can Congress expect young people, or citizens generally, to differentiate between registration and the draft, when it is obvious that one is a step toward the other?

Registration is viewed by almost everyone as the first step toward a draft. If one listens to comments among his constituents, registration often is confused with the draft because the two are so closely combined in the minds of people.

It is difficult to speak to the issue of registration without considering the conditions of our Volunteer Forces. Obviously, the United States needs a great standing military force. When I say "great," I mean great in terms of quality and ability. We need to have our forces fully manned, including Reserve Forces, and a plan to meet mobilization needs for manpower in case of war.

(Mr. RANDOLPH assumed the chair.)

Mr. BELLMON. Mr. President, I want to express my pride in the young men and women who make up the Volunteer Armed Forces today. A competent force consists of personnel who can handle their assigned tasks. It is my contention that this is being done by our military personnel. It is being done even though military pay is inadequate and benefits have lessened through the years. The arduous assignments are being accomplished in spite of the odds. The aircraft carrier, U.S.S. *Nimitz*, recently came home from the longest tour since World War II with 80-hour work weeks for her crew.

The Congress of the United States should quickly act to say congratulations for a job well done to each and every person serving in the Armed Forces. We should enact immediate programs to enhance military life—pay raises, educational benefits, increases in the various allowances.

Even though the Senate and the House have not yet agreed on the budget, the conference has agreed on military figures that provide ample room to increase military pay and allowances almost dramatically.

The fact that a military man receives 10 cents a mile for traveling in his own vehicle to a new assignment is ludicrous; the fact that a 30-year-old naval petty officer must live for 2 years on the top deck of a barge in open quarters with 60 other men while his submarine is overhauled is appalling. There is no point in belaboring this issue; the newspapers are full of reports of military families receiving food stamps—a reported $10 million taken in commissaries alone last year—and all the other incidents that make this administration and this Congress guilty of a travesty on the very people who are willing to dedicate their lives to the defense of their country.

The cost of enacting legislation for increased salaries and incentives could be allayed by changes in existing regulations and laws. To cite a few examples:

In a GAO report, dated February 16, 1979, it states that—

> Over 444,000 persons entering the services during FY 1974 through 1977 have been separated before completing their initial enlistments. The cost to the United States for this attrition was $5.2 billion, including benefits available to the servicemen after discharge. Almost half of this group is eligible for lifetime veterans' benefits which is estimated at $2.7 billion. Veterans benefits can be limited to those who complete their enlistments or who are separated with a service-connected disability.

There, Mr. President, is a place where we could reduce costs of military service to the U.S. Treasury.

Legislation can be enacted to deny eligibility for unemployment compensation benefits to certain members of the Armed Forces who are discharged from active duty before completion of the major portion of their initial enlistment obligations for reasons other than health or hardship.

Earned educational assistance benefits are paid to incarcerated veterans and to active military personnel based on military service. Rehabilitation could be more readily accomplished by making these benefits available to prisoners. The point I want to make is that incarcerated veterans receive the entire allowance including subsistence. Active military personnel receive only the portion applicable to education on the basis that the Government is paying for their living allowance. The Government is paying for the board and room for prisoners also; therefore, the living allowance should not be paid to incarcerated veterans.

The argument is used that a major shortage of manpower in the guard and reserves necessitates the reinstitution of the draft. When the draft ended in 1972, the Armed Forces were faced with learning a new responsibility—that of selling the military as a career. The early initiatives were directed at active forces recruitment. The guard and reserve forces suffered drastically from inaction by both the administration and the Congress. Finally, in fiscal year 1979, incentives were appropriated for reserve recruitment and met with great success.

Indicative of the results of enacting incentives for Reserve recruitment are the following statistics: The end strengths from fiscal year 1978 through February, 1980, have increased: Army National Guard, 341,000 to 352,000, a gain of 11,000; Army Reserve, 186,000 to 194,000, a gain of 8,000; Naval Reserve, 83,000 to 87,000, a gain of 4,000; Marine Reserve, 33,000 to 34,000, a gain of 1,000; Air National Guard, 92,000 to 94,000, a gain of 2,000; and Air Force Reserve, 54,000 to 57,000, a gain of 3,000.

The Army Reserve forces have had the greatest shortfall and the following article states the case in point rather well.

(Mr. PRYOR assumed the chair.)

Mr. BELLMON. Mr. President, I refer now to an article from the June issue of the Officer magazine, written by General Berkman.

Maj. Gen. William R. Berkman, Chief of Army Reserve, told the Army Section during the Nation Council meeting—Reserve Officers Association—that:

> While manning the force is still our greatest challenge. . . . the Army Reserve troop unit program end strength for FY 79 of almost 190,000 is the source of optimism.

He pointed out that this "represented an increase of over 4,000 from the prior year" and that "it marked the first time in the all-volunteer era that yearend strength was up over the previous year. In fact total enlistments during fiscal year 1979 exceeded those of all three previous years."

General Berkman said that "the first quarter of fiscal year 1980 shows us recruiting at about 97 percent of our goal." This is attributable to the effectiveness of the Recruiting Command partnership with the Army Reserve.

Incentive programs have been of great help, according to General Berkman:

> Fifty percent of Army Reserve units are authorized the enlistment bonus. A full 26 percent of USAR units are now authorized both enlistment and re-enlistment incentives.
>
> Units that offer both incentives for membership have increased in strength 7.4 percent. Units that offer only the enlistment bonus have increased 4.0 percent in strength. Units that do not have these incentives available to them have gained less than 1.8 percent.
>
> In the first 13 months during which the bonuses were offered, Selected Reserve enlisted strengths increased 5,908. And the number of high school graduates without prior service increased by 39 percent.
>
> Re-enlistment bonuses are also proving effective in encouraging longer enlistments. In FY 79 instead of the usual one-year re-enlistments, 21 percent of those re-enlisting for the first time chose to re-enlist for three years and another 47 percent elected to re-enlist for six years. A larger bonus for a longer enlistment made the difference.
>
> In FY 81 the success of these programs will be supplemented by extending the enlistment incentives and re-enlistment bonus to enlisted members with critical combat and medical skills in late deploying Army Reserve units.

General Berkman pointed out, however, that the fiscal year 1981 program "still does not provide the strength we require," and said that "our long-term goal should be to extend some kind of enlistment and re-enlistment incentive to all Army Reserve units."

He said:

> In addition, the oppressive administrative burden on Reserve units is also receiving attention at FORSCOM and Department of the Army.

An interesting commentary on the call to return to the draft was made by Paul Harvey. Appearing in a recent issue of the Word, a publication by the Marine Reserve Association, Mr. Harvey's article reads:

> Those who propose reviving the military draft argue that "the military is not getting enough of the right kind of personnel."
>
> Who is?
>
> Indeed, it can be argued that our entire civil service system is lacking in the number and quality of workers Congress might prefer.
>
> Shall we, therefore, undertake conscription of all federal employees?
>
> William Meckling, former executive director of the President's Commission on an All Volunteer Force, dares to suggest that if our military forces are not attracting enough of the right kind of volunteers, then something is wrong with the military.
>
> And to pass the buck to our sons and daughters—to make them pay when we should be doing the paying—is a selfish cop-out.
>
> Meckling says that if Americans are not volunteering for military service, then a nation which professes "freedom" should make the service more attractive.
>
> In the first place, the masses of marching-men concept is three wars out of date. What our nation requires to manpower its technological deterrent forces are technicians. And they are going to cost us more money.
>
> Instead of punishing people for serving their country, they should be rewarded. And instead of a burden on the budget, they should become taxpayers.
>
> For the record, the Army, Navy, Air Force, and Marines have been able to meet quotas—despite modest levels of compensation. The only trouble they've had is in getting enough specialists in medicine and enough talent in the reserves.

> As for the quality of manpower, during the draft, 68 percent of recruits were high school graduates. Today, 69 percent are, even though a new recruit's pay today is 33 cents an hour less than the national minimum wage.
>
> If the defense of our country is going to cost more, let's pay it—not our kids.

Greatly increased budgets for recruiting have been necessary since the onset of the Volunteer Armed Forces. This has been used as an argument for a peacetime draft. It is curious that studies are not available comparing these costs to those of training personnel for the highly technical military skills every 2 years as would be the case in a conscripted force. A modern military force requires many highly trained technical people who will devote several years to military service.

Much can be heard about the mental abilities of present military personnel. Yet, 73 percent of those recruited in 1979 had high school diplomas, higher than any year in history except for 1978. If, indeed, a problem exists, perhaps this is a reflection on our educational system as a whole. An obvious quick assist would to reenact an educational assistance bill similar to the old GI bill. Presently such bills languish in committees. It is not difficult to see why young people would select to take a long term low interest Government loan for college with no commitment to military service rather than join the Armed Forces and be forced to pay from $50 to $75 of the $459 take-home pay to participate in the present educational assistance program.

From a recent Congressional Research Report on Military Manpower Policy and the All-Volunteer Force, I quote the following from the projected active force recruiting situation in the 1980s:

> As the effects of declining birth rates that began in the 1960s are felt, the number of men reaching prime military age (18) each year will decline from approximately 2.1 million in 1979 to 1.7 million in 1987—a 20 percent drop. According to DOD, the active armed forces will then have to recruit annually one out of every 4.6 18-year old males instead of the current requirement for one out of 5.6. There is a general consensus that given present military manpower procurement and utilization policies, the services will not be able to maintain current military manpower strengths in the 1980s. Available manpower will have to be used more efficiently; more personnel will have to be retained in service after being enlisted.

One more time the point is made that retention is our number one problem in maintaining our Armed Forces.

I believe the following article addresses present day morale problems caused by other than poor compensation. It appeared in the October 1979, issue of Army magazine. "The Soldier Remains Our Ultimate Weapon" by Sergeant Major of the Army William A. Connelly:

> On a visit to one of our installations, I was shown an automated system which is designed to significantly improve artillery fire support. Being a former tanker, I was impressed by a system which, according to reports, will revolutionize the battlefield.
>
> As I was leaving, the young soldier who had operated the control console and had overheard my praise of the system stood up as I walked past him and said, "Sergeant major, this sure is a great machine, but it doesn't do anything unless I tell it to.

That young man pretty well described the challenge to today's Army. There have been major technological battlefield advances, but with each increase in range and power comes more responsibility. Each new weapon enables the soldier who uses it to influence a larger portion of the battlefield. Today one soldier can destroy a million-dollar tank with one shot.

With that kind of responsibility there is no doubt that the soldier remains our "ultimate weapon." We have given him better tools to work with and have required more from him to get the job done.

Can the young soldier of today who is a volunteer motivated by many reasons to join the Army measure up to the modern battlefield's demands? The answer is a qualified "yes." The qualification is one which has always existed—the soldier has to be trained to do it.

Training is the number one priority in today's Army. Young soldiers tell me they want challenging, rewarding and interesting training programs. They will do anything their leaders ask if they are convinced it is important and that their leaders care. A good training program produces satisfied soldiers. A satisfied soldier who is being challenged does not have time to get bored.

In my talks with young soldiers, I have learned they are less concerned about their retirement program or the doctor shortage than they are about being given "make-work projects." Soldiers who feel their time is nonproductive and whose days are spent performing meaningless tasks are a detriment to the mission accomplishments of today's Army.

Recruiting may be the No. 1 challenge in the Army. One of the best ways I know of meeting that challenge is to have a good training program for those we do recruit so the high performers will stay with us. The more quality soldiers we retain, the fewer we have to recruit.

I believe every good soldier wants to live in an organized environment, secure in the knowledge that he or she will not be threatened or harassed by others, confident that his or her efforts will be recognized, and aware that the nonproductive soldier will be invited to leave. In such an environment, soldiers will be proud of their units and will demonstrate that pride with their performance and behavior.

The same applies to the Reserve components, upon which great reliance is placed in the total Army. The best recruiting tool we have is a Reserve soldier who feels he or she is making a meaningful contribution; being trained well to do the job and who related the satisfaction to friends at work and in the community.

Mr. RANDOLPH. Will my colleague yield for a commendation in connection with his statement?

Mr. BELLMON. I am delighted to yield.

Mr. RANDOLPH. I wish to refer to what the Senator said about those who serve in our Reserve forces. I only call attention at this point to speak of the contribution of the members of the Tactical Air National Guard in the State of West Virginia. Some 1,651 men and women. 822 are based in Charleston, W. Va., at the Kanawha County Airport, and 829 at Martinsburg, W Va., at the field there which is named for the Shepherd family and serves the eastern panhandle of our State, these volunteers, in a sense, give of their time are flying missions out of our West Virginia hill country into the faraway places, keeping themselves ready if called upon to be a part of a possible military effort if this Nation is engaged in war.

Day after day, night after night, in a sense, these people are on call as members of the Air National Guard of our State. They are a credit to those men and women the Senator from Oklahoma has been speaking of in a totality who are contributing in peacetime to the training programs so necessary, and, in a time of national crisis when an actual conflict would confront our Nation, they at least are ready to represent the United States of America in whatever struggle might take place.

The units of the West Virginia Air National Guard (130th Tactical Airlift Group at Charleston and the 167th Tactical Airlift Group at Martinsburg) have more than demonstrated they have the desire, experience, and capability required to accomplish difficult assignments. These efficient units are called upon to perform major missions by my good friend Bob Childers, the State adjutant general; the National Guard Bureau, and the U.S. Air Force's Military Airlift Command. They are known and respected for their professionalism.

In addition to deploying to training sites within the United States, the units have participated in several overseas exercises. Within the past 2 years elements of the 130th Tactical Airlift Group participated in exercises/operations in such places as Spain, Italy, Greece, Germany, Korea, Panama, the Philippines, and the Azores. During the same period, members of the 167th Tactical Airlift Group were deployed to Greenland, Panama, and points in Central and South America.

It should be noted that all of the accomplishments mentioned were attained with somewhat dated equipment. The 167th Tactical Airlift Group has the C–130B model aircraft assigned. These aircraft were built in 1957–59. The 130th Tactical Airlift Group has newer model aircraft assigned, the C–130E, which was built in 1962.

I recently met with General Childers, Gen. John Wilson, Air National Guard Adjutant, and Gene Budig, president, West Virginia University, to discuss the possibility of obtaining eight new C–130–H model aircraft for our Air National Guard Wing in West Virginia. We have discussed the matter with the Secretary of the Air Force and the National Guard Bureau. I remain hopeful that our request will be fulfilled.

I wanted to make this statement as a commendation to the Senator from Oklahoma for bringing a documented speech to the Senate and also that I might compliment in a deserving manner those men and women in West Virginia who form the Air National Guard.

Mr. BELLMON. Mr. President, I thank

my friend from West Virginia. I must say I share his feeling and the gratitude he has expressed. There is no question but that those Americans who make up our Guard units in all States, including my own State of Oklahoma, render an invaluable service to this country at a considerable personal sacrifice. They are available on call when emergencies arise and are ready to make their contributions to the defense or our country in time of war. And yet I think we give them too little credit and perhaps too little reward for the contribution they make.

I served for a time as Governor of the State of Oklahoma and in that capacity was commander in chief of our Guard units. I remember calling them out frequently when we had serious storms or fires, or situations that needed to be brought under control. They never failed to do an outstanding job and to make me proud that we had this resource available to us.

I think sometimes, Mr. President, those who support the use of conscription tend to sort of bad-mouth our military people, perhaps not intentionally, when in fact they should give them credit. What has to happen, I think, is that those of us in Congress who have the responsibility for providing the resources that the military service requires are the ones that should be blamed. I have to confess guilt here. We have been holding down on military pay. It is now, as I said, 20 percent less than it was 5 years ago in real dollars. We also have not provided the support for research or for procuring new equipment that the military deserves.

It is a matter of great concern to me that when one looks at the military budget in real dollars it is the same size now as it was 20 years ago. If you take out inflation, the military appropriation is the same number of dollars in the 1980 budget as it was in the 1960 budget.

It is no wonder that we are in this way trying to hold down the military or hold down the resources available to the military and that they are having a difficult time meeting their responsibilities in certain ways.

To me, the great tragedy here is that while Congress has been refusing to provide the support the military needs, that rather than curing that problem we now come along and propose to use the police powers of our Nation to force young people into the military against their will. To me this is absolutely the wrong way to go. The results we will get will be a tremendous disappointment to those who support the draft and will succeed, I believe, in weakening rather than strengthening this Nation's ability to defend itself.

As I said before, I could support a draft if there was anything like an immediate threat—I do not see that coming—which would require the use of millions of Americans in uniform. For that reason, I feel we should strengthen the volunteer service and give it an opportunity to provide the personnel that the military needs.

Another comprehensive look at military manpower was taken by Thomas H. Etzold, a professor of strategy at the U.S. Naval War College in Newport, R.I., in his article "Our Diminishing Manpower Resources," which appeared in the January 1980 issue of Army magazine:

> Wide discussion of demographic trends and recruiting shortfalls has driven home the concern that one of war's most vital commodities—manpower—might soon be in short supply in the United States. Manpower trends are certain to affect American strategy, and, one must suspect, not for the better. This essay, therefore, takes up in order of increasing importance three questions about those effects; where have all the young boys (and girls) gone? What limitations does the manpower trend impose on the "American way of war?" Where does the manpower trend fit into the larger problem of maladaptation of forces?
>
> In answer to the first question, the boys and girls have not actually gone anywhere yet. Earlier in this decade the population of young adults in the age group eligible for college—or for military enlistment—temporarily slumped. Complex associated conditions somewhat clouded the effects of this short-lived, modest decline in the population of young adults. First, in all regions of the country except the South, the proportion of age-eligible young adults enrolling in college or university classes fell moderately.
>
> Concurrently, however, the economy's inflationary tendencies accelerated, offering employment to many young people who otherwise would have entered school, or perhaps enlisted. Amid these contradictory trends, and in the aftermath of an unpopular war, the military made the transition to the all-voluntary force, in itself certain to cause a definite, though probably temporary, rebound effect, in which young men luxuriated in their new ability to refuse military service as a matter of choice.

Mr. President, that is an important development that the Senate should not overlook.

The manpower difficulties of the 1970's in fact constitute only a warmup for what is to come. According to demographers, the real downturn in population trends and in age-eligible young adults will come in the middle 1980's. It is expected to be much more severe and long lasting that of the 1970's.

Rather than being gone, or having gone, young men and women today display little interest in being soldiers. Contrary to what people commonly assert, industry is not simply outbidding the services for all the young adults. This happens, to be sure, but mostly in the competition for the best of the available young people, especially those who might enter, or remain in, the officers corps. Thousands of young men and women capable enough to meet entrance standards now neither attend school nor hold full-time employment. Many, if not most, prefer unemployment to military service, at least for the present.

It is a truism that armies reflect societies, and certainly current and anticipated manpower problems reflect a constellation of attitudes and alternatives growing out of social and economic forces for which the services are not responsible and over which they have no control. This makes it all the more important to address the factors over which the services do have some influence.

The services retain considerable, though not exclusive, influence on what one might call the conditions of employment to which young people must adapt while in uniform. Within a general framework of statute, the services exercises wide discretion over work opportunities and work conditions. For instance, if reports are to be believed, there is much room or improvement in moving women into "good" jobs, and more especially into a wider range of jobs.

The Army in particular has been finding, however, that many women do not want a number of the jobs formerly restricted to men. Recent lowering of mental test requirements for female enlistees made national news, in part, one must suspect, because some hapless Army public information officer described the step as "a significant widening of opportunities for women." There is no easy solution to this problem but clearly there must be one unless the military can accept significantly lower overall manning in the next 10 to 15 years.

Further, the pay incentives so important in plans for making the All-Volunteer Force work have largely failed, probably because of inflation as much as anything else. This is showing seriously in officer retention as well as in recruiting and retention of enlistees. Military pay, made quite attractive early in the 1970's, has lagged behind the inflation rate, as has all Government employee pay. Current military pay levels cannot now overcome the reluctance of many young adults to compromise with the military's need for organization, discipline and routine.

As young men and women already in the service approach the years that should carry them toward peak earning potential, they find themselves subject to arbitrary ceilings on pay which in combination with inflation actually result in declining real income. Meanwhile, military benefits subsidized by tax funds are under attack on the theory that military pay has become competitive.

The foregoing issues and observations are familiar; so are the limits to which improvement in personnel management and pay will ease the manpower problem of the 1980's. These issues appear here as the prelude to this vital point: In the United States the main limitations on manpower for the military have always been political, not demographic. The services tend to view the manpower problem as administrative or psychological, resolvable through a combination of leadership and pay. Although important, these are not the heart of the matter.

What the services do internally in those terms will never touch the larger public, never alter the political and social forces that deprive the military of a reliable draft system or that bring the military profession into disrepute. In the absence of a draft and in the aftermath of an unpopular war, the principal military effort on the manpower problem must take the form of a steady commitment to illuminate the significance of manpower issues in political debates over national strategy, rather than a sturdy determination to make the All-Volunteer Force work, regardless of goals or circumstances.

What limitations does the manpower outlook impose on the "American way of war?"

This question raises exceedingly complex issues in three categories: Strategic calculus and planning; the strategy-men-machines nexus; deployment and maneuver.

In terms of strategic calculus, anticipated manpower shortfalls have reopened the venerable question of how to assess the significance of relative force sizes in the prediction of outcomes. The problem is especially acute in an era of deterrence, when large political consequences can follow from such calulations even in the absence of actual engagement. Classically, generals and military theorists readily agreed that moral forces often outweigh material factors in war, even in the absence of actual engagement.

This issue gains urgency in an era such as our own, in which the principal competitors of the United States are far more populous. Soviet and Chinese demographic trends do not, at least for the present, seem to pose anything like the challenges for military manpower represented in American trends since World War II. The Chinese outnumber Americans so greatly that even a sharp reduction in rates of population growth would have no usable results for the United States in terms of any foreseeable strategic advantage depending on raw manpower ratios.

Although U.S. experts are divided in their readings of Soviet demographic trends, it is clear for now that these have provided no large barrier to full manning of Soviet forces, including the tremendous expansion of force structure in the late 1960's to offset the growing Chinese threat to Russia. Both China and Russia, however, suffer serious problems of language, training, reliability and organizational rivalry growing out of changing proportions of minority populations in the general populace and in the Armed Forces.

In part, for that reason, portions of the manpower problem will always seem beyond calculation, despite their importance for strategic planning and assessment. Nevertheless, the operations researchers of the 20th century, proceeding from the pioneering work of Frederick William Lanchester, have steadily attempted to render increasingly calculable some aspects of combat relating to mass and numbers, work of genuine importance for the manpower problem.

In the 1960's American defense establishment, these obscure aspects of military science leaped to prominence in the cliche question of the PPBS (planning, programing, budgeting system) and systems analysis revolution: How much is enough?

In coming years, there will be urgent need for careful and convincing effort to answer that question as regards manpower. The trends toward increasing technological complexity and decreasing predictability of political circumstances promise excruciating difficulties in making such calculations meaningful.

But to produce manpower calculations that are both meaningful and usable in the ends-means debates of American politics, as mentioned above, the services and the Department of Defense will have to develop considerable facility in refining and presenting manpower issues as components of relative power and political-military competence.

Second, anticipated manpower trends raise issues in the strategy-men-machines nexus, that is, the technology component of the American way of war. One of the most remarked characteristics of American warfare is its reliance on, not to say preference for, high technology. Indeed, one of the most significant attractions of advanced technology has been its contribution to enhancing capability without calling for large increments of manpower.

Most obviously, perhaps, potential reductions in available manpower seem to validate the proposition that the United States must maintain and indeed increase capability through technology, making each soldier as productive as possible, as mobile as possible, and as lethal as possible. Such considerations lend increasing attractiveness also to the remoting technologies now under intensive development.

Unfortunately, however, the same limitations on manpower that encourage emphasis on high technology warfare also militate against it. Reduced or declining manpower will increase American sensitivity to casualties, already one of the most notable political limitations on American warfare, as William S. Lind has noted. In a high technology military establishment, casualties, or for that matter failures in retention, will create severe replacement and training liabilities. These are serious enough in peacetime; in prolonged war, they could be intractable and very telling.

Answers to the problems inherent in the contradictory implications of manpower for high technology warfare must be sought for the most part in military organization, at least to the extent that manpower problems cannot be relieved by political alterations. This means that the often declaimed importance of Reserve Forces must become a front-rank topic. Improvements in the ability to maintain a really Ready Reserve and to make optimum use of it to augment Regular Forces must come in pace with the deepening of manpower shortages.

Further, it may be time to consider more extensively the possibilities of cross-training in combat and maintenance skills to permit more flexible response to the likely inequality of effects of casualties on overall military capabilities. Ultimately, declining manpower may reopen one of the bitterest issues in post-World War II American military affairs: That of service unification, or at the least, the possibility of functional rather than traditional organization.

Finally, declining manpower may impose limitations on American strategy in terms of maneuver and deployment considerations. One reason the numbers problem is so acute in certain defense contexts, of course, is that limitations of numbers impose limitations on the extent to which forces can be dispersed or deployed. This issue involves technical and political dimensions, both of some importance.

Mr. President, I should like to conclude my remarks on the question of registration simply by saying that it is obvious that the manpower problems we have in the military are so serious and so complex that simple registration is not going to solve those problems nor make any significant contributions toward their solution. What I am afraid Congress may be doing here, what the administration may be recommending, is an action that will have a sort of surface appearance that we may have done something conclusive or something that will make a contribution toward defense when, in reality, the action we take will have exactly the opposite effect.

Having dealt with registration, we are likely, then, to feel that we do not need to provide more funds for the military, that we do not need to improve the pay and allowances to make the military service competitive with service in the private sector and, therefore, our problems will get worse and worse rather than improving and the country's defense will be weakened rather than strengthened.

I strongly oppose the action that the Congress is about to take. I feel that it would be far wiser to go ahead and make the military more attractive, recruit the people we need, retain those that have the ability to do service. For that reason, I shall oppose this motion when it comes to a vote.

Mr. METZENBAUM. Will my friend yield for 1 minute so that I might make a comment without his losing the floor?

Mr. BELLMON. I yield.

The PRESIDING OFFICER (Mr. Baucus). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I asked the Senator from Oklahoma to yield the floor because I wanted to commend two of my colleagues who have performed so magnificently and with such diligence from 5 to 6, Senator David Pryor of Arkansas, who I know did yeoman work in the chair and has now been succeeded by the distinguished Senator from Montana (Mr. Baucus). I know the Senate has been a better body for the leadership they provided during this 2-hour period of this night. I thought it appropriate that I take the floor to indicate my appreciation for their service to the Senate at these very irregular hours. I yield back the floor.

Mr. PRYOR. Will the Senator from Oklahoma yield for a moment to me?

Mr. BELLMON. As long as I do not lose my right to the floor, I will yield.

Mr. PRYOR. I thank the distinguished Senator from Ohio, who has been very diligent in looking over the business of this body and acting as majority leader for the past hour, or maybe the past several hours. I think the distinguished Senator from Ohio was here when I started presiding. I think it should also be noted that the very distinguished Senator from West Virginia occupied the chair for a period of time between 5 and 6 a.m. Once again, the distinguished Senator from West Virginia has not only been someone who has seen a lot of history made but is someone who has helped make a lot of history. He was a participant in the debate in August 1941 in this same area when draft, conscription, and registration were at that time before the Congress. I think it speaks very well of the distinguished Senator from West Virginia that he is still on the job and, in fact, is more active than in his earlier years. He has certainly provided a great contribution.

I thank the Senator from Ohio for his fine observation concerning the Senator from West Virginia.

I would also like to thank the Senator from Oklahoma. He has been giving a good rendition of the facts as he sees them, with clear enunication of the issues which face us. I do thank him.

Mr. METZENBAUM. Will the Senator from Arkansas agree with the Senator from Ohio that this body would not be the same without the leadership of the distinguished Senator from Oklahoma, who has provided such great leadership as ranking minority member of the Budget Committee? He will be sorely missed upon his retirement from this body. As I said to him yesterday, he ought to change his mind in that regard.

Mr. PRYOR. The Senator from Arkansas would certainly agree with that. I am a neighbor to the great State of Oklahoma. We have had many wonderful associations and relations over the year. I am also sandwiched in between two great States, Tennessee and Oklahoma. Both of their great Senators are on the floor at this time.

Mr. BAKER. Rarely is Arkansas hemmed in.

Mr. President, I might say, if the Senator from Oklahoma will permit me to continue, that I am deeply grateful for the remarks of the Senator from Ohio and the Senator from Arkansas with respect to the continuing service of the Senator from Oklahoma. That is a song I have been singing for a long time. Based on a sampling opinion from the majority side of the aisle this morning, it sounds to me like we have a good combination.

Mr. BELLMON. I thank my friends for their kind comments. I might say that both my wife and I will miss our friends in the Senate when this session is over and we do not return.

I say to my friends I appreciate what has been said here this morning. It has certainly made my job a little easier.

The PRESIDING OFFICER. The Senator's 60 minutes have expired.

Mr. SCHMITT. Mr. President, as the distinguished Senator from Oklahoma has said, with the counsel that we have come to expect from him—we, of course, are all saddened by his impending retirement—we face serious problems with our national defense and, more specifically, in the manpower question. The debate about the fiscal year 1981 defense budget acknowledges the shortfalls we have, not only in manpower but also in strategic and conventional forces, in nuclear and nonnuclear forces, in equipment, research and development, operation and maintenance, training, and just about every other area of short- and long-term concerns to the defense of the American people and to the perpetuation of their freedom.

The most serious problem, however, is, at this time, the shortage in both quality and quantity of manpower in the various arms of our military services.

All of the equipment in the world, all of the research and development in the world, all of the rhetoric in the world is useless if we do not have the qualified manpower to operate that equipment or to back up the rhetoric.

Our military manpower problems are twofold. We have a serious problem in recruiting sufficient numbers of individuals and, more importantly, sufficient numbers of qualified individuals.

The second problem is that of retaining highly qualified individuals once trained in the military forces, particularly after they have obtained 6 to 11 years of experience.

Our mobilization problems are threefold. They begin with inadequate personnel, inadequate equipment, inadequate individual and integrated training in the Volunteer Force, our first line of defense. The problems then go to inadequate personnel, inadequate equipment, inadequate individual and integrated training in the Reserve and National Guard forces, our rapid-replacement second line of defense.

Finally, the problems culminate in inadequate logistics equipment to move the volunteers where they may be needed in the immediate emergency, to move the Reserves and the National Guard units where they will be needed to back up our Volunteer Forces, or even to move the drafted replacements where they are needed and when they are needed in the ultimate manpower emergency.

Mr. President, I am a reluctant supporter of the reinstitution of draft registration—not because I think it is not important that every American citizen be ready and willing to defend freedom and his or her country. I am reluctant in my support because it constitutes, apparently, within the attitude of this administration, a smokescreen, one behind which the administration hides when faced with finding solutions to the real problems, the more immediate problems of our military manpower situation. I will, however, support the measure before us because it will provide a beginning to the solution of the problem of recruitment to back up the All-Volunteer Force.

In addition, this All-Volunteer Force was instituted under the premise that an effective Selective Service System would remain in effect after that force was created, and draft registration did, in fact, remain in effect until 1975. Since that time, clearly, the problems have developed. But I submit, Mr. President, that those problems are less the inadequacies of the Selective Service System than they are the inadequacy of pay, of benefits, of equipment, of training that we have been providing to our All-Volunteer Reserve and National Guard forces.

Clearly, the day-to-day problem of recruitment for those volunteer forces, for the active and Reserve Forces, and the problem of retention of trained personnel will not be answered by draft registration. The only thing—I repeat, the only thing—that draft registration accomplishes if properly organized and implemented, is the insurance that, in a manpower-intensive emergency—again, I repeat, a manpower-intensive emergency—we shall have the capability to mobilize the manpower of this country quickly to back up—to back up—the Volunteer, Reserve, and National Guard Forces, which will have already been committed to counter whatever threat may have created this manpower-intensive emergency.

Our other major mobilization problems must be addressed in other ways. In the hearings before the Committee on Appropriations in the HUD and Independent Agencies Subcommittee, which dealt with this issue, the administration witnesses consistently tried to separate the draft registration issue from the other manpower issues if, somehow or other, they lived in two different worlds.

Mr. President, you know and I know and the American people know that they do not live in two separate worlds. They are part and parcel of the same crisis that not only threatens the viability of our military forces, but threatens our very existence as a nation.

Mr. President, I have stated that I am supporting the reinstitution of draft registration reluctantly. This reluctance is not based on reservations about the wisdom of having an effective Selective Service System properly equipped and staffed, with accurate lists of Americans ready for callup in an emergency situation. Quite the contrary, Mr. President.

Mr. THURMOND. Mr. President, will the Senator yield? I just want to propound one question to the able Senator.

Mr. SCHMITT. Yes, I yield.

Mr. THURMOND. Does he not feel that it is essential that this country now enter upon registration with the idea of later entering upon a draft to provide the needed manpower, that this country needs in view of the fact that the services tell us they do not have the quality nor the quantity now in the services?

Mr. SCHMITT. The distinguished Senator asks a very important question, because that is probably why we are here and have been here all night, the concern that with registration will come the actual draft. I suspect that they may be right. But, clearly, we will not have that option of repairing the overall manpower situation unless we have the capability to identify and, if necessary, to call up qualified individuals for service in the Armed Forces.

It is this Senator's opinion that before an actual draft is instituted, we must take steps, with or without the draft, necessary to repair the condition of our All-Volunteer Force, of our Reserve and National Guard Forces. Then, if it does, in fact, appear that such repair is impossible without the institution of an actual draft, then such a draft should be instituted.

But I believe that the distinguished Senator from South Carolina would agree that we have not done everything that is necessary and that must be done to retain and attract qualified individuals, trained individuals, in the All-Volunteer Force and, equally important, in the Reserve and National Guard Force, which are the immediate back up to that All-Volunteer Force.

It may be that better pay, increased educational benefits, increased training and quality of equipment are insufficient to repair the damage we have done to our military forces. If that is the case—if that indeed turns out to be the case—then I would agree with the Senator: We probably must go to draft registration. But I think it must be done in a logical sequence and not assume that, having passed through many hours of debate on the resolution necessary to begin to repair the deficiencies in our Selective Service System, we have in fact solved all our problems and we can turn our back on it and walk away.

Mr. THURMOND. Mr. President, the statements by the distinguished Senator from New Mexico are absolutely correct. We have not done what we should have done. There is no question that we should have increased the fringe benefits of the members of the services. We should have increased the compensation of the personnel in service.

We have many noncommissioned officers who are occcupying very important posts, who have been getting out of the service, who would have stayed in if the compensation had been adequate.

There are many in the service today who are filling important positions, who have been offered civilian positions paying several times what they are making in the service. As a consequence, we have not retained in the services many skilled people whom we should have retained.

It costs a lot of money to train a person, to get him qualified for certain tasks. Then those people leave the service and go into civilian jobs because the opportunities in the service are not what they should be. I agree with the Senator on that.

At this particular stage, there is no question in my mind that we need this registration. It is my sincere belief that we will pass it, and I predict that will be at an early time. I hope that time will be some time today.

I thank the able Senator.

Mr. SCHMITT. I thank the Senator for his comments and his question. I know of his long experience in this field. I am sure that he, as I have, has spent a great deal of time with the persons currently in the military forces and has found that, for the most part, they wish they could stay.

The noncommissioned officers, the officers, many of the enlisted men and women in the Armed Forces, are not turned off by military service. They look at the service as an honorable career. They just cannot afford to stay in.

Therefore, the reluctance I have about the measure before us is based on the administration's use of draft registration as a smokescreen for doing next to nothing to solve the real problems facing our men and women in the military and doing next to nothing to solve the real problems, the sequence of problems we face with respect to mobilization in the threat of a manpower-intensive confrontation somewhere in the world.

Last year, Congress was moving in the direction of reinstituting draft registration. However, the President opposed this move, and it was only until he proposed it that we suddenly started to see some action over here.

Last year and this year, Congress clearly wanted to increase military pay. Again, the President opposed the move. Now, again, he is proposing such an increase in military pay, and Congress is prepared to increase the defense budget. At least we in the Senate feel strongly about that; and, in part, this increase would be devoted to an increase in military pay and benefits. But again, the President is opposing the increase in the defense budget, while at the same time he is advocating an increase in military pay. Once again, we find that the President wants to have his political cake while Congress must eat the consequences.

It is gratifying to this Senator that at least we do now have all members of the Joint Chiefs of Staff finally somehow coming to the conclusion which clearly they could have come to many, many months ago—that the President's defense budget proposals are inadequate, and they are particularly inadequate by a ratio of about 3 to 1 in terms of the increase with relation to military pay.

The President has not even addressed the problems of our Reserve and National Guard Forces. When I and others in the hearings before the Senate Appropriations Committee tried to get the administration witnesses, both Mr. White and General Myer, to address these issues, they continually said that they were separate and apart from the registration issue.

Well, we are getting used to that kind of testimony from otherwise qualified administration witnesses: If it does not match the preconceived political notions of the White House, we will not discuss it.

Mr. President, it will be the Reserves and National Guard which will be our second line of defense, without which we have no defense and with which we would be able to train the new recruits during any manpower-intensive national emergency.

Instead of providing us with the leadership necessary to rapidly improve the Reserves and National Guard Forces in addition to the All-Volunteer Army, the President has just proposed draft registration and has ignored the serious problems in this second line of defense—possibly the most essential line of defense in conventional warfare.

The major problems with our military manpower shortage cannot be addressed by draft registration. nor, for that matter, by the draft itself. The major problem is the attraction and retention of trained qualified personnel to the volunteer Reserve and National Guard Forces.

The only solution to this problem is to provide the types of incentives that will induce men and women to volunteer and then to make military service their career.

The problems we face are not problems of 1980. Unfortunately, they are probably not problems of the decade of the eighties. They are problems and we must recognize that they are problems that will come with the defense of freedom for all of the foreseeable future.

The incentives necessary include increased pay and other benefits, such as educational benefits, sufficient and proper equipment, sufficient operational and maintenance funds, funds for full-scale training, funds for the operation of equipment for individual and group proficiency and, through leadership, a basic respect for the role of the military in a free society.

I believe it is safe to say that without a military a free society cannot exist.

It is often said that draft and military service is incompatible with a free society. The history of the United States refutes that conclusion.

Our history clearly shows that without military forces in being or capable of being brought into being at a proper rate and time our free society would have ceased to exist.

We have allowed military pay to decline to such a point that our military families must turn in many cases to food stamps for survival. Our Reserve and National Guard units are forced to train if they can train at all on equipment that is often of Korean war vintage. Our active forces fire some weapons only once a year because of shortages. Worldwide global integrated training is almost nonexistence while, on the other hand, the Soviet Union and their allies are in a continuous state of integrated regional and global training.

Some Reserve units cannot attend their annual training exercises because of the lack of funds. This is no way to run any military establishment, especially one charged with the sacred duty as our primary line of defense in the free world.

Reinstitution of draft registration must not provide us with the false security that our military manpower problems have been solved. It must not detract from the major problem facing our military. It must not be used by the administration or Congress as a smokescreen for not taking the bold and concerted action of providing our military personnel with the pay, the benefits, the equipment, the training, and the leadership necessary to make such service a worthy career.

Mr. President, I shall support this resolution which provides the funds for reinstitution of draft registration and the modernization of the Selective Service System. I shall join with others in trying to make sure that the funds are actually used to prepare a workable Selective Service System, one which can support the objectives of rapid mobilization in a manpower intensive emergency. I shall even more vigorously support, as I and others have in the past, legislation to significantly increase the pay, the benefits, and the general readiness of our military personnel.

Mr. President, I think it is important in the context of the debate before us to keep trying to view the issue of registration in the broader context of our military and defense deficiencies.

So let us begin by considering the

world situation, one which has been for many years well before the current administration came into office, when we have seen the U.S. foreign policy gradually discourage those peoples and countries that would be our friend and gradually encourage those peoples, countries, and leadership that would be our enemy. This encouragement has come with our own introspection and apparent loss of interest in defending freedom worldwide, and it has come in our apparent encouragement of radical elements in most of the underdeveloped countries of the world.

There are few who decry more the necessity at times of alliances with dictatorial, authoritarian regimes in various parts of the world; however, we made a conscious decision and I think a correct one soon after World War II that our overall national foreign policy supported by our defense policy was to contain the ambitions of the Soviet Union as the major champion of oppression in the world today.

With that policy, and again I say I think a correct policy, it was necessary to form alliances not only with our allies in the free world but with leadership in various countries which otherwise we would not be caught dead having alliances with.

The mistake we made was that in forming those alliances we then turned our backs on the moderate elements within those same countries, and we continued to buttress and support the maintenance of authoritarian and dictatorial regimes and more recently simultaneously encouraged the development of radical opposition to those regimes within and without the nation in question but seemingly at no time determined the way through our foreign policy, through our aid policies, through our defense policies to encourage the moderate elements in those countries that could assume power as rapidly as possible from the authoritarian dictatorial leaderships.

And there were ways to do that, Mr. President. There were ways to do that. I can recall in 1975 when, as a member of the traveling crew of Apollo 17, going through many of the developing countries in the equatorial regions of the world at the request of the President as ambassadors of the United States being accepted rather as ambassadors of mankind by people, by the moderate elements in those countries who believed that somehow the United States, having demonstrated its technological powers by going to the Moon, and somehow the United States was going to pull them and push them into the 20th century, into the technological 20th century.

There was an unbelievable belief that the United States of America, having demonstrated its capability to go to the Moon and return, could somehow provide a means by which these nations individually and collectively could defeat the four horsemen of disaster, poverty, ignorance, and disease and hunger and enter the technological and economic 20th century.

After 30 days of exposure to this kind of belief, upon returning to this country, I approached a number of individuals within the then administration and suggested that, through the auspices of the UNEP scheduled to meet in Nairobi in March, I believe, of 1974, the United States begin the articulation of a policy not of monetary aid but of technological assistance, designed specifically to gradually encourage the moderate elements in these various countries and to assist those elements in moving their nations into the 20th century.

If I heard the people of those countries once, I heard them a hundred times say "Don't send us money. Money just goes into the pockets of our leadership. Send us know-how. Teach us how to do things. Know-how in our minds cannot be confiscated."

However, Mr. President, this country chose and still chooses not to institute this type of a foreign policy. Instead, we still find ourselves in Africa and the Middle East, in Arabia and South America, encouraging the radical elements with some naive belief that when they come to power, when they replace the authoritarian regimes with whom we have had alliances to contain the Soviet Union, that they will be our friends. I know of no single example where this has in fact occurred, all predictions to the contrary notwithstanding.

So we look at our defense problems on this base of a totally and wholly inadequate foreign policy. And then you add to that a belief that the Soviet Union would somehow or another react in an identical way as we have to the concept of detente. Detente to the Soviet Union, I think it is clear now, was a concept by which they could see gaining military superiority in conventional and strategic forces over the Western world. And unfortunately, Mr. President, the signs are very clear that they have attained such superiority. It is still only the threat of the cost of exercising that superiority that deters their ambitions to the degree that they are deterred today.

I would submit, Mr. President, that there is no deterrence, that the Soviet Union clearly recognizes, through their invasion of Afghanistan and many other activities, that they will prevail so long as the United States continues its naive belief that the Soviet Union thinks and will act just like a free nation even though we know that they are not a free nation.

So, Mr. President, we have many things before us that we must do—and all will call for sacrifice on the part of the American people, just as this debate is calling for some sacrifice on the part of the Members of the U.S. Senate. We must repair the deficiencies in our foreign policy and move with our strengths to build friendships in the developing world that are real, to encourage the moderate elements so that they can assume power rather than those with radical orientations.

We must repair our strategic forces first by eliminating, to the degree possible, the vulnerability of our existing strategic forces, while at the same time building up those forces necessary to deter Soviet ambitions in the future and to move through research and development toward a new strategic policy concept where we protect ourselves rather than depending on massive retaliation or holding the innocents of the world hostage, in the words of Sakharov.

(Mr. TSONGAS assumed the chair.)

Mr. SCHMITT. We must begin very rapidly to create conventional defense forces that are equipped with the types of weapons that make the weight of armor and the weight of materiel and the Soviet Union and its allies obsolete, while at the same time creating the manpower forces and reserves that will make that equipment usable and a significant threat. This very small part of the issue that we are dealing with today, the issue of whether or not we take that first step that will revitalize and literally create a Selective Service System, is clearly a necessary step.

But, Mr. President, if, having taken that step, we then do not do the other things, we might as well have not even bothered because it is not going to solve any problem, other than that to which it is specifically directed.

It is not symbolic—as the distinguished Senator from Idaho, who is on the floor, well knows—it is not symbolic of United States strength to have a working Selective Service System. The Soviet Union knows that that Selective Service System is so much paper and computer, if there is not a Volunteer Force at the front lines and if there are not Reserves and National Guard Forces backing those Volunteer Forces up that can counter any threat that they might mount.

I yield to the distinguished Senator from Idaho (Mr. McClure) and welcome him to this discussion and appreciate his attendance in that discussion.

Mr. McCLURE. I thank the Senator from New Mexico.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I do thank the Senator from New Mexico. I want to extend my greetings to him on this bright and sunny morning.

Mr. SCHMITT. Oh, is it bright and sunny, Senator?

Mr. McCLURE. Elsewhere it is both bright and sunny.

I would like to extend my greetings to the senior Senator from West Virginia, our colleague Senator Randolph. I see Senator Metzenbaum and, of course, the occupant of the chair, the distinguished Senator from Massachusetts (Mr. Tsongas).

The world is in rapt attention on the proceedings of the Senate this morning. It is a little difficult for us perhaps to be rational and address these problems at this hour and in this context.

Mr. SCHMITT. If the Senator would yield, I hope he is not suggesting the comments I have just completed were irrational.

Mr. McCLURE. No, I was just about to indicate, as a matter of fact, that the comments are cogent and they address some of the fundamental problems that confront this body and this country as we seek to build real strength for this Nation and not simply take symbolic actions.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. McCLURE. I am happy to yield to my friend.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I have listened very intently to the documented and realistic remarks of the able Senator from New Mexico. He has pointed out how a possible opponent might engage in warfare against the United States in some coming period of time, feeling that we were not as a nation solidified and ready with resolve to do the job. We could possibly face a real threat, not only to the security of our Nation, but to its continuance. Was that not correct, I say to my good friend the Senator from New Mexico?

Mr. SCHMITT. Will the Senator from Idaho yield further?

Mr. McCLURE. I am happy to yield to the Senator from New Mexico.

Mr. SCHMITT. My distinguished and valued colleague from West Virginia is entirely correct. Normally on this morning he and I and the Senator from Idaho and others would be at our morning prayer breakfast to join fellowship and company and inspiration from each other. Instead, today, we are praying in a different way, praying that this country will, in fact, develop the resolve the Senator from West Virginia mentions, develop the capability to protect the freedom and the values that come with that freedom that we alone preserve for mankind.

There are other nations that can be called free. But there is no other nation with both the power and the total idealism of the United States that can protect this valuable seed of individual freedom and the valuable seed of religious freedom and all other freedoms that flow from it. And the clear core of my remarks, which the Senator from West Virginia has thankfully recognized, is this duty to mankind, this duty to freedom, this duty to the United States of America that must come with resolve—a word which I know the Senator believes very strongly in, in many different contexts through his long and illustrious career. But it is resolve that we are trying to demonstrate. And the issue before us is just one small piece of the kind of resolve that we must in fact demonstrate to ourselves and to mankind.

If the Senator would yield just one more moment, the Senator recognizes far more than I, because of his vast experience in this body and elsewhere, that the United States is still recognized as the haven of freedom. Where does every political refugee in the world want to come when they find that they can no longer tolerate the oppression of their own homeland? It has always been that way and it still is.

For hundreds of years, that fact of life in the world has not changed. And somehow or another this country sometimes seems to be incapable of recognizing that fact of life, even though everyone else in the world recognizes it, and I think always will so long as we are capable of national existence. I thank the Senator for his question.

Mr. RANDOLPH. Will my friend from Idaho yield for one more minute?

Mr. McCLURE. I am happy to yield.

Mr. RANDOLPH. I am grateful for the further attention to this subject matter the Senator from New Mexico has mentioned.

I recall, as I stated last evening at an earlier hour in connection with the amendment which I cosponsored with Mrs. KASSEBAUM and others. I recall for the Senate, not as a matter of nostalgia, but fact. I recall the vote in the House of Representatives on the extension of the Selective Service on the 12th of August, 1941. On that long night I was faced with a decision to vote for it or against it. The vote was 203 to 202. Now, they cannot get much closer than that.

I firmly believe, from the documentation which I have read over the years, that one of the reasons that the Japanese struck us from the air and from the sea just a few months later on December 7, was because they felt that there was no unity; no resolve in the Congress of the United States and that was reflective of the American public.

I am not critical of those who voted against the draft. I am not commending names for having voted for it. But it was a time of decision.

We believe, those of us who have studied it, that that was one of the reasons that the war lords of Japan felt that, that Sunday morning was the time to strike. Because in the Japanese war strategy the American people were weak, in a sense, and did not have the resolve.

Whether that is true or not, it is worth mentioning here, even at this early hour.

The attack planning had been under consideration for quite some time. That vote, who knows, might have been a further indication, at least to them, that we were not ready with the resolve and attention to the strengthening of our Nation through our manpower, and, yes, even then, our womanpower, to secure for ourselves the continued strength and ability of America to cope with some foreign foe.

Is that not correct?

Mr. SCHMITT. If the Senator will yield further——

Mr. McCLURE. Yes.

Mr. SCHMITT. I respond that I hope other potential adversaries recognize, by the events surrounding the situation stated by the distinguished Senator from West Virginia, that there is resolve in this country, that we may argue and debate and at times appear very close to not having that resolve on the surface, but when tested it is there.

The issue that faces us today, however, is a slightly different issue than in 1941. The human issues are the same, but suddenly, or not so suddenly, we have reached a time where the rate of change is so high that the time we will be given to react and show our resolve against a determined and well equipped and ideologically well equipped enemy is not very much any more.

We, literally, had almost 2 years to recover from the Japanese attack on Pearl Harbor, and some other problems that developed in Europe, to mobilize the strength and productive capacity, the manpower and womanpower of this country, to defeat those enemies of freedom.

The question is, How much time are we going to have if we are so tested again?

Clearly, it is not going to be measured in terms of years. It is going to be measured in terms of, at the most, weeks.

That is why the sequence of a strong volunteer force, backed up by a strong Reserve and National Guard, which is backed up by the capability to mobilize the manpower resources of this country, while at the same time having equipment in place, available and ready for use by that manpower, is so critical today, far more critical than it was in 1941.

I think the Senator from West Virginia, in his recollections, has to feel some sense of pride that in those days, clearly, the signs and symptoms were much less obvious than they are today, that he was able to recognize them and say, "Yes, this is what we must do in 1941."

It is clear, even more clear, what we must do today, in 1980.

I thank the Senator.

Mr. RANDOLPH. I thank my colleagues for giving me the opportunity to have these colloquies as a part of the record.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank my friends, the Senators from West Virginia and New Mexico, for the addition to the record that has been made with respect to the necessity to match our manpower with the mechanical means to wage war, in the event that it is necessary.

But the overriding and underlying necessity for a spirit of national will, a spirit of purpose, a spirit of willingness, a spirit that on December 7, 1941, immediately crystallized, but in the absence of that overt threat to the United States was pretty hard to find, in large measure, it was always there, but not so apparent.

I think that may be true today, that the will is there. It is hard to see, it is sometimes questioned, but it is there.

Let us contrast today with 1941, and there are contrasts.

There was not any question at that time that the regime in Germany was on the move. It had been on the move for years after annexing various areas of smaller neighboring countries in the mid-1930's. They had started their overt aggression, and Great Britain, feeling sufficiently threatened at that point, had joined the war 2 years before.

So we had had the long series of months and years of the evolution toward the inevitable climax of the confrontation in World War II.

While the United States had not yet joined the war directly, we were being threatened. The ring was closing in the Pacific as Japan, after having moved into Manchuria some years earlier, and after having some 10 years earlier, at least, been apparently violating the spirit of the naval arms limitations that had been negotiated in treaties, had, in violation of the League of Nations mandate in the islands of the Pacific, fortified and begun to build the ability to wage war in the Pacific some years before we got to that fateful day in 1941.

As a matter of fact, those events had predated the action of the Congress of the United States in creating a peacetime draft, which I remind my friends was a draft in preparation for a war which was then very clearly imminent, not just something off in the future, not just something that was possible, not just something that might happen because of the sweep of events, but because it was the considered judgment of Members of Congress and the administration, and at least some segment of the American public, that war had become a reality and that we were preparing for that not eventuality, but for that reality.

That situation is a little different today. We do not now perceive that war is inevitable. We do not foresee that it is only a matter of a passage of a few weeks, a few months, until we will find ourselves in the armed conflict with other forces in the world. We still hope to avoid it.

So the actions we take here on the reinstitution of registration for a peacetime draft are cast against the background not of enemy preparations for an immediate conflict, but to build up the reserve strength, to build up the strength and capability of our country to respond at some future date, which is yet much more uncertain than that future date that was apparent to the Members of Congress at the time the peacetime draft was enacted.

I remind anyone who might be listening of another difference: That is, that the peacetime draft when initiated was a draft that had a base age limit of 21. It was not until we got into mobilization and the need to increase numbers very quickly became apparent, and also became apparent that the manpower requirements for our country in the industrial mobilization that was paralleling, and well under way, our preparation for that conflict, and the support of our friends in Europe who were then battling against the Axis powers, that the mobilization through the draft of those 21 and above interfered with the mobilization of the industrial base and might of this country.

So the draft age was lowered to 18, for two reasons. One was to increase the available manpower. Second, to reduce the impact upon the industrial capability of the country, because the mobilization of those above 21 was cutting into the capability of the factories of this country to turn out the weapons of warfare which were even then being produced not for our own use directly, simply, but as well to help those already involved directly in the struggle.

Mr. President, this situation is sufficiently different that I think we should not draw from the parallels referred to by the distinguished Senator from West Virginia the conclusion that we must now send a signal to the world that the United States is not only ready, but resolved.

We need instead to be addressing ourselves not to empty gestures, but to the real building of military strength. We have unknown weeks and months and, hopefully, years during which we will live with whatever system we create in the drafting of young men, and perhaps young women, to serve in the armed services of the United States during a period of time when we are not in conflict, when we are not in direct armed conflict, at least, with any aggressive enemy, and the struggle will be at a different level, at a different base, and for a longer period of time. That is where the national resolve will be tested.

I remember not many years ago, as a young Congressman who first arrived in this town, being lectured by a professor of military history at West Point, General Lane, whom some here may have known.

He was talking even then about the fact that the United States was psychologically unprepared to fight the kind of battle that we are now engaged in, a long-term testing of wills, as well as capacities of countries.

He put it in these terms, that the United States, in its brief and illustrious history, and from the standpoint of any single nation's government, had always been able to view a war as a war for immediate victory. We had not then gone through the twin indecisions of Korea and Vietnam. We had only the then new experience of our uncertainties and our unhappy resolution in Korea.

General Lane pointed out that the United States had always been able to mobilize and fight for a victory which was then attained, however bitterly, with no idea that in the struggle there would be less than the victory for one side and defeat for the other, with every asset of the Nation marshaled to that end during the continuation of the conflict.

We have been able as a free country to support those battles, whether it had been the brief and abortive attempt of Great Britain to reimpose their will in 1812, or the sporadic and desultory and sometimes intense wars of colonization of this continent against the Indian peoples who occupied it before the white man came, or the devisive conflict that tore this country apart in the Civil War, or the war against Mexico, or the Spanish-American War which were relatively small but nevertheless testing a new Nation, then the late entry of the United States into that foreign conflict, that war outside our shores, that did not directly affect us but did indirectly threaten us in World War I, and again as my distinguished colleague from West Virginia has reminded us of the beginnings of World War II, where the United States suddenly found itself directly threatened and thus entered the war directly rather than supporting those who were directly involved.

In each of these instances the United States was able to focus upon victory, the defeat of the enemy, the turning back of the threat to our security and a total commitment to that end, something that a free society found not only relatively easy to do but that most Americans supported; remembering, too, that until the attack on Pearl Harbor by the Japanese forces, in spite of the fact that Great Britain had been at war with the Axis and France had been at war with the Axis for years before our entry, there were still Americans who said we should not involve ourselves directly. The closest thing we had to entry into the war was the growing resentment against the U-boat attacks against American shipping supplying the sinews of war to our allies in Europe.

So we were being psychologically prepared perhaps but, nevertheless, in this country there were still giant rallies in Yankee Stadium and elsewhere by the America Firsters who were that generation of people who said we should not allow ourselves to be involved in a foreign military conflict. So, it was an extraordinary commitment on the part of Congress in that context but nevertheless a recognition by that Congress that the clouds of war were gathering and we needed to be directly preparing for the involvement in that war, not a war that was not then in being but a preparation for us to join in it.

Now we are being asked not to accept that burden but a different one in peacetime. General Lane had gone on to say that in every conflict that we had involved ourselves in there was the commitment to victory, the struggle toward that victory, and the ultimate triumph up until the time of the Korean war. In every such conflict, wars were fought and were won by that nation or group of nations that had the greatest physical power and yet not all wars in history were won by the country that had the greatest physical power because there had been wars, the 30 years war and the 100 years war, that were not won by those who had the greatest physical power but those who had the greatest commitment to winning.

And in both the 30 years war and the 100 years war, those somewhat physically weaker countries had won because they had greater determination.

General Lane's question was whether the United States was prepared to fight that kind of a war in which physical strength alone was not sufficient to win but in which moral commitment and the commitment of a nation over a long period of time was the necessary ingredient to ultimate victory.

I think we are involved in that kind of a struggle, a long period of time in which our will will be tested at various points for various periods of time at somewhat less than total all-out confrontation, just as we have been tried in Korea and in Vietnam and threatened in a number of other places, where we could have entered armed conflict but did not, but nevertheless our will and our staying power was being questioned and tested.

It is against that context and against the likelihood that that pattern will continue, that it will be the long-term resolve and the ability to stick with a course of conduct over a period of many years, that we must consider whether or not we wish now to enter into the conscription of young people to fill the military manpower requirements of this Nation.

There are a number of us who are troubled by that prospect, not because we do not want the Nation to be strong, but because we want the Nation to be just and free as well as strong because it is not just physical strength but it is moral armament that this country must require.

Certainly, as my colleague from Illinois, Senator PERCY, would know, the very thing that we have been warned about by that freedom fighter who is in our age head and shoulders above all others, Alexander Solzhenitsyn has warned us that we must be morally armed to fight his battle, that if we allow ourselves to be disarmed in our will, if we lose the reasons why we are involved in the struggle we surely cannot win the struggle.

Mr. PERCY. Mr. President, will my distinguished colleague yield for a brief comment on my own time without losing his right to the floor?

Mr. McCLURE. I am happy to yield to the Senator from Illinois for comment on his own time. I yield the floor for that purpose.

Mr. PERCY. Mr. President, I think it would be encouraging to the Nation to have heard the comments of the distinguished Senator from Idaho today as we grapple with this problem and as this body grapples with so many other problems that affect the future of the world, that affect the future of our people, and that affect the future of our young people. What we are talking about is preserving a world for free people and what we are talking about is preserving an America that was founded on the concept of freedom and love for freedom and to preserve that for our young people, and whether they are with us or against us on this issue they cannot impugn our motives. We are hoping we will be guided in the right way.

I think it would be encouraging to the American people and the world to know that at 8 o'clock this morning Senators will meet in prayer breakfast and we shall talk about those things, and I have the privilege of giving a sermon this morning and a lesson as we call it. But we will all be bowing our heads to pray for guidance to know that we will be directed to do the right thing on behalf of "in God we trust" as we see it emblazoned in marble above our heads today and to recognize that we do have some spiritual guidance well beyond human will and human intellect. God has given us the reason, the ability, and the desire to demonstrate that we can find the morally right way to go and that we can be guided in that respect.

I thank my distinguished colleague for his comments this morning.

Mr. McCLURE. Mr. President. I thank my friend from Illinois for the comments which he has just made because I think if we are to stay in this struggle and ultimately prevail, it will be only because we have the undergirding of a strong united American people who also know that their strength does not come from themselves alone and, as the Senator from Illinois has commented, we seek guidance now and then, reminding myself that President Lincoln was once asked, Is God on our side, and the response was he was much more concerned to know whether we were on God's side. I think that is the kind of guidance we are seeking, to know what is the right thing for this country, this Nation, and this people to do, not from the standpoint of our own will or our own perceptions, but with the guidance that can only come from a recognition that we alone do not determine our own destiny.

But if we are to be involved for a period of years, not a period of weeks or months, not in preparation for a war which is certain to come but in preparation of our strength in order that the war need not come, we must approach the military strength in a much different way. Once a war is started or is believed to be inevitable, there are no limitations on what the country will do to fight that war.

We set aside civil liberties. Probably, in the event of another war, we will set aside our environmental protection laws. After all, there is no environmental impact statement that can be required before the Soviet Union fires a missile, nor would a court injunction be of much use as a shield against that missile.

We recognize that once we are in that setting of an armed conflict which is real, which is not a possibility but real, we begin then to take extraordinary steps to marshall all of the assets of a country in manpower, in industrial capacity, in the assignment of natural resources, and we set aside for a time some of the refinements of protection of the liberties of our people in pursuit of the common goal of making it possible in a period of no conflict to exercise a greater individual freedom for all of our people in the long run.

We set aside the laws that deal with procurement contracts. We change the format under which we enter into competitive bidding for the construction of necessary elements of the physical strength of this country. We do not worry with the same degree of nicety about whether or not we have treated all persons exactly the same in regard to the contracts that are necessary or the procurement work which is done because we are involved in a struggle for survival, and we recognize that it is a relatively brief imposition upon individual freedoms and upon those protections which a free society ordinarily puts about the exercise of Federal Government power.

We take steps, in short, during a period of conflict which we would find unacceptable at any other time and should find unacceptable at any other time. If as a matter of fact war is inevitable and that we are now just building strength in the hopes of avoiding the war but building strength in preparation for the war, then we indeed should be setting aside some of the concerns for individual freedom that we cherish in relatively less strained times.

But are we to be driven to a destruction of our own sense of values because we are threatened by an alien ideology? Are we to set aside our own concern for individual human freedom from a long period of time simply because we are threatened by someone else who may at some time in the future involve us in armed conflict?

Are we to reduce ourselves to their level in our concern and in our fine concern for individual liberty simply because they threaten us and simply because we want to build enough strength?

As a matter of fact, the only strength that can be sufficient over a long period of time is the moral strength of the American people. We cannot build enough arms or armies to prevail if at the same time we lose our sense of purpose, if we lose our concern for the freedom of the individual and the value of this exercise in democratic representative government, in which the freedom of the individual is the hallmark unlike any other country in the history of the world, the absolute center of the entire structure of our Government, the freedom of the individual.

So let us not give up the freedom as we start talking about how to defend that freedom unless indeed we are involved in armed conflict at the time we are called upon to make that choice.

When our Nation's survival is at stake, we are willing to make that choice. When we are threatened and involved in an armed conflict, we are quite willing to set aside that concern temporarily as we fight the war, knowing that, as the Minutemen of 200 years ago-plus, we can pick up our muskets and go fight the battle, and then when the battle is over go back to our individual civilian pursuits, another hallmark and distinguishing feature of the American experiment in freedom.

But now we are being asked not to pick up our muskets from behind the door or over the fireplace and go fight the battle, but we are asking someone else—no, not asking, preparing to compel someone else—to fight our battle for us because we are unwilling ourselves to fight that battle. We do not want to be so inconvenienced in our own lives that we would give of our own time to fight that battle or prepare to build that strength. No, we will only require that of others, and that, in my judgment, is morally indefensible during a period when we are not involved in conflict directly.

I think it is useful for us to look once in a while at where we are, what it is we are talking about, and what it is that this Nation stands for, and why we stand for it, to determine what action we ought to take now as we try to build the military strength which is necessary to defend the freedom for ourselves and for all other peoples throughout the world as we try our best to maintain that balance between individual freedom and collective strength that is necessary in the world today.

This is not the first time the country has had to face that question of whether or not we had the right to order some to fight our battles for us and use the force of Government to compel their service.

In 1814 after this country was just beyond its infancy and into its adolescence, it was then threatened in a conflict with England, the attempt to reimpose their will upon us in a different way, there arose upon the floor of the House of Representatives one of the most eloquent men to ever grace the Halls of Congress, and one of those people whose wisdom as well as eloquence has stood as a standard against which every other public servant has been measured. I refer, of course, to Daniel Webster. He was speaking in 1814 on a proposal before the House of Representatives for establishing a military draft, and I think it is worth revisiting what Daniel Webster said in 1814 as we struggle with our consciences here today.

I want to quote from the RECORD of that time. These following words are Daniel Webster's words:

DESPOTISM AND THE DRAFT

(By Daniel Webster)

The question is nothing less than whether the most essential rights of personal liberty shall be surrendered, and despotism embraced in its worst form. . . .

Let us examine the nature and extent of the power which is assumed by the various military measures before us. In the present want of men and money, the Secretary of War has proposed to Congress a military conscription. . . .

The administration asserts the right to fill the ranks of the regular army by compulsion. It contends that it may now take one out of every twenty-five men, and any part, or the whole of the rest, whenever its occasions require. Persons thus taken by force, and put into an army, may be compelled to serve there during the war, or for life. They may be put on any service, at home or abroad, for defense or for invasion, accordingly to the will and pleasure of the Government. This power does not grow out of any invasion of the country, or even out of a state of war. It belongs to government at all times, in peace as well as in war, and it is to be exercised under all circumstances, according to its mere discretion. This sir, is the amount of the principle contended for by the Secretary of War.

Is this, sir, consistent with the character of a free government? Is this civil liberty? Is this the real character of our Constitution? No, sir, indeed it is not. The Constitution is libelled, foully libelled. The people of this country have not established for themselves such a fabric of despotism. They have not purchased at a vast expense of their own treasure and their own blood a Magna Carta to be slaves. Where is it written in the Constitution, in what article or section is it contained, that you may take children from their parents, and parents from their children, and compel them to fight the battles of any war in which the folly or the wickedness of government may engage it?

Under what concealment has this power lain hidden which now for the first time comes forth, with a tremendous and baleful aspect to trample down and destroy the dearest rights of personal liberty? Who will show me any constitutional injunction which makes it the duty of the American people to surrender everything valuable in life, and even life itself, not when the safety of their country and its liberties may demand the sacrifice, but whenever the purposes of an ambitious and mischevious government may require it?

Sir, I almost disdain to go to quotations and references to prove that such an abominable doctrine has no foundation in the Constitution of the country. It is enough to know that that instrument was intended as the basis of a free government, and that the power contended for is incompatible with any notion of personal liberty. An attempt to maintain this doctrine upon the provisions of the Constitution is an exercise of perverse ingenuity to extract slavery from ths substance of a free government. It is an attempt to show, by proof and argument, that we ourselves are subjects of despotism, and that we have a right to chains and bondage, firmly secured to us and our children by the provisions of our government.

It has been the labor of other men, at other times, to mitigate and reform the powers of government by construction; to support the rights of personal security by every species of favorable and benign interpretation, and thus to infuse a free spirit into governments not friendly in their general structure and formation to public liberty.

The supporters of the measures before us act on the opposite principle. It is their task to raise arbitrary powers, by construction, out of a plain written charter of National Liberty. It is their pleasing duty to free us of the delusion, which we have fondly cherished, that we are the subjects of a mild, free, and limited government, and to demonstrate, by a regular chain of premises and conclusions, that government possesses over us a power more tyrannical, more arbitrary, more dangerous, more allied to blood and murder, more full of every form of mischief, more productive of every sort and degree of misery than has been exercised by any civilized government, with a single exception, in modern times.

The Secretary of War has favored us with an argument on the constitutionality of this power. Those who lament that such doctrines should be supported by the opinion of a high officer of government, may a little abate their regret, when they remember that the same officer, in his last letter of instructions to our ministers abroad, maintained the contrary.

In that letter he declares, that even the impressment of seamen, for which many more plausible reasons may be given than for the impressment of soldiers, is repugnant to our Constitution. It might therefore be a sufficient answer to his argument, in the present case, to quote against it the sentiments of its own author, and to place the two opinions before the House, in a state of irreconcilable conflict.

Further comment on either might then be properly forborne, until he should be pleased to inform us which he retracted, and to which he adhered. But the importance of the subject may justify a further consideration of the arguments.

Congress having, by the Constitution, a power to raise armies, the secretary contends that no restraint is to be imposed on the exercise of this power, except such as is expressly stated in the written letter of the instrument. In other words, that Congress may execute the powers, by any means it chooses, unless such means are particularly prohibited. But the general nature and object of the Constitution impose as rigid a restriction on the means of exercising power as could be done by the most explicit injunctions.

It is the first principle applicable to such a case, that no construction shall be admitted which impairs the general nature and character of the instrument. A free constitution of government is to be construed upon free principles, and every branch of its provisions is to receive such an interpretation as is full of its general spirit. No means are to be taken by implication which would strike us absurdly if expressed.

And what would have been more absurd than for this Constitution to have said that to secure the great blessings of liberty it gave to government an uncontrolled power of military conscription? Yet such is the absurdity which it is made to exhibit, under the commentary of the Secretary of War.

But it is said that it might happen that an army could not be raised by voluntary enlistment, in which case the power to raise armies would not be granted in vain, unless they might be raised by compulsion. If this reasoning could prove anything, it would equally show, that whenever the legitimate power of the Constitution should be so badly administered as to cease to answer the great ends intended by them, such new powers may be assumed or usurped, as any existing administration may deem expedient.

This is the result of his own reasoning, to which the secretary does not profess to go. But it is a true result. For if it is to be assumed, that all powers were granted, which might by possibility become necessary, and that government itself is the judge of this possible necessity, that the powers of government are precisely what it chooses they should be. Apply the same reasoning to any other power granted to Congress, and test its accuracy by the result.

Congress has power to borrow money. How is it to exercise this power? Is it confined to voluntary loans? There is no express limitation to that effect, and, in the language of the secretary, it might happen, indeed it has happened, that persons could not be found willing to lend. Money might be borrowed then in any other mode. In other words, Congress might resort to a forced loan. It might take the money of any man by force, and give him in exchange exchequer notes or certificates of stock. Would this be quite constitutional, sir?

It is entirely within the reasoning of the secretary, and it is a result of his argument, outraging the rights of individuals in a far less degree than the practical consequences which he himself draws from it. A compulsory loan is not to be compared, in point of enormity with a compulsion military service.

If the Secretary of War has proved the right of Congress to enact a law enforcing a draft of men out of the militia into the regular army, he will at any time be able to prove, quite as clearly, that Congress has power to create a Dictator. The arguments which have helped him in one case, will equally aid him in the other, the same reason of a supposed or possible state necessity, which is urged now, may be repeated then, with equal pertinency and effect.

Sir, in granting Congress the power to raise armies, the people have granted all the means which are ordinary and usual, and which are consistent with the liberties and security of the people themselves, and they have granted no others. To talk about the unlimited power of the Government over the means to execute its authority, is to hold a language which is true only in regards to despotism. The tyranny of arbitrary governments consists as much in its means as in its ends; and it would be a ridiculous and absurd constitution which should be less cautious to guard against abuses in the one case than in the other.

All the means and instruments which a free government exercises, as well as the ends and objects which it pursues, are to partake of its own essential character, and to be conformed to its genuine spirit. A free government with arbitrary means to administer it is a contradiction; a free government without adequate provisions for personal security is an absurdity; a free government, with an uncontrolled power of military conscription, is a solecism, at once

> the most ridiculous and abominable that ever entered into the head of man.
>
> In my opinion, sir, the sentiments of the free population of this country are greatly mistaken here. The nation is not yet in a temper to submit to conscription. The people have too fresh and strong a feeling of the blessings of civil liberty to be willing thus to surrender it.
>
> You may talk to them as much as you please, of the victory and glory to be obtained in the enemy's provinces; they will hold those objects in light estimation if the means be a forced military service. You may sing to them the song of Canada conquest in all its variety, but they will not be charmed out of the remembrance of their substantial interests and true happiness. Similar pretences, they know, are the grave in which the liberties of other nations have been buried, and they will take warning.
>
> Laws, sir, of this nature can create nothing but opposition. If you scatter them abroad, like the fabled serpents' teeth, they will spring up into armed men. A military force cannot be raised in this manner, but by the means of a military force. If administration has found that it cannot form an army without conscription, it will find, if it venture on these experiments, that it cannot enforce conscription without an army.
>
> The Government was not constituted for such purposes. Framed in the spirit of liberty, and in the love of peace, it has no powers which render it able to enforce such laws. The attempt, if we rashly make it, will fail; and having already thrown away our peace, we may thereby throw away our government . . .
>
> Those who cry out that the Union is in danger are themselves the authors of that danger. They put its existence to hazard by measures of violence, which it is not capable of enduring. They talk of dangerous designs against government, when they are overthrowing the fabric from its foundations. They alone, sir, are friends to the union of the States, who endeavor to maintain the principles of civil liberty in the country, and to preserve the spirit in which the Union was framed.

(Mr. ZORINSKY assumed the chair.)

Mr. McCLURE. Mr. President, those words of Daniel Webster uttered in 1814 are no less pertinent today, with one exception which perhaps we are being called upon to express here now. Daniel Webster said that we are too near the time when we struggle to achieve liberty to easily give it up; we have sprung too closely from the effort to form a government of limited powers to now invest that Government with unlimited powers.

Have we come so far in less than 200 years, in less than 175 years, that we are going to ignore the history of this country, the traditions and the values of this country? Have we come so far since Daniel Webster spoke in 1814 that it is no longer true that we have come so completely from the struggles to gain freedom that we casually give them up?

That, Mr. President, is my concern about conscription of some. The unequal demands upon young people, the demand that some but not all must give of some of their time, not determined by themselves but by Government.

Are we to reestablish, after 120 years of experience, having fought a war to free the slaves, to reimpose upon some number of our people a degree of slavery? Are we now so casually to cast aside the experience of mankind that says the history of the growth of government is the history of the death of freedom?

Mr. President, it is not because the junior Senator from Idaho is unmindful of the world struggle which is going on, but it is not a military struggle alone. It is not an economic struggle alone. It is a struggle for the hearts and the minds of people. And the United States has always stood for freedom of the individual. That is why we have stood so tall and why we have remained so strong.

Alexandr Solzhenitsyn, in his perceptions of the world in which we live today, has called upon us to recognize once again that the struggle is a moral struggle; that if we lose the moral battle we will inevitably lose our reason to win the physical struggle.

And I do not stand and speak at length every time I perceive some erosion of individual liberty, but I am not concerned that, as we now decide that the manpower requirements of this Nation are grave enough to demand increases in the sizes of our standing Armed Forces, we will resort to the power of compulsion of Government to compel service by those who are unwilling to give it.

It is not just a lack of leadership in this country that has failed to call forth the best aspirations of all of our people and, thereby, inducing sufficient numbers of young men and women to volunteer their service. It is because we also find that a high percentage, a high number of those who volunteer find themselves living at below officially established standards of poverty; that a high number of our young people who do serve, serve at levels which also qualify them for relief.

It is not a lack of will or purpose or dedication on the part of our young people so much as it is an unwillingness on the part of the majority to pay a living wage.

We have had opportunities on the floor of the Senate to try to rectify that, but in our eagerness to salve our own consciences, in our eagerness to absolve ourselves of political guilt, in our desire to force for ourselves a secure political future, we are going to say that we will balance the budget on the backs of the oppressed service of some of our young people.

Now, it may be that some and probably most of the young people who are called upon to register and who might be called upon to serve, out of a sense of patriotism, out of a sense of duty to country, out of a sense of the futility of arguing about it, may indeed give that service extorted by their Government. But what they give will be far less than what the country pays for the exercise of unbridled authority.

For what can be a more dramatic exercise or abuse of power than the power of a Government to say to some of its people that: "We wish to be defended, but we do not want to pay for it. We wish to have an Army, but not one that is voluntarily served by its people—one that we compel. We wish to have the strength to defend freedom, but destroy freedom in the process."

And that is the concern of the Senator from Idaho and that is why I have joined with others in suggesting that a peacetime registration, meaningless as it is in terms of real strength to the country, destroys much greater strength in the commitment to the individual liberty of our citizens.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me say, first of all, that I hope that before too long this debate can be ended. As one of those who supported my distinguished colleague from Oregon (Mr. HATFIELD), I think the point has been made of our opposition. I would hope now that we could figure out some way in the next few hours that we can come to a final resolution of this matter before the Senate.

The Senator from Kansas has been convinced that premobilization registration was not necessary, that we lose very little time with postmobilization registration. But it is obvious that that is not the majority view in this body and, after an all-night exercise, it would seems to me that—or I would hope—the end is near. I think there is no doubt about the final outcome and what we gain by prolonging the agony.

I think it is agony to many who have other Senatorial obligations, markup, committee meetings, other legislation, whatever.

I encourage my colleagues who feel as I do about registration to take a look at the clock, take a look at the record, and maybe accommodate the majority on both sides of the aisle.

Mr. President, the issue of peacetime draft registration now before Congress is probably one of the most complex and controversial issues facing the Congress as well as the American people in recent years.

The root of the question cuts to the core of American thought. In a world of competing and often hostile nations, it is inevitable that some of our individual freedom and productive energies be sacrificed in order to provide a military establishment capable of safeguarding this freedom from external thoughts.

In attempting, however, to provide our Armed Forces with the ability to respond to a national emergency, we should be very careful that we do not destroy individual liberty in the process. Mr. President, the proposal we are being asked to consider today, that is, peacetime draft registration, is perceived by many as the first step toward institution of the draft. Mandatory peacetime registration may very well turn out to be necessary, but until compelling evidence of this is presented, we should exercise extreme caution in reaching a decision in this matter.

REGISTRATION OF THE DRAFT

Mr. President, on January 23, 1980, President Carter announced in his state of the Union address that he intends to resume peacetime draft registration. The President believes that his proposal will accomplish the following:

Registration will demonstrate to the

Soviet Union that the United States is willing and able to prevent further Soviet expansion.

Registration will help to prepare the Selective Service System for the possibility of a massive mobilization.

This proposal provides for a simple registration of all youths ages 18 through 19. There are no provisions for physicals, classifications, or issuance of draft cards.

The Carter proposal for reinstating registration will not be the first to be considered by the 96th Congress. Last September the House voted against requiring 18-year-old males to register. At present, three House committees have under consideration a proposed National Service Act. This plan for national service would allow youths to voluntarily participate in either civilian public service or military service or else they would risk being drafted into military service.

THE ALL-VOLUNTEER FORCE

Mr. President, one of the major issues in the debate over registration and the draft is how successful the Armed Forces have been in recruiting volunteers for active service. In a 1978 study of the All-Volunteer Force, it revealed that "active force readiness has made some improvement over the past 5 years." Some believe that recruitment for the active force of the AVF is successful, although there are some reenlistment problems. On the other hand, there are those who contend the active force is not successful, citing the statistics of the last quarter of 1978 of which all four branches of the service failed to meet established recruitment goals.

The most alternative study of active military manpower was published by the Department of Defense in early 1979 entitled "America's Volunteers: Report on the Volunteer Army." This study found that AVF manpower equals the projections of the Gates Commission, the body which recommended the initiation of voluntary service in 1973. At present, the strength of active military manpower is as follows:

[In thousands]

	Fiscal year—		
	1979	1980	Differentia
Army	773.8	774	+0.2
Navy	523.6	538	+4.4
Marines	190.0	189	−1.0
Air Force	562.6	559	−3.6
Total	2,050.0	2,050	0

Between 1978 and 1987 the population of young men will decrease by 15 percent, posing greater problems for the AVF. Pentagon officials point out, however, that the same percentage of eligible men will be required in 1987 as in 1973, the year in which the draft was terminated. This follows from the fact that fewer men are required to maintain a force in peacetime. Moreover, the Armed Forces plan to reduce the demand for male recruits by reducing the amount of first-time attrition increasing the number of registrants and further expanding opportunities for women in the military.

RESERVE MANPOWER

There is little question that U.S. military Reserves are significantly short on manpower. The Selective Reserve, the category describing members who undergo periodical training in organized units, has failed to attract congressionally authorized numbers of volunteers. Included in the Select Reserves are the Army Reserve and the Army National Guard. At the end of fiscal year 1978, these two components, 527 strong, were 31,000 men short of the authorized level and 138,000 men short of the fiscal year 1979 level.

The Individual Ready Reserve (IRR), the category describing reservists who are serving out the remainder of their 6-year military obligation, were also short of their authorized level for fiscal year 1979. I would point out that the IRR is vitally important to our national defense because it supplies filler and casualty replacement for troops in wartime.

THE MAKEUP OF THE AVF

One measure of the success of the AVF is how well its volunteers represent the U.S. population, especially with respect to race and education.

With today's U.S. black population at approximately 11.8 percent, it is evident that blacks are overrepresented in three service branches but underrepresented in one.

A sound area of concern is the alleged decline in mental ability among military personnel. To evaluate mental ability, the Department of Defense categorizes individuals into five categories. Categories I and II are considered above average; category III is considered average; category IV is below average; category V is significantly below average mental ability.

Between 1973 and 1978, the percentage of those in category III increased markedly—from 45 percent to 61 percent. At the same time, those listed in category IV declined from 22 percent to 5 percent while categories I and II have remainded relatively stable. At the same time, the percentage of recruits with at least a high school diploma have remained at 68 percent.

THE SELECTIVE SERVICE SYSTEM

Prior to October 1977, Selective Service was required to provide manpower in the event of an emergency mobilization according to the following timetable:

First inductees	M+110
100,000 inductees	M+150
480,000 inductees	M+230

Where "M" refers to the day of mobilization. There was little concern that Selective Service would be able to meet this timetable.

In October 1977, the Defense Department reformulated its timetable to much more rigorous standards. These changes were made as a result of, First, the administration's plan to develop a larger and more rapid reinforcement capability for the U.S. conventional forces supporting NATO, second, concern over the adequacy of U.S. trained manpower to meet and sustain a full mobilization, in part because of the reduced size of reserve forces, and Third, a reduction in recruit training time, resulting in expanded capacity of DOD training centers during mobilization. The new timetable is as follows:

First inductees	M+30
100,000 inductees	M+60
650,000 inductees	M+180

Predictably, Selective Service was not capable of complying with the more exacting standards because it did not receive a corresponding increase in resources.

Nevertheless, Selective Service officials maintain that the new standards can be met even without peacetime registration. Testifying before the House Armed Services Committee last year, Acting Director Robert E. Shuck stated:

> We are developing, evaluating and revising the plans and procedures needed to insure the system will be able to meet these revised requirements. We are firmly convinced that we will be able to develop and demonstrate the capability to register and begin deliveries within 30 days, if we receive the additional resources requested in the President's budget message to Congress.

The Selective Service's plan provides for a 1-day mass registration to occur at the call of the President in the event of a national emergency. The registration would take place at local post offices as early as M plus 10. According to the plan, registration data would then be fed into computers within a maximum of 5 days. At this point, induction orders could be issued on approximately M plus 21. Initial inductees would then be delivered beginning on M plus 30. In order for its plan to work, Selective Service says it will need to improve its computer capacity, develop greater field support, and increase the number of trained reserve officers to supervise the registration process at the local level.

Recently, the Congressional Budget Office (CBO) studied various alternatives for improving Selective Service capability. CBO concluded that by upgrading the System's computer capacity, Selective Service could meet the new DOD timetable. In fact, CBO estimates that the first inductees could be delivered on M plus 25, 5 days ahead of schedule. With peacetime registration, CBO estimates inductees would begin to arrive on M plus 12. However, the Department of Defense cautions that a backlog of people at training facilities would preempt training of new inductees until M plus 30. Hence, peacetime registration may have no bearing on the speed of the mobilization process.

Recent world events have finally convinced many in Congress that our Armed Forces need immediate attention. According to new statistics, the Soviet Union greatly exceeds the United States in number of tanks, armored personnel carriers, artillery pieces, tactical aircraft, submarines, naval surface combat ships, and in throwweight of intercontinental ballistic missiles. Unfortunately, this Soviet advantage also extends to military personnel.

While enactment of compulsory registration and the draft may be an easy solution to our personnel problems, it also carries grave risks to our traditional way of life. Senator Robert A. Taft once said:

> If we admit that in peacetime we can deprive a man of all liberty and voice and freedom of action; if we can take him from his family and his home, then we can do the same with labor; we can order the farmer to produce and we can take over any business.

In considering the options of registration and the draft, Members should be mindful of the overall consequences of each choice. More importantly, each Member's decision should be based on what is needed to protect our national security.

Mr. President, I think the issue is clear. I think it is an issue on which good men and women can differ, just as we differ on other issues, just as some of us may oppose peacetime registration, others may be as sincerely motivated to adopt the other view.

The Senator from Kansas would want the record to show admiration for his distinguished colleague from Kansas, Senator KASSEBAUM. As I indicated in my statement yesterday opposing registration, premobilization registration in any form, I could not support her amendment.

But it does occur to me that she made her point, had a lot of support from both sides of the aisle, but again it points up the difficulty of trying to arrive at a judgment that is fair and objective, and I assume it underscores the stubbornness some might say of those who have differing views on this particular issue.

I think as we discuss this sensitive issue of selective service registration we have to look at its many aspects to provide opportunities for thorough debate.

The Senator from Kansas discussed the other day, and I think it is appropriate to review that in part because of the efforts of my distinguished colleague from Kansas, Senator KASSEBAUM, to focus on the question of registration of women.

Mr. President, as this very sensitive issue of selective service registration is being discussed, it is imperative that we look at its many aspects and provide opportunity for thorough debate.

To this end, Mr. President, I shall focus on the question of registration of women: The background of women in the military, legal restrictions against women in combat, constitutional ramifications, and the effect of the equal rights amendment are all factors to be considered.

On February 9, 1980, when President Carter proposed that both young men and women be required to register for possible military service, he said:

> My decision to register women is a recognition of the reality that both women and men are working members of our society . . . it confirms what is already obvious—that women are now providing all types of skills in every profession. The military should be no exception.

It should be noted, however, that President Carter said when, and if, a draft should actually become necessary, women would be drafted for noncombat duty only.

The President already has the statutory authority to reinstitute registration for males between the ages of 18 and 26. He has only to come to the Congress for the appropriations needed to begin the male registration procedure. The registration section of the Military Selective Service Act, suspended for the past few years, is the source of the President's authority.

Registration of women, however, is a new legal question. They have never been required by law to register for induction, or to serve involuntarily in the Armed Forces. In November 1942, the War Department considered drafting women because it foresaw a need to relieve the manpower shortage, especially in the Army, during World War II. The War Department proposed to the Congress this inclusion of women in the draft. The proposal was rejected. Therefore, if Congress approves Carter's plan, it will be the first time in American history for women to be subject to draft registration, though I must say when the President made that request he knew Congress would reject it, so maybe he was in effect having it both ways.

BACKGROUND OF WOMEN IN THE MILITARY

The expanding role of women in the Armed Forces is due to two major factors. First, since the end of the draft and the beginning of the All-Volunteer Force in December 1973, the military services have had difficulty in recruiting and retaining enough qualified males, thereby turning attention to recruiting women. Second, the movement for equal rights for women has led to demands for equal opportunity in all fields, including national defense.

Women have been recruited in increasing numbers and assigned to a wider variety of occupations as one method of meeting shortfalls in enlistments by qualified men. The number of women in the Armed Forces has steadily increased from less than 2 percent at the end of fiscal year 1972 to 7 percent on April 30, 1979. At the end of April 1979, of a total strength of 2,022,091 people in the active forces, 141,621 were women. The current objective of the Department of Defense is to increase the number of women of active duty to 235,800 (11.5 percent) by 1984. Individual service objectives (both officer and enlisted women) for 1984 are: Army, 104,600 (13.5 percent); Navy, 50,000 (9.5 percent); Marines, 9,000 (4.8 percent); and Air Force, 100,200 (17.9 percent).

REMOVAL OF RESTRICTIONS AGAINST WOMEN

Parallel with the increase in the numbers of women in the military services has been a gradual removal of restrictions against them. During World War II, women served in the various services under temporary arrangements and inconsistent policies. The Armed Forces Integration Act of 1948 gave women a permanent place in the military services by authorizing women in the regular Army, Navy, Air Force, and Marine Corps. However, it limited the number of enlisted women to 2 percent of enlisted strength, the number of female officers (excluding nurses) to 10 percent of enlisted female strength, and the rank a female officer could achieve, to lieutenant colonel.

During the 1960's and 1970's, the movement for equal opportunity for women gave new momentum to efforts to eliminate discriminatory treatment of women in the Armed Forces. Changes were brought about by policy directives from the services, court decisions, and legislation. In 1967, Public Law 90-130 repealed the limitation of 2 percent for female enlisted strength. In 1969, by administrative action, the Reserve Officers Training Corps (ROTC) was opened to women for the Air Force, and for the Army and Navy in 1972. In 1973 the Supreme Court ruled in Frontiero against Richardson that spouses of female members of the Armed Forces were to be considered dependents in the same way as spouses of male members of the Armed Forces. In 1974 the age requirement for enlistment of women without parental consent was made the same as for men. In 1976 women were admitted to the three major service academies: Military, Naval, and Air Force; women had already been admitted to the U.S. Coast Guard and Merchant Marine Academies by administrative action.

In 1978 two major steps were taken. Congress passed legislation abolishing the Women's Army Corps as a separate unit and modifying section 6015 of title 10 of the United States Code which had precluded women from serving on Navy ships. Under the modification, women could be permitted to serve permanent duty on vessels not expected to be assigned combat missions, and up to 6 months temporary duty on other Navy ships. However, they were still prohibited from being assigned to ships or aircraft engaged in combat missions, and, under section 8459, to Air Force planes in combat missions.

Moreover, the percentage of women in the higher officer and enlisted ranks continued to be lower than the percentage of women in service. The disparity was much greater if medical officers, which includes nurses, were excluded. For example, of 223 women at the colonel level in all services, only 41 are in line positions.

REMAINING LEGAL RESTRICTIONS

Since the main mission of the Armed Forces is to deter war by being prepared to wage one if it occurs, there is a limit to the extent to which the Armed Forces can increase the number and expand the assignments of women as long as there are restrictions on assigning women to combat posts.

And there are some who say, well, women should be assigned to combat posts, but I do not believe that will happen in the foreseeable future. I do not believe that even a number of those who support registration of women would extend this out to include combat assignments for women.

In addition to barring women from the combat posts themselves, the restrictions prevent the utilization of women in many noncombat posts which are held for rotation purposes. At the present time there are legislative prohibitions restricting the assignment of women to vessels and aircraft assigned combat missions for the Navy and aircraft assigned combat missions in the Air Force. While there is no such legislative prohibition for the Army, Army policy imposes similar restrictions on ground combat assignments.

On the basis of the combat restriction, the services bar women from many occupational specialties and assignments. In the Navy, out of 99 ratings, 11 are closed to enlisted women, including fire control technician, gunners mate, sonar technician, and electronics warfare system technician.

Four of the two hundred and thirty Air Force specialties are closed: defense gunner; para rescue recovery; radio operator/maintenance driver, which is located with Army frontline units where Army policy excludes Army women; and security specialists, who guard planes loaded with nuclear weapons.

Army policy prohibits women in 22 occupational specialties and in any infantry, armor, cannon field artillery, combat engineer, and low altitude air defense artillery unit of battalion/squadron or smaller size regardless of the occupational specialty.

Prior to 1978 many more occupational specialties were closed to women. In 1977 in Public Law 95–79 Congress required the Secretary of Defense to submit a definition of the term "combat" together with recommendations on expanding job classifications to which women might be assigned and any changes in law necessary. In his reply on February 14, 1978, Deputy Secretary of Defense Charles Duncan defined combat to mean "engaging the enemy or being engaged by an enemy in armed conflict"; a person to be "in combat" when in a geographic area designated as a combat/hostile fire zone by the Secretary of Defense or "other specific circumstances," and a combat mission as "a mission of a unit, ship, aircraft, or task organization which has as one of its primary objectives to seek out, reconnoiter, or engage an enemy." Subsequently, the virtually absolute ban against women on Navy ships was modified and many new jobs in all services were opened to women.

DEFENSE DEPARTMENT OBSERVATIONS

Deputy Secretary of Defense Duncan said the best long-term solution to open still more assignments to women was to repeal both 10 U.S.C. 6015 and 8549. He proposed allowing the Secretaries of the military departments to set policy for, monitor, and review the assignment of women within their respective departments, with the Secretary of Defense reviewing the programs to insure compatibility among the services. On May 14, 1979, the Department of Defense transmitted to Congress a draft of proposed legislation to repeal the statutory restriction on the assignment of women.

The Defense Department made the following points:

First. Since 1948 when the restrictions were enacted, military personnel policies, the role of women in society, and the nature of warfare have changed dramatically.

Second. Large numbers of women, properly trained and selected, have the physical and mental ability to serve in the entire range of military classifications.

Third. Prohibiting Navy women in seagoing ratings from their fair share of sea duty results in excessive sea duty for men, and inconsistent policies between the Navy and the Coast Guard assignment of women to ships.

Fourth. 10 U.S.C. 8549 permitted female commissioned Air Force officers who were judge advocates, chaplains, or in medical fields to serve aboard aircraft engaged in combat missions while other female officers and enlisted women could not.

Fifth. The legislation had no appreciable budget implications. Ship modifications estimated to cost approximately $10,300,000 over a 5-year period would be required.

WOMEN IN COMBAT

Repeal of these provisions would not necessarily result in assignments of women to all combat units because it would be up to each service secretary to set policy and assign personnel according to needs and abilities. Hearings held by a subcommittee of the House Armed Services Committee, November 12–16, 1979, indicate that the intention was not to put women into combat but to open up new jobs to them. Proponents of repeal believe it would remove a bar to many assignments which women could handle. Opponents feel that the statutory restrictions are the last protection against the services sending women into actual combat.

Those who emphasize equal rights and responsibilities say women in the Armed Forces cannot advance to the top without experience in combat units. Some go even beyond this, and say that women cannot be equal in society as long as they are barred from full participation in all levels of the national security system. In their view, modern weapons have equalized the potentiality for women in combat since wars are less likely to be fought on a hand-to-hand basis, and have made it impossible to protect women from the destructiveness of combat. In any event, they claim, properly trained women would be able to fight successfully and exempting them from combat is not fair to men.

Those opposed to women in combat contend that the protection of women is a mark of civilization and a method of safeguarding the human race. They point out that countries such as Israel and the Soviet Union, in which women have fought in emergencies, do not now place women in combat positions. This view holds that the national security would be jeopardized because women are not as strong or aggressive as men and their presence would impair the individual and group effectiveness of men. They disagree with the assumption that modern technology has significantly reduced the direct physical nature of combat, especially ground combat. They see permitting women in combat as an extreme deviation from tradition which would detract from the dignity and femininity of women and disturb family cohesion to such an extent that it might make society fall apart.

CONGRESSIONAL REPORT

Despite the decision of President Carter to register women, several Members of Congress expressed doubt that the proposal would pass and it is obvious the proposal will not pass, and the Senator from Kansas, as he has indicated before, shares that view.

On March 6, 1980, the House Armed Services Subcommittee on Military Personnel rejected the proposal by voting to table H.R. 6569, the bill which would authorize registration of women, making it unlikely that further action on the measure would be taken. During 1979, the Senate Armed Services Committee had issued a report stating that the committee felt it was not in the best interest of the national defense to register women for the Military Selective Service Act. The most important reason for not including women in the registration system, in the committee's view, was the policy precluding the use of women in combat, a policy which the committee reaffirmed. It was in infantry and armor skills that manpower was short, the committee stated. Other reasons cited were the need for military flexibility, the additional processing and training problems, and the risk of experimenting with performance of sexually mixed units in war.

In a minority view, Senator COHEN called for the legal views of the Defense Department on whether the constitutionality of the draft might be undermined by a failure to include women and to clarify various issues before a final determination. These issues included:

First. Would one or two pools of eligibles be established if both men and women were registered?

Second. Would women have to be drafted in equal number if conscription were required?

Third. Could women be drafted for those positions for which they are presently eligible and not for the combat related job specialties from which they are excluded?

Fourth. Could women be excluded from voluntarily registering?

CONSTITUTIONALITY OF REGISTRATION OF WOMEN

The answers to these questions, unfortunately, are not at all clearcut. In the past, women have not been drafted and this has been upheld by the courts when it was challenged as discriminatory against men. For example, in 1969 in United States against Dorris, the court held that classifications such as age and sex were not arbitrary or unreasonable but were justified by the interest of providing for the common defense with maximum efficiency and minimum cost. It also held that the qualifications were for the Congress to decide.

VIEWS AND COUNTERVIEWS

At a hearing on January 29, 1979, Secretary of Defense Harold Brown recommended that any new legislation requiring registration for the draft be applied to women as well as men. However, as to whether they should be drafted he said he would have one answer if there were a large additional requirement for noncombat people and another if the need was for combat fillers.

The views of the Joint Chiefs varied somewhat from service to service. On March 13, 1979, Gen. Bernard Rogers, Chief of Staff of the Army, testified that he believed women should be registered in order to have an inventory of available personnel. However, the question of drafting depended upon the skills needed. In his view, the exclusion of women from certain combat skills should remain.

Gen. Lew Allen, Chief of Staff of the Air Force, said the drafting of women would not have any unfavorable effect on the Air Force. Adm. Thomas Hayward, Chief of Staff of the Navy, said that from a military point of view there was no need of drafting women into the Navy, but that he thought it was a political decision. Gen. Louis Wilson, Commandant of the Marine Corps, said he would be willing to have women drafted up to the 5 percent goal of the Marines.

Others, however, have argued against both registering and drafting of women. They contend that registering women would double the number of people requiring registration each year from roughly 2 million males reaching the age of 18 to 4 million males and females, thus increasing the cost. Moreover, some hold, if women were registered they might have to be drafted in equal numbers. In their view this complicates conscription by adding problems such as dealing with pregnancies.

Finally, a few contend that strong feelings on the subject have been used to reduce the likelihood of a draft, on the one hand, or the ratification of the equal rights amendment, on the other. Women as well as men are divided on the subject.

Mr. President, in view of this relevant evidence and the many conflicting views that have been offered by my distinguished colleagues, it is imperative that discussion be thorough.

We had many hours of discussion by my colleague, Senator KASSEBAUM, and the distinguished junior Senator from Michigan, Senator LEVIN. After complete discussion, the efforts to include women in the registration process were defeated. But that will not end the debate. There will be another day and another time and other circumstances that could change the outcome.

As the Senator from Kansas indicated earlier, I hope that I have made my point in the past 30, 40 minutes, that this issue has now been thoroughly debated; that throughout the night many of my colleagues expressed their views with less than great enthusiasm. In any event, they expressed their views, and House Joint Resolution 521, which is a transfer resolution for fiscal year 1980, in my view has been adequately debated, and I think the final result can be predicted. It is only the time of the final result that cannot be predicted.

As one who has been a supporter of the efforts, if not the tactics, of the distinguished senior Senator from Oregon, I hope that at some reasonable hour today we might resolve any differences and take final action, whatever that final action may be.

I hope that everyone who has time remaining will, perhaps, reach the same conclusion—most everyone who has time remaining—that we have had adequate debate. The American public is aware of the efforts in the Senate to fully debate the issue; that this is an issue of great importance and has been treated as such by the Senate of the United States and by those for and those in opposition, and that no one by any stretch of the imagination can ever suggest that the Senate did not carefully consider this matter which does affect the lives and could affect the lives of millions of young Americans, as has been pointed out by those favoring registration and those in opposition

This Senator believes we accomplish so little by premobilization registration that it is not necessary. Others have a different view. Some suggest if we have registration at all, they have suggested that it include women. This Senator has a different view.

There are probably some who are opposed to any funds even for the Selective Service System, but this Senator has a different view on that.

The Senator from Kansas has in previous debate on this issue discussed some of this Senator's previous efforts to beef up the Selective Service System, joined with my colleagues in efforts to beat back cutbacks of military benefits and military manpower, such as the Naval Reserve.

I recall in 1979, during the consideration of the fiscal year 1979 supplemental budget request, this Senator and the distinguished Senator from Maine (Mr. COHEN) offered an amendment to restore the Selective Service System budget request in the fiscal year 1979 supplemental to $1.735 million.

This amendment would have permitted the Selective Service System to identify the specific computer capability and configuration needed for the rapid input of registrant information and processing of induction orders.

This funding would also permit the completion of a comprehensive 5-year automated data system plan.

Unfortunately, this amendment was kept from serious consideration by a voice vote to table.

But even before that, in 1978 during consideration of the fiscal year 1979 HUD-independent agency appropriation bill, this Senator offered an amendment which would have increased funding for the Selective Service System. This increase would have enabled the system to provide adequate manpower in time of national emergency. In this case the Senate adopted the amendment, but it was eliminated in conference.

So I just suggest that the Senator from Kansas has tried to be realistic and, hindsight being always perfect, had those amendments been adopted, implemented, we might not be here today and might not have been here last night considering House Joint Resolution 521.

There are many who say that premobilization registration is an important signal to the Soviet Union. I just suggest that we have sent a lot of signals to the Soviet Union but none has been very effective. Last December a decision was made to embargo shipments of grain to the Soviet Union. That was to have a profound impact on the Soviet Union.

I ask unanimous consent to have printed in the RECORD the story in this week's U.S. News & World Report indicating that the grain embargo has been a "flop."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. SANCTIONS AGAINST RUSSIA—A FLOP

President Carter's campaign to punish the Soviet Union for its invasion of Afghanistan so far is hurting Americans more than Russians.

The punishment that Carter sought has been diluted by the noncooperation of America's allies. Moreover, the President's campaign has had no apparent effect in its basic objective—inducing the Russians to withdraw troops from Afghanistan.

These conclusions emerge from a study of the impact of sanctions imposed by Washington five months ago.

Restrictions on trade have caused little more than inconvenience for the Russians, but have resulted in substantial losses to American farmers and to some industrial firms.

More difficult to assess are the effects of sanctions on cultural and scientific exchanges.

Debatable, too, is the impact of Carter's drive to mobilize an international boycott of the Moscow Olympic Games. Some observers write it off as a failure since most of America's allies intend to participate. Others maintain that enough nations are staying away to make a travesty of the games.

BEHIND THE STAND

Why is the United States persisting with its crackdown if Americans are suffering more than Russians? Administration officials maintain that sanctions, though falling short of expectations, are achieving significant results.

This explanation from a Commerce Department executive: "No one ever pretended that sanctions would bring the Soviet Union to its knees. What we are trying to do is to make a point—that the United States disapproves of the invasion and won't resume normal relations with Russia until the situation in Afghanistan changes."

Many U.S. businessmen, farmers, scientists and educators disagree. Businessmen and farmers, for instance, point to the practical effects of the economic sanctions which have killed hopes of making 1980 a record-breaking year in exports to the Soviet Union.

The expectation was that sales to Russia would go up by more than 1 billion dollars, to 4.8 billion this year. Grain deliveries of 25 million metric tons were supposed to account for more than two thirds of total exports.

Now, estimates of 1980 sales to the Soviets have been scaled down to 1.5 billion dollars as a result of the embargo on 17 million metric tons of grain deliveries and strict control over sales of industrial products.

To cushion the loss for American farmers, the federal government plans to spend 2.5 and 3 billion dollars to buy part of their unsold grain surpluses. The government also is attempting to find alternative foreign markets. Even if these measures succeed, farmers complain they are being penalized by a drop in grain prices.

For the Russians, the grain embargo so far seems to have done little more than disrupt purchase plans. Canada and Australia have agreed to limit sales to Moscow to normal levels, avoiding increased deliveries to compensate for shipments denied by the U.S. However, several other countries—most notably, Brazil and Argentina—are expanding sales to Russia to provide an additional 6 million metric tons.

As for Carter's stringent restrictions on the export of high-technology industrial equipment: American companies say that the result will be about a 50 percent drop in total nonagricultural deliveries to Russia this year, to about 400 million dollars.

They expect to lose two thirds of the 150 million dollars in previous orders for high-technology products. Seven hundred export licenses or applications were suspended by the Commerce Department in January, and are being reviewed now on a case-by-case basis.

NEW PARTNERS

The Soviets have minimized the adverse effects of the U.S. ban by developing substitute suppliers in Western Europe and Japan. Example: The French corporation Creusot-Loire is expected to bid on a contract for a 350-million-dollar steel mill south of Moscow that America's Armco felt obliged to abandon.

Allied governments in Western Europe and Japan not only are unwilling to match U.S. limits on exports, but also are spurning Carter's call to cut government-guaranteed credits to Russia.

West Germany, in fact, moved at the end of May to reinforce its trade with Moscow by concluding an agreement involving an exchange of industrial goods for Soviet oil and natural gas.

Thus, the restrictions on high-technology exports appear, like the grain embargo, to have caused less distress among Russian industrial managers than among their U.S. counterparts.

Outside of economic relations, Soviet-U.S. cooperation is in a deep freeze.

The second strategic-arms-limitation treaty, signed last June by Carter and Soviet President Leonid Brezhnev, has been shelved in the Senate at the request of the administration. But the White House is urging Moscow to join in honoring the terms of the unratified accord.

In abeyance are negotiations between the two countries dealing with a proposed ban on weapons to attack space satellites, limits on conventional-arms sales and restrictions on superpower naval strength in the Indian Ocean.

SCIENTIFIC EXCHANGES

The State Department is attempting to maintain the framework for cooperation in science and technology. But, in view of budget cuts and cancellation of many joint meetings, department officials are pessimistic about future prospects. As one put it: "You can keep a pipeline open only so long with nothing going through it before it breaks down."

Overall, scientific exchanges dropped by 80 percent since January.

Most cultural exchanges have been suspended since the expiration of an agreement in 1979. One conspicuous cancellation: A tour of the U.S. by an exhibit of art from the Hermitage in Leningrad.

Student exchanges, however, are continuing. Each government sends 50 students a year to the other country to study science and the humanities.

SPORTS CONTROVERSY

The sanction that is having the most dramatic impact is Carter's call for an international boycott of the Moscow Olympics. Of the 10,500 Americans who had booked tours to the games, 7,500 have canceled since the U.S. team withdrew.

With the U.S. and at least 50 other nations refusing to participate, says the influential London journal the Economist: "The sports contests that are to start on July 19 in Moscow and other Soviet cities will be called, but will not be, Olympics."

Question: How has all this affected the Kremlin's policy in Afghanistan?

Diplomatic observers say that there has been little, if any, discernible effect so far. The Soviets, they point out, show no sign of withdrawing or even reducing their forces in Afghanistan.

Nevertheless, administration officials argue that sanctions should be continued until the Afghanistan situation improves—whatever the cost to the U.S.

"If we removed the sanctions now," says a State Department official, "it would be interpreted as a sign that we are willing to let business with the Soviets return to normal. That isn't the case."

Mr. DOLE. The Soviets are still in Afghanistan. The price of wheat in my State is 50 cents a bushel less than it was before the embargo. The Soviets are buying wheat from Argentina and other countries at bargain prices, and we have lost a customer, we have lost thousands of farmers and millions of dollars in income. That was an example of something which was to send a signal to the Soviets.

The President in April of this year took other actions to send not only signals to the Soviets but to the Iranians as far as banning travel, and boycotting the Olympics, and other actions taken, certainly in good faith, by the President. But even these actions have had little impact.

The ban on travel would indicate—and I support that ban—that this is a time of national emergency, that travel should be prohibited. The courts have held that in matters of foreign policy the President has a right to restrict travel. There is no constitutional right. The Constitution is silent about travel.

I remind you of what would become the case of Ramsey Clark, who seems to travel at will at any time to any place, above the law, suggesting, perhaps, that there may be a double standard in America, one standard for the Ramsey Clarks of this world, who have a very liberal persuasion, and a very liberal philosophy—he says that it is an act of conscience and he can travel wherever he wants, that the President does not understand freedom, and that he has every right to go to Iran and attend a conference on crimes against America, to unilaterally confess American sins, alleged American sins, over a 27-year period.

I think it was interesting how some of the media are attracted almost like flies to the likes of Ramsey Clark. He has been on talk shows, morning news, headlines, pictures, as though somehow Ramsey Clark was to be praised for his efforts in Iran.

So I just suggest there has been a lot of signals sent, a lot of blanks have been fired. The Russians are still in Afghanistan; the hostages are still scattered around Iran, and we have the likes of Ramsey Clark trying to usurp the power of the Presidency in making foreign policy and in dealing with a country that has a dispute with this country, in blatant and flagrant violation of the Logan Act, which was passed in 1798 to protect America from the likes of Ramsey Clark, those who travel abroad and attempt to engage themselves in disputes involving this country and another country.

We cannot have 200-some million Americans acting as Secretaries of State or usurping the powers of the President.

So I find myself in agreement with the President, although I am not certain whether the President may not have unwittingly prejudiced any action against Ramsey Clark by a public statement that he should be prosecuted. But, in any event, in my view the President is right.

It is now discovered that the Iranians paid Mr. Clark's way to come to Iran to join in that tirade against America. So he may escape liability under the President's Emergency Powers Act of 1977, as far as what President Carter assumed to be his right to ban travel. That is why this Senator believes that prosecution should be pursued under the Logan Act, which is on the books, which has been noted in eight different cases as being constitutional. There is no question about the constitutionality of the Logan Act.

The Senator from Kansas will introduce the Logan Act with amendments when we consider the Criminal Code. I will make it apply not only to U.S. citizens but to others who live in this country, refugees or aliens who are in this country, because it seems to me that we are considering a very fundamental right.

No one suggests that Mr. Clark should lose any of his defenses or any of his rights; but the American people have rights, too. Mr. Clark may not appreciate that, but there are some in this country, in fact I think a great majority, who do not appreciate his actions. They have rights.

The hostages' families are told they cannot visit their loved ones in Iran. The American athletes are told they cannot go to Moscow, that they would be in violation of the travel ban. But Ramsey Clark flies around the world in defiance of statute, saying it is a matter of conscience; he has a constitutional right to travel; a constitutional right to free speech. The Senator from Kansas would just reiterate that there is nothing in the Constitution about travel. Certainly, when you have foreign policy considerations, there is a right to restrict travel. There are certain limits on free speech.

A case in 1919, the famous Schenk case, held you could not yell "fire" in a crowded theater. So there are limitations.

And all this is part and parcel of what some called signals to the Soviet Union, that somehow drafting or registering young men would be a signal to the Soviets.

Well, this Senator would suggest that it is not the right signal. A better signal and a stronger signal would be for the Soviets to know that we are trying to do what we can to keep the men and women we now have in the Armed Forces in the Armed Forces through better benefits, higher pay. This would be a signal to send to the Soviet Union. I just suggest that perhaps that is a signal that may be forthcoming before the end of this year.

I do not believe we are going to resolve this dilemma simply by registration. It is my conclusion, and that of others of this body, that the questionable benefits of premobilization registration are far outweighed by its disadvantages.

One of the most obvious disadvantages is the fact that pre- or post-mobilization will have no appreciable effect on the personnel needs of the current Volunteer Armed Forces. The central problem faced by the Armed Forces today is the retention of skilled and experienced individuals.

The resolution of this dilemma will not be affected by either plan. The issue of attracting and retaining skilled officers and enlisted personnel revolves around the comparability of military and civilian pay and benefits. Until steps are taken to make military service a more attractive career, the retention of pilots, physicians, and other technically skilled individuals will be problematic.

Then Pentagon has acknowledged that they do not have a systematic program to record the inventory of military skills available in the country. The Congress might better serve the Nation by requiring DOD to maintain an inventory of trained military resources than it would registering young people with no prior knowledge of military skills.

SSS SENDING CONFLICTING SIGNALS

Skepticism has spread with respect to the issue of peacetime registration. At first we were asked to believe that the call for revitalization of the Selective Service System would demonstrate our national will, thus sending the Soviets a signal of American determination. At first the idea was applauded. Because the Nation has appeared weary since Vietnam, unwilling even to suppose that it might one day again want to defend a national interest abroad and because this mood might be misinterpreted by other nations as weakness, registering for the military draft would have been a useful diplomatic signal, particularly in an election year.

As we look at the President's proposal today we find it is far from the useful gesture it was designed to be in that the proposal is confined to 19- and 20-year-olds, thus narrowing the field of those it would affect. And after promising the American people that any registration would include women, the President succumbed to pressure which has resulted in registration for males only.

I would again indicate that the Senator from Kansas does not believe that males or females premobilization is necessary. But, in addition to the existing confusion President Carter's defense experts say that postcard registration might save at most a week in case of a general mobilization. Others insist it could save up to 90 days, but even they do not pretend that the Armed Forces could absorb newcomers at such an accelerated pace. No one contends that registration would stimulate enlistment.

About the only thing we hear of this proposal in recent times is that this gesture will somehow cause the Soviet Union to shudder with fear and that any opposition would somehow appear unpatriotic. In an SSS report dated January 16, 1980, it carefully delineated the case for postmobilization registration. It should be noted that the report followed the Soviet invasion of Afghanistan by almost a month. The Selective Service document describes premobilization registration as "redundant and unnecessary," and concludes that postmobilization registration is the most cost effective and desirable option available to improve the emergency capability of the Selective Service.

In a report dated February 11, 1980, the President advocated postmobilization, but this report does not provide a data base or a foundation upon which to rebut the conclusions of the January 16 Selective Service document. According to that report, the postmobilization option is capable of delivering the first inductees within 17 days, 100,000 inductees within 33 days, and 650,000 inductees within 124 days. Each of these figures lag behind the premobilization figures by only 7 to 8 days. In essence, both the premobilization and postmobilization registration plans far exceed current DOD requirements. The Selective Service's conclusions regarding postmobilization are paraleled by similar findings by the Congressional Budget Office.

I noticed on the morning news Secretary Brown is saying unemployment is going up, so please enlist. That is one way to reduce unemployment. Maybe we will be able to fill our ranks with those who have lost their jobs in this 1979–80 recession.

That may not come as much comfort, but that may be one of President Carter's plans to reduce unemployment—when you are out of work, maybe the Army looks more attractive or the Air Force or the Navy or the Marines.

The Senator from Kansas is advised that he has about 5 minutes remaining. Is that correct?

The PRESIDING OFFICER. The Senator has 4 minutes and 52 seconds remaining.

Mr. DOLE. The Senator from Kansas will be followed by the distinguished senior Senator from New Mexico, Senator DOMENICI, who has some time remaining. I would hope, in case he may be listening on his way, that he will agree with this Senator that we have had adequate debate on this measure, that there are other matters that need our attention in the Senate and that those of us who supported our colleague from Oregon and praised his fine work, statesmanship, and courage, and that he might come to the view that we have made our point, or the point has been made.

I think there is such a thing as legislative overkill, and we may be entering that point. This issue of registration will probably be argued for years to come and I would not want to say everything in the next few days that might preclude debate in the future, or we might find ourselves repeating statements made by those in favor of premobilization registration and those who oppose it.

I think many of us are products of the system; many of us certainly have registered in our lifetime for the draft; many of us have served in the Armed Forces; most of us understand how the system works.

This Senator happens to be one who believes that service in the Armed Forces was a great experience, was a learning experience, and was a maturing process. I would be the first to suggest not just registration, but a draft, if I were persuaded that we gained anything by premobilization registration.

It is much like the so-called import fee that President Carter wanted to impose on the American driver. Had the Senate and the House been persuaded there was some need for a 10-cent tax on gasoline, we might have sustained the President's effort. Had we had been imposing a tax to fill our petroleum reserve, this Senator would have supported it. Had we been proposing a tax for some alternate source of energy, many Senators would have supported it.

But just to have a tax so we can say we are going to raise taxes today so we can cut your taxes the nearer we are to the election did not seem to have a great deal of merit to many in this body—the point being that if it can be demonstrated that there is a need for registration now, if somehow that does send a signal to the Soviet Union, if that would have any impact on the Soviets' adventurism in Afghanistan or any impact on those who indicate they are in control in Iran, though it is doubtful, then I believe there would be widespread support not only for registration but for the obvious next step, the draft. As far as this Senator can determine there has not been that evidence.

When that evidence is produced, I am certain all but a few in this Chamber will enthusiastically support whatever may be necessary and that young people of America are willing, they are patriotic, and not many would shirk their duties if they were persuaded there was some need and that need was imminent.

We have had enough symbols in the past 2 or 3 years, but symbolism will not replace the will of American people. Symbolism will not replace what this Senator believes we need in the Armed Forces, and I have indicated before—more focus on the personnel who are there, more focus on the Reserve, the National Guard, more focus on readiness.

The PRESIDING OFFICER (Mr. MITCHELL). The Senator's hour has expired.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold his request?

Mr. DOLE. Yes, I withhold my request.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am happy to have this chance to participate in the discussions going on in this post-cloture period.

I am in favor of the registration and will vote for it when the 100 hours have expired. I urge my colleagues to vote in favor of the registration. Actually, I wish the resolution included registration for women, as well. Unfortunately, that did not prevail, so we are proceeding solely with the registration of males.

Such being the situation, it is a case of a half a loaf is better than none. Certainly, I hope those who join with me in voting in favor of women being registered—females being registered—and having seen that go down to defeat, would not turn against the entire registration proposal.

The rationale, as we know, for registration is to decrease the amount of time that is required to call up forces in the event of an all-out war, or even, if not a red hot war, at least a warm or hot war.

Those on the other side suggest that no longer is the United States going to have to depend upon massive ground forces, that, instead, what we have available are the so-called nuclear deterrents, the strategic weapons which eliminate the need for mass conventional armies, tanks, infantrymen, aircraft, what we call our conventional weapons.

Mr. President, I think this is a false theory and an unfortunate one for our country to be lulled into. I believe that we are not going to get into a strategic war, starting immediately, based on the leaders in the Kremlin sitting there and saying that they are displeased with the United States on some matter and believe they have nuclear preponderance, and thus will press a button and let loose a flight of SS–18's, 17's, 16's, whatever it might be.

Instead, the logical scenario for the development of war between the Soviets and the United States stems from the Soviets pressing in some area of the world, presumably against NATO and, most likely, on one on the fringes of NATO.

It seems to me a more likely scenario for the Soviets, for instance, moving into Eastern Turkey or Northern Norway on some excuse, invalid though it might be, and then there is a response by the NATO forces, but the NATO forces are inadequate in this scenario to stand up to the Soviets.

Thus, the nuclear confrontation starts with the release of a tactical nuclear weapon, a small bomb, as it were, and a response by the Soviets with a larger bomb, and pretty soon we are involved in a nuclear war.

Mr. President, it seems to me that this is the very occasion where we would want the American ability to respond with large ground forces rapidly. That is the very reason that, in my judgment, we should move to the registration.

There is a long way between registration and a draft, but we cannot have a draft without registration. We cannot have a draft without knowing who we have got, who is available.

The suggestion that large ground forces are outmoded, it seems to me, is a very dangerous one.

Mr. President, quite frankly, it is my personal concern over the adequacy of our conventional forces that has prompted me to back wholeheartedly the SALT II treaty, because in the SALT II treaty we would achieve a stability in our nuclear forces between the United States and the Soviet Union.

There are those who complain about SALT II and say that it is an unfair treaty, that the Soviets have gotten the best of us.

That is the traditional thing to say about any treaty we have with the Soviets. It is always said that we have been outdone. But I do not believe this.

I think any study of the SALT II treaty, if they pay attention to it, and see the limitations imposed on both sides, and if they see what would happen without a treaty, I think after that due consideration and study, they would come to support the treaty.

I seems to me that not only is the treaty valuable because of the stability it gives us in our nuclear strategic weapons with the Soviet Union, but, just as importantly, flowing from this is the release of funds that would not be spent by us on strategic weapons, which would then be available for our conventional forces, for the buildup of the conventional forces in tanks, aircraft, ships, paying our people so we can get better people and keep good people, and thus in the long run prevent a war.

Because, as I say, in the scenario that would develop, it develops from the inadequacy of our conventional forces to respond to the Soviet conventional forces. Thus, our falling back on a reliance on nuclear weapons, first tactical, and then the buildup, until eventually the strategic weapons are involved.

So this leads back to how quickly we can respond. No one is saying that having the registration will permit us to get forces over to Europe, straight from the civilian side into the well-trained military person in less than 6 months. But when we get involved in one of these confrontations, every day counts.

We can get varied estimations as to how long it would take to call up our forces, but unquestionably, whether we say registration will save us 7 days, or save us 21 days, or save us 30 days, no one will deny it will save us some time. With this saved time, it could well be the prevention of a nuclear war.

There are others who suggest that we not bother with registration, that all we have to do is somehow improve the caliber of our military forces, conventional forces, so that we are not called upon to rely on registration.

Mr. President, I agree with that and we are trying to do it, but no one suggests that we ever should have in uniform a standing army of considerably increased size over what we presently have. That is not what registration is all about.

Registration is not going to help improve the quality of our presently existing Armed Forces. It might improve it a hair due to the fact that when young people come in to register there will be, presumably, some material around that will encourage them to join the All-Volunteer Force.

There was an amendment at the desk prohibiting such type of information from being available. I certainly hope that that amendment, if it is called up, would not pass, because I think from this registration, all the people coming in, the 18-year-olds, the 19-year-olds coming in to register, that at least they will find out something about our military forces as they presently exist and the seed might be planted in some of them to make further inquiry and, hopefully, to enlist.

But that is a very marginal factor. Nobody is suggesting that is going to substantially alter the problems we face now in our conventional military forces, our Army, Navy, Air Force, and Marines.

How are we going to solve the problems we presently confront? How are we going to solve the problems we presently confront in our military forces?

It seems to me that the best thing we can do in this Congress is to improve the pay on a selective basis. By improving the pay on a selective basis, I am not suggesting that the entering pay should be increased. What I am suggesting is that the pay for those in the more skilled brackets, the more experienced personnel, whether they are in the infantry, whether they are in the technical branches, maintenance, radar technicians, jet engine mechanics, whatever it might be, these are the people I think should receive a pay increase.

Furthermore, Mr. President, I believe there are other categories other than straight pay that should be improved. Here it should go across the board.

What I am discussing is, of course, the housing allowances, transportation, the other allowances that come to a full-time military career soldier or officer.

Here, it seems to me, is where we are suffering the greater losses due to the inflation factor and the most severe effects upon our military personnel.

I must say that I think it is misleading, Mr. President, when we see indicators as to what a trained aircraft mechanic makes while serving with the Air Force, an E–6, E–7, whatever it might be, his responsibilities, and then we will see a chart indicating what he would be paid working for United Airlines.

That is really not a fair comparison because, obviously, the military career technician we are discussing here has lots of other benefits besides the straight pay: For example, full-time medical care for himself and his family, and a pension at the end of 20 years of a very substantial nature.

Mr. DOMENICI. Mr. President, I have not said much during the debate on this Selectice Service joint resolution.

I believe I have more justification for speaking to the issue than, at least to my knowledge, any other sitting Senator.

If we would have agreed to the Kassebaum amendment yesterday, this Senator would have four of his children eligible, three daughters and a son. I can look forward, in the next 6 or 7 years to eight of my children passing through this Selective Service System, this registration system, and I support it.

I support the joint resolution requiring that young men do the minimal amount required to assist their Government, the great Government of the

United States, the very bastion of freedom for the world.

I really believe we have a lot of prophets of gloom. There are some self-fulfilling prophecies and prophets who are predicting all kinds of difficulties when we ask the young men of this Nation to comply with a very minimal type of commitment to their country. As a matter of fact, it is nothing more at this point and will be nothing more without further action of Congress than merely registering so that if this Nation at some later date were to need them, we would have the basic essentials about their age, address, and their whereabouts.

I really think when we consider the rather fantastic freedoms that are vested in the American people, when we consider the rather significant role that this small Nation, with 6 percent of the world's population, must play in maintaining freedom in the world, I believe that young people are going to respond not in the manner predicted by some, but I believe if we would quit enticing them and predicting ominous things for them and chastising and accusing this country, we would go through this era with little or no difficulty.

I opened on a personal note and I shall continue on it for a moment. Obviously, I do not look forward to young people in my household registering, whom I dearly love, and I have just described their numbers for the Senate. I do not look forward to them going to war. But I think for those who are predicting such ominous things the point we have to make, and I think it has become more obvious in the past 3½ years, is that the way to have peace is to be strong. I do not believe that is a cliche. I believe if the President was right when he said the situation in the Middle East brought us into a very serious confrontation and was a dangerous situation for America, as dangerous as any since the Second World War, it appears to this Senator that what that is saying is that an America that has grown weak militarily, an America that for one reason or another has sought to fund its military with less rather than more during the past 15 years, an America that does not really seem to know its role in the world is the kind of America that invites war.

It is obvious to this Senator that the best way to make sure that my children and millions more in this country do not have to go to war is to send some rather significant signals anew to the world in terms of what we are about and what we are prepared to do to maintain peace, not maintain war.

So, while I rise to use my hour in the Chamber, and in a sense the opponents of the registration of young men are those who are asking that this be delayed to a maximum, while I agree that they deserve every opportunity under our post-cloture rules, I agree to take some time, but I do not want anyone to think that I am not for registration.

We have a tremendous tendency in this country to make an awful lot more out of things than they really are. We have had the authority on the books to register our young people for decades. The only issue is whether or not we want to provide the few million dollars, $13-plus million, so that this process can start, and whether or not in the process of appropriating that money we want to set the ages and whether or not we want to include young women.

I do not think this is a monumental thing, but I believe our young people need to know a little bit more about it. This is registration, not a draft. As a matter of law, Congress would have to take action before we could draft. The proposal before us clearly says that. That would be the case even if it did not say it. There is no authority to draft without concurrence by Congress.

We who pride ourselves in being the premier free Nation of the world, and we are that, I submit will either remain that for the next 3 to 5 decades or there will not be much freedom around the world for other people.

It just does not seem to me that if we believe that, if we understand our role, if we understand that most of the free industrial nations, particularly the NATO nations, already have some kind of mandatory military service for their young people, the core, the bastion, the base, the strength for the collective alliances that will protect freedom, the strongest part of that does not even have registration. We are maintaining whatever military capability we have not only without the draft, which I hope we can continue to do without for many, many years to come, but we do not even have the capacity to know where our young people are in the event we need them.

For some countries that is not a very significant thing, not to know where they are, how old they are, where they live, but when we have a free nation like ours, with people moving about, people changing their role in life, it is pretty difficult to consider what might be available, when we do not even have one central system to know how many young people of a certain age and how many young people are even available to be looked at in the event we have one of the situations which requires that we ask them to join our military with the force and effect of law saying that it is their duty and responsibility.

Let me just speak a moment about freedom. Many people do not perceive the strength of this historic document, our Constitution. Many thought it just gave a few people here in the United States some rather extraordinary rights, created a rather extraordinary form of government. But it seems to this Senator that is such a fantastic experiment in self-governance that that document was just designed to impose some responsibilities on the people who were the beneficiaries of that extraordinary kind of freedom.

I submit that our Founding Fathers never would have guessed it, but the truth of the matter is it is just such a noble experiment. It was destined to impose responsibilities on America well beyond those particular responsibilities that work inward on America. When we consider the sense of this freedom, it was destined to place some responsibilities on us as a nation to try to preserve freedom in the world where it was challenged by others.

I think history reveals that that observation on my part is correct. We have on two occasions been called upon in the First and Second World Wars to do just that.

If we are going to maintain opportunity for people in this world to be free and to make some serious effort at self-governance, to make some serious effort at getting ahead, then we are just going to have to assume some rather significant responsibilities on our shoulders that we do not like, and when the Senate votes on whether or not it wants to adequately pay our military, whether it wants to adequately provide them with equipment, whether it wants to build weapons systems to keep America strong, when we vote on whether or not we want to be in a position to mobilize as quickly as possible, we have to understand that for America to remain free we are going to have to be strong, we are going to have to have national interests that are beyond our boundaries; we are going to have to join with other nations that want freedom in sending strong messages to those who would like to do away with freedom in the world, or, as I see it, we will be in default.

We will have abandoned that rather significant responsibility that Constitution put on our shoulders when it gave this extraordinary freedom to the people in the original colonies that were part of the constitutional document and the hundreds of millions who now live under it in these 50 United States.

The 1948 Selective Service System's basic mission was to be prepared to supply the Armed Forces manpower adequate to insure security of the United States during time of national emergency. That is when it was established, in 1948.

Since 1973, the armed services have relied on volunteers to fill military manpower mobilization requirements. However, this system remains the primary vehicle by which young people will be brought into the military through reinstituting of the draft if mobilization occurs, and I stress, if it occurs, and if ever, and if and when the legislative bar to reinstituting the draft is lifted.

Mr. President, I think it should be obvious to our people in this country that since 1973 we have been involved in a rather significant experiment, the experiment of providing for the manpower needs for the American military on an all-volunteer basis.

Everyone, I assume, would like that system to work. It was much heralded in 1973 and certainly at that time and even to this date we are very proud of the fact that we have been able to maintain a military, perhaps not what many of us think it should be, but we have maintained that since 1973 without a draft. When we consider the kind of world we live in, when we consider what other countries are doing, both friend and foe, it has been a rather significant challenge to this great Nation. There can be no doubt about it, at least from this Senator's standpoint. If the All-Volunteer Army will work, it is far superior to the draft.

On the other hand, while I am favoring this registration and will vote for it, I am quick to say that I do not believe we should abandon the All-Volunteer Army. Quite the contrary. It is my opinion that at least over the last 4 years, 3 years, we have put our All-Volunteer Army, and thus our military, in extreme jeopardy, not because the All-Volunteer Army will not work, but rather because, for the most part, the Congress of the United States has been preoccupied with spending money, spending the taxpayers' dollars for all kinds of good things, all kinds of things they are certain are necessary, all kinds of things that Congress continues to say we cannot do without.

For the most part, I do not agree with that. But while we have been busy doing that we have somehow fallen victim to the lunacy of saying that we cannot afford pay for our military needs, we cannot afford to compete any longer militarily with the Soviet Union and her bloc allies. That is pure hogwash.

If our people understood, if our leaders were forthright and clear in discussing the issue of whether or not this great Nation could afford to pay our military what they deserve, to provide our military with its needs second to none, if we could just get the point across that the American economy, with its ups and downs, with its propensity in the last 10 or 12 years to have peaks and valleys of recession, unemployment, and then high employment, if we could just make the point that with all of that, the economic capacity of this Nation is roughly 300 percent as great as that of the Soviet Union, that the United States, its NATO allies, and Japan in gross productivity as late as the end of 1979 outstrip the gross productivity in material goods and resources of the Soviet bloc by an estimate of three, three and a half, by some estimates, four times as great, how can a country which clearly indicates that it wants to protect its freedom, that it is now related to the world, that we have to live in the world, we have to trade with the world, that we have to participate in decisions with other countries in the world, how can we truly say that we cannot afford an appropriate military, how can we truly say we cannot compete, that we cannot equip, and we cannot adequately pay?

Yes, it is more costly for a great free nation to have a military; yes, it is more costly to have an all-volunteer Army; yes, it would be much cheaper if we did not have to have an all-volunteer Army and acknowledge that the way to keep good people there, younger men, is to pay them well, to provide them with good benefits.

But we have made that decision. We made it with open eyes. I was not here when that decision was made, I was not here as a Senator, but from what I have learned it was clearly understood that the American people were going to be asked to pay for the privilege of having an All-Volunteer Army in a dangerous world where most of those in competition with us, most of our friends had an army, a military, that was not all-volunteer.

So while I support registering our young men as provided in the authorization, the moneys given here in this bill, I believe a great economic system like ours can do much better than it has in maintaining an All-Volunteer Army. I believe there are many things we are going to do this year to make that a more stable, a stronger manpower situation for the military.

I also believe there are other things we are going to do in the future to try to maintain a diversity in that military and in that manpower pool, and I believe we are going to have to look to some educational benefits, some shorter term careers than we thought were necessary in the past, followed by some rather extraordinary educational benefits for young men and women who join the military.

All of these things we can do and we must do. The mere fact we are going to have registration is not going to deter this Senator this year and in years to come from supporting both in the Budget Committee and here on the floor adequate resources to pay the men and women who voluntarily join our Armed Forces.

I think it is our primary responsibiilty to remain strong if we intend to remain free. I truly believe the American people, if given a shopping list of programs, a shopping list of American domestic goals, and if we included in that, "Do you want to spend an adequate amount to pay the young men and young women who serve in the military and provide them with military equipment, hardware, facilities second to none, would that be one of our primary goals?", I believe the American people would respond with an "aye" by an overwhelming majority.

Yes, I understand there are other things we must do. But the point I want to make is we do not have the luxury of taking care of other domestic programs at the expense of the military any longer. In fact, I think one of the reasons why we are here debating this issue is because indeed we have precipitated the dilemma and the problem we have in the All-Volunteer Army manpower situation to some extent by our shortsightedness in not paying them adequately, not providing them with adequate benefits, under the All-Volunteer Army concept.

So it seems to this Senator, as we look about us in the world, as we look down the path to see where this country is going to be and what its goals and objectives are, quite obvious while we must continue to pursue with vigor adequate resource allocation to our military, all aspects of it, strategic, conventional, manpower, that the time has definitely come when we have to take cognizance of the fact that emergencies might very well come into existence, come upon the scene, and we might be confronted with some extraordinary world conditions that could occur and there would be a need to mobiilze. In that situation, it seems to me, it is not asking too much for us to know where our young people are, how many we have. If that saves the 70-plus days that manpower specialists say it will save, it will be well worth it. In fact, it could be the most significant 70-plus days in the history of the Nation.

On the other hand, if it saves less than that, it would still be worth it. If we never need to use it, it would still be worth it.

If this is part of a renewed commitment, if this is part of building back American will in the world and here at home in terms of peace through strength and a more cognizant and firm idea of what we are about, a stronger and more reliable relationship with other countries, with a real knowledge of where America stands, then we may never have to use those vital days that registration might provide us in the event of mobilization.

I do think there are some of our young people who still believe this proposal is a draft proposal, who still believe that somehow or other there are those of us in Government who want to take advantage of them, who still believe that America's motives are not good.

Well, in a free and open society I guess it is fair to say that one of the strengths is that we can all have opinions of our own; we can, for the most part, talk about whatever we would like to talk about; we can, for the most part, challenge our Government and argue with it.

I think it is obvious, at least to the Senator from New Mexico who has been talking here for 30 or 40 minutes, that I am as concerned about the future of those young people who might not want to register, who might be worried about whether we are going to abuse or use them, it is obvious that I am as concerned as they are, and maybe more. I just got through saying that if this country was to mobilize with or without this, and this country was to take both young men and young women into the military tomorrow morning, this Senator would have four children who would be part of that, a 22-year-old daughter, a 20-year-old son, 18- and 19-year-old daughters. As I indicated, that concern would be there for a while because there are four more behind them.

So I think our young people are going to understand that if we conduct ourselves properly as a nation and continue to show concern for them, concern for our Nation and its role in the world, they are going to understand that a strong military is necessary to preserve the peace, and I hope they understand that this measure is not going to draft anyone. It is merely a tool in our arsenal in the event of emergencies, if something happens.

I hope they also know that for the most part a new trend is developing, at least in the Senate, a trend toward putting enough resources into the military to assure, to give the All-Volunteer Army every legitimate opportunity to work, to make sure we are not embarrassed with military men and women on food stamps, not embarrassed any longer; with young men and women who serve in the military finding they are absolutely at the poverty level.

I hope this trend is viewed by our young people as a commitment to make this All-Volunteer Army work and, as I indicated, to maintain peace through strength.

If this is believed, then it seems to me registration as a part of an overall American preparedness will be understood, and I do not really believe the prophets of gloom as to how our young people are going to respond, I do not believe that is necessarily going to happen.

(Mr. LEAHY assumed the chair.)

Mr. DOMENICI. Passage of the Selective Service Act of 1917 created a selective service with most of the present characteristics.

Within 3 weeks more than 10 million young men were registered.

Their classification was based largely on information on the registration cards. Of course, today's refinements of selection had not yet been developed. That is back in 1917.

Each local board had a doctor member. Registrants who passed their quick physical test were then and there on the spot sworn in as soldiers and sent to training camps. Psychiatry was not a generally accepted medical specialty. The idea of a man, varying from the norm, was unfit to defend his country was not generally accepted. In a swift and broad application of the selective idea, an Army of 700,000 men was raised within months.

There are many antecedents for Selective Service. Men have always subscribed to the proposition that every male member is obliged to defend the group, tribe, or State. However, the obligation is seldom recognized with enough force by enough citizens to remove the need for compulsion. Selective Service is the ultimate resort of a free people when their freedom is threatened. It is democracy's way of raising armed forces large enough to raise war and to raise them with enough selective forethought to affect other aspects of the Nation.

It is interesting, I have started my discussion here this morning talking about my family and my own personal interests in understanding and analyzing this bill that is before us, in light of my family, my eight children. I just read a passage about 1917 and the Selective Service came about them. That reminded me to go back and just think for a moment about that particular registration. I have just described it was fundamentally a very simple system, much different than what we have now. But I was just thinking about personal aspects of that one.

I remember my father telling me how all that occurred to him in 1917, when he was living in Albuquerque, N. Mex. He was a young man who had come over here from Italy. He was working in a grocery store which he ended up, fortunately, being the owner of. He did not know how to write English; never had gone to school. And it happened just as I just read it: He showed up, registered, on the spot kind of physical. Of course he had to liquidate a business, so they gave him 3 months. He did not have anyone to run his business, so they told him, "Well, we will give you 3 months. You get rid of your business and you will go off to war." That all happened, as I indicated earlier.

Somehow or another it is the destiny of this great constitutional freedom that we enjoy that if we are not strong, if we are not concerned, we will let tyrants or tyrannical governments push people around. They will get pushed around and pushed just far enough and then we will have situations like the one in 1917 or 1941. That is why I believe it is so important that we not be misled. Strength, preparedness does not make for war; quite to the contrary, weakness, unpreparedness invites it.

The Selective Service is the ultimate resort of a free people when they perceive their freedom to be threatened. It is the way of raising an armed forces large enough to engage in war, if you have to, and to raise them with enough selective forethought to avoid imperiling other aspects of national interest.

I might say, in talking with young people, including my own, there is another aspect of both registration and draft that they are concerned about. I have spoken about a number of concerns heretofore. But they are beginning to be more and more aware of the fact that, in past confrontations, in particular the Vietnam war, there was a failure on the part of our Government to make sure that people could not easily avoid the draft because they were wealthy or because they had a particular role in life or were in college.

We now know that we let an awful lot of people, young people, get out of that draft for reasons that our young people now are rather suspicious of, and justifiably so.

As I close my few minutes here on the floor, I want to say that I think it is imminently urgent that our national leaders and those who are talking about military preparedness, talking about eventual mobilization and talking about registration, send a clear signal that we intend to treat them all the same, that we are going to have a system that says, "You are going to serve. You are going to register and we are not going to say you do not have to register because of a certain status in life, because of a certain economic condition, or because you are doing a certain thing that you think is important. You are all going to have to go."

And if we ever get around to the draft—and I hope we do not, as I have indicated heretofore—that clearly our young people understand that it must be fair. That means that everyone must have an equal opportunity to share in that risk. We cannot show favorites. We cannot have any kind of glaring exemptions or exceptions. We either take them all or, if we do not, we have to have some kind of absolute lottery system which makes sure that there is a sense that we are not treating one group of young people different than another.

It seems to me that we are going to know here in a few months whether or not—this will pass, obviously, if not today, if not tomorrow, the day after—but we are going to ask our young people to register, young men as described in this bill.

I believe we will find out rather quickly whether or not the prophets of gloom with reference to registration are right or wrong. This Senator truly hopes that those of us in positions of leadership in this country will be forthright, honest and truthful to our young people. On the other hand, I hope others do not distort and make this situation different than it is.

As has been said over and over here, it is not reimposition of the draft. It does not indicate the draft will occur without further action of the Congress. It in no way abrogates that requirement. At this point in time, it is providing a great Nation with an inventory, an assessment, an objective analysis of its resources, of its human resources in the event that resource is needed as part of our country's overall mobilization.

Hopefully, it can be administered fairly, easily, and in an unburdensome manner. And I hope that those in charge of it will understand that it is very important that it be handled with a minimum of confusion; that they ought not start it until they are absolutely ready; that they have in mind making it as simple and easy for our young people, so that what we have been saying—those of us who support it—will come true, that it is not going to be a significant change in their lives, that it is just going to be like going down to register to vote or something as simple as that.

I understand that the Senator from Nebraska has some thoughts about this situation. I see him here in the Chamber. I wonder if he might share with the Senator from New Mexico for a few moments his thoughts about this appropriations bill, since I know he is a member of the Armed Services Committee. While he has only been here a short time, it is obvious that he is dedicated, he works hard at it, and is certainly gaining great credibility in terms of an understanding of our military needs and the problems that confront assigning resources in this Nation between other programs and our military.

Will the Senator share, for a few moments, his thoughts with reference to this measure before us?

Mr. EXON. I thank my friend from the West very much. Does the Senator have some remaining time?

The PRESIDING OFFICER. Is the Senator from New Mexico yielding the floor.

Mr. DOMENICI. I am not yielding the floor. I have some remaining time.

Mr. EXON. Would the Senator yield for a question on his time?

Mr. DOMENICI. I would be delighted to do that.

The PRESIDING OFFICER. The Senator may do so.

The Senator from Nebraska.

Mr. EXON. The question I would like to pose first comes in the form of a statement. I want to congratulate my distinguished colleague, who has, I think, very adequately in his remarks this morning outlined the concerns that the majority of the Members of the U.S. Senate have for the matter before us.

Both the Senator from New Mexico and the Senator from Nebraska have been supporting the concept of going ahead with male registration from, basically, the outset of this discussion under the attempted cloture vote and through most of the votes last night.

I believe the Senate has said it very well. I guess that none of us know for sure—for sure—whether we are doing the right thing.

As he points out, I am a member of the Armed Services Committee. I am also on the Manpower Subcommittee of the Armed Services Committee. We dealt at great length on the overall problems of manpower.

As has been said here time and again, we are concerned about our military hardware, about our military posture, about the future of our funding of our whole military budget.

I think that the Senator from New Mexico and I certainly agree, that if we are not going to have the manpower to get the job done, then everything else falls of its own weight.

Therefore, I say that I have appreciated very much working with the Senator from New Mexico on this and other issues.

All I can say is that, hopefully, with God's help, we have come to the right decision. Hopefully, with God's help and direction, we can continue to make the decisions in the Congress of the United States that get us further and further away from an international conflict, rather than closer and closer to an international conflict, which all of us recognize under the existing abilities of men to destroy each other, could be the last war of all wars.

Therefore, I thank the Senator from New Mexico very much for yielding to me.

I just ask in closing whether or not the Senator from New Mexico feels that the defense budget that we have talked about and that he and I have worked on in the budget conference committee—does the Senator from New Mexico think that the amount we now have targeted is a minimum amount that is necessary, and does the Senator from New Mexico feel that the amount that is presently structured in the budget and House conference on the military appropriations would be enough to help enhance the All-Volunteer Army, that, certainly, the Senator from New Mexico or this Senator are not against; does he believe we have provided enough money in there to provide for the all-volunteer service to have one more chance to get the job done before we would have to consider, possibly, at some time in the future, going to some type of a peacetime conscription?

Mr. DOMENICI. I say to my good friend from Nebraska, before responding to his question, once again I thank him for the work he has done in the area of the armed services and on the budget, and for the pleasure of working with him on them.

I have no doubt in my mind, for those in this body who say that we want to give the All-Volunteer Army one more real, tough, bona fide opportunity to prove it will work, and for the other group who might be saying that they do want to register, they are not concerned about the manpower end, it is all coming along and is all right, everything is rosy, I say to all of them that unless we put in something very close to what the Budget Committee recommended for function 050, military preparedness, then we will not have sufficient resources to do the minimal things in manpower that must be done to maintain an All-Volunteer Army, to refurbish it, bring it up to speed, move it in the direction the American people were promised, and presumably accepted as a responsibility in 1973, when we went to the All-Volunteer Army.

We must have an across-the-board pay raise for all men and women in uniform, and it cannot be 4, 5, 6, or 7 percent. It has to be over 11 percent. It is the only way to go. I submit that the American people will support that.

They are embarrassed to think that we cannot find enough money in a budget of almost $600 billion to pay our men and women in uniform enough to keep them off the food stamp rosters of America.

They are embarrassed that they cannot provide for their families, the young men and women in the military.

In addition, we must have a major incentive pay system for middle management people with longevity if we intend to keep them.

They are part of an American economic system. They are subject to the same desires and to the same competitive instincts. If they have been in the service 15 years and the private sector offers them substantially more than they can get in the military, their patriotism will carry them only so far. And that system will cost. That incentive for middle management people, particularly officers and the like, will cost over half a billion dollars a year.

When we add these manpower needs to the operation and maintenance needs, to the energy needs, to certain tactical systems that are in disrepair and that we need to move ahead on, there is no doubt that money something close, perhaps not exactly, but somewhere close to that recommended by the Senate and House budget conferees, really is necessary if we make this work.

Mr. President, how much time do I have remaining out of my hour?

The PRESIDING OFFICER. The Senator from New Mexico has about 3 minutes and 1 second.

Mr. DOMENICI. I reserve the remainder of my time and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I have an amendment on file at the desk. I shall not call it up at this time.

I would like to discuss the debate to date, the proposal for registration, and especially the proposal for registration as presented by the President. In my opinion, that proposal is inadequate without including classification.

As ranking member, or ranking Republican, on the Manpower and Personnel Subcommittee of the Armed Services Committee, I have followed the issues of selective service registration, classification, and the draft very closely for the past year.

After only a few months of hearings in 1979, our subcommittee became convinced that because of the steady decline of the Selective Service System, the United States would have significant manpower deficiencies if we had to mobilize in the event of a national emergency.

In response, the Director of Selective Service claimed that within 10 days his office of 100 people could quadruple in size, man thousands of selection sites around the country, and register 6 million men.

Between day 10 and day 15, he promised to process 40,000 records per day. This is the plan against which the President's proposals are being compared by those who oppose registration.

I might add that this post-mobilization registration plan essentially was developed and prepared by the Director of Selective Service in somewhat greater detail literally hours before the President made his proposal that we go to registration.

I would also point out, that later on in the Armed Services Committee, after the subsequent proposal of the President that we initiate pre-mobilization registration, the Director of Selective Service, who is the President's appointed man to handle and to administer such a program, was asked, "When did you know about this proposal?" His answer was, "When I saw it on TV the night it was proposed."

In practically every step of this plan, the subcommittee concluded that Selective Service projections were overly optimistic and that there was too much risk inherent in a post-mobilization system of registration and classification.

With those conclusions in mind, the majority of the subcommittee felt it was prudent to recommend legislation—which we did last year that would initiate registration and classification now, insuring that manpower assets would be organized and accounted for prior to a national emergency.

In the course of last year's hearings, the Carter administration vehemently opposed registration. In fact, the Selective Service plan now being used as argument against the President's proposal is the very same plan the administration used to argue against registration last year. Because the President's change of heart on this issue is based on political symbolism rather than his assessment of manpower mobilization requirements, I cannot help but be skeptical of his proposals.

First, as I previously said, the Director of Selective Service had no idea that the President was about to change his mind on this issue. In addition, the President's interagency task force on this issue is run by political appointees in the OMB, not by the Selective Service.

Second, he included women.

In testimony presented by high-level civilian and military officials, witness after witness confirmed that there is no military need to draft women.

Third, the President does not favor classification, which was the real grist of the manpower mobilization planning.

Last, the President proposed what has

to be one of the weakest forms of registration for young men, and that is the filling out of a small postcard.

I have a copy here of a Selective Service System registration form.

On this form we have date of birth, sex (with two boxes: one for male, one for female), social security number, full name, current mailing address, permanent address, phone number.

Finally, one whole line is dedicated to, "Check here if we may give your name and address, telephone number, to Armed Forces recruiters." This is probably the only reasonable and sensible thing they recommended in this registration process.

Our problem is our readiness problem. Our problem is a need to identify pools of manpower and specific groups of people who are skilled in particular trades. We need to know where our engineers are, where our computer operators are, where our electricians are, where our mechanics are.

Mr. President, I find it hard to believe that this post card proposal as submitted by the administration will accomplish the President's foreign policy objective. That objective was verbalized in the evening of the State of the Union address when the recommendation was made for registration: to demonstrate America's resolve in the wake of the Soviet invasion of Afghanistan. Filling out a postcard voluntarily at a post office is not going to demonstrate America's resolve nor is this proposal really directed at tackling real manpower mobilization problems.

I might take a few moments at this time while the distinguished Senator from Georgia and the chairman of the subcommittee, of which I am ranking minority member, is in the Chamber to list some of the reasons I believe that are essential for including classification along with registration.

Let me, first point out where I believe the President's proposals are the weakest.

Because the President, the Department of Defense, and the Selective Service System all opposed registration last year a coherent presentation by the administration of the reasons for registration could not be and have not been effectively made, in my opinion.

Only a few days after the President's dramatic turnaround on this issue a report from inside the Selective Service System arguing against premobilization registration was leaked to the press. Clearly the sentiment of those inside selective service if not the intent of those involved was to produce a plan arguing against premobilization registration.

The President's task force for selective service revitalization was not headed by the Director of Selective Service but by an official of the Office of Management and Budget.

All these considerations point to the fact that the President is advocating selective service registration as a symbolic gesture of resolve—not because he believes registration will significantly improve our manpower mobilization capabilities. I'm sure this will be remembered as a classic case where the bureaucracy simply cannot turn itself around fast enough to meet changing political demands.

Next, against the advice of senior legislators in both Houses, and I believe of the chairman of the Senate's Manpower and Personnel Subcommittee, the President requested that women be included in his registration plan. It was understood by many that the President's decision to include or exclude women from this plan would be viewed as a sign of his resolve to move the matter quickly through Congress.

Out of a sense of equality, the President chose to propose registration of women even though his military chiefs as well as all of his civilian department heads testified that there is no military need to do so.

Congress will work its will regarding the registration of women. But it is well to remember, as the leadership impresses on the Senate the need to pass this joint resolution as soon as possible without any amendments, that it was the President who placed in his proposal one of the principal obstacles to its speedy consideration.

Another major concern is the administration's attitude towards classification. The purpose of current law regarding registration and classification is to provide the Selective Service System with accurate and timely information about the status of registrants. However, rather than make a commitment to proceed with meaningful classification the President has chosen to place everyone in an identical holding category. Thus, according to the President's proposal, when mobilization becomes necessary there would be a quick scramble to screen, test, classify, and examine registrants.

This situation is viewed as unacceptable to those who would prefer a vital system of registration and classification, and it is also unacceptable to those who believe they have a right to file, and have thoughtfully considered, a claim of conscientious objector. In my judgment, there is no good reason why this and other procedures should be postponed until mobilization.

Mr. President, I believe that it is essential that my colleagues and the American people understand that registration is the least that needs to be done; and that what is being done in this registration plan can be and must be improved upon.

The Armed Services Committee received extensive testimony on this issue last year and many witnesses testified that the entire range of Selective Service procedures, short of induction itself, should be revived.

Gen. McLennan, Deputy Chief of Staff, U.S. Marine Corps:

> My personal view is that we need to revitalize the Selective Service System and it should include both registration and classification.

Vice Admiral Baldwin, Deputy Chief of Naval Operations for Manpower, Personnel and Training, U.S. Navy:

> I think we should have registration and classification now. We certainly should have the machinery that we know will work to produce manpower as fast as possible.

Lieutenant General Yerks, Deputy Chief of Staff for Personnel, U.S. Army:

> It is my personal belief and conviction that we should go to registration and classification immediately this year, (1979).

Lieutenant General Davis, Deputy Chief of Staff for Manpower/Personnel of the U.S. Air Force;

> For the Air Force I believe that the all-volunteer force can remain a viable peacetime effort. I also recognize that the risk of having insufficient military personnel available during a national emergency is a vital issue. As a result, I believe, and it is the Air Force position, that registration and classification is a crucial aspect of manpower mobilization.

Two of the service chiefs, General Rogers, now at NATO, and Admiral Hayward, support a draft for the Reserves right now. But all of the service chiefs were unanimous in their support of both registration and classification last year.

General Wilson, Commandant, U.S. Marine Corps,

> Yes, sir, I think classification is a follow-on to registration and should also include examination. I think examination should probably come first—medical examination and full classification in that order, depending again on the administrative difficulties involved. It is going to be difficult to start up again.

General Allen, Chief of Staff, U.S. Air Force:

> There are certain steps of classification that can be done with very little cost or administrative difficulty associated with registration. The first big change, as I understand it, comes up with respect to physical examination. I believe that limited classification should certainly be done as part of registration, and I am frankly unsure in the matter of weighing expense against benefit as we get into the physical examination question.

Admiral Hayward, Chief of Naval Operations,

> I believe that if your legislation would call for registration that the time required to get the mechanism moving and to be effective in registering would allow us more time in determining where the next step ought to be medical and classification. There is a cost to that and one ought to do it, in my opinion, in conjunction with the decision to go to the draft for the IRR. If a decision is not to go in that direction, then I am not so sure I can say now we ought to make the investment.

General Rogers described how the draft for the IRR, which he advocated, would work:

> Registration would have to be instituted. Classification would then have to be instituted. Seventeen categories of classifications are required and 16 can be done just from registration if you have the local boards operative which they should be.

Mr. President, while I believe it is important to move ahead with classification and other procedures that would strengthen the President's plan, it is just as important that we recognize the problems and inequities contained in the current law. Various deferments and exemptions still exist within the Selective Service System which would prevent the potential burden of military service from being equally shared among those eligible.

As I mentioned earlier, these potential inequities are of concern to both those who favor and those who oppose registration.

The Senator from Georgia and other members of our subcommittee recognized this last year in S. 109 a bill which called for selective service registration, but suspended classification pending a review of current law concerning exemptions and deferments.

My amendment calls for a similar review. The Armed Services Committee will do likewise in the near future.

Mr. President, the issue of Selective Service registration is only a part of the larger problems associated with defense, manpower, and mobilization.

Whether one supports registration or opposes it, I believe Congress should have a broader perspective of those problems and the administrative and legislative tools required to solve them.

I have on file an amendment to House Joint Resolution 521, the Selective Service registration joint resolution, which requires that a portion of the funds appropriated for registration be used by the Director of Selective Service in conjunction with the Department of Defense to submit to Congress by January 1, 1981, a comprehensive manpower mobilization plan.

In the context of current mobilization planning, there exists particular concern that the inequalities associated with the old draft system would be perpetuated if a draft again should prove necessary sometime in the future.

By requiring review and revision of registration and classification procedures, as well as current standards for deferment and exemption, this amendment seeks to improve the efficiency of the Selective Service System and to avoid the inequities of past practices.

Finally, in addition to requiring a comprehensive mobilization plan, my proposed amendment requires that the Selective Service and the Department of Defense study the impact of registration and the forthcoming mobilization plan on the All-Volunteer Force.

It should be made clear to the President and to the American people that Congress does not intend to discard the All-Volunteer Force, and that all efforts should be made to coordinate registration and potential mobilization plans with ongoing recruiting and other programs to improve the status of the Active Reserve, and National Guard Forces.

Even though Congress and the Senate are seemingly divided on the need for registration, we ought not to be divided on the need for a sound and coherent manpower planning. Congress should insist that the executive branch demonstrate commitment and direction to confront manpower mobilization problems in a consistent and systematic fashion.

It is regrettable that the Senate is expending such great effort, in the debate of such a modest proposal, at the expense of such a vital issue. Instinctively Congress and the people know the issue of Selective Service registration is only a part of the larger problems associated with defense manpower mobilization. Whether you support registration or oppose it, I believe Congress ought to have the broader perspective which would be mandated by this amendment.

If approached from a logical perspective, a comprehensive plan similar to that which I propose should have been prepared in advance of the President's request for registration funding. Indeed, it should have provided the rationale for registration. As it happened, the abrupt 180 degree reversal of the President's policy provided no time for such a plan. The plan presented by the President in February addressed peripheral issues of interest to Congress—the potential for computer registration, compulsory national service, and the role of women, certain personnel initiatives—but it did not address at length the central issue of Selective Service reform. My amendment, by requiring review and revision of registration and classification procedures as well as current standards for deferment and exemption, seeks out measures which will improve the efficiency of the Selective Service System while avoiding the inequities of the past.

In a number of defense manpower areas Congress is simply frustrated in dealing with this administration. It is assumed that the President does not support a return to the draft, but I know that many in this Chamber would question whether or not the administration fully supports the All-Volunteer Force. Successive pay caps, and the administration's reversal regarding the Nunn-Warner initiatives are only the most recent examples of the conflicting signals being sent to the Congress on manpower issues. Congress deserves a statement of intent which can be measured against legislative proposals, backed by requests for appropriations.

In my judgment, the President's representatives never made as effective a case as is made by the Senator from Georgia in favor of registration, and I compliment him on the excellence of his presentation.

The President proposed registration because of the changed international situation; and given the President's track record on defense and foreign policy matters, those of us concerned about manpower mobilization problems may properly question whether or not, if the international situation improves, the President might again decide to change his mind.

As I said, it is important that the President and the American people know that Congress does not intend to discard the All-Volunteer Force, and that all efforts should be and will be made to coordinate the registration and potential mobilization plans with ongoing recruiting and other programs to improve the status of active, Reserve, and National Guard Forces. In other words, if we are going to send signals and if we are going to symbolically show our resolve, then let us make it more real. If we are going to have a national debate on this issue we ought to be debating a more substantive plan, not something of which 99 percent is political and only the rest has anything to do with what is reality. Let us send the message around the world to our friends, our allies, and our enemies as well that we mean business.

Mr. RANDOLPH. Mr. President, will my friend yield on my time?

Mr. JEPSEN. I would be very pleased to yield to the Senator from West Virginia.

Mr. RANDOLPH. I just entered the Chamber. Was the Senator mentioning the Air National Guard? Did I catch that?

Mr. JEPSEN. I was mentioning the active, the Reserve, and the National Guard as a need to strengthen them.

Mr. RANDOLPH. To keep those strong?

Mr. JEPSEN. Yes.

Mr. RANDOLPH. I would just like to add that earlier this morning I did speak of the contribution made just in the one State of West Virginia where we have 1,651 men and women who are members of the Air National Guard; 822 are based at Kanawha Airport near Charleston, W. Va., and 829 in Martinsburg. Their operational aircraft is the C–130.

The West Virginia Air Wing has flown, in the past 2 years, missions to Greenland, Panama, and to Central and South America. They sometimes do not receive the credit from the general public back home that they deserve. The people in the Air National Guard and in the National Guard are on the home front helping us. They need our support.

I appreciate the opportunity to make this further observation.

Mr. JEPSEN. Finally, Mr. President, I should answer the question of my colleagues as to why the proposed amendment for manpower management planning, and a review of the procedures and the criteria set forth for classification in what is a somewhat dated military Selective Service Act, why that should be reviewed and as to just why this amendment is important to the bill before us.

It is true that I will have the opportunity to add such language to the defense authorization bill later this month, and that may well be what will happen.

But a comprehensive mobilization plan is already long, long overdue. The Senator from Georgia, Senator NUNN, requested revisions of current law last year, and I joined with him in that cosponsorship of S. 109, a bill which the Senate chose not to decide upon. Now the President proposes registration without having undergone a thorough review of the Selective Service System and without intending to proceed with more substantive initiatives.

That is the wrong signal to send to the Soviet Union. It is the wrong signal to send to our friends and our allies abroad. Just last weekend in an assembly of NATO personnel in Europe, with some in this body who were in attendance, was nearly unanimous in resolution requesting that the United States return to a full-time draft. Only because of the efforts of some of our U.S. representatives to work over and water down this proposal did it not succeed.

They are scared. To believe for 1 minute that to take a post card, and a post card alone, take it down to the post office at your convenience, and dropping it in, is going to shake pillars of every government around this world, and give them reinforcement of our resolve and will—that, Mr. President, is not very realistic.

Our danger domestically is that once we have this registration with the postcard, where we find out some names, telephones, addresses, and whether male or female and their current phone numbers. The danger is that this may be interpreted by the general American public as having solved our military manpower problems, because I assure you that out on the campaign trail this year there will be a lot of talk saying "Look what we have done to shore up our defense and our manpower problems in this Nation." Poppycock.

Mr. President, even though Congress is divided on the need for registration, we ought not to be divided on the need for a sound and coherent manpower plan. Congress should insist, and that is what this amendment does, that the executive branch demonstrate commitment and direction to confront manpower mobilization problems in a consistent and systematic fashion.

Mr. NUNN. Mr. President, will the Senator yield for just one comment on that?

Mr. JEPSEN. I am pleased to yield to the Senator from Georgia.

Mr. NUNN. I could not agree with him more. I think he is making perhaps the most important point of this whole debate in terms of the importance of dealing with the manpower question on a comprehensive basis.

It is dismaying to have sat in the Armed Services Committee, particularly in the position I have been in as chairman of the Manpower Subcommittee for 4 or 5 years, and to have seen really 6 or 7 years of executive branch, in my opinion—the word could be, perhaps, negligence, perhaps lack of diligence, but whatever—the lack of any kind of comprehensive plan in dealing with manpower.

We have been into the All-Vounteer Force during Vietnam. It was primarily, in my view, to take the heat off the college campuses. I do not believe there was any long-range view then. I do not believe there has been a long-range view since that time.

Since that time we have been putting out fires and now we have reached the stage, as the Senator so well described, where we cannot mobilize in an emergency, we cannot meet our obligations. I commend the Senator from Iowa for making this point. I commend him for his amendment, which I have looked at in some detail, and I want to assure him that I will do everything I can in working with him in the committee on the authorization bill, on the floor on the authorization bill, to come up with meaningful and significant mandates which will require these problems to be addressed.

And I share his view on the overall subject of classification.

Mr. President, this could be on my time. I do not want to use the Senator's time in this respect.

As the Senator knows, in S. 109 last year, we had a provision mandating a study on classification. The committee report was I think, very specific on this. If the Senator will indulge me just a moment longer on my time, the committee report stated:

> Registration provides for the means for early delivery of inductees in an emergency. Classification procedures would add efficiency to processing since those who would not be inducted would not have to be processed or examined at the same time as those being inducted. However, the committee believes that the categories and standards for exemption and deferment and the procedures under current law must be completely reviewed. The Selective Service System should be equitable and fair, and the committee feels that deferment and exemption categories should be limited to conscientious objectors, those morally, mentally and physically unfit and only such other categories that the President believes are necessary in the national interest.

So, my view, I would certainly agree with the Senator from Iowa, I think classification is important.

It provides the real means for revitalizing the Selective Service System by giving real experience and case development to the local boards. It allows appeals to take place. It provides for an official finding on the classification for conscientious objectors as well as the physically and mentally unqualified and other categories. It will provide for a smoother induction procedure should induction be necessary and should induction be authorized at a later point by the Congress.

The administration claims that a full classification and examining program would cost $200 million a year. But those costs result, to a large extent, from medical examinations for all registrants, and that would not be absolutely necessary in peacetime.

The amount of money could be cut down substantially, probably in the neighborhood of $40 to $50 million a year by not having full medical examinations.

A great deal of information can be gathered on medical and mental problems through a simple questionnaire and documents submitted by the registrant which would not be expensive.

So I want to assure the Senator from Iowa that I support the general thrust of his remarks and that I support the concept and need for an orderly system of classification. That view has been well known for some time.

I believe that the appropriate time to address that issue is on the authorization bill. And I believe that we should address it in the near future, not in the sense of immediately going to a classification system, because we, frankly, do not have the exemptions, we do not have the overall categories in mind. What we have is a system that was left over at the end of the Vietnam war. It was substantially improved at the end of the Vietnam war. Many of the inequities and unfairnesses were eliminated. So we had a much improved system at the end of the Vietnam war which we would have as a carryover today.

But it is essential that the various Vietnam war decisions be studied on the question of conscientious objectors. It is essential that the decisions of the courts interpreting various laws and making various constitutional rulings in this respect and in other respects be integrated in any system of classification. It is important that the court decisions that may have interpreted the law contrary to what Congress would want to express today, that those decisions be addressed in the legislative process, where there are not constitutional interpretations but rather legislative interpretations. All of this is important.

I would agree with the Senator, we should have been involved in this and this kind of study should have been ongoing for the last 2 or 3 or 4 years; but it has not. I look forward to working with the Senator from Iowa in the committees in the weeks to come and on the floor in order to require and mandate the executive branch to undertake such comprehensive studies to address these problems in a comprehensive way and to report back to Congress so that we can make our own assessment and make decisions in this vital area.

I thank the Senator from Iowa not only for his assistance in this respect but for his outstanding leadership in the Manpower Subcommittee and his participation in the Senate Armed Services Committee. He has made a tremendous addition to our committee and to our subcommittee and I thank him for his great input into the area of manpower and national security. Mr. President, I yield back to the Senator from Iowa.

The PRESIDING OFFICER (Mr. BOREN). The Senator from Iowa.

Mr. JEPSEN. Will the Senator from Georgia yield for a question?

Mr. NUNN. I will yield the floor if the Senator would like to be recognized.

Mr. JEPSEN. It would be on my time.

Mr. NUNN. I would be glad to answer a question.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. JEPSEN. As the Senator from Georgia knows, the Senator from Iowa has been advised that should this amendment be called up, there will be a question made on the germaneness and a point of order made. Is that the Senator's understanding?

Mr. NUNN. I would have to defer to the judgment of the Parliamentarian and the Chair on that point. I think there is evidence on the basis of past rulings that that may occur. But I could not venture my own opinion on that subject.

Mr. JEPSEN. Well, on a scale of 1 to 10, would the likelihood of it happening be something like 9?

Mr. NUNN. If the Senator from Iowa makes that assessment, the Senator from Georgia would not disagree.

Mr. JEPSEN. It is my further understanding that one of the reasons, at this point in time, for the amendment to be ruled nongermane is a general feeling, a very general reason, of course, but a general feeling that this proposed registration appropriations bill should be handled in the Senate with as few amendments as possible to insure its overall passage of the Congress at this point in time. Is that generally a correct statement?

Mr. NUNN. The Senator from Georgia has a general view that the House of Representatives may be reluctant to accept what amounts to authorizing legislation on an appropriation resolution. Historically, they have been very reluctant to accept any changes in the law on appropriation measures and, for that reason, I would think that it would be very difficult to get the House to accept significant changes in the law that relate to this overall subject but are not in the nature of appropriation measures themselves.

So the Senator, I believe, is correct in his assessment of my own apprehensions in respect to that kind of an amendment on this bill at this point in time.

Mr. JEPSEN. Is it the opinion of the Senator from Georgia, in that this bill proposes approximately $13 million to be provided for the balance of this fiscal year to implement the registration as proposed, should those funds not be exhausted, that possibly next January, or it is physically possible, to reach out from the authorization bill to recommend that moneys from this appropriation be used to provide for what we are asking for today. Would there be funds from this that could be used?

Mr. NUNN. My best judgment on that has to relate to the testimony we have had before our committee. The testimony indicates that all of these funds, or practically all of these funds, would need to be used for the specific purpose of registration and other areas related directly to that.

I would say to the Senator from Iowa, though, that I think there are other sources of funds that could be used in the Department of Defense and the Office of Management and Budget that would allow the Department of Defense and this administration to fully and comprehensively go through the type study and the type analysis that the Senator from Iowa is advocating.

So I do not believe that the study the Senator from Iowa is advocating is any way precluded by the lack of funds. I think what needs to be done is for there to be a clear mandate from Congress that we expect this kind of study to be undertaken. As I said to the Senator from Iowa. I believe the appropriate place for that would be on the authorization bill. I think there are plenty of funds in the Department of Defense, if they shift some funds from some items of less priority, to carry out this kind of study. I do not believe the Selective Service System itself, which is the base and the recipient of these funds, can provide the kind of comprehensive analysis that we need. I think it is going to have to be a much broader analysis by the Department of Defense, not just selective service.

Mr. JEPSEN. I thank the Senator from Georgia.

AMENDMENT NO. 1875

Mr. President, I would announce at this time and inform the Chair that I do not intend to call up my amendment, because of my concern for the importance of providing the correct signals, both abroad and within this country; that we are serious about our national security, that we mean business about our manpower problems. As has been indicated here by the Senator from Georgia and others in the last few days, we will consider and take up and provide for some form of direction or amendment that will demonstrate the commitment and the direction to confront our manpower mobilization problems in a consistent and a systematic fashion, and that will be done in the not too distant future.

Mr. NUNN. The Senator from Iowa certainly has the support of the Senator from Georgia in that respect.

Mr. JEPSEN. With that in mind, because of the importance, and the feeling that the Senator from Iowa has that to bring this amendment, as important as it is, to be presented here, with the resistance that there would be against it on procedural grounds—and I think resistance that would be effective enough to defeat it—and not to risk watering down or diluting the importance of this to this body or the general public, I do not intend at this time to call up the amendment.

I would suggest, however, that as we debate registration and debate the manpower problems, we are, indeed, debating the national security, and everyone is most sincere in their feeling for their country. I do not know of one person in this body who feels any more strongly about the country than Senator NUNN or the opposition to this, Senator HATFIELD.

I will probably not be able to support the final form of this registration proposal because I want to register on a recorded basis my concern and protest that we are not taking a full view and the administration has chosen not to look at this thing in the total picture, and the record will so show that.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield?

Mr. JEPSEN. I have not yielded.

Mr. President, at this time I would recall my amendment No. 1885.

The PRESIDING OFFICER. Under cloture, the Senator has that right, and the amendment is recalled from potential consideration.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. JEPSEN. The Senator yields the floor.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I thank the Chair.

Mr. President, first, I express my very deep appreciation to my colleagues who held forth during the night, into which situation we were forced by the leadership. I specifically express my appreciation to the Senator from Colorado (Mr. ARMSTRONG), who took the shift following my own, the Senator from Connecticut (Mr. WEICKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. SCHMITT), the Senator from Idaho (Mr. McCLURE), the Senator from Kansas (Mr. DOLE), the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Iowa (Mr. JEPSEN).

These Senators performed a duty far beyond that which would be considered minimum, or average, or expected, but, rather, it was extraordinary duty.

It provided an opportunity for other Members of the Senate to go home or find a place to rest.

I want to also put a special word of thanks out to the minority leader, the Senator from Tennessee (Mr. BAKER), who remained here throughout the entire night, filling in and maintaining the schedule of speakers that had been organized.

Mr. President, at this moment, I ask what the pending question is.

The PRESIDING OFFICER. The pending question is the resolution as reported by the committee and as amended by the Senate.

Mr. HATFIELD. Mr. President, I inquire as to how much time I have left.

The PRESIDING OFFICER. The Senator from Oregon has 88 minutes remaining at this time.

Mr. HATFIELD. Eighty-eight minutes.

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is House Joint Resolution 521.

Mr. HATFIELD. I thank the Chair.

Mr. HART. Mr. President, the issue before us—whether or not to return to draft registration—is one of the most important we will face this year. It may have a major effect on the lives of many young Americans. Its importance demands not only that we study carefully the specifics of the measure before us, but even more, that we relate this bill to basic questions about selective service, about the nature of our military manpower problems, and about our national military strategy and force structure.

One point should be clear to the Senate and the public: It is impossible to divorce a discussion of registration from discussion of the draft itself. We are talking about registering for a draft. If there were no foreseeable intention to reinstitute a draft, then there would be no need for registration. You do not buy a cheese knife unless you expect you may have some cheese, and you do not compel young people to register for a draft unless you can foresee drafting them.

Therefore, an appropriate question to ask is, what kind of draft are we registering for? Do we foresee a return to the draft of the Vietnam war, with its many exemptions and deferments? Do we instead foresee universal military service? Or perhaps universal service, but with only a portion of the personnel going into the military? Are there other alternatives, or combinations of these alternatives, we should consider?

In my view, while each form of conscription presents peculiar problems, a Vietnam-style draft would be singularly repugnant. The unfairness of a Selective

Service System which sent the uneducated, the poor, and the nonwhite to Southeast Asia in disproportionate numbers not only violated some of our basic national principles, it also contributed to serious national unrest. The opportunities for those with education and ample money to prolong their deferred status were almost endless. In the end, this form of draft proved to be so selective that selective service became something very different from national service, It was a bureaucratic press gang.

Is that the kind of draft for which we are now being asked to compel people to register? Since this legislation merely transfers funds into the current Selective Service System, such seems to be the implication. And if we are not voting for registration to support a Vietnam-style draft, then we do not know what kind of draft we are supposed to vote to support. We are being asked to take a leap in the dark.

The unfortunate fact is that the Senate knows more what it does not want—a continuation of current military manpower problems—than what it does want. There is no question the all-volunteer force has some problems. There is a general consensus that we should do something about them. But there the consensus ends. When we try to discern precisely what the problems are, and seek a consensus about specific solutions, we find great divergence of views, not only in Congress, but in the military and among the public as well.

Instead of moving to compel registration for some form of draft—what form we do not know—we need to define more clearly our specific manpower problems, the military manpower situation we do want, and the alternative courses for getting to where we want to be. We need to lay all the alternatives out before Congress and the public—not just alternative forms of registration or of a draft, but also alternative military requirements, proceeding from alternative national strategies. We need to know where we are going before we start to move.

It is not clear registration or even a draft itself would alleviate our most pressing manpower problem. Today, the services are filling their recruiting quotas, although last year they did not. But the principal manpower problem is not so much recruiting as retention. Ever-more complex weapon systems in today's military demand not barely trained recruits, but technicians with high levels of skill and with experience. The Navy recently had to delay sending a ship to sea for lack of crew—not lack of numbers of personnel, but lack of skilled technicians and petty officers. Testimony before the Armed Services Committee has stressed the retention problem more than recruiting. The Chief of Naval Operations, Admiral Hayward, has been especially strong in emphasizing that the problem is retention, not recruitment.

How will registration or even a draft help retention? We cannot draft trained technicians, nor can we make draftees instant petty officers. There is no way a draft can encourage those who have already completed their basic service to remain in the military. Is not then registration an answer to the wrong problem?

Some may concede that retention is our No. 1 manpower problem, and that registration or a draft will not help retention, but then argue that "military requirements," in peacetime or for mobilization, mean we need or may need a draft.

Are the military requirements as outlined by the Defense Department really valid? Do we need the current number of personnel in active service to give us the military capabilities we need? Do we need a capability to pour hundreds of thousands of new recruits into the military in a crisis? Would changes in our military strategy enable us both to improve our security and to reduce our military manpower requirement? Before any registration proposal can be justified, these questions must be addressed. Before we accept the Defense Department's stated requirements, we must examine them and see if they are real requirements, or only the outgrowth of outdated strategies, force structures, and practices.

Such an examination suggests, in my view, that the Defense Department's manpower requirements are based on three false premises.

The first false premise is that our Army requires approximately 780,000 men and women to generate its current 19 division equivalents. In fact, we should be able to form 19 division equivalents from a substantially smaller Army. The U.S. Army today has the lowest ratio of combat power to manpower in the world, among major powers. Its total Army division "slice"—the number of personnel required to man and support each division—is over 40,000 men. In contrast, the French slice is about 25,000, the German 28,000, and the Israeli 27,000.

A principal reason for our Army's inefficient use of manpower is its dated firepower/attrition doctrine. This World War I doctrine requires, not surprisingly, a massive World War I-type logistics and support system which absorbs large quantities of manpower. A shift to a maneuver doctrine of ground warfare would both improve the Army's effectiveness in battle and enable it to generate more combat forces for a given quantity of manpower. The Soviet Army, which has a maneuver doctrine, has a division slice of just over 10,000 men (including category II and III divisions; but the above U.S. figures also include four "category II" divisions, divisions which require a National Guard augmentation brigade).

If the U.S. Army could achieve a division slice of 25,000 men—about average for our allies—we could field our current 19 division equivalents with 475,000 men, a saving of about 300,000. If the Army needed 300,000 fewer men, would we still hear arguments for returning to a draft?

The second false premise is the concept of a "Nation in Arms." We still structure our peacetime military, especially the Army, to be capable of massive expansion in time of war through a return to a draft. Currently, the Department of Defense has a stated requirement for 650,000 draftees by 180 days after mobilization.

It could be argued that two types of ground conflict might require a draft: A prolonged conflict in a secondary theater, such as the war in Vietnam, or a war in Europe. I seriously question whether we should plan for the first type of conflict. Based upon our Vietnam experience, such wars seem to cost more than they are worth. While we may have to engage in short, sharp "police actions" in the Third World to support allies against external aggression, our current 19 active Army divisions, 3 Marine Corps divisions, and 8 National Guard divisions would appear more than adequate. Indeed, we do not have the air or sea transport capacity to move and support overseas more than a fraction of that force. A draft would not seem relevant to a short Third World conflict.

In terms of a conflict in Europe, we must look at the mobilization requirements in both the early phase, where rapid reinforcement is the stated objective, and in the longer term. Several questions can be raised about the requirement for early-phase reinforcement, and about the relevance of a draft to that requirement.

First. If, as seems likely, a war in Europe occurs with little strategic warning, can we realistically plan for early reinforcement? Where do aircraft carrying reinforcements plan to find undamaged airfields on which to land? Will prepositioned stocks be intact? Will highly vulnerable European port facilities be intact and able to receive the equipment for reinforcing units? How will arriving units assemble and move to battle areas while under attack? Unless these questions can be answered satisfactorily, and in my view they have not received satisfactory answers thus far, the rapid reinforcement requirement is open to question.

Second. Can we move existing units to Europe in the early phase of a conflict? Not all active Army divisions will have prepositioned equipment, even when current plans are fulfilled. No National Guard divisions will have prepositioned equipment. Without prepositioning, it seems improbable that units in their entirety be used for early-phase reinforcement. Can we not use the troops from the units we cannot move to Europe in the early phase to provide personnel replacements, especially in the combat arms, for the units which are fighting? If this is done, how urgent a problem is the current shortage in the Individual Ready Reserve?

Third. Should early-phase reinforcements be a European rather than an American task? The European NATO nations have a large pool of trained reservists, most of whom today have no unit assignments or equipment upon mobilization. Rather than the United States returning to a draft, would it not be more efficient for our European allies to take over the early-phase reinforcement task, using these reservists to form combat units? This would not put an inequitable burden on the Europeans if it were coupled, as I believe it should be, with an assumption by the United States of the task of dealing with the Soviet navy, and the expansion of our Navy to take on that task.

Until these questions are answered, I see little justification in the early-phase reinforcement requirement, and less in moves to return to a draft to support that requirement.

Looking at the requirement to be prepared for the (unlikely) eventuality of a European war lasting many months, a draft only makes sense if we can equip the troops we would be drafting. If the Department of Defense could draft 650,000 men within 180 days after mobilization, could it equip them? A modern Army requires not just rifles, but many pieces of complex equipment, which we today produce only at very limited rates: Communications and other complex electronic equipment, air defense and other battlefield missile systems, armored fighting vehicles, and so forth.

In 1941, such equipment was far simpler, and it was possible to raise production rates quickly, but that is no longer the case today. It is even less true for other services; modern supersonic fighters and warships are produced only at a low rate, and to raise that rate substantially would be both difficult and slow. I see little point in planning to draft masses of men we may not be able to equip.

Neither the early-phase reinforcement requirement nor the requirement to hedge against the possibility of a long war appear to justify the mobilization base arguments put forward by the proponents of registration, much less arguments for a draft. Yet these unjustifiable requirements not only serve as arguments in the Senate for registration, they also contribute, along with the firepower/attrition doctrine, to our current large division slice.

The Army's training base is designed to expand the Army in wartime by training draftees. If we recognized that the Nation-in-arms concept is no longer relevant to our real needs and restructured the Army's personnel and training system accordingly, much of the current training base could be transformed into combat units. This action would permit us to reduce the total Army division "slice" and thus our overall manpower requirement.

The third false premise is that the United States should view itself as predominantly a major land power. In fact, we are by nature a sea power, not a land power. Land forces inherently require a large quantity of manpower. In contrast, naval forces are capital intensive. As I stated in the white paper on defense, which I coauthored with former Senator Robert Taft, Jr., "because we can match our potential opponents only through qualitative superiority, it is of critical importance for us to concentrate our defense expenditures in those areas, where, out of each defense dollar, the minimum goes for manpower and the maximum is available for capital expenditure. Expenditures for land forces fail to meet this requirement: Out of each dollar going to the Army, 59 percent must be spent for manpower costs; out of each dollar of naval expenditures, only 33 percent is for manpower."

In 1964, the Navy had 917 ships in the active fleet, compared to 462 today. But it had only 143,000 more personnel. The ability of a Navy to support 100-percent more ships with only 27-percent more people shows that a shift from the current continental strategy to a maritime strategy would enable us to reduce substantially our requirement for military manpower. A larger and more powerful Navy would also provide a military force better suited to our island geography, our world-wide economic interests, and even to the defense of NATO. Our European allies can generate the land forces NATO needs, and they can do so economically by making better use of their reservists. But only the United States can counter the growing Soviet navy.

Registration in preparation for a return to a draft would merely prop up our current inefficient Army force structure, the outdated concept of the "Nation-in-Arms," and the incorrect continental strategy. In doing so, it would weaken, not strengthen, us militarily. We can improve our military capabilities and reduce our manpower requirements by undertaking needed reforms in our strategy, doctrine and force structure.

Thus, the arguments against registration seem compelling. We do not know what kind of draft we are approving registration for. If it is a Vietnam-style draft, we would be making a very serious mistake. If it is not a Vietnam-style draft, what kind of draft is it? We do not know.

We do not know what our military manpower goals are. We know the current Volunteer Military has problems, but we do not agree what the problems are, what ultimate manpower situation we seek to create, or whether registration or a draft will help us solve our problems.

We do know that retention, not recruitment, is our main problem today, and that registration or a draft will not help solve it.

And the "requirements" stated by the Defense Department seem to be based on outdated, inefficient and ineffective strategies, assumptions and force structures.

The issue here is not one of "pro-defense" versus "anti-defense." It is not pro-defense to favor registration, nor anti-defense to oppose it. Rather, this is another example, among many, of the need I have continually called to the attention of the Senate, the need to rethink our defense policy. We do ourselves no favor by propping up outdated defense concepts. We do not serve the Nation well by proposing solutions to ill-defined problems, much less solutions which appear irrelevant to the main problem we can identify. We will not strengthen our defense by neglecting the question of goals in a rush to "do something."

In defense, as elsewhere, it is profitless to argue whether more is better—more money or more people—or less is better. Only better is better. The task facing us, in considering manpower issues as in considering every other defense issue, is to determine what better really is. Registration is merely another case of more, not better.

● Mr. HAYAKAWA. Mr. President, we are presently debating the issue of whether or not to give the President the funds he has requested to reactivate registration for the draft. He already has the legal authority to begin registration—he is now asking Congress for the necessary funds to carry it out.

The issue of whether or not we need to bring back the draft to meet our defense requirements is open to debate. Our military, both active duty and Reserves, is desperately in need of more and better qualified manpower. Many knowledgeable people believe that we cannot meet that need without a draft and they may be right. In any event, as long as we have no draft we should at least be willing to pay the price to recruit and retain quality personnel. For that reason, I support efforts to increase military pay and benefits.

Peacetime manpower levels, however, were never intended to be adequate for our defense in the event of a national emergency. That is one of the main purposes for registration—to help prepare the Selective Service System for a massive mobilization in the shortest amount of time possible. The other reason for registration is to demonstrate to the Soviet Union that the United States is willing and able to prevent further Soviet expansion. In the many letters from my constituents on this matter the following comment often appears:

> I don't want my son or daughter to fight for Texaco or Exxon!

The Soviet threat in the Middle East is not to the oil companies. It is to the very survival of the free world. An extended cut-off of oil to the United States and our allies in Western Europe and Japan would be paralyzing to the democratic world.

I would like to make another point. My constituents, especially the young ones, tell me "that war is a bad thing and that the countries of the world should resolve their problems by talking." I can only say that I sincerely wish that it were that easy. If peaceful debate were all that was needed, we would never have experienced World War II. Hitler was not deterred in spite of the fact that statesmen met before the war to sign papers banning war for all time.

Lastly, I support registration on principle. In an interview with Time magazine Melvin Laird said:

> Doing away with registration caused a significant change in attitudes to the military. Every young person, just by the act of registering at age 18, was made aware of the fact that he might be called upon. This gave him pause to consider joining the military.

I agree with Mr. Laird. It is time for the United States to have a revival of national spirit and will. In fact, I ultimately would hope to see our society move toward a policy of national youth service whereby our young people would grow up in an environment in which they would feel a sense of duty and obligation to country to serve voluntarily in some capacity—be it military or domestic—for a year or two.●

SUSPENSION OF BUSINESS

The PRESIDING OFFICER.

The hour of 12 o'clock noon having arrived, and the Senate having been in continuous session since the previous calendar day, pursuant to rule 4 of the Senate, the Presiding Officer shall temporarily suspend the business of the Senate and a prayer will be offered by the Chaplain.

I ask the Members and our guests in the galleries to please rise.

The Chaplain will lead us in prayer.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, offered the following prayer:

Let us pray.

God of our Father and our God, all the ways of our need lead to Thy holy altar. Without Thee we can accomplish nothing great or good or enduring. With Thee all that is needful can be done. Keep us spiritually fit, pure in motive, clean in purpose lest we fail in service to this Nation and in advancing Thy kingdom. Restrain all selfishness; overrule all pettiness. Teach us the meaning of true greatness, that it is not in getting but in giving, not in being served but in serving, that it is in the giving of life that true life is found. Bless this Nation with righteousness and truth. Grant Thy higher wisdom to all who serve our Government. And to Thee shall be all praise and thanksgiving. Amen.

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEWART). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I wish to make an inquiry of the Chair as to how much time the Senator from Oregon has remaining.

The PRESIDING OFFICER. The Senator from Oregon has 87 minutes remaining.

Mr. HATFIELD. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be a brief period for the transaction of routine morning business and that it not extend beyond 10 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 457—RELEASE OF SENATE DOCUMENTS

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 457) to authorize the release of Senate documents.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 457) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

> Whereas, Candace Hanson, a former employee of the United States Senate, has filed a complaint against the Sergeant at Arms, the Hon. F. Nordy Hoffmann, in the United States District Court for the District of Columbia, Civil Action No. 77-0857;
>
> Whereas, in the course of the litigation, the production of documents has and may be requested;
>
> Whereas, some of these documents may be relevant and necessary in the litigation; and
>
> Whereas, by the privileges of the Senate of the United States no records of the Senate may be taken from its control or possession but by permission of the Senate: Now, therefore, be it
>
> *Resolved*, That the officers and employees of the Senate are authorized to produce documents in the course of the above-entitled litigation unless the Office of Senate Legal Counsel determines that a claim of privilege should be asserted.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE GENOCIDE CONVENTION AND THE LEGACY OF KURT GERSTEIN

Mr. PROXMIRE. Mr. President, 36 years ago Kurt Gerstein, one of the most remarkable men of the Nazi resistance, met his mysterious death. Why is Mr. Gerstein an appropriate inspiration to us? Because he fought against the Nazi policy of genocide with an eye toward preventing genocide in the future.

Mr. Gerstein was a devout Christian who was appalled by the evils he witnessed during the early days of Hitler's regime. As a protestant youth leader, Gerstein risked his life to distribute anti-Nazi literature. For these actions of conscience, he was imprisoned in a concentration camp. Facing probable death, Gerstein was released only after the intervention of several clergymen. Gerstein vowed to get at the truth of the rumors of mass murder following these experiences in the camp and the gassing of a mentally ill relative.

In totalitarian Germany, Gerstein felt he could believe only what he could see. Risking death and moral condemnation, Gerstein went to the source of the crime. He joined the SS.

As a lieutenant in this feared special police, Gerstein was caught in a never-ending series of moral binds. His frequent actions on behalf of individual victims and his deliberate sabotage of shipments of the deadly gas always threatened to reveal his true intentions. He could endure moral compromise only with the knowledge that still greater evil might result if he did not act.

Within the SS, Gerstein could not help but participate in some criminal acts. But there he had a unique chance to slow and sometimes to stop the bureaucracy of murder. In his frightening double role, he accomplished things that no other resistance fighter could have done.

He forwarded complete information on the location and nature of the camps to domestic opponents of Hitler as well as to the Allies. Risking his family as well as himself, Gerstein saved countless victims through personal intervention as well as by destroying the gassing machinery. One of his close associates within the church community has pointed out Gerstein's heroism:

> The uncanny mastery with which he camouflaged his inward Christian being by an outward demeanor of the perfect SS man, with the sole aim of giving succor to others, made a mockery of all ordinary standards—of moral judgment.

Gerstein was motivated both by his desire to save others and to make an historical accounting of the horrors of the holocaust. In March of 1944 Gerstein wrote the following words to his father:

> At some juncture you will have to stand up with the rest for your times, for what has happened in them . . . Do not underestimate this responsibility and this obligation of an accounting. It may come sooner than people think. I am aware of this obligation, I am gnawed by it.

The United States has not acted to ratify the convention in the 31 years since its submission to the Senate. Like Gerstein, we must stand up and take responsibility for future generations. What could be a more fitting memorial to the plight and the heroism of Kurt Gerstein than for us to take the one action that only the Senate can take, which is to ratify the Genocide Convention.

THE FEDERAL UNEMPLOYMENT BENEFITS ACCOUNT

Mr. MOYNIHAN. Mr. President, I rise to ask the attention of my colleagues to a matter of the utmost urgency and importance. As of last Friday, June 6, the Federal Government ran out of funds to pay unemployment insurance benefits to former Government employees, exservicemen and public service employees, and to pay trade adjustment assistance benefits to private sector workers who have lost their jobs because of increased imports.

The supplemental appropriation that the President requested on May 6 has been marked up and reported by the House Appropriations Committee, but it cannot be voted on by the full House of Representatives, and hence cannot be taken up by the Senate, since the Congress has not yet been able to reach agreement on the 1981 budget resolution. The processes that we devised for ourselves to keep the Congress within the budget have now begun to interfere directly and painfully with the ability of the Federal Government to honor its promises to the American people. And in this case, the people affected are among the neediest and most deserving of all: the unemployed.

In a matter of this seriousness, it little avails to point fingers and search for scapegoats. The responsibility for the present stalemate is widely shared. But it would be disingenuous in the extreme not to acknowledge that a sizable portion of it must be assumed by the party that holds a majority in both Houses of the Congress: The Democratic Party.

It will be recalled that on March 3, the Congressional Budget Office announced that the Congress had reached the spending ceiling we had set for ourselves in the second concurrent resolution on the budget for fiscal 1980. Inflation and interest rates had wreaked havoc on the economic assumptions we had made in the autumn. Although much urgent work remained to be done in fiscal 1980—major appropriations bills for the current year having not even made their way from House to Senate—until the 1980 budget was formally revised no spending legislation of any kind could be considered. That is what the Budget Act provides, and that is the straitjacket into which we put ourselves.

And that is just what has happened. For 3 months now, the legislative process has been all but paralyzed. No matter that programs are coming to an end. No matter that agencies are running out of money. The Congress cannot—will not—act.

In the meantime, the two Budget Committees proposed upward revisions in the 1980 budget figures and these were incorporated by the House and Senate into their respective versions of the first concurrent resolution on the fiscal 1981 budget. This is now deadlocked in disagreement between the two bodies, the conference committee's first set of recommendations having been rejected by the House of Representatives on May 29.

The ever-more-complex budget process does allow exceptions, however, and two such have already been made. The straitjacket can be temporarily loosened via the procedure known as a "waiver." This was done in the case of the emergency supplemental appropriation for the food stamp program, passed by the Senate on May 14, and in the case of the supplemental appropriation for the Federal Trade Commission, passed by the Senate on June 3. It should be noted that this step was taken in the first instance because the entire food stamp program was on the verge of shutting down, and was taken in the second instance only after the Federal Trade Commission had actually been shut down for 48 hours.

These were emergencies, and in each case an emergency remedy was found. There is nothing to prevent us from devising an emergency remedy to the present emergency other than our own uncertain will to do so.

Let no one doubt that the present situation is an emergency. Six hundred thousand persons, half of them on unemployment insurance and half of them beneficiaries of trade adjustment assistance, depend on the supplemental appropriation that the President has sought to continue the entitlement programs covered in the Labor Department's Federal unemployment benefits account. These are persons unemployed at a time when the prospects for finding employment are vanishing. The unemployment statistics released on Friday reveal the sharpest 2 month rise in the unemployment rate since the Bureau of Labor Statistics began compiling such data in 1948. The rate is now 7.8 percent; 1.7 million persons lost their jobs in the past 2 months, and all indications are that more will lose their jobs in the immediate future.

For the 600,000 unemployed men and women whose benefits are being interrupted this week, life is bleak, indeed. To be sure, these programs are "entitlements," and one could assume that in time the Government will honor its legal commitments to them. But why must they await the resolution of a budget dispute that is entangled in other matters? The answer is that they need not. A budget waiver can be approved, and should be. Immediately. There is no dispute between Senate and House over the revisions that must be made in the 1980 budget, which means that the only reason the unemployment benefits have been terminated is because we have become entangled in a "strategy" that apparently seeks to maximize the pressure to reach agreement on the 1981 figures. This is heartless, and it is unnecessary. The Democratic Party has a solemn responsibility to seek an immediate solution to an urgent problem, and not to hold unemployed persons and their wives, husbands and children hostage to a snafu that Congress created through its own procedures and that Congress can quickly and easily end.

HOW TO SURVIVE A DOUBLE WHAMMY

Mr. MOYNIHAN. Mr. President, our dear friend and distinguished colleague, the senior Senator from Maryland, is this very day delivering to the 24th International Convention of the American Federation of State, County and Municipal Employees a superb address entitled "How to Survive a Double Whammy," by which he means the combined effects of "powerful anti-Government feelings" and "anti-labor sentiment." With the characteristic incisiveness that he brings to our deliberations, the accurate reading of national trends and developments that we have come to expect of him, and the serious regard for the durable institutions of our Government and our society that typifies his views, he has skillfully diagnosed our present condition and offered some sound advice for the future. In order that others may have the benefit of his insight, his wisdom and his counsel, I ask unanimous consent that the full text of his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

HOW TO SURVIVE A DOUBLE WHAMMY

(By Senator CHARLES McC. MATHIAS, JR.)

It is a great pleasure for me to be with you at the 24th International Convention of the American Federation of State, County and Municipal Employees. After the heat of Washington, California itself is refreshing. But it is especially refreshing for me to participate in a convention of working people, working in the public service.

No two phrases in our language have a better ring to my ear than "working people" and "public service." Both apply to you. I was honored when Jerry Wurf invited me to speak here. I am proud to be among you. And I have a lot I want to say.

Two negative attitudes are taking hold in America and AFSCME members are targets for both of them. One is powerful anti-government feelings first expressed here in California in Proposition 13 and the taxpayer revolt. The other is anti-labor sentiment. As both labor union members and government employees, you get what Mammy Yokum, in the comic strip "Lil Abner," used to call "the double whammy."

Howard Jarvis, despite the defeat of his Proposition 9 last week, isn't giving up. He has already said he plans a proposal to restrict the power of public employee unions.

I can tell you a little about the general anti-labor mood from my own personal experience too.

In my primary campaign this spring, it was said of me in disparagement—as an attack—that I had voted with "pro-labor forces". They charged me with being for the working men and women of America, with being for safety in the workplace.

I am proud to admit that I am guilty as charged. I am proud to be counted as a friend of the working men and women of America and to be fighting for their interests in the United States Senate.

Another of my opponents claimed I had received "$100,000 from big labor," which was very far from the truth, as he knew full well, because campaign contributions are a matter of public record.

But ask yourself what it says about this election year, if such statements as those are thought to damage a candidate.

Then ask yourself what that means for labor.

This atmosphere means danger. And there's a third negative element in the picture that could affect not only your ability to do your jobs, but possibly even your jobs themselves.

Our economy is in a shambles. Record-setting inflation earlier this year, met by a tight money policy, has given way to a deepening recession. Last month more people filed for first-time unemployment compensation than ever before in the history of the program. Huge unemployment rolls means trouble for our cities; trouble for the people who make our cities work, and trouble for AFSCME.

There is a widespread belief that a balanced federal budget somehow miraculously is going to make inflation go away and cure our economic woes. But it won't. Controlling inflation will take a concerted long-term effort by every element of our society from government, at all levels, and business, right down to each individual citizen.

Balancing the federal budget, however, has come to assume gigantic symbolic proportions in the battle against inflation, so the Congress is struggling to get a balanced budget. My main aim in this struggle has been to try to prevent Proposition 13 fever and balance-the-budget fever from inducing a delirium in which we hack away at important programs with a meat axe, when a paring knife would do.

Some of the proposals for balancing the budget being discussed in the Senate bring to mind H. L. Mencken's great line that: "For every problem there is a solution that is simple, easy and wrong."

One of those simple, easy and wrong solutions—and one which would affect you profoundly—we managed to escape by a hair's breadth last July. That was the move to delete $684 million from revenue sharing funds for the states. I led the fight against that cut on the Senate floor. Thanks to a strong bipartisan defense of revenue sharing, we carried the day. But that was yesterday. Today we're in a whole new ball game.

The revenue sharing program expires at the end of September—less than three months from now. All along supporters of the program have known that the fight for reauthorization would be tough. But in the budget balancing process we already seem to have lost part of the battle, almost without firing a shot.

The Budget Resolution, currently the subject of hot debate in the Senate and the House, would chop a whopping $2.3 billion from revenue sharing—that's one-third of the program's total funds. The resolution anticipates that this money would come out of the states' share of revenue sharing funds and leave municipalities untouched.

But that's just not the way it works.

In Maryland, fully 40 percent of the state's revenue sharing funds is passed on to local governmental units. Nationwide the percentage is almost the same. State revenue sharing aid to local governments rose from $14 billion in 1965 to $61 billion in 1976, according to the Advisory Commission on Intergovernmental Relations. So there is just no way that tampering with the states' share of revenue sharing is going to have the municipalities unscathed.

A great deal of money is going to be lost and, in the end, someone, somewhere is going to have to pay for it. It could mean jobs lost for state and local employees. It could mean higher state and local taxes. It could mean a general decline in services, such as police and fire protection or education. It could mean any of these things. It could mean all of them.

What it absolutely, 100 percent does mean is trouble for AFSCME and its members. And I don't want to see that.

Our late, great friend Hubert Horatio Humphrey called the relationship between the Federal government and the states and localities "a partnership which requires that all partners are adequately equipped to fully participate in their responsibilities." Revenue sharing in my book is a beautiful example of how this partnership works at its best.

The national economy is a great and powerful force in this country, even when it is in trouble, as it is today. If we can hitch up this great force, if we can let the money come from the national economy and the decisions come from the local level, then we will have the best of both worlds. And we've got to get this idea across.

I must warn you, however, that support for revenue sharing has seriously eroded in the Senate. So, if you are going to have the votes you need when the chips are down you'd better make your presence felt at this stage of the game.

Something else you won't find much Congressional support for these days in helping our decaying cities. Here again, we sorely miss Hubert Humphrey. He was the last member of the Senate who spoke in depth of the cities and the cities' problems. And when the former Mayor of Minneapolis spoke, everyone listened.

Today, local governments face a rising tide of problems: inflation and recession decreasing revenues and mounting unemployment. These problems make it harder and harder for municipal and county officials to provide vital services and perform the functions which taxpayers expect and have a right to expect.

Right now some of our cities are quite literally falling apart. Water and sewer systems, subways, bridges, streets and roads, public buildings, all are approaching or have exceeded their useful life expectancy. But with inflation, the cost to replace or renovate these major capital investments is simply staggering.

Estimates show that Newark needs $200 million worth of street repairs; Cleveland needs $700 million worth of street, bridge and water and sewer repairs, and New York City needs to spend nearly $40 billion over the next 10 years to bring city-owned structures up to reasonable safety standards.

These problems are not restricted to our large cities, as you well know. Small cities and towns face equally difficult problems. The collective cost of running the roughly 80,000 municipalities, counties and towns in America is enormous. It amounts to 14 percent of this nation's gross national product.

So far I have spoken only of the physical costs of our cities and towns. When you add to them the human costs—with unemployment heading the list—the real magnitude of our problem emerges.

One of the most serious questions we face today is this: What can we do to meet the pressing needs of our towns and cities, and of the jobless people in them, without breaking the backs of the American taxpayers?

I have given a lot of thought to this question. In the last Congress I proposed a package of urban legislation which would help prevent further deterioration in our depressed urban areas and will combat unemployment by encouraging job creation. I'm revamping that package now and will reintroduce it in this Congress.

I want your support for these bills. Very briefly, they are:

The Urban Investment Tax Credit, to encourage investment by private industry in urban areas.

The Urban Employment Incentive Act, to provide a tax deduction for the employment or unemployed residents in urban areas by businesses locating in those areas.

The Economic Development Revenue Bond Act, to allow a tax exempt treatment allowed to certain industrial development to bonds, the proceeds of which are to be used within economically distressed cities.

The Military Base Closures and Reductions Act, to require prior notification of local officials, as well as Congress, before a military installation can be closed or reduced.

The Surplus Federal Property Act, to provide surplus Federal property to local communities for economic development purposes.

Another concept I am promoting is an Economic Growth Management Council. It would be a Cabinet-level Council made up of federal department heads, business and labor representatives to monitor regional growth rates and adjust federal spending, contracting, leasing and locational policies in order to promote balanced growth.

Significant changes are taking place in the nature of our economy and in the distribution of economic activity. Some regions of the nation are enjoying economic and population "booms" reminiscent of the gold rush days; others are on the skids with declining industry, population and tax base. My bills avoid the pitfall of favoring one community over another. They address themselves to boom and to bust communities equally—as they must. Our economic health depends on the whole country working well—if we let our older cities go down the drain, we can kiss prosperity goodbye everywhere.

There is one other way I think the federal government can help state and local governments cope with their mounting problems, and I am working on that too. The federal government spends $30 billion a year on research and development in all areas of science and technology. That's a huge investment by any standard.

In addition to sophisticated equipment, it has bought us a fantastic storehouse of scientific and technological expertise. The only trouble is that too few people have a key to the storehouse. We are not using this phenomenal resource to the full. We are not using it to solve the toughest problems this country faces—the operating problems of our state and local governments.

Many of your problems are technological. I'm thinking here of the engineering problems with our urban areas I mentioned earlier. I'm thinking of the need to conserve energy, and of the need to increase productivity through better use of computers, information processing and communications systems.

These problems could and should be addressed by our best scientists and engineers. Yet only a tiny percentage of the $30 billion federal R. & D. investment is aimed at state and local problems. One estimate I've seen puts that figure at $200 million which means that less than one percent of our research budget goes to combat problems that eat up 14 percent of our gross national product.

American taxpayers deserve a better return on their investment than this. And I believe they can get it, if we simply learn to use our existing resources better. I have drafted, and later this week will introduce, legislation to require federal laboratories to devote a certain percentage of their budgets to working on urban problems.

Two months ago I sponsored a technology exchange conference in Baltimore for state, county and municipal officials in the Mid-Atlantic States. Its success proved to me that we've got to start moving on this.

Our scientific and technological genius is one of our greatest national resources. In this area, we still have a significant lead over the rest of the world. Applying these resources in the most efficient and productive way possible, in a way that benefits all sectors of our society, would certainly inject some new vitality into our sagging economy.

I am confident of our ability to turn our economy around. I think it will require short-term sacrifices from all of us, but I think our long-term prospects are bright. In determining the short-term sacrifices necessary to economic recovery, including budget cuts, I will be guided by the wisdom of my good friend, the late George Meany, who cautioned us that:

"The fight on inflation must be on the basis of equality of sacrifice—not on the sacrifice of equality."

AFSCME has a great role to play in the future of this country and in the future of all Americans. You are in the forefront of the movement to achieve equal rights for women and Voting Rights for the District of Columbia. I am happy to tell you that the State of Maryland and I are right up there with you—both amendments have passed the Maryland House of Delegates with my enthusiastic support.

Under the leadership of Jerry Wurf, a tireless fighter for civil rights and social justice, you are in the vanguard of America's political future as well.

As Jerry Wurf said in a speech to the National Press Club last summer:

"Labor must devise new ways to enlist the participation of our members in the political system—and to turn that participation into effective power. There is a struggle going on for the future of America. Labor should not be—and will not be a spectator."

To that I say "amen."

Voter apathy threatens our democracy. We have no more compelling duty than to reverse this trend. The majority must not give up the future of America without a struggle.

When people stay away from the polls by the tens of millions—as 70 million did in 1976—then the minority and one-issue groups can rend and tear the gorgeous fabric of democracy at will.

We cannot let that happen. For, as Daniel

> Webster warned his fellow citizens in 1832, "Other misfortunates may be borne, or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still under a new cultivation, they will grow green again, and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No, if these columns fall, they will not be raised again."

THE RESILIENT AMERICAN SPIRIT

Mr. THURMOND. Mr. President, in the early pages of a book I wrote several years ago, I stated that now is the time for the individual citizen who loves this country to heed the warnings of history and take an active part in reclaiming our American heritage.

The first step, I said, is to recapture the spirit of our Founding Fathers and return to the principles of Government they bequeathed us. After the Founding Fathers had struggled with the framing of the Constitution in Philadelphia in 1787, they had a pretty good idea of what they needed to do to establish freedom.

They wrote:

> We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic tranquility, provide for the common Defence, promote the general welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

What meaning does this document have for us today? Is this truly a land of domestic tranquility, where the blessings of liberty are secure for ourselves and our posterity? Would our Founding Fathers think that we had kept the faith if they could return and observe our society?

Mr. President, Americans in this troubled year of 1980 are assessing their prospects in a growing mood of hard realism.

According to a special report entitled "Mood of America—Battered, But Resilient," in the June 9, 1980 issue of U.S. News & World Report, American people strongly doubt the overall quality of leadership—not only in politics, but in business and other fields. They fear the remorseless advance of inflation and now recession. They worry about the evident decline in America's world primacy—a concern deepened by the dismal failure of the attempt to rescue the 53 American hostages in Iran. Yet with all this, there is residual faith in America's ultimate ability to recover its sense of direction and confidence in what most admit will be a changed world.

One gets the definite impression that 225 million people are trying in very practical ways, to weave together the strings of their past, present and future. The vast majority of Americans desire to hew close to their heritage. They really see a continuation in the tradition of confidence in the future.

But, Mr. President, the haunting question of "Who can lead?" is ever present. It is Government, most of all, that people blame for their current woes. A second question follows asking: "Why has anybody not been able to dramatize the issues so people would unite to solve them?"

Americans respond to good leadership. Good leaders gain respect and give hope so people can go out and keep things going. Partly, as some see it, the problem of stagnation in the exercise of political power flows from Government's massive growth in recent decades.

Political scientist James D. Barber of Duke says:

> One of the things I see most today is the failure of the intellectual community to provide visions and prospects for the future. So much intellectual energy goes into analysis and pathology that it is adding to the national tone of despair, not to new approaches that offer hope.

Politicians and other national leaders are finding, in the absence of a clear direction, voter assertiveness is moving in all directions. We see more single-issue groups coming forward, and that is a matter of real concern, because we do not live in a single-issue world. We need understanding from the Nation's citizens that will permit our political and economic systems to live alongside one another.

Today, however, Mr. President, Americans are asking many questions against the background of their anxiety over receding prosperity and what it is and will be doing to them—individually and collectively—at home and in the world. Questions such as: What can we do about the plight of the poor, including many older Americans?

As recession deepens, other Americans also are getting a taste of harder times ahead. Most fearful of all are farmers as they size up the risk of inflation and soaring interest rates.

Dawning on many is a dismaying thought: That untangling the economic mess will involve much more than cuts in Government and private spending. Americans realize that they are paying the price for more than two decades of high spending, a manufacturing decline and unwarranted accumulation of governmental and consumer debts. For more than a few Americans, the economy is the baseline of American concerns in 1980.

Obviously, Mr. President, in the reshaping of the new America, there are social problems as well as economic problems. Today, social problems are merging into each other—such as the situations of poverty in big-city ghettos and the realization that race can no longer be isolated from changes that affect everybody else. Concerns are expressed by a large number of people who say they are afraid to go out in the street at night. But these people should also be concerned about and asking the questions: What is causing the increase in mindless crime? How can it be stopped?

Those who do ponder such questions hold the mixture of crime, inferior schools and urban misrule responsible for a sizable slice of America's social disarray.

Clark Kerr, who chairs the Carnegie Council's policy studies on higher education, says:

> One third of our young may still be ill-educated and ill-prepared for life in the American society. Many drop out of society. They aren't running households, aren't employed, aren't in school, aren't in the military. This is more serious even than unemployment where people are still in the labor market trying to do something.

While this phenomenon runs most deeply in urban ghettos, many educators and community leaders find also a lack of clear focus among the seemingly capable, middle-class students.

Why do we have this phenomenon, especially among middle-class youths? Some who have studied this situation say that a large part of the problem is caused by the depressing messages that we convey to our teenagers. Messages such as: "The environment is getting polluted. When you grow up, there will be lead in your drinking water and not enough energy to go around." We have come to realities—but never before have Americans said that their children will be worse off than they themselves were.

Such concerns seemed legitimized by a news photo of an antidraft rally at Princeton University, in which a young woman carried a placard proclaiming: "There is nothing worth dying for"—repudiating, in a few words, humanity's debt to untold millions down through the ages who sacrificed their lives to assure the survival of values that make life in America worth living today.

Mr. President, while it may appear to be a long road back to the honored traditions and values of our American heritage, economically and in other tangible ways, the United States remains a great power. It remains so, too, in less visible ways: Responsible politics, tolerance, generosity and resilience.

It is encouraging also to note that many, if not most, of America's young, too, are groping for a secure hold on values as they mature. Today, Americans of all ages seem to be taking stock of themselves, through more genuine soul-searching than has been done in many decades. There is no doubt that most Americans want a clear and continuing demonstration of vigorous leadership that gives some hope for a solution. Or at least the feeling that something is being done.

As the authors of the special report in the U.S. News & World Report state in the title of their article, the mood of America is "battered but resilient." Caught in the traumas of a new decade, Americans today seem not to be acting too differently from those of the past—arguing, experimenting and, finally, moving ahead together.

Surely, Mr. President, this is truly a testing time for Americans. In addition to our many difficult internal problems, we face an international assault, a campaign united by collusion or imitation to erode the U.S. image—to picture bad as good and good as bad, to turn not only our failings but our virtues against us.

An excellent editorial, titled "American Spirit Under Stress" by Marvin Stone, also appeared in the June 9, 1980, issue of U.S. News & World Report. In discussing this international assault facing America, Stone cites the following example: Fidel Castro, exhorted in the name of humanity to let a few political outcasts go to the United States, suddenly releases tens of thousands of persons, including hardened criminals, to overrun, illegally, southern Florida. In reply to overtures toward regulating this inundation, he taunts the United States and says it is our problem. If we turn any back, we stand accused of inhumanity. But who else would accept the lot? If we take them all, our own shaky economy is shaken further.

It would be bad enough if that example convinced the Third World or caused our allies to doubt the American way. But the final tragedy would be achieved if detractors destroyed our own faith in the principles that have made the United States the hope of the world.

Mr. President, Americans have always been proud, and our expressions of pride have changed only slowly since the beginning years of this Republic. Ironically, as Marvin Stone points out, our present dilemmas stem largely from past success. Being a superpower brings with it painful hazards. A country acquires real or fancied responsibility for the peace and prosperity of all peoples, and, conversely, the blame for anything that goes wrong—whether as a result of intervention or inaction. It also becomes fair game for flyweights baiting it in ways they would not dare to indulge against neighbors their own size.

Mr. President, if we Americans have overplayed our mandate or evaded the sacrifices necessary to maintain our obligations, it is right and urgent that we examine our souls. But we must not give up being Americans because at times our execution has been imperfect or our judgment flawed. It is performance, not the principle, that has fallen short. And if we abandon the faith, who will carry it on?

Mr. President, in order to share with my colleagues these informative and thought-provoking articles from the U.S. News & World Report, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AMERICAN SPIRIT UNDER STRESS

(By Marvin Stone)

This is a testing time for Americans. We face an international assault, a campaign united by collusion or imitation, to erode the United States image—to picture bad as good and good as bad, to turn not only our failings but our virtues against us. Just one example:

Fidel Castro, exhorted in the name of humanity to let a few political outcasts go to the United States, suddenly releases tens of thousands of persons, including hardened criminals, to overrun—illegally—southern Florida. In reply to overtures toward regulating this inundation, he taunts the U.S. and says it is our problem. If we turn any back, we stand accused of inhumanity. But who else would accept the lot? If we take them all, our own shaky economy is shaken further.

It would be bad enough if that example convinced the Third World or caused our allies to doubt the American way. But the final tragedy would be achieved if detractors destroyed our own faith in the principles that have made the United States the hope of the world.

How did we come to this condition? Ironically, our present dilemmas stem largely from past success. Being a superpower brings with it painful hazards. A country acquires real or fancied responsibility for the peace and prosperity of all peoples, and, conversely, the blame for anything that goes wrong—whether as a result of intervention or inaction. It also becomes fair game for flyweights baiting it in ways they would not dare to indulge against neighbors their own size.

The problems of super power are hardest for the people of a democracy since the people are theoretically, and in large measure actually, the ultimate agents of decision.

Americans always were proud, and their expressions of pride have changed only slowly since the start. In the 1820s, a universal reference to "our glorious institutions" bored and irritated Frances Trollope, the English visitor. She pretended inability to find out what the phrase meant, but in essence it was the brash boast of a yeasty young country that had everything to gain and nothing to lose.

A hundred years later, in the aftermath of World War I, there was a subtle addition. Ralph Levering, in his enlightening study of The Public and American Foreign Policy, 1918–78, quotes a prominent preacher as declaiming then from his pulpit:

"The United States is the best country on earth and should give her ideals to the rest of the world."

America had become a power, but not yet a superpower.

In these years of feverish change, the next stage was not long coming. After studying the polls and the papers, Levering reports: "The assumption shared by virtually all foreign-policy activists in the post-World War II period was that the United States, the world's pre-eminent nation, had to take an active role in maintaining world order."

Accordingly, Dwight Eisenhower declared of the East Europeans:

"The American conscience can never know peace until these people are restored again to being masters of their own fate." Four years later, the revolt of the Hungarians against their Soviet masters was brutally crushed, and the U.S. did not raise a hand. Indeed, it is hard to see what we could have done. Thus, the American conscience suffered its first awful wrench. It remained only for the Vietnam debacle, now recognized by nearly all as a blunder, to turn the country in on itself.

If we have overplayed our mandate or evaded the sacrifices necessary to maintain our obligations, it is right and urgent that we examine our souls. But we must not give up being Americans because at times our execution has been imperfect or our judgment flawed. It is performance, not the principle, that has fallen short. And if we abandon the faith, who will carry it on?

MOOD OF AMERICA—BATTERED BUT RESILIENT

Americans in the troubled spring of 1980 are assessing their prospects in a growing mood of hard realism.

The new mood becomes evident in five weeks and 7,500 miles of driving across the U.S. and hearing, along the way, what its farmers, lawyers, business executives, scholars and many others are saying about the state of the nation.

More impressive than the sheer scope and grandeur of America's prairies, mountains and lonely deserts is the stubborn resilience of the American people as they cope with disrupting changes of recent decades.

They strongly doubt the overall quality of leadership—not only in politics but in business and other fields. They fear the remorseless advance of inflation and now recession. They worry about the evident decline in America's world primacy—a concern deepened by the dismal failure of the attempt to rescue the 53 American hostages in Iran.

Yet with all this, there is residual faith in America's ultimate ability to recover its sense of direction and confidence in what most admit will be a changed world.

THE SIN IS IN FAILING TO TRY

Broadly, Americans' responses to the failure of the hostage-rescue mission seemed to parallel that of D. B. Hardeman of San Antonio, for many years a top aide to the late Speaker Sam Rayburn in the House of Representatives: "People seem to appreciate the generally steady course that leadership has been taking in Iran. It would have been easy for us to go off our rocker because a little country like Iran shouldn't be able to tweak our noses. Yet the general feeling seemed to be that it's no sin to try and fail—the sin is in failing to try."

This restraint yields to irritation on matters closer to home and pocketbook. While many complain that "we don't know what's going on in Washington," they do know that inflation is eroding their cash reserves and recession is swelling the ranks of the jobless in their own communities.

Moreover, they react angrily to what some see as government arrogance or insensitivity to their problems.

In Youngstown, Ohio, where unemployment is running high as steel mills close down, banker and ex-mayor Jack Hunter says: "Anyone in Washington who thinks a steelworker or truckdriver doesn't read the newspaper and read between the lines is wrong. He reads about federal warehouses overflowing with furniture and the government still procuring furniture—at the same time his wife is making slipcovers for her couch that shows wear. There's resentment of bureaucrats and agencies who live high on the hog while people here are eating ham hocks."

Voters cut through political glibness, and their hard pragmatism questions many basics of the past 50 years.

"At neighborhood coffees, I'm impressed by people's probing of candidates' statements," says Chicago City Alderman Lawrence S. Bloom, an independent. "They get down to fundamentals: 'How does that affect me?' National health insurance was a great liberal cause, but now people tell you: 'I've always been for that, but what will it do to my taxes and Social Security?' "

Many sense in all this their involvement—as beneficiaries or victims—in upheavals of the last three decades that have deepened old conflicts in goals: Freedom versus order, change versus stability, fairness versus equality.

Unease over a tangle of unsolved problems surfaced in late May with Miami's racial bloodshed—raising, for some, a nagging thought: Will hard times become severe enough to launch a new era of violence among the nation's underprivileged and often competing minorities?

Other Americans fear the rise of a mass society of deadening uniformity. Poet and novelist James Dickey, for instance: "Individuality is fighting a losing battle against homogenization. Never have Americans tried so hard as now to be individualistic, but our culture makes us conformists. We're being driven by two principal fears: One is fear of homogenization. The other is fear for their safety when they leave their homes in a violent society."

Yet the traveler ultimately gets the impression of 225 million people trying, in very practical ways, to weave together the strands of their past, present and future.

Despite homogenizing pressures, Americans and their communities remain a mosaic of infinite differences. In recent months, San Francisco's sizable gay community claimed a new advance—a gay-owned savings and loan association; but 2,000 miles away, the citizens of Dubuque, Iowa, elected a nun as mayor.

Revolutionary slogans get short shrift. So do ideas for massive overhauls in the nation's political and economic systems—or in foreign policy. Instead, the vast majority of Americans seem content to hew close to their heritage. "I don't really see a break in the tradition of confidence in the future," says Dubuque's Mayor, Sister Carolyn Farrell. "Rather people wonder: 'Where do we go next?' "

IN OUR TIME

"After World War II, we drifted into unreality with help from the academicians and the media," says New York University philosopher William Barrett. "The 1950s offered a materialist Utopia, the youth revolt in the 1960s promised an ideological Utopia. Now we are turning against utopianism and relearning that life includes hard options and compromises."

Today, many Americans look back nostalgically to the Presidencies of Harry Truman or Dwight Eisenhower in the 1950s when the good times were rolling and American dominance in the world seemed assured. Even the 1960s—a time of civil strife, permissiveness and wild idealism—move some Americans to fond recollections of the kind one hears from Yale theologian Sydney Ahlstrom: "What all these young people of the 1960s still call the movement was almost a religion in itself. Its hymns were sung by Bob Dylan, Pete Seeger, Joan Baez and Peter, Paul and Mary, and Woodstock was its 'Mount of Transfiguration.' Everyone of that generation who was not there regrets it to this day. They came from very diverse backgrounds—Quakers and pacifists and Weathermen who were so distracted by the realities of American life that they were half mad, like St. Paul was at times."

Nationwide, the effect—good or bad—of the Utopian years on American habits and thinking is markedly clear everywhere.

Mass communications and the jet age, as well as the spreading power of federal law, have become the ties that bind regions together into almost a common national culture—from French restaurants and local symphonies to discos, Holiday Inns and renovated city neighborhoods that seem to be trying for the ambiance of Greenwich Village.

Rural and urban life are blending, too. A visitor learns this from Myron L. Jorgensen and his wife—both college educated—whose farm of 1,500 working acres produces soybeans, corn and pasturage from the rich black soil of eastern Iowa: "Things have changed in the transition from the small family farm to a business," says Jorgensen. "The farmer's self-sufficiency is a myth; we pay high prices at the supermarket just like everyone else, and we want the same appliances and other things most people want for themselves and their kids."

Moreover, says Ann Jorgensen: "Our paperwork forms used to take only one day a month. Now it takes two or three days a week on occupational-safety documentation, Social Security, disposal of chemical containers and anything else the government wants to know about our operation."

While Miami's racial tensions are a reminder that America's race dilemmas are far from solved, anyone who saw the violence in Montgomery, Jackson and Little Rock in the 1950s has to find the South almost transformed. Cities like Atlanta have black mayors and city councilmen. While warmth between the races is restrained, barriers are down in travel, schools, restaurants and public places in general.

"Young and educated blacks today have an easiness with basic rights and opportunities their parents would never have taken for granted," says Carey H. Wynne, Jr., Morehouse College historian and Democratic Party official. "A black youngster going to college now probably feels this is something that he's supposed to do—not a luxury."

Not all changes are for the better. Ravages of a petroleum-based civilization are widely evident—markedly so, ironically, in Houston, "oil capital of the world," whose proud towers are seen only dimly in the distance through bluish smog caused by heavy traffic.

Industrial strains brought on by obsolescence, rising pay scales, corporate mergers and transfers to the sun belt are eroding many factory towns of America's Northeast such as Youngstown, Ohio, where 8,000 steelworkers are out of work—and more will join their ranks.

More starkly visible is the blight that has lost industrial payrolls and much of the middle class—leaving behind a growing lumpenproletariat in minority ghettos. Some places like the South Bronx in New York City have become urban deserts of uncollected garbage, dead streets and battered buildings nousing thousands—young and old—who lack literacy, jobs, loyalties or hopes.

Meantime, the contagion of recession is evident in communities across the nation—most widely in the decline of the building industry.

Thomas Nayder, president of the Building Trades Council in Chicago and Cook County, thinks of better times: "Twenty years ago, we had an affluence that maybe we didn't really appreciate. We were getting pretty fair wages, and bought homes, cars and all the things that everybody wants to have. Now, even with wages up a lot, we can't buy those things, and the job market in the building industry is getting very tight."

Far to the west, Northern California's forest industry is badly hit by the building decline—and in Arcata, rancher James Timmons says: "Cutbacks in lumber production hurt everything else here. Right now, unemployment in Humboldt County runs at an estimated 14 percent, and people wonder when it will really make a turnaround."

WHO CAN LEAD?

It is government, most of all, that people blame for their current woes. A comment from Rabbi Alexander Schindler, president of the Union of American Hebrew Congregations: "Why hasn't anybody been able to dramatize the issue of energy so people would unite on that? Since 1973, we have done virtually nothing. To the contrary, we've increased our dependence on foreign oil."

Franklin D. Roosevelt's leadership is still cited—often. In Berkeley, Calif., theologian Robert E. Fitch commented: "Americans respond to good leadership. Roosevelt commanded respect and gave hope so people could go out and keep things going."

Partly, as some see it, the problem of stagnation in the exercise of political power flows from government's massive growth in recent decades. Assembly Speaker Leo McCarthy in California's Legislature says: "The power of the executive bureaucracy has grown tremendously. For that you have to blame legislatures and Congress. We give the executive agencies the money and power they ask for, and many agencies we create are not held accountable from one year to the next. Meantime, legislatures and Congress are building up their own oversight agencies."

More than that, some politicians and scholars see the absence of broad, kinetic ideas that could reinvigorate parties and coalitions—as the New Deal did in the 1930s in adapting the welfarist ideas of John Maynard Keynes.

"One of the things I see most today is the failure of the intellectual community to provide visions and prospects for the future," says political scientist James D. Barber of Duke University. "So much intellectual energy goes into analysis and pathology that it's adding to the national tone of despair, not to new approaches that offer hope. We're still trying to formulate the right questions."

Politicians and other national leaders are finding, in the absence of a clear direction, voter assertiveness is moving in all directions. "We see more single-issue groups coming forward, and that bothers me, because it isn't a single-issue world," says Dubuque's Mayor Farrell.

Furthermore, some feel, the U.S. electorate does better in gauging the specifics of issues than in perceiving the hard options open to politicians.

WE NEED UNDERSTANDING

William B. Johnson, board chairman of Illinois Central Industries, puts it this way: "From the electorate we need understanding that will permit our political and economic systems to live alongside one another. We'd all like a messiah, but government has become so big and complex that we need leadership that realizes the President can't make all decisions—and we, the people, should accept margins of error in government, not run from place to place looking for a perfect society."

Among politicians and scholars there is some worry about a potential shortage of leaders in years ahead.

Says a former national chairperson of the Republican National Committee, Mary Louise Smith of Des Moines: "I find a gap in the political process as far as young people are concerned. For the most part, they're simply not into politics. Talking with them, I find that it's not so much apathy as a looking and waiting before making a judgment."

An onlooker of some firsthand experience with politics abroad has to be impressed by the vigor and pertinacity of the American electorate, for all its occasional lapses.

Probably nowhere else do voters assume as boldly their ability to form judgments without partisan or ideological orders.

Alderman Bloom in Chicago says: "More and more, the electorate is disinclined to subordinate itself to the dictates of parties and other institutional leaders. This may have helped weaken the parties, but people have a very good handle on things—some things ring true, others don't ring true. Most of the time they can work things out."

ADRIFT IN THE WORLD

Today, however, Americans are asking many questions against the background of their anxiety over receding prosperity and what it is and will be doing to them—individually and collectively—at home and in the world.

What is clear now is the plight of the poor, including many older Americans. In Durham, N.C., this from William J. Kennedy III, president of the North Carolina Mutual Life Insurance Company: "You can see impoverished people on fixed incomes who weren't poor a few years ago. Many pensioners are under the $800-a-year level, and poor families are further hurt by minimum-wage laws that keep teenagers out of jobs."

As recession deepens, other Americans are getting a taste of harder times ahead. Says Lawrence Davis, a professor of English at Northern Arizona University in Flagstaff: "Most of us—and not just the blacks and the poor—are living almost from payday to payday."

Most fearful of all are farmers as they size up the risk of inflation and soaring interest rates. The comment of W. P. Brown, who raises cotton, soybeans and cattle on his plantation near Greenwood in the Mississippi Delta with a crew of 15 workers: "This endless inflation hits the farmer worst of all. We don't fix the prices of our product; we often have to make heavy financial outlays which weather can blow away in one afternoon—and now, we're paying through the nose because we use so much fuel in farming, and the price rise in steel means we pay a lot more for farm implements."

Equally irritated is farmer Myron Jorgensen in Iowa, where soaring interest rates and loan requirements are forcing some farmers to sell off livestock or machinery to keep going; some are selling their farms. "A lot of talk comes out of Washington," says Jorgensen. "We're bombarded so much with conflicting statements on inflation and energy that we don't know what to think."

Dawning on many is a dismaying thought: That untangling the economic mess will involve much more than cuts in government and private spending. Americans, they discover, are paying the price for more than two decades of high spending, a manufacturing decline and unwarranted accumulation of governmental and consumer debts.

Economist Robert Lekachman at Lehman College, City University of New York, sketches the dilemma: "In the era of limits, we're finding ourselves unable to deal with heightened expectations of the postwar years. This is unfamiliar ground for us. Before, we could tell people that even if their share of the pie didn't change, they would get more because the pie was bigger. Now the pie won't change much, so if the Gray Panthers get more, young people may get less, and so on. Suddenly the problem of distributing national wealth gets very big."

Moreover, it is becoming clear to many that the stakes are not only national well-being but global leadership, as U.S. productivity falls far behind that of Japan and West Germany, which are now challenging even America's lingering primacy in high technology.

"It has always been easy to hear Europeans downgrade the U.S.," says industrialist William B. Johnson. "The trouble now is that I believe they're right. This offends my pride, but more, it frightens me for the future of our children and country."

In a similar vein, this from Felix Rohatyn, senior partner in Lazard Freres & Co., investment bankers: "Twenty-five years ago, the dollar was the only world currency, and we had a monopoly in practically every kind of economic and military power. We've squandered it—and I'm not sure that ever in the course of history has there been such a rapid change in a major power's position as ours."

Rohatyn, who is also chairman of the corporation formed to help New York City avert bankruptcy, adds: "We have frittered away our manufacturing superiority for which we once were the envy of the world. Now we gloat about our domination by a service economy."

FEELING THE ECONOMIC DECLINE

For more than a few Americans the economy—not the Iranian dilemma or even Soviet aggressiveness—is the base line of American concerns in 1980. Alix H. Sanders, a Vietnam War veteran and now an attorney in Greenwood, Miss., says: "People are feeling the economic decline. Things like the layoffs in the auto industry and others hurt the middle class and, even more, the poor. If we run short of oil, and technology can't make up the loss, then we'll either have to reduce our expectations or go to war to maintain our supply. We've always been high in our expectations—often materialistic ones—and reducing them won't be easy."

Who gets the blame for this state of affairs? Some put it on union demands for improved wages and benefits that, they say, have lowered efficiency and raised costs. Others see a failure of American management to push for markets abroad and to modernize its basic industries as regularly as its competitors in Japan and West Germany do.

Most of all, however, critics take aim at the spreading rash of government's consumerist and environmentalist regulations that impose precise standards of heatlh, safety and clean air, water and food on industry and business.

This, they say, is forcing costly changes in industrial processes and vast amounts of paper work—while also blocking development of energy from sources other than petroleum.

A biting comment from attorney Charles Wolf in Gettysbug, Pa.: "We have lots of coal, but everybody's afraid of the antipollution people. It's the same in nuclear energy. Meantime, Jane Fonda, who doesn't know a healthy damn about anything, tells us to get our energy from the sun."

RESHAPING THE NEW AMERICA

Few in the U.S. today see simple answers to their material worries. Says Alderman Bloom: "People feel prices will still go up because everyone fears that moderating their own demands will put them behind the eight ball. They know that they don't want a depression, so they also know that a cure for inflation is not going to come very easily."

Is this bottom-line philosophy creating a "meism" politics? Unlikely, says Duke University's James D. Barber. "Narcissism is not true of much of the nation. Millions are taking care of their old folks, engaging in volunteer work or scraping to get their kids through college."

Lingering questions remain, however, from three decades of near-nonstop prosperity: What will the doubts of the '80s do to social conflicts and aspirations? How will they affect those cushioned by upward mobility and affluence?

As Joseph Bensman, sociologist at City University of New York, sees it: "A new middle class has come up, attracted to high style and sophistication in eating, drinking and other pleasures—passing along rising costs to someone else. By and large, they're living for the moment. With easy money and jobs running short, can they handle adversity?"

Maybe not. Stanford's Eleanor Maccoby reports that many working mothers are getting desperate. She adds: "In extreme cases, more and more women just bring their children into a state agency and say, 'I can't manage—I'm going to leave the kids with you.' That's not a common thing, but it's a symptom, and the same situation is developing in divorce cases where neither parent wants custody."

Broadly, conflicts of the past—rich and poor, black and white, farm and city—are assuming new dimensions.

While talk grows of union participation in management, most labor leaders remain wary. "They see themselves in an adversary us and them relationship with employers," says law professor and labor arbitrator Roger Abrams at Case Western Reserve University in Ohio. Membership shifts in recent years, especially the growth of government worker's unions, seem likely to bring changes in that tradition—but not necessarily moderation from some unions. In Chicago, the Building Trades Council's Thomas Nayder says: "In private industry, we don't want to put the employer out of business. We'll concede points. Public-sector unions bargain harder. They know that money for a raise will come from somewhere—nobody's going to keep government out of business."

Class divisions are becoming clearer in black and Hispanic communities as the young and educated move upward, mingling with other professionals in work and recreation. Is this splitting them off from their less fortunate compatriots?

Most blacks and Hispanics, civil righters say, share a collective sense of discrimination—especially when it comes to jobs. In San Antonio, for instance, Municipal Judge Albert Pena, a leading spokesman for Mexican Americans, notes that more Hispanics are entering the professions, but "essentially Hispanics, blacks and women make up the 'cheap-labor market.' "

At the same time, however, Maury Maverick, Jr., a well-known liberal attorney in that city, says: "The business establishment is trying to accommodate the growing political power of Mexican Americans by creating middle-class solidarity. My concern is that some in the rising brown and black middle class aren't liberal or sophisticated enough to deal with this situation. For one thing, they're just as greedy as Anglos."

A related concern—the future of America's big cities—seems as resistant to solutions as it did 30 years ago, in the view of most urbanologists. Even "gentrifying"—the movement of young adults into the city to renovate old neighborhoods—strikes urban experts as merely the latest panacea for metropolitan ills.

"It's going on to a limited extent, but I don't see it as a major answer to the city's basic problems," says Chicago urbanologist Pierre de Visé. "Nor am I terribly optimistic about a big comeback by the cities in the 1980's, especially those whose school systems have been hurt by busing. And, as federal and state transfer payments decline, cities are likely to be in severe straits by 1990."

Today, social problems of the postwar era are merging into each other. Citing desperate poverty in big-city ghettos, Kenneth B. Clark, a black psychologist with much experience in race relations, observes: "Race can no longer be isolated from changes that affect everybody else. I'm disturbed by the number of people who say they're afraid to go out in the street at night—but don't ask: What's causing the increase in mindless crime? How can it be stopped?"

Those who do ponder such questions hold the mixture of crime, inferior schools and urban misrule responsible for a sizable slice of America's social disarray. Clark Kerr, who chaired the Carnegie Council's policy studies on higher education, says: "One third of our young may still be ill-educated and ill-prepared for life in the American society. Many drop out of society. They aren't running households, aren't employed, aren't in school, aren't in the military. This is more serious even than unemployment where people are still in the labor market trying to do something."

While this phenomenon runs most deeply in urban ghettos, many educators and community leaders find also a lack of clear focus among the seemingly capable, middle-class students.

In Dubuque, Mayor Farrell, an educator, notes: "Those in their late teens or early 20s were too young for Vietnam. They've never gone through a depression. If you've never had to sacrifice in growing up, there's a risk you don't have strong values, either."

Why this phenomenon, especially among middle-class youths? A possible reason comes from psychologist Eleanor Maccoby: "We convey depressing messages to teen-agers: 'The environment is getting polluted. When you grow up, there will be lead in your drinking water and not enough energy to go around.' We have come to realities—but never before have Americans said that their children will be worse off than they themselves were."

Such concerns seemed legitimized by a news photo of an antidraft rally at Princeton University, in which a young woman carried a placard proclaiming: "There is nothing worth dying for"—repudiating, in a few words, humanity's debt to untold millions down through the ages who sacrificed their lives to assure the survival of values that make life in America worth living today.

THE LONG ROAD BACK

Economically and in other tangible ways, the United States remains a great power—and it remains so, too, in less visible ways: Responsible politics, tolerance, generosity and resilience. At its best, the American spirit is exemplified in a Birmingham, Ala., photographer, Christopher McNair, who lost a daughter when racists bombed a black church in 1963. He says: "Sure it's a bitter memory, but I have too many hopes for our two daughters and for all other children in the South to do any hating."

Many, if not most, of America's young, too, are groping for a secure hold on values as they mature. In San Antonio, Auxiliary Bishop Raymond J. Peña recalls a recent retreat where a high-school student spoke of macho pressure by some boys to keep others from going to church. A college student replied: "We young adults don't find that. We want to be involved with the church."

Today, Americans seem to be taking stock of themselves. "I think we are going through more genuine soul-searching than we did during the Vietnam War or even during the Civil War," says historian Bertram Wyatt-Brown at Case Western Reserve University. "The Civil War and perhaps the Depression were more painful periods, but today it's much harder to know what's right and what's wrong."

What is right? Patience, says sociologist Herbert J. Gans at the Center for Policy Research in New York City: "In the early 1930s, there was no alternative when unemployment neared 20 percent; it was not just the poor any longer who were unemployed. Then the government had to act. Our political structure is geared to postpone solutions until the crisis really becomes deep. Then we will develop a consensus because it has to be developed."

Most Americans, however, seem to want a clear and continuing demonstration of vigorous leadership that gives some hope for a solution. Or at least the feeling that something is being done. In Youngstown, for example, ex-Mayor Jack Hunter, a Republican, invokes the name of Franklin D. Roosevelt to urge the use of federal power to restore the declining fortunes of the U.S. Northeast—as Roosevelt did for the South in the 1930s.

As in the past, American individualists aren't waiting for cues from leadership. On the sunbaked, barren hillsides flanking Santa Fe, N. Mex., Harvard educated Wayne Nichols and his wife Susan are building houses—20 sold so far—in which "passive" solar energy comes, at lower cost, from the dwelling's entire design, not just specific solar equipment. These houses, with price tags of $90,000 and up, appeal to the moderately affluent but, the builders say, will lead to less affluent markets for solar-energy homes. "If you want to change America, the place to do it is in the marketplace, not the legislatures," says Nichols.

Caught in the traumas of a new decade, Americans today seem not to be acting too differently from those of the past—arguing, experimenting and, finally, moving ahead together.

Says Alex Inkeles, Stanford University sociologist and Margaret Jacks Professor of Education. "Americans are likely to blame themselves—not someone else or some institution or event—when something goes wrong. They insist on believing, 'What happens to me is my own doing.' And they still feel very strongly their responsibility for shaping their future."

THE SELECTIVE SERVICE BILL

Mr. THURMOND. Mr. President, as the Senate debates the funds for a modest Selective Service program I call the attention of the Members to an editorial on this subject which appeared recently in the South Carolina press.

Entitled "Senate Must Enact Selective Service Bill," The State newspaper in Columbia, S.C., has editorialized in favor of the resolution now before this body.

The editor makes a telling point when he summarizes his comments with this observation:

> It is inconceivable that the U.S. Senate would insist on the largest peacetime appropriation in the nation's history for our defense, but fail to provide the means of filling the thin ranks of the active and reserve forces.

Mr. President, I concur in these views, and I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SENATE MUST ENACT SELECTIVE SERVICE BILL

It is now the month of June, the month in which the Carter administration had hoped to begin registering young men—and young women—in the Selective Service System.

The necessary legislation to reactivate registration has been passed by the U.S. House of Representatives but is now stalled in the U.S. Senate, where it is threatened with a filibuster.

Registration of young women was lopped out of the White House proposal by the House members, so that is not an issue any longer. The issue, which is being drawn by Senate liberals, is whether the registration will lead to peacetime consciption—a draft.

That certainly goes to the heart of the matter. Arguments in favor of registration at this time are based on failure of the armed forces to fill their manpower requirements with volunteers, both in the active forces and the reserve components.

Hawks have pointed out that, since registration of 19- and 20-year-olds lapsed during President Ford's administration, Selective Service doesn't know where and who the eligibles are. It is reckoned that in the present sorry state of affairs it would take about nine months to register, draft, train and place a draftee into a regular unit.

Furthermore, as world tensions mount, the state of our military preparedness becomes more and more a factor in our ability to conduct foreign policy. Our limitations in conventional forces is evident to our adversaries in the Kremlin, who must take encouragement from that weakness. Did they do so in Afghanistan?

Certainly it is plain to everyone that the mere registration of American youth is not going to solve our military manpower problems. It would be foolish to pretend that this nation will not soon require drafting of some individuals.

Thus, the opponents to the draft have chosen to fight the battle on registration. They are led by U.S. Sen. Mark Hatfield, R-Ore., a liberal, aided by U.S. Sen. Jake Garn, R-Utah, a conservative. South Carolina's two senators, Strom Thurmond and Fritz Hollings, support the registration proposal.

It is inconceivable that the U.S. Senate would insist on the largest peacetime appropriation in the nation's history for our defense, but fail to provide the means of filling the thin ranks of the active and reserve forces by requiring the registration with the Selective Service System of 19- and 20-year-old men.

SHIPPER EXPORT DECLARATION CONFIDENTIALITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 6842 and that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 6842) an act to protect the confidentiality of shipper's export declarations, and to standardize export data submission and disclosure requirements.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

● Mr. RIBICOFF. Mr. President, I rise to support passage of H.R. 6842, a bill to protect the confidentiality of shippers export declarations and to standardize export data submission and disclosure requirements. This bill is identical to S. 2419, which was considered by the Governmental Affairs Committee and unanimously ordered favorably reported.

Over the past several months, Senator PERCY and I have been working with our colleagues in the House and Senate, as well as representatives from business and the press, to develop this legislation. It is compromise legislation which enjoys wide support.

Let me briefly explain its provisions. First, the bill permanently exempts shippers export declarations from public disclosure under the Freedom of Information Act. This measure protects the U.S. Government's need to collect sensitive business information including the export statistics used by the Bureau of the Census to compute our trade balance. At the same time, the 29 items of information collected in the shippers export declaration will continue to be made available to those Government agencies charged with the responsibility for administering legislation governing exports from the United States.

Second, H.R. 6842 requires the U.S. Customs Service to establish uniform procedures at all ports of the United States for the submission and disclosure of export information. The legislation before us today requires the Custom Service to release nonsensitive export data when requested by members of the public or the press. Information collected on outward foreign manifests, other than the shipper's name, could not be withheld unless disclosure could endanger national security, personal safety, or cause property damage.

This legislation prevents the release of confidential and sensitive export information, which if made available to foreign competitors, could weaken America's position in world markets and increase foreign competition in our domestic markets. To avoid these adverse consequences, we must enact H.R. 6842.

This is a balanced and necessary piece of legislation. I urge its passage.●

● Mr. PERCY. Mr. President, when the issue of maintaining the confidentiality of shipper's export declarations first came to my attention last fall, it was apparent to me that legislation could be drafted which would address both the concerns of the business community in protecting trade secrets from disclosure to foreign competitors and to those seeking legitimate access to nonsensitive information on exports. In December, Chairman RIBICOFF and I introduced S. 2164 emphasizing that the bill was designed to stimulate public debate on questions generated by the SED controversy. Since that time, there has been considerable public discussion, negotiation and compromise between Representatives of Congress, the exporting community, the trade press and the administration. S. 2149, the result of this process, is in my opinion a fair and equitable solution to the export data disclosure problem.

The bill successfully resolves several very difficult policy concerns:

First, S. 2419 introduces an element of pragmatism in carrying out Congress intent under the Freedom of Information Act. The SED controversy epitomizes the relentless "tug of war" between the public's right to know and business' right to protect confidential proprietary information. By simultaneously assuring the confidential status of information submitted to the Census Bureau for vital trade statistics and by requiring the disclosure from customs documents of useful nonconfidential information, the needs of both exporters and the service sector of the trade community are met without seriously disrupting current systems for collecting and disseminating export data for statistical, enforcement and trade promotion purposes.

S. 2419 also promotes interagency sharing of information submitted to the Government. In addition to being the primary source of export statistics for calculating the balance of trade, the SED is the main export control document used for enforcing the Export Administration Act. This dual purpose is possible through maintaining the confidence of shippers that sensitive business information will be adequately protected by the Government as a whole. Such sharing of information should be encouraged throughout the Government since it would greatly alleviate the horrendous paperwork burden on business.

Third, the bill along with Governmental Affairs directives to the Departments of the Treasury and Commerce insures that more information than ever provided in the past will be available to the public about the trading activities of U.S. firms and their compliance with U.S. export licensing requirements. Through the aggregate data released by the Census Bureau, reporting in the press on export activities, the Commerce Department's release of information on shipments exported under validated licenses (which make up less than 4 percent of the 9 million SED's filed annually) and the bill's provision that all export information will continue to be available to Congress, an extremely informative picture of U.S. trading activities will be available but without laying bare confidential business information of U.S. companies for the consumption of foreign competitors.

Finally, this compromise bill will make a significant contribution toward eliminating a potential disincentive to export while at the same time increasing our competitiveness in world markets. If the statutory exemption for SED's from disclosure under the Freedom of Information Act is allowed to expire at the end of June this year, some U.S. firms may refrain from entering the export market due to uncertainty about the handling of sensitive business information required on SED's. S. 2419 removes this uncertainty. As for promoting exports, the increased competition among those providing transportation and other services to exporters due to the release of nonproprietary but useful trade information from customs documents could lower service and freight fees and in turn enable us to better compete with foreign manufacturers in world markets.

Mr. President, S. 2419 has my fullest and unequivocal support and I urge that the Senate act favorably on this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6842) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT CALENDAR ORDER NO. 857 (S. 2419) BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 857, S. 2419, and identical to H.R. 6842, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OVERTHROW OF THE GOVERNMENT OF THE REPUBLIC OF LIBERIA

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CHURCH, I ask unanimous consent that the Foreign Relations Committee may be discharged from further consideration of Senate Concurrent Resolution 89 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

Senate Concurrent Resolution 89, expressing the sense of the Congress with respect to the overthrow on April 12, 1980, of the Government of the Republic of Liberia.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed to consider the Senate concurrent resolution.

● Mr. HAYAKAWA. Mr. President, on April 28 I submitted Senate Concurrent Resolution 89 which expresses a deep concern about the situation in Liberia. The resolution was unanimously passed and reported out by the Foreign Relations Committee. My colleague, Senator PAUL TSONGAS, is a cosponsor.

On April 12, 1980, the Republic of Liberia experienced its first coup d'etat in its 133-year history. During the violent overthrow of the government, President William Tolbert and 27 others were brutally slain. The insurgency was led by M. Sgt. Samuel K. Doe, a 28-year-old member of the Liberian Armed Forces. Although a few of the officials of the former Tolbert government have been retained in the new government, approximately 100 others were arrested.

Despite the pleas of many nations, including the United States, that the trials of these officials be delayed, the new Liberian Government proceeded with military trials of 13 former members of the Tolbert government. The charges against these men were not made clear nor was legal counsel permitted. Shortly thereafter they were publicly executed. We could not help but feel outrage at these actions.

I understand that since that time the new government made assurances that there will be no more executions, and none have occurred.

Liberia has been America's oldest and best friend in Africa, and a very special relationship exists between our two countries. Mr. President, it is my great hope that these traditionally close relations between the United States and Liberia will continue.

However, I feel that it is important that we in Congress send a clear message to the government and people of Liberia expressing our concern for their adherence to internationally recognized standards of justice so that our relationship will not be seriously affected in the future.

Therefore, I urge my colleagues to give their unanimous approval to this resolution.●

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. CHURCH, to strike all after the resolving clause and insert the language of Senate Concurrent Resolution 95, which is Calendar Order No. 781.

The motion was agreed to.

The concurrent resolution (S. Con. Res. 89), as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to amend the preamble of Senate Concurrent Resolution 89 with the preamble contained in Senate Concurrent Resolution 95.

The motion was agreed to.

The concurrent resolution with its preamble is as follows:

Whereas the Republic of Liberia on April 12, 1980, experienced its first coup d'etat in its one hundred and thirty-three-year history;

Whereas the United States has traditionally enjoyed close and cordial relations with the people of Liberia and looks forward to a continuation of traditionally friendly relations with them;

Whereas the President of the Republic of Liberia, William Tolbert, was slain, along with twenty-seven others; and

Whereas a number of officials of the former Government of Liberia have been brought before a military tribunal on unspecific charges and without defense counsel, sentenced to death, and promptly executed, despite the pleas of the United States Ambassador to Liberia and those of the representatives of other nations: Now, therefore, be it

Resolved, That the Congress, joining the other concerned nations in Africa and elsewhere—

(1) condemns the summary nature of the military trials being conducted in Liberia, and the number of executions resulting from such trials, and other actions which offend basic principles of justice and humanity and due process of law; and

(2) expresses concern about the extent to which the new Government of Liberia intends to adhere in the future to internationally recognized standards of justice, and welcomes a recent statement by the Government of Liberia that there will be no more executions.

Sec. 2. It is the sense of the Congress that the President should communicate to the Government of Liberia the concern of the Congress expressed in this resolution, specifically indicating that a continued disregard for internationally recognized standards of justice is bound to have a serious effect on the traditionally close relations between the United States and Liberia.

Sec. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the action taken by the Senate.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT SENATE CONCURRENT RESOLUTION 95 BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 95 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the Proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RETURN OF THE U.S.S. "CORAL SEA" TO THE UNITED STATES

Mr. BAKER. Mr. President, at 10 o'clock this morning the U.S.S. *Coral Sea* docked at Alameda Naval Air Station, Calif. It is an important and significant event. I think it fitting that we pause for a moment and welcome home the officers and men of *Coral Sea* and of the embarked Carrier Airwing 14.

Mr. President, when *Coral Sea* sails into San Francisco Bay, she will bring to a close a remarkable deployment for the so-called peacetime Navy. Since she left San Francisco on November 13, she has been underway for 175 days, steamed 71,000 miles and conducted 7,100 arrested landings for an average of 75 a day. During the course of her operations in the Indian Ocean, she was at sea for 102 consecutive days.

The statistics are truly impressive Mr. President, but they tell very little of the true story, for the men of *Coral Sea* and Carrier Airwing 14 did not leave San Francisco 7 months ago to set endurance records. They left 7 months ago because the security of the United States depends upon our ability to maintain and project power in distance parts of the world. The necessity of maintaining American power overseas has been for years a constant, ever present requirement. It is the one constant symbol of the resolve of the United States to protect its interests and, inherently, the interests of its allies.

The requirement, however, is changing—not only changing but expanding. *Coral Sea* spent 102 days continuously at sea because we have discovered, belatedly, that the ability to project power in and to protect the sealanes of communication around Europe and the Western Pacific mean little unless we have the same capability in and around the Persian Gulf. We have found as well however, that in expanding our commitments to the Indian Ocean and Persian Gulf, we have had to diminish severely our capabilities and resources in other areas—we have had to extend deployments, to prolong operating and overhaul cycles, increase family separations, and we are still unable to keep our commitments. Mr. President, the requirement to maintain a presence in the Indian Ocean, a presence that we can anticipate will extend indefinitely, has demonstrated with abundance the difficulty, if not the futility, of attempting to meet a three-ocean commitment with a one-and-a-half-ocean Navy.

Mr. President, in April of this year I had the opportunity to visit *Coral Sea* in the Indian Ocean. She was then on the 90th day of continuous operations in the Indian Ocean. I was impressed with the constant tempo of operations—the continuous cycle of training, flight operations, and replenishments. I was impressed with the realization that maintaining a state of constant readiness is itself a constant, unyielding and unforgiving task. But most of all I was impressed with their willingness to be there on our behalf to do the job asked of them and to do it well.

Mr. President, the men of *Coral Sea* and Carrier Airwing 14 and the escort and replenishment ships that have accompanied her are professionals in the highest sense of the word. We ask them to do extraordinary things and they do these things enduring personal and family sacrifices that few in this country will ever experience. I am delighted that they have returned to their families and they deserve our most generous and enthusiastic welcome.

But others have taken their place and in due time they too will return. As we consider the various proposals dealing with the compensation for these professions, and as we consider the spending proposals for the assets we will make available to them, we should remember well what we ask of them and how badly we need them. For the moment, however, to the men of *Coral Sea* and CAG 14, thank you and welcome home.

TURNING SOLID WASTE PROBLEM INTO AN ASSET

Mr. BAKER. Mr. President, interest in recycling and recovery of solid waste has increased rapidly over the past several years. Under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, there are programs which encourage recycling and reuse of solid waste rather than simply disposal. In particular, municipalities are rapidly developing systems for use of refuse as an alternative energy source and techniques for reclaiming valuable materials such as ferrous metals, glass and aluminum from solid waste, thereby turning the problem into an asset.

I would like to call to the attention of my colleagues recent testimony presented before the House Natural Resource Committee of the Vermont State Legislature by Ronald D. Kinney, president of Resource Technology Corp. Mr. Kinney's testimony supports maximum recovery of our Nation's solid waste and briefly describes the status of municipal recovery facilities and their progress in recovery of ferrous metals and use of refuse to produce energy.

This testimony is particularly relevant in view of the upcoming conference on the Solid Waste Disposal Amendments of 1979 in that the testimony indicates that progress in resource recovery implementation has been significant and future trends are positive and encouraging. Data indicate that resource recovery is technologically and economically viable today.

I ask that the Kinney testimony be printed in the Record.

The testimony follows:

Statement of Ronald D. Kinney

Mr. Chairman and members of the Committee, we are submitting this statement to support the thrust of your hearings to assure the maximum recovery of our nation's waste. One of our clients, the American Iron and Steel Institute, has commissioned us to remain current with all municipal resource recovery efforts underway—from inception to successful operation—and to counsel municipal and state governments on recovery of steel. We, therefore, have the unique ability to assess the progress already achieved, as well as to anticipate future developments in this rapidly advancing industry.

We are especially concerned because of the unfavorable media coverage which one or two resource recovery systems have received. We also feel your hearings are very timely because of the heightened interest in our nation's energy supplies. We hope that your hearings will focus attention on the conversion of municipal solid waste (garbage) into energy.

While the use of garbage as fuel won't solve all of our energy problems, it will help, and also go a very long way to solving the growing problems of solid waste disposal for many communities. In addition to providing direct fuel savings, these programs offer important indirect energy savings by recovery of materials, such as steel cans, for recycling.

Every community produces a complex mixture of waste materials which its residents no longer want. In the past, these materials just "disappeared" and no one really cared about the final disposition as long as the waste was out of sight. This is no longer the case.

Today's high cost of labor, energy, raw materials, pollution controls and taxes have increased community awareness and concern for solid waste disposal costs. Pressure builds today to reuse national resources. Resource recovery and recycling at the municipal level was born of that awareness and concern.

It is difficult to pinpoint the current status of municipal resource recovery difficult, only because the status is changing at a rapid pace.

While progress in resource recovery implementation has been significant and future trends are positive and encouraging, there have been problems and setbacks. Some innovative energy recovery systems have had problems in scale-up and exhaust gas emissions. There have been equipment failures and shredder explosions, which have impacted on the annual tonnage of solid wastes processed at a given facility. In some cases, maintenance, retrofit, and inflation, singly or in combination, made actual process economics much less favorable than projected.

There have been setbacks in steel recovery and recycling also, ironically attributable to external forces not relating to the basic concept. Global economic conditions impacted unfavorably on the American copper industry in 1977 and 1978, causing many copper mines to curtail production; some smaller ones were forced out of business. This situation slashed demand for precipitation iron which is mostly steel from municipal garbage. This, in turn, caused some resource recovery facilities (particularly in the West) to stop ferrous metals recovery temporarily. Fortunately, the copper industry has recovered and future prospects are brighter for precipitation iron.

In an unrelated occurrence, a chemical detinning company in the East declared bankruptcy. That company had purchased recovered ferrous metals from 13 resource recovery facilities. The judge suspended all sales of recovered steel during the lengthy proceedings since the purchase contracts were held to be assets of creditors. Some cities stockpiled recovered ferrous metals while others stopped recovery for economic reasons. Most of these cities are again actively recovering and selling recovered ferrous metals.

So, while sales of ferrous metals recovered from our nation's solid wastes in 1978 did not quite equal the tonnage recovered in 1977, the 1979 sales recovered dramatically and the outlook for 1980 is even more favorable. New resource recovery facilities are starting up in 1980, other facilities are resuming operations, and the demand for recovered ferrous metals is high. We have all of the ingredients necessary to double the 1978 tonnage of recovered ferrous metals in 1980—barring the intervention of some unforeseen external force.

Resource Technology Corporation prepares an annual report on the resource recovery situation in cities and counties across the nation for the American Iron and Steel Institute. This report, entitled, "Solid Waste Processing Facilities," reviews the status of 231 recovery systems that were in planning, construction or operation as of July 1979. When we prepared the first edition of that report in 1973, we covered only 70 cities and towns. The growth of resource recovery has been astounding to watch. It's difficult to find a major-sized city or town today that has not at least studied the feasibility of resource recovery from their municipal refuse.

According to the report, there were 56 systems in operation and another 175 under construction or in planning. My term, "operational," refers to some form of mechanized resource recovery. Of the plants in operation, 27 were actively recovering steel and another 17 have steel recovery capability. Steel is recovered because the technology of magnetic separation is long proven and inexpensive. The markets for recovered steel also make it attractive to reclaim. Further, many of these operating systems are investigating aluminum, glass and paper reclamation as technology develops beyond the pilot stages. Such full mechanical separation over a wide range of products is only, I predict, a matter of time.

I think that interest in refuse as an alternative energy source has done a great deal to spur municipal resource recovery during the past few years. My count shows 27 systems today recovering energy either by using the combustibles in garbage to create a refuse-derived fuel (RDF) or a fuel gas product, or by burning refuse to directly generate steam.

The growth of resource recovery and its acceptance by municipal officials, industry, and the bond-buying public, as a viable way to turn what was becoming an ugly problem into an asset, is best portrayed by the numbers.

Today, at least 175 systems are under construction or in planning or design stages. Most of these systems under present planning will utilize refuse as an energy source; all will reclaim steel for recycling and many will include glass and aluminum recovery as technologies develop.

There is no typical recovery facility. Some are city owned and operated, as in Ames, Iowa. Some are owned and operated by private industry, as in Milwaukee. Some burn refuse to generate steam and separate ferrous metals from the ash, as does Saugus, Massachusetts. Others magnetically separate ferrous metals following shredding and use the remaining combustibles to produce a refuse-derived fuel, as in Baltimore County, Maryland. Still others produce a fuel gas from the refuse through a pyrolysis process, as does Baltimore. The configuration of processes depends on the facility's location, the markets for its recovered materials, and the firms involved in its design.

Certainly, a signal that municipal resource recovery is the wave of the future is underlined in a report to Congress by the U.S. General Accounting Office, released on February 28, 1979 entitled "Conversion of Urban Waste to Energy: Developing and Introducing Alternate Fuels from Municipal Solid Waste." That report states that urban waste to energy systems can produce an energy equivalent of 48 million barrels of oil annually by 1985 and some 158 million barrels by 1995. Such systems would recover nonrenewable materials such as iron, while conserving much of the energy used to process virgin materials.

Today, there is simply no good reason not to use garbage wisely. There is, for example, an estimated 200 million dollars worth of marketable steel in the nation's garbage each year, not to mention other recoverable resources. Most of you know, we're not talking science fiction. Resource recovery is technologically and economically viable today.

In virtually all of these waste-to-energy systems, magnetic retrieval of ferrous metals—largely, tin plated steel cans—is incorporated. The magnetic recovery of steel cans is proven technology which can be economically incorporated into most energy recovery processes.

Generally, revenues from the sale of recovered ferrous metals play a significant role in the overall process economics.

There are four well-established industrial markets for recoverable ferrous metals. The steel industry (for remelting), the ferroalloy industry, the chemical detinning industry (for tin recovery), and the copper industry (for precipitation iron to recover copper from low-grade ores). A fifth market, the gray iron foundry industry, is being developed by research and market testing under the sponsorship of the American Iron and Steel Institute.

MILITARY SERVICE

Mr. PERCY. Mr. President, many of us had hoped that the Selective Service machinery could be improved sufficiently to reduce the need for registration. But it is now apparent that registration will be necessary.

Heightened world tensions underscore the crucial importance of maintaining our national preparedness. I do not favor a return to the draft, but I do want our Nation to be prepared in case of a national emergency. With the Selective Service's current state of readiness, registration would save about 3 months. Even with a strengthened Selective Service, registration will save significant time that could be vital in the event of such an emergency.

We must send a message to the Soviet Union that we have the strength and unity to meet any challenge they might make to our vital interests in the Persian Gulf. Registration is not the only part of this message. Our grain embargo, our ban on high technology exports, and our boycott of the Moscow Olympics should send a clear and unmistakable message to the Soviets that we consider their brutal invasion of Afghanistan a serious threat to world peace. We must make them pay a high price for this provocation in order to deter them from further aggression.

On the issue of registration, I favor the registration of both men and women. Women now comprise 8 percent of our armed services personnel. In the event of a national emergency in which we had to marshal all of our resources, we would need women to serve in noncombat jobs in even greater numbers.

I hope that recruits for the four military branches will increase voluntarily and that we can do a better job in retaining the high-quality personnel who now serve in the military. For that reason, I recently supported a successful Senate effort to increase military allowances so that retention can be improved in the All-Volunteer Forces. I voted in favor of the increases despite the need for budget restraints this year because I want to see the voluntary concept work. I have been assured by the Joint Chiefs of Staff that they also prefer continuation of the volunteer approach and do not favor a return to the draft at this time.

SPRING MEETING OF THE NORTH ATLANTIC ASSEMBLY

Mr. PERCY. Mr. President, last week I represented the Senate at the spring session of the North Atlantic Assembly, held in Luxembourg on June 6–7.

The U.S. delegation was very capably led by Representative JACK BROOKS, of Texas, and I ask unanimous consent to have printed in the RECORD the names of the congressional delegation.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL DELEGATION

Congressman JACK BROOKS, Democrat of Texas, Chairman.

Congressman FRANK ANNUNZIO, Democrat of Illinois.

Congressman CHARLES ROSE, Democrat of North Carolina.

Congressman BOB WILSON, Republican of California.

Congressman ELLIOTT LEVITAS, Democrat of Georgia.

Congressman PETER PEYSER, Democrat of New York.

Congressman WYCHE FOWLER, JR., Democrat of Georgia.

Congressman CLAIR W. BURGENER, Republican of California.

Congressman E. G. (BUD) SHUSTER, Republican of Pennsylvania.

Senator CHARLES H. PERCY, Republican of Illinois.

Mr. PERCY. Mr. President, as NATO's interparliamentary adjunct, the Assembly holds such a session annually in preparation for its full plenary session in the fall. This year's session, however, was unusual. Because of widespread concern about the state of alliance solidarity and the adequacy of NATO's response to the Soviet invasion of Afghanistan, the Assembly scheduled a special plenary debate focused on a "draft resolution on Afghanistan and related issues."

Consideration of the resolution began in the Political Committee, where the original draft was amended substantially. Participating in those proceedings, I had the opportunity to convey something of the American perspective on the issues involved and to suggest certain modifications which were eventually accepted. The resulting resolution was, I believe, a strong statement of alliance unity and resolve.

During the plenary debate on the resolution as it emerged from the Political Committee, a number of amendments were proposed but voted down. One such amendment, which received considerable support, called for the United States to ratify the SALT II agreement "as soon as circumstances allow."

On balance I judged, as did a majority in the Assembly, that this is not the right time for sounding notes of conciliation with the Soviet Union, or for making any statement which could even be construed as conciliatory.

Because of the absence of this SALT II provision, 10 delegates chose to abstain on the final vote. But apart from those abstentions, the Assembly vote was overwhelming: 73 in favor, 1 against.

All in all, Mr. President, the Assembly's spring session provided a fine forum for an exchange of views among Allied parliamentarians and for the promulgation of the clear message that, notwithstanding periodic disagreements on policy and procedure, the unity of the alliance continues—sustained by common values and common interests.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of the resolution on Afghanistan and related issues passed by the Assembly, the text of my remarks to the plenary session, and the text of a fine talk given in the political committee by our able Ambassador to Luxembourg, James Lowenstein, a former member of the Senate Foreign Relations Committee staff.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION ON AFGHANISTAN AND RELATED ISSUES

The Assembly,

Condemning the Soviet invasion of Afghanistan as a violation of Afghanistan's sovereignty and territorial integrity, and of the right of the Afghan people to self-determination;

Recognizing that events outside the geographic area of the Alliance which seriously undermine the individual and collective interests of member states ought to be a matter of intensive consultation with a view to developing common positions;

Considering the Soviet invasion to be a qualitative new step of Soviet expansionism threatening nations beyond the borders of the Soviet dominated alliance system, especially non-aligned countries in Europe and in the Third World;

Concerned that as a consequence of the invasion, East-West relations have deteriorated and that the East-West dialogue in general and arms-control negotiations in particular have experienced serious setbacks;

Recognizing that the massive and continued deployment of SS-20 missiles is creating a highly unbalanced situation in Europe itself;

Affirming Allied determination to meet the Soviet challenge;

Convinced that Western cohesion is a necessary requirement for the maintenance of Western military, political and economic security and for the conduct of successful East-West negotiations and serves as an incentive for the Soviet Union to adopt more co-operative policies:

Concerned with the situation in the Middle East, the stability of which is essential;

Emphasizing the necessity for close consultations in the formation of a comprehensive strategy to meet the crisis confronting the member states in Afghanistan, where massive Soviet forces continue to occupy a formerly independent country;

Urges member governments of the North Atlantic Alliance

1. to continue to press for the total and immediate withdrawal of Soviet forces from Afghanistan and to support efforts aimed at a political solution that provides for the withdrawal of these forces and for a guarantee of the territorial integrity and self determination of Afghanistan;

2. to intensify their efforts to promote peace and stability in South-West Asia and the Gulf area;

3. to meet more effectively the requirements of NATO's Long Term Defense Programme and the renewed commitment to increases in defence expenditure and to immediate measures to strengthen European security and defence, as agreed to by the NATO Defence and Foreign ministers at their meeting on 14 May 1980;

4. to reconsider the conventional military options and the possible tasks of the rapid deployment forces of certain member countries, and, in light of these, to conduct immediately an intensive study as to how member governments, in line with their respective capabilities, can meet the military manpower requirements necessary to redress the balance between NATO and the Warsaw Pact;

5. to pursue arms control negotiations and the opening of negotiations on long- and medium-range nuclear weapons systems in Europe as soon as circumstances permit;

6. to assure, on the basis of the Ottawa declaration of 1974, close and effective consultations within the Alliance with a view to developing a common comprehensive strategy to meet the present challenges and to seek a more effective and lasting system of crisis management within the Alliance.

REMARKS BY SENATOR PERCY TO THE NORTH ATLANTIC ASSEMBLY (JUNE 7, 1980)

Mr. President, fellow members of the Assembly:

We are met in this unusual plenary session today for a single reason: the Soviet invasion of Afghanistan, coupled to the steady build-up of Soviet military power, has presented the Atlantic Alliance with a serious challenge, and it is important that we confirm our joint determination to meet that challenge effectively. Toward this end, the resolution before us is a small but constructive step, because agreement on principle and purpose is a prerequisite to unified action.

In recent months, the Atlantic Alliance has experienced what some have called a "crisis of solidarity." There has been some truth to this—and some exaggeration. In part, our disagreements have centered on Iran, and the question of whether an exhibit of solidarity through a policy of collective sanctions is actually the most effective way of pursuing Western interests, as well as gaining release for 53 innocent hostages. In part, our disagreements have centered on Afghanistan, and the question of how to respond to the Soviet invasion. Some Europeans have sincere doubt about the efficacy and wisdom of the initial, primarily punitive steps taken by the United States on the Olympics and on trade.

Today I do not wish to dwell on these disagreements. They are real, but they are essentially secondary. Of primary importance is that we are agreed on the fact of a Soviet challenge and the need to meet that challenge through a comprehensive series of positive steps—both military and political—aimed at securing our long-term common interests.

In this connection, I wish to focus today on three points:

DIVISION OF LABOR

The first is the concept of a division of labor within the Alliance. I believe that we waste time in debating about whether the Allies should or should not take actions outside NATO's geographical boundaries. In my judgment, this is a false issue. It is the appropriate role of NATO's military institutions to concentrate on defending the continent of Europe. But at the same time, it is the appropriate role of NATO's political institutions to recognize that the Allies have profound interests outside the NATO jurisdiction, and to take those interests into account in allocating responsibilities within the Alliance.

This distinction applies most obviously to Western interests in the Persian Gulf. Here the crucial imperative of securing a stable supply of oil for the industrial democracies requires a significantly expanded American military role in the region. The corollary of that requirement is an expanded role for the European allies elsewhere, in their own territorial defense and in international undertakings on the economic and diplomatic front as their capabilities allow.

Nor can it be overemphasized that this corollary applies to Japan as well. With the second largest economy in the non-communist world—one so strong that it has just doubled its already significant allocation of resources for commercial research and development—Japan must now lend a commensurate portion of that economic power to the common defense of free-world interests, notwithstanding her constitutional limitations on militarization. Appropriate in this regard—as measures to lighten the U.S. defense burden in the Pacific—would be a Japanese contribution of, say, fifty modern anti-submarine vessels, operating perhaps under joint command; and expanded Japanese mine-laying capability; and increased Japanese expenditures on air defense. Also appropriate would be increased Japanese outlays on strategically targetted economic assistance—for example, in Oman, Somalia, and Kenya, where American access to military facilities entails financial aid to host governments.

Before leaving the subject of our division of labor on the international front, I think a special word is required regarding the Middle East. It is quite clear that in selective areas of vital interest in the West, the European allies can make dramatic contributions to regional stability. Obvious examples are the French role in central and northern Africa, the British role in southern Africa, the German role in Turkey. But as regards the Middle East, I must offer a word of caution. I recognize Europe's sense of urgency about the need for a Palestinian solution. But I believe that a European initiative now—just following the Saudi proposal to use U.N. Resolution 242 as the basis for negotiations and to involve Jordan and Syria—would undercut the Camp David process at a critical time when movement may be possible. On this question, as a member of the loyal Republican opposition, I stand with the Carter Administration in opposing an untimely European intervention.

ARMS CONTROL

My second point today concerns arms control. I am keenly aware of the deep concern of many Europeans about the fate of the SALT II treaty. I share that concern. At the same time, however, I recognize that U.S. ratification in the near future is virtually a political impossibility. Nor—even though I do not view the treaty as a favor to the Soviet Union—am I convinced that we should ratify the treaty at this point, even if that were possible. What I think we must look toward, at least for the time being, is adherence to the treaty terms—without ratification. Thus I support the Carter Administration's declared intent to adhere to SALT II unless and until and the Soviets violate the terms.

I support also an early commencement of serious negotiations directed at stabilizing a theater nuclear balance. In conjunction with its TNF modernization decision, NATO has proposed such negotiations, and I think they can and should occur even without SALT II ratification. The real variable is the Soviets' willingness to participate.

If and when such negotiations begin, I think West Europeans can be confident that the United States will consult closely with its allies. During SALT II, some of you were concerned that Europe was being neglected—relegated to the role of potential battlefield in the thinking of American negotiators. I think you can be sure that in SALT III no such impression will be allowed to arise. We will consult closely and we will aim toward an agreement that retains and strengthens the strategic "coupling" of America to Europe.

MUTUAL UNDERSTANDING

The matter of "coupling" brings me to my third and final point. For it is vital to the Alliance that Europe and America remain coupled not just strategically, but psychologically as well. Indeed, without the political cement of mutual trust, our strategic commitment to each other is bound to wither. Our ambassador to Luxembourg, James Lowenstein, spoke cogently on this subject yesterday to the Political Committee, and I can only reiterate his thought. Sometimes, in watching our behavior these days, it appears that politicians have decided that it is just about as easy and effective to blast an ally as it is to castigate an enemy. Certainly I see this tendency on my side of the Atlantic, and I think you find it in Europe as well. This is a temptation we all must resist, for it is we in political life who must foster the public understanding on which the cohesion of this Alliance depends.

Notwithstanding our disagreements and our ups-and-downs, I am optimistic. If we simply bring the will to bear, we can meet the Soviet challenge—and, by so doing, maintain the stability, security, and prosperity of both Europe and America. In our own foreign policy, NATO remains the touchstone—and so, I am confident, it will remain, no matter what the outcome of this year's Presidential election. Our commitment to the Alliance is enduring. And in the resolution before us today, I find that same commitment shared by our European allies.

In conclusion, and now speaking on behalf of the entire U.S delegation, we fully support the amended Resolution on Afghanistan and relating issues as adopted by the political Committee and oppose all further amendments now before this plenary session of the North American assembly. We specifically oppose and most sophistically oppose inclusion of specific reference to Salt II for the reasons I have outlined in detail before the Political Committee.

Thank you, Mr. President.

REMARKS BY AMBASSADOR JAMES LOWENSTEIN—TRANSATLANTIC PERCEPTIONS AND ALLIANCE RELATIONSHIPS

I am delighted to be here with you again this morning. I say again because I believe that I am the only American Ambassador who has been with you before in two capacities: First, as a member of various Senate delegations to the North Atlantic Assembly during the time that I was on the staff of the Senate Foreign Relations Committee; second, as a representative of the State Department during your spring meeting in Brussels in May 1975.

Through an accident of uncustomary efficiency, I have kept the text of what I said in Brussels five years ago. In my remarks, which were entitled "The United States and Europe After Vietnam," I noted three changes that had occurred since NATO was founded. The first was a change from a bi-polar world to one that was increasingly multi-polar. The second was the increased economic and political interdependence among states and I cited, specifically, the problems of energy, resources and commercial and technological interchange. The third was the tendency within individual bodies politic to look inward—to give priority to domestic, regional or local problems. And the fourth was that a new generation had come of political age since the birth of the alliance in 1949. I said that these four changes had led to ambiguities and contradictions in policies—not only in the United States but in all of our pluralistic democratic societies—but that, whatever these ambiguities and contradictions were, I was convinced that we would continue to demonstrate that we could be introspective without being isolationist and able to discharge our defense responsibilities abroad without defaulting on our obligations at home. And I concluded with the following paragraph:

"Americans are proud of the role we have played in Europe. We believe that without our help it would not have been possible to maintain the general world order for thirty years in the face of serious threats from those who wish to change it in a way that would have involved unacceptable consequences for democratic societies. Americans take great satisfaction in having provided more economic assistance to others than any other country, in having contributed more food, educated more people from other lands and welcomed more immigrants. But those thirty years of peace and prosperity have come at a high cost. It is a cost that Americans are unwilling to bear alone. And since a viable American policy depends on the support of the American people, and since that support is contingent on an American perception that Europe is doing its share, America's role in the alliance now depends as much upon you as it depends upon us. But is that not, after all, the essence of partnership."

I believe that exactly the same thing could be said today—that a perception in the United States that our European partners support us is as important when it comes to continued American support for NATO as a perception in Europe that the American commitment to Europe's defense remains firm is important when it comes to continued European faith in an alliance with us. And it is the state of these perceptions—or misperceptions—that I believe can be said to be at the heart of whatever tension exists today in U.S.-European relations.

A difference between our perceptions and yours is as old as the alliance itself, although we tend to think the old days were better and to forget the words of the American humorist, Finley Peter Dunne, who said: "The past always looks better than it was. It's only pleasant because it isn't here." For at times in the past, you have criticized us either for being too hostile to the Soviet Union or for being too friendly; for intervening in the affairs of other countries, as in Vietnam, or for not intervening, as in Angola; for trying to push European integration too fast and too far or for standing in the way of a strong European Community; for not consulting with you or for not exercising decisive leadership when we do; for dominating Europe economically or for weakening it by withdrawing our investments; for doing nothing to control the rate of inflation or for putting European countries at a competitive disadvantage by raising interest rates to control the growth of the money supply and thus reduce inflation. I could go on but I hope that these few examples will help to set the present difference in perceptions in perspective.

The present difference in perceptions revolves around Iran and Afghanistan. As we see it, while you share our outrage at the taking and holding of American diplomats as hostages and agree with us on the strategic threat the present instability in Iran represents, you fear that our response risks driving Iran into the arms of Moscow. As far as Afghanistan is concerned, while we believe that you share our concern that the Soviet invasion represents a threat to access to Persian Gulf oil, suggests greater Soviet willingness to use military power, signals a shift in Moscow's intentions and highlights Western vulnerabilities, you do not agree with some of the reactions we have proposed—specifically, many of the economic measures we have advocated with respect to grain, technology and the Olympics. We believe that these economic sanctions will contribute to deterring the Soviets from further adventures. Many of you believe that they are simply meant to punish the Soviets, will not be effective and involve domestic sacrifices of trade and employment which could cause serious economic and political problems for you at home.

In sum, then, we tend to see a lack of political willingness in Europe while you tend to see inconsistency and indecisiveness in Washington.

What is the solution? How can this perceptions gap be bridged? We see no quick and easy method of solving what is, in effect, a chronic problem. As has been true throughout the history of the alliance, an alliance a Harvard Professor named Henry Kissinger called, in a book written in 1965, "The Troubled Partnership," we believe that what is needed is calm, dependability and full consultation in which all the allies show a willingness not only to inform, and not only to listen, but also to adjust to the concerns of other allies before making major decisions affecting them.

Now one of the concerns of our European allies, we know, is how the invasion of Afghanistan affects our concept of East-West relations over the long term. Have we, in short, returned to the Cold War or, if we haven't, do we want to? I asked the State Department for a formulation of an answer to this question. The essential elements of their reply were these: First, that while we have sought to impose a heavy price on the Soviets which we hope will help deter similar actions elsewhere, the steps we have taken were also designed to move us toward the goal of complete withdrawal of Soviet military forces from Afghanistan. Second, at the same time, we retain an abiding interest in fashioning a relationship with the Soviet Union in which our fundamental competition is bounded by restraint.

Third, in imposing sanctions we have abrogated none of our formal agreements with the Soviet Union. The framework for a more stable, mutually beneficial relationship remains in place. Fourth, we remain committed to negotiating with the Soviets on arms control. While recognizing the political difficulties of achieving ratification in the immediate future, we remain committed to the SALT II treaty and intend to take no actions that would defeat the purpose or object of the treaty or that are inconsistent with the SALT I interim agreement.

Moreover, we have made clear our willingness to enter into TNF negotiations within the framework of SALT III and to conduct preliminary exchanges even before SALT II is ratified. We can only regret that the Soviets have not chosen to respond positively. Fifth, without signalling a return to business as usual, we recognize the importance of keeping open channels of communication with the Soviets as was shown by Secretary Muskie's meeting with Foreign Minister Gromyko in Vienna.

Sixth, at the same time we have continued our policy of expanding ties with Eastern Europe. We intend to continue to seek improved relations with each of the Eastern European countries to the degree that they reciprocate our interest and demonstrate a willingness to take our concerns into account. However, while we do not insist that Warsaw Pact states share our view of events in Afghanistan, actions they take which serve to undermine the specific steps we have taken in our relations with the Soviet Union would make it increasingly difficult for us to continue to pursue policies which distinguish between individual Eastern European states and the Soviet Union. And, seventh, we have reaffirmed our commitment to the CSCE process which we see not only as part of the framework which can help provide the evolution of a more stable relationship with the Soviet Union, but also as a process which has constructively involved the Eastern European countries.

These elements do not, it seems to me, constitute a prescription for a return to the cold war. Yet the European press, over the past six months, insists otherwise. That leads me to comment that it seems to me that one of the reasons for the perceptions problems between the United States and Europe is the coverage of Europe in the American press and of the United States in the European media. My impression is that not only does the American press provide insufficient coverage of the technological advances that have occurred in European countries, and the sociological consequences thereof, but in its political coverage of Europe the American press seems to follow whatever the current U.S. Government preoccupations are. Over the past year, those preoccupations have been, in turn, TNF, Iran and Afghanistan. But Europeans have been at least as concerned about the Middle East and oil, steel trigger prices and fluctuations in the dollar which one could not divine from reading the American press, and I see little analysis or comment in the American press on how foreign policy issues relate to European domestic political concerns.

As for European press coverage of the United States, it strikes me as often superficial. A European reading about the United States has very little idea of the diversity of American society, the conflicts and contradictions between the moralistic and materialistic streaks in the American psyche or the sophistication of American political analysis and thinking. And there are many important areas in American political and social life the European press barely touches.

One example is the role of Congress (not just the fact, which is often reported, that it frequently blocks a President's proposals, but its constitutional responsibility to act as a check and balance.) Another is the "Proposition 13" phenomenon (and, for that matter, Europeans are poorly informed about how high our taxes are). Then there is the importance of special constituencies in the United States and their effect on foreign policy issues. And, on both sides of the Atlantic, there seems to be a disposition in the press to criticize rather than explain.

But no matter what criticisms are made, and what differences in perceptions arise, I think that it is important not to forget that since the end of World War II, every American President and every Secretary of State has emphasized the primacy of the U.S. commitment to Europe. President Carter did so most recently in a speech in Philadelphia on May 9 when he defined solidarity with our allies as "the touchstone of our foreign policy."

Whatever else you may criticize us for, whatever other changes there have been in our foreign policy, the fact is that we have not turned our backs on Europe by giving in either to protectionist pressures in the economic field or isolationist pressures in the political field; that, on the contrary, in both Republican and Democratic Administrations, through both conservative and liberal cycles in American political history, during all the political and economic traumas that we have experienced in the last three decades, we have not wavered in our conviction that the closest possible relationship with the strongest possible Europe is the most fundamental requirement in American policy. I trust that none of you would want it otherwise.

CORPORATE PROFITS: A WINDOW ON THE ECONOMY

Mr. PERCY. Mr. President, it does not seem that it was too long ago that President Carter and others were publicly deploring what they saw as "obscenely high" corporate profits. A great deal of rhetoric was spilled over how profits were inflationary and should be rolled back. Fortunately, that kind of talk died down pretty fast and we have additional evidence to show why.

Corporate profits are not extremely high. On the contrary, a close look shows that some corporations may be actually in a state of liquidation with the present level of dividends. Inflation has made corporate profits one of its major targets, and our whole standard of living in the years ahead will be affected by this erosion of corporate earnings.

Last year the Mellon Bank drew some insightful conclusions in a study on corporate profits. According to the bank:

> The most devastating impact of inflation can be seen in the effect such adjustments have on retained earnings.

Commenting on this report, Industry Week magazine noted that:

> The amount of money actually available from internal sources (after taxes and dividends are paid) for the expansion of business declined more than 27 percent last year (i.e. 1978) to $11.5 billion—less than half the peak level recorded in 1966.

Congress is well aware of this slackening of corporate investment and many of the committees of Congress are active in exploring ways to help improve U.S. productivity and investment. The Finance Committee, for example, has the Capital Cost Recovery Act before it. As a cosponsor of this bill, I feel it would help in the battle to raise capital formation and stimulate productivity improvement. In the Governmental Affairs Committee, we have just reported regulatory reform legislation that will work to lessen the costs of Federal regulation and free more capital for productive investments. We are also working to balance the Federal budget so that the Federal Government will not displace private borrowers from the credit markets.

It is therefore very timely that a revised method of accounting has come to the fore this year in the 1979 annual corporate reports. Inflation and reduced investment are reflected in the figures on income, earnings and return on stockholders' equity. The Washington Post presented these figures—in both the conventional and inflation accounting systems—and detailed the dramatically revised picture of the economy that the inflation accounting presents.

Mr. President, I ask unanimous consent that the Washington Post article of June 1, 1980, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVISED ACCOUNTING PAINTS GRIM PICTURE

(By Martha M. Hamilton)

A revised method of accounting, in use for the first time in 1979 annual reports, reveals a radically altered, ominous view of the health of many major U.S. corporations.

For the first time, investors and the publice at large are being given a glimpse of the toll inflation has taken on corporations.

Inflation adjusted figures are sweeping aside historical figures that show record sales and profits, sometimes revealing instead marginal earners or losers, particularly in the nation's large manufacturing industries and utilities.

Viewed through inflation-adjusted figures in the back of annual reports, what once appeared to be corporate robustness may now seem like alarming pallor. What seemed to be reasonable dividends may now look like unjustifiable luxuries, draining away the capital that industries need to survive.

"It's really very sobering, and we're somewhat overdue getting to it," Securities and Exchange Commission chairman Harold M. Williams said of the bleak new picture of the economy.

"Accounting has just not told the story. We're running down our wealth generating machinery without really knowing it," said Michael Alexander, director of research for the Financial Accounting Standards Board, which developed the format for inflation accounting now being used by the nation's major public corporations.

"If you look down the line, you really see a lot of Chryslers in the manufacturing industries," he said. Generally, high technology companies where costs are being reduced as the product improves come off best in inflation accounting.

"What the figures are telling us in the aggregate is that we are not generating and retaining the corporate profits necessary to keep our plants modern, to invest in productivity or new plants and to create the jobs and the new products that really underlie our standard of living," said Williams.

What the figures tell about Ford Motor Company, for instance, is that once inflation is taken into account, income from continuing operations is only about a fifth of what it appears to be using historical accounting methods that have been required.

Those figures show income of $1.169 billion for 1979. But when those figures are adjusted to take into account the general effects of inflation, the figure is reduced to $375 million. When the figures are adjusted specifically to take into account inflation in the costs of resources Ford must buy, the figure drops to $213 million.

"All things considered, I would say we had a pretty good year," Ford chief executive officer Philip Caldwell said in Ford's annual report. "Earnings of $9.75 a share—$1.2 billion—were the third highest in the company's history," he said.

But just as many individuals have come to realize that apparently higher salaries have been eroded by inflation to the point that purchasing power has been lost, observers are getting indications that "record" corporate sales and profits have also been eroded.

For instance, the $9.75 per share earnings, adjusted for general inflation are $3.13. Adjusted specifically to reflect Ford's costs, they are $1.78. In contrast, Ford paid a cash dividend of $3.90. This year may be even bleaker. Some estimates suggest that Ford will be lucky to break even on income using conventional accounting.

"In some instances, the figures will point out that, in effect, companies are paying dividends out of capital, not earnings, and in reality the corporation is in a state of liquidation," said Williams.

Although Williams, analysts from the FASB and others maintain the new, inflation adjusted data is reasonably accurate and a good indicator of what is happening in the economy, others are less certain.

Historical accounting methods provided an incomplete picture because they based depreciation, or the cost to the company of using up its inventory and equipment, on prices paid when assets were acquired. Inflation accounting looks at the cost of replacing those assets right now.

Critics note that a weakness in the new method is that it assumes the complete replacement of productive capacity at current prices and assumes that selling prices will be constant.

Clarence Staubs, assistant chief accountant at the SEC, also cautions that the figures must be taken with a grain of salt because in many cases they provide a "worst case" analysis of the company's fortunes. "It's really a very conservative view," he noted.

The new methods were required by an October 1979 ruling by the FASB, which makes the rules governing preparation of financial reports. Public companies with inventories and property of more than $125 million or $1 billion in assets are required to discuss their income for the fiscal year ending on or after Dec. 25, 1979 using the new method.

Inflation accounting techniques are still somewhat experimental in nature and the format used from company to company may vary.

Basically the FASB standard requires adjusted information about costs and expenses, net income earnings per share and unrealized gains from money owed or losses from monetary assets held. This year, besides reporting figures using conventional methods, companies must also report what the figures look like adjusted to reflect changes in the consumer price index (constant dollars.)

For fiscal 1980, companies will also be required to disclose information on a current-cost basis that reflects specific price changes on the items a company buys.

In some cases, reductions in income produced by inflation accounting are offset by the amount of money made through holding debt. Just as individuals with large mortgages make paper profits in a time of inflation by being able to repay debt in cheaper dollars, so do corporations.

On the other hand, a gain from holding huge debts may be a sign of ill health rather than good health, according to analysts. The most heavily mortgaged campanies may not be the soundest.

Some corporations have bounded into the era of inflation accounting with more enthusiasm than others. Even though it may make good sense in the long run, corporate managers governed by short-run, considerations such as annual bonuses and pleasing their directors and stockholders may prefer accounting techniques that give a rosier view of operations. Also, the change in methods is a major departure after years of use conventional methods.

General Electric has done one of the most complete and enthusiastic jobs of incorporating the new data in its annual report, even referring to it on the cover.

"Severe inflation distorts the financial reporting of business, giving the illusion of soaring profits when in fact, real profits—profits stripped of their inflationary increments—have failed to keep pace with the rising costs of replacing buildings, machinery and equipment; maintaining inventories; and supporting research and development," according to GE's annual report. "Your management welcomes the initiative taken in 1979 by the Financial Accounting Standards Board," chairman Reginald H. Jones said.

GE has gone even further, setting up seminars for top management on coping with inflation. Nearly 1,000 managers have already been through the course, and another 1,000 managers at the next level are now scheduled for it, said Terrence E. McClary, vice president of corporate financial administration.

"We do a good deal of measuring our results using inflation adjusted data," he said. "On our requests for plant appropriations—if we're undertaking to expand a plant or enter new business—we ask our managers to present data two ways," he said.

Using a combination of conventional data and inflation adjusted data and forecasts, they decide "what type of business we want to allocate resources to," he said. Although GE has adjusted some data on the basis of inflation for several years, it now gets more emphasis, he said.

Results are influencing how GE grows, suggesting getting into service-oriented lines of business, such as information services, and out of capital-intensive and low-margin businesses. For instance, the company has gotten out of the food service business and a wire and cable manufacturing business in Canada.

One reason for the corporate embrace of inflation accounting is because it can be used as ân argument for lower corporate taxes. If corporations are in fact riding out losses instead of reaping obscene profits, then their taxes should be lower, corporate officials argue.

"Whether a change in tax law ever comes to pass or not, I think we have to be realistic about understanding what corporate earnings are," said Williams. "We don't understand what role profits play in the economy and society. Rather than being obscene, they are pretty helpful." Inflation accounting will help foster that understanding, he said.

JIMMY CARTER'S MISCONCEPTIONS ABOUT U.S. FOREIGN POLICY

Mr. THURMOND. Mr. President, during these times when more and more American citizens are increasingly concerned about our Nation's future in a world of frightening uncertainties, it is indeed alarming that our national leadership continues to talk much but fails to act or acts indecisively in matters of foreign policy and national defense. Over and over again we are subjected to supposedly tough rhetoric from President Carter, yet questions persist and further doubts are raised—both here at home and abroad. This meaningless talk and this indecisiveness of action have escalated in this election year of 1980. We have already experienced during the 3 years of the Carter administration far too little understanding by the President and far too many misconceptions by him concerning our Nation's security.

Mr. President, two articles in the May and June 1980 issues of Reader's Digest provide excellent and authoritative discussions of these critical matters. In the May issue, Rowland Evans and Robert Novak, in their article "Innocence Abroad: Jimmy Carter's Four Misconceptions," note that tough rhetoric by Jimmy Carter in recent months makes good headlines, but they also note that there is continuing reason to doubt whether his old misconceptions have truly changed.

Evans and Novak point out Carter's preinaugural interest in radically reducing America's strategic arsenal. That ill-founded interest by President Carter set a pattern that persisted until the Soviet military takeover of Afghanistan last December. The reduction of the U.S. arsenal resulted in our increasing vulnerability—a vulnerability which derives very substantially from the steady reinforcement of four basic misconceptions that Carter carried into office with him. The Jimmy Carter misconception No. 1 was that the cold war is over; his misconception No. 2 was that military spending can and should be reduced; his misconception No. 3 was that human rights must be the cornerstone of U.S. foreign policy; and his misconception No. 4 was that, in the new world, there is no need for covert intelligence activity.

Mr. President, it should be noted that Jimmy Carter began reelection year 1980 by appearing to reject each of his misconceptions. With his record of vacillation, indecisiveness, and frequent policy reversals over the last 3 years, this latest rhetoric about new or different conceptions seems especially hollow and highly questionable.

Our concerns in this matter, Mr. President, are placed clearly in focus in an article by William E. Griffith, titled "The Real Stakes in Afghanistan," in the June 1980 issue of Reader's Digest. Professor Griffith notes that, encouraged by American indecisiveness, the Russian Bear is once again on the prowl. Unless we take a strong stand now, says this expert, control of the vital Middle East oil spigot could end up in Russian hands.

Mr. President, we have indeed been guilty of looking the other way and not responding while Russia has expanded around the globe. Jimmy Carter must share the major blame for the recent decline in America's prestige. He initially urged that defense spending be cut, despite the Russian buildup. He curtailed arms sales to friendly countries. Even though the Indian Ocean fronts on the Middle East oilfields, Carter agreed to negotiations with Moscow on its demilitarization.

American prestige was further damaged last September when Carter told the world that the United States regarded the presence of a Soviet combat brigade in Cuba as "unacceptable." The Russians refused to budge and a few weeks later Carter accepted the unacceptable. If the Russians did hesitate about invading Afghanistan, Carter's weakness in the Cuban affair must have convinced them that they had little to lose.

Mr. President, the American people have recognized the appalling lack of leadership from our Presidency. It is most encouraging that our citizens have reacted with amazingly strong concern to the Soviet invasion of Afghanistan. But will we stay concerned? If Moscow finds that Afghanistan is soon forgotten, it will be tempted to strike out at another target, quite probably in or around the Middle East oil fields. If, on the other hand, the Soviets are made to understand that we intend to maintain our retaliatory pressures while increasing our military strength, they will be persuaded to call off future military adventures. Then—but only then—would it be safe and desirable for us to resume détente with Moscow.

Mr. President, in order to share these two articles with my colleagues, I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

INNOCENCE ABROAD: JIMMY CARTER'S FOUR MISCONCEPTIONS

(By Rowland Evans and Robert Novak)

On January 12, 1977, eight days before his inauguration as President, Jimmy Carter was briefed by Washington's leading military and national-security experts. Carter asked if studies had been made on how a major reduction of long-range missiles would affect the U.S.-Soviet military balance.

Gen. George Brown, chairman of the Joint Chiefs of Staff, quickly responded, "Oh, yes, Governor." He referred to studies that analyzed a reduction of long-range missiles from the proposed SALT II level of about 2400 to perhaps 2000 or so. This was considered a radical cutback. "I'm not talking about 2000, General," Carter replied in his soft Georgia accent. "I'm talking about 200 or 300."

Silence followed. Finally Harold Brown, Carter's incoming Secretary of Defense, pointed out that such an immense reduction in America's strategic arsenal would pose a fundamental risk to the nation's security, all but destroying the U.S. nuclear "shield." It would also expose Europe to the Soviet Union's vast superiority in conventional arms.

Carter's pre-inaugural interest in radically reducing the U.S. arsenal set a pattern that persisted until the Soviet military takeover of Afghanistan last December. It was born of a peculiar innocence, coupled with genuine self-confidence. His experience as a junior Naval officer, Carter felt, established his military expertise; in the two years after his single term as governor of Georgia, his membership on the newly formed Trilateral Commission convinced him that his agile mind had mastered the great game of diplomacy.

Others were not so sure. The trouble with Carter, Henry Kissinger told a friend early in the Carter Administration, was not that he did not understand foreign affairs, but that he did not understand that he did not understand.

Jimmy Carter is by no means the solitary author of the present weakened state of U.S. foreign policy. Toward the end of the Vietnam war and in the years that followed, Democratic Congresses began slashing away at the defense budget. Republican Presidents timidly accepted this. Nevertheless our increasing vulnerability derives very substantially from the steady reinforcement of four basic misconceptions that Carter carried into office with him:

Misconception No. 1: The Cold War is over. The pronouncement was made four months after the inauguration in Carter's commencement address at Notre Dame University: "Confident of our own future, we are now free of *that inordinate fear of communism*, which once led us to embrace any dictator who joined us in our fear."

In giving voice to this innocence he was merely endorsing the then popular sentiment that ideological conflict between democratic America and totalitarian Russia was no longer relevant. That view prevailed among such foreign-policy advisers as Secretary of State Cyrus Vance, chief disarmament negotiator Paul Warnke and Marshall Shulman, Vance's resident Soviet expert.

The only dissenter within the Administration was National Security Adviser Zbigniew Brzezinski, who harbored no illusions about the Cold War being ended. But he was surrounded by adversaries, and he lacked both bureaucratic skill and Oval Office backing. Brzezinski did not even control the critical function of naming his own National Security Council staff.

Meanwhile, Carter was developing a peculiar empathy for Soviet President Leonid Brezhnev. He seemed to view Brezhnev as a fellow politician harassed by pressure groups, rather than as the master of Russia who had sent his legions rolling into Czechoslovakia a decade earlier.

Nor was he prepared to dwell on Soviet violations of détente. When a military junta seized power in Afghanistan in April 1978, one of the President's national-security aides handed a reporter highly confidential information about close ties between the Soviet Union and the leaders of the junta. It proved that rivers of blood had flowed in their seizure of power. The reporter's question was obvious: "Why doesn't the State Department publicly reveal these facts?" "Because," the bureaucrat replied with bitter sarcasm, "it is afraid the Soviets might not accept our next concession."

Those "concessions" were being made in the SALT negotiations. Nobody pretended that this was an equitable step toward arms control, but key Carter aides insisted that the "process" must be maintained. "I would like to say to you," Carter told a joint session of Congress on June 18, 1979, following the signing of SALT II, "that President Brezhnev and I developed a better sense of each other as leaders and as men. . . . I believe that together we laid a foundation on which we can build a more stable relationship between our two countries."

The Soviet sweep into Afghanistan was only six months away.

Misconception No. 2: Military spending can and should be reduced. When Carter pledged in his 1976 campaign that "we can reduce present defense expenditures by about $5 billion to $7 billion annually," he was merely registering the Democratic Party's post-Vietnam consensus of "reordering priorities." That consensus, in turn, reflected the loathing of all things military that grew out of Vietnam. By deed, though not by word, Carter soon began to accept the argument of many advisers that a nation's arsenal could become too great for its own good.

Although a cutback of $5 to $7 billion a year in "present" defense spending was patently impossible, Carter moved in that direction. On June 30, 1977, he announced opposition to the new B-1 bomber. On April 3, he deferred production of the neutron warhead. On August 17, 1978, he vetoed Congressional authorization of a nuclear aircraft carrier. In 1979, he delayed production on the cruise-missile, the Trident-submarine and the SSN-688 attack-submarine programs. The Trident II missile system was postponed.

In his first three years in the White House, he cut $38 billion from spending called for by President Gerald Ford's last five-year defense program. Naval shipbuilding languished. Development was delayed of a mobile-basing system for the MX missile to protect the U.S. land-based deterrent from the dramatically improved accuracy of the big Soviet missiles. Aircraft production did not even cover attrition. Morale declined as pay for experienced technicians and officers lagged well behind inflation.

All of this overlooked two hard facts of life: first, that ever since Russia's humiliation in the 1962 Cuban missile crisis, the Soviet Union had been carrying on the greatest peacetime arms buildup in the history of man; second, that U.S. military might had suffered by financing the Vietnam war through the deferral of vital weapons modernization.

Not until defense-oriented Senators tied their support for ratification of SALT II to higher defense spending did Carter change his public tune—a change now dramatically accelerated by the Afghanistan invasion. Even so, Carter's new proposals cannot possibly catch up with original military plans until 1985 at the earliest and, given Soviet weapons progress, even then we will fall far short of attaining parity with the Russians. Moreover, danger persists that the mixture of rising inflation and rising pressure to balance the 1981 budget will reverse Carter's pledge to increase defense spending, despite all the bold talk.

Misconception No. 3: Human rights must be the cornerstone of U.S. foreign policy. Carter made clear from the start that his crusade for human rights was directed not just at the Soviet Union but against "any dictator who joined us" in our "inordinate fear of communism." That inevitably led him into a policy of maximum U.S. pressure against friendly tyrants. At the same time, Soviet experts in the State Department gradually subdued Carter's human-rights pressure against Moscow, for the sake of détente.

The damage to long-standing U.S. relationships came quickly. Brazil canceled a 25-year-old military assistance treaty with the United States. American relations with Argentina and Chile deteriorated.

The peak of human-rights zealotry came last year in Nicaragua and Iran. The result in Nicaragua is a pro-Marxist regime that did not even join the United States and the vast majority of the United Nations General Assembly in condemning Soviet aggression in Afghanistan. The result in Iran is Ayatollah Khomeini and anguished months of humiliation for the United States.

Misconception No. 4: In the new world, there is no need for covert intelligence activity. The men brought into high office by Carter had come to regard the CIA's great feats of the 1950s—the overthrow of a procommunist regime in Guatemala and the restoration of the Shah in Iran—as cause for shame. Carter said at Notre Dame, "For too many years, we have been willing to adopt the flawed principles and tactics of our adversaries, sometimes abandoning our values for theirs."

Carter decided not to retain George Bush as CIA director but instead to single out for that job a leading critic of the intelligence system, Theodore C. Sorensen. When the Senate forced Carter to withdraw Sorensen's name, he responded with a man far less controversial: Adm. Stansfield Turner, an old Annapolis classmate with excellent brains but faulty judgment.

Turner began by summarily abolishing 820 jobs in the clandestine service. His callous order forced out men and women with priceless and irreplaceable expertise. Some of these operatives were in mid-career and ineligible for retirement pay. Morale plummeted and many of the best CIA personnel have since quit in disgust. Among Turner's casualties: the agency's top experts in counterinsurgency, in Iran, the People's Republic of China, the Kremlin power structure and the vital Middle East.

Combine that with Congressional shackling of covert operations, and it is no wonder Sen. Daniel Patrick Moynihan (D., N.Y.) suggested that the analytical functions now left to the CIA might well be performed by the Library of Congress. He was exaggerating only a little. The CIA has ceased to function as the intelligence service of a great power. It cannot even aid anti-communist insurgencies in Angola and Afghanistan.

With U.S. diplomats imprisoned for months as hostages in their own embassy in Tehran, and with Soviet troops pouring into Afghanistan, Jimmy Carter began re-election year 1980 by appearing to reject each of his misconceptions. He forthrightly confessed after the Afghan invasion, "My opinion of the Russians has changed more drastically in the last week than in even the previous 2½ years." He re-declared the Cold War with his pronouncement of the "Carter Doctrine," guaranteeing the territorial integrity of Persian Gulf nations; he set aside his cherished SALT II; he raised defense spending; he began to unshackle intelligence and counter-intelligence activities.

Yet, questions persist: Why are negotiations with the Soviet Union on European force reductions and on a comprehensive nuclear-test-ban treaty continuing? Why is the SALT II Treaty still on the Senate calendar? Why is the Office of Management and Budget still resisting desperately needed programs such as Naval modernization and career-pay improvements? Why are the B–1 and the neutron warhead still in mothballs, the fate of the MX mobile missile still uncertain? Why is the old team of top Carter advisers still on the job if its policies had been wrong and now appear rejected?

And, finally, can a rational person explain, much less excuse, the incompetence demonstrated when Carter disavowed the recorded U.S. vote in the U.N. Security Council in the bizarre matter of Israels' settlements policy? Such sophomoric antics would be funny as slapstick comedy if they did not tear away at the confidence and credibility of the presumed leader of the West.

The early innocence may be gone, but what has replaced it? Tough rhetoric makes good headlines, but there is abiding reason to doubt whether the old misconceptions have truly been swept away.

THE REAL STAKES IN AFGHANISTAN

(By William E. Griffith)

More than any other recent event, last winter's Soviet invasion of Afghanistan should awaken Americans to the peril that confronts us. The invasion shows that an expansionist Soviet dictatorship is now prepared, given the right circumstances, to strike out toward the oil fields of the Middle East. If we fail to contain the Russians now, we may wake up some morning to find that the oil America depends on to maintain itself as a great power has come under Moscow's control.

Soviet imperialism must be stopped. And it can be stopped, provided America musters sufficient backbone. Military strength is a key consideration. Only a decade ago, our military power was clearly superior to Russia's. Today that advantage is largely gone. While Russia has been carrying out the most massive military buildup in history, the United States has cut back. Russian power now surpasses ours in some respects and, as Afghanistan illustrates, the Russians intend to use their power.

If we are going to contain Russian expansionism before it reaches the oil fields, we must rebuild our military strength. Many Americans seems to think that a military buildup leads somehow to war. Quite the opposite is true: weakness, not strength, invites aggression.

During the recent era of détente, many in Washington came to believe that the Soviet leadership had somehow mellowed, that if we were nice to the Russians, they would be nice to us. All along, the Russians openly said the opposite, vowing to continue supporting "wars of national liberation," meaning Soviet-armed insurrections in Third World countries. Our leaders have failed to take the Kremlin at its word.

History shows that Moscow respects just one thing: counterforce. When Stalin attempted to promote a communist takeover in Greece and to intimidate Turkey after World War II, President Truman stopped him by supplying massive military and economic aid to those countries. When Stalin tried to grab West Berlin in 1948 by blockading our access to the city, Truman organized a huge airlift of supplies and served notice that we would go to war if necessary to preserve our rights. Stalin backed down.

LITTLE TO LOSE

Unfortunately, that kind of backbone has been rare in Washington in recent years. Fearful of involving ourselves abroad after the traumatic experience of Vietnam, we have looked the other way while Russia has expanded around the globe. We did nothing, for example, when the Russians transported tens of thousands of Cuban troops to Africa, where they fought to shore up pro-Soviet Marxist regimes in Angola and Ethiopia. Nor did we do anything about a greater challenge—the rise of a pro-Soviet communist regime in South Yemen, an Arab country that borders on oil-rich Saudi Arabia. Today the Soviet Union uses Aden, the capital and principal port of South Yemen, as a major base for its powerful navy and as a springboard for political subversion aimed at toppling pro-Western regimes in Saudi Arabia and other oil-producing states of the Arabian peninsula.

President Carter must share the blame for the recent decline in America's prestige. He initially urged that defense spending be cut, despite the Russian buildup. He curtailed arms sales to friendly countries. Even though the Indian Ocean fronts on the Middle East oil fields, Carter agreed to negotiations with Moscow on its demilitarization.

American prestige was further damaged last September when Carter told the world that the United States regarded the presence of a Soviet combat brigade in Cuba as "unacceptable." The Russians refused to budge—and a few weeks later Carter accepted the unacceptable. If the Russians did hesitate about invading Afghanistan, Carter's weakness in the Cuban affair must have convinced them that they had little to lose.

EXCRUCIATING BLACKMAIL

Afghanistan, a poor, landlocked and mountainous country that borders on Soviet Central Asia, is in itself no great prize. But its invasion by the Soviets represents a chilling new development. For the first time since World War II, the Kremlin has used its army in a military operation beyond the borders of the Soviet bloc, indicating that Moscow, regardless of world opinion, is now ready to throw its military weight wherever it feels it has something to gain without undue risk.

Worse still, Moscow's thrust into Afghanistan has brought Soviet military power within 300 miles of the Strait of Hormuz, the strategic chokepoint, just 30 miles wide, that dominates the entrance to the Persian Gulf. Thirty percent of our imported oil—about 15 percent of our total requirements—must come through Hormuz.

We will confront the Russians in the Gulf for years to come. The Soviet Union is the world's largest producer of oil, surpassing even Saudi Arabia. But, according to most experts, by the mid-1980s its supply of cheaply available oil will become inadequate to meet its demands. Faced with a growing pinch, Moscow has warned its satellites in Eastern Europe that it will have to decrease oil deliveries to them. In the next few years, many experts believe, the Soviet Union will have to import substantial amounts of oil. The Middle East, as a result, has suddenly become much more important to Moscow.

Where will the Soviets strike next? Iran, which borders on the Soviet Union and Afghanistan, must be tempting. But the main prize is clearly Saudi Arabia, along with the small Arab oil emirates of the Persian Gulf. There, as elsewhere, Moscow may well stop short of actual invasion, feeling that it can do the job with less risk by promoting radical revolutions. If Moscow succeeds in establishing client regimes in the Gulf, the United States will be in for excruciating blackmail. Oil prices could be driven to unbelievable levels. Deliveries could be sharply curtailed, or halted entirely, to force us to capitulate to one demand after another.

GETTING THE MESSAGE

President Carter surprised not only his critics but the Soviet leadership as well by a born-again toughness in response to the Afghanistan invasion. He extended our defensive shield to countries in the Persian Gulf region. Any attempt by an "outside force," meaning the Soviet Union, to gain control of the region "will be regarded as an assault on the vital interests of the United States" and, Carter declared, "will be repelled by any means necessary—including military force."

The Administration has also taken retaliatory measures. The sale to Russia of high-level technology and grain has been cut off. Further consideration of a strategic-arms treaty has been suspended. President Carter wants America to boycott the summer Olympics in Moscow. Most important, the Administration is seeking an increase in America's defense spending.

So far, so good. The Soviets have heard the message. But, mindful of our short-lived outrage over their invasions of Hungary in 1956 and Czechoslovakia in 1968, they will certainly wait to see whether the United States backs up its tough words in a crunch. Which makes now precisely the right time to apply still more pressure. We should undertake these additional steps:

Arm the Afghan rebels with hand-held anti-tank and anti-helicopter missiles. This might well enable the rebels to pin down the Russians in a long and inconclusive war—a Soviet Vietnam.

Provide China with defensive military equipment. Given Russia's pathological fear of China, such a move would surely help to discourage Moscow from future Afghan-style operations.

Continue to build up our Naval power in the Indian Ocean. The small U.S. base on the British-owned island of Diego Garcia, about 2500 miles southeast of the Persian Gulf, should be turned into a major facility. We should rapidly build up shore facilities in friendly countries rimming the Indian Ocean, primarily Kenya, Somalia and Oman. And we should press ahead with the creation of a Rapid-Deployment Force of 100,000 soldiers and Marines who could be airlifted to the Gulf and other trouble spots as the need arises. These moves would help stiffen the resolve of friendly governments in the area to resist Soviet pressures.

Provide immediate support to Pakistan and Turkey, key frontline countries that are vulnerable to the Russians. Weak both militarily and economically, they need our help in rebuilding their armed forces and in developing programs to put new life into their battered economies. (Pakistan rejected our initial arms-aid offer, claiming it was too small to make them confident of our support in the face of Soviet pressure. We must persuade the Pakistanis of our commitment.)

We can do nothing at this time about Iran. But if a friendly government comes to power there, we can help Iran as well in resisting the Soviets.

STAYING POWER

The core of our concern, however, must focus on Saudi Arabia and the small Gulf emirates. If the Soviets make an overt military move against them, we would have no choice but to intervene with troops. We must also do so if Moscow carries out a more insidious thrust by promoting radical revolutions in those countries. It would be preferable if Arab countries joined us in intervening, but the oil is so crucial that, if necessary, we must go it alone.

The Soviet threat to Arab oil also makes imperative a settlement of the festering Palestinian issue. Having been defeated by the Israelis in four wars, the Arabs feel that Israeli expansionism along the West Bank of the River Jordan is a greater threat to them than Russian moves. They are angry about Israeli settlements there, and much of their anger is directed at us, as Israel's chief backer and defender.

Clearly, we must continue to defend Israel's right to exist. But there is no reason for us to defend Israel's conquests and its efforts to annex the Arab West Bank. We must persuade the Israeli government to halt further settlement of the West Bank, to begin withdrawing the existing settlers and to work out an overall political solution acceptable to moderate Palestinians and moderate Arab governments. Only then will Arab rancor toward the United States dissipate; only then will we be able fully to close ranks with the Arabs in resisting Soviet designs on the oil.

Above all, we must break the stranglehold the oil-producing countries have over us. The only way to do so is to enact stringent programs to conserve existing sources of energy and to develop new ones. We must make sacrifices, including gas rationing, higher fuel taxes, colder homes, fewer trips, etc. But if we become self-sufficient in energy, Middle East oil will be much less important to us. And our national security will be better served than it would be by any number of new tanks and planes.

It is most encouraging that the American public has reacted with such strong concern to the Soviet invasion of Afghanistan. But will we stay concerned? If Moscow finds that Afghanistan is soon forgotten, it will be tempted to strike out at another target, quite probably in or around the Middle East oil fields. If, on the other hand, the Soviets are made to understand that we intend to maintain our retaliatory pressures while increasing our military strength, they will be persuaded to call off future military adventures. Then—but only then—would it be safe and desirable for us to resume détente with Moscow.

It's up to us.

MR. JOE PINNER

Mr. THURMOND. Mr. President, one of the outstanding television personalities in my State is Mr. Joe Pinner.

Throughout South Carolina, Mr. Pinner is well known as a talk show host, a weatherman, the host of a children's show, and a master of ceremonies at festivals and beauty pageants. His many-faceted career has brought him into contact with people throughout South Carolina where his wit, and good nature have made him popular with people of all ages.

A recent article in the State newspaper of Columbia, S.C., provides insight into this well-liked South Carolina gentleman.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TV's JOE PINNER ON CAMERA AND OFF

(By Jackie Brooks)

The kids know him as "Mr. Knozit," the host of a daily TV show for youngsters.

Folks who are home in the daytime know him as the host of *Carolina Today*, a local TV talk show.

Folks who are home in the evening know him as the weatherman on the evening news.

Those who follow festivals and beauty pageants know him as a master of ceremonies.

I know him best as one of dinner theater's favorite patrons, the possessor of a ready and infectious laugh.

If anybody is a Carolina celebrity, it's Joe Pinner. You'd have to hunt hard to find anyone in the state who doesn't know who Pinner is, and a lot of them have shaken his hand.

"People are my business," he says, and it doesn't sound like a line. "I thoroughly enjoy going to St. Matthews and Sumter and Camden. You meet the 'real people.'"

He laughed, "One of the paradoxes of this business is you also meet the 'unreal people.'"

The original extrovert, Pinner combines a natural curiosity about people with a friendly willingness to share himself with others.

"People are the ones who make up the figures, the statistics that programmers quote," said Pinner. "Nine times out of ten, people don't disappoint me."

Pinner believes, and lives by a belief, that "there is a rhythm, a flexibility to life, and the thing to do is flow with it instead of trying to buck it. People complain about the weather. I say don't let the weather rule you—you play the weather. If it rains, there are things to do inside."

"People ask me, 'What is your hobby?' I say I don't have one. If it were work, I wouldn't be able to do what I do," said Pinner.

His schedule goes like this: On Monday, he does *Carolina Today* live at noon. In the afternoon, he tapes two Knozitland shows for weekend airing, then does a third Knozit show live. He stays on at the studio to present the weather report on the 7 o'clock news.

Tuesday through Friday, he does only (!) three shows a day: the talk show, the children's show, and the news.

On a recent weekend, he went to a dinner theater performance on Friday night; to Sumter during the day Saturday to be the host of an event with 600 youngsters; to Lexington Saturday evening to be the master of ceremonies for the Lexington County Beauty Pageant; and to a Greek party Sunday evening.

Then it was business as usual on Monday, which he concedes is "a busy day, but it's a fun day." The taped shows have youngsters as guests.

Such a schedule would kill a less energetic man. Pinner admits he's been blessed with good health—having taken only one sick day in 17 years on the air.

"There's nothing in the world that doesn't come through a TV station," said Pinner. "It's allowed me to meet fascinating people. In the last few weeks, I've gotten to meet and talk with Dizzy Gillespie, Beverly Sills, Deborah Raffin, Mrs. John Connally.

"On *Carolina Today*, I get to talk about a cross section of things," he said. "I can't cook—you'd think I'd have learned something from all the great cooking experts I've had on the show. I'm not an expert about everything, so I don't have to be a snob."

For 17 years (May 27 is the anniversary date), Pinner has stayed with WIS-TV 10 in Columbia. Over those years, he's had other offers. He doesn't sneeze at them—but he hasn't accepted any of them either.

"I think there is a tradition that every performer aspires to the network level, that they want to pay the dues and suffer and then be a network star," Pinner said.

'Individuals have different ambitions and goals. Personally I have enjoyed being here for 17 years. From the moment I arrived, I've been on the air doing commercials, entertainment shows, a children's show, personal appearances of all types.

"Any ego problems that I might have about not being a 'national product' are satisfied by doing some regional work through outside agencies," he said.

He has done commercials for a Wisconsin savings and loan association (so they could show green grass and flowers) and works with a Hilton Head company that produces national commercial spots.

"Here I get a chance to do a one-on-one with guests. In New York, I would not get to meet Beverly Sills. But here, she's accessible."

Pinner has been in the business 30 years, having gotten his first FCC license April 15, 1950—when he was 15 years old. Even before that, he knew what he wanted to be when he grew up.

"I set goals when I was a very small child, seven or eight, when I'd listen to Red Skelton on the radio," he said. "I never had that wondering that some youngsters go through."

A North Carolina native (born in Morehead City, reared in New Bern in "a sort of Camden-type atmosphere"), he attended the University of North Carolina for a year "with the idea of majoring in radio."

Because he'd already set his goal ("I didn't need two years of general subjects to help me find what I was interested in."), he dropped out to begin that career.

He shares an office with Dave Rogers at the WIS studio. Pinner's corner is covered with cartoons, photographs, cards, posters, drawings. A bookcase holds awards and trophies, including the Gold Brick of 1978 from the S. C. Opportunity School—for building the best brick square in a contest.

He goes from the office around the corner to the studio, where a portion of the wall is painted buttercup gold, and a nearly life-sized cutout of a giraffe presides over the Knozitland set. Off at right angles is the set used for the evening news.

Pinner seems the same man on camera and off. He zips on and off the set completely relaxed and natural, always entertaining, treating a young co-host like an adult.

Pinner and his family live in Edenwood, a development in Cayce. They have an unlisted phone, only because too many children would call them at home. (Competition to be a guest on Mr. Knozit's show is fierce.)

Pinner's wife Peggy is in convention sales and travel cards. She returned to work about six years ago, having stayed home with their two boys as they were growing up.

Twenty-one-year-old Michael Pinner has been managing The Creperie and working on a publication, Columbia Night Life. Just this month, he signed on as a busboy with Poseidon Food Services, to be assigned to Norwegian ships taking cruises to the Caribbean. He figures that, with his knowledge of wines and food, he should be able to quickly advance.

Sixteen-year-old Gregg is tall (6'1''), with a healthy appetite and an interest in sports. Pinner says Gregg shares his father's positive attitude, which he believes is a combination of "being born with it and developing it.

"Once in a while, I get frustrated or discouraged, and I have to sit myself down and say, 'C'mon, Pinner, you need to re-evaluate your feelings. Ninety-nine percent of the time, you like what you're doing.' "

There are a lot of people in South Carolina who are glad Joe Pinner likes what he does—because they like to watch him do it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:36 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes; and

H.R. 7072. An act to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.

ENROLLED BILLS SIGNED

At 5:20 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2102. An act pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota; and

H.R. 4453. An act to amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

The enrolled bills were subsequently signed by the President pro tempore (Mr. Magnuson).

At 6:36 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 562) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 6285) to amend the Egg Research and Consumer Information Act.

The message further announced that the House insists upon its amendments to the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Scheuer, Mr. Preyer, Mr. Ottinger, Mr. Broyhill, and Mr. Rinaldo were appointed as managers of the conference on the part of the House, and Mr. Stockman, solely for consideration of section 102 of the House amendment and modifications committed to conference; and Mr. Levitas, solely for consideration of title III of the House amendment to the text of the bill, and modifications committed to conference.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 1781. An act to amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes; to the Committee on Governmental Affairs.

H.R. 7072. An act to amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3974. A communication from the Secretary of Agriculture transmitting, pursuant to law, the global assessment report for fiscal year 1980; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3975. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Child Care Food Program: Better Management Will Yield Better Nutrition And Fiscal Integrity"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3976. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Operational And Support Costs Of The Navy's F/A-18 Can Be Substantially Reduced"; to the Committee on Armed Services.

EC-3977. A communication from the Director of the Federal Emergency Management Agency, transmitting, a draft of proposed legislation to authorize acquisition of fee title to certain property at Olney, Maryland; to the Committee on Armed Services.

EC-3978. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Section 8 Subsidized Housing—Some Observations On Its High Rents, Costs, And Inequities"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3979. A communication from the Acting Secretary of Transportation, transmitting, pursuant to law, a report entitled "Impact of Increased Unit Train Traffic"; to the Committee on Commerce, Science, and Transportation.

EC-3980. A communication from the Deputy Secretary of the Department of Energy, transmitting, pursuant to law, an annual report regarding the use of various bidding systems for leasing Federal lands located on the Outer Continental Shelf; to the Committee on Energy and National Resources.

EC-3981. A communication from the Administrator, Energy Information Agency, Department of Energy, transmitting, pursuant to law, two reports with respect to any change in market shares for petroleum products; to the Committee on Energy and Natural Resources.

EC-3982. A communication from the Secretary of the Interior, transmitting, pursuant to law, the first public lands program report, entitled "Managing the Nation's Public Lands"; to the Committee on Energy, and Natural Resources.

EC-3983. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Making Public Buildings Accessible To The Handicapped: More Can Be Done"; to the Committee on Environment and Public Works.

EC-3984. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus which proposes that the Government acquire the Thomas Jefferson Inn in Charlottesville, Virginia, and repair and alter it for continued use as the Federal Executive Institute (FEI); to the Committee on Environment and Public Works.

EC-3985. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties, hereafter entered into by the United States; to the Committee on Foreign Relations.

EC-3986. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Government Earns Low Marks On Proper Use of Consultants"; to the Committee on Governmental Affairs.

EC-3987. A communication from the Assistant Secretary of Treasury, transmitting, pursuant to law, a report on a revised system of records; to the Committee on Governmental Affairs.

EC-3988. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, an Office of the Secretary of Defense proposed new record system; to the Committee on Governmental Affairs.

EC-3989. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report summarizing and analyzing the reports submitted by executive agencies showing the amount of personal property furnished to non-Federal recipients; to the Committee on Governmental Affairs.

EC-3990. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report in response to a complaint filed with the Special Counsel of the Merit Systems Protection Board; to the Committee on Governmental Affairs.

EC-3991. A communication from the Acting Deputy Assistant Secretary of Interior, transmitting, a draft of proposed legislation to provide for the distribution of Warm Springs judgment funds awarded in Docket 198 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

EC-3992. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, a report relating to the administration of the Freedom of Information Act; to the Committee on the Judiciary.

EC-3993. A communication from the Acting Commissioner, U.S. Department of Justice, transmitting, pursuant to law, 598 reports concerning visa petitions which the Service has approved according to beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-759. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry:

"House Concurrent Resolution No. 60

"Whereas, the Federal Food Stamp Program provides essential nutrition and food to in excess of twenty million Americans; and

"Whereas, unless Congressional action is taken immediately the Food Stamp Program will be sharply curtailed on May 31, 1980; and

"Whereas, Americans receiving food stamps are primarily the disabled, the elderly and the working poor who have no other recourse to obtain the necessities of life; and

"Whereas, over 190,000 families in Louisiana now receive food stamps; and

"Whereas, funds appropriated by the U.S. Congress for food stamps for the fiscal year 1979-1980 will be exhausted by May 31, 1980 due to deteriorating economic conditions in this country and rapidly increasing costs for food; and

"Whereas, the U.S. Congress is presently debating legislation which would increase the authorization and provide the additional appropriation needed to continue the Food Stamp Program at its present level; and

"Whereas, Senate Bill No. 1309 should be immediately enacted in order to avert a national health, welfare and nutrition disaster.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the U.S. Congress is hereby urged and requested to make every effort to expedite the immediate adoption of Senate Bill No. 1309 which would increase the authorization and provide the additional appropriation needed to continue the Food Stamp Program at its present level.

"Be it further resolved that a copy of this Resolution shall be immediately transmitted to the Speaker of the United States House of Representatives and to the President of the United States Senate, and to all members of the Louisiana delegation in Congress."

POM-760. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"Assembly Joint Resolution No. 61

"Whereas, The California Fire Incident Reporting System indicates that in 1979, 50 percent of the dollar loss from fires caused by fireworks, amounting to approximatly $2.5 million, occurred from fires started by bottle rockets; and

"Whereas, The California Burn Registry indicates that 54 percent of all reported injuries caused by fireworks in 1978, and 34 percent of all reported injuries caused by fireworks in 1979, were caused by firecrackers; and

"Whereas, The sale and use of bottle rockets and firecrackers have been prohibited in California since 1939; and

"Whereas, Bottle rockets and firecrackers are legal in some states; and

"Whereas, The quantity of bottle rockets and firecrackers illegally imported into California has greatly increased in recent years; and

"Whereas, Most of the bottle rockets and firecrackers are entering California illegally from other states, which are also having difficulty in controlling dangerous fireworks; and

"Whereas, The State Fire Marshal has confiscated over 1,000,000 items of illegal fireworks worth over two hundred fifty thousand dollars ($250,000) during each of the last two years; and

"Whereas, Efforts to stop the illegal traffic of bottle rockets and firecrackers have been ineffectual because of the numerous and various methods by which these dangerous fireworks are brought into California; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to undertake appropriate action to ban the sale and use of bottle rockets and firecrackers in the United States in an effort to bring about a reduction in the number of fires and injuries related to fireworks; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to each member of the Consumer Product Safety Commission."

POM-761. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Assembly Joint Resolution No. 50

"Whereas, The California wine industry is an important element in California agriculture and the California economy; and

"Whereas, Even with the increasing reputation for quality and value that California wines enjoy among wine-knowledgeable consumers around the world, California wines are effectively precluded from most foreign markets by a pervasive and complex system of tariff and nontariff barriers; and

"Whereas, Foreign wine moves freely in the United States market, subject only to the payment of a low import duty and payment of state and federal excise taxes at the same rate paid by California wine, such easy accessibility enjoyed by foreign wines to the American market in direct contrast to the export position of the California wine industry; and

"Whereas, In 1960, California wineries produced 79.0% of all wine sold in the United States, but in 1978, California's share of the American market had been reduced to 68.5% which diminution, if continued or accelerated, will have an extremely serious adverse impact on the California wine industry; and

"Whereas, The California wine industry is therefore faced with the prospect of increasing loss of market share to imported wines at home, while at the same time facing enormously restrictive tariff and nontariff barriers to the sale of its own wine abroad imposed by virtually all of those foreign governments whose wine industries profit so generously in the American marketplace; and

"Whereas, The California winegrower seeks only reciprocity of treatment, desiring to work and create in an environment where California wines compete with other fine wines of the world to gain their fair share of consumer support; and

"Whereas, The European Economic Community requires a separate permit for each shipment of wine from most nonmember nations, including the United States, but permits any member nation to suspend imports at any time by causing such a permit not to be issued, thereby retaining an absolute embargo power over third-country wines; and

"Whereas, The EEC imposes duty surcharges through the reference price system allowing the community to control the minimum price at which imported wine can be sold within the member nations; and

"Whereas, The EEC has negotiated lower tariffs for Algeria, Tunisia, Morocco, Turkey, and Greece than are imposed on U.S. imports, as certain other exceptions for other countries; and

"Whereas, Many EEC member countries have well-funded export missions in foreign countries (e.g., the French, Italian, and West German governments all have wine promotion programs in the U.S. which include heavy media advertising and widely publicized wine tasting events) as well as a community system of storage, distilling, and export subsidies; and

"Whereas, The EEC assesses substantially higher tariffs against U.S. wines than the U.S. assesses against wines of the community; and

"Whereas, Japan, which represents an attractive potential market, has an extremely high tariff (presently $4.91 per gallon versus $0.375 per gallon in the United States for table wines and $0.25 per gallon for sake); and

"Whereas, The above enumerated problems represent only a partial listing of barriers to foreign markets faced by the California wine industry; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the members request the Congress to pay particular attention to all tariff and nontariff barriers which may tend to inhibit the open and free competition of United States produced wines in all foreign markets when the President reports to the Congress the results of his review of such barriers, not later than January 1, 1982, pursuant to subdivision (a) of Section 584 of the Distilled Spirits Tax Revision Act of 1979; and be it further

"*Resolved,* That the members request the Congress to urge upon the President the importance of reciprocity of all tariff and nontariff barriers affecting United States produced wines abroad, and to further urge upon the President the necessity to eliminate or reduce such barriers to the sale of United States produced wines, pursuant to his authority under the Trade Act of 1974 and subdivision (c) of Section 584 of the

Distilled Spirits Tax Revision Act of 1979; and be it further

"*Resolved,* That the members request the Congress to urge upon the President the necessity to take whatever action is necessary to assure substantial reciprocity of all tariff and nontariff trade barriers regarding the sale of wine exported from and imported to the United States should an attempt to negotiate the removal or reduction of such barriers fail; and be it further

"*Resolved,* That the members request the President of the United States to direct United States government employees overseas including ambassadors, consuls, agricultural attachés, and others to use, promote, and serve California and other American wines at official functions and dinners and whenever it might be appropriate; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to President Carter, the President's Special Representative for Trade Negotiations, the Clerk of the House of Representatives, the Secretary of the United States Senate, Senator Alan Cranston, Senator S. I. Hayakawa, to each Representative from California in the Congress of the United States, the Bureau of Alcohol, Tobacco and Firearms, and the U.S. Customs Service."

POM-762. A resolution adopted by the Legislature of the State of Illinois; to the Committee on Foreign Relations:

"SENATE RESOLUTION No. 490

"Whereas, Since the dark days of World War II, the Republic of China on Taiwan has been a faithful friend and ally of the United States of America; and

"Whereas, The two countries have maintained close and mutually beneficial economic, social and cultural ties since the creation of the Republic of China; and

"Whereas, Since the tragic severing of diplomatic ties between the two nations on March 1, 1979, the nine offices of the Coordination Council for North American Affairs have been established to maintain and foster continued economic and cultural intercourse between our two peoples; and

"Whereas, In 1979, the two-way trade between the Republic of China and the United States reached 9 billion dollars, thereby making Taiwan the 9th ranking trade partner of America; and

"Whereas, Since the balance of trade currently rests in the Republic of China's favor by 2 billion dollars, Taiwan has launched an unusual campaign to equalize this trade imbalance by actively seeking to buy from the United States; and

"Whereas, Since 1978, Taiwan has sent 5 procurement missions to this country with the sole goal of purchasing American products, thus far spending 4.5 billion dollars; and

"Whereas, In Illinois alone, 171 million dollars has been spent for the purchase of Illinois products; a considerable amount, yet far below this State's potential; and

"Whereas, It is in the mutual benefit for the people of both Illinois and Taiwan to increase the trade between our two bodies; therefore, be it

"Resolved, by the Senate of the Eighty-First General Assembly of the State of Illinois, that we call upon the Governor, the General Assembly, and Illinois private industry to promote, enhance and encourage the continuation and further development of economic, social and cultural exchange between our State and the Republic of China, an exchange that can only provide untold mutual benefits to all of our peoples; and be it further

"Resolved, That the Illinois Commission for Economic Development be directed to investigate and facilitate the growth of exporting Illinois products to the Republic of China and to further promote and encourage the Republic of China to utilize the Port of Chicago as the principal point of entry for the importation of its products into this country; and be it further

"Resolved, That we urge President Carter to reconsider his actions of 1979 and reinstate diplomatic recognition of the Republic of China, and to keep his promise to the Taiwanese people for the continuation of arms supply, as well as the retention of economic, cultural and social contacts between the two nations; and be it further

"Resolved, that all citizens of our State are urged to join in support for the freedom of the Republic of China and the enhancement of trade and exchange between Illinois and Taiwan; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the President of the United States, the President of the Republic of China, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Illinois delegation in the Congress of the United States, the Governor of the State of Illinois, and the Chicago office of the Coordination Council for North American Affairs."

POM-763. A concurrent resolution adopted by the Legislature of the State of Delaware; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 131

"Whereas, since 1972 the United States Immigration and Naturalization Authority has seen fit to admit into the United States 800,000 Cubans, exclusive of the 36,000 who are currently making their entry; and

"Whereas, also during this period approximately 400,000 Indo-Chinese and approximately 200,000 Soviet Jews have been admitted to the United States; and

"Whereas, only 15,000 Haitians and persons of Afro descent have been admitted which is a vast and disproportionate percentage; and

"Whereas, this country's immigration policy appears to be racist and hypocritical in its intent and effect, especially in the eyes of the third world peoples; and

"Whereas, sheer fairness and unbiaseness require that a greater proportion of persons of Afro descent be admitted to this country; and

"Whereas, black boat people from Haiti are known to be starving to death and suffering political repression under the regime of Poppi Doc Duvalier, Jr.; and

"Whereas, Haitians are being sold for $15 and $20 as slaves to work in sugar cane fields in the Dominican Republic; and

"Whereas, the Haitian refugees have much to contribute to the cultural development of this country; and

"Whereas, the Haitian people are blood brothers and sisters of American blacks; and

"Whereas, the media is reporting that many of the Cuban refugees coming into this country are without skills and also being released from prisons which certainly will have an adverse affect on the economy and social institutions of this country; and

"Whereas, if thousands of Cubans lacking work skills can be admitted to this country it only seems right to admit more Haitian people who from all reports are living under worse conditions than the Cubans.

"Now, therefore:

"Be it resolved by the House of Representatives of the 130th General Assembly of the State of Delaware, the Senate concurring therein, that President Jimmy Carter and the 96th Congress are hereby urged to review our immigration policy with the view of making the policy fair and equal in relation to the Haitian refugees being admitted to this country from the regressive and intolerable regime of Duvalier.

"Be it further resolved that upon passage of this Resolution that a suitably prepared copy be forwarded to President Jimmy Carter and to the President of the United States Senate and the Speaker of the United States House of Representatives."

POM-764. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on the Judiciary.

"HOUSE RESOLUTION No. 501

"Whereas, After braving a 700-mile journey, often in watercraft barely worthy of the name, Haitian refugees are streaming into our country by the thousands, fleeing the repressive Duvalier regime which has been exercising unrestrained power in this small nation for several years; and

"Whereas, However, unlike the thousands of refugees from the repressive government in Cuba, scant miles off our shores, who are rightfully welcomed with open arms, the Haitian refugees are reported to be received by U.S. Immigration and Naturalization Service officials as "illegal aliens looking for better jobs." This discrepancy smacks of racism in addition to its basic unfairness; and

"Whereas, Perhaps the most important factor in the emergence of the United States as a major nation has been its willingness, indeed, eagerness, to accept immigrants. These individuals, usually penniless and oppressed, have constantly replenished America's nearly omnipotent vitality and have infused into our society an abundant measure of new ideas, idealism, and hopes, to the benefit of us all. This incipient revision in American policy bodes ill for our nation and should not and cannot be tolerated; now, therefore, be it

"Resolved by the House of Representatives, That the President and the Congress of the United States be hereby memorialized to ensure that the Haitian refugees are accorded the same humane treatment extended to other refugees; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to the members of the Michigan Congressional Delegation."

POM-765. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on Labor and Human Resources:

"HOUSE RESOLUTION 440

"Whereas, The United States Congress is considering S. 2153 known as the OSHA Improvement Act of 1980, which encourages employers to voluntarily comply with the provisions of OSHA, thus allowing OSHA inspectors to focus on the most hazardous workplaces; and

"Whereas, This bill would affect the overwhelming majority of workplaces in the country and over two-thirds of the workplaces in Michigan would be exempt from inspections; and

"Whereas, Passage of S. 2153 would severely limit the ability of workers to call for safety inspections as well as limit the OSHA inspectors' ability to cite hazardous conditions during a special investigation; and

"Whereas, S. 2153 requires inspection targeting based upon inconsistent state workers' compensation data; and

"Whereas. The proposal requires employers to substantially increase paperwork for reporting occupational injuries; and

"Whereas, Under this proposal funding is diverted from field operations to the processing of new paper and presents the probability of underfunding by Congress; now, therefore, be it

"Resolved by the House of Representatives, That the United States Congress be urged to reject S. 2153; and be it further

"Resolved, That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and to members of the Michigan Congressional Delegation."

POM-766. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Veterans' Affairs:

"Senate Joint Resolution No. 90

"Whereas, Sixty-three years ago, this Nation declared war on Germany and Austria in defense of freedom of the seas, and over four and one-half million young Americans left their jobs and classrooms to help win the war that was 'to make the World safe for Democracy'; and

"Whereas, This Nation has never fully recognized its debt to the gallant veterans of World War I; and

"Whereas, A large percentage of these veterans are house-bound and in need of care; and

"Whereas, A bill now pending in the Congress of the United States, H.R. 1918, would provide service pensions for World War I veterans with inadequate personal incomes; therefore, be it

"Resolved, by the Senate of the Eighty-First General Assembly of the State of Illinois, the House of Representatives concurring herein, that we urge the Congress of the United States to pay the debt that America owes these needy, aged veterans, by enacting into law H.R. 1918; and be it further

"Resolved, That the Secretary of State be directed to transmit enrolled copies of this resolution to the President of the United States, the Honorable Jimmy Carter; the President of the United States Senate; the Speaker of the United States House of Representatives, and to each member of Congress from our State."

POM-767. A petition from a private citizen, relating to national security; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

Senate Resolution 445. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2004.

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 1455. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes (Rept. No. 96-800).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NELSON (for himself, Mr. Roth, Mr. Durkin, and Mr. Leahy):

S. 2804. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide for a reduction in social security taxes; to the Committee on Finance.

By Mr. NELSON:

S. 2805. A bill to provide that Revenue Ruling 80-60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980; to the Committee on Finance.

By Mr. CRANSTON (by request):

S. 2806. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress; to the Committee on Veterans' Affairs.

By Mr. TSONGAS (for himself and Mr. Kennedy):

S. 2807. A bill authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. Lugar, Mr. Bayh, Mr. Boren, Mr. Hatch, Mr. Riegle, Mr. Warner, and Mr. Nelson):

S. 2808. A bill to amend the Internal Revenue Code of 1954 to impose an additional excise tax on the sale of certain imported automobiles in the United States; to the Committee on Finance.

By Mr. PACKWOOD (for himself, Mr. Bradley, Mr. Nelson, Mr. Heinz, Mr. Matsunaga, Mr. Cohen, Mr. Cochran, Mr. Javits, and Mr. Williams):

S. 2809. A bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled; to the Committee on Finance.

By Mr. DOLE:

S. 2810. A bill to amend and extend the provisions of the child nutrition programs authorized by the National School Lunch Act, and the Child Nutrition Act of 1966, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER:

S. 2811. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for taxes paid on fuels used in ride-sharing vehicles; to the Committee on Finance.

S. 2812. A bill to amend the Internal Revenue Code of 1954 to provide to employers a credit against tax for costs incurred in ride-sharing programs; to the Committee on Finance.

S. 2813. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle; to the Committee on Finance.

By Mr. MATHIAS:

S. 2814. A bill to amend the Internal Revenue Code of 1954 to increase the amount and availability of the exclusion for earned income from sources without the United States; to the Committee on Finance.

By Mr. RIBICOFF (by request):

S. 2815. A bill for the relief of The Washington Post, The Washington Star and The Dispatch; to the Committee on Governmental Affairs.

By Mr. PELL:

S. 2816. A bill to amend section 402 of title 23, United States Code, relating to highway safety programs, to require the establishment of a comprehensive alcohol-traffic safety program in each state aimed at discouraging driving while under the influence of alcohol; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 2817. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to manufacturers for certain payroll costs paid or incurred during the first 3 years of the employment of an employee; to the Committee on Finance.

By Mr. TALMADGE (for himself, Mr. Baucus, and Mr. Pryor):

S. 2818. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies; to the Committee on Finance.

By Mr. DeCONCINI (for himself, Mr. Moynihan, Mr. Williams, Mr. Domenici, Mr. Chafee, Mr. Bayh, Mr. Schmitt, Mr. Pell, Mr. Bradley, Mr. Levin, Mr. Glenn, Mr. Goldwater, Mr. Mathias, Mr. Stevenson, Mr. Schweiker, and Mr. Cranston):

S.J. Res. 183. Joint resolution congratulating the Order of Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. Roth, Mr. Durkin, and Mr. Leahy):

S. 2804. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide for a reduction in social security taxes; to the Committee on Finance.

SOCIAL SECURITY TAX REDUCTION ACT OF 1980

● Mr. NELSON. Mr. President, today I am introducing legislation with Senators Roth, Durkin, and Leahy to reduce social security taxes in 1981.

Entitled the Social Security Tax Reduction Act of 1980, this bill would freeze the current social security tax rate of 6.13 percent next year and allow the wage base upon which the tax is levied to be adjusted upward to compensate for inflation. The tax rate is scheduled to increase to 6.65 percent next January, and the wage base is scheduled to increase next year by an inflation adjustment plus an additional $1,200.

Mr. President, a number of leading economists, small and large business organizations, labor and consumer groups have proposed reducing the tax burden on individual taxpayers and businesses. Each of the Committees on the Budget, in both the Senate and the House of Representatives, has recommended substantial tax reductions to begin in fiscal year 1981 and to continue during future fiscal years. The Joint Economic Committee in its annual report recommended targeted tax reductions next year. And with "inflation creep" that continually places American families in higher tax brackets, there is no doubt that tax cuts will be a necessary and integral part of this Nation's economic policy.

Therefore, we are introducing this legislation today so that if it is possible to reduce the taxes of American workers and businesses during the next fiscal year, a social security tax reduction will be the top priority options given consideration. If a tax reduction cannot be effective during the next few months, it is my judgment that a social security tax reduction should be one of the first priorities considered by Congress at the appropriate time.

Mr. President, the 1979 Advisory Council on social security recommended that the social security hospital insurance program be financed entirely by general revenues. The concept of using general revenue to finance a portion of social security benefits has been widely discussed ever since the program began in 1936, and the infusion of general revenues in the hospital insurance program is supported by senior citizen groups, organized labor, consumer advocates and social security experts.

This proposal would begin to implement the 1979 Social Security Advisory Council's recommendation that the hospital insurance program be financed partially by general revenues. The infusion of general revenues would make it possible to reduce the payroll tax that currently finances hospital insurance benefits and reallocate that portion of the payroll tax to support the disability and retirement benefit programs.

The Social Security Administration estimates the cost of the proposal we are introducing today at $9.8 billion.

The following tables graphically describe the impact of the Nelson-Roth Social Security Tax Reduction Act of 1980:

CHART 1.—SOCIAL SECURITY TAX RATES AND WAGE BASE UNDER CURRENT LAW AND SOCIAL SECURITY TAX REDUCTION ACT

	Employee/employer tax rate [1]		Self-employed tax rate [1]		Wage base	
Year	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal
1980	6.13	6.13	8.10	8.10	25,900	25,900
1981	6.65	6.13	9.30	8.10	29,700	28,200
1982	6.70	6.18	9.35	8.83	32,400	30,900
1983	6.70	6.18	9.35	8.83	35,400	33,600
1984	6.70	6.18	9.35	8.83	39,000	36,900

[1] Expressed as a percentage.

CHART 2.—EMPLOYER/EMPLOYEE SOCIAL SECURITY TAX LIABILITY UNDER CURRENT LAW AND SOCIAL SECURITY TAX REDUCTION ACT

	1980		1981		1982		1983		1984	
Average earnings	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal
$10,000	$613	$613	$665	$613	$670	$618	$670	$618	$670	$618
$15,000	920	920	998	920	1,005	927	1,005	927	1,005	927
$20,000	1,226	1,226	1,330	1,226	1,340	1,236	1,340	1,236	1,340	1,236
$25,000	1,533	1,533	1,663	1,533	1,675	1,545	1,675	1,545	1,675	1,545
$30,000	1,588	1,588	1,975	1,729	2,010	1,854	2,010	1,854	2,010	1,854
$40,000	1,588	1,588	1,975	1,729	2,170	1,910	2,372	2,076	2,613	2,280

CHART 3.—SELF EMPLOYED SOCIAL SECURITY TAX LIABILITY UNDER CURRENT LAW AND SOCIAL SECURITY TAX REDUCTION ACT

		1981		1982		1983		1984	
Average earnings	1980 current law	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal	Current law	Nelson-Roth proposal
$10,000	$810	$930	$810	$935	$883	$935	$883	$935	$883
$15,000	1,215	1,395	1,215	1,395	1,324	1,395	1,324	1,395	1,324
$20,000	1,620	1,860	1,620	1,870	1,766	1,870	1,766	1,870	1,766
$25,000	2,025	2,325	2,025	2,325	2,208	2,325	2,208	2,325	2,208
$30,000	2,098	2,762	2,284	2,805	2,649	2,805	2,649	2,805	2,649
$40,000	2,098	2,762	2,282	3,013	2,873	3,292	2,967	3,627	3,444

SOCIAL SECURITY AND THE BUDGET

Both the House and Senate have approved their own versions of a first budget resolution for fiscal year 1981. In each instance a sizable tax cut has been assumed.

The Senate Budget Committee report (Rept. No. 96–654) provided for a tax reduction of $196 billion over the next 5 years and specified that half of this tax reduction would be in the form of a social security tax cut.

The report on the first budget resolution for fiscal year 1981, which was passed by the Senate stated:

> This budget also provides for a tax reduction of as much as $10 billion in 1981 if the spending limits it contains are met. The proposed tax cut would total $196 billion over the next 5 years. Half of that tax reduction would go to create new jobs and modernize American industry by providing new incentives for productivity and half would go to offset social security increases. (Page 3 of SBC report)

During Senate consideration of the budget resolution, the chairman of the Senate Budget Committee, Senator HOLLINGS, described the budget resolution's provisions for a tax cut:

> If the spending totals are observed, this budget provides for a significant tax cut in fiscal 1981, and for tax relief totaling more than $196 billion through 1985." (CONGRESSIONAL RECORD, S4516, May 5, 1980)
>
> * * * * *
>
> This budget resolution does not posture about tax reduction. It actually proposes the fifth major tax reduction since 1974.
>
> Now half the proposed tax cut—about 100 billion dollars—would go to offset social security tax increases enacted in 1977. The other half would go for productivity-related investment incentives to create new jobs and produce more goods at lower costs. (CONGRESSIONAL RECORD, S4519, May 5, 1980)

Senator BELLMON, the ranking minority member of the Budget Committee and comanager of the budget resolution also discussed the tax cut provided for in the budget resolution:

> The budget provides for a $10 billion reserve for tax cuts. This reserve represents roughly the revenues generated by President Carter's import fee on foreign crude oil. (CONGRESSIONAL RECORD, S4523, May 5, 1980)

A tax cut was also part of the House Budget Committee's Budget Plan, which was later adopted by the House. The House Budget Committee report (Rept. No. 96–8577) described a tax cut as of one of the major components of the budget plan:

> Revenues—tax cuts of $20.0 billion in fiscal years 1982 and 1983 are included in the outyear budget plan, which follow from the proposed fiscal year 1981 productivity and anti-inflationary tax cut; illustrative examples of possible cuts include faster expensing of capital purchases to attract more business investment, or rollbacks of pending increases in tax revenues resulting from inflationary effects on the graduated income tax rate and from higher energy prices. (HBC Report, page 23)

The report also described the committee views regarding a tax cut in the tax policy section of the committee report:

> Once the goal of a balanced budget is achieved, the Committee believes the best tax reduction package would be one which offsets inflation, while encouraging productivity. This would not be the time for across-the-board, let-the-chips-fall-where-they-may relief. Rather a majority of the Committee envisions a highly targeted package along the lines of a combination of some form of accelerated depreciation and an offset to the scheduled increase in the payroll tax next January as the responsible way to proceed. (HBC Report, page 11)

During House consideration of the first budget resolution for fiscal year 1981, the chairman of the House Budget Committee, Congressman GIAIMO, also discussed the provisions for a tax cut in the budget resolution.

> Instead, it is a lean and tight budget that calls for substantial spending cuts. It projects a surplus of $2 billion and holds out the prospect of a tax reduction to become effective sometime in fiscal year 1981. CONGRESSIONAL RECORD, H2824, April 23, 1980)

Mr. President, these statements taken from Senate and House committee reports and the debate on the budget resolution in the respective Houses make it clear that both the Senate and House intended that the budget for fiscal year 1981 would accommodate a tax cut of some $10 billion in that same year. Neither the Senate nor House committed a specific revenue source to offset the cost associated with a tax reduction, but instead allowed for maximum flexibility with regard to a financing source. Nevertheless, the version of the first budget resolution passed by the Senate and the

House, assumed a tax reduction of approximately $10 billion in fiscal year 1981.

NEED FOR LEGISLATION

Mr. President, America's No. 1 problem today is inflation. In a recent Newsweek magazine survey, nearly half those polled cited inflation as their chief worry. Forestalling next year's planned increases in social security taxes would provide necessary and meaningful relief to taxpayers, and have the added benefit of reducing inflationary pressures in the economy.

In a report to the Senate and House Budget Committees earlier this year, the Congressional Budget Office made a very favorable assessment of the advantages associated with including a social security payroll tax reduction as part of an anti-inflation economic strategy:

> One option that might actually help to reduce the high rate of inflation is a payroll tax cut. Changes in payroll taxes can be implemented quickly, and the impact on output and employment appears to be quite similar to changes in personal income taxes. But whereas an income tax cut may be inflationary through its impact on aggregate demand, a payroll tax cut is likely to reduce prices slightly. The employers' contribution to social security is a business cost. A reduction in this cost . . . will be passed forward to consumers through lower prices and passed backward to workers through higher pay increases.

Alice Rivlin, Director of the Congressional Budget Office (CBO) testified before the Senate Banking Subcommittee on Economic Stabilization on March 13, 1980, that:

> The simultaneous imposition (in 1981) of a higher minimum wage and increased payroll taxes is likely to have a significant effect on labor costs, particularly for firms with a high proportion of low-paid employees.

Mr. President, the CBO analysis indicates that the scheduled 1981 social security tax increase is likely to further aggravate and worsen the Nation's inflation and unemployment problems. In my judgment, Congress should take action yet this year to avoid the harmful impact of scheduled social security tax increases on the economy.

Testimony presented to congressional committees shows that postponement of the scheduled tax increases would make a positive contribution to lowering both inflation and unemployment.

In her testimony before the Economic Stabilization Subcommittee, Alice Rivlin pointed out the advantages of avoiding next year's social security tax increase:

> Postponing the scheduled 1981 social security tax increase could have several advantages. The inflation and unemployment rates would be reduced slightly. Under CBO's current shifting assumptions, the CPI would be reduced by 0.2 percent and the unemployment rate would be reduced by 0.2 percent by the fourth quarter of 1983. Thus, elimination of the 1981 increase might succeed somewhat in reducing stagflation. Although the inflation and unemployment effects are relatively small, the advantageous feature of this approach is that both effects would be in the desired direction.
>
> In addition, canceling the 1981 increase would probably enhance the effectiveness of wage-price guidelines. No rise in the employers' share would cushion cost increases, and none in the employees' share could increase take-home pay. As a result, both business and labor would be more likely to adhere to the guidelines.

Mr. President, leading economists of all persuasions agree that the social security tax increase scheduled in 1981 will increase the employer contribution to social security thereby raising labor costs; these higher costs are likely to be passed on to consumers in the form of higher prices and result in higher unemployment. The reduction of social security taxes would provide needed tax relief to both business and wage earners while, at the same time, averting the increased labor costs which will occur if the scheduled tax increase goes into effect.

SOCIAL SECURITY IN PERSPECTIVE

Social Security is the largest and most important social program in the country. In my judgment, social security is also the most successful social program in the history of our Nation.

At one time or another social security affects the lives of almost all Americans. Each year there are over 35 million beneficiaries participating in the old-age and survivors insurance program, the disability insurance program, and the medicare hospital insurance program. In 1980, about 115 million workers and their employers will pay social security taxes, and this number will increase to about 125 million by 1984.

The types of coverage provided by the social security system has been greatly expanded over the 40 some years that social security has existed. As originally designed, the social security payroll tax financed only old age and survivors insurance. In 1957, the disability insurance program was created and a new payroll tax was added to support the disability insurance program. Seven years later in 1964, the hospital insurance (medicare) program was established along with an additional payroll tax to support the hospital insurance program. As a result, today there are really three insurance programs, three payroll taxes, and three trust funds under the social security system—old age and survivors insurance, disability insurance, and health insurance.

In 1977, Congress enacted legislation to put the old age and survivors insurance (OASI) and disability insurance (DI) trust funds on a sound financial basis using current economic and demographic projections through the years 2032, and 2008 respectively. The health insurance (HI) trust fund was provided with sufficient funding through the year 1988, at which time additional funding will be needed to keep that trust fund solvent. In order to provide adequate income and trust fund reserves to finance these three social security programs, substantial new social tax revenues had to be raised in addition to those which were provided under prior law.

As a result, the 1977 Social Security Amendments increased the social security tax liability for all workers, employers, and self-employed persons. The impact of the increased taxes has proven to be particularly harsh on small businesses, individuals earning the maximum amount of wages subject to the social security tax, and upon the self-employed.

SOCIAL SECURITY TAX REDUCTION PROVISIONS

Under this legislation the social security payroll tax would continue to fully support the old age, survivors and disability insurance programs. However, the payroll tax that finances the hospital insurance program (medicare) would be reduced and the balance would be financed from general revenues. In fiscal year 1981, the Social Security Administration estimates the cost of this proposal to be $9.8 billion.

By transferring general revenues to partially support the hospital insurance trust fund, there would be no change in the status of the social security trust funds. The only difference would be that the hospital insurance program, which is not a wage-related program as are the retirement and disability insurance programs, would be supported partially by Federal general revenues. There is general agreement that benefits that are not wage related should not be part of the social security system.

The original designers of the social security program did not intend the payroll tax to support three separate programs. Indeed, when the social security program was enacted some 45 years ago, the payroll tax supported only the retirement program. The disability insurance program was not created until 1957 and the hospital insurance program was not enacted into law until 1964. While each of these programs provide important insurance coverage to workers, retirees and their families—and this particular proposal would not alter this coverage—the payroll taxes needed to finance these programs have become too burdensome.

Last December, the Advisory Council on Social Security recommended to the President and Congress that the social security hospital insurance program be financed entirely from general revenues. The Council is composed of representatives from business, labor, the insurance industry, and elderly groups. The concept of using general revenues to finance a portion of social security benefits has been supported, at one time or another, by the Carter administration, senior citizen groups, organized labor, and social security experts.

The use of general revenues for financing part of the social security program, in my opinion, is long overdue. Retirement benefits (OASDI) are a fairly accurate reflection of the contributions made by a worker, and these contributions reflect the wages upon which the social security tax is levied over the period of a worker's life. Retirement benefits should continue to be financed by the payroll tax. The HI benefits payments, however, do not bear the same close relationship to a worker's payroll contributions, and therefore, need not continue to be financed by the payroll tax to maintain equity on an individual basis in social security.

Whether a person gets sick, is admitted to a hospital and uses social security hospital insurance benefits is strictly an incidence of an individual's good health or lack of it, and not of the payroll taxes that have been paid over their working years. Yet, everyone covered by social security, whether healthy or not, is obligated to contribute payroll taxes in proportion to their annual earnings.

Ultimately, the hospital insurance program will become part of a broader health insurance program. In my judgment, there is no compelling reason to continue financing health insurance through social security payroll taxes.

FINANCING A SOCIAL SECURITY TAX REDUCTION

A number of methods have been suggested by which this proposed social security tax reduction could be financed, including using revenues generated by the windfall profits tax, an oil import tax or earmarking a portion of the Federal income tax, or other general revenue sources.

Both the House and Senate first budget resolutions for fiscal year 1981 assume that revenues from the President's proposed gasoline tax will be used for tax reductions. The first budget resolution recently passed by the Senate assumes that there will be a tax reduction of $196 billion over the next 5 years and half of that would be in the form of offsetting the scheduled social security tax increases.

All possible financing methods will be thoroughly examined and evaluated during hearings to be conducted by the Social Security Subcommittee, which I chair, on proposals to reduce social security taxes. This process will enable the Senate to determine the best and most appropriate financing method for such a tax reduction.

Regardless of what financing mechanism is eventually selected to provide the revenues necessary to effectuate a social security tax reduction, the programmatic principle that a tax reduction should apply only to the non-wage related components of the social security program will be maintained. This principle is consistent with the recommendations made by the Social Security Advisory Council and many experts on the social security system.●

● Mr. ROTH. Mr. President, I am today joining my distinguished colleague from Wisconsin (Mr. Nelson) in introducing legislation to block the substantial payroll tax increases scheduled to go into effect in January of 1981.

Under present law, the already high payroll taxes are scheduled to increase substantially in 1981. The tax rate is scheduled to increase from 6.13 to 6.65 percent and the wage base will increase by nearly $4,000, from $25,900 to $29,700.

The maximum payroll tax is to increase from $1,588 to $1,975, a tax increase of $387.

These substantial tax increases will impose a tremendous burden on the economy, increasing inflation, aggravating the recession, and throwing even more people out of work.

According to nearly every economist, increased payroll taxes have a negative impact on workers, employers, and consumers. For workers, higher payroll taxes reduce purchasing power and lower wages. For employers, the higher payroll taxes increase business costs, resulting in higher consumer prices.

And by reducing production and output, high payroll taxes lead to higher unemployment and make it particularly difficult for young, inexperienced workers to find jobs.

The adoption of the Nelson-Roth bill will have a positive impact on the economy, resulting in less inflation and more jobs.

In a report to the House and Senate Budget Committees earlier this year, the Congressional Budget Office said a payroll tax cut would "reduce the high rate of inflation." According to the CBO report, a reduction in payroll taxes "will be passed forward to consumers through lower prices and passed backward to workers through higher pay increases."

Dr. Walter Heller, Chairman of President Kennedy's Council of Economic Advisers, has also urged Congress to reduce payroll taxes to reduce inflation and offset the recession.

According to Heller, "payroll tax cuts are tailormade to fit the needs of an economy badgered by both inflation and recession." Heller believes a payroll tax cut would increase take-home pay, reduce business costs, and help offset the impact of higher energy prices.

As I mentioned earlier, the payroll tax rate is scheduled to increase from 6.13 percent to 6.65 percent and the wage base is scheduled to increase by the normal inflation adjustment plus an additional $1,200.

The legislation we are introducing would freeze the current payroll tax rate at 6.13 percent and allow the wage base to be adjusted only to compensate for inflation.

This bill would provide immediate tax relief to millions of workers, as the following table shows:

IMPACT OF NELSON-ROTH

Income	1980 tax	1981 scheduled tax	Nelson-Roth	Savings
$10,000	$613	$665	$613	$52
$15,000	920	998	920	78
$17,500	1073	1164	1073	91
$20,000	1226	1330	1226	104
$25,000	1533	1663	1553	110
$30,000	1588	1975	1729	246
$40,000	1588	1975	1729	246

Mr. President, I want to stress that this proposal will in no way reduce or have an impact on social security benefits.

Under this legislation, the payroll tax would continue to fully support the basic social security pension programs, the old age survivors and disability insurance programs. However, the payroll tax that finances the hospital insurance program would be reduced and the balance would be financed from general revenues. According to the Congressional Budget Office and the Social Security Administration, the fiscal 1981 budget impact would be $9.8 billion.

I am strongly opposed to using any other forms of revenues to fund the basic social security pension benefits and and the disability insurance programs. These two programs—the OASI and the DI trust funds—are based on employee contributions and should continue to be funded through the payroll tax. I believe a majority of the Finance Committee shares this viewpoint.

However, a growing number of social security experts have endorsed the approach of financing all or a portion of the hospital trust fund from general revenues. The 1979 Report of the Social Security Advisory Council has endorsed this approach, as has Robert M. Ball, former Social Security Administrator. J. W. Gorkum, in a study for the American Enterprise Institute, says the hospital trust fund should be funded out of general revenues because it "is not an income maintenance program nor are its benefits in any way related to earnings."

In addition, the American Association of Retired Persons and the National Retired Teachers Association, nonpartisan organizations of over 12 million senior citizens, have endorsed a payroll tax cut.

In a joint legislative policy statement, the NRTA/AARP said:

> Adverse economic effects ought to prompt a rollback of the large payroll tax increase scheduled for 1981 under present law. Payroll tax increases increase the cost of labor (relative to capital), add to unemployment (or make unemployment that much more intractable) and at the same time, create inflationary cost-push pressures. In place of this planned increase, limited amounts of general revenues ought to be introduced into the social security programs on a temporary basis. However, the Associations will not support any plan which would derive those general revenues from a value-add tax.

A number of methods have been suggested to finance a payroll tax cut, and the Senate Finance Committee, of which both Senator Nelson and I are members, intends to examine all methods thoroughly. However, there is very little support in the committee for a value-added tax.

I personally believe the payroll tax cut should be financed by using a portion of the massive amount of revenues raised by the windfall profits tax enacted earlier this year.

As my colleagues may remember, the Finance Committee and the full Senate last year approved my amendment to the windfall profits tax bill to establish a taxpayers trust fund to help offset a payroll tax cut.

The final version of the windfall profits tax bill enacted into law included a provision setting aside 60 percent of the estimated $227 billion in new revenues for tax cuts. In fiscal 1981, $11 billion is to be set aside for tax cuts, enough to finance our payroll tax cut.

With inflation raging and with our economy sliding into a severe recession, action is needed now. The Nelson-Roth payroll tax cut would provide immediate tax relief to millions of workers, ease inflationary pressures, help offset the recession and save hundreds of thousands of jobs.

I urge all of my colleagues to join us in this effort to head off the substantial payroll taxes facing the working people of this country.●

By Mr. NELSON:

S. 2805. A bill to provide that Revenue Ruling 80-60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980; to the Committee on Finance.

● Mr. NELSON. Mr. President, today I am introducing legislation to prohibit the Internal Revenue Service from requiring taxpayers to implement certain inventory accounting changes retroactive to 1979. This measure is a companion bill to H.R. 7390, a proposal recently introduced in the House by Congressman Conable.

Under generally accepted accounting standards, most taxpayers value their inventories at the lower of "cost" or "market basis". The cost of an item of inventory is essentially the amount required of the taxpayer to purchase or produce the item. The cost of an inventory item is generally compared with its current replacement cost, that is, the price at which the item can be purchased or reproduced, in the ordinary course of business, either at the inventory date or during the last operating period. Indeed, where the lower of cost or market basis has been adopted for Federal income tax purposes, the regulations provide that under ordinary circumstances and for normal goods in an inventory, cost is to be compared generally with replacement price.

The term market basis, on the other hand, generally refers to the net realizable value from the sale of the inventory item. This is the estimated selling price of the item in the normal course of business less costs of completion and less costs necessarily incurred in order to make the sale.

Current tax regulations provide that, whether cost or the lower of cost or market basis of valuing inventories is used, the amount assigned to goods which are "unsalable at normal prices" should not exceed net realizable value. After the major portion of a taxpayer's inventory has been disposed of in the normal course of business, the correct cost to be allocated to the remaining or "excess" inventory items, is their net realizable value.

Many taxpayers using the lower of cost or market method historically "write-down" slow moving or excess inventory items at the end of a year based upon a percentage or formula derived from past business experience. Frequently, these items remain in inventory in case a customer is in need of the particular product. This method has traditionally been used by taxpayers in the replacement part industries.

In January 1979, the U.S. Supreme Court decided the Thor Power Tool Co. case in favor of the Internal Revenue Service. The case involved the write-down of excess inventory to what the Thor company's management estimated as its net realizable value. Despite the write-down, Thor continued to hold the items for sale at original prices. The company claimed an income tax deduction equal to the amount of the inventory write-down. The Service, maintaining that the write-down did not "clearly reflect income," disallowed the deduction. The Supreme Court upheld the Service's position even though it found the write-down to be in conformity with generally accepted accounting principles.

The Thor case defines "excess" inventory as being inventory held in excess of any reasonable foreseeable future demand.

In February 1980, over 1 year after the Supreme Court's decision in the Thor case, the IRS issued Revenue Procedure 80–5, governing inventory write-downs. In conjunction with this procedure, the IRS issued Revenue Ruling 80–60. In using the lower of cost or market method the ruling requires that excess inventory be valued at replacement cost unless the goods have been scraped or offered for sale at a lower price. This is termed the "prescribed method."

The ruling provides that those taxpayers using a method of inventory valuation for excess inventory that is not in accordance with the prescribed method must change their method of accounting for the first taxable year ending after December 25, 1979. Thus, the ruling is mandatory for the first taxable year, whether calendar or fiscal, ending after December 25, 1979.

The retroactive application on Revenue Ruling 80–60 may impose significant tax liabilities on many taxpayers because of the one-time adjustment which they must make for past excessive inventory write-downs. For example, many taxpayers simply were unaware of the Thor decision. Accordingly, it would be patently unfair to apply the new inventory rule retroactively to these taxpayers. Other taxpayers who were aware of the Thor case were advised by legal counsel not to make any accounting changes until the IRS issued regulations or rulings implementing the Supreme Court's decision. Thus, when the ruling was issued and applied retroactively, these taxpayers were caught short. Since the tax year 1979 had already closed by the time the ruling was promulgated, it was too late for these taxpayers to scrap inventory items from 1979 or to offer the items for sale at a lower price. These taxpayers face a substantial tax liability.

This legislation simply would prevent the retroactive application of Revenue Ruling 80–60 to most taxpayers. It provides the ruling will apply to taxable years beginning after December 31, 1979. It will allow taxpayers to conform to the ruling's prescribed method by either scrapping items of inventory which were held during 1979 or by offering the items for sale at a lower price.

I make no judgment on the underlying merits of Supreme Court's decision on tax accounting for excess inventory. This measure simply provides a reasonable approach to implementing the new accounting rules mandated by the decision.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) if a taxpayer would (but for this subsection) be required under Revenue Ruling 80–60 and Revenue Procedure 80–5 to change his method of accounting for his first taxable year ending on or after December 25, 1979, such taxpayer shall be required to make such change only for taxable years beginning after December 31, 1979.

(b) The consent granted by section 3.01 of Revenue Procedure 80–5 shall also apply to a taxpayer's first taxable year beginning after December 31, 1979.

(c) This section shall not apply to a taxpayer to whom Revenue Procedure 80–5 does apply by reason of section 3.06 thereof.●

By Mr. CRANSTON (by request):

S. 2806. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress; to the Committee on Veterans' Affairs.

● Mr. CRANSTON. Mr. President, I am introducing today, at the request of the administration, S. 2806, a bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress and egress. Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 24 of title 38, United States Code, is amended by—

(a) adding at the end thereof the following new section:

"§ 1009. Contributions to local authorities

"The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a national cemetery if considered necessary for safe ingress or egress."; and

(b) inserting at the end of the table of sections at the beginning of such chapter—

"§ 1009. Contributions to local authorities.".

Sec. 2. This Act shall become effective on the date of enactment.

Veterans Administration,
Washington, D.C., May 27, 1980.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to authorize the Administrator to make contributions for construction projects on land adjacent to national cemeteries in order to facilitate safe ingress or egress." It is requested that the bill be referred to the appropriate committee and that it be favorably considered for enactment.

The draft measure, which would amend title 38 by adding section 1009 to chapter 24, would authorize the Veterans Administration to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to a national cemetery if considered necessary to facilitate safe ingress or egress.

It has become evident, in administering the national cemetery system, that specific statutory authorization is required in order to undertake the type of construction projects deemed necessary to improve safety conditions at the entrance to national cemeteries. Under current law, in the absence of express statutory authority, such requisite construction projects are generally prohibited as a result of the well-established rule which prohibits the Government's expenditure of appropriated funds for the permanent improvement of private property. Although exceptions to that rule have been recognized by the Comptroller General and have been applied by the Veterans Administration to justify a limited number of improvements to private property adjacent to national cemeteries, we believe a specific statutory authorization under which this Agency could assist localities in constructing such needed improvements would be a more satisfactory means of achieving these results. The proposed legislation, in our opinion, addresses and resolves these concerns.

It should be noted that section 5008 of title 38, United States Code, with language identical to that proposed here, presently authorizes the Administrator to make contributions to local authorities for construction projects adjacent to Veterans Administration medical facilities if considered necessary for safe ingress or egress.

The enactment of the draft bill will result in an estimated cost of $700,000 over the first five fiscal years. A summary of the cost estimate by fiscal year follows:

Fiscal year:	*Estimated cost*
1981	$0
1982	300, 000
1983	100, 000
1984	200, 000
1985	100, 000
Total	700, 000

We believe it is incumbent upon the Veterans Administration to provide and maintain the safest conditions at our national cemeteries and, where necessary, to take reasonable steps to minimize or, if possible, eliminate dangers to visitors and cemetery employees. It is with this object in mind that we submit this legislation.

We were advised by the Office of Management and Budget that there is no objection to the presentation of the draft legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

Max Cleland,
Administrator.●

By Mr. TSONGAS (for himself and Mr. Kennedy):

S. 2807. A bill authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Mass., and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. TSONGAS. Mr. President, I am pleased to introduce, along with Senator Kennedy, legislation to designate the United First Parish Church in Quincy, Mass., as a national historic site.

This historic granite building, which is the burial place of President John Adams, President John Quincy Adams and Abigail Adams, vitally needs the protection of the National Park Service in order to survive as an important national landmark.

I am certain that I need not point out to my colleagues the important role which the Adams family played in the birth of this Nation. John Adams served the cause of the American Revolution with great distinction before becoming our Nation's second President. John Quincy Adams was elected by the House of Representatives as our Nation's sixth President. Abigail Adams, the wife and mother of Presidents, was one of the outstanding women of the revolutionary era, and was a leader in women's rights. "The Church of the Presidents" is a monument to our heritage, and should be combined with the Adams national site and the Adams birthplaces, which are currently part of our National Park System.

Although the Adams family is perhaps best known for the role they played in the Revolutionary War, they are equally distinguished in the fields of literature, education, and government.

The spirit of the early members of the family, and of the generations which followed, is perhaps best typified by the words of John Adams, who said:

> I must study politics and war that my sons may have the liberty to study mathematics and philosophy . . . in order to give their children the right to study painting and poetry.

The legislation which Senator Kennedy and I are introducing today will insure that the Church of the Presidents maintains its rightful place in our cultural heritage.●

By Mr. LEVIN (for himself, Mr. Lugar, Mr. Bayh, Mr. Boren, Mr. Hatch, Mr. Riegle, Mr. Warner, and Mr. Nelson):

S. 2808. A bill to amend the Internal Revenue Code of 1954 to impose an additional excise tax on the sale of certain imported automobiles in the United States; to the Committee on Finance.

● Mr. LEVIN. Mr. President, it will not come as news to any of my colleagues in this body that the American automobile industry is undergoing serious difficulties. The combination of a lagging national economic situation, high interest rates, federally mandated credit restrictions and increasing penetration of the U.S. market by cars produced abroad has sent domestic auto sales plummeting. The implications of this downturn not only for the automobile industry but for our entire economy are truly staggering and the first shock waves have only begun to be felt—300,000 auto workers are presently unemployed and that same fate will befall thousands of workers in other industries as the effects of the auto slump reverberate through all sectors of our economy.

The longer term prospects in the industry are more encouraging. The major American automobile manufacturers have embarked on a crash program, at a cost of tens of billions of dollars, to retool their plants for the production of small, fuel-efficient cars, as a reaction to the dramatic market shift in that direction which occurred early last year. There are enormous risks inherent in that effort, for it will require robust sales of domestically produced cars in the years ahead for the companies to recoup their staggering investment. But they recognize that nothing less than the future of the American automobile industry is at stake, and I have full confidence that the U.S. industry will soon be producing an assortment of vehicles which are a match for any import in terms of fuel efficiency, quality, and economy.

Such cars will not only be competitive with foreign products in the American market, but may well be competitive in foreign markets as well. We have historically allowed imports easy access to our market, with the result that they last year constituted 21 percent of new car sales, with Japanese cars making up three-fourths of that total. At the same time, however, we have tacitly permitted foreign governments to maintain restrictive import policies which have effectively restrained sales of U.S. cars in other countries. It is long overdue for us to get serious about forcing foreign trading partners to remove discriminatory trade barriers which deny our manufacturers, particularly in the automobile industry, the same access to their markets that they have had to ours.

Perhaps the worst offender in this regard is Japan, not only because her import policies have been highly restrictive, but also because she has reaped enormous profits from sales in our market while showing little inclination to open hers. Japan imposes numerous barriers which directly or indirectly discriminate against U.S. cars, and which have had the effect of almost entirely closing off the Japanese market to our companies. The General Accounting Office last fall calculated the increase in the price of American cars in Japan due to various policies of the Japanese Government. According to GAO, a typical 1979 American subcompact, which retailed in the United States for $4,810, would retail in Japan for $7,105; a U.S. compact which sells for $6,635 here would be $12,065 there.

Not all of the differential in cost can be attributed to discriminatory Japanese policies, but clearly a portion can. One prime example is the Japanese commodity tax. It is heavily graduated, with the graduations falling neatly between typical Japanese and American cars. Moreover, it is imposed on the basis of import value c.i.f.—which includes freight costs—while the United States and Canada base their duty rates on f.a.s. or f.o.b. value—exclusive of freight—and while Japan applies the tax to its own cars as they leave the factory. Another example is the approval process which imports must undergo. While a Japanese manufacturer can secure approval by having one auto of any vehicle type undergo inspection, every imported automobile must undergo inspection. Mr. President, I ask unanimous consent that the section of the GAO report dealing with automotive trade be printed in the Record at the conclusion of my remarks.

Mr. President, last year the United States signed a new, comprehensive trade agreement designed to eliminate the kinds of import-restricting barriers that hamstring our automotive industry. I fully support that agreement, and believe that we must live up to our obligations under it. However, given the crisis which exists in our own auto industry, and the enormous profits which the Japanese are reaping with one hand while discriminating against our producers with the other, I believe that we must take strong action to force the Japanese to come into compliance immediately with the terms of that agreement. I do not believe that we can afford to tolerate years of dragged out negotiations with the Japanese before they finally, grudgingly, lower their barriers, if indeed they ever decide to do so.

I am all for free and fair trade. But our auto trade with the Japanese is just free for them and unfair to us.

It is particularly unfair while the American auto industry struggles to supply market demand that the Japanese just happen to be able to meet. It did not show any great foresight for the Japanese with their narrow roads and longtime lack of oil to have small cars available when the Iranian crunch came and Americans had to start buying small cars.

The American auto industry needs some time to meet the demand for fuel-efficient cars that rose so sharply last year with the onset of the Iranian oil crisis. Placing an equalization tax on Japanese imports will give us equity while it is giving our auto industry time.

Mr. President, the legislation Senator LUGAR and I are introducing today—along with Senators BAYH, BOREN, HATCH, RIEGLE, WARNER, and NELSON—has precisely that objective; to force the Japanese into compliance with the trade agreements to which they and we are parties, and to penalize them for maintenance of discriminatory nontariff barriers against our trade. This bill would add a tax on Japanese cars entering the U.S. market equivalent to the costs which are imposed on U.S. cars entering their market and which are attributable to practices or procedures which unreasonably burden, restrict, or discriminate against U.S. automobiles. Because of the emergency nature of this proposal, it would apply only to countries whose imports exceed 10 percent of the U.S. new car market, which at the present time would include only Japan.

The essential elements of my proposal can be summarized as follows:

First. The Secretary of the Treasury is directed to compute and impose an equalization tax on cars entering the United States from any country whose imports constitute more than 10 percent of U.S. domestic new car sales over a 12-month period;

Second. The tax will be computed by the Secretary on a quarterly basis, and will be determined by taking the average cost over the past 8 quarters of all procedures and practices authorized by affected foreign governments whose companies are subject to tax, and which have the effect of unreasonably burdening, restricting, or discriminating against U.S. automobiles in their markets. These procedures and practices include, to the extent that they are discriminatory, inspection, testing, product approval standards, commodity taxes, freight and insurance, and road and other excise taxes;

Third. The President may also waive the tax, on an annual basis, with respect to imports from any country which is in compliance with all trade agreements affecting automotive trade to which the United States and that country are parties;

Fourth. The Congress, by the joint resolution, may override either Presidential waiver of the tax; and

Fifth. The proceeds from the tax will be transferred to the social security trust fund, to be used for the purpose of reducing the inflationary burden of social security taxes and thereby increase the competitiveness of American industry.

Mr. President, I would like to reiterate one critical point: This bill does not violate the multilateral trade agreement or any other agreement to which the United States is a party. The bill provides for the President to waive the tax with respect to any country if he determines that that country is complying with substance of its treaty obligations. I would direct the attention of my colleagues to the bill which we passed last year implementing the multilateral trade agreements. In section 901, it authorizes the President to "take all appropriate and feasible action" to "respond to any act, policy, or practice of a foreign country or instrumentality that—

First, is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

Second, is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce. Among the actions the President may take to enforce U.S. rights is the imposition of "duties or other import restrictions on the products of" foreign countries.

What this legislation would do is provide the President with a tough but appropriate means to enforce U.S. trade rights and insure equitable treatment for American industry. I know my colleagues support those objectives, and I hope they will find this to be a reasonable means to achieving them.

Mr. President, I ask unanimous consent that the text of the bill also be printed at the conclusion of Senator LUGAR's statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAPTER 3: AUTOMOTIVE TRADE

INTRODUCTION

Although in the early postwar years, Japanese policymakers argued vigorously as to whether a Japanese auto industry could compete in the international market, automotive products have become Japan's single largest exports, accounting for $15.5 billion or 16 percent of its total exports in 1978. Currently, about one-half of Japan's vehicle production is intended for export with 40 percent of this export share going to the American market.

While Japan is a major exporter of automobiles, its imports of vehicles are minimal. In 1977, imports were only one percent of exports.

TABLE 1.—JAPANESE GLOBAL EXPORTS AND IMPORTS OF AUTOS, TRUCKS, AND BUSES, 1977

	Units
Japanese exports:	
Cars	2,958,879
Trucks	1,369,917
Buses	24,021
Total	4,352,817
Japanese imports:	
Cars	41,395
Trucks	94
Buses	1
Total	41,490

Source: Japan Automotive Manufacturers Association, Inc., Motor Vehicle Statistics of Japan, 1978, pp. 14–17.

Until 1971, Japan's market was effectively closed to outsiders, both through imports and investment. The barriers have now largely come down, but an important market factor—size of car—continues greatly to affect U.S.-Japan bilateral trade. The strength of the Japanese automobile industry is in small cars, while the strength of the American industry is in large cars, with both countries exporting their strengths. For obvious reasons, Japan has enjoyed an immense opportunity in the American market—one which our producers have only recently seriously addressed—while we have only a thin, top slice of their market. In land-scarce Japan, where residential streets are narrow and where overnight street parking is banned in urban areas, there is no way that large cars could be mass marketed even if oil prices were not escalating.

The American industry, now working hard to produce smaller cars, sees the trade challenge more in terms of reducing Japan's share of the U.S. market than in U.S. gains in the Japanese market. A spokesman for our case participant points out that in the American market, U.S. producers have an advantage over the Japanese who must pay transportation and insurance costs; in the Japanese market, we must pay the additional costs. Although American producers are now paying attention to the Japanese market, the case participant believes that, because of relative production costs, scale penetration is not possible and that any big swing will come from outcompeting the Japanese in the American market.

While the U.S. automotive market is five times as large as the Japanese market, Japanese car and truck exports to the United States are 45 times U.S. exports to Japan. In 1978, Japan exported $8.2 billion in automotive products to the United States while U.S. automotive exports to Japan amounted to $.2 billion, resulting in an automotive trade deficit of $8.0 billion. This U.S. deficit represented an increase of $2.7 billion over 1977.

TABLE 2: *U.S.-Japan Automotive Trade, 1978*

Japanese Exports to the U.S.:	*Millions*
Passenger cars	$5,735
Trucks	1,344
Total vehicles	7,079
Parts & components	1,107
Total Japanese exports	8,186
U.S. Exports to Japan:	
Passenger cars	102
Trucks (special purpose)	8
Total Vehicles	110
Parts & components	72
Total U.S. exports	182
U.S. Automotive Trade (Deficit (excl. tires & tubes)	(8,004)

Source: Case participant.

In Chart 1 we graph the relationship between domestic production of automotive equipment in Japan and exports. (For the figures, see Table 7 at end of chapter.) It will be seen that Japan's domestic production rose dramatically, in fact, close to an eighteenfold expansion within the decade, 1959–69. Further, it will be noted that exports rapidly came to play an increasingly important role for the industry; in fact, by 1977, exports accounted for just over half of Japan's production. It is clear that Japan's sustained auto industry growth during the 1970's has been due to exports rather than to domestic demand.

JAPAN'S AID TO ITS AUTO INDUSTRY

Prior to the end of World War II, Japan's automotive industry was almost entirely engaged in the production of trucks. Up to the mid-thirties, Ford and GM largely held the passenger car market through assembly operations in Japan. In the early 1950's Japan decided to develop its own passenger car industry. This goal was achieved by excluding imports; by preventing foreign investment, with the exception of licensing of foreign technology which falls under Japan's Foreign Investment Law; and by granting preferred status to the domestic automobile industry.

Japan excluded imports by prohibitive tariffs and by highly discriminatory commodity taxes, as will be seen in Table 3, where we provide the historical record through 1970. Even as late as 1972, the commodity tax on the typical size foreign car was double the rate on the typical size Japanese car.

TABLE 3.—TARIFF AND COMMODITY RATES ON AUTOMOTIVE EQUIPMENT 1955–72[1]

TARIFF RATES

	Passenger cars[2] (percentage)			
	Less than 270 mm wheelbase	More than 270 mm wheelbase	Trucks	Parts
1955	40.0	35.0	30.0	30.0
1962	40.0	35.0	27–30.0	30.0
July 1968	36.0	28.0	22–24.0	24–30.0
April 1969	36.0	17.5	22–24.0	24–30.0
January 1970	34.0	17.5	19–21.0	24–30.0
May 1970	20.0	17.5	19–21.0	24–30.0
April 1971	10.0	10.0	10.0	10.0
April 1972	8.8	8.8	8.8	8.8
November 1972	6.4	6.4	6.4	6.4

COMMODITY TAX RATES (PRIOR TO 1971)

	Wheelbase/engine size (percentage)		
	304.8 mm/greater than 3,000 cc	270–304.8 mm/2,000–3,000 cc	less than 270 mm/less than 2,000 cc
1954	50	40	20
1962	40	30	20
1966–70	40	30	15

[1] Virtually all American automobiles, because of engine size and/or wheelbase length, were taxed at rates applicable to larger cars.

[2] Before 1961 different size-classification applicable. Pre-1961 rates for sizes comparable to present.

Source: Ministry of Finance data.

A variety of government measures gave the industry (1) greater access to capital, (2) a preferred claim on scarce foreign exchange, and (3) a share in the tax stimulus program designed for high growth. The funds the industry received from the Japan Development Bank were estimated by the Boston Consulting Group to be about 9 percent of total cost of passenger car production facilities, 1951–55. Even more significant than the amount, however, was the "signal" such loans gave to the commercial banks, the primary source of outside funding, that automobile companies were to be given priority on loan applications. The industry was also given priority status on foreign exchange although not, of course, for the purchase of finished automobiles. Third, the industry participated in the tax schemes designed for high growth both through rapid depreciation and overseas market development. In fact, at the beginning of this decade, the automobile and steel industries were the two chief claimants on the overseas market development fund. First-year depreciation could reach as high as 50 percent when the 25 percent first-year rationalization allowance was added to first-year depreciation computed by the double-declining method on an assumed 11-year life, and adjustments were made rewarding strong export performance.[1]

In calling attention to these government programs, in no sense do we minimize the entrepreneurial talent which enabled Japan's auto producers to take full advantage of governmental assistance. However, it is government programs which account for the striking difference in the speed of development of Japan's auto industry compared to those in other countries. According to our case study participant, the "almost absolute" restrictions which were in force prior to the early 1970's enabled Japanese car producers to develop ". . . world-scale capability with costs low enough to compete in the United States and Europe with prices substantially below [U.S. and European] domestic models."

RECENT JAPANESE EFFORTS TO LOWER BARRIERS

American manufacturers readily pointed out to us that the formal limitations which restricted imports into Japan have been greatly relaxed in recent years. Japan dramatically cut its tariff rates in 1971. As can be seen in Table 4, Japan's rate, which was far higher than those of the United States and the European Community in 1967 to 1970, is now at zero, the lowest of the three.

TABLE 4.—JAPAN, UNITED STATES AND EC TARIFF RATES ON PASSENGER CARS, 1967-78

[In percent]

	Japan			
	Small cars	Other cars	United States	European Community
1967	40.0	28.0	6.5	22
1968	36.0	28.0	5.5	11
1969	36.0	17.5	5.0	11
1970	20.0	17.5	4.5	11
1971	10.0	10.0	4.0	11
1972	6.4	6.4	3.0	11
1978	0	0	3.0	11

Source: Case participant.

In 1971, also, administration of the Foreign Investment Law was eased to allow foreign investment. As a result, Chrysler and Mitsubishi entered into a joint venture, in which Chrysler eventually obtained a 15 percent holding. This was the first postwar foreign investment in Japan's auto industry. Although, in theory, 100 percent ownership became possible in 1971, in fact it is not, because of the way in which Japanese business is conducted. The sale of a Japanese company requires the unanimous consent of its directors, but, since this is virtually impossible to obtain, Japanese corporations are, in effect, not for sale.

Chrysler's joint venture with Mitsubishi was followed within 2 years by a similar arrangement between General Motors and Isuzu under which GM acquired 34.2 percent stock ownership. Ford negotiations with Toyo Kogyo, begun at this time, are now likely to be successfully completed in September 1979; it is reported that Ford will obtain a 25 percent share of the company. In these arrangements, it is noteworthy that it was the smaller companies rather than the big two which were "opened" to foreign capital. Mitsubishi Automobiles, spun off from Mitsubishi Heavy Industries, the largest company in the giant Mitsubishi complex, has yet to approximate the size of Toyota and Nissan.

These U.S. equity-participation arrangements are seen by management to give American producers—if not American labor—several advantages. According to our case study participant, the benefits of these joint ventures are:

They enable U.S. manufacturers to supplement their own lines with Japanese makes under American names, thereby taking advantage of Japan's efficiency and lower labor costs;

They give American producers access to cheaper capital for the production of these cars and parts;

They give a greater return on investment than that enjoyed by U.S. producers in the United States;

They give U.S. producers greater access to the Japanese distribution system;

They help to establish a U.S. presence in other Far East markets with Japanese cars bearing U.S. names, with U.S. models through Japanese outlets, and by participation through a minority equity position in Japanese vehicle exports;

They allow U.S. manufacturers to take advantage of Japanese overseas marketing, including language skills and knowledge of Asian cultures.

FACTORS AFFECTING THE PRICE OF AMERICAN CARS IN JAPAN

American automobiles are sold at prices greatly above American retail prices. At our request, our case study participant provided a breakdown of the factors which result in retail prices essentially double the American price as shown in Table 5. In both the U.S. and Japanese prices, dealer discounts have been taken into consideration.

TABLE 5.—PRICES IN JAPAN COMPARED WITH THE UNITED STATES FOR SELECTED MODELS

[On the basis of 200 yen to the dollar]

	1979 models		
	Sub-compact	Small sporty car	Compact size
United States effective retail[1]	$4,810	$4,915	$6,635
Additional Japanese costs:			
Ocean freight and insurance	[2] 225	175	210
Port handling and make ready	105	125	125
Japanese commodity tax	700	850	1,200
Net homologation costs	110	435	535
Dealer incentives	0	500	500
Higher dealer margin	950	1,425	2,100
Other costs and profit (net)	205	180	760
Effective retail in Japan	7,105	8,605	12,065

[1] Including options standard in Japan.

[2] Produced in Europe, hence the higher freight.

Source: Case participant.

It will be noted that higher dealer margins are the single most important factor causing the disparity; the commodity tax is the next most important factor and net homologation costs the third. The added "selling costs," dealer incentives and higher dealer margins, are lowest for the subcompact—19.8 percent above those in the United States—while on the small sporty car and on the compact, they are each 39 percent above those in the United States. Thus the market for subcompacts appears to be considerably more competitive than for the other two models. According to our case firm, suggested dealer margins for American and Japanese models have a similar pattern.

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[1] For a detailed discussion of this tax scheme, see Chapter 10.

In this section, we discuss the effect of higher dealer margins, the distribution system, commodity taxes, current passenger car taxes and labor costs on car prices. Homologation is described in a later section.

Higher dealer margins, distribution costs

The most significant element in the increased cost of an American car in Japan is added distribution costs. Several factors govern these costs:

The inability of American producers to develop volume with large expensive cars;

The inability of importers, under Japan's exclusive dealerships, to "piggyback" on the dealer networks of the "majors";

The inability of importers with existing small sales volumes to have their own extensive dealer networks because of the extremely high cost of land and other operating costs;

The higher costs of distribution in Japan even for Japan's "majors"; and

The higher trade-in value of a used car when the purchaser stays with the same maker.

Volume, which depends on how responsive the product is to the needs of the market, also affects sales costs and hence price. For the simple reason of space, larger cars do not have a mass market in Japan. Our case participant noted, however, that American producers are now attempting to respond to customer preferences for small cars with four and six cylinder automobiles such as Ford's Fiesta, Mustang, and Zephyr, and Dodge's Omni, all of which are being well received in Japan. Another point made by Japanese Government and industry officials, is that American producers have not adequately considered Japanese customer preferences, such as quality of paint and fitting of parts. Further, as Japanese observers point out, our producers still offer only left-hand drive vehicles in Japan, although Japanese manufacturers do not attempt to sell right-hand drive vehicles in the United States.

Our producers explain that their reluctance to produce right-hand cars stems from the expense of retooling and the low volume. Japanese manufacturers also faced these problems when they started exporting to the United States. However, American producers point out that, since left-hand drive is used overwhelmingly worldwide, Japan was converting to compete in the world market whereas the United States would be converting essentially for the Japanese and U.K. markets only. We have companies in the U.K.; other left-hand drive countries—Australia and others formerly in the Commonwealth—have requirements for local manufacture. The result is that the potential market for right-hand drive outside of Japan and the U.K. and the "local-requirements" markets is estimated by our case participant to be ony about 135,000 vehicles.

The Japanese auto industry's exclusive dealerships are now under study by Japan's Fair Trade Commission. As the Japanese economy becomes increasingly service-oriented, the Commission believes it important to pay increasing attention to anticompetitive practices in this sector.

The contrast in present selling costs is dramatically seen in the following figures showing salesmen's costs per car sold. Salesmen in Japan and the United States receive comparable compensation, but in Japan, salesmen average five sales per month as compared to eight in the United States; salesmen selling foreign cars in Japan average only two cars per month. According to our case participant, salesmen's cost per vehicle sold are:

	2 cars per mo (U.S. average in Japan)	5 cars per mo (domestic producers' average in Japan)	8 cars per mo (U.S. average in the United States)
Salesman cost per vehicle sold	$1,040	$420	$200

Source: Case participant.

Commodity tax

The second most important factor raising the retail price of a car in Japan is the commodity tax. It is not clear why Japan imposes a commodity tax on cars especially since, in many years, it has had a large surplus in tax revenues. As Table 3 shows, this has been an extraordinary tax, used on a highly discriminatory basis against foreign cars. It will also be noted in Table 3 that the commodity tax on large cars was 50 percent during 1954–61 and remained at 40 percent through 1970. In asserting that the tax was highly discriminatory, we point to the scale of the difference between the tax on larger cars in contrast to the tax on typical size Japanese cars. Even when Japan was moving aggressively into the export market in the late sixties, as seen in Chart 1, the commodity tax was double or more on foreign-sized vehicles. Japan applies the tax on foreign cars on the basis of import value cif, while the United States and Canada are virtually distinctive in basing duty rate on fas or fob value. Using the cif value for foreign cars while imposing the tax on their own cars "exfactory" makes a difference in the base to which the discriminatory rates apply. While it may not be discriminatory for a government to tax cars by size when it is attempting for various social reasons to promote small cars, the earlier scale of the disparity is difficult to explain in view of a commitment to accord foreigners "national" treatment. Currently, as will be shown in the next section, there is but a 5 percentage point difference in the rate for large and small cars in Japan.

Current passenger car taxes

American manufacturers frequently point to various taxes levied on automobiles which not only result in higher prices but tend to discriminate against the types of U.S. automobiles traditionally sold in Japan. Our case participant provided us with the following comparison of Japanese and U.S. automotive tax categories:

TABLE 6.—A COMPARISON OF JAPANESE AND UNITED STATES AUTOMOTIVE TAXES[1]

Japanese taxes				
Type	When	Government	Tax and basis	Similar United States tax
Commodity	Once	National	15 percent (of landed cost)—Under: 2,000 cc engine, 1,700 mm width, 2,700 mm wheelbase. 20 percent—Over: 2,000 cc engine, 1,700 mm width, 2,700 mm wheelbase.	None.
Acquisition	Once	Local	5 percent—of sales price	State sales tax.
Weight	Bi-annual	Local	$63—per 0.5 ton	State registration fee.
Road	Annual	Local	$94—Under 1,000 cc engine, $110—1,001 to 1,500 cc engine, $125—1,501 to 2,000 cc engine, $337—2,001 to 3,000 cc engine, $366—3,001 to 6,000 cc engine, $613—6,001 and over.	None.

[1] Rates for these conversions from International Monetary Fund, "International Financial Statistics," February 1979, Japan table 2, line ae. The 1978 annual rate is used.

Source: Case participant.

The taxes most often criticized by American manufacturers are the commodity tax and the road tax. Most American cars are not equipped with engines smaller than two liters[1] and/or they exceed either the width or wheelbase maximum requirements for the lower 15 percent tax. Vehicles charged the higher 20 percent commodity tax require "3" number license plates while all other cars have "5" number license plates which make "luxury" car status immediately apparent.

While the commodity tax is paid once, in the first instance, by the manufacturer, the road tax is applied annually on the owner of the vehicle. As the preceding table indicates, there is a sharp break in the tax for automobiles with engines in the 1501–2000cc range compared to the 2001–3000cc range—a 270 percent increase. Our case firm argues that more graduations are needed in the fees charged for engines over two liters. The progressive tax is intended as a fuel economy incentive. However, the case participant added that the tax is substantially more progressive than fuel consumption rates. In addition, Japan taxes gasoline at a rate of about $1 per gallon which in itself, is a substantial incentive to drive fuel efficient cars. Moreover, according to the case participant, the fact that the road tax clearly separates the under and over two liter engines reinforces the luxury status in the purchaser's mind, a disadvantage in selling to the mass market.

Labor factor

Although average compensation in manufacturing in Japan is approximately two-thirds of that in the United States,[2] hourly compensation of production workers in the motor vehicles and equipment industry in Japan in 1978 was only 52 percent of that paid in the United States.[2] The effect of wage rate differentials on final costs depends, of course, on the relationship of labor and capital in the production mix. Although we contacted various automobile manufacturers and government officials, we did not find a consensus as to whether the auto industry is more fully automated in the United States or in Japan. Nor did we find any studies or consensus on the number of manhours needed to produce a vehicle. According to the 1978 annual reports of General Motors and Ford, 32.7 percent and 27.1 percent of their revenues, respectively, was spent on salaries, wages, and benefits, but these figures, of course, relate to direct labor outlays only.

According to our case participant, it normally takes about 125 manhours, including management and engineering, to produce a subcompact car from the time the rolled sheet metal is received until the car leaves the factory. Assuming equivalent manhours necessary to produce an automobile in the United States and Japan, and using the Department of Labor Statistics, the following table shows a substantial difference in cost arising out of wage rate differences.

	Hourly wage rate (1978)[1]	Total labor cost
United States	$12.65	$1,581.25
Japan	6.54	817.50
Difference	6.11	763.75

[1] In an explanatory attachment, the Department of Labor noted that: "Total hourly compensation includes all direct payments made to the worker (pay for time worked, pay for vacations, holidays, and other leave, all bonuses and pay in kind) before payroll deductions of any kind, plus employer expenditures for legally required insurance programs and contractual and private plans for the benefit of employees. In addition, compensation includes other significant taxes on payrolls or employment that are regarded as labor costs. Total compensation is computed per hour worked."

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[1] 1000cc (cubic centimeters) equals 1 liter.

[2] Estimated Hourly Compensation of Production Workers in the Motor Vehicles And Equipment Industries, Twelve Countries, 1975–1978, unpublished data prepared by De-

HOMOLOGATION AND THE APPROVAL PROCESS FOR FOREIGN CARS

American manufacturers do not find it economical to produce to Japanese safety and environmental standards in the United States. For this reason, cars have to be modified to meet the Ministry of Transport's requirements after they reach Japan. This process is known as "homologation."

Below is a list of some of the common changes, some relatively minor, others more extensive, required on U.S. cars.

Amber front end and rear turn signals.

Exhaust temperature alarm.

Exhaust heat shielding.

Head restraints to Japanese standards.

Low current overnight park lamps.

Kilo speed with red ban 100 kilometers per hour (KPH).

Tail (exhaust) pipe outlet direction.

Front side marker lamp location

License plate brackets.

Outside rear view mirrors—Japanese field of view and breakaway design.

Head lamps—LH rule of road.

License lamp illumination.

Overspeed warning device.

Rear bumper clothing device.

Seating dimensional compliance.

Back-up lamp—intensity, aim and leakage.

Turn signal operation—flash rate and positive out between flashes.

Rear reflectors to Japanese standards.

Instrument/control symbols.

These changes, along with repairs necessitated mostly by shipping, are made at homologation plants. With the exception of Ford, which has its own homologation facility, American manufacturers export to Japan through dealers who make the necessary modifications at their plants. The following photographs, taken at Ford's facility, depict a few of the modifications required on their vehicles. The homologation costs given in Table 5 refer to small cars; on larger cars, the costs are appreciably greater.

While some progress has been made, American manufacturers still feel that a complete review of the modification requirements by the Japanese Government is warranted with a view to retaining only those which are absolutely necessary.

Approval process

The Ministry of Transport has two distinct types of approval processes to insure compliance with safety and environmental standards. Japanese manufacturers use one system for motor vehicles mass produced to meet those standards. The Japanese producer submits documentation to the Ministry of Transport that the type of vehicle has met the standards and also submits a tested and untested vehicle. If the automobile type is approved, the manufacturer can then "self certify" and forego further inspections for this type of automobile.

For foreign automobiles, the system is more complicated and time consuming. Importers must submit documentation and a sample vehicle on which tests are to be conducted. Upon approval of the vehicle, the documentation is distributed to inspection centers but, thereafter, every automobile must undergo an inspection. Following is an illustration of the extent of documentation required of an American manufacturer for one auto model with four engine options.

Although inspected once by Japanese officials in the United States for safety requirements and modified in Japan to obtain approval for type notification (with accompanying documentation), each automobile, prior to sale must be taken to a land office for inspection. American manufacturers complain that this procedure normally takes a full day, and point out that the documentation, time and cost to obtain an approval averages about $200 per car. The position of the U.S. automotive industry is that the Ministry of Transport should permit "self certification" similar to that offered producers selling foreign cars in the United States. The proposed process could be coupled with a sampling technique to insure compliance with Japanese regulations.

The Japanese Government has recently adopted a number of new regulations in response to some of these complaints. On foreign cars, Japan has deferred for 3 years until 1980, its stringent 1978 exhaust standards and has simplified its emissions testing procedures for U.S. items considered equivalent to those of Japan. Ironically enough these rigorous emissions standards, were adopted from those in the United States Clean Air Act of 1970, scheduled to take effect in 1975 and 1976, they were subsequently deferred. While the Japanese automobile industry (like the U.S. industry) claimed that the standards were beyond its compliance capability, the Japanese Government believed that the United States would not have adopted an impossible program for an industry as important as automobiles. Further, with exports to the United States of key importance, the Japanese Government insisted that its industry meet the standards.[1]

In addition to suspending its emission standards on foreign cars temporarily, the Japanese Government for the first time, in 1977, sent examiners to the United States to perform safety and emission testing "on-site," a procedure which will lessen the time and costs for meeting approval.

CONCLUSION

The scale of the imbalance in the bilateral auto trade is the product of two broad factors, one governmental and the other market. Earlier, Japan protected its domestic market through high tariffs, discriminatory commodity taxes and foreign exchange allocations while the U.S. market was open. Japan's protections continued up to 1971. A dominant market factor is that Japan with its small-car specialization came upon an immense opportunity in the American market whereas we, with our large-car specialization came upon only a very thin, top-slice of theirs.

To reduce the imbalance, U.S. producers see their best opportunity in competing with Japanese cars in the American market rather than in the Japanese market, though they do intend to pay that market greater attention. Further, they are strongly encouraging Japanese makers to produce in the American market. Both Toyota and Nissan have conducted feasibility studies for locating plants here; however, neither have any immediate plans to do so. Honda is exploring the feasibility of adding an automotive unit adjoining its motorcycle plant in Marysville, Ohio. While Japanese manufacturing or assembly facilities in the United States would reduce the trade imbalance, it should be noted that they would have an effect on dividend payments to Japan, thereby reducing the surplus which the United States enjoys in the service account (dividend payments are so classified) and thus affecting the current account balance.

In the 1970's, Japan's automobile industry relied increasingly upon exports. We speculate that increased emphasis on exports came about not out of the sluggishness of Japanese domestic demand, but because, after the 1973 oil crisis, there was an enormously greater interest in small cars which Japan builds so well.

There is still much that Japan can do to improve opportunities for foreign manufactures in the Japanese market. Test procedures can be streamlined, minor standards that do not affect safety can be dropped, and road motor tax increases by size of car can be made proportional to the increased gasoline required rather than greater. However, even if all these changes were to be made, the economics of land and energy would dictate that the mass market in Japan is for small cars alone.

TABLE 7.—JAPAN'S PRODUCTION AND EXPORTS OF CARS, TRUCKS AND BUSES, 1956–77

[Units]

Year	Production	Exports	Percent
1956	111,066	2,447	2.2
1957	181,977	6,554	3.6
1958	188,303	10,243	5.4
1959	262,814	19,285	7.3
1960	481,551	38,809	8.1
1961	813,879	57,037	7.0
1962	990,706	66,690	6.7
1963	1,283,531	98,564	7.7
1964	1,702,475	150,421	8.8
1965	1,875,614	194,168	10.4
1966	2,286,399	255,734	11.2
1967	3,146,486	362,245	11.5
1968	4,085,826	612,429	15.0
1969	4,674,932	858,068	18.4
1970	5,289,157	1,086,776	20.5
1971	5,810,774	1,779,024	30.6
1972	6,294,438	1,965,490	31.2
1973	7,082,757	2,067,556	29.2
1974	6,551,840	2,618,087	40.0
1975	6,941,591	2,677,612	38.6
1976	7,841,447	3,709,608	47.3
1977	8,514,522	4,352,817	51.1

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● **Mr. LUGAR.** Mr. President, the introduction today of the Levin-Lugar equalization tax bill marks the beginning of a specific, serious congressional effort to address the problems of the American automobile industry. It is significant that this effort enjoys bipartisan leadership and support, and that within our two parties, it is endorsed by liberals, moderates, and conservatives alike.

This breadth of political support is certain evidence that the economic health of the American automobile industry influences the Nation as a whole. It should be clear to any observer that the crisis in the auto industry cannot be solved by a single region or single party, and I am hopeful that the introduction of this bill will initiate a truly national effort to get the American car industry back on its feet.

The magnitude of this crisis is greater than in any post-depression period. As of May 31, nearly one half million jobs have been lost in this country as a result of declining U.S. auto sales. In May, Ford's sales were down 42 percent, GM's down 34 percent, and Chrysler's down 51 percent. In the first quarter of this year, Chrysler lost $449 million, Ford lost $164 million, and GM's earnings were down 87 percent to $155 million.

The Levin-Lugar bill alone will certainly not reverse these downward trends; other more extensive Government policy changes will also be required. Our bill does, however, address a serious component of the crisis, which can and should be dealt with immediately—rising Japanese imports.

Japanese imports presently account for over 21 percent of all U.S. car sales, and 20 percent of the U.S. truck market. In 1979, the United States recorded a $9

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partment of Labor, Bureau of Labor Statistics, Office of Productivity and Technology, May 1979.

[1] For the preceding points and for the account of how the Japanese industry did overcome this perception and did meet the standards of the Clean Air Act, see Julian Gresser, Fujikura and Morishima, *Environmental Law In Japan*, (MIT Press, forthcoming).

billion deficit in motor vehicle trade with Japan, and a $13 billion deficit is predicted in 1980.

The Levin-Lugar bill proposes to equalize the trading conditions which exist between Japan and the United States. It would require the Secretary of the Treasury to assess a value for nontariff barriers which are discriminatory to U.S. cars entering Japan, and would equally burden Japanese imports into the United States. Senator LEVIN has already carefully documented the nontariff barriers which this legislation seeks to redress.

This legislation is rooted in a strong preference for free trade policy, and is fully consistent with that policy: Free trade among nations fundamentally depends on the concept of fairness. Fairness, and the revitalization of free trade, are very clearly the goals of our bill.

I should also point out, Mr. President, that a more historical view of the fairness question has led to a general clamor for raising duties or imposing quotas on the import of Japanese cars. Indeed, a very persuasive argument can be made that principles of equity demand a protectionist American policy today. Between World War II and 1971, the Japanese auto industry was absolutely closed to foreign investment, and its markets were protected from foreign imports by high tariffs and an exceedingly discriminatory commodity tax, as shown in the following table.

Mr. President, I ask unanimous consent that the table illustrating the historic levels of these trade barriers be included at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TARIFF AND COMMODITY RATES ON AUTOMOTIVE EQUIPMENT, 1955–72 [1]

TARIFF RATES

	Passenger cars (percentage)			
	Less than 270 mm wheelbase	More than 270 mm wheelbase	Trucks	Parts
1955	40.0	35.0	30.0	30.0
1962	40.0	35.0	27–30.0	30.0
July 1968	36.0	28.0	22–24.0	24–30.0
April 1969	36.0	17.5	22–24.0	24–30.0
January 1970	34.0	17.5	19–21.0	24–30.0
May 1970	20.0	17.5	19–21.0	24–30.0
April 1971	10.0	10.0	10.0	10.0
April 1972	8.8	8.8	8.8	8.8
November 1972	6.4	6.4	6.4	6.4

COMMODITY TAX RATES (PRIOR TO 1971)

	Wheelbase/engine size (percentage)		
	304.8 mm/ greater than 3,000 cc	270–304.8 mm/ 2,000–3,000 cc	Less than 270 mm/less than 2,000 cc
1954	50	40	20
1962	40	30	20
1966–70	40	30	15

[1] GAO Report, "United States—Japan Trade: Issues and Probems," ID–79–53, Sept. 21, 1979.

Mr. LUGAR. Mr. President, as is recorded in the September, 1979 GAO Report on United States-Japan Trade—

> The almost absolute restrictions which were in force prior to the early 1970's enabled the Japanese car producers to develop world scale capability with costs low enough to compete in the U.S. and Europe with prices substantially below U.S. and European domestic models.

In 1969, the Japanese share of the U.S. market was a miniscule 2 percent, rising steadily ever since; 5.8 percent in 1971, 9.5 percent in 1975, 12 percent in 1978, 16.6 percent in 1979, and if first quarter trends continue, 21 percent in 1980.

Just as the Japanese protected their industry during the unstable years prior to 1971, it seems fair to many Americans that, as our industry retools and recapitalizes, we should protect our market from short-term harm and possible permanent damage.

The Levin-Lugar bill does not propose this solution. We propose only to equalize the current trading conditions. Strong support for this legislation will signal to the Japanese that the question of fairness is a sensitive issue with Americans, and that absent prompt and satisfactory elimination of discriminatory barriers, we may be forced to consider a more radical application of equity principles.

Mr. President, as I have indicated, I believe that this bill signals a new starting point in congressional attention to the auto industry. Let me take a moment however, to outline additional views on the Government's role in revitalizing the industry.

As we begin this critical decade, there must be wholesale reevaluation of the regulations which govern the auto industry. Environmental and safety regulations, in particular, must be reconsidered. Sensitive though this issue may be, the Congress must simply face the fact that extreme Government regulations are too burdensome on automakers, and far too expensive for consumers to afford. Marginal benefits, or in some cases merely suspected benefits, are outweighed by the damage to our economy.

For example, Mr. President, consider the Congress' insistence that auto emissions be reduced by 90 percent of 1970 levels. No clear scientific evidence supports the 90 percent standard. It was, from the beginning, an arbitrary figure.

Through 1979, polluting emissions have been dramatically reduced from uncontrolled levels; 86 percent for HC, 82 percent for CO and 51 percent for NO_x. Still, we press toward an absolute goal. Ford Motor Co. estimates that it will spend $59 million per percentage point of pollution reduction to meet post-1979 standards, compared with $7.7 million per point spent between 1968–1977. This represents a 760 percent cost increase for each increment of pollution reduced.

Additionally, Mr. President, the Congress must change existing tax laws so that a more substantial capital cost recovery program is available to American industry. The constructive national debate on this issue has resulted in a consensus for action.

Other tax policies which reward risk capital investment are also overdue. Levels of retained earnings and savings must be increased in order to stimulate investment in productive job creating activities. Nowhere is the need for recapitalization greater than in the auto industry where aging plant and equipment makes us increasingly less able to compete with foreign made products.

Tax cuts for individuals will offer incentives to increase individual production and to provide additional savings in our national economy.

No one, Mr. President, believes that we can return to a bygone era in the American car industry; world events have reshaped this institution, and to a great degree the society which we built around it. With the passing of that era, however, we must also discard the adversarial relationship which has been created between the Government and the industry.

In this decade, the Congress must look to and foster a new era of reindustrialization in America through private investment. It must build pillars of support for the auto industry, instead of obstructions to success. I am hopeful that the introduction of the Levin-Lugar bill today signals the opening of this new era, and that this legislation will be but the first of many innovative and cooperative ventures.

I commend my colleague from Michigan, Senator LEVIN, for his diligent work in crafting this legislation, and join him in inviting the support of our fellow Senators.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the cost of United States automobiles in certain other countries is increased by discriminatory non-tariff barriers to trade imposed by those countries.

(2) one of the purposes of the General Agreement on Tariffs and Trade is to insure free, open, and fair trade among parties to the Agreement,

(3) non-tariff barriers imposed by other countries to the sale of United States automobiles in those countries prevent United States automobile manufacturers from fair competition and therefore deprives them from obtaining a greater share of those markets,

(4) non-tariff barriers imposed by certain other countries to the sale of United States automobiles in those countries contribute to a negative balance of trade between the United States and other countries,

(5) the General Accounting Office has found that certain policies of the Japanese Government in particular may discriminate against United States automobiles, and

(6) unfair competition in international automobile trade has had such severe impacts on domestic automobile production and employment that unusual measures are necessary to prevent serious and lasting damage to the United States automotive industry.

(b) PURPOSE.—It is the purpose of this Act to equalize competition between the United States and other countries in automobiles by imposing a tax on auomobiles produced in certain other countries entering the United States equal to the increase in the cost of United States automobiles sold in those countries which is attributable to discriminatory non-tariff barriers imposed by those countries to the sale of United States automobiles there.

Sec. 2. Excise Tax Imposed.

(a) In General.—Part I of subchapter A of chapter 32 of the Internal Revenue Code of 1954 (relating to motor vehicles) is amended by adding at the end thereof the following new section:

"Sec. 4065. Imported Automobiles.

"(a) Tax Imposed.—In addition to any other tax imposed under this chapter, there is hereby imposed on qualified imported automobiles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof) a tax in the amount determined under subsection (b).

"(b) Determination of Amount.—

"(1) In general.—The amount of the tax imposed by subsection (a) on the sale of any qualified imported automobile which is the product of a foreign country for any calendar quarter shall be the amount determined by the Secretary to be the non-tariff barrier equivalent amount for that quarter for qualified imported automobiles produced in that country.

"(2) Non-tariff barrier equivalent amount.—For purposes of this subsection, the 'non-tariff barrier equivalent amount' shall be the average, over the most recent 8 calendar quarters for which data is available, addition to the price of United States automobiles sold in a country in which qualified imported automobiles are manufactured which is attributable to non-tariff barriers to trade imposed by that country.

"(3) Non-tariff barrier.—For purposes of this subsection, the term 'non-tariff barrier' means any practice or procedure of a country which unreasonably burdens, restricts, or discriminates against United States automobiles in such country's automobile market, including but not limited to all or a portion of any—

"(A) commodity taxes,

"(B) inspection or testing procedures,

"(C) product approval requirements or standards, or

"(D) road or other excise taxes, imposed by such country.

"(4) Determinations to be made quarterly.—The Secretary shall make determinations under paragraph (1) quarterly, and the amount so determined shall apply for the calendar quarter next beginning after the determination is made. The first determination under this subsection shall be made not later than the end of the second full calendar quarter after the date of enactment of this section.

"(c) Definitions.—For purposes of this section—

"(1) The term 'qualified imported automobile' means, for any calendar quarter, an imported automobile manufactured in a country imports of whose automobiles account for more than 10 percent of the new automobiles sold in the United States for the most recent 12-month period for which data are available.

"(2) Imported automobile.—The term 'imported automobile' means an automobile (as defined in section 4064 (b)(1)) manufactured outside the United States.

"(3) United states automobile.—The term 'United States automobile' means an automobile (as so defined) manufactured in the United States.".

(b) Clerical Amendment.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 4065. Imported automobiles.".

(c) Technical Amendments.—

(1) Denial of certain exemptions and refunds.—

(A) Subsection (a) of section 4221 of such Code (relating to certain tax-free sales) is amended by inserting "or 4065" after "section 4064" in the last sentence.

(B) United states and possessions.—Section 4293 of such Code (relating to exemption for United States and possessions) is amended by striking out "sections 4064 and 4121" and inserting in lieu thereof "sections 4064, 4065, and 4121".

(C) Denial of refunds for certain uses.—Paragraph (2) of section 6416(b) of such Code (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by inserting "or 4065" after "section 4064" in the last sentence.

(2) Payment of tax in case of leased automobiles.—Subsection (e) of section 4217 of such Code (relating to leases of automobiles subject to gas guzzler tax) is amended—

(A) by striking out "Gas Guzzler Tax" in the caption and inserting in lieu thereof "Tax Under Section 4064 or 4065",

(B) by inserting "or 4065" after "section 4064" in paragraph (1) of such subsection,

(C) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) Payment of tax.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax or imported automobile tax which bears the same ratio to the total amount of such tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax or imported automobile tax is payable, then there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total amount of such tax, and

"(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax or imported automobile tax is payable, no tax shall be imposed under section 4064 or 4065 on such sale or disposition.", and

(D) by adding at the end of paragraph (3) the following new subparagraph:

"(C) Total imported automobile tax.—The term 'total imported automobile tax' means the tax imposed by section 4065, computed at the rate in effect on the date of the first lease.".

Sec. 3. Presidential Waiver of Tax.

(a) Application With Respect to Any Manufacturer.—The President may waive the application of the tax imposed by subsection (a) of section 4065 of the Internal Revenue Code of 1954 with respect to automobiles manufactured by any person if he determines that such person is making a good faith effort to ameliorate the imbalance in trade in automobiles between the United States and the country in which such person is located—

(1) by limiting exports of automobiles manufactured by him to the United States, or

(2) by manufacturing automobiles in the United States.

(b) Application With Trade Agreements.—The President may waive in whole or in part the application of the tax imposed by such section with respect to automobiles manufactured in any country if he determines that such country is in full compliance with all treaties, trade agreements, or other international agreements affecting trade in automobiles to which the United States and such other country are parties.

(c) Transmission and Publication of Presidential Determinations.—Whenever the President makes a determination under subsection (a) or (b), he shall transmit notice of his determination and the reasons therefor to the Congress, and shall cause the determination and the reasons therefor to be published in the Federal Register.

(d) Application of Waiver.—

(1) Period of application.—Any waiver granted by the President under subsection (a) or (b) shall apply with respect to such periods as the President may determine, but in no event more than 4 calendar quarters, and may be revoked or terminated in accordance with its terms, or at such time as the President determines that the person or country to which the waiver was granted no longer meets the requirements of subsection (a) or (b), whichever is applicable.

(2) Extension of waiver.—Any waiver granted by the President under subsection (a) or (b) may be extended for any number of additional periods of not to exceed 4 calendar quarters, but any extension shall be granted only after the President has made a new determination under subsection (a) or (b), and has provided for transmission and publication of such determination in accordance with subsection (c).

Sec. 4. Congressional Disapproval of Presidential Waiver.

(a) In General.—A waiver, under subsection (a) or (b) of section 3 of this Act, of the tax imposed by section 4065(a) of the Internal Revenue Code of 1954 shall not take effect if a disapproval resolution relating to the waiver is enacted.

(b) Exercise of Rulemaking Power of House and Senate.—This subsection and subsection (d) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions, and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(c) Disapproval Resolution.—For purposes of this section, the term "disapproval resolution" means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: "That the Congress disapproves the waiver of the tax imposed by section 4065(a) of the Internal Revenue Code of 1954 proposed by the president under dated .". the President under dated .", the first blank being filled with the number of the proclamation, Executive order, or other Executive act proposing such waiver and the second blank being filled with the appropriate date.

(d) Procedures.—

(1) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance.

(2) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this paragraph shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

Sec. 5. Amounts Equivalent to Imported Automobile Tax Receipts Deposited Into Federal Old-Age and Survivors Insurance Trust Fund.

(a) In General.—There are hereby appropriated for deposit into the Federal Old-Age and Survivors Insurance Trust Fund amounts determined by the Secretary of the Treasury to be equivalent to the amounts of the taxes received in the Treasury under section 4065 of the Internal Revenue Code of 1954 (relating to imported automobiles), reduced by the amount of the credits or payments allowable under such Code which are properly chargeable against the amount of such taxes.

(b) METHOD OF TRANSFER.—The amounts appropriated by subsection (a) shall be transferred at least quarterly from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the taxes referred to in subsection (a) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 2 shall apply with respect to automobiles sold in calendar quarters beginning more than 30 days after the date of enactment of this Act.

(b) TERMINATION OF TAX.—The tax imposed by section 4065 (6) of the Internal Revenue Code of 1954 shall not apply with respect to automobiles sold after December 31, 1985. ●

● Mr. BAYH. Mr. President, today I join with several of my colleagues in the introduction of legislation which will provide an important incentive for Japanese automobile manufacturers to make job-creating investment in the United States. A combination of circumstances and factors have ravaged the U.S. auto industry. Each week new figures show more auto workers out of work and a greater share of the sagging domestic sales of new cars captured by Japanese automobile makers. The time has come to act.

Under current conditions of trade, the Japanese automobile manufacturers have nearly unrestricted access to our market while we operate under a significant competitive disadvantage. Despite the good efforts of our Special Trade Representative, Gov. Reubin Askew, I believe that our largest overseas trading partner, the Japanese, still has a long way to go in making the kinds of short and long-term purchasing and investment decisions which will more fully reflect the true spirit of fair international trade. The bill we are proposing today will give us added leverage to encourage further cooperation.

Let me emphasize, that this is but one measure which the Senate should consider. It is carefully drafted so as to permit maximum discretion on the part of the administration to conclude agreements with the Japanese to impose an equalization tax on Japanese cars coming into America. The computation of this tax would be accomplished by taking the average, over the past 12 quarters, of all procedures and practices authorized by the Japanese Government which have the effect of adding costs to American cars brought into Japan.

Such procedures which do not penalize Japanese manufacturers when they market in this country have been found to amount to real trade barriers against export of U.S. cars to Japan for which there is a market. The legislation provides that among the procedures and practices to be calculated in the formulation shall include: inspection; testing; product approval standards; that portion of the commodity tax computed on cost, freight and insurance; as well as other road and excise taxes.

While the authority which this legislation provides to the Secretary of the Treasury to compute and impose, to the extent allowed by agreement between the United States and Japan, something of a "stick" which we would not otherwise have, the legislation also contains a provision that a recommendation for waiver may be granted for any Japanese manufacturer who shows good faith through limiting exports to America of through construction of manufacturing facilities in this country. In addition, both Houses of Congress shall have the ability to veto any tax authorized by the Secretary of the Treasury. The proceeds from the tax, as presently envisioned by the bill, will be transferred to the Social Security Trust Fund to be held for future tax reductions which would offset any inflationary impact of the tax.

Mr. President, the situation facing the U.S. automobile industry—one of this Nation's strategic industries—is simply too dire to justify a delay in direct congressional action. In Indiana, more than 24,000 auto and auto-related workers were on indefinite layoff according to the most recent statistics from the Indiana State Employment Service. This figure constitutes more than half of the total reported unemployment for the end of May according to ISES.

In conclusion, let me say that I would hope that Japanese automobile makers would determine with all deliberate speed that the vast pool of skilled and experienced labor in this country, as well as the facilities already in place, constitutes strong reasons for locating automobile plants in this country. Briefly put, however, if the Japanese want to continue to enjoy such a huge share of the American market, they must decide now to "build American." To insist on having the present situation both ways at the expense of U.S. workers and the inflation caused by a $9 billion automotive trade deficit is to insist on a trade showdown.

Neither nation needs nor wants this and I believe the legislation we are introducing today will help prevent such a situation from occurring. But time is running out. No one can predict just what legislation will be approved in the final hours of the 96th Congress. But unless the domestic automobile employment picture brightens significantly, it is conceivable that legislation of a less conciliatory nature will be considered and approved at that time.

Mr. President, I urge the Senate move to quick consideration of the legislation we are introducing today.●

By Mr. PACKWOOD (for himself, Mr. BRADLEY, Mr. NELSON, Mr. HEINZ, Mr. MATSUNAGA, Mr. COHEN, Mr. COCHRAN, Mr. JAVITS, and Mr. WILLIAMS):

S. 2809. A bill to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled; to the Committee on Finance.

LONG-TERM HEALTH CARE FOR OUR SENIOR AND DISABLED CITIZENS

● Mr. PACKWOOD. Mr. President, today I am introducing legislation with Senators BRADLEY, NELSON, HEINZ, MATSUNAGA, COHEN, COCHRAN, JAVITS, and WILLIAMS to put in place a comprehensive system of noninstitutional long-term care services to insure that the elderly and disabled receive social and medical services necessary to help them avoid placement in hospitals or nursing homes unless absolutely needed.

Too often, Mr. President, our society looks toward institutionalization for our elderly and disabled citizens as the only feasible system of health care. "Convenient" might be a better word, since hospitals and nursing homes often serve as convenient facilities into which we can shunt those less fortunate, without having to deal with hard questions: Would the person be more comfortable at home rather than in an impersonal institution? Can the individual take care of him or herself, with the aid of loved ones and periodic visits from health professionals? What social and medical services should we be providing so that a person can choose whether some variety of home health care best suits his or her needs rather than institutionalization?

Elderly and disabled people are often institutionalized because necessary services do not exist in their communities. They often are sent to hospitals or nursing homes merely because their economic or social situation is such that they cannot afford to remain in their own homes, and not necessarily because they require institutionalized care.

Mr. President, this legislation deals with the very difficult social questions of where best our elderly and disabled citizens can receive the health and social care that all Americans deserve.

This legislation establishes a new title XXI under the Social Security Act. The purpose of title XXI is to establish for the first time a system of noninstitutional, long-term-care services under one umbrella, while at the same time adding some new services.

Although current law offers some options to nursing homes or hospitalization, generally home health care services are limited. In addition, many individuals find it difficult to qualify for home health care services, and many practical services, such as homemaker assistance or adult day care, are not available.

The resulting health care program is a hodgepodge of services and regulations that fails to meet the needs of individuals and their families, The response we end up encouraging is institutional rather than noninstitutional care. That is why we need a new approach that favors independence and self-reliance for our Nation's seniors and disabled citizens.

Briefly, this bill drops unnecessary requirements for an individual to qualify for such needed services as visits from nurse practitioners or periodic help from a physical therapist. It encourages less dependence on hospitalization and nursing home care.

The legislation provides for a wide range of services, including home health services, homemaker-home health aide services, adult day care and respite services. The adult day care center would provide full-time supervision during the workday, allowing families to care for their elderly relatives at night and on weekends. Respite services would make it possible for families to take short trips and vacations while leaving an older member in the care of a capable individual.

The legislation also would establish special teams of health professionals and social service workers to evaluate the needs of every patient and recommend those services most appropriate. These preadmission and screening assessment teams (PAT's) also would insure that unneeded service are not automatically or routinely provided. Recently a medicare team reviewed the records of one home agency and found that of 1,167 visits paid for by medicare, 52 percent were unnecessary.

The title XXI approach that I and my colleagues are taking today is supported by such groups as the American Association of Retired Persons/National Retired Teachers Association, and the National Council on Aging. Both these organizations have been forerunners in supporting progressive legislation to help the more than 25 million seniors in our country and I welcome their support and assistance on this program.

Mr. President, rather than continue with a lengthy floor statement I am submitting a substantive issue paper on long-term care and the elderly, which I ask unanimous consent to have printed in the RECORD. The policy paper was prepared to examine the problems faced by seniors in surviving in a noninstitutional environment, and it also explains in detail the title XXI approach.

In addition, I will be submitting at a later date a second issue paper examining the problem faced by persons with disabilities and how they are frequently forced to reside in institutions rather than homes.

I want to thank my colleagues for supporting this proposal and would like to thank the Library of Congress staff for its invaluable assistance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LONG-TERM CARE AND THE ELDERLY ISSUE PAPER

BACKGROUND ON THE ISSUE

The current health care system in this country is not adequately meeting the needs of millions of Americans. It is estimated that as many as 18 million persons are without any health care coverage at all. Many more persons are living in "medically underserved and medical shortage areas." However, there is an even greater health care problem which exists in this country, a problem which both the Congress and the current Administration have not acted upon. That is, the need for the Congress and the current Administration is to establish a non-institutional long-term care system for the elderly and disabled. This need, which has long plagued this country, has been ignored both because of its complexity and cost. At present, this issue remains unresolved.

Under the present system, the design of the current Medicare and Medicaid programs, fails to go beyond a limited home care approach in service delivery. As a consequence, community-based non-institutional long-term care services for the elderly and disabled population are virtually nonexistant. While Medicare and Medicaid represent the greatest concentration of health care services available to the elderly and disabled, these programs have failed to respond to a major existing need. Because of the acute care design of these two programs, many services are institutionally-based, and a comprehensive system of long-term health care services which are desperately needed to sustain older Americans in their own homes continue to be unavailable.

Thus, while Medicare and Medicaid are the major funding sources of long-term care services for the elderly, the separate rules, regulations and eligibility criteria governing the administrative mechanisms over the amounts and kinds of services available through such programs, continue to encourage (1) institutionalization, (2) inappropriate types of care and (3) in some cases services not reaching those in need. Further, since institutional care financing is emphasized and comprehensive community health care options are not generally available, the present health care system fosters increased reliance upon institutional care.

WHAT IS LONG-TERM CARE

Long-term care is defined here as a range of health and social care services needed or utilized by elderly and disabled persons over a prolonged period of time.

Historically, long-term care services have been delivered through institutional settings, regardless of the level of skilled care involved. As a result, older persons would frequently be placed in chronic care hospitals or nursing homes. However, this issue paper will show an increased need for a more comprehensive service system.

Long-term health care services should concentrate on, encourage and emphasize the continual functional independence of an individual and his or her ability to function with existing impairments and disabilities. Such services are, in part, designed to prevent premature and unnecessary placement in a nursing home.

Elderly people are often institutionalized because the non-institutional services they need do not exist, and because their economic and social situation is such that they cannot afford to remain in their own home and not necessarily because they require such care. This problem is compounded by the institutional design of the current system. Once an individual reaches age 65, his chance is one-in-four of entering a nursing home. This chance increases to one-in-two when an individual reaches age 85.

PROBLEMS OF THE CURRENT SYSTEM

The Medicare program (Title XVIII of the Social Security Act), the principal insurer for the aged and disabled population has a definite bias towards institutionalization. Medicare covers only short, post-hospital stays in nursing homes, keyed to episodes of illness. While there has been a documented need for non-institutional care services, the Medicare program offers only one program of such services—the home health care program. Yet, eligibility for this program is restricted.

Under current law, to qualify for such services, Part A of Medicare requires that an individual must be hospitalized for at least three days to become eligible, and once eligible, the care the individual receives focuses on short-term acute illness. As a result, the Medicare program creates a "services gap" for those who need non-acute care designed services for a long duration. Under Part B of Medicare (Supplemental Medical Insurance), if an individual elects Part B coverage, the individual is eligible for 100 home health visits. Further, Medicare funding covers about 3 percent of the total budget expended on nursing homes in the U.S. In contrast, Medicaid, a medical program based on a means test, accounts for almost 50 percent of total nursing home expenditures.

However, even the Medicare program has experienced some problems. Upon initiating and providing home health services to Medicare beneficiaries, it is the home health agency's responsibility to secure medical orders or plans of treatment (PoT's) authorized, signed and dated by the beneficiaries attending physician. The agency is then required to provide the services as prescribed by the attending physician and cannot change the prescribed services without modified orders or treatment plans from the physician, which he must authorize, sign and date. The objective of this treatment plan for such elderly and disabled persons should be to help individuals by minimizing and/or eliminating their reliance upon the home care agency.

But, what often happens is that the PoT does not promote self-reliance, but rather instills in the individual a "service dependency" upon the agency providing the services. Part of this problem can be attributed to the lack of emphasis given to patient education when the Agency is providing services. The more complicated problem exists in the design of the problem itself: that is, the lack of any periodic assessment of patient care plans and of the services provided. The examples listed below demonstrate the kinds of abuses that have taken place, because of the absence of local periodic assessment and because of the design of the program.

The following are examples taken from validation surveys conducted by the Division of Direct Reimbursement (DDR), a Medicare home health intermediary. These reviews were conducted onsite in four home health agencies. Based on these reviews, the following problems were cited:

Home Care Agency A

Based on the validation team review it was found that: of the 1631 home health visits reimbursed for by Medicare, only 564 visits or 33 percent should have been allowed; inconsistencies existed concerning the system for initiating services, utilization of home health aides, and the lack of medical supplies carried by a nurse during the visits.

Home Care Agency B

Based on the validation team review it was found that: of the 1167 visits reimbursed for by Medicare only 608 or 52 percent should have been allowed; many services were furnished to patients whose conditions had stabilized and were in no further need of the level of care covered under the Medicare home health program.

Home Care Agency C

Based on the validation team review, it was found that: of the 1167 visits reimbursed for by Medicare, only 608 or 52 percent should have been allowed; many services were furnished to patients whose conditions had stabilized and were in no further need of the level of care covered under the Medicare home health care program.

Home Care Agency D

Based on the validation team review, it was found that: of 326 visits reimbursed for by Medicare, 237 or 73 percent should not have been provided services were being prescribed without the knowledge or consent of the attending physician.

The problems that have been cited could be remedied. It is my opinion that a system at the local level with the sole responsibility for conducting preadmission screening and assessment of each eligible person (with the following responsibilities) could minimize if not eliminate such problems. The following activities would be performed by a screening and assessment team:

(1) Conduct a thorough functional and health status evaluation of each individual referred for non-institutional long-term care services;

(2) Develop a plan of care for such individual;

(3) Conduct periodic reassessments of care being provided;

(4) Ensure that the services being provided are designed to enhance to the greatest degree possible the functional independence of each individual;

(5) Provide each individual with a comprehensive list of services that exist for the elderly and disabled in their community; and

(6) Require that each individual, both public and private pay patient be assessed prior to entering long-term care facility (skilled nursing or intermediate care facility) to determine whether such individual requires institutionalization. The assessment team would work cooperatively with the local PSRO to ensure coordination of such activities, and ensure against duplication.

Another problem which seems to be increasing under the present system is a family's inability to care for elderly relatives at home. Under Medicare and Medicaid, families are offered only very limited services to assist in maintaining older persons in their homes. While the Title XX (Grants to States for Social Services) program under the Social Security Act was designed to help create community-based services such as homemaker assistance, adult day care services, it has fallen short. Because only persons with certain (low) incomes can qualify under this program, many families are unable to benefit. Further, current economic conditions, such as an inflation rate of over 18 percent compound the families' financial problems by decreasing their purchasing power as the cost of goods and services continues to increase. Thus, while many studies have been undertaken examining the roles of family members caring for elderly relatives, little is presently being done to encourage and assist families in keeping older relatives in their homes. With an increasingly large aging population expected in the years 2000, and beyond, and with many more of these persons living longer (many more persons will make up the 75+ population), the need for a comprehensive community-based non-institutional long-term care system increases.

Statistics indicate that Medicaid nursing home costs (total Federal and State share) will be more than $11.0 billion in fiscal year 1981. The majority of public dollars spent on nursing home care is federal, Medicaid as the major financing program. From 1974 to 1978, Medicaid nursing home costs have almost doubled (see chart).

Current estimates indicate that over 80 percent of available financing for long-term care services under Medicaid is for skilled nursing services and intermediate care facilities. Because of Medicaid's institutional bias, the program funding for non-institutional community-based options is scarce.

Data indicates that anywhere from 15–18 percent of persons in skilled nursing facilities and intermediate care facilities could be better cared for at a lower level of care (such as in their home while receiving home health care). An important point here is that persons who are presently institutionalized will become increasingly less capable the longer they remain in a nursing home.

According to a recent report from the General Accounting Office, various factors influence an individual's placement into a nursing home, particularly in the Medicaid program. For example:

(1) There are presently no formal prescreening systems established to assess whether a patient entering a nursing home could be maintained in the community.

(2) Current Medicaid eligibility policies create financial incentives to use nursing home care rather than non-institutional community-based services.

(3) For elderly persons eligible for Medicaid who do not receive community-based long-term care services because of restrictive state Medicaid programs, these eligible persons must enter a nursing home to receive long-term care services.

(4) The lack of adequate financial assistance for community long-term care services has had a detrimental effect on the many elderly persons who do not want to enter a nursing home.

(5) Once entering a nursing home, the likelihood of the individual returning to the community is reduced because individuals exhaust their income and assets to qualify for Medicaid, and their attempt to return to the community becomes increasingly difficult.

The remaining section of the issue paper further focuses on why we need the development of a comprehensive community-based non-institutional long-term care delivery system. It will further explore the background on this issue, and also spell out what the Title XXI approach is.

LONG-TERM CARE: A BITS AND PIECES APPROACH. WHERE DO WE GO FROM HERE?

Despite much public discussion and debate about the problems of long-term care, there has not been a serious legislative attempt to initiate an effective non-institutional long-term care system since the implementation of Medicare and Medicaid. Rather than genuine reform, one finds incremental changes to a system which neither operates effectively nor efficiently. This history of long-term care reform has resulted in a lack of available community-based long-term care services for those in need and, it has also contributed to an unjustified increase in nursing home populations. Consequently, there is an ever-pressing need to determine to what extent there is a demand for long-term care services—that is, home health care, adult day care, homemaker-home health aide, services, respite care as well as services offered through a skilled nursing facility and/or intermediate care facility.

Approximately 5 percent of persons age 65 and over reside in nursing homes and comprise 85 percent of the residents of such institutions. Some of these persons could utilize a lower level of care but are prohibited from doing so because of the predominance of the institutional approach to long-term care.

FACTORS WHICH INCREASE THE NEED FOR A COMPREHENSIVE COMMUNITY-BASED LONG-TERM CARE SYSTEM

In examining the growth of older Americans in this country, one faces an interesting problem. There are presently 25 million persons over the age of 65 and this population subgroup is expected to increase to over 32 million persons by the year 2000. With this growth in the overall older adult population, the proportion of persons in the over 75 year old cohort is also increasing.

While the majority of elderly below 75 years of age are able to function normally, the percentage of elderly with chronic and disabling ailments begins to increase dramatically in the late 70's and during the 80's. Between 1977 and 2035, the percent of persons aged 75 and over is expected to increase from 38 to 45 percent. As a result, with many more persons in the 75 and over age subgroup, and because we know persons in this population subgroup will utilize and need a greater portion of the non-institutional long-term care services, we anticipate the expected demand to be even greater. Since there is expected to be a larger portion of older persons living alone, the need for increased development and availability of supportive care systems at local levels or even neighborhood-based is of paramount importance. We must be careful, however, that older persons who are impaired, do not become dependent upon services which they may require. Rather, every possible effort must be made to encourage seniors and disabled persons to want to take care of themselves, and discourage them from being reliant upon public or privately financed long-term care services.

Another problem which further complicates the long-term issue. That is the fact that the availability of long-term care beds is not keeping pace with the growing numbers of persons presently utilizing and projected to require institutional care. For example, in the State of Florida, there are currently only 33,097 nursing home beds available while there are over 1.5 million persons over age 65. Current Census Bureau projections indicate that by the year 2000, over 2.5 million persons will be 65 years of age and older and living in Florida.

This kind of population increase will also be occurring in other sunbelt states, which traditionally attract large numbers of retired persons moving to these areas. However, it is important to point out that while many elderly persons are prematurely placed into a nursing home, it is anticipated that the development of comprehensive non-institutional long-term care systems will work to only place persons in need of institutional care in such facilities.

Other factors which increase the need for the development of a comprehensive non-institutional community based long-term care system include:

(a) the growing number of older persons over age 75

(b) the increasing numbers of single or widowed women

(c) decreasing number of families having children

(d) an increasing number of "hidden patients" in a long-term care system who are commonly known as the wives of the institutionalized patient. These women often become residents of nursing homes either sometime during the time their spouse is institutionalized or after the spouse dies;

(e) reintegration into the community of patients no longer in need of institutionally based long-term care services.

(f) the lack of information about the financial impact on persons with spouses in long-term institutional settings.

TITLE XXI: COMPREHENSIVE COMMUNITY-BASED NON-INSTITUTIONAL LONG-TERM CARE SERVICES

The previous pages have outlined the many problems that face seniors and disabled persons in avoiding institutionalization in a nursing home. As a result, a major policy question arises. Should we construct a comprehensive-community based long-term care system or do we allow the current institutionally-based system to continue. This author believes it is imperative that we no longer ignore the need for a comprehensive community-based program which recognizes the varying levels of need (both social and medical) and which enables impaired elderly and disabled persons to remain at home.

Purpose: Title XXI is designed to provide an organized system of non-institutional long-term care services, both medical and social, for persons aged 65 and over as well as persons who are disabled. Title XXI ensures that persons eligible for care receive a comprehensive system of services to assist them in remaining functionally independent in their own communities, and therefore, avoid being placed in a nursing home. Under Title XXI, those non-institutional long-term care services that are presently being provided to the aged and disabled under the Medicare, Medicaid and Title XX programs would all be combined under Title XXI.

By establishing Title XXI older Americans would view this program as those non-institutionally based long-term care services designed to assist them to function normally in their home and community for as long as possible. Therefore, aged persons who are now living with some impairment(s), will have a greater opportunity to remain in their own homes. Further, by establishing one title under the Social Security Act that provides all non-institutional long-term care services, we will be setting a precedent for initiating a program which eliminates fragmentation and duplication problems which currently plague the Medicare, Medicaid and Title XX programs.

It is believed that a Title XXI approach would be more effective than tinkering with the present Medicare and Medicaid programs. Title XXI places an increased emphasis on social services which would work to provide a viable alternative to the institutional acute care design of the Medicare and Medicaid system. Further, the Title XXI program would be the one program which focuses on the delivery of socio-health care services designed to assist the individual in maximizing his or her level of functioning and not relying solely on the existing system of medical or personal care services which often encourages institutionalization.

TITLE XXI SERVICES

Under Title XXI all persons 65 and over would be eligible for services, and persons who are disabled and who qualify for benefits under titles II, XVI, XVIII or XIX would be eligible for Title XXI services. The benefits package under this title include:

Home health care services (as defined under Medicare with the exception of home health aide services which are eliminated).

Homemaker-home health aide services.

Adult day services.

Respite services.

Limited tax credit for families caring for dependent elderly relative.

Based on the services provided under this title, persons who are eligible to receive Title XXI services, would no longer receive these services from titles XVIII, XIX, or XX.

It is important at this point to discuss the services available under the Title XXI program, as stated earlier, the purpose of Title XXI is to offer a comprehensive range of services, with an increase in the health and personal care types of services such as homemaker-home health aide, respite care, and adult day care in order to create an environment which responds to more than acute care needs. For example:

(1) Homemaker-Home Health Aide Services means services provided in an individual's home, which are designed to maintain the personal care of such individual and his home (not including the structure of the home) in a manner which promotes the functional capacity of the individual and to avoid the need for institutionalization or other more comprehensive services. Such services shall include—

(A) personal care services designed to assist such individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

(B) household care services such as maintaining a safe living environment, light housekeeping, and ensuring good nutrition (including the purchase and preparation of food).

These services are provided to encourage and assist the individual in maximizing his or her level of functional capacity by performing only those chores the individual cannot perform without assistance. This service creates an environment in which the individual can function in as normal a manner as possible.

(2) Adult day care services means services provided (other than care provided for the primary objective of providing medical or physical services) on a regular basis, but less than 24 hours per day, to an individual in a multipurpose senior center, intermediate care facility, hospital, rehabilitation center, or similar facility, which are provided because such individual is unable to be left alone during the daytime hours but does not require institutionalization. Such services may include provision of meals, personal care, recreation and educational activities, transportation, and health care services.

It is important to remember that this service also assists the family or individual responsible for this person. They are able to work full-time, or maintain a life outside of their home, which in many cases is equally as important.

(3) Respite care services are defined as 24-hour-a-day services for an individual who is unable to care for himself on a full-time basis. These services are provided to an individual on account of the absence of the person who normally cares for such individual, but only if such individual is a dependent of such other person. Such services would be provided by non-technical service providers such as homemaker-home health aides, in the individual's home or by other older persons who have been trained to provide such care.

(4) Tax credit for families caring for dependent elderly relatives to assist such families in meeting the rising cost for goods and services needed to care for such persons.

Preadmission Screening Assessment Team (PAT)—Background

A preadmission screening assessment team (PAT) is needed to ensure that persons referred for services under Title XXI receive only those services which are necessary to assist them in regaining their maximum level of normal functioning. However, before discussing the important role of a preadmission screening team, it is important at this juncture, to point out one factor which has historically hindered a thorough preadmission approach.

There have been various studies which have examined the issue of preadmission assessment, many of which emphasize the need for a comprehensive assessment of an individual's physical, mental, social, and environmental conditions. These combined factors can reveal that with the appropriate mix of medical care and social support services, institutionalization is avoidable or can be postponed Examples of other findings supporting the effectiveness of a comprehensive preadmission program were as follows:

(A) "By providing the required treatment before making a decision regarding long-term care placement, it was found that a lower level of care than originally expected was actually needed for most patients. Only a third of the 322 patients were placed in a nursing home:

(B) The results of another demonstration project indicate that the failure to assess an elderly person's physical, social and environmental problems may result in an inaccurate diagnosis or mislabeling of the patient as mentally ill;

(C) Medical assessments exclude critical factors, such as the amount of social support available from family, friends, and the community, and the physical and environmental barriers which hinder the patient's mobility, such as long flights of steps or crime in the neighborhood. Since these factors may be as crucial as medical conditions in influencing the elderly's decision to enter a nursing home they must be analyzed in order to make the appropriate placement decision."

Designation of Preadmission Screening and Assessment Teams: The Governor of each state will designate either the state's department of health (or equivalent agency), state's medicaid agency, the state's unit on aging (or equivalent agency), or the state's agency responsible for persons with disability. The lead agency shall work in cooperation with the other three agencies to coordinate the designation of what agency(s) will be responsible to perform the PAT activities. At least one PAT will be named in each unit of general purpose local government.

The state may designate as a PAT:

(1) Professional Standards Review Organization (PSRO);

(2) Local city or county health department;

(3) Rural health clinic;

(4) HMO;

(5) Hospital discharge planning unit; and

(6) Home health agency (in rural areas only).

Each PAT will have the responsibility to:

(a) conduct health status and functional assessment of each person seeking Title XXI services;

(b) develop plan of care for each person;

(c) conduct periodic reassessment of each individual receiving services to determine if further services are required. Such assessments can occur in the individual's home;

(d) assist each individual in obtaining services from appropriate service providers, if the individual is unable themselves to make contact;

(e) keep personal physician aware of individual's progress; and

(f) conduct a health status and functional assessment of each individual, both public and private paying individuals prior to entering a nursing home. This is done to ensure that persons not requiring nursing home care not be placed in such facilities.

Demonstration: To ensure that the Title XXI program will work effectively nationwide, a three-year demonstration project will be conducted first. Ten statewide demonstrations will be implemented, one state in each HEW region. A joint evaluation by both the General Accounting Office and the Department of Health and Human Services will be submitted to Congress at the end of the three-year period. This evaluation will contain the strategy for implementing the Title XXI nationwide, and will also contain a CBO analysis of what the budgetary impact will be.

Co-payment: Under Title XXI, each recipient is eligible for a specified number of free visits. Once a person exhausts his or her maximum number of free visits they trigger into a co-payment program. Co-payments would be based on a percentage of a person's annual income. Each person would be required to pay a portion of the cost of each visit until they have met their maximum personal limit. An example of this would be if Mrs. Jones had an annual income of $3000, and used her free visits, she would be required to pay 1% of $3000 or $30 for that year in co-payments. The table below:

Income:	*Applicable percent*
$0–$3,500	1
$3,501–$5,000	2
$5,001–$8,500	3
$8,501–$10,000	4
$10,000 or over	5

Reimbursement system: Under Title XXI, a new reimbursement system is implemented. Such a change is proposed as a means of trying to control the costs of home health services and other services under this title, and also to ensure that a more equitable system be established.

In conclusion, the Title XXI approach will be the impetus for many discussions to come on long-term care, and I am hopeful that this issue will be resolved in the most favorable way possible.●

● Mr. DOLE. Mr. President, the Senator from Kansas wishes to compliment his distinguished colleague from Oregon, Mr. PACKWOOD, for his long and thoughtful work on the proposal that he is introducing today.

The issue of a long-terms-care policy for this Nation is also of great concern to the Senator from Kansas. For too long we have focused all of our efforts on reform of the existing institutional programs. These efforts have been successful and should certainly not be ignored. But the time has come to reevaluate this narrow focus.

HOME HEALTH CARE: PROBLEMS AND POTENTIAL

The hope of staying at home is being offered to our elderly citizens by increasing numbers of people, both politicians and providers. We hold out this hope to save costs, and to provide dignity and independence in caring for our citizens. But the current confusion of programs, and lack of a clear strategy which encourages noninstitutional care have resulted in our failure to truly utilize and develop innovative home based programs. Our fear of inappropriate utilization and massive new spending have also served to discourage action by the Congress.

PACKWOOD PROPOSAL

The proposal presented to us today by my distinguished friend, Mr. PACKWOOD, is an attempt to resolve these issues, and place us on the road to solving the "long-term care" crisis in this Nation.

The Senator from Kansas believes this proposal warrants our serious attention in the months to come, and welcomes the opportunity to work with his colleagues on the Senate Finance Committee and in the Senate as a whole.

A FIRST STEP

While we may not believe that this bill answers all our questions, or resolves all the issues, it is nevertheless a significant first step. A step towards what I believe will be a rational and responsible resolution of the problems facing us and facing all of those in this country who seek out home care.●

● Mr. WILLIAMS. Mr. President, I am very pleased to cosponsor legislation establishing a new title XXI to the Social Security Act creating comprehensive, community-based, noninstitutional long-term care services for the elderly and disabled. I compliment the members of the Senate Finance Committee for their initiative and leadership in developing a legislative approach to the complex issue of providing home health care. I appreciate the opportunity to join with my colleagues Senators PACKWOOD, NELSON, BRADLEY, MATSUNAGA, DOMENICI, COCHRAN, and JAVITS in introducing a coordinated and comprehensive proposal to provide noninstitutional home health services.

During the past decade, experts in the field of aging and long-term care have stressed the importance of providing alternatives to needless institutionalization. The many hearings held and reports prepared by the Special Committee on Aging documented the need for this country's public policy to establish the adequate financing and delivery of home health services. During the authorization and expansion of the Older Americans Act, it was pointed out by elderly persons from all parts of the United States that access to adequate, affordable medical and home services was essential to preserving the dignity and independence of many senior citizens.

I have always believed it was a priority to have elderly persons remain in their own homes and communities. It was for this reason in 1978 I sponsored the congregate housing services program to develop an approach that would blend low-rent housing with necessary supportive services to enable persons with functional disabilities to remain independent and avoid institutionalization. Though this is program limited in scope, it is yet another attempt to achieve my goal of providing support systems which enable older individuals to maintain their quality of life. Needless long time institutionalization can be expensive for Government and neither preferred nor desired by most elderly persons.

As the population of the United States "grays," the issue of home health and in-home services is unquestionably a major issue of this decade.

This legislation is but one approach to providing an organized system of both medical and social noninstitutional services, such as skilled nursing care, respite services, homemaker-home health aides, physical, speech, and occupational therapy. It calls for a limited number of States to initially participate in a 3-year demonstration with a joint evaluation by both the General Accounting Office and the Department of Health and Human Services to Congress.

This new title would allow a preadmission screening and assessment team to assess and reassess each patient, determining the type of home health services needed. The creation of the PAT's are not intended in any way to exclude or diminish the importance of the personal physician. Also, the expansion of service providers is not intended to set any lesser standard of excellence of skill which may now be required by certain State statutes but is instead meant to enable competent, community-based centers and agencies to provide home health services. In addition, the tax credit for persons paying more than 50 percent of the expenses for an elderly dependent must be carefully examined.

It is important to note that the creation of a new title XXI is in no way meant to replace or negate the continuing need for a comprehensive plan for national health insurance. Increased medical and hospital costs as well as inflation continues to mostly affect elderly and disabled persons living on fixed incomes. This proposed legislation is intended to explore a systematic and organized approach to both the financing and delivery of home health care services perhaps serving to lessen the time of burdensome hospitalization.

It is significant that an important new initiative of the 1978 amendments to the Rehabilitation, Comprehensive Services and Developmental Disabilities Act was to make available programs for independent living. The concept of independent living is based on the idea that if supportive services are provided, such as counseling, attendant care, home health care, and so forth, a disabled person could very well be able to remain in the community. With these supportive services a handicapped individual avoids long-term institutionalization and might likely be employed. It is intended that title XXI support and encourage the development of independent living programs for the disabled throughout the country. It is only when the Federal Government changes its funding and reimbursement pattern for home health care that independent living programs can be fully implemented.

The hearings which will be held on this proposed legislation will begin to address one of the most serious health questions of the eighties—home health care. Undoubtedly, provisions must be eliminated and changed or new concepts added. I support this demonstration program and look forward to the legislative process, producing a viable work product which addresses this critical issue for our Nation's elderly and disabled. Hopefully, the data and information which is generated by this demonstration model will help to establish an adequate financing and delivery system for home health care.●

By Mr. DURENBERGER:

S. 2811. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for taxes paid on fuels used in ride-sharing vehicles; to the Committee on Finance.

S. 2812. A bill to amend the Internal Revenue Code of 1954 to provide to employers a credit against tax for costs incurred in ride-sharing programs; to the Committee on Finance.

S. 2813. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for the purchase of a commuter highway vehicle; to the Committee on Finance.

ENCOURAGE ENERGY CONSERVATION IN COMMUTER TRANSPORTATION

● Mr. DURENBERGER. Mr. President, today I am introducing three new bills which provide modest incentives to encourage energy efficiency in commuter transportation. These bills compliment two measures, S. 2610 and S. 2611, which I introduced on April 24 of this year.

S. 2610 amends the current law to increase the tax incentive for businesses who purchase vans for use in employee ride-sharing programs. It adds vanpool vehicles to the list of energy properties qualifying for the business energy tax credit and sets the energy percentage at 10 percent. It also removes the term "taxpayer" from the current definition of vanpool vehicles, so that leased vans will be eligible for the credit. Finally, this bill excludes driver incentive mileage from the 80/20 rule which is also part of the vanpool definition.

S. 2611 is designed to remove some of the ambiguity in current law regarding employer programs to support and encourage ridesharing and mass transit utilization by employees. This bill would exclude from personal income any payment by the employer to the employee made as a subsidy for the cost of mass transportation. If the employer provides bus fare or transportation to and from work in a vanpool, the cost of that transportation would not be included as income for tax purposes. Any administrative cost borne by the employer for ride-sharing programs would also be excluded. Finally, a driver in a ride-sharing vehicle who collected fees from his or her riders would not be required to report the fees as personal income.

Mr. President, the first of the three bills that I am introducing today would provide a tax incentive to the individual who brought a van to be used for ride sharing. Current law only offers an incentive to the business which purchases a van for employee programs. The measure I am introducing would amend the 1978 Energy Tax Act to provide the same incentive for ride sharing that is currently available for the purchase of insulation or storm windows. Any individual who purchased a van and used it for ride sharing over a 3-year period would be eligible for a 15-percent tax credit based on the cost of the van.

The second bill that I offer today would restore the gasoline tax deduction on individual Federal income tax for gasoline used in ride-sharing vehicles. Ride-sharing vehicles are defined in this bill to include car pools operating at least 176 days per year and carrying an average of three persons. Gasoline taxes are defined to include the existing State and Federal excise taxes and any import fees or other administrative or legislative act designed to increase the price of gasoline.

The final bill in this five-part package provides a business tax credit for a series of costs that businesses might incur as administrative overhead for an organized employee ride-sharing program. These costs include assigning personnel to the program, adjusting working hours to facilitate ride sharing, computer matching of potential riders and drivers, and surveying commuter transportation needs and patterns within the business. The credit is limited to a few dollars per employee, but the limit is designed to provide dollar incentives for programs with high percentages of participation. The credit does not include the cost of purchasing vehicles, providing fuel for ride-sharing vehicles or monetary subsidies for the use of mass transit. Only the administrative expenses can be used in calculating the value of the credit.

Mr. President, in the past decade the United States has experienced two crude oil supply interruptions as a result of events in the Middle East. The first interruption occurred in 1973–74 and led to the most severe recession since World War II. The economic impact of the oil shortfall and the resulting price increases cost the American economy billions of dollars. Each year the higher OPEC prices have caused a massive transfer of wealth from American consumers to Middle East nations.

The second disruption in crude oil supply occurred in 1979 at the time of the Iranian revolution. Once again, oil prices increased dramatically and it now appears that another recession has begun. The expected downturn in the economy will rob Americans of additional billions in goods and services. In comparison to the potential, the disruptions that have been experienced are minor events. OPEC supplies the world with 30 million barrels of oil per day and most of it is shipped through a narrow strait in the Persian Gulf. A war or terrorist act which blocked the gulf would cost the United States one-third of its daily oil supply. Although the disruptions that we have experienced created chaos in international oil markets, they did not actually reduce the amount of oil available for imports.

Faced with continued dependence on OPEC oil and the threat of supply disruptions and massive price increases, the American public has demanded a national energy policy with energy independence as the primary objective. Three administrations and four Congresses have responded with a variety of proposals. One-half of our oil supply is used for transportation. One-half of that amount is used in the automobile. It is not surprising, therefore, that many of the policies have focused on the automobile and gasoline demand as a primary target to solve the energy crisis.

The transportation conservation policies that have been suggested can be classified in three groups. Some attempt to reduce traffic demand by increasing the price of fuel or restricting supply. In this group we have crude oil price decontrol which President Carter announced last April and which will cost the American public $1 trillion over the next decade. A second form of price increase is the gasoline tax or oil import fee. The 50-cent-per-gallon tax most often discussed would transfer $55 billion per year from automobile drivers to the Federal Government. Finally, there is gasoline rationing which would impose a Government controlled limit on the amount of oil consumed. The price impact would be seen in the value of the coupons necessary to obtain gas at the pump. The Department of Energy estimates that rationing would lead to payments from businesses to individuals—mostly families with several cars—to purchase coupons. Business would of course recover this cost by charging higher prices to everyone, including those who own no cars and, thus, get no coupons. Additional billions would be added to the cost of rationing for administration.

A second type of transportation conservation policy can be called technological efficiency. These policies include modifications in automobile design and the development of alternative fuels. After the first energy crisis, Congress mandated fuel economy improvements for the American automobile. Congress is currently reexaming this mandate and representatives of the Environmental Protection Agency have suggested a mandatory standard of 85 miles per gallon by 1995. Such a standard would cost the automobile industry billions of dollars in retooling and development costs. It would also greatly alter what we know as the American car. In the area of alternative fuels, President Carter last summer proposed a synthetic fuels corporation to spend $88 billion to simply demonstrate the technology, Congress is about to approve a large portion of this program.

Reducing traffic demand through higher prices and the technological fix are the policies most often debated and most likely to be imposed by the Federal Government. As can be easily seen, these alternatives are very expensive and require much Government and regulation. There is another type of policy—modal efficiency—which has the promise of saving as much or more energy and at a far lesser cost. Modal efficiency includes the carpool, the vanpool, the bus and other forms of mass transit. Today, there are more than 80 million commuters in America and the vast majority drive to and from work in single-occupant cars. Less than 10 percent take mass transit. Only 20 percent carpool or share a ride. This pattern of commuter traffic persists despite the fact that vanpools consume one-sixth the energy per passenger mile consumed by the single-occcupant car and despite the fact that ridesharing can dramatically reduce the cost of commuting to work.

Because ridesharing has such promise for energy conservation and for reducing the cost of the work trip, I believe that it will be an important part of the future solution to the energy crisis. It will happen whether Government takes action to encourage it or not. But at a time when Government is considering a vast array of expensive and complicated new programs like synthetic fuels, rationing, gasoline taxes, and high Mps cars, I think it is important that we look closely at ridesharing and understand the role that it can play. How much energy can ride-sharing save? How many people will join carpools and vanpools? What is the optimal role for mass transit? What incentives will be necessary to get people out of single-occupant cars and into ride-sharing vehicles?

Mr. President, I believe that the bills I am introducing today and the two which I introduced in April will begin to answer these questions. I believe that ride-sharing will become an important part of the solution to our energy crisis, because it makes economic sense to the individual and is an energy policy that can be implemented by individuals. As we consider Federal action to create an synthetic fuels industry, redesign the automobile, impose gasoline taxes or rationing, I hope we do not lose sight of the potential energy conservation benefits of ride-sharing.

Mr. President, I ask that the text of the three bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 164 of the Internal Revenue Code of 1954 (relating to deduction for taxes) is amended by inserting immediately after paragraph (5) the following new paragraph:

"(6) Qualified motor fuel taxes.".

(b) Section 164 of such Code is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Qualified Motor Fuel Taxes.—For purposes of this section—

"(1) In general.—The term 'qualified motor fuel taxes' means Federal, State, and local taxes on the sale of gasoline, diesel fuel, and other motor fuels used as a fuel in a ride-sharing vehicle.

"(2) Import adjustments treated as tax.—For purposes of paragraph (1), any increase in the sales price of any fuel as a result of any action taken by the President to adjust imports of petroleum and petroleum products under section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862) (or any other corresponding provision of law) shall be treated as a Federal tax imposed on such fuel.

"(3) Ride-sharing vehicle.—The term 'ride-sharing vehicle' means—

"(A) a commuter highway vehicle, as defined in subparagraph (B) of section 46(c) (6), except that such subparagraph shall be applied—

"(i) by striking out "taxpayer's" in clause (ii), and

"(ii) without regard to clause (iii) or (iv), and

"(B) any highway vehicle—

"(i) the seating capacity of which is less than 8 adults (including the driver), and

"(ii) which is used for transporting an average of 3 employees between their residences and their place of employment for at least the lesser of—

"(I) 176 days during the calendar year in which the taxable year begins, or

"(II) one-half of the days on which the taxpayer held such automobile during such calendar year.

"(4) Publication of table.—The Secretary may publish tables to assist taxpayers in computing the amount of the deduction allowable under subsection (a) (6). Such tables shall take into account—

"(A) the rate of taxes (including the price impact attributable to any import adjustment),

"(B) the number of days a ride-sharing vehicle was used for ride-sharing purposes, and

"(C) the number of miles such vehicle is used for such purposes.".

Sec. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1980.

S. 2812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting before section 45 the following new section:

"Sec. 44F. Ride-Sharing Programs of Employers.

"(a) General Rule.—In the case of an employer operating a qualified ride-sharing program, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) the amount paid or incurred in connection with such program during such taxable year, or

"(2) the amount determined under subsection (b).

"(b) Subsection (b) Amount.—

"(1) In general.—The amount determined under this subsection is equal to the product of—

"(A) the average number of employees of the employer during the taxable year, multiplied by—

"(B) the amounts determined under the table under paragraph (2).

"(2) Table.—

If the percentage of employees participating on the program is:	*The amount is:*
0 to 14 percent	0
15 to 19 percent	$5.00
20 to 24 percent	7.50
25 to 29 percent	10.00
30 to 34 percent	12.50
35 to 39 percent	15.00
40 to 44 percent	20.00
45 to 49 percent	25.00
50 or more percent	30.00

"(3) Definition and special rules.—For purposes of this subsection—

"(A) Percentage of employees participating.—The term 'percentage of employees participating in the program' means a percentage equal to a fraction—

"(i) the numerator of which is the number of employees whose transportation between their principal residence and place of employment at least 176 days during the calendar year in which the taxable year begins is qualified transportation, and

"(ii) the denominator of which is the number of employees determined under paragraph (1) (A);

"(B) Employees taken into account.—For purposes of paragraphs (1) (A) and (3) (A) (i) only employees at places of employment of the employer where a qualified ride-sharing program is in operation during the taxable year shall be taken into account.

"(C) Whole percentage.—Any fraction of a percentage determined under subparagraph (A) shall be rounded to the next highest whole percentage.

"(c) Limitations.—

"(1) Limitation based on amount of tax.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) Certain costs not included.—No amount paid or incurred for—

"(A) the acquisition and maintenance of any vehicle (other than a vehicle described in subsection (d) (2) (I)),

"(B) fuel to operate any such vehicle, or

"(C) mass transportation fares or subsidies, shall be be taken into account for purposes of subsection (a) (1).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified ride-sharing program.—The term 'qualified ride-sharing program' means any program to assist employees in obtaining qualified transportation between their principal residence and place of employment which—

"(A) provides at least one of the services described in paragraph (2);

"(B) is set forth in a separate written plan; and

"(C) does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees.

"(2) Services included.—Services described in this paragraph include—

"(A) the surveying of employees to determine current commuting patterns and interest in qualified transportation.

"(B) the distribution of informational material on the advantages and availability of qualified transportation.

"(C) contracting for assistance in establishing, sponsoring or operating a qualified ride-sharing program,

"(D) providing assistance (including computer costs) for employee matching to establish carpools or vanpools,

"(E) assessing the impact of qualified ride-sharing programs,

"(F) signing or improving parking spaces reserved for qualified transportation vehicles,

"(G) adjusting working hours for employees participating in a qualified ride-sharing program,

"(H) providing liability insurance for qualified transportation vehicles,

"(I) providing emergency or business vehicles for the use of employees (during normal working hours) who commute to work in qualified transportation vehicles, and

"(J) such other services as the Secretary, after consultation with the Secretary of Transportation, determines contributes to the effectiveness of the qualified ride-sharing program.

"(3) Qualified transportation.—The term 'qualified transportation' means transportation—

"(A) by a commuter highway vehicle, as defined in subparagraph (B) of section 46 (c) (6), except that such subparagraph shall be applied—

"(i) by striking out 'taxpayer's' in clause (ii), and

"(ii) without regard to clause (iii) or (iv);

"(B) by any highway vehicle—

"(i) the seating capacity of which is less than 8 adults (including the driver), and

"(ii) which is used for transporting an average of 3 employees between their residences and their place of employment for at least the lesser of—

"(I) 176 days during the calendar year in which the taxable year begins, or

"(II) one-half of the days on which the taxpayer held such automobile during such calendar year; or

"(C) which is scheduled land or water transportation which is—

"(i) in a vehicle or vessel with seating capacity of 8 or more adults (not including the operator),

"(ii) along regular routes, and

"(iii) available to the general public.

"(4) Pass-through in the case of subchapter S corporations.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.".

(b) (1) The table of sections for such subpart A is amended by inserting after the item relating to section 44E the following item:

"Sec. 44F. Ride-sharing program of employers.".

(2) Section 6296(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and "44F".

Sec. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1980.

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of supchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44F. Commuter Highway Vehicle.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the cost to the taxpayer to acquire a qualified commuter highway vehicle.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(2) JOINT ACQUISITION.—If any qualified commuter highway vehicle is jointly acquired by 2 or more individuals, the amount allowable as a credit for the taxable year shall be apportioned among such individuals, the amount allowable as a credit for the taxable year shall be apportioned among such individuals on the basis of their respective shares of the cost.

"(c) 3-YEAR USE REQUIREMENT.—

"(1) IN GENERAL.—If, during the 3-year period beginning on the date of acquisition of any qualified commuter highway vehicle, the taxpayer—

"(A) disposes of such vehicle, or

"(B) otherwise ceases to use such vehicle as a qualified commuter highway vehicle,

then the tax under this chapter for the taxable year in which such cessation or disposition occurs shall be increased by an amount equal to the amount of the credit allowed under subsection (a) with respect to such vehicle.

"(2) SUBSECTION NOT TO APPLY.—Paragraph (1) shall not apply to a disposition by reason of death.

"(3) DETERMINATION OF OTHER CREDITS.—Any increase in tax under subsection (a) for any taxable year shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart for such year.

"(d) QUALIFIED COMMUTER HIGHWAY VEHICLE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified commuter highway vehicle' means a highway vehicle—

"(A) the seating capacity of which is at least 8 adults (not including the driver),

"(B) at least 50 percent of the mileage use of which can reasonably be expected to be—

"(i) for purposes of transporting individuals between their residences and places of employment, and

"(ii) on trips during which the number of individuals transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver), and

"(C) which is not used in trade or business.

"(2) TRADE OR BUSINESS.—For purposes of paragraph (1)(C), use of a commuter highway vehicle for the purposes described in paragraph (1)(B) shall not be considered used in a trade or business if—

"(A) the taxpayer would otherwise travel from his principal residence to his place of employment over such route or a similar route even if other individuals were not transported by him, and

"(B) such vehicle is generally not available to the public.".

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44E the following item:

"Sec. 44F. Commuter highway vehicles.".

(2) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44F" and "44F".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1980.●

By Mr. MATHIAS:

S. 2814. A bill to amend the Internal Revenue Code of 1954 to increase the amount and availability of the exclusion for earned income from sources without the United States; to the Committee on Finance.

TAXATION OF AMERICANS OVERSEAS

● Mr. MATHIAS. Mr. President, the importance of exports to our economy cannot be overstated. One of every eight jobs in this country is involved with export; $1 of every $3 of U.S. corporate profits comes from international activities, 1 of every 3 acres of farmland produces for export; and exports now contribute more to our GNP than private corporate investment does. Despite the importance of exports, the United States has lagged behind its major trading partners in promoting an aggressive export program. The U.S. share of international commerce has decreased from 27.7 percent in 1958 to less than 19 percent in 1979. In 1978, American exports were 6.7 percent of our GNP while imports stood at 8.4 percent of GNP. Other major industrial nations in the world generally pay for the goods they import by what their exports earn. Our trade deficit has led to greater inflation and a dollar bleeding to death in world markets.

Much of the blame for our poor export performance can be pinned on the maze of disincentives to trade which the Federal Government has built up over the years. Slowly, we are finding ways of reducing these barriers to trade. We have lowered our trade tariffs in return for similar concessions from our trading partners; we have reorganized the Federal agencies responsible for administering our trade policies; and we are trying to promote reciprocity to make sure everyone plays by the same set of rules.

But more needs to be done. One thing we can do now is improve our policy on taxation of Americans living overseas. The United States is the only country that taxes its citizens living abroad. And, over the last 4 years, we have steadily increased the level of taxation and the complexity of the system. The result is clear—it now costs an American company $62,500 for an American worker in the Middle East to take home $27,500. And the damage is equally clear—the United States has fallen behind in its ability to win contracts abroad. Without American technicians on the job overseas, jobs back home are lost. If we do not encourage these Americans to remain abroad as good-will ambassadors, as a dedicated sales force, and as a foot in the door for other export opportunities, our balance of payments will grow increasingly out of whack and in the red.

For this reason, I am introducing a bill today that would eliminate the confusion and reduce the level of taxation for all Americans living abroad in all countries. This bill would allow a flat $50,000 tax exclusion on earned income while retaining four of the cost-of-living differentials currently allowed under section 913 of the Tax Code.

If enacted, this bill would put American companies and American employees on an equal footing with their foreign competitors. It would give them a chance to bring back home some of the $60 billion a year we are spending for foreign oil.

Our tax policy is costing the United States over $7 billion in lost trade, while the U.S. Treasury is gaining only $300 million in tax revenues. It does not take a Ph. D. in economics to figure out that this tax policy is shortsighted and misguided. The same impulse that prompted the much ballyhooed crusade against the three-martini lunch led to our current policy. Its creators thought only in terms of rich retired movie stars living overseas in the lap of luxury on the Riviera. We have got to refocus our attention on the real world—on the hardworking men and women who are doing a tremendous, but increasingly difficult, job on behalf of all their fellow Americans. Rather than the Riviera, they will more likely be found in the desert heat or tropical monsoons of the less glamorous corners of the globe. Unless we make it possible to continue their important work, we will all be in trouble.

My point is simple. If rational men and rational women were to sit down to devise a rational tax policy, they would not devise a policy anything like the one that burdens us today. Our trading partners do not labor under a similar burden, and we must get our laws in order if we are to compete in the international marketplace. My bill is a good place to start, and I urge all of my colleagues to join me in devising a tax system that creates jobs at home by keeping our sales force in the field.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN EXCLUSION AND ITS APPLICATION.

(a) IN GENERAL.—Section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended—

(1) by striking out the section caption and inserting in lieu thereof "SEC. 911. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.".

(2) by striking out so much of the text of subsection (a) as precedes paragraph (1) and inserting in lieu thereof the following: "The following items shall not be included in gross income and shall be exempt from taxation under this subtitle:",

(3) by striking out the last sentence of paragraph (1) of subsection (a),

(4) by striking out paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"(2) Presence in foreign country for 11 months.—If such individual is described in section 913 (a)(2), amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the 12-month period.",

(5) by striking out paragraph (1) of subsection (c) and inserting in lieu thereof the following:

"(1) Limitation on amount of exclusion.— The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $50,000", and

(6) by adding at the end of paragraph (7) of subsection (c) the following: "For purposes of this paragraph, the term 'camp' means lodging furnished by the employer—

"(A) in an area which is remote from populated areas,

"(B) as near as may be practical to the employee's place of work, and

"(C) in an enclave not open to the public which is customarily used as lodging by 10 or more employees.".

(b) Clerical Amendments.—

(1) The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Earned Income From Sources Without the United States.".

(2) Sections 43 (c) (1) (B), 1302 (b) (2) (A) (i), 1304 (b) (1), 1402 (a) (8), 6012 (c), and 6091 (b) (1) (B) (iii) are each amended by striking out "relating to income earned by employees in certain camps" and inserting in lieu thereof "relating to earned income from sources without the United States".

Sec. 2. Changes in Section 913 Deductions Rules.

(a) Elimination of Hardship Area Deduction.—

(1) In General.—Section 913 of the Internal Revenue Code of 1954 (relating to deduction for certain expenses of living abroad) is amended—

(A) by striking out paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"(2) Presence in foreign country for 11 months.—A citizen or resident of the United States and who, during any period of 12 consecutive months, is present in a foreign country or countries during at least 330 full days in such period.",

(B) by striking out paragraph (5) of subsection (b), and

(C) by striking out subsection (h) and redesignating subsections (i) through (m) as (h) through (l).

(2) Conforming amendments.—

(A) Subparagraph (E) of section 913 (d) (2) of such Code is amended by striking out "(i) (1) (A) (ii)" and inserting in lieu thereof "(h) (1) (A) (ii)".

(B) Clause (ii) of section 913 (i) (3) (A) of such Code is amended—

(i) by inserting "and" at the end of subclause (III),

(ii) by striking out "and" at the end of subclause (III),

(ii) by striking out "and" at the end of subclause (IV), and

(iii) by striking out subclause (V).

(C) Subparagraph (B) of sections 913(e) (3) of such Code is amended by striking out ", and if his tax home is in a hardship area as defined in subsection (h)," and inserting in lieu thereof "then".

(D) Paragraph (3) of section 913 (f) of such Code is amended by striking out "(i) (1) (C) (i)" and inserting in lieu thereof "(h) (1) (C) (i)".

(b) School Expense Period to Include Academic Term.—Paragraph (5) of section 913 (f) of such Code (relating to period taken into account) is amended by inserting "during an academic term which begins or ends with or within" immediately before "a period".

(c) Qualified Home Leave Travel Not Required to Begin or End at Tax Home or United States Residence.—Paragraph (1) of section 911(g) of such Code (relating to qualified home leave travel expenses) is amended by striking out "the location of" and inserting in lieu thereof: "a location outside the United States to the United States, but not to exceed the cost of transportation from".

Sec. 3. Effective Date.

The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1980.●

By Mr. RIBICOFF (by request):

S. 2815. A bill for the relief of the Washington Post, the Washington Star and the Dispatch; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Comptroller General of the United States, I am introducing legislation for the relief of the Washington Post, the Washington Star and the Lexington Dispatch.

It appears that at the request of the Navy, these newspapers published advertisements and submitted bills for services rendered. The Comptroller General advises that because prior approval was not obtained for the use of the services rendered, existing law prohibits the payment of these bills which involve a total of $874.

The Comptroller General advises further that since the newspapers acted in good faith, their claims are meritorious and the Government benefited from the services rendered, he recommends that payment of these bills be authorized.

The accompanying bill would provide the authorization which the Comptroller General believes will accomplish the desired result.

I ask unanimous consent that the text of the bill, the accompanying letter of explanation and the decision of the Comptroller General be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2815

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That notwithstanding section 3702 of title 44, United States Code, the Comptroller General of the United States is authorized and directed to settle and adjust claims arising from advertisements placed by the Department of the Navy in the following newspapers for the following amounts:

The Washington Post, Washington, D.C., $320.60

The Washington Star, Washington, D.C., $329.06

The Dispatch, Lexington, North Carolina, $224.40

Such amounts shall be payable from the applicable appropriations of the Department of the Navy.

Sec. 2. No part of the amount appropriated by the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of service rendered in connection with the claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1000.

Comptroller General
of the United States,
Washington, D.C., April 3, 1980.

Hon. Walter F. Mondale,
President of the Senate.

Dear Mr. President: Pursuant to the Act of April 10, 1928, 45 Stat. 413, 31 U.S.C. § 236, we have the honor to transmit our report and recommendations to the Congress concerning the claims of The Washington Star, The Washington Post, and The Dispatch (Lexington, North Carolina) for advertising services provided to the United States. We request that you present the same to the United States Senate.

An identical report is being transmitted to the Speaker of the House of Representatives.

Sincerely yours,
Elmer B. Staats,
Comptroller General
of the United States.

Comptroller General
of the United States,
Washington, D.C., April 3, 1980.

To the Congress of the United States:

In accordance with the Meritorious Claims Act of April 10, 1978, 45 Stat. 413, 31 U.S.C. § 236, we make the following report and recommendation on the claims listed below.

Claimants:	*Amount*
The Washington Post	$320.60
The Washington Star	329.06
The Dispatch (Lexington, N.C.)	224.40

The claims arise from advertisements placed in these newspapers by the Department of the Navy without prior written approval by proper authorities.

The claims, for services rendered without a formal contract, were examined by the Navy Regional Finance Center and forwarded to our Claims Division for settlement. The claims could not be certified for payment since the advertisements were placed without prior written authorization in violation of 44 U.S.C. § 3702 which states as follows:

"Advertisements, notices, or proposals for an executive department of the Government, or for a bureau or office connected with it, may not be published in newspaper except under written authority from the head of the department; and a bill for advertising or publication may not be paid unless there is presented with the bill a copy of the written authority."

We have held in 35 Comp. Gen. 235 (1955) that these provisions do not preclude advertising in newspapers per se but only payment for the advertisements unless the proper procedures are followed. Subsequent ratification after the services have been rendered does not comply with terms of the statute.

Although we do not generally report to the Congress, under the Act of April 10, 1928, claims which cannot be paid by reason of a prohibitory statute, we determined that because the newspaper published the advertisements in good faith and the Government received the benefits from them, the equities warrant reporting the claims to the Congress under the Meritorious Claims Act, with a recommendation that payment be authorized.

If the Congress agrees with our recommendation, it is suggested that enactment of a statute in substantially the following form will accomplish the desired result:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Comptroller General of the United States be, and he hereby is, authorized and directed to settle and adjust the following listed claims for advertising furnished to the Department of the Navy:

Claimants:	*Amount*
The Washington Post	$320.60
The Washington Star	329.06
The Dispatch (Lexington, N.C.)	224.40

"The above amounts shall be payable from the applicable appropriations of the Navy."

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.

THE COMPTROLLER GENERAL,
OF THE UNITED STATES,
Washington, D.C., April 3, 1980.

File B-196440.

Matter of Payment for Newspaper Advertisements Without Prior Authorization.

Digest: Cost of newspaper advertisements to recruit personnel placed without prior written authority by the head of the Department or his representative may not be paid because such payment is expressly prohibited by 44 U.S.C. § 3702 (1976), regardless of urgency of need and inability to recruit through normal channels. Ratification after advertising services are rendered does not remove the statutory bar against payment. 35 Comp. Gen. 235 (1955). Publisher's claims will be submitted to Congress pursuant to Meritorious Claims Act of April 10, 1928, because of equitable considerations in this case.

Through the Navy Regional Finance Center, the Director, Joint Cruise Missiles Project, Department of the Navy, has requested that we authorize payment for advertisements placed in The Washington Post and The Washington Star. An unassociated claim from Headquarters, Aeronautical Systems Division, Wright-Patterson Air Force Base, for advertisements placed in The Dispatch (Lexington, North Carolina) was also forwarded to us by the Navy Regional Finance Center.

The advertisements were placed in the Washington, D.C., newspapers to fill four Air Force temporary positions to provide support to the Source Selection Evaluation Board which would be in operation for about one year. The positions were for administrative assistant, at a salary of $11,712 to $15,222 and clerical positions at salaries from $9,391 to $12,208. We are advised that the normal methods of recruiting did not produce qualified candidates. An official from the Headquarters, Aeronautical Systems at Wright-Patterson Air Force Base, wrote to us to explain that that Office was aware of and agreed with the Joint Cruise Missiles Project Office's (JCMPO) plan to place advertisements with these newspapers, although it assumed that this would be accomplished through appropriate procedures.

In the case of The Dispatch, the advertisement was placed by a Navy Recruiter who, like the JCMPO, failed to follow established procedures for placing the advertisement.

Since the advance written approval required by 44 U.S.C. § 3702 (1976) was not obtained prior to the placement of these advertisements, we have no authority to pay the publishers of these newspapers for the advertising. That section states:

"Advertisements, notices, or proposals for an executive department of the Government, or for a bureau or office connected with it, may not be published in a newspaper except under written authority from the head of the department; and a bill for advertising or publication may not be paid unless there is presented with the bill a copy of the written authority."

The head of the agency has the express authority in 5 U.S.C. § 302(b)(2) (1976) to delegate to subordinates the responsibility defined in 44 U.S.C. § 3702 to approve publication of advertisements. We understand, however, that in these cases, no prior approval was obtained from the Secretary or his authorized designee to place these advertisements. We have held that on a number of occasions this statute requires advance approval and may not be ratified after publication has taken place. See, e.g., 35 Comp. Gen. 235 (1955).

In somewhat similar circumstances, we concluded that because the newspapers published the advertisements in good faith and the Government received the benefits thereof, the equities warranted reporting the claims to the Congress under the Meritorious Claims Act of April 10, 1928, 31 U.S.C. § 236 (1976). B-181337, November 25, 1974. (In a letter to the Chairman Joint Committee on Printing dated October 2, 1978 (B-114829), we also recommended that section 3702 be repealed. A similar recommendation was made to the Speaker of the House of Representatives on November 25, 1974 (B-181334). However, the Congress has not chosen to act favorably upon this recommendation to date.

In his letter to us, the Director of JCMPO wrote:

"The Joint Cruise Missiles Project Office (JCMPO) had an urgent need to hire two employees to fill temporary positions created by a Source Selection Evaluation Board that will be in operation for approximately one year. Normal channels of recruitment could not meet the deadline that we were under for filling these positions, which necessitated the unauthorized commitment through the local newspapers. JCMPO only advertised through these newspapers after several attempts of hiring through normal channels failed. JCMPO will continue to go through proper channels in the future, *making the unauthorized commitment the very last resort.*" (Emphasis added.)

We wish to make it clear that as long as the statute is on the books, whether it is a "last resort" situation or not, JCMPO must comply with its provisions.

The publishers of the three newspapers in which unauthorized advertisements were placed acted in good faith and the Government received the benefit thereof. Moreover, there is evidence in the record that in all three cases, the advertisements would have received advance approval from the proper authorizing officials had the vouchers been submitted in accordance with the prescribed procedures. Accordingly, on the assumption that the JCMPO will go through proper channels in the future (including compliance with applicable procurement procedures), we are submitting these claims, to the Congress pursuant to the Meritorious Claims Act of April 10, 1928, recommending that payment of these claims be authorized.

ELMER B. STAATS,
Comptroller General
of the United States.●

By Mr. MATHIAS:

S. 2817. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to manufacturers for certain payroll costs paid or incurred during the first 3 years of the employment of an employee; to the Committee on Finance.

BUILD AMERICA ANEW ACT OF 1980

● Mr. MATHIAS. Mr. President, in the last week we have received more discouraging news about the economy. Industrial production continues to fall and the unemployment rate has reached 7.8 percent, its highest rate in many years. During the past 3 months, over 1 million workers have lost their jobs—nearly half from the manufacturing and construction industries.

For this reason, I am introducing a bill that would, through the use of tax credits, encourage the expansion of existing businesses and prompt the formation of new ones. It is an effort to revitalize the business and investment sectors by fostering modernization, growth, and increased employment.

Last session, I introduced legislation that offered incentives to private citizens to take stock in America by investing in our business community. Among the proposals are:

A bill to increase the dividend exclusion;

A bill to allow an investment tax credit for individuals who purchase stocks or bonds; and

A bill to provide an inflation adjustment in the determination of capital gains and losses.

These measures seek to tap new sources of venture capital in order to provide the funds for an expanding economy.

The build American bill that I am introducing today complements these proposals. It will encourage an increase in capital outlays by the business sector right now, when they are most needed. It provides a tax credit to business for each new employee hired to work in a newly-constructed factory. The credit would amount to 10 percent of up to $20,000 in wages paid to each new employee in the first year of employment. The credit would be 7.5 percent in the second year and 5 percent the third. A sunset provision will end the credit 10 years after the date of enactment.

The increase in production and taxable income will far outweigh any loss in revenues caused by the tax credit program. Each new worker will add an average of $50,000 to the gross national product. Additionally, the increase in employment would stimulate what economists term the "ripple effect," since workers spend dollars they would not otherwise have had, which in turn generates greater production demands.

This measure will help us revive our sagging economy. It will immediately give a boost to the construction industry and over the long term will encourage industry to build new, more efficient facilities so that once again U.S. workers will be as productive as their German and Japanese counterparts. Let us give the free enterprise system the means to pull itself up by its own bootstraps. The bill I am offering today is a step in this direction.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Build America Anew Act of 1980".

Sec. 2. Credit for Qualified Payroll Costs.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44E the following new section:

"Sec. 44F. Qualified Payroll Costs.

"(a) Allowance of Credit.—In the case of a taxpayer engaged in the trade or business of manufacturing, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the sum of—

"(1) 10 percent of the qualified first-year payroll costs for such year,

"(2) 7½ percent of the qualified second-year payroll costs for such year, and

"(3) 5 percent of the qualified third-year payroll costs for such year.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed by subsection (a) for the taxable year shall not exceed the sum of—

"(A) $3,000,000 with respect to so much of such credit as is allowable by reason of qualified first-year payroll costs,

"(B) $2,250,000 with respect to so much of such credit as is allowable by reason of qualified second-year payroll costs, and

"(C) $1,500,000 with respect to so much of such credit as is allowable by reason of qualified third-year payroll costs.

"(2) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under section 53(a).

"(3) Denial of double benefits.—No deduction or credit shall be allowed under any other provision of this chapter for any qualified payroll cost allowed as a credit under this section.

"(c) Qualified Payroll Costs Defined.—For purposes of this section—

"(1) In general.—The term 'qualified payroll costs' means direct labor costs paid or incurred by the taxpayer which are for services performed by an employee of the taxpayer—

"(A) in the United States or its possessions,

"(B) in the trade or business of manufacturing, and

"(C) at a manufacturing facility not in use by the taxpayer as a manufacturing facility before March 1, 1980.

"(2) Special rule where gross payroll costs increase.—

"(A) In general.—Subparagraph (C) of paragraph (1) shall not apply for the taxable year if the qualified payroll costs of the taxpayer for the calendar year ending in the taxable year exceeds by more than 40 percent the sum of—

"(i) such costs for the preceding calendar year, plus

"(ii) such costs for the preceding calendar year multiplied by the inflation adjustment for the calendar year.

"(B) Inflation adjustment for calendar year.—For purposes of subparagraph (A), the inflation adjustment for a calendar year shall be the percentage excess of the consumer price index for such year over the consumer price index for the preceding calendar year.

"(C) Consumer price index.—For purposes of subparagraph (B), the consumer price index for a year is the consumer price index for all urban consumers, published by the Department of Labor, for November 30 of such year.

"(3) Direct labor costs defined.—

"(A) In general.—The term 'direct labor costs' means only those costs of labor which can be identified or associated with specific units of production.

"(B) Certain costs treated as direct labor costs.—For purposes of subparagraph (A), the following costs shall be treated as direct labor costs: basic compensation, overtime pay vacation and holiday pay, sick leave pay (other than disability payments excluded from gross income under section 105(d)), shift differential pay, payroll taxes, and payments to a supplemental unemployment benefit plan.

"(d) Qualified Yearly Costs Defined.—For purposes of this section—

(1) Qualified first-year payroll costs.—The term 'qualified first-year payroll costs' means, with respect to any individual, the qualified payroll costs attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

"(2) Qualified second-year payroll costs.—The term 'qualified second-year payroll costs' means, with respect to any individual, the qualified payroll costs attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (1).

"(3) Qualified third-year payroll costs.—The term 'qualified third-year payroll costs' means, with respect to any individual, the qualified payroll costs attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) Only first $20,000 of qualified payroll costs per year taken into account.—The amount of qualified first-year payroll costs, the amount of qualified second-year payroll costs, and the amount of qualified third-year payroll costs, which may be taken into account with respect to an individual shall not exceed $20,000 for each such year.

"(e) Carryback and Carryover of Unused Credit.—

"(1) Allowance of credit.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by subsection (b)(2) for such year (hereinafter in this subsection referred to as the 'unused credit year'), such excess shall be—

"(A) a qualified payroll cost credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a qualified payroll cost credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year ending before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) Limitation.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (b)(2) for such taxable year exceeds the sum of—

"(A) the credit allowable under this section for such taxable year, and

"(B) the amounts which, by reason of this subsection, are added to the amounts allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(f) Recapture of Credit.—

"(1) In general.—If—

"(A) the qualified payroll costs for the taxable year are less than the qualified payroll costs for the preceding taxable year, and

"(B) credit was allowed under this section for any prior taxable year,

then the tax under this chapter for such taxable year shall be increased by an amount equal to the payroll credit recapture amount.

"(2) Payroll credit recapture amount.—For purposes of paragraph (1), the term 'payroll credit recapture amount' is the amount equal to—

"(A) the number of employees which constitute a reduction in the work force of the taxpayer determined under regulations prescribed by the Secretary on the basis of the reduction of qualified payroll costs, multiplied by

"(B) the amount of credit which would be allowable for such employee for such costs under subsection (a) for such year, determined as if such costs were eligible for the credit under subsection (a).

In no event shall the payroll recapture amount exceed the aggregate credit allowed under this section for all prior taxable years and not previously recaptured.

"(g) Other Special Rules.—For purposes of this section—

"(1) Application of rules similar to job credit rules.—Under regulations prescribed by the Secretary, rules similar to the rules of section 52 shall apply for purposes of this section.

"(2) At least ½ of payroll costs of employee must be eligible in order for any payroll cost to be eligible.—Payroll costs paid or incurred by an employer with respect to an employee during any calendar year shall be taken into account only if more than one-half of the payroll costs so paid or incurred are qualified payroll costs.

"(h) Termination.—

"(1) In general.—This section shall not apply to qualified payroll costs paid or incurred after December 31, 1990.

"(2) No carryovers to years beginning after 1997.—No amount may be carried under subsection (e)(2) to any taxable year beginning after December 31, 1992.".

(b) Technical Amendments Related to Carryover and Carryback of Credits.—

(1) Carryover of credit.—

(A) Paragraph (3) of section 55(c) of the Internal Revenue Code of 1954 (relating to carryover and carryback of certain credits) is amended by striking out the last two sentences and inserting in lieu thereof the following: "In determining any carryover under section 44C(b)(6), any carryover under section 44E (e) (2), or any carryover or carryback under section 44F(e)(1), respectively, a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A) (or before any rule inserted under this sentence) and the applications of subparagraphs (A), (B), and (C) (and any such rule) shall be adjusted accordingly.".

(B) Subsection (c) of section 381 of such Code (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(28) CREDIT UNDER SECTION 44F.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44F, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44F in respect of the distributer or transferor corporation.".

(C) Section 383 of such Code (relating to special limitations on unused investment credits, work incentive credits, new employee credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44F (e) (1)," after "44E (e) (2),", and

(ii) by striking out "ALCOHOL FUEL CREDITS," in the section heading and inserting in lieu thereof "ALCOHOL FUEL CREDITS, QUALIFIED PAYROLL COSTS CREDIT,".

(D) Section 383 of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44F (e) (1)," after "44E (e) (2),", and

(ii) by striking out "ALCOHOL FUEL CREDITS," in the section heading and inserting in lieu thereof "ALCOHOL FUEL CREDITS, QUALIFIED PAYROLL COSTS CREDIT,".

(E) The table of sections for part V of subchapter C of chapter 1 of such Code is amended by inserting "alcohol fuel credits, qualified payroll costs credits," after "new employee credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511 (d) (4) of such Code (defining credit carryback) is amended by striking out "and new employee credit carryback" and inserting in lieu thereof "new employee credit carryback, and qualified payroll cost credit carryback".

(B) Section 6411 of such Code (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused new employee credit" each place it appears and inserting in lieu thereof "unused new employee credit, or unused qualified payroll costs credit";

(ii) by inserting "by a qualified payroll costs credit carryback provided in section 44F (e) (1)," after "53 (b)," in the first sentence of subsection (a);

(iii) by striking out "or a new employee credit carryback from" each place it appears and inserting in lieu thereof "a new employee credit carryback, or a qualified payroll costs credit carryback from"; and

(iv) by striking out "work incentive program carryback)" and inserting in lieu thereof "work incentive program carryback, or, in the case of a qualified payroll costs credit carryback, to an investment credit carryback, a work incentive program carryback or a new employee credit carryback) '.

(c) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "44E and 44F".

(2) The table of sections for such subpart A is amended by inserting after the item relating to 44E the following new item: "Sec. 44F. Qualified payroll costs.".

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to qualified payroll costs paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.●

By Mr. TALMADGE (for himself, Mr. BAUCUS, and Mr. PRYOR):

S. 2818. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies; to the Committee on Finance.

● Mr. TALMADGE. Mr. President, today I am introducing legislation to protect and maintain the long-established tax treatment of our Nation's rural electric telephone cooperatives.

As my colleagues know, current law provides that these cooperatives are tax exempt as long as 85 percent of their income is derived from members solely for meeting losses and expenses. The function of these co-ops is to provide wide-range, low-cost services. They operate not to receive a profit, but to provide their customers with the best service available at the lowest possible price. To accomplish this goal, the rural electric cooperatives often save money by sharing poles with telephone co-ops in return for rental fees. The telephone cooperatives have received similar income from display listings in Yellow Page directories.

Since 1978, however, the Internal Revenue Service has attempted to treat income received from pole rentals and display listings as "unrelated" to the cooperatives' exempt purposes. It is quite possible that, if the income from pole rentals and display listings are treated as taxable income, many of these cooperatives could lose their tax-exempt status. Such a result would certainly be counterproductive and must be avoided. It is my belief that such income is an integral part of the business of providing full and adequate service by the rural electric and telephone cooperatives .

In order to correct this situation, I am introducing this legislation which makes clear that pole rental and display listing income shall not be treated by the Internal Revenue Service as unrelated business income subject to taxation. My bill is necessary to protect the continued viability of our Nation's rural electric and telephone cooperatives and the valuable services they provide. I encourage my colleagues to join me in support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (12) of section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended—

(1) by striking out "(12)" and inserting in lieu thereof "(12) (A)",

(2) by striking out the second sentence, and

(3) by adding at the end thereof the following new subparagraphs:

"(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

"(ii) from qualified pole rentals, or

"(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company.

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued from qualified pole rentals.

"(D) For purposes of this paragraph, the term 'qualified pole rental' means any rental of a pole (or other structure used to support wires) if—

"(i) such pole (or other structure) is used by the telephone or electric company in providing telephone or electric services to its members, and

"(ii) the use of such pole (or other structure) pursuant to the rental is in connection with the transmission by wire of electricity or of telephone or other communications.

For purposes of the preceding sentence, the term 'rental' includes any sale of the right to use the pole (or other structure)."

(b) The amendments made by subsection (a) shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 2. (a) Section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN POLE RENTALS.—In the case of a mutual or cooperative telephone or electric company, the term 'unrelated trade or business' does not include engaging in qualified pole rentals (as defined in section 501 (c) (12) (D))."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.●

ADDITIONAL COSPONSORS

S. 1843

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1843, a bill to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and provide immediate shelter and other assistance for victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

S. 2080

At the request of Mr. RANDOLPH, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 2080, a bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Services in the General Services Administration, and for other purposes.

S. 2419

At the request of Mr. Percy, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of S. 2419, a bill to protect the confidentiality of shipper's export declarations, and to standardize export data submission and disclosure requirements.

S. 2521

At the request of Mr. Dole, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2619

At the request of Mr. Levin, the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 2619, a bill to provide for the termination of the Interim Convention on the Conservation of North Pacific Fur Seals of February 9, 1957, to prohibit the taking of seals in the Pribilof Islands, and for other purposes.

S. 2681

At the request of Mr. Dole, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 2681, a bill to amend the State and Local Fiscal Assistance Act of 1972 to provide a 5-year extension of the general revenue sharing program and to provide that each State make an annual election to receive its State government allocation or the equivalent amount in specific categorical grant programs, but not both.

S. 2695

At the request of Mr. Bumpers, the Senator from Texas (Mr. Bentsen), the Senator from Iowa (Mr. Jepsen), and the Senator from Tennessee (Mr. Sasser) were added as cosponsors of S. 2695, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on production of coal.

S. 2722

At the request of Mr. Wallop, the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 2722, a bill to amend title II of the Social Security Act to provide that disability insurance benefits may not be paid to inmates of penal institutions or facilities for the criminally insane.

SENATE RESOLUTION 432

At the request of Mr. Nelson, the Senator from Connecticut (Mr. Weicker), the Senator from California (Mr. Hayakawa), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of Senate Resolution 432, a resolution with respect to taxing Social Security benefits.

AMENDMENT NO. 1792

At the request of Mr. Stafford, the Senator from New York (Mr. Javits) was added as a cosponsor of amendment No. 1792 intended to be proposed to S. 1641, a bill authorizing the Secretary of the Army, acting through the Chief of Engineers, to plan, design, and construct small hydroelectric power projects not specifically authorized by the Congress.

AMENDMENT NO. 1796

At the request of Mr. Cochran, the Senator from Arkansas (Mr. Bumpers), and the Senate from Iowa (Mr. Jepsen) were added as cosponsors of amendment No. 1796 intended to be proposed to S. 2639, a bill to mitigate the adverse effects of the suspension of trade with the Union of Soviet Socialist Republics on United States agricultural producers, and for other purposes.

SENATE RESOLUTION 456—SUBMISSION OF A RESOLUTION REGARDING PROSECUTION OF PERSONS IN VIOLATION OF THE LOGAN ACT AND THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

Mr. DOLE (for himself, Mr. Baker, Mr. Stevens, Mr. Domenici, Mr. Garn, Mr. Young, Mr. Schmitt, Mr. Goldwater, Mr. Hatch, Mr. Hayakawa, Mr. Helms, Mr. Humphrey, Mr. Jepsen, Mr. Heinz, Mr. Laxalt, Mr. Lugar, Mr. Simpson, Mr. Thurmond, Mr. Tower, Mr. Warner, Mr. Cochran, Mr. Schweiker, and Mr. Harry F. Byrd, Jr.) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 456

Whereas, the government of Iran has continued to act in a hostile manner towards the government of the U.S. since it seized American diplomatic personnel on November 4, 1979;

Whereas, certain residents and citizens of the U.S. have collaborated in this hostility by condemning and insulting their own country;

Whereas, the government of Iran is conducting a "sham" tribunal falsely pretending to be an assessment of "crimes of America" at which certain citizens and residents of the U.S. are attending at the request and expense of Iran;

Whereas, the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is active enforcement of the Logan Act;

Whereas, Title 18, Section 953, of the United States Code prohibits that any citizen of the United States, wherever he may be, who without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States;

Whereas, the President of the United States by executive order prohibited all travel by American citizens to Iran as part of our overall policy of securing the release of American hostages;

Now, therefore, be it resolved, that it is the sense of the Senate that the President instruct the Attorney General to prosecute to the fullest extent of the law any and all persons who are in violation of the Logan Act and the prohibition on travel to Iran, provided for under the authority of the International Emergency Economic Powers Act; thereby denigrating the United States, and giving the color of "right" to the illegal actions taken by the government of Iran.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Human Resources has scheduled a hearing on Thursday, June 12, 1980, at 10 a.m. in 4232 Dirksen Senate Office Building on the following nominations:

Cynthia G. Brown, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education.

Edwin W. Martin, Jr., of Virginia, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will conduct a hearing on Economic Growth, June 18, 24, 25 and July 1, 1980.

The hearing will begin at 9:30 a.m., each day in room 424 of the Russell Senate Office Building.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that the Subcommittee on Taxation and Debt Management of the Senate Finance Committee will hold a hearing on Tuesday, June 24, 1980, on two tax bills.

The hearing will begin at 9 a.m. in room 2221 of the Dirksen Senate Office Building.

S. 983, introduced by Senator Mathias. This bill would establish national standards governing State taxation of interstate commerce and rules governing State taxation of worldwide corporate income. It also establishes jurisdiction of the U.S. Court of Claims for resolution of disputes arising under the act.

S. 1688, introduced by Senator Mathias. This bill would limit States and political subdivisions from applying the combined method of reporting to determine the worldwide income of businesses operating within their jurisdictions.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on June 18, 1980.

WRITTEN STATEMENTS

Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with 5 copies to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than July 11, 1980.

The Subcommittee on Taxation and Debt Management of the Senate Committ on Finance will hold hearing on Tuesday, June 24, 1980, on miscellaneous tax bills.

The hearing will begin at 2 p.m. in room 2221 of the Dirksen Senate Office Building.

The following measures, of general application unless otherwise specified, will be considered. Revenue estimates and any particular taxpayers affected by this legislation, in addition to taxpayers listed below, will be furnished at the hearing.

S. 1614, introduced by Senator BENTSEN, would exempt holdings of independent local newspapers from the tax on excess business holdings of private foundations.

S. 2075, introduced by Senator GRAVEL, would include in the definition of an affiliated group for purposes of the transportation excise tax, unions and their tax-exempt trusts and wholly owned corporations. Amounts paid to one member of a group by another member of that group for air transportation, would be exempt from the tax.

S. 2493, introduced by Senator GLENN, would extend the time for payment of the manufacturers excise tax on tires, tubes, et cetera, until 90 days after the close of the month in which the article is sold.

S. 2547, introduced by Senator GRAVEL and others, would permit certain facilities constructed to comply with beverage container laws to be financed with tax-exempt bonds.

S. 2646, introduced by Senator BOREN, would exclude from income certain interest earned on savings accounts of up to $100,000 provided the principal is used for designated investment purposes.

S. 2660, introduced by Senator MOYNIHAN, would permit cities which consist of more than two counties to finance facilities which decompose garbage and recapture the gaseous byproducts. The principal beneficiary would be the city of New York.

S. 2757, introduced by Senators BENTSEN, DANFORTH, HEINZ, and STEVENSON, would provide special provisions for the taxation of export trading companies.

S. 2766, introduced by Senator GRAVEL, would eliminate the two-country rule and the public use test with respect to the issuance of tax-exempt bonds to finance hydroelectric facilities.

S. 2783, introduced by Senators WALLOP and GARN, would expand the definition of oil shale property eligible for the energy investment tax credit to include equipment used in hydrogeneration or a similar upgrading process.

S. 2784, introduced by Senator GRAVEL, would change the effective date for amendments made by the Crude Oil Windfall Profit Tax Act of 1980 relating to the investment tax credit for coke ovens. The bill would make the effective date September 30, 1978, rather than December 31, 1979.

H.R. 5391, (S. 2485 introduced by Senator LONG), would amend the provisions relating to the imposition of second tier taxes on private foundations.

Witnesses who desire to testify at the hearing must submit a written request, including a mailing address and phone number, to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on June 17, 1980.

CONSOLIDATED TESTIMONY

The subcommittee urges all witnesses who have a common position or the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the subcommittee. This procedure will enable the subcommittee to receive a wider expression of views than it might otherwise obtain. The chairman urges very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

WRITTEN STATEMENTS

Witnesses who are not scheduled to make an oral presentation, and others who desire to present their views to the subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with 5 copies to Michael Stern, staff director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than July 11, 1980.●

AUTHORITY FOR COMMITTEES TO MEET (JUNE 10, 1980)

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a markup session on S. 2294, the fiscal year 1981 Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on S. 2470, the Power Plant Fuels Conservation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO MEET (JUNE 11, 1980)

COMMITTEE ON ARMED SERVICES

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a markup session on S. 2294, the fiscal year 1981 Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on S. 2470, the Power Plant Fuels Conservation Act of 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on the export of fuel to India for the Tarapur fuel reactors.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to hold a hearing on the Overseas Private Investment Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today beginning at 10 a.m. to hold a markup session on election law legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. EXON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate tomorrow, Thursday, June 12, to consider criminal contempt or civil enforcement proceedings against a witness.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

U.S. POLICY IN EL SALVADOR

● Mr. LUGAR. Mr. President, we are all painfully aware of the delicate political situation in El Salvador. Political murder is a daily occurrence, and to date the present government has not attracted support from any of the quarters necessary to insure its continuing existence. The future direction of the country remains in doubt.

With the prompting of the U.S. State Department and the active involvement of Ambassador White, the current regime has embarked upon a series of basic alterations in El Salvador's political and social structure. These reforms have alienated much of the productive sector of El Salvador without bringing about compensating positive results.

Under these circumstances, it is my view that the United States ought to adopt a more realistic and constructive approach. In my view a more constructive approach would contain several elements. First, it would give up altogether the illusion that the far left can be brought into a peaceful democratic arrangement. There is absolutely nothing to be hoped for from the far left in El Salvador. The far left will be satisfied with nothing short of complete control of the government. The current government in El Salvador has already nationalized the banks, nationalized exports, and begun a massive program of land reform. The fact that these programs have not satisfied the left is a clear indication that the left will not be satisfied with any reforms whatsoever, so long as they are instituted by a force other than itself.

Some recent commentaries have suggested that El Salvador is "bound" to go the way of Nicaragua and that the United States can only temporize with this situation and not change it. This kind of commentary is little more than a self-fulfilling prophecy. There is no fated course through which nations must pass, and a variety of options is open to every nation at every point in its history. The United States must deal with other nations as it finds them and with regard to the possibilities that are present. Nicaragua at this point in time requires one kind of U.S. policy; El Salvador at this point in time requires quite another.

U.S. policy ought to aim to consolidate all constructive forces in El Salvador behind a program which commands support among the groups which alone can help to realize a free and productive society. Virtually everyone in El Salvador is now in agreement that certain reforms are necessary. What is required is a measured program, and one which pays due regard to the needs of those whom the economy of El Salvador does and will continue to depend. Creating an economic shambles in El Salvador to further the pursuit of an abstract ideal will aid no one but the extreme left. There are many productive citizens of El Salvador for whom expropriation and nationalization, however well intentioned, represent a terrible hardship and a grave injustice. This cannot and should not be ignored.

Finally, U.S. policy ought to oppose strongly any external support of terrorism or subversion in El Salvador. The Carter administration ought to make clear to all interested parties that external support of terrorism in El Salvador will be vigorously resisted by the United States.●

ADDRESS BY GOV. GEORGE R. ARIYOSHI OF HAWAII BEFORE SEVENTH OCEAN ENERGY CONFERENCE

● Mr. INOUYE. Mr. President, I wish to share with my colleagues the address presented by Hawaii's Governor, George R. Ariyoshi, to the Seventh Ocean Energy Conference here in Washington, D.C., last week. His address, entitled "The Future of OTEC in Hawaii and the Nation," sets forth the progress and the promise of OTEC and the very considerable enthusiasm for this form of renewable source solar energy by both industry and Government in Hawaii.

I am informed that there is similar enthusiasm on the part of those working with this energy form in the Department of Energy. Unfortunately, we do not seem to be able to generate similar interest and support on the part of the Office of Budget and Management. While the Office of Technology Assessment had earlier expressed a somewhat tepid interest, recent developments including the success of mini-OTEC and the increased price of oil has brought about a reevaluation of OTEC's promise which is encouraging.

The Senate earlier enacted S. 1830, the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act introduced by my colleague, Senator MATSUNAGA. That measure is awaiting action in the House. The Senate Commerce Committee has ordered reported S. 2492, the Ocean Thermal Energy Conversion Act of 1980, my bill to encourage the commercial development of OTEC by making plant ships eligible for guaranteed loan funds under the provisions of the Merchant Marine Act of 1936 and providing for a one-step licensing procedure. The companion bill in the House, H.R. 6154, is also moving along.

Mr. President, I know that to many, OTEC seems a provincial interest important only to Hawaii, Puerto Rico, and a few Gulf State locations. In its initial phases this may appear true but the potential for making a major contribution to our Nation's energy program is well outlined in Governor Ariyoshi's speech wherein he calls attention to the contribution which is available through the production of hydrogen and ammonia which can be used as direct substitutes for jet fuel and gasoline and as fuel cells for our Nation's electric generating plants. The Hawaii archipelago alone is estimated to be able to produce 10 to 15 quads per year, an amount equivalent to our present oil imports from the Middle East.

Mr. President, I ask that this important address by Governor Ariyoshi be printed in the RECORD so that it may receive the broader attention it so clearly merits.

The address follows:

THE FUTURE OF OTEC IN HAWAII AND THE NATION

(By Governor George R. Ariyoshi)

Mr. Chairman, Distinguished Guests, Ladies and Gentlemen: I am very pleased to be with you today, and to be able to share our vision of the future of Ocean Thermal Energy Conversion—OTEC—in Hawaii and the nation. I bring you the warm Aloha of our people, and a special greeting on behalf of the members of our community who are actively working toward the efficient development of ocean energy.

A few months ago, a converted Navy barge was anchored offshore on the Leeward Coast of the Island of Hawaii, containing OTEC equipment.

It was not a very elegant craft, but it was beautiful in a number of ways.

It proved, beyond any doubt, and beyond any questioning, that it is possible, indeed, to generate electrical energy from the sea.

To be sure, the concept of OTEC had been considered possible, and even feasible, just as manned flight had been before that momentous day at Kitty Hawk, North Carolina.

But just as manned flight had to be proven in the field, under actual conditions, so did the concept of Ocean Thermal Energy Conversion.

In my announcement of the OTEC success, which the national media properly considered significant, I compared what the Wright Brothers accomplished at Kitty Hawk, to what our scientists and technicians had accomplished last year off our Kona Coast. Both accomplishments, without question, are of considerable significance.

The difference is, of course, that the significance and the potential of airplane flight has been considerably achieved. As an illustration of that, I flew five thousand miles last night—over an ocean and a continent—to be here today.

But the significance and the potential of OTEC is yet to be realized. The equipment used in Hawaii last year in the demonstration project will be considered crude, unsophisticated and quaint in the years to come. But the fact of the matter is that it worked, and that is what is important.

A criticism has been leveled at OTEC that the start-up costs are exceedingly great. Indeed they are, although I feel that as the state-of-the-art advances, costs will get lower. But the important thing to consider is that once the hardware is in place, the annual costs of OTEC should diminish drastically, and dramatically.

After all, the basic ingredients—warm and cold water—are provided without charge by nature. They are not subject to the wild escalation, and acceleration, in costs that have afflicted other energy sources.

Therefore, as we learn more about OTEC, I am convinced that it will represent substantial bargains, over the years, and increasingly so as we refine its applications.

We have only begun to develop its systems, and possibly we have not even begun to realize the potentials.

Given my strong feelings on OTEC, I would like to speak with you today about Hawaii's commitment to OTEC development, and also to the long-term importance of OTEC that I see for our entire nation.

OTEC development can have enormous impact on the State of Hawaii. Our Islands rely upon oil for 92 percent of our present energy needs.

At the same time, Hawaii is rich in alternate energy potentials: wind, direct solar, geothermal, biomass, and OTEC. We are actively pursuing the development of each of these Island resources, which are essentially inexhaustible.

Our State goals are set forth in the Hawaii State Plan, the first legislatively adopted

State plan in the United States, and a document I consider second in importance only to our State Constitution. Under the State Plan, our objective is to, and I quote, "accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste," and to achieve "increased energy self-sufficiency."

We are aware of the many advantages which OTEC has to offer. The temperature differential required for OTEC operations is available day and night in Hawaii, the year around, which means that OTEC is available for baseload power.

Importantly, it appears at present that OTEC plants will have no major negative environmental impacts.

And while there are problems to be solved, no major technological breakthroughs appear necessary for commercialization.

Floating OTEC plants can be moved from place to place, thus providing flexibility in meeting our future energy needs.

Floating OTEC plants will conserve Hawaii's land, a limited and precious resource.

We in Hawaii are committed to the development of OTEC. We are pleased that all three of the major OTEC seawater projects now in progress in the United States are located in Hawaii. These are Mini-OTEC, OTEC-1, and the OTEC Seacoast Test Facility.

As you are no doubt aware, Hawaii feels it should be the location of the OTEC pilot plant which the U.S. Department of Energy plans to build by 1985. Our State will counsel and cooperate with any consortium which proposes Hawaii as a pilot-plant site.

We are now working to facilitate the establishment of such a pilot plant.

An Ad Hoc Committee for the Advancement of OTEC in Hawaii was formed last fall. Under the leadership of private companies, and with the cooperation and support of my Administration—including the University of Hawaii—this committee has produced a report entitled "OTEC FOR OAHU."

It describes the studies which will be necessary to collect environmental and design data in the sea off one of Hawaiian Electric Company's main generating stations on the Island of Oahu.

This area, off Kahe Point, is a prime location for a commercial OTEC plant, and the proposed studies will yield data useful in both designing and obtaining permits for the establishment of a pilot plant.

From the planning standpoint, our Coastal Zone Management Program is initiating an Ocean Management Program which will analyze ocean uses, potential conflicts, and community attitudes.

To the ancient Hawaiians, the ocean was a natural extension of the land—a place to work and play and travel. Today we also look to the sea as a bountiful resource, rich in minerals, food, and energy.

We are an ocean State, and the only Island State, and we believe that our future will largely depend on our ability to better understand the vast sea around us and to make wise use of its innumerable resources.

The management of our coastal zone, including our offshore areas, is thus of vital interest to us. In order to protect and develop our ocean resources, we must carefully plan the use of our ocean space.

OTEC is an important part of our planning.

From the legal standpoint, our State Department of Planning and Economic Development, in conjunction with the Department of Land and Natural Resources, has begun a study of jurisdictional and management issues regarding OTEC, mariculture, fisheries, and other uses of our coastal zone. We expect that this study will result in guidelines for legislation to set up a mechanism which will balance potential conflicting interests in licensing ocean uses.

The State has expended, and will continue to spend, substantial funds on the development of OTEC.

In the period 1972–79, our State Government and private industry spent $6 million on OTEC development in Hawaii. Our Hawaii State Senate recently adopted a resolution declaring its total commitment to the development of OTEC systems. It declared that that State of Hawaii should compete for, and share the cost with the Federal government, for an OTEC pilot plant in Hawaii; and that an appropriate in-kind or fiscal contribution will be available at the time Hawaii's contribution is required.

This resolution is very much in keeping with the direction my Administration has pointed.

I feel it is absolutely essential to develop and utilize the energy sources that are available to us in such bountiful measures, and in so doing, to be able to share our research and development with the rest of our world.

We are a small state, in terms of total land mass, and to a degree population, but we are a very large state in terms of potential, and being a living laboratory for the development of energy programs and potentials for this entire nation.

Just as we are pioneers in social structures, I think we already are emerging as pioneers in energy development and the development of potentials.

We are very proud of the work being done here in Washington by Hawaii's Congressional delegation to further these commitments by the State of Hawaii.

I am sure you are familiar with Senate Bill 1830, the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act," which was introduced by Senator Spark M. Matsunaga, and also Senate Bill 2492, "The Ocean Thermal Energy Conversion Act of 1980," introduced by Senator Daniel K. Inouye.

We commend our Congressmen, and their colleagues, for the leadership they have provided and the results they have achieved.

Thus, our Administration, the Legislature, the business sector, the academic community, and our Congressional delegation are interested and active in promoting OTEC development. We put together Mini-OTEC and the Seacoast Test Facility and we stand ready to do much more. We offer Hawaii to the nation as an OTEC laboratory both on shore and at sea.

The theme of this conference is "Ocean Energy: A Time for Action."

I have described to you some of our activities in Hawaii.

At this point, however, our future progress depends on the U.S. Department of Energy. We await DOE funds for the Seacoast Test Facility; we await DOE funds for the second deployment of Mini-OTEC; and we await the issuing of the Program Opportunity Notice for the pilot plant.

In all of these areas, we look forward to action from the DOE so that ocean thermal development will be aggressive and timely.

I have briefly described Hawaii's commitment to OTEC, and the research and development in our State, and of our desire for early action from the DOE. But possibly the most important message I have to convey today has a much broader scope. While hard work in Hawaii and in the DOE will give the nation an OTEC proving-ground and the funding to develop the technology, the success of OTEC in the long run depends upon the understanding that OTEC can be of great benefit to the entire nation.

It is not merely a technology that will be useful in Hawaii, Guam, the Gulf Coast, Florida, the Virgin Islands, and Puerto Rico. In the long run, OTEC can be of significant benefit to all Americans.

Without question, the generation of electricity by OTEC plants will help to relieve the demand for oil. We know also that the construction of OTEC plants may take place in many different communities—heat exchangers may be built in one place, cold water pipe in another, and concrete barges in a third. All these things benefit the nation.

What I have in mind, however, is a long-term benefit to the nation far greater than this. Permit me to explain . . .

I have been advised by scientists and engineers that OTEC is likely to develop in four phases.

The first phase is the generation of electricity for use by coastal and island communities such as Hawaii. This phase is significant because it will demonstrate the commercial OTEC concept and provide energy to local communities. However, this phase will not have a major effect on the national energy problem.

The second phase will involve the relocation of energy-intensive industries to OTEC sites. Shortages of energy supplies will induce industries to go where the energy is, in order to obtain an assured supply. The manufacture of aluminum, titanium, and steel is energy-intensive, as is the processing of manganese nodules for copper, nickel, and cobalt.

Industries such as these may seek out OTEC as an energy supply far more dependable than Middle East oil.

In the third phase, OTEC plants will produce hydrogen and ammonia for use as fuel—hydrogen as fuel for commercial aircraft, and ammonia as fuel for major power grids in the form of ammonia fuel cells.

In the fourth phase, ammonia will become a substitute for gasoline and alcohol in internal combustion engines. I understand that research on ammonia-fueled automobiles already is underway.

It is in phases three and four that OTEC will have its greatest value to our nation—in the generation of ammonia and hydrogen as fuels for our economy. In order to substitute ammonia for conventional fuels, we will need very large quantities of it. OTEC will be able to meet that challenge and that need.

It has been calculated that within the 200-mile zone of islands under U.S. jurisdiction, including the Marianas and the Marshall Islands, it is possible to produce about 70 quads a year of ocean energy product. This is equivalent to the United States' total energy use.

In the Hawaiian Archipelago alone, it is possible to produce 10 to 15 quads per year. Ten to 15 quads per year is equivalent to the amount of oil which the United States imports from the Middle East. Thus, it is possible for the Hawaiian Archipelago to eventually replace the Middle East in America's fuel economy.

Obviously, we are talking about decades of research and planning, a huge investment in OTEC plants, and a major change in capital and equipment for our fuel economy.

On the other hand, we also are discussing a potential new fuel system which can guarantee us a continuous supply of fuel, produced in essentially unlimited quantities, in waters controlled by the United States. And we are discussing a fuel system which we expect will have minimal environmental impact.

We in Hawaii have a vision of the great contribution which OTEC can make to the welfare of the nation. We believe that the rate of OTEC development, and its success, depends a great deal upon explaining this potential to all the people of America. This Conference will go a long way to achieving that goal if those of us present will take the long-term national view, and will share that view with government agencies, industry, consumer groups, and all of our citizens.

We have an important message to convey, and the hour grows short and late.

Permit me to mention one final concern.

Without question, our nation's energy supply is of strategic importance to the nation's economy and security. We desperately need a new fuel system which can guarantee us a continuous supply of fuel, and thereby declare our independence from OPEC. We need a new fuel system which is researched, designed, constructed, and operated by American companies.

The United States has shown its technological leadership in OTEC development, and we must remain leaders. Every effort must be made to support American industry's involvement in OTEC development. Federal Government initiatives are of decisive importance in this area. The highest priority must be given to the award of contracts to the companies which will actually design, construct, and test the nation's OTEC plants.

The time for talking is rapidly running out, and the time for action is very much at hand.

We cannot allow a lack of understanding of the technical aspects or potentials of OTEC on the part of our nation's citizens to dissuade us.

We cannot allow indifferences, or questioning, within the scientific community, to deflect us from this very essential effort.

To be sure, there are many technical problems to be recognized, and to be solved, if OTEC is to become a reality. Many of these problems, and these questions, are being addressed in this conference.

But, were not these questions and these doubts present during every scientific breakthrough in the history of mankind, including flight?

Have we not always been presented with problems, and also with the pervasive voice of those of a negative persuasion who would say that any new idea is not feasible?

I subscribe to the proposition that the progress of the human mind, and society, and environment has been the success of enlightened persons who were able, in whatever generation or circumstance, to rise above those who said achievement was impossible.

Certainly, achievement is possible, and I think we have an outstanding opportunity to prove that once again in the development of ocean thermal energy conversion, and eventually making it available for the benefit of mankind.

In closing, I want to bring you greetings from the people of Hawaii, and to extend our most sincere invitation to come to Hawaii in December to attend the National Conference on Renewable Energy Technologies.

Mahalo and Aloha.●

IS IT OK TO BREAK THE LAW?

● Mr. DOLE. Mr. President, today the Washington Post had a timely editorial on Ramsey Clark's trip to Iran where he condemned America and broke both the law forbidding travel to Iran and the Logan Act, which forbids unauthorized persons from dealing with a foreign government in matters of dispute between the two nations. The editorial is entitled "Free Ramsey Clark" although as far as this Senator knows, Mr. Clark is not being detained anywhere, nor is there probably any plan to detain him by this administration.

And that is too bad, because Mr. Clark did break some very serious laws with rather stiff penalties attached to them. But, Mr. Clark is also a member of that special, golden segment of the political spectrum on the left, the one that believes that laws are good things only when they are reenforcing their particular political beliefs. It is all right if the President calls for a ban on travel to Iran where our diplomats have been held hostage for 7 long months. It is all right if ordinary people who just happen to be relatives of those hostages are prevented from going to Iran. But, it is, apparently, another thing altogether when the old antiwar, liberal coalition wants to go over and join a group of anti-American Third World nations in condemning the United States.

THE "RIGHT" TO BREAK THE LAW

Naturally, the Constitution is brought in to defend Mr. Clark's "rights." Mr. Clark is said to have an inherent right to travel, to assemble, and to speak his mind, according to the Washington Post editorial. The Senator from Kansas has no quarrel with that, nor does he know of anyone who does. What he does quarrel with is Mr. Clark's "right" to go to Iran to do it, to go there acting as a representative of the United States, to meet with Iranian officials and conduct negotiations, and to condemn America while 53 Americans are illegally and outrageously held captive. If Mr. Clark's convictions are so strong that he feels he must break our laws, why is he not willing to face up to the punishment that goes with it? Why is he willing to face the music to do what he wants to do, but not afterward when he got to do it? what kind of conviction is that?

And, the administration seems to be taking a curious attitude to Mr. Clark's illegal fiasco. On Friday the Senator from Kansas and a score of other Senators introduced a resolution urging the administration to prosecute to the fullest extent of the law the Logan Act and the travel ban with respect to Iran. The resolution was meant as a gesture of encouragement and support. What has been the administration's reaction?

STATE DEPARTMENT ANN LANDERS

The Department of State has been dishing out advice, not to mention policy, to our friends and allies all over the world, most of which is well meant—as is most advice—and ignored, also as is most such advice. After years of observing this phenomenon, former Senator Muskie must have become confused when President Carter asked him to become Secretary of State. As chief-advice-dispenser to the rest of the world, Mr. Muskie must have believed he was becoming a kind of Ann Landers of diplomacy. His latest public pronouncement tends to confirm this suspicion.

When asked about Ramsey Clark's violation of the President's travel ban to Iran, Mr. Muskie responded by saying the ban was meant "not to punish people who violate it, but to prevent people from going." Violation of the ban is supposed to result in imprisonment of up to 10 years and a fine of up to $10,000. This kind of logic would seem to apply to any other law, to the Senator from Kansas. We could say that a law against theft is not meant to punish people who steal, but to prevent people from stealing in the first place. Does that mean we let thieves go when the prohibition fails?

Seemingly, the administration only wanted to advise people not to travel to Iran—not actually prohibit it or to take action against them after they went. The families of the hostages did not understand this point. They thought they would be prosecuted and face punishment if they went to see their loved ones or to plead with their captors.

Now, Mr. Muskie says the law did not mean that. It was not meant to punish people, but only as strong advice against going. When Mr. Carter was faced with a revolt by the Olympic althletes threatening to go to Moscow anyway, this same law, the International Emergency Economics Act, was to be used to prevent them from going. Evidently, they still did not understand that this was merely a rhetorical device—they were being advised not to go, not forbidden to go.

Once again we see the typical Carter method of proposing policy. First, you sound tough to make a few headlines. Then you sit back and undercut the tough position. When the Russians invaded Afghanistan, Mr. Carter announced a new policy of military strength and protection for the oil-rich Persian Gulf. Shortly thereafter, he was urging Congress to cut an already inadequate defense budget.

CHEAP HEROICS; EASY MORALITY

First, we get a ban on travel to Iran. Then, we let a small group with the right kind of liberal philosophy go over to an anti-American conference in Tehran, condemn their own country, and then let them come back to the United States with no intention of prosecution. Large segments of the media make Ramsey Clark into some kind of semihero for "having the courage of his convictions." It just seems to the Senator from Kansas that this is pretty cheap heroics, and an easy morality, when you know you can break your country's laws and come back to all the talk shows and news interview shows to crow about it without fear of prosecution. If the administration does not plan to enforce its laws, then perhaps it should revoke them.

I just do not believe this is right. I must respectfully disagree with the Washington Post: Ramsey Clark should not be let off scot-free. Once again, the Senator from Kansas urges swift consideration and passage of his Resolution 453, with the hope that the administration will take this signal and act expeditiously on it.

In closing, Mr. President, I would like to take note of an excellent article published yesterday in the Washington Post, written by R. Emmett Tyrrell, Jr., the editor-in-chief of the American Spectator. It is a pity the Post's own editors did not take it more to heart. I ask that it be printed in the RECORD.

The article follows:

YANKEE HOWLERS

(By R. Emmett Tyrrell, Jr.)

"Crimes of America Conference?" Did someone say "Crimes of America?" Now where did that disheveled crowd of mediocre graduate students now running progressive Iran get the idea to hold a high-falutin confabulation like this? The sight of several hundred peppy conventioners jetting into modern Tehran, unpacking their bags at the local Hilton and swarming into the Hilton's climate-controlled conference hall, there to bloviate and pound fists on table tops of simulated wood and marble puts one in mind of nothing so much as Indianapolis in summertime, its streets full of Shriners. American civilization still has its small triumphs even on the Holy Man's Islamic turf.

Was the thing duly run through a Tehran Convention Bureau? Are the conventioneers paying with their American Express cards or with Visa? We are told that many of the participants swathed their heads in "red-checked scarves," revealing only their ever-vigilant eyes. Yet who doubts that on their chests were worn little plastic name tags whose large letters proclaimed "Hello, my name is . . ."

This kind of goof-ball jamboree has grown ever more frequent under our president's populist foreign policy, notwithstanding all the blah about Andy Young's charm with the Third World. Even the extravagant rubric—Crimes of America—is not all that alien to our populist president. One can easily see White House speechwriters sitting over in the Executive Office Building and thinking to themselves, "Well, the Iranians *do* have a point." One can even imagine Jimmy, in the high fever of Campaign '80, blurting out such guff. American crimes are pondered very carefully amongest the forward-lookers nowadays.

Ramsey Clark's appearance in Tehran nails down my point. After all, Clark, who in 1972 made a similar appearance in Hanoi, was our president's first minister plenipotentiary to the Holy Man after the brave conquest of our embassy. Now he has appeared in Tehran to espouse his "belief that dialogue between all people is essential for understanding and respect." This specimen of 1960s bromide could issue from our president himself at any moment.

On his way home perhaps Clark will stop off to reestablish dialogue with Hanoi's progressives. I have just returned from Paris, and twice in the past nine months friends in the French media have reminded me of the 30 or so Americans whom the North Vietnamese still retain in their prisons just to keep our government on its toes. Is Clark's dialogue honeyed enough to spring these chained Americans?

Truth to tell, the idea of convening a conference on the crimes of America could as easily been hatched right here in America as anywhere else. The Institute for Policy Studies could organize it, and may already have for that matter. The National Council of Churches could fund it, and doubtless many good capitalists would gladly cater it, dutifully attending to the logistics for the honored guests. One sees them being chauffeured to and from Dulles International Airport, their bags laden with treasures from the Washington branches of Bloomingdale's and Neiman Marcus.

True, much of Southeast Asia is either a bone heap or a concentration camp. The Soviet Union, now the most brutal empire on earth, employs poison gas and other ghastly tools to continue its conquest of reluctant subjects. Yet in America there remain nitwits and scoundrels obsessed with these American infamies: the CIA the multinationals, the Rockefellers, commie-baiting.

The Third World *enrages* owe more to American civilization than merely our genius for conferences. The most avid audience in the world for anti-American tracts is right here between the Atlantic and the Pacific. Many, perhaps a majority, of the nations on earth are ruled by petty jailers and grafters, yet we still publish nearly as many tomes on American peccancy as on dieting and sexual hygiene.

America is now nearly as fertile a source of anti-American propaganda as the U.S.S.R., and the Yankee howlers are more celebrated and prosperous. Of course, their sophistries have all been unhorsed by serious scholars like John Lewis Gaddis, but the books still pour forth for the credulous, and among the credulous are numbered thousands of envious and bewildered foreign students like the 60,000 or so Iranians who still attend our universities and who huff and puff about the reactionary shah, even as the Holy Man cuts back their scholarships—scholarships the nefarious shah gladly gave them notwithstanding their hostility to him.

The unspoken truth of the hysteria that now seizes Iran and lies nascent throughout many of the nations of the Third World is that their anti-Americanism is made in America.●

ENERGY-SAVING IDEA

● Mr. CRANSTON. Mr. President, for a long time we as a nation have been extremely wasteful of energy. Now that we are searching for solutions to our energy problems, we are discovering there are many worthwhile energy-saving ideas that have been around a long time which have been ignored.

The Sebastopol (Calif.) Times on April 24, 1980, reported on the idea of 94-year-old Clarence Burr, which he has been expounding in part for the last 60 years. Perhaps his is an idea whose time has now come.

I ask that the Sebastopol Times article of April 24, 1980, be printed in the RECORD:

The article follows:

BURR'S 60-YEAR IDEA

(By Tom Johnson)

How could the Spring begin without a visit to the bearer of new ideas, Clarence Burr, 94, self-proclaimed "Old Apple-Knocker" and all around hell raiser for most of his life.

Living now in Gravenstein Convalescent Hospital, Burr contacted The Times last week to break in this generation of reporter on his plans for the Laguna—plans which he has been expounding in part for the last 60 years.

Burr has devised a plan which will "clean up the Lagoon of its pollution," provide energy and make a waterway to San Francisco. His plan, in a nutshell, calls for construction of a municipal-size methane generator run on garbage, sewage and cannery effluent to provide power and sewage disposal for Sebastopol.

Additionally, he feels that a worthwhile venture would be to dredge the laguna to the Petaluma, thus providing a waterway for transporting goods and people to San Francisco, as well as providing a recreational area.

Methane, comprised of four hydrogen atoms and one carbon atom, is one of the basic organic molecules and is the colorless, odorless, flammable gas formed by the decomposition of vegetable matter. This decomposition also forms hydrogen sulfide, a smelly, poisonous, inflammable gas, associated with sewage plants.

Burr contends that present sewer operations, in which the sludge is treated in the open air, not only pollutes the air with these gasses, but wastes them as well.

When he talked to the Times, he emphasized this point with a somewhat elusive story about his blowing up a rooster walking near the gas-emanating manure pile on his boyhood Kansas farm.

The problem with sewage, he says, is further compounded by treating it with chlorine and other chemicals which eventually enter the atmosphere and biosphere, adding to the environmental pathogenesis. Burr wrote in an article in the May, 1970 (number 3) Mother Earth News expounding his theories: "The only real solution to the whole problem is the substitution of an anaerobic (without oxygen) digestion of our garbage. With this method, sewage is processed in gas-tight tanks where complete transformation takes place. As gasses are generated, they are drawn off and stored for future use.

"The sedimentation of digested sludge in the anaerobic tanks is chemicals and minerals. These are also drawn off and dehydrated over an incinerator in which only combustible rubbish (not the organic wastes that present systems try to cremate) is burned. The dried sludge is then mixed with incinerator ashes—potash—to make the finest fertilizer.

"Gasses that were drawn off as the sewage digested can be used to augment the incinerator fires or turn dynamos to electrify whole cities. It may even be used as fuel for internal combustion engines where—just like natural gas—it contributes only a tiny fraction of gasoline's pollution to the air."

Burr said that while he was driving locomotives in Clarkdale, Ariz., in 1914, he inquired to the city as to the source for their gas-burning street lights. He was informed that methane gas from the sewer plant lighted the city streets. That explanation rekindled him memories of the manure pile on the farm, and Burr has been a methane exponent since.

Burr was fired from the railroad for hitting a man who, he says, was picking on others, and for his pro-union activities. "The coal workers were on strike in Ludlow against John D. Rockefeller and I didn't like the idea of us hauling supplies in to the strikebreakers. I wrote to the president of the line 'cause I didn't like to see union men cuttin' union men's throats."

In 1925, in Oakland, Burr met his associate, Russell P. Howard, also an exponent of methane power. Both men proposed a methane disposal system to the cities of Oakland and San Francisco in 1932, but were rebuffed. Burr at this time was painting houses, while continuing his methane system efforts and engaging in a prolific, though relatively unpublished, writing career.

He later moved to Los Angeles, where working with an organization called People's Lobby, he campaigned vigorously for methane plants, finally convincing the city, he says, to establish such a plant west of Culver City on Santa Monica Bay.

In 1950, Burr and his wife, Clara, moved to Sebastopol, just north of town off Highway 116. He commenced raising apples:

"Hallberg counseled me not to grow fancy apples, but let 'em fall on the ground then take 'em to the drier. I made a thousand dollars a year on apples on the ground."

Burr and his late wife wrote eight novels, plus numerous plays, musicals, poetry and non-fiction. A fictionalized account of Luther Burbank's life, More than Dust, was published in 1943. Burr claims that Orson Wells stole his play, Man from Mars, for his famous Halloween "invasion" broadcast in 1937.

One of his more contemporary ideas is to benefit his fellow senior citizens in the American Association of Retired Persons (AARP). If the one million members each contribute 50 cents per week for a year to a fund, the AARP will find itself with $26 million at the end of a year; enough to establish a bank and support members.

"We could end government programs, take all the old folks off charity and settle them on five-acre parcels," he told Gaye LeBaron several years ago.

A visionary man, whose methane ideas have been researched and used extensively in India, Burr will perhaps be around to see methane used for power in the U.S., especially in light of the fact the country must inevitably cut back on its oil dependency.

Burr claims that his sewage disposal/methane gas system costs one-third less to build than the conventional facilities. "It also puts almost a complete stop to the garbage disposal racket which is one of the biggest political plums in America. Apparently the system will continue to be shelved until enough citizens demand an accounting of their tax dollars and an end to senseless pollution," Burr wrote in 1970.

The unofficial record holder for the category of most letters published in the Santa Rosa Press Democrat (somewhere around 200) still has schemes and ideas working. As the Times reporter was bidding him goodbye, Burr came up with a final idea: "If everybody who reads this article sends me one dollar, I'll see that there's methane plants all over California." ●

GENERAL TELEPHONE AND ELECTRONICS STIMULATE THE ARTS

● Mr. RIBICOFF. Mr. President, the National Gallery is showing through September 1 a most important, exciting and stimulating exhibition of post-impressionist paintings. This exhibition is sponsored by General Telephone & Electronics Corp., with home offices in Stamford, Conn. My highest commendation to GTE for the wisdom and imagination in sponsoring this exhibition.

A recent editorial in the Washington Star sets out with great sensitivity the significance of this exhibit. I ask that this article be printed in the RECORD.

The article follows:

POST-IMPROVEMENT IMPRESSIONS

Like every other departure from tradition, the post-impressionist style, or rather, styles, in painting upset people to begin with. Now, however, the post-impressionists are conspicuously easy to love. If there were a referendum on everybody's favorites, they'd win in a landslide.

It doesn't take the queues at the East Wing of the National Gallery to make the point. The throngs wandering through the half-dozen rooms of sumptuous post-impressionist paintings include men and women, young and old, all clearly alone with themselves in the quiet happiness great art gives.

Snobbery argues that anything that many many people like has got to be kitsch. At least until it's rediscovered as inadvertently highbrow, like Andy Warhol's soup cans and comicstrip faces.

A more straightforward assessment might say that the post-impressionist period, which covers the late 19th and early 20th centuries, was one in which painting was uniquely effective in showing the natural world in ways that heighten its visible reality and the viewer's sense of its spiritual dimensions. It was a watershed of techniques and approaches. Painters had long since mastered *trompe l'oeil* realism but they were not yet ready to stop portraying natural objects in recognizable form.

The next few decades were to see them reject pictures of things and people that look like what they are supposed to represent. They tried to break up the experience of seeing and put together its elements in new ways. Light was fragmented into dots and dabs of color. Form was reduced to geometric essences.

The only exceptions turned up among the surrealists, who escaped the taint of representational art by doing deliberate violence to the logical context in which they placed literally depicted creatures and objects. A human torso with bureau drawers coming out of it can be as disorienting to a viewer's habits of perception as a face made of multicolored triangles.

From there, of course, the next step was to leave natural objects behind entirely. Visual artists began to concentrate on the excitement to be had from patterns of line and color, texture and three-dimensional substance only tangentially related to what the human eye expects from its surroundings. Size became a volatile component of any composition instead of a standardized option.

The aesthetic satisfactions of post-post-impressionist art are real, but they come at a price. It takes sophistication to respond to them. And even for the sophisticated, they lack an important stimulus to emotional response—touch-stones of communion with the world of human experience.

Meanwhile, there are the post-impressionists with their magical emphases on known qualities of a known milieu. Renoir reminding us with subtle exaggerations of color, how tender a glow human flesh can take on. Cezanne showing us, with what is left out of his paintings as well as what is put in, the wonder of apple and pear shapes; the counterpoint of color and form the rocks and trees of a Provencal landscape can present to the concentrating mind and retina. Monet defining a haystack in the light and dark of time.

The exhibition currently at the National Gallery also includes less familiar examples of post-impressionist technique and imagination. There are names that do not ordinarily ring bells to the ordinary gallery-goer and there are seldom-seen works of the accepted majors. Gauguin's Brittany paintings, for example.

The years between 1880 and 1906 saw a rare flowering in visual art. Painters' understanding of their medium and of sight as a physical and psychic phenomenon was at a peak, but art, not yet dehumanized, still spoke to feelings more immediate than those aroused by abstract beauty.

The National Gallery show, which will be on through September 1, does it justice. What better inducement to go? ●

THE SIGNIFICANCE OF ISRAEL AS A U.S. ALLY IN THE MIDDLE EAST

● Mr. JAVITS. Mr. President, the American Israel Public Affairs Committee held its 21st Annual Policy Conference Dinner in Washington on May 12, and one of the keynote speakers at the dinner, Senator HEINZ, delivered an impressive address on the Middle East which I would like to share with my colleagues. The speech is noteworthy for Senator HEINZ' analysis of the problems we face in the Middle East and the crucial role that Israel plays in policies in the region which give a base for peace and free world values. The text of his address follows:

ADDRESS BY SENATOR HEINZ

I am honored and privileged to be here tonight. It is a high honor to have the chance to visit with you who have meant so much to the understanding and friendship between the United States and Israel. You have done much for Israel. You have had a profound influence on the development of public policy in the United States. You have helped make the world a better and a safer place, and I thank you for this evening's invitation.

I am also deeply privileged to join in paying tribute to Morrie Amitay—the Ayatollah of AIPAC—whose vision and leadership have contributed so much to congressional thinking on foreign policy. When Morrie told me of his plans to leave, my first reaction was—how will we cope without him? In many ways he's become an institution. But his commitment and dedication are such that I am sure that you and I can always count on him when needed.

It would be a fitting farewell gift if, as we meet here tonight, Morrie could report that world and Mideast peace prospects are bright, and that the year ahead is ripe with hope and promise. Unfortunately, this is not the case, and we must view the current world situation with the most profound misgivings and grave concern.

But standing here tonight I don't have to tell you that we face a bad—and still deteriorating—world situation.

SALT is now a four letter word in a dead tongue, as detente based on mutual interests have yielded to an erratic relationship swinging between confrontation and accommodation. Iran is in chaos and the Soviet Union has occupied Afghanistan. The failure to develop a national energy policy has paid handsome dividends to the oil shieks as our economy has veered into both steeply rising unemployment and 20 percent inflation rates. In the Middle East, Lebanon lies destroyed. And the warm embraces of Camp David have been replaced by erratic outbursts from a White House which in foreign affairs, is far more often mocked or ignored than feared or respected.

Earlier this year, there were some hopeful signs that President Carter was learning some lessons, albeit the hard way.

That was when he . . . belatedly . . . learned the truth about Soviet world-wide ambitions and when it looked like he intended to maintain a tough profile in the face of Afghanistan.

I, for one, was willing to give Mr. Carter the benefit of the doubt. I was ready to believe, for example, that he had simply been naive back in 1977 when he wanted to reinvolve the Soviets in the Middle East.

And I was prepared to accept that he had learned not to mis-speak himself any more about the "legitimate rights" of the Palestinians.

I hoped he had discovered that our pledge to rebuild Israel's defenses didn't mean providing offsetting offensive capabilities, such as F-15's to the Saudi Air Force.

And I was willing to believe that the Arabists and underlings at the State Department who thought up the idea of amending UN Resolution 242 last summer had been checked, and their flawed logic exposed, to President Carter by none other than Anwar Sadat.

But then suddenly, on March 1, we realized that everything we had thought and hoped that President Carter had learned from his past mistakes and disasters was an empty mirage. Our faces were rubbed in the hard reality of the UN vote, where, for the first time in 32 years, an American government voted for an Arab-initiated resolution undercutting virtually every Middle East policy principle of our six previous presidents.

Leaving substance entirely aside, one could at least have said that with this vote the Administration was finally coming into the open with its true policies on Jerusalem, settlements and the endorsement of Palestinian rights. And that policy, however, distasteful or misguided it might be, could at least have generated a genuine national debate on the Middle East.

But instead we ended up with a national fiasco.

We have been told at various times that our vote in the UN was all a mistake, a communications mixup; that we objected to the Resolution's references to Jerusalem; that it was a deliberate decision at the highest level reversed only when the growing protests from Israelis and Americans became obvious; that it was Vance's fault, or McHenry's fault, or the President's fault. And finally we saw Secretary Vance telling Congress that Mr. Carter reversed himself not because the references to Jerusalem or dismantling of settlements contradicted U.S. policy, but because they might upset the Egyptian-Israeli autonomy negotiations; that in fact, the vote represented no change in U.S. policy.

Apparently the President is trying to signal the Arabs he's on their side while telling the Israelis he supports them. At this point, one is tempted to wonder whether he thinks the world is populated by fools.

It's bad enough that his administration is now mocked. It is worse that the American people have been left holding a bag empty of credibility and full of failure. And the Arabs haven't been idle. They have successfully grabbed our F-15s, our F-5s, and other American weapons.

The time is long past due to demand some fundamental decisions on the conduct of our policy toward Israel.

Simply put, there are two ways to look at Israel's role in the Middle East. On the one hand, there is the view that Israel is an inconvenient bother, a problem to be overcome to achieve regional stability. On the other hand, there is the view that Israel is the strong foundation on which a stable peace in the Middle East can be built.

According to the former view, we need a strong regional Islamic policeman. That was Iran. Well, with the tragic lesson of Iran before us, we should now understand the error of depending on one person, however royal, to keep a country together and a region at peace. But this lesson still seems unlearned as the administration turns to the rulers of Saudi Arabia as the replacement for the shah.

While we cannot ignore the growing economic and political power of the Arab states, it is at our peril that we blind ourselves to their limitations: political instability, bitter ideological and theological divisions, an implacable hatred of Israel that has not changed since 1948, and leadership that runs the spectrum from "lunatics to dwarves." And that's President Sadat's description, not mine.

What passes for this administration's Mideast plan is deficient, because it ignores the key role of Israel. Israel is the only stable country in the Middle East. It is one of a few that doesn't change its government by assassination. It is a dependable ally; it does not cut and run. It is a democracy; it survives not through oppression, but by the support and commitment of her people. How can our Government persist in the morally repulsive view that Israel is an obstacle to peace and that it must be shunted aside—and even sacrificed if required—to attain some supposedly more valuable end?

There is only one policy that is strategically sound and morally correct. And that is that about the only country in the Middle East which doesn't try to play us off against the Soviets to get aid from both sides should not be two-timed by the government of the United States.

As we meet here tonight, a new Secretary of State starts directing the course of what is still the most resourceful nation on earth. In Ed Muskie, I believe, we have a man of principle and strength, and he begins with the good will of the American people.

There is no doubt that Secretary Muskie has his work cut out for him. He assumes his responsibilities in a world where many oppose both our principles and our interests. He must contain resurgent Soviet ambitions and contend with the Islamic nations' economic power and the potential danger they pose to our interests. His task is not an easy one, but it will be easier if he jettisons the failed and discredited notions that have caused our foreign policy to virtually self-destruct over the last three years.

Now is the time for the new Secretary to reject the doublespeak and doublethink.

It is time for a unified foreign policy, and consistent advice to the President, even if that means a man or two overboard.

Secretary Muskie could do far worse than to insist on a house cleaning even if, as he says, there is only eight months to get things done.

And at the same time, I urge him, and the President, to return to basic commonsense by pursuing a policy based on four fundamental points of principle.

Point number one is to start treating Israel like a friend and not an enemy.

I fear our recent policies—and the pressures they have applied—have ill-served Israel, the United States, and the peace process itself.

Israel is an island of stability in a region characterized by a deterioration of government authority and a growth of Islamic fanaticism. It is basic strategic good sense to maintain this relationship.

Our commitment, however, is also a moral one. It is founded on the historic and biblical right of the Jewish people to the homeland of Israel on our support for the creation of Israel in 1948 and on our two nations' dedication to freedom and democracy.

Those in our government who suggest that Israel should yield up part of herself without solid guarantees lack both a sense of justice and a memory for history. More than that, they cast doubt on the credibility of all our commitments. Because if our friends of more than 30 years cannot count on us, how can anyone else count on us?

President Carter has been proudly proclaiming that no American soldiers have died in combat during his term. We are certainly grateful for that blessing. But in just this 3½ year period millions of innocent people have been killed—in Cambodia, in Laos, in Afghanistan, in Vietnam, in Africa. Where is Carter's or Brzezinski's sense of outrage as the Soviet Union uses the supposedly unthinkable expedient of nerve gas to dispose of those inconvenient Afghanistan freedom fighters? It makes you wonder about our commitment . . . to those who think freedom is worth fighting for. Will we wake up on another day to find the people of Israel sacrificed because they are judged to be inconvenient?

Point No. 2. We should tear up the Brookings plan and generally view master peace plans with great suspicion. Americans are naturally problem solvers; we are happiest when we are finding or inventing solutions to puzzles.

Unfortunately, the most important problems do not come neatly packaged for American unwrapping. Nonetheless, this administration keeps giving in to the temptation of dreaming up nice, neat solutions and then pushing them on the Israelis and the Arabs.

By now we should all see clearly the bitter result of succumbing to this temptation: an imposed solution will never yield a just and lasting peace.

Our pressure tactics are more than just counter-productive. They effectively create a "bottom line" in the negotiating process beyond which the Arabs will not go—and, thanks to us, need not go; and to which the Israelis cannot go, if they are to survive.

Instead we should tear up our clever plans and our scholarly solutions, and go back to the basic principles of the negotiating process itself.

Point number three. We must attack terrorism and reject oil blackmail.

It isn't enough simply to condemn terrorism. We must fight it wherever it occurs with all our resources. And we must understand how our misguided diplomatic efforts can encourage terrorists.

The United States pledged in 1975 that it would not recognize or negotiate with the PLO as long as it refuses to accept UN Resolutions 242 and 338 and refuses to acknowledge Israel's right to exist. Since then we have had numerous "unofficial" contacts with the PLO representatives who tour the United States, lecturing and raising funds here.

Administration policy continually skirts the boundaries of our no-contact promise, raising doubts in Israel and raising misleading hopes in the radical Arab states. The Administration must realize that any negotiation or discussion, or contact with the PLO, helps legitimize them and encourage them. And by doing so discourages or eliminates any hope for the emergence of moderate, independent Palestinian leadership. The terror and murder go on. The criminals do not change. Only the victims are new. Yet there are those who want to make these same people a recognized government. Austria, a supposedly civilized country, has actually recognized the PLO. It is inconceivable that anyone could regard the murders of school children as legitimate rulers of anything.

And one form of terrorism we must also reject once and for all is the economic: the idea that oil will be cheap and plentiful if peace is imposed in the Middle East. To surrender to this siren call will doom our friends and ourselves to a self-fulfilling fear.

Point number four. Instead of surrendering to present fears we should return to basic principles, and the most basic principle is Resolution 242, the rock upon which all negotiations must be based.

"Secure and recognized boundaries" is a phrase we seem to forget these days as some would have us redraw the map of the West Bank in some pre-determined plan. We must reject these schemes by those who would read more into the Camp David agreements than is really there.

What we must do, however, is widen the circle of the peace negotiations. Israel can't widen the circle of peace by itself. Nor can we, if we insist on dealing with the radical, destructive elements in the Arab world.

Instead we must demonstrate the benefits of peace to all who search for a just and lasting settlement.

We could improve the chances of finding peace by encouraging constructive talks between moderate forces, emphasizing relations with established states. And totally shunning any appeasement of self-appointed extra-legal groups that reject everything we stand for. We have followed a constructive path with Egypt, but we have dangerously avoided it with Jordan.

We failed to include King Hussein in the Israeli-Egyptian talks. And we recently compounded our errors by mishandling the announcement of the King's visit to the United States. Once again we embarrassed both King Hussein and ourselves.

If this afternoons' news report is accurate, Hussein has decided to grant nothing less than a right of way to the West Bank for PLO commando terrorists. It is said Hussein did so out of disillusionment with the Camp David accords.

This is, if true, a turn for the worse, an opportunity lost, perhaps shattered beyond repair.

We need no further proof of the consequences of ignoring Hussein by passing him over in favor of the PLO. Will this Administration ever learn it is driving peace out of sight when it legitimizes the illegal and rewards the criminal?

I have said that these four points of principle are the results of the painful lessons of the past 3½ years, and so they are.

But these painful lessons must be faced if we are to profit from them, and if a new chapter is to be written. As we are reminded today, the longer we wait, the greater will be the gap we'll have to bridge, and the more difficult will be the path to world stability and peace.

Secretary Muskie has the new broom and he is not tied to the unhappy record of the past 3½ years. He has the opportunity to put painful learning to practical use.

And tonight I call upon Secretary Muskie to stop the coercion of our friends and the confusion of our allies. I believe our hopes for a better world depend upon it.

Thank you.●

WALTER E. HUFFMAN

● Mr. BAUCUS. Mr. President, during the years I have served in Congress I have made it a practice not to include any material in the Congressional Record that is not strictly official business.

I have chosen to make an exception to this rule out of my respect and admiration for an outstanding man from Big Timber, Mont., Walter Huffman.

Recently, Rocky Mountain College in Billings honored Walter by conferring on him a doctorate of humanities. The following is their tribute to Walter Huffman, which I submit for the Record.

Walter E. Huffman

Walter E. Huffman, your life has been the representation of that ideal hoped for by all colleges of their alumni. A person who has been successful in his profession, an active member of his church, a contributor to the state and region in which he lives, a caring parent, and a loving and thoughtful husband.

You, however, have chosen to move beyond those high standards, and have held your College with the same tender care and concern with which you have held those of us who surround you. You have been an individual with one of the longest tenures as Trustee of those many serving in recent years. Your love of this College has never seemed to know bounds. You are a person who, seeing a need, has moved to fill it. Your almost single-handed renovation of Alden Hall—roofing, windows, insulation, internal repairs—is a model that has others standing in awe. Knowing of the serious illness that you faced, you could not be deterred, and in typical Walt Huffman fashion, moved to raze Montana Hall, thereby giving new insights to the vitality and success of The Second Century.

These contributions are meaningful to this institution. But perhaps of greater significance has been your unswerving commitment to the concept of Peace Study at Rocky Mountain College. Your dedication to this ideal and your simple yet persuasive logic have changed the minds of many who might otherwise have considered the concept to be that of a starry-eyed idealist. The movement toward the goal that you have long pictured is gaining momentum. And when that goal is achieved, there will be one name whose world view made it possible: Walter E. Huffman.

By the authority vested in me by the Board of Trustees of Rocky Mountain College, I hereby confer upon you the degree Doctor of Humanities, with all the rights, privileges, and honors pertaining thereto.●

ON EXPORTING MORALITY

● Mr. CHAFEE. Mr. President, I wish to direct the attention of my colleagues, and of all those who share an interest in expanding U.S. exports, to an essay which appeared on today's New York Times opinion-editorial pages.

The title of the article is "On Exporting Morality" and it was written by Mr. Alexander Perry, Jr, president of the Association of American Chambers of Commerce in Latin America.

Mr. Perry argues that trade is a crucial source of capital and domestic employment. In fact, every $1 billion in exports translates to over 40,000 jobs for Americans. Mr. Perry states that either we compete abroad or pay the price at home. The choice is clear. And he places the burden of leadership squarely on Congress to develop a national export policy and to remove U.S. imposed export disincentives.

The article makes mention of a disincentive which is of grave concern to me, namely the Foreign Corrupt Practices Act of 1977. Mr. Perry writes:

> Regarding exports lost due to the Foreign Corrupt Practices Act of 1977, a United States Government interagency working group on export disincentives, in a draft report prepared last fall, estimated a minimum loss of $1 billion.
>
> As a businessman with 36 years of experience in Latin America, which now buys two-fifths of all United States exports to the developing world, I can attest that we have had precious little success trying to impose our standards on soverign nations. The trade weapon is counterproductive. . . .
>
> We are now reassessing our foreign policy on a number of counts. Let's take a hard look at the trade picture.

Mr. Perry goes on to suggest that some sense be made out of the Foreign Corrupt Practices Act—"the poorly drafted legislation" he writes, "has the restrictive influence of an act whose applicability is capricious."

Mr. President, on May 28, 1980, I introduced legislation designed to make sense out of the Foreign Corrupt Practices Act. My bill, S. 2763 which is sponsored by Senators Garn, Stevenson, Danforth, Heinz, Javits, Dole, Mathias, Bentsen, Hayakawa, Pressler, Schmitt, and Thurmond, seeks to clarify the ambiguities of the act and to provide exporters with guidance on how they can compete to the best of their abilities within the bounds of the law.

I urge all of my colleagues to join me in sponsoring this important legislation, and to seek hearings before the Senate Banking Committee this year. The act deserves a full review as soon as possible, since it is a major cause of lost business and lost jobs.

Mr. President, I ask that the article entitled "On Exporting Morality" by Alexander Perry, Jr. be printed in the Record.

The article follows:

On "Exporting Morality"

(By Alexander Perry, Jr.)

Washington.—The United States no longer can afford the pretension of exporting morality through aid and trade restrictions. We have so lost our competitiveness on the world market that we are faced with the simple choice of trade or fade.

In the fervor of the post-Vietnam period, United States business has been saddled with a crippling variety of trade restrictions designed to enforce the observance of human rights, curb extortion and bribery abroad, protect the environment and effect a host of other single-issue social objectives. The punitive restrictions are applied to bilateral aid, the multinational agencies, investment guarantees, and credits vital for United States exports.

It is impossible to calculate accurately the annual loss of exports and jobs because of the use of trade as a big stick. One estimate in 1978, however, suggested that as much as $5 billion worth of business was stalled by the bureaucratic machinery of the institutionalized post-Vietnam morality. This figure doesn't reflect the trade lost by United States businessmen who decided not to run the gantlet.

With respect to exports lost to human rights restrictions, the most celebrated case occurred two years ago when the Export-Import Bank, because of alleged human rights violations, could not approve a letter of interest to the Allis-Chalmers Company for the sale of $276 million worth of turbines to Argentina. One day after the announcement, Allis-Chalmers was notified that the Government export banks of Japan and Britain would provide comparable financing for their suopliers. At the time, it should be observed, the State Department estimated that $1.25 billion in exports were being withheld because of the human rights situation there.

A less-publicized case involved the Itaipu hydroelectric project between Brazil and Paraguay. Westinghouse and General Electric lost out on the sale of $700 million worth of turbines because Washington attempted to impose its viewpoint on human rights and Brazil's nuclear energy program.

A recent General Accounting Office report noted that "Eximbank financing is intended to help facilitate U.S. exports but legislation also makes Eximbank financing a foreign policy instrument." In its survey of United States firms it found that eligibility restrictions on official funding "are significant deterrents to United States exports."

Regarding exports lost due to the Foreign Corrupt Practices Act of 1977, a United States Government interagency working group on export disincentives, in a draft report prepared last fall, estimated a minimum loss of $1 billion.

As a businessman with 36 years of experience in Latin America, which now buys two-fifths of all United States exports to the developing world, I can attest that we have had precious little success trying to impose our standards on sovereign nations. The trade weapon is counterproductive.

We are now reassessing our foreign policy on a number of counts. Let's take a hard look at the trade picture.

In the last decade, the United States imported approximately $82 billion more in merchandise than it exported. We cannot blame oil imports alone. Oil-poor West Germany and Japan manage acceptable trade balances.

The United States' share of world exports has shrunk from 21 percent in 1957 to 12 percent in 1979—and the decline continues. In this period, West Germany, whose population is a third that of the United States, became the world's leader of total exports in 1978. Now Japan threatens to surpass us.

We must reverse this dangerous decline in Latin America where we have always enjoyed a positive balance of merchandise trade.

The Latin American gross national product is $430 billion annually and is growing impressively. Mexico, for example, may become our most important individual trading partner. American republics share historic trade patterns, social values and business practices.

We businessmen want to compete on an equal basis with other world exporters. We believe, therefore, that the Administration and Congress should take the following steps:

Remove the post-Vietnam restrictions on the operations of the Export-Import Bank, the Overseas Private Investment Corporation, and the international lending institutions;

Intensify its efforts to assist United States exporters, especially small and medium-sized, in developing markets in Latin America;

Make sense out of the Foreign Corrupt Practices Act—the poorly drafted legislation has the restrictive influence of an act whose applicability is capricious;

Update the archaic antitrust laws that prevent United States businessmen from participating in the same kind of joint ventures and consortiums that all major competitors employ.

Finally, we businessmen reject and resent any implication that we don't share common-sense concerns about human rights, the environment, bribery and the rest.

But as international businessmen, we do know the sharp limits to imposing ethnocentric political fashions on other peoples through the medium of commerce.

Trade is a crucial source of capital and domestic employment. Either we compete abroad or pay the price at home.●

SUPPORT FOR THE RECOMMENDATIONS OF THE JOINT ECONOMIC COMMITTEE OF CONGRESS

● Mr. CRANSTON. Mr. President, I wish to call attention to the excellent work being done by the Joint Economic Committee of Congress. Under the leadership of our distinguished colleague from Texas (Mr. Bentsen) the committee has developed powerful bipartisan support for sound economic policies which will benefit the entire Nation.

Recently, the Los Angeles Times in an editorial recognized the fine work of the Joint Committee and urged thoughtful consideration of the recommendations contained in the Joint Committee's annual report.

The editorial observed:

> The Joint Economic Committee warns that there is no quick way to solve the country's problems and that, indeed, any attempt to take shortcuts will only make matters worse. What the Committee recommends is putting monetary policy and the budget and tax policy on the path of slow, steady growth and leaving it there rather than changing direction with every new report on unemployment and prices.

I agree with the wisdom of that observation and I ask that the full text of the editorial appearing in the Los Angeles Times of April 28 be printed at the conclusion of my remarks.

The editorial follows:

Up, Up, Up

The cost of living is going up in America like a loose balloon. Recession and unemployment, the economic ropes of last resort, will pull down inflation eventually—and temporarily—but it will remain painfully high for a long time, perhaps years.

Because there is no quick cure for the predicament now shared by most industrial countries, common sense suggests that business and government and labor would be using that time to find a slow cure.

No such luck. They are crawling all over one another, trying to lay hands on this or that lever of power as though the economy were some ram-shackle machine that runs on high-octane doctrine.

From Democrats, you get a choice of wage-price controls and trade barriers or riding out the storm and being a better person. Ronald Reagan would put out the fire with gasoline—a 30 percent tax cut. Business moves in for a quick killing in the federal-regulation market, laying all the blame on government, disclaiming any responsibility for the mess. The answers seldom have anything in common with the real questions.

There are exceptions, one being the Joint Economic Committee of Congress, whose recent annual report contains some thoughtful ways out of inflation and recession that have largely been ignored in the election-year search for easy answers.

The committee does not dwell on the past, but there is no mystery about the causes of inflation. Rising energy costs are part of it, as is the good life. The price of a Chevrolet has more than doubled in two decades, not because it gets you there twice as fast but because it is safer, cleaner, fancier and air-conditioned, and because its workers get better health care and bigger pensions.

In some cases, as in housing, demand simply outran supply and drove prices sky-high. The government did its share, running in the red for 19 of the last 20 years until it was borrowing nearly one of every four dollars available in credit markets.

And, in all this, business either forgot how to compete or lost interest at the very time that growing industries in other countries made it possible for Americans to shop in a world market, no longer dominated by their own companies.

The United States is still the world's top exporter, but just barely. And in exports per capita, it is at the bottom of the list of 15 countries, including Sweden, Italy and Taiwan.

Finally, America let its industrial base wear down during most of the 1960s and all of the 1970s to the point where productivity not only stopped growing but actually fell, and where higher levels of production could be achieved only at higher costs.

The Joint Economic Committee warns that there is no quick way to solve the country's problems and that, indeed, any attempt to take shortcuts will only make matters worse.

What the committee recommends is putting monetary policy and the budget and tax policy on the path of slow, steady growth and leaving it there rather than changing direction with every new report on unemployment and prices.

The rate of growth of the money supply should be slowed down, but gradually. The budget should be balanced. Federal regulations should be trimmed to fit the problems more precisely, but not abandoned. Taxes should be cut enough to help consumers meet rising costs but not enough to touch off a spending spree. Business taxes should be cut to free up money to rebuild plants and buy more modern equipment, but not willy-nilly.

A recession, the committee says, may take some pressure off prices, but will not break inflation. Unemployment would have to remain at near-depression levels between now and 1985 to shave a mere 2 percent from an inflation rate now running at 18 percent a year.

Unless something is done in that time to make American industry more efficient, the inflation rate would start back up the minute the demand for goods began to rise again.

The committee does not have all the answers. It says, for example, that business tax relief should be selective so that new capital would go to companies with the highest potential for increased efficiency.

Extra cash rolling into Detroit three years ago, for example, probably would have been spent producing double-decked land-cruisers, which is not what the country needs.

But the committee does not describe the mechanism that might be used for picking and choosing among companies. That is the part of the slow cure that government and business and labor should be searching for.

And that cannot happen as long as they keep fighting each other for control of the machinery, and keep trying to persuade Americans that they have some quick cure.●

JOHN H. "JACK" COLBY

● Mr. DURKIN. Mr. President, job specialization seems to be a trend in the modern work ethic. People are taught to master one particular aspect of a profession—rather than having a broad understanding of the entire process he or she is involved in. For that reason it is refreshing to look back over the career of John H. "Jack" Colby, who knew his business from top to bottom and start to finish.

Jack Colby recently concluded a 40-year newspaper career with the Littleton, N.H., Courier, where he was the editor. In the early days Jack sold advertising, covered his beats, wrote stories, and even supervised the placing of the old hot type before the paper converted to offset. Jack has been a leader in Littleton for a long while, serving in various official and unofficial capacities. To Jack Colby the welfare of Littleton and its citizens is his paramount concern.

Jack Colby began with the Courier in 1940 and since then has faithfully reported the news of the North Country. He made the Courier an important part of that community and I am sure his successor, Mr. James Bruney, will continue in that tradition. I want to take this opportunity to wish both of them the best of luck.

I ask that the articles which appeared in the Littleton Courier be printed in the RECORD.

The articles follow:

40 YEARS OF HARD WORK

Last week marked the final issue of The Courier in which John H. "Jack" Colby served as Editor. For 40 years he has had a daily diet of searching out happenings in the North Country.

In 1940 when Jack assumed the reins of this newspaper, the nation was still in "The Great Depression." The ethic of the days was to find steady employment, stick with it, work hard and do your best. Jack has been true to that ethic.

Not only was he the Editor, but he sold all the advertising for a number of years and personally supervised the placing of every line of type which went into print. He listened to complaints and did all within his power to see that any error was corrected.

When there was a local promotion, Jack was the first contacted and The Courier would give it its best shot. Not only did he publicize events—he also took an active part personally in countless enterprises. He served as the first president of the newly-revived Littleton High School Alumni Association, faithfully contributed to the Littleton Rotary Club, and served on various committees to promote education and business in the community.

His deep sense for fairness is well-known. Those of us on the staff knew his pain if someone was inadvertently overlooked in a story. He felt that to get as many names in a story and as many faces in a photo was a virtue. He personified the traditional approach to smalltown journalism.

He endured the complexities of changing from hot type printing to the photo offset method the newspaper adopted six years ago. We suspect like so many other Editors of that vintage, the romance went out of the job when the Linotypes and letterpress passed from the scene.

With the retirement of Jack Colby, concepts of producing The Courier will no doubt change. The newspaper will have a new personality, but we hope with the changes there will be a continued priority on the ethics Jack Colby valued.

Like the Apostle Paul, Editor Jack Colby "has kept the faith and fought a good fight." He has been a valued and honorable man to the communities served by The Courier.

JAMES BRUNEY SUCCEEDS JACK COLBY AS EDITOR OF LITTLETON COURIER

LITTLETON.—James Bruney, 39, of Chillicothe, Ohio, has accepted the offer by Publisher Douglas Garfield of the Editorship of The Littleton Courier, replacing John H. Colby, who retired last week after flying the Editor's desk since a year before Bruney was born. Bruney will assume his new duties at an as-yet-undetermined date after he has settled his affairs in Ohio and moved himself and his family to Littleton.

In announcing the appointment, Garfield stated, "We feel very fortunate in getting a man with such a strong newspaper background." Bruney has served as news editor of the Chillicothe Gazette, a daily newspaper, for the past 10 years. Prior to that time he served as news editor for the Spectator Newspapers in Columbus and managing editor of the Marysville (Ohio) Journal-Tribune.

Bruney will put his extensive experience directing news staffs and his reporting and editorial skills to work at The Courier. His honors include awards from the National Newspaper Association and the Ohio Associated Press.

Bruney graduated from Ohio University after attending Lancaster public schools. He earned a Key Man award in 1968 from the Marysville Jaycees. He chaired the Statehood Day event for the Chillicothe Kiwanis Club in 1971–72 and organized the first statehood muzzle-loader shoot, still an annual event. He handled publicity for the Scioto Society and was a member of the Board of Trustees during the first years of its "Tecumseh" dramatic presentations.

Bruney, his wife Suzanne, and four children, Annetta, 16, Karin, 13, Jennifer, 8, and James Jr., 4, are arranging the sale of their home in Chillicothe. They plan to settle in Littleton at a future unspecified date.

Publisher Garfield has appointed Tom Golden acting editor in the interim.●

UNIVERSITY OF ARIZONA WILDCATS

● Mr. DECONCINI. Mr. President, last Friday, June 6, I had the distinct pleasure and thrill of hearing the results of the final game of the 1980 college world series—the National Collegiate Athletic Association's national baseball championship. As I am sure most of the Senate is by now aware, the Arizona Wildcats held off repeated challenges to defeat the Rainbow Warriors of the University of Hawaii 5 to 3, thus earning their second national championship in 5 years.

A number of my staff members, as well as myself, are graduates of the University of Arizona, so it is a matter of tremendous pride to us to see this championship. The Wildcats, who are coached by former major leaguer Jerry Kindall, faced tremendous odds all year long and, in fact, won several games in the world series by coming from behind. After losing their opening game in the series to St. John's University of New York, the Wildcats were forced to win all their remaining games to avoid elimination. Needless to say, in light of the close scores and come-from-behind victories, a great deal of tension existed among baseball fans in the Tucson area last week. We are breathing easier now.

Mr. President, it is a matter of record that my home State is, per capita, one of the country's most prolific States in terms of perpetuating the summer game. Although we cannot lay claim to having a major league franchise, virtually every other level of organized baseball is represented magnificently. Tucson and Phoenix both boast of successful Pacific Coast League (triple A) franchises; Arizona and Arizona State Universities are perennial powerhouses in the NCAA; Grand Canyon College, a Baptist school in Phoenix, earned the National Association of Intercollegiate Athletics championship a few days before the college world series was completed; the Arizona Community College Athletic Conference, a network of 10 junior colleges throughout the State, is widely feared nationally and has produced several national champs; the semipro, or "sandlot" teams of Arizona, are always a threat to win national tournaments; and high schools from throughout the State are a virtual breeding ground for future professional ballplayers. Of course, the eyes of baseball fans everywhere are on Arizona in February and March of each year as several major league teams play in the spring training Cactus League.

No doubt part of our success in baseball can be attributed to the warm desert climate, which provides a lengthy playing season. But even in light of that, I am sure my colleagues will agree that Arizona teams are more successful than simple coincidence would warrant.

The University of Arizona's championship season this year saw them win 45 games, lose 21 and tie 1. Twenty-one losses, it could be argued, is a substantial number; but when one considers that the Southern Division of the Pacific 10 Conference, which is where Arizona and Arizona State play, arguably contains 6 of the Nation's top 20 teams in any given year, it is hardly surprising that a team will sustain a few losses.

Indeed, the Wildcats annually play one of the Nation's toughest schedules, including not only the Pac–10 teams but also the cream of the crop of other southern California schools—one of which, California State University at Fullerton, was the 1979 national champ.

Judging by our past record, Mr. President, I feel it is safe to predict that several members of the current Arizona baseball team will ultimately play major league baseball. Arizona's last national championship team, the 1976 team, produced two players who are currently starting for American League teams: Dave Stegman, an outfielder with the Detroit Tigers, and Ron Hassey, a catcher for the Cleveland Indians. A few days before the Wildcats claimed this year's championship, Terry Francona, their All-America leftfielder, was drafted in the first round by the Montreal Expos of the National League. He later was named outstanding player in the college world series, and made the all-tournament team, along with three other Arizona players: first baseman Wes Clements and pitchers Craig Lefferts and Greg Bargar.

I am extremely proud of these young men and the rest of the 1980 University of Arizona baseball team. Mr. President, I thank the Senate for allowing me this opportunity to commend them.●

THE ENERGY PROBLEMS OF NEW ENGLAND

● Mr. DURKIN. Mr. President, I would like to call the attention of my colleagues to an exceptionally perceptive series of articles by Gary McMillan of the Boston Globe. Mr. McMillan has critically and concisely analyzed the unique problems faced by New England in solving our energy crisis.

For over 4 years, I have fought in the Senate for a Federal energy policy that is fair to the people of New Hampshire and New England. I have spoken of our region's costly and dangerous dependence on imported oil. I have fought to build a balanced transportation system to relieve our need to drive long distances to work, stores, and schools. I have introduced a variety of financial incentives promoting alternative energy resources to help lower the skyrocketing cost of energy and curb our double-digit, energy-induced inflation.

We are fighting an uphill battle. Heating oil is over a dollar a gallon and gasoline is rapidly approaching $1.50. The major multinational oil companies are reporting outrageous profits unfairly earned at the expense of hard-pressed, hard-working consumers. The Department of Energy continues its bureaucratic bungling, hindering rather than helping efforts to solve our energy problems. Just recently the General Accounting Office reported that the Department of Energy has actually slowed the development of hydroelectric and solar power.

Congress and the administration must be made to realize the gravity of the crisis we face. Gary McMillan adopts social critic Lewis Mumford's comments about the technology age to describe our energy ignorance—

> Like a drunken engineer on a streamlined train plunging through the darkness at a hundred miles an hour, we have been going past the danger signals without realizing that our speed only increases the danger and will make more fatal the crash.

I believe that we all could learn from Mr. McMillan's articles and I ask that they be printed in the RECORD.

The articles follow:

CAN NEW ENGLAND SOLVE ITS UNIQUE ENERGY PROBLEMS?

(By Gary McMillan)

New England, of all the regions in the nation, suffers most from the energy dilemma.

The region relies on oil for 79 percent of its total energy—almost twice as much as the national average.

Almost 99 percent of New England's energy is imported in one form or another—about three times as much as the national average.

Because we import more, we pay more.

New England's energy tab is 40 percent more than the rest of the nation. In 1979, New England paid an $18 billion energy bill, about $4,390 for every household in the six States. The annual median income in the region is just barely above $10,000.

The region is at the tail end of the supply line for virtually every fuel. For instance, 60 cents of every dollar we pay for natural gas is for pipeline transmission costs. And a nickel of every dollar shelled out for gasoline goes to pay the freight.

Fuel shortages are more acute in New England because we are isolated and dependent. We are susceptible to everything from oil embargoes to frozen harbors.

New England's energy picture is unique and grim, but, perhaps, not hopeless.

New Englanders have just weathered the second supply and price storm in six years. Now, while supplies are at least temporarily adequate and prices relatively stable—while we are between crises—we can step back and take stock, assess the damage and look to the future.

The intent of this New England energy assessment and subsequent articles is to present a comprehensive inventory of the region's energy deficits and resources. It is an effort to help readers better understand, interpret and act on the flow of energy news from OPEC nations, from Washington, from industry and from around the region.

What this assessment shows is that we are highly vulnerable to events beyond our control. But it also shows that our vulnerability is the result of decisions which we, at least tacitly, approved. It indicates, as well, that New England can now affect its own future, that there are indigenous energy supplies we can use to reduce—but not eliminate—our dependence on oil, and that in a direct and personal way we can husband what we do have and, perhaps, improve the quality of our lives in the process.

It all begins with a greasy combustible substance that we are taking out of the ground one billion times faster than it was put in—oil.

Until the massive East Texas oil fields were found after World War I, coal was king, itself usurping wood in the 1930s as the prime energy source in New England. Through the 1930s, coal heated more than half of New England's homes, wood 40 percent.

But those new oil fields made petroleum cheaper than either wood or coal. It was cleaner and didn't require the backbreaking chore of shoveling it into the furnace three times a day. When the first big East Coast refineries were built during World War II, the transition to oil was completed.

Once oil got into the home, it was only a matter of time before it took over in other areas. Here's why:

Our energy is used mainly at home.

New England is cold. Only North and South Dakota have worse winters on the average than we do. To heat our homes in these winters takes a lot of energy. Utilities are the biggest users and biggest producers of energy. Add the energy needed to light our homes and run the toaster to the direct fuel we burn for heat and hot water and that is almost 50 percent of New England's total energy consumption. And more than 80 percent of all that home energy comes from oil.

The fuel we use in our cars and trucks and buses accounts for 28 percent of our total energy use. Some of that indeed goes to mass transit, but a recent report prepared for the Massachusetts Legislature's Energy Development Caucus shows that a Cadillac gets better mileage per passenger mile than the MBTA.

Business and industry in New England use less energy than their counterparts in the rest of the nation but it still accounts for 32 percent of the total. Again, oil accounts for more than 76 percent of the energy used by New England industry.

Once oil got its foot in the door, nothing could keep the whole body from lurching in.

In 1960, New England burned some 263 million barrels of oil. By 1972, consumption had ballooned to 438 million barrels. Even in 1978, the last year for which complete numbers are available, New England used more than 418 million barrels.

There are 42 gallons in each barrel, so New England's annual consumption works out to 17.5 billion gallons a year. That's enough to fill Walden Pond 23 times.

Low-cost residual fuel kept electricity cheap. The last utilities switched from coal to oil in the 1960s, and coal use fell from 5.7 million tons a year in 1960 to less than 1 million tons a year, equivalent to 7.6 million barrels of oil.

The seven nuclear power plants in New England provide 32 percent of all the electricity in the region, almost three times the percentage for the nation as a whole. Because New England is far away from domestic coal, oil or natural gas sources, it is one of the few places in the nation where nuclear-produced electricity is competitive with oil or gas-generated power.

There may be no clearer example of the energy dilemma than the problems of nuclear power: With it, we spend billions for the plants with potentially deadly results, and without it we spend billions for the oil or coal to replace it and commit ourselves to depending even more on fossil fuel.

The world's first hydroelectric dam was built on the Connecticut River in the 1880s, and New England never entirely abandoned hydro power. Six percent of New England's electricity comes from water, but that is only half of the national average. Overall, hydro power equals just one percent of New England's total energy use, compared with about 5 percent for the rest of the country.

Natural gas was never a major factor. There are just four pipelines serving New England and only Boston, of all the region's towns and cities, has more homes heated by gas than oil. In 1960, New England used 120.8 billion cubic feet of natural gas. That grew to 260 billion cubic feet by 1972. But as late as 1978 New England used only 262 billion cubic feet of gas, the equivalent of 46.2 million barrels of oil.

Last year's oil price explosion made natural gas a better bargain because almost all of it is still domestically produced and under some kind of price controls. The kicker is that price controls on gas end in 1985, and many experts believe the price explosion then will make 1979's oil increases look puny by comparison.

For 30 years, wood has been little more than a fireplace beauty. Even the Maine pulp mills found oil cheaper to burn than their own sawdust. Until 1977, wood consumption was so minimal no one even kept track of how much was burned. But the latest surveys show that in the winter of 1978–79 New Englanders burned 2.8 million cords of wood in their homes alone, equivalent to some 8 million barrels of oil.

Coal is even less of a factor. In 1978, New England factories and utilities burned 912,000 tons of coal, compared to the 623 million tons burned in the US overall. More New England utilities are converting from oil but, despite the conversions, the majority of generators will still run on petroleum.

This dependence on oil has been more insidious than statistics indicate.

Former state energy director Henry Lee recalls attending a seminar in 1972 with some energy economists on how much could be charged for oil produced from Georges Bank.

"There was a debate on whether it could bring as much as $6 a barrel," Lee remembered. "They all agreed it was absolutely ridiculous, the price would never get that high." Eight years later, the price of oil had increased 500 percent over even that "ridiculous" figure.

"We developed an entire economy and capital infrastructure based on cheap energy," said Lee, who is now with Harvard's energy center. "Buildings were built with the feeling that energy was cheap and didn't have to be insulated. Our whole transportation pattern was built on cheap energy, and our economic structure went with that, shopping centers, drive-in movies."

Between 1960 and 1972, while American oil was cheap, the percentage of this region's total energy that came from oil grew from 74 percent to 82 percent. The decisions made during that period are coming back to haunt us now.

In 1959, President Eisenhower began what came to be known among energy experts as the "Drain America First" program. In the interest of national security and at the behest of oil companies worried about competition from newly-tapped Middle Eastern oil fields, Ike imposed an oil import quota. That killed the last three New England refineries, in Maine, Everett and Providence, all of which had processed imported oil. No crude, no business.

Had that quota been upheld, the resulting cutbacks of oil supplies might have turned out to be a boon in the long run, forcing New England to find alternate sources while it still had the time and the money.

But, in 1965, President Lyndon Johnson lifted the quota for residual oil—the heavy grade fuel used mainly by utilities to generate electricity—and the floodgates opened. The same companies that had pleaded for the quota had already gotten around it by building refineries in the Caribbean, where they manufactured dirt-cheap residual fuel from foreign fields.

1978 ENERGY CONSUMPTION IN NEW ENGLAND

State	In million barrels				Natural gas (billion cubic feet)	Coal (tons)	Electricity consumed (billion kilowatt-hours)	Wood (cords)
	Gasoline	Distillate	Residual	Other oils				
Massachusetts	58.7	57.4	72.2	18.4	160.5	75,000	28.8	963,000
Connecticut	34.1	23.1	36.3	6.3	65.1	18,000	20.9	714,000
New Hampshire	10.8	8.2	5.4	4.1	7.9	791,000	5.8	367,000
Maine	13.9	13.3	11.4	5.5	2.1	18,000	8.7	575,000
Rhode Island	9.4	7.6	4.1	2.7	23.1	4,000	4.9	108,000
Vermont	6.4	5.1	1.1	1.8	4.4	6,000	3.8	262,000
New England, total	133.3	114.7	130.5	38.8	262.7	912,000	72.9	2,900,000
Equivalent in barrels of oil (millions)					46.2	3.5	[1] 127.3	5
Percent of total	28.2	24.3	27.6	8.2	9.7	0.74		1.05

[1] Total amount in oil equivalent of residual fuel, coal, hydroelectric and nuclear power used to produce this much electricity. Percent of total for residual fuel and coal includes utility use for electricity.

LEGEND

Distillate is primarily home heating oil.
Residual is heavy oil used by utilities and industries.
Other oils include jet fuel, kerosene, propane and others.
Oil is given in millions of barrels (mb) at 42 gal per barrel.
Natural Gas is given in billions of cubic feet (bcf).
Coal is given in tons (t).
Electricity is given in billions of kilowatt-hours (bkwh).
Wood is given in cords (cds) which is a stack of wood 8-ft long, 4-ft high and 4-ft wide.
Percentages may not total 100 percent due to rounding.

Sources: U.S. Department of Energy, Massachusetts Office of Energy Resources.

"Once, 20 years ago, we had decentralized sources," said Bruce Carlson of Connecticut's energy office. "We had water and wood and coal. But with oil, it all became much more centralized. Oil became our primary fuel."

The last quotas on all foreign petroleum products were removed in the early '70s—at about the same time Americans were insulated from the real cost of oil by the first round of price controls.

And so in 1972 no one really noticed or cared that New England depended on oil for 84 percent of its energy. And 75 percent of that oil was imported.

After all, prices were stable and supply was virtually unending. Harold Keohane, current director of the U.S. Department of Energy's Boston office, points out that "no one could conceive of what could happen and what did happen. This just looked like it would go on forever."

In 1973 the era of cheap, abundant oil ended abruptly.

The Organization of Petroleum Exporting Countries (OPEC), begun in 1961 but, experts agree, generally an agent of the international oil companies, declared its independence.

In one year, heating oil went from 18 cents to 35 cents a gallon. In 1977, it hit 47 cents; 50 cents in 1978. Gasoline began 1972 at about 35 cents a gallon and hit 58 cents in 1975.

The shock apparently had a reverse effect on consumers. Consumption rose. Inflation and price controls allowed Americans to adjust easily to the price increases of 1973. In 1977, President Jimmy Carter declared the "moral equivalent of war" on the energy dilemma and was laughed at because the acronym spelled MEOW. So, in 1979, OPEC flexed its muscles again and the punch knocked our socks off.

Heating oil began 1979 at 53 cents a gallon on the average in New England. By June, it was 69 cents, more than 90 cents by the end of the year. It broke the dollar a gallon barrier in January and is continuing upward at the average rate of a penny or more a month. Gasoline started 1979 at about 69 cents a gallon. Last week in Boston, some brands of unleaded gasoline sold for $1.30 a gallon.

Electricity, which cost 2.59 cents a kilowatt hour in 1972, is now pushing five cents per kilowatt hour. Even the cost of natural gas has risen 60 percent in those same years.

In 1973, the average New England family heating with oil paid $307 a year for its fuel. It's pushing $1200 a year now.

For homeowners, the 1973 shock did begin the conservation process that accelerated vividly this winter. Heating oil sales to residential and commercial users dropped from 109.6 million barrels in 1972 to 104.73 million barrels in 1977. The 1979–80 winter burn in New England is expected to be below 90 million barrels when the final statistics are tabulated later this year.

The impact of last summer's gasoline lines also are being felt. Gasoline consumption in New England has dropped 8.8 percent since last year, even accounting for a surge in use before the lines hit in the spring of 1979.

That conservation—and, as industry statistics show, a deliberate attempt by oil companies to stockpile heating fuel and gasoline—will likely eliminate the possibilities of shortages this year.

But energy economists say there is absolutely no chance prices will drop significantly. There has been a moderate decrease in the cost of residual fuel and gasoline prices are now stable. But few people in industry or government doubt that the curve will soon begin a new climb.

Most economists believe that in the long run—and these days the long run is measured in months because of periodic and unpredictable price increases—prices may stay just below the rate of inflation.

Under President Carter's program to remove price controls from US-produced oil, domestic oil will be pegged to the price of OPEC oil. OPEC ministers have said they may peg their oil to the rate of American inflation. If those policies hold, consumers will be locked into a spiraling feedback loop which neither the federal government nor OPEC will interrupt.

The effects on the region's economy are clear.

The New England Regional Commission estimated last year that unemployment in New England could rise to 7 percent or more as a direct result of oil prices, and the constant outflow of energy dollars may further weaken New England's precarious economy.

Rising oil prices also took a mighty chop out of our wages, money that might otherwise be spent on goods and services that help propel our overall economy.

"It's an ironic situation. When people had the money to insulate their houses, they bought fuel instead because it was cheaper." said Bill Ferguson, deputy director of the Rhode Island energy office. "Now, when they really need to insulate, they don't have the disposable income to do it because it's all going to fuel."

And there are those who can barely pay for the fuel at all. Some 572.000 households in New England—more than 13 percent of the population—are eligible for some form of government fuel aid.

This merry-go-round cannot continue forever.

New England, of all the nation the first and hardest hit by the energy dilemma, has the sole advantage of making the transition first.

It is more than a mere technological fix—synthetic fuels, for instance, to replace fossil fuels—because New England has little enough of either. And it is something more than what we do have—renewable resources, such as wood and water and sun. It is, the energy futurists believe, all that, plus our ability to change direction and remold our society and lifestyles to accommodate a new energy mix.

It is how we develop that new mix and pay for it that sits at the heart of our energy dilemma.

NEW ENGLAND ENERGY MIX CRUCIAL

(By Gary McMillan)

Once there were the wind and the wood, the sea and the sun.

The New England forest spread from Coventry to Lake Memphremagog, warmed and powered a burgeoning people and their commerce. Rivers were sluiced through dams to power the waterwheels and spin the looms. The wind churned across the lands and onto the sea to propel the three-masters in the search for the energies of whales.

And above it all, the primal energy of the sun.

It is still there.

Waiting.

They are New England's renewable energy resources—far more ample than oil or natural gas and the best ultimate escape from the cycle of crises caused by our overdependence on once-cheap fossil fuels.

The key to solving the energy dilemma is to place the renewables in a proper mix without swapping one addition for another.

That mix also implies a shift from thinking only in terms of a centralized national energy system to thinking in terms of regionalized energy systems which make best use of indigenous resources.

New England cannot ever entirely divorce itself from the global energy system. But what the region needs, many experts agree, is to begin to supplement imported energy supplies with its own locally available, alternative energy resources. The elements for a logical transition from the one system to the decentralized age of renewables include:

Conservation. New England now depends on oil for 79 percent of its energy supply. The New England Regional Commission's energy task force estimates that even by 2000 oil will still provide 52 percent of our total energy. The task is to stretch that supply until other options are developed.

Biomass. In New England, energy grows on trees. We have more wood than any other region in the nation. Biomass is also trash and peat and even chicken manure. The New England Energy Congress estimates that by 2000 New England could tap biomass for the equivalent of 142 million barrels of oil a year. That would reduce our current 418-million-barrels-a-year oil consumption by a third.

Water. There are 9605 potential hydro dams already in place along New England rivers, more than 300 functioning now. Maine's Cobscook Bay is one of two places in the United States where tides are strong enough to run electric generators. The ocean itself can provide inexhaustible hydrogen fuel if the process is ever developed commercially.

Wind. The average annual wind speed in New England is 18 miles per hour. Other regions have stronger gusts, but New England's breezes are more consistent. That is the key to making electricity from wind.

Solar. The ultimate pie in the sky is the sun. If somehow New England could tap all the sunlight that falls on it we would have 260 times more energy than we use now.

Fossil fuel sources. There may be some oil and, perhaps, much more natural gas under the waters of Georges Bank off the Massachusetts coast. There is the hint of natural gas pools in some areas of the Berkshires. There is coal in the Narragansett Basin of southern Massachusetts and northern Rhode Island.

Nuclear. There are seven operating nuclear reactors in New England—three in Connecticut, two in Massachusetts, one each in Maine and Vermont. Two more are under construction in New Hampshire, one more in Connecticut. The operating reactors now provide 32 percent of the region's electricity, compared with 12 percent for the nation as a whole.

But there are no panaceas. The numbers and predictions made here, while based on the best studies available, are in some cases little more than good guesses. Moreover, as the authors of Harvard's influential Energy Future, Robert Stobaugh and Daniel Yergin, point out: "So intense and heated has the debate been that it led participants to make exaggerated statements that have discredited their various positions."

Still, as Harold Keohane, director of the US Department of Energy's New England office in Boston, notes:

"What we do have and what we must do is take everything we do have here, whatever resources we do have here and develop them. The days of going way out front with coal, oil, nuclear are gone. The lesson we should have learned from all three instances is not to ride one hope."

Right now, New England's energy mix looks like a pie with five slices. Oil is the biggest slice. It provides 79 percent of our total energy. Nuclear power accounts for 10 percent, natural gas 9 percent and coal and hydro about 1 percent each.

"The key in this transition," said Robert Keating, the commission's energy task force director, "is to not only drop the size of the slice, but to cut the whole pie down to size."

The first way to do that, almost everyone agrees, is conservation.

"I assume conservation before anything else," said Vermont's Ron Allbeecq, echoing energy office directors in all the New England states.

New England already has a good record. From 1973 to 1977, while the rest of the nation increased its energy use by 2.5 percent, New England dropped by 3.9 percent. In the aftershock of 1979, New England drivers cut gasoline use by almost 6.8 percent and homeowners—reacting to even more than just a mild winter—reduced their heating oil consumption by some 10 percent.

In fact, if all of New England's 4.2 million housing units were fully insulated, the region's annual average heating bill would be cut by 40 percent. With a major conservation effort, New England industries and commercial establishments could cut their energy bills by 20 to 30 percent.

As another plus, that kind of full-scale multibillion dollar conservation investment by government or private sources could create up to 50,000 jobs by 1985.

But like the old saw about the farmer who conserved his horse's hay until the day the horse died, conservation can carry us just so far.

What, then, of New England's own energy resources?

The federal government now estimates there may be as much as 2.5 billion barrels of oil and 13.2 trillion feet of natural gas under Georges Bank, those fish-rich waters off the Massachusetts coast.

But all that oil would take care of the nation's needs for just five months. The natural gas could supply New England itself for 45 years. Moreover drilling has not yet begun and opponents are continuing a law suit to prevent it.

In any case, if it was a singular reliance on oil that got us into this trap, it may not seem logical that adding just a little more will get us out.

Of coal, the chances seem to be even slimmer. The Narragansett Basin has been explored since the 1840s and never developed commercially because, say experts, the veins are not thick enough for large scale mining. If it could be mined, all the coal there would supply merely the equivalent of 310 million barrels of oil. New England used that much in the first nine months of 1979.

Realistically, of the energy resources already in New England, the two best bets for the intermediate term seem to be wood and water.

Eighty percent of New England, more than 36 million acres, is forested. Obviously, we can't burn it all for energy. If we did New England would be a desert in 12 years—if we hadn't all died of air pollution or been burned to death in house fires.

If properly harvested, however, wood could provide as much as 14 percent of New England's annual energy needs.

The 300 hydroelectric dams already operating provide about 6 percent of the region's electricity. Several more are under reconstruction. Some studies estimate that as many as 6,000 dams could be developed to produce enough electricity to save some 40 million barrels of oil a year, about 10 percent of the petroleum we use now.

Unlike virtually every other energy resource, almost all the technological difficulties of hydro-electric power are solved and no new dams need be built. However, reconstructing the existing dams would cost billions of dollars.

After those two best bets are such renewables as solid waste, wind, tidal power, exotics such as hydrogen fuel and, of course, the sun.

We produce lots of trash in New England, 49 million pounds of refuse and solid trash every day. Most of it is buried somewhere or burned in open air. We waste waste.

If all that trash could be burned in a way to run electrical generators or produce steam heat or make methane gas, New England could save 13 million barrels of oil a year, about 3 percent of our current consumption. There are a few trash generators working now and more are in the works.

The tidal power along Maine's coast—if tapped for electricity—could displace 13.7 million barrels of oil a year.

The wind industry in the United States began about 1850 and was becalmed a century later with the advent of cheap oil. Large-scale wind machines face problems of sitting, machine size, wind speed and direction, and storage for calm days.

There are experimental large scale wind machines planned for Rhode Island's Block Island and Cuttyhunk Island off Cape Cod. A few small windmills have begun to dot the hills in western Massachusetts.

The technique is so little developed, however, that few have dared to predict how much wind power could add to the region's energy mix. One study estimates wind could provide 3 percent of electrical demand by 2000.

"Exotics" such as fuel cells and hydrogen fuel drawn from sea water are far less fantastic now than they were just five years ago, but the technology is still years from full scale use.

Finally, there is the source of all energy—the sun.

There are two kinds of solar power—passive and active. The first is virtually free; the other costs a small fortune.

There is no way to measure how many people in New England use passive solar energy to reduce their heating bills. After all it amounts to little more than opening the southern side of a building to the sun during the day and closing it off at night to preserve the heat.

Solar activists want to go one step further and replace most or all of a home's conventional heat sources with active solar systems. But in most cases, that is prohibitively expensive.

There already are dozens of solar systems used to heat water circulating through collector panels on the roof. But even the best occasionally must be backed up by conventional fuel. Nonetheless, there are an estimated 6000 homes in New England—out of 4.1 million—drawing at least some of their hot water from the sun.

The problem, of course, is that some homes—especially in dense cities—are not sited to catch the sun properly and the systems are expensive. Even with federal and state tax credits it will take about 10 years for the average hot water system to pay itself off. Still, if all of New England's homes could convert to solar power to get just half of their hot water, the region would save 6.5 million barrels of oil a year, about 1.5 percent of our current oil consumption.

If New England's homes could use the sun for heat, though, we could eliminate more than a fourth of all the oil we use now and almost all the natural gas. The best potential technology for converting the sun to household heat is the photovoltaic cell.

Those cells, composed of such materials as selenium or arsenic, convert solar heat directly to electricity. But photovoltaics currently cost at least 20 times more than conventional electricity, about $10 per peak watt.

But even that price is half of what it was five years ago and there are those who predict photovoltaics will easily be competitive with oil by the end of the century. There are dozens of firms—including several in New England—working on the project.

What all of these transition steps imply—from conservation to renewables to solar—is that the energy dilemma is not insoluble.

We have already taken the first steps—tax credits, government subsidies and incentives, policy shifts and greater public understanding of the problem.

"In five years all the institutional and legal mechanisms will be in place to solve the problems of the next 20 years," says Massachusetts Energy Secretary Joseph S. Fitzpatrick. "Ours will be a more stable picture because of our flexibility and variety.

"Other parts of the country will go through a wrenching adjustment. We've already begun ours," he said.

Indeed, if there is such a thing as a New England character, it is marked by resilience. We could not farm rocks, so we farmed the sea. And when that passed, we found the mills and looms and transistors, and exported ideas and ingenuity across the nation. Now the energy dilemma poses another test of that resilience.

The Chinese word for "crisis" is composed of two characters, one for "danger," the other for "opportunity." If we can recognize the danger and seize the opportunity, we can solve the energy dilemma.●

PROBLEMS OF AFRICA

○ Mr. McGOVERN. Mr. President, the end of the war in Zimbabwe has eased one of Africa's most pressing problems, but as the recent coups in both Liberia and Uganda so clearly demonstrate, Africa remains a continent beset with grave political and economic problems.

Two recent articles shed light on the challenges which the United States now faces in Africa—and the challenges which Africans face among themselves.

The first, David Halberstam's "The Fire To Come in South Africa," appears in the May issue of the Atlantic. In the best analysis that I have recently read on this subject, Mr. Halberstam describes the divergent demands of white and black politics which have evolved in South Africa in the wake of the 1976 Soweto riots. For blacks, Mr. Halberstam finds a disturbing trend away from belief in political dialog and toward the politics of despair and alienation. For whites, he sees an equally disturbing tendency toward increased reliance upon tightened security, dispersal of black populations, the accumulation of great wealth, and the increase in defense expenditures and arms procurement. Through his attention to the human details of this political drama, Mr. Halberstam succeeds in presenting a compelling picture of a country he characterizes as "no longer at peace and not yet at war."

The second article, Michael Kaufman's "Reporting From Africa," was published in the April issue of Harper's. Mr. Kaufman, until recently with the New York Times bureau in Nairobi, Kenya, offers a strikingly thoughtful series of observations on the dilemmas faced so frequently in Africa between growing economic dependence and an urgent need for self-sufficiency and national pride.

Mr. President, I ask to have these two articles printed in the RECORD.

The articles follow:

THE FIRE TO COME IN SOUTH AFRICA

(By David Halberstam)

The once unthinkable came to pass in March in a country to the north of the Union of South Africa. The white minority, after decades of suppressive rule, gave over to the black majority and Rhodesia became Zimbabwe. What does it portend for South Africa, where the white 17 percent of the population wields seemingly unassailable power and vows never to give equality to the 19 million blacks? Very little for the foreseeable future, believes an experienced reporter who spent several weeks studying the South African scene. But, as evidenced by last year's trial of the Soweto Eleven, a new generation of blacks—angry, rebellious, and determined—is rising, and with it, the prospect of growing terrorism and violence.

Kempton Park is a small suburb between Johannesburg and Pretoria. It is very near Jan Smuts Airport and many of its residents—middle-class whites—are employed in the aircraft industry. In a society where neighborhood style is often dramatic and revealing (much of Johannesburg plush and affluent, like a Beverly Hills in the African subcontinent, and Soweto, the black township of Johannesburg, an endless, sprawling Harlem), Kempton Park is so middle-class as to be invisible. It could be picked up and made part of Queens tomorrow. But that is precisely why last year the state, which is white, chose Kempton Park for the trial of eleven young blacks. It is some thirty miles from Soweto, and had the trial been held closer to home, the daily sight of Soweto's children in the dock might have inflamed passions—something the state, in a society where so much black anger rests just beneath the surface—was anxious not to do.

It was an important event, the trial of the Soweto Eleven. The eleven, ten boys and one girl, then ranging in age from sixteen to twenty-one, were among the leaders of the black student uprising of 1976, which shook Soweto, white South Africa, and, if not the world, at least foreign capital. They were charged with sedition, which, in a society given over to uncommonly harsh security laws, often harshly interpreted, is a relatively light charge. They could as easily have been tried under the state's terrorism law (under it, for example, a black cannot tell anyone that he or she thinks America should not invest in South Africa). And, if the state willed it, they could easily have been found guilty. But the state, in a gesture of unusual caution, chose to downgrade the charges. It did this not for the benefit of the accused but rather for its own sake, reflecting its pragmatic ambivalence, a desire to be secure, to keep the blacks in place, but not to do it so openly, so nakedly, as to offend the West. For the economic future of South Africa is always paramount, and foreign investment is vital. That matters more than the lives of eleven young blacks.

This trial, I think, made a break with the past. For these youths, however desperate their condition, however great their anger and their awareness of the risk they were taking, were trying to reach their government through legitimate means of protest. In 1976, many blacks already felt that the government could not be reached. Nonetheless, they went ahead, taking most of Soweto's youths with them. Of the leadership of the 1976 protests, many are dead and many more fled the country to take up military training and study elsewhere. Those on trial were the leaders who remained, some of them deliberately deciding against leaving so that on the inevitable day when they were picked up, and when they were tried, the best of that leadership would be represented.

In those heady days of June 1976, almost all of Soweto's children marched and protested a variety of grievances. The protests of those young blacks, carrying placards, demanding better education, demanding an end to the teaching of Afrikaans in their classrooms ("If we learn Afrikaans, Vorster must learn Zulu," said one placard), were based on the assumption that the rulers of South Africa could hear, and hearing, could care, and caring, could act. The children began with their anger and their grievances and their placards; later they threw rocks; and finally, as the police used automatic weapons, they reciprocated with Molotov cocktails. In Soweto alone some 600 young people were killed; in the entire country perhaps 1000 died. Perhaps more.

Both sides have learned their lessons from those days and they are ominously very different lessons; the blacks, that it was innocent to believe that the state would listen; the whites, that they met the black challenge with too little, not too much, force. Government officials boast of how little firepower they actually used to crush Soweto. "Only the police, not even the army," they say. Their mistake, they now believe, was that they moved too slowly with too little force. Perhaps, they say, they were too aware of foreign opinion. Next time they will not be so soft. They will teach the bloody kaffirs a real lesson.

The trial was a reminder of those days, and of how far apart the two sides are. It was the case of the state versus Wilson Welile Chief Twala, Daniel Sechaba Montsisi, Seth Sandile Mazibuko, Mafison Marobe, Jefferson Khotso Wansi Lengane, Suusan Sibongile Mhthembu, Ernest Edwin Thabo Ndabeni, Kennedy Kgotsietsile Mogami, Reginald Teboho Mingomezulu, Michael Sello Khiba, and George Nkosinati Yami Twala. As the trial wound down, the prosecution deliberately tried to avoid drama. A true right of assembly, the prosecutor said, exists in South Africa, but it has limits. How much can a state take? Freedom of speech has limits as well. These people must learn that we will set the limits.

The trial became in its own way a window to South Africa, a way of seeing how little whites know of black life, innocence helping to sustain evil. The judge, Hendrik van Dyk, is not by Afrikaner standards a cruel man, although he ruled against virtually every defense motion. But he seemed to reflect Afrikaner naiveté about the lives of South African blacks. Once, early in the trial, a black witness was talking about the festering conditions in Soweto. A defense attorney pressed in: "Don't most blacks in Soweto think they are oppressed?" The judge was shocked. How could someone, he demanded, say something like that in open court? Later Dr. Franz Auerbach, an educational expert, was testifying about the causes of resentment in the black schools. One very basic reason, he said, was that the average primary school class for whites contained twenty-five children; a comparable class for blacks had an enrollment of about eighty children. The judge interrupted to say he did not understand why that was a problem. Why, he said, his own son was at the University of Pretoria, and 100 students were in his first-year Latin class. Later, when Manas Buthelezi, a black bishop of Soweto, was describing the semi-prison life of men, taken from their wives and families, who live in Soweto work hostels, the judge interrupted him. I don't understand, he said. I lived in a hostel myself when I was at the university, and it was quite pleasant. Buthelezi heard him and patiently tried to explain: My Lord, you were a student then and that was quite voluntary. These are grown men who desperately need jobs, but in order to find work they are separated from their wives and families, and they are very bitter about it. They live, My Lord, he said, in a very different kind of hostel.

This is what the Kempton Park trial was all about: the attempt of a generation to escape from a future that the state tries to impose on them and which the young blacks reject. As the defendants saw it, the entire idea of Soweto, the black servants' quarters of Johannesburg, was on trial. The student leaders, elected from each school by their classmates, were the cream of a generation. They saw themselves as a community on trial, nothing less. In the beginning, when Ernest Wentzel and Shun Chetty, the defense attorneys, first talked to them, they explained that the defendants represented something larger than themselves, the very condition of a community, and as such they would have fewer options than they would have in a normal trial; that their own comfort and ease, perhaps their own freedom.

was secondary. From then on the youths seemed to deal with every question concerning trial policy not as uncertain, nervous adolescents but almost as village elders, envisioning how their peers and, indeed, history would view them.

When I was in South Africa, the trial, which began in July 1978, had been under way, on and off, for almost a year. The state's contention was that the riots of 1976 over the teaching of Afrikaans were not a reflection of deep and festering grievance in every home in Soweto, long suppressed only by harsh police measures and an insidious informer system, but rather the work of an isolated handful of students who mischievously provoked their less sophisticated but good-hearted contemporaries. The defense for the eleven contended that the 1976 riots were spontaneous, that long before their anger exploded into the streets, it smoldered in their hearts. The state would have liked to prove that these children were an elite, richer and more advanced than most of their contemporaries. But no one who knew anything about Soweto believed that. The families were in fact the embodiment of the generation gap which marks black townships. The parents were ordinary people, much more cautious than their children, uneasy with the political course the children had taken, at once angry with the state for what it did, proud of their children, and terrified of what would happen to them.

The difference between the generations is crucial to understanding South Africa. For these young people are the reflection of a new, angry, and curiously confident black revolutionary class. The revolution that has taken place is a revolution of self. The young are poor and semi-powerless, and yet they have an almost palpable belief in their own destiny, that they will rule South Africa in their lifetime. They are more politicized and less Christian than their parents, impatient for a better life in this world rather than in the next one. The whites like to say, and some may even believe, that the great division in Soweto is tribal; this is wrong, for the real division is generational. The whites see the blacks in their forties and fifties as accepting the whites' dictates; the young blacks see the same people, indeed their own parents, and they are terrified of becoming like them.

In truth the young both love and hate their parents; their anger often extends to the oppressed as well as the oppressors. After the state arrested hundreds of blacks involved in the Soweto riots, the most bitter arguments took place in the detention centers, where the young made their elders walk the plank, often interrogating them into the early morning. Why were they so middle-class? Didn't they know they were becoming like the whites? For the older blacks, nominally leaders in Soweto, there was a clear sense in those detention meetings of the passage of power, that the young had already taken charge.

All of that is the product of a decade which saw the rise and death of black leader Steve Biko, the collapse of the last of the Portuguese empire, the passing of a white government in Rhodesia. Pretoria did not accommodate to these changes except to isolate Soweto more, to declare that the children of Soweto would have to study Afrikaans in equal proportion to English in all subjects, including technical ones. The students already had two languages—their tribal one and English. The last thing they wanted was a difficult third language. Afrikaans was to them the language of the oppressor, a confirmation that they lived under an alien colonial regime.

To study Afrikaans was to admit that the oppression would continue through their lifetime. Though the statute about learning Afrikaans had been on the books for some time, the government had never done very much about it. Then in 1973 and 1974 Afrikaans became an issue; delegation after delegation of parents, teachers, and Soweto leaders tried to warn the authorities off, but lack of love for Afrikaans is not a subject that Pretoria enjoys hearing about. For weeks and months before, Soweto's officials, many of them mild and moderate people, had been warning the whites of an explosion. The whites did not listen. Manie Mulder, the chairman of the white body governing Soweto, told reporters in the middle of May 1976 that all this talk of growing tension was vastly exaggerated. The blacks, he claimed, were perfectly content. "Black-white relationships are presently as healthy as can be," he said. A reporter from the Rand Daily Mail was stunned by that, and asked Mulder whether he saw any chance that Soweto might blow up. "None whatsoever," said Mulder. A month later Soweto blew.

The young blacks on trial were responsible beyond their years. In most of their homes both parents work, and, given the grim transportation system of Soweto, the parents are often gone before breakfast and home after dinner; so the older children must care for the younger brothers and sisters, cook for them, be, at times, proxy parents. Family ties are thus unusually strong and occasionally painful. When Jefferson Lengane, one of the Soweto Eleven, was in prison, he heard that his younger brother was thinking of dropping out of school. He wrote his brother: "You must remember that we go to the green pastures, not the green pastures to us, and the road to your pasture is through education." Ernie Wentzel, the defense attorney, was struck by the young leaders' avidity for life, their desire to read everything they could, their curiosity about everything around them. Part of Wentzel's job, he soon found out, was defending them, part was finding them books to read, and part was arguing with them about what they had just read. By contrast, he found the young whites of South Africa remarkably sheltered and rigid. The young blacks, in trying to come to terms with the injustice of their lot, took sustenance from examining everything around them; the more they learned, the more bearable it all became, the less their condition was their own fault.

The state became somewhat ambivalent about the trial. It cared about foreign investment and it did not want a trial about terrorism because the very word "terrorism" can scare away foreign investors; indeed, partway through the trial the state offered a deal: If the eleven would plead guilty to sedition, the state would suspend sentences against all of them. The students were made uneasy by the offer. Were they being tempted to disavow themselves and those great moments? They declined, and the judge would not go along with the deal in any case.

That deal falling through, the state concentrated on two of the eleven, Daniel Montsitsi, at twenty-three one of the oldest in the group, and Mafison Marobe, twenty-two. Montsitsi was a target, his friends thought, because he was so stolid and unflinching, so unwilling to submit to the state's power and authority. He was the leader of the protests, but only after other, more charismatic youths had fled the country. He was not the most brilliant or the most exciting of the student leaders, but he held the leadership when the risks were greatest, when the passion of the first moment was gone and the reality of the dangers of what they had done was most obvious. To the state, his greatest sin was his failure to be afraid, to acknowledge the vulnerability and inferiority of blacks. I asked one of his lawyers why the state had come down so hard on Montsitsi.

"They think he is cheeky," the lawyer said. But he seems very reserved and polite, I said. Almost modest. "Oh, yes," said the lawyer, "he is all that. A very nice boy. Any family would be glad to have him. But he is not afraid of them. That is his cheekiness." In prison before the trial, the Special Branch had beaten Montsitsi relentlessly; when his lawyers were finally allowed to meet with him, they were appalled by his physical state. He seemed retarded, as if the beatings had damaged his brain. It was hard to imagine him as the boy who had been the leader of the Soweto Student Representatives Council. The lawyers were terrified for him; they ordered brain scans, and found that the damage was not so much physical as psychological: the combination of the beatings and the isolation had simply been too much. The other students treated him with special tenderness, as one might treat a younger and not entirely sound brother. Slowly he began to regain his faculties.

If the state was angry at Montsitsi, some officials were even angrier at Mafison Marobe, because they thought he was smarter and more knowing, and finally, more cynical about the events. Marobe belonged to an older, smaller, and more sophisticated faction among the students who never believed the issue was Afrikaans, who never believed the state would listen. These blacks believed that Soweto was already politicized; what they wanted was to prove the futility of protest, take it a step further, and militarize it. Thus, from the start, the riots for them were not so much a challenge to Pretoria as a demonstration for Soweto. In that sense, when it was over, when the state had crushed the riots with a hard, final display of force, when hundreds of blacks were dead and thousands had fled the country to take up military training in the Soviet Union, Angola, and other neighboring countries, these blacks had made their point.

Marobe, more than anyone else, reflected their attitude. He did not dress the way a South African black should. The others hid their politics in the normality of middle-class dress; Marobe did not. He carried his political dissidence openly, his head shaved, pince-nez atop his nose. If the young Lenin had been black, he might have looked something like Marobe. Marobe was a little older than the others; he had connections with the African National Congress (ANC), the outlawed black political party now in exile and at war with Pretoria, and he had a record of political dissidence. Marobe was considered the intellectual leader of the group, probably brighter than most of the others, certainly the most advanced ideologically, more Marxist in his thinking. The others were groping in their politics; theirs were still the politics of race, whereas his were more radical, the politics of class as well. He had, the state was sure, helped the riots from one level of confrontation to another, and there was something about his very bearing in the courtroom that seemed to mock them.

Watching the trial for a time, I was struck by one other thing about it and about the defendants. They had, because of the proceedings, because the state had decided to try them, become bigger people, as had their families. All their lives they had been black and faceless, numbers on a pass at best. Here, despite the limits and controls on them, despite the knowledge that the state would determine their sentence, they had been given a dignity they never had before.

Later, a small story illustrated this. Some of the wives of the defense attorneys and their friends had gotten in the habit of bringing food to the trial for the defendants and for their families, and they had come to know and like the families. In particular, they were impressed by Mr. Montsitsi, the father of Daniel, an angry and proud man with an intense dignity of his own. The mixture of anger and pride was palpable, anger over what was happening to his son, pride that his son had done what he had. The whites came to treat Mr. Montsitsi with great respect and no small amount of awe, and they were almost childishly pleased on the relatively rare occasions when Mr. Montsitsi smiled at them and opened up. He became a figure of considerable stature in this small, separated world of the court. One day Jill Wentzel, the wife of the defense counsel, needed to get hold of Mr. Montsitsi at the office where he worked as a messenger. She called and asked if Mr. Montsitsi was there. Who? a voice answered. Mr. Montsitsi, Mrs. Wentzel said. Who? the voice asked again. Mr. Montsitsi, she repeated. We don't have anyone like that, the voice said. So Mrs. Wentzel checked the number with the voice. Yes, it was the right number. Well, Mrs. Wentzel said, she was sure Mr. Montsitsi worked there.

"Montsitsi . . . Montsitsi," said the voice, and then there was a flash of recognition. "Oh, you mean the boy."

Then finally came the judgments. The trial was over. By South African standards the sentences were light. Seven of the youths drew suspended sentences of five years each. Two other defendants drew two years each, also suspended. Daniel Montsitsi received a sentence of eight years with four suspended, and Mafison Marobe received seven with four suspended. No one was pleased; even those who received suspended sentences were bitter, since their careers in politics were proscribed. That which meant most was taken away.

Shortly after the trial was over, Shun Chetty, one of the defense attorneys, was talking with friends about the students. He was very depressed about the entire process. No, he did not want the congratulations of his friends; yes, he and Wentzel had done well; and yes, the verdict had been by South African standards rather light, but didn't his listeners understand? It was all past. Nice young men and women would not protest like this again; there would be no more picketing, no more placards. "They will not be good children anymore," he said. "You will see."

A few weeks later Chetty got a call, not from a friend, but from a contact in the Special Branch, the South African political police. "Keep your calendar clear," the Special Branch man had said. "We've got a big one for you." Indeed they had: a case of twelve blacks charged with treason and terrorism. They had been, like the others, children of Soweto, participants in the Soweto riots, but they had left the country after the riots and they had all been trained abroad, in Angola, in Tanzania, and in the Soviet Union. They had returned with weapons and the state was charging them with acts of "intended" terrorism (all but one had been caught before they had the chance to use their weapons) and acts of recruitment.

Chetty was summoned to represent them, and the moment he walked into the room he could feel the difference. These men were not students or political protesters, they were warriors; they had chosen a very different course, and he, the defense counsel, had no place in it. All their decisions on life had already been made. The veneer of pretense that the country could be changed by political means was gone. To them he was in an odd way as much a representative of the state as the prosecutor. Power in South Africa to them meant force, and force meant dying. Chetty tried to talk to them of courtroom strategies as he would talk to other clients, but they looked right past him; as the law did not exist for them, he did not exist for them.

Shortly after he met them, he went out for dinner with an American diplomat and the American asked Chetty, a South African of Indian descent, questions about foreign investment and disinvestment. Chetty, fresh from hostile confrontations with the guerrillas, raged at the American. "Don't you see that it is beyond that, that they don't care whether your corporations invest or disinvest? They are at war. They want weapons. Will you give them weapons? If you give them weapons you are their friend. If you do not, you are their enemy, and they will find someone else who is their friend. When they win, they will not say, 'Here is Shun Chetty, the good coolie lawyer who represented us, and because he was a good coolie instead of a bad one we will spare him.' They will not talk like that at all. They will kill me, too."

A few days later he was even more depressed. The state had decided to hold the new trial in secret—it did not want the public to know the full extent of the terrorist network—and the accused had decided they would not grant legitimacy to these proceedings by accepting counsel. "If you give up advocates," Chetty had pleaded with them, "you will die." "But we have to die," one of their leaders had said. "We are already at war. Of course they must kill us." Chetty, who had represented hundreds of dissidents in the past, found a coolness there, a finality, that he had never seen before. The blacks ignored the trial, they sang freedom songs, they gave black power salutes. The judge was enraged. He sentenced the leader, James Daniel Mange, to death by hanging ("How far is a traitor to be allowed to go before the death penalty is imposed?" he asked) and the other eleven to terms of from thirteen to sixteen years.

This is a country no longer at peace and not yet at war. Already guerrilla activity has started. Just a beginning. At first it was totally isolated—an occasional white soldier tripping a land mine on the northern border. But now a pattern has begun to emerge. In 1979 guerrillas struck twice against police stations in Soweto. The idea was obvious: to lessen gradually the government's police presence inside Soweto, to intimidate their black members, inhibit their movement, and, in the process, make Soweto the property of guerrillas and the movement of arms easier. So the tension is there, the incidents always escalating just a little. In January, three black guerrillas struck a suburban Pretoria bank demanding the release from prison of Nelson Mandela, the ANC leader. "We never even for a minute," said the police captain, "considered any of their demands." The three blacks and two whites were killed; sixteen others were injured.

The state alternates between suggesting that it has crushed the dissidence and terrorism, that it is completely in control (good for international and domestic confidence), and, on occasion, candidly admitting how many armed guerrillas it must contend with, how tough a task it faces (good for the Volk, keeping them prepared, patriotic, and willing to sacrifice). Now both sides arm, the whites publicly, boastfully, the blacks awkwardly, covertly. The state is rich and possesses some of the finest military hardware in the world; if in the struggle ahead the determining factor is weaponry, then Pretoria's might for so small a country is awesome. Pretoria can clearly win a battle with an overt exterior aggressor; the question here, as elsewhere in the past, is whether it can win a struggle within.

The state's armament includes modern French Mirage jets and French-made missile-equipped patrol boats, with sea-to-air and sea-to-sea missiles, improved with Israeli technology (the South Africans like to brag that they have access to the best of the West's technology; that even when America denies them a weapons system, they can pick up the technology through the Israelis). Nor are the South Africans dependent on foreign arms supplies. They are wary of the West and they do not want to be dependent upon the West's good will, which they do not trust, and so they have their own highly developed arms industry to produce light weapons and armored personnel carriers, the basics for a small land war. Not only are they rich enough to buy most of the best the West has to offer, but they are also, on their own, the eleventh-largest arms producer in the world.

South Africa's military strength is directly connected to the riches of its mines. Its military budget requires only some 4 percent of the gross domestic product, and thus is not particularly inflationary. South Africa is industrialized and its neighbors are not; it has electric power (about 30 percent of all sub-Saharan power) and they do not; it has a managerial class, and they do not. It dominates the region. Mozambique would like to be hostile, but Mozambique needs the South Africans to help run its railroads and its port. Since South Africa is stronger and better prepared against overt military challenges than covert ones, Pretoria, several years ago, began the process of separating itself from the white Rhodesian cause. It regarded Ian Smith with barely concealed contempt; it did not want the world to confuse what it considered its historic legitimacy upon its own terrain with the arriviste, post-World War II claims of the Rhodesians; and, above all, it calculatedly preferred a weak and insecure black nation on its border in Zimbabwe (against whose cities it could retaliate militarily) to a weak, unstable white nation unable to control its own territory and against which Pretoria could not lash out.

Meanwhile domestic efforts to stop potential black guerrillas are on the increase. The pass laws have been tightened, and the number of blacks arrested under them rose by 100,000 in one year. The message for blacks is clear: the authorities intend to throw as wide and fine a net as they can. Young whites are called up for national military service, and some patrol the northern border. From time to time discreet newspaper stories report that white soldiers have been killed on border patrol, mostly by guerrilla land mines. White citizens arm themselves. Weapons shops do a thriving, albeit monoracial, business (sales rose steadily after the Soweto riots), and on Sundays men and women drive to the countryside for target practice at private clubs.

In English-speaking homes, where many dislike the government and the Afrikaners, people constantly talk about emigrating. (The outflow now is estimated at 15,000 to 20,000 a year—doctors, lawyers, engineers, architects, teachers. They are mostly Jews and Anglo-South Africans.) They feel powerless in the face of events they fear and decisions they do not agree with. Some do not want to educate their children in this country; the lessons are too painful, too much jingoism is taught. Some simply do not want their sons to die on a distant border patrol defending apartheid, killed by some black with whose anger they can sympathize. They fear the future either way. So the English make their plans to emigate, and much of their thought is about how to get their money out of the country. For the remaining whites, the image of a black swarm is increasingly frightening; the blacks, whites complain, are so prolific. The black birthrate is now four times as great as the white. Afrikaner demographers predict that the percentage of white in the country will decline from the present 17 percent to 11 percent by the year 2000: 37 million blacks to 5 million whites. Afrikaner ministers and Broederbund officials implore their tribe to breed larger families for the survival of the Volk. Still the gap grows.

The guerrilla war itself has, of course, not yet really started. Occasionally the government finds a weapons cache, or busts up a ring moving young blacks in and out of the country. A black places explosives on a railroad line in a distant junction. He does this to show how easily it can be done, how vulnerable the state is. But he does not set the detonator. He is picked up and tried. Whites misread the lesson and laugh—it shows the bloody kaffirs can't do anything right. But others are not so sure they want to laugh. Some government officials believe the potential is there, that the blacks are simply biding their time, waiting upon events in neighboring Rhodesia, waiting for that country to become even more heavily black.

The government, aware now of the growing pressure against it, has begun to pressure Cape Town, lovely old Cape Town with an ambience reflecting its 300-year history, to allow throughways directly into the city. Many of the residents, loving the old city, hating the fact that it is already being despoiled by skyscrapers, are opposed to the idea. They will have little say in the matter, for the government is not concerned with aiding motorists, but wants quick access to the heart of the city in case of military action, and fears the capacity of black dissidents to block traffic in Cape Town's narrow streets.

Yet even as they prepare for the fire this time, South African whites remain remarkably disdainful of the military potential of their black adversaries. Despite the evidence of neighboring Rhodesia, where the Africans were slow and clumsy in learning guerrilla techniques for the first three or four years and then very quickly began to score a victory over the whites, the Afrikaners stand confident, not only because of their strength but because they are convinced of their adversary's weakness, nay, his incompetence. Since the Afrikaner cannot see the black as a real person with real feelings and real human potential, he cannot see him as a true military adversary—a modern man using modern weapons.

One night in Cape Town, I ask a white English-speaking journalist why that is. "Three hundred years of contempt," he answers simply. A South African major lectures high school students about prospective duty in the national service. "When all else fails you, you can count on the K factor." There it is: The *K* factor, for kaffirs (a term now illegal but not departed), for Africans, rife with contempt. Kaffirs cannot do anything civilized or sophisticated; kaffirs as everyone knows, run when they hear the sound of battle. Another Afrikaner officer, talking to reporters about potential black sabotage, says that blacks will never be able to use land mines. Too complicated. "The K factor," he explains. Hearing this I am chilled, and reminded of the British in Singapore in 1941 who boasted that the Japanese could never be proper aviators because they would not be able to keep their balance, and of the first wave of American officers who came to Vietnam, ignorant of both the land and its people, but certain that the enemy was of a lesser race, and thus was a lesser man.

On one of my first days in Johannesburg, a high government official takes me aside and explains Afrikaner realpolitik to me: "Mr. Halberstam, I know the mind of the African, and the one thing the African understands is power, and we have power. You in America," he says, "lost face with the Africans because of Vietnam." I listen and I hear the proud boasts of all the American colonels in Vietnam again telling of how they would wipe up the Vietnamese.

What particularly angers South African blacks is the whites, official and semi-official, who profess to speak for them and presume to know them and talk about what is good for them. On no issue is this more clear than on the question of investment or disinvestment by American companies in their South African holdings. Though a burning question on American campuses, it is hardly a question at all in South Africa. Blacks think American corporations are like all other large companies, corrupt and cynical and socially amoral. Disinvestment, they declare, would not change anything. But what infuriates them is not just that they are forbidden by law to talk on this issue (they have to ask me to put away my pen, because if they are quoted they are subject to arrest under the terrorism statutes); worse, some whites, always sincere, who speak in their name, say they are for investment because it help blacks, because blacks need the jobs. Most urban blacks want to scream at this. Their anger is fierce, almost shrill. One black speaks for many:

"They do not want us to suffer now, they want us to have jobs. Well, we are talking about 90,000 jobs and we already have 2 million urban unemployed, so we are already suffering. Let there be no more investment since we are already suffering; let them suffer too. How dare they say they know what we want when they do not know us, when they do not talk to us, when they have never been in our homes and we have never been in theirs and they do not know the schools that our children go to? When I hear the white man say that he knows the soul of the black man, and they are always saying it, I want to freeze. They do not know our souls and I am not sure they know their own."

Many blacks are particularly enraged over the issue of investment because to them apartheid is an economic system designed not so much to keep whites pure as to keep blacks poor. It is not merely a system of racial segregation, as Americans are likely to imagine, but a highly intricate and sophisticated series of laws and structures created to deliver a supply of cheap black labor to a rich white industrial empire. Blacks are kept poor and powerless in the rural areas, and those brought in to work, desperately poor and vulnerable, have neither an economic nor a political base.

Though black unions may for the first time be permitted to organize (in the past the state usually arrested black labor organizers), even this accommodation will be a limited gain, for the state controls the essential flow of labor, and the unions, if they are ever allowed to function, will do so at the pleasure of the state. Thus, while the state boasts to the outside world of its liberalizing policies, most of its grip at the economic controls is in fact hardening. Black families living in townships are moved out, their homes are razed, and into the jobs go migrant workers in hostels, the men poorer, more vulnerable, less rooted. The pass law system is tightened, giving employers greater leverage, and all the while the government pushes for its homeland policy, which almost all blacks reject. This is a policy which would allot small slices of the poorest land in the country to blacks, giving them unwanted citizenship in bogus new countries which exist for the benefit of white South Africa, and which would guarantee, as white officials have often said, an end to citizenship for blacks in South Africa. For these reasons, black bitterness toward anything that strengthens any aspect of the South African economy is fairly complete.

Most urban black leaders are fond of Andrew Young, but they do not accept his idea (based on his experiences in the American South) that social and political progress will come only after economic progress. In sharp contrast, they believe that any investment strengthens the state, strengthens apartheid, that the heart of the state is semi-slave labor, and that the state will give blacks only a pittance of the benefits of greater investment. The real beneficiaries will be the whites—thus the intensity of black anger at precisely the moment many whites like to think that the society is in fact changing.

One of the questions that hover over South Africa is the question of time. One day, at lunch at Stellenbosch, the citadel of Afrikaner education, with Andre Du Toit, a distinguished professor there, we talked about change, about the fact that time seemed to be slipping away. Yes, he said, that was true. Indeed, he remembered a moment when he had been a university student at Stellenbosch. It was the moment of Sharpeville, the first great event in what has come to be known, among blacks, as the Struggle. White police had opened fire with machine guns on protesting unarmed blacks, killing 69 and wounding 178. "At that time," Du Toit said, "I kept thinking, 'If only we had ten more years, just give us ten more years.'" That was nineteen years ago.

In their hearts, one suspects, most Afrikaners have no real intention of changing the system. Perhaps some accommodation, some adjustment. But will it be enough change, will it be real change, and will it be in time? For time itself is tantalizing here. As there are separate worlds and separate cultures in South Africa, there are also separate clocks. The white clock leads the Afrikaners to believe that they have made vast and dramatic changes in a very short time. The black clock, given the totality of white rule and heightened black expectations, leads the blacks to believe that nothing has changed. The whites look around and see the difference brought by the changes in apartheid—a handful of blacks at the best hotels, the beginnings of integration in sporting events—and they see a world that is vastly different; the blacks look at the same things, and they see the system remaining very much the same. In fact, they see a society where the newspapers are filled with vague promises of change, where the discussion of change is a substitute for change, perhaps tantalizing the white press and white liberals, but leaving blacks unmoved.

For example, the prime minister, P. W. Botha, visits Soweto and tells blacks that they are all South Africans. He tells whites that South Africans "must adapt or die." He suggests ending more aspects of petty apartheid. In another time, perhaps fifteen years ago, this might have raised black hopes, but now it excites foreigners more than Africans, for the blacks are wary, and, in truth, they are not much interested in ending petty apartheid or in making the system marginally better.

Bishop Desmond Tutu, the secretary general of the South African Council of Churches, says Botha (who is somewhat ahead of his own party) is talking about applying "an inhuman system more humanely." True, the white rhetoric is now gentler, but blacks want more than rhetoric, they want a genuine sharing of power, and what Pretoria will not share is power. The real decisions of the society will finally be made by white Afrikaners because white Afrikaner survival is what is at stake. On occasion this flashes through.

"Our politics are not the politics of luxury like your American politics, with all your theater, people playing their roles. Your politics is fun, ours is not." The speaker was a young Afrikaner lawyer much franker than anyone else I had met. "You had your McGovern convention in 1972 and that was fun for you. We could never afford a McGovern convention, we cannot afford to take any chance. Here we have the politics of survival. That's all that bloody matters. Here you make a mistake and it's your ass. We have our realities and our realities are that we have no acceptable alternative to what exists today. No halfway point we can work. So we are going to stay white. We will do it our way, in our time. Everything in politics in this country finally is about survival."

I mention that many Afrikaners seem to stand to the left of the government, and he agrees. "Yes, as long as they are not in power. These same men who rule us, if they were not in power, would be more liberal, more open than they are now. But the moment they are in power, the moment the responsibility is theirs, they think of that one thing—survival—and they will not take chances. They dare not. We will not permit it. Our theory," he said, "is more liberal than our practice."

I ask if blacks will long tolerate this lack of franchise, and decisions of which they are not a part. I point to the appearance of a powerful rising in black consciousness. "Look," he answers, "they can't wait until tomorrow, but they will have to wait. Decisions will be made without their participation. Because we will not let them participate. They have no choice because we will give them no choice. I know that you in America will not like that, but that is what we are going to do." I ask if the blacks will accept that. "No, they do not accept it. They have never accepted it. They didn't accept it twenty years ago and they don't accept it today, and yet they have to go on accepting it. Because we will give them no choice."

That was, I think, the true voice of the Afrikaner, more sophisticated than most high government officials seem to be, and comparably harder and more realistic than most young liberal Afrikaners. For, despite the talk of change, government policy has hardened in a number of ways. The vaunted homeland policy, unacceptable to almost all blacks, is seen by them as a means of pushing tribalization, and depriving blacks of their legitimate rights to be South African citizens. It is regarded not as a bequest of rights and citizenship, as the government would like foreigners to think, but rather as a removal of them. The government's enforcement of pass laws, which has become tougher and more regressive, reflects, they suspect, a harder interior line, and a greater white fear of black terrorism, and it is a way of letting blacks know that the line can be even harder. In addition, the state is constantly increasing use of black worker hostels, perhaps the cruelist and most heartless aspect of the entire society. The government wants industrialization and it needs cheap labor for that industrialization, especially for the mines. But it does not want the normal social price of industrialization—black families living where the black wage earner works, on the very edge of its all-white cities. So it has plucked black males from their homes in the rural areas, where work is desperately scarce and where few workers earn more than 20 or 30 rand (about $24 or $36) a month, and brought them to the cities, by themselves, to serve the state and foreign capital.

The wealth beneath the soil is staggering, and it is the source both of white power and confidence and of black frustration and anger. Pretoria regulates the economy in a manner that is the envy of many economists and capitalists elsewhere in the West. For example, when white international capital began to waver and pull back from investment after the Soweto riots of 1976, Pretoria's economists decided to reduce imports, maximize exports, and limit their own growth. This was accomplished so effectively that South Africa showed a surplus in 1978 of 1.3 billion rand (about $1.5 billion). Very little of that government-sponsored slowdown affected the whites; the hardship was primarily passed on to blacks: an estimated million of them lost their jobs. Part of Pretoria's success that year (and since) was the luck of the dice. As the domestic political crisis was making the economy vulnerable at one level, gold was just starting to float on a free world market, the beginning of a triumphal ascent that went beyond even Pretoria's expectations. The timing could not have been better for the South Africans: gold was floating at precisely the moment that the OPEC nations were flexing their muscles, thus weakening the dollar and making gold all the more valuable.

When I was in South Africa, in the late winter of 1979, the shah was in the terminal throes of his rule; gold was rising and rising fast. It was $240 an ounce then, recently up from $130, and the South Africans were pleased. They were stronger economically than they had been a year earlier, and thus they believed that they were stronger politically as well. More, it would get better: gold, given OPEC's hunger and America's lack of energy discipline, could only rise. They were right. By the end of the year gold was over $500 an ounce and still rising[1] "Gold," one South African told me, "is our pulse beat, and it is getting stronger all the time." As I write, Iran remains in crisis, OPEC is without Western, particularly American, check, and gold in an inflated world becomes the true international currency. The South Africans now produce 73 percent of the West's gold, 58 percent of the world's production. It is a difficult, expensive process. In most other countries of the world, particularly developed countries, it might be considered almost too expensive; but in South Africa, given the semi-slave economy, the process is quite viable.

For the moment, the economy is booming. At an average price of $285 an ounce for the year 1979, gold represented some 43 percent of South Africa's 1979 export earnings. For the previous year the figure was around 34 percent. That means that South Africa is different from other Western industrialized societies: as the price of oil has risen, other countries have been weakened, their balance of payments threatened or reversed. But the rising prices of oil and gold have made South Africa, though it has no natural oil sources, richer than ever.

Gold isn't the whole story. South Africa is the richest country in the world in terms of non-petroleum wealth, and its mineral wealth has also brought it political leverage. In certain other metals crucial in defense industries, such as chrome and platinum, the only major alternative source of supply for the West is the Soviet Union. Detroit and other auto centers need platinum for pollution controls; the South Africans supply an estimated 87 percent of the West's needs and an estimated 48 percent of the world's (platinum was selling two years ago at about $180 an ounce; it reached $1085 an ounce in early March before declining to a low of $565 two weeks later). Chrome is a vital hardening agent for steel; South Africa produces 51 percent of the West's supply, 36 percent of the world's, and has 84 percent of the West's reserves and an estimated 81 percent of the world's. Manganese is also an ingredient of quality steel; South Africa produces 37 percent of the West's supply, 22 percent of the world's, and has 77 percent of the West's reserves and 45 percent of the world's. In addition, though figures on diamonds are hard to obtain, South Africa, particularly if you include Namibia (South-West Africa), is far and away the greatest source of gem diamonds in the world.

All of this makes the Afrikaners remarkably self-sufficient and that much less dependent upon world opinion. They have the resources, they control them and a vast regional supply of labor with a very strong hand. They are rich enough to be on a partial wartime basis without a defense bill that undermines the economy.

Their only true economic vulnerability is energy; they have no natural sources of oil and they must barter on the spot market. Oil, in a largely hostile world, is their Achilles' heel. But they are beginning to develop a very important coal industry, and the way in which they are exploiting their coal resources is a reflection not only of the soil's richness but of the Afrikaners' shrewdness and toughness.

South Africa is coal-rich. It has vast reserves of low-quality steam coal, and Pretoria is just now coming into the market as a major exporter of coal (the $1.8 billion derived from coal exports last year moved coal ahead of diamonds in terms of export value, second only to gold). As the country exports coal, it not only becomes richer, but also gains additional political leverage in dealing with Western European nations that are appalled by apartheid. The coal industry is relatively recent; in 1975 South Africa exported only 2 million tons; this year it will export 22 million tons and hopes soon to go to 40 million tons. More important, the coal industry allows the South Africans to conserve on the use of imported oil. They have built their own power plants right at the sites of their mines, using coal as a source of power.

Thus, where other industrialized societies rely on a relatively high consumption of oil in the industrial process (an estimated 45 percent in the United States), South Africa uses only about 20 percent. In fact, the South Africans intend to lower that figure to 10 percent, reducing even more their dependence on alien sources of energy. For they have come up with a process called "Sasol," which takes the coal, turns it into gas, and then liquefies the gas. It is expensive and difficult, and only a nation with cheap labor could afford it; but they will have three Sasol plants in operation by 1982, and hope to get almost half of their oil requirements through this process.

The Afrikaners are a single-minded, resilient people. By geography and history, and finally by their own will, they have been separated from most of the main currents of the Western world in this century. Their background is different, their language is different (and sacred to them, a symbol of their being oppressed and yet surviving), their religion is different. Though they are seen as oppressors by most blacks, they are convinced that they are the oppressed, first by the British and now by the West and the United Nations. The only drummer they hear is their own; for most, the only drummer they are allowed to hear is their own. Television is fiercely controlled by the state, its mission to propagate the faith rather than to inform the populace. Government bans what it does not want read, and detains, imprisons, banishes, or murders those who challenge it. When no longer challenged, the whites may be convinced that no challenge remains, that any decent person who knows the problem understands and consents. The educational system rigidly enforces and sanitizes history, creating a brainwashed culture.

The equation of the Afrikaners is special. They have taken the complexity of Western democratic tradition, bent it, changed it, and finally reduced it to the perpetuation of white rule. Yet they see themselves in the vanguard of the West; if others dissent, it is the dissenters rather than the Afrikaners who have strayed and become corrupted. The vital factor in all this is their church, Dutch Reform, which is at once sustaining and isolating. It teaches them that they have been placed on the African continent to do God's work, and therefore inevitably legitimizes their political system. If there is another uprising in Soweto and they put it down with machine guns, they will feel little moral anguish. Thus are power and devotion equated; as they are obedient to their God, they are permitted to rule this land. No wonder, then, they are so confident. "One day Afrikaners will rule the world," Dr. Koot Vorster, a leader in the church and the brother of John Vorster, told the BBC. "We are the most religious nation on the earth today."

Yet there are also, on occasion, flashes of doubt. One forbidden subject comes up, often late at night, volunteered by the Afrikaners, never raised by the visitor if his manners are good. This is the uneasiness, in their own minds and, they suspect, in the thoughts of foreigners, over the comparison with Hitler's Germany. Walking down the streets of Johannesburg, a handsome, smart young woman, editor of a new fashion magazine, turns and says: "We cannot say of ourselves when this is over that, like the Germans, we did not know. For we know, we are doing what we have chosen to do." Another editor spends a long evening detailing the enormity of the difficulties he faces, the labyrinth of state security laws designed to control the press. He describes how, that day, he spent more time with his lawyers than with his journalists, how his younger reporters, not understanding, believe he is weakening under pressure. Then he says, his voice resigned, "I do this so that afterwards, no one, I mean no one, in this country will be able to say afterwards that he did not know, that he was not warned."

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[1] At press time the price was $563 an ounce, down from a record high of $875 on Jan. 21.

A young American journalist, arriving to become the resident correspondent for a major American newspaper, was briefed by Connie Mulder, then the information minister. "We are a very open society," Mulder said, "and you may write very openly about us. But I warn you that there is one subject that you may never write about. You will not compare us to Hitler's Germany. We will not tolerate this. Do you understand me?" The correspondent, somewhat surprised, acknowledged that he had heard Mulder. He was even more surprised a minute later, when Mulder leaned forward and confided: "You're a man of the world. You've been in different countries. You don't see any real comparison between us and Nazi Germany, do you? You can tell me, just in this room."

No one should take the Afrikaners lightly. They are a formidable people with what is in many ways an admirable history. They are hardworking, stern, ingenuous, and durable. They cast an unsparing eye on their own future. When Ivor Richard, then the British ambassador to the United Nations, was trying to work out a Rhodesian settlement, he met often with John Vorster, then prime minister. Vorster once turned to him after a long day and said, "Mister Richard, we in South Africa know that you in the West, in America and Britain, regard us white South Africans as basically expendable." At this point there was a very long pause and Vorster eyed Richard coldly. "But Mr. Richard, we do not regard ourselves as expendable and we will not be moved out of here, and we will not give up and there will never be one man, one vote in this country." A granite man, Richard thought, representative of another stock, of tough pioneer people.

A new urban Afrikaner class, however, is rising out of the recent impoverished rural past. For the first time Afrikaners are involved in business and finance (the British formerly dominated the commercial aspect of the society), and a new and more enlightened class is apparent in Afrikaner academe and journalism. The political possibilities are fascinating, not only to the younger Afrikaners themselves, but to English-speaking liberals as well, for the new Afrikaners are better educated and more worldly than their parents. The new class fears the coming of black political power just as the traditional Afrikaner did, but it fears as well the growing political isolation of South Africa. Therefore, the Afrikaner political world is now divided not just along traditional regional lines, Cape versus Transvaal, but, more important, on mildly ideological grounds, with liberals (*verligtes*) pitted against conservatives (*verkramptes*).

The *verligtes* on the whole are younger, more urban, and better educated; the *verkramptes* are traditionalists, the sons of their fathers. Some of the *verligtes* believe in limited change; others do not welcome it but feel change is inevitable. They are largely willing to compromise over issues of petty apartheid, that is, symbolic segregation which does not really touch the system. The black eye the entire struggle cooly: they see it not as a reflection of a changing South Africa, but as a struggle over means rather than ends. They are suspicious of the *verligtes*, for their believe that the true Afrikaner is a distant, unsparing figure concerned only with himself and his family and other Afrikaners.

When I arrived in South Africa, almost everyone hastened to tell me, first, how irrelevant the English-speaking liberals were (which, regrettably, seems true), and second, how important the rise of the liberal Afrikaners was. In my first three weks in South Africa, I spent a good many evenings with *verligtes*. They are often remarkable people, sensitive and intelligent. Seeing themselves as strikingly different from their parents, they cannot understand why everyone else does not detect the difference. Yet for all their attractiveness and good intentions, I do not see them as representative of what this society is, or, more important, of what it will be when it comes under increasing black pressure. Their influence and strength depend upon the blacks' remaining static, but the blacks are no longer static. Any change handed down by the state will be inadequate for the blacks; they will push for changes on *their* terms, and as they do, they will almost surely push the liberal Afrikaner core into a more conservative position. Just as surely will come an even tougher Afrikaner attitude toward the blacks, an undermining of the few moderates on both sides, and a hardening of positions in both camps. I can see no other scenario. For the rise of the *verligtes* assumes that South Africa will remain an essentially static society and that its blacks will not change.

But the black revolution has already taken place. The black fathers do not know the sons, and the sons of Soweto have taken power. One day when I was in Soweto, I had a long and pleasant talk with Lekgau Mathabathe, a former high school principal and one of the nominal leaders of the township. It had started as idle talk and had ended as an interview, and when it was over I asked if I could quote him by name. Doubt immediately showed on his face. I told him I didn't think he had said anything that would cause problems with the police. "Oh," he said, "not the *police*. It's the *boys* (the young leaders of Soweto), the boys don't like it when anyone gives too many interviews and gets his name in the papers. No, the boys don't like that."

The whites do not choose to accept it as a revolution. All of this makes anyone who visits South Africa melancholy. The Afrikaners have always been contemptuous of the handful of liberals, mostly English-speaking, who have tried to form a bridge between the two societies, who have counseled tolerance and some form of gradual change. Now the blacks have become equally contemptuous of those liberals. Their hearts are in the right place, but they cannot deliver.

For the moment, the state holds all the power, and it has the will, even the desire, to use it. Anyone who comes to South Africa will be impressed by the state's access to military muscle, its organized and disciplined security systems, and by Soweto's vulnerability (it can be isolated by cutting off its water, electricity, phones, food, even physical access). But any highly industrialized society is vulnerable to urban guerrilla-terrorist attack. Transport? Every lorry on the highway is diven by a black. Access? A black can go to any place in Johannesburg as long as his pass is in order, he is dressed poorly, and he is servile in manner. Perhaps the black armored cars of this war will be garbage trucks driven by black men through the streets of the rich. Technology and weaponry? One black in an old VW, armed with a small missile, can drive by a major airport, and one man can knock out a plane or a train. Vulnerability? Every home is vulnerable, every skyscraper, every gold mine. A society which lives off black labor cannot exist in the foreseeable future without it. Where black labor goes, terrorists can go too.

One morning I sat in Cape Town asking a high official of the Foreign Ministry why South Africa had pulled back from its support of Ian Smith and Rhodesia, and he talked at great length about how stupid the Rhodesians had been. They could, he said, have gotten deal after deal, bought themselves thirty or forty years, a good transition period, but they were too arrogant, and now they would probably be left with nothing. As I sat and listened I wanted to say, "Don't you see that you're doing the same thing? You won't deal when they don't have the power, and when you're ready to deal it may be too late." But Afrikaners think they are different from the Rhodesians, and perhaps for a time, ten or even twenty years, they will be right.

Probably the first two or three classes of guerrillas will not do well; they will be picked up on their way into the country, their weapons confiscated, and even those who make it to their objectives will bungle the job. Perhaps even the fourth and fifth classes will botch it. They will be laughed at and more jokes will be told about the K factor. And then slowly, quietly, the blacks will become skillful, and tough, and effective, and life in South Africa will be different. As Johannesburg causes pain in Soweto, Soweto will bring pain, systematic violence of its own sort, to Johannesburg. Perhaps then Pretoria will want to think about negotiating—and the time for negotiating will have passed.

Reporting From Africa

MODERN IMPULSES AND THE ATTRACTIONS OF THE BUSH

(By Michael Kaufman)

As I sat in my Nairobi office casting in the flotsam of my mind for a metaphor that could gracefully lead into an article summing up my three-and-a-half-year sojourn in Africa, the phone rang. My caller was a young Kenyan friend. He said he was in jail, having been arrested the day before. He began to unfold a complicated story that I knew could not be true. It seems that a year ago he had cosigned an agreement guaranteeing a friend's installment purchase of a television set. Now the buyer, a university professor, had left town. The set was gone too, and the store wanted its money.

My caller was a charming, sophisticated, but slippery fellow who had bragged to me about bilking American tourists of beer, meals, and money.

Now, in his distress, he was calling me. I knew in my bones there was no professor, and I knew there was no chance at all of my ever getting back any money I might give him. Where, I thought, was the wonderful African extended family that was supposed to rush to the aid of a relative in trouble?

This fellow and I were not particularly close. But there he was, a bona fide Third Worlder, educated at Berkeley and somewhat hip, but still a Third Worlder, and he was reaching out to me from jail. My choices were obvious and limited: either I could hang up on him or I could bring him the money.

I went to the jail at Nairobi's central police station with about $150. My friend accepted it with no effusive thanks, though he did imply he would be ready to do the same for me sometime. The police, meanwhile, had shown me the file on the case. As I had suspected, there was no mention of any professor. Though I asked my friend for the truth, he continued to dissemble and to elaborate on the lie. He clung to his absurd dignity. Of course he would repay me, he said. How could I doubt him? And, oh, by the way, was I interested in doing a story on the filthy and horrid jail conditions that he had been forced to endure for a night?

After a few formalities, my friend was set free. He would come to my office the following morning to repay me. I knew I would not see him again.

I was angry for days. The episode symbolized so much of the cant, jargon, and hyprocrisy to be found on the continent. This is Africa, I thought. This is what Daniel Moynihan was talking about in his assaults on the blustering, pomposity, and sanctimony of a sadly impotent Third World. A poor, miserable, somewhat educated con man, manipulating the guilts of the presumed rich, was, by implication, doing the same thing I had seen so many black African governments and so many bureaucrats do time and again—invoke the horrid colonial past to extort money. In the absence of real power, rely on rhetoric and guile. And always, always, hold onto pride.

In time anger subsided and I developed some perspective about my friend. He was weak, yes, but like so much of black Africa, resourceful. He was simply using the tools at hand to extricate himself from difficulty. It was really no different from, say, President Mobutu Sese Seko of Zaire calling on the Moroccans, the French, the Belgians, anybody, to save his corrupt regime from invasion.

I understand the historical reasons both my friend in jail and countries like Zaire are as weak as they are, and why they so often couple extortion with claims of moral superiority. It is only twenty years since the Belgians quit the Congo, leaving only eighteen university graduates in a country (now Zaire) with a population of 26 million. There were only twenty-four university graduates in Zambia when that state won its independence. The national boundaries imposed on this continent by French, British, and German cartographers are preposterous, cutting, as they do, through culturally and linguistically related peoples. As for my friend, I know that he is the first of his line to live wholly in a money economy. His grandfather worked the soil with a stick and wore leather garments, not cloth. My friend has read Marshall McLuhan and capably discusses the role of television in arousing national consciousness; he has not yet absorbed the Calvinist mechanisms of self-denial and is not too keen about saying thanks. I am aware of the enormous pressures black Africa faces as its modern impulses conflict with the vital, powerful traditions of the bush, and I have been in awe of the ways individuals and, occasionally, states have coped with the stormy passage.

Like most people who have written about Africa, I guess I have sometimes fallen into journalistic conventions. There is, for instance, the romantic school—oogabooga reporting. This form, influenced by Rousseau, emphasizes the pure savage and deplores what modernity and urbanization have done to societies living in harmony with nature and to persons previously on good terms with one another. Stories in this mode usually leave out the flies, the dead infants, and the sight of women staggering under huge burdens of firewood.

Then there is the frustrated-whiteman school, which, at its worst, is reflected in the servant stories of expatriates. The refrain is, "Why won't these people ever learn?" Here, one points to bad telephone service, delayed plane flights, and the rarity of dry martinis as evidence of cultural stagnation and portents of perpetual backwardness. The view excludes almost everything that makes Africa special.

Finally, there is the school that insists that everything Africa and Africans do is just fine.

Examples of this are to be found in letters I have received from well-meaning people who thought the outrages of Idi Amin should not be covered by the press because, for one thing, they are not representative of Africa and, for another, bloody as they were, they pale in comparison with the technological slaughters conducted by such civilized peoples as the Germans.

I am sure that in at least minor ways I have strayed into all these traps. But now as I am about to leave, mindful of how happy I have been here, how my children have thrived, and how my thoughts and feelings have been stimulated, I want to dispense with apologies or Moynihan-style semitruisms. My jailed friend owed me honesty, and I owe Africa no less.

Black Africa's most pervasive challenge is to reconcile the yearning for modernity (usually expressed by governments and elites) with the tremendous attractions of tradition and the bush. In African capitals, in the so-called development community, and in universities, people generally assume that, come what may, modernity will prevail. Sometimes I feel myself agreeing, but I am not really sure.

This is still a part of the world where despite wars, commerce, ideology, and religious upheavals the force of nature remains most important. More people are at the mercy of floods, droughts, and locusts than are affected by foreign armies, mercenaries, coups d'etat, and currency markets.

I remember vividly a talk I had in southern Kenya with a young Maisai who was out trekking with his spear and wearing the pink cotton shift of his tribe. His English was remarkably good, and when I commented on his fluency he volunteered that he had completed two years of medical school. I asked him why he had quit. He gestured to the landscape of acacia thorn and said, tersely, "This is better."

The danger of oogabooga romance lurks in making too much of this answer, but it is unquestionably true that for most people in Africa the bush nourishes, providing not only food but also a sustaining culture. Cars, planes, phonographs, television, deodorants, pizza, and other white man's magic may be yearned for, but there are many among the yearners who sense that these things are alien, less satisfying than the garden shambas yielding corn and yams.

The nation-state, from which modernity's benefits flow, is similarly not terribly real. While tribe and family are tangible, as actual as mothers, with rights and responsibilities of membership clear to everyone, the nation remains an abstraction. By the usual definitions, a nation includes elements of common language, religion, and traditions. The only countries on this continent that qualify under those criteria are the one-tribe states of Somalia and Rwanda. (And Rwanda reached this status only in 1963, when its oppressed Hutu majority rose and slaughtered the Tutsi minority.)

National consolidation is an objective made all the more difficult where there are many tribes and languages, and great diversity. In Africa, with rare exceptions, there is no transcendent unity of church as there was in post-medieval Europe. And the boundaries established by imperial bureaucrats to answer imperial needs ignored local geographical and cultural conditions.

While outsiders with good intentions often assume that the first obligations of African governments should be to feed people and provide medical care and education, African leaders place their emphasis on creating an embracing national consciousness.

There are many approaches to nationhood, all of them arduous and none certain. Ideally, I suppose the pleasantest route would be for governments to provide general access to food, land, medical attention, and schooling. Such benefits might induce people to exchange tribal loyalties for national ones. But that is impractical when the countries involved are poor. Other tactics are employed, and they include the mobilization for war, attempts to impose a dogma or ideology, the building of monuments, the staging of ceremonies, and outright despotism.

One thing that all these methods have in common in Africa is their reliance on foreigners. Whether it is a Westward-looking country like Kenya, or a socialist state like Mozambique, or Malawi, which in defiance of African rhetoric takes its aid from South Africa, Taiwan, and Israel, among others, these countries have no alternative but to look outside their borders for the skills and the capital needed to transform their societies.

Since most of these countries are still in the first bloom of a postindependence zeal, the unavoidable reliance on foreign skills, technology, and, to some extent, the kindness of strangers leads to varying degrees of humiliation and bizarre twists of logic and rhetoric. For example, in Tanzania, Julius K. Nyerere, the widely respected president, has sought to make self-reliance a national rallying cry. A man of rare probity and humanistic Christian sensibilities, he has tried to move his people with homilies and admonitions. "Let the great powers go to the moon," he has said. "Our mission is to feed ourselves."

His emphasis is on laying the groundwork for an egalitarian society, building pride and the dignity of labor through cooperation. It is all there in the Arusha Declaration, the 1967 document that spelled out "the policy on Socialism and Self-Reliance" of Tanzania's ruling (and only) political party. One section that dealt with foreign assistance asked, "How can we depend upon gifts, loans, and investments from foreign countries and foreign companies without endangering independence? The truth is we cannot."

The declaration noted that collective labor was the single greatest potential asset for developing wealth and prosperity, but it acknowledged that foreign loans, gifts, and investments would be necessary during an interim period. However, it cautioned, "It is true that loans are better than free gifts," since loans required repayment and imposed discipline and thrift on the recipient.

Ten years after the declaration was made, I was in Tanzania. The national party paper had a page-one story deploring the practices of countries that offer loans instead of outright grants. An economics professor at the university, a supporter of President Nyerere, told me, "You know grants are better than loans; they do not have to be paid back." On that same visit, a Nordic diplomat suggested that I write a newspaper piece condemning the policy of Scandinavian countries of giving unqualified grants to Tanzania to build a humanistic, nonaligned, socialist, egalitarian state. "You know," he said, "when I came here I was the committed social democrat favoring total backing for the social innovation here. Then I went through a period where I thought all our aid was at least neutral: if it did no good at least it did no harm. Now, I can no longer justify to myself the cost to our taxpayers, because I think our generosity is absolutely harmful."

The diplomat went on to explain that the large grants given to Tanzania by the Scandinavians and other relatively wealthy states were increasingly being taken for granted in Dar es Salaam. "What you give one year as an act of conscience becomes a blind obligation in subsequent years, and, in the process the recipient's capacity for resourcefulness becomes stifled."

The dilemmas that surface when the only way to reach self-sufficiency is through continuing dependence are by no means limited to Tanzania, where at least the pitfalls and the challenges have been given ideological expression and where offers of aid and certain private investments have been rejected because their consequences were held to be, generally harmful. Kenya, Tanzania's northern neighbor, has since its independence been far more open to both investment and aid. The tone for its approach to development was set by the late Jomo Kenyatta, who on his release from detention by the British as the leader of the Mau Mau rebellion reversed the thrust of the anti-white tactics of the liberation struggle and cautioned "suffering without bitterness."

By this he recognized sooner than most that the development of Kenya would depend on skills, markets, and capital controlled elsewhere. While white settlers occupied large farms and tracts that were coveted by land-hungry peasants, white teachers, technicians, professionals, and artisans would be needed for some time. Under Kenyatta's guidance, a pattern emerged in which whites, attracted by the privileges offered, came to Kenya as the old planter's withdrew.

In theory these new whites were here temporarily, essentially as a training force to groom their own replacements. Now, as there are many more whites here than there were when Kenya was a colony, no one is quite certain how things are working out, and some black intellectuals have wondered whether any group enjoying privileges would agree to phase itself out. Links and alliances between expatriates and elite capitalist blacks have been formed. Class lines transcending race and ethnic group are being drawn. Meanwhile, the economy is not growing fast enough to absorb the graduates spawned by Kenya's expansive and benevolent educational system. And graduates are faced with frustration and unemployment even as their aspirations rise.

Kenya deserves great credit for developing the stability that allowed a constitutional transfer of power on the death in August, 1978, of President Kenyatta. (The Financial Times of London, in an editorial, called this transition the most hopeful event in post-independence Africa.) Yet that transfer came within a hair of being quashed by a coup. And while Kenya has made great advances in extending the benefits enjoyed by a capitalistic and largely ethnically limited elite to other sectors of the population, the country's balances will probably remain precarious for some time to come. Unemployed students, understandably resentful of the visible affluence of resident foreign nationals, are a potentially volatile element. Furthermore, as capitalist imperatives lead toward the use of land for cash crops and for export crops such as coffee, the land hunger of the growing rural population becomes more serious. But still Kenya is one of the successes I have seen.

Both Tanzania and Kenya have, in relative terms, chosen evolutionary development over the more radical courses being followed in countries like Angola and Ethiopia. In those countries reliance on foreign backing is more blatant. Lacking sufficient numbers of local cadres, both revolutionary governments have asked for and got support from Cuba and the Soviet Union. At first it was military assistance to counter hostile armies. Now, health services, transportation, industry, and internal security forces are maintained (and dominated) by foreigners, largely because there are as yet not enough Ethiopians or Angolans who can take charge. Andrew Young was probably right when he said that the Cubans were a stabilizing force in Angola, but how long will they have to stay?

In practically every black african the essential contradiction between the pride of independence (or, in the case of Rhodesia and Namibia, the prospect of independence) and the fact of continued, humiliating dependence has led to bizarre twists of logic and swaggering rhetorical excess. (What comes to mind is the African bureaucrat, wearing a heavy gold digital watch and driving a $45,000 Mercedes, who attacks the inequities of a world marketplace that systematically subjugates "our people.")

Like Idi Amin, one runs the risk of believing one's own braggadocio. Another risk is that, knowing the swagger to be false, one might fail to recognize true strength beneath the display and thus not exploit it.

While the institutions of government generally are weak on this continent, the older institutions are terribly strong. Armies may be undisciplined and badly trained, but, for the pleasure of it, young men walk and run for miles. Among the elites there often is flash and dazzle, but among what one of my friends calls "the grit-and-grime Africans" there is astounding forbearance and a capacity to endure. There is the comfort of family and great hospitality. There is the resourcefulness that coaxes nourishment from hostile terrain. And there is the wisdom that understands that neither redemption nor Armageddon is imminent.

If my friend who called from jail reflects the flashiness of Africa, I would prefer in leaving to remember other friends who, in aspiring to the benefits of modernity, still cling to older virtues—fraternity, honor, and common sense.

One of these is Lawrence Mwaura, who is twenty-five years old. After three years without a job, he was hired last year as a packer and loader at a warehouse where he earns about $60 a month. He has a girlfriend, but he says he won't get married until "I have something to offer." He wants desperately to buy a small house for his mother, an illiterate woman who was able, by selling bananas, to put him through high school. Lawrence is well read. "I know that I will persevere. Our late president knew adversity and overcame it. I know I must maintain faith." Now he is taking bookkeeping courses after work. Once I asked him why, in the face of his frustrations, he didn't throw stones, why he was not a radical. "You know," he said, "I think it is better to be poor in a country with stability than to be poor in a country without stability." Cheers, Lawrence. Goodbye Africa.●

STRATEGIC PETROLEUM RESERVES

● Mr. DURKIN. Mr. President, we must immediately fill our Nation's strategic petroleum reserve to insure our economic and military security. Under the original plan for the reserve, 1 billion barrels of oil were to be stored by 1985, however, only 91 million barrels are now available, barely enough to replace 11 days of imports.

Much of our crude oil comes from the most politically volatile area of the world, the Middle East. A cutoff of oil imports would devastate the economy and threaten the effective operation of the U.S. military. Thus, we need the strategic petroleum reserve to give us the economic, military, and political flexibility to protect our national interests while solving our economic problems at home.

Trevor O'Neill has written an incisive column for the New York Times, citing the necessity of building a strong strategic petroleum reserve and proposing a means of building our supplies. O'Neill suggests using the Government's royalty share of oil produced on Federal land, as well as the 250,000 barrels per day to be produced by Elk Hills Naval Petroleum Reserve, to fill the SPR. This would allow us to protect our interests without seriously lowering domestic production or relying on high-priced foreign suppliers unwilling to stock our reserves.

I ask that Mr. O'Neill's article be printed in the RECORD.

The article follows:

[From the New York Times, May 13, 1980]

BUILDING THE OIL RESERVE

(By Trevor O'Neill)

WASHINGTON.—The United States strategic petroleum reserve was conceived by Congress in the wake of the 1973–74 Arab oil embargo as a means of protecting this country against future cutoffs of foreign oil. With imports now running at 6.9 million barrels per day, the billion-barrel reserve envisioned by Congress could replace 145 days' worth of foreign supplies, thereby reducing America's vulnerability to petroleum blackmail.

The reserve has been beset by a variety of problems though, and today contains, in underground salt domes in Louisiana and Texas, only 91.7 million barrels of oil—less than a two-week supply. In March, Secretary of Energy Charles W. Duncan Jr. reportedly tried to buy oil from Saudi Arabia for the reserve and failed. A budget-conscious Congress is moving to take back $2.3 billion set aside for petroleum-reserve purchases. The reserve thus has little oil in storage and may be about to lose most of its funds for new purchases; further, it seems unable to find a willing supplier among the world's oil-exporting countries.

If the United States is serious about filling its reserve, as it ought to be given the rise in international tensions, it should look closer to home, where several steps can be taken to provide oil for the reserve. For one, the Government could take its royalty share of oil produced from Federal lands in crude oil rather than cash. This would make available 40 million to 60 million barrels of oil per year for the reserve. Moreover, the 250,000 barrels per day ordered by Congress to be produced from the Elk Hills Naval Petroleum Reserve, in California, could be earmarked for Louisiana and Texas, and this would contribute 90 million barrels per year. These two sources—both under complete Federal control, and constituting less than 5 percent of United States oil production—could fill the reserve within six years, at a cost far below current prices charged by the Organization of Petroleum Exporting Countries.

Most Federal oil leases give the Government a one-sixth royalty, though some newer leases provide for a one-third royalty. The choice of taking this royalty in crude oil or its cash equivalent rests with Interior Secretary Cecil D. Andrus. The Government has almost always chosen cash but can switch to crude oil at any time. Since much of this royalty oil remains under price controls, the cash equivalent that the Government receives ranges from $10 to $20 below world prices.

The Government's royalty share of production from Federal lands is now 165,000 barrels per day, or more than 60 million barrels per year. One-third comes from onshore leases, many of which are widely scattered holdings whose wells produce at low rates. Collecting royalty oil from such leases for the reserve might not be worth the trouble. Offshore leases, however, produce more than 40 million barrels a year of Federal royalty oil, all of which could be taken for the reserve. The costs of operating offshore facilities are so great that only fields with comparatively high production rates are exploited. Offshore facilities tend to be clustered and operated by one company on behalf of all other lessees. It would be easy for the

Government to collect its royalty oil from offshore producers.

United States oil production may decline in the future, but the Federal royalty share is likely to increase, not only because offshore areas—the largest unexplored Federal territory in the United States—are rapidly being leased for oil development, but also because leases with a one-third royalty were first issued in 1978, and oilfields subject to this higher Federal royalty are just starting production.

Federal oil taken for the reserve would no longer be available to domestic refineries. The resulting shortfall, less than 3 percent of current United States refinery needs, could be made up through conservation, new domestic production and new purchases abroad. Any new foreign oil purchases would be multiple, small-volume transactions between individual America corporations and foreign countries. It would be difficult for countries refusing to sell oil to the Government for the reserve to distinguish buyers replacing lost Federal oil from all other buyers in the world oil marketplace.

Elk Hills and Federal royalty oil can create a secure, steadily growing stream of crude oil for the reserve, at bargain prices. These two sources by themselves could fill up the reserve within six years. If greater speed is needed, the Government could supplement its Federal oil with purchases from Venezuela, which has billions of barrels of high-sulphur oil it cannot sell in the open market—but which would be fine for the reserve. Venezuela might cooperate, because its minister in charge of oil, Humberto Calderon Berti, recently called for a Western Hemisphere energy alliance.●

AMBASSADOR ROBERT KEELEY

● Mr. McGOVERN. Mr. President, on June 1, our Ambassador to Zimbabwe left to assume the duties of his new post. His arrival in Salisbury symbolizes a new era in U.S. relations with southern Africa.

Robert Keeley is an eminently qualified professional foreign service officer well suited for this job. With an extensive background in African affairs, a proven ability to deal with difficult situations, and a clear sense of U.S. values and interests, Ambassador Keeley represents the finest in the U.S. diplomatic corps.

By sending a man of such high caliber to Africa's newest nation, the United States is showing how much importance we attach to Zimbabwe. I hope he conveys to the people of Zimbabwe the good wishes of the American people for peace and prosperity in the years ahead.

Mr. President, I ask that an article on Robert Keeley that recently appeared in the Washington Post be printed in the RECORD.

The article follows:

[From the Washington Post, June 1, 1980]

HEADING OUT FOR ZIMBABWE

(By Jacqueline Trescott)

Just before Robert Vossler Keeley finished Princeton University, he appeared before the eminent reviewing board of Rhodes Scholars. Any other undegraduate would have been staid, sweaty and humble. But somewhere in the middle of this momentous intellectual exchange, Keeley lost his interest. And the panel, he recalls now from the comfortable distance of 30 years, heard him call the award's namesake, Cecil Rhodes, a racist and anti-feminist, rant a bit about the perpetuation of the British Empire, and intimate that the English Department of Cambridge University was better than Oxford.

For a young man yearning to carve out a reputation beside his literary favorites, Updike and Cheever, his admirable stand was rather pompous and reckless. A Rhodes was not to be his.

But for the man who is heading out for Zimbabwe—the independent black-ruled nation that emerged out of Rhodes' 19th-century settlement and eventual unjust legacy in Southern Africa—as the first U.S. ambassador, that incident is definitely a bonus. "That's not a bad credential to have—now—is it?" says Keeley, sitting in a lackluster State Department office, his waystation between a deputy assistant secretary of state assignment and the ambassadorship.

Keeley, 50, has the full, ruddy athletic face of a Jack Dempsey, softened by kind, thoughtful eyes that belie the constant look of befuddlement on his face, yet support the self-assurance in his low voice. He goes to Zimbabwe with an almost universal reputation for tough, clear, decisive and sensitive actions and thought. Throughout his 22 years in the Foreign Service Keeley has built a reputation for outspokenness, a trait usually tempered, not nourished, by diplomacy, and one he has had to pay a price for. In Greece his service coincided with the military coup of 1967 and he strongly criticized U.S. support of the colonels' dictatorship. For the next seven years he wasn't promoted. "There is no question in my mind that my outspokenness was not appreciated," says Keeley, who eventually filed a grievance complaint at State and had his record, and observations of his wife's liberal political-activities, removed.

Did he ever think of quitting? His quick response suggests that would have brought a scar of shame to the family. "My Irish fighting instinct prevailed. I am not going to give in. The hell with that. That means they win, if I quit," he says.

His penchant for argument, however, has not diminished his allegiance to his job. When he was the chief American official in Uganda in 1973, working under constant threats from now-deposed dictator Adi Amin, Keeley directed the evacuation of all the Americans. This was his chore again two years later in Cambodia, as the country collapsed and Henry Kissinger espoused a policy he deplored. "Interesting places at interesting times," says Keeley, whose last overseas assignment was two years ago as ambassador to Mauritius. "The worst thing in my mind that could happen is boredom."

But his experience, not his tempestuousness, sold him as the choice for one of the world's fast-changing political situations. He has a first-hand knowledge of the long and often painful struggle of new African nations, working in Mali one year after its independence. "He knows the players," as one of his State Department superiors put it, and would not be hotheaded about Prime Minister Robert Mugabe's swinging views of the West as Mugabe embraces, then criticizes.

"He's an idealist. He's one of those few people who has remained an idealist and can still function in the practice of foreign policy," says his brother Edmund Keeley, a Greek scholar and novelist at Princeton. Part of Keeley's motivation is tradition. His father, James Keeley, a foreign service officer, was what Bob Keeley calls, "an extremely outspoken advocate of the Arab point of view," three decades ago when the State Department was cool to Arab sympathizers. "One of the good things you can say about the Foreign Service is that Bob Keeley survived," says Clyde Ferguson, a former ambassador and now a Harvard University law professor.

And Bob Keeley, unlike Miss Otis, has no regrets. "I've never won the argument, I have never changed policy. But I would rather fight than resign," he says. He's a man very comfortable with his views and reputation. His whole manner reflects the directness of one who has faced danger and survived. Additionally, he has the reputation as an interpid seaman and as the cocky possessor of one of Foggy Bottom's most talked about assortment of club ties, the shamrocks, if you will, reserved for special occasions.

The post to Zimbabwe, the symbolic culmination of a major thrust of the Carter administration's foreign policy, is quite a plum. And the question is why Bob Keeley, who has spent the bulk of his State Department career on African issues but only joined the State Department's policy planning unit on Southern Africa 18 months ago. Inside the State Department, the close allies of Richard Moose, the deputy assistant Secretary of State for Africa, are pleased. Moose says, "diplomacy is in his blood. He's a particularly good man for a tight spot."

But the black officers, who as a group have been able to flex more muscle on this issue than any other in State's history, are more cautious about his sensitivities in what will be a pivotal time. "He is one of a legion of people who could go off and do a good piece of work. He wouldn't fall on his face," says one top-level State Department black. "But it's unfortunate in a place like Salisbury because you need someone special." Outside the administration those sentiments are shared by policy makers across the political spectrum. "I think he is going over with an open point of view. What we feared was getting a romantic leftist in that job and someone who doesn't believe in democracy," says a Capitol Hill supporter of the Ian Smith regime. "He's colorless," says one pivotal person in Washington foreign policy. "You would think the administration would want someone with a strong national stature."

Calling it the best job in the foreign service today, Keeley suppresses his schoolish excitement. He has already tested the waters of diplomacy in Zimbabwe. During the inauguration festivities, he relates, he was having dinner one night and a white Rhodesian woman sent over a bottle of wine. "There was no hostility and she knew we were the Americans," says Keeley. He doesn't tell the one about his deferred diplomatic success. On the same trip he learned that 40,000 Greeks live in Salisbury and he took a group off to a Greek restaurant. He approached a table, speaking the Greek he had learned first as a child. No one understood him. No one spoke Greek.

At Princeton they called him "Duke" because of his broad-shouldered stance and the blush his Irish ancestry and outdoor pursuits have given his craggy complexion. But the resemblance to the late John Wayne covered only physique, not politics.

Rumblings about his views started early. As a writer for the Daily Princetonian, he wrote an anonymous gossip column, signed "Philo" and accompanied by a picture of the back of his head and a telephone. When he was a senior and the chairman of the Princetonian board and a retired gossip columnist, the newspaper put out a joke issue. In his guest column Keeley quoted a guy who had joked about a rich alumni's gift of a wall around a campus eating club. "That's his last erection." Repercussions vibrated from the ivy lawn to the marble decorum of State where at the time Keeley's father was chief diplomat to Syria.

"I am rather bitter about that whole experience," says Keeley. "I was put on probation, lost my scholarship, had to lose my job on the board, which when you are a senior is a profit-making venture. And it soured me on a journalistic career," say Keeley, who always wanted to be a writer and now has five books locked away.

But he never was just another Joe at Princeton. "His childhood had given him extra confidence and an air of sophistication," says Pete Lakeland, of the Senate foreign relations committee. "He's very bright but he doesn't show it off at all." Keeley was born in Beirut, Lebanon, one of his father's posts.

It was the intellectual air that attracted Louise Schoonmaker, a Smith College student, to give up her football star boyfriend for Keeley after a blind date. "I was immediately impressed. He was certainly brilliant and gregarious," says Louise Keeley, a petite, white-haired woman, who described herself in her college years as a "non-serious party girl." Before meeting Keeley, she had also been a steady companion of writer J. D. Salinger during the time he was writing "Catcher in the Rye."

In 1956, after graduate school at Princeton and a term patrolling Delaware Bay for the Coast Guard, Keeley joined the foreign service over his father's warnings that being headstrong wouldn't reap many rewards. Keeley plunged into a number of difficult assignments. His first, Jordan. was a sharp baptism into rocket-fire diplomacy. There was a coup in neighboring Iran and the British paratroopers and American marines were in Lebanon. "The last week I was in Jordan the prime minister was blown up in his office. I had an appointment in that building that same day but had canceled it. Now that's the kind of unexpected event that etches itself on your memory," recalls Keeley.

Jordan was the first time Louise Keeley learned the perils of separation. During the evacuation of the Americans, Louise Keeley was separated from her husband of seven years and lived with her mother-in-law in Palermo. "Mathilde Keeley taught me so much. She had been a committed, professional woman in her own right, for instance, working with refugees in Turkey after World War I," says Louise Keeley. From her direction Keeley learned to get involved with the country's welfare activities, as well as the social life. In Jordan she co-founded a charitable group. Save The Children.

Mali, their next post, severely restricted her internal activities. "Only with a few exceptions, like the appearance of [dancer] Pearl Primus, were we encouraged to interact with the local people," says Keeley.

In 1963 the family returned to Washington, where Keeley worked as one of two desk officers on the Congo, Burundi and Congo (Brazzaville). The tense situation in the region was a major thrust of the Kennedy administration and the top-level policy was handled by George Ball and W. Averell Harriman. Both men influenced Keeley. "They had a police chief in Congo (Brazzaville) who was arresting our people right and left. An AID official would show up to do a study and they would throw him in jail. After about three of those incidents, George Ball said, 'close the embassy, take our people out of there and tell them they can close their embassy here and go home.' There were arguments both ways, a big country picking on a little country. It wouldn't look good and Ball said, 'I can't help the size of the country. We have a principle here, a universal principle we have to stand by.' " says Keeley. His next appointment, after a year's sabattical at Stanford University, was to Greece. For 11 years he had been asking for Greece on his "April Fool" card, the diplomats yearly request list.

"Constant battle," is one way a slow-speaking, reflective Keeley explains the atmosphere of his term in Greece. "It's not good if you begin criticizing the policy the other people are following. They are the authors of those policies. They are committed." From his own conversations around Athens, he was very concerned about the effects of a coup. One evening he sat down to write a memo to an embassy superior, urging that they try to stop a coup by talking with both King Constantine and the military opposition. He locked the memo away, ending with the warning, "three weeks from now we might wake up to a military government." The coup occurred that night. "My son interrupted me in the shower, saying, no school bus, no school, and you wouldn't have to go to work either because there are tanks rolling down the boulevard," recalls Keeley, laughing.

Once at a dinner party, he exploded at the strident disbelief of a woman who kept insisting the colonels weren't torturing anyone. Keeley got so fed up that he rose from his chair and demonstrated the stories of torture he had heard by grabbing the woman's hair and saying, "this is what they are doing." At this time his wife was friendly with some of the government opposition. "The only thing I ever feared was the Greek secret police finding my phone book and thinking all those people were a resistance group," she says. Earlier, during Keeley's sabattical year at Stanford University, she had joined some anti-war activities.

What she saw as the staunch conservatism of some of the Embassy personnel infuriated Louise Keeley. "Some of the women were less than liberal. On the day of the King assassination I was taking a group to do something for CARE. I was crying and all they said was 'He shouldn't have gotten involved in Vietnam.' They had the same reaction when Robert Kennedy was shot."

In Greece the Keeleys and their two children, Michal, now 26, and Christopher, now 22, had more than just political adventure. One day Keeley took nine people out on his 29 foot Trident, stopped on an island in the Aegean, had a quiet swim and pastoral lunch, and then headed back. A storm came up, the sailboat ran out of gas, and Keeley, the only sailor on board, couldn't get the main sail up. "I had to sail alone for nine hours, the waves lapping over, everyone huddled below in their life jackets," recalls Keeley, "and the irony was that I was trying to impress my new boss."

On a scorching July day in 1973, Idi Amin ordered 110 Peace Corps volunteers detained because he thought they were mercenaries. In fact he had said that the plane was to be shot down if it left Entebbe Airport for its destination in Zaire. Keeley, as head of the mission, went to negotiate with the military guards and was ordered to leave "within five minutes," or he would be shot. "After I got back in my car, I called the foreign minister and complained. We ended up using President Mobutu of Zaire as a character witness for the volunteers," recalls Keeley, telling the incident without any personal embellishment.

"Those were the worst 52 hours I ever spent," says Keeley. Within a two year span Robert Keeley put his life on the line, safely evacuating American personnel from Uganda and Cambodia.

For ten months Keeley was the point man for deteriorating U.S.-Uganda relations. Before the U.S. Ambassador was recalled, after a series of sarcastic, nasty letters from Amin to Richard Nixon, Keeley had been in charge. He had supervised the investigation into the deaths of an American journalist and Peace Corps works. As a result it was the first time the Amin government admitted guilt in a foreigner's death and made settlements to the families: "Then after the murder of the American ambassador in Khartoum, I decided we wouldn't work there. Amin had supported the Palestinian action and we just didn't have the support of the local government," recalls Keeley. "So I sent in an unemotional message to the State department that we were leaving and they sent in an inspector to see if I had gone off my rocker."

In October 1973 Amin called Keeley in and told him he was kicking out the Marines. Over the next few weeks Keeley had all the Americans leave one by one or in small groups. On Nov. 10, 1973, he and two other officials burned the last papers and Keeley took a note for Amin to the foreign minister saying he was leaving. The night the last three Americans left coincided with around the world with a dance. Keeley dressed in his black tie and tuxedo so he could go straight to the ball in Kampala.

Cambodia brought constant bombings, death threats, and political uncertainties. Keeley, whose security code name was "Locker Room," says "generally it wasn't a frightening experience." He was the second man to John Gunther Dean, the ambassador, and Keeley's house was guarded. Eventually he had to move his bedroom out of range and earshot of Khmer Rouge rockets. When he needed medical treatment for a bleeding ulcer, he was hospitalized and his room was surrounded by military guards. Plus there was the psychic pain of being involved in a war and foreign policy to which he was flatly opposed.

"I thought if I didn't go, I was chicken," says Keeley. "Dean persuaded me that he needed someone he could trust to run the embassy and mission while he did the diplomacy." In his conversations there's a strong residue of distaste. "We took out 300 American personnel the last days. That's a hell of a way to leave a country. I consider it the low point of my diplomatic career," says Keeley.

In "Sideshow," the book by journalist William Shawcross, he quotes Keeley as saying, "one day Henry Kissinger will write his memories. And we will all go out and buy them. And there will be a chapter on Cambodia. And I will write a footnote on every page."

Right now Keeley wouldn't elaborate on his views of Cambodia but will eventually write about that experience. "I do produce something booklength about every five years," he says. In his much-battered trunks, Keeley has five books, one his account of the coup in Greece and the American policy of the time, another a novel about public opinion polsters. His brother, Edmund, relies on him to read his manuscripts. Keeley is game for the unusual, contributing to a famous people's cook book his recipe for egg salad sandwiches, and raising rare birds he became fond of in Mauritius.

For almost two years the issues of southern Africa have consumed his attention. Generally, as the most crucial points of U.S. policy toward the old Rhodesia were hammered out and the future seemed suspended around the Anglo-American plan, Keeley earned a good reputation. "He's straightforward and reliable," says a Capitol Hill Africa specialist. "At the time we were considering the question of sanctions at the time of the internal agreement, we had the administration chiefs up for hearings. The first day Dick Moose and Andrew Young spoke for three hours and neither one of them defined the administration's policy. The next day Keeley was there and said plainly that the administration was neutral. That's what we needed, a direct statement that clarified the issue."

What happens in Zimbabwe will influence the rest of southern Africa, as South Africa and Namibia face the question of black-majority rule. "Keeley is a particularly right person in a difficult transition. It's sensitive because of the conflicting pressures on Robert Mugabe, as he tries to rebuild and satisfy the internal and external factions," says Moose.

Keeley's very optimistic about the future of Zimbabwe. "I just think it's going to work," says Keeley. He has met twice with Robert Mugabe, the freedom fighter who won the elections in early March. "He impressed me as highly intelligent, well-educated and the most articulate African leader I've ever met . . . He has an extremely rich country to work with. It has a terrific infrastructure, both agricultural and industrial. And a highly-educated population with more university graduates than any other African country except South Africa . . . And he is a very moderate person and I think it has been a mistake to focus on his Marxism. He says he has learned as much from his Christian upbringing as from his Marxist reading.

"To me its the most interesting place in Africa today . . . It's obviously personally satisfying when a problem reaches a point of resolution to continue with it. Back here it's not going to be that interesting. The job is done." ●

YANKEE INGENUITY

● Mr. DURKIN. Mr. President, much has been said and written about "yankee ingenuity." I am proud to cite an example of that inventiveness at work.

Ralph Baer, an engineer for Sanders Associates, who lives in Manchester, N.H., was recently named Inventor of the Year by the New York Patent Law Association. Mr. Baer is responsible for inventing the technology which has led to the present-day explosion of television computer games.

Amazed at the number of television sets in the country and the amount of time they sit idle, Baer began to tinker with producing TV screen dot effects. Soon, his project was funded and staffed by Sanders, and it was not long before he had designed hockey, basketball, handball, and even shooting gallery programs.

The next time you hear the ever-present blips and beeps of a video game, remember Ralph Baer, a New Hampshire resident and lifelong electronics inventor. I ask that the article by Richard O'Donnell of the Boston Globe be printed in the Record.

The article follows:

COMPUTER GAME DEVELOPER NAMED INVENTOR OF THE YEAR

(By Richard W. O'Donnell)

Nashua.—"I know it was my idea," said a man honored as America's Inventor of the Year, "but it has gone far beyond anything I ever imagined."

Ralph Baer, the Nashua, N.H., engineer responsible for the television computer game craze, was honored recently in New York at a Waldorf Astoria testimonial dinner.

The quiet, soft-spoken Sanders Associate engineer has been named Inventor of the Year by the New York Patent Law Assn.

"When we first developed the computer games, they involved hockey and tennis," said the lean, bald inventor. "They were all rather simple games. I never dreamed of the changes that would take place.

"Just the other day, I saw two computers playing a game of chess. Now such a thing never popped into my head when I was working on the early computer games. Still I should have expected it. We live in a crazy age where there can be more changes in a year than there used to be in a century."

Baer said he has been asked a "few thousand times" how he came to invent the games. The rights to them are owned by Sanders Associates, the Nashua firm where he is employed.

"Back in the late '60s, there were 62 million TV sets in the land," he said. "Most of the time they were sitting in a corner doing nothing.

"The idea of putting all those sets to a new use occurred to me. That's when the TV game concept was born. Just the thought of attaching a new commercial product on a small percentage of those sets was pretty exciting."

Baer started with some experimental bench work and in short order had the now-famous dot zipping back and forth across a screen on an old TV set in the Sanders laboratory. Shortly after that, Baer's "fun project" received the approval of his bosses, and the project was funded and staffed.

The inventor rates two co-workers, Bill Harrison and Bill Rusch, as "the two best TV game hockey players in the world."

"Much of the early phase design work was done by Bill Harrison," said the inventor. "Bill Rusch was with us during the early days too. It wasn't long before TV hockey, ping pong, basketball, handball and even target shooting concepts were developed and turned into what we call working hardware.

A graduate of the American Institute of Technology in Chicago, Baer, who lives in Manchester, N.H., has taken out 75 patents during his career. "I've got one on improving radio transmitting techniques," he said, "and another on an electronic memory bank. I've taken out so many patents, I have trouble keeping track of them."

Baer was the "first person ever to earn a bachelor's degree in TV engineering."

"I got in at the American Institute of Technology," he stated. "I went there on the GI Bill after the Second World War. Before I ever attended the institute, I was taking correspondence courses on electronics. Took them by the tons. Ever since I was a youngster, I've been interested in electronics."

Judges who selected Baer "Inventor of the Year" were: Peter Gwynee, Newsweek; Otis Port, Business Week; William Hawkins, Popular Science; and Ron Jurgen, IEEE Spectrum.

Baer and his wife Dena have three children: James, 25, also an engineer; Mark, 22, a Bates College student; and Nancy, 19.●

ED DECOURCY

● Mr. DURKIN. Mr. President, I firmly believe that a free society cannot survive without a free and independent press dedicated to open, unbiased reporting of the issues of the day. I would like to take this opportunity to commend someone in my home State of New Hampshire who has worked tirelessly for many years in this pursuit and who continues to be a shining example to all in the field of journalism.

Ed DeCourcy, editor and publisher of the weekly newspaper the Newport Argus-Champion, has won more than 150 awards for editorials and news reporting in the past 19 years. His openness and independence has won him respect throughout New England and beyond. Although his views do not always coincide with those of his readers, even those who disagree with Ed respect him as one of the leading editorial voices in New England.

I ask that the article by Joanne Lannin be printed in the Record.

The article follows:

HE WINS AWARDS IF LITTLE SUPPORT

(By Joanne Lannin)

Newport, N.H.—When Ed DeCourcy, editor and publisher of the weekly Argus-Champion here opened up his New York Times last February, he got a jolt. Below the fold on the index page was the quote of the day to which he always turned first. The words were more than vaguely familiar that morning. They were his own.

As the 68-year-old veteran newspaperman explains it, he had told Republican presidential candidate John B. Anderson the day before, in the presence of a New York Times reporter, that he would endorse him in the upcoming New Hampshire primary. Anderson was enthralled by this, his first editorial endorsement in New Hampshire, but DeCourcy felt the need to set him straight.

"I can endorse you without reservation and sleep well at night, but I also have a long record of supporting losers." DeCourcy told the presidential hopeful.

True to DeCourcy's word, Anderson garnered a mere 38 votes in Newport, a blue-collar town of 6000 whose chief employer is a gun factory. Ronald Reagan received 407 votes.

While others find it unusual that an editor who has won more than 150 awards for editorials and news reporting in the past 19 years would be ignored in his own backyard, it doesn't surprise Ed DeCourcy.

"I'm not under any illusions as to the impact of an editorial in Argus-Champion," says the gray-haired newspaperman, with a trace of his native Connecticut still evident in his accent.

DeCourcy is quick to point out that he has been alone in losing on a number of major issues since coming to the Argus-Champion in 1961. In the mid-'60's he went out on the stump against the New Hampshire Sweepstakes when the idea was first being proposed. Despite his editorials and debating, the state voted the measure in by a 4–1 margin. Newport favored the sweepstakes 7-1.

Yet if being a progressive in a conservative county makes Ed DeCourcy a voice in the wilderness at times, it seems it is a highly respected voice nonetheless. One of DeCourcy's major themes is the need to protect the freedoms guaranteed by the First Amendment of the Constitution. In 1971, an editorial entitled "None of their business," which condemned the state Legislature's proposal to compile a list of antiwar demonstrators, won the Yankee Quill award. This honor is bestowed on the best weekly editorial of the year by the International Society of Weekly Newspaper Editors.

In general, DeCourcy's editorials urge Newporters to "keep the barn door open" to progressive projects such as sex education in the schools to top-notch library services. The editorials are loaded with statistics and quotations culled from a lifetime of experience and reading.

On his editorial pages, DeCourcy regularly expounds on the need for a broad-based personal income tax in New Hampshire to modify what he feels is an unfair property tax burden. As elsewhere in the state, talk of any new tax is anathema and gives DeCourcy a reputation as a taxer and spender. "Many people call him a flaming liberal," said Newport attorney Harry Spanos. "It tarnishes his credibility in town." But that's the worst thing anybody seems to have to say about Edward DeCourcy.

"He's not out to get anyone's butt and he doesn't have an ax to grind," commented Spanos, who is a member of the Legislature. "All he wants is the community to move forward. He's an educator."

DeCourcy himself sees his and the paper's role as being akin to that of a teacher. It would be easy, he says, for a small community like this one, nestled comfortably between Mts. Sunapee and Ascutney, to think that the world begins and ends in Newport.

Though his views are appreciated far beyond Newport, Ed DeCourcy is still the epitome of the small town editor. He came to the community from Milford, Conn., in 1961, where he had edited the weekly Milford Citizen since 1949.

When publishers James Ewing and Walter Paine bought the Argus in 1960, they called DeCourcy, former president and a founder of the New England Press Assn., looking for suggestions on whom to hire as editor and publisher. DeCourcy told the editors he'd get back to them, did some research into the region, found it to be to his liking, called Paine and Ewing back, and replied, "Yes, I know someone . . . Me."

The Argus-Champion's 6,000 circulation is scattered among 15 towns, the two largest being Newport and New London. Some would think that DeCourcy's style and interests would make him more at home in New London, a more affluent and academic community than blue-collar Newport.

But DeCourcy's choice was Newport and right from the start he set out to become a part of it. He immersed himself in the town's history, got involved in civic and church affairs and made his views known at town meetings and in street-corner discussions. DeCourcy's door is always open and he puts everyone at ease, his co-workers say.

"If it's the King of England or someone from the gutter, it doesn't matter," claims Madison Karr, the assistant editor of the Argus. "He'll drop what he's doing and talk to them."

The front page of the Argus-Champion reflects his finely tuned concern for the people in Newport. DeCourcy directs a staff of 20 part-time writers who report on such things as rustlers making off with sheep from a local farm and the Newport community dance band's need for a name as well as the typical weekly news wrap-ups from selectmen's and school board meetings. The sports pages give equal play to both boys and girls.

DeCourcy is a publisher who does not own the product but is given a free hand to run it. In 1962, his principles were sorely tested when he decided to support James Cleveland of New London instead of local "favorite son" Bert Teague for a congressional seat. Local advertisers threatened to pull out of the Argus—taking $10,000 in revenue with them. DeCourcy stood firm and lost the advertising, but circulation went up. Local people admired the independent spirit of "the new man in town."

"He sticks to his guns," said Jean Michie, the town librarian. "That's important in a small community." ●

ARMS TO MOROCCO

● Mr. McGOVERN. Mr. President, last February, the United States approved a $250 million arms sale to Morocco, including combat aircraft and helicopter gunships, for use against the Polisario which is fighting for the independence of the Western Sahara, a territory nearly equal in size to Morocco itself. Rabat claims it as its own. However, not a single state has formally recognized Moroccan claims to sovereignty; neither has the World Court, the United Nations, or the Organization of African Unity.

The United States might have been able to play the role of an "honest broker" in this conflict, but a different tack has been taken by supplying arms. Now the United States is moving dangerously close to fully backing Morocco in what increasingly appears to be an unwinnable war that threatens the stability of a valuable ally and risks a wider dispute that could engulf the whole of northwest Africa.

Mr. President, when the arms sale was made, the Administration told Congress that its purpose was to strengthen the hand of King Hassan in order to make it possible for him to negotiate. Since the arms sale went forward, there have been no significant signs of a negotiated solution. To the contrary, King Hassan has accelerated his military offensive, rejected any "strings" attached to the arms deal, consistently turned down initiatives toward starting talks with the Polisario, and underscored his commitment not to "give an inch" by making an unprecedented personal visit to Dahkla, the southern capital of the Western Sahara. This response by King Hassan exposes the bankruptcy of the administration's policy in this matter.

Mr. President, I ask to have a perceptive article by Steve Talbot, entitled "Arms for Peace," printed in the RECORD. Mr. Talbot spells out in detail the contradictions inherent in U.S. policy toward the Western Sahara.

The article follows:

ARMS FOR PEACE

(By Stephen Talbot)

Until rebellious students and unemployed workers took to the streets, chanting "Tehran, Rabat, the same fight," Morocco seemed a likely haven for the newly deposed shah of Iran last year. The shah then became an embarrassment, his presence a catalyst for the opposition to the Moroccan monarch, Hassan II, whose reign was already threatened by economic malaise and a draining war aimed at annexing the neighboring Western Sahara. Some sixty thousand Moroccan troops, at a cost of more than a million dollars a day, were bogged down in the frustrating war with ten to fifteen thousand Polisario Front guerrillas, and the king's critics were calling it "Hassan's Vietnam."

After two months in Morocco, the deposed shah discreetly embarked for the Bahamas, but his fate continues to haunt the Moroccan monarchy. It was the shah's downfall that prompted President Carter and his adviser Zbigniew Brzezinski, to reverse previous administration policy and approve last October the sale of $232.5 million worth of U.S. combat planes and helicopters for use against the Polisario independence movement. The Carter-Brzezinski logic was that the United States, following the debacle in Iran, must make a public display of support for King Hassan to reassure his financiers, the Saudi government, and to show the world, especially the Soviet Union, that Washington would protect its allies in the Third World. It was a question of U.S. "credibility," the administration argued, overriding the objection of State Department "Africanists" that the U.S. arms sale would be viewed in Africa and in the United Nations as a reward for Moroccan aggression in the Western Sahara.

The administration also argued that arming King Hassan would strengthen his negotiating hand and thereby encourage a settlement of the conflict. "U.S. Set to Sell Arms to Morocco As Spur to Peace" was the confusing headline in the *Washington Post*. Representative Stephen Solarz (D-N.Y.), chairman of the House Subcommittee on Africa and an opponent of the arms deal, was less sanguine, predicting that the weapons "will encourage intransigence rather than flexibility" on the part of King Hassan and "will prolong the war rather than shorten it."

King Hassan and his couriers were delighted by Carter's approval of their weapons request, but they embarrassed the State Department by immediately rejecting any "strings" attached to the arms deal, such as a Moroccan commitment to pursue a negotiated settlement. Hassan specifically ruled out any talks with Polisario. In fact, emboldened by Carter's approval of the weapons sale, Hassan unveiled a new elite force of some seven thousand troops and launched "Operation Oukoud," an offensive (named after a battle fought by Mohammed) aimed at turning the tide against the Polisario guerrillas. A special antiguerrilla column was supposed to sweep through the Western Sahara desert in armored personnel carriers, destroying Polisario arms caches and pushing the guerrillas back into their base camps in Algeria. But, as *The Economist* put it, the much-heralded Oukoud offensive "appears to have got lost in the Saharan sands."

Then, in March, with the offensive stalled, Polisario counterattacked, mauling a five-thousand-man Moroccan force that had been sent into the northern region of the Western Sahara on a search and destroy mission—and to relieve the garrison at Zag, where some four thousand Moroccan soldiers had been surrounded since last fall. According to Polisario, two thousand Moroccans, including some of Hassan's most highly trained soldiers, were killed in the ambush. Rabat disputed the high death toll but acknowledged a fierce battle, and journalists who visited the area soon after the fighting reported many Moroccan dead and heavy damage to Moroccan military equipment. European journalists on the scene reported spotting twenty captured new U.S. light armored cars. Previously, several journalists and other visitors taken through the Western Sahara by Polisario had seen the wreckage of American F–5 jets apparently shot down by the Soviet-built SA–7 missiles Polisario got from Algeria and Libya.

The more weaponry Hassan procures from the United States and France, the more he pursues a military solution in the Western Sahara—and to no avail. Half the Moroccan army is now directly engaged in the war, Moroccan soldiers are being killed at the rate of a hundred and fifty a month, and the king is diverting resources from economic development to meet the spiraling costs of the conflict. In increasingly desperate bids to win an unwinnable war, Hassan looks to the quick fix of more sophisticated weapons from the United States.

But, asks former UN ambassador Andrew Young, "If Hassan is our friend, why do we aid in constructing a scaffold of weaponry upon which he can only hang himself?" In February, Young—who opposed the U.S. arms sale to Morocco—visited the Polisario-run refugee camps at Tindouf, Algeria, where as many as 100,000 Saharans fled in early 1976 after Morocco annexed the Western Sahara and bombed, strafed, and napalmed the makeshift refugee centers there. "You shall be free and you shall prevail," he told a Polisario rally.

Young contends that exclusive U.S. military support for Morocco's war of conquest in the Western Sahara damages U.S. economic interests in Northwest Africa (the Maghreb). Algeria, for example, is Polisario's main backer; it is also a major trading partner with the United States, providing 7.8 percent of total U.S. oil imports. Polisario's other principal supporter, Libya, provides another 8.5 percent. While it makes little difference to the United States who controls the Western Sahara, a regional conflict between Algeria and Morocco would threaten U.S. oil supplies, damage trade and investment, and could escalate into an international confrontation with the United States and the Soviet Union backing their respective allies. To avoid this alarming scenario, Young advocates an independent Western

Sahara engaged in regional cooperation and economic development with Morocco, Algeria, and Mauritania.

Throughout the war the United States has claimed to be neutral, but the sales of arms to Morocco belie the claim, discourage negotiations, and undermine any peacemaker role the United States might seek to play. Hassan had hoped that Algeria's new president, Chadli Benjedid, would be less willing than was his predecessor, the late Houari Boumedienne, to support Polisario. But that hope proved illusory. Having tapped jingoistic sentiment in Morocco to annex the Western Sahara in 1975–76, a campaign that conveniently diverted attention from Morocco's rampant inflation and high unemployment, Hassan set his own trap. Now he must rely on nationalist fervor—the dream of creating a "Greater Morocco"—to fuel the war effort, but expansionist sentiment in Morocco limits the king's ability to relent and recognize the independence of the Western Sahara without jeopardizing his throne.

Having set loose the military in a foreign war, Hassan is also more vulnerable to military pressures. To appease his more hawkish colonels, he periodically threatens to invade Algeria—a move which would be catastrophic since that nation vastly outguns Morocco. But lately Hassan is finding it increasingly difficult to restrain his army from carrying out "hot pursuit" raids into Algeria against Polisario guerrillas. If the war situation and Moroccan military morale deteriorate even further, Hassan—who survived assassination attempts by disgruntled military officers in 1971 and 1972—will have to worry about a military coup.

The Western Sahara is a bleak, parched expanse of desert and mountains roughly the size of Colorado. The population statistics are a matter of political controversy: A 1974 Spanish census said there were 74,000 indigenous people, and Polisario claims there are 750,000. The population is probably around 150,000, including Saharan refugees who fled to Algeria. Bordered by Morocco to the north, Algeria to the east, and Mauritania to the east and south, the Western Sahara has nearly 600 miles of shoreline along the Atlantic.

At the Berlin Conference of 1884, the European imperial powers allocated the desert territory to Spain, but Spanish forces did not subdue the largely nomadic population of the interior until the late 1950s and did not take much interest in the colony until 1963, when the world's fourth largest phosphate deposit was discovered at Bu Craa. Phosphates are used primarily to make fertilizer. The longest conveyor belt in the world—now severed by Polisario hit-and-run attacks—was built to transport the phosphate to the coast. Morocco, the largest phosphate exporter in the world, began to cast a covetous eye at the Western Sahara deposits; to control them would give Morocco a near monopoly over non-Communist phosphate reserves. As world demand for fertilizer increased, phosphate prices rose, and so did Morocco's interest in Bu Craa.

While Spain began to exploit the phosphate reserves, the Western Saharan nomads were undergoing a profound social transformation. The drought that afflicted the Sahel region in the late sixties and early seventies forced more and more of the wanderers to settle in towns and cities. Some were also attracted by the belated Spanish attempts to develop the urban areas. A new urban elite began to emerge among the indigenous population. Modern nationalist political movements stirred. On May 10, 1973, several proindependence groups merged to form the Polisario Front (Popular Front for the Liberation of Saguia el Hamra and Rio de Oro, the two major regions of the Western Sahara). Ten days later, Polisario guerrillas assaulted and temporarily occupied a Spanish fort. The regime of Generalissimo Francisco Franco responded by increasing the Spanish occupation forces to 55,000 with an additional 4,500 police.

However, after two years of skirmishing with Polisario, Spain decided to withdraw from the Western Sahara. Morocco saw its chance. King Hassan, asserting "historic" Moroccan rights to the Western Sahara, requested an advisory opinion from the International Court of Justice in the Hague. Although the court acknowledged "indications" at the time of Spanish colonization of "ties of allegiance" between the Sultan of Morocco and "some, but only some of the nomadic tribes of the territory," it concluded that this "does not establish any tie of territorial sovereignty between the Western Sahara and Morocco" and "it does not show that Morocco displayed effective and exclusive state activity in the Western Sahara." The court, also rejecting Mauritania's claim to the territory, urged self-determination for the population.

A United Nations team composed of representatives from the Ivory Coast, Iran, and Cuba toured the Western Sahara in 1975 and concluded that "the population, or at least all those persons encountered by the Mission, was categorically for independence and against the territorial claims of Morocco and Mauritania." Moreover, the UN investigators stated, Polisario "appeared as the dominant political force in the territory." The UN still has not accepted Morocco's incorporation of the Western Sahara.

Flouting the International Court of Justice and the United Nations, King Hassan organized an imposing media event: He sent 350,000 Moroccan peasants on a holy crusade—the "Green March"—to occupy the Western Sahara. Armed only with the Moroccan flag and the Koran, the peasants marched a few miles into the Western Sahara and then returned home. The point had been made, and on November 14, 1975, the Spanish government signed the Madrid Agreement turning over administration of the phosphate-rich northern two-thirds of the Western Sahara to Morocco and the southern one-third to Mauritania. As solace for relinquishing its colony, Spain retained a 35 percent interest in the Bu Craa phosphate mine; Morocco took 65 percent. No referendum was ever conducted among the Western Saharans.

Polisario declared war on Morocco and Mauritania. As foreign troops began occupying the Western Sahara in late 1975, Polisario helped organize the exodus to Tindouf, Algeria; some 100,000 people—the bulk of the Saharan population—still live there in a tent city subsidized by the Algerian government and international relief agencies. On February 27, 1976, Polisario proclaimed the "Sahara Arab Democratic Republic"—a government in exile which now has been recognized by thirty-six countries. Roaming the deserts in Land Rovers and Toyotas, the Polisario guerrillas have struck effectively against the slower moving occupation forces, inflicting heavy casualties. Polisario strategy was to focus its guerrilla war on Morocco's weaker ally, Mauritania, which has only 1.5 million people and is one of the world's poorest, least developed countries. Polisario raids closed down the Mauritanian iron mines at Zouerate, which accounted for 70 percent of the country's foreign exchange. The war provoked unrest in Mauritania and two coups. Despite large-scale French military aid, including raids by Jaguar bombers, Mauritania—battered and weary—withdrew from the "fratricidal and unjust" Saharan war last August, signing a peace accord with Polisario. An outraged King Hassan immediately occupied the Western Sahara territory that Mauritania had surrendered.

The United States has maintained an official policy of neutrality under which the State Department recognizes Moroccan administrative control over the Western Sahara but not Moroccan sovereignty. For the leaders of Polisario this is too fine a distinction. They can point to King Hassan's use of U.S. F–5 jet fighters and other U.S. weaponry in the war. Although this violates U.S. agreements with Morocco that American weapons would only be used inside Moroccan borders for defensive purposes, the State Department has turned a blind eye to the infractions.

In fact, one can make a strong argument that the United States has quietly encouraged Morocco's war of annexation by steadily increasing U.S. military sales and assistance to King Hassan's regime. After Morocco entered the war, the Ford administration responded with a staggering increase in arms sales, a jump from less than $10 million in 1974 to $296 million in fiscal year 1975. The Carter administration, more concerned about alienating African countries opposed to the Moroccan takeover, delayed King Hassan's request for Bronco OV–10 counterinsurgency planes and helicopter gunships until last October, but continued to increase Foreign Military Sales credits to Morocco to $30 million in 1977 and $45 million in 1978.

Between 1975 and the $232.5 million arms sale of last October, the United States delivered nearly half a billion dollars worth of military hardware to Morocco, including 150 M–48 tanks, 334 M–113 armored personnel carriers, 6 Chinook CH–47 helicopters (a Vietnam War workhorse), 16 155mm. howitzers, 25 F–5A fighter aircraft (at least five of which have been shot down), several C–130 aircraft, and some spare parts and ammunition. In addition, Washington encouraged France to serve as the West's policeman in the Maghreb, a role Giscard d'Estaing was only too eager to assume. The French became Morocco's number one arms supplier. In recent months, France has begun delivering some fifty advanced Mirage F–1 fighters, and Polisario has already shot down four of the $5 million planes.

The United States government has also approved a number of important, military-related commercial sales to Morocco by U.S. multinationals. In 1977 Westinghouse announced it had signed a $200 million contract with Morocco to build a Tactical Air Defense System (TADS). Washington approved an export license despite the fact that part of the system was to be installed in the disputed Western Sahara. Last May the State Department gave the go-ahead to Northrop Page to construct a vast electronic surveillance system to enable Morocco to detect guerrilla movements in the Western Sahara. Northrop refuses to comment on the deal, saying the contract had not yet been signed with the Moroccan government. But the original proposal, which the State Department had turned down, called for thousands of tiny sensors to be buried in the Western Sahara. The Washington Star said it "could be the world's largest military underground surveillance network"—the biggest since the ill-fated "electronic battlefield" system the United States constructed in Vietnam. Three of the American experts working on the design of Northrop's "integrated intrusion detection system" are retired air force generals who developed the massive sensor system in Vietnam, among them John D. Lavelle, the notorious commander who ordered his pilots to ignore the Nixon administration's bombing halt on North Vietnam. Old counterinsurgency warriors never die, they just move on to the next war.

To obtain U.S. weapons and maintain political support in Washington, King Hassan has conducted a major public relations campaign—the largest by any African government at this time. According to Justice Department records, Morocco paid an American PR firm, DGA International, $893,068 in 1978–79 for its efforts "primarily directed at improving public and political understandings in the United States of Moroccan interests, including obtaining U.S. approval of the right of Morocco to purchase armaments in the U.S." DGA president Donald Agger is a former official in the Transportation Department, and the chairman is Charles Goodell, a Washington lawyer and former U.S. senator from New York. Les Janka, who worked for Henry Kissinger at the National Security Council from 1971 to 1976, handles the Moroccan lobbying for DGA. On Capitol Hill, DGA lobbyists found two members of the Senate Foreign Relations Committee, Richard Stone (D-Fla.) and Jacob Javits (R-N.Y.), particularly receptive to Moroccan military requests.

In its lobbying campaign, the Moroccan government stressed three points: It was a U.S. ally and conservative bulwark in North Africa against the spread of Algerian socialism and Soviet influence; it had responded loyally to U.S. and French requests to dispatch troops to Shaba province in Zaire in 1977 and 1978 to salvage the shaky regime of another pro-Western ruler, Mobutu Sese Seko; and it had facilitated the first Israeli-Egyptian contacts that led to the Sadat-Begin peace accord. The last carried special weight with many pro-Israel members of Congress: Hassan is considered an Arab moderate and a friend of Sadat (last year Egypt delivered small arms and ammunition to Morocco in a gesture of support). But Morocco's main financial supporter is Saudi Arabia, whose largesse has since convinced Hassan to condemn the Israeli-Egyptian treaty.

Polisario, though backed by Soviet-supported Algeria and Libya, can hardly be described as a pro-Soviet force. George Houser, director of the American Committee on Africa, last year traveled with Polisario from Algeria to the Atlantic Ocean and back. He reported that Polisario's ideology "is certainly socialist in orientation, but essentially it is a nationalist movement. To call it Marxist would be an exaggeration . . . virtually all the Polisario people with whom I came into contact were devout and practicing Moslems." Polisario's political manifesto calls for the eventual development in the Western Sahara of a democratic socialist system with nationalization of the principal mineral resources. Islam will be the state religion, Arabic the official language. The right of "nonexploitative" private property is guaranteed. The constitution of Polisario's Sahara Arab Democratic Republic also professes a policy of nonalignment. All in all, hardly what one would call a burning threat to American strategic interests.

It is hard to shamelessly assert that Morocco is an outpost against Soviet expansionism. The Soviet Union and Morocco have signed a $2 billion phosphate agreement under which the Soviets are lending Morocco the money to open new phosphate mines. Rabat and Moscow also have a major fishing agreement and a lucrative oil-for-citrus swap. Moroccan exports of fruits and vegetables to the USSR are expected to increase if Portugal and Spain join the European Common Market and EEC demand for Moroccan produce declines. And this important economic link between conservative Morocco and the Soviet Union must be seen along with the significant economic bond between radical Algeria and the United States. Algeria sells 60 percent of its oil production to the United States and the United States has more than $4 billion in loans and direct investments in Algeria. An economic determinist would be baffled by the U.S. and Soviet military alliances in North Africa.

To make matters worse, by siding with Morocco, the United States is perceived in the Third World, and especially in Africa, as opposing the right to self-determination and free elections. At last year's Organization of African Unity summit conference in Monrovia, Liberia, African countries voted 33 to 2 in favor of self-determination for the Western Sahara. The Moroccan delegation stalked out, threatening to quit the African body permanently, and King Hassan, in a racist pique, dismissed the summit as a "tom-tom conference." Last December an OAU "committee of wise men"—including figures from such conservative countries as Sudan and Liberia—called for an immediate ceasefire in the Western Sahara, the withdrawal of Moroccan troops, and the introduction of an intra-African peace force to supervise a popular referendum. Morocco flatly rejected the proposal.

Congress did not oppose the Carter administration's latest arms sale to Morocco, although the chairmen of the Senate and House subcommittees on Africa, Senator George McGovern and Representative Stephen Solarz, both registered their personal disapproval. "We just didn't have the votes in the Senate to do anything more," explained a McGovern aide. Delivery on the Saudi Arabian-financed U.S. arms package will begin later this year, starting with six Bronco reconnaissance planes, followed by twenty F-5E jet fighters from Northrop (armed with Maverick air-to-ground missiles, according to a recent State Department announcement) and twenty-four Hughes 500 MD helicopters equipped with TOW antitank missiles.

The main argument in Washington for the sale is that after Iran and the Soviet invasion of Afghanistan, the United States has to reassert its power in the world and stand by its friends. In April, for example, two congressional delegations led by House Speaker Thomas O'Neill and Foreign Affairs Committee chairman Clement Zablocki visited Morocco and expressed strong support for "one of our oldest friends and allies." (House minority leader Silvio Conte of Massachusetts went further, saying, "We think your territorial integrity should be preserved"—words that Moroccans would understandably consider as support for the country's present claims in the Western Sahara.) Yet arms sales to Morocco will not defeat Polisario and will only encourage Hassan's folly in trying to forcibly annex the Western Sahara. They will increase his belligerency and inflexibility. By arming Morocco, the Carter administration is killing the king with kindness.●

DOUGLAS J. MORIN

● Mr. DURKIN. Mr. President, when a person is faced with a life and death emergency, a calm but quick witted reaction is necessary to survey and attack the situation. On April 9, Airman First Class Douglas J. Morin of Franklin, N.H., the son of a close friend of mine, responded swiftly and bravely in saving the life of a friend while swimming near Beale Air Force Base in California. Airman Morin was recently awarded the Airman's Medal for Heroism involving voluntary risk of life.

The citation accompanying the award reads that Douglas Morin "risked his life by swimming through treacherous currents and among large rocks to rescue his unconscious companion. The exemplary courage and heroism displayed by Airman Morin reflect great credit upon himself and the U.S. Air Force."

Equally impressive is the selfless attitude with which Douglas Morin sums up his feat. Morin states, "I am happy to say he (his friend) is alive and doing better every day. At least it makes my bruises hurt a little less."

I am extremely proud of Douglas Morin's courage and personal sacrifice in rescuing his friend's life. His actions are undoubtedly a tribute to his Air Force training and his fine upbringing. I salute him as a New Hampshire resident and as a friend.●

HUNGER IN AFRICA

● Mr. McGOVERN. Mr. President, widespread suffering and starvation have once again turned African events into front-page news. Over the past several days, reports coming out of eastern Africa have described in stark terms the life-and-death struggle now involving millions in Somalia, Ethiopia, Tanzania, Kenya, and especially, Uganda.

In the remote northern reaches of Uganda, where remnants of Idi Amin's army continue to terrorize and loot from the local tribes, an estimated 160,000 people now face starvation. The droughts, disease, and violence that are the causes of this situation have been building for a long time. In fact, the news of disaster comes when the problems loom so large that it is difficult to envision an effective international response.

And yet, as the Tuesday editorial in the Washington Post makes clear, there are things that the United States can do. As we turn to considering the foreign assistance bill for the coming fiscal year, I would urge my colleagues to reassess the efforts we can make through our food for peace and disaster relief programs to ease the suffering in this devastated part of the world.

Mr. President, I ask to have the following articles from the Washington Post printed in the RECORD: "Famine in Africa," June 10, 1980; "Where Children Fight for Kernels" and "Diary of Anguished Trip to Land of the Damned," June 7, 1980; and "60 Million in East Africa to Go Hungry," June 9, 1980.

The articles follow:

FAMINE IN AFRICA

After India, the Sahel and Cambodia, the pictures are familiar: skeletal bodies, hopeless stares, children fighting for scraps of food or too weak to raise an arm. The impulse is to turn away in pain. Or to wonder why a world so well equipped with aircraft cannot divert some of it to get food that is available to people who are daily dying for lack of it.

This time the setting is East Africa. The Karamoja province of Uganda, Somalia—which houses a million refugees from the endless war with Ethiopia—and parts of Tanzania are the hardest hit. Scattered regions of Kenya and neighboring countries reaching all the way to South Africa also show evidence of unusually bad hunger and malnutrition. The immediate cause of the suffering is drought. But the effects of bad weather have been compounded by harmful government policies in Kenya and elsewhere; in Uganda, where conditions are the worst, the parallels to Cambodia are too obvious to miss.

The fighting before and after Idi Amin's departure prevented the normal planting. The following year, faced with hunger, many people were forced to eat the seeds that should have been saved for planting. Now the central government has ceased to work at all. Even the bare essentials of a food distribution system—trucks, people to drive them, fuel to run them—cannot be found. Those who know their way around are reluctant to enter Karamoja because of marauding bands of heavily armed bandits who have overrun it.

Unlike Cambodia, there was a plan to prevent starvation in Uganda. The United Nations Development Program arranged a swap in which Kenya would send 8,000 tons of corn across the border into neighboring Karamoja, and in turn would receive the same amount of Canadian wheat from U.N. supplies. The wheat arrived, but by then Kenya's supplies had disappeared, and the corn was never sent. Since then, the UNDP's chief representative in the area—former American ambassador Melissa Wells—has had to resort to sending cables to her headquarters demanding to know whether the organization "was just supposed to let these people die." Mrs. Wells' extraordinary personal efforts have elicited a response, but now the only hope is that relief efforts can diminish—rather than prevent—widespread death.

The underlying sources of recurrent hunger and famine in Africa will be hard to deal with. Africa has the highest rate of population growth in the world and, because so much of the population is under 15, it will require herculean efforts to slow it. But the magnitude of the larger long-term problem should not be used as an excuse for turning away from the immediate pain and suffering of the famine's victims.

There are two more crucial months before the local harvest. The amount of grain that is needed is small by absolute standards, but still enormous compared with what has been made available and the means to distribute it. A few transport helicopters, for example, would cost much more than trucks but could make short work of delivery problems. Is it possible that neither the United Nations nor the United States can find the means to do this?

Where Children Fight For Kernels

(By Jay Ross)

KARENGA, UGANDA.—Nakong, age 6 but certainly weighing no more than a healthy 2-year-old, stands in a green cornfield here. She is the emaciated, barely living symbol of the horrors of a drought that is killing hundreds of people daily in the remote, northeastern corner of Uganda known as Karamoja.

Dressed only in a loincloth of tiny wire-mesh hung from a strand of cloth, Nakong has been starving for so long that every rib is visible. Her stomach is distended, and there are only folds of skin where her buttocks should be. She cannot close her mouth for lack of moisture, and there are telltale signs of the beginnings of a form of oral cancer peculiar to the starving.

She is just one of hundreds of victims, said the Rev. Bruno Tinazzi of the nearby Catholic mission. His relief supplies are so low that he can only provide a bowl of cornmeal a week to each of the more than 1,000 destitute people who gather at the mission pleading for food.

Nakong probably needed intravenous rehydration, but the mission clinic has no drugs and no i.v. equipment.

As the priest spoke, 100 yards away militia trainees "armed" with wooden rifles marched to the orders of their drill instructor. In the background tiny, starving children fought over kernels of corn spilled from a bag distributed earlier.

The militia represent the hopeless effort by the local people to defend themselves against another scourge of the region—the Karamojong raiders, traditional local warriors who for centuries have been stealing cattle. The blood and milk of the cattle provide the only source of protein in the region—normally the animals are not killed for their meat.

In the aftermath of the overthrow of Ugandan dictator Idi Amin last year, the raids have expanded into a major international cattle-rustling business straight out of the American Wild West.

Thousands of cattle, the basis of Karamojong society, have been stolen from the region as remnants of Amin's army and outlaws from as far away as Somalia, southern Ethiopia and Sudan and western Kenya have joined in the raids, using the arsenal of stolen weapons found throughout Uganda. Unlike any other pastoral area in Africa, there are hardly any cattle to be seen here as a result.

Veteran relief officials acknowledge that there have been worse droughts. But they say they have never dealt with a famine situation where there are so many additional problems and where such a high percentage of a small population is threatened with extinction.

The irony is that the coming of the monsoon rains, though six weeks late, has ended the drought and the countryside is a lush green. The famine will continue, however, and the daily death toll will escalate at least until the harvest begins coming in late next month.

Droughts in such inaccessible areas as Karamoja do not lend themselves to statistical precision, but there is little question that hundreds of the 350,000 population of the province are dying daily. Estimates run as high as 500 a day, mostly children.

Melissa Wells, head of the United Nations program in Uganda and the main official seeking to coordinate international aid, estimates that 160,000 of the Karamojong are near starvation.

Wells, who had been in heated communication with U.N. headquarters over the developing tragedy here, is bitterly critical, along with other relief workers, of the level of international aid, the cooperation of neighboring governments and of the inefficiency of the unstable central government in Kampala.

Missionaries in the region say most of the victims die in the bush without ever reaching help.

According to Karamojong tradition only the chief and his first wife are buried. Other bodies are simply dragged off into unfrequented wilderness areas and left for the vultures and hyenas to consume.

"There are so many bodies, the hyenas are no longer even hungry. They just leave the bodies," said a nun at the Kaabong Mission, about 20 miles west of the Kenya border.

Asked how many had died at Kaabong, Sister Rosetta Fresa replied, "Who can count? Yesterday nine died, today five."

Everywhere the story is the same. And the worst is yet to come.

The origins of the famine go back to the war when Amin's army and the liberation forces created havoc in the area. Little planting could be done.

Then came the drought. The "small rains" late last year failed and the monsoon, due in March, came late.

The crop will be small, because the people ate much of their seed grain for lack of other food. Tomorrow is a luxury when you are starving today.

The Karamojong cannot look for help to the rest of Uganda where crops have been better. Most Ugandans regard them with fear and loathing because of their fierce warrior tradition.

A Health Ministry official put the matter simoly, "The Karamojong are savages. If they didn't starve to death they'd just kill each other. Let them die."

The United Nations has taken over distribution of relief supplies in Karamoja, operating mainly through the missions, since the Ugandan government which has had four changes at the top in 13 months, has virtually ceased to operate.

Food shortages in neighboring Kenya and elsewhere in east Africa, which has also been hit by drought, are also hampering relief efforts.

The United Nations Development Program worked out a swap with Kenya in which 8,000 tons of Canadian wheat given to the World Food Program was to go to Kenya, which, in turn, was to supply a similar amount of corn to Uganda.

The agreement was critical to the lives of many Karamojong since Kenya provides the only convenient surface access to landlocked Uganda. Kenya received the wheat late last year but reneged on providing the corn since it had no supplies itself in January when delivery was to begin.

Kenyan officials refused to talk about the transaction, but Wells, a former American ambassador who is the UNDP resident representative in Kampala, makes it clear she believes the Kenyan action is responsible for many deaths.

During a four-day trip through Karamoja last week, many of her remarks to the starving contained the phrase, "If only the Kenyans had provided" the corn.

Wells' target was to provide 1,500 tons of corn a month to the area as the key element in a subsistence diet of 1,700 calories daily (about half the American average) to the neediest cases. The Kenyan corn would have almost sufficed for the first half of the year, the crucial period before the new harvest comes in and supplies are available from overseas.

Instead only 600 tons were distributed from January through April and about 1,000 tons last month.

Although the harvest will be small, the area should be over the hump for a while. The next two months, Wells said, are crucial. It is already assumed that thousands of Karamojong will die: the U.N. efforts is intended to prevent the number from escalating even further.

Ironically, there is ample corn available in Ethiopia, which has agreed to a swap for future wheat and has even made a jet cargo plane available at cost to fly the corn from Addis Ababa to Entebbe.

The stumbling block is money. Each flight of 35 tons costs almost $23,000, about three times the value of the corn.

Last month Wells managed to get eight flights financed, six by the United States and two by Oxfam, a private relief organization.

Firing off a cable to the United Nations asking if the world organization was "just supposed to let these people die," she received funds for eight more flights by the U.N.'s World Food Program, plus two from the British Red Cross.

That amounts to a quarter of a million dollars' worth of air cargo in June and provides slightly less than a quarter of the monthly minimum needs.

That only gets the corn to Entebbe Airport, three days' drive away from the most remote areas of Karamoja. Cargo planes like the versatile C130 or helicopters could do wonders, but none is available.

The U.N. High Commissioner for Refugees has assembled a fleet of 16 trucks to move produce into the area. "That figure is rather theoretical," said John Humphries, head of the transport operation. "At any one time a third are off the road. One is at the bottom of a river right now."

One relief worker described the litany of horrors they faced: "We don't have food, we don't have trucks, we don't have fuel and we don't have people for distribution."

Meanwhile, as the frantic relief effort moves ahead, hundreds of Karamojong continue to die daily.

Perhaps the most poignant scene during a harrowing four-day, 750-mile tour of Karamoja occurred at Kaabong Mission. About 80 tearful children, mostly between 5 and 10, walked in solemn procession around the cemetery at sunset, chanting the "Hail Mary" in Karamojong.

The dead are buried three deep. Rocks are piled on top of the fresh earth to keep animals away.

That day there were 11 freshly dug graves, two partially filled, awaiting the next victims of the famine. There is no question that they will soon be filled as the crying children chant their nightly novena for their dead friends.

DIARY OF ANGUISHED TRIP TO LAND OF THE DAMNED

(By Jay Ross)

KAABONG, UGANDA.—A four-day 750-mile journey through Karamoja Province, accompanying Melissa Wells of the United Nations Development Program, leaves a stark image of death and despair among the people here.

What follows is the diary of one day in the land of the damned.

Orom—the first stop of the day, 12 miles west of the Karamoja Province frontier, shows the impact of the feared Karamojong raiders, who have spilled across the border in search of cattle and other food.

Maurice Okulu, the headmaster of the school where we distribute seven 200-pound bags of cowpeas, says all the cattle in the community were stolen in March. The raiders come back in groups ranging from 20 to 200 to take cassava, a root with little nutritional value, and anything else remaining.

Okulu describes the raiders as a melting pot of tribes in addition to the Karamojong: Malire from Ethiopia, Terposa from Sudan, Turcanas from Kenya, Samoli bandits and the ubiquitous soldiers from Idi Amin's vanquished army. Their weapons range from machine guns to spears.

The cowpeas are distributed to more than 200 children using handkerchiefs, scraps of paper, the tattered shirts they are wearing, tin cans, and anything else they can find to carry the precious bowlful of food for their families.

From the looks in their eyes, it is obvious that they are hungry (but, as we will see by comparison later, they are not starving).

Pirre—Crossing the Nangeye Mountains, we enter Karamoja on a rutted track that limits our Land Rover to about 5 miles per hour. In Pirre, there is no question that starvation exists. The evidence is exposed ribs, distended stomachs and shriveled breasts.

The raiders have been here, too, killing perhaps 20 people in the last three months and stealing up to 300 cattle.

The villagers don't tell us, but we discover later than on a recent attack the raiders took dozens of women and repeatedly raped them—a sure sign according to missionaries, of the presence of Amin soldiers. The Karamojong have never been known to abuse women.

Karenga—We take two starving children to the mission only to discover that the church is surrounded by scores of similar children begging for food. The Rev. Bruno Tinazzi, who has been in the province 19 years but says he has never seen anything like this, has just distributed the last 17 bags of cornmeal except for a dozen bags held for "emergencies."

Beyond the starving women and children, green fields, freshly planted but unable to provide their life-giving products for two more months, stretch to the distant mountains.

Before leaving we sweep out the back of the Land Rover to give the children the spillings from the bags of cowpeas.

Kapedu—What starvation does to people comes across with full force. Those with money in the village have paid for their share of a bull, which has just been slaughtered.

Wild-eyed men and women scoop up blood from the carcass in their hands and drink. Screaming men, women and children who are not among the lucky buyers are pushed away.

An amaciated man appears at my side like an apparition, begging for food. Like many of the Karamajong men, he is naked but he is a rarity because he is starving—a condition usually limited to women and children in this male-dominated society.

Kaabong—Sister Rosetta Fresa says that starvation here is so bad that mothers refuse to breast-feed their babies, fearing the infants will suck the very life from them.

She tells also of cases where children must be given food directly lest their parents take it from them.

Sixty bodies are buried in a nearby cemetery opened a month ago. Wild animals have dug up five of the graves, partially exposing tiny bodies, which are swarming with flies.

Amid the stench of death, the Rev. Elia Ciaietti tells the gravediggers, "You must dig deeper; you must dig deeper."

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60 MILLION IN EAST AFRICA TO GO HUNGRY

(By Jay Ross)

NAIROBI, KENYA.—From Sudan to the South African border, more than 60 million women and children will experience prolonged hunger this year because of mounting food problems in eastern and southern Africa.

Drought, or rain at the wrong time, is the immediate cause but the hunger is part of an even more depressing picture as Africa falls farther behind in efforts to feed itself.

A report issued this month by the United Nations World Food Council listed 26 countries facing abnormal food shortages, 17 in Africa. Because of high birth rates and stagnant food production, black Africa is the only area of the world where per capita food production has declined in the last two decades—averaging a 1.3 percent annual slide in the 1970s.

The current famine is not as severe as those that hit the Sahel countries and Ethiopia, killing hundreds of thousands of persons, in the early 1970s.

Some international aid experts feel, however, that a continuation of the drought that has been going on in some areas for two years could have a similar impact in what is, in effect, the eastern Sahel—parts of Uganda, Kenya, Somalia, southern Sudan and Ethiopia.

One aid specialist estimates that in the dozen countries in eastern and southern Africa experiencing food problems, half of the children under 7 and half of the women between 15 and 40 will suffer abnormal hunger this year.

That estimate, which the specialist and others agree is probably conservative, means at least 60 million people will be affected. The women and children suffer most because in many African societies the men working in urban centers or mines are assured a source of food.

Robert Kitchen, the chief U.N. official in Kenya, said the food situation "is as bad as it's ever been and deteriorating." The area is about 1.2 million tons short of grain, chiefly corn, the staple of the east African diet, he added.

That puts a strain on Western and U.N. food aid and has forced many of the countries to buy on the world market, using scarce foreign exchange.

In the last two decades, grain imports in black Africa have increased to 8.5 million tons from 3 million, with the cost skyrocketing to $1.8 billion.

If current trends continue, African import needs will increase 50 to 100 percent by 1990 according to U.N. estimates.

"If Kenya doesn't have a bumper crop and Uganda doesn't stabilize politically, this year is a just a down-payment on 1981 and 1982," said Kitchen.

A retired State Department official and long-time black activist, he complained of "the fairly callous response" by the world so far. "Some say if you could paint all these people white, the response would be different," he said.

Foreign agricultural specialists point out that the current drought has only exacerbated the usual farming problems in Africa. The difficulties include government pricing policies and shortage of planning, storage facilities, research and technology. In addition, frequent government emphasis on showpiece industrial projects rather than agriculture simply increases the exodus from the land to the cities and means that fewer farmers have to feed more mouths.

The worst-hit areas are Karamoja Province in northeastern Uganda, where the United Nations has taken over distribution of food because of civil unrest; parts of Tanzania; and Somalia, suffering from an influx of a million refugees from the Ogaden.

The list of countries with food problems also include Kenya, Zambia and Zimbabwe, all of which have exported food at one time.

Ethiopia, where famine covered up by the government in the early 1970s led to the downfall of emperor Haile Selassie, is once more experiencing drought in the south and central regions. The government says 5 million people face famine.

Neighboring Djibouti and southern Sudan also have shortages of food. Others affected are Mozambique, Botswana and Rwanda. Drought, which hit all these countries in varying degrees in the last year, is only part of the problem as illustrated by Kenya—where a 4 percent annual increase in the nearly 16 million population means 600,000 more stomachs to fill each year.

Just a year ago Kenya exported about 180,000 tons of corn. The move is still having political repercussions. Only six months later, the country was desperately seeking to buy corn at a higher price on the world market. By January, Kenya was down to a nine-day supply. Corn, ground into meal, forms the basis of the diet.

The shortage was so severe that Kenya had to renege on a swap, worked out through the United Nations, to provide 8,000 tons of corn for the starving Karamajong in Uganda in return for receiving a similar amount of wheat last fall. It was the first time a country ever defaulted on a U.N. exchange agreement.

The United Nations has simply deducted the amount from future food aid, but Canada which provided the wheat to the world organization, is "sore as hell," according to a diplomat.

Kenyan officials refuse to talk about the swap or, indeed, any aspect of their food problems. Agriculture Minister James Osogo refused an interview, saying over the telephone: "I don't think it would serve any need for any official of the Ministry of Agriculture to talk to The Washington Post at all."

One Kenyan official did say privately that the problem was a "political drought," a reference to lack of agricultural planning and to allegations of corruption.

There are unconfirmed reports that about 60,000 tons of the corn was exported illegally, kept on ships at sea for about 10 weeks and then reimported at a price of $60 more per ton. That would reap a profit of $3.6 million.

The heart of the problem, however, is that the Kenyan government did not anticipate the 1979–80 crop would decline to only 1.3 million tons from bumper harvests in the past few years of around 2 million tons.

Part of the reason for the decline was the failure of the "small rains" in late 1979. Then the monsoon rains came six weeks late this year, which will be a factor in next year's crop.

But the major culprit, according to foreign specialists, is the government's pricing policy. Faced with a glut in which corn rotted for lack of storage space the previous two years, the government lowered the price from about $11 for a 200-pound bag to less than $9.

The farmers consequently shifted about 60 percent of their acreage from corn to more profitable sugar cane and other products. The price for this year's crop still on the stalk has been set at $12.30 a bag.

"Every year they make last year's pricing decision," one AID official said.

As a result, Kenya has to import about 300,000 tons of grain until the new harvest comes in starting in November. President Daniel arap Moi arranged for about 100,000 tons of food aid from the United States during a recent visit to Washington.

Much of the rest is being bought from drought-free South Africa. For political reasons, Kenya says it is imported from Mozambique, which is itself suffering shortages.

"The only thing exported from Mozambique is the invoice," a diplomat said.

A maze of state-related organizations here control agriculture policy but there is little coordination.

Last year the government started a major free milk program through the schools, not realizing that there was a milk shortage because the drought reduced output.

Kenya has another problem common in Africa: deforestation that causes soil erosion, taking thousands of acres out of production.

For Kenya, however, there is one major difference from some of the other African countries facing agricultural problems. Although the shortage of corn has caused the people to grumble, there is plenty of other food to eat. Elsewhere, as in Karamoja, Uganda, much of the time there is nothing to eat.

GEORGE REGINALD GAUSE

● Mr. McGOVERN. Mr. President, I would like to call attention to the release last Friday of George Reginald Gause, an American who was imprisoned in Angola for 30 months for possession of firearms. Gause was never formally charged or tried in a court of law. He had worked in Angola since 1971, first for Cabinda Gulf, and then as a farmer.

A native of Fernandina, Fla., Gause was one of the three American prisoners I visited during my trip to Angola in 1978. Without any advance notice, I had asked the Angolan authorities to permit me to visit the Americans, two of whom had been convicted of mercenary activities. My request was granted within 24 hours. This was the last visit of an American official with the prisoners.

In discussions with Angolan President Agostinho Neto, I appealed for the release of these men, especially George Gause, who had been denied due process of law. Unfortunately, the death of the president delayed a decision on this matter. However, I continued to press the issue at every opportunity. Now we see the benefits of this long struggle.

Despite some fundamental differences, I have always maintained that the United States and Angola can work together on matters of mutual interest. Gause's release would not have been possible had I and others not forged the contacts and communication with a regime that the U.S. Government does not recognize.

Mr. President, the wisdom of this approach was further underscored recently by former Secretary of State Cyrus Vance in his commencement speech at Harvard. "It makes no sense," said Mr. Vance, "not to recognize the Government of Angola, a government with which we have cooperated in the search for peace in southern Africa despite fundamental differences on other issues." I heartily concur with this view.

We have vital interests at stake in this country: Oil supplies, currently being exploited by Gulf and Texaco; a prospective market for U.S. goods, which Boeing and other large multinationals have already begun to explore; the negotiation of a peaceful settlement in Namibia, which could lead to the reduction of the Cuban troop presence in the region; rich mineral resources yet to be exploited; and the opening of new transport routes which would benefit the region as a whole.

Most of all, the opening of diplomatic relations would benefit the United States. It would provide access to Angolan officials to state our case in issues such as the American prisoners, and it would offord the opportunity to roll back the Soviet-Cuban presence, which Angolan authorities have repeatedly said they want to reduce. The late President Neto told me that he feared that American attitudes might force Angola to end up in the "Cuban predicament," isolated from the one country with which the Angolans now wanted to cooperate.

Mr. President, I am sure that many of my colleagues join me in applauding the initiative taken by the Angolan Government in releasing George Gause. It is a positive step forward. I hope that it signals two other developments: first, that it will pave the way for clemency in the case of the other two Americans who have now served 4 years in jail for their activities as mercenaries. Second, I hope that the administration will view this move as an opportunity to avoid a foreign policy toward Angola that is, in the words of Mr. Vance, "hostage to the emotions of the moment. We need to have in our minds a conception of the world we want a decade hence." 1990, we should have friendly relations with all the nations in southern Africa and have promoted a racially just society in South Africa. One simple step we could take now toward that goal is to normalize relations with Angola.●

IMPORTANT PROTECTION FOR OLDER CITIZENS BECOMES PUBLIC LAW

● Mr. CULVER. Mr. President, this week the President signed into law the Social Security Disability Amendments of 1980. This legislation contains some important provisions which Senator Baucus and I introduced last year to protect this Nation's elderly from fraudulent supplemental health insurance policies and sales practices.

As many senior citizens know, medicare covers only part of the elderly individual's health care bill. That is why two out of three older Americans feel the need to carry private health insurance to supplement their medicare coverage—and why the scope of these so-called medigap policies is so important.

Unfortunately, many elderly buyers of medigap insurance have been victims of high-pressure and misleading sales practices. One Federal study estimated that one-fourth of these consumers were sold unnecessary policies with overlapping coverage or protection so limited as to be of very dubious value. The tragic result is hardpressed senior citizens spending precious dollars on costly monthly premiums, only to find they have little added protection when an illness or injury occurs. The fraudulent sales of these policies may amount to $1 billion a year.

The disability amendments, which are now law, will establish a voluntary certification program for medicare supplemental policies in States that fail within 2 years to establish equivalent or more stringent certification programs on their own. To be certified, policies will have to meet standards of value and clarity. The law also establishes substantial penalties against agents who knowingly sell duplicative policies or claim a policy meets minimum standards when it does not.

Mr. President, this legislation represents an important step forward in providing millions of older citizens urgently needed protection in their purchase of health insurance policies that will fill the gaps in their medicare coverage. I applaud its passage into law.●

EARL O. ANDERSON

● Mr. DURKIN. Mr. President, I would like to take this opportunity to recognize the achievements of a great chronicler of our times, a veritable institution in my State of New Hampshire, Earl O. Anderson.

The recent retirement of Earl Anderson from the staff of the Manchester Union Leader marks the end of a career which has spanned 47 years of New England history and which was dedicated to the principles of sound journalism.

Equipped with his ever-present camera and notebook, Earl was known and loved throughout New Hampshire and especially in Laconia and the Lakes Region where he pursued stories with boundless energy and unrestrained enthusiasm since he moved there in 1949. He has been a constant source of encouragement and fatherly advice for young reporters in that area.

While I will miss Earl's presence on the daily beat in New Hampshire, I have no doubt that his irrepressible reporter's instinct will not subside and I am confident we will continue to hear from Earl Anderson in the future.

I would like to have printed in the Record a recent article by Paul Lacaillade of the Manchester Union Leader staff marking the retirement of Earl O. Anderson.

The article follows:

FOR EARL O. ANDERSON, IT'S "30" AFTER 47 YEARS

(By Paul LaCaillade)

Earl O. Anderson, whose byline and photo credits have long been familiar in Manchester Union Leader and New Hampshire Sunday News readers, has closed out an action-packed newspaper career spanning five decades.

For 44 years—47 years if one counts the years he was a part-time employee—Anderson has faithfully, fairly and diligently chronicled the news of his assigned territory with typewriter and camera, earning friendship and respect galore along the way.

From that first day in 1933 when Earl joined the Manchester Union Leader on a part-time basis to supplement his $15-a-week pay as an employe of the former John B. Varick Co. in Manchester, he has hardly stopped being a newsman long enough to eat and sleep. Even on vacations he'd usually run into a story or so that he couldn't "pass up," and he would see that the paper had it in timely fashion.

Earl's duties as lecturer of his Grange brought him first into the Union Leader newsroom with coverage of the Grange meetings. Soon he was offered the correspondent's job for South Deerfield, where he lived at the time.

It wasn't long before he had all of Deerfield. Then one town after another was added to his "beat" until he found the news coverage taking so much time that he gave up his other job. Finally, in 1936, he became a full-time member of the staff and was responsible for virtually all of Rockingham County, except for the city of Portsmouth and the beaches.

About the time World War II broke out, Anderson was assigned to the Laconia bureau of the Union Leader for about a year. He then went back to his former territory where he remained until 1949, at which time he returned to the Laconia bureau with a greatly expanded territory. And it's in the Lake Winnipesaukee area that he has worked and lived since.

Anderson well remembers his first raise. He was putting in more and more hours to cover properly his territory (this was in the days before overtime) and this prompted him to approach Robert M. Blood, then managing editor, to explain that his duties required more hours and ask if more money would be in order.

Blood went to Edmund Jewell, then associate publisher, and got Earl the raise. It was for $2 a week. And he suggested that Earl drop Jewell a little note of thanks. Six months or so later, and entirely unsolicited, Earl received another $2 raise and proceeded to send the associate publisher another note.

A few days later he was summoned into Blood's office and informed by the managing editor that his little note had nearly gotten Blood into trouble with Jewell. Explained Blood, "I hadn't told him about the second raise, yet, Earl."

During his years as a reporter and photographer, Earl has been on a first name basis with every governor and most members of New Hampshire's congressional delegations. He has also covered all the major presidential candidates during that period and met a host of other "big names" in the political, business and entertainment fields.

CLOSE CALL

Being where the action has been, Anderson can relate a number of instances where the close calls were "too close." The one he says was probably his closest was the time a pilot banked steeply so Earl could get a picture of a forest fire on St. Shaw in Ossipee and only the safety belt kept him from going out the side of the small plane which had been opened so he could get an unobstructed shot.

Anderson has two good lessons for younger newsmen—be patient and be persistent. He can recite an endless litany of times these two characteristics have paid off. He recalls being given a "tough time" by the Secret Service guarding first lady Rosalyn Carter and Sen. Edward Kennedy. In both cases he persevered and appealed to higher-ups in the respective campaign parties so that he was able to approach the subjects and get the stories and photos he sought.

He also remembers the time Gov. Ronald Reagan was at a meeting that was "closed to the press." But Earl had a picture he wanted. Hugh Gregg was then Reagan's New Hampshire chairman and knew Earl from his days as governor of New Hampshire. He came to Earl's rescue, determined what Anderson had in mind, returned with Gov. Reagan and again Earl had his picture.

Anderson's store of personal experiences while news-gathering is seemingly endless and would make a good book.

"I might just write it sometime," Earl said, confiding that he already has a good title for it.

Actually Anderson had intended to stick it out on the news beat a little longer, but problems with his vision have forced him to move his retirement up a bit. He says he now has to leave all the driving to Phyllis, his wife, of 40 years. He calls her his newsman's widow," citing all the hours she has spent waiting while he completed an assignment and all the hot meals she has had to re-heat because he couldn't be there on the dot.

"Newsman's widow: that's something like a golf widow—only worse," Earl explains.

Earl also recalls he was almost late at his own wedding.

"I had some work to finish up and didn't get done until right after 10 o'clock and we were getting married at 11, so I had only an hour to clean up, change and make it on time," he says.

Earl and Phyllis derive a great satisfaction out of their church work and their family. They have a daughter, Sheryl, who is involved in a health-related study course in Boston, and daughter, Dauna, whom they adopted when she was 21 years old. Through her, they also have a 2½-year-old granddaughter who brightens their days. A son, Robert, died while on duty with the Navy as an interpreter at the American embassy in Turkey.

DEEPLY RELIGIOUS

Deeply religious, Earl is certain that God has a reason for everything. And if his vision problem is forcing him to cut short his news career, he is certain the Almighty has something else in mind for him.

Co-workers at the Union Leader and Sunday News are equally certain that the newsman in Earl will always out and that they'll be hearing from him when he comes across a good story the papers should have.

In making his official exit, Earl said he just had to add: "I am privileged and grateful to have served such great newspapers and two such fine bosses, Cal, (Frank) Knox and William Loeb for so long." ●

LORD MOUNTBATTEN WARNED AGAINST NUCLEAR WAR

● Mr. McGOVERN. Mr. President, Earl Louis Mountbatten made a short but eloquent statement on the dangers of nuclear war shortly before he died. Lord Mountbatten was one of Great Britain's most distinguished military officers and a genuine hero of World War II. Like many veterans of combat—and I count myself among them—he recognized that nuclear weapons had fundamentally altered the nature of warfare and that any thought of a neatly managed limited nuclear war was plain fantasy. He believed in the necessity of maintaining a military balance with the Soviet Union as a precondition of peace, but he also goes on in his statement to recommend that "by reduction of nuclear armaments I believe it should be possible to achieve greater security at a lower level of military confrontation."

Mr. President, I strongly recommend Lord Mountbatten's statement, "On the Brink of the Final Abyss," to my colleagues and I commend the Center for Defense Information for making it available in its May issue of the Defense Monitor. I ask that the statement be printed in the RECORD.

The text of the statement follows:

ON THE BRINK OF THE FINAL ABYSS

(A Statement on War by Lord Mountbatten)

Do the frightening facts about the arms race, which show that we are rushing headlong towards a precipice, make any of those responsible for this disastrous course pull themselves together and reach for the brakes?

The answer is "no" and I only wish that I could be the bearer of the glad tidings that there has been a change of attitude and we are beginning to see a steady rate of disarmament. Alas, that is not the case.

I am deeply saddened when I reflect on how little has been achieved in spite of all the talk there has been particularly about nuclear disarmament. There have been numerous international conferences and negotiations on the subject and we have all nursed dreams of a world at peace but to no avail. Since the end of the Second World War, 34 years ago, we have had war after war. There is still armed conflict going on in several parts of the world. We live in an age of extreme peril because every war today carries the danger that it could spread and involve the superpowers.

And here lies the greatest danger of all. A military confrontation between the nuclear powers could entail the horrifying risk of nuclear warfare. The Western powers and the USSR started by producing and stockpiling nuclear weapons as a deterrent to general war. The idea seemed simple enough. Because of the enormous amount of destruction that could be wreaked by a single nuclear explosion, the idea was that both sides in what we still see as an East-West conflict would be deterred from taking any aggressive action which might endanger the vital interests of the other.

It was not long, however, before smaller nuclear weapons of various designs were produced and deployed for use in what was assumed to be a tactical or theatre war. The belief was that were hostilities ever to break out in Western Europe, such weapons could be used in field warfare without triggering an all-out nuclear exchange leading to the final holocaust.

I have never found this idea credible. I have never been able to accept the reasons for the belief that any class of nuclear weapons can be categorised in terms of their tactical or strategic purposes.

Next month I enter my eightieth year. I am one of the few survivors of the First World War who rose to high command in the Second and I know how impossible it is to pursue military operations in accordance with fixed plans and agreements. In warfare the unexpected is the rule and no one can anticipate what an opponent's reaction will be to the unexpected.

As a sailor I saw enough death and destruction at sea but I also had the opportunity of seeing the absolute destruction of the war zone of the western front in the First World War, where those who fought in the trenches had an average expectation of life of only a few weeks.

Then in 1943 I became Supreme Allied Commander in South East Asia and saw death and destruction on an even greater scale. But that was all conventional warfare and, horrible as it was, we all felt we had a "fighting" chance of survival. In the event of a nuclear war there will be no chances, there will be no survivors—all will be obliterated.

I am not asserting this without having deeply thought about the matter. When I was Chief of the British Defense Staff I made my views known. I have heard the arguments against this view but I have never found them convincing. So I repeat, in all sincerity as a military man I can see no use for any nuclear weapons which would not end in escalation, with consequences that no one can conceive.

And nuclear devastation is not science fiction—it is a matter of fact. Thirty-four years ago there was the terrifying experience of the two atomic bombs that effaced the cities of Hiroshima and Nagasaki off the map. In describing the nightmare a Japanese journalist wrote as follows:

"Suddenly a glaring whitish, pinkish light appeared in the sky accompanied by an unnatural tremor which was followed almost immediately by a wave of suffocating heat and a wind which swept away everything in its path. Within a few seconds the thousands of people in the streets in the centre of the town where scorched by a wave of searing heat. Many were killed instantly, others lay writhing on the ground screaming in agony from the intolerable pain of their burns. Everything standing upright in the way of the blast—walls, houses, factories and other buildings, was annihilated . . . Hiroshima had ceased to exist."

But that is not the end of the story. We remember the tens and tens of thousands who were killed instantly or—worse still—those who suffered a slow painful death from the effect of the burns—we forget that many are still dying horribly from the delayed effects of radiation. To this knowledge must be added the fact that we now have missiles a thousand times as dreadful; I repeat, a thousand times as terrible.

One or two nuclear strikes on this great city of Strasbourg with what today would be regarded as relatively low yield weapons would utterly destroy all that we see around us and immediately kill probably half its population. Imagine what the picture would be if larger nuclear strikes were to be levelled against not just Strasbourg but ten other cities in, say a 200 mile radius. Or even worse, imagine what the picture would be if there was an unrestrained exchange of nuclear weapons—and this is the most appalling risk of all since, as I have already said, I cannot imagine a situation in which nuclear weapons would be used as battlefield weapons without the conflagration spreading.

Could we not take steps to make sure that these things never come about? A new world war can hardly fail to involve the all-out use of nuclear weapons. Such a war would not drag on for years. It could all be over in a matter of days.

And when it is all over what will the world be like? Our fine great buildings, our homes will exist no more. The thousands of years it took to develop our civilisation will have been in vain. Our works of art will be lost. Radio, television, newspapers will disappear. There will be no means of transport. There will be no hospitals. No help can be expected for the few mutilated survivors in any town to be sent from a neighbouring town—there will be no neighbouring towns left, no neighbours, there will be no help, there will be no hope.

How can we stand by and do nothing to prevent the destruction of our world? Einstein, whose centenary we celebrate this year, was asked to prophesy what weapons would be used in the Third World War. I am told he replied to the following effect:

"On the assumption that a Third World War must escalate to nuclear destruction, I can tell you what the Fourth World War will be fought with—bows and arrows".

The facts about the global nuclear arms race are well known and as I have already said SIPRI has played its part in disseminating authoritative material on world armaments and the need for international efforts to reduce them. But how do we set about achieving practical measures for nuclear arms control and disarmament?

To begin with, we are most likely to preserve the peace if there is a military balance of strength between East and West. The real need is for both sides to replace the attempts to maintain a balance through ever-increaster still, by reduction of nuclear armaments. by a balance based on mutual restraint. Better still, by reduction of nuclear armaments I believe it should be possible to achieve greater security at a lower level of military confrontation.

I regret enormously the delays which the Americans and Russians have experienced in reaching a SALT II agreement for the limitation of even one major class of nuclear weapons with which it deals. I regret even more the fact that opposition to reaching any agreement which will bring about a restraint in the production and deployment of nuclear weapons is becoming so powerful in the United States. What can their motives be?

As a military man who has given a half a century of active service I say in all sincerity that the nuclear arms race has no military purpose. Wars cannot be fought with nuclear weapons. Their existence only adds to our perils because of the illusions which they have generated.

There are powerful voices around the world who still give credence to the old Roman precept—if you desire peace, prepare for war. This is absolute nuclear nonsense and I repeat—it is a disastrous misconception to believe that by increasing the total uncertainty one increases one's own certainty.

This year we have already seen the beginnings of a miracle. Through the courageous determination of Presidents Carter and Sadat and Prime Minister Begin we have seen the first real move towards what we all hope will be a lasting peace between Egypt and Israel. Their journey has only just begun and the path they have chosen will be long and fraught with disappointments and obstacles. But these bold leaders have realised the alternative and have faced up to their duty in a way which those of us who hunger for the peace of the world applaud.

Is it possible that this initiative will lead to the start of yet another even more vital miracle and someone somewhere will take that first step along the long stony road which will lead us to an effective form of nuclear arms limitation, including the banning of tactical nuclear weapons?

After all it is true that science offers us almost unlimited opportunities but it is up to us, the people, to make the moral and philosophical choices and since the threat to humanity is the work of human beings, it is up to man to save himself from himself.

The world now stands on the brink of the final abyss. Let us all resolve to take all possible practical steps to ensure that we do not, through our own folly, go over the edge.●

EUDORA WELTY

● Mr. COCHRAN. Mr. President, the citizens of the State of Mississippi are delighted that Eudora Welty has been awarded the Medal of Freedom. She is one of our State's finest citizens. Now, the Nation is reminded of her exceptional talent and the great contributions she has made to the entire country.

Miss Welty was born in Jackson, Miss. She attended Mississippi State College for Women for 2 years and received her bachelor of arts degree from the University of Wisconsin.

Her formal writing career began in 1936 when her first published story, "Death of a Travelling Salesman," appeared in a small magazine, Manuscript. In the next 2 years she published six stories in the Southern Review, and in 1941 she published her first collection of stories, "A Curtain of Green," for which she received instant critical acclaim.

From that point on she has published regularly, her works including: "The Robber Bridegroom" (1942), "The Wide Net" (1943), "Delta Wedding" (1946), "The Golden Apples" (1949), "The Ponder Heart" (1954), "The Bride of the Innisfallen" (1955), "The Shoe Bird" (1964), "Losing Battles" (1970), and "The Optimist's Daughter" (1972). These works have gained Miss Welty a readership which continues to grow in size and enthusiasm.

Among the awards she has received are two first prizes in the O. Henry memorial contest, a Guggenheim fellowship, the William Dean Howells medal for the "most distinguished work of American fiction" for the period 1950–55 for "The Ponder Heart," election to the National Institute of Arts and Sciences, appointment as honorary consultant of the Library of Congress, several honorary degrees, and the 1973 Pulitizer Prize for fiction for "The Optimist's Daughter." In May of this year she received the 1979 Medal for Literature from the American Book Awards.

Although Eudora Welty was awarded the Medal of Freedom because of her accomplishments and distinction as a writer, she has gained the deepest respect and love of Mississippi's citizens because of her unselfish sharing of her intellect, her talents, and herself. Whether it is writing the script for a play for educational television, helping with a production at community theater, such as New Stage, or reading from one of her works at an arts festival, she adds so much to our lives by giving us so much of her own.

She is clearly one of the best writers living in the world today. She is also the world's favorite Mississippian. The President chose well when he selected her as a recipient of the Medal of Freedom.●

WHY NOT P. T. BAUER AS PRESIDENT OF THE WORLD BANK?

● Mr. HELMS. Mr. President, this week Mr. Robert S. McNamara has announced his impending retirement as President of the World Bank next year when he reaches the age of 65. In some circles Mr. McNamara is a kind of a culture hero, and no doubt there will be great regret expressed in such circles that he has reached this milestone. In any case, he retires from the World Bank without having succeeded in his often expressed aim of removing poverty and starvation from the world.

There are those who would say that the resources of the world, and of the World Bank in particular, are inadequate to alleviate the misery of the oppressed and unfortunate. I would say, rather, that the failure of the World Bank is the failure of its principles, rather than a failure of sufficient means. The World Bank is based on the concept that it is possible to raise the economic level of underdeveloped countries by massive infusions of outside capital. But commonsense tells us that such infusions will do no good unless the economy of the country is receptive to economic practices that will actually produce wealth, and the politics of the country gives proper rein to motivated economic activity.

The fact that certain so-called Third World countries have rates of development actually higher than the United States and Europe, and a better distribution of income, while others are plunged miserably in backwardness and starvation is not the result of a random distribution of resources, but the result of the political will in certain countries to allow correct economic principles to work.

What is needed, therefore, is a thorough reform of the World Bank and its principles. Indeed, that reform might ultimately conclude with the disappearance of the Bank itself. Insofar as the Bank itself is perpetuating errors that are keeping millions in poverty and starvation, the abolition of the Bank ought to be a goal of all those with deep humanitarian impulses and a sense of justice.

Such a radical reformation of the Bank requires careful selection of the successor to Mr. McNamara. The new President ought to be someone who is not hobbled by the failed thinking of the past. It ought to be someone with a deep sympathy for the world's poor, and a sense of the urgency needed to bring about a transformation of backward societies.

As an opening to this discussion of Mr. McNamara's successor, I would like to suggest the name of Dr. P. T. Bauer, the distinguished professor at the London School of Economics, who has spent a substantial portion of his professional career exploring the causes of social suffering and economic malaise. There are few men of such eminence and straightforward thinking who have the special qualifications needed for the job. Although, by custom, the President of the World Bank has always been a U.S. citizen. I think that this Nation might well defer from that honor in favor of Dr. Bauer, particularly since he might be the last President of the Bank. Indeed, this Senator would do all that is properly in his power to work for his nomination.

As it happens, the Wall Street Journal this week has published an article by Dr. Bauer entitled "The Harm That Foreign Aid Does." Dr. Bauer notes that "Foreign aid cannot contribute significantly to its proclaimed purposes. It is indeed likely to obstruct them." Much that Dr. Bauer says about foreign aid is directly applicable to the World Bank, of course.

Mr. President, I ask that Dr. Bauer's article from the Wall Street Journal of June 9, 1980, be printed in the Record.

The article follows:

THE HARM THAT FOREIGN AID DOES

(By P. T. Bauer)

The Third World and foreign aid are inseparable. Without foreign aid there is no Third World. The latter is in effect the collection of countries whose governments, with the odd exception, demand and receive foreign aid.

What else is there in common between, say, India and Botswana, Singapore and Ecuador, Malaysia and Honduras? It is not stagnation: many Third World countries have progressed much more rapidly in recent decades than the U.S. and Britain. Nor is it poverty; many Third World societies, especially in South East Asia and Latin America, are richer than large groups in the West. Nor is it a sense of brotherhood, as is evident from hostility or even conflict between aid recipients, such as India and Pakistan, Morocco and Algeria, Ethiopia and Somalia and many others.

Although small relative to the national income of the donors, aid is often substantial in relation to their payments deficits or budget deficits. Thus in 1978 U.S. foreign economic aid of $6.5 billion was almost one half of the current account deficit and one-seventh of the federal deficit, when the weakness of the dollar, the world's principal reserve currency, was a major international concern.

And large-scale expansion of aid is persistently called for. Witness the recent Brandt report, perhaps the high water mark to date of the demand for massive official wealth transfers to the Third World, now renamed the South. This report, commissioned by UN Secretary-General Kurt Waldheim, was signed by five former West European Prime Ministers (Brandt, Heath, Mendes-France, Palme and Frei) and other celebrities, including Katherine Graham, publisher of The Washington Post, and S. S. Ramphal, Secretary-General of the British Commonwealth.

MAJOR ANOMALIES

The case for aid is widely taken for granted. This has permitted major anomalies. Much Western aid has gone to oil-rich OPEC countries. It has also often been granted to both sides in a war (India and Pakistan, Ethiopia and Somalia, Tanzania and Uganda, Algeria and Morocco). Large scale aid still goes to governments whose policies directly impoverish their subjects as for instance by forcible collectivization of farming, expulsion of the most productive groups, suppression of private trade and industry and restriction of the inflow of capital.

Foreign aid cannot contribute significantly to its proclaimed purposes. It is indeed likely to obstruct them. The most durable argument for aid has been that it is indispensable for reasonable Third World progress. Yet many countries in South East Asia, Africa and Latin America progressed rapidly long before official aid. This particular argument patronizes Third World people by saying that they crave for material progress but, unlike the West, cannot achieve it without external doles.

Foreign aid cannot promote appreciably the growth of the national income. Countries where government or business can use funds productively can borrow abroad. The maximum contribution of foreign aid to growth cannot therefore exceed the avoided cost of borrowing. As percentage of the national income of large Third World countries this maximum contribution is at best minute, a fraction of one percent, far too small to register in the statistics.

Any tiny, marginal benefit from the reduction of the cost of investible funds is likely to be much more than offset by the adverse repercussions of official aid. These adverse effects are brought about by amounts of aid, which, while small in relation to the national income, are nevertheless large compared to government revenues or foreign exchange earnings in the recipient countries. These are the relevant magnitudes because aid is concentrated on governments.

Official aid increases the money patronage and power of the recipient governments, and thereby their grip over the rest of society. It thus promotes the disastrous politicization of life in the Third World and intensifies the struggle for power. This increases conflict, especially in the multi-racial societies of most Third World countries. This sequence diverts energy and attention from productive activity to the political arena, because people's livelihoods or even their economic and physical survival comes to depend on political and administrative decisions.

Official aid often inhibits the international economic position of the recipients by driving up the rate of exchange, helping to maintain overvalued exchange rates or to increase the money supply. It tends also to encourage imprudent financial policies, because external payments difficulties are an effective ground for appeal for aid. Aid reinforces the widely prevalent idea that Third World betterment depends on outside factors. Aid also biases development policy towards unsuitable external models, witness official airlines in countries whose citizens normally do not travel and rarely use these airlines.

Relief of poverty is a much canvassed objective of aid, and one with obvious moral overtones. But *official* aid does not go to poor people, to the skeletal figures of aid propaganda. It goes to their rulers whose spending policies are determined by their own personal and political interests, among which the position of the poorest has very low priority. To support rulers on the basis of the poverty of their subjects is more likely to encourage policies of impoverishment than to deter them. If a government persecutes and even expels the most productive groups such as ethnic minorities, as for instance Chinese in Vietnam and Indonesia or Asians in East Africa, on the criterion of poverty, it should receive more aid because incomes have been reduced.

Aid is often advocated as providing employment by promoting exports. This is like saying that it benefits a shopkeeper to be burgled if the burglar spends part of the loot in the shop. Aid-financed exports are bought with taxpayers' money. Taxpayers therefore have less to spend at home. Direct domestic employment subsidies would be cheaper, more effective and would make the process clearer.

It is often said that official Western aid is indispensable to prevent the Third World from drifting into the Soviet orbit. A large and growing volume of Western official aid is channeled through the international agencies. In the allocation of aid these agencies are not permitted to take into account the political interests of the donors. Moreover, the Soviet bloc is represented in these international agencies and can therefore influence the allocation of multilateral aid, even though its financial contribution to aid is small. But Western political interests are largely ignored also in bilateral aid as this is given regardless both of the conduct of the recipients and of their political significance. Many recipients insult and thwart the Western donors as best they can.

Aid is often envisaged as an instrument of global redistribution. But foreign aid differs radically from domestic redistribution, whatever the case for the latter. Foreign aid goes from government to government, and is not adjusted to the personal circumstances of taxpayers and recipients. Many taxpayers in donor countries are far poorer than many people in recipient countries, where aid benefits largely the relatively well off.

Again, redistributive taxation postulates basic similarity of conditions and therefore of requirements, within its area of operation. But globally these requirements differ widely. This is obvious of physical requirements dictated by climate. But it applies also to political and social considerations. Should Americans be taxed for the benefits of governments whose policies directly reduce incomes in their countries, or whose citizens refuse to kill animals, as in India, or to let women take paid work, as in many Moslem countries?

Because international income differences reflect qualities, mores, institutions and political arrangements, any reduction in income differences is temporary so that redistribution would have to be continued indefinitely. The policy also implies transfers from more productive to less productive people and thereby reduces the overall productivity of resources.

MARSHALL PLAN ANALOGY

Finally, massive wealth transfers to the Third World are often advocated on the ground that like the Marshall aid of the late 1940s, this would transform the recipients for the benefit both of the West and of the Third World. This analogy fails completely. In postwar Europe the task was reconstruction not development. People's faculties, institutions and political arrangements were appropriate to sustained prosperity, as was evident from pre-war experience. This is why Marshall aid could be terminated in four years and Western Germany could become an exporter of capital soon after the end of Marshall aid. Contrast this with the suggestions of indefinite continuation of wealth transfers to the Third World, and with the difficulties of many aid recipients to service even very soft loans granted under earlier aid agreements.

Ideally, official aid should be terminated. This is impossible at present in face of the vested interests and the momentum of existing commitments. But the operation of aid could be much improved and its worst anomalies avoided. This could be done primarily by allocating it to, say, governments pursuing liberal domestic and foreign economic policies. Such a change is, however, improbable in the prevailing climate of aid, and in the face of the interests and priorities of those who administer it.●

AMERICANS WANT TRUE REGULATORY REFORM

● Mr. DOLE. Mr. President, it pleases me to be able to demonstrate a wide range of Kansas support for true regulatory reform.

In November, the Senator from Kansas introduced S. 1969, the "Rulemaking Improvements Act," with the cosponsorship of Senators Thurmond, Stevens, Laxalt, Hatch, Cochran, Simpson, and Heinz. This legislation would mandate a nonmathematical evaluation of the trade-offs of each regulation, allow for public input, and insure that the regulation being promulgated is the most cost-effective means to the desired goal. The Senator from Kansas will introduce a revised version of the "Rulemaking Improvements Act" as a floor amendment to the regulatory reform bill being worked out by the Judiciary and Governmental Affairs Committees.

This proposal has garnered a good deal of support in my home State. Federal legislation of this kind must depend on nationwide support, but the diversity of Kansans endorsing this amendment is indicative of the strong feelings that so many Americans have about the stranglehold that the bureaucracy has on our economy.

Letters of support have come from representatives of several business and professional groups, including the Kansas Association of Commerce and Industry, the Kansas Bankers Association, the Kansas Medical Association, the Kansas Credit Union League, the Associated General Contractors of Kansas, and the Wichita Area Chamber of Commerce. Agricultural interests endorsing the amendment include the Kansas Farm Bureau and the Kansas Association of Wheat Growers. Members of the scholastic community have also lent their support, including the Kansas conference of University Professors, on matters that affect them, and University of Kansas Chancellor Archie Dykes. Additionally, several individual citizens and business representatives have written to express their approval of this amendment.

The Senator from Kansas would suggest that this wide range of support from all facets of society is not limited to the State of Kansas. Our regulatory system is outdated, self-indulgent, and dangerous to America's economic health. Americans are ready for a change in the rulemaking process, and I urge my colleagues to create that change by lending their support to the Dole amendment to rationally reorder our regulatory system.●

ANIMAL DAMAGE CONTROL PROGRAM

● Mr. CRANSTON. Mr. President, the Senate Environment and Public Committee recently held 2 days of hearings on the animal damage control program of the U.S. Department of the Interior. I testified in support of Secretary Andrus' modifications to this predator control effort, and I ask that my statement be printed at this point in the Record.

The statement follows:

Testimony of Senator Alan Cranston

Mr. Chairman, I appreciate this opportunity to testify today on the Animal Damage Control Program of the U.S. Department of the Interior. I commend the distinguished Senator from Wyoming, Mr. Simpson, for his interest and leadership in bringing the issue of predator control programs and their effect on our livestock industry to the focus of this forum. Senator Simpson has been both reasonable and fair in his efforts to present a balanced view of this controversial issue. The Committee, and the Senate, are well-served by his dedicated work.

I know that Senators are well aware that the overriding concern of these hearings is to economic survival of America's livestock industry. Senators are also aware that there are many factors that affect industry livelihood—inflation, pressures from foreign competitors, the complex economics of the American marketplace, and changes in consumer buying patterns over which the rancher has little or no control. Against this shifting panorama of economic patterns and regulatory practices, it seems to me that the shadow of the predator is overlarge, and we become preoccupied with the annihilation of the coyote while the real threats continue to devour the industry.

The fact is, Mr. Chairman, that the sheep industry has been in failing economic health for over forty years. The industry flourished at a time when cougars and wolves and bears were present and growing in numbers. It flourished before we invented the deadly poisons called thallium sulphate and compound 1080, and before we coined a new phrase and a new and expensive antidote to livestock losses called Animal Damage Control. In fiscal year 1981 the federal government will spend $17,663,000 for the ADC program, of which $12 million will go for actual control, or operations, and $5.5 million will go for research. It is not at all implausible to suggest that our research dollars will confirm what we already know: that the predator is an exaggerated threat to the industry, that the dangers of lethal chemicals outweigh their efficacy, that past predator control methods have not worked, and that persistence in our efforts to revive the industry through the Animal Damage Control program alone will have little effect on its survival.

It is this strong belief that caused me to welcome Secretary Andus' November, 1979 redirection of the Animal Damage Control Program. I believe the Secretary's decision to be sensible and courageous. I believe it to be responsive to the real need for preventing predator damage, rather than simply controlling predators. It encourages non-lethal, non-capture predator control methods, focused on offending individuals rather than on the species as a whole. It encourages use of appropriate livestock husbandry techniques which decrease exposure of livestock to predators. It eliminates denning, a ban that I especially support. And it brings a halt to research on compound 1080.

I am here this afternoon to support Secretary Andrus in his efforts. The Secretary is making bold and decisive moves in the face of frequently hostile, and often political, opposition. As a Westerner, he knows, as I do, the importance of the livestock industry to the West and to the nation as a whole. His moves to save the industry, sometimes in spite of the industry, deserve the thoughtful and sympathetic attention of every member of the Congress.

Mr. Chairman, the Secretary's redirection of the Animal Damage Control Program is neither whimsical nor careless. The process of examining past ADC practices and projecting new directions involved the livestock industry, every concerned agency of federal and state governments, and the concerned public. A full two years were concentrated on preparing, for the Secretary's review and decision, the most complete set of management options that could be devised. This two-year exploratory review included the development of an advisory committee and five public hearings by that Committee and concluding recommendations; publication of Predator Damage in the West, a major report by the Committee; an audit report by Interior's Office of Audit and Investigation; wide circulation and public comment on both Draft and Final Environmental Impact Statements; comments from the Bureau of Land Management, the Council on Environmental Quality, the Department of Agriculture, the Environmental Protection Agency, as well as numerous citizen organizations and thousands of individuals nationwide. From the volumes generated through this effort came a Secretarial Issue Document, reflecting this extensive public record, from which Secretary Andrus drew his alternatives and his decision.

I mention this process in some detail, Mr. Chairman, because it has been alleged that the decision-making process was either slipshod or perverse or both. I believe that view to be inaccurate and a disservice to the merits of the decision. As long as it dominates our dialogue on the issues at hand we will be unable to focus on the hopeful path of methodologies and research Secretary Andrus has provided. The record is there for us to examine. It provides little basis for the assumption that the Secretary's direction will fail.

One of the major points of controversy in the Andrus memorandum has been the suspension of research on compound 1080. The fact is, 1080 has been rejected as a viable alternative since President Nixon's

1972 Executive Order on the use of poisons in the environment. Even when 1080 was used virtually without restriction, U.S. Forest Service data shows that the compound did not solve the predator problems and the economic declines of the livestock industry continued virtually unabated. Every evidence we have shows that the toxic collar applications of 1080 represent the wrong direction for our research, our planning, and our efforts to minimize damage from predation. Our hope for predator damage reduction lies in the direction of non-lethal technology, as the Secretary's decision provides. It is wasteful, nonproductive, and wrong to try to reverse the clock and return to a hazardous and substantially ineffective method, a method that has been thoroughly examined and subsequently rejected by the Executive Branch, the Environmental Protection Agency, the public, and the Department of the Interior, for very sound reasons.

Mr. Chairman, rejection of the Secretary's halt on 1080 would not only fly in the face of facts, but would run counter to public preference. A recent public opinion survey by Gallup for the U.S. Fish and Wildlife Service and Yale University demonstrates clear opposition by a majority to traditional methods of predator control, including 1080, and a strong public preference to maintain healthy wildlife populations.

There are a few areas addressed by Secretary Andrus' memorandum that I believe require greater attention, and I have so advised the Secretary. There should be additional guidelines to provide verification, by qualified wildlife professionals, of reported livestock losses before federal control assistance is granted. I believe there must be a minimum requirement for livestock husbandry practices as a prerequisite for assistance. I would also like to see additional research into why past predator control methods have not worked. This research is necessary both to advance the new program and to help resolve the only weak area I find in the decision memorandum, which is to continue past methods in some situations despite their demonstrated ineffectiveness.

Also, I concur in the recommendation of several witnesses before this Committee that the Congress should provide incentives for the recruitment and training of shepherds. This is an historically viable method of discouraging predator damage. Over the years the industry has lost herders to wars and to better-paying jobs. In my view, there is a strong correlation between the decline of herding as an occupation, and an art, that bears examining and correcting. A guard dog program, facilitated by the federal government, also deserves our careful attention.

Finally, Mr. Chairman, I believe Secretary Andrus' important decision might well be viewed in a context larger than that of the Animal Damage Control Program. Any serious effort to address the specific effect of predators on livestock losses invariably touches upon all federal policies that affect the taking of predatory or scavenging mammals and birds on public lands.

In the 95th Congress, and again in this Congress as S.J. Res. 8, I introduced a bill to establish a national policy for the taking of such mammals and birds on public lands. I did so in the belief that we overestimate the extent of non-human predation, that we ignore evidence that predators and scavengers are indispensible to the health and stability of natural ecosystems and the prey species in particular, and that a thorough understanding of the interdependent relationship between predator and prey is essential to sound wildlife and land use planning at all levels of government. I can think of no better example of why such attention is needed than the false assumptions and strategic errors committed in the name of Animal Damage Control.

I urge this Committee, before which my bill is pending, to schedule hearings on S.J. Res. 8. Without such a comprehensive examination, we may well continue to repeat costly, nonproductive management mistakes that derive substantially from a continuing failure to comprehend the essential relationship between predator and prey.

Thank you, Mr. Chairman.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN GOVERNMENT

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Senator HEFLIN to participate as a member of the American team in the 1980 "Anglo-American Legal Exchange," to take place in London, England from July 5 through July 20, 1980. It has been determined that Senator HEFLIN's participation, partially at the expense of the British Government, is in the interests of the Senate and the United States.●

ELEANOR SLATER

● Mr. PELL. Mr. President, it gives me great pleasure to pay tribute today to one of Rhode Island's extraordinary senior citizens, Eleanor Slater.

Mrs. Slater is now 71 years old and has been my State's National Democratic Committeewoman for the past 4 years. She has also held the post of vice chairwoman of the Democratic State Committee, served in the State senate and has been a "democratic institution" in Rhode Island over the last 20 years.

Eleven years ago Mrs. Slater became the director of the Rhode Island Division on Aging and in her 8-year tenure was personally instrumental in establishing one of the first comprehensive, statewide programs to improve the delivery of social and health care services for our senior citizens.

Mrs. Slater is presently a candidate for a masters degree in political science at the University of Rhode Island and is also serving on the university's faculty.

She is a role model for all citizens—old and young, Rhode Islanders and non-Rhode Islanders—because she is a doer and an achiever.

I am proud to consider Eleanor Slater a friend and would ask that an article from the Providence Sunday Journal magazine of June 8, describing her outstanding service to Rhode Island, be printed at this point in the RECORD.

The article follows:

DON'T TRY TO KEEP UP WITH ELEANOR

(By Judith Glynn Albanese)

"This course is like a ticket to a Broadway play," she says, sprawling her textbooks and briefcase over two empty desks in the URI classroom where a course in Islamic Civilization is being taught. Pulling off her beret and poncho, she places them on another desk, then slides into her chair and flips open a notebook.

Eleanor Slater, at age 71 a candidate for a master's degree in political science on the Kingston campus, watches the room fill with 11 other students. Four Iranians are among them. One of them nods and smiles at her.

"Things are really happening in Azerbaijan, aren't they, Reza?" she asks softly.

Reza Nourazar, a 26-year-old computer engineering student, comes from the region where Khomeini dissidents were shown demonstrating on that morning's news. He shrugs, smiles shyly and lowers his head, looking docile and in sharp contrast to the fist-shaking Iranians seen on American television.

Before he can answer, the professor enters the room and asks that the shades be drawn. Slides of 15th-century Peruvian art are projected onto a screen. Several students begin to doze sitting upright. But Eleanor Slater's silver bracelets are jingling as she jots down some of the professor's words.

After class, Nourazar accepts Eleanor's invitation for tea in the dining room across the street. He sits rigid in his chair and touches his heart often, explaining he is a very sensitive person. He says he is fearful for his life when he sees signs on campus saying the only good Iranians are dead ones. He knows his people have gone back in time and he wants to remain in America when he finishes college. Americans are not hateful people, he says, but he is confused about his future here.

Eleanor listens intently to the young man with the troubled dark eyes dressed in jeans and a Western-style shirt. She finally leans forward in her chair, takes her glasses off and counsels him. She says that by her age, life has taught her you let circumstances and timing take care of themselves. He has two more years of schooling left and many things may change in that time. America is unique, she tells him, because of our different cultures. We accept others readily. Nourazar nods in agreement, but remains silent.

Eleanor pauses to sip her tea. She smoothes down her monogrammed sweater before continuing. No, we don't hate, she tells him, and then reconfirms her earlier invitation for him to visit her home. When she visited Iran several years ago, a family from his region befriended her, and to repay them she would like to entertain Nourazar. She'd also like to take him to the state house to meet the legislators, she adds.

Nourazar smiles for the first time, stops fidgeting with a pencil and appears to relax. He'll come—eagerly—but he confesses to her: "I know you like me as a person, but there is something inside us that makes the gap: You are an American, me an Iranian, and I can't help but think that way. But I will still come to your home and maybe the state house."

Home for Eleanor Slater is in Wickford, where she's known primarily as Bill Slater's wife of 45 years, a meticulous housewife caring for him and their renovated colonial home with her handmade quilts on the bed, a chopping block in the middle of the kitchen, and herbs drying over the sink. She is also a mother, with two married sons, and grandma to their children.

But to Rhode Island Democrats across the state, she is the unofficial matriarch of their party. For the past four years she has served them as their national committeewoman. From 1958 to 1968 she was vice chairman of the Democratic State Committee. During the 1978 election, she was the chairman of Lt.

Gov. Thomas R. DiLuglio's re-election campaign, and was then appointed as a $3,500-a-year liaison among state senators, their elderly constituents, and college students.

She's also well known as a former legislator from Warwick, where she once lived. She was 50 years old when she decided to run for political office in 1958. She won her first term in the state's House of Representatives by a mere six votes, was overwhelmingly re-elected for three more terms, and ended up in the state senate for one term.

Senator John H. Chafee still questions the wisdom of his Republican Party in not endorsing their candidate who ran against her in that first election. "Eleanor certainly jumped on that opportunity to beat us, and her first victory put her in the vanguard of people who turned Warwick from an overwhelmingly Republican city into a Democratic stronghold," he said. "And, boy, once she got into the General Assembly, we couldn't get her out with a derrick."

"You know what got me elected?" Eleanor once said referring to her first campaign. "Besides having an excellent picture taken of myself, it was the pony cart and hat gimmick that really did it."

Bill Slater felt his wife needed a gimmick to attract the electorate's attention to a woman candidate in the late 1950's, so he went to the Peck and Peck store and bought her a suede Peter Pan-style hat, complete with feather, to wear only when she campaigned. She rented an old-fashioned wicker cart from Goddard Park and had it pulled by a donkey up and down the streets of Warwick.

One of the young politicians who rode with her in that pony cart was Philip W. Noel, who later became governor of the state.

Noel said sometimes Eleanor would have her husband with her but she never needed an introduction. She had a style and graciousness all her own. "Bill had a good political mind and a sense of current issues. Maybe it was hard for him," Noel said, "but he always encouraged her and because of it she got right into the trenches with the rest of the men and campaigned hard."

Of all the people he has met in politics, Noel thinks Eleanor Slater is one of the most outstanding because she is very smart and very tough. "She'd go into all those watering holes in her district, set the guys up at the bar and practically arm wrestle with them, and she'd get them to vote for the Democrats. She'd have me out campaigning in the rain," he continued, shaking his head in disbelief, "and I'd tell her, 'You're going to get sick, Eleanor,' but she'd keep right on ringing doorbells."

Noel laughed when he told his favorite campaigning-with-Eleanor story: There we were, standing in the middle of a farmer's field trying to get his vote, when his horse came over and bit Eleanor on the shoulder," he said. Well, you should have seen her take off like a bat out of hell for the fence. Eleanor hiked up her skirt and hurdled that fence like a teenager." Noel said he was shocked, because he had just finished an outstanding athletic career at Brown but her Olympic-style sprint beat him by 50 paces.

"She's a unique lady," he concluded. "But it's too bad she never got under the hot lights, because she could have easily handled the executive level of government."

As Eleanor drives home from class, purposely taking the back roads so she can think and observe nature, she's talking about politics: the 1980 Democratic National Convention she will attend, her role in statewide caucuses to advise citizens how to become delegates. . . . Her listener interrupts with a question: Why didn't you ever run for statewide office?

She winces, purses her lips and seems annoyed by the question. She's a serious woman, who tilts her head toward the questioner when she is asked something. Her eyes narrow and she briefly ponders the answer. She speaks with a high-pitched, nasal voice with remnants of a New Jersey-born accent.

"Bob Burns got the nod from the men," she said, referring to her bid to run for secretary of state in the early 1970s. "Men in the political swim were much too chauvinistic when I was elected to the legislature. Vice chairman of the state committee was the highest I ever got," she adds, resignedly. But she's very pleased now that more and more women across the country are becoming state chairmen. They should, she says, because they make up half of the voting population. But when she entered politics, women just weren't accepted.

But politics came naturally to her, nevertheless. Her insurance salesman father took her to the New Jersey legislature, of which he was a member, and political and foreign policy discussions were common around the dinner table. Eleanor, the oldest of seven children, says her father always told her she was born too soon, and to cast her bread upon the waters for it would come back ham sandwiches.

She also fondly remembers summers at the Jersey Shore. Sunday rides in his Stutz automobile with the jumpseats, and her efficient, frugal Pennsylvania Dutch mother.

Eleanor Boland was graduated from Montclair State College in 1929 with a B.A. in education. She married Bill Slater several years later and moved to Rhode Island in 1941 when his business, a foundry supply company, transferred them.

To this day, she regrets she didn't become more active outside the home at an earlier age. She thinks she played far too much bridge and golf and wasted too much time tending to the housework. But it was during her forties, when sitting around the bridge table, that she learned more about what women were really like than in any other period of her life.

"Some of my partners were women who were cornered in their marriages," she remembered. "They had no skills and were married to men earning high incomes, and they were willing to accept a love-triangle in their lives for a long period of time. The jewelry, expensive clothes and trips south they received from their husbands were equivalent to payoffs."

She pauses and contemplates her thoughts for a moment as she rolls down the car window. Wisps of her steel-gray hair flutter into her eyes. She tries to poke them back into her upswept hairdo, held in place with a silver barrette, while she chooses her words carefully.

"I'm no prude, mind you," she says, "and I understand life and a liaison now and then, as long as it isn't cheap and the parties are sincere. But there comes a time when any wife doesn't have to put up with such abuse. I don't think any human being should be a doormat or be subservient to another human being. Mariages then were just as unhappy as some are today, but nobody did anything about them. I think there should have been more divorces, simply for the sake of human happiness."

Slater wishes more people would view themselves as likable human beings. Life is so exciting, she explains while driving her 1972 Volvo with the 136,000 miles she put on it down the main street in Wickford. She talks about the beauty of Rhode Island, the thrill of returning to college three years ago and getting her B.A. in political science in June, 1979. She remembers wondering good naturedly whether to accept her earned degree wearing the doctoral robe she was entitled to wear, having been awarded an honorary doctorate of laws from RIC several years ago.

(This conversation took place a few months ago, before she was faced with another pleasant decision: What to wear when she received an honorary Doctor of Human Affairs degree and gave the commencement speech last week at the University of Rhode Island, where she has been both teacher and student this year.)

When she pulls into her driveway, she toots the horn and Bill comes out to greet his wife warmly. He calls her "Dear." She beams at him and takes his face gently into her hands and kisses him. He's an affable and handsome man with moist blue eyes and a Red Skelton smile. He asks about her day.

Once inside, they are comforted by the heat from a blazing fireplace and their tastefully decorated home where Oriental rugs sprawl across highly polished wide floorboards. When it is very still, you can hear some clocks tick while others tock in their heavy wooden frames.

Their living room walls are literally covered with awards for outstanding civic contributions. Folksy letters from President Jimmy Carter and Robert F. Kennedy share wall space with water colors and black silhouettes of the family.

But the picture of John Chafee and herself signing the Fair Housing Act of 1968, when he was the governor and she the state senator from Warwick, sums up what she considers her greatest accomplishment in government.

"I introduced that piece of legislation for seven consecutive years, knowing it was the most controversial open housing bill ever submitted—if you could pay the rent and you were a human being, you could live wherever you wanted," she said.

It was greeted with mob scenes at the state house and threatening phone calls to her home, which were "very discouraging," she said. She never told anybody about the calls because she didn't want to be considered a crybaby female, but some nights she would drive home and tell herself she really didn't have to put up with that abuse just to get a bill passed. "But the next morning I would wake up, feel refreshed, shower, slather my face with Nivea cream, put on my best bib and tucker, and know I just had to get back up there and fight."

Bill is proud of his wife and her accomplishments. He has always encouraged her to make her own choices in life, he says. But, when pressed, he admits there have been nights of late dinners or no dinners during her career in their long marriage.

"Now you wait a minute!" Eleanor interrupts. "I don't think you or our two sons were ever aware of the planning I had to do to make sure you never had to ask for a clean shirt or socks." She then reminds her husband that she got up at 6:15 that morning ironed, washed, took the newspapers down to the cellar, did her exercises (she swings Indian clubs) and rewrote a paper three times—all before 9 a.m.

Smiling at his wife all the while she laces him with her rebuttal, he kiddingly replies, "Well, you know what the breakdown is, Eleanor, what do you want, a medal?"

Instantly they break into laughter and touch each other's hand.

"Oh, I'm sure there are many people who don't like me or my particular style," she says when told she appears to have gone her own way many years before Women's Liberation.

Speaking softly now she says she wished men would give women a more decent kind of consideration. Women are no longer chattels, after all. "But this is hard for some men to comprehend," she says. "If they only would, they would be much happier. A totally liberated woman is a totally giving woman. And in the later years of their lives, it is the man who had the working wife whom he had encouraged who is truly liberated and relieved of the great financial pressures of retirement some couples face."

It's easy to think of Eleanor Slater as liberated. It's harder, despite her 71 years, to think of her as elderly, and almost impossible to imagine her as "retired." But she's an expert on these subjects, too.

She's an adjunct professor at URI and a guest lecturer on aging. "I take over for the entire day and tell the students life is a breeze after age 50, and show them slides I took of my trip to the Soviet Union and Israel to study their elderly."

She was 61 when she voluntarily retired from the state senate in 1969 to accept the post of chief of the Division on Aging (later to become the Department of Elderly Affairs) offered to her by Governor Frank Licht. She stayed there for eight years.

She was instrumental in securing millions of federal dollars to finance the mini-busses still used to transport the elderly. The Meals on Wheels program received its start at the Division on Aging, as did the planning for many of the elderly centers now in operation throughout the state.

And if it weren't for the bee she put in the bonnet of Dr. Gamid Zaki when he was a professor of sociology at RIC, he says, the program on gerontology at that college would never have been formed six years ago. He heads the program, a unique combination of academic and community college programs that awards the student a certificate when completed.

By the year 2000, current trends suggest, 50 percent of the U.S. population will be 50 years old and older. The need for better understanding of that segment of the population is critical, Eleanor says.

At the RIC certificate awards dinner one year, she told her audience, many of whom were the grandparents of the students, "Did you ever think your aging would be part of a college program? Look up and pick out one of those bricks on the wall. It was your taxes that paid for it—that is your brick! You deserve to feel at home here! So come back here and enroll."

When she gives this or similar talks, she says, you could hear a pin drop in the audience, because she speaks as one of them. "They must be thinking, 'If she can do it, so can I,' " she says.

Eleanor Slater doesn't consider herself old; she never thinks about her chronological age, she says. She doesn't look old either, unlike some of the other women gathered in a room at RIC one day last December for the Christmas party where the 1979 certificate awards were to be given out.

Many of them are dressed in polyester pant suits, and have blue tints in their permanented hair. Some have shuffled back from the buffet table to hunch over their paper plates and plastic tableware and pick at their food. Eleanor is dressed in a trim black velvet pant suit. Her peach-colored, pleated silk blouse is a soft background for a black ribbon bow tie. She sips white wine and finishes all the food on her plate.

When she's asked about the scar on her cheek, she touches it and immediately begins to animate the story that accompanies the injury.

Three years ago, she says, she wanted to take her son and grandson on a ten-day "white-water" rapids trip. "At my age, if I want to do something, I'm going to do it, and I've always wanted to see the Grand Canyon."

But after the first night out, she says, she knew she had made a mistake. Camping out, carrying her own gear, being soaked by 40-degree water splashed on her all day, made it a tough experience.

On the sixth night there was a terrible rain storm, making the water high and very rapid the next day. As they approached Lava Rapid, one of the roughest, she remembers being in the back of the raft when they went into a water hole. Water poured into the raft and she was swept overboard.

"It never occurred to me that my life was in danger," she remembers thinking, "because I could feel my lifejacket lifting me up. I was a long-distance swimmer when I was younger, and that helped me. But I could see the raft getting farther and farther away. And I could see my son and grandson straining to look for me."

She said she kept screaming, "I'm all right! I'm all right!" and waited until she could feel her body being moved down into calmer water, enabling her to be pulled back aboard.

"My son and grandson told me later they thought I never would survive, but I did," she said with a sheepish grin. "I came home with the worst black-and-blue face you ever saw. Why, it looked like I had done ten rounds with Ali!" she said.

Eleanor continues to travel, sometimes with Bill, sometimes alone.

After the certificates award dinner that night, she got back into her car and traveled to the 1025 Club in Johnston for the Democratic State Committee's Christmas party.

There, she is greeted enthusiastically as soon as she enters by several politicians as she handshakes her way to a seat that has been reserved for her. She is served her second chicken dinner of the evening, which she ignores. Periodically, she tries to replace the hair fallen from her barrette that brushes all around her collar.

Violet Daniel, her neighbor and state committee member from Wickford, sits across from Eleanor and describes her friend as a wonderful mixture of a 16-year-old asking for help and a mother who gives direction and advice. "Eleanor divides us all into givers and takers," she says, "and I've never heard her make any other distinction about people."

It's about 11 p.m. Eleanor is just beginning to yawn when a state senator comes over to greet her. She tells him about a course in communications in political campaigns being offered at URI Extension which she intends to take.

"You're a marvel, Eleanor. How do you do it all?" he asks.

"How do I do it all?" she says, repeating the question she has heard for years. "This may sound like a facetious statement, Senator, but I don't have any fear of the future. I'm a respecter of time, and I keep thinking I'm going to die too soon and miss something."

THE NAVAL RESERVE

● Mr. MATHIAS. Mr. President, we all know that the Naval Reserves makes an important contribution to the overall strength of the U.S. Navy. The high level of skill of the Reservists and the cost-effectiveness of the program are persuasive arguments in favor of supporting existing funding and manning levels and perhaps even increasing the responsibilities of Reserve units.

Several experienced Reserve officers from the Washington area have written to me about their imaginative plans for upgrading the operational role of the Reserve Forces, and their proposals deserve our closest scrutiny. One particularly audacious plan was published in the Naval Reserve Association News this month. In a guest editorial, the association's national vice president, CDR Jack Westerfield, suggested that the Naval Reserve be given complete operational responsibility for the Caribbean. His proposal is thoughtful and provocative and I request that it appear at this point in the RECORD.

The editorial follows:

EDITORIAL

Since you are all familiar with my thoughts on fiscal planning for the NRA, as I have been serving you in that capacity for three years, I am taking this opportunity to share my thoughts with you on how the Naval Reservist can more effectively and efficiently serve his country. Specifically, I shall review a working program followed by some ideas on how to better use the country's most valuable asset—its reserve force.

In order that you may better understand my rationale, I submit for your consideration the following facts. The Naval Reserve, if given a definitive mission and the equipment to carry out that mission, will exceed even the most optimistic expectations. A case in point is the P–3/VP (Anti-Submarine Warfare) Program. A reserve P–3 squadron has approximately the same number of personnel assigned as its active duty sister squadrons. The reserve P–3 squadrons' flight time utilization is roughly 80 percent of the fleet's average—at a significant savings in cost per flight hour. The reserve P–3 squadrons' safety record and actual readiness are on a par with the highest standards. Any reserve P–3 squadron can and does augment or assume fleet mission tasking anywhere in the world where support can be maintained. They have assumed extended periods of fleet tasking in locations such as Bermuda, Rota and the Azores—and when they report for duty they are ready to operate with the best. Is this a good investment for the taxpayer? You bet it is—those reserve P–3 squadrons match the highest fleet standards and save the taxpayer over 50 percent in manpower alone. That, my fellow member, is a good investment.

We should take this valuable experience and expand its scope to encompass other naval programs. Why not transfer two patrol missile hydrofoil craft (PMH-s) to the reserve and let them assume the mission tasking as defined by the fleet? Why not take the DDG's that need to be retrofitted, send them to the yard with skeleton crews, and let the reserves help to rebuild them? And after completion, man them with reserves, using the same principles as the P–3 squadrons, for direct mission support of the Caribbean. That area will need more attention with the relinguishment of the Panama Canal as vulnerability and tensions increase in the Caribbean. To be creative and really put muscle in the Naval Reserve Program, consider this proposal—double-hat the CNAVRES in a three or four star job as CINCCARIB and assign reserve forces to perform his mission. He could be headquartered at Key West or remain in New Orleans. The reserves would then have an area of responsibility, a budget, a mission, and modern equipment. Navy missions which can be accomplished by the Reserves should be assigned to the Selected Naval Reserve, and only those missions which cannot feasibly be performed by the Reserves should be assigned to active naval forces. Skeptics will say it can't be done. In fact, maybe DOD still has some of the P–3 "doubting Thomas's" in the archives who again will say "the reserves cannot succeed".

These ideas are in addition to many other programs that NRA explores and supports.

We must implement a more viable reserve program for the country. The Navy has not been able to qualitatively and quantitatively meet its recruiting goals because of two issues—pay and volunteer force concept! The Navy has ships that can't deploy and aircraft that can't fly because of the current manpower shortage. So as a permanent stop-gap measure, it is inevitable that we must rely on the Naval Reserve, now more than ever before.

NRA solicits any additional ideas on the foregoing supposition. Some of you will undoubtedly say, "the man has dangerous ideas, let's have him recalled to active duty and rearrange his seabag." In any event, I thank each of you for your constant support of me in my current capacity as your VP—Budget and Finance.●

FEDERAL GIVEAWAY PROGRAMS

● Mr. SASSER. Mr. President, I recently took the Senate floor to report to my colleagues about the activities being conducted by the Government Printing Office—at the direction of the Library of Congress and the Smithsonian Institution—under an obscure law with its antecedents dating back to the 19th century.

Under section 1719 of title 44 of the United States Code, over 1.6 million copies of 20,441 publications are printed for distribution to foreign governments, including the Governments of the Soviet Union, Cuba, and Iran. This Federal giveaway program costs the taxpayer at least $1.1 million a year. In return for the 1.6 million copies we print for shipment overseas, we receive 275,486 in return, or a 6-to-1 disadvantage.

ORIGINAL INTENT

Apparently, this citation in title 44 was originally intended for the exchange of official journals, parliamentary documents, and official scientific and literary publications.

There may be some justification for sending such documents as the Congressional Record, the Federal Register, and the Public Papers of the President to foreign countries in exchange for similar documents published by those countries.

However, Mr. President, I can see no justification for sending such sensitive publications as Army field manuals and Army technical manuals (including the publication "Field Artillery Battalion, Lance") to the Governments of the Soviet Union, Cuba, and others.

Moreover, when I directed the staff to contact the Library of Congress to find out who at the Defense Department authorized the shipment of the Lance missile manual to the Soviet Union, the answer came back "Oh, no one. Everything is shipped automatically unless someone objects."

One wonders, Mr. President, if the responsible officials at the Defense Department are even aware of the details of this exchange program. If they are not, how could they possibly object? It seems, on the face of it, that this program, at the very least, lacks adequate clearance controls.

DEFENSE INTELLIGENCE AGENCY EXAMPLES

Mr. President, let me cite a few other examples of documents that are shipped—postage free—to the Lenin State Library of the U.S.S.R. in Moscow, courtesy of Uncle Sam: "Defense Intelligence Report: Physical Training of the Soviet Soldier," April 1978; "Defense Intelligence Report: Soviet Tank Company Tactics," May 1976; "Defense Intelligence Report: The Soviet Motorized Rifle Company," October 1976.

It is revealing, Mr. President, that none of the three above-mentioned publications are available for purchase by American citizens—but all three are shipped postage free to the Lenin State Library in Moscow. In fact, Mr. President, the staff of the Government Printing Office estimates that only about 42 percent of the military manuals that are shipped to the Soviet Union, Cuba, and 29 other foreign powers are available for purchase by U.S. citizens. Fully 58 percent of the military publications shipped to the Soviets are not available for purchase from the U.S. Superintendent of Documents—but are shipped to the Lenin Library courtesy of the American taxpayer.

COST OF DOCUMENTS

The Government Printing Office staff estimates that if a complete set of these documents that are shipped free of charge to the Soviet Union, Cuba, and others were to be offered for sale from the Superintendent of Documents, the bill would run to $71,500 a set. Currently 31 countries receive full sets of publications, including the Soviet Union, Cuba, mainland China, India (three full sets), and Czechoslovakia. Australia is the champion recipient, receiving seven full sets worth an estimated $500,000 retail.

NATIONAL DEFENSE UNIVERSITY EXAMPLES

A few more examples of documents which are shipped—postage free—to the Soviets, Cuba, and 29 other countries but which are not available for purchase by U.S. citizens from the Superintendent of Documents include: "Petroleum and Security: The Limitations of Military Power in the Persian Gulf," October 1977; "Salt II Ratification Issues," March 1978, "Strategic Nuclear Arms and NATO Defense Doctrine," July 1978; and "The Systems Acquisitions Process and its Limitations in the Department of Defense" 1979.

ENERGY DEPARTMENT EXAMPLES

The Energy Department's contribution of publications shipped to the Soviet Union, Cuba, and 29 other countries include: "Semi-Annual Report on Strategic Special Nuclear Material Inventory Differences" (numerous dates) and the publication entitled "Understanding Classification," January 1979. Neither of these documents is available for purchase by U.S. citizens from the Superintendent of Documents.

FEDERAL BUREAU OF INVESTIGATION EXAMPLES

The staff of the Government Printing Office advises that the "FBI Bomb Data Program, General Information Bulletin," was shipped to the Soviet Union, Cuba, and 29 other countries, despite the fact that this document is not for sale to U.S. citizens from the U.S. Superintendent of Documents. Other FBI documents that fall into this category are "Correspondence With the FBI (Revised)," "Uniform Crime Reporting Handbook, How to Prepare Uniform Crime Reports," and the "Handbook of Forensic Science (Revised)."

CENTRAL INTELLIGENCE AGENCY PUBLICATIONS

Among the publications published by the CIA that are shipped to the Soviet Union that are not available for purchase by U.S. citizens are the "Moscow Street Guide, 1975." I ask, Mr. President, why in heaven's name are we sending the Soviets a postage-paid copy of the "1975 Moscow Street Guide"?

In any case, numerous other CIA publications with more interesting titles are shipped postage-free to the Soviet Union. These include: "Yugoslavia Government Structure, A Reference Aid," August 1979; "The Chinese Ministry of Foreign Trade," January 1980; "CPSU Central Committee: Executive and Administrative Apparatus, A Reference Aid," February 1980; "CPSU Politboro and Secretariat: Positions and Responsibilities, A Reference Aid," February 1980; "Chinese Ministry of Foreign Affairs, A Reference Aid," October 1979; and "Structure of the League of Communists of Yugoslavia (LCYO), A Reference Aid," August 1979.

SECRET SERVICE EXAMPLE

Mr. President, even the Secret Service gets into the act. Its handbook entitled "The Detection of Counterfeit Currency: A Law Enforcement Officer's Guide" was sent to Cuba, the Soviet Union, and at least 29 other countries—courtesy of the American taxpayer, who, ironically, cannot purchase the same document from the U.S. Superintendent of Documents.

PURPOSE OF TRANSFER PROGRAM

Mr. President, section 1719 of title 44, United States Code, provides for the distribution of Government publications, including the Congressional Record, to foreign governments which "agree to send the United States similar publications of their governments for delivery to the Library of Congress."

As I have indicated, the United States ships numerous military manuals, Defense Intelligence Agency publications and Central Intelligence Agency publications to the Soviet Union and 30 other foreign powers.

EXAMPLES OF SOVIET PUBLICATIONS SENT TO THE UNITED STATES

When I directed the staff to contact the Library of Congress regarding similar Soviet military manuals being sent to the United States, the response consisted of a list of 7 monthly military journals with such titles "Military History Journal;" "Military Herald;" and "Soviet Military Review."

Mr. President, I certainly am not opposed to this exchange program in concept. I simply think we ought to give for what we get. And it does not seem to me we are getting much in the way of Soviet military manuals or Soviet KGB publications in return. To the credit of the program, however, the United States does receive 1,000 subscriptions for Russian periodicals that could have a subscription price of up to $35 thousand, depending on the foreign exchange rate used. However, inasmuch as the list of subscriptions provided by the Library are mostly in Russian, I have some difficulty in conveying to my colleagues the titles. However, a few titles in the list are printed in English, and I will read them into the RECORD for illustrative purposes.

The titles speak for themselves:

> Soviet Union, Sputnik, Travel to the USSR, Soviet Woman, Sport in the USSR, Soviet Literature, Soviet Film, Culture and Life, Soviet Military Review, Foreign Trade, Ukraine, International Affairs, New Times, XX Century and Peace, Social Sciences, Far Eastern Affairs, Moscow News, and News from Ukraine.

FURTHER EXAMPLES OF U.S. PUBLICATIONS SENT TO THE SOVIET UNION

In contrast, Mr. President, this is what we send:

From the Foreign Broadcast Information Service we send a weekly classified report entitled "Trends in Communist Media". This document is, however, automatically declassified 6 months from date of issue.

Also from the Foreign Broadcast Information Service are sent daily reports covering foreign radio broadcasts and periodicals from Asia, the Pacific, the People's Republic of China, Eastern Europe, Latin America, the Middle East, North Africa, Soviet Union, Sub-Saharan Africa, and Western Europe.

The Foreign Broadcast Information Service also automatically sends the Soviet Union a recurring report entitled "China Report—Plant and Installation Data". This report details the industrial capacity and factories of the Peoples Republic of China.

During the first three months of this year, we have sent more than 6,500 separate documents and publications including the following military manuals. These manuals are not available for sale to the general American public.

From the Army is sent "Engineer Combat Operation", "Heavy Anti-Armor Weapons Crewman", "Special Forces Commanders Manual", "Cannon Fire Direction Specialist", "Lance Missile Crew Member", "Strategic Microwave Systems Repairer", "Field Artillery Cannon Battalion" and "Movement of Units in Air Force Aircraft.'

In March the Navy sent a manual entitled "Missile Technician". This is published by the Naval Education Training Command and covers the maintenance and repair of guided missiles.

We are also sending such items as two volumes of the Department of Defense Joint Travel Regulations. These voluminous publications are normally sold to foreign customers for $103.75.

Other documents have little or no value to another foreign government. For instance, in February we sent an HEW publication entitled "Characteristics of Physicians in Tennessee" and in March we sent from HUD a copy of "Flood Insurance Study for the City of Cowan, Tennessee."

H.R. 7302

Mr. President, last Tuesday, June 3, the House of Representatives passed H.R. 7302 which would transfer to the Superintendent of Documents the function of distributing Government publications to foreign governments. As I said, Mr. President, I am opposed to the continuation of this program in its present form in which we appear to be receiving far less than what we get. I believe this program is fraught with abuse, waste, error and confusion—especially confusion. Moreover, I can see no good reason why a program such as this should be shifted from the executive branch to the legislative branch. The legislative branch of Government should not be placed in the position of having to decide which executive branch agency (DIA, CIA, DOD, FBI) documents should be shared with other countries. That is an executive and administrative function.

CONCLUSION

I am hopeful that those who now have the responsibility for the distribution of these U.S. Government publications to foreign powers will exert some measure of discipline so that the appropriate balance can be struck between what we give and what we get. I am in no way opposed to the concept of the exchange program and indeed, believe if conducted properly, it can be a healthy and positive contribution to mutual understanding among Nations. However, this program, as it now stands, appears to fall far short of that goal and the intent of Congress. I believe it ought to be cleaned up and left where it is in the executive branch.●

BILLBOARD CONTROL

● Mr. BENTSEN. Mr. President, last week my distinguished colleague the Senator from Vermont submitted amendment No. 1792 to S. 1641. Today, I wish to comment on that amendment and set forth the reasons why the concept was rejected by the Committee on Environment and Public Works.

When the Committee on Environment and Public Works considered and rejected this amendment in the form of S. 344, it made that decision after carefully evaluating two basic questions. First, would billboard control continue to be a national objective? Second, if so, would S. 344 be more effective than current law? The committee's opposition to this amendment is well described by the testimony of the only two independent witnesses, experienced in the implementation of the beautification program, who appeared before the committee during hearings on the bill—Gov. John Volpe (former Secretary of Transportation) and William Cox (former Federal Highway Administrator). Governor Volpe stated:

> I am convinced that S. 344 would probably mean the death of the beautification program for all practical purposes. Mr. Cox stated:
>
> There is no need to scrap the program, which is what I believe S. 344 would do. The only thing necessary to make it work is to have FHWA and DOT take a reasonable approach to the problem and have OMB agree to a funding level which will allow the sign removal program to progress on a timetable certain.

In rejecting the bill the committee reflected its judgment that the legislation—now offered as an amendment—would not lead to more effective billboard control but to more billboards.

Make no mistake about it—this amendment would mean more billboards. It will be argued that returning billboard control to the States will mean more effective control. In reality, it would mean a return to the conditions that existed when Congress decided it was necessary to define a Federal role. Remember State and local control of billboards existed from the 1880's to 1965. Under their control, billboards so consumately covered the landscape that Congress was urged to pass a Federal law. It was a law that has been resisted by those same States since its passage. Let me assure my colleagues that there are States, billboard industry members, and billboard users licking their chops over the possibility that Congress will pass this amendment and gut the Highway Beautification Act.

It will be further argued that the Beautification Act has failed to achieve its ambitious goals and so it should now be scrapped. Well, fewer billboards have been removed than I would have liked and I can tell you one of the biggest reasons—while over $360 million has been authorized for this program, only about $180 million has been available for billboard removal. But billboard removal is not the only function of the program. The current law has prevented between 215,000 and 220,000 additional signs from being erected along the interstate and primary Federal-aid highway systems. Consider this when you consider amendment No. 1792.

When this amendment is called up during consideration of S. 1641, I intend to oppose it because I am unwilling to sacrifice the ambitious goals of the 1965 Highway Beautification Act—goals that could be met with adequate funding—in exchange for a proposal that would surely put more billboards along our Nation's highways.

Mr. President, I ask that the "prevailing views" as they appeared in the S. 344 report of the Committee on Environment and Public Works, which explain the reasons why the committee rejected that bill and the Senate should reject this amendment, be printed at this point in the RECORD.

The views follow:

PREVAILING VIEWS

The Committee on Environment and Public Works on a vote of 6–6 failed to report S. 344—the Federal Highway Beautification Assistance Act of 1979—to the Senate. In addressing this bill the Committee considered two basic questions. First, would billboard control continue to be a national objective? Second, if so, would S. 344 be more effective than the current law? S. 344 would eliminate the current requirement of mandatory State participation in the highway beautification program and substitute a voluntary option. This would essentially deregulate the billboard industry.

The Committee's opposition to S. 344 is well described by the testimony of the only two independent witnesses, experienced in the implementation of the beautification program, who appeared before the Committee during the hearings on S. 344—Governor John Volpe (former Secretary of Transportation) and William Cox (former Federal Highway Administrator). Governor Volpe stated:

"I am convinced that S. 344 would probably mean the death of the beautification program for all practical purposes."

Mr. Cox stated:

". . . there is no need to scrap the program, which is what I believe S. 344 would do. The only thing necessary to make it work is to have FHWA and DOT take a reasonable approach to the problem and have OMB agree to a funding level which will allow the sign removal program to progress on a timetable certain."

In rejecting S. 344 the Committee reflected its judgment that the legislation would not lead to more effective billboard control; rather, it would likely result in more billboards. The voluntary option approach would put the Highway Beautification program back where it was in 1965 when the Federal Highway Beautification Act was passed.

BACKGROUND

Prior to 1965, billboard was a State and local responsibility. With the advent of the construction of the Interstate Highway System, the Federal Government began to be involved in highway billboard control. In 1958, Congress created the "bonus program"—a voluntary program under which States could enter into agreements with the Federal Government to control outdoor advertising along the Interstate System and become eligible for a bonus payment in the amount of one-half of one percent of the construction cost of the highway project. Only 25 States entered into these bonus agreements.

In 1965 Congress enacted the Highway Beautification Act. This law was designed to regulate billboard construction on the Interstate and Primary Federal aid highway systems. The law provides for the designation of areas and conditions under which billboards can be erected and requires billboards to be removed that were legally erected but do not conform with subsequent location and design regulations. Just compensation must be paid for the removal of these non-conforming billboards. The Federal Government pays 75 percent of the compensation. Illegal billboards are removed without compensation. The law compels mandatory participation by States with failure to provide effective control resulting in the loss of ten percent of a State's Federal aid highway funds.

State compliance with the law was slow. It was 1972 before all States had passed enabling legislation. Even then, South Dakota's law was revised in 1977 and the Department of Transportation determined the law failed to comply with the "effective control" requirements of the Federal act. After assessment of the 10 percent penalty South Dakota again modified its legislation to conform with the Federal statute.

The beautification program has also suffered from inconsistent and inadequate funding. While over $360 million has been authorized, only about $180 million has been available for billboard removal. The impact is twofold. First, inconsistent funding clearly limits the number of billboards removed. Second, because States must provide 25 percent of the funds for the beautification program, this inconsistent funding pattern has created uncertainty in the State programs, reducing State funding, and further delaying billboard control efforts. Clearly, the delays in implementing the Act and the limited funds available to pursue its purposes have been instrumental in preventing the beautification program from meeting its goals.

WOULD S. 344 BE BETTER?

Given that the existing law has not achieved the ambitious goals set forth in 1965 and legislative modification might be appropriate, the Committee considered the issue of whether the S. 344 approach would be more equitable and effective. S. 344 was supported by a wide variety of interest groups for an equally wide variety of reasons.

Billboard Control Groups.—Testimony from these groups related their frustration with delays in removing billboards. The testimony tended to focus on three issues: the fact that some billboards will remain after the Act is fully implemented, the issue of compensation, and the concern that the Federal law infringes on local governments.

Regarding the issue of billboard removal, one witness testified, ". . . our experience . . . showed that many billboards will remain." However, it was never the intent of the Highway Beautification Act to remove all billboards; the Act is designed to control the location of billboards on the Interstate and Primary Federal-aid highway systems. Furthermore, it has no impact on other Federal-aid systems or on off-system roads.

The issue of compensation was raised by several witnesses. One witness stated:

"The chief inherent fault of the 1965 Act arose from the decision to pay 'compensation' to both landowner and billboard owner for removal of signs adjacent to major U.S. highways. Prior to 1965 numerous decisions of State courts and of the U.S. Supreme Court had clearly established that off-site commercial billboards adjacent to public thoroughfares are not a bona fide use of the private property on which they are located but are instead a use of public property—the highway—for private gain . . . Hence if neither the billboard owner nor the owner of land adjacent to the public highway had any 'right' to use the highway in this manner, it was, in our view, an unnecessary waste of public funds for the Congress to write into the 1965 Act provisions for 'compensation.'"

This issue is neither new nor persuasive. Congress fully understood its options in 1965. It elected to pay just compensation for signs and billboards removed under the Highway Beautification Act of 1965 because it was totally consistent with all other provisions of the Federal-aid highway program that result in the acquisition of personal and real property. When a person's residence, business, or real property is acquired by the Federal-aid highway program, just compensation is paid, and in many cases relocation assistance is also provided. Congress has determined—and rightfully so—that the acquisition of signs and billboards under the Highway Beautification Act should be carried out in a manner that guarantees the same rights and equitable treatment as other activities associated with the Federal-aid highway program. Under the highway act a person's home is not amortized over a period of years and then taken away. S. 344 would allow State and local governments to circumvent the compensation requirement for this element of highway related property and treat sign owners differently than all other property owners who are affected by the Highway program. In 1965 Congress determined that just compensation was the fair and equitable approach to billboard control. If the Highway Beautification Act was implemented using this straight forward premise, much of the subsequent amendments to the Act would not have been necessary. Unfortunately, this has not been the case. Efforts to underfund and undermine the compensation provisions of the Act have necessitated continued congressional involvement to reiterate its initial intention.

A third issue raised by these witnesses suggests that the current law unduly infringes on local and State authority. However, this perception fails to recognize two key facts. First, the Highway Beautification Act applies to the Interstate and Primary Federal-aid highway systems only. The Federal Government has paid the major share of the construction costs of these highways—90 percent of Interstate costs and, currently, 75 percent of primary system costs. Hence, a Federal role in the administration of these systems is not only justified, it is obligatory. Second, State and local governments controlled billboard advertising from the 1880's to 1965; if they had done it well then, the Federal Highway Beautification Act would never have been necessary.

The primary premise of the billboard control groups was that State and local governments would somehow act differently under S. 344 than they do under the current law or than they did before the 1965 Act was passed. This was not a plausible premise to the Committee.

Groups Concerned About Billboard Restrictions.—Testimony from these groups related their frustrations that the current law unduly restricts the location of billboards or works an economic hardship on certain elements of society who seek additional outdoor advertising. Following are some of the comments from their testimony:

"Most of us are not concerned about the compensation of our billboards as we are in retaining them.

"It is imperative to the tourism business in the State . . . that no further restrictions be placed on outdoor advertising.

"I am in favor of anything that will allow these folks to advertise their off road businesses."

In the view of these groups, S. 344 would provide flexibility to allow more signs than the current statute allows, to locate signs where signs are forbidden under existing law. In passing the 1965 Act Congress recognized that restricting billboards would limit the availability of this advertising technique. Congress determined that billboard use and location had exceeded reasonable limits and that the industry needed to be regulated. The Committee is not persuaded to adopt S. 344 when the likely result is a reversal of its long standing commitment to reducing the use and location of outdoor advertising.

States.—Testimony was received from various States. S. 344 was endorsed by the American Association of State Highway and Transportation Officials because 38 of its member states supported the bill. However, this apparent strong support weakens under examination.

First, many States oppose S. 344. The Governor of Arkansas wrote:

I am apprehensive that legislation which would permit voluntary State control may not be as successful in Arkansas and could jeopardize the excellent progress that has been made.

The Governor of Utah wrote:

"Although I would prefer that the State had complete control of this program, I fear that, without the threat of Federal sanction, the State legislature may be inclined to give up all control of outdoor advertising."

Second, the reasons for State support for S. 344 are as mixed as the groups that support it. Some States oppose the current law because they view it as infringing on their powers. They support S. 344 as a mechanism to remove them from the Federal controls. This argument is not persuasive when compared to past State and local action on billboard control and to the extensive Federal investment in the Interstate and Primary highway systems. Other States echoed the concerns of those groups who believe that the existing law created economic harm by limiting the number and location of signs. In essence, this argument goes to the heart of the issue—will there be a national billboard control program? The Congress has committed to one in the past; this Committee agrees with that commitment.

Because State support for S. 344 so closely parallels the support raised by other groups, these arguments do not persuade the Committee.

CONCLUSION

The issues are should a national billboard control program continue to be a national objective and, if so, is S. 344 a better way to accomplish that objective. The Committee continues to support billboard control as a national objective, and it concludes that S. 344 would not implement that objective. Rather, based on the testimony presented to it, the Committee concludes that S. 344 would essentially terminate the Highway Beautification Program and would, on a national basis, ultimately increase the number of billboards and expand the areas where they can be located. Consequently, the Committee rejected S. 344.

NEW VILLAGE, PA.

● Mr. HEINZ. Mr. President, solar energy is championed as the renewable energy alternative that will replace our dwindling supplies of oil and natural gas. President Carter has set a goal which calls for solar energy to provide 20 percent of our energy needs by 2000. The Congress has approved substantial tax credits for solar devices. In spite of these incentives the move toward solar energy has been slow in taking effect.

In contrast to the slow pace at the national level, a group of people is working to realize the potential of solar energy in Pennsylvania. In a State with a 200-year supply of coal under its soil, these people are building an innovative, experimental, and educational rural community. New Village, Pa. is a community of low- to middle-income families dedicated to self-help and energy conservation. With help from the Institute of Man and Science and the Charles S. Mott Foundation, this group is working to solve many of the problems of a mass society by stimulating a small-community spirit. The goals of New Village participants are to drive down the cost of new housing, make most efficient use of the land, maximize citizen participation in planning, management, and construction of homes, and lower housing maintenance costs by eliminating energy waste. The residents intend to design and construct their own homes, grow their own vegetables to avoid high winter prices, and particularly concern themselves with energy conservation.

New Village is hoping to achieve a 90-percent increase in home energy efficiency relative to other homes found in the area.

New Village homes will utilize passive solar construction techniques which combine highly insulated walls and roof-mounted solar panels. In addition, the dwellings will be constructed on top of a 4-foot thick sand bank which will aid in the retention of heat in the winter and keep the home cool in the summer.

Only a small back-up heating system will be provided in each house to supplement the solar system on particularly cold days.

Progress on the project to date includes completion of the foundation of the Commons Building which will be heated by a greenhouse. Presently, 50 families are participating in the project which is expected to be completed in 1983. The residents of New Village have created a small-scale community whose mission is to use social cooperation and technological improvements to resolve one of the major problems confronting the modern world: energy supply.

Mr. President, I ask that an article describing the New Village project be printed in the RECORD.

The article follows:

NEW VILLAGE IN PENNSYLVANIA

Taking their energy future into their own hands, 50 families are building a new town on 180 acres of farmland in Fayette County, Pa. About an hour's drive southeast of Pittsburgh, New Village is a community of low- and moderate-income families dedicated to energy conservation and self-help.

The project was initiated by the Institute on Man and Science in Rensselaerville, N.Y., which fosters small town revitalization. A contribution of $250,000 from the Institute and a $750,000 grant from the Charles Stewart Mott Foundation provided the initial capital for land and site improvements at New Village. The money will be returned as people buy land and houses; then other projects can be similarly financed.

According to Jane Schautz, the Institute's on-site project coordinator for the development, interest was first generated by a small advertisement in the local newspaper. "We indicated that the Institute would like to explore the idea of a new community with people in the area."

The ad and word-of-mouth promotion attracted people of diverse occupations—coal miners, factory workers, secretaries, schoolteachers, real estate agents, lawyers. The pioneering families have met weekly since August 1978, picking up new members along the way to reach the present 50. Eventually the development will include 190 housing units.

New Villagers expect to save money by designing and building their own houses. Since one of the objectives of the community is to lower the nonrenewable energy used in household heating and cooling, many of the families will be employing innovative passive solar construction techniques developed by Advanced Cooler Manufacturing Corporation of Clifton Park, N.Y., which is working with the Institute on the project. The goal is for New Village homes to be 90 percent more energy efficient than existing homes in the area.

New Villagers are to provide all the labor for their community, except when special skills or experience not offered by members are needed. Each household must volunteer at least 50 hours per year in such tasks as digging sewers, landscaping, and building roads.

Volunteers have already completed the framing of the Commons Building and have begun work on an attached solar greenhouse which will serve as the building's principal heat source. Roof panels for the building have an R-value of 50 and walls an R-value of 40. The facility will be used for community meetings, food production and preparation, a library and storage space.

The New Villagers are planners as well as builders of their community. Says Schautz: "They conceptualize all the documents—zoning ordinances, solar access legislation, and technical materials—and they physically do the construction. They are the planning consultants for the project."

The democratically-elected president of the community, coal miner Joe Corcoran, talks about the quality of life engendered by the New Village concept: "It goes beyond solar. It's people banding together to handle the problems that are strangling everybody. We're going to deal with food production, give people control over their environment and make them self-reliant. We're building an organization with maximum input from individuals, where the community responds to the crisis of the individual."●

S. 2—THE SUNSET ACT OF 1979

● Mr. DURKIN. Mr. President, an essential step in our commitment to balance the Federal budget is to eliminate immediately wasteful spending and inefficiency in the operation of the Federal Government especially in Washington.

The fastest, most efficient way to eliminate wasteful Federal spending is to enact S. 2, the Sunset Act of 1979. I am an original cosponsor of this sunset legislation which will automatically terminate most Federal programs every 10 years unless legislation specifically recreating the program is passed by both Houses of Congress and signed into law by the President. Notable exceptions to sunset include such programs as medicare, social security, Federal retirement, and veterans benefits.

Sunset will go a long way toward ending, once and for all, the bureaucratic bungling, duplication, incompetence, and wasteful spending of Federal Government programs and agencies which cost taxpayers millions each year. In addition it will reduce the Federal debt, help to balance the budget, and control unnecessary and improper Government interference in the lives of American citizens and small businesses. Admittedly there are many worthwhile Federal programs and plenty of hard-working Federal employees, including those in my own State of New Hampshire, but in general the Federal Government needs a substantial and immediate cutback, especially in Washington.

There are simply too many Federal Government programs and agencies which have outlived their usefulness. For instance, we still have a Federal Tea Tasting Board. The Tea Tasting Board may well have been very important back in 1897 when it was first created, but it surely is not serving any vital purpose today and it is wasting our hard-pressed, hard-working taxpayers money. A modern-day descendant of the Tea Tasting Board is the mismanaged monstrosity, the Department of Energy. I was the only Democratic Senator to vote against the creation of DOE, and as I predicted, the Department of Energy has already outlived its usefulness. DOE is hindering rather than helping efforts to solve our Nation's energy problems, while squandering vast sums of our tax dollars.

For that reason I have also introduced legislation designed specifically to sunset the Department of Energy.

Furthermore, I recently cosponsored and voted for legislation to cut DOE's 1981 operating and administration budget by $100 million. If a program is not effective and not efficient it should not be funded. That commonsense business principle must be applied as strictly to publicly funded Federal programs as it is in the private business world. Congress and taxpayers can no longer afford to support inefficiency and incompetence.

In addition, I have cosponsored S. 445 which will sunset costly and unnecessary Federal regulatory agencies. Every 10 years the President must submit to Congress plans to reform the regulatory activities of specified Federal agencies. This comprehensive regulatory sunset bill coupled with my earlier legislation to reduce and reform the regulatory network will go a long way to cut down the size of big Government and eliminate needless Federal spending.

Today Washington is overrun by nonelected bureaucrats whose regulations are wreaking havoc on businesses, local governments, and individual citizens. My legislation will limit this undue bureaucratic influence on our national policy and return lawmaking to Congress which is directly accountable to—the people.

I am also sponsoring "The Paperwork Elimination and Control Act" introduced by the chairman of the Senate Select Committee on Small Business, Senator NELSON. This bill will help to reduce Federal paperwork by as much as 75 percent. Small businesses in this country are required to fill out 850 million pages of forms annually. This enormous amount of paperwork is preposterous. It is draining the limited resources of an already overburdened small business community and it is adding billions to the cost of Government. These reams of regulations are costly and cumbersome.

Since 1975 the regulatory network has more than doubled in size. Last year alone, the cost of Government regulation topped $102 billion. In fact the already overburdened American family has $1,200 a year taken out of its pocket due to wasteful regulations and paperwork. We can and we must cut through that waste now.

Sunset makes sense and saves money. It provides for a systematic review to begin immediately the long overdue task of weeding out the wheat from the chaff in Government programs. A streamlined, productive Federal Government will mean lower taxes and better services.

Mr. President, sunset is one of the most important pieces of legislation the Congress will consider this session to end unnecessary big Government. Last session, with my support, sunset passed the Senate, but unfortunately, it did not pass the House of Representatives, and it must be reconsidered this year. Sunset strikes directly at wasteful big Government. It will end Federal programs unless there are specific, strong reasons for continuing them. Federal bureaucrats could no longer leisurely sit safe forever. Instead they would know that unless the programs they run are truly benefiting the American people, and that they are running with minimum cost, their programs will end. That is why it is absolutely essential that sunset becomes law. And that is why I will be working throughout this Congress to urge my colleagues to promptly pass this much needed bill.●

PENSIONS—A CRISIS ABOUT TO OCCUR—MORE

● Mr. EAGLETON. Mr. President, on June 5, 1980, I made some remarks and included some materials in the RECORD on the emerging pension crisis in this country. See CONGRESSIONAL RECORD, page 13394.

I should like to include two additional articles on the same subject: One from Business Week dated May 12, 1980 entitled "Inflation Is Wrecking The Private Pension System" and one from the Economist dated June 7, 1980, entitled "Pensions—Just a Mirage?"

The material follows:

INFLATION IS WRECKING THE PRIVATE PENSION SYSTEM

Only a few years ago, the private pension system was regarded as one of corporate America's crowning achievements. It was living proof that the dynamic private sector could not only pay the world's highest wages but could offer the promise of meeting basic social objectives by providing a significant portion of the population with the ability to live out its retirement in relative comfort.

The private pension system was also viewed as a way of keeping the economy expanding. The funds accumulated would, after all, be invested in the securities of U.S. industry, providing capital for expansion. The U.S., in short, was seen to have invented a perpetual growth machine that also promised to limit the government's widening role in providing for social welfare.

But a realistic appraisal of the pension system today would have to concede that it is no longer a cornerstone of corporate America—and may even be in a state of slow collapse. Inflation has struck a hammer blow at the system's ability to provide meaningful benefits to both its present and its prospective retirees.

It is widely recognized that inflation has been hard on pensions. But it is doubtful whether many corporate executives fully appreciate how severe inflation's impact has already been and how critical a threat to the private pension system it could become. Living costs jumped at a 7.4 percent annual rate in the last decade, so the purchasing power of the private pensions of those who retired 10 years ago has already been slashed more than 50 percent (unless their companies have provided interim increases). If inflation continues at the same rate for only another five years—a blissfully modest pace by today's standards—the same pensions will decline to a third of their original value. Last year's inflation rate exceeded 13 percent; yet at 12 percent inflation, a fixed pension loses two-thirds of its value in 10 years and 90 percent in 20.

The figures are even more striking because working Americans are living a lot longer. A recent mortality study by Buck Consultants, Inc. indicates that the life expectancy of the average 65-year-old man has risen by an astonishing 10 months in the last five years, while female life expectancy has climbed by eight months. The typical 65-year-old man can now expect to live to age 80 and the 65-year-old woman to beyond 84. Since most Americans retire before 65, the majority will be drawing their pensions for well over 15 years.

Such trends are already bolstering the older segments of the elderly population. More than 37 percent of those over 64 are now at least 75, and a quarter of these are at least 85. In the next 10 years, the ranks of those over 64 will grow by about 20 percent, but those over 74 and 84 will both jump by close to 28 percent. Because middle-class Americans live longer than those in the lower-income brackets, and are also more likely to be covered by the private pension system, an increasing proportion of the "old old" in the future will be made up of people who rely on a private pension to augment Social Security benefits. "Unless inflation moderates or their pensions are adjusted, the process of aging for these people will be accompanied by a rapid decline in living standards and a fast descent toward total reliance on federal programs," says James M. Hacking, legislative counsel for the American Association of Retired Persons.

If the private pension system proves grossly inadequate, the economic and political consequences will be disturbing.

Inflation will be almost impossible to control. Rather than being capped, as most economists advocate, Social Security payments are likely to be expanded, making a long-term move to a balanced budget almost impossible.

The investment needed to increase productivity will be increasingly difficult to achieve. Private pensions have the virtue of representing genuine savings—the money accumulated today in pension funds provided the wherewithal for capital expansion. Social Security, by contrast, is a pay-as-you-go transfer system that has the adverse effect of reducing private savings.

Social tensions will explode. Conflicts are likely to grow between employers and employees disappointed with the value of their pensions, and between retirees and current workers resentful of the bit of ever-higher payroll taxes to pay escalating Social Security benefits.

A SYSTEM UNDERMINED

The immediate problem, of course, centers on those who have depended on private pensions for some years. When 72-year-old Donald F. Bradley, of Madison, Conn., retired from his position as a senior vice-president of New Haven's First Bank in 1970, he looked forward to a comfortable retirement based on his income from Social Security, savings, and a sizable pension from the bank. In a decade, however, inflation has reduced the real value of his private pension check at an accelerating rate, and although the bank did give its retirees two small but welcome 5 percent increases, Bradley admits he and his wife are hurting.

"I thought I would never have to worry," he says. "Now I am painting the house myself, just to save money. For a man my age, that is probably stupid. But my electric light bill is almost double, and my oil bill, which was $59 a month last year, is running $106 a month this year."

If Bradley is troubled, Mrs. Ellen Komarek, of Lake Ronkonkoma, N.Y., is downright angry. The 70-year-old widow worked 33 years as a teletype operator for Western Union Telegraph Co. before she retired a decade ago with a pension of $126.38 a month. Since then, her pension has dwindled to $107.88 because of mandated increases in her life insurance and medical plan contributions, while a 100 percent rise in the cost of living has slashed its buying power even more. "Inflation is killing me—I don't eat meat anymore," she complains. "My union would like to negotiate an increase for us retirees, but the courts say the company can't be forced to bargain on this subject. If it weren't for Social Security, I'd be dead."

Such tales multiplied many thousandfold show that the nation's pension system is being rapidly undermined. For, as inflation escalates, the living standards of some 7½ million retirees—those dependent on private pensions to supplement Social Security benefits and savings—are relentlessly eroding under the tide of price increases. "That is the real, current crisis of the nation's retirement system," says economist Alicia Munnell of the Federal Reserve Bank of Boston. "Not Social Security, which admittedly faces severe problems but is backed by the federal taxing powers and the voting strength of senior citizens, but by the growing inability of the private pension system to supply the protection in their final years that many working Americans have come to regard as an earned right." Thomas Woodruff, executive director of the President's Commission on Pension Policy, which is undertaking a wide-ranging study of the nation's retirement programs, agrees. "Inflation is the No. 1 problem facing the private pension system today," he says. "Unless it is addressed, the system will shrink drastically in importance."

Companies, of course, are well aware of their former employees woes. Says Gary L. Christy, president of First Trust Corp. of Denver, which administers over 250 corporate pension plans: "We are receiving strong feedback from employees living on pensions about the inadequacies of their plans. They are frustrated, even angry over the way inflation is destroying their financial security."

This rising chorus of complaints—along with companies' continuing concern about the welfare of former employees whose productive labor contributed to their growth—has started a frantic search for solutions. A growing number of major corporations including Eastman Kodak, Litton Industries, Exxon, General Electric, General Motors, CBS, Du Pont, Pitney-Bowes, Rockwell International, and AT&T—have recently instituted or accelerated the practice of granting periodic ad hoc increases to pensioners to offset the impact of inflation. And there is widening pressure on Congress for such legislative remedies as expansion of tax-free retirement saving plans or mandated cost-of-living increases in private pensions.

The fact is that the private pension system is no longer making its expected contribution to meeting the nations twin retirement goals; to provide retirees with sufficient income to meet their basic needs comfortably and to permit all but the highest-income workers to maintain preretirement standards of living. Most experts agree that the second goal requires about 60 percent to 80 percent of gross preretirement income, given the shift in tax liabilities, living expenses, and consumption and savings patterns in retirement.

FLIRTING WITH POVERTY

Social Security, of course, is the nation's major retirement program, covering virtually the entire private labor force and most government workers, with the exception of federal civil service employees. Born in the Depression, Social Security was originally envisioned as simply providing a "floor of protection" on which private efforts could build. But it rapidly developed into the primary source of retirement income for the elderly, a role that it plays in almost all developed countries.

Two factors contributed to the system's phenomenal growth: Working Americans' desire for an insured source of adequate income in their old age, financed at least in theory by their own contributions; and growing public concern over the economical plight of the aged. As recently as 1959, some 38 percent of the elderly lived in poverty.

Both Social Security and the private pension system expanded rapidly in the boom of the 1950s and 1960s. By the early 1970s, many observers had concluded that the Social Security system had virtually achieved the goal of minimum income adequacy for many lower and medium-income workers, while the private system was well on the way to doing the same thing for upper-middle and higher-income workers. Calculations by the Social Security Administration, for example, indicated that newly retiring 65-year old workers who had always earned average wages during their careers would receive Social Security benefits approximating 44 percent of their final pay. And this, together with the 50 percent dependent spouse's benefit, would bring their earnings replacement rates to more than 60 percent, the minimum level considered necessary to maintain living standards.

Examination of actual retirement data suggested that these calculations were misleading, however. A study by economist James H. Schulz, of Brandeis University, shows that nearly two-thirds of all couples and singles retiring without private pensions in 1979–82 will receive Social Security benefits representing less than 60 percent of preretirement income. Indeed, two-thirds of the singles and almost a quarter of the couples will have Social Security income below 125 percent of the poverty level.

Noting that only 5 percent or 6 percent of the aged live below the poverty line when nonincome government programs are taken into account, Schulz declares that "the great achievement of Social Security, medicare, and other programs has been to lift most of the elderly out of poverty and—by indexing benefits—to make sure they stay there. Its failure is that it has not lifted a large number of the elderly very far above poverty."

Private pensions, however, are another story. Schulz's research indicates that the 47 percent of male retirees and 35 percent of female retirees who will collect private pensions will do a lot better—at least initially. In fact, the median income replacement rates for such retirees will fall between 60 percent and 80 percent. "Private pensions, which are concentrated among workers with higher than median wages, are generally doing a good job in supplementing Social Security to provide adequate retirement income," says Schulz. "The problem is that inflation is rapidly eroding the real value of private pensions in retirement."

In light of this scenario, it is not surprising that a recent Lou Harris poll indicates that inflation is the No. 1 concern of Americans looking ahead to their retirement years. What is surprising, however, is that most workers enrolled in pension plans now view their future private pensions as basically secure, while regarding promised Social Security benefits as less reliable—even though Social Security provides full cost-of-living adjustments. The Social Security system's well-publicized financial problems, the explosion in payroll taxes, and growing public awareness that private pensions are at least partly funded in advance while Social Security is financed on a pay-as-you-go basis undoubtedly lie behind this attitude.

Yet many of Social Security's most outspoken critics doubt whether benefits will be cut back substantially in the next few decades or that the inflation adjustment can be more than modestly pruned. "Old people or those about to retire make up a significant and growing percentage of the voting public," notes one Capitol Hill observer.

Ironically, the confidence that the public now places in the private pension system is at least partly due to government intervention. The Employee Retirement Income Security Act of 1974 (ERISA) is probably a classic example of government overregulation, and it has significantly raised the cost of pension plans and the frustration levels of pension managers. But it did eliminate several major weaknesses that had undermined faith in the private pension system. For one thing, it mandated that employees receive permanent pension rights after a reasonable period of service (most commonly 10 years). It thus recognized the increasing mobility of workers in an era of fast technological change and economic upheaval. For another, it made sure that employees would eventually receive the pensions they had been promised—by tightening fiduciary and funding standards and by establishing a federal pension insurance program to pick up the pieces if a company went bust or was forced to terminate its plan.

Yet it is precisely these achievements that are threatened by the relentless impact of inflation on the private pension system. Another study by Schulz of Brandeis indicates that "close to half of all workers who change jobs after employment by companies with pension plans are between 35 and 54 years old, and of these over half of the men and about a quarter of the women wind up with vested pension rights." Once a worker leaves a plan, however, his vested benefit is almost invariably frozen in nominal dollar terms, leaving it vulnerable to inflation's withering blast. And that means, for example, that in an era of 8-percent inflation, someone who leaves a job with a vested pension right at the age of 45 will suffer a loss of 80 percent of its value by the time he is ready to start collecting it at 65.

"Employees naturally regard their pension plans as embodying a promise to provide a relatively stable level of purchasing power during retirement," says Schulz. "Inflation is making a mockery of that promise, and it is frustrating the purpose of early vesting rules."

To make matters worse, inflation is actually eroding the value of future pensions even while wage earners are still at their jobs. Although they account for only a minor part of total private pension benefits, for example, fully four-fifths of the half million or so corporate pension plans are so-called "defined contribution" plans such as profit-sharing, stock bonus, and deferred savings plans. In plans of this sort, an employees' eventual benefit is determined by the value of contributions and investment earnings accumulated in his account during his working career. In earlier decades, such plans often yielded handsome returns, but in recent years their performance—like that of most investment vehicles in the turbulent inflation-plagued 1970s—has lagged behind the cost of living. Indeed, several companies such as Xerox Corp. and Sears, Roebuck & Co., that once depended mainly on profit-sharing to provide retirement income for their employees, have recently had to add other types of plans or guarantees to ensure that their superannuated workers will depart with adequate pensions.

More common as the basic private pension vehicle for most salaried and many unionized employees, of course, are so-called defined benefit plans, which promise workers a specific benefit keyed to years of service and earnings history. Such plans come in two varieties: career-average plans, which apply their benefit formula to a person's average earnings over his career with the company; and final-pay plans, which base pensions on an employee's compensation in the years just before retirement.

Career-average plans, of course, tend to provide lower pensions than final-pay plans, since they include a person's earliest and lowest earnings in their benefit calculations. But they are particularly disadvantageous in periods of rapid inflation, when the natural tendency of wages to keep pace with the cost of living creates an ever-widening gap between current and early earnings. Although most companies with career-average plans liberalize their benefit formulas periodically to make up for the shortfall, many are reluctant to offset inflation completely. And even when they do, employees who are unlucky enough to retire in the periods between formula revisions often get clobbered with hefty losses in real pension income.

Fortunately, most large companies use final-pay formulas that reflect salary inflation and thus tend to preserve the value of benefits until retirement. Indeed, according to a survey by Bankers Trust Co., the percentage of final-pay defined benefit plans among major corporations has jumped to 90 percent from about 80 percent in the last three or four years.

On the other hand, many smaller companies are apparently becoming more reluctant to shift from career-average to final-pay formulas. "We have seen many companies holding on to their career-average plans as a way to hold down cost," says Patrick A. Dutson, corporate vice-president of Meidinger & Associates, a Louisville-based consulting firm.

Yet even final-pay plans, which most commonly base a pension on a worker's average annual earnings during the last five years of employment, are vulnerable to inflation. For example, someone in such a plan retiring this year could easily wind up with a benefit worth only 80 percent of what his pension would have been worth in times of no inflation.

"We are seeing growing dissatisfaction among some newly retiring workers who thought that their benefits were fully protected against inflation before retirement," says actuary G. Ashley Cooper of Hewitt Associates. Partly for that reason, a number of companies such as Gould Inc. recently improved their final-pay formulas so that employees can leave with a larger initial benefit.

Such steps can ease the transition to retirement. But the critical question is whether the private pension system can arrest its decline and cope with the inevitable backlash of retiree sentiment if rapid inflation continues. Most pension experts and corporate managers like to think it can. "The private pension system," insists Robert D. Paul, vice-chairman of the consulting firm of Martin E. Segal Co., "is already finding ways to help retirees deal better with inflation."

The most obvious way, of course, is through the periodic increases that have been won for pensioners by the United Auto Workers and United Steelworkers and that are being granted voluntarily by many corporations. But while such raises are becoming increasingly common among the largest corporations, they are still far from pervasive in the general economy. A survey by Hewitt Associates of 501 companies with defined benefit plans indicates that 57.5 percent had made no postretirement increases to salaried retirees since 1973 despite the dramatic surge in inflation. A similar survey of 434 major corporations by Philadelphia's Hay Associates revealed that 49 percent were making no adjustments in retirees' pensions.

What is more, most companies providing pension increases normally provide very modest raises every two or three years—3 percent is the most common, reports Kenneth P. Shapiro of Hay Associates—or somewhat larger increases less frequently. The President's Pension Commission reports that the current trend is to compensate employees for only one-third of inflation.

"When a retiree receives a modest pension increase every three years," notes Karen Ferguson of the Pension Rights Center, a consumer advocate group, "he is not compensated for his loss of purchasing power in the intervening period. And as the years drag on, his employer will be restoring a smaller and smaller part of the value of his original pension."

THE COMPANIES' CASE

Observers such as Barnet N. Berin, director of professional standards for William M. Mercer Inc., employee benefits consultants, believe that some form of limited indexing of private pensions will develop under either union or government pressure. A handful of companies such as Equitable Life Assurance Society and Aetna Life & Casualty Co. already do this with a cap of 3 percent or so on annual increases.

Most companies, however, seem dead set against the idea. "We don't have automatic cost-of-living adjustments of our pensions because they would be prohibitively expensive," says Ernest J. E. Griffes, director of employee benefits for Levi Strauss & Co. Actuaries calculate that indexing a plan raises total pension costs by about 10 percent for each percentage point of the long-run inflation rate. "We think automatic pension escalators are financially unwise and potentially inflationary," says Theresa B. Stuchiner, a partner with Kwasha Lipton, a New Jersey consulting firm.

To be sure, vested pension credits are essentially debts of the employer, and debtors generally benefit in periods of escalating inflation by being able to pay off their debts with cheaper dollars. Some economists, in fact, argue that not a few companies have profited at their former employees' expense. Company officials, however, respond that inflation has raised benefit costs and cut into profits in myriad ways. Employers with final-pay pension plans, for example, have had to face hefty increases in planning costs and liabilities because of the rapid rise in wages and salaries. "The increases have been wild," says a pension official. Another sore point is escalating payroll taxes to pay for indexed Social Security benefits. "We have forecast a doubling in our Social Security taxes for the same employee population by 1987," complains Robert W. Baumann, vice-president of human resources for Mead Corp.

More significant is the impact of inflation on corporate profits and on pension fund assets. It is no longer any secret that rising prices tend to exaggerate profits by inflating the value of inventories and rendering depreciation allowances inadequate. The results are a larger tax bite on real corporate profits and lower earnings available for capital investment and distribution to shareholders.

Lower profitability and slower growth not only limit companies' ability to provide benefit hikes, but Alicia Munnell of the Federal Reserve Bank of Boston notes that they also affect the performance of pension fund assets by causing equity prices to decline. "When you consider the fact that inflation hurts bond investments as well, she says, "it's no surprise that average pension fund returns have lagged behind the inflation rate for more than a decade." Munnell says it is impossible for pension plans to index pensions meaningful and remain actuarially sound if their pension funds do not produce a real rate of return.

That doesn't mean that employers are sitting on their hands. Besides the practice of granting ad hoc increases to help retirees, they are taking other steps to bolster the system and ease the pain of inflation.

One obvious step is to better prepare employees for the onslaught of inflation in retirement. Companies such as Exxon, Adolf Coors, Sun Oil, and Norton have already instituted counseling programs for employees. And the National Council on the Aging, working with a consortium of corporations and unions, has developed a new retirement-planning program that will be widely utilized by management, predicts Jack Ossofsky, NCOA executive director. "The financial module is a sophisticated program that stresses the impact of inflation after retirement and shows employees how they can prepare for it through savings, investment, and consumption planning," says Ossofsky.

Such planning would clearly reinforce another course taken by many companies—encouraging employees to save for their own retirement by setting up thrift and savings plans to supplement pension benefits. Many workers have been reluctant to save in the current inflationary climate, what with poor returns in many investments and the tax bite on savings. But such plans are popular because employers usually match all or part of the employee contributions to thrift plans, earnings are tax deferred, and the yields in today's short-term money-market seem to offer an inflation hedge.

Indeed, 74 percent of the pension plan participants surveyed in the recent Harris poll sponsored by consultants Johnson & Higgins said they would be willing to contribute to employer-sponsored pension plans to protect future pensions against inflation, and legislation introduced in Congress permits such contributions on a tax-deferred basis.

"Employee savings programs offer the additional advantage of not only offsetting inflation, but helping to bring it under control," notes Cooper of Hewitt Associates. "For increased savings would provide the investment capital needed to enhance productivity and thus moderate inflationary pressures."

Although it has not happened yet, pension experts are also hopeful that inflationary concerns and the Age Discrimination in Employment Act will reverse the trend toward early retirement and induce many capable workers to stay on the job past 65. "If people retire later," says William N. Bret, chairman of Dallas consultants A. S. Hansen Inc., "it could knock the cost of pensions down 20 percent to 25 percent."

Such hopes, which rely on long-term trends, could be blasted, however, if inflation does not soon subside. Already many government and private observers are questioning the private pension system's ultimate viability. Alicia Munnell, for one, doubts that the private pension system can survive in a high-inflation environment "without restructuring that would drastically curtail its role." And the President's Commission on Pension Policy has estimated that even if private pension plans are indexed for one-third of the inflation rate, their share of the nation's total retirement benefits will shrink from 18 percent in 1975 to 7 percent by the year 2000 if inflation stays at 8 percent.

The private pension system can be expected to make valiant and imaginative efforts to survive. Its ultimate fate, however, may not rest in its own hands—but in the hands of government policymakers who, in the final analysis, have been largely responsible for the acceleration of inflation. As in the case with most of the problems plaguing the economy, the buck stops in Washington.

PENSIONS: JUST A MIRAGE?

How should America provide income for its retired people? That question was so worrying even in 1978 that President Carter set up a commission on pension policy by executive order without waiting for money from congress. Now the worries are far greater. Taxes to sustain the government's social security system are high and going higher next January. Many people fear, probably unnecessarily, that when they retire the system will not have enough resources to pay the benefits they have been led to expect. Even so, they do not have the present worries of the 8m who have retired on private pensions and have found them wrecked by inflation; they survive mainly on their social security benefits, which, unlike private pensions, are indexed to provide protection against rising prices.

Last week the president's commission issued an interim report; the final one is due in February, 1981. It has been given a wide field: the whole question of national retirement policy. This involves the future of social security and private pension plans, their ability to meet their commitments and reforms to put right the flaws from which they suffer. The commission has produced a variety of suggestions, though no formal recommendations. It did, however, think that congress might consider requiring all firms to offer a pension plan; the chairman suggested that they might be required to devote 1 percent of their payrolls to pensions at first, then 2 percent and eventually 3 percent. It is the largest firms, as a rule, that provide pensions today; half of the private, non-farm workforce is not covered at all.

Another suggestion is that employees should be given tax concessions on their social security payments, but that the benefits they receive after they retire should be taxed. None are today, no matter how wealthy the recipient. People should be encouraged to stay at work longer. At present many leave before 65 and a poll taken by the commission showed that nearly half of those questioned expect to retire at 62 or earlier. An alarming 20 percent said that they hope to retire at 55. Yet nearly two thirds fear that their income after retirement will be insufficient. Working women are particularly gloomy—with good reason. Few are covered by private pension plans. The commission considers that the age of retirement should reflect the increase in life expectancy to 80 for a man of 65. People cannot eat their cake and expect to have it in retirement.

In the long term, the biggest problem is the coming rise in the proportion of elderly people in the population. In 1960 it was 9 percent; it is now 11 percent; in 1990 it will be 13 percent; and the prediction is that it will be 18–22 percent in 2030.

In the short-term the worst problem is inflation. Social security benefits are protected against price increases, but the taxpayers—employers and employees—who finance them are not. Many wage-earners are already paying more in social security taxes than in income taxes. Will they rebel at some point? (States and cities that have been too generous over pensions have had to revise them drastically, for fear both of deficits and of taxpayers' wrath.) How then to keep the system solvent? Should general revenues be used to meet parts of the bill?

For private pensioners—and the firms that pay the pensions—the headaches are severe. Few private pensions take automatic account of inflation. The few that do usually have a cap of 3 percent a year, but inflation has been running at four times that or more. In 1975 the average private pension was a not very generous $2,100 a year. With 12 percent inflation that would be worth under $600 10 years later.

Many companies have been making ex gratia payments to their pensioners from time to time, but the average increase from 1969–75 was 16 percent while the cost of living rose 47 percent. Most firms are almost unalterably opposed to restricting their freedom of action by adopting automatic indexing. This is understandable when a 1 percent increase adds 10 percent to the cost of paying a pension.

If private pension plans prove too costly, firms can end them. They must meet their vested obligations, but as employees have to work 10 years before their pensions are vested (that is, can be claimed as of right) the expense need not always be great. This is a good argument for making private pension plans compulsory. Nowadays reforms that will cost money have to be balanced against the risk that employers will prefer to end the plans rather than assume new burdens.

Private pension plans have a number of flaws when they are compared with social security, which is virtually universal and tilted towards the poor. Private plans cover a trifle less than half the workforce, and the better paid at that; pensions are often lost if a worker moves or his service is interrupted. Not so under social security. Women, whose careers are likely to be interrupted, fare badly under private plans. There are no benefits for children if a man dies prematurely, as there are under social security, and seldom anything for his widow or divorced wife. On the other hand, it is argued that the funds that support private pensions are invested productively, unlike the pay-as-you-go social security funds.

Indeed, it is suggested in a study done for the labor department that earnings from private pension assets (now more than $300 billion and estimated to reach $900 billion, after inflation, by 1995) will be two and half times as great as contributions to the plans. There is some scepticism, however, about how well this pension money is being handled at present. Returns on it during the past decade have not even kept up with the rate of inflation. Trade unions are waking up to large investments in non-union companies and even in South Africa. Many firms with pension plans complain of present regulations, but these will pale compared with the regulation needed to supervise the investment of a trillion dollars or so.●

LEE HIGH SCHOOL CLASS REUNION

● Mr. HEFLIN. Mr. President, the 1970 graduating class of Robert E. Lee High School in Montgomery, Ala., is holding its 10-year class reunion on June 13 and 14 in Montgomery.

I wish to salute each member of the 1970 graduating class, which, I understand, was one of the smartest and accomplished classes to ever graduate from Lee High School.

Robert E. Lee High School has a fine reputation, not only in Alabama, but throughout the South, for its academic and athletic excellence. A quick glance at some of the accomplishments of the class of 1970 certainly bears this out.

Of the 595 who graduated from Lee High School in June of 1970, a full 395 students entered 4-year colleges—a most impressive 63 percent. Most of those going on to college, I am proud to add, chose to attend Alabama institutions of higher education, with 145 going to Troy State University, 138 to Auburn University, 49 to the University of Alabama, 26 to Auburn University at Montgomery, and 19 to Huntingdon College, to name a few.

The 1970 graduating class at Lee High School earned for its school the distinct honor of being the 1969 4A Alabama football champions—which in Alabama's fierce football competition is no small feat. While winning this coveted honor, the players on the team maintained an excellent B average in their studies.

The officers of the class of 1970 included: Scotty Seth, president; Ann Young, vice president; and Patsy Potter, secretary. Mr. Clinton Carter, who served as assistant principal in 1970, is now the principal of Lee High School.

Mr. Carter and the entire Montgomery community should be proud of these fine young people, many of whom will be returning to their alma mater this weekend to celebrate their 10-year class reunion.

Mr. President, I wish to pay a special tribute to one member of this august group, my good friend Rick Sellers.

Rick, who earned his bachelors degree from Auburn University and his masters degree in international studies from the American University in Washington, worked for several years for my predecessor in the Senate, the Honorable John Sparkman. Rick went from his position on the Senate Foreign Relations Committee staff to his present post as Director of Congressional Relations for the American Security Council. Rick now renders valuable counsel to Members of Congress on national defense issues.

I congratulate Rick and each member of the class of 1970 upon 10 years of success. I extend to each member of the class who has moved away from the State a warm welcome as they return to Montgomery for the festivities. I hope the reunion is a wonderful success and I wish each in attendance the very best in the future.

Mr. President, I ask that the following list of those who will be attending the class reunion be inserted in the RECORD.

The list follows:

CLASS REUNION

Julie Adams Allen, Debbie Allen Alexander, Vince Alexander, Donna Ashmore, Hubert Atkinson, Janet Baker, Dee Balkema, Carolyn Barnett, Neal Berney, JoAnn Berry.

Brenda Best Aitken, James Blake, Judi Blake Roebuck, Marilyn Blakenship Nelson, Thomas Boswell, Nona Bowles Thomason, Sandra Bowman Smith, Carol Boyd, Judith Boyd Broach, Jane Boykin Raby.

John Boysen, Lex Bozeman, Lynelle Braehler, Becky Brendle Bedgood, Bobby Brinson, David Brock, Herb Broom, Charles Browder, Kitti Browder Cosby.

Charlynn Brown Suddah, Chuck Brown, Diane Brown House, Doug Burk, Julie Burge Cumuze, Raymond (Bo) Burt, Debe Cain, Barbara Capps Matthews, Sandra Carmack Justice, Elaine Carrigan Pennington.

Debbie Carter Gardner, James Catrett, Cindy Chafin Dykes, Mike Chambers, Janice Clardy Williams, Jeffrey Clark, Lynn Clements Weekley, Jack Clifford, David Cloud, Andy Cobb.

Patrick Conner, Kitty Cook Wilson, Stan Cook, Jan Coyle, David Larry Cronic, Charles Cummings, Dale Damback Larry Davis, Lee Davis Bickerstaff, Thomas Michael Davis.

Sam Dekle, Gensie Donovan Donaldson, Becky Downs Greene, Ethel Dozier Anders, Susan DuBoxe Bailey, Jane Dunaway Barrow, Carol Sue Edmondson, Theresa Edwards Hatfield, Becky Elland Leak, Stephen Elland.

Joyce Farshee Gray, Cindy Ferm Murrell, Juanita Fleetwood Coley, Mike Ford, Charles Frazier, Patricia Funderburk Ellis, Janice Furlow, Linda Furlow Roy, Marcia Gail Gandy, Frank Godfrey.

Thomas Godfrey, Liz Godwin Fisher, Deborah Golden Shumway, Jayne Goolsby Deupree, Patrick Gordon, Jeffrey Green, Michael Grubbs, Della Hall, Sydney Hamm Watson, Alan Hand.

Susan Harper Mooresmith, Jeff Harris, Carol Henderson Cardwell, Patricia Hendricks, Beth Henry Bullard, Jerrie Hill Henley, Charles Holley, Jim Hoover, Dot Howell Robinson, Renee Hudman Colquett, Susan Huett Moore.

Charlie Johnson, Edwin Johnston, Sheryl Joiner Bird, Sandra Kathryn Jones, Vicki Jones Tatum, Charles Jordan, David Justice, Sharon Kersey Peppers, Robert King.

Sheryl Kircus Broom, Nancy Klinner Thornton, George Kratzer, Jerry Kyser, Sandra Lawson Riggs, Paul Lewis, Ricky Lewis, Sheila Locker Mims, Rex Long, David McCullough.

Steven McElvy, Paul McFillin, Steve McIver, Martha McKean Rogers, Scott McKee, Molly McWhorter Martin, Kim Mallet, Doug Martin, Randy Martin, Jan Maxwell Douville.

Hobbie Mills, Donna Mitchell Beckfield, Susan Moncrief Richardson, Cyndi Moody Arnold, Cherri May Morgan, Dottie Moseley, John Motley, Monte Motley Campbell, Ray Mullis, Maribet Nash Simpson.

Donald Nobles, Davida Oliver Hartley, Larry Oliver, Mary Jane Pate Tew, Joyce Patterson Ryser, Michael Payne, Jenny Penton Westbrook, Eddie Phillips, Sandra Polizos Corley, Beth Ponton Green.

Pam Poole Williams, Patsy Porter Smith, Nika Quasebarth Norman, Cary Reagan, Cathy Redick Maxey, Sarah Reeder Traylor, Roger Reehl, Buddy Reeves, Mike Reinhardt, Wayne Reynolds.

Darlene Roberts, Carolyn Robinson King, John Rogers, Linda Rushton Board, Mickey

Rushing, Debbie Salter Hoover, George Sawyer, Emily Scott Barnes, Wallace Sears, Richard Sellers.

Scotty Selph, Kay Sexton, Linda Sievers Brink, Gerald Smith, Kathy Smith Motley, Terry Smith, John Snead, Walter (Pat) Snell, Dottie Sowell, Bobby Spaeth.

Diane Speigner Kennedy, Debra Spiro McLain, Paul Spivey, Susan Stanley Wilson, Sheila Stevens Harris, Frank Stinson, Gary Strickland, Milton Strickland, David Suddath, Ken Taylor.

Richard Templeton, Robert Thacker, Tim Thaggard, Diane Thornal Sullivan, James Thrash, Bill Thrasher, Ginny Townsend Ashcraft, Steve Traylor, Linda Turner Reed, Theresa Turner Sides.

Sheila Van Houten Templeton, Nina Vickery Mills, Charlotte Walker Dunn, Sandra Ward Murray, Susan Ward, Gary Warren, Chip Watson, Kay Watson Barr, Barbara Watters Cargile, Carol Webb Edge.

Alicia Weekley Clinton, Amanda Welch Borden, Ann Welch May, Becky Weldon Fulcher, Bobbie Weldon Wright, Scott Weldon, Linda Wendling Sykes, Rita Whitaker Jones, Robert Wilkinson, Chris Williams.

Tommy Williamson, Leslie Wilson, Michael Wilson, Mike Wingard, Joyce Wood Murphy, Sharon Wood, Margaret Yeargan Stereks, Susan York Schen, Ann Young Newdome.●

THE IMPORT FEE AND OPEC PRICES

● Mr. DOLE. Mr. President, this morning most of the Nation's newspapers carried lead articles regarding the discordant note on which the OPEC ministers closed their summit meeting in Algiers. Based on all press accounts, it is evident that the only real result of the meeting was an agreement to disagree on what price to charge for oil. While some of the OPEC countries agreed to a nonbinding accord setting a base price of $32/barrel for their light sweet crude and a ceiling price of about $37 per barrel, OPEC's largest producer, Saudi Arabia, refused to join in, and instead, it decided to maintain production and hold their prices at $28 per barrel. This outcome may well shatter the thin veneer holding OPEC together.

Last week when the Senate was debating the Dole amendment to disapprove the President's proposed oil import fee of $4.62 per barrel, we were told of the disastrous consequences that would result if the disapproval were to be adopted. We were told that if we do not pass the tax, OPEC would ban together, cut production and raise prices even higher. During that debate I argued with the proponents of the President's so-called "gas-tax" that there was and is no connection between OPEC price increases and the import fee.

It should be noted that OPEC prices for crude are, in fact, artificial. They are not in any way, shape, or form related to the cost of production. It is well known that it costs no more than 10 cents per barrel to produce most of OPEC's oil.

For my colleagues and for the President to try to argue that the rejection of the so-called oil import fee would lead to OPEC production cuts and astronomical price increases, tests the credulity of Congress and the American people. There simply is no connection whatsoever between the two.

Mr. President, the Senator from Kansas certainly does not wish to imply that we do not have a very serious strategic problem with respect to our overdependence on foreign oil. We do have problems, and these problems will continue to be with us until we address the root of the problem, which is the lack of adequate domestic production.

Instead of allowing the free enterprise system to begin to reduce our foreign dependence through increased domestic oil and gas production, the Carter administration seeks to reduce our dependence by forcing consumers to pay more. The anti-domestic-production policy adopted by the Carter administration is nowhere else so clearly exemplified as in the so-called windfall profit tax. This measure is simply a new tax on the American people disguised as a conservation measure, and, in fact, will do nothing to correct the problem of inadequate domestic production.

We are already using 10 percent less energy than we did just 1 year ago. Decontrol and the resulting price increases have not only helped bring our consumption down, but it has also clearly stimulated oil and gas exploration activities. It is evident, even to the most simple minded, that accompanying decontrol with a tax on oil production can only stifle domestic energy production activities by the private sector. While the import fee is not as good a conservation tool as its proponents claim, I must, however, concede it is an effective revenue raising measure: For that is all that such a proposal would do is raise revenue and help the President keep his 1976 campaign promise to balance the Federal budget.

Mr. President, as I have said many times before on this floor, our overdependence on OPEC has led us to strategic impotence. It is sad to see but this overdependence has produced an administration which refuses to put our national security interests first and fill the SPR because of pressure by the OPEC cartel. Most of the Carter administration's energy policy is predicated on more taxes and scare tactics. The oil import fee, which if not for the efforts of some of us in the Congress, would have been realized by the consumer at the gas pump, was the last thing this country needed to help get us out of the energy crisis. We do not need another new tax and I am sure there are very few taxpayers who would disagree.

The scare tactics used during the debate on the Dole amendment and on the subsequent vote to override the President's veto of the debt limit bill were based on the premise that without the fee, OPEC would cut production and raise prices. I must once again say to my colleagues there is no connection between the two. OPEC will continue to raise prices whether we impose an import fee or not. The fact of the matter is OPEC's purchasing power is declining in real terms, and they are making every effort to recoup some of their losses. Today there is more oil on the world market than the world can consume.

Due to greater conservation and decreased demand, this situation appears to be with us for some time, at least over the short term. The Saudis, by virtue of their holding the line on prices, are aware that now is certainly not the time to raise prices. It is, perhaps, important to note that if, in fact, we had adopted the oil import fee, it would have been a clear cut signal to OPEC that if we could increase prices so could they. In fact, the impact of the OPEC price increases on gasoline amounted to only one-fifth as much as the President's proposed gas tax.

Mr. President, in closing I will only say that if the President really wants to reduce imports, he can do so without increasing the tax burden on the consumer. There are a number of ways the President could accomplish this, such as increasing the amount of domestically mined coal in place of imported oil, substituting the use of natural gas in place of imported oil, increasing the flow of Alaskan oil and increasing the production rate of ethanol for gasohol production.

Mr. President, it is high time that we grabbed our "bootstraps" and began to take real action to resolve our intolerable energy situation—increase the domestic production of energy, fill the strategic petroleum reserve and stop placing the blame and burden on the American consumers.●

ANTHRACITE REVITALIZATION

● Mr. HEINZ. Mr. President, coal now is the cry of the Nation's coal miners and coal industry. Pennsylvania is fortunate to have access to a source of the best coal in the world—low sulfur, high-Btu anthracite coal.

Demand for anthracite is on the rise for the first time since its peak in 1917. The Department of Energy predicts that due to the increasing cost and dwindling supply of foreign oil, the U.S. energy needs will be increasingly satisfied by our 7- to 8-billion-ton anthracite reserve, 96 percent of which is found in northeastern Pennsylvania. While production during the first quarter of 1980 increased by only 200,000 tons compared to last year, the potential of the downward spread in production is significant. The potential of anthracite is enhanced by the initiative of finding new ways to use this valuable energy source.

Anthracite, or hard coal, contains less sulfur than softer varieties. As a result of my efforts in cooperation with anthracite miners and producers, the Environmental Protection Agency has ruled that anthracite burning plants are not required to install expensive scrubbers used in removing sulfur from coal in order to protect the environment. Thus, despite its slightly higher price, hard coal is attractive for commercial use. Furthermore, anthracite does not produce the tars and oils of softer kinds when it is converted to gas. This is particularly important due to the increased emphasis on developing gasification processes, to convert coal to a more versatile fuel.

The cost as well as the availability of this source of energy makes it attractive to large facilities with the capability to convert to anthracite. In New England, which is heavily dependent on oil, 1 ton of coal is half the price of an equivalent quantity of oil in terms of heat value. In fact, an average consumer of 1,200 gallons of oil could save $600 yearly by converting to anthracite.

Two large conversion projects are underway in Pennsylvania. Philadelphia Electric Co., Pennsylvania Power and Light Co., and Allegheny Electric Cooperative, Inc., are presently planning to build a large scale generation station fired by anthracite in coal rich Schuylkill County. And, East Stroudsburg State College is the first of a number of State institutions to replace an oil fired burner with a coal fired boiler.

Foreign interest has also been stimulated, 167,000 tons were exported in January 1980. Officials note that anthracite is used abroad in the production of chemicals and as a source of alternate home heating fuels.

The rejuvenation of this industry will benefit the people of the region, and can make a substantial contribution to satisfying our Nation's energy needs.

Mr. President, I ask that an article on the energy potential of anthracite from the Boston Globe be printed in the RECORD.

The article follows:

IT'S ENERGY BY THE TON

(By Robert Zausner)

SCRANTON, PA.—In 1917, 200,000 miners, using mules and crawling through dark subterranean passages, removed more than 100 million tons of American hard coal from the earth.

Anthracite production has experienced a steady decline ever since—until now.

Only 4.76 million tons was mined last year. But, in the face of supply shortages and soaring prices for other sources of energy, especially oil, the shiny, rock-like fuel appears to have begun a slow but certain recovery.

Most government and industry officials contend the nation's future energy needs will depend, at least partially, upon its 7 billion to 8 billion tons of recoverable anthracite reserves, more than 96 percent of which lie in Northeast Pennsylvania.

Anthracite production for the first three months of 1980 topped 1.2 million tons, something short of a boom, but 200,000 more tons than the same quarter a year ago.

According to the Pennsylvania Department of Environmental Resources, this represented the first significant increase in production since World War II. (An increase in 1963 sharply reversed itself the next year.)

Leonard Westerstrom, an industry economist with the U.S. Energy Department, feels the increase was merely a start. He predicts production will rise by 1 million tons this year.

Charles Zink, vice president of sales for Jeddo-Highland Coal Co., Hazleton, Pa., the nation's largest producer, says the anthracite recovery is "not as fast as the politicians are tooting their horns" about. But he estimates a 10 percent annual output increase through 1985 and perhaps more if transportation problems can be alleviated.

The Pennsylvania Governor's Energy Council takes a positive but more conservative line, with consultants estimating production increases to 3 percent per year for the next 10 years.

But, said Roger Tellefsen, council senior policy analyst, "Everything's in motion now and it's all being driven by the high price of oil. There is a large amount of initiative and ingenuity being focused on coal and anthracite is getting its share."

A spokesman for Bethlehem Mines Corp. described the industry's recovery as "slow but steady." The 8000-acre Schuylkill County tract purchased by the company five years ago exemplifies change in the industry.

At the same site in the 1840s, deep mining was the main anthracite-producing method and by 1919 there was 11,000 men working underground in the mine. Today deep mining is used in less than one-eighth of all removal operations.

Because of its own benefits and the improbability of an oil price reduction, the anthracite turnaround has the ingredients for permanence. It is making headway in a series of crucial areas—as a fuel for power plants, industry, export and domestic heating.

The tiny home coal furance industry is reporting a landslide business as homeowners realize the average house can save $600 yearly in fuel bills.

Despite its high cost compared to bituminous, or soft coal, anthracite is low in sulfur content, making it an attractive fuel for commercial use.

Under a recent U.S. Environmental Protection Agency ruling, new utility generating plants that burn anthracite are not required to install scrubbers, expensive devices that remove sulfur from emissions.

Anthracite does not produce the tars and oils that come from soft coal when it is converted into a substitute for natural gas. Gasification, receiving more attention and experimentation as of late, thus is a less costly process using hard coal.

The fuel is also eliciting foreign interest. January exports of 167,000 tons accounted for one-third of production and doubled last year's figure.

France and The Netherlands, which had not imported any Pennsylvania anthracite a year earlier, took 66,000 and 10,000 tons, respectively, for the month.

The 900 million tons of existing culm contains an estimated 120 million tons of coal, which, according to one industry official, has the energy equivalent of 53.5 billion gallons of fuel oil.

Some countries are now importing small quantities of hard coal. Honduras and Japan, imported only 20 tons and 29 tons respectively for January. Argentina bought three tons.

Stu Carlson, acting branch chief for the Energy Department's new Division of Anthracite, speculates the coal is used in the production of chemicals but notes "it's entirely possible" the foreign nations are experimenting with anthracite for use in industry or home heating.

The anthracite producers are having trouble handling foreign demand. They have had to occasionally delay delivers or deny ready customers outright.

Most blame Conrail, the federally subsidized but financially ailing railroad which controls the only lines through Northeast Pennsylvania.

Rep. Joseph McDade (R-Pa.) calls the railroad "terrible, dreadful Conrail is a problem at every juncture."

Zink of Jeddo-Highland claims the "botched up" railroad has failed to provide enough cars, owns "dead or dying" engines and antiquated equipment and, most importantly, cannot load ships fast enough at its facilities in the Port of Philadelphia.

"We have turned down business because we couldn't get it through the port in time," said Zink. "Conrail leaves much to be desired as a means of transportation. But we have no choice. We're married to it.

"Further expansion of the anthracite export market will be determined solely by the railroad's ability to load vessels."

A spokesman for Bethlehem Mine's Panther Valley Division said in 1979 Conrail failed to provide an adequate number of rail cars, noting "some days we couldn't operate because of the shortage."

But a Conrail spokesman said the railroad "is aware of the problems and taking steps to correct them."

For one, he said, 1550 new cars ordered last year are now being put on the track. Conrail is also spending $1 million to dredge and activate the north side of its coal pier, a project that will allow the exports to increase from 2 million tons last year to 2.5 million tons.

Conrail said $4 million is being spent to rehabilitate the pier structure and studies are under way for "extensive pier modernization."

A major hope of anthracite producers is greater use of their fuel in home heating. It is doubtful anthracite will ever regain its once lofty status—that, for example, of heating much of New York City. But prospects for its increased use in the home appear good.

Stoker manufacturers are experiencing their busiest time ever.

John Roberts, executive vice president of the Van Wert Manufacturing Co. Inc. of Peckville, sold more coal-fired furnaces last January than he did the first five months of last year. He has 400 back orders and speculates "by June, that'll be it for orders for the years."

The small company, which has doubled its work force to about 35 employeess, had projected the manufacture of about 500 stokers for 1980. Now, the firm plans to make at least 1500 and is looking for larger quarters.

"When coal was king I never sold so many. I never saw anything like this," said Roberts. "The way we are now, I don't know if we'll ever catch up. I've been here seven days a week since June and I still can't keep up with the correspondence."

Asked if his business was doing well, Pete Axeman of Axeman-Anderson Co. said, "Hell, that's the understatement of the century.

He said the company had 15 employees a year ago but now, producing 100 units per month and trying for more, has 40 workers. Reached by phone in Williamsport, Pa., he said, "I may have 50 by the time we hang up."

Roberts said a ton of coal plus delivery in the northeast section of the state ranges from $50 to $60, while the price is higher, to about $95, in parts of New England. But, he said, the equivalent for heating oil, 186 gallons, costs about $170 and is rising constantly.●

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Mr. MATHIAS wants to call up an amendment at around 2:30 p.m. today. So, until then, I ask unanimous consent that the Senate stand in recess until 2:30 p.m., and that the time utilized for the recess be charged against the overall time under the cloture rule.

There being no objection, the Senate, at 1:26 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued with the consideration of the joint resolution (H.J. Res. 521).

The PRESIDING OFFICER. The Chair in his capacity as a Senator from New Jersey suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, if one can read the vote on cloture which was taken yesterday as the handwriting on the wall, it would appear that we will have registration of certain citizens for possible military service in this country.

When this subject first surfaced in the Appropriations Committee, we had a very useful and lively colloquy on the subject in which the distinguished Senator from Mississippi, the chairman of the Armed Services Committee, the distinguished Senator from Georgia (Mr. NUNN), and a number of other Senators took part.

And at that time I raised two basic questions that I thought were important. One was the fact that the registration proposal, the proposal to register 19- and 20-year-old males failed to address what appears to be the most urgent manpower problem faced by the Department of Defense and that is the question of the retention of trained and experienced personnel who are leaving the Armed Forces of the United States in alarming numbers at the present time.

The second question that I asked in the Appropriations Committee was whether or not this proposal was directed at the right target, whether or not by registering 19- and 20-year-old males we were really going to put the names and addresses of the right people in the computer files of the Pentagon.

On the first question, the retention question, I felt so strongly, that on the 30th of April, I addressed a letter to the President and raised with him what I felt was an issue which was as important as registration and more urgent, that being the retention of personnel already trained and seasoned.

And I told the President that, "Given the complexities of modern warfare, I can think of no greater manpower priority than retaining our experienced professionals."

I expressed to him my concern at the position taken by the administration in opposition to the Nunn-Warner-Mathias amendment which provides increased pay and benefits designed to encourage trained and experienced personnel to remain in the services or, as we used to say in the old Navy, to ship over.

Mr. President, I ask unanimous consent at this time to have printed in the RECORD the full text of my letter to the President.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 30, 1980.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Our nation faces a number of critical defense manpower issues. Your Selective Service registration proposal attempts to respond to one of these; the availability of a pool of potential recruits. It has become the focus of a divisive debate, not only because it does so little, but because it threatens so much.

An equally important and even more urgent issue is the retention of personnel already trained and seasoned. Given the complexities of modern warfare, I can think of no greater manpower priority than retaining our experienced professionals.

I am concerned, therefore, by the position you have taken in opposition to the Warner-Nunn amendment to the Armed Forces Personnel Management Act, which I cosponsored and which addresses the retention problem by making certain adjustments in military pay and benefits.

I need not recite for you here the statistics regarding our trained professionals who are leaving the military services in mid-career.

I, therefore, cannot reconcile an Administration policy which actively supports registration and yet opposes an amendment which tries to meet some of the concerns of our departing military personnel.

We desperately need a comprehensive assault on our military manpower problems. We must not nibble at these problems. I am prepared to work with you to achieve comprehensive solutions.

With best wishes,

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

Mr. MATHIAS. Mr. President, with regard to that particular subject, the President provided a very dramatic reply. His reply did not come in the form of a phone call or a letter from the White House, but his reply came in the form of a statement made on the flight deck of the aircraft carrier *Nimitz*. At that time, the President told the Navy personnel gathered before him, and the world at large, that he had reversed his position on the question of retention pay and that he would, in fact, support the proposal for retention pay.

So we have made progress in terms of the prospect that we may attract more armed services personnel to ship over, to extend their service, to give this Government that gift beyond value, a portion of their lives dedicated to the defense of the country, and their expertise and knowledge and skill devoted to their jobs in the Armed Forces.

There is a complete coverage of the President's visit to the *Nimitz* and of his statement on this subject which appears in Congressional Quarterly on May 31, 1980, at page 1517 and thereafter, and I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CARTER BACKS NUNN-WARNER PACKAGE OF MILITARY BENEFITS

President Carter seized the May 26 homecoming of three Navy ships from the Indian Ocean/Persian Gulf battlegroup as a highly visible occasion to change course and ride the congressional tide in favor of a Senate-passed military benefits package.

Carter chose to announce his support of the so-called Nunn-Warner amendment atop a dramatic stage: the deck of the aircraft carrier U.S.S. *Nimitz*, as the flattop and two escorts steamed the final 60 miles into port at Norfolk, Va., after almost nine months at sea off the coast of Iran.

The Nunn-Warner proposal, named for Sens. Sam Nunn, D-Ga., and John W. Warner, R-Va., is a $700 million-a-year military benefits package. It was appproved Feb. 4 by the Senate as an amendment to a routine personnel bill (HR 5168). (Senate action, Weekly Report p. 349)

Carter told more than 6,500 Navy and Marine enlisted men and officers he would not only support Nunn-Warner, but also urge Congress to approve another $199 million-a-year for improvements in military benefits.

What's more, he said the Defense Department would draw up legislation enhancing the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) by adding a $110 million-a-year dental insurance program for dependents of active duty servicemen.

But the key element of Carter's address was his reversal on Nunn-Warner.

BUDGET ROADBLOCK

The amendment's six-part package includes increases in flight pay and sea pay and additional reimbursements for moving expenses, plus other benefits. Nunn and Warner argued during the Senate's debate in February that the additional benefits would reverse the military's increasing inability to retain careerists. With military pay increasing at a rate far slower than inflation, greater and greater numbers of careerists have been returning to civilian life.

Administration lobbyists opposed the Nunn-Warner benefits package during the Senate's action, asserting it was too expensive. As drafted by the two senators, it would confer the benefits retroactively to Jan. 1, 1980, costing an extra $486 million in fiscal year 1980, which ends Sept. 30.

But the Senate adopted the amendment without change by a landslide 87–1 vote, after rejecting an alternative across-the-board pay hike by a 46–41 vote. (Senate votes 30–31, Weekly Report p. 359)

Although the bill was passed over three months ago, it has not yet gone to a House-Senate conference. Conferees have not been named because the $486 million price tag for fiscal 1980, caused by the retroactive provision, would exceed the current year's budget ceiling.

House advocates, such as Alabama Democrat Bill Nichols, chairman of the Military Compensation Subcommittee, have been waiting for Congress to adopt a third fiscal 1980 budget resolution raising the spending ceiling and making room for Nunn-Warner. Once this is done, Nichols said conferees can be expected to quickly approve Nunn-Warner.

"That is the sole reason why we haven't asked the Speaker to appoint conferees and gone to conference on this thing." Nichols told Congressional Quarterly May 27. "I assume the Senate and House will agree on the budget resolution by the end of the week, then we'll be ready to go to conference."

CONGRESSIONAL REACTION

Warner issued a statement after Carter's *Nimitz* speech, praising the president's "timely" support. Carter's endorsement got a more pointed reception from Nichols.

"I appreciate the president's pledge to support Nunn-Warner, but the Nunn-Warner proposal was in good shape when the president left to go down to Norfolk," Nichols said. "I don't mean to take anything away from the president. We appreciate his assurance that when we pass it he'll sign it. But the House and the Senate, I believe, had made up their minds to pass this."

The implication was that Carter was merely jumping on the Nunn-Warner bandwagon after Congress had gotten it rolling, but Nichols wouldn't say so. Asked what he thought prompted Carter's endorsement, the congressman laughed, then replied: "No comment."

At the same time, Nichols said Carter deserved some credit for the other proposals in what the Defense Department was calling the "Fair Benefits Package" for the military.

"These do constitute odds and ends which maybe would correct some irritants which presently exist . . .," he said.

But Nichols also pointed out that at least four of Carter's May 26 proposals actually were included in the fiscal 1981 Defense Department budget request.

NUNN-WARNER COST CUT

The only change Carter proposed in the Nunn-Warner package was in the date the benefits would take effect. Carter preferred to make the new benefits take effect upon enactment, which a Defense official said would cut the estimated fiscal 1980 cost from $486 million to $85 million.

Before Carter's *Nimitz* speech, the administration had hinted that Nunn-Warner might be vetoed unless it were made less expensive in fiscal 1980. Changing the effective date apparently removed the administration's objection to its cost.

The Nunn-Warner package includes:

Variable Housing Allowance. Personnel who cannot be accommodated in on-base housing are paid a housing allowance to help defray the cost of off-base housing. But the allowance is the same no matter where the base is located, even though off-base housing costs vary sharply from one area to another.

Nunn-Warner would vary the housing allowance, paying the basic allowance plus the difference between 115 percent of that amount and the average housing cost in a given area.

Increased Reimbursement for Moving. The services estimate that it costs members themselves $1 billion a year in moving costs, even though their moves are made on military orders. The reimbursement for moving under current law is 10 cents per mile. Nunn-Warner would lift that limit, with the Pentagon expected to increase the mileage reimbursement to 18.5 cents, the rate paid civilian government employees.

Increased Sea Pay. Special pay for Navy personnel stationed aboard ship is to be increased in fiscal years 1981 and 1982 under existing law. Nunn-Warner would increase that 15 percent and make the raises retroactive to Jan. 1, 1980.

Increased Flight Pay. Special pay for pilots would be increased by 25 percent.

Extended Re-enlistment Bonus Eligibility. Nunn-Warner would extend to 15 years, from 10 years at present, the maximum length of service during which servicemen would be eligible for re-enlistment bonuses.

Increased Subsistence Allowance. Personnel who choose to eat off-base are able to receive a subsistence allowance to defray the cost of their food. Officers now receive $67.21 a month. Enlisted personnel receive $3.21 per day. Nunn-Warner would increase these allowances by 10 percent.

OTHER CARTER PROPOSALS

Besides the CHAMPUS dental program, Carter proposed nine other changes in military benefits, which the Pentagon estimated would cost $199.1 million:

A family separation allowance of $30 per month to be paid to enlisted personnel in grades E–1 through E–4 with four years of service or less. The allowance currently is paid only to personnel at grade E–5 and above and to E–4s with four years of service. Estimated annual cost: $13.1 million.

More liberal allowances for personnel who live in and must move mobile homes when they are transferred to new assignments, or who must ship household belongings overseas or back. Estimated annual cost: $8 million.

An extension of the housing allowance to ship-assigned personnel during periods when a sailor's ship is receiving repairs that make his shipboard quarters uninhabitable, thus requiring him to billet ashore. Estimated annual cost: $10 million.

An increase in the maximum enlistment bonus to $5,000, from $3,000. Estimated cost: $5 million.

An increase in the maximum reenlistment bonus to $20,000, from $15,000. Estimated cost: $5 million.

A new bonus of $600 to be paid individuals who re-enlist for three years in the Individual Ready Reserve, the pool of former active duty servicemen who would be used in time of war to replace initial casualties. Estimated cost: $2 million.

An extension to military personnel without dependents of the option of living off-base and receiving a quarters allowance. The only personnel without dependents currently allowed this option are officers at rank O–4 and above. The option would be extended to enlisted personnel without dependents who are at rank E–7 and above, and to all other officers. Estimated cost: $34 million.

An annual bonus of up to four months' basic pay for pilots who extend their term of service. Estimated cost: $20 million.

An increase—to $50 from $35 in most locations and up to $75 in selected locations—in the maximum per diem allowance paid personnel assigned to temporary duty. Estimated cost: $102 million.

Mr. MATHIAS. Mr. President, that leaves us with the second question of whether or not the proposal before the Senate is aimed at the right target? Is it going to register the right people?

That, I think, is a serious question with which we must deal. I have an amendment which I will call up shortly which deals with that point.

Certainly, the registration of 19- and 20-year-old males does not do the whole job. In fact, I am somewhat concerned that the registration of 19- and 20-year-old males, although it has some symbolic value, will do very little to really address the manpower needs of the country.

If I get on an airplane and I pass by the cockpit and look in the door, I do not see a 19-year-old male at the controls of that airplane. It is more likely to be a 50- or 55-year-old male, or someone in between 19 and 55.

Do we by this proposal simply exclude any attempt to reach out for talented people in this country, regardless of age, regardless of sex, who may be able to contribute something in the case of a serious national emergency which would require mobilization?

What about medical officers? Just last week I talked to a retired Navy medical officer, an orthopedic surgeon, retired for age, now active in private practice. I assume he is doing very well in private practice and, in addition, getting his Navy pension, to which he is certainly entitled.

But he would like to be on active duty in the Navy. He would like to be continuing to devote his professional skills to his Navy patients. Because of age limitations, which we are outlawing in other segments of our society, we are just ignoring his talents and his desires and his motivation.

The proposal before us does nothing to help us reach those people. If we look at the case of the F–14 pilots, it will illustrate what I mean. The pilot of an F–14 is a very sophisticated technician, of very high skills. When he leaves the Navy and returns to civilian life, he may leave a forwarding address so that his mail in the next couple weeks will follow him, but thereafter the Navy pretty well loses touch with him. We do not know where he has gone. We have no system for keeping track of that highly trained and experienced pilot.

Yet, the American taxpayers have put $1 million into his training and into his flight experience, and we are just kissing $1 million worth of training goodbye because we have no way to reach him.

It is not my intention to single out the Navy because the same situation exists in other services, medical doctors, paramedics, electronic technicians, doctors, all sorts of highly trained people exist in this country, some with military experience, some without, but all with talents that may be important in the case of mobilization.

They may be 19 years old. They may be males. They may be females. They may be 60 years old. But they have a contribution to make in the technologically complex military environment of the 1980s.

There ought to be some way, if we are going to begin the registration process, for this Government to reach out and identify the talents that are necessary in the defense of the country in a time of national mobilization.

Mr. PROXMIRE. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to my distinguished colleague from Wisconsin.

Mr. PROXMIRE. Mr. President, I congratulate my good friend from Maryland on this amendment. I doubt if it will pass.

There is nothing I can think of that would really make this legislation useful. It is just about as useless now as it can be because, as the Senator points out so well, we do not need raw recruits, untrained enlistments. The overwhelming majority fall into this category.

We need, in the first place, precisely what the Senator proposes in his amendment. We need to have an inventory of the particular skills we need in the modern military.

Those skills are quite different than they were in the Civil War, in World

War I or in World War II. The notion that many people in the military will be marching 30 miles and carrying a pack is wrong.

We need a tremendous variety of skills, and many of those skills take a great deal of training.

What would the Senator call for? He asked for a study to identify the number of military personnel in each skilled category needed to respond effectively in situations in which a military conflict is most likely to occur.

That is exactly what we need.

I have maintained all along, and I have not heard a single word in response, that we do not need raw recruits. We do not need 100,000 or 200,000 19- or 20-year-old males inducted into the military.

What we need are people who are skilled, able, and ready to move in, and move in promptly.

When the Senator asks for the estimated shortfalls in each skill category, in each of the situations in which a military conflict is most likely to occur, that is precisely what we need.

It doesn't make sense to simply argue we need to show the Russians we mean business. I do not see how we can possibly impress the Russians by requiring 4 million young American males to register on a certain day in August, at the post office by giving their name and address. That does not mean anything.

It would mean something if we found out what skills were needed, if we showed that we were really serious about knowing who we should attract into the military, if necessary by drafting them in the event of an emergency.

This would be useful. It might result in the registration of people who are not 19- and 20-year-olds, but who are U.S. Senators who have to be 30 before they can qualify, many of whom are even older than that.

Mr. MATHIAS. Some of whom might even be useful.

Mr. PROXMIRE. I doubt that. That is going too far. I do not think anyone will be able to claim that. [Laughter.]

But the Senator's proposal will make it possible to identify people useful to the military. As the Senator points out, in the Mathias amendment there are recommendations for the procedures necessary for locating and securing such additional skilled personnel as may be needed by the Armed Forces to respond effectively in any situation.

This is what we need. We want procedures which will allow us to secure the people we need when we need them, not just someone named Joe who may not have qualifications at all.

Finally, the Senator is asking for recommendations for such changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel possessing these skills.

I congratulate the Senator. This is really an outstandingly good amendment. It is a good amendment because it does what needs to be done. It provides an inventory of the kinds of skills that would be appropriate to service in a moderate military force in the 1980's. It challenges the old notion that because we have drafted 19- and 20-year-olds, because they were great in the Civil War and they did a fine job performing a part of the many tasks requiring untrained and unskilled young people in World War I, that we need them now. Maybe we do. But I doubt very, very much if that is what we need in this technological age in which we have missiles, in which we have planes, in which we have tanks, in which we have ships, all of which are extremely complicated. We need to begin work on a list of people who can provide the particular skills needed to operate this hardware.

I think the Senator's amendment accomplishes precisely this.

Mr. MATHIAS. I thank the Senator from Wisconsin. I think he is much too modest about his own fitness and readiness. I am looking at the Senate this moment, and I think there are 50 percent of us here who are perhaps in fit shape. The fitness of the Senator from Wisconsin is always at high level, and the Senator from New Jersey, who is in the chair, has a high level of fitness.

Mr. PROXMIRE. I am not worried about physical fitness but about mental fitness.

Mr. MATHIAS. Well, it is general fitness.

If this were 1860 instead of 1980, then the concept of registering exclusively young men would be more appropriate. It is my understanding that Gen. Jeb Stewart's cavalry, one of the great military forces in the history of America, were largely teenagers. They were harum-scarum boys who enjoyed being in the saddle 8, 10, or 12 hours a day, galloping over the countryside, engaging in deeds of derring-do, almost entirely a physical exercise.

But this is not 1860. This is 1980. If there is, God forbid, any kind of military conflict on a large scale, it will involve other and more intellectual disciplines in the Armed Forces of the United States. We need to reach out and identify where people who have those disciplines may be.

Mr. PROXMIRE. If I may interrupt once more at this point, I want to point out that this colloquy is being held between the two Senators who are the ranking members of the appropriations subcommittee with jurisdiction over the joint resolution. We sat through the hearings. It was our responsibility. I happen to be the chairman of that subcommittee. The Senator from Maryland is the ranking Republican member. We heard the testimony and helped make the record. On the basis of that record, I can assert without any fear of contradiction, any contradiction that reasonable people will accept, that this joint resolution is useless without the proposed amendment. The testimony was overwhelming that preregistration will save only 7 days—1 week.

That was very clear.

The only data base there is in this whole area was supplied by the Selective Service System. Their draft report established this fact that registration would not save more than 7 days. The report said that. That is the case. We need to know what we are doing. That is what the Senator from Maryland's amendment provides. It would require a study so that by September of 1981 we will have before us a full knowledge of what a modern army requires in skills and in personnel, and how we can go about getting those skills and personnel at a reasonable cost. This is the kind of action we need.

Mr. MATHIAS. The Senator will recall that on the 10th of March of this year the Assistant Secretary of Defense for Manpower, Mr. Robert Pirie, testified and his testimony was referred to in our hearings. At that time he said "retention rates at the second term reenlistment point have declined significantly in recent years. The problem is particularly serious in the Navy. . . . The drain of experienced people hurts our ability to man and train an effective force."

He went on to say that "experienced personnel are generally more productive, are critical to the operation and maintenance of an increasingly complex military force, and reduce recruiting and training costs for replacements."

These points are contemplated in the amendment that I will call up shortly. They do address what the experts in the Department of Defense feel is certainly the primary defense problem of this country, the people problem.

Mr. PROXMIRE. Mr. President, will the Senator add my name as a cosponsor to his amendment?

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senator from Wisconsin be added as a cosponsor of this amendment.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, we are examining in exhaustive detail how we are going to keep track of young Americans who have no prior military experience, who will have to be trained for years, at an enormous expense to the American taxpayer before they can become capable, competent, to run our sophisticated military hardware.

We can do that. We have the ability to do that. But I believe we have the ability to do more than that. We have the capability, and we must exercise it, of keeping track of the location and the availability of experienced men and women who have already been trained by previous service in the Armed Forces.

With the data storage retrieval equipment which is now available, we can reach out and make what is in effect an inventory of national talent. It is this inventory of national talent that will be truly useful.

Then, as we look at the people problem in defense, the big problem in defense, we can make national judgments not based on wishes, not based on hopes or aspirations, but based on hard facts as to exactly what is available, as to exactly what ought to be available, and how it can be brought into the field at the time that it is needed.

Mr. President, the amendment that I will offer is directed at achieving this capability of keeping track of experienced people, those who have left the service, who might be attracted or necessary in some defense-oriented capacity.

This amendment, Mr. President, does not do violence to the bill. In fact, it does not alter it or impede it in any way. It simply adds a function. It requires the Director of the Selective Service, in consultation with the Secretary of Defense, to conduct a study to identify the number of people in each of the several skilled categories needed to respond effectively in situations in which a military conflict is most likely to occur. He must send to the Congress not later than September 30, 1981, a report which estimates the shortfalls in each skill category, in each of the situations in which military conflict is likely to occur. He must recommend procedures to locate and secure additional skilled personnel as may be needed by the Armed Forces to respond effectively in such situations, and he must recommend what changes in existing law might be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required to respond effectively in such situations.

Mr. President, it would be my view that in making that judgment he should not be limited by restraints in age or sex. He should look at this whole country and should say, "What this country needs are people in these various skills and disciplines. This is where they are."

Or if he sees that they do not exist, he says, "This is where they ought to be and in these recommended numbers."

Then the President, the Secretary of Defense, and the Congress, can, in a coordinated decision, consider how we can best achieve the kind of full complement of personnel, desirable and necessary for the defense of the United States.

Mr. President, I will call up my amendment shortly.

Mr. CRANSTON. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I appreciate this opportunity to discuss with the Senator from Maryland the issue of how best to meet our military manpower needs.

I am opposed to the pending joint resolution to reinstitute active registration for the draft of 19- and 20-year-old men this year because it is not necessary for our national security, and because it makes no contribution toward solving our military manpower problems.

But I am glad the Senator from Maryland has raised the question of whether young people—current law permits registration of men aged 18–26—are the most important people to register in a national emergency. Young people who are registered and inducted do not serve until they are trained, of course—a matter of months. The Reserves and the Guard provide the immediate replacements in a wartime situation and these people are already trained. It is logical to ask, then, whether our military establishment should also have the capacity in a national emergency to locate people with vital skills so that they can perhaps recall these people, thus saving the time of some training.

My interest in this question arises from the view I have long held that the military should consider opening its ranks to people of significantly more mature ages. Presently, the military only takes people who are under 35 years of age, with a few exceptions for doctors and others with skills which are in short supply in the military.

It seems to me that many people in civilian life have skills and talents which could be of use to the military. And, as the military has become more technical, I believe there is less of an argument—if there ever were one at all—that only very young people can fulfill military duties. At a time when the military depends on voluntarism for its very existence, it is unfortunate that it turns away qualified people who try to make lateral entry into the military when those people are over 35.

The amendment of the Senator from Maryland is related to this interest of mine in that it proposes that the selective service and the Defense Department study the issue of keeping track of people by skills, without regard to age necessarily, rather than or in addition to keeping track of 19- and 20-year-olds as proposed by the President this year.

But, the Senator's proposal also raises serious questions of policy and equity which are inherent in any discussion of registration. To the degree that his amendment raises the question of expanding the potential pool of people to be registered and possibly inducted, these questions are all the more important.

First, is it legal or constitutional to register and therefore make liable for induction people on the basis of their skills? I believe there are precedents for differentiation on the basis of skills in that health professionals are treated separately in current and past legislation, but this issue must be explored thoroughly.

Second, where the people who might be listed as having critical skills under the system envisioned by the Senator from Maryland have already served in the military, is it equitable to ask these people to be liable for military service again?

Third, could the goal the Senator from Maryland seeks—that is, keeping track of Americans with skills which the military might need in time of war—be better achieved by, perhaps, expanding the current Individual Ready Reserve system?

Fourth, should or could this registration of skilled people be conducted on an entirely voluntary basis? I would certainly urge that only an all-volunteer system be established in peacetime.

I understand that a final vote on this amendment is not likely to occur today or on this joint resolution. If this is so, we will have additional time to insure that these questions can be addressed in any study which the Senator advocates and I would be happy to work with him on this.

As usual, the Senator from Maryland has raised a very interesting point that merits very careful consideration. I am glad to engage in that study now and in the future.

Mr. MATHIAS. I would hope this study could be mandated by the Congress at this time. We are charged under the Constitution of the United States to provide for the common defense, and it would seem to me to be the consensus that the principal problem in providing for the common defense today is the people problem. We just do not have enough of the right kind of people in the Armed Forces today. But you get a kind of fuzzy answer when you ask the so-called experts exactly who is needed and in what quantities, and then in what time frame. If we are to carry out our constitutional responsibility, it is important that we evaluate those requirements with as high a degree of precision as can be possible.

As I have suggested, there is nothing in this study which is called for by the amendment which would limit the Director of the Selective Service or the Secretary of Defense in their search for talent with respect to either age or sex. The recommendations would be very broad. Congress would then have to make the policy decisions as to where the responsibility and obligation to serve is involved. But until we have such a thoughtful report from responsible officers of the executive branch, it is very difficult for us to make anything approaching a responsible decision in this matter.

The useful feature of the registration proposal is that it does force this subject to our attention and to the point of action. We are at that point of action. It seems to me that we should not let this opportunity go by without giving a comprehensive response to a question which has been put to us by the President of the United States. I think he deserves better than a partial response.

We have very serious responsibilities for the national defense, and I think we do less than justice to our duty if we do not give a thoughtful and comprehensive response.

It seems to me that we must look at the total span of the people problem involved here.

These are not only my own individual and personal views, Mr. President. We had as a witness before the Appropriations Committee the Deputy Director of the Office of Management and Budget, Mr. White. In the course of his testimony, he said:

> I think we have a vast array of talent available and I certainly think you are right and we ought to continue to assess what our talent needs will be in the event of mobilization.

Mr. Pirie, the Assistant Secretary of Defense for Manpower, said:

> Those who have completed their military obligations have no further connections. No, we do not have a program to keep track of them. I think it is an attractive idea.

General Meyer, the Chief of Staff for the Army, in testifying before the Appropriations Committee, said:

> I agree completely with what you say about evaluating the total capability of the Nation to be able to support our needs for mobilization.

I think in fairness to General Meyer I should quote further that he said that:

> Until we are able to fix the active components of the U.S. Army Reserve and the National Guard, the need is principally in the area of combat arms men.

While I do not take issue with General Meyer on that because that is, of course, certainly in his area of responsibility, I think we have a broader responsibility and a more comprehensive responsibility which is addressed by this amendment. It will not in any way cripple, weaken, or restrict the proposal which is embodied in the legislation before the Senate. It will add to it; it will supplement it; it will complement it.

It will allow Senators to say that they have done their duty as the Constitution defines it.

AMENDMENT NO. 1806

(Purpose: To increase the funding for the Selective Service System in order to conduct a study of combat skill requirements)

Mr. MATHIAS. Mr. President, at this point, I call up my amendment to House Joint Resolution 521.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

> The Senator from Maryland (Mr. Mathias) for himself and Mr. Proxmire, proposes an amendment numbered 1806:
>
> On page 2, line 5, strike "$13,295,000" and insert "$14,295,000".
>
> On page 2, line 14, after the word "Act" insert the following: ": *Provided further*, That the Director of Selective Service, in consultation with the Secretary of Defense, shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and submit a report to the Congress not later than September 30, 1981, containing the results of such study, including (1) the estimated shortfalls in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and securing such additional skilled personnel as may be needed by the Armed Forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the Armed Forces to respond effectively in such situations."

The PRESIDING OFFICER. Under the precedents of the Senate, once cloture is invoked, the Chair is constrained to rule that an amendment which, on its face, is nongermane, is out of order. The amendment offered by the Senator from Maryland introduces new subject matter. Accordingly, it is nongermane. Accordingly, the amendment is out of order.

Mr. MATHIAS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATHIAS. Is the ruling of the Chair debatable?

The PRESIDING OFFICER. A ruling of the Chair is not debatable.

Mr. MATHIAS. Then, Mr. President, I feel I have no alternative but to appeal the ruling of the Chair to the Senate. I ask for a rollcall vote on the issue of the appeal to the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), and the Senator from Tennessee (Mr. Sasser) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maine (Mr. Cohen), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 36, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—51

Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Culver
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Heflin
Helms
Hollings
Huddleston
Inouye
Jackson
Johnston
Laxalt
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pryor
Randolph
Ribicoff
Stennis
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—36

Armstrong
Bellmon
Boschwitz
Chafee
Danforth
DeConcini
Dole
Domenici
Durenberger
Garn
Hatch
Hatfield
Hayakawa
Heinz
Humphrey
Javits
Jepsen
Kassebaum
Leahy
Levin
Lugar
Mathias
McClure
Packwood
Percy
Pressler
Proxmire
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stevens
Thurmond
Wallop

NOT VOTING—13

Baker
Biden
Church
Cohen
Gravel
Hart
Kennedy
Long
Magnuson
McGovern
Pell
Sasser
Schweiker

The PRESIDING OFFICER. The decision of the Chair is sustained as the judgment of the Senate.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the decision of the Chair was upheld, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the decision of the Chair was upheld. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Tennessee (Mr. Sasser), and the Senator from Nebraska (Mr. Zorinsky) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in family.

I further announce that if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maine (Mr. Cohen), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The PRESIDING OFFICER (Mr. Exon). Are there any other Senators in the Chamber who wish to vote?

The Chair reminds the Senate that we are 3 minutes and 11 seconds over the time for this rollcall vote, on a day that already has lasted 34 hours.

Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 28, nays 58, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—28

Armstrong
Bellmon
Boschwitz
Chafee
Danforth
DeConcini
Domenici
Durenberger
Hatfield
Hayakawa
Heinz
Humphrey
Javits
Kassebaum
Lugar
Mathias
McClure
Packwood
Percy
Pressler
Proxmire
Riegle
Roth
Sarbanes
Simpson
Stevens
Thurmond
Wallop

NAYS—58

Baucus
Bayh
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Culver
Dole
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Heflin
Helms
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Laxalt
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pryor
Randolph
Ribicoff
Schmitt
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Warner
Weicker
Williams
Young

NOT VOTING—14

Baker
Biden
Church
Cohen
Gravel
Hart
Kennedy
Long
Magnuson
McGovern
Pell
Sasser
Schweiker
Zorinsky

So the motion to reconsider the vote by which the decision of the Chair was upheld was rejected.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, we are in a situation at the moment in which there is discussion on a possible proposal or agreement to reach a voting situation I suggested earlier this morning. So until we can reach that agreement or some modification thereof, I now move to lay the joint resolution on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the joint resolution on the table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), and the Senator from Tennessee (Mr. Sasser) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maine (Mr. Cohen), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 26, nays 61, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—26

Armstrong
Bellmon
Bradley
Culver
Danforth
Eagleton
Garn
Goldwater
Hatch
Hatfield
Heinz
Kassebaum
Leahy
Levin
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Nelson
Packwood
Proxmire
Riegle
Roth
Sarbanes
Tsongas

NAYS—61

Baucus
Bayh
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Laxalt
Lugar
Mathias
Morgan
Moynihan
Nunn
Percy
Pressler
Pryor
Randolph
Ribicoff
Schmitt
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—13

Baker
Biden
Church
Cohen
Gravel
Hart
Kennedy
Long
Magnuson
McGovern
Pell
Sasser
Schweiker

So the motion to lay on the table the joint resolution (H.J. Res. 521) was rejected.

The PRESIDING OFFICER. If there be no further amendment to be proposed——

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move that we recess in accordance with the previous order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator repeat his request?

Mr. HATFIELD. Mr. President, I move that we recess on the basis of the previous order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, this is ordinarily a motion the leadership would move. I hope the Senate votes down the motion.

Mr. FORD. Mr. President, what is the motion?

The PRESIDING OFFICER. The motion by the Senator from Oregon is that the Senate stand in recess until 10 o'clock in the morning.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Levin), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), and the Senator from Tennessee (Mr. Sasser) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maine (Mr. Cohen), the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Texas (Mr. Tower) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 14, nays 71, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—14

Armstrong
Bellmon
Chafee
Danforth
Hatfield
Hayakawa
Heinz
Laxalt
Lugar
Mathias
Riegle
Roth
Stevens
Wallop

NAYS—71

Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hatch
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Sarbanes
Schmitt
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—15

Baker
Biden
Church
Cohen
Gravel
Hart
Kennedy
Levin
Long
Magnuson
McGovern
Pell
Sasser
Schweiker
Tower

So the motion to recess was rejected.

Mr. HATFIELD. Mr. President, in accordance with rule XXII, I now move to extend the time cap from 100 to 124 hours.

I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion, first.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GOLDWATER. Mr. President, what are we voting on?

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 307

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. HOLLINGS be allowed to submit the conference report on House Concurrent Resolution 307 and that debate be limited, overall, to no more than 40 minutes, the time to be equally divided between Mr. HOLLINGS and Mr. BELLMON; and the time, of course, not to be charged under the cloture rule.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, let me modify that to read "conference report and any subsidiary motions, overall."

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, I ask the majority leader to amend that to make it 43 minutes, so that the Senator from Virginia may have 3 minutes.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRST CONGRESSIONAL BUDGET RESOLUTION, 1981—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on House Concurrent Resolution 307 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the United States Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the United States Government for the fiscal year 1980, having met, after full and free conference, have been unable to agree on a conference report because the conference decisions have changed certain budget figures outside the scope of conference. As set forth in the Joint Explanatory Statement, the conferees do propose a congressional budget incorporated in a further amendment for the consideration of the two Houses, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 23, 1980).

Mr. HOLLINGS. Mr. President, today, in informal negotiations between the Houses, a tentative agreement was reached on the congressional budget for 1981 and revisions to the congressional budget for 1980.

The task before the Senate today is simply to return the papers on the budget resolution to the House of Representatives for further action tomorrow. If we do so, the House will vote tomorrow on the tentative agreement we have reached.

I want to take just a minute now to describe that tentative agreement by comparing it to the conference agreement originally reached on the budget resolution but rejected by the House 2 weeks ago.

The original conference agreement was a sound proposition which I am sure would have been acceptable to the Senate because it maintained most of the savings passed by the Senate and the Senate's primary emphasis on the national defense priority.

That agreement was rejected by the House, apparently because it did not contain the balance between domestic and defense programs that a majority of the House favored. This compromise agreement we have reached achieves that desired balance without sacrificing the essential defense priority of the Senate position.

Next month we will markup the second and binding budget resolution for the year. By that time hopefully we will know more about the economy in 1981 than we know today or than we knew 3 months ago.

But if there is reason now to believe that forecasts in June are better than the forecasts we got in March, then there is all the more reason to believe that the forecasts of July will be better than those we have now. We should wait to get them before we change this budget.

And those who advocate sending this budget back to conference because the forecast now calls for a deeper recession surely have not thought through what such a conference would produce. If we go back to conference because the country is going to have a deeper recession than was forecast, the spending will not be reduced. It will be increased.

We will have countercyclical this and countercyclical that. We will have special programs for this group and that group. We will add spending until our calculators catch fire.

No, the answer to changing forecasts is to deal with them at the time the Congressional Budget Act told us to deal with them—the time we do the second budget resolution. For now we should hold the line on the spending contained in this budget resolution. We should try to get the savings contained in this budget resolution's reconciliation instructions.

What we have done in this compromise is to reduce defense budget authority by $800 million from the $171.5 billion level rejected by the House 2 weeks ago and add $800 million to a number of domestic budget functions.

We have added $100 million in budget authority each to functions 250, general science, space, and technology; 270, energy; 400, transportation; and 550, health; and $200 million in budget authority to functions 500, education, training, employment, and social services; and 600, income security, for a total of $800 million.

The compromise makes no reduction in national defense outlays, but transfers $300 million from the surplus in the resolution the House rejected, $100 million of these transferred outlays going to function 400, transportation, and $200 million going to function 600, income security.

The second component of the compromise is to add sufficient funds to cover the latest administration estimates of disaster assistance for Mount St. Helens, the Cuban refugee influx, the Miami situation, and Presidentially declared disasters. If we had not added these funds, there simply would not have been enough money in the 1980 budget to meet these disaster situations.

Third, the compromise extends the deadline for reconciliation savings on the part of Senate committees to June 25 so that committees will have enough time to make their reports to the Senate, and the Senate will have enough time to act on those reports before the July recess.

The House may include a later reconciliation date for its committees. We think it is wiser for the Senate to push ahead and complete reconciliation before the July recess.

Now Mr. President, we know that many economists are now predicting that the budget for 1981 will be unbalanced, even though we have made the most significant savings in this resolution which Congress has ever achieved.

Many of these economists are the same ones who told us 3 months ago that we could balance the budget with these same savings. These economists now think unemployment will be worse in 1981 than they thought it would be 3 months ago when they gave us the advice on which we formulated this budget resolution.

Maybe these economists were wrong in March when they told us this budget would be balanced. Or maybe they are wrong now in saying it will not be balanced.

The spending totals in this budget are virtually the same ones they told us would produce a balance. The difference is they now believe the recession will be wore than they thought it would be 3 months ago.

But we cannot have a new budget resolution for every new economic forecast. We would have to produce a new budget every day on that basis.

If we are going to have a deficit in 1981, as some economists now predict, we should try to minimize that deficit by holding the line on spending now, not by going back to a conference which will increase that spending by untold amounts.

So we must be sensitive to changes in the economic forecast. But we should not change our budget every time an economist changes his mind.

I want to include in these remarks a table which sets forth the budget totals for 1980, 1981, and the out-years which will be put before the Senate for approval tomorrow.

FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1981 (H. CON. RES. 307)

[In billions of dollars]

	Fiscal year 1980		Fiscal year 1981		Fiscal year 1982[1]		Fiscal year 1983[1]	
	BA	O	BA	O	BA	O	BA	O
050 National defense	143.7	135.7	170.5	153.7	204.6	183.2	234.0	208.7
150 International affairs	15.2	10.5	23.6	9.5	15.4	9.8	15.1	10.1
250 General science, space, and tech	6.2	5.9	6.6	6.1	6.9	6.8	7.1	7.0
270 Energy	38.4	6.4	6.7	6.8	7.5	10.1	9.5	11.1
300 Natural resources and environment	12.6	13.4	11.7	12.1	12.4	12.9	12.7	13.2
350 Agriculture	5.0	5.9	5.5	2.3	6.6	4.5	4.5	5.2
370 Commerce and housing credit	11.7	6.1	5.1		5.9	2.7	6.3	2.9
400 Transportation	20.5	20.2	22.1	18.75	21.5	20.3	22.2	21.6
450 Community and regional development	10.0	9.8	8.8	9.2	8.5	8.8	8.7	8.8
500 Education, training, employment, and social services	29.6	29.9	31.7	29.5	33.4	31.7	34.9	33.7
550 Health	59.8	56.5	71.2	61.7	82.8	70.6	94.3	79.6
600 Income security	224.8	191.7	249.5	219.55	284.2	249.4	313.4	275.4
700 Veterans benefits and services	21.2	20.5	21.7	21.2	23.2	22.7	24.8	24.2
750 Administration of justice	4.3	4.4	4.2	4.6	4.4	4.5	4.6	4.7
800 General government	4.5	4.4	4.6	4.3	4.8	4.7	5.1	4.9
850 General purpose fiscal assistance	8.55	8.55	6.2	6.8	6.4	6.4	6.5	6.5
900 Interest	65.1	65.1	72.2	72.2	74.0	74.0	77.7	77.7
920 Allowances								
950 Undistributed offsetting receipts	−22.3	−22.3	−24.7	−24.7	−27.5	−27.5	−29.8	−29.8
Total	658.85	572.65	697.2	613.6	775.0	695.6	851.6	765.5
Revenues		525.7		613.8		701.4		783.0
Deficit (−) or surplus (+)		−46.95		+.2		+5.8		+17.5
Public debt		903.6		935.1		965.6		991.1

[1] The budget resolution contains 2 sets of budget aggregates and functional totals for fiscal year 1982 and fiscal year 1983—1 for the Senate, the other for the House. The aggregates and functional amounts shown on this table for fiscal year 1982 and fiscal year 1983 are those of the Senate.

Note: Details may not add to totals due to rounding.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. BELLMON. Mr. President, it is my understanding that the Senator from Colorado desires to be heard on this matter. I am happy to yield to him, if he is prepared to speak at this time.

Mr. ARMSTRONG. Mr. President, it is my understanding that the Senator from Oklahoma has arranged that I be permitted to address the Senate for 15 minutes, and I will be ready to do so in a moment or two. I am just collecting my notes, and I will be ready very shortly.

Mr. HOLLINGS. Mr. President, by word of explanation, the purpose is to get our papers back over to the House of Representatives so that they can consider the compromise we have worked out between the conferees on our budget resolution. We worked it out at midday. We think it is a good compromise.

I have tried my best to explain it and to make a copy available to everyone. No one is bound by it.

I hasten to add that when it comes back, there is the right to amend. That right is not taken away by the proceedings we will have this afternoon. We are simply trying to get the papers back to the House so that they can act as they wish, and then we will see what they proffer, and we hope we can go along with it.

Does anyone wish to be heard?

Mr. BELLMON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, the procedure we are using is the only way we seem to have available to us to get the matter back to the House, where it is hoped the House will agree to the arrangement that has been agreed to tentatively by the conferees. There seems to be no other way to do this. There is nothing irregular about it. We will have the issue back before us tomorrow if the House acts affirmatively on what has been agreed to tentatively.

Mr. President, if the Senator from Colorado is prepared, I yield him 15 minutes of my time.

Mr. ARMSTRONG. Mr. President, I am grateful to the distinguished Senator from Oklohama for yielding.

I have been preoccupied with other business, and I inquire whether or not the procedure we are expecting to follow has been explained to Senators and the nature of the expected compromise has been placed before the Senate, so that everyone knows what we are doing.

I inquire of the chairman or of others who are knowledgeable. I have been preoccupied with some other matters, and I have just come to the floor. Have Senators been put on notice of what is expected to happen, and the timing, and the nature of the change which is expected to come to the floor tomorrow?

Mr. HOLLINGS. I have no idea what the timing would be tomorrow. The idea was, from my understanding, that the House said that if we could get those papers over, they could have it considered either later today or at least tomorrow. Then we would have it back, and it is hoped we could act at that time or on Friday.

Mr. ARMSTRONG. Has the distinguished chairman disclosed to the Senate the nature of the expected compromise?

Mr. HOLLINGS. Yes. I had a copy mimeographed, and I did the best I could. I have had mimeographed sheets distributed in our caucus. I will be glad to give out copies. It contains the same figures we had this morning.

Mr. ARMSTRONG. I want to verify that so that I will not have to cover ground that has been covered previously by the distinguished chairman, and so that I can give my own observations about it immediately and ask Senators to consider carefully the decision we will have to make tomorrow.

I do not think the issue is squarely before us today, and it is my intention only to treat what is happening today as a procedure by which the actual decision on the first concurrent budget resolution will be brought to us tomorrow, and that the policy issue really will come up tomorrow.

With that by way of background, I should like to review where we are and where we have been.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent to have printed in the RECORD a table which shows the tentative budget conference agreement as it compares to our former conference, in the functions where principal changes have been made.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET CONFERENCE AGREEMENT

Aggregate totals	Former conference	New totals	Change
BA	697.2	697.2	0
Outlays	613.3	613.6	+.3
Revenue	613.8	613.8	0
Surplus	+0.5	+0.2	0.3

Functional totals	BA	O	BA	O	BA	O
0050 Defense	171.3	153.7	170.5	153.7	−0.8	
0250 Science/Space					+0.1	
0270 Energy					+0.1	
0400 Transport					+0.1	+0.1
0500 Education, training					+0.2	
0550 Health					+0.1	
0600 Income security					+0.2	+0.2
Total change					0	+0.3

NATIONAL DEFENSE DETAILS

	Original Senate	Original House	New conference agreement	Senate moves	House moves
BA	173.4	160.8	170.5	−2.9	+9.7
Outlays	155.7	147.9	153.7	−2.0	+5.8

Mr. ARMSTRONG. Mr. President, to put this whole issue in perspective, I begin by acknowledging the debt of gratitude which I believe Senators owe to the distinguished chairman of the Budget Committee and the distinguished ranking minority member, the Senator from Oklahoma. They have shown a degree of statesmanship in their handling of this issue which is commendable.

They have shown a degree of tolerance and forbearance in a very contentious conference with the House. They have been accommodating beyond human endurance in many instances, under the most difficult and trying circumstances.

I also publicly acknowledge that they have been particularly patient with me, knowing full well that I did not agree with the policy decisions that were being made. Yet, they have dealt with me in a spirit of forbearance and friendship which I appreciate very much.

Indeed, if the test of the budget decision we are going to make tomorrow were primarily the regard we have for the chairman and the ranking minority member, I think we would all vote for it, and it would be passed by acclamation.

However, the test of the validity of the budget process is not how we feel about the Senator from South Carolina or the Senator from Oklahoma, or about the Budget Committee, or the budget process, or how hard everybody has worked. The test of the validity of this process is the work product which will come back before this body tomorrow.

One Senator at least—and I hope a majority of the Members of this body—has very, very serious reservations about the credibility and the desirability of that budget recommendation.

Mr. President, my staff at this moment is preparing a spread sheet which will list across the page the budgetary aggregates dating back for 5 or 6 years, including fiscal year 1977, fiscal year 1978, fiscal year 1979, the current fiscal year first concurrent resolution, second concurrent resolution, the proposed third concurrent resolution, and alternatives that have been proposed along the way.

As subtotals of this, the table we are preparing will show the functional totals so that we can see the growth in Federal spending over the last 4 or 5 years; because I am afraid we have overloaded our expenses. We have worked so hard, have said so much, and have been to so many conferences that I think we have lost track of the situation, and it is that Federal spending is careening out of control.

Mr. President, I ask unanimous consent to have that spread sheet printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table follows:

BUDGET HISTORY

[In billions of dollars, fiscal years]

	1977	1978	1979	1980					1981			
				FCR[1]	SCR[2]	Senate TCR[3]	House TCR	Conference TCR	Armstrong-Roth	Senate FCR	House FCR	Conference FCR
Budget authority	465.2	501.5	556.7	604.1	638.0	653.7	660.3	658.9	642.8	688.2	694.2	697.0
Outlays	402.7	450.8	493.7	532.0	547.6	566.4	571.6	572.65	596.7	613.1	611.8	613.6
Revenues	357.8	402.0	465.9	509.0	517.8	528.9	528.8	525.7	596.7	613.2	613.8	613.8
Balance	−44.9	−48.8	−27.8	−23.0	−29.8	−37.5	−42.8	−46.95	0	+.1	+2.0	+.2
Public debt	709.1	780.4	833.8	837.2	886.4	895.1	896.7	903.6	927.1	927.7	926.8	935.1
050—National defense:												
Budget authority	108.4	117.9	125.0	136.6	141.2	143.7	142.5	143.7	173.4	173.4	160.8	170.5
Outlays	97.5	105.2	117.7	124.2	129.9	134.0	134.2	135.7	155.7	155.7	147.9	153.7
150—International affairs:												
Budget authority	6.5	9.7	8.6	12.6	13.1	15.2	15.8	15.2	23.3	23.3	24.0	23.6
Outlays	4.8	5.9	6.1	7.9	8.4	9.9	10.7	10.5	9.4	9.5	9.6	9.5
250—General science, space and technology:												
Budget authority	4.6	4.9	5.4	5.7	5.9	6.2	6.1	6.2	6.2	6.4	6.7	6.6
Outlays	4.7	4.7	5.0	5.5	5.7	5.9	5.9	5.9	5.9	6.1	6.3	6.1
270—Energy:												
Budget authority	3.6	8.2	7.4	18.8	39.5	37.9	40.3	38.4	3.5	3.8	7.5	6.7
Outlays	4.2	5.9	6.9	6.8	7.3	6.5	6.4	6.4	6.3	6.8	7.1	6.8
300—Natural resources and environment:												
Budget authority	9.5	13.6	13.2	12.6	12.6	13.2	12.3	12.6	11.4	11.5	12.0	11.7
Outlays	10.0	10.9	12.1	11.7	11.9	12.9	13.2	13.4	11.8	11.9	12.4	12.1
350—Agriculture:												
Budget authority	2.4	8.2	9.3	5.0	5.0	5.0	5.0	5.0	5.6	5.6	5.4	5.5
Outlays	5.5	7.7	6.2	5.4	2.6	5.9	5.9	5.9	2.3	2.3	2.3	2.3
370—Commerce and housing credit:												
Budget authority	5.5	5.3	5.9	6.9	6.8	11.7	11.6	11.7	5.0	5.4	5.1	5.1
Outlays	0	3.3	2.6	3.2	2.85	5.5	6.1	6.1	.1	.5	−.1	------------
400—Transportation:												
Budget authority	10.4	15.0	19.2	19.5	19.5	19.7	21.0	20.5	18.4	19.75	22.8	22.1
Outlays	14.6	15.4	17.5	18.2	18.6	19.5	20.1	20.2	16.9	18.05	19.5	18.75
450—Community and regional development:												
Budget authority	12.8	10.3	10.0	8.9	8.9	8.6	8.7	10.1	8.8	8.8	9.0	8.8
Outlays	6.3	8.1	9.5	8.1	8.4	9.1	9.2	9.9	9.2	9.2	9.4	9.2
500—Education, training, employment and social services:												
Budget authority	30.4	22.4	32.6	30.85	30.9	29.3	29.9	29.6	27.4	28.9	33.3	31.7
Outlays	21.0	26.5	29.7	30.5	31.0	29.9	30.1	29.9	26.5	28.0	30.7	29.5
550—Health:												
Budget authority	40.4	46.5	53.9	58.1	58.8	59.8	59.9	59.8	68.7	70.7	71.5	71.2
Outlays	38.8	43.7	49.6	53.6	54.5	56.5	56.5	56.5	59.9	61.7	61.8	61.7
600—Income security:												
Budget authority	168.6	180.0	191.9	214.8	218.5	223.0	224.8	224.7	210.3	245.2	252.1	249.5
Outlays	137.0	146.2	160.2	183.3	190.0	190.0	191.7	191.6	211.8	218.2	220.1	219.5
700—Veterans benefits and services:												
Budget authority	19.1	19.0	20.5	21.2	21.5	21.2	21.0	21.2	21.3	21.85	21.7	21.7
Outlays	18.0	19.0	19.9	20.6	20.8	20.5	20.3	20.5	20.8	21.25	21.2	21.2
750—Administration of justice:												
Budget authority	3.6	3.9	4.2	4.2	4.2	4.2	4.3	4.3	4.1	4.3	4.2	4.2
Outlays	3.6	3.8	4.2	4.4	4.2	4.4	4.4	4.4	4.5	4.6	4.6	4.6
800—General government:												
Budget authority	3.9	4.1	4.4	4.4	4.45	4.5	4.5	4.5	4.5	4.6	4.7	4.6
Outlays	3.4	3.8	4.2	4.3	4.2	4.4	4.4	4.4	4.2	4.3	4.6	4.3
850—General purpose fiscal assistance:												
Budget authority	9.3	9.7	8.3	8.1	9.05	8.3	8.8	8.55	6.3	7.2	6.2	6.2
Outlays	9.5	9.6	8.4	8.1	9.05	8.3	8.8	8.55	6.8	7.5	6.8	6.8
900—Interest:												
Budget authority	38.1	44.0	52.6	56.0	58.1	65.5	65.1	65.1	70.4	72.2	72.2	72.2
Outlays	38.1	44.0	52.6	56.0	58.1	65.5	65.1	65.1	70.4	72.2	72.2	72.2
950—Undistributed offsetting receipts:												
Budget authority	15.1	15.8	18.5	19.7	19.7	22.3	−22.3	−22.3	−25.8	−24.7	−24.6	−24.7
Outlays	15.1	15.8	18.5	19.7	19.7	22.3	−22.3	−22.3	−25.8	−24.7	−24.6	−24.7

[1] First Concurrent Resolution.

[2] Second Concurrent Resolution.

[3] Third Concurrent Resolution.

Mr. ARMSTRONG. Mr. President, in brief—and I hope Senators will study the spread sheet with care in the record of this proceeding—it will show that in a very short span of time, Federal spending has doubled and that the Federal deficit, the total national debt, has increased by hundreds of billions of dollars.

In the brief period I have been a Member of Congress, it has increased from approximately $436 billion 7 years ago to nearly $1 trillion today.

I suggest to Senators that that is the real test of the budget process, not how many meetings were held, not how hard we worked, not how many volumes of reports we put out, but the results.

What is the trend of Federal spending? Are we getting it under control? Is the budget balanced? What is the proportion of gross national product as to Federal spending? Is it rising or declining?

If Senators will look carefully at the table, they will agree with me tomorrow, when this issue comes to a head, that we are on the verge of making a serious mistake.

Let me review the bidding. First, for fiscal year 1980, just 6 months ago, in this Chamber, we anguished over setting spending levels which would produce a budget deficit of $29.8 billion.

At the time we did so, Senators were assured that barring completely unforeseen circumstances, further spending increases were not in the offing. Yet within a few months, the Senate was asked to approve, and I regret to say reluctantly did approve, additional spending which upped the deficit to $37.5 billion.

Now the conferees are asking us to swallow the deficit approaching $47 billion for fiscal year 1980.

The $47 billion figure approximation that I referred to is the amount that is recognized by the conferees. There are many of us who feel that in fact the actual deficit for fiscal year 1980 when we close the books will be higher than that because we question the underlying budgetary assumptions.

Let me now address briefly the fiscal year 1981 budget which comes to us under the cloak of being a balanced budget.

A balanced budget is a goal which many of us have sought, which has been spoken warmly of by many Senators on this floor, by the President of the United States who has said 1981 is the year we are going to balance the budget, it is the time when the budget process matures, when finally it achieves its intended purpose of matching Federal revenues and Federal expenses.

I will say to the Members of the Senate that that budget is no more in balance than donkies will fly. The ersatz balancing is achieved only through the use of unrealistic economic assumptions which I believe all the conferees would agree are far too optimistic. It is my belief that the true budget deficit for 1981 is at least $25 billion.

The U.S. Chamber of Commerce projects a fiscal 1981 budget deficit of $43 billion. Other economists are saying publicly or privately that the budget deficit will range between $20 billion and $40 billion. But while the exact numbers are still subject to speculation, what is increasingly clear is that we are failing in our much heralded attempt to balance the budget in 1981. Leaders of Congress and the executive branch have hailed 1981 as the make or break year for the budget process, and it seems to me that for the budget to be so far out of balance under these circumstances is a very, very serious problem.

But the sham of pretending that it is in balance is even worse if we expect to retain any credibility and integrity in the process itself.

Mr. President, is it only the Senator from Colorado who thinks the budget is not in balance? No, indeed. There are many in the economic community, in the academic community, who feel it is out of balance. In fact, during the last several days I have talked to a dozen or more economists, and it is their consensus that the budget is completely out of balance and that the economic assumptions on which we are relying which are contained in the budget resolution that we will finally vote on tomorrow are unrealistic.

I submit for the RECORD a handful of the observations of these economists. I am not going to submit them all, just two or three. We have talked to Otto Eckstein, we have talked to Arthur Burns, and we have talked to many others here in Washington and around the country. But just so that we have some flavor of the advice of independent scholars on this question, I ask unanimous consent at this time that the observations of Michael Sumichrast, the chief economist for the National Association of Home Builders, of Otto Eckstein, from Harvard, and also Rudolph G. Penner of the American Enterprise Institute, be printed in the RECORD. I send those to the desk and ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
HOME BUILDERS,
Washington, D.C., May 29, 1980.

The Honorable WILLIAM L. ARMSTRONG,
U.S. Senate,
140 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR ARMSTRONG: In response to your request of May 20th, here is a brief outline of the current housing dilemma we face as a result of the monetary and fiscal policies of the Administration. It is my personal assessment of the general trend, without getting into any specific areas. I hope you find it useful.

A year ago I commented that the housing decline which began in the first quarter of 1979 would be deeper and last longer than previously expected; that the bottom would not be reached in 12 months, that it would take 15 months, or even longer, for the drop to go from peak to trough.

Then, in September, I said that it would be folly to ignore these facts and maintain that housing production, sales, completions or re-sales would do well in the near future; on the contrary, the housing industry must prepare itself for some bad months ahead. I further stated a month later that a major credit crunch was guaranteed and there would be a sharp decline in housing.

There is some gratification in re-reading past history, especially in light of the winter and spring experience with most people in Washington who, for the most part, either singly or collectively, refused to believe that housing, indeed, was facing, a major debacle.

That, in view of the facts as we know them today, seems unbelievable, but it's true. It wasn't until mid-April 1980 that the Administration finally acknowledged that housing was in trouble. Yet the evidence was there for over a year for those who did not want to be confused by facts.

The tragic thing is that the decimation of an industry, i.e. the construction industry, carries a very heavy burden for society; its impact goes well beyond the sticks and stones phase.

The impact of direct construction expenditures spreads to many industries and has a profound effect upon local economy. Not only are the industries affected that you traditionally expect to find involved in construction, but this impact touches upon persons in such widely diverse occupations as entertainment, printing, business services and even auto repairs. This, of course, is in addition to the obvious industries such as lumber and wood products, plumbing, electrical appliances and the like. (See Table)

This domino impact eventually spreads and ends up in a major recession such as we are in now. This point was never lost to us, but it was largely ignored by the Administration until mid-May.

Housing, as well as non-residential construction, declines resulted in a sharper increase in the unemployment rates—adding 140,000 workers in construction to the unemployment rolls in one month and shooting the overall unemployment rate up to 7 percent.

In mid-May, at a White House meeting with auto industry leaders, it was concluded that there is no way to stimulate employment this year in the auto industry. Housing, all of a sudden, was the one to look to for stimulation.

Housing, at this point, was already down on its knees and to resurrect it by fall was asking for miracles. There aren't any miracles in this business. Why? Because this industry depends on sales, settlements and cash flows. Neither one is behaving in any fashion which could even remotely be described as "miraculous." On the contrary, people are largely discouraged, demoralized, and a lot of them are being laid off. They face a very uncertain fall and winter and, as a result, they aren't standing in line to buy houses. So, there aren't any settlements and there isn't any cash coming into the builders' coffers. "If you don't sell, you don't eat"—that's the bottom line in the housing business.

Lack of sales, lack of cash flow, plus enormous penalties that builders are paying for construction loans (prime plus 2) will prevent any major housing recovery this year.

And anybody who thinks that housing will provide a stimulus by the fall of this year simply does not understand this industry. There is no way in the world that housing production could bounce back this year and provide a stimulus to employment.

What will happen is that housing starts will continue to decline for another two or three months and then hover at a low plateau. They will increase this year from a low second quarter of 962,000 marginally to over the one million rate in the third quarter and fourth quarter. But the decline in non-residential construction, which will continue into 1981, will more than offset the impact on the employment in the construction industry.

It is not at all unrealistic to expect the unemployment rate in construction to reach the range of 22–25 percent by October (April was 15.1 percent) with over 1.1 million wage and salary workers out of a job. To this figure one must add probably as many as one-half million more for those who are self-employed—that gives you the total fury of the unemployment plight.

Now we come to the main point of this outline. Unless we have a miracle this year, there is absolutely no way that the U.S. unemployment rate can stay in the range which the Administration is suggesting. There's every possibility that it will increase to over 8.5 percent, and perhaps even reach or pass 9 percent.

What all this means is that we are going to have a major recession closely resembling that of 1973–75. It also means that the effort to balance the budget is out the window. As a matter of fact, the sad story behind this is that for the FY 1980 budget we will end up with a $20–$25 billion larger deficit than was suggested by the Second Concurrent Resolution adopted in December.

We must also consider that this means that the federal budget for FY 1981 will end up with a huge deficit rather than being in balance (for every one percentage point increase in the unemployment rate we add as much as $29 billion to the federal budget deficit).

Based on what we already know, it seems reasonable to assume that the fiscal year 1981 will end up with a deficit of over $50 billion. The impact of such huge deficit financing cannot be ignored by builders or prospective buyers.

The financial markets are still in a state of trauma after narrowly averting a major dislocation due to record increases in interest rates. The flow of savings has not recovered very much in spite of unprecedented declines in interest rates.

Establishing a set of new records in the ups and downs in interest rates is not conducive to stability. It has all the symptoms of the speculative gold and silver fevers. At best the financial markets will be under a strain to meet all of their obligations and work out all of the difficult loans in the months to come. To add another heavy burden—that of huge federal financing—even at a time when private credit demand is low, guarantees a turnaround of the same scenario we just got through. The real danger is that this time around we may not be as lucky as we were the last time.

The financial markets read the dooming recession well; and far ahead of the politicians. The attempt to balance the budget was, to some degree, perceived as political horse trading.

The problem we are facing is that to abandon the goal now seems inevitable because of the deteriorating economic situation.

What the market was looking for was a symbol of U.S. determination to do something about inflation. Its measurable impact, at best, is marginal; probably less than one percent of the CPI. But the psychological impact has tremendous potential—if it's not just window dressing, or a cosmetically phony accounting exercise, without any sense of purpose.

Unfortunately, we missed the period of prosperity to make surpluses and be ready for the bad times. Here is the most current track record of deficits:

[In billions]

1974	$4.7
1975	45.2
1976	66.4
1977	45.0
1978	48.8
1979	27.7
1980	[1]55.0
1981	[1]60.0

[1] Estimated.

For that we have to pay some $70 billion in interest alone, as the federal debt is now at $870 billion, up $16 billion more than it was in January, up $90 billion from two years ago and up $160 billion since 1977.

It's fair to say that this, more than any other single development, had an enormous impact on the perception of the business and financial markets on the credibility of Washington to be able to bite the bullet and bring about a climate of defused expectation for government handouts.

As far as housing is concerned, the overreaction on the monetary side was more than matched by continuation of fiscal irresponsibility. The debates on the subject of a balanced budget will, hopefully, be good examples for future generations on how to push the free economic system to the very brink of bankruptcy.

And, to argue that record interest rates killed inflationary expectation at a time when we clearly saw the economy in a deep and sustained decline, makes little common, and less economic, sense. As we will see in coming months, that kind of understanding of the economic forces makes even less political sense. Help on the unemployment plight this year will not be coming from housing. We tried to tell that to the Administration for over a year.

Sincerely,

MICHAEL SUMICHRAST,
Staff Vice President and Chief Economist.

TABLE IV-5.—TOTAL DIRECT AND INDIRECT OUTPUT ATTRIBUTABLE TO ALL CONSTRUCTION (NEW AND MAINTENANCE)

[In percent]

Industry	Construction	
	All	New
Heating, plumbing and structural metal	79.0	67.6
Stone and clay products	75.2	66.0
Stone and clay mining	73.4	61.8
Lumber and wood products	66.0	58.4
Electric lighting and wiring equipment	47.1	40.7
Primary, iron and steel manufacturing	34.4	30.0
Primary nonferrous metal manufacturing	31.8	25.6
Materials handling machinery and equipment	28.8	27.4
Other fabricated metal products	26.5	24.0
Nonferrous metal ores products	26.3	21.2
Electric industries equipment	17.3	14.7
Business services	17.2	15.9
Radio and television broadcasting	16.9	15.6
Furniture and fixtures (other than household)	16.6	15.3
Chemical products	15.9	11.4
Chemical and fertilizer	15.4	11.8
Service industry machines	14.9	13.2
Stamping, screw, machine products	14.8	12.5
Business travel, entertainment	14.7	12.3
Glass products	14.5	9.7
Paper products	14.4	12.1
Coal mining	14.2	12.2
Transportation and warehousing	14.2	12.0
Plastics and synthetic materials	13.4	9.1
Petroleum and related industies	13.2	10.1
Crude Petroleum and natural gas	12.5	9.6
Wooden containers	12.4	10.6
Rubber and plastic products	12.2	10.5
Construction, mining, and oil field machinery	12.0	10.5
Printing and publishing	10.9	9.9
Household furniture	10.3	10.1
Machine shop products	10.3	8.9
Paperboard containers and boxes	10.2	8.3
Household appliances	10.0	7.9
Scientific and controlling instruments	10.0	9.0
Office supplies	10.0	8.6
Gross imports	9.6	8.0
Wholesale and retail trade	9.2	7.4
Federal Government enterprises	8.2	7.0
State and local government	8.2	6.9
Auto repair	8.0	7.0
Electric, gas, water, sanitary	7.3	6.1
Communications (except radio and TV)	6.7	5.7
Finance and insurance	6.2	5.3

Source: U.S. Department of Commerce and Homer Hoyt Institute.

HARVARD UNIVERSITY,
Cambridge, Mass., June 2, 1980.

Hon. SENATOR WILLIAM ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR BILL: The economy is sinking so fast that it will be extremely difficult to reconcile the need for long-term budget reform with the short-term situation. The current quarter will show a very dramatic decline in real activity, perhaps the biggest decline of the postwar years. The summer quarter is also very likely to show a decline, and most forecasts, including the DRI forecast for which I have responsibility, show a further drop in the final quarter.

Under this circumstance, there is no prospect whatsoever of budget imbalance. The current DRI estimate for the unified budget deficit for fiscal 1980 is $40.3 billion, and for 1981 we see a deficit of $56.3 billion. We do assume a $30 billion tax cut on January 1, 1981, and if we remove that assumption from the figures the deficit would shrink to $43.7 billion.

These deficits are the inevitable byproduct of recession. Once unemployment reaches the kinds of figures we are projecting, peaks of 8.6%, the revenue loss to the government becomes very large and of course there are also some extra expenditures. Thus, on a full-employment basis, the budget really is going through a healthy swing toward surplus, and resources really are being redeployed for better long-term growth, but during the recession itself this structural change is totally hidden by the revenue losses.

What should the Congress do about budget balancing in this context? This is not at all a transparent or noncontroversial matter, but here is my recommendation.

Because the present economic difficulties were partially created by the excessive increases of government spending of the last 15 years, it remains a matter of top priority to bring the budget under control. In practical terms, this can only be accomplished if there is a simple criterion to govern the budget totals, and that criterion must be some form of balance. I believe it is still sound to attempt to balance the actual budget on the economic assumptions of last January, when the government forecast the recession to be very mild. This attempt to balance the budget will provide the discipline that is needed that will force the President and the Congress to weigh priorities carefully and to limit the total burden on the taxpayer. I therefore strongly endorse the continued attempt to achieve a first budget resolution which shows a realistic budget balance on the January economic assumptions.

But having set the basic expenditure gauges by this method, I would urge you to promptly proceed to the consideration of tax reductions. The already legislated tax increases for energy and social security, along with the inflation burden through "bracket-creep," are raising the total tax burden so dramatically this year and next that it would make any kind of economic recovery from the current sharp recession difficult and unlikely. Consumer purchasing power could not recover with the present legislated tax changes, and some relief will have to be granted to give the economy a chance. While a few months ago it may have been realistic to defer these tax cuts until mid or late 1981 in order to achieve that symbolically important year of actual budget balance, events have superseded that viewpoint, and we simply cannot wait that long for tax relief.

Most important, the tax cuts to be enacted should not be aimed to just give a quick boost to purchasing power, though almost any tax cut will do some of that. The real goal should be to enact changes which will facilitate a better development process for the country for the 1980s. We need to boost productivity through stimulating capital formation, and tax incentives are the only practical means that we have available for that purpose. Thus, I recommend that at least half of the 1981 tax cut be devoted to corporate tax incentives in the form of depreciation reform and investment credits, with the other half of the tax reductions aimed at middle income workers, the group that has experienced the sharpest increases in the personal tax burden and which is now experiencing major disincentive effects.

In your letter you inquire about the effects of the budget deficits on the financial system and other aspects of the economy. In general, budget deficits add to the strains in the financial markets, raise interest rates, and at least to a degree displace private outlays. In the long run, the federal government should be adding to capital formation, not subtracting from it.

However, once the economy gets into a general recession, the effects of the deficits are much reduced. The financial system suddenly has an abundant supply of credit because private borrowing requirements disappear during the period of inventory decumulation, reduced consumer spending and scaled-back business plant and equipment plans. Thus, the trouble with the budget deficits is not the damage they will do during the recession but rather the damage they will do by permitting continued undisciplined growth of expenditures and thereby setting the stage for truly damaging deficits in the recovery.

On the longer term matters my views are set forth quite elaborately in my recently published report for the Joint Economic Committee. Under separate cover I am sending you copies of this document.

With best wishes,

Sincerely,

OTTO.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, D.C., May 23, 1980.

SENATOR WILLIAM ARMSTRONG,
140 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR ARMSTRONG: Thank you for your letter of May 20.

It is hard for me to disagree with any of your budget estimates. My own forecast for fiscal 1980 deficit is between $45 and $50 billion—only slightly lower than yours. You did not note any saving on the interest bill which probably accounts for the small difference between us.

For 1981, my own economic forecast would imply a deficit of about $30 billion provided that we adhere to the policies implied by the First Resolution which just emerged from Conference. Unfortunately, I do not have much confidence that the Congress will adhere to those policies. When I make speeches to investors, I have recently been forecasting an "on-budget" deficit of between $50 and $55 billion and an "off-budget" deficit of about $20 billion, i.e., total financing requirements in the range of $70 to $75 billion. The $50 to $55 billion on-budget deficit consists of the aforementioned $30 billion due to worsening economic assumptions; a $10 to $15 billion increase in spending compared to the resolution. (This really implies a rejection of most cuts in the resolution and even this figure relies heavily on the assumption that the "new conservative mood" will restrain the Congress.) I am also assuming a tax cut in excess of returning the gas and diesel fuel tax (if any is imposed). The assumed excess cut is $20 billion for calendar 1981 costing $10 billion in fiscal 1981. The last assumption depends on the economy worsening so much between now and the Democratic Convention that the President asks for a tax cut. I recognize that you will have very few legislative days between now and the election to pass one; so this component of my forecast is very shaky to say the least.

How will capital markets react to all of this? This is more a question for a psychiatrist than an economist, but as I see the economics of the situation, capital markets should not be bothered by the deficit caused automatically by the changing economic forecast. Though the budget resolution is not as tight as you and I would like, it does make some progress toward slowing the growth of spending for the long run. I do not think that we should ridicule the budget committees for making a bad economic forecast. We all do that. We should focus on the design of the policies and not on the deficit which is almost a random number given the policy decisions.

I do believe that investors will worry much more about discretionary actions that increase the deficit. But they should worry less about a deficit created by a tax cut than one created by spending increases. I am torn in my own mind about the desirability of a "tax cut" (really some offset to the extraordinary tax increases planned for next year). If I really believed that the Congress would adhere to the spending limit in the Conference version of the First Resolution, I would back a tax cut of the size that I mentioned earlier, because I think that the huge increase between 1979 and 1981 will have a negative impact on economic efficiency. But, since I have little confidence that the spending limit will hold, I reluctantly oppose a tax cut because of my greater worry about the deficit.

Spending increases will have a very bad effect on capital markets. If we over react to this recession as we have over reacted to every slowdown for the last 20 years, it will be a disaster. I suspect, though I certainly cannot prove, that every addition to so-called stimulus spending programs will have such a negative impact on capital markets that there will be little impact on real growth and employment, and only an impact on the inflation rate.

I am sorry to see the Congressional budget process weakened further by the fact that they blew the economic forecast for 1980 and 1981 and are forced to live in a dream world in which a balanced 1981 budget is possible. I would be the last to argue that the budget process has been an overwhelming success, but I think that it has added marginally to the rationality of decision making. As the Congress becomes more conservative, it could be a useful tool for imposing restraint. This will, however, require more argument about program design and less about economic and deficit forecasts which are almost always wrong—probably including the ones that I made above.

Best wishes,

RUDOLPH G. PENNER.

Mr. ARMSTRONG. May I also submit for the RECORD at this point some interesting observations from the news media, almost none of which really believe the fiction that this is a balanced budget. For example, if my colleagues missed the insightful article by Hobart Rowen in the Washington Post of June 8, 1980, I would like to submit that for the RECORD. The headline is "Double-Talk Won't Balance the 1981 Budget."

Then may I submit, and ask unanimous consent to have printed in the RECORD at this point, the editorial from the Richmond News Leader of Monday, May 12, 1980, under the heading of "Ostrich Habitat." That is what that paper thinks of this Senate, that we are burying our heads in the sand and that this is an ostrich habitat.

If there are any of my colleagues who missed Eileen Shanahan's article in the Washington Star of May 30, 1980, under the headline, "A Deceptive Balanced Budget," I would like to share that article because it points out the danger to the credibility and danger to the budget process of pretending to have a balanced budget when we have nothing of the kind.

Last, but not least, I submit for the RECORD at this point, and ask unanimous consent that it be printed in the RECORD, an editorial from the Wall Street Journal of May 28, 1980, under the headline, "Calling a Charade a Charade." That is what this distinguished newspaper thinks we are doing here, a charade of budget integrity.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 8, 1980]

DOUBLE-TALK WON'T BALANCE THE '81 BUDGET

Along about July 15, President Carter's budget office will be forced to confess that all of the talk about a budget balance for fiscal 1981 has been a deception. A realistic, honest mid-year budget review must concede that instead of the slight surplus Carter promised on March 14, the red ink will be at least $20 billion.

Yet Carter and his chief aides keep up the pretense that a balanced budget is their goal—as if it were still achievable. An effort has been made to convince an unsuspecting public that a balanced budget somehow depends on whether Congress adds or trims a measly few billion from the present budget resolution.

The fact is that the steep recession—which President Carter belatedly admits is gripping the nation—has killed all chances for a balanced budget. The calculation is that for every one percent increase in the national unemployment rate, the budget suffers a $20 billion loss from declining federal revenues and higher costs for unemployment insurance.

At 7.8 percent in May (highest in Carter's 3½ years), unemployment is already a half point over the 7¼ percent rate the White House projected for the end of 1980. Most economists see the unemployment rate hitting close to 9 percent.

The only question is by how much the budget will be in deficit—and that depends how deep the recession goes, and how soon Congress takes action to cut taxes.

But stubbornly, almost blindly, the administration refuses to face reality. On Capitol Hill 10 days ago, Treasury Secretary G. William Miller still was pushing the unreachable goal for fiscal 1981.

He did it again in New Orleans this past week at an international bankers meeting. But he added that if the recession proved "sharper than we expect," losing control of the budget would be a "natural, automatic effect."

This is a good example of the administration's disingenuousness (which is the kindest word I can find in the dictionary).

The "automatic effect" of revenue loss and larger outlays for unemployment is clear from the degree of recession already evident, according to the administration's own internal calculations.

As Eileen Shanahan pointed out in a Washington Star commentary the other day, confirmation in July of a prospective big budget deficit for fiscal 1981 could upset the public, as well as financial markets, whether or not budget deficits in recessionary periods in reality add to inflationary problems.

One of the shrewdest money-market men in New York tells me "The boys in Wall Street will be stunned when they see the red ink in the budget." When I protested that they must be sophisticated enough to know the real score on the budget, he responded: "Either they're not as sophisticated as you think or they just don't want to know."

Of course, the eventual budget deficit for fiscal 1981 is likely to be much more than $20 billion. Assuming, as most analysts do, that President Carter's firm promise of no tax cut can be ignored, the range of probabilities goes much higher.

U.S. Chamber of Commerce economists, for example, figure the fiscal 1981 deficit at about $55 billion. Lawrence Chimerine of Chase Econometrics estimates the red ink at $70 billion, assuming a $25 billion tax reduction effective Oct. 1, and the scuttling of Carter's $12 billion import oil fee.

Even if a tax cut does not take place until early in 1981 these are the rough levels of deficit almost universally calculated everywhere in Washington outside of 1600 Pennsylvania Ave.

Such boxcar deficits by themselves should not cause undue alarm, but they probably will. A government budget deficit in these times is a psychological hazard to financial and foreign exchange markets, even though other major nations have their own—and bigger—deficit problems.

The main trouble we face is that at the very time President Carter reasserts that he will "always tell the truth," there is a cavernous gap between what is really going on in the economy and the double-talk being fed the public in this election year.

[From the Richmond News Leader, May 12, 1980]

OSTRICH HABITAT

Where has Congress been for the past few months? Apparently it has buried its collective head. On the international front, a mission to rescue 53 American hostages ends in humiliating failure, and the U.S. remains impotent in the face of Soviet aggression in Afghanistan. Back home, inflation roars along at an 18 per cent annual clip, taxes skyrocket, and consumer purchasing power plunges. Yet when it had a chance to do something positive about defense and inflation, Congress balked.

First consider defense. During debate on the fiscal 1981 budget, the House killed an amendment to add $5.1 billion for defense. Proposed by Maryland Republican Marjorie Holt, the amendment also contained a $5.1 billion cut in non-defense spending. Mrs. Holt's cuts threatened no vital programs, for waste in the federal government far exceeds $5 billion a year. While the Holt amendment would have boosted defense spending, it would not have increased total federal spending a single cent.

But it would have injected needed blood into the military. Three-plus years of Jimmy Carter's McGovernite policies have sliced America's once muscular military to the marrow. Soldiers and sailors are underpaid. Deteriorating hardware—e.g., the helicopters that failed in the Iranian desert—is neither repaired nor replaced. Ammunition stores stand perilously low. The Navy has too few ships to counter the growing Soviet fleet; because of shortages of experienced crews, the Navy even has had to keep some ships in port.

According to the Heritage Foundation's National Security Record, Congress would have to add $50 billion to the fiscal 1981 defense budget merely to compensate for (1) the ravages of double digit inflation and for (2) the $38.6 billion Mr. Carter already has cut from a 1977 projection of minimum defense needs for the five-year period ending in 1982. Mrs. Holt's $5.1 billion proposal pales next to the Heritage figures, but at least her supporters recognize the dangers of an inadequate defense budget. Evidently the House as a whole does not.

Now consider inflation and taxes. Shortly after the House torpedoed the Holt amendment, the Senate rejected a $30 billion tax cut amendment proposed by Republicans William Armstrong and William Roth. Armstrong-Roth would have cut personal income tax rates during calendar year 1981. Without such a cut, taxes on individuals will continue to climb as inflation pushes wage-earners into higher tax brackets. Armstrong-Roth also would have "indexed" the tax tables to prevent bracket-creep in the future. Finally, it would have provided tax incentives for business expansion. Like the Holt amendment, Armstrong-Roth outlined spending reductions.

Inflation and declining productivity threaten to throw the economy into reverse. Business lacks the capital to modernize and expand. Confiscatory taxation discourages individual incentives. In a telling statement to The New York Daily News, a clerk said she and her colleagues resisted overtime because the extra cash they received invariably forced them into the higher tax brackets, thereby negating the rewards for extra effort. Unless Congress cuts taxes on a scale similar to the one in Armstrong-Roth, such disincentives to productivity will continue to plague the U.S. economy—and the U.S. will continue to lose economic ground to low-inflation countries such as Germany and Japan.

By voting against Armstrong-Roth, the Senate disregarded the taxpayer's plight. Jimmy Carter speaks glowingly of balancing the budget. But the Carter fiscal 1981 budget calls for a whopping tax increase. Thanks to inflation and various Carterite gimmicks, taxes could jump $125 billion during the coming fiscal year. The charge that Mr. Carter seeks to balance the budget on the backs of middle-income taxpayers is not an exaggeration at all.

Regarding defense, taxes, and inflation, Congress is conducting business as usual. Given its refusal to halt the deterioration of America's military and its inability or unwillingness to tackle inflation, Capitol Hill surely ranks as the world's most populous ostrich habitat.

[From the Washington Star, May 30, 1980]

THE DECEPTIVE BALANCED BUDGET

(By Eileen Shanahan)

Congress appears intent on deceiving itself, and the country as well, as it debates the 1981 budget resolution and pretends to be voting for a balanced budget.

It is a deception that could have some serious consequences.

The near certainty that the fiscal 1981 budget will, in fact, show a substantial deficit has nothing to do with the current battle over defense spending vs. social programs or any of the other issues that have held center stage in the budget debates.

It is the state of the economy that will alter the state of the budget.

All that is required for a large budget deficit to materialize is a deeper and longer recession than the mild downturn on which both the administration and Congress are basing current budget projections. And a bigger recession is precisely what almost every qualified forecaster expects.

The impact that a more serious recession would have on the budget would, of course, depend on the precise dimensions of the downturn.

A reasonable scenario might put the unemployment rate 1 percentage point higher than the official forecast of 7.2 percent by the end of this year, but also reduce the inflation rate by 1 percentage point.

In such an event, tax collections would decline dramatically—by $18 billion or more—as business activity slowed and unemployment rose.

Government spending would increase automatically, mostly for unemployment compensation, by an estimated $7.75 billion.

Oddly, even the decline in the inflation rate would worsen the federal budget picture. The automatic increase in personal income taxes that occurs when wage inflation pushes people into higher tax brackets would be reduced and this slowing of "tax bracket creep" would reduce estimated tax collections by more than the lower inflation rate would cut spending—about $500 million more.

Of all the economic changes brought about by a bigger recession, only the drop in interest rates would help the federal budget picture. A continuation of the recent interest rate decline, even at a slower pace, could reduce interest costs by a good $2.5 billion.

The bottom line is a deficit for fiscal 1981 of close to $25 billion, based on a set of assumptions that are far from the worst imaginable.

In the weeks of debate on the 1981 budget resolution, only a few members of Congress mentioned any of this though all are certainly aware of the prospect of a deterioration in the economic outlook and its effects on the budget. The administration has also kept silent.

It is hard to see why either Congress or administration officials think they can get away with it.

For there will be an unavoidable day of reckoning and its date is actually set by law—July 15, when the administration must make and publish new economic and budget estimates.

A shocked reaction from the public—and quite possibly from the financial markets as well—seems almost certain when the reality of a multi-billion dollar deficit is finally faced.

Many will fear a resurgence of inflation, although there are few economists who believe that there is much inflationary fuel in a deficit that is caused solely by the reduced tax collections and the added expenditures of a recession.

But the unexpected news of a substantial deficit, when there has been so much talk that the budget will be balanced for the first time in 12 years, seems very likely to renew fears that the federal budget is simply out of control. It was just such a fear, based on the huge projected tax and spending increases in Carter's original budget submission in January, that touched off the crash in the bond market earlier this year. Never mind that big bond traders should have known in advance what the trend of the federal budget was. They didn't and it was their panicky reaction, more than anything else, that forced Carter to withdraw his 1981 budget and substitute a leaner one.

Other adverse reactions that may occur, when the unexpected news is announced that the 1981 budget is not balanced, include a loss of confidence in the five-year old Congressional procedures for making more rational budget decisions. There could even be a serious move to abandon them

Finally, the dismay that is likely to accompany a new deficit disclosure could create additional resistance to sensible policies to combat a deeper recession.

Chief among these policies would be repeal of all or part of the big increase in Social Security tax rates that is scheduled to go into effect next January. Conservative economists, such as Alan Greenspan, as well as many liberals, are suggesting that this may be desirable.

Yet the deficit that wasn't supposed to happen may threaten even such reasonable actions.

[From the Review & Outlook]

CALLING A CHARADE A CHARADE

The Congressional Budget Process, which almost no one takes seriously any more, seems to be headed for new heights of farce in the House of Representatives this week. It is much in doubt whether the Democratic leadership can even pass the budget resolution agreed to in a House-Senate conference.

Left-wing Democrats are opposing the compromise because it calls for higher defense spending. This means that the votes to pass the resolution have to come from Republicans. And sentiment is spreading among House Republicans to ask why they should provide the decisive support for a resolution that ratifies Democratic spending initiatives and provides for a tax increase of $100 billion.

Not a bad question. Because of the big tax increase, most Republicans opposed the original budget resolution sent to the conference committee. But some Republicans have a lingering devotion to the budget process, which churns out numbers that purport to limit federal spending. This year the numbers, if you can suspend disbelief, even show a balanced budget for fiscal 1981. For these limp reasons, 22 Republicans voted with the Democratic leadership on the original resolution, providing the margin of victory.

The problem is that once these numbers are voted, the Democratic leadership pays no attention to them whatever. A year ago, the final budget resolution for fiscal 1980 called for federal spending of $532 billion. By the second resolution in September, this was up to $547.5 billion. By the time of the presidential budget in January, it was $563 billion. In a third budget resolution in March, it came to $567.5 billion. After Budget Committee Chairman Giaimo raised the figures again with a floor amendment and a conference committee raised them again, spending is now estimated at $572 billion—a neat $40 billion overrun from the original resolution.

To get some sense of the spirit behind this exercise, consider the debate last December on the Child Health Assurance Program. The program was intended to take care of all the children not covered by the 30-some other health programs for children. The debate turned on whether spending on it would have to be appropriated each year, or would be paid as an entitlement—with benefits going to anyone who met qualifying criteria and Congress worrying afterward where the money would come from.

The existing entitlements programs are the essential reason the budget is out of control. But when Republicans offered an amendment to put the new child health program through the appropriations process they were met with arguments like this: "I say this is not the wise place to start our reform movement. Let us attack the problems that we have with entitlements. . . . Let us look at them all in an oversight fashion. But let us not curtail and crimp this new, exciting program which holds out promise for the health of more young people who are presently not getting that help."

These words came from Chairman Giaimo. Rep. Henry J. Hyde (R., Ill.) remarked: "I think that what the gentleman from Connecticut is saving in a nutshell is that we will sober up tomorrow, but meanwhile pass the bottle." Now, of course, Mr. Giaimo is out soliciting Republican votes to keep his charade on the march.

With the defection of the anti-military Democrats, Mr. Giaimo now needs two or three times as many Republicans as he got the last time around. With or without a budget resolution, defense appropriations now seem to be doing better, putting the administration in a corner (see below). If the compromise budget resolution is defeated, the chief result will be that the Democratic leadership will be left to stew in its own juice.

Which would not altogether be a bad thing, given its record on the budget process. Now that the Democrats' inability to lead has put the Republicans in a decisive position, they may as well call a charade a charade.

Mr. ARMSTRONG. Mr. President, the point of my concern is this: I care deeply about the integrity of the budget process. I share the belief, I think, of a majority of Senators, that it is important that Congress put this Nation's financial affairs in order. I think we cannot do that by adopting a budget which purports to be out of balance when we all know that it is deeply in deficit. I think we cannot do what needs to be done for the economic future of this country by increasing at such an extraordinary rate the spending levels for fiscal 1980 and for fiscal 1981.

Last but not least, Mr. President, I want to demolish, if I can, the myth that in some way we have to buy this unbalanced, extravagant budget in order to get a high defense number. The President of the United States has succeeded in turning the debate upside down by pretending that contained in this budget resolution is an adequate number for national defense. A close examination reveals exactly the opposite, that far from being a high defense number the resolution we have before us provides only a minimal increase, only about a 3-percent increase in real terms over last year, if you assume that the gross national product deflator, the economic assumptions related to defense inflation, are correct, an assumption about which I think there is grave doubt.

In summary, Mr. President, we have a budget that is inflationary, that is extravagant in social programs, that spends too little for national defense, and which is not truthful in that it purports to be balanced when in fact it is not.

Tomorrow, when this policy issue comes squarely before us, I hope Senators will reject the resolution, send the conferees back to the bargaining tables with instructions to reduce and reduce substantially the rate of increase in these programs, and bring us back a budget more nearly in balance.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. BOREN). The Senator from South Carolina.

Mr. HOLLINGS. My distinguished colleague from Colorado is a rapid fire, very proficient, and very skilled Senator, and very much economically where I stand. On the record votes of individual Senators in the Budget Committee, I think he and I stood for cutting the budget back, and if our motions had succeeded we would have cut it back an additional $20 billion. So I am not unmindful of some ideas or amendments or realistic proposals to be made for further cuts. But there are 535 of us in Congress and we all must respect each other's priorities and certainly respect the singular fact that all of the economists cited have been wrong.

There is one thing I have learned, that all of them are wrong, whatever forecast, whatever projection. We got the latest we could in this particular budget for March, to begin working in April and May. We did not play games and we did not fudge the figures. In fact, we projected a higher unemployment than the executive branch did at 7.5-percent average for the 1981 fiscal year commencing in October to October of next year. And we could still be wrong. Economists have said so. There is one Treasurer, a member of the Cabinet, who said we have passed the peril of the recession, or the high point.

There are some good signs. Short-term Treasury bills were estimated at around 10 percent and are now selling this afternoon at under 7 percent.

We estimated revenues from the windfall profit tax based on a world price for oil of $35 a barrel. But as a result of the OPEC actions taken yesterday, it is clear that price will rise. So there will be several billion more in revenue there.

We could all make these projections, but, as I think was said by John F. Kennedy, the captain who waits for his ship to be fit never puts to sea.

I do not know that we are ever going to get exactly the budget that I want or exactly the budget that the Senator from Colorado wants. The art of the game is to work together in a studied, diligent fashion and not careen. We are not careening.

I was here during the careening days. I reminded the distinguished Senator between 1960 and 1970, during the days of the New Frontier, the Great Society, and the war in Vietnam, we had acumulative deficit over a 10-year period of $60.2 billion, and we gave the distinguished Republican President Richard Nixon in 1968–69, when he came in, a balanced budget with a surplus of $3.2 billion.

The careening has been in the last 10 years, so much so that we in the Congress frightened ourselves into instituting the budget process.

Where have we come? What we have done is not only provide here the most stringent restrictions on limiting spending that we have seen in the Congress in the last 10 years, but we have called for rollbacks, savings. This is not only a limited budget; it is a budget that calls for $6.4 billion in savings to be effected by the Appropriations Committees.

On the revenue side there are additional revenues of $2.4 billion.

So we have hard work coming ahead of us, and one of the most difficult things we have in outlining our endeavors is to get away from the loose talk that we are careening, that we are doing it by mirrors, that it is all sleight of hand, that it is a great charade. Those economists and editorials have a hey day not being here, not realizing, not understanding, but writing in blissful ignorance. But that is exactly what it is.

We are headed in the right direction. I think this afternoon we should understand that the compromise worked out provides for the designated priorities of both Houses. On the House side they wanted additional social spending and they have not yielded, generally. They have add ons.

On the Senate side we wanted additional defense spending and we have not yielded there. We have substantial increases. We had to give up some at the last in order to save this process. But it has been a give and take, and it has all been a recognition of both body's priorities within, technically at least, at this particular point, a balanced budget.

Admittedly—and I am no better than the next economist—with the higher unemployment figures we could lose some revenues. We are going to look at that in the second concurrent budget resolution, and this particular Senator will still be working on August 28 for that balanced budget. I will not be careening during the summer. I will be working at that. We are looking to see where we can have either future savings or cuts because the August 28 spending resolution figures will be binding.

I think in that spirit what we should do is get these papers over to the House side and see if they will work their will. They have had a tough time. Our good conferees on that side have agreed twice and twice had the rug pulled out from under them. Now they are making a third hard try to help save the process. I hope both sides of the aisle will cooperate in this particular endeavor. No one has won in the sense that, "I got my way." That just does not occur and should not occur, perhaps, at this particular time. It is a process. It is working. It is working very well in a very studied fashion. We are not careening. What we are trying our best to do is to bring those uncontrollables under control. It is my feeling that there is no such thing as an uncontrollable. We are changing some of these things back now.

As Adlai Stevenson said, when asked whether he was a conservative or liberal, "That was not the important point. The important point is: am I headed in the right direction?"

Similarly, have we balanced or not balanced is not the most important point. What is the alternative? To do nothing, to wail at each other about careening and spend the limit like we used to do without a budget process? Or try to save that process, save the good parts which have been worked out and had us all in the right direction? This report does exactly that. I yield to the distinguished Senator from New Mexico.

Incidentally, the Senators from Oklahoma and New Mexico have been a magnificent help in this process.

The PRESIDING OFFICER (Mr. TSONGAS). The Senator from Oklahoma.

Mr. BELLMON. How much time have I remaining?

The PRESIDING OFFICER. Two minutes and thirty-five seconds.

Mr. BELLMON. I will yield 2 minutes to the Senator from New Mexico.

Mr. HOLLINGS. Whatever time I have I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I would like to join in the comments made by the Senator from South Carolina and add to them by saying that in addition to the other assumptions that may have to be changed when we deal with the second concurrent resolution is the fact that in our present resolution we have assumed a 3-month Treasury bill rate of 12.4 percent for 1980, and for 1981 it is 9.7. Last Tuesday, Treasury bills sold for 6.5 percent. This has a potential for a large saving in the interest function of the budget. So it just is not possible for us to continually rearrange these assumptions. We have to go by the best assumptions we can get at the time we are dealing with the resolution. We will look at them again when we get to the second resolution.

I think the Senator from Colorado is being a little premature in suggesting that we change our assumptions now and rewrite the resolution in light of what has happened to the economy in recent weeks. I want to make the point that we have tried to be honest and forthright in our assumptions, and if we find that the economy has changed dramatically over the recent weeks, we will take that into account when we bring up the second resolution.

Mr. DOMENICI. Mr. President, how much time does the Senator from Oklahoma have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BELLMON. I yield to the Senator from New Mexico.

Mr. HOLLINGS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Twelve minutes.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes, with the remaining time of Senator BELLMON and the rest from the distinguished chairman.

Tomorrow, Mr. President, we will have the opportunity to vote on the House budget if they do indeed, this time, pass a budget. We thought we had one agreed upon. We took it here to the Senate and passed it and then the House did not pass it. All we are doing today, so the Senate will understand, is saying we do not want that to happen again so we are going to send them our original resolution and we are going to let them vote, hopefully, and send to us what they have agreed informally with us they will do. That is the only issue today.

Should we do that? I think there is no doubt we should. I believe our good friend from Colorado who will oppose, I think, whatever agreement comes over tomorrow, would agree that we ought to send this particular resolution to them so we can see whether or not they will live up to their informal agreement with us or not.

All of the notions that my good friend from Colorado has discussed with us here will be debated at length tomorrow, and they have been debated yesterday, too, incidentally, or five or six times by the Senator from Colorado. Basically, tomorrow we are going to have an opportunity to make one basic decision. That is, is the Congress of the United States, based upon its past history, going to be better off in terms of spending the taxpayers' dollars, and are the people of this country going to be better off if we have no budget process at all? It boils down to that, plain and simple.

My good friend from Colorado says, "Turn it down and send them back to conference."

He is not really saying that. He is saying, "Turn it down and go back to conference so we will not have a budget process."

I am not trying to put words into his mouth, but he ought to understand by this time that we cannot go back to conference and cut $30 billion out of the expenditure side of this budget. We could not put in any more than what the Budget Committee recommended here in the Senate. How could we go to conference with the House that wanted more and cut $30 billion? How could we go there and now propose $20 billion in tax cuts? That is not in either House proposal. He would suggest to turn it down and go back to conference for those two basic reasons, somewhere in the ball park of $25 billion to $30 billion in cuts and $20 billion to $30 billion in tax cuts.

So you are not going to do that. The House Members and the Senate Members, as a large group in the institution, just are not going to do that. So we can listen. He calls this a charade. We can listen to his rhetoric. But the point of the matter is that he is urging the Congress of the United States to abandon the budget process. "Throw it away," says the Senator from Colorado, "we shall be better off without it." Tomorrow, if he wants to, we can talk about why we shall be better off with it.

But I think the good sense of this institution will clearly indicate if this budget is not what we want, we are going to get a worse dose of medicine without one.

If there is not enough in defense, in his opinion, we are going to get less by not having the budget. If the deficit, as he predicts it, is too high, it is going to be higher without this budget.

If he expects a tax cut soon, it will not be any sooner if we throw this process out. That is the issue.

As far as a charade is concerned, there are at least four schools of economic thought that we can apply to this first concurrent resolution. You can change it, according to some; you can leave it as it is, according to others. So we would be changing every 2 or 3 weeks the economic assumptions.

This Senator says it is only technically in balance, but the philosophy of a balanced budget is our goal. We shall have plenty of time to assess the propriety of the economic assumptions. The recession is not over and we do not know when it will end. But we are talking about 1981 in our assumptions. We shall have 3 or 4 months here to see whether he is right. If he is, he ought to be able to convince us. If other economists are right and we are wrong, we shall change it in the second.

We do not want a charade. We want the best we can come up with with two bodies like the Senate and the House—different views, many Members, many politican nuances. We want to come up with the best we can and not abandon, at this particular economic time in America's history, a process that has a real chance of putting some order into the American congressional spending pattern, some reasonable economic premises into it.

I submit that those reasons, added to the fact that the defense number is good, that there is some curtailment of social programs which were growing rather erratically in the past—if you couple all of those with the fact that we do not know enough about the recession to be changing the resolution now, it leads me to believe that my good friend from Colorado has good rhetoric, but it is as much a charade as he accuses this of being, unless one wants to abandon the process.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ARMSTRONG. Mr. President, have I remaining time from my 15 minutes?

The PRESIDING OFFICER. The time of the Senator from Colorado has expired. The Senator from South Carolina has 7 minutes and the Senator from Virginia has 3 minutes.

Mr. ARMSTRONG. Mr. President, if I may have 1 additional minute, I would be very grateful.

Mr. HOLLINGS. I yield to the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I compliment the Senator from Oklahoma, the Senator from South Carolina, and the Senator from New Mexico on their statements. Their eloquence is very great. They are mistaken in their conclusions, in my opinion.

Let me point out that while, of course, economists do not agree, I have said what I think is going to happen. I hope that 30 days from now, 60 days from now, or 90 days from now, we can recall what has been said here today.

I believe the budget is out of balance. I believe the facts will show that to be the case. That is for history to record at a later time.

Second, on the point the Senator from New Mexico has made on whether I wish to abandon the budget process, not at all. I do not think we need to be as pessimistic as he has expressed. I think there is another coalition that can be made. The assumption for all of our lives has been that the only coalition you can make in Congress is to spend more and create bigger deficits. I believe there is another coalition possible among those who wish to reduce Federal spending and that, in fact, that coalition will be a majority in the near future.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Will the Senator yield me 30 seconds to respond to that?

Mr. HOLLINGS. Yes. Mr. President, I yield.

Mr. DOMENICI. I could not agree more and I hope the Senator from Colorado is around and tries to work with those who would like to find that coalition that he speaks of. From this Senator's standpoint, I would like very much to be a part of that coalition. It is just that, at this point, we cannot quite find them.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, unless anyone wishes to be heard further, on behalf of myself and the Senator from Virginia in the last few minutes—I have a few minutes—I yield back our time and move that the Senate agree to the conference report in disagreement.

The PRESIDING OFFICER. Has the Senator from Virginia yielded back his time? All time has been yielded back. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HOLLINGS. Mr. President, I move that the Senate further insist on its amendment to House Concurrent Resolution 307.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the motion was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I thank the distinguished Senator from Oklahoma, the Senator from New Mexico, and the Senator from Virginia.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The question now recurs on the pending business.

Mr. NUNN. Mr. President, much as I would like a vote on passage, I think we ought to suggest the absence of a quorum at this stage.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO EXTEND TIME FOR DEBATE

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon, under rule XXII, to increase the time for consideration of the pending business to 125 hours. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. STEVENS. Mr. President, it is my understanding that this is the motion of the Senator from Oregon. Is it his motion to extend the time under rule XXII?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness in the family.

I further announce that if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote?

The result was announced—yeas 8, nays 80, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—8

Armstrong
Bellmon
Danforth
Hatch
Hatfield
Helms
Mathias
Riegle

NAYS—80

Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Lugar
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—12

Baker
Biden
Church
Gravel
Hart
Kennedy
Long
Magnuson
McGovern
Pell
Sasser
Schweiker

The ACTING PRESIDENT pro tempore. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion by the Senator from Oregon to extend the time for consideration, under rule XXII, is rejected.

FIFTEEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes and that the time be charged against the pending measure.

There being no objection, the Senate, at 5:54 p.m., recessed until 6:09 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The Senate continued to consider the joint resolution (H.J. Res. 521).

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, controversy over who has the honor of defending their country or who has to make the sacrifices to defend liberty has always been a problem in the history of this country. We in this democratic Nation of ours have always had problems determining who undertakes the ultimate risk to protect those freedoms. The colonial Minutemen, those citizen-soldiers in the spirit of Cincinnatus, who proved to be more than a match for the British Redcoats, play a prominent role in the American mystique. But the fact remains that throughout the revolution the American command was hard pressed to find volunteers and was plagued by high rates of desertion.

In 1863 during the height of the Civil War, the Nation's first universal conscription law was greeted with bloody riots in New York City, with hundreds of casualties.

In 1940, on the eve of World War II, the House managed to pass by one vote America's first peacetime program of compulsory military service, the Burke-Wadsworth bill.

The attitudes of many Americans, facing the prospect of being conscripted for military service in Vietnam, are so well known and so fresh in our memories that we really do not have to recount them.

So the issue, the problem of who should serve, which lives should be offered in the defense of liberty, is not new. But neither, in the case of the legislation currently before the Senate, is it fairly joined.

We are not really debating a draft, a callup, or classification. House Joint Resolution 521 will not add one single soldier to our military establishment. It will not force a single young American to change his plans for the next few years. It will not improve the readiness of the morale of the military forces.

We are simply seeking to determine whether this country, faced with ruthless and determined adversaries abroad, should have the capacity and the infrastructure to draft large numbers of people into military service in case of a national emergency. In a very important and significant sense, we are back to where we were in 1939.

Even the politics of the situation are similar today.

In many respects, I think it is unfortunate, Mr. President, that the energy and the effort, the research and the strategy that have been squandered in the debate on House Joint Resolution 521 could not have been channeled into more productive directions.

For more than a week the Senate has been tied into knots trying to determine whether 19- and 20-year-old males should be required to leave their names and addresses at the local post offices, and whether we should provide the selective service with the resources to use that information to mobilize this Nation quickly in case of an emergency.

We have been debating whether to establish a data base and the means to utilize it.

I would have preferred to see the Senate seize this opportunity to take a close look at some of our real and very pressing problems in military manpower and training.

I would maintain, Mr. President, that we already have a draft in this country, but the kind of draft that we have is an economic draft. There are some 2 million young people serving in our volunteer forces, but you will find that very few of those volunteers come from affluent families, come from the families of the privileged. Minorities are represented in disproportionately large numbers. High school diplomas are at a premium. Many members of the AVF lack the basic educational skills required to operate the complex machinery of war.

In many respects, the American military has become an employer of last resort, drawing a large share of its personnel from the least economically advantaged sector of America.

Today there are vast segments of our society that are effectively isolated from the prospect of military service. No one, Mr. President, would seriously suggest that this country can fight a protracted or wide-scale war by relying on the All-volunteer Force. We would obviously need a draft, and our ability to mobilize large numbers of personnel on an urgent, and I hasten to add fair, democratic, and nondiscriminatory basis, could well be critical to our ability to prevail in any future hostilities.

There is a tendency in this debate to scoff at the assertion that enactment of House Joint Resolution 521 would reduce our mobilization time by only a week or two. If hostilities are imminent or actually in progress, that week or two might make the difference between victory and defeat. It could influence the future of the freedom of this Nation on our planet.

In the recent months it has become increasingly apparent that the United States would be well advised not to count too heavily on its allies for assistance in the event of a real international crisis. We must be prepared to stand and defend our vital resources alone, if necessary, against a determined adversary that has demonstrated vast contempt for world opinion, the precepts of détente, and the danger of general warfare.

I would suggest, Mr. President, that if the Senate of the United States is unable to agree to legislation that would provide this country with the ability to mobilize rapidly and effectively in an emergency, then we are remiss in our duties. The message of vacillation and the lack of resolve will be clear to friend and foe alike.

I urge my colleagues to vote in favor of House Joint Resolution 521. I think recent events have demonstrated the importance of the ability to mobilize our manpower quickly. The United States cannot afford to sacrifice that ability.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, on yesterday I indicated that it would be the intention of the leadership to keep the Senate in session until final action occurred on the pending resolution or until a time agreement could be arrived at which would see the Senate dispose of the matter one way or the other. That, I think, is going to be achieved.

The distinguished Senator from Oregon (Mr. HATFIELD) has proved himself to be a very worthy adversary. He has fought a good fight. He has almost finished the course. And he has kept the faith. He has virtually exhausted most of the weapons available to him. I think there is one motion which he has not yet utilized, but which he is prepared to use, the motion to recommit with instructions to report forthwith. There is only one amendment remaining at the desk which qualifies under the cloture.

The time has come, I think, for us all to consider a time agreement which will, if agreed to, permit the Senate to go home tonight and vote on final passage of the joint resolution on tomorrow.

I want to express my appreciation to the Senator from Oregon (Mr. HATFIELD) for the courtesy he has shown, for the statesmanship he has shown.

I congratulate him for his dedication to his ideals and convictions.

I also want to express appreciation and compliments to Mr. STENNIS, the chairman of the Armed Services Committee, to Mr. NUNN, who has been the manager of the resolution on this side of the aisle, and to Mr. WARNER, who has guided the measure on the other side of the aisle. Both demonstrated great skill, great patience, and effectiveness.

I thank ALAN CRANSTON, the majority whip; LAWTON CHILES, the Senator from Florida, and PAUL TSONGAS, the Senator from Massachusetts, for the very capable work that they have given to the effort of invoking cloture and making it work.

I express appreciation to all Senators on both sides of the aisle, particularly to the Republican leadership, Mr. BAKER and Mr. STEVENS, for the fine spirit that they have demonstrated throughout. Also, I thank our capable staffs—Mr. Hildenbrand, Mr. Howard Greene, Mary Jane Checchi, Pat Griffin, and others.

Does the Senator wish to speak?

Mr. STEVENS. Yes, I thank my good friend.

Mr. President, I just want to state for the record that a question of this type involves a matter of conscience, really, and the deep convictions of my good friend from Oregon. I think he has demonstrated again his wisdom and good judgment by coming forth with a suggestion for a time agreement that the majority leader is going to state.

I know that my good friend from West Virginia did not hear my very stirring speech this morning between 3 and 4 a.m., but at that time, I pointed out that some of us, although we support registration, are still quite worried about the concepts involved in this proposal, particularly the matter of the reconstitution of the draft boards and other items that the Senator from Oregon has been speaking about.

I want to state for the record my thanks to my good friend from West Virginia for his patience. I think it is important for us to show that the process of postcloture debate works well. It has been a sort of training exercise, to a certain extent, because the Senator from Oregon has, as I think the majority leader pointed out, almost exhausted the arsenal of those who wished to have extended debate after cloture.

The fact that he has come forward with this very worthwhile suggestion, which will enable us to return tomorrow morning and complete our business, again demonstrates my belief that he is a true gentleman. I hope we do have an agreement on the resolution in the form which the majority leader is going to present to the Senate now.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority whip. I also include the names of Mr. TOWER and Mr. THURMOND in my list for expression of appreciation.

Mr. STEVENS. Will the Senator add my good friend from Virginia (Mr. WARNER)?

Mr. ROBERT C. BYRD. I did, Mr. President.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining time today, not to exceed 2 hours for debate on the pending joint resolution and the time on tomorrow—2 hours for debate on the joint resolution—be equally divided between Mr. NUNN and Mr. HATFIELD; provided further that one amendment only be in order, that being an amendment by Mr. HATFIELD to the dollar amount. The amendment would reduce the amount from $13 to $4.7 million, give or take a little bit. That being the only amendment in order, that the vote occur, up or down, on the Hatfield amendment tomorrow at 12 o'clock noon and that no quorum be in order prior to the vote on that amendment; provided further that the amendment not be subject to amendment; provided further that, immediately upon the disposal of the amendment, without further amendment, without further motion, point of order, appeal, debate, or quorum call, the Senate proceed to third reading and immediately, without further motion, point of order, appeal, or quorum call or debate, to passage; provided further that upon passage, there be no time on the motion to reconsider.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, Mr. President, on the last item, I inquire of the majority leader, there is the possibility of a motion to reconsider? We have not foreclosed that?

Mr. ROBERT C. BYRD. No, Mr. President, we have not foreclosed the motion to reconsider, but, if such is made and a motion to table is not immediately made, there would be no time on the motion to reconsider.

Mr. STEVENS. No debate on the motion to reconsider.

Mr. ROBERT C. BYRD. That is right, Mr. President; provided further, of course, that cloture be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, and I shall not object, it is my understanding that that was the agreement. I ask the Senator from Oregon to clarify that for the RECORD.

Mr. HATFIELD. Mr. President, will the Senator yield for a comment, reserving my right to object?

Mr. ROBERT C. BYRD. Yes.

Mr. HATFIELD. I shall not object.

Mr. President, the majority leader has stated the proposal accurately. I indicated earlier to both Mr. NUNN and the majority leader, as well as to our own leadership on this side of the aisle—Mr. WARNER, Mr. BAKER, and Mr. STEVENS—that it was my intention to move this to a vote within a reasonable period of time, and the distinguished majority leader was correct in indicating that we have reached about the end of our tether on the matter of motions and amendments and procedures for delaying tactics that we have engaged in.

I also would like to observe that I believe that overwhelmingly, the amount of time given to this issue has been spent in very substantive, very constructive debate and discussion. I hope that my colleagues will read the RECORD of last night, from at least 2 o'clock on. In those remarks, they will find that each Senator standing on this floor, holding the floor, was contributing viewpoint, knowledge, and information to the subject matter, staying on the issue.

Last night, for about 3 hours, we were engaged in purely dilatory tactics and so forth. But I think when we look back to last Wednesday, on through Thursday, Friday, Monday, all yesterday, last night, and today, I think one would have to say that the Senate has conducted this debate in a dignified manner, to the credit of the institution of the Senate.

I am delighted that we have reached this point of agreement and I thank those who have participated, particularly my close friend and adversary (Mr. NUNN) and the Senate majority leader, the Senate minority leader, and all the other Senators—Mr. WARNER and others—who have participated. I am grateful for an opportunity to bring this matter to a close, maintaining the dignity and, I think, the decorum of the Senate and, at the same time, addressing ourselves to the issues.

I anticipate that the vote will be against my view or against my position, but I commend my adversaries for a worthy battle and I say that we shall be back to fight another day.

I thank the majority leader, especially, for making this possible at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, may I inquire of the majority leader, will there be any further votes this evening?

Mr. ROBERT C. BYRD. Mr. President, there will not be any further votes this evening.

ORDER FOR RECESS TODAY UNTIL TOMORROW, THURSDAY, JUNE 12, 1980, AT 9:50 A.M. AND ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:50 a.m. tomorrow morning; that the time of the two leaders not extend beyond the hour of 10 o'clock tomorrow morning; that that time be equally divided between the two leaders; and that at 10 a.m. tomorrow, the Senate resume consideration of the pending measure.

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any Senators who wish to debate the pending measure further today?

The indications are that there are none.

Mr. President, no Senator wishes to talk on the measure further today. I therefore ask unanimous consent that there be a period now for the transaction of routine morning business not to extend beyond 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS TO THE STAFF

Mr. STEVENS. Mr. President, I should like to add to the comments by the majority leader concerning the staff and the dedication of those people who assisted the Senate to perform its business through the last—what is it now?—almost 33 hours—the official reporters of debates, the parliamentarians, all the staff, and those who assisted the Senator from Oregon, Mr. Gold and others. I know the Senator from Oregon would join me in thanking them for their service throughout the night.

Mr. HATFIELD. I do.

Mr. STEVENS. That is for all those on both sides, the majority and minority. It took a lot of people to keep the Senate functioning through such long hours. I hope that now they will all be able to return to their families and have a decent evening with their people at home.

MESSAGES FROM THE HOUSE

At 1:08 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate numbered 1–17 to the bill (H.R. 3979) to repeal and amend certain laws regulating trade between Indians and certain Federal employees; and that the House agrees to the amendment of the Senate numbered 18 to the bill, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5612. An act to amend section 8(a) of the Small Business Act;

H.R. 5997. An act to provide for the display of the Code of Ethics for Government Service; and

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 323. Concurrent resolution commending the personnel who took part in the attempt to rescue the American hostages being held illegally in Iran; and

H. Con. Res. 359. Concurrent resolution directing the Secretary to make corrections in the enrollment of S. 562.

ENROLLED BILL SIGNED

At 6:28 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 6285. An act to amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 5612. An act to amend section 8(a) of the Small Business Act; to the Select Committee on Small Business.

H.R. 6666. An act to revise the laws relating to the Coast Guard Reserve; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 323. Concurrent resolution commending the personnel who took part in the attempt to rescue the American hostages being held illegally in Iran; to the Committee on Armed Services.

BILL ORDERED HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 5997, an act to provide for the display of the Code of Ethics for Government Service, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MAGNUSON (for himself, Mr. JACKSON, Mr. HATFIELD, Mr. COHEN, and Mr. PACKWOOD):

S. 2819. A bill to amend section 13(c) of the Fair Labor Standards Act of 1938 to clarify the procedures for granting a waiver for certain hand harvest laborers under that section, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON (for himself, Mr. JACKSON, Mr. HATFIELD, Mr. COHEN, and Mr. PACKWOOD):

S. 2819. A bill to amend section 13(c) of the Fair Labor Standards Act of 1938 to clarify the procedures for granting a waiver for certain hand harvest laborers under that section, and for other purposes; to the Committee on Labor and Human Resources.

● Mr. MAGNUSON. Mr. President, on behalf of Senator JACKSON and myself, I am today introducing legislation to help preserve a local tradition. I am pleased also to have Senator HATFIELD, Senator PACKWOOD and Senator COHEN as cosponsors of this bill.

The harvesting of the Northwest's berry crop has traditionally been a family affair in which brothers and sisters, friends and neighbors work alongside each other during the short picking season. Parents send their young children out into the fields confident that their kids will begin to learn the value of work and a sense of self-sufficiency. Of course, to the kids the work also means time with friends and a little spending money.

Unfortunately, during the last few years the growers and parents have not known from year to year whether the young kids, the 10- and 11-year-olds, would be able to pick with their older friends and family. This uncertainty remains despite Congress attempt in 1977 to end a 3-year ban on the employment of 10- and 11-year-olds, and again enable them to pick berries.

The 1977 amendments to the Fair Labor Standards Act established a set of conditions, which if met, enabled 10- and 11-year-olds to pick berries in the Northwest and potatoes in Maine. In both areas kids have participated in the harvest for generations. The law was carefully drafted to meet unique circumstances in these two regions of the country. We were very careful to make sure that the kids' health and well-being would be protected and that employment of the kids would not adversely affect the employment of older workers.

Another condition established by the 1977 law was intended to protect kids from adverse effects from pesticides. Current law requires individual farmers to prove that the pesticides and chemicals used in their crop would have no adverse effect on the health of the kids. I supported the safeguard at that time little realizing the interpretation it would later receive from the Labor Department and the courts.

The Labor Department, and the D.C. Circuit Court of Appeals in a decision filed on March 20, 1980, interpreted the pesticide provision to mean that the farmer has the burden to prove the absolute safety of any pesticide used on the crop before 10- and 11-year-olds could pick in the fields. While I wish it were possible to meet an absolute safety test for any chemical, it just is not possible to do so. The Environmental Protection Agency does not require absolute proof of safety before approving chemicals or pesticides for commercial use. I also understand the scientific community believes that it is unlikely that an absolute safety standard for chemicals can ever be met.

The bill which I am introducing today amends the law affecting the hiring of 10- and 11-year-olds to make it more consistent with EPA's standards for chemical and pesticide safeguards. The Administrator of the EPA is charged with reviewing pesticides used in the fields and advising the Secretary of Labor whether they pose a significant adverse effect to the health of the kids. If the Administrator has good cause to find the chemicals potentially hazardous, he can recommend that the kids not be allowed to pick.

The EPA is far better qualified than the Labor Department, individual farmers, parents, or the kids themselves, to determine whether pesticides in the berry fields pose a hazard. In fact, EPA is currently conducting an extensive study of the effects of pesticide exposure on the health of youths under age 16.

It is clear that it was Congress intent in 1977 to establish reasonable guidelines to protect kids who help with the berry harvest. The bill which I am introducing today clarifies that original intent and establishes safe, reasonable standards for the health of young kids. It also places the oversight of that standard with the agency which is best qualified to monitor it. I hope the Senate will promptly support this bill and restore realistic guidelines to the provisions of the law affecting the hiring of 10- and 11-year-odds in the Northwest's berry fields.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the last sentence of section 13(c)(4)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)(4)(A)) is amended by striking out "The Secretary may not grant such a waiver" and insert in lieu thereof "Subject to subparagraph (B), the Secretary may not grant such a waiver".

(b) Section 13(c)(4)(A)(ii) of such Act is amended by inserting before the semicolon a comma and the following: "and the requirement of this clause is satisfied by the submission of signed statements from trained medical personnel in the affected region".

(c) Section 13(c)(4)(A) of such Act is amended by striking out clause (iii) and by redesignating clauses (iv) and (v) as clauses (iii) and (iv).

(d) Section 13(c)(4) of such Act is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Whenever the requirements of subparagraph (A) are met, the Secretary shall grant a waiver under subparagraph (A) unless the Administrator of the Environmental Protection Agency determines, based on an assessment of scientific findings and other technical information, that the level and type of pesticides and other chemicals used may cause a significant adverse effect on the health or well-being of the individuals to whom the waiver would apply.".●

● Mr. JACKSON. Mr. President, I want to take just a few moments to join with Senator MAGNUSON in addressing some of the major points of this bill which will clarify procedures for granting a waiver for certain hand harvest laborers under the Fair Labor Standards Act.

As you may know, the State of Washington is one of the major agricultural areas of the United States for the production of berries, and in particular, strawberries. Traditionally, most of the crop is picked by youngsters under the age of 16, and growers in the area have come to rely on their able help to insure that the crop is harvested during the first few weeks of June. Unfortunately, youngsters age 10 and 11 comprise a large percentage of those upon whom the growers rely for labor, and without their assistance as much as 25 percent of the crop is left to rot in the fields.

In 1974, we amended the Fair Labor Standards Act to provide that children under the age of 12 could not be engaged in agricultural employment, but further amended the law in 1978 to provide that in certain limited situations and under certain prescribed circumstances the employment of these children would be lawful. We did this in recognition of the fact that in some instances the availability of their labor was essential to harvest the crop, and the work in which they would be engaged would not be deleterious to their health, but rather beneficial to their growth. Of course, we took certain stringent precautions to insure that they would not be the subject of abuse or exploitation, or subjected to elements which would be deleterious to their health.

Specifically, we allowed employers to apply to the Secretary of Labor for a waiver of the prohibition against the use of 10- and 11-year-olds if the following precautionary criteria were met: That the agricultural operation in which the children would be employed traditionally and substantially employs individuals under 12 years of age; that the crop to be harvested is one with a particularly short harvesting season not to exceed more than 8 weeks during the period of June 1 to October 15 of any calendar year; that the application of the waiver would not substantially displace job opportunities for individuals over 16 years of age, but without its application would cause severe economic disruption in the industry; that the work is customarily recognized as being paid on a piece rate basis so that the youngsters could work at their own pace; that individuals age 12 and above are not available for such employment; that the children only be employed outside of school hours so as not to disrupt their education; and that the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of these youngsters.

Under this criteria, the children have been adequately protected and kept from harm; however, under the particularly harsh standard of the last prescription, it has not been possible to utilize these youngsters for the harvesting of our very fine Northwest berry crop. This is because the practical application of the standard imposes an absolute ban on the use of these children in fields which have been sprayed with pesticides or other chemicals, for it is impossible to prove the negative that utilization of any such substance will not have an adverse effect on the health and well-being of these children.

In point of fact, this is precisely what the U.S. Court of Appeals for the District of Columbia decided in National Association of Farmworker's Organizations against Marshall, wherein it held that it would be virtually impossible for growers to meet this standard of showing by objective data that use of certain chemicals will have absolutely no adverse effect on the health or well-being of these youngsters.

Consequently, Mr. President, we are introducing this amendment to the Fair Labor Standards Act to change in a modest way this last standard which has to date proven to be an absolute bar on the use of these children for the harvesting of berries in the Northwest. In this regard, I hasten to add that the change we are advocating has no effect on the other precautions which we took pains to include in the 1978 amendments, and in fact only brings the standard on pesticides and other chemicals into conformity with those high standards which the Environmental Protection Agency already uses to determine whether a particular substance is safe for human exposure.

Mr. President, I wish to conclude my remarks by reminding my colleages that I have a long record in Congress of voting for legislation which is intended to prevent the exploitation of child labor, and I hope my colleagues will seriously consider this amendment as a reasonable and viable alternative to the current law which has to date only served to prevent implementation of a practical waiver system which was intended to allow youngsters back into the fields to enjoy the same employment opportunities of previous generations which grew up in the Northwest.●

● Mr. HATFIELD. Mr. President, I join my colleagues today from the Pacific Northwest, as well as Senator COHEN, in cosponsoring legislation to further clarify congressional intent regarding the granting of a waiver to employers under the Fair Labor Standards Act to allow 10- and 11-year-olds to work as hand harvest laborers for no more than 8 weeks during any calendar year and to resolve the confusion that has arisen in both the Department of Labor and in the courts from the administration of the 1977 Amendments to the Fair Labor Standards Act.

In 1974, the Congress approved amendments to the Fair Labor Standards Act which prohibited the employment of children under the age of 12 in agricultural harvesting except under very limited circumstances. This action by the Congress created grave concern among the people of Oregon and other States where children under the age of 12 were very actively involved in the harvesting of agricultural crops. In Oregon alone, the application of section 25 of the Fair Labor Standards Act immediately eliminated temporary summer job opportunities for over 5,000 young Oregonians; it seriously threatened the economic future of certain Oregon crops, most notably strawberries, which have historically been dependent upon students of all ages for their harvest; and, by so threatening these crops, the law placed in jeopardy the future job opportunities of some 38,000 older pickers, adults and teenagers alike. In addition, the number of Oregon growers in the principal crop concerned—strawberries—were reduced from 1,000 in 1974 to approximately 400 by 1976. In similar fashion, the number of Oregon acres committed to growing strawberries was reduced from 8,400 in 1973 to approximately 5,400 in 1976.

In 1977, Congress attempted to correct this situation by allowing 10- and 11-year-olds to participate in hand harvest labor, but only where objective data would demonstrate that the use of certain pesticides or chemicals would not have an adverse impact on the health or well-being of these individuals. Since that time, the question of the impact of these pesticides or chemicals on the health or well-being of these individuals has been challenged in the courts and has been the subject of much frustration and concern on the part of growers, the 10- and 11-year-old children, and other interested individuals throughout the Pacific Northwest. Also, the Oregon strawberry industry has never fully recovered from that 1974 action by Congress as there has been a reduction in both the numbers of growers and acres committed to strawberry production since that time.

The concern of the individuals involved has been primarily directed toward the inconsistency and inadequacy of the Department of Labor in promulgating regulations on what chemicals or pesticides could be used in the fields, as well as the minimum reentry times required before harvesting could begin. These inconsistencies center on several facts. First of all, the Department of Labor assumed responsibility to promulgate standards for chemical and pesticide use when that function has traditionally been within the purview of the Administrator of the Environmental Protection Agency. Second, the Department of Labor has been unable to quantify or establish the chemical or pesticide standards due to the lack of objective data on these items and their impact on the health and well-being of the 10- and 11-year-old children. Therefore, 12- and 13-year-old children are able to pick berries while 10- and 11-year-old children must sit home. The ripple effect of this action on inhibiting the participation of families has been devastating to the industry. Lastly, the chemicals in question are currently available to consumers over the counter for use in their gardens and residues of these chemicals remain on strawberries even after their being made available for purchase in grocery stores or in the processing process.

I want to make it very clear, though, that this legislation will not return this Nation to child labor conditions of the past, nor will it expose these children to harm or adverse health impacts. I speak on this issue from firsthand experience. I picked in the fields of Oregon as a child, using the money I earned to buy school clothes and to help my parents pay for my education. Like the majority of young Oregonians who help with the harvest, I did this for a period of 3 to 4 weeks. To this day I consider this temporary activity a valuable and healthy work experience that a child under 12 years of age can obtain nowhere else. There have been no reported cases of health impacts due to the use of these chemicals or pesticides and the children are covered in Oregon by the Workmen's Compensation Act.

I believe that this legislation is consistent with congressional intent, as well as the expression of the courts, in that maximum attention be paid to the health and well-being of 10- and 11-year-old children. It places the determination regarding the use of certain pesticides or chemicals squarely on the shoulders of the administration of the Environmental Protection Agency, which has experience in the testing of chemicals and pesticides, rather than in the Department of Labor, whose experience is limited at best.

Mr. President, in cosponsoring this legislation to seek to further clarify congressional action in 1977, I want to make it very clear that this legislation is intended to protect the health and well-being of 10- and 11-year-olds from the impacts of pesticides and chemicals used in the fields. I would not sponsor legislation which exposed these individuals to a significant adverse effect on their health. However, there is no information available to me at this time that would indicate that such exposure would occur. Therefore, I urge my colleagues to join in support of this legislation in order to provide these children with a healthy and productive experience, as well as insuring that the Oregon strawberry industry does not experience further decline.●

● Mr. COHEN. Mr. President, I am pleased to join Senator MAGNUSON in introducing legislation to clarify the law permitting 10- and 11-year-old children to participate in the short-season harvests of their communities, such as the potato harvest in northern Maine.

This legislation is necessary because of a ruling by the U.S. Court of Appeals for the District of Columbia overturning Department of Labor regulations regulations governing the use of pesticides in fields in which children are employed.

In the case of potato fields, the Department of Labor regulations had listed 30 pesticides that could safely be used if specified periods had elapsed before the children were admitted to the fields. The entry times varied from 2 to 100 days, depending on the type of pesticide, and the use of some chemicals that are suspected carcinogens, was banned if children were to work in the sprayed fields. Despite the specific nature of these standards, the court ruled them invalid because they would provide only "reasonable protection" for the children and did not conclusively demonstrate that the level and type of pesticides would have no adverse effect on the children's health.

The result of the court's injunction is that the Secretary of Labor is prohibited from granting a waiver permitting the employment of 10- and 11-year-olds in local harvests.

As one of the authors of the 1977 amendment to permit local schoolchildren to work in community harvests, I was very disappointed in the court ruling. It not only is contrary to congressional intent in passing the 1977 law, but also places an impossible burden on farmers to demonstrate that the pesticides they use are completely safe.

I think that it might be useful to review the history of the child labor restrictions and their impact on the potato farmers in northern Maine.

Until passage of the child labor provisions of the Fair Labor Standards Act in 1974, children under age 12 routinely participated in the annual potato harvest in Aroostook County, Maine. Then, in 1974, in an attempt to prevent the shameful exploitation of migrant children, Congress enacted the provisions which prohibited the employment of most children under age 12 in agricultural operations. Congress neglected to include in the law an exemption for the hiring of local children who have traditionally and willingly participated in harvesting the crops of their community.

In 1977, Congress recognized that the inflexible application of this law without taking into consideration local traditions had disrupted traditional patterns of employment in some areas of the United States, including northern Maine, where conditions are entirely different from those Congress was attempting to prevent. I helped to secure approval of an amendment that permitted the Secretary of Labor to grant a waiver allowing the employment of 10- and 11-year-old children in harvesting short-season, local crops under certain stringent conditions.

The common image of child labor in agriculture includes migrant labor camps with poor housing and sanitation, exploitation of the workers, and hazardous working conditions. But Maine's experience with the employment of children in the potato harvest has never been characterized by any abuses. To the contrary, the evidence indicates that employment during the 3-week potato harvest has been a constructive, healthy, and positive influence in the lives of many young Maine people.

To my knowledge, there have never been any health problems in Maine resulting from the use of pesticides in potato fields. The pesticides are applied early in the season to control aphids and beetles, and the herbicide used to kill the potato vine is applied three to four weeks before the pickers enter the fields. Records indicate that there have been virtually no work-related injuries suffered by hand-pickers and that these children are genuinely enthusiastic about the opportunity to work.

The practice of using area children to assist in the harvest has served as an adhesive, strengthening community spirit and personal ties. During the harvest, the activity of the whole region revolves around the overriding goal of harvesting the potatoes before the early frosts make the task impossible. To accommodate the farmers, school begins in mid-August and recesses from three to four weeks in September and October so that children can participate in the harvest without missing any school work. The opportunity for children to earn a modest income while assisting the potato farmer in harvesting his highly perishable crop has clearly benefited both parties. The harvest has always been a family and community effort because only with the assistance of his neighbors can the farmer bring in his potatoes.

Mr. President, I would never support the employment of Maine schoolchildren in my State's potato harvest if I thought that their health would in any way be damaged. But the evidence does not demonstrate that the pesticide standards, established by the Department of Labor on the best available information, were inadequate.

If the court ruling overturning these regulations is allowed to stand, it would prohibit 10- and 11-year olds from working in the Aroostook potato harvest this fall. The impact would most likely fall heaviest on those who will be least able to afford it. Small family farmers, in particular, depend heavily on the help of schoolchildren to bring in the crop. The last things that the Maine potato farmer needs is another blow to his livelihood.

The legislation that I am cosponsoring today offers a reasonable solution to the pesticide problem that will insure the continued protection of children, while permitting them to work in the harvest. It would make two changes in the existing law that would have the effect of reversing the court ruling. First, this legislation would require trained medical personnel in the affected region to submit signed statements to the Department of Labor certifying that the employment of children would not be deleterious to their health or well-being. Second, the Secretary of Labor would be empowered to grant a waiver of the child labor laws unless the Environmental Protection Agency determines, based on an assessment of scientific findings and other technical information, that the level and type of pesticides and other chemicals were dangerous to the health or well-being of the individuals employed.

This legislation would leave intact the other stringent safeguards that Congress established for the employment of young workers in order to ensure the continued protection of migrant children.

Mr. President, I believe that Congress demonstrated by amending the child labor laws in 1977 that it can be responsive to local traditions. I hope that Congress will now act quickly to enact this legislation to overturn a misguided court ruling that threatens to once again interfere with the potato harvest in northern Maine.●

ADDITIONAL COSPONSORS

S. 938

At the request of Mr. Mathias, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 938, a bill to revise section 1 of the Clayton Act to expand the scope of the antitrust laws, and for other purposes.

S. 1010

At the request of Mr. Mathias, the Senator from Illinois (Mr. Percy), the Senator from Texas (Mr. Bentsen), the Senator from Georgia (Mr. Nunn), the Senator from Pennsylvania (Mr. Heinz), the Senator from Delaware (Mr. Roth), the Senator from Indiana (Mr. Bayh), the Senator from Rhode Island (Mr. Chafee), the Senator from Alaska (Mr. Stevens), the Senator from Minnesota (Mr. Durenberger), the Senator from Michigan (Mr. Levin), the Senator from Maine (Mr. Cohen), the Senator from Arkansas (Mr. Bumpers), the Senator from Tennessee (Mr. Sasser), and the Senator from Connecticut (Mr. Ribicoff) were added as cosponsors of S. 1010, a bill to establish a Commission on the International Application of Antitrust Laws.

S. 1188

At the request of Mr. Cranston, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 1188, a bill to improve and modernize the vocational rehabilitation program provided service-disabled veterans under chapter 31 of title 38, United States Code, and for other purposes.

S. 1435

At the request of Mr. Nelson, the Senator from Colorado (Mr. Hart) was added as a cosponsor of S. 1435, a bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 2210

At the request of Mr. Cranston, the Senator from New York (Mr. Moynihan) was added as a cosponsor of S. 2210, a bill to repeal section 212(a)(4) of the Immigration and Nationality Act, as amended, and for other purposes.

S. 2325

At the request of Mr. Helms, the Senator from Texas (Mr. Tower), the Senator from Mississippi (Mr. Cochran), and the Senator from Utah (Mr. Hatch) were added as cosponors of S. 2325, a bill to amend the Federal Election Campaign Act with respect to contributions and expenditures by national banks, corporations, and labor organizations.

S. 2512

At the request of Mr. Mathias, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 2512, a bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid into a reserve for service liability losses and expenses of design professionals, to provide a deduction for certain amounts paid to captive insurers, and for other purposes.

S. 2649

At the request of Mr. Cranston, the Senator from Florida (Mr. Stone) was added as a cosponsor of S. 2649, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other purposes.

S. 2681

At the request of Mr. Dole, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 2681, a bill to amend the State and Local Fiscal Assistance Act of 1972 to provide a 5-year extension of the general revenue-sharing program and to provide that each State make an annual election to receive its State government allocation or the equivalent amount in specific categorical grant programs, but not both.

S. 2745

At the request of Mr. Dole, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 2745, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and deduction of contributions to, education savings accounts and housing savings accounts.

SENATE JOINT RESOLUTION 90

At the request of Mr. Durenberger, the Senator from Kentucky (Mr. Ford) was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to provide for the designation of a week as "National Recreation and Parks Week."

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. Huddleston, the Senator from Nebraska (Mr. Exon) was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution to express the sense of the Congress that the United States not admit more than 650,000 immigrants in fiscal year 1980.

AMENDMENT NO. 1806

At the request of Mr. Mathias, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of amendment No. 1806 proposed to House Joint Resolution 521, a joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXPRESSIONS OF THANKS

Mr. ROBERT C. BYRD. Mr. President, I add to the list of persons to whom I extend my personal appreciation the names of the Parliamentarian, the Assistant Parliamentarians, the other officers of the Senate, the personnel at the desk, and the pages.

Special thanks to the Office of the Sergeant at Arms and the Secretary of the Senate and to the secretary for the majority and the secretary for the minority, for making the arrangements of last evening.

Mr. NUNN. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. NUNN. Mr. President, I did not want to interrupt the unanimous-consent request, with which I agree.

I thank the majority leader for a splendid job in taking an issue that was extremely tough, and still tough, and utilizing the rules as only the majority leader knows how to utilize the rules, in a fashion that is efficient and effective as well as fair.

Without the leadership of the majority leader, this issue and many others would not be brought to conclusion in the effective and efficient form they have been. I thank the majority leader for that.

I believe all our colleagues, on both sides of the aisle, recognize the tremendous talent and ability he has, as well as his dedication.

I also thank the Senator from California for a tremendous job of assistance. Even though we have differed on this issue, he has tried to assure orderly procedure here.

I thank the Senator from Alaska for his excellent job on that side of the aisle, as well as the minority leader, Senator Baker—who is not here but who I understand will be back tomorrow morning—for their cooperation in taking an issue that has deep feelings on both sides and handling it in as effective a way as possible.

I will have more to say about my friend from Oregon tomorrow, but I thank him for his splendid debate in the last 5 or 6 days.

So far as I am concerned, the debate is still on. We will have the crucial votes tomorrow. I am not in any way claiming that this measure has been decided on or won, because I believe we will have a vigorous debate in the morning. It will be a meaningful debate, as the debate has been for the last 5 days.

After we vote on the very important amendment of the Senator from Oregon, on an up and down vote, we will vote on final passage. I do not pretend to know the outcome of this. I hope our side prevails.

In any event, the Senator from Oregon, I know, has deeply felt views on this matter. He is conscientious and sincere. He has presented his case in an articulate way, and I thank him for that. He has served the country well and the Senate well in discussing this issue thoroughly and letting our colleagues have the benefit of his views. I look forward to a continued instructive and productive debate tomorrow.

Mr. ROBERT C. BYRD. I appreciate the kind words of the Senator from Georgia.

Mr. WARNER. Mr. President, to honor brevity, I associate myself with everything that has been said and say, "Thank you, and good night."

Mr. ROBERT C. BYRD. Well said.

Mr. NUNN. I just wish to say one other thing.

The Senator from Virginia has done a tremendous job. We have had an excellent relationship. He is a key member of our subcommittee. Without his assistance, this bill never would have made it to the full Senate Committee on Armed Services, nor to this body.

So I thank my friend and colleague from Virginia for his support of this measure. He has done it as he has done everything else, in a bipartisan manner. He has my thanks.

Mr. WARNER. I thank the Senator.

RECESS UNTIL 9:50 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:50 a.m. tomorrow morning.

The motion was agreed to; and at 6:43 p.m., the Senate recessed until tomorrow, June 12, 1980, at 9:50 a.m.

NOMINATIONS

Executive nominations received by the Senate June 10, 1980:

FEDERAL TRADE COMMISSION

Patricia Price Bailey, of the District of Columbia, to be a Federal Trade Commissioner for the term of 7 years from September 25, 1980 (reappointment).

BUREAU OF MINES

Lindsay D. Norman, Jr., of Maryland, to be Director of the Bureau of Mines, vice Roger A. Markle, resigned.

Executive nominations received by the Senate June 11, 1980:

DEPARTMENT OF DEFENSE

Jack R. Borsting, of California, to be an Assistant Secretary of Defense, vice Fred P. Wacker, resigned.

THE JUDICIARY

Richard C. Erwin, of North Carolina, to be U.S. district judge for the middle district of North Carolina, vice a new position created by Public Law 95-486, approved October 20, 1978.

EXTENSIONS OF REMARKS

THE CIGARETTE SAFETY ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. MOAKLEY. Mr. Speaker, over the last weekend another needless tragedy of a fire started by an unattended cigarette occurred, taking five lives in Columbus, Ga. Three of the victims were aged 2 years old or less.

This incident furthers the need for this Congress to pass the Cigarette Safety Act, which seeks to insure that cigarettes have a minimum capacity for igniting smoldering upholstered furniture and mattress fires. My bill does not seek to stop people from smoking nor does it try to impose unreasonable constraints upon the tobacco industry; rather, it is an attempt to reduce the destruction of life and property.

Unfortunately, the tobacco manufacturing companies have not taken it upon themselves to address this problem, so I believe the Congress must act.

Our efforts received noteworthy support recently when the Consumer Product Safety Commission endorsed the Cigarette Safety Act. I would like to share with my colleagues an article that appeared in the Washington Star on the Commission's action.

The article follows:

CPSC SEEKS AUTHORITY TO CUT FIRE HAZARDS BY REGULATING CIGARETTES

(By Caroline E. Mayer)

The Consumer Product Safety Commission is seeking authority to regulate cigarettes and small cigars to reduce their potential as fire hazards.

In a recent letter to Congress, the CPSC endorsed legislation to permit the commission to draw up a self-extinguishing cigarette performance standard. A requirement for a self-extinguishing cigarette, the CPSC said, would reduce the risks of upholstered furniture and mattress fires started by smoldering cigarettes.

The commission's endorsement came in response to a congressional query on legislation introduced by Rep. Joe Moakley, D-Mass., and Sen. Alan Cranston, D-Calif. According to a commission aide, it is the first time the commission has endorsed such legislation, even though Congress considered a similar measure five years ago.

But prospects for the self-extinguishing cigarette are still not very promising.

Twice, Congress specifically has barred the CPSC from regulating cigarettes, largely as a result of opposition by the tobacco industry—opposition which congressional aides say has not changed.

Then too, the measure will have to go through the Senate consumer affairs subcommittee, which is chaired by a tobacco state senator, Wendell Ford, D-Ky.

But despite the stiff opposition, the CPSC is urging passage of the measure. The commission suggests that if such a standard can be developed, it would help reduce the 1,300 residential fire deaths caused annually by smoldering cigarettes.

The commission is now working with the upholstered furniture industry to reduce the flammability of the furniture itself, but the CPSC says both safeguards are needed. Even with a cigarette standard, "it would still be necessary . . . to continue efforts to make upholstered furniture as resistant to smoldering fires as reasonably possible," the commission said in a letter to the House and Senate commerce committees last week.

"Although we do not know whether a technically feasible and effective (cigarette) standard could be developed, the research effort should be pursued since it could significantly reduce injuries, deaths and property damage from smoldering upholstered furniture and mattress fires."

However, the commission added, it should not be forced to issue a standard if it discovers that such a proposal is not feasible.

Citing National Bureau of Standards tests which indicate that some furniture can be ignited in less than two minutes by a smoldering cigarette, the commission noted that a 2-minute self-extinguishing standard may not be feasible because it "is questionable from both technical and consumer acceptance aspects.'"

Since the CPSC's creation eight years ago, the tobacco industry has successfully fought off all attempts to give the agency the power to regulate cigarettes.

William Kloepfer Jr., senior vice president of the Tobacco Institute said the industry has "no doctrinaire view for or against the legislation" at the moment.

However, Kloepfer noted, "the tobacco companies do not see the opportunity in present technology to accomplish what's being sought and still produce a product that would be acceptable."

So far, no hearings on the legislation have been planned. Senate aides say they are waiting for the House to act first because in 1975, the Senate approved a measure to give the CPSC authority to regulate cigarettes as an ignition source, only to have the provision withdrawn in a House committee.●

ROLL CALL'S 25TH ANNIVERSARY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. ADDABBO. Mr. Speaker, it has been on Capitol Hill longer than most Members. It has never had to worry about a primary. It has never had to fight for a grant for its district. And yet, for 25 faithful years, through Speaker and snowstorms, fundings and filibusters, it has been here, serving and entertaining us. Of course, I am speaking of Roll Call, the newspaper of Capitol Hill. On this occasion of its 25th anniversary, I would like to take this opportunity to pay tribute to it.

Ever since I came to Washington, 20 years ago, Roll Call has been a part of my life here. Second only to payday, the delivery of Roll Call is certainly one of the high spots in my office. Unless I know where I am going tonight, thanks to Don Hearn; unless I know whose birthday is coming up; and unless I read Sid's weekly, or is it weakly, attempts at humor, the whole week is shot for me. The list of valuable information Roll Call provides cannot be found anywhere else. Where else could you find out there was a new intern down the hall? Where else could you find out that a certain Senator has just hired a new receptionist? Only in Roll Call. In fact, it seems everything you would ever want to know about Capitol Hill is in this newspaper.

Though we may joke at Roll Call, all of us who work here appreciate the fine job in helping to remind us that Capitol Hill is more than just legislators and lobbyists. Capitol Hill is people, whether they vote on legislation, serve in Members offices, provide food in our cafeteria's, or run our elevators, and Roll Call has reflected that fact in its 25 wonderful years here. Its reporting is one of ups and downs. In the same issue it reports of the birth of a baby, it often has to inform us of a death of a colleague or loved one. But week in, and week out, it has skillfully entertained us, and for that, we can ask no more. To survive on Capitol Hill for 25 years is certainly quite an accomplishment, and Roll Call is to be commended for still having the same spirit and vigor it had when it first was published. Congratulations Roll Call, and may you have many more years of being a part of Capitol Hill.●

REORDERING DEFENSE PRIORITIES

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. GREEN. Mr. Speaker, our present military readiness is a great concern to the Members of this legislative body as well as to legislators throughout the free world.

At no time in recent history has our military been in need of such major overhaul. Nuclear weaponry, traditional hardware, and personnel requirements all face new challenges that require leadership and vision on the part of American policymakers. Unfortu-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nately, as I look at the President's proposed defense budget, and the authorization legislation the House passed, I fear that we are wasting money on new weaponry at the expense of personnel, training, and equipment maintenance.

Specifically, the Department of Defense has failed to make a convincing case for the need for the massive, extremely expensive MX missile program. The MX is duplicative since the other legs of the Triad—air and submarine-based nuclear warheads—can provide adequate security during the operational lifetime of the proposed system. I refer my colleagues to my CONGRESSIONAL RECORD statement on March 25, 1980, page H2170, in which I inserted my correspondence with the Department of Defense. The lack of a pressing need for the MX is further demonstrated in the report of the Secretary of Defense on the fiscal year 1981 budget request. The Secretary's lucid explanation of our strategic nuclear defense does not suggest that we need the silo-busting capability of the MX. Even if we do, it appears that submarines could be able to deliver that capacity as soon as the MX.

The wasting of funds for the MX program and the numerous planes, ships, and conventional weapons authorized in H.R. 6974, the defense authorization for fiscal year 1981, takes needed money away from addressing the crucial personnel problems facing our military. The committee report accompanying H.R. 6974 observes the pressing personnel needs and poor reenlistment rates and retention of the trained, technical people so necessary to operate and maintain today's sophisticated weaponry used by the Air Force, Navy, Marines, and Army. However, it appears that the report pays only lipservice to these problems.

This legislation places a dangerous overemphasis on hardware and not personnel. In these times of restricted Federal spending, every dollar spent on duplicative or overly complex or sophisticated weapons systems actually weakens our Nation's defenses. This is because we then are left with insufficient resources to address the Armed Force's manpower requirements.

An example of what I consider to be a lack of congressional perspective was our debate on the relative strengths of conventional and nuclear powered aircraft carriers the past 2 years during the debates on the fiscal years 1979 and 1980 defense authorization, and the congressional decision to proceed with a new nuclear powered carrier at a cost of $2.1 billion. Recently, Navy ships have had to remain in port due to shortages of personnel, and a significant percentage of our combat aircraft is inoperative due to lack of parts. Yet we are going to spend $305 million to recommission another carrier, the *Oriskany*. A legitimate question can be raised as to where we are going to get the personnel to staff these additional ships and to maintain the aircraft on them when we cannot adequately staff the ships we have at present. Clearly, we are too production oriented and too easily persuaded by arguments of new State jobs and revenues from production increases. I suggest we would do better to pass a defense bill that is free of pork barrel projects.

We must reexamine our spending priorities on equipment as well. More funds for maintenance and spare parts are badly needed. We must also balance technological advances with the need for simple, reliable machinery that will not fail in combat situation.

I hope that the Congress can make significant progress toward solving the real problems confronting our Armed Forces during our action on the armed services appropriations bill. I fear that H.R. 6974 simply does not address the cause of our military malaise.●

A KEEPER OF TRUE AMERICAN GRIT: EARL "FATHA" HINES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. STARK. Mr. Speaker, just the other day we read, with justifiable pride and joy, about the awarding of the Presidential Medal of Freedom to a most illustrious and deserving group of Americans who, through their dedicated and various professions, are—to quote the Washington Post's caption—"The Keepers of True American Grit."

With that theme in mind, I am pleased to bring to the attention of my colleagues another keeper of true American grit—none other than Earl "Fatha" Hines, not only a keeper but indeed one of the founders of what is enjoyed and hailed throughout the world as one of America's true wonders—American jazz. It is, therefore, altogether fitting and proper, and I must confess with a great feeling of pride and joy, that I join my friends and constituents in Oakland—Merritt College and the Oakland Bay area of the Links, Inc.—in celebrating June 1980 as Black Music Month, specifically June 25, with their production of "Reminiscin' III: 'Fatha'," honoring Earl "Fatha" Hines.

It is indeed fitting that Oakland, Calif., can commemorate Black Music Month by honoring one of the community's most noted residents, the "King of the Jazz Piano," Earl "Fatha" Hines. I am proud to bring this wonderful celebration to the attention of my colleagues in Congress.●

"FAT CITY"

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. MICHEL. Mr. Speaker, I recently read a book that should be on the desks—and on the minds—of everyone in Congress. "Fat City," by United Press International (UPI) veteran reporter Donald Lambro, makes a compelling case for cutting back on Federal spending. Lambro documents cases of Government waste, fraud, and abuse, and lists 100 Government programs he is convinced could be cut. You may disagree with the specific areas he mentions, but it is hard to disagree with his commitment to a less expensive and wasteful Government.

At this point I insert in the RECORD "Fat City," an editorial from the Peoria Journal Star, Tuesday, June 3, 1980.

FAT CITY

A few months ago we published a report about one small way in which federal bureaucrats insulate themselves against the ravages of inflation that the rest of us struggle with.

It was based on a story by Donald Lambro of United Press International and dealt with subsidized meals cooked and served by government employees for top military and civilian brass in the Pentagon who earn anywhere from $45,000 to $70,000 a year. Broiled-to-order steak, $2.65; filet of sole, $1.75; breakfast of eggs, waffles, and coffee, $1. Stuff like that.

Lambro since 1977 has been permanently assigned by UPI to uncover waste and mismanagement in the federal government. The Washington Post has described him as "a one-man search-and-destroy mission against government waste." He is sort of the Senator Proxmire of journalism.

Now Lambro has produced his second book about this inexhaustible subject. Called Fat City, it is a sequel to his 1975 study called The Federal Rathole.

In Fat City, Lambro devotes 18 short chapters to describing horror stories about waste and then takes up the challenge of liberals and bureaucrats who ask, "What programs would you cut out?" He lists 100 of them and tells why they ought to be axed.

Program 13 in his list is the Pentagon's elite dining rooms, which, with a few others like them, cost taxpayers about $2 million a year. Why not, asks Lambro, let the top brass set an example in cost-cutting for the Defense Department by simply abolishing their exclusive dining rooms and eating in the mess hall with everybody else?

Program 43 is chauffeured limousines, which cost us $4.8 million a year so that 175 federal officials don't have to drive their own cars or take public transportation to and from work and to and from cocktail parties.

The chauffeurs, Lambro found out, love going to parties, even though they have to sit out in the parking lot watching the limosines. They are on overtime, you see, and a number of them make more than $30,000 a year because of this. Former HEW Secretary Joseph Califano's chauffeur made $38,000, and Defense Secretary Harold Brown's made $37,000.

Program 45 is government lobbyists, who cost the taxpayers $24 million a year. These people carry euphemistic titles, usually "congressional liaison." There are more than 1,000 of them, representing 29 different agencies, and what they do is lobby Congress in support of their department budgets.

In other words, we pay these people to try to talk Congress into spending more money.

Program 24 is beekeeping indemnity payments. This program, costing $2.9 million a year, pays beekeepers whose bees might get killed by federally-approved pesticides. An official of the program said: "You know, since we began making these payments (in 1970) we have not heard of a single bee dying from natural causes."

Then there is government film making, $500 million a year to make movies and other audio-visual programs on every conceivable subject from dental care to sea sponges; federal advisory boards, committees, commissions and councils, $74 million; the Law Enforcement Assistance Administration which, among other things, spent $650,000 to study why people move out of neighborhoods where the crime rate is high, $486 million; the National Highway Traffic Safety Administration, which has accomplished nothing that can even be compared with the 55 mph speed limit in enhancing traffic safety, $198 million.

Try reading Fat City and see if you can control your blood pressure for 405 pages of this kind of thing. It's not easy.●

FORTIETH ANNIVERSARY OF LITHUANIA ENSLAVEMENT

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. RUDD. Mr. Speaker, the past few months have seen the armies of the Soviet Union invade Afghanistan, exterminating thousands of innocent citizens, using chemical warfare in flat denial of all international conventions, enveloping another nation in the cloak of tyranny.

The past 4 years have seen numerous Soviet-inspired revolutions and guerrilla activities deny the right of self-determination to men and nations across the world.

June 15 is a significant day to scrutinize the global strategy of the Soviets because on that day we will recall that 4 years ago, another peace-loving nation was forcibly incorporated into the Soviet Union, with 300,000 of its citizens sent to Siberian labor camps.

Common parlance seems to term all those living under Soviet rule as Russians, but nothing is further from the truth.

The Soviet Union is a godless empire which includes numerous unwilling nations.

One such unwilling captive nation is Lithuania.

In 1919, Lenin recognized the national sovereignty of Lithuania, as well as the neighboring States of Latvia and Estonia.

But on August 23, 1939, the U.S.S.R. and Nazi Germany signed the infamous nonaggression pact where Hitler and Stalin agreed that the U.S.S.R. would have control over Finland, Estonia and Latvia, with Lithuania ceded to the Nazi Third Reich.

In September 1939, the bulk of Lithuania was given to the Soviets, and in 1941 the Molotov-Ribbentrop Pact allowed the Soviet Union to purchase the remainder of Lithuania from the Nazis—two thieves buying and selling land and lives over which they had no legal or moral claim.

The irony is heightened by the fact that 9 months after signing the Molotov-Ribbentrop Pact, Stalin signed the so-called Atlantic Charter with the United States and Great Britain, which allegedly respects "the right of all nations to choose for themselves the form of government under which they want to live * * *" and will "strive to reestablish the soverign rights and self-rule of those nations which were deprived of these by means of force."

One imagines the Lithuanians have well-formed opinions on the validity of any treaty signed by the Soviet Union.

The Soviet atrocities in Afghanistan are nothing new. After all, it was not so long ago that the Soviet tanks crashed through the streets of Hungary gunning down innocent citizens.

It is not so long ago that Berlin was cut in two by minefields and barbed wire.

It is important that we remember how the Soviets deal with the lands and lives they desire.

It is important that we remember if only to shed light on the long-term ambitions of the Soviet empire.

And it is important that we remember, along with Afghanistan, the many small captive nations like Lithuania now living under tyranny, and that we work for their eventual freedom.●

TRIBUTE TO DR. ROSE JANNINI

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. DRINAN. Mr. Speaker, I welcome this opportunity to bring to my colleagues' attention a wonderful tribute which was paid to Dr. Rose Jannini in the Boston Herald on May 24, 1980.

Dr. Jannini is still practicing medicine at the age of 79. She has worked tirelessly and diligently for over 50 years and has served her patients well. Yet, she has no plans to retire. Although she can look back on a life of extraordinary achievement, her sights are firmly fixed on the present and on the future. Dr. Jannini is an inspiration to us all.

Mr. Speaker, I am pleased to share this article about a truly unique and gifted individual.

The article follows:

THE LADY IS A DOCTOR—AT 79

(By Earl Marchand)

More than a half century ago when "a woman's place was in the home," Rose F. Jannini of Winthrop was driving around Boston and vicinity in her motor car making house calls. She's a doctor.

Now she's four months from her 80th birthday, still practicing medicine and loving every minute of it. Talk about retirement and you'll hear her ready laugh.

This week she was one of 50 Massachusetts physicians honored by the Massachusetts Medical Society for their 50 years of society membership.

"No, I have no thoughts of retiring," she said, her voice reflecting her energy. "I like staying active. I like keeping up with the tremendous advances in medicine by going to seminars and refresher courses. If you got your eyes and ears open, you can always learn."

That's part of her long and successful career as a physician. She explained another part:

"I always liked people. I was always sympathetic."

What better way to be sympathetic than to help the sick get well? She came to this conclusion while she was still a schoolgirl in Winthrop. Her classmates knew her ambition was to be a doctor.

"When I was graduated from Winthrop High School my classmates gave me a little medical bag with 'M.D.' on it," she says, the pleasure of the memory in her voice.

And she followed through. She attended Middlesex College (now the site of Brandeis University) and did her internship at a hospital in Middletown, Conn., for a year, then at Wesson Memorial Hospital, Springfield, and the New York Lying-In-Hospital.

In 1927 she opened her office at 419 Boylston St., Boston, in the Warren Chambers Building.

The patients came to her on foot, by horse and buggy, by trolley and a few by car.

"In those days there was room to park on Boylston Street," she quipped.

Many of her patients were poor, most were women and children, and some spoke no English.

"Office visits were two dollars," Dr. Jannini said. "House visits were three dollars. During the Depression of the '30s, a lot of people didn't have the money, but that didn't stand in my way. Sometimes there was no fee, but I was glad to do it. Things were hard then."

Even the reticence of men in going to women doctors in those years was understood with grace by Dr. Jannini.

"At that time, I think the men only wanted to go to men doctors," she said. "I didn't have too many men patients at that time. It's not like today. Today men don't care if you're a woman as long as you give them good medical treatment."

Rose Jannini is the daughter of the late Angelo Jannini, who owned a funeral home in the North End, where Rose was born and where she lived for one year before moving to Winthrop. (She has lived in the same Winthrop house on Pleasant Street for the past 79 years.)

Her father and late mother, Florinda, taught her how to speak Italian.

"This came in handy," she said, "because some of my patients in the early years could only speak Italian."

When Dr. Jannini wasn't in her office, it seemed, she was out on a house call.

"I covered the West End, North End, Revere, Roxbury, Chelsea * * * many places," she said, "We'd go anytime, day or night. You could never say no. Your patients are your friends.

"Some of the calls were maternities," she said, describing how she would deliver the babies—complete with the hot water boiling on the kitchen stove.

The cost of a delivery? "It was $35 or $50 sometimes * * * or $25 if the poor things didn't have it. And then you took care of the children after they were born. Today the pediatrician runs in. But that's good. IQ's an advancement."

In the old days, she said, a doctor who made house calls had to "stay by your telephone. The patients only knew you."

Now, looking back, Dr. Rose Jannini "very highly" recommends a career in medicine to any young lady who feels the pull toward this profession.

"Helping people * * * bringing people into the world * * * seeing those people get married and have children of their own * * * it is very rewarding to know you have done some good," she said. "It is good to know you have done the best you could."•

IMMIGRATION LAWS BEING IGNORED BY THE ADMINISTRATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

• Mr. HUBBARD. Mr. Speaker, I would like to share with the Members of Congress the following letter from one of my constituents, Mrs. Martha Goode of Paducah, Ky. Mrs. Goode has expressed her concern about the flagrant abuse of our immigration laws. Additionally, her letter explains thoroughly the same sentiments that I have been receiving from the majority of my constituents in the First District of Kentucky. The text of Mrs. Martha Goode's letter is as follows:

I live in Paducah; I have been a voting Democrat all my life as were my parents before me. I called your Paducah office to register my feelings. The lady who talked to me was most kind, and in a short time your Washington office called me. They suggested that I write my viewpoint in regard to the Cuban situation.

I have always considered myself to be a very nationalistic person, flag, mother, apple pie and the whole bit. My father fought in World War I and my husband in World War II, and my son in Viet Nam. Today I feel like so many John Q. Public, that I have no say whatsoever in what happens in our country.

We are faced with the highest unemployment since the depression days. We have native born Americans feeding their families with food stamps. Cuba must be a very progressive country as they have no unemployment, and very few prisoners in their jails. They have sent all these along with most of their other undesirables, to us. Every time the news comes on, there is another group landing in Florida.

We have, or so I have always understood, an immigration law. How can this be ignored? Our President allowed them to come. Then he said No, but, weak spined that he is, allows them to continue. We all know that we surely have adequate Navy and Coast Guard to keep those boats from landing. It makes us appear as weak, fumbling, and as a laughing stock.

After they arrive, they burn our barracks, flaunt a Cuban Flag, and stone our National Guard. They should never have been allowed here in the first place, but the trouble makers should be immediately deported. Putting them in the stockade for us to feed and take care of is no answer. I am so very angry and confused. I feel I must register my complaint somewhere. I only wish every person who feels as I do would take the time to write.

Our elections are this Fall. I have a feeling there is a strong possibility of a Democratic Congress having to work with a Republican President.

I thank you for allowing me to get on my stump and preach. I do love my country and I am fearful of what is happening to us.

Thank you.•

WILL WE NEED MORE GOVERNMENT TO CONTROL INFLATION?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

• Mr. BROWN of California. Mr. Speaker, as we continue our struggle to develop the proper approach to control inflation, it is important that, whatever our preconceptions, we keep an open mind about alternative solutions. My own bias has been against greater Government controls on the economy, especially as we attempt to adjust to rapidly changing prices of scarce or diminishing resources, such as oil. Nevertheless, I fully recognize the inequities of the present economic system and the failures of the various economic policies of the past decade.

One thoughtful commentator, who is known as an economist and a historian, is Robert L. Heilbroner. His review of the changes in our economic system over the past 100 years and his analysis of the future present a compelling argument for greater Government controls to properly cope with public expectations and the innate inflationary pressures of our present economic system.

I believe the article by Dr. Heilbroner should be reviewed by everyone who is concerned about inflation.

The article follows:

[From the New York Review, May 1, 1980]

THE INFLATION IN YOUR FUTURE

(By Robert L. Heilbroner)

A great deal of our current confusion about inflation, I believe, arises because we do not think about it correctly. We spend most of our time trying to decide whether the main cause of inflation lies in rising oil prices, or burgeoning money supplies, or mushrooming government spending, or declining productivity, and very little time reflecting on the central fact that we live in an inflationary economic environment.

Nowhere is the point clearer than with the case of OPEC, now a prime villain in the conventional analysis of inflation. Oil prices have risen more during the past year, President Carter tells us, than over their entire previous history. The price of crude oil, today roughly $35 a barrel, has been projected to reach outlandish levels—perhaps $90 a barrel—in another few years. There is universal agreement that these oil hikes, past and projected, have been and will be a major cause of inflation.

But suppose we cast our minds back a hundred years to a time when the preponderant source of mineral energy in the country was coal, and imagine that the coal mines formed a cartel as powerful as OPEC and rapidly doubled or quadrupled energy prices in the country. Would that have been inflationary? Would it have touched off a widespread, self-feeding chain reaction of rising prices throughout the economy—first in coal itself, then in steel, then in products made from steel?

I think no one would come to that conclusion. Instead, a coal OPEC would have resulted in the wholesale shutting down of coal mines unable to sell their product; in the drastic curtailment of steel output as plant managers cut back their unprofitable operations; in a decline of purchasing from the businesses and households affected by this turn of events; and thereafter in a fall in "carloadings," the index of general economic activity we used before GNP was invented.

The contrast between the anticipated effects of an OPEC oil price rise and those of an imagined nineteenth-century OPEC coal price rise sheds important light on the problem of inflation. For it makes clear that the same economic disturbance can produce different results in different settings. In late nineteenth-century capitalism, sharp increase in energy prices—or in wages or interest rates—would have touched off an economic contraction. In late twentieth-century capitalism they trigger inflation. Thus, as I see it, thinking correctly about inflation means first paying heed to the changes that the economic system has undergone during the last century—changes that make it respond to shocks and internal disturbances in a manner quite different from that of the past.

THE INFLATIONARY STRUCTURE

What are those changes? There is, to begin with, the radically different relation of government to the rest of the economy. We do not have statistics that enable us to compute exactly the volume of government spending of all kinds—state, local, and federal—in 1880, but it is doubtful that it amounted to as much as a tenth of gross national product. Today it is about a third of GNP if we include spending for "transfer" payments, such as Social Security and welfare. In most European nations the proportion is markedly higher, often over 50 percent of GNP.

It is not merely the economic impetus that is important about this vast change in spending. Equally significant is the enlargement in government responsibilities to which the spending bears partial witness. At the risk of repeating the obvious, I will point out that a century ago there was no "fiscal policy," no local, state, or federal payments for old-age penury or unemployment, no "disaster relief," no parity payments to farmers, no Small Business Administration, no federal financing of mortgages or insurance of bank deposits. It was each firm and each household for itself. Dog ate dog.

Thus the first change has been that floors have been placed under a multitude of economic activities, shoring up purchasing power, protecting most households against severe reversal, ensuring a degree of economic safety totally unknown in the era of pregovernmental capitalism.

A second equally striking change is the enlargement of the scale of organization in the private sector. Once again we lack statistics to make exact comparisons, but there is no difficulty in conjuring up the contrast between the two periods. In 1880 the giant corporation was just beginning to emerge. United States Steel had not been formed, the Standard Oil Trust had only just been conceived. The brigade of Generals—General Motors and Electric and Foods—was as yet unformed. Only the railroads were truly national corporations, forerunners of the industrial giants that are the central elements of today's business system.

Paralleling the emergence of the giant corporation is that of the giant trade union. In 1886 the largest labor organization was the Knights of Labor with 700,000 members scattered among a dozen industries. Today there are six unions with more members than the Knights of Labor. Within the central core of large manufacturing enterprises, about half the work force is organized. In strategic parts of the society, such as municipal services, the building trades, education, and transportation, unions occupy positions of great economic leverage.

This change in the texture of the private economy is every bit as important in altering the manner in which the economy works as the more frequently remarked change in its public/private mix. In the private economy dog no longer eats dog. It is an economy of bargaining blocs, of inertial bureaucratic masses, capable of exerting great power to protect and enhance their incomes or prices.

The third factor to which I would draw attention is the consequence of the preceding two. It is a profound change in the expectations with which we face the future and by which we steer our economic course. Filled with anxiety, as many of us are these days, we may forget how much more secure is the outlook of 1980 than that of 1880. Most of us expect, for example, that our pay will be increased each year, whether we work harder or more successfully or not. We expect that the nation's economic ills will be the object of vigorous government action, not left to work themselves out. We expect that our personal futures will be somehow provided for, so that we can indulge in large consumption spending in good conscience.

These changes in expectations are often the subject of sermons and scoldings. What I find important about them is that they act in concert with the underlying changes in structure, decisively altering the manner in which the economy functions. The placing of government floors, the unification of the corporate economy, the increased leverage of unionism, and the prevailing tenor of expectations—all have worked to transform the depressionary propensities of late nineteenth-century capitalism into the inflationary propensities of late twentieth-century capitalism. As a result, we smile at the old adage that "what goes up must come down": today we believe that what goes up will continue to go up, and we gear our actions accordingly.

From this point of view, the search for the "cause" of inflation takes on a different aspect. What becomes crucial is to understand that today's economic structure propagates, magnifies, and sustains increases in costs or demand, instead of blocking, damping, or eliminating them. This is not to wave aside the inflationary stimulus of credit creation, oil hikes, environmental costs, or—to mention the unmentionable—the monstrously cost-pushing, waste-creating defense budget. But we will not get very far if we discuss these causes without constantly referring to the inflation-prone environment in which they operate.

RESTRUCTURING THINGS

Looking at inflation from this point of view makes it easier to see what must be done to stop it. The system must be altered in ways that will remove, or at least greatly reduce, its inflationary propensities.

In saying this, I take for granted that we cannot undo the structural alterations that have converted the capitalism of 1880 into that of 1980. I assume that, despite the rhetoric of conservative politicians or the efforts of Proposition 13's backers, we cannot disengage government from our midst. Government will continue to provide pensions and unemployment insurance and welfare and health security, probably on a growing scale. By the end of the century, very likely government in the United States will pay out half of GNP, as it does in Europe. Similarly, I assume that we cannot break up the Fortune 500, returning the business world to the market structures of the past and demoting the brigade of corporate generals to field and company rank. I assume that we cannot break up our labor unions. And I do not think we will change our basic view of the economic world and the "entitlement" we expect from it.

Because I do not think the structural changes of the last century are reversible, I do not think that the most commonly proposed cure for inflation will work, namely "wringing" inflation out of the system by severely curtailing the ability of the banks to make further loans or by curtailing government spending. The main purposes of severe fiscal and monetary policy are to create sufficient unemployment to temper the appetite of the big unions for higher wages, and to cause enough general hardship to cause entrepreneurs to trim their prices and housewives to trim their spending.

Pursued hard and long enough, such a policy can no doubt achieve its intended results. The question is whether it can do so before the economy is brought to its knees. For example, if unemployment here rose to the levels of unemployment in Switzerland or West Germany under their anti-inflation regimens, 30 percent of the labor force would be without work. The difference is that the Swiss and Germans could ship their unemployed back to their homes in Greece and Turkey and Italy, whereas ours would remain in our midst. My suspicion is that no Congress could long withstand the ensuing mail, the marches, the violence.

How else could we reorganize the economy to remove its inflationary tendencies? The obvious way is to match the floors that have limited its depressionary tendencies with ceilings that would do the same for its upward-moving tendencies. The question is what sort of ceilings would do the trick.

Selective wage and price controls would probably not provide the needed ceilings, although they might be useful as an initial measure to stop the momentum of the inflationary process. The reason is that such wage and price controls cannot be used to spread the inflation-fighting task equitably across the nation. It is impossible to monitor the prices of millions of enterprises or to supervise the wages of 100 million working people. As a result, wage and price controls mean that the wages of a dozen key unions and the prices of perhaps five hundred key companies will be subject to controls, while the wages and prices of the rest of the system will be left free.

This is tantamount to designating the union members and corporate managers in selected companies as Inflation Fighters, to use the MIT economist Lester Thurow's phrase. Let us suppose that we issued them badges in recognition of their patriotic task. If the union members and company managers saw everyone on the street wearing similar badges, there would be a powerful incentive to abide by the limitations of wage and price directives. But if only one worker in ten or one businessman in a thousand were decorated with an Inflation Fighter badge, how long could we expect such an arrangement to last?

The very difficulties of such a system help us to see the nature of the restructuring that would place an effective ceiling on the economy. It is for all of us to become Inflation Fighters, not just the members of a few unions. One way to bring this about would be to impose a very steep tax—say 95 percent—on all income earned in 1980 that was in excess of income earned in 1979. Perhaps for equity's sake we might exempt low-income earners from the limitation. But for the rest of us, membership in the inflation-fighting brigade would become compulsory. That would bring the upward spiral of income to an immediate slowdown.[1]

Objections spring instantly to mind. What about the effects of inflation-producing disturbances such as further increases in the price of oil? The answer is not difficult. We would have to decide, given our limited incomes, how much gas and oil to buy at higher prices and what other things to stop buying. Whatever our market behavior, because our household spending power was fixed, the price rise could not set into motion a system-wide rise in prices: our standard of living would fall, but inflation would not rise. Simultaneously we could drastically reduce the impact of an oil price hike by gasoline rationing, by very high taxes on wasteful energy use, by banning energy-squandering products such as useless plastic packaging, and the like.

A far more onerous problem is how to handle increases in income that are not just the result of inflation-induced cost-of-living adjustments. What is to happen to the person who gets a promotion or who switches to a better-paying job, or whose income reflects a successful business venture or an enlarged professional practice? Here is where bureaucracy enters, as it inevitably must when the economy is restricted. There will probably have to be Income Boards to approve job reclassifications or to ask for proof of job changes, just as there were draft boards to approve exemptions from military service. There may have to be exceptions for selfearned incomes; perhaps very large and sudden jumps in such incomes would escape taxation only if sterilized in compulsory savings certificates. Certainly the problem is difficult and cumbersome, but ways could be found, just as ways were found to adjudicate the variety of circumstances under which individuals were eligible for unemployment insurance or for Social Security or government health payments. All these bureaucratic ways will saddle the economy with new costs, will slow down its rate of growth, and will surely become the target of gibes and irritations as well as attempts to evade the rules. But the structural propensity toward inflation of present-day capitalism will be gone or largely curbed, just as the floors that were placed under the economy in the 1930s and 1940s largely curbed the depressionary tendencies of earlier capitalism.

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[1] I should add that income ceilings would need to be backed by an appropriate monetary and fiscal policy, designed to keep both public and private spending within the bounds of realism. This would mean less public spending for wasteful projects and less credit card living-it-up. In addition, a serious anti-inflation policy would try to reverse the falling trend of U.S. productivity, probably by encouraging research, investment, and competition.

LIVING WITH INFLATION

It must be evident that there is no possibility of enacting such a program within the near future. I conclude, therefore, that there is no chance of removing the inflationary bias of the system. Chronic and endemic inflation will be our constant companion until we gain the political will, or realize the social fear, needed to institute the kind of structural change I have outlined. It has been said—and the quip illustrates both the difficulty and the gravity of the situation—that the way to stop inflation is to declare war. Short of that it may take a decade to put the new ceilings in place, just as it took a decade to put in place the old floors.

In the meantime we will have to live with inflation. What does that mean? Here it is necessary to distinguish between the actual costs of inflation and its threats and dangers. The costs are much less than we commonly believe. Despite our sense of being impoverished by inflation, the statistics reveal beyond doubt that real incomes—incomes after inflation and taxes are both allowed for—have been rising at virtually the same rate during the inflationary years 1972-1978 as in the previous boom years 1966-1972. Only during 1979 did the curve of real per capita income turn down and that seems to have been the effect of determined efforts to stop economic growth in the name of curbing inflation. Moreover, the official statistics do not show that the relative lot of the poor, the aged, blacks, or other disprivileged groups has worsened, popular beliefs to the contrary notwithstanding. The distribution of the population on the steps of the national escalator has remained about the same, although the escalator itself has been moving faster.[2]

I know that we feel damaged. But that is largely the consequence of our unequal exposure to the gains and losses of the inflationary process. Inflation brings pay rises as well as price rises, but we are aware of our pay rises only once a year and of price rises 365 times a year. Moreover, if we take advantage of our pay rise to make a big purchase, such as a color TV set, the enjoyment of it every evening is not likely to compensate us for our steadily eroding standard of living when we shop in retail stores every day.

There have of course been losers in recent years. The take-home pay of factory workers has been lagging behind inflation, but not because hourly wage rates are lagging so much as because part-time work (largely female) has been growing in the factories. So, too, the real pay of college professors has been falling behind in recent years, but this is the consequence of a bad supply-and-demand situation for college teachers. Unquestionably some families have directly suffered from inflation, especially in the value of their savings accounts or life insurance (but not their real estate!). Yet, as we look in horror at the prices in the shopping centers and department stores we can also see a great many people buying those inflated wares. Has our actual national standard of well-being and comfort been substantially affected by inflation? Cries and groans and headshaking to the contrary, I do not think so.[3]

What is really serious about inflation are two threats that it holds over our heads. The first threat has to do with the strains that inflation imposes on our creditworthiness. Everyone has become aware of the extraordinary surge of consumer credit buying, a phenomenon that President Carter will try to arrest by tightening the rules under which the credit card economy works. Perhaps more serious, although less widely noticed, is the tendency of an inflation-ridden economy to pile up short-term rather than long-term debt. Banks and other financial institutions will not lend money for long periods of time, knowing that they will be repaid in shrunken dollars. Thus debt gets shorter and shorter, and finally the banking system ends up (as it is today) with a great deal of short debt and virtually no new long debt.

The difficulty comes if a borrower such as Chrysler Corporation or New York City gets in trouble. If a big borrower is unable to meet its obligations, there is no time for working out the terms of a new deal or for allowing credit markets to improve. As a result, banks and credit institutions become extremely vulnerable to untoward events. The financial community has been holding its breath and crossing its fingers for a long time now.

A credit collapse could cause widespread business wreckage. But inflation poses a second, far graver threat, even if the banks stand firm. This is the threat that our present rate of inflation will quicken, first into the "Latin American" range of 50 to 150 percent a year, finally into the incalculable rates of Weimar Germany or the American Confederacy.

Is such a progression likely? Considerations of both logic and experience make us fear it might be. The logic is that inflation feeds upon itself because everyone tries to get ahead of everyone else. If we expect prices to rise 10 percent, we try to secure increases in pay for ourselves of more than that, say 15 percent. If everyone succeeds at this, inflation itself rises to 15 percent, and our income objectives accordingly rise to 20 percent. Thus what begins as an orderly parade becomes a wild rush, as everyone tries to move up to the front rank.

Recent history proves some unwelcome confirmation of this logic. In the decade of the 1950s our yearly inflation rate averaged 1.4 percent. In the decade of the 1960s it rose to 2.8 percent. During the 1970s it was just under 7 percent until 1979, when it broke through the double digit barrier. Today it is pressing toward 20 percent.

Do these disquieting considerations mean that inflation must develop a fatal runaway momentum? Our present anti-inflation policy is based on the hope that this is not the case. Economists in the Carter administration maintain that their suggested remedies—mainly less government spending, some credit controls, and a small tax on oil—will reduce the inflationary trend. No doubt they rest their case on the fact that we had a touch of double digit inflation in 1974, but cut it substantially by 1976; that England had 25 percent inflation in 1975 but lowered it by more than half within two years; that Japan had a ferocious inflation in the early 1970, but has managed to curb it remarkably well in recent years.

We do not yet know whether the Carter program will succeed in halving the inflation rate to "only" ten percent. But there seems absolutely no chance that it will succeed in removing the tension gathered within the system. The inflationary spring remains coiled and ready to exert its pressure the moment that anti-inflationary measures are relaxed. Tight money, burgeoning unemployment, and declining government spending will all exert some effect as long as they are applied. But once removed, the latent inflationary bias of the system seems certain to assert itself again, whether touched off by another buffet from OPEC, another round of wage increases, another wave of speculative fever. And the danger is that each time we find ourselves closer to Latin America.

Could we live with inflation rates of 50 to 100 percent a year? For a while, perhaps. There is a tremendous desire to cling to one's faith in money, for the alternative is a terrifying descent into a Hobbesian chaos. People learn to adapt, even to the most frightening circumstances. Nonetheless, such an inflation seems to me to be intolerable if endured very long. It will bring morale-destroying rumors, wracking social fears, and, worst of all, a setting for wild political movements. Under such conditions, I believe we will move in the direction of a restructured capitalism along the general lines I have suggested. An economy with ceilings as well as floors, encumbered though it may be with another layer of bureaucracy, will then appear to be not an unthinkable, but an inescapable, indeed, a welcome haven.●

THREE MILE ISLAND RADIATION—NO ILL EFFECTS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. WYDLER. Mr. Speaker, an article appeared in the New York Times on May 20, 1980, entitled "Infant Deaths Lower at Three Mile Island." The fascinating thing about this article is that it cites health department figures for the Commonwealth of Pennsylvania which unequivocably point to lower infant neonatal and fetal death rates in the area within 10 miles of Three Mile Island compared to statewide averages.

I am sure my colleagues remember that we were bombarded with scare stories in the aftermath of the nuclear accident which predicted everything from many deaths in the surrounding population from the accident to cases of cattle dying and being unable to breed. I, for one, do not believe there is anything more meaningful in these most recent statistics other than the fact that there is no measurable radiation effect of the normal powerplant operations or the Three Mile Island accident on the surrounding area. All the responsible experts agree that the one additional death attributed to the accident will be swamped by the roughly 350,000 cancer deaths that will occur in that area over the next several decades.

I strongly recommend the New York Times article to my colleagues for an objective update on the TMI accident:

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[2] Official statistics are always behind the times and suffer from various biases and distortions. It is possible that low-income groups have been disproportionately affected during recent years because the costs of food, health care, housing, and energy (gas and heating) have risen faster than those of other consumer items. These basic necessities bulk larger in low-income than in upper-income budgets. Even if these contentions prove to be true, however, nothing like a large-scale redistribution of income has taken place as a consequence of inflation.

[3] True, our savings rate has declined, which may affect our future level of well-being. But current consumption is raised, not lowered, by this inflation-induced change.

INFANT DEATHS LOWER AT THREE MILE ISLAND

HARRISBURG, May 19 (UPI).—The state Health Department today released infant mortality figures for 1979 showing that death rates were lower in the area around the Three Mile Island nuclear plant than the rest of Pennsylvania.

Health Secretary Dr. H. Arnold Muller said the figures included data for the last quarter of 1979, which was not included in a similar report issued earlier this year.

Mr. Muller said the full report on 1979 infant, neonatal and fetal death rates compares statewide figures to those obtained in the area within 10 miles of Three Mile Island, excluding the city of Harrisburg. The city is not counted, because its normally higher death rate would skew the figures.

Three Mile Island was the scene of the nation's worst commercial accident on March 28, 1979, when Government officials said relatively small amounts of radiation were released into the environment.

"The October, November and December statistics reaffirm the findings for the first nine months of 1979," Mr. Muller said.

"After careful study of all available information," said Mr. Muller, "we continue to find no evidence to date that radiation from the nuclear power plant resulted in an increased number of fetal, neonatal or infant deaths."

The Health Department figures show that:

Infant death rates, or deaths under the age of one year, were 11.5 per 1,000 live births within 10 miles of Three Mile Island compared to 13.3 deaths per 1,000 live births in the rest of Pennsylvania.

Neonatal death rates, or deaths within the first 28 days of life, were 8.9 per 1,000 live births near the Dauphin County nuclear plant compared to 9.8 deaths statewide.

Fetal deaths, or stillborn, miscarriages or voluntary abortions after 16 weeks of gestation, were 11.1 per 1,000 live births near the nuclear plant, while the statewide rate was 23.0 deaths.

Excluding voluntary abortions, the statewide fetal death rate was 13.4 per 1,000 live births compared to 11.1 deaths near Three Mile Island.

Mr. Muller said the department would continue to monitor infant death rates throughout 1980.●

DORCHESTER AS IT WAS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. DONNELLY. Mr. Speaker, I am very proud to call Dorchester, Mass., my hometown. On June 1, the annual Dorchester Day celebration was kicked off with a rousing parade and festivities. Gustavo Garzon, a constituent of mine from Dorchester, has written a captivating essay on this happy occasion. It is my wish to share Gustavo's thoughts on this day with you:

DORCHESTER AS IT WAS

(By Gustavo Garzon)

Towns are like people; what they are is the result of what they were. This should be no mystery, for as people create towns, towns reflect the people who build them. From Upham's Corner to Ashmont Hill, through all Dorchester's corners, squares and hills, hums the tremendous activity of late 19th century Boston's largest and most populous area. However, the basic themes which make Dorchester a vibrant, living place were established long ago.

Photographs and drawings of an earlier Dorchester strain the modern imagination. Is this pastoral, agricultural, fishing village really our Dorchester? Of course it is, and its very origins predicted our present. Two ideas early on set Dorchester's course. It was to be a refuge for those hoping for a better life; its future would be tied to Boston's.

Settled by English dissidents in May of 1630, Dorchester, we proudly point out, is older than Boston, its later-founded neighbor. Early in the seventeenth century, the seeds of today were planted. The harvest continues. Our town was, and remains, a haven for those who seek a better life, a spacious, seacoast community with plenty of room for differences, Boston's older partner.

English colonists were the original occupants of Dorchester. As time progressed, the mixing of different nations, on a large scale, began; today, this remains true. Through two centuries, the English toiled the land, tilled the soil and fished the waters, organizing and establishing America's Dorchester. Important participation in the Revolution was secondary to the town's major theme: Build a better life.

The nineteenth century witnessed Dorchester's extending that idea to the rest of the world. International disasters became Dorchester triumphs.

In the 1840's, the Irish suffered the potato famine, or as they, with poetic melancholy, termed it, the great hunger. Huge numbers of the Irish populace arrived here then, beginning a flow that lasted steadily into the present. Later in the eighteen hundreds, an eastern European tidal wave, a wave of people, began. Poles, Slavs, Russians, Greeks, Rumanians, Bulgarians and Albanians fled their native lands to escape political, religious and economic oppression. As the twentieth century began, Dorchester became home for thousands of southern Italians escaping from desperate poverty and social unrest.

Black in-migrants from the American south, in the classic immigrant tradition, came to Dorchester after World War II. The dream was the same, a better life. The waves of people continue today. Dorchester's newest immigrants, Hispanics, West Indians, Orientals and disillusioned American suburbanites, dream the same dreams and help mold Dorchester into Boston's largest and most diverse area.

For Dorchester is now Boston. Annexation in 1870 did not change Dorchester; Dorchester's own changing nature had made annexation desirable. There were amazing increases in population. The great estates were fast disappearing; streets of triple deckers were taking their place. Though treasured gems of Colonial, Federal and Victorian architecture remained, industry was growing. Streetcars gave Boston actual proximity. Annexation was only political recognition of a fact of Boston life: There is no Boston without Dorchester.

Spiritual seeds, the dreams and ideas of the first settlers, planted long ago, continue to bloom.

I am an immigrant. I dream dreams. Dorchester is now my home, my heritage, and I love it.●

SHORT-TIME COMPENSATION FACT SHEET

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mrs. SCHROEDER. Mr. Speaker, I want to share with my colleagues a fact sheet on H.R. 7529, the Short-Time Compensation Act of 1980, which I introduced Monday, June 9.

Members will be interested to know that the Subcommittee on Public Assistance of the Committee on Ways and Means is planning hearings on H.R. 7529 before the July 4 recess, time permitting.

The fact sheet follows:

FACT SHEET ON SHORT-TIME COMPENSATION AS AN ALTERNATIVE TO LAYOFFS

WHY SHORT-TIME COMPENSATION?

The rising unemployment rate and current pessimism about the economy raise the specter of future widespread layoffs that accompany a recession.

A look at the recent past shows the devastating effect that recessions have on American workers. During the last recession the number of unemployed workers rose from 4 million in October, 1973, to 8.3 million in May, 1975, an increase of 4.3 million. (Business Conditions Digest, Feb., 1980, p. 99).

Today, when lack of sales require cutbacks in production, the typical employer, except in situations where collective bargaining agreements require otherwise, will cut the number of workers. Those workers who are laid off apply for and receive unemployment insurance benefits which usually provide up to 26 weeks of benefits. The other workers continue to work their usual hours and though there are fewer opportunities to work overtime, normally suffer relatively little loss of earnings.

Those workers who are laid off not only have a total reduction in income, but also lose valuable fringe benefits like health insurance coverage. If the layoff continues for an extended period, those unemployed may exhaust the benefits available under the U.I. system and be forced to apply for welfare.

Currently, the brunt of the cost of a recession is suffered by the relative few who are put on indefinite layoff (a euphemism for losing your job). Loss of income, loss of job-related benefits, loss of newly acquired skills and work habits, failure to meet commitments on mortgage and car payments, physical stress, and the psychological impact of not having a job all accompany workers who are laid off totally.

But the employees are not the only ones who suffer the costs of a layoff. New production schedules and exercise of bumping rights make layoffs costly to the company in terms of both money and productivity and to workers who, though still at work, have to move down into lower paying jobs. Thus, while putting the most severe costs on the unemployed, a traditional layoff cuts into productivity, profits, worker status, and take home pay even for those still in the job.

IS THERE AN ALTERNATIVE?

Yes. Some employers who need to cut labor costs or inventory now use alternatives to layoffs as a matter of course. Others could and would with proper encouragement be able to spread the available work among all employees in such a way that none need be laid off. Sharing the work available can take many forms depending on the nature and needs of the business and the productive processes. Other options include reducing hours of work, shutting down the entire plant for a week or more, and alternating or rotating layoffs, (i.e., part of the workforce is laid off for a definite period after which they return to work and another group is laid off for a similar period.) Other viable schedules can—and have been—developed depending on the ingenuity of the planners and the needs of the business.

Reduction of the work week—usually from five days to four—is the most popular and for many companies the easiest way to schedule short work time. However, though this is often technically the most feasible, there is a major impediment to its use. The one day per week lost from work—equivalent to the layoff of 20% of the workforce—cannot be compensated under present state unemployment compensation laws.

Unemployment due to reduced work time cannot be compensated, even though unemployment compensation was intended to insure against unemployment which is not within the control of the employee, to assure income maintenance for laid off workers and to encourage employers to even out their employment requirements through production scheduling and other methods—to avoid the need for layoffs.

If the same employer decides to lay off 20% of the workforce, that unemployment would be insured and those laid off (if otherwise eligible) would be compensated through the state unemployment compensation insurance system (U.I.). The present system thus encourages layoffs in which most workers get full pay and some only U.I.

WHAT IS SHORT-TIME COMPENSATION?

Short-time compensation (STC) is a proposed amendment to the current U.I. laws which permits payment of prorated U.I. benefits to employees laid off for a portion of the week, as part of a program to avoid the total layoff of some of the employees. It thus seeks to encourage work sharing as an alternative to layoff where feasible in order to redistribute the burden of unemployment. Under STC, workers will be paid their regular wages for the time they work and prorated U.I. benefits for the time they do not, as the employer requires.

Putting into place a way to compensate worksharing so it can become a viable alternative to layoffs has particular importance for young minorities who need a chance to stay with one employer long enough to accumulate sufficient seniority to withstand a layoff, if there is one. Worksharing and seniority are consistent. Both are important to minorities. Use of the seniority principle not only protects senior workers against layoff, if there is one, it also protects workers from arbitrary and discriminatory acts of management, which tend to fall hardest on minorities.

The problem minorities have had, however, is that they no sooner begin to build seniority than there is another lay off and their work connection is broken. Each time the economy dips, they have to start over, and thus never get enough seniority to benefit. Worksharing can thus help many minorities get into a position where they can begin to realize some of the advantages of seniority.

Currently, most states not only provide for the payment of U.I. benefits to employees who are totally laid off, but also allow partial benefits for those who work only part of the week. However, the formula for partial benefits, in all states but California, is so low that for the purpose of compensating time lost through worksharing it is useless.

Under the current system, the amount of benefits payable for partial unemployment in many states is the weekly benefit amount less the wages earned during the week. Anyone who earns more than they would get on U.I. is ineligible, even if they are unemployed most of the week.

Since workers who earn over the low maximum are not eligible for any U.I. for time they are unemployed that week, employers may evade the spirit of the compensation law: avoid tax liability for unemployment they cause by scheduling work so employees make just over the U.I. limit before they are laid off. The employees cannot collect U.I. and the employer's experience rated tax rate is not affected.

Because of the low level of earnings permitted under current law, no state but California will pay unemployment insurance for a one or two day layoff per week. In some states there are also other legal impediments such as waiting periods that stand in the way. Therefore, it will take a change of state law (in all 49 states besides California) to permit payment of U.I. benefits for one or two days of unemployment.

HOW DOES THE PRESENT U.I. SYSTEM WORK?

The basic Federal-State unemployment insurance (U.I.) system is essentially financed by employer taxes. The individual employer's tax depends on the provisions of Federal and State law, which in part based the tax on the employer's layoff record. Therefore, under the "experience rating" system, extensive layoffs for an employer will lead to a higher tax rate (unless the employer is already at the maximum tax rate).

Over the years, the U.I. system has been expanded to cover more than 90% of the labor force. Each state sets its own benefit level and tax rates to pay for it.

Under regular U.I., laid off workers are entitled to 26 weeks of unemployment insurance, based on the employee's employment and earnings history.

A 1970 amendment made the worker eligible for 13 more weeks of Extended Benefits, financed 50-50 by the Federal and State governments, for a total of 29 weeks, if unemployment nationally or in the state is especially severe.

A special temporary law, now expired, was passed when unemployment peaked at 9.2% in May, 1975, to permit federally funded Supplemental Benefits for an additional 13 weeks, or a maximum benefit period of 52 weeks, during the last recession.

WHAT IS THE SHORT-TIME COMPENSATION ACT INTRODUCED BY REP. PATRICIA SCHROEDER?

The bill encourages States to provide unemployment benefits to partially unemployed workers. It authorizes the Secretary of Labor to develop model legislation and to make grants and provide technical assistance to States to assist in developing, enacting, and implementing short-time compensation programs.

The States must apply for such assistance and their short-time compensation programs must conform to the guidelines in the legislation and regulations promulgated by the Secretary of Labor.

The guidelines for the programs are as follows:

1. Individuals whose workweek has been reduced by at least 10% would be eligible for a pro rata portion of the unemployment benefits to which they would be entitled if totally laid off.

2. Short-time compensation benefits would be financed by employers through the usual manner of charging reserve accounts by experience rating. However, employers with negative reserve accounts may be required by the States to pay a surtax or to make full reimbursement to the Trust Fund at the end of the year for short-time compensation benefits charged against their reserve accounts.

3. Employers must certify to the state agency that the aggregate reduction in work hours pursuant to such plan is in lieu of total layoffs which would result in an equivalent reduction in work hours.

4. In the case of employees represented by a union, the appropriate official of a union (or union hall) consents to the implementation of the short-time compensation plan.

The legislation also authorizes the Secretary of Labor to conduct one or more demonstration projects for purposes of evaluating the effectiveness of short-time compensation programs.

The Secretary shall submit annual interim reports on the State short-time compensation programs and a final report, not later than October 1, 1983, which evaluates the short-time compensation programs of the States and the demonstration project, making such recommendations as the Secretary deems advisable.

WHAT ARE THE ADVANTAGES OF SHORT-TIME COMPENSATION?

Advantages to workers

1. Preserves job attachment for workers who would otherwise have been laid off.

2. Provides greater income for those on short-time compensation than would be provided by regular U.I. for those who are totally laid off. In California, most workers get the equivalent of about 90% of take home pay, figuring tax free status of U.I. benefits and savings on job related costs.

3. Retains fringe benefits for those who would have lost them when laid off full-time.

4. Allows more minority and women workers, usually the last-hired and first-fired, to retain their jobs, thus preserving the results of affirmative action employment that firms have undertaken.

5. Protects older workers who cost more and are often among the first fired in selective layoffs.

6. Allows workers with high seniority the opportunity to choose to trade work for increased leisure, with only a small decrease in take home pay. Thus it can provide a transition or 'taste' of retirement without posing a threat of permanent job loss, while providing the satisfaction of helping younger workers.

7. Increases the family income of two paycheck families more than if one member continued to work full-time and the other was on U.I. This is particularly true if the wife is a new entry into the labor force. Women's traditional jobs are generally low paying and eligibility rules for U.I. require workers to meet a combination of dollar amount and time in covered occupations. For some new entrants, U.I. benefits may be low or non-existent. Two paychecks, even on worksharing, may produce more total income than one full paycheck and U.I.

Advantages to employers

1. Reduces or eliminates the often large costs associated with layoffs, particularly where "bumping" occurs: i.e., scheduling, retraining, start-up costs.

2. Increases planning flexibility and managerial opportunities for allocation of available resources.

3. Reduces rehiring and training costs when economic conditions and production pick up.

4. Improves long-run productivity since not all laid off employees are able to return to former jobs and those who are rehired must be retrained.

5. Helps employers retain skilled work force since there would be less financial incentive for workers to seek new employment.

Advantages to unions

1. Maintains union membership and members' ability and willingness to pay dues.

2. Allows union more opportunity to take into account diverse interests of membership and more equitably meet its obligations to fairly represent all employees in the bargaining unit.

3. Improves long run prospects for union since when there is a layoff not all laid off workers return; new employees will have to be newly organized, while returning workers may have less enthusiasm for the union than if they hadn't been out.

4. Aids in reducing causes of polarization between groups represented by the union.

5. Allows new workers who would otherwise be laid off to continue to accumulate seniority and get into the system. They will therefore be more likely to support the union upon which the system depends.

6. Increases union's collective bargaining role.

Advantages to society

1. Affirmative action and equal employment opportunity advances are maintained at a higher level than otherwise would be the case.

2. Since workers' jobs and incomes would be preserved, there would be a need for fewer public service jobs (which pay less than would partial unemployment with STC).

3. Would reduce expenditures for public assistance, for those unemployed forced to go on welfare.

4. Removes current incentives for full layoffs. Makes reimbursement for partial unemployment an option for unions and employers.●

TRIBUTE TO THE ROMULUS NORTH JUNIOR HIGH SCHOOL SYMPHONIC BAND

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FORD of Michigan. Mr. Speaker, I would like to call our colleagues' attention to recent accomplishments of the Romulus North Junior High School Symphonic Band, in my congressional district of Michigan.

This outstanding band performed May 3 at the State band festival, and received a first division, or superior rating, from each of the four judges.

Earlier, on March 8, the Romulus group received a first division rating at the district band festival in Ida, Mich. This rating qualified the young musicians for the State festival, competing at the class B junior high level.

Three of the four judges in the State festival accorded the Romulus North Symphonic Band an A-plus in tone quality, blend, and balance. Among their comments were: "The finest junior high school band I have judged this year," and "your band is a great tribute to your community, your school, and especially to yourselves."

The bands were adjudicated by three judges in the prepared music section, which includes a required composition, a march, and a selected number, and then by another judge in the sight reading section, where two numbers are performed without practice.

Of the more than 200 junior high school bands which competed this year in class B, only 6 achieved the coveted first division rating, including a superior rating from each judge.

The Romulus North band members, under the leadership of Band Director Richard Kruse, have raised over $100,000 in the past 14 years to provide their excellent equipment. They have received fine support from Principal Stuart Hobbs and Assistant Principal William McDonald, as well as from the entire community of Romulus.

Mr. Speaker, I want to express my public congratulations to this fine band and its leaders, and at this point insert the names of the band members:

SEVENTH GRADERS

Jeff Barks, Bobby Blanton, Patricia Boger, Phillip Clemons, Mary Geisler, Amber Grimsley, Shirley Hansen, Terry McIntosh, Robin Mocabee, Armetta Morrison, Ken Muggelberg, Rhonda Pennington, Christina Richardso, Tina Talley, Natalie Zabik.

EIGHTH GRADERS

Cheryl Abbley, Charles Ball, Pam Casto, Peggy Cookson, Carol Frost, Julie Ann Galli, Suzanne Hardway, Thomas Hawkins, Douglas Hinricks, Kimberly Hoffman, Darin Jordan, Bob Kudla, Patricia Laws, Donald Lilley, Sabine Mayberry, Joeseph Molitor, William Noll, Jay Ocholik, William O'Dell, Chris Pennington, James Podojil, Quinton Raspberry, Kelly Rhodes, Harold Rice, Lowell Smith, Rene Stovall, Tina Justice.

NINTH GRADERS

Monica Campbell, Marlene Carpenter, Ricky Daniel, Colleen Deters, Jeff Hadyniak, Chris Lang, Leveta Lang, Donald Modrzynski, Yvonne Nolff, Tammy Richardson, Jeff Satterlee, Mishele Silvey, John Thiede, Theodore Thompson, Tracey Zabik, George Zahornacky.●

BILL WAMPLER—MR. AG SCIENCE

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. SEBELIUS. Mr. Speaker, several years ago during debate on the 1977 farm bill, I had the privilege to be on the floor when a former colleague, Charlie Thone, now Governor of the great State of Nebraska, labeled the distinguished ranking Republican member of the House Agriculture Committee from Virginia—Mr. WAMPLER—"Mr. Ag Research." Governor Thone gave BILL WAMPLER that title for the tremendous work our colleague did in formulating title XIV, the National Agricultural Research, Extension, and Teaching Policy Act of 1977, and also getting that important title included in the 1977 farm bill (Public Law 95-113).

Once again, Mr. Speaker, BILL WAMPLER has, in my opinion, earned himself a new title—that of "Mr. Ag Science." This is not a new venture for the "Bald Eagle of the Cumberlands." BILL WAMPLER has been plugging for years for the need to base Federal regulatory decisionmaking procedures on reason. One where scientists schooled and experienced in specific disciplines to determine health risks—not Federal regulators and administrators nor Nader-type advocates—identify and establish the risks or hazards of specific substances at issue in our food supply or which might be used or occur during other industrial processes.

Congressman WAMPLER's concern, and I might add the concern of many of us in the Congress, is that a continuation of the present system of governmental regulatory decisionmaking where each agency, despite efforts to establish a uniform system, has its own system for identifying hazards or risks and where the degree of risks are often established on an adversarial and emotional basis, usually by nonscientific methods, threatens to drive food production, food safety, food processing, and food distribution systems, just to name one major and still highly productive industry which appears to be threatened by overregulation.

BILL WAMPLER's bill to establish a National Science Council, to return some degree of reason to the Federal regulatory process, has just recently been reported in the June edition, volume 30, No. 6, of the science magazine, BioScience, published by the American Institute of Biological Sciences. The article by Susan Walton is titled "Science Council Act Ties Regulation to Science." I insert this article in the RECORD following my remarks:

SCIENCE COUNCIL ACT TIES REGULATION TO SCIENCE

The latest effort to legislate more objectivity into regulatory decisions comes from House Agriculture Committee member William Wampler (R-Va.), who has a longstanding concern with the use and misuse of science in the government. Wampler has introduced H.R. 6521, the National Science Council Act of 1980. The bill, if passed, would shift the responsibility for deciding if a given substance is harmful to human health from the separate agencies (EPA and FDA, frequently) to a 15-scientist nonagency National Science Council.

The council would put science on the same level in all agencies. It would provide a mechanism to use scientific evidence more effectively than some critics—Congress, for example—now think it's being used. It would, in theory at least, avoid both the interagency squabbles and the vast public confusion that often accompany the announcement that a substance may be harmful to human health. And it would circumvent the point in the regulatory process when an agency could indulge in what critics allege is "bent science": ignoring or misrepresenting scientific recommendations in favor of politically expedient decisions.

In the past few years, various groups and individuals have made abortive attempts to establish systems in which regulatory questions would be decided purely on the basis of scientific evidence, by scientists so "eminent" that their decision would be credible to both colleagues and nonscientists. In 1976, the science court plan, developed by physicist Arthur Kantrowitz, came very close to a test case (see *BioScience,* November 1976), then dropped out of sight—a disappearance that Kantrowitz thinks is due to a lack of support by the current administration. The science court model proposed a system roughly analogous to a court trial: Both sides present evidence, and a "judge" decides the issue.

Other models have come from different corners of the federal government. In February 1979, the executive Office of Science and Technology Policy (OSTP) released a report on "Identification, Characterization and Control of Potential Human Carcinogens; A Framework for Federal Decision-Making." It advocated a similar "two-stage" process of regulation, in which scientific evidence would be independently weighed in making regulatory decisions, rather than being lumped together with political, emotional, or financial considerations. Later that year, the General Accounting Office (GAO) issued "Improving the Scientific and Technical Information Available to the EPA in its Decision-Making Process," one section of which recommended that the National Science Foundation request proposals to test the science court concept. This year, two proposals other than Wampler's have come to light, one still in process from the American Medical Association and one from the American Industrial Health Council.

The National Science Council, as envisioned by Wampler, would be composed of 15 eminent scientists, "qualified and distinguished by training and experience in the field of biochemistry, biostatistics, epidemiology, methabolism/pharmokinetics, medicine, pathology, pharmacology, or toxicology." They would be appointed by the President, who would select them from a group nominated by the National Academy of Sciences—three nominees per vacancy. With the exception of the first council, which would have staggered terms, the members would serve full-time for two years.

The council members would, the bill says, "have demonstrated the ability to critically assess hazards and risks to human health presented by the direct or indirect exposure of human beings and animals to various substances." These scientists would shoulder the burden for the rest of the nation by deciding "disputed questions of scientific fact regarding harm to human health, which arise in agency adjudication." Their decision would be final, binding, and based solely on scientific data. The council would be chaired by the director of the OSTP—Presidential Science Adviser Frank Press, in this administration.

Under the plan, each suspicious substance would be subject to a multi-stage decision process. First, an agency or, in some cases, a private citizen would refer a substance to the National Science Council. If he or she wanted to, the person chairing the council could form an advisory panel made up of at least five council members. The advisory panel would hold hearings in which both sides (a chemical company and the EPA, for example) would present their data, a process that would include "negotiated stipulations" to pare the question down to its genuinely controversial elements. The panel would then report to the full council, which could either adopt without change or amend the panel's recommendations.

If the council chairperson elected not to form an advisory panel, then the full council would hear the evidence and issue a decision—either final or tentative—within 90 days of the referral date.

Tentative decisions would occur when the council members thought that they had inadequate information on which to base a final decision; they would then continue collecting data before issuing a definitive decision.

The final decision would be sent to the agency director or administrator, who, a congressional aide told BioScience, "would agree with it 100% because he wouldn't have any choice." The appeal process would remain the same: All issues could end up in the federal courts. If significant new evidence emerged from further study of a substance, the Science Council could reconsider the issue and amend its verdict if necessary.

ADVISORY PANEL INPUT

Advisory panel reports would be a key factor in the decision process, according to Wampler's staff. These panels, which allow the council to look at more than one issue at a time, pull together the evidence in a way that includes both the hard data and the process by which the researcher arrived at the results. The report would include:

A summary of the effects observed in any scientific test, the results of which are included in the hearing record, and a panel evaluation of the test's validity;

A panel analysis of the quality and quantity of scientific information, including test results, presented to the panel regarding any risk of harm to the health of animals;

The value of the information for predicting harm to human health;

The common characteristics of groups of individuals who may be subject to the greatest level of risk to health; and

An advisory opinion of the panel characterizing the level of risk to human health.

In essence, this process would put all the evidence in one place. The ensuing decision would be, according to a congressional aide, "the truth, pure and simple."

The truth, however, as Oscar Wilde remarked, is rarely pure and never simple, and few persons know this better than a group of scientists who are trying to resolve many-sided questions. As a result, those scientists queried about Wampler's legislation are cautious, preferring to look at conflicts in terms of reducing them to disputed elements and at the council as a means of returning credibility to government regulations. Many also think that some changes—usually relatively minor—are in order.

Wampler's staff sent the bill to independent scientists, deans of agriculture and veterinary medicine, colleges, and universities. So far, the comments have been about 85% in favor of the concept. Edward A. Smucker, a member of the FIFRA Scientific Advisory Panel and professor of pathology at the University of California at San Francisco, wrote that "the discussion of the problems of regulatory agencies and scientific judgments is long overdue." Some scientists suggested adding an environmentalist to the panel so that questions of environmental impact could be weighed as well. Others think that additional ad hoc advisory panels, with expertise in a very narrow area, could be convened for some issues.

Arthur Kantrowitz, the chief architect of the science court plan, thinks that H.R. 6521 is, all in all, a pretty good idea. Kantrowitz, now at Dartmouth College's Thayer School of Engineering, has been convinced for many years that a new institution of some sort is needed to resolve scientific disputes. "We urgently need to develop more credible procedures," Kantrowitz told BioScience. Although he still favors some elements of the court-like model, Kantrowitz says that the Science Council would unquestionably be an improvement on the current system.

Kantrowitz and others note one serious snag in the science council plan: the dual role of one person as chairman of the council and director of the OSTP. This could lead to serious conflicts of interest, Kantrowitz says, no matter how objective the person might be. If placed in a situation that could prove embarrassing to the White House, where should the chairman's first loyalty lie? "I wouldn't have him involved," Kantrowitz says. "There should be someone who could be accepted as unprejudiced by all parties."

PARALLEL INDUSTRY PLAN

Wampler's bill has company in the form of an independently developed, parallel "proposal" written by the American Industrial Health Council (AIHC), whose members represent industry. Edward Behrens, who chaired the AIHC panel that wrote the proposal, emphasizes that it is neither competing with nor opposed to Wampler's proposed legislation. "They are two independently developing proposals that were both well along before they knew of one another's existence," Behrens says. The AIHC also saw the need to separate science and society in making regulatory decisions, although Behrens acknowledges that total separation is difficult to achieve. "We'd been trying to conceptualize the need for such a body for several years," he says, "and we decided that the time had come to address how such a panel would work."

Although the spirit of objectivity infuses both the congressional and the industrial proposals, there are significant differences between the two. The AIHC proposal suggests that only regulatory agencies could refer questions to the panel and then "only when the agency was seriously interested in promulgating regulations through the rule-making process," according to a comparative analysis of the two proposals prepared for the AIHC by the Washington, law firm of Cleary, Gottlieb, Steen & Hamilton.

The major difference between the two proposals—illustrative, in a way, of the major differences between congressional and industrial views of regulation—is that the AIHC's proposed "panel" would be strictly advisory. "The strength of the panel's determination would depend upon the eminence of the scientists, the soundness of their judgments, and the objectivity of their review process," according to the AIHC proposal. In other words, solid, expert science is so convincing that it can stand alone. However, since there are already several science advisory bodies scattered throughout federal agencies (EPA's FIFRA panel, for example, see 2,4,5-T story on p. 427), and since Congress has on several occasions hinted that agencies should pay more attention to the scientists already employed by the government, some persons are skeptical about how useful another advisory panel would be. Advisory panels are very easy to ignore.

Wampler's legislation avoids this problem by instilling a power of mandate in the National Science Council. This, the congressman hopes, will "clean up science throughout the government." That is, it will bring the process of scientific decision-making out into the open, which will in turn force agencies and their scientists to be more circumspect in joining data with regulation.

Wampler is also hoping that this general housecleaning effect will prevent the Science Council from being swamped with scientific controversies to decide. Several of the legislation's reviewers questioned whether 15 scientists, however eminent they might be, would have time to give all issues the attention they deserve. But, paradoxically, Wampler and his staff think that the very presence of the Science Council will have the effect of reducing its own workload. That is, scientists and agencies will be more likely to do it right the first time.

An equally important part of the issue, however, centers on the accusation that science is being trumped by emotional and political issues when it comes time to make regulatory decisions. Not everyone thinks that science can be distilled out and judged separately. EPA Administrator Douglas M. Costle, in a 1977 letter to Wampler, commented that "regulatory issues under FIFRA commonly contain scientific elements but cannot be answered by science." Wampler's bill has been submitted to the agencies for comment, but his staff has not yet received replies.

Although it may be utopian to hope that science can exist as a pure, separate entity, many scientists believe that we can improve the current system. Sociologist Allan Mazur of Syracuse University, who has done extensive research in technological controversies and was also interested in the science court, thinks that it is possible: "The issue is, can you separate emotional issues from factual issues, so that emotions don't pollute the evidence?" Mazur says. "Also, it helps to resolve exactly what it is that you're arguing about," which, he added, still may not provide an answer to the question but does prevent the frustration that arises when arguments remain ill-defined.

Kantrowitz, too, thinks that objectivity is always worth working for, even if it is only human to fall short of it. "It's very important to have it as an explicit goal," he says. And "to a degree, it's possible, but you don't give up hoping." The important thing, he said, is to avoid value judgments on scientific matters as much as possible.

Wampler and his staff do not expect the bill to clear Congress this year. The legislation has been a long time in planning, and no one appears especially disheartened that it may take a while to become official, if indeed it does become official. Wampler may hold hearings late this session of Congress, and plans to keep working on it until the bill attracts enough support to go somewhere.●

OF JUSTICE FOR ALL

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. RAILSBACK. Mr. Speaker, I commend to my colleagues' attention the following article written by James J. Kilpatrick which appeared in the Washington Star on June 10:

OF JUSTICE FOR ALL

If there is one concept that our nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, "Equal Justice Under Law." Year by year we creep a little closer toward that distant goal.

That cheerful observation is prompted by a report from the Legal Services Corporation, marking its first five years of operation. The corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation.

These days the Legal Services Corporation keeps a low profile. That was not the image projected by its predecessor outfit, the legal services arm of the now defunct Office of Economic Opportunity. Many "poverty lawyers" identified with the OEO program were hot-eyed social activists, little interested in the humdrum legal problems of the poor. Conservatives in both House and Senate had good reason to oppose the expenditure of tax funds on firebrand causes.

As a consequence, the bill to transfer the legal services program from OEO to a new corporation ran into a filibuster in the Senate and a bitter floor fight in the House. In order to avoid a presidential veto, sponsors accepted a host of restrictive amendments intended to dispel these lingering apprehensions.

Lawyers attached to the corporation are positively forbidden to engage in public demonstrations, picketing, boycotts, strikes, lobbying, partisan politics, voter registration drives and the like. The act prohibited the establishment of "backup centers" that were seen by many of us as mere seedbeds for hothouse revolution.

By a margin of only seven votes in the House, the legal services bill survived a motion to recommit. The corporation wobbled into existence on rubbery legs. Now, six years later, it stands on its own two feet. Pending bills to extend the program's life for two years (in the Senate version) or three years (in the House) may set off brief thunder on the floor, but no typhoons are in sight.

As one of those who hollered the loudest six years ago, perhaps I may be permitted a round of applause today. Here and there abuses continue. A sneaking suspicion will not go away that the corporation has neatly evaded the law's prohibition against backup centers by creating backup centers and calling them something else, e.g., the National Clearinghouse on Legal Services.

Let it go. As it moves into its sixth year, the corporation is funding 335 independent programs staffed by more than 5,000 attorneys and 2,500 paralegals. In 1979 local offices dealt with more than a million legal problems of the poor. What kind of problems? Child custody. Food stamps. Eviction. Disputed bills. Contested eligibility for welfare benefits. None of this is the stuff from which landmarks are made, but it is the very heart and soul of a legal services program.

The corporation's clients are 57 per cent white, 30 per cent black, 10 per cent Hispanic. Only a fifth of them are employed; most are living on welfare or Social Security. More than a third of the legal problems involve family matters. Another 13 per cent concern landlord-tenant relationships. Half the cases are settled within a month. The corporation proudly notes that only 2 percent of its budget goes to administration; 95 per cent of last year's $270 million appropriation went directly to legal services.

The pending Senate bill would authorize $321.3 million for the corporation in fiscal 1981. It is obviously a substantial sum, but it is a seriously needed sum. In the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.

We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying. The preamble of the Constitution pledges a national purpose "to establish justice." Let us get on with the job.●

CLARENCE MITCHELL, JR.

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. BOLLING. Mr. Speaker, no one I know deserves more to be recognized by the President of the United States for extraordinary service to his country and his fellow man than Clarence Mitchell, Jr. One of the great privileges of my life has been to work with this dedicated man whose commitment to democracy goes far beyond any particular interest or cause. I am proud to call him my friend.●

THREE CHEERS FOR IMMIGRANTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. BROWN of California. Mr. Speaker, I would like to call to the attention of my colleagues an article that recently appeared in the Washington Post.

This article, written by Michael Barone, is significant in pointing out a fact not often recognized in literature on the subject of immigration: This country has a net gain from the influx of immigrants.

Mr. Barone uses the social security system as an example of how we benefit from immigration. The structure of social security is based on a system where revenues derived from the existing labor force pay for present recipients. With the fall in our present birthrate and the increase in life expectancy of our population—goals we consciously set out to achieve—the system is destined to collapse of its own weight within the next 20 years.

The influx of immigrants is presently bolstering that system and is providing the necessary foundation for the future. The net benefit comes from the support we presently derive for social security and the change in demographics which will provide future support for that system.

These net benefits accrue not only in the social security system but in other tax-supported services as well. An article written in August of last year reported that Mexican illegal immigration "makes scant use of welfare and other social services and contributes far more to the United States than they take from it." This reporter found such a benefit being derived from Mexican immigration that he titled his article, "Three Cheers for Illegal Aliens."

In other areas, such as employment, the benefits derived from the immigrant seem to outweigh our losses. There is evidence that immigrants displace domestic workers, however, studies show that there is far less than a 1 to 1 displacement ratio. Studies such as the one done by Dr. Wayne Cornelius show that immigrants, both legal and illegal, largely fill a labor demand that would otherwise go unfilled in low-paying, menial positions.

That is not to say that immigrants only work in marginal jobs. As Mr. Barone points out, immigrants, through their motivation to make a new life, actually expand and strengthen our Nation's economy. With recent statistics showing little or no growth in productivity, we can only benefit from immigrant labor.

With all the benefits we derive from our immigrants, we continue to perceive them as a problem and a burden. The media has portrayed the current immigration pattern as an "invasion." Constituents write their Congressman daily to stop the "alien hordes."

Congress has responded to this sentiment by passing legislation aimed at restricting the rights of immigrants. Amendments recently passed by the Congress further restrict the availability of SSI to aliens. The Food Stamp Act included an amendment to require eligibility workers to report undocumented aliens to the INS And, present consideration of the reauthorization for Legal Services Corporation may include an amendment to restrict aliens from access to legal assistance. To deny the right of basic legal services to our immigrants is to condone their exploitation and to erode the spirit of "equal protection under the law."

I urge my colleagues to carefully assess their views on the subject of immigration both documented and undocumented. Congress can nurture this "antialien" sentiment through further restrictive legislation or Congress can begin the process of reexamining our entire immigration policy by considering both sides of this sensitive and highly complex issue.

I commend this article to my colleagues. I urge them to read it carefully.

[From the Washington Post, June 9, 1980]

IMMIGRATION: BEST OF BOTH WORLDS

(By Michael Barone)

Our society has gotten into the habit of seeing almost every demographic trend or social change as a problem to be solved. Yet such changes are often opportunities, not threats. Sometimes, if we fit together what look like two serious problems, we may find that they add up to a single welcome result.

That is my view of two developments, one very much in the news now and the other a serious preoccupation of policy makers. The first "problem" is the influx of refugees from Cuba and the broader question of immigration, and the second is the demographic trend that threatens the Social Security system and the broader category of aid to those who cannot provide for themselves. If we adopt the sensible and humane solution to the first of these problems, in my judgment, we will also pretty well solve the second.

But the tides of public opinion—not only among the public that follows these events only casually but even among opinion leaders—seem to run the other way. We hear it said over and over again that our fragile economy simply cannot absorb the 100,000 Cubans who have arrived in our country during the past few weeks. Our federal bureaucracy and the national administration look askance at the people coming in as if they were going to infect us all with some hideous disease. Our immigration laws, though they were reformed in 1965 and are much less restrictive than they were, show signs of the same attitude. That we still seek to keep out very large numbers of those who want to enter is clear from the large number—at least hundreds of thousands, perhaps millions—of illegal immigrants who are in the United States today.

Our history teaches a different lesson. Until 1924, immigration into the United States for most peoples (a notable exception: the Chinese, barred in 1882) was essentially unrestricted. If you consider what our country would be like today without the offspring of the millions who came over in the 1880-1924 period, it is evident that no other single public policy has been of such advantage to the United States. Without those immigrants, our country would be not only more lightly populated, but also far less affluent, culturally duller and more homogeneous. Immigrants held down jobs, consumed products, built businesses and created labor unions. The American entertainment business would be unrecognizable without these immigrants; so would academe.

Yet, at the time, immigration was considered a terrible problem. We were warned that those exotic peoples could never be assimilated into American society. We were told that they would commit crimes and bring in diseases. Finally, in the 1920s, we were unwise enough to effectively cut off immigration from eastern and southern Europe and most of the rest of the world as well. I do not know if any connection has been established, but it was not too many years later that we had the Great Depression, one of the primary causes of which was lack of demand for goods we were capable of producing. Could the immigrants who would have come in during the 1920s have supplied some of the aggregate demand that was so badly needed in the 1930s?

We heard then and hear now that immigrants will be a drain on the public treasury. Yet all our historical experience tells us that the people who come are young, enterprising, motivated and hard working. They would hardly have wrenched themselves from their native culture and gone to a strange and sometimes hostile land if they did not have some special spark, some strong desire to do something more than collect welfare. Every bit of evidence shows that immigrants work hard, often at menial jobs most Americans would not accept; they contribute to the economy as both producers and consumers. Economists as different from each other as John Kenneth Galbraith and Milton Friedman have identified immigration as a phenomenon that is economically beneficial to both the nation the immigrants leave and the nation to which they move. There is no reason to believe that what was true in 1880 or 1910 or 1924 has suddenly ceased to be true in 1980.

What do immigrants and refugees have to do with Social Security? They provide an answer to a problem that planners are currently grappling with. Between 1945 and 1965, we had very high birth rates in this country, unusually high birth rates for a nation with an advanced economy. Birth rates have fallen since the 1960s to levels close to zero population growth that are typical of advanced countries. Starting around the year 2010, therefore, we are going to have quite a large number of people retired on Social Security and a relatively small number of people working and paying for Social Security. There will be a crisis: either workers will have to be taxed at much higher rates or benefits will have to be cut far below what people have grown used to. A poll conducted for the National Commission on Social Security by our firm shows that Americans today, given the choice, would increase taxes; but what would be the cost to productivity?

This situation cannot be avoided, given the birth rates from 1945 to 1980, unless one thing happens: the working population of this country rises substantially. And that can happen in only one way: substantial immigration, as in the years before and just after World War I. There are obviously hundreds of thousands—the Cuban refugees are just a small part of the total—who want to come. As the 1980s go on, most of them will be people born after 1960—just the age of people we need to have working to support the elderly baby-boom generation in the years after 2010. It is to our advantage, not to keep them out, but to let them in.

Some may suppose that our economy cannot absorb them in the meantime. But the lesson of the Cuban and Vietnamese refugees and of illegal immigrants of today and the lesson of the immigration of the 1880-1924 period is that immigrants expand and strengthen the nation's economy. Even the troubled economy of the 1970s showed the capacity to generate large numbers of new jobs for those with strong motivation to work. We have a chance in the next few years to take two "problems"—immigration, which seems threatening now, and Social Security, which we can see coming—and by doing little more than letting others do what they want, see both solved. We would be fools if we did anything else.●

URBAN HOMESTEADING IN DALLAS—A PROGRAM THAT WORKED

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FROST. Mr. Speaker, we hear so often of Government programs that have not worked, so it is nice occasionally to find one that is a success. A prime example of a successful Government program is the urban homestead program in the Oak Cliff section of the city of Dallas, Tex.

Dallas was one of 23 communities selected by HUD in 1975 to participate in the 3-year urban homesteading demonstration program. Dallas entered into its contract with HUD on

December 17, 1975. At the time of its application there were about 150 HUD-owned repossessed houses in the target area—the highest concentration of such houses in Dallas.

Within the target area there were about 7,500 housing units. Some 68 percent of these were single-family houses. Vacancy rates in the target area had been rising, and by April 1974, about 10 percent of the houses were vacant.

According to the report to the Congress by the Comptroller General of the United States—"Urban Homesteading: a Good Program Needing Improvement," dated November 13, 1979, the Dallas program was the most successful in homesteading houses in a timely and cost-effective manner, of any of the programs throughout the United States.

The report, published by the U.S. General Accounting Office, further states:

> The houses Dallas acquired from HUD were among the lowest in value of all houses in the demonstration program. Its rehabilitations were performed quicker and at lower costs than those in the other programs throughout the United States. By March 13, 1979, Dallas had homesteaders living in 311 houses provided by HUD—more than any other community in the program.
>
> The city considered that houses valued between $2,500 and $10,000 would be suitable for homesteading. About 100 of the 150 then available were believed suitable for homesteading. Houses of lower values were to be excluded because the level of deterioration would make rehabilitation too costly for either the city or the homesteaders. The more valuable houses were to be excluded to increase the number of homestead houses to a level that could be handled with anticipated homestead funds.
>
> The contract provided that HUD was to offer Dallas all HUD-owned houses in the target area. The contract also provided that HUD and the city would establish a comprehensive disposition program for these houses and those to be acquired during the contract period. The comprehensive disposition program was to lend support to the city's overall program for improvements in the target area. Various HUD property disposition programs and techniques could be used—not just homesteading.
>
> In carrying out the homesteading demonstration, HUD offered Dallas the houses in batches because the city likes to process homestead applications and placements in batches of about 30 houses. HUD also informally advised the city about houses as they were acquired.
>
> The city promptly inspected each house offered, and preliminary work write-ups and cost estimates were made. Basically sound houses needing repairs estimated at $1,000 to $7,000 were selected for homesteading. Houses considered in too good condition were turned back to HUD with a recommendation as to how they should be disposed of. Houses so deteriorated that repair was believed uneconomical were turned back to HUD with a recommendation that they be demolished. Dallas officials always discussed a rejection of HUD housing with HUD officials, so all could agree on what to do with the house.
>
> As of September 30, 1978, HUD had offered Dallas 419 properties in the target areas. Of these, 340 were transferred to the city for homesteading and 79 were not. Of 37 not used for homesteading:
>
> Seven were considered to be in too good condition, needing only minimum repairs. HUD subsequently sold these at prices between $9,501 and $23,551.
>
> Twenty-two were considered to be in too poor condition. The city recommended demolition, and HUD usually demolished these houses within 8 weeks after the city's recommendations.
>
> Six were rejected because they were outside the target area.
>
> Two were not accepted because HUD withdrew the offer or the structure was not eligible because of size.
>
> HUD followed Dallas' recommendation in all instances but one. The city and HUD later agreed to include this house in the homesteading program, instead of demolishing it as the city had recommended.
>
> Dallas' homesteading program was designed for fast placement of houses with homesteaders. Soon after the houses were selected for homesteading, fliers were printed and mailed to a constantly updated mailing list. These fliers told interested persons where the houses were located and when they would be open to the public for inspection. Information was included about the size of each house, the approximate repair cost, and the minimum income needed to qualify. Wide publicity about houses available for homesteading was arranged through announcements to the press and radio and television stations, and by publication of legal notices. Interested homesteaders were required to apply within 8 days of the open house.
>
> Dallas used a lottery to award houses to homesteaders. Through November 30, 1978, the city held 11 lotteries. Only those with the financial ability to rehabilitate and maintain the houses were included in the lottery, which provided for selecting one winner and two alternates for each house. Alternates were picked to help ensure quick placement of the house. If the winner did not take the house, or otherwise comply with program requirements, the house would be offered to an alternate.
>
> Soon after the lotteries were held, city personnel met with the awardees to plan for renovating the houses. The city required that homesteaders bring the houses up to minimum code standards before moving in. It tried to have the houses occupied within 90 days after the award. Longer periods were allowed for some persons who contracted for the repairs because of the time needed to obtain bids from contractors and to process loan applications.
>
> Records relating to 20 of the 340 houses accepted by Dallas through September 30, 1978, that we randomly selected, showed that 15 of them were occupied within about 90 days after the award. Homesteaders withdrawals or problems with contractors or bank financing delayed occupancy of the other five houses. However, all of these were occupied at the time of our review taking an average of 273 days.
>
> Interviews with homesteaders in 18 of the 20 houses in our sample showed that they did much of the renovation themselves. Contractors were employed for plumbing, heating, electrical work, and some other repairs. The city had developed a program to teach homesteaders about making repairs. City personnel visited the houses several times to inspect the progress of rehabilitation.
>
> On the average, the 18 homesteaders estimated they had spent $2,348 rehabilitating their houses. The amounts ranged from $235 to $8,600. The actual expenditures were considerably lower than the average of $4,707 estimated by HUD for repair of these houses.
>
> City officials estimated that 80 percent of the homesteaders rehabilitated their houses themselves and that the remaining 20 percent of the homesteaders contracted through the city. The officials estimated that repairs by the homesteader cost about one-half of the contract price for the same repairs. They believed that self-help is essential to the program's success because homesteaders who do their own work tend to take more pride in their houses, are less prone to abuse the properties, and will make more permanent residents, compared with homesteaders who do not do their own work.
>
> Homesteaders commented on other improvements made by their neighbors, expressing a general feeling that the condition of the neighborhood was stabilizing or improving. The improvements mentioned included painting, house remodeling, new aluminum siding on houses, and new sidewalks. Several homesteaders reported changes in attitudes and less vandalism in the neighborhood.
>
> Dallas officials stated that the homesteading program had succeeded in stimulating improvement of the neighborhood. They believed that, on the average, two houses per block were upgraded because a homestead house was improved. They further believed homesteading had contributed to the stability of the neighborhoods because it increased the proportion of owner occupied housing and reduced the number of abandoned houses.
>
> A review showed that the Dallas program:
>
> Has reduced the inventory of HUD-owned abandoned houses in the target area;
>
> Provided a mechanism for returning HUD-acquired houses quickly to occupancy;
>
> Removed the blighting influence of abandoned houses from the neighborhood;
>
> Appears to reduce the costs of rehabilitating houses; and
>
> Appears to be influencing neighbors to make improvements.
>
> The success of the program may be attributed in part to:
>
> The cooperation between HUD and the city in deciding the best way to dispose of the houses;
>
> Timely disposition of the HUD-acquired houses;
>
> Criteria for homesteaders to use in scheduling their rehabilitation work, and enforcement of the criteria with adjustments as needed;
>
> Widespread use of self-help; and
>
> Guidance provided to homesteaders.

Yes, Mr. Speaker, the city of Dallas has managed a very successful urban homesteading program, and the city personnel responsible for directing the program should be congratulated.●

CRIMES OF AMERICA?

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mrs. HOLT. Mr. Speaker, what is the best term to describe the conduct of an American citizen who participates in a "Crimes of America" conference in a country that has been and continues to engage in hostilities with the United States?

At saner times in American history, there was a word for it. There was even a word for the condition that exists when a foreign power invades American territory and seizes American prisoners.

Last November 4, armed Iranians seized the American Embassy in Iran and imprisoned 50 American diplomatic personnel. They continue to occupy our Embassy and hold our people in bondage with the assent of the Iranian Government.

Now we have seen Ramsey Clark and nine other Americans joining a Tehran conference which had the purpose of condemning the United States for its prior conduct of relations with Iran.

Although Clark called for the release of the hostages, he supported the charges against the United States that are being used to justify the continuing imprisonment of the hostages.

His conduct is repugnant to any concept of national loyalty or national honor. It does not surprise me that some Iranians voiced suspicions of Clark. How could they explain his collaboration with their attacks on our country?

Clark violated an order by the President of the United States that prohibits American citizens from traveling to Iran. He also apparently violated the Logan Act, which prohibits American citizens from engaging in unauthorized negotiations or attempts to influence the conduct of any foreign government in disputes with the United States.

Mr. Speaker, the President of the United States should direct the Attorney General to go forward with the investigation of Ramsey Clark and others who participated in the "Crimes of America" conference in Iran.●

JWV POST OFFERS $500 REWARD

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. HOLLENBECK. Mr. Speaker, today I introduced a resolution to express the sense of the House of Representatives that vandalism of patriotic monuments should be punished to the fullest extent of the law. I believe that this resolution effectively addresses a problem of distressing proportions; namely, wanton desecration of patriotic monuments. The individuals responsible for such abhorrent acts are deserving of punishment which will serve as a genuine deterrent to actions of a similar nature.

In order to illustrate the emotional trauma caused by this senseless vandalism, I include for the RECORD portions of the text of an article from the May 1980, Veteran's Review of Bergen County:

> JWV POST OFFERS $500 REWARD
>
> The reward is being offered for the arrest and prosecution of the anti-Semitic crazy bastard, or bastards, responsible for the desecration of the monument to the Jewish War Dead erected last year on River Road, New Milford.
>
> The monument has been turned over several times since its dedication last year, but this time the punks, went all out to destroy the monument, causing very costly damage even to the cement walk leading to the monument. They also cut down and stole the American Flag and ripped off the bronze donor plaque from the pole.
>
> This senseless outrage, was definitely not for profit, just an act of crazy, stupid hate. The damage they created, can bring them no profit. It only creates a very costly expense to the donors of the monument, the Charles M. Wallach Post 773 of the Jewish War Veterans, whose commander Sidney Alpers has said the monument will be re-erected.
>
> The no good bastards also sent an unsigned anti-Semitic letter, to the New Milford Jewish Center, warning of the intended destruction. The letter has been turned over to the Local and Federal authorities. Congressman Hollenbeck is looking into the Federal laws that were broken and intends to introduce new tougher Federal Legislation.
>
> These acts of senseless destruction have been on the increase in Bergen County these past few years. A bronze plaque to the War Dead was ripped off and stolen from a Veterans' Monument in the park in Westwood. This plaque has been on the monument since right after World War I. Church rectories are being entered and robbed, poor boxes are being ripped open and the money taken * * * even the Statue of Liberty has been damaged.
>
> It is high time to put a stop to this senseless, costly damage not only to Veterans' Monuments, but also to our public schools, public buildings and places of worship, Churches and Synagogues.
>
> At this space in time, we not only remember our Honored Dead, but also take note of what they and we fought for * * * Freedom. Thereby, let all Veteran's Organizations in Bergen County, join together in a great Crusade to free ourselves of this senseless, shameful destruction, and make it our business to catch the yellow bastards who are responsible and put a stop to these shameful acts. We should see that they are properly punished * * * for the people, the Veterans among them, have to foot the needless cost of repairing the damage.

It would be heartening if many people of good will see fit to join those Veterans in meeting those costs.

Mr. Speaker, I am sure that we all realize that this problem is not merely limited to New Jersey. It is time for the House of Representatives to state the collective outrage of the people and to formally express its desire to see the guilty adequately punished. I look forward to swift passage of this resolution by my distinguished colleagues.●

CONGRATULATIONS TO SGT. MICHAEL PATRICK MORGAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. DORNAN. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues a very special event at the New Otani Hotel in Los Angeles on Friday evening, June 13. The California State Police Association will be honoring Sgt. Michael Patrick Morgan for his years of outstanding service and dedicated commitment to law enforcement.

Sergeant Morgan was born and educated in Santa Monica, Calif. After attending Santa Monica College, he began his career as a third generation family member to enter law enforcement. Mike's father is a retired sergeant of the Santa Monica Police Department and his grandfather is a former sergeant of the Yuma, Ariz., Police Department.

Mike's law enforcement career began in 1969 with the Wasco, Calif., Police Department. He moved to the California State Police in 1970 as a State security officer and was promoted to State police officer in 1971. His positions have included sergeant, Los Angeles District (1976–79), acting sergeant, San Francisco District (1974–76), administrative aide to the district commander, and State security officer, Sacramento District (1970–71).

Mike has an extremely diverse background encompassing 10 years of responsible law enforcement. He is well known to have been a conscientious officer. His experience in law enforcement has included investigation, administrative planning, executive protection, procedural compliance, research, communication, training, crowd and riot control, preparation of reports, liaison functions, and patrol.

In addition, Sergeant Morgan's career has been distinguished by commendations from the California Supreme Court, the California State Police, the California Public Utilities Commission, the San Francisco District Attorney's Office, and the Women's Peace Officer's Association of California.

Sgt. Michael Morgan is retiring from the State police association as a result of the combined effects of two on-the-job injuries. His distinguished service and untiring dedication serve as an outstanding example for other law enforcement officers across the Nation. It is with pleasure and earnest confidence that I am publicly able to commend good men such as Mike, who have unselfishly given so much for the good of our State and our country.●

FOREIGN SERVICE GRIEVANCE ACT OF 1980

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. DERRICK. Mr. Speaker, recent events beyond our shores have focused both national and international attention on a group of individuals vital to the overall security and well-being of this Nation, the Foreign Service Corps. It is in the interest of providing an atmosphere within the Foreign Service to which the most highly qualified individuals will be attracted that I am today introducing legislation calling for the establishment of a Foreign Service grievance procedure. This procedure would insure a complete and effective guarantee of due process for those members of the Foreign Service seeking redress for grievances as defined in this bill.

As you know, this issue has been before the Congress several times over the past decade, and while the Senate has considered and passed the measure on several occasions, it has never come before the full House for a vote. This bill, Mr. Speaker, would improve the existing grievance procedure in several significant and important ways.

My bill, Mr. Speaker, is identical to S. 2712, which was introduced by Senator BAYH on May 15, 1980. In reviewing this issue, it is apparent that the overall effectiveness of such a grievance procedure is limited or defined in terms of those grievances which are permitted under it. There is an undermining of due process rights, Mr. Speaker, if there are limitations placed on those types of grievances which may be filed. It is with the aim of facilitating and guaranteeing due process, therefore, that my bill defines grievance as:

> A complaint against any claim of injustice or unfair treatment of such officer or employee arising from his employment or career status, or from any actions, documents, or record, which could result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process, and shall include, but not be limited to, actions in the nature of reprisals and discrimination, actions related to promotion or selection out, the contents of any efficiency report, related records, or security records, and actions in the nature of adverse personnel actions, including separation for cause, denial of a salary increase within a class, written reprimand placed in a personnel file, or denial of allowances.

In addition to this expanded and encompassing definition of grievances, this bill allows the grievant complete freedom in choosing his or her representative at each stage of the proceedings—a fundamental right whose importance cannot be overlooked. Further, my bill provides for the establishment of a Foreign Service Grievance Board, composed of three independent and distinguished Americans who are not officers or employees of the Department, which shall conduct an open—unless otherwise determined—hearing in any case filed with it.

Finally this legislation makes the recommendations of the Foreign Service Grievance Board binding on all parties, except that the Secretary may reject any such recommendations only if he determined that the foreign policy of the United States will be adversely affected.

Mr. Speaker, this legislation finds its impetus in the person of Mrs. Cynthia Thomas, the widow of former Foreign Service Officer Charles W. Thomas. The story of Charles Thomas is both unfortunate and tragic, and merits recounting here as it directly bears on the justification for this legislation. Charles Thomas served the State Department for 19 years, in Africa and in Latin America. At the age of 45, Charles Thomas was selected-out of the Foreign Service for failing to be promoted. Mr. Thomas found himself unemployed, overeducated, and carrying the stigma of being selected-out of the State Department.

Mr. Speaker, on April 12, 1971, Charles Thomas chose to take his own life, and there can be little question as to his reason for making such a choice. The true tragedy of this story, however, lies in the fact that Charles Thomas' former boss, the Ambassador in Mexico City had written a glowing letter of recommendation of his former employee. As the worst form of bureaucratic entanglement might have it, this letter of recommendation was misfiled in the personnel file of another Charles Thomas. Mr. Thomas was not made aware of this error until 2 years after he left the Service, to late to assist him in any way, and a direct consequence of the absence of an effective grievance procedure within the Foreign Service.

Mr. Speaker, I wish to stress that it is not my intention to in any way meddle or interfere with the internal mechanisms of the Foreign Service or State Department with this piece of legislation. I am attempting, rather, to provide members of the Foreign Service the same basic rights in their workplace as they are guaranteed as citizens of this Nation, the right to due process in the redress of grievances.●

ON THE 15TH ANNIVERSARY OF VISTA

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. MOFFETT. Mr. Speaker, I am honored to be counted among the friends of VISTA and to have this opportunity to renew my support and commitment to the great services VISTA provides our Nation. The 1980's are well ushered in by the commemoration of this 15th anniversary of the Volunteers in Service to America, a program based on the finest attribute of our citizenry—a willingness to help another person to help oneself.

From its inception in 1964 as part of President Johnson's war on poverty, VISTA has worked with urban and rural communities to help their needy members find ways of improving their living conditions. The program appeals to people from all walks of life, giving them the opportunity to actively participate in the shaping of their communities. I have seen the benefits of VISTA services firsthand, including such projects as the weatherization of low-income housing, legal support for nursing home residents, and transportation for the handicapped. These projects illustrate how effectively the individual's willingness to help serves the entire community.

I have always been a firm supporter of the VISTA program and look forward to the continuation of its valuable services in the 1980's. This decade may well see the fulfillment of John F. Kennedy's vision of a nation truly seeking to do for one another.●

INTRODUCTION OF FARM CREDIT ACT AMENDMENTS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. JONES of Tennessee. Mr. Speaker, today Representative ED MADIGAN and I have introduced a bill to amend the Farm Credit Act of 1971. The new bill differs significantly in some respects from H.R. 4782, which I introduced by request earlier in this session. It would give the Farm Credit institutions and the Farm Credit Administration some needed new authorities while at the same time prescribing prudent limitations and restrictions. Some of the major changes in the new bill, as compared with H.R. 4782, are as follows:

GUARANTEED LOANS

H.R. 4782 would have amended section 1.9 of the act (12 U.S.C. 2017) to permit Federal land banks to lend in excess of 85 percent of appraised value of the real estate security when the credit is guaranteed by Federal, State, or other governmental agencies. The new bill would add a provision that in no event may the loan exceed 100 percent of appraised value of the real estate security for the loan.

BASIC PROCESSING AND MARKETING

H.R. 4782 would have amended the act by expanding the scope of Federal land bank and production credit associations financing for eligible borrowers to include basic processing and marketing directly related to the loan applicant's operations and those of other eligible borrowers. That bill provided, however, that the applicant's own operations must provide at least that percentage of the total processing or marketing for which the financing is extended as is established by the district or bank board under regulations of the Farm Credit Administration.

The new bill would require that the applicant's operations supply no less than 20 percent of the total amount processed or marketed in order for that activity to qualify within the scope of financing, but the district or bank board of directors could, under FCA regulations, establish a higher percentage for this purpose.

TEN-YEAR PCA LOANS

H.R. 4782 would have amended section 2.4 of the Farm Credit Act (12 U.S.C. 2075) merely by inserting a reference to a clarifying provision to be added to the act by title IV of the bill which deals with State interest rate limitations.

Under the new bill, district Farm Credit boards would be authorized to adopt policies—under regulations of the Farm Credit Administration—increasing from 7 to 10 years, the maximum term within which nonaquatic loans, advances or discounts from a Federal intermediate credit bank must be repayable. The effect of such policies would be to permit production credit associations and other financing institutions which obtain funds from the Federal intermediate credit bank to make nonaquatic loans with repayment terms of up to 10 years from the time they are made or discounted by the Federal intermediate credit bank. The requirement that loans, advances, or discounts to producers or harvesters of aquatic products be repayable in not more than 15 years would be retained.

OTHER FINANCING INSTITUTIONS

The new bill would amend section 2.3 of the act (12 U.S.C. 2074) which sets forth the authority of Federal intermediate credit banks to make loans and extend financial assistance to and discount for or purchase obligations from production credit associations and certain other financing institutions.

H.R. 4782 amended subsections (b) and (c) of section 2.3 of the act to authorize such financing institutions to discount with the Federal intermediate credit banks loans made to producers and harvesters of aquatic products, thus assuring like treatment of other financing institutions and production credit associations with respect to aquatic loans.

The new bill would totally replace the existing section 2.3 of the act. By referencing the eligibility provisions applicable to production credit associations under section 2.15(a) of the present act, the proposed new subsection (a) of section 2.3 of the act would establish a parity between production credit associations and other financing institutions with respect to eligibility of loans for discount with the Federal intermediate credit bank. Other financing institutions would thus be authorized to discount credit to eligible farmers and ranchers—including their basic marketing and processing activities as would be authorized by the bill—farm-related businesses and certain rural homeowners.

The proposed subsection 2.3(b) would retain the present authority of Federal intermediate credit banks to participate with one or more production credit associations or Federal intermediate credit banks in the extension of credit to eligible borrowers and to own and lease or lease with option to purchase, to persons eligible for assistance under this title, equipment needed in the operations of such persons.

Under existing law, no paper may be purchased from or discounted for any national bank, State bank, trust company, or savings institution if the amount of such paper added to the aggregate liabilities of such national bank, State bank, trust company, or savings institution, whether direct or contingent—other than bona fide deposit liabilities—exceeds the lower of the amount of such liabilities permitted under the laws of the jurisdiction creating the same, or twice the paid-in and unimpaired capital and surplus of such national bank, State bank, trust company, or savings institution.

However, financing institutions other than banks, trust companies and savings institutions have been able to discount eligible paper with the Federal intermediate credit banks so long as the amount of such paper added to the aggregate liabilities of such corporations does not exceed the lower of the amount of such liabilities permitted under the laws of the jurisdiction creating the same, or 10 times the paid-in and unimpaired capital and surplus of such corporation.

Under the proposed section 2.3(c) this disparity in treatment among financing institutions would be removed, and—except as a financing institution may be subjected to more stringent limitations by the laws under which it is chartered—all financing institutions and PCA's would be subject to the same debt restriction: The amount of indebtedness of any such organization to Federal intermediate credit banks, when added to the aggregate liabilities of the organization, whether direct or contingent—other than bona fide deposit liabilities—could not exceed 10 times its paid-in and unimpaired capital and surplus.

The proposed section 2.3(c) would continue the provision of present law that it shall be unlawful for any national bank which is indebted to any Federal intermediate credit bank, upon paper discounted to or purchased by any Federal intermediate credit bank, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities, direct, or contingent, will exceed the 10 to 1 debt to capital limitation.

Under the proposed subsection 2.3(d), all loans, financial assistance, discounts, and purchases are made subject to regulations of the Farm Credit Administration and are to be secured by collateral, if any, as may be required by regulations. The proposed amendment would insert a new requirement that FCA adopt regulations which would assure that services of the Federal intermediate credit banks are available on a reasonable basis, as determined by the Farm Credit Administration, to any financing institution authorized to receive such services which (i) is significantly involved in lending for agricultural or aquatic purposes, (ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirement of agricultural or aquatic borrowers, (iii) has limited access to national or regional capital markets, and (iv) does not use such services to expand its financing activities to ineligible parties and purposes. In considering a financing institution against these criteria the Federal intermediate credit banks would be authorized to look through the financing institution to its corporate subsidiaries and affiliates and they may be considered together as one for purposes of those criteria. The bill would provide, however, that the initial decision as to whether to apply the look through approach would be made by the bank, and that, if the bank's decision is adverse to the applicant, FCA could review the decision as to the utilization of such an approach on a case-by-case basis.

The new bill would also authorize regulations that would permit Federal intermediate credit banks to charge reasonable fees for any commitments to extend service to a financing institution.

EXPORT FINANCE

The new bill would impose certain limitations relating to the international activities of the banks for cooperatives. It would require FCA regulation to provide for powers—and corresponding limitations—for the banks equivalent to those that may be exercised directly by banks, bank holding companies, and edge and agreement corporations organized under the laws of the United States or any State thereof, and indirectly through their foreign and domestic branches, subsidiaries, or affiliated entities. Before issuing such regulations, the Farm Credit Administration would be required to consult with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency and any unresolved differences arising out of such consultations are to be reflected in the FCA annual report to Congress.

SERVICE ORGANIZATIONS

H.R. 4782 would have amended title IV of the act to add a new part D relating to service organizations. It would have authorized the Governor of the Farm Credit Administration to issue charters to corporations organized by one or more of the Farm Credit banks, to perform for the organizing bank(s) functions or services—other than the extension of credit—which the bank(s) may perform under the act.

The new bill would specifically assure that such corporations would have no authority to provide insurance services to borrowers from Farm Credit System institutions. It would also provide that State laws shall apply to such corporations to the same extent they apply to the organizing bank(s), except that to the extent the act exempts system banks and their property from taxes, such exemptions—other than with respect to franchise taxes—shall not extend to such corporations.

SALE OF INSURANCE

The new bill would amend title IV of the act by adding a new section 4.28 relating to lines of insurance. The amendment would clearly establish those lines of insurance which may be offered by institutions of the Farm Credit System under regulations of the Farm Credit Administration.

Sections 1.11, 1.15, 2.5, and 2.16 of the act authorize Federal land banks, Federal land bank associations, Federal intermediate credit banks, and production credit associations to make available to borrowers, applicants, and members, at their option, such financial related services appropriate to their operations as is determined feasible under regulations of the Farm Credit Administration.

To make more specific those lines of insurance which are encompassed by general authority, the bill would provide the Federal land banks, Federal land bank associations, Federal intermediate credit banks and production credit associations with clear authority to sell to members, on an optional basis, credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtor(s), and other insurance necessary to protect the member's farm or aquatic unit but limited to hail and multiple peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers. By omission from the list of specifically authorized lines of insurance, other collateral insurance coverages would be excluded.

Under the bill, regulations of the Farm Credit Administration would have to provide that in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice must be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere.

Regulations would also provide for assurance that the bank or association has the capacity to render the insurance service in an effective and efficient manner; that there exists the probability that insurance programs to be undertaken will generate sufficient revenue to cover all costs; and that rendering the service will not have an adverse effect on the credit or other operations of the bank or association.

The bill would require that such regulations prohibit banks or associations from directly or indirectly discriminating in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any party who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

Finally, the bill would provide for a phaseout of insurance services no longer authorized. Any bank or association which, on the date of enactment of the bill, is offering insurance coverages no longer authorized, could continue to sell such coverages for not more than 1 year from the date of enactment and could continue to service such coverages until their expiration.

YOUNG FARMERS

The new bill would add provisions relating to the credit and related service needs of young, beginning and small farmers and ranchers. The provisions would require Federal land bank and production credit associations to prepare a program for furnishing sound and constructive credit and related services to such farmers and ranchers. Each program would be subject to review and approval by the associations' supervising banks. The banks would be required to obtain from the associations annual reports of activities under the program. The banks, in turn, would annually submit to FCA a summary of the operations of their associations under the programs. Likewise, FCA would then include, in its annual report to Congress, a summary and analysis of the reports received from the banks.

STATE LAWS

The new bill contains provisions relating to the status of Farm Credit System institutions and certain agricultural credit corporations with respect to State limitations on interest rates and State truth in lending-type legislation.

SUPPLEMENTAL RETIREMENT ANNUITY

The new bill contains provisions which would authorize, through means different from those included in H.R. 4782, a supplemental retirement program designed to attract qualified professionals from the Farm Credit banks and associations to employment with the Farm Credit Administration. The new program would authorize the Farm Credit Administration to establish, within limits imposed by the Federal Farm Credit Board, a retirement benefit program for individuals employed by the Farm Credit Administration on or after the effective date of the legislation, whose careers include prior service with institutions of the Farm Credit System not covered by the civil service retirement program. The annuity provided under such a program could not exceed that which, when added to his or her civil service retirement annuity, would equal the civil service retirement annuity to which the individual would have been entitled had such prior service been covered by the civil service retirement program; and the amount of any such annuity would be further reduced by the amount of any annuity or similar retirement benefit that the person receives from any Farm Credit System bank or association that formerly employed such person. As with all other expenses of the Farm Credit Administration, the cost of such retirement program would be borne fully by the Farm Credit banks. The proposed program would, therefore, impose no new obligations on the civil service retirement program.

VIRGIN ISLANDS

The new bill would amend section 5.0 of the act (12 U.S.C. 2221) relating to creation of Farm Credit Districts. It would permit the inclusion of the Territory of the Virgin Islands in one of the farm credit districts if authorized by the Federal Farm Credit Board. However, the extension in the Virgin Islands of credit and other services from institutions of the Farm Credit System would be undertaken only if determined feasible pursuant to regulations of the Farm Credit Administration.

FCA QUARTERS

The new bill which would add a new section amending section 5.17 of the act (12 U.S.C. 2251) relating to quarters and facilities for the Farm Credit System.

Present law authorizes the banks of the system, with the concurrence of two-thirds of the district boards, to exercise certain enumerated authorities necessary to the acquisition and maintenance of real property for quarters of the Farm Credit Administration. The bill would add to those powers, the authority to sell or otherwise dispose of any interest in property so leased or acquired if authorized by the Federal Farm Credit Board.

The bill would also clarify the authority of the Farm Credit Administration to act as agent for the banks in the exercise of any of the enumerated powers granted to the banks in connection with quarters and facilities for the Farm Credit Administration under section 5.17 of the act.

A companion provision would add an amendment to section 4 of the Agricultural Marketing Act, 46 Stat. 13 (12

U.S.C. 1141b) to delete the requirement that the Farm Credit Administration maintain its principal office in the District of Columbia.

CLASSIFICATION SYSTEM

H.R. 4782 would have authorized the Governor of the Farm Credit Administration to establish (1) a salary and classification system, and (2) job position qualification requirements, for employees of the administration below the level of Deputy Governor, without regard to the provisions of the competitive civil service and classification laws. The salary for any such position could not exceed the annual rate of basic pay for positions at level V of the executive schedule.

The new bill would limit the Governor's authority, in making appointments without regard to the provisions of the competitive civil service and classification statutes, to employees who are exempt from certain provisions of the Fair Labor Standards Act—that is, "any employee employed in a bona fide executive, administrative, or professional capacity." This recognizes the need of the Farm Credit Administration to have greater flexibility in determining the qualifications and salary level of professional employees. However, the application of the competitive civil service and classification statutes to other FCA employees would continue.●

THE NUNN-WARNER AMENDMENT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. WHITEHURST. Mr. Speaker, one of my constituents, Mr. Charles D. Meachum of Virginia Beach, sent me a copy of a letter to the editor of the Norfolk Virginian-Pilot, which appeared in the June 5, 1980, edition. Mr. Meachum pointed out, in his accompanying letter, that all of us should express our tangible appreciation to military personnel and their families for their matchless contributions and sacrifices in the defense of our Nation.

With Father's Day being observed this coming Sunday, June 15, it is particularly fitting that Mr. Ostrum's letter be inserted in the RECORD this week. The Nunn-Warner amendment is small enough recompense for dedicated families like this, and I hope that it will become law in the very near future.

My heartfelt thanks and best wishes go to the Ostrum family and the many others like them, not only on Father's Day, but all the time.

The letter follows:

SON, DADDY LOVES YOU

EDITOR, VIRGINIAN-PILOT:

I am stationed on board the USS *Ponce* (LPD-15). We are deployed off Key West, Florida, working with the Cuban refugees.

I'm writing this Letter to you because of a question my son asked my wife. It is a question that a lot of children who have fathers in the military have asked their mothers.

The question: "Mommy, doesn't Daddy love us anymore, 'cause he's never home?"

Here is an answer to that question. Please publish it for me, for not only my son but for the children all over who have fathers in the military.

Dear Son,

Yes, Daddy loves you. That Daddy isn't home and doesn't stay very long when he is home doesn't mean that he no longer loves you.

Please try to understand. Daddy is doing a job that he doesn't like all of the time; a job that takes him away from his loved ones most of the time; a job that takes him to places he doesn't want to go; a job that most people don't understand; a job that some persons criticize.

But, son, somebody has to do this job. And Daddy does it because he not only loves you, your brother, your sister, and your Mommy—he also loves his country. Daddy wants his country to be safe and free for his family to live in.

Your loving father,

DANNIE L. OSTRUM, USN.●

MAJORITY OF AMERICANS WANT INCREASED DEFENSE EXPENDITURES

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. SOLOMON. Mr. Speaker, according to Senator SAM NUNN, a Democrat and a respected authority on matters of national defense, a President of his own party, Jimmy Carter, has flip-flopped on the matter of defense policy at least five times in the past 6 months. Well, if the President of the United States cannot decide on what the proper policy should be, the American people certainly have.

At the request of the respected Heritage Foundation, the public opinion research company of Sindlinger & Co., Inc., has conducted an extensive survey of the American people's attitudes toward defense spending and foreign policy priorities. This was more than just a simplistic "yes" or "no" format, but rather a detailed exploration of attitudes on the level of defense expenditures vis-a-vis other concerns such as balancing the Federal budget and spending for social programs. The most critical conclusion of this study: Most Americans want sizable increases in defense spending within the framework of a balanced budget even if some nondefense expenditures must be cut.

Mr. Speaker, I would like to share the major conclusions of this extensive study. Any Member who would like to examine the actual survey data should feel free to contact me or my office.

The conclusions follow:

SUMMARY

The overwhelming number of Americans is flatly opposed to reductions in defense spending with a majority favoring substantial additions of as much as $30 billion.

Most want the defense spending increases to be within the framework of a balanced Federal budget and nondefense expenditures to be cut if necessary.

They also would like to see their candidates for Congress share their viewpoints on increased defense spending.

The findings emerged from a Sindlinger & Company survey conducted for the Heritage Foundation through continuous daily telephone interviews throughout the 48 contiguous United States from May 1-May 14. The survey reached a sample of 1,396 persons.

Presented with four possible choices on the defense and general budgets, two of every three people (66 percent) favored spending whatever is necessary for national security. Most of the remainder favored lesser increases and only 3.7 percent supported cuts in the defense budget.

At the same time, two-thirds (63.6 percent) said Congress should boost the defense budget by $30 billion to restore it to the levels of the Ford Administration. Another quarter (24.7 percent) said Congress should stick with President Carter's proposal for a 3 percent "real" increase above the inflation rate.

Of this large group that supported the $30 billion restoration, 44.9 percent wanted it phased in over three to five years, 24.9 percent favored a two-year restoration while 21.2 percent wanted it all back in one year.

A clear majority of all people (56.7 percent) said defense spending should be raised within a balanced budget and that nondefense expenditures should be trimmed if necessary. Another 21.2 percent said defense spending should be increased even if it meant higher taxes or a budget deficit while 9 percent favored the increase even if a deficit materialized. Only 6.5 percent favored a balanced budget over increased defense appropriations.

The survey found that the people clearly want senators and congressmen who also will support increased defense spending.

Two-thirds (68.6 percent) said it would be very important to them in making their choice between competing candidates if one favored higher spending and the other supported cuts in defense.

But even when both candidates favored increases, the people opted for the one who wanted the highest of the allocations. Thus, in a contest between a candidate who favored an unspecified increase and another who supported Carter's 3 percent boost, 57.3 percent would support the candidate who had no limit and 29.7 percent would back the candidate backing a 3 percent cap.

Higher defense spending emerged with widespread support in several cases when people were confronted with alternate choices.

Nearly three-quarters (72 percent) said defense should be boosted to whatever levels are needed to assure national security regardless of inflation and other economic considerations.

More than three-quarters (77.1 percent) supported "groups" backing whatever expenditures are necessary to maintain national security while only 18.6 percent supported "groups" seeking every effort to cut defense spending.

Two-thirds (64.3 percent) said defense spending should be lifted at a fixed rate each year while 23 percent said defense spending should be determined in line with money needs in nondefense areas.

Three-fifths of the people (60.1 percent) knew Carter's January proposal for a "real" 5 percent boost in defense spending. But less than half (49.8 percent) knew of the March revision of the increase down to 3 percent.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present on Tuesday, May 6. Had I been present, I would have voted as follows: Rollcall No. 214, "yes"; rollcall No. 215, "no"; rollcall No. 216, "no."●

REVENUE SHARING—CONTINUED

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. WALGREN. Mr. Speaker, as the Subcommittee on Intergovernmental Relations and Human Resources meets to mark up the revenue sharing bill, I want to share with my colleagues a copy of my remarks before the 80th Annual Convention of the Pennsylvania League of Cities.

REVENUE SHARING—THE BATTLE FOR RENEWAL

(By Congressman DOUG WALGREN)

As a Congressman representing over 60 boroughs and townships in Western Pennsylvania, I have joined with a number of colleagues in Congress this year to push for renewal of the $6.86 billion Federal Revenue Sharing program which is scheduled to expire on September 30th. This battle is a very difficult one.

Revenue Sharing has been in existence since 1972. You as local officials, don't need me to tell you how important it is to the local governments of Pennsylvania. Since 1972, Revenue Sharing has returned over $55 billion in federal funds to 39,000 state and local governments. A study by the Pennsylvania League of Cities, the Pennsylvania State Association of Boroughs, and the Pennsylvania State Association of Township Commissioners concluded that:

Revenue Sharing accounts for 14 percent of the average local government budget;

If Revenue Sharing funds were replaced by property taxes, these taxes would increase an average of 38 percent; and

If Revenue Sharing is not renewed, 59 percent of local governments expect to cut services and 87 percent will have to increase taxes. Many will have to both cut services and increase taxes.

Revenue Sharing was first conceived by a Democratic President, passed by Democratic Congresses, and signed into law by Republican Presidents in both 1972 and 1976. It is indeed because of the program's bipartisan support that it has been so successful.

The bad news is that one-third of the Revenue Sharing program has already been lost. The State Share is dead, at least for this coming fiscal year. With the federal budget repeatedly in deficit year after year, and the Congress determined to balance its budget for the first time in twelve years, many feel there is no longer any "revenue" left to share. We tried renaming the program "Property Tax Relief" in order to make it more attractive politically. But unlike Presidents Johnson, Nixon, and Ford, President Carter is no great fan of Revenue Sharing. And the combination of Administration opposition to the state share, personal opposition to Revenue Sharing on the part of some in Congress, we have a tough battle in front of us.

After months of false starts, turn-arounds, and indecision, the Administration finally proposed a bill (H.R. 7113) in April. The most notable part of the Carter bill is the elimination of the state government share of the program. Thus far, the Congress seems to want to go along with this move. While this will have a severe impact on local governments in Pennsylvania since the state "passes-through" its entire allocation of $111 million to local governments, I want to focus on the Administration's proposed changes on the *intrastate* formula governing money which local and county governments receive *directly* under Revenue Sharing.

Simply put, the Administration does not propose to change the actual dollar amounts committed to county and local governments in Pennsylvania as a whole, but it does propose a new way of "cutting up" the pie. If the Administration's formula is enacted, every single county government in Pennsylvania except Philadelphia will lose Revenue Sharing funds. And every single county, except Philadelphia, has cities, townships, and boroughs which will lose portions of their Revenue Sharing funds. The *only* big winner is Philadelphia which will see a 21% or a $10 million increase in Revenue Sharing funds. But this increase is *at the expense of local governments throughout the Commonwealth.* For example, all local municipalities in Allegheny County, taken as a whole, will lose $794,000. But when you do not take into account the gain to the City of Pittsburgh, this total loss to the Allegheny County government and its other communities rises to almost $1.5 million.

It is the same story for every other county in the Commonwealth. Delaware County and its local governments lose $412,000. Erie County local governments lose $275,000. Fayette County local governments lose $207,000. Lackawanna County municipalities lose $428,000. Lehigh County municipalities lose $353,000. Luzerne County local governments lose $308,000. Montgomery County municipalities lose $1,492,000. Northampton County governments lose $318,000. Mercer County local governments lose $215,000. Schuylkill County municipalities lose $241,000. Washington County local governments lose $193,000. Westmoreland County municipalities lose $404,000. The list goes on and on.

This proposal is a disaster plan for our local governments. With cuts in other federal grant programs required to balance the budget, cuts from the state due to the loss of the state share, and the recession weakening the ability of local governments to take in revenue, local governments are finding themselves in a box. These reductions are going to put you, as a local official, in a financial stranglehold at the worst possible time. With these cuts, our local communities have only two unacceptable alternatives: raise taxes or cut needed services.

Why is the Carter Administration proposing changes which will be felt so keenly—and negatively—by so many of our counties, smaller cities, townships, and boroughs in Pennsylvania? I think it is clear that the Administration, is trying, through Revenue Sharing, to target more money to a select few of our Nation's large, financially distressed cities.

But, ironically, in Pennsylvania, the proposed formula changes benefit only 263 cities out of our 1,017 classified urban centers. And, really, when you compare actual dollar amounts, Philadelphia is the only real beneficiary.

Philadelphia's increase of $10 million is more than 14 times the increase of Pittsburgh, 71 times the increase of Harrisburg, and 200 times the increase of Erie. Pennsylvania's other larger cities are actually losing: Scranton loses $199,000; Wilkes-Barre loses $89,500; Bethlehem loses $41,000; Allentown loses $33,700; and Reading loses $11,500.

While need should be a factor in Revenue Sharing, it is important to recognize that the purpose of Revenue Sharing is to return to *every* government some of the tax dollars their residents send to Washington. Revenue Sharing was never intended to be an income transfer program. We have all kinds of other federal programs for that.

Those of you who are familiar with my record in the House know that I have been a supporter of urban programs designed to help our large cities. Our urban centers, including Philadelphia, deserve the maximum financial support that we can afford to give. But financial support for some cities should *not be at the expense of other cities, townships, boroughs and county governments.* Nor should every single federal program be targeted to large cities.

Before I describe the formula changes the Administration has in mind, let me first review the present allocation system. This rather complicated process divides a fixed sum of money in sequence among states, then among county areas within each state, and finally among local governments. But to understand how this formula works, you really have to look at the *political* background of the initial authorization of the program in 1972.

Like all formula programs, the Revenue Sharing formula is a reflection of the power and influence structure of Congress. While every Congressman will proclaim that he or she seeks a formula which is fair and equitable, this usually translates into the formula which gives his or her constituents the largest slice of the pie. The "formula game"—securing as much money for your own region as you can—can split the Nation into North versus South, urban versus rural, rich versus poor. It shows up in legislation from gasoline rationing to Medicaid.

The Revenue Sharing formula, written in 1972 and essentially maintained in 1976, can only be understood against this background. At first, everyone agreed on the basic idea—to turn over a certain amount of money to the states and local governments each year, to be used pretty much as they wanted, with no strings attached. But, according to the computer printouts, the formula proposed by President Nixon was a "suburban" formula—giving lots of money to the wealthy suburbs where the Republican power base lies. Senator Ed Muskie, then a Democratic candidate for President, drafted an alternative formula, based on the number of welfare clients in an area, which favored the big cities in the North, as well as southern cities and poor rural areas.

On the House side, the initial formula proposed by Chairman Wilbur Mills was most favorable to the south and rural areas—incidentally giving Little Rock, Arkansas (represented by Congressman Mills), the highest per capita allocation in the Nation. But there were other members of the Committee from northern and urban areas. The final House formula combined five factors—population, urbanized population, relative income, state individual income taxes collected, and general tax effort—all of which helped the urban areas of the North and Northeast.

The Senate did not like this formula, primarily because more of its members come from the South, West, and rural areas. The Senate formula, using only the three factors of population, relative income, and general tax effort, gave more to the kind of very poor areas which are mostly rural and Southern.

The northeastern urban tilt of the House formula and the southern rural tilt of the Senate formula is easily seen. Mississippi received $45.7 million under the House formula but $97 millon under the Senate. New York got $643 million under the House formula but only $501 million under the Senate. With a major funding program at stake, neither side would give in to the other. So, in its infinite spirit of compromise, the Congress decided to let each state opt for either the House or Senate formula—whichever was best for them. One member of the Conference Committee summarized the frustration of formula writing: "We finally quit, not because we hit on a rational formula but because we were exhausted. And finally we got one that almost none of us could understand."

What is this very complicated formula? The distribution of funds among all 50 states and the District of Columbia is made on the basis of the three-factor Senate formula and the five-factor House formula. Each state's allocation is computed by assigning the larger allocation from the two formulas to each state and then scaling the amounts to equal the total amount to be allocated. In Pennsylvania, the House factor has determined our allocation each year since 1972.

Once this *inter*state process is complete, the *intra*state allocation process begins. First, one-third of the state's pot is allocated directly to the State Government. The remainder, the local share, is divided by the population of the state to yield the *per capita local share* (pcls)—used to determine the very important minimums and maximums a government can receive.

The division of the local share begins with the allocation to county areas using the 3-factor Senate formula. If any county area share is less than 20 percent or more than 145 percent of the pcls, the cost of raising it to the 20 percent floor or the surplus from lowering it to the 145 percent ceiling is spread among all other unconstrained county areas in the State.

The share of the county-area allocation is assigned to the County government and all municipal governments according to the ratios of non-school tax revenues ("adjusted" taxes) collected by each government. The totals for municipalities are divided among the respective individual governments by use of the three-factor formula.

The 145 percent and 20 percent per capita local share (pcls) limits are next applied to each municipality. If the allocation is over the 145 percent ceiling, it is reduced to that ceiling; if the allocation is below the 20 percent floor, it is raised to that floor or the 50 percent budget constraint. To prevent overdependence on Revenue Sharing funds by a local government, this constraint prohibits any unit of government from receiving a Revenue Sharing allocation greater than 50 percent of its combined revenues from non-school taxes plus inter-governmental transfers.

Since 1972, this formula has been a matter of some controversy. Since the program is an "entitlement," the formula is the only variable which determines who gets how much money. As I described above, the formula was the result of many long hours of debate, hundreds of computer printouts, and much political wheeling-and-dealing.

I am not claiming that the formula is perfect. But the point is that it works, and it works pretty well. As one supporter noted, "if it ain't broke, don't fix it." We all have to remember that the coalition behind Revenue Sharing is a very fragile one, encompassing both conservative Republicans and liberal Democrats. The Carter Administration, with its proposed formula changes, threatens to split this coalition—and the result may very well be no Revenue Sharing at all.

Let me briefly describe the Carter formula changes:

1. Elimination of the initial allocation to county areas ("de-tiering"). All localities in a state, including county governments, will compete on a common basis. This means that Greensburg in Westmoreland County will compete directly with the County of Philadelphia for funds, just as Westmoreland County area now competes with the County of Philadelphia.

2. An increase in the maximum per capita Revenue Sharing grant a government can receive from 145 percent to 175 percent of the statewide average per capita amount. It is important to realize that Philadelphia has been constrained by the 145 percent ceiling since 1972. Increasing that ceiling to 175 percent is the principal reason Philadelphia receives a $10 million increase at the expense of local governments throughout Pennsylvania.

3. A decrease in the minimum per capita amount a government can receive from 20 percent to 10 percent of the statewide average per capita amount, thus *reducing* the amount of money a local government is guaranteed.

4. Reduction to 25 percent in the constraint that no government can receive a Revenue Sharing allocation amounting to more than 50 percent of its total adjusted taxes plus transfers.

5. A new cap designed to deny a percentage of Revenue Sharing funds to those communities whose average per capita income is 15 percent above the statewide average. In Pennsylvania, this would hurt many middle-class areas which nobody would call "wealthy." In Allegheny County, for example, some 40 communities would be affected by this cap.

6. A new cap designed to deny a percentage of Revenue Sharing funds to those communities whose residents pay low taxes because their local government has other sources of income, e.g. resort taxes, oil and gas severance taxes, etc.

A few of these proposed changes may have some merit, but I am very hesitant to see new controversies over formulas raised now when we have a tough enough battle in Congress just to extend Revenue Sharing in its existing form. To split supporters of Revenue Sharing apart over these issues—when extension itself is at stake—seems to me to be sheer lunacy.

Fortunately, the Subcommittee on Intergovernmental Relations, which has jurisdiction over the bill, does not seem overly enthusiastic about the Carter formula changes. The Subcommittee, chaired by Congressman L. H. Fountain of North Carolina, will meet shortly to make their recommendations on the program to the full Government Operations Committee.

In the House, we have four Pennsylvanians on the Government Operations full Committee: Congressman Bill Moorhead (who also serves on the Subcommittee), Congressman Peter Kostmayer, Congressman Eugene Atkinson, and Congressman Bob Walker.

In the Senate, Senator John Heinz serves on the Finance Committee which has jurisdiction over the bill. He has a record of strong support for Revenue Sharing—especially the state share—but has taken no formal position on the formula changes.

In constant dollars, the present Revenue Sharing program is worth 40 percent less today than its original 1972 value. More money would help, and certainly these formula changes would be easier to swallow if there were only gainers and no losers. But this would require an additional $132 million not provided for in the current budget. Congress, in my judgment, is not likely to increase the present Revenue Sharing budget for local governments.

The Chairman of the full Government Operations, Congressman Jack Brooks of Texas, has opposed the concept of Revenue Sharing from the very start. He has been trying to kill the program and, to date, he has failed. But with a reluctant Administration and a Congress divided over proposed formulas, Congressman Brooks may very well succeed this year. Your effort may make the difference.●

CHRIS CASCIATO, WEST POINT'S TOP CADET

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. GAYDOS. Mr. Speaker, I am extremely proud to bring to the attention of my colleagues in the House of Representatives this morning the record of an outstanding young man from the 20th Congressional District of Pennsylvania—2d Lt. Chris Casciato of White Oak Borough.

This young man has achieved a recognition shared by relatively few men in our Nation's history. He was graduated No. 1 in the 1980 class at West Point Military Academy. And, he did it with a better than 4.0 average. Cadets, as you know, are not graded solely on test results. They also are judged on such qualities as military proficiency, leadership, and physical education. Chris' better than 4.0 average, therefore, puts him in the same class of leaders as one of our country's most respected military men—the late Gen. Douglas MacArthur.

The accomplishments of Chris at West Point, however, merely reflect the high level of attainment he established as a high school senior. In 1976 he was graduated from McKeesport Area High School with a 4.0 average and, again, was No. 1 in his class.

His high school honors extended far beyond the classroom. He was active and outstanding in other areas as well, such as the school's rifle team and area amateur hockey teams. He also was selected to participate in the national science summer institute program.

Chris also demonstrated his proficiency for the military while in high school. He was a member of the Naval Junior Reserve Officers Training Corps—NJROTC—and collected numerous awards, including: the American Legion Medal for Academic Excellence, the Distinguished Cadet Ribbon, Naval Science II—awarded for the highest combined average for citizenship and overall scholastic standing and aptitude, the Personal Appearance Ribbon, the Honor Roll Ribbon—Chris made it every semester, the Rifle Team Ribbon, and the Special Commendation Ribbon—awarded for participation in extra activities. Chris also led the NJROTC unit as company commander with the rank of cadet lieutant commander during the 1975-76 year.

His achievements at West Point, therefore, only confirmed what his peers and teachers had recognized early: Chris possessed qualities of scholarship, leadership, and responsibility not found in many young men of his age. He had, in the words of one of his instructors, a sense of direction and purpose in all of his activities.

Chris' parents, Mr. and Mrs. Ralph Casciato of White Oak, obviously are very proud of him. But that pride is shared by his friends, his community, and his former high school.

Mr. Speaker, it is with great pleasure, therefore, that I extend to Chris Casciato, on behalf of my colleagues in the Congress of the United States, our congratulations on his record at West Point and our best wishes for success in the years to come.●

HON. FLOYD SPENCE SPEAKS TO RESERVE OFFICERS ASSOCIATION NATIONAL COUNCIL

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. TAYLOR. Mr. Speaker, on February 21 of this year, our colleague, Representative FLOYD SPENCE, spoke before the Army section of the Reserve Officers Association National Council at their annual meeting held in Washington, D.C.

In his remarks, Representative SPENCE provides a most enlightening critique of our military posture, reviewing the state of our national defense from the end of World War II to present day.

Representative SPENCE speaks with authority, based on knowledge gained as a longtime member of the House Committee on Armed Services and his frequent meetings with world leaders and experts on international relations.

To those of you who are concerned about America's military strength, especially while that issue is the subject of considerable debate during the consideration of the budget resolution, I urge you to read Congressman SPENCE's remarks, which I am pleased to insert at this point.

His remarks follow:

APPEASEMENT POLICIES HAVE NOT REAPED REWARDS OF PEACE AND COOPERATION

The United States today is at a crossroads in history. We are confronted with many problems on the national and international scene. Our response to these challenges will determine whether or not we remain a free nation and whether or not other nations of the world will choose to side with us in the struggle for what I perceive ultimately to be the survival of our way of life.

This point was emphasized during a meeting I had in January with Prime Minister Lee Kwan Yeu of Singapore. Prime Minister Lee is widely recognized as an authority on international relations. His assessment of why we find ourselves in the predicament we are in coincide with my own. During our discussions, he indicated that the next decade would belong to either the Soviet Union or to the United States and that the outcome would depend essentially upon us. He said that we are a good people who want to be liked and respected. We try to ask the opinion of everyone before we act. The Prime Minister said that we can't do this. We have to do what is in our own best interest as a nation. If we act successfully, the other nations of the world will not object. They want to be on the side of the winner—where the power is. They believe this is necessary for their own long-term interests and ultimate survival.

TOO GOOD

Mr. Lee said that the United States has been too good for our own good. In an effort to do what is in the best interest of all parties, we have perhaps tried too hard. What rewards have we reaped? We have been kicked around by everyone without fear of punishment. Compare this with the Russians—they are viewed as "bad guys," but no one kicks them around. Why is this the case? The United States has lost its credibility around the world. We have followed policies of appeasement and unilateral disarmament, and the nations of the world view these policies as signs of weakness. We must act now to re-establish our credibility but, as Prime Minister Lee pointed out, we can't do it by making speeches and writing editorials. We must be willing to take firm and definite action.

Let's look back at what our reaction to events has been, since World War II, and see if Prime Minister Lee's assessment of the situation is an accurate one.

In 1945, when the war ended, the United States could have made slaves of everyone in the world. We had more military might than all the rest of the world put together, and we were the acknowledged and respected leader of the free world. Since that time, however, we have engaged in unilateral disarmament. Since 1954, the percentage of our Gross National Product (GNP) devoted to defense has dropped from 12.7 to 5.2 per cent. The percentage of our national budget allotted to defense has declined from 65.3 to 23.5 per cent. During this period of time, Russia has increased from 8 to 18 per cent the part of their GNP devoted to defense. In the last 15 years they have doubled the defense spending in their budget. We cancelled the production of the B-1 Bomber, after spending billions of dollars in research and development, without a comparable concession from the Russians. The Secretary of Defense, in justifying this action by the Carter Administration, compared the B-1 Bomber and the cruise missile as alternative weapon systems and said we didn't need both! I thought everyone knew that the cruise missile was a weapon that had to be carried part way to a target by a mobile launcher such as an airplane or a submarine. In any event, the cruise missile has still not been perfected and deployed, and guess what! Now, this year we are told we need to build a new long-range bomber!

DEFERRED PRODUCTION

The United States also deferred the production of the neutron weapon. I visited in Russia a couple of years ago and was told by their military leaders that the United States is no longer the strongest nation in the world and that we might as well accept this as a fact of life. They said that the Soviet days of playing "catch up ball" were over—but it was significant to learn that they were still almost paranoid about our proposed neutron weapon since it would help to offset their huge advantage in tanks in Western Europe. Guess what we did? The Administration deferred the próduction of the neutron weapon unilaterally, again without gaining any concessions from the Russians.

We have finally succeeded in obtaining the authorization for the construction of a new nuclear carrier, after President Carter vetoed it twice and threatened to veto it yet a third time. However, when the authorization bill for FY80 was considered the nuclear carrier received 100 more votes in Congress than the year before, and the President finally surrendered to the Congressional mandate.

Our foreign policy has been characterized by what I call "pre-emptive concession." We have disarmed ourselves unilaterally without gaining any concession. Taiwan is one of the best examples of our misguided efforts at detente and world peace. We abrogated our treaty with Taiwan, a trusted and trusting ally, when we normalized relations with the People's Republic of China. However, Red China would have normalized relations even if we had not repudiated our ally since they need our technology. (Incidentally, I was even told by one of their leaders that we shouldn't ratify SALT II!)

STRATEGIC PROPERTY

We also negotiated treaties which led to the transfer of the Panama Canal to the Government of Panama. The Panama Canal is a crucial waterway which forms a vital link between the Atlantic and Pacific oceans, and again we gave up this strategic property when there was no reason to do so and no advantage to be gained.

During the Korean War, we were not permitted to chase our aggressors back across the Yalu River, nor were we allowed to bomb the bases from whence they came to kill our people. Our forces had to fight with one hand tied behind their back, so to speak. Compare this with our experience with Germany during World War II: If we had not been allowed to bomb in Germany at that time, we would have lost the war—or would have been forced to accept less than total victory at a later date.

One of the most tragic and heartrending scenes I can recall occurred during the last days in Vietnam. I will never forget the pitiful sight of people standing on top of another American Embassy in a place called Saigon (now Ho Chi Minh City), reaching up for the last helicopter leaving from Vietnam. In the eyes of much of the world, our great nation left the field of battle under less than honorable conditions. We could have ended the war and protected the freedom of the South Vietnamese if our civilian leadership, or lack of it, had allowed the military to exercise the options which would have permitted us to resolve the conflict in our favor. The word is now out: Don't ally yourselves with the United States—they'll run off and leave you!

WORLD SAT BACK

In 1968, when the USS Pueblo was captured by North Korea, the world sat back and watched us react to this violation of our rights. After a long time, we finally got our men back, but only after we met their condition that we confess to having violated their territorial waters. Of course, once our men were freed, we told the world that we had lied in order to secure their release. It sickens me to think that the greatest nation on earth has to stoop to lying in order to obtain the release of our citizens who are held illegally! The parallels with the current situation where our hostages are being held at our embassy in Tehran are unmistakable and I can only hope that the President will not compromise the integrity of the United States during the ongoing negotiations.

Many people have forgotten our two Army officers in Panmunjom, Korea, who were killed with their own axes when they were set upon by North Koreans while on a tree trimming detail. I couldn't believe that our men did not fire a shot in their own defense. I went there to find out what happened. I was told that they had weapons and were permitted to use them in their own defense, but they are cautioned about over-reacting to any situation. We put our finest physical specimens on duty there and they have to take all kinds of abuse from the North Koreans. They hesitate to retaliate for fear of bringing about an "incident." The world has that characterization of us—that we will not lift a hand to defend ourselves.

It is even less reassuring to realize that when our embassy in Iran was overrun the first time, the Marines were not allowed to defend it. Later, of course, more than 50 Americans were taken hostages and paraded blindfolded with their hands tied behind their backs. When the world sees these handcuffed men and women, our fellow countrymen, treated in this manner, we are looked upon as impotent and as the prisoner of our own policies, afraid to use the power we possess to punish those who treat us this way. There was a time, back in 1904 when an American citizen named Perdicaris was taken hostage by a pirate named Raisuli in Tangier. We sent a simple message—"Perdicaris alive or Raisuli dead!" Perdicaris was released alive!

AMBASSADORS KILLED

In recent times, we have had ambassadors killed in Cyprus, Sudan, and Afghanistan. Since the takeover of our embassy in Iran, our embassies in Pakistan and Tripoli have been overrun with the loss of two American lives in Pakistan. Also, the Soviets have invaded Afghanistan, and our response to date has been equivocal at best. I am reminded of the discovery several months ago of Russian combat troops in Cuba. President Carter said he would not tolerate the status quo in Cuba, but we have tolerated the status quo ever since and there are reports that the number of troops has even been increased. I am concerned that we will react in a similar fashion to the crisis in Afghanistan. The Russians were encouraged to invade Afghanistan without fear of a response from us because of our failure to back up our stated position relative to the Russian troops in Cuba.

Since Afghanistan, I have seen the emergence of "Born Again Hawks!" People in Congress and the Administration are now talking about the need to increase our defense capabilities. Yet, these same people who led us into the wilderness are now saying they know how to lead us out! The Secretary of Defense recently testified before the House Armed Services Committee on the need to increase defense spending. I reminded him of his position during appearances in previous years when he apparently did not realized the weakened condition of our defense posture. It seems in many respects that we started going downhill when we established the Department of Defense from the old War and Navy Departments. What we need is a Department of *Offense*!

The Carter Administration is calling for a 5 percent increase in defense spending during FY81. The President is proposing a "quick fix" which he feels will make up for all the past failures to strengthen our defense budget. Yet, it is important that we look at what the 5 percent increase would involve. Is it stated in terms of real dollars? Inflated dollars? Across-the-board increases in all programs? You can see how quickly the picture clouds, and how easy it is to hide behind rhetoric when what we need is substance.

VITAL WATERWAYS

As an example, I would like to point to the Navy's problems at this time. Most people recognize the importance of the sealanes of the world, and the fact that we must improve our naval capabilities to ensure our access to these vital waterways through which much of the oil and strategic materials needed by us and the rest of the free world must be transported. In spite of the importance of the Navy in protecting these lifelines of the world, Carter's budget recommends only an increase of 1.3 percent overall for the Navy, and the shipbuilding program is actually *decreased* by $500 million. I serve on the Seapower Subcommittee, and I feel that the subcommittee and the full Armed Services Committees will add to the Administration's request for shipbuilding. We cannot afford not to.

To those who are concerned about war and how best to avoid it, I would challenge them to look at history. After World War II, a commission went to Japan to determine what entered into the decision to attack Pearl Harbor. The commission learned that the Japanese were encouraged to attack because of our own acts of weakness. The United States passed the draft by only one vote just prior to the war, and we scrapped 200 of our ships to prove that we had no hostile intentions toward anyone. They concluded that we were too weak militarily and too weak in resolve to defend ourselves from their attack. Hitler also proved beyond question that a policy of appeasement is ineffective in stopping or slowing aggression. Country after country was thrown to him in an effort to satisfy his appetite. Appeasement only stimulated a hunger for more territory and more aggression.

LOST CREDIBILITY

The United States has emphasized appeasement and rhetoric in recent years, and our policies have not reaped the expected rewards of peace and multilateral cooperation. The United States has lost its credibility as the strongest nation on earth. We are perceived as a paper tiger. This view is held by our foes, but of equal concern is the prospect that our allies hesitate to support us because of a belief that the United States no longer has the will, the courage, or the ability to defend itself or the principles of freedom which we espouse.

We must act now to reverse this trend, but we will have to do more than just try to talk our way out of difficult situations. We must take decisive and immediate action to reverse the declining military posture of the United States.

To fear war is good, but to fear war too much is the surest way to invite it. If we appear weak militarily, or if we indicate that we are weak in will and resolve, we are asking for trouble. The best way to prevent war is to be so strong that no one will be misled into some adventuresome course against us.●

ARE WE PLANNING OUR SCIENCE AND TECHNOLOGY INVESTMENTS AS EFFECTIVELY AS OUR ADVERSARIES?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. BROWN of California. Mr. Speaker, there are strong currents of thought flowing these days concerning the importance of science and technology in industrial innovation and productivity in this country. These are represented by a great number of our congressional activities, with perhaps the broadest view being taken by our colleague LES AUCOIN's Innovation Task Force and the Congressional Innovation Newsletter which we have started as a way of bringing the diverse approaches together.

These currents are especially important at a time when we are evaluating some of the recent attempts to provide for orderly planning of scientific and technological investments. The 5-year outlook mandated by the Science Policy Act of 1976 is one of these. The Congress has just received this document and we will, in the Science and Technology Committee, be reviewing it in a hearing on June 13, and in further broader hearings on science planning in late July. In principle, the 5-year outlook document and other science planning steps should help us set priorities for science investments in this time of strong budget stress, and in our difficult deliberations on the pending budget resolution for fiscal year 1981.

I would like to note to my colleagues that the consciousness of how important science and technology investments are to our future well-being and national security is far from unique to this country. Both our friends and adversaries around the world have realized the strength of the linkage and are striving to mobilize and develop their scientific and technical resources to increase productivity and innovation. Lest we have any doubt of the risk of falling behind in bringing science and technology fully into integration with the strength of the economy, let me provide a sample of the thinking current in the Soviet Union. The following paragraphs are excerpts from an article by R. Masherov, first secretary of the Belorussian Central Committee, entitled "Strengthen the Alliance of Science and Production." I urge my colleagues here in Congress, as well as our friends in the administration and in the private sector, to analyze whether our own planning techniques are appropriate for guiding our investments in this critical area:

[From the U.S.S.R. National Affairs, Mar. 19, 1980]

STRENGTHEN THE ALLIANCE OF SCIENCE AND PRODUCTION

* * * * *

I wish to emphasize immediately that, as part of the country's unified national economic complex, Belorussia's economy has now arrived at a state in its development which can only be bettered if a qualitatively new, higher level of integration between science and production is achieved. The solution of these problems is all the more urgent as the foundations are being laid today for the Soviet economy's further development in the direction of its intensification, increased efficiency and quality and the achievement of high end results. As Comrade L. I. Brezhnev emphasized in his speech to the voters of the capital's Baumanskiy Electoral Okrug, "in the eighties we are obliged to continue and complete this very important business, which is the key of the party's economic strategy."

This is why, in our view, there is most clearly an urgent need for solutions and approaches which, being realized in practice, will on the one hand sharply intensify the process of scientific research and on the other revolutionize production on the basis of the latest scientific and technical achievements. And the potential for this exists. Its availability is convincingly evidenced by the quantitative and qualitative characteristics of the republic's scientific potential and by the experience accumulated by progressive scientific collectives both in developing fundamental and applied research and in organizing the scientific process and testing in practice new structural forms of science's link with production.

* * * * *

We expect scientific workers to elaborate fundamentally new scientific, technical, organizational, design and technological solutions which would make it possible to modernize whole sectors of production, to produce the most technically sophisticated output and to sharply accelerate the labor productivity growth rate and the attainment of a far higher level of labor productivity. * * *

In the all-union division of labor our republic fulfills important functions in the development, above all, of machine building and instrument making, that is, precisely those sectors on which the raising of the overall technical level of the national economy and its provision with the most modern machinery, equipment and technologies largely depend. Need it be said that the output of these sectors must be first-class in terms of technical and economic parameters, while scientific design developments, whose purpose is to insure the reliability and high class of this output, must embody ideas, discoveries and inventions which would not only meet present-day requirements but also outstrip them and be calculated for the long term. So far this is being insured far from always.

Moreover, in a number of instances we encounter a manifestation of unfeeling technical conservatisms, when plainly obsolete solutions are employed in the design of individual machines and instruments and in the technology of their manufacture.

* * * * *

At the same time I would also like to speak of something else. We have many enterprises and associations with rich experience of constantly raising the technical standard of production. Their links with science have long since acquired the nature of close cooperation. * * * But these days, as is known, scientific thinking is developing so fast that the time taken to introduce innovations must be as short as possible and researchers and production workers must always be guided by Lenin's instruction that insuring the comprehensive progress of socialist society demands "technology built to the last world of the latest science."

* * * * *

It is necessary to gamble on large-scale savings of fuel and energy resources—which is possible only by switching to fundamentally new technologies in industry, agriculture, construction, power generation and municipal services, creating less energy-intensive machines, units and technological processes and efficient heat-insulating materials and widely introducing automatic heat-conserving devices in industry and in the home. * * *

We are seeking to involve scientists more widely in work connected with reducing the materials-intensiveness and at the same time increasing the durability of machines, mechanisms and structure, creating and widely introducing waste-free technologies, developing the production of various kinds of substitutes for materials in short supply, particularly valuable metals, and resolving such a very acute intersector problem as the struggle against corrosion.

As regards developments connected with accelerating scientific and technical progress in agriculture, we set scientists the task of extending fundamental and applied research into the creation of strains of agricultural plants and the breeding of kinds of animals which, while being highly productive, would also be resistant to disease and to various kinds of weather fluctuations under the republic's conditions.

* * * * *

An important factor in increasing the effectiveness of scientific research and accelerating the introduction of its results into production is to strengthen the material, technical and experimental base of science and increase the equipment available for the labor of scientific workers. Life convinces us that this problem can best be resolved only when production itself decisively turns its face toward science and assumes a necessary share of concern for material and technical supplies for the process of scientific creativity, particularly at its final stage—the actual embodiment of scientific ideas in practice in the form of new technologies, machinery, articles and so forth. We must have programs for the development of the experimental base in all leading sectors.

But, of course, this problem does not boil down just to the creation of suitable conditions for the efficient functioning of scientific research institutes.

This is not an end in itself but a means of resolving the chief task—accelerating the pace of scientific and technical progress on the basis of the speediest introduction of researchers' developments into production. And it is precisely the latter that gives rise to the greatest concern. We recently familiarized ourselves in detail with the activities of a number of Belorussian SSR Academy of Sciences institutes and other scientific establishments. Scientists have created models of unique equipment and progressive methods of working materials and products making it possible sharply to increase labor productivity and to save considerable material and power resources. But their use in practice is being insured, at best, only in a few enterprises, although the solutions being proposed can and must be employed in many sectors.

Progressive practice shows convincingly that we must change over more boldly to new organizational forms of integrating science and production and to new evaluative criteria and indicators which would in equal measure stimulate scientists and production workers' activeness and their mutual interest in the most rapid utilization of scientific and technical achievements.

Here the USSR Ministry of the Electrical Equipment Industry's experience of administering scientific and technical progress is of great value. The sector has introduced integral [skvoznoye] planning and financing of all work—"from the original idea of commissioning"—and operates a quality control system. Further evidence of the saving thus achieved is provided by the experience of Minsk's V. I. Kozlov electrical equipment plan, which is administered by the aforementioned ministry. Here there has been a 50 percent acceleration in the implementation of scientific and technical developments and the savings from using new goods in the national economy have almost doubled.

All the prerequisites now exist for creating large science-and-production associations in which, in our opinion, science and scientists should be the dominant and commanding force. This will make it possible to overcome the present practice whereby science and production only come into contact with one another in isolated cases, when they must be integrated and organically amalgamated in the process of jointly solving national economic tasks.

Creating science-and-production associations and, within the Academy of Sciences, scientific and technical associations affords a real opportunity of sharply reducing the time it takes to introduce scientific developments into production and to put this all-important task on, so to speak, a state plan footing. We are pursuing a course of studying and solving all questions connected with the creation of such associations, especially those concerning intersector problems, as quickly as possible.

We are confident that science-and-production and scientific and technical associations have a big future ahead of them because they make it possible to organically combine basic and applied research and do dovetail all the links in the science-production chain.

Of course the republic's trade union organizations have a big part to play in accelerating scientific and technical progress and strengthening the ties between science and production. They are now more specific in their efforts to instill in the working people a creative and innovative attitude to their work and are struggling more actively to put the economy on an intensive footing. But what has been done and is being done in this sphere is still not enough. Our trade unions must show greater initiative and be more up to date in developing and persistently implementing conditions of competition among inventors and rationalizers, engineering, technical and scientific workers and specialists geared toward achieving high end results in scientific research work and introducing them into economic practice. Trade union committees are called upon to increase public monitoring of the implementation of comprehensive production mechanization and automation programs, especially in heavy, monotonous and auxiliary manual operations. We are, after all, talking about a problem of enormous social importance whose solution is intimately connected with improving labor protection and making it more human in every sense of the word.

The most important of the reserves for consolidating the alliance between science and production is the energetic activity of scientific and technical society and all-union society of inventors and rationalizers organizations. Today around 400,000 people are active in the 20 republic sector scientific and technical societies. Every second member of these organizations is a scientist or engineer, every eighth member a worker-innovator. This is a big force which makes a considerable contribution to the technical development of sectors. And this contribution is the greater, the more use that is made by the scientific and technical societies of the high qualifications of scientists, engineers, technicians, advanced workers and production innovators. * * *●

D.C. STREET ACADEMY CELEBRATES 10TH ANNIVERSARY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FAUNTROY. Mr. Speaker, in this season of commencements and graduation exercises saluting educational advancements and academic achievements, I want to bring to the attention of my colleagues and the Nation the D.C. Street Academy, which offers an innovative teaching and learning experience in fundamental education.

This week the academy celebrates its 10th anniversary as a learning center for Washington, D.C., youngsters who are often labeled problem students and uneducable. The academy has taken school dropouts and given them self-respect, motivation, and training to help our resources of tomorrow become fully contributing productive citizens in our community.

As a result of the academy's level of the highest academic standards and educational goals, it has been offered candidacy for full diploma granting accreditation as a high school by the Middle States Association of Secondary Schools and Colleges. The work of the D.C. Street Academy is truly exceptional.

I am proud to join the Mayor and the Council of the District of Columbia in saluting the D.C. Street Academy for a decade of service to the people of our Nation's Capital.

Attached for your review is a fact sheet about the academy, biographical sketches of four current administrators, and tributes from the Mayor and Council of the District of Columbia:

THE D.C. STREET ACADEMY

The D.C. Street Academy is an outgrowth of the "Postal Academy" which was designed in late 1969 to provide basic education skills and job opportunities for disadvantaged school drop-outs, and to give educational help to postal employees who were unable to qualify for advancement. The idea for Postal Academies had its origin in two other programs, the New York City Urban League Street Academy and the Post Office summer aide program. These projects, operating in store front type facilities, were established to provide flexible and responsive alternatives to education for persons who had left public school prior to graduation. The D.C. Street Academy came into existence when the parent Postal Academy was phased out.

D.C.S.A. is a product of the first educational program of national scope in the Nixon Administration. After the riots of 1968, efforts were made to curtail juvenile delinquency by locating, motivating, training and placing students who had experienced difficulty in receiving an education in the public school system.

Simultaneously federal agencies became aware of the vastly high educational achievements of a large number of postal employees. In December of 1969, the Department of Health, Education and Welfare, the U.S. Postal Service and the Department of Labor decided to utilize these talents in an effort to aid community youth.

Based on the model of the Urban League Street Academy in New York City and other early street academy-type programs, similar academies were established in Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; Newark, New Jersey; San Francisco, California; and, of course, Washington, D.C.

After the first year of existence, the program was evaluated by the Department of Labor. The operation and effectiveness of the academy were described in glowing terms. Nevertheless, there was a call to abolish all academies when the U.S. Postal Service became a semi-private corporation rather than a wholly governmental agency. The advocation of abolition resulted from the fact that the academies were not related to the movement of mail. With the favorable results of the Department of Labor evaluation, however, the academies were able to appeal to Congress, the Department of Labor and the U.S. Postal Service two weeks before the end of the fiscal year and receive approval to operate autonomously from each other in design and without national control. From that point the academies were charged with the responsibility of raising their own funds.

Specifically, the academies located within the District of Columbia were consolidated into one school which operated as the educational component of the Office of Youth Opportunity Services. The program is now known as the District of Columbia Street Academy, located at 10th & Monroe Streets, N.E. Also the Academy is now accredited as a secondary school by the D.C. Public Schools.

In July of 1972, the Office of Youth Opportunity Services (D.C. Government) as previously mentioned, assumed the sponsorship of the D.C. Street Academy with a grant secured by the program from the Department of Labor, totaling $254,554.00. The Office of Youth Opportunity Services agreed to continue sponsorship of the program provided the Academy raised the necessary operational costs. After the dismantling of O.Y.O.S. in 1976, the Academy was placed under its current sponsorship with the newly established University of the District of Columbia, Department of Continuing Education.

The D.C. Street Academy has been offered (and has accepted) candidacy for full, diploma-granting accreditation as a nonprofit secondary school by the Middle States Association of Secondary Schools and Colleges. This is, an unusual, and perhaps, unprecedented step for a former G.E.D. (high school equivalency training) program. Such programs rarely even approach the quality standards necessary to make the transition from training project to full and independent accreditation as a high school. D.C.S.A., however, has done so.

As a result of a preliminary evaluation by Middle States Association (which qualified D.C.S.A. for candidacy) the Academy received a maximum or near maximum rating in the areas of School and Community, Philosophy and Objectives, Educational Program, Staff and Administration.

ADMINISTRATORS OF D.C. STREET ACADEMY

R. David Hall, Executive Director, is a native Washingtonian and a graduate of Cardozo High School. He received an Associate of Arts Degree from Morristown College in Morristown, Tennessee, a Bachelor or Arts degree in Political Science and a Juris Doctorate from the Georgetown University Law Center.

As founder and Director, he is responsible for the planning, development, operation and continuation of the entire school including seeking out and securing funds, developing proposals and contracts and the administration of the spending of funds.

Edward H. Moseley, Assistant Executive Director, is a native of Norfolk, Virginia and a graduate of St. Joseph Catholic School. He attended Norfolk State University and received a Bachelor of Arts degree from Howard University and a Masters degree in Business and Public Administration from the Southeastern University in Washington, D.C.

As a founder and administrator, he is responsible for the daily operation and management of the school, budgetary policies and statistical data and the overall operations.

W. Isaac Stoney, Director of Public Relations, is a native of Allendale, South Carolina and a graduate of Allendale High School. He attended Benedict College and received a Bachelor of Science Degree from Claflin College and a Master of Arts degree in Education Administration from the University of the District of Columbia (Federal City College).

As a founder and Public Relations Director, his responsibility is to develop a favorable image and good will on behalf of the Street Academy, he also seeks out and secures funding, develops fundraising efforts and interface with the local and national media (i.e. Magazines, Newspapers, Television and Radio) outlets in order that news coverage for various events will be provided, he has developed several ongoing fundraising events in the local community.

Reginald B. Elliott, Director of Education, is a native of Washington and a graduate of McKinley Technical High School. He received his Bachelor of Arts degree in Political Science & History from St. Augustine's College. He also attended Howard University and Georgetown University Law Schools. He received a Masters degree in Public Administration and Doctorate degree in Public Administration from Union University.

As Director of Education, he is responsible for the selection of qualified and competent instructors, as well as seeing to it that educational policies and procedures are adhered to. He is also responsible for the graduation requirements for each student and curriculum development.

D.C. Street Academy Day, June 13, 1980—A Proclamation by the Mayor of the District of Columbia

Whereas on Friday, June 13, 1980, the D.C. Street Academy will hold its tenth graduation and awards ceremony; and

Whereas over the past ten years, the D.C. Street Academy has provided our city with an educational alternative for our youth who otherwise would have continued to be high school dropouts; and

Whereas the D.C. Street Academy has been offered and has accepted candidacy for full, diploma granting accreditation as a non-profit secondary school by the Middle States Association of Secondary Schools and Colleges, now, therefore

I, the Mayor of the District of Columbia, do hereby proclaim Friday, June 13, 1980, as "D.C. Street Academy Day" in Washington, D.C., and call upon all of our residents to join with me in supporting the aims, goals and programs of the D.C. Street Academy during this day and throughout the year for the benefit of our youth. I further call upon our residents to join with me in honoring all of the members, supporters and friends of the D.C. Street Academy in grateful acknowledgement of the exceptionally outstanding educational contributions they make to the life of our great city.

Marion Barry, Jr.,
Mayor.

Resolution of the Council of the District of Columbia Honoring David Hall, Esq., Edward Moseley, Faculty, and Students of the District of Columbia Street Academy

Whereas in 1971, David Hall, Edward Moseley and their colleagues demonstrated leadership and commitment to the District of Columbia youth by raising funds and founding the District of Columbia Street Academy; and

Whereas David Hall, Edward Moseley and the faculty recognized and dedicated themselves to the need for such "second chance schools" for high school youths for whom the traditional education system had been unsuccessful; and

Whereas David Hall, Edward Moseley and the faculty established an outstanding academic program to prepare these students for the General Equivalency Diploma (GED), and provided a caring, total support system to ensure these students' personal as well as academic success; and

Whereas the District of Columbia Street Academy has graduated over two hundred students, with over one hundred in college; and

Whereas these students have persevered with such success that these graduates are now in varied careers such as medicine, teaching and other employment; and

Whereas the District of Columbia Street Academy on December 28, 1978 received the significant adademic recognition of candidacy for accreditation from the Middle States Association of Colleges and Schools; Now, therefore, be it

Resolved, by the Council of the District of Columbia, That this resolution may be cited as the "Resolution Honoring David Hall, Esq., Edward Moseley, Faculty, and Students of the District of Columbia Street Academy."

Sec. 2. The Council of the District of Columbia hereby honors David Hall, Esq., Edward Moseley, Faculty, and Students of the District of Columbia Street Academy for their outstanding contribution to the District of Columbia and its citizens in the area of education.

Sec. 3. This resolution shall take effect immediately upon its adoption by the Council of the District of Columbia.●

COMPACT

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. LUNDINE. Mr. Speaker, a coalition of labor and industry speaking on behalf of the U.S. color television industry and its workers is urging President Carter to maintain restraints on the importation of foreign color television sets, mostly from Asia.

The coalition, called Compact, Committee To Preserve American Color Television, recently held a press conference at the National Press Club following a vote by the U.S. International Trade Commission to recommend to the President that current restrictions be kept on Korea and Taiwan, but be dropped for Japan. The restrictions with these three Asian producers of color TV sets were negotiated with those countries in the form of orderly marketing agreements—OMA's.

I have read with interest a Reuter's dispatch on the press conference and commend it to my colleagues for their study.

Compact pointed out that about 60,000 American jobs—in direct and support areas—have already been lost due to Japanese dumping of TV sets on the U.S. market. About 65,000 additional jobs, dependent on the U.S. color TV industry, are at stake unless the OMA's are extended for another 3 years.

Allen W. Dawson, executive vice president of Corning Glass Works and cochairman of Compact, pointed out that the ITC cited as a reason for its recommendation the fact that Japan is investing in the domestic color television industry. He added, however, that if restrictions are lifted, "That will lessen any future incentive for the Japanese to continue their investment in color TV production in this country."

Jacob Clayman, past president of the Industrial Union Department, AFL-CIO, and also a cochairman of Compact, stressed that the number of U.S.-owned companies manufacturing color TV sets has dwindled from 25 to 6. Mr. Clayman said:

> We are not crying wolf when we tell you that there will be virtually no domestic color TV manufacturing left in the United States a few years from now, except perhaps in Japanese-owned plants, if the President adopts this puzzling recommendation by the ITC.

I attach to my statement the dispatch by Reuter's:

Import Relief Urged, Denied on Color TV's

Washington, May 20.—A coalition of industry and labor representing the U.S. color television industry urged President Carter to maintain import restraints on imported color television.

The International Trade Commission last week recommended the President lift restraints on the Japanese color TV imports, while maintaining restraints on imports from Taiwan and South Korea.

Allen W. Dawson, executive vice-president of Corning Glass Works, questioned the ITC's decision in a press statement. He said Japan has five times the color TV productive capacity of Taiwan and Korea combined.

Dawson, a co-chairman of the coalition, Compact (Committee to Preserve American Color Television), said if the limitations are lifted, "that will lessen any future incentive for the Japanese to continue their investment in color television production in the United States."

Jacob Clayman, past president of the Industrial Union Department of the AFL-CIO and also a co-chairman of Compact, said:

"We are not crying wolf when we tell you today that there will be virtually no domestic color television manufacturing left in the United States a few years from now, except perhaps in Japanese-owned plants, if the President adopts this puzzling recommendation by the ITC."●

SUPPORT OF H.R. 6413—FISCAL YEAR 1981 NASA AUTHORIZATION

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 6413, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1981.

AERONAUTICS RESEARCH AND TECHNOLOGY BASE

A traditional NASA role is the advancement of fundamental technologies that provide innovative new ideas for the future improvement of aeronautical vehicles. A significant part of NASA's fiscal year 1981 aeronautics budget is directed at strengthening the support for the longer term technologies in aerodynamics, propulsion, materials, and structures, and in avionics and human factors.

A major thrust of the program is computer studies of fluid dynamics both for external aircraft flows and for the internal flows of aircraft engines. This is a rapidly developing area that has already yielded promising results in the ability to predict, with the use of mathematical modeling and high-speed computers, the actual behavior of very complex flows. Continuing emphasis on this activity will lead to improved designs of future aircraft, and engines and will reduce the costs and time associated with customary wind-tunnel and flight-developmental testing. Innovative nonintrusive test devices such as laser velocimeters are providing new experimental tools needed to verify and guide the sophisticated analytical prediction methods.

The uncertainties in future petroleum supplies, syncrude production, alternative energy sources and product demand indicate that aircraft of the future may be required to use new kinds of fuel with different properties. NASA is evaluating the characteristics of these potential fuels and is expanding its efforts to understand their effects on aircraft engines and fuel systems. Component technologies that may be necessary to use these fuels are being evolved to help insure a viable air transportation system in times of uncertain petroleum supplies.

An important part of the aeronautics research and technology base is directed toward fundamental improvements in materials to permit lightweight aircraft structures and more-efficient aircraft engines. Advanced composite materials, because of their lightweight and high strength, offer significant potential benefits when applied to primary aircraft structures. Ceramic materials are also being studied for use in aircraft engines to increase their operating temperature and efficiency. NASA research in advanced materials will continue to permit the aerospace industry to develop improved, safe, and reliable metals, polymers, ceramics, and composites that will ultimately improve the performance of civil and military aircraft.

The explosive growth in microelectronics is having a revolutionary impact on avionic and control systems and is changing the role of the pilot in flight management. NASA's research in this area will lead to improved aircraft efficiency, performance, and operational capability. Cockpit displays that provide graphic information on nearby aircraft are being evaluated to improve air traffic flow and minimize costly delays in the airport terminal area. Improvements in automated communications, providing current weather data, are being studied to permit the pilot to fly more direct, fuel-efficient routes.

In summary, the research and technology base aspect of NASA's program is focused on the cutting edge of technology. It is my firm belief that continued support for these activities is vital to the preservation of the long-term health of the U.S. aviation industry and air transportation system.

Mr. Speaker, I urge adoption of the fiscal year 1981 NASA authorization bill.●

TRIBUTE TO CLARENCE MITCHELL

SPEECH OF

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. MINISH. Mr. Speaker, I would like to join in congratulating my old friend, Mr. Clarence Mitchell, on his being honored so appropriately by the award of the Presidential Medal of Freedom. Freedom, is a very basic sense, has been Clarence Mitchell's contribution to his county in his long campaign for human rights and social justice.

I am proud to say that I have counted Clarence Mitchell as a valued friend for some 25 years. Reflecting on what seems in retrospect a short time, I find that I can gage the achievement of Clarence Mitchell by reflecting on how far we have come as a Nation during this period. As recently as the mid-1950's, we must remind ourselves, blacks were restricted by many barriers to housing, employment, and political participation which now seem inconceivable to us, but which then too often were codified in law.

Through patient work, often marked by bitter disappointments, Clarence Mitchell helped to bring our country to be true to itself by rejecting these abuses from the past and, going beyond that, to proclaim racial harmony and justice its positive national goals. Motivated by love rather than by narrow considerations, Clarence Mitchell has remained true to his faith in what America can be.

Clarence Mitchell's work is not over. Together with his brother PARREN, whose service in this Chamber has been distinguished by an energetic commitment to the same noble goals, let us sincerely hope that Clarence Mitchell will continue to inspire the conscience of his country in the years ahead. I hope that this distinguished patriot will wear his medal with pride.●

COMPARATIVE RISK AND REGULATORY REFORM

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FISH. Mr. Speaker, an important debate now taking place in the context of the regulatory reform legislation is whether or not "risk-benefit analysis" should be a part of the rulemaking process.

Comparative risk analysis is the process of evaluating the relative dangers posed to human health and safety by a particular product or process. Sometimes referred to as risk-benefit analysis, such studies normally entail a balancing of the relative risks posed by two or more alternative choices—that is, saccharin versus sugar; drugs versus surgery; coal versus nuclear power. The overall aid is to improve the scientific and technological basis of regulatory choices. Agencies would be required to analyze alternatives and quantify them in scientific terms.

This issue is beginning to attract considerable public attention as is evidence by an article featured on the editorial page of today's Wall Street Journal. As a member of the House Judiciary Committee, currently considering the regulatory reform legislation, it is my intent to offer an amendment stimulated by hearings held on Congressman RITTER's risk comparison bill—H.R. 4939. My amendment would make comparative risk analysis a required part of the regulatory analyses which Federal regulatory agencies would undertake as a result of the bill. Risk comparison is a commonsense, scientific technique which Congress should include in any regulatory reform effort. The time has come when Congress should direct Federal agencies to undertake more intelligent use of our scarce regulatory dollars. I insert today's June 11, 1980, Wall Street Journal article by Jim Large on this subject for the Members' attention:

THE RISK-BENEFIT DEBATE

(By Arlene J. Large)

WASHINGTON.—"Maybe the time is coming when 14,000 scientists should march on Washington and say, 'We've had enough.'"

The idea seems to appeal to Donald Ritter, a metallurgical engineer who is one of the few House members with scientific training. The Pennsylvania Republican's vision of marching scientists is prompted by what he thinks are "emotional and political" government regulatory methods. He wants more "rationality" in the way federal regulators do their jobs.

And so do many others. Capitol Hill now is a-sprout with terms like "risk-benefit analysis," "risk assessment" and "risk comparison." Legislators are hoping that one approach or another may permit specific assessments of dangers to public health and safety—and that government regulations can be streamlined as a result. The general idea, says Republican Rep. William Wampler of Virginia, is to make "some sense out of a hodgepodge of regulatory systems that we find daily causing more and more confusion and chaos in our land."

Comparing one risk against another for purposes of regulatory emphasis is "common sense plus arithmetic," says Harvard physics professor Richard Wilson.

Business tends to favor the structured new forms of risk-benefit analysis, in hopes it might be spared some of the demands of wild-eyed regulators. Environmentalists and others who value business regulation are suspicious. "In my opinion the true power of these techniques is far less than it is represented to be," says Daivd Doniger, a lawyer for the Natural Resources Defense Council. "When you try to over-formalize, you slow the process down and increase the number of hoops you have to jump through before you can regulate."

RANKING COST-EFFECTIVENESS

Exactly what are they arguing about? Some analysts say it's possible to rank the cost-effectiveness of various government actions fostering safety and health, so that money can be aimed where it will do the most good at least cost. An example of this kind of ranking has been worked up by the Societal Analysis Department of General Motors Corp., which puts numerical values on various measures that would increase the U.S. population's average lifetime by one year.

On the GM sample list, establishment of special ambulance service for heart-attack victims would be the most cost-effective, with a low score of 192 index points. A higher cost-index of 3,250 is calculated for requiring people to use seat harnesses in cars. Lighting all expressways would achieve a one-year gain in population longevity at a much higher cost-index of 310,000. Requiring auto producers to meet next year's statutory tailpipe emission standard for carbon monoxide would require a lofty cost of 27.5 million index points. That's the least cost-effective measure on GM's list; the emission standard is a very sore point with the car companies.

"Such rank ordering on the basis of efficiency provides a rather sound, straight-forward perspective in which to place any new life-extending program for which costs can be estimated," says Walter Albers, head of GM's Societal Analysis Department.

Another form of analysis attempts to weigh "risks versus benefits" in the regulatory scheme. This notion can get confusing because people often mean different things when they talk about the "benefit" that's being measured.

Business spokesmen tend to argue that regulators should pay more attention to the benefit of the product that's being regulated when evaluating that product's risk. This point comes up when the Food and Drug Administration is trying to weigh a new drug's health benefits against the risk of possible side-effects. On the other hand, environmentalists often speak of the need to better measure the benefits of regulation itself, such as the reduced sickness resulting from cleaner air.

There's also considerable debate over the role of science in the regulatory process. Business groups hope that a greater input from detached scientists would bring more "reasoned rational decision-making," in the words of a National Association of Manufacturers witness at a recent congressional hearing. That way, warn skeptics, lies the danger of "a tyranny of experts."

Science ought to play just one part in a two-part regulatory job, says Philip Handler, president of the National Academy of Sciences. That private organization of scientists has considerable experience in this area because Congress has given it a specific charter to give the government advice on scientific questions.

"The estimation of risk is a scientific question, and therefore a legitimate activity of scientists," says Mr. Handler. "The acceptability of a given level of risk, however, is a political question, to be determined in the political arena."

In a rough-and-ready way, that two-part process now shapes some regulatory decisions. Canadian laboratory tests in 1977 showed that immense quantities of saccharin would cause bladder cancer in rats, and the FDA moved to ban the artificial sweetener from the market. There was a terrific uproar from diet-drink makers and fat people, and Congress voted to keep saccharin on sale pending futher tests. Despite an intervening National Academy of Sciences report saying saccharin indeed poses a low-level cancer risk, Congress has just passed a new law further postponing the FDA ban. In the political arena, saccharin so far is considered an acceptable risk.

And the political decision can go the other way. In 1974 two University of California chemists, using only mathematical models, declared that man-made fluorocarbon gases used as propellants in spraycans for deodorants and bug-killers can deplete protective ozone in the stratosphere. Again, the National Academy of Sciences agreed, warning there'll be more human skin cancer if more of the sun's ultraviolet light reaches the earth. Last year the government banned these gases from spraycans, and there hasn't been a peep from Congress. Fluorocarbon propelled deodorants clearly aren't an acceptable risk in the political arena, mainly because substitute gases were readily available. Regulators have been moving much more cautiously, however, in controlling the use of fluorocarbons as refrigerants; in this use, there are no easy substitutes.

The "decisions" in those two examples look disjointed and sloppy. Because the legislative mind instinctively looks for an institutional fix, there are all sorts of proposals in Congress to forge a tidier link between scientists and regulators. Virginia's Rep. Wampler is sponsoring a bill establishing a formal conduit between regulatory agencies and a new 15-member "National Science Council." After hearing scientific pros and cons of whether a chemical, say, can cause cancer, the council would decide the question by a two-thirds majority vote. The decision would be formally handed to the regulators, who would decide whether the risk warrants depriving society of the chemical's benefits. As it is now, Mr. Wampler complains, the lawyerish regulators have been "bending science."

Pennsylvania's Rep. Ritter wants to require regulators to make "objective" comparisons between the risks of various actions. Before banning those ozone-eating florocarbons, for example, the regulators would have had to compare the dangers from a general increase in ultraviolet radiation with a person's deliberate exposure by sunbathing. "When the public finds out about this they may say, 'Hey, let me make the choice.'" Says the freshman Congressman.

Mr. Ritter would like to insert some kind of risk-comparison requirement in a regulatory reform bill that's pending in both houses. The Senate Judiciary Committee has already approved a version that would require more agencies, as some do already, to publish estimates of both the cost and expected benefits of "major" new rules, along with alternative ways of achieving the same end.

PONDEROUS REACTION

Of course the regulatory bureaucracy itself can hear all this risk-assessment music, and it is in the throes of a typically ponderous reaction. As early as 1977 the major health and safety regulatory agencies formed something called the Interagency Regulatory Liaison Group, complete with task forces, to draw up risk assessment guidelines. And plans are well along for the formation of a Society for Risk Analysis, with international membership, that will publish a journal on the subject starting in 1982.

Yet some government regulators say their missions don't always square with the kind of high-precision risk assessment techniques being discussed now. "We operate with unknowns," says Bailus Walker, health standards director for the Occupational Safety and Health Administration. "We must act on the best available evidence because the alternative of waiting for perfect evidence is unacceptable."

There's an obviously growing demand for a push-button objectivity machine that would reduce the "unknowns" faced by OSHA and other agencies and make their rules seem more reasonable and acceptable. But it's likely no matter what the machine spewed out as scientific fact, someone in the political arena—a trade association, a union lobby, a powerful Senator—would be waiting to challenge it. Risk assessment is just another name for a judgment call, and that won't be changed by a scientists' march on Washington.●

PERSONAL EXPLANATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. GILMAN. Mr. Speaker, I was unavoidably absent from the floor earlier today and missed two rollcall votes.

The first vote was on the question of resolving into the Committee of the Whole to debate H.R. 5200, the fair housing amendments. Had I been present, I would have voted "yes" on Roll No. 309.

The second vote was on the Jacobs substitute amendment to the Hyde amendment, which provided that an appraiser could take into account any matter except race, color, religion, sex, national origin, or handicap, in lieu of the original amendment offered by Mr. HYDE, which provided that an appraiser could take into account any matter in determining an appraisal. Had I been present, I would have voted in favor of the substitute on Roll No. 310.●

HELEN KELLER DAY

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FLIPPO. Mr. Speaker, last week the House passed Senate Joint Resolution 127 by a unanimous vote. This resolution authorizes the President to designate the 100th anniversary of the birth of Helen Keller on June 27, 1980, as "Helen Keller Day."

The resolution adopted by the House last week was identical to House Joint Resolution 470 which I introduced on December 20, 1979. I am proud and grateful that more than 230 Members of the House elected to cosponsor this resolution.

Helen Keller was born in Tuscumbia, Ala., on June 27, 1880. The people of Alabama are planning to commemorate the life of this great woman during the period of June 26 through June 29 in Tuscumbia, Ala. I want to extend an invitation to my colleagues to join us in Tuscumbia, Ala., later this month to commemorate the life of America's "First Lady of Courage."

I offer an article from the latest edition of Alabama News magazine for the RECORD in order to share with my colleagues the details of the Alabama celebration of the life of Helen Keller:

TUSCUMBIA'S BIG BIRTHDAY PARTY HONORING THE LATE AND VERY GREAT HELEN KELLER

(By Drue Duke)

It will be one of the biggest "Birthday Parties" in the state's history . . . and you are all invited. At least 40,000 people throughout Alabama and the nation are expected to attend the 4-day event. It is scheduled for June 26–29 in Tuscumbia, the occasion marking the 100th anniversary of America's "First Lady of Courage," Helen Keller.

Born in Tuscumbia on June 27, 1880, Helen Keller became ill at the age of 19 months, and the illness left her totally blind and deaf. Alexander Graham Bell, who earned great fame in his own right, heard of tiny little Helen's plight and it was he who suggested to her parents that they should get in touch with the Perkins School of the Blind in Boston. When Helen was six-years old, Anne Sullivan, a 20-year-old student at the school, was sent to Tuscumbia to teach the child.

Despite the family's misgivings, Miss Sullivan was able to teach Helen to understand and communicate by spelling words into her hand. Once the door to learning was opened, Helen had an unquenchable thirst for knowledge. Within three years she could read in Braille and Miss Sullivan began the unbelievable task of teaching her to talk. She attended Harold Mann School for the Deaf in Boston, the Wright-Humason Oral School in New York, and in 1904 graduated cum laude from Radcliff College. With Miss Sullivan as her constant companion, she traveled all over the world, lecturing, writing and meeting dignitaries of many countries. Miss Sullivan died in 1936, Miss Keller in 1968.

The Keller Home, Ivy Green, is maintained as a shrine and the guest register records visitors from all over the globe.

"We like to refer to her as Tuscumbia's own Helen Keller," says Velma Porter, one of the hostesses at Ivy Green. "But we can't really claim her. She belongs to the whole world."

Tours of the house and grounds are planned during the birthday weekend. Guests will be welcomed by hostesses wearing gowns of the nineteenth century and will visit the main house, renovated after fire gutted it in April, 1972. They will see the "Little House" where Helen and "Teacher" were locked away from the world to fight their way through the blackness of her existence. In the back yard, they will find the well where comprehension hit the child as water from the iron spigot hit her hand. They will tour the memorial garden on the estate with the bust of Miss Keller on a pedestal at its entrance and gifts from many countries displayed.

A great variety of events are planned for the weekend, including performances Friday and Saturday nights of "The Miracle Worker," the drama which portrays the early life of Helen Keller.

Lovers of country and western music will enjoy the Saturday night Grand Old Opry impersonation show in the Hayloft Opry on Main Street. And "Freedom Hills," a musical comedy depicting North Alabama's rural life during the Civil War will be performed daily.

The United States Postal Service will issued a commemorative 15 cents postage stamp honoring Helen Keller and Anne Sullivan. At 11 o'clock Friday morning, a first day of issue ceremony will be held at Ivy Green. The stamp is the standard commemorative size and pictures the child and teacher with both names in bold print. It was designed by Paul Calle, Stamford, Connecticut, and was based on a photograph of the two. Stamp collectors and others wishing a memento of the occasion will be able to purchase a first day cachet, a specially designed envelope with the stamp affixed and cancelled as first day of issue.

In conjunction with this part of the festivities a special exhibit of commemorative stamps will be on display in Tennessee Valley Art Center, located close to Ivy Green. In the same building will be exhibits of handicapped artists and craftsmen.

A tennis tournament and a golf tournament are scheduled. There will be tours of lovely historical homes of the area and films about Helen Keller. Katherine Tucker Windham, Selma author, will tell ghost stories at the Helen Keller Library; and Nick Wynn, historian of the Shoals area, will recount his memories of Miss Keller. Senator Howell Heflin, Tuscumbia's contribution to the Washington political scene, will formally dedicate the Helen Keller Memorial Hospital on Friday afternoon. This complete medical facility was formerly Colbert County Hospital but has recently been renamed and is currently under expansion.

In Spring Park, which sprawls at the foot of Main Street, entertainment will be continuous all day. The air will be filled with music and buck dancers will compete with each other. There will be a large arts and crafts show with entries from all over the southeast.

According to Mike McMackin, Festival chairman, President Carter, Governor James, Senators and Legislators and their families have received special invitations to attend.

"Last year over 20,000 people came to the first Helen Keller festival," Mike says. "This year, being her birthday, we expect at least twice as many,"

Arrangements have been made with motels in the area to provide special rates to the visitors. The entire event is planned by the Helen Keller Festival Committee, a nonprofit organization. Some twenty-five civic clubs and groups have banded together to make the weekend a memorable one. Books of tickets may be purchased in advance and punched as various activities are visited.

Information concerning lodging, camping facilities, prices or complete schedule of events may be secured by writing to Helen Keller Festival Committee, Post Office Box 29, Tuscumbia, Alabama 35674.●

TRIBUTE TO CLARENCE MITCHELL, JR.

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. McCLORY. Mr. Speaker, it is most gratifying to learn that my friend Clarence Mitchell has been granted the Medal of Freedom by President Carter. The leadership, dedication, and persistence which have characterized Clarence Mitchell's effective work in behalf of the civil rights of all Americans are attributes which are and should be closely associated with the Medal of Freedom.

Mr. Speaker, our colleague from Maryland, Congressman PARREN J. MITCHELL, who emulates in this body the ideals of his distinguished older brother Clarence Mitchell, can be justifiably proud of the honor and recognition which has come to the Mitchell family. In my own behalf, I can attest to the long and close association with Clarence Mitchell during the decades of the 1960's and the 1970's as I worked actively on various pieces of civil rights legislation in which I had the active cooperation and support of Clarence Mitchell and the National Association for the Advancement of Colored People whose interests he served here in Washington.

Mr. Speaker, I am pleased at this time in these few words to express tribute to and respect for Clarence Mitchell and all that he represents in our great Nation and to join in extending good wishes and congratulations to him on receiving the Medal of Freedom.●

ABOUT JACK WYDLER

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. McCORMACK. Mr. Speaker, I am one of the many Members of Congress who sincerely and deeply regrets the decision by our colleague from New York, Congressman JACK WYDLER, not to seek reelection this year.

JACK WYDLER has served as the ranking minority member on the Committee on Science and Technology, and on the Subcommittee on Energy Research and Production, which I chair. Our relationship in the committee has been characterized by a healthy, wholesome, practical, and pragmatic nonpartisan approach to developing realistic energy policies and programs for this country. There have been times when we have differed, but such differences have been rare and minor, dealing mostly in the degree of emphasis which should be placed on programs we support.

JACK WYDLER's strong leadership in the committee and on the floor of the House of Representatives has set a standard for responsible conduct and a tone for amicable debate which has produced the finest results for our country, all in keeping with the highest traditions in American democracy.

I shall miss JACK WYDLER's counsel and support. He has been a hard worker, a responsible leader, a good Congressman, and a trusted friend. The people whom he represents have been well served by JACK WYDLER, and so have the people of this country. I wish him the best of good fortune in his new career. At the same time, I know that there will be moments when I will wish he were here again to add his wise perspective to our deliberations—and his strength to our efforts to advance this Nation's energy and scientific programs.●

TALMUDIC ACADEMY FIFTH GRADE

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. LONG of Maryland. Mr. Speaker, I welcome the fifth-grade students from the Talmudic Academy in Baltimore who, with their parents and Rabbi David Yankelewitz, are today visiting the Capitol. My constituents are making the most of their day here. They will attend a lecture on the Hebraic Collection of the Library of Congress, Whitall Pavilion, tour the Capitol, and visit the Smithsonian. I am delighted to meet with my friends from the Talmudic Academy.

Mr. Speaker, I invite you to join me in welcoming:

Mrs. Carol Block, Rabbi Mayer Zayon, Mr. Norman Friedman, Mr. Edward Rosen, Mrs. Harriet Goldman, David Kaplon, Chaim Raczkowski, William Malkin, Morris Friedman, David Rosen.

Yosef Davis, David Goodman, Joseph Arfa, Marshall Rudo, Ira Malkin, Eliyahu Cohen, Jonathan Adler, Paul Benson, Alex Rabenovech, Igor Volshonok.

Moshe Levi, Benjamin Katz, Alexander Fuksmaw, Eli Raczkowski, Richard Broth, Psachya Skaist, Joseph Goldberg, Zev Raden, Yossie Stal, Etan Goldman, Yitzi Lewis.●

WORLDWIDE REPRESSION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. BONKER. Mr. Speaker, this is the second installment of Jacob Timerman's article entitled "The Bodies Counted Are Our Own." To refresh the memories of my distinguished colleagues, the first part of this tragic account appeared in the CONGRESSIONAL RECORD of June 4.

Mr. Timerman, former publisher of the Argentina newspaper La Opinion, was abducted and jailed by the Argentine authorities for 30 months. Subsequently he was expelled by the Argentine military and now lives in Israel. In the first part Timerman pointed out that:

> In view of the massacre of journalists in Argentine, and of the toll of victims of repression worldwide, the press must join the battle for human rights.
>
> For many years, we have been subjected to a drumroll of tragic statistics—the genocides in Southeast Asia, the thousands of imprisoned in the Russian gulags, the millions exterminated in Nazi concentration camps, the hordes of Chinese executed in Mao's cultural revolution, the scores of people—their corpses coated with cement—who were thrown into the Rio de la Plata by the Government of Argentina. The question for the press is a moral one: Is it enough merely to report the impersonal statistics?
>
> As a recently released political prisoner, my strong belief is that the press must join the battle for human rights in the world. I believe it must go beyond answering the question of how many lives have been lost and ask itself the question: How many lives can we save? The numbers here are a traumatic statistic.
>
> I discovered that a special relationship exists between journalism and human rights, first as an editor of a newspaper engaged in the human-rights struggle under a military dictatorship, then as a prisoner subjected to torture by that same government.
>
> Unofficial estimates of the number of Argentine journalists who have "disappeared" or been murdered by members of the military forces range from 60 to 70. It would seem that in Argentina we have witnessed the first genocide of journalists to occur in a Western hemisphere nation.
>
> Why has the military government's violence against journalists reached a magnitude that is, perhaps, even greater than that brought to bear against the nation's terrorists? A totalitarian government, be it left wing or right wing, has a fixed image of itself, a rigid concept of its role in history, and an unshakeable concept of its own justness. The only force that can topple this monolithic structure is the press. For only the press can dispute that monopoly on reality which is the sine qua non for the existence of any totalitarian government.

I commend the entire article to the attention of my distinguished colleagues and again ask: Is the military regime in Argentina the kind of government with which we would want to normalize our relationship? The second installment follows:

> Obsessed with maintaining an image of strength and rectitude, totalitarian governments pay close attention to foreign coverage. It may be useful at this point to describe the kind of attention such coverage receives. In Argentina, the international press is reviewed daily by the intelligence agencies and specialists in psychological warfare, as well as by assistants in the offices of the president, the army, and the ministry of economics.
>
> Typical scenarios, with appropriate officialese, could be as follows:
>
> Place: Army General Headquarters. Meeting of the Commander in Chief with heads of various divisions.
>
> Object of the Meeting: Report of the head of the Intelligence Department on recent events related to the campaign against Argentina being conducted abroad.
>
> Report: Long article in Le Monde about a group of Argentine mothers who reported their children had disappeared.
>
> Conclusion: Le Monde is a newspaper controlled by the French left-wing, and its reporting on Argentina is exclusively in the hands of the terrorists in exile. Other French newspapers have been gradually distancing themselves from the public relations office engaged by the Argentine government in Paris and from the office of communication opened by the presidency of the Argentine nation. The anti-Argentine campaign in France will be difficult to counteract.
>
> Report: Article in the Washington Post on the conditions of prisons in Argentina.
>
> Conclusion: The Washington Post has joined the anti-Argentine campaign. Therefore it must be assumed that, given the influence of this newspaper in Washington, it would be difficult to get any American congressmen to become interested in defending the Argentine point of view. It is to be expected that a sister publication, Newsweek, will pick up the campaign. In all likelihood the Washington Post, through its contacts in Congress, will lead some congressmen to demand from the Argentine government a public statement on the conditions of some prisoners.
>
> Suggestion: That the ambassador in Washington attempt to persuade friendly congressmen to write personal letters to the president of Argentina, expressing their interest in the fate of some prisoners whose release could be [safely] granted in the immediate future [as a face-saving device].
>
> The above may seem a hallucination. However, it accurately depicts a part of the mechanism used to deal with Argentina's image abroad. This mechanism is capable of producing an infinite variety of responses: purchase of special sections in newspapers and magazines to explain the government's point of view; the offer of lucrative contracts to foreign news agencies in exchange for a benevolent attitude regarding Argentina, or for at least remaining silent on the subject of human rights violations; search for renowned scholars who will justify the barbaric repressions with apocalyptic arguments about what would have happened if such measures had not been taken; invitations to journalists and public figures to visit the country under the government's auspices; engagement of large public relations agencies in New York, Frankfurt, London, Paris, Rome; utilization of multinational corporations, owning highly profitable businesses in Argentina, as pressure groups in their own countries.
>
> One could go on and on. But all I am trying to bring out is the inordinate importance that a totalitarian government gives to its image. Given this chink in the armor of a totalitarian regime, journalists throughout the world must decide whether simply giving information about what is happening—the numbers of those killed, "missing," or imprisoned—is enough. Or whether they must go beyond a journalism that merely exposes reality to one that helps to save lives.
>
> The difference between tragic statistics—the sum of lives lost—and traumatic statistics—the sum of those we might have saved—was a subject I often discussed with my staff in Buenos Aires. It was a matter I was led to understand only because I was forced to live it through, because I had to decide daily which of two attitudes to adopt: Should I try to save as many lives as possible even if this meant a confrontation with the army, or should I remain silent, as did the editors of other Argentine papers, who justified their silence by claiming that, in a better future, they would still be around to help democratize the country? I chose to save lives. I believe Robert Cox did, too. And both of us were forced to leave Argentina.
>
> The violation of human rights in the world has reached such levels of permanency, magnitude, and sophistication that I, for one, cannot see how journalists can still regard the topic as a subtheme in political, social, and diplomatic coverage. I believe it has become a theme, or beat, in itself. And in moral terms, coverage of it has become an obligation. Even in professional terms, it deserves a department to itself, one requiring no less commitment, space, and specialization than that required for a paper's "Bridge," "Furniture," or "Food" departments.
>
> In my office as editor of *La Opinión,* I was able to save lives by covering human rights as thoroughly as sports, for instance. And when I was in prison, I could often ascertain that a few lines in *the New York Times,* an article in *Le Figaro,* or a statement in *Il Corriere della Sera* had immedi-

ate repercussions on our living conditions and treatment as prisoners. I witnessed how a campaign conducted by the *Los Angeles Times* saved the lives of an entire Argentine family. And I myself would not be free now had not the foreign press—the U.S. press, in particular—kept up a steady barrage of coverage about my plight.

On many occasions while in prison I asked myself what would happen if the world's twenty leading newspapers were to print a weekly list of journalists imprisoned for defending the free press in different countries. One could ask why journalists and not physicians. I do not know. But this was my thought in prison because I realized that the press can do more in the struggle for human rights than the pope, the United Nations, and Amnesty International.

The tragic statistics that appear in the press these days are, perhaps, inevitable. But perhaps we could do something to reduce the magnitude of those statistics, if for no other reason than to keep the press from being haunted by the nightmare of thinking it could have saved some lives if only it had realized the true extent of its influence.

Many of my fellow prisoners of conscience and I knew that our release was not close at hand. However, when some newspapers reported on our situation in distant places of this world, be it a small town or a large city, this news reached us by that miracle of communication which political prisoners the world over have managed to establish. And it helped us to live through that day; to not give up in the face of filth, starvation, and despair; to reject suicide. A small piece of information published in San Diego or Quebec, in Edinburgh or Naples, in Tel Aviv or Costa Rica, lifted, if only briefly, the burden of that worst of all punishments: loneliness. The awareness that there was someone out there who, for a moment of his or her life, cared about us saved many lives.

And only journalism could do it.●

PERSONAL EXPLANATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. EDGAR. Mr. Speaker, on Thursday, June 5, I had a speaking engagement in Allegheny County, Pa., before the Smaller Manufacturers Council. I was honored to receive an award for my efforts to revitalize the Northeast-Midwest corridor.

My engagement forced my absence from the House, however, during the important vote on whether to override the President's veto of H.R. 7428. Had I been present, I would have voted to override the veto in keeping with my earlier vote to disapprove the oil import fee.●

FIVE HUNDRED A DAY DIE FROM HUNGER IN UGANDA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. SOLARZ. Mr. Speaker, the second year of a serious drought in Africa has had disastrous consequences, particularly for the women and children of Uganda. Racked by the internal disorder and fighting at the fall of the Amin government and plagued by continuing tribal conflict in the Karamoja province of northeast Uganda, some 500 Karamojong people are believed to be dying each day from hunger and malnutrition.

To cope with this desperate food situation and other similar problems in Gambia and Somalia, plus the millions threatened again by famine in Cambodia, the administration has urged the Congress to enact a generous 1980 supplemental appropriation for the food for peace program, Public Law 480, title II, that would allow the United States to provide whole food grains to prevent the needless suffering and deaths of these innocent victims of drought and war.

Mr. Speaker, I insert the following articles on the tide of hunger sweeping across Africa to be reprinted here today:

SIXTY MILLION IN EAST AFRICA TO GO HUNGRY

(By Jay Ross)

NAIROBI, KENYA.—From Sudan to the South African border, more than 60 million women and children will experience prolonged hunger this year because of mounting food problems in eastern and southern Africa.

Drought, or rain at the wrong time, is the immediate cause but the hunger is part of an even more depressing picture as Africa falls farther behind in efforts to feed itself.

A report issued this month by the United Nations World Food Council listed 26 countries facing abnormal food shortages, 17 in Africa. Because of high birth rates and stagnant food production, black Africa is the only area of the world where per capita food production has declined in the last two decades—averaging a 1.3 percent annual slide in the 1970s.

The current famine is not as severe as those that hit the Sahel countries and Ethiopia, killing hundreds of thousands of persons, in the early 1970s.

Some international aid experts feel, however, that a continuation of the drought that has been going on in some areas for two years could have a similar impact in what is, in effect, the eastern Sahel—parts of Uganda, Kenya, Somalia, southern Sudan and Ethiopia.

One aid specialist estimates that in the dozen countries in eastern and southern Africa experiencing food problems, half of the children under 7 and half of the women between 15 and 40 will suffer abnormal hunger this year.

That estimate, which the specialist and others agree is probably conservative, means at least 60 million people will be affected. The women and children suffer most because in many African societies the men working in urban centers or mines are assured a source of food.

Robert Kitchen, the chief U.N. official in Kenya, said the food situation "is as bad as it's ever been and deteriorating." The area is about 1.2 million tons short of grain, chiefly corn, the staple of the east African diet, he added.

That puts a strain on Western and U.N. food aid and has forced many of the countries to buy on the world market, using scarce foreign exchange.

In the last two decades, grain imports in black Africa have increased to 8.5 million tons from 3 million, with the cost skyrocketing to $1.8 billion.

If current trends continue, African import needs will increase 50 to 100 percent by 1990 according to U.N. estimates.

"If Kenya doesn't have a bumper crop and Uganda doesn't stabilize politically, this year is just a downpayment on 1981 and 1982," said Kitchen.

A retired State Department official and long-time black activist, he complained of "the fairly callous response" by the world so far. "Some say if you could paint all these people white, the response would be different," he said.

Foreign agricultural specialists point out that the current drought has only exacerbated the usual farming problems in Africa. The difficulties include government pricing policies and shortage of planning, storage facilities, research and technology. In addition, frequent government emphasis on showpiece industrial projects rather than agriculture simply increases the exodus from the land to the cities and means that fewer farmers have to feed more mouths.

The worst-hit areas are Karamoja Province in northeastern Uganda, where the United Nations has taken over distribution of food because of civil unrest; parts of Tanzania; and Somalia, suffering from an influx of a million refugees from the Ogaden.

The list of countries with food about 60 percent of their acreage and Zimbabwe, all of which have exported food at one time.

Ethiopia, where famine covered up by the government in the early 1970s led to the downfall of emperor Haile Selassie, is once more experiencing drought in the south and central regions. The government says 5 million people face famine.

Neighboring Djibouti and southern Sudan also have shortages of food. Others affected are Mozambique, Botswana and Rwanda. Drought, which hit all these countries in varying degrees in the last year, is only part of the problem as illustrated by Kenya—where a 4 percent annual increase in the nearly 16 million population means 600,000 more stomachs to fill each year.

Just a year ago Kenya exported about 180,000 tons of corn. The move is still having political repercussions. Only six months later, the country was desperately seeking to buy corn at a higher price on the world market. By January, Kenya was down to a nine-day supply. Corn, ground into meal, forms the basis of the diet.

The shortage was so severe that Kenya had to renege on a swap, worked out through the United Nations, to provide 8,000 tons of corn for the starving Karamojong in Uganda in return for receiving a similar amount of wheat last fall. It was the first time a country ever defaulted on a U.N. exchange agreement.

The United Nations has simply deducted the amount from future food aid, but Canada which provided the wheat to the world organization, is "sore as hell," according to a diplomat.

Kenyan officials refuse to talk about the swap or, indeed, any aspect of their food problems. Agriculture Minister James Osogo refused an interview, saying over the telephone: "I don't think it would serve any need for any official of the Ministry of Agriculture to talk to The Washington Post at all."

One Kenyan official did say privately that the problem was a "political drought," a reference to lack of agricultural planning and to allegations of corruption.

There are unconfirmed reports that about 60,000 tons of the corn was exported illegally, kept on ships at sea for about 10 weeks and then reimported at a price of $60 more per ton. That would reap a profit of $3.6 million.

The heart of the problem, however, is that the Kenyan government did not anticipate the 1979-80 crop would decline to only 1.3 million tons from bumper harvests in the past few years of around 2 million tons.

Part of the reason for the decline was the failure of the "small rains" in late 1979. Then the monsoon rains came six weeks late this year, which will be a factor in next year's crop.

But the major culprit, according to foreign specialists, is the government's pricing policy. Faced with a glut in which corn rotted for lack of storage space the previous two years, the government lowered the price from about $11 for a 200-pound bag to less than $9.

The farmers consequently shifted about 60 percent of their acreage from corn to more profitable sugar cane and other products. The price for this year's crop still on the stalk has been set at $12.30 a bag.

"Every year they make last year's pricing decision," one aid official said.

As a result, Kenya has to import about 300,000 tons of grain until the new harvest comes in starting in November. President Daniel arap Moi arranged for about 100,000 tons of food aid from the United States during a recent visit to Washington.

Much of the rest is being bought from drought-free South Africa. For political reasons, Kenya says it is imported from Mozambique, which is itself suffering shortages.

"The only thing exported from Mozambique is the invoice," a diplomat said.

A maze of state-related organizations here control agriculture policy but there is little coordination.

Last year the government started a major free milk program through the schools, not realizing that there was a milk shortage because the drought reduced output.

Kenya has another problem common in Africa: deforestation that causes soil erosion, taking thousands of acres out of production.

For Kenya, however, there is one major difference from some of the other African countries facing agricultural problems. Although the shortage of corn has caused the people to grumble, there is plenty of other food to eat. Elsewhere, as in Karamoja, Uganda, much of the time there is nothing to eat.

SHARP FAMINE, BANDIT TROOPS SCOURGE REGION OF UGANDA

(By Jay Ross)

KARENGA, UGANDA.—Nakong, age 6 but certainly weighing no more than a healthy 2-year-old, stands in a green cornfield here. She is the emaciated, barely living symbol of the horrors of a drought that is killing hundreds of people daily in the remote, northeastern corner of Uganda known as Karamoja.

Dressed only in a loincloth of tiny wire mesh hung from a strand of cloth, Nakong has been starving for so long that every rib is visible. Her stomach is distended, and there are only folds of skin where her buttocks should be. She cannot close her mouth for lack of moisture, and there are telltale signs of the beginnings of a form of oral cancer peculiar to the starving.

She is just one of hundreds of victims, said the Rev. Bruno Tinazzi of the nearby Catholic mission. His relief supplies are so low that he can only provide a bowl of cornmeal a week to each of the more than 1,000 destitute people who gather at the mission pleading for food.

Nakong probably needed intravenous rehydration, but the mission clinic has no drugs and no i.v. equipment.

As the priest spoke, 100 yards away militia trainees "armed" with wooden rifles marched to the orders of their drill instructor. In the background tiny, starving children fought over kernels of corn spilled from a bag distributed earlier.

The militia represent the hopeless effort by the local people to defend themselves against another scourge of the region—the Karamojong raiders, traditional local warriors who for centuries have been stealing cattle. The blood and milk of the cattle provide the only source of protein in the region—normally the animals are not killed for their meat.

In the aftermath of the overthrow of Ugandan dictator Idi Amin last year the raids have expanded into a major international cattle-rustling business straight out of the American Wild West.

Thousands of cattle, the basis of Karamojong society, have been stolen from the region as remnants of Amin's army and outlaws from as far away as Somalia, southern Ethiopia and Sudan and Western Kenya have joined in the raids, using the arsenal of stolen weapons found throughout Uganda. Unlike any other pastoral area in Africa, there are hardly any cattle to be seen here as a result.

Veteran relief officials acknowledge that there have been worse droughts. But they say they have never dealt with a famine situation where there are so many additional problems and where such a high percentage of a small population is threatened with extinction.

The irony is that the coming of the monsoon rains, though six weeks late, has ended the drought and the countryside is a lush green. The famine will continue, however, and the daily death toll will escalate at least until the harvest begins coming in late next month.

Droughts in such inaccessible areas as Karamoja do not lend themselves to statistical precision, but there is little question that hundreds of the 350,000 population of the province are dying daily. Estimates run as high as 500 a day, mostly children.

Melissa Wells, head of the United Nations program in Uganda and the main official seeking to coordinate international aid, estimates that 160,000 of the Karamojong are near starvation.

Wells, who had been in heated communications with U.N. headquarters over the developing tragedy here, is bitterly critical, along with other relief workers, of the level of international aid, the cooperation of neighboring governments and of the inefficiency of the unstable central government in Kampala.

Missionaries in the region say most of the victims die in the bush without ever reaching help.

According to Karamojong tradition, only the chief and his first wife are buried. Other bodies are simply dragged off into unfrequented wilderness areas and left for the vultures and hyenas to consume.

"There are so many bodies, the hyenas are no longer even hungry. They just leave the bodies." said a nun at the Kaabong Mission, about 20 miles west of the Kenya border.

Asked how many had died at Kaabong, Sister Rosetta Fresa replied, "Who can count? Yesterday nine died, today five."

Everywhere the story is the same. And the worst is yet to come.

The origins of the famine go back to the war when Amin's army and the liberation forces created havoc in the area. Little planting could be done.

Then came the drought. The "small rains" late last year failed and the monsoon, due in March, came late.

The crop will be small, because the people ate much of their seed grain for lack of other food. Tomorrow is a luxury when you are starving today.

The Karamojong cannot look for help to the rest of Uganda where crops have been better. Most Ugandans regard them with fear and loathing because of their fierce warrior tradition.

A Health Ministry official put the matter simply. "The Karamojong are savages. If they didn't starve to death they'd just kill each other. Let them die."

The United Nations has taken over distribution of relief supplies in Karamoja, operating mainly through the missions, since the Ugandan government which has had four changes at the top in 13 months, has virtually ceased to operate.

Food shortages in neighboring Kenya and elsewhere in east Africa, which has also been hit by drought, are also hampering relief efforts.

The United Nations Development Program worked out a swap with Kenya in which 8,000 tons of Canadian wheat given to the World Food Program was to go to Kenya, which, in turn, was to supply a similar amount of corn to Uganda.

The agreement was critical to the lives of many Karamojong since Kenya provides the only convenient surface access to landlocked Uganda. Kenya received the wheat late last year but reneged on providing the corn since it has no supplies itself in January when delivery was to begin.

Kenyan officials refused to talk about the transaction, but Wells, a former American ambassador who is the UNDP resident representative in Kampala, makes it clear she believes the Kenyan action is responsible for many deaths.

During a four-day trip through Karamoja last week, many of her remarks to the starving contained the phrase, "If only the Kenyans had provided" the corn.

Wells' target was to provide 1,500 tons of corn a month to the area as the key element in a subsistence diet of 1,700 calories daily (about half the American average) to the neediest cases. The Kenyan corn would have almost sufficed for the first half of the year, the crucial period before the new harvest comes in and supplies are available from overseas.

Instead only 600 tons were distributed from January though April and about 1,000 tons last month.

Although the harvest will be small, the area should be over the hump for a while. The next two months, Wells said, are crucial. It is already assumed that thousands of Karamojong will die: the U.N. effort is intended to prevent the number from escalating even further.

Ironically, there is ample corn available in Ethiopia, which has agreed to a swap for future wheat and has even made a jet cargo plane available at cost to fly the corn from Addis Ababa to Entebbe.

The stumbling block is money. Each flight of 35 tons costs almost $23,000, about three times the value of the corn.

Last month Wells managed to get eight flights financed, six by the United States and two by Oxfam, a private relief organization.

Firing off a cable to the United Nations asking if the world organization was "just supposed to let these people die," she received funds for eight more flights by the U.N.'s World Food Program, plus two from the British Red Cross.

That amounts to a quarter of a million dollars' worth of air cargo in June and provides slightly less than a quarter of the monthly minimum needs.

That only gets the corn to Entebbe Airport, three days' drive away from the most remote areas of Karamoja. Cargo planes like the versatile C130 or helicopters could do wonders, but none is available.

The U.N. High Commissioner for Refugees has assembled a fleet of 16 trucks to move produce into the area. "That figure is rather theoretical," said John Humphries, head of the transport operation. "At any one time a third are off the road. One is at the bottom of a river right now."

One relief worker described the litany of horrors they faced: "We don't have food, we don't have trucks, we don't have fuel and we don't have people for distribution."

Meanwhile, as the frantic relief effort moves ahead, hundreds of Karamojong continue to die daily.

Perhaps the most poignant scene during a harrowing four-day, 750-mile tour of Karamoja occurred at Kaabong Mission. About 80 tearful children, mostly between 5 and 10, walked in solemn procession around the cemetery at sunset, chanting the "Hail Mary" in Karamojong.

The dead are buried three deep. Rocks are piled on top of the fresh earth to keep animals away.

That day there were 11 freshly dug graves, two partially filled, awaiting the next victims of the famine. There is no question that they will soon be filled as the crying children chant their nightly novena for their dead friends.●

A TRIBUTE TO CLARENCE MITCHELL, JR.

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. ADDABBO. Mr. Speaker, it was in this Chamber in 1962, when late President John F. Kennedy said:

> America stands for progress in human rights as well as economic affairs, and a strong America requires the assurance of full and equal rights to all its citizens, of any race or of any color.

On Monday, June 9, 1980, President Carter presented the Medal of Freedom to Clarence Mitchell, Jr., along with 13 other distinguished Americans. If ever a man was responsible for making this Nation strong, Clarence Mitchell is.

America is stronger because Clarence Mitchell has devoted his life fighting for justice and equality for all Americans. In the years I have served on Capitol Hill I have watched legislation enacted to bring the concept of civil rights into a working reality. Those of us here who remember the long hours it took to pass that legislation, will long remember the tireless efforts of Clarence as he pursued his goals. There is no one here who doubts that if it was not for Clarence and the NAACP, we would not have made the great strides in approaching an America where opportunity is not decided on the basis of race, creed, or color.

The people of the United States will long appreciate and benefit from the work of Clarence Mitchell, Jr., and I am confident he will go down in history as one of the men responsible for making our Nation great and strong. I, and the rest of my distinguished colleagues are proud to pay tribute to a deserved recipient of this country's highest civilian award, and I wish him all the luck and good health in the future.●

THE INTERNATIONAL FINANCIAL INSTITUTIONS: A CRITICAL ROLE FOR THE 1980'S

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. HAMILTON. Mr. Speaker, Mr. G. William Miller, the Secretary of the Treasury, recently delivered an excellent speech on the important role that international financial institutions will play during the coming decade. I insert the speech into the CONGRESSIONAL RECORD for the benefit and use of my colleagues:

THE INTERNATIONAL FINANCIAL INSTITUTIONS: A CRITICAL ROLE FOR THE 1980'S

I welcome this opportunity to discuss key U.S. interests in the international financial institutions and the role of those institutions in assuring world economic stability and progress in the 1980's. It is particularly appropriate that I do so in the Midwest. The American heartland—like the nation as a whole—is increasingly influenced by and vulnerable to global economic developments, and has a keen self-interest in maintenance of an open, stable and cooperative world economy.

The world economy faces dual challenges over the next few years: to assure adequate financing of the huge payments imbalances arising from the major oil price increases that have taken place since 1978; and to promote fundamental adjustment to the changed world energy situation which is at the heart of global economic difficulties. The International Monetary Fund and the multilateral development banks are central to the international community's effort to meet these challenges. Whether the institutions succeed in restoring a strong and stable global economy has a critical and direct bearing on the economic well-being of the United States. The health of the world economy directly affects markets for the production of our farms and factories and for the employment of our labor. In hard times, such as we are experiencing now, there is always a temptation to retrench, to cut back on our support for international organizations that seem to have no domestic constituency. This would be a tragic mistake. Our stake in a healthy world economy is strong and growing stronger.

The dependence of the United States upon world trade and financial flows has become enormous. Export markets constitute a major source of demand for U.S. goods and services. Today, one out of every seven U.S. manufacturing jobs and one out of every three acres of U.S. farmland produce for export. Imported goods, ranging from raw materials to highly sophisticated capital equipment, are thoroughly enmeshed in all phases of U.S. economic activity. International investment has become a major factor in U.S. production, both at home and abroad. The U.S. and international capital markets are highly integrated, and the dollar serves as the principal vehicle for trade and finance internationally as well as domestically.

More than most states, Illinois demonstrates the central importance of the world economy as a market for U.S. products. Illinois is our third largest exporter of manufactured goods and our top exporter of agricultural products. Exports from Illinois totalled more than $9 billion in 1976—and certainly larger amounts in more recent years. One-third of these exports went to developing nations. Illinois businesses earned nearly $100 million during 1976-77 on development projects financed by the World Bank and the Inter-American Development Bank. In 1978 alone, 175 Illinois firms were contractors on World Bank projects.

Thus, this state is a major participant in international commerce, benefitting from—but also dependent on—a vigorous world economy. The health of the world economy is even more important today, when our own economy is undergoing a painful but needed adjustment.

Unfortunately, international tensions—political and economic—pose serious threats to the global economy. The disruption in Iran and Soviet aggression in Afghanistan make us acutely aware of the vulnerability of the world's major oil producing region to internal instability and external conflict. The turmoil in Southwest Asia has contributed to further uncertainty about oil supplies at a time when the world economy already faces extremely difficult problems. The dramatic oil price increases of the past year are causing a slow-down in world economic growth, a surging of inflation, and sharp deterioration in the balance of payments position of the oil-importing world. Today's world economic environment is likely to make it not only more difficult for nations to obtain needed financing, but more difficult also for them to make the economic adjustments required by changed external circumstances:

In more concrete terms:

Economic growth in 1980 is likely to slow to a bare 1 to 1½ percent in the industrial nations this year and to 4½ to 5 percent in the non-oil exporting developing countries. Unemployment will increase in virtually all countries, compounding the difficulties of adjustment.

Inflation rates have surged to double-digit figures in most of the OECD nations and to an average of 35 to 40 percent in the developing world.

OPEC's current account surplus is rising sharply, to a range of $100 to $120 billion, with a corresponding deterioration in the current account position of the oil importing world.

As growth slows, unemployment rises, and trade deficits widen, all countries will inevitably face increasing internal pressures for restrictive trade action and other defensive measures.

An inward turn is not a solution to the political threat or to the world's economic problems. An international response to the situation in Southwest Asia is clearly needed and is emerging. As the U.S. has moved to reinforce its military and political position in the region we have also turned to key international institutions—NATO, the United Nations and the World Court—to develop international support for our policy actions. We need at the same time to develop a coordinated and cooperative international response to the problems of the world economy in order to assure an effective solution and maintain the essential economic framework for broader political and military cooperation.

The world economic situation today is in some ways reminiscent of the situation following the major oil price increases in 1973-74. But there are key differences. First, on a positive note, the distribution of current account deficits and financing needs among oil importing countries is more stable than in the earlier period. The bulk of the current account deterioration is likely to be borne by industrial countries and some of the more advanced developing nations. As a consequence, a major part of the increased demand for external financing in 1980 is by countries that have relatively strong reserve positions and substantial access to private financing. It is clear that the oil price increases will impose serious hardship on the poorest nations, whose development plans must be altered to accommodate increased payments for oil, and some individual countries may encounter increasingly serious financing difficulties. But from the viewpoint of the system as a whole, the financing or "recycling" issue is not likely to be a serious problem in the immediate future.

Second, however, is the likelihood that large world payments imbalances will persist for some time, in contrast with the relatively rapid fall-off in OPEC surpluses during 1976-78. The prospect of continued tension in oil markets, and the possibility that the OPEC nations will not increase spending as rapidly as they did earlier, imply continuing large OPEC surpluses and persistent deficits in the oil importing world.

Third, there is widespread recognition today that the world economy has been altered fundamentally by developments in energy, and that a process of adjustment of basic economic structures is unavoidable.

Thus over the next few years the world faces a dual task of assuring not only that financing is available in adequate amounts, but also that basic economic adjustments are initiated—and carried through—to restore a sustainable basis for future world economic growth and development.

The need for a coordinated approach to these tasks is recognized by the international community. The IMF and the multilateral development banks are at the forefront of efforts to carry out that approach. The IMF is positioning itself to meet potentially large demands for balance-of-payments financing and to assist countries in undertaking longer-term programs to revitalize their economies. An increase in IMF quotas is now in process and the Fund is considering the possibility of borrowing additional funds from major surplus countries should the need arise. Also, the Fund is moving to lengthen the horizon of its adjustment programs in appropriate cases, and to place greater emphasis on expanding and rationalizing the productive base in borrower economies, in recognition of the structural nature of some of the changes that must be made in its members' economies. These efforts by the IMF closely parallel a major initiative being undertaken by the World Bank to promote and support structural adjustment in the developing nations.

The Bank has initiated, with strong support from the United States, a new program of non-project lending in the form of sequential loan agreements over a medium-term period, perhaps 5 to 7 years. Disbursement of the loan segments, and decisions on subsequent loans in the sequence, would be conditioned on various identified micro- and macro-economic policy changes by the borrowing country, designed to produce "structural adjustment"—especially in response to the changing energy supply situation—in its economy. We are supporting this Bank initiative as an important and necessary complement to its regular practice of project lending.

By cooperating closely in implementing these programs, the Fund and Bank can support efforts of their member countries to undertake difficult adjustments, which necessarily have a medium-term horizon, while simultaneously addressing their shorter-term external financing needs. At the same time, it is essential that flows of development assistance, both bilateral as well as through the development banks, be sustained to permit the development process to continue during this difficult period of adjustment.

Major steps are under way to strengthen the resources of both the IMF and the multilateral development banks to enable them to carry out these tasks. It is in the national interest of the United States to participate fully in these efforts. Let me discuss them in turn.

INTERNATIONAL MONETARY FUND

The purpose of the International Monetary Fund is the maintenance of a strong and orderly international monetary system. It is a revolving fund, from which all participants benefit directly. It is not foreign aid. It is not commodity financing. It is unique, not like any other institution in which the United States participates.

The IMF has two basic functions. The first is general guidance over the operations and evolution of the international monetary system. The second, closely related, is provision of temporary financing in support of adjustment programs by IMF members facing balance of payments problems.

The IMF provides a source of funds, provided by all member nations and available to all through assigned quotas, for supporting countries in their efforts to overcome balance of payments difficulties. A 50 percent overall expansion of quotas—from about SDR 39 billion to SDR 58 billion or, in dollar terms, from about $50 billion to $75 billion—has been agreed upon as a key element of the international community's response to increasing and potentially major world balance of payments problems. The IMF has periodically required increases in its resources, in response to rapid growth of world economic activity and international trade and financial transactions. Today, at a time when world payments imbalances and potential demands on the IMF are rising sharply, quotas represent barely four percent of world trade—as compared with 12 to 14 percent during the 1960s. To maintain a strong IMF, capable of encouraging needed adjustment and providing the temporary financing required to maintain monetary stability, we must assure that its resources are adequate to meet potential needs.

Quotas are central in the IMF. They are its permanent resources. They determine the amounts of financing which countries can draw in time of need. They determine the distribution of SDR allocations. And they determine voting power. Because of these important advantages, nations compete for increases in IMF quota shares, rather than trying to reduce their shares as they do in many other international institutions. The United States has by far the largest IMF quota, the largest share of votes and the largest potential access to IMF resources. Over the years, the U.S. has drawn about $7½ billion in foreign currencies from the IMF, second only to drawings by the United Kingdom.

In support of the general IMF quota increase, the Administration has requested Congressional approval of a 50 percent increase in the U.S. quota, amounting to SDR 4.2 billion or about $5½ billion at current exchange rates. The proposed increase in the U.S. quota will maintain our share intact at 21.5 percent of total IMF quotas, and thus will preserve our voting position and ability to influence key IMF decisions on the nature and operations of the international monetary system.

THE MULTILATERAL DEVELOPMENT BANKS

The multilateral development banks (MDBs) have received strong, sustained U.S. support throughout their thirty-five year history. Active, undiminished support during the 1980s will be critical to fundamental U.S. economic, political, and security interests.

MDB loan commitments represent by far the largest official source of external capital for the developing world, equivalent to $14 billion in 1979. These loans contribute in a major way to economic growth and stability in recipient developing countries. Economic growth in the developing countries is an important U.S. objective, both in terms of basic humanitarian concerns and as a source of strength to the global economy as a whole. The developing nations are today—at a time of a general slowdown—the main area of world economic growth. Growth generates increased imports—and non-oil developing countries now take 20 percent of total U.S. exports, 25 percent of our exports of manufactured goods, and support more than half a million U.S. manufacturing jobs.

In providing policy advice, preparing development projects based upon objective economic criteria, and serving as a financial catalyst, the MDB's are an important and respected force for the development of an efficient, responsive international market economy. They play a key role in the transfer of technology and in "human capital formation", which represent perhaps the greatest contribution to long-term development.

The MDBs also provide an important forum for cooperative efforts among developed and developing countries to respond rapidly to critical world needs. Most recently, this has produced initiatives in two key product areas and, as I noted earlier, structural adjustment:

The United States has actively supported a shift in the allocation of MDB lending away from infrastructure projects toward agricultural and rural development, and subsequently toward education, health, and population projects, as the banks increasingly have adopted a basic human needs strategy to target project benefits directly for the poor. The World Bank is far and away the largest single source of external funding for agricultural and food production, providing over 40 percent of all official commitments to agriculture. Over the five years just ended, total lending commitments for these projects equalled $11.6 billion, representing 33 percent of total lending. The World Bank expects to finance projects which will contribute on the order of one-fifth of the increase in annual food production in its developing member countries in the 1980s.

With strong support from the United States, the World Bank plans to finance oil and gas projects which, combined with other official and private financing, will total more than $33 billion over the next five years. This effort should ultimately yield an additional 2.5 million barrels of oil equivalent a day. By increasing world energy supplies, this will help reduce pressures on world oil prices, as well as deal directly with one of the most critical bottlenecks to development.

At the same time, increased U.S. support for the multilateral development banks (MDB's) is fully consistent with the need for budget restraint. Indeed, U.S. participation in the MDBs is the most cost-effective approach available to providing development assistance. We derive significant fiscal advantages, because the provision of development assistance is shared with other countries, developed and developing alike, and because the MDBs leverage our paid-in contribution through substantial borrowings in world private capital markets.

Also, increasing amounts of our contributions are provided through callable capital, not a penny of which has ever left the U.S. Treasury. Burdensharing and use of callable capital provide the perfect cost-effective combination for our national concern for fiscal prudence. As a result of that combination, the World Bank lends approximately fifty dollars for each and every dollar paid-in by the United States.

Finally, through the contributions of other MDB donors and the use of callable capital, MDB loans result in expenditures on U.S. goods and services well in excess of U.S. contributions to the banks. From the inception of the banks through 1978, the cumulative current account earnings of the United States directly attributable to MDB activities totalled $11 billion, as compared to cumulative U.S. paid-in contributions to the banks of $7 billion. This net balance of payments benefit is further multiplied within the U.S. economy and generates additional income, employment, and Federal Government and local tax receipts.

Indeed, our analysis indicates that during 1977-1978, every dollar contributed to the MDBs resulted in an increase of U.S. GNP of three dollars. Total U.S. GNP growth directly attributable to MDB activities averaged $2.7 billion during this period, raising net Federal tax receipts by $720 million annually and reducing the net cost to the Federal budget for our participation in the banks to roughly $170 million each year. If increased local tax receipts were included, the net cost to the American taxpayer would be minimal.

Several U.S. Administrations have supported a more equitable sharing of international assistance provided through the development banks. This Administration has supported that concept, as a fair assumption of increased responsibilities by other nations in response to today's more pluralistic global economy. As a result, the U.S. share is declining in every MDB in which we have participated since the 1960s.

We must, however, be careful not to travel this path too far. The United States must continue to play a substantial role in the MDBs, not only because of the broad benefits we derive but as a measure of cooperation. It is a simple truism that if we do not support other nations in achieving their major economic objectives, we cannot expect their cooperation in achieving ours.

I must point out, in this connection, that the United States faces at this moment a growing problem, of our own making, which threatens the continued operation of these crucially important institutions. That is the failure of the U.S. Congress to deliver on commitments made by the United States in support of these institutions. The United States is now over $2.0 billion in arrears in its contributions to the multilateral development banks. At this point Congress has not yet passed last year's authorization and appropriation legislation for the banks. The result is a complete halt in lending by the Inter-American Development Bank and the Asian Development Fund. Passage of this legislation is urgent.

CONCLUSION

Energetic U.S. support for the International Monetary Fund and the multilateral development banks is in our basic self-interest.

These institutions are the centerpiece of our efforts to restore stability and growth to a troubled world economy, strengthening the foundations for broad political cooperation.

The proposed increase in IMF quotas will help to assure that the IMF can continue to meet its responsibilities for international monetary stability in a period of strain, danger, and financial uncertainty.

Our contributions to the multilateral development banks provide the most cost effective means of supporting U.S. humanitarian, economic, and foreign policy objectives in the developing nations, while directly benefitting U.S. exports, production and jobs.

Legislation to support these institutions is now before the Congress. Senator Stevenson and Senator Percy have recognized the major U.S. interest—and that of Illinois—in the international economy, and have given their strong support to this legislation. I welcome their support and hope my comments this evening will encourage yours as well.●

CALIFORNIA CONDOR

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. GOLDWATER. Mr. Speaker, as many of my colleagues know, I have long been concerned about the possible extinction of the California condor. The California condor is the largest flying bird in North America, yet only about 30 of these magnificent birds are known to exist. Their few numbers have resulted from the ravages of modern society, as well as their own limited breeding habits.

Since 1975, a plan of action has been evolving to protect the condor, but funds were necessary to implement the program. In 1979, myself and several concerned colleagues were successful in our request to the Appropriations Committee for $500,000 in Federal funds for the protection of the California condor. The National Audubon Society has successfully matched those funds through private donations.

On May 30, the California Fish and Game Commission resolved the last remaining obstacle to program implementation. They have granted the U.S. Fish and Wildlife Service the authority to capture California condors for purposes of conducting field studies and to establish a captive breeding program. I believe it is a wise decision; we simply need to know more about the condor in order to save it. The 35-year, $1 million program will be subject to strong oversight restrictions in order to insure that the program itself does not contribute to the California condor's demise. For example, should a condor's death result from any of the program's procedures, all trapping operations which have already been tested and approved will immediately cease and a full evaluation of the causes will be made to determine whether the program should continue. Furthermore, there are stringent condor age restrictions for trapping purposes, as well as restrictions on the number of birds that can be placed in captivity.

The U.S. Fish and Wildlife Service's program cannot definitely insure the California condor's survival because the condor may be past the point of saving, but I firmly believe that man must take remedial action according to the most appropriate plans currently available or we will have lost the precious opportunity to save the California condor.●

PRODUCTIVITY AND EXPORT COMPETITIVENESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. LaFALCE. Mr. Speaker, on June 10, the Center for Strategic and International Studies sponsored a very worthwhile conference entitled: "A Time for Government-Private Sector Teamwork: U.S. Export Competitiveness and the Political Climate Today".

One of the most penetrating contributions was rendered by John C. Marous, president of Westinghouse International. Mr. Marous discussed the intimate connection between increased productivity and improved export competitiveness on both a macroeconomic level and a microeconomic level. Because of declining productivity and because of the absence of a national plan on productivity, the United States may be on the verge of becoming a second-rate economic power.

As Mr. Marous so correctly indicates, action to improve productivity must take place at the firm level and at the national macroeconomic level. If meaningful steps are not taken to improve productivity, U.S. goods will be pushed out of world markets, leaving only U.S. agricultural products as U.S. exports.

I want to share Mr. Marous' remarks with all of my colleagues, because those remarks touch on the very future of our economy.

The remarks follow:

REMARKS BY JOHN C. MAROUS, JR.

Thank you, Bill. Good afternoon, everyone. I appreciate your kind welcome . . . and the opportunity to be part of such a distinguished gathering.

You know, when Mike Samuels invited me to participate in this conference, he gave me a fascinating challenge. Tell us—he said—about the relationship between America's industrial productivity and export competitiveness in the global marketplace. Well, before I talk about the macro issues, let me give you a micro example based on some recent Westinghouse history.

In 1979, we implemented two major programs designed to increase our sales and profits in the years ahead.

First, we designed and staffed an efficient new International Organization based on the concept of matrix management. Our new structure will significantly enhance our international strategic planning capabilities . . . improve our sales effectiveness . . . and focuses our corporate capabilities at the country level—the key building block in the international marketplace. We expect these improvements to make us more competitive in overseas markets.

Second, we began a comprehensive corporate-wide productivity improvement program that will boost our productivity more than 50 percent by the end of this decade. During the next five years, we plan to spend about two billion dollars on new facilities and new technology to improve our efficiency as a corporation.

These efforts are not unrelated responses to independent problems. They are tied together—in fact driven—by the realities of today's global marketplace.

Our competitors in Europe and Asia think, plan, and act on world-scale. They develop products that can be sold and supported on six continents. Then they achieve economies of scale and amortize their capital investments and R&D spending by selling them throughout the world.

Worldwide sales volumes give them the ability—really the power—to dictate price in any market they enter. In time, they overwhelm domestic manufacturers and dominate the market.

Our foreign competitors have taken dead aim at the U.S. marketplace. We take their threat very seriously. More and more products have the potential to be marketed globally. And more than half of the products Westinghouse makes are potential world-scale products.

We've concluded that our best defense—in fact, our only valid long-term defense—is to remain a strong player in the world-scale game. To defend at home, we have to escalate our global attack.

Last year, we took a critical look at our arsenal of capabilities. We found that our technology can compete head-to-head anywhere in the world . . . we're confident that our new International Organization will generate a world of sales opportunities . . . and we're hopeful that an eventual U.S. Government export policy will counterbalance some of the export incentives enjoyed by our foreign competitors.

But none of these things will be enough if the price and quality of American products are not competitive. And here, we run smack into the challenge of the skyrocketing industrial productivity in other countries.

The classic definition of productivity is a ratio: Units of output produced per unit of input resource. For example, bushels of wheat per acre . . . or dollars of gross national product per man-hour of labor.

At Westinghouse, we measure productivity in terms of value-added per employee . . . with value-added defined as the price of the goods we sell minus the cost of materials we buy from outside suppliers.

In years past, productivity improvements were aimed primarily at increasing worker efficiency. But today's advanced manufacturing technology and improved management techniques not only increase worker efficiency but also: reduce raw materials costs by using materials more efficiently; improve product quality; increase product reliability; and dramatically simplify the costly job of protecting the health and safety of industrial workers.

These technological and organizational "side effects" multiply the potential cost savings and lead to products that are more desirable. The net effect can be a potential competitive edge in the marketplace.

I've brought a film that will show you what I mean. The first segment is a two-minute TV commercial from Fiat, in Italy. The second segment is a montage of scenes of Japanese industrial facilities.

That, ladies and gentlemen, is what I mean by the challenge of soaring productivity in foreign companies. I'm sure you can understand why we at Westinghouse have given the highest priority to improving our own productivity.

The productivity challenge also demands the highest priority on our national agenda. Because unless we can increase our participation in the global marketplace, we won't be able to create new and better jobs for a growing American workforce.

A big share of the two billion dollars Westinghouse plans to invest during the next five years will buy the latest technology for our manufacturing facilities and offices . . . including industrial robots . . . computer-aided design, drafting, and manufacturing systems . . . and computer-based information and communications equipment.

For example, we plan to have more than 200 industrial robots operating in our factories by the end of next year. And we are doing advanced work on state-of-the-art robot systems at our Research Center, and in cooperation with Carnegie-Mellon University, in Pittsburgh.

Massive spending for higher productivity is essential to our future. But money for capital investments must ultimately come from higher revenues . . . and this brings us up against another problem: Domestic markets for our core-business products will grow slowly in the years ahead. Consequently, we intend to increase our international sales . . . particularly in high-growth developing nations.

We're back to the common-denominator driving forces I spoke of earlier: On one hand, we must increase our sales in foreign countries to defend our U.S. markets and help fund our productivity improvement program. On the other hand, we must improve our productivity to increase our foreign sales. Productivity and global competitiveness are tightly intertwined; in the long term, we can't achieve one without the other.

Our foreign competitors understood—and acted on—this relationship back in the early '70's . . . which is why we must play catch-up ball in many areas of productivity improvement.

During the past decade, America's productivity improvement has averaged only 2.3 percent a year . . . productivity actually declined about one percent in 1979.

During the same 10-year period, productivity rose more than twice as fast in most of Europe . . . and three-to-four times faster in Japan.

In years past, U.S. industry enjoyed a technology advantage that made our products the best in the world. That technology gap is largely gone . . . and our productivity advantage is about to disappear. The U.S. share of world exports has declined along with our productivity growth. We had 40 percent in 1950; we have only 13 percent today. West Germany may soon become the world's leading exporter.

The United States is still No. 1 in terms of GNP per man-hour . . . but just barely. If the trends of the 1970's continue into the 1980's, Japan, West Germany, France, and Canada will overtake us before the end of the decade . . . and our once-dominant position in the industrial world will be gone. At that point, ladies and gentlemen, not even the most progressive national export policy will improve export competitiveness of our industrial products. It won't be easy to restore America's sagging productivity . . . but we can do it. We'll have to make concerted efforts in four fundamental areas:

First, we must stimulate innovation at our research labs, at our universities, and in our industries. We need innovation in both product-oriented and manufacturing-oriented technologies. During the past 50 years, at least 40 percent of our productivity growth came from technological innovation.

Second, we must replace obsolescent equipment in our factories and offices . . . and to get the job done, we must stimulate capital investment. Government and industry must work together to eliminate the regulatory and taxation barriers that limit productivity and export growth. We need policies that encourage capital formation and R. & D. spending, and that insure the most productive use of available capital.

Third, we in industry must learn to manage our people and our businesses better than we have ever done before. We must use the capabilities and potential of our employees to the fullest, and we must get the most from our business resources.

Finally—government, labor, and industry must pull together in a concerted effort to increase America's penetration of the global marketplace. We'll have to pull hard . . . it's a tough world out there, full of fierce competition.

We'll have to learn fast. Foreign business customs are vastly different from our own.

We'll have to grow fast. It's a simple fact that many of our largest industries are international amateurs.

And we may even have to develop new business structures—such as trading companies—to succeed.

We must do all these things . . . and we must do them quickly. Time is running out. A few more years of inaction will turn our nation into a third-rate economic power. America has the resources, the skills, and the inventiveness to regain the productivity momentum we've lost in recent years. We have the capability to make productivity improvement a way-of-life in our industries, and our nation. When we do, we'll be once again on our way to a position of undisputed leadership in the export markets of the world.

Thank you.●

HELP FOR THE FIRST-TIME HOME BUYER

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. PATTERSON. Mr. Speaker, this week the House will consider H.R. 7262, the Housing and Community Development Act of 1980. It will be a good opportunity for my colleagues to consider what has become of our national housing goal and the American dream of homeownership.

As the prospect of owning a home diminishes for more American families each year the focus of our national housing policy must be called into question. Specifically, whether Federal law favors those who already own homes over, and often to the disadvantage of those who are unable to break into the housing market.

For example, the Congressional Budget Office estimates that the homeowners' tax deduction for mortgage interest and property taxes will be $23.7 billion in 1981 and is expected to rise to nearly $45 billion by 1985. This is a tax expenditure which largely benefits middle- and upper-income taxpayers who already own homes. It subsidizes most those who have the highest incomes and own the most expensive houses. There is no such tax subsidy for persons attempting to purchase their first home.

Over the last few years inflation has widened the gap between homeowners and those desiring homeownership. While the value of homeowners' equity and housing prices soared, the purchasing power of the would-be homeowner dwindled.

Last week, the U.S. League of Savings Associations released its much heralded report: "Homeownership: Coping With Inflation." The league's study found that in spite of high-housing prices:

> Affordability did not seem to be a major problem for most repeat homebuyers in 1979. First-time home buyers, however, had to cut corners in order to enter the housing market.

Between 1977 and 1979 alone there was a 50-percent attrition in the percentage of home buyers who were making their first purchase. If the trend continues, to be sure, only the most upper income and those who already own homes will be able to purchase.

According to the league, those first-time buyers who did enter the housing market had to make "extraordinary sacrifices to fulfill their desire for homeownership." The report in conclusion forewarns:

> There can be no doubt that the problem that inflation is causing first-time home buyers must become a focal point of concern for national housing policy.

It is with the benefit of this backdrop that I ask my colleagues to support an amendment I plan to introduce to title II of the bill H.R. 7262. This amendment will give preference to persons who have not owned a home in the past 3 years—effectively first-time home buyers—in the award of low-interest mortgages under the bill's revised version of the section 235 program.

This preference will in no way impair the stimulus quality of the program since HUD would be free to drop the requirement in any area where there were not enough first-time home buyer applicants to readily purchase available units.

Thus my preference amendment and the stimulus objective of this program are clearly not inconsistent. The National Association of Home Builders participated in drafting the amendment in order to insure that result. It was that appreciation that made this amendment acceptable to HUD at the Housing Subcommittee markup.

As a matter of equity, this preference is needed to protect these hopefuls from being excluded from the program altogether. In the threshold creditworthiness determinations made by participating lenders, first-time home buyer applicants are otherwise sure to be rejected in favor of those who have the credit history and assets from already owning a home.

Furthermore, since most first-time home buyers are apt to be renters, this preference would have the added benefit of freeing-up many thousands of desperately needed rental units. Just as important, this amendment will pry open the door to homeownership for a few more deserving American families.

The text of this amendment is as follows:

On page 48, line 15, add the following sentences:

> In making such assistance available, the Secretary shall, to the maximum extent possible and consistent with the purposes of this subsection, give preference to persons who have at no time had a present ownership interest in a principal residence in which such persons resided during the 3-year period ending on the date which a mortgage under this section is executed. For the purpose of this subsection, the term principal residence shall not include dilapidated housing.●

DEFINING NATIONAL SECURITY SENSIBLY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. BONKER. Mr. Speaker, as the House resumes consideration of the fiscal year 1981 foreign aid bill today, it is important to remember that the programs in this bill help protect American security abroad at a cost which is far less than the additional dollars many seek for military spending this year. Recently a New York Times editorial succinctly described the essential role that foreign aid performs as a vital instrument of our national security policy. I insert this editorial below as a reminder to my colleagues that we need to define national security in terms other than simply higher defense spending:

[From the New York Times, June 2, 1980]

NATIONAL SECURITY, ABSURDLY DEFINED

The great budget debate underscores afresh one of the higher absurdities of American politics. Whatever the final figure of the defense budget, Congress is plainly determined to splurge an ocean of money for national security, narrowly defined. Indeed, it is considering a 20 percent increase over a five-year period, resulting in total expenditures of nearly one trillion 1980 dollars.

But what about national security, broadly defined? Money, and lots of it, seems available to narrow various gaps that the service chiefs discern: the missile gap, the naval gap, the tank gap, the aircraft gap. By contrast, only a pittance is committed to narrowing the global poverty gap, even though national security is palpably threatened by the abyss that separates the affluent from the wretched—the more so since OPEC prices began to devastate the poorest third of the world.

What is wrongly called "foreign aid" has always constituted a meager drop in the budget. As the saying goes, foreign aid has no constituency: its recipients cast no votes and sign no visible contracts in lawmakers' districts. In hard times, it is first on the chopping block. The other day, Congress shredded by 10 percent the Administration request for $4 billion for International development banks, while holding bilateral development aid to about $1 billion a year.

Yet "foreign aid" is a misnomer, implying charity, a giveaway with no domestic payback. That impression is a caricature. Of the $44 billion in total aid loans since 1945, nearly $22 billion in principal and interest had been repaid by 1978. Nearly every loan payment has been made on time. And the great bulk of the money has been spent for goods and services in the United States; in 1978, "foreign aid" accounted for expenditures of $381 million in New York alone.

Granted, much of the aid is extended at low interest. But without such loans and other aid programs, American farmers would be in serious straits; at least a fourth of their acreage produces exports to the third world. Moreover, liberal credit has transformed the pattern of trade. In five years, American exports to developing countries have tripled; they now account for 37 percent of all manufactured exports and buy more of them than all of Europe. The best estimate is that about 1.2 million American jobs are directly dependent on exports to the third world.

Still another impression is that "foreign aid" is an onerous burden on the American taxpayer. That, too, is moondrift. Averaged out, Americans pay the equivalent of a weekly pack of cigarettes for "foreign aid."

Putting aside the prosaic numbers and ignoring all moral imperatives, "foreign aid" is a vital instrument of national security policy, a form of influence and also insurance against disasters that could impel a military response. There is generous room for argument over how well existing programs fulfill their purposes. But by contrast with military hardware, aid can be used in benign ways to promote America's highest values. That such rudimentary truths must be insistently spelled out is a further measure of the sleeping sickness that seems to have gripped not just Congress but the whole body politic.●

EMPLOYEE CONDUCT OF THE OFFICE OF SURFACE MINING

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. RAHALL. Mr. Speaker, on March 27 and 28, the Subcommittee on Energy and the Environment of the Interior Committee conducted 2 days of arduous oversight hearings, at which time serious allegations were raised regarding the conduct of certain employees within the Office of Surface Mining.

These hearings and the subject matter which was brought forth by Mr. Ronald Drake, a former employee of that Office, have raised questions concerning the use of federally appropriated funds for lobbying purposes. Further, it has prompted the General Accounting Office to undertake an investigation into the allegations. I believe the testimony presented at the hearings substantiated many industry and State charges that the regulations promulgated by the OSM went beyond the intent of the law, have created an adversary relationship and were drafted with undue input from one interest group.

To counter Mr. Drake's charges, Mr. Walter Heine, Director, Office of Surface Mining, stated in a March 26, 1980, letter to Senator HENRY JACKSON that, "Mr. Drake was not within the customary decisionmaking channels of the Office and in fact, he seldom had a direct role in the resolution of major policy issues." It should be noted that Mr. Heine expressed these same views during questioning by members of the subcommittee.

Following Mr. Drake's separation from the OSM, coal industry groups and operators contacted him requesting that he draft alternative regultions to be submitted to the OSM for rule changes. Upon learning of this Mr. Heine in a memo dated May 12, 1980, to Mr. Robert Uram, Associate Solicitor, OSM, questioned Mr. Drake's possible violation of the Ethics of Government Act of 1978 in that Mr. Drake was, "involved in our rulemaking at a policy-influencing level."

Mr. Speaker, this action by Mr. Heine again indicates the arrogant, prevaricated and oppugnant attitude of the OSM toward the coal industry. At a time when coal is being called upon to play a larger role in our energy future, I find Mr. Heine's action to be obstructive, subversive, and counterproductive to our national energy goals.

As the enclosed highlighted documents will show, Mr. Heine has contradicted his statements by informing Senator JACKSON and the subcommittee that Mr. Drake did not serve in a decisionmaking capacity while informing the Associate Solicitor that Mr. Drake, "was involved at a policy-influencing level."

Mr. Speaker, let me reiterate if I may, this once again demonstrates the antagonistic manner under which the Office of Surface Mining operates. While I and other Members of the Congress work day in and day out to further coal's use, Mr. Heine and members of his staff have undermined, at every possible venture, our efforts.

I believe his actions to be uncalled for, unnecessary, and counterproductive and I am hopeful that this issue will be looked into by the Inspector General of the Interior Department who is currently undertaking an investigation into the other charges which have been leveled against that Office.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF SURFACE MINING, RECLAMATION AND ENFORCEMENT,
Washington, D.C., March 26, 1980.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate the opportunity your letter of March 7 offers for me to explain the circumstances surrounding the dismissal of Mr. Ronald Drake and to respond to policy issues that were raised by Senator Warner in his letter of February 15 to you.

First, it is necessary for me to explain the position which Mr. Drake held in the Office of Surface Mining. He was appointed as a Special Assistant to me under Schedule C hiring authority on July 30, 1978. Schedule C authority was used because the duties of the position were those of confidential advisor to me. He was appointed as Special Assistant after it was determined by personnel officials that his experience did not qualify him for the career Regional Director position to which he aspired. As a Special Assistant, Mr. Drake was not within the customary decisionmaking channels of the Office and, in fact, he seldom had a direct role in the resolution of major policy issues. He had no supervisory responsibilities.

Mr. Drake's employment with the Office of Surface Mining was terminated on February 9, 1980. My final decision to terminate was communicated to Mr. Drake on January 21, 1980, when I offered to accept, and he declined to offer, his resignation. The general reasons for his separation were explained to him during the January meeting. These reasons included the fact that Mr. Drake failed to perform several key assignments at the level of competence which I considered necessary. For example, he was initially assigned responsibility for managing the development of our permanent program regulations. I had to relieve him of this responsibility after a few weeks because no discernable progress had been made and no organized plan for getting the job done had been developed.

I attempt to manage the Office in an open, participative fashion that frequently requires senior personnel to discuss and argue positions, pros and cons, before decisions are made. Mr. Drake was generally not adequately prepared for these discussions and more often than not was unable to support his positions knowledgeably or with reasoned argument. As a result of this approach and other factors, he failed to develop the rapport with, or gain the respect of senior managers in the Office. He had developed a reputation of not supporting and, in fact, even of opposing decisions made after these discussions. Under such conditions, I found his services as a confidential advisor to have limited value.

In all candor, my decision to remove him from his position was also influenced by reports that he was openly criticizing my administration of the Office to subordinate managers that I must look to to carry out national policy. There were also reports of similar criticisms being made to others with whom the Office must cooperate. I am sure that you will understand that I could not accept such actions by an employee who was hired as a Special Assistant and confidential advisor.

Because Mr. Drake's allegations go to the heart of the surface mining program, I will also respond in general to three of the policy allegations included in Senator Warner's letter. First, it is alleged that the Office has been unduly influenced by citizens environmentalists. I maintain a strict open door policy and to the best of my knowledge, neither industry nor State representatives nor individual citizens have even been denied access to me nor to any members of my senior staff. Those who have doubts as to whether we have considered the suggestions, comments and opinions of any group should review the more than 400 pages of Preamble to Our Permanent Program Regulations, published March 13, 1979. Every substantive comment received was considered and answered, regardless of its source. The charge of undue influence is simply untrue.

Second, Mr. Drake alleges that our regulations have exceeded the authorities and provisions of the Surface Mining Act. I must point out that the allegations have been subjected to review in depth by the District Court as provided in Section 526 of P.L. 95-87. The interim program regulations, published December 13, 1977, were upheld virtually intact in decisions dated May 3, 1978 (452 Fed. Supp. 327-347) and August 24, 1978 (456 Fed. Supp. 1301-1327). While litigation on the permanent program regulations issued March 13, 1979 is still in progress, an initial decision was issued February 26, 1980, on over half the issues raised by industry, environmentalists and State plaintiffs. Again, the basic course chosen in the regulations was fully sustained. Thus, the Judiciary has determined that we have not exceeded our authority or provisions of the Act in any major way.

Finally, Mr. Drake alleges that our regulations are resulting in severe curtailment of coal production at a time when energy from coal is most important to our Nation. The record of production since our interim program regulations became effective does not support this allegation. Preliminary Department of Energy figures for 1979 production show that 770 million tons were mined, an increase of 105 million tons over 1978, and about 80 million tons over 1977. Exports of coal increased from less than 40 million tons in 1978 and 54 million tons in 1977 to 65 million tons in 1979. I am sure you will recognize that 1979 was the first full year in which the toughest and most significant performance standards of the Surface Mining Act applied. You are also probably aware of the fact that during 1979, industry officials expressly acknowledged that there was surplus production capacity of more than 100 million tons and that the average spot market price for coal was below the average for 1978. These factors rather than environmental requirements caused a significant number of operators to move to the sidelines until the market improved.

I hope this brief explanation of the circumstances of Mr. Drake's termination and of the reasons his major policy allegations must be considered as those of a disgruntled Schedule C employee will meet the needs of the Committee. I have greatly appreciated your support and have no desire for this unfortunate incident to disrupt the positive relationship we have had.

Sincerely,

WALTER N. HEINE,
Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF SURFACE MINING, RECLAMATION AND ENFORCEMENT,
Washington, D.C., May 12, 1980.

Memorandum to: Robert Uram, Associate Solicitor.
From: Director, Office of Surface Mining.
Subject: Ethics in Government Act of 1978 as amended (1979).

The attached article indicates that Ronald Drake, a former GS-15 employee of this office, may be hired by the coal industry to draft proposed regulations to petition the Office of Surface Mining (OSM) for rule changes. Mr. Drake was involved in our rulemaking at a policy influencing level.

Please review the situation and inform me whether this proposed activity by him may be in conflict with the subject Act.

Attachment.

COAL OUTLOOK, MAY 5, 1980—INDUSTRY SEEKS HELP ON "ALTERNATIVE" REGS

Industry groups and operators have asked a former Office of Surface Mining official to draft alternative regs to those issued by OSM. Ron Drake, who was OSM director Walter Heine's special assistant until Heine fired him in late January, is considering the requests.

Failure to have a concrete set of alternatives has doomed many opponents of OSM's rules when they sought Congressional intervention.

Drake's firing led to discovery of memos on what may be illegal lobbying by OSM, and that issue will be raised again May 21 at hearings before the Senate Appropriations interior subcommittee. The panel will consider an upcoming General Accounting Office report on OSM lobbying "and other items," a committee staffer said.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., May 23, 1980.

Memorandum to: Associate Solicitor, Surface Mining.
From: Assistant Solicitor, Audit and Inspection.
Subject: Post-employment conduct.

Your note to Tim Elliott asking for his comments on Walter Heine's inquiry concerning Ronald Drake's possible employment by the coal industry to draft alternative regulations for submission to the Office of Surface Mining has been forwarded to me for reply. Both Tim Elliott and I agree that an inquiry such as yours should have been referred to me. To avoid further misunderstandings of this sort, I will seek to clarify our role in the Solicitor's Regulations Manual.

In his May 12, 1980 memorandum, Director Heine inquires as to whether Ronald Drake's employment by the coal industry for the purpose stated would conflict with the Ethics in Government Act of 1978, 92 Stat. 1824, as amended (hereinafter the "act"). From the director's memorandum and the enclosed clippings, I understand that Ronald Drake formerly served as the Director's Special Assistant at the GS-15 level, and as such was involved in the promulgation of the regulations in question by virtue of his participation in and influence on policy decisions affecting them. As I advised you in connection with the Yuhnke matter, the post-employment prohibitions against "switching sides" by representing someone other than the United States, which are contained in the new 18 U.S.C. § 207 (a) and (b), as added by section 501(a) of the act, and amended (a copy of which is enclosed), do not extend to rulemaking and policy formulation. This is because both subsections apply only to particular matters "involving a specific party or parties". Rulemaking and policy making typically do not meet this criterion. This interpretation of the statute is reflected both in its legislative history and the post-employment conflict-of-interest regulations promulgated by the Office of Personnel Management. The primary Senate committee report on S. 555, which was adopted as the act, notes that "general rulemaking, formulation of general policy or standards, other similar administrative matters, and legislative activities—none of which typically involve specific parties—are not within the ambit of th[e] prohibition[s of subsections (a) and (b)]." S. Rep. No. 95-170, 95th Cong., 1st Sess. 48 (1977). The report further notes that a former employee "may therefore appear before his own agency on behalf of a private client on, for instance, a new matter brought pursuant to an agency rule even though he participated in the promulgation of that rule." Id., at 152. See also 5 CFR § 737.5(c)(1), 45 FR 7410 (Feb. 1, 1980), which explains that matters covered by the statutory post-employment prohibitions typically involve specific proceedings affecting the legal rights of the parties or insolatable transactions or related transactions between identifiable parties.

Rulemaking, legislation, the formulation of general policy, standards or objectives, or other action of general application is not such a matter. Therefore, a former Government employee may represent another person in connection with a particular matter involving a specific party even if rules or policies which he or she had a role in establishing are involved in the proceeding.

Example 3: An employee is regularly involved in the formulation of policy, procedures and regulations governing departmental procurement and acquisition functions. Participation in such activities does not restrict the employee after leaving the Government as to particular cases involving the application of such policies, procedures, or regulations.

Id. under the facts described, Ronald Drake would not necessarily be challenging the application of OSM regulations or their validity. Even if he were, such conduct would not conflict with 18 U.S.C. § 207 (a) or (b), if, as I assume, the rules and policies in question have general applicability.

Unlike subsections 207 (a) and (b), subsection 207(c) does by its own terms apply to rulemaking. It prohibits, for one year following employment representation before or contacts, with intent to influence, with the Department on behalf of anyone other than the United States, in connection with any "judicial, rulemaking, or other proceeding . . . or other particular matter" which is pending before the Department or in which it has a direct and substantial interest. This restriction does not require any prior employee involvement in the matter in question. But, as this prohibition only applies to senior employees, it does not apply to Ronald Drake. Senior employees are statutorily defined and include those civilians (1) paid at an Executive Level rate or (2) paid at or equivalent to GS-17 or above or occupying Senior Executive Service positions and having significant decision making or supervisory responsibilities, as designated by the Director, Office of Government Ethics. Ronald Drake did not occupy either kind of position.

For your further reference, I have enclosed a summary which explains the post-employment restrictions of section 207. If you wish, I will be glad to respond to Director Heine's inquiry directly.

SHARON ALLENDER●

SECOND FAMINE PREDICTED IN CAMBODIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. SOLARZ. Mr. Speaker, I would like to draw the attention of my colleagues to a very important and very disturbing article by Henry Kamm which appeared Tuesday in the New York Times.

According to Mr. Kamm and to numerous other experts, Cambodia is now experiencing a rapid depletion of its food supply and is well on the way to a famine as serious as that which devastated the country last year.

The recovery of this nation that was predicted several months ago has been dependent upon the next rice harvest. It now appears that this rice harvest is insufficient and food is expected to run out earlier than it did in 1979.

Unfortunately our current budget impasse has prevented the adoption of the 1980 foreign assistance appropriations conference report; thus even the $30 million the Congress overwhelmingly authorized last September for humanitarian assistance to Cambodia has not yet been appropriated. Hopefully, this situation will soon be remedied.

It is my sincere concern that the leadership in the United States and developed countries around the world will learn from the lessons of history and provide the help this struggling nation needs to avert the pending disaster. I hope my colleagues in Congress will join me in keeping close watch on events in Cambodia so that international assistance does not arrive too late.

The article follows:

CAMBODIAN FAMINE SAID TO WORSEN RAPIDLY WITH RICE CROP USED UP

BANGKOK, THAILAND, June 9—Diplomats and relief officials who have interviewed scores of Cambodians coming to the Thai border for food say there is mounting evidence of a rapid deterioration of the Cambodian food situation.

The officials said that Cambodia's rice from the harvest early this year had been used up and that the Government of President Heng Samrin was distributing rice in sufficient quantity only in Phnom Penh, the capital. They said western Cambodia was being kept alive mainly with rice delivered on the Thai border by Western relief organizations over the opposition of the Phnom Penh Government.

Cambodians at the border, according to a diplomat who conducted extensive interviews, report that deaths from famine are increasing. Some Cambodians said they stumbled upon bodies as they trekked to the border. The elderly and frail are dying rapidly, according to the reports.

Those arriving at the Thai border have also reported frequent banditry by four armed forces: the Heng Samrin militia, Vietnamese troops, soldiers of the fallen regime of Prime Minister Pol Pot and troops of factions fighting all Communist forces. In addition, bandits of no political persuasion take a heavy toll, and many lives are lost.

POPULATION IS SHIFTING

All indications point to a repetition of last year's catastrophic famine. The principal difference this year is that food appears to have run out even earlier than it did in 1979. The next harvest in Cambodia is not due until the end of the year and indications are that it will be small.

The Soviet bloc and the Western world, represented by the United Nations Children's Fund and the International Committee of the Red Cross, are delivering food to the Phnom Penh Government. In addition, the two Western-financed organizations are supplying food at the Thai border.

The famine, worsened by presistent drought that has greatly reduced production of vegetables and fruits and dried up many ponds that provided fish, is causing a rapid population shift, relief officials report. Phnom Penh and the Thai border are drawing more and more people out of the central and the eastern border regions, which are being depopulated.

The outlook for the current planting season is grim. The Government is apparently distributing insufficient seeds, draft animals are in short supply and in poor health, there is a lack of tools and it is difficult to plow fields that are parched from the drought and have long lain fallow.

Increasingly, people are coming to the Thai border not to get rice to take back to the interior but, accompanied by their families, to wait out the famine in a place where they can count on regular rations. In mid-May, 100 to 200 people were arriving to stay every day at the border encampment at Nong Samet. Now the rate is 300 to 400 a day and is rising.

Seed is still distributed at the border, but the waits are long. Many Cambodians are faced with the choice of waiting several days for seed or taking whatever rice they can get and returning home quickly to feed their families.

The impending monsoon will make travel harder, and many Cambodians fear they will have to abandon hope of sowing their own crops and instead bring their families to the border for the rest of the year.●

ADULT ABUSE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Ms. OAKAR. Mr. Speaker, today I am introducing a bill dealing with adult abuse entitled the "Adult Abuse Prevention and Treatment Act."

This subject has been a major concern of mine for almost 2 years and our office has done considerable research to arrive at legislative solutions to this most serious national problem. Although we have evidence that abuse of the elderly is a harsh reality for an estimated 1 million older Americans, unfortunately there are few scientific studies which document the extent of this problem. One major study carried out by the Chronic Illness Center and Case Western Reserve University in my own area of Cleveland, Ohio, showed evidence of abuse in 10 percent of the cases of people over 60 years old who were served by the Chronic Illness Center.

Today at the joint hearing of the Senate Special Committee on Aging and the House Select Committee on Aging I testified about the problem of elder abuse and announced the introduction of this legislation which proposes a solution to this national tragedy.

Previous congressional hearings have heard testimonies which document innumerable reports of adults in nursing homes and mental institutions who have been burned, sexually assaulted, beaten, and have even died as a result of mistreatment and neglect. Nor is it just the institutionalized vulnerable adults who are often the victims of abuse—older persons living with relatives and other caretakers are often abused, neglected, and exploited.

In my own congressional office, we have received reports of abuse, neglect, and exploitation of the elderly. One particular example is that of an 81-year-old woman who was brought to a local emergency room with severe head injuries and a fractured skull. This woman had lived with her daughter and son-in-law for 5 years, and the family had experienced much stress as a result of caring for this older family member over a long period of time without any community supports. The family reported that the woman had fallen out of bed and sustained the injuries. However, the doctor in the emergency room requested social service intervention because he strongly suspected abuse. The doctor had even taken photographs of the woman when she was admitted to the hospital, anticipating that he might need these as evidence when the case was investigated. The social worker called protective service requesting an investigation and assistance, but was told that since there are no laws in Ohio requiring that suspected cases of abuse be reported and investigated, there was nothing that could be done for this woman. In another instance, an aide of a nursing home reported to our office that a 96-year-old patient was raped by another employee. These cases reflect the situation of thousands of other older Americans; however, currently there is no law to provide the protection and legal recourse needed by these victims of abuse, neglect, and exploitation.

The Adult Abuse Prevention and Treatment Act which we are introducing today will create a National Center on Adult Abuse and will provide money to States for adult abuse prevention and treatment programs. In order to qualify for these funds, States must have in effect an adult abuse, neglect, and exploitation law which provides for mandatory reporting and immunity for persons reporting instances of abuse, neglect, and exploitation. Upon receipt of such a report, States must initiate an investigation and take steps to protect those abused, neglected, or exploited adults. Furthermore, States must have in effect administrative procedures, trained personnel, institutional and other facilities, and multidisciplinary programs to deal effectively with these special problems. Additionally, States must provide for the cooperation of law enforcement officials, courts, and appropriate agencies providing human services, with respect to these problems of adult abuse, neglect, and exploitation. Also included in this bill is the provision that States must provide that the abused, neglected, or exploited adult participate in decisions regarding his/her welfare, and provide that the least restrictive alternatives be made available to the abused, neglected, or exploited person. Last, information about the programs and special problems of adult abuse, neglect, and exploitation must be disseminated.

This bill will relate not only to the elderly who are often the victims of abuse, neglect, and exploitation, but also to other vulnerable adults such as women and the mentally and physically handicapped. It is long overdue that the millions of elderly and handicapped persons who are the victims of abuse and neglect be provided the services and protection to which they are entitled. The deliberate abuse of individuals who are least able to protect themselves is a national disgrace. We are hopeful that the Adult Abuse Prevention and Treatment Act will provide the viable solutions to meet the critical problems of vulnerable adults who suffer abuse, neglect, and exploitation.

I am pleased that the chairman of our Select Committee on Aging, Senator CLAUDE PEPPER, as well as my distinguished colleague, Representative WILLIAM RATCHFORD, have joined me today as cosponsors of this most important bill. Because this is a most serious national problem, I sincerely hope that other Members of Congress will join us as cosponsors.

In addition, I am submitting a summary of the highlights of this bill, along with a full text of the bill which follows:

BILL SUMMARY—ADULT ABUSE PREVENTION AND TREATMENT ACT

Will create a National Center on Adult Abuse (under the Secretary of Health and Human Services).

Will provide money to States for Adult Abuse Prevention and Treatment Programs if the States meet the following criteria:

1. Have in effect an adult abuse, neglect and exploitation law which provides immunity for persons reporting instances of adult abuse, neglect and exploitation.

2. Provide for the reporting of known and suspected instances of abuse, neglect and exploitation.

3. Provide that upon receipt of such a report an investigation will be initiated and steps taken to protect the abused, neglected, or exploited adult.

4. Have in effect administrative procedures, trained personnel, institutional and other facilities, and multi-disciplinary programs to deal effectively with the special problems of adult abuse, neglect, and exploitation.

5. Provide for the confidentiality of records.

6. Provide for the cooperation of law enforcement officials, courts, and appropriate agencies providing human services, with respect to special problems of adult abuse, neglect and exploitation.

7. Provide that the abused, neglected, or exploited adult participate in decisions regarding his/her welfare.

8. Provide that the least restrictive alternatives are made available to the abused, neglected, or exploited adult.

9. Provide for the dissemination of information about programs and problems of adult abuse, neglect, and exploitation.

H.R. 7551

A bill to provide financial assistance for programs for the prevention, identification, and treatment of adult abuse, neglect, and exploitation, to establish a National Center on Adult Abuse, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Prevention, Identification, and Treatment of Adult Abuse Act of 1980".

NATIONAL CENTER ON ADULT ABUSE

SEC. 2. (a) The Secretary of Health and Human Services (hereinafter referred to in this Act as "Secretary") shall establish an office to be known as the National Center on Adult Abuse (hereinafter referred to in this Act as the "Center").

(b) The Secretary, through the Center, shall—

(1) compile, publish, and disseminate a summary annually of recently conducted research on adult abuse, neglect, and exploitation;

(2) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of adult abuse, neglect, and exploitation;

(3) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of adult abuse, neglect, and exploitation;

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the special problems of adult abuse, neglect, and exploitation;

(5) conduct research into the causes of adult abuse, neglect, and exploitation, and into the prevention, identification, and treatment thereof; and

(6) make a complete study and investigation of the national incidence of adult abuse, neglect, and exploitation, including a determination of the extent to which incidents of adult abuse, neglect, and exploitation are increasing in number or severity.

The Secretary shall establish research priorities for making grants or contracts under paragraph (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

(c) The Secretary may carry out functions under subsection (b) of this section either directly or by way of grant or contract. The Secretary shall promulgate regulations setting forth criteria for programs receiving funding under this subsection, and shall review programs funded under this subsection to determine whether such programs comply with such criteria. The Secretary shall, within 30 days after any determination by the Secretary that a program fails to comply with such criteria, terminate funding for such program.

(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or the willful deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness;

(2) the term "adult" means any person who has attained the age of 18 years (for the purposes of this Act, special focus will be given to persons who have attained the age of 60 years, mentally or physically handicapped persons, and women);

(3) the term "caretaker" means an individual who has the responsibility for the care of an adult either voluntarily, by contract, receipt of payment for care as a result of family relationship, or by order of a court of competent jurisdiction;

(4) the term "exploitation" means the illegal or improper act or process of a caretaker using the resources of an adult for monetary or personal benefit, profit, or gain;

(5) the term "neglect" means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish or mental illness or the failure of a caretaker to provide such goods or services; and

(6) the term "physical harm" means bodily pain, injury, impairment, or disease.

DEMONSTRATION PROGRAMS AND PROJECTS

SEC. 4. (a) The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify, and treat adult abuse, neglect, and exploitation. Grants or contracts under this subsection may be—

(1) for the development and establishment of training programs for professional and paraprofessional personnel, in the fields of health, law, gerontology, social work, and other relevant fields, who are engaged in, or intend to work in, the field of prevention, identification, and treatment of adult abuse, neglect, and exploitation;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the special problems of adult abuse, neglect, and exploitation cases, to provide a broad range of services related to adult abuse, neglect, and exploitation, including direct support and supervision of sheltered housing programs, as well as providing advice and consultation to individuals, agencies, and organizations which request such services; and

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the special problems of adult abuse, neglect, and exploitation cases, on a consulting basis, to small communities where such services are not available.

(b)(1) The Secretary, through the Center, is authorized to make grants to the States for the purpose of assisting the States in developing, strengthening, and carrying out adult abuse, neglect, and exploitation prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State adult abuse, neglect, and exploitation law which shall include provisions for immunity for persons reporting instances of adult abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

(B) provide for the reporting of known and suspected instances of adult abuse, neglect, and exploitation;

(C) provide that upon receipt of a report of known or suspected instances of adult abuse, neglect, or exploitation an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse, neglect, or exploitation, steps shall be taken to protect the health and welfare of the abused, neglected, or exploited adult;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of adult abuse, neglect, and exploitation laws and with the reporting of suspected instances of adult abuse, neglect, and exploitation, such administrative procedures, such personnel trained in the special problems of adult abuse, neglect, and exploitation prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with adult abuse, neglect, and exploitation cases in the State;

(E) provide for methods to preserve the confidentiality of records in order to protect the rights of the adult;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of adult abuse, neglect, and exploitation;

(G) provide that the adult participate in decisions regarding his or her own welfare, and provide that the least restrictive alternatives are available to the adult who is abused, neglected, or exploited;

(H) provide that the aggregate of support for programs or projects, related to adult abuse, neglect, and exploitation, assisted by State funds shall not be reduced below the level provided during the twelve months preceding the date of the enactment of this Act, and set forth policies and procedures designed to assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects; and

(I) provide for dissemination of information to the general public with respect to the problems of adult abuse, neglect, and exploitation, and the facilities and with respect to prevention and treatment methods available to combat instances of adult abuse, neglect, and exploitation.

(c) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

AUTHORIZATION

Sec. 5. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.●

COMPELLING STATEMENT OF HON. JACK BROOKS AT SPRING MEETING OF NORTH ATLANTIC ASSEMBLY

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. LEVITAS. Mr. Speaker, a firm resolution condemning the Soviet invasion of Afghanistan and affirming the necessity for strong military cohesion among Western countries to meet the Soviet challenge was passed last weekend during meetings of the North Atlantic Assembly in Luxembourg, an organization composed of legislators from the 15 NATO-member countries.

Our colleague from Texas, Jack Brooks, senior vice president of the assembly, made a compelling statement leading to the approval of the resolution. In view of its timeliness and import, I am pleased to bring it to the attention of the Members of this body. The text of Mr. Brooks' remarks follows:

Statement of Congressman Jack Brooks at Spring Meeting of the North Atlantic Assembly, Luxembourg, June 7, 1980

Mr. President, I commend Mr. Corterier on a good resolution as drafted.

This meeting occurs at what may well be a crucial point in the history of the North Atlantic Alliance. All members of the Alliance are facing internal and external challenges which will have long-reaching effects.

Although as members of this Assembly our focus is on the external aspects of our national policies, it is impossible and indeed imprudent to ignore internal developments of other member nations.

All of us are striving to cope with mounting economic problems. We also are attempting to resolve the difficulties of meeting the energy needs of our industrialized societies. These problems are, of course, closely related. The increasing outlays for energy have been the most profound cause of inflationary pressures.

Our internal economic struggles have placed a severe strain on our efforts to meet our common defense commitments. This strain comes however at a time when we witness the Soviet Union accelerating its military activities and expanding their geographical area of domination into Afghanistan. The potential danger that this aggressive Soviet activity poses is truly alarming. All of us are aware of the strategic importance of the Middle East and its vast petroleum reserves. Considering the instability that already existed in the area, it is impossible to overstate the gravity of this development.

There is another aspect to this military adventurism which we should watch with at least as great concern. In using military force to subjugate Afghanistan, the Soviets have revealed a willingness to employ the massive military power they have developed over the past decades. Their actions show a complete contempt for the opinion of the rest of the world, and totally negate their claims of a commitment to peaceful co-existence.

Any view of these developments which minimize their potential for international disaster would be totally unrealistic. If one were inclined to accept the warnings of some of the more cynical observers—that the subjugation of Afghanistan was the opportunistic action of the Soviets to engage in a realistic and deadly exercise for the development, training and evaluation of their military forces—then the cause for alarm is not only great but also immediate.

These developments—economic and military—are occurring at a time when analysts on both sides of the Atlantic decry a disarray within NATO. Possibly never in the history of NATO has there been a time when the survival of the Alliance was related as closely to the political realities of its member nations.

Whether our countries meet our commitments to our mutual defense now more than ever depends on how well we, the elected political representatives, present our case to our constituents and how well we resolve the internal and external problems all of our countries are now facing.

At times like these, the logic of burden-sharing and cooperation becomes painfully evident. All members must do more of what they do best and it must be done with the best planning. In this regard, it appears that our efforts to improve our theater nuclear forces is proceeding well. The effort to update and upgrade our conventional forces capabilities must also be assured. In order to meet these commitments, the provisions of the NATO Long Term Defense Plan are of vital importance. The Plan involves the following areas for improvement: force readiness; maritime posture; air defense; command, control and communications; interoperability and standardization; electronic warfare; and logistics.

The Legislation and National Security Subcommittee of the House, which I chair, has begun a thorough review of the implementation of these specific areas, both by the United States Department of Defense and by our allies. I intend to look carefully at the progress being made and to encourage our military to greater effort where necessary.

Additionally, the General Accounting Office, which is the investigative arm of the United States Congress, is starting a comprehensive review of NATO readiness. This study will look at both personnel and material and its findings will be reviewed carefully by the Congress.

In my opinion, never before have we had a greater need for accurate information about and awareness of the defense capabilities of the Alliance. All of us have a great responsibility to see that we maintain our military strength while overcoming our economic problems. Therefore, we cannot afford waste nor neglect—we must also be confident that we are all equitably sharing our mutual responsibilities.

The last two decades of the twentieth century will be a perilous time for the free world. Our institutions, political and economic, will be sorely tested. The Soviets, while facing very grim and long-term economic, demographic, and political problems within their society, may feel emboldened to take short-term military risks. Our tasks as leaders in our respective countries, and within the Alliance, is to do all we can to make those risks unacceptable, and to prevail in any conflict should deterrence fail.

I ask you to support the draft resolution without any debilitating amendments. Thank you.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present on Thursday, May 29. Had I been present, I would have voted as follows:

Rollcall 268, "no".

Rollcall 269, "no".

Rollcall 270, "no".

Rollcall 271, "yes".

Rollcall 272, "yes".

Rollcall 273, "no".●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 12, 1980, may be found in the Daily Digest of today's Record.

MEETINGS SCHEDULED

JUNE 13

9:30 a.m.

Foreign Relations

To receive a closed briefing from Administration officials on the forthcoming International Economic Summit, in Venice, Italy, June 22-23, 1980.

S-116, Capitol

JUNE 16

9:30 a.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To resume hearings on S. 2665, to provide for the development of an adequate national coal distribution system by acquiring the necessary rights-of-way to grant access for coal slurry pipelines across railroad property, and to expedite the construction of such pipelines.

3110 Dirksen Building

Environment and Public Works

To hold hearings on proposed Federal building prospectus.

4200 Dirksen Building

2:00 p.m.

Conferees

On S. 932, authorizing funds to establish the production of synthetic fuels, gasohol, solar energy, renewable resources, geothermal energy, to establish an energy conservation program and energy supply targets, and to extend the Defense Production Act until September 30, 1986.

345 Cannon Building

JUNE 17

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agriculture Research and General Legislation Subcommittee

To hold hearings on S. 23 and 1580, bills to clarify the terminology contained in the Plant Variety Protection Act (P.L. 91-677) relating to specifications on seed varieties.

324 Russell Building

9:30 a.m.

Veterans' Affairs

To hold hearings on S. 2649, to increase the rates of compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors; S. 1212, to extend from 1 to 7 years to presumptive period during which a veteran suffering from the neurological disorder syringomyelia can obtain service-connected disability benefits if determined that the disease was brought on by active wartime military service; S. 2755, to provide a memorial plaque or marker in appropriate situations to the next of kin of an individual who would otherwise be memorialized in a national, private, or local cemetery; S. 2758, to expand the eligibility for specifically adapted housing benefits; and S. 2330, to provide for the confidentiality of the medical review process in VA hospitals.

412 Russell Building

10:00 a.m.

Judiciary

Business meeting, to consider pending legislation and nominations.

S-145, Capitol

Joint Economic

To hold hearings on the effectiveness of local public works programs as administered by Federal agencies.

457 Russell Building

10:30 a.m.

Labor and Human Resources

•Education, Arts, and Humanities Subcommittee

To resume hearings on Title II, proposed Youth Education and Training Act, of S. 2385, proposed Youth Act.

4232 Dirksen Building

2:00 p.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1981 for the U.S. Railway Association and the Washington Metropolitan Area Transportation Authority.

1224 Dirksen Building

2:30 p.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

4232 Dirksen Building

JUNE 18

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

To resume consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To continue hearings on Title II, proposed Youth Education and Training Act, of S. 2385, proposed Youth Act.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

To continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

JUNE 19

9:30 a.m.

Energy and Natural Resources

To resume hearings to assess the political, military, economic, and social factors affecting world oil production and consumption over the next decade, focusing on the prospects for developing hydrocarbon resources in Latin America.

3110 Dirksen Building

Veterans' Affairs

To hold hearings on S. 2020 and 2596, bills to provide educational assistance programs for those individuals who enlist in the Armed Forces, and to hold oversight hearings on the implementation of current educational incentive programs to promote an All-Volunteer Force.

412 Russell Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1957 and H.R. 4310, bills to promote increased use of U.S. waterways and provide for continued recreational boat safety programs.

235 Russell Building

Environment and Public Works

To continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

Labor and Human Resources

•Health and Scientific Research Subcommittee

To hold hearings to review the Food and Drug Administration's evaluation of the drug dimethyl sulfoxide (DMSO), to determine its application and effectiveness.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

To continue consideration of S. 1480, to provide for the adequate and safe treatment of hazardous substances released into the environment.

4200 Dirksen Building

3:30 p.m.

Environment and Public Works

Nuclear Regulation Subcommittee

Business meeting, to resume mark up on S. 1521, to provide a comprehensive approach to the regulation of nuclear waste disposal.

4200 Dirksen Building

JUNE 20

9:30 a.m.

Finance

Oversight of the Internal Revenue Service Subcommittee

To hold hearings on S. 2402, 2403, 2404, and 2405, bills relating to the use of Internal Revenue information and personnel in non-tax-related criminal enforcement investigations, and to make changes to the duties of third parties who are asked to turn over tax information in their possession.

2221 Dirksen Building

JUNE 24

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 983, to establish national standards for State and local governments to impose sales and use taxes on out of State businesses, and income taxes on out of State corporations; and S. 1688, to limit the use of the worldwide combined reporting system a State may apply to a corporation operating under its jurisdiction.

2221 Dirksen Building

10:00 a.m.

•Labor and Human Resources

Business meeting, to mark up S. 2375, authorizing funds for fiscal years 1982, 1983, and 1984 to provide support for the training of professionals in health service needs.

4232 Dirksen Building

2:00 p.m.

Appropriations

Transportation Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1981 for certain programs of the Department of Transportation.

1224 Dirksen Building

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on the following miscellaneous tax legislation, S. 1614, 2075, 2493, 2547, 2646, 2660, 2757, 2766, 2783, 2784, and H.R. 5391.
2221 Dirksen Building

Office of Technology Assessment
The Board to hold a meeting on pending business items.
EF-100, Capitol

JUNE 25

10:00 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Malecite Indian tribes.
1202 Dirksen Building

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the administration's transition plans to develop an operational land remote sensing satellite system.
235 Russell Building

Labor and Human Resources
*Health and Scientific Research Subcommittee
To hold hearings on S. 1424, authorizing funds for fiscal years 1981-84 for the advancement of international cooperation and assistance in health matters.
4232 Dirksen Building

10:00 a.m.
Energy and National Resources
Energy Regulation Subcommittee
To resume oversight hearings on the implementation of the Department of Energy's Building Energy Performance Standards (BEPS), providing for energy efficiency standards for new building construction.
3110 Dirksen Building

Select on Indian Affairs
To continue hearings on proposed legislation authorizing funds for the purchase of land in the State of Maine for the Passamaquoddy, Penobscot and Malecite Indian tribes.
1202 Dirksen Building

2:00 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 2283, 2418 and 2321, bills to increase the earned income exclusion for U.S. citizens working abroad who are bona fide residents of a foreign country.
2221 Dirksen Building

JULY 1

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 415, to strengthen highway safety programs by discouraging driving while under the influence of alcohol.
5110 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.
235 Russell Building

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on the implementation of small business loan programs for veterans recommended by the White House Conference on Small Business.
412 Russell Building

JULY 2

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on H.R. 2743, to provide for a national policy for materials research and development and to strengthen Federal and private programs of materials research and development, to insure national security and economic stability and growth.
235 Russell Building

JULY 24

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the administration's transition plans to develop an operational land remote sensing satellite system.
235 Russell Building

JULY 29

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).
235 Russell Building

10:00 a.m.
Select on Indian Affairs
To hold hearings on S. 2166, to establish a National Institute of Native American Culture and Arts Development.
6226 Dirksen Building

JULY 31

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to assess certain provisions relating to the use of space environment contained in the proposed Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (pending receipt by the Senate).
235 Russell Building

AUGUST 6

10:00 a.m.
*Energy and Natural Resources
To hold hearings on S. 2695, to limit the severance tax percentage that a State may impose on coal shipped in interstate commerce.
3110 Dirksen Building

CANCELLATIONS

JUNE 13

9:00 a.m.
Judiciary
To continue oversight hearings on the activities of the Public Integrity Section of the Criminal Division, Department of Justice.
2228 Dirksen Building

SENATE—*Thursday, June 12, 1980*

The Senate met at 9:50 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Our Father God, we thank Thee for those high moments of prayer when there comes to us flashes of pure beauty, pure goodness, and pure love which reveal Thy nature and man's possibilities. Spare us from cozy acquiescence with things as they are. Deliver us from any easy confirmation of an unexamined course of action. Deliver us from our sins. Pardon our failures. Give us grace and wisdom to live by the moral and spiritual imperatives which lift and help and heal. In this place of daily prayer and hourly toil help us to empty ourselves of everything which excludes Thy spirit that we may live in active harmony with the divine will in all that is human. So may we do justly, love mercy, and set forward Thy kingdom on Earth.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 12, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY AND MINORITY LEADERS

The ACTING PRESIDENT pro tempore. Under the previous order, the majority and minority leaders are recognized for not to extend beyond 10 o'clock.

The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, if it will be useful to the majority leader, in view of the fact that I have no need for my time under the standing order, I am prepared now to yield it to my friend, the majority leader, if he has any need for it.

Mr. ROBERT C. BYRD. I thank my friend and I would appreciate it.

Mr. BAKER. I yield my time under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

PRIME MINISTER OHIRA

Mr. ROBERT C. BYRD. Mr. President, we are saddened by the news of the passing of Prime Minister Masayoshi Ohira of Japan. Prime Minister Ohira was a distinguished statesman and firm friend of the United States.

Prime Minister Ohira was in Washington in April of this year. Those of us who met with him were impressed with his lucid expositions of Japan's positions on world problems. We were also impressed by his willingness to exchange opinions with American policymakers.

Under Prime Minister Ohira's leadership, Japan has taken a number of courageous steps—including a decision to join the boycott of the Moscow Olympic games. These kinds of steps confirm Japan's position as a staunch supporter of peace.

Japan has lost a distinguished leader. America has lost a good friend. Japan's friends around the world join in expressing sympathy to Prime Minister Ohira's family.

MILITARY REGISTRATION

Mr. ROBERT C. BYRD. Mr. President, military registration is a complex issue, one that evokes strong feelings. The debate has been lengthy. It has been reasoned. It has been fair and it has been conducted in a spirit of cooperation and mutual respect.

The Senate has given this important issue the full and considered hearing it deserves. Quite apart from the decision reached on final passage, the debate has clearly demonstrated that the Members of this body have studied the problems of national defense, and have reached their conclusions only after careful reflection.

The importance of maintaining a strong defense was acknowledged centuries ago. Early English common law acknowledged that among the first duties of free citizenship is the obligation to come to the defense of the commonwealth in times of national peril.

Insuring a skilled American military manpower force of adequate strength has become a significantly greater challenge in today's world. Changing global realities and increasing tension require that the United States be prepared to protect its vital interests.

Indepth hearings have been held, substantial evidence has been compiled and extensive debate has been conducted on the status of the military preparedness of our Armed Forces. Our Reserves have been shown to be in a dangerously weak posture. Manpower problems are so severe that the military services are not now capable of meeting a national emergency. Ships would not be able to sail; planes would not be able to fly; nor would tanks be able to take to the field because of critical manpower deficiencies.

The Army Selective Reserve is at 80 percent of its strength. The individual Ready Reserves, those who are still serving out a commitment and thus are eligible to be mobilized even though they do not train with a unit, are at 45 percent of strength. The All-Volunteer Force, which is not expected to respond to a crisis without the backup manpower military registration would insure, is having recruiting and retention problems.

The decision to reinstitute military registration will address some of the shortfalls in our military manpower capabilities by providing a pool from which our armed services can draw strength. It will insure that in the event of a crisis, our Armed Forces will be able to mobilize sufficient manpower to meet combat needs on a timely basis.

In addition to strengthening our preparedness needs, reinstitution of military registration will send a clear message to our allies—and to our adversaries—that we are prepared to back up our resolve by strengthening our defense preparedness. A display of American resolve in having our young men register

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

with the Selective Service is not "empty symbolism," as some critics have argued. The steps we take to upgrade our military preparedness will be perceived as a real and substantive response to potential and unpredictable international crises.

I want to thank my distinguished colleague from Mississippi (Mr. STENNIS) for his yeoman service. As always, he brought to the debate a keen and thorough knowledge or our Nation's defense needs and capabilities. As chairman of both the Armed Services Committee and the Appropriations Subcommittee on Defense, the senior Senator from Mississippi is in the unique position of being responsible for both the authorization bill for the military and the appropriations bill that provides money for the Department of Defense. In this capacity, he has been able to review our Defense Establishment from every possible angle. He has a firm grasp of the facts and a clear understanding of the issues involving our military manpower capabilities. The arguments he has made in favor of this resolution have been cogent and persuasive.

The distinguished Senator from Georgia (Mr. NUNN) has been an early and articulate advocate of premobilization registration. As his colleagues well know, he brings to this issue an extensive background in military and defense matters. As chairman of the Armed Services Subcommittee on Manpower and Personnel, he has chaired numerous hearings on the status of our armed services. Over 1 year ago, after extensive review of the status of our military forces, Senator NUNN's subcommittee recommended that military registration be reinstituted.

Senator NUNN has shared the responsibility for managing this resolution on the floor. He has been an effective and skilled manager. It is clear from the statements and arguments he has made that he knows the issue and was well prepared for this lengthy and difficult debate.

I want to thank both the distinguished Senators from Virginia (Mr. HARRY F. BYRD, JR., and Mr. WARNER) for the considerable time and effort they have given. Both serve on the Armed Services Committee where they have been actively involved in ongoing reviews of our defense manpower needs. Senator EXON, Senator CHILES, Senator TOWER, and many others also worked long and hard, and they deserve our thanks. I express appreciation to Mr. PROXMIRE and Mr. MATHIAS for the contribution they have made.

I also want to commend Senator HATFIELD for the dedication and conviction he has shown during this debate. I know he feels very strongly about this issue, and I respect him for his sincerity and his ability in presenting a clear, concise case.

Passage of this resolution will be translated into an effective response to our defense needs. This debate and its outcome should be good news to the American people and to our allies abroad.

RESUMING MIDDLE EAST NEGOTIATIONS

Mr. ROBERT C. BYRD. Mr. President, there are encouraging prospects for resumption of negotiations on autonomy for the West Bank and Gaza. The revival of the talks is an essential step toward the achievement of peace in the Middle East.

It is critical that we continue to build on the momentum provided by the Camp David accords and the Egyptian-Israeli Peace Treaty. I commend the administration on its persistent efforts to bring the Egyptians and Israelis back to the negotiating table and I am pleased that the leaders of those two countries have now indicated their willingness to enter negotiations once more.

In recent days we have seen how tense and volatile the situation on the West Bank is. The spiral of violence and counterviolence there underlines the urgent need for diplomatic action. The explosive conditions on the West Bank further threaten an already troubled and unstable region, and there are serious international consequences involved.

The issues in the negotiations on self-rule for the Palestinians on the West Bank and Gaza are complex and highly emotional.

For Israel, there is an understandable and reasonable concern about its future security. Reckless rhetoric such as that emanating from the recent meeting of the Al Fatah group of the Palestine Liberation Organization—calling for the destruction of Israel through armed struggle—only heightens our apprehension. Even though the reports of the Al Fatah declaration were subsequently disavowed by some PLO leaders, such reports do gross damage to the PLO's efforts to be taken as a responsible party.

But, regrettably, Israel has complicated and exacerbated the situation on the West Bank with its settlements policy. On a number of previous occasions I have expressed my opposition to the establishment of additional Israeli settlements on the West Bank. I do not enjoy having to repeat that opposition, but Prime Minister Begin has recently stated that Israel intends to establish 10 new settlements.

I agree with the statement made earlier this week by Secretary of State Muskie. He said:

> For Israel unilaterally to place settlements in the West Bank and Gaza while negotiations are in progress runs counter to the very purpose of the negotiations.

I continue to believe that Israel's settlements policy is, because of its provocative and polarizing nature, inconsistent with the long-term security interests of Israel and clearly damaging to the prospects for peace in the region.

The settlements policy makes Egypt's position in the Arab world all the more difficult.

I hope that Prime Minister Begin and the Israeli Government will reconsider plans for additional settlements. What is important at this stage is to get on with the effort to find a just resolution to the issue of the future of the West Bank and Gaza. This issue, as I have noted, is a key element in achieving a broader Middle East peace. Israel and the United States both have a strong and obvious interest in a comprehensive peace and regional stability—particularly at this time of uncertainty in the Persian Gulf region, turmoil in Iran, and Soviet intervention in Afghanistan.

As Secretary Muskie pointed out in his important speech this week, achieving a Middle East peace would make a vital contribution of the ability of the United States to help provide security and stability in the entire region.

There are many others who have an important stake in the achievement of this peace. The nations of Western Europe have been discussing a possible initiative on the Middle East. In my view, if the Europeans really want to make a contribution, they should lend their weight to the efforts already underway. Ultimately, the same issues would have to be faced. As the respected British journal, the Economist, commented:

> Europe's usefulness should be in urging the Americans towards a possible solution, not in challenging them.

In considering the prospects for peace in the Middle East, considerable importance must be attached to the scheduled visit of King Hussein of Jordan to Washington next week. King Hussein, a long-time friend of the United States and a courageous leader, is a key figure in any long-term settlement on the West Bank and in a broader regional peace. I am hopeful that his talks here next week will open the way for a more active role for King Hussein and Jordan in working for a just and comprehensive peace in the region.

I believe that we must proceed toward that peace by finding agreement on the Palestinian autonomy issue, and I would hope that not only the current parties to the negotiations but that other interested nations in the Middle East and Europe would lend their support to this effort.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now resume consideration of the pending business, House Joint Resolution 521, which will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The ACTING PRESIDENT pro tempore. Under the previous order, time for debate on this resolution is limited to 2 hours, to be equally divided between and controlled by the Senator from Georgia (Mr. NUNN) and the Senator from Oregon (Mr. HATFIELD).

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. NUNN, I yield myself 2 additional minutes, and I ask unanimous consent to proceed out of order, notwithstanding the Pastore rule.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 856.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—this measure is a budget waiver. It is cleared on our calendar, and we have no objection to its consideration and passage.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 440) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2443.

The ACTING PRESIDENT pro tempore. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 440) is as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2443. Such waiver is necessary because S. 2443, the West Valley Demonstration Project Act, authorizes appropriations for fiscal year 1980.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WEST VALLEY DEMONSTRATION PROJECT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 822.

Mr. BAKER. Mr. President, reserving the right to object, this item is cleared on our calendar.

I see in the Chamber the distinguished Senator from New York, who I believe is going to manage this matter on the part of the minority.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2443) to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, N.Y.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 3, beginning with line 4, strike through and including line 9, and insert in lieu thereof the following:

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

On page 4, beginning with line 18, strike through and including line 19;

On page 4, line 20, strike "(b)" and insert "(a)";

On page 4, line 22, strike "(c)" and insert "(b)";

On page 5, line 7, strike "(d)" and insert "(c)";

On page 6, line 1, strike "section" and insert "sections 2 and 3";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary of Energy (hereinafter in this Act refered to as the "Secretary") shall carry out, in accordance with the provisions of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (1) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (2) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(b) During the fiscal year ending September 30, 1980, the Secretary shall—

(1) prepare a plan for safe removal of such wastes from tank numbered 8D-2 and any other storage tank at the Center containing such wastes including safely breaching the tanks, operating waste removal equipment, and sluicing techniques,

(2) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as well as safety analyses and environmental impact analyses, and

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

SEC. 3. There is authorized to be appropriated to the Secretary not more than $5,000,000 for the fiscal year ending September 30, 1980, for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons enter into such contracts and agreements as may be required—

(a) to enable the Secretary to utilize property and facilities at the Center for the project.

(b) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 per centum thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care fund originally designated to provide, for ultimate disposition of the high-level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate, and

(c) to otherwise provide for the conduct of the project in a timely manner.

SEC. 4. In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

SEC. 5. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under sections 2 and 3 of this Act, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

SEC. 6. Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act shall not apply or be extended to any facilities or property at the Center which is not used in conducting the project.

Mr. JAVITS. Mr. President, the Energy Committee bill S. 2443 authorizing the Federal Government to undertake a program to clean up the high level nuclear wastes at West Valley, N.Y., is most welcome to the State and people of New York and its passage comes at virtually the 11th hour for us.

There now exists an intolerable threat to innocent residents of Erie County who could face exposure to radiation dangers as a result of the Nation's ignorance in the early years of our nuclear program about nuclear weapons waste storage and management. High-level wastes are stored in inadequate tanks which could begin leaking at any time. The only commercial nuclear fuel reprocessing plant ever to operate in the United States is located at West Valley, N.Y., approximately 30 miles from Buffalo, on a 3,345-acre site owned by the New York State Energy Research and Development Authority. It was established as a joint venture among New York State, a private commercial operator (Nuclear Fuel Services, a wholly owned subsidiary of Getty Oil Co.) and the Atomic Energy Commission, which was then promoting the commercialization of nuclear fuel reprocessing generally in the United States.

It has been shut down since 1972, but intense public concern continues regarding the future of the site and facilities, and the nuclear waste contained therein.

New York State faces a major problem at West Valley. On January 1, 1981, the New York State Energy Research and Development Authority (NYSERDA) could become responsible for the management and safety of this very complex and potentially dangerous NRC-licensed facility.

It is important to realize that NYSERDA is a small State agency whose present mission is the promotion of research in alternative energy technologies. The agency does not possess either the technical or financial resources to manage the facility.

The bill reported by the Senate Energy Committee authorizes the Federal Government to enter into a cooperative agreement with the State of New York under which they will jointly undertake a cleanup program to solidify and remove the wastes and to decontaminate the facility. The Federal Government will bear 90 percent of the cost, of which $5 million is authorized for fiscal 1981. The rest will be borne by the State and/or the current owner of the site, the Nuclear Fuel Services Corporation.

While the bill before us differs from the legislation filed by Senator MOYNIHAN and myself in that the State of New York will retain title to the wastes until they are solidified and will be an equal partner with the Federal Government in the project's management, these changes do not alter fundamentally the project as originally laid out by the Department of Energy and agreed to by the State.

There remain unresolved issues which will be worked out in the cooperative agreements mandated by law and by future congressional action. For example, I believe the site should continue to be licensed by the Nuclear Regulatory Commission and that the Federal Department of Energy should take title to the wastes when they are solidified and remove them to an appropriate burial site in a remote area. Nuclear wastes do not belong in suburban America.

However, these issues will be resolved long before final action is necessary. The fact is that today Senate passage of the West Valley cleanup authorization marks a major advance for this proposal on which we have been working for nearly 5 years. My colleagues may remember that similar legislation we sponsored last year passed both Houses of Congress only to die in conference because of jurisdictional uncertainties.

Mr. President, the people of New York and of the West Valley area particularly will be most grateful for the efforts of the members and the chairman of the Senate Energy Committee, Senator JACKSON, and Senator MOYNIHAN, the sponsor of this bill (of which I am the cosponsor), for their continuing efforts to see through this important project.

I hope the Senate looks with favor upon this measure.

Mr. MOYNIHAN. Mr. President, I join my senior colleague in expressing the appreciation we both feel to the Committee on Energy and Natural Resources, which attended to this matter with great care. The West Valley project bears on the future of nuclear power in our country and, in particular, the management of the waste products of nuclear power, which I think we are just beginning to understand.

As Carroll Wilson recently observed, when we began this enterprise, we paid much too much attention to the front end of these machines and not nearly enough to the back end.

This is a scientific undertaking of the largest consequence to the Nation. We have every expectation of success if we apply our resources effectively.

West Valley is the site of this Nation's only commercial nuclear fuel reprocessing plant. Over 75 percent of the high level waste at West Valley is from Federal facilities or commercial reactors under contract with the former Atomic Energy Commission. The high level wastes at West Valley are the only such wastes in the United States that are not managed by the Federal Government. New York State does not belong in the nuclear waste business. It is important that the facility be under the care and management of the Department of Energy which possesses the necessary technical resources to oversee the solidification and safe removal of the wastes.

The need for a strong Federal role at West Valley has already been established. On March 8, 1977, the GAO recommended that the Nuclear Regulatory Commission develop criteria for handling the waste and decommissioning the site. The GAO report also recommended that the NRC and the Department of Energy develop a policy of Federal assistance to New York for the site. On March 15, 1978, the DOE task force for review of nuclear waste management stated that "DOE should accept responsibility for the high level waste at West Valley."

Over a year later, Secretary James Schlesinger wrote to Governor Hugh Carey expressing DOE's willingness to accept overall management responsibility and bear a portion of the costs of a program of high level liquid waste solidification wastes, and decommissioning of all facilities associated with these activities. As recently as September 21, 1979, Secretary Duncan wrote to Governor Carey expressing his desire to reach a final agreement on arrangements for beginning the waste solidification project at West Valley. However, the Department of Energy cannot proceed on the project without the proper authorizing language. That is the intention of our bill.

The West Valley vitrification project will be a valuable demonstration of nuclear waste solidification technology. The removal, processing, and solidification of alkaline high level wastes has never been demonstrated in a production scale plant.

The bill before the Senate today represents a consensus of all concerned parties. It is a practical solution to a complex problem, and one which should proceed immediately.

Mr. President, it would be inappropriate to conclude this discussion without recalling the extraordinary care, attention, and fidelity to undertaking that former Secretary of Energy James Schlesinger pursued throughout 3 years of complex negotiations on this matter of utmost importance.

● Mr. McCLURE. Mr. President, I support bill S. 2443 which will establish a nuclear waste demonstration project at the West Valley site in New York State. The Committee amendments to the bill which will be adopted this morning were offered by me to perfect the bill introduced by the Senators from New York, Mr. JAVITS and Mr. MOYNIHAN. Briefly, these amendments would modify the bill to insure that the Federal Government does not take title to the West Valley nuclear wastes until they have been processed for final disposal and also to establish a project approach, using a cooperative agreement, between the Department of Energy and the State of New York for the project.

The cooperative agreement will provide the basis for conduct of the demonstration project and joint action by the Department and the State and any related and required activities, such as a licensing amendment with the NRC and any requirements under NEPA. Additionally, the cooperative agreement will insure that all relevant provisions of the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954 are satisfied in the conduct of the demonstration.

My amendments, I believe and the committee agreed, will insure that the negotiations between the Department and the State regarding conduct of the demonstration, relative responsibilities for the project, and procedural actions under applicable law all will be proceeding on a balanced and responsible basis on the part of both parties. The amendments also will insure that the State of New York has a clear and continuing stake in the successful and timely completion of the project in the years ahead in order that the partnership between the Department and the State forged under this act will, as a matter of law, extend over the life of the project.

At the same time, these amendments will not alter in any way the legal relationships, obligations, and responsibilities of the current and past participants in the West Valley project. Any and all contractual or other legal rights and remedies will remain intact and unaffected by the amendments I offered.

I want to take this opportunity to commend our colleagues from the State of New York, Mr. JAVITS and Mr. MOYNIHAN for their continuing and untiring efforts to resolve the current problems at West Valley. We have been particularly successful in working together to forge this statutory partnership between the Federal Government and the State of New York in successfully organizing and proceeding with the project. I look forward to working with them closely in the years ahead to make sure that this project is implemented in a manner consistent with that spirit of cooperation and partnership.

Mr. President, for the information of the Senate I ask unanimous consent to have printed in the RECORD the administration's comments on my amendments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., June 5, 1980.

Hon. JAMES A. MCCLURE
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: This is in response to your request for the views of the Department of Energy on S. 2443 as it was ordered reported on May 15th by the Senate Committee on Energy and Natural Resources.

S. 2443 would authorize the Department of Energy to carry out, in cooperation with the State of New York, a demonstration project to solidify liquid-high level radioactive waste which is in storage tanks at the Western New York Nuclear Service Center near West Valley, New York. We have previously supported legislation similar to S. 2443 to authorize this Department to conduct a waste solidification project at West Valley.

In ordering the bill reported the Committee adopted your amendment the major impact of which would be to:

1. Provide for the conduct of the demonstration project without transfer of title to the high level liquid waste or to the project site;
2. Direct DOE to enter into a cooperative agreement for the demonstration project with New York State in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977;
3. Require DOE and the State of New York to jointly submit an application for a license amendment to the Nuclear Regulatory Commission allowing for the demonstration; and
4. Provide for full application of the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to the project.

The bill as reported is consistent with our view of DOE's role in the West Valley Project. Therefore, we would support its enactment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to submission of this report.

Sincerely,

WORTH BATEMAN,
Acting Under Secretary.

UP AMENDMENT NO. 1129

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I send to the desk certain technical amendments, and ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the committee amendments are agreed to; and, without objection, the technical amendments will be considered en bloc.

The technical amendments are as follows:

On page 4, line 12, strike the word "1980" and insert in lieu thereof the word "1981".

On page 5, after line 8, insert the following:

(d) Authority to enter into contracts shall be only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Mr. ROBERT C. BYRD. Mr. President, the amendments I have offered en bloc, on behalf of Mr. JACKSON, are to meet the concerns of the Senate Budget Committee with regard to the reporting of this bill with fiscal year 1980 funds. One amendment changes the funding from fiscal year 1980 to fiscal year 1981. The other amendment takes cognizance of a provision of the Congressional Budget Act of 1974 and limits the contract authority of the Secretary of Energy so that he may not sign contracts in excess of appropriated amounts unless those contracts are conditional upon appropriation of funds in that and subsequent fiscal years. I do not believe these amendments are controversial with the minority, and I recommend their approval by the Senate.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments en bloc of the Senator from West Virginia.

The amendments en bloc were agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

Mr. JACKSON. Mr. President, the Senate Energy Committee has favorably reported the bill S. 2443, to begin a project designed to encapsulate a large volume of liquid high-level commercial nuclear waste. These wastes are currently stored in steel tanks at the Western New York Service Center in West Valley, N.Y. While these wastes currently do not constitute an imminent risk to the public health and safety, it is important that we begin the job now of solidification of these wastes to forestall any potential future risk of leakage.

I believe the committee report spells out the history associated with the operations at the Western New York Service Center. I also believe that the description of the committee amendments and the section-by-section analysis provide an accurate reflection of the committee's intent with regard to this legislation. I have agreed to a colloquy with Senator MOYNIHAN to add further clarification to the committee's intent with regard to its amendments.

Mr. President, I am pleased to be able to assist the two Senators from New York in the initiation of this demonstration project because I know of their concerns and the concerns of the citizens of the State of New York that we safely dispose of the high-level liquid waste currently stored at the West Valley facility. I hope that we can continue to work together as this project proceeds to insure that the project is pursued in a manner which protects the public health and safety and yet realizes the finite resources that can be made available to the nuclear waste program. It is important that the State of New York and the Federal Government work together with a sense of comity to insure the ultimate success of this important project.

Mr. President, I recommend that this bill be approved by the Senate as reported from committee with only two technical amendments to meet the concerns of the Senate Committee on the Budget.

Mr. MOYNIHAN. Mr. President, we would like to be sure that this act does not relieve the private party of responsibility for aspects of the West Valley cleanup which may exist under current law or contracts.

Is it clearly the committee's intent that the cooperative agreement under the act as well as the act itself, as provided in section 6, shall not relieve any private parties for responsibility? We would not like the existence of a cooperative agreement between New York and

DOE to imply that the private parties are not involved unless, of course, the agreement explicitly so stipulates.

Mr. JACKSON. That is exactly right. The last section of the act, which is as you originally introduced it, makes it clear that nothing in the act, including the cooperative agreement, automatically changes the legal or contractual obligations of any part.

Of course, explicit agreements between the private operators and the State of New York may clearly define the responsibilities of each as they mutually deem appropriate, so long as the State fulfills the obligations set forth in this act as amended.

Mr. MOYNIHAN. Does anything in this act preclude DOE from using any of the facilities at the West Valley site which it feels are useful for the conduct of this project? Furthermore, DOE had planned to use employees now at the project site who are familiar with the facility. As we understand it, they will still be able to do so, pursuant to the cooperative agreement, if that is their preference.

Mr. JACKSON. That is right. The committee did not intend to direct or limit the Department of Energy's technical options in designing and proposing, for further appropriations, a project which will effectively and expeditiously clean up the high level liquid wastes not at West Valley. We would expect the Department to propose whatever measures are necessary and cost effective and are consistent with the cooperative agreement negotiated with the State of New York. Of course we will be closely monitoring the project as it moves toward a significant commitment of resources.

Mr. McCLURE. Mr. President, I rise in support of the bill S. 2443 which will establish a nuclear waste demonstration project at the West Valley site in New York State. The committee amendments to the bill which will be adopted this morning were offered by me to perfect the bill introduced by the Senators from New York, Mr. JAVITS and Mr. MOYNIHAN. Briefly, these amendments would modify the bill to insure that the Federal Government does not take title to the West Valley nuclear wastes until they have been processed for final disposal and also to establish a project approach, using a cooperative agreement, between the Department of Energy and the State of New York for the project. The cooperative agreement will provide the basis for conduct of the demonstration project and joint action by the Department and the State and any related and required activities, such as a licensing amendment with the NRC and any requirements under NEPA. Additionally, the cooperative agreement will insure that all relevant provisions of the energy reorganization act of 1974 and the Atomic Energy Act of 1954 are satisfied in the conduct of the demonstration.

My amendments, I believe and the committee agreed, will insure that the negotiations between the Department and the State regarding conduct of the demonstration, relative responsibilities for the project and procedural actions under applicable law all will be proceeding on a balanced and responsible basis on the part of both parties. The amendments also will insure that the State of New York has a clear and continuing stake in the successful and timely completion of the project in the years ahead in order that the partnership between the Department and the State forged under this act will, as a matter of law, extend over the life of the project. At the same time, these amendments will not alter in any way the legal relationships, obligations and responsibilities of the current and past participants in the West Valley project. Any and all contractual statutory or other legal rights and remedies will remain intact and unaffected by the amendments I offered.

I want to take this opportunity to commend our colleagues from the State of New York (Mr. JAVITS and Mr. MOYNIHAN) for their continuing and untiring efforts to resolve the current problems at West Valley. We have been particularly successful in working together to forge this statutory partnership between the Federal Government and the State of New York in successfully organizing and proceeding with the project. I look forward to working with them closely in the years ahead to make sure that this project is implemented in a manner consistent with that spirit of cooperation and partnership.

Mr. President, for the information of the Senate I ask unanimous consent to have printed in the RECORD a copy of the administration's comments on my amendments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 30, 1980.

Hon. CHARLES W. DUNCAN, JR.,
Secretary of Energy, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: On May 15, 1980, the Committee on Energy and Natural Resources reported S. 2443, a bill to authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

The reported bill includes my amendment, requiring the Department of Energy and the State of New York to enter into a cooperative agreement to carry out the demonstration project at the Western New York Service Center in West Valley, New York. A copy of the reported bill, along with the Committee report, are attached for your information.

Please provide as soon as possible the Department's comments, and, if available, the Administration's position on the bill, as reported with my amendment. I anticipate floor action on this bill in the very near future, perhaps within the week. Consequently, I would appreciate your comments no later than June 4, 1980.

Sincerely,

JAMES A. MCCLURE,
U.S. Senator.

THE SECRETARY OF ENERGY,
Washington, D.C., June 5, 1980.

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: This is in response to your request for the views of the Department of Energy on S. 2443 as it was ordered reported on May 15th by the Senate Committee on Energy and Natural Resources.

S. 2443 would authorize the Department of Energy to carry out, in cooperation with the State of New York, a demonstration project to solidify liquid-high level radioactive waste which is in storage tanks at the Western New York Nuclear Services Center near West Valley, New York. We have previously supported legislation similar to S. 2443 to authorize this Department to conduct a waste solidification project at West Valley.

In ordering the bill reported the Committee adopted your amendment, the major impact of which would be to:

1. Provide for the conduct of the demonstration project without transfer of title to the high level liquid waste or to the project site;
2. Direct DOE to enter into a cooperative agreement for the demonstration project with New York State in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977;
3. Require DOE and the State of New York to jointly submit an application for a license amendment to the Nuclear Regulatory Commission allowing for the demonstration; and
4. Provide for full application of the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to the project.

The bill as reported is consistent with our view of DOE's role in the West Valley Project. Therefore, we would support its enactment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to submission of this report.

Sincerely,

WORTH BATEMAN,
Acting Under Secretary.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2443) as amended, was passed, as follows:

S. 2443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "West Valley Demonstration Project Act".

SEC. 2. (a) The Secretary of Energy (hereinafter in this Act referred to as the "Secretary") shall carry out, in accordance with the provisions of this Act, a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York (hereinafter referred to as "the project"). The Secretary shall carry out the project by vitrifying the high-level liquid nuclear wastes located at such Center or by employing the most effective technology for solidification available. The Secretary shall, as part of the project, also (1) as soon as feasible transport such solidified wastes, in accordance with applicable provisions of law, to an appropriate Federal repository for long term burial, and (2) decontaminate and decommission facilities, materials, and hardware used in connection with the project.

(b) During the fiscal year ending September 30, 1980, the Secretary shall—

(1) prepare a plan for safe removal of such wastes from tank numbered 8D–2 and any other storage tank at the Center con-

taining such wastes including safely breaching the tanks, operating waste removal equipment, and sluicing techniques,

(2) determine the feasibility of immobilization and waste handling techniques required by the unique situation of such wastes at the Center, including initiation of detailed engineering and cost estimates as well as safety analyses and environmental impact analyses, and

(3) enter into a cooperative agreement with the State of New York pursuant to the "Federal Grant and Cooperative Agreement Act of 1977", Public Law 95-224, to provide for the conduct of the demonstration project, without transfer to the United States of title to the high level liquid wastes or to the project site, and for the following activities:

(A) demonstration of vitrification technology or technologies which can be replicated for other applications in the United States;

(B) submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration;

(C) application of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, to all aspects of the demonstration project; and

(D) conduct of other activities at the project, as determined to be appropriate by the Secretary, to protect public health and safety and to be in the national interest regarding the safe management of nuclear wastes in the United States.

SEC. 3. There is authorized to be appropriated to the Secretary not more than $5,000,000 for the fiscal year ending September 30, 1981, for the project. Funds authorized and appropriated in subsequent fiscal years for the project shall not be used by the Secretary for such purpose until the Secretary, the State of New York, and other appropriate persons enter into such contracts and agreements as may be required—

(a) to enable the Secretary to utilize property and facilities at the Center for the project,

(b) to share the costs of the project, except that the non-Federal share of such costs shall be limited to no more than 10 per centum thereof and in determining such share the Secretary shall consider the utilization of such Center by the Secretary for the project, the amount of money in the existing perpetual care fund originally designated to provide, for ultimate disposition of the high-level liquid nuclear waste at the Center, and such other factors as the Secretary deems appropriate,

(c) to otherwise provide for the conduct of the project in a timely manner, and

(d) authority to enter into contracts shall be only to such extent or in such amounts as may be provided in advance in appropriations Acts.

SEC. 4. In carrying out the project, the Secretary shall consult with the Nuclear Regulatory Commisison, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, the State of New York, and the commercial operator of the Center.

SEC. 5. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Committee on Science and Technology, the Committee on Interior and Insular Affairs, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including the costs incurred, and the activities to be taken in the next fiscal year and the costs thereof. Any contract or agreement executed under sections 2 and 3 of this Act, together with summaries thereof, shall be promptly transmitted to such committees for their information and review.

SEC. 6. Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State of New York, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facilities or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirements of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. The provisions of this Act shall apply or be extended to any facilities or property at the Center which is not used in conducting the project.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, to be divided equally between both sides, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Wisconsin is recognized.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the story of the Third Reich is the story of unparalleled excesses in human savagery. Together, the Axis nations spread suffering and death to most of the globe. The case of Finland is a footnote to this story.

Caught in a vise between Hitler and Stalin, the Finns were forced into an alliance with Germany—their only protection against the invading Russians. Before long, Hitler exported his policy of genocide to his reluctant ally, and ordered Finland to ship its 2,000 Jews to Germany for slaughter. The Finns refused.

In April 1942, Heinrich Himmler, Hitler's chief hangman, traveled to Helsinki to demand that Finland surrender its Jews to Germany. Finland's Foreign Minister, Wolf Juhan Witting, responded:

> Finland is a decent nation. We would rather perish together with the Jews. We will not surrender the Jews.

In July of that year, the Finnish Cabinet voted unanimously to reject Himmler's demand.

If the Finnish Cabinet could vote unanimously to resist genocide, why cannot the U.S. Senate muster a simple two-thirds in support of the International Convention on the Prevention and Punishment of the Crime of Genocide, which seeks the same end?

The Finns showed admirable courage and conviction. They exercised this resolve while looking down the barrel of a gun. We are at peace, yet we run and hide from measures that would prevent genocide. We have been running and hiding from this convention since 1949, when it was first referred to the Senate.

Let us at last confront it. Let us adopt Finland's proud spirit of resistance—a spirit which our Nation has exercised in the past, but which now eludes us.

Let us strike out against genocide now and not wait until we are faced with the kinds of choices Finland had to make.

The Finns viewed Germany's pressure as the test of their decency. They passed their test. Let us not fail ours. Let us ratify the Genocide Convention.

THE POULTRY INDUSTRY IN NORTH CAROLINA

Mr. MORGAN. Mr. President, I would like to call to the attention of my colleagues one of my State's most vigorous and dynamic enterprises—the poultry industry. Last year the State produced enough broiler chickens to supply the needs of my State's 5.6 million residents, and there were enough left over to satisfy 17 million consumers elsewhere. Over the last decade, the North Carolina poultry industry has increased its production by some 35 percent. Last year we grew nearly 377 million broilers.

I think that this is especially significant in a historical perspective. For many years before the turn of the century, the South was locked into a one- or two-crop economy. Most farmers grew only cotton and were at the mercy of the world price of that staple. Tobacco farmers often planted cotton to supplement their income, but they rarely raised poultry for sale. In those days many farmers were almost self-sufficient with their chicken coops, hogpens, milk cows, and cash crop. Eventually, however, those days passed, and more recently we have seen on the one hand more specialization and on the other a great expansion in the diversity of crops and of other agricultural products. Along with the burgeoning swine, cattle, and dairy industries in my State, the poultry industry has grown into a dynamic and highly integrated industry.

Our national consumption of poultry has increased greatly. In the last decade the per capita consumption of broilers rose from 34.8 pounds to 48.9 pounds. This meant in North Carolina an increase in farm income from broilers from $159 million to $388 million. Because the broiler industry has made gains in production and marketing efficiency, savings are passed along to the consumers. If we use the constant dollars with 1967 as the base, retail prices for dressed, ready-to-cook broilers dropped from 38.4 cents per pound in 1969 to 31.1 cents last year.

I should also stress that even our poultry industry has diversified. North Carolina is a leading State in the production of broilers, turkeys, and eggs, but in the last decade we have also added quail and ducks to commercial operations. In a sense we have always had quail and ducks, but I will admit that bagging them was not easy until they were penned up.

Turkey production in North Carolina has exceeded that of any other State in growth. In 1979 production exceeded 23 million, more than double the 9.4 million raised in 1969. At the present time, the State is second in turkey production, and we hope that in the near future we will take over first place. Expressed in farm income, farmers earned only $37 million a decade ago but earned $170 million last year.

Americans are developing a fondness for turkey, a treat that in the past was reserved for Thanksgiving and Christmas. Per capita consumption of turkeys last year amounted to 9.9 pounds, up from 8.3 pounds in 1969. Yet the retail price for turkeys, adjusted for inflation, declined from 44 cents to 42 cents per pound. We had enough surplus production of turkeys last year to sell 27 million consumers our excess.

We are also hard at work trying to satisfy the growing demand for eggs. Last year we produced 3.15 billion eggs. About a third of these were used for hatching, and the others used as table eggs. Our gross farm income from eggs last year was $174 million. Again, if we measure the price of eggs in 1967 dollars we find that the price of table eggs fell from 56 cents to 39 cents per dozen. Encouragingly, after many years of decline, the per capita consumption of eggs has increased recently and reached 281 eggs per person in 1979.

I would like to stress, Mr. President, that the Tar Heel State's agriculture is diversified. Although in the past the State was tied to cotton and tobacco, today we grow many crops and we also engage in other farm production. Our livestock production, including cattle, chickens, hogs and pigs, turkeys, and dairy products, exceeds tobacco in farm income.

North Carolina stretches from the ocean to the mountains, and within that breadth of country there are many farmers who till the land for their livelihood. In this diversity of work, the poultry industry is one of the most dynamic, innovative and highly competitive. I have been proud to watch this industry grow, and I hope that it continues to expand, give additional jobs, and supply economical and nutritious food for our tables.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Oregon (Mr. HATFIELD) is recognized.

AMENDMENT NO. 1807 (AS MODIFIED)

(Purpose: To reduce appropriations relating to the registration of 19- and 20-year-old males but allow the removal of Selective Service from "deep standby" and improve its computer capability)

Mr. HATFIELD. Mr. President, I send to the desk modified amendment No. 1807 and ask for its consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes amendment No. 1807, as modified:

On page 2, line 5, strike out "$13,285,000" and insert in lieu thereof "$4,709,000."

Mr. NUNN. Mr. President, will the Senator yield for a question?

Mr. HATFIELD. I am happy to yield for a question.

Mr. NUNN. Mr. President, I know the Senator will explain this. Is this the amendment that is the pending business that will be voted on at 12 o'clock that we discussed under the unanimous-consent order?

Mr. HATFIELD. The Senator is correct.

I wanted to explain one brief thought as to why it is a modified amendment because the original amendment was modifying the $13.5 million. The Senator from Georgia had offered a subsequent amendment reducing that amount. So I merely was modifying my amendment to conform to the existing figure that is now in joint resolution as amended by the Senator from Georgia. That is the only modification.

Mr. President, in considering the amendment that has just now been offered, this in effect would provide the selective service agency with $4.7 million instead of the $13 million-plus as in the joint resolution itself.

The attempt here, basically and forthrightly is to separate two specific issues and to vote on one as against the combination that we now have in the joint resolution. The two specific issues are simply this: One is to provide the Selective Service with computer hardware system in place should it be necessary sometime in the future to crank up a registration and draft program. The other issue is simply that of registration, registration now.

As the Senate well knows, I oppose registration because I see registration as the first step and the very significant step, and the advocates have made no attempt to hide this major objective, toward reestablishing the draft. And the proponents of this have argued that it is necessary to do so because they claim that after 90 days of a major conflict critical shortages would develop in our Military Establishment.

And they have used these figures to give us a great sense of fear and insecurity and crisis. The simple proposition is that those figures that they cite are predicated upon two false premises. One is that we would do nothing between now and such a crisis to beef up the existing Selective Service machinery. and this amendment precisely addresses that question.

If the Senate sees fit to adopt this and if the President accepts it, this would give Congress and the administration the opportunity to beef up that Selective Service organization so as to make moot this great possibility that has been paraded before us with all kinds of banners and fear signals.

The second false premise is that there would be no increase in volunteers under such a major crisis over and above the average of volunteers today.

So this amendment then should satisfy those who are concerned about the possibilities of critical shortages 90 days following a major conflict.

Mr. President, there has been another argument used by proponents to the draft and that is that this is going to prevent nuclear war by enhancing our deterrent and improving our ability to wage conventional war.

Let me say that in my opinion it is going to send the wrong signal to the world, to the world of our allies and to the world of our adversaries alike, because we in effect are creating through the registration procedure a vehicle for national division and national dissent at a time when we should be forging a consensus and a national purpose.

I think we are being misled by the fact that perhaps there has not been an outpouring of great public demonstration and dissent thus far. People are deeply committed and concerned over solving economic problems, unemployment problems, inflation problems, international crises one after another, and somehow this has not become a great focus of attention as yet.

But when the cards go out or the signal is given that all the 19-year-olds and 20-year-olds and next year the 18-year-olds are required to register their names and addresses with the Federal Government in anticipation of a draft system, let me say, in my opinion, we are going to see a great outbreak of dissent. Because I am so much opposed to registration and to draft it is my prayerful hope that whatever dissent is given by or exercised by the American people that it will be a peaceful, constructive, nonviolent kind of dissent because it would do the cause I represent irreparable damage to have it otherwise.

Mr. NUNN. Mr. President, will the Senator yield for just a brief question?

Mr. HATFIELD. On his time.

Mr. NUNN. On my time.

Mr. HATFIELD. Yes, I yield.

Mr. NUNN. Mr. President, I have heard the Senator from Oregon over the course of the last 7 days talk about the massive dissent that will soon follow, and so forth, and I know that he is very sincere in his views. But I hope that the Senator from Oregon will join those of us who are proponents of this joint resolution whatever happens in the final outcome, to urge, as he did just a moment ago, that any dissent if it does develop be dissent under the law, dissent within the law, and that the people of the country whatever their individual views may be will respect and adhere to the law, and I believe that is what the Senator from Oregon is saying, if I am interpreting that correctly.

Mr. HATFIELD. The Senator is absolutely on target, precisely correct, because I said before in this debate I happened to have been involved in that dissent activity during the Vietnam war, fighting that issue here in a legitimate forum in a proper way, and every time that there was an outbreak of any kind of dissent in the streets of this Nation, my cause on the floor of the Senate was set back. I have frequently said as in the case I have quoted from the Great Emancipator, the great President who freed the slaves, Abraham Lincoln, when he said it is our responsibility to adhere to a bad law until we have that law changed; we must have the respect of a government based upon law. I think there is a right of peaceful dissent, that peaceful dissent must be always exercised in a constructive way to further the cause and not to deter and endanger the cause, and that is the kind of dissent that I have indicated that I expect to occur.

Mr. NUNN. Mr. President, will the Senator yield further on my time?

Mr. HATFIELD. Yes, I would be delighted to yield.

Mr. NUNN. I think the Senator's comment is very important, and I believe when this debate is completed that the view expressed by the Senator from Oregon loud and clear around this country and to those who feel as he does on this issue, I think that will make an awful lot of difference. I think it will make a difference in terms of young people and their reaction.

I think when the Senator from Oregon makes it as plain as he has today that he has opposed this bill and will continue to oppose this concept or any extension of it if it comes, but at the time he encourages the young people of this Nation to follow the law, to obey the law, of this country and, of course, to exercise their right of dissent within the law if they feel differently from the law itself, I think that is an important message that should go out over the country, and I congratulate the Senator from Oregon for making that absolutely plain.

Mr. HATFIELD. Mr. President, let me indicate that in my opinion we have made it even more difficult by the action of the Senator from Georgia in this body to guarantee the kind of peaceful dissent we are talking about when the Senator from Georgia led the battle to eliminate from this bill the possibility of being able to indicate one's desire to establish himself as a conscientious objector. I think that it would have been an important factor in insuring peaceful and constructive dissent if we had been able to retain that committee amendment in this legislation.

Let me say to those who are considering the possibility of dissent, in my opinion one of the most constructive ways to engage in one's dissent on this issue during this period of time is to register themselves as voters and to understand that they have an opportunity to register their dissent in a very constructive way by voting for either Congressman JOHN ANDERSON as an independent candidate for President or Governor Ronald Reagan as the potential Republican candidate for President, because these two candidates for President have clearly taken their position in opposition to this registration procedure. Only President Carter is the advocate of this proposal and of this procedure.

Therefore, there is the most constructive way to register one's dissent.

A vote for Reagan or a vote for JOHN ANDERSON is a vote against registration in peacetime and a draft in peacetime.

A vote for President Carter is a vote for registration and a vote for a draft in peacetime, even though he has declared he is not for the draft at this time. But let me make the record amply clear that the proponents of this measure have made very clear on the floor that they are interested in getting a draft down the road. We are giving them that vehicle today if this legislation should pass.

So my point is simply that as far as a peacetime draft is concerned, and peacetime registration, that issue, the most constructive, appropriate way for the young people and the mothers and fathers, the sisters, the brothers, their friends to register their dissent in the year 1980 is to be registered at the polls, to go out and campaign for their candidates.

Mr. NUNN. Mr. President, will the Senator yield for one more brief comment on my time?

Mr. HATFIELD. I would be very happy to.

Mr. NUNN. I also suggest that the Senator look at the views of, the other views, of the candidates for President. I do not think this is the time to debate the Presidential campaign, but I think the Senator should find out the views of candidate Reagan on the neutron weapon. I know the Senator from Oregon felt deeply about the neutron weapon, being opposed to it as he is opposed to the draft registration.

So I say that we might embellish a little bit and say that a vote for Ronald Reagan may also be a vote for the neutron weapon, which President Carter opposes. I happen to favor the neutron weapon, but I think the Senator would want to consider all the different views and all the other views, and certainly he would want to encourage the American people to consider all the views of the candidates in making their important judgment at the polls.

I think, perhaps, those who oppose the neutron weapon might seriously question candidate Reagan on that issue. My impression is that he is in favor of that. So the Senator might well be advocating support of the neutron weapon in his urging people to support candidate Reagan because he opposes registration.

I think it is also important that the impression not be given that this is a partisan issue, since the votes, most of the votes, we have had during the last 7 days have been bipartisan votes. We have had some procedural votes that were partisan, and that is the case in some instances. But most votes have been nonpartisan.

We also have the support of almost all the Republicans on the Senate Armed Services Committee who have gone into this in great detail. The ranking minority member who, I am sure, does not support the reelection of President Carter, the Senator from Texas, supports this legislation.

The minority leader, the Senator from Tennessee, flew all night, after being up the night before, so that he could come back and vote on this legislation. It is my understanding that he favors it, and he has voted in that way. So I hope the Senator from Oregon will not try to give the impression that this is a partisan issue, that this is an issue that is divisive between parties and between Presidential candidates.

It is also interesting that the former Secretary of Defense, Melvin Laird, under a Republican administration, supports this. So there are people on both sides of the aisle who support this measure, and there are people on both sides of the aisle who oppose it, in all sincerity.

I do not believe it is accurate to try to divide that in this way.

I ask the Senator from Oregon if, by urging the people who are against registration to make that their decisive criterion in voting in the general election, he really wants to encourage people to make a judgment on the Presidential race on one issue? I know the Senator from Oregon has seen the proliferation of one-issue kinds of organizations around this country.

We have one-issue people on gun control; we have one-issue people on abortion; we have one-issue people on school prayer; we have one-issue people on busing. I do not believe the Senator from Oregon is encouraging the development of another one-issue group on the question of registration, and urging people to make their judgment on the Presidential race on that one issue when we have got crucial problems affecting the economy, crucial problems affecting energy, crucial problems affecting inflation, crucial international foreign policy questions. I really do not believe the Senator from Oregon wants the impression to be left that he is advocating that we develop a new one-issue consistency around the country and that people decide the crucial matter of the Presidential election on the basis of who supports registration.

Nor would I think the Senator would want them to decide on who favors the neutron weapon. I happen to favor it. I happen to think President Carter made the wrong decision, and I said so. I led the debate on the floor of the Senate. But I would not urge people to make their total judgment on the Presidential race on that issue. I thank the Senator from Oregon for yielding.

Mr. HATFIELD. Mr. President, I think the Senator has spoken on his own time; is that correct?

Mr. NUNN. That is correct.

The PRESIDING OFFICER (Mr. Ford). The Senator is correct.

Mr. HATFIELD. Mr. President, I think it is very interesting that the Senator has already started to try to fuse this issue by raising all of these other questions, when the issue that we were discussing was the right of peaceful dissent, as against dissent by violence and unconstructive behavior.

I was expressing what I consider to be one of the most basic constitutional rights, as well as a very constructive way of dissenting on this issue. Now the Senator is again trying to throw up sand by talking about the neutron bomb. We could talk about abortion, we could talk about gay rights, we could talk about all these other single issue groups and the controversy that surrounds it, but we are talking today about the right of peaceful dissent.

I will not modify my statement one bit, because I did not imply it was a partisan matter. Senator Ted Kennedy of the State of Massachusetts is one of the challengers to President Carter at this time for the Democratic nomination. He is also opposed to registration, as is candidate Reagan and candidate Anderson.

No; there is no partisanship to this issue. One of the leading opponents is Subcommittee Chairman Proxmire, a Democrat; Senator McGovern, the Democratic nominee for President in 1972. Of course it is not a partisan matter. That is one of the great things about this issue is that we have had it across party lines. We have had liberals, moderates, and conservatives. We have Senator Armstrong from Colorado, one of the leading Republican conservatives, who is supporting this position; also former President Gerald Ford. No; no one is indicating in any way that this is a partisan matter.

The Senator is trying to fuse the issue, because I think he already realizes that he is handing the President a very great military liability by putting this into effect at this time.

Mr. President, this amendment, which precisely states the fact that we are going to provide $4.7 million for the computer hardware setup so that we can have it ready to go, is putting us in a position, as we have been in the historic past, to handle this matter quickly if war arrives.

In 1917, we registered 10 million in 1 day without sophisticated computer programs. In 1940, we registered 16 million in 1 day without computer assistance. Today, with this in place, we could handle this expeditiously and there is no reason to rush into this matter in a state of fear.

Mr. President, there is no time frame, either, that has been offered by the administration. They have indicated it would take up to 5 weeks to implement. Does anyone think that this administration is going to implement this policy in a summer period when the students are away on vacation or travel or employment? Does anyone think they are going to implement this just before the Democratic Convention? Does anyone think this is going to be implemented after the Democratic Convention, when we get into the Presidential political campaign? I cannot imagine that that would be a realistic situation.

So, when is this going to be implemented? There is no time frame that has been given. There is no time schedule that has been indicated.

Let us not rush into something like registration when we can put the machinery in place without registration and then let this happen as we determine who is the next President of the United States.

I think I can assure you that if Mr. Reagan is elected this machinery will not be implemented, on the basis of his statements, campaign statements, and his philosophy.

So, consequently, this is not going to be implemented right away under any circumstance that I have heard about. There has been no assurance, no indication of any kind.

So we could put the machinery in place with my amendment and postpone the idea of registering people until there are plans that are well laid. We do not have any plans for enforcement. No plans for enforcement exists today for noncompliance of possibly 80,000 to 400,000 young people.

So, consequently, this is premature. This is another one of those situations where the Congress and the President are rushing in to try to solve a problem and it is really an illusion to begin with, because we do not solve the real problems of our military.

I see that the Armed Services Committee said yesterday that we want to reduce the Army by 25,000 troops; because we are not getting the quality we need.

Well, if the Armed Services Committee put more attention to developing comparable compensation programs and an overall manpower program, we would not be in this situation today, as we had when Senator Armstrong and Senator Matsunaga offered from the floor an amendment that I cosponsored to try to develop a comparable compensation plan to hold those in the military by some incentive. The Armed Services Committee opposed it.

Let me remind you that since 1972 the Consumer Price Index has risen 75 percent in this country, while the military compensation has only been raised by 31 percent. Literally thousands of our military personnel today qualify for food stamps and for welfare. It is a disgrace.

This is only illusion; this does not do anything to address those basic problems of strengthening the Reserve which I have supported, as well.

Mr. President, I reserve the remainder of my time.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, how long does the Senator from North Carolina (Mr. Morgan) require, 10 or 12 minutes?

Mr. MORGAN. I think 12 minutes.

Mr. NUNN. Mr. President, I yield 12 minutes to the Senator from North Carolina.

I want to say that the Senator from North Carolina has been, along with the Senator from Virginia, a leader in this area. He has been advocating registration for I know at least 3 years, 2½ to 3 years. This is the outgrowth of his bill. He has played a major role in this issue in the Armed Services Committee. He is very familiar with the manpower problems of this country and I am honored to have a chance to serve on the committee with him. I thank him for his leadership and support on this issue and many others.

The PRESIDING OFFICER. The Senator from North Carolina has 12 minutes.

Mr. MORGAN. Mr. President, I thank my distinguished colleague from Georgia for yielding time and for his kind and gracious remarks.

Mr. President, I do rise to support the bill that is before us, the Selective Service Appropriation Funding and Transfer Act of 1980.

Mr. President, I will take just a few minutes to say, as the Senator from Georgia has pointed out, that I am not a recent convert to the idea that our country needs to have an inventory of available manpower upon whom we could call in the event of military mobilization. One of the most sacred responsibilities entrusted to us as Members of the Congress is to insure an adequate defense of our country, for without an adequate defense democracy and freedom as we know it and the freedom to dissent would not survive.

The Constitution gives us the authority—and the responsibility—to raise armies and to maintain a navy. Therefore, the question whether or not to resume registration for a potential future draft is an integral part of our constitutional responsibilities. This issue is vital to the security of the United States.

I, for one, feel very strongly about this responsibility, and, for this reason, introduced, 2 years ago, a measure calling for the registration of young men so that we would have an inventory of manpower that would be available if an emergency should arise. I am sorry to say that my proposal was defeated at that time, but I am confident that public sentiment has substantially changed in favor of such a preparatory step.

Mr. President, the immediate discussion on whether or not to register our young men under the Selective Service System is not something that can be discussed as one isolated fact. It must be understood within the context of our total military manpower situation. The major ingredients in this manpower debate are, first, the status of our active forces under an all-volunteer system, and, second, our ability to rapidly mobilize manpower in an emergency. These issues are so closely connected that they cannot be separated, in my opinion.

In the early 1970's, when we decided to go with an All-Volunteer Force, we also adopted a policy called "total force planning." This "total force planning" simply means that the National Guard and Reserve Forces become an integrated part of our force structure. Active Forces, Reserve Forces, and inductees, thus all become essential ingredients in a discussion of military manpower.

The first obvious failure is that we cannot even fill our Active Forces. We are currently in the neighborhood of 80,000 short. For the first time in the history of the All-Volunteer Force, in fiscal year 1979 none of the Armed Forces achieved its recruiting objective.

Since 1976, the Armed Forces have been taking 25 to 50 percent more recruits in the lowest acceptable mental category than was previously thought. In addition, we are all aware of the fact that there is a serious downward trend in achieving reenlistment rates for career personnel.

I might add, parenthetically, that I think every year that I have been in the Senate we have reduced the size of the armed services, not because we thought they were not needed for the defense of this country, but simply because the quotas were so unrealistically high for the All-Volunteer Service that it would put an undue pressure upon recruiters to recruit people who frankly were not qualified.

I think it is a sad commentary that 40 percent of all the enlistees in the services failed to complete their first enlistment. I believe if the American people realized this they would want something done and would demand that something be done.

This is bad enough for our Active Forces but, under our total force planning concept, there is a mutually supportive alliance between Active and Reserve Forces. The All-Volunteer Force is intended strictly to be a peace-time force, to provide the foundation of a relatively small professional force around which the United States could mobilize in the event of a national emergency. It simply is not possible to meet our military manpower requirements in the event of a major conflict without calling upon our Reserve Forces. The U.S./allied ability to fight a protracted land war is seen as a hedge against the need to resort to nuclear weapons, and has been a major tenet in structuring U.S. conventional forces. Ths Army's role in this scenario predominates, and Army contingency plans rely heavily on early augmentation of the Active Forces with trained, combat ready units and individuals from its Ready Reserve structure—that is, the National Guard, the Army Reserve, and the individual Ready Reserve.

Mr. President, I am sorry to say that to discuss our military Reserve Forces only means that we continue to discuss problems. The Reserve structures today contain a substantial part of our fighting capabilities. For example, the Guard and Reserve contain 8 of the Army's 24 combat divisions, 4 roundout brigades, and 80 percent of the Army's logistical support. And yet, despite this important fact, at the end of calendar year 1979, the combined strength of the Guard and Reserve was 24-percent below total wartime requirements and, more alarmingly, 19-percent below the peacetime manning level desired by the Army.

Another important ingredient in total force planning is the Individual Ready Reserve (IRR)—which is a pool of former active duty service members to whom we look for filling shortfalls in units in the case of mobilization. The IRR must be equal to the needs of the Army, both in total numbers and in skills, until volunteers and inductees arrive from training bases. There seems to be a considerable difference of opinion about the shortfalls in our Individual Ready Reserve, but let me cite one figure. At current manning levels we learn from the "Presidential Recommendations for Selective Service Reform," February 11, 1980, a "shortage of 200,000 to 300,000 trained personnel for the Army would likely develop in the first few months" of mobilization. There can be no discussion, however, of the fact that at the end of fiscal year 1972, Army IRR strength stood at over 1 million; by the end of fiscal year 1977 it had fallen to 160,000, the lowest level in 20 years. While some improvements have been noted, the total level of available people in this category remains dangerously low. Mr. President, we are indeed in a sad state of readiness should the Nation suddenly be called upon to defend itself.

And yet, Mr. President, the bad news continues. The Army Standby Reserve numbers about 30,000, 75 percent of which are officers. The Army's Retired Reserve numbers about 128,000, 88 percent of which are officers. Additionally, virtually half of the nearly 16,000 enlisted retirees are 60 years or older. Mr. President, this is the state of our Reserves, forces upon which we will have to rely immediately in times of a national emergency requiring mobilization. In short, the discussion of our Active and Reserve Forces centers around the words "undermanned" and, too often, "underqualified." And yet, it is exactly this discussion which must be fully appreciated if registration is to be discussed meaningfully.

It is clear to me that an inventory of young men is essential to insure that necessary manpower can be quickly called up and trained, if needed. Why do we need registration now?

There is simply not enough time to gear up for registration after an emergency mobilization. During congressional hearings on manpower mobilization in fiscal years 1976 and 1977, the Selective Service System stated that it could not provide adequate manpower to all the Armed Forces until 7 months after mobilization. And yet, on top of this, DOD reviewed its mobilization requirements in light of the decreasing strength in the Reserves and the initial ready force, and stated new, more stringent Selective Service capabilities. These latest requirements are to be in 3 stages:

First inductees, 30 days after mobilization; 100,000 inductees, 60 days after mobilization; 650,000 inductees, 180 days after mobilization.

This brings us to the second point.

In its current deep standby status with no registration of classification, the Selective Service System simply cannot meet the demands of these revised requirements if we wait to register our young men after an emergency starts. The current staff of Selective Service consists of 100 fulltime civilian employees and military personnel, plus approximately 700 reserve officers designated to reactivate a field structure after mobilization. Wartime mobilization must be effected rapidly and efficiently, and I am convinced that a plan based on reconstituting a national field structure and beginning registration after mobilization simply will not work. Open, rapid, clear communication will be the key to success, and a nation in an emergency is unlikely to be characterized by these qualities.

The success of the Selective Service System enrolling over 16 million men 15 months prior to Pearl Harbor was the direct result of thorough planning and the existence of a nationwide organization which went into effect in 1938, and was located within each State. We have no such capability now and our present Selective Service System is a far cry from its status during World War II and Korea. We must once again put planning, preparation, and time on our side.

In addition to the current inability of the Selective Service System to meet essential time requirements, we currently have no way to simply find potential inductees since registration stopped in April 1975. Mr. President, this action under consideration would provide a pool, or inventory, of personnel adequate to meet initial and immediate mobilization requirements.

I might mention, Mr. President, that in the Executive order signed by President Ford stopping registration in 1975, that order provided that another system would be set forth or was forthcoming.

Registration is, I believe, Mr. President, also cost effective, since it will save millions of dollars through cost avoidance rather than patching together a system in the period following a national emergency.

Registration also sends signals. It signals the youth of America that the price of freedom is founded upon a commitment of sacrifice. This action will clarify the fact that the All-Volunteer Force is a peacetime organization only and that additional manpower to defend our Nation must come from our citizenry. The Volunteer Force cannot provide all the manpower to meet every contingency.

Additionally, Mr. President, the very act of registration makes it plain to the potential enemies of the United States that we retain our resolve to fully bear arms should this ever be the decision of the Congress and the President.

Mr. President, let me conclude by restating that this provision does not call for a draft. In fact, I am still opposed to a peacetime draft. But that is not the issue under consideration here. The issue is clearly and simply that, as I said earlier, we need to once again put planning, preparation, and time on our side if we ever do need to mobilize. I sincerely believe that the combination of an inadequate mobilization Selective

Service posture and the low force strength levels of the Army Reserve dictate that we act quickly and decisively to meet this challenge. I will not argue that there is considerable public pressure to drop this issue. I also believe that it is our responsibility as elected officials to lead the Nation in areas where clearly the security of our country is at stake. It is entirely conceivable that, by acting on this issue, we can help remedy problems in other areas. I have been hopeful, for example, that registration would, in itself, prompt greater recruitment and participation in our Guard and Reserve ranks.

Mr. President, this critical matter has been delayed for too long already. We must resolve the future of the Selective Service System, and resolve it quickly. We must do the courageous thing by acting now. As leaders, we must not shirk our responsibility to wrestle with difficult problems at home. The problem of mobilization has not been solved; it still exists and it is incumbent upon the Senate to join with the House in addressing this critical issue. I call upon my colleagues to support this vitally needed legislation without further delay.

Let me conclude by saying that this is a nation of laws and we in this country should respect laws. I hope if this bill is passed we will encourage the young men of this country to respect the law and to comply with the law, not to engage in dissent.

I know that civil disobedience may be a right if you are willing to take the consequences, but, Mr. President, if we are to survive as a free democracy in these troublous times and in this troubled world, we must be prepared. I do not understand how we can be prepared unless we have the manpower available or the capability of getting that manpower in the time of an emergency.

I urge my colleagues to support this, not only on the floor of the Senate with their vote, but with their good auspices across this country once it is passed.

I thank my distinguished chairman.

Mr. NUNN. I thank the Senator from North Carolina for an excellent statement, which I support.

Mr. President, I reserve the remainder of my time.

Mr. HATFIELD. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, first, I commend the distinguished Senator from Oregon and the Senator from Georgia, too, for their emphasis on making sure that we do all in our power to see that any dissent is within the law. I am convinced, as the Senator from Oregon has indicated he is, that we should urge our constituents to abide by the law and to register, although we oppose registration. We should urge them to comply with the law if this legislation passes. I think that is the kind of posture we should take and we should not only just say so in a speech on the floor, but we should actively do that among our constituents. I expect to do that myself, and I am sure the Senator from Oregon will.

Mr. President, let us be realistic about it. There is going to be resistance. There are going to be people who will not register. Every indication is that there will be many. I say that because of a study I have here, made at the University of Wisconsin. This was done among some 350 students on an objective basis, a competent polling basis, with a possible error of 5 percent in either direction. What did it find? It found the potential problems facing a reactivated Selective Service System are clear: Less than 50 percent—45.6 percent—of the respondents reported unequivocal compliance, 32 percent explicitly stated they would not initially register. Some of them indicated that they would if they were found out and the Government pursued them, but somewhere between 13 and 15 percent of potential registrants would not register even if threatened.

Even discounting that figure of 5 percent would mean 200,000 prosecutions. If we go as low as the Federal Government itself estimates, the Selective Service people estimate that 2 percent will refuse to register. If they are pursued under the law, that would mean 80,000 felons.

I have just been informed by the Senator from Oregon that this would mean an increase from 24,000—is that the present number of inmates in Federal penitentiaries now? We would increase that almost fourfold.

Mr. NUNN. Will the Senator yield for a brief question on my time?

Mr. PROXMIRE. Yes, I yield.

Mr. NUNN. Does the Senator have any historical data on that? Does the Senator contend that in the years and decades that we have had registration, Selective Service, we have had 100 percent of the people participate and everyone has signed and there have been no problems whatsoever?

Mr. PROXMIRE. No, I agree with the Senator from Georgia that we have had problems in the past, no question about it. The argument I make is that in the past, the problems have been related to the kind of situation we face. Obviously, the problems were much more severe in the Vietnam war, for instance, than they were in World War II, when there was overwhelming sentiment that we were fighting a war that was widely supported. In the Vietnam war, we did not have that.

The argument I am making is borne out by testimony in the hearings. I asked Mr. White, who is in favor of registration:

> How will the registration requirement proposed by the President be enforced and what specific penalties will be imposed on those who fail to register?

He said:

> In the current situation we have asked the Attorney General to develop guidance for U.S. attorneys with respect to this issue; that is, if, in fact, people choose not to register and we are assuming, and hope all of them will, what our position will be.
>
> We haven't finished that analysis at this time.

He went on to say:

> We are now looking carefully at the issue with respect to what to do about it should a problem develop.

They have no policy at all. They do not know what they are going to do.

Mr. President, I submit that, under these circumstances, we can have and are likely to have a very serious problem. The Federal Government is not prepared to act under those circumstances. We could have, as pointed out by the Senator from Oregon, 80,000 felons, even if the Selective Service estimates are the estimates which are true. If the other estimates are true, that we shall have 5 percent, of course, the number of felonies will be even greater.

Mr. President, I think one of the strongest arguments—certainly only one, but one of the strongest—against this resolution and in favor of the amendment by the Senator from Oregon is the fact that we do not have a policy in place now that will enforce the law. We are putting on the books a law which is very likely to be violated without providing for what we will do in the event it is violated.

I thank the Senator from Oregon. I yield back my time to him.

Mr. HATFIELD. Mr President, I yield myself such time as I may need.

Mr. President, when we talk about noncompliance, I think we ought to make very amply clear and distinguish between noncompliance by people as regards the possibility of their expressing their dissent, and noncompliance from noninformation. I think it is very significant that this joint resolution only provides $200,000 to $400,000 at the most to publicize this policy.

I think it is very interesting that yesterday, the Senator from Georgia (Mr. NUNN) and I were invited out into the President's room to have our picture taken together. All the various groups of news media were to be there at that time and we went out. About an hour or so later, we were invited out again, because some of them had not gotten the word that we were available at a certain hour, where most of the photographers appeared.

That is a very simple little illustration, but I think that we must consider the fact that we have 4 million 19- and 20-year-olds and the expectation is that they are all going to be aware of this requirement and we are going to try to make them aware by 30- and 60-second spots on the radio and television—at least, that is part of the program. We know by studies that of the people viewing any kind of a television program—entertainment, documentary, or news—it is estimated that one-quarter of them really never get the message that they are watching or listening to. It does not penetrate.

So I think we will find ourselves with a high number of noncompliant young people, not because they are refusing to register, but because they have not really gotten the word that they are required to do so.

Mr. PROXMIRE. Will the Senator yield very briefly?

Mr. HATFIELD. Yes.

Mr. PROXMIRE. This adds greatly to the problem, because what the Senator from Wisconsin was trying to point out is that, at the University of Wisconsin, which I think is not all that atypical, 32 percent said they would not register if they knew about it. If they were told to register, if the law required it, they would not do it. A large proportion of them said they would go to jail. The Senator from Oregon is pointing out that, in addition to that, we have a universe of people out of the 4 million who will not know. So we know they will not register. So this creates a situation in which we are likely to have literally hundreds of thousands of our young people starting off in life, aged 19 and 20, as felons, some of whom may end up in a Federal penitentiary.

Mr. HATFIELD. This legislation is potentially a vehicle to create a whole generation of felons, as I indicated before—not by design, but by poor planning, by inadequate preparation, by premature launching. All of these factors are adding to the difficulty of this problem.

I think if this passes and this program is tossed into the laps of the administrators, they are going to have such a horrendous problem of implementation that they are going to throw up their hands and there, again, we have eroded the very concept of a Government based upon law.

We can make the analogy with prohibition, as I have, that was noted as much for its violation as it was for its compliance. That does not do our system any good at all.

I yield 10 minutes to the assistant majority leader.

REGISTRATION: NOT NEEDED FOR NATIONAL SECURITY

Mr. CRANSTON. I thank the Senator from Oregon very much. At the outset, I want to express my admiration to him for the courageous, resolute battle he has waged and for the deeply held principles that have underlain every effort he has made in this matter.

Mr. President, I share the Senator's deep concerns about voluntarism versus compulsion in meeting our personnel needs in the Armed Forces.

Mr. President, I rise in opposition to House Joint Resolution 521, which provides funds for registration of 19- and 20-year-old males for the draft. This step is a meaningless signal to the Soviet Union. It would detract attention from the serious challenges we face in maintaining the viability of the All-Volunteer Military Force. And it would pose an unwarranted intrusion into the freedom of this Nation's young adults.

A MEANINGLESS SIGNAL TO THE SOVIETS

The President requested that Congress fund draft registration shortly after the Soviet invasion of Afghanistan. The President meant registration to serve as a signal of American military resolve to the Soviet Union. I believe the other steps we have taken to respond to the Soviet invasion of Afghanistan are far more effective—expanding U.S. military facilities and operational capabilities in the Middle East and the Indian Ocean, increasing our overall defense effort, and improving combat readiness and weapons maintenance. In contrast, keeping long lists of names of young people does not add significantly to our military capability and readiness. At best, it is a paper response.

COUNTERPRODUCTIVE TO OUR ALL-VOLUNTEER FORCE

In addition to wanting to respond to the Soviet invasion of Afghanistan, proponents of registration are motivated by a sincere concern for the viability of our All-Volunteer Military Force. All of us share that concern deeply. I fear that resumption of registration—which may be seen as a quick fix for all the ills of military manpower—would detract needed attention from those serious problems without solving any of them.

We have a very serious shortage of professional and highly trained personnel in the Armed Forces—especially doctors, pilots, computer experts, and engineers. Registration of 19- and 20-year-olds will do nothing to convince experienced people to stay in the military and forsake opportunities to earn more at their professions in the private sector. Registration will do nothing to fill the shortfalls in the Selected Reserve or the Individual Ready Reserve. Finally, registration will not induce young people to enlist in greater numbers.

Congress has taken some steps to solve these problems of the All-Volunteer Force. Congress passed a bill providing for better pay for doctors and other health professionals in the military. The Senate also passed the Nunn-Warner amendment which provides for special pay for pilots and other categories of military personnel in which there are shortages. Mr. President, I want to pay tribute to the very hard and intelligent work which Senator Nunn and Senator Warner are doing to come to grips with our military personnel needs. As an aid to military personnel who, like everyone else, must fight inflation and rising housing costs, the bill provides for variable housing allowances pegged to the varying housing markets where military are stationed. The bill also provides for a higher rate of reimbursement for moving expenses. I strongly supported these improvements.

At a time when we should be considering additional, concrete improvements to the All-Volunteer Force such as the doctors' pay bill and the Nunn-Warner amendment, we should not be spending our legislative time and mental energy on an issue which is peripheral to meeting military manpower needs.

We could meet our national defense needs far better by devising ways to encourage voluntary enlistment by people possessing those skills needed by the Armed Forces. And we should be devising ways of retaining trained personnel already in the service but who are dropping out at an alarming rate.

There are many proposed solutions to our military manpower problems which merit serious consideration: reform of both the pay and pension structures of the military; a volunteer universal national service in which military service would be one option; the idea of "lateral entry," that is allowing Americans older than 35 to enter the military and bring the talents and skills they have developed in civilian life to a second career—in the military.

Thus, I hope the Senate will reject this legislation and will turn its full attention to the real challenges we face in keeping the All-Volunteer Military Force an effective one.

AN ABRIDGEMENT OF FREEDOM AND LIBERTY

Institution of registration for the draft at this time is an unnecessary abridgment of freedom and liberty. More careful consideration should be given to the costs of this proposal in terms of individual liberty and to whether these social costs can be justified in a time of peace. Voluntarism is the essence of a free, democratic society. Contrariwise, compulsion, when unnecessary, is the very essence of tyranny. Neither a compulsory draft nor its forerunner, compulsory draft registration, is necessary in peacetime America today.

I recognize, however, that should Congress determine that world conditions justify institution of a draft, Selective Service must be prepared to move quickly. The concept of an All-Volunteer Military Force envisions an adequate Selective Service System as a necessary backup.

The Selective Service System is required to provide inductees to the military services 30 days after mobilization. That is the most stringent requirement in U.S. history. But Selective Service can meet this mobilization timetable without advance registration provided it has the necessary computers. With improved information processing capability, the Selective Service would not need the names of registrants in advance of a real emergency. As the Secretary of Defense stated in his letter of June 8, 1979, to Senator Cohen:

> The critical step toward achieving our goals is not immediate collection of names through registration, but rather immediate improvement of our ability to prepare for processing people.

Therefore, in order to provide the Selective Service with this capability short of registration, I am supporting the Hatfield amendment for approval of $4.7 million for sophisticated technology, such as computers, to revitalize Selective Service so it can respond more effectively should the President order, and Congress authorize, draft registration or the draft itself.

I strongly oppose, however, the transfer of the remaining $8.6 million as requested by the President to fund registration itself at this time.

An American citizen should be asked to compromise his liberty only under circumstances fully justified as in the national interest. I do not feel that Congress can ask this in peacetime and when advance registration is so clearly unnecessary to meet our national security requirements.

Mr. President, I urge rejection of the proposal to fund registration at this time.

The **PRESIDING OFFICER** (Mr. Huddleston). Who yields time?

Mr. HATFIELD addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the distinguished assistant majority leader (Mr. CRANSTON) for his fine statement and for his contribution to this effort that we have been waging.

I also express my appreciation to the Senator from Wisconsin (Mr. PROXMIRE) for adding to the storehouse of data and evidence to support this position.

I mention this at this moment because of the fact that we have heard the various studies that have been presented, waved aside, and labeled as hoaxes.

The Senator from Georgia, who said the Selective Service agency that presented the study indicated a postmobilization registration could satisfy the timeframe, the time schedule of the Defense Department, under the most serious international situation, has called it a hoax.

Likewise, the Selective Service System mobilization capabilities published by the Congressional Office of the Budget support the past mobilization option.

Here is documentation, Mr. President. We have reams of documentation to support this basic thesis. But when it is entitled a hoax, waved aside by the wave of the hand, as not being consequential or reliable, in part due to the fact that the author of the report was pressured into, or at least assumed he was pressured into, changing his mind because it did not conform with his boss's political position, in no way does that eliminate or abolish or obliterate the data bank or data base upon which that report was made, and the conclusions.

There is no corollary data base or documentation to support the rejection of this report.

So it is not just an opinion that I express here today. This is a documented position, that registration today, in the word of the Selective Service System, would be redundant and unnecessary.

That in no way denies the need to beef up the procedures that could be implemented later on by adopting a computer hardware program, and that again gets back to the very purpose of my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I yield myself such time as I may need.

Mr. President, I just wish to comment on the statement of the Senator from Wisconsin about the number of young people who will not comply, based on his own feeling.

I do not share that view. I have young people in my office. I have met with young people on college campuses. In 1978, my position was very clear on this subject and on other subjects. I went to college campuses and found a great deal of understanding there. Not everyone agrees.

I believe we should not create the impression, and I do not believe my colleagues intend to create the impression, that the young people of this country are not patriotic. I do not believe that my colleagues intend to create the impression that the young people of this country do not believe in a strong national security.

Certainly, the young people did not believe in the Vietnam war, and that was not confined to young people. There were many people of every generation who did not believe in that war.

The insinuation or innuendo should not go out of this Chamber that the young people of this country do not love America. The impression should not go out of this Chamber that the young people of this Nation, on college campuses or in factories or in schools, or whereever they may be, are not willing to make some sacrifice to defend the freedom of this country. I do not believe that kind of signal should be sent out of this Chamber. I do not believe that my colleagues intend to send out that signal.

As to the predictions about peaceful dissent—certainly, we all believe in peaceful dissent, within the law; and the Senator from Oregon made it abundantly clear a few minutes ago that he is talking about dissent within the law. He could not have been clearer on that point.

We should not have any kind of impression go out of here that the Senate or Congress or this Government expects the young people of this country to ignore or disobey the law.

With respect to young people not being notified, not knowing about their duty and obligation if this measure becomes law, I urge the administration to take the words of the Senator from Oregon into account and to do everything possible to make sure that some of the pitfalls he has forecast do not occur.

The administration has a grave responsibility in this respect to use all the resources of the Federal Government to notify the young people about this obligation, if this measure is passed, and to make certain that they understand it; and it has every obligation to set up the legal mechanism to deal with this in a fair and equitable way.

I do not believe we are going to reach the stage in this country in which our judicial system does not recognize the merits of an individual case. I do not believe we are going to reach the stage in this country in which a sincere person who does not know about his duty or obligation is going to become a convicted felon. I reject that kind of hypothetical scenario which some people forecast may occur.

I believe our judicial system has more discretion than that. I believe our courts have more discretion than that. I believe the Justice Department and the President of the United States, as the chief law enforcement official, have more discretion than that.

I understand debate, and I understand and participate in vigorous exchanges. The Senator from Oregon has performed a real service this morning on the floor of the Senate by making clear that there are potential pitfalls here, that the administration does have a keen duty and obligation here, and that every citizen of this country who is subject to this law should be notified properly.

Most of all, the Senator from Oregon has performed a real service by making it abundantly clear that although he disagrees with this proposal—and he has fought it as honorably and as hard and as long as anyone could fight this proposal and has done so within the rules of the Senate, and I respect him for that—he also has made it clear that if this becomes law, it will be the law of the land; that although he will continue to disagree, he expects, and certainly will exert his leadership to see, that the young people of our country comply with the law.

Of course, if they want to dissent peacefully, they can exercise that right, which we all respect; and thousands and thousands of Americans have died to preserve that right.

So it is important that the right words go out of here. Some may anticipate problems. I do not believe you can have any kind of initiative such as this, or any other initiative, without problems. Never in our history have we had any initiative under the Selective Service System with which we did not have problems. There will be problems. But it is important for the word to go out, in my view, that this is a Nation of laws; that we are arriving at this decision in a democratic fashion; that we have exercised the full right of debate on the floor of the U.S. Senate, within the rules of the Senate. It is important for the young people of this country to recognize that they have people on the floor of the Senate who have examined this proposal in detail and pointed out the possible pitfalls, who have expressed clearly to the administration the tremendous job and the duty the administration has to carry out this program with effectiveness and efficiency. I do believe there is a keen obligation here and a great service has been rendered.

The Senate again has demonstrated why it is a unique parliamentary body in this world—because we do have the right of unlimited debate, unless 60 Senators decide the time has come to terminate debate. It takes more people to terminate debate in this body than in any other body in the world with which I am familiar.

We have had a vigorous champion, a vigorous opponent, with respect to this measure, and he has exercised his full rights under the Senate rules. We have had full debate on this subject, as well we should have had full debate. There has been debate on the House side as well as on the Senate side. We have had debate in the committees as well as on the floor, and we have had it within the circles of the executive branch for a long time before this measure was advocated by the President of the United States.

Mr. President, I repeat: Speaking as one Member of the Senate, I believe we have loyal, dedicated young people in this country, just as we have had in every other generation, just as we had when we experienced serious confrontations in this century and in other centuries.

I believe we have that kind of spirit among our young people. Of course, there will be some exceptions. But the word should go out of this Chamber that, in my view, a great majority of the Members of this body recognize the patriotism of our young people, the dedication of our young people to freedom, the love of our young people for the country.

I believe that the majority of young people of America, an overwhelming majority, will be pleased and honored to participate in the overall framework of our national security by signing their names and addresses, by making a positive contribution to the readiness of this country to defend itself in the event of emergencies, and by making a positive contribution to the ability of this country, most of all, to prevent war, to deter war, by making it plain to our allies and to our adversaries that this country can mobilize, that we can respond in emergencies, and that we intend to put ourselves in the position of being able to fulfill the commitments we have around the world to maintain freedom in the world.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time to the Senator from Mississippi?

Mr. STENNIS. Mr. President, does time have to be yielded?

The PRESIDING OFFICER. Yes.

Mr. NUNN. I yield such time as the Senator may desire.

Mr. STENNIS. Five minutes.

Mr. NUNN. I yield 5 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. STENNIS. Mr. President, first, I warmly commend my very fine friend and useful Senator from Oregon (Mr. HATFIELD) for the way he has carried on this debate, the way he has mastered the subject, mastered it before the debate started, and has provided the medium whereby this was brought to the attention of the people. I believe the contribution made here in this debate has done more to bring this thing in perspective and get it out to the people than any other one thing that we have been able to do on the committee.

I will mention another thing. What has happened, though, half way around the world almost, I believe, brought this more than anything else to the attention of the people.

I look with almost joy on the prospect of this matter of registration being passed. I believe it will be a start in the right direction of plugging up the hole, and it is a hole, a hole of weakness in our entire military strength and our military preparedness. Improvements in the field of manpower cannot be supplied by money alone.

I cannot avoid saying that if this joint resolution is passed today here it will go right along hand in hand with the authorization bill that I hope we will complete in the Armed Services Committee, this afternoon, and thereby bring to the Chamber before too long the most thoroughly considered and debated military program since I have been around. By the way, it will also carry the largest sum of money. That legislation, I think, will be passed almost intact.

It just may be now that this registration is all that will be required to change the trend. It must be changed some, with reference to manpower so that we will thereby have the matter solved to the extent that we will not have to go further and have a Selective Service Act.

But if it does not, then we will have to take some additional steps. We certainly have made it clear all the way through that Selective Service Act that our committee would recommend, if we have to go that far, will be totally in the opposite direction of the one that we had during the war in Vietnam. It can be made on tight duty base without any possible evasions written into it, no escapes, and make it apply so everyone will have to serve who is called unless there is a real basis for physical reason and others. And it is not a happy thought, but if we have to live with that for some time yet, it is a part of the cost of the times.

Let us be thankful that we are able to afford the other part of the military preparedness. I have tremendous faith in the youth whom we talk about, the ones who are going to register, and do their part. I have no doubt about it, and I think that one thing that laid the foundation for an understanding of this problem is the fact that our people have been held as hostages by a nation that is not strong militarily and not strong otherwise. They have been held now for more than 6 months. Dress it up as you will, every one of us feels, every American feels, a certain amount of humiliation at that fact. I believe it has brought home far better understanding of the need to even prepare further. I do not place all of my hope in military might, of course not, but even prepare further, not for an immediate war but for the deterrent influence of what complete preparedness will mean.

Once the American people have thought that over and made up their mind you do not move them overnight. So I think the biggest thing that has come out of this debate, the passage of this joint resolution, if it does pass, is that new realization of the need and a stability among the people in their thinking.

May I have 2 additional minutes, please?

Mr. NUNN. Mr. President, I am glad to yield to the Senator from Mississippi. I am down to 10 minutes now.

Mr. STENNIS. I will just complete. A stability that will be lasting and will be reflected in a support of this registration act.

I think it is fundamental that we must help see that it is understood, continues to be understood to that extent. I am satisfied that it will, and I will be willing to risk the wrath of the American people on my head if it does not work that way.

So, in an effort to prepare conditions that will tend to keep us out of war I really rejoice at the passage of this joint resolution.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President I yield 5 minutes to the Senator from Montana.

Mr. MELCHER. Mr. President, I thank my friend from Oregon (Mr. HATFIELD) for yielding to me.

I wish to add further comments to this remarkable fight staged by Senator HATFIELD to bring to the attention of the American people the very serious step that is being contemplated in this joint resolution, the very far-reaching step.

Mr. President, the proponents of the draft registration resolution now before us have based their arguments for it on three premises.

The first is that draft registration is needed to speed up the induction of military personnel following a national emergency and an order for mobilization.

The second is that there are fundamental deficiencies in the quantity and quality of our current military personnel under the All-Volunteer Force, and that draft registration is the first step in going back to the peacetime draft, which is the only way to cure these deficiencies.

And the third premise is that initiating the new draft registration program is supposed by many of its supporters to send a signal to Moscow and the world.

I am as concerned as anyone else that we attack our military problems and find solutions for them, so I want to take a few moments to look at each of these premises carefully and try to reach a reasonable conclusion as to what the resolution before us will do to remedy the situation.

It has been stated many times during this debate that under the present Selective Service System it would take too long to mobilize the numbers of personnel needed to meet our most likely threat—a conventional thrust by the Russians into Central Europe. According to Pentagon analysts, in the case of a Russian push into Europe, the Army alone would need to deploy 500,000 to 750,000 personnel in Europe to meet current NATO defense plans. This would be followed by the injection of additional large numbers of inductees beginning 90 days after mobilization. Advocates of draft registration have stated time and time again that the current Selective Service System cannot meet this need, and that we would have severe manpower shortages within the first 90 days after the beginning of hostilities.

I do not believe that the facts should lead us to believe that by simply passing this resolution reinstating draft registration we are going to be in any better shape than we would be otherwise. Even if peacetime registration would significantly speed up the induction of new personnel over what we could achieve with a beefed up, computerized Selective Service System and a postmobilization registration system—and this is far from certain—would this help us meet the needs of current Pentagon and NATO planning? I think not.

The armed services need equipment. They need weapons of a conventional type. They need trucks, planes, tanks, ships, high technology materials—and that takes money and time—and then the people with experience to operate them. Those people are not draftees.

The recent Pentagon planning exercise "nifty nugget" pointed out that there are significant deficiencies in our strategic air and sealift capability. One participant in the exercise termed the attempt to move just the first few hundred thousand active military personnel to Europe a "logistics nightmare." The exercise pointed out that we do not have the military transport aircraft needed, nor was there an effective plan to utilize civilian aircraft. Even more devastating was the finding that the last groups of soldiers leaving to battle the Russians in Europe did not have weapons or in some cases even uniforms. There are other serious questions about whether we have the facilities or the experienced officers and noncoms to train the new inductees that would make up the reinforcements.

In short, we have severe problems in terms of logistical support, transportation, and fighting equipment for our military forces that must be solved if we are to meet possible threats of conventional attack in Europe or elsewhere. These problems are not going to be solved by passing this resolution.

Nor do we have the back-up reserves needed to supplement the active members of our military forces in case of an all-out Soviet conventional attack. According to Pentagon strength figures, the wartime requirements for the Army National Guard and the Army Reserves are 711,300 personnel while we actually only had 540,000 in the Reserves as of December 31, 1979. This is 76 percent of wartime fighting capability. Passing peacetime registration is not going to make up that shortfall.

The second argument that is used by the proponents of this measure is that this is just the first step to the return to the peacetime draft, which is what is really needed to improve the quality and quantity of our military personnel.

Returning to the peacetime draft might bring in new inductees to fill up the ranks of the Army. On the whole it is safe to say that anyone who is forced against their will to enter the Army during peacetime will put in his 2 years as easily as possible and get out of the service as quickly as possible. This is going to be of very little help in meeting our peacetime military personnel needs. What is needed in peacetime is not a large standing Army of rifle carriers who are serving against their will. What is needed, and this is backed up by statements from the Department of Defense and the Joint Chiefs of Staff, is a core of highly trained, highly motivated, experienced personnel. We need to retain the mid-range noncoms and officers who have 6, 8, 10, or 12 years of service experience. The draft is not going to help us do that. I quote:

> Peacetime conscription is by no means an obvious solution to our current personnel problems. These problems have more to do with the retention of skilled and experienced personnel who already have six to twelve years of service, than with recruits. We need accordingly, to expand current efforts to improve our recruiting and retention performance.

What we need to do to retain experienced personnel is very simply to give them a reason to stay in the service. If the services are to recruit and retain adequate numbers of people, the standard of living available to military members and their families must be equitable and stable. Consequently, an adequate military compensation system is one which accounts for the unique obligation and hardships of military life, and which at the same time is not subject to the instability of short-term wage changes. The fact that many of the families of our armed service personnel are on food stamps speaks for itself. The fact that many of our armed services personnel are moonlighting with a second job speaks for itself. These are full-time, I remind my colleagues, full-time people who must be ready at any time to give of their capabilities to the armed services in their particular function. We are simply falling down on that score.

Piecemeal changes to the compensation system must be avoided, and service members must be provided the opportunity for real income growth. Studies of military compensation conclude that a number of actions in recent years have had an increasingly detrimental effect on military pay. Of primary importance are the pay caps in 1975, 1978, and 1979, and the reallocation of pay increases into basic allowance for quarters in 1976 and 1977.

These factors and an extraordinarily high rate of inflation have led to a serious reduction in real buying power and a lowering of the standard of living for military members and their families. Military pay has lagged 7 to 19 percent behind comparable civilian pay. Average military disposable income has declined during the last 7 years by 11.5 to 22.3 percent, depending on pay grade. Military personnel are forced to subsidize their permanent changes of station by about $1 billion per year and then, once relocated, absorb about $600 million annually in housing costs which are not adequately offset by quarters allowances. As a result, there is an urgent need for a pay increase to regain adequate military compensation, a variable housing allowance in the United States and a restructuring of the travel reimbursement system.

A few examples quickly show the discrepancies in military pay. A new recruit's pay and allowances amount to $448 a month; while the Federal minimum monthly pay for civilians working a 40-hour week is $520.80 a month. A mid-career NCO earns about $14,500 annually; if he is a computer programer, he could make $23,000 working for a civilian employer. A Navy captain earns $43,198, including allowances for food and quarters; but a Merchant Marine master, with his customary overtime, can make $66,450. An Air Force pilot who is a captain with 8 years of service earns $27,800; a copilot for a major airline can make $48,000. There is very little incentive for any of these people to stay in the military.

It should be remembered that a major reason for ending the draft was to make manpower problems more visible, so that they might be more readily identified and solved. There have always been and will always be manpower problems, with drafted forces and with Volunteer Forces. Whereas the draft hid many of these from the public, the AVF has made them more visible so that they might be solved. I suggest that we get on with solving the problems rather than pushing through cosmetic measures that will not accomplish anything.

As to the third premise that somehow this sends a signal to Russia and the world, it is patently clear that just signing up 19, 20-year-old males does not solve our national defense problems. It is just flimflam, with no substance.

If there is a signal there is no substance to just registering people. What we need to do is to correct the inequities and inadequacies in our armed services.

Compelling peacetime registration or service when no national emergency exists will not solve the manpower problems of our military services and it contradicts the fundamental principles of a free society. It is difficult to conceive of any government action which imposes more total control over its citizens than a compulsory service. Conscription should be the last resort of a free nation facing imminent threat, not a routine device to solve the problems of idle youth or poor military management.

Registration is not only an opening wedge for the draft but is itself a form of compulsion. The Government will demand to know the identity and whereabouts of young people, including, perhaps, their physical condition, and moral and religious beliefs regarding fighting. A new layer of compulsion in the form of penalties for failing to register would undoubtedly accompany new registration laws.

The argument that national defense, public welfare, or heightened sense of community justifies new compulsory laws supports the premise that the ends justify the means. To embrace peacetime compulsory service or registration for such service is to embrace a regimented society that is the antithesis of American principles.

I thank my friend from Oregon for yielding this time, and I commend him for his leadership in posing a very serious problem before the Senate and the American public.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **HATFIELD**. Mr. President, I am very grateful for the contribution the Senator from Montana has made in this debate. He has been a stalwart from the very beginning of this problem we have been debating, and I am very grateful for his support.

I also want the record to show that I have the same kind of warm admiration for the Senator from Mississippi (Mr. STENNIS) with whom I serve on the Appropriations Committee. In spite of the fact that we are on different sides that in no way diminishes that deep regard I have for one of the truly great men of this body. But I think that is one of the mysteries of this body that we can have a strong viewpoint and be on opposite sides and in no way rupture our personal relationships and our friendships. I feel closer to my adversaries after the battle than before because of the kind of comity we have within the body of the Senate.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oregon has 15 minutes and 40 seconds; the Senator from Georgia has 8 minutes and 53 seconds.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum to be charged to the Senator from Georgia.

Mr. WARNER. Mr. President, I object to that.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. HATFIELD. I thought that would get the Senator to his feet. [Laughter.]

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I reserve the remainder of my time at this point. The Senator from Oregon still has a chance to persuade me, if he can use some of his time.

The PRESIDING OFFICER. If neither side yields time, time runs against both sides equally.

The Senator from Virginia.

Mr. WARNER. Mr. President, do I understand the parliamentary situation that both sides will yield time equally?

Mr. NUNN. I yield to the Senator from Virginia if he would like to say something at this point—2 minutes.

Mr. WARNER. I will just take 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have worked as a member of the Senate Armed Services Committee and on Senator NUNN's Subcommittee on Personnel for nearly 18 months now on this question.

Mr. NUNN. Mr. President, I yield 2 more minutes to the senior Senator from Virginia when the distinguished junior Senator finishes.

Mr. WARNER. I wish to join those in commending our distinguished colleague from Oregon for bringing this issue into very sharp focus and perspective which was needed not only by the Senate but by the whole country, and the opportunity has been there for any individual who conscientiously is interested in this question to make an accurate evaluation, because both sides have come forth in a very forthright manner and have presented and framed the issue.

Mr. President, I feel ever so strongly that this Nation must put in place the proper machinery to respond on the occasion—and hopefully this occasion will never occur—where we have to have a mobilization take place.

If the Senator from Oregon were to prevail on the amendment now pending before the Senate it would virtually gut what has been achieved thus far in this simple and relatively inexpensive addition to the Selective Service System.

Therefore, I urge my colleagues, respectfully, to reject the Senator from Oregon's amendment, and that we proceed then to vote on the registration as recommended by the President and the Senate Armed Services Committee.

Mr. President, I yield the time to the senior Senator from Virginia, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I have spoken on this matter before so I shall be brief this morning.

I am convinced that it is absolutely necessary that registration of the young men eligible for military duty in the event of a national emergency be enacted. I think the basic and most important problem facing our national defense structure is the matter of manpower. I am convinced that the all-volunteer program is not working, is not producing the quality or the quantity of individuals needed to defend the United States.

Military personnel problems in the three services have reached a degree of seriousness that requires attention and correction.

Recently in the Subcommittee on Manpower and Personnel of the Committee on Armed Services, witnesses testified that the percentage of Army personnel who have scored in the lowest category in aptitude testing has risen alarmingly just during the past year.

On February 5, at a hearing of the Committee on Armed Services, I asked the Secretaries of the Army, Navy, and Air Force to provide data on a personnel management deficiency which I consider perhaps the most serious problem facing each of the three services today.

I am referring to the astonishingly high rates of attrition loss of first-term enlistees. I am also referring to the very low rates of first-term reenlistments.

I asked each of the service Secretaries to provide current data on attrition and reenlistment rates and on the related issue of enlistment bonus payments.

The data provided discloses some interesting and perhaps unexpected facts.

Of 100 individuals enlisting in the Army this year, the Army expects to lose 13 during the first 6 months of training, an additional 6 during the next 6 months, and another 10 during the second year. That projection, as projections tend to be, is optimistic.

This rate of attrition loss is unique to the All-Volunteer Army. Before the elimination of the draft no one would have thought possible a loss of nearly one-third of first-term Army enlistees before the end of even 24 months of service.

Obviously, there are even further losses before the end of an enlistment period of 3 years or more.

Those are the attrition figures for the Army.

First term attrition losses in the other services are equally severe.

In the Navy, 24 enlistees are lost out of every 100 before completing the second year of a first-term enlistment. In the marines, 26 are gone before the expiration of the same initial time period, many of them gone before they have completed training.

In the Air Force, the situation is not much better. Twenty-one airmen out of 100 are out before the first 2 years of service. These figures suggest several conclusions.

First and foremost, discipline and morale in the All-Volunteer Forces are not evident in the same degree as was the case in the military before the All-Volunteer Force concept was adopted.

Second, the recruiting process is selecting many individuals who are not suited for military service.

Third, the cost to taxpayers in training and paying marginal performers who leave service before completing a first-term enlistment is enormous and one of the main reasons that the investment share of defense spending has dropped to its present level of less than one-third of the total.

Since the All-Volunteer Force concept was introduced, personnel costs have grown steadily and have steadily eaten away at the muscle of our not-so-well Armed Forces.

But there are even further problems with the present volunteer enlistment process. Of first-term enlistees in all services, very few undertake a second enlistment.

In the Army, only 17 of 100 first-term enlistees elect to sign for a second tour of duty.

In the Navy only 22 percent reenlist.

In the Marines, an astonishingly low 11 percent reenlist after a first term.

In the Air Force, as in the Navy, only 22 out of 100 decide on a second tour.

The enlistment bonus program has done virtually nothing to reduce attrition rates or to increase reenlistment rates.

If the payment of enlistment bonuses made a significant contribution to maintaining manning levels in the military forces, then perhaps bonus costs could be justified. But the facts indicate otherwise.

Of every 100 enlistees in the Army who have been paid enlistment bonuses, only 15 have reenlisted. This compares with 14 for all first-term enlistees.

Of every 100 individuals who received enlistment bonuses from the Army, 5 leave service before the end of the first year and 9 before the end of the second year. Their attrition rate is only slightly better than the rate of attrition among enlistees who are not paid a bonus.

Army enlistment bonus recipients have in the past acutally reenlisted at a rate below the presently projected rate of reenlistment for all first-term enlistees. The perceived advantages of paying enlistment bonuses in the Army have not been proven in practice.

In the Marine Corps, enlistees who received enlistment bonuses do not reenlist at a rate appreciably higher than non-bonus recipients.

The enlistment bonus program is new in both the Navy and the Air Force, but there is no evidence that the program will prove more successful in those two services than it has in the Army and Marines.

Again, cost of the bonus program is enormous and growing, and it comes at the expense of procurement of modern weapons and at the expense of realistic training to improve combat readiness.

Yet notwithstanding the lack of evidence that enlistment bonuses are making an appreciable contribution to improve military manpower in the Army or Marines, the Navy plans to increase its enlistment bonus program during the current fiscal year about sevenfold and will pay bonuses to almost 5 percent of enlistees in fiscal year 1980.

The Air Force, which has not previously offered enlistment bonuses, is seeking an initial appropriation of $3 million in fiscal year 1981 to pay enlistment bonuses in three combat support skills.

If the Air Force bonus program is true to the pattern which has developed in the other services, the dollar amount requested can be expected to escalate rapidly in fiscal year 1982 and thereafter, and the number of occupational skills for which bonuses are paid can be expected to increase markedly once the door is opened.

Enlistment bonuses were authorized initially for three categories of combat specialties. Enlistment bonuses are now paid for more than 35 different categories in the Army and over 90 categories in the Navy.

The bonus program has mushroomed far beyond what was originally intended and far beyond the basis on which the program was first accepted by Congress.

Manpower shortages in the three services must be overcome. I question, however, that the programs devised thus far are capable of that task. They seem to be having an opposite effect.

Mr. President, I ask unanimous consent that there be printed in the RECORD, at this point, seven tables which summarize the data presented by the service Secretaries.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—1ST TERM REENLISTMENT RATES

	Fiscal year (percent)—		
	1976	1975	1974
Army	17	14	13
Navy	[1]22		
Marines		[2]11	
Air Force	[1]22		

[1] Current year.
[2] Calendar year group 1975.

TABLE 2.—1ST TERM ATTRITION RATES

[In percent]

	Before—		
	6 mo	1 yr	2 yr
Army	13	19	29
Navy	12	16	24
Marines	14	17	26
Air Force	10	14	21

TABLE 3.—1ST TERM REENLISTMENT RATES FOR BONUS RECIPIENTS

	Percent
Army (for entry year group fiscal year 1975)	15
Navy (none yet eligible)	No data
Marines (for entry year group calendar year 1975)	15
Air Force (none yet eligible)	No data

TABLE 4.—ENLISTMENT BONUS RECIPIENT ATTRITION RATES

[In percent]

	Before—	
	1 yr	2 yr
Army	5	14
Navy (no cata available)		
Marines	5	13
Air Forc—(new program—data not available)		

TABLE 5.—PERCENTAGE OF ENLISTEES RECEIVING ENLISTMENT BONUS

[In percent]

	Fiscal year—		
	1980	1979	1978
Army	No data	10	11
Navy	4.5	.6	No data
Marines	9.0	Unknown	Unknown
Air Force (new program—data not available)			

TABLE 6.—NUMBER OF ENLISTMENT BONUS SPECIALTIES

	Bonus (dollars)					
	3,000	2,500	2,000	1,500	1,000	Total by service
Army	12	12		10	1	35
Navy			2	11		13
Marines		12		75		87
Air Force			1	1	1	3
Total	12	24	3	99	2	140

TABLE 7.—REENLISTMENT RATES FOR HIGH SCHOOL AND NONHIGH SCHOOL GRADUATES

[In percent]

	Graduates	
	High school	Nonhigh school
Army	17	10
Navy	25	18
Marines	14	7
Air Force	24	16

The PRESIDING OFFICER. Who yields time?

No one yields time. Time will run equally.

Mr. NUNN. Mr. President, the Senator from Oregon obviously would like to have the last word on this subject, and I think that is probably appropriate since he has the weaker side of the case.

I just want to say a couple of words about the amendment of the Senator from Oregon. We have not talked about that. We are going to be voting on that first. That amendment cuts from $13 million to about $4 million the amount the President has requested. That amendment essentially will do away with registration. Anyone who is against registration certainly should vote for that amendment.

But that amendment gets us back to the computer plan that, in my opinion, is inadequate and would not do the job.

It is interesting that the Senator from Oregon, though, has made some progress during the course of this debate in his own views. I can tell that because he is now supporting a revitalized selective service plan based on updated computers and more funds.

Interestingly enough, the Senator from Oregon vigorously opposed that in 1978. Senator DOLE proposed an amendment that was voted on but rejected in conference. The Senator from Oregon and the Senator from Wisconsin both opposed that amendment. That amendment would have done precisely what the Senator is now advocating on the computer plan.

It is also interesting that the Senator from Oregon last year, when the Senator from Maine (Mr. COHEN) and the Senator from Kansas (Mr. DOLE) offered an amendment to increase the Selective Service funding by $1.7 million to provide for enhancement of computer capability, the Senator from Oregon (Mr. HATFIELD) opposed that amendment. He said—and this is quoting directly from the CONGRESSIONAL RECORD:

> I personally must make my position clear. I would like to abolish the Selective Service System entirely. I think it is a waste of money at this point.

I just want to let everyone recognize what they are doing when they are voting on this amendment. If you are against the Selective Service System, as the Senator from Oregon has said he is, then you should vote with the Senator from Oregon. But if you are for registration, we must defeat the amendment of the Senator from Oregon and then, of course, we must pass the bill on final passage.

Mr. President, I want to thank all of the Senators on my side of the issue who have participated in this debate and have done a marvelous job of articulating a very important issue for this country. I think it is essential that America be able to mobilize. I think it is essential that America be able to respond to an emergency. We cannot do so today. We cannot fulfill our commitments around the world today.

The question is whether we are going to take a step—a step, a significant step; it is not going to solve all the problems, but a significant step—to enhance our national security.

Mr. President, the Senator from Oklahoma the other day read a quote from General MacArthur. I would like to close our presentation with this quote.

This was General MacArthur writing to William Allen White in the 1970's from the Philippines:

> The history of failure in war can be summed up in two words—too late. Too late in comprehending the deadly purpose of a potential enemy, too late in realizing the mortal danger, too late in preparedness, too late in uniting all possible forces for resistance, too late in standing with one's friends.

Today, if we want to avoid war—and I think we do, everyone in this Chamber—if we want to discourage aggression—and we do—we must not be too late in showing our vigilance and our preparedness.

Mr. President, I urge the defeat of the amendment of the Senator from Oregon and I urge the passage of this bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, we have heard today again some of the very interesting arguments that have been used to promote this registration relating to the possibility that this registration action will plug up the holes of weakness.

Let me say, Mr. President, the exact and precise opposite will occur. It does nothing to plug up the holes of weakness today. It does not address the problems of the turnover, the exodus from the military today because, as the Senator from Montana so eloquently pointed out, due to the low pay scales and the noncomparability of compensation. This does nothing to address those basic problems.

Instead of changing the trend in this country toward the volunteer, it will do exactly the opposite. It will create a vehicle for antimilitarism in this country to colorless because of this coercive system that is being installed.

The proponents are very honest—and I applaud them for that—that their hope and their desire and their true objective is to get the draft back, regardless of what the administration has tried to do in softpeddling that. They said, "Oh, no, this is just registration. We just want to take a little census, just get a little inventory. We really don't want the draft." At least we have had more forthrightness on the floor of the Senate than we have had from the White House on that question.

That is the true purpose. This is to launch the draft again in this country during peacetime. We had 167 years of the voluntary system that worked in this country, and it would work now.

I will tell you why the Senator from Oregon has changed his position on the questions of the computer. Last year when issue was brought up, we did not have the documentation and the program that we now have under the Selective Service showing that postmobilization registration can work without the peacetime draft if we would put a computer into place. That is why I am supporting the computer amendment that I now have at the desk.

I will tell you another reason why the Senator from Oregon has changed his position. This Congress and the President of the United States have failed—have utterly failed—in supporting the needs of a voluntary Army by not providing more comparable compensation, by forcing the moonlighting, by forcing these people into a status of being eligible for welfare and food stamps.

The Gates Commission predicated the whole concept of the voluntary Army on the assumption that the Congress and the President would give them the kind of living conditions that would not only attract but hold these people who volunteer their service.

The Senator from Georgia says that he has great confidence in the patriotism of these young people today. I, likewise, have confidence. In fact, Mr. President, I would suggest that perhaps I have more confidence in the commitment to the patriotism of the young people of this country than the Senator from Georgia, because I do not want to adopt a coercive system.

I am willing to depend upon a voluntary system, because I believe there is so much patriotism in their hearts that they will volunteer if we have decent living conditions for them once they do.

No, this is no demonstration of belief in the confidence of the patriotism of our young people. This is saying: "We believe you have patriotism, but we are not going to take the chance. We are going to put a coercive, mandatory system upon you by which you are forced into the military service under a peacetime draft," which I referred to "Prussian system" of military procurement because it came from Europe and that is why our ancestors came from Europe, was to escape peacetime drafts to supply the manpower for monarchs and autocrats to wage war.

Mr. McGOVERN. Mr. President, will the Senator yield momentarily?

Mr. HATFIELD. Momentarily, I would be happy to.

Mr. McGOVERN. Mr. President, I rise simply to express my appreciation as one Member of the Senate for the fight led by the Senator from Oregon against peacetime registration for the draft. I think he assumes, as I do, that this is simply a cover for an eventual move to the peacetime draft.

As the Senator from Oregon has said, some of those who were advocating draft registration here on the floor have suggested in all candor that that was the ultimate purpose.

That being the case, I think what we are really voting on today is the question of whether this Nation wants to reinstate the draft in peacetime.

It goes without saying that if we get involved in a major military conflict, we are going to have to go to the draft. But to reinstate it in a time of peace is a departure from 200 years of American history.

This country was a haven all during the 18th and 19th centuries, and a good part of the 20th century, for hundreds of thousands of people who came here to raise their children in a country where a compulsory military draft was not required. We have been a country built on the principle of volunteerism.

I think the Senator from Oregon has made an absolutely invincible case in the last few days against the draft registration. It serves no useful function by itself, and if, in fact, it is a step toward the draft, that is the issue we ought to debate.

I want to say to the Senator from Oregon that at our house where we have a son, four daughters, and four grandsons, he is a hero for standing up on this issue. I know young people all across the country feel that way about it, not because they are lacking in patriotism, but because they feel that the principle of volunteerism is more compatible with the American system.

If American foreign policy and American national security policy are defined in reasonable terms so that our young people and all of our citizens can understand, we will not be lacking in adequate manpower and womanpower to do what needs to be done to defend this country.

I commend the Senator for what he has done here in the Senate, for what he has done on behalf of the Nation.

Mr. President, I rise today to urge a strengthening of the Selective Service postmobilization registration capability which the Hatfield amendment would produce and to oppose this unnecessary and unwise legislation to impose a peacetime draft registration on the youth of this Nation.

Several months ago, I was prepared to speak and vote against peacetime registration. Standing behind us at that time were the President, the Department of Defense and the Director of the Selective Service System. They made many valuable arguments and provided useful data to back up their conclusion that postmobilization registration would be adequate to meet the Defense Department's emergency mobilization requirements. Last July, for example, Stuart Eizenstadt, the President's chief domestic aide, told Congress that:

> We do not believe it is necessary to impose this burden (of peacetime registration) on our nation and its youth at this time when there are effective ways to improve the capability of the Selective Service System so that it can respond effectively in time of emergency.

And Mr. Eizenstadt was joined by some of the leading experts and responsible officials in the Defense Department. For example, on September 13, Richard Danzig, the principal Deputy Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, wrote to Senator COHEN that:

> It remains the view of the Department of Defense that a post-mobilization registration plan is feasible, and that it is better to proceed with preparation and testing of that option than to reinstate peacetime registration.

A few days later, on September 17—at the time when the administration was attempting to reaffirm its position against the peacetime registration bill sponsored by Senator NUNN—Mr. Robert Pirie, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, stated that—

> We believe that peacetime registration is not needed from an operational point of view because registration can be conducted after M-day in time to obtain the first wartime inductee by M plus 30, as we desire.

Secretary of Defense Harold Brown stated on June 8 of last year:

> The critical step toward achieving our goals is not immediate collection of names through registration, but rather the immediate improvement of our ability to prepare for processing people, and in the case of mobilization actually to process them, through the Selective Service System.

I have quoted these authorities not just because I respect their conclusions or because I want to point out the impact of one state of the Union speech on the minds of Government officials, but rather because the widely held belief of last year that peacetime registration was unnecessary provides the essential background to the drafting of the report by the Selective Service Director of January 16, 1980. This report, which I will discuss in more detail shortly, reached the conclusion that a peacetime registration plan would be "redundant and unnecessary" because the Selective Service agency would be able to meet its mobilization requirements through a post-mobilization plan.

This report, which provides the most thorough—and the only—data base for comparing the various registration options, has been labeled as "only a draft report." The proponents of peacetime registration have called it a "hoax." Some of the officials who earlier supported the report's conclusions now say it is inaccurate or misleading or is impossible to implement.

But this report did not come out of thin air. It was a faithful and—as far as I can tell—an accurate attempt to explain why the Secretary of Defense, the Assistant Secretary of Defense for Manpower and numerous other officials were not supporting the peacetime registration plan. If the report is a hoax, then everything the administration has been saying for the past year must also be considered a hoax. And if that is the case, then we are faced with one of the greatest cases of Government deception or ineptitude or incompetence in the history of the Republic.

In addition, the conclusions of the report prepared by Bernard Rostker, the Director of Selective Service, had been anticipated by an analysis of the Congressional Budget Office prepared in November 1978. One of the findings of that CBO study was that a postmobilization plan could be accomplished either by constructing a list from existing Federal data files or by planning an in-person registration, using the facilities of the Post Office or some other Federal agency which had an adequate field structure. This provides additional confirmation of the validity of the January 16 report.

If there is a hoax involved, it is not the drafting of the Rostker report—the hoax is the administration's change of position that peacetime registration is a military necessity. We must not fall victim to that hoax—and that is why this extended debate to educate the Senate and the country is so important.

Let me turn now to some of the analysis and conclusions in the Rostker report. I realize these have been mentioned many times on the floor during this debate, but they bear repeating because they are of such critical importance to a rational debate and a wise decision by the Senate.

The report examined in some detail five options for how the Selective Service System could carry out its mission in support of the Defense Department. The options included peacetime registration and postmobilization registration and several variants in between. In preparation for this report, the Selective Service System developed a new postmobilization registration plan, which, according to the report, was "dramatically different from the plan previously presented to the Congress." The report concluded that among the various participatory plans:

> The post-mobilization option is by far the most cost-effective, and the least intrusive, and is the option chosen by Selective Service.

Here is how the report described the new postmobilization plan:

> Post-Mobilization Participatory Registration. The discussion of this option reflects major changes from the post-mobilization plans previously presented by Selective Service. Our new plans provide that the USPS register one year of birth group (4 million men and women) four days after notification of mobilization (M+4). USPS employees will review completed forms, witness the registrant's signature, and provide the registrant with a copy of the form as a receipt. Two weeks later USPS will begin continuous registration of 18 year olds. Selective Service will conduct a lottery on the evening of M+4. The USPS will sort registration cards by lottery number and forward sorted data to IRS and/or SSA regional offices. Selective Service reserve officers will be located at IRS/SSA regional offices and will receive and ensure the security of the registration forms. The IRS/SSA will keypunch registrant data which will be transmitted to a central computer center. The Director of Selective Service, acting for the President and using EEMPS, will issue induction orders starting on M+7.

By implementing this option—and I strongly support providing the additional funding which the Selective Service System would require—the Selective Service System could exceed the current Defense Department requirement for inductees. The draft report concludes that registration could occur at M plus 4 and induction notices would be issued starting on M plus 7. Inductions would begin on M plus 17 at the rate of 7,000 per day, the estimated capacity of Defense Department's Military Enlistment Processing Command. Based on this sustained rate, 100,000 inductions could be made by M plus 35 and 650,000 inductions by M plus 125 days.

These results would be safely within the Defense Department's demanding mobilization requirements, which call for the first inductions to begin by M plus 30. Under the postmobilization plan, inductions would begin at M plus 17. The Defense Department requires 100,000 inductions by M plus 60. The postmobilization plan would produce 100,000 inductees by M plus 33. The Defense Department requires 650,000 inductees by M plus 180. The postmobilization plan would produce 650,000 by M plus 124.

So the basic conclusion of the January 16 report—and the basic premise of those of us who oppose peacetime registration—is that this legislation is simply not a military necessity in terms of meeting the Defense Department's requirements. That has to be the bottom line for the Senate. Our points of view may differ on the effectiveness of using registration to send a signal to the Soviet Union. They may differ on the intrusion of Government into the personal lives of its citizens which this registration bill represents. But we are all determined that the defense apparatus of this Nation be fully prepared to meet any emergency threat. And I have no doubt that a postmobilization plan is fully adequate to achieve this goal.

Now it's true that the peacetime registration plan which President Carter asked for in his state of the Union speech would shave a few days off these target dates by meeting each of the three key requirements which I just described 7 days earlier than the postmobilization plan. Seven days—that is the difference we are debating.

Given the fact that it takes between 3 to 6 months to train a recruit, this minimal time-saving is of little or no use in an emergency which would be based on a "short war" scenario. As I will discuss later, beefing up the National Guard and Reserves is the best way and perhaps the only way to provide trained manpower during the critical early weeks and months of a war. Therefore, I can find no correlation between the 7 days saved and any reasonable military interest.

A second factor is the limitation on the training facilities. With the Pentagon having only 70,000 to 80,000 training slots open by M plus 30, it makes no sense to flood the training apparatus with raw recruits so quickly. This limitation applies both to the peacetime and to the postmobilization plans because the training centers are unprepared to handle the maximum flow which either could produce.

A third factor which makes the 7 days irrelevant is the likelihood of a large number of volunteers coming forward in response to a national emergency. The Selective Service draft report fails to take the presence of volunteers into account. Perhaps it was wise to have that analysis based on the worst possible case by assuming in the midst of a great national emergency that not one person would be ready to step forward to defend the country. But that is a preposterous assumption. When this question was asked by Senator PROXMIRE during his subcommittee hearings, the administration representatives suggested that there would be volunteers, but only as many as now volunteer for the All-Volunteer Force. This is preposterous on the surface.

I think it is a more likely case—and certainly a more reasonable basis for planning than the extreme worst case—that there will be large numbers of volunteers in the period of emergency and that these volunteers would overwhelm the capacity of the Defense Department to train them. This was my personal experience in World War II, it is a consistent national tradition during the two world wars and I expect it will be a trademark of American society in the future.

In fact, there are so many weaknesses with the peacetime registration plan that I have to wonder why it attracts any support at all. For example, any registration files established as a result of this legislation will become quickly dated given the mobility of America's youth today. Within 1 or 2 years, many of the addresses will be out of date and if an emergency occurred, perhaps as many as several hundred thousand induction notices would be sent to the wrong addresses. This problem, I might note, would not impair the utility of the address list established by the postmobilization plan because the induction notices would be mailed out only a few days after the 19- and 20-year-olds had provided them at the Post Offices.

Since the supporters of this legislation have made the 7 days seem critically important, I have to wonder why would they be satisfied with peacetime registration which does not involve classification of the registrants or physical examinations either. They describe an emergency scenario and then support a partial measure which cannot possibly achieve all that they are after. Why is this the case?

The answer, it seems to me, is that peacetime draft registration is really a "Trojan Horse" for the peacetime draft. By passing this legislation, the advocates of junking the All-Volunteer Force will be getting a foot in the door which had been closed by the Gates Commission and by the actions of every Congress and administration since then. Just last year, peacetime registration was offered as a so-called compromise proposal by the supporters of the draft as a tactical move. The administration was smart enough to detect this ploy back then and rightly opposed it. But now the Carter administration is leading this "Trojan Horse" up to the gate. In time the administration may well regret this proposal because the probable end result is that once registration is imposed, the draft itself will be reimposed. There is simply no other reasonable explanation for cranking up the draft machinery than to begin drafting.

Thus, it is inevitable that the debate over peacetime registration for the draft must also involve a consideration of the need to improve the All-Volunteer Force. This is the subject to which I now turn.

Mr. President, several months ago former Secretary of Defense Melvin Laird wrote an essay entitled, "People, Not Hardware: The Highest Defense Priority." Mel Laird was the Defense Secretary who ended draft calls and instituted the All-Volunteer Force. I think he put his finger on the biggest problem facing the Armed Forces today: the failure to provide adequate resources to make the total force concept succeed. We tend to forget that ending the draft in 1973 not only led to the All-Volunteer Force but also led to a more prominent role for the Reserve forces and the National Guard. But since the creation of the All-Volunteer Force, we have allowed both the AVF and the Reserve elements to deteriorate, thus undermining the total force concept. We cannot expect the AVF and the Reserves to do their job unless we provide sufficient resources. That is the major challenge facing this country's military preparedness.

One of the major problems is that military compensation has declined in real terms since the AVF was launched. Since 1972, the Consumer Price Index has risen 75 percent while military compensation has risen only 51 percent. According to former Secretary Laird, this means a decline of over 14 percent in purchasing power for all military personnel, and a decline approaching 25 percent for some enlistees in the lower grades. Average compensation for an enlisted person is 17 percent below the lower standard of living for a family of four.

One of the examples cited by Mr. Laird has been referred to several times during this debate, but it is a graphic reminder of the nature of the problem. An E-4 grade plane handler on the nuclear carrier *Nimitz*, which just returned from the Indian Ocean, who works 100 hours per week, makes less per hour than a cashier at McDonald's and is eligible for food stamps. There are many other examples which illustrate the failure of military compensation to provide a dignified pay scale commensurate with the extraordinary service rendered by our uniformed men and women.

Inadequate military compensation leaves its mark in the recruiting shortfalls for the AVF and in the exodus of skilled personnel at the middle grades. The services have been losing about 75 percent of those completing their first enlistment since 1976, and this mass departure puts more pressure on the recruiters who must find replacement and it increases training costs.

I shall have more to say later on about some of the reasons why Congress has appropriated billions of dollars since the AVF was formed yet has been unwilling to provide sufficient resources. One of these reasons is that we tend to treat the military budget as a political symbol of our foreign policy rather than as a more refined tool for maintaining military readiness. But it seems to me that one of the fatal flaws in this registration legislation is that it fails totally to address any of these real military personnel problems.

First of all, asking our young people to march down to the post office is not going to encourage any of them to enlist in the AVF or in the Reserves. The draft did this in the past and would do this in the future. The draft is not needed and I do not support it, but it does help to clarify that peacetime registration has none of these secondary effects in terms of early enlistments or entry into the Reserves which the draft did produce.

Second, registration of course will have absolutely zero impact on retention problems. More to the point, a draft would also be inappropriate to increase the supply of the sergeants and captains and the other middle grade, experienced personnel. You just cannot draft the people with 6 or 8 years of experience. The grades which would be most directly affected by a return to the draft—the three lowest enlisted and the two lowest officer grades—were overenlisted last year, so the AVF is not falling short on that account.

Once again, Mr. President, I know that many of the supporters of this legislation are aware of these personnel problems and want to solve them, but the utter inadequacy of registration to move us toward a solution is additional evidence that the real intent of this proposal is to take us one critical step closer to a peacetime draft.

If peacetime registration is irrelevant to the military personnel problem, are there alternative solutions? Just as a beefed-up Selective Service capability is the alternative to registration, increasing military compensation and broadening the range of educational and other benefits are the alternatives to a return to the draft. If we make good on our original promise to the men and women who volunteer for the AVF, we can turn this institution into the lean and effective fighting force it was meant to become.

Increasing military pay across the board is the most direct approach to retaining the middle grade officers and other skilled personnel. If the erosion in military pay can be halted, the exodus of experienced people can be stopped. The Armstrong-Matsunaga amendment, which provided for a 3.4 percent across-the-board pay hike, which I supported, would have been the quickest injection of funds to achieve this purpose. I also supported as an alternative the so-called Nunn-Warner package of targeted benefits which provided for increased housing allowances, higher reimbursement for Government-ordered travel, increased cash allowances for food and other improvements affecting military careerists.

I believe that military compensation should be brought closer to full comparability, and therefore I am cosponsoring the National Defense Compensation Act, which has been introduced by Senator ARMSTRONG, who is one of our colleagues opposing peacetime registration. This legislation would make the following changes:

First, it would remove the authority the President has under present law to impose caps on military cost-of-living increases. Military pay has been arbitrarily capped three times in the 8-year history of the All-Volunteer Force, and the President is planning to impose yet another pay cap in fiscal year 1981. The best way to show our military personnel that things will get better is to guarantee them things will not get worse.

Second, the National Defense Compensation Act provides for a 9-percent pay increase, over and above cost-of-living increases, for the three lowest enlisted grades and the two lowest officer grades. The pay increases would be phased in at a rate of 3 percent a year for 3 years, beginning in fiscal year 1981.

Third, the National Defense Compensation Act provides for an 18-percent pay increase, over and above cost-of-living increases, for the career enlisted and officer grades. The pay increases would be phased in at a rate of 6 percent a year for 3 years, beginning in fiscal year 1981.

Finally, the National Defense Compensation Act provides for a 100-percent increase, to be phased in at a rate of 33 percent a year for 3 years, in the following special duty pays: flight pay; parachute duty pay; submarine duty pay; demolition duty pay; sea pay, and carrier flight deck duty pay. Flight pay was last increased in 1974; carrier flight deck duty pay in 1965; parachute pay, submarine pay and demolition duty pay in 1955.

These steps would not only improve retention of skilled career personnel, but they would also greatly improve the recruiting picture for the AVF.

However, I would caution against taking an exclusively economic or pay approach to the problems of the AVF. Increasing pay alone tends to motivate those with poor grades or the high school dropout. But studies indicate that it has a negligible impact on college-bound youth. Therefore, if we want to increase the proportion of high school graduates, which makes training easier and which makes the AVF a more representative institution of American society, then we are going to have to look beyond salary alone as a motivating factor.

Mr. President, the United States needs a new GI bill to provide generous educational benefits to attract qualified new recruits into the All-Volunteer Force. The original GI bill was a great positive symbol to my generation because it offered a true and useful reward for service honorably rendered. We have to offer the same symbol and the same rewards to young people today to make the All-Volunteer Force succeed.

I was a combat bomber pilot in World War II. After the war, I used the GI bill to complete my undergraduate schooling at Dakota Wesleyan and to gain a Ph. D. in American history. I watched many of my wartime buddies take advantage of these great educational opportunities as well. So I can speak from personal experience about the value of a GI bill.

A paper prepared for the Hoover-Rochester Conference on the All-Volunteer Force at Stanford in December, 1979 by Prof. Charles Moskos analyzes the impact which a more educationally representative group of accessions would have throughout the AVF. Professor Moskos is a professor of sociology at Northwestern University who also presented a summary of his paper to the Senate Budget Committee a few weeks ago. Professor Moskos suggests that high school graduates are twice more likely than high school dropouts to complete their enlistments. This finding remained virtually unchanged when mental aptitude is held constant. In other words, high school graduates from the so-called lower aptitude levels are much more likely to finish their tours than high school dropouts in the higher aptitude levels.

The significance of this finding is that it suggests that an important solution to the revolving door turnover rate of the AVF, which increases the numbers of new recruits needed and increases the training costs as well, is to raise the number of high school graduates who enter.

And then Professor Moskos goes on to make this conclusion:

> Other measures of soldierly performance, such as enlisted productivity and low disciplinary actions, show precisely the same correlates as found for attrition rates. High school graduates significantly outperform high school dropouts. Possession of a high school diploma, it seems, reflects the acquisition of social traits (work habits, punctuality, self-discipline) which make for a more successful military experience. The conclusion is inescapable. The All-Volunteer Army would be better served by attracing more high school graduates or, even better, college bound youth, that is a more representative cross-section of American young men.

This conclusion leads Professor Moskos to suggest that the educational benefits of a new GI bill would better motivate high school graduates to join the AVF than a purely pay-motivating recruitment policy.

I find this analysis and these recommendations compelling, and I therefore have become a cosponsor of the Veterans' Education Assistance Act of 1980, which was introduced by Senator ARMSTRONG and which was influenced by the work of Professor Moskos. Under this legislation, a serviceman or woman who enlists or reenlists on or after October 1, 1980, and who completes 2 years of honorable service, will earn GI bill benefits of 100 percent of tuition and fees at an accredited junior college, college or university, to a maximum of $3,000 a year, for a maximum of 4 academic years, and will also receive a subsistence allowance of $300 per month while enrolled in an accredited college or university, for a maximum of 36 months.

A balanced but generous program of pay increases and educational benefits will make the AVF viable. But to make the total force concept succeed, we must also make the National Guard and Reserve elements more fully manned, better trained and more ready.

Mr. President, when draft conscription was ended in 1973, the Nation adopted the total force policy which elevated the military role of the National Guard and Reserves. With a smaller standing Active Force under the AVF, the intent of this policy was to enable the Guard and Reserves to provide the critical reinforcement capability during the time of return to conscription. These Reserves would both fill-out existing active units on their way to the battlefield and would replace the wounded and the killed in action until a sufficient number of new recruits were available.

The military mission of the Reserve Forces was enhanced by the establishment of the AVF. Another reason for the growing military prominence of the Reserve Forces is the prediction that any war in Europe between the United States and the Soviet Union—or, more accurately, between NATO and the Warsaw Pact—will likely be a short and very intense war. Indeed, the Defense Department's manpower mobilization requirements are based on a recalculation of the older levels following the 1973 Middle East war. Manpower needs and weapons stocks are now calculated on the basis of the intensity of fighting exhibited in 1973.

I think a war in Europe is very unlikely. There is an adequate military balance between East and West and there are sufficient political and economic ties to deter military conflict. But if a war did break out, the short war scenario does seem the most probable type of war. The role of the Reserve elements under these conditions is even more important because the first several weeks will be critical.

Indeed, there are a number of military experts, including European analysts, who suggest that a war will either be decided very quickly or else it will escalate to nuclear warfare. This means that it is not at all certain that newly trained draftees, who would be registered by either the peacetime or the postmobilization plan, would be able to get to Europe in time. If that is the case, the Reserve Forces bear a very significant burden to determine the outcome of this hypothetical conflict.

A strong defense for America therefore requires a strong National Guard and Reserve Forces. But while the Nation has created a new military role for the Reserves, it has not provided sufficient resources to enable them to carry it out. This is an unacceptable squeeze.

Despite the problems of lack of funds, old equipment and a shortage of realistic training opportunities, the Reserve recruiters are doing an excellent job to attract people into the Reserves. In South Dakota, for example, the National Guard recruiters have exceeded their peacetime authorized strength. South Dakota is one of only four States to achieve this distinction. On the whole, South Dakota's Guard and Reserve picture is an accurate representation of the national situation, with the Guard and the Navy Reserve at close to top manning levels but with the Army Reserve lagging somewhat behind. Let me discuss briefly how the Reserve elements are doing in South Dakota:

Here is a thumbnail sketch on the status of the Guard and Reserve units in South Dakota.

The South Dakota Army National Guard is composed of 24 major units in 42 cities. These include artillery, engineer, medical, maintenance and transportation elements. The Army Guard has an authorized peacetime strength of 3,581 spaces in South Dakota and has filled 3,514. This represents a 98 percent authorized peacetime strength—far above the national 85 percent level.

Although the precise figures are classified "Secret," the Guard's readiness rating is very good. Our Guard Forces have benefited from the distribution of incentives to the "early deploying units," which has been one of the major policy reforms in recent years.

These incentives and bonuses work so well for the "earliest" deploying units that they should be expanded to cover later deploying units as well.

There are two Air National Guard units in South Dakota: The 114th Tactical Fighter Group (TFG) at Joe Foss Field and the ANG State Headquarters in Sioux Falls. The 114th TFG has 18 A-7D fighter aircraft and, like the Army National Guard, is respected for its readiness rating. This unit also has an excellent safety and inspection record.

The ANG is manned at 94.4 percent (762 spaces) of its authorized peacetime strength of 807 spaces. This almost equals the 95.3 percent national average. However, the ANG's retention rates exceed the national levels. Our fiscal year 1979 rate was 68.2 percent and the national average was 64.8 percent. The retention thus far in fiscal year 1980 is 70.2 percent compared to the 61.5 percent national figure.

The ANG would like additional training planes and more funds for "real time" military exercises.

Two military construction projects will

benefit the Air Guard. An aircraft apron repair project at $2 million is scheduled to begin this year and a new operations building costing $140,000 is planned for fiscal year 1981.

Although South Dakota is far from the oceans, we have an important Naval Reserve element which will contribute its skills on a combat ship and for such shore duties as cargo handling, construction, telecommunication, and surgery.

South Dakota's Naval Reserve Center is located in Sioux Falls and is composed of six units. These units normally drill on either the second or third weekend of each month.

There are 192 authorized peacetime spaces and 182 personnel in place. This minor "shortfall" is due to a shortage of available people with the appropriate skills.

Finally, there is the South Dakota Army Reserve. Currently, there are four U.S. Army Reserve units in South Dakota: The 452d Ordnance Co. in Aberdeen; the 374th and 446th Chemical Cos. in Sioux Falls; and the 5043d Army Reserve School also in Aberdeen.

The Army Reserve in almost every State has had the most difficulty meeting its authorized peacetime strength. South Dakota is at 69 percent of authorized strength, slightly below the 74 percent national average. However, our Reserve is scheduled for a major reorganization. A new unit—the 323d Chemical Co.—will be activated in Sioux Falls to combine the missions of the 374th and 446th Chemical Cos. This restructuring should improve the recruitment and retention picture by making the new company eligible for the highest category of incentives, opening more officer spaces for promotion and bringing in modern equipment.

There are no Marine Reserve, Air Force Reserve or Coast Guard Reserve Units in South Dakota.

South Dakotans can be proud of this record.

Since I have been outlining alternatives to peacetime draft registration and to the draft itself, let me suggest several methods for improving the National Guard and Reserves.

First, we need to improve our mobilization response by eliminating unnecessary administrative delays. For example, the Selected Reserves currently have a statutory 30-day delay after mobilization before they have to report. Instead, we could let the Secretary of Defense set reasonable delays to allow reservists to get their affairs in order which could shorten these 30 days.

In addition, we could eliminate the present requirement that members of the Standby Reserve be processed by the Selective Service System during mobilization. Instead, the Services could manage and recall Standby Reservists directly and more quickly.

Second, we need to improve and expand the range of general financial incentives to increase enlistments and reenlistments in the Reserves. I support an extension of the existing incentives for Selected Reserve reenlistment. I also favor creating a new bonus for persons who reenlist directly in the Individual Ready Reserve.

Third, we can create special incentives which are targeted to today's young people who have unique financial problems. For example, I am a cosponsor of a Senate bill (S. 2071) which would forgive Federal student loans in exchange for each year of Guard Reserve military service. One hundred-percent forgiveness could be achieved through 10 years Guard or Reserve service.

Fourth, we need greater equity between Active Forces and Reserve Forces. For example, Guard, Army Reserve and Air Force Reserve should be allowed—just as other categories of military personnel are authorized to do—to utilize an aggregate of both active duty and active duty for training to count toward retirement benefits.

In addition, guardsmen and reservists should be entitled to the same cash awards for suggestions, inventions, and scientific achievements which the Active components now enjoy.

Fifth, we need greater parity between the different Guard and Reserve components. There is no reason why benefits or protections should not be extended to all who have made a military commitment. For example, guardsmen and their dependents should receive Federal credit for retirement, health, and other benefits for full-time training or other full-time duty. Just reservists presently enjoy this benefit.

Sixth, we need to make sure the Guard and Reserve Forces have adequate equipment for effective training and for mobilization. In this area, the advice of local units is especially important. For example, how important are the two-place A-7K combat aircraft for training as compared with fixed-wing utility aircraft like the U-21's? Similarly, how important are such items as bridge boats for engineering units and 5-ton cargo trucks?

The local commanders know their training and equipment needs the best. The items which tax dollars purchase should meet local needs.

I would like to mention one legislative proposal in particular because it closely tracks the GI bill concept. I support the forgiveness of Federal student loans under the national direct student loan and the guaranteed student loan programs in exchange for Guard and Reserve military service. This should also apply to Active Force service, of course, although there is overlap with the GI bill in this area. The loan forgiveness concept has been considered in the House of Representatives as an amendment to the Higher Education Act and in the Senate is a separate bill, S. 2071, sponsored by Senator COHEN, and known as the Higher Education Military Service Student Loan Cancellation Act.

This legislation proposes $1,000 or 20 percent, whichever is greater, loan forgiveness for each year of satisfactory service completed after enlistment in an Active Armed Force. Similarly, it proposes $500 or 10 percent, whichever is greater, for each satisfactory year of service completed following enlistment in the Guard or Reserve.

One hundred percent of forgiveness could be achieved through 10 years Guard or Reserve service.

I might note that the National Guard Association supports this legislation.

This peacetime draft registration is not a military necessity. There are more appropriate alternatives which will enable Selective Service to meet our mobilization needs in an emergency and which will also—unlike this legislation—address military readiness problems in the AVF and the National Guard and Reserves.

Mr. President, there are a number of supporters of peacetime draft registration who will admit that this legislation cannot be justified solely or even primarily on the basis of military necessity. They have concluded, as I have done, that registration now is not a military requirement because an effective postmobilization plan can meet the Defense Department's demanding mobilization requirements with room to spare.

But after conceding the military argument, the proponents of this legislation go on to make the argument that registration legislation still should be passed by Congress for the purpose of sending a signal to the Soviet Union to protest the Soviet intervention in Afghanistan.

Therefore, the action of the Senate on this legislation will in part reflect our judgment on the question whether peacetime registration is a necessary signal, is an effective signal and is the kind of signal which can be sent without adverse consequences which might far exceed its benefits.

What is curious about this symbolism hypothesis is how often we have heard it during the past 1 or 2 years. As I look back on almost every single major foreign policy debate, the final appeal for or against a particular piece of legislation has always been that we must pass it to send a signal abroad.

For example, the question of the role of covert operations by the Central Intelligence Agency in America's foreign policy is now presented as an opportunity to "unleash the CIA" to send a signal to the world that we intend to get tough again. The question of the proper level of real growth in military budget decisions has become a question of sending a signal to the world that we are prepared to remain a global power. The question of creating a rapid deployment force has been presented as a way for the United States to make clear to the world that we have shaken off the so-called Vietnam syndrome. Rushing arms last year to North Yemen was justified as a signal that we would be prepared to act decisively in the Persian Gulf region.

And the list goes on and on. But the point is that there is hardly any foreign or military decision we take which is not justified as a signal or symbol of some kind.

Now it cannot be doubted that there are times when diplomatic symbolism has genuine merit. It must remain one of the tools of policy available to any President and to the Congress. Significant reductions in our domestic energy consumption, for example, would be an important signal to send to the world that we are prepared to deal with the energy crisis.

However, it would not be wise to formulate a foreign and defense policy which is based primarily on symbols at the expense of substance. We can go too far in accepting symbolic measures, for foreign policy is not simply an exercise in communicating signals—it is and must be an exercise in trying to shape international realities to best serve American interests and the interests of global peace and justice in general.

Peacetime registration is simply not the kind of signal which will help us shape international realities. It is inconceivable to me how sending our 18- and 19-year-olds to march down to the post office once a year is going to influence any country about anything. It will not improve our recruitment or retention of qualified personnel for the All-Volunteer Force. It will not help us to beef-up the readiness of the National Guard and Reserve Forces which we depend on to fill in the Active Force structure and to replace the initial casualties in combat. These are the kind of substantive actions which other countries might stand up and notice. But registration will not convince the Soviet Union of any basic change in American attitudes or capabilities. Registration may have appeared as an effective domestic political gesture to announce in a state of the Union speech, but it is not a worthy product to exchange in the international market of diplomacy.

The peacetime registration symbol is not only ineffectual but it may also be counterproductive if it distracts attention from the genuine problems of military readiness which face this country's military forces. There is a tendency to focus exclusively on the symbolism and to ignore the substance. This clearly has been the result of treating the military budget as a political symbol and attempting to base spending decisions on the theory of signal sending. Let me describe this problem in a little more detail.

The failure of the U.S. rescue mission in Iran highlighted shortcomings in our military operational capabilities. Yet, the recent military budget debate in Congress has shed little light on the underlying reasons why spending over $1 trillion on defense since the end of World War II has left us with helicopters which break down, fighter aircraft grounded for lack of spare parts and experienced military technicians leaving for more rewarding jobs in civilian industry.

The readiness problem is real. The Commander of the Atlantic Fleet Naval Air Force, Vice Adm. George Kinnear II, admits that 47 percent of his first-line F-14 fighters are not certified to fly peacetime missions because they are awaiting repairs.

I recently visited Ellsworth Air Force Base in South Dakota, one of the most important strategic air command bases in the Nation, and saw crumbling taxiways, poor housing, obsolete service vehicles, and uninsulated hangars so cold in winter that the mechanics must repair America's most advanced strategic weapons with numbed hands.

There is a growing consensus that readiness problems exist not because we spend too little on defense but because we do not spend the existing huge budget wisely. Instead of stressing a lean and ready defense structure, the defense budget overemphasizes procurement of highly complicated, new weapon systems. For example, in 1983 the Air Force will spend twice as much as it did in 1975 to purchase new tactical aircraft, but the operating account for repairing the planes in 1983 will be the same in real terms as it was in 1975.

Why have we not spent enough to maintain our existing hardware or to retain qualified military personnel? Is it because, as Gen. David Jones and Senator JOHN CULVER have suggested, there is no constituency for military readiness? These basic questions must be addressed or else we will spend the $1 trillion budgeted for defense for the next 5 years and end up where we are now.

The readiness dilemma, in my view, is caused largely by the politicization of the military budget which has occurred since the end of the Vietnam war. The military budget has evolved into a barometer of our post-Vietnam intentions in the world. Higher and higher military spending is proposed not to carry out specific missions or to buy particular weapons but rather to send diplomatic signals to friends and adversaries that we intend to remain an assertive global power. If 3 percent real growth is not sufficient to prove this point, then 5 percent must be.

There are two dangers to treating the military budget as a symbol of our foreign policy. First, it divorces spending decisions from realistic military planning. Voting to buy another aircraft carrier or a World War II battleship is a satisfying way to send a signal, but no new capability is added if there are not enough spare parts and mechanics to keep it running.

Conversely, the type of spending which improves readiness in the short run—overhauls, training, spare parts—is considered too "mundane" to exert any influence on foreign policy. Who wants to "send a signal to the Russians" by buying more spare parts? Budget symbolism thus ignores the axiom that more dollars do not automatically buy more defense.

The second danger is that symbolic budgeting leads to inflated expectations of the capacity of military force to shape decisions and influence conflicts in the world. Once the military budget has become the barometer of our world standing, then every frustration we face—whether Iran, OPEC, Afghanistan or allied solidarity—is erroneously traced back to military causation. As a result, the military budget is expected to deter not just a finite set of hostile military threats, but a broad range of political and economic decisions by other countries as well.

By using the military budget or peacetime registration as the primary instrument for sending diplomatic signals in the world, we have ended up with the worst of both worlds: an inoperable military force and an unrealistic view of the ability of military power to deter political events. Our readiness problems, therefore, are the logical outcome of the way we have been approaching the budget.

I offer two recommendations to solve the readiness problem. First and most obviously, the readiness budget accounts should be increased. Weapons maintenance and military pay must receive a greater share of the assets to extract the greatest potential from the existing force structure even if this means foregoing the latest "Star Wars" gadgetry.

The second change is more difficult: we must discard our faulty conception of the military budget as a barometer of intentions and return to a more finite concept of military deterrence—as the military's primary mission. This requires foregoing the empty symbolic debate on abstract budget increases and turning instead to utilizing the military budget to strengthen actual military capabilities while we look to a more realistic mix of military, diplomatic and economic policies to secure our vital interests in the world.

My conclusion, Mr. President, is that we should move on to fashion solutions for our military personnel problems and reduce our reliance on symbols for the sake of symbols.

In conclusion, Mr. President, let us have a firm foreign policy response based on substance, not on symbols. Effective steps to improve military readiness are the most appropriate signals to send in a troubling international climate which has not been caused by any slackening of America's military power. We can deal with it in a rational and sensible way. We should move forward to protect America's vital interests while we seek to create an international consensus against any more military interventions in the internal affairs of other countries.

Mr. HATFIELD. I thank the Senator for his remarks.

Mr. President, I yield to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I commend the Senator from Oregon for his leadership in the debate over the question of registration. If anyone takes the time to read the RECORD, the arguments pro and con, one can reach no conclusion other than that registration is totally meaningless. It has nothing, and I emphasize nothing, to do with the defense of this country. It does not address the problem this country faces in terms of military manpower.

In fact, when you look at the testimony of the Selective Service Commission, when you look at the testimony of the administration last fall, when you read the arguments and the timetable that remains unrefuted in the RECORD, placed there by the distinguished Senator from Oregon and others, it is clear at the very best that preregistration might save 7 days. But when you look at the facts as to what the Army could absorb and with what speed, I think the argument is irrefutable that it does not save a single day.

The argument is made that it sends a signal. Well, it is a signal that is so weak that those who are supposed to receive it will not receive it.

Mr. President, beefing up our manpower in the active services and building up our manpower, equipment, and training facilities in all of our Reserves, in my judgment, is the most immediate and urgent problem.

Mr. President, the debate here today centers around the question of registration, and, ultimately, the military draft. However, a return to registration will not solve the central problem of military manpower. Registration, in fact, does not solve any problem. The real problem revolves around the question of manpower, a lack of understanding of what is meant by the term "total force policy," and the failure to give the "All-Volunteer Force" a chance to succeed. For unless and until all our military forces—Active and Reserve—are provided with adequate resources, then the concept of a voluntary military cannot possibly be given the opportunity to prove itself.

During the early 1970's, America moved from reliance on compulsory military service to volunteer service. Our military forces were organized into basically two components—the Active Forces and the Reserve Forces. The Reserve Forces, in turn, are composed of six different elements: the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air Force Reserve, the Army National Guard and the Air National Guard. These Reserve elements were certainly nothing new: America has a better-than-200-year tradition of citizen soldiering. National Guard and Reserve units have always served their country with great distinction in peace and war.

But the early 1970's brought with them a fundamental change in the roles assigned to the Reserves and the National Guard. I doubt whether many of us realize the degree to which we are dependent upon the National Guard and the Reserves for defending this country in time of war. Nor do many Americans realize the degree to which both the Guard and the Reserves are dangerously short of qualified, trained manpower, up-to-the-minute weapons and equipment, and modern, training facilities.

How many Americans understand what is meant by the term "total force policy?" How many Americans realize that the success of the All-Volunteer Army concept depends on the strength of the National Guard and the Reserves? And how many Americans realize just how undermanned, underequipped and poorly trained many of National Guardsmen and Reservists are today?

Melvin Laird, the then-Secretary of Defense, first outlined the total force concept back in August 1969. Secretary Laird envisioned a military force that integrated a volunteer active Army, a volunteer National Guard, and a volunteer Reserve into one unified fighting force. Under the concept of policy of total force, it is the mission of the National Guard and the Reserves—our "citizen soldiers"—to augment the Active Forces in time of war or national emergency.

In order to assure a swift and orderly transition from peace to war, the Guard and the Reserves must perform as disciplined and coordinated teams. If war breaks out in Western Europe, then within 90 days more than half the Army's combat troops, infantry and armor battalions, field artillery battalions and combat engineer battalions would be made up of National Guard and Reserve units. Similarly, more than half our tactical airlift planes, airlift crews, tactical reconnaissance, fighter and air-defense planes would come from Air Guard and Reserve units. The extent of the Nation's reliance on Reserve Forces for critical tasks is not always visible. The following figures show the huge responsibility imposed upon the Reserve Forces under the total force concept shown as a percentage of the total mission:

Army National Guard: 33 percent of the combat divisions; 72 percent of the separate brigades; 57 percent of the armored cavalary requirements; 63 percent of the infantry battalions; 41 percent of the mechanized infantry battalions; 42 percent of the tank battalions; and 48 percent of the field artillery battalions.

Army Reserve: 11 percent of the separate brigades; 33 percent of the Special Forces Group; 9 percent of the field artillery battalions; 44 percent of the medical units; 33 percent of the combat support aviation companies; and 30 percent of the combat engineer battalions.

Naval Reserve: 100 percent of Navy U.S. based logistic airlift; 99 percent of Navy control of shipping organization; 88 percent of Navy ocean minesweepers; 86 percent of Navy inshore undersea warfare units; 86 percent of Navy cargo handling battalions; 68 percent of Navy mobile construction battalions; 66 percent of Navy special boat forces; 35 percent of Navy maritime air patrol squadrons; 34 percent of Navy intelligence personnel; 35 percent of Navy medical support personnel; 14 percent of Navy tactical air wings; 10 percent of Navy surface combatants (destroyers); 8 percent of Navy base operating support personnel): and 5 percent of Navy amphibious warfare ships.

Air Reserve (flying units): 63 percent of strategic interceptors: 57 percent of tactical reconnaissance; 33 percent of tactical fighters; 61 percent of tactical airlift; 21 percent of strategic tankers: 35 percent of rescue missions; 30 percent of special operations forces; 62 percent of tactical electronics warfare; 35 percent of weather reconnaissance; 48 percent of strategic airlift aircrews: and 35 percent of strategic airlift maintenance.

Air Reserve (non-flying units): 81 percent of medical service squadrons: 70 percent of combat communication units; and 57 percent of aerial port units.

This is the way the total force policy works. in theory. But there are increasing signs that the National Guard and the Reserves—so vital to our defense—would be unable to carry out their mission if war were to break out in Europe tomorrow because they are short of manpower, equipment, and training facilities.

Melvin Laird was the author of the total force concept. James Schlesinger, when he became Secretary of Defense, took the initial steps in translating the concept into actual policy in 1973. Mr. Schlesinger told the Nation's generals and admirals then that—and I quote his words:

> Total force is no longer a "concept." It is now the total force policy which integrates the Active, Guard and Reserve Forces into a homogeneous whole.

But saying so did not make it so. According to the Pentagon itself, the National Guard and the Reserves are nowhere near their assigned combat readiness. As long ago as 1974, the General Accounting Office found serious shortcomings in the National Guard's and the Reserves' ability to carry out their combat and combat support missions in the event of war.

The GAO called on the Pentagon to take immediate steps to bring the Guard and the Reserves up to strength: to increase their manpower, to provide them with the latest weapons and military equipment, modern training facilities, and to provide them with a more attractive package of bonuses and incentives. The GAO made these recommendations a full 6 years ago. The Pentagon did not respond. And so the situation is far worse now than it was in 1974.

Last year, the GAO concluded that the Pentagon—

> Has not taken an active leadership role in specifying the total force policy . . . Officials in various Pentagon offices define the total force policy differently, and none have issued comprehensive guidance for implementing the policy. The Pentagon promoted the total force concept but does little to establish how total force objectives will be met.

The General Accounting Office is not the only group concerned about the Pentagon's lack of commitment to making the total force policy work. Studies by the Brookings Institution and the Defense Manpower Commission have also warned of continuing problems with the National Guard and the Reserves. Now we have perhaps the most disturbing evidence that these problems have not only been allowed to continue, but have. in fact, intensified during the 1970's.

At their 68th annual meeting in Portland, Oreg., earlier this month, the Adjutant Generals of the United States sounded the alarm about what they called—and I quote:

> The perils now facing this country caused by its present and continuing failure to adequately fund and support the reserve components of our Nation's Armed Forces.

Never before in our Nation's history have the National Guard and the Reserves been required to support such a large authorized strength, been required to have on hand such large amounts of wartime equiqment without full-time support, figured so prominently in the Defense Department's mobilization plans, been faced with such rigorous training and deployment schedules, and represented such a significant percentage of our Nation's combat and combat support units.

The Adjutant Generals know better than anyone else the degree to which the Nation depends on the National Guard and the Reserve: one-half this country's combat forces and two-thirds of this country's support forces must come from the Guard and the Reserves—yet only 5 percent of our defense budget is earmarked for the Guard and the Reserve.

According to the Adjutant Generals, the National Guard lacks the weapons, equipment, and training facilities it needs, support from the Pentagon leadership, and the recruiting and reenlistment bonuses and incentives that are available to the Active armed services.

"Changing these conditions is not only desirable—it is essential," these Guard commanders say. What then, can be done to strengthen the Guard and the Reserve, enabling them to perform the missions envisioned for them by the total force policy?

First, America's Armed Forces, both Active and Reserve, must be provided with effective equipment and training in order to meet the challenge from the Soviet bloc.

Second, the Guard and the Reserves must be provided with the full-time staffing they so desperately need to achieve the higher standards of readiness now demanded of them.

Third, the Guard and the Reserves must be given the tools to attract and retain highly qualified, highly skilled, highly motivated men and women. The manpower problems facing the Guard and the Reserves must be addressed immediately.

The Guard and the Reserves will never be able to perform their wartime missions unless they overcome two key manpower problems: The shortage of qualified people and the high turnover rates. These two problems, in turn, cannot be solved without first improving the kind of training our guardsmen and reservists receive.

Nearly every Guard and Reserve commander believes his men and women need more training. The best way to accomplish this is for the Active Forces to give the Guard and the Reserve more help, to reduce the amount of training time spent in non-mission-essential activities, and to give guardsmen and reservists access to better weapons and equipment and training facilities.

The Guard and the Reserves have serious manpower problems, it is true. Overall, the Guard and the Reserves have only about 80 percent of the manpower they would be called upon to provide in time of war. This overall shortage amounts to about 200,000 men and women.

The high turnover rate in the Guard and the Reserve further undermines the effectiveness of the total force policy. Every year, tens of thousands of experienced people leave the Guard and the Reserves and are replaced by people who may be new to the military or to the jobs they are being asked to do. In some Army Guard units, turnover rates approach 30 percent each year.

The Pentagon recognizes that the Guard and the Reserves have serious manpower problems, and problems in the area of training, weapons and equipment and facilities. To date, though, the Pentagon has not taken the steps necessary to solve these problems.

Two years ago, the Deputy Assistant Secretary of Defense for Reserve Affairs told the House Armed Services Committee that:

> The steady and unacceptable decline in the paid drill strength of our Reserves and National Guard is a cause for serious concern.

And the Chief of the Army Reserves testified that:

> Since the end of the draft in 1972, the strength of the Reserves has been allowed to decline to a very low level. Without adequate manning, it is obviously impossible for units to achieve their true potential of training and readiness.

What is the extent of this decline in National Guard and Reserve strength? In 1970, before the transition to the All-Volunteer Force and development of the total force policy, the National Guard and the Reserves totaled 987,000 men and women. Today, National Guard and Reserve strength stands at 807,000—nearly 20 percent lower. This despite the Pentagon's insistence that we must rely on the Guard and the Reserves as never before for combat and combat-support forces in case of war.

In other words, instead of strengthening the Guard and Reserve during the 1970's, the Pentagon allowed the Guard and Reserve to decline. The fact is that America is less capable of responding quickly and effectively to the outbreak of war in Western Europe than we were a decade ago. And this does not even take into account the growth in Soviet military power over the last 10 years. A senior National Guard officer offered this grim assessment just a few weeks ago:

> We couldn't mobilize enough firepower to stop Snow White and the Seven Dwarfs. Our equipment is 20 to 25 years old and half of it isn't even functional. It's a joke.

The situation is not hopeless. Many of our National Guard and Reserve units are doing a first rate job—against great odds—in meeting their manpower and training objectives.

Wisconsin's National Guard, under the command of Maj. Gen. Raymond A. Matera, has done a remarkable job in recruiting new, high quality Guardsmen and retaining Guardsmen already on duty. The strength of Wisconsin's Army National Guard is nearing the 7,900 mark, an increase of some 300 since the first of the year. The Army Guard's strength is now 86.2 percent. The Wisconsin Air National Guard continues to hold its strength at 100 percent, or 1,780 men and women.

One of the reasons for the continued improvement in recruiting is the Guard's increased use of Wisconsin's tuition program for young men and women going to college. Last year, fewer than 50 Wisconsin students took advantage of the program. But so far this year, more than 200 young people have signed up. The program pays up to one-half of a student's college tuition for each of the 8 semesters in return for joining the Wisconsin National Guard. If more States had programs like this, the overall manpower situation in the National Guard would improve immeasurably.

Three years ago, only 34 percent of the men and women in the Wisconsin Army National Guard reenlisted. In just 2 years, General Matera has helped raise that figure to nearly 70 percent. Nationwide, the average reenlistment rate for first-term Guardsmen is only 51 percent. Prior-service Guardsmen have a retention rate of about 80 percent, which is 10 percent higher than the national average.

The 128th Tactical Air Support Wing of the Wisconsin Air National Guard converted from 0-2 propeller-driven aircraft to the more modern OA-37 jet aircraft in the fall of 1979. Their goal was to become C-3—marginally combat ready—by April 1, 1980. Instead, they became C-1—fully combat ready—in just 6 months. Most Air Guard units and Air Force units take anywhere from 12-18 months to become "fully combat ready" in a new aircraft.

The Wisconsin Army National Guard has perhaps the finest marksmanship training program in the country—the Wisconsin team was the top Guard unit in the all-Army matches this past week at Fort Benning, Ga. About 175 enlistments this past year are directly the result of the prestige of the marksmanship program.

There is a general shortage of doctors, nurses, and other medical personnel in the Armed Forces, particularly in the Reserves and the National Guard. But by using an intensive letterwriting campaign and an extensive network of personal contacts, the Wisconsin Guard has been able to recruit seven nurses and four physicians this spring.

The Guard in Wisconsin is making great strides despite being saddled with antiquated training facilities in many cases and obsolete weapons, aircraft, and combat equipment. Perhaps most troubling of all is the continued lack of adequate incentives and bonuses for many of the units. Two units headquartered in the Milwaukee area offer a case in point. The 32d Infantry Brigade, which is at 92 percent of its authorized strength, has enlistment incentives and reenlistment bonuses. Yet, it trains side-by-side with the 57th Artillery Brigade, which is not eligible for either incentives or bonuses. And the 57th Artillery Brigade is at only 71 percent of its authorized strength.

With this kind of disparity between incentive and bonus packages offered to different units of the same State Army Guard, is it any wonder strength levels, readiness, and morale are so uneven today?

The shortages of trained manpower, adequate training facilities and modern weapons and equipment are reflected in some disturbing figures on the combat readiness of our National Guard and Reserve units.

By the Defense Department's own reckoning, only 6 percent of America's Army National Guard units are fully ready to perform their assigned wartime missions. Another 25 percent of our Army Guard units are substantially ready, that is, they can go to war even though they have some deficiencies which limit their capability to fulfill their assigned missions.

But the remaining 71 percent of our Army Guard units are either not ready to go to war, or are only marginally ready, that is, they suffer deficiencies and shortages in equipment and personnel so serious that they are probably incapable of performing their combat and combat-support missions.

This is hardly what Secretary Laird had in mind when he came up with the total force concept a decade ago. But it is hardly surprising, given the limited resources the Guard and the Reserves are provided with. Again, why are the forces which will have to carry at least 50 percent of the load in wartime being allocated only 5 percent of the defense budget?

The manpower, equipment, and training shortages I have referred to are all based on information provided by the Pentagon itself. But there is reason to believe the situation may be even more serious than we have been told.

Under the National Guard's regulations, units must meet certain personnel and training readiness standards. Normally, these include maintaining a strength of at least 80 percent of authorized strength, and maintaining an average drill attendance of 85 percent of assigned strength. But the GAO found out last year that of the 2,496 Army National Guard units it visited, 1,874—or 74 percent, failed to meet these required personnel standards.

What about turnover? What can the Guard and the Reserves do to bring down the current unacceptably-high rates of turnover? Last year, the General Accounting Office asked thousands of guardsmen the following question:

> If you had to make a decision today on re-enlisting, what kinds of things would encourage you to re-enlist?

Not surprisingly, the overwhelming majority of these Guardsmen cited financial inducements as reasons for reenlisting: 83 percent mentioned the opportunity to earn extra income; 81 percent mentioned retirement income; 80 percent mentioned benefits.

Clearly, then, the key to solving the manpower problems in the Reserves and the National Guard is to make Reserve and Guard duty more financially attractive. We must take steps to encourage more people to join the Guard and the Reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, reenlistment bonuses.

The total force policy is sound in its conception. What is needed is a fuller commitment to making it work. That means more money, not just for our Active Forces, but for the Reserves and the National Guard as well. More money for manpower, more money for weapons and equipment. More money for modern, up-to-date training programs and facilities.

During fiscal year 1980, the Defense Department made only $30 million available to the National Guard and the Reserves for enlistment incentives and reenlistment bonuses. Guard and Reserve officials tells me that even with the $51 million that will be made available in fiscal year 1981, they need at least twice that amount to even begin to make incentives and bonuses available across-the-board to their personnel. And incentives and bonuses are the key to solving the manpower shortages in the Reserves and the Guard.

The Reserves and the Guard are being starved when it comes to money for construction projects, too. Last year, the Reserves and the Guard were provided with $120 million to build new armories and training facilities and to modernize existing buildings. This sounds like a lot of money, until you realize that the Guard and the Reserves need $70–$90 million a year just to keep existing armories and facilities in working order. The Army Reserves and Army National Guard have a backlog of $827 million in funds for construction projects that have already been authorized but for which no money is available. At the current rate of construction, the National Guard says, it will take 200 years simply to replace the hundreds of obsolete armories and other training facilities around the country. This is why the Guard and the Reserves are justified in saying that the total force concept is not being provided with adequate resources to make it work. The facts amply support their position.

As the Defense Manpower Commission noted in a recent report to the President and the Congress:

> The changing nature of war and its technology will not allow for any lengthy period of time for national mobilization for a major conflict. Our national security relies on our ability to mobilize our reserve forces from a peacetime "citizen soldiers" status to a combat-ready status in a relatively short time.

So what is vital to our national security is a large, well-trained Reserve Force, one that is really ready, one that can be called into service in a matter of days in case of emergency. Strengthening the National Guard and the Reserves would send a clear signal to the Soviets that we are moving to improve the combat-readiness of our Armed Forces. Registration does not do this. Writing in the Washington Post recently, Martin Anderson correctly pointed out that even with the names and addresses of young men and women neatly typed on computer printouts, it would take 3 to 4 months to contact them, induct them, and hastily train them—if the training facilities were ready. The end result would be hundreds of thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the Armed Forces many months too late.

Registration is not the answer to strengthening America's Armed Forces. The answer lies in beefing up the Active and Reserve forces we already have—particularly the Reserve forces. Therein lies the key to America's security in the turbulent decade ahead.

Clearly, it is time we took a closer look at the total force policy. In my judgment, total force is conceptually sound. What has been lacking for the past 10 years has been the commitment to provide the Reserves and the National Guard with the resources to carry out their missions.

I strongly urge the Defense Department to review its fiscal year 1981 budget authorization with an eye toward redirecting significant amounts of money to projects designed to strengthen the combat readiness of the Reserves and the National Guard.

In my judgment, registration, whether pre- or post-mobilization, will have no effect at all on the manpower needs of our Armed Forces. The problems we have in recruiting sufficient numbers of new personnel and in retaining skilled and experienced soldiers will not be affected by either plan.

The greatest danger facing this country in the event of a conventional war in Europe will come in the first 3 months—when the Soviet Union's superiority in tanks, artillery, aircraft, and munitions could overwhelm NATO's defenses before the United States has converted from a peacetime to a wartime footing.

Both pre- and post-mobilization registration are irrelevant to this period of maximum danger because new draftees will have to be trained, equipped and formed into functioning combat units, a task that will take a minimum of 6 months.

The Defense Department says it will need its first draftees no later than 30 days after a war begins; 100,000 draftees no later than 60 days after a war begins; and 650,000 draftees no later than 180 days after a war begins.

According to the Selective Service itself, peacetime registration would not achieve any appreciable savings in time for inducting draftees in case of war. Under peacetime, premobilization registration, the Selective Service would begin inducting draftees within 10 days. Within 26 days, it would have processed 100,000 draftees. Within 117 days, it would have processed 650,000 draftees.

Without peacetime registration—relying instead of post-mobilization registration—the Selective Service would begin inducting draftees within 17 days. Within 37 days after war begins, it would have processed 100,000 draftees. And within 125 days after war begins, it would have processed 650,000 draftees.

But even this minor savings in time with peacetime registration is an illusion. The Defense Department has testified that it will have, at most, 70,000 to 80,000 training slots available for new soldiers at the end of 30 days after war has begun. The Defense Department has also testified that it would not have training slots available for the 650,000 draftees produced by either plan at 117 or 125 days after war begins.

So both plans—premobilization, peacetime, or postmobilization registration—would produce more draftees than the Armed Forces can absorb in the first few months after war begins. So any 7- to 10-day difference between the two plans vanishes.

The training slots that the Defense Department plans to have available by 30 days after war begins are for both volunteers and draftees. In December 1941, the United States had more than 16 million men registered for the draft. But we only drafted 29,000 men because the 111,000 men who volunteered had filled almost all the available training slots.

Our experience in World War II suggests that, since there are currently no plans to expand the availability of training slots, the combination of volunteers and draftees in any future war would, under either plan, produce far more recruits than the Armed Forces could train.

The point is this: The speed with which mobilization proceeds if war comes will be determined by the availability of training facilities, training staffs and stockpiled equipment. It will not be decided by the choice between pre- or post-mobilization registration.

So, as it turns out, registration has no military value whatsoever.

It does not improve our readiness;

It will not speed up induction of soldiers in an emergency; and

It will not strengthen our forces or improve our manpower situation.

In fact, registration achieves nothing except possibly to confuse and mislead the public.

The testimony of the Secretary of Defense last July, the testimony of the Selective Service itself in January, the judgment of the Congressional Budget Office, and the debate on the floor of the Senate make it clear beyond any doubt that preregistration does nothing of any consequence whatsoever about military readiness.

The best that is claimed for it is that it sends a signal to our enemies. If so, it is a signal so weak that our enemies will never hear it.

Mr. HATFIELD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Oregon has 5 minutes remaining and the Senator from Georgia has 19 seconds.

Mr. HATFIELD. Mr. President, I thank the Senator from Wisconsin (Mr. NELSON) for his support and for the fine material he has provided for this debate.

Mr. President, I was discussing the question as to the patriotism and the volunteerism of our young people, and the need to provide them with not only the opportunity but, of course, the incentives to volunteer their services based upon a voluntary system rather than a coercive system.

Mr. President, I think when we ask our young people to sign up under this kind of a program, we should answer the question, "Signing up for what?" What are they signing up for? Are they signing up for some kind of a presidential war down the line, like we had in Vietnam?

I will tell you why the young people want to know what they are signing up for. We went through that experience of having this kind of a manpower pool by which Presidential war could be waged through three administrations the longest war in the history of this Nation, one that we look back upon now with great regret. I would suggest if anyone of those three Presidents had had to wage that war by calling up the Reserves, there would never have been the kind of war that we experienced in Southeast Asia. But they had the 18-year-olds, and the 19-year-olds to rely on in the draft pool, who could not exercise the kind of political clout that the Reserves would have exercised.

So there is grave question amongst the young people today wondering what they are signing up for.

They are going to sign up for a fair and equitable draft down the road, we hear answered on the floor. What kind of fair and equitable draft? No draft, by the very nature of the operation, can be fair and equitable. It has to be discriminatory. There is no way that our military forces could bring in 4 million people at one time or 6 million people. It has to be selective.

I want to say for the young people, as I understand it, and their fathers and mothers—and I can speak as a father of four who would be eligible—I am not about ready to give blank check power to any President regardless of his political affiliation to wage any war, any place, any time.

Now, I think we have to answer the question, "Sign up for what?" We ought to have a draft in place if we are ready to make this registration meaningful and know what the people are asked to register for.

This is ill-conceived, it is ill-timed, it is ill-prepared, and the administration of it will be, of course, very discriminatory, because the enforcement will not be possible. We have no plan in place to deal with the 2 percent, the 5 percent, the 10 percent of noncompliance.

Of course, when I raise the point of dissent, the Senator from Georgia has been very accurate in understanding clearly that issue this morning.

He and I see eye to eye on this, and I am sure all of us do. We believe in enforcing the law, we believe in obeying the law, and the right of dissent to be expressed within the scope of the law.

I did not raise that issue to invite dissent, but merely to indicate that this is a signal, that we need not then come back and worry and wonder why we have to face the problems of dissent down the road when we should have planned for them now by having some kind of an enforcibility plan and also have something that was related to signing up for objective or for a purpose.

We hear that this is going to help solve the military personnel problems. It does nothing of the kind. This is a charade. This is an illusion, that we have solved or addressed any one of these military problems. I shall join the Senator from Virginia, the Senator from Georgia, and any other Senator on this floor who has been giving leadership to try to provide comparable compensation to make our military service a dignified and very efficient organization.

The draft, I say to my friends, will never solve these problems.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Georgia has 19 seconds.

Mr. NUNN. Mr. President, in the brief time I have left, I want to say this is an important, it is a significant step to enhance our national security. A nation must be able to mobilize. A nation must be able to respond to an emergency. This country, today, cannot respond to an emergency.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NUNN. I urge the passage of this joint resolution, Mr. President.

Mr. MOYNIHAN. Mr. President, we have come to the end of a long debate on the President's proposal to resume Selective Service registration of young men. The debate has been both technical and passionate, as I believe it had to be, and out of it has come a majority judgment that registration is a limited but prudent measure. I concur in that judgment.

In our debate we have had to judge how the new registration system should conform both to our special national tradition of respect for conscientious objection to war, and to the changing role of women in our society. Indeed, that both such a traditional and such a contemporary question should have been at stake here is one measure of the importance of the issue. I supported the amendment of the Appropriations Committee to allow registrants to indicate their intent to file for conscientious objector status. I also supported Senator KASSEBAUM's amendment that women be registered. I could not agree that these were peripheral or procedurally improper. To the contrary, I believe that our decision to fund registration will have extra weight because we considered these amendments fully.

Mr. President, though we are about to vote, we are in fact only at the beginning of a much larger debate on our military manpower problems. By approving the President's plan, we are more likely to advance this debate, but both those who have opposed registration and those who support it should understand that much remains to be settled. In this sense our vote today is a very tentative one.

Those who have opposed registration, both within this body and around the country, should not think that conscription itself is a necessary corollary to registration. No judgment has been formed here about the need for the draft. Yet those who oppose it will also know that in considering registration itself we have learned of problems for which the draft is certain to be offered as a solution.

At present 4 million men and women turn 18 every year, but in the next decade, this pool of potential recruits will decline by 20 percent. Accordingly, where the Active Armed Forces now recruit 1 of every 5.6 available, eligible 18-year-olds, by the end of the decade it will have to attract 1 of every 4.6. Those who now oppose registration should understand that they have every chance to mount successful arguments against the draft, but also that they must do so, for a case in its favor has already begun to be made.

We have years of debate ahead of us on the many dimensions of our military manpower problems. Let me say now that I have already been impressed by the good will and fairmindedness of those who would be affected by the vote we take today. In our body there has been concern about the scale of noncompliance with the registration system we are putting into place. Senator HATFIELD has urged us not to create a "new class of felons."

My own impression of this matter is very different. I am reassured not only by our historical experience—young men, after all, registered for the draft between 1947 and 1975, and compliance was not a problem—but by the character of our public debate in recent months. Like other Senators, I have received a great deal of mail on this question, but it has not by any means been concentrated among the young, nor does it suggest to me incomprehension, anger, or a refusal to accept the judgment arrived at here. It is, I believe, inaccurate—and still more, unfair to our young people—to predict resistance to registration. I hope Senator HATFIELD will soon find his fears allayed.

We have every reason to hope that our national discussion can continue—for it must continue—with the seriousness and fairness of this week's debate in the Senate.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the amendment offered by the distinguished and most able Senator from Oregon (Mr. HATFIELD) which would reduce the supplemental appropriation for the Selective Service System from $13.3 million, as recommended by the Appropriations Committee, to $4.7 million. The reduced level of funding will preclude premobilization registration of young Americans, but will allow for the enhancement of the Selective Service System's computer capabilities and the implementation of a postmobilization registration plan.

Mr. President, I would like to take this opportunity to pay tribute to the Senator from Oregon who, through his deep conviction, his determination, and his skill as a parliamentarian, has during this debate brought to the attention of the Congress and the American people the many reasons why we should reject the reinstatement of peacetime draft registration. Although the odds are that the Senator's amendment will not prevail, history will surely record that the Senator from Oregon has performed a great service for the American people.

As the Senator from Oregon stated last evening after agreeing to end the postcloture filibuster on the pending resolution, he will be back to fight another day. I would just like the Senator to know that should the day come when we are faced with the prospect of resuming the peacetime draft—and there are those who would hasten that day—I will be at his side to join in the fight.

Mr. President, I would like to preface my remarks on the Hatfield amendment with a clarification of the record on one very important point. It should be absolutely clear to the Senate and to the American people that this Senator from Hawaii, the Senator from Oregon (Mr. HATFIELD), and the other Senators who have spoken on this floor in opposition to the draft registration plan, are strongly in favor—I repeat, strongly in favor—of the immediate strengthening of our Nation's military preparedness. There should be no question about our support for the improvement of the ability of the Selective Service System to mobilize manpower in the event of a national emergency.

The point I am making, Mr. President, is that from the very beginning of this debate, the Senate has not been discussing whether or not we ought to be taking steps to improve our mobilization capability; we all agree, I believe, that such steps are essential in view of the present challenges facing our Nation.

On the contrary, the central question in this debate has been whether or not premobilization registration is necessary to provide a significant improvement in the mobilization capability of the Selective Service System.

Mr. President, the answer to this question is an unequivocal "no."

As many of us have said repeatedly, the proponents of the premobilization registration plan must carry the burden of demonstrating, beyond a reasonable doubt, that their proposal is the most effective way to improve the mobilization capabilities of the Selective Service System. It is my firm belief that throughout this debate in the Senate, they have simply been able to do so.

Mr. President, we have heard on this floor convincing evidence that premobilization registration will not accomplish what its proponents intend to accomplish in response to the Soviet invasion of Afghanistan. The facts clearly indicate that premobilization registration will do little, if anything, to improve our mobilization capabilities. And, in putting the Nation through what may well be a divisive and, perhaps, worthless postcard registration later this summer, we will be sending nothing more than a weak and mixed signal of our resolve to the Soviets.

Mr. President, it has been borne out in this debate that the implementation of a postmobilization registration plan, as recommended by the Selective Service System in January, would be the most logical and desirable step for us to take in order to improve the mobilization capabilities of the Selective Service System. That is precisely what we would accomplish by adopting that Hatfield amendment.

Finally, Mr. President, I would urge my colleagues, in the strongest of terms, to give one last hard and objective look at just what else is at stake in reinstating draft registration.

We must recognize that the reinstatement of peacetime draft registration, without proper justification, would be to disregard the lessons we learned, at such a great and tragic expense, from the Vietnam war; that unless the young people of this Nation have a clear perception that our Nation's interests and, indeed, their interests, require registration and, possibly, the draft itself, enactment of measures such as House Joint Resolution 521 by the Congress is sure to produce another era of division and alienation among the American people.

Mr. President, I simply do not believe that America is ready for another era of divisiveness and unrest. The wounds of the Vietnam war have not yet fully healed.

Furthermore, Mr. President, we must recognize that no matter how the argument is framed, the fact remains that the reinstatement of peacetime draft registration is the first major step toward the resumption of the draft during peacetime. It will no doubt provide those in the Congress who have consistently opposed the All-Volunteer Force, and who have consistently neglected the real causes of the manpower problems in the All-Volunteer Force, with the momentum necessary to bring before us in the very near future the issue of a return to the draft itself. They would like the Congress and the American people to believe that the All-Volunteer Force has failed and that registration and the draft will be the ultimate solutions to our manpower preparedness problems. We know that nothing could be further from the truth.

Mr. President, the proponents of House Joint Resolution 521 have just not presented the Congress and the American people with a convincing argument for the reinstatement of peacetime draft registration. We, therefore, cannot and should not vote to approve this resolution and this registration plan which will, in effect, permit the draft to hang over the heads of our young people in peacetime, simply for the purpose of sending to the Soviet Union a shallow and symbolic gesture of our resolve. We should, instead, vote to revitalize the Selective Service System for an effective implementation of a postmobilization plan, and to take such steps as are necessary to solve the manpower problems now facing the All-Volunteer Force.

The PRESIDING OFFICER. Under the previous order, the hour of 12 o'clock having arrived, the Senate will proceed to vote on the amendment of the Senator from Oregon.

Mr. STEVENS. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness in the family.

On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Washington (Mr. MAGNUSON). If present and voting, the Senator from Rhode Island would vote "nay" and the Senator from Washington would vote "yea."

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH) would vote "yea."

The PRESIDING OFFICER (Mr. STEWART). Are there any other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 35, nays 59, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—35

Armstrong
Bellmon
Bradley
Cohen
Cranston
Culver
Danforth
Dole
Eagleton
Garn
Hart
Hatch
Hatfield
Heinz
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Nelson
Packwood
Proxmire
Riegle
Roth
Sarbanes
Schweiker
Stevens
Tsongas

NAYS—59

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
DeConcini
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Goldwater
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Lugar
Morgan
Moynihan
Nunn
Percy
Pressler
Pryor
Randolph
Ribicoff
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—6

Biden
Church
Gravel
Long
Magnuson
Pell

So the amendment of the Senator from Oregon (No. 1807) was rejected.

WHY I OPPOSE REGISTRATION FOR THE DRAFT

● Mr. PACKWOOD. Mr. President, my vote today is an expression of my concern that the registration issue is a red herring that masks the true vulnerability of our military defenses. Indeed, reinstating the draft will do nothing to strengthen our Armed Forces and will once again create a great divisiveness in our country at a time when unity is needed more than it has been in the last four decades.

Mr. President, as I see it, three questions need to be considered: First, will registration improve retention in the ranks of the military's leadership and specialists? Second, will registration materially improve our ability to put men in the field in the event of a military emergency? And third, will registration or even the draft, significantly improve our military's strength?

The answer to each of these questions is a resounding no.

In the first instance, the problem is our inability to keep our skilled technicians, electronic specialists, doctors, and noncommissioned officers in service. Registration or, should it come to pass, even the draft, will not solve this problem.

Once drafted, a recruit spends a couple of months in basic training. For those who go on to specialty schools, another year—indeed up to 18 months—will be spent in that training. That leaves as little as 4 months before obligated service is over to put to work the various skills taught in military schools.

The answer, Mr. President, to the very critical question of retention is to give our military men and women fair pay. We must improve their living conditions and make it easier for their dependents to join them. We must improve the status of our military from an obligation to that of a proud career and a way of life that meets the lifestyle aspirations of our military men and women.

Registration and the draft cloaks these very real needs of our service men and women and stifles the creative thinking necessary to achieve solutions in this area.

My second point concerns our ability to put our men and women in the field in the event of a national need.

Earlier this year the Selective Service recommended against registration, stating that "requiring people to register at their local post offices before an emergency occurs would save only 7 days," on top of the many weeks it would take to mobilize anyway. If it is a short, strategic war, the battle would already be won or lost by that time. If it is a longer conventional war, 7 days would not make much difference.

Beyond that, registration alone is virtually worthless without classification of the individuals registered. Registration would not require physical examinations for anyone. We would not know who has only one eye, or who is crippled, or who is otherwise unsuited physically for military service. We would not know who is a Ph. D. in physics and working on some important Government project, and who will therefore be excluded from a draft because he is vital to some other Government effort.

Finally, my third point concerns our military hardware. Our missiles are adequate for strategic warfare. Indeed they are better than those in the Soviet arsenal. But what of our ships, tanks, landing craft, tactical aircraft and artillery? We have allowed our forces to fall into such a state of disrepair in these critical areas that should we ever need to draft thousands of men, and yes, even women, we will find we do not have enough transport equipment to get them to the battlefields, or enough conventional weaponry for them to fire at an enemy.

Registering or forcibly conscripting our citizens will do nothing to improve this sorry state of affairs. Increasing our military spending is the only answer here.

In summary, Mr. President, the controversy over registration and the draft takes our eye off the ball. When we should be thinking about increasing the pay and benefits for the All-Volunteer Force, or seriously working on improving our conventional arsenal, we find ourselves engaged instead in a great debate, the outcome of which could create a chasm in this country that will take a decade to heal.

As I see it, Mr. President, reinstating a system of registration, and possibly the draft, will only give this country a false sense of military security. That is a danger to us and to the entire free world. We need to attack these other vital questions, and not allow ourselves to be sidetracked. We cannot afford to lose sight of our true objective—a nation of strength and unity.●

CONGRESSIONAL VETO ON SELECTIVE SERVICE REGISTRATION

Mr. HATFIELD. Mr. President, the amendment which I introduced, but which we were not able to vote on, guarantees a more adequate congressional oversight of the regulations issued by the Selective Service System—SSS. Regulations of Selective Service have historically been a source of nearly constant controversy and continuous litigation. Selective Service has, in the past, quite irresponsibly exceeded the powers delegated to it by the Congress.

My amendment would have provided for the possibility of a veto within 30 days by concurrent resolution of Congress for any regulation issued by Selective Service. The amendment reads as follows:

On page 2, after line 14, insert the following: Procedure for Congressional Veto of Selective Service System Regulations.

The Director of the Selective Service shall transmit to the Congress a copy of any regulation promulgated with funds appropriated under this joint resolution or relating to the use of funds appropriated under this joint resolution. Any rule described in the preceding paragraph shall not take effect if, within the 30 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the rule promulgated by the Director of Selective Service with respect to , such rule having been transmitted to the Congress on ."

For purposes of the preceding paragraph—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in such paragraph.

Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this joint resolution shall not be deemed an expression of approval.

The provisions of this joint resolution relating to procedures for congressional veto of Selective Service System regulations are repealed effective October 1, 1980.

This body has been through the issue of legislative veto many times recently. By last month, Congress had approved nearly 170 laws with one or more veto provisions, 25 percent of them having been passed since January of 1977. I would not necessarily support a legislative veto for all Federal agencies. However, the SSS has a unique function in our society. The regulations which are issued by this agency affect the civil liberties—and the very lives—of the young people of our country.

I believe that we owe it to our young people to maintain a serious oversight of the regulatory actions of all this all-intrusive agency. It is not enough to let faceless, unelected bureaucrats make life or death decisions about 19- and 20-year-olds all by themselves.

These policies in the past have not reflected careful considerations of preserving civil liberties. Likewise, though, we cannot wash our hands of the procedures of Selective Service. If we vote for the funds to bring back Selective Service registration, we are taking a drastic step for which we must retain some responsibility.

There are many varieties of legislative veto. The one I suggest here requires more than a modest interest and effort by the Congress to reject proposed regulations. When the Director of Selective Service decides to issue regulations, he must transmit them to the House and Senate. The Congress would then have the authority to disapprove of any regulations by passing a concurrent resolution within 30 days.

Frankly, this is hardly a dramatic procedure. Routine regulations will not be subject to much interest, but during these occasions when the Selective Service acts irresponsibly, or beyond the intent of Congress, there will be a simple yet effective mechanism for Congress to respond.

I hope that my colleagues will also note that the Military Selective Service Act already recognizes the significance of the promulgation of regulations and public interest in those rules. In 1971, the act was amended to include the following provision applicable to regulations section 13(b) of the act:

> "(b) All functions performed under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 of such Act. Notwithstanding the foregoing sentence, no regulation issued under this Act shall become effective until the expiration of thirty days following the date on which such regulation has been published in the Federal Register. After the publication of any regulation and prior to the date on which regulation becomes effective, any person shall be given an opportunity to submit his views to the Director on such regulation. The requirements of this subsection may be waived by the President in the case of any regulation if he (1) determines that compliance with such requirements would materially impair the national defense, and (2) gives public notice to that effect at the time such regulation is issued."

What this means, quite simply, is that the public already has 30 days from the date regulations are published to comment on those regulations. So it will certainly not slow up the regulatory process to give Congress a chance to examine regulations with the possibility of veto.

I have heard some criticism of this amendment arguing that the President must have the power to act in this sensitive area. I certainly concur, but granting the Congress the power to veto regulations Selective Service issues is hardly interfering with the power of the President as Commander in Chief. In the unlikely event of a war or some emergency regarding affirmative congressional authority to begin inductions. I am sure we would also waive any provision on this veto process. My amendment merely provides this veto power during this fiscal year. It may turn out that this provision becomes unnecessary if the new Selective Service System officials consistently act very responsibly in the promulgation of regulations. Until we see a few of their regulations, I am unwilling to grant them free reins over the lives of 19- and 20-year-olds.

As far I understand, there will be no SSS regulations issued concerning the registration itself. However, somewhere in the bowels of the White House and Selective Service, extensive regulations have already been drafted about the functioning of local draft boards, and other important matters. I have asked to see them, but have been denied access to them.

Let me spell out a few scenarios which could occur in the absence of the passage of this amendment. The first scenario might disturb liberal Members of this body. In it, regulations are promulgated which give conscientious objectors, after mobilization occurs, only 1 week to file all documentation of their religious belief. This would, of course, create havoc and lead to an abrogation of due process entirely. I for one would certainly like to be able to veto such a regulation.

But, this also cuts the other way. Here is a scenario to disturb conservatives. What if Selective Service decided it had the power to issue a regulation guaranteeing that lawyers would be permitted to accompany and advise registrants in personal appearances before local draft boards? In 1971, the Congress expressly rejected such a process because it would cause what House conferees called "an unacceptable increase in the workload of local boards." If such a regulation were promulgated now, I would support it wholeheartedly. However, I am sure some of my colleagues would argue that it is both bad policy and an act in excess of delegated power.

So I believe that there are very good reasons for both supporters and opponents, both liberals and conservatives of draft registration, to support this amendment. We do not know what Selective Service plans to do; let us retain some oversight responsibility.

As I indicated earlier, I am quite concerned that the unbridled excesses of Selective Service bureaucrats will continue in this administration. Many Selective Service regulations were heavily litigated and over the past two decades many were held to be illegal or unconstitutional, or abuses of power delegated to the system.

Perhaps the most well-known example is the regulation struck down by the Supreme Court in Gutknecht against United States in 1969. Mr. Gutknecht was declared "delinquent" under regulations issued by the SSS, because he returned his draft card to protest the war in Vietnam. Once he was labeled a "delinquent" he was called to perform military service earlier than he would have been otherwise. The Court saw no real problem with punishing him under the civil law and sentencing him to 4 years in prison for turning in his draft card. But as the opinion indicates:

> The question posed by this case concerns the legitimacy of the delinquency regulations which were applied to the petition, so as to deprive him of his previous standing in the order of call.

The Court held that the delinquency regulations were invalid. I now quote from the opinion:

> The delinquency provisions . . . survived the Military Selective Service Act of 1967 largely intact. Again, however, there is nothing to indicate that Congress authorized the Selective Service System to reclassify exempt or deferred registrants for punitive purposes and to provide for accelerated induction of delinquents. Rather, the Congress reaffirmed its intention under Section 12 . . . to punish delinquents through the criminal law.
>
> Thus it was that the Solicitor General stated in his brief in *Oestereich* v. *Selective Service Board,* 393 U.S. 233: "It is difficult to believe that Congress intended the local boards to have the unfettered discretion to decide that any violation of the Act or regulations warrants a declaration of delinquency, reclassification and induction . . ." Brief for the United States 54.
>
> Oestereich involved a case where a divinity school student with a statutory exemption and a IV-D classification was declared "delinquent" for turning in his registration certificate to the Government in protest against the war in Vietnam. His Board thereupon reclassified him as I-A . . . We held that under the unusual circumstances of the case preinduction judicial review was permissible prior to induction and that there was no statutory authorization to use the "delinquency' procedure to deprive a registrant of a statutory exemption.
>
> The question in the instant case is different because no "exemption," no "deferment," no "classification" in the statutory sense is involved. "Delinquency" was used here not to change a classification but to accelerate petitioner's induction.
>
> Deferment of the order of call may be the bestowal of great benefits; and its acceleration may be extremely punitive.
>
> We know from the legislative history that, while Congress did not address itself specifically to the "delinquency" issue, it was vitally concerned with the order of selection, as well as with exemptions and deferments. Thus in 1967 a Conference Report brought House and Senate together against the grant of power to the President to initiate "a random system of selection"—a grant which it was felt, would preclude Congress from "playing an affirmative role" in the constitutional task of "raising armies." H.R. Con . . . It is difficult to believe that with that show of resistance to a grant of a more limited power, there was acquiescence in the delegation of a broad, sweeping power to Selective Service to discipline registrants through the "delinquency" device.

In summary, this is just one gross example of the kind of power Selective Service took unto itself in promulgating and then acting upon regulations which in fact had serious repercussions for registrants. Those repercussions, however, were illegal and unauthorized acts under the Military Selective Service Act.

Gutknecht and the Oestereich opinion mentioned in it are just two of a multitude of examples of how Selective Service abused its powers in the past. I want no repeats. I urge you to support my oversight and veto amendment.

Mr. NUNN. Mr. President, I ask unanimous consent that a statement on House Joint Resolution 521 by the distinguished Senator from Rhode Island (Mr. PELL) be printed in the RECORD. Senator PELL is with his wife, who is having surgery today in Rhode Island.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Statement by Senator Pell

The revival of registration for the draft is an admittedly unwelcome proposal, but I am not sure that the issue which the Senate has been debating for the better part of a week really warrants the great hue and cry that has been given to it.

At bottom, the Senate is considering a measure which would transfer $13 million in existing budgetary authority for the purpose of allowing Selective Service to implement a simple postcard registration system through the Post Office. The imposition on registrant, involving the filling out of a short form at the local Post Office, will be no greater than the exercise of registering to vote.

I believe the action we are considering is a reasonable and prudent course for the Senate to take, and one which does not involve the dangers which the opponents of registration have attributed to it. The legal authority for peacetime registration already exists, and as we know, the Senate is not creating a new precedent in reviving registration in the absence of an actual draft. Furthermore, it is absolutely clear that there could be no revival of the draft without Congressional action to amend the Military Selective Service Act. Thus, I am not persuaded by those who say that registration is a back door way of reviving the draft. I do not regard peacetime registration as "inevitably" leading to a military draft, anymore than buying health insurance would inevitably lead to sickness. It should be obvious that the circumstances which would support a draft differ from those factors arguing in favor of registration.

More than any other government activity, a military draft directly affects the lives of citizens and their families. I am acutely aware of this fact, and for that reason, would support an actual military draft only if such drastic and immediate action were required to preserve our nation.

An entirely different set of factors point to the wisdom and necessity for reviving registration at the present time. The painful events in the Persian Gulf region over the past year and a half, coupled with the very obvious Soviet military build-up during the past decade, have been grim reminders of the fact that we may some day be called upon to defend our national interests rapidly and competently.

We all hope that such a task will never actually confront us, but—as we strive to create a more peaceable world—we cannot afford to blind ourselves to the possible need to mobilize and deploy our military forces rapidly. That capacity is one which we very plainly do not have at the present time.

The draftees have always occupied a central part of emergency mobilization plans, even with the existing all-volunteer force. No other system could provide the needed manpower in as short a time. The most difficult part of this delivery system is creation of a reliable, comprehensive registrant data base which would provide the capacity of generating manpower within a few days of an emergency mobilization situation.

Without an operational Selective Service System and under the strain of emergency mobilization, data on millions of young people would have to be gathered and entered into a computerized system to provide the base for a national lottery. Before this could occur, a successful public information campaign would have to be conducted, the Post Office would have to register our young people, then sort and transport the forms to the appropriate processing facilities in preparation for the lottery. The opponents of registration say all this could be accomplished within 10 days after mobilization—an assumption which I think is highly open to question, and one we need not risk if we adopt the basic contingency plan of peacetime registration.

I would submit that registration has become a largely symbolic issue. With the traumatic memories of Vietnam still all too fresh in our minds, the registration proposal has evoked concerns, which I strongly share, about the many inequities of the Vietnam-era draft. I do not think any of us ever want to see a draft administered in that fashion. But those concerns, I submit, really have no place in the current debate about reviving registration. We are talking not about the draft, but about the kind of simple contingency planning—an insurance policy, if you will—that I believe we always should have in peacetime. And here I speak as one who was a very early opponent of our Vietnam misadventure.

I would also hope that the registration debate would not be perceived as the symbolic answer to our military manpower problems. Reviving registration will have little effect on the very serious problems which have plagued the all volunteer force almost from its inception in 1973. The Congress must continue to closely examine the effectiveness of the all volunteer force, and as well as the alternatives to it. I am a sponsor and strong advocate of the bill to create a Presidential Commission to study National Service, an idea I believe to be extremely timely and capable of addressing a number of our military manpower as well as domestic problems. I do not suggest National Service as the only alternative to the all volunteer force, but I do believe it has great potential and is worthy of serious consideration.

Registration is only a small, though necessary, answer to our overall military manpower problems. Our real and vey immediate focus should be serious questions of the recruitment, compensation training, and retention of both our active duty and reserve forces. Once the lengthy debate on this small part of the problem is over, I hope my colleagues will turn their attention to the larger issues which I think we have a compelling responsibility to address.

● Mr. **HEINZ**. Mr. President, I rise in opposition to the Administration's proposal to authorize funding for premobilization Selective Service registration for eligible Americans.

I have carefully examined and weighed the arguments both for and against premobilization registration, and I have concluded that the proponents of such registration have simply not made a convincing case for its implementation at this time and in terms of our national defense priorities. Draft registration in peacetime is an action which, in a democratic society which values its freedoms, should be undertaken only if its necessity and its practical value can be truly demonstrated. The administration and other proponents of such action have not in my view made such a demonstration.

Mr. President, my opposition to the institution of a premobilization draft at this time is based upon two principal propositions:

The first priority of those who believe in a strong national defense should be to insist upon remedying the glaring deficiencies that currently exist in the overall state of readiness of our military forces;

Without a coherent and consistent foreign and defense policy, any specific measure, such as the proposed premobilization registration, will not have any significant positive effect, and, indeed, could prove to be counterproductive.

Mr. President, my most basic reason for opposing premobilization draft registration is simply that no convincing case has been made that it will improve in any meaningful way our capability to mobilize for a long-term conflict, especially when compared to the alternative which I support—postmobilization draft registration, which the President now has authority to order under current law. The fact is that both premobilization and postmobilization registration plans far exceed current Department of Defense mobilization requirements. Thus, from a purely practical standpoint, there is no valid current justification for instituting premobilization draft registration, especially since postmobilization registration is sufficient to accomplish our goals.

Mr. President, the only other argument presented for premobilization draft registration is that it would serve as a symbol to the rest of the world of U.S. determination to deter Soviet aggression and stand firm when and where necessary. I wholeheartedly agree with the thesis that we must in fact be prepared to stand firm when and where necessary, but I believe that the inconsistencies and failures of current administration foreign and defense policy would overwhelmingly drown out any signal that registration at this time might send out.

At best, premobilization registration would only send the weakest of signals when it is proposed by an administration which has allowed Cuban aggression around the world to go unchecked, which rationalized the growing Soviet involvement in Afghanistan for months prior to the Soviet invasion, which took several years to realize that the Soviets are in the business of taking advantage of weakness or turmoil, and whose foreign policy has caused NATO nations to become alarmingly skeptical of the United States.

Mr. President, premobilization registration would send only the weakest of signals when proposed by an administration which only a few short months ago lobbied strenuously in opposition to the very same proposal for registration which it is now supporting. The message is one of inconsistency, not certainty of purpose.

Premobilization registration would send only the weakest of signals when proposed by an administration which until very recently opposed pay increases necessary to retain skilled and experienced military personnel. The message is one of political expediency, not steadfastness.

Finally, premobilization registration would send only a weak signal when urged by an administration which is currently seeking to have the defense budget reduced from the compromise levels agreed to by the Budget Resolution Conference Committee—a level which many experts feel is the minimum amount necessary consistent with the maintenance of a defense force capable of fulfilling the missions which the administration has outlined for it. In fact, the Joint Chiefs of Staff have publicly disagreed with the administration's contention that a lower spending level is satisfactory.

In sum, Mr. President, this administration, through a variety of ill-considered, ineffectual, and inconsistent policies, has established an image of inept amateurism in its approach to international politics, and this is the latest example. Most tellingly, its actions have created the impression, which I think is an accurate one, that the United States, under the Carter administration, is not serious about its foreign and defense policies—that they are subject to change on a whim, or for a variety of reasons unrelated to the purposes of a foreign policy. Implementation of premobilization draft registration by an administration which has the image of being fundamentally unserious about foreign policy will have no real impact, symbolic or otherwise. Thus, the administration's proposal really amounts to a way for it to appear to be committing itself to a stronger national defense without having to make the hard decision to devote much greater resources toward improving our military forces.

Mr. President, I share the view recently articulated by Governor Reagan that "draft registration may actually decrease our military preparedness, by making people think we have solved our defense problems when we have not. The Soviets can tell the difference between computer lists of inexperienced young men, and new weapons systems, a million man reserve, and an experienced army." Given the erratic course of administration foreign and defense policies, draft registration would only add to the confusion concerning our intentions, and therefore would not achieve the goal of symbolically putting the world on notice of our intentions.

Mr. President, circumstances may change, and a draft may prove necessary at some point. I would support a draft system if it were truly necessary to our national defense, and if it were implemented equitably, unlike our Vietnam era draft. In this regard, I am submitting for the Record and ask that they be printed at the end of my remarks, two recent essays on the subject of the draft which I found to be most articulate and compelling in their justification of the draft. While I do not agree with the author's specific conclusions, I believe that the points they make are worth reviewing by all fair-minded individuals whatever their views on the need for the draft at this particular moment.

At present, it is my view that there are clearly more pressing priorities for strengthening our military capabilities than the implementation of draft registration. I certainly support the continuing study and analysis of the best ways to improve our personnel quality and readiness, including any improvements needed in preparing for the possibility of postmobilization registration, and I hope that useful recommendations may be forthcoming. I am particularly interested in possibilities for improving the size and readiness of our Reserve forces, as well as recruitment of experienced prior service personnel who might reenter the service if given the proper incentives.

In the meantime, I will continue to press for the level of defense spending necessary to restore our military capabilities to a level consistent with our world responsibilities. Even more importantly, I will continue to speak out in support of a coherent and consistent foreign and defense policy which makes clear to friend and foe alike our purposes as a nation in world politics.

Mr. President, shortly after the administration presented its proposal, the Washington Post concluded an editorial on this question by stating that the real issue in this matter was "What—precisely—is the question to which registration for the draft is the answer?" The administration has failed to provide that question and I, therefore, shall oppose premobilization draft registration at this time.

The articles follow:

To Draft or Not to Draft

WHO SERVES AND WHO FIGHTS?

Whatever their other attributes and failures, the leaders of the Soviet Union possess a wonderful knack for concentrating the minds of their antagonists. Andrei Gromyko's walk out of the United Naitons Security Council during the Iranian crisis of 1946 did much to disabuse the Western societies of the notion that the UN was designed to be an easy mechanism for peace: a glum but therapeutic happening. The Russian boycott of that same council after the beginning of hostilities in Korea in 1950 enabled the United States to put the imprimatur of the UN on, and to engage the forces of other nations in, the resistance to North Korean forces. The Soviets might have forestalled that simply by attending the meeting. There has rarely been a time of lassitude and disarray among the NATO allies when the Soviets have failed to make a move or to pose a threat that galvanizes the NATO ministers into some hasty pulling up of socks.

So, it seems, is the case with the Soviet occupation of Afghanistan. It has induced over-reaction and too much chest-pounding in Washington, but in provoking President Carter to call for Selective Service registration of men and women of nineteen and twenty—a step far short of resumption of the draft itself—the Soviet action has invited Americans to a debate they should conduct in any event.

The President's move was a limited one, made the more so by his later comments that he sees no need at present to ask Congress for the authority to resume conscription. Nonetheless, he has got Americans young and old questioning again: When trouble comes, who does the fighting for us? This is not merely a military question but one which commingles social, political, constitutional, and moral questions as well. To put behind the painful, rancid past of the Vietnam experience, during which society called on the afflicted to serve in order that the comfortable could remain comfortable, we seized with relief on the "volunteer Army" concept and mothballed the Selective Service machinery. The bad taste of a draft badly used still lingers, but it is wise to remember that opposition to it developed out of two not altogether compatible notions. One: Young people were being conscripted to risk their lives in an enterprise that proved at best senseless and at worst immoral. Two: Conscription was engineered in a way that enlisted the poor, the underprivileged, and the patriots ("Ask not what your country can do for you . . . .") and spared those who could, through legalized subterfuge, avoid the risk and then demean those who endured it. Those who held the first notion often tended to overlook the second; it was easier for the privileged classes to avoid service in the "immoral war" and their success only insured that the poor would serve in greater numbers.

Conscription can be honorably opposed on principle, as a violation of individual rights under the Constitution. Daniel Webster so argued way back in 1813. It can as honorably be supported as the only way to maintain adequate, flexible armed forces. Webster had an easier time in which to condemn conscription as an "infamous expedient." The United States in 1980 is a world power, caught in worldwide entanglements and commitments that require it on occasion to put its muscle where its mouth is. It is broadly, although not unanimously, agreed that after seven years of relying on "volunteers" (or "professional") personnel, the armed forces are inadequate, in terms both of quality and of racial and class mix. The burden is shouldered by those least able to find livelihoods in the civilian world.

In 1971, the Congress revised the Selective Service law and removed most of the inequities of the Vietnam war draft. Is it arguable that, even lacking an overriding emergency situation, the country could better, and more fairly, fill out the armed forces and improve their readiness by switching from the volunteer concept to revived Selective Service? There are some who so believe.

For varying reasons, the authors of the two following articles argue in that direction. Their essays are offered not as a definitive statement by "The Atlantic" but as inducement to serious discussion about a central problem of democracy.

The Congress has no stomach for such a discussion, especially in a campaign year. Neither do the contenders for the presidency. Nor does Mr. Carter himself, now that he has discovered that, like Wellington's troops, his call for registration didn't scare the enemy but scared up fresh wind gusts at home. All the more reason for stirring up debate. Ergo.

Why the Army Needs It

(By James Webb)

I spent the summer of 1965 living in a room not much larger than the downstairs of my present town house, along with almost forty other men, stacked four and five high on bunks with canvas undersides and mattresses about as thick as the carpet I now have on my floor. I had just finished my plebe year at the Naval Academy, and was being treated to a firsthand look at the operating Navy. Like the rest of my classmates, I joined a ship of the line for the summer, and lived and worked with the enlisted sailors. I didn't learn a whole lot about the Navy, but I did learn a lot about enlisted sailors.

They glared at me as I struggled down the final ladder to their living space, my seabag preceding me with a heavy thud. They were fierce with their broken noses and garish tattoos, with their blackened hands that never washed clean and their pale faces that rarely saw the sun. I had drawn a division of "snipes" for my temporary brothers, boilermen and machinists who dwelt in the bowels of our ancient aircraft carrier, firing oil-burning furnaces and patching 1100-pound pressure leaks along the steam lines to keep the ship afloat and operational. The boiler rooms, I would soon learn, were hot and steaming metal forests, and the snipes were jungle-dwellers.

In every port we visited that summer, the snipes went wild. They drank too much and fought too much and were absolutely profane in public. They knew from nautical tradition the sections of each port city that would accommodate their lusts and brawls, and I can safely say that one could not have shot an arrow into the air after dark in any of those cities without having it land on a sailor who was either drunk or *flagrante delicto* or both.

But the amazing thing to me was, no matter how drunk or tantalized any of my snipe brethren got, back in the recesses of their consciences, like some Pavlovian alarm clock, lurked the "Cinderella Liberty syndrome." Nobody had to round them up when liberty was over. They made their way back to the ship in twos and threes, sometimes carrying drunken shipmates on their shoulders. One snipe staggered in after a Long Beach brawl, his uniform in tatters and his hat gone, and proudly raised his jumper to show us fifty-two (*count 'em*) shallow stab wounds on his rock-hard belly. His biggest worry had been whether or not the officer of the day would place him on report for having lost his hat on liberty.

They bitched about the Navy. They bitched about the officers. They bitched about the ship. They even bitched about each other. But they also worked hard twelve hours every day and more on some occasions, down in the jungles of the boiler rooms, amid the oil and muck. As we steamed from Seattle to Long Beach, the Navy's hierarchy pulled a surprise Operational Readiness inspection and the snipes kept the old World War II ship cruising at maximum speed for the entire trip. The boiler room looked like Yellowstone National Park with its geysers of steam leaks, which they stood bravely next to and routinely patched, despite the risk of scalding. Their reward was an intangible called pride, the simple feeling that they were proficient at their jobs and were keeping this one small moving part in a very large machine oiled and functioning.

This all came back to me the other day as I read a news story mentioning that the chief of naval operations himself estimates 38 percent of the ships in the fleet to be less than functional, and that better pay and newer ships would remedy the problem. Those snipes from fifteen years ago didn't have a modern ship to service. Their pay was by any standards atrocious. Many of them had chosen the Navy as the lesser of two evils over Army service as draftees. But they got the job done, and damn well, too. And my bet is that, if you put that same crew on any one of these "substandard" Navy ships today, they would have it patched and functioning in hours.

Something is gone from today's military, and the screams for more pay and better hardware are only symptomatic of deeper, more harmful wounds that the political process has inflicted on our ability to defend our way of life. In the one generation when we were the most enlightened and powerful nation on earth (and I use the past tense advisedly on both counts), we seemed to recognize easily the nexus between military preparedness against external threat and the creativity and freedom we enjoyed internally. Vietnam, unfortunately, muddied our logic. We exhausted ourselves on vehement, internecine arguments over whether Vietnam could in some way be defined as an "external threat" to our existence. We ignored such measurable Soviet moves as the takeover of Czechoslovakia and the expansion of their naval presence into the Mediterranean and the Indian Ocean. We came to blame the military for the Vietnam involvement, and for the ultimate failure of the war itself.

Westmoreland lost the war; no matter that Lyndon Johnson once boasted that the military "couldn't bomb a shithouse" without his own approval. "The racial horrors of the military" became a byword; no matter that the military was the first institution in this society to become fully integrated, and no matter that the racial problems it faced were being experienced in much more violent form in civilian society. Vietnam supposedly symbolized the ultimate collision in the "generation gap," with old and young facing each other on opposite sides of the issue; no matter that Gallup polls showed that the most consistent support for the war came from those under the age of thirty.

Lacking any clearly defined external threat, the military became the threat. And, lacking a clearly defined mission, it became a very convenient sociological lab for political experimentation. Project 100,000 (which eventually became Project 400,000) was designed to test whether mental rejects could function as soldiers. When it was discovered that by and large they could not, the military was blamed for the failure. In another context, politicians and judges decided that their judgment, albeit removed, was more accurate than that of military commanders at the scene as to what sort of performance went into "honorable service." The military discharge system, they maintained, was unfair and stigmatizing; no matter that the military during Vietnam awarded 97 percent of its people discharges under honorable conditions, more than 93 percent of them with full honorable discharges, which is a more successful matriculation rate than that of any other large institution in this country.

As the military began to come unglued because of such intense political meddling, it was often blamed for that, too. Books such as the much-lauded *Crisis in Command* claim that a failure of leadership created the military's difficulties, with no mention of political overcontrol and its effect on the erosion of discipline.

Again I recall my first summer of sea duty, at the very dawn of the Vietnam War, as we shuttled men and weapons to Hawaii on their way to the war zone. We would stand in the mess hall lines, a hundred men conversing or reading from ever-present paperback books that fit neatly in the rear pockets of our dungarees, and it was a chilling deterrent when the call went down the line, "Gangway! Prisoners! Gangway! Prisoners!" We would move against one wall and the Marine guards would march the prisoners past us, to the front of the line. Their heads would be shaved and their hats would be turned upside-down over their onion heads and they would walk in one rank, so close that each man's nose was pushed into the back of the head of the man in front of him. They could neither look nor talk except, as they picked up silverware and plates and food, to gain permission from the security guard each time they moved even a hand. "One knife, sir? One spoon, sir?" They ate in an isolated space behind the chow line, away from the other sailors and marines, sitting at attention and requesting permission to take each bite. At four o'clock every morning, the marines brought them up to the chilly, wind-blown flight deck and ran them. It was no fun to be in the brig, but those who broke regulations were on full notice about what awaited them. And the visible display of those sanctions was a measurably effective deterrent: I never saw more than perhaps eight men in the prisoner line, on a ship of several thousand sailors.

Today, such treatment would constitute a violation of individual rights. At the same time, the Navy's absentee and desertion rates over the past three years have been the highest in its history. The connection is absolute: military men don't run away from discipline, they run away when there is no discipline.

I thought of those shaved prisoners recently when I read a story in the Baltimore *Sun* about five soldiers at the Army Ordnance Center at Aberdeen, Maryland, who had repeatedly refused to get a regulation haircut. Their heads were shaved down to crewcut level as a punishment, after the soldiers were given the option of having such haircuts administered to them or undergoing an Article 15 disciplinary hearing. The soldiers then decided to complain that their rights had been violated. The end result: the company commander, the first sergeant, and the sergeant who administered the haircuts were relieved of their duties.

The soldiers, according to an Army spokesman, "said they felt they have been satisfied with the action taken." The Army spokesman did not comment on whether the company commander and his NCO's were satisfied with it.

Nor did the Army or anyone else seem to wonder about the effect on a unit when its members learn they can violate regulations, not only with impunity, but at the direct expense of those charged with upholding the regulations. One clear indication that such destruction of traditional discipline affects military performance comes from the very unit in which this incident occurred. The soldiers were trainees in the command's automotive trade course, which supposedly prepares enlistees to maintain and repair mechanized equipment. An extensive behavioral study conducted by the Army in 1978, directed by Brigadier General Frederick Brown, found that only 45 percent of the E2 and E3 automotive repairmen in the Army's operating units could perform even 1.3 of the eight "common maintenance tasks" designed to keep their equipment functioning on a daily basis. The study further found that only 30 percent of the E4 and E5 track vehicle mechanics could perform 1.1 of their eight basic tasks.

Discipline in training develops an individual's attitudes toward the military and toward himself as a soldier. Greater discipline in the initial stages of a marine's service life is the most marked reason the Marine Corps has traditionally been able to take the same street dude or farmer that the Army might draw on and make him a much better fighting man. Contrarily, as in the present Army, when discipline disappears, so does an individual's perception that he is learning and performing tasks that go beyond what he would be doing in the civilian world.

Somehow, we seem to have lost that perception. We have built the essential elements of defeat into our military, pre-programmed many units for failure because of political fantasies. Our soldiers cannot even maintain their equipment under nonstressful situations, and we relieve commanders who attempt to develop a sense of discipline in those responsible for the equipment. We may well need better pay and newer equipment, but our most urgent need is more discipline and fewer political intrusions.

Gather a group of military professionals in a room where they believe they are among their own and you hear bitter, laconic tales, told with a sense of powerlessness and even doom. Of the miltary commander during the *Mayaguez* incident issuing an order and hearing the heavy German tones of Kissinger cutting through the tactical net, countering his command from 10,000 miles away, two decades of preparation for that very moment negated by a politican watching a tote board in Washington. Of variations on that theme played daily in Vietnam, until it was a litany. Of a present administration so dominated by internationalism on one hand and domestic politics on the other that it sees the military as a domestic political tool, and is more consumed with how many women it can put into a tank than with whether the tanks are operable. Of federal judges who dare to say that voluntary heroin use, which threatened to shut down many operating units several years ago, and which is a federal crime in the civilian world, nonetheless constituted service that is deserving of a mandatory honorable discharge. Of a Congress that is more afraid of the protests of a few thousand comfortable college students than it is of the reality that our manpower situation has deteriorated to the point where our reserves, which are the linchpin of any future mobilization, are three quarters of a million men understrength. Our active duty military will be stranded in a future conflict. We need the draft back.

The last cut is the deepest, because it

demonstrates to the military professional that his life is considered less important than someone else's political career. The Volunteer Army, which is repeatedly referred to as "only a peacetime Army" by Department of Defense politicians, was designed to operate as part of a triad, alongside a strong reserve and a Selective Service System that remained able to draft citizens on short notice. Both of these backups have been eviscerated to the point where they would contribute little in a mobilization.

Selective Service is in "deep standby." DOD mobilization plans call for delivering the first contingent of draftees within thirty days after a mobilization, and for having at least 100,000 in training within sixty days. Under present circumstances, it would take 110 days for the first inductee to set foot on a training base. Faced with this evidence last autumn, Congress voted down a move to reinstate draft registration 259 to 155. The rhetoric on the House floor was right out of a 1970 antiwar rally. The reality of our national mood, demonstrated in an April 1979 Gallup poll that showed 76 percent of Americans nationwide and 73 percent of those in the eligible age group favored draft registration, was ignored.

The situation with the reserves is equally bleak. Individual Ready Reserves, those who are still serving out a commitment and thus are eligible to be mobilized even though they do not train with a unit, are 500,000 men short of the number considered necessary to fill the lag between mobilization and the preparation of inductees for duty. The organized reserve, which is designed to feed actual units into a theater of operations within days after mobilization, is 200,000 men short, and is a laughing stock that does not even take itself seriously. It cannot recruit: the Army Reserve is at less than half of its wartime manpower level Defense politicians have responded by lowering reserve manpower goals to match the number of recruits they believe can be signed up. For instance, the Army claimed in 1978 that it recruited 92.5 percent of its reserve goal, although this was only 48.4 percent of wartime requirements. Nor can the reserves retain: 60 percent quit before they fulfill one tour of duty.

The Carter Administration has been on notice regarding these deficiencies for some time. Its response has been to classify part of the problem and ignore the rest of it. In late 1978, for instance, the DOD ran a paper mobilization exercise known as "Nifty Nugget," which theorized a major commitment of U.S. forces to Europe to help NATO fight a conventional war against Warsaw Pact forces. In light of the overwhelming conventional superiority Eastern European forces enjoy, and the increasing adventurism of the Soviet Union, as well as our own possible hesitation to initiate an all-out nuclear war with Russia in response to a conventional attack on our strategic "periphery," this is not an unlikely scenario. The results, in manpower terms alone, were devastating. As one Army planner put it, "Don't buy any Victory bonds."

Ninety days into such an engagement—twenty days before this country could even deliver a draftee to his training facility—our military would be more than one million personnel short. In some critical combat skills, we would have only 30 percent of the trained manpower needed to fight a war. We would have less than 40 percent of the doctors needed, less than 25 percent of the nurses, and less than half the enlisted medics, thus ensuring that many thousands would die for lack of care. It is impossible to measure what would happen to our aviation forces; aviators require more than a year of intense training before becoming combat-ready.

Confronted with this evidence, Army Secretary Clifford Alexander refused to discuss it, even with members of Congress in closed session. This led Congressman Robin Beard of Tennessee, a former marine and a leading proponent of military preparedness, to claim that "this is a flagrant abuse of the system and does not serve the national interest. The manner in which this information has been handled is nothing short of a national defense scandal."

There are not many members of Congress with the insight and concern of Robin Beard these days. The failure to address defense manpower issues over the past decade shows the priorities of a Congress whose members have an increasingly large lack of military experience, and whose view of the political world was shaped by the gyrations of a vocal minority during the Vietnam protest years. Of the twenty-nine members of Congress born in 1944 or later, only five have served with the active military forces, and only one is an actual combat veteran.

The volunteer Army is an unmitigated disaster. Those who discovered, after fifteen years of calculated silence, that the Vietnam draft fell disproportionately on the poor and minorities, now remain mute before the hard evidence that the cure is infinitely worse than the disease. If present enlistment trends continue, the Army will be 42 percent black by the early 1980s. White enlistees have less education than black, evidence of their socioeconomic status. More than 60 percent of enlistees are from the bottom two categories of intelligence testing. It is so hard to re-enlist a soldier that the Army is now permitting those who fail their skills qualification test to re-up, thus assuring the youth of America that, if mobilization should occur, their NCO's will be unqualified to train them, much less to function themselves. This situation is getting worse every year: in 1979, the intelligence levels of recruits and those re-enlisting were the worst since the volunteer Army began.

Because American males have been conditioned since Vietnam to view the avoidance of military service as honorable and just, and because President Carter's Administration has misguidedly viewed the role of women in the military as an issue more of equal opportunity than of effective national defense, increasing percentages of women are being brought into the service. It is expected that by 1984, 12 percent of the Army will be female, up from 2 percent in 1972. Army Secretary Alexander, a former chairman of the Equal Employment Opportunity Commission, views reluctance to use women in the military through the same prism he did the resistance to blacks in the 1960s: as a product of unfounded bigotry. Using the "narrowest definition of combat that was practicable," he has opened up all but twenty-four of the 305 military specialties to women, ensuring that female soldiers will be directly involved in any future military confrontation. The glowing press releases put out by the DOD about how well this is working may be fooling portions of the American public, but they are hardly deluding the Soviets. Furthermore, our international military credibility is damaged by the reality that no President wants to be the first to send large numbers of American women out to die.

The issue is more than the cultural bias which sometimes held blacks back: it is biological as well. We are the only country in the world whose political process is pushing women toward the battlefield. Contrary to popular mythology. Israeli women do not serve in combat units but rather perform administrative and technical functions that free the men to fight. When three Israeli women soldiers were killed in the 1973 Yom Kippur War, it shocked the nation. The Soviet military, which used women out of necessity in the latter stages of World War II, now has only 10,000 women in a military force of some 4.5 million. If the Soviet World War II experience had been beneficial, it seems logical that they would have capitalized on it.

But quite obviously, the disadvantages of using women far outweigh the advantages. Training regimens in our own military have been watered down. Sexual attractions dissipate a unit's sense of mission, and affect combat readiness in other ways: in 1978, fully 15 percent of the women on active duty in the army became pregnant. Double standards in performance and discipline have unavoidably evolved, despite what some would like to think, men and women are fundamentally different, and treat each other accordingly. And the product, after all of this confusion, is a soldier who is 55 percent as strong, has 67 percent of the endurance, and has much greater privacy needs than her male counterpart. But how can a male policymaker who debunked the whole notion of military service when he was called upon to serve now invoke the essential masculinity and rigorous nature of that which he avoided?

Because there is no draft, volunteer Army soldiers are wheedled and cajoled by recruiters. This sort of seduction, which has become necessary in the face of recruiting shortfalls that have increased every year, creates an attitude in both the enlistee and the military itself which is destructive to discipline and the traditional notions of service. Enlistees often expect magical, exotic things to happen to them once they "join the people who joined the Army." What they do not expect, and will not abide, is the sort of harsh, demanding regimen necessary to produce disciplined and effective soldiers. And—a recent innovation, compliments of volunteer Army recruiting difficulties—if they don't like the treatment they are receiving, they can simply quit. Under the Trainee Discharge Program and the Expeditious Discharge Program, a person on active duty can leave the service at any time up to three years after his or her enlistment, with a discharge under honorable conditions.

The military, which traditionally has caused many an errant youth to develop self-discipline and motivation, is now discharging people by the thousands at their request, for lack of those same qualities. According to current Army regulations, members who have demonstrated that they "cannot or will not meet acceptable standards" can be discharged owing to "poor attitude, lack of motivation, lack of self-discipline," and "inability to adapt socially or emotionally." The characteristics that help "identify" these soldiers include such formerly resolvable tendencies as being a "quitter," having "hostility toward the Army," having an "inability to accept instructions or directions," and a "lack of cooperation." Since this program was introduced in 1976, more than 190,000 servicemen and women have simply walked away, with discharges under honorable conditions—enough to populate the entire Marine Corps at full strength.

Under this and other such rubrics as motivational problems, character or behavior disorder, inaptitude and unsuitability, fully 40 percent of the enlistees in today's military fail to complete their period of obligation. and yet manage overwhelmingly to receive discharges under honorable conditions. How can a military commander create a properly disciplined environment when his members can simply walk away and still be rewarded for "honest and faithful service"?

The Carter Administration has responded quite creatively to such statistics. Assistant Secretary of Defense John White testified in the Senate in May 1978 that the decline in absences without leave, courts-martial, and nonjudicial punishments showed that "a strong case can be made that our active forces are stronger and better manned than at any time in our history."

Quite apart from the fact that, at the very moment Secretary White was uttering those words. General Brown's combat-effectiveness study was showing that one out of every four tank gunners in the Army cannot even aim a battle sight, the Secretary's statement was circuitous. The decline in the use of the disciplinary process does not indicate that our troops are more disciplined; rather, it indicates that there is not even enough discipline to utilize the process. When a disaffected soldier can simply quit and walk away, with a discharge under honorable conditions, he hardly needs go to over the hill.

Not that people have stopped going over the hill: in 1979, 113,650 servicemen and women did so. Greater than 11 percent of the enlisted personnel in the Navy and 12 percent in the Marine Corps were absent without leave or in a desertion status for some part of that year.

During my last year in the Marine Corps, I briefed a case for the secretary of the Navy involving a marine who had received a bad conduct discharge in 1932 and was asking for an upgraded discharge. The marine, a combat veteran of World War I who had had fourteen years' good service, had been awarded this punitive discharge, the equivalent of a criminal conviction in a civil court, for being AWOL for five days. This seemed extreme to me in 1972, although I certainly viewed his absence as a punishable offense. During my time in the Marine Corps, unauthorized absence did not become grave enough to warrant discharge until perhaps a month, when an absentee became a "deserter" for purposes of identifying his offense. An absentee was most likely court-martial; a deserter, although rarely convicted of the offense of desertion, was usually thrown out with a less than honorable discharge.

In the volunteer Army, however, a deserter is seldom even court-martialed. As an example of the deterioration regarding this peculiarly military yet important offense, from 1974 through 1977 the military reported 608,000 AWOLS exceeding twenty-four hours. The Army court-martialed almost none of them. In fact, only 11 percent of the most serious offenders, the thirty-day "deserters," were court-martialed. And of these 608,000 offenders, only 2,335 were discharged for the offense. As a referent from another era, more than 29,000 servicemen were convicted by court-martial for being AWOL in 1952 alone.

The cohesion and morale of an army are often measured by its desertion rate and what its leaders do about it. Condoning unauthorized absence destroys the notion of duty and commitment in a military unit, and affects discipline as few other breaches of military custom can. The military becomes simply a job. Soldiers become employees, who show up whenever and in whatever condition they choose. But how does a system stop this when it must beg its members to join, and when those who become annoyed with their service can quit?

A draft would remedy this and other shortfalls, not merely by offering up more manpower and a less delicate command environment, as opponents of the draft so often maintain, but by causing a much-needed reorientation of priorities. The military is not a job, any more than paying taxes is a job. In fact, military service might be equated to a tax. We each surrender a portion of our income to the common good, and we should all be willing to give a portion of our lives in order to assure that our freedoms will not disappear. It is so very basic, and yet so much maligned in the cynical wake of Vietnam; conscription is not slavery, it is societal duty.

Reinstituting the draft would help in yet another, more elemental and equitable way. We created a military, just as we created a society, for ideological rather than mercenary reasons. Detractors of the draft who claim that our natural state, through history, has been draft-free fail to recognize that our position in the world until well into this century was less than preeminent. Nor do they recognize the post-World War II strategic realities. It is fundamentally wrong—and cowardly—in a democratic society to claim that those who stand between us and a potential enemy should be risking their lives merely because they are "following the marketplace," and the military is their "best deal." The result of such logic is today's volunteer Army, a collection of men and women who have been economically conscripted to do society's dirty work, as surely as if there were the most inequitable draft imaginable.

The draft would not make us a nation of militarists; it never has. It would instead leaven the military and at the same time weave those in uniform back into the fabric of our nation. People who work together and depend on each other end up liking each other; that was the great lesson of World War II, which brought together 16 million American men from all walks of life. The obverse is true of Vietnam, which over a longer period saw 9 million men in uniform, less than a third of the draft-eligible males in the pool, selected out largely on the basis of education or lack of it.

Those who oppose the renewal of the draft claim that the young will refuse to serve, invoking some misconception from the Vietnam days about widespread draft resistance. My bet is that they are wrong, just as they are wrong to invoke Vietnam as precedent. The lesson of the Vietnam draft is not that people will not go if called: only 13,580 men refused the draft during that entire era, while millions went. The real lesson is that a draft, once invoked, should be fair in its application, and should not allow the travesties of avoidance within the law that draft counselors perpetrated during Vietnam. How is a system equitable when Joe Namath, a fabulous athlete, and Tom Downey, now a vigorous, basketball-playing congressman, are found physically unfit for service? In America, only one in three was drafted. In Israel today, 95 percent of the males serve in one capacity or another. There are plenty of desks to sit behind in the Army, in order to free those more physically able to fight. It only remains for a system to refine itself in order to determine who should type and who should fight.

It has become clear that, if we mobilize without a draft, the only men in this country capable of plugging up the dike until replacements can be trained are those who served and fought in Vietnam. DOD mobilization plans presently provide for this contingency, as well as for recalling military retirees. Those who claim that another Pearl Harbor would obviate the need for a draft, and that the time period for mobilization would thus be much shorter than now planned, overlook the reality that the draft had been in effect for a full year before Pearl Harbor, and that fully two thirds of our servicemen in the Great Patriotic War were draftees.

So it would be left largely to the Vietnam veterans to do it again. The group that went once to the well and came away labeled as "suckers" by 63 percent of the respondents in a recent Harris survey would be required, simply because they did their patriotic duty once, to do it again, while the two thirds of their age group that stayed home and started their careers and bitched about the war could do that again.

This is a manifestly unfair possibility, although I have no doubt that many Vietnam veterans would voluntarily re-enlist if we were to mobilize. And perhaps, come to think of it, putting Vietnam veterans back into uniform for a while would be enlightening to today's military. For all the maligning of their Vietnam service, there can be no doubt that they could aim tanks and fix ships and show up for work.

But our greatest need is to get beyond those old jeolousies from Vietnam, to make our military once again a fighting force rather than a social lab, and to stop being afraid to ask the men of Harvard to stand alongside the men of Harlem, same uniform, same obligations, same country.

Why the Country Needs It

(By James Fallows)

I am more than angry. I did not give birth to my one and only son to have him snatched away from me 18 years later. My child has been loved and cared for and taught right from wrong and *will not* be fed into any egomaniac's war machine.

Our 18- to 25-year-olds have not brought this world to its present sorry state. Men over the age of 35, down through the centuries, have brought us here, and we women have been in silent accord.

Well, this is one woman, one mother, who says *no*. I did not go through the magnificent agony of childbirth to have that glorious young life snuffed out.

Until the presidents, premiers, supreme rulers, politiburos, senators and congressmen of the world are ready to physically, as opposed to verbally, lead the world into combat, they can bloody well forget my child.

Unite mothers! Don't throw your sons and daughters away. Sometime, somewhere, women have just got to say *no*.

No. No. No. No. No. Never my child.

—Louise A. Saylor

(Letter published in the Washington *Post*, January 28, 1980.)

Nor my child, Mrs. Saylor. Nor either of my mother's sons when, ten years ago, both were classified 1-A. But *whose*, then? As our statesmen talk again of resisting aggression and demonstrating our will—as they talk, that is, of sending someone's sons (or daughters) to bear arms overseas—the only fair and decent answer to that question lies in a return to the draft.

I am speaking here not of the health of the military but of the character of the society the military defends. The circumstances in which that society will choose to go to war, the way its wars will be fought, and its success in absorbing the consequent suffering depend on its answer to the question Whose sons will go?

History rarely offers itself in lessons clear enough to be deciphered at a time when their message still applies. But of all the hackneyed "lessons" of Vietnam, one still applies with no reservations: that we wound ourselves gravely if we flinch from honest answers about who will serve. During the five or six years of the heaviest draft calls for Vietnam, there was the starkest class division in American military service since the days of purchased draft deferments in the Civil War. Good intentions lay at the root of many of these inequities. The college-student deferment, the various "hardship" exemptions, Robert McNamara's plan to give "disadvantaged" youngsters a chance to better themselves in the military, even General Hershey's intelligence test to determine who could remain in school—all were designed to allot American talent in the most productive way. The intent was to distinguish those who could best serve the nation with their minds from those who should offer their stout hearts and strong backs. The effect was to place the poor and the black in the trenches (and later in the coffins and the rehabilitation wards), and their "betters" in colleges or elsewhere far from the sounds of war. I speak as one who took full advantage of the college-student deferment and later exploited the loopholes in the physical qualification standards that, for college students armed with a doctor's letter and advice from the campus draft counseling center could so easily be parlayed into the "unfit for service" designation known as 1-Y. Ask anyone who went to college in those days how many of his classmates saw combat in Vietnam. Of my 1200 classmates at Harvard, I know of only two, one of them a veteran who joined the class late. The records show another fifty-five in the reserves, the stateside Army, or military service of some other kind. There may be more; the alumni lists are not complete. See how this compares with the Memorial Roll from a public high school in a big city or a West Virginia hill town.

For all the talk about conflict between "young" and "old" that the war caused, the lasting breach was among the young. In the protest marches on the Pentagon and the Capitol, students felt either scorn for or estrangement from the young soldiers who stood guard. What must the soldiers have felt about these, their privileged contemporaries, who taunted them so? To those who oppose the war, the ones who served were, first, animals and killers; then "suckers" who were trapped by the system, deserving pity but no respect; and finally invisible men. Their courage, discipline, and sacrifice counted for less than their collective taint for being associated with a losing war. A returned veteran might win limited redemption if he publicly recanted, like a lapsed Communist fingering his former associates before the HUAC. Otherwise, he was expected to keep his experiences to himself. Most veterans knew the honor they had earned, even as they knew better than anyone else the horror of the war. They came to resent being made to suppress those feelings by students who chose not to join them and who, having escaped the war without pain, now prefer to put the whole episode in the past. Perhaps no one traversed that era without pain, but pain of the psychic variety left arms, legs, life intact and did not impede progress in one's career. For people of my generation I speak in the narrow sense of males between the ages of twenty-eight and thirty-six or thirty-seven—this wound will never fully heal. If you doubt that, sit two thirty-two-year-olds down together, one who served in Vietnam and one who did not, and ask them to talk about those years.

At least there was theoretical consistency between what the students of those days recommended for others and what they did themselves. Their point was that no one should go to war, starting with them. It should also be said that their objection to the war, at least in my view, was important and right. And while they—we—may have proven more effective and determined in acts of individual salvation than in anything else, they at least paid lip service to the idea of the "categorical imperative," that they should not expect others to bear a burden they considered unacceptable for themselves.

I hear little of that tone in the reaction to President Carter's muted call for resumption of draft registration. Within a week of his request in the State of the Union address, I spent time at two small colleges. At both, the sequence of questions was the same. Why is our defense so weak? When will we shaw the Russians our strength? Isn't it terrible about the draft?

Senator Kennedy, who so often decried the unfairness of the draft during Vietnam, won cheers from his college audience for his opposition to draft registration, in the same speech in which he suggested beefing up our military presence in the Persian Gulf. Kennedy did go on to argue that we should not shed blood for oil, which is more than most anti-draft groups have done to date. It would have been reassuring to hear the students say that they oppose registration *because* they oppose a military showdown in the Persian Gulf. Instead many simply say, We don't want to go. I sense that they—perhaps all of us—have come to take for granted a truth so painful that few could bear to face it during Vietnam: that there will be another class of people to do the dirty work. After seven years of the volunteer Army, we have grown accustomed to having suckers on hand.

That the volunteer Army is another class can hardly be denied. The Vietnam draft was unfair racially, economically, educationally. By every one of those measures, the volunteer Army is less representative still. Libertarians argue that military service should be a matter of choice, but the plain fact is that service in the volunteer force is too frequently dictated by economics. Army enlisted ranks E1 through E4—the privates and corporals, the cannon fodder, the ones who will fight and die—are 36 percent black now. By the Army's own projections, they will be 42 percent black in three years. When other "minorities" are taken into account, we will have, for the first time, an army whose fighting members are mainly "non-majority," or, more bluntly, a black and brown army, defending a mainly white nation. The military has been an avenue of opportunity for many young blacks. They may well be first-class fighting men. They do not represent the nation.

Such a selective bearing of the burden has destructive spiritual effects in a nation based on the democratic creed. But its practical implications can be quite as grave. The effect of a fair, representative draft is to hold the public hostage to the consequences of its decisions, much as children's presence in the public schools focuses parents' attention on the quality of the schools. If citizens are willing to countenance a decision that means that someone's child may die, they may contemplate more deeply if there is the possibility that the child will be theirs. Indeed, I would like to extend this principle even further. Young men of nineteen are rightly suspicious of the congressmen and columnists who urge them to the fore. I wish there were a practical way to resurrect the provisions of the amended Selective Service Act of 1940, which raised the draft age to forty-four. Such a gesture might symbolize the desire to offset the historic injustice of the Vietnam draft, as well as suggest the possibility that, when a bellicose columnist recommends dispatching American forces to Pakistan, he might also realize that he could end up as a gunner in a tank.

Perhaps the absence of a World War II-scale peril makes such a proposed unrealistic; still, the columnist or congressman would have to contemplate the possibility that his son would be there, in trench or tank. Under the volunteer Army that possibility will not arise, and the lack of such a prospect can affect behavior deeply. Recall how, during Vietnam, protest grew more broad-based and respectable when the graduate school deferment was eliminated in 1968. For many families in positions of influence, the war was no longer a question of someone else's son. How much earlier would the war have ended had college students been vulnerable from the start?

Those newly concerned families were no better and no worse than other people at other times; they were responding to a normal human instinct, of the sort our political system is designed to channel toward constructive ends. It was an instinct that Richard Nixon and Henry Kissinger understood very well, as they deliberately shifted the burden of the war off draftees and finally off Americans, to free their hands to pursue their chosen course. Recall how fast protest ebbed with the coming of the volunteer Army and "Vietnamization" in the early 1970s. For this reason, the likes of Nixon and Kissinger might regard a return to the draft as a step in the wrong direction, for it would sap the resolve necessary for a strong foreign policy and introduce the weakening element of domestic dissent.

At times leaders must take actions that seem heartless and unfair, and that an informed public would probably not approve. Winston Churchill let Coventry be bombed, because to sound the air-raid sirens and save its citizens would have tipped off the Germans that Britain had broken their code. But in the long run, a nation cannot sustain a policy whose consequences the public is not willing to bear. If it decides not to pay the price to defend itself, it will be defenseless. That is the risk of democracy.

What kind of draft? More than anything else, a fair one, with as few holes as possible to wriggle through. The 1971 Selective Service Act, passed when the heavy draft calls had already ended, theoretically closed most of the loopholes. But if real trouble should begin, those nine-year-old patches might give way before political pressures unless we concentrate again on the mechanics of an equitable draft. "Fairness" does not mean that everyone need serve. This year 4.3 million people will turn eighteen, 2.2 million women and 2.1 million men. For the last few years, the military has been taking 400,000 people annually into the volunteer Army—or, in raw figures, only one in ten of the total available pool. Using today's mental and physical standards, the military knocks off 30 percent of the manpower pool as unqualified, and it excludes women from combat positions. When these calculations are combined with the diminishing number of young men—only 1.6 million men will turn eighteen in 1993—the military projects that it will need to attract one of every three "qualified and available men" by the end of the 1980s.

Read another way, this means that a draft need affect no more than one in three—and probably far fewer. To make the draft seem—and be—fair, the pool of potential draftees should be as large as possible, even if only a few will eventually be picked. Those who are "disabled" in the common meaning of that term—the blind, paraplegics—should be excluded, but not the asthmatics and trick-back cases who are perfectly capable of performing non-combat military jobs. The military's physical requirements now assume that nearly all men must theoretically be fit for combat, even though only 14 percent of all male soldiers hold combat jobs. The proportion of draftees destined for combat would probably be higher, since those are the positions now most understrength; if actual fighting should begin it would be higher still. But combat will never represent the preponderance of military positions, and its requirements should not blindly dictate who is eligible for the draft. Instead, everyone without serious handicap should be eligible for selection by lottery—men and women, students and non-students. Once the lottery had determined who would serve, assignments based on physical classifications could determine where and how.

The question of women's service is the most emotionally troubling aspect of this generally emotional issue, but the progress of domestic politics over the last ten years suggests that the answer is clear. If any sexual distinctions that would deny a woman her place as a construction worker or a telephone pole climber have been forbidden by legislators and courts, what possible distinction can spare women the obligation to perform similar functions in military construction units or the Signal Corps? President Carter recognized this reality in deciding to include women in his initial draft registration order. If women are drafted, they have an ironclad case for passage of the Equal Rights Amendment. If they are not, their claim for equal treatment elsewhere becomes less compelling. At the same time, it is troubling to think of women in combat, or of mothers being drafted, and a sensible draft law would have to recognize such exceptions.

There should be no educational deferments except for students still in high school and possibly in two other cases. One would be for college students who enroll in ROTC; like their counterparts in the service academies, they would be exchanging four years of protected education for a longer tour of duty as an officer after graduation. The other exception might be for doctors, possessors of a skill the military needs but cannot sensibly produce on its own. If potential doctors wanted to be spared all eligibility for the draft, they could enter a program like the Navy's V-12 during World War II, in which they could take a speeded-up college course and receive a publicly subsidized medical education, after which they would owe several years' service as military doctors. Except in the most far-fetched situations, "hardship" cases should be taken care of by compensation rather than by exemption. If these are permitted, they become an invitation to abuse: who can forget George Hamilton pleading hardship as his mother's sole supporting son? Instead, the government should offset hardship with support payments to the needy dependents.

One resists the idea of lottery, because it adds to the system the very element of caprice and unfairness it is so important to remove. But since only a fraction of those eligible to serve are actually required, there seems no other equitable way to distribute the burden. With a well-established lottery, every male and female might know at age eighteen whether he or she was near the top of the list and very likely to be called, or near the bottom and almost certainly protected. How far the draft calls went down the list would depend on how many people volunteered and how many more were needed.

None of these concerns and prescriptions would matter if the volunteer Army were what it so often seemed in the last few years—a stand-in, a symbol, designed to keep the machinery running and the troops in place not to be sent into action for any cause less urgent than absolute survival. But now we hear from every quarter that the next decade will be a time of testing, that our will and our strategy and our manpower will be on the line. The nature of this challenge, and the style of our response, are what we should be thinking and talking about now. Our discussions will never be honest, nor our decisions just, as long as we count on "suckers" to do the job.●

SOCIAL SECURITY NUMBERS

Mr. HATFIELD. Mr. President, under its current plans, Selective Service will require on the registration form that the registrant's social security number, if he possesses one, must be disclosed. This disclosure is not optional, it is mandatory. This leads me to strongly suspect that plans are being made to cross-check registrants against lists of 19- and 20-year-old contributors to the social security program by using those social security numbers listed on the registration forms. In other words, social security numbers may be used to enforce registration. The social security numbers could be used to track down current addresses of registrants. This will enable FBI and other law enforcement officials to easily locate alleged violators of the Selective Service Act. In order to do this, Selective Service would need an exemption to the Privacy Act of 1974. And although the administration has not yet requested such an exemption, Dr. Bernard Rostker indicated in a recent radio interview, and I quote:

> If they feel for whatever reason that there are people getting a free ride because of the technicalities in the Privacy Act, my personal view would not go to increasing the Privacy Act but to moving against it to strike it down on those specific instances and provide for more direct access to federal files.

Since by 1985 all young persons ages 18 to 26 will be under requirement to notify the Government of their whereabouts at all times, the social security number would be easily turned into a universal identifier for persons of that age group. A universal identifier system is something that the American people have feared for a long, long time and, in fact, social security numbers have often been talked about as the principal method by which the Government would be able to institute the universal identifier system.

What is a universal identifier system? It is simply this. It is a number or system which would permit the Government to at all times identify and locate citizens. Viewed as a tool for the delivery of social services, the standard universal identifier would have some obvious advantages. It would permit greater ease and accuracy in the maintenance updating and sharing of records and thereby presumably improve the administrative research and planning performances of recordkeeping agencies such as Selective Service. Duplication error of data could be reduced, efficiency could be enhanced.

But it is precisely this efficiency which many people find frightening—the prospect that records collected in different systems at different times for different purposes could be linked pooled, eventually all brought together into one dossier that chronicles the life of an individual. Proponents of the standard universal identifier argue that the danger to civil liberties lies not in the kind of labor link system that is used, but in the abuses attendant upon the actual collection, use, and sharing of data. Or, to state it the other way around, one should not be lulled into believing that all will be well if only the standard universal identifier concept would be abandoned.

Public and private agencies have been linking and exchanging data for years with or without the standard universal identifier, and will undoubtedly continue to do so if they believe there are economies or benefits to be gained. But the standard universal identifier as a common identifier does act as an added incentive to record sharing. It can make sharing technically easier, less expensive, more efficient. The lack of a common identifier is an impediment that can make recordsharing less efficient, less attractive.

The Department of Health, Education, and Welfare Advisory Committee defined the danger of the standard universal identifier more as a matter of public anxiety than on the basis of existing abusive recordsharing practices. The committee noted that because a standard universal identifier would require the use of personal identity cards, the loss or theft of a card could cause a serious inconvenience and the mere threat of official confiscation would be a powerful weapon of intimidation.

The standard universal identifier would, in effect, create a national population register which could in turn become the basis of a national dossier system holding records about the activities and affairs of every citizen from birth to death. Because a standard universal identifier is an incentive to record pooling, it might make it possible to bring a lifetime of information to bear on any decision about a given individual.

Selective service draft registration, I believe, is a step toward this big brother standard universal identifier system. It would create a registry of individuals for ages 18–26. In this context, the social security number becomes the standard universal identifying number which would permit Selective Service to pool information with other Government agencies in order to monitor the activities of the young people of this Nation.

The social security number has always had the potential for this type of abuse. The social security number began quite a number of years ago.

A 1936 Bureau of Internal Revenue regulation adopted pursuant to the Social Security Act of 1935, provided that an identifying number was to be assigned to each employee eligible to have a social security account. The employee was to report the number to his employer, who in turn had to use the number on all required social security tax returns.

A year later, the Social Security Board itself authorized the first extension of the use of its social security number as an identifier, in this case to number accounts in State unemployment insurance programs. Thus, many workers not covered by social security now had to apply for social security numbers to participate in unemployment insurance plans. Still, only a minority of American workers had numbers for the next 15 years.

In 1961, the Internal Revenue Service decided to adopt the social security number as a taxpayer identification number. Anyone who paid income taxes who did not already have a social security number had to get one now. This was a turning point. From 1961 onward, the Federal Government's uses of the social security number multiplied rapidly. In fact, the HEW Advisory Committee pointed out "the Federal Government itself has been in the forefront of expanding use of this social security number." The social security number has by now become the identifier for old age assistance recipients, patients at VA hospitals, securities, and bank accounts, aliens, military service personnel, and the recipients of various forms of Federal public assistance, among others.

Policy decisions on the Federal level have encouraged State agencies to adopt a social security number in public assistance programs, in school records, in motor vehicle registration, and in endless numbers of other State-administered functions. Many State universities use the social security number as a student ID number. A few States put the social security number on automobile license plates. The social security number is sometimes required in order to register to vote, to get a nursing license, a fishing license, a marriage license, even a library card. It appears on many records sent by State and local law enforcement agencies to the FBI's national crime information center.

The private sector, though off to a later start, has also found an infinity of uses for the social security number. Numerous private universities use it as an identifier. It is requested on applications for department store charge accounts. Employers are using it on employee ID cards. Some airlines and hotels ask for the customer's numbers. Some hospitals are using it on the patient's medical records. Labor unions are using it to enumerate their members. Insurance companies frequently ask applicants for their numbers and some of them use the social security number as the policyholder's identifier. Some have had to disclose their social security numbers to get telephone electricity or to have their checks cashed. For, despite popular impression to the contrary, there are not, and never have been, any restrictions on private uses of social security numbers.

To the examples that I have just spoken to, one can add many others. The social security number is rapidly becoming a standard universal identifier. Use by the Selective Service System of this number will rapidly increase this trend.

A few years ago, Congress finally responded to emerging public anxiety over the proliferation of the uses of the social security number. By 1974, the American people clearly had come to perceive the incessant demands for disclosure of the social security number not only as an intrusion on the right of privacy in itself, but also as a symbol of all that is threatening in modern data collection processes—the uses of information as a mechanism for social control. The specter of the one big dossier through the social security number was no longer just a literary fantasy; the public knew enough about the uses and abuses of personal records, and about the capabilities of computer technology, to develop quite a sophisticated understanding of the potential of the social security number as a universal identifier.

Congress' first efforts were only palliative. The Privacy Act of 1974 placed a moratorium on any new uses of the social security number by Federal, State, and local government agencies after January 1, 1975, except for uses thereafter specifically enacted by Federal statute. It restricted existing uses to those formally authorized by statute or regulation. It required the Privacy Protection Study Commission to examine the need for further legislative or regulatory controls.

From this modest beginning, it seemed for a time as if the move toward a universal identifier might have been checked. The media picked up on the subject. Public consciousness became more acute. Increasing numbers of people registered their objections about the ubiquity of demands for the social security number—to legislators, to the press, to private organizations, to anyone willing to listen. Some Government agencies abandoned uses of the social security number that did not meet the conditions set down by the Privacy Act.

Lawsuits were filed when other means of challenge failed. There was talk of stronger legislation to come, in particular a proposed statute which would permit any private business or organization to use the social security number without the express authorization of Congress.

Unfortunately, this momentum toward greater privacy protection has been only slightly slowed in the last few years. First, Federal and State agencies have been using a parent locator service in the child support enforcement program. The child support enforcement program makes a search for the missing father mandatory when the mother and children are on welfare, optional for other families to locate fathers who have defaulted on court ordered child support payments. The search is conducted by combining records, first locally, then in other States, and finally, on the Federal level. Eventually, any governmental records, and even many private records, could be encompassed in this search. The task becomes easier, of course, if a common identifier is available to serve as a bridge from one record system to another, and so the parent locator service logically gives impetus to broader usage of the social security number.

The key to the parent locator service is the social security number. The parent locator service uses the social security number as an identifier to trace the absent parent from one record system to another. This is precisely the kind of record and tracking and record linkage facilitated—almost invited—by the development of this social security number as a universal identifier, and precisely the reason for arguing that the uses of the social security should not be allowed to proliferate.

Less than 2 years after the parent locator service was enacted came the next major step in the transformation of the social security number into a universal identifier. By section 1211 of the Tax Reform Act of 1976, Congress extended to State and local governments the right to use the social security number to administer their tax laws, motor vehicle registration and drivers license systems, and general public assistance laws.

The purpose was twofold: to facilitate the use of motor vehicle registration and drivers license records for parent locator searches; and, to facilitate the comparison of public assistance program records within or between States to uncover cases of welfare fraud.

It would be foolish to argue that a common identifier is not useful. Of course it is. The real questions are whether the common identifier is essential in accomplishing what we wish to accomplish by the use of personal records, and what effect such an identifier has on the values we wish to preserve, most particularly, the right of privacy. Privacy advocates in the debate on the Tax Reform Act pointed out that State and Federal payment locator services were already authorized to use the social security number and were able to get just about any records they needed with or without the social security number. They also pointed out that the social security number is itself vulnerable to fraud, duplication, and error.

I would like to reiterate here the symbolic importance of the social security number as a universal identifier, to combat a tendency either to minimize or to overemphasize its real significance. While it is correct to say that the social security number is not in the technical sense yet a true universal identifier, the fact that it is perceived as such by so many people means that it must be regarded as a potential universal identifier for purposes of developing public policy. Whatever its deficiencies now with programs such as selective service, the social security number will become a true universal identifier because that is the way it will be used.

At this point I would like to turn to a poll taken by Lewis Harris Associates in cooperation with Dr. Allen Weston, who is a professor of public law and government at Columbia University. This poll was on the attitudes of personal privacy of the American people and it was completed last year. The results of this poll, I believe, demonstrate the enormous and overwhelming concern of the American people with their personal privacy. The polls show that the concern of the American people about threats to their own personal privacy have risen dramatically in an 11-month period.

In January 1978, a Harris poll showed that 47 percent of the public are somewhat concerned with threats to their personal privacy. By the time the current study was conducted, approximately 1 year later in December 1978, this level of concern had risen 17 percentage points to 64 percent. That is, that 64 percent of the American people are very concerned about threats to their personal privacy. Moreover, the public was asked whether or not the right to privacy should be added to the list of rights to life, liberty, and the pursuit of happiness—rights guaranteed by our Constitution and Declaration of Independence. By a sizable 76 percent to 17 percent majority, the American people say that the right to privacy should be added to this list. But the most important statistics come from the results of the following question. The question is, "In a book '1984' by George Orwell, virtually all personal privacy had been lost and the Government, called Big Brother, knew almost everything that everyone was doing. Whether or not you have read the book, how close do you think we are to that kind of society? Are we there already, very close, somewhat close or not close at all?"

One in three Americans, 34 percent, believes that this society is very close to or already like the type of society described by George Orwell in his book "1984"—a society in which virtually all personal privacy had been lost and the Government knew almost everything that everyone was doing. This is a very disturbing statistic. The use of social security numbers and the massive surveillance system which would be necessitated by the selective service registration is completely in contradiction to the wishes of the American people to be protected from their Big Brother Government. The data matching and other enforcement techniques as I have described them previously in my discussions about enforcement will only further alienate the American people from what they perceive to be their Big Brother Government.

● Mr. RIEGLE. Mr. President, earlier this year, President Carter announced his intention to resume draft registration in response to the Soviet invasion of Afghanistan. At that time, the President maintained that draft registration was essential to the military preparedness of the United States, and he promised to produce evidence that would verify this contention.

I was willing, at the outset, to listen and examine any data which would support a resumption of draft registration. Our ability to react quickly and adequately to a Soviet threat in distant parts of the world needs to be strengthened. I do not believe, however, that registration is an answer to this problem. Furthermore, the evidence that I have examined indicates that the saving in time that would be achieved through immediate registration is negligible.

A preliminary Selective Service report on the effects on registration found that it would shorten mobilization time by 7 to 10 days. This report, while disavowed by the White House and other proponents of registration, has not been refuted. I believe that we should not subject this Nation to registration, with the accompanying problems of noncompliance, equity, deferment, and others, simply to save a week's time. I strongly feel that in a genuine national emergency, similar to that which existed in 1941, we would see our citizens stepping forward to register as soon as the call went out.

The proposal that the President has submitted would simply require people to register at their local post offices. No classification system is included in this bill, nor will any physical exams be given. Again, I have serious questions whether registration will have any more than a symbolic effect on our readiness.

The draft-age population is highly transient, which presents another difficulty with the registration plan. I see no way that a registration list will remain up to date and may even become a useless exercise in a time of emergency if many of the addresses have changed. I have not seen evidence from the selective service which would counter this problem.

The practical impediments inherent to registration are serious enough, in my opinion, to shelve the plan entirely. The issues of enforcement, equity, and conscientious objection are also unresolved in the proposal.

The Department of Defense has estimated that in the event of a full mobilization effort they would need the first inductees to report to training centers within 10 days, the first 100,000 within 33 days, and the first 650,000 within 6 months. Rather than spend more than $13 million on the President's program of registration, I feel that our mobilization targets can be met by enhancing and upgrading the existing computer operations of the Selective Service System, at a cost of roughly $5 million, without registering one single person.

In light of the facts that I have examined at length, I therefore see no justification for imposing draft registration on our country at this time. Our military needs can be met with an enhanced data processing capability, better benefits for key personnel, and improved conventional weapons.●

ENGINEERING AND THE ARMED FORCES: A CRISIS OF TALENT

● Mr. SCHMITT. Mr. President, during the debate on the budget resolution and during Appropriations Committee hearings into draft registration, there has been much discussion of the quality of our Armed Forces and what we need to do to improve our defense posture.

Mr. President, we do need weapons and hardware and we also must pay a decent wage to our military personnel. During all of this debate little has been said about a very disturbing trend—that being the continued decline in our ability to attract and keep scientists and engineers in the military. With the complexity of modern weapon systems, it is axiomatic that any worthwhile research and development—R. & D.—effort will require a large number of military engineers. The current picture is not encouraging.

For instance, last year the Air Force fell 43 percent short in its hiring goal for engineers. Furthermore, only around 50,000 engineers in all disciplines were graduated from American universities and about half were foreign students; and, thus, may not be suitable for employment in the Defense Establishment. Due to salary differentials and other factors, the military is losing trained personnel as well as failing to attract the recent graduates it needs. Like other aspects of our defense needs, we find that the Soviet Union is moving rapidly ahead. It is now graduating about four times as many engineers as we did. Although we may have some advantages in the scientific field, one wonders whether we are not seriously disadvantaged by allowing this trend to continue.

Mr. President, this problem is intelligently discussed in the May 1980 issue of Government Executive in an article entitled "Military R. & D.: The Worst Shortage Is of Trained, Skilled People." In this article it is pointed out that the atrophy of our Military Establishment has caused the Air Force Institute of Technology to fall victim to the shortsighted defense budget cutters so prevalent in recent years. The Air Force Institute of Technology, located at the Wright-Patterson Air Force Base in Ohio, is the Air Force's effort to "grow their own" engineers, yet today the Air Force Institute of Technology graduates 40 percent fewer people than it did in 1970 while for a 10-percent increase in its $90 million budget the Air Force Institute of Technology could double its enrollment; thus making our crucial R. & D. effort much more effective.

Mr. President, I ask that this article be printed in the Record at this point.

The article follows:

MILITARY R. & D.: THE WORST SHORTAGE IS OF TRAINED, SKILLED PEOPLE

Last year, the Air Force fell 43% short of its hiring goal in engineers, a trend typical of all the Services.

The stage has been set, in effect, for a weakened, error-ridden military research and development effort.

Yet, budget-cutters in the Pentagon, the White House and, especially, Congress persist in denying the military resources to "train them ourselves."

Last year, about 50,000 engineers were graduated from U.S. colleges and universities. According to the Air Force Institute of Technology (AFIT), half of them were foreign students. Thus, while Congress, for one, fusses and frets about U.S. hardware technology finding its way into Soviet hands, the real "technology transfer" is happening in the "people" business.

Once dubbed "the brain drain," it is just one example of an ominous void that is rapidly developing in military ranks and is as threatening to national security as any weaponry shortfall vis a vis the Soviets. Yet, at least in part because it doesn't attract headlines like a high-visibility Defense R&D (research and development) program, policy setters and budget appropriators in Washington tend to leave concern about it up to staff people—who don't worry about it much, either, except as a place to cut spending.

Signs have cropped up lately, however, that top military brass out in the field are now insisting Washington had better turn a spotlight on the problem; and quickly because, even starting now, a big, new batch of military scientists and engineers can't be turned out overnight.

Critical Shortfall—Noted Lt. Gen. Larry Skantze, Commander of Air Force Systems Command (AFSC) Aeronautical Systems Division, recently, "We have today, and are projected to have in the future, a serious shortage of engineers in the Air Force, not just here (at Wright-Patterson Air Force Base) but across the board in all associated engineering disciplines. In short, while the shortage may be more discernible at the tail end of the cycle (in hardware), the real problem is at the front end."

"In other words, if you expect the horse to pull the wagon, you had better make sure you've got a healthy horse."

Last fiscal year, he pointed out, the Air Force came up some 43 percent shy of its engineer-hire goals which, in officer categories alone, translated into about 1200 fewer officer-engineers than needed. By contrast, said AFSC Commander, General Alton Slay, last November, "In 1959, the Soviet Union graduated 75,000 engineers, almost twice what the U.S. did that year."

Ten years later, the Soviets graduated 190,000 engineers, almost four times the U.S. total. "In 1979, they graduated just under 300,000 engineers—six times as many as we did." Further, he added, "ten years ago, both we and the Soviet Union had about 575,000 scientists and engineers engaged in R&D. Today, we still have about 575,000 scientists and engineers engaged in R&D but the Soviet Union now has about 1,300,000."

Specifically, in Defense-related R&D, he noted that the U.S. has just about 170,000 scientists and engineers working while the Soviets have more than 500,000. "Are we too glib," he asked, "when we assert," in effect, "that one engineer engaged in Defense R&D in the U.S. can do more than three engineers employed on similar projects in the Soviet Union? Are we three times as good as they are?"

Summed up Air Force Chief of Staff, General Lew Allen, "The trends we have witnessed in education reduction are simply unacceptable. Their continuation would seriously undermine our ability to maintain adequate deterrent and defense capabilities by denying us the expertise required to design, test, produce and deploy the best weapon systems in the world."

Added he, "To succeed, we must aggressively recruit qualified personnel for our AFIT programs and convince policy makers in the Administration and the Congress of the critical role graduate education plays in the life of the Air Force."

Among the trends all the Services are fighting:

A current shortfall of 60,000 persons with scientific and technical talents in the Nation as a whole, a deficit projected to grow to 100,000 by 1985;

College-graduate engineers being offered average starting salaries in industry of about $20,500 compared to a first lieutenant's starting pay, nonpilot-rated, of some $13,000;

Skilled senior officers resigning at a rate which, if continued unchecked, will see nearly half the Air Force officer corps made up of lieutenants by 1985—and a similar reduction going on among senior-grade civilians;

Budget cutbacks in military continuing-education programs even though (a) technology is skyrocketing and Air Force faces a need right now to prepare itself for, among other things, routine operations in outer space; (b) a long-recognized fact, both in engineering and in project management/contracting, that to maintain proficiency over, say a 25-year career an officer and/or civilian will spend, in total, five of those years going back to school.

High-level politicians' worry about all this, however, is typified, say leaders in the field, too much by Rudyard Kipling's "For it's Tommy this, an' Tommy that, an' 'Chuck him out, the brute!' But it's 'Saviour of 'is country' when the guns begin to shoot."

Air Force, for one, has concluded it probably never will be given the resources—short of another *"Sputnik* crisis" like the panic that shook Congress in the late 1950's—to match industry dollar-for-dollar, plus "perks," to hire the needed college-trained talent. So it is trying to launch a comprehensive "grow your own" program—and even here it's being short-stopped.

AFIT is a good example. In its 60th year as the centerpiece of Air Force technical training, "it plays a critical role," says Allen, "in our efforts to maintain within our ranks the core of well-educated personnel essential to meeting the military and scientific challenges in an age of accelerating technological change."

Headquartered at Wright-Patterson Air Force Base, it sits in the middle of the largest single laboratory-procurement-logistics-maintenance military complex in the Nation. Yet, like the repair-and-maintenance facility that surrounds it (Wright-Patterson can hold up to 150 aircraft on its flight line, had on one typical recent day only seven aircraft on its flight line—and four of those were civilian visitors.), AFIT threatens to become a "ghost town."

AFIT's School of Engineering graduates some 230 Master's Degree recipients annually in 10 different programs, putting it in the top 10% of the Nation's 200 engineering schools in numbers of Masters degrees. Most of them are 18-month programs, involve work on real-world projects (a recent example that has excited the Air Force being one graduate student's discovery of two new molecules that have very promising potential use in high-energy lasers) which directly return in cost-saving payoff more than 10% of AFIT's $90 million annual operating cost, indirectly return probably two or three times more than that.

Its School of Systems and Logistics confers some 150 graduate degrees annually, conducts more than 40 continuing education courses for nearly 6,000 students to meet Department of Defense and Air Force requirements. Its Civil Engineering School instructs more than 2700 Air Force people in some 23 resident and 12 non-resident courses annually, reaches another 1600 through its "Teleteach" program (see April *Government Executive* "information Engineering" section.)

In short, AFIT is responsible for 83% of the Air Force scientific-engineering graduate-degree program; handles a fair-sized chunk of other Air Force technical-training programs, as well. Its on-campus programs, unique and at the same time essential to military requirements, cannot be met through civilian universities either because they simply are not available or because they cannot be bought economically in civilian institutions.

Economics—Such prestigious people as retired Air Force General Bernard Schriever have said AFIT "is the key to the future of the Air Force;" and the Air Force Scientific Advisory Board has urged strongly that its program be expanded. (For about a 10% increase in its annual budget, the size of the program could be nearly doubled in terms of the number of students it could handle).

Stacked against the Soviet Union, which operates 118 military engineering schools, the U.S. military has only AFIT, the Navy Postgraduate School and the Service Academies—and the latter do not provide advanced, i.e. graduate, technical and scientific education.

Worse, because of budget cuts, the number of students AFIT sends through the system for degrees is only 40% of what it was just 10 years ago. In the last two years alone, the graduate-student program has been cut 17% by Congress. AFIT has spotted some other, to them, scary trends. Among them:

Half the students, in some cases, entering public two-year colleges can't read above the fifth grade level;

A trend in Air Force ROTC IQ test-scores where, in 1972 (the year the draft stopped), 44% of Air Force ROTC graduates could achieve test scores in the 75–95% range; while in 1977–78, only 22% could.

AFIT has proposed a whole series of steps that could turn all this around. One of the more promising, if the Pentagon funds it, is a proposal to pick up the 4500–6000 intellectually qualified high school graduates turned away annually by the Military Academies: offer them a college degree plus on-the-job training in return for a promised minimum number of year's service.

But the one program with the biggest potential near-term payoffs is an idea borrowed, in essence, from civilian universities: creation of an alumni association. Set up on AFIT's 60th birthday last year, its rolls already include such strong Washington influences as Schriever, Allen, Jimmy Doolittle and the like.

The message many of them intend to start delivering in pound-on-the-desk terms to the Federal ivory tower was probably summed up best by Skantze when he told *Government Executive:* "You can't maintain leadership in technically excellent equipment if you don't maintain excellence in people."●

BLACKS OPPOSE THE DRAFT

Mr. HATFIELD. Mr. President, 9 years ago this week—on June 2, 1971—while the Senate was engaged in a lengthy debate on extending the MSSA, I opened a speech by saying:

> The draft is contrary to the interests of equity for the black and the poverty stricken.

I firmly believe that judgment holds true today as well.

Yet we bear those who decry the disproportionate representation of blacks and other minorities in the All-Volunteer Force presenting the draft as the alleged remedy.

In order to refresh our memories, I want to review some statistics and analysis on the functioning of the draft in racial terms.

The Commission created by President Johnson to study the draft—the Marshall Commission—found in 1967 that:

> Department of Defense estimates showed that of all those examined, almost 50 percent of nonwhite men aged 26–29 years in 1964 had been found unfit for service as opposed to almost 25 percent of the white male population of the same age group. The percentage of Negroes considered qualified for service was thus considerably smaller than the similar percentage of whites. Nevertheless, 30.2 percent of that qualified Negro group were drafted, whereas only 18.8 percent of the qualified whites were.

And the result of this disproportionate rate of drafting? The Commission continued:

> The overall proportion of Negroes in relation to all enlisted personnel in Vietnam is only 11 percent; but their percentage in the Army units there is 14.5 percent; and their representation in Army combat units is, according to the Defense Department, "appreciably higher" than that. Current figures are not available, but as of late 1965, 22.8% of the enlisted men in combat units in Vietnam were Negro. The casualty figures reflect this. During the first 11 months of 1966, Negro soldiers comprised 22.4 percent of all Army troops killed in action.

Four years later, President Nixon created a similar commission—the Gates Commission. Its report, released in 1970, found that essentially not much had changed:

> The proportion of blacks among draftees in recent years has been higher than their proportions in the qualified population. During the last five years, Negroes constituted only 9.2 percent of the qualified population, but were 14.3 percent of the men actually inducted.

A similar kind of disparity existed with regard to the Hispanic population of the United States. The American GI Forum, in a recent issue of its newspaper, cited some statistics:

> In 1970, New Mexico had a 27 percent Hispanic population, yet 69 percent of those drafted were Hispanic and 44 percent of those killed were Hispanic. California had a 10 percent Hispanic population, yet 22 percent of California's Vietnam casualties were Hispanics.

It was these type of facts on the way the draft functioned which led every major black leader and organization in the 1960's and early 1970's to oppose the draft.

The Reverend Martin Luther King, Jr., said in 1967:

> Perhaps the more tragic recognition of reality took place when it became clear to me that the war was doing far more than devastating the hopes of the poor at home. It was sending their sons and their brothers and their husbands to fight and to die in extraordinarily high proportions relative to the rest of the population. We were taking the black young men who had been crippled by our society and sending them 8,000 miles away to guarantee liberties in Southeast

> Asia which they had not found in Southwest Georgia and East Harlem. So we have been repeatedly faced with the cruel irony of watching Negro and white boys on TV screens as they kill and die together for a nation that has been unable to seat them together in the same schools. We watch them in brutal solidarity burning the huts of a poor village but we realize that they would never live on the same block in Detroit. I could not be silent in the face of such cruel manipulation of the poor.

His successor as head of the Southern Christian Leadership Conference, Dr. Ralph Abernathy, told a Senate committee hearing in 1971:

> The admitted detriment of the draft is that it is a form of involuntary servitude. The poverty which we, the black and the poor, find ourselves in today is but the result of a century's effort to wrest free from the vestiges of another, similarly vicious kind of involuntary servitude. It is completely digressive then to impose upon us one institution of involuntary servitude because in our struggle for freedom from another such institution, we might find attractive a few crumbs and might, in grabbing at such, eat up a whole piece of bread. It is just plain outrageous for a Congress, itself very unrepresentative of the poor and black of this Nation, to sit here and command that some black men, contrary to their own will and conscience, will have to fight a war that is not their own and die for a "freedom" which is not only not generally available to them but which, by the very process of their conscription, is denied them. . . .

Thus far, Mr. President, I have talked about the impact of the draft and military service on the black community. But there was another area of inequity—abuses of the law and unequal enforcement patterns.

A recent book titled "Chance and Circumstance," by Larry Baskir and Bill Strauss, spoke about this aspect:

> There were obvious dangers of abuse in a statute that could be applied arbitrarily to individuals whom local officials wanted to punish. In Mississippi and Louisiana, the draft was used as a weapon to intimidate and imprison black civil rights workers. Bennie Tucker, later the mayor of a small Mississippi town, had his CO application denied because, according to the draft board, he 'caused nothing but trouble.' After his election to the city council, he was issued four induction orders. Hubert Davis filed to run for mayor of another Mississippi town and immediately received his induction order. . . . Civil rights workers and Black Muslims usually paid the heaviest penalties for draft law violations. Throughout the country, the prison sentences imposed on blacks averaged about one year longer than those given to whites.

And now, Mr. President, despite the fact that many of the sociopolitical, economic, and legal conditions which led to the situation I have described still exist, we are asked to once again begin registration. If we are to bring back registration and take that first major step to reactivating a military draft, we will put back in operation a system which produces the kinds of inequities I have described.

For this reason, among others, the major black leaders and organizations have once again publicly opposed the current efforts to reinstate draft registration.

Roy Wilkins wrote:

> Selective Service system of registration and/or military conscription will change the very lifestyles of our youth. Their liberties will be conditional, and their freedoms restricted.
>
> Under penalty of law, they will be compelled to get classified, carry registration cards, tell the government of their whereabouts and inform the draft boards of their plans to travel abroad.
>
> This will not be the stuff "duty" is made of by virtue of a response to a call to defend one's land; it will be the stuff of burdens on a private citizen's rights to defend one's land; it will be the stuff of burdens on a private citizen's right to feel secure and free at home, when there is no immediate danger.

The Washington Afro-American newspaper, on March 22, editorialized:

> Circumstances surrounding the administration's draft registration program represent a classic reminder of how quickly lessons in high-level duplicity can be forgotten or ignored. After the Gulf of Tonkin Resolution and Watergate both the Congress and American people seemed to have decided to demand logical reasons and hard facts from Presidents, as well as others, before agreeing to actions that could lead to national disaster. Now President Carter is urging registration of young men and women for reasons neither the Pentagon nor administration spokesmen have presented arguments to justify. . . . If Brown thinks a costly, symbolic and nationally divisive draft registration program is a signal that has military readiness meaning to Russia—or even to this nation's allies—that is in itself signal of upper-brass daydreaming that could turn into a nightmare if somebody doesn't wake up.

The first weekend in March, 1,200 of the Nation's highest black officials held a weekend meeting in Richmond, Va., to adopt a "black agenda for the eighties." The final position paper, voted by the delegates, included strong opposition to the reinstitution of registration and the draft.

The Congressional Black Caucus, in a statement on registration, after examining the various legal, political, and military reasons for opposing registration, concluded:

> One argument for reinstitution of the draft deserves the special attention of the Congressional Black Caucus—the argument advanced by some members of the House Armed Services Committee and others that the All-Volunteer Army is placing too heavy a burden on Black Americans and other minority groups in their increased representation in the armed services.
>
> In the first place, it should be remembered that Blacks are represented only minimally in the Navy and Air Force, which continue policies which result in the exclusion of Black Americans. Secondly, the relatively large number of Black volunteers is the result of continued discrimination and failure of the larger society to provide opportunities and training in other professions. The concern is misplaced. Black Americans will always have the opportunity to enlist; the draft would increase the number of Black military personnel while decreasing the proportion among uniformed troops. And that increased number would consist of individuals who would not choose to serve in the military.

In the House vote on this proposal on April 22, the Black Caucus voted, with one absentee, unanimously against resuming registration. The caucus chairperson, Representative CORDISS COLLINS of Illinois, stated:

> I am totally and vehemently opposed to this proposal and to any others leading to even the possibility of reinstating the draft, the revision of military conscription, compulsory national service, or universal registration. . . . Such actions contradict the fundamental principle of a free society.

Several additional caucus members commented on various aspects of registration—

Representative JULIAN DIXON of California:

> If we move to begin registration, I believe that we will make an unfortunate statement which that symbolism means more than our own national interest and our right to individual freedom. Until a national emergency is declared, we should not begin any system of draft registration.

Representative JOHN CONYERS of Michigan:

> Mandatory registration creates a new category of criminal offenders for failure to register. With the prospect of hundreds of thousands of felonies annually, the negative impact on constitutional rights, civil liberties, and the criminal justice system would be massive. Mandatory registration also opens the way for incremental return to the draft.

Representative RONALD DELLUMS of California:

> Make no mistake about it. If this funding resolution passes today, it will be nothing more than the first step on the road to total peacetime conscription. . . . If this resolution passes today, the only signal that will be sent by the Congress is that it is serving notice on a new generation of American parents that this Government is willing to risk the lives of millions of young Americans—for years to come—in the grim determination to continue and intensify cold war tensions.

Finally, in this regard, a recent poll shows that these leaders are representing the feelings of their constituencies. A new polling organization—Data Black—recently reported in the Washington Post on the views of black Americans on the possible resumption of registration and the draft. This poll, comprising a random sample of black Americans nationwide, found that:

> In general, blacks show less support for registration and the draft than do other Americans. . . . The Data Black findings revealed that blacks preferred a volunteer approach over a drafted armed services by 61 percent to 31 percent. This result is supported by related findings that 33 percent of the national sample of blacks believed that a new draft system would result in a disproportionate number of blacks being drafted. Three out of four of the younger blacks (74 percent of those between 18 and 29) prefer a volunteer over a drafted armed forces.

To refer back once again, I concluded my speech on this subject 9 years ago by noting:

> I should like to add, Mr. President, that I think it is very interesting that the argument comes mostly from whites. I know of no black organization, I know of no black leadership of any organization, I know of no poor organization which supports the proposition that a draft should be maintained. It is very interesting that this argument is used only by whites. It certainly does not come out of the sources which are supposed to be defending what they are concerned about.

That is also still the case today.

Mr. MATHIAS. Mr. President, on a number of occasions I have faulted the Carter administration for sending the wrong signals or conflicting signals to our allies and to our adversaries. Long before the Soviet invasion of Afghanistan I warned that our lack of a coherent, consistent foreign policy simply encouraged adventurism. The Soviet assault on Afghanistan is the regrettable fulfillment of that prophecy.

Specifically, I objected strenuously to the provocative way the administration handled the establishment of diplomatic relations with the People's Republic of China; I have criticized members of the President's staff for rhetorical excesses that have seemed to me to be gratuitously offensive to other nations, and I have been and continue to be deeply concerned by the administration's failure to devise and pursue a strategic foreign policy. This dangerous omission finds the ship of state zig-zagging as crazily as any merchant vessel plowing the U-boat-infested waters of the Atlantic during World War II.

Today, the administration asks us to vote for legislation that would require males born in 1960 and 1961 to register for the draft. Yesterday I offered an amendment to this joint resolution which would have given it some substance, which would have taken us a step toward solving our real military manpower problem: Devising a system to identify and locate the men and women who have the technological skills and training that will be needed in a national emergency in the highly complex defense establishment of the 1980's.

That amendment was defeated. The legislation, as it stands, is flawed in so many ways that, judged on its substance alone, it does not deserve to be enacted into law.

After studying the various registration options, the Selective Service System, on January 16, 1980, concluded that the administration plan is "redundant and unnecessary." In fact, the report concluded that registration after the declaration of a state of emergency is more than sufficient to meet the Department of Defense's manpower requirements with 56 days to spare.

But we are dealing here with shadow as much as with substance. We are told by the administration and by the bill's proponents that passage of this legislation will send an urgently needed signal to our allies in Western Europe and to the Soviet Union that we are determined to defend our vital interests and that we are willing to take the difficult, politically unpopular steps necessary to achieve this goal.

That is undeniably an important signal to send to friend and foe alike. It is a signal that could discourage adventurism by those nations given to exploiting targets of opportunity in international affairs. It is a signal that could reinvigorate the Western alliance and enhance its ability to preserve the peace and to promote mutual security.

So the decision before us is not really whether or not registration for the draft is a practical, realistic step toward solving our military manpower problems. The decision before us is whether or not passage of this bill will send a clear signal to the rest of the world that the people of the United States are determined to make whatever sacrifices are necessary to provide for their defense and to protect their security interests at home and abroad.

I am not afraid an honest answer will somehow send a wrong signal around the world. It seems to me that the opposite is true. Our friends and our foes will both be coldly objective about the real value of the registration plan. It will only give comfort to our enemies and concern to our friends if we continue to kid ourselves and play out a charade for the American people. I refuse to follow such a course.

My final decision in such an evenly balanced situation turned on a question of honesty.

The registration proposal originally made by the President would have done something. As diluted, modified and weakened it does very little.

It is a gesture that seems to address a defense problem, but which falls far short of solving it. There is a sort of dishonesty in pretending otherwise. It is a pretense to which I do not wish to lend my name.

But as I cast my vote against this hollow plan I want Senators to know that I shall renew the proposal I made yesterday and shall fight for the adoption of a meaningful manpower plan that will assure the common defense as we are bound to do under the Constitution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Idaho (Mr. CHURCH.)

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. CHURCH OPPOSING PRE-DRAFT REGISTRATION

I oppose the President's plan to pre-register 19- and 20-year-olds in advance of a national emergency because this proposal is an empty gesture. It does nothing to improve the ability of the United States to respond to a true national emergency and fails to address the current manpower problems of our Armed Forces.

I favor improving our state of military preparedness. The combat readiness of our conventional forces is not what it should be. Too much emphasis has been placed on very expensive highly-sophisticated weapons which are very difficult to maintain and operate. Furthermore, the salaries for our highly-trained servicemen, such as pilots, technicians and petty officers, have not been adjusted, to assure a sufficient reenlistment ratio. These are the real issues we need to address.

Advance registration for the draft would be of inconsequential help in speeding mobilization, in the event of an emergency. According to a study released by the Selective Service System, the most prudent way of meeting manpower needs, in a time of national emergency, would be to register citizens after the decision to mobilize is made. The Director of the Selective Service concluded that, "Post-mobilization registration is by far the most cost-effective, and least intrusive, and is the option chosen by the selective service."

The Agency's own study shows that the pre-draft registration plan proposed by President Carter would save only 7 to 8 days in the event of mobilization. Moreover, without pre-registration, the selective service will be able to meet, by a comfortable margin, Defense Department requirements, as rapidly as the draftees can be absorbed.

I oppose the President's draft pre-registration plan just as I would oppose a resumption of the peacetime draft, itself. In a case of war or national emergency, the American people will respond to a call to arms. On the day following the outbreak of World War II, 16 million Americans presented themselves to be registered for military service.

In peacetime, however, I believe we should continue to rely on volunteers. Our standing forces on active duty should consist of highly trained professionals, able to respond to a large variety of military contingencies. Our Army, Navy, and Air Force Reserve units must also be kept combat-ready, so as to provide a second line of defense, should we face a sudden, unexpected conflict. They are an intricate part of our national defense, and should be capable of providing a large number of qualified personnel to supplement our standing forces in time of need.

Should the United States be faced with a major, protracted war, the draft would have to be reinstated, in order to furnish our Armed Services with sufficient personnel. But the training and fielding of a huge number of inductees would take many months. Only our active forces supplemented by reserve units, could rapidly respond to a sudden emergency. Inasmuch as the President's pre-registration proposal would save no more than a week in the mobilization process, and since mobilization is neither requested nor required at this time, I consider the draft pre-registration plan to be both inappropriate and an unnecessary waste of money.

It is far more important that we move to correct the manpower problems which have developed in the military as a method of improving the combat readiness of our Armed Forces. In peacetime, we should provide our citizens with sufficient inducement to attract them to a career in the military.

Shortages in recruiting and retaining qualified personnel is indeed a disturbing development. Skilled mid-level Navy and Air Force personnel are leaving the Armed Forces in record numbers for civilian jobs. But again, the solution to this problem is unconnected with pre-registration, which, in turn, is unconnected with the reinstatement of the draft.

In peacetime, I believe we should maintain our Armed Forces in the least intrusive way feasible. In a society based on individual freedom, military service should be made compulsory, only as a last resort.

READINESS CASUALTIES: TWO WHOLE DIVISIONS

● Mr. DOLE. Mr. President, with the evident passage today the registration bill, we once again experience a kind of deja vu, a feeling that once more we are dealing with a major political act of the Carter administration rife with inherent inconsistencies and unplanned results. The Soviet Union, Mr. Carter claims, will be sitting up and taking notice when this plan for registration begins to stir up our youth over this divisive but essentially spurious issue. The Senator from Kansas agrees the Russians will be receiving a signal, but will it be one of strength and determination?

At the very moment the administration is calling for this symbolic registration—for that is all that it is, adding little to our readiness—the Senate Armed Services Committee has found it necessary to reduce the size of the Army by dropping authorization for two whole divisions. The President proposes we prepare to augment our Army by registering unskilled 19-year-olds, while the Army is facing a proposed reduction in size. It seems to the Senator from Kansas that such serious problems affecting military strength and readiness, problems like retention of skilled technicians and the recruitment of quality personnel with minimum educational requirements, ought to be addressed long before we divide the Nation on a pseudo-issue like this symbolic registration.

REGISTRATION POLICY DOESN'T FACE THE PROBLEMS

Mr. President, the legislation before us today does not in any way address the real problems we face today in maintaining or upgrading a strong defense. Even if there were some reason to believe that it might help, the administration is not prepared to take the first steps necessary to make this plan effective. Many pressing questions remain to be answered: Do we have the proper training base to properly handle the influx of draftees? Does draft registration, without classification and physical examinations, help speed up the delivery of personnel? Can we retain an accurate, up-to-date list of registrant addresses? I would think the administration would find it more profitable to investigate the more serious and structural problems we face with respect to our personnel, problems that make it necessary to lose two Army divisions.

The Armed Services Committee recommended the cut of 25,000 men because our Army cannot now fill its ranks with enough people qualified or capable enough to fulfill their missions. There is no question that we are experiencing serious problems in attracting and keeping quality personnel.

Gen. Edward C. Meyer, Chief of Staff of the Army, testified before the committee and said:

> Registration does not do anything as far as near-term readiness of our Armed Forces is concerned. So, if you talk about short-term contingency in which we insert forces and are able to contain it with active forces, the Selective Service System would not bring people in, train them, and have them in the Army in time to have an effect.

Yet, despite this expert testimony symbolic registration seems to be the Carter administration's choice solution for our military problems. When the President recently addressed the sailors of the *Nimitz* he called for increased benefits, but in his typical and inconsistent way, he immediately urged Congress to cut defense funds in the first budget resolution.

The problems of our defense establishment are real. The loss of two divisions in wartime would be a tragedy of immense proportions. We must now face the prospect of losing those two divisions through inaction and a lack of commitment by the President to devise real answers to real problems. Not only is this registration plan the wrong answer, it is not even a "real answer."

In sum, Mr. President, I want to say that I am not concretely opposed to registration for the draft. But, I am definitely opposed to taking a step which has been documented to be no more than an empty gesture. I am opposed to taking this step when there seems to be an alternative in that we could accomplish the same thing as premobilization registration through an increased computer capability for the Selective Service System.

How can we in good conscience ask our 19- and 20-year olds to register for military service while at the same time cutting our current military manpower by 25,000?

The Senator from Kansas feels this is unconscionable and asks his colleagues to vote down this registration request until the administration and the Democrat Congress can present us with a clear-cut proposal void of conflict and inconsistent policy.●

● Mr. BAYH. Mr. President, today the Senate will vote on the funding transfer resolution for revitalization of the Selective Service System to enable the President to go forward with his plans for premobilization registration. As I indicated on Tuesday, I will vote to support this important measure because it is my view that such a step is necessary and consistent with the legitimate requirements of our national security.

It is also my purpose to take this opportunity to discuss the Kassebaum amendment which would have required that women be part of any registration program as a condition for approval and implementation of the premobilization registration program. I supported consideration of this amendment but voted against it because it would only have invited delay in going forward with a program the country needs as a clear signal taken within the context of other measures that we have the resolve and the capability to defend U.S. vital interests.

While a convincing case for the registration of women for the draft can be made based on the principle of equity, Senator KASSEBAUM's amendment did not provide the President with the authority to register women. It only provided that as a condition for funds transfer, women be part of such a program. This assumes congressional approval of President Carter's request to be granted the authority to register women which has been rejected in the Senate Armed Services Committee.

Mr. President, it has consistently been my position that while registration for women for the draft could be supported, it would have to be conditioned on making certain that we would not therefore be put in a situation where women would have to be drafted for combat. I have repeatedly stated my strong opposition to any such program of conscription as well as indicating my view that any proposal to draft women must be considered in conjunction with passage of the Equal Rights Amendment.

The contributions which women make to enhancing the readiness and capabilities of our armed services are self-evident by the fact that the services are counting on increasing numbers of women to fill important combat support billets. At the same time, the critical shortages which would occur based on mobilization exercises are in the combat arms billets of infantry, artillery, and armor. It is therefore clear that the purpose of this legislation is to shore up potential deficiencies in these areas which are combat billets.

These concerns led me to oppose the Kassebaum amendment, although they do not entirely preclude eventual support of registration of women for the draft if the terms of that registration are clear in both their military and constitutional aspects to rule out a situation where conscription of women would require them to be placed in the combat arms branches of our military forces.

As I indicated last Tuesday, results of mobilization exercises indicated that 90 days after a mobilization occurred, the Army would only be able to fill 52 percent of its infantry positions, 73 percent of its artillery positions, and 28 percent of its armor positions. Registration will help in speeding the formation of units to reduce the present projected shortfall within a time certain.

This step can, therefore, send a message that the capability to mobilize in order to defend our vital national interests will be improved, although it is certainly not a cure-all to the problems which plague the present All-Volunteer Force and the Nation's Guard and Reserve units. For that to happen, as I indicated 2 days ago, all of us in the Congress will have to intensify our scrutiny of our across-the-board personnel policies involving active duty, Reserve Forces and DOD civilians to make certain all of these components truly contribute to our national security.

Again, Mr. President, our vote here today is not the end, but the beginning of a debate which will hopefully result in a more secure America and one which will not have to mobilize its young men because of the resolve we demonstrate today.●

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time.

Mr. JACKSON. Mr President, I ask for the yeas and nays

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CANNON (after having voted in the affirmative). On this vote I have a pair with the senior Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "nay." I have already voted "yea." Therefore, I withdraw my vote.

Mr. STEVENSON (after having voted in the affirmative). On this vote I have a pair with the Senator from Idaho (Mr. Church). If he were present and voting, he would vote "nay." I have voted "yea." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Long), and the Senator from Washington (Mr. Magnuson) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 34, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—58

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
DeConcini
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Goldwater
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Lugar
Morgan
Moynihan
Nunn
Percy
Pressler
Pryor
Randolph
Ribicoff
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—34

Armstrong
Bellmon
Bradley
Cohen
Cranston
Culver
Danforth
Dole
Eagleton
Garn
Hart
Hatch
Hatfield
Heinz
Jepsen
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Mitchell
Nelson
Packwood
Proxmire
Riegle
Roth
Sarbanes
Schweiker
Tsongas

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Cannon, for.
Stevenson, for.

NOT VOTING—6

Biden
Church
Gravel
Long
Magnuson
Pell

So the joint resolution (H.J. Res. 521) was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I wish to take this opportunity to express my appreciation to the distinguished Senator from Virginia (Mr. Warner) and the distinguished ranking member of the Armed Services Committee (Mr. Tower) for their good efforts in moving the joint resolution which has just been passed and approved by the Senate.

Mr. President, I wish to express my admiration and respect and my appreciation to the Senator from Oregon (Mr. Hatfield) for the thoroughly responsible and effective way in which he presented his opposition.

Mr. President, I would further like to take this opportunity to commend and express my appreciation to all the Members of the Senate for the dignified manner in which this body has conducted its deliberations of House Joint Resolution 521 during the last 3 days.

In particular, as Republican leader, I would like to make special note of the yeoman service rendered by the Senator from Oregon (Mr. Hatfield), the Senator from Texas (Mr. Tower), and the Senator from Virginia (Mr. Warner) in assuring the Senate a thorough discussion and full understanding of the resolution to fund the reinstitution of selective service registration.

I supported the resolution, as did Senator Warner and Senator Tower. I believe, as they do, that the Senate acted in a most prudent fashion in adopting the resolution.

Our distinguished colleague, Senator Hatfield, opposed the measure most forcefully, as I am certain every Member of the Senate came to realize during the course of the last 3 days. Senator Hatfield most effectively utilized his considerable oratorical and parliamentary skills to defeat the resolution.

While I did not agree with his position, I do wish to congratulate him for his eloquent presentation of his opposition to registration and his determination to make his opposition known.

And, as is the case with many matters considered in this Chamber, convictions on both sides of the registration issue were deeply held. The discussion of the merits of the resolution could have continued for some time.

Our three able colleagues, however, recognized the need for the Senate to move on to other equally pressing items on its calendar. Accordingly, Senators Tower and Warner, representing the Armed Services Committee, and Senator Hatfield, representing the opposition to the resolution, most admirably reached an agreement allowing the resolution to be brought to a vote today.

On behalf of all the Members of the Senate, I thank them.

REQUEST FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for the purpose only of making statements and the introduction of bills and resolutions, and that Senators may speak therein, and that the period not extend beyond 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. If the Senator will suspend——

Mr. PROXMIRE. The reason I reserved the right to object is that at this point——

Mr. RANDOLPH. Mr. President, we need order in the Senate before we do anything.

The PRESIDING OFFICER. I have asked the Senator from Wisconsin to suspend. Let us have order in the Chamber.

The Senator may proceed.

Mr. PROXMIRE. Mr. President, I reserved the right to object because at this point the Senate, having just acted on this resolution, and having passed it by a very large margin, and there is a difference between the resolution as it passed the Senate and as it passed the House, as subcommittee chairman I feel I have a duty to provide that in the event—and it is a most unlikely event—the House requests a conference that our conferees will be in a position to act immediately. That is why I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair appoint the conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that purpose.

Mr. PROXMIRE. Mr. President, I object to the unanimous-consent request of the leader.

The PRESIDING OFFICER. Objection is heard.

RECESS FOR 15 MINUTES

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 15 minutes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. (Putting the question.)

The motion was agreed to; and at 12:41 p.m. the Senate recessed for 15 minutes, whereupon at 12:56 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. Stewart).

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I am awaiting the arrival of the minority leader.

Mr. PROXMIRE. Mr. President, will the majority leader yield very briefly? I think we can clarify this situation.

Mr. ROBERT C. BYRD. I yield for the purpose of a question.

Mr. PROXMIRE. Mr. President, will the majority leader consider letting me make about a 30-second explanation and then I think I can withdraw my motion or not offer my motion?

Mr. ROBERT C. BYRD. Mr. President, does the Senator intend to offer a motion?

Mr. PROXMIRE. I do not intend to offer the motion. I would like to explain why.

Mr. ROBERT C. BYRD. The Senator will not offer a motion?

Mr. PROXMIRE. I will not offer a motion.

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

Mr. PROXMIRE. Mr. President, I had intended to offer a motion. I will not do so. The motion would be to request a conference with the House on the resolution that has just passed. There is only a slight difference in the bill. I am sure the House would accept it, in any event. I intended to offer that motion simply to be in accordance with the usual procedure where, if there is any difference at all, we appoint our conferees. Under those circumstances, it gives us a somewhat different position than if the House decides to act.

But there is very little difference in these bills. I think the chances are about 499 in 500 or maybe 999 in 1,000 that the House will accept the bill the way it is. It has passed the Senate by an overwhelming majority.

Under the circumstances, I would agree to the request of the majority leader and Senator NUNN, who have both done a great job in winning on this resolution, not to offer my motion. Therefore, I will not offer it.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished Senator from Wisconsin, the chairman of the subcommittee, and to assure him that, at such time as there is a need to appoint conferees, we all recognize—certainly I do—the fact that he is the chairman of the subcommittee and he will be entitled to present the list of conferees and I am sure he will be eminently fair in selecting the conferees. That would be a privileged matter at that time, so the Senator's withholding on the motion today does not prejudice him at that time.

Mr. NUNN. Mr. President, I join the majority leader in thanking my friend from Wisconsin on this matter.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. There is pending a unanimous-consent request that the Senate have a period for the transaction of routine morning business. Without objection, that request is so ordered.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, I will not take very long. I understand that time for Senators to speak in this period is not to exceed 10 minutes.

Mr. ROBERT C. BYRD. The overall time.

Mr. BAKER. The overall time?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Chair will state that there was an objection to the unanimous-consent request as to routine morning business. Will the majority leader restate the request?

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Yes, Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business at this time for the purpose only of making statements and introduction of bills and resolutions, that Senators may speak therein, and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the Senate adjourns and there is a period for routine morning business, that that period not extend beyond 10 minutes, that no bills and no resolutions or motions come over under the rules, that there be no call of the calendar, and that no measures that may be awaiting at the desk advance a reading by virtue thereof.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

HAWAII STATE SOCIETY MARKS BIRTHDAY OF KING KAMEHAMEHA THE GREAT

Mr. MATSUNAGA. Mr. President, yesterday, June 11, the people of Hawaii celebrated Kamehameha Day in honor of King Kamehameha I, the monarch who united the Hawaiian islands into a single nation.

Here in the Nation's Capital, Kamehameha the Great was honored last Sunday by the members of the Hawaii State Society of Washington, D.C. In a ceremony in Statuary Hall, the statue of Kamehameha was draped with fresh flower leis flown in from Hawaii, and his exploits were saluted in song and dance.

Rightfully reknowned for his achievements in battle during the latter part of the 18th century, the warrior-king is honored no less for his achievements in peace. According to legend, Kamehameha, while resting peacefully on a sandy beach, was once attacked by a party of fishermen, who had no idea as to his identity.

In the course of the fight which ensued, the future king of all Hawaii slipped and fell and was severely beaten over the head with one of the fishermen's paddle. The force of the blow caused the paddle to splinter in two. Years later, the fishermen were brought before the king for punishment. By custom, the king had the right to put them to death, but he declined to do this. Instead, he promulgated what has since become known as "The Law of the Splintered Paddle," in the following words:

> O my people,
> Honor thy god;
> Respect alike (the rights of) men great and humble;
> See to it that our aged, our women and our children
> Lie down to sleep by the roadside
> Without fear of harm.
> Disobey and die.

Respected alike by his subjects and foreigners who came to Hawaii in increasing numbers during his reign, Kamehameha became known as a king who had an unusually high regard for justice and who brought to government a unique degree of enlightenment. On Kamehameha Day, the people of Hawaii are pleased to share this bit of history with their fellow Americans, and we believe that all Americans can take great pride in the achievements of Kamehameha the Great, his likeness which graces Statuary Hall in the Capitol is the only statue of a royal monarch to be placed in the Halls of Congress.

GOV. GEORGE R. ARIYOSHI OF HAWAII SEES GREAT FUTURE OF OTEC IN HAWAII AND THE NATION

Mr. MATSUNAGA. Mr. President, it is with great pride that I place into the CONGRESSIONAL RECORD an important and visionary speech entitled, "The Future of OTEC in Hawaii and the Nation," presented by the Honorable George Ariyoshi, Governor of my home State of Hawaii, at the plenary luncheon of the Seventh Ocean Energy Conference held last week in Washington, D.C.

Governor Ariyoshi underscored the following points in his address:

> 1. The ocean resource is free, and furthermore, unlike sunlight and windpower, is not subject to wild fluctuations in availability.
>
> 2. The OTEC power generated is baseload electricity.
>
> 3. The OTEC process will have no consequential environmental impacts.
>
> 4. No major technological breakthroughs appear necessary for commercialization.
>
> 5. Floating OTEC plants can be moved from place to place, thus providing flexibility in meeting future energy needs.
>
> 6. Floating platforms conserve land, where it is limited and precious, such as in Hawaii.
>
> 7. The products of OTEC will benefit the entire nation.

I could add two additional advantages of OTEC as recently reported in print. Dr. James R. Roney the head of Ocean Engineering of Princeton N.J., prepared a study for the Department of Energy, indicating that as much as $38 billion in petro-dollars could be displaced by the year 2000 if the objectives of S. 1830, my bill to accelerate the commercialization of OTEC, are met.

The second analysis, detailed in the January 1980 issue of Mechanical Engineering by Profs. T. C. G. Carlson and W. P. Goes of the University of Massachusetts, reaches the conclusion that OTEC outranks nuclear, oil, coal and natural gas in net energy analysis. When the total cost of finding, extracting, processing, transporting, and delivering energy is considered, OTEC can be shown to be, both in the short and long range, more economical.

In view of OTEC's viability in technology and economics, therefore, the Department of Energy is fully justified in going full-speed ahead with the dedication of OTEC-1, the pilot plant, scheduled for July 5, 1980, in Honolulu. Confidence in OTEC's commercial viability is being demonstrated in the private business sector, too, for it is my understanding that a consortium led by Lockheed and the State of Hawaii will be funding the second deployment of mini-OTEC, the first successful closed-cycle OTEC electrical plant, before the year is over.

Within the 200-mile zone of islands under U.S. jurisdiction, it has been calculated that the potential exists to produce as much energy as is presently used in the entire Nation. In the Hawaiian Archipelago alone, it is possible to produce up to 15 quads each year, about as much energy as we today import in the form of petroleum.

Although we are talking about decades of development and billions of dollars of investment, mostly by the private sector, it is today that we must establish the groundwork for this promising technology. Governor Ariyoshi's mesage is an especially cogent and timely one, and I highly recommend that my colleagues read his speech in its entirety, because it beautifully summarizes the past, present and future of OTEC, and sets forth an irrefutable argument for early passage of S. 1830, now pending in the House.

Mr. President, I ask unanimous consent that the speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

THE FUTURE OF OTEC IN HAWAII AND THE NATION

Mr. Chairman, Distinguished Guests, Ladies and Gentlemen: I am very pleased to be with you today, and to be able to share our vision of the future of Ocean Thermal Energy Conversion—OTEC—in Hawaii and the nation. I bring you the warm Aloha of our people, and a special greeting on behalf of the members of our community who are actively working toward the efficient development of ocean energy.

A few months ago, a converted Navy barge was anchored offshore on the Leeward Coast of the Island of Hawaii, containing OTEC equipment.

It was not a very elegant craft, but it was beautiful in a number of ways.

It proved, beyond any doubt, and beyond any questioning, that it is possible, indeed, to generate electrical energy from the sea.

To be sure, the concept of OTEC had been considered possible, and even feasible, just as manned flight had been before that momentous day at Kitty Hawk, North Carolina.

But just as manned flight had to be proven in the field, under actual conditions, so did the concept of Ocean Thermal Energy Conversion.

In my announcement of the OTEC success, which the national media properly considered significant, I compared what the Wright Brothers accomplished at Kitty Hawk, to what our scientists and technicians had accomplished last year off our Kona Coast. Both accomplishments, without question, are of considerable significance.

The difference is, of course, that the significance and the potential of airplane flight has been considerably achieved. As an illustration of that, I flew five thousand miles last night—over an ocean and a continent—to be here today.

But the significance and the potential of OTEC is yet to be realized. The equipment used in Hawaii last year in the demonstration project will be considered crude, unsophisticated and quaint in the years to come. But the fact of the matter is that it worked, and that is what is important.

A criticism has been leveled at OTEC that the start-up costs are exceedingly great. Indeed they are, although I feel that as the state-of-the-art advances, costs will get lower. But the important thing to consider is that once the hardware is in place, the annual costs of OTEC should diminish drastically, and dramatically.

After all, the basic ingredients—warm and cold water—are provided without charge by nature. They are not subject to the wild escalation, and acceleration, in costs that have afflicted other energy sources.

Therefore, as we learn more about OTEC, I am convinced that it will represent substantial bargains, over the years, and increasingly so as we refine its applications.

We have only begun to develop its systems, and possibly we have not even begun to realize the potentials.

Given my strong feelings on OTEC, I would like to speak with you today about Hawaii's commitment to OTEC development, and also to the long-term importance of OTEC that I see for our entire nation.

OTEC development can have enormous impact on the State of Hawaii. Our Islands rely upon oil for 92 percent of our present energy needs.

At the name time, Hawaii is rich in alternate energy potentials: wind, direct solar, geothermal, biomass, and OTEC. We are actively pursuing the development of each of these Island resources, which are essentially inexhaustible.

Our State goals are set forth in the Hawaii State Plan, the first legislatively adopted State plan in the United States, and a document I consider second in importance only to our State Constitution. Under the State Plan, our objective is to, and I quote, "accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste," and to achieve "increased energy self-sufficiency."

We are aware of the many advantages which OTEC has to offer. The temperature differential required for OTEC operations is available day and night in Hawaii, the year around, which means that OTEC is available for baseload power.

Importantly, it appears at present that OTEC plants will have no major negative environmental impacts.

And while there are problems to be solved, no major technological breakthroughs appear necessary for commercialization.

Floating OTEC plants can be moved from place to place, thus providing flexibility in meeting our future energy needs.

Floating OTEC plants will conserve Hawaii's land, a limited and precious resource.

We in Hawaii are committed to the development of OTEC. We are pleased that all three of the major OTEC seawater projects now in progress in the United States are located in Hawaii. These are Mini-OTEC, OTEC–1, and the OTEC Seacoast Test Facility.

As you are no doubt aware, Hawaii feels it should be the location of the OTEC pilot plant which the U.S. Department of Energy plans to build by 1985. Our State will counsel and cooperate with any consortium which proposes Hawaii as a pilot-plant site.

We are now working to facilitate the establishment of such a pilot plant.

An Ad Hoc Committee for the Advancement of OTEC in Hawaii was formed last fall. Under the leadership of private companies, and with the cooperation and support of my Administration—including the University of Hawaii—this committee has produced a report entitled "OTEC for OAHU."

It describes the studies which will be necessary to collect environmental and design data in the sea off one of Hawaiian Electric Company's main generating stations on the Island of Oahu.

This area, off Kahe Point, is a prime location for a commercial OTEC plant, and the proposed studies will yield data useful in both designing and obtaining permits for the establishment of a pilot plant.

From the planning standpoint, our Coastal Zone Management Program is initiating an Ocean Management Program which will analyze ocean uses, potential conflicts, and community attitudes.

To the ancient Hawaiians, the ocean was a natural extension of the land—a place to work and play and travel. Today we also look to the sea as a bountiful resource, rich in minerals, food, and energy.

We are an ocean State, and the only Island State, and we believe that our future will largely depend on our ability to better understand the vast sea around us and to make wise use of its innumerable resources.

The management of our coastal zone, including our offshore areas, is thus of vital interest to us. In order to protect and develop our ocean resources, we must carefully plan the use of our ocean space.

OTEC is an important part of our planning.

From the legal standpoint, our State Department of Planning and Economic Development, in conjunction with the Department of Land and Natural Resources, has begun a study of jurisdictional and management issues regarding OTEC, mariculture, fisheries, and other uses of our coastal zone. We expect that this study will result in guidelines for legislation to set up a mechanism which will balance potential conflicting interests in licensing ocean uses.

The State has expended, and will continue to spend, substantial funds on the development of OTEC.

In the period of 1972–79, our State Government and private industry spent $6 million on OTEC development in Hawaii. Our Hawaii State Senate recently adopted a resolution declaring its total commitment to the development of OTEC systems. It declared that the State of Hawaii should compete for, and share the cost with the Federal government, for an OTEC pilot plant in Hawaii; and that an appropriate in-kind or fiscal contribution will be available at the time Hawaii's contribution is required.

This resolution is very much in keeping with the direction my Administration has pointed.

I feel it is absolutely essential to develop and utilize the energy sources that are available to us in such bountiful measures, and in so doing, to be able to share our research and development with the rest of our world.

We are a small state, in terms of total land mass, and to a degree population, but we are a very large state in terms of potential, and being a living laboratory for the development of energy programs and potentials for this entire nation.

Just as we are pioneers in social structures, I think we already are emerging as pioneers in energy development and the development of potentials.

We are very proud of the work being done here in Washington by Hawaii's Congressional delegation to further these commitments by the State of Hawaii.

I am sure you are familiar with Senate Bill 1830, the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act," which was introduced by Senator Spark M. Matsunaga, and also Senate Bill 2492, "The Ocean Thermal Energy Conversion Act of 1980," introduced by Senator Daniel K. Inouye.

We commend our Congressmen, and their colleagues, for the leadership they have provided and the results they have achieved.

Thus, our Administration, the Legislature, the business sector, the academic community, and our Congressional delegation are interested and active in promoting OTEC development. We put together Mini-OTEC and the Seacoast Test Facility and we stand ready to do much more. We offer Hawaii to the nation as an OTEC laboratory both on shore and at sea.

The theme of this conference is "Ocean Energy: A Time for Action."

I have described to you some of our activities in Hawaii.

At this point, however, our future progress depends on the U.S. Department of Energy. We await DOE funds for the Seacoast Test Facility; we await DOE funds for the second deployment of Mini-OTEC; and we await the issuing of the Program Opportunity Notice for the pilot plant.

In all of these areas, we look forward to action from the DOE so that ocean thermal development will be aggressive and timely.

I have briefly described Hawaii's commitment to OTEC, and the research and development in our State, and of our desire for early action from the DOE. But possibly the most important message I have to convey today has a much broader scope. While hard work in Hawaii and in the DOE will give the nation an OTEC proving-ground and the funding to develop the technology, the success of OTEC in the long run depends upon the understanding that OTEC can be of great benefit to the entire nation.

It is not merely a technology that will be useful in Hawaii, Guam, the Gulf Coast, Florida, the Virgin Islands, and Puerto Rico. In the long run, OTEC can be of significant benefit to all Americans.

Without question, the generation of electricity by OTEC plants will help to relieve the demand for oil. We know also that the construction of OTEC plants may take place in many different communities—heat exchangers may be built in one place, cold water pipe in another, and concrete barges in a third. All these things benefit the nation.

What I have in mind, however, is a long-term benefit to the nation far greater than this. Permit me to explain . . .

I have been advised by scientists and engineers that OTEC is likely to develop in four phases.

The first phase is the generation of electricity for use by coastal and island communities such as Hawaii. This phase is significant because it will demonstrate the commercial OTEC concept and provide energy to local communities. However, this phase will not have a major effect on the national energy problem.

The second phase will involve the relocation of energy-intensive industries to OTEC sites. Shortages of energy supplies will induce industries to go where the energy is, in order to obtain an assured supply. The manufacture of aluminum, titanium, and steel is energy-intensive, as is the processing of manganese nodules for copper, nickel, and cobalt.

Industries such as these may seek out OTEC as an energy supply far more dependable than Middle East oil.

In the third phase, OTEC plants will produce hydrogen and ammonia for use as fuel—hydrogen as fuel for commercial aircraft, and ammonia as fuel for major power grids in the form of ammonia fuel cells.

In the fourth phase, ammonia will become a substitute for gasoline and alcohol in internal combustion engines. I understand that research on ammonia-fueled automobiles already is underway.

It is in phases three and four that OTEC will have its greatest value to our nation—in the generation of ammonia and hydrogen as fuels for our economy. In order to substitute ammonia for conventional fuels, we will need very large quantities of it. OTEC will be able to meet that challenge and that need.

It has been calculated that within the 200-mile zone of islands under U.S. jurisdiction, including the Marianas and the Marshall Islands, it is possible to produce about 70 quads a year of ocean energy product. This is equivalent to the United States' total energy use.

In the Hawaiian Archipelago alone, it is possible to produce 10 to 15 quads per year. Ten to 15 quards per year is equivalent to the amount of oil which the United States imports from the Middle East. Thus, it is possible for the Hawaiian Archipelago to eventually replace the Middle East in America's fuel economy.

Obviously, we are talking about decades of research and planning, a huge investment in OTEC plants, and a major change in capital and equipment for our fuel economy.

On the other hand, we also are discussing a potential new fuel system which can guarantee us a continuous supply of fuel, produced in essentially unlimited quantities, in waters controlled by the United States. And we are discussing a fuel system which we expect will have a minimal environmental impact.

We in Hawaii have a vision of the great contribution which OTEC can make to the welfare of the nation. We believe that the rate of OTEC development, and its success, depends a great deal upon explaining this potential to all the people of America. This Conference will go a long way to achieving that goal if those of us present will take the long-term national view, and will share that view with government agencies, industry, consumer groups, and all of our citizens.

We have an important message to convey, and the hour grows short and late.

Permit me to mention one final concern.

Without question, our nation's energy supply is of strategic importance to the nation's economy and security. We desperately need a new fuel system which can guarantee us a continuous supply of fuel, and thereby declare our independence from OPEC. We need a new fuel system which is researched, designed, constructed, and operated by American companies.

The United States has shown its technological leadership in OTEC development, and we must remain leaders. Every effort must be made to support American industry's involvement in OTEC development. Federal Government initiatives are of decisive importance in this area. The highest priority must be given to the award of contracts to the companies which will actually design, construct, and test the nation's OTEC plants.

The time for talking is rapidly running out, and the time for action is very much at hand.

We cannot allow a lack of understanding of the technical aspects or potentials of OTEC on the part of our nation's citizens to dissuade us.

We cannot allow indifference, or questioning, within the scientific community, to deflect us from this very essential effort.

To be sure, there are many technical problems to be recognized, and to be solved, if OTEC is to become a reality. Many of these problems, and these questions are being addressed in this conference.

But, were not these questions and these doubts present during every scientific breakthrough in the history of mankind, including flight?

Have we not always been presented with problems, and also with the pervasive voice of those of a negative persuasion who would say that any new idea is not feasible?

I subscribe to the proposition that the progress of the human mind, and society, and environment has been the success of enlightened persons who were able, in whatever generation or circumstance, to rise above those who said achievement was impossible.

Certainly, achievement is possible, and I think we have an outstanding opportunity to prove that once again in the development of ocean thermal energy conversion, and eventually making it available for the benefit of mankind.

In closing, I want to bring you greetings from the people of Hawaii, and to extend our most sincere invitation to come to Hawaii this December to attend the National Conference on Renewable Energy Technologies.

Mahalo and Aloha.

THE CUBAN REFUGEES

Mr. DANFORTH. Mr. President, in this election year, politicians are particularly quick to seize upon advantageous positions. Clearly, there is no political advantage to championing the cause of 100,000 people who cannot speak our language and cannot vote in our elections. As a result, there have been few voices speaking on behalf of the Cuban refugees, while many have spoken out against them.

Politicians have followed their constituents' lead on this issue. In my travels throughout the State of Missouri, I have heard concern about the Cuban refugees. I have heard resentment expressed about the jobs that Cubans will take and the Government aid they will receive. I have heard youngsters and adults alike, ask, "How can we take care of them when there are so many Americans who are out of work and unable to make ends meet?"

This negative reaction is nationwide. A recent Gallup Poll shows that almost 75 percent of the American people think that the Cuban refugee situation is "bad" for our country.

I am deeply concerned by this reaction.

Under America's present economic conditions, the search for easily identifiable villains is understandable if not admirable. Inflation, high interest rates, and high unemployment threaten every American's standard of living. It is not unusual during times of economic decline to personify our problems—to single out a specific group as a source of our troubles and an object of our scorn. We have singled out the Cuban refugees, and scorned them.

In America's past, other groups have served the same purpose. Blacks and Jews have been targets of abuse in times of economic distress. Immigrants, easily distinguishable by language and appearance, have also been derided. When the Irish came to our country they were abused, not welcomed, by those who had come before them.

Now we have been asked to receive 100,000 refugees from Castro's Cuba. It is my understanding that perhaps a thousand of that number are hardened criminals, taken from Cuban jails and shipped off to our shores. They constitute exactly 1 percent of the refugees, yet they have received easily 90 percent of our attention. That, too, is understandable if not admirable. If we really want to adopt a "lifeboat" mentality—believing that any more passengers will cause us all to sink—then it is easier to kick overboard the people we do not like. If we can convince ourselves that the refugees are bad—that they are the scum of Cuban society, inmates from jails and mental institutions—it will be easier to sacrifice them.

But a lifeboat mentality is alien to everything this country stands for. And it distorts our reception of the refugees, presenting a selfish, bitter attitude that is unnatural to American people.

We should all be able to agree on how to handle those Cuban refugees who do have criminal histories. If there is any practical way to do so, we should not accept them in the United States. We should deport them. Similarly, we should all be able to agree how to handle the rioters at Fort Chaffee. They should be dealt with as violators of the law, and prosecuted just as any other rioter should be prosecuted.

My principal concern is for the other 99 percent of the refugees, those Cubans who have fled Castro's Cuba because it is politically repressive and economically bankrupt. These people do not deserve contempt—they deserve admiration. They are hardworking and productive. They are the life's blood of Cuba, life's blood that is flowing away from that country, and from a failed Communist experiment.

They are leaving because they have been treated as experimental objects.

Some Americans say that all the Cuban refugees should be sent back to their country. If in fact the United States were to follow that advice, the outcome is easy to forecast. These people would face political and economic persecution by the state. They would be subjected to the worst type of police state measures.

In the past, when Cubans have sought governmental permission to leave their country, they have been officially designated as "nonpersons." They have lost their jobs; they have lost their ration coupons; they have faced threats and public ridicule; and they have been forced to rely on the charity of their friends to survive. This is what would happen to Cuban refugees if they were repatriated to Cuba. I do not believe that thoughtful Americans would want that result for those Cubans who have violated no law, engaged in no riots, and who have left Cuba in the hope that America could be their home.

People who feel threatened by current economic conditions in the United States say that accommodating the refugees will result in some loss to the rest of us. If that were true, then we might have reason to be concerned about the influx. However, if this great country of more than 220 million people cannot accommodate even 100,000 Cubans, then we are indeed in bad shape. I do not accept the argument that the United States is in such weakened condition that it cannot make room for 100,000 people who have fled communism.

Mr. President, the real issue before us is not economic. It is not whether we can afford temporary assistance to people who will soon be productive contributors to our economy. The real issue concerns America's values. The Cuban refugees challenge us to affirm what we stand for as a country.

Totalitarian regimes make their values quite clear. Their very name indicates the value they place in the total power of the state. Against the state, men and women are no longer persons, they are things. To Fidel Castro, Cubans who want to leave Cuba are not persons. They are "nonpersons."

Mr. President, I have seen the results of this philosophy before. I saw it last October on the border of Thailand. When human beings are treated not as persons, but as objects, they can be cast aside and allowed to die for lack of food and medical attention. But while a Communist regime was willing to consign thousands of people to death, the democracies of the world were reaching out to those people and helping them live. The Cambodian famine has shown the difference between democracy and communism. The Cuban refugees have staked their lives on the difference between democracy and communism.

If we use the Cubans as scapegoats for our economic problems, if we scorn them or send them back to a place where there is no respect for human dignity and worth, then we deny all the values that define America. For in following that course, we treat men and women not as children of God but as things.

Mr. President, you may recall that in May of 1939, Adolf Hitler permitted more than 400 German Jews to board an oceanliner headed for Cuba, called the *St. Louis*. Although each passenger was required to pay twice the normal fare to Cuba, all paid willingly. When the boat reached Havana, the passengers were kept on board through weeks of negotiations. Although many passengers had Cuban visas, it become clear that Cuba would not grant entry to any of them. Leaving Havana, the boat made the 90-mile passage to Florida. After several days of uncertain waiting, President Roosevelt denied the passengers permission to land. Their options spent, the passengers were forced to return to Europe. More than half the passengers eventually died in concentration camps.

The decision to turn back the *St. Louis* is one of the most shameful events in our history. I hope we will not repeat it.

Anyone in public life has the opportunity to appeal to the best or the worst in his constituency. He can appeal to their humanity and generosity, or he can appeal to their anxieties and their willingness to cast their fears on scapegoats.

We have a duty to appeal to the best in all Americans. As a nation, we have a duty to welcome these refugees to our shores, and to show them that as a democracy, we value and respect human life. Let us do so in that same spirit of liberty which has graced our country since its birth.

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERSONAL APPRECIATION TO THE MINORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I want to express my personal appreciation to the minority leader for returning from a far-away destination overnight in order to be present today to cast his vote on the military registration bill and on the amendment.

The minority leader did not have to do that. The margins in both instances were sufficiently large, of course, that it would not have been necessary. But the minority leader, at considerable inconvenience to himself, and having been up all night the night before because of the filibuster, was tired.

I personally admire him, and for his dedication to duty, and I deeply appreciate his returning overnight to make these votes.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 729, S. 2337, the Legal Services Corporation.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 2 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

The motion was agreed to; and at 1:31:47 p.m., the Senate adjourned for 2 seconds.

AFTER ADJOURNMENT

THURSDAY, JUNE 12, 1980

The Senate met at 1:31:49 p.m., pursuant to adjournment, and was called to order by the Honorable ROBERT MORGAN, a Senator from the State of North Carolina.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes for morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business? If not, morning business is closed.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 729.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2337) to extend for three additional fiscal years the authorization of the Legal Services Corporation.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to, and the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Legal Services Corporation Act Amendments of 1980."

SEC. 2. Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by inserting immediately after the second sentence the following: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation $321,300,000 for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.".

TIME-LIMITATION AGREEMENT—BUDGET RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the Senate proceeds to the House message on the budget resolution, there be a 2-hour limitation overall, divided between Mr. HOLLINGS and Mr. BELLMON, with the proviso that if Senator HEFLIN or Senator ARMSTRONG seek recognition for the purpose of calling up an amendment, or for any other purpose, each—meaning Mr. HEFLIN and/or Mr. ARMSTRONG—be guaranteed 15 minutes under that Senator's control, but with the understanding that that 15 minutes will come out of the 2 hours overall.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—the request made by the majority leader has been cleared on this side by those who have expressed interest or concern in this measure.

I do not expect that the Senator from Colorado (Mr. ARMSTRONG) will offer an amendment. He is perfectly willing to proceed on this basis, with the assurance from the Senator from Oklahoma—which he would have in any event, and now by this order—that he will have a period of 15 minutes to speak on this measure.

I know of no other concerns or conditions, and therefore I do not object to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980

The Senate continued with consideration of the bill (S. 2337).

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will proceed very soon to discuss the pending business.

I hope that the Senate will be able to finish action on this bill today or tomorrow.

I urge Senators who have amendments to come to the Chamber and be prepared to call them up and Senators who wish to debate the measure be prepared to take the floor and speak.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I will proceed to take up another bill if action does not begin on this bill within 5 minutes.

Mr. BAKER. Mr. President, if the Senator will yield to me, I understand the Senator from New York (Mr. JAVITS) will manage the bill on our side and he is on his way and will be here momentarily. So on our side we will be in position to proceed in very short order.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I am pleased to join with Senator NELSON in urging the Senate to reauthorize the Legal Services Corporation for 2 years as provided in S. 2337. The Legal Services Corporation has made great strides since its inception in 1974 toward insuring the avalability of legal representation to those who can least afford private counsel. It has been instrumental in making the principle of equal justice under law a reality for millions of low-income Americans.

It has been in my judgment perhaps the single most successful program to emerge from the war on poverty, not only because of the important victories it has won for individuals its grantees have represented, but also because it is based upon a fundamental tenet of our society—the dignity and worth of the individual under law.

Because of the work of the Legal Services Corporation and its grantees, millions of Americans have seen that the judicial system can indeed work to the benefit of all segments of society, and not just the privileged few, if there is equal access to the system.

The bill before the Senate today would reauthorize the Legal Services Corporation for another 2 years at the level requested in the President's budget. No other statutory changes are proposed, as it is the committee's judgment that the Corporation needs a further period of stability to give it a chance to complete its goal of broadening access for low-income individuals in rural areas.

The Employment and Poverty Subcommittee has held two oversight hearings and conducted a thorough staff review of three GAO reports on the Corporation. No serious problems were discovered that the Corporation was not already moving to correct. Recognizing the controversial origins of this program I believe that the Corporation has done a remarkable job of administration and implementation of the congressional mandate. It has earned the right to continue to solve its problems internally without political interference from the Congress or from the statehouses.

As one of those who fought hard to establish the Legal Services Corporation, I am proud of its accomplishments. I urge the Senate to reject amendments that may be offered to this legislation, as they represent efforts to chip away at the effectiveness of political independence of the Corporation.

The Congress reached a hard-won accommodation when the Corporation was established in 1974 on such controversial subjects as abortion, lobbying regulation, and the role of the Governors with regard to the activities of legal services grantees. I would urge my colleagues to review the language of the statute in these respects. In my judgment, present law is quite sufficient to protect against the concerns that were expressed by many in the Congress in 1974 and that may be expressed once again today. I hope my colleagues will not give credence to those who may use isolated instances of alleged abuse to justify further legislative restrictions. There is simply no evidence of widespread abuse. Those isolated examples that have occurred are being remedied within the Corporation, and the Corporation enjoys adequate authority to impose the necessary remedies under present law.

Mr. President, the Legal Services Corporation has become an outstanding example of how Government can act effectively to meet congressional program objectives. The column by the conservative commentator James J. Kilpatrick that appeared 2 days ago entitled "Of Justice for All" confirms this evaluation, and I hope that my colleagues will read it. I ask that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OF JUSTICE FOR ALL

If there is one concept that our nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, "Equal Justice Under Law." Year by year we creep a little closer toward that distant goal.

That cheerful observation is prompted by a report from the Legal Services Corporation, marking its first five years of operation. The corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation.

These days the Legal Services Corporation keeps a low profile. That was not the image projected by its predecessor outfit, the legal services arm of the now defunct Office of Economic Opportunity. Many "poverty lawyers" identified with the OEO program were hot-eyed social activists, little interested in the humdrum legal problems of the poor. Conservatives in both House and Senate had good reason to oppose the expenditure of tax funds on firebrand causes.

As a consequence, the bill to transfer the legal services program from OEO to a new corporation ran into a filibuster in the Senate and a bitter floor fight in the House. In order to avoid a presidential veto, sponsors accepted a host of restrictive amendments intended to dispel these lingering apprehensions.

Lawyers attached to the corporation are positively forbidden to engage in public demonstrations, picketing, boycotts, strikes, lobbying, partisan politics, voter registration drives and the like. The act prohibited the establishment of "backup centers" that were seen by many of us as mere seedbeds for hothouse revolution.

By a margin of only seven votes in the House, the legal services bill survived a motion to recommit. The corporation wobbled into existence on rubbery legs. Now, six years later, it stands on its own two feet. Pending bills to extend the program's life for two years (in the Senate version) or three years (in the House) may set off brief thunder on the floor, but no typhoons are in sight.

As one of those who hollered the loudest six years ago, perhaps I may be permitted a round of applause today. Here and there abuses continue. A sneaking suspicion will not go away that the corporation has neatly evaded the law's prohibition against backup centers by creating backup centers and calling them something else, e.g., the National Clearinghouse on Legal Services.

Let it go. As it moves into its sixth year, the corporation is funding 335 independent programs staffed by more than 5,000 attorneys and 2,500 paralegals. In 1979 local offices dealt with more than a million legal problems of the poor. What kind of problems? Child custody. Food stamps. Eviction. Disputed bills. Contested eligibility for welfare benefits. None of this is the stuff from which landmarks are made, but it is the very heart and soul of a legal services program.

The corporation's clients are 57 per cent white, 30 per cent black, 10 per cent Hispanic. Only a fifth of them are employed; most are living on welfare or Social Security. More than a third of the legal problems involve family matters. Another 13 per cent concern landlord-tenant relationships. Half the cases are settled within a month. The corporation proudly notes that only 2 per cent of its budget goes to administration; 95 per cent of last year's $270 million appropriation went directly to legal services.

The pending Senate bill would authorize $321.3 million for the corporation in fiscal '81. It is obviously a substantial sum, but it is a seriously needed sum. In the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.

We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying. The preamble to the Constitution pledges a national purpose "to establish justice." Let us get on with the job.

Mr. JAVITS. As Mr. Kilpatrick concludes, "The preamble to the Constitution pledges a national purpose 'to establish justice.' Let us get on with the job." I commend S. 2337 to my colleagues, and I hope that they will pass it without amendment. I believe that by doing so they will have served the poor of this country in the best way possible.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, the legislation before the Senate today, S. 2337, is not a complicated or lengthy measure. As reported by the Committee on Labor and Human Resources, S. 2337 would reauthorize the Legal Services Corporation for 2 additional fiscal years. Specifically, S. 2337 would authorize $321.3 million for fiscal year 1981—the sum requested by the President—and such sums as may be necessary for fiscal year 1982 for the Legal Services Corporation. No additional amendments are made by S. 2337 to existing law.

There can be no doubt that when the Corporation was created in 1974 and again in 1977 when the Corporation was reauthorized, the legislation considered by the Congress at the time was much more complex and made greater substantive changes in the underlying law than does the bill now before the Senate. S. 2337 is a reasonable bill; it provides for a very modest extension of the Corporation's authorization. The bill proposes no substantive or technical changes in existing law.

In an effort to secure strong bipartisan support for the reauthorization of the Corporation that would make early Senate approval of the bill possible, Senator JAVITS, Senator HATCH, and I agreed to support a simple 2-year extension of the Corporation without further amendment. Senator JAVITS and I agreed to this 2-year extension even though we had previously introduced, along with eight other Senators, a 3-year extension.

Although many members of the Labor and Human Resources Committee believed that at least a 3-year extension of the Corporation was warranted and justifiable, the committee agreed to the 2-year extension in order to facilitate prompt and favorable action by the Senate on S. 2337.

More than 3 years of work went into the development of the statute that created the Legal Services Corporation in 1974. After detailed review of the first 3 years of the Corporation's operation, the Congress in 1977 extended the program for an additional 3-year period. Since then, congressional oversight has continued.

The Committee on Labor and Human Resources has closely followed and critically reviewed the overall operation of the Legal Services Corporation since the Corporation began operation in October of 1975. The committee is impressed by the sound and efficient manner in which the congressional mandates contained in the Legal Services Corporation Act are being implemented. The experience of the last 5 years has demonstrated the wisdom of creating an independent, private, nonprofit corporation which, in accordance with section 1001(5) of the act, is to be "kept free from the influence of or use by it of political pressures."

Throughout its review the Committee on Labor and Human Resources found that existing law has worked very well. The restrictions currently in the law were carefully drawn and reflect the greatest possible consensus. Continuing reassessment and the resulting administrative actions taken by the Corporation have helped to assure proper implementation of the law. Changes in the current statute beyond the 2-year reauthorization are, therefore, not contained in S. 2337.

Mr. President, the Legal Services Corporation continues to provide essential high quality legal representation for the poor, at a level of cost-effectiveness few other programs can match. The legal services program has proven to be one of the most successful programs to emerge from the war on poverty and it has demonstrated that the Nation's judicial system can work to the benefit of all segments of our society—if there is equal access to the judicial system.

BACKGROUND ON SENATE CONSIDERATION OF S. 2337

The Legal Services Corporation Act Amendments of 1980—S. 2337—was introduced on February 26, 1980, by Senators NELSON, JAVITS, CRANSTON, WILLIAMS, STAFFORD, RANDOLPH, RIEGLE, KENNEDY, PELL, and METZENBAUM.

The Subcommittee on Employment, Poverty, and Migratory Labor held oversight hearings on the Corporation and its grantees on April 25, 1979, and February 5, 1980. The first hearing was devoted solely to receiving testimony from the Corporation on the activities of the Corporation and its grantees, with special emphasis on the progress which had been made in carrying out the provisions of the 1977 Legal Services Corporation Act Amendments. Extensive and comprehensive questioning, both oral and written, of the Corporation took place at this hearing. The Corporation submitted an updated "Fact Book," which provided information on the resources available for civil legal assistance; the need for civil legal services; and the nature of the programs funded by the Corporation. A printed hearing record of significant size and scope has been available for several months to the Congress and the public as a result of this hearing.

At the second hearing in February of this year, the subcommittee again focused on the activities of the Corporation and its grantees and the impact of the 1977 amendments. Testimony was received from a variety of public witnesses, including the American Bar Association, the National Legal Aid & Defenders Association, the National Clients Council, and several local legal services programs from across the country which represented the different types of service delivery models funded by the Corporation. In addition, the U.S. General Accounting Office—GAO—presented testimony on the GAO reports which have been issued since the reauthorization of the Corporation in 1977. A full hearing record has been printed and available to the Congress and the public for several weeks.

During the subcommittee oversight hearing on February 5, 1980, Senator JAVITS suggested that the subcommittee staff prepare an evaluation of the GAO's recommendations and the adequacy of the Corporation's responses to each recommendation. Senator JAVITS stated that such an evaluation would aid the committee and the Senate in oversight of the Corporation. The other members of the subcommittee concurred with the recommendation made by Senator JAVITS, and the subcommittee staff were directed to make such an evaluation. This staff evaluation has been printed as an official document for use by the committee and has been available for some time now to the Congress and the public.

Based on the testimony received at these hearings and the subcommittee's other oversight activities, the subcommittee concluded that the original Legal Services Corporation statute enacted in 1974 and the 1977 amendments to the act were working well. Therefore, a simple extension of the Corporation was introduced, S. 2337, by various Labor and Human Resources Committee members. The subcommittee agreed to an amendment in the nature of a substitute which provided for a 2-year extension rather than the 3-year extension originally provided for in S. 2337 when the bill was referred to the committee.

The Labor and Human Resources Committee by voice vote ordered S. 2337 to be reported to the Senate after agreeing to an amendment in the nature of a substitute.

HISTORY OF THE LEGAL SERVICES CORPORATION

Local legal aid societies have existed in the United States for more than 100 years. Primarily they have been located in large urban settings; some were funded through private donations or local governments, others were organizations of the private bar which operated by making use of donated time by local lawyers. However, as the number of poor people increased, and as their problems grew more complex, it became clear that local legal aid societies simply were not able to meet the demand placed on them by the legal needs of poor people.

In 1965, the Office of Economic Opportunity (OEO) established a legal services program for the poor. The Federal Government became involved in the provision of legal services because it had been demonstrated by the private bar and others that the enormous legal problems confronting the disadvantaged required the Government to become involved in the pursuit of access for poor people to the Nation's system of justice. In a relatively short period of time the legal services program demonstrated how important this type of assistance was and is to protecting the rights of the indigent.

By the early 1970's, however, partisan politics was crippling the OEO legal services program; progress was abruptly halted by the frozen budgets and hostile Federal administration. At the urging of legal services clients, the American Bar Association, and others, Congress acted to remedy this situation by creating the Legal Services Corporation as the successor to the OEO legal services program.

The Legal Services Corporation Act of 1974 was signed into law on July 25, 1974. This act created the Legal Services Corporation as a private, nonprofit organization to assume responsibility for administering the legal services program. The purpose of the Legal Services Corporation is to furnish financial support for programs providing certain legal assistance to persons otherwise unable to afford such legal assistance. The Corporation receives funds directly from Congress and, in turn, distributes these funds to local community based and controlled legal services programs that provide direct legal services to clients.

The Corporation is not a department, agency, or instrumentality of the Federal Government, and its officers and employees are not officers or employees of the Federal Government. The Corporation is governed by an 11-member Board of Directors appointed by the President with the advice and consent of the Senate. The first Chairman of the Board was appointed by the President. Corporation activities are directed by a president appointed by the Board.

In 1975, President Ford, with the advice and consent of the Senate, appointed the Corporation's first Board of Directors. The Board took office in July; federally funded legal aid was shifted from the Community Services Administration (formerly the Office of Economic Opportunity) over a 90-day transition period, and by October 14, 1975, the Corporation was operating.

The Corporation's first President was Tom Erlich, formerly the dean of the Stanford Law School. Currently, the Chairman of the Board is Hillary Rodham, a private attorney in Little Rock, Ark.; the president of the Corporation is Dan J. Bradley.

The Corporation does not directly represent clients. Rather, it provides funds to local programs to support their provision of legal services. At the beginning of fiscal year 1980, there were 321 legal services programs throughout the 50 States, the Virgin Islands, the District of Columbia, Puerto Rico and Micronesia. The 321 programs include 281 basic field programs (including 30 migrant components and 12 Native American components), 1 migrant program, 6 Native American programs, 5 State support programs, 14 national support centers (plus 1 funded through a basic field program) and 14 delivery systems study demonstration projects. The support centers provide specialized legal assistance to eligible clients and to other services programs in their representation of clients. Some of the support centers concentrate on areas of law that particularly affect the poor, such as welfare, health and housing. Others specialize in laws affecting certain groups of poor people—migrants, Native Americans and the elderly.

The Corporation administers the legal services programs through its headquarters in Washington and nine regional offices. Total staff of the Corporation, including its nine regional offices, is presently less than 300. Only 2 percent of the total funds appropriated to the Corporation is used for central administration. More than 90 percent goes directly to field programs. The balance is allocated for activities that support local field programs.

Local programs set their own client eligibility standards within guidelines established by the Corporation. Those guidelines set maximum eligibility at 125 percent of the poverty level established by the Office of Management and Budget. (As of April 1, 1980, maximum eligibility for an individual was $4,250 and $8,375 for a family of four.)

Programs provide legal representation and counseling in a wide range of civil matters. They do not provide criminal representation. Most of the legal problems of eligible clients fall into four broad categories—35 percent are family and domestic law; 15 percent are administrative benefits, including medicaid, AFDC, and SSI; 15 percent are consumer law; 15 percent are housing law. The remaining 20 percent are in other areas. Approximately 15 percent of the cases are actually litigated. Approximately 85 percent are resolved through advice, negotiation, consultation and other out-of-court mechanisms.

Local programs are currently staffed by some 5,000 full-time attorneys and 2,500 paralegal assistants. Because none of the programs have sufficient resources to meet the needs of all those eligible for legal assistance, the Legal Services Corporation Act and the Corporation's regulations require each program to set its own priorities for service based on an assessment of client needs and available resources in the local community. Reliance on locally determined policies, rather than nationally set priorities, has been a major reason for the success of the program.

When the Corporation began its opertions in 1975, less than 6 percent of the Nation's poor people had even minimum access to legal services. The rest lived in areas where there were no legal services programs at all, or where programs were so seriously underfunded that most poor people had no effective access to them. The capabilities of existing programs had actually declined over the previous 5 years during which budgets were virtually frozen while costs rose more than 30 percent as a result of inflation.

Since 1975, one of the Corporation's

first priorities has been its plan to provide minimum access to legal services for all of the Nation's poor—a plan to provide resources for legal services at a level equivalent to two lawyers per 10,000 poor people nationwide.

PROGRAM DEVELOPMENTS SINCE 1975

In fiscal year 1977, Congress appropriated $125 million to the Corporation, a significant increase in funds that permitted, for the first time in that decade, expansion of services to move a step closer to providing minimum access to legal services for the poor.

In fiscal year 1980, the Corporation will complete its 5-year effort to expand legal services programs to every area of the country. When the Corporation began operation, most legal services programs were concentrated in urban areas; there were large parts of the Nation—in the South, the Southwest, and the Midwest particularly—where there were no publicly supported legal services available for the poor. By the time the current authorization expires at the end of 1980, this will no longer be the case. Geographic coverage—at a minimal level of two lawyers per 10,000 poor persons—will exist everywhere. Expansion through the minimum access plan has brought legal services to rural areas and other regions of the country that previously did not have at least minimum access to legal services.

As a result of the Corporation's early expansion experience, and in consultation with the Congress, the Corporation formalized its procedures for expansion. The expansion procedures are designed to assure adequate notice and opportunity for comment to the State's Governors, the public, eligible clients, State and local bar associations, legal aid organizations, and others interested in the provision of legal services in all expansion areas. Detailed information on the expansion procedures and process appears in the April 25, 1979, hearing record.

Since 1975, the Corporation has continued to be a model of administrative efficiency. It may be the only organization in Washington that, in spite of inflation, has kept its central management and administration costs to a declining portion of its total budget. In 1977, these costs represented 2.9 percent; in 1978, 2.4 percent; and in 1979, 2.3 percent. In 1980, these costs will represent 2.1 percent of the total budget, and in 1981 these costs will represent approximately 2 percent of the funds authorized in S. 2337.

Throughout its history the legal services program has carried out a continuous effort to stretch dollars available for client service as far as they will go. Legal services programs in every State are completing plans for statewide coordination and representation to avoid repetitive litigation of common client problems. Training of attorneys and paralegals, previously concentrated in national sessions, is being localized with per trainee costs cut in half. Steps are being taken to apply practical computer technology to local program operation to free staff from routine tasks and increase the number of clients that can be served.

THE SPECIAL LEGAL PROBLEMS AND PROBLEMS OF ACCESS TO LEGAL SERVICES STUDY

The 1977 amendments to the Legal Services Corporation Act (section 1007 (h) of the act) directed the Corporation to undertake a study of the access difficulties and special legal problems of veterans, migrants, people with limited English-speaking ability, residents of sparsely populated areas, and Native Americans. The Corporation has completed this study. At this time, a report on these five groups has been written with specific recommendations for action, and the Labor and Human Resources Committee has received information that indicates that the Corporation already has begun to implement the recommendations which were made to it. On its own initiative, the Corporation also has undertaken similar review of its treatment of the elderly and the handicapped populations. The results of this study will be available in the near future.

THE DELIVERY SYSTEMS STUDY

The demonstration projects conducted under the mandated delivery systems study have been completed. The Corporation's Board of Directors were presented the results of that study in May and the report on the study is now in the final editing stage. One of the purposes of the study was to examine various approaches to using members of the private bar as alternatives and supplements to the basic staff-attorney program. The study measured cost, quality of service, client satisfaction, and impact of legal work. No evidence was found in the course of the study to indicate that money would be saved or the quality of service improved by mandating a specific type of delivery model be used in a particular area. The study did not find any private bar model that as a rule performed better on the four measures than did the staff attorney approach now in use in a majority of communities.

The Corporation has taken positive steps to increase private bar participation in legal services to the poor. The Corporation has funded many judicare programs and pro bono projects as part of expansion. There are now major pro bono or judicare delivery models funded in 18 States, including Wisconsin, Minnesota, Missouri, Arkansas, West Virginia, California, Massachusetts, and Vermont.

During the past 3 years, the Corporation has shown flexibility in developing innovative delivery systems, including increased use of judicare and pro bono services, where these delivery models best suit the needs of the local area. The Corporation has also made a number of other efforts to increase the pro bono activities of the private bar on behalf of the poor. Given the extensive amount of unmet need for legal help, there is a great deal that private attorneys can and must do to supplement the Corporation's efforts.

NEED FOR THIS LEGISLATION

Mr. President, based on the Corporation's estimates, there are approximately 30.5 million poor persons eligible for legal services. Using the survey data available and very conservative assumptions, there are estimated to be about two legal problems per year for every 10 poor persons, or over 6 million legal problems per year for the poor population. Although the capacity of the Corporation's grantees is not expected to exceed 2 million legal matters per year through 1981, the Corporation's activities are essential to the Government's efforts to assure that low-income persons have access to the Nation's system of justice.

The Legal Services Corporation Act Amendments of 1980 will help to make those words etched in stone beneath the pediment of the U.S. Supreme Court—"Equal Justice Under the Law"—a reality for the 30 million low-income persons in this country. I urge my colleagues to join me in support of S. 2337 without amendment.

Mr. President, I ask unanimous consent that a list of organizations supporting the Legal Services Corporation reauthorization bill be printed in the RECORD. They represent a broad spectrum of organizations in this country.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING LEGAL SERVICES CORPORATION REAUTHORIZATION

Leadership Conference on Civil Rights.
AFL–CIO.
UAW.
National Urban League.
National Urban Coalition.
Women's Legal Defense Fund.
Rural Coalition.
National Coalition for Nursing Home Reform.
ACLU.
National Council of Senior Citizens.
American Association of Retired Persons/National Retired Teachers Association.
National Congress on Black Aging.
National Council on Aging.
Gray Panthers.
United Presbyterian Church.
National Council of Churches.
Nation Conference of Catholic Charities.
American Bar Association.
National Bar Association.
National Legal Aid and Defenders Association.
Mexican American Legal Defense and Education Fund.
National Farmers Union.
League of United Latin American Citizens.
National La Raza Lawyers Association.
National Association of Latino Elected and Appointed Officials.

Mr. NELSON. Mr. President, I ask unanimous consent to have printed in the RECORD letters sent to the committee endorsing the extension of the Legal Services Corporation from the American Bar Association, the American Federation of Labor and Congress of Industrial Organizations, the Rural Coalition, the National Urban League, Inc., and the Mexican Legal Defense and Educational Fund.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
Washington, D.C., June 11, 1980.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN. On behalf of the American Bar Association, I congratulate you on your leadership in guiding S. 2337, to reauthorize the Legal Services Corporation, through your Subcommittee and full Committee. You are to be particularly commended on having reported a bill which does not seek to impose any further restrictions on the independent professional judgment of legal services attorneys to represent their clients fully and zealously, within the bounds of our profession's canons of ethics.

We hope that you will be able to bring S. 2337 before the full Senate in the very near future, and that you will continue to resist the imposition of restrictions on the ability of legal services attorneys to provide the same full representation that an attorney in private practice would be able to provide.

We would, however, recommend one change in S. 2337: that the reauthorization be for a period of three, rather than two, years. We believe the Corporation's past performance warrants a longer period of reauthorization than the two years now provided in the bill and that a reauthorization of less than three years will make it difficult for the Corporation to plan adequately for the future.

Once again, your support is greatly appreciated.

Sincerely,

HERBERT E. HOFFMAN.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., March 31, 1980.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I am writing to indicate the support of the AFL–CIO for your bill, S. 2337, to continue the Legal Services Corporation Act and to authorize the funds necessary for its essential work on behalf of the poor.

The AFL–CIO has long been committed to equality in our society—a goal that can be achieved only if all persons have the opportunity to use our system of justice. For those without resources to pay for a private attorney, a public commitment must be made.

We commend you for the approach you have taken to continuing the program, for three years, with authorization levels adequate to maintain the program in the light of inflation and allow essential growth. We oppose any amendments that would interfere with the work that legal services attorneys do for their clients, and are particularly concerned about a reported proposal to deny representation of the poor before legislative or administrative bodies. We urge the prompt enactment of S. 2337, without change.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

RURAL COALITION,
June 11, 1980.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: The Rural Coalition, comprised of 52 national and regional public interest organizations, is concerned with the rights and interests of low-income rural Americans, and we are writing to urge your support of S. 2337, which extends the Legal Services Corporation Act without amendments.

Poor people in rural areas face urgent legal problems that threaten their rights, their property, their homes, and their incomes. Until recently, few had any access to legal assistance to help resolve those problems. The recent expansion of legal services programs to rural parts of this country has finally brought some reality to the promise of equal access to justice which Congress made when it passed the Legal Services Corporation Act in 1974. It is absolutely essential to maintain and to strengthen those programs now in place.

We oppose any amendments to reduce the funding levels authorized by S. 2337. We also oppose any efforts to limit the work legal services lawyers may undertake for their clients, in the courts, in administrative proceedings, or before legislative bodies. Restrictions on any of this work establishes second-class justice for the poor.

We are especially concerned about proposals to dictate through legislation the method of program operation, particularly in rural areas. There now exist in rural areas effective staff-attorney programs and effective programs involving the private bar. Neither should be replaced by arbitrary formulas for distributing funds or referring clients. Rural communities, especially the poor in those communities, must have the same opportunity as cities to develop the legal services program best suited to their needs.

Again, we urge your support of S. 2337, which we consider essential to establishing an effective judicial system in rural America. We look forward to your response on this matter.

Sincerely,

BARBARA E. ROSE,
Executive Director.

NATIONAL URBAN LEAGUE, INC.,
Washington, D.C., May 2, 1980.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: The National Urban League is pleased to add its voice to the many in strong support of legislation extending the life of the Legal Services Corporation. From its origin in 1965, the legal services program has been one of the most successful national efforts to protect and advance the rights of the poor in this country. Effective use of our system of justice requires aggressive representation, not only in the courts but in administrative and legislative proceedings as well. For the past 15 years, legal services lawyers and paralegals have provided that representation, for at least some of the nation's poor, on matters affecting their housing, their jobs, their income, their families. At a time when inflation, unemployment and recession have increased the amount and the urgency of the demand for such representation, the program must be continued, strengthened and expanded.

H.R. 6386 and S. 2337 are modest efforts to extend the program without change. We support a three-year authorization of appropriations at levels that will at the very least maintain existing service. The authorization levels contained in the House bill are an absolute minimum that does little to close the gap between present capacity to provide service and the Congressional promise of equal access to justice for all people. Congress must not allow the present budget cutting atmosphere to close off all options for growth in this program for the next three years.

Under our adversary system of justice, effective legal representation of the powerless sometimes means confrontation with powerful interests—a confrontation through established civil procedures, however, rather than on the streets. Congress must resist the political pressures to limit that representation. If poor people are to be expected to use the legal system to resolve disputes and advance their interests, then they must have the same full access to the system as others in our society.

We urge you to reject any changes in the Legal Service Corporation Act that would further restrict that access or that would in any way limit the legal tools available to a legal services attorney to best serve the interests of his or her client.

Sincerely,

MAUDINE R. COOPER,
Acting Vice President.

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND,
Washington, D.C., May 14, 1980.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: We are writing with regard to H.R. 6386, the Legal Services Corporation bill, which will soon be considered in the House of Representatives. Last year, Congress passed legislation affecting Legal Services Corporation (LSC) representation of undocumented aliens. MALDEF strongly opposed that restriction, as it opposes any provisions which might be offered this year to reinstate this policy. We urge a careful consideration of the serious ramifications of such restrictive provisions.

Recognizing that justice can best be served when all persons have access to it, and specifically that no one should be denied justice because of low economic status, Congress created the Legal Services Corporation. The denial of representation by LSC personnel to certain aliens, however, directly contradicts the principle of equal access to our system of justice. If they are ineligible for legal assistance, many aliens who are in fact documentable will simply have to go without representation.

This situation would raise serious constitutional questions, particularly with respect to due process, which is intended for the protection of all persons in the United States. Because a determination of legal status can only be made at the completion of the judicial process, aliens must be granted the right to counsel. This is necessary to assure not only fairness, but also efficiency, in the proceedings. In the past, expert counseling by LSC attorneys has resulted in legalizing the immigration status of persons who never knew they had such rights. It is worth noting that many of these LSC cases involved aliens who had U.S. citizen spouses, parents or children. Thus, LSC has assisted in preserving family units, thereby carrying out the principal purpose of the Immigration and Nationality Act.

Legal Services attorneys also play a great role in protecting the rights of aliens in areas not related to immigration. Undocumented persons, just like U.S. citizens, deserve the right to legal counsel to provide them with an adequate defense in the event that a civil action suit is brought against them, and to enable them to press charges against anyone who does them personal harm or injury.

Removing perhaps the only realistic avenue undocumented aliens have to our complex legal system would render them unequal before the law in theory and practice, and in some instances may result in increased exploitation of these people. Undocumented persons are more susceptible to violent acts and/or other abuses when they have no legal channels available to protect their rights. Congress must not reenforce such a hostile attitude by including into U.S. law provisions which would deny certain aliens virtually all access to our court system.

Furthermore, denying undocumented aliens legal assistance would, in certain cases, adversely affect U.S. citizens. An example where such harm was rectified with the aid of LSC attorneys was a class action suit filed in the U.S. District Court in the Southern District of Texas. Texas Rural Legal Aid Attorneys represented an undocumented woman who was unable to secure food stamps and AFDC benefits for her U.S. born children because of a Texas policy which called for reporting undocumented applicants to the INS. Had

LSC personnel not been allowed to handle this case (resulting in a reversal of the policy) this woman's children, and many others in like circumstances, would have continued to be denied benefits to which their citizenship entitled them.

MALDEF also opposes the inclusion of such a provision in the legislation on the grounds that it would de facto make every LSC employee a functionary of the INS by forcing them to determine the legal status of persons seeking their services. Legally binding determinations of status can only be made by immigration officers in the course of appropriate proceedings. It would be difficult for LSC personnel, acting in good faith, to make these determinations. They would, in effect, be asked to prejudge the outcome of a case. Such "on the spot" decisions could result in violations of equal protection guarantees if particular groups were required to more fully document their citizenship. Furthermore, requiring LSC personnel to perform this function could have a chilling effect on people who are indeed eligible for services.

Finally, we object to LSC restrictions against undocumented aliens because they are in direct conflict with the U.S. Government's basic posture on human rights. President Carter made a plea to all State Governors for assistance in protecting the human rights of undocumented persons. The President stated that "our country's deep commitment to standards of justice and humaneness requires us to protect the basic rights of all people who find themselves in this nation." If people are denied the fundamental right to legal counsel, what means will they have to secure and protect other basic rights due them?

Congress, in the interest of preserving justice for all, must contemplate the detrimental effects of denying undocumented persons access to the Legal Services Corporation, and not allow such provisions to become law.

Thank you for your consideration in this important matter.

Atentamente,

NICASIO DIMAS, Jr.,
Acting Associate Counsel.

Mr. CRANSTON. Mr. President, I wish to express my strong support for S. 2337, the Legal Services Corporation Act Amendments of 1980, which I joined in introducing with my friend from Wisconsin (Mr. NELSON) and others, to extend the authorization of appropriations for the Legal Services Corporation. I was deeply involved in the establishment of the Legal Services Corporation during the 93d Congress and in the development and passage of the 1977 Legal Services Corporation Act amendments for this program with the vitally important mandate of furnishing financial support for programs providing legal assistance to low-income Americans. This is a program that I am strongly committed to and believe is one of the most successful federally supported programs helping low-income Americans.

SUCCESS OF THE PROGRAM

Mr. President, few programs have so successfully carried out their mandates. Since the Corporation began operating in 1975, it has made excellent progress in completing its minimum access plan—a plan to provide resources for legal services at a level equivalent to two lawyers per 10,000 low-income people nationwide. In 1975, less than 6 percent of the Nation's poor lived in areas served by legal services programs supported at this level. By the end of 1979, more than 90 percent of all low-income persons lived in areas served by legal services programs supported at the minimum access level.

After 5 years of the Corporation's operation, approximately 5,000 dedicated legal services attorneys in over 300 projects throughout the United States provide high quality legal assistance to individuals who would otherwise be unable to afford adequate legal counsel. In 1978, local programs handled more than 14 million legal matters. Appropriations for the program have grown from $71.5 million in fiscal year 1975 to $300 million in 1980—evidence of the widespread support this program has earned. From a somewhat stormy beginning in 1974, the Legal Services Corporation has quietly and competently grown and expanded its services to low-income Americans in need of legal assistance.

CLIENTS AND SERVICES

Mr. President, the legal services program was begun in 1964 as part of the war on poverty because of the realization that low-income individuals did not have access to legal assistance and that the private bar, through its pro bono activities, could not fill the legal needs for these individuals or provide the specialized assistance necessary to deal effectively with certain types of problems. The legal services program has succeeded in meeting these needs by providing equal access to our judicial system to an estimated 30 million eligible needy individuals.

Mr. President, the 1979 annual report of the Legal Services Corporation reveals some interesting facts about the people who come to legal services offices and about the kinds of services they seek. Almost 68 percent of the clients of legal services programs in 1979 were women while the majority of all clients (53 percent) were between the ages of 18 and 34. Blacks, Hispanics, and other minority groups constituted 43 percent of the clients of legal aid programs in 1979; 34 percent of all clients were welfare recipients and social security payments constituted the income for 16 percent.

With respect to the types of legal problems handled by legal services offices, 17 percent dealt with family matters such as child custody and visitation rights, child support, paternity suits, and wills and estates. Another 17 percent dealt with home and property ownership and landlord and tenant relationships; 13 percent of the cases pertained to income maintenance programs, such as assistance under the AFDC, food stamp, and social security programs and black lung and workmen's compensation benefits. The legal services programs providing legal assistance to low-income Americans, who might normally be denied fair and equal protection under the law, have contributed greatly to enhancing the basic survival and human dignity of these individuals.

COMMUNITY RESPONSIVENESS

Mr. President, not only has the Corporation grown over the past 5 years in the provision of legal services to low-income people, but it has, in the process, become more and more responsive to the communities it is designed to serve.

As a result of the 1977 amendments, eligible clients now serve on the board of directors in every local program and on the national board. These local boards establish the priorities and direction for each local program, thereby assuring that the legal services programs reflect the needs and perspectives of the low-income communities they serve.

ADMINISTRATIVE EFFICIENCY

In addition, few Federal programs have achieved the administrative efficiency that is characteristic of the Legal Services Corporation. It is a remarkable achievement that, in spite of inflation, it has kept its central management and administrative costs to a declining portion of its total budget. As the committee report on this legislation indicates, in 1977, these costs represented 2.9 percent of the Corporation's total budget; in 1978, 2.4 percent; in 1979, 2.3 percent; in 1980, 2.1 percent; and in 1981, at the Corporation's full budget request, will represent only 1.9 percent. With such prudent management and administrative costs, the Corporation is able to use the vast bulk of its funds for the support of local programs for the provision of legal assistance to eligible clients. Very few other Federal programs can boast of such low overhead and administrative costs and the application of such a large portion of its funds directly to services.

SUPPORT FOR REAUTHORIZATION

Mr. President, there is no doubt in my mind that a program with this record of success and efficiency merits reauthorization by Congress. In fact, during the subcommittee's consideration of this legislation, I expressed my view that the 3-year authorization in the bill originally introduced was fully justified. I offered an amendment to provide for an additional year if the Congress failed to act in the year preceding the terminal fiscal year. Unfortunately, there was not sufficient support on the subcommittee for my amendment. At my urging, however, the sponsors of the 2-year authorization amendment agreed to defend the bill against "gutting" amendments and to support funding for fiscal year 1981 at the full authorization level for this outstanding program.

Mr. President, perhaps the best evidence of the success of the Legal Services Corporation in moving away from its controversial beginnings into a stable, successful program carrying out its mission in a low-keyed competent fashion is an editorial written by James J. Kilpatrick attesting to the success of the legal services program. I ask unanimous consent to have this article printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, as Mr. Kilpatrick points out, the program is not perfect. Here and there problems occasionally arise. But overall, we have a program that is a cornerstone in our efforts to carry out our constitutional commitment to "establish justice." We have achieved a balance that allows legal services attorneys to carry out their work on behalf of their clients in a professional and responsive fashion while maintaining wide bipartisan support for the Legal Services Corporation itself within the Congress and the Nation. I believe that the Legal Services Corporation has proven its ability to provide equal access to our judicial system for low-income Americans in an administratively efficient, noncontroversial fashion and I enthusiastically urge passage of this legislation without amendment.

EXHIBIT 1

OF JUSTICE FOR ALL

If there is one concept that our nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, "Equal Justice Under Law." Year by year we creep a little closer toward that distant goal.

That cheerful observation is prompted by a report from the Legal Services Corporation, marking its first five years of operation. The corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation.

These days the Legal Services Corporation keeps a low profile. That was not the image projected by its predecessor outfit, the legal services arm of the now defunct Office of Economic Opportunity. Many "poverty lawyers" identified with the OEO program were hot-eyed social activists, little interested in the humdrum legal problems of the poor. Conservatives in both House and Senate had good reason to oppose the expenditure of tax funds on firebrand causes.

As a consequence, the bill to transfer the legal services program from OEO to a new corporation ran into a filibuster in the Senate and a bitter floor fight in the House. In order to avoid a presidential veto, sponsors accepted a host of restrictive amendments intended to dispel these lingering apprehensions.

Lawyers attached to the corporation are positively forbidden to engage in public demonstrations, picketing, boycotts, strikes, lobbying, partisan politics, voter registration drives and the like. The act prohibited the establishment of "backup centers" that were seen by many of us as mere seedbeds for hothouse revolution.

By a margin of only seven votes in the House, the legal services bill survived a motion to recommit. The corporation wobbled into existence on rubbery legs. Now, six years later, it stands on its own two feet. Pending bills to extend the program's life for two years (in the Senate version) or three years (in the House) may set off brief thunder on the floor, but no typhoons are in sight.

As one of those who hollered the loudest six years ago, perhaps I may be permitted a round of applause today. Here and there abuses continue. A sneaking suspicion will not go away that the corporation has neatly evaded the law's prohibition against backup centers by creating backup centers and calling them something else, e.g., the National Clearinghouse on Legal Services.

Let it go. As it moves into its sixth year, the corporation is funding 335 independent programs staffed by more than 5,000 attorneys and 2,500 paralegals. In 1979 local offices dealt with more than a million legal problems of the poor. What kind of problems? Child custody. Food stamps. Eviction. Disputed bills. Contested eligibility for welfare benefits. None of this is the stuff from which landmarks are made, but it is the very heart and soul of a legal services program.

The corporation's clients are 57 per cent white, 30 percent black, 10 percent Hispanic. Only a fifth of them are employed; most are living on welfare or Social Security. More than a third of the legal problems involve family matters. Another 13 per cent concern landlord-tenant relationships. Half the cases are settled within a month. The corporation proudly notes that only 2 percent of its budget goes to administration; 95 percent of last year's $270 million appropriation went directly to legal services.

The pending Senate bill would authorize $321.3 million for the corporation in fiscal '81. It is obviously a subtsantial sum, but it is a seriously needed sum. In the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.

We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying. The preamble to the Constitution pledges a national purpose "to establish justice." Let us get on with the job.

● Mr. WILLIAMS. Mr. President, I strongly support S. 2337, the Legal Services Corporation Act of 1980, which reauthorizes the Corporation for 2 additional fiscal years.

The legal services program whose orgins were in the Office of Economic Opportunity has evolved into a private nonprofit organization established by Congress in 1974 with the responsibility for providing legal services to the poor. The Corporation currently funds nationwide approximately 335 programs and is staffed by over 5,000 attorneys with many paralegal and support staff. Every effort has been made by Congress and the Corporation to strengthen and improve the quality of legal services provided to poor people.

The Subcommittee on Employment, Poverty and Migratory Labor has conducted oversight hearings reviewing and evaluating the efforts of the Legal Services Corporation and its grantees. In addition, a committee print has been made available titled "Staff Evaluation of the Legal Services Corporation Responses to the Recommendations Made by the U.S. General Accounting Office in Three Reports Issued in 1978 and 1979." The GAO inquiries focused on the Corporation's budget methodology, its system for managing increasing appropriations, the improvement of the productivity of the services, the systematizing and automation of its operations, and efforts to identify effective methods for delivering legal services to the poor. It is hoped that the data provided and its evaluation can be helpful to the Corporation and to those persons who, in the past, have expressed concern about the activities of the Corporation.

The continued support for an effective and independent Legal Services Corporation is a demonstration of our country's commitment to providing those persons, who are disenfranchised, an opportunity for equal access and legal representation in our legal system. It is essential that the Corporation continue to receive by-partisan support to improve and expand its services.●

Mr. NELSON. Mr. President, I have no additional material at this time to submit for the RECORD.

Are there any amendments pending at the desk?

The PRESIDING OFFICER (Mr. LEVIN). The only amendment the Chair is aware of is the committee substitute.

Mr. NELSON. Mr. President, that substitute, I take it, is the pending business?

The PRESIDING OFFICER. It is the pending question. The Senator is correct.

Mr. NELSON. Mr. President, I yield the floor for the time being.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a fundamental aspect of any free society is the ability of its citizens to defend or assert their rights before an independent and impartial judiciary. The phrase "equal justice under law" has a very hollow ring indeed if substantial numbers of our fellow citizens can be denied their day in court because of an inability to afford the services of an attorney.

For some time now, Government and the legal profession have recognized an obligation to provide legal services to defendants in criminal proceedings who would otherwise not be able to afford a legal defense. During the past few years many in Government have recognized a need to provide similar legal counsel in civil matters to those who would otherwise be denied many of the benefits of the American judicial process.

Since entering the Senate in January 1973, I have supported the principle that Government provide a means by which those who cannot afford legal counsel can also have their day in court. One of the first legislative proposals I introduced as a freshman Senator was a bill to provide legal services in civil matters for the poor. So the debate in this Chamber today, as far as this Senator from North Carolina is concerned, is not one between those who seek to assist the poor of this country in obtaining equal justice under law and those who seek to deny them that right. Indeed, the debate today is of a very different character.

Mr. President, the principles of equal justice under law and the right of any person to a fair and impartial determination of his claims in a court of law is strongly embraced by the vast majority of Americans. I suspect there are very few Americans who so misunderstand the history and purpose of this country as would deny these fundamentals of our heritage. Yet the history of the Federal Government's involvement with the delivery of legal services, first through the Office of Economic Opportunity and now through the Legal Services Corporation, has been fraught with bitterness and controversy.

It is not difficult to understand why this controversy arose.

Rather than limiting their activity to providing assistance with the personal and individual legal problems of the poor, employees of the legal services program, paid by the taxpayers of this country, have assumed the role of conspicuous, federally financed advocates of political and social causes. Under the guise of serving the poor, these taxpayer-funded social engineers have promoted militant extremism, graduated State income tax, student protests, racial quotas in employment and education, increased Government welfare programs, Indian land claims, homosexual demands, rent strikes, and boycotts of private businesses. They have used taxpayers' money for lobbying efforts, organizing special interest and pressure groups and have engaged in class action suits, not on behalf of the poor, but to promote alleged social reforms. That is where the bitterness and hostility toward this program comes from.

Mr. President, the demands of special interest groups regarding quotas in employment and education, abortion, marijuana legislation, homosexual demands and unrestrained pornography may be protected under the first amendment, but they have no right being lobbied and promoted by taxpayer-funded lawyers, who, in so doing, ignore the legal problems of the poor they are paid to represent. The American public resents this abuse of their hard-earned tax dollars and it is well that they should. They are justified in being resentful. That is what this debate is going to be all about today and tomorrow.

Although much of the legal services activity has been concerned with personal legal problems in such areas as housing, bankruptcy, debtor-creditor relations and family relations, a substantial amount of time and money has been spent in so-called legal activism promoting the social goals of special interest groups.

Let the record be clear about that at the outset. Oh, yes, this activity is conducted under the guise of legal activism or law reform, but it is simply political advocacy in unrestrained form. More and more Americans are understanding that this is the case.

I say again: This activity may be carried on in the guise of litigation, but its purpose and its impact is to change and, in effect, to make law. No other face can be put on it.

This activity of the legal services program amounts to nothing less than a legislative activity. It is making law. It is politics in its fullest sense; and in a democracy, it is also politics in its lowest sense. Political activity, even when disguised as litigation in the judicial system, ought to be subject to the traditional checks and balances of the free political system. It is undemocratic to give power to narrow political factions and at the same time insulate the use of this power from the restraints of free government.

A central issue regarding this legislation today is whether the efforts for social action and social change by a narrow minority should be financed with Government money.

Using money taken from the taxpayers to advance the cause of one section of the population over another creates a system of new injustice. The proper forum for political questions is the political process, the constitutionally established system of checks and balances in our national and State legislatures.

The use of the judicial system and the administrative process to effect social reform makes an end run around the constitutional system of our country. Ultimately this practice destroys the popular consensus and support which is necessary for long-term reform and democratic government itself. This is why during 1973, as a very, very freshman Senator, I strongly supported amendments to the original Legal Services Corporation bill, amendments which were finally adopted by the Congress, to restrain legal services attorneys from pressuring courts to legislate rather than adjudicate.

But even if the present legal services program could be reformed to prevent these political abuses, the present approach to providing these services is deeply flawed. Essentially, the present legal services program, as is the case with so many Federal welfare programs, treats its poor clients with a patronizing approach which denies him the same position as the normal consumer of legal services. It thus instills an attitude of second-class citizenship.

First, the poor person seeking assistance from the legal services program does not have the freedom to choose his own attorney as does his self-sufficient counterpart. Under the existing approach, the poor client must accept whatever attorney is provided by the legal services program.

Second, the poor person seeking legal services assistance enters an attorney-client relationship which is very different from the normal relationship. Since the attorney and the poor client understand that the client does not control the attorney's fee and has nowhere else to go for help, the legal services attorney tends to gain dominance in his relationship with his client. Because the attorney's fee is paid by someone other than the client, the attorney is continually faced with a potential conflict of interest situation.

Third, subsidized lawyers, with a federally assured income, are free to spend their time on appeals of test cases to promote the national goals of special-interest groups, rather than on effective representation of poor clients.

Mr. President, there is an alternative to the present system which would be free of political abuses and which would place the poor client on the same level as any other client of legal services from a private attorney.

Today, I shall submit a legislative proposal to create a new means of delivering legal services as an amendment in the form of a substitute to the pending legal services corporation bill.

This amendment would set up a small congressionally chartered corporation which would operate as both a funding and a compliance mechanism. The new corporation would transfer appropriated moneys to qualified State governments. A State government would qualify by adopting one of the following three procedures:

First, a State could empower an existing or new State agency to disburse funds to individual attorneys representing eligible clients.

Second, it could transmit funds to the bar association with overall jurisdiction in the State, if the bar association has established a method to disburse funds to attorneys representing eligible clients, as for example, under the judicare approach.

Third, a State could establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, Mr. President, the States would have full freedom to design their own program to suit local conditions, so long as clients retain the right to obtain the individual attorney of their choice. This legislation also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Further, this proposal includes an equitable geographic distribution of appriated funds based upon the proposition of eligible clients in each State. The standard of eligibility set by this legislation is the same standard as that of the medicaid formula; a standard already endorsed by Congress, State legislatures and welfare groups.

This proposal restores freedom of choice to poor people in retaining legal assistance. It is client-oriented, rather than attorney-oriented.

It provides for greater and more active participation by local bar associations. It involves local attorneys more intimately in the problems of the poor community. It sets up a sound basis for a stable, ethical attorney-client relationship. Finally, it allows the people's representatives in the State legislatures to play a proper role in designing and implementing the program in each State.

Mr. President, the present legal services delivery system is grossly deficient and the widespread controversy surrounding it is a valid indication of that deficiency.

I was very interested, Mr. President, to read the minority views submitted by the distinguished Senator from Colorado (Mr. Armstrong) and the distinguished Senator from New Hampshire (Mr. Humphrey). I am not going to read all of their statement, but let me read part of it into the Record. They began by saying:

> We do not agree that the Legal Services Corporation is "a model of administrative efficiency" and that "the existing law has worked so well."
>
> The reason the administrative funds of the Corporation have been a declining percentage of their funding is because the base—funds channeled to a multiplicity of legal services entities and other interest groups throughout the nation—has mushroomed so rapidly. Under the Johnson administration, total funding was approximately $45 million. The 1980 appropriation was $300 million, and this bill would increase the authorization to $321 million, with the further limitless authorization of "such sums as may be necessary" in FY 1982. The House bill, with which this measure will be considered in confer-

ence, is no better, containing authorizations of $380 million in FY 1982 and $450 million in FY 1983. In this time of fiscal stringency, it seems nothing short of incredible that the Congress would be contemplating massive new outpourings of tax funds for a program that is highly controversial at best and perhaps grossly misusing tax funds at worst.

Mr. President, I ask unanimous consent that all of the text of the minority views submitted by Senators ARMSTRONG and HUMPHREY be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINORITY VIEWS

We do not agree that the Legal Services Corporation is "a model of administrative efficiency" and that "the existing law has worked so well."

The reason the administrative funds of the Corporation have been a declining percentage of their funding is because the base—funds channeled to a mutliplicity of legal services entities and other interest groups throughout the nation—has mushroomed so rapidly. Under the Johnson administration, total funding was approximately $45 million. The 1980 appropriation was $300 million, and this bill would increase the authorization to $321 million, with the further limitless authorizations of "such sums as may be necessary" in FY 1982. The House bill, with which this measure will be considered in conference, is no better, containing authorizations of $380 million in FY 1982 and $450 million in FY 1983. In this time of fiscal stringency, it seems nothing short of incredible that the Congress would be contemplating massive new outpourings of tax funds for a program that is highly controversial at best and perhaps grossly misusing tax funds at worst.

The existing law has "worked well" in fostering items of which, in our opinion, the electorate would take a dim view." Condemning the FBI's counterintelligence operation as a "repression campaign," encouraging teen-agers to secure abortions without the knowledge of their parents, or actively lobbying on a host of issues that represent the full spectrum of radical activism in this country do not, in our judgment, constitute responsible representation of the poor on legitimate legal problems. It is one thing to engage privately in lobbying efforts for whatever cause; it is quite another to do so with tax funds, under the guise that one is "representing a client," or to insist that "other funds" were used in such activities. That may or may not meet the requirements of federal law. It certainly does not meet the requirements of responsible advocacy or legitimate accountability to the persons who are paying the bills—or, in some cases, to the interests of the clients themselves.

The majority report makes much of the fact that "the Corporation is not a department, agency, or instrumentality of the Federal government . . ." and that "political interference" must be avoided. The proponents attempt to draw a sui generis distinction ill-supported by the facts. The facts are that the Board of Directors is appointed by the President, with the advice and consent of the Senate; the Corporation's funds are overwhelmingly derived from tax moneys appropriated by the Congress; and the Corporation's nature and existence derive from public statute. "Political interference" conveniently can be decried when one wishes to avoid public accountability, and it is precisely that wish that appears to pervade the character and activities of the Legal Services Corporation.

Some way must—and will—be found to achieve this accountability. A gubernatorial veto is not at all an opprobrious provision designed to cripple the program. It is an approach that is found in countless economic opportunity programs, ranging from community action programs to rural housing development and rehabilitation. Do the authors of the majority report believe that they (or the Directors of the Legal Services Corporation) have some lock on wisdom that the 50 governors elected by the populace of the respective States do not?

The taxpayers of this nation, armed with the knowledge that there are 5,000 full-time attorneys and 2,500 paralegal assistants acting in their name with a budget in excess of $300 million on highly controversial issues, will make it clear that there is a limit to their tolerance. We believe it is imperative that the Congress, as the elected representatives of the people, begin to exercise the kind of oversight that is essential to bring this program under control.

W. L. ARMSTRONG,
GORDON HUMPHREY.

Mr. HELMS. Mr. President, the present delivery system has distorted the attorney-client relationship and has been subject to numerous political abuses in promoting the objectives of special interest groups with taxpayers' money. It has sought time and again to thrust the burden of politics upon our courts.

The amendment I am submitting will go far in reforming many of these abuses while increasing the delivery of personal legal assistance to the poor.

Mr. President, I ask unanimous consent that it be in order for me to yield to my friend from New Mexico, with the understanding that I shall not lose the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1130

(Purpose: to allow attorneys fees for small businesses and individuals who prevail in litigation against the Federal Government)

Mr. DOMENICI. Mr. President, in behalf of myself and the Senator from Arizona (Mr. DECONCINI) I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BUMPERS). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) for himself and Mr. DECONCINI proposes unprinted amendment numbered 1130.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following: The following new section is added at the appropriate place to the Legal Services Corporation Act (42 U.S.C. 2996) as follows:

SEC. 2.(a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the Federal Government, the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this Act—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs, against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF ATTORNEY FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

SEC. 3. (a) Subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) An agency that conducts an adjudication subject to section 554 of this title shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the agency finds that the position of the agency as a party to the proceedings was substantially justified or that special circumstances make an award unjust. The agency may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the agency under this section shall be made a part of the record and shall include written findings and conclusions and the reason or basis therefor.

"(b)(1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the agency involved; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c)(1) Each agency shall by rule establish procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the agency adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28.

"(2) A party dissatisfied with the fee determination by the agency may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination of the agency only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(e) The Office of the Chairman of the Administrative Conference of the United States shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Conference with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective three years after the date of enactment of this Act, section 504 of title 5, United States Code, as added by subsection (a) of this section, is repealed, except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of repeal.

AWARD OF ATTORNEY FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 4. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including fees and other expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the Government shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by him in the litigation.

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c)(1) Any judgment against the United States or any agency or official of the United States acting in his official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to the compensation, if any, awarded in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his official capacity for fees and other expenses pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title unless the basis for the award is a finding that the United States acted in bad faith, in which case the award shall be paid by the agency found to have acted in bad faith and shall be in addition to the compensation, if any, awarded in the judgment.

"(d)(1) In addition to the costs which may be awarded pursuant to subsection (a) and except as otherwise specifically provided by statute, a court shall award fees and other expenses to any party other than the United States which prevails in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141(a)) may be a party regardless of the amount of its net worth; and

"(C) 'United States' includes any agency, and any official of the United States acting in his official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication conducted pursuant to section 554 of title 5, the court shall include in that award, the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency over which the party prevails from any sum appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purposes of paying fees and other expenses awarded under this section.

"(5) The Director of the Administrative Office of the United States Courts shall include in its annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective three years after the date of enactment of this Act, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

SEC. 5. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 1988 of title 42, United States Code, is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code.".

SEC. 6. Nothing in section 2412(d) of title 28, United States Code, as added by section 4(a) of this Act, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

SEC. 7. (a) Except as provided in subsection (b), this Act, and the amendment made by this Act, shall apply to any adjudication or civil action which is pending on the date of enactment of this Act, or which is commenced on or after the date of enactment of this Act.

(b) This Act, and the amendments made by this Act, shall apply to any civil action arising under the internal revenue laws of the United States which is pending on the date which is six months after the date of enactment of this Act or which is commenced on or after such date.

Mr. DOMENICI. Mr. President, this amendment contains a measure that the Senate has on at least two occasions passed by rather overwhelming margins. It is called "equal access to the courts."

But, basically, it is a bill reported out of Judiciary that was modeled after an early bill I introduced. Senator DECONCINI worked very long and hard on the measure.

Basically, it provides to the average American citizen and small businessman an opportunity to collect court costs, attorney's fees, and administrative costs in the event they prevail in administrative and legal battles with the Federal Government. It is exactly the same measure that passed here overwhelmingly. For some reason, it seems that the

House, or certain committees, subcommittees, in the House, do not want to proceed to report out a measure of this type.

The Senator from Arizona and I, while we understand this is not the most appropriate vehicle, believe the Senate ought to reaffirm its position by adopting this amendment as part of the legal services bill.

I understand the floor managers, both majority and minority, have no objection. The distinguished Senator (Mr. NELSON) has been a strong advocate of this measure for some time.

Mr. President, without losing my right to the floor, I will yield a couple of minutes to the Senator from Arizona.

Mr. DECONCINI. I thank the Senator from New Mexico.

Mr. President, I am pleased to join with him on this amendment. I think the Senator from New Mexico brought this up in the 95th Congress as a matter of a record vote.

This amendment is slightly different, but in the same direction and thrust, and was attached to the legal services bill in that Congress.

I compliment the distinguished Senator from New Mexico for his tenacity and his watchfulness of the small businessman's plight that he and I and the floor manager of S. 2337 have been working on for some time.

Mr. President, I hope that the managers of S. 2337 will accept this amendment. I think it is important that we note that in the House we have not been able to see the rapid advancement of S. 265, the Equal Access to Justice Act, that did pass the Senate some time ago.

On the good news side, the Small Business Committee in the House did pass that bill 26 to 0. However, it is jointly referred and I do not have any great news that it is about to come swinging out of the House.

I think the longer we can continue to send this message to our colleagues across the way, the better it will be for possible enactment and the better it will be for the small business community that is constantly plagued with overregulations, and without the concern of what it costs not only the small business person, but also the consumer.

Mr. President, I am pleased to have the privilege to speak in support of this amendment, which adds to S. 2337 the precise language of S. 265, the Equal Access to Justice Act. This amendment addresses the award of attorney fees and other expenses that would be payable to prevailing parties in successful agency proceedings or civil litigation with the Federal Government. This amendment has special meaning for me. During the last session the Senate passed the Equal Access to Justice Act, by an overwhelming vote of 94 to 3. I then had the privilege of cosponsoring and conducting hearings on that important legislation. The essence of S. 265 is embraced by this amendment, and I am grateful for the opportunity to speak in support of this legislation.

Mr. President, I would first like to express my gratitude to my distinguished colleagues, Senators DOMENICI and NELSON, whose continued support for S. 265 has been unswerving. Indeed, we all had the opportunity to testify recently in support of S. 265 before the House Judiciary Subcommittee that has jurisdiction of this matter. I should also add that I also had the opportunity to testify before the House Small Business Subcommittee considering legislation virtually identical to S. 265. That bill, the Small Business Equal Access to Justice Act, was recently reported out by the House Small Business Committee by a vote of 26 to 0.

Mr. President, whether we are considering S. 265 or its mirror image such as the amendment before us today, the results should be the same because the premise is identical. This amendment stands for the premise that certain individuals, partnerships, and other organizations are deterred from seeking review of or defending against arbitrary Government action because of the expense involved in securing a vindication of their rights in civil and administrative proceedings. Simply stated under this amendment, individuals and small businesses, which prevail in agency adjudications or in civil actions brought by or against the Federal Government, will be able to recover their attorney fees and other expenses unless the Government can show that its action was substantially justified or that special circumstances would make such an award unjust. The fee award will come directly from the operating budget of the involved agency.

As Americans we are proud of the fact that we are a nation governed by laws. And we are equally proud that we are able to resort to our judicial system to challenge those laws as well as to vindicate our rights under them. Unfortunately, however, the system today is out of balance. Regulation is excessive. Simple laws have grown into a complex web of rules, regulations, responsibilities, and rights—sometimes conflicting and almost always confusing. At the same time, justice has simply become too expensive for the average American, particularly when he must litigate against the practically unlimited resources and expertise of the Federal Government.

Because of these economic deterrents, many citizens today have no effective remedy against unreasonable Government regulation. When the cost of contesting a government order exceeds the amount at State, a citizen or small business has no rational choice except to pay a fine or knuckle under to an unfair order.

The danger extends well beyond the individual case. When citizens cannot afford to challenge unreasonable regulations, the result is a type of coerced compliance which undermines the integrity of the entire decisionmaking process. Administrative decisions should reflect informed deliberations. But when citizens and small businesses are forced to comply with regulations simply because it is too costly to fight them, precedent is established on the basis of an uncontested order rather than the thoughtful presentation of opposing views.

In fact, there is evidence that individual Americans and small businesses bear the brunt of administrative regulation and enforcement precisely because they do not have the resources to fully litigate the issues. They are, in short, the easiest targets. As the hearing record on S. 265 demonstrates, citizens and small businesses are too often confronted with an unacceptable alternative: accept the particular Government edict or fight back knowing from the beginning that the cost in time and money will be much greater than the pending fine or other penalty.

During the hearings on the Equal Access to Justice Act, we heard from a small businessman who spent $3,000 to successfully contest a $25 fine from OSHA; and from a small businessman restaurant owner, who fought back successfully against a Labor Department demand for $54,000 in back pay allegedly owed to his emplopees only to be faced with a $30,000 legal bill. The hearing record is replete with such accounts. The real world choice in such cases is no choice at all.

The purpose of this amendment is twofold. First, it is intended to provide small businesses and qualifying individuals with effective access to judicial and administrative remedies. Under the present circumstances, a citizen's remedies are more theoretical than real. The legislation would at least make it a "fair fight" for all concerned by providing greater access to the courts.

In this manner, the amendment will achieve its second purpose—to make the bureaucracy more accountable in the exercise of its regulatory powers and more responsive to the needs of citizens. By allowing a decision to contest Government action to be based on the merits of the case rather than the cost of litigating, I believe that this legislation will help assure that administrative decisions reflect a more informed deliberation.

By affirmatively encouraging individual citizens and small businesses to challenge actions which they believe to be unreasonable or irresponsible, this legislation recognizes that those who choose to litigate an issue are not only representing their own interests, they are also refining public policy, correcting errors on the part of the Government, and helping to define the limits of Federal authority. In short, these people are serving a public policy and a public purpose, and it is unfair to ask them to finance through their tax dollars unreasonable Government action and then to also bear the costs of vindicating their rights.

Mr. President, in closing I would like to emphasize again that the imbalance between individual Americans and the power of the bureaucracy must be redressed and realigned. Congressional oversight alone will never be a sufficient safeguard against regulatory abuse. Businesses and individuals, the persons who bear the brunt of administrative regulation, must be able to check arbitrary agency actions by contesting them. Through the device of fee-shifting, this amendment will improve small businesses' access to courts and administrative proceedings—indeed, this legislation will improve the quality of justice in America.

Mr. President, I thank the Senator from North Carolina for yielding us the time in the midst of his eloquent discussion of the pending bill.

Mr. DOMENICI. Mr. President, I thank my good friend from Arizona. I think he has made an excellent point.

I take a moment to amplify on it. One thing that is devastating in our country is to call groups of Americans together that have a common interest, ask them to share with the national leadership the problems that they have, ask them for recommendations, and then do nothing to try to carry out the recommendations.

Mr. President, the small businessmen of this Nation were called together. After having met around our respective States, they were called to a White House conference.

I remind the Senate, and for the record, that the small businessmen of this country made a number of recommendations as to the most significant problems they were confronting, and curative suggestions.

In this precise bill, that is, remuneration to the small businessman when he has qualified, administratively or in court, when he prevails, the Federal Government to compensate him for what it cost, was one of their prime recommendations in terms of things we should be doing to make for a more active, viable, vibrant small business community.

I want that to appear again, that this is, basically, one of the prime recommendations of the small business community of the United States.

I thank my good friend (Mr. HELMS) for yielding a few moments to us. I do not think it will take much longer, but I am most appreciative of his hospitality.

Mr. President, I yield the floor at this time.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I shall withhold the submission of my amendment because as I understand it there is an amendment pending. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. In that case, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

Mr. NELSON. Mr. President, is there a pending amendment?

The PRESIDING OFFICER. Yes.

Mr. NELSON. What is the pending amendment?

The PRESIDING OFFICER. There is a pending amendment by the Senator from New Mexico to the committee amendment.

Mr. NELSON. And that is the equal access to the justice proposal?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. Mr. President, the distinguished Senator from New Mexico will remember the history of this proposal. I am in favor of the Equal Access to Justice Act which provides that businesses of certain size and individuals of certain income levels are entitled to be reimbused their attorneys' fees in a proceeding which has been brought against them by the Government in which the citizen prevailed against the Government. That in my judgment is a sound concept.

We adopted a similar version as an amendment to the Legal Services Corporation bill 3 years ago. Then we passed it here in the Chamber a few months ago, and it is now pending in committee in the House of Representatives. On May 20 of this year the distinguished Senator from New Mexico (Mr. DOMENICI), Senator DECONCINI, and I testified before the House committee in favor of this legislation.

I simply recite that so that the history is clear and to make it clear that I favor the act and voted for it and am a cosponsor of the proposal. I think it is a very creative and sensible piece of legislation.

Three years ago I objected to the amendment being added to the Legal Services Act because it obviously was not in any way related to the purposes of the Legal Services Act. For that reason of germaneness, I moved to table the amendment though I favor it and voted for it standing alone as a bill on its own merits. I did not prevail. I lost the motion to table.

So we are back to square one again. I am prepared, if the distinguished Senator from New York (Mr. JAVITS) does not have a specific objection, to go to conference with this amendment. I think the Senator is well aware that it will be objected to in conference by the House of Representatives. They have it pending before their committee. But it does reaffirm the view of the Senate that in fact this legislation has a meritorious objective and that the concept should be adopted in this form or some other form.

So far as I am concerned, I recognize the reality of the situation that the Senate is going to vote to put it on this bill to reaffirm their interest, concern, and support of it. I do not want to be in the position again of voting against it because frequently that kind of vote is misunderstood. Therefore, though it has nothing to do with the pending law or the extension of the pending law, I am prepared to accept it if the distinguished Senator from New York is. Otherwise, I am not.

Mr. JAVITS. Mr. President, although I am not a party to this particular amendment, or this particular idea, Senator NELSON is the chairman of the Small Business Committee of the Senate, and in view of the fact that he favors this particular matter, while again I feel it may introduce complications on this bill, I do not believe the complications are of such a nature as to defeat it. For those reasons I am willing to join the Senator in taking it to conference.

Mr. NELSON. Mr. President, I think we are prepared to vote.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator BUMPERS, the Senator from Arkansas, be shown as an original cosponsor of the Domenici-DeConcini amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, let me say in my behalf I owe a real debt of gratitude to Senator DECONCINI of Arizona. His idea was started here in this Chamber. We could never have passed the bill that the Senate passed without his many months of dedicated service in the Judiciary Committee that brought the bill. I am pleased that he and I are teamed up in an effort to see that this or something similar to it becomes law.

I thank both Senator NELSON and Senator JAVITS for accepting this amendment. However, I do want the record to say that from this Senator's standpoint if it makes it any easier on the managers we can sure ask for a rollcall on this. I think the Senator is confident the first time through he could not get it tabled—I do not mean him—but could not get it tabled on the basis of it not belonging on this bill. Then when we had it as a separate item I believe over 90 Senators voted for it. I do not want a rollcall vote. I just want to adopt it.

I surely want the record to reflect that Senator NELSON and the distinguished minority leader in accepting it reflect not only a majority of the Senate but they are reflecting the views of well over 90 Senators, and I am confident if we asked for a yea and nay vote that is how it would turn out. So I am not going to ask for an up and down vote. I am merely going to ask that the amendment be adopted and thank the Senators once again for their cooperation and urge that they do everything possible to insist that the House of Representatives accept this amendment.

They certainly have to find out sooner or later that this or something similar to it is not only what the Senate wants, by an overwhelming majority, but obviously millions of American citizens and millions of small businessmen in this country are yearning for the day that they can compete with their Government in terms of litigation without the fear that they will win and yet lose for in many instances they win and the costs exceed the victory because they are fighting the entire Federal Establishment. The Senators and I join in wanting to rid that inequality from the scene of the regulatory process in the United States. So I thank the Senators once again and move adoption of the amendment.

Mr. NELSON. Let me say to the distinguished Senator from New Mexico that I do not insist on a rollcall vote. I did that once. If there were a rollcall vote, I would vote for it in recognition of the fact, first, that is what the Senate wants, and second I favor it even though this amendment is not germane to this bill.

So, the record is abundantly clear I moved to table last time solely for that reason, as the Senator knows, since I voted for the bill, I cosponsored the bill. I commend the Senator from New Mexico and the Senator from Arizona for their good work on this bill and I am delighted to be a cosponsor with them of it.

I point out the vote was a little stronger than the comments the Senator from New Mexico would suggest since there were only two Democrats who voted against the bill and one Republican. There were a total of three votes against the bill and no one of the three Members who voted against the bill is here in the Chamber right now. So it is overwhelmingly supported and I am glad to take it to conference. If I can persuade the House conferees to accept it I surely will because I want it achieved, and I am not so fussy that I would worry too much about it being achieved on a vehicle that is not directly related to that objective.

Mr. President, I believe the Senate is prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

(Putting the question.)

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I call attention to the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. ZORINSKY assumed the chair.)

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, would I be correct in stating that under the previous unanimous-consent request the Senator from North Carolina (Mr. HELMS) is entitled to the floor?

The PRESIDING OFFICER. The Journal does not show any such order.

Mr. McCLURE. Mr. President, I think the Senator from North Carolina yielded to the Senator from Arizona without losing his right to the floor so the Senator from New Mexico could offer an amendment. I will not belabor that subject.

The Senator from North Carolina is here, and he indicates he does not object to the fact that it does not show. But I would hope that he will get the right to the floor upon the conclusion of the business to be conducted by the Senator from Idaho.

Mr. NELSON. Mr. President, the Senator from North Carolina did make the request asking unanimous consent, and I should have gotten up and objected, because it does not make good procedure for purposes of yielding the floor for amendments. But the Senator did make the request. And even if he had not made the request, I would sit down and the Senator from North Carolina could have the floor.

Mr. HELMS. Mr. President, I thank the Senator. I do not see any rush for Senators seeking the floor. I do thank the Senator for his courtesy and I thank the distinguished Senator from Idaho for his concern.

UP AMENDMENT NO. 1131

(Purpose: To provide Congressional access to materials published at federal government expense by the Legal Services Corporation)

Mr. McCLURE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1131.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following: "Subsection (h) of section 1007 of the Legal Services Act is amended by adding at the end thereof the following new paragraph:

"The Legal Services Corporation shall make available, without charge, a subscription to any publication prepared by the Corporation or by a recipient if the publication is prepared and made available for distribution with appropriated funds to any Senator or member of the House of Representatives, at the request of that Senator or Representative."

Mr. McCLURE. Mr. President, the purpose of my amendment is simple. It would require the corporation, and through the corporation, all funding recipients to make available to any Senator or Congressman, on request, a free copy of any publication prepared at taxpayer expense under the Legal Services Act.

On two separate occasions—once in 1977 and once within the past week—members of my staff have attempted to obtain complementary copies of Clearinghouse Review on my behalf. On both occasions, they spoke with both the Washington and Chicago offices. In both cases, they clearly indicated that they were requesting the material on behalf of a U.S. Senator. And in both cases, they were told that internal policies prohibited my receiving the material unless I was willing to pay for it.

Well, private citizens have, over the past 3 years, sent me copies of some of the material I missed. It includes articles on abortion advocacy, community action, and the status of legislation which the publishers support. It also includes descriptions of extremely controversial litigation engaged in by funding recipients. It is no wonder that the publishers should desire that this material not be widely available to Members of Congress.

Mr. President, if the policy of the Legal Services Corporation allows the Clearinghouse Review to be distributed to all funding recipients, it is certainly not too much to expect that Members of Congress can have access to the document as well.

Aside from this specific demonstrable instance of abuse, it is only good legislative planning to insure that a statute which specifically provides for the availability of records to the General Accounting Office also provides for the availability of publications to Congress.

This amendment would involve no greater specificity than the provisions already contained in sections 1007 through 1009 of the act. And it would insure that no Senator in the future runs into the same problems I have had in dealing with the Corporation.

Mr. President, I have consulted with the managers of the bill on both sides of the aisle. It is my understanding that the amendment is acceptable. I will not belabor the subject if they are, as a matter of fact, prepared to accept the amendment.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, the Senator from New York (Mr. JAVITS) and I have discussed this proposed amendment with the Senator from Idaho. I agree with the objective sought by the Senator from Idaho in this amendment.

Whether it needs to be refined to accomplish precisely, without unnecessary paperwork, what Senator McCLURE proposes and what I certainly would agree with, I am not certain. But we will have an opportunity between now and the conference to do some further checking on it.

As far as I am concerned, I agree with the objective in the proposal and I am prepared to accept the amendment.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, in view of the fact that Senator NELSON has not stated what the objective is, I would like to state it so Senator McCLURE will hear it.

The objective is that any publication of the Legal Services Corporation, or any publication of the 321 grantee organizations of the Legal Services Corporation, shall be made available to any Senator or Member of the House upon request to the Legal Services Corporation. And, as these are all printed with appropriated funds, I see no reason in the world why that should not be done.

The amendment is acceptable to me. As Senator NELSON says, if we missed something technically we can check on it, as long as we agree on the purpose.

Mr. McCLURE. Mr. President, I thank the Senator from Wisconsin and the

Senator from New York for their statement and for the support of the amendment.

I understand that they may wish to look at the language to make certain the language does not inadvertently do something that we do not now anticipate. The purpose of making that statement is to underscore the fact that it might be modified in the conference but there will be an attempt made, at least, in the conference to hold the fundamental objective of the amendment.

Mr. NELSON. Mr. President, I agree with the objective of the Senator.

Mr. McCLURE. Mr. President, I thank both Senators.

I am prepared to vote on the amendment.

Mr. NELSON. Mr. President, unless someone else wishes to comment, I am prepared to vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. McClure).

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1132

(Purpose: To require that any amounts received as attorneys fees and costs be turned into the United States Treasury)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. Bumpers), for himself, Mr. Chiles, and Mr. Morgan, proposes an unprinted amendment numbered 1132:

On page 2, between line 15 and the amendment to the title of the bill insert the following:

Sec. . Notwithstanding any other provision of law, any award of attorneys fees which is received by the Legal Services Corporation shall be transferred into the general fund of the United States Treasury as miscellaneous receipts.

Mr. BUMPERS. Mr. President, I have not had an opportunity to discuss this amendment with the distinguished managers of the bill, but I will just state very briefly the purposes of it and its effect.

This is not a problem in my State, but I understand it is a problem in other States. The Legal Services Corporation has increasingly brought class actions on behalf of poor people. Many of those class actions are directed at government entities and, when successful, carry with them the award of attorneys' fees to the Legal Services Corporation.

Incidentally, I do not want to vote on this until Mr. Chiles, who is a cosponsor of this bill, gets here. But what is happening is something that I do not believe that Congress ought to condone, and it is this:

The Legal Services Corporation brings a lawsuit against a municipality and alleges that they are misusing revenue sharing funds; that they are using them in a way extrinsic to the authority of Congress. The Corporation succeeds and the court awards the Legal Services Corporation attorneys fees, sometimes rather substantial fees.

Under current law, those fees go back into the Legal Services Corporation treasury; that is, the fund of the particular program that won the lawsuit. They, in turn, have rather carte blanche authority to use that money as they see fit.

My amendment would simply provide that those attorneys fees would go back into the U.S. Treasury. I think this is a good amendment for two reasons, Mr. President.

First, I think that the incentive for the Legal Services Corporation to direct their attention, their efforts, and their time on those lawsuits that are most likely to produce attorneys fees is just almost irresistible. That is one of the things that may be happening and I think there is a drift in this country in that direction.

I am not saying that they should not bring the suit. It is fine if when a city, a county or anyone misuses funds, someone stops them from doing so in court and the court awards attorneys fees from them. This will force the municipality or county to shape up.

Some people might say, "Well, if you put it back into the U.S. Treasury, that is just robbing Peter to pay Paul."

That may be. However, it will serve the purpose of preventing the Legal Services Corporation from spending too much time on actions calculated to produce attorneys fees.

The second, and I think the most appropriate, reason for my amendment, is that we are authorizing today—we have not yet appropriated this amount—$321 million to the Legal Services Corporation. If we want them to have more, we will give them more. But I do not think we ought to give them money and let them use it as an incentive to generate more money which they may spend as they wish.

I am not saying that they will not use that money in bringing actions that they are authorized to bring, but I just do not think the Legal Services Corporation ought to be out generating revenues to use at their discretion.

The amendment is offered for these two reasons, Mr. President. That is a sufficient argument for the amendment and I do not intend to belabor the point. I hope the floor managers will see fit to accept this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside so that I may call up an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, as a follow on to my earlier remarks about the way congressional intent regarding the Legal Services Corporation is being abused by those who are operating it, let me give one specific example.

The Legal Services Corporation is prohibited by law from representing clients in criminal proceedings. Yet, I have received a letter from a prominent attorney in my State, Thomas I. Benton, describing in detail a blatant violation of this prohibition by three legal services attorneys in North Carolina, Michael Sosna, Willie S. Darby, and James Kenneth Smith.

Mr. President, the point is this: Conduct such as that of Mr. Sosna, Mr. Darby, and Mr. Smith is rampant in the Legal Services Corporation program as it is being administered, or a better word would be maladministered. Yet to my knowledge no disciplinary action has been taken against these tax-paid lawyers who clearly were in violation of the law.

Let me say again, Mr. President, Mr. Thomas I. Benton is a distinguished citizen in my State, a fine lawyer, and he is not one who is known to make complaints. But his letter to me speaks for itself. I shall ask unanimous consent that all of it be printed in the Record, but I am going to read part of it:

Dear Jesse: This matter came to my attention quite by accident but was, in my mind, of sufficient importance to justify my calling attention to it. We do not carry on an extensive, or even regular, practice in Warren County.

Let me say parenthetically, Mr. President, that Mr. Benton is a resident of Halifax County, which is adjacent to Warren County.

He continues:

Therefore, the arrangements which the Warren attorneys and their courts have with regard to indigent representation and legal aid services are not our concern. However, on a visit to the Superior Court of Warren County on Tuesday I witnessed a situation which I think demands immediate inquiry.

On Monday afternoon a case was called involving a Negro man named Ernest Landon Alston, charged with driving under the influence and speeding 94 mph in a 55 mph zone. He entered a plea of guilty to the speeding charge and a plea of not guilty to the driving under the influence charge. Now the rub. He was represented by three attorneys who had in tow two personal secretaries, and administrative assistant, and one other person whose function and position are unknown. The attorneys' names are Michael Sosna, Willie S. Darby, and James Kenneth Smith. They and their retinue are employed by the North Central Legal Assistance Program, 310 Pettigrew Street, Henderson, North Carolina 27536 (919 492-7926). Upon inquiry, it was learned that this was a federally funded legal aid group whose function is the provision of legal services in civil matters to indigent individuals.

Mr. President. I ask unanimous consent that the entire letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Allsbrook, Benton, Knott,
Cranford & Whitaker,
Roanoke Rapids, N.C., January 31, 1979.
Hon. Jesse A. Helms,
U.S. Senate,
Washington, D.C.

Dear Jesse: This matter came to my attention quite by accident but was, in my mind, of sufficient importance to justify my calling attention to it. We do not carry on an extensive, or even regular, practice in Warren County. Therefore, the arrangements which the Warren attorneys and their courts have with regard to indigent representation and legal aid services are not our concern. However, on a visit to the Superior Court of Warren County on Tuesday I witnessed a situation which I think demands immediate inquiry.

On Monday afternoon a case was called involving a Negro man named Ernest Landon Alston, charged with driving under the influence and speeding 94 mph in a 55 mph zone. He entered a plea of guilty to the speeding charge and a plea of not guilty to the driving under the influence charge. Now the rub. He was represented by three attorneys who had in tow two personal secretaries, an administrative assistant, and one other person whose function and position are unknown. The attorneys' names are Michael Sosna, Willie S. Darby, and James Kenneth Smith. They and their retinue are employed by the North Central Legal Assistance Program, 310 Pettigrew Street, Henderson, North Carolina 27536 (919 492-7926). Upon inquiry, it was learned that this was a federally funded legal aid group whose function is the provision of legal services in civil matters to indigent individuals. Warren County has its own system of appointment of counsel for indigent defendants. The District Attorney for the Ninth District, Mr. David R. Waters, was informed by one of these lawyers that they were appearing in the case because of a potential civil suit against the highway patrolman involved in the cases.

The trial began on Monday afternoon with pre-trial motions and is continuing as I dictate this letter on Wednesday morning.

It is estimated that the case will be completed around mid-day. I think that the concern of those of us who witnessed this travesty of criminal justice should be plain: an extravagant waste of federal money on an unauthorized and unnecessary intrusion into the State Criminal Court system. It is precisely this kind of activity which animated the worst fears of those of us who opposed these programs.

I earnestly request that a member of your staff be assigned to investigate this matter in order that we may know who authorized this particular use of federal money in this particular way and why it was done. Under separate cover I am writing Congressman L. H. Fountain to request that he initiate a similar investigation. Perhaps your staffs could co-operate in getting to the bottom of this mess.

With kindest personal regards and sincerest congratulations upon your re-election, I remain,

Yours very truly,

Thomas I. Benton.

P.S.—The man was convicted, given a suspended sentence by Judge Hobgood, and his tax-paid law firm gave notice of appeal.

Mr. HELMS. The point is this, Mr. President: Clearly, these taxpayer funded attorneys appeared in court on behalf of a man charged with drunken driving and driving 94 miles per hour. Yet, these attorneys are specifically, by law, prohibited from representing clients in criminal proceedings.

I present this letter for the Record, Mr. President, simply to indicate what I said earlier, that the intent of the Legal Service Corporation is being abused to the point that it is almost criminal. If the Senate does not take advantage of this opportunity to straighten the Corporation, then we shall be derelict in our duties.

AMENDMENT NO. 1889

Mr. President, I send to the desk, not for the purpose of being stated but for the purpose of being printed, an amendment in the nature of a substitute to which I alluded in my earlier remarks this afternoon. I ask unanimous consent that it be printed.

The PRESIDING OFFICER. Without objection, the amendment will be printed.

Mr. HELMS. Mr. President, I indicate to the Chair that upon the return of the distinguished Senator from Arkansas, I shall be glad to yield the floor to him so he may proceed with his amendment, but I am proceeding because I want to save the Senate as much time as possible.

UP AMENDMENT NO. 1133

(Purpose: To prohibit the provision of legal assistance with respect to any issue involving food stamps)

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1133.

Mr. HELMS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 15, insert the following:

Sec.   . Subsection (b) of section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by—

(1) striking "or" at the end of clause (9);

(2) striking out the period at the end of clause (10), and inserting in lieu thereof a semicolon and the word "or"; and

(3) adding at the end of subsection (b) the following new clause:

"(11) to provide legal assistance with respect to any issue involving food stamps.".

Mr. HELMS. Mr. President, this amendment is offered in response to numerous complaints I have received from social services personnel in my State of North Carolina who are trying their best to administer the enormously expensive and complicated food stamp program. In some instances, legal services attorneys are making it almost impossible for these local officials to administer properly the food stamp program consistent with applicable laws and regulations.

The widespread fraud and abuse in the food stamp program is a matter of record. I have stood on this floor, as have many, many other Senators, describing the waste of this program and the abuse of its intent. It seems to me that it ought to be clear to every Senator that every effort must be made to remove ineligible recipients from the food stamp rolls. Otherwise, the program is going to bankrupt the Federal Treasury. Local officials, however, are constantly encountering resistance and harassment from legal services attorneys when conscientious administrators of the food stamp program endeavor to limit food stamps only to eligible people.

This kind of confrontation cannot continue, Mr. President. We must not continue to tolerate lawyers financed by the Federal Government obstructing the administration of the food stamp program also financed by the Federal Government. They are in conflict and this just cannot continue.

Mr. President, eligibility determinations were never intended to become legal proceedings. They were never intended to be adversary in nature. Yet this is just what is happening through constant confrontations between the Legal Services attorneys and the beleaguered local officials who are trying to administer an almost unworkable food stamp program. Furthermore, the tactics employed by some legal aid attorneys are highly questionable, based on so many reports that come to my attention.

Just as an example, Mr. President, let me share with the Senate just one letter I received recently from an official in North Carolina. It seemed to me to be typical of the problem. It is signed by Jean Biggs, director of the Department of Social Services, Martin County Department of Social Services, Williamston, N.C.

Dear Senator Helms. As per our conversation of this date, you will find enclosed copies of letters our agency has received from Mr. Jim Grant, employee of Farm Workers Legal Services of North Carolina.

Let me say parenthetically, Mr. President, that Mr. Jim Grant is drawing Federal pay as a part of the Legal Services Corporation.

Let us go back to Miss Biggs' letter:

Also, enclosed please find a copy of a permit issued to Mr. Grant for a demonstration in front of the Martin County Department of Social Services. We feel like the agency is being harassed and would appreciate any and all efforts to cease these harassment situations.

I ask unanimous consent that the entire letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Martin County
Department of Social Services,
Williamston, N.C., April 17, 1980.
Senator Jesse Helms,
Russell Senate Building,
Washington, D.C.

Dear Senator Helms: As per our conversation of this date, you will find enclosed copies of letters our agency has received from Mr. Jim Grant, employee of Farm Workers Legal Services of North Carolina. Also, enclosed please find a copy of a permit issued to Mr. Grant for a demonstration in front of the Martin County Department of Social Services. We feel like the agency is being harassed and would appreciate any and all efforts to cease these harassment situations.

If you can be of any assistance at any time on this matter please let us know. Any future correspondence we receive will be shared with you.

Sincerely,

Jean Biggs,
Director, Department of Social Services.

Mr. HELMS. I am told, Mr. President, that many officials simply choose to let ineligible recipients remain on the food stamp rolls rather than submit to the harassment of Legal Services Corporation attorneys.

Mr. President, some officials, and by officials I mean the people on the local level who are trying to administer the food stamp program, have even been threatened with lawsuits by Legal Services Corporation attorneys.

Is it not clear, Mr. President, that this harassment simply has gotten out of control and has to be stopped?

That is the purpose of the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, what is the parliamentary situation? What is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from North Carolina is the pending business.

Mr. BUMPERS. Whatever happened to that great Bumpers-Chiles amendment?

The PRESIDING OFFICER. By unanimous consent it was laid aside temporarily to take up the amendment.

Mr. BUMPERS. Another demonstration that we should never leave the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I say to my friend from Arkansas that I am willing to proceed to his amendment now that he has returned.

Mr. President, I ask unanimous consent that my amendment be laid aside so Senator BUMPERS may proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I thank the Senator.

UP AMENDMENT NO. 1132

Mr. NELSON. Mr. President, I say to the Senator from Arkansas, it was my understanding that the Senator from Arkansas did not wish to proceed on this matter until the Senator from Florida (Mr. CHILES) had a chance to come to the floor. Is that correct?

Mr. BUMPERS. That is no longer the case. We can go ahead and dispose of the amendment if the distinguished floor managers will accept it.

Mr. NELSON. The Senator from Wisconsin would suggest that there is more than one way we can dispose of it, if the Senator from Arkansas would agree to table it.

Mr. BUMPERS. I meant in a sensible way.

Mr. NELSON. It seems to me the Senator is asking a little too much.

Mr. President, as I understand and read the amendment, the Senator is proposing that any attorneys' fees in any proceedings that are awarded by statute, by law, to the Legal Services Corporation, as a result of a case in which the corporation prevailed should then go to the general fund of the United States rather than to the Legal Services Corporation where the funds could be used for additional legal services activities.

I understand the argument the distinguished Senator makes. I suppose it is possible and it may even have happened, that some of the Legal Services recipients pursued cases in which fees were awarded where they might not otherwise have done so.

What bothers me is that there are 321 Legal Services grantees who are representing the poor, and if the statutory fee that any lawyer would be awarded representing a poor person is, in the case of the grantee, to go back to the Treasury instead of back to the Legal Services Corporation where those funds could be used in another case, what that simply means is that it limits the number of cases that can be brought.

So if, for example, there were 50 cases of SSI recipients, or 50 cases of people who were poor, who claimed to be disabled, who were denied their rights, denied any payments for disability by the agency asserting they were not disabled, a suit was brought and they proved they were disabled, they try the case, get the award, then the fee goes to the Treasury instead of back to the local agency. If this is to be the situation then it is likely that some of the disabled will not get represented.

All that is happening here is that the capacity of the recipient agency is being restricted because they are being deprived fees.

The Senator, I guess, concedes that in the case recited, the grantee agency was correct in the law, and prevailed in the law, and that is the only case under which the grantee would receive any benefit.

For my part, I think this weakens the capacity of the grantees to represent the poor without any social benefit accruing to the country, or harm, in fact, accruing to the whole process. The whole objective of the Legal Services—to provide legal services—is damaged as a consequence.

So I believe I have to say to the Senator from Arkansas that I am opposed to the amendment.

I should like to make one other point to the Senator from Arkansas and call it to his attention.

No legal services attorney can handle any fee-generating case except in a circumstance in which that case has been referred to at least two private members of the bar who have declined to take the case.

We have a situation in which the private sector, the private bar, does not want to handle it. If it is declined by at least two members of the bar, a legal services program can proceed to handle the case.

If we were to accept the amendment of the Senator from Arkansas, I can foresee a situation in which a poor person is deprived of his or her rights because no private attorney will take the person's case, and the legal services grantee is running out of money, or has run out of money, or cannot afford any more of these cases, because it comes out of the grantee's budget.

The grantee must then simply say to this poor person, "You have a good case. You are correct. We know we can win it. You can't find anybody in the private bar. We can't afford to take the case, either. Therefore, justice isn't going to be given to you."

I know that the Senator from Arkansas would not support that concept, but that would be the consequence in many instances.

So I repeat—I have to oppose the amendment.

Mr. JAVITS. Mr. President, I find it necessary to oppose the amendment, as well, for the reasons which have been stated by the Senator from Wisconsin and for another reason.

It will be noted that section 1007(b)(1) of the law on the Legal Services Corporation deals expressly with this situation. It says:

> To provide legal service in accordance with guidelines promulgated by the corporation with respect to any fee-generating case—

So the lawyers are generally prohibited from taking any fee-generating case.

It then goes on:

> (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available)

That would be a social security case or other entitlement situation.

It seems to me, Mr. President, that the issue has been looked at here in terms of fee-generating cases.

As to the actual money coming in from fee awards, the proposal to forward it to the general Treasury would not materially alter the present situation, because the Appropriations Committee—inasmuch as this appropriation has to be made year after year—can take into consideration any windfall of legal fees which they may get.

So you have protection by the fact that the fee-generating cases generally are not to be expected, except where it related to statutory benefits and appropriate private representation is not available. As to statutory benefits, we do not want to disable them from taking complex or expensive cases because they are invading their own appropriated funds. In any event, you are always protected, because if they should get too much in that regard, it can be accounted for by a reduction in the appropriation.

For all those reasons, I see this amendment as only seeking to restrict the legitimate work we have put them to do, in a way which does not help the United States but which does hurt the poor. For those reasons, I hope the amendment will be rejected.

Mr. BUMPERS. The Senator referred to 1007(b)(1). Is that of the statute?

Mr. JAVITS. That is of the statute.

Mr. BUMPERS. This is what the regulations say—1609(4), entitled "Authorized Representation in a Fee-Generating Case":

> Other adequate representation is deemed to be unavailable when (a) The recipient has determined that free referral is not possible because:
>
> (1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or
>
> (2) Neither the referral service nor any

lawyer will consider the case without payment of a consultation fee; or

(3) The case is of the type that private attorneys in the area ordinarily do not accept, or do not accept without prepayment of a fee; or

(4) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate, and consistent with professional responsibility, referral will be attempted at a later time.

One of my concerns is that this regulation does not contain "ands" but all "ors." Two of the "ors" provide for a case that private attorneys in the area ordinarily do not accept.

The kinds of lawsuits I am talking about, I can tell the Senator categorically, are those that the private attorneys in the area ordinarily will not accept.

If the Legal Services Corporations of the country—and there are 321 of them—are entitled to fee-generating cases simply because, for example, in the one instance, private attorneys in the area do not normally accept those kinds of cases, who makes the decision as to whether or not they take it? Who makes the decision as to whether or not it is the kind of case that private attorneys normally would not take?

Can the Senator answer that question?

Mr. JAVITS. As I understand it, there are two safeguards in that regard.

The Senator's amendment does not deal with safeguards. His amendment just throws the whole thing out. So I think that alone would be enough to say that the Senator's amendment is much broader and therefore should not be approved.

However, be that as it may, the governing organization of each grantee legal services entity has local lawyers on it. That is required by law. They can disapprove, complain, or put a halt on it. The Legal Services Corporation itself can be complained to, and we are agents for that purpose.

Does the Senator produce here any abuse of this matter? I have not heard the Senator introduce any cases which represented abuse wide enough to justify this amendment.

Mr. BUMPERS. What I am trying to point out is that the representation was made by the Senator from Wisconsin that the only fee-generating cases the Legal Services Corporation could take were those rejected by two private attorneys, and that is not the case.

Mr. JAVITS. If the Senator will allow me, I will have a quorum call and bring the Senator back. I was not in the Chamber when the Senator made the statement.

Mr. BUMPERS. I do not want to engage him in a debate while he is not on the floor.

Mr. JAVITS. I will get him, if the Senator will allow me.

Mr. BUMPERS. That will be fine. While the Senator from New York is getting the Senator from Wisconsin, I will set this aside for the time being, to respond to some of the other arguments that are being made.

I ask any member of the staff of the Small Business Committee, or any Member of the Senate, if he can tell me how much money the Legal Services Corporation collected in attorney fees last year. I can answer that. The answer is, "No." The Small Business Committee does not know; the Appropriations Committee, on which I sit and which appropriates this money, does not know; nobody knows. It may be $1,000 and it may be $10 million.

When we called today to inquire about this, the information we received was that attorneys' fees ran from as low as $100 up to $30,000 last year. We were told the information was available only in the individual audit reports from the corporation.

That is not to say that the thing is being abused or that they are collecting a lot of fees.

I do think it is relevant that we do not even know how much money they are collecting in attorney fees. We do not know what percentage of their cases are fee generating cases. In a way that is beside the point.

Completely aside from those two things, the point which is certainly relevant in this debate, and which I made initially and will repeat again is that they came before our Appropriations Committee last year and said, "If you will give us 300 and whatever million dollars it was, that will permit us two attorneys for every 10,000 people and that is the minimum access goal we have been striving for."

We gave them that amount of money. We are authorizing $321 million in this bill which is a 6 percent increase, as I understand it, over last year. But we do not know how much more money they are receiving nor what they are using that money for. We can assume they are using it within the guidelines set down by Congress.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BUMPERS. Yes, I yield.

Mr. JAVITS. The Senator should know. I sent out to see what we can find out for the Senator or find out why the Senator was not given the information. I really am unable to explain this, but I will find out. There may be a proper explanation and there may not. I certainly feel the Senator should know and they should know.

Mr. BUMPERS. I thank the Senator for that concession.

Mr. JAVITS. Of course.

Mr. BUMPERS. The further argument is I do not think that Congress should, through inadvertence or simple omission, allow the use of revolving funds, and that is what we are doing here. We are allowing these people to collect fees. I do not really care how much. The principle is the same whether they collected $1,000 or $100 million last year in attorney fees. Congress is the one who appropriates the money to set them up. If we were not giving them enough money, we should be giving them more and if they are not doing a good job, we should be doing less or maybe doing away with the Legal Services Corporation.

I have a son practicing law in Little Rock, Ark., and I have heard him tell stories of poor people who cannot afford lawyers coming in and wanting a divorce. I asked him why are people not aware that, if they need certain criteria, which many of them do, they can get them from the Legal Services Corporation. I have the feeling that one of the reasons for this is that the Legal Services attorneys are not representing the tenants against landlords, and men and women in divorce cases because they are too busy bringing these kinds of class actions, the biggees, which are a lot more exotic, a lot more exciting and where they learn a lot more law.

I quit taking divorce cases because they were boring and because I got tired of my phone ringing off the wall all night. I can understand why no one wants them.

All I am saying there is a very simple principle. Regardless of what else we say, we come back to the principle that these people have complete discretion in using money that has not been appropriated by Congress. We do not know the amount, nor do we know what it is being used for specifically. I think we should force those funds back into the Treasury so that it will have two effects: No. 1, we will have some idea what they are doing with their time, and No. 2, it will keep them from concentrating too much of their effort on fee-generating cases.

The real thrust of the Legal Services Corporation, and one of the reasons I believed in it in the beginning and still believe in it, is to provide legal services to people who cannot afford it. I have a feeling those people are being slighted. If they are, we should know about it. If we want to put more money into the program, let us do it, but let us do not leave it carte blanche in the hands of the Legal Services Corporation.

Incidentally, I am going to ask for a rollcall vote on this and I am prepared to do so at such time as the Senator finishes his argument.

Mr. NELSON. Mr. President, let me say to the distinguished Senator from Arkansas that 85 percent of all cases handled by the Legal Services Corporation do not go to court. They are settled out of court. Fifteen percent go to court.

I have no way of knowing whether or not charges that are brought to the Chamber about what the Legal Services Corporation may be doing or not be doing in some part of the country are correct or not.

What I do know is that 3 years ago, in 1977, here in the Chamber, we said to the distinguished Senator from Utah (Mr. HATCH), we would hold whatever oversight hearings that he wanted; he could bring in all of his own witnesses. We held oversight hearings last year. We held oversight hearings this year. It was open to anyone. Any Senator could suggest a witness. None of the complaints that we now hear about today were brought to us during the hearing process.

As the Senator knows, in the process of legislating it is awfully important to make a record.

Let me say to the Senator, I cannot respond with any statistics. I am happy and perfectly willing as I always have been, as we were in the past 2 years to hold hearings. Any case could be brought. And all Senators here now in the Chamber could appear. I am not only referring to the Senator from Arkansas, but also to the Senator from North Carolina. He did not appear before the committee. Not a single case was brought documenting all these horror stories. The horror stories are heard when we get to the Chamber. I do not know why these horror stories were not brought before the Labor and Human Resources Committee during the course of our hearings.

But I will say right here, I will hold a hearing on any date that I am available, starting next week or the week after, and invite the Senator from North Carolina, the Senator from Arkansas, all 100 Senators, invite them in to bring in the witnesses, lay the case down, and make the indictment of the Legal Services Corporation. Then let us have the Legal Services Corporation come in and respond. If they are violating the law as some people allege we will correct it. If they are doing something Congress does not intend them to do we will clarify the law.

But there is no way in the world for the Senator from New York or the Senator from Wisconsin to come to the Chamber and respond when at the time we have hearings no one comes before the committee but, as soon as the bill comes to the Chamber, they come to the Chamber and they have all kinds of horror stories with no evidence in support at all, none.

The evidence should come before the committee, lay it out in the record, and then we will call upon the Legal Services Corporation to respond. If they are doing something wrong, we will correct it. I am mighty surprised as the chairman of the subcommittee that I do not receive these letters. I am not getting this mail. I go around my State; I do not hear those complaints.

I am not saying the Legal Services Corporation or the local recipients who handle the cases are perfect. No individual or program is perfect. They are in a tough field of law, they are representing poor people who cannot get anyone else to represent them and who never had legal counsel. Sure there are going to be some mistakes. Sure someone is going to be offended from time to time.

But I am astonished at the broad-based support for the concept all over this country. The American Bar Association testified. They represent lawyers all over America. They did not come in saying, "let us correct this; they are violating the law. They are trying cases involved beyond their jurisdiction or authority." No such thing. No one did.

I am not saying that it does not exist. All I am saying is if it does let us put it in the Record.

Mr. JAVITS. Mr. President, will the Senator yield to me for a few facts?

Mr. NELSON. I yield.

Mr. JAVITS. I wish to have Senator Bumper's attention. I have some information on this matter which we have just gotten from the Corporation.

It is as follows: Only 15 percent of the grantees received fee awards last year and their estimate of the fee awards which have been made within the space of a year is, as close as they can get it, no more than 1 percent of their budget and probably not half of that.

The Corporation states that although the precise figures are not now available, they can get it all together within a few days, and that they are very willing to do it. If it is true that it is one-half of 1 percent, it is really de minimis.

Second, if it is de minimis and they are operating on a tight budget, they should be permitted to take these cases where there is a set fee, like workmen's compensation or a number of legal situations in which the fees are very small and very set, with all respect I would not qualify that as back-door financing. As far as back-door financing goes, it means something appreciable.

I do not want in any way to denigrate the amendment of Senator Bumpers but I really believe that we can give him complete satisfaction on this matter. We will investigate it, we will get the facts, we will submit them to him and to the Appropriations Committee. The Senator certainly has the power to put in sanctions if he is not satisfied.

I would most respectfully suggest, therefore, as he is a friend of the program, that he deal with it in connection with the appropriations process if we do not give satisfaction, as I am confident we will. Because, after all, they could, even by agreement, forward these awards into the Treasury, even if it were not included in the law in so many words. I really think we are all poking a bit in the dark and, therefore, I suggest, as a friend of the program, that he might consider utilizing these other routes, our oversight responsibility and his complete authority with his colleagues in Appropriations to handle it any way he wishes.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HELMS. I thank the Senator.

Is the Senator also concerned that the Legal Services Corporation apparently has no auditing process to give you precise figures on this?

Mr. JAVITS. If they do have no auditing process to give us precise figures, I would be concerned. That cannot be said from what I have just said. They said no one has asked them. They have not even looked into it.

Mr. HELMS. My question was directed to the precise figures. You said they were de minimis, no more than one-half of 1 percent of the appropriation I believe the Senator said.

Mr. JAVITS. No, I am afraid I must have stated things obscurely or you misunderstood what I said.

Mr. HELMS. I did not then understand it.

Mr. JAVITS. This is their best estimate on the spur of the moment going out into the lobby and asking for it. They say they are ready in a few days to get the figures. They have 321 of these and they can give us the exact figures and the exact story.

Mr. HELMS. I see.

Mr. JAVITS. So I do not think we can charge them with dereliction on this.

Mr. HELMS. If there is no accounting procedure to show this precise figure, I am sure the Senator would agree that there should be.

Mr. JAVITS. Of course, and we will see that there is. That is our view.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER (Mr. Baucus). The Senator from Arkansas.

Mr. BUMPERS. First of all, I want to say that the amount of money involved is really not at issue here. As I say, I do not know whether it is a thousand or, as the Senator said, as much as 3 percent of their budget.

Mr. JAVITS. No, I said not more than 1 percent, and they estimated it at a half of 1 percent, not 3.

Mr. BUMPERS. One percent would be $3.2 million.

Mr. JAVITS. That is right, and one-half of 1 percent would be $1.6 million, and I said that in a $300 million budget I would think that is de minimis.

Mr. BUMPERS. Let me ask the Senator what justification is there for allowing these people to keep the attorneys' fees they earn?

Mr. JAVITS. They do not keep them. They take the attorneys' fees and roll them over.

Mr. BUMPERS. What is the justification?

Mr. JAVITS. The justification is that it is an automatic way of enabling them to handle these small fee cases where there is a set fee in entitlement cases, and I can understand that, and I think it is legitimate.

But, as I say, we will submit the facts and the figures to the Appropriations Committee, and the Appropriations Committee can get the figures and force any way they think is the right to do it. I have no desire to be a party to back-door financing or anything else. The only thing I say is in view of the fact that the facts are yet to come out we ought to give them an opportunity to do so and not kind of operate in the dark, which we are doing here at this moment. There is not a denial.

Mr. BUMPERS. It is not the amount of money, it is the principle. The reason I ask what justification can there be, I cannot see one single justification for allowing people whose salaries we pay, whose expenses we pay, to do precisely what they are doing, to take that and permit it through attorneys' fees—this is not a private practice, that is what makes the mare go—but here these people have a duty and an obligation mandated by Congress to represent the poor. They are certainly entitled to take cases that generate fees, workmen's compensation cases, whatever. But it is a form of back-door financing, and it is that very principle that I object to.

If I lose this amendment my intention would be to try to find out—I do not think they can tell you because they do not keep records on it. They might over a period of time give you the figures, but my intention would be in the Appropriations Committee to cut their budget by whatever amount they collect in attorney's fees. I think it is a bad premise. When I was governor of my State I tried to abolish every revolving fund I could find because I have found—and I am not suggesting an abuse here, I am not suggesting for one moment that they are abusing the use of the money, and I am not even suggesting they are spending an inordinate amount of their money on fee-generating cases—but I am saying that if we remove the revolving fund we will not have to worry about what they are doing or how they are spending this money, and we can approach it at arm's length, in an arm's-length manner, giving them the amount of money they say they need to represent the poor, and let that be it.

But, as I say, it is the principle, it is not the amount of money. I do not care whether it is a half of 1 percent, which would be $1.6 million or whether it would be 1 percent, which would be $3.2 million. That is not the point. The point is any time you have that situation out there you are literally providing an incentive to abuse either their time and effort or the use of the money, and I think an ounce of prevention is worth a pound of cure.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I would like to address a question or two to my distinguished friend from Wisconsin.

I would say to the Senator that I am heartened by both his and Senator JAVITS' suggestion that they would be glad to hear of these so-called horror stories. I believe the Senator from Wisconsin said that he would hold hearings beginning next week. I do not expect that, but let me in all good faith ask the Senator about two specific references that I made to the matter of the administration of the program.

Mr. NELSON. I did not hear the last part of the question.

Mr. HELMS. I wanted to ask the Senator about the two instances regarding the administration of the program as I see it, to which I alluded earlier.

One was a very fine lady in Martin County, N.C., who is trying her best to properly administer the food stamp program. This lady and her associates were harassed by Legal Services attorneys, who claimed that they were not interpreting the eligibility requirements of the Food Stamp Act properly.

This lady went back and forth with her superiors in the State and in Washington and ascertained that her interpretation was in fact correct.

Mr. NELSON. Did the Corporation in Washington say her interpretation was correct?

Mr. HELMS. No, I'm speaking about the food stamp administrators in Washington and in Raleigh. They supported her position.

The point is that she made every good faith effort to reason with these attorneys.

However, they were not satisfied. They made placards and signs and they organized a demonstration in front of the courthouse. This intimidation and harassment was directed at a lady who was simply trying to do her job.

This is the sort of thing that I know that my friend from Wisconsin does not like any more than I do.

What would the Senator have me, as a Senator from North Carolina, do? Report these things to him so we could get some action?

When we call or write the Legal Services Corporation they send us back some computer letter. That is not an adequate response to a matter. It may seem trivial to some of us way up here in Washington, but it is not trivial to the people who are trying to do their job on a local level. Now that is a serious and good faith concern of mine.

Mr. NELSON. Let me say to the distinguished Senator from North Carolina that I have been involved with the Legal Services program since the program was developed some 15 years ago. As a member of the Labor and Human Resources Committee where and for several years I have served as the chairman of the subcommittee with jurisdiction over the Legal Services program I have been involved in the development of the law itself and the modifications that have been made over the succeeding years.

There is no doubt in my mind that the original drafting of the law was broader than I would like to have seen it. We have offered amendments over the years to more narrowly define and more specifically define the authority. I was on the floor leading most of those fights.

For example, on the question of integration, it was my view that there are plenty of resources around this country to bring lawsuits on the question of integration; that that was not really the objective of the Legal Services Corporation.

My view from the time of its creation, and I think the intent of the Congress, was that personal legal services was the main objective of the law; people who could not go and did not have any money and could not obtain legal representation.

Over the years, we refined this. The Senator will recall that in California, one of the groups set up a lobbying operation in Sacramento. Under the law at the time, they were authorized to lobby in behalf of legislation in behalf of the poor. That is a good cause. I do not quarrel with that. But it is very volatile politically.

We limited the kind of lobbying they could do to those instances, as the Senator will recall, where a member of the legislature invited a representative of the poor, or at the county or city level in the welfare department they could go and lobby the county board if, in fact, an ordinance was discriminatory against clients that they had.

The Senate agreed with that.

So over the years we have defined and defined, and redefined, what the Legal Services Corporation is authorized to do.

I am sure the Senator understands as well as anybody that if you have a lot of lawyers, I do not care whether they are working for a corporation or for a subcommittee of the Senate, or as staff members of the Senate, they have their own views, biases, enthusiasms, and personalities. And some of them can become offensive. Some can take actions that exceed their authority or the intent of their bosses in the work they do for them.

There is no question but that has happened. I do not know anything about the cases the Senator has mentioned, but I make the point I want to correct those things because I want this system to work and I want it to get better and better.

Mr. HELMS. If the Senator will yield, that is the point I was hoping he was moving to. If the Senator is saying not only to the Senator from North Carolina but to those who operate the Legal Services Corporation, "You better clean up your act," then I am grateful to him.

If he is sending a signal that this kind of thing—and I recognize that the Senator does not know the details of what I am talking about—is not acceptable under the law, that is fine.

Mr. NELSON. Let me say to the Senator, that is my objective, and I think it is the objective of the overwhelming majority in both Houses because this legislation has been supported by the overwhelming majority.

The purpose of oversight hearings, of course, is to get this kind of thing corrected.

Perhaps I did not advertise the hearings as extensively as I should have. On the floor of the Senate I assured the distinguished Senator from Utah (Mr. HATCH) 3 years ago when he had concerns about the activities of the Corporation that I would have hearings and that he could bring in whomever or whatever he wanted. I sent him a letter, he responded, and we had the Legal Services Corporation President there. Senator HATCH had a distinguished lawyer from his own State who appeared. It was a very good appearance on this issue.

All these hearings are wide open and any Senator who wants to recommend a witness may do so. Maybe I am at fault for not sending a personal letter to everybody. It was my intent, at least, that any complaint against the operation of the Legal Services Corporation, by any of the sponsors at the legal level, by any of the recipients, should be brought in and made part of the record. That is the effective way, as I know the Senator realizes, to get these matters into the record and then require the recipient, in this case the Corporation, or any other agency of the Government, to respond. We can say, "Here is the record. You come in and respond to it."

The people who make the record, who made the complaints, should give the circumstances, the names, the viewpoints, the dates, and so on. Then we get the Corporation in to respond. If the Corporation is wrong, it will appear on its face. If they are correct, they will give their response. That is the real way.

I realize when one writes a letter to an agency, you generally get a routine reply. When I send a letter out of my office, I realize that. Last year we averaged 50 letters every 60 minutes in my office. Heaven knows, a Senator from New York, or other places five times as large, is receiving maybe five times as many. But 50 letters every 60 minutes 8 hours a day 5 days a week is a more massive volume of mail than anybody can handle. Agencies encounter the same situation.

All I am saying here is that it is my intent not to defend any improper practice by the Legal Services Corporation. We want to improve it in every conceivable way we can.

I probably was engaged in a little oratorical rhetoric when I said I would hold the hearings next week, but since I said I would, I will hold them, if the Senator wants to come.

Mr. HELMS. That is not necessary.

Mr. NELSON. I have the same objective the Senator has, to make it work, and to be sure that items of abuse are called to the attention of the Legal Services Corporation. I have known each president of that Corporation. They have been high-quality people who are conscientious and dedicated.

I do not have 321 groups representing me all over the United States. However, I do get complaints from time to time from constituents of mine who are angry because of a response or the manner in which some staff member of mine here or elsewhere handled a case of theirs. Sometimes they were right; sometimes they were wrong. When they are wrong, I always make the point if somebody is going to offend a constituent of mine, let it be me since I am the one who needs the vote. I do not need anyone else helping me do that.

I repeat, we are interested in that as a positive matter. We will have oversight hearings again. I will say to my staff now that the next time we have them I will send out a letter just as the letter I sent to Senator HATCH, who raised the question on the floor and I made a personal assurance to him.

Of course, the hearings were set and announced in the CONGRESSIONAL RECORD. That does not help the Senator from North Carolina, I realize, unless his staff called it to his attention.

As I say, the next time I have oversight hearings, I am going to send a letter to every Member and I am going to ask each Member to let me know if they have witnesses who have criticisms, or even if they want to praise the program, and to let me know who they are and we will decide for how many days we have to have hearings.

I will give the Senator my personal assurance that, of course, he can be a witness himself, or request a particular witness. If that is too inconvenient, if they want to submit their case to the Senator in writing to be submitted for the RECORD, we will then ask the Legal Services Corporation to respond in each of these instances.

They have been complaints that have been funneled up to the Legal Services Corporation as a consequence of hearings or as a consequence of my staff or the staff of Senator JAVITS where modifications or changes have been made.

I know the presidents of the Legal Services Corporation have been distinguished lawyers and citizens and they are as interested as the Senator or as I am in the effectiveness of the Legal Services Corporation. They are as conscious as the Senator and I are concerning the conduct of the 321 recipient agencies. If the conduct of a recipient agency is improper in any way or offensive to the local people, it could be injurious to everything.

When we have oversight hearings next time I will send a letter to all Members of the Senate in addition to putting the notice as required into the CONGRESSIONAL RECORD.

Mr. HELMS. I thank the Senator. I truly hope that the oversight hearings are not held at the same time as the three Foreign Relations Committee hearings I have each day, or the two Agriculture Committee hearings each day, or the Ethics Committee. The fact is that each of us is so busy with committee hearings that it is hard to keep up with committees of which we are not members.

To get to my original point, I hope the Senator is sending a message to those out across America who operate this program that we do not condone harassment and intimidation, and that we certainly do not condone violations of the law concerning the statute as amended, which created the agency. I cited an example which was clear-cut, where a whole coterie of lawyers went into court to defend a man on a criminal charge.

Now, that is absolutely a violation of the statute creating this agency. I know the Senator agrees with that.

To be fair about it, I say to the Senator, I recognize that the Legal Services system is just a sprawling thing with too little supervision on the local level. Judgments being made by Legal Services attorneys are not subject to careful supervision. We have a bad situation whenever that sort of mechanism exists.

I want the Senator to know that I am not trying to be picayunish in my criticism of the operation of the Corporation.

Mr. NELSON. No; I do not think the Senator is.

Mr. HELMS. I believe as the Senator does, that the poor who cannot afford legal representation ought to be provided with that assistance. I hope I have made that clear through the years.

I am concerned about the repeated instances of abuse. I know the Senator does not favor such abuse, but I hope that the Senator, by this colloquy and by other actions, will send word to these people that they had better mind the store a little better than they have been doing it in the past.

I thank the Senator.

Mr. NELSON. Let me thank the Senator.

Mr. President, in my State, which would be the only one I would be personally familiar with, I think there is a good general acceptance that the Legal Services Corporation personnel there—we have been fortunate—are thoughtful and conscientious, as I think they are in most places. I have no doubt, either, that we can find cases around this country, including the one the Senator recites, in which people feel, and correctly, that in some cases, they were abused.

I do know, as a lawyer, however, that in every case I ever lost as a lawyer, my client thought he or she was abused and I thought that the court and the jury were wrong. There is always a tendency to feel that way.

Mr. HELMS. They probably were.

Mr. NELSON. There is always a tendency to feel, if you get into a tight argument and fight, that even if you lose it, you have been abused and, if you win it, that the case should not have been started.

We both know enough about issues in close cases to know that somebody has to win and somebody has to lose and good lawyers may differ as to whether or not the issue raised by the plaintiff should have been raised. We cannot find out until we get to court.

If the plaintiff, the initiating party, loses the case, there is a tendency of the person who aided the defendant to say, well, that was an abuse of their authority, their discretion. That is what the adversary system of law is all about.

Nonetheless, it is our intent to get rid of all the abuses we can. I know that it is the intent of the Legal Services Corporation and we want to cooperate in any way we can. We shall have hearings at a time when the Senator is not in any of his other committee meetings. We shall plan it that way.

Mr. HELMS. I thank the Senator, and not as a parting shot, I shall say again that, in the two instances I have mentioned, the Legal Services lawyers were wrong. They should not have interfered in the food stamp matter. Their assertions were found to be wrong and they acknowledge that they were wrong. Yet they organized a protest march in front of the courthouse. I am not sure that a protest march has very much to do with the Legal Services Corporation functions as I interpret them to be. The Legal Services lawyers were also wrong to represent a criminal defendant. In so doing, they violated a specific Federal prohibition of which I am sure they were aware.

Mr. NELSON. May I say one other thing?

Mr. HELMS. Yes, sir.

Mr. NELSON. If, in fact, the Legal Services lawyers organized the march——

Mr. HELMS. They marched in it.

Mr. NELSON (continuing). They were in violation of the law and there is a disciplinary proceeding for that.

Mr. HELMS. That is the point I was making to the Senator. I know what his good faith and intentions are, but I want to make these instances a matter of record. I assure the Senator that I shall cooperate in trying to help him have some successful hearings the next time they are scheduled.

I thank the Senator.

Mr. NELSON. Mr. President, I thank the Senator.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Arkansas numbered UP 1132.

Mr. HELMS. I thank the Chair.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, just before the Senator from New York left the floor a moment ago, he asked me if I would give him 5 minutes to go and attend a meeting. I said yes. I do not know, but I think he may have intended to be asking me not to take a vote until he could return. Does the Senator from Wisconsin know the answer to that?

Mr. NELSON. Yes, Mr. President, I wonder if the Senator would withhold his request. He may have a substitute or he may have some other proposal to make.

Mr. BUMPERS. I am happy to do anything that will accommodate both the Senators.

Mr. President, I withdraw my request until—well, the yeas and nays can still stand. That would not prohibit him from offering a substitute if he wishes.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily, with the understanding that I will lay this amendment aside when the managers of the bill are prepared to act.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1134

(Subsequently numbered amendment No. 1890)

(Purpose: To provide for a two-year demonstration program)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1134.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 15, insert the following new section:

Sec. 3. Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding at the end thereof the following new subsection:

"(1)(1)(A) Notwithstanding any other provision of this Act, the Corporation shall provide financial assistance during fiscal years 1981 and 1982 for providing legal assistance within one State in accordance with the provisions of subsections (B) and (C) in order to demonstrate the effectiveness of private attorney participation.

"(B) With respect to any county with a population of 150,000 residents or less, not less than 65 percent of the total amount of funds made available for such county in any fiscal year shall be used for legal assistance (including administrative support services) that is provided by the private bar with open participation rights by members of the bar.

"(C) With respect to any county with a population of more than 150,000 residents, not less than 15 percent of the total amount of funds made available for such county in any fiscal year shall be used for legal assistance (including administrative support services) that is provided by the private bar with open participation rights for members of the bar.

"(2) the Corporation may permit a lesser percentage of the funds made available than that required by paragraph (1) of this subsection to be used for legal assistance provided by the private bar in a particular county, but only if the refusal or inability of the private bar to provide such assistance is clearly demonstrated;

"(3) the percentage requirements set forth in paragraph (1) of this subsection shall not apply with respect to funds made available by the Corporation to provide specialized services to native American populations or migrant farm workers.".

Mr. HELMS. Mr. President, a copy of this amendment has been provided to each of the distinguished managers of the bill. It is very simple.

The purpose of the amendment is to establish a pilot program in one State to demonstrate the effectiveness of private attorney participation in the delivery of legal services to the poor.

The amendment would require the Corporation to select one State in which a portion of Federal funds would be distributed to the county bar association, to enable private attorneys to provide services for the poor.

These funds would be distributed on a county-by-county basis. For any county with a population of 150,000 residents or fewer, not less than 65 percent of the total amount of funds would be provided to the private bar. In counties with a population of more than 150,000, not less than 15 percent of the funds would be available to the bar association.

That is the thrust of the amendment.

In this connection, Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum prepared by the State Bar of Wisconsin.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To All State Bar Presidents, President-Elects and Executive Directors.

From Richard E. Sommer, President.

Re Requested Amendment of the Legal Services Corporation Act.

Date May 30, 1980.

By memorandum dated April 28, 1980, I communicated to all state bar presidents a Wisconsin Bar proposal to amend the Legal Services Corporation Act in the context of the Bill for its reauthorization pending in Congress (HR 6386). Since that time, several things have occurred of which you should be informed:

a. We have been advised of support for our proposed amendments by a number of state bars and bar leaders individually.

b. As a result of the wide distribution of our proposal, we have received a good number of comments on it. Together with Wisconsin Congressman F. James Sensenbrenner Jr.'s office, we have carefully considered these comments and have attempted to account for them in the Bill Draft you will find enclosed.

c. President Bradley of the Legal Services Corporation advised our Board of Governors that the Corporation will oppose any attempt to amend the Legal Services Corporation Act regardless of the nature of the amendment.

The Enclosed Bill Draft was prepared in consultation with Congressman F. James Sensenbrenner, Jr.'s office and was drafted in its present form by a legislative draftsman for the Congress. It was formally approved by the Board of Governors of the State Bar of Wisconsin on May 29, 1980 as legislation the State Bar will support in Congress. You will find this Draft differs from our original proposal in the following respects:

a. It does not call for amendments regarding judicial or administrative review or regarding the state advisory councils. The rationale for this change is basically that we believe passage of the primary proposal calling for mandated opportunity for private bar involvement would adequately address the concerns these secondary proposals sought to remedy.

b. The formula used to establish the level of private bar involvement has been simplified. Although only one county population figure ("150,000 residents") is used in the formula, the minimum funding levels for private bar participation are made flexible to account for local needs and circumstances, e.g.: regardless of population under this formula, any county could be 100 percent served through the private bar or 100 percent served by staff services. However, for any county to be 100 percent served by staff services, it would have to be clearly demonstrated that the private bar is either unable or unwilling to participate.

c. Assuming the typical circumstance where the private bar will be able and willing to participate, this proposal provides for a more desirable (we believe) mix of staff and private bar services which can vary from county to county to accommodate local needs.

d. The Draft Bill uses a percentage of total funding approach as opposed to the "cases opened" approach contained in our original proposal. This change has been made for at least two basic reasons: (1) it is simpler to administer; and (2) it will provide more certainty for program planning and administration.

e. The Bill Draft clarifies that private bar participation shall be "with open participation rights for members of the bar. . . ." We felt this was essential in the law itself to underscore a primary thrust of the entire Bill which is to realistically encourage the private bar to become a full participant in the federal effort to deliver civil legal services to the indigent of our Country.

Congressional and State bar action. We understand that Congressman F. James Sensenbrenner, Jr., of Wisconsin, will do whatever he realistically can to have this Bill (perhaps with some additional technical/drafting modifications) introduced in the House to H.R. 6386. But we also understand that its opponents may attempt to block its introduction either on the ground that it lacks germaneness or through the Rules Committee with action that could prevent any amendments being offered to the Legal Services Corporation reauthorization.

The necessity for action by those wishing to support introduction of this Bill in the Congress is therefore, immediate. It is important that State bars and others supporting the Bill act as soon as possible to convey that message of support to your own congressional delegations and that (we are authorized to say) they convey their interest and willingness to support to the office of Congressman F. James Sensenbrenner, Jr., 315 Cannon House Office Bldg., Washington, D.C. 20515. And, if you have a Senator who would seek introduction of this Bill in the Senate, your encouragement of such action would be most helpful.

We must all bear in mind that the reauthorization for the Legal Services Corporation will be for the next three years. This, as we understand it, effectively means that this is the last opportunity to amend the Act for that period of time. We are hopeful we may have your support. We would appreciate your keeping us informed on your decisions and actions in this matter by contacting either Mr. Steve Smay, our Executive Director or Mr. Keith Kaap, our Director of Delivery of Legal Services. They are also available to answer any questions you may have. We are appreciative of your consideration of our proposal and promise to keep you advised if there are any significant developments of which you should be informed.

Finally, I want to make it expressly clear that this legislative proposal bears no relationship to the Corporation's present or future actions concerning allocation of its expansion of access funding in Wisconsin, as far as the Board of Governors of the State Bar is concerned. We believe those decisions must be made on their merits under current law. At the same time, the Board of Governors believe that our legislation proposal has merit and is deserving of national debate in the context of improving delivery of legal services to the public. And I write to you now in that spirit.

Sincerely yours,

RICHARD E. SOMMER,
President.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

UP AMENDMENT NO. 1132, AS MODIFIED

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to modify my amendment to state that the recipients receive the money; the Legal Services Corporation does not.

I send to the desk a modified amendment which will make that correction.

The PRESIDING OFFICER. Under the previous order, the Helms amendment is set aside.

Is there objection? The Chair hears none, and it is so ordered.

The amendment is so modified.

The modified amendment is as follows:

On page 2, between line 15 and the amendment to the title of the bill insert the following:

SEC. 3. Notwithstanding any other provision of law, any award of attorneys fees which is received by recipients of the Legal Services Corporation shall be transferred into the general fund of the United States Treasury as miscellaneous receipts.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, the distinguished floor managers of the bill and I have just had a conversation in which they have agreed to accept the amendment, as modified, with the understanding that the data which we do not have—which we really need to debate this matter in a more complete way—will be obtained by them; that they will keep the amendment, put the amendment in conference, or drop it, depending on what the statistics show. They have agreed to keep me posted and to consult with me at all times.

Of course, I know they will be eminently fair with me and with the Senate in this.

Mr. JAVITS. Mr. President, I thank the Senator very much.

We think we could have done other things, substituted and so on, but we, also, want to get the ultimate facts and exactly how this works. So we think this is a fair way to do it.

Will the Senator have any objection to vacating the yeas and nays under the circumstances?

Mr. BUMPERS. Mr. President, I ask unanimous consent that the request for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. We are ready to vote.

Mr. NELSON. Does the Senator still have the floor?

Mr. BUMPERS. I yield the floor.

Mr. NELSON. Mr. President, we have discussed this amendment with the Senator from Arkansas. We do not have before us now the facts on how much money specifically goes back to the recipient agencies as a consequence of legal fees awarded by the court to the prevailing party. We do not know how many dollars are involved here.

So for my part I have said and wish to say for the record that if, after looking at all the facts I am satisfied that this is a good proposal, I will support it. I just do not feel I have enough information at hand to make a decision right now.

Second, if in fact it does appear or some modification of this amendment does appear to be meritorious and it deprives this year's budget, the 1981 budget, of needed funds, then I would take the position that even if I agreed with this or some modified proposal, I would not want the effective date to occur until the succeeding budget year because the budget is made out and recommended by the President and we accepted the President's recommendation based upon what they believed they needed for the 1981 fiscal year.

So with those caveats, I assure the Senator from Arkansas that I will work along with him and the distinguished Senator from New York, and if I am satisfied we can come up with something that is useful, positive, and helpful, I will support it. But I do not want to state flat out that I would without having additional facts.

Mr. BUMPERS. I thank the Senator.

Mr. JAVITS. Mr. President, I join in those assurances and wish to point out, also, an added factor, that is, the fact that the bar associations, community agencies, and foundations are contributing to the Corporation and to these recipients. But we will endeavor to take all these factors into consideration in the spirit which now characterizes all of us and I join the intention which Senator NELSON has laid out.

Mr. BUMPERS. If I just may, Mr. President, I have one additional point that has come out this afternoon and I think it is a relevant one. The Legal Services Corporation does indeed get quite a bit of money from private sources and, presumably, those private sources would have no objection to their money generating additional fees. We might even at some point, I just throw this out just for a thought, allow them to keep that percentage of fees that is generated with private funds.

Mr. JAVITS. Exactly, and as the Senator himself noted quite astutely courts allow these fees and courts may have a different point of view if they think they are going right back into the Federal treasury. So we will take all of those things into consideration. We are obliged to the Senator from Arkansas for having brought up the matter and enabling us at least to be seized of it with a purpose of making a fair resolution of it.

We are ready to vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (UP No. 1132), as modified, was agreed to.

AMENDMENT NO. 1133

The PRESIDING OFFICER. The question recurs on the Helms amendment, No. 1133.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the amendment offered by the Senator from North Carolina.

Mr. HELMS. On which the yeas and nays have been ordered?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I am ready to vote, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I move to lay on the table the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Georgia (Mr. Talmadge), and the Senator from Washington (Mr. Magnuson) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

Mr. BAKER. I announce that the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 23, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—63

Baucus
Bayh
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Exon
Ford
Glenn
Goldwater
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stewart
Stone
Tsongas
Wallop
Weicker
Williams
Zorinsky

NAYS—23

Armstrong
Baker
Boren
Byrd,
Harry F., Jr.
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Roth
Schmitt
Schweiker
Simpson
Thurmond
Tower
Warner
Young

NOT VOTING—14

Biden
Church
Cranston
Eagleton
Gravel
Hart
Kennedy
Long
Magnuson
Packwood
Pell
Pressler
Stevens
Talmadge

So the motion to table Mr. Helms' amendment (UP No. 1133) was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 2698

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the conference report on S. 2698, the small business amendments, there be a time agreement thereon as follows: Two hours overall—all-inclusive—with no time for debate on the motion to reconsider; that there be 2 hours overall——

The PRESIDING OFFICER. Will the Senator suspend while I get order?

The Senate will be in order.

The Senator may proceed.

Mr. ROBERT C. BYRD. With 1 hour of that 2 hours to be under the control of Mr. Schweiker and the remaining hour to be equally divided between Mr. Nelson and Mr. Weicker, with the understanding that the conference report will be called up at some point on Tuesday next.

Mr. BAKER. Mr. President, reserving the right to object. I am sorry, my attention was momentarily diverted. Did the majority leader include a provision that this would be made the pending business sometime on next Tuesday?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. And that there be a 2-hour overall limitation with one of those 2 hours to be under the control and management of the Senator from Pennsylvania (Mr. Schweiker).

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. The part about the motion to reconsider—I had not considered that. Would it be possible for the majority leader to amend the request so that any time on the debate on the motion to reconsider would come out of the 2 hours?

Mr. ROBERT C. BYRD. It might be difficult to do that. It may have run its course.

Mr. BAKER. It is my understanding that under this agreement, there would in fact be no time for that.

The PRESIDING OFFICER. The Senator from Tennessee is correct.

Mr. BAKER. I ask the majority leader if he would consider that, so that that will not require my going back to consult with Senators.

Mr. ROBERT C. BYRD. Yes, I shall be glad to consider that. It will be 2 hours overall, all-inclusive, 1 hour under the control of Mr. Schweiker and the remaining hour to be under the control of Mr. Nelson and Mr. Weicker.

The PRESIDING OFFICER. Is part of the agreement that the measure is to be called up on Tuesday?

Mr. ROBERT C. BYRD. It will be called up on Tuesday, Mr. President. It is a privileged matter and Tuesday would be the day it would be scheduled.

Mr. BAKER. Reserving the right to object, as I understand, it will not require unanimous consent for that to happen. I assume the majority leader will consult with me or with someone in the management of this measure at least a short time prior to calling the measure up.

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. I thank the distinguished majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, the request is agreed to.

ORDER OF PROCEDURE ON BUDGET RESOLUTION CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, for the information of the Members of the Senate, the Senate is about to proceed now to consideration of the conference report on the budget resolution. There is a time limitation, I believe, on that matter, and it is anticipated that there will be two rollcall votes on that conference report. When that is disposed of, the Senate will not be having any more rollcall votes today, but the Senate will resume consideration on tomorrow of the legal services bill, with rollcall votes expected. Is there a Senator who would call up an amendment on the legal services measure now and just lay it down?

Mr. HELMS. Mr. President, I think I have one pending.

Mr. ROBERT C. BYRD. Is there an amendment pending?

The PRESIDING OFFICER. There is amendment pending, offered by the Senator from North Carolina.

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ROBERT C. BYRD. Does the Senator wish to have the yeas and nays?

Mr. HELMS. Mr. President, I do not know if the Senator from Wisconsin will accept it or not. This is the pilot program.

Mr. NELSON. I would say no, Mr. President, I could not accept it.

Mr. JAVITS. Mr. President, for the information of the leadership, we may very well move to lay that amendment on the table. So it could be left open or, if Senator Helms wishes the yeas and nays, we shall give it to him and then do what we need to do on the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on a motion to table the amendment by Mr. Helms if a motion to table is made.

Mr. JAVITS. That is all right, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, Mr. President, will the majority leader tell me why it is important to get the yeas and nays now?

Mr. ROBERT C. BYRD. Yes, Mr. President, because it might be a little difficult at an early hour tomorrow.

Mr. HELMS. I am sure all Senators will be here at an early hour.

Mr. ROBERT C. BYRD. Does the Senator want the yeas and nays on his amendment? It might be well to get them now.

Mr. HELMS. I say in all seriousness,

my only reservation is that I may be able to modify it to satisfy the distinguished Senator from Wisconsin and the distinguished Senator from New York.

But if they predetermine they will move to table, then that is another situation.

Mr. JAVITS. We have not predetermined anything.

Mr. ROBERT C. BYRD. They have not predetermined anything.

Mr. HELMS. Very well, I suggest——

Mr. ROBERT C. BYRD. Do that, or get consent, if the Senator is allowed to modify his amendment.

Mr. JAVITS. If the leader wants an immediate vote on the Record, we can get it on passage.

Mr. ROBERT C. BYRD. It is not that. I just do not want to spend 20 minutes in the morning getting a fifth of the membership to obtain a second.

Mr. JAVITS. If we get the yeas and nays on the amendment—but I would not do it unless Senator Helms wants to. Let us leave it and——

Mr. HELMS. Yes, and say that we have the yeas and nays on an up or down basis, no motion to table.

Mr. JAVITS. We cannot.

Mr. ROBERT C. BYRD. We better let it go.

But there is an amendment pending by Senator Helms and, therefore, I ask, so that Senators may know what time the Senate will proceed in the morning, are there any orders for the recognition of Senators at the desk?

The PRESIDING OFFICER. There are no special orders.

ORDER FOR RECOGNITION OF SENATOR COHEN ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order, that Senator Cohen be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at no later than 9:30 tomorrow, the Senate resume consideration of the legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be divided, as usual, but not extend beyond the hour of 9:15.

The PRESIDING OFFICER (Mr. Metzenbaum). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, at 9:15 tomorrow morning, Mr. Cohen's order would begin to run; at 9:30, the Senate would resume consideration of the legal services bill; at which time the pending question would be on the adoption of the amendment by Mr. Helms.

There will be rollcall votes tomorrow, and I would anticipate the Senate could be in relatively late tomorrow, hoping to complete action on the legal services bill.

I have an order for a Saturday session. I will leave that standing for now.

FIRST CONGRESSIONAL BUDGET RESOLUTION, 1981

Mr. HOLLINGS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 307.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the resolution (H. Con. Res. 307) entitled "Concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the United States Government for the fiscal year 1980", and concurs therein with the following amendment:

In lieu of the matter inserted by said amendment, insert:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1980—

(1) the recommended level of Federal revenues is $613,800,000,000, and the amount by which the aggregate level of Federal revenues should be increased by bills and resolutions to be reported by the appropriate Committees is $4,200,000,000;

(2) the appropriate level of total budget authority is $697,200,000,000;

(3) the appropriate level of total budget outlays is $613,600,000,000;

(4) the amount of the surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is $200,000,000;

(5) the appropriate level of the public debt is $935,100,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $31,500,000,000; and

(6) the appropriate level of total gross obligations for the principal amount of direct loans is $63,900,000,000 and the appropriate level of total commitments to guarantee loan principal is $79,600,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301 (a)(2) of the Congressional Budget Act of 1974 that for the fiscal year beginning on October 1, 1980, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $170,500,000,000;

(B) Outlays, $153,700,000,000.

(2) International Affairs (150):

(A) New budget authority, $23,600,000,000;

(B) Outlays, $9,500,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $6,600,000,000;

(B) Outlays, $6,100,000,000.

(4) Energy (270):

(A) New budget authority, $6,700,000,000;

(B) Outlays, $6,800,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $11,700,000,000;

(B) Outlays, $12,100,000,000;

(6) Agriculture (350):

(A) New budget authority, $5,500,000,000;

(B) Outlays, $2,300,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $5,100,000,000;

(B) Outlays, $000,000,000.

(8) Transportation (400):

(A) New budget authority, $22,100,000,000;

(B) Outlays, $18,750,000,000.

(9) Community and Regional Development (450):

(A) New budegt authority, $8,800,000,000;

(B) Outlays, $9,200,000,000.

(10) Education, Training, Employment and Social Services (500):

(A) New budget authority, $31,700,000,000;

(B) Outlays, $29,500,000,000.

(11) Health (550):

(A) New budget authority, $71,200,000,000;

(B) Outlays, $61,700,000,000.

(12) Income Security (600):

(A) New budget authority, $249,500,000,000;

(B) Outlays, $219,550,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,700,000,000;

(B) Outlays, $21,200,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,600,000,000.

(15) General Government (800):

(A) New budget authority, $4,600,000,000;

(B) Outlays, $4,300,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $6,200,000,000;

(B) Outlays, $6,800,000,000.

(17) Interest (900):

(A) New budget authority, $72,200,000,000;

(B) Outlays, $72,200,000,000.

(18) Allowances (920):

(A) New budget authority, $000,000,000;

(B) Outlays, $000,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, −$24,700,000,000;

(B) Outlays, −$24,700,000,000.

RECONCILIATION

Sec. 3. Pursuant to section 301(b)(2) of the Budget Act:

(a)(1) the House Committee on Armed Services shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(2) the House Committee on Education and Labor shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $850,000,000 in budget authority and $850,000,000 in outlays;

(3) the House Committee on Interstate and Foreign Commerce shall recommend (A) program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $100,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $300,000,000 in outlays;

(4) the House Committee on Post Office and Civil Service shall recommend (A) program reductions in laws within its jurisdiction to reduce spending by $50,000,000 in budget authority and $500,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(5) the House Committee on Public Works and Transportation shall recommend programs reductions in laws or in reported bills or resolutions within its jurisdiction to reduce spending for fiscal year 1981 by $600,000,000 in budget authority and $750,000,000 in outlays;

(6) the House Committee on Small Business shall recommend program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays;

(7) the House Committee on Veterans' Affairs shall recommend program reductions in laws within its jurisdiction or changes in laws within its jurisdiction which provide spending authority described in section 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(8) the House Committee on Ways and Means shall recommend changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $700,000,000 in budget authority and $2,000,000,000 in outlays; and

(9) the House Committee on Ways and Means shall recommend changes in laws within its jurisdiction to increase revenues for fiscal year 1981 by $4,200,000,000;

(10) the Senate Committee on Appropriations shall limit appropriations for fiscal year 1981 subsidies to the U.S. Postal Service to a level not to exceed $1,140,000,000 in budget authority and $1,140,000,000 in outlays, in order to achieve savings of $500,000,000 in budget authority and $500,000,000 in outlays;

(11) the Senate Committee on Agriculture, Nutrition, and Forestry shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(12) the Senate Committee on Armed Services shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(13) the Senate Committee on Commerce, Science, and Transportation shall recommend program reductions in laws or in reported bills or resolutions within its jurisdiction or changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(2)(c)(C) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority and $150,000,000 in outlays;

(14) the Senate Committee on Environment and Public Works shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(A) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority;

(15) the Senate Committee on Finance shall recommend changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $900,000,000 in budget authority and $2,200,000,000 in outlays;

(16) the Senate Committee on Finance shall recommend changes in laws within its jurisdiction to increase revenues for fiscal year 1981 by $4,200,000,000;

(17) the Senate Committee on Governmental Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(18) the Senate Committee on Labor and Human Resources shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $350,000,000 in budget authority and $450,000,000 in outlays;

(19) the Senate Committee on Small Business shall recommend changes in laws within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays; and

(20) the Senate Committee on Veterans' Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act or equivalent savings legislation to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $400,000,000 in outlays;

(b)(1) not later than July 2, 1980, each committee specified in subsection (a) (1)–(9) and (16) shall submit its recommendations to the Committee on the Budget of its House;

(2) not later than June 25, 1980, each committee specified in subsection (a) (10)–(15) and (17)–(20) shall submit its recommendations to the Senate Committee on the Budget; and

(c) pursuant to subsection 310(c) of the Budget Act, the Committees on the Budget, after receiving recommendations submitted under subsections (a) and (b) of this section, shall report to their respective Houses a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision. The provisions of subsection 310(e) of the Budget Act shall apply to consideration in the Senate of any reconciliation bill or resolution.

SEC. 4. (a) The House sets forth the following budgetary levels for fiscal years 1982 through 1983—

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1982: $714,800,000,000;
Fiscal year 1983; $824,100,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased is as follows:

Fiscal year 1982: $200,000,000;
Fiscal year 1983: $000,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1982: $769,100,000,000;
Fiscal year 1983: $868,850,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1982: $688,000,000,000;
Fiscal year 1983: $784,600,000,000;

(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: $26,800,000,000;
Fiscal year 1983: $39,500,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1982; $948,000,000,000;
Fiscal year 1983; $948,200,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1982 and 1983 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):
Fiscal year 1982:
(A) New budget authority, $192,300,000,000;
(B) Outlays, $172,800,000,000.
Fiscal year 1983:
(A) New budget authority, $215,900,000,000;
(B) Outlays, $194,600,000,000.

(2) International Affairs (150):
Fiscal year 1982:
(A) New budget authority, $15,400,000,000;
(B) Outlays, $9,800,000,000.
Fiscal year 1983:
(A) New budget authority, $15,100,000,000;
(B) Outlays, $10,100,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1982:
(A) New budget authority, $6,900,000,000;
(B) Outlays, $6,700,000,000.
Fiscal year 1983:
(A) New budget authority, $7,000,000,000;
(B) Outlays, $6,900,000,000.

(4) Energy (270):
Fiscal year 1982:
(A) New budget authority, $8,500,000,000;
(B) Outlays, $10,400,000,000.
Fiscal year 1983:
(A) New budget authority, $10,000,000,000;
(B) Outlays, $11,500,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 1982:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $13,200,000,000.
Fiscal year 1983;
(A) New budget authority, $13,900,000,000;
(B) Outlays, $13,600,000,000.

(6) Agriculture (350):
Fiscal year 1982:
(A) New budget authority, $6,500,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1983:
(A) New budget authority, $4,500,000,000;
(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 1982:
(A) New budget authority, $5,500,000,000;
(B) Outlays, $2,300,000,000.
Fiscal year 1983:
(A) New budget authority, $5,700,000,000;
(B) Outlays, $2,300,000,000.

(8) Transportation (400):
Fiscal year 1982:
(A) New budget authority, $21,500,000,000;
(B) Outlays, $19,800,000,000.
Fiscal year 1983:
(A) New budget authority, $23,000,000,000;
(B) Outlays, $21,200,000,000.

(9) Community and Regional Development (450):
Fiscal year 1982:
(A) New budget authority, $8,800,000,000;
(B) Outlays, $8,900,000,000.
Fiscal year 1983:
(A) New budget authority, $9,100,000,000;
(B) Outlays, $9,000,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1982:
(A) New budget authority, $35,300,000,000;
(B) Outlays, $32,100,000,000.
Fiscal year 1983:
(A) New budget authority, $39,800,000,000;
(B) Outlays, $38,100,000,000.

(11) Health (550):
Fiscal year 1982:
(A) New budget authority, $82,800,000,000;
(B) Outlays, $70,600,000,000.
Fiscal year 1983:
(A) New budget authority, $118,350,000,000;
(B) Outlays, $103,700,000,000.

(12) Income Security (600):

Fiscal year 1982:

(A) New budget authority, $284,500,000,000;

(B) Outlays, $250,000,000,000.

Fiscal year 1983:

(A) New budget authority, $313,600,000,000;

(B) Outlays, $276,000,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1982:

(A) New budget authority, $23,400,000,000;

(B) Outlays, $22,800,000,000.

Fiscal year 1983:

(A) New budget authority, $25,000,000,000;

(B) Outlays, $24,400,000,000.

(14) Administration of Justice (750):

Fiscal year 1982:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,700,000,000.

(15) General Government (800):

Fiscal year 1982:

(A) New budget authority, $5,000,000,000;

(B) Outlays, $4,700,000,000.

Fiscal year 1983:

(A) New budget authority, $4,900,000,000;

(B) Outlays, $4,800,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1982:

(A) New budget authority, $6,400,000,000;

(B) Outlays, $6,400,000,000.

Fiscal year 1983:

(A) New budget authority, $6,500,000,000;

(B) Outlays, $6.500,000,000.

(17) Interest (900):

Fiscal year 1982:

(A) New budget authority, $74,000,000,000;

(B) Outlays, $74,000,000,000.

Fiscal year 1983:

(A) New budget authority, $77,700,000,000;

(B) Outlays, $77,700,000,000.

(18) Allowances (920):

Fiscal year 1982:

(A) New budget authority, $2,000,000,000;

(B) Outlays, $2,000,000,000.

Fiscal year 1983:

(A) New budget authority, $4,100,000,000;

(B) Outlays, $4,100,000,000.

(19) Undistributed Offsetting Receipts (950):

Fiscal year 1982:

(A) New budget authority, —$27,500,000,000;

(B) Outlays, —$27,500,000,000.

Fiscal year 1983:

(A) New budget authority, —$29,800,000,000;

(B) Outlays, —$29,800,000,000.

SEC. 5. (a) The Senate sets forth the following budgetary levels for fiscal years 1982 through 1983—

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1982: $701,400,000,000;

Fiscal year 1983: $783,000,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1982: —$5.200,000,000;

Fiscal year 1983: —$27,500,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1982: $775.000,000.000;

Fiscal year 1983: $851,600,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1982: $695,600,000,000;

Fiscal year 1983: $765,500,000,000;

(4) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: +$5.800,000.000;

Fiscal year 1983: +$17,500,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1982: $965,600,000,000;

Fiscal year 1983: $991,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1982: $31,200,000,000;

Fiscal year 1983: $25,500,000,000;

(b) Based on allocations of the appropriate levels of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the preceding subsection of this resolution, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):

Fiscal year 1982:

(A) New budget authority, $204,600,000,000;

(B) Outlays, $183,200,000,000;

Fiscal year 1983:

(A) New budget authority, $234,000,000,000;

(B) Outlays, $208,700,000,000.

(2) International Affairs (150):

Fiscal year 1982:

(A) New budget authority, $15,400,000,000;

(B) Outlays, $9,800,000,000.

Fiscal year 1983:

(A) New budget authority, $15,100,000,000;

(B) Outlays, $10.100,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1982:

(A) New budget authority, $6,900,000,000;

(B) Outlays, $6,800,000,000.

Fiscal year 1983:

(A) New budget authority, $7,100,000,000;

(B) Outlays, $7,000,000,000.

(4) Energy (270):

Fiscal year 1982:

(A) New budget authority, $7,500,000,000;

(B) Outlays, $10,100,000,000.

Fiscal year 1983:

(A) New budget authority, $9,500,000,000;

(B) Outlays, $11,100,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1982:

(A) New budget authority, $12,400,000,000;

(B) Outlays, $12,900,000,000.

Fiscal year 1983:

(A) New budget authority, $12,700,000,000;

(B) Outlays, $13,200,000,000.

(6) Agriculture (350):

Fiscal year 1982:

(A) New budget authority, $6,600,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1982:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $2,700,000,000.

Fiscal year 1983:

(A) New budget authority, $6,300,000,000;

(B) Outlays, $2,900,000,000.

(8) Transportation (400):

Fiscal year 1982:

(A) New budget authority, $21,500,000,000;

(B) Outlays, $20,300,000,000.

Fiscal year 1983:

(A) New budget authority, $22,200,000,000;

(B) Outlays, $21,600,000,000.

(9) Community and Regional Development (450):

Fiscal year 1982:

(A) New budget authority, $8,500,000,000;

(B) Outlays, $8,800,000,000.

Fiscal year 1983:

(A) New budget authority, $8,700,000,000;

(B) Outlays, $8.800,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1982:

(A) New budget authority, $33.400,000,000;

(B) Outlays, $31,700,000,000.

Fiscal year 1983:

(A) New budget authority, $34,900,000,000;

(B) Outlays, $33,700,000,000.

(11) Health (550):

Fiscal Year 1982:

(A) New budget authority, $82,800,000,000;

(B) Outlays, $70,600,000,000.

Fiscal year 1983:

(A) New budget authority, $94,300,000,000;

(B) Outlays, $79,600,000,000.

(12) Income Security (600):

Fiscal year 1982:

(A) New budget authority, $284,200,000,000;

(B) Outlays, $249,400,000,000.

Fiscal year 1983:

(A) New budget authority, $313,400,000,000;

(B) Outlays, $275,400,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1982:

(A) New budget authority, $23,200,000,000;

(B) Outlays, $22,700,000,000.

Fiscal year 1983:

(A) New budget authority, $24,800,000,000;

(B) Outlays, $24,200,000,000.

(14) Administration of Justice (750):

Fiscal year 1982:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,600,000,000;

(B) Outlays, $4,700,000,000.

(15) General Government (800):

Fiscal year 1982:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $4,700,000,000.

Fiscal year 1983:

(A) New budget authority, $5,100,000,000,

(B) Outlays, $4.900,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1982:

(A) New budget authority, $6,400,000,000;

(B) Outlays, $6,400,000,000.

Fiscal year 1983:

(A) New budget authority, $6,500,000,000;

(B) Outlays, $6,500,000,000.

(17) Interest (900):

Fiscal year 1982:

(A) New budget authority, $74,000,000,000;

(B) Outlays, $74,000,000,000.

Fiscal year 1983:

(A) New budget authority, $77,700,000,000;

(B) Outlays, $77,700,000,000.

(18) Undistributed Offsetting Receipts (950):

Fiscal year 1982:

(A) New budget authority, —$27,500,000,000;

(B) Outlays, —$27,500,000,000.

Fiscal year 1983:

(A) New budget authority, —$29,800,000,000;

(B) Outlays, —$29,800,000,000.

SEC. 6. Sections 1 and 2 of Senate Concurrent Resolution 53 are revised to read as follows:

"SECTION 1. That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

"(1) the recommended level of Federal revenues is $525,700,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $000,000,000;

"(2) the appropriate level of total new budget authority is $658,850,000,000;

"(3) the appropriate level of total budget outlays is $572,650,000,000;

"(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $46,950,000,000;

"(5) the appropriate level of the public debt is $903,600,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $24,600,000,000; and

"(6) Notwithstanding any other figure in this section, for purposes of clause 2, rule XLIX of the rules of the House of Representatives, as made applicable to this section by

House Resolution 642, 96th Congress, the appropriate level of the public debt, for the period beginning on the date of enactment into law through February 28, 1981, is $925,000,000,000, and the amount by which the statutory limit on such debt for such period should accordingly be increased is $46,000,000,000.

"SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979 the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

"(1) National Defense (050):

"(A) New budget authority, $143,700,000,000;

"(B) Outlays, $135,700,000,000.

"(2) International Affairs (150):

"(A) New budget authority, $15,200,000,000;

"(B) Outlays, $10,500,000,000.

"(3) General Science, Space, and Technology (250):

"(A) New budget authority, $6,200,000,000;

"(B) Outlays, $5,900,000,000.

"(4) Energy (270):

"(A) New budget authority, $38,400,000,000;

"(B) Outlays, $6,400,000,000.

"(5) National Resources and Environment (300):

"(A) New budget authority, $12,600,000,000;

"(B) Outlays, $13,400,000,000.

"(6) Agriculture (350):

"(A) New budget authority, $5,000,000,000;

"(B) Outlays, $5,900,000,000.

"(7) Commerce and Housing Credit (370):

"(A) New budget authority, $11,700,000,000;

"(B) Outlays, $6,100,000,000.

"(8) Transportation (400):

"(A) New budget authority, $20,500,000,000;

"(B) Outlays, $20,200,000,000.

"(9) Community and Regional Development (450):

"(A) New budget authority, $10,000,000,000;

"(B) Outlays, $9,800,000,000.

"(10) Education, Training, Employment and Social Services (500):

"(A) New budget authority, $29,600,000,000;

"(B) Outlays, $29,900,000,000.

"(11) Health (550):

"(A) New budget authority, $59,800,000,000;

"(B) Outlays, $56,500,000,000.

"(12) Income Security (600):

"(A) New budget authority, $224,800,000,000;

"(B) Outlays, $191,700,000,000.

"(13) Veterans Benefits and Services (700):

"(A) New budget authority, $21,200,000,000;

"(B) Outlays, $20,500,000,000.

"(14) Administration of Justice (750):

"(A) New budget authority, $4,300,000,000;

"(B) Outlays, $4,400,000,000.

"(15) General Government (800):

"(A) New budget authority, $4,500,000,000;

"(B) Outlays, $4,400,000,000.

"(16) General Purpose Fiscal Assistance (850):

"(A) New budget authority, $8,550,000,000;

"(B) Outlays, $8,550,000,000.

"(17) Interest (900):

"(A) New budget authority, $65,100,000,000;

"(B) Outlays, $65,100,000,000.

"(18) Allowances (920):

"(A) New budget authority, $000,000,000;

"(B) Outlays, $000,000,000.

"(19) Undistributed Offsetting Receipts (950):

"(A) New budget authority, —$22,300,000,000;

"(B) Outlays, —$22,300,000,000.".

RECONCILIATION

SEC. 7. Pursuant to section 310 of the Budget Act: (a) Not later than June 16, 1980, the House Committee on Appropriations shall report legislation reducing spending for fiscal year 1980 contained in laws or in reported bills or resolutions within its jurisdiction by $3,000,000,000 in budget authority and $1,000,000,000 in outlays; and

(b) Not later than ten days after Congress completes final action on this resolution, the Senate Committee on Appropriations shall report legislation reducing spending for fiscal year 1980 contained in laws within its jurisdiction by $3,000,000,000 in budget authority and $1,000,000,000 in outlays.

GENERAL PROVISIONS

SEC. 8. (a) No bill or resolution providing—

(1) new budget authority for fiscal year 1981, or

(2) new spending authority described in section 401(c) (2) (C) of the Budget Act first effective in fiscal year 1981—

which exceeds the appropriate allocation or subdivision made pursuant to section 302 of such Act shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget required to be reported under section 310 of such Act, and on any reconciliation legislation required by such resolution. Action on such resolution should be completed not later than August 28, 1980.

(b) Subsection (a) shall not apply to bills and resolutions for which a conference report has been filed in either House prior to final adoption by both Houses of this resolution.

SEC. 9. (a) No bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100,000,000 shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget required to be reported under section 310 of the Budget Act, and on any reconciliation language required by such resolution. Action on such resolution should be completed not later than August 28, 1980.

(b) After Federal revenues for fiscal year 1981 have been reduced by enacted bills and resolutions totaling $100,000,000, no other bill or resolution which would reduce revenue in such fiscal year shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget, and on any reconciliation legislation required by such resolution. Action on such resolution should be completed not later than August 28, 1980.

(c) Notwithstanding subsection (a) or (b) of this section, a resolution adopted under section 402 of the Crude Oil Windfall Profit Tax of 1980 (26 U.S.C. 1) which has the effect of reducing revenues shall be enrolled.

SEC. 10. There is established a Congressional Federal Credit Budget for fiscal year 1981.

(a) The appropriate levels of total Federal credit activity for fiscal year 1981 are:

(1) New direct loan obligations, $63,000,000,000;

(2) New primary loan guarantee, commitments, $79,600,000,000.

(b) It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit in fiscal year 1981 the off-budget lending activity of the Federal Government to a level not to exceed $25,800,000,000; the on-budget lending activity to a level not to exceed $38,100,000,000; and new primary loan guarantee commitments to a level not to exceed $79,600,000,000.

SEC. 11. It is the sense of the Senate that due to the extreme rate of inflation in the U.S. economy, the possible inflationary effects of Federal regulations and legislation shall be carefully monitored as part of this program of fiscal restraint. Inflationary effects should therefore be a prime consideration in developing both regulations and legislation. In order to coordinate the aggregate economic impact of regulations with Federal fiscal policy, it is the sense of the Senate that the President should implement a "zero net inflation impact" policy for the Federal regulations promulgated in the remainder of fiscal year 1980 and fiscal year 1981. This policy will require the President to keep an accounting for fiscal years 1980 and 1981 of all new regulations which have a significant, measurable cost to the economy. The aggregate net increase in costs or price effects of new regulations would have to be offset by modifications to existing regulations which reduce the costs or price effects by at least that amount in fiscal years 1980 and 1981, as well as subsequent fiscal years. The cost-saving modifications need not affect the same area of economic activity as the cost-inducing regulations. The President should institute an exemption procedure to assure the promulgation of regulations necessary to avert any imminent threat to health and safety.

It is also the sense of the Senate that the Director of the Congressional Budget Office should issue a periodic "inflation scorekeeping" report which shall contain an estimate of the positive or negative inflationary effects, wherever measurable, of legislation enacted to date in the current session of Congress. The report shall also indicate for each bill, promptly after it is reported by a committee of Congress, whether:

(1) It is judged to have no significant positive or negative impact on inflation;

(2) It is judged to have a positive or negative inflationary impact on the amount specified in terms of both dollar amounts and change in the consumer price index; and

(3) It is judged likely to have a significant positive or negative impact on inflation, but the amount cannot be determined immediately.

SEC. 12. Congress calls upon the President to review current inflation measures used for indexing Federal programs, as well as other indexing alternatives, to report to Congress by November 30, 1980, those conclusions and recommendations resulting from this review, and to reflect those conclusions in the President's budget and legislative proposals for fiscal year 1982.

SEC. 13. It is the sense of the Congress that the President should direct agencies not to increase the rate of obligation of fiscal year 1980 budget authority in advance of anticipated rescission actions.

The PRESIDING OFFICER. On this matter, there is an order for 2 hours to be equally divided between the Senator from South Carolina and the Senator from Oklahoma.

Who yield time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, Senator Henry Clay was known in his day has the Great Compromiser. But there was little room for compromise in his personal definition of political integrity. We have all heard his famous remark, "I would rather be right than President."

But few recall the somewhat cynical reaction of one of the Senator's contemporary colleagues—"The gentleman is unlikely to be either."

For a time, Mr. President, it may have appeared to some that the budget conferees were likely neither to reach agreement on a compromise, nor to keep the budget process itself from unraveling. The price of being "right" appeared, for a while, to be very high indeed.

But the conferees have reached agreement on a workable compromise. The House of Representatives has endorsed that compromise. I am confident that the Senate will do likewise—because this is an agreement that preserves all the right priorities and sets in motion all the right moves to respond effectively to the current economic emergency.

On each Senator's desk is a sheet showing the tentative budget agreement for fiscal year 1981 with a comparison to the levels passed by the Senate and the House.

I believe the Senate conferees were able to preserve the major priorities of the Senate.

First and foremost among these priorities is defense. The final defense numbers represent a major concession by the House to the Senate. The House came approximately three-fourths of the way to the Senate. Important Senate priorities in the areas of readiness and pay and allowances were preserved.

In the case of education, training, employment, and social services—an area of extreme sensitivity in the House—the Senate went somewhat more than half way to the House with increases for jobs for the hard core unemployed and new youth initiatives. But the House gave up $1.6 billion in budget authority and $1.2 billion in outlays, largely in reductions in countercyclical jobs programs—a majority priority of the Senate.

In the case of income security—again, an area of major concern to the House—the Senate went more than halfway but the House also made substantial concessions. Realistic compromises were reached in the areas of subsidized housing, food stamps, and other programs.

In transportation, the two bodies made about an even split on outlays, but the Senate did agree that relatively large increases in budget authority over the Senate-passed level—particularly for important energy mass transit initiatives—were important.

The Senate conferees also concluded that an increase over the Senate-passed level for budget authority for energy was necessary—particularly to provide resources for the strategic petroleum reserve.

The Senate did recede to the House on reductions in general revenue sharing—a matter about which the House conferees held strong opinions.

In the case of most other areas of the budget the agreements reached by the conferees represent compromises by both Houses on small differences between the two bodies, with no significant adjustment of priorities.

Mr. President, this budget agreement measures up to the Senate's demand for a sound fiscal plan and a prudent balancing of priorities.

It does not preserve intact the Senate-passed defense budget, but it preserves the Senate's commitment to major improvements in military readiness. This Senator, for one, would not have settled for less.

It does not preserve intact the Senate-passed assessment of our domestic needs. But it preserves the Senate's commitment to stringent spending controls while providing ample resources for the poor and disadvantaged.

It does not precisely reflect the ideal spending plan of a single Senator. But within the constraints of a balanced budget, it accommodates the essential interests of a broad, bipartisan coalition. And so it should. That is the basis of a reasonable, workable, and responsible Federal budget.

I am confident that this conference agreement will command the support of a wide majority of Senators. There are three fundamental reasons why.

First, it establishes the toughest fiscal plan ever presented to the Senate. It gives us our best chance for balancing the books in fiscal 1981.

Second, despite the requirements of spending discipline, it meets the needs of those who have no recourse but the Federal Government for their basic human requirements.

Third, it starts us back on the road to a national defense secure beyond doubt. And the best social service we can perform for any American is to keep him safe and free.

Let me touch on the highlights of each of these three features.

First, this conference agreement represents a fiscal plan as well as a budget for a single year. Some are saying that the fight for a balanced budget is already lost—that we should drop our effort to beat inflation and flail our arms to scare away the recession.

Mr. President, this fiscal plan plots a steadier course than that. Inflation still threatens to sink our economy. We cannot stop bailing while we are taking on water.

Sure, we are finally seeing some progress in the fight against inflation. From the sky-high rate of 18 percent that panicked many analysts a few months ago, inflation fell to 11.4 percent in April.

That figure is a good piece of news. But when an alligator has you by the leg, there is only so much comfort in the fact that he has let go of your throat.

The war on inflation must remain a fundamental priority. We cannot afford to abandon the battle just as the enemy begins to give ground.

But this agreement also takes account of the fact that the economic war is not confined to one front. Unemployment of 7.8 percent, sagging industrial production, and other bad news are serious concerns. This budget provides for a variety of vigorous responses.

First, much of the current weakness is concentrated in automobiles and construction. Conditions in Detroit will improve as automakers begin building smaller cars. In the meantime, this budget provides more trade adjustment assistance to help see autoworkers through.

In regard to construction, a policy of fiscal restraint will help bring interest rates further down. In the end, fiscal discipline is the best remedy for the construction industry.

Second, this budget provides new public jobs. It allows for more than 9.5 billion dollars for direct employment-related programs of jobs, training, and placement. It provides a 30-percent increase from 190 thousand to 250 thousand CETA training jobs for the hard core unemployed—and an additional 375,000 training positions funded by Washington and sponsored by State and local governments and private employers. It contains 1 million summer youth employment jobs. It increases funds for the Job Corps by 20 percent. It allows for 13,500 Young Adult Conservation Corps jobs.

Third, the budget provides for the full amount of the President's 1981 request for the Economic Development Administration—$831 million in budget authority.

Fourth, the budget provides full funding for food stamps—a 38-percent increase over 1979. Those funds will help through their temporary joblessness.

Fifth, this budget provides $900 million more than the President's budget for unemployment compensation and food stamp participation. The President provides for such benefits on the assumption that unemployment will average 7.3 percent in 1981. This budget assumes a higher average unemployment rate of 7.5 percent.

Mr. President, all of these antirecession measures are necessary. But there is no wisdom in discarding fiscal discipline, nor in abandoning the effort to balance the books merely because some forecasters differ with other forecasters regarding the ultimate length and depth of the recession.

The other day, Secretary of the Treasury Miller told the Joint Economic Committee that we have already passed through the worse of the recession. Mr. Miller suggested that we must keep up the fight to balance the budget "and not be diverted from our objective of combating inflation."

Most forecasters agree that, a year from now, the economy will be recovering. A policy of stimulus could easily provide too little too late.

Mr. President, economic forecasts change about as often as the weather bureau's. Many of the same economists who told us 3 months ago that we would balance the budget with the savings we have agreed to are the same economists who now say we cannot. Maybe they were wrong 3 months ago. Maybe they are wrong today. If June's forecast is better than one made in March, July's will be better still. Next month, we will mark up the second resolution. That is the time when revisions should be made in our assumptions and goals—not now.

If, in fact, we are going to have a deficit in 1981, the best thing we can do about it is to hold total spending to the lowest possible levels now. The economy may upset our plans for balanced books. But we can hold the line on discretionary spending despite the twists and turns of an unpredictable economy.

This budget is the toughest spending plan ever proposed to the Senate. But despite that, this budget responds to our most pressing domestic needs.

It does not fulfill anyone's ideal wish list. That is not easy to accept. We are all eager to cut "fat" out of Government. But few are willing to settle for margarine where their own bread is buttered. And settle we must if we are to restore fiscal discipline.

But despite the restraints which such a policy imposes, this budget is not "balanced on the backs of the poor." It does not short change those poor, unemployed, and elderly Americans who must rely on Federal help.

I have already discussed the jobs, and income assistance contained in this budget. But there is much more to ease the burden of the disadvantaged.

The budget increases education programs for the poor and handicapped by 10 percent in 1981 and by 29 percent over the 1979–81 period.

It expands the Head Start program by 11 percent, an expansion that will bring an additional 13,000 children into the program.

Mr. President, this budget provides ample resources to create jobs, feed the hungry, attend to the needs of the elderly, educate the young, and otherwise provide for the truly needy.

But the poor are inflation's most helpless victims. We must provide the necessary resources to ease their immediate burdens. But we must not lose sight of the fact that those burdens cannot be lifted until inflation is brought under control.

This budget allows room for programs that are essential to solving our energy problems.

It provides for the full amount of the President's 1981 request for the strategic petroleum reserve.

It provides ample funding for energy supply initiatives, including two solvent-refined coal plants.

It provides a major increase over current law of $1.2 billion for the President's mass transit energy initiatives in 1980 and 1981. That amount is in addition to the existing mass transit program of $3.7 billion each year—in fiscal 1980 and fiscal 1981.

But this budget allows no room for programs that are "nice to have" but cannot pull their weight during a time of economic emergency.

Finally, Mr. President, the agreement revises the 1980 budget to make room for essential supplementals for vital national priorities such as defense, food stamps, black lung and medicaid benefits, child nutrition, the space shuttle program, and disaster aid.

It provides full funding for the child welfare services reform. It provides full funding for the conference report on title 20, which will allow for generous grants to the States for social services such as day care and assistance for the disabled.

It sustains the present level of support for the vocational rehabilitation program and for the meals-for-the-elderly program.

It expands our efforts to accommodate the current new influx of refugees by tripling the size of the program compared to its 1979 level.

It increases the program of low-income energy assistance that was initiated in 1980.

It provides funding for 264,000 additional new units of federally assisted housing for 1981.

It provides a 14.3-percent increase for veterans' pensions and an 11.8-percent increase for veterans' service-connected disability compensation. It also allows for additional funds for VA hospital construction and health care, and provides for the full 10-percent cost-of-living increase under the GI bill as requested by the President.

It contemplates a 1981 cost-of-living increase for social security recipients totaling $18 billion. It also calls for full Federal retirement cost-of-living increases on a once-a-year basis, totaling $3.2 billion.

It contains, as I have mentioned, almost a 40-percent increase in food stamp funding.

Events completely beyond the power of Congress to control have used up all of the room in last fall's second resolution for 1980 for supplemental funding. The revisions contained in this conference agreement restore most of the flexibility that is needed to accommodate indispensable supplementals.

Mr. President, the third major element of this conference agreement is its provision for a stronger national defense.

Senators have heard the arguments, pro and con, for a major effort to revive the strength of our defenses. Senators have watched the Soviets go on about the business of the most massive military buildup in history. Senators have seen the evidence and heard the testimony regarding the half-hearted response that we have so far decided to offer.

Some notice should be given to those downtown and on the Hill who persist in telling the American people that we need to spend more on parks and less on weapons—that it is more important to build all the highways we can than to build aircraft—that the preservation of Saturday mail delivery is more critical than the preservation of an effective nuclear deterrent.

Mr. President, let me review just a few of the relevant facts.

Our navy is supposed to cover three oceans. The Chief of Naval Operations testified last month that we can barely stretch across an ocean and a half. And we are told that this budget contains too much for defense.

We have a three division Marine Corps and amphibious lift enough to accommodate only one. And we are told that this budget contains too much for defense.

Military pay and benefits are so low that servicemen and their families qualify for welfare. The Navy is short 26,000 noncommissioned officers. The Army is short 46,000 noncommissioned officers. The Air Force is short 2,500 pilots. By next year, it will be 3,500 pilots. The Reserve and National Guard are 500,000 men and women under strength. And we are told that this budget contains too much for defense.

We are supposed to have a mobile Army. But the Army is 60,000 vehicles shy of its needs. And we are told that this budget contains too much for defense.

Mr. President, we are told that this budget exceeds the 3-percent growth commitment we made to NATO in 1977. As the trend lines continue to develop and the Soviets develop their advantages in one, then another, then another measurement of military strength, I wonder how impressed the Kremlin will be when the President warns them that we have met our commitment to 3-percent growth.

Whether we like it or not, the decisions we make in this Chamber will spell the difference between military sufficiency and military inferiority in the 1980's. This conference agreement will let us begin to get the job done.

The provisions of the defense budget, beyond the President's recommendations, are focused on three objectives—providing sufficient pay and compensation to attract and retain capable military personnel, expanding operations and maintenance to allow for adequate training, flying and steaming time, repairs, and Indian Ocean operations, and increasing procurement and research and development sufficiently to meet our need for hardware.

Mr. President, this defense budget is anything but excessive. It is barely adequate to begin the long effort to restore credibility, readiness, and simple sufficiency to our military forces.

We cannot afford not to make that critical investment in the safety and freedom of the American people.

Mr. President, beyond its provisions for a stringent fiscal policy, a balanced budget, a strong defense, and pressing social needs, this conference agreement contains a milestone in the history of the budget process. For the first time, it contains reconciliation instructions which are designed to insure that savings actually happen.

Last fall, it was argued that reconciliation was not needed to achieve the savings called for under the budget resolution. Subsequent events proved that argument wrong. This time, reconciliation will back up our savings assumptions with the full force of law.

At first glance, it may seem that the conference agreement on reconciliation of $4.95 billion in budget authority and $6.4 billion in outlays for 1981 is a substantial reduction from the Senate-passed savings. But those savings have not gone away. Technical adjustments account for roughly two-thirds of the reductions.

There has been no retreat from the reconciliation strategy the Senate accepted a few weeks ago. Reconciliation instructions will play a vital role in our efforts this summer to implement our budget policy.

Let me touch on two more important points. First, this conference agreement establishes new means for achieving tighter controls on Federal credit programs—programs that have grown much faster than direct spending.

Second, it provides new enforcement mechanisms to better promote the integrity of the budget ceiling we set.

Mr. President, this budget is worthy of the Senate's approval. I am confident that the Senate will approve it.

And yet, one of our colleagues on the Budget Committee has already risen to express his lack of satisfaction with the agreement arrived at by the conferees. Yesterday, the distinguished Senator from Colorado told the Senate that we should "send the conferees back to that bargaining table"—that we should insist on "reducing substantially" the Federal expenditures this budget calls for—that we should insist on a budget "more nearly in balance."

Mr. President, let me make two simple points. First, many Senators would like to see a lower spending total. Back in April, the Senator from Colorado and I voted together in markup for cuts well beyond those represented here.

But the Senator and I have two votes between us. There are 535 votes in the Senate and House of Representatives. Only an agreement that fairly and responsibly balances the priorities of a majority can win the approval of Congress. That is what a workable and reasonable budget is all about. This is such a budget.

Second, Mr. President, if we go back to conference, the level of spending called for in this budget will indeed be revised—up, not down—that is, if we can get any agreement at all.

In the House's consideration of the original conference agreement, we have seen the lay of the land in the other body. The Senator from Colorado spoke yesterday of "unrealistic" thinking on the part of the conferees. But surely, the Senator must know what the realistic results will be if the House gets yet another crack at providing more for this group and more for that one—more countercyclical this and more antirecessionary that.

We have struck a reasonable bargain with the House. If the Senate sends us back, we will face an unattractive choice—an unreasonable bargain, or no bargain at all.

In the alternative, if the Senate were to adopt an amendment to this resolution, including the one to be offered by the distinguished Senator from Alabama, there will simply be no first budget resolution. After so many weeks of hard bargaining and painfully constructed compromise, the House simply cannot be expected to toss the package out and work in yet another change.

If any amendment is endorsed by the Senate, there will likely be no conference agreement at all. There will be no restraint whatever on the course of Federal spending.

We have fashioned a budget compromise that provides for a stronger defense and for the essential needs of our society. It does so in the context of unprecedented restraint on total spending. Even if the economy eventually unbalances this budget agreement, we will have achieved all that is within our power—sensible priorities, and the most stringent spending program we have ever agreed to adopt.

In closing, Mr. President, let me address another element of the remarks delivered yesterday by our able colleague from Colorado. The Senator suggests that the budget process should be judged not by the volume of its work, nor by the quality of its leadership, but by its results. Fair enough. Let's take a look at those results.

Between 1970 and 1975, before the budget process came into being, Federal outlays grew at an annual real rate of 3.4 percent, for a total of 18 percent in real terms during that period. But that is only part of the story. During that period of time, defense outlays declined at a real annual rate of 5.8 percent, while nondefense outlays mushroomed at an annual real rate of 8.2 percent.

How did that picture change after the budget process was established?

From 1975 to 1980, total real growth in Federal outlays slowed to a rate of only 2.2 percent. Defense outlays grew at an annual rate of 2.2 percent, and nondefense outlays at a rate of less than 2.3 percent. And the total budget grew 15 percent compared to the 18 percent rate of the 1970–75 period.

I ask that a table documenting that the budget process has indeed acted to control budget growth be printed at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

The Congressional Budget Process Has Slowed Budget Growth

The following tables show that total budget growth in real terms has declined significantly under the Congressional budget process compared to the five-year period which preceded it. The annual growth rate in the total budget has been cut by 35 percent under the budget process, and the annual growth rate in non-defense spending has been reduced by 72 percent.

Although the 1975–81 budget process period is longer than the 1970–75 period, the rate of annual budget growth in current (inflated) dollars has also been reduced, even though the annual growth rate for defense has increased from 1.7 percent to 9.8 percent in current dollars under the budget process.

The annual growth rate in current dollars in non-defense spending has been reduced from 15.3 percent a year in the 1970–75 period to 10.9 percent a year under the budget process.

Overall non-defense spending for the six-year period of the budget process is significantly lower than non-defense spending in the five-year period which preceded it.

[In percent]

	Real growth			
	1970–75		1975–81	
	Total growth	Growth per year	Total growth	Growth per year
Total budget	+18.0	+3.4	+14.8	+2.2
Defense	−25.7	−5.8	+14.4	+2.2
Non-Defense	+48.5	+8.2	+15.0	+2.3
	Growth in current dollars			
Total budget	+65.9	+10.7	+88.1	+10.6
Defense	+8.9	+1.7	+79.6	+9.8
Non-Defense	+103.9	+15.3	+91.1	+10.9

Mr. HOLLINGS. Mr. President, what is more, that rate of growth of less than 2.3 percent in nondefense spending is anything but a record of reckless spending on frills and public handouts. Of that 2.3 percent, 2.2 is accounted for by six parts of the domestic spending picture.

Energy spending has grown at a real annual rate of 11.2 percent.

The Federal aid highway program and mass transit spending have grown at a rate of 3.2 percent.

Medicare and medicaid have grown at a real rate of a full 7 percent.

The total annual rate of increase for civilian retirement programs has been 4.1 percent.

Outlays for black lung benefits have increased at a rate of 2.6 percent.

And payments of interest on the national debt have increased at a rate of 5.1 percent.

I doubt that there is a single Senator who would characterize any of these programs as needless or ill-considered. Together, they have increased at an average, real annual rate of 4.9 percent. So that 2.3 percent total average increase for nondefense programs begins to take on its real coloration.

Mr. President, under the budget process, we have demonstrably reversed the trend of Federal spending. We have reversed the ill-conceived priorities of prior days.

That is a record of success. And this budget resolution accelerates the new and welcome trend. From 1979 to 1981, under the terms of this agreement, outlays for defense will have grown at a real annual rate of 4.5 percent. Nondefense outlays will have declined at a rate of 0.4 percent.

The Senator from Colorado has asked the Senate to look at the product of the budget process—over the years, as well as in this resolution. That is sound advice. I hope the Senate will heed it well.

Mr. President, there are 535 Senators and Congressmen. There are 535 "ideal" budgets. Sometimes, many of us tend to think that there is only one route to fiscal salvation.

We tend to think like the Baptist minister who gave a talk to a group of Methodist colleagues. "We're all doing God's work," the minister said, "you in your way, and I in His."

This budget is not constructed exactly in the way any one Senator would have chosen. But this budget sets sound priorities. It establishes stringent, unprecedented restraints on the Federal purse strings. It is a product which deserves the support of the Senate. It is a plan for getting this country back on the road to economic health and full strength and vitality.

I urge the Senate to vote its approval.

I ask that two tables be printed in the RECORD at this point which compare the budget agreement to the Senate-passed and House-passed resolutions.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1981 BUDGET

[In billions of dollars]

	House passed	Senate passed	Tentative agreement	Tentative agreement compared to	
				House	Senate
Budget authority	694.6	688.2	697.2	+2.6	+9.0
Outlays	611.8	613.1	613.6	+1.8	+.5
Revenues	613.8	613.2	613.8	----------	+.6
Surplus	2.0	.1	.2	−1.8	+.1
Public debt	926.8	927.7	935.1	+8.3	+7.4
050—National defense:					
Budget authority	160.8	173.4	170.5	+9.7	−2.9
Outlays	147.9	155.7	153.7	+5.8	−2.0
150—International affairs:					
Budget authority	24.0	23.3	23.6	−.4	+.3
Outlays	9.6	9.6	9.5	−.1	----------
250—General science, space, and technology:					
Budget authority	6.7	6.4	6.6	−.1	+.2
Outlays	6.3	6.1	6.1	−.2	----------
270—Energy:					
Budget authority	7.5	3.8	6.7	−.8	+2.9
Outlays	7.1	6.8	6.8	−.3	----------
300—Natural resources and environment:					
Budget authority	12.0	11.5	11.7	−.3	+.2
Outlays	12.4	11.9	12.1	−.3	−.2
350—Agriculture:					
Budget authority	5.4	5.6	5.5	+.1	−.1
Outlays	2.3	2.3	2.3	----------	----------
370—Commerce and housing credit:					
Budget authority	5.1	5.4	5.1	----------	−.3
Outlays	−.1	.5	----------	+.1	−.5
400—Transportation:					
Budget authority	22.8	19.75	22.1	−.7	+2.35
Outlays	19.5	18.05	18.75	−.75	+.7
450—Community and regional development:					
Budget authority	9.0	8.8	8.8	−.2	----------
Outlays	9.4	9.2	9.2	−.2	----------
500—Education, training, employment, and social services:					
Budget authority	33.3	28.9	31.7	−1.6	+2.8
Outlays	30.7	28.0	29.5	−1.2	+1.5
550—Health:					
Budget authority	71.5	70.7	71.2	−.1	----------
Outlays	61.8	61.7	61.7	−.1	+.5
600—Income security:					
Budget authority	252.1	245.2	249.5	−2.6	+4.3
Outlays	220.1	218.2	219.55	−.55	+1.35
700—Veterans benefits and services:					
Budget authority	21.7	21.85	21.7	----------	−.15
Outlays	21.2	21.25	21.2	----------	−.05
750—Administration of justice:					
Budget authority	4.2	4.3	4.2	----------	−.1
Outlays	4.6	4.6	4.6	----------	----------
800—General government:					
Budget authority	4.7	4.6	4.6	−.1	----------
Outlays	4.6	4.3	4.3	−.3	----------
850—General purpose fiscal assistance:					
Budget authority	6.2	7.2	6.2	----------	−1.0
Outlays	6.8	7.5	6.8	----------	−.7
900—Interest:					
Budget authority	72.2	72.2	72.2	----------	----------
Outlays	72.2	72.2	72.2	----------	----------
920—Allowances:					
Budget authority	----------	----------	----------	----------	----------
Outlays	----------	----------	----------	----------	----------
950—Undistributed offsetting receipts:					
Budget authority	−24.6	−24.7	−24.7	−.1	----------
Outlays	−24.6	−24.7	−24.7	−.1	----------

FISCAL YEAR 1980 BUDGET

[In billions of dollars]

	House passed	Senate passed	Tentative agreement	Tentative agreement compared to	
				House	Senate
Budget authority	660.3	653.7	658.85	−1.45	+5.15
Outlays	571.6	566.4	572.65	+1.05	+6.25
Revenues	528.8	528.9	525.7	−3.1	−3.2
Deficit	42.8	37.5	46.95	+4.15	+9.45
Public debt	896.7	895.1	903.6	+6.9	+8.5
050—National defense:					
Budget authority	142.5	143.7	143.7	+1.2	----------
Outlays	134.2	134.0	135.7	+1.5	+1.7
150—International affairs:					
Budget authority	15.8	15.2	15.2	−.6	----------
Outlays	10.7	9.9	10.5	−.2	+.6
250—General science, space, and technology:					
Budget authority	6.1	6.2	6.2	+.1	----------
Outlays	5.9	5.	5.9	----------	----------
270—Energy:					
Budget authority	40.3	37.9	38.4	−1.9	+.5
Outlays	6.4	6.5	6.4	----------	−.1
300—Natural resources and environment:					
Budget authority	12.3	12.2	12.6	+.3	+.4
Outlays	13.2	12.9	13.4	+.2	+.5
350—Agriculture:					
Budget authority	5.0	5.0	5.0	----------	----------
Outlays	5.9	5.9	5.9	----------	----------
370—Commerce and housing credit:					
Budget authority	11.6	11.7	11.7	+.1	----------
Outlays	6.1	5.5	6.1	----------	+.6
400—Transportation:					
Budget authority	21.0	19.7	20.5	−.5	+.8
Outlays	20.1	19.5	20.2	+.1	+.7
450—Community and regional development:					
Budget authority	8.7	8.6	10.0	+1.3	+1.4
Outlays	9.2	9.1	9.8	+.6	+.7
500—Education, training, employment, and social services:					
Budget authority	29.9	29.3	29.6	−.3	+.3
Outlays	30.1	29.9	29.9	−.2	----------
550—Health:					
Budget authority	59.9	59.8	59.8	−.1	----------
Outlays	56.5	56.5	56.5	----------	----------
600—Income security:					
Budget authority	224.8	223.0	224.8	----------	+1.8
Outlays	191.7.	190.0	191.7	----------	+1.7
700—Veterans benefits and services:					
Budget authority	21.0	21.2	21.2	+.2	----------
Outlays	20.3	20.5	20.5	+.2	----------
750—Administration of justice:					
Budget authority	4.3	4.2	4.3	----------	+.1
Outlays	4.4	4.4	4.4	----------	----------
800—General government:					
Budget authority	4.5	4.5	4.5	----------	----------
Outlays	4.4	4.4	4.4	----------	----------
850—General purpose fiscal assistance:					
Budget authority	8.8	8.3	8.55	−.25	+.25
Outlays	8.8	8.3	8.55	−.25	+.25
900—Interest:					
Budget authority	65.1	65.5	65.1	----------	−.4
Outlays	65.1	65.5	65.1	----------	−.4
920—Allowances:					
Budget authority	1.0	----------	----------	−1.0	----------
Outlays	.9	----------	----------	−.9	----------
950—Undistributed offsetting receipts:					
Budget authority	−22.3	−22.3	−22.3	----------	----------
Outlays	−22.3	−22.3	−22.3	----------	----------

Mr. HOLLINGS. Mr. President, I yield to my distinguished colleague from Oklahoma.

Mr. BELLMON. Mr. President, I support the budget conference agreement before us now. The agreement has taken a great deal of patience, time, and energy. The end result is a tight budget and is a direct response to our country's need for fiscal restraint and Government efficiency, as well as a balanced Federal budget and a stronger national defense. It is no small feat to have accomplished these goals while maintaining adequate levels of social spending. This budget reflects many compromises and much give and take by the conferees.

Never before in the 5-year history of the budget process have budget conferees had to deal with the extreme differences that faced conferees of the House and Senate over the past few weeks.

I would like to thank and compliment our distinguished chairman, Senator HOLLINGS, for his competent and tireless leadership throughout the conference and the 2 weeks of negotiating which followed the resolution's defeat in the House of Representatives. There were times when it appeared that agreement would not be possible. Senator HOLLINGS forcefully advocated the Senate's position, yet he was open to rational compromises. He demonstrated statesmanship which made the budget resolution possible. He took over the chairmanship of the Budget Committee just 1 week before conference, at a crucial point in the evolution of the budget process. Since then, he has demonstrated that budget leadership in the Senate is in good hands and will be carried forward with intelligence, dedication, and with sensitivity to the views of all Senators.

I also express my gratitude and admiration to Senator DOMENICI. His eloquence and leadership have certainly been evident throughout the many conferences these last few weeks, just as they have been since the beginning of the budget process. Without his support and hard work, the budget process would certainly be less substantive and meaningful.

Also, I compliment the staffs, both on the majority and minority sides. They are highly competent, dedicated, hardworking, diligent individuals who are determined to make this process work. Without their help, the progress we have made would have been impossible.

Mr. President, the fiscal year 1981 budget contained in the conference agreement is balanced at an aggregate spending target of $613.6 billion with revenues of $613.8 billion. The surplus of $0.2 billion is not of sufficient magnitude to provide any room for new spending without causing imbalance.

The hard work is only beginning. It will take restraint, determination, constant vigilance and a strengthened economy to achieve balance during 1981.

Some commentators have already begun to anticipate a budget deficit in fiscal year 1981 because of a weakening economy. This Senator, for one, is not yet prepared to accept that notion, though I have never had the illusion that balance would be easily achieved. There are many changes in the economy which will impact spending and revenues. Interest rates are below our expectations. Unemployment is higher. We cannot responsibly develop a budget if we change our numbers with every monthly economic report or every economic forecast. What we do know, Mr. President, is that we must move toward balance as best we can; and because of this, any reestimate toward a growing deficit should not be welcomed as a legitimate excuse to throw caution and fiscal restraint to the wind.

This budget calls for the first reduction in the level of real Government spending in the history of the budget process—a reduction of 2.9 percent in real terms from fiscal year 1980 to fiscal year 1981. By adhering to the spending targets established in this resolution, Congress will produce the first balanced budget in over a decade, the third in the last 25 years, and only the ninth since the beginning of the Great Depression.

Mr. President, this conference agreement is historic in a second important respect. The agreement contains a reconciliation instruction that requires eight committees in the House and nine in the Senate to report by June 25 legislative savings and other recommended program reductions totaling $4.95 billion in budget authority and $6.4 billion in outlays in fiscal year 1981. Unless this instruction is met, balance will be impossible.

The agreement also requires the Appropriations Committees of both Houses to report by June 25 legislation reducing fiscal year 1980 spending by $3 billion in budget authority and $1 billion in outlays. The inclusion of the reconciliation instructions in this agreement is the first time that both Houses have agreed to use the reconciliation process. The Senate tried to include reconciliation directives in the second budget resolution last fall, but the House balked. In my view, the use of reconciliation is an important step forward toward Federal fiscal responsibility.

In the 5-year history of this process, it has become unquestionably clear that the budget must reflect a longer view, rather than simply being a set of temporary judgments responsive to shifting political pressures. Once again, this budget resolution reflects further progress toward multiyear budgeting. This resolution contains out-year costs for each budget function for both the House and the Senate for the first time. While the fiscal year 1982 and fiscal year 1983 figures are different for the two Houses, I believe future budget resolutions will contain agreements on out-year programs. The day is not far off when Congress will be able to more effectively use the budget process to plan longer range policies.

Mr. President, it is true that the spending targets in this budget provide for substantial increases in defense spending for fiscal year 1981 and beyond. Defense spending for fiscal year 1981 totals $170.5 billion in budget authority and $153.7 billion in outlays. The growth in real terms is 8 percent in budget authority and 3.1 percent in outlays.

This budget will accommodate significant increases in pay and other compensation for our military personnel. This will accommodate the so-called Nunn-Warner military compensation proposals and, for the first time in 5 years, provide for a full comparability pay raise for enlisted military personnel. The budget resolution will also accommodate vital increased funding for operations and maintenance and higher fuel prices. There can be no argument that all of these increases are needed. The resolution meets the 3 percent real growth target for outlays and also sets a sustainable pattern for out-year defense spending.

I would like to point out to the Members of the Senate that the outlay target for national defense in the conference agreement is $153.7 billion while the President's revised March budget request for national defense was $150.5 billion in outlays. Preliminary calculations by the Congressional Budget Office indicate that the President's recommended spending program will actually require an additional $2.6 billion, bringing his total to $153.1 billion.

The President has agreed to support a new package of military personnel benefits, similar to the Nunn-Warner proposals assumed by the Senate budget resolution. This package of benefits is estimated to add at least an additional $700 million to the President's request. This brings the President's own proposals, as recalculated, to $153.8 billion—essentially the same as the amount in the conference agreement for the first concurrent resolution for national defense outlays.

Mr. President, I want to reemphasize that spending targets must be viewed in a multiyear context—not merely as a 1-year set of numbers. In constant dollar terms the defense category has grown by only 2 percent per year in the 5 years prior to 1980. This compares to a 7-percent-per-year growth for income security programs—over three times as much. Moreover, a 12-percent-per-year growth for health programs is included as is 7 percent per year for interest on the public debt, and 10 percent per year for education programs. This reduced emphasis on military preparedness has seriously eroded military procurement, operations and maintenance.

It is inconceivable that any nation, especially one with the wealth of the United States would fail to provide adequate pay for its defenders. In recent years, this Nation has concentrated on providing dramatic increases in social programs and benefits to our Nation's poor. This is an objective that I have supported. But I cannot imagine a more debilitating result than for us, at the same time, to create a new poverty class in our voluntary armed service personnel. I oppose the draft and support the continuation of the voluntary armed services. But the All-Volunteer Force concept cannot survive if we do not provide adequate compensation to support increased recruitment and retention of personnel.

Even with increased emphasis on national defense needs, a Federal budget which totals $613.6 billion as this one does obviously contains huge amounts for domestic programs. Because of the overriding need to increase defense and to reduce the real level of spending, other Federal programs, excluding interest, are held to a 4.3-percent increase in current dollar terms and are reduced 5.6 percent in real terms in this budget. This involved difficult choices among priorities and among programs.

For example, in the income security function, the single largest difference between the President's budget and the conference agreement is the fact that the conference agreement assumes that the low income energy assistance program will be funded in fiscal year 1981 at the same level as in fiscal year 1980. That program has grown ninefold since fiscal year 1979 and the conference agreement assumes that it will not be expanded further in the coming year. The President, I might add, wanted $600 million more—a 38-percent increase.

Other cuts from the President's budget reflect reestimates and less significant policy disagreements and do not reflect major policy shifts. The conference agreement simply slows down growth in domestic programs. It does not reduce funding for most of those programs. Funding for the food stamp program, for example, was substantially increased in the conference agreement to a level slightly higher than requested by the administration because of the somewhat more pessimistic economic assumptions on which the congressional budget is based. We were forced to give up in conference on $0.8 billion in legislative savings in the food stamp program that the Senate had included in its resolution. The resolution now assumes only the $0.6 billion in savings reflected in S. 1309 signed by the President earlier.

Similarly, the conference accepted the administration's request to include in the amendment to the fiscal year 1980 second budget resolution an additional $2 billion in budget authority and $1 billion in outlays for disaster relief and refugee assistance over and above the levels contained in the Senate resolution. These additions further refute the charge that this is an insensitive, heartless budget and any complaints that the White House might have regarding the conference agreement can only be attributable to a misunderstanding of their own budget or election year chatter. In summary, Mr. President, it is factually inaccurate to characterize the conference agreement as robbing social expenditures to support the military. It may be good election year rhetoric but it is neither fair nor accurate.

Again, the conference agreement like others before it points up the very real problem of controllability of Federal expenditures short of changing existing law and the limited ability of the Congress to make discretionary choices among programs because of the rising cost of inflation indexing for transfer programs. This resolution provides for a total increase of $15.85 billion from fiscal year 1980 to fiscal year 1981 for outlays for functions other than defense and interest. Cost-of-living adjustments for indexed benefit programs will cost $22 billion in fiscal year 1981. This means that other programs have been cut to make room for the cost-of-living increases.

Section 13 of this resolution calls upon the President to review current indexing procedures and to report to Congress by November 30, 1980, and include in his next budget his recommendations for appropriate changes in indexing policies and practices. I would hope that during the coming months Congress will also review indexed programs and be prepared to make needed changes next year to eliminate overindexing, reduce cost and improve equity in these programs. I do want to point out that this budget resolution assumes over $1 billion in savings in fiscal year 1981 from adoption of once-a-year rather than twice-a-year cost-of-living adjustments for the Federal civilian retirement, military retirement, food stamps, and child nutrition programs. This will make indexing in these programs more consistent with social security and other indexed programs which are adjusted annually.

Mr. President, like any agreement that is the product of argument and compromise, none of us is pleased with every decision that has been made, nor with every program that is included, nor with every program that was cut in this resolution. Yet this is Congress budget and it must reflect congressional priorities—not those of any single party, persuasion or ideology. The budget process continues to be a serious attempt to bring order and thoughtfulness in place of what was fiscal chaos prior to creation of the budget process. I am convinced that the benefits of the budget process far outweigh the costs of compromise. I am convinced that the controversy that has surrounded this conference report and the difficulty that the conferees faced in reaching final agreement has strengthened the budget process and made it more useful. Mr. President, again I recommend adoption of the conference report.

Mr. President, there will be arguments about whether the budget is in balance. It is in balance, using the assumptions we have made. Those assumptions will be updated as economic changes occur.

In all sincerity, I feel that this is the best budget we can get, when we take into consideration the attitude on the House side, where the budget was approved by a margin of only six votes.

I strongly urge every Member of the Senate, even though they may not like this budget in its entirety, to recognize that this is the budget we can get, and approve it, so that we can get on with the appropriations bills and supplemental bills, and avoid the paralysis that will occur in this country if the budget resolution is held up any longer.

Mr. HOLLINGS. Mr. President, I think the Members on both sides of the aisle will agree that the Rock of Gibraltar in our budget process has been the distinguished Senator from Oklahoma (Mr. BELLMON). He stuck with us throughout. He guided us. His stability and guidance have made my task, as a newcomer to the post, not only fruitful, in the sense he has described, but also very enjoyable. I am indebted to him.

I also am indebted to the Senator from Florida (Mr. CHILES). No one works harder on our budget process. He is in attendance at all the conferences and makes a most valued contribution.

The Senator from New Mexico (Mr. DOMENICI), in his debate and in his presentations, has kept us on an even keel, and I am indebted to him.

Even though we could not agree, I am indebted to the distinguished Senator from Colorado, because he is genuine in his position. He also attended all the meetings and was of help to us.

I yield to the Senator from Colorado.

The PRESIDING OFFICER. Is this the 15 minutes that the Senator from Colorado is guaranteed?

Mr. ARMSTRONG. Mr. President, I believe it has been arranged for me to address the Senate for 15 minutes. If I may, I should like to reserve 3 minutes of that time and consume 12 minutes now.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I very much appreciate the generous remarks of the distinguished chairman, who knows of my great admiration, respect, and affection for him.

I need not elaborate on what I said yesterday. The chairman and the ranking minority member have done an extraordinary job and have fulfilled the commission of the Senate with great faithfulness and great distinction.

It so happens that I disagree with the conclusion they have reached. But that does not in any way lessen my friendship and respect for them. They really have done an extraordinary job, and may I say again that they have done an extraordinary job under very trying and difficult circumstances.

However, I wish to say—particularly to the Senator from Oklahoma, who mentioned that this budget is in balance, based on the assumptions that have been made—that if I were to assume I was Robert Redford, I would go to Hollywood and make movies and get $2 million a picture; and that would be about as realistic a presumption as those that produced the conclusion that this budget is in balance.

For those who are arguing that the 1981 budget is well in balance, I call their attention to a book entitled "The Emperor's New Clothes," which recites the ancient fable of the emperor who was swindled by a group of people who claimed to be master weavers. He was enticed into going out in public wearing an invisible suit of clothes. Of course, at the crucial moment, just as he was leading a parade and was marching down Main Street, a child, who was not afraid to say so, pointed out that he was completely undressed.

Does anyone in the Chamber recall the reaction of the emperor under those circumstances? How did he react? His reaction was to tremble, because he knew it was true, and then to do nothing. So he straightened up and continued marching down the middle of Main Street, and the whole parade marched down after him.

That is exactly what is happening on the budget. We know the budget is not balanced. Practically every Member of the Senate knows it. Economists know it. Newspaper writers know it. It is not a balanced budget, and the whole world will realize that in 30 or 40 days. Within 3 months we will be back with the second budget resolution, and everybody is going to admit that this budget is way out of balance.

I put in yesterday's RECORD, for the interest of Members and friends, a discussion at some length of why I believe this budget is out of balance, and the names of some of the prominent economists and newspaper writers who share this assumption.

Just to put it in perspective, I am convinced that, as it stands now, the 1981 budget is at least $25 billion out of balance. Other economists, people who are knowledgeable far beyond my own insight, think it is some $25 billion to $60 billion out of balance.

The thing that concerns me even more, however, is not the fact that revenues and expenditures are not closely in balance but the fact that this budget continues the extravagant increases in spending which have been customary in recent years.

In yesterday's RECORD, I called the attention of Members of the Senate to a table of budgetary trends showing, function by function, how far we have come and how quickly the budget has doubled in many functional categories during the last 4 years.

There are reasons why I am concerned about and am opposed to the adoption of this budget. First, it is an inflationary budget. There are huge deficits in 1981, in my opinion; but even the committee recognizes that there is a vast increase in the budget deficit for the current fiscal year—a budget deficit approaching $47 billion, according to the committe's figures, and which, in my estimation, will top $50 billion before the year ends.

Moreover, I point out that the budget resolution does not leave room for a tax cut. Virtually every prominent economist in the country today says that what this country needs to stimulate productivity and to restore some zip and vitality to our economy is a tax cut. That is what Arthur Burns says, as well as Walter Heller.

A lot of others, including many in this Chamber, have said that this budget does not permit that. It does not permit it despite the best economic advice; nor does this budget accommodate the kind of tax cut which is politically almost inevitable.

Even now, you can hear around Washington the rumors that the President is backing away on his no-tax-cut stand and that by the middle of the summer or early fall, he will send up a tax cut. My sources tell me that if the President does not move by the time of the Democratic National Convention, the Speaker of the House has a package ready, and he is going to move with a tax cut whether Mr. Carter does or not.

That is not accounted for in this budget. Indeed, to the contrary, this budget calls for not a tax but for a tax increase—an increase that not only contends for the spending of every dime of the already legislated tax increase that is on the books but, in addition, supposes that the Congress of the United States will pass new tax measures, including that masterfully wrong-headed withholding tax on savings accounts, which is not only unwise economically but also is the most unpopular tax measure to come down the pike in my years in Congress.

I am calling for the defeat of this budget resolution, and I want to address directly what some people have said to me privately when I have asked them to vote against this measure.

Some of them have said: "I sure would like to be with you. The budget is too high. But I have to support the budget resolution because it contains a high defense number."

This is not a high nor even an adequate defense budget, in my opinion.

The proper measure of how much is enough for defense is the magnitude of the threat posed to the security of this country by the Armed Forces of the Soviet Union. That central reality is rapidly becoming lost in election year squabbling over budget priorities.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I will when I have completed my statement but I think I perhaps should not until I have done so but I will be happy to in just a very few minutes, particularly if the Senator intends to question me about the book which he has purloined from my desk.

Mr. DOMENICI. I want to talk about the Emperor. The Senator has forgotten the Emperor. I wanted to talk about it.

Mr. ARMSTRONG. For the moment, I wish to continue about the Russians.

Mr. DOMENICI. I thank the Senator.

Mr. ARMSTRONG. Despite the Soviet invasion of Afghanistan and ominous reports of Soviet stockpiling, the proposed levels of spending for U.S. defense have been going down not up since the 1981 budget process began.

The Senate Armed Services Committee told the Senate Budget Committee that, in its judgment, the minimum ceilings for defense should be $176.5 billion in budget authority and $157 billion in outlays.

The Budget Committee trimmed these proposed ceilings to $173.4 billion in budget authority and $155.7 billion in outlays. The conference report slashes these numbers to $170.5 billion in budget authority and $153.7 billion in outlays.

The conference report represents a real growth in defense spending of only about 3 percent for fiscal 1980. The defense portion under this budget will represent only about 25.1 percent of the Federal budget as compared with 35.9 percent 10 years ago.

This is not a high defense number. This is not, in my judgment, an adequate defense proposal.

A second objection to killing this resolution that I have heard is if we do not pass this we are going to get something worse. That rests on the assumption that the only possible budgetary coalition that can be put together in the Senate and House of Representatives is a coalition for more and more spending.

I suggest to my colleagues that there are a lot of people in this Chamber and in the other body who will vote against the budget because they think it is too high not too low, and thus when 196 Members of the other body vote against many of them in my judgment they will be prepared to vote for a budget that showed great restraint and left room for a tax cut.

Third, I am told that we have to vote for this budget, bad as it is, because we must somehow preserve the budget process. That is nothing more nor less than the classic argument that the end justifies the means.

I ask my colleagues whether or not in this particular case the end does justify the means. Do we strengthen the budget process by adopting a budget so far out of balance? Do we strengthen the budget process by pretending that it is in balance when in our hearts we know it is not?

I know someone is going to argue that this is the wrong time to adjust our budgetary and economic assumptions and thereby give recognition to the unbalanced budget. But that is just as if 5 minutes before it hit the iceberg the radio operator of the Titanic had received a message that there was an iceberg ahead and the captain of the ship had said: "No, we are on a course that was laid out long ago. We cannot change it now."

I will just tell Senators that this country's economy is on a course that has been laid out a long time ago and we are about to hit an iceberg. There might be still time to correct our direction and avoid the worst consequences of the kind of fiscal irresponsibility of which in my judgment this budget is typical.

Then I have been told, "I would like to vote with you and kill this budget resolution but it just is not practical, you just have not got the votes, so I have to go along with something that is going to pass." That could be. That could be true. But it did not pass by very much in the other body.

And when the Senator from Delaware and I offered an amendment in this Chamber a few weeks ago we did not miss cutting the budget substantially by more than a handful of votes. So I guess I feel that there is still a chance even at this late hour that a majority in this Chamber might be willing to exercise the degree of fiscal responsibility that I think is needed.

In any case, Mr. President, I do not think that the validity of an idea is measured by its popularity. I am told that when the Gulf of Tonkin resolution went through this Chamber there were only a handful of votes against it and yet in subsequent years it is seen to have been a mistake, just as I think passage of this resolution will be seen not years from now, only a few weeks from now, to have been a mistake.

This is a budget which contributes more to inflation, more to rising unemployment, more to the stagnation of the stock market, which will foster further declines in the Nation's productivity, which will continue to give investors every incentive to escape from investments in our currency and instead to invest in gold and other precious metals and, worse of all, this is a budget which in my judgment will do much to continue to foster the almost total cynicism of the general public towards the fiscal horse sense of Congress.

In every respect in my opinion, and I say this with the utmost regard for those whose opinions are different than my own and whose judgment I respect——

The PRESIDING OFFICER. The Senator has used 15 minutes of his time.

Mr. ARMSTRONG. I shall consume 1 additional minute of this time.

In my opinion, this is a budget which deserves to be defeated because it is a bad budget and because if we were to defeat it here tonight it would set the stage for the writing of a more responsible budget with greater restraint in spending, leave room for a tax cut, and the formation of a coalition to write budgets in years ahead along these lines.

Mr. HOLLINGS. Mr. President, I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, first I recognize the hard work and dedication of the chairman of the Budget Committee and the ranking minority member, and indeed of the entire Budget Committee. I do not agree with the budget resolution, however, and shall vote against it.

Before commenting on the budget conference report itself, I first want to comment on the deteriorating financial condition of the Federal Government.

It was less than 2 months ago that the Secretary of the Treasury appeared before the Senate Finance Committee and stated that the Government would need to increase the debt ceiling to $905 billion to carry the Government through February 28, 1981, from the current $879 billion figure.

Just today I received a letter from the Secretary of the Treasury, Mr. Miller, who asserts that this figure now must be $925 billion.

I received a letter yesterday from Dr. Alice F. Rivlin, Director of the Congressional Budget Office, who states that the national debt on February 28 of next year will be $925 billion.

So both the Congressional Budget Office and the Treasury Department assert that the Government's financial situation in the last 2 months has deteriorated to the extent of at least $20 billion.

When the Senate on May 12 passed the concurrent resolution, I voted against it. I voted against it because it called for an increase in Government spending of $65 billion over the total for 1980 approved just 6 months earlier.

Now we come to this conference report. It is very interesting that the conference report provides for a very substantial increase over the amounts recently approved by either the House of Representatives or the Senate.

In budget authority, the conference report is $2.60 billion over what was passed by the House of Representatives, and is $9 billion over what was passed by the Senate. So the conference report is far greater in total than was approved earlier by either house.

Mr. President, as I mentioned earlier, I voted against the budget resolution on May 12. I stated in the Senate that I considered it a blueprint for continued high inflation.

The conference report now before us is in every respect worse than the resolution which the Senate passed last month.

What happened in the conference is clear: the House wanted a high figure for social programs; the Senate wanted a high figure for defense; the conferees granted both.

Budget authority in the conference report is $9 billion above the Senate and $2.6 billion above the House. Spending is $500 million over the Senate and $1.8 billion over the House.

As compared to the Senate version, the conference agreement has raised budget authority by $2.35 billion in transportation; $4.3 billion in income security; and $2.8 billion in education, training, employment, and social services.

Outlays in these functions are up by $700 million in transportation; $1.35 billion in income security; and $1.5 billion in education, training, employment, and social services.

At a time when we face the challenge of a massive Russian military buildup and an aggressive Kremlin policy of global expansion, the only function in which the conference agreement is significantly below the Senate is defense, which is down by $2.9 billion in budget authority and $2 billion in outlays.

The revised totals for fiscal year 1980, the current year, are if anything even worse. The deficit for this year has now been increased by more than 50 percent since the so-called binding second concurrent resolution was passed last November. Does not this make a mockery of the budget process.

In my view, the high hopes which accompanied the enactment of the Congressional Budget Act of 1974 have not been fulfilled. Indeed, during the 5 years that the budget process has been in effect, the rate of growth in Federal spending actually has been higher than it was in the 5 preceding years.

The Senator from Colorado just mentioned that he did not regard this budget as being balanced. Neither do I. I asserted on May 12 in the Senate that, in my judgment, the deficit for fiscal year 1981 will approximate $30 billion. I see no reason to change that estimate today, unless it is changed upward.

Many will argue, no doubt, that the spending growth would have been still higher had we not had the budget process in effect. That may be so; indeed, I think it is probable. Nevertheless, the fact remains that the budget process has not slowed the growth in Federal spending.

To me it is tragic that the Congress will not come to grips with a major cause of inflation; namely, the excessive growth in the rate of spending by the Federal Government.

In the administration and the Congress right now, there is a good deal of self-congratulation about having balanced the budget for 1981.

There are two things wrong with this so-called balance in the budget:

First, it results not from any cuts in spending—spending is up by $65 billion—but rather from a huge increase in revenues. Next year the Government will be taking a record-breaking proportion of income from the pockets of the working men and women of this Nation.

Second, it is a balance on paper only. It will not hold up. I predict that spending will outrun even the huge totals in this resolution, and that revenues will fall off. I foresee a deficit in 1981 of $30 billion or more.

Now this country is entering upon what may be a very serious recession. This recession, as I see it, is the inevitable "morning after" following, a long binge of inflationary spending and big deficits, with the massive Government borrowing which this has entailed.

The Nation is facing a hangover as a result of its Government having become a spend-a-holic.

If the United States is ever to get off this roller-coaster of boom and bust, inflation followed by recession followed by more inflation, the Congress and the President must muster the courage to restrain Federal spending.

Nothing ranks higher on the national agenda. While of course it is important for us to build up our defenses and pursue a firm and consistent foreign policy, this will not insure our survival if we permit the foundations of our economy to be eaten away by recurring tides of inflation and recession.

We cannot have true national security unless we have a sound economy; and we cannot have a sound economy until the Government puts its own financial house in order.

This budget resolution does not provide a balanced budget; it does provide for a huge increase in spending.

Under this budget resolution calling for a $65 billion increase in spending continuing this Nation on its spend-a-holic course. I shall vote against the budget resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD a budget table submitted by the Budget Committee.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1981 BUDGET

[In billions of dollars]

	House passed	Senate passed	Tentative agreement	Tentative agreement compared to	
				House	Senate
Budget authority	694.6	688.2	697.2	+2.6	+9.0
Outlays	611.8	613.1	613.6	+1.8	+.5
Revenues	613.8	613.2	613.8	----------	+.6
Surplus	2.0	.1	.2	−1.8	+.1
Public debt	926.8	927.7	935.1	+8.3	+7.4
050—National defense:					
Budget authority	160.8	173.4	170.5	+9.7	−2.9
Outlays	147.9	155.7	153.7	+5.8	−2.0
150—International affairs:					
Budget authority	24.0	23.3	23.6	−.4	+.3
Outlays	9.6	9.6	9.5	−.1	----------
250—General science, space, and technology:					
Budget authority	6.7	6.4	6.6	−.1	+.2
Outlays	6.3	6.1	6.1	−.2	----------
270—Energy:					
Budget authority	7.5	3.8	6.7	−.8	+2.9
Outlays	7.1	6.8	6.8	−.3	----------
300—Natural resources and environment:					
Budget authority	12.0	11.5	11.7	−.3	+.2
Outlays	12.4	11.9	12.1	−.3	−.2
350—Agriculture:					
Budget authority	5.4	5.6	5.5	+.1	−.1
Outlays	2.3	2.3	2.3	----------	----------
370—Commerce and housing credit:					
Budget authority	5.1	5.4	5.1	----------	−.3
Outlays	−.1	.5	----------	+.1	−.5
400—Transportation:					
Budget authority	22.8	19.75	22.1	−.7	+2.35
Outlays	19.5	18.05	18.75	−.75	+.7
450—Community and regional development:					
Budget authority	9.0	8.8	8.8	−.2	----------
Outlays	9.4	9.2	9.2	−.2	----------
500—Education, training, employment, and social services:					
Budget authority	33.3	28.9	31.7	−1.6	+2.8
Outlays	30.7	28.0	29.5	−1.2	+1.5
550—Health:					
Budget authority	71.5	70.7	71.2	−.3	+.5
Outlays	61.8	61.7	61.7	−.1	----------
600—Income security:					
Budget authority	252.1	245.2	249.5	−2.6	+4.3
Outlays	220.1	218.2	219.55	−.55	+1.35
700—Veterans benefits and services:					
Budget authority	21.7	21.85	21.7	----------	−.15
Outlays	21.2	21.25	21.2	----------	−.05
750—Administration of justice:					
Budget authority	4.2	4.3	4.2	----------	−.1
Outlays	4.6	4.6	4.6	----------	----------
800—General government:					
Budget authority	4.7	4.6	4.6	−.1	----------
Outlays	4.6	4.3	4.3	−.3	----------
850—General purpose fiscal assistance:					
Budget authority	6.2	7.2	6.2	----------	−1.0
Outlays	6.8	7.5	6.8	----------	−.7
900—Interest:					
Budget authority	72.2	72.2	72.2	----------	----------
Outlays	72.2	72.2	72.2	----------	----------
920—Allowances:					
Budget authority	----------	----------	----------	----------	----------
Outlays	----------	----------	----------	----------	----------
950—Undistributed offsetting receipts:					
Budget authority	−24.6	−24.7	−24.7	−.1	----------
Outlays	−24.6	−24.7	−24.7	−.1	----------

Mr. DOMENICI. Mr. President, I rise today to support the compromise conference report on the first concurrent budget resolution for fiscal year 1981.

The fact that we are even here today, with a conference report to present to our colleagues and the budget process still intact, is a great tribute to the perseverance and skill of our chairman, Senator HOLLINGS, who took over his post under the most trying of circumstances, and a tribute to the great good sense and strength of our ranking minority member, Senator BELLMON. As one who has worked with them under the pressure-filled days of the past 2 months, I can attest to their invaluable service to the Senate and to the budget process and to the American taxpayer.

Senator HOLLINGS and Senator BELLMON have already alluded to the strengths and weaknesses of this compromise. I believe that their arguments are overwhelmingly persuasive. While I will review very briefly some of the points they have already made, I want to focus on a more general question—how can we tell if the budget process is working, if our agonies are suffered for some measurable end.

I find it instructive that some of the opponents of this budget have only one substantial objection, when the underbrush is cleared away—they disagree with the economic assumptions upon which our budget is based. They agree with the direction of military spending in this budget; they agree with the direction toward restraint in non-military spending in this budget; they agree with the concept of reconciliation in this budget and the fiscal restraint that that process promises; and they agree with the first steps toward more "teeth" in the Budget Act contained in this budget. While they may have quantitative quibbles with parts of the budget—that is, they may want a little less spending here, a little more there, a faster movement toward reforms in this program or that—they do not quarrel with the direction in which this budget takes us.

No, the most serious charge raised against our compromise budget is that it is based upon erroneous economic assumptions. With all due respect to those who oppose this budget, and some of them are my very close and dear friends, I believe that we cannot jeopardize the budget process itself, our last, best hope for fiscal restraint, because we disagree over economic assumptions for a year that will not start for another 3 months. and will not end for another 15 months. While the Senate has engaged in much speculation in its history, to speculate that far ahead with precision seems a bit presumptuous. All we can do is move ahead on a consensus of economic opinion, steering a middle course. And, that is what this budget has done.

This budget, as Senator HOLLINGS and Senator BELLMON have pointed out, has a real increase of 8 percent in budget authority and 3.1 percent in outlays for national defense next year.

This budget, continuing the process of restraint that that has characterized the Senate Budget Committee's actions for its entire history, actually provides that nondefense spending in 1981 will decline from its 1980 levels, in real terms. This is an historic breakthrough.

This budget brings with it the endorsement of both the House and Senate conferees that the valuable tool of reconciliation—a weapon for the Congress in its anti-inflation fight—will be used. This again is unprecedented.

This budget provides for new "teeth" in the Budget Act, so that the Congress can enforce the budget restraint it endorses when it approves this resolution. Yes, I personally have endorsed much more stringent enforcement measures and will fight for them, but this budget recommendation is a real step forward.

And, this budget provides a path that, if the Congress is willing to pursue it and the economy of the Nation performs reasonably close to what we forecast, will lead us to a balanced budget.

This is no budget charade. It is an honest assessment of what the consensus of economic forecasters have predicted. The fact that some forecasters are predicting worse is not startling; indeed, one of those most prominent voices forecasting gloom has been wrong by an order of magnitude in his deficit forecasts of the past. No economist can look back on the past decade of forecasting with great glory. Why, in such an uncertain and volatile time, should we toss out the entire budget process because some forecasters question our assumptions. We would never reach a budget if we allowed each voice in the wind to shake us.

Let us not focus on the theoretical, highly speculative economic models of the future. Let us focus on the budget before us and proceed on a steady and steadfast course to continue to tighten our belts in the nondefense area. That is what we recommend.

Some look at this budget and say, "The process has failed. It isn't working as quickly as we want. Let's throw it out."

I look at this budget and say, "The process is working. It is working as quickly as reality will let it work. Let's keep it."

And, I believe, that is what this entire quarrel is all about.

We can still balance the 1981 budget in my judgment. We may have to adjust spending when we get to the second concurrent budget resolution in 3 months, but this is one Senator who is fully prepared to cut further if we must.

Parenthetically, let me add that I refuse to be stampeded or panicked because some administration spokesmen in the White House are leaking to the press their fears that the budget will be unbalanced. Those particular seers have been so wrong in the past, and the President's performance on this budget so poor, that I am tempted to believe just the opposite of whatever forecast his administration makes.

As Senator HOLLINGS has made clear, this budget sticks with one simple precept—inflation is our overriding domestic economic problem and it must continue to be our prime foe. Indeed, this budget is firm in that resolve and in decreasing nondefense spending as a consequence of that policy decision. In the past, Congress has been scared into zigs and zags in economic policy as each monthly forecast emerged. This budget rejects that kind of budget-making and charts a steady-as-you-go path. Inflation is still unacceptably high; interest rates are still too steep; too many millions of American families still suffer as their paychecks are destroyed by a rising cost of living. For the future of the Nation, we must continue to fight inflation. This budget continues that fight.

I asked earlier how we could tell if the budget process was working, and if our agonies were worth it. I believe that this budget helps us answer those fundamental questions in the affirmative. This budget continues a process that has held spending substantially under what it would have been if the process had not existed.

For example, under the budget process, the national deficit has declined from $66 billion in fiscal year 1976 to a projected near-zero level in 1981. As a percentage of our gross national produce, the deficit has declined from a level of 4.1 percent in 1976 to a projection of less than 2 percent this year.

From 1970 to 1975, with no congressional budget process in place, nondefense spending grew at a real growth rate of 5.8 percent. Since 1975, under the budget process, nondefense spending has slowed to a real growth rate of 2.3 percent.

And, under this compromise budget, we would have no deficit in 1981 and real spending in nondefense areas would actually decline by 2 percent in real terms. Now, who can complain about that when the real growth rate—after inflation—in Federal spending between 1964 1974 was 46 percent? Under what process has the taxpayer fared better? The answers are self-evident. The process is working and the taxpayer is better off for it.

I cannot close this statement today, Mr. President, without noting the ineptness displayed by the administration throughout this budget process. His January budget was a "business-as-usual" budget, with a large deficit and virtually no real restraint on growth in nondefense spending. His defense spending number was patently too low.

As the Nation, and the Congress, reacted with dismay and horror at the first administration budget, the administration shifted positions. In large measure, I believe, this shift happened because Congress frankly put the message out that the budget proposal was wrongheaded and that Congress intended to keep its promise to balance the budget by 1981, even if the President would not keep his promise to do so. And, so, we got the so-called March revised budget. This delay effectively botched the first part of our deliberations on the budget resolution. Then, when the Congressional Budget Office attempted to figure out the real costs of the President's policies in his revised budget, we discovered that the policies and costs often simply did not match. This created even more delay and confusion and was a prime source of disarray during the early days of the conference.

This performance carried over into national defense. The President has been all over the lot. During the conference with the House, both opponents and supporters of more defense spending could claim that the President had recently backed his or her position, and could even produce documentation for that claim.

Finally, we reached the height of irony—and absurdity—when the Joint Chiefs of Staff were summoned before a House subcommittee and revealed that they disagreed with the defense spending level the Commander in Chief had proposed in his budget. The President, attempting to confuse everyone, then called for more defense spending when he stood on the deck of the *Nimitz*. Apparently appalled at his own forcefulness, the Chief Executive then criticized the compromise budget resolution that contained a defense level that would have given him what he said he wanted in his *Nimitz* speech. Fortunately, the conference finally threw up its hands and began to simply ignore the White House. At that point, we began to make progress.

I cannot pretend that the final product of the conference is perfect. It is not. But, it is a good budget and it is the best we can get; it is better than what we expected; and if we fail to approve this budget, we will get a much worse one in its place.

I, therefore, urge my colleagues who care about increased spending for this Nation's security, who care about continuing to restrain nonessential Federal growth, who care about putting new teeth into the budget process, and who want to see discipline in present programs instituted, to vote for this budget. It gives us all of that and the promise, if the Congress and the economy cooperate, of a budget that will be in balance in the near future.

Mr. CRANSTON. Mr. President, I continue to oppose the latest conference agreement on the first concurrent budget resolution for fiscal year 1981.

Like its predecessor—defeated overwhelmingly in the House—it is based upon the recession-deepening budget passed by the Senate. It makes some slight improvements in the Senate-passed budget.

But the very minor adjustments made in six functions by this conference report do little to change my view that this budget will worsen the economic turndown, increase unemployment, and will guarantee an economic climate that will force the Federal budget into a deficit.

I have worked as hard as anyone to achieve a balanced budget for fiscal year 1981. I presented to the Senate a balanced budget which contained a sensible balance of priorities within it—which would have strengthened our domestic economy while providing for a substantial increase in national defense.

The conferees have tinkered with their once-rejected conference report to create the present version. The differences in expenditures for fiscal year 1981 amount to $100 million added to the transportation function and $200 million added to the income security function.

The minor adjustments made in appropriated levels (budget authority) in four functions without concomitant outlays will do nothing to correct the failure of this budget to provide adequately the vital human services we need now both to reduce the economic decline and to provide for the critical human needs being generated by rapidly rising unemployment and continued high inflation.

I believe we need more support for energy, transportation, housing, jobs, health care, veterans' benefits, and other human services.

I believe the funding levels for veterans' programs in fiscal year 1981 are inadequate. Those levels—$21.7 billion in budget authority and $21.2 billion in outlays—reduce veterans' funding to the House-passed levels, $150 million in budget authority and $50 million in outlays below the Senate-passed levels.

I fought for a floor amendment establishing levels that were $600 million in budget authority and $400 million in outlays higher than those in the conference report for veterans' programs. The Senate tabled that amendment by the very narrow margin of 47 to 45.

Subsequently, the Senate adopted by a vote of 88 to 6 an amendment offered in my absence by my good friend and colleague, the Senator from West Virginia (Mr. RANDOLPH) on his behalf and mine which, as modified along with the amendment of my colleague from South Carolina (Mr. THURMOND), would have set the veterans' programs levels at amounts $200 million in budget authority and $100 million in outlays higher than those in the conference report.

Unfortunately, the conferees agreed to the House-passed levels without any discussion of the need for the higher levels or the very serious difficulties that the House-passed levels would create with respect to veterans' programs.

The conference report fails to make provision for a fully justified 14.3-percent cost-of-living increase in VA service-connected compensation benefits and the badly needed 10-percent cost-of-living increase—the first in 3 years—now pending on the calendar for veterans in training under the GI bill.

The Veterans' Affairs Committee and the Congress will face very difficult, unfair choices in trying to maintain benefits in these programs against the erosive effect of inflation. We may have to defer the increase for compensation beneficiaries—including our Nation's service-connected disabled veterans and the survivors of those who had died from service-connected causes—or provide a lower percentage increase than beneficiaries of the indexed social security and VA pension programs will receive. No group in our society is more deserving of a fair and adequate cost-of-living increase than VA service-connected compensation beneficiaries.

In the alternative, we will have to drop or further postpone a long overdue GI bill benefit increase, and we may need to cut back on other high priority legislation to help meet the education and employment needs of disadvantaged, unemployed, and disabled veterans.

The budget levels for veterans' health care needs are also inadequate by hundreds of millions of dollars and threaten personnel and program reductions that could seriously impair in fiscal year 1981 and for years to come the VA's ability to care for the sick and disabled.

Clearly, the budget levels are too low in the veterans area this year to be fair and to deal with the critical, high-priority needs that should be addressed. Even in a very tight budget year, Congress should be giving greater support to veterans' programs.

In addition to providing more adequately for domestic needs, I believe that bolstering our domestic economy now, in the context of a balanced budget such as the one I proposed earlier, would make more likely our ability to retain the balance through fiscal year 1981 because this would make our economy stronger.

The budget conference report is only nominally in balance.

The economic projections on which it depends—on interest rates, on unemployment, on revenues and on inflation—are already demonstrably wrong and will be further off as we enter and ultimately complete fiscal year 1981.

Regrettably, our budget targets will make a balanced budget harder to retain.

I, for one, have never accepted the premise that we need to wreck our economy in our effort to balance the budget.

Depriving the economy of needed jobs increases human suffering unnecessarily, and ultimately produces an unbalanced budget.

UP AMENDMENT NO. 1135

Mr. **HEFLIN**. Mr. President, I send to the desk an amendment to the House amendment and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1135.

Mr. **HEFLIN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Strike Sections 2 through 5 of the House amendment and insert in lieu thereof:

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that for the fiscal year beginning on October 1, 1980, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $170,500,000,000;

(B) Outlays, $153,700,000,000.

(2) International Affairs (150):

(A) New budget authority, $23,500,000,000;

(B) Outlays, $9,500,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $6,500,000,000;

(B) Outlays, $6,100,000,000.

(4) Energy (270):

(A) New budget authority, $6,700,000,000;

(B) Outlays, $6,800,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $11,700,000,000;

(B) Outlays, $12,100,000,000;

(6) Agriculture (350):

(A) New budget authority, $5,500,000,000;

(B) Outlays, $2,300,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $5,100,000,000;

(B) Outlays, $000,000,000.

(8) Transportation (400):

(A) New budget authority, $22,100,000,000;

(B) Outlays, $18,750,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,800,000,000;

(B) Outlays, $9,200,000,000.

(10) Education, Training, Employment and Social Services (500):

(A) New Budget authority, $31,100,000,000;

(B) Outlays, $29,500,000,000.

(11) Health (550):

(A) New budget authority, $71,200,000,000;

(B) Outlays, $61,700,000,000.

(12) Income Security (600):

(A) New budget authority, $249,500,000,000;

(B) Outlays, $219,550,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,700,000,000;

(B) Outlays, $21,200,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,300,000,000;

(B) Outlays, $4,000,000,000.

(15) General Government (800):

(A) New budget authority, $4,600,000,000;

(B) Outlays, $4,300,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $6,200,000,000;

(B) Outlays, $6.800,000,000.

(17) Interest (900):

(A) New budget authority, $72,200,000,000;

(B) Outlays, $72,200,000,000.

(18) Allowances (920):

(A) New budget authority, $000,0000,000;

(B) Outlays, $000,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$24,700,000,000;

(B) Outlays, —$24,700,000,000.

RECONCILIATION

SEC. 3. Pursuant to section 301(b)(2) of the Budget Act:

(a)(1) the House Committee on Armed Services shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(2) the House Committee on Education and Labor shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $850,000,000 in budget authority and $850,000,000 in outlays;

(3) the House Committee on Interstate and Foreign Commerce shall recommend (A) program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $100,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $300,000,000 in outlays;

(4) the House Committee on Post Office and Civil Service shall recommend (A) program reductions in laws within its jurisdiction to reduce spending by $500,000,000 in budget authority and $500,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(5) the House Committee on Public Works and Transportation shall recommend program reductions in laws or in reported bills or resolutions within its jurisdiction to reduce spending for fiscal year 1981 by $600,000,000 in budget authority and $750,000,000 in outlays;

(6) the House Committee on Small Business shall recommend program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays;

(7) the House Committee on Veterans' Affairs shall recommend program reductions in laws within its jurisdiction or changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(8) the House Committee on Ways and Means shall recommend changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $700,000,000 in budget authority and $2,000,000,000 in outlays; and

(9) the House Committee on Ways and Means shall recommend changes in laws within its jurisdiction to increase revenues for fiscal year 1981 by $4,200,000,000.

(10) the Senate Committee on Appropriations shall limit appropriations for fiscal year 1981 subsidies to the U.S. Postal Service to a level not to exceed $1,140,000,000 in budget authority and $1,140,000,000 in outlays, in order to achieve savings of $500,000,000 in budget authority and $500,000,000 in outlays;

(11) the Senate Committee on Agriculture, Nutrition, and Forestry shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(12) the Senate Committee on Armed Services shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(13) the Senate Committee on Commerce, Science, and Transportation shall recommend program reductions in laws or in reported bills or resolutions within its jurisdiction or changes in laws or in reported bills or resolutions within its juris-

diction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority and $150,000,000 in outlays;

(14) the Senate Committee on Environment and Public Works shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(A) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority;

(15) the Senate Committee on Finance shall recommend changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $900,000,000 in budget authority and $2,200,000,000 in outlays;

(16) the Senate Committee on Finance shall recommend changes in laws within its jurisdiction to increase revenues for fiscal year 1981 by $4,200,000,000;

(17) the Senate Committee on Governmental Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(18) the Senate Committee on Labor and Human Resources shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $350,000,000 in budget authority and $450,000,000 in outlays;

(19) the Senate Committee on Small Business shall recommend changes in loans within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays; and

(20) the Senate Committee on Veterans' Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2) (C) of the Budget Act or equivalent savings legislation to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $400,000,000 in outlays;

(b)(1) not later than July 2, 1980, each committee specified in subsection (a)(1)-(9) and (16) shall submit its recommendations to the Committee on the Budget of its House;

(2) not later than June 25, 1980, each committee specified in subsection (a)(11)-(15) and (17)-(20) shall submit its recommendations to the Senate Committee on the Budget; and

(c) pursuant to subsection 310(c) of the Budget Act, the Committees on the Budget, after receiving recommendations submitted under subsections (a) and (b) of this section, shall report to their respective Houses a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision. The provisions of subsection 310(e) of the Budget Act shall apply to consideration in the Senate of any reconciliation bill or resolution.

SEC. 4. (a) The House sets forth the following budgetary levels for fiscal years 1982 through 1983—

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1982: $714,800,000,000;
Fiscal year 1983: $824,100,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased is as follows:

Fiscal year 1982: $200,000,000;
Fiscal year 1983: $000,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1982: $769,100,000,000;
Fiscal year 1983: $868,850,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1982: $688,000,000,000;
Fiscal year 1983: $784,600,000,000;

(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: $26,800,000,000;
Fiscal year 1983: $39,500,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1982: $948,000,000,000;
Fiscal year 1983: $948,200,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1982 and 1983 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):
Fiscal year 1982:
(A) New budget authority, $192,300,000,000;
(B) Outlays, $172,800,000,000.
Fiscal year 1983:
(A) New budget authority, $215,900,000,000;
(B) Outlays, $194,600,000,000.

(2) International Affairs (150):
Fiscal year 1982:
(A) New budget authority, $15,400,000,000;
(B) Outlays, $9,800,000,000.
Fiscal year 1983:
(A) New budget authority, $15,100,000,000.
(B) Outlays, $10,100,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1982:
(A) New budget authority, $6,900,000,000;
(B) Outlays, $6,700,000,000.
Fiscal year 1983:
(A) New budget authority, $7,000,000,000;
(B) Outlays, $6,900,000,000.

(4) Energy (270):
Fiscal year 1982:
(A) New budget authority, $8,500,000,000;
(B) Outlays, $10,400,000,000.
Fiscal year 1983:
(A) New budget authority, $10,000,000,000;
(B) Outlays, $11,500,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 1982:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $13,200,000,000.
Fiscal year 1983:
(A) New budget authority, $13,900,000,000;
(B) Outlays, $13,600,000,000.

(6) Agriculture (350):
Fiscal year 1982:
(A) New budget authority, $6,500,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1983:
(A) New budget authority, $4,500,000,000;
(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 1982:
(A) New budget authority, $5,500,000,000;
(B) Outlays, $2,300,000,000.
Fiscal year 1983:
(A) New budget authority, $5,700,000,000:
(B) Outlays, $2,300,000,000.

(8) Transportation (400):
Fiscal year 1982:
(A) New budget authority, $21,500,000,000;
(B) Outlays, $19,800,000,000.
Fiscal year 1983:
(A) New budget authority $23,000,000,000;
(B) Outlays, $21,200,000,000.

(9) Community and Regional Development (450):
Fiscal year 1982:
(A) New budget authority, $8,800,000,000;
(B) Outlays, $8,900,000,000.
Fiscal year 1983:
(A) New budget authority, $9,100,000,000;
(B) Outlays, $9,000,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1982:
(A) New budget authority, $35,300,000,000;
(B) Outlays, $32,100,000,000.
Fiscal year 1983:
(A) New budget authority, $39,800,000,000;
(B) Outlays, $38,100,000,000.

(11) Health (550):
Fiscal year 1982:
(A) New budget authority, $82,800,000,000;
(B) Outlays, $70,600,000,000.
Fiscal year 1983:
(A) New budget authority, $118,350,000,000;
(B) Outlays, $103,700,000,000.

(12) Income Security (600):
Fiscal year 1982:
(A) New budget authority, $284,500,000,000;
(B) Outlays, $250,000,000,000.
Fiscal year 1983:
(A) New budget authority, $313,600,000,000;
(B) Outlays, $276,000,000,000.

(13) Veterans Benefits and Services (700):
Fiscal year 1982:
(A) New budget authority, $23,400,000,000;
(B) Outlays, $22,800,000,000.
Fiscal year 1983:
(A) New budget authority, $25,000,000,000;
(B) Outlays, $24,400,000,000.

(14) Administration of Justice (750):
Fiscal year 1982:
(A) New budget authority, $4,400,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1983:
(A) New budget authority, $4,500,000,000.
(B) Outlays, $4,700,000,000.

(15) General Government (800):
Fiscal year 1982:
(A) New budget authority, $5,000,000,000;
(B) Outlays, $4,700,000,000.
Fiscal year 1983:
(A) New budget authority, $4,900,000,000;
(B) Outlays, $4,800,000,000.

(16) General Purpose Fiscal Assistance (850):
Fiscal year 1982:
(A) New budget authority, $6,400,000,000;
(B) Outlays, $6,400,000,000.
Fiscal year 1983:
(A) New budget authority, $6,500,000,000:
(B) Outlays, $6,500,000,000.

(17) Interest (900):
Fiscal year 1982:
(A) New budget authority, $74,000,000,000:
(B) Outlays, $74,000,000,000.
Fiscal year 1983:
(A) New budget authority, $77,700,000,000;
(B) Outlays, $77,700,000,000.

(18) Allowances (920):
Fiscal year 1982:
(A) New budget authority, $2,000,000,000;
(B) Outlays, $2,000,000,000.
Fiscal year 1983:
(A) New budget authority, $4,100,000,000;
(B) Outlays, $4,100,000,000.

(19) Undistributed offsetting Receipts (950):
Fiscal year 1982:
(A) New budget authority, —$27,500,000,000;
(B) Outlays, —$27,500,000,000.
Fiscal year 1983:
(A) New budget authority, —$29,800,000,000;
(B) Outlays, —$29,800,000,000.

SEC. 5. (a) The Senate sets forth the following budgetary levels for fiscal years 1982 through 1983—

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1982: $701,400,000,000;
Fiscal year 1983: $783,000,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1982: —$5,200,000,000;

Fiscal year 1983: −$27,500,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1982: $775,000,000,000;

Fiscal year 1983: $851,600,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1982: $695,600,000,000;

Fiscal year 1983: $765,500,000,000;

(4) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: +$5,800,000,000;

Fiscal year 1983: +$17,500,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1982: $965,600,000,000;

Fiscal year 1983: $991,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1982: $31,200,000,000;

Fiscal year 1983: $25,500,000,000;

(b) Based on allocations of the appropriate levels of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the preceding subsection of this resolution, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):

Fiscal year 1982:

(A) New budget authority, $204,600,000,000;

(B) Outlays, $183,200,000,000.

Fiscal year 1983:

(A) New budget authority, $234,000,000,000;

(B) Outlays, $208,700,000,000.

(2) International Affairs (150):

Fiscal year 1982:

(A) New budget authority, $15,300,000,000;

(B) Outlays, $9,700,000,000.

Fiscal year 1983:

(A) New budget authority, $15,000,000,000;

(B) Outlays, $10,000,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1982:

(A) New budget authority, $6,900,000,000;

(B) Outlays, $6,800,000,000.

Fiscal year 1983:

(A) New budget authority, $7,100,000,000;

(B) Outlays, $7,000,000,000.

(4) Energy (270):

Fiscal year 1982:

(A) New budget authority, $7,500,000,000;

(B) Outlays, $10,100,000,000.

Fiscal year 1983:

(A) New budget authority, $9,500,000,000;

(B) Outlays, $11,100,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1982:

(A) New budget authority, $12,400,000,000;

(B) Outlays, $12,900,000,000.

Fiscal year 1983:

(A) New budget authority, $12,700,000,000;

(B) Outlays, $13,200,000,000.

(6) Agriculture (350):

Fiscal year 1982:

(A) New budget authority, $6,600,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1982:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $2,700,000,000.

Fiscal year 1983:

(A) New budget authority, $6,300,000,000;

(B) Outlays, $2,900,000,000.

(8) Transportation (400):

Fiscal year 1982:

(A) New budget authority, $21,500,000,000;

(B) Outlays, $20,300,000,000.

Fiscal year 1983:

(A) New budget authority, $22,200,000,000;

(B) Outlays, $21,600,000,000.

(9) Community and Regional Development (450):

Fiscal year 1982:

(A) New budget authority, $8,500,000,000;

(B) Outlays, $8,800,000,000.

Fiscal year 1983:

(A) New budget authority, $8,700,000,000;

(B) Outlays, $8,800,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1982:

(A) New budget authority, $33,400,000,000;

(B) Outlays, $31,700,000,000.

Fiscal year 1983:

(A) New budget authority, $34,900,000,000;

(B) Outlays, $33,700,000,000.

(11) Health (550):

Fiscal year 1982:

(A) New budget authority, $82,800,000,000;

(B) Outlays, $70,600,000,000.

Fiscal year 1983:

(A) New budget authority, $94,300,000,000;

(B) Outlays, $79,600,000,000.

(12) Income Security (600):

Fiscal year 1982:

(A) New budget authority, $284,200,000,000;

(B) Outlays, $249,400,000,000.

Fiscal year 1983:

(A) New budget authority, $313,400,000,000;

(B) Outlays, $275,400,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1982:

(A) New budget authority, $23,200,000,000;

(B) Outlays, $22,700,000,000.

Fiscal year 1983:

(A) New budget authority, $24,800,000,000;

(B) Outlays, $24,200,000,000.

(14) Administration of Justice (750):

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,600,000,000.

Fiscal year 1983:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $4,800,000,000.

(15) General Government (800):

Fiscal year 1982:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $4,700,000,000.

Fiscal year 1983:

(A) New budget authority, $5,100,000,000;

(B) Outlays, $4,900,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1982:

(A) New budget authority, $6,400,000,000;

(B) Outlays, $6,400,000,000.

Fiscal year 1983:

(A) New budget authority, $6,500,000,000;

(B) Outlays, $6,500,000,000.

(17) Interest (900):

Fiscal year 1982:

(A) New budget authority, $74,000,000,000;

(B) Outlays, $74,000,000,000.

Fiscal year 1983:

(A) New budget authority, $77,700,000,000;

(B) Outlays, $77,700,000,000.

(18) Undistributed Offsetting Receipts (950):

Fiscal year 1982:

(A) New budget authority, −$27,500,000,000;

(B) Outlays, −$27,500,000,000.

Fiscal year 1983:

(A) New budget authority, −$29,800,000,000;

(B) Outlays, −$29,800,000,000.

Mr. HEFLIN. Mr. President, my amendment would amend the House amendment by transferring $100 million in new budget authority from foreign aid, which is function 150, to the administration of justice, which is function 750. This would transfer $100 million in budget authority but it would really have the effect of shifting only $20 million in outlays for fiscal year 1981. This is really a negligible amount.

The Senate voted on this issue previously and amended the Senate budget resolution by a vote of 68 to 25 agreeing to transfer $100 million in budget authority from foreign aid to the administration of justice, which would have meant that LEAA is still alive. It would mean that the Federal program against crime, the LEAA, is not abolished by indirection. I remind my collegues that just last year, this Congress revamped and reauthorized the LEAA program for 4 more years.

Despite the mandate of the Senate, the Budget Committee conferees in negotiations with the House, raised the amount for foreign aid by $300 million over the Senate figure.

My amendment would mean that there would continue to be a State and local assistance program to fight crime. Without my amendment there will be no Federal assistance program to fight crime at the State and local level.

Let us look at the crime statistics for the last year. These statistics show that during the past year crime increased in this country by 8 percent. They show that violent crime was up 11 percent; murder was up 9 percent; and armed robbery was up 12 percent.

About 3 years ago the growth rate of crime on an annual basis was 17, 18, and 19 percent. Now we have at least reduced the growth rate down to an 8-percent increase over the previous year. If you were to compare this with inflation—and there are relevant comparisons here if we were as successful in reducing the inflation rate as we have been in reducing the crime rate, the American public would applaud our efforts.

The amount of money that has been recommended for mission 2 of function 750 is around $177 million. The existing law requires that the first $100 million of that go to juvenile justice programs. The remaining $77 million is divided between death benefits to police officers and firefighters killed in line of duty, and the remaining $62 million is allocated to a statistical gathering system and research, with a small amount set aside for administration of existing grants. No money is provided at all for the State and local units of government to fight crime.

By not voting for my amendment, you are voting to kill the Federal assistance program against crime. The partial effect of the vote is to say we can have research and we can have statistics here in Washington, but we will have no crime fighting program in the States and localities.

My amendment would keep alive the Federal assistance program. It transfers from foreign aid $100 million and that, Mr. President, when you get down to it, not really a great amount. But it is the difference between having professionalism in your law enforcement agencies or not. The LEAA program has professionalized the police, the sheriffs, correction officers, and the courts throughout the country.

I therefore, ask each of you before you vote to consider whether or not you want to kill the only program that we have on at the Federal level against crime. That is what a vote against this amendment will do.

I thank the Chair. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HEFLIN. I reserve the remainder of my time.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, it will be my intent at the appropriate time to move to table that amendment and, therefore, I do not want to preempt the Senator's time. I think for the convenience of my colleagues what we should do is to answer out all of the particular debate and then, perhaps, have a back-to-back vote, first on the motion to table the Heflin amendment, and then on the motion that the Senate agree to the amendment of the House.

Preparatory to that, then, let me sort of back into some of the comments which have been made. No. 1, with respect to the Heflin amendment, it so happens I am chairman of the State, Justice, Commerce, and Judiciary Subcommittee of the Appropriations Committee and have worked on that subcommittee for a good 10 years.

Working over that 10-year period one of the stormy tasks I have had is to try to bring LEAA into an acceptable mode, and find any kind of credibility whereby they could be supported, particularly on the House side.

I have sort of done my best to help the program. I was a cosponsor of the benefits for Federal officers, particularly not only police officers but firemen killed in the line of duty. We found in the late sixties they would start a fire, the firemen would come, and they would shoot and kill. Actually firefighting was more hazardous than law enforcement. So we provided for that, and that is still in here. We have $177 million in that LEAA program.

I ask unanimous consent to have printed in the RECORD the President's breakdown of that $177 million.

There being no objection, the breakdown was ordered to be printed in the RECORD, as follows:

CATEGORY 750 ADMINISTRATION OF JUSTICE—MISSION 2 CRIMINAL JUSTICE ASSISTANCE—

[In thousands of dollars]

			1981	
	1979 funding	1980 funding	President's January budget	President's March revisions
Law enforcement assistance:				
Juvenile justice programs:				
Formula grants	63, 750	63, 750	63, 750	63, 750
Discretionary grants	36, 250	36, 250	36, 250	36, 250
Subtotal	100, 000	100, 000	100, 000	100, 000
Criminal justice formula grants		239, 234	297, 000	
National priority grants program		29, 904	37, 125	
General criminal justice grants		29, 905	37, 125	
Training	29, 168	2, 528	2, 763	
Crime prevention programs	7, 000	10, 000	15, 000	
Public safety officers' benefits	2, 500	10, 000	12, 500	12, 500
Crime control	434, 617			
Subtotal	473, 285	321, 571	401, 513	12, 500
Direct program, LEAA	24, 792	21, 124	19, 845	15, 345
Total, LEAA	598, 077	442, 695	521, 358	127, 845
Research and statistics:				
Research, evaluation, and demonstration programs (NIJ)	25, 000	25, 000	25, 000	25, 000
Justice statistical program (BJS)	19, 643	15, 000	20, 477	20, 477
Direct program	3, 768	3, 768	4, 047	4, 047
Total, research and statistics	48, 411	43, 768	49, 524	49, 524
Total, OJARS	646, 488	486, 463	570, 882	177, 369
National Institute of Corrections	9, 920	9, 884	10, 691	9, 894
Total, Criminal Justice Assistance	656, 408	496, 347	581, 573	187, 263
Budget resolution assumption			200, 000	200, 000

Mr. HOLLINGS. Of that $177 million breakdown, $100 million is going, of course, to juvenile justice programs; $12,500,000 to the public safety officers' benefits; the direct, or administrative expenses, program of LEAA is now budgeted for $15,345,000. But within the rounded allocation of $200,000,000 there is room for $62,216,000 to go into the emergency discretionary grant program, that the Judiciary Committee is looking at now.

Let us assume just mentally for a moment, on LEAA, that the distinguished Senator from Alabama were to prevail. On the law enforcement side, we who work in that subcommittee would do our best to try to answer up to exactly the needs of law enforcement and drug enforcement, particularly the FBI, because we put the pattern very close there. So, if we want to do something for serious crime, it would be a good move on the part of the House and the Senate, having this experience—and I am only guessing, of course, relating not an act of bad faith but an act of good faith, telling ahead of time that we would try our best to get additional FBI agents due to the increase in crime, in serious crimes, over the country, and more moneys, of course, in drug enforcement.

We find that, in trying to monitor these particular programs on an additional $100 million, that, yes, they have gone from hardware—we had all kinds of difficulties at the very beginning. The drive was, at that particular time, that what they should do is buy tanks. At least down in one State they bought an armored personnel carrier.

I am sure Motorola has succeeded. We have gotten all of law enforcement in America into communications. Everybody in law enforcement has bought a Motorola radio all over the country.

And, of course, they bought Bibles. There was an idea once that they should read the Bible and that would do away with crime.

Then we moved on. And what we moved on into is the seminar-type program. And the supreme court justices in several States like to meet at Williamsburg and reflect and study, and we can show you the records there. They have seminars in Las Vegas. I had my circuit judges just come back from another seminar in a school out there.

I tried my best to find out where this money is going, working all afternoon, knowing this amendment was going to come up, and the LEAA cannot give the figures. We are going to have hearings to see if we can sort of simmer back and cut back somewhat on the Las Vegas seminars and the Williamsburg junkets where the justices strut around in their flowing robes and reflect on local law enforcement. Now, that is where the money is going.

But let us talk more seriously. If we were to send this amendment back, then what we would have is a rejected first concurrent resolution and have to start all over with a new one.

I am confident the House would never agree to this, as the Senate will recall how low they were on LEAA to begin with. The conferees—Republicans and Democrats, who sat there on either side—will tell you the disposition of the House of Representatives.

We have given them the President's figure. So to do this would, in essence, be a budget buster and ending the first concurrent resolution and starting over the 50-hour process all over again.

And I am not using an extreme description. That is exactly where we are. We have to give and take.

Our State revenue sharing has had much more support than the LEAA one, I can tell you that now. We had several other items in here that had much stronger support than the LEAA one.

And then to come with this particular one at this particular time, where all the studies show a questionable allocation of this additional money, then they would reject it out of hand. Now, after all of this work and having the rug pulled out from us twice over on the House side, once the conferees agreed and then the different members of the conference reneged on their own agreement and left their poor House chairman standing there somewhat deneutered. I am going to get to the emperor's clothes, because there are going to be a lot of clothes buying if we go forward without this first concurrent resolution, if the Senator from Colorado thinks he has a spending program and people have been swindled.

Then, the distinguished Senator from Virginia said that Government was deteriorating. If you want to see it really deteriorate, if you want to see a clothes swindle, if you want to see some real spending, then send us back to that particular posture, have it rejected, and then we will be really be the laughing stock. We really would be the laughing stock of this particular situation. Then Government would have deteriorated.

I just beg of my colleagues to treat this seriously. This is not just a little slight amendment. This would ruin us all. So much for the particular Heflin amendment that would really cause havoc.

Let me speak for a second on the comments made by the distinguished Senator from Virginia that we are going backwards. I would respectfully take exception to that. We have drawn up a study that I have had printed in the RECORD that I will give a copy of to the Senator from Virginia.

Mr. President, in the years between 1970 and 1975, prior to the budget process, in the procedure we have now instituted in the Congress, you can see how the nondefense budget, for example, grew by 48.5 percent real growth and 8.2 percent growth per year.

I just cannot imagine, Mr. President, I just cannot imagine, after the hours of toil and torture and working around the clock in trying to get this to the floor by April 15, the hours and hours that we have had in conference working around the clock to get it adopted by May 15, and then, having gotten it here together, to submit it here on June 12, that we are going in the wrong direction.

I knew that we had been working, all of us on both sides of the aisle, to do some cutting back, to bring responsibility to Federal budgeteering. When they talk about controllables that you could not control, we know that is an excuse for those who really do not want to cut.

So we have instituted in this particular budget a savings of $6.4 billion. Not much overall, but a gracious plenty when you talk to the chairman of the Appropriations Committee and the chairman of the Finance Committee to try to get it done by the end of this month. We are going to have a hard job doing it, but we are pledged to do it if we have this adopted here this evening.

Look at that real growth in nondefense spending, about which the Senator from Virginia and I have both been concerned. It grew at a rate of 8.2 percent each year between 1970 and 1975. But under the budget process, it has gone down to a growth rate, real growth, of 2.3 percent.

We were asked in the news conferences: "Well, what is happening? It is a whole charade. We are being swindled. You're doing it with mirrors. The Government is deteriorating."

But is it really deteriorating? Are the processes not working? Did not the majority leader—I wish Senator BYRD was in the Chamber—did not the majority leader, under his leadership, get the leadership of the Democrats from both Houses, get the White House leadership, and bring them in in an around-the-clock session, meeting on Sundays, Sunday evenings, to work this thing out when the bond market went down?

The Government responded. It did not deteriorate. And we got the President, who had a budget in January, to cut back and to give us a revised budget by the end of March. That is not Government deteriorating; that is Government responding.

The work of this Budget Committee does not go unnoticed.

The Senator from Colorado said nobody would invest. Look at the market. Ever since we started working they have been watching us. We talked to them and they called us. They have said, "Stick to it. For heaven's sake, get this resolution passed."

It is restrictive on spending. When we started the first conference, on May 12, the prime rate was 20 percent. The prime rate is now down to 12 percent. I respectfully submit that is Government working, not deteriorating .

Look at the other countries that are totally out of hand, with 35- and 135-percent inflation rates.

Your U.S. Government and your Congress is worried. They are not swindling, they are not deteriorating. We have been working. No; it has not been perfect, but let us watch what we are doing here.

As for the king who wore no clothes, I will let the Senator from New Mexico tell him when that parade is going to start.

Has the Senator returned? I wanted him to hear it. The Senator from New Mexico said the parade has not started for that king to get into it.

If he gets into it with a rejected budget, you are going to see some clothes. You are going to see all kinds of garments coming out from the closets and clothing shops of America to be heaped on in a nonbudgetary process that we used to have.

I sat on the Appropriations Committee where there was not any accountability. There was just competition to spend more in my particular budget because I saw the other fellow spending a lot. Why could I not get more and add on? There was no overall accountability.

Heavens, I say to Senators, if you establish accountability, and you have done it—the Members of the Senate and the Members of the House working together to effectuate that discipline—let us not talk about deteriorating Government or kings who wear no clothes, or particularly after the long haul, like Bossy the cow promptly kicking over a full pail with the Heflin amendment. We just cannot justify that.

I have been in State law enforcement. I was the chief State law enforcement officer of a State for 4 years. If there was one thing I did that stood out it was that I kept the Federal Government out of South Carolina.

I can name the other States where they had the riots, the paratroopers, and everything else, all calling in the Federal Government.

There was not a single life lost and not a person injured in my State. I had Evers, Marion Barry, and everything else. I wish Sam Ervin was here to give us a little bit about constitutional government and the police powers of the State.

Keep the Federal Government out of those police powers. Do not come here at the last minute and talk about Federal assistance in law enforcement. If we can just have the States assume these responsibilities, if they want to have revenue sharing, let it go back that way, but do not start setting up Federal programs. We have seen them, from buying tanks and airplanes to everything else.

We had one Governor with a king's air. He would go and buy clothes every spring with his wife. He would go to New York. That was Federal assistance for local law enforcement.

Do not give me that kind of stuff. The record is otherwise. They know it. The Governors know it. That is not a priority. We have to kill this Heflin amendment, I plead of the Members, and move on and adopt this amendment.

I will reserve the remainder of my time. I will yield to any others who wish to speak because we are on a limited time basis.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEFLIN. If the Heflin amendment were adopted, would not the budget resolution go back to the House of Representatives where they could concur in it and, if they did that, then the entire budget would be adopted?

The PRESIDING OFFICER. If the Senate adopts the amendment of the Senator from Alabama and the House agrees to the amendment, that would conclude the process, provided there were no other amendments adopted by the Senate which the House did not agree to.

Mr. HEFLIN. I would like to point out that what we are talking about, Mr. President, is $20 million in outlays this year. I just do not believe the House would turn down $20 million in outlays this year and kill the only Federal program to fight crime.

I would also like to note that we have a great chairman of the Budget Committee and a great vice chairman. They have done hard work. They are very persuasive.

The abilities of the chairman of the Budget Committee, Senator HOLLINGS, are recognized by one and all. His great work while I served as Governor of South Carolina is a matter of public record, and is to be applauded.

I have great confidence that the distinguished Senator from South Carolina

(Mr. Hollings) can persuade the House to go along with this very negligible amount, and I can persuade the leadership in both Houses in regards to this minor amendment. He has done it in the past in many, many instances.

It just seems to me that somehow these South Carolinians have great ability and are gifted with great oratory skills. The Senator has referred to judges in flowing robes. I must confess that while I was on the bench, the only time I really had on flowing robes was in a seminar in Charleston, S.C. At that particular time, Chief Justice Joe Walsh was hosting the greatest conference for the Conference of Chief Justices that anyone had ever witnessed. The South Carolinians' hospitality, the South Carolinians' oratory and rhetoric were present there, and their great abilities. I might add that their great conference was not in any way funded by the LEAA.

Mr. President, I say my amendment is an important amendment. It will mean that crime is not given a green light. It will mean that we in this Chamber of the Senate are still interested in fighting crime, which is one of the primary problems that exists today in the country.

The amount transferred is negligible; yet it can keep LEAA alive. Hopefully, in the meantime, we can work on a program to improve the LEAA. I pledge, as a member of the Judiciary Committee, to do that.

Mr. President, I want to emphasize the fact that we are dealing with a negligible amount. It is less than one-half of 1 percent of the foreign aid budget authority. In all honesty, I do not think it is going to ruin us at all and much less the budget process. I tell you, Mr. President, that I have great confidence in the ability of the Senator from South Carolina to say, "Now, gentlemen of the of the House, let us get through with this. It is just a small $20 million in outlays. It transfers $100 million in foreign aid to LEAA to keep it alive."

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I yield myself 5 minutes.

Mr. President, I think the point that Senator Hollings has made regarding the difficulty of reaching agreement with the House of Representatives on the fiscal year 1981 budget resolution needs to be made again. I say to my friend from Alabama that this has been one of the most excruciatingly difficult processes the Senator from Oklahoma has ever been involved in. If we go back to the House now with a new set of numbers, as close as the vote on the resolution was, it is my honest opinion that there simply will not be a budget resolution.

The House originally wanted a higher level of funding for international affairs than is in this budget. They also do not want any money, or at least a very small amount of money, for LEAA. This amendment goes exactly against the grain on both points as far as the House position is concerned. The level of funding for LEAA assumed in this conference agreement would allow the continuation of Federal research and statistical activities, and the public safety officers' benefits and juvenile justice delinquency prevention programs under LEAA.

We have that in the budget, as far as the Senate is concerned. That is what we assume.

The Appropriations Committee has the flexibility to alter this allocation of funding or to reduce other program funding to accommodate a higher level of funding for LEAA.

What I am saying, Mr. President, is this is not a line-item budget. There is room in here to make room for some activities by LEAA. I believe the Senator from Alabama will have an ample opportunity to make his arguments to the Appropriations Committee at the appropriate time.

Mr. President, I strongly oppose the amendment by the Senator from Alabama. It is my concern that, if we are going to have a budget resolution, we had better pass the one that is before us now and not tinker with it. I feel strongly that if we start down the path that the Senator from Alabama is suggesting, we are going to wreck not only this resolution, but perhaps the process itself.

Mr. President, I believe my friend from New Mexico wants to be heard.

Mr. DOMENICI. Mr. President, let me ask the Senator: Are we restricting our arguments now to opposition to the Heflin amendment or are we addressing the whole subject?

Mr. BELLMON. I shall be glad to yield time on the resolution to the Senator from New Mexico.

Mr. DOMENICI. Will the Senator yield 10 minutes to the Senator from New Mexico?

Mr. BELLMON. How much time does the Senator from Oklahoma have?

The PRESIDING OFFICER (Mr. Mitchell). The Senator from Oklahoma has 35 minutes remaining.

Mr. BELLMON. I am glad to yield to the Senator from New Mexico 10 minutes.

Mr. DOMENICI. I ask the Parliamentarian to advise the Senator when he has 3 minutes remaining.

Mr. President, first, in all honesty and sincerity, I want to commend my good friend from Colorado (Mr. Armstrong). I really do not think there has been a Senator who has joined this committee and, in such a short period of time, has so familiarized himself with the process or, from the standpoint of philosophy of what a budget ought to be, could have contributed more.

On the other hand, Mr. President, I hope that the Senator from Colorado understands that his basic objection to this budget, as I understand it, is that he would argue with the economic assumptions that are made. I hope he knows that economic assumptions with reference to the next 3 months and the next 15 months, which is the period of time that ultimately, we are going to have to make recommendations for, are certainly not in. I wonder if he would like us to make a change in the budget next month and another change the month after that, because we shall be asking economists what they think the situation is going to be in October, what the situation is going to be 6 months into next fiscal year.

I am reminded that economists are, as somebody indicated to the Senator from New Mexico, rather like a left-handed javelin thrower. They are not very accurate, but they sure get your attention. I think that is what we have here. We have economists who are all across the board on this issue and I do not believe that the Senate should be misled.

If we are going to accept some other economic assumptions for those in this body that support the ideas of my good friend, Senator Armstrong—if we are going to accept other economic assumptions in the first concurrent resolution, I tell them that it is absolutely certain from this Senator's standpoint that what we are going to come up with is not the budget he thinks we are going to come up with but one that is worse. If we accept the economic assumptions in this first one that he would want us to assume, we are not going to have a $20 billion tax cut. We are not going to cut $30 billion out of this budget, which is what he would propose. Quite to the contrary, we will spend more.

As to his king in his fairy tale—and I am sorry we do not have a fairy tale to base our budget on—we have to live in the real world. He can deal in fairy tales. I also remind him that if he thinks that king, that emperor, who was walking in that parade in the nude—if here, in Congress, we told that emperor 3 months in advance that he was in the nude, and the Senator thinks all he is going to do is put on some clothes, he is mistaken. What will happen here is that during that 3 months and the ensuing 12 months after that, we shall spend 10, 15, 20, 30 billion dollars to try to put some clothes on that emperor quite to the contrary of what he would want—because he would want to address that issue in quite a different way. I submit that we have to deal in the real world. I think his fable is a good one, but I suggest that if we begin to follow it here, the results are going to be far worse than what he thought.

Let me make three or four points. I hope that Members of the Senate approve this budget. Can you imagine, Mr. President, what the next 3 months will yield for the United States of America if we do not have a budget resolution to measure our actions against? Can you not see a 5, 10, 15, 20-billion dollar countercyclical program entering the arena?

Can you not see those who are worried about unemployment not being satisfied with the entitlement programs, not being satisfied with the workmen's compensation programs and the food stamp programs that are going to go up, but coming forward again with another big package, saying, "We have to spend more dollars, not less."

I believe that is what will happen, Mr. President. From the standpoint of defense, many of those who are voting against this amendment or who have a tendency to vote against this resolution, want more military, not less. I submit to them that if they want to take a risk, then let us fly for the next few months without a resolution and see if we can get more for defense or less.

This budget has 8 percent real growth in budget authority for defense and 3.1 real growth in outlay for defense. For those who want to live in the real world, vote against this resolution and see what we are going to get.

This budget severely constrains nondefense spending, contrary to what has been said on this floor. It does. It reduces real Government spending by almost 3 percent, precisely 2.8, in real terms, from 1980 to 1981.

I submit to those who want to oppose it on the basis that it does not cut enough that they answer the question, if we have no budget to measure against during the next 3 months, are we apt to cut 2.8 percent in real growth, or are we apt to come out with more in real growth? In fact, probably, the 2.8 will disappear and we will be on the plus side; it will have grown more.

This budget calls for some historic things: Reconciliation, forcing committees of the Congress——

The PRESIDING OFFICER (Mr. NUNN). The Senator has used 7 of the 10 minutes.

Mr. DOMENICI. I thank the Chair.

Members of this body and the House, all of whom want balanced budgets, less spending, want to go to their merry way to think a document, a budget resolution, will do it. This time, both the House and the Senate Budget Committees have said, "Put your money where your mouth is; we cannot be anything but bookkeepers and auditors unless you change some laws." And there is $6.4 billion in reconciliation in this historic resolution. We are going to see if the committees want to help us make this budget process work. It calls for historic changes in the procedures so that there will be some teeth in the process.

Bills will be held at the desk, tax cuts will have to await our knowing more about how much we are going to spend.

To those who oppose it because they want more tax cuts, because they want more expenditure cuts, because they want more for defense, I ask do they really believe we are more apt to get any of those things without this budget than we are with it?

I am absolutely convinced that while this Senator could easily have joined Senator ARMSTRONG and others to create a different budget than this, we do not live in an arena governed by fairy tales. We just do the best we can. In this instance, with two bodies as diverse as we are, political leadership requires we do what we can, and only if what is apt to evolve without those efforts is clearly worse, that we must support a process such as this.

This budget is only technically in balance. But we are supposed to look at the facts during the next 3 months, and we will. If we are wrong—and I hope we are not—they will be adjusted and we will have an opportunity in the second concurrent resolution to make up for economic errors or to make better economic judgments.

I close by saying that I hope we would not, while this process is beginning to work, visit its demise by turning this resolution down, and that is what we will do. We will throw this process back to no process at all.

I urge my colleagues to support this resolution. I commend the chairman and the ranking minority member for their efforts.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. How much time does the Senator require?

Mr. METZENBAUM. Ten minutes.

Mr. BELLMON. Mr. President, we are about to run out of time. Could the Senator settle for 7 minutes?

Mr. METZENBAUM. I thank the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask the Parliamentarian to advise me when I have 2 minutes left.

Mr. President, I will reluctantly cast my vote in favor of this deeply flawed budget resolution—but I will do so for just one reason. And that is to get it out of the way so that we may begin work on the second budget resolution, the serious business of dealing prudently and responsibly with the made-in-Washington recession that is rolling through our economy.

I have said many times and I now say again that I strongly favor balancing the Federal budget. But, Mr. President, the budget before us today achieves balance at the expense of programs that serve the neediest and most vulnerable members of our society.

Mr. President, I commend the chairman of the Senate Budget Committee for bringing some of the levels up higher than they were when they left the Senate. I approve of that. But I must take issue with the fact that the military budget is the one that stands out the strongest and got the most attention and, unfortunately, and I say this with warmth and friendship, every member of the budget conference committee who opposed excessive military expenditures did not sit on that conference committee as a Member of the Senate.

What has happened as a consequence—I will not say that is a direct result of that fact—but the facts are that the employment programs in the budget process have been cut $1.3 billion.

There have been some increases, but the fact is, across the board, when we total up at the bottom, we have cut back $1.3 billion.

At the same time, we have increased the military budget from $141 billion last year to $153.7 billion this year, a $12.7 billion increase.

What we are talking about is throwing more money at the military than they even asked for. At the same time, with a recession facing this Nation, with unemployment in my State approaching 10 percent, with unemployment in the country approaching 8 percent, what we have done is cut back on our job programs.

We have cut back our elementary education expenditures $400 million in order that we may balance the budget, but at the same time we increased the military expenditures $12.7 billion.

We have cut health expenditures $900 million. At the same time, we found the money to increase military expenditures $12.7 billion.

We have made it possible for those who do not have the wherewithal to buy food to be cut back to the extent of $600 million. The COLA program, $500 million.

What an absurdity. We cut back $200 million in the unemployment compensation program at the very time that unemployment is on the rise in this Nation. And when people are walking the streets, trying to find a place that they may feed their families, we cut back welfare benefits $400 million, and the child nutrition program $500 million.

When we passed the windfall profit tax bill, we provided that there was going to be low-income energy assistance to the extent of $3.1 billion. But now we have funded it only at $1.8 billion, a drop-off of $1.3 billion.

Mr. President, when this resolution came to a vote in the Budget Committee, I said that we on the committee had "done a very, very evil job as far as the American people are concerned."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM. Two minutes.

Mr. President, we are now compounding that evil by closing our eyes to the economic disasters that surround us. We are promoting this resolution as a balanced budget when each and every one of us knows that in reality, because of the recession which the administration has engineered, we face a deficit of at least $50 billion for 1981.

Today, as the administration's programed recession takes effect, we see massive layoffs in the housing industry, in the auto industry, in steel, in rubber, glass and in a host of other areas, driving unemployment to record heights.

This resolution projects an average unemployment rate of 7.5 percent for 1981. Unemployment is already 7.8 percent and climbing. In my home State of Ohio it is approaching 10 percent. We cannot continue to ignore the pain and human tragedy that lies behind the unemployment figures.

Every percentage point in that unemployment rate means a million American men and women out of work. In the real world, these numbers mean hardship for countless families. They mean abandoned dreams and shattered aspirations.

What we should be doing at the moment is concerning ourselves with programs to deal with the recession. And so, Mr. President, I look forward to putting this resolution behind us and getting on with the business of working out a budget which responds to economic reality.

We have basically two tools at our disposal. We can enact a deficit-increasing, so-called productivity tax cut and hope that businesses will produce their way out of the recession. That may do some good in the long run. But let us not kid ourselves. We would not see any positive impact from such a tax cut before 1982. We cannot afford to wait that long.

Our other alternative, Mr. President, is a well-targeted program of antirecession assistance—a program which would direct funds where they are needed, when they are needed—a program to put people back to work doing things our Nation needs to have done—revitalizing our cities, weatherizing our homes, providing crucial public services.

Such a program is not without cost. But our experience with this first budget resolution should have taught us that until we balance our national priorities we cannot balance our budget.

Mr. President, I urge prompt action on this resolution.

Mr. President, it is not enough for the Congress of the United States to concern itself about our national security at the national level. It is also important that we concern ourselves about our national security at the domestic level.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. METZENBAUM. Mr. President, I will support this resolution but with great misgivings.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, will the Senator from Oklahoma yield me some time?

Mr. BELLMON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma has 21 minutes remaining.

Mr. BELLMON. I yield 6 minutes to the Senator from Utah.

Mr. HATCH. I thank the Senator from Oklahoma.

Mr. President, the Senate is about to engage in the charade of passing a balanced budget, although, from listening to the distinguished Senator from Ohio, I am almost persuaded that perhaps it is not as bad as I believe. It is a charade because for at least the past few weeks, even as the conference agreement was being negotiated, everyone has known that the economy is plunging into a much deeper recession than anticipated in this budget resolution. Most economists now expect the policies in this budget resolution to produce at least a $30 to $40 billion deficit. This is due only to the automatic increases in spending and reductions in revenues resulting from poorer economic performance, not including any additional spending stimulus the Congress will undoubtedly be tempted to add to fight the recession. This is not an encouraging picture for those who believe that a balanced budget is long overdue.

In April the index of leading economic indicators plunged a record 4.8 percent. In the past 2 months, unemployment has increased 1.6 percentage points, meaning an additional 1.7 million people unemployed.

Projections are now showing unemployment for 1980 and 1981 being about 1 percentage point higher than anticipated in this budget resolution, with inflation about the same or a little lower than expected in the budget resolution, and real economic growth being 0.4 to 1.8 percentage points lower over the 1980-81 period. Yet, in spite of the overwhelming evidence that this budget is balanced only on paper, Congress persists in playing election year politics by claiming success for the congressional budget process in balancing the budget.

By fooling ourselves for another 2 months or so until the time of the second budget resolution, we will waste enough time that it will be impossible to make reforms in spending programs that would be necessary to really bring the fiscal year 1981 budget into balance. Even if we want to balance the budget at the time of the second resolution, in spite of the deteriorating economic conditions, Congress would not have time to enact the changes in spending programs that would be necessary to control spending before the 96th Congress adjourns.

The appropriations committees will act on the targets presented in this first budget resolution, knowing full well that the entitlement programs will increase dramatically with the new economic forecast, but by the time of the second budget resolution it will even be too late to control those appropriations. By passing this first budget resolution, we are assuring that the fiscal year 1981 budget will be out of balance.

In the press, we will be reading about how successful the congressional budget process has been in producing the first balanced budget since 1969 and the second balanced budget in 20 years. What a deplorable record. But a closer examination reveals that the budget process has not been successful in controlling Federal spending.

Following the Keynesian prescription of spending our way out of recession, the Federal Government has over the past several business cycles increased the portion of GNP it consumes in times of recession and reduced this proportion during economic recoveries. Before the last recession in 1974 and 1975, the Federal Government was spending 19.8 percent of GNP. It was during this recession that the budget process came into being. And with the addition of spending "stimulus" under the budget process, the level of spending grew to a high of 22.6 percent of GNP in fiscal year 1976. This is the highest rate of peacetime Federal Government spending, and about 2 percentage points higher than spending had grown during previous recessions.

However, the budget process has not worked to significantly reduce this percentage during the economic recovery. In fiscal year 1979, spending fell to 21.3 percent of GNP, still higher than the rate of spending at the low point of all other business cycles since World War II. For fiscal year 1980, as economic activity peaked and then fell, we are already spending 22.5 percent of GNP according to optimistic budget committee projections, and 22.8 percent of GNP by more realistic economic projections.

Fiscal year 1981 spending is projected to be 21.8 percent by the Budget Committee, but under more realistic economic forecasts, this will grow to 22.8 percent of GNP, and that is without the addition of any extra spending as stimulus to bring us out of the recession. How high will this percentage climb as the Congress passes out more handouts to its spending constituencies under the guise of fighting the recession? 23 percent? 24 percent? It is becoming clear that the budget process is sending us on a path of an ever-expanding Federal Government sector at the expense of the private sector. This is not success.

What about deficits? During the life of the congressional budget process, the lowest level the deficit has been reduced to was $28 billion in fiscal year 1979. Despite the unprecedented growth in revenues during this period brought about by high rates of inflation clashing with the progressive income tax and driving people into higher tax brackets, the budget process has been unable to produce a balanced budget.

The worst aspect of this budget resolution is that it was designed to throw us into a recession in order to fight inflation. With the fiscal drag of some $60 billion in real tax increases, this budget resolution has already accomplished its goal. But even in the face of perhaps the most severe recession in decades, the Congress is doing nothing about these real tax increases. The cries have already begun for more spending to stimulate the economy out of the recession. It is clear that the goal of a balanced budget is out the window. The question now becomes how best to stimulate real growth in the economy, how, if you will, to get the biggest bang of economic growth for the buck of deficit.

Now that the balanced budget is a dream of the past there is absolutely no justification for these massive tax increases and against properly structured tax rate reductions to stimulate real growth and productivity. The Congress should turn its immediate attention to designing tax cuts to restore the incentives needed to increase saving and investment and get this country back on a path of acceptable real economic growth. The Congress should follow the advice of its Joint Economic Committee, which is in consort with the thinking of the economic community, to avoid providing stimulus through spending programs and concentrate on supply-side economic policies, such as tax rate reductions to stimulate long-term real growth.

Mr. President, we can solve our economic problems without enduring the pain of this recession. We can act now to cut tax rates for both individuals and businesses to restore the incentives to work and produce, save and invest and thereby stimulate the productive sector of the economy. We can fight inflation by controlling Federal spending and the growth of the money supply. This will require surgical reforms in many of the so-called uncontrollable items in the budget so that future spending and consequently future tax burdens will be reduced. But we must get started now and not be lulled into a false sense of well being by a budget resolution that is unrealistic, deceptive, and a wistful dream. I encourage my colleagues to reject this budget resolution on grounds of economic policy and turn their attention instead to developing policies that will get our economy back on the growth path, irrespective of the congressional budget process.

Mr. BELLMON. Mr. President, the Senator from New York (Mr. Javits) has requested time.

Mr. HOLLINGS. If it is convenient, I yield 10 minutes to the Senator from Nebraska.

Mr. EXON. I thank the Senator from South Carolina.

Mr. President, I say to the members of the Budget Committee that it has been a great honor for me to serve with our chairman and the ranking minority member and all the other members of the committee, on both sides of the aisle.

Mr. President, for the political opportunists, the traditional "aginners," yes, the political demagogs, this is a good budget to oppose, as they oppose all the budgets, all the time. It is great to go back home or write letters to their constituents with the statement: "But I did not vote for that terrible bill to raise your taxes. No, no, a thousand times no."

It is usually signed by "Your faithful servant," who always does good "for you good people from my office here in Washington. Oh, my! If there were only more of the good, faithful, and honest people like me representing you, putting out press releases to solve the problems, it would be a wonderful world of sugar plums and tooth fairies."

Unfortunately, Mr. President, the same faithful Representatives who never vote for any budget or any debt ceiling are usually the first and the quickest with a press release announcing a Federal grant or a Federal loan or any Federal program for the folks back home.

Would it not be more honest if those who failed to muster the political courage to vote for a budget were to at least cease and desist from proudly announcing what they have done for their voters, when, in fact, had their wishes prevailed, there would not have been any Federal money for any program of any kind? I say this with tongue in cheek, because I know that some in Congress take credit for everything that is done here that is acceptable back home, even though they, by their votes, would strike it all.

I do not mean to imply that there are not some who genuinely are opposed to the budget, both those who honestly believe that we should spend considerably more and those, on the other hand, who honestly believe that we should spend less. I appreciate people with honest convictions.

There are many reasons why I could vote against this budget. Some prominent reasons are that I do not believe defense spending is high enough, and I think we still could eliminate some unnecessary domestic spending.

I agree that the total is too high and that it may well turn out not to be a balanced budget, despite the fact that we tried very hard. Not because we did not try, but only because of the uncertainties of the economic downturn. None of us realizes how far that might go.

But some do not seem to understand the budget process. I am sure that any Member of the House of Representatives or Senate could write a budget that suited them and their constituents. But this is a process under our system which requires consensus of 435 Members of the House of Representatives and 100 Members of the Senate.

Workable compromises are not easy to come by as those of us of the Budget and Conference Committee all too well understand. It is a long way from a perfect budget, I suggest, but I have never seen a perfect budget.

Mr. President, in an attempt to put all of this in some kind of a better perspective hopefully that we can recognize what the problems are that confront every Member of the House of Representatives and every Member of the Senate, I wish to submit a table which I ask unanimous consent to have printed as part of the Record at this point in my remarks.

There being no objection, the table was ordered to be printed in the Record, as follows:

OUTLAYS

[In billions]

	1980	1981	Percent change
Defense	135.7	$153.7	+13.3
Social security payments	124.8	145.1	+16.3
Interest on national debt	65.1	72.2	+10.9
All else of budget	247.05	242.6	−1.8
Total	572.65	613.6	+7.2
Revenue		613.8	
Surplus		.2	
All totals:			
All nondefense	436.95	459.9	+5.3
All defense	135.7	153.7	+13.3
Total	572.65	613.6	

Mr. EXON. Mr. President, this Record simply shows that even while we recognize double-digit inflation, I wonder how many other governments at any level are going to be able to accomplish holding down Federal expenditures to a 7.2-percent increase over the previous year. The table certainly indicates that while we have increased total spending by 7.2 percent, we have increased defense spending by 13.3 percent, social security payments by 16.3 percent, interest on the national debt necessarily by 10.9 percent, and all of the rest, Mr. President, items of Federal expenditures have actually decreased by 1.8 percent when we take into consideration the expenditures programed for 1981 and the actual expenditures for 1980.

Mr. President, I certainly urge that my colleagues recognize that we have worked very hard on this budget. I hope in a few moments we will see a budget passed and we can get on with the business of Government despite the imperfections that I recognize are in this budget.

I yield any remaining time I have back to my friend from South Carolina.

Mr. BELLMON. Mr. President, I will yield to the Senator from New York.

Before I do, I say that I regret that I disagree strongly with my friend from Utah, both in his perspective and in his solution. I believe that we have before us a budget resolution that contains the most striking evidence of spending restraint yet voted by the Congress. This budget was developed, over the last 3 months, in good faith, on the best set of economic assumptions that were available to us at the time, and contains many of the policies that Senator Armstrong advocates. I am proud to support this budget resolution and I urge my colleagues to do the same.

Much has already been said about the volatility and veracity of economic forecasts. I do not wish to recount arguments that the Senate has already heard. However, I do believe that the economic situation which Congress and the Nation now faces has no precedents in historical experience. Economic forecasts about the future are going to continue to be as erratic and perplexing as the economic environment itself.

I remind the Senate that during the past year, the Federal Reserve has changed fundamentally the way it does business. For years, it attempted to control both interest rates and the money supply. In the end, as we all witnessed, it controlled nothing. Now, the Fed has attempted to take firm control of the money supply, and allow interest rates to fluctuate according to the demand for credit. Just 2 days ago, the Fed reaffirmed its commitment to monetary stability when it failed to intervene in the Fed funds market—to add reserves and bring interest rates down further. I regard this policy and the Fed's commitment to it as very positive for the inflation outlook and general expectations of inflation in the future.

Not only is the Fed's new policy toward money management encouraging on the inflation front, but I think the "real" economy also stands to benefit. The prime lending rate, which reached 20 percent just over 1 month ago was reduced to 12 percent yesterday at the First National Bank of Boston. This is a reduction of 8 full percentage points in as many weeks. Still, I read the economic forecasts and they tell me that the prime rate will not reach that level or below until year end. Clearly, many of the economic forecasts lag reality. If, as is my opinion, a great deal of the economic slowdown we are currently witnessing outside of the auto industry was brought on with alarming speed by high interest rates—I consider it reasonable that some reversal in the decline should be engendered by low interest rates.

Our Nation's economists do a credible job for us and they cannot be blamed for not fully comprehending changes in policy and in the economy, itself, which come upon them so rapidly. I am reminded of the analogy that I heard recently, that an economic forecaster is like a driver who watches the center line of the road out of the rear view mirror. History is an important but often misleading guide to the future.

I am deeply sympathetic to Senator Hatch's objective which is to assure a balanced budget in fiscal year 1981 and to reduce Federal spending. However, I disagree with his solution. A budget conference with those House conferees in a deteriorating economy is not the place to negotiate additional spending cuts. The Senator cannot really expect us to return to a conference in which the House has already demanded increases in social spending and expect to cut, by $10 to $20 billion, those very same programs.

In just 6 weeks, the Senate Budget Committee will begin markup on the second concurrent resolution. This resolution will set binding spending limits for the Congress and will be based on the best economic information that we have at that time. Moreover, the spending ceilings in the second concurrent resolution may be either increased or reduced. At that time, we can take into account changes in the economy as well as changes in the level of spending that may be required.

Last year, in the second concurrent resolution for fiscal year 1980, the Senate was so concerned that the growth in spending be restrained that it voted by a margin of 90–6, to require through reconciliation, that Authorizing and Appropriations Committees eliminate $3.15 billion in budget authority and $3.6 billion in outlays for their projected spending plans. Unfortunately, the House did not accept the principle of reconciliation in conference which made our efforts to control fiscal year 1980 spending even more difficult.

Now, in this budget resolution, the principle of reconciliation is an accepted part of the budget process. We have reconciliation available to us as a tool for achieving balance in the second resolution, if the Senator's dire prognostications come to pass. This Senator, for one, is committed to using reconciliation, yet again in the second resolution, if it is necessary to achieve a balanced budget.

Because of the uncertainty of the economic outlook and the prospect of a second concurrent resolution, I would hope the Senator would reconsider his opposition to this resolution. His efforts to cut Federal spending have been a very valuable part of the process and have aided those of us who share his desire to control the growth of Government. As I have said before, this budget resolution achieves many of the policies that Senator Hatch supports. I think our only disagreement is only one of degree.

I urge him and those who share his concerns to work with us in pushing forward this budget resolution and the goal of spending reduction, even though it might not go as far as they would like. I believe that we have made historic progress in real control of Federal spending in this budget and I would be disappointed to see this progress jeopardized by returning this budget resolution to conference.

I yield now 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I wish to call the Senate's attention to the figure upon which the conferees agree respecting the outlays for defense. That is a figure of $153.7 billion, exactly the same figure which was contained in the substitute offered by Senator Nelson of Wisconsin and myself.

Yet, Mr. President, as I said at the time, on May 7, 1980, when this substitute was offered, it was very depressing, deplorable to me that as a result of offering that very figure we were charged very harshly with being not only soft on defense but that we are not for defense at all. Yet this is the exact figure which the conferees chose.

Mr. President, I think that is an eloquent answer and I ask unanimous consent at this point in the Record that the statement contained at pages S4832 by the manager of the bill and my reply contained at S4836 that same day may be printed in the Record as part of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. Hollings. Mr. President, let me try to bring this debate into focus because what we see or hear are statements that we have not cut anything. That we have not cut the defense budget.

It reminds me when I hear these Senators who say they have not cut the defense budget and how strong we are in America and how we are second to none that they shall very conscientiously or unconsciously add, "When we consider our culture, our economy, our industry," that they are really talking about defense, knowing that it is in a deplorable state, a very deplorable state.

We hate to make that statement. The military commanders come to the Congress and they ask for the draft as they did last year. They can make their statements on military balance and they make them right. All we need is more Members to witness the hearings and see every Chief of Staff say that we are going down in capability. Now the stark reality on the attempted rescue mission or any other military task we try to do shows. It shows whether it is a report out in Los Angeles, whether it is a report of the Washington Star, whether it is the New York Times account of a B–52 cracking apart worse than the DC–10's, whether it is a report that 40 percent of the middle grades are not reenlisting, whether it is a report that we have not been successful with the volunteer Army, or whether it is a report about Nifty Nugget.

Our needs were reflected in the Senate vote last September 18, before Iran and Afghanistan occurred. We are responding to a year-in year-out cut of defense spending making us weaker. Just this morning we pick it up again, and now the Reserves and the National Guard have passed a resolution condemning the administration and the deplorable condition of the state of the Guard and Reserve. We know now that if we had to fight in Europe, that within 30 days if we tried to replace the casualties we would be shy 500,000. We went into an executive session in this Chamber last year but now it has been reported publicly that we are 500,000 shy in the Guard and Reserves. The enemy would have a weapon to destroy half the Army. We have been worried to death wanting to know what it is. But we systematically and methodically cut our defense spending down and do not meet our needs.

Yet the sponsors of this amendment come here and say nothing is cut.

I am reminded of a story of the gentleman who never did like the police. He was always getting a ticket. He was cussing the police department, "We have too many." He did not like the law and he was always raising sand, and there was too much law enforcement, too many policemen. He never could get along until one day his daughter was selected as May Queen and they could not have the parade. He found out why they could not have a parade. They would not permit it because there was not enough policemen. Then he ran out and around wanting more police. Why? Not that he wanted more policemen but he wanted a parade.

Now the Senators come along. They are not for defense. They never have been for it. They do not believe we are strong and they are pleased with it. That is what worries the people in the armed services.

Really even with the amounts that we give them, they feel that they have * * * here in this Congress cares about them.

And the leadership of this particular amendment are pleased with the downfall of the defense. Do not let them tell you differently. They come now and they say, "Oh, we are always for strong defense." But they are not for it. Look at their vote and look at their actions and look at what has been done. We tried to politely bring their attention to what has occurred.

So like the gentleman now who comes for a policeman so he can have a parade, these Senators wanted added programs and they figure they can get them if they give themselves a little bit more defense than what they would want. They really have done a sacrificial thing with real courage and now they are going ahead with defense and they are really convincing themselves that there is not a cut.

There is a $2 billion cut in outlays in this amendment and a $6.9 billion cut in budget authority.

If you please, Mr. President, this $6.9 billion cut becomes $13.1 billion the ensuing fiscal year and $18.4 billion the following year. So they know just how they are getting at defense. They are telling themselves now they have come up to a figure and we have not cut anything.

Let us give them a list of what they did cut because the distinguished Senator from New Mexico covered it as thoroughly as one could to say what the President wanted.

Mr. President, I ask unanimous consent to have printed in the Record the President's March request compared to the Budget Committee recommendation, function 050—National Defense. This gives an example of what may be cut by this amendment.

Mr. Javits. Mr. President, there have been some statements made here that I think the Member who made them should regret and withdraw.

This amendment is my amendment. I brought it to Senator Nelson and he joined me. I did not consult the administration. They have gotten aboard it now, but it is not their amendment. It is mine. I represent that to the Senate.

Second, I have been here longer than the Senator from South Carolina, and I voted aye on more appropriations bills than has the Senator from South Carolina as a result. I am not soft on defense. I am very hard on it.

Third, and very importantly, I was against this volunteer Army from the beginning and told the Senate that it was the wrong way to go. But the Senate did not listen. That is how soft I am on defense. And I am a liberal and proud of it, but I am not soft on defense.

Now, last and very important, the Senator says we are selling defense down the river, in effect, and he was not very kind about it or very polite about it.

Now, we are cutting these outlays from the committee recommendation by one-half of a percent. We are cutting the budget authority from the committee recommendation by only 4 percent. But we are increasing this figure by over $6 billion over what the House did by a majority; and by over $19 billion over fiscal year 1980. Are they selling defense down the river? They have got a $147 billion figure, where we have $157 billion. Are they selling it down the river? And is that to apply to them, as well?

Gentlemen, let us not run away with ourselves. We want to run a just country and this amendment is designed to somewhat redress, in a very minor way, the balance between those who need Government help for many other things and the defense budget.

It is not going to make any difference in that defense budget, considering the amounts involved. But it makes a great difference in letting millions of Americans know that justice is being done to them in this budget consideration.

It is for those reasons, Mr. President, that I hope very much the Senate will look with favor on this amendment.

Mr. JAVITS. Mr. President, one last word if I may have just one additional minute, I am going to support this final budget action.

Mr. President, I will note that I believe that it is going to deal with inflation, and I do not believe our people should for a moment be deluded by that. But I believe that the perception of our own people in the United States respecting money and those who hold dollars abroad will be improved by this evidence of our effort to deal with our Government expenditures situation.

A cure for inflation depends upon productivity of the United States in far greater proportion than upon what we will be doing here about the budget, but the perception is important in terms of the position of the dollar, literally the world's currency. For those responsible, and because there has been some redress to the programs that urgently needed it, I believe that the budget conferees here have done really the best they can.

I am going to support this conference report.

Mr. BUMPERS. Mr. President, will the Senator from South Carolina yield me 1 minute?

Mr. HOLLINGS. I yield 3 minutes to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President. I will not take the full 3 minutes. I shall speak on the amendment of the Senator from Alabama.

I feel certain that amendment is going to pass as it did before. I say, No. 1, if the Senator from Alabama wants to cut foreign aid, everybody's favorite whipping boy in years of austerity and conservation such as afflicted Congress, I will vote for that. I will not even ask who we are going to take the money away from. The amendment, of course, is rather practically designed because the Senator takes it away from something that no one likes—namely, foreign aid—and puts it over into LEAA where if Senators vote against that they are presumably against crime. It is like Barber Conable said on defense, if you are a $155 billion defense man you are a superpatriot, but if you are just $150 billion you have to be a Russian agent.

The same thing right here. That is the reason we cannot ever kill a program. LEAA served a fairly useful purpose in the beginning but it has long since outlived its usefulness.

We have rebuilt every courtroom in my State. We have nice soft cushioned seats for everybody. We have carpets on the floor. We have blue lights on all the vehicles. And crime is still going up in this country.

We cannot kill the program. We cannot kill anything for fear of being perceived of being in favor of crime.

I think it is a bad mistake. If this body wants to cut $100 million for foreign aid that is fine but do not put it in LEAA.

There is not a Governor or former Governor in this body who does not identify and know what I am talking about.

And it is a perception we are dealing with a fear that we have to go back home and face an irate sheriff and face an irate chief of police who says, "You just do not understand how people are going to be in the streets because you did not give us this money."

I think it is a bad amendment. I think LEAA should be phased out. We cannot solve crime by throwing money at it any more than we can solve defense problems by throwing money at it or solve all the social problems of this country by throwing money at it. Yet we continue to do precisely that.

Thank you, Mr. President.

Mr. HEFLIN. Mr. President, somehow or another I have failed to get over to some Senators, or they have not heard my remarks. This program kills completely. If we vote against my amendment, we vote to kill completely 100 percent the program designed to help the States and local government fight crime.

Are we going to kill the program that assists education because there may have been some defects in it? Are we going to kill the program that provides aid to health because we find some defects in it?

I tell the Senator from Arkansas he was a great Governor. Come forward with a program. Do not take the attitude that LEAA is completely bad. It has done a lot of good. It has professionalized the police force. I say that Congress can devise a program but here what we are doing by voting against the Heflin amendment we are saying, all right, Congress has not the ability to devise a program to stop crime. Who establishes the guidelines? The U.S. Senate and the House of Representatives and the U.S. Congress. If we have not the ability to devise a program then take the blame ourselves. I say the time has come for us to fight crime and not to completely destroy any Federal program to stop crime in this country.

I am willing to work to devise a better program, but crime is there. If LEAA is not working, let us change the law. Let us make it work. But do not throw up our hands and say there is no way of stopping crime. A vote against the Heflin amendment kills all Federal assistance to State and local government in their efforts to fight it. I do not want to get up here to fight a budget process. I admire the great work that has gone on in this regard.

I do not relish this at a late hour trying to do it. But I cannot sit idly by and play taps to the only program that is designed to stop the ever-spiraling rate of crime in this country.

Mr. PROXMIRE. Mr. President, will the Senator from South Carolina yield me 1 minute?

Mr. HOLLINGS. Yes.

Mr. PROXMIRE. I want to support the Senator from Arkansas. He is 100 percent right. The LEAA has failed on every count. It has been a waste of money.

Mr. President, we should realize that we cannot do everything for the States and local governments. We give them revenue sharing so they can spend it on anything they wish to do, and if there is one responsibility which should be exclusively the responsibility of the State and local governments, it is law enforcement. We do not have a Federal police. Oh, yes, we have the FBI to enforce Federal laws. But local authorities should take that responsibility, should come up with the money. It would be far more efficient if they did it.

Certainly if there is one principle which Congresses have over the last 20 years violated over and over again it is assuming that we know everything. It has assumed that we know everything about law enforcement and about every other area that should be the responsibility of our local governments. That is why I oppose the Heflin amendment and I support the distinguished Senator from Arkansas.

Mr. HOLLINGS. Mr. President, I yield to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I reluctantly take the floor to oppose this amendment. I supported the amendment when we had the budget resolution before the Senate. It was the one vote—we had 41 rollcall votes on the budget resolution, 41, and I went with the chairman 40 times. On one vote I split with him. On that one vote I joined Senator Heflin. So it is with reluctance today that I oppose the amendment, for which I voted in that instance, but I want to save the budget process.

May 15 is the deadline for the first concurrent resolution, and that date has already passed. I want to say further to my colleagues that we cannot take up the urgent supplemental appropriation bill until this resolution is in place. Let me remind Senators as to what is in that supplemental: $784 million for the Mount St. Helens disaster; $447 million to carry the food stamp program through September 30; additional disaster relief assistance for disasters which recently occurred in California, Mississippi, Louisiana, and several other States; defense items, including retired pay; trade adjustment assistance; black lung disability trust fund; medicaid; SBA disaster loan money; trade adjustment assistance which has already run out of money.

So, Mr. President, these items which are in the supplemental appropriation bill are in jeopardy and are being delayed. The supplemental cannot be taken up and passed until this budget resolution matter is resolved and in place.

If the amendment by Mr. Heflin is adopted, it means that this resolution will have to go back to the House for House action, and it could blow the budget process out of the water and could be down the drain from now on.

We have had 5 years of experience under this Budget Reform Act, and it has been made to work. It is working, and Congress has shown a determination to balance the budget—I hear all those who say we are not going to balance the budget—but the process is so geared as to deal with economic problems and make adjustments that are necessary down the road, depending upon what happens to the economy. So the process is working, and we have here a balanced budget. We ought not to blow it up at this point.

I favor the amendment. But I say to my friends let us not jeopardize the budget process. Let us not send this back to the House for House action, because there may be no House action on it if it is sent back this time. It just barely passed the House today by a very narrow vote. Let us not jeopardize the supplemental appropriation bill and keep it hanging back any longer. Time is running out.

There are also 13 regular appropriation bills that are awaiting action on this budget resolution. So there is a lot in the balance here tonight.

Though my vote, as I say, was with Mr. Heflin originally, I feel that the budget process is in jeopardy, and I think we ought to vote this amendment down. Much depends on the outcome.

I urge Senators to support the motion to table which will be made, and I say this with great respect for my friend, Mr. Heflin.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN. Mr. President, I made some remarks earlier about the minimal effect of my amendment and I am sincere about this. We are talking about such a negligible amount, only $20 million in outlays for fiscal year 1981.

I just have confidence in the distinguished Senator from South Carolina, and I have confidence that the leadership's influence with the House of Representatives is such that the House will accept this small but important change.

I just do not see the House turning down the budget over this. But I do see the death of a program if my colleagues do not vote for the Heflin amendment.

In all good candor, I do not believe that the majority leader or the distinguished Senator from South Carolina believe that this $20 million is going to kill the budget process. I just do not see it.

I, therefore, urge the Members of the Senate to vote to keep alive a program to fight crime. Let us devote the ingenuity and the practical knowledge that we have, as former Governors and judges, to devise a program that can stop crime. Let us not vote against the only program we have at this time by cutting off its money and giving a green light to crime to go ahead.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I had a request from the Senator from New York for time, but he is not in the Chamber.

I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I want to comment briefly on the conference agreement on the first concurrent budget resolution which is now pending before us.

My primary, continuing and overriding concern about the budget resolution has been the overall spending totals that it proposes—rather than any specific changes proposed in this conference agreement. These subtle and minor changes are clearly designed to lure members of both the House and Senate to approve the resolution so that Congress can get on with the budgetary process—that being the supplemental appropriations bills, the authorization bills, and the fiscal year 1981 appropriations bills which must be considered before the end of the year.

With all due respect to the Senate members of the conference committee who have worked so diligently and laboriously to reach a compromise with the House members of the conference—indeed they have given much of themselves, the distinguished Senator from Oklahoma, Henry Bellmon, the distinguished Senator from South Carolina, Fritz Hollings, the distinguished Senator from New Mexico, Pete Domenici, the distinguished Senator from Kansas, Nancy Kassebaum and the other distinguished members from the majority party. They all deserve commendation for their effort. But regretfully I believe that the elaborate manipulation employed to develop this compromise is sadly consistent with the original crafting of the first concurrent budget resolution by both the Senate Budget Committee—and by the Members of the Senate through floor debate on the various series of amendments.

I voted against the first concurrent budget resolution in May because I thought it was simply a "cruel hoax" perpetrated on the American people who desperately seek a balanced budget and believe that they are being presented with one.

We have done a magnificent job of deluding ourselves and the public into believing that this budget—this whopping and irresponsible increase in Federal spending—satisfies the Nation's obvious need to restrain the Government's wild stampede of spending. Now we are facing the fact, a mere month later, that the "balanced budget" is phony-baloney.

Yesterday, my colleague, Senator Armstrong inserted into the Congressional Record a table which details the history of the Federal budget from 1977 to the present conference agreement on the fiscal year 1981 budget resolution. The figures are staggering. I believe Senator Armstrong has done this Senate and this Nation a remarkable service in bringing them fully to our attention. We seem to have been ignoring those simple facts in the past. This so-called "balanced" budget for fiscal year 1981 represents a $38 billion increase in spending over fiscal year 1980 and a $119 billion increase over the 1979 budget. To compare the current totals to the Federal spending levels in 1977 and 1978 is even more appalling and devastating.

By gimmicking the revenue figures—through novel forms of taxation increases and reliance on nebulous factors such as the oil import fee which supposedly would have raised additional revenues—it may have seemed possible a month ago to "balance" the budget and still accommodate these glutinous increases in Federal spending. That assumption at least has been shattered, in part, by the overwhelming rejection of the oil import fee by this Congress.

Any budget can be balanced at any figure. We can enlarge the Federal pie indefinitely. But that is not what must be done to achieve real fiscal restraint. The American people will not swallow this one. They are no longer listening to those remarkably long and tedious answers about why this is really "a balanced budget"—and why we cannot possibly limit the spending habits of the Federal Government because that Government does "good things," that it is "simplistic" and "Neanderthal" to think about cutting various programs. Ah, but the old answers and the old hoorah will not work anymore.

We are fed a steady diet of at least a hundred reasons why a really authentic balanced budget will not work. We are told it will only cut the inflation rate by two-tenths of 1 percent—and I remind my colleagues that these are the same wizards who told us in 1976 that we would have an unemployment rate of 2 percent and that inflation would be brought under 4 percent by 1978. Frankly, I get tired of hearing about econometric models and modular curves and the synthesis of conceptualism and all of that junk. The real issue is: If you spend more than you earn you lose your fanny. It happens to citizens, it happens to businesses and it happens to the U.S. Government—even with their printing press down in the basement.

The only thing—and I emphasize that it is the only thing—that will bring our Nation back to fiscal sanity is a reduction in actual Federal spending—a concrete limit on the dollars available to be spent. I firmly believe that we should set that limit and then stand back and let the various interest groups fight between themselves—and not with the taxpayers—over how that limited Federal pie should be sliced up.

Only then will we find a truly responsible Congress in Washington—one who, being faced with the hard question that there is now only so much money here to run America—and we say to that Congress, "OK, now let's debate our national priorities without that ability to toss off a few million more bucks to every fringe group that happens to surface to beseech us to continue to ladle out the bucks in an extraordinary posturing of guilt and compassion fatigue."

I do not deny that certain economic factors have to be always taken into account when developing a budget resolution. The spending for fiscal year 1980 was just increased by $400 million for disaster relief necessitated by the Mount St. Helens eruption and the Miami riots—among other unexpected developments. The projected increase in the unemployment rate—and the accompanying strain that it will place on the economy—is about 9 percent. Social security benefits are slated to increase by 14.3 percent in July in order to keep pace with the cost of living.

Wait until we see the unemployment compensation figures after we have observed this painful shakedown of the automobile industry. And meanwhile 76 percent of this budget is "uncontrollable" by us because it means voting to cut back things like social security, veterans' benefits, medicare, medicaid, unemployment compensation. Who likes throwing himself on the altar of fiscal sanity by chopping up those programs? I do not. No one does.

But to ignore those facts is unrealistic. However, if those kinds of economic factors cannot be readily controlled—and indeed that will be tough to do—other aspects of Federal spending can be. And I do not believe we really made a serious enough effort to apply those critically needed controls. Now we are facing the consequences.

Through the use of scotch tape, sleight-of-hand, elixirs nostrums and some pretty fancy verbal footwork the Senate approved a "balanced" budget for fiscal year 1981 in May. Today we see that hoax unraveling and I intend to vote to reject the first concurrent budget resolution and recommend we go right back to the drawing board. We cannot afford this budget. That is why we are in the hole we are in. We are just tossing a few more spadefuls of dirt down in the hole and there is nobody down there but the American taxpayer. But my hunch is that he has some tricks up his sleeve for November 4, 1980.

Mr. HOLLINGS. Mr. President, everyone is asking for a vote. It was arranged with the Senator from New York to yield him some time, and we have held 5 minutes for him.

As I understand, the Senator from Colorado has 2 minutes. I have only a few minutes left for myself. A motion to table would only be in order when the Senator from Alabama completes his time; is that correct? I have used up all of my time on the amendment.

Mr. HEFLIN. I am willing that we both yield back our time.

Mr. HOLLINGS. All right then.

Mr. BELLMON. Mr. President, if it is in order, I move to table the Heflin amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the amendment of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "nay."

Mr. BAKER. I announce that the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 53, nays 34, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—53

Baker
Bayh
Bellmon
Boschwitz
Bumpers
Byrd, Robert C.
Chafee
Chiles
Cohen
Culver
Danforth
Domenici
Exon
Garn
Glenn
Hart
Hatch
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Mathias
Matsunaga
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Percy
Proxmire
Randolph
Ribicoff
Sarbanes
Sasser
Schweiker
Simpson
Stafford
Stennis
Stevenson
Tsongas
Weicker
Williams
Young

NAYS—34

Armstrong
Baucus
Bentsen
Boren
Bradley
Burdick
Byrd, Harry F., Jr.
Cannon
Cochran
DeConcini
Dole
Durenberger
Durkin
Ford
Goldwater
Heflin
Helms
Laxalt
Lugar
McClure
McGovern
Melcher
Nunn
Pryor
Riegle
Roth
Schmitt
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—13

Biden
Church
Cranston
Eagleton
Gravel
Kennedy
Long
Magnuson
Packwood
Pell
Pressler
Stevens
Talmadge

So the motion to table Mr. HEFLIN'S amendment (UP No. 1135) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BELLMON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I yield 2 minutes to the distinguished Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The Senate is not in order. The Senator will suspend until the Senate is in order.

Mr. THURMOND. Mr. President, the compromise on the budget resolution which the Senate has before it suggests that Congress is approaching a more desirable structuring of priorities, but I am disturbed that it does not take us far enough in the right directions.

This resolution calls for a balanced budget, but it is apparent that it probably is a balanced budget in name only. The resolution greatly overestimates expected tax revenues, considering that the national economy is already mired in a recession, the severity of which shows signs of worsening. The economic downturn will not only result in substantially lower tax receipts, but it will increase expenditures on programs such as unemployment compensation, food stamps, and welfare above the targeted levels in this budget resolution.

Mr. President, I contend that inflation remains the greatest threat to the economy of this Nation, and that the overwhelming national priority should be to reduce substantially the level of Federal spending in order that a balanced budget will be a certainty. We also need to provide for a substantial tax cut that will spur savings and capital investment. In order to stop this pattern of continued deficit spending and help control inflation, Congress needs to trim substantially more from domestic social programs than is proposed in this budget resolution. If this were done, there would be ample room in the budget for enacting the right kind of tax incentives to enhance productivity and provide new jobs.

The compromise version of this resolution actually increases fiscal year 1981 domestic spending by some $12 billion in budget authority and $2.5 billion in outlays over what the Senate passed last month. It also substantially increases fiscal year 1980 spending over the levels passed by the Senate. Thus, while I commend the distinguished chairman and ranking member of the Budget Committee, along with the other Senate conferees, for their resolve in resisting even further increases in nondefense spending demanded by many in the other body, I am deeply concerned that this compromise takes us further away from the objective of a balanced budget and will impede the fight to control inflation.

Mr. President, I realize the tremendous pressures the Senate conferees were under from the White House and some of the House conferees to reduce the levels of defense spending in the budget resolution. However, in my view, the troubled world situation, in which the Soviet Union is expanding its aggressive desires to dominate other countries and in which that nation is spending far more than the United States on weaponry, coupled with the serious deficiencies in our own defense readiness, demand that we make a firm commitment to substantially increase our own level of defense spending now and in the foreseeable future. The levels of fiscal year 1981 defense spending recommended by the Senate—$173.4 billion in budget authority and $155.7 billion in outlays—were not as much as our Nation needs, but they were a substantial step in the right direction. I believe it is unwise and threatens the security of our Nation to depart from this commitment, and thus I am greatly concerned that this compromise would cut $2.9 billion in defense budget authority and $2 billion in outlays from the levels recommended by the Senate.

Mr. President, I voted for this budget resolution on final passage when it was before the Senate. Although I would have preferred substantially less Federal spending in both the current fiscal year and fiscal year 1981, I felt that the Senate's version was a significant step in the direction of two important national objectives—a balanced budget and a heightened priority for national security spending. The conferees recommendations now before the Senate still point in the right direction, although there has been some erosion from these crucial objectives.

I regret this erosion, but I believe, as a practical matter, the Senate conferees have done the best they can in holding the line against further cuts in defense spending and additions in social welfare programs. Rejection of this suggested compromise will not result, in the estimation of both of the managers of this resolution and the other Senate conferees who have fought vigorously for the Senate's position, in any better compromise. In fact, it could result in further shifts of funds away from defense to domestic programs, or in no budget resolution at all to control spending. Under the circumstances, I believe the Senate conferees have achieved all they can on this matter. While I am obviously not entirely pleased with the result, I am going to vote for the resolution, since it appears that this is the best budget obtainable at this time.

Mr. BELLMON. Mr. President, I yield 4 minutes to the distinguished Senator from New York (Mr. MOYNIHAN).

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise for just 4 minutes, not more, to ask the Senate to consider one aspect of the debate we have heard today at some length, which is the proposal that our 1981 budget is in fact in deficit because the unemployment rates estimated in that budget are too low.

Mr. President, I would suggest that would represent a judgment which ought never to be accepted in this body.

We estimate in the 1981 budget an annual rate of unemployment of 7½ percent. That will in fact mark the third highest rate of unemployment since the annual estimate of unemployment rates began in 1948. It would represent in the last 4 years the third highest.

We are growing accustomed in this Nation, in the aftermath of the OPEC oil price increase and the stagflation, as it is called, for the last half decade, to a degree of social dislocation that unemployment constitutes that we have never known in the postwar history of this Nation, and certainly never grown accustomed to.

There is no reason in the least that this budget should be out of balance. There is no reason for a deficit if we would impose upon ourselves the social discipline and the political energies to bring unemployment back to levels which were thought to be normal not a decade ago. We are growing accustomed to levels of unemployment which are intolerable and unnecessary and, certainly, ought not to be exaggerated by persons who are opposed to the social policies of this administration.

There is no reason in the world to have 7.5 percent unemployment in 1981 and if there is one matter that should be the pending business of the 97th Congress when it reconvenes, it is to make certain that it does not happen. Before that, we shall have a second budget resolution, which I know the chairman and the ranking minority member will address themselves to. We need not accept this and I hope that it would be the judgment of the majority of this body that we will not.

I thank the Senator from Oklahoma for his courtesy in giving me this opportunity to say what it seems to me is obvious and ought to be said.

● Mr. ROTH. Mr. President, the budget we consider today is not a budget of austerity. It is not a budget of courage and great sacrifice, as we have been told. It is not a budget of carefully planned, farsighted economic policy. It is a plan for economic stagnation and decline. It is a plan for a dreamless America.

The facts are compelling. Unemployment is increasing at the fastest rate in 30 years. Average weekly earnings are at the lowest level since 1961. Interest rates have been at record levels and it is virtually impossible for the typical family to buy a home. Our savings rate has fallen to its lowest level in nearly three decades. Our productivity and investment rates are at dismally low levels and inflation continues virtually unabated after months of the same tired, outdated policies.

For the first time in years, the American people are being told they face a future of downward mobility. The American dream of owning a home, educating a child, and having a decent retirement is threatened by the nightmare of inflation, recession, and record taxes.

Yet this conference agreement ignores all alternatives, and instead offers a budget with one of the highest spending levels and with the highest tax burden in the history of this country. This budget increases spending by $81 billion over the fiscal year 1980 budget we adopted last spring—a 15 percent increase.

The spending levels set in this budget are far too high right now. But this bloated budget resolution is about to burst at the seams. It is a fiscal time bomb. Later this year, as the economy turns down, it will explode with more spending. Along with the automatic spending increases that accompany recessions, Congress will probably vote some new public works and public jobs programs.

The high level of revenues now projected by the committee will begin to decline as unemployment rises. Finally, instead of this highly acclaimed masterpiece of fiscal responsibility, we will have high unemployment, high Federal spending, a big deficit and a bigger tax burden on the American people.

We are being asked to believe this budget resolution is a momentous achievement because it balances the budget. We are supposed to believe that the Congress has taken a hard look at itself and repented of its foolish spendthrift ways of the past. But this budget resolution has nothing to do with fiscal responsibility. This budget resolution attempts to balance the budget by raising taxes; in reality it is not a balanced budget. Support for the committee bill does not represent fiscal responsibility. A vote for this resolution is quite simply a vote for imposing the biggest tax burden in history on the American people.

The American people are facing the most massive 1-year tax increase in history—with this budget resolution calling for taxes $105 billion higher than the budget we adopted last spring.

Between 1979 and 1981, total Federal taxes have increased by 34 percent and individual income taxes have increased 30 percent. Under current law, over the next 4 years, total Federal taxes are projected to increase 75 percent and individual income taxes will increase 96 percent.

High tax rates are choking economic growth, slowing down production, pushing up prices, and retarding savings and investment. But despite the disastrous economic conditions directly resulting from these outdated policies, we have before us a budget resolution which drastically increases spending and taxes. Unless we embark now on a long-term program of spending restraint and substantial tax cuts, we face a bleak future of high inflation, high unemployment, and declining standards of living.

This budget resolution is a promise to the American people that the economic crisis we face will get even worse. I urge my colleagues to vote against it.●

● Mr. PRYOR. Mr. President, I plan to vote today in favor of the budget resolution. However, I do wish to express my disappointment over the failure of the conferees to include the Glenn-Pryor amendment which would have allowed us a way to continue funding for 6-day mail delivery.

As many of my colleagues know, I was among those who would have opposed an increase in the postal subsidy budget authorization had there been no way to fund it. However, the amendment offered by the Senator from Ohio as amended by my own amendment would have provided a method of paying for the continuation of this service.

Quite simply, my amendment would have cut the administrative budgets of each agency, except the Department of Defense, by 1 percent. This would have provided us not only with funding for 6-day delivery, but would have left us an additional $100 million to apply toward the budget surplus.

I refuse to believe that there is an agency whose administrative offices are operating so efficiently that 1 more percent of waste cannot be found to be cut. Whether it be in the form of consultants, Federal travel, paper clips or furniture, I am confident that the waste is there.

I believe that the 27 to 69 rollcall vote by which the Senate rejected a motion to table the Glenn-Pryor amendment stands as a clear expression of the Senate's judgment on this important matter. Unfortunately, Members of the House of Representatives did not have this same opportunity to express themselves on this issue when the budget resolution was passed by their body.

Should 6-day mail service be eliminated, I am afraid we will be further isolating the citizens of rural America who depend on mail service more than any other group of people for their communication. Whether it be letters from family members or newspapers which must be delivered by mail, the mail is an essential service to rural America.

The Postal Service is probably the only Government service which touches all Americans. I regret that we have missed this opportunity to insure the continuation of 6-day mail delivery.●

● Mr. LEVIN. Mr. President, with a great deal of reluctance, I will vote for this budget resolution. I still do not believe that the resolution reflects the priorities that this Nation ought to have at this time. But I find three justifications for supporting the resolution.

First, and most importantly, until we get this resolution through, we will not be able to provide the funding that is so vitally needed for programs which have run out of money. These programs, like trade adjustment assistance, are vitally needed now—and there appears to be no willingness to recognize that need by separating the issue of supplemental appropriations from the passage of the first budget resolution.

Second, this budget resolution is not binding. In voting for it, we are not making commitments to actual spending and I can still hope that the Congress will change its priorities so as to fight the recession we are in by the time we adopt the second binding resolution.

Third, while this budget is not consistent with critical national priorities, it is an improvement over the resolution the Senate passed on May 12. I am not satisfied with those improvements, but they do at least make the budget resolution more compatible with my own previously expressed views.●

Mr. HOLLINGS. Mr. President, unless any Senator wishes to be heard further, I thank all my colleagues for their patience and cooperation. I yield back all my time and move that the Senate concur in the amendment of the House.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to the first concurrent budget resolution (H. Con. Res. 307). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN)is absent on official business.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness in the family.

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from California (Mr. CRANSTON). If present and voting, the Senator from Louisiana would vote "yea" and the Senator from California would vote "nay."

I further announce that if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The PRESIDING OFFICER. Are there any Senators now desiring to vote?

The result was announced—yeas 61, nays 26, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—61

Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Culver
Danforth
Dole
Domenici
Durkin
Exon
Ford
Glenn
Hart
Hayakawa
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Mitchell
Morgan
Moynihan
Nelson
Nunn
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Stafford
Stennis
Stewart
Stone
Thurmond
Tower
Tsongas
Weicker
Williams
Young

NAYS—26

Armstrong
Boschwitz
Byrd, Harry F., Jr.
Cochran
DeConcini
Durenberger
Garn
Goldwater
Hatch
Hatfield
Heinz
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Percy
Proxmire
Roth
Schweiker
Simpson
Stevenson
Wallop
Warner
Zorinsky

NOT VOTING—13

Biden
Church
Cranston
Eagleton
Gravel
Kennedy
Long
Magnuson
Packwood
Pell
Pressler
Stevens
Talmadge

So the motion to concur in the House amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CROSSWALK ALLOCATIONS UNDER HOUSE CONCURRENT RESOLUTION 307

Mr. HOLLINGS. Mr. President, section 302(a) of the Congressional Budget Act provides that the joint explanatory statement of managers accompanying the conference report on the budget resolution shall include an allocation based on the resolution as recommended in the conference report of the appropriate levels of new budget authority and budget outlays among each committee of the House and Senate which has jurisdiction over bills and resolutions providing such new budget authority. This is the so-called "crosswalk" procedure.

Since the House and Senate have completed action on House Concurrent Resolution 307, the first budget resolution for fiscal year 1981, without adopting a conference report, there is no joint statement of managers on this resolution.

Therefore, I ask unanimous consent to have printed in the RECORD at this point a table showing the appropriate crosswalk allocations under House Concurrent Resolution 307, the first budget resolution for fiscal year 1981, and that it be considered to meet the requirements of section 302(a) of the budget act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table follows:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1980				
Appropriations Committee	398.1	357.2		
Agriculture, Nutrition, and Forestry Committee	.5	4.8	4.3	4.1
Armed Services Committee	−.1	−.1	12.0	12.0
Banking, Housing, and Urban Affairs Committee	6.6	1.2		(1)
Commerce, Science, and Transportation Committee	1.2	(2)	.2	.2
Energy and Natural Resources Committee	1.1	1.1	.1	.1
Environment and Public Works Committee	23.9	2.0		
Finance Committee	256.5	248.0	39.9	39.2
Foreign Relations Committee	11.9	8.9		
Governmental Affairs Committee	31.5	22.1		
Judiciary Committee	.3	.3	(3)	(3)
Labor and Human Resources Committee	4.7	4.9	3.9	3.8
Rules and Administration Committee	.1	.1		
Veterans' Affairs Committee	1.2	.8	13.5	13.4
Slect Committee on Indian Affairs	.4	.2		
Select Committee on Small Business	(1)			
Not allocated to committees	−79.0	−79.0		
Total, budget	658.85	572.65	73.9	72.7
FISCAL YEAR 1981				
Appropriations Committee	420.1	375.5		
Agriculture, Nutrition, and Forestry Committee	.6	1.2	3.3	3.2
Armed Services Committee	−.2	−.2	13.5	13.5
Banking, Housing, and Urban Affairs Committee	7.7	−3.8		
Commerce, Science, and Transportation Committee	1.3	(4)	.2	.2
Energy and Natural Resources Committee	.9	.9	.1	.1
Environment and Public Works Committee	9.1	2.2		
Finance Committee	289.5	281.9	39.2	38.3
Foreign Relations Committee	12.6	10.4		
Governmental Affairs Committee	34.7	24.9		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	5.2	5.4	3.7	3.6
Rules and Administration Committee	(5)	(4)		
Veterans' Affairs Committee	1.2	1.0	13.9	14.1
Select Committee on Indian Affairs	.4	.3		
Select Committee on Small Business	(1)			
Not allocated to committees	−86.2	−86.2		
Total, budget	697.2	613.6	74.0	73.0

[1] Less than $5,000,000.
[2] Less than $25,000,000.
[3] Less than $50,000,000.
[4] Less than $15,000,000.
[5] Less than $45,000,000.

Note: Details may not add to totals due to rounding.

Mr. HOLLINGS. Mr. President, this request follows the practice adopted last year in both the first and second budget resolutions when there was also no statement of managers reflecting the final agreements reached. As was the case last year, by agreeing to this request the Senate is simply putting in place the crosswalks that are an essential element of the budget resolution.

FINAL ACTION ON THE FIRST CONCURRENT BUDGET RESOLUTION

Mr. ROBERT C. BYRD. Mr. President, with Senate passage of House Concurrent Resolution 307, the Congress will have adopted a balanced budget for the first time in the history of the budget process.

The first major step in the journey to a balanced budget began with the passage of the Congressional Budget and Impoundment Control Act of 1974, commonly known as the Budget Act. The process established by the act has imposed fiscal discipline as well as a mechanism for setting priorities which has helped the Congress to develop a budget which is tight—but not austere.

The effort to balance the budget was dealt an early blow by the 1974–75 Ford recession. Increased social spending and decreased revenues resulting from the most serious economic slowdown since the depression drove the deficit to a staggering $66.4 billion in fiscal year 1976.

During the long march back from enormous recession-induced deficits, the road was strewn with "quick fix," easy vote solutions to our fiscal problems. Formulas were promoted to tie spending to some measure such as the gross national product. Amendment after amendment has been offered, promising a balanced budget immediately, with little or no pain.

But the Congress has resisted these easy fixes, recognizing that the way to balance the budget—was to balance the budget.

That process started in 1978 with a vote on an International Monetary Fund bill which required the fiscal year 1981 budget to be in balance.

Next, during consideration of the public debt bill in March of 1979, the Congress instructed the Budget Committees to report budgets which were balanced by 1981 or 1982.

During consideration of both the first and second concurrent resolutions on the fiscal year 1980 budget, the Congress chose paths which would lead to a balanced budget in fiscal year 1981.

In March of 1980, the Senate considered a resolution, introduced by Senator ROTH. The substitute expressed the sense of the Senate that the Senate Budget Committee should report a budget for fiscal year 1981 which is balanced and which dedicates any surplus to a tax cut. The amended resolution also instructed the committee to develop an amendment which would reduce Federal spending to 21 percent—the original approach of the Roth resolution.

When it turned to consideration of the first budget resolution for fiscal year 1981, the Senate rejected this mechanical approach and instead adopted a realistic, tight budget similar to the final agreement before us today.

The journey to a balanced budget has been long and difficult, but its adoption signals the American people that the Congress shares their goal of fiscal restraint.

If, as some are now predicting, the fiscal year 1981 budget cannot be balanced, it will not be for lack of congressional will. It will be because economic forces have driven the budget into deficit.

The Congress cannot legislate business cycles. We can help to moderate the deflationary and inflationary impact of business cycles. But we cannot prevent them.

When the groundwork was being laid for this budget in March, economists predicted that the spending and revenue levels contained in this resolution would produce a balanced budget. If economists tell us in July, when the budget must be reestimated, that spending will be higher and revenues lower than we have targeted, then we can make the necessary changes in the second resolution. In the interim, the first budget resolution will foster an atmosphere of fiscal restraint and help to prevent an overreaction to our short-term economic problems.

Those who carp at this resolution for not being austere enough ignore the importance of the new procedures which have been incorporated into the resolution. House Concurrent Resolution 307 requires $6.4 billion in savings and $4.2 billion in additional revenues from new legislation required under the reconciliation process. We have never before adopted a reconciliation process, and implementation of the process will not be easy.

Further, the resolution contains provisions that prevent those spending and revenue bills which would breach the budget from being enrolled until after the second resolution is adopted.

This budget provides for 8 percent real growth in budget authority and 3 percent real growth in outlays for defense. This budget is clearly prodefense. It also has been carefully crafted to avoid placing the burden of cuts in domestic programs on the backs of the most needy.

I wish to commend and thank Senators HOLLINGS and BELLMON and all members of the Senate Budget Committee who have worked so long and hard to bring us a balanced budget.

These Senators have recognized the importance of the budget process to the fiscal management of this Nation. Their devotion to this vital process has helped to keep it intact during protracted, difficult negotiations.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2534, VETERANS' ADMINISTRATION HEALTH-CARE PROGRAM AMENDMENTS OF 1980

Mr. CRANSTON. Mr. President, on June 5 the Senate agreed to the provisions of S. 2534, the proposed Veterans' Administration Health-Care Program Amendments of 1980, as reported by the Committee on Veterans' Affairs, inserted then in H.R. 7102 in lieu of the House-passed provisions, and passed that bill.

As passed by the Senate, this legislation is designed to maintain and improve the quality, scope, and efficiency of health-care services provided the Nation's veterans through the Veterans' Administration.

I was necessarily absent on that day and, as the author of the Senate provisions and chairman of the Committee on Veterans' Affairs, would like at this time to provide information on the background of this legislation, to highlight its major thrusts, and to provide detailed explanations of its provisions.

BACKGROUND

S. 2534, which I introduced on April 2, 1980, as the proposed Veterans' Administration Health-Care Personnel Act of 1980, was designed to make a number of changes to the VA's personnel authorities under chapter 73 of title 38, United States Code, and add other authorities in order to enhance the agency's ability to recruit and retain sufficient numbers of capable, qualified health-care professionals and personnel. On April 16, 1980, the committee held a hearing, which I chaired, on S. 2534.

Those testifying included the VA's chief medical director, the president of the American Association of Medical Colleges, the president of the Veterans' Administration Chiefs of Staff Association, the president of the National Association of VA Physicians, the vice president of the National Association of VA Dentists, personnel from VA field stations, and representatives from the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, the Paralyzed Veterans of America, the Licensed Practical Nurse Association, the Association of Registered Respiratory Therapy, and the American Federation of Government Employees.

Earlier, Mr. President, on March 26, 1979, I introduced S. 759 at the request of the administration. As introduced, S. 759 was designed to enable the VA to obtain reimbursement for the cost of non-service-connected health care from veterans' health insurance carriers.

I chaired a committee hearing on S. 759 on September 19, 1979. Those testifying at that hearing included the VA's assistant chief medical director for planning and program development, and representatives from the Health Insurance Association of America, the Blue Cross and Blue Shield Association, the American Legion, the Veterans of Foreign Wars, and the Paralyzed Veterans of America.

Mr. President, on July 16, 1979, S. 1523, the proposed Veteran Senior Citizen Health Care Act of 1979, was introduced by my distinguished colleague on the committee, the Senator from South Carolina (Mr. THURMOND), and cosponsored by 7 committee members, Senators RANDOLPH, STAFFORD, DURKIN, STONE, TALMADGE, MATSUNAGA, and SIMPSON, and 21 other Senators. As introduced, S. 1523 would have mandated the designation of 15 VA hospitals as the locations for geriatric research, education, and clinical centers—GRECC's—and other related action to increase the extent of the agency's efforts in the area of geriatrics and gerontology. The committee held a hearing, which I chaired, on S. 1523 on October 29, 1979. Those testifying at the hearing included the VA's assistant chief medical director for extended care, three VA physicians involved with existing GRECC's established by the agency under administrative authority, two faculty members from medical schools, one of whom testified on behalf of the Disabled American Veterans and one of whom is a gerontologist, three distinguished scientists who have made important contributions in the area of aging research, and representatives from the American Legion, the Veterans of Foreign Wars, and the American Veterans' Committee.

Mr. President, on March 12, 1980, at the request of the administration, I introduced S. 2410, legislation that would amend section 8 of Public Law 95-520 to extend the deadline for a report by the VA on hospital care and medical services furnished by the agency in Puerto Rico and the Virgin Islands.

Mr. President, after carefully reviewing the testimony from the various hearings, the committee met in open session on May 1, 1980, and voted to report favorably S. 2534 with an amendment in the nature of a committee substitute and a title amendment. S. 2534 as reported consists of provisions derived, with modifications, from S. 2534, S. 1523, S. 759, and S. 2410, as well as other provisions.

HIGHLIGHTS OF S. 2534

Mr. President, S. 2534 as reported—which I will refer to as the committee bill—would affect the VA's health-care system in a variety of ways. First, numerous provisions in title I of the committee bill as reported are designed to improve the VA's ability to recruit, retain, and manage its health-care personnel in order to assure that the agency will have sufficient, qualified health-care personnel—including physicians, dentists, registered nurses, other nursing and allied health personnel—to provide quality health care to eligible veterans and dependents.

Provisions in title II of the bill are designed to improve and expand the capability of the VA health-care system to respond to the health-care needs of older veterans and to advance scientific knowledge about the methods of meeting such needs.

Title III of the committee bill contains provisions that would strengthen and clarify the VA's ability to recover the cost of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay the health-care costs of victims of crimes of personal violence and would also require an indepth study of the costs and benefits of providing legislative authority for the VA to cover from veterans' health-insurance carriers the costs of health care rendered to veterans for non-service-connected conditions.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

Mr. President, in recent years, it has become popular in some quarters to question whether there is a need or justification for an independent VA hospital system to provide medical care to our Nation's veterans. My answer to this question is an unequivocal "Yes." I am deeply committed to the maintenance of such a system and to assuring that it remains strong, vital, and independent. It is clear that in order to guarantee that result it is critical that the VA be able to attract and retain quality health-care personnel. The provisions in title I of S. 2534 are intended to help overcome difficulties that the VA is experiencing in that regard.

Mr. President, with reference to physicians and dentists, it is abundantly clear that, although the issue of remuneration is not the only element that goes into an individual physician's or dentist's decision to join the VA or not—or to stay in VA service—it is a key element and deserves appropriate attention.

In 1975, the Congress recognized that the base pay amounts that the VA could offer, limited as they were by statutory caps generally applicable to the civil service system, were inadequate to attract and retain sufficient, qualified doctors and dentists and, in response to this recognition, Congress enacted Public Law 94-123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, which provided a schedule of special pay amounts, up to a maximum of $13,500, that could be paid to eligible VA physicians and dentists.

Mr. President, this special pay authority was successful in improving the VA's recruitment and retention efforts in the period following its enactment.

However, in the intervening years, during which there was no increase in the statutory levels of special pay, the impact of this program on the VA's recruitment and retention efforts has been diminished by the effects of inflation and the increases in the incomes of health-care professionals. It is clear, therefore, that there is a need for congressional action to address this problem and the provisions in title I are designed to fill that need by making the existing authority permanent and authorizing an increase to $23,000 in the maximum amount of special pay that may be paid to a full-time physician—with a possibility of an additional amount of up to $5,000 for service in geographic areas where the VA is experiencing particular difficulty recruiting physicians.

Mr. President, during the committee's hearing on April 16 on the issue of the VA's efforts to recruit and retain health-care personnel, the VA's Chief Medical Director, Dr. Donald Custis, testified on behalf of the administration and advocated a delay in any congressional action on special pay for VA physicians and dentists until the next Congress.

In light of that testimony, it has been suggested that proceeding with the provisions in title I of S. 2534 is futile because the measure would ultimately be vetoed. I reject that point of view and believe that action is needed now to reverse the staffing losses the VA is experiencing.

In addition, the fact that it is likely that legislation will be enacted in the near future that will provide a substantial increase in special pay for military physicians—S. 2460, the Senate version of this legislation was passed by the Senate on May 28, and action is expected in the House on that bill or H.R. 6982, similar legislation, in the near future—is a further reason for proceeding with legislation—such as the provisions in title I of S. 2534, which are carefully crafted to meet VA needs—to increase the special pay levels for VA physicians and dentists and to make the special pay authority permanent.

Mr. President, there are numerous other provisions in title I that are designed to improve the VA's Department of Medicine and Surgery—D.M. & S.—health-care personnel system, including provisions that would provide the Administrator of Veterans' Affairs with new authority to modify rates and levels of pay for various VA health-care personnel, including in addition to D.M. & S. title 38 employees, those individuals employed under the title 5 civil service authority who provide direct patient-care services or service incidental to such direct-care services.

These provisions are designed to enable the VA to become more competitive in the health-care personnel marketplace and, thus, to become better able to recruit and retain needed personnel, including nursing and allied health-care personnel. These personnel are essential to the quality of care provided in the VA health-care system, just as are the physicians and dentists.

It is my hope that the various provisions in title I relating to health-care personnel will greatly enhance the agency's ability to attract, retain, and effectively manage these personnel.

Mr. President, the overall design of these and other provisions in title I is to assure that the D.M. & S. personnel system remains strong and independent. In pursuit of that goal, certain provisions of title I would assure that the D.M. & S. system remains independent of the general civil service system by clarifying that top D.M. & S. positions are not under the Senior Executive Service as established by the Civil Service Reform Act.

In addition, other provisions would assure that appropriate balances are maintained, both as between VA health-care facilities and the medical schools with which they are affiliated and between full- and part-time staff at VA health-care facilities. I believe that these provisions, together with the improvements discussed above relating to the special pay authority, should go a long way to guaranteeing a strong personnel force within D.M. & S. which, in turn, should help assure the maintenance of a vital health-care system within the VA.

TITLE II—GERIATRIC RESEARCH AND CARE AMENDMENTS

Mr. President, for many years, I have had a strong and abiding interest in issues relating to the aging process and meeting the health-care needs of elderly individuals and, of course, elderly veterans. I believe that the VA, because of its significant role in health care in this Nation and its responsibility for providing health-care services to the large number of elderly veterans, should be in a leadership role within the Federal Government in efforts to produce a better understanding of the aging process, its effects, and the medical, social, and family needs of our elderly citizens.

Title II of the committee bill, geriatic research and care amendments, is designed to enhance the ability of the VA health-care system to respond with the most effective and appropriate services possible to the needs of an increasing number of older veterans primarily by codifying and authorizing expansion of the program of geriatric research, education, and clinical centers—the so-called "GRECC's"—and establishing a Geriatric and Gerontology Advisory Committee to the chief medical director.

Title II would authorize, subject to the appropriation of sufficient funds, the establishment of up to 15 GRECC's at VA health-care facilities. To be designated as a site for a center, a facility would have to be affiliated with an accredited medical school and provide assurances that the school would provide a training program in geriatrics and regularly rotate residents through the GRECC and through one of the facility's long-term care units.

Other assurances that the facility must provide would include, first, an arrangement for a geriatric training program for nursing and allied health personnel in a VA long-term care unit; second, a demonstrated ability to attract scientists who are capable of ingenuity and creativity in health research; third, a policymaking advisory committee composed of VA and affiliated school health-care and research representatives; and fourth, a demonstrated ability to conduct effective evaluation of GRECC activities.

Each of the facilities at which an existing GRECC is located would be designated and funded under the title II program if it meets these criteria and demonstrates effectiveness in carrying out its established purposes and the purpose of this title.

In designating VA facilities for new centers, the Administrator would be required to assure appropriate geographic distribution of the GRECC's. However, before a VA facility could receive funds for the operation of a new GRECC, each of the eight existing centers that are designated must receive adequate funding support to enable them to function effectively in the areas of research, education, and clinical activities.

This title would also mandate the establishment of a geriatrics and gerontology advisory committee, which would advise the chief medical director on all geriatrics and gerontology matters. In addition, it would assess the ability of each GRECC to achieve its purpose and the purposes of this title of the bill and also would assess the ability of the VA to provide high quality health-care services to older veterans, the current and projected needs of these veterans for such services, and the VA's plans to meet those needs.

Finally, the provisions of this title would authorize appropriations for the basic support of the research and education activities of the GRECC's—but not the clinical component which would continue, as it is at the existing centers, to be funded with general medical care appropriations—at $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 for each of fiscal years 1983 and 1984.

I am especially interested in the valuable contributions which these geriatric centers can make to research in new frontiers of gerontology. Because of their research and clinic orientations and access to elderly populations, the centers are ideally suited for "breakthrough" research pertaining to the aging process which shows great promise of helping make veterans in their later years significantly less vulnerable to disease while increasing longevity and improving the quality of life during older age.

I believe that the various modifications made in the House-passed "GRECC" bill—based on the testimony received at the hearing and the concerns expressed by the VA with respect to various provisions—have produced a balanced and promising piece of legislation that can make an important contribution to the VA's efforts to provide quality health-care services to older veterans. Also, title II as so revised should help assure a leadership role for the VA in the development of innovative approaches to meeting the health-care needs of elderly persons and in geriatric and gerontological research advancing medical and scientific knowledge of the problems of aging and how to meet them.

TITLE III—VETERANS' ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

Mr. President, title III of the bill would, as I have noted, strengthen and clarify the VA's authority to recover the costs of veterans' non-service-connected care, in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for the costs of health care provided to victims of crimes of personal violence.

In addition, the bill would require an in-depth study by the VA of the extent, scope, and duration of the health-plan coverage of veterans admitted to VA facilities for treatment of non-service-connected disabilities, as well as an analysis by the Library of Congress and the Congressional Budget Office of the effect on health insurance premiums and on VA and non-Federal administrative costs if the Congress were to enact legislation to require veterans' private health plan insurance carriers to reimburse the VA for the costs of non-service-connected health care provided to their insureds in VA facilities.

Mr. President, those studies are intended to provide information that I believe is absolutely necessary in order to assess the likely impact of health insurance reimbursement legislation. Mr. President, the Veterans' Affairs Committee has rejected health insurance reimbursement legislation, such as provisions for such reimbursement in S. 759, an administration-requested bill that I introduced by request on March 26, 1979. I grant that this legislation seems attractive, especially in view of the hundreds of millions of dollars in recoveries that the administration claims it could collect under that bill. But, I believe, as I have often said before, that the estimates of collections are not based on any kind of valid data about the extent, scope, or depth of veterans' private health insurance coverage.

Mr. President, I would like to emphasize that S. 759 would require virtually every health insurance policy—group and individual—issued or renewed in the future to be rewritten so as to delete the exclusion—now generally contained in most all such policies—of coverage for VA-provided care. In my view, that would be an unwarranted imposition on the private sector—especially in the absence of reliable data on which realistic estimates of the potential collections can be based. Thus, it would be premature to advance this legislation before we have adequate data.

I would also like to stress that this legislation would impose a new, double layer of administrative costs on Americans who pay health insurance premiums and Federal income taxes. The study called for in the committee bill is designed to provide an accurate assessment of those new costs.

In the meantime, the Blue Cross-Blue Shield Association has prepared an estimate of the administrative costs to the Blue Cross-Blue Shield carriers, with a range of from $11 million to $23 million in the first year alone. These new costs would be passed along to all Americans with Blue Cross-Blue Shield coverage. In the case of for-profit insurers, the additional premiums to cover VA claims and new administrative costs would include an additional amount for profits.

At the VA, a whole new bureaucratic layer would have to be instituted to do accounting, billing, and litigating—increasing the VA's administrative expenses. Obviously, these expenses would add to overall health-care costs and expenditures nationally, without producing one iota of additional care or improvements in the quality of care.

Moreover, in order to make collections, the VA must provide for a new billing system that would provide sufficient information regarding the care and treatment services provided in individual cases and the cost of each service so as to enable a health insurer to determine the amount of its liability. I have seen no satisfactory evidence that the VA has such a billing system.

To the contrary, I believe the record is very clear that enactment of S. 759 would produce disputes and long drawn-out delays on individual claims, often culminating in extensive litigation, as health-care insurers challenge the constitutionality of the legislation and resist VA billing methodologies, and that it would not result in any significant Federal budgetary cost savings in fiscal year 1981.

In addition, based on the current, inadequate knowledge we have regarding the amount of any health-insurance reimbursements, I believe that the only legitimate purpose to be served in seeking these recoveries would be for the VA to prepare for its inclusion under a national health insurance program, a development to which the veterans' organizations are strongly opposed. I share their opposition to the VA being made a provider to receive reimbursement under any national health insurance plan.

Also, in terms of cost effectiveness in providing health-care services and avoiding unnecessary bureaucratic complexities, I can see nothing to be gained and much to be lost in establishing the reimbursement mechanisms—complete with the addition of large numbers of audit, billing, and legal personnel—that inclusion of the VA in a national health insurance system would entail. These mechanisms and the costs involved in they repayment processes would simply add to the total costs of VA care while providing no advantages over the current system of direct appropriations.

The results of these inefficiencies and complexities would be a loss of central control and direction that would threaten very seriously both the quality and quantity of care that the VA can provide. I firmly believe that making the VA health-care system fiscally dependent on any national health insurance scheme would lead to its rapid decline and probable demise. In my view, this would be an intolerable result.

Mr. President, the Senate Veterans' Affairs Committee has twice rejected the health-insurance reimbursement provisions in S. 759—first, during our budget markup in March and second, during our May 1 markup of health legislation. The committee bill study requirements, in my view, provide a responsible, prudent approach to the very complex, far-reaching issues involved in health insurance reimbursement legislation. To go further at this time on the basis of the inadequate data we now have would entail the very great risk of precipitating totally unnecessary and counterproductive inflationary increases in health care costs, and would make serious intrusions into the private sector—dictating, in part, the provisions of private health insurance contracts—with no assurance of any true Federal budgetary cost savings in any reasonably foreseeable period of time.

Thus, I strongly oppose the enactment of S. 759 at this time and the Federal intervention into the insurance field and the unnecessary expenses that its enactment would bring about.

SUMMARY OF PROVISIONS

Mr. President, I would like to summarize the provisions of the committee bill. The committee bill has four titles: Title I, health-care personnel amendments; title II, geriatric research and care amendments; title III, Veterans' Administration health-care cost recovery provisions; and title IV, miscellaneous provisions, as follows:

Title I: Health-care personnel amendments

This title would revise, extend, and improve various Veterans' Administration health-care programs designed to recruit and retain sufficient qualified capable health-care personnel, including physicians, dentists, nursing personnel, allied health personnel, and other employees in the Department of Medicine and Surgery and make needed improvements in various aspects of the Veterans' Administration's health-care personnel system. Included in title I are provisions that would:

First, improve the existing program for special pay for eligible physicians and dentists serving in the Department of Medicine and Surgey—D.M. & S.—title 38 personnel system by increasing the rates of such special pay, by restructuring some of the factors used in computing such pay, and by making the special pay program permanent, replacing the temporary program in current law.

Second, remove top D.M. & S. personnel who are hired under the authority of title 38 from coverage by the Senior Executive Service under title 5, United States Code.

Third, authorize the Administrator to appoint the director of nursing service as an assistant chief medical director or as a deputy assistant chief medical director.

Fourth, amend the schedules of rates of basic pay appearing in present section 4107 for section 4103 employees—D.M. & S. employees at the Veterans' Administration's Central Office—and section 4104(1) employees—physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries—to reflect the pay rates set by Executive Order No. 12165 of October 9, 1979.

Fifth, provide for physicians serving on a full-time basis as Veterans' Administration health-care facility directors to receive special pay if assigned significant additional duties of a medical nature by the chief medical director.

Sixth, establish a basis for certain D.M. & S. title 38 health-care personnel to receive overtime pay in travel situations on the same basis as do other Federal employees.

Seventh, allow the Administrator to assign title 38 nurses and other specified personnel to on-call duty on a Federal holiday that falls within a regular workweek so that such personnel could remain at home but in an on-call status on such a holiday.

Eighth, provide for title 38 premium and overtime pay benefits, as now provided to registered nurses and other specified personnel, to be provided to other D.M. & S. personnel determined to be providing either direct patient-care services or services incident to such direct-care services.

Ninth, authorize the Administrator to adjust the rates of premium and overtime pay for service outside of the normal workday or week paid to title 38 nurses and other specified personnel at individual VA health-care facilities when necessary to provide rates competitive with those being paid similar personnel in non-Federal health-care facilities in the same area.

Tenth, authorize the Administrator to adjust minimum and maximum rates of pay for D.M. & S. personnel employed under title 38 as well as any employees under the General Schedule determined to be providing either direct patient-care services or services incident to such direct-care services on a nationwide, local, or other geographical basis when necessary to provide pay competitive with that being paid in non-Federal health-care facilities in the same area, to meet the staff needs of a particular VA health-care facility, or to recruit individuals with specialized skills.

Eleventh, mandate a study of the need for, and the impact on D.M. & S. personnel needs of, converting to the title 38 pay and personnel system various direct-patient-care employees presently employed under title 5, United States Code; and require the report of the study, indicating which, if any, of those personnel should be so converted, to be submitted to the Congressional Veterans' Affairs Committees within 18 months after the date of enactment.

Twelfth, require a person serving as a chief of staff in a VA health-care facility to serve on a full-time basis, except that an individual serving as a chief of staff on the effective date of the act could continue to so serve but would not be eligible for any increase in special pay effective on or after such effective date.

Thirteenth, require a person serving in a VA health-care facility as an associate chief of staff, a service chief, or in a comparable provision as determined by the chief medical director to serve on a full-time basis—except that any individual serving in such a position on the effective date of the act could continue to so serve without being eligible for any increase in special pay effective on or after such effective date, and that the chief medical director, on a finding that it is in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans, would be authorized to exempt personnel who would otherwise be covered on categorical and individual bases, thereby allowing those exempted to serve on a less than full-time basis and be eligible for increases in special pay.

Fourteenth, permit the Administrator to provide certain training support for title 38 registered nurses, including nurse practitioners, employed by the VA, who are seeking a baccalaureate degree in nursing.

Fifteenth, provide that, after the effective date of the act, D.M. & S. employees would accumulate civil service retirement credit for such employment at a rate equal to the percentage of their part-time employment for the VA rather than accumulating, as at present, a full-month's retirement credit for each month of part-time service.

Sixteenth, clarify that, at VA health-care facilities at which there is an affiliation with an outside entity, such as a medical school, the VA remains responsible for final decisions concerning the provision of health care and employment at the VA facility.

Seventeenth, specify that the Administrator's appointments to deans' committees at each VA health-care facility at which there is an affiliation with an outside entity, such as a medical school, should include appropriate representation from the full-time staff of the VA facility.

Eighteenth, require the establishment of a medical center coordinating committee at each VA health-care facility, each such committee, to be chaired by the facility director with membership drawn from the facility staff and veterans' service organizations to advise facility management with respect to matters concerning the provision of health care.

Nineteenth, establish, in the Office of the Administrator of Veterans' Affairs, a five-person "Veterans' Administration Physicians' and Dentists' Pay Board" which would analyze the income of non-VA physicians and dentists and make recommendations to the President for inclusion in the Presidential budget submitted to the Congress; for changes, when appropriate, in rates of special pay for D.M. & S. physicians and dentists; and provide for the operation of such Board.

Twentieth, mandate a pilot program and study of the impact on the VA's recruitment and retention of sufficient qualified nursing personnel of taking various administrative actions—such as modifications of existing work schedules, establishment of onsite child-care centers and other such actions—and require that a report on the results of the pilot program and study be submitted to the Congress not later than 42 months after the date of enactment.

TITLE II: GERIATRIC RESEARCH AND CARE AMENDMENTS

This title would improve and expand the VA's ability to respond to the needs of older veterans and advance scientific knowledge about and the methods of meeting such needs. Included in title II are provisions that would:

First, authorize, subject to the appropriation of sufficient funds, the establishment of up to 15 geriatric research, education, and clinical centers—hereinafter referred to as geriatric centers—at VA health-care facilities.

Second, require that, to be designated as a geriatric center site, a facility—

Be affiliated with an accredited medical school and provide assurances that the school would provide a training program in geriatrics and regularly rotate residents through the center and through one of the facility's long-term care units;

Have an arrangement for a geriatric training program for nursing and allied health personnel in such a long-term care unit;

Demonstrate an ability to attract scientists who are capable of ingenuity and creativity in health research;

Have a policymaking advisory committee composed of VA and affiliated school health-care and research representatives; and

Demonstrate an ability to conduct effective evaluation of geriatric center activities.

Third, require the Administrator to assure appropriate geographic distribution of the geriatric centers.

Fourth, require the Administrator to assure, prior to providing funds to VA facilities for establishing new geriatric centers, that the eight existing geriatric centers are receiving adequate funding to function effectively in research, education, and clinical activities.

Fifth, mandate the establishment of a geriatrics and gerontology advisory committee—GGAC—to advise the chief medical director on all geriatrics and gerontology matters; to assess the ability of each center to achieve its purpose and the purposes of this title of the bill; and to assess the ability of the VA to provide high quality health-care services to older veterans, the current and projected needs of these veterans for such services, and the VA's plans to meet those needs.

Sixth, require the GGAC to submit, 30 months after the effective date of this provision, a report to the Administrator on its findings and conclusions and its recommendations regarding the geriatric center program and VA health care of older veterans; authorize the GGAC to submit such further reports as it considers appropriate; and require, 90 days after receiving any GGAC report, the Administrator to transmit the report and the Administrator's comments and recommendations to the appropriate congressional committees.

Seventh, authorize appropriations for the basic support of the research and education activities of geriatric centers—but not the clinical component which would continue, as at the existing centers, to be funded from general medical care appropriations—of $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 for each of fiscal years 1983 and 1984; and direct the chief medical director to allocate to the geriatric centers from other funds appropriate generally for the VA medical care account and medical and prosthetics research account such amounts as the chief medical director determines appropriate and, with respect to fiscal year 1984, as the chief medical director determines appropriate in light of the mandated GGAC report.

Eighth, specify that clinical and scientific investigation activities at the geriatric centers shall be eligible to compete for funding from the VA's medical and prosthetics research account and that these geriatric center efforts shall receive priority in the awarding of funding from that account insofar as funding for geriatric and gerontological research is concerned.

Ninth, require that one of the eight assistant chief medical director positions be filled by a physician trained, or having suitable, extensive experience, in geriatrics, who would be responsible to the chief medical director of all geriatric research, education, and clinical health-care policy and evaluation in the Department of Medicine and Surgery.

Tenth, provide that the amendments made by this title shall take effect on October 1, 1980.

TITLE III: VETERANS' ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

Included in this title are provisions that would:

First, strengthen and clarify the VA's authority to recover the costs of veterans' non-service-connected care in appropriate cases, from workers' compensation carriers, auto no-fault insurers, and States that pay for the costs of health care provided to victims of crimes of personal violence.

Second, require an indepth study by the VA of the extent, scope, and duration of the health-plan coverage of veterans admitted to VA facilities for treatment of non-service-connected disabilities, as well as an analysis by the Library of Congress and the Congressional Budget Office of the effect on health insurance premiums and VA and non-Federal administrative costs if legislation were to be enacted to require veterans' private health plan insurance carriers to reimburse the VA for the costs of non-service-connected health care provided to their insureds in VA facilities.

TITLE IV: MISCELLANEOUS AMENDMENTS

This title includes provisions that would:

First, clarify that the VA's beneficiary travel funds are excluded from the general executive branch travel and transportation funds which are to be substantially reduced under the continuing appropriations act for fiscal year 1980.

Second, provide a 1-year extension, to February 1, 1981, of the deadline under Public Law 95–520 for the VA study on the provision of VA hospital and medical care in Puerto Rico and the Virgin Islands.

Third, make a technical correction in the Veterans' Administration Program Extension and Improvement Act of 1979, Public Law 96–151.

Mr. President, so that all Senators and the public may have a full understanding of the provisions of the committee bill, I ask unanimous consent that there be printed in the RECORD at this point excerpts from the committee report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCUSSION

TITLE I.—HEALTH-CARE PERSONNEL AMENDMENTS

Introduction

Title I of the Committee bill contains a variety of provisions, derived with modifications from S. 2534 as introduced, that are designed to enhance the VA's ability to recruit and retain sufficient numbers of capable, qualified health-care professionals and personnel. The Committee is strongly committed to a vital, independent health-care system in the VA to provide a high quality of health-care services to all eligible veterans and dependents, and believes that steps must be taken to assure the maintenance of such a system.

The VA health-care system is of great importance to the Nation in a number of respects and deserves priority attention at this time. Not only is the system a major, vital part of the range of VA benefits that have been promised to veterans for their service on behalf of the Nation—and as such, an historic and morally obliged commitment, especially to those who suffered disabilities while in service—but it also constitutes a key element in the Nation's overall national defense effort.

The defense of the Nation and the great cost of war include the commitment to restore the health and welfare of those injured in the service of the country. If the Federal Government is perceived as failing to keep the promises made to veterans of past conflicts by, for example, not assuring that the VA's ability to provide health-care services to eligible veterans is unimpaired, it is difficult to expect that those presently in the armed services and would-be recruits will be eager to serve. Thus, the Committee believes that the maintenance of a strong, independent VA health-care system is an important element in maintaining the morale of those in the service as well as an important recruitment incentive.

The Committee also believes that the VA health-care system is related to national defense efforts in another, more direct way. With its 172, hospitals and hundreds of other health-care facilities, the VA health-care system in the event of war is the first backup to the modest medical resources of the Department of Defense. Thus, the Committee is concerned that a strong VA health-care system must be maintained.

Because a cadre of sufficient, qualified health-care personnel is the backbone of a strong VA health-care system, the Committee believes it is critical that the VA be able to attract and retain such personnel, including not just doctors but all health-care workers. The Committee believes that the provisions in title I, although not final answers to all of the VA's needs in this regard, offer major progress in that direction.

Special pay for DM&S physicians and dentists

Among the key elements in title I of the Committee bill are those that would modify the special pay authority for physicians and dentists employed in the Department of Medicine and Surgery (DM&S) under title 38 of the United States Code.

Background

The special pay authority for VA physicians and dentists was established in 1975 by the Veterans' Administration Physician and Dentists Pay Comparability Act of 1975, Public Law 94–123, as a response to the serious recruitment and retention problems facing the VA at that time and in recognition of the fact that the then-existing Federal pay scales alone were not sufficient to attract or retain quality health-care professionals to staff the VA.

At the time the special pay program was established, it was viewed as a temporary measure that would be replaced with a permanent, unified salary structure applicable to all Federal physicians. The original legislation, in fact, authorized the VA for only one year, until October 11, 1976, to enter into special pay agreements of up to 4 years duration. Although this termination date has been extended three times—first by Public Law 94–581 which extended the deadline for entering into such agreements until September 30, 1977; then by Public Law 95–201 which extended the deadline for entering into such agreements until September 30, 1978, and established September 30, 1981, as the date beyond which no special pay agreement could extend; and finally by Public Law 95–520 which extended the deadline for entering into such agreements until September 30, 1981, the expiration date for the program under current law—such action was always taken with the understanding—based on assurances from the Office of Management and Budget (OMB)—that a permanent measure addressing all Federal physicians and dentists would be forthcoming. * * *

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It was not until August 1979 that the Committee was advised, in a letter from OMB Director James McIntyre to Chairman Cranston, that the Administration no longer intended to develop a unified salary system to address all Federal physicians and that, rather, the Administration was satisfied with the individual existing bonus authorities. rather, the Administration was satisfied with the individual existing bonus authorities. * * *

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Despite the fact that over 4 years have passed since the enactment of the original, temporary special pay authority for VA physicians and dentists, and despite the apparent need, at a minimum, to update those special pay rates—as is demonstrated by the Administration's submission of proposed legislation (H.R. 4076) to the Congress to increase the amounts of pay authorized to be paid to health-care professionals in the uniformed services—the Administration has not submitted any legislation to amend the existing special pay authority for VA personnel since Director McIntyre's letter of last August. This lack of any action on the part of the Administration is particularly difficult to understand in light of the fact that, although the President vetoed H.R. 5235, the Uniformed Services Health Professionals Special Pay Act, on March 11, 1980, that legislation is under revision in both Houses (H.R. 6982 and S. 2501) and it seems quite likely that legislation will be enacted later this year that will substantially increase the total compensation paid to armed services physicians, thereby recreating the situation that existed in 1975—a significant disparity in the pay available to the latter physicians when compared to VA physicians—that in part necessitated the original special pay legislation.

At the Committee's April 16 hearing on S. 2534, the VA's Chief Medical Director, Dr. Donald Custis, although acknowledging that DM&S is facing many problems recruiting and retaining sufficient, qualified health-care professionals and that the existing special pay authority no longer seems adequate to provide adequate financial incentives to attract physicians to VA service, testified in support of the Committee taking no action this year to establish a permanent special pay authority. However, not only was this approach rejected by every other witness who testified on the special pay provisions at the April 16 hearing, but the Committee finds this proposal to be especially difficult to accept in the face of the compelling need for the VA to be able to offer increased rates of pay in order to attract qualified health-care professionals, as recognized by the Administration inferentially in its support for new bonus pay authority for the armed services.

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In light of the period of time that has elapsed since the enactment of Public Law 94–123 and the substantial lessening of the impact of the rates established in that legislation (a maximum of $13,500 in total special pay for eligible full-time physicians), the need for a permanent special pay plan is plainly apparent. One reason that a permanent authority is needed is so that an individual doctor considering the VA as a possible career option will be able to evaluate that option with an understanding of future pay benefits. Also, the likelihood that a significant increase in overall pay and a permanent program for Armed Forces physicians will be enacted this year, makes it appropriate to move ahead with legislation, as in the Committee bill, to improve the special pay authority available to the VA and to make such authority permanent.

Another reason the Committee believes that action is necessary at this time to increase the rates of pay for VA physicians is because 53.8 percent of the VA's full-time physicians are being paid at the maximum ceiling for base pay and are, therefore, ineligible for any increase in base pay except when the overall Federal pay ceiling is raised. When this compaction factor is combined with the lack of any increase in special pay since 1975, it is clear to the Committee that far too many VA physicians have been effectively denied any opportunity for a meaningful pay increase for far too long and that this situation needs to be remedied.

The Committee also believes that it is appropriate to act on this legislation now so as to attempt to reverse a trend toward reliance on more part-time physicians in DM&S. As table 5 demonstrates, there has been a trend in recent years among VA physicians toward part-time service (the percentage of VA physicians who were full time as of December 31, 1979, was 60.8 percent, down from 64.3 percent on December 31, 1977, and the percentage of part-time physicians during the same period rose from 35.7 percent to 39.2 percent).

TABLE 5.—NUMBER OF VA PHYSICIANS AND DENTISTS

	Dec. 31, 1977	Percent of total	Dec. 31, 1979	Percent of total	Percent change
Physicians (total)	9,727	(100.0)	10,335	(100.0)	+6.3
Full-time	6,253	(64.3)	6,279	(60.8)	+.4
Part-time	3,474	(35.7)	4,056	(39.2)	+16.8
Dentists (total)	912	(100.0)	912	(100.0)	0
Full-time	886	(97.1)	881	(96.6)	−.6
Part-time	26	(2.9)	31	(3.4)	+19.2

Source: Veterans' Administration.

As will be discussed in a later section of this report, the Committee recognizes that part-time physicians are an indispensable part of the VA's overall physician staffing and that they play an integral part in the relationship between the VA and the medical schools with which the agency is affiliated by working at both the VA and at affiliated medical schools. However, the Committee is also most supportive of the maintenance of a strong cadre of full-time physicians within DM&S. In his testimony before the Committee on April 16, Dr. Custis stated:

"[S]ince July 1, 1978, the Department has experienced a net loss of 199 full-time physicians. Thus, the full-time physician loss rates now significantly exceed gains."

Earlier, in the VA's latest report on the effectiveness of Public Law 94–123, entitled "Veterans' Administration Report on Impact of Special Pay on Recruitment and Retention of Physicians and Dentists," dated August 27, 1979, the VA had reported that, during the reporting period:

"Part-time physician appointments increased by 12.7 percent compared to an increase in full-time physician appointments of only 0.3 percent. During the past three years, there has been a net total of 599 conversions from full-time to part-time status over that from part-time to full-time."

The Committee is concerned that, unless the trend from full-time service to part-time service is checked, there will no longer be sufficient full-time VA physicians to manage effectively the VA's responsibilities at particular facilities. Some of the specific steps that the Committee believes will have an effect in this regard are discussed later in this report, but it is apparent that one such step would be the enactment of new, permanent, and enhanced special pay authority to provide greater financial incentives to VA service.

Provisions of the committee bill

Permanent Plan

The Committee bill includes provisions, both in section 101 and section 109, that would remove restrictions in current law on the VA's ability to enter into special pay agreements and thereby make such authority permanent. This change is vital to the overall effectiveness of the VA's recruitment and retention efforts; without a permanent authority for special pay, DM&S would be unable to provide long-term assurances to a prospective employee as to pay and benefits that could be expected and, thus, the agency would be at a competitive disadvantage with other employers. The provisions in the Committee bill establishing the pay authority as permanent, combined with the establishment of the VA Physicians and Dentists Pay Board, discussed later in this report, are intended to enable the VA to offer the recruit the necessary long-term prospects to support a career decision.

Modifications to Existing Special Pay Authority

The modifications to the VA's special pay authority are made in two stages—some changes to the existing authority that would be effective for pay periods beginning after September 30, 1980, and more comprehensive changes, as part of a new, permanent authority, that would be effective for pay periods beginning after March 31, 1981. The changes to the special pay authority are staggered in this fashion in partial response to the Administration's recommendations that action on major special pay revision be delayed for a year and to reduce the budget impact of the new special pay rates in fiscal year 1981. It is the Committee's view that, even though eligible physicians and dentists will not receive the benefit of the new rates proposed in the Committee bill until April 1981, the impact of the changes to existing authority, described below, and the knowledge that a new, permanent plan has been approved and will be effective in the near future, will respond to the current recruitment and retention problems facing the VA and thus should help avoid the result, foreseen by Dr. Custis at the April 16 hearing, if the Administration's "no-action" proposal were adopted, of the VA experiencing "some additional losses in the numbers of physicians and dentists employed in the Department of Medicine and Surgery".

As of the first pay period beginning after September 30, 1980, the provisions in section 109 of the Committee bill would repeal a provision in current law that has the effect of reducing all eligible physicians' and dentists' special pay by an amount equal to the amount of the 1975 cost-of-living pay raise for the pay grade they now occupy (a maximum of $1,800, which would be paid to all those physicians or dentists, 53.8 percent of the full-time physicians and 29.4 percent of the full-time dentists, who occupy positions for which the salary is currently restricted to a level not in excess of level V of the Executive Schedule), thereby providing an increase in the special pay amounts received by all eligible physicians and dentists. In addition, these provisions would authorize the Chief Medical Director to pay certain amounts against the present statutory ceiling on special pay ($13,500), to eligible physicians for (1) (A) service in geographic areas where there are particular recruitment problems, or (B) in the Central Office of DM&S (from $3,500 to $5,000) and (2) board certification (either $2,000 for general or first board certification, or $2,500 for specialty or secondary board certification). By providing greater flexibility to the Chief Medical Director in this way within the existing special pay framework effective after September 30, 1980, the Committee anticipates that the Chief Medical Director will be able to pay greater amounts of special pay to selected categories of physicians and that this change will have a salutary impact on the recruitment and retention of physicians in these categories beginning at the start of fiscal year 1981. In addition, effective after September 30, 1980, a new group of VA physicians, reemployed annuitants who were forced to retire under prior Federal law mandating retirement at age 70, would become eligible for special pay.

Permanent Special Pay for Physicians

As noted above, the Committee bill removes the expiration date from the VA's special pay authority upon enactment but the comprehensive changes to the special pay formula are not made effective until the first pay period beginning after March 31, 1981. At that time, in recognition of the different personnel issues presented by the employment of physicians and dentists in the VA, provisions in section 109 of the Committee bill would establish two schedules for special pay, one for each profession in lieu of the single schedule (with dentists paid at half the physician rate) in current law.

The other significant change to the special pay formula that would become effective after March 31, 1981, relates to the extent to which part-time employees receive incentive special pay. Under current law, an eligible part-time physician or dentist receives a pro-rata share of the amount of special pay authorized to be paid to a full-time physician or dentist, such pro-rata share equal to the fraction that the doctor's part-time service is of full-time service. Provisions in section

109 of the Committee bill would change this relationship so that, after March 31, 1981, a part-time physician or dentist would be eligible for a pro-rata share of three-quarters of the per annum amounts authorized for full-time service (for example, a physician serving on a 7/8's-time basis who would be eligible for incentive special pay for primary or specialty board certification would be eligible for a 7/8's share of $1,500). This change, which is intended to be an incentive to full-time service, would not, because of the increase in the per annum amounts provided for in the Committee bill, result in any reduction in any part-time physician's or dentist's incentive special pay, only in a change in the relationship between the amount of incentive special pay available for full-time service and that provided for part-time service. The Committee notes that the change as between full- and part-time special pay eligibility applies only to incentive special pay, that portion of the special pay authority that is premised on specific factors related to an individual's status in DM&S and is thus, a special, targeted recruitment and retention aid, and not to primary special pay ($7,000 for physicians and $2,500 for dentists in the Committee bill), which the Committee regards as a general income supplement that is made available to all eligible physicians and dentists.

The specific amounts of special pay authorized for eligible full-time physicians by the Committee bill would be as follows:

The maximum amount of special pay authorized, except as may be provided for service in certain geographic areas (as discussed below) would be raised to $23,500 from $13,500.

The primary pay portion of the total special pay would be raised from $5,000 to $7,000. As discussed above, eligible part-time physicians would take a straight pro-rata share of this amount.

The total amount of incentive special pay, except as may be provided for service in certain geographical areas (as discussed below), would be increased to $16,500 from $8,500. It is by payment of amounts under this authority that the Committee anticipates that the VA will be best able to utilize the special pay authority to resolve specific recruitment and retention problems.

Incentive special pay would be authorized for:

Full-time status—$6,000 (increased from $2,000 in current law);

Tenure within DM&S—$1,000 for between 3 and 5 years; $2,000 for between 5 and 8 years; and $3,000 for 8 or more years (increased from current law limit of $1,000 for more than the probationary period (now 2 years) but less than 7 years; and $2,000 for completion of 7 years);

Service in a scarce medical specialty, an amount ranging from $4,000 to $16,500, as determined by the Chief Medical Director (increased from a maximum of $2,000 in current law);

For general or first board certification—$2,000 or for specialty or secondary board certification $2,500 (this provision would continue a new incentive pay factor introduced as part of the changes made to the VA's special pay authority by the Committee bill effective with the first pay period beginning after September 30, 1980);

For service in specific geographic locations in which the VA has experienced extraordinary difficulties in recruiting and retaining qualified physicians in a specific category of physicians or in the Central Office of the Department of Medicine and Surgery—an amount ranging from $3,500 to $5,000 as determined by the Chief Medical Director (this provision would continue a new incentive pay factor introduced as part of the changes made to the VA's special pay authority by the Committee bill effective with the first pay period beginning after September 30, 1980); and

Service as a Service Chief, Associate Chief of Staff, or in a comparable position—$9,625 (increased from $5,500 in current law); as a Chief of Staff or in an Executive Grade—$12,250 ($7,000 in current law); as a Deputy Service Director or in a Director Grade—$12,700 ($7,250 in current law); as a Service Director—$13,125 ($7,500 in current law); as a Deputy Assistant Chief Medical Director—$14,000 ($8,000 in current law); as an Assistant Chief Medical Director or an Associate Deputy Chief Medical Director—$14,875 ($8,500 in current law).

The rates and ranges of special pay proposed in the Committee bill for full-time physicians were developed taking a variety of criteria into account. The overall increase in the amount of special pay was developed to compensate for the fact that most VA physicians have had very minimal increases in total pay since the special pay authority was first instituted in 1975. As noted earlier, 53.8 percent of all VA full-time physicians at present are paid at the maximum ceiling for base pay which means they receive pay increases only when that ceiling is lifted. Because there has been no increase in special pay since the rates were first established in 1975, many VA physicians have had only minor pay increases since that time. During the same period, the CPI, as shown on table 4, earlier, has increased 35 percent. Thus, there is a clear need to correct this situation so that VA physicians' salaries may be increased so as to remain generally competitive with physician incomes outside of the VA.

The Committee also seeking, in establishing the rates of special pay proposed in the Committee bill, to assure that the overall VA rates of pay remain roughly comparable with those paid to physicians in the armed services, both as a matter of fundamental equity and to prevent the VA from being at a major recruiting disadvantage vis-a-vis the Department of Defense. The rates proposed in the Committee bill, in their aggregate impact, would accomplish this result. Under legislation currently being considered in the Congress (H.R. 6982 and S. 2501) that would revise rates of special pay for physicians in the armed services, there would be authority to pay bonuses of approximately $21,000 to most eligible physicians in the armed services with some armed services physicians eligible for bonuses totaling $29,000. Thus, the rates proposed in the Committee bill for VA physicians should help assure the needed comparability between VA and armed services physicians.

The rates and ranges of incentive special pay proposed in the Committee bill for services by physicians in scarce medical specialties (from $4,000 to $16,500) and in certain specific geographic locations, including in the Central Office of DM&S (from $3,500 to $5,000), are intended to give the VA the greatest possible flexibility to attract and retain physicians in those areas where there is the greatest need—in scarce medical specialties and in certain geographic areas. In addition, the Committee bill would provide authority to pay incentive special pay to physicians for board certification ($2,000 for specialty certification or $2,500 for subspecialty certification). This authority was included to enable the VA to reward such professional qualification and to improve its performance in this regard. Table 6 demonstrates that the agency was successful in this respect in the period following enactment of Public Law 94-123, but that it has become less successful recently (the percentage of board certified physicians increased from 35.1 percent to 49.3 percent as of September 30, 1978; that rate dropped to 45.5 percent as of September 30, 1979).

TABLE 6.—PERCENT OF TOTAL FULL-TIME PHYSICIAN HIRES BY DIPLOMATE STATUS

Diplomate status	Oct. 1, 1974, to Sept. 30, 1975	Oct. 1, 1975, to Sept. 30, 1976	Oct. 1, 1976, to Sept. 30, 1977	Oct. 1, 1977, to Sept. 30, 1978	Oct. 1, 1978, to Sept. 30, 1979
Board certified	35.1	40.3	46.5	49.3	45.5
Not board certified	64.9	59.7	53.5	50.7	54.5
Total	100.0	100.0	100.0	100.0	100.0

Source: Veterans' Administration.

The Committee notes that, in providing this authority for payment for board certification, the Committee bill would delete a provision in current law that authorizes payment of incentive special pay to an eligible physician for acquiring a continuing education certificate, a provision the implementation of which has presented many administrative difficulties and which the Committee believes has been of dubious value in improving the professional qualifications of the VA physicians or dentists.

Under the provisions in the Committee bill, the amounts authorized as special pay would be limited in a number of ways. First, as noted above, the amount of special pay any individual physician could receive would generally be limited to a maximum of $23,500, with the incentive special pay portion of that amount generally limited to $16,500. Under the provisions in the Committee bill, these maximums could be breached in the case of a physician receiving incentive special pay (from $3,500 to $5,000) for service in a specific geographic area in which the Chief Medical Director has determined there are extraordinary difficulties of recruitment and retention or in the Central Office of DM&S. Thus, in such areas, the Chief Medical Director would have maximum flexibility to use special pay to attract and retain qualified physicians which should help solve some of the VA's more pressing recruitment and retention problems and thereby reduce the agency's heavy dependency on contract care with outside physicians at some hospital locations. With respect to Central Office, the testimony at the hearing shows that it has become extremely difficult for the Chief Medical Director to recruit top level VA or other physicians to positions in the Department of Medicine and Surgery because of a number of factors, including the very high cost of living in the metropolitan Washington, D.C., area.

The second limitation contained in the Committee bill on the amounts authorized as special pay would require most eligible physicians to choose one of two bases on which to receive incentive special pay—either on the basis of full-time status, tenure and service in a scarce specialty or on the basis of job position (Deputy Service Director or Service Director, for example). The two exceptions provided in the Committee bill to this requirement of a choice would be for an individual serving as a service chief, or in a comparable position as determined by the Chief Medical Director, on a full-time basis, who would be eligible for incentive special pay for such service as well as for full-time status and, if appropriate, service in a scarce medical specialty, and similarly, for an individual serving as a chief of staff on a full-time basis who would be eligible for incentive special pay for such service as well as for full-time status. It is the Committee's expectation that these two exceptions from the requirement that an individual chose one or another basis on which to receive incentive special pay will serve to attract full-time physicians to serve as service chiefs or chiefs of staff who might otherwise not seek such positions because of the financial disincentive that would result if they were no longer eligible for incentive special pay for their full-time status or, in the case of service chiefs or those in comparable positions, their service in scarce specialties.

Special Pay for Dentists

The Committee bill, as mentioned above, makes a change from current law by proposing two separate schedules for special pay, one for full- and part-time physicians and one for full- and part-time dentists. Under both schedules, part-time physicians or dentists would be eligible for a pro-rata amount of three-quarters of the amount authorized for full-time service.

The provisions in the Committee bill for special pay for dentists parallel, to some extent, those for physicians although there are fewer changes from current law and the total increases in the amount of special pay authorized are not as great as for physicians. The difference in approach to physicians and dentists represents the Committee's view that, on the basis of information currently available to the Committee, there is, at present, far less of a recruitment and retention problem facing the VA as to dentists when compared to physicians. For example, the current loss rate for physicians is 10.9 percent as compared with a 4.8-percent rate for dentists. Likewise, as of March 31, 1980, only 2.0 percent of the VA's dental positions were vacant (less than 20) as compared to 3.9 percent of the physician positions (over 400 total) vacancies.

In taking this view, the Committee wishes to note that it regards the VA dental service and the dentists serving the VA as a highly competent and dedicated group. * * *

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* * * [T]he evidence available to the Committee supports a finding that there are few present recruitment and retention problems regarding dentists in the VA; moreover, the Committee is mindful of the strong negative Administration position regarding special pay for uniformed services dentists with respect to whom the Administration has proposed that the existing temporary special pay authority should be allowed to expire. The Committee recognizes, however, that personnel matters are highly complex and dynamic and, should the provisions in the Committee bill relating to special pay for dentists, or other factors, lead to a change in the current recruitment and retention situation regarding dentists, the Committee would be prepared to consider appropriate legislation to remedy such a problem.

As noted above, effective with the first pay period beginning after September 30, 1980, provisions in the Committee bill would repeal a section in current law that reduces the amount of special pay received by all eligible physicians and dentists by an amount based on the 1975 cost-of-living pay raise. This change would have the effect of providing an increase of up to $1,800 annually for all dentists receiving special pay (the full increase would be paid to approximately 29 percent of the VA's present 912 dentists).

Other provisions in section 109 of the Committee bill which would become effective with the first pay period beginning after March 31, 1981, would make the VA dentist special pay program a permanent one and would raise the maximum amounts of total and incentive special pay for eligible dentists generally to $10,000 and $7,500, respectively, from $6,750 and $4,250 under current law. These new maximums would be subject to an exception on the same basis as the maximums for physicians, that is, for those dentists who receive incentive special pay for service in certain geographic areas.

The other changes proposed to the special pay schedules for dentists are similar to changes proposed for physicians—an increase in the amount authorized for service in a scarce specialty (an amount ranging from $2,000, the current law amount, to $7,500) and a new special pay category for service by dentists in certain geographic areas where the Chief Medical Director determines that there have been serious recruitment and retention difficulties with respect to dentists (an amount ranging from $1,750 to $2,500). The other amounts proposed for special pay for dentists would be the same as are authorized under current law (for example, primary special pay—$2,500, incentive special pay for full-time status—$1,000, incentive special pay for tenure—$500 or $1,000).

New Categories Eligible for Special Pay

As noted above, effective with the first pay period beginning after September 30, 1980, the Committee bill would modify the exclusion in current law of the payment of special pay to reemployed annuitants—those individuals who have returned to VA service following their retirement. Under a provision in section 109 of the Committee bill, this exclusion would be modified so that those reemployed annuitants who were involuntarily retired from Government service at age 70 under prior Federal law—section 8335 of title 5, United States Code, prior to its amendment in 1978 by the Age Discrimination in Employment Act Amendments of 1978, Public Law 95-256—would be eligible for special pay. As to these individuals, it is clear to the Committee that the reason for excluding reemployed annuitants as a class in the special pay authority—that is that they have voluntarily left VA service only to return at a later time, thereby demonstrating a lack of any recruitment or retention problem—does not apply and that they should not, therefore, be excluded from eligibility for special pay because they were forced to leave Federal service, especially since the forced retirement policy has now been abandoned as a result of the 1978 law.

The Committee bill, in section 104, establishes a basis for another new category of eligibles for special pay—physicians serving as directors of health-care facilities. Eligibility for special pay for members of this category would be predicated on such an individual serving on a full-time basis, the normal requirement for VA hospital directors, and on being assigned significant additional duties of a medical nature.

Although there is no prohibition in current law on a physician serving as a hospital director receiving special pay, the VA has administratively barred such payment, relying on a provision in current law which allows the Chief Medical Director to determine categories of physicians and dentists as to which there are no significant recruitment and retention problems. The VA's decision to make physician hospital directors an excluded category has had the predictable result of reducing the number of physicians serving as hospital directors to the point that there are only six such directors today as compared to 30 or so in 1975. The Committee believes that this reduction has been very unfortunate in that it has seriously reduced the availability of physicians within DM&S who have the type of management experience that would best qualify them to serve in top positions in DM&S.

The provision in the Committee bill would preclude the VA from determining that there is no recruitment or retention problem as to those physicians serving full-time as hospital directors who are assigned significant additional duties of a medical nature along with the administrative responsibilities ordinarily associated with serving as a facility director. This change should lead to greater numbers of physicians serving as facility directors, and it is the Committee's expectation that this number will return to the level of 25 or 30 such physician directors, the number estimated by Dr. Custis at the April 16 hearings as the approximate number of such physician directors needed in the VA.

This provision would not alter the status or pay of nonphysician health-care facility directors. These individuals would remain under title 5 for purposes of pay and other employment-related matters, and those facility directors at appropriate salary levels would be eligible for appointment in the Senior Executive Service. Those directors who enter the SES would be eligible for performance awards of up to 20 percent of base pay in any fiscal year.

Special Pay for Retirement Purposes

The Committee bill, in section 109, contains provisions that would permit full-time VA physicians and dentists in receipt of special ways to use such special pay amounts as part of their retirement program, an option not available under current law. Commenting on the retirement provisions in the Committee bill at the Committee's April 16 hearing, Dr. Paul Schafer, the President of the National Association of Veterans Administration Physicians, noted:

"Though the special pay provisions of section 14 [in S. 2534 as introduced] are strongly supported by NAVAP as representing an important contribution toward resolution of the VA's physician recruitment and retention problem, perhaps of as much if not possibly more significance are the improved retirement provisions of this Section."

The provisions in the Commttee bill would establish two alternatives that an individual full-time physician or dentist could choose between as a retirement program for the amount of special pay received. Under the first, a full-time VA physician or dentist could elect to have the special pay amounts counted, on a phased-in basis, as basic pay for civil service retirement purposes under chapter 83 of title 5, United States Code. If this option were elected, the provisions of section 8334 of title 5, United States Code, relating to deductions from basic pay for retirement purposes would apply, whereby a percentage of the amount of special pay would be withheld (7 percent under current law) and deposited in the civil service retirement fund in the Treasury Department. Then, on a phased-in basis, depending on the individual's retirement date, a percentage amount of the special pay received would be counted as basic pay for computation of the individual's annuity. Thus, if an individual elected this option, and retired before 1984, under the provision in the Committee bill 20 percent of the amount received as special pay after September 30, 1981, would be counted in the computation of "average pay" under section 8339 of title 5 for the purpose of calculating that individual's annuity. The percentage of the special pay that would be counted toward this computation would increase in stages until, for those retiring after September 30, 1989, 100 percent of the special pay received after September 30, 1981, would be counted.

The Committee believes that phasing-in over a period of time this new opportunity to apply special pay amounts toward civil service retirement will provide a valuable benefit to full-time VA physicians and dentists without placing an unwarranted burden on the civil service retirement fund or providing an undue windfall to any eligible individual DM&S employee choosing this option. As the examples in table 7 demonstrate, the retirement value per dollar of special pay contributed to the retirement fund would be high at the beginning of the program ($6.62 from example No. 1 at age 65, as compared to a $2.13 per dollar value for contributions from base pay over a career for the same person), rising to a higher level for individuals retiring within 15 years of the start of the program ($7.70 per dollar contributed) and then decreasing the longer an individual participates in the retirement fund using special pay until, for those entering Federal service after the effective date of the Act and choosing this alternative, the retirement value per dollar of special pay contributed will equal the value of the contributions from basic pay.

The other retirement option proposed in the Committee bill would allow a full-time VA physician or dentist in receipt of special pay to use such pay to establish an individual retirement account (IRA) as described in section 408(a) of the Internal Revenue Code, title 26, United States Code. This new authority would overcome a prohibition in section 219(b)(2)(A)(1) of title 26 prohibiting an individual covered by retirement plans established by the United States for its employees from establishing an IRA, because it is the Committee's view that, as to the amounts received by VA physicians and dentists as special pay, if the first option is not selected, there is no retirement plan and thus no reason to bar the use of such funds in an IRA. The examples cited in table 8 relating to IRA's indicate that this alternative appears to be a better option for younger physicians and dentists, particularly if the interest paid on the IRA is higher than the 8-percent rate utilized in the example.

The Committee bill includes the two alternative retirement programs so as to provide maximum flexibility to eligible full-time VA physicians and dentists in their retirement planning and to recognize that the failure to treat special pay as a basis for some form of retirement program results in a reduction in the actual value of the special pay and, therefore, in its effectiveness as a retirement and retention incentive.

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VA Physicians' and Dentists' Pay Board

Provisions in section 110 of the Committee bill establishing a VA Physicians' and Dentists' Pay Board should, along with the provisions in the Committee bill making the VA's special pay authority permanent, establish a special pay program in the VA that will provide a basis on which individual physicians and dentists considering employment with the VA can make an appropriate and informed evaluation of this employment opportunity with an understanding of the future prospects for pay and benefits.

The proposed VA Physicians' and Dentists' Pay Board, which would be a five person board established within the Office of the Administrator of the VA, is a mechanism—modeled on the Commission on Executive, Legislative, and Judicial Salaries provided for in chapter 11 of title 2, United States Code—that would allow for periodic increases in the rates authorized under the VA's special pay authority without the necessity of repeated congressional action. The Board, with three members appointed by the Administrator, and one each by the President of the Senate and the Speaker of the House of Representatives, would be responsible for analyzing the income of non-VA physicians and dentists (including other Federal physicians and dentists as well as private sector physicians and dentists) and for providing recommendations on appropriate levels of special pay for VA physicians and dentists in reports made every 2 years to the President who, in turn, would include recommendations for such levels in the annual budget submitted to the Congress in late January or early February. The recommendations submitted by the President would then become effective unless the Congress took specified action, either a resolution passed by either House disapproving the levels proposed or enactment of other legislation establishing alternative levels within 60 calendar days of the budget submission, to preclude that result.

As noted above, the Committee sees the Board as an integral part of the VA's overall special pay program. The Board would be an independent entity that would be able to collect a wide variety of relevant data and formulate recommended changes in the levels of pay in a manner that should yield wide support for the levels so recommended. This function would in no way limit the role of the Congress in setting levels of special pay since the Congress would always have the option of acting legislatively in a manner independent of the Board's recommendations, and as noted above, could prevent a recommendation from becoming law by the passage of a one-House resolution disapproving the President's recommendation.

Relationship to Senior Executive Service

Background

Following enactment of the Civil Service Reform Act (CSRA), Public Law 95-454, in 1978, questions arose as to whether the provisions in the law establishing the Senior Executive Service (SES), a separate personnel management system administered by the Office of Personnel Management (OPM) for top managers in the Federal service, apply to DM&S personnel. The VA's contention, contrary to that of the Office of Management and Budget (OMB) and OPM, is that the CSRA provisions establishing the SES do not encompass title 38 employees.

During consideration of the CSRA, Chairman Cranston noted that he had been assured by officials in the then-Civil Service Commission that, if the Administrator of the VA were to request a waiver from the President for title 38 DM&S personnel from the SES provisions, the Civil Service Commission or its successor—the Office of Personnel Management—based on that agency's understanding of the unique nature of the title 38 pay and personnel system, would give such a request a sympathetic consideration in making a recommendation to the President.

In a March 30, 1979, letter to the Director of OPM, the Administrator of Veterans' Affairs indicated that VA's view that its title 38 positions were exempt from coverage by the SES. OPM disagreed, and a 1-year exemption was granted, which runs until July 13, 1980, to provide an opportunity to resolve this matter.

On October 25, 1979, Chairman Cranston and Chairman Roberts wrote jointly to the Comptroller General requesting a formal opinion on whether the VA personnel employed in DM&S under title 38 are subject to the SES provisions of CSRA. On December 19, 1979, in opinion B-196611, the Comptroller General determined that the title 38 positions were subject to the SES. Thus, without further action, it appears that, for the first time since 1946, certain DM&S employees could no longer be under the exclusive jurisdiction of the VA but rather could be controlled for certain purposes by the office charged with responsibility for the general civil service system.

Committee bill provisions

It is clear to the Committee that bringing title 38 employees under the SES would result in some change in the *status quo* for such employees in terms of performance appraisal, compensation and benefits, and accountability, all key SES elements, and that little if any benefit, either to the VA or to the overall civil service, from such a change has been demonstrated to the Committee. It is the Committee's view that, despite the need for occasional modifications, the DM&S personnel and pay system has worked well since its inception in 1946. In fact, as discussed below in a later section of this report, the Committee bill, in section 105, mandates a study by the Administrator on the impact of bringing into the title 38 system additional categories of health-care personnel—beyond the physicians, dentists, podiatrists, optometrists, nurses, physician assistant, and expanded-function dental auxiliaries currently specified in section 4104(1) of title 38.

Therefore, the Committee bill, in section 102, would specifically exempt health-care personnel employed in DM&S under the authority of title 38 from the various provisions in the CSRA relating to the SES.

At the Committee's April 16 hearing, the VA's Chief Medical Director, Dr. Donald Custis, mentioned his concerns about the SES noting his view that

". . . removing the top positions from our title 38 career system and placing them in the SES will complicate personnel management for the Department and result in fragmented and possibly inconsistent policies and practices."

Rather than supporting the provisions in the Committee bill, however, Dr. Custis testified that, because the Directors of OMB and OPM were prepared "to submit a joint recommendation to the President which would provide a permanent exemption of title 38 physicians and dentists" from the SES, a legislative exemption was unnecessary. Later in the hearing, however, in response to a question from Chairman Cranston, Robert Coy, the VA's Deputy General Counsel, admitted that "[o]ne administration probably can't necessarily bind a succeeding administration." In a similar vein, when Chairman Cranston asked Dr. Custis his personal opinion as to whether "the legislative approach to this problem would be more likely to assure a permanent solution", Dr. Custis indicated that it would. Likewise, virtually all of the other witnesses at the hearing who addressed the issue of an administrative or legislative exclusion for DM&S from the SES supported a legislative solution so as to assure a permanent resolution of this issue.

The Committee notes that, in addition to accomplishing a more permanent resolution of the issue, the provision in the Committee bill is more all-encompassing than the administrative exemption described by Dr. Custis at the April 16 hearing. As Dr. Custis outlined the proposed administrative action, it would apply only to physicians and dentists in DM&S whereas the provision in the Committee bill would exclude all the health-care personnel employed under title 38. Although it is clear that physicians and dentists are the principal groups that would be covered by the SES (there are approximately 70 physicians and dentists in VA Central Office who would be so covered), the Committee sees no reason for so limiting the exclusion. Thus, both for breadth of coverage and permanence of solution, the provision in the Committee bill appears more appropriate. The Committee also takes note of the fact that, as of May 15, the proposed administrative action has not occurred.

Staff and affiliation balance

Background

One issue of major concern to the Committee related to the current status and future of health-care for eligible veterans through the VA centers on concerns about the appropriate balance between the VA, through the agency's many health-care facilities, and health-care training institutions, especially medical schools, affiliated with VA facilities. The focus of this concern has been whether, in too many instances, the affiliation relationship at a particular location has become out of balance to the detriment of the VA and ultimately to the VA's mission of providing quality health care to eligible veterans.

The phenomenon of affiliations between the VA and medical schools began shortly after World War II in an attempt to associate the VA health-care system more fully with overall national health-care efforts. As described by the authors of the National Academy of Sciences "Study of Health Care for American Veterans":

"At the end of World War II, two leaders of the VA hospital system—General Paul Hawley and Dr. Paul Magnuson—concluded that it was essential to associate the VA hospitals with medical schools to enable the VA to deliver high-quality medical care to veterans. In the 1920's and 1930's, the VA hospital system had become increasingly isolated from the professional medical community, and the proposed association with medical schools was conceived as a practical way to overcome rapidly the effects of the VA's prolonged professional isolation. (National Academy of Sciences, Study of Health Care for American Veterans, p. 242 Senate Committee on Veterans' Affairs, 95th Cong., 1st Sess., Committee Print No. 4, 1977.)"

The combination of affiliations with medical schools and the establishment of a separate Department of Medicine and Surgery within the VA, both of which were based on provisions in Public Law 79-293, enacted in early 1946, mark the beginning of modern VA health care.

To implement the new policy of affiliations, the VA issued "Policy Memorandum No. 2," set out in full below, which defined the view of the VA on the terms of the various affiliations with medical schools.

POLICY MEMORANDUM NO. 2

January, 30, 1946.

Subject: Policy in Association of Veterans' Hospitals with Medical Schools.

1. General Considerations:

a. Necessity for Mutual Understanding and Cooperation.—The Department of Medicine and Surgery of the Veterans' Administration is embarking upon a program that is without precedent in the history of Federal hospitalization. It would, therefore, be most unusual if numerous problems did not arise for which no fully satisfactory solution were immediately apparent. Such problems frequently can be solved only by trial and error; and, until workable solutions are found, both parties in the program must exercise tolerance if the program is not to fail.

There can be no doubt of the good faith of both parties. The schedule of medicine and other teaching centers are cooperating with the three-fold purpose of giving the veteran the highest quality of medical care, of affording the medical veteran the opportunity for post-graduate study which he was compelled to forego in serving his country, and of raising generally the standard of medical practice in the United States by the expression of facilities for graduate education.

The purpose of the Veterans' Administration is simple: affording the veteran a much higher standard of medical care than could be given him with a wholly full-time medical service.

The purposes of both parties being unselfish, and there being no conflict of objectives, there can be no serious disagreement over methods. It will be recognized that the Veterans' Administration is charged with certain legal responsibilities in connection with the medical care of veterans which it cannot delegate, if it would. Yet the discharge of these responsibilities need not interfere with the exercise by the schools of their prerogatives in the field of education.

All medical authorities of the Veterans' Administration will cooperate fully at all times with the representatives of associated schools and other centers. It is the earnest desire of the Acting Chief Medical Director that our relations with our colleagues be cordial as well as productive.

b. General Division of Responsibility.—The Veterans' Administration retains full responsibility for the care of patients, including professional treatment, and the school of medicine accepts responsibility for all graduate education and training.

2. The Veterans' Administration:

a. Operates and administers the hospital.

b. As rapidly as fully qualified men can be had, will furnish full-time chiefs of all services (see paragraph 5 below) who will supervise and direct the work of their respective staffs, including the part-time attending staff furnished from the School of Medicine, insofar as the professional care of patients is concerned. Nominations by Deans' Committees for such full-time positions will be welcomed; and, unless there be impelling reasons to the contrary, will be approved wherever vacancies exist. These service chiefs are fully responsible to their immediate superior in the Veterans' Administration.

c. Appoint the consultants, the part-time attending staff and the residents nominated by the Deans' Committee and approved by the Veterans' Administration.

d. Cooperate fully with the School of Medicine in the graduate education and training program.

3. The Schools of Medicine:

a. Will organize a Deans' Committee, composed of senior faculty members from all schools cooperating in each project, whether or not furnishing any of the attending or resident staff.

b. Will nominate an attending staff of diplomates of specialty boards in the number and qualifications agreed upon by the Deans' Committee and the Veterans' Administration. (See 6e)

c. Will nominate, from applicants, the residents for graduate education and training.

d. Will supervise and direct, through the Manager of the hospital and the Consultants, the training of residents.

e. Will nominate the consultants for appointment by the Veterans' Administration.

4. Hospital Managers:

a. Are fully responsible for the operation of their hospitals.

b. Will cooperate with the Deans' Committee, bringing to its attention any dereliction of duty on the part of any of its nominees.

5. Chiefs of Service:

a. Are responsible to their superior in the Veterans' Administration for the conduct of their services.

b. Will bring to the attention of their superior, for his action, such cases as they are unable to deal with personally of dereliction of duty or incompetence on the part of any full-time or part-time staffs under their control.

c. Will, together with the part-time attending staff, under the direction of the Manager, supervise the education and training program.

d. When full-time employees of the Veterans' Administration, will be diplomates of their respective boards and will be acceptable to the Deans' Committee and to the specialty boards concerned. It is the urgent purpose of the Veterans' Administration to place full-time fully qualified and certified chiefs of service for all services in each hospital associated with a School of Medicine. Except in cases where the chief selected has local affiliations, which might embarrass or prejudice his relations with one or another of the associated schools, his initial assignment may not be cleared through the Deans' Committee. In all cases, when it has been conclusively demonstrated that a chief of service cannot cooperate with a Deans' Committee, he will be transferred (if efficient otherwise) and replaced by another.

Until this purpose can be fully accomplished, however, in order that a hospital may obtain approval for resident training by one or another specialty board, it may be necessary to appoint part-time chiefs of services who meet the requirements of the boards. This will be done; but it will be done with the understanding that the part-time chiefs will be replaced with qualified full-time chiefs as rapidly as they become available. The duties and responsibilities of part-time chiefs will be the same as those of full-time chiefs.

6. Part-Time Attending Staff:

a. Will be responsible to the respective chiefs of service.

b. Will accept full responsibility for the proper care and treatment of patients in their charge.

c. Will give adequate training to residents assigned to their service.

d. Will be veterans unless approval in each case has been given by the Chief Medical Director.

e. Will be diplomates of their respective boards and acceptable to such boards for direction of resident training. Exception may be made in the case of a veteran who has completed the first part of his board examination, but whose completion of the examination was interrupted by the exigencies of the military service.

f. Will hold faculty appointments in one or another of the associated Schools of Medicine, or will be outstanding members of the profession of the caliber of faculty members.

7. Consultants:

a. Will be veterans unless approval in each case has been given by the Chief Medical Director.

b. Will be members of the faculty, of professional rank, of one or another of the associated Schools of Medicine.

c. Will, as representatives of the Schools of Medicine, direct and be responsible for the educational training of residents.

d. Will afford to the Manager and the proper Chief of Service the benefit of their professional experience and counsel.

e. Will conduct their duties through, and in cooperation with, the Manager and the proper Chief of Service, and also in matters of education and training, with the part-time Attending Staff—always, however, coordinating with the Chief of Service.

Through the years since 1946, the affiliations between the VA and medical schools have played a very important and valuable role in VA health-care efforts. During fiscal year 1978, for example, 136 of the VA's 172 hospitals and 38 of the agency's 47 outpatient clinic facilities were affiliated, in some degree, with 104 medical schools, and 85 hospitals and 2 outpatient clinic facilities were affiliated with 58 schools of dental medicine.

It is generally agreed, and there was no dispute on this score from any witnesses at the Committee's April 16 hearing who commented on the matter, that the program of affiliations with medical schools has been beneficial for the VA and veteran patients, as well as for the affiliated schools. The VA has benefited by gaining access to a wide variety of medical talent and skills that might not otherwise be available to the system and the affiliated schools have gained, as has the Nation as a whole, because schools training health-care professionals, especially medical schools, have gained access to a very large health-care system within which their students can gain vital experience in a clinical setting. As reported in the NAS study:

"The policy of affiliating with medical schools, initiated in 1946, has resulted in an extensive, complex, and varied pattern of mutual dependence relationships of importance to the majority of VA general hospitals and to many medical schools. The Committee believes that, on balance, these relationships have been beneficial to all parties concerned. The quality of care furnished to the Nation's veterans has improved, and the educational enterprise has been promoted. Id. at 253."

Despite these generally positive aspects and views of affiliations, the Committee recognizes, however, that an affiliation relationship is a dynamic process involving at least two entities with interests that are not always congruent and that, over time, a particular relationship can become out of balance to the disadvantage of one of the partners. The Committee is also aware that there has been growing concern by numerous observers that this result is occurring at various VA facilities, in ways detrimental to the VA. * * *

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The areas most often cited by those who are concerned that particular affiliations between VA facilities and medical schools are not in balance are, first, excessive control by the medical school through the dean's committee whereby such committee becomes so dominant that it makes final decisions relating to employment and the admission of patients at the VA facility and, second, a reduction in the percentage of full-time staff at the VA facility, as well as systemwide, with a concomitant increase in the percentage of part-time staff. In recognition of the many concerns that have been raised in this regard and to clarify any confusions over the Committee's position on affiliation relationships, the Committee bill contains provisions intended to help promote the maintenance of appropriate balances between VA health-care facilities and affiliated institutions and between full- and part-time physicians on VA health-care facility staffs.

Affiliation relationships

The Committee bill proposes various changes in existing law relating to affiliation relationships. These changes, in section 109 of the Committee bill, are designed to clarify the role of the various dean's committees and the appropriate composition of such bodies. In addition, this section would establish new VA medical center coordinating committees at all VA health-care facilities—including, of course, all health-care facilities involved in affiliation relationships—that should serve as effective counterpoints to dean's committees at such affiliated facilities.

On the issue of the role of dean's committees, the Committee bill contains a provision that would amend the statutory basis for such bodies to add a new provision stating that, notwithstanding the recommendations of any such committee, the VA retains the responsibility for making final decisions concerning employment at the VA facility. This provision is designed to address the two complaints the Committee hears most frequently about dean's committees—that some of these committees make decisions about what type of patient is admitted to the VA facility, basing such decisions on the needs of the medical school for appropriate objects for training and research and not upon the needs of eligible veterans for health care, and that some dean's committees have usurped the power to make final decisions about hiring individuals for the staff of the VA facility.

This provision in the Committee bill clarifying the VA's role with respect to dean's committee was modified from the form in which it was included in S. 2534 as introduced. In the legislation as introduced, the proposed provision not only set out the role of the VA in affiliated relationships in a manner similar to that in the Committee bill, but it also affirmatively limited the activities of dean's committees "to policy matters directly related to matters of education and training" in connection with the affiliation program. On the basis of testimony received at the Committee's April 16 hearing and on many communications from interested individuals, particularly physicians employed in the VA health-care system, the provision as introduced was modified so as to recognize that, while the VA is responsible at all health-care facilities for final decisions on matters relating to the provision of health-care and employment, the process of making such decisions cannot be fully separated from other matters, such as concerns relating to education and training, which are clearly within the purview of dean's committees. As one witness at the Committee's April 16 hearing, Dr. Franklin G. Ebaugh, Jr., the Chief of Staff at the VA Medical Center, Palo Alto, California, testified, in describing the hiring process at the VA facility at which he serves, ". . . we recruit jointly with the medical school so that before we hire an individual he needs to have the credentials that are acceptable to the academic department which he will be in. That is agreed by both parties. We would not wish it otherwise." It is the Committee's intent, therefore, by adopting the provision in the Committee bill relating to the VA's role in dean's committees, to reaffirm the general intent set forth in Policy Memorandum No. 2 as to the respective roles of the VA and affiliated medical schools while, at the same time, recognizing the complex nature of an affiliation relationship which prevents always clear demarcations to be made among the various functions.

The provision in the Committee bill relating to the membership of dean's committees would require the Administrator, in making appointments to each such committee from the personnel on the staff of the VA facility, to include appropriate representation from the full-time staff of the VA facility. This provision, which is designed to establish a clear requirement for the inclusion of full-time VA staff on dean's committees so as to assure that the perspective of those members of the staff who are full-time will be considered in the deliberations of dean's committees, is also modified from a provision in S. 2534 as introduced.

The provision in the legislation as introduced would have required that the membership of all dean's committees be constituted in such a way that at least one-half of the membership be full-time VA employees unless the Chief Medical Director determined that a lesser proportion (not less than one-fourth) would have been appropriate. This provision was modified in the Committee bill as described above in recognition of the fact, as noted by many of those who have communicated with the Committee on this legislation, that dean's committees and the parties on each such committee vary from location to location and that hence, a fixed statutory percentage rate for membership on each such committee could prove inappropriate at many locations, and serve to impair the value of the dean's committees. The provision included in the Committee bill is designed to achieve the same goal—opportunity for participation by VA full-time employees in dean's committees so that the view of such employees will be heard in this forum—without creating an unduly restrictive formula that could prove to be counterproductive. The Committee intends to follow the implementation of the provision in the Committee bill to assure that it does result in appropriate participation of full-time VA employees on dean's committees, and the Committee would be prepared, if this provision proves ineffective, to consider further legislative action.

The final provision in the Committee bill designed to address the affiliation relationship, and also included in section 109 of the Committee bill, would establish a new management advisory committee—a medical center coordinating committee—at all VA health-care facilities. These new committees, which would be chaired by the facility director with membership from a wide spectrum of those concerned with the provision of health care at the facility, is designed to serve as a forum for interested parties, especially members of the full-time staff, to provide their views to the management of the VA facility and, at those VA health-care facilities that are involved in an affiliation relationship—particularly at those VA facilities where there is a concern that the relationship between the VA facility and the affiliated institution is not in balance—to serve as an effective counterpoint to the dean's committees at those locations.

In S. 2534 as introduced, these new committees, which were to have been chaired by the chief of staff, if full-time, or the next senior full-time physician, with membership including one full-time physician or dentist and nurse from each service together with representatives from veterans' service organizations, were to be "medical center advisory committees". In the Committee bill, the form, membership, and role of these committees have been modified so as to assure a wider membership and a more direct role in relationship to the facility management. These new committees, styled "medical center coordinating committees" in the Committee bill, would be chaired by the facility director so as to remove any perception that such a committee is a body apart from center management; rather, the committee will play a direct advisory role to the director. The membership of these committees which would be established pursuant to regulations which the Administrator shall prescribe, would still contain representation by the full-time staff through the presence of full-time representatives from each major patient-care service in the center, including the medical service, surgical service, nursing service, and such other patient-care services as are represented in the facility in a significant way, but would be expanded to include the heads of each major organizational unit in the center, such as the heads of the personnel service, pharmacy service, social work service, and other major units not involved in providing direct patient care. In addition, the committees would include a representative from each recognized exclusive representative of employees in appropriate bargaining units in the facility and, as in S. 2534 as introduced, representatives, on a rotating basis, from veterans' services organizations specified by the Chief Medical Director.

Full-time/part-time balance

As noted above, another specific concern which many observers have raised in the context of broader concerns about the practice of VA health-care facilities affiliating with medical schools and other health-care personnel training institutions centers on the question of the appropriate balance within DM&S between full- and part-time staff.

It is clear to the Committee that, as part of an effective program of such affiliations, certain numbers of physicians are needed who will serve part-time at VA facilities and part-time on the faculty of the affiliated institutions and that there is nothing inherently wrong with such an arrangement. As Dr. Custis stated during his testimony before the Committee on April 16:

"We wish to emphasize very clearly the value we place on a part-time physician employment option. Our part-time physicians are a highly-talented, critical element in our affiliation arrangements with medical schools."

The Committee recognizes this fact and is likewise supportive of the employment of part-time physicians. Among the benefits that accrue to the VA from such hiring arrangements is a clear financial gain. Dr. Franklin Ebaugh, the full-time Chief of Staff at the Palo Alto VA Medical Center, during his April 16 testimony before the Committee, reported on a study done at the Palo Alto VA Medical Center in which all of the charts at the facility were audited during a one-month period and the value of the services provided by the staff physicians during that month were costed according to the California Standard of Relative Value fee system. According to Dr. Ebaugh, had the VA been billed for the services on that basis, the cost would have been almost $12 million whereas the VA's total salary of the staff was less than $5 million and the ratio between the computed costs and VA salaries was greatest for those services with the highest percentage of part-time physicians, leading Dr. Ebaugh to conclude that "the part-time physician not only is necessary for high quality care, but his services are a bargain."

Despite the Committee's recognition of the need and support for the employment of appropriate members of part-time physicians, the Committee also believes that it is critical that there remain at each VA medical center a cadre of competent, committed full-time physicians working within DM&S, both to assure the presence of a core of such professionals at each facility who have a primary responsibility to manage the VA facility and who also have a primary commitment to the care and treatment of veterans, as well as to develop a group of career professionals within the VA to advance professionally to high management levels. Hence, in the Committee's view, a continuing movement away from full-time service for VA physicians—as demonstrated earlier in the comparison of full- and part-time staff as of December 31, 1977 (64.3 percent of physicians were full time, 35.7 percent part time) with December 31, 1979 (60.8 percent full time, 39.2 percent part time)—if not arrested threatens essential functions of the VA health-care system—both in the short and long term.

In this regard, as was discussed earlier with reference to the specific pay provisions in the Committee bill, for a variety of reasons, including, of course, economic considerations, there is a growing shift in DM&S away from full-time service and toward part-time service. It is this trend that the Committee seeks to reverse in this legislation.

In so doing, however, the Committee is deeply concerned that the provisions proposed in the Committee bill, with the possible exception of a change in the way in which part-time service receives credit for retirement purposes which is discussed below, be recognized for what they are—designed to reward full-time—not to punish part-time service. All of the proposed provisions have the goal of enhancing the attractiveness of full-time service as a valid career option. At the same time, the Committee bill contains provisions designed to provide greater incentives for part-time service. The balance between those provisions results from the Committee's concern that the proportion of full-time physicians within DM&S has grown seriously low.

In trying to arrest this problem, the Committee stresses its belief that it is not appropriate to cast the debate over full- and part-time service in terms of the respective loyalty or dedication of full- or part-time employees. The Committee believes, as a number of witnesses stated at the April 16 hearing, that the vast majority of VA physicians—both full- and part-time—give their full loyalty and dedication to their patients and that this is as it should be. The increased emphasis in the Committee bill on rewarding full-time service is designed, as discussed above, to assure the presence of a full-time staff of sufficient size to provide the necessary management accountability and long-term competence for the VA.

Among the various provisions in the Committee bill that place an emphasis on full-time service, the most prominent are part of the new incentive special pay provisions that will be effective in April 1981. As discussed above, there is a significant increase in incentive special pay—from $2,000 to $6,000—proposed for full-time service and the differential between full- and part-time employees would be changed, by provisions in section 109 of the Committee bill, from that in current law so that an individual serving on a part-time basis would be eligible for a pro-rata share of three-quarters of the incentive special pay amount provided for full-time service rather than a straight pro-rata share as in current law. However, because of the other increases in the incentive pay provisions proposed in the Committee bill, this change in differential would not result in any reduction in incentive special pay for individuals serving on a qualifying part-time basis. Rather, all eligible part-time physicians and dentists would receive an increase over the amounts of special pay received under current law—in recognition of the Committee's intent that the change in the relationship between full- and part-time incentive pay is not made to penalize part-time employees but, rather, to provide an incentive for full-time service.

Other changes in the Committee bill that have this same intent of putting greater emphasis on full-time service relate to the conditions of service of those serving in top management positions in VA health-care facilities. The Committee bill, in section 106, would require that an individual serving as a health-care facility chief of staff serve on a full-time basis. Although this provision was modified from the form in which it was included in S. 2534 as introduced in order to delete a bar to a chief of staff receiving any outside remuneration (in response to significant testimony in connection with the April 16 hearings, particularly from the National Association of Veteran's Administration Chiefs of Staff, indicating that many chiefs of staff would seek other positions if the bar to outside remuneration were enacted), the bill continues to include the requirement that all chiefs of staff serve on a full-time basis. The bar to outside remuneration also was removed because the Committee received significant information indicating that most chiefs of staff who receive outside remuneration do so on the basis of administrative functions they perform for the affiliated institution, such as sitting on screening committees, and not for any significant clinical activity at the affiliated school that would provide a financial benefit to the affiliated school or substantially detract from their duties at the VA facility.

The Committee would have preferred to retain the bar to outside remuneration because of the potential conflict of interest that is presented by such outside payment as well as what appears to be the anomaly of an individual serving one institution—the VA—on a "full-time" basis while receiving substantial payment from another institution for providing some services. However, the Committee recognizes that a significant amount of total remuneration is needed to attract and retain the quality of physician that the Committee believes is necessary to serve as a chief of staff in a VA medical center—especially one with a close medical school affiliation—and that it would be virtually impossible to implement a special pay system that could provide the needed level of remuneration. Thus, the Committee found no alternative to allowing chiefs of staff, after receiving approval from the Chief Medical Director, to receive outside remuneration.

The VA's Chief Medical Director supported the change requiring chiefs of staff to serve on a full-time basis when, in response to a question at the April 16 hearing, he stated, "I not only believe so [that the greater emphasis is needed on full-time service for chiefs of staff], but we have a policy in effect that there will be no more part-time chiefs of staff."

Under the provision relating to chiefs of staff, the only exemption would be for those individuals serving as a chief of staff on a part-time basis on the effective date of the Act—there are now seven part-time chiefs of staff, at VA medical centers in Birmingham, Alabama; Oklahoma City, Oklahoma; Nashville, Tennessee; El Paso, Texas; Salt Lake City, Utah; White River Junction, Vermont; and Madison, Wisconsin—who would be permitted to continue to serve on a part-time basis but, while so serving, would be ineligible for any increases in special pay provided by this bill or subsequent legislation.

As noted earlier, another provision in the Committee bill, section 104, provides a basis for a physician health-care facility director, if assigned significant additional duties of a medical nature, to receive special pay. This change providing eligibility for special pay which differs from current law is predicated on such an individual physician serving as a hospital director on a full-time basis. Although this requirement of full-time service for hospital directors is not a change from practice under current law—all health-care facility directors now serve on a full-time basis—it further manifests the Committee's position on the need for full-time service by the VA's top managers.

Another provision, also in section 106, would require all Associate Chiefs of Staff, Service Chiefs, and others serving in positions comparable to service chiefs, such as directors of geriatric research, education, and clinical centers (GRECCs) at certain VA facilities, to serve on a full-time basis, again so as to put a greater emphasis on full-time service, most particularly at the management level within DM&S. A "grandfathering" provision would allow all individuals serving on a part-time basis in any of the positions to continue to so serve but would bar any individual so serving from receiving any increase in special pay while continuing to serve on a part-time basis. This full-time requirement differs substantially, however, from that for hospital directors of chiefs of staff, in that the Chief Medical Director is given wide discretion to make exemptions from the full-time service requirement on both a categorical and individual basis.

The Chief Medical Director is given the discretion to exempt either categories of personnel or individuals not in exempt categories from the full-time requirement on a finding that such an exemption is in the best interest of the Federal Government and of quality health-care for veterans. Any individual granted an exemption by the Chief Medical Director pursuant to the authority proposed in the Committee bill, either as a member of an exempted category or individually, could serve in one of the designated positions on a part-time basis and, if the exemption so provided, still be eligible for increases in special pay over the amounts presently in the law.

The Committee expects, on the basis of testimony at the April 16 hearing, that, with particular reference of service chiefs, the Chief Medical Director will make substantial use of this discretionary authority to make exemptions from the full-time requirement. However, the Committee intends that the Chief Medical Director closely scrutinize all requests for exemptions; indeed, that is the purpose behind this provision in the bill—to bring about greater attention to the full-time slide, particularly at certain facilities. In this regard, the Committee cautions of the need to resist the assumption that, because a position has been filled on a part-time basis in the past, this result is necessary for the future in terms of what is in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans. The Committee hopes that the Chief Medical Director will view the new full-time requirement for these positions and the authority to provide exemptions—as the Committee intends these provisions—as management tools to assure that individual positions at this management level are staffed in such a way as to assure appropriate time, attention, and accountability to meet the needs of each VA health-care facility.

Also, on the issue of part-time service, the Committee notes the dissatisfaction that has been expressed with the current methods used by the VA to assure that physicians serving the VA on a part-time basis serve the requisite number of hours at the VA facility during specified time periods. In this regard, Dr. Franklin Ebaugh, Chief of Staff at the Palo Alto VAMC, noted during the April 16 hearing:

"The VA is also jeopardizing the retention of part-time physicians in the specialty categories because they are continually being hassled regarding time cards."

The Committee recognizes the need for the VA to assure itself that it is receiving appropriate service from all of its personnel, and acknowledges that it is particularly difficult to achieve a fully accurate accounting with reference to part-time service. However, the Committee believes that it is vital that the VA not impose methods of accounting for periods of service that are overly restrictive for all part-time physicians in order to detect those few who would exploit their part-time status at the VA by claiming hours of service not worked. The Committee therefore intends to explore this matter further with the VA's Inspector General at an oversight hearing scheduled for June 11 to receive his views on the overall question of the VA's supervisory relationship to part-time physicians and specifically to solicit his suggestions as to possible alternative methods of monitoring periods of time worked that might prove less intrusive to the individuals involved but that would still assure the VA that it was receiving fair service for salary paid. Following that hearing and further review of this matter, the Committee will consider further action as appropriate.

Other changes proposed in the Committee bill to place greater emphasis on full-time service that have been previously mentioned include the changes related to advisory committees whereby there is a requirement that there be appropriate representation by full-time staff on dean's committees as well as on the new medical center coordinating committees; provisions, in section 109 of the Committee bill, that would permit full-time employees to count amounts received as special pay either for civil service retirement purposes or to establish individual retirement accounts; and the provision included in section 107 of the Committee will be to modify the way in which part-time service is counted toward civil service retirement.

Of these provisions, only the last would result in any change in status for part-time service that could be characterized as constituting any kind of a penalty for part-time service as compared with current law. Under current law, service on a part-time basis accrues a full month's retirement credit for each month served, no matter how small the ratio of part-time service. The provision in the Committee bill would change this situation so that, in the future, part-time service by a VA doctor would accrue civil service retirement credit only on a pro-rata basis. In proposing this change, the Committee is not motivated by any desire to punish part-time service. Rather, it is the Committee's view that the situation under current law, although it applies to all Federal employees, represents a serious flaw in civil service retirement law as applied to DM&S where, because of the great numbers of part-time employees and the relative ease of shifting from part-time to full-time status, there is a great potential for abuse in Federal service. For example, an individual physician could serve on a ⅙-time basis at the VA for 27 years while giving the bulk of service at an affiliated medical school, convert to full-time status at the VA for 3 years, and at the end of those 3 years, be eligible for full civil service retirement for 30 years of service. The high-3 years of pay on which retirement would be based would be the 3 years of full-time service. In such a situation, it is clear to the Committee that the retirement benefits that would be paid out to such an employee would be far in excess of the Federal Government's legitimate obligations and of any reasonable amount of contributions made by such individual to the civil service retirement fund. Thus, although the provision in the Committee bill would represent a change from current law for those serving on a part-time basis, it is designed to correct an inequity in existing law that discriminates against those who serve full time in DM&S. In addition, the provision in the Committee bill will only operate prospectively; no one who has previously accrued retirement credit while serving on a part-time basis will lose any such credit.

Personnel management improvements

Although much of the emphasis in the Committee bill is on VA physicians and dentists, it is abundantly clear to the Committee that, for any health-care system, especially one of the size and complexity of the VA system, to provide a high quality and wide range of health care, such a system must rely on a highly trained interdisciplinary staff. Each member of the health-care team in the VA plays a critical role in the provision of quality treatment for each veteran served.

Although the Committee recognizes that the recruitment and retention of physicians and dentists is essential, it also believes that it is equally essential for the VA to be able to recruit and retain other health-care personnel, especially nursing staff, and there are many provisions in the Committee bill that are designed to improve the VA's performance and capability in this area.

Among the key provisions in this area are those that would enable the VA to adjust rates of pay, including both entry and other levels of pay for all title 38 and direct health-care personnel employed under title 5, as well as rates of additional pay for nurses, physician assistants, expanded-function dental auxiliaries, and other direct health-care personnel employed under title 5 for work outside of the regular work day or week; a variety of other provisions relating to the status of nursing personnel in DM&S, including a pilot program and study of the impact of various administrative actions on recruitment and retention of nursing personnel; and provisions designed to allow the Administrator greater control and flexibility regarding allied health-care personnel, coupled with a study to determine if there is a need to provide even greater management control over such allied health-care personnel by shifting them to the title 38 personnel system for the purpose of pay and administrative control.

Nursing personnel

The problem of recruiting and retaining sufficient nursing personnel, especially registered nurses (RN's), is one of nationwide proportions. The April/May 1980 issue of *Federation of American Hospitals Review* reported on this problem in a cover story entitled "The Nurse Shortage: A National Dilemma". The beginning of the cover story noted:

"Recruitment and retention.

"Those have become major goals as hospitals across the country try to cope with a worsening shortage of registered nurses (RN's).

"It has been reported that at least 80 percent of the nation's hospitals have nursing vacancies.

"According to a survey by the American Hospital Association, its 6,100-member hospitals have indicated that they have between 90,000 and 100,000 vacant nurse positions."

The situation in the VA provides an accurate reflection of this phenomenon. * * * [T]he number of RN vacancies in the VA system has grown significantly over the past 5 years and the rate of this increase has accelerated since June 1978.

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The situation in the VA is further borne out in a March 17, 1980, VA Recruitment Bulletin that lists vacancies by VA facility and by job category. Out of a total of 898 RN vacancies listed, 670 are staff nurse positions. Many VA facilities are listed with 10 or more vacancies, a number reporting 25 or more, and one VA facility, the Cleveland, Ohio VAMC, reports 81 staff RN vacancies.

The problem of recruiting and retaining registered nurses, although nationwide in scope, is not as intense in all areas of the country. As noted elsewhere in the issue of *Federation of American Hospitals Review* mentioned above, in a story entitled "The California Story: 10,000 nursing vacancies; 50 percent turnover rate", this problem is particularly acute in California, a fact that has had a major adverse affect on the VA facilities in that State, particularly those in Southern California. In this regard, the Committee has been working with VA hospitals in that area on an intensive basis since late fall, 1979, when a Committee staff investigator, herself a registered nurse, visited a number of VA facilities in Southern California to gather first-hand information on the problems confronting these hospitals in their efforts to recruit and rettain nursing personnel and to seek to develop solutions to the problem. Also in this regard, the Committee heard from Ms. Rowena Bishop, the Chief of the Nursing Service at the VAMC (Wadsworth) in Los Angeles, at the April 16 hearing. Ms. Bishop reported on the difficulties being confronted in this area, the intensive competition that the VA faces from community hospitals for nursing personnel in Southern California. Wadsworth's recruitment efforts—including sending personnel to Puerto Rico, where there is an excess of nursing personnel to recruit nurses to come to Los Angeles—the impact of the nursing shortages at Wadsworth on the provision of medical care, and the need for further assistance in the form of authority to pay increased rates of pay in order to meet pay in the community. In the course of her testimony, Ms. Bishop described some of the innovative recruitment benefits being offered by community hospitals, including:

"A car if assigned to work nights, a trip to Hawaii or Las Vegas, bonuses to RNs for recruiting a new RN who completes 20 days of work, a $1,000 loan at 1 percent interest, work 4 days and get paid for five, and a bonus of 2 percent of gross pay if a nurse completes one year of employment."

In light of this overall problem, the Committee bill contains a number of provisions designed to improve the VA's ability to attract and retain RN's, including some that would give the VA necessary flexibility to respond as appropriate to situations in specific areas where there is particularly competition for personnel with community facilities.

In the area of pay for nursing personnel, including both basic pay and additional pay for work outside of the normal workday or workweek, such as overtime work or work on a Sunday or holiday, the Committee bill, in provisions in section 104, would give the Administrator new authority to modify such rates of pay. With reference to basic pay, the new authority would give the Administrator the ability, after such consultation with exclusive representatives if the employees in appropriate collective bargaining units in a facility as is required under applicable collective bargaining agreement, to modify minimum, intermediate, and maximum rates of pay for nursing and other title 38 health-care personnel (including physicians, dentists, podiatrists, optometrists, physician assistants, and expanded-function dental auxiliaries—all appointed under section 4104(1) of title 38) as well as for other title 5 health-care personnel determined under new section 4107(e)(10) of title 38 (as added by section 104(4)(D) of the Committee bill) to be provided either direct patient-care services or services incident to such direct care service.

This authority, which is similar to that exercised by the Director of the Office of Personnel Management under current law pursuant to section 5303 of title 5, should give the Administrator greater flexibility to modify basic pay in order to enable the VA to respond more effectively and efficiently (especially in terms of timeliness) to recruitment and retention problems that arise in specific areas because of increases in rates of pay and benefits offered by health-care facilities in such communities. This change will also enable the VA to exercise more direct control over its personnel positions and thereby avoid the delays that often result when personnel requests are submitted to OPM. The provision in the Committee bill would authorize the Administrator to increase rates of pay in order to (1) provide pay competitive with, but not exceeding the same type of pay received by the same category of health-care personnel at non-federal health-care facilities in the same labor market, (2) achieve adequate staffing at particular VA facilities, or (3) recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding, such as individuals who provide specialized services to patients with spinal cord injuries.

The provisions in the Committee bill related to rates of additional pay for nursing and other personnnel for work outside of the regular workday or week (also contained in section 104 of the bill) would modify existing law in a number of ways, including by bringing certain allied health personnel under the coverage of these title 38 provisions as discussed below. For registered nurses, the proposed changes are in two areas—changes to some of the specific additional pay provisions to make these provisions more comparable to similar provisions in title 5 relating to additional pay for personnel paid under the General Schedule, and new authority, similar to that discussed above relating to rates of basic pay, for the Administrator, after such consultation with exclusive representatives of the employees in appropriate collective bargaining units in a facility as is required under applicable collective bargaining agreements, to modify rates of additional pay at a specific VA facility when necessary to meet the rates of additional pay being paid by health-care facilities in the same geographic area as the VA facility (for example, the Committee recently received information from a VA medical center in Southern California indicating that the VA's 10 percent of base pay differential for nightwork was not competitive with hospitals in the community that were offering nightwork differentials of up to $400 per month). This authority to modify rates of additional pay would be a new authority, currently unavailable to the Administrator either directly or through OPM.

Under current law, if there is a need by the VA to meet an increase in additional pay being paid in a particular community by non-federal health-care facilities for particular duty, such as work on a Sunday, the only alternative available to the VA is to seek an increase from OPM in the rate of basic pay which, if approved, would result in a VA person working such additional duty receiving total pay comparable to that paid a similar worker in a community facility. However, such an increase would also mean an increase in basic pay for all of the other similar VA employees when such an increase was not needed to meet community rates as to those personnel. Utilizing the authority proposed in the Committee bill, the Administrator would be able to adjust the particular additional pay rate in question, thereby targeting the agency's efforts on the area of need without making unnecessary increases. This change should prove especially beneficial in the recruitment and retention of nurses where many community facilities provide benefit packages designed to attract personnel for work on shifts and days that are particularly difficult to staff.

The Committee bill contains other provisions to the overall additional pay authority for nurses and other specified personnel. These provisions would make two statutory changes in the statutory scheme of additional pay benefits for work outside of the normal workday or week as set forth in section 4107(e) of title 38 designed to make these benefits more comparable to those paid to other Federal employees paid under the General Schedule in title 5. The first of these changes would provide for the payment of additional pay for overtime service in travel situations. Under current law, incidental-to-work travel by nurses and other personnel covered by the additional pay authority, such as returning from escort duty, is not considered to be hours of duty under the additional pay sections in title 38. The provision in the Committee bill would change this situation to conform the title 38 authority to that available for General Schedule employees under section 5542 of title 5, United States Code.

The second change to the current law additional pay provisions would modify section 4107(e)(8) relating to "on-call" duty, pursuant to which nurses or other specified personnel can be assigned to and paid for duty outside of regular work hours during which such person remains at home, subject to call back to the facility if needed. The proposed modification would specify that the Administrator has the authority to assign a nurse or other specified individuals to such on-call duty on a Federal holiday that falls within the regular workweek. Without this specific authority, the VA must require such an individual to remain at the hospital on a holiday falling during the workweek, resulting in unnecessary inconvenience for the employee and unnecessary, additional costs for the VA in the form of additional pay for duty on such a holiday rather than on-call pay.

There are a number of other provisions in the Committee bill, in addition to those related to pay discussed above, that are designed to enhance the VA's ability to recruit and retain sufficient registered nurse personnel. One such provision, included in section 106 of the Committee bill, would give the Administrator the express authority to provide support for the training of VA registered nurses, including nurse practitioners, seeking a baccalaureate degree in nursing. This authority, which would be in addition to the general training authority available to the Administrator under chapter 41 of title 5, is intended to clarify that providing training support for registered nurses pursuing a baccalaureate degree in nursing meets the professional development criteria required in such chapter. This authority should enhance the attractiveness of a VA career in nursing. At the present time, approximately 54 percent of the VA's over 30,000 registered nurses are so-called "diploma" nurses, that is without a baccalaureate degree, and thus would be eligible for this new training support. To receive the new training support, an eligible registered nurse would be required to execute an employee agreement as set forth in section 4108 of title 5, United States Code, pursuant to which an employee receiving training support agrees to remain in the service of the sponsoring agency—the VA in the case of registered nurses under the proposed new provision—for a period equal to at least three times the length of the training period or to repay the expenses of the authorized training to the Government. Thus, not only should this new authority serve as an incentive to eligible registered nurses to choose the VA as a place to work, it should have the additional impact of improving the VA's overall retention rate of registered nurses as those trained under this authority complete the pay-back period for the training received.

Another provision in the bill, in section 103, related to VA nursing would permit the Administrator to appoint the Director of Nursing Service in the VA Central Office as an Assistant Chief Medical Director or a Deputy Assistant Chief Medical Director. This authority, which derives from recommendations from both the American Nurses' Association and the National League for Nursing, would allow the Administrator to elevate the Nursing Service head to a position with more direct reporting access to the Chief Medical Director than exists at present where the Director of the Nursing Service reports to the CMD through three administrative levels. The Committee believes that such a change would give the Nursing Service had a greater and needed role in policy matters within DM&S, including general policy matters as well as those affecting nurses most directly, and urges the Administrator to give serious consideration to the exercise of this new authority. The Committee intends to monitor closely the actions of the VA in this regard and should it become apparent that there is a need for further legislative activity, the Committee would be prepared to consider taking such steps as may be necessary.

The Committee bill, in section 108, would also provide a basis for greater participation by nursing personnel, particularly Chiefs of Nursing Services at various VA health-care facilities, through the inclusion of such individuals on the new "medical center coordinating committees". As discussed above, the membership of these new committees will include full-time representatives from each major service in a facility, which would include a representative of the nursing service. The Committee expects that this representative would be, in virtually every instance, the chief of the nursing service, thereby assuring an active voice in the management of the particular VA health-care facility.

The final nurse-related provision in the Committee bill, in section 111, is a mandated pilot program and study to evaluate the effectiveness of taking various administrative actions on the VA's recruitment and retention efforts related to nursing personnel, including registered nurses, licensed practical or vocation nurses, and nursing assistants.

This pilot program and study, which would be conducted in at least six geographic regions where the VA has experienced difficulties recruiting and retaining such nursing personnel, would be conducted over a 24- to 36-month period with a final report due to the Congress not later than 42 months after the date of enactment of the bill.

To conduct the pilot program and study, the VA, after such consultation with the exclusive representatives of employees in appropriate collective bargaining units in the agency as is required under any applicable collective bargaining agreement, would undertake combinations of various activities, including combinations involving each of the following specified actions: Modification of existing work schedules for nursing personnel so as to permit nursing personnel to work on a flexitime basis or a compressed workweek or other work day or week variations as provided for in the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95-390 (such as have been previously tried in various locations including at VAMC Wadsworth); establishment of onsite child care centers at VA health-care facilities for the care of the children of nursing and other personnel, including other Federal employees, while the personnel are on duty (as have been established at some VA medical centers); provision of free or subsidized parking for nursing personnel at VA facilities where they are being required to pay for parking; and enhanced programs of career development for nursing personnel, including support for outside training opportunities and, as appropriate, academic appointments at an affiliated health-care training institution.

It is the Committee's understanding that a number of these administrative actions have been tried at various VA medical centers but that there has never been a concerted effort, combining some or all of the listed actions, designed to measure the impact of such actions on recruitment and retention. It is the Committee's expectation that, by undertaking the mandated pilot program and study, the VA should generate significant data on which actions have a cost-effective impact on the agency's recruitment and retention efforts directed at nursing personnel and that this information should be helpful in markedly improving the agency's success in recruiting and retaining such personnel. The final report of this pilot program and study would include recommendations for administrative or legislative action to apply the lessons learned from the study, and the Committee looks forward to receiving this report, as well as such interim reports as the Administrator deems appropriate, so that further action may be considered and taken as appropriate.

The Committee is deeply concerned that the VA must improve its efforts to attract and keep quality nursing personnel, including registered nurses, licensed practical or vocational nurses, and nursing assistants. Without sufficient qualified nursing personnel, efforts to recruit and retain doctors will not achieve this intended purpose.

Allied health personnel

The provisions in the Committee bill dealing with allied health personnel are in two areas—short-term measures in the area of pay, including both basic pay and additional pay, and a longer-term effort designed to provide the Committee with a better base from which to consider further action with reference to such personnel.

As stated above, the Committee is strongly committed to the view that, for the VA to provide quality health care to eligible veterans, there must be a highly trained, qualified interdisciplinary staff, and this view encompasses health-care personnel beyond those employed directly under title 38. However, for those health-care personnel employed under the authority of title 5, United States Code, the VA must rely on the Office of Personnel Management for many facets of the employment relationship, including the classification of positions, the screening of applicants, the setting of rates of pay and variations to those rates and many other elements of the employment relationship. The Committee is concerned that this arrangement may not be the most appropriate as to many health-care personnel categories; however, because of the lack of a clear consensus on this question, especially as to which categories of personnel are experiencing the greatest problems at present, the Committee bill would mandate a study, as discussed below.

The Committee believes, however, that some action in this area is appropriate at this time and that the health-care personnel needing the greatest attention are those either providing direct-patient-care (such as licensed practical or vocational nurses and nursing assistants and various therapists) or services incident to such services (such as laboratory technologists and technicians, ward secretaries, and pharmacy personnel). It is the Committee's view that, as to such personnel, the VA must have greater control than it does under current law so as to assure that the agency can be as responsive as possible in situations where personnel issues adversely affect the quality of care provided to veteran patients.

The Committee bill would provide for this control regarding these key health-care personnel in two ways—by making them eligible, in section 109 of the Committee bill, for certain types of additional pay authorized under title 38 (and for modification to such rates as authorized by the Administrator pursuant to new authority in the Committee bill) for work outside of the regular work day or workweek on a basis similar to that provided for nurses, physician assistants, and expanded-function dental auxiliaries under current law and by including, also in section 109 of the Committee bill, these key health-care personnel in the list of health-care personnel for whom the Administrator, pursuant to authority provided by provisions in the Committee bill, can modify entry, intermediate, and maximum rates of pay for a specific category of personnel or in a specific geographic area when necessary (1) to provide rates competitive with the rates paid to comparable personnel by community facilities, (2) to achieve adequate staffing at particular facilities, or (3) to recruit personnel with specialized skills. By virtue of these changes to the pay authority for these key health-care personnel, the Committee expects that the Administrator will be in a far better position to take action to adjust rates of pay as necessary to attract and retain necessary allied health-care personnel.

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TITLE II.—GERIATRIC RESEARCH AND CARE AMENDMENTS

Title II of the Committee bill would authorize, subject to the appropriation of sufficient funds, the establishment of up to 15 Geriatric Research, Education, and Clinical Centers (hereinafter called "geriatric centers") at VA health-care facilities. It would mandate the establishment, in the VA's Department of Medicine and Surgery (DM&S), of a Geriatrics and Gerontology Advisory Committee (GGAC) to advise the Chief Medical Director on all matters related to geriatrics and gerontology and would require that one Assistant Chief Medical Director be a physician trained, or having suitable, extensive experience, in geriatrics, who would be responsible to the Chief Medical Director for all geriatric research, education, and clinical health-care policy.

A focus on the health-care needs of elderly veterans

The Committee has long been concerned about the VA's short- and long-range planning with respect to the growing number of elderly veterans in the United States and the increasing average age of those who need and are eligible for care in VA health-care facilities. The VA testified at the Committee's October 29, 1979, hearing on S. 1523 and H.R. 4015, that, during fiscal year 1980, 30 percent of all hospital patients, 65 percent of nursing home patients, 34 percent of domiciliary members, and 20 percent of outpatient visits are estimated to be by veterans over 65 years of age. In addition, nearly 14 million veterans of World War II and the Korean conflict are between 55 and 65 years of age. Charts D and E, taken from the VA's "Report on the Aging Veteran", submitted to the Congress on January 5, 1978, pursuant to section 117(a) of the Veterans Omnibus Health Care Act of 1976 (Public Law 94-581), indicate the anticipated growth of the veteran population 65 years of age and older over time. These charts assume that this group of veterans is essentially made (only 2.1 percent of service personnel during World War II and the Korean conflict were women).

The VA's report on the Aging Veteran was mandated by the Congress in order to provide an assessment of the steps necessary to adapt the VA's health-care program to the changing demography of the Nation's veteran population. It includes a detailed description of the aging veteran population and current VA programs that provide health-care services to elderly veterans and to veterans who are chronically ill and has been a valuable resource for the Committee.

Older patients generally require more physician time, more hospital admissions, and longer hospital stays. They are primary users of long-term care facilities and the services of home health agencies. Clearly, the enormous population of aging veterans will place a heavy demand on the VA health-care system for acute and long-term health-care services throughout the remaining years of the 20th century. The Committee believes that the VA, because of its significant role in health care in this Nation and because of the large number of elderly veterans, should be in a leadership role within Federal Government efforts to produce a better understanding of the aging process, its effects, and the medical, social, and family needs of our elderly citizens.

The development of existing GRECC program

In 1973, the VA created the Geriatric Research, Education, and Clinical Centers (GRECC) program to provide centers of excellence whose goals would be to attract outstanding professionals to teach and to conduct research on aging in a clinical context, thereby having a positive effect on the provision of health-care services to older veterans.

[Charts mentioned in text not printed in the RECORD.]

The program was developed with a view to giving visibility to the fields of geriatrics and gerontology by providing a multifaceted program of research, education, and clinical activities and by integrating achievements in these areas into the total VA extended-care system. The VA first requested funding for the GRECC program in its budget request for fiscal year 1975, and for that year received funding of $549,000 of which $140,000 was appropriated for medical research and $409,000 was appropriated for non-recurring expenses and staff salaries.

In addition, in September 1975, the VA took another major step toward ensuring that the acute and long-term health-care needs of elderly veterans would be met by designating one Assistant Chief Medical Director in DM&S to head the newly-created Office of Extended Care. This office provided a much needed focus for the VA's diverse long-term health-care programs, including domiciliary, nursing home, hospital-based health care, personal care, and affiliated State and community nursing home programs. State and community nursing home programs. These programs have the mutual goal of providing quality health-care services, at appropriate levels of care, to elderly veterans and veterans who are chronically ill.

In 1978, the Administrator established the Geriatric Fellowship Program in order to attract a group of highly qualified physicians who would pursue training and research in the field of geriatrics. Five of the twelve VA medical centers selected as locations for this fellowship program also operate GRECC's and the fellows at those medical centers are considered to be members of the GRECC staff. Thus far, the relationship between these two programs has been mutually beneficial and the Committee hopes that increased emphasis on the interaction of these two programs will be forthcoming and will help to stimulate an interest on the part of the fellows in pursuing VA careers.

As coordinated through the Assistant Chief Medical Director for Extended Care, the GRECC program as it currently operates is an experimental project, which operates and is maintained under section 4101(a) of title 38, United States Code, which provides the Administrator of Veterans' Affairs with the general authority to ". . . provide a complete medical and hospital service . . . for the medical care and treatment of veterans." Between 1975 and 1977, the following eight VA medical centers were designated as GRECC sites on the basis of the interest and experience of their staff in particular geriatric issues and problems:

(1) Bedford, Massachusetts, including the outpatient clinic at the Boston VA Medical Center.

(2) Little Rock, Arkansas.

(3) Los Angeles (Wadsworth), California.

(4) Minneapolis, Minnesota.

(5) Palo Alto, California.

(6) St. Louis, Missouri.

(7) Seattle/American Lake, Washington.

(8) Sepulveda, California.

Committee bill

Designation of Sites for the Operation of Geriatric Centers

Section 202 of the Committee bill would amend title 38 by adding a new subsection (f) to section 4101 to authorize, subject to appropriation of sufficient funds, the designation of up to fifteen VA health-care facilities as the sites for geriatric centers. It would also require that, in designating VA health-care facilities for geriatric center sites, the Administrator shall, upon the recommendation of the Chief Medical Director:

(1) Designate facilities already operating a GRECC, unless such center is not effectively operating;

(2) Assure geographic distribution of such centers;

(3) Limit designations to facilities that (a) are affiliated with an accredited medical school that provides (or can reasonably be anticipated to develop) a training program of geriatrics and the VA facility and the school have (or can reasonably be expected to develop) an arrangement for regular rotation of residents through the geriatric center and through one of the VA facility's long-term care units, (b) have (or can reasonably be expected to develop) an arrangement for a geriatric training program for nursing and allied health personnel in such extended care units; (c) demonstrate an ability to attract scientists who are capable of ingenuity and creativity in health research; (d) have (or can reasonably be expected to establish) a policy-making advisory committee composed of VA and affiliated school health-care and research representatives; and (e) demonstrate an ability to conduct effective evaluation of geriatric center activities.

Generally, witnesses at the Committee's October 29, 1979, hearing agreed that the existing GRECC program should be supported and maintained, as did the VA site-visit team in its Final Evaluation Report. But both groups equally emphasized that the resources presently available for the existing GRECC's were insufficient to allow the program to achieve its full potential or allow individual GRECC's to develop completely. Several GRECC directors commented that mandating a specific number of additional geriatric centers could seriously jeopardize the continuing development of the existing GRECC's and perhaps even hinder the progress of the program as a whole.

The VA also strongly objected to the mandatory nature of establishing a specific number of additional centers on the ground that it would deprive the Chief Medical Director of flexibility in health planning. The VA representative, Dr. Herbert Baganz, Assistant Chief Medical Director for Planning and Program Development, stated:

"In our view, the agency's chief medical officer should not be without the capability to meet and respond to new developments or changing trends. Nearly doubling the number of GRECC centers under a statutory mandate may or may not be compatible with veteran needs and health care trends. Subsequent evaluation may in fact reveal that there exist more effective means of studying and applying new insights on geriatric and extended care than the GRECC model. Enactment of this legislation could commit the VA to an experimental area far more deeply than is presently warranted. Moreover, we are concerned that a mandatory expansion in the number of GRECC's to 15 without qualifying language making such growth contingent on the availability of appropriations would require that GRECC development proceed at the expense of other programs."

Thus, the Committee bill made the establishment of geriatric centers contingent on the availability of appropriations and provided that the existing GRECC's, which meet the criteria specified in new subsection (f) and described above, be provided the resources necessary for their effective operation before new centers may be established.

* * * * *

Funding for Geriatric Centers

The Committee bill (in new subsection (f) (3) which would be added to section 4101) would authorize appropriations of $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 each for fiscal year 1983 and fiscal year 1984, for the basic support of research and education activities at geriatric centers. The clinical activities of geriatric centers would be funded, as they are in the existing GRECC program, from the general appropriation for the medical care account in such amounts as the Chief Medical Director determines appropriate. The Chief Medical Director also would be directed to support the research and education components of geriatric centers from funds appropriated generally for the medical care account and the medical and prosthetics research account as the Chief Medical Director determines appropriate, and, in fiscal year 1984, as the Chief Medical Director determines appropriate in light of the report of the Geriatrics and Gerontology Advisory Committee (GGAC) that would be required in new subsection (f)(2)(A).

In addition, paragraph (4) of new subsection (f)(3)(C) which would be added to section 4101 would require that, with respect to funding awards made for geriatric and gerontological research, the clinical and research activities of geriatric centers shall receive priority consideration. Since 1975, the existing GRECC's have successfully competed for over $3,400,000 in VA research funds. The Committee believes VA research funding for aging matters are most appropriately focused on the research efforts of geriatric centers and, further, that providing a priority in consideration of geriatric center investigator applications for geriatric-related VA research awards will strengthen the ability of the centers to attract researchers who show promise of ingenuity and innovation, as required by the Committee bill.

Table 14 shows funding provided for the existing GRECC's—none of which is fully operational—for fiscal years 1979 and 1980, and the appropriation requested for fiscal year 1981.

TABLE 14.—GRECC PROGRAM FUNDING EXISTING GRECC'S ONLY

	Fiscal year—		
	1979	1980	1981
Medical care	$3,096,949	$3,347,954	$3,635,790
Research—VA funded	1,022,579	1,100,295	1,500,118
813 funds (Education)	153,780	65,945	70,000
Geriatric fellowship	389,096	515,345	596,750
Total	4,662,404	5,029,539	5,802,658

Source: Office of the Assistant Chief Medical Director for Extended Care, Veterans' Administration, May 9, 1980.

Amounts authorized to be appropriated by the Committee bill for geriatric centers are derived from testimony the Committee received at its October 29, 1979, hearing that annual funding of between $1 and $2 million would require to make a geriatric center fully operational and from convincing evidence offered by witnesses at the hearing that "full potential" in all three geriatric center components would take about five years to achieve. The Committee believes that, first, adequate support should be provided to existing GRECC's meeting the criteria for designation of geriatric centers under the Committee bill, in order to make them operational effective and, second, that there should be growth in the geriatric center program, including the designation and activation of new locations for geriatric centers.

Possibility of Major Advancement In Science of Aging

The Committee views enthusiastically the potential for geriatric centers to make valuable contributions to research in new frontiers of gerontology and to explore further already discovered possibilities for increased longevity and improved quality of life during older age. There is reason to believe that through such research more and more people will be able to realize their full life span and that the life span itself may be significantly lengthened.

* * * * *

The Committee believes that geriatric centers, because of their research and clinical orientations and access to the population of elderly veterans, are ideally suited for conducting "breakthrough" research, which, if successful, may be able to shorten, by years, the time necessary to translate and transmit information from the test tube to geriatric health care. Examples of such breakthrough research include studies of the development of the comparative/evolutionary approach to the understanding of the protection mechanisms against carcinogenesis and aging, the changes in immunologic functions during aging, and the role of DNA repair processes and the effects of DNA damage in relation to biological effects of various physical and chemical agents. Because of the subjective, conservative nature of the peer-review system, projects of this nature, which may involve a high risk of scientific failure despite large potential gain, may become mired down in an almost endless process of tandem review. Thus, special targeting of such projects becomes critical to bring about the priorities that should be attached to research in areas which are fundamental to the understanding of human health, such as the aging process. That is part of what the geriatric center program is designed to do.

The Committee recognizes that geriatric research encompasses a broad spectrum, ranging from those projects which may be thought of as breakthrough research to more fundamental projects which address basic physiological changes relating to aging, such as memory functions and hormonal changes. Within the research component of the GRECC program, there is a need for recruitment of scientists with all variety of interests, including some who may not be gerontologists but who may be very helpful to the program and the development of knowledge in the field of aging. The VA has already made substantial progress in other areas by developing special emphasis programs, such as in the spinal cord injury units and the related basic research being done in that area. In view of the enormous population of aging veterans, similar emphasis should now be placed on research in aging.

Many persons believe that in the next 5 to 10 years meaningful progress in other areas by developing special emphasis programs, such of aging may evolve and result in an improved quality of life for elderly veterans and other citizens. The Committee notes with interest the views of the scientists who testified and who urged greater support for the conduct of biomedical and applied research in the field of aging, specifically in the key areas of biochemistry, immunology, and medicine and the application of these areas to the study and treatment of the diseases of aging.

Designation of an assistant chief medical director

The Committee bill would amend present section 4103(a)(4) to require that one of the eight Assistant Chief Medical Directors (ACMD) in DM&S be filled by a physician trained, or having suitable extensive experience, in geriatrics, who would be responsible to the Chief Medical Director for all matters related to geriatric research, education, and clinical health-care policy and evaluation in DM&S.

The Committee bill specifies responsibilities for this ACMD in policy-making and evaluation in the general fields of geriatrics and gerontology, thereby creating a focus for such matters in the VA's Central Office, much as the ACMD for Extended Care currently provides.

TITLE III.—VETERANS' ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

Health-care cost recoveries

Background

The Committee bill would strengthen and clarify the VA's authority to recover the reasonable costs of care and services provided to veterans in the course of treatment in VA facilities for those veterans' non-service-connected disabilities, where the veteran has been injured on the job, as the result of an automobile accident, or as the victim of a violent crime. Recoveries under this section would be made from the veteran's employer or employer's workers' compensation carrier, in the case of a disability incident to the veteran's employment; from the automobile insurance carrier, in the case of an automobile accident injury; or from the State or subdivision thereof that pays the costs of health care to persons injured as a result of crimes of personal violence in such State or subdivision. In addition, the authority of the VA to recover the costs of emergency care for non-veterans would be strengthened and clarified under the Committee bill.

These provisions are derived in part from S. 759, a bill introduced on March 26, 1979, by the Chairman at the request of the Administration. S. 759, as introduced, would amend title 38 of the United States Code to provide for the right of the United States to recover the costs of hospital, nursing home, or outpatient medical care furnished by the VA to veterans for non-service-connected disabilities to the extent they have health insurance or similar contracts or rights with respect to such care, or have entitlement to private medical care under workers' compensation or automobile accident reparation statutes of any State.

Hearings

As previously noted, the Committee held hearings on S. 759 on September 19, 1979. Witnesses included the VA Assistant Chief Medical Director for Planning and Program Development, representatives of for-profit and not-for-profit health insurance carriers, and representatives of veterans' service organizations. In the course of its review of the testimony presented, the Committee recognized that the justification for the provisions relating to recoveries in workers' compensation and automobile accident reparations (hereinafter referred to as "auto no-fault") situations was separable from the many difficult issues raised by provisions intended to enable the VA to recover from veterans' private health insurance carriers.

Also in the course of that review, the Committee determined that not only was there a necessity to strengthen and clarify the VA's authority to recover costs in workers' compensation and auto no-fault situations, but also the same necessity applied in situations where VA care and services were provided to a veteran who was the victim of a violent crime in certain jurisdictions where crime-victims' compensation programs are in effect. Thus, this section is intended to provide clear statutory authority to the VA to recover the reasonable costs of care in those situations.

Federal Medical Care Recovery Act

Under the Federal Medical Recovery Act (42 U.S.C. §§ 2651 and 2652) (FMCRA), enacted in 1962, the United States has the right to recover the reasonable value of non-service-connected health care and services furnished in VA facilities to veterans who have been injured or who are suffering from a disease "under circumstances creating a tort liability upon some third person." Under the FMCRA, the United States has an independent right of recovery and is also subrogated to the veterans' right or claim against the third party tortfeasor. In most such cases, of course, recovery is pursued against the tortfeasor's liability insurance carrier.

The United States may intervene or join in a legal action against the tortfeasor brought by or on behalf of the veteran, and, if no such action is commenced within 6 months after the first day on which the VA furnished care and services to the veteran, the United States may institute legal proceedings.

Under the FMCRA, the reasonable value of the care and services furnished is determined pursuant to regulations prescribed by the President. The authority to prescribe such regulations has been delegated by the President to the Director of the Office of Management and Budget (OMB) under Executive Order No. 11541, and, from time to time, OMB revises the rates applicable to various modes of care.

VA Regulations

The eligibility of veterans under the age of 65 who have no compensable service-connected disabilities for non-service-connected care in VA facilities is generally limited to those who are unable to defray the expenses of necessary care and services. Under section 622 of title 38, the VA requires of any such veteran who is not in receipt of pension and who seeks such care an oath of inability to defray the expenses of care. Under VA regulations (38 CFR § 17.48(d)), where any veteran who has affirmed such inability has been hospitalized, and the VA believes the veteran may be entitled to "hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof" by reason of, inter alia workers' compensation or employers' liability statutes, or by reason of "statutory or other relationships with third parties, including those liable for damages or other legal wrong," the VA asserts a right to recover the cost of the veteran's care. In such situations, the VA requests the veteran-patient to execute an appropriate power of attorney and assignment and thereafter sends notice of the assignment to the third party believed to be liable and, when the amount of charges is ascertained, a bill for such charges.

As has been noted, the FMCRA authorizes recoveries by the VA where the occasion for care arises out of the act of tortiously liable third party—such as in an automobile accident, where the tortfeasor's negligence is conceded or proved, in those States where auto no-fault laws have not been enacted. No such express statutory authority underlies the VA's assertion of its right to recover in worker's compensation, auto no-fault, and crime victims' compensation situations. Auto no-fault laws differ from State to State, but generally require the owners and operators of motor vehicle to maintain in force insurance coverage that provides for defraying the costs of health care and medical services to the operator of a motor vehicle in the event he or she is a casualty in an accident involving the vehicle regardless of whether the accident was the fault of the insured person or another. At the time the FMCRA was enacted, no auto no-fault laws had yet been enacted in the United States.

State laws providing compensation and health care to victims of violent crimes are also of relatively recent origin.

Lack of Express Statutory Authority

The Federal Government's lack of express statutory authority for such collections has given rise to some uncertainty. As noted in a May 1, 1979 memorandum prepared by the VA General Counsel's office.

"[t]he FMCRA has been interpreted as reflecting the congressional intent that the federal government is entitled to reimbursement for medical care rendered veterans who can afford to pay for the care and treatment of non-service-connected injuries and diseases in the same manner as if the medical care were provided from private sources. . . . Collections by the VA under provisions of statutes such as state workers' compensation laws do not have a specific statutory basis. Rather, they are based on a long history of assertions of claims under the various state laws."

The memorandum further points out that obstacles to recoveries are presented where "state legislatures [enact] statutes such as Workers' Compensation Acts, Compensation to Victims of Crime Acts, and Automobile Accident Reparation Acts which are worded in such a fashion so as to provide payment to private health care providers but exclude payment to federal health care providers".

The VA has actively pursued recoveries in workers' compensation, auto no-fault, and crime-victims compensation situations, but with mixed success. In the Committee's view, express statutory authority for such recoveries is necessary. By overriding State laws and State-court ruling precluding such recoveries, the Committee bill would forestall future litigation and provide for uniformity of collection procedures in all States.

Section 611(b) Recoveries

Under current law—section 611(b) of title 38—the VA may furnish care to nonveterans, for humanitarian reasons in emergencies, and is required to charge for such care. In the Committee's view, the same difficulties, relating to exclusionary provisions in State and local laws and workers' compensation and auto no-fault insurance contracts, impede the authority of the VA to maximize implementation of this provision, as in the situations described above.

Committee bill provision

The Committee bill (section 301) would amend chapter 17 of title 38, United States Code, by adding a new section 629 to provide clear statutory authority for recoveries by the United States in the case of care and services furnished by the VA to veterans for non-service-connected disabilities. Such recoveries would be authorized where the disability was incident to the veterans' employment and was covered under workers' compensation laws or plans; where the disability resulted from a motor vehicle accident in an auto no-fault State; or where the disability resulted from a crime of personal violence in a State or community where persons injured as the result of crime may receive treatment for their injuries at the State's or local community's expense.

Under this provision, the United States would have an independent right to recover its costs of providing health care in such situations to the extent that the parties who are liable—such as the veteran's employer, the workers' compensation carrier, or the State with a crime-victim compensation program—would be liable if the care and treatment were provided in a non-Federal Government facility.

Recoveries would be limited to the maximum amount specified by the law of the State or community concerned or any relevant provision in a contract of insurance or indemnification unless the amount sought to be recovered was a lesser amount. In the latter situation, the amount of the recovery would be governed by the reasonable costs of the care and services, as determined by the VA under a schedule to be prescribed after notice and opportunity for public comment.

In the Committee's view, such a schedule should be based on a reasonable determination of actual per diem costs and should provide for some flexibility in particular cases.

In addition to authorizing an independent right of recovery, the Committee bill provision would subrogate the United States to the veteran's right or claim against the State, local community, employer, or insurance carrier. Such subrogation would also extend, in appropriate cases, to the veteran's personal representative, successor, dependents, or survivors.

The purpose of providing clear statutory authority for the VA's right of recovery in these situations is to enable the Veterans' Administration, in appropriate cases, to pursue recoveries without enlisting either the consent—by means of an assignment—or the cooperation of the veteran. However, the Committee expects that, to the extent feasible, the VA would request such consent and cooperation. It should be noted that this provision would have no effect on the veteran's ability to recover any damages or costs incurred by him or her as a result of the disability except with respect to the health-care costs incurred by the Federal Government.

In the event that legal proceedings were necessary in order to enforce the right of the United States to recover in such situations, the Committee bill provision authorizes the United States to intervene or join in a legal action brought by or on behalf of the veteran. If no such action has been instituted within 180 days after the first day on which the VA provided care to the veteran, the United States would be authorized to institute such legal proceedings. However, at least 60 days prior to initiating legal action, the United States would be required to notify the veteran, or the veteran's personal representative or successor, of its intention. Such notice would be required to be sent by certified mail to the veteran's last known address or to the personal representative or successor. As has been noted, one of the major purposes of the Committee bill provision is to reduce the number of cases requiring litigation by the Federal Government. In this regard, it is to be hoped that no duplicative proceedings would be instituted.

The Committee bill would provide expressly that veterans eligible for care and services under chapter 17 of title 38, United States Code, may not be denied such care or services by reason of this provision. In addition, the Committee bill provision would override provisions in State laws and codes of local communities that exclude, for the purpose of workers' compensation, automobile no-fault insurance, and crime victims' compensation health-care coverage, any non-service-connected health-care provided in a Federal Government facility. With respect to contracts and agreements entered into, renewed, or modified pursuant to any such State law, the Committee bill provision would also override any clause or provision excluding coverage for non-service-connected health care and services provided by a Federal Government facility. This override would extend to similar exclusionary provisions in laws and contracts that otherwise would prevent the VA from recovering charges for hospital care and medical services furnished for humanitarian reasons in emergency cases pursuant to section 611(b) of title 38. Under section 611(b), the VA is authorized to furnish such emergency care and is required to charge it. Neither that authority nor the VA's charges would be affected by the Committee bill.

The Committee bill provision requires that any moneys collected or received by the United States, or by the Veterans' Administration on behalf of the United States, shall be deposited in the United States Treasury as miscellaneous receipts. Thus, the Committee bill provision would assure that potential, uncollected receipts are not used to reduce, in fiscal year 1981 or future fiscal years, the Administration's appropriations request for VA-operated medical programs.

It should be noted that this is consistent with the Administration's position concerning potential recoveries under S. 759, as outlined in an April 30, 1980, letter from the Administrator of Veterans' Affairs to the Chairman, set forth under "Agency Reports", *infra*.

The amendment made by the Committee bill provision would be effective upon enactment; however, recoveries authorized under the new provision would be effective only with regard to care and services furnished by the VA after September 30, 1980.

Health insurance reimbursement legislation study requirements background

The study provisions of the Committee bill arise out of the Committee's consideration of S. 759. The Committee has decided to take no action with regard to those provisions of S. 759 enabling the VA to recover the costs of non-service-connected care provided to veterans from those veterans' health insurance carriers by overriding exclusionary clauses in such private health insurance contracts. However, in view of the considerable interest which the proposal has engendered in the Congress, and its advocacy by the Administration, the Committee believes that a detailed explanation of its reasons for not favoring the enactment of such health-insurance reimbursement is in order. In addition, this explanation will serve to make clear the basis for the Committee's view that the Administration's estimate of potential recoveries if S. 759 were enacted is not soundly based and that further investigation is essential, not only to determine the magnitude of such recoveries more accurately but also to determine increases—in VA administrative costs, health-insurance premiums, and insurers' administrative costs—that the enactment of health-insurance reimbursement legislation would entail.

S. 759 As Introduced

As introduced, S. 759 would amend section 610 of title 38, United States Code, relating to veterans' eligibility for VA hospital, nursing home, and domiciliary care, by adding a new subsection establishing the United States' right to recover the reasonable value of care and treatment furnished by the VA to a veteran for a non-service-connected disability, where the veteran has entitlement to care or reimbursement for the expenses of care under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or a similar health plan arrangement. As previously noted, recoveries would also be authorized where the veteran's illness or injury is covered under workers' compensation, auto no-fault insurance, or similar laws of any State. The proposed new subsection also would provide that no health-plan contract, similar arrangement, or entitlement entered into, renewed, or accrued after the effective date of the proposed new subsection shall exclude the right of the United States to recover the VA charges or the reasonable value of the VA care furnished if such charges or care would be covered when furnished by non-Federal facilities. The renewal of a contract or arrangement would include the insurer's right to modify the premiums or coverage and the first opportunity to exercise such right after the effective date.

S. 759 as introduced would be effective 90 days after its enactment. As noted in the March 20, 1979, letter of transmittal accompanying the draft legislation, the purpose of the deferred effective date was to give affected insurance companies time to redraft contracts in conformity with the new provisions.

It should be noted that the legislation as originally proposed is silent as to the disposition of any potential collections and reimbursements.

Administration Position Concerning S. 759 As Introduced

S. 759 was not the first proposal of its kind to be made by the Administration. Previous proposals had been made in the 91st through the 95th Congresses. However, no action was taken either by the Senate or the House on any of these measures.

In transmitting the draft legislation, the Administration cited National Academy of Sciences (NAS) and General Accounting Office (GAO) recommendations and argued that, in the absence of such legislation, health insurers receive a "windfall in the nature of a Federal subsidy." This contention was based on the view that insurers charge insured persons who are veterans the same premium that is charged non-veterans but have "limited or no liability exposure" with respect to insured veterans who receive care in VA facilities.

The transmittal letter also noted that the Department of Justice had participated in drafting the bill and regarded its provisions as a constitutional exercise of the powers of the Federal Government.

Possibly the most compelling reason, from the Administration's standpoint, for this legislation was to achieve cost savings. When the draft bill was submitted, the Administration estimated cost savings of $170 million in fiscal year 1980 and $227 million annually in each of the next 4 fiscal years.

* * * * *

Economic Impact

The Chairman, in his March 1, 1979, letter to the Administrator, also emphasized his concerns regarding the economic impact of the legislation as follows:

"[L]egislation to shift from Federal taxpayers to those who pay insurance premiums the economic burden of paying for the non-service-connected care involved raises very complex issues of equity and economic impact that have not been addressed adequately when similar proposals have been made in the past.

"... [W]e must scrutinize the plan to determine whether the cost savings to be realized by the Federal taxpayer as a result of anticipated decreases in taxes are not in fact offset by corresponding increases in his health insurance premiums. It may be that, upon analysis, much or nearly all of the burden of paying for the non-service-connected care involved would fall on the very same individuals and businesses who are currently paying—through their taxes—for such care because they pay both the insurance premiums involved and Federal taxes. If this is found to be the case, the Administration's estimated cost savings may be illusory in terms of their economic impact on taxpayers.

"Thus, I believe that an analysis must be made of whether there would be a significant shifting of the economic burden as a result of this legislation. If it is found that the shift is not significant, then the administrative costs involved in implementing the legislation would not appear to be justified. If the shift is found to be significant, the issue would then be whether the nature and extent of the shift would warrant the administrative costs that the Federal Government and the insurance companies would incur. Clearly, additional information is needed before we can make sound judgments on these aspects of the proposal. The necessary information would include a description and an estimate of the anticipated administrative and implementation costs. It would also be useful to examine whether the proposed change in the source of funding—insurance premiums instead of taxes—for the non-service-connected care in question would result in an increase in the amounts paid by veterans (through increased insurance premiums for policies carried to meet the health care needs of their families) with service-connected disabilities—the group for whose service the VA health-care-system exists primarily—for the provision of that non-service-connected care."

As has been noted, the recoveries anticipated in S. 759 as introduced were originally estimated by the VA as $170 million in fiscal year 1980 and $227 million in fiscal year 1981. Thus, under the VA's theory, the health-insurance carriers from which recoveries were made would bear additional payout costs amounting to $227 million in fiscal year 1981. Later Administration estimates of fiscal year 1981 recoveries varied from $321 million (January 1980) to $265 million (March 1980). The Congressional Budget Office estimate is $213 million, assuming full implementation during fiscal year 1981.

Inadequate Data Base for Estimates of Potential Recoveries

In developing its estimates of potential recoveries in fiscal year 1980 and subsequent fiscal years, the VA relied on a July 1977 survey, subsequently published in November 1977 as "VA Health Insurance Survey (RCS 042-30-S)" by the Reports and Statistics Service of the Office of the VA Controller, of some 37,000 patients in each of the 171 VA hospitals who had been admitted for treatment of non-service-connected disabilities or illnesses. (That survey is reprinted in the Appendix to this report.) Excluded from the survey, which took place from July 5, 1977, through July 18, 1977, were patients admitted for nursing-home or domiciliary care or for one-day dialysis.

The survey data collection form was filled in by the VA medical administration staff on the basis of information obtained from each patient's "Application for Medical Benefits" form at admission or shortly thereafter.

In addition to identification, age, and pension status information, the data collection form indicated the bed section—"intermediate medicine", "medicine", "surgery", "alcohol and drug treatment", and "other psychiatry"—to which the patient was assigned at admission. For non-pension patients, the form indicated whether the patient had a service-connected disability even though admission was for treatment of a non-service-connected disability.

With regard to insurance coverage, the form indicated the patient's response on the "Application for Medical Benefits," to this directive: "If you are entitled to hospital care under an insurance policy, membership in a union, etc., give name and address of agency or organization." On the data collection form, the responses were classified as follows: Coverage under group policies, including Blue Cross/Blue Shield; individual policies (Blue Cross/Blue Shield or individual commercial policies); health maintenance organizations or other prepaid plans; Medicare or Medicaid; no coverage; or "don't know." Responses indicating welfare payments or disability/indemnity insurance were excluded.

On the basis of the data gathered by means of this survey, the VA concluded that approximately 16 percent of the 36,897 patients admitted for treatment of non-service-connected disabilities during the survey period had private health insurance. By extrapolation from data concerning psychiatric and medical/surgical discharges by age and patient type, found in the 1976 VA Annual Report, the VA estimated the number of "covered episodes." "Covered episodes" represents episodes of care assumed to be covered under the veteran's health-plan coverage. Using fiscal year 1976 average length-of-stay data for psychiatric and medical/surgical patients, the VA then estimated the number of days of care for "covered episodes". By multiplying the days of care times per diem costs from the quarter ending June 1977, the VA determined total costs for psychiatric and medical/surgical then distributed among the 4 categories of patients: Service-connected disabled treated for non-service-connected disabilities, under age 65 and over age 65, and non-service-connected disabled treated for non-service-connected disabilities (under age 65 and over age 65), and multiplied by the percentage, considered representative of the various classes of insurance coverage, of the amount that would be reimbursed by the insurance carriers. For this purpose, the assumption was made that, with regard to patients under age, group coverage would reimburse 80 percent of per diem costs; individual Blue Cross/Blue Shield coverage would reimburse 70 percent; individual commercial policies would reimburse 50 percent; and health maintenance organizations would reimburse 90 percent. With regard to patients over the age of 65, the assmption was made that the health-plan coverage was supplementary to Parts A and B of Medicare and would reimburse 25 percent of total costs.

The Committee, after consultation with health-care-financing analysts in the Congressional Budget Office and Congressional Research Service of the Library of Congress, regards this survey as totally inadequate as a basis on which to estimate potential recoveries if health-insurance reimbursement legislation were enacted and has provided this detailed discussion of its scope in order to make clear its concern that the estimate of the potential for recoveries in fiscal year 1981—even if S. 759 were enacted and effective prior to October 1, 1980—is not soundly based.

The survey is inadequate for several reasons: First, it provides no information verifying the patient's indication of health-plan coverage or determining the presence of coverage in cases where the veteran did not fill the appropriate blank. Second, it provides no information concerning whether the health-plan coverage described by the patient would have covered the expenses of care had the patient sought treatment for the same disability in a non-federal facility, for example, was treatment for that disability covered; had the covered days of hospitalization been exhausted or maximum dollar coverage already been reached?). Third, it assumes that the private insurance carrier would reimburse the VA for psychiatric care; 10 percent of those surveyed were psychiatric patients. Fourth, it assumes that private carriers would reimburse the VA for the patient's entire length of stay at per diem rates established by the VA without any reference either to actual costs, or charges for the provision of comparable care in the community, and without regard to disputes that would be occasioned by the substantially longer length facilities. Fifth, it assumes, without documentation insofar as the Committee can determine, that insureds in various categories would reimburse the VA at particular percentage levels.

Administrative costs and increase in health-insurance premiums

One of the VA's original arguments for the enactment of health-insurance reimbursement legislation was that health insurers currently receive a "windfall" subsidy because insured veterans who utilize the VA pay the same premiums as do veterans who do not utilize the VA, yet the insurers incur no liabilities for the cost of VA care provided to their insureds. The Committee notes that, according to undisputed testimony at the September 19, 1979, hearing on S. 759, premiums for health-plan coverage are based on the insurers' experience with regard to claims presented and that, in the absence of such claims, no component of the premium is ascribable to the veteran/non-veteran status of the insured. Thus, there is no such "windfall' subsidy. Rather, the insurers testified that the effect of the enactment of S. 759 would be to *increase* health-care premiums; the transfer of veterans' health-care costs from the Federal Government to private insurers would, therefore, be transferred to health-insurance premium payers. The Administration now concedes this point but also argues that any such increase in health-care premiums would be minimal in terms of its actual effect upon individuals paying such premiums.

In the VA's transmittal letter accompanying S. 759, no separate estimates of the additional administrative costs to the Federal Government or the health-insurance carriers were provided. However, it has become increasingly evident not only that the VA's implementation costs would be substantial but also that substantial new administrative costs would be borne by the carriers. These new costs, together with the insurers' costs for the care involved, would be passed along to those who pay premiums for health insurance. The questions posed by the Chairman—the magnitude of the shift in costs and the total costs, both Federal and non-federal—remain unanswered.

The Committee notes that any reduction in Federal health-care costs—which, under the Administration's theory, would relieve the Federal taxpayers—must take into account the offset of increased VA administrative costs. Such administrative costs would result not only from the design and implementation of the billing system required, but also from the bureaucratic layer of staff required to process the new paperwork burdens imposed, monitor the carriers' compliance with claims for reimbursement, and engage in litigation where claims are resisted.

The VA has, in its formal cost estimates, indicated that its administrative costs would range from 2 to 3 percent of recoveries and thus, as a proportion of recoveries, would not be great. However, in testimony before the Committee, the VA witness stated that the first-year administrative costs would be $14 million in fiscal year 1980 and $20 million in fiscal year 1981, with similar costs in fiscal year 1982 through 1984. Furthermore, the VA witnesses stated that, if the insurers required itemized billing statements, with specific breakdowns—so-called "ala carte" billing—the VA could not comply without incurring the expense of instituting a new health-care information system, the cost of which, according to the VA witnesses, would be hundreds of millions of dollars. It is just this sort of billing system that representatives of insurers have suggested would be necessary for them to determine the VA's justification for the charges it would submit in its billings.

The testimony on S. 759 also substantiated that, in addition to passing along the health-insurance-premium payers the new health-care costs borne by the carriers, the carriers would also pass along any new administrative costs they encounter in the process of complying with the new law. In the case of for-profit carriers, an increment to account for profits would be added.

The Blue Cross-Blue Shield Associations, which represent Blue Cross-Blue Shield carriers across the Nation, have provided the Committee with a preliminary estimate of the first-year administrative costs that would be borne by those carriers. That estimate, which assumes prompt implementation with no delays or difficulties, ranges from $11 million to $23 million.

The dimensions of these new costs—health premium costs for Americans who have health-plan coverage and administrative and profit-margin costs for carriers—are uncertain at this point, but they appear to be of substantial magnitude in comparison to potential collections. Although not great in the context of overall gross national product health-care expenditures, there is no doubt that these added administrative costs would add to total health-care costs an amount from which health-care consumers would derive no benefit in terms of improvements in the quality or quantity of care provided. This increase would thus be totally inflationary in nature. In the Committee's view, any such inflationary increase in total health-care costs cannot be justified at this time.

Thus, in the Committee's view, it is essential to undertake a further investigation of the total cost impact of health-insurance reimbursement legislation. For such investigation, an adequate data base must be developed in order to determine not only the number of veterans with health-plan coverage who are utilizing VA health-care facilities but also whether that coverage would prove to be a source of recoveries. In addition, a study of the legislation's impact on health insurance premiums and VA and health insurance administrative costs is necessary. The Committee thus recommends against any action on health-insurance reimbursement legislation pending the completion of such studies.

Committee bill provision

The Committee bill (section 302) would require the VA to conduct an informational survey of veterans, selected by means of a random sample that is reasonably representative of all veterans seeking health care and services from the VA for non-service-connected disabilities. Prior to conducting the survey, the VA would be required to design an appropriate protocol in consultation with representatives of health insurance carriers, veterans' service organizations, the Congressional Research Service (CRS) of the Library of Congress, the Congressional Budget Office (CBO), and the two Veterans' Affairs Committees. The protocol would be due to be submitted to the Veterans' Affairs Committees not later than 120 days after the enactment of the Committee bill.

The survey would begin with selection of veterans to respond to a detailed questionnaire concerning such veterans' health plan coverage or the lack thereof. All such veterans would be required to be receiving care and services from the VA for non-service-connected disabilities. Health-plan coverage would include coverage under a group or individual health insurance policy, including a policy designed to cover specific disabilities only or indemnification contracts; membership in a health maintenance organization; Medicare or Medicaid coverage; or coverage under workers' compensation; auto no-fault insurance, or a State crime-victims' compensation program. Such coverage would be surveyed regardless of whether the veteran's eligibility for or entitlement to benefits arises as a primary beneficiary or as a member of a family in which another person is the primary beneficiary. In addition, the survey would be expected to include all coverage in cases where the veteran is eligible for or entitled to coverage under more than one plan.

With respect to those veterans who indicate that they have no health-plan coverage, the VA would be expected to determine, within reasonable limits, whether the veterans' responses were accurate. The need for such verification would reasonably be apparent where the veteran or the veteran's spouse is regularly employed, or where the veteran is likely to be eligible for Medicare or Medicaid coverage by reason of age or disability.

In the case of veterans whose responses indicate that they have health-plan coverage, the VA would be required to request from the veteran concerned sufficient identifying information as to the nature of the coverage and identification of health-plan carriers and other appropriate and reasonable items of information. The study would also include, in appropriate cases, an inquiry as to the identity of the veteran's employer, and the VA would be expected to follow up in the case of employers who are self-insurers with regard to health-plan coverage of their employees.

All participation by veterans in the survey would, of course, be completely voluntary. In addition, prior to verifying any veteran's statement with regard to health-plan coverage or the lack thereof, the VA would be required to obtain from each such veteran voluntary, informed consent in writing to any disclosures to be made by the VA or by the person responding to the VA's request for necessary verification. In the Committee's view, the necessity for such consent would entail a readily understandable explanation, in writing, to each veteran invited to participate, of the survey's purpose and the specific disclosures entailed and would also include a description of the highly limited uses to be made of such disclosures and a clear statement that the veteran's participation or nonparticipation in the survey would not in any way affect his or her eligibility for VA care.

Following the receipt of the survey information from the veterans involved, the VA would be required to determine the type and source of each veteran's health-plan coverage, all limitations and exclusions in such coverage, and the extent to which such coverage would be applicable to the costs of the care and services that the veteran is receiving from the VA. In almost all cases, it is believed that exclusionary clauses prohibit coverage where the veteran receives care from the VA or another Federal Government facility. Thus, an appropriate inquiry to the insurer as to what the coverage would be if such care and services were provided by a non-Federal Government facility would be required.

These determinations would entail appropriate inquiries to the veteran's employer or to responsible officials of the particular health-plan involved. In the case of such inquiries, the VA would be authorized to disclose information, pertinent to the veteran's identity and the care and services provided by the VA, to the employer or responsible officials. A copy of the veteran's consent would be required to accompany any such request, which would include a request for information concerning the limitations and exclusions applicable to the coverage concerned and an estimate of the amount of the employer's, carrier's, or State's, as appropriate, liability for the care and services provided to the veteran if such care and services were provided by a non-Federal Government facility.

Any person of whom such a request is made would be expected to comply promptly, and, notwithstanding any other provision of law—such as the Privacy Act—no such person would, by reason of such compliance, be subject to civil or criminal proceedings under any Federal law or the law of any State of subdivision thereof or any regulation pursuant thereto.

The results of the survey would be required to be submitted to the appropriate congressional committees, the Librarian of Congress, and the Director of the Congressional Budget Office, not later than 90 days after the submission of the protocol.

As has been noted, the protocol would be designated in consultation with appropriate staff of the Congressional Research Service and the Congressional Budget Office. Thereafter, those agencies would be required, under the Committee bill provision, in consultation with representatives of the health insurance industry, to study the effect on health insurance premiums and Federal and non-Federal administrative costs if legislation along the lines of S. 759 was enacted. The CRS–CBO study and analysis would be required to take into account the findings of the VA study and would be due to be submitted to Congress not later than 60 days after the submission of the VA report.

TITLE IV.—DISCUSSION

Title IV of S. 2534 include three miscellaneous provisions of a technical or clarifying nature.

Section 401 would clarify the provision in Public Law 96–86, the continuing appropriations act for fiscal year 1980, which requires a reduction of $500 million in the funds obligated for "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government" so that the expenses of the travel of eligible veterans, dependents, and survivors—so-called "beneficiary travel", as authorized to be reimbursed for by section 111 of title 38—would not be included. This provision of Public Law 96–86 requires all executive branch agencies to cutback substantially on expenditures for travel and transportation. The amendment proposed by section 401 has become necessary due to an Office of Management and Budget decision that the Veterans' Administration's beneficiary travel program is within the category of expenditures in which savings are to be derived under Public Law 96–86. As a result of this decision, some VA stations will shortly run out of funds to pay for beneficiary travel, and it is anticipated that all funds will have been expended in all stations by July 1. Section 401 would also preclude the Administration from placing a disproportionate share of the overall cutbacks in travel and transportation funds on the Veterans' Administration in response to the removal of beneficiary travel funds from the travel and transportation funds from which savings are to be realized.

With respect to beneficiary travel, the Committee believes that the Veterans' Administration should take into account in its planning for future outpatient clinic and other health-care facilities the needs of locations where large veteran populations are situated remote from the nearest health-care facility, in order to decrease the amount of funds required for beneficiary travel.

In this regard, last year Chairman Cranston, at the request of seven Senators, wrote to the Administrator of Veterans' Affairs expressing concern for the way in which new outpatient clinic sites are chosen and the need to review the possibility of placing new outpatient facilities in these remote areas. The Administrator responded that no new outpatient clinics are planned at this time, but that the medical needs of veterans in these remote areas are being met through fee-basis or contract care if no VA facilities are available or through the full or partial reimbursement of costs incurred by eligible veterans, dependents, or survivors in traveling to existing VA health-care facilities under the beneficiary travel provision in title 38.

In view of the restrictions being placed on beneficiary travel funds and the guidelines provided by the Department of Medicine and Surgery to the field stations on March 18, 1980, pursuant to the amendment to section 111(e)(2)(A) made by Public Law 96–151, the Veterans' Health Programs Extension and Improvement Act of 1979, which require that all VA health-care facilities strictly regulate the payment of beneficiary travel, eliminate, as much as feasible, the use of costly modes of transportation such as taxis, wheelchair vans, etc., and restrict the number of trips of eligible persons to a health-care facility to the extent possible consonant with the provision of quality health care—the Committee believes that the Administrator should reconsider the establishment of new satellite outpatient clinics in closer proximity to these remotely-located veteran populations.

Toward that end, the Committee requested a listing of locations which are in need of a new outpatient facility based upon the number of veterans in the area and the distance from the nearest VA health-care facility. The following is a list of these areas in alphabetical order as of May 17, 1979:

ALPHABETICAL LISTING OF POTENTIAL SATELLITE CLINIC SITES

Location	Miles to nearest VA	Nearest VA	Estimated		Identified in 1973 and 1974 studies
			1985 PSA veteran population	1985 visits	
Anchorage, Alaska	941	Juneau	25,410	7,395	
Appleton-Oshkosh, Wis	103	Wood	90,500	25,432	×
Atlantic City, N.J	57	Camden	65,530	18,773	×
Austin, Tex	63	Temple	66,830	25,705	×
Bakersfield, Calif	91	Sepulveda	51,160	21,380	×
Binghamton, N.Y.-Pa	75	Wilkes-Barre	47,370	19,316	×
Brownsville-Harlingen-San Benito, Tex.	58	McAllen	14,530	6,093	
Charleston, W. Va	49	Huntington	45,480	16,172	×
Colorado Springs, Colo	70	Denver	67,630	22,259	×
Columbus, Ga.-Ala	44	Tuskegee	60,750	17,816	×
Davenport-Rock Island-Moline, La.-Ill.	55	Iowa City	99,400	29,492	
Daytona Beach, Fla	54	Orlando	36,870	16,039	
Duluth-Superior, Minn.-Wis	139	St. Cloud	58,310	20,053	×
Eugene-Springfield, Oreg	69	Roseburg	74,080	23,246	×
Fort Smith, Ark.-Okla	61	Fayetteville, Ark	38,540	12,637	×
Galveston-Texas City, Tex	50	Houston	27,270	11,862	×
Huntsville, Ala	86	Birmingham	82,640	23,043	×
Johnstown, Pa	41	Altoona	69,510	18,746	×
Lake Charles, La	58	Beaumont	33,740	10,745	
Lansing-East Lansing, Mich	55	Battle Creek	64,120	24,810	×
Lima, Ohio	63	Fort Wayne	39,010	12,720	×
Long Branch-Asbury Park, N.J	49	Newark	102,280	44,492	
Macon, Ga	52	Dublin	47,440	14,213	×
Modesto, Calif	80	Oakland	91,540	24,361	×
New London-Norwich, Conn.-R.I.	45	Newington	63,290	24,156	
Parkersburg-Marietta, W. Va.-Ohio	83	Clarksburg	40,300	12,844	
Pensacola, Fla	60	Mobile	84,880	29,315	×
Portland, Me	66	Togus	62,790	24,108	
Rockford, Ill	65	Madison	106,720	27,967	×
Salem, Oreg	48	Portland	66,920	23,666	×
Salinas-Seaside-Monterey, Calif	74	Palo Alto	59,800	21,242	×
Santa Rosa, Calif	58	Martinez	61,070	18,477	×
Savannah, Ga	105	Charleston	51,120	16,233	×
Springfield, Ill	73	Peoria	76,800	19,117	×
Springfield, Mo	111	Fayetteville, Ark	75,960	19,587	×
South Bend, Ind	83	Fort Wayne	101,130	27,324	×
Terre Haute, Ind	57	Danville	59,010	16,925	×
Utica-Rome, N.Y	52	Syracuse	71,820	23,255	×
Yakima, Wash	131	Walla Walla	53,990	14,076	
Youngstown-Warren, Ohio	45	Butler	93,000	37,231	×

Section 402 would amend section 5093(b)(1) of title 38 to eliminate the requirement that an institution eligible for a VA health personnel training grant under subchapter II of chapter 82 demonstrate that the receipt of such a grant would substantially increase the number of students trained at such institution. This amendment was intended to be made in the Veterans' Administration Program Extension and Improvement Act of 1979, as is indicated in the Joint Explanatory Statement accompanying H.R. 3892, which was enacted as Public Law 96–151. However, the provision was inadvertently omitted from the legislation as enacted, thus, requiring the inclusion of this amendment.

Section 403 would provide for a one-year extension, from February 1, 1980, to February 1, 1981, of the reporting deadline for the study mandated by section 8 of the Veterans' Administration Program Extension Act of 1978, Public Law 95–520. This study, concerning the provision of hospital and medical care furnished by the Veterans' Administration in the Commonwealth of Puerto Rico and the Virgin Islands, is currently being conducted by the Veterans' Administration. However, on February 15, 1980, the Administration indicated that additional time was required for the completion of this mandated study and proposed this provision. This study will be very important to the Committee's deliberations next year on whether to extend, revise, or permit to expire a temporary contract-use authority, which will expire on December 31, 1981, applicable in Puerto Rico and the Virgin Islands.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $37.5 million in fiscal year 1981; $111.2 million in fiscal year 1982; $112.8 million in fiscal year 1983; $114.1 million in fiscal year 1984; and $116.0 million in fiscal year 1985. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE—MAY 13, 1980

1. Bill number: S. 2534.

2. Bill title: Veterans' Administration Health-Care Program Amendments of 1980.

3. Bill status: As ordered reported by the Senate Committee on Veterans' Affairs, May 1, 1980.

4. Bill purpose: To promote the recruitment and retention of physicians, dentists, nurses and other health-care personnel in the Veterans' Administration's (VA) Department of Medicine and Surgery (DM&S); and for other purposes.

5. Cost estimate:

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
FUNCTION 700 IMPACT					
TITLE I					
Sec. 101:					
Estimated authorization level	0	52.4	52.4	52.4	52.4
Estimated outlays	0	52.4	52.4	52.4	52.4
Sec. 104(1) and (2)					
Estimated authorization level	0	0	0	0	0
Estimated outlays	0	0	0	0	0
(4) Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
(5) Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
FUNCTION 700 IMPACT—Continued					
TITLE I—Continued					
Sec. 106:					
Estimated authorization level	0	0	0	0	0
Estimated outlays	0	0	0	0	0
Sec. 109:					
Estimated authorization level	33.4	53.3	54.3	55.3	56.3
Estimated outlays	31.5	53.3	54.3	55.3	56.3
Sec. 110:					
Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
TITLE II					
Authorization level	10.0	12.5	15.0	15.0	0.0
Estimated outlays	4.0	6.0	7.0	8.0	9.5
TITLE III					
Sec. 301:					
Estimated authorization	(−[1])	−.5	−.9	−1.6	−2.2
Estimated outlays	(−[1])	−.5	−.9	−1.6	−2.2
Sec. 302:					
Estimated authorization	2.0	0	0	0	0
Estimated outlays	2.0	0	0	0	0
FUNCTION 600 IMPACT					
TITLE I					
Sec. 107:					
Estimated authorization	(−[1])	(−[1])	(−[1])	(−[1])	(−[1])
Estimated outlays	(−[1])	(−[1])	(−[1])	(−[1])	(−[1])
Net budgetary impact:					
Authorization level	10.0	12.5	15.0	15.0	0
Estimated authorization level	35.4	105.2	105.8	106.1	106.5
Estimated outlays	37.5	111.2	112.8	114.1	116.0

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[1] Less than $500,000.

The costs of this bill fall within budget function 700. There are negligible savings to function 600.

6. Basis for estimate: The following section-by-section analysis only deals with those sections of S. 2534 which could be expected to have budgetary implications.

Title I—Health-care personnel amendments

Section 101: This section would make permanent the authority of the Administrator of Veterans' Affairs to enter into special pay agreements with VA physicians and dentists. Under current law, this authority expires at the end of fiscal year 1981.

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Estimated authorization		52.4	52.4	52.4	52.4
Estimated outlays		52.4	52.4	52.4	52.4

The estimate above reflects the minimal impact of making the special pay authority permanent. It includes only the cost of continuing physicians' and dentists' salaries with special pay over the cost of their base salaries alone. If the authority for special pay were allowed to expire, however, the impact could be far greater than that shown. The discontinuance of special pay would amount to a substantial salary reduction for 82 percent of VA physicians and dentists and could result in a large number of resignations. Without special pay, the VA might be unable to fill all of the resulting vacancies, thereby realizing additional savings from reductions in personnel. Should this decrease in staffing capabilities necessitate the closing of one or more hospitals, even greater savings would result. These additional savings cannot be estimated with any precision as they are dependent on the actions of individual doctors and dentists in response to a salary cut.

Section 104 (1) and (2): This provision would adjust the basic salary schedule contained in title 38 for VA health-care professionals to conform with the new rates established by Executive order in October 1979. Since the new rates were established by the Executive order, not by this change in title 38, the amendment would have no budgetary impact.

Section 104(4): This section would authorize the Administrator of Veterans' Affairs to increase the rates of additional pay to nurses and certain other categories of direct-care health personnel for specific types of duty (such as overtime or standby duty), when such increases are necessary to maintain competitiveness with non-Federal health-care facilities. Under current law regional salary adjustments can be made only to basic pay levels, not to the rates of additional pay. While this provision would be expected to increase overall salary costs, it would, in some instances, result in a savings. For example, some facilities only need to increase night differential pay to compete with non-Federal hospitals. Under current law only basic pay can be adjusted, thereby increasing the salaries of day workers as well as night workers. The savings that would result from the ability to specifically target pay increases are expected to keep the net cost of this provision below $500,000 a year.

Section 105(5): This section would authorize the Administrator to increase the rates of basic pay, within specified limits, for direct-patient-care personnel, when such increases are necessary to maintain competitiveness with salary levels in non-Federal health-care facilities. Under current law this type of adjustment in salary levels must be authorized by OPM. This admendment would not be expected to increase the number or type of situations in which such salary adjustments would be approved; it should only speed up the approval process. While the faster approval rate would be expected to result in some increase in medical care costs, the increase should not be significant.

Section 106: This section would give the Administrator the authority to provide support for training to VA nurses seeking a baccalaureate degree in nursing. The specifics of the program would be prescribed by the Administrator in regulation. The Administrator has the authority under current law to provide support for nurses to further their nursing education, though not for a specific degree. According to VA sources, the current funding level for training VA nurses would not be increased as a result of this provision, unless additional appropriations were specified for this purpose.

Section 107: This section would provide that DM&S title 38 personnel who are serving on a less than full-time basis would receive civil service retirement credit under title 5 on only a pro-rata basis. Under current law service by any Federal employee on a part-time basis accrues a full month's retirement credit for each month served, no matter how small the part-time ratio. While this amendment would have a long-term savings impact on Civil Service Retirement costs, the effect in the first 5 years would be negligible.

Section 109: This section would amend section 4118, title 38, dealing with special pay for DM&S physicians and dentists to accomplish the following: The provision reducing special pay by the amount of the October 1975 pay raise would be abolished as of October 1, 1980; the rates of special pay would increase substantially for full-time physicians and to a lesser degree for part-time physicians, as of April 1, 1981; and certain modifications would be made in the special pay categories.

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Abolish October 1975 reduction:					
Estimated authorization level	7.5	1.4	1.4	1.4	1.4
Estimated outalys	7.5	1.4	1.4	1.4	1.4
Modify and increase special pay:					
Estimated authorization level	25.9	51.9	52.9	53.9	54.9
Estimated outlays	24.0	51.9	52.9	53.9	54.9

The cost of abolishing the reduction of special pay by the amount of the October 1975 pay raise was calculated by taking 5 percent (the amount of the 1975 pay raise) of the average base salary in 1975 of physicians and dentists receiving special pay. This amount was then multiplied by the number of physicians and dentists currently receiving special pay. For full- and part-time physicians, the cost of this amendment in the outyears is included in the cost of the general increase in special pay after April 1981.

The cost of modifying and increasing the rates of special pay was calculated by multiplying the increase in each special pay category by the number of employees receiving special pay in that category, according to VA data as of January 31, 1980. The estimate above does not reflect the cost of the new special pay category for service in remote geographical regions. This category would offer a wide range of special pay (from $3,500 to $5,000). The VA has not yet determined which facilities would be designated remote geographical areas, nor how a particular special pay level within the range would be selected. Until these determinations are made, CBO is unable to estimate the cost of this provision.

Section 110: This section would establish a five-member VA Physicians' and Dentists' Pay Board. Since the responsibilities of this board would be similar to those of the President's Advisory Committee on Federal Pay, it is assumed that the operating costs of the two organizations would be similar. The fiscal year 1981 budget request for the Advisory Committee on Federal Pay is slightly less than $200,000.

Title II—Geriatric research and care amendments

This title would require the Administrator to designate up to 15 VA health-care facilities as sites of geriatric research, education and clinical centers (GRECC's). The purpose of these centers would be to improve and expand the capability of VA to respond to the needs of older veterans, and to advance scientific knowledge of the needs of older patients and the best methods for meeting those needs. VA has currently established eight GRECC's by administrative action. Designated facilities must meet the following criteria:

"The facility must be affiliated with an accredited medical school that provides, or will develop, a training program in geriatrics and will arrange for regular rotation of residents through the GRECC and the VA facility's extended care unit.

"The facility must have, or develop, an arrangement for nursing or allied health personnel to receive training in geriatrics by regular rotation through the GRECC and the facility's extended care unit.

"The facility must have demonstrated the ability to attract research scientists of proven competence.

"The facility must have, or develop, a policymaking advisory committee composed of VA and affiliated school health-care and research representatives.

"The facility must have demonstrated the ability to effectively evaluate an operation such as a GRECC."

Title II would also establish a Geriatrics and Gerontology Advisory Committee to advise the Chief Medical Director of VA on all matters relating to geriatrics and gerontology and to evaluate the operation of the GRECC's.

In addition, this title would authorize the appropriation of $10 million in fiscal year 1981, $12.5 million in fiscal year 1982 and $15 million in fiscal years 1983 and 1984 for the research and education activities of the GRECC's. Funding for the clinical operation of the GRECC's would have to come from the funds appropriated to the VA Medical Care account.

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Authorization level	10.0	12.5	15.0	15.0	......
Estimated outlays	4.0	6.0	7.0	8.0	9.5

This estimate assumes full appropriation of the authorization levels stated in the bill. The fairly slow spend-out rate used in the estimate assumes that VA will fully develop the existing GRECC's before establishing new ones. In addition, there is not a great deal of research currently being done in this area, according to VA sources; and the process of approving new research projects for funding is a time-consuming one. The estimate also assumes that the clinical operation of the new GRECC's would be funded within the limits of current budgetary levels for the medical care account.

Title III—Veterans' Administration health-care cost recovery provisions

Section 301: This section would strengthen and clarify VA's authority to recover the cost of veterans' non-service-connected medical care from workers' compensation carriers, auto no-fault insurers and states that pay for the cost of health care to victims of crimes of personal violence. Under the Federal Medical Care Recovery Act (FMCRA) and pursuant to regulations, the VA asserts the right to recover the reasonable cost of care provided to a veteran who has incurred an injury on the job, in an auto accident or as the victim of a violent crime. In some states, however, state laws or state court rulings have precluded such recoveries. Collections of this sort are carried by VA as a reimbursement to the medical care appropriation.

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
Estimated authorization level	(1)	−0.5	−0.9	−1.6	−2
Estimated outlays	(1)	−.5	−.9	−1.6	−2

[1] Less than $500,000.

It is extremely difficult to estimate with any precision the impact that this provision would have on VA recoveries, because the effects of the legislation would be difficult in each of the 50 states. State laws relating to workers' compensation, auto no-fault insurance and victims of crime compensation vary widely in language and application, and many States do not have the latter two statutes at all. The manner in which this section would be interpreted is expected to differ widely among the States as well. The estimate above is therefore, very rough. It assumes that under current law medical care recoveries would increase by approximately 5 percent a year, based on historical trends. The estimate assumes that recoveries would be increased by this provision by 2 percent in the first year, 5 percent in fiscal year 1982, 9 percent in fiscal year 1983, 15 percent in fiscal year 1984 and 20 percent in fiscal year 1985. In the latter years of the projection period, it is likely that there would be some savings in manpower, but this is not expected to be a significant amount.

Section 302: This section mandates two studies: One, to be conducted by the VA, concerning the extent of health insurance coverage of veterans receiving VA medical care; and another study, to be conducted jointly by the Library of Congress and the Congressional Budget Office, concerning the administrative costs, both Federal and in the private sector, that would result from legislation requiring reimbursement by third-party insurers of non-service-connected VA care for insured veterans.

[In millions of dollars]

	Fiscal year—				
	1981	1982	1983	1984	1985
VA study:					
Estimated authorization level	2	0	0	0	0
Estimated outlays	2	0	0	0	0

The estimate above, which is for the VA study only, is based on informal estimates from VA sources. It assumes that the study would be performed by a consulting firm rather than by VA staff. A sample of approximately 25,000 cases is assumed to be required. The estimate further assumes that processing of these cases by private insurers would cost approximately $20 per case.

It is assumed that the Library of Congress/CBO study could be conducted within current budgetary levels.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: K. W. Shepherd.
10. Estimate approved by

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

SECTION-BY-SECTION ANALYSIS OF S. 2534 AS REPORTED

Section 1

Subsection (a) of section 1: Would provide that the Committee bill may be cited as the "Veterans' Administration Health-Care Program Amendments of 1980".

Subsection (b) of section 1: Would provide that, whenever in the Committee bill an amendment or repeal is expressed, in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code, relating to veterans' benefits.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

Section 100

Would provide that this title may be cited as the "Veterans' Administration Health-Care Personnel Amendments of 1980".

Section 101

Would amend Public Law 94–123, the legislation that originally established the Veterans' Administration's physician and dentist special pay authority in 1975, to remove the provision in that law that placed a termination date of September 30, 1981, on the VA's authority to enter into special pay agreements under section 4118 of title 38 and would, thus, make such authority permanent.

Section 101—Cost.—Enactment of the provisions of section 101 is estimated to entail no cost in fiscal year 1981. If the authority to enter into such agreements were allowed to expire, beginning in fiscal year 1982, the Congressional Budget Office (CBO) estimates that the VA would save a minimum of $52.4 million annually.

Section 102

Clause (1) of section 102 would amend present section 4101, relating to the general organization of the VA's Department of Medicine and Surgery (DM&S), to substitute the word "personnel" for the word "manpower" each time it appears so as to eliminate the gender-specific word from current law.

Clause (2) of section 102 would further amend present section 4101 to expressly exempt health-care professionals employed in DM&S from the provisions of section 413 of the Civil Service Reform Act (Public Law 95–454) and various sections of title 5, United States Code, relating to the Senior Executive Service (SES). Under current law, it is not clear whether senior DM&S employees who would be eligible for inclusion in the SES by virtue of their grade level are covered by the SES provisions of the Civil Service Reform Act and title 5, relating to that service. The Comptroller General has issued an opinion, opinion B–196611 dated December 19, 1979, holding that such title 38 DM&S personnel are covered by the Senior Executive Service. The VA is currently operating under a temporary exemption that runs until July 13, 1980. This provision would preclude bringing the DM&S personnel into the SES at the end of the exemption period (or prior thereto) and thereby maintain the title 38 DM&S personnel system fully apart from the civil service personnel system.

Section 102—Cost: Enactment of the provisions of section 102 is estimated to entail no costs.

Section 103

Would amend present section 4103 of title 38, relating to the composition of the Office of the Chief Medical Director, to allow the Administrator to appoint the Director of Nursing Service as an Assistant Chief Medical Director or as a Deputy Assistant Chief Medical Director. This change would permit the Administrator to appoint the Director of Nursing Service to a position reporting more directly to the Chief Medical Director than under current law, under which the Nursing Service Director reports through three intermediate administrative levels.

Section 103—Cost: Enactment of the provision in section 103 is estimated to entail no cost.

Section 104

Clauses (1) and (2) of section 104 would update present section 4107, relating to grades and pay scales of title 38 health-care personnel, to reflect the October 1979 Federal pay raise provided for in Executive Order No. 12165 of October 9, 1979. Specifically, the provisions would amend the schedules of rates of basic pay appearing in subsections (a) and (b)(1) of present section 4107 for section 4103 employees (top Department of Medicine and Surgery employees at VA Central Office), and for employees in positions provided for in paragraph (1) of present section 4104, including physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries, to reflect the October 1979 cost-of-living increase.

Subclause (A) of clause (3) of section 104 would amend subsection (c) of present section 4107, relating to the salary of a person serving as a director of a VA health-care facility director, if assigned significant additional duties of a medical nature by the Chief Medical Director, would be eligible to enter into a special pay agreement pursuant to the provisions of present section 4118 (as proposed to be amended by sections 109 (a) and (b) of the Committee bill) and to be paid special pay up to the maximum level provided for in that section. Under current law, there is no statutory bar to the payment of special pay to a physician health-care facility director, but the Chief Medical Director has determined, pursuant to section 4118(a)(3), that there is no recruitment or retention problem as to such positions, thus precluding eligibility for such individuals for special pay. This provision would preclude such a finding of no recruitment or retention problem as to full-time physician health-care facility directors assigned such significant additional duties of a medical nature.

Subclause (B) of clause (3) of section 104 would further amend subsection (c) of present section 4107, relating to the salary of a director of a VA health-care facility, to substitute the phrase "health-care facility" for "hospital, domiciliary facility, or center" each time it appears so as to clarify the scope of the coverage of the provision in light of the VA's administrative action redesignating VA hospitals as VA medical centers.

Subclause (A) of clause (4) of section 104 would amend subsection (e) of present section 4107 by amending paragraph (5), relating to additional pay for overtime work, to provide that DM&S employees covered under this subsection would receive overtime pay in travel situations on the same basis as do other Federal personnel employed under the General Schedule in title 5, United States Code. Under current law, travel by VA employees covered by present section 4107 that is incidental to work, such as returning from escort duty, is not considered to be carried out during hours of duty for the purposes of the overtime pay authorized by paragraph (5) of subsection (e), but such travel by a General Schedule employee is so considered for overtime pay under the applicable title 5 additional pay provisions (section 5542). This provision would provide for overtime benefits to be paid for the covered title 38 employees in travel situations comparable to the benefits provided General Schedule employees in similar situations.

Subclause (B) of clause (4) of section 104 would further amend subsection (e) of present section 4107 by amending paragraph (8), relating to additional pay for on-call duty, to provide the Administrator with the authority to assign an employee covered by this subsection to on-call duty—during which the employee may remain at home—on a Federal holiday that falls within the employee's regular workweek.

Subclause (C) of clause (4) of section 104 would further amend present subsection (e) of section 4107 to add two new paragraphs, as follows:

New paragraph (10) of subsection (e) of section 4107 would make the additional pay provisions of the subsection applicable to DM&S title 5 General Schedule employees, other than administrative, clerical, and physical plant maintenance and protective service employees, who are determined by the Administrator to be providing either direct patient-care services or services incident to such direct-care services. In the event of such determination, the provisions of subsection (e) of present section 4107 would be made applicable to such employees in lieu of the provisions of section 5542, relating to overtime rates, section 5545 (a) and (b), relating to pay differential for night work, and section 5546, relating to pay for Sunday work, of title 5. Under such a situation, the overtime and premium pay authority for the covered General Schedule employees would be changed in the following respects:

(1) The 15-minute overtime rule in present section 4107(e)(5) would be made applicable so that any overtime work of more than 15 minutes duration in any day would be credited as overtime service, thereby codifying a current VA administrative practice so as to assure greater uniformity within DM&S.

(2) The 4-hour rule for nightwork differential in present section 4107(a)(2) would be made applicable so that additional pay is paid for each hour of a shift that includes at least four hours between 6 p.m. and 6 a.m. rather than only for those hours falling in that period.

(3) The additional pay provisions in present section 4107(e) (3) and (4) relating to payment for overtime work on Sundays or Federal holidays would be made applicable so that such service on Sunday would be compensated at the rate of 175 percent of base pay rather than 150 percent of such pay as under section 5542(a) of title 5, and such overtime service on a Federal holiday would be compensated at the rate of 200 percent of basic pay rather than 150 percent of such pay under section 5542(a) of title 5.

The compensatory time-off provisions of section 5543 of title 5 would continue to apply to the General Schedule employees covered by this new paragraph. Likewise, the standby premium pay provisions of section 5545(c) of title 5 would apply to these General Schedule employees, if after consultation (including analysis of the operational needs of the station and of the preferences of the employees at such station) involving representatives of management and employees, such a result is agreed to; otherwise, the additional pay for on-call service provisions as set forth in paragraph (8) of present section 4107(e) would apply to such employees.

New paragraph (11) of subsection (e) of section 4107 would authorize the Administrator to increase at specific VA facilities the amounts of additional pay authorized under subsection (e) of present section 4107 (i.e., pay for work outside of regular work day or week, such as overtime pay) for title 38 and any other DM&S employees covered by that subsection, in order to overcome competitive disadvantages experienced at those facilities in the recruitment and retention of such employees. These employees include nurses, physicians assistants, and expanded-function dental auxiliaries as well as those employees paid under the General Schedule who are determined, under new paragraph (10) of section 4107(a) (as added by clause (4)(d) of this section), to be providing either direct patient-care services or services incident to such direct-care services. In order to use this authority, the Administrator would be required to determine that such action was justified because the rates paid to the same category of health-care personnel in non-federal health-care facilities in the same area (as determined by a representative sampling of such facilities) exceeded the rates paid in the VA facility.

Under current law, the rates of additional pay are fixed by statute. Thus, this change would give the Administrator the needed flexibility to recruit and retain personnel in areas where the VA is at a competitive disadvantage because non-federal health-care facilities are offering greater financial incentives for work outside of the regular work hours or the regular work week, without seeking or (pursuant to new subsection (g) which clause (5) of this section proposes to add to present section 4107) making a basic pay increase for a whole class of employees.

Clause (5) of section 104 would further amend section 4107 to add a new subsection (g) as follows:

New subsection (g) of section 4107 would authorize the Administrator (after such consultation with exclusive representatives of employees as is required under any applicable collective bargaining agreements) to establish special rates of pay and pay ranges on a nationwide, local, or other geographic basis for one or more categories of DM&S employees—including all DM&S title 38 employees as well as those employees paid under the General Schedule who are determined pursuant to new subsection (e)(10) of section 4107 (as proposed to be added by clause (4)(D) of this section), to be providing either direct patient-care services or services incident to such direct-care services—as necessary to (1) provide pay competitive with that being paid the same category of health-care personnel at non-federal health-care facilities in the same area, (2) meet the staffing needs of a particular VA health-care facility, or (3) recruit individuals with specialized skills, particularly difficult or demanding ones. The levels of pay authorized to be established pursuant to this authority could not exceed a maximum equal to the rate paid under the section 4103 schedule for the Assistant Chief Medical Director, as set forth in subsection (a) of section 4107 of title 38 (and as revised from time to time by Presidential Executive order pursuant to subchapter I of chapter 53 of title 5, United States Code (currently limited to $50,112)), and increases in the maximum rate for any pay grade would be limited to the amount by which the statutory maximum for each such grade exceeds the statutory minimum. (For example, if the grade level to be raised was GS-6 (range $12,631 to $16,293—a difference of $3,762), then the maximum amount any step within the grade could be raised would be $3,762.) Under current law, a similar Government-wide authority, pursuant to section 5303 of title 5, United States Code, is exercised by the Director of the Office of Personnel Management under delegation from the President. Providing such authority directly to the Administrator for key health-care personnel working in the Department of Medicine and Surgery should permit more timely and effective action, when necessary, to modify rates and ranges of pay for those employees.

It should be noted that the collective bargaining references in this provision (as well as the one in the amendment proposed to be made by sections 110 and 111 of the Committee bill) are designed only to assure that enactment of the provision would not vitiate any rights secured under collective bargaining agreements—and not to add any new rights.

Section 104—Cost: It is estimated that the enactment of the provisions of section 104 would cost less than $500,000 in fiscal year 1981 and in each succeeding fiscal year through 1985.

Section 105

Would require the Administrator to conduct a study of the need for, and the impact on DM&S personnel needs of, converting DM&S employees paid under the General Schedule in title 5 who provide either direct patient-care services or services incident to such services as determined by the Administrator pursuant to subsection (e)(10) of section 4107 of title 38 (as proposed to be added by section 104(4)(D) of the Committee bill), from the authority of title 5 to the authority of title 38, United States Code, for purposes of pay and personnel administration. The report of this study, including any recommendations for administrative or legislative action, or both, would be required to be submitted to the Veterans' Affairs Committee of the House of Representatives and the Senate not later than 18 months after the date of enactment of this Act.

Section 105—Cost: Enactment of the provisions of section 105 is estimated to entail no cost.

Section 106

Clause (1) of section 106 would redesignate subsections (b), (c), and (d) of present section 4108, relating to general personnel administration for title 38 employees, as subsections (d), (e), and (f), respectively, and add new subsections (b) and (c) as follows:

New subsection (b) of section 4108 would require any person serving as a Chief of Staff of a VA health-care facility to serve on a full-time basis. Under the provisions of this new subsection, individuals serving as a Chief of Staff on a part-time basis on the effectiive date of this new subsection could continue to serve in that capacity but, while so serving, would be ineligible for any increase in the rates of special pay authorized by amendments to section 4118 of title 38, made on or after the effective date of the subsection (thus including the increases proposed to be made by section 109 of the Committee bill). There is no requirement in current law that an individual serving as a Chief of Staff of a VA health-care facility be a full-time VA employee.

New subsection (c) of section 4108 would require—except to the extent that the Chief Medical Director grants exemptions under this new subsection—any person serving as an Associate Chief of Staff, or as a Service Chief, or in a position comparable to Service Chief, as determined by the Chief Medical Director, in a VA health-care facility, to serve on a full-time basis. Under the provisions of this new subsection, individuals serving on less than a full-time basis in one of those capacities on the effective date of the subsection could continue to serve in such capacity, but while so serving, would be ineligible, unless exempted by the Chief Medical Director in accordance with the provision described in the next sentence, for any increase in the rates of special pay authorized by amendments to section 4118 of title 38, made on or after the effective date of the subsection (thus including the increases proposed to be made by section 109 of the Committee bill). However, pursuant to regulations that the Administrator would be required to prescribe, the Chief Medical Director would be authorized, upon finding that it would be in the best interests of the Federal Government and of the provision of quality health-care services to eligible veterans, to make exemptions from this full-time requirement, both for categories of personnel and for specific individuals. Those so exempted would be permitted to serve on a part-time basis and remain eligible for increases in the rates of special pay made by amendments on or after the effective date of the new subsection.

There is no requirement in current law that an individual serving as an Associate Chief of Staff or as a Service Chief, or in a position comparable to Service Chief, be a full-time Veterans' Administration employee.

Clause (2) of section 106 would further amend section 4108 to add a new subsection (g) as follows:

New subsection (g) of section 4108 would give the Administrator specific authority—in order to carry out the primary mission of DM&S and the Department's health personnel education and training mission—to provide, pursuant to regulations that the Administrator would be required to prescribe training support, including support as described in section 4109 of title 5, United States Code, to selected VA registered nurses, including nurse practitioners, who are pursuing a baccalaureate degree in nursing. To be eligible for such assistance, the individual would be required to execute a written agreement conforming to the provisions of section 4108 of title 5, United States Code, which requires an individual who receives such training support to agree to serve in the sponsoring agency following the training for a period of time at least three times the length of the training period or repay the expenses of the training. Under current law, agency heads have authority, under chapter 41 of title 5, United States Code, to provide general training support to employees, but only in connection with training to enhance professional qualifications in a way that will contribute to performance of official duties. This new subsection would clarify, by giving the Administrator direct authority in addition to this general authority, that training support for registered nurses pursuing a baccalaureate degree in nursing would meet the professional development criteria.

Section 106—Cost: Enactment of the provisions of section 106 is estimated to entail no cost.

Section 107

Would amend present section 4109 relating to retirement rights of DM&S employees, to provide that, on and after the effective date of the proposed change, DM&S employees serving on a part-time basis would accumulate civil service retirement credit for the purposes of chapter 83 of title 5, United States Code, on a pro-rata basis. Under current law, service on a part-time basis accrues a full-month's retirement credit for each month served, no matter how small the ratio of part-time service is to full-time service. Under this amendment, that opportunity for abuse of the civil service retirement program would be corrected for DM&S employees appointed under title 38 and serving on part-time basis so that such an employee would receive retirement credit for future DM&S employment only on a proportional basis equal to the fraction that his or her service is of full-time service. Thus, when the employee is serving on three-quarter time basis, he or she would receive three-quarters of a month's retirement credit for each month of part-time service.

Section 107—Cost: Enactment of the provisions of section 107 is estimated to entail no cost.

Section 108

Would amend present section 4112, relating to medical advisory bodies, to provide clarification of the role and composition of the advisory committees (known and hereinafter referred to as "dean's committees"), that are mandated under this section to be established at VA health-care facilities where there is an affiliation agreement with an outside entity, such as a medical school, and to establish a new advisory body at VA health-care facilities.

Subclause (A) of clause (1) of section 108 would amend subsection (b) of present section 4112, relating to dean's committees, to add a requirement that the Administrator's appointments to such committees include appropriate representation from the full-time staff at the VA facility. Under current law, the appointments made by the Administrator are required only to include personnel of the VA and the affiliated school, without reference, in the case of VA personnel, to their full- or part-time status. The proposed change would modify that to specify an appropriate representation of full-time staff among the Veterans' Administration component.

Subclause (B) of clause (1) of section 108 would further amend subsection (b) of present section 4112 to clarify that, notwithstanding any recommendations made by a dean's committee, the Veterans' Administration remains responsible at the VA facility concerned, as elsewhere, for final decisions concerning the provision of health care and employment at the VA facility and that the responsibility for such decisions may not be delegated to any advisory committee or any person other than an employee of the Veterans' Administration. Under current law, this responsibility is not clearly delineated and the proposed change would remedy that lack of clarity so as to assure the proper relationship between dean's committees and affiliated VA health-care facilities regarding matters that are clearly within the purview of the VA.

Clause (2) of section 108 would further amend present section 4112 to add a new subsection as follows:

New subsection (c) of 4112 would require the establishment of a medical center coordinating committee at each VA health-care facility. Each such committee would be chaired by the director of the facility and which would have as members the heads of each major organizational unit in the center, full-time employee representatives from each major patient-care service in the center, a representative from each recognized exclusive representative of center employees, and, on a rotating basis, representatives from veterans' service organizations specified by the Chief Medical Director, and would advise the facility's management with respect to all matters concerning the provisions of health care to eligible veterans and dependents. The Administrator would be required to prescribe regulations which would, among other things, provide criteria for determining the precise membership of the committees in terms of what organized units and services are to be considered "major'. The coordinating committees established pursuant to this new subsection would provide a new forum where the various elements most concerned with the affairs of a VA health-care facility could voice their views and concerns regarding facility management and operations issues. There is no comparable provision in current law.

Section 108—Cost: Enactment of the provisions of section 108 is estimated to entail no cost.

Section 109

Would amend present section 4118, relating to special-pay agreements for physicians and dentists employed in the VA's DM&S, to make certain limited modifications, effective with respect to pay periods beginning after September 30, 1980, in the existing statutory scheme for such special pay and, effective with respect to pay periods beginning after March 31, 1980, to provide more comprehensive modifications of the statutory scheme, to increase the rates of special pay, to make the authority permanent, and to make other modifications.

Subsection (a) of section 109 would make a series of amendments to present section 4118 that would take effect, as provided in paragraph (2) of this subsection, with respect to pay periods beginning after September 30, 1980.

Clause (A) of paragraph (1) of subsection (a) of section 109 would amend subsection (a)(2) of present section 4118, relating to categories of individuals not eligible for special pay, to modify the prohibition on the payment of special pay to reemployed annuitants to exclude from that prohibition those who were separated involuntarily under prior law, section 8335 of title 5 prior to its amendment by Public Law 95-256 in 1978, requiring mandatory retirement at age 70. Under current law, such reemployed annuitants are included in the general category of reemployed annuitants with individuals who voluntarily retired before returning to service in the VA, and are thus barred from receipt of special pay, despite the fact that they did not choose to retire. This amendment would modify this category that so permit those reemployed annuitants who were retired involuntarily would receive special pay.

Clause (B) of paragraph (1) of subsection (a) of section 109 would amend subsection (c) of present section 4118, relating to incentive special pay, to insert two new clauses to provide a basis for the Administrator to pay certain new categories of incentive special pay to physicians under the existing statutory scheme. The new clauses are as follows:

New clause (3) of subsection (c) of section 4118 would authorize the Administrator to pay an eligible physician $2,000 in incentive special pay for a general or first board certification or $2,500 for a specialty or secondary board certification. Such authority does not exist under current law. Thus, this proposed new clause would provide the Administrator with authority to reward board certification in order to assist in the recruitment and retention of physicians with such professional qualifications.

New clause (4) of subsection (c) of section 4118 would authorize the Administrator to pay an amount not less than $3,500 and not more than $5,000 to an eligible physician for service (A) in a specific geographic area in which the Chief Medical Director determines, pursuant to regulations that the Administrator would be required to prescribe, that there are extraordinary difficulties in the recruitment and retention of qualified physicians in specific categories or (B) the Central Office of the Department of Medicine and Surgery. Such authority does not exist under current law. Thus, this new clause would provide the Administrator with authority to provide financial incentives for service in areas where there have been recruitment and retention difficulties, including in the Central Office of the Department of Medicine and Surgery.

Clause (C) of paragraph (1) of subsection (a) of section 109 would amend present subsection (d)(1) of section 4118, requiring a certain reduction in the annual rate of special pay, to eliminate that reduction. Under current law, the annual rate of special pay of all eligible physicians and dentists is reduced by an amount equal to the amount of the 1975 cost-of-living pay raise for the grade and step in which a particular physician or dentist is presently serving, a reduction of up to $1,800 for some full-time personnel. The requirement for that reduction was included in the legislation originally establishing the special pay authority so as to avoid duplication of the 1975 cost-of-living raise. By deleting that reduction requirement, this amendment would increase the amount of special pay for all eligible physicians and dentists receiving special pay.

Paragraph (2) of subsection (a) of section 109 provides that the amendments made by paragraph (1) of subsection (a) shall apply with respect to pay periods beginning after September 30, 1980.

Subsection (b) of section 109 would further amend present section 4118 relating to special pay agreements for physicians and dentists employed in DM&S, to provide, effective with the first pay period beginning after March 31, 1981, more comprehensive modifications of the statutory scheme, to increase the rates of special pay, to make the authority permanent, and to make other modifications.

Clause (A) of paragraph (1) of subsection (b) of section 109 would further amend present section 4118 to amend subsection (a) (1), relating to the maximum amount of special pay authorized (except as provided in new subsection (d) of section 4118, described below), to raise the maximum special pay amount generally authorized to be paid to eligible physicians from $13,500 to $23,500 and to eligible dentists from $6,750 to $10,000.

Clause (B) of paragraph (1) of subsection (b) of section 109 would amend subsection (b) of present section 4118, relating to amounts of primary special pay, to raise the maximum primary special pay amount authorized to be paid to eligible physicians from $5,000 to $7,000.

Clause (C) of paragraph (1) of subsection (b) of section 109 would amend subsections (c) and (d) of section 4118, relating to amounts of incentive special pay and methods of calculating amounts of incentive special pay authorized for eligible physicians and dentists, to delete those subsections and replace them with new subsections (c) and (d), as follows:

Paragraph (1) of new subsection (c) would authorize the Administrator to pay any eligible full-time physician employed in DM&S incentive special pay up to a maximum of $16,500 per year (except as provided in the disregard provisions in proposed new subsection (d) of section 4118, discussed below) taking into account specific factors with associated maximum per annum amounts, and to pay eligible part-time physicians employed in DM&S, a proportional amount (based on the fraction which the part-time employment involved is of full-time service) of three-quarters of the per annum amounts specified for full-time physicians. Under current law, the maximum amount of incentive special pay authorized to be paid to eligible full-time physicians is $8,500 per year; thus, the proposed new maximum amount represents an increase of at least $8,000 in incentive special pay (as qualified by the proposed new subsection (d) disregard, discussed below). The amount of incentive special pay for part-time service is calculated, under current law, as a proportional share—based on the fraction which the part-time service is of full-time service—of the amount authorized for full-time physicians. Under this amendment, therefore, a premium would be placed on full-time service as compared to part-time service. Nevertheless, this amendment would provide an increase from $8,500 to at least $12,375 per year (as qualified by the proposed new subsection (d) disregard, discussed below) in the base amount on which incentive special pay for part-time service by eligible part-time physicians is computed and thus would significantly increase the amount of incentive special pay for part-time physicians. The balance of paragraph (1) of new subsection (c) of section 4118 would set forth the factors to be considered by the Administrator in determining amounts of incentive special pay for eligible physicians as follows:

Subclause (i) of clause (A) of paragraph (1) of new subsection (c) would increase from $2,000 to $6,000 per year the amount of incentive special pay that may be paid to eligible physicians for full-time status.

Subclause (ii) of clause (A) of paragraph (1) of new subsection (c) would authorize the payment of incentive special pay to eligible physicians in the following amounts for tenure of service within DM&S: For 3 or more years, but less than 5 years, $1,000; for 5 or more years but less than 8 years, $2,000; and 8 or more years, $3,000. Under current law, the amounts authorized in incentive special pay for eligible physicians for tenure of service are: For completion of the probationary period (now 2 years) or 3 years, whichever is the lesser, $1,000; or for completion of 7 years, $2,000. Thus, the proposed change would restructure the time periods on which inventive special pay for tenure is based and would increase from $2,000 to $3,000 the maximum amount that could be paid to an eligible physician for tenure of service.

Subclause (iii) of clause (A) of paragraph (1) of new subsection (c) would authorize the payment of incentive special pay to eligible physicians for service in a scarce medical specialty in an amount ranging from $4,000 to at least $16,500 (as qualified by the proposed new subsection (d) disregard, discussed below). The actual amount that would be paid to an individual physician would be determined by the Chief Medical Director pursuant to regulations that the Administrator would be required to prescribe. Under current law, the maximum amount of incentive special pay that is authorized to be paid to eligible physicians for service in a scarce specialty is $2,000. Thus, this amendment would increase the amount authorized to be paid for service by an eligible physician in a scarce specialty by a minimum of $2,000 and a maximum of $14,500 in the case of full-time service.

Clause (B) of paragraph (1) of new subsection (c) would authorize the payment of incentive special pay to eligible physicians in specified amounts for service in specified positions, as follows:

Subclause (i) of clause (B) of paragraph (1) of new subsection (c) would authorize the payment of $9,625 in incentive special pay to an eligible physician for service as a Service Chief or an Associate Chief of Staff or in a comparable position as determined by the Chief Medical Director. Under current law, the amount of incentive special pay authorized to be paid for service as a Service Chief, not in a scarce specialty, or as an Associate Chief of Staff, is $5,500 and for service as a Service Chief in a scarce specialty, $7,000. The proposed change would eliminate the dual levels of incentive special pay for service as a Service Chief and would raise the amount authorized to $9,625 from either $5,500, or $7,000.

Subclause (i) of clause (B) of paragraph (1) of new subsection (c) would increase from $7,000 to $12,250 the amount of incentive special pay authorized for an eligible physician for service as a Chief of Staff or in an Executive Grade.

Subclause (iii) of clause (B) of paragraph (1) of new subsection (c) would increase from $7,250 to $12,700 the amount of incentive special pay authorized for an eligible physician for service as Deputy Service Director or in a Director Grade.

Subclause (iv) of clause (B) of paragraph (1) of new subsection (c) would increase from $7,500 to $13,125 the amount of incentive special pay authorized for an eligible physician for service as a Service Director.

Subclause (v) of clause (B) of paragraph (1) of new subsection (c) would increase from $8,000 to $14,000 the amount of incentive special pay authorized for an eligible physician for service as a Deputy Assistant Chief Medical Director.

Subclause (vi) of clause (B) of paragraph (1) of new subsection (c) would increase from $8,500 to $14,875 the amount of incentive special pay authorized for an eligible physician for service as an Assistant Chief Medical Director or as an Associate Deputy Chief Medical Director.

Clause (C) of paragraph (1) of new subsection (c) would authorize the payment of incentive special pay to eligible physicians in the amount of $2,000 for specialty or first board certification or $2,500 for subspecialty or secondary board certification. As noted above under the discussion of the amendment of section 4118(c) (3) proposed to be made by subsection (a) (1) (B) (iv) of this section of the Committee bill, the authority to pay incentive special pay for board certification does not exist under current law but would be provided under that amendment effective with the first pay period beginning after September 30, 1980. Thus, this provision would simply recodify this authority for pay periods beginning after March 31, 1981, the effective date of the amendment proposed to be made by this provision.

Clause (D) of paragraph (1) of new subsection (c) would authorize the payment of incentive special pay in an amount not less than $3,500 and not more than $5,000 to an eligible physician for service (i) in a specific geographic area in which the Chief Medical Director determines, pursuant to regulations that the Administrator would be required to prescribe, that there are extraordinary difficulties in the recruitment and retention of qualified physicians in specific categories or (ii) in the Central Office of the Department of Medicine and Surgery. As noted above under the discussion of the amendment of section 4118(c) (3) proposed to be made by subsection (a) (1) (B) (iv) of this section of the Committee bill, the authority to pay incentive special pay for service in areas where there are recruitment and retention problems does not exist under current law but would be provided under that amendment effective with the first pay period beginning after September 30, 1980. Thus, this provision would simply recodify this authority for pay periods beginning after March 31, 1981, the effective date of the amendment proposed to be made by this provision.

Paragraph (2) of new subsection (c) would authorize the Administrator to pay any eligible full-time dentist employed in DM&S incentive special pay generally up to a maximum of $7,500 (except as provided in the disregard provision in new subsection (d) of section 4118, discussed below) taking into account specific factors with associated maximum per annum amounts and, for eligible part-time dentists employed in DM&S, a proportional amount (based on the fraction which the part-time employment is of full-time service) of three-quarters of the specified per annum amounts. Under current law, the maximum amount of incentive special pay authorized to be paid to eligible full-time dentists is $4,250; thus, the proposed new maximum amount represents an increase of at least $3,250 in incentive special pay (as qualified by the proposed new subsection (d) disregard, discussed below). Incentive special pay for an eligible dentist's part-time service is calculated, under current law, as a proportional share (based on the fraction which the part-time service is of full-time service) of the amount authorized for full-time dentists. Under this amendment, therefore, a premium would be placed on full-time service as compared to part-time service. Nevertheless, this amendment would provide an increase from $4,250 to $5,625 in the base amount on which incentive special pay for part-time service by eligible part-time dentists is computed. The balance of paragraph (2) of new subsection (c) of section 4118 would set forth the factors to be considered by the Administrator in determining amounts of incentive pay for eligible dentists, as follows:

Subclause (i) of clause (A) of paragraph (2) of new subsection (c) would authorize the payment of incentive special pay to eligible dentists in the amount of $1,000 for full-time status, the same amount as is authorized in current law.

Subclause (ii) of clause (A) of paragraph (2) of new subsection (c) would authorize the payment of incentive special pay to eligible dentists in the following amounts for tenure of service within the Department of Medicine and Surgery: For 3 or more years, but less than 7 years, $500, the same amount authorized in current law; and for 7 or more years, $1,000, the same amount authorized in current law.

Subclause (iii) of clause (A) of paragraph (2) of new subsection (c) would authorize the payment of incentive special pay to eligible dentists for service in a scarce dental specialty in an amount generally ranging from $2,000 to at least $7,500 (as qualified by the proposed new subsection (d) disregard, discussed below). The actual amount that would be paid to an individual dentist would be determined by the Chief Medical Director pursuant to regulations that the Administrator would be required to prescribe. Under current law, the maximum amount of incentive special pay that is authorized to be paid to eligible dentists for service in a scarce specialty is $2,000. Thus, the amendment would increase the amount authorized to be paid for service by an eligible dentist in a scarce specialty by a maximum of $5,500 in the case of full-time service.

Clause (B) of paragraph (2) of new subsection (c) would authorize the payment of incentive special pay to eligible dentists in specified amounts for service in specified positions, as follows:

Subclause (i) of clause (B) of paragraph (2) of new subsection (c) would authorize the payment of $2,750 in incentive special pay to an eligible dentist for service as a Service Chief or in a comparable position as determined by the Chief Medical Director. This amount is the same amount as is authorized in current law for service by a dentist as a Service Chief, not in a scarce specialty, or as an Associate Chief of Staff. Another provision in current law, in section 4118(c)(1)(B)(ii), authorizing the payment of incentive special pay in the amount of $3,500 for service by a dentist as a Service Chief in a scarce speciality is deleted by this amendment.

Subclause (ii) of clause (B) of paragraph (2) of new subsection (c) would authorize the payment of $3,500 in incentive special pay to an eligible dentist for service as a Chief of Staff or in an Executive Grade, the same amount as is authorized in current law.

Subclause (iii) of clause (B) of paragraph (2) of new subsection (c) would authorize the payment of $3,625 in incentive special pay to an eligible dentist for service as a Deputy Service Director or in a Director Grade, the same amount as is authorized in current law.

Subclause (iv) of clause (B) of paragraph (2) of new subsection (c) would authorize the payment of $3,750 in incentive special pay to an eligible dentist for service as a Service Director, the same amount as is authorized in current law.

Subclause (v) of clause (B) of paragraph (2) of new subsection (c) would authorize the payment of $4,000 in incentive special pay to an eligible dentist for service as a Deputy Assistant Chief Medical Director, the same amount as is authorized in current law.

Subclause (vi)of clause (B) of paragraph (2) of new subsection (c) would authorize the payment of $4,250 in incentive special pay to an eligible dentist for service as an Assistant Chief Medical Director, the same amount as is authorized in current law.

Clause (C) of paragraph (2) of new subsection (c) would authorize the payment of incentive special pay in an amount not less than $1,750 and not more than $2,500 to an eligible dentist for service in a specific geographic area in which the Chief Medical Director determines, pursuant to regulations that the Administrator would be required to prescribe, that there are extraordinary difficulties in the recruitment and retention of qualified dentists in specific categories. Such authority does not exist in current law.

Subparagraph (A) of paragraph (3) of new subsection (c) would provide that, except as otherwise provided in subparagraph (B) (discussed below) of this paragraph of new subsection (c), an eligible physician or dentist may not receive incentive special pay under both clauses (A) and (B) of paragraph (1) or (2) of new subsection (c). By virtue of this provision, an individual would be eligible for special pay either on the basis of full-time status, tenure of service, or service in a scarce specialty or on the basis of service in a specified position. There is no comparable requirement in current law that an individual select one basis or another for special pay.

Subparagraph (B) of paragraph (3) of new subsection (c) would provide, in clause (i), that a physician or dentists serving on a full-time basis as a Service Chief or in a comparable position as determined by the Chief Medical Director may receive incentive special pay for full-time status and service in a scarce specialty as well as for the service as a Service Chief or in a comparable position, and, in clause (ii), that a physician or dentist serving as a Chief of Staff on a full-time basis could receive incentive special pay for full-time status as well as for service as a Chief of Staff.

New subsection (d): Would provide that, in determining the total amount of special pay for any eligible physician or dentist and the total amount of incentive special pay for any eligible physician or dentist, any amount payable for service in certain geographic areas where there are recruitment and retention difficulties (under paragraph (7)(D) (physicians) or (2)(C) (dentists) of new subsection (c)) would be excluded. There is no comparable provision in current law; thus, all elements of special pay are currently counted against the applicable maximum limits. By virtue of this provision, the maximum amounts on total incentive special pay and hence on total special pay for eligible physicians and dentists be exceeded in the case of eligible individuals serving in areas where recruitment and retention problems are particularly difficult, thereby increasing recruitment and retention prospects at such sites.

Clause (D) of paragraph (1) of subsection (b) of section 109 would amend subsection (e)(1) of present section 4118, relating to technical provisions concerning special pay agreements pursuant to section 4118, to strike out the provision prohibiting any special pay agreements from extending past September 30, 1981. Under current law, the VA's authority to enter into special pay agreements expires September 30, 1981, and all such agreements must terminate on that date. Thus, the change made by this provision, together with the amendment to Public Law 94–123 made by section 101 of this Act, would make the authority to enter into such agreements permanent.

Clause (E) of paragraph (1) of subsection (b) of section 109 would amend subsection (f) of present section 4118, prohibiting special pay under present section 4118 from being considered basic pay for various purposes under title 5, United States Code, to delete that subsection and replace it with a new subsection (f), as follows:

Paragraph (1) of new subsection (f) would provide that any additional compensation provided as special pay under section 4118 of title 38 would be considered as basic pay for purposes of chapter 87 of title 5, relating to life insurance coverage for employees of the Federal Government. Under current law, additional pay is not regarded as basic pay for any purposes under title 5. This provision would change that status as to life insurance coverage, and thus increase the amount of such coverage available to eligible physicians and dentists in receipt of special pay.

Paragraph (2) of new subsection (f) would provide full-time physicians and dentists receiving special pay with two alternative methods for utilizing such additional compensation for retirement programs. Under current law, any such special pay is not available for use in connection with retirement programs. The two alternatives are as follows:

Clause A of paragraph (2) of new subsection (f) would provide a graduated basis for counting special pay amounts toward civil service retirement pursuant to chapter 83 of title 5, United States Code. Under this alternative, an eligible physician's or dentist's Federal pay from which deductions are made and paid into the Civil Service Retirement Fund pursuant to section 8334 of title 5 (7 percent of all Federal pay) would include special pay, and he or she would receive credit for such special pay in the computation of "average pay" for retirement purposes, pursuant to section 8334 of title 5, on the following phased-in schedule: for individuals retiring after September 30, 1981, 20 percent of the special pay received would be creditable in the computation of average pay; for those retiring after September 30, 1984, 40 percent of the special pay received after September 30, 1981, would be creditable in the computation of average pay; for those retiring after September 30, 1986, 60 percent of the special pay received after September 30, 1981, would be creditable in the computation of average pay; for those retiring after September 20, 1988, 80 percent of the special pay received after September 30, 1981, would be creditable in the computation of average pay; for those retiring after September 30, 1989, 100 percent of the special pay received after September 30, 1981, would be creditable in the computation of average pay.

Clause (B) of paragraph (2) of new subsection (f) would provide a basis for allowing full-time physicians and dentists in receipt of special pay to utilize the amounts received as special pay for calculating the amount which may be paid into an individual retirement account (IRA) in accordance with section 408(a) of the Internal Revenue Code, of title 26, United States Code, notwithstanding the prohibition in section 219 (b)(2)(A)(i) of the Code, on IRA accounts for individuals covered by retirement plans established by the United States for its employees. The benefit of an IRA account is that amounts paid from current earned income into it are, within certain limits, not subject to Federal income tax for the year in which such amounts are received. Under current law, there is no similar authority to use special pay amounts for the purpose of calculating amounts that may be paid into an IRA account.

Paragraph (3) of new subsection (f) would provide that, except as provided in new paragraph (1) and (2) of this new subsection, amounts received by eligible physicians and dentists as special pay shall not be considered as "basic pay" for the purposes of subchapter VI of title 5, United States Code, relating to payment for accumulated and accrued leave; section 5595 of title 5, United States Code, relating to severance pay; chapter 81 of title 5, United States Code, relating to compensation for work injuries; or for the purposes of any other benefits related to basic pay. This simply recodifies the provisions of present subsection (f) with respect to the treatment of special pay except as provided in paragraphs (1) and (2) of this new subsection.

Paragraph (2) of subsection (b) of section 109 would provide that the amendments made by paragraph (1) of subsection (b) shall apply with respect to pay periods beginning after March 31, 1981.

Section 109—Cost: It is estimated that enactment of the provisions of section 109 would cost $31.5 million in fiscal year 1981 ($7.5 million for temporary changes, $24.0 million for permanent changes) and a total of $250.7 million in fiscal years 1981 through 1985.

Section 110

Would amend present subchapter I of chapter 73 of title 38, relating to the general organization of the Veterans' Administration's Department of Medicine and Surgery, to add a new section, section 4119, entitled "Veterans' Administration Physicians' and Dentists' Pay Board" (hereafter referred to as "the Board"), as follows:

New section 4119 would establish a new five-person Board, in the office of the Administrator of Veterans' Affairs, which would be responsible for analyzing the income of non-Veterans' Administration physicians and dentists in the Federal sector as well as those in the private sector, and providing recommendations to the President on appropriate levels of special pay for the Veterans' Administration physicians and dentists. The President, after receiving such recommendations, would include recommendations for the new levels of special pay in the next annual budget submitted to the Congress. The new section would consist of subsections (a) through (l) as follows:

Clause (1) of subsection (a) would provide for the establishment of the Board and provide that it is to be composed of five members appointed from private life—three by the Administrator of Veterans' Affairs, including at least one disabled veteran, and one each by the President of the Senate, upon the joint recommendation of the majority and minority leaders of the Senate, and by the Speaker of the House of Representatives.

Clause (2) of subsection (a) would provide that the terms of office for the members first appointed to the Board would be as follows: For the members appointed by the Administrator, one to serve until September 30, 1982, one until September 30, 1983, and one until September 30, 1984, and for those appointed by the President of the Senate and by the Speaker of the House, both to serve until September 30, 1982.

Clause (3) of subsection (a) would provide that the term of service of members appointed to the Board after the expiration of the terms of the first members would be 3 years.

Clause (4) of subsection (a) would provide that any vacancy on the Board would be filled in the same manner as was the original appointment and that an appointment to fill a vacancy before the expiration of a term shall be for the period ending on the date on which such term expires.

Clause (5) of subsection (a) would require that, upon the expiration of a member's term, that member would continue to serve until his or her successor is appointed and qualified.

Clause (6) of subsection (a) would provide that Board members are to receive pay at the rate that may be paid under GS-18 of the General Schedule for each day they are engaged in their duties as members of the Board and that they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses while carrying out duties.

Subsection (b) would specify the duties of the Board in assisting the President in carrying out the congressional policy of assuring that pay for VA physicians and dentists is fixed at levels reasonably comparable with the total remuneration of non-VA physicians and dentists so as to assure the recruitment and retention of a well-qualified workforce in DM&S. The duties would include (after such consultation with representatives from each recognized representative of physicians and dentists employed in the Department of Medicine and Surgery as is required under any applicable collective bargaining agreement) studying and defining the bases for any pay distinctions between physicians and dentists and between all categories of physicians and dentists, including between VA and other Federal sector physicians and dentists and non-federal physicians and dentists; obtaining measures of income of non-VA physicians and dentists for use as guidelines for setting and adjusting rates of special pay; and submitting a report not later than December 31, 1982, and biennally thereafter, to the President to include recommendations for the special pay rates and for any changes that the Board considers appropriate and necessary in the rates or types of special pay.

Subsection (c) would require the President, after receiving the Board's recommendations, to submit to the Congress, as part of the President's next annual budget submission recommendations with respect to the exact rates of special pay for VA physicians and dentists.

Subsection (d) would provide that the recommendations submitted by the President pursuant to subsection (c) of this new section would become effective unless the Congress enacted legislation establishing other rates or either house of the Congress approved a resolution disapproving the recommendations.

Subsection (e) would provide that the recommendations of the President for rates or types of special pay that become effective according to the terms of subsection (d) of this new section would have the force and effect of law.

Subsection (f) would require that such pay recommendations as become effective pursuant to subsections (d) and (e) of this section, be printed in the Statutes at Large in the same volume as public laws and in the Federal Register and the Code of Federal Regulations.

Subsection (g) would authorize the Board to appoint an Executive Director and other staff personnel as necessary to assist the Board in carrying out its functions, and to compensate such personnel at rates not in excess of the maximum rate authorized to be paid under GS-18 of the General Schedule. The Executive Director would not be permitted to hold any other position in the Federal Government or in the government of the District of Columbia.

Subsection (h) would authorize the Board, in carrying out its mission, to request and secure information and technical assistance from any department or agency of the United States.

Subsection (i) would authorize the head of any department or agency of the United States, upon the request of the Board, to detail personnel to the Board.

Subsection (j) would authorize the Board to obtain the services of experts or consultants at rates not to exceed the rates authorized to be paid under GS-18 of the General Schedule.

Subsection (k) would authorize the Board, in carrying out its mission, to accept uncompensated services and enter into such contracts and agreements as the Board deems necessary.

Subsection (l) would require the Administrator of General Services to provide administrative support to the Board on a reimbursable basis.

Subsection 110—Cost: Enactment of the provisions of section 110 is estimated to cost less than $500,000 in fiscal year 1981 and each succeeding fiscal year through fiscal year 1985.

Section 111

Would require the Administrator to conduct a 24- to 36-month pilot program and study—in not less than six geographical areas where the Veterans' Administration has experienced difficulties in recruiting and retaining sufficient qualified nursing personnel (registered nurses, licensed practical or vocational nurses and nursing assistants)—of the impact on the VA's recruitment and retention of sufficient qualified nursing personnel of taking various administrative actions. In carrying out the pilot program, the Administrator would be required (after such consultation with the exclusive representatives of employees in appropriate VA units as is required under any applicable collective bargaining agreements) to take various administrative actions to overcome such difficulties, including, but not limited to, combinations of the following: Modification of existing work schedules to allow nursing personnel to work on a flexible basis; establishment of on-site child-care centers; provision of free parking; and enhanced programs of career development, including support for continuing education and academic appointments at affiliated institutions.

A report on the results of the study and pilot program would be due to be submitted to the Congress not later than 42 months after the date of enactment of the Committee bill.

Section 111—Cost: Enactment of the provisions of section 111 is estimated to entail no significant cost.

Section 112

Would provide for an effective date for all the provisions in this title, other than special-pay amendments, of October 1, 1980. As noted in the discussion of section 109(a)(2) and (b)(2), above, the effective dates for the special-pay amendments would be (1) the beginning of the first pay period beginning after September 30, 1980, for the amendments to the existing special-pay program proposed to be made by section 109(a)(1), and (2) the beginning of the first pay period beginning after March 31, 1981, for the comprehensive, permanent special-pay program amendments, including the increase in the rates of special pay, proposed to be made by section 109(b)(1).

TITLE II—GERIATRIC RESEARCH AND CARE AMENDMENTS

Section 200

Would provide that this title of the Committee bill may be cited as the "Veterans' Geriatric Research and Care Amendments of 1980".

Section 201

Would state the purposes of this title as being to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological, and social needs of an increasing number of older veterans, and to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

Section 202

Section 202 would amend section 4101 of title 38, United States Code, relating to the functions of the VA's Department of Medicine and Surgery, to add a new subsection (f), as follows:

New subsection (f) would make express, specific statutory provision and establish certain rules for a program of up to 15 centers of geriatric research, education, and clinical activities at VA health-care facilities. There is no specific provision for such a program under current law, but the VA has established a program of eight geriatric research, education, and clinical centers—"GRECC's"—through administrative action. The effect of this new subsection would be generally to codify the GRECC program, with certain modifications, and provide for its expansion.

Subparagraph (A) of paragraph (1) of new subsection (f) would require the Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this new subsection, to designate up to 15 VA health-care facilities as the locations for centers of geriatric research, education, and clinical activities (hereinafter referred to as "geriatric centers") and, subject to the appropriation of sufficient funds for the operation of the geriatric centers, to establish and operate them at the designated locations pursuant to the provisions of this new subsection.

Subparagraph (B) of paragraph (1) of new subsection (f) would provide that, in designating locations for the geriatric centers, the Administrator, upon the recommendation of the Chief Medical Director, must comply with certain requirements, as follows:

Clause (i) of paragraph (1)(B) of new subsection (f) would require the designation of each facility that is operating a GRECC on the date of the enactment of this new subsection, unless on the recommendation of the Chief Medical Director, the Administrator determines that the facility does not meet the requirements of clause (iii) (discussed below) of this subparagraph or has not demonstrated effectiveness in carrying out the established purposes of the GRECC or the purposes of this title, or the potential to carry out these purposes effectively in the reasonably foreseeable future.

Clause (ii) of paragraph (1)(B) of new subsection (f) would require that the appropriate geographic distribution of the designated facilities be assured.

Clause (iii) of paragraph (1)(B) of new subsection (f) would permit the Administrator to designate a facility as a geriatric center location only if:

First, the facility is affiliated with an accredited medical school which provides (or, as determined by the Administrator upon the recommendation of the Chief Medical Director, may reasonably be anticipated to develop a program to provide) education and training in geriatrics.

Second, the facility and the affiliated medical school has (or, as determined by the Administrator upon the recommendation of the Chief Medical Director, may reasonably be anticipated to develop) and arrangement for residents to receive education and training in geriatrics through rotation through the geriatric center and a nursing home, extended care, or domiciliary unit of the facility.

Third, the facility has (or, as determined by the Administrator upon the recommendation of the Chief Medical Director, may be reasonably anticipated to develop) an arrangement for nurses and allied health personnel to receive training and education in geriatrics through rotation through a nursing home, extended care or domiciliary unit of the facility.

Fourth, the facility has demonstrated the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research.

Fifth, the facility has (or, as determined by the Administrator upon the recommendation of the Chief Medical Director, may reasonably be anticipated to establish) a policymaking advisory committee, composed of appropriate health-care and research representatives of the facility and the affiliated school to advise on policy matters pertaining to the activities of the geriatric center during the period of its operation.

Sixth, the facility demonstrates the capability to conduct effectively an evaluation of the geriatric center's activities.

Subparagraph (C) of paragraph (1) of new subsection (f) would require that, prior to providing funds to any facility for the operation of a geriatric center, the Administrator assure that the geriatric centers at all facilities where GRECC's are in operation on the date of the enactment of this subsection, are receiving adequate funding to enable them to function effectively in the areas of research, education, and clinical activities. However, no particular mix of emphasis on each of the three components is required and no one particular amount of funding per geriatric center is envisioned by the Committee.

Paragraph (2) of new subsection (f) would provide for the establishment and prescribe the functions of a Geriatrics and Gerontology Advisory Committee (GGAC).

Subparagraph (A) of paragraph (2) of new subsection (f) would require that, not later than 90 days after the effective date of this new subsection, the Administrator establish the GGAC in the Department of Medicine and Surgery. The GGAC membership, to be appointed by the Administrator upon the recommendation of the Chief Medical Director, would include persons outside the Federal Government who have interest and expertise in research, education, and clinical activities related to aging and at least one national veterans' service organization representative. The Administrator would also be required to provide such staff and other support as is necessary to carry out the GGAC's functions effectively, and to invite, upon the recommendation of the Chief Medical Director, representatives of other appropriate Federal departments and agencies to participate in GGAC activities.

Subparagraph (B) of paragraph (2) of new subsection (f) would establish the functions of the GGAC, as follows:

Clause (i) of paragraph (2)(B) of new subsection (f) would require the GGAC to advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology.

Clause (ii) of paragraph (2)(B) of new subsection (f) would require the GGAC to assess, through an evaluation process—including a site visit to each new geriatric center no later than 3 years after the date of its establishment and to each existing GRECC no later than 2 years after the date of the last evaluation of that GRECC—the ability of each such geriatric center and GRECC to achieve its purposes and the purposes of this title of the Committee bill, as set forth in section 201.

Clause (iii) of paragraph (2)(B) of new subsection (f) would require the GGAC to assess the VA's capability to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the demand from those veterans for those services.

Clause (iv) of paragraph (2)(B) of new subsection (f) would require the GGAC to assess the current and projected needs of eligible older veterans for geriatric, extended, and other health-care services from the VA and the VA's activities and plans to meet those needs.

Clause (v) of paragraph (2)(B) of new subsection (f) would require the GGAC to perform additional functions as directed by the Administrator or Chief Medical Director.

Subparagraph (C) of paragraph (2) of new subsection (f) would require the GGAC, within 30 months after the effective date of this new subsection, to submit to the Administrator, through the Chief Medical Director, a report on the findings made and conclusions reached by the GGAC under paragraph (2)(B) of this new section. This report would be required to include descriptions of the geriatric centers' operations, assessments of the quality of the operations of the geriatric centers, an assessment of the extent to which the VA is meeting the needs of eligible older veterans for geriatric, extended, and other health-care services through the operation of the geriatric centers and other health-care facilities and programs (such as existing GRECC's at facilities not designated as locations for centers), assessments of and recommendations for correcting any deficiencies in the operations of the centers, and recommendations for other geriatric, extended, and other health-care services needed to meet the needs of older veterans. The GGAC would also be required to submit to the Administrator, through the Chief Medical Director, further reports as considered appropriate by the GGAC with respect to matters described in this subparagraph. Not later than 90 days after receiving a report submitted by the GGAC under this subparagraph, the Administrator would be required to transmit the report, together with the Administrator's comments and recommendations, to the appropriate congressional committees.

Paragraph (3) of new subsection (f) would authorize appropriations for basic support of research and education activities of the geriatric centers established—but not the clinical component which would continue, as the existing GRECC's, to be funded from general medical care appropriations—of $10,000,000 for fiscal year 1981, $12,500,000 for fiscal year 1982, and $15,000,000 for each of fiscal years 1983 and 1984. The Chief Medical Director would be required to allocate to the geriatric centers from other funds appropriated generally for the VA's medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate in view of the first report submitted by the GGAC under paragraph (2) of this new subsection.

Paragraph (4) of new subsection (f) would require that activities of clinical and scientific investigation at each geriatric center be eligible to compete for funding from the VA's medical and prosthetics research account and be given priority in the awarding of funding that is provided from that account for geriatric and gerontological research. In establishing this priority, the Committee intends to assure that VA aging research funds are appropriately focused on geriatric center research activities, especially in view of the requirement in subclause (III) of paragraph (1)(B) of this new subsection regarding participation at these centers of proven ingenious and creative scientists.

Section 203

Would amend present section 4103(a)(4) of title 38, relating to the appointment of Assistant Chief Medical Directors, to add a new sentence requiring the appointment of an Assistant Chief Medical Director who is a qualified physician trained, or having suitable, extensive experience, in geriatrics and who would be responsible to the Chief Medical Director for all geriatric research, education, and clinical health-care policy and evaluation in the Department of Medicine and Surgery.

Section 204

Would provide that the amendments made by this title shall take effect on October 1, 1980.

TITLE III—VETERAN'S ADMINISTRATION HEALTH-CARE COST RECOVERY PROVISIONS

Section 300

Would provide that this title of the Committee bill may be cited as the "Veterans'

Administration Health-Care Cost Recovery Provisions of 1980".

Section 301

Subsection (a) of section 301 would amend chapter 17, relating to veterans' hospital, nursing home, domiciliary, and medical care, to add a new section 629, entitled "Recovery by the United States of the cost of certain care and services".

New section 629 would strengthen and clarify the VA's authority to recover, in appropriate cases, the costs of non-service-connected health care and services furnished by the VA to veterans and hospital care or medical services furnished to individuals treated in VA facilities as a humanitarian service in emergency cases pursuant to section 611(b) of title 38. Such recoveries would be provided from workers' compensation or automobile accident reparations (hereinafter auto no-fault) insurance carriers or State or local crime victims compensation programs as follows:

Subsection (a) of new section 629 would provide for an independent right of the United States to recover the reasonable costs of care and services furnished by the VA to a veteran for a non-service-connected disability where the disability—

(1) was incident to the veteran's employment and is covered under workers' compensation;

(2) was the result of an automobile accident in a State requiring auto no-fault insurance; or

(3) was the result of a crime of personal violence in a State, or local subdivision thereof, providing health care to victims of crimes in that State or subdivision.

Such recoveries would be subject to the new section. Such recoveries would be authorized to be made against a State or subdivision thereof, employer or employer's insurance carrier, or auto no-fault insurance carrier, to the extent that the veteran or the veteran's health-care provider would have been eligible to receive reimbursement or indemnification for such care and services if the provider had been a non-Federal facility.

Subsection (b) of new section 629 would limit the amount that may be recovered under this new section to the lesser of the VA's reasonable costs for the care and services furnished or the generally applicable maximum amount specified by the law of the State or subdivision concerned or by any relevant contractual provision governing the situation. The VA would be required to prescribe, after notice and opportunity for public comment, a schedule of reasonable costs of care and services to be applied in determining the amount of prospective recovery.

Subsection (c) of new section 629 would subrogate the United States to any right or claim of the veteran or the veteran's personal representative, successor, dependents, or survivors against the State or other entity—such as an insurance carrier—involved. To enforce this right or claim, the United States would have the right to intervene or join in any legal action brought by the veteran or the veteran's personal representative, successor, dependents, or survivors. If no such legal action were instituted within 180 days after the first day on which the VA rendered the care involved to the veteran, the United States would have the right to institute legal action independently. However, at least 60 days in advance of instituting legal proceedings, the United States would be required to notify the veteran, by certified mail directed to the veteran's most recent address, or the veteran's personal representative or successor, of the United States' intention to file suit. If the 60-day notice were mailed within 120 days after the first day of VA care, the United States could bring suit at the end of the 180-day waiting period.

Subsection (d) of new section 629 would explicitly provide that this new section may not be used to deny VA health care and services to any veteran eligible for such care and services.

Clause (1) of subsection (e) of new section 629 would provide that no law or any State or subdivision thereof or provision of any contract or agreement entered into, renewed, or modified pursuant to any State law shall operate to prevent recoveries by the United States under this new section.

Clause (2) of subsection (e) of new section 629 would provide that no law or any State or subdivision thereof or provision of any contract or agreement entered into, renewed, or modified pursuant to any State law shall operate to prevent recoveries by the United States under section 611(b) of title 38, United States Code. Section 611(b) of title 38 authorizes the VA to furnish hospital care or medical services to individuals other than eligible veterans, in emergency cases as a humanitarian service and also requires the VA to charge for such care and services. Thus, this paragraph strengthens and clarifies the authority of the VA to recover such charges where a State law, municipal-code provision, or workers' compensation, or auto no-fault insurance contract might otherwise defeat such recoveries, but it would not affect the VA's current authority to pursue such recoveries and determine the amount thereof.

Subsection (f) of new section 629 would provide that recoveries pursuant to this new section are to be deposited in the United States Treasury as miscellaneous receipts. Such recoveries would thus not be credited to the VA's medical care appropriations account (under which the costs of the health care and services involved are funded) and should not be considered to reduce the amount needed to be appropriated for that account for the operation and maintenance of VA health-care facilities.

Subsection (b) of section 301 would amend the table of sections at the beginning of chapter 17 to reflect the insertion of new section 629.

Subsection (c) of section 301 would provide that the amendments made by this section shall be effective with respect to care and services furnished by the VA under chapter 17 after September 30, 1980.

Section 301—Cost: Enactment of the provisions of section 301 is expected to result in fiscal year 1981 recoveries of less than $500,000 and a total of more than $5.2 million in recoveries from fiscal year 1981 through fiscal year 1985.

Section 302

Subsection (a) of section 302 would require the VA to conduct a study of the extent to which veterans receiving VA care and service for non-service-connected disabilities are covered under health-care plans, such as group or individual health insurance policies, indemnification contracts, membership in health maintenance organizations, Medicare, Medicaid, workers' compensation, auto no-fault insurance, and crime victims' compensation. Prior to the study, the VA would be required to prepare, in consultation with the Veterans' Affairs Committees, the Library of Congress, the Congressional Budget Office (CBO), and representatives of health insurance carriers and veterans' service organizations, a protocol for the study.

Subsection (b) of section 302 would require the study to follow the protocol and to determine, by means of a survey of that is reasonably representative of all veterans who seek non-service-connected VA care, the numbers of such veterans who have no health-plan coverage as well as the number of those who do. With regard to those who indicate that they have such coverage, the study would examine the type and source of the coverage, the limitations and exclusions applicable to the coverage, and the extent to which the coverage would have been available to defray the costs of care and treatment of the veteran had he or she received care and treatment in a non-Federal Government facility.

To the extent necessary to verify such coverage or lack of coverage, the VA would be required to request appropriate verification and information from the carrier or other entity. Such a request would involve disclosure by the VA of information identifying the veteran involved, the nature of the veteran's disability, and the health care and services he or she had received. However, no such request or disclosure could be made unless the veteran had given voluntary, informed, written consent to such verification and disclosures, and each such request would be required to be accompanied by a copy of the veteran's written consent. In the Committee's view, compliance with the requirement that consent be informed would necessitate informing the veteran about the disclosures that would be made pertaining to his or her care, to whom they would be made and the use that would be made of the information; and compliance with the requirement of voluntariness would necessitate giving the veteran assurances that he or she is under no obligation to give consent to disclosure and that his or her refusal or participation would in no way affect his or her eligibility for, or the provision of, health-care services or any other VA benefit.

The carrier or other entity involved would be requested to disclose information pertinent to the verification and to state the limitations and exclusions of the coverage and the estimated amount of its liability had a non-Federal health-care facility provided the care and services to the veteran. Any carrier or other entity of whom such a request is made would be required to comply promptly and would not, by reason of its compliance, be chargeable with any State or Federal civil or criminal offense.

Subsection (c) of section 302 would require the Library of Congress and CBO jointly to conduct a study of the effect of the enactment of legislation (such as S. 759) to enable the VA to recover from veterans' private health insurers the costs of non-service-connected health care and services furnished by the VA to such veterans. In addition, those agencies would be required jointly to analyze the administrative costs, both Federal and non-Federal, that would result from the enactment of such legislation. The study and analysis would be required to take into account the findings of the VA study required under subsection (a) of this section.

Subsection (d) of section 302 would require submission by the VA of the VA-study protocol to the Veterans' Affairs Committees within 120 days after the date this Act is enacted; submission of a report on the VA study to appropriate congressional committees within 90 days after the protocol is submitted; and submission to the Congress of a report on the Library of Congress-CBO study within 60 days after the VA study is submitted.

Section 302—Cost: Enactment of the provisions of section 302 is estimated to entail a cost of $2 million in fiscal year 1981.

TITLE IV—MISCELLANEOUS AMENDMENTS

Section 401 would clarify section 112 of Public Law 96-86, the continuing appropriations act for fiscal year 1980, to exclude travel reimbursements for eligible veterans, dependents, and survivors authorized under section 111 of title 38, United States Code, from the term "travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government", and to provide that the Veterans' Administration's allocation for funding for travel and transportation would be reduced, pursuant to such section 112, in a manner proportionate with the Veterans' Administration's percentage of the total amount appropriated in fiscal year 1980 for the travel and transportation of persons, and transportation of things, of officers and employees of the executive branch of government.

Section 402 would amend section 5093(b) (1) of title 38 to eliminate the requirement that an institution eligible for a health personnel training grant demonstrate that the receipt of such a grant would result in a substantial increase in the number of students trained at such institution, provided that such an increase would not adversely affect any existing accreditation or the quality of training. This amendment was intended to be made in the Veterans' Administration Programs Extension and Improvement Act of 1979, as is indicated in the Joint Explanatory Statement accompanying H.R. 3892, which was enacted as Public Law 96-151. However, the provision was inadvertently omitted from the legislation as enacted.

Section 403 would amend section 8 of the Veterans' Administration Program Extension Act of 1978 (Public Law 95-520) to extend, from February 1, 1980, to February 1, 1981, the reporting deadline for a study being conducted by the Veterans' Administration, as mandated by such section, on the provision of hospital care and medical services by the Veterans' Administration in the Commonwealth of Puerto Rico and the Virgin Islands.

ESTIMATE OF COSTS OF TITLE III STUDY

Mr. CRANSTON. Mr. President, I would like to comment on one aspect of the Congressional Budget Office—CBO—cost estimate.

Mr. President, CBO has estimated that the VA study required under title III of the committee bill would cost $2 million. That estimate was based on an initial proposed study design prepared by the VA's Department of Medicine and Surgery. That design assumes that 25,000 veterans would be surveyed in the course of the study, that appropriate verifications would be required from health insurers or other entities in all 25,000 cases, and that the cost per veteran surveyed would be $80.

Mr. President, I believe that these preliminary assumptions overstate both the number of veterans that would need to be surveyed and the average cost per veteran.

Far more difficult and extensive studies have been accomplished by the Administration in recent years for less than $2 million.

Although I would not want to prejudge the design of the study in terms of the numbers of veterans to be surveyed, I think that a carefully designed random sample of not more than 5,000 veterans should be adequate and, keeping in mind that it is unlikely that more than 20 percent of those veterans would have health insurance coverage with respect to which detailed information would have to be prepared and analyzed, I would think that a cost of $50 per veteran would be reasonable.

Thus, Mr. President, in my view, the study objectives could be attained at a cost of approximately $250,000.

CONCLUSION

Mr. President, I am delighted that the Senate has passed the committee bill. I noted above that the matter of maintaining a strong and independent VA health-care system is of great concern to me and to all of the members of the committee. The committee bill—by taking important steps toward improving the VA's ability to recruit and retain highly qualified health-care professionals, by providing a statutory focus for efforts spent on studying the special health-care needs of a rapidly aging veteran population, and by providing a valid data base for assessing any future legislative action taken with respect to possible recoveries from private health insurers—would reaffirm the national commitment to provide quality health-care services to eligible veterans, and to provide such care through the VA's own facilities.

In closing, I would like to recognize the distinguished ranking minority member of the committee, the Senator from Wyoming (Mr. SIMPSON), for his able assistance and cooperation on this matter, the Senator from South Carolina (Mr. THURMOND) for his fine work and for the guidance he provided to the committee with respect to the geriatric and research amendments in title II of the committee bill and his cosponsorship of the bill, and other committee members who are cosponsors, Senators RANDOLPH, DURKIN, MATSUNAGA, TALMADGE, and STAFFORD.

In addition, I would like to recognize certain members of the committee's minority staff whose hard work and cooperation were most helpful in developing this important measure—Garner Shriver, Ken Bergquist, and John Pressly—as well as members of the majority staff for their assistance and fine work on this measure—Bill Brew, Ed Scott, Mary Sears, Cheryl Beversdorf, Molly Milligan, Janice Orr, Jon Steinberg, Harold Carter, Jim MacRae, Walt Klingner, Ingred Post, Becky Walker, Terri Morgan, Karen Anne Smith, and Ann Garman.

Mr. President, I thank my colleagues for their favorable consideration of S. 2534 as reported.

A. C. NIELSEN: MODERN MARKETING PIONEER

Mr. PERCY. Mr. President, I was deeply saddened by the recent death of Mr. A. C. Nielsen, Sr., an outstanding American and Illinoisan. His son, Arthur C. Nielsen, Jr., has been a dear friend of mine for 45 years.

Mr. Nielsen, Sr., also a longtime and valued friend, was a pioneer of modern marketing. His career is a remarkable success story, tracing the progress of communications and marketing in America over the last 50 years. His name is synonymous with one of the most influential innovations in U.S. marketing history.

In 1923, Mr. Nielsen founded the A. C. Nielsen Co., which became the largest marketing research organization in the world. The company, headquartered in Northbrook, Ill., has offices in 23 countries and provides 80 business services. Performance surveys of industrial equipment were the initial service provided, followed 10 years later by food and drug market research, a service that charts the retail flow of specific products. In the 1940's, the organization began a highly successful radio rating service, followed in the 1950's by the even more successful TV rating service.

We extend our heartfelt sympathy to Mr. Nielsen's wife, Gertrude; his children, Arthur C. Jr., Philip R., Margaret Stiegele, Barbara Nielsen-Whitcomb, and Virginia Upton; and his 14 grandchildren and 5 great grandchildren.

I ask unanimous consent that articles from the New York Times and the Chicago Sun-Times on Mr. Nielsen's career be inserted in the RECORD at this time.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

A. C. NIELSEN SERVICES SET; RATINGS PIONEER

Services for Arthur C. Nielsen, 83, founder and a director of the marketing research company known for its television and radio ratings, will be at 2 p.m. Wednesday in Christ Church, 784 Sheridan Rd., Winnetka. Burial will be private.

Mr. Nielsen, of Winnetka, died Sunday in Northwestern Memorial Hospital.

He founded the A. C. Nielsen Co., a marketing research firm, in 1923 and was active in the company until 1979.

The company, with an original staff of five, researched the effectiveness of radio advertising. Now the world's largest marketing research group, the Northbrook-based company operates in 23 countries and provides 80 business services. It is known for researching the popularity of television programs by using "Nielsen families" and recording their viewing habits.

Mr. Nielsen graduated from the University of Wisconsin in 1918 with an engineering degree. He is the recipient of numerous national and international awards for advancement of marketing and research and was widely known as a philanthropist in education, medical research and programs for the aged and blind.

His awards include the knighthood conferred by the King of Denmark for establishing scholarships for 74 Scandinavian students for post graduate study in business administration. Mr. Nielsen was inducted into the United States Tennis Hall of Fame for his efforts in promoting the sport and providing indoor tennis stadiums for the University of Wisconsin and Winnetka.

Survivors include his wife, Gertrude; two sons, Arthur C. Jr., company chairman, and Philip R., vice president, and three daughters, Margaret Stiegele, Barbara Nielsen-Whitcomb and Virginia Upton.

A. C. NIELSEN, WHO DEVISED SYSTEM THAT RATES TV PROGRAMS, DEAD

(By Barbara Basler)

Arthur Charles Nielsen, the Middle Western engineer whose little silver boxes are the controversial but uncontested scorekeepers of American television, died after a long illness in Northwestern Memorial Hospital in Chicago on Sunday. He was 83 years old.

Mr. Nielsen was the founder and former chairman of the A. C. Nielsen Company, the largest marketing research organization in the world. Under his guidance, the concern, organized in 1923, grew into a multinational corporation—charting what the average family watches on television, what kind of aspirin it buys, what kind of shampoo it uses, what kind of cereal it eats.

As Mr. Nielsen himself once observed, "You might say that Nielsen is everywhere."

The television rating system that Mr. Nielsen devised exerts a magical—some say even demonic—control over network programming, with its figures dictating, to a large extent, who and what appears or disappears from the American television screen.

NETWORKS ARE LARGEST CUSTOMERS

While several hundred companies subscribe to the Nielsen ratings, the three television networks are by far the largest customers, with each one spending about $1.5 million to $2 million a year for the service.

Along with the television programs themselves, television network administrations, and the careers of television newsmen, producers, writers and actors can all rise or fall on the Nielsen ratings, which rely on a weekly sampling of 1,170 of the nation's 73 million television households to gauge what Americans are watching.

However, the rating service last year accounted for only 10 percent of the concern's total revenues of $398 million. The company, with headquarters in Northbrook, Ill., a Chicago suburb, has offices in 23 countries and includes 80 separate services—from the processing of cents-off product coupons to the handling of change of address labels for magazines.

By far, its largest, and most lucrative operation is its retail marketing index, which tracks the number of people who buy particular grocery and drugstore products.

BORN IN CHICAGO IN 1897

Mr. Nielsen, who lived in Winnetka, Ill., was born in Chicago in 1897. Both his parents were trained as accountants, and by age 9, Arthur was using double-entry bookkeeping to record his earnings and expenditures.

In 1918, he was graduated from the University of Wisconsin's Engineering School, where he was the class valedictorian, having received the highest grades in the school's history.

After working briefly as an engineer, Mr. Nielsen organized his own company—financed with $45,000 raised largely from his former fraternity brothers. The concern, which specialized in performance surveys of industrial equipment, nearly went bankrupt twice in its early years. Ten years later, the Nielsen company entered another field of market research, instituting its food and drug index, a research service that charts the retail flow of specific products.

In 1942, the concern began its national radio rating service, which was highly successful, and relied on the Audimeter, a device that could record which stations a radio had been tuned to throughout the day.

BEGAN TV SURVEY IN 1950

In 1950, the Nielsen company introduced its television rating service, based on a sampling of television homes scattered around the United States. Each member of the sample has a small silver box—still called an Audimeter—attached to the set, which records when the set is turned on and the channel to which it is turned. This data is relayed to a computer center where it is collated with information gathered from viewing diaries kept by a smaller sampling of households.

Using information from these two sources, Nielsen projects not only the total audience of each program, but also its breakdown for each program by age and sex. A Nielsen rating of 20, represents the percentage of the American households that have tuned in a program.

Mr. Nielsen is survived by his wife, the former Gertrude Smith; two sons, Arthur C. Jr., chairman of the A. C. Nielsen Company, and Philip R., vice president; three daughters, Margaret Stiegele, Barbara Nielsen-Whitcomb and Virginia Upton; 14 grandchildren and five great-grandchildren.

CYRUS VANCE'S SPEECH AT HARVARD

Mr. PERCY. Mr. President, at the Harvard University commencement exercises on June 5, 1980, former Secretary of State Cyrus Vance delivered his first major speech since resigning from the State Department in April. In this speech he specified the many challenges facing American diplomacy in our relations with our allies, our adversaries, and the developing countries, in arms control and in military preparedness.

On economic issues he emphasized the energy crisis and declining productivity. He said that decreasing productivity not only fuels inflation, but undercuts our trading position and the strength of the dollar. On energy, he stated:

> If the United States and the other industrial nations do not act decisively to reduce our levels of energy consumption, and particularly our demand for oil, we will stand on the brink of economic disaster by the end of the decade—or sooner.

I ask unanimous consent that the text of Mr. Vance's speech be printed in the Record at this point.

There being no objection, the text was ordered to be printed in the Record, as follows:

Speech by Cyrus Vance

Yours is the first Harvard class to graduate in the decade of the 1980's. The decisions our Nation makes now will shape the future of that decade.

We can either work to shape, in a wise and effective manner, the changes that now engulf our world or, by acting unwisely, become shackled by them.

It is a time to set and stick to basic goals. Neither we nor the world can afford an American foreign policy which is hostage to the emotions of the moment.

We must have in our minds a conception of the world we want a decade hence. The 1990 we seek must shape our actions in 1980, or the decisions of 1980 could give us a 1990 we will regret.

Supporting the efforts of third world nations to preserve their independence and to improve the quality of life for their people, particularly those hovering at the edge of survival; strengthening the health and well-being of our economic system within a strong international economy.

These are the decisions, along with preserving the military balance while effectively managing our competition with the Soviet Union and fostering strong alliances of free nations—these are the decisions we should make now.

These goals are ambitious. It would be naive to think otherwise. But unless our reach is bold, our grasp will fall far short.

Let us keep in mind the world from which we start: A world undergoing rapid change, with growing expectations, better education, quickened communications; a world in which neither the United States nor any other country commands a preponderance of power or a monopoly of wisdom. It is a world of conflicts, among nations and values, among social systems and emerging new interests. It is a world in which competitive superpowers hold in their hands our common survival, yet paradoxically find it beyond their power to order events.

There is a disturbing fear in the land that we are no longer capable of shaping our future. Some believe that we have lost our military muscle; others worry that our political will has been sapped.

I do not accept this gloom. It discards the abiding pragmatic philosophy that has characterized America ever since its founding.

I consider mistaken the view that we and we alone are responsible for all the confusing changes that we see around us. This is a serious misreading of our condition, a perverted hubris that over-estimates our power and our responsibility for ill and underestimates our capacity for good.

The international diffusion of power and intellect is a fact. It will not change. It requires fresh and vital forms of action, not regret and pining for supposed "good old days."

What is to be regretted is a reluctance to relate our basic purposes to these new conditions. Yesterday's answers will not provide tomorrow's solutions.

It seems to me that much of the current dissatisfaction with the world and our role in it rests on certain fallacies. These illusions must be exploded before our Nation can chart a coherent and determined course in foreign policy.

The first fallacy is that a single strategy—master plan—will yield the answers to each and every foreign policy decision we face. Whatever value that approach may have had in a bipolar world, it now serves us badly. The world has become pluralistic, exposing the inadequacy of the single strategy, the grand design, where facts are forced to fit theory. Given the complexity of the world to which we have fallen heir, the effect of a single strategy is to blur this complexity and to divide nations everywhere into friends and enemies.

A second widely accepted fallacy is the fear of negotiation, the worry that somehow we will always come out second best in any bargain. This fallacy assumes we have a realistic alternative of going it alone, of not bothering to recognize the legitimate interests and desires of other peoples. Without the fair bargain, achieved through negotiation and diplomacy, there is only a misguided, failed effort to impose one will upon another.

Denying others a fair bargain and its benefits will not alter their behavior or reduce their power; it will simply have the effect of denying ourselves the same advantages. If America fears to negotiate with our adversaries, or to bargain fairly with third world nations, we will not have a diplomacy. And we, no less than others, will be the loser.

A third myth that needs to be exploded is that there is an incompatibility between the pursuit of America's values in our foreign policy, such as human rights, and the pursuit of our interests.

Certainly the pursuit of human rights must be managed in a practical way. We must constantly weigh how best to encourage progress while maintaining an ability to conduct business with governments—even unpopular ones—in countries where we have important security interests.

But we must ultimately recognize that the demand for individual freedom and economic program cannot be long repressed without sowing the seeds of violent convulsion. Thus it is in our interest to support constructive change, as we did, for example, in the Dominican Republican, and are seeking to do in Central America, before the alternatives of radicalism or repression force out moderate solutions.

We know from our own national experience that the drive for human freedom has tremendous force and vitality. It is universal. It is resilient. And, ultimately, it is irrepressible.

In a profound sense, then, our ideals and our interests coincide. For we have a stake in the stability that comes when people can express their hopes and build their futures freely.

Further is the dangerous fallacy of the military solution to nonmilitary problems. It arises in particularly acute form at times of frustration, when the processes of negotiation are seen as slow-moving and tedious.

As a global power the United States has an extraordinary range of interests. That is why we must make sure that our pursuit of the desirable does not interfere with our achievement of the essential.

If, by 1990, we have not made progress in the four basic areas I listed earlier, the world will indeed be the inhospitable place many now fear it is. In each area we can make progress—if. If we listen to our hopes no less than our fears. If we are prepared to sacrifice now for our future good. And, most important, if we work with other nations to resolve problems none can solve alone.

First, we must preserve the global military balance and achieve, as well, balance in our political relations with the Soviet Union.

Our military strength is important to our own safety, to a strong foreign policy free from coercion, to the confidence of allies and friends, and the future of the reciprocal arms control and other negotiations. Our strength also buttresses regional balances that could be upset by the direct or indirect use of Soviet power.

Maintaining the military balance will be expensive. To limit the costs, and to increase our safety, we must have an effective arms-control policy as an integral part of our security policy.

Yet when the historian of 1990 looks back upon the year 1980, I believe a profound mistake may well be identified: a failure to ratify the SALT II treaty. As a symbol of our hopes for a more peaceful world, as a commitment to work toward better security through arms control and as a process of trying to work out differences with an adversary, this treaty stands at the very heart of a sensible and far-seeing American foreign policy.

Without this treaty our efforts to prevent the spread of nuclear weapons will be in jeopardy. If the United States and the Soviet Union fail to make real headway toward controlling nuclear weapons and eliminating nuclear testing, nonnuclear nations will have less reason for their own restraint.

American military power is essential to maintining the global military balance. Our defense forces must be modernized—and they will be. But increased military power is a basis, not a substitute, for diplomacy.

I have heard it argued that our response to a changing world must be a new emphasis on American military power and the will to use it. This is reflected in proposed new budget priorities in the Congress, in which unnecessary defense spending squeezes out domestic programs and foreign assistance. There is a near-consensus on the need for defense increases. But it is illusion to believe that they are a substitute for the diplomacy and resources needed to address such problems as internal change and basic need in other nations or a battered international economy.

The use of military force is not, and should not be, a desirable American policy response to the internal politics of other nations. We believe we have the right to shape our future; we must respect that right in others. We must clearly understand the distinction between our readiness to act forcefully when the vital interests of our nation, our allies and our friends are threatened, and our recognition that our military force cannot provide a satisfactory answer to the purely internal problems of other nations.

Finally there is a pervasive fallacy that America could have the power to order the world just the way we want it to be. It assumes, for example, that we could dominate the Soviet Union—that we could prevent it from being a superpower—if we chose to do so. This obsolete idea has more to do with nostalgia than with present-day reality.

Spread over the widest territory of any nation on earth, the Soviet Union has its own strategic interests and goals. From a state of underdevelopment and the ravages of war, it has built formidable military and industrial resources. We should not underestimate these resources any more than we should exaggerate them. We must preserve and manage a position of essential equivalence with the Soviet Union. It is naive to believe that the Russians will play by our rules any more than we will accept theirs. It is naive to believe that they—any more that we—would willingly accept a position of second best in military strength.

A dangerous new nostalgia underlies all these fallacies—a longing for earlier days when the world seemed, at least in retrospect, to have been a more orderly place in which American power could, alone, preserve that order. That nostalgia continually erodes confidence in our national leadership for it encourages expectations that bear no relationship to reality. And it makes change in the world's condition seem all threat and no opportunity. It makes an unruly world seem more hostile than it is. The fact is that we are a people who not only have adapted well to change but have thrived on it.

The new nostalgia leads us to simplistic solutions and go-it-alone illusions, diverting our energies from the struggle to shape change in constructive directions. It is self-indulgent nonsense, bound to lead us into error, if not disaster.

What course is open to us now?

Our real problems are long term in nature. It will not do to reach for the dramatic act, to seek to cut through stubborn dilemmas with a single stroke. Against the real problems now facing us this approach will not only fall far short but also create new problems.

Obviously, immediate crises have to be dealt with as they occur. And we should learn from these events. But they should never be allowed to distort our foreign policy goals.

Without this treaty both sides will have more nuclear weapons than with it. In particular, the Soviet Union will have thousands of additional nuclear warheads.

Without this treaty it will be much more difficult for us to undertake reliable planning for our military forces since we will not be in as good a position to know what is going on within the Soviet Union. The treaty bans practices that would prevent each side from being able to verify compliance with its terms.

Without this treaty there is bound to be less emphasis placed in both of our societies on conciliation of differences without conflict. Political elements who wish to emphasize conflict over cooperation will be strengthened.

Without this treaty the process of arms control might be dealt a blow from which it could not recover. Can anyone doubt that this will make the coming decade more dangerous?

It is not too late, but it may soon be. I believe that the Senate must ratify the Salt Two Treaty before the end of this year. Certainly we must continue our firm and sustained response to Soviet aggression against Afghanistan. But neither that aggression nor the fact that this is a political year are sufficient grounds for a failure to act in our own national interests. I am aware of the political difficulties in acting at this time. But if we fail to act we will someday ask ourselves why we were blinded by considerations of the moment and lost a vital long-term opportunity. It is far too easy, in an election year, to let what may seem smart politics produce bad policies.

Both the United States and the Soviet Union will have to work even harder in the years ahead to avoid extremely serious confrontations. How we conduct our relations with the Soviet Union will perhaps be the most significant test of our maturity of judgment, our clearsighted recognition of real interests and our capacity for leadership.

It is foolish and dangerous to believe that we can manage this relationship by deterrence alone. We also will need to provide positive incentives.

We must use both our strength and the prospects of mutually beneficial agreements to help shape competition with the Soviet Union. We must work for implicit if not explicit agreements to bound our competition by restraints, by a kind of common law of competition.

The means to implement this goal will rest on patience, steadiness, clarity and consistency. In our approach toward Moscow we cannot afford wild swings from being too trusting to being hysterical. And even as we maintain a steady course we must recognize that it will require constant effort to mold that common law of competition. That effort must include both deterrence and the possibility of cooperation where our interests coincide.

We must also think anew about how to manage our affairs with the People's Republic of China in relation to those with the Soviet Union. Even as we act to develop nonmilitary ties with China we should strive to restore a more balanced approach to both countries.

A second and paramount goal for our nation should be to nurture strong alliances among free nations.

But there is no gainsaying that relations among the industrial democracies are uneasy. We must address the causes for this; they may well be more fundamental in origin than we care to admit.

We must find better ways to coordinate our policies in areas beyond our territories, for it is there that we increasingly face new problems. While our immediate interests may sometimes diverge in such areas, our basic interests run in parallel and, accordingly, should provide grounds for common action.

Our allies must recognize that while the American nuclear shield is unshakable and our commitment to the common defense is firm, they cannot expect America to bear a disproportionate share of the burdens of deterrence.

We, for our part, must accept the other side of the same coin. We need common efforts because we cannot bear all the burdens ourselves, nor do we have all the answers. The price to us will be a willingness to consult and adjust for the sake of allied agreement. Consultation cannot be a substitute for a clear sense of direction. But there is no point in consulting if we are unwilling then to adjust our course for the sake of a common purpose.

Partly because of the strength of our alliances, it is the third world—more than our alliance areas—that is likely to be the cockpit of crises in the coming decade.

We must first be clear on the nature of our challenge there.

Certainly, as we have seen in Afghanistan and elsewhere in the third world, Soviet actions pose threats we must meet.

But we will meet them ineffectually if we react only by imitating Soviet tactics—emphasizing the military at the expense of the political and disregarding the indigenous yearning of third world nations for true independence and economic justice.

We must recognize the strong sense of national pride—and fierce independence—of developing nations. Having fought to throw off the burden of outside domination, they will strenuously reject the efforts of other nations to impose their will. We should respect and reinforce that spirit of independence. Our interests are not served by their being like us but by their being free to join with us in meeting the goals we share.

Support for the political independence and economic growth of the poorer nations is important primarily because these nations matter in their own right. Their conflicts could also become our wars. Our trade with them is increasing. Their instabilities can affect our interests in many ways.

Our own national interests are served when we support the security of third world nations with our assistance. When we help them develop their economies, we not only meet pressing human needs, we invest in important trading relationships. Our interests are served by supporting peaceful change within those nations and by encouraging the peaceful resolution of their conflicts.

For example, our interests are clearly served by our efforts to help resolve the Arab-Israeli conflict and bring peace to this troubled and vitally important region.

In 1990, as in 1980, the problems of the third world will remain a central challenge to our wisdom. No realistic plan yet exists to defuse the potential dangers or resolve all the anuish of hundreds of millions of people living in degrading poverty. But over the next decade the United States can make a difference with regard to the severity of those problems—in helping create progress and hope, in not disregarding the violence and suffering of despair.

To make that difference we must first accept our differences with Third World Nations, yet work with them where our interests coincide. Peace came to Zimbabwe because of the ability of Britain and the United States to work with the African Nations of the region. Had the opponents of improved relations with Mozambique, Zambia, Tanzania and others had their way, the situation today might well have been far different. The logical corollary is clear; it makes no sense not to recognize the Government of Angola, a government with which we have cooperated in the search for peace in Southern Africa despite fundamental differences on other issues.

It is imperative that we also put our resources behind our policies.

American aid programs comprise less than 1.5 percent of our Federal budget. They—not rhetoric, not good will—are what make the most difference in supporting our Third World diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in the Congress and elsewhere.

The result is—I can think of no other word—disgraceful.

Our security assistance has declined by 25 percent over the past 20 years.

The United States ranks 13th among the 17 major industrial powers in percentage of GNP devoted to development assistance. We will likely soon drop another notch.

We are far in arrears in meeting the pledges we have made to the multilateral development banks—and likely to slip still farther.

It is not enough to strengthen our defenses. We must also increase the resources needed to support our diplomacy, a diplomacy designed to reduce the chances our military forces may be needed.

Other nations do not want the rhetoric of American leadership; they want its substance. And we must provide it. The U.N. global negotiations on relations between developed and developing countries—opening this fall in New York—offers a prime opportunity for us to demonstrate that leadership.

This brings me to a fourth goal for the decade: a strong American economy in a strong international economy.

I ask you to ponder the implications for our future of two stark statistics:

According to the International Energy Agency, based on current trends, by 1985 world demand for oil is likely to outstrip global oil production by 2 million barrels a day. Consider the implications of this fact for world oil prices and our own economy; for the hard pressed economies of the poorer nations; for relations among the industrial nations, if there is a new scramble for energy.

The other statistic is domestic in nature: productivity in the United States declined in every quarter of 1979 after the rate of increase in our productivity had steadily slowed over the previous two decades. Decreasing productivity not only fuels inflation. It undercuts our trading position and the strength of the dollar. And Declining productivity means increasing domestic pressures for protectionism.

In both cases—meeting the energy crisis and addressing the problem of productivity—we cannot reply on the genius of some economist with a new solution. We need acts of political will.

If the U.S. and the other industrial nations do not act decisively to reduce our levels of energy consumption, and particularly our demand for oil, we will stand on the brink of economic disaster by the end of the decade—or sooner. The effort must be made now.

The President recognized the danger posed by our energy dependence and, from the earliest days of the administration, sought comprehensive legislation to deal with it. Public skepticism and congressional inaction have delayed the full implementation of his program for 3 costly years. In the meantime the oil exporters have added price increase after price increase at will and used their oil power for political ends. This will not change unless we are willing to let domestic energy prices reflect the reality of the marketplace and to tax excessive use ourselves instead of letting OPEC do it for us; unless we produce more energy-efficient cars and houses and appliances and channel sufficient resources into developing alternative energy sources; unless we share equitably with other industrial countries the burden of conservation and stand together against unjustifiable price increases.

U.S. productivity declined in every quarter last year. Solving that problem will also be costly. But there must be reduced consumption and a higher rate of capital investment; a willingness to shift from obsolete industries instead of propping them up with protectionist trade barriers; incentives for innovation; responsible prices and wage demands by industry and labor. Each is at root a question not of economic theory but of national will.

Meeting the four challenges I have described depends not on quick fixes, new gimmicks, bluffs or threats. It requires steadiness, political will, and understanding of a world in change.

If we are prepared to accept the implications of a world of diffuse power, and work with others where we cannot succeed alone, there need be no insurmountable barriers to our progress.

There should be no mystery about how to manage East-West relations with realism and prudence, creating more cooperative alliances, addressing the problems of third world nations and acting now to strengthen our economy for later.

The mystery will be for the historian of 1990, if—blinded by the new nostalgia—we fail now to shape our future. The puzzle will be why we reacted against change in the world and did not seek to shape it. The historian will then conclude that ours was a failure not of opportunity but of seeing opportunity; a failure not of resources but of the wisdom to use them; a failure not of intellect but of understanding and of will.

It need not be so. For now, as always before, our destiny is in our hands.

GASOLINE RATIONING: SLOW, CUMBERSOME, AND COSTLY—AN ALTERNATIVE PLAN MIGHT BE BETTER

Mr. PERCY. Mr. President, if our Nation's critically important supply of imported oil were suddenly and dramatically cut back, the United States could be thrown into panic and disarray. It could turn our recession into a depression, and touch off widespread unemployment. And it would set off a scramble for our remaining supplies of gasoline that would dwarf any hardships this Nation endured during previous oil shortages. It would be, quite simply, a nightmare.

If the possibility of a cutoff in oil imports were remote, we could dismiss it as no more than a bad dream. But it is more than that. It is a very real possibility that grows larger every passing day. Experts agree that a 20-percent shortfall in imported oil could be triggered by any number of events which we are powerless to prevent or control. Chief among these, of course, would be political turmoil in the Middle East.

In short, oil, normally the bedrock of our economy, could turn to quicksand overnight. And right now this Nation is woefully unprepared to cope with that.

We in the Senate and our colleagues in the House of Representatives have just been asked to review the administration's latest proposal to ration gasoline if a 20 percent or greater shortage were to occur. The submission of this proposal was delayed for many months, largely because of mounting concerns about the projected costs of the program and the rate at which those costs have been rising. I have serious doubts whether this plan—or indeed any coupon rationing plan—would be the best way to help the Nation survive a serious oil shortage. As we consider the administration's plan, I think we should ask ourselves whether there may be a simpler, cheaper, and faster way of accomplishing the same thing—such as, for example, a standby tax/rebate plan.

I have five major concerns about the administration's coupon rationing plan which lead me to think that a tax/rebate alternative may at least be worth serious consideration:

First, the coupon rationing plan is unofficially said to require 12 months or more of lead-time before it can be implemented, even in a serious national emergency. In my view, a standby rationing plan that demands this much lead-time is virtually worthless. By the time it is ready to go, the country would have run out of gasoline, and we would be walking to work if we could get there at all or if the factories and offices were still open.

The administration proposes that we solve this lead-time problem by spending more than $100 milion on preimplementation planning over the next year—and, I expect, millions more in later years to keep the plan in a state of readiness. We are now in the painful but necessary process of trimming many worthwhile programs to balance the budget. Every $100 million we spend on gas rationing is $100 million that cannot go into the defense budget, State and local grant programs, the child and elderly nutrition program, or other areas that badly need funds.

Second, the rationing plan would cost at least $2 billion per year to operate—just to print, distribute, and collect the coupons, and to hire an army of bureaucrats to run the program. Billions more in paperwork costs might be imposed on banks, gas stations, and other businesses which would certainly pass those costs on to their customers.

Third, despite all these costs, I still doubt that the plan would work very well. Consider the administrative complications and public confusion that would certainly result from using what amounts to a second U.S. currency. It staggers the imagination to realize that 3-months supply of ration coupons would probably equal half the paper volume and one-third the monetary value of all the dollar bills now in circulation. Theft, fraud, and counterfeiting would be very serious problems. Consider also the "white market," through which motorists could buy and sell extra coupons to each other at a mutually agreed upon price. How would this work—not in theory, but in actual practice? In my own State of Illinois, I can foresee extra coupons being available in Chicago where we have a mass transportation system, but I am very concerned that downstate businesses and smaller-town residents may not be able to buy extra coupons no matter how badly they may need them because of absolute reliance on the automobile for transportation.

Fourth, the plan will not be perceived by the American people as fair. The administration's latest version of the plan has more exempt or priority categories than the plan Congress rejected last year. Each time any special group is allocated extra coupons, the average motorist receives less. As the plan undergoes many more months of what DOE calls "preimplementation planning," the risk grows that special interests will demand and win an even greater share of coupons. With coupons distributed to registered vehicles instead of individual motorists, many people may feel, rightly or wrongly, that the ration plan gives an undue advantage to higher income, multicar families.

One motorist's yearly supply of ration coupons could be worth as much as $1,000, so the stakes are very high. When these ration coupons do start going out through the mails, errors in recordkeeping and addresses will mean that as many as 10 to 15 million Americans will not receive their coupons. How fair can a system be if it guarantees that 20 percent of motorists will be cut off from the coupons they deserve? If the public ever does come to perceive rationing as basically unfair, we will buy very little with all the money we spend on it.

Finally, rationing itself might not end gas lines. If the white market works, coupons may cross State lines in numbers that are impossible to foresee—so even the best allocation rules imaginable may direct supplies to the wrong places. To date, DOE's administration of gasoline allocation rules has not been very good, suggesting that we should expect a lot of problems in this area. Gas lines might also occur if too many ration coupons are issued, if motorists use their coupons faster than expected, or if counterfeiting is rampant.

Even if we do not like the idea of rationing, we need some alternate standby plan to help the Nation cope with the kind of serious oil shortages that could occur at any time. We should realize, however, that rationing is not the only standby mechanism that could steer us through a shortage. A substantial emergency tax on gasoline could, for example, serve virtually the same purposes as rationing. Senator BENNETT JOHNSTON has suggested that an emergency tax/rebate plan could be modeled after the coupon rationing plan. In a sense, we would be giving motorists dollar bills instead of ration coupons. Administrative costs could be cut even more by using income or social security tax withholding to rebate the tax to motorists.

Here is how such a proposed emergency tax/rebate plan might work: Suppose an OPEC oil embargo cut our gasoline supplies by 20 percent. As quickly as possible, a substantial tax could be imposed on every gallon of gasoline. At the same time, income tax withholding rates could be slashed dramatically so that the average worker would immediately receive the extra dollars per month that he or she would need to be able to pay for the purchase of gasoline without having to dip into family savings. Additional rebate procedures would have to be developed for individuals who are not salaried, such as those on commission, housewives, and the unemployed. This tax and these rebates would last only as long as the emergency continued.

What might be the advantages of such an emergency plan, compared to the administration's coupon rationing proposal? Perhaps most important is the fact that it could be put into effect almost as soon as a shortage occurs, sparing the Nation from potentially devastating economic hardship. It would cost less—probably a lot less—than coupon rationing. It should be far easier to administer and enforce, mainly because it would not involve what amounts to a new currency. Businesses, smalltown motorists, and everyone else would be able to buy as much extra gas as they need, albeit at the higher price. Rebate provisions would be no more complicated and no less fair than the coupon distribution rules under rationing.

An emergency tax/rebate plan would have some drawbacks. Some guesswork would have to be involved in setting the level of the tax. If the tax is too low, gas lines could occur. Unless the rebates were distributed at roughly the same time as the tax is collected—for example, via reductions in income tax withholding—the plan could have a serious drag effect on the economy.

It is crucial that the Congress have answers in hand before passing final judgment on the administration's forthcoming coupon rationing plan. I understand that staff in the Department of Energy and other executive agencies have been looking at the tax/rebate option during the past several months; the Congress should be told what they have found.

With this in mind, on May 8, I sent letters to the Secretary of Energy, the Secretary of the Treasury, the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget, asking each of them to answer specific questions within their respective areas of expertise. I have asked for answers by June 13, which should be feasible for them, given the attention that each agency has already given to this issue. This would insure that all of us in the Senate and our colleagues in the House will have the benefit of this information before we have to approve or disapprove the administration's rationing plan.

I have listed the questions that I put to each agency and I ask that they be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS POSED TO THE HONORABLE CHARLES W. DUNCAN, JR., SECRETARY OF ENERGY

1. Are you undertaking any systematic analysis of the relative costs and benefits of a tax/rebate plan versus a coupon rationing plan? If so, when can your findings be made available to the Congress? If not, why not?

2. In an emergency, what would be the advantages of having gasoline stations collect ration coupons rather than a fixed amount of money whenever gasoline is purchased? Are these advantages worth the extra costs and administrative complications of creating a second currency?

3. If all exports of crude oil from Iran were halted, creating a worldwide oil shortage and triggering a U.S. shortage pursuant to the I.E.A. agreement, how large would an emergency excise tax have to be to enable us to endure this shortage without gasoline lines? Similarly, how large would an emergency excise tax have to be to enable us to survive a complete shut-down of crude oil production in the Persian Gulf?

4. Assuming you had prepared a standby tax/rebate plan in advance, how quickly could it be implemented during a serious national emergency, and how does this compare with your projections for a coupon rationing plan?

5. In your public hearings and written comments on the coupon rationing plan and other conservation proposals, what did you learn about the willingness of the public to accept an emergency tax/rebate plan in lieu of other measures? Did you hear more concerns raised about the price of gasoline during an emergency, or about the availability of gasoline at any price?

6. What might be the long-range conservation effects of an emergency tax plan? Could a temporary gas tax lead to more permanent changes in gasoline consumption habits than a temporary ration plan might do?

QUESTIONS POSED TO THE HONORABLE G. WILLIAM MILLER, SECRETARY OF THE TREASURY

1. How long would it take to get a tax collection apparatus in place during an emergency, and how would the tax be collected?

2. How would each of the following rebate mechanisms work, and what would be their respective administrative advantages and disadvantages:

a. Income tax withholding;

b. Social security tax withholding;

c. Direct payments to individuals who not pay income or social security taxes, as a supplement to (a) or (b) above;

d. Direct payments to all owners of registered vehicles in a manner comparable to that envisioned for the distribution of ration coupons; and

e. Any other rebate mechanism you find worthy of consideration.

3. What theft, fraud, tax evasion, or other enforcement problems would you envision for a tax/rebate plan? How would you compare these problems with the likely consequences of implementing a coupon rationing plan?

Questions Posed to the Honorable James T. McIntyre, Jr., Director, Office of Management and Budget

1. What do you see as the two or three most feasible and effective rebate mechanisms that could accompany a tax? How long would it take to implement each of these mechanisms?

2. How much confidence do you have that the government could set the tax and rebate levels at market-clearing rates? Would those levels have to be adjusted over time?

3. Could you compare the costs of a tax/rebate plan with those of a rationing plan in both their pre-implementation and implementation phases?

4. If a rationing plan would in fact cost substantially more to implement than a tax/rebate plan, is that extra cost justified by any special non-economic advantages to either approach?

5. What Constitutional authority and policy precedent are there for the Congress to grant the President standby power to implement a tax/rebate plan in a supply emergency? In what form might the President request this authority, and how might this standby authority be triggered?

Questions Posed to the Honorable Charles L. Schultze, Chairman, Council of Economic Advisers

1. If a tax/rebate plan were implemented, what would be the economic impacts of using the following rebate mechanisms;

a. A lump-sum reduction from income tax or social security tax withholding, with direct payments to those who pay no income tax;

b. A proportionate reduction from income tax withholding (perhaps applying only to the first $30,000 of income), with direct payments to those who pay no income tax;

c. A proportionate reduction from social security tax withholding, with direct payments to those who pay no social security tax;

d. Direct, lump-sum payments to all owners of registered vehicles in a manner comparable to that envisioned for the distribution of ration coupons; and

e. Any other rebate mechanism you find worthy of consideration.

2. What would be the economic consequences of a tax that is set too high (i.e., restraining demand too much), a tax set too low, or a rebate mechanism which may not make payments until sometime after the tax is imposed?

3. What consequences would result from the distribution of too few or too many ration coupons, or a delay of several months between the start of a supply emergency and the implementation of a coupon rationing program?

4. How would you compare the effectiveness of the "white market" feature of a coupon rationing program with the ability of a tax rebate plan to ensure that businesses or individuals who badly need gasoline can acquire it at any price?

SECOND ANNUAL NATIONAL LAND USE CONFERENCE

Mr. JEPSEN. Mr. President, recently I addressed the 2d annual National Land Use Conference. The following is the text of my remarks which I ask unanimous consent be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Jepsen

I am pleased to be here this morning to address the 2nd annual Land Use Conference. I know that a lot of hard work has gone into the Conference and I am hopeful that discussions here will help to pave the way toward satisfactory resolutions of some major land use issues.

In my home state of Iowa the land use patterns are a little different than in the states many of you represent. For one thing, Iowa has the second smallest number of acres in federal ownership of any state in the Union, only slightly over ½ a percent. Furthermore, of a total 36 million acres of land in the state, 34 million acres, well over 90 percent, is farmland. Forty percent of Iowa workers are directly employed by the agricultural industry and eight out of ten Iowa workers are employed directly or indirectly by farming.

When Iowans were polled a couple of years ago to determine what they thought was Iowa's greatest resource, the resounding response was "the land." And when they were asked what the number one problem requiring attention was they answered "soil erosion." Thomas Jefferson once said "the Earth is God's gift; the soil is the gift of God to the living." In Iowa we believe that. And in Iowa we are doing something about it.

Soil conservation is one area where much has been achieved by cooperation between private landowners and local, state, and federal governments. The total combined voluntary cost-share budget is currently $30 million for conservation practices in Iowa every year. Soil conservation offices offer technical assistance to help farmers so that they can preserve the land to maintain food production for generations to come.

Forty percent of Iowa farmland is already properly protected against soil erosion. Two-thirds of the landowners have signed an agreement with Soil Conservation Districts stating that they want to cooperate in saving the soil from erosion. Farmers in Iowa have voluntarily built enough hillside terraces to stretch across Iowa 200 times. The Jepsen family farm in Northeast Iowa, I am proud to say, has incorporated extensive soil conservation practices, including terracing. One-third of Iowa's row cropland is tilled at a minimum to help keep the soil from wearing out. All of this has been accomplished through the strictly voluntary efforts of private landowners.

While we have come a long way, few would deny that the soil erosion problem is far from licked. The recent Resource Conservation Act appraisal, mandated by Congress, showed that some 14 million acres of cropland is losing top soil at a rate of 9.9 tons of top soil per acre. An acceptable rate is from 1 to 5 tons per acre, depending upon the soil type. The report shows that pastureland and woodland soil is also eroding.

Mention of the Resource Conservation Act or RCA evokes a feeling of apprehension for some who are concerned with a couple of the soil conservation "options" mentioned in the RCA appraisals. Although I was not serving in Congress when the RCA was passed, in 1977, it is my understanding that Congress's intent in passing the Act was to prove, in quantifiable terms, that voluntary soil conservation practices are working, and that erosion can be controlled by each individual landowner, given the proper incentives. It was to prove that cost-sharing and other conservation incentives are one of the government's best investments.

The RCA appraisals listed several program options if it turned out that present soil conservation practices were not working. At the far end of the option spectrum were mandatory conservation requirements. I assure you that such requirements will not be forthcoming. Mandatory soil conservation is no option at all. If I may borrow a line from Senator Melcher, Chairman of the Soil Conservation Subcommittee of which I am a ranking member, "A bill dictating land use to private landowners has no more chance in Congress than the proverbial snow ball in the hot place." The RCA has proved the value of existing voluntary programs; and it will show what else may need to be done and how we can best do it—voluntarily.

The RCA process was a thorough one because Congress made sure that the states, the local governments, and the Soil Conservation Districts were involved in the review. In Iowa, the Department of Soil Conservation and the Iowa Association of Soil Conservation Districts got some 8,000 people involved in the Iowa Resource Conservation Plan which listed possible recommendations to control soil erosion. Increased cost-sharing was recommended as were additional tax incentive measures. The Iowa RCP also points out the need for additional research in farm chemicals and soil tilth. Toward that end, we are attempting to acquire funding for a soil tilth center at Iowa State University to help identify the properties involved in soil deterioration.

There are many good recommendations in the Iowa Resource Conservation Plan. Most interestingly, the suggestions are for incentives which will work to further encourage voluntary soil conservation practices—by private landowners.

I believe that 99 percent of farmers and ranchers in the United States will take the best possible care of their land that they can afford. The Soil Conservation Service's saying "save the soil today for food tomorrow" is understood by the private stewards of the land. As James Wilson said "Who would cultivate the soil and sow the grain if he had no special interest in the harvest? . . . What belongs to no one is wasted by everyone. What belongs to one man in particular is the object of his economy and care . . ."

I have emphasized the soil conservation accomplishments in Iowa by private landowners, local governments, and soil conservation districts to illustrate the point that decisions with regard to land use are oftentimes best made by local interests. This is the crux of the argument made by those supporters of the Sagebrush Rebellion in the West. Considering the fact that the Federal Government owns over half the land in many of the Western States, the Sagebrush Rebellion seems to be an attempt to make the use of the land in those States more responsive to local needs. Sagebrush Rebellion advocates are not seeking to pave the land over to put up a parking lot, but they do want to make the decision locally as to how their land should be used.

The Federal Government, perhaps inadvertently, has too often failed to take local interests into account when acquiring or managing land. When Federal agencies displace landowners for a highway, or condemn homes to build a dam, or direct that fields and woods used for generations to hunt and fish be placed in restricted wilderness—they usually do so with the bureaucratic indifference that alienates and offends John Q. Public. The collective consequences of such actions understandably lead the public to mistrust the Federal Government's pronouncements of "controlling land for the larger public good."

A recent General Accounting Office report entitled "Federal Drive To Acquire Private Lands Should be Reassessed" confirms this. The report concludes that it is the policy of most Federal agencies to acquire as much private land as possible regardless of need, alternative land control methods, and impacts on private landowners.

Land use is one of the more difficult issues facing our country today. There can be so many conflicts of interest that some would throw up their hands, decide on a very strict policy pleasing few, and say that's the only way to "solve" this mess. But complex problems don't always have an easy way out; there has to be some give and take on all sides. Gifford Pinchot, the first Chief Forester, once made a statement about the National Forest which we can apply to land use concerns in general. He said:

"There are many interests in the National Forest which sometimes conflict a little. They must all fit into one another so that the machine runs smoothly as a whole. It is often necessary for one man to give way a little here, another a little there. But, by giving a little at the present they both profit by it a great deal in the end."

Perhaps this Annual Land Use Conference can serve as a stage for such profit in the future.

Thank you.

DAVIS-BACON HURTS MINORITIES

Mr. JEPSEN. Mr. President, within the next few weeks I will be offering an amendment to S. 2080, the Public Buildings Act, to require the Administrator of GSA to exempt at least 10 percent of the projects authorized under the act from Davis-Bacon's requirements for the purpose of doing a study to determine cost savings. I believe that such an experiment will provide the data to help us determine once and for all whether or not we can afford Davis-Bacon.

I point out that the cost of Davis-Bacon goes beyond dollars and cents, it also has a human cost because it impacts most heavily on small and minority contractors. Because they must pay prevailing wage rates determined by the Department of Labor, which tend to be higher than those paid by many nonunion contractors, it effectively freezes small and minority firms out of bidding on Federal construction.

A recent paper by Bill Keyes analyzes the issue of Davis-Bacon's effect on minorities in a thorough, comprehensive manner and I commend it to all my colleagues. I ask unanimous consent to have the paper printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECTS OF THE DAVIS-BACON ACT ON MINORITIES

During the Great Depression, many local construction workers were being displaced by migrant workers who were willing to work for lower-than-normal wages. So, in 1931, the Davis-Bacon Act was enacted to protect local construction workers' jobs by discouraging the employment of itinerants on federally financed or federally assisted construction projects of over $2,000.

Davis-Bacon, the nation's first federal law affecting minimum wages for private sector employees, required the Secretary of Labor to determine prevailing wages in areas where federal construction was to take place. Wages paid to workers on these federal jobs could not legally fall below prevailing wage levels determined by the Labor Department.

Because of difficulty in collecting wage data, the Labor Department's prevailing wage determinations have often been erroneous. In many cases, the Labor Department has determined prevailing wage rates for nonunion rural areas on the basis of union wages in urban areas more than one hundred miles away. The chief result of these erroneous determinations has been serious inflation in the construction industry. Instead of preventing local wages from being undercut, Davis-Bacon has actually forced wages upward. And instead of insuring that federal contracts would go to the local contractor, the Act has tended to give advantage in bidding to larger, urban, union, and usually white contractors at the expense of the small local contractor.

Of concern here is the negative effects of Davis-Bacon on minorities in this country—minority contractors, minority homebuyers, and minority communities.

MINORITY CONTRACTORS

(1) Minority contractors, who tend to be nonunion, are often discouraged from bidding for government contracts because of the Act's manpower structures.

While many minority contractors make extensive use of laborers, Davis-Bacon makes few allowances for them in its wage scheme. Laborers are usually young persons who have had little or no experience in construction work. Along with mixing mortar and pushing wheelbarrows, they have the opportunity to work with the skilled tradesmen, learning as they go, so they can later be paid the higher wages for doing the job of the skilled tradesman. These laborers are willing to accept the lower wages because they receive the benefit of moving into the construction labor market; the contractor benefits from hiring them because they do necessary unskilled labor at wages lower than the wages paid to journeymen.

Because Davis-Bacon requires that anytime anyone picks up a tool of a trade he must be paid as a journeyman in that trade, the contractor on a federally funded or federally assisted project has to pay laborers as painters one minute and carpenters the next, always higher than he would otherwise pay them. This defeats his reason for hiring unskilled laborers.

The minority contractor, therefore, is discouraged from bidding for government construction contracts because he would be forced to make one of two undesirable choices—whether to pay his inexperienced laborers at high journeyman's wages required by the Act or to fire them at the outset of the job because they cannot be as productive as their high Davis-Bacon wages would demand. Because of concern for these employees and because most of the contractor's jobs will not be governmental jobs, the minority contractor often chooses not to bid for jobs financed by the federal government.

Not only does Davis-Bacon disrupt the minority contractor's wage rates, but the Act's wide range of stipulations also disrupts his normal method of operation. While the contractor may wish to save money on manpower and supplies by spray painting, for example, Davis-Bacon permits only brush painting. Similarly, while the typical minority contractor has one crew of laborers responsible for moving all building materials around the job site, Davis-Bacon demands that ironworkers move metal and plumbers move pipe.

This disruption of normal methods of operation is another reason why the minority contractor often chooses not to bid for federally financed construction jobs.

(2) Secondly, the minority contractor is discouraged from bidding because of the decreased morale which results when his workmen move from a wage-inflated Davis-Bacon job to a private job at a lower pay rate.

Also, the contractor who has some of his employees working on a government job while others are working on a private job is certain to have serious morale problems due to the difference in rates of pay for people doing identical work.

(3) Recordkeeping requirements also present problems for the minority contractor. Under regulations issued pursuant to the Davis-Bacon Act, the contractor is required to keep detailed payroll records while construction is underway, showing wages and other benefits such as health insurance paid for each worker. A certified copy of this paperwork must be sent to the project's contracting officer weekly.

The contractor is also responsible for assuring that each subcontractor is complying with these same reporting requirements, and the contractor is responsible for certifying and forwarding each subcontractor's weekly payroll forms to the contracting agency.

Moreover, the contractor is required to keep a copy of his payroll records on file for three years after the project is completed.

The typical minority contractor is small in his operations and would therefore be forced to hire additional office personnel to handle this paperwork required by Davis-Bacon. Because contractors move back and forth from federal to private projects, with the average nonunion firm doing no more than 25% of its work on Davis-Bacon projects, it is impractical for the minority contractor to hire additional office personnel. The alternative to hiring office personnel is hiring an outside accountant. There again, because the minority contractor typically runs a smaller operation, he is less able to bear this cost than his larger, and usually white, counterpart. Thus, the paperwork requirements of Davis-Bacon clearly give an advantage to the larger contractor who has his own office pool sufficient to handle it. Because of this paperwork burden, the minority contractor often chooses not to bid on government construction projects.

(4) Wage competition exists in areas where government construction projects are underway. Due to the skilled manpower shortage in the construction industry, and due to the weak contractor-employee relationships which result in part from the relative shortness of jobs, contractors working on private construction jobs are usually forced to raise the wages of their skilled tradesmen in order to keep these employees from leaving to work on federally financed construction jobs where they could earn the inflated Davis-Bacon wages. It is difficult for the small minority contractor to pass this cost on to the consumer if he wants to remain competitive in the bidding for private jobs. So, some of the cost of increased wages must be suffered by the contractor. The minority contractor is typically less able than his white counterpart to compete against Davis-Bacon contractors for skilled tradesmen by raising wages.

MINORITY HOME BUYERS

There is a serious need for new construction in minority neighborhoods. Because minorities lag behind whites in income, they are more seriously affected by construction costs which are inflated by Davis-Bacon when considering home construction and renovation.

Washington, D.C., a city with a 70 percent minority population, can be used to illustrate how potential minority home buyers are affected by Davis-Bacon.

In March 12, the city announced the undertaking of an ambitious housing renovation project which would make available 733 units by November 1980. The cost of the project is estimated at $10 million, or a little more than $13,500 for the construction of each unit.

The rehabilitated units will be for both single-family and multi-family occupancy, with 269 units for sale to low and moderate income persons under the Federal Government's Section 235 program. The prices of 229 of these units range from $28,000 to $44,000; and forty units are priced from $38,000 to $44,000. The Section 235 program provides interest subsidies to reduce mortgage costs.

If Davis-Bacon's prevailing wage requirement inflates construction costs in Washington by ten percent, as has been estimated by builders in other areas of the country, sixty-seven less families will gain the opportunity to move into better homes. That is to say, sixty-seven additional units could be renovated with the funds needed to offset the additional construction costs required by Davis-Bacon.[1] This will be occurring amid reports that some two and three-room apartments in Washington are being shared by as many as two or three families which have been displaced because their homes have been purchased for conversion into expensive condominiums. Displaced families often share housing because affordable units are not available.

Another illustration of the effect of Davis-Bacon on minority homebuyers can be found in Indian housing. The Select Committee on Indian Affairs of the United States Senate reported recently that the prevailing wage requirement of Davis-Bacon has seriously inflated the cost of Indian housing partially financed by the Department of Housing and Urban Development to the extent that the average cost of modest single-family units on reservations is approaching $70,000. That price is almost $5,000 higher than the nationwide cost of the average single family home.

The average income of Indian families was $5,800 as compared with $9,590 per year for the population as a whole according to the 1970 Census, and in some Indian communities the unemployment rates for young people reach as high as eighty percent. Thus, Indian families are hardly able to suffer the rapid inflation of housing costs. Furthermore, this inflation has caused a significant reduction in HUD's estimate of the number of Indian housing units which will be produced in FY 1980.

It is ironic that while all fifteen voting Congressional Black Caucus members and all four voting Hispanic Caucus members are quick to speak about the problem of inadequate housing in minority communities, they all voted against waiving Davis-Bacon prevailing wage requirements for residential housing rehabilitation projects carried out by neighborhood-based non-profit organizations.

The legislation which would amend certain federal laws relating to housing, also sought to exempt Indian housing from Davis-Bacon. This amendment to the Housing and Community Development Act was rejected by a vote of 155 ayes to 244 noes.

Government housing programs implemented to aid low-income families could serve far more families if they were not subject to an almost fifty year old law which requires the payment of higher wages to construction workers while also discouraging small, and particularly minority, contractors who would probably work at somewhat lower rates from even bidding.

MINORITY COMMUNITIES

Davis-Bacon has negative effects on minority communities in two significant ways. First, the Act often inflates building construction costs beyond the amount which neighborhood-based organizations can afford to pay for the construction of various projects intended for neighborhood benefit. And second, the Act often aggravates unemployment among minority construction workers and prospective minority construction workers.

(1) The Committee on Banking, Finance and Urban Affairs of the U.S. House of Representatives reported recently that "neighborhood-based non-profit organizations have been frustrated in their efforts to rehabilitate buildings because of the requirement that prevailing wage rates be paid on such projects."

(2) In the area of unemployment, it is easy to see that the intended purpose of Davis-Bacon is not being fulfilled by the way the Act is now being administered. When the law was enacted, the chief concern was the undermining of local wage rates by outside competitors willing to work for very low wages. But the law tends to have the exact opposite effect today, with Davis-Bacon encouraging the hiring of outside union labor rather than small nonunion, and often minority, local labor.

On Indian reservations, for example, few Indians are ever hired to work on Indian Housing Administration projects because few of them have had the opportunity to develop marketable skills to the point that they could be as productive as their Davis-Bacon wages would demand.

Because of this lack of a skilled labor force, on-the-job training programs should be prevalent on reservations. "Yet", according to the U.S. Senate Select Committee on Indian Affairs' Report on Indian Housing, "the Department of Labor's Bureau of Apprenticeship and Training (BAT), which administers these programs, has not taken any initiative to adapt them to the reservation and make them work. Few . . . tribes are large enough to make such a program . . . a success. It appears that there are more than enough training resources out of which BAT could easily construct a worthwhile and appropriate program. Nonetheless, BAT has yet to take any interest in Indian apprenticeship programs although Indian community unemployment rates generally eclipse even the worst urban ghetto black teenage rates, with some reaching as high as eighty percent.

"One thing is clear: the Davis-Bacon program bars local unemployed Indians from working on their own housing projects."

Davis-Bacon demands that apprentices employed on federal construction sites must be registered in state of federal programs recognized by the Bureau of Apprenticeship and Training. A case involving the Delta Electric Construction Company, Inc., of San Antonio, Texas, illustrates the problem of this apprenticeship stipulation and its effects on minority employees.

On February 13, Delta entered into a contract with the Navy Department's Naval Facilities Engineering Command to make additions to airfield lighting systems. Shortly after entering into the contract with them, Delta requested authorization of additional classifications and wage rates for junior and senior electrical helpers.

On April 13, the Navy denied Delta's classification and wage rate requests, saying electrician helpers could not be employed instead of "properly indentured apprentices."

Delta, a nonunion firm, did not have a BAT-approved apprenticeship program. Rather, they had developed their own program which included a correspondence course, classroom training and on-the-job training. Arguing against the decision of the Division of Wage Determination of the Department of Labor, Delta said their employees were being discriminated against because they were being deprived of an opportunity to learn the electrical trades without first joining a union and a union-sponsored apprenticeship program. Delta argued further that the Labor Department's decision violated Title VII of the Civil Rights Act of 1964 because the vast majority of their electrician helpers were minorities, and minorities were not likely to be accepted into union-sponsored apprenticeship programs in as great percentages as they were employed and trained by Delta and other nonunion firms like Delta.

Because apprenticeship programs approved by BAT are almost exclusively union-sponsored, and because minorities seem to have difficulty being accepted into union-sponsored apprenticeship programs, Davis-Bacon's requirement that laborers and helpers should be registered in BAT-approved apprenticeship programs tends to restrict the entry of minorities into the construction labor force.

U.S. District Court dismissed Delta's case, ruling that the decision rested within the Secretary of Labor's jurisdiction and was not subject to judicial review.

Therefore, if nonunion apprenticeship programs which would facilitate the entry of more minorities into construction work are to be accepted for federal construction projects, Davis-Bacon must be repealed or its administration must be radically revised.

It is interesting to note that there were racial considerations in the enactment of Davis-Bacon just as there are distinct racial effects of it today, almost fifty years later.

In advocating passage of the Davis-Bacon Act, Congressman Miles Allgood spoke in favor of protecting local "white labor" from "cheap colored labor" from southern states. Today, while Davis-Bacon is intended to protect local workers, relatively few blacks are afforded the opportunity to work on federal construction projects in predominately black neighborhoods, and seldom are Indians afforded the opportunity of employment on housing construction projects on their own reservation.

The National Association of Minority Contractors has recommended the repeal of Davis-Bacon, pointing out that "unemployment among blacks in cities with population over 100,000 is (high) . . . the large pool of idle labor cannot be used and/or trained because of the restrictions of the Davis-Bacon Act."

CONCLUSION

The Davis-Bacon Act has negative effects on minority contractors, minority home buyers and minority communities. Therefore, it is in the best interest of minorities that Davis-Bacon should be repealed.

With repeal of this Act, minorities would be a critical step closer to solving some of the social problems they consider most serious. Housing and unemployment are prime examples. In the area of housing, if Davis-Bacon were not in effect, it would be possible to build or renovate in minority communities more housing units with the same amount of money presently spent. And in the area of unemployment, which plagues minority communities at a menacing rate, the job picture should brighten for young minority persons as contractors would be encouraged to hire them as laborers and helpers, affording them the opportunity to break into the construction labor force (the Economic Forecast and Survey Center of the U.S. Chambers of Commerce estimates that with repeal of Davis-Bacon, employment would increase by as much as 150,000 jobs nationwide). With these two positive results alone, minorities would benefit from repeal of the Act. But there would be other positive results—direct and indirect—of Davis-Bacon's repeal.

If housing, unemployment, and other social problems of great concern to minorities are to be dealt with effectively, Davis-Bacon must be repealed.

SENATOR LISTER HILL OF ALABAMA: GREAT HUMANITARIAN

Mr. HEFLIN. Mr. President, a few days ago the Lister Hill National Center for Biomedical Communications was formally dedicated. Located in Bethesda, Md., this magnificent component of the National Library of Medicine is named in honor of former Alabama Senator Lister Hill who rendered nearly 46 years of distinguished and loyal service to the people of Alabama and the Nation in the Congress of the United States. Senator Hill retired from the Senate in 1969 and was present for the dedication ceremonies on May 22, 1980.

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[1] We have assumed that (1) ten percent added costs equals loss of buying power, (2) that each unit equals one family, and (3) that each unit requires $13,500 for rehabilitation.

Mr. President, I should like to acknowledge the sense of genuine pride the people of Alabama feel to have been represented in both the U.S. Senate and the House of Representatives by a man possessing the character, the ability, and the dedication of Lister Hill. This gifted legislator was, indeed, indefatigable in his work in the Congress and in his devotion to public service.

Senator Hill's single goal was a better life for all people. Throughout his entire career he worked to achieve it.

Senator Hill's record of accomplishments is awesome. He was the master architect and builder of numerous legislative landmarks. Senator Hill fought wholeheartedly to advance education opportunities, to benefit the causes of our veterans, to promote more and better housing for our people, and to insure the working man and woman decent hours and fair wages under safe working conditions. Moreover, Lister Hill has always been a defender of the ideals and principles upon which our country was founded.

Mr. President, one of Senator Hill's outstanding accomplishments was his leadership in the vital breakthroughs for the economic and industrial development of Alabama and the South. It was his amendment in the Transportation Act of 1940 which led to the removal of freight rates found to be unfair and discriminatory to the Southeast. I think historians and economists will all agree that the great single factor in the tremendous industrial growth which we have witnessed in Alabama and the South since World War II is the equalization of freight rates.

High on my list of Senator Hill's accomplishments is his outstanding work in water resource development. He authored the legislation for the comprehensive development of the Coosa-Alabama Waterway and coauthored the legislation which led to the construction of the Tennessee-Tombigbee Waterway. Senator Hill was also the leader in the Senate for legislation and funds for the development of the Chattahoochee River system, the Warrior-Tombigbee River system, and for improvements in Mobile Harbor.

Most important, Senator Hill is coauthor with the late Senator George Norris of Nebraska of the bill which created the Tennessee Valley Authority. In addition, it was his skill and perseverance that protected this mighty engine of democracy from ceaseless political and propaganda attacks by the enemies of TVA. The record will show that it was Lister Hill of Alabama who searched out and, in a speech in the Senate, exposed the secret Dixon-Yates scheme, a plan concocted by anti-TVA groups to dismember the agency. Parenthetically, I might add, in this decision striking down the Dixon-Yates scheme the U.S. Supreme Court acknowledged Senator Hill's Senate speech exposing the illegal conflict-of-interest features of the arrangement.

Yet, for all his outstanding contributions in so many vital areas, Senator Hill's particular charge was his work in the fields of health and medical research. It would be difficult to find anyone at any point in our history who has done so much for the health of his fellow men as Lister Hill. He devoted more than four decades in the Congress to help fashion tools and lay the foundations for the medical research, hospitals and training and educational facilities which have led to the great strides that science, medicine and public health have taken.

Mr. President, Senator Hill did not come about his interest in health legislation casually or by accident. The roots that bound Senator Hill to the medical profession and to the cause of health are deep. His father, the late Dr. L. L. Hill of Montgomery, gave Senator Hill the name of the famed British surgeon Joseph Lister, under whom he studied. A brilliant surgeon himself, Dr. Hill performed the first successful suture of the human heart in America.

Of the many outstanding health programs which bear Lister Hill's name, perhaps the one with the most importance is the Hospital and Health Center Construction Act, popularly known across the Nation as the Hill-Burton Act. More than 10,000 general hospitals, mental health hospitals, tuberculosis sanitoriums, crippled children's clinics, and diagnostic and training centers, and other medical facilities have been built under the program. Incidentally, the Hill-Burton Act established for the first time in any legislation the principle of allotting the Federal funds among the States on the basis of need. Through this concept hundreds of small towns and rural communities, which could neither shoulder the entire cost of hospital construction nor attract the physicians they must have because of the lack of a hospital, were able to accomplish both objectives.

The Hill-Burton Act is, of course, only one of the many many programs that Senator Hill has initiated or given powerful impetus to in the fields of health and medicine. One of the beneficiaries of his tireless efforts is the National Library of Medicine, the greatest and most valuable library of medicine in the world. In 1961 Senator Hill was the principle speaker for the new National Library of Medicine building; and last month, some 19 years later, he was again present for the dedication of the edifice which bears his name.

The Lister Hill National Center for Biomedical Communications is an imposing structure. Rising 10 stories above ground the facility graces the skyline of the campus of the Federal Government's fabulous medical research arm, the National Institute of Health. The missions of the Center are manyfold, but I think they are best described by Senator Hill himself, in 1965 when he stated:

> We must develop a communications system so that the miraculous triumphs of modern science can be taken from the laboratory and transmitted to all in need. This would close the gap between the scientific break-through and the vitally important clinical follow-through. The fruits of our medical research would then be quickly transmitted to every doctor out on the firing line.

Senator Hill is, indeed, America's statesman for health. He is truly a great humanitarian. The Lister Hill National Center for Biomedical Communications will be an enduring monument to his work, his energies, and his dedication to the well-being of his fellow men.

Mr. President, the ceremonies dedicating the Lister Hill Center was attended by outstanding scientists, physicians, and laymen from throughout the United States. Also in attendance were members of Senator Hill's immediate family and several members of his Senatorial staff. The principal address was given by the Secretary of the Department of Health and Human Services, The Honorable Patricia Roberts Harris. Also paying tribute to Senator Hill at the ceremonies was the president of the University of Alabama in Birmingham, Dr. S. Richardson Hill, Jr.; Director of the National Library of Medicine, Dr. Martin M. Cummings; and president of the Medical Library Association, Ms. Louis Ann Colaianni.

I ask unanimous consent that their remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY PATRICIA ROBERTS HARRIS, SECRETARY OF HEALTH AND HUMAN SERVICES

We have gathered today to dedicate a building in honor of Senator Lister Hill, a man who served the State of Alabama in the Congress of the United States for nearly half a century.

This building is a fitting tribute—to a man who cared deeply about the health of the American people—a man who made that concern his special interest throughout 47 years of public service.

How different America is today from that day in 1923 when Senator Hill first entered the halls of Congress.

When Lister Hill was a freshman Congressman commercial radio was barely two years old and the Nation was midway through a "noble experiment" called prohibition.

Oil was selling for about $2 a barrel, and you could buy a sturdy car for a few hundred dollars—and you could pay for it in a new way called the "installment plan."

Women had only had the vote for three years.

As Congressman Hill took his seat, President Warren Harding was slowly sinking into a scandal called Teapot Dome, and an up and coming young man named Al Capone was attracting attention in Chicago.

Medical practice in 1923 was at the beginning of the "modern age," but there were no sulfa drugs and no antibiotics. Meningitis killed nine out of ten victims, and pneumonia was often fatal. Viral infections were a serious business.

Sill, the Nation in 1923 was in an optimistic mood. We had survived a world war, the "red" scare convulsion, and a post war recession, and our motto echoed the increasingly popular philosophy of a Frenchman named Emil Coué: "Day by day in every way I am getting better and better."

The lives of most Americans did get better and better in the more than half century since 1923, but progress was not steady and it was not automatic. Our progress was accompanied by detours and disappointments.

The improved health of the people on this Nation is a case in point.

There is no doubt that the health of the American people has never been better.

Since the early years of this century, infant mortality has declined from 100 deaths to less than 14 per 1,000 live births. Average life expectancy has increased from 47 years to 73. Diseases such a polio, typhoid and malaria have been eliminated, and we are making impressive gains in reducing death rates from cancer and heart disease.

That progress is the result of basic research, better public health, a declining percentage of people in poverty, increased access to health care, and innovative programs which have made possible better care for all our citizens.

Much of this progress is due to programs developed and successfully carried out by the Federal Government.

Federal funding has supported the steady research effort that has helped us prevent and cure disease. More than 60 percent of the basic health related research and development conducted in this country today is paid for by the Federal Government.

Federal funding of programs such as social security, aid for families with dependent children, and food stamps has lifted millions of Americans out of poverty.

Federal funding has provided greater access to health care through medicare, medicaid and the National Health Service Corps.

Those who say that the Federal Government is the enemy or that Federal money is wasted ask us to ignore the remarkable record of progress in improving the health of the American people.

Today we meet to celebrate another step in that long process—a new home for the Lister Hill National Center for Biomedical Communications.

It is important for all of us to understand the significance of this national center in achieving the fundamental goal of biomedical research: Better opportunities for improved health. In order to achieve that goal we must continue to commit tax dollars to the support of research—through the National Institutes of Health and through N.I.H. to universities and medical schools.

Of course, that basic research must undergo rigorous and independent review, must be published and must be made available to the scientific and medical practice community. The National Library of Medicine—of which this center is a component—plays a major role in collecting and disseminating published information.

There has been a dramatic increase in the volume of biomedical literature, and as a result, the task of communicating research results has been complicated. The National Library of Medicine regularly receives over 20,000 publications, and its collection now numbers in excess of two and a half million items. In the last decade the cost of such publications has risen at a rate far outstripping inflation.

The multidisciplinary nature of biomedical literature further complicates the communications process. Research no longer falls into neat and well-defined disciplinary boundaries, and when research results are published in highly specialized journals, they may not come to the attention of physicians involved in patient care unless an institution such as the Library of Medicine brings them to the attention of all concerned communities.

The new Lister Hill Center provides us with facilities designed to overcome the impediments to improved health care information.

All of the components of the National Library of Medicine are housed together for the first time in a single building. Their responsibilities, although varied, have the common focus of improving biomedical communication. By bringing them together in a building equipped with the most modern communications technology and facilities, we take a dramatic step toward overcoming the communications problems faced in the biomedical sciences.

The programs of the Library's research and development arm—the Lister Hill Center—are the first and most obvious beneficiary of the new arrangement. Previously squeezed into various corners of the original National Library of Medicine Building, the Lister Hill Center programs now have space for expansion as well as adequate laboratories.

The Library's toxicology information program will have expanded facilities. Previously confined in space designed to hold only shelves of books and journals, this program will be able to house its information retrieval tools in the areas of toxicology, pharmacology and environmental health.

The Library also has a grant program and over 1,000 health-science institutions have benefitted from the National Library of Medicine grant program authorized by the Medical Library Assistance Act in 1965. This support will continue to play a vital role in improving information services to those institutions. The staff for this program can now leave their rented office space and join their colleagues on the National Institutes of Health campus.

The National Medical Audiovisual Center is the National Library of Medicine component whose operation has been most affected by this new building. The center's staff and equipment have made a 600-mile move from Atlanta to the new studio and laboratory facilities provided in this building. The proximity of the audiovisual center to other National Library of Medicine components involved in education holds promise for improving professional education in the health sciences.

These developments are important, not because of the building, but because the improved organization of facilities will permit us to work more effectively to improve the health of individuals by expanding and organizing our store of knowledge. It is fair to ask what these facilities and programs can accomplish in our efforts to contribute more efficiently to the health care needs of our time.

A single example illustrates the potential for improved health care.

A short time ago a 27 year old man was admitted to a New Jersey hospital—unable to walk, his legs almost completely paralyzed.

Physicians first diagnosed a form of anemia and later also found a rare spinal cord problem. The combination of the two disorders puzzled the physicians and they were uncertain about the proper therapy.

Finally, they consulted their hospital librarian who had access to "medline," a computer storage and search tool which contains more than 600,000 references.

Among those 600,000 references was an article describing the combination of disorders suffered by the young man in New Jersey. Only 8 cases had ever been reported, but based on the information in the article, radiotherapy was determined to be the proper course of action. Two weeks later the patient was discharged: he walked out of the hospital.

The people who manage "medline" are upstairs in this building, and the computer will be here shortly. More than 1,100 hospitals, medical schools and other facilities are tied into that computer, and it is helping to save lives and to treat disease in urban and rural areas all over this country every day.

That program—and the others housed here—are bringing into reality a dream Senator Lister Hill described in 1965 when he said:

"We must develop a communications system so that the miraculous triumphs of modern science can be taken from the laboratory and transmitted to all in need. This would close the gap between the scientific breakthrough and the vitally important clinical follow-through. The fruits of medical research would then be quickly transmitted to every doctor out on the firing line."

I am happy to join you today in dedicating the Lister Hill Center building. I am confident that it will help bridge the gap between break-through and follow-through.

The Carter administration is deeply committed to the further improvement in the health of our people, and this center and your continuing efforts will make it possible for us to meet that challenge of the years ahead.

Tribute to Senator Lister Hill

(By S. Richardson Hill, Jr., M.D.)

The academic and health communities are more indebted to Senator Lister Hill for his monumental contributions to education and health than to any other legislator who has ever lived. This fact was recognized by the Congress of the United States in 1968 in the joint Senate-House of Representatives resolution, proposed by the late John E. Fogarty of Rhode Island and our good friend, who is with us today, Paul G. Rogers of Florida, authorizing the construction of the Lister Hill National Center for Biomedical Communications.

This joint resolution, which became Public Law 93–456, pointed out that "Senator Lister Hill has achieved more forward-looking legislation relating to improved health and educational opportunities for the American people than any other individual in the history of this body." Senator Hill came by his deep interest in health naturally, as he is the son of a famous Alabama physician, who pioneered in open-heart surgery. This remarkable Alabama physician, Luther Leonidas Hill, named his son for one of his mentors, Lord Joseph Lister.

This fact, and the fact that Senator Hill has had numerous relatives who were physicians, greatly influenced his career in the Congress of the United States. In 1956, when Senator Hill introduced the bill creating the National Library of Medicine, he spoke of his father as follows: "My father, if I may be permitted a personal reference, was a pupil and a devout disciple of that history-making man of medicine, Joeph Lister. Like so many of us today, many of the surgeons of his time found it impossible—or perhaps I should say inconvenient—to accept and apply the great principles of aseptic and antiseptic treatment of wounds.

Addressing the doctors of Montgomery, Alabama in 1931 and reminiscing with them of those earlier and decisive days in surgery, my revered father, reared in the traditions of the South, with its respect for the proper and the richly-rounded word, phrased it this way as he spoke of Lord Lister's experience: "Though his turret torch was blazing high like Leander's, the surgeons would not see and could not hear." "Happily for us," Senator Hill continued, "The surgeons did come to see, and to hear, and to apply—nor did it take 30 years for the truth to sink in. It has been more than 30 years.

Mr. President, since we have been told how much it could mean to America were we to establish a truly national library of medicine. These are men who have carried that torch high for all these years. It is time for the Congress to see the light, to listen to the voices of wisdom and, above all, to act." And act they did—in fact, how could Congress fail to act when exhorted by words such as these of Senator Lister Hill.

Senator Hill served 46 years in the Congress of the United States—15 years in the House of Representatives, and 31 years in the Senate. For 14 of these years he served as chairman of the two Senate committees having jurisdiction over both legislation and appropriations in the field of health, education and welfare. Prior to assuming chairmanship of these two Senate committees, he had already distinguished himself in the Senate by sponsoring legislation in 1946, which marked the entry of the Federal Government into an important new area relating to the health of the people of the United States—the Hill-Burton Hospital Construction Act.

Over 60 other major pieces of health and education legislation became law under his direct authorship, including the act establishing the National Library of Medicine, which was introduced in 1956 and which I have just referred to. Some 20 other major pieces of health legislation were enacted with his inspired leadership. It is fair to say that Senator Hill's major life's work and dedication have been the prolongation of useful life and the improvement of the health and education of the American people.

Those of us responsible for the universities and the academic health centers of this nation are awed and inspired by the enormous contributions this one individual has made to our country's health and education through these and other institutions; and, indeed, to the health, education and welfare of people all over the world.

All of us from Alabama are proud to call Senator Hill a distinguished native son, but it is everyone in America, and indeed all of mankind, who have benefited from his unique contributions and inspired leadership. For these monumental contributions, we shall all be forever grateful.

Remarks by Dr. Martin M. Cummings, Director, National Library of Medicine

Madam Secretary, Senator Hill, Past and Present Members of the Board of Regents, Honored and Distinguished Guests, Friends:

This is a happy and historic day. It is a personal pleasure to welcome you to the dedication of the Lister Hill National Center for Biomedical Communications. This is the story of a great man not of a magnificent building. Many distinguished men and women have come to take part in this dedication, not simply to learn of the importance of modern communications but principally to honor the humanitarian who was the major sponsor of legislation which advanced the progress of medical research, education and health care in our country. To help you appreciate the extraordinary qualities of Senator Hill I have chosen to recount several events in which I was privileged to be involved.

Exactly twenty years ago Dr. James H. Shannon, then Director of the National Institutes of Health, introduced me to Senator Hill. This occurred during the hearings before the Senate Subcommittee on Appropriations. In my new position as Chief of the NIH Office of International Research, I was ill prepared to defend the budget for a new program which the Senator and several others had created through the International Health Research Act of 1960. My role was essentially as an observer while Dr. Shannon testified. Senator Hill's clear understanding of global health problems was soon evident as he developed a coherent record for the United States support of international health activities.

Several years later I again found myself before Senator Hill and his committee, but this time as a newly appointed Director of the National Library of Medicine. Unlike my earlier walk-on role, my participation was to testify on behalf of the NLM budget, and it was not without trepidation. As it turned out, I need not have worried. Senator Hill had not only introduced legislation establishing the National Library of Medicine in 1956 but had maintained a deep interest and knowledge of the Library's programs and a keen insight into the problems of biomedical communications. His gentle humane manner prevailed and I soon felt that *he* was the witness defending the budget.

This Appropriations Subcommittee Hearing was followed by a second hearing with Senator Hill in his other capacity as Chairman of the Subcommittee on Health Legislation. But this time, my preparation was quite unique. In the interval between these hearings, Dr. Marjorie Wilson and I had been invited to meet with Senator Hill in the Medical Library of the University of Alabama. His scholarly interest in medical history and his deep commitment to restore and refurbish our Nation's libraries became clear. He and Dr. Wilson developed the concepts which became the Medical Library Assistance Act of 1965.

Concurrently, several members of the House Committee of Interstate and Foreign Commerce expressed a similar interest, foremost among them Representative Paul Rogers. The Bill passed with flying colors.

Madam Secretary, we no longer have such a close working relationship with members of the Congress.

I wish to take this opportunity to thank everyone who contributed to the planning and construction of this new facility. I am certain that the architects and builders who are with us would like to hear your praise of the building. We owe a great debt to Mr. Kent Smith, who as Executive Officer and now as Deputy Director, coordinated all of the Library's involvement in this project. My special thanks also go to Mr. Ross Holliday and his staff, as well as Mr. Ken Carney and NLM Staff, who worked so hard to get us ready for this dedication.

The marvelous mural which is entitled "Art and Science" was painted by Mr. Alfred Jensen, who is with us today. An outdoor sculpture is being prepared by Mr. Kenneth Snelson and will be placed on the patio later this year. The bust of Senator Hill, by Robert Burks which is in the lobby, was a gift from the Lasker Foundation.

American taxpayers, please note from your program that the cost of the building did not exceed the Congressional appropriation. It has been a long and interesting trip from the time this facility was authorized in 1968 to this moment when we observe its reality. Those of us who have been involved throughout fully understand Coleridge's advice—"to take as much pleasure in the journey as in the arrival." Thank God we have arrived!

Dr. Fredrickson is not with us having been pre-empted by the President on a flight to Oregon. We are pleased and honored that the Assistant Secretary for Health, Dr. Julius Richmond, has joined us on this occasion. He will introduce our keynote speaker.

Remarks by Ms. Lois Ann Colaianni, President, Medical Library Association

The members of the Medical Library Association are honored to be included in today's ceremony. The medical library community welcomes this important occasion on which to pay tribute to Senator Hill. As a result of his vision and gentle persuasion, libraries and hospitals have been built and staffed; health care delivery programs started; and the lives of men, women and children enriched.

Due to Senator Hill's untiring efforts, this country has a health care system that includes biomedical research, the education of health professionals and the delivery of health care to each and every citizen. He truly deserves the title: America's Statesman for Health.

An integral part of the health care system is an effective biomedical communications network. For the next moment, I would like you to focus on Senator Hill's contributions to the development of this network.

In 1923, when Lister Hill first came to Washington, there were less than 300 health sciences libraries in this nation. Today there are almost 3,000.

Senator Hill's first contribution to the biomedical communications network was to support the establishment of the modern National Library of Medicine. This insured a central repository for housing a broad spectrum collection and disseminating biomedical information. The library has served as the national resource in the classic library tradition. It also has been a leader in pioneering new roles in information transfer, cooperative ventures, and the education of health professionals.

However, Senator Hill and the leadership in the National Library of Medicine realized that strong collections must be available throughout the country and that primary health care facilities must be encouraged to develop basic information centers close to where patient care was being rendered.

The Medical Library Assistance Act of 1965 strengthened these regional and local resources and their relation with the National Library of Medicine through a program of contracts and grants. Health sciences libraries were built, librarians trained, basic resources in every state were improved and expanded and a regional library network established.

Today, due to this Act and its subsequent renewals, this nation has a functioning network of eleven regional medical libraries, 102 resource libraries and over 2,000 libraries in hospitals and other health care centers. Before the network became operational, the yearly document delivery for medical libraries was estimated at under 300,000 items. The current level is approximately two million. This activity reflects in a large measure the transfer of information gained from federally sponsored research to members of the medical and scientific communities. The network is still growing to reach and include those parts of our nation that are still health information poor.

Today we dedicate the Lister Hill National Center for Biomedical Communications looking forward to the Center's future developments and applications in biomedical communication. This dedication comes at the beginning of what many believe will be a time of enormous advances in communication technology. Many health sciences libraries have already experienced the impact of MEDLARS and the on-line system for retrieval of biomedical information. The Lister Hill Center's current investigations into computer-based education, knowledge data bases, computer technology in library operations, and advanced video technology are being closely followed. The medical library community is eager to integrate improved methods of information transfer in order to make its services to the health professions more effective and efficient. We realize how important these developments are to the viability of today's modern health sciences library and how essential they will be for the information centers of the future.

Senator Hill, you have our gratitude for your foresight and ability to make a vision become a reality. The medical library community looks forward with other health professions to translating the ideas and ideals embodied in the Lister Hill Center into everyday practice and improved health for all.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

STANDBY GASOLINE RATIONING PLAN—MESSAGE FROM THE PRESIDENT—PM 214

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I am hereby transmitting to the Congress the Standby Gasoline Rationing Plan as required by Section 203 of the Energy Policy and Conservation Act (42 U.S.C. 6263) as amended by Section 103 of the Emergency Energy Conservation Act of 1979, P.L. 96-102. I have also directed the Secretary of Energy to publish the Plan in the *Federal Register*, as the final step in prescribing a gasoline rationing contingency plan by rule, as required by statute.

I am also transmitting today to the appropriate committees of Congress the "Progress Report to Congress on the Standby Motor Fuel Rationing Plans" required by Section 102 of the Emergency Energy Conservation Act. This report will provide further information on the development of the Standby Gasoline Rationing Plan.

The Standby Gasoline Rationing Plan responds to the concerns of the Congress expressed in the debates on last year's plan and in the Emergency Energy Conservation Act, as well as to the concerns expressed by the public during the comment period. In accordance with statutory requirements, the Plan is designed to deal with a serious shortage which will necessarily inconvenience large numbers of gasoline users. If circumstances arise that necessitate its implementation, the Plan will serve to allocate gasoline supplies equitably, stabilize the gasoline market and minimize economic dislocations.

The undependability of foreign sources of petroleum has been demonstrated by a long series of events, including the curtailment of oil supplies from Iran and the shortages of gasoline, diesel fuel and other products which we incurred during 1979. The current situation in the Middle East, particularly the continued retention of hostages by Iran and the Soviet occupation of Afghanistan, underscores the need for the United States to be well prepared to deal with periods of serious shortage. The Plan, in addition to the Standby Federal Emergency Energy Conservation Plan recently promulgated under the Emergency Energy Conservation Act of 1979, will provide important tools for the management of a severe gasoline shortfall.

I urge favorable review by the Congress.

JIMMY CARTER.

THE WHITE HOUSE, *June 12, 1980.*

MESSAGES FROM THE HOUSE

At 5:48 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House recedes from its disagreement to the amendment of the Senate to the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the U.S. Government for the fiscal years, 1981, 1982, and 1983, and revising the congressional budget for the U.S. Government for the fiscal year 1980, and concurs therein with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

At 6:45 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 6842. An act to protect the confidentiality of shippers' export declarations, and to standardize export data submission and disclosure requirements.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. PROXMIRE).

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE) announced that on today, June 12, 1980, he signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

H.R. 6285. An act to amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3994. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a 5-year national plan for renewable resources extension programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3995. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Marine Corps Military Pay System: Too Many Errors and Inefficiencies," June 10, 1980; to the Committee on Armed Services.

EC-3996. A communication from the Chairman, Federal Home Loan Bank Board, transmitting, pursuant to law, the Board's annual report for calendar year 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-3997. A communication from the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, a report on the section 312 rehabilitation loan program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3998. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to provide for participation of subsidized vessels in a sealift readiness program of the Department of Defense, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3999. A communication from the Chairman of the Board and the President and Chief Executive Officer, U.S. Railway Association, transmitting, pursuant to law, the Association's fourth report on the performance of the Consolidated Rail Corporation (Conrail); to the Committee on Commerce, Science, and Transportation.

EC-4000. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, financial exhibits of the Colorado River storage project and participating projects for the fiscal year ended September 30, 1979; to the Committee on Energy and Natural Resources.

EC-4001. A communcation from the Federal Cochairman, Pacific Northwest Regional Commission, transmitting, pursuant to law, the Commission's annual report for fiscal year 1979; to the Committee on Environment and Public Works.

EC-4002. A communication from the Director, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend section 402 of the Disaster Relief Act of 1974; to the Committee on Environment and Public Works.

EC-4003. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report of the Economic Development Administration's achievements and activities during the fiscal year 1979; to the Committee on Environment and Public Works.

EC-4004. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Impact of Tiering and Constraints on the Targeting of Revenue Sharing Aid," June 11, 1980; to the Committee on Finance.

EC-4005. A communication from the Acting Assistant Secretary for International Organization Affairs, Department of State, transmitting, pursuant to law, a March 1980 report issued by the United Nations Joint Inspection Unit; to the Committee on Foreign Relations.

EC-4006. A communication from the Committee on Foreign Relations, transmitting, pursuant to law, a report entitled "Cooperation in Agricultural Assistance: An Elusive Goal in Indonesia," June 11, 1980; to the Committee on Foreign Relations.

EC-4007. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "First-Year Activities of the Merit Systems Protection Board and the Office of the Special Counsel," June 9, 1980; to the Committee on Governmental Affairs.

EC-4008. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-4009. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, act 3-195, "District of Columbia Government Comprehensive Merit Personnel Act Amendments of 1980," and report, adopted by the council on May 20, 1980; to the Committee on Governmental Affairs.

EC-4010. A communication from the Director, Administrative Office of the U.S. Courts, transmitting, pursuant to law, the annual report to the Congress and the Attorney General; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and referred as indicated:

POM-768. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"Assembly Joint Resolution No. 66

"Whereas, the Santa Margarita Project is proposed as a Bureau of Reclamation multiple-purpose project in northern San Diego County, California, near the town of Fallbrook; and

"Whereas, The project would consist of two dams and reservoirs on the Santa Margarita River, Fallbrook Dam, which would impound 36,150 acre-feet of water, and the DeLuz Dam, which would impound 100,000 acre-feet of water, and conveyance lines to serve the Fallbrook Public Utility District and the Marine Corps Base at Camp Pendleton; and

"Whereas, The project would supply vitally needed supplemental municipal and industrial water to the Fallbrook Public Utility District, as well as provide for flood control, recreation, fish and wildlife enhancement, and regulation of imported water; and

"Whereas, The two reservoirs would retain and deliver an average of 15,540 acre-feet of streamflow per year, which would be divided between Camp Pendleton and the Fallbrook Public Utility District; and

"Whereas, It is essential that the Santa Margarita Project be authorized and constructed at the earliest possible time to prevent a possibly catastrophic water shortage within the area of the project in the near future; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to authorize the construction of the Santa Margarita Project in northern San Diego County and to provide the initial funding necessary to enable construction of the project to commence; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-769. A resolution adopted by the House of Representatives of the State of Iowa; to the Committee on Environment and Public Works:

"House Resolution 108

"Whereas, ninety-five percent of the energy used in Iowa is imported; and coal is Iowa's most abundant energy resource and is estimated at over three billion tons of recoverable coal, enough to last the state for hundreds of years; and

"Whereas, the past seventy years have seen a ninety percent reduction in the production of Iowa coal resulting in the decline of Iowa's coal industry to the point of extinction; and

"Whereas, thirteen million tons of coal were used in Iowa in 1979, but only seven percent was Iowa coal; and

"Whereas, the current energy crisis necessitates the establishment of efficient energy production priorities which emphasize the utilization of local energy sources instead of furthering the reliance on unstable energy sources from unfriendly nations; and

"Whereas, the application of federal air quality standards threaten further economic disruption and unemployment to significant portions of Iowa; and

"Whereas, the importance of air quality for Iowa's citizens is well recognized, it should also be recognized that data indicates that previous federal scientific studies upon which air quality standards were set have proved to be vague; now therefore,

"Be it resolved by the House of Representatives, That the United States Environmental Protection Agency be urged to take prompt action to reevaluate all sulfur air quality studies and standards affecting Iowa; and

"Be it further resolved, Tht the state of

"Be it further resolved, That the state of Iowa through the Iowa Department of Environmental Quality, working with the United States Environmental Protection Agency, a representative from the governor's office, and other interested parties, reevaluate by September 1, 1980 Iowa's air quality regulations to allow for the burning of considerably more Iowa coal in an environmentally acceptable manner; and

"Be it further resolved, That a copy of this Resolution be forwarded to the President of the United States, to the United States Environmental Protection Agency, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of Congress from Iowa."

POM-770. A petition from a private citizen, relating to national security; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 459. An original resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of H.R. 826. Referred to the Committee on the Budget.

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 117. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

S. Res. 414. Resolution to commend the National Forensic League on its golden anniversary tournament.

H.J. Res. 442. Joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER (for himself and Mr. CHURCH):

S. 2820. A bill to amend the Plant Variety Protection Act to clarify its provisions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND:

S. 2821. A bill for the relief of Johannes Marinus Krakeel, Angela Johanna Hendrika Siepman-Krakeel, his wife, and her daughter, Renata Degroot; to the Committee on the Judiciary.

By Mr. SCHMITT:

S. 2822. A bill to amend the Internal Revenue Code of 1954 to increase the partial interest and dividend exclusion for individuals to $750; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself and Mr. CHAFEE):

S. 2823. A bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas; to the Committee on Finance.

By Mr. DECONCINI:

S. 2824. A bill to authorize the Secretary of the Interior to consider and pay certain claims arising out of the transfer of certain lands to the Quechan Indian Reservation; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2825. A bill to amend the Internal Revenue Code of 1954 to provide greater protection for the rights of taxpayers; to the Committee on Finance.

By Mr. BELLMON:

S. 2826. A bill to amend the Internal Revenue Code of 1954 with respect to the exemption from Federal income tax of interest paid on certain family farm homestead bonds; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. CANNON, Mr. PACKWOOD, Mr. GOLDWATER, Mr. SCHMITT, and Mr. STEVENS):

S. 2827. A bill to amend the Communications Act of 1934 to provide for improved domestic and international telecommunications, rural telecommunications development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURKIN:

S. 2828. A bill to amend the Small Business Act to require the divorcement of motor fuel stations from operation by certain producers and refiners of motor fuels, to control sales by producers and refiners of motor fuels, to provide special loan guarantees to small business concerns for the acquisition of motor fuel stations, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER (for himself and Mr. CHURCH):

S. 2820. A bill to amend the Plant Variety Protection Act to clarify its provisions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PLANT VARIETY PROTECTION ACT

● Mr. MELCHER. Mr. President, when the Department of Agriculture submitted the language for S. 23 and S. 1580, they failed to include a provision that is needed to make the Plant Variety Protection Act consistent with the International Union for the Protection of New Varieties of Plants (UPOV) Convention.

S. 23 has now been redrafted to include the provisions. To facilitate hearings on the Plant Variety Act bills next Tuesday, the USDA and the industry would like to have a complete, clean new bill.

Senator CHURCH, the principal author of S. 23, is out of the city this week. As a cosponsor, I am now introducing the new, revised bill for myself and Senator CHURCH, the original author.

I ask unanimous consent to have printed in the RECORD a brief explanation of the provisions in the measure.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF NEW PROVISIONS

Section 42(a)(2) of the Plant Variety Protection Act presently establishes a bar to the granting of plant variety protection if an application for protection of the particular variety has been filed on behalf of the same breeder in a foreign country more than one year before the effective filing date of the application in this country. This fails to take into consideration where an application was never processed to the stage of protection being granted. Such situation, although it has never been applied in practice, is inconsistent with the policy of the

Plant Variety Protection Act as set forth in its preamble and with the International Union for the Protection of New Varieties of Plants (UPOV) Convention.

The suggested amendment to the Plant Variety Protection Act would prevent the granting of protection to a breeder whose variety has been marketed abroad for more than four years (or six years in the event of woody plants) prior to filing an application for protection in this country. The amendment would eliminate the unintended bar to protection and bring the section into conformity with Article 6 of the UPOV Convention.

Section 501 of the Federal Seed Act presently applies only to the "sale" of seed when the certificate of plant variety protection specifies sale by variety name only as a class of certified seed. The suggested amendment to the Federal Seed Act would not only apply to "sales" but also would extend the prohibition to seeds "offered for sale or advertised."

By their very nature and purpose, solicitations of sales (offering for sale and advertising), by variety name, promote sales which are presently illegal. The proposed amendment, in prohibiting such solicitations, would substantially strengthen the protection of holders of certificates of plant variety protection. Practical enforcement problems, such as limited personnel and difficulties in proving sales by variety name, emphasize the importance of prohibiting the solicitations of sales by variety name.●

By Mr. SCHMITT:

S. 2822. A bill to amend the Internal Revenue Code of 1954 to increase the partial interest and dividend exclusion for individuals to $750; to the Committee on Finance.

REDUCE TAXES ON SAVINGS AND INVESTMENT

● Mr. SCHMITT. Mr. President, earlier this year, the Senate approved an amendment to the windfall profit bill that would provide an exemption from Federal income taxes for the first $200 of interest income for individual taxpayers and $400 for joint returns. I strongly supported this effort, but I feel equally as strong that this was only a token effort and that we can do much more to encourage savings and investment. For this reason I am introducing legislation that would expand the $200/$400 tax exemption of interest and dividend income to $750 for individuals and $1,500 for joint returns in even stages over a period of 3 years on the following schedule:

(Fiscal years)

Individual:	
1981	$200
1982	400
1983	600
1984	750
Joint:	
1981	$400
1982	800
1983	1,200
1984	1,500

The United States has the lowest rate of saving in the western world, resulting in the lowest rate of productivity growth, investment and real wage increases among the major industrialized nations.

Recent studies have shown a direct correlation between the rate of savings, investment, and economic growth. It is therefore no coincidence that the United States, with the lowest rate of savings among major industrialized nations, is also afflicted with stagnating economic growth. The U.S. rate of savings as a percentage of national income in 1976 was only 4.8 percent compared to rates of 6.6 percent in England; 13.1 percent in France; 13.2 percent in Germany; and 25.36 percent in Japan. In the last 3 years that rate has undergone a further and steady decline.

Personal saving is falling because high inflation and high tax rates reduce the real rate of return on savings. As people are pushed into higher tax brackets, they get to keep less of each additional dollar of savings income. Since income from savings is added to earned income, the highest tax rate each taxpayer pays is imposed on his or her savings income. The higher the tax rate individuals face on the additional income from savings, the less likely they are to save. Thus, the present high tax rates discourage new savings, encourage consumption, and force savings away from nationally productive investments and into tax-exempt bonds and tax shelters.

A study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of national output between 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of major industrial nations. Our investment rate was 7.2 percentage points below the average commitment of the entire group, even below that of Great Britain. Greater savings and investment must be made to help boost productivity and reduce inflation.

These figures are a direct result of the numerous disincentives which discouraged Americans from savings and investment. Government regulation, for example, has, for many years, frozen interest rates on savings accounts at 5¼ percent while inflation has surged to annual rates of from 12 to 18 percent. Under these conditions the effective return on savings ranges from a negative 8.25 percent to a negative 12.5 percent, and this is before interest income has been taxed. After Federal income taxes, the rate of return is significantly worse. While the recent Depository Institutions Deregulation Act will permit interest rates to rise gradually over the coming years, this cannot be expected to offset the effects of inflation for many years.

It simply does not make economic sense to place money in a savings account in this environment. Instead, Americans increasingly choose to spend now and pay later, knowing that prices will only be higher in the future. This tends to be a self-fulfilling prophecy as high demand bids up the price of goods and businesses run short of investment capital leading to higher production costs from outmoded technology.

Mr. President, according to estimates made by the Joint Committee on Taxation and the Department of Treasury, Federal Revenues will increase by at least $1.5 trillion over the next 10 years as a result of upcoming social security, decontrol, windfall profits and inflation induced tax increases. Other estimates exceed $2 trillion. These will be the greatest tax increases in American history. Those who contend that the economy can absorb these increases without creating dislocations are advocating a dangerous course. It is a course that may lead the United States down the road of slow growth—or no growth—in the decade ahead.

For this reason, we must give greater incentives to the American public to save and invest. The legislation I am offering today would improve the real rate of return received on savings accounts and would reduce, to some extent, the negative effect on the double taxation of dividends.

The result will be more fair tax treatment of the American public and a greater inflow of savings and investment into the economy, which will bring faster growth and increased prosperity for all Americans. This legislation will lead to a switch out of tax shelters, reduced interest rates, and less pressure on the Federal Reserve to create money. It is a pro-growth, anti-inflationary step of great effectiveness.

Many of our competitors in the world economy have recognized the need to stimulate savings through exempting interest on time and saving deposits or interest from State savings institutions. Among these 39 countries are Japan, Great Britain, and France. Nearly every major industrialized nation offers greater incentives to savings and investment than does the United States.

The total amount of savings in the United States—personal savings, retained earnings, and depreciation set-asides—has already fallen so low that we are barely providing enough investment to keep pace with replacing worn out machinery and equipping a growing labor force.

A larger exemption for income derived from interest and dividends is essential if the economy of the 1980's is to be one strong, real growth. Full employment and low inflation can only be achieved if there is sufficient capital to finance the investments required to make new discoveries, develop new technologies, and build new plants.

Savings is in economic terms, nothing more than deferred consumption. It is a conscious decision to forego consumption today in order to insure that consumption can be maintained or improved in the future. If a business or a country fails to put aside a part of its current income for savings and investment, it runs the risk of eroding the capital base which maintains current consumption levels. This is a process of disinvestment in which a nation or a business literally consumes itself. It has become obvious to many that the United States is in an early stage of this process. The evidence is clear in declining productivity levels and in generally sluggish economic growth which lags behind that of our major economic competitors around the world. As clear as this problem is, the solution is equally clear. We must act now to provide greater incentives to defer consumption and to save and invest instead. It is essential that this action be taken sooner rather than later because of the timelag between the decision to save and invest and the ultimate impact of greater productivity and economic growth. If the decade of the 1980's is to be one of progress rather than stagnation, we must act now to lay the foundations for growth.

Mr. President, it will be argued that a tax exemption for savings, such as I am proposing today, will do nothing to encourage savings, it will only reward those who already save at the expense of those who do not. This is a fallacious argument, because the bill will act to improve the rate of return on savings which will not only encourage those who already have savings accounts to maintain them, it will also increase the attractiveness of saving for those who do not currently have such accounts.

The bill I am introducing will affect every American with a savings account or investments. Over 44 million Americans will benefit from reduced taxes on interest and dividends. Low and moderate income people will benefit in two ways. First, from lower taxes; and second, from the job production, real income growth and overall increase in economic prosperity that will result. Older Americans on fixed incomes, facing high inflation, will benefit through an improved rate of return on their savings.

This is the least we can do for our citizens in the current economic climate.

It is what dozens of our competitors around the world have already done to improve their rates of savings and investment.

It is what we should do today if the decade ahead is to be one of the growth and prosperity necessary to defeat inflation and create an era of prosperity.

Mr. President, I ask unanimous consent for the text of the bill to be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 116(b) of the Internal Revenue Code of 1954 (relating to maximum dollar amount of dividends and interest excluded from gross income by individuals) is amended to read as follows:

"(1) Maximum dollar amount.—

"(A) In general.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $750 ($1,500 in the case of a joint return under section 6013).

"(B) Phase-in of amounts.—

"In the case of taxable years beginning in:	Subparagraph (A) shall be applied by substituting for '$750' and '$1,500', respectively, the following amounts:
1981	$200 and 400
1982	400 and 800
1983	600 and 1,200
1984	750 and 1,500

(b) Subsection (c) of section 404 of the Crude Oil Windfall Profit Tax Act of 1980 is amended by striking out ", and before January 1, 1983". ●

By Mr. BOSCHWITZ (for himself and Mr. Chafee):

S. 2823. A bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for businesses in depressed areas; to the Committee on Finance.

URBAN JOBS AND ENTERPRISE ZONE ACT OF 1980

Mr. BOSCHWITZ. Mr. President, I am introducing a bill today on behalf of myself and the Senator from Rhode Island (Mr. Chafee). This bill, called the Urban Jobs and Enterprise Zone Act of 1980, creates new economic opportunities for disadvantaged people in our country.

I recognize that I am not the first Senator to stand up and profess to offer a program that is going to alleviate poverty and joblessness. Time and again in the last 15 or 20 years we have declared in our country and in this body a war on poverty, but time and again it has not operated quite as we had hoped.

I think the bill that I am introducing today will truly offer a new and effective approach, not to the entire problem but at least to a substantial part of the problem.

We here in Washington have created numerous programs and spent billions and billions of dollars to help the least advantaged persons. Yet there are still 24 million persons in our country, who live below the poverty level. That 24 million figure represents over 11 percent of our population.

It has been stated, Mr. President, that the poor will always be among us. But the society that is best able to cope with that problem has to be measured as a successful society.

We have created a large number of anti-poverty programs which have inadvertently or not, fostered a system of dependency. In this bill we are offering people hope that they can rise above their circumstances and create a success called "the American dream."

It is not a cure-all. No one program can do everything. But I believe that the Urban Jobs and Enterprise Zone Act of 1980 will be a step forward.

What does the bill do? It focuses on areas that are depressed, where many of our Nation's poorest live, principally in urban areas but in rural areas as well. The bill provides businesses incentives to locate in those areas, designated as enterprise zones, by granting business substantial tax reductions.

The bill focuses mainly on small business because small business creates the vast majority of new jobs. In the past 10 years two-thirds of the new jobs in the private sector came from businesses with less than 20 employees. Most of these were in businesses that had been in existence for less than 5 years, so they were in effect new businesses.

In excess of 80 percent of the jobs created in the last 10 years have been in companies with fewer than 100 employees. This was documented by Prof. David Birch of MIT.

If we want to encourage people to move out of poverty, we have to offer them something besides an income maintenance system. Offering people opportunities for getting in on the ground floor of a small business is one very effective way to encourage self-reliance.

From my own experience, I know that in a small business, the person who begins can move forward. Big businesses are quite large and cumbersome and usually do not have the flexibility to give the worker on the lower rung any broad experience. And normally larger businesses do not locate in the areas that we are calling the enterprise zones.

Once an area is classified as an enterprise zone, businesses can be assured of receiving certain tax advantages for 10 years. The only data that business will have to keep track of, since we do not want to impose new regulations and paperwork, is whether or not at least half of the employees come from within a certified enterprise zone.

Let me review, Mr. President, some of the tax advantages that we intend to grant.

First of all, the enterprise zone. It is a zone that has at least 4,000 people, and that has a continuous border so you cannot have a piece of it here and a piece of it there. It has to have average unemployment during the past 24 months at least twice as great as the national average and 30 percent of the families living in the area must be at or below 85 percent of the Bureau of Labor Statistics lower living standard. An area where the average unemployment rate for the past 24 months was three times as great as the national average, or an area where at least 50 percent of the families within the area are at or below 85 percent of the Bureau of Labor Statistics' lower living standards can also be classified as zones.

The tax incentives that we are going to offer are as follows: First, we ask the community in which the business is located to give a 20-percent reduction in local property taxes, which is not asking very much at all, since the property taxes in these areas are either very low, or often, nonexistent. That applies not only to new or existing businesses but also to new or existing homes in that area because, certainly, an area of the city or the country is more than just business; it is also homes, and people improve their homes in those areas.

We also increase the capital gains tax deduction for people who sell their homes. We also lower the capital gains tax to businesses in the area and then, later, sell some of their property or the business itself.

But first and foremost is the idea of establishing small businesses in these areas that we call enterprise zones.

There is a new approach taken in this bill that I do not think has been done before. That is a reduction in social security taxes. If an employee is less than 21 years old, there is a 90-percent reduction in the employer's and the employee's portion of the social security taxes. That is a real incentive not only to work, but also an incentive to hire from a group that is often 40 and 42 percent unemployed.

Furthermore, if an employee living and working in one of those zones is 21 years or older, there is a 50 percent reduction in the employer's and employee's social security taxes.

Then there is a 15 percent reduction in the corporate tax rate. Businesses can depreciate all property up to $500,000 on a 3-year straight line basis. The loss carryover period is extended to 10 years. Also, the cash method of accounting can be used if the business gross is less than a million and a half dollars a year.

This bill is a new approach. It is full of means and methods that a business can take advantage of and that will lure businesses into the enterprise zone. Hopefully, States, cities, and counties will join in this and make the pot a little sweeter, so to speak, so that they will participate in luring, as they have very often done before, new businesses into these enterprise zones.

This bill represents, to the best of my knowledge, the first time that this type of systematic approach has been suggested at the Federal level. It means that the Federal Government can also participate in sweetening the pot and bring new businesses into the most distressed parts of our country.

Mr. President, I ask unanimous consent that a factsheet relating to the legislation be printed in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACT SHEET

1. Enterprise jobs zone;

A. Unemployment and Poverty Requirements:

1. the average unemployment for the past 24 months must be greater than or equal to twice the national average *and* 30% or more of the families living in the areas must be at or below 85% the Bureau of Labor Statistics lower living standard; *or*

2. the average unemployment rate for the past 24 months must be greater than or equal to three times the national average; *or*

3. 50% of the families within the zone are at or below 85% of the Bureau of Labor Statistics lower living standard.

B. Area Requirements:

1. the area must be defined by continuous boundary; *and*

2. the population of the area must be at least 4,000.

Any local unit of government may apply for one or more Enterprise Jobs Zones within its jurisdiction, if (a) the area under consideration for zone designation meets the above requirements; (b) the local government will agree to reduce its effective property tax rate within the zone by 5% over a four year period. The tax reduction will remain in existence for the life of the zone.

2. Tax incentives:

A. For individuals or businesses who own real estate in the zone:

1. a 20% reduction in local property taxes.

B. For resident homeowners in the zone:

1. an increase in the capital gains deduction from 60% to 80%; the capital gain is exempt from the minimum tax.

C. For employees who work in the zone:

1. if employee is less than 21 years old, a 90% reduction in employer and employee social security taxes;

2. If employee is 21 years or older, a 50% reduction in employer and employee social security taxes.

D. For businesses 50% of whose employees live and work in the zone:

1. a 15% reduction in corporate tax rates;

2. 3-year straight line depreciation for all property (except land) up to $500,000 in value;

3. loss carry-forward is extended to ten years;

4. may use the cash method of accounting if the business' gross income does not exceed $1.5 million.

E. For individuals or corporations which (1) own property (except land) used by the taxpayer to conduct business in the zone; or (2) own an interest in a business as defined in (D) above:

1. an increase in the capital gains deduction from 60% to 80% for individuals

2. a reduction in capital gains from 28% to 15% for corporations

3. such capital gain is exempt from the minimum tax for individuals and corporations.

Mr. **CHAFEE**. Mr. President, today, with buoyant hope for our older cities and their citizens, I am introducing the Urban Jobs and Enterprise Zone Act of 1980. I am honored to be associated with Congressmen JACK KEMP and ROBERT GARCIA in the House, and Senator RUDY BOSCHWITZ, in this endeavor.

Our proposal offers a major new urban revitalization strategy. It attacks the sources rather than the symptoms of urban decay. It provides heretofore nonexistent incentives for job creation and private enterprise in our cities' most distressed and economically disadvantaged areas.

For the first time, the Urban Jobs and Enterprise Zone Act will coordinate Federal and local government tax policies in a broad effort to redevelop the industrial base of our declining cities. Therefore, it clearly represents a substantial departure from past urban economic programs.

Under the act, cities and other local governments could obtain approval from the Economic Development Administration (EDA) for one or more jobs and enterprise zones within their jurisdictions. Approval would be granted providing the following requirements are met:

First. Zones must have at least 4,000 residents;

Second. Over the 2 most recent years, unemployment must have been twice the national average, and more than 30 percent of the residents must have had incomes below 85 percent of the Bureau of Labor Statistics lower living standard.

Reviewing 1970 census tract data, it is clear that such areas exist in virtually every major city of the United States, as well as in many smaller towns not normally associated with the problems of urban decline. In most of these areas the private sector economic base has declined or stagnated. Minority youth unemployment in the inner cities has climber to a shameful 45 percent.

By 1976, 16 percent of our Nation's central city residents fell below the poverty line, compared to a national average of 10 percent in other areas. It is paradoxical that our poorest citizens live in areas where the costs of living are highest and the economic opportunities—jobs—are the most scarce.

While the 1980 census data will not be available for another year or so, there is no doubt it will reveal the continuing demise of our urban life.

Under the legislation we propose today, a program of local and Federal tax incentives would be coordinated to attract new residents and job opportunities to these blighted areas. Once a jobs and enterprise zone is designated by EDA, the tax incentives would include the following:

The affected local government would be required to reduce property taxes within any zone by 5 percent a year for 4 consecutive years. This would provide a direct reduction in the cost of maintaining a home or business within a zone.

Social security taxes on both employees and employers within a zone would be reduced—90 percent for workers under 21 years of age, and 50 percent for those over 21. Such a reduction in the cost of employing labor would lead to job expansion and creation within zones, as well as higher take-home wages for workers.

The capital gains tax rate would be cut 50 percent on investments in a zone business which employs at least half its workers within an enterprise zone. That tax reduction would also apply to residents of a zone who own and sell property within it.

The income tax rate would be cut across the board by 15 percent for enterprises where at least half of the employees are zone residents.

Greatly accelerated depreciation of business investments within the zone would be allowed, to encourage increased investment in job-creating enterprises.

Mr. President, the economic and sociological gains from adopting this bold, new approach will far outweigh any tax revenue losses that will result. There is no such thing as "lost" social security taxes on people who are already out of work. There is no value in "lost" property taxes on abandoned factories and apartment buildings. There is no "loss" of income tax on employers that otherwise would have collapsed, as do four out of five new small businesses.

The effect of adopting this proposal would be to bring meaningful and productive jobs to people within their own neighborhoods. It would bring higher take-home pays, broaden tax bases for our communities, and inject new spirit and life to the withering cores of our cities. There is no way we can lose by providing the kinds of tax incentives included in this bill.

We have pursued over two decades of Federal policies aimed at the troubling symptoms of urban decline. First came the so-called "urban renewal" of the 1950's and 1960's, followed by the massive great society programs under President Johnson. We have had both private and public sector jobs programs, public works programs, anti-recessionary programs, community development grant programs, small business loan programs—the list is endless. To be sure, there have been some successes over the years. Yet, spending hundreds of billions of Federal dollars has not begun to reverse the tide of decay and devastation that infests some part of almost every major city in America.

The Urban Jobs and Enterprise Zone Act which I am introducing today provides the component long-missing from Federal urban policy. That component is simply this: The basic, no frills, economic incentive for people to continue living and working in our inner city neighborhoods, and the long-term incentives to attract meaningful employment opportunities to these areas. There is no other glue that will hold together the great resources of our urban communities.

I sincerely hope my Senate colleagues will give some thought to the ideas put forth in this legislation. Our proposal offers a new concept for urban revitalization strategy. Therefore, many of the smaller details have intentionally been disregarded in the interest of opening discussion on the more important issues.

I look forward to any contributions that my colleagues might offer as we press for hearings later this summer in the Senate Finance Committee. And, of course, we welcome any and all cosponsors who wish to join us on this bill.

Mr. President, I ask unanimous consent that the text of the Urban Jobs and Enterprise Zone Act of 1980 be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title; Amendment of 1954 Code.

(a) Short Title.—This Act may be cited as the "Urban Jobs and Enterprise Zone Act of 1980".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—DESIGNATION OF PRIVATE JOBS AND ENTERPRISE ZONES

Sec. 101. Designation of Zones.

(a) General Rule.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Designation of Private Jobs and Enterprise Zones

"Sec. 7871. Designation.

"(a) General Rule.—For purposes of this title, the term 'private jobs and enterprise zone' means any area in the United States which is designated by one or more local governments for purposes of this section if—

"(1) the Secretary of Commerce approves such designation, and

"(2) the government (or governments) making such designation provide assurances satisfactory to the Secretary of Commerce that the real property tax reduction described in subsection (d) will be made with respect to real property located in such area. The Secretary of Commerce may not approve any designation under paragraph (1) unless an application therefor is submitted in such manner and in such form, and contains such information, as the Secretary of Commerce shall by regulations prescribe. A designation under this subsection may be made by a State government on behalf of one or more local governments with the consent of such local government or governments.

"(b) Period for Which Designation Is in Effect.—

"(1) In general.—Any designation of an area as a private jobs and enterprise zone shall apply—

"(A) for purposes of subtitle A, to all taxable years ending during the first 10 calendar years beginning after the date on which the Secretary of Commerce approves such designation, and

"(B) for purposes of chapter 21, to all calendar months during such taxable years, unless the Secretary of Commerce revokes such designation under paragraph (2).

"(2) Revocation of designation.—The Secretary of Commerce may revoke any designation of an area if the Secretary of Commerce determines that the government (or governments) which designated such area are not substantially complying with the real property tax reduction described in subsection (d). Any such revocation shall take effect under rules similar to the rules of paragraph (1).

"(c) Area Requirement.—

"(1) In general.—The Secretary of Commerce may approve the designation of any area under subsection (a) only if—

"(A) the area is within the jurisdiction of the government (or governments) designating such area,

"(B) the boundary of the area is continuous,

"(C) the area—

"(i) has a population of at least 4,000, or

"(ii) is an Indian reservation (as determined by the Secretary of the Interior), and

"(D) the area meets the requirements of paragraph (2).

"(2) Unemployment and poverty requirements.—For purposes of paragraph (1), an area meets the requirements of this paragraph if such area meets the requirements of 1 or more of the following subparagraphs:

"(A) An area meets the requirements of this subparagraph if—

"(i) the average rate of unemployment in such area for the most recent 24-month period for which data are available was at least twice the average national rate of unemployment for such 24-month period, and

"(ii) 30 percent or more of the families living in such area were below the poverty level.

"(B) An area meets the requirements of this subparagraph if the average rate of unemployment in such area for the most recent 24-month period for which data are available was at least 3 times the average national rate of unemployment for such 24-month period.

"(C) An area meets the requirements of this subparagraph if 50 percent or more of the families living in such area are below the poverty level.

"(3) Poverty level.—For purposes of this subsection, the term 'poverty level' means 85 percent of the average lower living standard income level determined annually by the Secretary of Labor and published by the Bureau of Labor Statistics.

"(4) Determinations made by secretary of commerce.—Determinations under this subsection shall be made by the Secretary of Commerce on the basis of data submitted by the government (or governments) designating the area if the Secretary determines that such data is reasonably accurate.

"(d) Required Real Property Tax Reduction.—

"(1) In general.—The real property tax reduction described in this subsection is a permanent reduction applicable to property in the private jobs and enterprise zone of not less than 20 percent in the effective real property tax rate (determined as of the submission of the application under subsection (a)). Any such reduction shall be made not less rapidly than ratably over the first 4 real property tax years beginning after the date on which the Secretary of Commerce approves the designation under subsection (a).

"(2) Effective tax rate.—For purposes of paragraph (1), the effective real property tax rate is the rate of the real property tax multiplied by the percentage of assessed value which is subject to such rate.".

(b) The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter C. Designation of private jobs and enterprise zones.".

(c) Property Tax Reduction To Be Disregarded for Tax Effort Purposes.—For the purpose of determining the eligibility of a State or local government for assistance or benefits under any law of the United States, and for the purpose of determining the amount or extent of any such assistance or benefits, any reduction in real property taxes made for purpose of obtaining or maintaining the designation of a private jobs and enterprise zone under section 7871 of the Internal Revenue Code of 1954 shall be disregarded.

Sec. 102. Sense of Congress With Respect to Designations of Foreign Trade Zones.

It is the sense of the Congress that in the case of any application for designation of an area in an Urban Jobs and Enterprise Zone as a foreign-trade zone—

(1) the Foreign-Trade Zone Board should expedite the application process as much as possible;

(2) in evaluating such application, the Board should take into account not only current economic development within the Urban Jobs and Enterprise Zone but also future development to be expected from the incentives offered by this Act; and

(3) the Board should provide technical assistance to the applicants.

TITLE II—TAX INCENTIVES

Subtitle A—Social Security Tax Reduction

Sec. 201. Reduction in Social Security Payroll Taxes.

(a) General Rule.—Subchapter C of chapter 21 (relating to social security payroll taxes) is amended by redesignating section 3126 as section 3127 and by inserting after section 3125 the following new section:

"Sec. 3126. Reduction in Employee and Employer Taxes for Employees in Private Jobs and Enterprise Zones.

"(a) In General.—If an employee is an eligible employee for any payroll period, each rate of tax specified in section 3101 or 3111 shall, for wages paid for such payroll period, be reduced by—

"(1) 90 percent if such employee has not attained the age of 21 before the close of such payroll period, or

"(2) 50 percent if such employee has attained the age of 21 before the close of such payroll period.

"(b) Eligible Employee.—For purposes of subsection (a), an employee is an eligible employee for any payroll period if at least 50 percent of the services performed by such employee during such period for the employer are performed within one or more private jobs and enterprise zones.".

(b) Clerical Amendment.—The table of sections for subchapter C of chapter 21 is amended by striking out the item relating to section 3126 and inserting in lieu thereof the following:

"Sec. 3126. Reduction in Employee and Employer Taxes for Employees in Private Jobs and Enterprise Zones.

"Sec. 3127. Short Title.".

Sec. 202. Reduction in Social Security Tax Not to Affect Benefits.

The reduction in rates of tax under section 3101 or 3111 of the Internal Revenue Code of 1954 because of the application of section 3126 of such Code shall not affect the eligibility of any individual for benefits under the Social Security Act nor the amount or extent of such benefits.

SEC. 203. REDUCTION OF SOCIAL SECURITY TAX COLLECTIONS TO BE MADE UP FROM GENERAL REVENUES.

There is hereby appropriated to the trust funds established under sections 201 and 1817 of the Social Security Act amounts equivalent to the amounts by which the amount of taxes received under sections 3101 and 3111 of the Internal Revenue Code of 1954 are reduced by the application of section 3126 of such Code. The Secretary of the Treasury shall transfer amounts appropriated under this section to the appropriate trust funds in the appropriate amounts. The Secretary shall make such transfers on a quarterly basis and on the basis of estimates made by him of such amounts, with appropriate adjustment for inadequate or excessive previous transfers due to errors of estimate.

Subtitle B—Reduction in Capital Gain Tax Rates

SEC. 211. CORPORATIONS.

(a) GENERAL RULE.—Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted,

"(2) a tax of 15 percent of the lesser of—

"(A) the net capital gain, or

"(B) the net capital gain determined by only taking into account sales or exchanges of qualified property, plus

"(3) a tax of 28 percent of the excess (if any) of—

"(A) the net capital gain for the taxable year, over

"(B) the amount of the net capital gain taken into account under paragraph (2).".

(b) DEFINITION OF QUALIFIED PROPERTY.—Section 1201 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) DEFINITION OF QUALIFIED PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified property' means—

"(A) any tangible personal property which was used predominantly by the taxpayer in a private jobs and enterprise zone in the active conduct of a trade or business,

"(B) any real property located in such a zone which—

"(i) was used predominantly by the taxpayer in the active conduct of a trade or business, or

"(ii) is sold or exchanged by an individual whose principal residence (as of the date of the sale or exchange) is in such zone, and

"(C) any interest in a corporation, partnership, or other entity if, for the most recent taxable year of such entity ending before the date of the sale or exchange, such entity was a qualified business.

"(2) QUALIFIED BUSINESS.—A person shall be treated as a qualified business for any taxable year if—

"(A) such person is actively engaged in the conduct of a trade or business during such taxable year,

"(B) at least 50 percent of the employees of such person during such taxable year are qualified employees, and

"(C) in the absence of extenuating circumstances (as shown to the satisfaction of the Secretary), at least 50 percent of the average daily number of qualified employees of such person, for each taxable year after the first taxable year in which the person is actively engaged in the conduct of a trade or business in the private jobs and enterprise zone, are residents of a private jobs and enterprise zone.

"(3) QUALIFIED EMPLOYEES.—An employee shall be treated as a qualified employee for any taxable year if substantially all the service performed by such employee for the employer during such taxable year are—

"(A) performed in 1 or more private jobs and enterprise zones, and

"(B) performed in a trade or business of the employer.

"(4) Property remains qualified after zone designation ceases to apply.—

"(A) IN GENERAL.—The treatment of property as qualified property under paragraph (1) shall not terminate when the designation of the private jobs and enterprise zone in which the property is located or used ceases to apply.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply after the first sale or exchange of property occurring after the designation ceases to apply to the zone.".

SEC. 212. TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(a) 80 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the net capital gain determined by only taking into account sales or exchanges of qualified property (as defined in section 1201(d)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A).

"(2) Property remains qualified after zone designation ceases to apply.—

"(A) IN GENERAL.—The treatment of property as qualified property under paragraph (1) shall not terminate when the designation of the private jobs and enterprise zone in which the property is located or used ceases to apply.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply after the first sale or exchange of property occurring after the designation ceases to apply to the zone.".

SEC. 213. MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) Sales of certain property not taken into account.—For purposes of this paragraph, sales or exchanges of qualified property (as defined in section 1201(d)) shall not be taken into account.".

Subtitle C—Corporate Rate Reduction

SEC. 221. RATE REDUCTION.

Section 11 (relating to tax imposed on corporations) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCTION IN RATE OF TAX FOR CORPORATIONS WHICH ARE QUALIFIED BUSINESSES.—If any corporation is a qualified business (as defined in section 1201(d)(2)) for any taxable year, the amount of the tax imposed by subsection (a) on the taxable income of such corporation shall (in lieu of the amount determined under subsection (b)) be the sum of—

"(1) 14 percent of so much of the taxable income as does not exceed $25,000,

"(2) 17 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000,

"(3) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000,

"(4) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000, plus

"(5) 39 percent of so much of the taxable income as exceeds $100,000.".

Subtitle D—Other Incentives

SEC. 231. ACCELERATED DEPRECIATION.

(a) THREE-YEAR, STRAIGHT LINE METHOD.—Section 167 (relating to depreciation) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) Rapid Depreciation for Certain Small Businesses.—

"(1) IN GENERAL.—In the case of any taxpayer who is a qualified business (within the meaning of section 1201(d)(2)) for any taxable year, the taxpayer may elect to compute the depreciation deduction under this section with respect to any property placed in service during such taxable year in a private jobs and enterprise zone by using the straight line method with a useful life of 3 years.

"(2) LIMITATION.—The aggregate bases of property placed in service during any taxable year to which an election under paragraph (1) applies shall not exceed $500,000.".

(b) FULL INVESTMENT CREDIT ALLOWED.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) Special rule for private jobs and enterprise zone property.—Notwithstanding the second sentence of paragraph (2), the useful life, for purposes of this subpart, of any property with respect to which an election is made under section 167(r) shall be determined without regard to that election.".

SEC. 232. OPTIONAL CASH METHOD OF ACCOUNTING FOR CERTAIN SMALL BUSINESSES.

(a) GENERAL RULE.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end thereof the following new subsection:

"(f) OPTIONAL CASH METHOD.—

"(1) IN GENERAL.—Any taxpayer who is a qualified business (as defined in section 1201 (d)(2)) or any taxable year may elect to compute taxable income—

"(A) under the cash receipts and disbursements method of accounting, and

"(B) without any requirement to use inventories under section 471.

"(2) GROSS RECEIPTS LIMITATION.—Paragraph (1) shall not apply for any taxable year with respect to any taxpayer if for any prior taxable year the gross receipts of such taxpayer exceeded $1,500,000.

"(3) ELECTION.—An election under paragraph (1) may be made by any taxpayer without the consent of the Secretary for the taxpayer's first taxable year for which the taxpayer is a qualified business.".

SEC. 233. EXTENSION OF NET OPERATING LOSS CARRYOVERS.

(a) GENERAL RULE.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end thereof the following new subparagraph:

"(J) In the case of any taxpayer which is a qualified business (as defined in section 1201(d)(2)) for any taxable year, any net operating loss for such taxable year shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss.".

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 172(b) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (J)".

TITLE III—EFFECTIVE DATE

Sec. 301. Effective Dates.

The amendments made by this Act—

(1) insofar as they relate to substitle A of the Internal Revenue Code of 1954, shall apply to taxable years beginning after December 31, 1980.

(2) insofar as they relate to chapter 21 of such Code, shall apply to wages paid after December 31, 1980, and

(3) insofar as they relate to subtitle F of such Code, shall apply from January 1, 1981, through December 31, 1990.

By Mr. DeCONCINI:

S. 2824. A bill to authorize the Secretary of the Interior to consider and pay certain claims arising out of the transfer of certain lands to the Quechan Indian Reservation; to the Committee on Energy and Natural Resources.

● Mr. DeCONCINI. Mr. President, I am pleased today to introduce legislation which has the purpose of resolving fairly the issue of personal property and private investment in lands which have been recently transferred to the Fort Yuma Indian Reservation in Arizona and California.

There has been a great deal of confusion over the status of these lands virtually from the beginning when the Fort Yuma Reservation was established for the Quechan Indians by the Executive Order of January 9, 1884.

In fact, the question of who owns title to 25,000 acres of land included in the 1884 boundaries has been the subject of three Solicitor's opinions: The Marigold opinion of January 8, 1936, the Austin opinion of January 18, 1977, and the Krulitz opinion of December 20, 1978. The first two of these opinions concluded that Indian title to this land was ceded to the United States in an agreement executed by the tribe and the U.S. Commissioners on December 4, 1893, and was ratified by Congress by the act of August 15, 1894. The third opinion, the Krulitz opinion of 1978, overrules these two opinions and concludes that the Quechan Tribe never lost equitable title to this land. However, the opinion preserves valid third-party interests that have vested during the period of mistaken classification.

In the late 1930's after the solicitor's opinion of 1936, non-Indian settlers began to make improvements on the vacant lands which lie on both sides of the Colorado River in southern Arizona and California. Although the Bureau of Land Management was apparently aware of the situation, no actions were taken until 1961, when those who were then considered to be "trespassing" on Federal land were issued 1-year renewable permits for a nominal fee. Most of these permits have been renewed through the present and were recognized by the Secretary in the order's list of third-party interests. Although the tribe has consented to the granting of rights for the same term and under the same conditions as the original leases, the tribe has not consented to the automatic granting of rights following the expiration of each lease.

Mr. President, the actions and inactions of the Federal Government over a period of 75 years have created confusing and conflicting expectations on the part of both Indians and non-Indians. The non-Indians who settled on these lands or who made agricultural improvements did so because they were told the land did not belong to the Indians, and because they thought they were acting legally. The Government gave them further reason to invest in these lands by granting and renewing permits year after year.

These improvements, which in essence have been given to the Indians along with the land, represent a substantial investment in money, time, and personal endeavor. The bill I am introducing would simply provide compensation at fair market value to those who have been granted leases or permits on the lands affected by the December 1978 order of the Secretary of the Interior for buildings and other improvements which must be moved or relinquished.

I would hope, Mr. President, that this proposed legislation will be given prompt and positive consideration by the Senate, and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2824

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior shall establish and carry out a program for the purpose of compensating eligible claimants (as defined in section 2 of this Act) for the reasonable cost of moving any building and associated structures (as defined in section 2 of this Act) to such other site as may be available and, if no other site is available or if the building or structure cannot feasibly be moved, compensate such claimant for the value of such building and structure, and the cost of restoring the land to its original condition if required by the lease or permit. In addition, such program shall provide for compensating any eligible applicant for any other improvements made to lands referred to in section 2(1) of this Act. In no event shall the compensation for the cost of moving any such building and related structure exceed the amount equal to their fair market value at the time such building, and structure were required to be moved,

(b) Any application for compensation under this Act shall be in such form, and shall contain such information and other data, as the Secretary of the Interior shall by regulation prescribe.

Sec. 2. As used in this Act, the term—

(1) "eligible claimant" means any individual who, on the basis of a lease or permit from the Department of the Interior, constructed or otherwise established and maintained or is maintaining a summer or recreational-type residence, or who on the basis of any such lease or permit, made other improvements, on lands which were transferred to and made a part of the Quechan Indian Reservation by order of the Secretary of the Interior on December 20, 1978, and which lease or permit was or is terminated or not renewable, including any such lease or permit terminated prior to December 20, 1978; and

(2) "building and associated structures" means any building which, on the basis of a lease or permit from the Department of the Interior, was constructed or otherwise established for use as a summer or recreational-type residence on lands which were transferred to and made a part of the Quechan Indian Reservation by order of the Secretary of the Interior on December 20, 1978, including any structure constructed or otherwise established for use in connection therewith.

Sec. 3. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.●

By Mr. BAUCUS:

S. 2825. A bill to amend the Internal Revenue Code of 1954 to provide greater protection for the rights of taxpayers; to the Committee on Finance.

TAXPAYERS' BILL OF RIGHTS ACT

● Mr. BAUCUS. Mr. President, Oliver Wendell Holmes reasoned that "Taxes are what we pay for a civilized society." However, Justice Holmes did not consider additional burdens imposed on taxpayers—added costs and delays that result from inefficiencies and inconsistencies in the administration of tax law.

In order to protect the taxpayers from irresponsible administrative action, I am introducing a bill today to put taxpayers on a more equal footing with the Internal Revenue Service. The taxpayers' bill of rights will help restore confidence in the equity of tax laws.

Legislation defining taxpayer rights and providing protection against arbitrary IRC actions is of critical importance to taxpayers, tax practitioners, and tax administrators alike. The taxpayers' bill of rights I am introducing includes six provisions which I feel are most important for taxpayer protection:

First, taxpayers need a true advocate within the system of tax administration. To be effective in this role, the taxpayer advocate must have independence and authority to intervene on the taxpayers' behalf. Thus, my bill establishes an office of ombudsman in the Internal Revenue Service.

Second, taxpayers need protection from unwarranted seizures of property. My bill will require the IRS to obtain a court order before seizing taxpayer property for nonpayment of taxes.

Third, taxpayers need to be protected against delays in IRS rulings. My bill will require the IRS to promulgate rules within strict time limitations.

Fourth, in order to reduce redtape for taxpayers, my bill will eliminate the requirement for declarations of estimated tax.

Fifth, in order to reduce redtape burdens for small business, my bill will eliminate the requirement for interim W-2 forms.

Sixth, tax preparers need to be protected against unwarranted penalties. The lack of statutory definitions of negligence and willful neglect has given the IRS too much discretion and opportunity for arbitrary imposition of penalties on tax preparers. My bill will provide statutory definitions to eliminate unwarranted penalties.

OFFICE OF OMBUDSMAN

In 1977, the IRS established a problem resolution program (PRP) designed to respond expeditiously to taxpayer difficulties. PRP offices, established in 58 districts across the country, handle complicated tax questions that have not been resolved through normal IRS channels or by outside tax experts.

Typically, PRP offices deal with those situations that "fall between the cracks." Some 42 percent of taxpayer complaints to PRP offices concern errant refund checks. Other frequent complaints involve errors in computer-generated notices and incorrect social security numbers.

The IRS created the position of ombudsman in January 1980 to bring the rapidly expanding PRP under centralized control.

Harold M. Browning, the official IRS ombudsman, is in charge of 188 PRP people nationwide. His responsibilities are twofold:

First. To act as "traffic director" and administrator for the expanded program; and

Second. To act as a "taxpayer advocate," reviewing IRS policies and forms from the taxpayers' viewpoint to see if they can be improved.

I applaud the efforts of the IRS to establish the problem resolution program and the position of ombudsman. Unfortunately, the ombudsman has not been given sufficient latitude to act as an aggressive taxpayer advocate.

Integrated within the IRS, the ombudsman can be effective in solving taxpayer difficulties. Immersed in the give-and-take of the Agency, the ombudsman can cross divisional lines, cut redtape, gain information, and eventually solve problems.

But to be an effective taxpayer advocate, the ombudsman should be set outside the agency. He should have an objective, rather than subjective, view of the operation. In his present position inside the agency, the ombudsman does not possess power, autonomy, or any measure of independence from the Office of the Commissioners. All of these are absolutely essential for adequate representation and protection of taxpayers' interests.

Taxpayers must not view their representative as merely an extension of the Internal Revenue Service. Thus, my taxpayers' bill of rights mandates the establishment of an independent office of ombudsman. This ombudsman will have the independence, the power, and the authority to intervene aggressively on behalf of American taxpayers.

SEIZURE OF PROPERTY

The Internal Revenue Service has remarkable authority for dealing with taxpayers. This authority is most readily abused in the area of jeopardy assessments. Jeopardy assessments are administrative orders issued by the IRS which permit the agency to bypass its own rules to collect moneys an IRS auditor claims a taxpayer owes.

Jeopardy assessments give the IRS broad powers over the property of the targeted taxpayer. I am concerned that this broad power may abrogate due process protection guaranteed all Americans by the Constitution.

Under present law, the Internal Revenue Service can seize a person's property without a court order. The scope of this authority is too broad and too vague.

Adding to this injustice, IRS computes the greatest tax liability possible when issuing jeopardy assessments. A recent GAO report found that in many cases, the assessment was considerably greater than the actual tax liability.

Numerous horror stories have been reported in Montana and elsewhere, describing tales of IRS harassment and unwarranted confiscation of property. Fear of the IRS is based not only on the agency's abuse of jeopardy assessment, but also on its well-earned reputation for inconsistency and unpredictability.

I believe that IRS power to seize property without a court order constitutes "unreasonable seizure of property." In order to rectify this injustice, the taxpayers' bill of rights will require the IRS to obtain a court order before seizing any citizen's property for nonpayment of taxes.

REGULATING BACKLOG

Implementation of tax legislation passed by Congress requires that the Internal Revenue Service establish specific rules. Unfortunately, the IRS is notoriously slow to formulate these rules.

The Tax Reform Act of 1976 has produced a backlog of approximately 180 "regulation projects." Two subsequent acts in 1978, the Revenue Act and the Energy Act, added to the IRS regulation burden. And recently, Congress has approved the windfall tax bill which will require additional regulations.

This influx of tax legislation, exacerbated by IRS' lackadasical response, has left a large void in the tax law. Taxpayers are often afforded little guidance and are forced to pay their taxes without a clear understanding of what their liabilities are.

What is the impact of the regulation backlog? Tax attorneys say that the lack of regulations may inhibit transactions with uncertain tax consequences.

Professionals who have to give tax advice based on the law are frustrated:

> You get into an area and suddenly discover there is no regulation. You're hamstrung.

Another attorney adds:

> I'd like to be able to give some sound advice. I can certainly do a better job if I know the IRS position.

The absence of regulations undermines transactions or leads to excessive caution. One attorney comments:

> The rules of our profession require that we have reasonable support for advice. It would be useful to have regulations as that support.

To ease the uncertainty, most attorneys seek IRS rulings to fill regulation gaps. Such a ruling outlines the probable IRS stance in a particular situation. However, a request for a ruling may be as hard to come by as a regulation. The taxpayer is trapped in a "Catch 22" situation where the IRS is hesitant to submit a tentative ruling because officials do not want to reverse themselves when the regulation is eventually put on the books.

Taxpayers need to be protected against unreasonable delays in IRS rulemaking. Thus, my bill requires that all regulations must be promulgated within 18 months unless the law specifically provides otherwise.

REDUCTION OF REDTAPE FOR TAXPAYERS

Taxpayers are overburdened by IRS forms. In order to free the taxpayer from this web of paperwork, this provision of my bill will delete from the code the statutory section requiring individuals to file declarations of estimated tax.

The tax would still be required, but the intention is to eliminate the hundreds of thousands of voucher forms currently filed when no payments are necessary. These forms are useless and are discarded by the Service.

So why must the taxpayer file these burdensome forms? IRS has no need for, and thus routinely destroys, all declaration-vouchers which are not accompanied by remittances. IRS does not keep records concerning nonremittance declaration-vouchers, but estimates that it received and destroyed about 234,500 such vouchers for the filing periods April 15, 1979; June 15, 1979; September 15, 1979; and January 15, 1980.

The Government Accounting Office estimates that it cost taxpayers about $35,175 in postage to file those vouchers and that it cost IRS about $11,360 to receive and destroy them.

In my opinion, as much as 50 to 75 percent of all governmental paperwork could be eliminated if the Government officials would devote as much time in the future to eliminating reports as they have in the past to creating them.

Considering the reduction in cost and paperwork burden to both the taxpayers and IRS, I feel that it is necessary to remove the requirement that individual taxpayers make declarations of estimated tax.

REDUCTION OF REDTAPE FOR SMALL BUSINESSMEN

Small businessmen are caught in a maze of IRS redtape. The taxpayers' bill of rights offers a partial solution to this problem by eliminating duplicative W–2 tax forms.

Eliminating the interim W–2 tax forms would save $300 million by cutting superfluous paperwork. Present law requires that whenever a worker leaves a job during the year, a W–2 wage report must be issued to him. In order to alleviate the small businessman's paperwork burden, my bill proposes that all W–2's be issued once, at the end of the year for all employees. Those having special need to obtain forms early could do so by request.

TAXPAYER HARASSMENT

Tax preparers charge that the IRS has embarked on a program of "thinly-veiled intimidation," putting the screws on these professionals in an effort to squeeze extra dollars from the Nation's taxpayers.

The Tax Reform Act of 1976 granted the IRS power to penalize tax preparers who make errors through "negligence" ($100 fine), or who make "willful" errors ($500 fine). Preparers can also be fined $25 for failing to sign a tax return, to enter their IRS number, or to keep records for at least 3 years.

These penalties were designed to crack down on unscrupulous, fly-by-night tax preparation operations which recklessly flout the law and bend or ignore rules in order to come through with the "promised return."

I certainly support the original intent of the penalties.

According to the Chicago District Organization of the National Association of CPA's, some of the most common offenses for which fines have been imposed involve improperly deducting real estate taxes, failing to compute real estate depreciation, and netting gambling losses against winnings instead of entering them separately. However, compliance with these provisions require the tax preparer to look further into the taxpayer's affairs than most tax preparers feel is their responsibility.

Consequently, tax preparers are being coerced (via the fines) into doing the work of Uncle Sam's taxmen. This threatens the relationship of the tax preparer with his clients. Traditionally, the system of self-assessment requires that the preparer be an advocate for the taxpayer and be strongly protective of his rights.

However, the IRS contends that the preparation of the income tax return should be a cooperative effort between the IRS and the preparer rather than an adversary proceeding; subsequently, the tax preparer must make full disclosure. The IRS's enforcement of its position has changed the relationship between the preparer and the taxpayer—from ally to enemy.

The lack of statutory definitions of the terms "negligence" and "willful neglect" has given the IRS too much discretion and opportunity for arbitrary imposition of taxpayer penalties. The result is that accountants are inhibited from ethically providing full assistance and advice to their clients. Taxpayers are thus deprived of valuable, independent, frontline advocates.

Responsible tax return preparers should not be strong-armed, under threat of vague penalties, into being audit tools of the IRS. The taxpayers' bill of rights will prevent tax preparer harassment by providing statutory definitions of the terms "negligence" and "willful neglect."

CONCLUSION

The complexity of the tax code and the arbitrary administration of the tax laws have undermined much of the faith taxpayers have in Government.

The procedures outlined in the taxpayers' bill of rights require added services at some cost to the IRS. However, these provisions will help restore the taxpayer's faith in the equitable administration of the tax laws by insuring that taxpayers and the Internal Revenue Service are aware of their respective obligations.

In this regard, my bill will reduce longrun costs of the IRS by increasing the taxpayer's condfidence in the equity and efficiency of the IRS operation.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayers' Bill of Rights Act".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. ESTABLISHMENT OF AN OFFICE OF OMBUDSMAN.

(a) ESTABLISHMENT OF OFFICE.—Section 7802 (relating to Commissioner of Internal Revenue) is amended by adding at the end thereof the following new subsection:

"(c) OFFICE OF OMBUDSMAN.—

"(1) IN GENERAL.—There is established within the Internal Revenue Service (hereinafter in this subsection referred to as the 'Service') an office to be known as the Office of Ombudsman to be under the supervision and direction of the Ombudsman. The Ombudsman shall be appointed by the President, by and with the consent of the Senate, and shall be an advocate for taxpayers and taxpayers' rights. The Ombudsman shall be responsible for—

"(A) providing to taxpayers—

"(i) assistance in obtaining easily understandable tax information and information on audits, corrections, and appeals procedures;

"(ii) assistance in answering questions on tax liability and preparing and filing returns; and

"(iii) assistance in locating documents or payments filed with or submitted to the Service by taxpayers;

"(B) providing personnel and procedures to receive and evaluate complaints of improper, abusive, or inefficient service by Service personnel and, with due regard to the rights of both the taxpayer and the Service personnel and under regulations prescribed by the Secretary, taking action to correct such service;

"(C) surveying taxpayers to obtain their evaluation of the quality of the service provided by the Service;

"(D) compiling data on the number and type of taxpayer complaints in each internal revenue district and evaluating the actions taken to resolve such complaints;

"(E) issuing Taxpayer Assistance Orders under section 7811;

"(F) preparing as soon as practicable, but not later than 180 days after the date of the enactment of this subsection, brief but comprehensive pamphlets which set forth in simple and nontechnical terms—

"(i) the rights and obligations of a taxpayer during an audit;

"(ii) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

"(iii) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

"(iv) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens); and

"(G) carrying out such other functions which relate to assisting taxpayers as the Ombudsman may deem appropriate.

"(2) DISTRIBUTION OF PAMPHLETS.—Pamphlets prepared under subparagraph (F) of paragraph (1) shall be available to any taxpayer upon request, and notice of the availability of such pamphlets shall be displayed prominently in all public offices of the Service. Copies of appropriate pamphlets shall be provided to any taxpayer with the first written communication from the Service to, or at the first meeting with, the taxpayer regarding the taxpayer's liability for tax for a taxable year. In the case of a communication by telephone regarding such liability, copies of the appropriate pamphlets shall be mailed to the last known address of such taxpayer within 24 hours after such communication.

"(3) REPORT.—The Ombudsman shall submit an annual report on the activities of the Office of Ombudsman (including any recommended legislation) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation.".

(b) TAXPAYER ASSISTANCE ORDER.—Subchapter A of chapter 80 (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) AUTHORITY TO ISSUE.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman, the taxpayer is suffering from an unusual, unnecessary, and irreparable loss as a result of the manner in which the internal revenue laws are being administered by the Secretary.

"(b) EFFECT OF ORDER.—During the period (not to exceed 60 days) specified in any Taxpayer Assistance Order issued under subsection (a), the Secretary may not take any action adverse to such taxpayer under—

"(1) chapter 64 (relating to collection),

"(2) chapter 70 (relating to jeopardy, bankruptcy, and receiverships),

"(3) chapter 78 (relating to discovery of liability and enforcement of title), or

"(4) any other provision of law which is specifically described by the Ombudsman in such order.".

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 7802 is amended by inserting "; OMBUDSMAN" after "ORGANIZATIONS)".

(2) The table of sections for subchapter A of chapter 80 is amended by inserting "; Ombudsman" after "Organizations)" in the item relating to section 7802.

(3) The table of sections for subchapter A of chapter 80 is amended by adding at the end thereof the following new item:

"SEC. 7811. Taxpayer Assistance Orders.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 3. PREVENTION OF UNWARRANTED SEIZURE OF TAXPAYER PROPERTY.

(a) GENERAL RULE.—Section 6331 of the Internal Revenue Code of 1954 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COURT ORDER REQUIRED FOR COLLECTIONS NOT IN JEOPARDY.—

"(1) IN GENERAL.—Levy may be made under subsection (a) with respect to any unpaid tax only after the Secretary is authorized by court order to make such levy.

"(2) AUTHORITY TO ISSUE ORDER.—On request of the Secretary, the court order under paragraph (1) may be issued by any Federal judge or any judge of a State court of record within the district where the property (or right to property) to be levied upon is located.

"(3) Standard for issuing order.—A judge may issue on order under paragraph (2) only if—

"(A) the Secretary, by affidavit sworn to before such judge, establishes that the requirements of this section (other than this subsection) have been met, and

"(B) the judge determines that there is reasonable cause to believe that such requirements have been met.

"(4) Jeopardy.—Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

"(5) State.—For purposes of this subsection, the term 'State' includes the District of Columbia and any possession of the United States.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to levies issued on and after the date of the enactment of this Act.

Sec. 4. Elimination of Delays in Rulemaking.

(a) General Rule.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(d) Time for Prescribing Regulations.—
"(1) In general.—Unless otherwise provided by law, all of the initial final regulations necessary to be promulgated for the purpose of implementing the addition of any provision to, or the amendment of any provision of, this title shall be promulgated within 18 months after the date of the enactment of such addition or amendment.

"(2) Failure to promulgate regulations within time prescribed.—

"(A) Prospective effective date.—If the Secretary fails to prescribe regulations within the period provided for in paragraph (1), the effective date of such regulations shall not be earlier than the date on which they are published in the Federal Register.

"(2) Reasonable position.—If the Secretary fails to promulgate regulations within the time prescribed by paragraph (1), a taxpayer shall be permitted to adopt on his return any reasonable position with respect to the issues for which the regulations have not been promulgated.

"(3) Burden of proof.—In any legal proceeding with respect to issues described in subparagraph (B), the taxpayer shall have the burden of proof in showing that his position is reasonable. With respect to such issues, the position of the Secretary shall not be given any greater weight than that of the taxpayer.

"(4) Returns to which paragraph applies.—This paragraph shall only apply for returns whose due date (without regard to extensions) falls after the time provided in paragraph (1), and on or before the date the regulations are published in the Federal Register.".

(b) Effective Dates.—

(1) General rule.—Except as provided in paragraph (2), the amendments made by this section shall apply to regulations relating to amendments or additions to the Internal Revenue Code of 1954 enacted after December 29, 1969.

(2) Retroactive application.—In the case of amendments or additions made to the Internal Revenue Code of 1954 which were enacted after December 29, 1969 and before the date 6 months from the date of the enactment of this Act, the provisions of section 7805(d)(1) of the Internal Revenue Code of 1954 shall be applied by substituting "within 36 months from the date of the enactment of the Taxpayer's Bill of Rights Act" for "within 18 months of the date of the enactment of such addition or amendment."

Sec. 5. Reduction of Redtape for Individual Taxpayers

(a) Repeal of Requirement of Declaration.—Section 6015 (relating to declarations of estimated income tax by individuals) and section 6073 (relating to time for filing declarations of estimated income tax by individuals) are repealed.

(b) Installment Payments of Estimated Income Tax by Individuals.—Section 6153 (relating to installment payments of estimated income tax by individuals) is amended to read as follows:

"Section 6153. Installment Payments of Estimated Income Tax by Individuals

"(a) Individuals Required To Pay Estimated Income Tax.—Except as otherwise provided by this section, every individual subject to taxation under section 1 shall make payments of his estimated tax (as defined in subsection (c) during the taxable year as provided in subsection (b)) if—

(1) the gross income for the taxable year can reasonably be expected to exceed—

(A) $20,000 in the case of—

(i) a single individual, including a head of household (as defined in section 2(b)) or a surviving spouse (as defined in section 2(a)); or

(ii) a married individual entitled under subsection (e) to make joint payments with his spouse, but only if his spouse has not received wages (as defined in section 3401(a)) for the taxable year; or

(B) $10,000 in the case of a married individual entitled under subsection (e) to make joint payments with his spouse, but only if both he and his spouse have received wages (as defined in section 3401(a)) for the taxable year; or

(C) $5,000 in the case of a married individual not entitled under subsection (e) to make joint payments with his spouse; or

(2) the gross income can reasonably be expected to include more than $500 from sources other than wages (as defined in section 3401(a)).

Notwithstanding the provisions of this subsection, no payments are required if the estimated tax (as defined in subsection (c)) can reasonably be expected to be less than $100.

"(b) Payment in Installments.—Any individual required under subsection (a) to make payment tax (as defined in subsection (C)), shall make such payments in installments as follows:

If the requirement of subsec. (a) are met—	The following percentages of the estimated tax shall be paid on the 15th day of the—			
	4th mo	6th mo	9th mo	1st mo of succeeding taxable year
Before the 1st day of the 4th mo of the taxable year	25	25	25	25
After the last day of the 3d mo and before the 1st day of the 6th mo of the taxable year		33⅓	33⅓	33⅓
After the last day of the 5th mo and before the 1st day of the 9th mo of the taxable year			50	50
Amter the last day of the 8th mo and before the 1st day of the 12th fo of the taxable year				100

"(c) Estimated Tax Defined.—For purposes of this title, in the case of an individual, the term 'estimated tax' means—

(1) the amount which the individual estimates as the amount of the income tax imposed by chapter 1 for the taxable year (other than the tax imposed by section 55 or 56), plus

(2) the amount which the individual estimates as the amount of the self-employment tax imposed by chapter 2 for the taxable year, minus

(3) the amount which the individual estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1.

"(d) Recomputation of Estimated Tax.—If after paying any installment of estimated tax, the taxpayer makes a new estimate, the amount of each remaining installment (if any) shall be the amount which would have been payable if the new estimate had been made when the first estimate for the taxable year was made, increased or decreased (as the case may be) by the amount computed by dividing—

(1) the difference between—

(A) the amount of estimated tax required to be paid before the date on which the new estimate is made, and

(B) the amount of estimated tax which would have been required to be paid before such date if the new estimate had been made when the first estimate was made, by

(2) the number of installments remaining to be paid on or after the date on which the new estimate is made.

"(e) Joint Payments by Husband and Wife.—In the case of a husband and wife, payments under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint payment may be made if either the husband or the wife is a nonresident alien, if they are separated under a decree of divorce or of separate maintenance, or if they have different taxable years. If joint payments are made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

"(f) Farmers or Fishermen.—Payments of estimated tax required by this section from any individual—

(1) whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of his total estimated gross income from all sources for the taxable year, or

(2) whose gross income from farming or fishing (including oyster farming) shown on his return for the preceding taxable year is at least two-thirds of the total gross income from all sources shown on such return

may in lieu of the time prescribed in subsection (b) file a return, for the taxable year for which the estimated tax is payable, and make full payment of the estimated tax on or before March 1 of the succeeding taxable year.

"(g) Installments Paid in Advance.—Any installment payment of estimated tax required by this section may be made prior to the date prescribed for its payment.

"(h) Short Taxable Years.—The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Secretary.

"(i) Estates and Trusts.—The provisions of this section shall not apply to an estate or trust.

"(j) Nonresident Alien Individuals.—No payments shall be required to be made under this section by a nonresident alien individual unless—

"(1) withholding under chapter 24 is made applicable to the wages, as defined in section 3401(a), of such individual,

"(2) such individual has income (other than compensation for personal services subject to deduction and withholding under section 1441) which is effectively connected with the conduct of a trade or business within the United States, or

"(3) such individual is a resident of Puerto Rico during the entire taxable year."

Sec. 6. Reduction of Redtape for Small Business.

(a) General Rule.—Subsection (a) of Section 6051 (relating to receipts for employees) is amended—

(1) by striking out "on the day on which the last payment of remuneration is made" and inserting in lieu thereof "within 30 days after receipt of a written request from the employee if earlier"; and

(2) by adding at the end thereof the following new sentence: "In the case of an employee whose employment is terminated before the close of a calendar year, the employer shall furnish the employee, on the day on which the last payment is made, a general written notice stating that (A) the employee may request in writing that such information be provided within 30 days of such request if earlier than January 31, (B) an amount of Federal taxes has been withheld, and (C) if the employee is entitled to a refund, he must file a Federal income tax return based on information which, unless a request is made by the employee, will be sent to the employee at his last known address before January 31 of the next calendar year.".

(b) Effective Date.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

Sec. 7. Prevention of Unwarranted Harassment of Tax Return Preparers.

(a) In General.—Section 6694 (relating to understatements of taxpayer's liability by income tax return preparers) is amended by redesignating subsection (f) as subsection (g) and by inserting immediately after subsection (e) the following new subsection:

"(e) Negligent or Intentional Disregard Defined.—For purposes of this section, the term 'negligent or intentional disregard of rules and regulations' means the failure to exercise the degree of knowledge, skill, and judgment usually possessed and observed by an ordinary and prudent tax return preparer and does not include any case in which—

"(1) a deficiency or other violation is due to a mistake of law or fact in good faith and based on reasonable grounds;

"(2) a deficiency or other violation was due to a mathematical or clerical error (within the meaning of section 6213 (b));

"(3) There was a failure on the part of the preparer to collect and verify all relevant facts not furnished by the taxpayer unless the fact and information submitted by the taxpayer appear on their face to be inconsistent with this title or any rule or regulation promulgated thereunder; and

"(4) an Internal Revenue Service written determination (within the meaning of section 6110(b)(1)) is disregarded unless such written determination pertains to the person with respect to whom a return or claim was prepared.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act, but shall not apply in any case where notice and demand for any penalty has been made before such date.●

By Mr. BELLMON:

S. 2826. A bill to amend the Internal Revenue Code of 1954 with respect to the exemption from Federal income tax of interest paid on certain family farm homestead bonds; to the Committee on Finance.

FARMSTEAD AND MORTGAGE BOND PROGRAMS

● Mr. BELLMON. Mr. President, the issue surrounding the continued use of tax-free bonds to provide low-interest mortgages is a complicated one. This is an issue with many long-range possibilities, some of which are only now beginning to be understood. The practice first came to the attention of Congress 2 years ago when the press reports revealed the use of this type of tax instrument to provide low-interest mortgages to home buyers who appeared financially able to buy homes without this type of assistance. The result was an immediate outcry from most sectors to put a halt to this use of tax-exempt bonds.

There is very little argument that these low-interest mortgages should be targeted to people who need help to purchase homes. In many cases the States currently making use of this type of mortgage subsidy are in fact targeting them to low- and moderate-income buyers. It appears that this session of Congress will be unable to agree on legislation tailoring this program in any fashion. Yet, the failure of both Houses of Congress to provide orderly guidelines for this program while threatening to either totally discontinue this use of tax-free bonds or to allow their continued use for mortgage subsidies unfettered, has thrown what appears to be one of the only mechanisms now providing housing on a community basis into chaos.

Mr. President, let's take a look at the success of the current use of these bonds in connection with low interest home mortgages. In my own State of Oklahoma, approximately $500 million in tax-free bonds have been issued to date. The lowest mortgage rate was 8.3 percent and the highest has been 12 percent. Through the tax-exempt mechanism, Oklahomans primarily in rural counties have been able to purchase homes. This in turn has kept the homebuilding industry healthy in what would have otherwise been a disastrous year. Similar results have been experienced in other States.

The fact that I find most supportive of this program is that in most cases it has worked from start to finish without the involvement of a single Federal bureaucrat. These bonds are dealt with on a local level, usually on a county-by-county basis. They are handled by local authorities, local banks, savings and loans, and are structured to the needs of the local community.

In conversations with local lending institutions' personnel responsible for making the low-interest loans, it was encouraging to learn that the repayment record of the mortgagees indicated that there is a significantly lower delinquency rate under this program than under many federally funded programs.

Mr. President, the effects of these programs are immediate and universally salutary. There is no heavy-handed Federal intervention or insensitivity often experienced with existing Federal housing programs. Moreover, these bonds are being used as an alternative to Government supported and controlled housing programs which can be cut back. It is estimated that the Federal Treasury loses $25 million in revenues foregone for every $1 billion of tax-free. It is estimated that the Federal Treasury will forego approximately $50 million in fiscal year 1980 and $250 million in fiscal year 1981 (CBO figure). While the knee-jerk reaction to this loss may be to curtail the continued use of tax-free bonds in this manner, I submit that with measured cuts in existing federally funded housing programs, the continued targeted use of tax-exempt bonds in this manner can be viewed as an entirely favorable alternative.

Mr. President, I propose to extend the benefits of the tax-exempt bond mechanism one step farther with the introduction of a bill to allow tax-exempt family farm homestead bonds. Under my bill, the tax-exempt bond mechanism can be employed to raise funds to loan to full-time family farmers for the purchase of homesteads.

There is no need to stress the serious and growing national problem of the declining number of young farmers who are able to purchase land and become food producers. Great amounts of capital are required to establish family farm operations. Year after year the number of family farms declines; unless this trend is reversed, the Nation will run out of food producers or be forced to rely upon a limited number of large corporate farms. The U.S. Department of Agriculture statistics show that the number of farms has declined from 5.6 million in 1950 to 4 million in 1960 to 2.9 million in 1970 to 2.3 million at the beginning of 1980. If the current decline in farms continues, it may be impossible for American agriculture to continue to increase productivity. Current population trends require tremendous increases in food production or the world will be faced with massive starvation.

The World Food Council has estimated that in the next 15 years the demand for food grains in the developed countries will increase tremendously—by an estimated 200 million tons, nearly equivalent to the current production of grain in the United States. During this period, demand in the developing countries will increase by 350 million tons, and under current patterns of production well over 100 million tons of this increase in developing world demand would have to be met by increased exports from North America. Grain producers must be prepared to meet an almost impossible challenge. American farmers will be called upon to provide the largest share of this increase.

Under my proposal, individual States would establish State family farm homestead authorities. These authorities would be authorized to sell tax-exempt bonds to raise funds to loan to fulltime farmers for the purchase of homesteads which would be defined as a place of residence and/or the base of operations. The restrictions on this program would include: First, the family taxable income averaged over the last 5 years could be no more than 115 percent of the median family income of the county of residence; second, families which already owned farmland would not be eligible; third, loans could not exceed $250,000; fourth, loans could be used for the purchase of farm buildings, family residences, and land not to exceed 160 acres; fifth, loans would be limited to full-time farmers; sixth, loans would be targeted to farmers who do not have other means of securing credit to purchase homesteads; and seventh, an assessment of need would be required for borrowers as well as the ability of the borrower's parents to assist in the purchase of a homestead.

The Homestead Act allowed families to own 160 acres and helped establish the family farm as the backbone of American agriculture. The bill is intended to continue to allow people to enter the farming business.

Mr. President, I am convinced that short of giving farms away, there is no Federal program on the books or in the works that could provide young people with a more reasonable way to obtain the financing necessary to purchase family farms. This program would be administered on a State-by-State basis with the individual needs of each State taken into consideration. While this legislation authorizes the Farmers Home Administration to provide management assistance to borrowers under the program, the inherent success of the tax-exempt mortgage program with its freedom from Government intervention will remain intact.

This program is intended to supplement the excellent work of the Farmers Home Administration which is already performing an invaluable service to American agriculture. The resources made available by Congress to the FmHA are never adequate to fully meet the reasonable needs of young farmers. The family farm homestead approach will provide much-needed financial augmentation.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsections (h) and (i) as subsections (i) and (j) and by inserting after subsection (g) the following new subsection:

"(h) Family Farm Homestead Bonds.—

"(1) In general.—Except as provided in paragraph (3), any family farm homestead bond shall be treated as an obligation not described in subsection (a) (1) or (2).

"(2) Family farm homestead subsidy bond defined.—For purposes of this subsection, the term 'family farm homestead bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for financing the acquisition of land or other property (including a principal residence located on such land) to be used for family farming purposes.

"(3) Exception for certain qualified bonds.—

"(A) In general.—Paragraph (1) and subsection (b) shall not apply to any qualified family farm homestead bond.

"(B) Qualified family farm homestead bond.—For purposes of subparagraph (A), the term 'qualified family farm homestead bond' means an obligation which is issued as part of an issue—

"(i) which is issued by or on behalf of a State, and

"(ii) all of the proceeds of which (exclusive of issuance costs and a reasonable required reserve) are to be used to provide financing under an approved State family farm homestead plan.

"(4) Approved state family farm homestead plan.—For purposes of this subsection, the term 'approved State family farm homestead plan' means a plan—

"(A) under which financing is to be provided to a family for the acquisition of land and other property (including a principal residence located on such land) to be used for farming purposes,

"(B) under which financing is provided to a family only if—

"(i) the average family income of such family during the preceding 5 years is 115 percent or less of the median family income for the county in which the family resides (as determined under regulations prescribed by the Secretary which are consistent with the regulations prescribed under section 8 of the United States Housing Act of 1937),

"(ii) at least one member of the family will materially participate in the operation of the farm on a full-time basis, and

"(iii) no member of the family owns any land which is used, or capable of being used, for farming purposes,

"(C) under which financing is provided only to a family which is assessed, under criteria established by the plan, to be in need of such financing, taking into account, but not limited to, consideration of—

"(i) the ability of the parents of the individual heading the family and parents of the spouse of such individual to provide all or a portion of such financing,

"(ii) the availability of other means of financing,

"(D) under which—

"(i) the aggregate amount of financing made available to any family from the proceeds of all qualified family farm homestead bonds issued by or on behalf of the State may not exceed $250,000,

"(ii) the total amount of acres of land which may be purchased by any family from the proceeds of all such bonds may not exceed 160, and

"(iii) financing may not be provided for more than 30 years, and

"(E) which has been approved by the Secretary of Agriculture or his delegate.

"(5) Limitation on amount of issue.—The Secretary of Agriculture or his delegate shall each year establish for each State a limit on the aggregate amount of obligations which may be issued under a plan approved under paragraph (4).

"(6) Other definitions and special rules.—For purposes of this subsection—

"(A) Bond.—The term 'bond' includes any obligation.

"(B) Family.—The term 'family' includes an individual, the spouse of such individual, and any child of the individual (within the meaning of section 151(e)(3)).

"(C) Farming purposes.—The term 'farming purposes' has the same meaning as such term is used in section 2032A(e)(5).

"(D) Financing.—The term 'financing' includes any mortgage or other owner-financing.

"(E) Material participation.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).".

(b) Paragraph (2) of section 103(i) of such Code (relating to a requirement that certain obligations must be in registered form), as redesignated by subsection (9), is amended—

(1) by striking out "or" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B), and

(3) by adding at the end thereof the following new subparagraph:

"(C) subsection (h) (relating to family farm homestead bonds).".

Sec. 2. The Farmers Home Administration is authorized and directed to provide management and other financial assistance to States and individuals participating in any approved State family farm homestead plan described in section 103(h)(4) of the Internal Revenue Code of 1954.

Sec. 3. The amendments made by the first section of this Act shall apply to obligations issued on or after the date of the enactment of this Act.●

By Mr. DURKIN:

S. 2828. A bill to amend the Small Business Act to require the divorcement of motor fuel stations from operation by certain producers and refiners of motor fuels, to control sales by producers and refiners of motor fuels, to provide special loan guarantees to small business concerns for the acquisition of motor fuel stations, and for other purposes; to the Committee on the Judiciary.

SMALL BUSINESS MOTOR FUEL MARKET PRESERVATION ACT OF 1980

● Mr. DURKIN. Mr. President, today I am introducing legislation that will prevent the Nation's independent service station operators from being owned and operated by their own suppliers, the major oil companies.

Since the Arab oil embargo of 1973, the major oil companies have steadily taken a larger share of the Nation's retail gasoline market—not just from independent dealers but from their own franchised branded dealers as well. The result of this reduction of competition is record profits for the giant oil corporations, increased costs for consumers, and greatly increased small business closings.

My legislation will remove the major oil companies from the retail business. Large integrated oil companies are manipulating prices and unfairly distributing their product to minimize competition by driving small independent service stations into bankruptcy and out of business. Only complete divorcement can put an end to this disturbing trend.

The legislation I am introducing will do five things to correct this situation.

First, the major multi-national oil companies will be prohibited from directly owning gas stations and leasing them out to independent dealers as well as directly operating gasoline stations. Small or independent refiners are exempt from this restriction. For small or independent refiners the percentage of sales by refiner-operated stations versus total statewide sales may not exceed that sales ratio achieved in 1978. These provisions will halt anticompetitive distribution practices.

Second, service station dealers are provided with certain rights and financial assistance. When the oil companies divest themselves of their stations, the proprietor of any service station that is offered for sale shall have the right of first refusal to purchase the station. SBA loan guarantees are available to help the independent operator purchase the station.

When a major oil company puts a gas station up for sale, the proprietor has

60 days to consider the offer and make a counter offer. If this is not accepted, an independent appraisal of the value of the property shall be made. The dealer will have the right to purchase the property at the appraised price within 30 days.

Third, the dealer has the right to purchase, store or sell products obtained from any supplier without penalty. However, dealers operating branded stations must provide point-of-sale notice to customers if the products being sold were not obtained from the brand-name supplier.

Fourth, within 1 year after date of enactment, all refiners, producers and distributors of motor fuel will be prohibited from charging different prices for similar quantities of product. If the supplier can show actual cost differences for providing different quantities of product, then the pricing may reflect those differences.

Fifth, within 3 months after date of enactment, refiners must provide the following information to the Federal Trade Commission: First, total amount of motor fuel sold in refiner-operated outlets in 1979, both nationwide and in each State; Second, total amount of motor fuel sold or delivered to all customers in 1978, both nationwide and in each State; Third, total amount of crude oil produced in 1978; and Fourth, total amount of crude oil refined in 1978. Persons who do not own refineries but who own or operate 50 or more service stations shall report on the number of stations they own or control and the total amount of gasoline they sell, both nationwide and in each State. The FTC shall establish regulations for annual reports. If this information is available from other agencies of the Government, the Commission may waive reporting requirements.

There is no question that this legislation, designed to reverse the trend of refiners selling increasingly large portions of their gasoline through their own stations, is badly needed. According to the U.S. Department of Energy, the total number of independent service stations across the country in November of 1974 was 178,900. A year ago the number of independent service stations had dropped to 136,800. The decline continues and independent retailers have been closing at over twice the rate of company-owned outlets. An average of 10,000 independent retailers have gone out of business each year since 1974.

In 1978 Congress passed and the President signed into law the "Petroleum Marketing Practices Act," the so-called "Dealer Day in Court" bill. I cosponsored this legislation which established procedures to insure that retail gasoline franchise holders were not unfairly or arbitrarily deprived of their franchises, and their livelihoods. This legislation was long overdue and represented a substantial attempt to prevent the unjust treatment of gasoline retailers.

While the "Fair Marketing Practices Act" was an important step in the right direction, it did not go far enough in protecting the gasoline retail market from the aggressive intrusion of the major multinational oil conglomerates. In order to complete the work we began in the last Congress, further legislation is needed. The legislation I am offering today will solve some of the problems we face in this area.●

By Mr. HOLLINGS (for himself, Mr. CANNON, Mr. PACKWOOD, Mr. GOLDWATER, Mr. SCHMITT, and Mr. STEVENS):

S. 2827. A bill to amend the Communications Act of 1934 to provide for improved domestic and international telecommunications, rural telecommunications development, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COMMUNICATIONS ACT AMENDMENTS OF 1980

Mr. HOLLINGS. Mr. President, I have sent to the desk, for introduction, legislation which represents a major step forward in our effort to reshape telecommunications policy. I am happy to be joined in this action by Senators CANNON, PACKWOOD, GOLDWATER, and SCHMITT. The bill we are proposing represents our collective efforts over the past 6 months and our reconciliation of various issues that had separated us. As is the case with any compromise, there are parts of this bill that each of us likes more than others, but in the aggregate we have compromised neither ourselves nor the consumers we represent nor the affected industries. This bill is a thorough and fair treatment of an exceedingly complex field.

The Commerce Committee has devoted 3 years to consideration of the proposals in this bill. We conducted extensive oversight hearings in 1977; upon further study and evaluation of the findings of those hearings, we began work on comprehensive legislation in 1978. In 1979, two bills, S. 611 and S. 622, were introduced, a four-volume hearing record was compiled, and individual revisions of each proposal consumed much of our time. This year has been devoted to further reflection and compromise. Though the process has been long and, at times, painfully slow, we have come a long way in a relatively short time. The various issues have crystallized, the collective approaches of Members, the public, and industry have matured, and now better legislation will be the result.

In summary, this is a deregulation bill without accepting deregulation as an end in itself. The bill does not affect antitrust laws nor any pending litigation. We have attempted to fashion a careful transition during which numerous companies and activities can be deregulated, and regulated carriers can take necessary steps to participate in competitive arenas. The main thrust of this bill is to enhance competition.

All markets in customer-premise equipment, resale of communications services, and information services will be effectively deregulated, as will value-added carriers and others who do not control essential transmission facilities. The primary basis for regulation will be control of transmission facilities for which there is no reasonable alternative. As these facilities become competitive, telecommunications transmission services will also be deregulated.

The provision of basic telephone service at reasonable rates will be assured by regulation if necessary, as will the viability of rural carriers providing this important universal service.

Dominant regulated carriers will be required to create fully separated affiliates with separate and rigorous accounting procedures and other separation requirements in order to participate in deregulated markets. Also all regulated carriers must provide reasonable and nondiscriminatory interconnection to all persons. Recognizing the impossibility of a perfect safeguard, we propose these two requirements—separate affiliates and interconnection—as the backbone of our protections against cross-subsidization from regulated areas to the services provided in deregulated markets.

Additionally, a mechanism has been agreed to which will fully separate the functions of Western Electric and Bell Telephone laboratories which support customer premises and other competitive equipment and which set out interim requirements for the internal activities of Western Electric and Bell Telephone laboratories.

We believe that several broadcast-related proposals can also encourage deregulation while preserving the public interest standard. Accordingly, radio and television licenses are extended to 5 years; renewals can be predicated upon different rules than initial licensing; noncomparative methods of selection such as lotteries may be used in initial licensing; and spectrum allocation and assignment activities shall enhance and reflect the goal of competition.

Cable systems will be subject to signal restrictions if a broadcaster can demonstrate the restrictions are necessary to protect local programing efforts. Franchise fee ceilings would be maintained. Telephone companies in rural areas below a Commission-set threshold can avoid the cross-ownership waiver process and directly offer cable service. Outside of rural areas, A.T. & T. would be foreclosed from offering cable service, while other carriers may apply for a Commission waiver.

The bill does not address franchising practices. While we have received a number of complaints concerning alleged abuses by prospective franchisees, we are aware of active industry efforts toward self-regulation. Believing that the success of these efforts would be a far superior approach to our involvement, we will continue to watch this matter.

Radical technological change has made competition possible—and inevitable. Such competition will lead to both an expansion in the services available to the public and a narrowing in the service distinctions between various segments of the communications industry. We have entered an exciting and challenging time, requiring a firm and responsible congressional policy which accentuates competition and deemphasizes regulation. This bill meets the times.

We will schedule markup on the bill for June 24, to give other members of the committee time to review our proposal and clarify any ambiguities in the bill. We are anxious to work with our colleagues on this bill. We hope it will be considered and approved by the full Commerce Committee.

Mr. President, I ask unanimous consent that there be printed 2,000 extra copies of this bill for use of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Communications Act Amendments of 1980."

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Sec. 402–412.

TITLE V—CONFORMING AMENDMENTS; REPEALER; REFERENCE

Sec. 501. Title 18.
Sec. 502. Clayton Act.
Sec. 503. Communications Satellite Act.
Sec. 504. Transition of Commission authority.
Sec. 505. Foreign telecommunications.
Sec. 506. Applicability of antitrust laws.
Sec. 507. Policy implementation.
Sec. 508. Television receivers.
Sec. 509. Cable television franchise fees.
Sec. 510. Effective date.

FINDINGS

SEC. 2. The Congress hereby finds and declares that—

(1) rapid advances in telecommunications technologies are making possible competition among providers of telecommunications services which were previously thought to have natural monopoly characteristics; and

(2) under conditions of full and fair competition, the marketplace is a more efficient regulator than government of the provision of diverse telecommunications services and, as full and fair competition continues to develop, deregulation of telecommunications carriers and services should occur.

TITLE I—GENERAL

SEC. 101. Sections 1 through 5 of the Communications Act of 1934 (and all cross references thereto), hereinafter referred to as "the 1934 Act" (47 U.S.C. 151) are redesignated as sections 101 through 105, respectively.

SEC. 102. Section 101 of the 1934 Act, as redesignated by section 101, is amended to read as follows:

"PURPOSES OF THE ACT; FEDERAL COMMUNICATIONS COMMISSION

"SEC. 101. For the purpose of making available, so far as possible, to all the people of the United States, rapid, efficient, nationwide and worldwide telecommunications services with adequate facilities at reasonable rates or prices; for the purpose of the national defense; for the purpose of promoting safety of life and property through the use of telecommunications; for the purpose of encouraging competition among and within telecommunications media in the provision of telecommunications; and for the purpose of promoting interstate and foreign commerce in telecommunications services, there is hereby created a commission to be known as the Federal Communications Commission, which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this Act.".

SEC. 103. Section 102 of the 1934 Act, as redesignated by section 101, is amended to read as follows:

"APPLICATIONS OF ACT

"SEC. 102. (a) The provisions of this Act shall apply to and the Commission shall exercise jurisdiction with respect to: all interexchange and international telecommunications and all transmission of electromagnetic energy by radio, which originates or is received within the United States; the licensing and regulating of all radio stations as hereinafter provided; and all persons engaged within the United States in such telecommunications or such transmission of energy by radio.

"(b) Except as otherwise provided in title II, and subject to the provisions of section 301 of this Act, nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to rates or prices, practices, services, facilities, or regulations for or in connection with exchange telecommunications services which are not part of or essential to the provision of an interexchange service.".

SEC. 104. Section 103 of the 1934 Act, as redesignated by section 101, is amended to read as follows:

"DEFINITIONS

"SEC. 103. For the purposes of this Act, unless the context otherwise requires, the term—

"(1) 'Affiliate' means any carrier or entity which owns or controls another carrier or entity, is under direct or indirect common ownership or control with another carrier or entity, or is owned or controlled by another carrier or entity.

"(2) 'Amateur station' means a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

"(3) 'Basic telecommunications service' means the provision to the general public on a universal basis of the minimum transmission capability necessary for two-way telecommunications services including basic telephone service.

"(4) 'Basic telephone service' means a basic telecommunications service which allows natural persons to communicate with each other by voice over intraexchange, interexchange and international telecommunications facilities.

"(5) 'Broadcast station', 'broadcasting station', or 'radio broadcast station' means a radio station equipped to engage in broadcasting.

"(6) 'Broadcasting' means telecommunications by radio intended to be received by the general public, directly or by the intermediary of relay stations.

"(7) 'Cable television service' means the retransmission of a signal of any broadcast station or the origination of one-way video entertainment programing on a per-channel, per-program or other subscription basis over any closed transmission medium.

"(8) 'Chain broadcasting' means simultaneous broadcasting of an identical program by two or more connected stations.

"(9) 'Commission' means the Federal Communications Commission.

"(10) 'Construction permit' or 'permit for construction' means that instrument of authorization required by this Act or the rules and regulations of the Commission made pursuant to this Act for the construction of a station or the installation of apparatus for the transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

"(11) 'Corporation' includes any corporation, joint-stock company, or association.

"(12) 'Exchange telecommunications' means telecomunications which both originate and terminate within the same exchange telecommunications area.

"(13) 'Exchange telecommunications area', 'exchange area' or 'exchange' means a geographic area configured by a State commission for telecommunications purposes.

"(14) 'Foreign correspondent' means the organization within a foreign country or the foreign government which is authorized to handle telecommunications traffic received from or destined for the United States.

"(15) 'Great Lakes Agreement' means the agreement for the promotion of safety on the Great Lakes by means of radio in force and the regulations referred to therein.

"(16) 'Harbor' or 'port' means any place to which ships may resort for shelter or to load or unload passengers or goods, or to obtain fuel, water, or supplies. This term shall apply to such places whether proclaimed public or not and whether natural or artificial.

"(17) 'Information' means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

"(18) 'Information service' means the offering of a capability for generating, acquiring, storing, transforming, retrieving, utlizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control or operation of a telecommunications system or the management of a telecommunications service.

"(19) 'Interexchange telecommunications' means telecommunications between a point or points located in one exchange telecommunications area and a point or points located in one or more other exchange areas, including the origination and termination of such telecommunications within each such separate exchange area.

"(20) 'International telecommunications carrier' or 'international carrier' means a telecommunications carrier which owns, controls, or leases international telecommunications facilities used for international telecommunications.

"(21) 'International telecommunications facilities' means the telecommunications facilities necessary for telecommunications between a point of entry into or exit from the United States and a point of exit from or entry into a foreign country, including cable head-ends or Earth stations.

"(22) 'International telecommunications' means telecommunications from or to any place in the United States (and including any place within Canada or Mexico) to or from another country, or between a station in the United States and a mobile station located outside the territorial limits of the United States, other than offshore drilling rigs or deepwater ports located in proximity to the territorial limits of the United States.

"(23) 'Land station' means a station, other than a mobile station, used for radio communication with mobile stations.

"(24) 'Licensee' means the holder of a radio station license granted or continued in force under authority of this Act.

"(25) 'Mobile service' means the radiocommunication service carried on between mobile stations and land stations, and by mobile stations communicating among themselves.

"(26) 'Mobile station' means a radiocommunication station capable of being moved and which ordinarily does move.

"(27) (A) 'Operator' on a ship of the United States means, for the purpose of parts II and III of title III of this Act, a person holding a radio operator's license of the proper class as prescribed and issued by the Commission.

"(B) 'Operator' on a foreign ship means, for the purpose of part II of title III of this Act, a person holding a certificate as such of the proper class complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force, or complying with an agreement or treaty between the United States and the country in which the ship is registered.

"(28) 'Operating agreement' means an arrangement between a foreign correspondent and a telecommunications carrier which establishes the terms, conditions, and procedures under which traffic to and from the United States will be handled by that foreign correspondent.

"(29) 'Person' includes an individual, partnership, association, joint-stock company, trust, or corporation.

"(30) (A) 'Radio officer' on a ship of the United States means, for the purpose of part II of title III of this Act, a person holding at least a first or second class radiotelegraph operator's license as prescribed and issued by the Commission. When such person is employed to operate a radiotelegraph station aboard a ship of the United States, such person is also required to be licensed as a 'radio officer' in accordance with the Act of May 12, 1948.

"(B) 'Radio officer' on a foreign ship means, for the purpose of part II of title III of this Act, a person holding at least a first or second class radiotelegraph operator's certificate complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force.

"(31) 'Radio station' or 'station' means a station equipped to engage in radio communication or radio transmission of energy.

"(32) 'Radioexchange carrier' means any carrier which provides a telecommunications service for hire between land mobile stations wherever located and other points via associated base stations which are located within the United States or its possessions, or between land mobile base stations in the United States and land mobile stations in Canada.

"(33) (A) 'Radiotelegraph auto alarm' on a ship of the United States subject to the provisions of part II of title III of this Act means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the Commission.

"(B) 'Radiotelegraph auto alarm' on a foreign ship means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the government of the country in which the ship is registered: *Provided*, That the United States and the country in which the ship is registered are parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus. Nothing in this Act or in any other provision of law shall be construed to require the recognition of a radiotelegraph auto alarm as complying with part II of title III of this Act, on a foreign ship subject to such part, where the country in which the ship is registered and the United States are not parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus.

"(34) 'Regulated telecommunications service' or 'regulated service' includes regulated basic telephone service or any regulated basic telecommunications service designated by the Commission pursuant to section 236, or the provision of telecommunications facilities for which no alternative is reasonably available as determined by the Commission.

"(35) 'Resale' means the reoffering, with or without adding value, by any person for a profit of any telecommunications service which has been obtained from a carrier.

"(36) 'Safety convention' means the International Convention for the Safety of Life at Sea in force and the regulations referred to therein.

"(37) 'Sharing' means a not-for-profit arrangement whereby several persons collectively use telecommunications services obtained from a carrier and whereby each person pays the costs associated with obtaining and using the services according to such person's pro rata usage.

"(38) (A) 'Ship' or 'vessel' includes every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not it is actually afloat.

"(B) A ship shall be considered a passenger ship if it carries or is licensed or certified to carry more than 12 passengers.

"(C) A cargo ship means any ship not a passenger ship.

"(D) A passenger is any person carried on board a ship or vessel except (i) the officers and crew actually employed to man and operate the ship, (ii) persons employed to carry on the business of the ship, and (iii) persons on board a ship when they are carried, either because of the obligation laid upon the master to carry shipwrecked, distressed, or other persons in like or similar situations or by reason of any circumstance over which neither the master, the owner, nor the charterer (if any) has control.

"(E) 'Nuclear ship' means a ship provided with a nuclear powerplant.

"(39) 'State' means the several States and includes the District of Columbia and the territories and possessions of the United States.

"(40) 'State commission' means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to exchange telecommunications services.

"(41) 'Station license', 'radio station license', or 'license' means that instrument of authorization required by this Act or the rules and regulations of the Commission made pursuant to this Act, for the use or operation of apparatus for transmission of energy, or telecommunications, or signals by radio, by whatever name the instrument may be designated by the Commission.

"(42) 'Tariff' means a schedule governing any charge, characteristic, regulation, or practice of general applicability associated with a regulated telecommunications service.

"(43) 'Telecommunications' means the transfer of information by means of electromagnetic or optical transmission, with or without benefit of any closed transmission medium including all instrumentalities, facilities, apparatus, and services (including the collection, forwarding, switching, transmission, and delivery of such information) essential to offering of telecommunications.

"(44) "Telecomunications carrier' or 'carrier' means any person, including any government or quasi-government entity, which owns or controls telecommunications facilities used by any person to provide telecommunications services. A person engaged in any nontelecommunications activities, in providing any information service, or information software, in producing or marketing telecommunications equipment, which person is fully separated from any affiliated regulated carrier, or a person engaged in broadcasting, or in providing any cable television service, shall not, insofar as such person is so engaged, be deemed a carrier.

"(45) 'Telecommunications equipment' includes: transmission facilities and other equipment (including customer-premises equipment) interconnected with or intended to be interconnected with telecommunications facilities and associated switching equipment; and switching equipment.

"(46) 'Telecommunications facilities' means transmission facilities and associated switching equipment under common ownership or control with such facilities.

"(47) 'Telecommunications service' means the offering of telecommunications facilities, or the offering of telecommunications by means of such facilities.

"(48) 'Transmission of energy by radio' 'radio transmission of energy' or 'transmission of electromagnetic energy by radio' means the transmission of electromagnetic energy through space without benefit of a closed transmission medium and includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

"(49) 'Transmission facilities' means equipment (including wire, cable, microwave, satellite, and fibreoptics) which transfer information by electromagnetic means or which directly support such transfer, but does not include customer-premises equipment or switching equipment.

"(50) 'United States' means the several States and territories, the District of Columbia and the possessions of the United States.".

Sec.105. Section 104 of the 1934 Act, as redesignated by section 101, is amended by—

(1) striking "wire or radio communication" and substituting "telecommunications" and by striking "communication by wire or radio" wherever it appears and substituting "telecommunications" in subsection (b) thereof:

(2) striking "person" in the second sentence of subsection (b) the first time it appears and substituting "supervisory employee";

(3) inserting "(1)" after "(b)";

(4) inserting after subsection (b) the following:

"(2) For the purposes of this section the term 'supervisory employee' means any officer or employee of the Commission who, as determined by the Commission, exercises sufficient decisionmaking or regulatory authority so that the provisions of this subsection should apply to such officer or employee.

"(3) For the purposes of this section the term 'company' or 'corporation' means any business concern or other entity which is subject to regulation by the Commission under this Act or which is substantially affected by the regulatory activities of the Commission.";

(5) striking "interstate and foreign wire and radio communication and radio communication" and substituting "interexchange and international telecommunications" in subsection (k) thereof; and

(6) striking "common" and substituting "regulated" in subsection (1) thereof.

REPORT ON LICENSE FEES

Sec. 106. (a) The Commission shall—

(1) identify, for each service, those classes of licensees which enjoy private commercial benefit from the use of the electromagnetic frequency spectrum; and

(2) develop, taking into consideration the determinations made in paragraph (1), the method or methods by which the value of such benefit, in excess of the direct and indirect costs of regulation, can be measured and collected from licensees of such classes.

(b) Not later than 270 days after the date of enactment of this section, the Commission shall report to the Congress on the matters referred to in subsection (a). Such report shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives.

TITLE II—DOMESTIC AND INTERNATIONAL TELECOMMUNICATIONS; RURAL TELECOMMUNICATIONS DEVELOPMENT

Part I—Domestic and International Telecommunications

FINDINGS

Sec. 201. (a) Statement of Findings.—The Congress hereby finds and declares that—

(1) the basic goals of the 1934 Act continue to be valid, and it is in the public interest to continue efforts to attain these goals;

(2) basic telecommunications services must and can be provided and maintained at reasonable rates or prices in an environment of increased competition through appropriate financial and procedural safeguards incorporated into statutory and regulatory policies and industry relationships;

(3) although complete deregulation of all telecommunications carriers and services may eventually be achieved pursuant to the amendments made by this Act, regulation of carriers which own or control telecommunications facilities for which there is no reasonably available alternative as determined by the Commission or which provide basic regulated telecommunications service should continue until an alternative facility is reasonably available or the universal provision of basic service at reasonable prices can be assured through marketplace competition;

(4) current and projected public, business, and governmental needs for additional and enhanced telecommunications and information services and equipment are highly diverse;

(5) advances in technology can make possible new and diverse telecommunications services and equipment previously unavailable to the public and can satisfy specialized consumer needs;

(6) modern efficient interexchange telecomunications services are essential to interstate and foreign commerce; technological and other advances have largely removed any valid or meaningful distinction between interstate interexchange and intrastate interexchange telecomunications; and differing policy and regulatory treatment of interexchange telecommunications based on State boundaries would create artificial and irrational barriers burdening interstate and foreign commerce and reducing important public benefits:

(7) the characteristics of the United States telecommunications industry which evolved during the development of essentially universal basic telephone service cannot adequately provide for the creativity, technological and service innovation, responsiveness to consumer needs, operating efficiencies, and related factors required to exploit fully technological opportunities beneficial to the consumer;

(8) decisions of the courts and the Commission have indicated a clear need for congresional guidance;

(9) increased competition in the supply of telecommunications and information services and equipment and selective deregulation have already produced significant benefits for the telecommunications and information consumer;

(10) further competition and deregulation can result in increased benefits to the consumer and additional opportunity to exploit new technologies and should be explicitly encouraged through appropriate statutory policies and guidelines; and

(11) an orderly transition is necessary to achieve the purposes of this Act.

(b)(1) Transition Plan.—The Commission shall establish a plan to carry out the provisions of this title to foster marketplace competition and to implement deregulation on the dates specified therein (or where no date is specified at the earliest practicable date), for interexchange and international telecommunications services, equipment and carriers.

(2) Transition plan requirements.—The transition plan established pursuant to subsection (a) shall provide for—

(A) the classification of carriers (pursuant to section 203 of the 1934 Act) to carry out the policy of this title;

(B) the establishment and implementation of an accounting system (pursuant to section 220 of the 1934 Act);

(C) a procedure (pursuant to sections 227 and 228 of the 1934 Act) to implement the provisions of this title relating to the formation of fully separated affiliates and to monitor compliance with such provisions; and

(D) practices and procedures for exchange access charges and a Universal Service Pool in substitution for existing arrangements (pursuant to section 222 of the 1934 Act).

Sec. 202. (a) The heading for title II of the 1934 Act is amended to read as follows:

"TITLE II—DOMESTIC AND INTERNATIONAL TELECOMMUNICATIONS".

(b) Title II is amended by inserting immediately below the heading of such title the following new part heading:

"Part A—General".

Sec. 203. Section 201 of the 1934 Act is amended to read as follows:

"STATEMENT OF POLICY

"Sec. 201. It is the policy of the United States to rely wherever and whenever possible on full and fair marketplace competition to provide all telecommunications services, and thereby to reduce and eliminate unnecessary regulation. Marketplace competition will result in technological innovation, operating efficiencies, and availability of a wide variety of telecommunications technologies that are now or may become available in the future, and will promote the equitable and efficient use of such technologies to provide services to all geographical areas of the United States. Where full and fair competition does not now exist, it is the policy of the United States to encourage the development of such competition and, pursuant to an appropriate transition in accordance with the provisions of this Act, to deregulate telecommunications carriers while establishing appropriate safeguards to prevent anticompetitive practices. Wherever the Commission finds it necessary to regulate the provision of basic telephone or telecommunications services in order to ensure their universal and reasonable availability, or to regulate facilities for which there is no reasonably available alternative, such regulation shall be minimal and strictly in accordance with this Act. Before deregulating the provision of any basic telephone or telecommunications service in any particular geographic area or market, the Commission must find that such basic telephone or telecommunications service will continue to be universally and reasonably available. Unless the Commission in any particular case shall find otherwise, it shall be presumed that there are no basic technological, operational, or economic factors which would necessarily preclude the provision of any telecommunications service under conditions of full and fair competition. The Commission shall assure that the requirements of this Act relating to interconnection, facilities construction, and customer-premises equipment do not have the effect of limiting competition in the relevant market or markets for telecommunications services, telecommunications equipment, and information services.".

Sec. 204. Section 202 of the 1934 Act is amended to read as follows:

"AUTHORITY OF THE COMMISSION

"Sec. 202. (a) The Commission shall exercise only so much of the powers conferred upon it under this title as is essential to the purposes of this Act, and shall, whenever necessary, revise, reduce, or eliminate any rule or regulation prescribed pursuant to this title with respect to any telecommunications service or carrier operating in a geographic area or market as competition develops.

"(b) The Commission shall have continuing authority over the provision of regulated telecommunications services and carriers.

"(c) The Commission shall ensure that all allocation, assignment, and authorization policies, standards, and rules with respect to the licenses issued to telecommunications carriers under title III are not inconsistent with the policy of section 201. Nothing in title III shall be construed to preclude the Commission from establishing nonadjudicatory methods (including random and similar selection methods, but excluding economic methods such as auctions) for choosing among competing applicants for radio frequencies to be used by telecommunications carriers whenever the Commission determines that the use of any such nonadjudicatory method would be consistent with the purposes of this Act.".

Sec. 205. Section 203 of the 1934 Act is amended to read as follows:

"CLASSIFICATION OF CARRIERS

"Sec. 203. (a) Not later than 30 days after the date of enactment of the Communications Act Amendments of 1980, the Commission shall identify, and cause to be published in the Federal Register, a list of those carriers which on the date of enactment were deriving revenues from the procedures established by the telephone industry to allocate the costs and divide the revenues associated with the provision of basic telephone service, commonly known as separations and settlements and division of revenues. Carriers identified under this subsection shall be classified as regulated carriers.

"(b) Not later than 30 days after such date of enactment, the Commission shall further identify and cause to be published in the Federal Register a list of those regulated carriers which together with affiliates each of which serve 750,000 or more telephones. Regulated carriers identified under this subsection shall be further classified as dominant-regulated carriers.

"(c) (1) Not later than 30 days after such date of enactment the Commission shall identify any telecommunications carrier which owns, controls, or leases any international telecommunications facility. Such carrier shall be classified as a regulated international telecommunications carrier.

"(2) Any carrier providing basic telephone service internationally and the Communications Satellite Corporation shall be further classified as dominant-regulated carriers.

"(d) (1) The Commission, upon its own motion or upon petition, shall classify or reclassify as a regulated carrier any carrier subject to this Act which owns or controls telecommunications facilities for which there is no reasonably available alternative or which provides any other regulated service.

"(2) The Commission shall, upon its own motion or upon petition, classify or reclassify as a dominant-regulated carrier any regulated carrier (including any regulated international carrier) which is dominant in such ownership, control or provision.

"(3) The Commission may, upon its own motion or upon petition, reclassify any dominant-regulated carrier as a regulated carrier, and any regulated carrier as an unregulated carrier.

"(e) Any interchange carrier not classified as a regulated carrier shall be deemed an unregulated carrier."

Sec. 206. Section 204 of the 1934 Act is amended to read as follows:

"RESALE OF TELECOMMUNICATIONS SERVICES

Sec. 204. (a) (1) Except as otherwise provided in this Act, the Commission shall not regulate the resale of any telecommunications service.

"(2) No regulated carrier may establish or enforce any restrictions on the resale, sharing, or other use of any service provided by such carrier.

"(3) The Commission may restrict or otherwise regulate the provision of any telecommunications service by resale or otherwise if offered by a quasi-governmental entity which has a statutory monopoly for the delivery of letters. In the event that the Commission shall permit such provision such entity shall also meet the requirements of section 227 with regard to its provision of telecommunications services and that affiliate shall be classified as a regulated carrier. Nothing herein shall be construed to authorize such entity or affiliate to provide the electronic delivery of messages to nonaffiliates.

"(b) No dominant-regulated carrier may engage in any resale activity other than through a fully separated affiliate.".

Sec. 207. Section 205 of the 1934 Act is amended to read as follows:

"PRESCRIPTION OF CARRIER REQUIREMENTS

"Sec. 205. (3) Consistent with the purposes of this Act and the policy of this title, the Commission may prescribe different requirements for different regulated carriers, based upon such factors as the extent of telecommunications facility ownership or control and the nature of services offered. With respect to unregulated carriers, the Commission shall impose no requirement except as otherwise specifically provided in this title.

"(b) (1) With respect to regulated carriers, the Commission may prescribe such conditions governing the provision of any regulated telecommunications service as the Commission determines necessary and appropriate to ensure that the initiation or continued provision of any such service by such carrier is consistent with the policy of this title. Such conditions may include requirements concerning: reporting of information; cost accounting; authorization of facility construction and use; approval of tariffs; and interconnection of telecommunications equipment.

"(2) Subject to section 228, the Commission may in any particular case upon complaint and after a hearing, in which any interested party may join, make such other requirements relating to carrier organization, operation, or practices as are necessary to promote the policy of this title.

"(3) In imposing such other requirements relating to organization, operations or practices with respect to any regulated carrier which is not classified as a dominant-regulated carrier under subsections (b) and (c) of section 203, the Commission may impose such requirements under section 227 as the Commission determines necessary in any particular case: *Provided, however*, That the Commission may not impose all of the requirements of such section.".

Sec. 208. Section 206 of the 1934 Act is amended by—

(1) amending the heading to read as follows: "LIABILITY OF CARRIERS FOR DAMAGES; RECOVERY OF DAMAGES";

(2) inserting "(a)" immediately before the first sentence thereof; and

(3) striking "common" wherever it appears therein and inserting in lieu thereof "regulated".

Sec. 209. (a) Section 207 of the 1934 Act is amended by—

(1) redesignating such section and all cross references thereto as subsection (b) of section 206;

(2) striking the heading thereof; and

(3) striking "common" wherever it appears therein and by inserting in lieu thereof "regulated".

(b) Title II of the 1934 Act, as amended, is further amended by inserting immediately after section 206 thereof the following new section:

"INTERCONNECTION

"Sec. 207. (a) Every regulated international carrier, every regulated interexchange carrier, any entity or affiliate described in section 204(a) (3), and every carrier which owns or controls an exchange telecommunications facility for which there is no reasonably available alternative facility, shall interconnect with telecommunications equipment of any other carrier or person upon reasonable request, including a request pursuant to section 208. Such interconnection shall be based upon reasonable, nondiscriminatory terms and conditions pursuant to section 210.

"(b) (1) All internal arrangements for interconnection of any part of a dominant-regulated carrier with any other part of such carrier at any exchange access point and international entry and exit point at which any person interconnects or has requested interconnection under subsection (a) shall be subject to subsection (a) of section 210.

"(2) The provisions of subsection (b) of section 210 shall apply to all such internal arrangements for interconnection at any other point (which is not an exchange access point or international entry or exit point) at which any person has requested interconnection under subsection (a).

"(3) All such arrangements shall be subject to section 211.".

Sec. 210. (a) Section 208 and all cross references thereto of the 1934 Act are redesignated as section 225(a).

(b) Section 225, as so redesignated by subsection (a), is amended by —

(1) amending the heading to read as follows:

"COMPLAINTS TO THE COMMISSION; INVESTIGATIONS; ORDERS FOR PAYMENT OF MONEY"; AND

(2) striking "common" wherever it appears therein and inserting in lieu thereof "regulated".

(c) Title II of the 1934 Act, as amended, is further amended by inserting immediately after section 207 thereof the following new section:

"PROVISION OF REGULATED SERVICES BY REGULATED CARRIERS

"SEC. 208. Every regulated carrier shall make available, upon reasonable request therefor, any regulated telecommunications service and shall establish just, reasonable, and nondiscriminatory tariffs for and in connection with such service, and any such tariff that is unjust or unreasonable, or that results in any unjust or unreasonable discrimination, preference, or advantage with respect to any person, class of persons, or locality for or in connection with like telecommunications services is hereby declared to be unlawful.".

SEC. 211. (a) Section 209 of the 1934 Act and all cross references thereto of the 1934 Act are redesignated as subsection (b) of section 225.

(b) Section 225(b) as so redesignated is amended by striking the heading thereof, and by inserting "regulated" immediately before "carrier".

(c) Title II of the 1934 Act, as amended, is further amended by adding immediately after section 208 thereof the following new section:

"INFORMATION ON TELECOMMUNICATIONS OPERATIONS AND CHARGES AND PRACTICES

"SEC. 209. (a)(1) It shall be the duty of every telecommunications carrier to provide to the Commission and to make available for public inspection such information relating to telecommunications operations, and in such form and at such times as the Commission may prescribe, and as is necessary to the Commission in the exercise and performance of its powers and duties under this Act. The Commission may impose different filing, notification, and information requirements upon different carriers, and shall have due regard for and may impose a lesser degree of reporting requirements on small telecommunications carriers.

"(2) Every carrier shall assure the continuing accuracy and completeness of information provided to the Commission under paragraph (1). Whenever such information is no longer substantially accurate and complete in all significant respects, the carrier shall as promptly as possible and in any event within such reasonable time as the Commission shall prescribe, amend such information or furnish such additional or corrected information as may be appropriate.

"(b) Within such reasonable time as the Commission shall prescribe, every regulated carrier shall file with the Commission, publish, and make available for public inspection tariffs for regulated telecommunications services between the different points on its own system, and between points on its own system and points on the systems of interconnecting carriers when a through route has been established, whether such charges are joint or separate, and showing the practices and regulations affecting such charges. Such tariffs shall contain such other information, and be kept open for public regulation in such places, as the Commission may by regulation require. Each such schedule shall give notice of its effective date, and each such telecommunications carrier shall furnish such tariffs to each of its interconnecting carriers.

"(c)(1) Unless otherwise provided by or under authority of this Act, no regulated carrier shall engage or participate in regulated telecommunications services unless tariffs have been filed and published in accordance with the provisions of this Act and with the regulations made thereunder.

"(2) No regulated carrier shall—

"(A) charge, demand, collect, or receive a greater, lesser, or different compensation for any telecommunications service or for any service in connection therewith, between the points in any such tariff than the charges specified in the tariff then in effect;

"(B) refund or remit by any means or device any portion of the charges so specified; or

"(C) extend to any person any privileges or facilities, or employ or enforce any regulations or practices affecting such charges, except as specified in such tariff.".

SEC. 212. (a) Section 210 of the 1934 Act and all cross references thereto are redesignated as section 230.

(b) Section 230 as is redesignated by subsection (a) is amended by striking "common" wherever it appears therein.

(c) Title II of the 1934 Act, as amended, is further amended by inserting immediately after section 209 thereof the following new section:

"TARIFFS

"SEC. 210. (a)(1) Except as provided in subsection (b), no new or revised tariff proposed by any regulated carrier for regulated telecommunications services (including interconnection arrangements under section 207) shall take effect until it has been either accepted, accepted with conditions, or finally approved by the Commission.

"(2)(A) Not later than 90 days after the date of filing with the Commission of a proposed tariff, the Commission shall make an initial determination as more particularly set forth in subparagraph (B), or shall set forth specific requirements for additional information or justification. Whenever the Commission has set forth such requirements, it may extend such period for not more than an additional 90 days.

"(B) the Commission may—

"(i) accept a tariff as filed;

"(ii) condition the acceptance of a tariff upon compliance with such requirements as it determines necessary to carry out the policy of this title;

"(iii) reject a tariff, if it determines that such tariff is prima facie unlawful, or in clear conflict with a regulation policy, or order of the Commission, or where the Commission is not satisfied, on the basis of the information or justification provided, that such tariff is prima facie lawful; or

"(iv) prescribe a different tariff, for an interim period.

"(3) During such period or extended period, the Commission may offer assistance to facilitate public negotiation between the carrier proposing such tariff and any other interested party or parties opposing such tariff in order to arrive at a mutually agreeable tariff. Any mutually agreeable tariff may be recommended to the Commission, which recommendation shall not be binding upon the Commission, but which the Commission shall duly consider in deciding whether to accept, accept with conditions, or reject the tariff initially proposed, or to prescribe a different tariff.

"(4) The Commission shall give public notice whenever making an initial determination under paragraph (2). Upon timely request therefor by the carrier initially proposing such tariff, or by any other interested party or parties for good cause shown (unless, where the Commission has rejected the proposed tariff, such carrier shall object), the Commission shall hold a hearing concerning the lawfulness of such initially proposed tariff or of such interim prescribed tariff, as the case may be. In any such hearing the burden of proof to show that the initially proposed tariff is just and reasonable shall be upon the carrier initially proposing such tariff, and the Commission shall decide the matter as expeditiously as possible.

"(5) Pending any hearing under paragraph (4) of this subsection, any tariff accepted, accepted with conditions, or prescribed by the Commission shall have effect. Any tariff rejected by the Commission shall have no effect, and any lawful tariff previously in effect for the same or like telecommunications service shall remain in effect.

"(6) Upon completion of any hearing under paragraph (4) of this subsection, the Commission may accept, accept with conditions, or reject such tariff as initially proposed, or may prescribe a different tariff which it determines will be just and reasonable. Such carrier shall adopt any tariff so prescribed. Any tariff rejected by the Commission shall have no effect, and any lawful tariff previously in effect for the same or like telecommunications service shall remain in effect.

"(b)(1) Any regulated international carrier which is not also a dominant-regulated carrier with respect to interconnection arrangements under section 207 shall and any regulated carrier may, if the Commission so allows, file any new or revised tariff pursuant to this subsection. Subject to the provisions of paragraph (2) of this subsection, such tariff shall take effect on the effective date specified in such filing, unless the Commission shall specify, by rule or in any particular case a longer period, not to exceed 30 days.

"(2) The Commission shall give public notice of the filing of such new or revised tariff within 15 days of such filing. Any party in interest may file with the Commission, within such reasonable time as the Commission shall specify, but in no event later than 30 days from the date of such notice, a petition for hearing concerning the lawfulness of such tariff, which petition shall set forth specific allegations of fact sufficient to show that the petitioner is a party in interest and that the tariff constitutes a prima facie violation of the provisions of this title. The petitioner shall serve a copy of such petition upon such carrier, which carrier shall have the opportunity to reply within a reasonable period of time as specified by the Commission. Not later than 30 days from the time for filing such reply, the Commission, on the basis of the tariff and pleadings filed or on the basis of other information within the knowledge of the Commission, shall either grant or deny such petition. Whenever the Commission shall grant such a petition it shall hold a hearing concerning those issues raised in the petition which the Commission determines are substantial and material questions relating to such violation. Upon completion of such hearing, the Commission shall either accept, accept with conditions, or reject such tariff, and shall make findings of fact and conclusions of law with respect to the allegations set forth in the petition.".

SEC. 213. Section 211 of the 1934 Act is amended to read as follows:

"COPIES OF CONTRACTS TO BE FILED

"SEC. 211. (a) Every regulated carrier subject to this Act shall file with the Commission copies of all contracts, agreements, or arrangements with other carriers, or with carriers not subject to the provisions of this Act, in relation to any regulated telecommunications service.

"(b) The Commission shall have authority to require the filing of any other contracts, agreements, or arrangements of any regulated carrier (including any operating agreements), and shall have authority to exempt any such carrier from submitting copies of such minor contracts, agreements, or arrangements as the Commission may determine.".

SEC. 214. Section 212 of the 1934 Act is amended by inserting "regulated" immediately before "carrier" and "carriers" wherever it appears therein.

SEC. 215. (a) Section 213(a) of the 1934 Act is amended to read as follows:

"VALUATION OF CARRIER PROPERTY

"SEC. 213. (a) After opportunity for hearing, the Commission, where necessary for the proper administration of this Act, and in particular for the purposes of section 222 of this title, may make a valuation, as of such date as the Commission may designate, of all or of any part of the property owned or used by any regulated carrier, and by any regulated exchange carrier which originates, terminates, or transfers interexchange or international telecommunications.".

(b) The first sentence of subsection (c) of section 213 of the 1934 Act is amended to read as follows: "The Commission may at any time require any regulated carrier and any exchange carrier referred to in subsection (a) to file with the Commission a statement showing the original cost at the time of dedication to telecommunications use of all or of any part of the property owned or used by such carrier.".

(c) Section 213(e) of the 1934 Act is amended by striking "common" and substituting "regulated".

(d) Section 213(g) of the 1934 Act is repealed.

(e) Section 213(h) and all references thereto (if any), are redesignated as section 213(g).

Sec. 216. Section 214 of the 1934 Act is amended to read as follows:

"NOTICE AND APPROVAL OF FACILITIES CONSTRUCTION, ACQUISITION, OR OPERATION

"Sec. 214. (a) Upon notification to the Commission, any regulated carrier which is not also a dominant carrier may—

"(1) undertake the construction of any new interchange telecommunications facilities or of any extension thereof;

"(2) acquire or operate any such facility or extension thereof; or

"(3) engage in telecommunications over or by means of such new facility or extension.

"(b)(1) The Commission may by rule or order require any regulated carrier which is not also a dominant-regulated carrier to obtain from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, extension, acquisition, operation, or use of any new or extended interexchange facility, or will be served by the discontinuation, reduction, or impairment of telecommunications services.

"(2) Any regulated carrier which is also a dominant-regulated carrier shall obtain such a certificate, unless the Commission in any particular case shall otherwise allow.

"(3) Nothing in this section shall be construed to require a certificate or other authorization from the Commission for any installation, replacement, or other changes in plant, operation, or equipment, other than new construction, which will not impair the adequacy or quality of service provided.

"(4) The Commission may, upon application, authorize in whole or in part a long-term facilities construction plan for a regulated carrier. Upon authorization of such plan such carrier shall not be required to obtain separate certification under paragraph (1) of this subsection for each element of such plan. The Commission may condition any authorization upon appropriate safeguards and submission to the Commission of periodic reports in such form and containing such information as the Commission may require in order to monitor the implementation and operation of such plan. The Commission shall take all appropriate steps to ensure that such plan is being carried out under such safeguards as the Commission shall have established.

"(c) The Commission shall have power to issue a certificate for the facilities or plan for which application was made; to refuse to issue a certificate; to issue a certificate for a portion or portions of a facility or plan, or extension thereof, or discontinuance, reduction, or impairment of service, described in the application. The Commission may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. After issuance of such certificate a regulated carrier may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, extension, acquisition, operation, or discontinuance, reduction, or impairment of service authorized thereby. Any construction, extension, acquisition, operation, discontinuance, reduction, or impairment of service contrary to the provisions of this section may be enjoined by any court of competent jurisdiction upon suit of the United States, the Commission, any affected State commission, or State, or any party in interest.

"(d) Upon petition or upon its own initiative, the Commission may, after full opportunity for a hearing, authorize or require by order any regulated carrier which is party to such proceeding to provide itself with adequate facilities, and to extend its facilities, for the expeditious and efficient performance of its service as a carrier of regulated services. No such authorization or order shall be made unless the Commission finds, as to such provision of facilities, or as to such extension, that such provision or extension is reasonably required in the interest of public convenience and necessity or, as to such extension, that such provision or expense involved therein will not impair the ability of such carrier to perform its duty to the public.

"(e) It shall be lawful for telecommunications carriers jointly to meet, plan and agree, under the auspices of the Commission, on matters affecting the design, maintenance, management, development, and coordination of telecommunications networks necessary to the joint provision of end-to-end through services. Nothing in this subsection shall be construed to require that routine nondiscriminatory contacts among carriers necessary to reach or execute the joint decisions made under the auspices of the Commission also be conducted under such auspices, and nothing in this subsection shall be construed as exempting any carrier from the antitrust laws for any action taken by such carrier which is a violation of such laws when taken by a single carrier.

"(f) The Commission may, upon appropriate request, authorize temporary or emergency augmentation of facilities or services or discontinuance, reduction, or impairment of facilities or services without regard to the provisions of this section.

"(g)(1)(A) Any dominant-regulated carrier and its affiliates shall maintain and file with the Commission a description of the operational protocols and technical interface requirements for connection with or use of any regulated telecommunications services, and report regularly to the Commission—

"(i) any material change relating to such protocols, interfaces or requirements which has been adopted or implemented, including any information or technical requirements relating to the capacity of services, facilities, or equipment to function effectively and efficiently if connected to any telecommunications service or facility furnished by a dominant carrier;

"(ii) the specific design or development of any service, facility or equipment which will require any material change in any operational protocol or technical interface requirement not already disclosed under clause (i) of this subparagraph;

"(iii) summaries of construction programs or activities intended to maintain, extend, or expand the regulated services or facilities of any dominant-regulated carrier (or any other regulated carrier if the Commission shall so order), if such information affects (or will affect) the service offerings of competing carriers or persons seeking interconnection with the services or facilities of such dominant-regulated carrier or such other regulated carrier; and

"(iv) such additional information relating to any required services, the disclosure of which the Commission determines to be necessary on its own initiative or in response to a petition submitted by any interested person.

"(B) Information required to be filed under subparagraph (A) may not be disclosed to a fully separated affiliate or an internal competitive support division until filed.

"(2) In any case in which a submission to the Commission is required under paragraph (1), any person may obtain the information which is the subject of such submission upon reasonable request and payment of reasonable copying and processing fees, unless the Commission determines that the furnishing of such information would be detrimental to the national defense and security or to the emergency preparedness of the Nation.

"(3) The Commission shall prescribe procedures to implement this subsection not later than 180 days after the date of enactment of this subsection.".

Sec. 217. The first sentence of section 215(a) of the 1934 Act is amended by striking "common carrier" and inserting in lieu thereof "regulated carrier".

Sec. 218. Section 217 of the 1934 Act is amended by striking "common".

Sec. 219. The first sentence of section 218 of the 1934 Act is amended by inserting "regulated" before "carriers".

Sec. 220. (a) Section 220(a) of the 1934 Act is amended to read as follows:

"(a)(1) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by regulated carriers subject to this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys.

"(2) Not later than the first anniversary of the date of enactment of the Communications Act Amendments of 1980, the Commission shall prescribe, and thereafter all regulated carriers shall comply with, guidelines of general applicability relating to accounts, records, and memoranda which shall be designed at a minimum to accomplish a complete allocation of all revenues and costs, including joint and common costs, between regulated goods and services and unregulated goods and services, and between and among regulated goods and services. The Commission may require any regulated carrier to establish and maintain such other separate accounts and supporting records and memoranda as the Commission determines necessary to carry out the purposes of this Act.".

(b)(1) The first sentence of section 220(b) of the 1934 Act is amended by striking "shall" the first time it appears therein and inserting in lieu thereof "may", and by striking "such" the first time it appears therein and inserting in lieu thereof "regulated".

(2) Section 220(b) is further amended by adding at the end thereof: "In exercising its responsibilities under this subsection, the Commission is encouraged to apply methods and techniques which will foster the policy, purposes, and objectives of this Act.".

(c) Subsection (d) of section 220 of the 1934 Act is repealed.

(d) Subsections (e) through (j) of section 220 of the 1934 Act and all references thereto (if any), are redesignated as subsections (d) through (i), respectively.

(e) Subsection (g) of section 220 of the 1934 Act as is redesignated by subsection (d) is amended by adding at the end thereof the following new sentence: "The Commission shall have due regard to the different sizes of carriers in prescribing forms or guidelines under this section.".

(f) Any carrier which provides basic telephone or telecommunications service shall allocate to each route all of the costs which vary directly with traffic on that route and a proportionate share of interexchange joint and common costs unless variations are specifically approved by the Commission. The provisions of this subsection shall not be construed to limit the authority of the Commission with respect to averaging of rates.

Sec. 221. Section 221 of the 1934 Act is amended by—

(1) striking "telephone company" each place it appears, and substituting "carrier";

(2) striking "telephone companies" each place it appears, and substituting "carriers";

(3) striking "company" each place it appears and substituting "carrier";

(4) striking "companies" each place it appears and substituting "carriers"; and

(5) striking "TELEPHONE COMPANIES" in the heading and substituting "CARRIERS".

Sec. 222. (a) Section 222 of the 1934 Act, and all references thereto (if any), are redesignated as section 222A.

(b) Section 222A of the 1934 Act, as so redesignated by subsection (a), is amended by inserting "Hawaii," after "Alaska," each time it appears.

(c) Effective January 1, 1981, section 222A of the 1934 Act, as so redesignated by subsection (a), is repealed.

(d) Title II of the 1934 Act, as amended, is further amended by adding immediately after section 221 the following new section:

"EXCHANGE ACCESS CHARGES/UNIVERSAL SERVICE POOL

"Sec. 222. (a) (1) the Commission shall at the earliest practicable date establish a Joint Board pursuant to section 410 (c) to assist the Commission in—

"(A) establishing, in consultation with the telecommunications industry, uniform practices to ascertain and apportion the costs of exchange operations between exchange and interexchange services and among interexchange services; and

"(B) managing the Universal Service Pool established in subsection (e).

"(2) (A) The Joint Board shall appoint and fix the pay of such personnel as may be necessary to assist the Joint Board in carrying out its functions under this section.

"(B) There are authorized to be appropriated to carry out the purposes of this paragraph such sums as may be necessary.

"(b) The Commission, in consultation with the Joint Board, shall establish practices to ascertain and apportion costs of providing access to exchange facilities for the origination and termination of interexchange services which shall be uniform for comparable types of interconnections. The Commission shall establish the form for records, accounts and memoranda to be kept by carriers providing such exchange access, including special forms and practices for small exchange carriers to facilitate the filing and processing of such carriers' tariffs, including the ability to file joint tariffs.

"(c) Subject to the provisions of subsection (d), each exchange carrier providing such exchange access shall file with the Commission a tariff governing the charges, practices and conditions for the use of its exchange telecommunications services by any interexchange carrier or international carrier, any affiliate or other part of such exchange carrier and any private telecommunications system engaged in interexchange telecommunications. Each such access charge shall—

"(1) cover only those costs (including capital costs) which vary directly with providing such origination or termination and the joint and common costs attributable thereto;

"(2) be nondiscriminatory and reflect any differing costs of origination or termination services requested and rendered; and

"(3) reflect any conditions specified in regulations for an orderly phasing out of the Exchange Network Facilities for Interstate Access Agreement.

"(d) In the case of exchange carriers which serve not more than 50,000 main and equivalent stations where a State certifies to the Commission that it has established a program in accordance with the uniform practices set forth by the Commission to regulate all exchange access arrangements, charges, regulations, or practices, the Commission shall delegate authority with respect to all exchange access arrangements, charges, regulations, or practices to the State commission within which such exchange carrier operates. Upon petition of any affected person showing that regulation of exchange access by a State commission is not in compliance with uniform practices established by the Commission, the Commission may prescribe just and reasonable exchange access arrangements, charges, regulations, or practices.

"(e) (1) In addition to the cost-based exchange access charges specified in subsection (c) or (d), the Commission shall establish a schedule of surcharges on such access charges for the purpose of ensuring the continued, universal availability of basic telephone service at reasonable rates. The annual amount to be collected through such surcharges shall not exceed the difference between—

"(A) the total amounts transferred through settlements and division of revenues in calendar year 1980; and

"(B) the total amount estimated to be paid in local exchange access charges during the current year;

plus $500,000,000.

"(2) The schedule of surcharges shall be nondiscriminatory as between interexchange services and carriers provided comparable exchange access.

"(3) The amounts collected by each exchange carrier through these surcharges shall be separately identified and accounted for, and shall be deemed to constitute a Universal Service Pool. Based on applications received pursuant to the priorities set forth in paragraph (4), the Joint Board shall authorize such transfers of these funds between and among carriers as are necessary and appropriate to achieve the purposes of this section.

"(4) In authorizing any transfer of funds from the Universal Service Pool, the Joint Board shall adhere to the following priorities:

"(A) first, to any exchange carrier, in an amount which when added to such carriers revenues from access charges in the immediately preceding calendar year would equal the amount of revenues received by such carrier in calendar year 1980 from settlements or division of revenues;

"(B) second, to any carrier which demonstrates to the Joint Board that such payment is necessary: to ensure that exchange basic telephone service rates do not unreasonably increase; to reduce unreasonably high access costs; or to offset the cost of rural connecting toll links between toll and exchange facilities which are not co-located and where such costs unreasonably exceed the national average for similar links—

"(i) first, to any exchange carrier which together with any affiliate serves not more than 50,000 main and equivalent stations; and

"(ii) second, to any carrier which, together with any affiliate, has 50,000 or more main and equivalent stations.

Funds received to reduce unreasonably high access costs shall be applied to reduce access charges on a nondiscriminatory basis.

"(5) The Joint Board, subject to Commission review, shall approve applications for payments under this section. The Joint Board, prior to approving applications for payments under this section shall—

"(A) verify the accuracy of claims;

"(B) determine the reasonableness of allocations; and

"(C) assure that payments received under this section are applied to maintain reasonable rates.

"(6) In determining the apportionment of funds under paragraph (4) (B) the Commission shall consider—

"(A) the revenues of the applicant on the date of enactment of the Communications Act Amendments of 1980;

"(B) the overall rate of return of the applicant;

"(C) the rates for local service of the applicant; and

"(D) the adverse effect on competitive services.

"(f) In order to facilitate the operation of the Pool while protecting against cross subsidies the Commission shall review and approve, disapprove, or modify, any plan for cooperative arrangements among carriers. The Commission shall prescribe procedures and regulations to ensure prompt and expeditious transfer of funds in the Pool to eligible carriers.

"(g) All practices and procedures prescribed by the Commission for allocating the costs of exchange operations among exchange, intrastate toll, and interstate toll services (commonly referred to as jurisdictional separations) and the practices existing for compensating exchange carriers (commonly referred to as settlements and division of revenues) in existence on the date of enactment of the Communications Act Amendments of 1980 shall cease to have not later than the second anniversary of the date of enactment of such Act, and the practices and procedures for such allocation consistent with the jurisdictional separations of this Act prescribed by the Commission shall take effect.".

Sec. 223. (a) The second sentence of paragraph (1) of subsection (a) of section 224 of the 1934 Act is amended by striking "does not include" and inserting in lieu thereof "includes".

(b) Paragraph (4) of subsection (a) of section 224 is amended by striking "cable television system" and inserting in lieu thereof "cable television system or telecommunications carrier".

(c) Section 224(b) of the 1934 Act is amended by adding at the end thereof the following new paragraph:

"(3) A utility shall provide reasonable, nondiscriminatory access for pole attachments by any cable television system or by any telecommunications carrier. The provisions of paragraphs (1) and (2) of this subsection and of subsection (d) shall not apply to any railroad, any person who is cooperatively organized and who provides only electric power services, or any person owned by the Federal Government or any State.".

(d) Section 224(c) of the 1934 Act is amended by striking "State." and inserting in lieu thereof "State, except that no State shall act to absolve any utility from the obligation imposed in this section to provide reasonable, nondiscriminatory access for pole attachments by any cable television system or by any telecommunications carrier.".

(e) Not later than 90 days after the date of enactment of this Act, the Commission shall prescribe regulations to carry out the amendments made by this section.

Sec. 224. (a) Title II of the 1934 Act, as amended, is further amended by adding at the end thereof the following new sections:

"EXCHANGE TELECOMMUNICATIONS AREA

"Sec. 226. (a) Subject to the provisions of subsection (c), it shall be the responsibility of each State commission to configure exchange telecommunications areas within the borders of each such State. Any such configuration existing as of January 1, 1980, shall be deemed to conform with the criteria set forth in subsection (b). Any reconfiguration by any State commission on or after the date of enactment of the Communications Act Amendments of 1980 shall be in accordance with the criteria set forth in subsection (b).

"(b) Any reconfiguration of an exchange area by a State commission shall be in accordance with the following criteria of this subsection:

"(1) any such area may encompass one or more contiguous local exchange networks serving common social, economic, and other purposes, even where such configuration transcends municipal boundaries or partially overlaps another exchange area;

"(2) every point within a State shall be included within an exchange area;

"(3) no such area which includes part or all of one standard metropolitan statistical area shall include a substantial part of any other standard metropolitan statistical area, unless the Commission shall otherwise allow; and

"(4) except with approval of the Commission no exchange area located in one State shall include any point located within another State.

"(c)(1) The Commission, upon petition of any interested party, and after consultation with the affected State and the Joint Board (established under section 222), may alter the boundaries of any exchange area, which any State commission has reconfigured on or after the date of enactment of the Communications Act Amendments of 1980, if the Commission determines, and states its reasons therefor, that the reconfiguration of such area does not conform with the criteria set forth in subsection (b), impedes the Commission's exercise of its authority and responsibilities, or would be inconsistent with the purposes of this Act.

"(2) Such petition shall be filed with the Commission not later than 45 days after the final act or order of the State commission. Unless the Commission shall have made a determination under paragraph (1) of this subsection no later than 120 days after the filing of such petition, the reconfiguration of the State commission shall be deemed to conform with the criteria set forth in subsection (b) and to be otherwise consistent with the purposes of this Act.

"(d) The Joint Board established under section 222 shall periodically examine the configurations of exchange areas of the several States and shall make recommendations, whenever appropriate, to the State commissions regarding changes in such configurations.

"FULLY SEPARATED AFFILIATE

"SEC. 227. (a) A fully separated affiliate of a dominant-regulated carrier shall—

"(1) have no member of its governing board who is a member of the governing board or officer or employee of such dominant-regulated carrier;

"(2) have no officers or employees in common with any such dominant-regulated carrier;

"(3) maintain books, records, and accounts separate from any such dominant-regulated carrier which identify all transactions with such dominant-regulated carrier and prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations; and

"(4) meet organizational and other criteria as will satisfy the Commission that the affiliate will comply with this section.

"(b) A fully separated affiliate may enter into any contract, agreement, arrangement, joint venture, partnership, or other manner of conducting business with its dominant-regulated carrier provided that any—

"(1) sale, exchange, or leasing of property between the parties;

"(2) lending of money or other extension of credit between the parties or between the fully separated affiliate and a third party directly or indirectly guaranteed by the dominant-regulated carrier;

"(3) furnishing of goods, services and facilities between the parties; or

"(4) transfer to, or use by, or for the benefit of the fully separated affiliate of any assets of the dominant-regulated carrier;
is made for fair market value.

"(c) Notwithstanding the provisions of subsection (b), no dominant-regulated carrier and its fully separated affiliate shall—

"(1) directly or indirectly own real or personal property either jointly or in common; or

"(2) engage in any joint sales or marketing of any service, facility, or equipment (except for advertising for which each party pays its pro rata share).

"(d)(1) No dominant-regulated carrier shall be deemed to have established a fully separated affiliate unless and until the Commission, upon petition and after an expedited hearing in which any interested party may join, finds that the relationships of such dominant-regulated carrier with the fully separated affiliate comply with the requirements of this section.

"(2) Not later than 45 days after the date of enactment of the Communications Act Amendments of 1980, the Commission shall establish procedures for the expeditious consideration of petitions filed under this section (which shall provide that final action on any such petition shall be taken by the Commission not later than 180 days after filing).

"(e) A dominant-regulated carrier shall not disclose to any fully separated affiliate any commercial information acquired in its rules and regulations to carry out this provision of regulated telecommunications services which would provide an unfair competitive advantage unless such information (including directory listings and similar information) is made generally available at the same time and at reasonable, nondiscriminatory rates, terms, and conditions.

"(f) The Commission shall promulgate rules and regulations to carry out this section not later than 180 days after the date of enactment of this section.

"INTERIM ARRANGEMENTS RELATING TO RESEARCH, DEVELOPMENT AND MANUFACTURING ACTIVITIES OF THE AMERICAN TELEPHONE AND TELEGRAPH COMPANY; TRANSITION TO FULL SEPARATION

"SEC. 228. (a) Until such time as the American Telephone and Telegraph Company and its affiliate (hereinafter referred to in this section as 'AT&T') establish fully separated affiliates pursuant to subsection (f) of this section and section 227, the provisions of this section shall apply in any case in which AT&T engages in research and development and manufacturing and related functions or activities.

"(b) For purposes of this section the term 'competitive support division' means any manufacturing, research or development unit or subunit of AT&T, other than any fully separated affiliate, which is engaged in any research, development, manufacturing, or any related functions or activities in support of any unregulated services or equipment.

"(c)(1) Subject to the provisions of paragraphs (5) and (6) of this subsection, any conduct of business specified in paragraph (4) of this subsection between—

"(A) AT&T and any competitive support division;

"(B) AT&T and any fully separated affiliate; or

"(C) a competitive support division and a fully separated affiliate,
shall be on an arms-length basis. Such business shall be conducted in a reasonable, nondiscriminatory manner, and the same rates, terms, and conditions shall be made available to nonaffiliated persons.

"(2) Except as provided in paragraph (4), as between AT&T and any competitive support division—

"(A) any sale, exchange, or leasing of property;

"(B) financial transactions between such parties;

"(C) furnishing of goods, services, and facilities between the parties; or

"(D) transfer to, or use by or for the benefit of any competitive support division, of any assets of AT&T; shall be made for the fair market value.

"(3) Any conduct of business between or among any competitive support divisions shall be fully compensatory and fully subject to audit.

"(4) The provisions of paragraph (1) shall apply to any conduct of business for the purpose of purchasing, leasing or otherwise obtaining or providing any telecommunications service or equipment, or any service or equipment incidental to telecommunications, including equipment design information or software programing, the output of any technical or marketing research or development unit or subunit (except as provided in subsection (d)), and subassemblies and components (except as provided in paragraph (6)) of this subsection.

"(5)(A) The provisions of paragraph (1) shall not be construed to require that AT&T and any competitive support division furnish any service, or equipment specified in paragraph (4) upon demand by any nonaffiliate, if the refusal to do so is based upon prudent business judgment.

"(B) If AT&T and any competitive support division refuses to comply with any obligation arising under paragraph (1), the Commission (acting upon its own initiative or upon the complaint of any interested party) shall determine whether such refusal is an exercise of such prudent business judgment. The burden of demonstrating justification for such refusal shall be upon the refusing party.

"(6)(A) Except as provided in subparagraph (B), any basic component shall be furnished—

"(i) for an amount which is fully compensatory and which is not less than the cost allocated to the basic component involved when such component is used by AT&T or any other affiliate or division which is not fully separated; and

"(ii) at rates, terms, and conditions no less than the rates, terms, and conditions under which similar basic components are transferred in the marketplace between nonaffiliates.

"(B) In any case in which any such basic component is uniquely essential to the capacity of any nonaffiliate to interconnect with any telecommunications facility for which there is no reasonably available alternative, the requirements of paragraph (1) of subsection (c) shall apply.

"(7) Nothing in this section shall be construed to preclude management personnel from directing the operations of AT&T, and any competitive support division: *Provided, however,* That any such division bear its properly allocable share of the costs of such direction.

"(d) The provisions of paragraph (1) of subsection (c) shall not apply to any basic research activity carried out by any unit or subunit of AT&T if such activity is not directly related to any telecommunications service, or equipment or class. The costs of any such basic research activity shall be allocated in a manner which ensures that each recipient pays its proper share.

"(e)(1) Before AT&T may offer any telecommunications service or equipment on an unregulated basis, it must file with and obtain from the Commission approval of a plan (which includes its intended organization of all competitive support activities) demonstrating its proposed method of compliance with the requirements of this section and the requirements of subsection (a)(2) of section 220.

"(2) Not later than 180 days of the filing of such plan, the Commission shall enter an order approving the plan or stating the specific parts of the plan which conflict with the provisions of this section or the rules prescribed hereunder. AT&T may file an amended plan, and the Commission shall enter an order approving or disapproving of the amended proposal within 30 days of its filing.

"(f) A dominant-regulated carrier shall not disclose to any competitive support division any commercial information acquired in its provision of regulated telecommunications services which would be unlawful or provide an unfair competitive advantage.

"(g)(1) Not later than the fourth anniversary of the date of enactment of the Communications Act Amendments of 1980, the final assembly and all functions related to final assembly of any unregulated telecommunications equipment or any equipment used or intended to be used in support of any unregulated service shall be performed through a fully separated affiliate.

"(2) Not later than the sixth anniversary of such date of enactment any activity relating to equipment design information or software programing used in such final assembly shall be performed through a fully separated affiliate.

"(3) Not later than the eighth anniversary of such date of enactment any subassembly within such final assembly shall be performed through a fully separated affiliate.

"(4)(A) Not later than the tenth anniversary of such date of enactment the manufacturing and any related functions or activities of any basic component within such final assembly shall be performed through a fully separated affilliate.

"(B) Thereafter all research, development, manufacturing or any related functions or activities in support of unregulated telecommunications equipment or equipment used or intended to be used in support of any unregulated service shall be conducted through a fully separated affiliate.

"(5) There shall be established an assets evaluation board, composed of three members as follows: one representative each selected by the Commission and AT&T and a third member selected by the first two. The Board shall determine the value of any assets transferred from AT&T to any fully separated affiliate pursuant to this section and section 227. Evaluations of such Board shall be binding upon the Commission. Any failure of the Board to take action shall not delay any such transfer.

"(6)(A) The Commission may grant waivers pursuant to subparagraph (B) of the time requirements of this subsection for a period not to exceed 6 months. The Commission may not grant more than 2 waivers for any one functional category.

"(B) The Commission may grant a waiver under this subsection where the Commission determines that, because of labor strikes, war, severe economic depression, or acts of God, AT&T cannot timely meet the requirements of this subsection.

"(h)(1) Except as provided in paragraph (2), after the expiration of the transition period specified in subsection (g), AT&T and any affiliate which is not fully separated may not transfer any goods or services specified in paragraph (2) of this subsection to any fully separated affiliate engaged in research and development, manufacturing, and marketing (or any related functions and activities) in support of any unregulated services or equipment.

"(2)(A) The provisions of paragraph (1) shall not apply with respect to the purchase, leasing or other provision of any telecommunications equipment or other equipment incidental to telecommunications for which AT&T is the only available source of supply: *Provided*, That, any such equipment shall be made available to unaffiliated persons on reasonable nondiscriminatory rates, terms, and conditions.

"(B) The provisions of paragraph (1) shall not apply with respect to providing access to any telecommunications facility.

"(i) Not later than 180 days after the date of enactment of this subsection, the Commission shall prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"AMERICAN TELEPHONE AND TELEGRAPH COMPANY 1956 CONSENT DECREE

"SEC. 229. The final judgment of January 24, 1956 of the United States District Court for the District of New Jersey involving the American Telephone and Telegraph Co. and its affiliated entities (*United States* v. *Western Electric No. 17–49*) shall not act as a bar to the American Telephone and Telegraph Company and any affiliated entity from providing any telecommunications service, telecommunications equipment, or information service or from engaging in any other business incidental to such activities, except that any such activity which is not a regulated telecommunication's service shall be conducted by fully separated affiliates as specified in this Title.".

(b) Title II of the 1934 Act, as amended, is further amended by inserting the following new section after section 230 (as so redesignated by section 212):

"RADIOEXCHANGE TELECOMMUNICATIONS

"SEC. 231. (a) The provision of radioexchange telecommunications under any franchise or other authorization awarded by a State and within a radio exchange area configured by a State commission under section 226 shall be deemed an exchange service for purposes of this Act. Except as provided in this section and subject to the provisions of title III, the authority to regulate, to deregulate, or to forbear from regulating the rates, terms, and conditions of such service shall be within the exclusive jurisdiction of the States.

"(b)(1) In exercising its jurisdiction over radioexchange telecommunications carriers, the Commission shall assure the feasibility of competition in the provision of all radioexchange telecommunications services. It shall conduct a review of its allocations, assignment, and authorization standards, policies, and rules relating to such services and shall revise any such standard, policy, or rule which has the effect of precluding the opportunity for competition in the provision of any radioexchange telecommunications service. The Commission shall structure its allocations, assignment, and authorization standards and policies to provide optimal opportunity for radioexchange telecommunications carriers to make diverse, innovative, and responsive service offerings to the public.

"(2) The Commission may impose requirements under this title and under title III relating to the provision of radio exchange service by a regulated carrier in order to protect and promote full and fair competition among all carriers engaged in radioexchange telecommunications.".

EMPLOYEE PROTECTION

SEC. 225. (a) For purposes of this section the term—

(1) "employee" means any employee of a dominant-regulated carrier, a dominant-regulated international carrier, or of any affiliate;

(2) "regular employee" means any full-time or part-time employee whose employment is expected to be permanent; and

(3) "transferred employee" means any employee transferred to a fully separated affiliate by a dominant-regulated carrier, a dominant-regulated international carrier, or by any affiliate.

(b) If a dominant-regulated carrier, a dominant-regulated international carrier, or any affiliate transfers an employee to a fully separated affiliate, then such transferred employee shall not be deprived of his employment, salary or wages, or seniority rights during the 5-year period following the date of such transfer. The requirements of this paragraph shall continue to apply in any case in which the fully separated affiliate retransfers such transferred employee to the dominant carrier or to any affiliate, except that any such retransfer shall not have the effect of extending the 5-year period specified in the preceding sentence.

(c)(1) A transferred employee shall be entitled to receive payment (in addition to his regular salary or wages) from the fully separated affiliate to which he is transferred for reasonable travel expenses and reasonable moving expenses incurred by him or any of his dependents if—

(A) such transferred employee changes his domicile as a result of such transfer; and

(B) the distance between the new work location of such transferred employee and the former domicile of such transferred employee exceeds the distance between the former workplace of such transferred employee and such former domicile by 35 miles or more.

(2) If a collective bargaining agreement applicable to a transferred employee provides transfer benefits which differ from the benefits available to such transferred employee under paragraph (1), then such transferred employee may select the benefits which shall apply. Such selection shall be made through notice to a dominant-regulated international carrier, or any affiliate involved before the end of the 10-day period following the date on which such transferred employee receives notice of his transfer to a fully separated affiliate. If such transferred employee does not furnish such notice before the end of such 10-day period, then benefits under the collective bargaining agreement shall apply.

(d) Any pension benefits, health or disability benefits, death benefits, or insurance benefits to which a transferred employee is entitled shall not be restricted, limited, or reduced as a result of his transfer to a fully separated affiliate, except that the requirements of this paragraph may be superseded by the terms of any collective bargaining agreement between such fully separated affiliate and any labor entity representing the employees of such fully separated affiliate.

(e)(1) Except as provided in paragraph (2), any collective bargaining agreement between a dominant-regulated carrier, a dominant-regulated international carrier, or any affiliate, and any labor entity representing the employees of such a dominant-regulated carrier, a dominant-regulated international carrier, or affiliate shall continue to apply to any transferred employee during the complete term of such agreement.

(2) A fully separated affiliate, or any person who owns or controls such fully separated affiliate, and any labor entity representing the employees of such fully separated affiliate may enter into a collective bargaining agreement at any time after the establishment of such fully separated affiliate. Any such agreement—

(A) shall supersede the terms and application of any collective bargaining agreement specified in paragraph (1); and

(B) shall supersede the requirements of this subsection to the extent such requirements otherwise would apply to such fully separated affiliate.

(f)(1) Except as provided in paragraph (2), if a regular employee is transferred to a fully separated affiliate by a dominant-regulated carrier, a dominant-regulated international carrier, or by any affiliate, and such regular employee is discharged for other than cause during the 7-year period following the date of such transfer, then such regular employee shall be entitled to receive compensation from such fully separated affiliate in an amount which is not less than the amount of compensation such regular employee would have been entitled to receive from such a dominant-regulated carrier, a dominant-regulated international carrier, or such affiliate if such dominant carrier or such affiliate discharged such regular employee for other than cause immediately before the date of such transfer.

(2) If a collective bargaining agreement between a fully separated affiliate and any labor entity representing the employees of such fully separated affiliate is in effect at the time a regular employee is discharged in the manner specified in paragraph (1), and such collective bargaining agreement applies to such regular employee and provides benefits which differ from the benefits available to such regular employee under paragraph (1), then such regular employee may select the benefits which shall apply. Such selection shall be made through notice to the fully separated entity before the end of the 10-day period following the date of such discharge. If such regular employee does not furnish such notice before the end of such 10-day period, the benefits under the collective bargaining agreement shall apply.

(g) If any transferred employee is the subject of a layoff during the 7-year period following the date of the transfer of such transferred employee to a fully separated affiliate, then such transferred employee shall have the first right of rehire in his occupational specialty (or its equivalent) during the 2-year period following the date of the layoff of such transferred employee, except that such right shall not apply unless such transferred employee is physically able, and equipped by training and experience, to perform the duties of the work available. Such fully separated affiliate shall maintain lists of employees who have been separated from employment through layoffs. Such lists shall contain sufficiently detailed information to enable such fully separated affiliate to comply with the requirements of this subsection.

(h) A dominant carrier or any affiliate shall not reduce the salary or wages of a regular employee, or separate such regular employee from employment through layoff or termination, during the 6-month period immediately before the establishment of a fully separated affiliate by such dominant carrier or by such affiliate unless—

(1) such regular employee consents to such action; or

(2) such action is not related to the establishment of such fully separated affiliate.

(i) The provisions of this section shall not apply to any employee who is transferred to a fully separated affiliate after the 7-year period following the date of the establishment of such fully separated affiliate.

(j) Nothing in this section shall be construed to restrict, limit, or eliminate the authority of a dominant carrier, an affiliate, or a fully separated affiliate to discharge an employee, or take any disciplinary or other action against an employee, for cause.

(k) For purposes of the enforcement or protection of rights, privileges, and immunities granted or guaranteed in this section, employees shall be entitled to the same remedies as are provided by the National Labor Relations Act in the case of employees covered by such Act. The National Labor Relations Board and the courts of the United States (including the courts of the District of Columbia) shall have jurisdiction and power to enforce and protect such rights, privileges, and immunities in the same manner as in the case of enforcement of the provisions of the National Labor Relations Act.

SEC. 226. The 1934 Act is amended by inserting the following:

"PROTECTION AND RESTORATION OF ESSENTIAL TELECOMMUNICATIONS

"SEC. 233. (a) The Commission, in consultation with appropriate Federal departments and agencies, shall have the authority to coordinate the development and establishment of arrangements among regulated interexchange and international telecommunications carriers for such mutual backup, restoration and interconnection of each other's services as may be necessary to avert public peril or disaster or to ensure the continuity of telecommunications essential to the national defense and security and the prompt restoration of any such telecommunications which may be interrupted by the failure or disruption of the facilities of any one or more such carriers.

"(b) The President shall have authority to require any carrier subject to the provisions of this Act to furnish telecommunications services or facilities to any Federal agency if the President determines that—

"(1) the provision of such services or facilities is necessary and appropriate to promote the national defense and security or the emergency preparedness of the Nation; and

"(2)(A) there is a threat of war with a foreign nation, the Nation is at war with a foreign nation, or there exists a state of public peril or disaster or other national emergency; or

"(B) in order to provide for the national defense and security or the emergency preparedness of the Nation, there is an immediate need for such services and facilities, and such need cannot be met through reliance upon any other source of supply.

"(c) The provisions of section 606(e) shall apply in the case of any determination made by the President under this section.

"(d) The President shall coordinate any Government program for enhancing the survivability of exchange, interexchange and international telecommunications facilities and protection against unauthorized interception of telecommunications traffic, insuring, where appropriate, the availability of such programs to all telecommunications carriers willing and able to participate in such programs.

"CUSTOMER-PREMISES EQUIPMENT AND INFORMATION SERVICES

"SEC. 234. (a) Except as provided in this title, neither the Commission nor any State shall regulate the production, marketing, or other provision of customer-premises equipment or information services.

"(b)(1) Not later than 180 days after the date of enactment of the Communications Act Amendments of 1980, the Commission shall prescribe regulations providing for separate pricing on a fair market value basis of customer-premises equipment or information services, or cable television services when offered in conjunction with a regulated service by a regulated carrier, including an exchange carrier; thereafter, such carriers shall provide such equipment or services only on an unbundled basis in accordance with such regulations.

"(2) Nothing in paragraph (1) shall be construed to prohibit any State commission from allowing an exchange carrier to offer to residential customers a basic lifeline service within an exchange.

"(c)(1) The Commission may establish and enforce requirements relating to interconnection of customer-premises telecommunications equipment and associated switching equipment to the facilities of any regulated carrier, any exchange carrier providing any regulated basic telecommunications service, and any cable television system operator pursuant to minimum uniform technical standards established by the Commission.

"(2) The Commission may establish and enforce such minimum uniform technical standards for customer-premises telecommunications equipment as are necessary to prevent technical or operational harm to carrier facilities.

"(3) The Commission may establish requirements relating to labeling of customer-premises telecommunications equipment to indicate the country of origin and to provide such other consumer information as the Commission determines will be of significant interest.

"(d) The use of any information processing capability in support of the provision of a telecommunications service and for the management or control or operation of a telecommunications system or management of a telecommunications service shall not be deemed the provision of an information service within the meaning of this Act.

"(e)(1) No later than the second anniversary of the date of enactment of the Communications Act Amendments of 1980, no dominant-regulated carrier shall provide any unregulated telecommunications service, market, or otherwise provide directly to the public any unregulated telecommunications equipment or any information service, except through a daily separated affiliate.

"(2) Nothing in this section shall be construed to authorize any dominant-regulated carrier to engage in any activity described in paragraph (1) which it was not lawfully providing on the date of enactment of the Communications Act Amendments of 1980 other than through a fully separated affiliate.

"TRANSITIONAL PROVISION OF CERTAIN FACILITIES AND SERVICES

"SEC. 235. (a) The Commission may require any unregulated carrier to continue to interconnect its telecommunications facilities with any person for a reasonable period of time upon petition showing that withdrawal of such interconnection would result in an unreasonable hardship on such person. The authority to require interconnection under this Act shall cease no later than the second anniversary of the date of enactment of the Communications Act Amendments of 1980.

"(b)(1) Each regulated carrier shall continue to provide under tariff, on an unbundled basis pursuant to section 234(b), any telecommunications service which such carrier is providing on the date of enactment of the Communications Act Amendments of 1980 for a period of not less than 2 years from such date, unless the Commission in any particular case shall extend such time for a period of not to exceed 2 years.

"(2) Not later than 2 years after the date of enactment of the Communications Act Amendments of 1980 or by such extended time, the Commission shall have determined—

"(A) which of the telecommunications services described in paragraph (1) shall continue under regulation, and

"(B) which of such services shall be provided as an unregulated service,

either through a fully separated affiliate of a dominant-regulated carrier or pursuant to such safeguards as the Commission shall require of a regulated nondominant carrier.

"(c) Subject to the provisions of subsection (b)(1) of section 234 relating to unbundling, any customer-premises equipment which is being provided by any carrier under tariff on the date of enactment of the Communications Act Amendments of 1980 shall continue to be made available under tariff for a period of not less than 2 years from such date, unless the Commission in any particular case shall extend such time for a period of not to exceed 2 years.

"DETERMINATION OF BASIC TELECOMMUNICATIONS SERVICES

"SEC. 236. (a) The Commission, in accordance with the provisions of subsection (b), may determine what basic telecommunications services, in addition to, or in lieu of, basic telephone service should as a matter of the public interest be universally available at reasonable rates, prices, terms or conditions, whether competitively provided or not.

"(b)(1) Any person may petition the Commission for a hearing to classify any interexchange telecommunications service as among those services described in subsection (a). The Commission shall grant such petition upon a showing that the telecommunications service is generally recognized as necessary to promote the general welfare of the general population and to promote the safety of property (insofar as such service relates to the capability of a substantial majority of all the people of the United States to communicate with one another by telecommunications).

"(2) Upon granting any petition described in paragraph (1), the Commission shall hold a hearing to determine whether such service should be universally available at reasonable rates, prices, terms or conditions and whether regulated in whole or in part to ensure such availability. Absent a showing to the contrary, it shall be presumed that unregulated marketplace competition will universally provide such service. The burden shall be on any party advocating regulation to demonstrate clearly and convincingly that regulation is necessary to ensure universal availability at reasonable rates, prices, terms or conditions.

"(c) The Commission may review any determination that any basic telecommunications service shall be regulated to ensure universal availability at reasonable rates, prices, terms and conditions. Upon making a determination that regulation is no longer necessary to ensure such availability the Commission shall terminate regulation of such service.

"OWNERSHIP OR CONTROL OF CABLE TELEVISION SYSTEMS

"SEC. 237. (a) Subject to the provisions of section 272 and subsection (b) of this section, the Commission may adopt or continue in force such regulations and policies as limit the number of cable television systems which may be owned or controlled in common by any person and that otherwise limit or prohibit, as appropriate, the ownership or control of such systems, or the ownership or control of such systems in combination with other telecommunications systems or other media interests, so as to promote the policy of this Act to foster telecommunications media competition and to avoid excessive concentrations of media control.

"(b) Except as provided in section 272, no regulated telecommunications carrier (including an exchange carrier regulated by a State) shall also engage in the provision of cable television services in the same operating area, unless the Commission, by general rule or in any particular case, shall otherwise permit, but only upon a sufficient showing that: (1) such provision by a regulated carrier will promote significant additional media diversity and competition; and (2) such services will be made available upon reasonable request to any subscriber in such operating area. In prescribing any general rule or in any particular case, the Commission shall require conditions (pursuant to section 205) adequate to achieve separation of cable television services from regulated telecommunications services.

"(c) Whenever permitting any regulated carrier and any exchange carrier to provide in the same operating area cable television services in addition to regulated services or exchange services, the Commission shall require that a reasonable number of channels be made available for lease on a nondiscriminatory basis to nonaffiliates.

"(d) Except as provided in section 272, the American Telephone and Telegraph Company and any affiliate shall not engage in the provision of cable television services.

"PROHIBITIONS

"SEC. 238. (a) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof may—

"(1) require or prohibit any program origination by a telecommunications carrier, any operator of a cable television or other broadband system, or any programer on any such system, impose upon such carrier, operator or programer any restrictions or obligations affecting the content or amount of such program originations, except to the extent that the requirements of section 315 are applicable, or require the exclusive dedication of any channel or channel time for government use. Nothing in this section shall be construed to affect the criminal or civil liability of programers pursuant to the law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, except that no telecommunications carrier, cable television system operator or similar broadband system operator shall incur such liability for any program originated by an unaffiliated programer;

"(2) establish, fix, or otherwise restrict the rates charged programers by cable television or other broadband system operators for the use of channels or time on such channels or the rates charged advertisers or subscribers by any programer for the sale of time or for any program origination; and

"(3) establish, fix, or otherwise restrict the rates charged to subscribers by cable television or similar broadband systems operators for the retransmission of broadcast signals, except that a State or political subdivision or agency thereof may, with respect to any such system, establish, fix, or otherwise restrict such rates whenever any such State, subdivision or agency determines, in accordance with guidelines the Commission shall prescribe, that there are no reasonably available alternative electronic-media services to such broadcast signal retransmission service.

"(b) The Commission shall not establish any restrictive terms or conditions on the retransmission of radio and television broadcast signals by any cable television or similar broadband system operators, except that the Commission may by rule or by order in any particular case impose restrictive terms or conditions upon an evidentiary showing bv the person seeking such restrictions that they are necessary to preserve the public interest in local broadcast program origination.".

SEC. 227. Title II of the 1934 Act is further amended by adding at the end thereof the following new part:

"Part B—INTERNATIONAL TELECOMMUNICATIONS

"PROVISION OF INTERNATIONAL TELECOMMUNICATIONS SERVICES

"SEC. 240. (a) Any telecommunications carrier may provide any telecommunications service including any international telecommunications service pursuant to this Act.

"(b) Any regulated international telecommunications carrier shall, in addition to complying with the provisions of section 207, arrange for the collection and delivery in any country in which it has an operating agreement any traffic of any other United States carrier or person in the same manner as its own traffic consistent with such operating agreement.

"(c) No telecommunications carrier shall enter into any operating agreement which does not provide a fair and equitable opportunity for other carriers to offer telecommunications services. Any such agreement shall be submitted to the Commission, which shall determine whether its terms comply with the provisions of this subsection.

"INTERNATIONAL TELECOMMUNICATIONS FACILITIES PLANNING; PRIVATE SECTOR REPRESENTATION; TRANSBOARDER DATA FLOW

"SEC. 241. (a) It is the purpose of this section to make available as efficiently as possible to all the people of the United States reliable, cost-effective international telecommunications services, and to promote the foreign policy, economy and national security of the United States.

"(b) The purpose of this section shall be accomplished through—

"(1) recognition of the necessity for international cooperation in the planning, construction, ownership, operation, and use of international telecommunications facilities;

"(2) reliance on existing institutional structures and regulatory mechanisms insofar as they continue to serve the public interest;

"(3) reliance on marketplace competition to the extent practicable and beneficial in the provision of international telecommunications services;

"(4) improvement of the effectiveness of United States participation in the planning, construction, ownership, operation, and use of international telecommunications facilities through the development of an International Telecommunications Facilities plan;

"(5) improvement in the coordination of United States international telecommunications policy with the objectives of United States foreign policy and the domestic economy; and

"(6) promotion of the free flow of information and telecommunications services across national boundaries to the fullest extent possible.

"(c)(1) The Commission shall develop an International Telecommunications Facilities Plan. Such plan and any succeeding plan shall encompass a specified time period; thereafter the Commission shall as required adopt international telecommunications facilities plans.

"(2) In developing any such Plan, the Commission shall in consultation with affected United States carriers, including persons seeking to participate in ownership and operation of international telecommunications facilities, and appropriate Federal agencies develop facilities planning guidelines, consistent with the purposes of this section. Such guidelines shall be based on—

"(A) information on projected international telecommunications traffic and alternative proposals for meeting established and projected needs; and

"(B) consideration of satellite systems and submarine cables as delivery systems for international telecommunication services.

"(3) In accordance with the guidelines, the Commission shall authorize interested telecommunications carriers and persons seeking to participate in ownership and operation of international telecommunications facilities, to negotiate a proposed facilities plan with appropriate foreign correspondents on the construction, ownership, and use of international facilities. Any such Plan shall be submitted to the Commission for review upon completion of negotiations.

"(4) The Commission shall determine upon review of the proposed plan and any comments received thereon, whether such proposed plan is consistent with the purposes of this section, and shall also consider its foreign policy and national security implications.

"(5) Upon making such determination, the Commission shall adopt and publish a United States International Telecommunications Facilities Plan for a period of time to be specified in such Plan. The Commission shall transmit copies of such Plan to appropriate international facilities planning forums.

"(d) At any time during the development of an International Telecommunications Facilities Plan, the Commission or any Commissioners may meet, to exchange information with representatives of foreign telecommunications entities likely to be affected by such Plan: *Provided, however*, That—

"(1) proper notice shall be given to all interested parties prior to any such meeting and such parties shall be given an opportunity to comment on the subject to be discussed;

"(2) any meetings with such representatives shall be public, and transcripts of such proceedings shall be made part of the public record; and

"(3) any data the Commission obtained during such meetings and used by the Commission in developing any plan must be disclosed. In any such decision, the Commission must explain the manner in which such data was used.

"(e) The Commission may limit the participation of parties in meetings to discuss international facilities planning, if the disclosure to the public of information likely to be discussed during such meeting could have an adverse impact on the United States negotiating position.

"(f) Nothing in this section shall be construed to exempt any carrier from the antitrust laws, for any act taken pursuant to this section by such carrier which is a violation of such laws when taken by a single carrier.

"(g) (1) Carriers shall file applications for construction, ownership, or use of international telecommunications facilities in accordance with the relevant International Telecommunications Facility Plan. The Commission shall require that a time period for construction, ownership, and use be specified in such application.

"(2) Notwithstanding section 214, upon a showing that any such application is in accordance with the Plan, the Commission shall within 60 days approve such application. The Commission may extend such time period for not to exceed 30 days, if the Commission requires additional time to make its decision. If, at the end of any such period, the Commission has not rendered a decision with respect to such application, the application shall be deemed to be approved.

"(3) The Commission shall retain jurisdiction over the use of authorized facilities among international carriers to ensure accommodation of future United States needs and may redistribute facilities among international telecommunications carriers.

"(h)(1) In order to ensure the effective representation of United States policy, when selecting delegations to conferences involving international telecommunications matters, the Secretary of State shall where appropriate select—

"(A) representatives of affected agencies of the Government of the United States upon recommendation by any such agency; and

"(B) representatives from the private sector.

"(2) The provisions of sections 202, 203, 205, 207 and 209 of title 18, United States Code, shall not apply to representatives from the private sector on a delegation of the United States to an international telecommunications conference or meeting who are specifically designated to represent the interests of the United States at such conference or meeting, with respect to a particular matter, provided that the Secretary of State, or head of the delegation to each such conference or meeting or other designee of the Secretary, certifies that—

"(A) no Government employees on the delegation is as well-qualified to represent the interests of the United States; and

"(B) such designation serves the national interest.

"(3) All such representatives shall maintain on file with the Department of State any financial disclosure report which may be required for special Government employees.

"(4) For the purpose of this section, international telecommunications conferences and meetings involving international telecommunications matters shall include conferences and meetings of the International Telecommunications Union (ITU), the International Consultative Committees for Radio and for Telegraph and Telephone (CCIR and CCITT), the Organization of European Cooperation and Development (OECD), the United Nations Economic and Social Council (UNESCO), the International Telecommunications Satellite Organization (INTELSAT), and the International Maritime Satellite Organization (INMARSAT).

"(i) Because of the dependence of the United States on international commerce and the commitment of the United States to the principles of freedom of speech and freedom of the press, it shall be the policy of the United States to assure to the fullest extent practicable the free flow of information and telecommunications services across national boundaries. In order to carry out this policy, the President shall—

"(1) assess the international information and telecommunications needs of the United States;

"(2) determine what actions are being taken by foreign governments to affect these needs;

"(3) develop a policy in consultation with affected industries and Government agencies to promote United States interests in international forums and with such foreign governments; and

"(4) make recommendations for any structural changes in the organization of agencies responsible for the development and implementation of such policy.".

PART II—RURAL TELECOMMUNICATIONS POLICY

FINDINGS

SEC. 229. The Congress finds that—

(1) it is in the national interest to improve upon the provision of telecommunications services to rural areas;

(2) new technologies can improve the availability of telecommunications services to rural areas;

(3) telecommunications services can be provided to rural areas more effectively by coordinating overall public and private planning and management, and through changes in any Government policies which have unnecessarily discouraged the provision of certain telecommunications services in rural areas;

(4) the participation of State and local government is necessary to improve coordination in the delivery of telecommunications services, and is necessary to ensure that the most cost-effective telecommunications technology or combination of telecommunications technologies is used to provide telecommunications services to rural areas;

(5) the States should be encouraged to exercise their authority over exchange telecommunications services in order to promote the general health and welfare of their citizens, in cooperation with Federal and local governments and other affected interests, in developing the planning and coordination necessary for encouraging prudent telecommunications facilities decisions;

(6) although existing Federal programs and policies have been successful in promoting basic telephone service, new initiatives by the Federal Government are needed to stimulate the delivery of other telecommunications services; and

(7) the effectiveness of certain Federal programs for rural telecommunications will be improved through expansion and consolidation under one Federal administration and the establishment of an interagency task force for coordinating all Federal programs affecting rural telecommunications.

SEC. 230. (a) Title II of the 1934 Act is further amended by adding at the end thereof the following new part:

"PART C—RURAL TELECOMMUNICATIONS

"DECLARATION OF PURPOSES

"SEC. 251. (a) It is the purpose of this part—

"(1) to encourage and assist the States and the private sector in maintaining and developing telecommunications services which are responsive to local requirements in rural areas;

"(2) to ensure that Federal agencies engaged in programs affecting rural telecommunications shall assist State and local governments in the effective discharge of such responsibilities;

"(3) to facilitate participation by the public, by Federal, State, and local governments, and by regional agencies in the development of rural telecommunications planning programs, and to encourage cooperation and exchange of information among the various State and regional agencies with respect to the implementation of such programs;

"(4) to ensure that Federal agencies coordinate their programs affecting rural telecommunications and utilize the resources of the private sector wherever possible; and

"(5) to eliminate or revise Federal regulations that impede the availability of telecommunications services in rural areas.

"(b) The Commission shall assure that the implementation of the amendments made by this Act shall not result in unreasonable increases in toll rates for basic telecommunications services for subscribers residing in rural areas. To avert such unreasonable increases the Commission may require the averaging of rates.

"(c) The Commission shall, periodically but not less than biannually review the effects of section 222 of the 1934 Act as amended by this Act with regard to rural rates for basic telecommunications services.

"(d) As used in this part, the term 'telecommunications services' includes any commercial or noncommercial service which is essential or important to the public welfare, and includes medical and educational services and public access to rural populations and areas delivered by any telecommunications medium or combination of media.

"Subpart 1—Federal Rural Telecommunications Interagency Task Force

ESTABLISHMENT OF TASK FORCE

"SEC. 252. (a) There is established in the executive branch a Federal Rural Telecommunications Interagency Task Force (hereinafter in this part referred to as the 'Interagency Task Force'). The Interagency Task Force shall be the principal coordinating body for Federal policies and programs relating to the provision of telecommunications services to rural America.

"(b) The membership of the Interagency Task Force shall consist of one representative and one alternate appointed by each of—

"(1) the Secretaries of the Department of Agriculture, the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of Justice, the Department of Transportation; the Administrators of the General Services Administration and the Veterans' Administration; and the Chairman of the Federal Communications Commission; and

"(2) the Governors from three States representing different geographical regions to be selected by the Chairman, no more than 2 of which shall be from the same political party,

who shall serve for a period of 2 years.

"(c) There shall be a Chairman and Vice Chairman who shall be first appointed to serve a term of 2 years by the Secretary of Commerce and Agriculture, respectively. Upon the expiration of such first and all successive terms, the Secretary who shall have previously appointed the Vice Chairman shall appoint the Chairman and the Secretary who shall have previously appointed the Chairman shall appoint the Vice Chairman.

"(d) Whenever the Interagency Task Force considers matters that affect the interests of Federal agencies not represented on the Interagency Task Force, the Chairman may invite the heads of such agencies to designate representatives to participate in the relevant deliberations of the Interagency Task Force.

"(e) The Secretaries of Commerce and Agriculture shall develop an arrangement for joint administrative supports as the Task Force may determine to be necessary. As need arises other Federal agencies and departments represented on the Interagency Task Force shall furnish supplemental administrative support at the request of the Chairman of the Interagency Task Force and under the direction of the Chairman.

"(f) Members of the Interagency Task Force shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred by them in carrying out the duties of the Interagency Task Force.

"(g) It shall be the duty of the Interagency Task Force to—

"(1) review all Federal policies and programs that have a significant effect on the delivery of telecommunications services to rural areas including specifically the impact of competition and deregulation, factors that may inhibit the effective delivery of telecommunications services, and recommend to the appropriate Federal agency or the Congress changes to improve Federal policies;

"(2) recommend solutions to interagency policy and program conflicts to appropriate Federal agencies or the President where necessary;

"(3) solicit and consider the views of State and local governments and the private sector concerning Federal policies and programs affecting the delivery of telecommunications services to rural areas;

"(4) identify and develop new programs which will enhance cooperation between Federal and State governments and the private sector; and

"(5) otherwise encourage the provision of rural telecommunications services.

"(h) Each agency represented on the Interagency Task Force shall submit a biannual report, commencing in 1981, to the President for transmittal to each new Congress on or before the 31st day of December of the reporting year. The report shall include—

"(1) in the case of the Chairman of the Interagency Task Force, a comprehensive review of the activities of the Interagency Task Force and any recommendations for congressional action; and

"(2) in the case of each participating agency, a statement of the recommendations of the Interagency Task Force for changes in any of its rules, policies, or procedures impeding the provision of rural telecommunications and the action taken or anticipated to be taken to resolve such problems.

"Subpart 2—Rural Telecommunications Planning Program

"ESTABLISHMENT OF PROGRAM

"SEC. 261. (a) There is established a program to be known as the Rural Telecommunications Planning Program (hereinafter in this subpart referred to as the 'Program') which shall be administerd by the Secretary of Commerce (hereinafter in this subpart referred to as the 'Secretary').

"(b)(1) The Secretary shall, in consultation with other interested Federal agencies and departments, established rules and regulations for the applications for and grant of funds for the reasonable and necessary costs of rural telecommunications facilities and services planning projects.

"(2) For each application for a planning project grant, the applicant shall provide assurances satisfactory to the Secretary that the applicant—

"(A) is a State or an agency of a State, or a regional association of States;

"(B) will use the grant to develop, in cooperation with political subdivisions of the State or States, a statewide or regionwide plan for the provision of telecommunications facilities and services, to all rural areas of the State or States; and

"(C) will undertake, alone or in conjunction with local governments, a thorough identification and analysis of the rural telecommunications requirements of the State (or identified rural area or areas thereof).

"(3) To accomplish the purposes of this subpart, and as appropriate to the individual application, planning projects shall—

"(A)(i) identify all rural areas within a State, noting service, facility, topographic, economic, and other characteristics;

"(ii) establish an inventory of existing telecommunications facilities and services currently available to such areas; and

"(iii) designate those areas which can derive a particular benefit from increased telecommunications services;

"(B) configure telecommunications service areas, on a regional, countrywide, or other basis representing a single or combined community of interest for social, economic, and other purposes so as to reflect existing communities of interest, and so as to ensure that all rural areas of a State are included in an economically viable and technically feasible service area;

"(C) encourage the development of universally available telecommunications services and facilities within the State;

"(D) identify the telecommunications needs and interests of rural residents, using procedures which aprise rural residents of various telecommunications service and facility alternatives and their relative costs and benefits, and which afford such residents an opportunity to express their opinions and to participate in the planning project;

"(E) identify those services the delivery of which will be achieved or facilitated through—

"(i) the use of telecommunications; or

"(ii) statewide coordination, integration, or development of telecommunications or other services; and

"(F) provide for a continuing State role, where necessary and appropriate, in telecommunications planning, coordination, and consultation with and among local governments, regional agencies, and rural residents.

"(c) Upon approving any application under this section, the Secretary shall make a planning grant to the applicant in such amounts as the Secretary shall determine appropriate, but not to exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary costs of such planning project. Federal funds received from other sources shall not be used to defray the share of the costs to be paid by the applicant. No applicant shall be eligible to receive more than two annual grants, and the Secretary shall not continue funds for a second year unless the Secretary is satisfied that the recipient is in compliance with the requirements of this section and the rules and regulations prescribed hereunder.

"(d) The total of the grants to any applicant made under this section from the amount appropriated for any fiscal year may not exceed 8.5 percent of such appropriation.

"(e) With the approval of the Secretary, a State may allocate to a local or areawide or regional agency a portion of the grant made under this section for the purpose of carrying out the project for which such grant was made.

"(f) There are authorized to be appropriated for the purposes of this section, $10,000,000 for the fiscal year ending September 30, 1982, and for each of the next 3 succeeding fiscal years, to remain available until expended. The Secretary shall annually prepare a budget for the planning activities under this section in the succeeding fiscal year, which budget shall be made a part of the annual budget of the Department of Commerce.

"REVIEW OF PERFORMANCE; RECORDS

"SEC. 262. (a) The Secretary shall conduct a continuing review of the planning project of each grant recipient under this subpart.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under this subpart and to withdraw any unexpended portion of such assistance if the Secretary determines that the recipient has failed to adhere to, and is not justified in deviating from, the project as approved. The Secretary shall give such recipient notice of the proposed termination and withdrawal and an opportunity to present evidence of adherence to or justification for deviation from the project.

"(c) Each recipient of a grant under this subpart shall keep such records as may be prescribed by the Secretary, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project, the source and amounts of other funds used on the project and such other records as will facilitate an effective audit.

"(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient of a grant that are pertinent to the determination that funds granted are used in accordance with this subpart.

"Subpart 3—Criteria for Rural Telecommunications Facilities Construction Funds

"ESTABLISHMENT OF CRITERIA

"SEC. 271. (a) The Secretary of Agriculture shall, in consultation with the Interagency Task Force, establish criteria to be used by the Secretary of Agriculture in determining eligibility for loans for telecommunications purposes under any loan program administered by the Secretary of Agriculture or by agencies under the general direction or supervision of the Secretary of Agriculture (other than loans to provide telephone service as defined in section 203 of the Rural Electrification Act of 1936). Such criteria shall be in addition to any financial and other qualifications required by the Secretary of Agriculture.

"(b) The criteria established under subsection (a) shall be designed to foster—

"(1) the use of the most cost-effective telecommunications technology or combination of technologies to provide telecommunications services to an identified rural population or area;

"(2) the provision of such services to the widest practicable number of potential users;

"(3) coordinated planning and continued cooperation with Federal, regional, State, and local government agencies, where such agencies have authority over or an interest in the provision of telecommunications services; and

"(4) the identification of the telecommunications service needs and interests of the area to be served.

"(c) Any applicant for a loan under this subpart shall demonstrate to the satisfaction of the Secretary of Agriculture that—

"(1) any necessary State approval has been obtained;

"(2) the application is not inconsistent with any State planning activity or State telecommunications policies for planning and coordinating rural telecommunications facilities;

"(3) the telecommunications services to be provided will be available to all persons within the area of service at reasonable rates;

"(4) the applicant is not engaging in any practices designed to prevent reasonable, nondiscriminatory access to any of the applicant's essential facilities, such as utility poles, ducts, or conduits; and

"(5) the facilities proposed to be constructed include a reasonable amount of excess capacity which is technically and economically practicable to be made available upon reasonable request to unaffiliated entities or persons on a nondiscriminatory basis.

"(d) The authority under this subpart of the Secretary of Agriculture or any officer under the general direction or supervision of the Secretary to make available loans or other funding for the construction of facilities used, in whole or in part, to provide telecommunications services other than telephone service (as defined in section 203 of the Rural Electrification Act of 1936) shall cease at the end of fiscal year 1981 unless otherwise authorized by Congress.

"FEDERAL COMMUNICATIONS COMMISSION REGULATION AFFECTING RURAL TELECOMMUNICATIONS

"SEC. 272. (a) Not later than 90 days after the date of enactment of the Communications Act Amendments of 1980, the Commission shall compile and make public a listing of all rules, regulations, and policies which the Commission determines have a direct and significant effect upon the provision of telecommunications services to rural populations. Upon petition or on its own motion, or on recommendation from the Interagency Task Force, the Commission shall, by rule, revise or eliminate any such rule, regulation, or policy so as to foster the objectives of this Act including—

"(1) increased opportunity for the provision of telecommunications services to rural populations;

"(2) new applications of telecommunications technologies, singly and in combination, to increase the availability of telecommunications services; and

"(3) the participation, on an individual or cooperative basis, of various entities in the provision of telecommunications services.

"(b) Notwithstanding the provisions of section 237 (b) and (d), telecommunications carriers serving rural areas with low population densities, as defined by the Commission, may provide cable television services subject to appropriate conditions which the Commission shall prescribe under section 205(b) and as may be prescribed under section 237 (c). The Commission shall prescribe regulations to carry out the provisions of this subsection not later than 180 days after the date of enactment of his section.

"(c) The Commission shall coordinate its activities pursuant to this section with the Interagency Task Force so that, to the extent practicable, the Commission may timely issue such licenses, certificates, or other authorizations, or such revised rules or waivers of any rules or regulations, as may be necessary to carry out the objectives of this part expeditiously.".

TITLE III—PROVISIONS RELATING TO RADIO EXEMPTION FROM LICENSE REQUIREMENT

SEC. 301. Section 301 of the 1934 Act is amended by adding at the end thereof the following: "The Commission may determine that a license is not necessary for certain classes of radio stations where no frequency assignments are made on an individual basis, and in such case the filing of an application with the Commission shall be deemed to be an authorization to operate such stations: *Provided, however*, That any such operator shall otherwise comply with the provisions of this Act and the rules and regulations prescribed thereunder.".

LICENSE TERMS

SEC. 302. (a) Subsection (d) of section 307 of the 1934 Act is amended by striking the first two sentences and inserting in lieu thereof the following: "The term of any license granted on or after the effective date of the Communications Act Amendments of 1980 for the operation of a radio or television broadcasting station shall be for a term no longer than 5 years. No license granted for the operation of any other class of station shall be for a term longer than 10 years. Any license granted may be revoked as hereinafter provided. Upon the expiration of any license, a renewal of such license may be granted, upon application therefor, for a term of not to exceed 5 years in the case of a radio or television broadcast station, and not to exceed 10 years for any other class of station, if the Commission finds that the public interest, convenience, and necessity would be served thereby.".

(b) Subsection (e) of section 307 of the 1934 Act is amended by striking "common" and inserting in lieu thereof "telecommunications".

(c) Section 307 of the 1934 Act is further amended by adding at the end thereof the following new subsection:

"(f) In establishing the renewal dates for broadcast licenses, the Commission may, to the extent practicable, provide for the expiration of license providing service to an area, locale, or region to be evenly distributed over the maximum license term.".

COMPARATIVE LICENSING PROCEDURE; COMPARATIVE RENEWAL PROCEDURE

SEC. 303. Section 309 of the 1934 Act is amended by adding at the end thereof the following new subsections:

"(i) In any case where there is more than one applicant qualified in accordance with subsection (b) of section 308 for any frequency newly allocated to the broadcast service or any assigned frequency for which a broadcast license has been revoked or renewal denied, the Commission may, in its discretion, grant an application based on a system of random selection. The Commission shall establish procedures for random selection not later than 180 days after the date of enactment of the Communications Act Amendments of 1980, which procedure shall not apply to any application filed before such date.

"(j) The Commission shall adopt policies and prescribe rules and procedures relating to hearings on any application for renewal of a broadcast station license where a competing application or applications for the same facilities has been duly filed which differs from any rule, policy, or procedure relating to hearings on mutually exclusive applications for grant of an original station license or construction permit.".

FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

SEC. 304. Section 315 of the 1934 Act is amended by—

(1) amending paragraph (4) of subsection (a) to read as follows:

"(4) on-the-spot coverage of bona fide news events (including political conventions, activities incidental thereto, and debates among candidates for the office of President and Vice President which are not arranged by a broadcast licensee),";

(2) striking "community antenna" and substituting "cable" in paragraph (2) of subsection (c);

(3) inserting "(1)" after the subsection designation "(d)"; and

(4) adding at the end of subsection (d) the following:

"(2) The Commission shall prescribe regulations to ensure that a legally qualified candidate for Federal elective office is allowed reasonable access to or is permitted the purchase of reasonable amounts of time on behalf of his candidacy on a cable television system which is—

"(A) located in an area where there is inadequate broadcast television service as defined by the Commission; and

"(B) substantially controlled by the cable television system operator or a telecommunications carrier providing cable television services.".

TRANSLATIONS

SEC. 305. Section 318 of the 1934 Act, as amended, is amended by striking "primarily".

CONSTRUCTION PERMITS

SEC. 306. Section 319 of the 1934 Act is amended by adding at the end thereof the following new subsection:

"(e) Any construction begun by an applicant prior to the grant of a permit under this section shall be construed to prohibit the Commission from granting a permit for construction undertaken prior to grant: *Provided, however*, That neither the fact of such construction nor the costs incurred thereby shall be considered by the Commission in determining whether to grant such permit.".

RADIO AND TELEVISION DEREGULATION

SEC. 307. Title III of the 1934 Act is further amended by adding at the end thereof the following new sections:

"RADIO AND TELEVISION DEREGULATION

"SEC. 332. (a) (1) The Commission shall review all policies, rules and regulations for radio broadcast station licensees relating to—

"(A) amounts of broadcasting service with respect to news, public affairs, or other category of programing;

"(B) standards with respect to the length or frequency of commercial announcements; and

"(C) maintenance of program logs;

and shall, whenever appropriate, reduce or eliminate such policies, rules and regulations.

"(2) The Commission shall not adopt or continue in force any policy, rule or regulation requiring any radio broadcast station licensee to adhere to any particular program format.

"(3) The Commission shall review its policies for radio broadcast station licensees relating to procedures for ascertaining the problems, needs, and interests of such licensees' service areas and shall eliminate any such policy which has any decisional significance.

"(4) The Commission shall continue to monitor the results of any reduction or elimination made pursuant to this subsection to assure that such deregulation, reduction or elimination continues to be in the public interest.

"(b)(1) The Commission shall periodically revise, reduce or eliminate any rule, regulation or policy applicable to television broadcasting, and any other policy, rule, or regulation not specifically set forth in subsection (a) relating to radio broadcasting, whenever the availability of competitive, new and diverse sources of audio and video services makes any such rule, regulation or policy unnecessary to protect the public interest. In addition, the Commission shall review all rules, regulations, and policies relating to allocation, assignment and authorization of the radio frequency spectrum in order to promote a diversity and multiplicity of broadcast and other services available to the public. Nothing in this paragraph shall be construed to authorize the Commission to employ auctions or similar economic methods.

"(2)(A) Not later than 2 years after the date of enactment of the Communications Act Amendments of 1980, the Commission shall report to the Congress on actions which it has undertaken regarding deregulation with respect to those items cited in subsection (a)(1) of this section.

"(B) Not later than 5 years after the date of enactment of the Communications Act Amendments of 1980, the Commission shall report to the Congress—

"(i) on the extent to which competitive, new and diverse sources of audio and video or other services are being made available to the public by broadcast licensees and other electronic media;

"(ii) the effect of the Communications Act Amendments of 1980 on the availability to the public of diverse radio and television services; and

"(iii) any recommendations for further statutory changes which would increase the availability to the public of diverse audio and video and other services.

"AMATEUR RADIO

"SEC. 333. The Commission shall have the authority to delegate to qualified persons or organizations, by contract or otherwise, the preparation and administration of examinations for amateur radio operator licenses, and the issuance of temporary authorizations, but not licenses, to qualified applicants. The qualified persons or organizations approved by the Commission for the preparation and administration of examinations, must not be engaged, directly or indirectly, in the manufacture or distribution of radio amateur equipment, or in the publishing or distribution of radio amateur publications and books used by applicants in preparation for obtaining the FCC licenses, or in any other activity or service whereby the persons or organizations would tend to benefit financially from the success or failure of the applicants' course completion.

"ASSIGNMENT OF LAND MOBILE FREQUENCIES

"SEC. 334. (a) The Commission, for the purpose of facilitating the expeditious granting of licenses may delegate to non-Federal Government coordinating committees the function of coordinating the assignment of frequencies above 30 megahertz to stations in the terrestrial private land mobile and fixed services.

"(b) In considering an application for a license, the Commission shall accept a concurrent notification from prospective licensees attesting that a specific frequency in the bands above 30 megahertz allocated for fixed or land mobile use is being brought into use, that it has been coordinated and is compatible with preexisting operations in the same geographic area, that the prospective licensee is eligible for the service for which the licensee is applying, and that the notification demonstrates compliance with relevant rules that the Commission or any other Federal agency may establish.

"(c) Unless the Commission acts on such application within 60 days of receipt, the license shall automatically issue.

"(d) The provisions of this section shall apply notwithstanding sections 303(c), 307, 308, and 309.".

SEC. 308. Section 396 (h)(1) of the 1934 Act is amended by striking "common" and inserting in lieu thereof "regulated."

TITLE IV—MISCELLANEOUS PROVISIONS

TRANSFER OF TELECOMMUNICATIONS DEMONSTRATION PROGRAM AND EXPANSION OF FUNCTIONS

SEC. 401. (a)(1) The authority granted in section 395 of the 1934 Act is hereby transferred to the Secretary of Commerce. Any authority and responsibilities of the Secretary of Education regarding the administration of any grants or contracts made under such section are hereby transferred to the Secretary of Commerce.

(2) Subject to the provisions of section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), the following are transferred to the Secretary of Commerce for appropriate allocation:

(A) the personnel employed in connection with or in support of, or as an integral part of the mission of, the functions transferred to the Secretary of Commerce from the Secretary of Education by paragraph (1); and

(B) the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A).

Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which funds originally were authorized and appropriated, as amended by this Act.

(3) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce and the Secretary of Education, shall—

(A) make sure determinations as may be necessary with regard to transfer of the functions transferred to the Secretary of Commerce from the Secretary of Education by paragraph (1); and

(B) make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A);

as the Director may determine necessary to accomplish the purposes of this section.

(b) The heading of subpart B of title III of the 1934 Act is amended to read as follows: "Telecommunications Demonstration Program".

(c) Section 395 of the 1934 Act is amended by—

(1) amending subsection (a) to read as follows:

"(a) It is the purpose of this subpart to promote the development of telecommunications facilities and services for the transmission, distribution and delivery of telecommunications services as defined in section 103. The Secretary of Commerce is authorized, upon receipt of an application in the form and containing the information as he may require, to make grants to, and enter into contracts or cooperative agreements with public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out a telecommunications demonstration program, with special emphasis on rural telecommunications.";

(5) amending subsection (f) to read as follows:

"(f) The funding of any demonstration or pilot project pursuant to this subpart shall continue for not more than 3 years from the date of the original grant or contract. The Secretary shall distribute demonstration grants fairly among the several States and shall make not more than one grant in any State in any 3-year period until the needs of applicants from other States are met.";

(6) amending subsection (j) to read as follows:

"(j) The Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall coordinate with the Commission in the administration of the Secretary's functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall also coordinate his functions under this subpart with the Interagency Task Force established under section 253."; and

(7) amending subsection (k) to read as follows:

"(k)(1) There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1982, $5,000,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984, to be used by the Secretary to carry out the provisions of this subpart. Sums appropriated under this subsection for any fiscal year shall remain available for payment of grants or contracts for projects for which applications approved under this subpart have been submitted within 1 year after the last day of such fiscal year.

(2)(A) amending subsection (b)(1) to read as follows:

"(1) the project for which application is made will demonstrate innovative methods or techniques of utilizing telecommunications equipment or facilities to satisfy the purposes of this subpart, or demonstrate telecommunications services or techniques which are new to the area to be served;";

(B) inserting "and" at the end of paragraph (2) of subsection (b);

(C) striking "; and" at the end of paragraph (3) of subsection (b) and substituting a period; and

(D) repealing paragraph (4) of subsection (b);

(3) amending the first sentence of subsection (c) to read as follows: "Upon approving any application under this subpart with respect to any project, the Secretary shall make a grant or enter into a contract or a cooperative agreement with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project.";

(4) amending subsection (e) to read as follows:

"(e) For purposes of this section, the term 'telecommunications facilities' includes cable television systems, translator facilities, communications satellite systems and related terminal equipment, mobile radio facilities, and other modes of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic, or other means.";

"(2) Unless expressly authorized by law, no Federal funds shall be made available to the Secretary for grants under this subpart after January 1, 1985.".

SEC. 402. Section 406 of the 1934 Act is amended by inserting immediately before "carrier" where it first appears therein "regulated", by striking "interstate" where it first appears therein and substituting "interexchange".

SEC. 403. Section 407 of the 1934 Act is amended by inserting immediately before "carrier" wherever it appears therein "regulated".

SEC. 404. Section 409(g) of the 1934 Act is amended by striking "common" wherever it appears therein and substituting "regulated".

SEC. 405. Section 410(c) of the 1934 Act is amended by striking "common" wherever it appears therein and substituting "telecommunications", and by striking "interstate and intrastate" and substituting "interexchange and intraexchange".

SEC. 406. Section 411(b) of the 1934 Act is amended by inserting immediately before "carrier" wherever it appears therein "regulated".

SEC. 407. Section 412 of the 1934 Act is amended by striking "common".

SEC. 408. Section 413 of the 1934 Act is amended by inserting "regulated" immediately before "carrier" therein.

SEC. 409. Section 415 of the 1934 Act is amended by inserting "regulated" immediately before "carriers" or "carrier" wherever they appear therein.

SEC. 410. Section 416 of the 1934 Act is amended by inserting "regulated" immediately before "carrier" therein.

SEC. 411. (a) Section 503(a) of the 1934 Act is amended by striking "interstate" wherever it appears and by substituting "interexchange"; by striking "common" therein; and by inserting immediately before "carrier" wherever it appears therein "regulated".

(b) Subsection (b)(2)(A) of such section is amended by striking "common" and substituting "telecommunications".

(c) Section 506 of the 1934 Act shall cease to have any effect on the date of enactment of this Act.

SEC. 412. Section 605 of the 1934 Act is amended by striking "interstate" wherever it appears therein and substituting "interexchange".

TITLE V—CONFORMING AMENDMENTS; REPEALER; REFERENCE TITLE 18

SEC. 501. Section 2510(10) of title 18, United States Code, is amended by striking out "'common carrier' by section 153(h) of title 47 of the United States Code" and substituting "'telecommunications carrier' by section 153 of title 47, United States Code".

CLAYTON ACT

SEC. 502. Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking "common carriers engaged in wire or radio communication or radio transmission of energy" and substituting "telecommunications carriers as defined in section 153 of title 47, United States Code".

COMMUNICATIONS SATELLITE ACT

SEC. 503. Section 201(a)(4) of the Communications Satellite Act of 1962 is amended to read as follows:

"(4) exercise such supervision over, and issue such instructions to, the Corporation in connection with its relationships and activities with foreign governments or entities or with international bodies in connection with its role as the designated representative in international organizations as may be appropriate to assure that such relationships and activities are consistent with the national interest and foreign policy of the United States;".

TRANSITION OF COMMISSION AUTHORITY

SEC. 504. All orders, determinations, rules, regulations, permits, contracts certificates, and privileges, which, pursuant to the provisions of titles II and III of the 1934 Act, as amended—

(1) have been issued, made, granted, or allowed to become effective by the Federal Communications Commission; and

(2) were in effect prior to the enactment of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

FOREIGN TELECOMMUNICATIONS

SEC. 505. The Secretary of Commerce is authorized to assist telecommunications carriers and other persons in negotiations with foreign entities for telecommunications trade rights in foreign countries, including operating agreements, routes, and the marketing of telecommunications services, telecommunications equipemnt, information services and information software.

APPLICABILITY OF ANTITRUST LAWS

SEC. 506. Nothing in this Act shall be construed to affect the applicability of the antitrust laws of the United States or any defenses or remedies available thereunder or as expressing in any manner any sense of the Congress with regard to litigation or defenses and remedies relating to litigation which may be pending in which any person affected by this Act may be a party on the date of enactment of this Act.

POLICY IMPLEMENTATION

SEC. 507. Not later than one year after the date of enactment of this Act, the President shall report to the Congress on the development and implementation of the policy prescribed in section 241(i)(3) of the 1934 Act, together with recommendations for legislation necessary to implement such policy.

TELEVISION RECEIVERS

SEC. 508. (a) Section 302 of the 1934 Act is amended as follows:

(1) Subsection (a) of such section is amended—

(A) by inserting "(1)" immediately after "governing" in the first sentence;

(B) by striking out the period at the end of the first sentence and substituting ", and (2) establishing minimum performance standards for television receivers to reduce their susceptibility to interference from radio frequency energy."; and

(C) by striking out "shipment, or use of such devices" in the second sentence and substituting "or shipment of such devices and television receivers or the use of such devices".

(2) Subsection (b) of such section is amended by striking out "ship, or use devices" and substituting "or ship devices and television receivers or use devices".

(3) Subsection (c) of such section is amended—

(A) by inserting "or television receivers" immediately after "devices" wherever such term appears in the first sentence;

(B) by inserting "and television receivers" immediately after "Devices" in the second sentence; and

(C) by striking out "the common objective of reducing interference to radio reception," in the second sentence and substituting "the objectives of reducing interference to radio reception and to television receivers,".

(b) The heading for section 302 of such Act is amended to read as follows:

"INTERFERENCE WITH RADIO COMMUNICATIONS AND TELEVISION RECEIVERS"

CABLE TELEVISION FRANCHISE FEES

SEC. 509. (a) The Commission shall establish reasonable ceilings for the fees to be paid to State or local governments by operators of cable television systems receiving franchises from such State or local governments.

(b) The Commission may periodically upon its own motion or upon petition, review the appropriateness of such ceilings, making adjustments therein.

EFFECTIVE DATE

SEC. 510. Except as otherwise provided in this Act, the provisions of this Act shall take effect upon the date of enactment of this Act.

Mr. CANNON. Mr. President, the legislation we introduce today represents a major effort on the part of the Senate to effectively and realistically amend the Communications Act of 1934. The present law has served us well for the past 46 years, however, we must now enact legislation which reflects today's world. I am pleased to announce that the Senate Commerce Committee will begin marking up this bill on June 24.

Congress has long been pursuing regulatory reform in the communications field. There is little resemblance to the industry that prompted regulation almost one-half century ago, to the innovative, technologically advanced telecommunications systems of the 1980's. It is difficult, if not impossible, to administer under an act in which the drafters could not envision the technological achievements that are today taken for granted by the public. Who would have imagined in the days of crystal sets, that the use of optical fibers, satellites and microprocessors would be commonplace in our daily use of communications? That is why the current act needs revision to meet our ever-increasing need for telecommunications service and equipment.

This bill represents the collective efforts of Senators HOLLINGS, GOLDWATER, PACKWOOD, SCHMITT, and myself, to resolve major policy differences. Those four Senators should be commended for their most diligent and thoughtful effort. The Commerce Committee has devoted extensive time and energy during the consideration of this legislation.

Last March, two bills to amend the 1934 Communications Act, S. 611 and S. 622, were introduced.

We conducted comprehensive hearings on these bills and compiled a four-volume hearing record.

At the conclusion of those hearings, we devoted much time for further reflection and compromise. The results of that effort have produced a reasonable and thoughtful proposal.

This legislation will have a significant deregulatory effect on the communications industry. However, we have included a means for careful transition to insure that fair competition will be enhanced. This legislation will effectively deregulate customer premises equipment, resale of communications services, information services and others who do not control essential transmission facilities. The primary basis for regulation will be the control of transmission facilities for which there is no reasonable alternative. As those facilities become competitive, transmission services will also be deregulated.

Those carriers which are considered to be dominant, regulated carriers will be required to create fully separated affiliates if they wish to participate in deregulated markets. Rigorous accounting procedures and other requirements will insure against anticompetitive practices by any dominant regulated carrier. This will also provide for reasonable and nondiscriminatory interconnection for all. We have also included a method which will separate the functions of Western Electric and Bell Telephone Laboratories which support competitive equipment. We also detail the interim requirements for the internal activities of Western Electric and Bell Telephone Laboratories.

The provisions will not undermine, in any way, the underlying premise of basic, affordable telephone service which is the foundation of our telecommunications policies.

The broadcast provisions of this legislation will also have a substantial deregulatory effect while maintaining the public interest standard. This bill would lengthen license terms for radio and television stations to 5 years. The criteria for granting renewals may be predicated upon different rules than those rules imposed during the initial licensing, and noncomparative methods of selection such as a lottery may be used to determine initial licensing. Cable systems will be subject to signal restrictions if a broadcaster can demonstrate he will be harmed in his local programing efforts.

Cable systems ownership by telephone companies will be allowed in rural areas, and except for those rural areas, A.T. & T. would be precluded from offering any cable service, while other carriers may apply for a Commission waiver.

The communications industry is now embarking on an exciting expansion of both services and equipment. We must reform the present communications law to meet the challenges that lie ahead in this field. This bill now before the Senate will meet these challenges.

Mr. SCHMITT. Mr. President, I join the distinguished Senator from South Carolina and the distinguished Senator from Nevada in the introduction of the Communications Act Amendments of 1980.

I compliment them as well as Senator GOLDWATER, Senator PACKWOOD, and other members of the Committee on Commerce as well as other Members of the Senate who have shown great interest and patience with us as we have moved gradually toward a compromise that we feel is certainly a workable basis for markup.

The comments we received on this measure from our colleagues as well as others, we hope, will confirm that their comments in the past as well as the diligent efforts of our staffs and ourselves have finally reached a point where a telecommunications bill can be put together that amends the 1934 act, to make that act much more compatible than it is today with the advances of technology and the services born of that technology.

In fact, we hope that we are creating a bill that is largely transparent to any future advances of technology and services. We realize that this will be an imperfect task. However, it is one that must be done.

I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF S. 2827, THE COMMUNICATIONS ACT AMENDMENTS OF 1980

TELECOMMUNICATIONS CARRIERS

1. FCC Jurisdiction.—Federal jurisdiction is extended to interexchange, intrastate telecommunications services. Under present law the FCC has authority only over interstate service. State jurisdiction continues over intraexchange telecommunications services.

2. Transition Plan.—The bill requires the FCC to establish a plan to carry out the provisions of the Act. Carrier classification, establishment of an accounting system, procedures relating to the formation of separate subsidiaries, procedures to implement the access charge are required to be included in the plan. Time periods are specified in the bill for the implementation of each requirement. In addition, presently tariffed services will continue under tariff for a period of two years which may be extended for an additional two years by the FCC.

3. Degree of Regulation.—The FCC is ordered to adjust regulation as competition develops in particular geographic markets.

4. Classification.—Within 30 days after enactment, telecommunications carriers will be classified by the FCC as dominant-regulated (AT&T, GTE, United Telephone, Continental, Central, and Mid-Continent) and regulated (the remaining telephone companies). Carriers not within these two categories will be unregulated. AT&T and Comsat will be classified as dominant-regulated international carriers. Other carriers which own, or control, or lease international telecommunications facilities will be classified as regulated international carriers. The Commission will have continuing authority to classify and reclassify carriers depending upon the services provided and the extent to which they own telecommunications facilities for which there is no reasonably available alternative.

5. Resale of Telecommunications Services.—Resale, (i.e. the reoffering, with or without adding value, by any person for a profit of any telecommunications service which has been obtained from a carrier) is not subject to FCC regulation.

6. Interconnection.—Regulated interexchange, international and exchange carriers will be required to interconnect with the telecommunications equipment of any person or carrier upon reasonable request and pursaunt to nondiscriminatory terms and conditions. Internal interconnection arrangements within dominant-regulated carriers will be subject to tariffing procedures.

7. Information Filing Requirements.—The FCC will have the authority to require any telecommunications carrier to file information relating to telecommunications operations. Regulated carriers will also be required to file contracts which relate to the provision of regulated services.

8. Tariffs.—The Commission will have the discretion to choose between tariffing procedures for regulated carriers. The more stringent requirement requires commission approval before it goes into effect and provides for a hearing of the tariff's lawfulness. The less stringent requirement which is obligatory for non-dominant international carriers allows the tariff to be effective on the date specified by the carrier, but subject to later findings of unlawfulness after a hearing.

9. Facilities Construction Approval.—Any regulated carrier, other than a dominant-regulated carrier, may begin construction of new facilities upon notification to the Commission. Dominant-regulated carriers will be required to obtain FCC approval before new construction can begin. Long-term facilities plans for regulated carriers may be authorized. Termination of regulated services will be subject to FCC approval.

10. Network Planning.—Telecommunications carrier, both regulated and unregulated, are authorized to meet, plan, and coordinate telecommunications networks. Information related to interconnection with regulated facilities is required to be filed with the Commission and may not be disclosed until it is filed.

11. Access Charge.—A joint board and the FCC are required to develop practices and procedures which will result in a cost related charge for the use of local exchange facilities. In addition, the FCC is required to establish a surcharge on the access charge which will be pooled and used primarily to maintain reasonable rates for local service and offset the high costs of rural connecting toll links.

12. Fully Separated Affiliate.—Dominant-regulated carriers will be required to provide all telecommunications services, except those which the FCC declares to be basic regulated telecommunications services (including specifically basic telephone service), through a fully separated affiliate. Organizational and behavioral requirements and prohibitions are prescribed to govern the relationship between a dominant carrier and its fully separated affiliate in order to preclude the possibility of cross-subsidies. FCC approval is required before the affiliate is "fully separated." In addition, the FCC is not precluded from requiring other organizational and behavioral modifications if they are necessary to promote the policy of the bill.

13. Western Electric/Bell Laboratories.—After a transition period of 10 years, Western Electric's production of competitively marketed telecommunications equipment is required to be fully separated from regulated services. During the transition, behavioral requirements and prohibitions are imposed on Western Electric and Bell Laboratories. Specific Western Electric and Bell Labs activities that support competitive activities are transferred to the fully separated affiliate at particular times during the transition, e.g. final assembly must be separated not later than four years after enactment. Any transfer of assets will be evaluated by an assets evaluation board consisting of three members, one selected by the FCC, one by AT&T, and the third by the other two.

14. Consent Decree.—The 1956 Consent Decree is modified to allow AT&T to provide unregulated telecommunications services and equipment and any incidental activities through fully separated affiliates.

15. Customer-Premises Equipment and Information Services.—The FCC and the States are precluded from regulating these activities. A dominant regulated carrier must offer these services or equipment through a fully-separated affiliate.

16. Basic Telecommunications Services.—The FCC is given the authority to determine which services, in addition to basic telephone service, should be universally available and whether regulation is needed to ensure their universal availability. The bill anticipates continued regulation of basic telephone service (long-distance and local) for the foreseeable future.

17. Antitrust Disclaimer.—The bill contains language specifically disavowing any intent to affect the applicability of the antitrust laws and any pending antitrust litigation.

18. Employee Protection.—Employment rights of employees affected by the separated affiliate requirement will be protected.

19. Radioexchange Telecommunications.—The Commission is directed to assure the feasibility of competition in radioexchange telecommunications through a review and revision, if necessary, of its allocations, assignment, and authorization standards, policies, and rules relating to these services.

INTERNATIONAL CARRIERS

1. International Telecommunications Services.—Any telecommunications carrier (do-

mestic and international) will be allowed to offer any telecommunications service including international telecommunications service. Western Union, which is now precluded from offering international telecommunications services, and AT&T which is presently restricted to offering voice telephone service, will be able to offer any telecommunications services. Western Union will be permitted to offer these services as of Jan. 1, 1981.

AT&T is required to offer all international services, except basic international telephone service, through a fully separated affiliate which can be the same affiliate that provides domestic competitive services. Comsat must offer any telecommunications services or equipment (other than the provision of telecommunications facilities) through a fully separated affiliate.

Hawaii is made a domestic point as of the date of enactment.

2. International Facilities Planning.—The Commission is required to adopt a facilities planning process which emphasizes the primary role of the carriers in negotiating with foreign correspondents for the construction and use of cables and satellites. Applications for the construction and use of such facilities filed in accordance with the Facilities Plan developed by this process must be approved by the Commission within 90 days.

3. Transborder Data Flow.—A U.S. policy regarding the free flow of information across international boundaries is established. A report to the Congress is required.

BROADCASTING

1. License Terms.—License terms for radio and television stations would be increased from three years to five years.

2. Random Selection.—The Commission may use a system of random selection to choose among otherwise qualified applicants for broadcast licenses.

3. Political Candidates.—Equal time requirements are modified to exempt debates among candidates for President and Vice President, if the debates are not arranged by a broadcaster.

4. Radio and Television Deregulation.—The FCC is required to reduce or eliminate policies, rules, or regulations covering radio broadcasters concerning news and public affairs programs; number and frequency of commercials; maintenance of program logs. The bill prohibits FCC regulation of radio station formats and any ascertainment requirements which are now decisionally significant must be eliminated.

5. Comparative Renewals.—The Commission will no longer be required to hold hearings in every comparative renewal case, as is now required under judicial interpretation of the present Act.

6. Radio Frequency Interference.—The Commission is authorized to establish minimum performance standards for television receivers with regard to their susceptibility to radio frequency interference.

CABLE TELEVISION

1. Media Cross-Ownership.—The FCC is authorized to continue or adopt rules and regulations limiting the number of cable systems that can be owned or controlled in combination with other media interests.

2. Co-Located Telephone Company Cross-Ownership.—Generally such ownership is prohibited except upon a showing to the FCC that significant additional media diversity will result. AT&T is prohibited from providing cable television service which is defined as the retransmission of broadcast signals or the origination of one-way radio entertainment programming. An exemption from the general restriction is contemplated for sparsely populated areas.

3. Distant Signals.—The FCC is generally precluded from regulating the retransmission of distant signals, except in specific cases upon a showing that the restrictions are necessary to protect the public interest.

4. Prohibition On Regulation.—The States and the FCC are precluded from requiring or prohibiting program origination; restricting rates for channel time on the cable system; and regulating rates charged to cable subscribers.

5. Francise Fees.—The FCC is required to establish reasonable ceilings for francise fees paid by operators of cable television systems. The Commission may periodically review the appropriateness of such ceilings and make adjustments accordingly.

AMATEUR AND OTHER RADIO SERVICES

1. License Terms.—Terms for all non-broadcast radio licenses will be increased to ten years.

2. Amateur License Examinations.—The Commission is authorized to delegate the preparation and administration of license exams to disinterested persons or organizations.

3. Land Mobile Frequencies.—Frequency coordination by industry committees in particular geographic areas is authorized. An application that complies with the coordination will automatically issue, if the Commission fails to act within 60 days.

4. License Exemptions.—The Commission will no longer be required to issue individual licenses in the citizens band service, and any other service in which individual frequencies are not specifically assigned.

RURAL TELECOMMUNITATIONS

1. Federal Rural Telecommunications Interagency Task Force—Established to coordinate Federal policies and programs relating to rural areas.

2. Rural Telecommunications Planning Program.—Established to encourage and assist States and their political subdivisions with planning facilities and services.

3. REA Loans.—The criteria for providing REA loans are amended to encourage loans for the construction of facilities utilizing new technologies.

4. FCC.—The Commission is required to review its policies and regulations affecting telecommunications services in rural areas. The Commission also has the authority to require averaging of telephone toll rates to prevent unreasonable increases.

5. Telecommunications Demonstration Program.—Presently in the Department of Education, this program is transferred to the Department of Commerce and is expanded to act as a catalyst for the development of telecommunications facilities.

FEES

1. Report.—The Commission is required to study and report to the Congress on license fees. The report shall: identify each service and class of license enjoying private commercial benefit from use of the electromagnetic spectrum; and the method or methods for placing a value on that benefit in excess of the costs of regulation.

ADDITIONAL COSPONSORS

S. 1543

At the request of Mr. **Nelson**, the Senator from New Hampshire (Mr. **Humphrey**) was added as a cosponsor of S. 1543, a bill relating to tax treatment of qualified dividend reinvestment plans.

S. 1867

At the request of Mr. **Durenberger**, the Senator from Vermont (Mr. **Leahy**) was added as a cosponsor of S. 1867, a bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business.

S. 2279

At the request of Mr. **Domenici**, the Senator from Texas (Mr. **Bentsen**) was added as a cosponsor of S. 2279, a bill to authorize and direct the Secretary of the Interior to reinstate oil and gas lease New Mexico 33955.

S. 2521

At the request of Mr. **Dole**, the Senator from Arizona (Mr. **Goldwater**) was added as a cosponsor of S. 2521, a bill to amend the Internal Revenue Code of 1954 to provide more equitable treatment of royalty owners under the crude oil windfall profit tax.

S. 2542

At the request of Mr. **Chafee**, the Senator from New Jersey (Mr. **Williams**), the Senator from Illinois (Mr. **Percy**), and the Senator from Arizona (Mr. **Goldwater**) were added as cosponsors of S. 2542, a bill to grant a Federal charter to the Italian American War Veterans of the United States of America.

S. 2623

At the request of Mr. **Goldwater**, the Senator from Florida (Mr. **Chiles**), and the Senator from Tennessee (Mr. **Sasser**) were added as cosponsors of S. 2623, a bill to incorporate the U.S. submarine veterans of World War II.

S. 2772

At the request of Mr. **Bayh**, the Senator from Indiana (Mr. **Lugar**) was added as a cosponsor of S. 2772, a bill to amend the Internal Revenue Code of 1954 to clarify the tax exemption for interest on obligations of volunteer fire departments.

SENATE JOINT RESOLUTION 177

At the request of Mr. **Moynihan**, the Senator from Michigan (Mr. **Levin**), the Senator from Indiana (Mr. **Lugar**), the Senator from Florida (Mr. **Stone**), the Senator from New Jersey (Mr. **Williams**), and the Senator from North Carolina (Mr. **Morgan**) were added as cosponsors of Senate Joint Resolution 177, a joint resolution designating the week beginning June 22, 1980, as "National Athletic Boosters Week."

SENATE JOINT RESOLUTION 183

At the request of Mr. **Baker**, his name was added as a cosponsor of Senate Joint Resolution 183, a joint resolution congratulating the Order of the Sons of Italy in America for their 75th anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day."

At the request of Mr. **Robert C. Byrd**, the Senator from Maryland (Mr. **Sarbanes**), the Senator from Nevada (Mr. **Cannon**), and his name were added as cosponsors of Senate Joint Resolution 183, supra.

At the request of Mr. **DeConcini**, the Senator from West Virginia, (Mr. **Randolph**), and the Senator from New York (Mr. **Javits**) were added as cosponsors of Senate Joint Resolution 183, supra.

At the request of Mr. **Matsunaga**, his name was added as a cosponsor of Senate Joint Resolution 183, supra.

SENATE CONCURRENT RESOLUTION 92

At the request of Mr. CHAFEE, the Senator from Wisconsin (Mr. NELSON), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of Senate Concurrent Resolution 92, a concurrent resolution declaring that the Congress does not favor the withholding of income tax on interest and dividend payments.

SENATE RESOLUTION 456

At the request of Mr. DOLE, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Resolution 456, a resolution regarding prosecution of persons in violation of the Logan Act and the International Emergency Economic Powers Act.

SENATE CONCURRENT RESOLUTION 99—SUBMISSION OF A CONCURRENT RESOLUTION REGARDING THE CRISIS IN THE U.S. AUTOMOBILE INDUSTRY

Mr. TALMADGE submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. CON. RES. 99

Whereas sales of new United States produced automobiles have declined almost 25 percent in the first 5 months of 1980 compared to the comparable period in 1979, as United States economic activity has slowed, credit has been restrained, demand for fuel efficient automobiles has increased, and sales of new imported automobiles have increased;

Whereas hundred of thousands of workers in United States automobile manufacturing plants are unemployed as a result of substantial production cut-backs associated with the declining sales of United States produced automobiles;

Whereas the declining sales and production of United States produced automobiles have affected adversely large numbers of firms and workers which supply United States automobile manufacturers, transport United States produced automobiles, and sell such automobiles, as well as affected adversely other firms and workers associated with the United States automobile industry;

Whereas the declining United States production of automobiles has reduced severely industry profits and availability of resources for the investment and restructuring needed to insure United States production of high-quality, fuel efficient, competitive automobiles; and

Whereas continuation of the current condition of the United States automobile industry for an extended period would permanently adversely affect the continuation of a competitive United States automobile industry of present scope: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President, the United States Trade Representative, and other officials of the United States Government take such actions, including submission of any needed legislation, as are appropriate to permit adequate resources for necessary investment and restructuring by the United States automobile industry (including appropriate action to reduce the costs of Federal regulations and provide tax treatment to encourage capital formation for the industry), to encourage sales of United States produced automobiles, to secure reasonable investment by foreign automobile manufacturers in the United States, to reduce barriers to exports of United States produced automobiles, and to insure that workers unemployed as a result of the present crisis continue to receive needed assistance.

● Mr. TALMADGE. Mr. President, today I am submitting a concurrent resolution calling on the President, the Special Trade Representative, and the Congress of the United States to explore and take all necessary steps to aid our Nation's ailing automobile industry. Action is needed immediately; for the well-being of our economy is strongly dependent upon the well-being of the automobile and its related industries.

The domestic automobile industry, one of the bedrock industries on which our economy depends, is in its worst slump since the Great Depression and is just about to hit rock bottom. Total layoffs for the industry already exceed 270,000—over 15 percent of the workforce—with approximately 9,000 workers idled indefinitely in my home State of Georgia. Sales are running almost 17 percent below 1979 levels, 11 manufacturing and assembly plants are expected to shut down by year's end. The chief cause is imported cars which now hold almost 30 percent of the U.S. market.

The current glut of imported cars is placing a tremendous strain on American automobile producers, retailers, and workers. Many American workers are losing job opportunities because of this influx. One in seven jobs in the United States is tied directly or indirectly to the automobile industry. Because of the large number of layoffs in this industry, unemployment has soared 1.6 percent in the last 2 months alone to 7.8 percent of our Nation's workforce. This is the steepest 2-month rise in over 32 years, with 1.7 million people added to the unemployment rolls in April and May. Such a dramatic increase in unemployment will have a devastating effect on Federal revenues and our ability to achieve a fiscal year 1981 balanced budget.

Record high interest rates, followed by the general slowdown of our economy, combined with skyrocketing fuel prices have crippled consumer demand substantially. A domino effect has begun whereby firms and workers supplying domestic automobile producers are suffering the adverse effects of depressed automobile production. The rubber, steel, and aluminum industries have all also experienced substantial cutbacks in production and employment as a result of the current crisis in the automobile industry. This crisis has hit the domestic industry at a time when it must invest huge amounts of resources for capital formation—our manufacturers must spend nearly $100 billion on retooling and equipment in the near future if they are to remain competitive by making the small, fuel-efficient cars our citizens now demand. Excessive Government regulations and the existing tax laws worsen the situation by restraining productivity increases and by preventing the quick depreciation of the now obsolete large car manufacturing equipment.

The recently high interest rates and the lagging economy also have had a negative impact on automobile retailers and consumers. Retailers have been forced to finance their lot inventories with high interest loans. Consequently, they have been unable to maintain the wide selection of automobiles necessary to remain competitive. Automobile consumers have also been hit by the ridiculously high interest rates.

Mr. President, even though the slowing of inflation and the drop in interest rates in recent weeks are positive signs, it is nonetheless imperative that the Congress join hands with the President and the Special Trade Representative in working to aid the domestic automobile industry. My resolution emphasizes the need for such cooperation and outlines the goals which we must strive to achieve.

Our trade representatives must get tough with Japan and other countries in our negotiations to persuade them to locate production facilities here in the United States and to open up their markets to American-made automobiles so that the jobs and dollars can remain in this country rather than being exported abroad. Last year, Japanese cars accounted for 21 percent of U.S. sales—over 2 million cars—while U.S. exports to Japan were limited to less than 16,000. This seems to be a grossly inequitable situation, not in keeping with free trade objectives at all.

It is time to put a halt to further foreign inroads into the American market. We must provide the needed incentives to the domestic automobile industry for increased capitalization to make possible plant modernization and retooling to meet the growing demand for smaller, more fuel-efficient cars. This is an expensive undertaking, but one which must be encouraged and begun immediately to protect American jobs, to maintain a competitive posture for our American industry. Accelerated depreciation legislation, of which I am a cosponsor, will be especially important to the automobile industry in order to provide American automobile workers with the most modern equipment to compete with foreign imports. We must take a second look at the current regulatory burdens imposed on the American automobile industry. We must reduce and eliminate excessive Federal regulations on the automobile industry as well as other industries whose vitality is being suffocated by the $100 billion to $150 billion regulatory jungle in Washington. These steps must be taken if we are to put our domestic industry on the road to recovery.

Mr. President, I encourage my colleagues to join with me in this concurrent resolution.●

SENATE RESOLUTION 458—SUBMISSION OF A RESOLUTION TO COMMEMORATE THE KATYN FOREST MASSACRE

Mr. HEINZ submitted the following resolution, which was submitted to the Committee on the Judiciary:

S. Res. 459

Whereas the Soviet Union, in the Spring of 1940 perpetrated a singularly unforgivable act against the nation of Poland and against humanity; and

Whereas in this act of atrocity, the Soviets slaughtered some 15,000 captive Polish army officers and civilian officials, primarily in the Katyn forest region of the Soviet Union; and

Whereas such abhorrent and unconscionable action at Katyn by the Soviet Union under Stalin is resolutely condemned; and

Whereas such action should serve to remind mankind of the results of Soviet aggression; and

Whereas the sacrifice of the brave Polish patriots should never be dismissed or forgotten: Now, therefore, be it

Resolved, That the Senate commemorates the tragedy at Katyn Forest in order to publicly recognize the valor of those Poles who lost their lives and to remind the world of the inevitable result of war and aggression.

● Mr. HEINZ. Mr. President, April of this year marked the 40th anniversary of the tragedy of the Katvn Massacre—the deliberate and wanton murder of some 15,000 World War II Polish Army officers, intelligentsia and clergy by the Soviet Army in the Katyn Forest region. In these 40 years, this malicious and horrendous act by the Soviets has remained virtually undeprecated by the world, the United States especially. This failure remains blemish on our country's complexion of human rights advocacy, not to mention a betrayal of respect for the people of the nation of Poland and humanity. The time is only fitting, especially in light of the recent Soviet aggression in Afghanistan, to briefly peruse, painful as the recollection may be, the Katyn atrocity; to remind the world of the full ramifications of Soviet aggression.

The historical scenario is tragic. The autumn of 1939 witnessed the Soviet occupation of Poland and the resulting surrender of Polish troops. The signing of the Ribbentrop-Molotov Pact of nonaggression between the Soviet Union and Nazi Germany came that same year, shortly after the latter's invasion of Poland. Of the nearly 200,000 Poles captured as a consequence of occupation, approximately 15,000 Army officers and officials were selectively chosen and taken to three separate prison camps. Little more was ever heard from these officials for the next several months. After May 10, 1940, no communication was ever received.

June of the next year saw a splitting of the German-Soviet allegiance, the Nazi invasion of the Soviet Union effecting a curious change in the alinement of nations. The Polish Government-in-exile in London contracted with the Soviet Union to join in an effort against the invading Nazi forces, part of the agreement specifically calling for the release of all Polish troops in captivity. Shortly thereafter, a search by the Soviet-appointed Polish General Wladislaw Anders for the captive Polish army officials in the Soviet prison camps yielded only 443 officers. Polish generals were consequently informed by Soviet officials that the remaining officers had escaped to Manchuria. Yet the officers' whereabouts remained an unanswered question for many months thereafter.

Two years later, in April of 1943, invading Nazi forces in Poland reported the macabre discovery of mass graves in the Katyn Forest area. Investigation of the graves by international authorities yielded horrifying conclusions. The graves contained the bodies of over 4,000 Polish Army officers and civilian officials from the Kozielsk prison camp, each slaughtered by the Soviets by a single shot to the back of the head. They were blindfolded. The remaining bodies—in excess of 10,000—of the prisoners from Starobielsk and Ostashkov were eliminated in a similarly gruesome manner and are believed to have been dumped at sea.

Naturally, the Soviet Union denied any role in this tragedy, their contention being that the Polish officers had been murdered by the Nazi's in the spring of 1941. But an analysis of the garments and personal belongings found in the graves of the victims, along with an investigation of soil and vegetation in the area, combined with the advanced state of decomposition of the bodies led the International Red Cross authorities to conclude that the graves had been set no later than May of 1940, at least 1 year before the Nazi invasion. The finger of guilt pointed clearly to the Soviet Union.

Subsequent evidence sealed this guilt. Secret British papers released in 1972 indicate almost certain responsibility of the Soviets for the Katyn massacre. Evidence published a year earlier in 1971 contains testimony previously undisclosed of a Polish citizen's enlightening accounts of the confessions of two Soviet soldiers who particpated in the cold-blooded executions of the Polish officers at Katyn.

The list of evidence continues but the conclusion remains the same: That the Soviet Government, under the direction of Stalin, deliberately eliminated the Polish leaders in an attempt to remove all potential competition to Soviet aspirations of control over Poland.

A special committee report prepared by Members of the House of Representatives and published almost 30 years ago (1952) verifies the existence of firm suspicions by the U.S. Government in 1942 of Soviet involvement in the massacre. The report also points to a certain "strange psychosis that military necessity required the sacrifice of loyal allies and our own principles in order to keep Soviet Russia from making a separate peace with the Nazis" and to assure Soviet intervention in the ensuing war against Japan. Apparently the United States knew then, as it knows now that the Soviet Union was explicitly and singularly guilty of the unconscionable massacre of some 15,000 Polish officers.

But today, unlike then the United States must boldly and clearly condemn the actions of the Soviet Union at Katyn. The truth must not be left unrecognized. Furthermore, the United States should publicly recognize the valor and patriotism of the beloved Polish officers who sacrificed their lives. Let this commemoration serve as a signal to the world, applauding the bravery of those Polish patriots, yet cautioning the free world of the full potential of Soviet aggression.●

SENATE RESOLUTION 459—ORIGINAL RESOLUTION REPORTED TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 459

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the considerations of H.R. 826. Such waiver is necessary because, while the other funding provisions of H.R. 826 become effective in fiscal year 1981 or thereafter, section 2, which extends the Occupational Safety and Health Administration's jurisdiction over USPS, becomes effective on the date of enactment of this Act. This section in effect, provides authority for OSHA to ask for additional funding to accomplish its new responsibilities. While the Committee recognizes that the impact on the fiscal year 1980 budget would be small, it intends to offer a technical amendment postponing the effective date of section 2 of H.R. 826 until fiscal year 1981 in order to comply with section 402(a) of the Act.

AMENDMENTS SUBMITTED FOR PRINTING

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1980—S. 2649

AMENDMENT NO. 1888

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. CRANSTON (for himself, Mr. Simpson, Mr. Talmadge, Mr. Randolph, Mr. Stone, Mr. Durkin, and Mr. Matsunaga) submitted an amendment intended to be proposed by him to S. 2649, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their surviving spouses and children, and for other programs.

IMPROVEMENTS IN VA HOUSING ASSISTANCE PROGRAMS

● Mr. CRANSTON. Mr. President, today I am submitting, on behalf of myself and the following of my colleagues on the Veterans' Affairs Committee—the Senator from Wyoming (Mr. Simpson), the Senator from Georgia (Mr. Talmadge), the Senator from West Virginia (Mr. Randolph), the Senator from Florida (Mr. Stone), the Senator from New Hampshire (Mr. Durkin), and the Senator from Hawaii (Mr. Matsunaga)—amendment No. 1888 to S. 2649, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1980". Mr. President, my amendment provides for limited specially adapted housing grants for certain very severely disabled veterans—those who are totally blind or who have lost or lost the use of both upper extremities; authorizes the VA to guarantee refinancing loans for veterans caught in the high-interest-rate credit crunch of last winter and early spring; provides for increases from $25,000 to $30,000 in the maximum loan guaranty for conventional homes and from $17,500 to $20,000 in the maximum guaranty for mobile homes; and clarifies the disclosures permitted under the VA home-loan guaranty program. S. 2649, my amendment, and certain other bills relating to VA programs, are scheduled for hearings on June 17 before the Committee on Veterans' Affairs.

COMPENSATION COST-OF-LIVING INCREASE

Mr. President, S. 2649, which I introduced at the administration's request on May 2, 1980, basically provides for a cost-of-living increase in service-connected disability compensation and dependency and indemnity compensation (DIC) benefits. The percentage of increase, 14.4 percent, was based on the Administration's March 1980 estimate of the percentage increase that would become effective June 1, 1980, with regard to Social Security and VA pension benefits. As you know, Mr. President, that percentage has since been determined to be 14.3 percent, and I have been advised that the percentage of increase now supported by the administration is 14.3 percent.

Mr. President, I am very gratified that the administration has recommended a compensation cost-of-living increase that is based on an actual measure of inflation rather than, as in previous years, a projection of inflation. The administration has thus signalled its support of this committee's policy with regard to such increases. Last year the Veterans' Affairs Committee recommended, and the Senate passed, legislation that would have accomplished the same purpose but in a technically different manner. Subsequently, the House and Senate agreed to a 9.9-percent increase effective October 1, 1980—the same percentage increase provided to Social Security and VA pension beneficiaries in July 1979.

Mr. President, in our committee's March 15 report to the Budget Committee, which dealt with our committee's recommendations for the fiscal year 1981 budget, we recommended an increase at the same percentage as the Social Security-VA pension percentage. My view was then, as it is now, that the cost-of-living increase for this most deserving group of individuals in our society should not be less than that provided under the indexed Social Security and VA pension programs.

Mr. President, these most deserving individuals are those among our Nation's veterans who have suffered service-connected disabilities and the survivors of those who have died as the result of service-connected causes. There are approximately 2.3 million service-connected disabled veterans and 359,000 survivors receiving DIC benefits.

Mr. President, CBO has informally estimated the fiscal year 1981 cost of a 14.3-percent increase in compensation benefits to be $1.078 billion. Mr. President, I would like to emphasize strongly that I fully support this increase. Nevertheless, I feel it is my duty to inform all Senators and the public that such an increase may not be possible under the first concurrent resolution on the budget for fiscal year 1981 currently under consideration. Mr. President, under the conference report on the first resolution to be considered today, the amounts for Function 700, Veterans' Benefits and Services—$21.7 billion in budget authority and $21.2 billion in outlays—are the same as the levels agreed to by the House in its version of the resolution and $150 million in budget authority and $50 million in outlays lower than the Senate-passed levels. Under the "crosswalk" allocation portion of the joint explanatory statement accompanying the conference report, the Veterans' Affairs Committee would probably be allocated amounts for entitlement programs under the committee's jurisdiction—such as compensation, pension, burial benefits, and GI bill benefits—of $13.9 billion in budget authority and $14.1 billion in outlays. Even though our committee's legislative agenda in entitlement and other programs is both modest and extremely prudent, the committee is, under that allocation, faced with a very difficult decision—either limiting the proposed compensation cost-of-living increase to a lesser percentage, delaying the effective date, or cutting back even further the very modest 10-percent increase that our committee has recommended for GI bill benefits. Mr. President, GI bill trainees have not received a cost-of-living increase since 1977, and inflation has eroded the purchasing power of those benefits by more than 20 percent since then. The difficulties for our committee are thus very serious, but we will do all that is possible to assure a fair and reasonable cost-of-living increase in compensation benefits under these circumstances.

Mr. President, the amendment I am submitting today provides for three important improvements in veterans' housing programs.

LIMITED SPECIALLY ADAPTED HOUSING GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

First, the amendment provides for specially adapted housing grants to those service-connected disabled veterans who are totally blind and to certain other very severely disabled veterans, those who have lost or lost the use of both upper extremities. This provision responds to my concern that these veterans' needs for special adaptations are not being met by the furnishing of home improvements and structural alterations under the home health services provisions of section 612(a) of title 38, United States Code. Section 612(a) presently authorizes the VA to assist service-connected disabled veterans by providing home health care, and, where it is determined that home improvements or structural alterations are necessary in connection with the veteran's disability, such modifications may be furnished at the VA's expense, up to a maximum limit of $2,500.

Mr. President, in 1978, the Senator from New Mexico (Mr. DOMENICI) sponsored legislation—S. 3312, 95th Congress—to provide for limited specially adapted housing benefits for service-connected disabled veterans who are totally blind.

At the time Senator Domenici's bill was introduced, little information was available as to the extent of such blind veterans' needs for home modifications and the effectiveness of the 612(a) program in providing for those needs. Thus, the Senator from New Mexico (Mr. DOMENICI) proposed a floor amendment, which I fully supported, to legislation that was subsequently enacted as Public Law 95–22, to require the VA to study these issues.

Section 505 of Public Law 96–22 thus required the VA to examine the implementation of the VA s home-health services program under section 612(a) of title 38 with regard to the home-modification needs of veterans who are totally blind from service-connected causes. The due date for the study was to be October 1, 1979, but it was submitted to the Committee on Veterans' Affairs on January 16, 1980.

This study indicated that the section 612(a) program is inadequate to meet the needs of blind veterans—in part because there is an absence of information about it among blinded veterans and in part because the VA's implementation of the section 612(a) program is, apparently, very inadequate in terms of meeting the needs of these veterans. However, the study did provide some information concerning the types of home modifications that are helpful in assisting blind veterans to achieve maximum independence and safety within their homes. Such modifications may include, for example, railings, sliding doors, various braille devices on appliances, the elimination of protruding cabinet fixtures, and, in the case of certain blinded veterans, specially adopted lighting.

Mr. President, totally blind veterans are currently ineligible for specially adapted housing grants unless the veteran has also suffered the loss or loss of use of one lower extremity. However, Mr. President, I do not believe blinded veterans' needs for special adaptations are so extensive as to warrant providing those veterans with elgibility for the assistance currently provided under chapter 21 of title 38 for specially adapted housing grants. Those grants—up to a maximum of $30,000—are provided to assist veterans whose severe disabilities make movement impossible without the aid of a wheelchair or prosthetic device, and the grants are intended to assist such veterans in acquiring specially adapted homes with major adaptations, such as wheelchair ramps and wider hallways, to provide for the veteran's health and safety.

Thus, the maximum specially adapted housing grant under current law is, in my view, not appropriate in the case of totally blind veterans who do not have serious mobility problems. That is also the case, I believe, with regard to the needs of the second group of severely disabled veterans whom my amendment is intended to benefit—those who have lost or lost the use of both upper extremities. These veterans, it should be noted, are not currently eligible for specially adapted housing grants unless they have also suffered the loss or loss of use of one lower extremity. Nevertheless, these veterans experience serious difficulties in coping with the ordinary demands of living in a home environment. For such veterans, simple tasks like manipulating doorknobs and operating appliances are extremely arduous, and their need for special adaptations is readily apparent.

Thus, my amendment provides for specially adapted housing grants, up to a maximum amount of $5,000 or the actual cost of the special adaptations, whichever is the lesser, for these very severely disabled veterans whose needs are not currently being met.

Mr. President, I have been informally advised that the cost of this provision would be $2.7 million in fiscal year 1981, if the assumption is made that approximately 25 percent of the more than 3,000 veterans who are totally blind or have lost or lost the use of both upper extremeties would apply for such grants in fiscal year 1981.

REFINANCING VA-GUARANTEED HOME LOANS UNDER CERTAIN CIRCUMSTANCES

Second, my amendment would assist those veterans who used their VA home loan guaranty entitlement during the high-interest-rate crunch this past winter and spring by enabling them to refinance their high-interest-rate loans. During that period, Mr. President, the VA maximum interest rate for conventional homes rose from 10.5 percent in October 1979 to 14 percent in April 1980. Since April, it has declined, as have interest rates generally, and is now 11.5 percent. It appears that the maximum is likely to decline further.

Mr. President, during the first 3 months of 1980, when VA interest rates were at all-time highs, more than 19,000 veterans purchased homes with VA-guaranteed financing. Many of these veterans needed their homes immediately for family reasons or feared that any delay in purchasing a home would be accompanied by a further substantial rise in housing prices. Thus, they could not await an eventual decline in interest rates.

Today, those veterans are, in effect, paying a substantial penalty that will continue throughout the term of their loans. For example, the veteran who borrowed $50,000 at 14 percent, using his or her loan guaranty entitlement, will pay, over the 30 years of the loan, more than $36,000 more than if he or she had been able to secure VA-assisted financing at the current 11.5-percent rate. The first monthly payment on the loan at 14 percent would be $97 higher than the monthly payment on an 11.5-percent loan.

Mr. President, current law precludes such a veteran from using his or her VA home-loan guaranty entitlement to refinance his or her VA-guaranteed loan in order to take advantage of lower interest rates that later became available. The purpose of generally precluding the use of the guaranty entitlement to refinance a guaranteed loan is to assure that loan-guaranty entitlement is used only for the purpose intended, that is, to assist the veteran to acquire a suitable residence. However, I do not believe that enabling veterans caught in the interest-rate crunch to refinance their loans at lower interest rates—and thus be relieved of an unduly heavy interest burden—is inconsistent with that purpose.

Thus, my amendment would authorize the VA to guarantee a refinancing loan up to the same amount of guaranty provided for the existing loan in order to obtain a lower interest rate, and would apply both to loans guaranteed for conventionally built houses and condominium apartments and for mobile homes, including mobile home-lot combinations and mobile home lots on which the veteran has installed a mobile home that he or she already owns.

Under this provision, the amount of the loan could not exceed the amount of the remaining balance of the existing loan together with reasonable closing costs, including discount points charged by the lender, in accordance with VA regulations that the VA would be required to prescribe, and the term of the existing loan could not be extended.

Mr. President, as I have noted, this provision would also apply to the refinancing of VA-guaranteed mobile home loans. The maximum interest rate for such loans was raised from 12 percent in early October 1979 to 17.5 percent in April 1980. It has since declined to 16.5 percent and is expected to decline further.

Mr. President, CBO has informally advised that the enactment of this provision would entail no additional costs. Indeed, Mr. President, by enabling such veterans to reduce their monthly payments, this provision should help to reduce defaults and would thus reduce costs.

INCREASE IN LOAN GUARANTY MAXIMUMS

Third, Mr. President, my amendment would increase, from $25,000 to $30,000, the maximum amount of the VA loan guaranty entitlement available to a veteran under section 1810 of title 38, United States Code, for the purchase of a conventional home, a single-family residential unit in a condominium, or a farm residence In addition, my amendment would increase, from $17,500 to $20,000, the maximum guaranty for mobile homes.

The VA loan guaranty is designed to substitute, in large measure, for the down payment that would otherwise be required when a veteran purchases a home. Under current law, the guaranty is limited to 60 percent of the loan amount or $25,000, whichever is the lesser, with regard to conventionally built homes and condominium apartments, and 50 percent or $17,500, whichever is the lesser, in the case of mobile homes. Lenders are thus assured of the substantial protection afforded by the VA loan guaranty and are willing to make loans to veterans without the necessity of a down payment or with a lower down payment than would otherwise be required.

The average percentage of guaranty provided to lenders who make VA-guaranteed loans, Mr. President, provides an index of the general availability of private credit for VA-guaranteed loans. A decline in the percentage of guaranty tends to indicate that lenders are less willing to make such loans. Thus, if the average percentage of loan guaranty declines, veterans who wish to make use of their loan-guaranty entitlement may find it very difficult to locate a lender willing to make a VA-guaranteed loan.

As you know, Mr. President, housing prices have risen substantially since the most recent increase in the VA loan guaranty maximum was enacted by the Congress in 1978. Prior to the enactment of the Veterans' Housing Benefits Act of 1978, Public Law 95–479, which increased the maximum guaranty from $17,500 to $25,000, the average guaranty to lenders was approximately 44 percent. As a result of that law, the guaranty percentage rose to 60.7 percent in the first quarter of 1979, but, as housing prices have risen, has since declined to 49.9 percent.

Mr. President, the increase from $17,500 to $20,000 in the maximum loan guaranty amount regarding mobile homes is consistent with my amendment, agreed to by the Committee on Banking, Housing, and Urban Affairs, to increase, by 11 percent, the maximum loan amounts for mobile homes purchased under the FHA program. S. 2719, the proposed "Housing and Community Development Amendments of 1980," as amended by my amendment, was reported by that Committee on May 15 and is currently pending on the calendar.

Mr. President, CBO has informally advised me that this provision would not result in any significant cost to the Federal Government.

CLARIFICATION OF VA AUTHORITY TO MAKE LOAN-GUARANTY DISCLOSURES

Mr. President, my amendment also clarifies the VA's authority to make certain disclosures of veterans' names and addresses and other relevant information pertinent to the loan guaranty program. The need for this clarification became evident in the context of our committee's consideration of S. 1518, administration-proposed legislation to enhance the VA's ability to collect overdue GI Bill debts by, in part, enabling the VA to disclose certain identification information pertaining to the debtors under certain circumstances.

As a result of our inquiry into the VA's authority to disclose the identities of veterans to consumer reporting agencies—more commonly known as credit bureaus—it became evident that, although the VA has adopted regulations permitting it to make reasonable disclosures in a variety of contexts related to the efficient operation of the loan-guaranty program; it lacks express statutory authority for such regulations.

In addition, Mr. President, issues have arisen in connection with VA implementation of the Privacy Act and the scrutiny of Federal agency disclosure practices as to the effect of the proscriptions of section 3301 of title 38 with regard to disclosures, for loan-guaranty purposes, of veterans' names and addresses. Section 3301 generally prohibits disclosures by the VA except as specifically provided under that section.

Yet such disclosures are necessary to assist the VA in determining the credit worthiness and credit capacity of veterans applying for loan-guaranty benefits, to facilitate the auditing of loan-guaranty cases, to enable the VA, in selling loans from its portfolio, to provide information to prospective investors, and otherwise to facilitate the administration and management of the loan-guaranty program and other veterans' home-loan programs.

Thus, Mr. President, my amendment would clarify the VA's authority to make such disclosures, under certain carefully delineated circumstances, where necessary for the effective and efficient operation of the loan-guaranty program. I have been advised by letter from the VA General Counsel, dated June 11. 1980, of the administration's support for this provision. There would, of course, be no costs resulting from the enactment of this provision of the loan-guaranty program.

EFFECTIVE DATES

Mr. President, the effective date for S. 2649, the proposed Veterans' Disability Compensation and Survivors' Benefits Amendments of 1980, would be October 1, 1980. With regard to my amendment, the effective date for the provisions relating to limited specially adopted housing grants for certain severely disabled veterans would also be October 1, 1980, as would the provisions increasing the maximum VA loan-guaranty amount. The provisions relating to VA-loan refinancing and loan-guaranty disclosures would become effective upon their enactment.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD at this point followed by the letter from the VA General Counsel which I noted.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1888

On page 8, between lines 5 and 6, insert the following new titles:

TITLE IV—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

SEC. 401. (a) Section 801 of title 38, United States Code is amended by inserting "(a)" before "The Administrator" at the beginning and by adding at the end the following new subsection:

"(b) The Administrator is authorized, under regulations which the Administrator shall prescribe, to assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for permanent and total service-connected disability—

"(1)(A) due to the loss of both upper extremities at or above the wrist;

"(B) due to the loss of use of both upper extremities if such loss of use results in a degree of impairment not less than the degree of impairment such veteran would have suffered from the anatomical loss of both upper extremities at or above the wrist; or

(C) due to the loss of one upper extremity at or above the wrist and the loss of use of the other upper extremity if such loss of use results in a degree of impairment that is not less than the degree of impairment such veteran would have suffered from the anatomical loss of such extremity at or above the wrist, or

"(2) due to blindness in both eyes, with 5/200 visual acuity or less,

to acquire such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability, if the Administrator determines that such veteran is residing in (or, if such residence is to be constructed or purchased, will be residing in) and reasonably intends to continue residing in a home owned by such veteran or by a member of such veteran's family.".

(b) Section 802 of such title is amended by—

(1) inserting "(a)" before "The" at the beginning;

(2) inserting "(a)" after "section 801"; and

(3) adding at the end the following new subsection:

"(b) Except as provided in section 804(b)(2) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

"(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

"(2) $5,000.".

(c) Section 804 of such title is amended by—

(1) inserting "(a)" before "Any veteran";

(2) striking out "the assistance authorized by this chapter" and inserting in lieu thereof "except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title"; and

(3) adding at the end the following new subsection:

"(b) A veteran eligible for benefits under section 801(b) of this title shall not by reason of such eligibility be denied—

(1) benefits for which such veteran becomes eligible under section 801(a) of this title; or

(2) benefits relating to home health services under section 612(a) of this title, but no particular type of adaptation, improvement, or structural alteration shall be provided to any such veteran more than once.".

(d) Section 805 of such title is amended by striking out "unit, or necessary land therefor," and inserting in lieu thereof "unit, or necessary land therefor, or adaptation".

(e) Section 806(b) of such title is amended by striking out "this chapter" and inserting in lieu thereof "section 801(a) of this title".

TITLE V—VETERANS' ADMINISTRATION HOUSING PROGRAM AMENDMENTS

SEC. 501. (a) Section 1803(c)(3)(A) of title 38, United States Code, is amended by inserting "or (b)(2) of this title" after "section 1810(a)(5)".

(b) Section 1810 of title 38, United States Code, is amended by—

(1) amending subsection (b) by—

(A) inserting "(1)" before "No" at the beginning;

(B) redesignating clauses (1) through (6) as clauses (A) through (F);

(C) striking out in the second sentence "paragraph (5)" and inserting in lieu thereof "clause (E)"; and

(D) inserting at the end the following new paragraphs:

"(2) Notwithstanding subsection (a) of this section and paragraph (1) of this subsection, a loan may be guaranteed under this chapter if—

"(A) the purpose of such loan is to refinance a previous loan guaranteed under this section or made under section 1811 of this title and the interest rate of such refinancing loan is less than the interest rate of such previous loan;

"(B) such refinancing loan is secured by the same dwelling or farm residence as was such previous loan and such dwelling or residence is owned and occupied by the veteran concerned as such veteran's home;

"(C) the principal balance of such refinancing loan does not exceed an amount equal to the total of the outstanding unpaid balance of such previous loan and such closing costs as may be authorized by the Administrator under regulations which the Administrator shall prescribe; and

"(D) the term of such refinancing loan does not extend beyond the last day of the term of such previous loan.

"(3)(A) The amount of guaranty of any refinancing loan made pursuant to paragraph (2) of this subsection shall not exceed the guaranty amount of the loan being refinanced.

"(B) Notwithstanding any other provision of this chapter, the amount of guaranty entitlement used by a veteran for one or more of the purposes specified in subsection (a) of this section who applies, pursuant to paragraph (2) of this subsection, for a guaranty for a refinancing loan to be secured by the same property as the loan for which such veteran used such entitlement shall be deemed to be available to such veteran for such refinancing loan, and such veteran's entitlement shall not, as a result of any guaranty provided under paragraph (2) of this subsection, be further charged."; and

(2) amending subsection (c) by striking out "$25,000" and inserting in lieu thereof "$30,000".

(c) Section 1811(b) of title 38, United States Code, is amended by inserting "(but not including the refinancing of a loan under section 1810(b)(2) or 1819(a)(4)" after "section 1810(a) or 1819".

(d) Section 1819 of title 38, United States Code, is amended by—

(1) amending subsection (a) by inserting at the end the following new paragraphs:

"(4) Notwithstanding any other provision of this section, a loan may be guaranteed under this section if—

"(A) the purpose of such loan is to refinance a previous loan guaranteed under this section at an interest rate that is less than the interest rate of such previous loan;

"(B) such refinancing loan is secured by the same mobile home or mobile-home lot, or both, as was such previous loan and such mobile home (or a mobile home or such lot) is owned and occupied by the veteran concerned as such veteran's home;

"(C) the principal balance of such refinancing loan does not exceed an amount equal to the total of the outstanding unpaid balance of such previous loan and such closing costs as may be authorized by the Administrator under regulations which the Administrator shall prescribe; and

"(D) the term of such refinancing loan does not extend beyond the last day of the term of such previous loan.

"(5)(A) The amount of guaranty of any refinancing loan made pursuant to paragraph (4) of this subsection shall not exceed the guaranty amount of the loan being refinanced.

"(B) Notwithstanding any other provision of this section, the amount of guaranty entitlement used by a veteran for one or more of the purposes specified in paragraph (1) of this subsection who applies, pursuant to paragraph (4) of this subsection, for a guaranty for a refinancing loan to be secured by the same property as the loan for which such veteran used such entitlement shall be deemed to be available to such veteran for such refinancing loan, and such veteran's entitlement shall not, as a result of any guaranty provided under paragraph (4) of this subsection, be further charged."; and

(2) amending subsection (c) by striking out "$17,500" and inserting in lieu thereof "$20,000".

SEC. 502. Section 3301 of title 38, United States Code, is amended by—

(1) amending subsection (b) by inserting "(1)" after "(c)" and adding at the end the following paragraph:

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan program authorized under chapter 37 of this title shall be made available to any person who applies for such report or certificate.";

(2) redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection (g):

"(g)(1) The Administrator may, pursuant to regulations which the Administrator shall prescribe and which shall not become effective until 30 days following publication in the Federal Register, release the name, address, and other information relating to the identity of an individual, to any person in a category of persons that is described in such regulations and specified as a category of persons to whom such information may be released, if the release of such information is necessary for the purpose of—

"(A) determining the credit worthiness, credit capacity, income, or financial resources of an individual who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

"(B) verifying, either before or after the Administrator has approved an individual's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the credit worthiness, credit capacity, income or financial resources of such individual.

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(D) to the extent not otherwise authorized by this paragraph, providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

"(2) No contract entered into for any of the purposes of this subsection, and no action taken pursuant to any such contract or this subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or employee thereof.

"(3) For the purposes of this subsection, the term 'consumer reporting agency' (A) shall have the meaning provided in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and (B) shall also mean any person who, for monetary fees, due, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (i) obtaining credit information or other information on consumers from consumer reporting agencies (as defined in subsection (f) of section 603 of such Act) for the purupse of furnishing such information to third parties, or (ii) serving as a marketing agent under arrangements enabling third parties to obtain such information from such agencies."; and

(3) amending subsection (h), as redesignated by clause (2) of this section, by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (g)(2) of this section, any".

On page 8, line 6, strike out "IV" and insert in lieu thereof "VI".

On page 8, strike out all on line 7 and insert in lieu thereof:

"SEC. 601. (a) Except as provided in subsection (b) of this section, the amendments made by this Act shall take".

On page 8, below line 8; insert the following new subsection:

(b) The amendments made by sections 501(a)(1) and (b)(1) and 502 of this Act shall take effect on the date of enactment of this Act.

VETERANS ADMINISTRATION,
OFFICE OF GENERAL COUNSEL,
Washington, D.C., June 11, 1980.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for comments on a draft bill "To amend chapter 57 of title 38, United States Code, to authorize the release of the names and addresses of veterans and certain other information contained in records of the Veterans' Administration for specified purposes related to the home loan programs provided for under chapter 37 of such title, and for other purposes." In addition, the Committee has requested the VA's views on whether section 3301 should also be amended to authorize the disclosure of the amount of any monetary payment benefit provided under title 38.

We strongly believe that the disclosures which this bill would authorize are necessary and essential to the efficient management of the Loan Guaranty program. We also believe that the disclosure of the amount of any monetary payment benefit provided under title 38 is consistent with the present express authority of the agency to disclose the amount of compensation and pension benefit which a person is receiving under the authority of section 3301(c) of title 38, United States Code.

Subject to the following minor suggestions, we support this bill. With increased interest in Federal agency disclosure practices and laws prompted by the Freedom of Information Act (5 U.S.C. § 552), the Privacy Act of 1974 (5 U.S.C. § 552a), and other similar existing or proposed laws, the applicability of section 3301 to Loan Guaranty program records has come under recent agency scrutiny. Information disclosure essential to continuation of necessary Loan Guaranty program activities would be explicitly authorized by this amendment. It is our belief, therefore, that an amendment of this nature is desirable for continuation of the proper operation of the VA Loan Guaranty program as authorized by chapter 37 of title 38, United States Code.

Subsection (b) of this draft bill would add a new subsection to section 3301 by redesignating current subsection (g) as subsection (h) and inserting a new subsection (g). This new subsection would authorize disclosure in four instances and is a significant addition to the existing provisions of section 3301.

Paragraph (1)(A) of the new subsection (g) would authorize disclosure where the agency must determine the credit standing of an individual who has either applied for a direct loan or Loan Guaranty benefit or held by the Administrator. The VA extends credit pursuant to our direct loan program and in connection with the sale of properties acquired following foreclosure on a guaranteed home loan by private lenders. In order to make an informed decision as to whether credit should be extended, the VA obtains credit reports and verifications of employment and deposits with financial institutions. In order to obtain this information, it is necessary to disclose to such parties the prospective purchaser's name and address and some additional information taken from the loan application. Similar disclosures are made in connection with the processing of releases of liability and substitution of entitlement requests on VA direct or guaranteed loans and in connection with release of liability requests on vendee loans.

Paragraph (1)(B) of the new subsection would authorize disclosure in order to permit the VA to verify information submitted by the lender regarding the individual's application for Loan Guaranty assistance. Approximately 425,000 guaranteed loan applications are received each year for home, condominium, and mobile home loans. In each application, the lender provides to the VA at least one credit report, verification of employment, and verification of deposit from a financial institution. These are the documents which support the lender's decision to make a guaranteed loan, and the VA's credit underwriting decision authorizing the lender to close the loan. As a means of determining the validity of the documents submitted to the VA, subsequent to the issuance of the loan commitment, the VA orders verification reports on a percentage of all such prior approval loan applications. This audit sampling involves the release of identifying and other information in the same manner indicated above in the discussion of disclosures under paragraph (1)(A).

The third instance where disclosure would be authorized is stated in paragraph (1)(C) and concerns the sale of loans held by the Administrator. Proceeds from the sale of loans to investors are deposited to the revolving funds which finance the Loan Guaranty program. Investors who purchase or are offering to purchase portfolio loans usually require information concerning the status of the loan and the person responsible for repayment. The investors are allowed to review the loan files, if they so request, in order to determine the value of the securities offered.

Paragraph (1)(D) would authorize disclosures of information for purposes of "facilitating the administration and management of any program authorized under chapter 37." This provision would provide the Administrator with necessary discretion to release information in unspecified situations. While we believe that discretion is advisable to a certain extent with regard to release of information from loan guaranty records, we believe that this discretion should be limited to circumstances involving the provision of benefits to eligible persons. We suggest that the following language, which specifies criteria for disclosure, be inserted in lieu of paragraph (1)(D).

"(D) to the extent not otherwise authorized by this subsection, for the purpose of providing assistance to any applicant for benefits under chapter 37 of this title, or administering such benefits, provided that the Administrator records the fact of the release in the records of the person concerning whom the release has been made."

Subsection (g)(2) of the draft bill provides that the Privacy Act (5 U.S.C. § 522a) would not apply to any contractor who agrees to provide information to the VA under this subsection. This is consistent with the intent of the drafters of the Privacy Act that it should only apply to Federal record systems. It is also consistent with the language of S. 1518 and H.R. 5288, introduced in the 96th Congress, which include similar provisions with respect to disclosures by the VA to consumer reporting agencies for debt collection purposes. Without such a provision, if the several detailed requirements of that Act applied to the VA Loan Guaranty identifying information disclosures to consumer reporting agencies, we believe that the agencies would discontinue providing information to the VA. This would seriously impair VA extension of credit decisionmaking and also our audit program.

Subsection (a) of the bill would amend

subsection (c) of 38 U.S.C. § 3301 to provide that appraisal reports and certificates of reasonable value "submitted to or prepared by the Veterans' Administration in connection with any loan program authorized under chapter 37" would be available to any person who requests such information. The effect of this amendment would be to negate the effect of subsection (a) of 38 U.S.C. § 3301, which makes all "files, records. reports, and other papers and documents" pertaining to a claim for benefits confidential and privileged.

Subsection (c) currently authorizes the disclosure to any person of the amount of pension, compensation, or dependency and indemnity compensation of any beneficiary. This exception to the general rule of confidentiality expressed in subsection (a) reflects a long established congressional policy that information pertaining to Veterans' Administration and other Government benefits expenditures should be made available to the general public. It also expresses a judgment that the disclosure of certain limited information, even in an individually identifiable form, would not affect the public's trust that information obtained in confidence will remain confidential, because such payment information is not confidential by nature.

We believe that the policy expressed in the first part of subsection (c) of section 3301, United States Code, should be extended to all monetary benefits payments made by the Veterans' Administration, regardless of their nature. Consistent with this policy, the Veterans' Administration, by regulation (38 C.F.R. § 1.502), discloses the amounts paid regarding types of benefits other than those specifically identified in the current subsection (c). We have interpreted this subsection as authorizing these types of disclosures; however, express statutory authority is clearly needed in this regard. Additionally, we believe that this policy should also be extended to appraisal reports and certificates of reasonable value, with the names and addresses of prospective purchasers deleted, prepared in connection with the issuance of VA home loan benefits. Public availability of this information should not affect participation in the VA home loan program, and may inspire public confidence in the manner in which this program is conducted. Moreover, there is little, if any, need to protect such reports in the manner otherwise afforded individual claims records.

For these reasons, and also in light of *Tennessean Newspapers, Inc. v. FHA*, 341 F. Supp. 1013 (M.D. Tenn. 1971) *aff'd in part, rev'd in part*, 464 F.2d 657 (6th Cir. 1972) and *Philadelphia Newspaper, Inc. v. Department of HUD*, 343 F. Supp. 1176 (E.D. Pa. 1972), such disclosures are now authorized by Veterans Administration regulation 38 C.F.R. § 1.512; however, statutory clarification in this regard is also needed. Therefore, we support the draft provision making these reports available to the public, and would also support a provision which would make information concerning any benefit payment publicly available.

We note that subsection (g)(1) requires implementation by regulation. It also contains an explicit provision for publication of those implementing regulations in the Federal Register and a thirty-day period before their effective date. This requirement is unnecessary, due to the provisions of 38 C.F.R. § 1.12, which provide that the VA will comply with the requirements of the Administrative Procedure Act, including the procedure for issuing agency regulations, 5 U.S.C. § 553.

In summation, the provisions of the new subsection (g) proposed by this draft bill would specifically authorize the current disclosure practices of the VA Loan Guaranty Service. Upon careful review of applicable law, we believe that such explicit authority is necessary and desirable in order to continue these practices, and that the provisions of this bill, subject to the changes suggested in this letter, would provide such authority. In addition, we support the amendment of 38 U.S.C. § 3301(c) in the manner suggested by the Committee.

We have examined the impact of this proposal on the VA's budget and have found that there will be no additional cost to the agency if this proposal is enacted.

We have been advised by the Office of Management and Budget that there is no objection to the presentation of this report to the Congress from the standpoint of the Administration's program.

Sincerely yours,

GUY H. MCMICHAEL III,

General Counsel.●

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980—S. 2337

AMENDMENT NO. 1889

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 2337, a bill to extend for 3 additional fiscal years the authorization of the Legal Services Corporation.

(The remarks of Mr. HELMS when he submitted the amendment appear earlier in today's proceedings.)

AMENDMENT NO. 1890

(Ordered to be printed.)

Mr. HELMS proposed an amendment to S. 2337, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ECONOMIC STABILIZATION AND INTERNATIONAL FINANCE

● Mr. RIEGLE. Mr. President, Senator STEVENSON and I are pleased to announce that on Wednesday, June 18, the Economic Stabilization and International Finance Subcommittees of the Banking Committee will hold a joint hearing on the role of the auto industry in the world economy. The witnesses are:

Dr. Robert Baldwin, professor of economics, University of Wisconsin.

Dr. David Cole, director, office for the study of automotive transportation, University of Michigan.

Ms. Mariann Keller, first vice president, Paine Webber Mitchell Hutchins.

Dr. Harold Malmgren, former deputy special representative for trade negotiations.

The hearing will be held at 10 a.m. in room 5302 of the Dirksen Senate Office Building. Questions concerning the hearing may be addressed to Tom Dernburg (224-3608) or Bob Russell (224-0819).●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Research and Development Subcommittee of the Committee on Energy and Natural Resources.

The hearing is scheduled for July 3, 1980, beginning at 11 a.m. and ending at 2 p.m. in the cafeteria of the Crook County High School, 1st and Knowledge Streets, Prineville, Oreg. 97754.

The measure: S. 2616, a bill to amend the Crooked River Project Act of August 6, 1956, as amended.

For further information regarding the hearing, you may wish to contact Mr. Russell R. Brown of the committee staff, telephone 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Energy Research and Development, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public hearings before the Select Committee on Indian Affairs.

An oversight hearing is scheduled for June 30, 1980, beginning at 10 a.m., in room 5110 of the Dirksen Senate Office Building. Testimony is invited regarding oversight on the Indian Child Welfare Act.

An oversight hearing is scheduled for July 2, 1980, beginning at 10 a.m., in room 5110 of the Dirksen Senate Office Building. Testimony is invited regarding oversight on Indian Housing.

An oversight hearing is scheduled for July 24, 1980, beginning at 10 a.m., in room 6226 of the Dirksen Senate Office Building. Testimony is invited regarding oversight on Indian Education.

For further information regarding these hearings you may wish to contact Max Richtman of the committee staff on extension 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today to continue consideration of S. 2186, legislation dealing with the Overseas Private Investment Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow—June 13, 1980—to hear administration officials on the upcoming International Economic Summit.

The PRESIDING OFFICER. Without objection, it is so ordered

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold an oversight hearing on the Federal Coal Leasing program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a markup session on S. 2294, the Department of Defense authorization bill for fiscal year 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEW RATIONING PLAN PROTECTS RURAL MOTORISTS

● Mr. CULVER. Mr. President, today the President sent to Congress his standby gasoline rationing plan as required by the Energy Policy and Conservation Act and the Emergency Energy Conservation Act of 1979. This plan is now subject to review by the House and Senate and, if not disapproved, it will remain in standby status until there is a shortfall of gasoline, diesel fuel, and heating oil of 20 percent for a period of at least 30 days.

I am very pleased that the plan has been modified from its initial draft in a way that I urged to better protect rural motorists. The plan submitted today is far more equitable for such drivers.

I do not look forward to the prospect of gasoline rationing and the hardships that measure would impose—no one does. But I do believe, Mr. President, that it is essential to have an equitable standby plan on the shelf in the event that it is needed.

Although the possibility of a 20-percent shortfall may seem remote, another OPEC embargo or a Saudi coup or a war in the Middle East could result in a sudden and serious shortage. Such a shortage without a plan could be disastrous. The alternative to having one could only be an unordered and chaotic scramble for short supplies. Rationing would be by price. The rich would have an enormous advantage over the poor and middle-income families. Trucks carrying tennis balls would compete for fuel with trucks carrying grain to market.

I could not support the last rationing plan submitted to Congress. Farming and food distribution, which are urgent national needs and should have priority treatment, were not adequately considered. The legislation that directed the President to develop and submit this plan made clear that a full agricultural priority—on-farm and off-farm—to meet food and fiber production goals had to be included.

The plan submitted to the President by the Department of Energy did just that. Unfortunately, it created a new inequity by allocating rationing rights to the States and then deducting the agricultural priority from each State's share. That would have meant motorists in a farm State like Iowa might end up with 45 percent less gasoline than nonfarm States like New York if we had to go to rationing during a period of peak agricultural demand.

That did not make sense. A healthy agricultural economy and meeting the food needs of this Nation are national priorities—not the parochial concern of the individual States.

I pressed that argument upon top officials in the White House and at the Department of Energy. After lengthy discussions we were able to persuade them that the initial draft was neither fair nor in line with congressional intent.

The plan submitted today rightfully acknowledges the nationwide importance of agriculture. The plan now calls for the agricultural priority to be met from the national ration rights, and States like Iowa will not have to carry an unfair burden.

Like all Americans, Mr. President, I hope that we will not have to go to rationing. I hope that continued progress in fuel conservation and development of our own energy resources will make us energy-independent. But in the event that rationing should ever become necessary, it is far better that we have this plan ready to go than to do nothing and take a chance on chaos.●

THE PEOPLE'S STAKE IN REGULATORY REFORM

● Mr. HELMS. Mr. President, Mr. A. W. Clausen, president of the Bank of America, recently spoke at the 39th annual meeting of the North Carolina Citizens Association. Regulatory reform was the subject of his remarks.

Mr. Clausen's comments are timely because they reflect the growing concern among our citizens that the Federal regulatory apparatus is out of control. Just this morning the Washington Post reported the results of a recent ABC News-Harris survey that found that an overwhelming majority of the people surveyed favored cutting spending for Federal regulatory agencies.

While most people agree that regulatory reform is essential, few agree on just how we should go about reforming the regulatory process. In Mr. Clausen's words, "although the term 'Regulatory Reform' has gained the stature of a buzz word, so far there has been far more 'buzz' than 'sting' in Federal efforts to deal with the problem."

Mr. Clausen goes on to suggest that "the public sector should be required to provide 'truth in regulation'" so that citizens will know just what the regulators are trying to accomplish and what the costs will be.

Mr. President, so that my colleagues might have the benefit of Mr. Clausen's comments, I ask that they be printed in the RECORD.

The remarks follow:

REMARKS OF MR. CLAUSEN

I know your state has seen and is seeing a great many exciting developments, and it has obviously benefited from some good, sound economic planning.

But the soundest state-level—or even regional—plans can be undermined by serious economic erosion on the national level. Such erosion, unfortunately, surrounds us today.

Our nation's economic productivity is declining. Inflation has escalated rapidly and is now cruising at 18 percent—a truly astounding level for a major industrialized nation whose institutions are rooted in economic and political stability.

For the most part, consumers have stopped saving in a vain and self-defeating attempt to offset the effects of inflation on their living standards. That means the funds available for investment are diminishing, and the cost of those funds is at a near-historic high and threatens to go even higher.

In short, we are on a treadmill, a vicious circle that will further damage our productivity and will place additional upward pressure on inflation unless we deal with these problems directly and immediately.

The situation is more than serious. It's dire. It has resisted, and will continue to resist, all of the milk-toast, politically based-attempts to find easy solutions.

While the Administration has taken some more noteworthy steps recently, by and large government leaders are still telling us to take two aspirins, drink plenty of fluids, and call them after the election.

They are only too willing to point to rising world oil prices, international tensions, and other developments ostensibly beyond their control as the primary causes of our problems.

That is simply not true. Japan, for example, is almost entirely dependent upon imported energy. And yet that nation is controlling inflation admirably.

An examination of our Consumer Price Index shows that a 60 percent increase in the cost of the oil we import translates into perhaps a 3 to 5 percent rise in overall price levels—at worst, a small fraction of the inflation we're suffering.

Clearly, most of our difficulties are right here at home. Government is spending beyond its means. Consumers are consuming beyond their means. And while lip-service is paid routinely to the health of the economy, everywhere government and its various regulatory arms are interfering with the mechanisms of the marketplace which offer, by far, the most efficient means of correcting the imbalances of our economy.

Nowhere is the problem more obivous than in the area of government regulation, the subject of my remarks today. Although the term "Regulatory Reform" has gained the stature of a buzz word, so far there has been far more "buzz" than "sting" in federal efforts to deal with this problem. And this inertia will persist until the public learns the true magnitude of the regulatory drain on our economy.

Today I would like to examine what regulation really costs; why the public has put up with these runaway costs for so long; and how to introduce accountability standards into the regulatory process and bring these costs down to less onerous levels.

Almost every day we open the newspaper only to find that some governmental agency has decided to apply new regulations or controls to some segment of the economy.

And each new straw placed on the back of the private enterprise system is said to be "in the public interest."

Almost all business people willingly grant that government has a role to play in the market economy, to help compensate for problems not reached by the market's "invisible hand."

But I'm compelled to ask:

Is 18 percent inflation in the public interest?

Is a 19 percent commercial bank prime rate in the public interest?

Is economic stagnation in the public interest?

Is the almost total disappearance of the bond market in the public interest?

Obviously not!

And the impact of government regulation and interference in the marketplace is contributing substantially to these key problems.

It's widely accepted that the cost to the private sector of complying with government regulations currently amounts to more than $100 billion a year. And that huge sum represents only the quantifiable direct expense of running these agencies and conforming to their dictates.

Even greater costs—we can only guess at their magnitude—pile up in the form of project delays, investment disincentives, resource misallocation, and lost business opportunities.

We know that regulatory delays of more than a year in construction of the Trans-Alaska Pipeline cost this nation billions of dollars in terms of imported oil. We also know that more than 4,000 regulations governing the preparation and sale of ground beef in food markets adds millions of dollars to the prices consumers pay each year.

But how many businesses have scuttled plans because of the morass of red tape they anticipate in the areas of construction, resource development, or the introduction of new drugs and new technologies?

What has been the cost to our society in employee turnover, hiring, and retraining caused by the abortive wage and price guideline program of last year?

What is the price we've paid in foregone business opportunities and new jobs in an economic environment so uncertain that businesses have only a vague notion of the costs and possible returns of potential investments?

And what price will society pay now that the Federal government is trying to offset the effects of its own fiscal irresponsibility by placing another set of so-called "voluntary" controls on the credit allocation processes of this country?

I don't know what the aggregate costs of regulatory interference are today, but I can assure you they're high. And every person in this country is paying part of that bill, either directly or indirectly.

Obviously, the problem of excessive regulation is not its good intent. Regulators and their proponents may have the highest of ideals. The problem is knowing where to draw the line, when the benefits justify the costs, and when we're paying through the nose for only marginal advantages.

It's staggering when you consider that in 1980 the total identifiable costs of complying with government regulations—at more than $100 billion—will equal or exceed what business invests in factories, offices, and other productive facilities.

Think about that.

Factories are going unbuilt. Badly needed capital projects are being delayed. Job creation is being retarded. Mere apprehension of the heavy regulatory hand is nipping innovation in the bud. Fewer risks are being taken, because the rewards are diminishing or are insufficient. In short, opportunities for business and the people it employs are being missed—buried by the overwhelming weight and cost of regulation.

And no one should forget that the first- and hardest-hit in this saga of decline are the low-income group and the disadvantaged—those individuals on the lowest rungs of the socio-economic ladder.

Instead of moving ahead, our economy is spinning its wheels in regulatory mud—the mud of regulations that no longer serve useful purposes or that were poorly conceived and ineptly administered from the very beginning.

Roy Ash, the chairman and chief executive officer of AM International and one of my fellow-directors at Bank of America, has come up with some interesting regulatory-cost figures.

In a report by the International Institute for Economic Research, he estimates that the increased drag of regulations has translated into a decline in real growth of one percent per year over the last 10 years. For the average family of four, that amounts to a loss of more than $4,000 annually!

I sincerely doubt that many people, if they were armed with a full knowledge of the true costs of government interference in the market, would willingly swallow those costs. They would quickly discern that, in many, many cases, the benefits simply don't measure up to the vast expenses involved—expenses that, in the end, come directly out of the consumer's pocket.

Nevertheless, government has been allowed to step into the marketplace and—often arbitrarily and without any sound economic basis—dictate what shall and shall not be produced and sold.

I can't help but ask myself who stands to benefit when, in my own industry for example, the Federal Reserve Board specifies the minimum maturity and the maximum rate that banks can pay their own depositors for certain savings instruments.

In essence, a regulatory agency is designing our products. The Fed is telling banks that we can sell a blue product eight inches long but not a red one three inches long. As is the case with many such arbitrary directives, it's the little guy—in this case, the small saver—who gets hurt.

In the midst of the regulatory muddle, the general public displays an understandable confusion. On one hand, they want beneficial regulation, and they sense that it carries some costs. On the other hand, they are sadly lacking in realistic assessments of what those costs are. They are in the position of a person ordering from a menu on which there are no prices, and the filet mignon looks a lot more appetizing than the cheeseburger.

A survey conducted last year by the research firm, Yankelovich, Skelly and White, Inc., reveals that 71 percent of the general public believe that social regulation involves extra spending for business. And 81 percent of these people believe that these extra business costs are passed on to consumers. Of course, they're right on both counts.

Nevertheless, according to the very same survey, nearly 70 percent of the consuming public still thinks that government should maintain or even step up regulatory activities.

Clearly, they don't know the price they're paying. They do not yet link 15 to 18 percent inflation and the prospect of a growthless economy to the heavy, and costly, hand of government.

With the regulatory cost problem at crisis proportions, we, as a nation, must somehow come to grips with the hard truth that regulatory benefits don't give anybody a free, or even a low-cost, ride.

We need to scale down the regulatory machinery in our economy. Every taxpayer, business person, and consumer in this country needs to take a fresh and painstaking look at the tradeoffs between the benefits of regulation and the costs of those benefits.

Regulation is designed to reduce certain risks in our massive, technologically advanced society. How much of that risk can we afford to indemnify, and how much should we try to eradicate?

The proliferation of rules and specifications over the last 10 years would suggest that people want—or at least hope for—a zero-risk society.

The concept of a risk-free society is illusory. But even if it were possible, it probably wouldn't be a very healthy state of affairs.

Indeed, all human beings, no matter who they are or what they do, are exposed to risk from the moment they're born. And people voluntarily take additional risks daily—they drive cars, fly in airplanes, cross city streets, eat junk foods, and nurture a variety of questionable habits.

But a fail-safe mentality has come to permeate public attitudes about regulation. Certainly, we don't want lives to be endangered needlessly, or to see the resources of our natural environment squandered. However, the public has a tendency to expect too much from government risk-reduction efforts, without being aware of the extraordinary costs involved.

For example, in the auto industry, it's estimated that by reducing carbon monoxide emissions from cars to 15 grams per mile, 30,000 lives are prolonged for one year at a cost of $23,000 each.

However, to meet the 1981 standards, manufacturers will have to reduce emissions to 3.4 grams per mile. This, one manufacturer estimates, will save only 20 more lives each year, at a cost of $25 million each! It's obvious that as we approach the zero-risk point, costs escalate exponentially.

Our assessments of risk, as individuals in our day-to-day activities, are necessarily realistic. If we take a bad risk, we accept the bitter medicine. If we take an intelligent risk, we benefit.

And informed risk-taking is at the very core of the private enterprise system. Ideally, a business puts a product on the market,

* * * * *

Lacking clear, financially measurable objectives, regulators heap rule upon rule. Like the black holes in space that astronomers tell us about, they tend to engulf the productive efforts of the private economy in an overwhelming density of rules, duplication, and cross-purposes.

It's no exaggeration to say that there are now so many rules, specifications, regulations, and laws that it's impossible to keep up with them. Some degree of ignorance of the law is now virtually unavoidable—and that should be a source of concern to everyone.

One reason for this mess is that most regulation is drafted with no end in sight. As we've seen time after time, there's no adequate review and rollback mechanism for doddering, inefficient regulation.

It's clear that a "zero-based" reevaluation of the regulatory process is desperately needed. And the sooner people realize what regulation is really costing them, the sooner a thorough reassessment will take place and regulators will become accountable for the consequences of the their actions.

So at the core of any solution to this problem is the need for a pervasive system of regulatory accountability. People need measures by which to judge whether regulations are accomplishing their objectives at costs that are commensurate with the benefits.

The prices have to be added to the menu, and we needed to see them before we order.

By law and regulation, the private sector is required to certify truth in its lending, truth in its advertising, truth in its product labeling, and truth in its financial accounts—to name only a few such obligations.

By the same token, the public sector should be required to provide "truth in regulation."

I don't believe that it's too much to ask that legislators, when they establish a new agency, or regulators, when they propose a new ruling, clearly state the problems they're trying to correct and the potential costs—both for administration and compliance—of their proposed solutions.

And I see several obvious advantages.

First, a formal, exact statement of an economic or social problem would automatically foster a goal-oriented approach to correcting that problem. Ambiguity, we've learned to our chagrin, is extraordinarily costly. If an agency or a rule fails to solve the specific problem within a specific time frame at a realistic cost, then its value should at least be reassessed.

Second, the constraints of goal-oriented regulation would generate far more meaningful and productive interaction between regulators and the industries they regulate. Regulators may learn that more cost-effective, alternative means of meeting their goals can be found through private-sector innovations.

Third, public awareness of a regulation's projected costs would undoubtedly make politicians and bureaucrats more sensitive to the effects of their actions on the economy and, hence, on their constitutent's pocketbooks.

Such a process is elementary and logical, and I'm convinced that it's the key to alleviating excessive regulatory burdens. The American people must have the facts in order to make rational decisions concerning the proper role of government in our society.

The business community must do everything within its power to see that they get those facts.

In the Declaration of Independence, this nation's Founding Fathers described the tyranny of King George III in the following terms:

"He has erected a multitude of new offices and sent hither swarms of officers to harass our people, and eat out their substance."

Unfortunately, that complaint has an all too familiar parallel in our own society today. But there is a difference—you can no longer tell the players by their "red coats." Rather, they are only distinguishable by their "red tape."

It's high time that the private sector—the business community and consumers alike—regained a measure of its independence.

Indeed, the economic dangers faced by our society today are just as profound and threatening as the political dangers of two centuries past.

And just as the American people did then, we can and must rise to the challenge! ●

NATIONAL ITALIAN-AMERICAN DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 183, to designate June 22 as Italian-American Day, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 183) congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the name of Mr. SARBANES be added as a cosponsor and that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the name of Mr. CANNON be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 183

Whereas the Order of the Sons of Italy in America is celebrating its seventy-fifth year;

Whereas the Order of the Sons of Italy in America has made substantial contributions to the causes of liberty, equality, and fraternity among Americans of Italian heritage;

Whereas the Order of the Sons of Italy in America has kept alive the rich cultural heritage of Italy and of the Italian people; and

Whereas the Order of the Sons of Italy in America has helped to enrich the diversified culture of the United States through educational, charitable, and benevolent programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate and House of Representatives congratulate the Order of the Sons of Italy in America for their seventy-fifth anniversary and wish the Order of the Sons of Italy in America success in future years; and that Sunday, June 22, 1980, be proclaimed "National Italian-American Day" in honor of the seventy-fifth anniversary of the Sons of Italy in America.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRADE BETWEEN INDIANS AND CERTAIN FEDERAL EMPLOYEES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3979.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1-17 to the bill (H.R. 3979) entitled "An Act to repeal and amend certain laws regulating trade between Indians and certain Federal employees."

Resolved, That the House agree to the amendment of the Senate numbered 18 to the aforesaid bill with the following amendments:

Page 4, lines 3 and 4 of the Senate engrossed amendments, strike out "held in trust for the Wa-He-Lute Indian School for its beneficial use", and insert "held by the Secretary of the Interior for the Wa-He-Lute Indian School for is use".

Page 5 of the Senate engrossed amendments, strike out lines 1 through 9, inclusive, and insert:

(b) Title to the land described in subsection (a) shall remain in the United States under the administration of the Secretary of the Interior who shall hold the above-described tract of land for the Wa-He-Lute Indian School so long as it is used for any of the above-mentioned purposes. At such time as the land ceases to be used for the above purposes, title thereto shall be taken in trust for the benefit of Willy Frank, Nisqually Enrollee No. 19 (November 8, 1976), or his heirs.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. MAGNUSON be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. MAGNUSON

I have sponsored an amendment to H.R. 3979 which directs the Secretary of the Interior to hold a tract of land for the Wah-he-Lute Indian School for its beneficial use as an Indian school and community center.

The land, which was originally Indian trust land, has been used by the Army since World War II. The Army granted the Wah-he-Lute School a five year permit to use the land. They have now declared the land surplus and available for Interior to hold for the schools use. Let me take this opportunity to complement the Army for its assistance. They have made every effort to cooperate with the school to secure a firm land base.

The Wah-he-Lute Indian School is a community school sponsored and supported by various Medicine Creek Treaty Indians and tribal school systems rather than by any one Tribe. It is an elementary school which provides a variety of cultural programs in addition to its academic program. At the present time, 50 students are enrolled with a waiting list of 60 children. State and county education officials have expressed their full support for the school and it is fully accredited. The community generates a significant share of the schools operating funds.

The Wah-he-Lute Indian School is a shining example of the best in Indian education. Tribal elders are involved with the school, bringing traditional ways to those who will carry Indian culture into the future. I applaud the success of the Wah-he-Lute Indian School. This amendment is a positive step in furthering Indian education in the Pacific Northwest.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

ADDITIONAL STATEMENTS

TAX TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC AND TELEPHONE COMPANIES

● Mr. PRYOR. Mr. President, it is my privilege to join with Senator TALMADGE in introducing S. 2818, legislation to preserve the equitable tax treatment of rural electric and telephone cooperatives. These cooperatives have been at the forefront of the growth and development of rural America. Providing quality, low cost service over a broad geographic area, co-ops have an excellent track record of adopting new technologies to minimize costs and assure their members of the most efficient service possible.

This legislation is essential to assure that income from pole rentals and display listings in yellow page directories are treated as basic to the cooperatives' purpose of providing service to members at the lowest possible cost. Joint use of poles accomplishes the objective of minimizing costs and encouraging the efficient use of rights-of-way. Income from display listings of rural telephone cooperatives should not be treated in a way which would cause the cooperatives to lose their tax-exempt status.

I am proud of the role which cooperatives have played in Arkansas. Rural electric cooperatives have been a vital part of improving the way of life of generations of Arkansans. This legislation will help to insure that they can continue to provide reliable service to rural America.●

RAMSEY CLARK AND THE PRESIDENT: HAVING THEIR CAKE AND EATING IT TOO

● Mr. DOLE. Mr. President, the Senator from Kansas and some 2 dozen of his colleagues have introduced a resolution urging that the law forbidding private citizens from dealing in matters of dispute between the United States and foreign governments be strictly upheld with respect to the trip by Ramsey Clark and his group to Iran.

While Mr. Clark was participating in the Iranian conference to condemn America, he seriously jeopardized the safety of the hostages and the potential for future official negotiations. He lent legitimacy to the allegations of the radical revolutionaries against his own people, while 53 of his fellow citizens languish in an outrageous captivity.

CARTER MISJUDGES CASE?

President Carter said Tuesday he favored prosecution of Ramsey Clark for violating the Executive order banning travel. Although in this case the Senator from Kansas is in unusual agreement with the President on the need to prosecute Ramsey Clark, Mr. Carter may be pursuing a blind alley if he concentrates solely on the travel ban he imposed for his investigation, being conducted by the Attorney General on this matter.

As reported in the media today, Carter himself in 1977 had lifted restrictions imposed, starting in the 1950's, on travel to Cuba, Vietnam, Cambodia, and North Korea because of his concern of possible human rights violations under the Helsinki Agreement.

This apparent flip-flop of policy by the Carter administration and the subsequent conflicting arguments in support of both policies may cause serious problems if the travel ban were to be litigated.

It seems to the Senator from Kansas that it is extremely likely this is a political ploy, in view of past experience with Mr. Carter, and in light of the series of articles now coming out by investigative reports in the media, which detail the calculated political judgments which colored every important Presidential decision during the recent primary campaign. This seems like a political tactic so that Mr. Carter can have his cake and eat it too. First, he comes out strongly in favor of prosecution and then finds a prosecution under the travel ban legally unworkable: his hands are tied, what can he do? The Attorney General says we do not have a case, but golly, we tried.

In his statement the President already, in effect, washed his hands of responsibility by saying the decision for any prosecution on his travel ban will come from the Attorney General who "will make a decision on whether that should be to seek civil penalties or criminal penalties."

The Senator from Kansas and a number of his colleagues feel the Attorney General should proceed with an investigation under the provisions of the Logan Act. While there are many arguments surrounding the question of constitutionality of the travel ban, the Federal courts have already held the Logan Act to be constitutional. For instance, in the case of Waldron against British Petroleum Co., the Federal court found—

> No merit in plaintiff's argument that the Logan Act has been abrogated by desuetude. From the absence of reprinted cases, one may deduce that the statute has not been called into play because no factual situation requiring its invocation has been presented to the courts.

Though no prosecutions have been brought under the Logan Act, this 1964 opinion clearly indicates that the lack of use of the Logan Act is inclement to its constitutionality. Mr. President, the issue before the President, the Attorney General, and all the American people is crystal clear. It is apparent that the provisions of the Logan Act have been clearly violated by Mr. Clark, and he should be so prosecuted.

THE FREEDOM TO TRAVEL SMOKESCREEN

This Senator has seen how the old liberal coalition of antiwar protesters, like the radicals that Ramsey Clark led to Hanoi during the Vietnam war, are trying to obscure Mr. Clark's actions from public censure by invoking an unwritten freedom to travel.

The Senator from Kansas appeared on the Good Morning America program yesterday and listened to Mr. Ira Glasser, executive director of the American Civil Liberties Union, attempt to use the travel ban issue as a smokescreen for what Mr. Clark and the others did. I have no quarrel with Mr. Clark's freedom to go wherever he wants, though it does just seem to me that we are applying a double standard in this country when people with the right kind of political philosophy and media ties, members of the radical left, can defy a Presidential order, but ordinary people like the relatives of the hostages or the Olympic athletes are denied their so-called constitutional right to travel.

Furthermore, it is highly ironic that one of Ramsey Clark's fellow travelers to Iran, John Gerassi, was ordered prosecuted 14 years ago by then Attorney General, Ramsey Clark, for illegally traveling to North Vietnam as part of a six-member, fact-finding team for Bertrand Russell's International War Crimes Tribunal.

Yet, President Carter may be producing a legal bungling by focusing attention on prosecuting Ramsey Clark under the travel ban instead of under the Logan Act. The travel ban, as some legal scholars have claimed, may limit the constitutional rights to travel. Furthermore, constitutional authorities have recently voiced doubts that the Government could survive a first amendment test of regulations that permit news organizations, but not private citizens, to travel to Iran.

Finally, the real damage that Ramsey Clark has done to this country is not simply going to Iran in violation of the travel restrictions, but improperly engaging in the conduct of U.S. foreign affairs as a private citizen. Ramsey Clark has, in effect, usurped the authority of the President and for this he should be held legally accountable.

Mr. President, regardless of the constitutionality of the President's ban on travel to Iran, we must not lose sight of what Ramsey Clark actually did. He violated the provisions of the Logan Act. The Logan Act has never been ruled unconstitutional. It is the law of the land, it is on the books, and it should be enforced.

Unlike the International Emergency Economic Powers Act, under which the Justice Department is presently considering prosecution, the Logan Act does not limit any constitutional right a private American individual may or may not have to travel. The Logan Act, originally enacted as "an act to prevent usurpation of executive functions," prohibits a citizen to correspond with a foreign nation with an intent to influence its conduct in relation to a controversy of the United States, "wherever he may be."

Thus, the Logan Act does not limit a citizen's right to travel, nor does it authorize any Presidential bans on travel. Instead, its focus is to protect the President's position under article 2, section 3, of the constitution as the sole representative of the United States in dealing with foreign nations.

And those provisions of the law are exactly the ones Ramsey Clark broke when he arrived in Iran. What did he do? He condemned America in an anti-American forum of Third World and radical nations. He broke the law about dealing with foreign officials on an official matter without any official authority.

In an interview after the conference, Mr. Clark said he thought that giving the Iranian Parliament, which is dominated by the Khomeini clerical party that recently proposed the hostages be tried, the power to decide the hostages' fate "sounds like good government to me." The hostages will remain captive as long as Iran sees the United States as "an angry face, threatening them, seeking to bully them." Ramsey Clark also called the U.S. rescue mission in Iran an act of aggression against that country. Perhaps he would like us to apologize for that, too? He said, and I quote:

> Human nature knows it's wrong to take hostages, but the hostage issue was converted by the arrogance of the United States into an issue of defiance.

NO ONE IS ABOVE THE LAW

Mr. Clark is entitled to his opinions, and so is the Senator from Kansas. But, airing his opinions in a conference called to condemn America, in the city where our diplomats were taken hostage, and still held captive, is an entirely different matter. The Supreme Court said a person was free to shout "fire!" but not in a crowded theater. Mr. Clark set himself up as a representative of all of us in this country, when we went to Iran, and condemned our policy and apologized for it, in a situation where he had no business to be.

The President banned anyone except those authorized from going to Iran. Ramsey Clark and his group violated that ban. The Logan Act, not to mention commonsense, banned them from interfering, and they broke that law. It seems to me that if we want to maintain respect for our laws and policies, then we ought to enforce them when they are broken. If people want to break the laws and live by their own rules, then they ought to be ready to face the consequences. They should not expect "to have their cake and eat it too" anymore than the rest of us. Even when they are a former Attorney General of the United States—no one is above the law.●

DEREGULATION OF THE AIRLINES

● Mr. CANNON. Mr. President, I ask to have the attached editorial from a recent edition of the Dover, N.H., Foster's Democrat printed in the Record. It praises the CAB and airline deregulation noting that without deregulation of the airlines, the industry would have had a much more difficult time coping with the fuel crisis.

The editorial follows:

Our Kind of Bureaucracy

> With all the bungling bureaucrats in Washington choking our country to death, it is easy to forget that one bureaucracy has covered itself in glory in recent times.
>
> We are talking about the Civil Aeronautics Board.
>
> To oversimplify and to prod memories, what CAB did was this:
>
> After years of artificially stifling competition and maintaining high fares, it embarked upon a course of deregulation of the airlines.
>
> When it took the regulations off, fares dropped, service improved, passenger volume increased dramatically, efficiency rose, profits rose, routes were adjusted.
>
> After the initial shakedown, the oil crisis hit. Fares had to rise, but not as much as expected because of the fierce competition. Airlines began offering specials, half-fares, off-season and mid-week rates, anything to fill the seats and bring in money.
>
> Without deregulation, it is difficult to conceive how the airlines could have survived the high fuel costs. Nobody would be able to afford to fly anymore. It costs $80 to fly from New York to Atlanta these days. In Europe, where airlines are mostly nationalized, a comparable distance (London to Rome) costs more than $300.
>
> Having proven the feasibility of deregulation, the CAB suddenly finds itself with nothing to do. So its next move is to close shop and go home. It is scheduled to be out of business, abolished by 1984.
>
> Is that any way to run a bureaucracy? Definitely. Possibly the only way.●

THE CURRENT EFFECTIVENESS OF CURRENT FEDERAL GOVERNMENT TRANSFER PROGRAMS IN REDUCING POVERTY

● Mr. BELLMON. Mr. President, over the past 3 years the Congressional Budget Office has completed a number of reports on welfare reform issues. As one part of this work, CBO has examined the official statistics on poverty in America and the effect various welfare reform proposals would have on the poverty statistics. The CBO work has gone beyond the poverty statistics in common use, by taking account of Government tax transfers and in-kind benefits such as food stamps and housing subsidies.

Mr. G. William Hoagland of the Congressional Budget Office recently delivered a paper at the Middlebury College Conference on Economic Issues on the topic of "The Effectiveness of Current Transfer Programs in Reducing Poverty." Mr. Hoagland's paper draws on the earlier CBO work and more recent analyses he has performed. Mr. Hoagland summarizes Government statistics which are based on a pretax, postmoney income concept—showing that poverty declined from about 25.9 million persons in 1975 to 24.9 million persons in 1978. Mr. Hoagland estimates, however, that if measurements of the effectiveness of Government programs were based on a posttax, posttotal transfers concept (that is, including both cash and in-kind transfers), the number of those in poverty would be 12.4 million in 1976, declining to 9 million in 1980.

Mr. Hoagland's estimates include an insurance premium value for medical benefits. He recognizes, however, that there is considerable controversy over whether medical benefits under public programs can appropriately be considered income to the patients on whose behalf the benefits are paid. Mr. Hoagland, therefore, also calculates the reduction in poverty from in-kind transfers excluding medical benefits. Even under this more conservative approach, the number of persons with incomes below the poverty level drops to 13.5 million in 1980—45 percent lower than the 24.5 million poor counted in the most recent official poverty statistics.

Mr. President, poverty is still a serious problem in this Nation, but it is not as big a problem as it once was. It is unfortunate that our official poverty statistics seriously understate the real income of persons who have low incomes.

Billions of dollars of benefits under current Government transfer programs are simply ignored in preparing official estimates of the numbers of people living in poverty. The growth of in-kind benefit programs makes it essential that we begin to take these benefits into account in measuring personal incomes. Otherwise, our decisions on tax and spending proposals affecting the poor and near-poor will be based on incomplete and potentially misleading information.

Mr. President, I ask that Mr. Hoagland's summary of his paper be printed in the Record. I commend the Congressional Budget Office, and especially Mr. Hoagland, for these constructive efforts in developing better measurements of the incidence of poverty in the United States.

The summary follows:

Summary: The Effectiveness of Current Transfer Programs in Reducing Poverty[*]

> The most current government statistics report that the number of persons in poverty declined from about 25.9 million persons in 1975 to 24.5 million persons in 1978. It has become an acknowledged fact that these statistics, based on a pre-tax, post-money income concept, may overlook a number of government benefits provided low-income households including both in-kind benefits and indirect tax transfers. This paper briefly examines the effectiveness of the current government assistance programs in reducing the incidence of poverty between fiscal years 1976 and 1980 including adjustments for these latter programs.
>
> Using Current Population Surveys adjusted for underreporting and nonreporting of income, and including the full value of nonmedical in-kind transfers (or an insurance premium value for medical transfers) and tax payments, the analysis shows a significant decline in the incidence of post transfer poverty over the last half of the 1970s (see Summary Table 1).
>
> Before any government intervention, pretransfer poverty and pre-transfer inequalities have shown only minor signs of declining. Over 41 million persons in both fiscal

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[*] Paper presented by G. William Hoagland, Congressional Budget Office, at Middlebury College, Middlebury, Vermont (April 19, 1980); Conference on Economic Issues, "Welfare Reform: Goals and Realities." The views expressed in the paper are those of the author and are not necessarily those of the Congressional Budget Office or other staff.

years 1976 and 1980 were estimated to fall below the official poverty line those years. Social insurance transfers were the most effective type of government transfers in reducing the incidence of poverty in both 1976 and 1980. The proportion of pre-transfer poor persons removed from poverty after counting social insurance benefits was nearly 40 percent in both fiscal years. The number of poor persons counted following social insurance benefits was about 25 million in 1976, declining to 23 million in 1980.

SUMMARY TABLE I.—NUMBER OF PERSONS AND INCIDENCE OF POVERTY: FISCAL YEARS 1976 AND 1980

[Number of persons in millions]

	Pretransfer income	Pretax postsocial insurance	Pretax postmoney transfer	Pretax post-in-kind		Posttax, post-total transfer	
				No med	Med	No med	Med
Fiscal year 1976:							
Number	41.8	25.4	21.2	15.6	11.1	17.2	12.4
Percent	(19.3)	(12.0)	(10.0)	(7.9)	(5.3)	(8.2)	(5.9)
Fiscal year 1980:							
Number	41.1	22.8	18.8	13.0	8.5	13.5	9.0
Percent	(18.8)	(10.4)	(8.6)	(5.9)	(3.9)	(6.2)	(4.1)

The traditional cash welfare benefits (AFDC, SSI, and general assistance) further reduced post-social insurance poverty. About 17 percent of the persons found poor following social insurance benefits were removed from poverty after counting these benefits in both 1976 and 1980. About 21.2 million persons in 1976 and 18.8 million persons in 1980 were considered pre-tax, post-money transfer poor.

Including the value of non-medical, in-kind transfers—primarily food stamps and housing assistance benefits—in the definition of resources available to low-income households, significantly reduces the poverty counts. Interestingly, non-medical in-kind transfers grew in their relative impact at reducing pre-tax, post-money transfer poverty between 1976 and 1980. While in 1976, about 27 percent of the pre-tax, post-money transfer poor were made non-poor by non-medical in-kind transfers, this proportion rose to 31 percent in 1980. In-kind income transfers reduced the poverty population to 15.6 million in 1976 and 13.0 million in 1980.

A great deal of controversy surrounds the issue of counting in-kind medical transfers in the definition of income available to low-income persons. However, the estimated premium money that would have been required to purchase a medical policy equivalent in coverage to the current medicaid and medicare program were included in a low-income persons available income then the incidence of poverty is reduced further. Using the concept of in-kind transfers with medical insurance values, the number of poor persons was reduced to 11.1 million in 1976 and 8.5 million in 1980. The rapid growth in medical costs has also resulted in medical transfers having a higher relative impact on reducing poverty in 1980 than in 1976.

Finally, the tax system results in an increase in poverty primarily because of the regressive nature of the payroll taxes. But between 1976 and 1980, major changes in the Federal income tax system, including expansion of the earned income tax credit, modifications in the zero bracket tax amount, reduced tax rates, and increased personal exemptions have mitigated the effects of the payroll tax system. In 1976, the effects of the tax system were to increase the pre-tax, post-transfer poverty population by 11 percent. In 1980, the increase was less than 4 percent. On a post-tax, post-total transfer (excluding medical benefits) the number of poor persons was estimated to be 17.2 million in 1976, declining to 13.5 million in 1980. Similarly on a post-tax, post-total transfer basis that includes medical benefits, the number of poor persons was estimated to be 12.4 million in 1976, declining to 9.0 million in 1980.

The current government transfer system has improved the lot of millions of Americans. It has provided assistance in the form of both direct income transfer, indirect tax transfers, and subsidies for major necessities such as food, shelter, and medical care. The current official government statistics may not adequately reflect the positive benefits of this system.

Poverty, however, is not dead. For at least 13 million persons, primarily those living in our urban centers and in the South Atlantic and West South Central regions of the country, poverty remains a serious problem. For one in five families headed by a black female, poverty remains a daily concern. Similarly, families headed by a female are three times more likely to be in poverty than those headed by a male. And while the system has continued to show significant gains in its effectiveness at reducing poverty, large pre-transfer inequalities exist and show minor signs of declining.●

TEMPERENCE HILL

● Mr. PRYOR. Mr. President, last Saturday the Belmont Stakes was won by a fine horse, Temperence Hill. I would like to take this opportunity to extend my congratulations to my good friend and the owner of Temperence Hill, Mr. John Ed Anthony, of Fordyce, Ark. It was a spectacular race, and he should be duly proud.

I would also like to bring to the attention of my colleagues three articles which appeared in the Washington Post. These articles illustrate the need for legislation such as S. 2636 which I have introduced which will prohibit the drugging or numbing of horses prior to a race.

Mr. President, I ask that the articles entitled, "Codex Lacked His Bute," "The Sport of Drugs," and "Female Chauvinist Horse" be printed in the RECORD.

The articles follow:

CODEX LACKED HIS BUTE

(By Andrew Beyer)

NEW YORK, June 8.—How did long shot Temperence Hill win the Belmont Stakes? Why did Codex, the seemingly superior horse in the field, run so dismally?

Answering such questions is never easy, because so many different factors influence outcome of races. When a Monday morning handicapper offers a pat explanation—such as the ever-popular. "He couldn't get hold of the track"—he is usually guilty of a gross oversimplification.

To comprehend what happened in a race, a handicapper should first look at the final time and decide whether the horses ran well or ran badly. On Saturday at Belmont Park, they ran badly. Temperence Hill's winning time of 2:29⅘ was the worst since 1971, and even though the track was sloppy it was not extraordinarily slow.

Three weeks earlier, Codex had beaten Genuine Risk in the third-fastest Preakness in history. Two weeks before that, Genuine Risk defeated Rumbo in a respectably fast Kentucky Derby. If any of these horses had run his normal race on Saturday, he would have won the Belmont. Because they didn't, Temperence Hill could win virtually by default.

The colt had never run so well as he did on Saturday, and there were a number of reasons for his improvement. A plodding stretch-runner, he surely liked the 1½-mile distance. He was the only horse in the field equipped with mud caulks, which give horses better traction on a sloppy track. His previous start had been on the turf, and jockey Eddie Maple observed, "For some reason horses just seem to run back dynamite off that."

And Temperence Hill may simply have been feeling very good on Saturday. Before the race, I was standing next to two astute judges of horseflesh, my colleague Clem Florio and Newsweek's Pete Axthelm, and both pronounced him the best-looking horse on the track. Neither bothered to bet him at 53 to 1.

Such a confluence of positive factors will probably never happen to Temperence Hill again. Trainer Joe Cantey was ambitiously outlining plans this morning to run in Belmont's Dwyer Stakes and Saratoga's Travers, but I suspect his colt's career is going to be all downhill from here.

Codex's future, and his performance in the Belmont, are somewhat harder to assess. Trainer Wayne Lukas explained his seventh-place finish by saying, "He just couldn't handle the track." Jockey Angel Cordero Jr. had said the same thing after the race. They may be right. But the key to Codex's performance was more likely the fact that he was racing without Butazolidin for the first time in his career.

The drug is legal in Codex's home state of California, and it was legal in Maryland at the time of the Preakness. But it is forbidden in New York. When Codex was training at Belmont in the mornings, backstretch observers thought he looked stiff and choppy. When he came onto the track Saturday, Florio—whose word I take as gospel in such matters—said he was moving much less fluidly than he had before the Preakness.

Lukas had always denied that Codex needed bute for some particular physical problem, but trainers' statements about medication and soundness must always be viewed with some skepticism. Since a colt's future worth as a stallion will be partly determined by his physical soundness, no trainer is going to say, "My horse is a basket case and he can barely pick up his feet if we don't juice him up."

The trouble with this on-and-off use of Butazolidin is that there is no way to assess the impact of this factor. No handicapper could begin to guess how the lack of bute would affect Codex in the Belmont; probably Lukas couldn't either.

That is as good an argument as any for the nationwide prohibition of bute and other medications. It is complex enough to judge the basic handicapping factors of speed, class and condition without adding a new one that distorts the very nature of the game.

The Sport of Drugs

(By John A. Hoyt)

Today is the running of the Belmont Stakes, the third jewel in horse racing's triple crown. Everyone who has picked up a paper in the past five weeks knows how Kentucky Derby winner Genuine Risk will attempt to regain her honor by defeating California upstart Codex, the horse that allegedly defeated her in the Preakness. Even if the filly does not win, her future at a posh breeding farm is ensured. But for thousands of other thoroughbreds in the United States, the future will not be so good.

Take Easy Edith. Easy Edith was a 5-year-old mare with arthritic knees and a chronic soreness in the legs. What she really needed before her next race was a few weeks in a pasture. But expenses for a racing thoroughbred are high, and every day Easy Edith was not running was money out of her owner's pocket. So on May 3, 1978, Easy Edith walked onto the track at Pimlico, her knees treated with corticosteroids and her system full of phenylbutazone (Bute), an analgesic administered before the race to numb the pain. Her pain deadened, Easy Edith ran hard on her damaged legs—too hard. Somewhere around the final turn, her left fore cannon bone shattered, and Easy Edith went down, causing three other horses to fall with her. Two jockeys were injured in the fall, and a third, Robert Pineda, was killed. Easy Edith was destroyed by the state veterinarian on the track.

Although no one knows to what extent the Bute or steroids were responsible for Easy Edith's breakdown, an out-of-court settlement was reached last week in a civil suit by Pineda's heirs against Easy Edith's trainer and owner, three veterinarians and the Maryland Jockey Club. It was reported that Pineda's heirs were awarded a six-figure settlement after alleging that the jockey's death was directly attributable to the drugs administered to Easy Edith.

For every one Genuine Risk there are thousands of Easy Ediths—cheap claimers past their prime whose winnings barely earn their own keep. The abuse of medication to keep those horses running has become so widespread that the "sport of kings" is rapidly being redubbed by some "the sport of drugs."

Over the past few years, many states have adopted liberal drugging policies, allowing horses to run that otherwise would not. In addition to the "legal" drugs Bute and Lasix—a diuretic not yet proven effective as a remedy for so-called bleeders—some trainers have also taken to using such narcotics as Demerol, methadone and morphine and then masking them with allowable substances.

Even in the states where Bute and Lasix are banned, track enforcement is often lackadaisical. It has been estimated that several thousand drugs can be used to manipulate a race horse's performance, yet track chemists routinely screen for fewer than 100 compounds. Some are so elusive that chemists don't even know how to screen for them. Only in 1978 was a test developed to detect Sublimaze, a pain-killing narcotic classified as a Schedule II controlled substance in the United States.

Drugs permit unfit horses to race; the result is often to aggravate existing injuries and shorten horses' careers. Often medications administered have toxic side effects, or make the horses temporarily or permanently sterile. In states where figures have been kept, breakdowns like Easy Edith's have increased more than 100 percent since permissive medication policies went into effect. As the number of breakdowns increases, so does the number of injuries to riders. The Jockey's Guild estimated that in 1978, approximately 2,000 jockets fell down with their mounts. Four died, four were paralyzed and 1,500 were hospitalized for longer than two weeks.

Public outcry has recently prompted some states to take action against excessive drug use, but many reforms have been little more than cosmetic. One problem is that state racing commissions fear that if they tighten drug policies too much, horsemen will take their animals to states where drugging regulations are more lenient. Two weeks ago, when the Maryland Racing Commission decided to put a complete ban on Bute and restrict Lasix use to confirmed bleeders, the president of the Horsemen's Benevolent Protective Association predicted that the action would prompt many owners to move their horses to Delaware, where the drugs are legal.

For a state to find itself losing horses to another state is more than just a matter of pride. It's big money. Horse racing is the largest spectator sport in America. In 1975, nearly 80 million people attended horse races, and more than $7.8 billion was bet at the nation's tracks. In 1979, California alone took in $113.3 million in racing receipts.

The only way to bring about a uniform, effective and well-enforced ban is through federal legislation. Such legislation has already been introduced in the House and Senate and is awaiting the scheduling of hearings. "The Corrupt Horse Racing Practices Act" would prohibit the racing of drugged horses, provide for both pre-race and post-race testing and establish civil and criminal penalties for violations. The bill would set minimum standards for drugs and allow those states already in compliance with the federal guidelines to administer the program themselves.

The states by themselves cannot curb the current flood of drugging abuses. Horse racing is clearly an interstate industry and its regulation requires federal assistance. The United States is the only major racing country that does not have a nationwide law on the drugging of race horses. For the sake of the horses, jockeys and bettors, it is time for that to change.

Female Chauvinist Horse

Genuine Risk, almost everyone's equine girlfriend, has made watching and reading about the races of the Triple Crown this spring a genuine pleasure. Occasionally a horse comes along—Secretariat was such a one—that wins the admiration and respect even of those who do not follow the races around those green ovals. But rarely does one come along that wins—even in defeat—so much, well, affection from so many people.

What's going on? First, of course, there is the fact that in a world that many feminists see as the preserve of male chauvinist pigs, Genuine Risk is a female chauvinist horse, and fillies are not supposed to run as fast or be as sturdy as colts. But Bert and Diana Firestone decided to give Genuine Risk a chance to compete with the boys in the Kentucky Derby, and she ran better than any of them, driving across the finish line right into horsedom's history books.

Then came the disaster at Pimlico. Despite the stewards and the Maryland Racing Commission, millions of Americans will probably continue to believe Genuine Risk would have won except for the coltish behavior of the California moch, Codex. Whether he bumped her or not and whether or not his jockey hit her in the face with his whip, the competition was hardly gentlemanly.

That suspicion that Genuine Risk was really the superior runner has now been reinforced by what happened last Saturday in New York. She didn't win the Belmont Stakes; some horse almost no one had heard of did. But she beat Codex, and then came the explanations. Codex, Genuine Risk's apparent chief competition for horse of the year, had been running in New York without his drugs. Stripped for the first time of his painkiller and running only on "hay, oats and water," as Genuine Risk's trainer put it, Codex wasn't equal to the job.

There are two morals to this tale. One is something is wrong when years of selective breeding produces horses, such as Codex, who need to be drugged to perform well. The other is far more universal. It is that all the world loves an underhorse.●

VOLUNTARY TRANSPORTATION CONSERVATION

● Mr. DURENBERGER. Mr. President, energy conservation is a difficult subject to broach with the public, as most of us have discovered in recent years.

Ironically, most people, on their own and with little direction from Government, are making an effort to save energy. Gasoline consumption, for example, is down at least 8 percent. But, mention the words "Federal Government" and "conservation" in the same breath and the public tends to question whatever is proposed.

That reaction is not without justification. On too many occasions, the Federal Government has demonstrated that it cannot administer a conservation program fairly or efficiently.

This reaction poses serious problems for those of us in public office who believe that the best energy conservation programs are in the hands of private citizens. Our ideas are often lost to the mistrust of Government by the public.

Recently, I introduced a voluntary transportation conservation program. My program uses tax incentives to build on the successful efforts of more than 30 Minnesota companies and hundreds more throughout the Nation.

My proposal encourages ride-sharing and van-pooling and offers benefits to employers and employees. Most important, the program can make a significant contribution to our country's goal of energy independence.

Unfortunately, because this transportation conservation program was introduced by a Government official—me—it unfairly became associated with the Federal Government and its incumbent bureaucracy, rules and regulations.

Mr. President, I ask that three articles from the St. Paul Pioneer Press be included in today's Record, both as an instructive lesson in the public's attitude toward Government energy conservation programs and as an explanation of a proposal I believe will make a major contribution to resolving our Nation's energy problems.

The articles follow:

There Are No Free Rides

Sen. David Durenberger, has concocted a surprising new welfare program. He wants the government eventually to provide free rides to and from work for all Americans.

"The bottom line is to bring transportation in with health care and some of the other traditional employer responsibilities," he explained. Such a policy, he added, would help reduce the per capita cost of transportation and save vast quantities of fuel.

Under Durenberger's proposal, free rides would begin with federal employees. Uncle

Sam (commonly referred to as Taxpayers) would pick up the tab. Once the wrinkles are ironed out, private employers would be encouraged—but not forced—to adopt a similar program. "Encouragement" would come in the form of tax incentives, with taxpayers again footing the bill.

So, in a roundabout way, American taxpayers would be paying for their rides to and from work. Which, come to think about it, is the way it works now. Only the money isn't being flushed through a gigantic bureaucracy that magically soaks up more bucks than it hands out.

If Durenberger's proposal sounds familiar, it's because it's based on a solid idea: van-pooling services now being operated by some 30 Minnesota corporations. (The 3M Company, with 135 vans, remains the industry leader.) The only difference between the Durenberger proposal and existing operations is taxpayer involvement: corporations now charge van-poolers a fee to cover operating expenses.

Hal Schuebel, who heads the Minnesota Chapter of the National Association for Van Pool Operators, doesn't believe there's a need for Durenberger's proposal. "I don't think a company has that big a moral obligation, at this time, to provide free transportation," he told reporters. "I think we have an obligation as employees to provide ourselves with a mode of transportation. I think the companies are doing a great thing by providing (low cost transportation)."

Employees struggling these days to keep the gas gauge above the empty mark will perhaps at first appreciate Durenberger's free ride plan. But it ought to alarm them as taxpayers who watch in anger as their tax dollars disappear through the cracks in bureaucratic floors.

If Durenberger truly wants to be a friend to financially-pressed workers, he ought to devote all his energies to cooling the fires of inflation and building a solid national mass transit system. The "bottom line," Senator, is quite obvious: beleaguered American taxpayers cannot afford "free" rides from Uncle Sam.

The Durenberger Proposals

Minnesota's Sen. David Durenberger, in an article elsewhere on this page, extolls the virtues of ride-sharing and van-pooling, concepts which have been field-tested and proven in the Twin Cities metro area.

Durenberger wrote his article in response to an editorial published here, which questioned his initial proposal to give businesses tax breaks designed to encourage them to offer their employees ride-sharing and van-pooling opportunities.

Because of some misconceptions concerning tax incentives, which apparently grew out of an earlier news story, we welcome the opportunity to publish the senator's article.

And if his proposals would do what he believes they will do—get more employees in fewer vehicles, thus saving considerable amounts of precious fuel—they deserve all the attention the nation can give them.

Durenberger Explains His Plans for Fuel Saving

Not only is our dependence on OPEC taking its economic toll, it's threatening our nation's security. OPEC supplies the world with 30 million barrels of oil per day. Most of it is shipped through a narrow strait in the Persian Gulf. A war or terrorist act which blocked the Gulf would cost the United States one third of its daily oil fix.

The chaos that would result is almost unimaginable. Last year's gasoline lines, for example, were caused by a 7 percent shortfall. A 30 percent reduction in foreign supplies would destroy our economy and leave us vulnerable to our enemies.

The place to start, and the focus of most of the proposals that have come out of Congress and the White House in the last few years, is transportation. About one half of all the oil we consume is used for transportation; one quarter of our oil supplies goes to fill the gas tanks of our cars.

What we've seen so far from our lawmakers are efforts to force people out of their cars by pricing gasoline out of the reach of most of us (President Carter's decision to decontrol the price of oil and proposals for new taxes on gasoline fall into this category) or attempts to work our way out of the fix through new technology (for example, recommendations to require the development of an 85-mile-per-gallon car or legislation to encourage the development of synthetic fuels).

The consumer, though, won't get a free ride on these plans. Decontrol of oil prices will cost the public $1 trillion in the next decade. A 50-cents-per-gallon gas tax will cost $55 billion per year. The Congress is on the verge of spending $88 billion just to demonstrate synthetic fuels technology.

If you have trouble dealing with trillions and billions, consider this: a 50 cent gas tax will cost the average driver $375 per year. It's not complicated math to figure out what the cost will be for a two- or three-car family.

Fortunately for our pocketbooks, there's a better way to go, a better way to get from home to work. That's the place to start. We do one third of our driving getting to and from work. Seventy percent of employees take that daily trip alone in their own cars.

The better way is to get the government out of transportation. Thirty private companies in Minnesota, and hundreds like them across the country, have already shown that their employees can get from home to work and back again for less energy and less cost.

These companies aren't providing free rides, but they are encouraging more efficient rides for the employees. The average person spends $1,000 to get to and from work; these innovative companies have discovered that through ride-sharing and van-pooling programs an employee can get to and from work for about $400 per year.

In most cases the employee still pays the cost, but he or she saves an extra $600 per year.

I've prepared a package of legislation to encourage these energy-saving transportation programs, not to get the government invoved in ride-sharing, rather to keep it out of what is becoming a successful trend based on consumer choice, not government dictates.

The legislation I've prepared expands the existing business tax credit for the purchase of vans for an employee transportation program and offers a tax credit to companies for the cost of operating a program.

Under my proposal, the individual who operates a van pool could receive a tax credit for the purchase of a vehicle and the payments an individual van pool operator receives from his or her riders would be tax-exempt.

Finally, an employer could offer his or her workers a tax-free subsidy to cover the cost of commuting in a van pool, ride sharing program or in a mass transit system.

All of these proposals are voluntary. The tax credits and incentives will go to the businesses and individuals who take advantage of them.

We're beyond the point of needing the federal government to step in and force conservation in transportation. Gasoline at $1.30-per-gallon has convinced most people—and some enlightened businesses—that voluntary efforts are in everyone's best interest.

My incentive won't change our commuting habits overnight. But, I'm convinced that they will set the stage for our sick transit's glorious someday.●

THE PROBLEM OF ILLITERACY

● Mr. McGOVERN. Mr. President, in May of 1979, Senators Dole, Melcher, Randolph, Tsongas, and I introduced Senate Joint Resolution 70, a bill to establish a National Commission on Literacy. We documented the alarming facts: Over 23 million adult Americans are functionally illiterate; another 39 million can barely meet the simple reading demands of daily living. We noted that the burden of illiteracy falls hardest on the poor and the underprivileged. But, the Nation as a whole pays dearly for illiteracy in many ways.

Illiteracy swells our unemployment and welfare lines, fills our prisons and our drug treatment centers—imposing costs which every American taxpayer must bear. Illiteracy fuels the inflationary spiral by decreasing productivity in the work force. Illiteracy weakens our national security by putting highly sophisticated weapons systems in the hands of barely educated soldiers. In a word, the problem of illiteracy is pervasive in our society and urgently commands our attention.

I am pleased to learn that the concerns which my colleagues and I addressed in the introduction of the National Commission on Literacy Act are shared by forces in the private sector. In his inaugural address as chairman of the Association of American Publishers, Mr. Leo Albert expressed the book industry's profound concern with the problem of illiteracy.

The Association of American Publishers is the major trade organization of the book publishing industry in this country, with over 325 members, representing publishing houses of virtually all sizes and types. The newly elected chairman, Mr. Albert, is chairman of Prentice-Hall International, Inc., and in that capacity has developed a deep understanding of the crippling problems associated with illiteracy both in the United States and abroad.

In his speech at the annual meeting of the Association of American Publishers, Mr. Albert quite aptly characterized illiteracy as the "cruelest censor." He committed the association which he leads to continue its attack on this problem with renewed vigor.

Mr. President, I commend Mr. Albert's speech to my colleagues, and I hope it will encourage and stimulate renewed interest in our efforts to enact measures designed to obliterate illiteracy in the United States.

Mr. President, I ask to have Mr. Albert's speech printed in the Record at this point.

The speech follows:

Illiteracy: The Cruelest Censor

The activities of our Association are, as all of us know, many times totally misunderstood and insufficiently appreciated by an ungrateful public despite their vital contribution to the well-being of America and the world.

So be it. That's all the time we need spare for self-pity. God knows we are surrounded by problems and dangers and opportunities far more important to us and to society than the real or fancied image we think we project.

As for me, I'd rather be a publisher than anything else I can think of.

Publishing has been a rewarding experience for me during the past thirty years. It has enabled me to see most of the world. I have been in the Soviet Union several times; to the People's Republic of China on four occasions; and I have visited countries in just about every stage of economic, social and cultural development, inhabited by people of different religions, different languages, and different aspirations.

For the most part I visited those countries as a representative of Prentice-Hall, although I've spent many hours promoting copyright, fighting piracy and encouraging literacy. All the while I have believed unwaveringly in the power of my product: the book.

Books are so effective and convenient that they have survived the telephonizing of America, the radio-izing of America, the TV-izing of America, the partial Cable TV-izing of America, the microfiching of America, and the computerizing of America. Books even promise to survive a generation that appears satisfied to communicate largely with such sentences as "what I mean is, like, you know, like, oh Wow!"

In short, books are remarkably useful things.

My faith in them, and the experience I have gained traveling around the world, have led me to some beliefs to which most of us, I think, would adhere in abstract principle; but which to me are also very real and concrete. These beliefs inevitably will influence my performance this year in the office with which you have honored me.

I believe that the quality of my life—indeed, of all lives—is lessened when someone in an American slum goes without medical care; or when a child in Cambodia suffers brain damage from malnutrition.

We know for whom the bell tolls, for whom the bullet flies, for whom the atom splits. For whom? For every inhabitant of this troubled planet.

I believe in evolutionary development and incremental change. I believe that education, and the sharing of information and knowledge, are not merely nice to have and do, but essential things to the continuing function of the earth upon which we live.

I am a patriot, to use an old-fashioned word, and I live in the United States by choice as well as by chance. I also believe that our mission is not to clone the United States in every undeveloped and underdeveloped corner of the globe.

On the other hand, I don't think we should be shy about exporting our ideas and ideals.

I believe in the power of communication. What marvelous means we have of transmitting information! Satellites . . . Their potential is beyond my imagination. Computers . . . There is no limit to the information they can store and retrieve . . .

But the delivery of words and pictures per se is not communication.

Like all of you here today, I have been exposed to an information explosion throughout my lifetime. It's been a blast, you might say. But I submit to you that knowledge—the understanding of what all this information means, and the skill to use it—has not kept up with the information explosion.

And so we come back to books. Books are invaluable tools in learning to use information. You can use books at your own speed. You can back up when you need to. And I am enough of a fanatic to believe that a well-organized book can sometimes help an overwhelmed mind to cope with the reams and bales and bushels and decibels of information with which we are bombarded every day.

But while we're on the subject of communication, I am also concerned—as I said before—about the communication between governments. I am similarly concerned about the communication between citizens and their governments; communication between the people of different nations; and communication between one person and another in our society.

Because I am concerned about these things, I fear that the greatest danger to the world in this new decade is censorship. For there is a universal censorship that imperils us all.

I'm not talking now about some fool in a small town who is working to get flat-world textbooks into the public high school—although this sort of crank poses a real enough danger.

And I'm not talking about some government bureaucrat deciding what may or may not be printed or broadcast, or what books are to be banned from libraries. These so-called servants of the state are diligent, untiring, dedicated, and—like the poor—always with us. They constitute an ongoing danger as they have since the country was founded.

The ugliest censor of them all, and the one that worries me the most, is illiteracy; for illiteracy blocks more people from what they need to know in order to be happy and free, to be productive citizens of earth, than all other censors combined.

The censorship caused by illiteracy operates all over the globe. And that includes this country.

We in America are far from immune. Somewhere around one out of five Americans—let's say forty million people or so—are functionally incompetent as citizens in our society.

On the rare occasions when I permit myself a sardonic thought, I wonder to what degree this state of affairs has been brought about by the very people who use books daily, and purport to be their friends.

I refer, of course, to those who run the public education systems that have custody of a student for twelve years and fail to give him or her the reading or writing skills to use and appreciate a book.

It may be argued that these forty million Americans are not totally illiterate (although many of them are): that they are simply functionally incompetent in our society.

This seems to me to be a distinction without a difference. In our complex American society, literacy skills that may be more than adequate in, say, Pakistan, are far below the functioning level here, where it counts.

Many of you are, I am certain, familiar with the work of Carman St. John Hunter, who has studied illiteracy in America for the Ford Foundation. The results have been published in a book. But I am told—and I believe it—that the book has received a great deal more attention from those already familiar with the illiteracy problem than from the public officials and civil leaders in a position to do something about it.

Dr. Hunter, who has worked with literacy programs in other countries, thinks that we should not use an absolute definition of literacy. She holds that literacy boils down to the possession of whatever skills are required in a specific place for an individual to hold a job, raise a family, be a part of the community, and otherwise lead a normal life.

Obviously these skills are not the same in a place which functions with a sustenance-barter economy and its own tribal vernacular; and a place like the United States, where most of us live in an urban, industrial society.

Unfortunately, when we apply this sliding scale definition of literacy, the scandal of American ignorance becomes even greater. In fact it could be argued that when need is measured against ability, we in this country aren't much better off than those in some of the emerging nations.

Some months ago I was asked to prepare a paper to be delivered later this month at the International Publishers Congress in Stockholm, Sweden.

Before settling down to the business of putting something together for today, I found myself reading that paper and specifically its recommendations for developing countries seeking to improve their economic and social status. Some of my recommendations are:

Recognize the value of education by funding adequately for teacher training and the acquisition of teaching materials. School the young. Develop indigenous writing skills to meet conditions locally. Develop educational programs and reading materials for functional illiterates. Encourage the young to continue reading by providing them with reading materials suited to their level of comprehension and at affordable prices. And I suggest further that all of this can be accomplished only if developed countries contribute to developing nations all available financial and technical resources.

In sum, I am planning to tell the IPA that it is only by following a program of the sort I am recommending that the developing nations can hope to combat and eventually destroy the greatest censor of all: illiteracy.

Yet as I reread my recommendations in the IPA speech, I was suddenly struck with the irony of it all:

We are saying "do as we say," not "do as we do." For right here in the United States we don't seem willing to tackle our own problem with anywhere near the vigor we are calling for from the undeveloped nations. I say we don't seem willing because I don't think anyone will argue that we aren't able.

During the past few years several attempts have admittedly been made at attacking illiteracy. To wit—in May of 1978 President Carter issued a proclamation for International Literacy Day to be observed on September 8—the first such proclamation in 12 years. In January 1979 the National Association for Public Continuing and Adult Education launched a supposedly nationwide effort to intensify the fight against illiteracy. In May of 1979 Senator McGovern introduced a bill to establish a commission on literacy. In November 1979 a White House Conference on Library and Information Services adopted a resolution on illiteracy. In January 1980 the NIE undertook a study on literacy. But regretfully all of these well meaning intentions were not converted into programs and the few existing programs (such as Right to Read and Adult Education) have been pitifully underfunded.

In light of these facts, it is somewhat easier, but none-the-less tragic to realize that our efforts at attacking international illiteracy are woefully inadequate despite our status as the wealthiest nation on the face of the earth.

When analyzing our posture vis-a-vis illiteracy, there is another problem we don't seem willing to face up to. In that barter economy I mentioned earlier, a little education not only goes a long way, but it lasts a long time. In our own society, education becomes obsolete in a hurry.

Doctors will tell you that if they don't make a determined effort to keep up with new developments in medicine, they'll know only fifty per cent of what they *should* know in ten short years.

Publishers, editors, journalists, politicians—citizens who take an active role in civil activities—we who fall into these categories manage to learn a little about a lot of things every day. But this tends to make us overlook some of our neighbors, skilled at their trade or profession, who are operating as citizens with a general education as obsolete as the horse and buggy.

This is dangerous condition for a democratic society.

Lest I should leave you with the wrong impression, I hasten to assure you that AAP and its staff in the Washington office has concerned itself with improving literacy, and has played a leading role in urging the new Secretary of Education to give top priority to the role of the federal government in improving literacy and the reading habit.

Just recently the Mass Paperback Division embarked on sponsorship of a limited program, known as Project READ, to be used in several schools in the District of Columbia beginning in September 1980. Project READ involves basically an intense 20–30 minute reading period each day, at the same time each day, closely supervised and using reading materials of intrinsic interest to the students. That is, if a boy is interested in baseball, he will be able to read books about baseball, but the level of difficulty will be raised as he progresses. This technique seems to have worked well in special situations—i.e., juvenile reform institutions, but was never yet been tried in a regular school environment. AAP is funding the program to the extent of $36,000, of which $16,000 represents books provided free by mass paperback publishers. The core, the General Trade and the School and College Division are also contributors. In addition, AAP gained a promise from Secretary of Education Hufstedler to strengthen the coordination of literacy by the Federal Interagency Committee on Education (FICE).

Some months ago, Townsend Hoopes (President of AAP) and I discussed with government officials the need to team up the expertise and financial resources of the private sector, government agencies and foundations in an attempt to combat illiteracy on a global scale.

We are proposing the establishment of an American Council for Knowledge Transfer to assess past efforts, to establish priorities, and to monitor the implementation of needed programs.

The Center for the Book in the Library of Congress has expressed a keen interest in participating in this project. The Center shares our contention that in the unending war against illiteracy, whether here in the United States or abroad in some of the undeveloped nations, the essential weapon is the book. As of now the most serious weakness in global education is still the shortage of textbooks. Many developing countries can only provide one book for every ten students. And a study conducted by the World Bank some years ago concluded that learning gains are more likely to occur from an investment in textbooks than from investments in other educational interventions such as teacher training.

The fact remains: in America, as in the rest of the world, illiteracy is the cruelest censor. The damage it does falls not just upon the illiterate; it afflicts his society just as grievously. The democratic leader is limited by the wisdom—or lack of wisdom—of his followers. The dictator can easily marshal the illiterate for whatever his purposes.

In a dictatorship, the illiterate are prisoners of the tyrant.

In a democracy, a wise leader can find himself the prisoner of ignorance.

Certainly we should be concerned about iron curtains, bamboo curtains and government control of the printed word wherever it may exist. And certainly I am in favor of supporting UNESCO, and passing resolutions, and demonstrating in a variety of ways that publishers believe in and are prepared to fight for freedom of speech, and writing, totally devoid of censorship.

But the bull's-eye of the censorship target is illiteracy and during the coming year I hope to make it my own primary target and this Association's as well.

Also, it is my belief that the International Publishers Association should play a more active role in combating illiteracy. As an association of associations, IPA is a global organization and its members possess the expertise required to attack this formidable enemy. Thus, during this coming year I shall do all I can to increase IPA's involvement in the programs this struggle will require.

I sincerely hope you share my conviction that illiteracy is one of the world's greatest problems and that it constitutes our cruelest and most ruthless censor.

So long as it exists, so long is Beulah-land that much further from attainment; that world of peace and human dignity can only be achieved when the people of this earth have finally eradicated the all pervading blight of illiteracy.

I leave you with a confession which I am sure will come as no surprise. I have no ringing perforations at this point, nor can I provide solutions to all the domestic and international problems confronting us. Obviously, if I were smart enough to provide you with instant solutions, Prentice-Hall would have, long ago, driven all of you out of the international book markets. As you know, we have not succeeded yet, although we keep trying.

There is one thing I can, and do, promise you. That I will devote all of my time and energy to coming as close as possible to finding meaningful solutions.

I am humbly grateful for your trust and I pledge to you all of my efforts.●

UNITED STATES FLOUNDERING IN SOUTH AMERICA

● Mr. GARN. Mr. President, I would like to address briefly the issue of U.S. foreign policy in respect to Latin America. As we are all well aware, this administration's policy has been marked by one major failure after another.

The fact of the matter is that the Carter administration lacks a comprehensive and consistent policy for this region, and it shows no clear resolve to create such a policy. In the place of a coherent policy designed to protect our national interests we are substituting naive, liberal humanitarian policies created by the Linowitz Commission and the Institute of Policy Studies. The lack of an effective intelligence agency only serves to aggravate this already critical situation.

These fundamental problems are addressed concisely and with real insight by Frank Hamilton, the American Legion's National Commander, in a speech he presented before the Center for International Security Studies of the American Security Council Education Foundation. Mr. Hamilton's speech highlights the dangers we face in the Southern Hemisphere, and his message is echoed by a recent Heritage Foundation report entitled "Soviet Penetration of the Caribbean."

Mr. President, I ask that the text of Mr. Hamilton's speech and the Heritage Foundation analysis be printed in the Record.

The speech follows:

The Soft Underbelly

Gentlemen, it is a great personal pleasure for me to be here to talk to you about our favorite subject: the security of the United States. I feel a little bit like I'm preaching to the choir, yet at the same time, I think I've got a story to tell, which some of you might not know, and which will give you an idea of the direction The American Legion is taking.

As I go around the country talking before different Legion groups, the mood is obvious. There is a growing dissatisfaction with what is taking place in Washington. There is a feeling of frustration that our government is not providing the leadership in resolving, not only our own problems, but leading our allies in resolving world problems. Often this frustration approaches anger as veterans realize that the freedoms they have fought so strongly for are being eroded through vacillation, indifference and a constant barrage of liberal ideas which are destroying the fabric which made our country great.

Gentlemen, the Republic is in deep trouble! We are living in times when each of us must stand up and be counted. The time for excuses is gone. The situation is serious. In saying that, I'm not going to stand up here and tell you about how we've been led down the primrose path to the Rose Garden on our way to accepting strategic parity, a policy which has slid us into second place. . . . and I'm not going to talk about what we have to do in the immediate future to develop our Armed Forces so we are "second to none."

What I do want to talk to you about is that region which we use to call our backyard. That one we took for granted because they were just a "bunch of banana republics" that weren't even worth bothering about. Those were those places we used to have to send in the Marines to just straighten out their personal in-fighting. Somehow that image has stuck. Oh yes, Fidel Castro has been a bit of a thorn in our side. After all, we thought we were going to overthrow him back in April 1961, but the Bay of Pigs failure took care of that abortive effort.

Somehow we just wanted it to settle down . . . and at the same time we wished those Cuban exiles in Florida would just appreciate what we'd done for them in letting them come to the United States to earn a living, and not cause us so many problems with their ranting and raving over Fidel Castro, communism and the Soviets. . . . "Only 90 miles from home."

Well, the point of it all is . . . that little problem won't go away . . . and it keeps growing bigger all the time. Like most Americans, I got all excited when President Kennedy stood up to the Soviets during the Cuban missile crisis and made the Russian bear back down, dismantle his "rockets" and take them home. We had met the Soviets face to face, eyeball-to-eyeball and they had blinked! American pride was assuaged! We had avenged our failure at the Bay of Pigs . . . our national honor was saved. (But I wonder how many looked back and realized that if we hadn't lost heart at the Bay of Pigs, we wouldn't have had a Cuban missile crisis!) And not too many people talked about the Intermediate Ballistic Missiles we had removed from Turkey and Italy at the same time.

It was said they were obsolete and were too costly to maintain. After all, they took about 30 minutes to launch. No one spoke of the added complexity those missiles presented to the Soviets in their targeting or the problems they created for them in a first strike option. No one mentioned how having missiles in those countries not only kept them in the front lines geographically speaking in any exchange of missiles, but kept them in the forefront politically in our NATO alliance. But that has long been forgotten.

Shortly after I became National Commander, I decided that I would see for myself what was going on with our Caribbean Basin policy. I visted our Caribbean Contingency Joint Task Force at Key West, Florida and learned a lot about the growing threat and the destabilizing efforts of Fidel Castro in the Basin. A trip to Mexico and Panama with conversations with our Ambassadors and U.S. military leaders did not reassure me; in fact, I was struck by a complete lack of effectiveness of our regional foreign policy. Remember, President Carter had gone public over a new crisis in Cuba. Our intelligence revealed the presence, not just of Soviet military advisers, but of an organized Soviet army unit—a combat brigade! We would not tolerate the status quo, the President said. A Soviet army brigade in Cuba—that was unacceptable. However, a few days later, we accepted it! After all, the Soviets had assured us that those troops had been there for some time, and they were not an organized military unit. We should have expected this reaction from this Administration as when the Soviets introduced MIG-23 Floggers in Cuba, we had entered into the same semantic arguments about whether these fighters were the air defense model of this aircraft, or whether they were the close air support version, capable of carrying tactical nuclear weapons.

Our intelligence was made the scapegoat in this instance too . . . no one could decide which ones they were, so the issue dropped out of sight. No one cared to listen to those who spoke of how within 30 minutes bomb-carrying racks could be attached to the aircraft's wings. No one seemed to remember that when Kennedy was President, the Cuban missile crisis did not only involve missiles. We also asked the Soviets to remove their IL-28 tactical jet bombers. They were offensive weapons systems we said, and we insisted that they be removed along with the missiles. The Soviets replied no. The missiles were theirs, but the IL-28 jet bombers had been turned over to the Cubans. But Kennedy insisted, and in fact, the IL-28's were removed from Cuba. But today, we don't worry about offensive, capable jet fighter bombers carrying tactical nuclear bombs . . . they aren't missiles, so let's forget about them.

Another case, more recently: On March 25 of this year, Franklin D. Kramer, Principal Deputy Assistant Secretary for International Security Affairs, Department of Defense, revealed in public testimony before the House Subcommittee on Foreign Operations, Committee on Appropriations, that "the Hondurans believe, and our intelligence agrees, that their territory is being used as a conduit for men and weapons into El Salvador by insurgents with Cuban support, and they are also concerned that should El Salvador fall to the extremist left forces, Honduras will be among the next primary targets."

That's where we are today. The Cubans have trained revolutionary groups for years preparing the way for communist groups to overthrow rightist authoritarian forms of government. Nicaragua has gone the Marxist way while some of our leftist intellectual sympathizers state that the government isn't communist or Marxist. They say the government is reflecting the necessary pluralism so important to run the country today. They add, "Look at the problems they are having from leftist elements." In fact, the only problems the communist Sandinistas are having from the far left are from those far-out Trotskyites, who are so radical that even the communists have trouble controling them.

And what is going on in El Salvador? The U.S. Government is backing a group that is hanging on for dear life, being attacked from the right and the left. But what are we requiring of them for our support? Economic measures which at best are socialistic; measures that the Department of State wouldn't dare recommend to this country.

While U.S. efficiency in agricultural production continues to increase significantly through greater economies of production with less people working larger farms, we find our U.S. Ambassador to El Salvador insisting that the large, efficient coffee, cotton and sugar cane plantations be broken up into small units to be distributed among the peasants, obstensibly to improve their economic lot.

On the surface this may appear to be a fair objective but when we consider the type of crops being harvested and the efficiencies obtained through modern techniques, we find that this would inevitably destroy the economic viability of the nation. All this coercion by our government takes place without the apparent knowledge of the American people. Our own government is fostering upon other countries . . . no, demanding that other countries . . . in order to gain our support, nationalize banks, redistribute the land, adopt communist economic principles that are a proven failure in Castro's Cuba.

How did we get there? Did it just happen to us? Not on your life! Leading elements of this U.S. Government moved in that direction consciously, deliberately, calculatingly and in fact, openly. But most of us were too fuzzy headed to notice it. And besides, it was happening in Latin America—and what does that matter to us in relationship to the security of the United States? Talk about the soft underbelly of Europe that Churchill was so fond of commenting on to his U.S. allies! Our soft underbelly is through the Caribbean Basin, and most of us are too intent on the possibilities of confrontation with the Soviets on the plains of Europe, and now in the Persian Gulf, to see the steady erosion taking place to our south that is effectively undermining our ability to control our economic life lines; . . . those sea lanes that bring that precious oil to the United States through the Caribbean from the Middle East, around South Africa . . . and from Alaska, transiting the Panama Canal.

The "Blue Print" for our current Latin American policy was formulated in the Center for Inter-American Relations by a Commission on United States-Latin American Relations chaired by Sol M. Linowitz. There were two reports, one published in October 1974 and another on December 20, 1976. These two studies, plus another one called The Southern Connection by the Trans-national Institute, a Program of the Institute for Policy Studies and published in February 1979, accurately details our present U.S. foreign policy in Latin America.

It is a disastrous policy, which is basically defeatist in nature, abandoning U.S. responsibilities in the region, forsaking any 20th Century concept of the Monroe Doctrine and advocating the acceptance of any pluralistic ideology thrust upon the New World. A careful review of these studies reveals several interesting facts. The first two, chaired by Sol Linowitz, were supported by many distinguished individuals in the academic, financial and business world. The third, published by the openly radical and leftist Institute for Policy Studies (IPS), includes the names of staffers who contributed to all three studies and proudly announces its approval of the December 20, 1976 Linowitz Report and the fact that several of those who had prepared the IPS study had contributed to the Linowitz Report in different ways.

One name leaps out from the IPS study; it is Robert Pastor who is now, and has been since the present Administration has been in office, the principal Latin American adviser in the White House, working for the National Security Council. If there is any doubt as to the far left orientation of the IPS group, it is dispelled by their own acknowledgement in the preface to the study of their thanks to the late Orlando Letelier, "colleague and friend," who had read the first draft of the report.

As has been pointed out in the press, when Orlando Letelier was murdered, he was a self-professed Marxist and was known to have been receiving money from Castro's Cuba. So he was working as an instrument of the DGI, the Directorate General of Intelligence, which is a completely controlled instrument of the Soviet KGB. Safe to say, that he received his money as an agent of influence. Today his wife, Isabel Letelier, lectures to Americans on Cultural Ferment in Latin America for the Washington School, created by the Institute for Policy Studies.

To further illustrate the problem: On March 25, one of The American Legion staffers was appearing before the Subcommittee on Foreign Operations of the Committee on Appropriations, U.S. House of Representatives, in support of a Department of Defense sponsored Administration request for assistance funding for El Salvador and Honduras. While there, Ambassador Murat Williams appeared as a witness *against* the appropirations. He had been Ambassador to El Salvador from 1961–64. He said nothing about the Cuban sponsored subversion through Honduras against El Salvador confirmed by U.S. intelligence, only recommending that El Salvador be allowed to settle its own problems.

What was of greater interest were his comments to a Congressional staffer that Robert Pastor had asked him to testify. So, while top ranking government officials at the Departments of Defense and State were publicly supporting the Administration's reprogramming funds for the governments of El Salvador and Honduras, the principal adviser on Latin American affairs in the White House was subverting his President's policies by asking a witness to testify in opposition.

Lest you think I'm just harping at this Administration, I need to add that many of the Sol Linowitz Commission recommendations made in late 1974 were being implemented by the previous administration. What we now find is that they have been fully accepted and are being daily implemented as a basic guide and blue print for U.S. foreign policy in Latin America. The results are an ever increasing acceleration downwards in our ability to favorably influence our southern friends.

Early on during the present Administration, the first National Security Council guidance to the government bureaucracy was to proceed expeditiously with the Panama Canal Treaty. Sol Linowitz was given the green light for the giveaway and the Joint Chiefs of Staff caved in. Days later, interagency groups, under State Department chairmanship, met to formulate our U.S. policy for Latin America. After meeting several times with representatives, who cut across the entire gamut of the bureaucracy, the meetings ceased. Department of Defense officials wondered. Army, Navy, Air Force and Marine Corps officers couldn't fathom it. They never met again.

According to Sol Linowitz and the State Department, the Panama Canal Treaty was the key to all our Latin American policies. The U.S. was proceeding expeditiously with Human Rights, reduction of arms sales and the virtual elimination of our U.S. military groups throughout Latin America, but still the U.S. couldn't reach an agreement, within the government, resulting in an officially ennunciated policy on Latin America. To this day, none has been announced. How does this Administration operate without an official policy? The answer is that the course is not without guidance. It just wasn't developed within government. The policy was written by the Sol Linowitz commission and supported by the Institute for Policy Studies in their report, "The Southern Connection," and is being promulgated by Robert Pastor in the White House and supporters of this policy in the Department of State.

If any of you have read these reports, there would be no doubt in your mind. The "Blue Print" for our disastrous policies in Latin America are being closely followed today. Our actions and responses are not haphazard accidents and muddling meanderings through the maze of events. Our actions are closely following and adhering to the Blue. Print. One can well ask how is it that Zbigniew Brzezinski, who is such a hard liner on communism and the Soviets, can tolerate this bankrupt, defeatist policy in Latin America and the presence of Robert Pastor on his staff.

I don't have the answer. I ask the same question. We do know that Sol Linowitz, Robert Pastor and others active in the Institute for Policy Studies, played a key role in writing the Blue Print for our Latin American policies, and have been implementing them throughout this Administration. We do know that Sol Linowitz, after negotiating the Canal give-away, now plays a key role as Ambassador in negotiating between Egypt and Israel in the Middle East.

Was the Panama Canal Treaty the key to our successful relationship in Latin America? Take a look at those relationships now. Never in our history have we been in worse shape than we are now. We have forsaken our friends, alienated those who respected us and earned the scorn and contempt of our enemies.

Gentlemen, while our situation is serious in many parts of the world in our direct confrontation with Soviet strength, let us not forget our soft underbelly. Let us not forget that when we humiliated the Soviets during our confrontation with them during the Cuban Missile Crisis, they swore their revenge.

They are humiliating us in Cuba today with their military presence, their continued build-up of Soviet military strength and the unchallenged role of their surrogate, that Trojan Horse—Cuba, in their active role in Africa and in Latin America. Just this past Monday in the Washington Post, Jack Anderson wrote of our U.S. intelligence's discovery of "several large holes the Russians are digging near the Cuban city of Matanzos." He asks, "Are they an innocent feature of a suburban housing development, or underground silos for nuclear missiles aimed at the United States?" He goes on to write about the extension of a runway to 9,000 feet, thus making a third airfield capable of accommodating the Soviet's Backfire bomber in Cuba.

In a letter I wrote President Carter on March 5, I urged him to immediately formulate policy goals and objectives for the decade of the Eighties in the Caribbean Basin. I told him that I believed we were succumbing to communist subversion and infiltration without a shot "being fired in anger." We need a coherent Latin American policy. We need to take action in the Caribbean Basin, not only in our own interests but in the interests of our Latin American neighbors who are looking to us for leadership.

In a greater sense, we must consider the effects our indifference or lack of courage has on our world allies and the Third World. They are not unmindful of our inability to maintain harmony in our accepted, direct sphere of influence. As we evidence weakness elsewhere, particularly with Iran over the hostages, our faint-hearted allies can be expected to react by accommodating with the Soviets and the Cubans. These are very real dangers for the United States.

In a response to my concerns, expressed to President Carter, I received an answer from the Assistant Secretary of State for Inter-American Affairs, William G. Bowdler. I was struck by his comment that "Central America's travail was not caused by Cuba." One can guess what he means, though he doesn't spell it out. He admits that Cuba benefits from the problems but he does not describe the effects of over 20 years of Castro's communism, training cadre to foment revolution and supporting subversion throughout the hemisphere. What we are failing to do is recognize that Cuba is our problem. We are the only ones that can do anything about Cuba and yet we treat Castro's efforts to undermine and overthrow countries as though we had little interest in the outcome. We give the impression that if a government needing assistance is willing to bring about a change in its leadership through the creation of a new pluralism, we might be forthcoming.

As we allow the Soviets to increase their military build-up within Cuba, we drift further from the day when we would have the courage to do something about it. We have tacitly accepted the Soviet presence and have placed ourselves in such a position of weakness that the likelihood of any resistance to increased Soviet presence in Cuba by this Administration, regardless of intelligence confirmation, is not worth debating. It, therefore, becomes our duty to send out the clarion call for action!

Just because there is no massed military force now south of our borders, that presents a challenge to our sovereignty—let us not be unaware that we can be defeated piecemeal, as country after country is devoured by communism and our vital supply lines and access to raw materials are relentlessly and inexorably strangled and cut off. Let the United States choose where we will meet the Soviets and their challenge to our way of life. Let's now meet the challenge in our backyard, where we have interior lines and ability to take advantage of those Principles of War—mass and concentration.

Think about it!

Soviet Penetration of the Caribbean

The collapse of the U.S. presence in the Caribbean has endangered America's global power projection. Ever since 1898 America's worldwide reach has rested on a quiescent Caribbean and a supportive South America. The Caribbean, once an American Lake, is becoming a Socialist Sea.

The audacious attack by Cuban aircraft on the Bahamian gunboat *Flamingo* and the subsequent aerial harrassment of Duncan Town on remote Ragged Island on Saturday, May 11, 1930, followed by the buzzing of a U.S. Coast Guard helicopter searching for *Flamingo* survivors, are indicative of the current crisis in the Caribbean.

"A gross violation of international law" indignantly intoned a State Department spokesman when queried about the *Flamingo* affair. Still State should not have been surprised. For while it is possible to consider Cuban claims that the patrol boat was erroneously attacked because the MIG pilots believed that it was a "pirate ship," one can only wonder what they mistook Duncan Town and the Coast Guard helicopter for. They knew what they were targeting. Havana also knew, as confirmed by *Granma's* later charges that the Cuban rocket attack was provoked by the CIA, what the U.S. response would be. They knew that the U.S. reply would essentially be the same as the Administration's October 1979 response to the garrisoning of a Russian combat brigade—placating platitudes. For the presence of an extra-continental power in the Caribbean—previously unacceptable and intolerable—has become an integral part of U.S. policy. Thus, the incident off Ragged Island is the logical outcome of the Administration's attempts to accommodate the Soviets, their satellites, and their surrogates.

President Jimmy Carter came to power with a plan for Latin America. And though petulance may now be replacing the initial policy, the President and his advisors have consistently followed the recommendations outlined in three basic documents. Two of these studies were published by the Center for Inter-American Relations, one in October 1974 and another on December 20, 1976. These were authored by a Commission on United States-Latin American Relations chaired by Sol M. Linowitz. The third report, the "Southern Connection" by the Trans-National Institute, a Program of the Institute for Policy Studies (IPS), appeared in February 1977. In general these three theses advocate U.S. acceptance of Marxist-Leninist regimes in Latin America and assume that the underdevelopment and unrest in the area was caused by American imperialism and intervention. In particular the triad urged ideological pluralism, respect for human rights, relinquishment of sovereignty over the Panama Canal, reconciliation with Cuba, recognition of Cuban claims to Guantanamo, reconsideration of the status of Puerto Rico, support for Socialist Jamaica, elimination of public and private military aid programs and withdrawal from U.S. air, army and naval bases in and around the Caribbean. All of these objectives have been either achieved or attempted since President Carter's inauguration in January 1977. It is in this context that current strategic developments in the Caribbean should be assessed.

CARIBBEAN CRITICAL

The Middle East may be the petroleum pump, but for the United States the Atlantic is the oil line and the Caribbean is the nozzle. In 1965 most of the oil shipped from the Middle East flowed through the Red Sea, Suez Canal and Mediterranean to Western Europe. Repeated closings of Suez rerouted the tankers southward through the Indian Ocean, past East Africa by way of the Mozambique Channel, around the Cape of Good Hope and northward via the Atlantic to European ports. Economy dictated the construction of super tankers of such size that they could not transit Suez even if it were open. The Indian Ocean—Cape of Good Hope—Atlantic passage became the standard shipping route for oil from the Middle East, not only for Western Europe, but also for Brazil and the United States. For by 1976 America had also become dependent on Arabian and Iranian oil. Concurrently, the Soviet Union started to intrude into the maritime choke points of the globe.

The Caribbean is a closed Sea. The Bahamas, Virgin, Leeward and Windward Islands along with Bardados, Tobago and Trinidad, encircle the eastern edge. North, Central and South America ring the rest. The only Pacific passage is the Panama Canal. The center of the circle is dominated by the Greater Antilles—Puerto Rico, Hispanola, Jamaica and Cuba, which also form a barrier between North and South America. Only three channels, Mona, Windward and Yucatan, cut through the Antillian island chain which lies athwart the sea lanes connecting the two continents. These waters also wash Mexico and Venezuela, two of the world's major oil exporting nations. Seventy five percent of all the oil imported into the U.S.—some 30 percent of total consumption—transits the Caribbean. Thus, the Caribbean rim and basin is a petroleum focal point.

Through Caribbean channels, Antillian passages and the Panama Canal pulses the petroleum of the Middle East, Ecuador and Alaska. Super tankers sailing from the Persian Gulf around Africa do not dock directly in U.S. Atlantic or Gulf ports. These vast vessels transfer their cargoes at the Bahamas, Virgin Islands, Trinidad or Aruba-Curacao into standard size tankers which then sail on to the eastern or southern seaboards of the United States. Venezuelan oil also moves northward through the Mona, Windward and Yucatan Channels. Not all of this oil is crude. Since the U.S. has not completed a refinery in over seven years much of this imported petroleum is finished product having been processed at offshore locations.

POWER SHIFT

The Soviets have suddenly emerged as a great naval power. Soviet task forces cruise the Caribbean. Russian reconnaissance planes regularly fly round robin monitoring missions from Cuba to Guinea-Bissau. During the past two decades, the Caribbean has been increasingly infected with a cancer that threatens to choke off the oil and ore vital to the survival of the United States, the center piece of the western coalition. For the United States, which imports over 43 percent of its energy and is dependent on other lands for 93 out of 95 strategic minerals, the Caribbean is critical.

The Caribbean has been an American strategic preserve. Now it is becoming a Marxist-Leninst lake. Guyana is moving rapidly toward Marxism. General Omar Torrijos, titular ruler of the Republic of Panama, continues to maintain close ties with Castro. President Jimmy Carter, following the ideas advanced by the IPS in "The Southern Connection," deeded away the Panama Canal, encouraged the destabilization of Nicaragua and is contempalting giving away Guantanamo and granting independence to Puerto Rico. Withdrawal of the U.S. from the Caribbean and the Canal Zone—a Trans-Isthmian passage on which not only the U.S. but also Brazil and the Spanish-speaking republics of Central and South America depend for their sea borne commerce—further upset the situation. By mid 1979, pushed by popular front governments and shaken by subversion, several of the former British colonies in the West Indies—Dominica, St. Lucia and Grenada were pushed into Castro's camp. Grenada, which is situated on the northern edge of the Tobago Passage through which supertankers from Arabia and Africa move, has initiated the construction of a 40 million dollar airfield which could be used for military purposes. Maurice Bishop, the Marxist-Leninist leader, has also issued a call for the liberation of Puerto Rico, El Salvador and Guatemala and has reportedly provided facilities for training by Cuban advisors of English-speaking black West Indians for deployment in Puerto Rico and Belize. In addition to having the petroleum passages of Tobago and Panama within their grasp, Soviet surrogates are also in a position to squeeze off ore supplies.

Interdiction of oil and ore is the Soviet scenario. Just as the satellization of Mozambique and Angola in Southern Africa jeopardize the West's reserves of cobalt, chrome and ferro-manganese, Marxist moves in the New World Mediterranean endanger aluminum and iron shipments. America buys most of its bauxite from left-leaning Jamaica and Guyana. In 1979 the U.S. imported 14 million tons of bauxite. Nine million came from the Caribbean, mostly Jamaica where Prime Minister Michael N. Manley has openly allied himself with Havana. Manley's militia is being trained by Cubans, and according to an opposition politician "The Cubans have established their Caribbean desk in Kingston," for the Cuban ambassador is a top intelligence officer and is believed to be in direct contact with revolutionaries operating in the Caribbean.

Guyana, the other bauxite exporter, has, under Prime Minister Forbes Burnham, openly embraced Castro and allowed Georgetown's Hyde Park Airport to be used as a Cubana de Aviación fueling stop for ferrying Cuban mercenaries to Angola. Guyana's western and southern neighbors, Venezuela and Brazil, are major iron ore exporters to the U.S., and while most of the bulk carriers sail through the open seas of the Atlantic to U.S. eastern ports, some do thread their way through the closed sea of the Ciribbean. Moreover, the 600,000 barrels per day of Venezuelan petroleum which reaches the U.S. must push its way northward through the Mona, Windward or Yucatan Channels—two of which are already dominated by Communist Cuba. Oil and ore are the game. However, there remains one vast reserve of 44 billion barrels yet available to America: Mexico.

Nicaragua is a Central American beachhead for eventual interdiction of the petroleum fields in southern Mexico. Moreover, Nicaragua is the only other economical site in Central America for the construction of a Trans-Isthmian Canal besides Panama. And the Panamanian National Guard, commanded by General Omar Torrijos and Colonel Manuel Noriega along with the Partido del Pueblo—the Panamian Communist Party—assisted in the overthrow of Anastasio Somozo in July 1979. Using neutralist Costa Rica as a sanctuary, Panamanians, Cubans, East Germans and other international brigades joined the Frente Sandinista de Liberación Nacional (FSLN) in invading Nicaragua. The FSLN was defeated in the field, but the dispatch of U.S. arms to Panama for trans-shipment to the Sandinistas, U.S. interdiction of Israeli, South African and Argentine weapons destined for Somoza and the U.S. embargo of munitions for the Nicaraguan National Guard, delivered the Nicaraguan nation to the Communist camp.

Nicaragua increasingly appears to be a Soviet satellite. *Pravada* announced an agreement on March 23, 1980 between Central Committee members Boris Ponomarev, A. P. Kirilenko and I. V. Arkhipov with FSLN leaders Moises Hassan, Tomas Borges, Henry Ruiz and Humberto Ortega Saavedra which effectively established a Moscow-Managua axis. To further emphasize the importance of the event, the Sandinista delegation reportedly was received by Alexander Nicolas Bluskov, a rumored Brezhnev replacement. Moreover, Ponomarev is a specialist in the "National Liberation Struggle" and has consistently advocated a forward strategy in acquiring control of communications routes, concepts incorporated by Lenin into his *Imperialism* (1916).

El Salvador is under siege. U.S. installation of a military junta in El Salvador on October 14, 1979 has failed to stabilize the situation. In addition, U.S. intervention in preventing a series of takeovers since November by nationalist elements in the armed forces has not only created additional chaos, but also once again made a mockery of "ideological pluralism." For State seems to equate pluralism with leftist-internationalist regimes and automatically eliminates rightist-nationalist and seemingly even centrist parties. Faced with a choice between an occasional deplorable ally and a consistently deplorable enemy, the Administration, following the Linowitz and "Southern Connection" formulation, appears determined to advance the cause of its adversary. Even U.S. military aid to its own junta in El Salvador has been hindered at the highest levels. Fearing a domestic backlash to the fall of El Salvador, the U.S. Government has reportedly responded to a threat by the Sandinistas to overtly invade El Salvador should the U.S. sponsored junta be adequately armed and advised, by refusing such support. The buying of time by buckling under to blackmail will, however, not save El Salvador. The insurgents supported and supplied by the Cubans and Sandinistas, are currently training and arming enough troops to move toward full field confrontation with the Salvadorian Armed Forces by July 1980.

Guatemala is the largest and most populous nation in Central America. President Dwight Eisenhower and CIA Chief Allen Dulles showed their strategic concern when they successfully engineered the overthrow of the leftist government of Jacobo Arbenz Guzman in 1954. However, in 1977 the Carter Administration, charging human rights violations, cut off military aid. Insurgency and infiltration are increasing. Tensions between Guatemala and Belize are also rising. Guatemala claims former British Honduras and should Whitehall grant full independence the Guatemalan Army will be constitutionally required to occupy the area. Prime Minister Margaret Thatcher is presumably under pressure to completely emancipate Belize. Should this occur and Guatemala invade, only the Marxists would benefit: West Indian revolutionaries are being readied in Grenada and, moreover, Guatemala would be condemned as an aggressor and the insurgents would receive worldwide support and sympathy. The last barrier between the Castroites and *Reforma* fields in Southern Mexico would have been breached.

The question is one of timing. The Sandinista Simon Bolivar Brigade is ready for action. The Soviets have sufficient airlift capacity to move the 3,000 Russian combat troops in Cuba to any area in the Caribbean. Debate over the date rages in Moscow, Havana and Managua. Of more immediate import was the transfer of the Panama Canal Zone to the Republic of Panama on October 1, 1979.

Carter-Torrijos Treaties and DeConcini Reservations notwithstanding, loss of the Trans-Isthmian Canal by the United States long before the year 2000 is accepted in many Latin American circles. President Aristides Royo in his letters to Jimmy Carter of July 11, 1979 and January 10, 1980 made it abundantly clear that there are numerous areas of disagreement over interpretation of the treaties. Dispute over some minor point in the Carter-Torrijos Treaties can be escalated into a contrived confrontation between the Panamanian National Guard and the U.S. Army. Panama can nationalize the Canal under eminent domain and call upon their socialist brethren in Nicaragua and Cuba for support. Humberto Ortega Saavedra, Commander-in-Chief of the Sandanista Armed Forces told Panamanian officials on September 22, 1979 that his troops would fight alongside the Panamanian National Guard against the U.S. "if there is imperialist aggression." Faced with fight, the U.S., bullied by the Brezhnev Doctrine and overshadowed by Soviet nuclear superiority, might be tempted to back down and withdraw.

CUBA: THE SOVIET BASE

Moscow is turning Cuba not only into a base from which to conduct terrorist, guerrilla and potential military operations against the nations of the Caribbean, but also into a strategic axis from which to interdict Western shipping crossing the Atlantic and oil tankers coming from the Persian Gulf. Table I illustrates the extent to which the Soviet Union has supplied Cuba with naval ships and military aircraft. In particular, the Soviet construction of the naval base at Cienfuegos poses potentially serious problems for U.S. security. As military analyst Drew Middleton has written, should Cienfuegos be expanded to handle additional attack or mine-laying submarines, "in time of war such submarines could be a threat to the movement of reinforcements and supplies out of United States ports."

TABLE 1.—*Soviet-supplied Cuban Naval and Air Forces*

NAVAL	
Submarines (1–F, L–W class)	2
Large Patrol Craft (SO–1, Kronstadt)	18
Missile-carrying Fast Attack Craft	27
Torpedo-carrying Fast Attack Craft	24
AIR FORCE	
MIG–19 interceptors	40
MIG–21/MIG–21 MF interceptors	80
MIG–17 fighter/bombers	75
MIG–23/27 fighter/bombers	48
AN–2, IL–14, AN–24 transports	80

SOURCE—Defense and Foreign Affairs Handbook 1980 (Washington, D.C.: Copley & Associates, 1980) p. 148.

Senator Frank Church announced the existence of a Russian combat brigade in Cuba on August 31, 1979. September saw a series of strong statements about the unacceptability of Soviet ground troops in the Caribbean. (A curious controversy since the earlier arrival of MiG–23 aircraft with nuclear carrying capabilities had been calmly accepted.) Then, on October 2, 1979, President Carter announced a series of steps—increased surveillance of Cuba, especially by SR 71 overflights, the establishment of a Caribbean Contingency Joint Task Force at Key West, the dispatch of 1500 Marines to exercise at Guantanamo, and, in general, the augmenting of U.S. air and naval forces in the Caribbean. The President ended with an assurance from Brezhnev that the Soviet troops would not assume any combat function, nor would they pose a threat to the U.S. or any other nation.

Once again what had previously been intolerable was now acceptable. The months slipped by. Surveillance slacked off. The Marines landed and departed. Air and naval units were concentrated and dispersed. But Admiral Thomas H. Replogle and his Joint Task Force staff stayed at their stations in Key West. Naval maneuvers were scheduled for May 1980, a date selected because it coincided with a similar Soviet exercise. The U.S. was ready to show its might in the Caribbean. Then on May 1, 1980 President Royo of Panama wrote to President Carter. Royo expressed his concern over the impending U.S. exercises and reminded the President that the Caribbean has "ceased to be the private sea of the U.S." Carter cancelled the May maneuvers, picking up Cuban refugees instead.

Russia, under the shadow of emerging nuclear superiority is enveloping the People's Republic of China and tightening the noose on the oil and ore vital to the Free World's economies. The Soviet Union has responded to U.S. efforts at accommodation by building up a massive nuclear and naval machine. America's attempts to socialize the Soviets and their Caribbean allies by pursuing a policy of peace through weakness have failed. Survival knows no ideology and Caribbean and Central American nations, in pursuit of their own national interests, may not wish to be associated with a declining power. President Carter's scratching of the scheduled naval exercises and the audacious attack by Cuban aircraft on the Bahamian gunboat *Flamingo* are symptomatic of a deeper malaise in the American body politic.

Congress, Cuba and the Caribbean

When the U.S. Senate ratified the Panama Canal treaties in 1978, our rationale given in support of ratification was that it would presumably facilitate an improvement in U.S.-Latin American relations and decrease the likelihood of Soviet and Cuban strategic penetration of the Western hemisphere. Now, only two years after the ratification of the treaties, a growing element in Congress is convinced that Soviet and Cuban influence is rising, and that of the U.S. is declining, and that policies in Washington may be contributing to both.

The cornerstone of the Administration's aid program for Central America, the Special Central American Aid Bill (H.R. 6081/S. 2012), has now been sent to the President for his signature. By a 44–35 vote, the Senate reversed its prior opposition to conditions on authorizing $75 million in special economic aid for Nicaragua, and accepted the House version requiring an aid cut-off if the Sandinista government violates freedoms of speech or labor unions, or does not hold elections within a "reasonable time." However, the special economic aid for Nicaragua must still be appropriated. Given the strong opposition to any special aid for Nicaragua in the House (which passed the restrictive version of the aid bill by only a 202–197 vote three months ago), it is not certain that the Administration will get the funds appropriated.

Moreover, the House continues to receive reports that Nicaragua is moving closer to a Marxist/Leninist, Cuban-style governmental model. A May 15 press conference held on behalf of José Francisco Cardenal, and hosted by Rep. Robert Bauman R-Md.) strengthened the conviction of many in the House that Nicaragua is simply too far down the road toward communism for any economic aid to bolster pro-democratic elements in Nicaragua. Cardenal, an original appointee to the Nicaraguan Council of State, argued that the Sandinistas have incorporated an irreversible Marxist/Leninist system that deviates substantially from the aims of the revolution. Furthermore, Cardenal emphasized that nearly all of Nicaragua's leaders are Cuban trained, and that Cuba now has 10,000 advisors and other personnel in Nicaragua.

Congressional concerns have also increasingly focused on Guatemala as a source of potential turmoil. Thus far the Guatemalan government has effectively handled the Marxist-oriented revolutionaries. But this had led liberals on the Hill and the State Department to charge the government with condoning human rights violations. On May 16 Congressman Pease (D-Ohio) hosted a group of Guatemalan dissidents on the Hill who denounced their government. In contrast, others on the Hill believe that the cutoff of military sales to Guatemala and decline of economic assistance can only encourage the revolutionaries and lead to a repetition of events in Nicaragua. The Administration's selective application of "human rights" criteria as a prerequisite for aid to Guatemala, it is felt, makes no sense in light of the strategic penetration of Central America and the Caribbean by the Cubans and the Communist bloc, and the gross violations of human rights in Nicaragua (Cardenal has stated that hundreds of people have disappeared in Nicaragua and that killings and torture are routine occurrences).

The Administration's handling of the aid program for El Salvador is also of concern on Capitol Hill. Ever since the junta removed the government of Carlos Romero in October 1979, the Administration has made continued aid contingent upon "reforms" in El Salvador's economic and social system. The junta has now nationalized banking, agricultural and export interests in El Salvador. Moreover, the Administration threatened an aid cutoff in February at the first sign that a rightwing coup was imminent, and continues to condone the inflammatory rhetoric of U.S. Ambassador Robert White, who has charged that business leaders in El Salvador financed "hit squads" to eliminate leftists in that country.

Senators known to have favored aid to the junta in the past are now hoping that it will moderate its reform policies, but without strong leadership from the White House, many are skeptical as to the probable success of any moderation efforts. Conservatives in Congress feel that the chances for a genuine moderation of the junta's reforms are minimal, and that to survive, the government must broaden its base of support and this can only be done by working with the nationalists, especially in the military and business community.

The Soviet military presence in Cuba is also seen as an important factor in the decline of U.S. influence in Central America and the Caribbean.

Senators Richard Stone (D-Fla.) and Gordon Humphrey (R-N.H.) are keeping track of Soviet military developments in Cuba. Stone is maintaining weekly contact with the Pentagon on the status of the naval base at Cienfuegos. Humphrey has alerted his Senate colleagues to the strategic implications of the MIG–23 and airlift buildup in Cuba; a resolution he introduced last fall (S. Con. Res. 42), calling for the President to transmit to Congress every 90 days an appraisal of Soviet military capabilities in Cuba, has been incorporated as an amendment to S. 2714, the International Security and Development Act of 1980.

The development of a coherent strategy to prevent the expansion of Soviet and Cuban influence in the Western hemisphere should be a paramount U.S. foreign policy objective. However, the selectivity of the human rights policy of the Administration on granting military and economic assistance to the nations of this region, combined with its vacillating policy on the Soviet military build-up in Cuba, has given the U.S. a reputation for hyprocrisy and inconsistency in the eyes of our friends in Latin America and throughout the world. Unless the U.S. sends consistent signals to our allies indicating our interest in seeing Cuban and Soviet strategic penetration of Latin America ended, the U.S. can expect that the number of pro-American governments in Central America and the Caribbean will decrease, and those favoring accommodation with or support for Havana and Moscow will increase, to the detriment of inter-American security.●

WITHHOLDING ON DIVIDENDS AND INTEREST INCOME

● Mr. BAUCUS. Mr. President, Congress is determined to balance the budget. However, the means by which Congress will balance the budget—either through fiscal restraint or through imposition of new taxes—is uncertain.

I feel that the way to balance the budget is to cut spending. There are many swollen programs that could be reduced further.

Unfortunately, the administration has proposed to balance the budget by imposing new taxes on the American people. One such proposal is withholding taxes on interest income and dividends. Under this plan, 15 percent of interest and dividend payments to taxpayers would be withheld by the Internal Revenue Service. The administration estimates that $2.5 billion or more per year would be collected as a result of this plan.

I think the administration has failed to consider the adverse effects of imposing a 15-percent withholding tax.

IMPACT ON SAVERS

The savings rate in our country is the lowest in the industrialized world. In order to encourage Americans to save, Congress recently added a provision to the windfall profit tax to provide a tax exclusion of $200 for a single taxpayer or $400 for a couple filing jointly for interest and dividend income.

Congress now is being asked to change its mind and to withhold 15 percent of the dividends and interest income that is excluded from taxation by the Windfall Profit Act. Subsequently, Americans will be discouraged from saving.

The proposed withholding tax would reduce real savings. Interest paid on passbook and time deposits is compounded on a daily basis so that, in fact, interest earns interest. Withholding will drain 15 percent of earned interest out of the interest-earning stream at each crediting date. Consequently, return on savings will be reduced.

Moreover, this proposal would saddle the saver with new tax forms, procedures, and requirements.

Rather than impose a withholding tax

plan on savings, reducing the interest earned, Congress should be encouraging Americans to save. The effect of withholding 15 percent of interest and dividends will serve as a disincentive to save, making "small savers" even "smaller savers."

IMPACT ON SENIOR CITIZENS

The administration's proposed withholding tax also will adversely affect those living on fixed incomes. Senior citizens who depend on interest and dividend income to supplement their monthly social security and/or pension benefits would have to file for a refund of these withheld funds the following year, depriving them of the use of income when they may need it most.

INCREASED REDTAPE AND BUREAUCRATIC COSTS

The burden of putting this plan into effect will be concentrated on financial institutions. The startup costs would include: First, reprograming to compute and deduct the 15 percent withholding in those areas where information has already been gathered; second, developing new programs for withholding and reporting in areas where information reporting is not applicable; third, establishing an exemption certificate mechanism to determine who qualifies and procedures for obtaining, verifying, and updating; and fourth, determining which accounts are exempt either because there is a certificate, its principal is tax exempt, or its principal is a corporation.

The exemption certificate mechanism will require customers to file an exemption form with every source from which they receive interest or dividend income.

These new programs and procedures will bring a blizzard of tax forms both for individual taxpayers and for businesses that pay interest and dividends.

This proposal, if enacted, will cost savings and loan organizations alone $400 million.

CONCLUSION

I am opposed to withholding on dividends and interest income because it would deter savings, impose new cost burdens on savers and businesses, and cannot apply fairly and equitably to all taxpayers.

The administration's proposed 15-percent withholding tax, a bureaucratic nightmare, is a desperate attempt to balance the budget without attacking the root problem. I would like to believe that Congress has the fortitude to cut back on spending in order to balance the budget.●

THE FEDERAL INFLATION TAX AIDS WASHINGTON, NOT THE CITIZENS

● Mr. DOLE. Mr. President, the Federal Government continues to make life difficult for citizens trying to make ends meet, and it is not helping the financial position of State and local governments, either. A report in last Sunday's New York Times shows why this is so.

The Times discussed a new report by the National Governors Association which demonstrates that the Federal Government absorbs an increasing share of our gross national product, compared with the portion of GNP taken up by State and local governments. The problem was well-stated by Gov. Otis R. Bowen of Indiana, chairman of the Governors Association:

> Governors at a recent meeting of our executive committee expressed concern that the rising Federal tax burden being used to support the uncontrollable costs of many Federal programs and an unnecessarily complex and inefficient grant system are preempting the policy options of state and local governments. By taking more of the tax dollar and returning less to states and cities in the form of flexible aid, the Federal Government is pushing the country toward greater centralization and eroding public support for domestic programs.

Mr. President, Governor Bowen has precisely defined the problem. Let us consider some possible solutions. First, the primary reason why Federal revenues grow so rapidly is the effect of inflation pushing people into higher tax brackets. For every percentage point rise in the Consumer Price Index, another $1.5 to $1.75 billion in tax revenues is generated. Not only does this phenomenon encourage the steady expansion of the Federal Government, it raises the effective tax rate for our citizens without the need for legislative action. That is unfair, and it can be stopped.

The Tax Equalization Act, S. 12, would require adjustments in the tax tables each year to keep rates constant relative to real income. As a result, Congress would have to vote in order to raise taxes, which is the way things ought to be done. I introduced this legislation in order to provide a measure of fairness for our taxpaying citizens. But as Governor Bowen's comments indicate, this legislation would also help State and local governments meet their responsibilities by limiting Federal preemption of the tax base. That is one more reason why S. 12 urgently requires the attention of Congress.

Mr. President, I would also like to address Governor Bowen's remarks concerning categorical versus general purpose aid to State and local governments. The most successful general purpose aid program—general revenue sharing—was originally designed as a shift from restricted, inefficient grant programs to more flexible fiscal assistance. I have introduced legislation, S. 2681, that would restore that original concept by allowing each State to substitute revenue sharing funds for an equivalent amount of categorical grant funding. This bill would establish the principle that general purpose assistance is preferable to many of the highly restricted categorical programs, because it helps State and local governments choose and meet their highest priorities.

Let the National Government meet truly national priorities, and leave State and local governments free to serve the day-to-day needs of their citizens. I believe that S. 12 and S. 2681 will begin the process of rationalizing the distribution of power and responsibility among the various levels of government. I commend the National Governors Association for their efforts to bring these problems to our attention.●

MEMORIAL TO DAVID MARCEL LARRABEE

● Mr. MOYNIHAN. Mr. President, the late David M. Larrabee of Chevy Chase, Md., was a gifted geologist, a steadfast public servant, a friend to young and old, and a pillar of his church and his community. His life and career exemplify the highest standards of citizenship, humanity and Government service, and could usefully serve as a model for many. In order that more may have the opportunity to acquaint themselves with the accomplishments and legacies of Dave Larrabee, I ask that there be printed in full in the Record at this point a fine memorial to him that was recently written by Gilbert H. Espenshade for the "Geological Society of America."

The memorial follows:

MEMORIAL TO DAVID MARCEL LARRABEE

1909–1979

David Marcel Larrabee died on May 3, 1979, in Somerset, Maryland. He had suffered from heart disease for twelve years and had been confined to his home for nearly two years by physical disabilities caused by a severe stroke. His wife, Kate Putnam Larrabee, survives him.

Dave Larrabee was a friendly, active man who enjoyed people and a vigorous outdoor life. He relished a challenge, whether it was mapping the geology of an intricate pegmatite deposit, making a white-water canoe trip, compiling information on mineral resources, or helping someone resolve a personal problem. Dave had a forceful personality and was outspoken—sometimes in favor of the actions of a person or group, and sometimes against. He was very tenacious and thorough in carrying out any enterprise, and he was strongly loyal to persons and organizations. Larrabee spent much of his professional life in the investigation of nonmetallic mineral deposits and in related mineral resource studies. He worked for an industrial concern for about ten years in his early days and for the U.S. Geologic Survey during the rest of his career.

David Larrabee was born June 24, 1909, at Williamsport, Pennsylvania, the second of three sons of Don Marshall and Olive Moore Larrabee. He graduated from Dickinson Seminary in Williamsport and entered Dartmouth College in 1927.

As an undergraduate at Dartmouth, Dave was devoted to the Ledyard Canoe Club and the Outing Club, and spent much time in leading canoe and climbing trips, repairing cabins, brushing out trails, and training others in these activities. In the summer of 1929 he made a survey of the mineral deposits of New Hampshire for the New England Power Association. During the following summer he worked as camp cook and canoe man in Ontario for a field party of the Geological Survey of Canada, led by Harold M. Bannerman, his geology professor. After receiving his A. B. degree in geology in 1932, Dave continued at Dartmouth for two more years as a graduate student and assistant instructor in geology. His professional growth during the years at Dartmouth was especially encouraged by Harold Bannerman, whose counsel Dave sought often in later life.

Larrabee went to the University of Illinois in June 1934 as a graduate student in geology, and as Assistant Dean of Men for freshmen and foreign students. He carried out field and laboratory studies on the colored slates of Vermont and New York, described in his thesis for the M. A. degree, which he received in 1936. He participated in other facets of university life by operating the University Mutual Benefit Health Insurance Plan for students and faculty, and acting as faculty advisor to the Interfraternity Council.

While at Illinois, Dave met Kate M. Putnam, a young nurse in charge of nursing at the university hospital. They were married in July 1937. Over the years, Kate and Dave acquired many friends through their warm hospitality to colleagues, lonely field assistants, neighbors, and young people, and through their participation in church affairs and other community activities. Kate was a constant source of strength for Dave during times of difficulty or illness.

In 1937 Dave was employed by the Staso Milling Company at Poultney, Vermont, which manufactured roofing granules from the colored slates of the region. He was responsible for geological guidance of the mining operations, and he carried out investigations at other places in the country for new quarry and mill sites.

Dave Larrabee joined the U.S. Geological Survey in the summer of 1942 to work in New England on the expanding program of investigation of pegmatite deposits, which was designed to assist in the production of mica, beryl, and tantalum for urgent wartime needs. Dave brought to this program a sound, practical, economic approach to the search for and production of pegmatite minerals. He and various assistants made detailed plane-table surveys and evaluations of numerous pegmatite deposits in Maine and New Hampshire, and during 1944 and 1945 he participated in similar studies of pegmatite districts in North Carolina, Brazil, and Mexico. This work showed that there was some consistency and predictability in the patterns of distribution of the minerals in granitic pegmatites. The results were of great practical use in guiding exploration and mining of the deposits and were essential to a correct understanding of their genesis. Larrabee was co-author of several significant publications on these subjects.

At the end of World War II Dave asked to be assigned to the newly founded Engineering Geology Branch of the U.S. Geological Survey. He undertook the investigation of the resources of nonmetallic minerals and construction materials in the Missouri River basin. A complete review of the literature and considerable field examinations were necessary in order to acquire up-to-date information. Larrabee organized much of the work and was co-author of fourteen published maps and numerous volumes of unpublished data sheets that presented resource information for individual states or specific regions within the river basin. These maps were used not only by the U.S. Army Corps of Engineers and state organizations working on river development but were also used extensively by geologists and prospectors, particularly during the search for uranium.

In July 1947 Dave resigned from the Survey and returned to his former employer, the Staso Milling Company, and its parent organization, Central Commercial Company. He was chief geologist in charge of geologic mapping and exploration at six roofing granule operations, and carried out field examinations and exploration for granules and other industrial rocks and minerals throughout the country. Dave and Kate resided at Bound Brook, New Jersey, for several years and later moved to the Chicago area.

By 1953 Dave was attracted once again to the Geological Survey, and for about three years he was engaged in the Washington office in study of resources of pegmatite and various other nonmetallic minerals. He was responsible for the review of exploration proposals for certain nonmetallic mineral deposits that were submitted to the Defense Minerals Exploration Administration and successor agencies in a program started during the Korean Conflict to promote exploration for strategic minerals.

When the Geological Survey began a program of regional geologic investigations in Maine in 1956, Dave Larrabee saw this as a challenging opportunity to map the geology of a poorly known area, which might hold some promise for the discovery of mineral deposits like those found a few years before in the Bathurst district of New Brunswick. He and his assistants mapped the geology of a large area in eastern Maine where rock exposures are scarce because of glaciation, forests, lakes, and swamps and where accessibility to many areas is difficult; much of the mapping was necessarily of reconnaissance nature. The resulting geologic maps were a significant contribution to the preliminary geologic map of Maine, published by the state in 1967; they provide a good basis for guiding future investigations of stratigraphy and structure in the region and for mineral exploration.

In 1964 Larrabee began a study of the distribution of ultramfic rocks in the Appalachians; he compiled maps at 1:500,000 scale showing the distribution of ultramafic and intrusive mafic rocks in the southern Appalachians (published 1966) and in New York and New England (1971). These are the most detailed maps yet compiled to depict the occurrences of ultramafic and intrusive mafic rocks in the region. They have proven to be very useful to students of ophiolites and have been cited frequently in recent papers discussing the role of plate tectonics in the geologic history of the Appalachian system.

As an extension of these studies, Dave made a very detailed investigation of the serpentinite exposed in a large quarry for crushed stone at Hunting Hill, Maryland, on the outskirts of Washington, D.C. Dave determined that the serpentinite is intruded by a complex system of dikes of rodingite, or metasomatized gabbro, which is a known feature of some serpentinite bodies but had not been previously recognized in the Appalachians. The rodingite is well exposed in irregular but continuous dikes in the Hunting Hill quarry, and Larrabee (1969) pointed out that the unbroken continuity of the dikes indicates that rodingite, and the serpentinite as well, was formed by alteration at constant volume. This is strong evidence to contradict the concept widely held that serpentinization is accompanied by a large increase in volume. The discussion of the rocks and minerals and the fine map (1:1,200 scale) in Larrabee's report show how informative a detailed geologic study can be, even in an apparently ordinary rock quarry.

Late in 1966 the Geological Survey was required to move a sizeable part of its staff to an old building on the former grounds of the National Bureau of Standards in northwest Washington. Dave Larrabee was given the responsibility of supervising renovation of the building, a job on which he spent about two months of continuous effort in order to meet the deadline. During the move into the building in February 1967, Dave collapsed from the accumulated strain of long days of work, and a little later was hospitalized because of congestive heart failure. Although he was back at work in a few months, his activities were much curtailed, and he retired from the Geological Survey in 1970.

David M. Larrabee was a Fellow of the Geological Society of America; he was a member also of the American Association for the Advancement of Science; the American Institute of Mining, Metallurgical, and Petroleum Engineers; the American Institute of Professional Geologists; the Geochemical Society; the Geological Society of Washington, D.C.; and the Society of Economic Geologists.

David Larrabee received the Meritorious Service Award of the Department of the Interior in 1971 "in recognition of his valuable contributions to the program of the Geological Survey in the field of nonmetallic mineral resources." The citation characterizes the importance and high quality of his contributions as follows: "By careful attention to detail, insistent demand for accuracy, and bringing to colleagues an awareness of the importance of nonmetallic mineral resources in our increasingly urbanized society, Mr. Larrabee has helped to advance the study of such resources in the Geological Survey."

ACKNOWLEDGMENTS

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THE SOVIET NAVAL CHALLENGE

● Mr. WARNER. Mr. President, the subject of the steadily growing maritime capability of the Soviet Union is of vital interest to the Congress. I therefore commend to my colleagues a careful study of the attached article:

The Soviet Naval Challenge

The Soviet naval challenge is not one challenge, it is several—technological, geographical, and attitudinal.

In the post-WWII years, and up until the mid-1960s or so, a rough balance existed between the U.S. and Soviet navies. The USSR traditionally had a rather large edge in ship numbers, particularly in submarines. But the Soviet Navy was technologically unsophisticated, and suffered from a low threshold of endurance. The USSR had few overseas bases, and its ability to replenish and refuel its capital ships in distant oceanic areas of the world was minimal.

The United States, on the other hand, possessed superb ships and aircraft—crewed by the best trained and best-led Navymen in the world, officers and enlisted personnel combat-toughened in both World War II and Korea. Although smaller in numbers than the Soviet Navy, the U.S. Navy was large enough to carry out all of its numerous assigned missions worldwide, and it was able to do so in large part because of the far-flung global network of U.S. and allied naval bases, repair facilities, and supply depots which then existed. The logistics gaps which did occur were more than offset by the availability of the Navy's own oilers and underway replenishment ships. In short, the U.S. Navy had inherited and was a worthy successor to the British naval tradition which had maintained the oceanic Pax Britannica for three centuries before yielding the helm to an equally benevolent Pax Americana.

Gradually, however, what had once been overwhelming U.S. naval superiority deteriorated to a less comfortable margin and finally to the present uneasy equation of naval forces in which the United States still holds a decisive advantage in some fields (such as naval aviation), and the USSR is superior in other areas (numbers and capabilities of submarines, particularly). But the margin of superiority in many instances would be scenario-dependent—the United States and its allies might well win a second Battle of the Atlantic, for example, but the USSR could prevail in an Indian Ocean naval conflict.

The testimony of the U.S. Navy's own leaders spells out the grim dimensions of the problem:

Vice Admiral M. S. Holcomb, USN, Director of Navy Program Planning, told the Seapower Subcommittee of the House Armed Services Committee on December 3 that "Our fleet has shrunk over the past decade—from 1,055 ships and over 8,500 aircraft to 529 ships and some 5,600 aircraft. Just before Vietnam, the force contained more than 1,000 ships and over 8,000 aircraft. The fleet is smaller today than at any time since before World War II, when we were a one ocean navy."

Former Secretary of the Navy J. William Middendorf II, in a 1978 article in the Harvard Journal of Law and Public Policy, discussed the chilling chain of events which took place in the Mediterranean just after the outbreak of hostilities during the 1973 Middle East War: "The Soviet Navy massed 96 ships on station, nearly doubling the size of its normal fleet there. The Soviet force included a powerful array of cruisers, frigates, destroyers, and escort ships, amphibious ships, fast, well-armed offshore patrol boats, intelligence collectors and approximately 25 submarines. . . . We were able to reinforce our Sixth Fleet to a strength of (only) 66 units . . . Soviet combatants were armed with deadly anti-ship cruise missiles, a weapon not then—and not yet—in our own inventory. The Soviets closely shadowed our carrier forces. . . . (They had no airpower in the area, but airfields were available in the Crimea, Egypt, and Libya, to their sizable force of land-based naval bombers. . . . I am personally convinced that World War III, and thus the survival of mankind, hung in the balance."

Admiral Isaac C. Kidd, Jr., USN (Ret.), NATO's former Supreme Allied Commander, Atlantic, has estimated that the U.S. Navy and U.S.-flag merchant marine would face "staggering . . . horrendous" losses of up to 50 percent in any conflict at sea against the Soviet Navy.

THE NAVAL BALANCE

What has caused such an abrupt change in the U.S./Soviet naval balance, and what can be done to reverse the adverse trends of recent years?

Simply stated, the Soviet Union has maintained—and, in fact, increased—its previous margin of numerical superiority, while the United States no longer possesses the virtual monopoly on sophisticated technology it once had—and which offset the USSR's continuing advantage in numbers. Some specifics:

The U.S. fleet of ballistic missile submarines, or FBMs—sea leg of the nation's strategic "triad"—once outnumbered the Soviet FBM fleet 31:0. The United States today has 41 FBMs in its Polaris and Poseidon fleets; the third generation of U.S. FBMs, the Tridents, are not yet in the fleet. The USSR today has 91 ballistic missile submarines, including a Trident equivalent, some 32 Delta-class FBMs which could launch an attack on any significant target in the Continental United States from the safety of the Barents Sea.

The United States today has 73 nuclear attack submarines, (the principal weapon against enemy submarines) and seven diesel submarines. The Soviet Union has an estimated 195 attack submarines, and 65 submarines carrying anti-ship cruise missiles. The United States has no cruise missile submarines. About one third of the USSR's attack/cruise missile submarine force is nuclear-powered.

In 1964 the U.S. Navy counted 24 carriers in its active fleet inventory; the USSR had none. Today the U.S. Navy has 13 active carriers, and will lose one more next year. It took Congress two long years to force through, against Carter Administration objections, the funding for another nuclear carrier, or CVN—which when operational will be the Navy's fifth, and fourth of the Nimitz class. The USSR, according to *Jane's Fighting Ships*, authoritative "bible" of the world's navies, is planning to commission its third Kiev-class carrier, *Kharkov*, some time this year and the fourth Kiev, *Novorossiisk*, in late 1981. The 40,000-ton Kievs, which carry helicopters and V/STOL (vertical/short take-off and landing) aircraft, are expected to be followed within the next few years by the first ships of a later, nuclear-powered, class of carriers displacing better than 60,000 tons and capable of carrying fixed-wing aircraft. The USSR's burgeoning naval aviation capabilities are enhanced considerably by land-based naval air forces which include, among other aircraft, an estimated 365 Badger, Blinder, and Backfire bombers in addition to 40 Badger reconnaissance aircraft and 80 Badger tankers.

The Soviet Navy owns the world's largest arsenal of naval mines—and has about 300 ocean, coastal, and in-shore minesweepers combined as well as about 100 minesweeping boats. The U.S. Navy has only three Aggressive-class ocean minesweepers in its active fleet.

The U.S. Navy's fleet of 165 surface combatants (cruisers, destroyers, frigates) is also heavily outnumbered by the USSR's still growing inventory of 37 cruisers, 100 destroyers, and 136 frigates (total: 273—figures are from the 1979–80 *Military Balance*, published annually by the International Institute for Strategic Studies). Soviet surface combatants are generally faster and more heavily armed than U.S. ships, but have less of a reload capability and shorter range. *Jane's* says a 32,000-ton nuclear-powered Soviet cruiser, the *Sovietsky Soyuz*, also may be commissioned this year. If so, it would give the USSR a new dimension of naval capability which the United States could not match for several more years, at least. (Scrapping the Carter Administration's inadequate fiscal year 1981 and five-year—FY 1981–85—shipbuilding plan, Congress seems likely to help redress the surface combatant imbalance by reactivating the four 60,000-ton Iowa-class battleships now in the Reserve Fleet; activation of the first, *New Jersey*—which had been taken out of mothballs once for Vietnam service—would take over two years, however, and cost an estimated $225 million. It would take much longer and cost considerably more to reactivate the other three.)

The USSR has also taken the lead in advanced technology, once the U.S. Navy's strong suit. In addition to its virtual cruise missile monopoly and the Delta FBMs, the USSR has: (1) taken the lead in gas turbine propulsion and aircushion vehicles; and (2) already developed more than 50 high-speed hydrofoils and 61 hovercraft of various classes. The U.S. Navy has one hydrofoil missile ship (PHM), the Pegasus, operational; five more PHMs will be built (of a 30–50 ship PHM fleet originally planned), but only because, as with the CVN, Congress forced the necessary PHM funding on the Carter Administration, which had wanted to kill the program after one ship.

The Administration did, so far, succeed in stopping an even more imaginative ship program, the 3KSES (surface effect ship—the 3K signifies 3,000-ton). A 100-ton SES prototype was clocked at over 90 knots (100 mph), and such SES proponents as former Chief of Naval Operations Admiral Elmo R. Zumwalt, Jr., have predicted that development and deployment of full-sized SES combatants would "revolutionize" the art of naval warfare. The Administration's decision to kill the program last year—after two earlier attempts had been thwarted by a Congress more foresighted in its outlook—was made for strictly budgetary reasons, not on grounds of program feasibility.

TABLE 1.—UNITED STATES-SOVIET NAVAL TRENDS, 1970–80

Ships	United States			U.S.S.R.		
	1970	1975	1980	1970	1975	1980
FBM's	41	41	41	40	72	91
Nuclear attack SSN's	46	64	80	24	37	41
Attack carriers	15	14	13	0	0	3
Cruise missile SSN's–SS's	0	0	0	63	66	65
Diesel submarines	59	11	7	210	156	154
Minesweepers	72	3	3	280	300	300
Surface combatants	233	161	165	212	217	273

Shockingly, the USSR today leads even in the application of electronics to naval warfare, a disturbing change in the previous status quo recently discussed by Vice Admiral David C. Richardson, USN (Ret.), in the March issue of Shipmate (the U.S. Naval Academy's alumni magazine): "The weakness the Soviet perceived in the U.S. Navy was in its undisciplined use of electronics in sensor and command and control systems. . . . The Soviets, on the other hand, developed their Navy electronically in the knowledge that electronic warfare would play a major role, if not the major role, in a future war at sea. . . . The result is that a war with the Soviet Navy could be characterized at the outset by heavy losses in our surface naval forces, at worst by their defeat. . . . In his writings, Admiral (Sergei Georgevitch) Gorshkov (the USSR's "CNO") has explained quite explicitly his views on modern warfare. He believes that modern technology in sensors, command and control, and weapons permits relatively small, wide-ranging forces to be used to achieve 'strategic' results by means of swift, sudden attack if delivered essentially simultaneously, on a worldwide basis, against all major deployed U.S. naval forces."

OTHER SOVIET ADVANTAGES

Added to the preceding are a number of other Soviet advantages, including:

First Strike Capability: Few if any naval/defense analysts believe the United States would attack first in any crisis situation; Hungary, Czechoslovakia, and, most recently, Afghanistan should be ample evidence that, when they consider it to their advantage, the Soviets are willing to strike first—and they do it quite effectively.

Short Lines of Communication: In any conflict between NATO and the Warsaw Pact the USSR would have the benefit of short, overland lines of communication to its allies in Eastern Europe. But to reinforce and resupply U.S. and allied air and ground units on NATO's Central Front in Europe the United States would face the problem of deploying, in Admiral Kidd's words, "tens of thousands of combat troops and hundreds of thousands of tons of combat equipment and cargo across probably a hostile ocean at a speed from a standing start beyond any contemplation." Airlift, incidentally, could provide less than 5 percent of what would be needed; so-called POMCUS, or prepositioning of combat material configured in unit sets, is today measured in hundreds of tons, not the "hundreds of thousands of tons" which would be required for a sustained conflict.

In addition to the extraordinary difficulties imposed on it by technological stagnation and attitudinal lethargy, the U.S. Navy is further handicapped by the Kremlin's seemingly better understanding of geography. In the past decades the Soviet Navy, once a virtual captive behind the largely landlocked Soviet land mass, has extended its reach and grasp to and through all 14 of the world's major maritime chock points—such narrow seas and waterways as the Suez and Panama Canals, the Malacca Straits and Mozambique Channel, and the North, Norwegian, Mediterranean, Caribbean, and South China Seas—establishing a strong and unmolested presence in or near each.

The United States, on the other hand, has followed a general policy of geographic retreat, a process begun earlier but accelerated by the present Administration. Whatever else their merits and defects, the Panama Canal Treaties voluntarily ended U.S. control of the most important waterway in the Western Hemisphere. The untimely abrogation of the Mutual Defense Treaty with the Republic of China on Taiwan gratuitously abandoned the most viable and secure U.S. base of necessity in the entire Western Pacific. Until the crises in Iran and Afghanistan erupted the United States maintained only a token naval force in the vast Indian Ocean, leaving control of the Horn of Africa, Malacca Straits, Mozambique Channel, and the waters around Sri Lanka to the much larger Soviet task force deployed there on a continuing basis.

Perhaps nothing illustrates Washington's geographical blindness quite so much as its continued policy of official antagonism toward South Africa, custodian of the vital sea route around the Cape of Good Hope and repository of much of the Free World's essential metal and mineral resources. More than 12,000 ships call at South Africa's ports annually; another 11–14,000 round the Cape enroute to North America and Western Europe laden with, among other treasures, Persian Gulf oil. An estimated 935.8 million tons of crude oil passed around the Southern Cape sea route in 1978.

The USSR, which already has use of a chain of operational bases on both the east and west coasts of Africa (in such countries as Angola, Mozambique, South Yemen, and Guinea) could in time of conflict control all shipping around the Cape. The only viable offsetting port facility available to the West is South Africa's modern naval base at Simonstown, which has, among other things, the biggest and best military drydock and dockyard between Europe and Singapore, capable submarine repair facilities, and, in nearby Silvermine, one of the most advanced naval surveillance complexes in the world. The West, led by the United States, refuses to use Simonstown. Worse, in accordance with a long-standing arms embargo it does not even permit the sale of ASW (anti-submarine warfare) aircraft to the Republic of South Africa, despite the fact that those aircraft could be used only against Russian submarines threatening the Cape route, and not against any black-ruled nation in Africa. (None of them has any submarines.)

THE PROPER RESPONSE

It may be too late to undo the damage already done to U.S. naval forces by past, and continuing, policies of neglect, geographic myopia, and underfunding. If war were to begin today the U.S. Navy would have an almost impossible task in carrying the battle to an enemy fleet much larger in numbers and now almost the technological equal of the U.S. Navy.

Resupply of U.S. and allied forces overseas would be impossible. The U.S. Navy does not have the escort ships needed to provide protection, and the U.S.-flag merchant marine is also too limited in numbers to carry more than a fraction of the heavy equipment, weapons, ammunition, spare parts, POL (petroleum, oil, lubricants) products, and other supplies that would be needed in massive volume by U.S. and allied forces in the combat theatre.

There are, however, if time permits, many things that can be done to redress the naval balance and restore the U.S. Navy to at least parity and perhaps supremacy.

The first order of business should be adoption of a long-term ship construction program sufficient to rebuild the U.S. Navy to a fleet of at least 700 ships. In the past, several Chiefs of Naval Operations and other members of the Joint Chiefs of Staff have said that 750–800 may be needed for the Navy to carry out its many missions worldwide. The Carter Administration's present plan to build 97 ships (up from an earlier announced 67 ships) over the next five years is woefully inadequate—at least 30 ships per year should be built annually for the foreseeable future.

High on the new-building list should be three or four more nuclear carriers, needed if, as seems inevitable, a continuing U.S. naval presence in the Indian Ocean is required. Another high priority should be construction of four or five nuclear attack submarines (SSNs) annually (the Administration wants only one SSN funded in fiscal 1981).

The high-speed advanced technology Navy of the future should be given early funding priority. That means more PHMs and restoration of the SES program. The 50-knot Harpoon-missile carrying PHMs could deny the narrow straits to Soviet surface forces, outrunning anything they could not outgun. In time of war, SES transports capable of sweeping arcoss the ocean at 70 knots or better would not need naval escorts, and might be the only resupply ships able to get through the Soviet submarine barrier.

Better coordination between the Navy, Coast Guard, and U.S.-flag merchant marine is mandatory. With not enough ships, naval or merchant, for wartime needs the Navy, and the nation, can ill afford to misuse and under-utilize the assets that are available. A long-term restoration of the merchant marine to the strength needed for its wartime auxilitary role must be initiated. In the meantime, imaginative programs such as the underfunded ARAPAHO must be encouraged. ARAPAHO envisions use of modular weapon systems, and helicopters, on merchant container ships and other vessels to give the merchantmen a modicum of self-defense capability.

The most important change of all, however, will have to come at the top—in the attitudes of U.S. policymakers who, for various political and budgetary reasons, have permitted the nation's naval and maritime forces to decline to today's dangerous inadequacy. Unless there is an abrupt, and immediate, reversal of the present bankrupt policy of insufficiency, there can be no hope that the United States will ever again field a Navy "second to none."

FARMS, WATER, AND THE WEST

● Mr. McCLURE. Mr. President, one of the most important issues we have dealt with during this session of Congress is the modification of the outdated portions of the Reclamation Act of 1902.

I am pleased to note that one more step toward a final resolution of this matter has been taken. The Subcommittee on Water and Power Resources of the House Interior Committee recently completed work on the House version of the 160-acre bill, and the full committee is scheduled to hold a markup session on the bill during the week. That will mean, in all likelihood, that the matter will be considered on the floor of the House in the very near future.

I think all my colleagues will remember the highly charged and sometimes emotional debate during the Senate consideration of S. 14 last September. Few other issues I have seen have generated so much conflicting information, misinformation, and misunderstanding, and I sincerely hope that cooler heads will prevail on the floor of the House when that body takes up its 160-acre bill .

On Wednesday, June 4, the Washington Star published an editorial which is, in my view, directly on target regarding the issue. I especially want to call my colleague's attention to the quotation by Senator HAYAKAWA included in the article. As is so often the case, the Senator from California has in a few words summed up the issue succinctly and accurately. I ask that the editorial be printed in the RECORD.

The editorial follows:

FARMS, WATER AND THE WEST

Were it possible to package the populist bombast that has coated debate over proposed changes in the 1902 Reclamation Act, enough marginal land could be fertilized to make American agriculture even more impressive than it is.

That law has been the means of transforming by irrigation millions of arid acres into some of the most fruitful land in the nation. Water—or, more precisely, the lack of it—defines much of the West. Without the 1902 law, a good deal of California and the other 16 "reclamation" states would be producing what time and geology fitted the land for—sagebrush.

A few years ago, an organization calling itself National Land for People discovered what it considered an awful corruption in the use of federally underwritten irrigation water. The 1902 law was supposedly "subsidizing" big farmers and agribusiness instead of creating and sustaining "family farms." In 1976, a federal court agreed that the feds had not been precisely enforcing the original law. The Interior Department cranked up its guideline machine and came up with regulations that, curiously, were far stricter than the 1902 law.

The Westerners organized and secured legal breathing space. They then went to work in Congress to have the 1902 law modified to conform to what they argue, convincingly, are the realities of modern farming and western agriculture.

The National Land for People reformers—envisioning ambitious redistribution by lottery of "excess acreage" in the reclamation districts—allied itself with the AFL–CIO and the National Farmers Union, and a war began in which neither side has been interested in taking prisoners.

The culminating battle is approaching on Capitol Hill. It is a complex campaign over confusing terrain. Indeed, it has been largely a morality play, with intense ideological overtones. The argument has been simplistically cast as a "big farmer vs. small farmer" and "corporate agribusiness vs. the family farm" matchup, with the crushing tide of the big guys' money and lobbying influence overwhelming the small husbandman. That is, at least a distortion.

The 1902 law set an ownership limit of 160 acres on which a farmer could use federal water (plus 160 acres each for his wife and children). It required that those benefiting from cheaper water pay the government for part of the capital costs of the irrigation system. Land over the 160-acre limit was declared excess and, under later modifications of the law, had to be disposed of within 10 years. The Interior Department concedes that 96 per cent of the farmers using federal irrigation water on 11 million acres in 17 states are in compliance. Well, what's the fuss?

"Subsidy" has been one of the reformist complaints. Yes, reclamation farmers have benefited from cut-rate water. But Sen. S. I. Hayakawa demolishes the complaint: "Water control is not a subsidy to the farmer. It is an enhancement to and for all people—industry, urban recreation, flood control . . ." Were it not for the water "subsidies" much of Western agriculture today probably could not move beyond subsistence levels.

It should not be necessary to note that farming has changed so dramatically since 1902 that applying terms and contexts from that era to the present is pretty much an exercise in sentimentality. It should not be necessary to note that economies of scale are a determining factor in modern farming, or that "family farms" to survive must be capitalized at a level that would throw yesterday's plowman into permanent shock.

The bill passed by the Senate last September went a good way toward recognizing these realities, to the anger of the agrarian reformers. The version now awaiting markup by the House Interior Committee is comparable and in several respects superior to S. 14. The bill approved by a House subcommittee would put a 960-acre limit on the amount of land a farmer could own and irrigate with federal water—but it would permit unlimited leasing of additional irrigated land if he paid full costs for that water. The Senate bill would limit holdings to 1,280 acres, owned or leased in any combination. That is probably too restrictive.

The acreage limitation is only one of dozens of sensitive provisions in the two proposals, but it is indicative of the thrust of the two proposals—an appropriate direction. The fight in the House has been fierce and efforts will be made to starkly remold the bill in a populist image when it comes before the full committee. But romanticism is not a proper guide for legislation, no matter how attractive it may be politically.●

AMENDMENT TO ALASKA LANDS BILL

● Mr. TSONGAS. Mr. President, on May 22, a number of my colleagues and I submitted a package of amendments to H.R. 39, the Alaska National Interest Lands Conservation Act, as reported by the Senate Energy and Natural Resources Committee.

A few provisions of amendment No. 1780 were incorrectly drafted. In order to give my colleagues advance notice of my intent to correct this error at the time the amendment is called up in July, I am today inserting in the Record the language as it should read:

Amendment No. 1780, on page 5, strike line 17 and all that follows through line 25 page 7 and insert in lieu:

On page 572, line 4, change "(b)(1)" to "(b)".

On page 572, line 6, strike the second comma and insert "and".

On page 572, line 6, strike "and the Sec-" through "Transportation," in line 7.

On page 572, strike lines 15 through 23.

On page 574, line 2, strike "all" and insert in lieu "the appropriate land managing agency having lead responsibility and other".

On page 574, line 7, insert "lead" before "responsibility".

On page 574, line 23, strike "pursuant" and all that follows through "authority" in line 24.

On page 577, line 10, delete "head of Federal agency concerned" and substitute "Secretary".

On page 578, line 22, after "public interest" add "and that—(1) such system would be compatible with the purposes for which the unit was established; and

(2) there is no economically feasible and prudent alternative route for the system."

On page 585, line 9, strike "STUDY" and insert in lieu thereof "STATE APPROVAL".

On page 585, line 10, strike "Except" and all that follows through line 22 and insert in lieu thereof:

"No application for any transportation or utility system submitted under this title may be approved or submitted to the President for approval unless the governor of the State of Alaska has notified the appropriate Secretary that all necessary permits and other approvals required under State law with respect to such system have been, or will be, issued." ●

PRIME MINISTER MASAYOSHI OHIRA

● Mr. GLENN. Mr. President, I was saddened last night when I learned of Prime Minister Masayoshi Ohira's death in Tokyo. As chairman of the Foreign Relations Committee's Subcommittee on East Asia, it had been my pleasure to meet with Prime Minister Ohira on several occasions, both in Tokyo and Washington, most recently just a few weeks ago when he visited Washington. On this occasion, as well as many others in the past, his strong and courageous leadership impressed me. He was an outstanding statesman; a credit to his country; and a close friend of the United States. The world, and not just Japan, has suffered a grave loss and mourns his passing.

We here in the United States owe an especially large debt of gratitude to Mr. Ohira. Since becoming Prime Minister in December 1978 he has led Japan to take a more active role in world affairs, and one which was very supportive of U.S. interests. His response to the Soviet Union's unprovoked invasion of Afghanistan is indicative of his wise stewardship. Like the United States, Mr. Ohira loudly condemned the Soviet actions and called for an immediate withdrawal of Soviet troops. He was also instrumental in Japan's decision to boycott the summer Olympics, and expressed firm support for our grain embargo. Moreover, he supported joining with the United States in applying further economic sanctions. He also took initiatives to bolster other nations in the region threatened by the invasion, such as Pakistan and Turkey, by providing generous economic aid.

Another example of his courage was his solid support for U.S. economic sanctions against Iran. Japan's heavy dependence on imported oil, nearly 75 percent of it originating in the Persian Gulf area, causes many Japanese to oppose sanctions. To these doubters Mr. Ohira replied with firmness, "Japan's relationship with the United States is far more important than Iranian oil."

This was not the only occasion when he stood foursquare behind the United States. Throughout his tenure as Prime Minister, Mr. Ohira staunchly defended the importance of the United States-Japanese alliance, which he saw as the cornerstone of Japan's foreign policy; and he worked closely with the United States to strengthen our security cooperation to offset the growing Soviet military power in the Pacific.

Yes, the United States has indeed lost a good friend.

I wish to express my deepfelt sympathy to Mr. Ohira's family and the Japanese people. We in the Senate and all Americans will remember them in our prayers.●

COSPONSORSHIP OF S. 2773, THE NATIONAL EXPORT POLICY ACT OF 1980

● Mr. BAUCUS. Mr. President, I am pleased to join my colleagues as a sponsor of S. 2773, the National Export Policy Act of 1980. While I have some reservations on a number of provisions contained in this legislation, I find the bill as a whole to be a landmark effort. Senator Stevenson and Senator Roth are to be commended for their diligence in putting S. 2773 together and for their extremely effective leadership in the international trade field over the years.

The United States faces a serious and long-term threat to our economic security from the large and continuing imbalance in our international trade. Trade deficits of the magnitude we have experienced over the last several years fuel inflation, threaten the relative value of the dollar in world markets, imperil large numbers of American jobs and seriously complicate domestic economic policymaking. Further, with our ever-increasing demand for foreign oil and what appears to be an insatiable desire for foreign consumer products, there is every prospect that this situation could worsen considerably in the years to come.

To most Americans, there appears to be no real connection between these multibillion-dollar trade deficits and their everyday lives. International trade represents nothing more than a spate of dull statistics compiled by Government bureaucrats for no apparent reason. Even in the business community which should be more attuned to opportunities for profit, exhortations to export are met with yawns.

Exports can make the difference in the battle to get the U.S. economy back on track. They are vital not only to the national economy, but to many local economies as well. In my own State of Montana, for example, manufactured goods exports, mineral exports, and agricultural exports combined account for over $400 million in the trade ledgers annually. Over 12,000 Montana jobs depend directly or indirectly on the State's exports. This figure is significant when you consider that Montana's population is only about 730,000.

If exports can take on such importance, why have we neglected this sector of the economy for so long? As is the case with all complex issues these days, blame can be laid on a number of doorsteps. The American business community has always been largely preoccupied with our huge continental market. Separated by oceans from other major markets, having a history of self-reliance and enjoying a technological advantage over the rest of the world, U.S. businessmen simply have been unaccustomed to thinking of themselves as needing to be part of the world economy.

Since, for so many years, American ingenuity developed the products all of the world wanted to purchase, foreign buyers came to our shores in droves. But the wave slowed to a trickle with the onset of the seventies. By that time, howver, complacency had set in and American business no longer knew how to aggressively pursue foreign sales.

Sadly, the record of the Federal Government has not been much better. Past World War II administrations have been filled with good intentions, but have lacked sustained leadership and follow through where export expansion is concerned. The current administration is no exception. In September 1978, President Carter issued his national export policy which was followed shortly thereafter by the signing of the MTN and then an announcement reorganizing the Federal trade bureaucracy. While much media attention was focused on these activities, they have not yet borne fruit in terms of concrete programmatic assistance to the American businessman.

Although it has taken far too long for Congress to fill the void created by executive branch inaction, I say better late than never. S. 2773 will provide the direction that this country has been lacking in the trade field. The debate on this legislation will shape a national export policy that this country sorely needs. The all-encompassing nature of this bill will generate the active interest and participation of all sectors of the domestic economy in the formulation of U.S. trade policy. This will insure the full consideration of the multiple and occasionally competing interests which must be reconciled for any policy to be effective.

Mr. President, I understand that the first of a number of hearings on this bill will be scheduled shortly. I sincerely hope that the coming political conventions and the fall campaign will not obscure the important work before us to get this legislation passed. And passage will be just the beginning. For any policy to work, it must be translated into active assistance and stimulation programs. These programs must be nurtured through prompt and strict congressional oversight and, within the parameters of a balanced Federal budget, must be funded adequately so that they can prosper and grow to serve all who need them.

In closing, I would like to take this opportunity to announce my own export initiative. On Monday, June 30, 1980, I am sponsoring together with the Honorable Tom Judge, Governor of Montana, and the Honorable Ted Schwinden, Montana's Lieutenant Governor, a United States-Canada Trade and Tourism Conference in Great Falls, Mont.

The purpose of the conference is to explore ways to increase cooperation in trade and tourism among the States of Montana, Idaho, and Washington, and the provinces of Alberta, British Columbia, and Saskatchewan. The conference will bring together, on an invitation only basis, Federal Government executives from the United States and Canada, State and provincial government officials, opinion leaders from the private sector, and representatives from the transportation and travel industries in both countries.

An objective of the conference is to announce the formation of permanent committees responsible for: First, taking the steps necessary to bring about an association in the region similar to the International Tourism Region Foundation, a public/private agency established for the joint marketing and development of the New England States, Atlantic Canada and Quebec as a single tourism marketing region; and second, formulating and pursuing an agenda of local border trade issues, concerns and activities. As featured speakers on the program, I am very pleased that Under Secretary of Commerce-designate, Robert Herzstein and U.S. Ambassador to Canada, Kenneth Curtis, will be joining us at the conference.

From our contacts with the States and Canadian provinces, we have found much enthusiasm regarding this conference. This interest is due in no small measure to the assistance provided by the offices of my colleagues, Senator MAGNUSON and Senator CHURCH. I want to thank them for their efforts to make this conference a success.●

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow morning. After the two leaders have been recognized under the standing order, Mr. COHEN will be recognized for not to exceed 15 minutes, after which the Senate will resume consideration of S. 2337, the Legal Services Corporation Act Amendments of 1980. The pending amendment at that time will be Mr. HELMS' amendment.

I anticipate several rollcall votes during the day. I hope that the Senate will complete action on the bill on tomorrow.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 8:40 p.m., the Senate recessed until tomorrow, Friday, June 13, 1980, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, June 12, 1980*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Wright).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
June 11, 1980.

I hereby designate the Honorable Jim Wright to act as Speaker pro tempore on Thursday, June 12, 1980.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

Chaplain (Capt.) Stanley E. La Torre, 41st Field Artillery Group, U.S. Army, Europe, offered the following prayer:

Almighty God, great and grand Architect of the universe, Father of all things, Giver of every good and perfect gift, the Author of everlasting life, and the very essence of love, mercy, and justice: As we live and breathe we are visible evidence of Your goodness; and as we exercise the powers of intellect, decision, and speech, we demonstrate those qualities of life which name us as Your sons and daughters.

Bless, now, these assembled Representatives of the people of this great Nation. So imbue them with that high and noble sense of goodness, that justice may reign supreme; that peace may prevail in the hearts and affairs of all mankind, and that all praise and glory be Yours, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6842. An act to protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 89. Concurrent resolution expressing the sense of the Congress with respect to the overthrow on April 12, 1980, of the Government of the Republic of Liberia.

A TRIBUTE TO MARCEL BEITEL

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, Marcel Beitel, who served as a bill clerk of the House for over 16 years—the last 10 years as chief bill clerk—has just retired. I do not want to let the occasion pass without paying tribute to this dedicated and unassuming public servant.

Marcel worked on the House floor, handling legislation dropped in the hopper by Members; helping Members, their staffs, and committees; resolving problems with new legislation as they arose; setting printing priorities for the House and trying to accommodate often-conflicting demands for expedited printing. He supervised the staff of the bill clerk's office, which has the additional responsibilities of processing the executive communications, memorials, and petitions submitted to the House, the additional sponsors added to bills and resolutions, and the amendments submitted for printing in the Record.

Marcel handled all these duties in a consistently helpful and friendly manner for Members and their staffs, never seeking recognition. But he was instrumental in the creation of the John W. McCormack Annual Award of Excellence to Congressional Employees, which provides just the sort of recognition the often-unsung heroes of the House staff deserve.

I hope all Members will join me in wishing Marcel Beitel a well-deserved happy retirement at his new home near the Poconos in Pennsylvania.

● Mr. O'NEILL. Mr. Speaker, I join my colleague Representative Hanley in paying tribute to Marcel Beitel on the occasion of his retirement as chief bill clerk of the House. For all of the reasons expressed by Jim Hanley, and especially because Marcel represented the dedicated type of professional employee who consistently labored for the House of Representatives, I believe that Marcel deserves a special commendation at this time. He has been especially helpful to me as Speaker in processing the many bills and resolutions which I must refer on a daily basis, and in the process Marcel has been instrumental in saving the taxpayers thousands of dollars in unnecessary printing costs by avoiding duplicate printings wherever possible.

I wish Marcel a happy retirement.●

GENERAL LEAVE

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the retirement of Marcel Beitel.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TAX LIBERATION DAY

(Mr. PHILIP M. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PHILIP M. CRANE. Mr. Speaker, current studies indicate that total Government spending will rise to $944 billion in 1980, or 45 percent of the projected national income. That means that the first 45 percent of this year, or 163 days, was devoted to paying for Government spending. From this point forward, the taxpayer will be working for himself. Last year, this Tax Liberation Day fell on June 6. In a single year, Tax Liberation Day has moved back almost a week. At this rate, we will celebrate Tax Liberation and Christmas concurrently by the year 2008. I have introduced H.R. 4338 to declare Tax Liberation Day a national holiday. After working 163 days for Government, the taxpayer deserves a day off.

Nobel Laureate Milton Friedman, writing a few years ago when Government spending consumed less of the national income, explained the importance of dramatizing the rise of Government spending:

> Right now government spending—state. federal, and local—amounts to 40 percent of the national income. That means that out of every dollar anybody makes or gets, forty cents is being spent for him by the bureaucrats . . . The real problem for the future is to stop that growth in government spending.

For about 150 years after the birth of our Republic, Government spending was held relatively well in check. During that prosperous period prior to the 1920's, total Government spending hovered around 10 percent of the national income. The public would not tolerate a larger government. Their leaders reflected that sentiment. President Cleveland maintained for instance that while the people should support their Government, the Government should not support the people. President Wilson stated that the history of liberty was the history of restraints on Government power.

In the spirit of President Wilson's progressive remark, I propose that we let the taxpayer know the dimensions of the burden he must shoulder. Properly informed, the American taxpayer would likely demand more than just statements

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

from their leaders in favor of reduced Government spending.

June 12 is now Tax Liberation Day. At this rate, by 1984, it will be July 4.

TAX LIBERATION DAY

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, as I was driving into work this morning, it seemed to me pedestrians had a spring in their step which was new. Perhaps it was my imagination, and perhaps they were not even aware of it, but indeed a great weight has been taken off their shoulders as of today. For the first time this year, those pedestrians—indeed all Americans—are free of the burden of supporting Government. No longer will they have to work to pay taxes; they can begin working for themselves.

Such an occasion is a cause for both celebration and sadness. That Tax Liberation Day has finally arrived is worth celebrating; the sadness results from the fact it was so long in coming and, unlike our regular Independence Day celebration, it comes later each year. Last year, when Federal, State, and local government spending represented 44 percent of national income, Tax Liberation Day was June 6; this year it is a week later and if we do not start cutting taxes pretty soon July 4 will take on a whole new dimension.

MORE RATIONAL DRUG APPROVAL PROCEDURES NECESSARY

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, today is Tax and Patient Liberation Day. Up until today, average Americans have been working to pay for the burden of Federal, State, and local government, which take a whopping 45 percent of their income. Also today, those exposed to rabies will have the use of a new vaccine, developed in France, and finally allowed into this country after 5 long years. Now, instead of 23 painful and potentially dangerous injections, people exposed to rabies can get 5 safer and less painful ones. But for 5 years, while FDA bureaucrats blundered, 150,000 Americans went through unnecessary suffering and danger. Where were the consumer protection groups? Working for more bureaucracy and regulation, which have already prevented the development of who knows what new drugs, and drastically delayed many others.

As a physician, I prescribe two regimens for June 12—that we work for massive, immediate tax and spending reductions—50 percent over the next 5 years, and that we dismantle the dangerous bureaucracy at the Food and Drug Administration, that harms so many patients. France, England, and other countries have far more rational drug approval procedures. On every FDA and IRS office, we should have a warning label: "Caution: Government is dangerous to your health."

TAX LIBERATION DAY—JUNE 12, 1980

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GRASSLEY. Mr. Speaker, the American people should dance in the streets today. For average American wage earners have finally reached the pivotal point in 1980 when they can begin working for themselves, after earning enough to cover their $7,900 per family share of Government spending.

For years, congressional big spenders have claimed a monopoly on compassion, and have invented every Government program imaginable to entice votes from our citizens. But a quiet fury is sweeping the grassroots, as Americans realize that big-spending politicians frequently increase tension and suffering as they overpromise and underdeliver. Meanwhile, they also erode the very economic freedom required for prosperity at all social levels.

I share the fury of the American people on this issue, and pledge my full efforts to battle big-spending ways of this Congress. Further, I directly challenge grassroots Americans to form a coalition to demand limited spending. If we fail, at current growth rates of Government spending, Tax Liberation Day will mesh with Christmas Day in just 28 years.

It does not take a mathematical wizard to realize that no nation can survive if its government saps the entire productivity of its people.

For the sake of economic freedom, I urge this Congress to assure Americans of an earlier tax liberation day next year by streamlining Government spending.

□ 1010

TAX LIBERATION DAY

(Mr. ARCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, today, all Americans can collectively breathe a great sigh of relief—because today, the average taxpayer has met his tax obligation to the Federal Government. From January 1 through June 12, the average American has worked just to pay his taxes. For the remainder of the year, he can finally keep his hard-earned paychecks for himself. That is certainly cause for celebration across the Nation.

But as far as I am concerned, this is also a very shameful day. The fact that Americans, in this land of the free, must work for nearly 6 months just to pay their taxes is an abomination.

And look at the shabby treatment the Government gives those hard-earned tax dollars the people have to part with. The waste and misuse of tax revenues in this country is scandalous.

Every year this symbolic date moves further back on the calendar. Americans have to work more weeks every year to pay Government its unfair share of their wages. There is only one real answer—spending reductions and tax relief to bring an end to this shameful practice of overtaxation.

BORN AGAIN—BORN AGAIN

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, today all over the country Americans will be celebrating Tax Liberation Day. They will give humble thanks that at last they will begin working for themselves and not for the Federal, State, and local treasuries.

Maybe something can be done. The board of economists for Time magazine met in New York City last week to review our Nation's rapidly deteriorating economic climate. At that meeting, this diverse group of economists showed remarkable agreement on one issue—the likelihood of a $30 billion tax cut in fiscal year 1981, which, incidentally, is surprisingly consistent with the recommendations contained in the Rousselot and Latta budget substitutes.

Apparently, President Carter is finally beginning to get the Republican message. Alan Greenspan has predicted that Mr. Carter will propose a tax reduction as early as next month, with the tax cut effective on January 1, 1981.

First a born-again budget balancer. Now a born-again tax cutter. Amen.

TAX LIBERATION DAY

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, today we commemorate the day on which most Americans will at long last begin working for themselves, rather than the Government. It has taken 164 days to reach this point; 6 days more than last year.

In the 3½ years we have suffered under the current administration, our income tax burden has more than doubled to support big Government programs allegedly designed to solve our economic and social problems. Inflation has skyrocketed and more than 8 million people are now unemployed.

It is preposterous that Americans must work more than 5 months to support the wasteful, inefficient giant our Government has become. We must stop this travesty which is stifling the independent spirit of our Nation and provide positive incentives to encourage American prosperity and productivity through less Government, not more.

AMERICAN PEOPLE WILL OBLIGE PRESIDENT CARTER IN NOVEMBER

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, in 1976, candidate Jimmy Carter said—and I quote—

> I would never increase taxes for the working people of our country and the lower and middle income groups—and you can depend on that if I am elected.

That same candidate also made this statement—and I quote again—

> If I ever tell a lie, if I ever mislead you, if I ever betray a trust or confidence, I want you to come and take me out of the White House.

Mr. Speaker, let us put 2 and 2 together. Since the beginning of the Carter Presidency, the average annual tax burden has increased by over $1,000 for each working person in America. Tax receipts have doubled since this administration took office.

To be sure, the President is not the only one to blame for the fact that hardworking Americans now have to work up to today, June 12, just to pay their 1980 taxes. Much of the blame for this intolerable situation belongs right here in this Chamber—with the Democratic majority in Congress.

Mr. Speaker, the American people will oblige the President this November. They will come and take him out of the White House. And for good measure, they will remove a great many big-taxing, big-spending Congressmen along with him.

CLEAN UP TELEVISION CAMPAIGN

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, when one television program can reach upwards of 20 million people each week, and when that show constantly depicts immoral action in a positive and often comic light, it has a significant impact on the community values of our society.

I, along with millions of Americans, am deeply concerned over the low moral standards of today's television programing. This concern has been expressed in many ways, but none so convincingly as the "Clean Up Television" campaign initiated by the Joelton Church of Christ in Nashville, Tenn.

Under their leadership, nearly 400,000 people have pledged to boycott the products of the three top sponsors of today's most offensive programs unless there is an improvement in those shows deemed most objectionable.

This campaign does not advocate censorship. It advocates responsibility. If those sponsors targeted do not heed this consumer warning to clean their own laundry, they may face a boycott unprecedented in this Nation's history. I am hopeful that they will act responsibly and that there will be no need for such a boycott.

I support this move to clean up our televisions, and I commend the efforts of Brother John Hurt and the entire membership of the Joelton Church of Christ for their leadership in this campaign.

NOT THE AMERICAN WAY

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, on Tuesday, June 10, the New York Daily News, not known for very liberal editorial policies, ran a very brief but very important editorial. It is entitled "Not the American Way." I read it and commend it to my colleagues.

> Outrage and frustration over the hostage situation in Iran cannot justify the humiliation of Tina Bahadori by some of her teachers and classmates at Atlantic City High School.
>
> Tina has felt obliged to withdraw as one of two class speakers at the schools graduation because faculty members circulated petitions protesting her selection—not because of anything she had said or done, but solely because she is Iranian.
>
> The protesters should be ashamed of themselves. Surely there are better ways to demonstrate solidarity with the captives in Iran than by trampling on the nation's ideals.

□ 1020

TAXES ARE DESTROYING OUR ECONOMY

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, some proclaim the "era of limits." Others reflect that "small is beautiful." Unfortunately, they are not referring to the fiscal year 1981 budget.

Government has become a growth industry. Americans now work longer than ever to support Government expansion. The tragedy is that more and more people are beginning to feel that working to support Uncle Sam is just not worth the effort.

The administration and many Members of this body have spent a lot of time patting themselves on the back for temporarily balancing expenditures and revenues, but they have done it by raising taxes.

As my colleagues have emphasized this morning, the average American taxpayer is working longer and longer for less and less. Taxes are destroying our economy. Productivity is declining largely because Government is taking larger and larger amounts of people's money that could otherwise be invested in businesses—creating new jobs—expanding the tax base.

Tuesday, I hosted a luncheon downstairs with Herman Kahn, founder of the Hudson Institute. Mr. Kahn feels so strongly about expanding Government that he states, "An unbalanced small budget is usually superior to a balanced big budget."

There are ways of fighting inflation without draining the country of its resources.

URBAN JOBS AND ENTERPRISE ZONES ACT

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, Representative Bob Garcia, my friend and Democratic colleague from the South Bronx, and I may not always see eye to eye on national policy and our voting records in the House may look different, but we are united on the idea that America's cities are in a crisis. Restoring economic growth and jobs to our inner cities is a goal which transcends politics. As William Raspberry commented recently, in an editorial about youth unemployment, "We're in this one together." Bob and I believe we must seek solutions together as well.

I know that my own efforts to understand the problems of our cities have already been helped by the expertise of Bob Garcia and members of the Black Caucus. No member of Congress has the understanding of cities, and the difficulties they face than people like Bob Garcia.

It does not take an outburst of violence to demonstrate the problem. The numbers are proof enough. Unemployment in the inner city is over twice the national average, three times the national average for blacks and Hispanics, seven times the national average for minority teenagers. If the recession deepens, as many analysts predict, the poor will not only fall further behind—they will become permanently locked into a helpless situation, with no hope, no opportunity—a cycle of poverty.

Our aim in introducing this legislation today is to reignite the debate over how we can restore growth to our inner cities. No bill is in itself the total answer. Yet we believe that the goal before us is to restore economic incentives and private enterprise jobs in the poorest urban—and rural—areas of our Nation, for people now trapped in that cycle of poverty. This bill is a step toward that goal and I am honored to have the support of Bob Garcia, my friend Henry Nowak, of Buffalo, Millicent Fenwick, of New Jersey, Dave Stockman, of Michigan, and Bob Edgar, of Pennsylvania.

THE KEMP-GARCIA URBAN JOBS AND ENTERPRISE ZONES ACT

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, it is my pleasure to introduce legislation today along with Congressman Jack Kemp which would make it easier for small business to be developed in the inner cities of the United States.

The plight of the cities, I believe, is largely due to economic abandonment by businesses.

This bill, the Kemp-Garcia Urban Jobs and Enterprise Zones Act, provides incentives for small businesses to hire innercity residents.

It would also offer incentives for those businesses to locate in severely depressed areas by offering tax reductions and other incentives to them.

Congressman KEMP and I both believe that our bill represents a major new Federal effort to begin the economic redevelopment of the slums by creating new reasons for entrepreneurs to want to set up businesses in them.

I, therefore, urge support for the Kemp-Garcia Urban Jobs and Enterprise Zones Act in the hope that every Member of Congress realizes—in the light of recent events—just how ripe the time is for action by the free enterprise system to save the inner cities of America.

FAIR HOUSING AMENDMENTS ACT OF 1980

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5200, to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOUGHERTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 7, answered "present" 2, not voting 40, as follows:

[Roll No. 313]

YEAS—384

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—7

Kindness
Lloyd
McDonald
Mitchell, Md.
Rousselot
Solomon
Wilson, Bob

ANSWERED "PRESENT"—2

Johnson, Colo.
Ottinger

NOT VOTING—40

Ambro
Anderson, Ill.
Applegate
Ashbrook
Brinkley
Buchanan
Clay
Collins, Ill.
Davis, S.C.
Dellums
Dingell
Dixon
Donnelly
Early
Edgar
Hansen
Heckler
Holtzman
Jenrette
Leland
Lewis
McEwen
McKinney
Marks
Mathis
Moakley
Nedzi
Nolan
Patten
Petri
Reuss
Runnels
Santini
Solarz
Stark
Thompson
Waxman
Weaver
Williams, Mont.
Wilson, C. H.

☐ 1040

Mr. YATRON changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5200, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 11, sections 7 and 8 had been considered as read and open to amendment. Are there any further amendments to sections 7 and 8?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to address a question to the distinguished gentleman from California. I have had some concern expressed to me from my area by city and county officials, that this legislation would interfere with their right of zoning or somehow would impose some Federal land use regulations upon them. I would like to ask the gentleman if their apprehension is correct, or what exactly does the legislation do.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield.

Mr. EDWARDS of California. This bill makes no change whatsoever in land use law. It remains the same. Actually, in addition, the Synar amendment that was adopted yesterday in the Committee of the Whole forbids by law any referral of a land use matter to an administrative law judge. As is the present law, land use matters must go to the district court.

Mr. DE LA GARZA. Therefore, I take it from the gentleman that this legislation does not in any way change existing law with regard to zoning or land use?

Mr. EDWARDS of California. That is exactly correct.

Mr. DE LA GARZA. I thank the gentleman very much.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 9, strike out lines 22 and 23.

Mr. BUTLER. Mr. Chairman, the legislation before us would make certain changes in section 808(e)(3) of the Fair

Housing Act. I have the existing section before me. Under existing law, there are certain responsibilities and authorities imposed on the Secretary of Housing and Urban Development. One of them, of course, is to cooperate and render technical assistance to Federal, State, local, and other public agencies, organizations, and institutions.

What this bill would do would be in addition to technical assistance, insert the words, "financial and * * *"—"financial and technical assistance."

The effect, of course, of adding "financial and" assistance is to create another grant program. My amendment, of course, would strike this addition of the words, "financial and," and go back to existing law and limit it to technical assistance only.

Now, the hearing record is silent as to why this proposed change is inserted or what it intends to accomplish. We can only speculate as to that. We do know, however, that it creates a new grant program of Federal funds for purposes not heretofore authorized. It is, therefore, a new Federal grant program.

The anticipated beneficiaries of the program are here again not immediately apparent, but since there are some 300 private organizations involved in efforts to reduce housing discrimination, as well as a number of State and local agencies, we do have some indication of what it would cost. I invite the Members' attention to the Congressional Budget Office cost estimate of this legislation, and I have it before me. I hope, if the Members will listen closely, they will understand exactly what we are talking about and exactly how much money we are talking about. Let me read to the Members from the cost estimate:

> The bill also allows HUD to give financial assistance to private agencies that work against housing discrimination. The financial aid HUD gives to private agencies will be used for counseling individuals and testing cases to see if there is probably cause for court action.

Now, I am not quoting at the moment, but I am going on my own for a moment to say—listen closely: The financial aid HUD gives will be used for testing cases.

□ 1050

Now, those of you who are concerned or who have received some information from your local people about the degree to which testing has embarrassed the housing enforcement effort and embarrassed you, then I tell you this is the place where it is supposed to be inserted again. This is the place where it is going to be financed.

Now, returning to the cost estimate, it is estimated that approximately 40 agencies will receive $140,000 each in 1981, and the number of agencies will increase by 10 percent per year. That means, if I may interpret my own interpretation, 40 times 100, that means $4 million for 1981. Well, if they are telling us about $4 million in 1981, how much are they really thinking about? This is a really expensive addition.

Returning now, agencies concerned with housing discrimination against the handicapped are expected to account for a significant portion of this growth. It is assumed that the amount of aid per agency will remain at $100,000 per year. It is estimated that 90 percent of each year's funds will go to agencies the first year, with the remaining 10 percent in the following years.

So what I am asking you to do today is to strike this new Federal grant program for testers which we know will cost $4 million. I think this is an appropriate amendment, because it is not supported by the record in any way, it is not supported by sound logic, and it seems to me quite an inappropriate way in which to expend Federal funds at a time when all of us are telling our folks back home we are trying to cut down on Federal spending.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I want to commend the gentleman for offering the amendment, even though I strongly support the basic thrust of the fair housing bill and the amendments.

My concern is that if we finance testers or testing, what is going to happen is what has happened so often, and that is that people are going to make work where there may not be a need that actually exists. I think the gentleman has a good amendment here and as I said, I strongly support the fair housing bill, but I think we made a mistake in financing testers or testing.

Mr. BUTLER. I thank the gentleman for his contribution.

Mr. Chairman, I would urge my colleagues to vote for this amendment which would strike this new grant program from the legislation.

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this provision is an authorization only, not an appropriation. Clearly, both the administration and the Congress will retain control over whether and what financial assistance should be provided. The $4 million estimate made by the Congressional Budget Office is a statement of need as perceived by the potential recipients. While that may or may not be an accurate figure, the point is, it is completely within our control.

Financial assistance is needed. Many States recognize this and in their fair housing laws, specifically authorize their fair housing agencies to provide funds to local fair housing groups and agencies.

Fair housing enforcement—to be effective—depends upon the coordination of the network of public and private groups that are committed to fair housing enforcement. This provision permits financial assistance to "Federal, State, local and other public or private agencies, organizations and institutions * * *." In most cases, these are the very same agencies to which the mandatory referral system is directed. Furthermore, HUD not only depends on these organizations for resolution of cases, but also, for purposes of gathering evidence.

In many cases, only a local organization is in a position to investigate a particular charge with sufficient speed. If a case arises in an area far from a HUD regional office, the efforts of local organizations to gather the evidence is vital. We would make a serious mistake if we send out the message that, yes, we need your help, but, no, we would not give you any financial support.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Members must know, I am in strong support of this legislation. I am particularly in support of the concept of improving the mechanism through which we can afford more opportunities for equal and fair housing on the part of all Americans without discrimination on the basis of race, color, national origin, or religion or other characteristics which are employed frequently for purposes of discrimination. But I think that to add this new authority for a funding mechanism to finance private organizations and agencies that can utilize this legislation for purposes of taking advantage of this new mechanism seems to me to be unfair, and something we should avoid, particularly at this time. For us to go beyond the present authority of providing technical assistance, it seems to me, is to jeopardize the whole legislation itself.

We do provide various means by which private agencies are funded through other sources and, of course, there are private charitable organizations, there are volunteer organizations, and all kinds of State and local groups that are interested in helping to promote housing opportunities for all Americans. It seems to me that the existing agencies and the existing opportunities are not only adequate but appropriate. It seems to me quite inappropriate that, while providing this new procedure, we are also going to provide funds to encourage or to promote litigation or proceedings through this administrative mechanism. I think that unless we adopt the amendment that is offered by my colleague, the gentleman from Virginia (Mr. BUTLER), we are going to do great harm to this bill and we would not be helping its passage. I hope that the amendment will be supported.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

The question was posed: At this time of austerity, can we afford to fund this kind of effort?

I would raise another question, and the question would be: What is the cost of discrimination? Is not the cost of discrimination far greater than the piddling sums of money we would put out in this bill?

Let us talk about the testing program. It has been described as some sort of gruesome procedure, or something alien to our country and alien to good practices of government. Well, let me give the Members one illustration of testing and how it works.

There have been some remarks made about testing for discrimination in housing, and those remarks suggested that this is a very negative procedure. There is an organization in my city which operates statewide. The name of the organization is Baltimore Neighborhood Inc. It is made up of businessmen, civic workers, leaders in the community, black and white. I have had the honor to serve on the board of Baltimore Neighborhood Inc., and at one time I chaired Baltimore Neighborhood Inc. In order to find out whether there was compliance with the law, what we would do, or what was done, a team of blacks would go to look at a piece of property, to find out whether or not: First, they would even be able to purchase the property; and second, if they could purchase it, what would be the cost?

In the test, then a team of whites would go out to see whether: First, they could purchase the property; and second, what would be the cost?

In the test, very often an integrated group would go out to look at the property, black and white, to see if they could purchase the property and what would be the cost.

☐ 1100

We found out that in many, many instances the black team was told, no, the property has already been sold, and an hour later the white team would approach and they would hear "Oh, yes, it's still for sale." We also found out that the black team would be quoted an exorbitant price. An hour or a day later the white team would go out to find a much more palatable price being offered for the property.

Now, I do not know how in the world you can deal with that kind of a problem, except by having testing.

The question is, the question has been raised, will this not lead to more litigation and more court action and more delays? The answer is "No." It is just the opposite.

Our experience has shown landlords who wanted to discriminate and property owners who wanted to discriminate when confronted with the evidence of their own discrimination, instead of going into court, instead of going into litigation, instead of going into some prolonged resistance, they said, "OK. We were wrong."

We were able to save money and time and everything else through this procedure.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. Yes, I would be delighted to yield.

Mr. RAILSBACK. Mr. Chairman, let me make it very clear. At one point I thought it might be even inadvisable to have testing, period. I have come to the conclusion that the procedure that the gentleman is describing is necessary. In other words, I am not objecting to the use of testors or testing; but the real issue, as I see it, is whether the Federal Government should fund civil rights groups, which in the past have been carrying out these testing activities. That is the issue.

My feeling is that there should be testing. It can be done by private civil rights groups; but should the Federal Government fund it? I do not think so. As a matter of fact, I think it could even jeopardize the bill to have $4 million for testing.

Mr. MITCHELL of Maryland. Mr. Chairman, if I may reply to the gentleman, my preference in the past has been to see volunteer groups do this, without the Government intervening.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. It was done by volunteer groups in the late sixties and early seventies. I would prefer it that way; but I would respectfully suggest to my colleague, who has been such a stalwart on this legislation, this is an entirely different climate, entirely different. In general, this cause of black people is no longer on the front burner as it was in the sixties and early seventies. The number of volunteer groups that were doing this in the past has dwindled and dwindled and dwindled. You do not find this private voluntary effort of the same scope and dimension as we had in the past. That is why I would push for some funding for these testing groups.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I would be glad to yield to my colleague.

Mr. MAGUIRE. Mr. Chairman, I want to express my appreciation for the gentleman's statement and for his leadership on this very, very important bill, and also my appreciation to the gentleman from California (Mr. EDWARDS) for bringing the bill to us.

In Bergen County, N.J., we have what we are proud to believe is one of the most effective fair-housing groups in the United States. This group has worked together and has expanded its membership and its activities over the last couple of decades. Our experience has been that a volunteer effort of this sort, working in communities with community groups, with local political leadership, with the leadership of the realtor associations, is the most effective way for Americans to join together to try finally to rid our society of discrimination and our institutions of racism.

I do believe that most Members of the House if they were to give it some additional thought, as the gentleman has invited them to do, would recognize this.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has again expired.

(At the request of Mr. MAGUIRE and by unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 2 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, I believe most Members would recognize it is this kind of commitment by citizens, black and white, on the community level, within the framework of law which we have quite properly provided, that offers the greatest hope for the further progress that must be made on our civil rights agenda in this country.

I would, therefore, hope that rather than having the Government always having to step in—though of course, that is absolutely essential to establish the framework of law and set the parameters—that within that framework we could have citizens' groups and assist citizens' groups in the very effective efforts they have been making on the civil rights agenda, which is the agenda historically of this Nation.

I thank the gentleman for his contribution.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for his comments. I know my time is running out.

Again, I would reemphasize that I would prefer that approach. Now, maybe Bergen County is different from other counties in the Nation; but as I travel this country, there is a loss of interest on the part of citizens in effectuating further civil rights gains or protecting them. When we lose that, there has got to be a substitute effort.

The major argument against this is the cost; so I go back to my original question, what is the cost of the program compared to the cost of discrimination in housing?

Mr. Chairman, I yield back the balance of my time, urging the defeat of the amendment.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, they are testing now, they are testing now. The fact that there are less volunteers interested in this worthwhile program may bespeak the lack of enthusiasm of these local civil action groups, who certainly to my knowledge and in my community do not lack enthusiasm or numbers or direction. Maybe there are some areas in this country where interest has lessened in this cause but I am unaware of this.

Where is the money coming from now to subsidize these testers? I do not know, but the States and local communities ought to assume some responsibility in this area. We are once more putting it all on the shoulders of the Federal Government.

Now, we have cut down on revenue sharing. We have said to these States, "Look, you want a balanced budget. The first thing we are going to do is cut your revenue sharing," and we have done it.

Now, why then if we want to cut funds that are going to the States do we insist on selectively saving that, well, we are going to fund this particular program. I really do not know.

The amendment of the gentleman from Virginia simply returns this bill to present law.

I would suggest that under urban development grants that some of this money is subsidizing testers.

Now, the gentleman from Maryland has said, "What is the cost of discrimination?" I do not know, but what is the cost of law enforcement? We are seeing LEAA funds a target for cutting down. More and more local projects must be funded locally. The Federal Government is not a bottomless vault of money.

Now, this part of the bill is not essential to the effective enforcement of the purposes of the bill. If you do not think actual controversies are enough to resolve under this bill, if you seek to stimulate controversies by sending testers out where no one complains that they have been discriminated against, then let [illegible] go create a few cases and run the testers out into these ethnic neighborhoods and create some controversies, OK. But why not let volunteers do that? They have adequate resources. They do not need Federal tax dollars to do it. Let local funding sources supply the money. There are too many local demands for Federal dollars.

Now, we have the Legal Services Corporation to provide attorneys for these groups. As I say, we have the urban development grant programs supplying Federal funds.

What we do in this bill by providing a funding facility to local, State, and community agencies, is abdicate or delegate the appropriations process that we pretend we are such stewards over to HUD bureaucrats, to pick out their favorite local civic groups much as ACTION has done and say, "You decide who gets the Federal tax dollars."

I do not think that is a proper exercise of oversight or stewardship. There are voluntary agencies doing it now. This is a matter of overkill.

☐ 1110

It is asking too much of this bill to require the Federal Government to subsidize local and State agencies in this area when we are cutting them off in law enforcement and revenue sharing and other areas. We do overburden the bill and I respectfully suggest existing law is adequate. I strongly support the gentleman from Virginia, Mr. BUTLER's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to sections 7 and 8?

If not, the Clerk will read.

The Clerk read as follows:

INTERFERENCE, COERCION, OR INTIMIDATION

SEC. 9. Section 817 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by striking out "section 803, 804, 805, or 806." and inserting "this title." in lieu thereof.

CONFORMING AMENDMENT TO TITLE IX OF 1968 CIVIL RIGHTS ACT

SEC. 10. Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by inserting ", handicap (as defined in section 802 of this Act)," immediately after "sex" each place it appears.

RETROFITTING COST AND NEED STUDY

SEC. 11. (a) Not later than October 1, 1981, the Architectural and Transportation Barriers Compliance Board shall provide a report to the Congress concerning—

(1) the extent to which architectural barriers and other obstacles to accessibility of housing are operating to deny handicapped persons access to a reasonable housing choice in the private market;

(2) the extent to which public, private, or cooperative public and private efforts have been undertaken to increase housing choice for the handicapped in the private market; and

(3) the projected cost of retrofitting an adequate supply of existing housing units to make such units suitable for occupancy by handicapped persons.

(b) The Board shall include in such report recommendations concerning further legislative or other action necessary to provide an adequate private market housing supply for handicapped persons, including the Board's recommendations regarding whether costs associated with actions should be borne by private housing suppliers or by the Federal Government.

BUDGET AUTHORITY

SEC. 12. This Act shall not be construed to authorize the enactment of new budget authority for the fiscal year ending September 30, 1980. However, effective October 1, 1980, sums are authorized to be appropriated to carry out this Act.

Mr. EDWARDS of California (during the reading). Mr. Chairman, I ask unanimous consent that sections 9, 10, and 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BUTLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BUTLER. Mr. Chairman, I understood the request to go to the remainder of the bill.

Mr. EDWARDS of California. Will the gentleman yield?

Mr. BUTLER. I yield to the gentleman.

Mr. EDWARDS of California. Mr. Chairman, it was to include section 12.

The CHAIRMAN. Did the gentleman wish to include section 12?

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent to amend my request to include section 12 also.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 31, strike section 11 of the bill and redesignate accordingly.

Mr. BUTLER. Mr. Chairman, this amendment addresses itself to section 11 of the bill which provides for a retrofitting cost and needs study.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman from Virginia yield?

Mr. BUTLER. I yield to the gentleman.

Mr. EDWARDS of California. Mr. Chairman, we have examined the amendment on this side and would agree to it.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I agree with my friend from California. We have examined the amendment and we are willing to accept it as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The amendment was agreed to.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have worked with this bill for some little time. As I indicated in my remarks yesterday, it is my view this legislation makes modest and indicated changes in the procedural aspects of the enforcement of the fair housing bill. I have supported that aspect of the amendments as they have come before us, but I still want to remind the membership that it is my intention to vote against this bill for reasons which I indicated earlier, and which it seems to me still go too far in this legislation.

It would have been enough, in my judgment, to have improved the enforcement procedures, but we have gone into other areas which are not indicated by the record, which are not indicated by the circumstances and are simply going too far.

I will reiterate for my colleagues again those areas. It extends coverage to the insurance industry. It extends coverage to the appraisal industry. It extends coverage to the banking industry. It extends the statute of limitations from 6 months to 2 years. It provides the Attorney General with the right to intervene in private civil actions. But basically, and the thing which most offends me, it extends coverage of the act to an entirely new and never clearly defined class which we call handicapped persons.

It seems to me this has gone too far in this legislation. It would have been sufficient to improve the enforcement procedures and not to add all of these other things.

For that reason I expect to vote against the bill.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield.

Mr. RAILSBACK. Mr. Chairman, I believe I understand what the gentleman is saying, but is it the gentleman's view that the enforcement provisions which would have been negated if we had adopted the Sensenbrenner amendment are adequate, and a reasonable alternative? In other words, does not the gentleman support what the committee did relative to providing a de novo review and de novo determination and that particular procedure; am I correct?

Mr. BUTLER. I have supported the gentleman's position in committee, and I supported the Synar amendment in preference to the Sensenbrenner amendment. I would say to the gentleman, however, that I do not think passage of the Sensenbrenner amendment so jeopardizes the enforcement procedures that should jeopardize the bill.

But there are other reasons, far better reasons to vote against this bill.

Mr. RAILSBACK. I want to simply commend and congratulate the gentleman for what I think were the constructive efforts on his part. I do happen to disagree, as he knows, and favor the inclusion of the handicapped as well as the other provision of the bill. But I personally have been very grateful for I think his very steadfast support of the administrative procedure with the de novo review and the other safeguards that we adopted. I appreciate that.

Mr. BUTLER. I thank the gentleman and yield back my time, Mr. Chairman.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full 5 minutes. However, I would like to make a short statement in regard to the bill as it now stands as we prepare to go back into the full House.

As one who has attended, as I previously stated during the debate, attended most of the hearings, have read the transcripts of the other testimony on the legislation now before us and on the 1968 act, there is no question in my mind that we need additional legislation, that we need additional enforcement. I think I made that quite clear during my statement and, even though I do not think the bill, with the Synar amendment, does strengthen the enforcement provisions sufficiently, especially in regard to conciliation, it should be passed. Perhaps that is a little bit of my own personal fault because if I had a separate amendment just on conciliation we could have done that, because conciliation which is the first access to enforcement for discrimination should be utilized more and would eliminate the need for either using the administrative tribunal or the courts and would be the easiest and fastest remedy.

However, I do feel that the bill, even though I have some disagreements with it, using the administrative law judges and not the courts for enforcement, I do feel it is necessary for us to continue to try to provide a mechanism whereby we can reduce discrimination in housing throughout this country. I plan to vote for the bill.

I also recognize that the other body has yet to act on this legislation, and perhaps after they have acted upon it then we will have a matter that is more to my liking. But even though the bill all together is not exactly like I would want, as one who has in the past experienced that we do not always get everything we want in legislation, but we take what we can get, to me this is necessary, I feel, to go on and pass the legislation, and I plan to vote for the bill on final passage.

● Mr. FRENZEL. Mr. Chairman, the bill before us today is an extremely important one. It is designed to strengthen the original fair housing legislation passed in 1968, which Congress hoped would help prevent discriminatory housing practices. We should review the 1968 act from time to time to make sure that this legislation is working, and that it does, indeed, protect Americans from discriminatory practices.

I am voting in favor of the bill before us today, but I also shall support the Sensenbrenner-Volkmer amendment to delete the administrative law judge provision from the bill. I feel that the Federal court system is a better place than HUD in which to try cases involving fair housing law, and I am dubious about qualifications and appointments of such judges. I believe justice will not be well served by an extra layer of process.

Most of the "big guys" in our country do not need, or want, the Federal Government interfering in their lives. It is the "little guys," the people without the resources to protect themselves, that need our help. I doubt the administrative law judge system will really protect the "little guys." The Federal bureaucracy has more often been oppressor than savior. HUD's ALJ's do not look like saviors to me.

If I felt that the administrative law judge system that is established in this bill presented a more effective and accessible system of investigating possible violations of the fair housing law than the regular Federal court system, or if it seemed that HUD would somehow be a better arbiter of such cases, I would support the ALJ provision in the bill. However, I have not been convinced that this is the case.

Historically, neither the Congress nor the Federal agencies have handled legal issues as effectively as the Federal court system. There is no guarantee that a limited number of administrative law judges (reports thus far call for seven) will be more accessible than the courts, nor is there any indication that a Federal agency famous for redtape and self-protection will provide more efficient or effective services for those in need of assistance.

In voting on this amendment, and the bill itself, we should make every effort to protect those who need our assistance most. Because I feel our constituents will best be served through the Federal court system, I am voting for the Sensenbrenner-Volkmer amendment and for the bill.●

● Mr. EDWARDS of California. Mr. Chairman, I would like to clarify a point that has been raised during the debate on this bill, regarding the scope of relief available under the administrative process. Some Members have expressed the belief that the administrative law judge will be constitutionally precluded from awarding any form of monetary damages to the aggrieved person. While this view has been stated by the opponents of the bill, it has not been the position of the Committee on the Judiciary, which based its position upon a careful analysis of comparable enforcement systems and the requirements of the Constitution.

The language of the bill itself certainly does not imply that relief is to be limited to equitable relief. Rather, it states that the administrative law judge "may issue an order providing such relief as may be appropriate and may impose a civil penalty of not to exceed $10,000." Furthermore, the committee, in its report, clearly stated its intention that damage awards be permitted:

> By not specifying what is "appropriate relief," it is intended that the relief available in this administrative forum be as broad as the Constitution permits, thereby maximizing the utility of the process. While the award of damages may be incidental to the broader role of enforcing the public interest (ending housing discrimination through equitable relief), damages may be the only means by which the victim or victims may be "made whole" for the losses suffered.

It is accurate to state that a case challenging the awards of damages by an administrative law judge in a fair housing case would be a case of first impression for the Supreme Court. But to conclude from this that the practice is unconstitutional is absurd. The weight of authority clearly supports the opposite conclusion.

It is a fact for example, that: First, under the National Labor Relations Act, the administrative imposition of awards of back pay, fringe benefits, union dues, interest on back pay, and other forms of monetary relief have been upheld. The distinction between these out-of-pocket losses and those involved in fair housing cases simply reflects the differences between the nature of the injuries; and second, many state fair housing laws specifically authorize damage awards to be assessed by administrative law judges. California, Iowa, Kentucky, Connecticut, Michigan, Alaska, Massachusetts, Minnesota, New Jersey, and New York all provide for the award of compensatory damages, and no court has ever ruled against this authority. In fact, when challenged, this authority has been upheld.

The interests served by providing more effective enforcement through the administrative process are public, not private. The monetary relief for complainants is only incidental to the larger public interest in eliminating housing discrimination as a fact of American life. Thus, it is entirely proper and constitutional for Congress to vest full enforcement powers, including the authority to award make-whole monetary relief to victims of housing discrimination in HUD, the expert housing agency.

● Mr. WEISS. Mr. Chairman, I support H.R. 5200, the Fair Housing Amendments Act of 1980.

In 1968 this Congress passed landmark legislation to prohibit discrimination in housing based on race, religion, color, national origin, or sex. Today, though, housing discrimination remains a persistent and widespread problem. While the Fair Housing Act provided for a comprehensive statutory framework to end inequitable housing practices, it did not include enforcement mechanisms that were viable for most Americans. Rather than give the Government the full authority to enforce fair housing laws, the act limited HUD's powers to receiving and investigating complaints, and attempting conciliation between the parties. Further steps to resolve disputes reside in private causes of action. For many victims of discrimination, finding alternative housing would appear to be an easier, if less satisfactory, solution than undertaking costly and time-consuming litigation.

The legislation we are considering today strengthens this weak link in the fight to assure equal rights for all our citizens in every facet of our national life. In addition to bringing handicapped individuals within protected class status, H.R. 5200 finally establishes administrative procedures through which discrimination complaints can be handled quickly and less expensively. Administrative tribunals, within the Department of Justice will give aggrieved persons an accessible, expeditous, and inexpensive forum in which their claims can be fairly and simply adjudicated.

Some opponents of this bill have argued that administrative law judges employed by HUD would be unable to conduct impartial and independent hearings. Although the use of such judges has been found to be an effective and efficient means of settling disputes in the numerous Federal agencies which already employ these procedures such arguments have now become irrelevant with the transfer of jurisdiction to administrative judges operating within the Justice Department by virtue of the Synar amendment.

Moreover, the bill provides for an appeal of the judge's decision to a U.S. district court. The district court judge will be able to conduct a de novo review of the administrative judge's findings of fact and conclusions of law, if it is deemed necessary. Clearly the drafters of this legislation have sought to protect the integrity of the administrative process to the greatest extent possible. If the fair housing amendments are going to make title VIII of the Civil Rights Act a meaningful tool to end housing discrimination, then the Sensenbrenner-Volkmer amendment must be defeated. So too must the other crippling amendments being offered on the floor today, including those to exempt real estate appraisers and home hazard insurers from the provisions of this bill.

Although I strongly support H.R. 5200 as an important addition to our civil rights legislation, I do oppose the broad legislative veto provision included in this bill. This is the second bill we have considered in the past couple of weeks which includes a congressional veto provision. It does not bode well for the future of an independent regulatory process, free from political intervention.

Despite this reservation, I urge my colleagues to join me in supporting this vital piece of legislation.●

□ 1120

The CHAIRMAN. Are there additional amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MINISH) having assumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5200) to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of the fair housing, and for other purposes, pursuant to House Resolution 656, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SENSENBRENNER. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SENSENBRENNER moves to recommit the bill, H.R. 5200, to the Committee on the Judiciary with instructions to report the same to the House forthwith the following amendments: Page 9, strike out line 4 and all that follows through line 18 and insert in lieu thereof the following:

SEC. 7. (a) Section 808(c) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90–284, approved April 11, 1968) is amended by striking out "5362" and inserting "5372" in lieu thereof.

Page 18, strike out line 10 and all that follows through line 6 on page 30, and insert in lieu thereof the following:

"ENFORCEMENT BY SECRETARY; PRELIMINARY MATTERS

"SEC. 210. (a) Whenever an aggrieved person, or the Secretary on the Secretary's own initiative, files a charge alleging a discriminatory housing practice, the Secretary shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within 10 days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Secretary shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and choice of forums provided under this title. Such charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Secretary requires. An aggrieved person shall file a charge under this section with the Secretary not later than one year after the alleged discriminatory housing practice occurred or terminated. The Secretary may also investigate housing practices to determine whether charges should be brought under this section or new rules should be made under this title.

"(b)(1) In connection with any investigation of such charge, the Secretary shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(2) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary under paragraph (1) of this subsection.

"(3) Witnesses summoned by subpena of the Secretary under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(4) The Secretary or other party at whose request a subpena is issued under this title may enforce such subpena in appropriate proceedings in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(5) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in such person's power to do so, in obedience to the subpena or lawful order of the Secretary under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Secretary shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Secretary's subpena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"(c) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Secretary under this paragraph, the Secretary shall, within 30 days after receiving such charge and before taking any action with respect to such charge, refer such charge to that certified agency. The Secretary shall, after that referral is made, take no further action with respect to such charge, if the appropriate State or local law enforcement official has, before 90 days after the date the alleged offense has been brought to such official's attention, commenced proceedings in the matter, and, having so commenced proceedings, carries forward such proceedings with reasonable promptness. An agency shall be certified under this subsection if the Secretary determines that the substantive rights protected by that agency, the procedures followed by that agency, the remedies available to such agency, and the availability of judicial review of such agency's action, are substantially equivalent to those created by and under this title. Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency. Any State or local agency may submit a written request for certification to the Secretary. Unless the Secretary interposes a written objection within 90 days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Secretary objects within the prescribed

90-day period, he shall provide the State or local agency with an explanation specifically outlining the reason for his decision, and such decision shall be subject to review by the appropriate United States district court.

"(d) The Secretary and other Federal agencies having authority to prevent housing discrimination shall cooperate and seek to avoid duplication of effort in the exercise of their several authority. The Secretary and such other Federal agencies shall notify each other of any allegation of housing discrimination which may be within their respective responsibilities. The Secretary or such other Federal agency shall, upon such notification, take additional appropriate action.

"REFERENCE FOR FURTHER ENFORCEMENT

"SEC. 811. (a) If the Secretary concludes on the basis of a preliminary investigation of a charge that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may refer the matter to the Attorney General and the Attorney General may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(b) At any time after the filing of a charge, the Secretary shall endeavor to resolve such charge by conciliation. If any party against whom a charge is filed refuses to participate in the conciliation process, the Secretary may grant to the aggrieved person not more than $1500 for the legal fees and other expenses of commencing a civil action under this title against that party so refusing. Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Secretary who makes public any information in violation of the immediately preceding sentence shall be fined not more than $1,000. A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. If the conciliation agreement provides for such arbitration, the Secretary may issue such orders as are necessary to enforce such agreement, including an order that the breaching party pay to the other party not more than $1500, after determining that there has been a breach of that agreement. Any arbitration that results from conciliation agreement under this section may award appropriate specific relief to the person aggrieved and damages of not more than $1500 for actual loss, insult, or emotional distress.

"(c) If the Secretary determines, after an investigation under this section, that reasonable cause exists to believe the charge is true, the Secretary shall within 10 days of such determination refer the matter to the Attorney General for the filing of an appropriate civil action under section 813(b) of this title. Such determination in the case of a charge made by an aggrieved person may not be made later than 180 days after the filing of such charge. After each investigation under this section, the Secretary shall provide to each aggrieved person and each respondent a copy of the findings of such investigation.

"PRIVATE ENFORCEMENT

"SEC. 812. (a) (1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than two years after the alleged discriminatory housing practice occurred or terminated.

"(2) Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance.

"(b) Upon application by an aggrieved person, any trial or appellate court may, in such circumstances as it deems just, appoint an attorney for such person and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, which may include money damages, equitable and declaratory relief, and, in the case of willful violation, punitive damages not to exceed $10,000.

"(d) (1) It is the sense of the Congress that United States magistrates should be used by the courts to the maximum feasible extent to expedite litigation under this section.

"(2) The Secretary shall to the maximum feasible extent provide technical assistance to persons requesting it who anticipate they may file charges under this title or commence civil actions under this section. Such assistance shall include the filling out of forms, investigation, and evidence gathering.

"ENFORCEMENT ROLE OF ATTORNEY GENERAL

"SEC. 813. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court to remedy any discriminatory housing practice (1) with respect to which the Secretary has made a finding that reasonable cause exists under this title and (2) which the Secretary refers to the Attorney General for enforcement under this subsection.

"(c) The court may award such relief in any civil action under this section as is authorized in section 812(c) of this title in cases brought under that section.

"(d) A person may intervene in any civil action commenced under this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person.

"ANCILLARY AND PROCEDURAL MATTERS RELATING TO ENFORCEMENT

"SEC. 814. (a) In any action or proceeding under this title, the court, in its discretion, may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney fees based on actual hours spent and expert witness fees based on actual expenses incurred as the costs, and the United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of any interlocutory order which determines substantial rights of the parties.

"(b) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

"(c) Any sale, encumbrance, or lease executed before the issuance of any court order under this title, and involving a bona fide purchaser, or encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under this title shall not be affected by such court order.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The Chairman recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, the motion to recommit is a revised version of the Sensenbrenner-Volkmer amendment which got off the track yesterday. Basically, Members who oppose the administrative law judge enforcement procedure in this legislation should support the motion to recommit which is before the House at the present time.

There are four basic changes from the original Sensenbrenner-Volkmer plan, and I would like to outline them very briefly. First of all, in the original amendment no time limit was given for the Secretary of HUD to refer matters to the Attorney General after a finding of reasonable cause. The motion to recommit gives a 10-day deadline.

Second, the original amendment and the bill both allow HUD to take up to 270 days in which to investigate charges before making a finding of reasonable cause. The motion to recommit reduces that to 180.

Third, the amount HUD may give to a complainant when conciliation fails has been raised from $500 to $1,500, and the sanctions HUD may impose when a person fails to live up to a conciliation agreement have also been raised to $1,500.

Finally, the original amendment allows the court to award attorney fees to the prevailing party in order to discourage frivolous suits brought by contingency fee lawyers in the abuse of this section. The Sensenbrenner-Volkmer amendment allows for attorneys fees based on actual expenses incurred in developing the case. I believe this improves the original Sensenbrenner-Volkmer amendment and would encourage support of it.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I just wish to state that after reviewing the motion to recommit earlier today before the session, I find that the changes would help, especially in providing additional funds for people to bring suit that have been discriminated against. I do support the motion to recommit. I will plan, of course, to vote for the bill whether or not the motion to recommit is successful. I would much rather vote for it with the motion to recommit, or with the Volkmer-Sensenbrenner amendment rather than with the Synar amendment, and I ask those who did support the Volkmer-Sensenbrenner amendment yesterday—or Sensenbrenner-Volkmer, whatever way you want to put it—to also support the motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the remainder of my time.

Mr. EDWARDS of California. Mr. Speaker, it has been my privilege to be a Member of this great body for almost 18 years. During that time we have enacted the great civil rights bills, the 1964 bill and the 1965 bill. The 1964 bill gave access to black and brown Americans to theaters, lunchrooms, drinking fountains, public toilets, and parks.

When I came here 18 years ago, a black family could not travel to Miami or the Deep South and find a restroom that their children could use.

In 1965 we passed the great Voting Rights Act that gave access to black Americans to voting booths and the right to run for public office. Yes, in this Chamber we have had some agonizing moments in civil rights bills. We have heard the same voices of doom year after year. We heard them in 1964 and 1965 about the big Federal Government interfering in our lives, the big cruel Department of Justice. Do you want to know something about the civil rights bills? Nothing happened. It was all good. These are beautiful laws. More than any other American accomplishment, the civil rights laws of 1964 and 1965 allowed us to stand proud all over the world, every spot on Earth. Mostly the 1964 and 1965 bills affected the southern part of America.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I will yield briefly.

Mr. McCLORY. I thank the gentleman for yielding. I want to thank the gentleman for his statement and for delineating the great landmarks in civil rights legislation, which I like to feel were the result of strong bipartisan support.

We have had references here earlier to the late Senator Everett Dirkson and his monumental work in this behalf. This legislation, the committee bill, in my view represents strong bipartisan crafting of legislation which can contribute substantially toward greater opportunities for housing for all Americans without discrimination, and I thank the gentleman. I hope that the motion to recommit will be defeated.

Mr. EDWARDS of California. I thank the gentleman. As the ranking minority member of the House Committee on the Judiciary, he has made great contributions for many, many years in the area of civil rights. and certainly on this bill.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the distinguished chairman of the Committee on the Judiciary.

Mr. RODINO. I thank the gentleman for yielding. Without taking more time of the committee, I would like to state that what the gentleman in the well has just explained to the House is based upon what we have known for a long time. That is, if we want equality in housing, if we want to be assured that there is not discrimination and we truly desire to live up to the promise of fair housing in America, then we have to vote down this motion to recommit. I commend the gentleman and the bipartisan support given by the members of the committee.

Mr. EDWARDS of California. I thank the chairman. As I said, the civil rights bills of 1964 and 1965 affected the South mostly, and yet there is not a State in the South that would want any repeal. Not one mayor, not one Governor, not one Member of Congress in the South would want the 1964 and 1965 acts repealed.

History will say that the South did itself proud in accommodating itself to these laws. Yes, Mr. Speaker, the 1964 and 1965 laws gave black Americans access to public parks, restaurants, the front of public buses, public toilets, and so forth, but not to renting or buying a house, a place to live. That was the purpose of the 1968 bill, but it got done in. The 1968 bill got done in by the same commercial interests that sponsored this motion. The bill was made a nullity with no real enforcement machinery. The motion to recommit will keep the law about the same with no real enforcement machinery, and I do not think we want to do that. I do not think we really want to do that. Do not make the same fatal error we made 12 years ago and remove all of the enforcement machinery.

☐ 1130

Do not refuse to take the affirmative steps to eliminate segregated neighborhoods that result in segregated schools that trigger court-ordered busing.

The SPEAKER pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 3 additional minutes.)

Mr. EDWARDS of California. I do not think we should make the same mistake we made 12 years ago, but that is exactly what we are doing in this motion to recommit.

The gentleman from Wisconsin (Mr. SENSENBRENNER) says that it is not his intent to gut the bill. Well, perhaps it is not. I am sure the gentleman from Wisconsin always speaks the truth, but ask every civil rights organization in the United States, ask the Department of Justice, ask HUD, ask the Council of Mayors, ask anybody, does it gut the bill? Of course, it guts the bill.

The motion to recommit would leave the Sensenbrenner-Volkmer amendment intact. That amendment makes only minor changes to the existing law. Practically nothing. It would offer the Justice Department access to individual cases through the courts, lengthen the statute of limitations, but you cannot handle fair housing cases in Federal court. You have to wait an average of 21 months. These individual cases need cheap, quick resolutions and that can only be applied to administrative enforcement.

The amendment offered by Mr. SYNAR appears to resolve all the problems that the supporters of the Sensenbrenner-Volkmer amendment have. I assure you that they do. It is an excellent amendment and I commend the gentleman from Oklahoma for his authorship of this important amendment.

Lastly, Mr. Speaker, the bill with the excellent amendment, is a carefully crafted, important civil rights law. It deserves enactment. I assure you that it will be something of which we will all be very proud. Mr. Speaker, I urge a no vote on the motion to recommit.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

Very briefly, Mr. Speaker, I would like to say many of us in the Congress today were not privileged to be in the Congress in 1964 and 1965. This is a real opportunity for us to affirm our support of this civil rights legislation and to be able to comment by our vote on the civil rights legislation of that period.

I thank the gentleman very much for yielding, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the final passage of the bill following the vote on the motion to recommit. Members will record their presence by electronic device.

The vote was taken by electronic device and there were—yeas 196, nays 209 not voting 28, as follows:

[Roll No. 314]

YEAS—196

Abdnor
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Bonker
Bowen
Broomfield
Brown, Ohio
Broyhill
Burgener
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Devine
Dickinson
Dingell
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Findley
Fithian
Flippo
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gingrich
Ginn
Goldwater
Goodling
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta

Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McCormack
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Pashayan
Paul
Petri
Porter
Preyer
Quayle
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wolff
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.

NAYS—209

Addabbo
Akaka
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Cavanaugh
Chisholm
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
de la Garza
Deckard
Dellums
Derrick
Dicks
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Erdahl
Ertel
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Heftel
Holland
Horton
Howard
Hughes
Hutchinson
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McDade
McHugh
Maguire
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Musto
Myers, Pa.
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Watkins
Waxman
Weaver
Weiss
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolpe
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—28

Anderson, Ill.
Ashbrook
Boggs
Brinkley
Clay
Davis, S.C.
Donnelly
Early
Edgar
Giaimo
Hawkins
Heckler
Hollenbeck
Holtzman
Jenrette
McKinney
Mathis
Moakley
Nedzi
Patten
Reuss
Runnels
Santini
Solarz
Thompson
Williams, Mont.
Wilson, Tex.
Wright

☐ 1140

The Clerk announced the following pairs:

Mrs. Boggs with Mr. McKinney.
Mr. Donnelly with Mr. Hollenbeck.
Mr. Jenrette with Mr. Ashbrook.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Nedzi with Mrs. Heckler.
Mr. Reuss with Mr. Williams of Montana.
Mr. Wright with Mr. Santini.
Mr. Thompson with Mr. Runnels.
Mr. Charles Wilson of Texas with Ms. Holtzman.
Mr. Solarz with Mr. Mathis.
Mr. Hawkins with Mr. Patten.
Mr. Clay with Mr. Brinkley.
Mr. Giaimo with Mr. Edgar.
Mr. Early with Mr. Davis of South Carolina.

Mr. MURPHY of Pennsylvania and Mr. ANTHONY changed their votes from "nay" to "yea."

Mr. SCHEUER changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

☐ 1150

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this is a 5-minute-vote.

The vote was taken by electronic device, and there were—yeas 310, nays 95, not voting 28, as follows:

[Roll No. 315]

YEAS—310

Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carr
Carter
Cavanaugh
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hyde
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
Maguire
Markey
Marks
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Snowe
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—95

Abdnor
Alexander
Ambro
Archer
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Butler
Carney
Chappell
Cheney
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Devine
Dickinson
Duncan, Tenn.
Flippo
Goldwater
Gramm
Grassley
Grisham
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hinson
Holland
Holt
Hutto
Ichord
Ireland
Jeffries
Jenkins
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lewis
Loeffler
Lott
Luken
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
Pashayan
Paul
Quillen
Roberts
Robinson
Roth
Rousselot
Rudd
Satterfield
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster

Smith, Nebr.
Snyder
Solomon
Stangeland
Stenholm
Stockman
Stratton
Stump
Symms
Taylor
Trible
Whitehurst
Whittaker
Wyatt
Wydler
Young, Fla.

NOT VOTING—28

Anderson, Ill.
Ashbrook
Boggs
Bonker
Brinkley
Clay
Davis, S.C.
Donnelly
Early
Edgar
Giaimo
Heckler
Hollenbeck
Holtzman
Jenrette
McKinney
Mathis
Moakley
Nedzi
Nolan
Patten
Reuss
Runnels
Santini
Solarz
Thompson
Williams, Mont.
Wilson, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Ashbrook.
Mr. Donnelly with Mr. Hollenbeck.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Early with Mr. Williams of Montana.
Mr. Charles Wilson of Texas with Mrs. Heckler.
Mr. Thompson with Ms. Holtzman.
Mr. Solarz with Mr. Jenrette.
Mr. Reuss with Mr. Mathis.
Mr. Giaimo with Mr. McKinney.
Mr. Nedzi with Mr. Brinkley.
Mr. Clay with Mr. Davis of South Carolina.
Mr. Patten with Mr. Santini.
Mr. Bonker with Mr. Runnels.
Mr. Edgar with Mr. Nolan.

Mr. BEVILL changed his vote from "nay" to "yea."

Mr. PASHAYAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1200

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS IN ENGROSSMENT OF H.R. 5200

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers in the engrossment of the bill, H.R. 5200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5200, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PREJUDGMENT INTEREST IN ANTITRUST LITIGATION UNDER THE CLAYTON ACT

Mr. MAZZOLI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4048) to amend sections 4, 4A, and 4C of the Clayton Act to authorize awards of prejudgment interest in antitrust litigation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. MAZZOLI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4048, with Mr. BURLISON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Kentucky (Mr. MAZZOLI) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue is very simple.

You will vote for this bill if you trust the men and women of the Federal judiciary to decide when an antitrust case is being protracted for the purpose of dilatoriness alone—not for the purpose of developing the case to its fullest and fairest.

You will, on the other hand, vote against this bill if you do not trust the men and women of the Federal judiciary to be capable of determining when an antitrust case is being strung out or delayed to frustrate justice rather than to develop the facts and the law of the case fully and fairly.

It is just that simple.

If you trust the judiciary—and that does not mean you have to love the judiciary or that the men and women are, to a person, paragons of virtue or epitomes of wisdom and insight.

But, only that, if you trust these people to know delay and hinderance and obstruction when they see and smell it in antitrust cases before them, then you will vote for the bill.

If, again, on the other hand, you do not trust the Federal courts to be able to tell diligent lawyering from mischievous procrastination, then you will have no choice but to vote against this bill.

Were I to talk myself blue in the face—which I shall not do—I would not earn the vote of anyone who lacks that "entry-level" degree of trust and confidence in the collective ability and skill of the Federal bench.

I will devote here a few moments to describe and explain the measure and the background against which it has been reported by the Judiciary Committee.

Then I will be happy to yield to attempt to answer any questions the Members might have.

H.R. 4048 amends sections 4, private treble damage actions; 4A, U.S. Government single damage actions; of the parens patriae actions of the Clayton Act to authorize the award of prejudgment interest on antitrust damage judgments.

The bill allows the court, at the time of judgment, to award simple interest on a successful antitrust plaintiff's actual damages, pursuant to a motion by the plaintiff promptly made, if the court finds that the award of prejudgment interest is just in the cirumstances.

The court in these actions must consider the conduct of the parties and is specifically directed to consider:

First. Whether the plaintiff or defendant or his representative made motions or asserted claims or defenses so lacking in merit as to show he acted intentionally for delay or otherwise acted in bad faith; or

Second. Whether the plaintiff or defendant or his representative violated any rule or statute providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings.

Thus the court must consider the actions of both the parties in awarding or adjusting prejudgment interest under this bill.

Though the court is specifically required to consider these factors, it may consider others.

Except, in my judgment, the committee did not desire compensation to be considered by the court in section 4 cases or section 4C cases. An amendment is to be offered to correct this ambiguity.

For example, a party's pattern of conduct throughout the course of litigation, including compliance with court orders, and cooperation with other parties and the court in expediting the proceedings may be considered by the court in making the award of prejudgment interest.

In a U.S. Government single damage action under section 4A of the Clayton Act, the court is also directed to consider: Whether the award of such interest is necessary to compensate the plaintiff adequately for the injuries sustained by the plaintiff.

No multiple damages are available to the Government under section 4A. If prejudgment interest is unavailable to the Government, single damages may not compensate the Government adequately for its injury.

The bill applies only to actions commenced after the date of enactment.

H.R. 4048 stems from a recommendation of the national commission for the review of antitrust laws and procedures.

The Commission recommended that courts be authorized to award prejudgment interest to a plaintiff unless the circumstances made such an award unjust. The Commission recommended, in other words, that there should be a presumption in favor of assessing prejugment interest to benefit a claimant.

However, H.R. 4048 as reported by the Judiciary Committee reverses this presumption. Instead, the party seeking prejudgment interest must, under the bill before the House today, affirmatively demonstrate that such an award would be just in the circumstances. Otherwise, the award cannot be made.

H.R. 4048 protects the defendant against unjust awards of interest in a number of ways. The standards of conduct that the court is instructed to consider apply to plaintiffs as well as defendants. Thus, if a plaintiff has engaged in conduct that unnecessarily delays the litigation, the court may lessen or deny totally an interest award.

The Committee on the Judiciary also drafted H.R. 4048 to require the plaintiff to give prompt notice of his intent to seek a prejudgment interest award.

This notice affords the defendant an opportunity to correct any behavior that the plaintiff alleges is improper. It further assures that the defendant may answer the plaintiff's motion raising any defenses or countervailing considerations that may weigh against a full award of prejudgment interest.

The court may also adjust the amount of any interest award to balance the equities. Thus, the statute expressly allows computation of an interest award from the date the complaint was filed, or any later date, to the date of judgment.

Furthermore, as I earlier stated, provisions of the bill would apply only to antitrust actions initiated after the enactment date of the bill.

Mr. Speaker, we have before us today a bill that will afford our courts the express authority to deal with a major problem in antitrust litigation.

Adoption of H.R. 4048 will provide a disincentive for delaying antitrust cases—which, by their very nature, are ponderous and complicated under the most favorable of circumstances—while not preventing the parties from fully and completely developing their cases and establishing and pursuing their defenses.

I urge passage of H.R. 4048.

☐ 1210

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4048, a bill to authorize statutorily the award of prejudgment interest in antitrust cases. I do so because antitrust cases take too long. All too often the reason that antitrust cases are protracted is that the parties and their lawyers are engaging in dilatory tactics.

I need not recount the facts at great length. We know them well. The Report of the National Commission for the Review of Antitrust Laws and Procedures confirmed those facts. So did the overwhelming weight of testimony during our subcommittee consideration of this bill.

The question is not whether dilatory tactics are employed but what we are going to do to stop this problem. This bill will help. It holds forth the carrot and the stick for both plaintiffs and defendants. A defendant who engages in dilatory conduct will be sanctioned with an interest penalty while a plaintiff who engages in dilatory conduct will forfeit, in whole or in part, the ward of such interest penalty.

This bill will not cure every problem of delay. It will not remedy delays by plaintiffs who lose or by defendants who win since the bill comes into play only when the plaintiff has obtained a judgment in his favor. So this is a bill of very limited application; in fact, most cases are settled, and the bill does not apply to settled cases.

Mr. Chairman, one of the aggravating factors causing further delays is the current rate of inflation. A defendant who forestalls the inevitable not only has use of the award for a longer period but is able to pay such award with cheaper money. The bill may be criticized in that it is too modest a response. What does it do to the foot-dragging defendant? While the defendant enjoys the use of the award, he pays interest only on a third of it. He still keeps two-thirds of the interest and still pays his delayed judgment in cheaper dollars. But at least this bill does more to expedite the administration of justice than is being done today.

Although the bill is modest in its impact and quite limited in application, it would hold forth the possibility that there is a relationship between a litigant's conduct and his financial well-being. In successful single-damage cases brought by the Government, I would trust that the award of prejudgment interest would be automatic unless the Government had itself been dilatory, in which case the award would be appropriately reduced in whole or in part. In successful treble-damage cases, the award would not be automatic but would depend on the conduct of the parties. If the defendant delayed the litigation, there would be an award unless the plaintiff also delayed, in which case the award would be appropriately reduced in whole or in part.

Any assessment of the dilatory nature of a litigant's conduct must be a matter of discretion. As much as many of us would like to adopt ironclad guidelines to govern this area, none would work. Consequently, the committee provided the courts discretion to adjust both the duration for which the interest penalty is assessed as well as the percentage of the interest penalty. Of course, this discretion is not unlimited. The duration cannot exceed the time from the filing of the complaint to the date of judgment. And the rate of interest cannot exceed the commercial rate for the duration of the dilatory conduct.

Now, I have heard it said that this bill is unnecessary because the courts have the power to control delay and because prejudgment interest has been awarded in cases outside of the antitrust area. It is for such questions that testimony was taken. In fact, I had the privilege to hear the facts twice—once as a member of the National Commission and then as a member of the House subcommittee originating this legislation. And the facts are that courts are not controlling delay. They don't have appropriate tools. They are not about to decide the case wrongly on the merits to punish someone. They are not about to throw a lawyer in jail for raising arguments in bad faith. And they are not about to start awarding prejudgment interest on their own initiative. The point is that dilatory conduct, while not the rule, is a common exception. Unless Congress interjects a new law focusing the attention of judges and litigants alike on the question of dilatory tactics, there will be no change in the way things are done.

For antitrust cases, "business as usual" takes too long. We must send a message that we want this to stop. And we must give the courts this appropriate tool to do that job.

I urge your support for H.R. 4048.

Mr. MAZZOLI. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I want to commend the members of the subcommittee who worked in a bipartisan spirit to bring out a bill that I think truly reflects credit on the work of the Committee on the Judiciary in the antitrust field. This is a bill that is long overdue. I share with the gentleman from Kentucky (Mr. MAZZOLI), who is managing this bill, a deep concern about the impact of prolonged litigation on our judicial system. This bill, if adopted will go a long way toward discouraging deliberate delays in protracted cases.

Let there be no doubt that the victim of delay is not the large well-endowed litigant. Rather it is the individual or small businessman who simply lacks the resources to persevere in a long litigation.

In the antitrust area, litigation delays are substantial. I notice that the Republican Study Group has cited an estimate that the average litigated case spans 6 years. And that is only the average. Some antitrust cases are still pending in the courts over a decade after they were originally filed.

Delay provides the well endowed litigant with a great deal of leverage over a less well situated adversary. As the National Commission for Review of Antitrust Laws concluded—

> Litigation harassment and delay coerce parties into settlement simply to avoid unnecessary expense and frustration, make it difficult for the less wealthy to protect their interests through the courts, and thus lead to public cynicism concerning the judicial system.

There are, of course, many causes of delay. Some delay is probably endemic to our adversarial system, particularly when broad economic issues are being litigated. We cannot and should not expect to eliminate all delay. What we can and must do, Mr. Chairman, is provide our courts express authority to levy prejudgment interest in cases in which it would be just to do so. By doing so, we send a clear signal to antitrust litigants that they no longer can unjustifiably prolong litigation and thereby reap substantial financial gain.

It is simply not proper, as some suggest, to view an award of prejudgment interest as a penalty against a defendant. In fact, prejudgment interest is simply a measure for counteracting the damaging effects of inflation and high interest costs on a plaintiff's damage claim, particularly in those cases not resolved until many years after the claim is filed. In other types if cases, courts have provided prejudgment interest as an appropriate reimbursement to the plaintiff.

There are many who argue that compensation should not be a factor in the court's determination of a prejudgment interest award. We are told that the treble damage recovery available to private plaintiffs and States under the Clayton Act more than adequately compensates most plaintiffs for their injury. However, in actions brought by the United States under section 4A of the Clayton Act, recovery is limited to single damages. Thus, H.R. 4048 rightly instructs the court to consider compensation as a factor in such single damage cases.

Mr. Chairman, H.R. 4048 will not be a panacea for all the problems of delay encountered in our antitrust litigation. What it does do is send a clear message to the courts that the Congress is concerned about unwarranted delays in antitrust litigation. By providing express authorization for prejudgment interest, the courts will be empowered to remove part of the existing financial incentive for many defendants to engage in delay.

□ 1220

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I rise in opposition to this legislation. It simply is unneeded, in my judgment, and I am somewhat embarrassed that my committee is taking the time of the House to engage in such an unnecessary piece of legislation.

Basically, what we are talking about is adding a simple interest component to the damages in an antitrust action. The bill generally applies to situations where the plaintiff will be recovering triple damages. Triple damages, it seems to me, is a sufficient penalty. But certainly the addition of simple interest, a relatively modest amount of money in the context of the treble damages, in my judgment, will not deter any delays in litigation whatsoever, and to add this to the tools in the hands of the Federal judges is a most inappropriate expansion of the power of the judges. This is mischievous legislation. It may very well be counterproductive to the purpose of curtailing dilatory conduct.

I would invite your attention for the moment to the bill itself. Let us read it, if we may, for a few minutes and see what it says:

> The court may award under this section, pursuant to a motion by the plaintiff promptly made—

I do not accept the implication that the defendant is the only person who might be guilty of dilatory tactics, so I would suggest that there is some certain unfairness there. Then we proceed:

> simple interest on actual damages—

I have already suggested that that is no deterrent—

> if the court finds that the award of such interest for such period is just in the circumstances.

"Just in the circumstances" is an awfully broad expression, one really lacking proper guidelines. We try to clarify the meaning of "just in the circumstances" by expressing some of the circumstances. But, at present, the phrase is open-ended.

I am pleased to note that the gentleman from Missouri will offer an amendment which will limit these circumstances, but even with his amendment one must admit that the discretion is quite.

Next let us review what are the circumstances.

> (1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses—

And here is the key to the whole thing—

> so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith.

I suggest to you that the Federal judge is no one to psychoanalyze defense counsel in litigation of this nature—

> so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith.

I simply think that the relationship between the judges and the counsel for the defendant is such that the judge himself cannot judge as to the merit or lack of merit of the proposals. He rules on the merits of them according to his judgment, but if they are so lacking in merit as to be dilatory in nature, it is such a subjective judgment by the judge that it seems to me it distorts the proper relationship of court and counsel. That is the basic reason why I am opposed to this legislation.

It simply strengthens the hands of the Federal judge, than whom there is no person more powerful in the United States today. I would remind you that a Federal judge—and we are talking about a Federal judge—is appointed for life. He cannot be removed except for extreme circumstances, and I think we have had precious few removals in the history of this country. Also he finds himself strengthened by the knowledge that comes from time served in his position, that only he knows what is right for the world. A Federal judge has the greatest ego in the world. He has all the powers in the world. He has a tremendous advantageous position over counsel. Counsel know they have got to come back to that same judge time and time again. The one thing the Federal judges of this country do not need today is more power—more power—but that is all that this legislation is. For this reason I would urge that this bill is not necessary.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding. I want to commend the gentleman for his succinct and, in my judgment, highly accurate statement of the issues here. The judges have adequate power to move a case along if the accusation is that excessive delay is being perpetrated by the defendant.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCLORY. Mr. Chairman, I yield 4 additional minutes to the gentleman from Virginia.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I will be happy to yield to the gentleman.

Mr. HYDE. I thank the gentleman. Judges have adequate power to move a case along if the attorneys are being dilatory; is that not so?

Mr. BUTLER. I have never had the temerity to be dilatory before a Federal judge, but, yes, I do have the feeling that they do have that power, and there is no question in my mind that if you do not go along with the judge's suggestion, you will be in deep trouble.

Mr. HYDE. Is it not true that plaintiffs' lawyers are usually in the business of prosecuting antitrust cases and, therefore, are very much in demand, and they are the ones who initiate discovery, which takes a lot of time? And they are just as capable of delaving cases as are the defendant's counsel; is that not so?

Mr. BUTLER. I think the gentleman has made a very good point. Yes, that is not only true, but it is true in spades, because we have a fraternity of plaintiff antitrust lawyers who are running around all over the country, and they are the most in-demand lawyers today. And it is their schedule that I suspect controls.

Mr. HYDE. They have motions in New York and motions in San Francisco, and the very top antitrust lawyers are very busy lawyers; are they not?

Mr. BUTLER. Oh, they work hard, and they spend a lot of time in Florida and places like that.

Mr. HYDE. Will the gentleman from Virginia tell me, section 4 of the Clayton Act has to do with individuals bringing antitrust suits and the damages are triple; is that not so?

Mr. BUTLER. That is correct.

Mr. HYDE. If this passes, they will not only get treble damages, but if the judge was not too satisfied with the way the defense was handled, he might impose interest over and above treble damages; is that not correct?

Mr. BUTLER. That is an accurate statement. It is not a just statement, however.

Mr. HYDE. The reason for that is that the defendants are usually the economic royalists, the bloated bondholders, the malefactors of great wealth, the corporations, the multinationals, who are using all of their vast resources to string along the David fighting the corporate Goliath, the individuals' attorneys; is that not so?

Mr. BUTLER. My experience is so limited that I would not argue with that conclusion.

Mr. HYDE. We move to section 4A of the Clayton Act, and the U.S. Government is the plaintiff; is that not so?

Mr. BUTLER. Is it 4A?

Mr. HYDE. Yes.

Mr. BUTLER. I believe that is correct, yes.

Mr. HYDE. Yes, 4A pertains to the U.S. Government. Quite possibly the resources of the U.S. Government exceed those of any corporate defendant, and so they are not really disadvantaged by any delaying tactics. But then we move to section 4C (a)(1), the third part of this bill, where we have the State attorneys general bringing parens patriae suits. Certainly the resources of the State attorneys general are equal to, if they do not exceed, those of the corporate defendants. So the only person in this whole spectrum of antitrust litigation who stands without the tremendous resources of the government behind him in terms of being a plaintiff is the individual under section 4. But he has got treble damages. Would the gentleman not say this is a case of overkill, then, to add interest awards to the judgments of the U.S. Government, the State attorneys general, or the private plaintiff under section 4?

☐ 1230

Mr. BUTLER. My only quarrel with the gentleman is that he has understated the case.

Mr. HYDE. I thank the gentleman.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I was listening to the debate, and may have misunderstood, but I think it should be noted that the prejudgment interest, when ordered, is calculated, based on single damages even in a treble damage action. There is no multiple damages in the calculation.

Mr. BUTLER. That is accurate at this moment.

Mr. MAZZOLI. I would like to share with the gentleman my thoughts concerning the words "the court may award under this paragraph, pursuant to motion made by the plaintiff."

In my opening statement, I believe the record will show that I endeavored not to distinguish between plaintiffs and defendants as to dilatoriness. Both can be guilty.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia.

Mr. Chairman, will the gentleman continue to yield to me?

Mr. BUTLER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. As I was indicating, Mr. Chairman, I took pains to show that both sides can be guilty of dilatoriness. For the purpose of making legislative history, I believe that the committee intended that, in the case where a defendant has filed a counterclaim and the defendant can show that a plaintiff has been dragging his feet the defendant in that situation becomes a plaintiff for purposes of the bill. The defendant-counterclaimant would then be entitled to prejudgment interest based upon delay caused by the plaintiff.

The gentleman brings up a very important point. Both sides can be guilty of misconduct and I would hope and believe the bill permits either side to obtain prejudgment interest if a party has a valid claim.

Mr. BUTLER. I would say to the gentleman that in doing this, in going to the great pain that the gentleman went through to rewrite the legislation as he spoke so that it means what it does not say, you underscore a fact that we are going to illustrate here today, that there will be four amendments offered from the floor, plus the very liberal legislative history that you are offering, in order to try to make this bill look better. But really this is a pretty simple problem: Shall we add simple interest? As we go to all of this trouble to clean up this bill, to plug these loopholes and respond to these problems that have come up, I think we are illustrating the basic lack of need for this legislation.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. Certainly I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Two of the amendments to be offered, I think the gentleman would agree, are clarifications. One by the gentleman from Illinois (Mr. McCLORY). I think the committee when it passed the bill understood what the gentleman was seeking to do with his amendment, today, and this is a clarification. The other amendment is one that the gentleman from Missouri (Mr. VOLKMER) will offer. That amendment, too, is in the nature of a clarification and affirmation of the committee's intent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAZZOLI. Mr. Chairman, I yield the gentleman 1 minute.

Would the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I would just say that the gentleman from Missouri will introduce an amendment today which I intend to support. That amendment allays any concern we might have as to when compensation can be a factor before the court in determining whether to award prejudgment interest.

Therefore, Mr. Chairman, two of the amendments to which the gentleman refers are really clarifications and are not really substantive changes.

Mr. Chairman, I thank the gentleman.

Mr. BUTLER. I would say, in the little time I have remaining, that I adhere to the point I made, that when you have to clarify a simple bill addressed to one point by four amendments and extensive legislative history then you are making the more significant point and that is there is no real need for the legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCLORY. Mr. Chairman, I yield the gentleman 3 additional minutes.

Will the gentleman yield to me?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman.

Mr. Chairman, I want to emphasize that regardless of whether the antitrust action is one for treble damages or for single damages, the maximum interest authorized to be awarded under the bill will be computed on actual damages—on single damages—only. There may be some confusion on that point. In no case may interest under this bill be trebled.

The problem which prompts legislation is that antitrust cases do take too long. They are long, drawn out. That was the problem which the National Commission addressed. As several Justices of the Supreme Court have indicated to the Congress in a remarkable dissent regarding the transmittal of proposed amendments to the Federal Rules of Civil Procedure, there exists in the Federal courts today wholesale abuse of the discovery process, not in every case but in too many. So there is a real problem. To suggest that all is OK is wishful thinking. And so the committee recommends the imposition of sanctions. Dilatory defendants may be required to pay for their delay. Dilatory plaintiffs may lose their right to receive the interest payment for their delay. Who can decide if there was delay? Only the judge. He must have the discretion. I do not know in whom else we could vest it. It seems to me this is just one mechanism for trying to accelerate the trial of cases. Others will be needed.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for this contribution. It seems to me the gentleman puts his finger on the differences that we have. I think the judge has all the power he needs now to move litigation along and I would feel pretty bad about passing legislation which indirectly inhibits the use of discovery. I do not think that should be our purpose here. I hope that we avoid that result. I am disturbed by the suggestion that we are going to inhibit discovery. There are oftentimes when discovery appears necessary and yet does not produce anything. I am really concerned about adding this weapon to the judge's control over the legislation. He has far better control under the Federal rules than he would by the imposition of simple interest.

Mr. McCLORY. If the gentleman will yield, I would just like to point out that Justice Powell, formerly of Virginia, Justice Stewart and Justice Rehnquist joined in the dissenting opinion to which I referred earlier.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCLORY. I yield the gentleman 1 additional minute.

Will the gentleman yield further?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. McCLORY. I would like to point out that there are abuses in the use of the discovery process and that is one of the areas which causes undue delay. Federal judges are without authority to control that unless we give them some help as we do in the legislation.

Mr. BUTLER. Mr. Chairman, the gentleman in invoking the name of Justice Powell from my State does not for a moment suggest that Justice Powell is urging us to pass this legislation? I hope that is not the gentleman's purpose in invoking the judge's name.

Mr. McCLORY. No; if the gentleman will yield, I refer to the judge because he is one of those who called to our attention the fact that the Rules of Civil

Procedure with regard to discovery were being abused extensively by the bar and we do need some way of controlling that. This is a way.

Mr. BUTLER. Mr. Chairman, I just think we have the wrong solution to the problem, but I thank the gentleman for yielding me this time.

Mr. MAZZOLI. Mr. Chairman, I yield at this point 3 minutes to the distinguished member of our full committee and subcommittee, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I am puzzled by the statement of the gentleman from Virginia that this is unnecessary legislation. I practiced antitrust law for many years, including 5 years in a Wall Street law firm that specialized in antitrust litigation. One of the standard ploys of a defensive lawyer in an antitrust case, if he is representing a very wealthy corporate defendant, is to try to figure out all he can do to delay the matter, if he feels his case is not a very strong one, or even if it may be a strong one. This is one way to wear down a plaintiff, particularly if the plaintiff happens to be a small businessman who does not have the resources to finance his attorneys through interminable discovery and other dilatory motions.

□ 1240

So, I can tell the Members from my own personal experience that the lack of clear-cut remedies to curb dilatory tactics is a very significant factor in the protracted antitrust litigation that has become, unfortunately, all too common in our courts. Some cases drag on for a decade or more. As a result of this situation, the National Commission on Antitrust Laws and Procedures, of which the distinguished chairman of the Judiciary Committee, the distinguished ranking minority member, myself, and others were members, came to the conclusion that something is needed to be done about it.

As a matter of fact, a majority of the Commission went further than I thought it should go. The Commission recommended that prejudgment interest should be self-executing. In the Commission's report they say:

> Interest would be awarded automatically unless the court determined that circumstances would make such an award unjust.

The report of the Commission goes on to say:

> Commissioner Seiberling believes that judges should have discretionary authority to award prejudgment interest only upon a finding of a defendant's acting with a primary purpose being delay.

So, the Commission went a lot further than I would go and this bill goes. The Commission would have made it automatic unless the judge found it unjust. This bill does not do that. It says that the judge has authority, where he finds there is a primary purpose of delay. It seems to me that that is reasonable.

Now, the gentleman from Virginia says courts do not need this authority; they already have it. Yes, they do already have it clearly in cases other than antitrust cases, but a recent decision in the case of Trans World Airways versus Hughes——

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. MAZZOLI. Mr. Chairman, I yield 2 additional minutes to the gentleman from Ohio.

Mr. SEIBERLING. A recent decision in the circuit court denied such an award in a private treble damage action, although a Federal district court in another case is now considering whether it has the power to award it. So, there is a necessity to clarify the law in such cases. This bill does that.

The question has also been raised as to whether the courts can award interest on unliquidated damages, which is what an antitrust claim is, and where the court decides what the damages are. We need to clarify that. There is some disagreement among the courts on that issue. So, this legislation is indeed necessary if we are going to provide that the courts clearly have the power to prevent the kind of dilatory tactics that those of us who have practiced antitrust law know exist, that are costing the taxpayers and litigants millions of dollars of unnecessary expenditures a year, and the National Commission on Antitrust Laws and Procedures and the Justice Department both believe is necessary.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will be glad to yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman. I just would say that we appreciate any valuable contribution based on the gentleman's antitrust experience. It has been very helpful in the committee. I would like to ask the gentleman whether, based on his Wall Street experience, he would think that those people who could afford Wall Street lawyers would be deterred by the possibility of simple interest being added to one-third of the award?

Mr. SEIBERLING. I think in a period when interest rates are running along around 10 or 12 percent or even higher—today the prime rate is 14 percent—defendants would definitely be deterred by the threat of prejudgment interest from unnecessarily delaying the litigation.

Mr. McCLORY. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I rise in opposition to H.R. 4048. Antitrust cases are very complicated actions. Many times, both sides are unprepared to go to trial at the time the action has been filed, and are seeking information both in their own records and in the records of the other party to the action as to what the actual facts are that are involved in the case. Many times, the discovery proceedings take long periods of time.

I frankly am concerned about any kind of an action that punishes one side of the action and not the other. It has been stated earlier that a cross-complaint or a countersuit could be filed, but many times that is not in order. A cross-complaint or a counterclaim is not available many times to a defendant.

I think if we wanted to take any step of this kind, it would be better by far to provide some kind of penalty to the party that has been determined by the court to have caused the delay. I have seen many times in the course of my practice where a plaintiff does not have the information that they need, and does not want to go to trial until they can complete their fishing expedition, which may take, in the case of a complicated proceeding such as this, a matter of months or even years in order to complete.

The treble damages that can be awarded to the plaintiff as a result of a judgment in one of these antitrust cases adequately takes care of any possible damages that the plaintiff could have. The power that the Federal judge has to control the actions within his court certainly gives him the authority to control the time and to require the presence of the parties on either side on a day that a case has been set, and require them to go forward with the action without delay.

If we award tremendous judgments in these cases, the consumer is going to pay these costs in the long run, and I think the consumers are going to pay for the interest that is awarded in higher prices that will have to be charged for the products produced by the defendant.

I think at the present time our courts have the authority to speed up these trials if they only exercise the authority that they have. To force parties to go to trial before either side is adequately prepared, denies justice.

Many of the attorneys on both sides of these cases are engaged in trials throughout many parts of the country. Certainly, the client of the attorney should not be the one that is punished when the attorney cannot, because of other actions, come to trial; and especially when that attorney may be the attorney on the other side and the client, who is the defendant, may be the one that has to pay. Let us not add to the burden of our legal system or to the consumer, who is the ultimate payer. Let us keep the law as it is now.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the gentleman made reference to the fact that the court should impose a penalty, but the gentleman does not want to impose a penalty by way of prejudgment interest. Of course, we have taken up in the committee the question of imposing penalties against the attorney where he might individually be guilty of dilatory tactics, which his client may or may not concur in, but we have not brought that bill to the floor. That bill is very controversial. What kind of penalty does the gentleman think the judge should impose?

Mr. MOORHEAD of California. I think there is a tremendous penalty when we award treble damages to begin with. I know the power of the Federal judge when he says, "I expect you to be here

30 or 60 days from now, and I expect you to be prepared."

There are very few attorneys that are going to come into the court on that day that has been set and tell the judge they just have not done their work.

Mr. McCLORY. If the gentleman will yield further, with today's high interest rates, just holding on to the money and just stalling and delaying can greatly benefit a party. Adjudicated wrongdoers who delay the date of justice should not be permitted to profit by their delay.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. McCLORY. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

□ 1250

Mr. MOORHEAD of California. What kind of penalty are you going to give to the plaintiff when it is his fault that the delays take place and perhaps the defendant has had to set aside moneys that he would have otherwise invested in order to pay a judgment that might be awarded against him?

He has had additional costs, too, by reason of any delays that the plaintiff might have caused.

Mr. McCLORY. In that case, of course, there would be no opportunity for the imposition of interest, for interest cannot be awarded where the principal is zero.

Mr. MOORHEAD of California. Then you would have a one-sided solution.

Mr. McCLORY. It would be up to the judge to decide whether or not there was any basis upon which to award prejudgment interest. Unless there is a counterclaim, there is no claim for damages against the plaintiff, and it is not possible to award interest on nothing. But your loophole appears on both sides. It may equally happen that a defendant delays but wins the case on the merits. No interest is awarded there either. The fact that this bill does not remedy every defect is no reason, in my opinion, for opposing this legislation. Yes, there will be still more work to be done after this is enacted.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, without getting into the semantics, the gentleman spoke of "penalties" or the notion of penalizing the plaintiff or the attorney. I think it might be more fairly characterized as an effort——

The CHAIRMAN. The time of the gentleman from California (Mr. MOORHEAD) has expired.

Mr. MAZZOLI. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. Chairman, just to continue the point, the gentleman used the term "penalty," and he is certainly entitled to use that. I would prefer to consider this as a deterrent to dilly-dallying and protraction and as an elimination of the existing incentive for delay. It may look like and have the accourtrements of a penalty, but I really think this is in fact not a penalty, but just an effort to move these cases aong.

Mr. MOORHEAD of California. But if you award the interest only in those cases that the judge feels that the defendant has been dilatory, it is a penalty. It does not matter what you call it, that is what it is.

Mr. MAZZOLI. The gentleman was here when the gentleman from Virginia and I spoke. I think in many, many cases, the defendant will have filed cross-claims, in which case the defendant would be considered the plaintiff for purposes of prejudgment interest. And even when that is not the case, I am convinced that the judge, who has plenary power in all of these matters and a rule book before him or her, can utilize existing law to penalize the conduct of the party or the attorney who happens to be on the plaintiff's side. I think something would be done. The gentleman raises a very important point, but I think it can be managed within the law as it stands today.

I thank the gentleman for yielding.

Mr. MOORHEAD of California. Mr. Chairman, I yield back the balance of my time.

Mr. MAZZOLI. Mr. Chairman, at this time I yield 3 minutes to the distinguished gentleman from North Carolina (Mr. GUDGER), a member of our committee.

Mr. GUDGER. Mr. Chairman, I want to add just one or two words to the comments that have been made previously.

First, I want to commend the gentleman from Kentucky for opening his general debate here today by pointing out that this is strictly a discretionary power to be given to our Federal courts to act under only restricted circumstances, and there to act either to grant this prejudgment interest, to grant it in part, or to deny it altogether.

Now, the only circumstance, of course, in which the award can be made is where the plaintiff, a successful plaintiff, has made application, and where the causes which are stated in the bill have been shown to exist. And those causes exist only where there have been delays occasioned by the acts of the adverse party. And in weighing out the equity of making an award, the trial judge is to consider those delays which are caused by the plaintiff, and, I would assume, offset those delays from any prejudgment interest award.

Now, let us deal with the facts as they exist in this country right now. The letter appearing on page 13 of the record from Milton D. Stewart, Chief Counsel for Advocacy of the Small Business Administration, points out that in 1977 small businesses were having to do a great deal of self-help. They were the ones who were having to go to court, and they filed 1,611 antitrust actions. The Federal Government, only 71. They also were parties in 95 percent of all antitrust actions, and their recovery experience was 60 to 1 favorable. In other words, the small business actor who went to court won 60 out of 61 times.

Now, that being the situation, what was the actual experience in delay? According to this correspondent, the average duration of antitrust class actions was 44 months. Now, that falls 4 months short of 4 years, which is a long time to be in litigation, and at current interest rates, a big burden for small business to bear.

Therefore, I think the comments of the distinguished chairman of the committee, pointing out that small business is the one who has carried this burden when our caseload has been to heavy for our trial judges to bear in this high-interest period, have been very relevant comments indeed.

I point out here that the Government in its antitrust action can only recover actual damages. And yet if there is to be an equitable power given to the trial judge in the Government's right of action——

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. GUDGER) has expired.

Mr. MAZZOLI. Mr. Chairman, I yield 2 additional minutes to the gentleman from North Carolina.

Mr. GUDGER. If the Government, acting on the part of the public, the citizens of our country, is to be entitled to recover prejudgment interest in the single-damage recovery, should not the rule—if it is designed to try and bring about expedition of trial, if not to penalize, certainly to encourage and stimulate speedy trial of these actions—should not the same rule of prejudgment interest be granted in the treble-damage situation if it is limited to interest, actual interest at prevailing rates, on what are the actual damages from which the treble damages are determined?

I think that was the sense of the committee when it made this recovery available in the class-action situation, the private-action situation and the Federal-action situation, and made the same rule applicable to all three of these forms of antitrust actions.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I think the gentleman has made a very important statement. I think he has put his finger on the crux of the problem here. What we are saying is, whether it is single-damage actions or treble-damage actions, what we are seeking is not penalty but to expedite and move the cases along; so the application of prejudgment interest is certainly as feasible and as fair and equitable in treble damages as it is in the case of actual damages.

Mr. GUDGER. I thank the gentleman from Kentucky for his summary.

Mr. McCLORY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I rise

in opposition to this bill, and I also want to associate myself with the comments of the gentleman from Virginia.

I may say the President's Commission for Review of Antitrust Laws and Procedures found that delay was caused by both plaintiffs and defendants, and if you take the orientation of these suits, you will find that interrogatories by the bushel are issued by plaintiffs, sometimes up to set number 23, 24, and multiple pages. It takes a very brief time to ask for production of all correspondence dealing with a certain subject matter from 1965 to date, but it takes many, many hours and days and weeks to try and dig that information out of files and provide it. So in many instances, just the pendency of the suit, the problems caused by the suit, stockholder reports and everything else, compel corporations to settle cases on treble damages. So it can be used either way.

Basically, I disagree with the gentleman from Kentucky who observed that, some way or other, interest could be awarded against the plaintiff if the plaintiff is dilatory. There is no way. The bill provides that it be on motion by the plaintiff. It is a one-way bill. Of course, if there are no damages entered, the plaintiff has not only been dilatory but totally nonmeritorious, there is nothing you could compute interest in.

The Federal judge is amply armed with power to control dilatory conduct. He can fine attorneys, he can allow actual costs on frivolous motions and whatnot, under existing law. The thing that takes the time in the antitrust cases is the complexity of them and the huge amounts of money that are potentially involved. People are ultracautious, and certainly ultracaution can in one person be just that and in another person be dilatory. So I think that when you get treble damages, you also get attorneys' fees and costs if you are a successful plaintiff. Why you should get simple interest on the original or basic damages is beyond me. Certainly, compared to a treble-damage threat and the huge original damage threat and attorneys' fees, reasonable attorneys' fees, which are usually very healthy in these cases, the little consideration of interest on the simple damages is not going to be a factor in significantly affecting the delay.

□ 1300

Now, while I cannot say that I had Wall Street experience or anything of that dignity, I have been involved in antitrust cases where Inland Steel was a defendant, where Dearborn Motors was involved and in the Ford-Ferguson case where I was a trial lawyer and several others, Chrysler, General Foods Corp. I have also represented both plaintiffs and defendants civilly and defendants criminally in antitrust cases, and, believe me, they are complicated cases and the judge has every weapon he needs to bring that case on for trial, to stop dilatory practices.

I think it is a one-way street and dilatoriness is sometimes used by plaintiffs, causing problems with stockholder reports and problems with audits, having to footnote such things.

I think that this is just a totally unnecessary piece of legislation. It will not accomplish the purpose for which it was designed. I think it is strictly a one-way street where there is a two-way violation.

I intend to offer an amendment which will eliminate it in treble damage cases, leaving it in single damage cases, those cases brought by the Government; but I am basically opposed to the bill.

Mr. MAZZOLI. Mr Chairman, I yield 1½ minutes to the gentleman from Missouri (Mr. Volkmer).

Mr. VOLKMER. Mr. Chairman, in answer to the last gentleman in the well, I would just like to point out that with the amendments that are being proposed here today, and as I understand they will be agreed to, and I am sure the gentleman from Michigan will support, other than his own, we are not speaking of that one, but the other corrective amendments; the bill then will only apply to providing interest on actual damages when there are basically dilatory tactics, that is all. If there are no dilatory tactics—there is no prejudgment intent. The court is to take into consideration also if plaintiff was dilatory as well as defendant. If there are dilatory tactics by the defendant, then the person should have to pay interest. Basically the purpose of the bill is to speed up antitrust litigation. I think it will very well do that.

The other thing I would like to point out, if the gentleman from Michigan feels the interest would have no effect because you have treble damages and if it is doing no harm, therefore, those of us who feel it will have an effect, we should go ahead and pass the bill with the proposed amendments here today, other than the amendment of the gentleman from Michigan.

Mr. MAZZOLI. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Chairman, I thank my colleague from Kentucky for yielding.

Mr. Chairman, I rise in strong support of this legislation. It is a much-needed measure that would authorize the court to award prejudgment interest in antitrust litigation in which either party, plaintiff, or defendant, engages in deliberate delaying tactics.

It is clear that parties to an antitrust case often stand to gain considerable financial benefits by protracting the litigation. For example, a defendant with fairly clear liability can use a wide range of delaying tactics to increase the period of time in which the case is being litigated. During this time, the defendant can retain for his or her own use the monetary damages that eventually will be awarded to the plaintiffs. Thus, delay can prevent a plaintiff from receiving complete payment for damages unless compensated by the payment of interest from the date of the defendant's dilatory conduct.

I should add that an award of prejudgment interest is particularly appropriate today in these times of rapidly increasing inflation. With inflation rates of 15 to 20 percent, a party could find it in his interests to delay final judgment as much as possible. Not only would he greatly reduce his own damages in real dollars, but he also would wipe out the legitimate damages awarded the injured party.

Consequently, I feel the courts should have the authority to assess prejudgment interest on a party who engages in conduct primarily for the purpose of delaying the litigation or unnecessarily increasing the costs. The courts then would have an appropriate means to deter antitrust litigants from unnecessary, unfair, and costly delays.

I strongly urge my colleagues to vote for this much needed legislation.

Mr. McCLORY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to emphasize that the award of interest is something that is left up to the court. There is only one party that is the likely subject of penalty as far as a claim is concerned, that is the defendant; so that there is no occasion to grant interest against a plaintiff, unless there is a counterclaim filed by the defendant, as the gentlemen from Kentucky correctly explained earlier. The interest applies only to single damages, whether it is a Government action or whether it is a treble damage case. But the authority to make an award is reposed in the court.

Once we realize that dilatory tactics are a problem with regard to antitrust cases, we must provide some mechanism to discourage the use of dilatory tactics. This is one means. It is the recommendation of the National Commission. It does have strong support from the Judiciary Committee.

It seems to me that it is a fair and an appropriate way to handle this problem we are trying to treat here. It alone is not the answer. But it will help.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 4048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the plaintiff promptly made, simple interest on actual damages from the date of service of the complaint or any later date to the date of judgment if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider—

"(1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith; and

"(2) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule or statute providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings.".

(b) Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the plaintiff promptly made, simple interest on actual damages from the date of service of the complaint or any later date to the date of judgment if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider—

"(1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule or statute providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether the award of such interest is necessary to compensate the plaintiff adequately for the injury sustained by the plaintiff.".

(c) Section 4C(a)(2) of the Clayton Act (15 U.S.C. 15c(a)(2)) is amended by adding at the end thereof the following new sentences: "The court may award under this paragraph, pursuant to a motion by the plaintiff promptly made, simple interest on total damages from the date of service of the complaint or any later date to the date of judgment if the court finds that the award cf such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider—

"(A) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith; and

"(B) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule or statute providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings.".

SEC. 2. The amendments made by this Act shall apply only with respect to actions commenced after the date of the enactment of this Act.

Mr. MAZZOLI (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: Page 4, line 2, strike out "and".

Page 4, line 7, strike out "proceedings.'." and insert in lieu thereof "proceedings; and".

Page 4, insert after line 7 the following:

"(3) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

Page 5, line 2, strike out "and".

Page 5, line 5, strike out "plaintiff.'." and insert in lieu thereof "plaintiff; and".

Page 5, insert after line 5 the following:

"(4) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

Page 5, line 20, strike out "and".

Page 5, line 25, strike out "proceedings.'." and insert in lieu thereof "proceedings; and".

Page 5, insert after line 25 the following:

"(C) whether the plaintiff or defendant, cr his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, during full committee consideration of H.R. 4048, several members expressed concern over the language that permits the award of prejudgment interest if just under the circumstances. It was their feeling that without more precise language in the legislation, defendants would be subject to a court's unfettered discretion in the awarding of prejudgment interest.

The committee responded to this concern by adopting an amendment which provides guidance for the court in arriving at its determination to award prejudgment interest. This amendment adds to the list of factors to be considered by the court.

The amendment which I offer today defines with greater precision the limit of the court's discretion in awarding prejudgment.

It adds language to the bill that instructs the court to consider whether a party or its representative has engaged in conduct primarily for the purposes of delay. Application of this additional guideline can accrue to the benefit of either a plaintiff or a defendant. For example, I can envision a situation where a defendant has served the plaintiff with an onerous discovery request, such as a detailed set of interrogatories, with the sole purpose of discouraging or frustrating the plaintiff, in that case, a court should be able to consider the defendant's intentional conduct in determining if it is just under the circumstances to award prejudgment interest.

Similarly, the amendment would also provide a safeguard for the defendant. Where a plaintiff engages in similar conduct with the sole intent of delaying the litigation or increasing the defendant's costs, a court will be free to consider the plaintiff's conduct and may adjust downward or completely deny the award of prejudgment interest.

I believe this amendment will help guide our courts in achieving the stated purpose of this legislation, which is to provide a mechanism to deter unnecessary delays in antitrust litigation.

Accordingly, I urge adoption of the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I would be happy to yield.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have examined the amendment on this side. I am familiar with the gentleman's amendment. It is constructive. I hope that the amendment can be supported overwhelmingly.

I rise in support of the amendment. If this bill is to provide a disincentive for dilatory conduct, then it must follow that the trial court be permitted to consider whatever dilatory conduct the defendant engaged in to merit a penalty as well as whatever dilatory conduct the plaintiff engaged in to forfeit the award. With the Volkmer amendment but without this amendment, some kinds of dilatory conduct will count and some kinds will not. That is a foolish result. For then if both parties engage in dilatory conduct but only the defendant's falls under paragraphs (1) and (2), then the plaintiff will profit by his own delay simply because the judge is statutorily instructed to wear blinders and take cognizance of only certain kinds of dilatory conduct.

I know that it is desirable to limit judicial discretion wherever it is reasonable to do so. But not every limitation on judicial discretion is reasonable. We do not tell judges to decide only for defendants or only for plaintiffs. That would not make sense, although it would limit discretion. Likewise, it does not make sense to limit the judge's consideration of dilatory conduct to a handful of the Federal rules of civil procedure. Those rules do not define dilatory conduct but rather deal with specific instances. For purposes of covering dilatory conduct, they are incomplete.

One would think that if a choice had to be made between penalizing dilatory conduct falling under the Federal rules and penalizing other dilatory conduct, we would choose the latter rather than the former because the dilatory conduct now covered arguably invokes the possible sanctions contemplated by the rules. The greater problem is dilatory conduct which apparently does not fall under such rules. With the Volkmer amendment but without this amendment, we will have it just backwards.

What is wrong with covering all dilatory conduct? Why should a judge not be permitted to consider the dilatory conduct of plaintiffs and defendants who repetitiously raise and drop baseless issues? Why should a judge not be permitted to consider the dilatory conduct of plaintiffs and defendants who make excessive and repeated discovery demands? Why should a judge not be permitted to consider the dilatory conduct of plaintiffs and defendants who try to overwhelm the opposition with a mass of irrelevant material unresponsive to a discovery request? Why should a judge not be permitted to consider the dilatory conduct of plaintiffs and defendants who routinely file and press motions to reconsider each and every motion of theirs which is denied? Why should a judge not be permitted to consider the dilatory conduct of plaintiffs and defendants who contest to the hilt each and every possible issue even though there is no basis in law or fact to support the argument?

I do not understand why we should not. I would think it clear to most that all dilatory conduct is relevant, not just some conduct that happens to fall under a Federal rule of civil procedure. To require that only some dilatory conduct be considered does not eliminate discretion. The court would still have to assess whether the conduct is dilatory and would still have discretion to determine the rate of interest and the time the interest would run. Thus nothing is really achieved by the narrow approach.

Mr. Chairman, the amendment makes good sense. Dilatory conduct is what this bill is about. This amendment makes that perfectly clear. I urge its adoption.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The gentleman's amendment goes a long way toward clarifying for me the considerations that enter into a court's determination on the award of prejudgment interest. While I believe that the courts must be given a degree of flexibility to provide for the exigencies of a particular case, it is necessary to provide some limits on the courts in the exercise of their authority under this legislation.

This amendment provides a significant improvement in the legislation by more precisely defining the circumstances under which prejudgment interest may be awarded. Both plaintiffs and defendants will clearly understand the type of conduct that will lead a court to award prejudgment interest.

Courts should be permitted to review any conduct of a plaintiff or defendant whose sole purpose is to delay the progress of the litigation or unduly increase the cost of that litigation. Without this amendment, there is little to deter a party from burdening the other party with an onerous discovery request or other action not specifically covered by the parameters set forth in H.R. 4048.

I, too, believe this amendment will guide our courts in achieving the underlying purpose of H.R. 4048: providing a mechanism to deter unnecessary delays in antitrust litigation.

Accordingly, I join my colleague in urging the adoption of the amendment.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 3, line 21, following the word "consider" insert the word "only".

On page 4, line 17, following the word "consider" insert the word "only".

On page 5, line 15, following the word "consider" insert the word "only".

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, this amendment only adds one word to each of the three sections where prejudgment interest is authorized. It clarifies that prejudgment interest can only be given in just circumstances and only for the causes mentioned in the bill.

With the Hughes amendment adding a third cause, and there being four reasons in the Government action for single damages only, and those reasons for private and parens patriae action. This makes it clear that the court, unless it finds that one of these causes exists, says there cannot be any prejudgment interest. If one of these three causes does exist, then the court is allowed if it is just in the circumstances to award interest.

I think that the amendment is a necessary ingredient in the bill and once adopted, I can wholeheartedly support the bill.

□ 1310

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I think this is a very constructive and clarifying amendment. I want to indicate my support for it.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman.

Mr. MAZZOLI. I thank my friend for yielding. I think the gentleman would agree with me that in the subcommittee and committee, we essentially were moving toward the gentleman's position. We endeavored to put words on paper which incorporated the gentleman's attitude regarding when compensation can be a factor in the award of prejudgment interest. I think the gentleman's amendment offered today is an improvement. It clarifies the problem and, as I understand it, limits the court to consideration of compensation only in cases where a plaintiff is limited to actual damages. Those cases would be only section 4A cases involving the U.S. Government. I thank the gentleman very much and urge adoption of the amendment.

Mr. VOLKMER. I appreciate the support and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLORY: Page 3, beginning on line 16, strike out "from the date of service of the complaint or any later date to the date of judgment" and insert in lieu thereof "for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein,".

Page 4, beginning on line 12, strike out "from the date of service of the complaint or any later date to the date of judgment" and insert in lieu thereof "for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein,".

Page 5, beginning on line 10, strike out "from the date of service of the complaint or any later date to the date of judgment" and insert in lieu thereof "for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein,".

Mr. McCLORY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. McCLORY. Mr. Chairman, this amendment should be noncontroversial. It is a more precise formulation of an amendment which I offered orally during subcommittee markup. The issue concerns the period of time for which prejudgment interest may be awarded. Originally, the bill indicated that the time period ran from the date of service of the complaint to the date of judgment. In order to allow for shorter periods of time as well, I offered additional language in subcommitee to allow interest from a date later than the date of service up to the same termination date, the date of judgment.

The problem with this language is that the dilatory conduct, which is the basis of an award of prejudgment interest under the bill, may not always occur at the end of the designated time frame. It might occur in the middle or at the beginning. But such an occurrence might appear to suggest that once a party engages in dilatory conduct, interest might be awarded from that date to the date of judgment even though the party had long terminated its dilatory conduct and the impact of such conduct had completely dissipated. That result is not our intention.

Our intention is rather that the operative time period for the awarding of interest correspond with the impact of the dilatory conduct. I think we all recognize that while the dilatory conduct itself might consume only a few hours, it might produce a delay of months. This amendment does not obscure that fact. But it does negate the implied presumption that the impact of the dilatory conduct never ends.

If the pending amendment is adopted, the award of interest will not be affected by any such implied presumption but will depend on the circumstances of the particular case.

Mr. Chairman, this additional precision in the language of the bill is most desirable. I urge its adoption.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding. If I understand the amendment correctly, it would be my intention to support the gentleman's amendment. I think the essence of what we did at the subcommittee and full committee would reflect what the gentleman seeks to accomplish with his amendment. That is to allocate and assign prejudgment interest only to that period of the case during which the impact of dilatory conduct by the plaintiff or defendant affects the progress of the litigation; is that correct?

Mr. McCLORY. The gentleman is absolutely correct.

Mr. MAZZOLI. Therefore, the interest award period would not have to be measured by the date of judgment at one end. It could begin at any point after the filing of the complaint, and it could end at any point prior to the date of judgment. Of course, if the date of judgment ends the dilatory conduct, then the interest award period ends at the date of judgment?

Mr. McCLORY. The gentleman is exactly right.

Mr. MAZZOLI. I think the gentleman's amendment is eminently sensible, and I would certainly support it.

Mr. McCLORY. I thank the gentleman and thank him for his support. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. McCLORY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAZZOLI: Page 4, line 5, strike "or statute" and insert in lieu thereof ", statute, or court order".

Page 4, line 24, strike out "or statute" and insert in lieu thereof ", statute, or court order".

Page 5, line 23, strike out "or statute" and insert in lieu thereof ", statute, or court order".

Mr. MAZZOLI. Mr. Chairman, I am glad my friend from Michigan is on the floor. He will be offering an amendment in just a moment. But I think the amendment of the gentleman from Kentucky may anticipate some of the problems the gentleman from Michigan has very thoughtfully brought up during general debate.

Mr. Chairman, the purpose of this clarifying amendment is to eliminate a potential loophole that could encourage continued dilatory behavior by either a plaintiff or a defendant, notwithstanding the other provisions of H.R. 4048.

This amendment provides that if either party violates a court order governing the expeditious flow of the litigation, the court can and should consider such conduct in the award or the denial of prejudgment interest.

Court orders are frequently used to limit discovery or otherwise insure the expeditious conduct of the litigation. Yet, violation of these orders would not necessarily fit within the ambit of this legislation before us and would not necessarily be within the scope of the criteria in determining whether prejudgment interest should be awarded.

In my judgment, and I think in the committee's judgment, a court should be free to consider violations of court orders relating to dilatory conduct on the part of a plaintiff or a defendant in determining if an award of prejudgment interest is just under the circumstances.

Adoption of this amendment will insure that the underlying purpose of this legislation is fulfilled, and that purpose is to permit the courts to eliminate or control unnecessary delays in antitrust litigation.

In order to achieve that purpose, the courts must be in a position to deal with a multitude of situations in which delay could occur. I would urge adoption of this amendment as an assurance that the Federal courts will have the authority they require to deal with unwarranted dilatory conduct.

The gentleman from Michigan made the point that this is a one-way bill and that in many cases plaintiffs may be guilty of dilatory conduct and would get off in a sense scot-free. Thus, only defendants would be hurt. It seems to me that if the plaintiff or his attorney is engaged in dilatory conduct in violation of court rules or of some specific statute for expediting the trial of a case, the court could issue an order prohibiting any such conduct. Should the conduct continue, the court could impose sanctions under the Federal Rules of Civil Procedure.

I think this amendment would solve at least one of the problems brought up by the gentleman from Michigan (Mr. SAWYER), though it may not solve all of these problems.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. It seems to me the gentleman is offering a very constructive amendment. Just as with the violation of a rule or statute, if a party violates a court order it seems to me that could be sufficient basis for the imposition of prejudgment interest as provided in this bill.

Mr. MAZZOLI. I would say to the gentleman further, in the event a court order is issued against the plaintiff where he has engaged in dilatory conduct, and that court order is somehow violated in the remainder of the case or litigation, the court could adjust downward or totally deny the award of prejudgment interest to such plaintiff. Thus, with the adoption of this amendment and those already adopted today, the bill provides ample protection for both plaintiffs and defendants.

Mr. Chairman, I yield back the balance of my time and move adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 3, strike out line 12 and all that follows down through line 7 on page 4.

Page 4, strike out line 8 and insert in lieu thereof the following: "That section 4A of the Clayton Act (15 U.S.C. 15a) is".

Page 5, strike out line 6 and all that follows down through line 25.

Page 6, line 1, strike out "amendments" and insert in lieu thereof "amendment".

Mr. SAWYER. Mr. Chairman, my amendment has one simple, single purpose and that is to eliminate this interest feature on triple damage actions, but to leave it in place on those single damage actions that are initiated by the Government and that do not involve any trebling under the statute.

I just want to say prefatorily, that the gentleman from Kentucky (Mr. MAZZOLI) on pointing out how these sanctions can be employed by the judge against a dilatory plaintiff, he can employ those same things under existing law against the defendant, and if he fails to control or avoid frivilous delay, it is the judge's fault because he certainly has all of the weaponry to do it.

☐ 1320

The triple damage plaintiff gets his full compensation for every injury he has had, for all of the injuries he has sustained. Then the damages get multiplied by three, so he gets 200 percent simple interest—200 percent simple interest—because this is not represented by any injury he sustained. It is written into the law to discourage defendants from violating the antitrust law and is in effect a punitive damage or fine on the defendant. But the plaintiff gets it. He is the beneficiary. So, right now under the law in treble damage actions, the plaintiff gets 200 percent interest on anything he sustained by way of injuries, tangible or intangible. To add a factor of simple interest on the original damages in addition to 200 percent is clearly an overkill, and you cannot even argue, as you can in most actions, that he may have to pay a pretty significant contingency attorney's fee out of his damages, which is the normal case.

Most of these plaintiffs' cases are handled on a contingency basis. But the statute also provides that he does not just get awarded the normal, run-of-the-mill docket type token attorneys' fees, he gets reasonable attorneys' fees in addition. So he does not, out of his 200 percent interest, have to take a penny out for his attorneys' fees. If you look at the history of these treble damage cases, all you can say about the awards of attorneys' fees is that they are very generous. They normally, if it is a sizable case, run up into six figures, and well up into six figures very often. So to add another factor, namely, 9 or 10 percent interest on the original damages, when 200 percent is already being paid, I just think represents a one-way street overkill. There is no way you can assess that against a plaintiff, successful or unsuccessful, no matter how dilatory he was.

If you have seen these pages and pages and pages of interrogatories—sets up to 23, 24, and 30 sets—and the amount of burden, economic burden, placed upon the defendants trying to comply with what can be asked in one question—for example—asking for all correspondence dealing with one subject matter since 1960, the amount of clerical hours, executive hours, attorney review hours, and everything else, you can see how settlements are forced by plaintiffs, and very often that is the principal aim of these multiple interrogatories. I say it is a clear overkill, a clear one-way street. There may be some argument where you only get single damages, such as in Government-instituted suits, and in those cases I see a reasonable argument for prejudgment interest.

My amendment will do just two things: One, it will eliminate an additional interest factor over the 200 percent that a successful plaintiff already gets. And if he is not successful, the whole act does not apply to him anyway. It just avoids adding to 200 percent interest already there and yet preserves prejudgment interest in those cases where only actual damages are recovered.

I urge support of the amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, my friend, the gentleman from Michigan (Mr. SAWYER), is a persuasive member of our full committee. He always makes a contribution. Today, I do not think he is quite as persuasive with the gentleman from Kentucky as he has been in many other instances with our committee. In this instance, the gentleman from Kentucky reluctantly opposes the proposed amendment.

Whether it is characterized as cleaning up a bill that had many loose ends, or whether it is characterized as the kind of polishing and burnishing action—which I think should characterize any major piece of legislation reaching the floor—however characterized, we have then added today the gentleman's amendment which specifically limits consideration of compensation to cases involving the Government, section 4A cases. We have adopted the gentleman from Kentucky's amendment which provides that if a court has issued an order in the case and that order is violated, the party in question will be assessed prejudgment interest. In addition, he may be assessed sanctions based upon existing statutes or the Federal Rules of Civil Procedure.

We have also adopted the gentleman from New Jersey's amendment, which again is consistent with the purpose of eliminating an incentive for delay, but does not permit the court to consider factors other than those specifically listed. I would, therefore, with respect to my friend, the gentleman from Michigan (Mr. SAWYER), say that we have reached the bedrock, the irreducible, non-negotiable point which people talk about, and that is that if you are for the bill, you have got to be for the bill as amended. If you are basically against the bill, I really think that the gentleman's amendment would not remedy your concerns. I think the bill as it is today is as carefully drawn as it can be, and I would again, with respect to my friend, and in full knowledge of his many contributions to this full committee and to our Committee on the Judiciary, have to oppose his amendment.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the distinguished gentleman from Michigan (Mr. SAWYER) takes account of the fact that the imposition of interest as a deterrent to dilatory tactics is good in single damage cases, and so the principle of imposing prejudgment interest is recognized in his amendment even as it is throughout this bill. Likewise, the gentleman feels that in treble damage cases, that the treble damages are enough. Treble damages are a distinct penalty for a violation of the antitrust laws.

But let me point out that the imposition of prejudgment interest is imposed not on the treble damage judgment but on the actual damages that are found by the court. Let me say this, too, that if there is an advantage to dilatory tactics in treble damage cases, it seems to me there is a treble advantage there because the parties have possession of a much larger sum of money during this period of delay. It seems to me that the whole principle of prejudgment interest as a valid basis for deterring dilatory tactics in antitrust cases would be lost if we supported the gentleman's amendment. I know it is well-intentioned, and I have listened thoughtfully to the gentleman's argument, but it seems to me that the amendment is not valid and should be defeated.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, what we have got to recognize here is that the subcommittee has worked out a bill which was intended to resolve a problem, and that is the problem of trying to eliminate the existing incentive for dilatory action. What we have got to bear in mind is that this bill does address the problem. It addresses it in what I consider to be a very balanced manner. What it does is to eliminate an incentive for delay which would be created by the inability of the courts to award prejudgment interest to a claimant, even in extreme instances when an opposing litigant unnecessarily delays the litigation and reaps the financial gain of that delay. This incentive for delay is present, and this is the point to be made, in all Clayton Act cases, not merely cases brought by the United States.

I believe, therefore, that this amendment would fly in the face of what we are attempting to do, and for that reason I urge the rejection of the amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman.

Mr. MAZZOLI. I thank the chairman for making that very interesting and appropriate statement. I think that the Members ought to consider what the chairman has said, and that is that if we look at this bill as a penalty bill, then it would appear that we must support the gentleman from Michigan (Mr. SAWYER), but if we recognize that the bill is intended to eliminate the incentive for dilatoriness and encourage expedition, then we have to oppose the gentleman's amendment. I think the chairman made that statement.

Mr. RODINO. I thank the gentleman from Kentucky. The gentleman is absolutely correct and lays his finger right on the point.

☐ 1330

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. It seems to me the amendment fails to take into account two very important considerations. The first is that the purpose of the treble damage provision in the Clayton Act, which has been the law now ever since 1914 when the Clayton Act was passed, is to encourage private litigants to enforce the antitrust laws. This is the so-called private attorneys general concept, which provides persons injured by the antitrust laws with a large carrot to use the stick of the antitrust treble damage action to see that the antitrust laws are enforced.

Mr. Chairman, the treble damage award is not intended to be a means of compensating the plaintiff for delays created by the defendants' dilatory tactics. To the extent that dilatory tactics, by causing loss of interest to the plaintiff, cut into the treble damages, they defeat the very purpose of the treble damage section, which is to give incentive to private individuals to come forth and see that the antitrust laws are enforced. As a matter of fact, it is a very, very significant factor in the enforcement of the antitrust laws.

Until some years ago when certain corporate executives were put in prison for violating the criminal sanctions of the antitrust laws, a lot of corporate executives did not take them seriously, with one exception: When their own counsel pointed out to them that if they engaged in certain practices which were not criminal violations but that would nevertheless subject their company to the possibility of treble damages. Then they usually listened to their lawyers, and their own lawyers thereby became a very important perhaps the most important means of seeing that the antitrust laws are enforced. As a former corporate counsel myself for 17 years, I can tell you that the treble damage provision of the antitrust laws often times made the difference in whether the corporate counsel had clout with those corporate executives to persuade them not to do things that would violate the antitrust laws.

But, Mr. Chairman, if the executives get the idea that they can drag litigation out and be able to deduct the lawyers' fees and in the meantime earn sufficient interest on the amount at stake to offset the treble damages, then they are going to have less of an incentive to pay attention to the advice of their own lawyers to comply with the law.

The other aspect is, of course, that the purpose of the prejudgment interest is to deter dilatory tactics. If we remove that, except in Government cases, then we are simply saying in terms of private treble damage actions for enforcement of the antitrust laws—and that is about 95 percent of the total—that we are not concerned about dilatory tactics.

For these reasons, it seems to me this is not a sound amendment and ought to be defeated.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take a lot of time but I think it should be pointed out that this amendment really divides the Clayton Act enforcement action into two categories, those brought by the United States and the States under parens patriae and those brought by private plantiffs. But the financial incentives for delay in all defendants is the same in all cases. The benefit to a defendant to delay based on loss of interest and inflation occurs regardless of who brought the case, whether brought by private plaintiff, by the U.S. Government or by the State and, therefore, I feel that the amendment by bisecting this should not be adopted, that the reasons for giving interest are the same in any case and, therefore, the amendment should be defeated.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to say that I commend the gentleman from Michigan for this amendment. It seems to me this is the only area where we ought to be imposing the interest requirement on the plaintiff in antitrust cases and, therefore, I think it is quite an appropriate amendment and I urge the membership to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. SAWYER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SAWYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 154, noes 243, not voting 36, as follows:

[Roll No. 316]

AYES—154

Abdnor
Archer
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Bouquard
Broomfield
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Foley
Frenzel
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heftel
Hillis
Hinson
Holt
Hopkins
Horton
Hubbard
Hyde
Jacobs
Jeffries
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McDonald
McEwen
McKay
Madigan
Marks
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
O'Brien
Pashayan
Paul
Petri
Pickle
Pritchard
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—243

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Byron
Carr
Cavanaugh
Chappell
Chisholm
Coelho
Collins, Ill.
Conte
Corman
Cotter
Courter
Danielson
Daschle
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gonzalez
Gore
Green
Gudger
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Hightower
Holland
Howard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
Maguire
Markey
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Porter
Preyer
Price
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Snowe
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—36

Alexander
Anderson, Ill.
Ashbrook
Brinkley
Brown, Ohio
Burton, Phillip
Clay
Conyers
Davis, S.C.
Donnelly
Early
Edgar
Fish
Giaimo
Gray
Guarini
Heckler
Hollenbeck
Holtzman
Ichord
Jenrette
McKinney
Mathis
Mitchell, Md.
Moakley
Moffett
Murphy, N.Y.
Nedzi
Peyser
Reuss
Runnels
Santini
Solarz
Thompson
Williams, Mont.
Wilson, C. H.

☐ 1350

Messrs. ANDREWS of North Carolina, ERTEL, PORTER, and BROOKS changed their votes from "aye" to "no."

Messrs. MARKS, D'AMOURS, EVANS of Georgia, and PETRI changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BURLISON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4048) to amend sections 4, 4A, and 4C of the Clayton Act to authorize awards of prejudgment interest in antitrust litigation, pursuant to House Resolution 648, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BUTLER

Mr. BUTLER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BUTLER. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BUTLER moves to recommit the bill, H.R. 4048, to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BUTLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 169, not voting 37, as follows:

[Roll No. 317]

YEAS—227

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N. Dak.
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Byron
Carr
Chappell
Chisholm
Clausen
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Eckhardt
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gonzalez
Gore
Green
Guarini
Gudger
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Horton
Howard
Huckaby
Hughes
Hutchinson
Ichord
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Porter
Preyer
Price
Pursell
Quayle
Railsback
Rangel
Ratchford
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Smith, Iowa
Snowe
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—169

Andrews, N.C.
Archer
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bethune
Bouquard
Bowen
Breaux
Broomfield
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Foley
Fountain
Fowler
Frenzel
Frost
Gephardt
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
Marriott
Martin
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nichols
O'Brien
Panetta
Pashayan
Paul
Pritchard
Quillen
Rahall
Regula
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—37

Alexander
Anderson, Ill.
Annunzio
Ashbrook
Brinkley
Brown, Ohio
Burton, Phillip
Cavanaugh
Clay
Conyers
Davis, S.C.
Donnelly
Duncan, Oreg.
Early
Edgar
Fish
Giaimo
Gray
Heckler
Hollenbeck
Holtzman
Jenrette
McKinney
Mathis
Moakley
Moffett
Murphy, N.Y.
Nedzi
Peyser
Reuss
Runnels
Santini
Solarz
Taylor
Thompson
Williams, Mont.
Wilson, C. H.

□ 1410

The Clerk announced the following pairs:

On this vote:

Mr. Donnelly for, with Mr. Ashbrook against.

Mrs. Heckler for, with Mr. Brown of Ohio against.

Mr. Hollenbeck for, with Mr. Taylor against.

Until further notice:

Mr. Thompson with Mr. Phillip Burton.

Mr. Solarz with Mr. Brinkley.

Mr. Annunzio with Dr. Davis of South Carolina.

Mr. Alexander with Mr. Edgar.

Mr. Murphy of New York with Mr. Peyser.

Mr. Duncan of Oregon with Mr. Runnels.

Mr. Moakley with Mr. Santini.

Mr. Giaimo with Mr. Williams of Montana.

Mr. Nedzi with Mr. Gray.

Mr. Reuss with Mr. Jenrette.

Mr. Charles H. Wilson of California with Mr. Clay.

Mr. Early with Mr. Conyers.

Ms. Holtzman with Mr. Cavanaugh.

Mr. Mathis with Mr. Moffett.

Mr. LLOYD changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 390) to expedite and reduce the cost of antitrust litigation, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill as follows:

S. 390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedural Improvements Act of 1979".

ANTITRUST CIVIL PROCESS ACT AMENDMENTS; DEFINITIONS

SEC. 2. Section 2 of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended—

(1) in subsection (g), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a comma and the following: "and any product of discovery obtained by any person in any litigation;";

(2) in subsection (h), by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subsections:

"(i) The term 'product of discovery' includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission obtained by any method of discovery in any litigation; any digest, analysis, selection, compilation, or any derivation thereof; and any index or manner of access thereto, except that nothing in this statute shall create an exception to any right or privilege limiting disclosure of trial preparation material of any person who obtains any product of discovery; and

"(j) The term 'agent' includes any person retained by the Department of Justice in connection with the enforcement of the antitrust laws.".

ANTITRUST CIVIL PROCESS ACT AMENDMENTS; SERVICE REQUIREMENTS FOR A DEMAND FOR ANY PRODUCT OF DISCOVERY

Sec. 3. (a) Section 3(a) of the Antitrust Civil Process Act (15 U.S.C. 1312(a)) is amended by adding at the end thereof the following new sentence: "Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.".

(b) Section 3(b) of that Act (15 U.S.C. 1312(b)) is amended by adding at the end thereof the following new sentence: "Any such demand which is an express demand for any product of discovery shall not be returnable or returned until after twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.".

(c) Section 3(c) of that Act (15 U.S.C. 1312(c)) is amended—

(1) by inserting "(1)" immediately after "(c)";

(2) by striking out "(1)" and inserting in lieu thereof "(A)";

(3) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law preventing or restraining disclosure of such product cf discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.".

(d) Paragraph (3) of section 4(c) of that Act (15 U.S.C. 1313(c)(3)) is amended by inserting immediately after "transcripts" the second time it appears, a comma and the following: "and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained".

(e) Paragraphs (2) and (3) of section 4(c) of that Act (15 U.S.C. 1313(c) (2) and (3)) are amended by striking out the phrase "official or employee" and inserting in lieu thereof "official, employee, or agent" each time it appears.

(f) Section 5 of that Act (15 U.S.C. 1314) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file and serve upon such antitrust investigator, and in the case of an express demand for any product of discovery upon the person from whom such discovery was obtained, a petition for an order modifying or setting aside such demand—

"(A) in the district court of the United States for the judicial district within which such person resides, is found, or transacts business; or

"(B) in the case of a petition addressed to an express demand for any product of discovery, only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

"(2) The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of such person.";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) Whenever any such demand is an express demand for any product or discovery, the person from whom such discovery was obtained may file, at any time prior to compliance with such express demand, in the district court of the United States for the judicial district in which the proceeding which such discovery was obtained is or was last pending, and serve upon any antitrust investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each group upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand."; and

(4) in subsection (d), as that subsection has been redesignated by paragraph (2) of this section, by inserting immediately after "such person" a comma and the following: "and, in the case of an express demand for any product of discovery the person from whom such discovery was obtained,".

SANCTIONS FOR ATTORNEY DELAY

Sec. 4. Section 1927 of title 28, United States Code, is amended to read as follows:

"§ 1927. Counsel's liability for excessive costs

"(a) Any attorney or other person admitted to conduct cases in any court of the United States or any territory thereof who intentionally engages in conduct unreasonably and primarily for the purpose of delaying or increasing the cost of the litigation may be required by the court to satisfy personally the excess costs, expenses and attorneys' fees reasonably incurred because of such conduct.

"(b) Costs, expenses, and attorneys' fees shall be imposed under this section upon motion of any party only after a hearing, held after trial.

"(c) No such costs, expenses, and attorneys' fees shall be imposed unless the attorney continues to engage in conduct which is deemed to violate this section after having been previously warned by the court that continuation of such conduct would result in the imposition of such costs, expenses, and attorneys' fees.".

PREJUDGMENT INTEREST

Sec. 5. (1) Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end of the section the following new sentence: "The court may award interest on actual damages from the date of service of the complaint to the date of judgment at the prevailing commercial rate if it finds that the award of such interest is just in the circumstances.".

(2) Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by adding at the end of the section the following new sentence: "The court may award interest on actual damages from the date of service of the complaint to the date of judgment at the prevailing commercial rate if it finds that the award of such interest is just in the circumstances.".

(3) Section 4C(a)(2) of the Clayton Act (15 U.S.C. 15C(a)(2)) is amended by adding at the end of the section the following new sentence: "The court may award interest on total damage from the date of service of the complaint to the date of judgment at the prevailing commercial rate if it finds that the award of such interest is just under the circumstances.".

COLLATERAL ESTOPPEL

Sec. 6. Section 5(a) of the Clayton Act (15 U.S.C. 16(a)) is amended—

(1) by inserting "at least" immediately after "shall be";

(2) by striking out "or by the United States under section 4A,";

(3) by striking out "or to judgments or decrees entered in actions under section 4A"; and

(4) by inserting at the end thereof the following new sentence: "Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel.".

MERGER JURISDICTION

Sec. 7. Section 7 of the Clayton Act (15 U.S.C. 18) is amended—

(1) by striking out "corporation" each time it appears in the first and second paragraphs and inserting in lieu thereof "person"; and

(2) by striking out "corporations" in the second paragraph and in the first sentence of the third paragraph and inserting in lieu thereof "persons".

AGENT LIABILITY FOR UNAUTHORIZED DISCLOSURE

Sec. 8. Section 1905 of title 18, United States Code, is amended by inserting after "thereof," the following: "or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314)".

MOTION OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mazzoli moves to strike out all after the enacting clause of the Senate bill (S. 390) to expedite and reduce the cost of antitrust litigation, and for other purposes, and insert in lieu thereof as one amendment in the nature of a substitute the text of the bills H.R. 4050, H.R. 4048, H.R. 4046, H.R. 4049, and H.R. 5949, as passed by the House, as follows:

That this Act may be cited as the "Antitrust Procedural Improvements Act of 1980".

SERVICE REQUIREMENTS FOR A DEMAND FOR ANY PRODUCT OF DISCOVERY

Sec. 2. (a) Section 2 of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended—

(1) in subsection (g), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a comma and the following: "and any product of discovery;";

(2) in subsection (h), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subsection:

"(i) The term 'product of discovery' includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission obtained by any method of discovery in any judicial or administrative litigation; any digest, analysis, selection, compilation, or any derivation thereof; and any index or manner of access thereto.". (b) (1) Section 3(a) of the Antitrust Civil Process Act (15 U.S.C. 1312(a)) is amended by adding at the end thereof the following new sentence: "Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.".

(2) Section 3(b) of that Act (15 U.S.C. 1312(b)) is amended by adding at the end thereof the following new sentence:

"Any such demand which is an express demand for any product of discovery shall not be returned or returnable until after twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.".

(3) Section 3(c) of that Act (15 U.S.C. 1312(c)) is amended—

(A) by inserting "(1)" immediately after "(c)";

(B) by striking out "(1)" and inserting in lieu thereof "(A)";

(C) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(D) by adding at the end thereof the following new paragraph:

"(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this Act) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.".

(4) Paragraph (3) of section 4(c) of that Act (15 U.S.C. 1313(c)(3)) is amended by inserting immediately after "transcripts" the second time it appears, a comma and the following: "and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained".

(5) Section 5 of that Act (15 U.S.C. 1314) is amended—

(A) by amending subsection (b) to read as follows:

"(b)(1) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file and serve upon such antitrust investigator, and in the case of an express demand for any product of discovery upon the person from whom such discovery was obtained, a petition for an order modifying or setting aside such demand—

"(A) in the district court of the United States for the judicial district within which such person resides, is found, or transacts business; or

"(B) in the case of a petition addressed to an express demand for any product of discovery, only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

"(2) The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of such person.";

(B) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(C) by inserting immediately after subsection (b) the following new subsection:

"(c) Whenever any such demand is an express demand for any product of discovery, the person from whom such discovery was obtained may file, at any time prior to compliance with such express demand, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any antitrust investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demands."; and

(D) in subsection (d), as that subsection has been redesignated by paragraph (2) of this subsection, by inserting immediately after "such person" a comma and the following: "and, in the case of an express demand for any product of discovery, the person from whom such discovery was obtained,".

PREJUDGMENT INTEREST

SEC. 3. (a) (1) Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the plaintiff promptly made, simple interest on actual damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

"(1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(2) Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the plaintiff promptly made, simple interest on actual damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

"(1) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings;

"(3) whether the award of such interest is necessary to compensate the plaintiff adequately for the injury sustained by the plaintiff; and

"(4) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(3) Section 4C(a)(2) of the Clayton Act (15 U.S.C. 15c(a)(2)) is amended by adding at the end thereof the following new sentences: "The Court may award under this paragraph, pursuant to a motion by the plaintiff promptly made, simple interest on total damages for the period beginning on the date of service of the complaint and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider only—

"(A) whether the plaintiff or defendant, or his representative, made motions or asserted claims or defenses so lacking in merit as to show that he acted intentionally for delay or otherwise acted in bad faith;

"(B) whether, in the course of the action involved, the plaintiff or defendant, or his representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(C) whether the plaintiff or defendant, or his representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(b) The amendments made by this section shall apply only with respect to actions commenced after the date of the enactment of this Act.

APPLICATION OF COLLATERAL ESTOPPEL

SEC. 4. (a) Section 5(a) of the Clayton Act (15 U.S.C. 16(a)) is amended—

(1) by striking out "other";

(2) by striking out "or by the United States under section 4A,";

(3) by striking out "or to judgments or decrees entered in actions under section 4A"; and

(4) by inserting at the end thereof the following new sentence: "Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel, except that, in any action or proceeding brought under the antitrust laws, collateral estoppel effect shall not be given—

"(1) to any administrative finding under the antitrust laws; or

"(2) to any finding made by the Federal

Trade Commission under section 5 of the Federal Trade Commission Act which could give rise to a claim for relief under the antitrust laws.".

(b) The amendments made by this section shall not apply with respect to any actions brought by or on behalf of the United States under the antitrust laws before the date of the enactment of this Act.

MERGER JURISDICTION

SEC. 5. (a) Section 7 of the Clayton Act (15 U.S.C. 18) is amended—

(1) by striking out "corporation" each time it appears in the first and second paragraphs and inserting in lieu thereof "person";

(2) by striking out "corporations" in the second paragraph and in the first sentence of the third paragraph and inserting in lieu thereof "persons"; and

(3) by inserting "or in any activity affecting commerce" after "commerce" each time it appears in the first three paragraphs.

(b) The amendments made by this section shall apply only with respect to acquisitions made after the date of the enactment of this Act.

USE OF AGENTS BY THE DEPARTMENT OF JUSTICE

SEC. 6. (a)(1) Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended by adding at the end thereof the following new paragraph:

"(j) The term 'agent' includes any person retained by the Department of Justice in connection with the enforcement of antitrust laws.".

(2) Paragraphs (2) and (3) of section 4 (c) of the Antitrust Civil Process Act (15 U.S.C. 1313(c)) are amended by striking out "official or employee" each place it appears and inserting in lieu thereof "official, employee, or agent" in each such place.

(b) Section 1905 of title 18, United States Code, is amended by inserting after "thereof," the first place it appears the following: "or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314),".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman explain why he is combining so many different bills into one conference request?

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I am happy to yield.

Mr. MAZZOLI. I will be happy to try to explain to the gentleman. The effort is to have a simple conference with the other body on all of the bills which relate to the general purpose of improving and expediting the handling of antitrust litigation.

There were, as the gentleman remembers, two bills that passed under suspension, one bill the gentleman will remember was, I believe, passed in this Chamber by a unanimous vote last week. Another is the bill we adopted just today, the bill to award prejudgment interest.

What the motion of the gentleman from Kentucky would do is to combine these bills, meld them together for the purpose of having a conference with the other body on S. 309, which itself is the combination of all of these separate measures.

Mr. BAUMAN. Further, reserving the right to object, how would these bills be brought to the floor of the House, separately or combined in some new format?

Mr. MAZZOLI. The gentleman is the master of the rules of the House, but I would assume it would be brought up as one package. I stand to be corrected, but the idea is to have a conference in which the conferees from this body could at least be able to discuss with the conferees in the other body all matters that are involved in this general subject of antitrust litigation.

Mr. BAUMAN. Further reserving the right to object, has there been any consultation with the minority on this request?

Mr. MAZZOLI. The gentleman from Kentucky consulted with the gentleman from Illinois (Mr. MCCLORY), the ranking member of the Judiciary Committee. He told me he had checked with Members from his side of the aisle and had urged them not to object to this procedure.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. WYLIE. Mr. Speaker, reserving the right to object, the gentleman from Illinois (Mr. MCCLORY) had to go to another conference and asked me if I would state, if this question arose, that he had no objection to this procedure.

Actually on the gentleman from Kentucky's first motion we adopted the Senate bill and, in effect, we have taken up the Senate bill, so this second procedure is really redundant but is necessary under the rules.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I appreciate the gentleman's observation.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

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Mr. MAZZOLI. I thank the gentleman. I appreciate the gentleman's observation.

The SPEAKER pro tempore (Mr. MURTHA). Without objection, the motion is agreed to.

There was no objection.

The Senate bill was ordered to be read a third time, was read a third time and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 4048, was laid on the table.

APPOINTMENT OF CONFEREES ON S. 390 ANTITRUST PROCEDURAL IMPROVEMENTS ACT OF 1979

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 390), an act to expedite and reduce the cost of antitrust litigation, and for other purposes, with a House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and, without objection, appoints the following conferees: Messrs. RODINO, SEIBERLING, MAZZOLI, VOLKMER, MCCLORY, and RAILSBACK.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 521. Joint resolution making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

Mr. ST GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2255) to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CORCORAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 5, answered "present" 2, not voting 59, as follows:

[Roll No. 318]

YEAS—367

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia

Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.

Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murtha
Musto
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal

Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Corcoran
Holt
Mitchell, Md.
Symms
Thomas

ANSWERED "PRESENT"—2

Evans, Del.
Ottinger

NOT VOTING—59

Albosta
Alexander
Anderson, Ill.
Ashbrook
Beard, Tenn.
Boggs
Bonior
Brinkley
Brown, Ohio
Buchanan
Burton, Phillip

Chisholm
Clay
Collins, Ill.
Conyers
Coughlin
Daniel, Dan
Davis, S.C.
Dingell
Dodd
Donnelly
Drinan

Early
Eckhardt
Evans, Ga.
Fish
Florio
Foley
Ford, Mich.
Gaydos
Harsha
Heckler
Hollenbeck

Holtzman
Horton
Jenrette
McCloskey
McEwen
McHugh
McKinney
Mathis
Moakley

Moffett
Murphy, N.Y.
Murphy, Pa.
Nedzi
Pepper
Reuss
Runnels
Santini
Satterfield

Solarz
Thompson
Waxman
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska

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So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2255, with Mr. CHAPPELL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule the first reading of the bill is dispensed with.

Under the rule, the gentleman from Pennsylvania (Mr. ST GERMAIN) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Pennsylvania (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House returns to an issue which unfortunately was not resolved during the 95th Congress. At the end of the second session of that Congress we had under consideration H.R. 13471—the Financial Institutions Regulatory Act. The 13th title of that bill contained provisions virtually identical to those in the bill before the House today. A key vote on that title was 252 yeas to 72 nays in support of the thrust of the bill before us today. The clock ran out before the House could close out that title; thus, the provisions of the title were not included in what became Public Law 95-630, the Financial Institutions Regulatory and Interest Rate Control Act of 1978.

On October 14, 1978 when House Resolution 1439—which became Public Law 95–630—was on the floor I was asked about the insurance issue. Our colleague Mr. PICKLE said:

> Mr. Speaker, I want to address a question to the chairman of the subcommittee again about this matter of the insurance agents with respect to the holding companies involving themselves in this buisiness . . . I think the House would like to have a fuller statement about what the gentleman intends to do, when he intends to do it, and why this amendment was not included in the bill.

My response was:

> Mr. Speaker . . . I have been one of the supporters of the insurance people, but there are times one cannot do everything he wants to do, and I intend to support action by our subcommittee on this at the earliest possible moment. There is no one who feels more strongly about this than I do.

The Subcommittee on Financial Institutions honored that commitment to the House. Extensive hearings on a broad range of bank holding company issues were held. During the course of those hearings extensive discussion of the insurance issue occurred. In addition to those hearings the subcommittee and the full committee conducted full and open markup sessions on the legislation. The bill was duly reported from committee and an open rule was requested and granted by the Rules Committee. On May 30 the House approved the rule. Now the House can work its will on this bill.

The issue presented by H.R. 2255 is an old one—what limits if any exist for the bank holding company device and can we expect small businessmen to compete with the financial resources and organization structure of these institutions? In this case the business happens to be the sale and servicing of property and casualty insurance. Long-standing law and policy has recognized that banking and commerce should be separate. That is why section 4(c)(8) is in the Bank Holding Company Act. The section sets general standards for determining the limits on bank holding company nonbank activities.

Over the years these general standards have been interpreted as a justification for bank holding company involvement in numerous businesses. The banks and holding companies argue that loanmaking is a very broad activity and justifies many functions including offering of property and casualty insurance. Small business cannot compete with giant holding companies like Citycorp and Bank of America which have nonbank subsidiaries all over the Nation. The subcommittee's hearing record contains examples of independent insurance agents who are adversely affected by bank holding company involvement in the property and casualty insurance business.

H.R. 2255 is a carefully framed bill—it prohibits bank holding companies from engaging in the property and casualty business except in six enumerated cases. The exceptions are:

> (A) The insurance is credit life, credit disability or mortgage redemption insurance on a specific extension of credit;
>
> (B) The insurance is property and casualty insurance on the collateral on an extension of credit made by a finance company subsidiary of a bank holding company and the loan is not more than $10,000 (this figure being adjusted to the Consumer Price Index, such indexing starting January 1, 1980);
>
> (C) The insurance agency activities are conducted in a town of less than 5,000 in population or a place where the bank holding company has demonstrated lacks adequate insurance facilities;
>
> (D) The insurance agency activity was lawfully engaged in by a bank holding company or its subsidiaries on June 6, 1978 or by a finance company which became a subsidiary of a bank holding company between June 6, 1978 and June 6, 1979;
>
> (E) The insurance agency activities are limited to supervising on behalf of an insurance underwriter fidelity and property and casualty insurance on the bank holding company's personal and real property and group insurance for employees of the bank holding company; or
>
> (F) The insurance agency activities are engaged in by a bank holding company whose

total assets are $50 million or less, provided that such companies may offer life insurance or annuities only as provided in (A), (B) or (C).

These exceptions were carefully considered by the committee and provide ample consideration to the traditional credit life insurance and existing operations of bank holding companies. This bill should be passed and sent to the Senate for its consideration.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this debate has been going on for a long time. Ever since I came to Congress this issue has been debated. As a matter of fact, it has been debated since 1864 when a law was passed separating banking from commerce. At that time it was felt that banks should not be in the business of buying railroads. The business of underwriting and selling insurance is not closely related to railroads but in 1969 we passed a law which said that the business of selling insurance is not banking business.

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What we said was that banks should only be engaged in the business of banking or in closely related activities to banking if that activity is in the public interest. Now, the reason for the change in 1969 was because certain one-bank holding companies were buying bowling alleys, laundromats and hockey teams and other non-bank-related enterprises. The idea was to establish some guidelines to protect depositors from speculative ventures.

I might say that in 1969, when the One Bank Holding Company Act was passed, we said that the business of insurance was not to be in the area of banking and was in fact to be in the area of commerce, and was not closely related to banking. Since then, the Federal Reserve Board has said that insurance directly related to the extension of credit is closely related to banking. Since the Federal Reserve Board adopted regulations on this issue there have been five court cases—and those court cases have been all over the lot, I might say, in their decisions. So, there is no specific direction in those court cases.

Now, I would say that there is room for debate and an honest difference of opinion on this amendment, but to me the underwriting and selling of insurance is not business closely related to the business of banking.

At first blush the best argument against this bill appears to be the one that we ought to allow banks to sell insurance to increase competition to reduce costs and thus benefit the consumer. I think allowing banks unlimited authority in this area might increase costs.

I feel there might in fact be a decline in the number of insurance agents and an erosion of the small business agency system as we know it and which has contributed so much to our free enterprise system.

The retail insurance business is one place where a person can go into business for himself or herself and through one's own initiative and hard work build a going concern.

The increasing influence of banks in the business of insurance will inevitably force mergers or force a lot of small agencies out of business.

I might also say that in 1969 the Federal Reserve Board submitted a statement to the Senate Banking Committee which said:

> Because of the inferior bargaining position of the debtor, he may be susceptible to the loan officer's "suggestions" concerning choice of coverage, premium rates, insurer and agent. As a result, the debtor easily may receive the impression that his loan application may be more favorably considered if he follows such suggestions.

Since then, the Federal Reserve Board has modified its position on a case-by-case basis, and has allowed certain bank holding companies to become engaged in the business of selling property and casualty insurance. But, I feel that the threat to the agency system as we know it, which concerns insurance agents, is real, and that the bill which we will pass today will maintain the traditional separation of banking from commerce in the insurance field. I therefore urge adoption of the bill.

Mr. ST GERMAIN. Mr. Chairman, I yield such time as he may require to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, today the full House will have a chance to deliberate and act on legislation which it endorsed in October 1978, by its vote of 252 to 72 in favor of restricting the insurance activities of large bank holding companies. The rush of end of session activities and the pressure of other legislation prevented us from finalizing title XIII of the FIRA bill and including it as part of what later became the FIRICA of 1978.

Your Banking Committee has worked in this Congress to refine and hone the language of H.R. 2255 so that we have a balanced and fair treatment of the insurance agents' interests and the inplace activities of all bank holding companies currently engaged in providing property and casualty insurance. The final result is the committee bill before us now, a bill protecting the independent insurance agent system from future encroachment and ultimate oblivion by the insurance subsidiaries of bank holding companies.

What we are doing here is ratifying a principle of American public policy dating from the National Bank Act of 1864 which insists that our economy would be best served by keeping commerce separate from the financing mechanism of the banking industry. We are going to restore this principle as an active factor in bank holding company operations so that there can be no doubt that the Congress intends and insists that the superior economic position of banks and their holding companies should not be used to engage in a range of activities beyond those traditionally proper and closely related to banking itself.

As the gentleman from Rhode Island has pointed out so ably, the bill is essentially a prohibitive one, a limiting and restrictive mandate that the Federal Reserve Board not allow or encourage the formation or acquiring of insurance subsidiaries except in the particular circumstances in the exemptions of the bill.

I might add that the bipartisan support for this legislation has been very encouraging, that basic principles have appeal beyond party when the welfare of consumers, small businesses, and financial institutions is at stake. So too, it is encouraging that so many other elements in our economic complex support what we are trying to do with this legislation. During the over 2 years that this has been under consideration, we have heard from agents, of course, since they are the ones most directly threatened by the potential acceleration of bank insurance activities. However, when we discussed the basic premise that banks have unique opportunities, powers, and assets which are not available to others in the marketplace and which place them in a superior position in head-to-head competition for insurance business or other commercial activities, we heard from a wide array of similarly fearful industries.

Homebuilders, realtors, auto dealers, data processors, travel agents, and others see the insurance activities of BHC as indicative of the plans to expand into many other enterprises with the likelihood of eventual preemption of the marketplace and elimination of many independent businesses. Certainly, this is the message which was conveyed in hearings and in correspondence as late as last week. I refer especially to the letter from the National Federation of Independent Business sent to each Member last week which said:

> NFIB shares the banking committee's strong feeling that BHC's should not be involved in activities not closely related to banking. Sixty-one per cent of our members voted in favor of prohibiting bank ventures in non-banking enterprises and limiting activity solely to banking. Anytime a segment of the small business community is threatened by unfair competition, we must all be concerned.

Mr. Chairman, we have all heard the arguments on this issue before and I am sure that detailed issues will be dealt with as amendments are offered. However, it might be well to deal with the central objection right now. Bank holding company supporters argue against the bill on the grounds that there is little demonstrated need for such a protectionist bill, that it is anticompetitive and monopolistic, and infringes on the open market actions of large banks which should be encouraged to diversify beyond simply banking. "Where is the body count?" they ask.

This is a fair question and one which the subcommittee and the full committee asked itself in its analysis of the need for the legislation. The answer is found as much in the insistence of the banks as in the resistance of the agents. Conceding sanity and acuteness of mind to the bank managers and officers, one could expect that they would not want to be in anything which would not over time provide lucrative returns. The pace and scope of multistate applications for insurance activities by the largest holding companies indicates that profit is the light at the end of the tunnel. For such keen interest and assiduous pursuit as the extensive lobbying of the banks has demonstrated cannot be for philanthropy's sake alone.

More important is the fact that BHC's have restrained themselves during the years of litigation and congressional consideration even as they prepared the way for full-blown activities with protective applications. Fearing that the fullest utility of approved activities would aid the insurance agents in their resistance, BHC affiliates have restrained extensive market penetration to date. However, the potential preemption is massive if one considers that the bank subsidiary has the advantage over insurance agents solely engaged in insurance sales. Because the association which an on-going banking relationship provides to gather pertinent information, good will, and proximity to potential insurance customers allows the bank insurance sales office to operate at a distinct and decisive advantage over an outside agent.

The captive market of potential customers can be demonstrated by the fact that one consumer item, namely, automobiles, is financed mostly by banks—to the tune of about 60 percent of auto sales, in fact. It does not require much imagination to expect that this item which needs financing and insurance presents a perfect opportunity for the implicit tying of credit to other consumer product decisions. If the bank can provide the cash for the car and can set the terms of the loan, it has the unique position of knowing before anyone else does that an insurable item is looking for insurance. This information plus the underlying provision or withholding of credit for the purchase presents the consumer with a potentially unattractive option. The car or no car depending on the voluntary choice of insurance buying from a bank affiliate. While this is illegal, it nonetheless does happen often enough according to independent surveys to justify the elimination of the potentially coersive opportunity.

Amplify this opportunity for potential tying of credit to other consumer needs and you can see the basic problem with all nonbank activities and the unfairness of bank-related competitors in an otherwise evenhanded marketplace for goods and services.

Finally, we do not produce a body count because none are confirmed kills with scalps hung on the door of the big banks. Insurance companies do not separate out BHC-sold policies from agent-sold policies to give us the neat figures we need. Nor does the Fed tell us how many BHC insurance agencies exist right now. What we do know is that in the States where such BHC activities are banned—in 23 States so far—there has been no significant diminishing of agency business. In unprotected States, the opposite is true.

Mr. Chairman, I think that the need is manifest both in the concrete instance of the insurance agents and in the more general marketplace of independent businesses which need protection from nonbank subsidiaries of the large holding companies. This bill is designed to protect both consumers and agents from a bank holding company's aggressive use of credit-related competitive advantages. I urge adoption of the bill without amendments.

Mr. WYLIE. Mr. Chairman, I yield as much time as he may take to the ranking minority member of the committee, the distinguished gentleman from Ohio (Mr. Stanton).

Mr. STANTON. Mr. Chairman, it has been a long-standing principle to maintain a separation between banking and commerce in the United States. This principle was properly in focus when Congress enacted the Banking Holding Company Act Amendments in 1970. At that time, after much thought and heated debates, Congress declined to write into the law a "laundry list" of activities to be prohibited to bank holding companies. Instead, reflecting its awareness of the wide diversity of activities engaged in by bank holding companies of different sizes and in different parts of the country, Congress provided that the Federal Reserve should approve only those activities for bank holding companies which it found to be consistent with the policy Congress spelled out in section 4(c)(8) of the Bank Holding Company Act.

The policy of section 4(c)(8) states that the Board should approve only those activities it determines "to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." It further states that the Board must consider whether the performance of the activity "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible advere effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Subsequently, the Board ruled that the sale of credit-related life and accident insurance and credit-related property and casualty insurance by bank holding companies or their subsidiaries met this test. It is important to note that the Supreme Court has sustained the Board on its ruling. The rationale for this determination by the Federal Reserve was stated most recently in a letter of August 1, 1979, from Gov. Charles Partee to Chairman St Germain. In part Gov. Partee's letter concludes:

> In the absence of evidence to the contrary, the Board's view continued to be that banking organizations should be allowed to sell credit-related insurance, including property and casualty insurance. *We believe that the benefits of such activity outweigh any adverse effects. In the first place, the activity of banks and bank holding companies in providing this service is pro-competitive.* This is an industry where additional competition would seem desirable and potentially quite productive. This is especially so since the insurance industry is immune from the antitrust statutes. *Second, the sale of insurance by bank holding companies provides a useful and convenient service to the public,* including sales at locations inadequately served by others. Prohibiting the activity for banking organizations would inconvenience at least some of the public—namely, those borrowers who would prefer to purchase their credit-related insurance from the lender and who would be forced by the prohibition to look elsewhere for the service. The public benefits from banking organization involvement in the credit-related property and casualty credit insurance field result from better service and enhanced public convenience which represent a valuable attribute. (Emphasis added.)

Now we are being asked to legislate a negative "laundry list" of what bank holding companies can or cannot do. To their credit the Independent Insurance Agents of America (IIAA) are responsible for the success which H.R. 2255 has had to date. As presently drafted, H.R. 2255 amends section 4(c)(8) of the Bank Holding Company Act to restrict the insurance activities of bank holding companies. Primarily, this bill gets bank holding companies out of the business of selling property and casualty insurance—the big money maker for insurance agents—even though such property and casualty insurance may be related directly to an extension of credit made by a subsidiary of a bank holding company. H.R. 2255 would prohibit bank holding companies from providing insurance as a principal, agent or broker except in the following six instances:

First, the insurance is credit life, credit disability or mortgage redemption insurance on a specific extension of credit;

Second, the insurance is property and casualty insurance on the collateral on an extension of credit made by a finance company subsidiary of a bank holding company and the loan is not more than $10,000 (this figure being adjusted to the Consumer Price Index, such indexing starting January 1, 1980);

Third, the insurance agency activities are conducted in a place of less than 5,000 in population or a place where the bank holding company has demonstrated lacks adequate insurance facilities;

Fourth, the insurance agency activity was lawfully engaged in by a bank holding company or its subsidiaries on June 6, 1978, or by a finance company which became a subsidiary of a bank holding company between June 6, 1978 and June 6, 1979;

Fifth, the insurance agency activities are limited to supervising on behalf of an insurance underwriter fidelity and property and casualty insurance on the bank holding company's personal and real property and group insurance for employees of the bank holding company; or

Sixth, the insurance agency activities are engaged in by a bank holding company whose total assets are $50 million or less, provided that such companies may offer life insurance or annuities only as provided in (A), (B), or (C) of the bill.

Mr. Chairman, it is no secret that I have been bothered with the way this particular piece of legislation is crafted. During the 95th Congress a compromise piece of legislation which had the support of both the IIAA and the Association of Bank Holding Companies was passed by the Banking Committee. Just before the bill reached the floor, however, the IIAA withdrew their support from the compromise bill supported by my good friend from Ohio, Mr. ASHLEY, and myself, and pushed for the original version of their legislation. Consequently, the legislation died in the 95th Congress.

This year a substitute bill introduced in the Banking Committee by Mr. ASHLEY with my support, called for a moratorium of the insurance activities of bank holding companies, with many of the exceptions found in H.R. 2255, and required a study of these activities by the Federal Financial Institutions Examination Council in conjunction with the Attorney General.

The idea of a conclusive study was appealing to me because of the lack of evidence of any abuse of the administration of permissible section 4(c)(8) activities. When I wrote to the Federal Reserve to request some basic data on the number of banks and bank holding companies involved in the selling of insurance, the dollar volume of such business, or the penetration rate achieved by bank holding companies into the insurance area, Chairman Paul Volcker replied in a letter dated August 27, 1979, that there was a "significant problem" because "the data you request are at present simply not available to us." Unfortunately, the Ashley "moratorium/study" substitute failed in committee by a 20-to-24 vote.

For a number of reasons, I am still bothered by the bill as it presently is drafted. First, on a technical level the bill permits bank holding companies to engage in "any insurance agency activity in a place that (i) has a population not exceeding five thousand * * * " What is a place? Is it a city block? A local neighborhood? A large condominium or office building? An inner city commercial strip? Webster's New Collegiate Dictionary defines "place" as a "physical environment * * * an indefinite region or expanse." I suggest that, at least in this instance, the bill is so loosely drafted that any bank holding company could sell insurance in most any "place."

Second, it is the McCarran-Ferguson Act which, in pertinent part, provides that no Federal law shall be construed to supersede any State law regulating the "business of insurance" unless the Federal law specifically relates to such business. In at least 23 States there already is some kind of prohibition against the sale of insurance by bank holding companies. For my colleagues from the following States: Arkansas, California, Colorado, Connecticut, Florida, Georgia, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and Wyoming. I respectfully suggest that you check the laws of your own State. Perhaps we are wasting your time today since your State already has some kind of prohibition in this area.

For my colleagues from my own State of Ohio, I say this entire issue is moot. Because of Ohio law there are no bank holding companies of which I am aware in our State that sell either property and casualty insurance or general life insurance. The Ohio Revised Code strictly limits the sale of life and accident—property and casualty—insurance only to insurance companies and not bank holding companies. Thus, while banks in Ohio that are associated with bank holding companies can offer credit-related life and disability insurance only, they are prohibited by State law from engaging in the sale of property and casualty as well as general life insurance.

Third, the bill pertains only to bank holding companies. Some of my colleagues have asked me in private about the insurance activities of savings and loan associations or mutual savings banks. Many of you know that savings banks in New York offer one of the best deals for life insurance in that State. It is curious to note that there is no law which limits the range of activities permissible for savings and loan holding companies controlling only one insured association. Sears, Roebuck & Co. is an example of such a unitary savings and loan holding company, which is comparable to a one bank holding company, that also sells property liability and life insurance through its subsidiary, Allstate, a name that is well known to us all and in whose good hands many of us probably find ourselves.

Moreover, it also is interesting to note that service corporation subsidies of federally chartered savings and loan associations may engage in a wider range of insurance activities than either banks or bank holding companies. Among the activities permitted S. & L. service corporations are: "serving as insurance broker or agent, primarily dealing in policies for savings and loan associations, their borrowers and account holders, which provide protection such as homeowners', fire, theft, automobile, life, health, accident, and title but excluding private mortgage insurance." If bank holding companies potentially are unfair competitors of the insurance business, then certainly commonsense dictates that savings and loan holding companies or mutual savings banks are in the same position to impinge upon the business of insurance agents and ought to be included under the prohibitions of this bill.

Fourth, if we accept the general premise that bank holding companies ought not to be in the business of selling insurance, then why do we grant the specific exemption for bank holding companies with assets under $50 million? If we truly want to separate banking and commerce, then simple equity says there should be no such exemption. This is especially true when my colleague realize that, according to the latest figures which I have obtained from the Federal Reserve, there are 2,460 bank holding companies and of those, 1,958 bank holding companies are under $50 million in assets.

Roughly four-fifths of all bank holding companies are thus exempt. If you multiply these 1958 bank holding companies times the $50 million exemption, you arrive at a figure of something less than $100 billion in bank holding companies assets which potentially could be used to compete with insurance agents. I am not sure that our friends in the insurance industry even are aware of this exemption or realize that in many places around the country bank holding companies still will be competing with insurance agents at the local level. It is my understanding that my colleague and friend on the Banking Committee, Mr. GREEN, will offer an amendment to eliminate this exemption. If you truly believe in equity and fair play, or at least the concept of a "level playing field" which emerged in the debate on H.R. 4986 earlier this year, then I would urge you to support the amendment of the gentleman from New York, Mr. Green.

My colleagues should know that this amendment will be opposed by the Independent Bankers Association of America, but the entire bill is opposed by the Western Independent Bankers, an association having 95.6 percent of all the eligible community-type banks as its members in the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington.

In closing, Mr. Chairman, I should point out that other amendments to change the grandfather date and to add a States' rights provision may be offered today. I urge my colleagues to weigh carefully the merits of each individual amendment. Finally, before we vote on final passage I hope all Members will take the opportunity to judge what competitive impact restricting the insurance activities of bankholding companies will have upon the consumer who must pay for this insurance in the final analysis.

Mr. ST GERMAIN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in opposition to H.R. 2255, a bill which would limit the property, casualty, and life insurance activities of bank holding companies and their subsidiaries. I believe that this legislation is flawed in both theory and fact.

The rationale of the sponsors of this measure is simple. They feel that banks unfairly use their leverage in making loans to force customers to acquire collateral-related insurance with the bank rather than elsewhere. This theoretical tie-in, it is argued, is unfair to both the consumer and the insurance industry, as it denies both the business opportunities that might otherwise exist if the consumer were given the opportunity of choice. Yet, I am convinced that this is an argument which only in theory causes concern. In practice, it fails to rise to the level of significance.

Through this legislation we are denying consumers of bank services the opportunity and the convenience to handle their loan and loan-related insurance needs all at one time and at one place—one-stop shopping as it were. Additionally, while the intent of the sponsors was to remove the potential for anticompetitive tie-ins by prohibiting banks from dealing with insurance, it strikes me that this legislation is itself anticompetitive, as it shields certain competitors from others by removing banks from the business of insurance. Finally, this bill may be unconstitutional because it arbitrarily permits bank holding companies with assets under $50 million to engage in business activities—which discriminates against larger holding companies without any reason therefor. Such discrimination has been ruled to be contrary to the due process clause of the 14th amendment to the Constitution by a New Jersey court when recently faced with this issue on another case.

In sum, this bill is defective in theory, in practice, and in law. The bottom line of this legislation is that the insurance industry wants the banks out of the insurance business—even though such business may directly and necessarily be related to insuring the collateral for bank loans—and even though such insurance activities as banks do engage in represent less than 1 percent of all insurance activities in the country. I think the bill is wrong, unnecessary, counterproductive, and I ask my colleagues to reject it.

Mr. ST GERMAIN. Mr. Chairman, I yield such time as he may require to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding. I support the legislation which I think does come out with a rather thoughtful balance between, on the one hand, allowing banks to do activities which are legitimate and related to banking activities, but on the other hand protecting insurance industry people from unwarranted incursion into their domain.

Mr. Chairman, this bill would limit what has become an increasingly broad interpretation of the Bank Holding Company Act of 1956, an act which permits bank holding companies to engage only in activities that are "closely related" to banking. The Federal Reserve Board has been assigned the role of arbiter in determining the definition of "closely related." H.R. 2255 would eliminate such discretion in connection with the insurance industry.

Support of this bill is important and necessary for a number of reasons. The crux of the problem lies in the ability of banks to tie, directly or indirectly, the sale of insurance to the extension of credit. This action is not in the public interest for two reasons. First, there is the possibility that people will be coerced into buying insurance at higher prices in order to qualify for a bank loan. Second, it is necessary that we insure that the holding company device does not become the means for concentrating banking resources which could serve to eliminate large portions of the highly competitive insurance agency business. This includes such groups as the Independent Insurance Agents of America who currently hold 60 percent of the property casualty market.

An administrative law judge in Georgia concluded that:

> The clientele of large bank holding companies that would probably be subtly influenced to divert insurance business away from . . . independent agents is so large that many of the latter could be driven out of business or forced to merge into larger units resulting in decreased competition.

H.R. 2255 prevents domination of the insurance field by large bank holding companies and the exclusion of the small retail insurance brokers by prohibiting BHCS from acting as broker with respect to sales of property and casualty and life insurance with a number of exceptions. Banks will be allowed to continue with credit life, credit disability and mortgage redemption insurance. These forms of insurance have historically been allowed as they essentially serve to pay off the loan in the event of the death or disability of the borrower.

Two other exemptions insure that the public will not be deprived of insurance coverage because of this bill. The first exemption excludes BHCS from the provisions of the bill in communities where the population is less than 5,000 or where it can be demonstrated that inadequate insurance agency facilities exist. Another waives all banks with total assets of less than $50 million. Income generated from insurance sales permits small banks to take advantage of tax breaks designed to facilitate the ownership and transfer of small banks.

With the enumerated exceptions, H.R. 2255 is a bill that insures that the public interest, and not special interests, will continue to be served. I urge my colleagues to join me in supporting this bill.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, I rise in reluctant support of H.R. 2255, the legislation before us to limit the insurance activities of bank holding companies. As a member of the Banking Committee, I have in the past expressed my reservations about this legislation and, in fact, supported the so-called Ashley-Stanton substitute during committee markup. I remain convinced that the Ashley-Stanton moratorium approach would have been preferable; but because I believe legislation defining the allowable insurance activities of bank holding companies is necessary, I will now vote for H.R. 2255.

The Ashley-Stanton substitute, Mr. Chairman, may well have been a better approach. It would have imposed a moratorium for 2 years on any new insurance activities by bank holding companies or their subsidiaries, with certain exceptions as contained in the bill before us today. If, at the end of this period, it were conclusively demonstrated that such insurance activities should in fact be restricted, the moratorium would have become permanent. Essentially, this approach would have provided sufficient time for the additional study that many members of the committee felt warranted, while at the same time providing greater restrictions on bank holding company insurance activities both for the duration of the moratorium, as well as thereafter if the accumulated evidence so justified.

Unfortunately, Mr. Chairman, H.R. 2255, as reported, contains a major loophole: an exemption of any bank holding company with assets of $50 million or less, or perhaps as many as two out of every three bank holding companies in the country. It is my belief that, if restrictive legislation is in the public interest, it makes little sense to exempt the majority of bank holding companies. Under Ashley-Stanton, this would not have been the case.

I am also concerned that H.R. 2255, as written, may violate the McCarran-Ferguson Act, which grants the authority to regulate insurance to individual States. An effort to allow State legislatures to override this legislation if they so chose was unfortunately defeated in committee by one vote.

Mr. Chairman, the valid principle that banking must remain separate from commerce is one of long standing. The legislation before us is consistent with this principle, and I will therefore support it. I will, however, also support any amendments that may be offered—such as reinstating the States' rights provision or deleting the $50 million exemption—in an effort to improve the bill. I urge my colleagues to join in this effort.

Mr. WYLIE. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman. I do not intend to take 5 minutes, but I would like to state that I have no objection to this legislation as a whole. I think that the discussion of limitation on one bank holding companies in the insurance field is proper. However, I would like to point out to the Members of this body that this is a punitive piece of legislation in that it applies retroactively to June 6, 1978. In effect, it will cause those banks that are not exempted under the many exemptions that have been added in this legislation to have to divest themselves of already ongoing insurance programs.

☐ 1450

They have been approved to sell insurance under the current law. They have been approved by the Federal Reserve Board. How can it be right to now force them out of business?

Now, the only thing that I would do to correct the legislation would be to make the effective date of this legislation the enactment date of this legislation, for to do anything else is to take punitive action against those who under the laws of this country, under the laws that we have passed, have legitimately gone into business. I would also point out that it will be argued that they were put on notice because the legislation was in 2 years ago and came out of subcommittee.

The fault of that argument is that we could say that any piece of legislation, when it was put in, would in fact put someone on notice and that we could legislate retroactively to the date of introduction of any piece of legislation. That is not the way we are supposed to do things. And for that reason, while I will support the legislation, I will offer an amendment at a later time, and that amendment will be to make this legislation effective on the date of enactment.

● Mr. FAUNTROY. Mr. Chairman, I want to rise to express my concerns about H.R. 2255, a bill limiting the insurance activities of bank holding companies because of its negative impact on consumers in our urban areas.

If this bill is passed, bank holding companies and their subsidiaries would be barred from engaging in the sale of insurance as a principal, agent, or broker with few exceptions. These exceptions would principally arise when insurance is used to assure repayment of the outstanding balance of a loan in the case of death or disability, the community surrounding the bank holding company has a population of 5,000 or less, the insurance activities were authorized prior to June 6, 1978, and where the bank holding company has assets of $50 million or less. There is no exception for the major city which might be insurance short.

While the proponents of the bill have stated that a bank holding company will be able to offer insurance if they demonstrate that insurance is not available, that proposition is more illusory than real since the proof would be almost impossible to present given the nature of insurance discrimination.

Passage of this bill will very likely bring about a further lack of insurance in our urban areas, since bank holding companies sell much of the insurance to citizens of these areas. There can be no question about the importance of insurance in our urban areas. Without property insurance, one cannot operate freely in today's housing and business markets. Simply put, without insurance, people cannot buy or expand homes or businesses. In fact, the economic and social fate of entire neighborhoods or even communities can hinge on the availability of insurance.

The HUD report entitled "Insurance Crisis in Urban America" and other similar studies undertaken at the local level demonstrate that adequate insurance is not available in our inner cities and that this lack of insurance is having a devastating impact on efforts to rebuild our urban areas. For example, a study undertaken by the Detroit City Council in 1976 concludes that consumers in the homeowners' insurance market in Detroit are treated as second-class citizens. A study by Orton R. Valukas and Richard C. Bollow concerning the insurance industry in the State of Illinois states that "the obstacle of being unable to receive insurance at reasonable rates may be a factor in causing neighborhoods to deteriorate."

There are numerous laws that require federally insured or chartered financial institutions to meet the financial needs of the community and avoid discrimination. The Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, and the Community Reinvestment Act are examples of such laws. Under these various laws, banking institutions have reason to provide insurance as part of their financial package. There are no comparable Federal provisions affecting the sale of insurance.

H.R. 2255 would be counterproductive to our earlier efforts in expanding the rights of consumers of financial services.

If the favorable consequences of these laws and the intent are to be realized, bank holding companies should be allowed to continue to sell insurance without these restrictions.

The anticompetitive effects of this legislation upon the availability of insurance in our inner cities particularly is simply not desirable. The bill is not supported by the Federal Reserve System, which has primary responsibility for the regulation of bank holding companies, and it is not supported by the Comptroller of the Currency or the FTC.

Where protectionist legislation of this nature is adopted, there should be a preponderance of clear and convincing evidence that the bill will serve the public good. That evidence is lacking in this case; in fact, it may demonstrate quite the opposite, and for that reason I would urge its defeat.●

Mr. WYLIE. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I want to commend the committee for bringing out this fine piece of legislation, and I rise in total support of the legislation. I would hope that the Campbell amendment would be defeated. It is not needed. If you adopt the gentleman's amendment, in effect you are closing the barn door after the horse has already gotten out.

So I certainly rise in support of the bill without any amendments.

Mr. WYLIE. Mr. Chairman, I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking the period at the end of the first sentence thereof and adding the following: ", but for purposes of this subsection it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent or broker except (i) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor; or (ii) any insurance agency activity in a place that (A) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (B) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; or (iii) any insurance activity engaged in by a bank holding company or any of its subsidiaries pursuant to an application which was approved prior to June 6, 1978; or (iv) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in (i) or (ii) above.".

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, strike out "by striking" and insert in lieu thereof "by striking out".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, beginning in line 5, strike out "thereof and adding the following" and insert in lieu thereof "and inserting in lieu thereof the following".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 10, strike out "agent or broker except (i)" and insert in lieu thereof "agent, or broker except (A)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 14, strike all after the word "debtor;" through line 6, page 3, and insert in lieu thereof the following: "(B) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and, during the period beginning on the date of the enactment of this subparagraph and ending on December 31, 1980, such extension of credit is not more than $10,000 and for any given year after 1980, such extension of credit is not more than an amount equal to $10,000 increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1980, and ending on December 31 of the year preceding the year in which such extension of credit is made; (C) any insurance agency activity in a place that (i) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (ii) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (D) any insurance agency activity that was lawfully engaged in by (i) a bank holding company or any of its subsidiaries on June 6, 1978, or (ii) a finance company which became a subsidiary of a bank holding company through acquisition during the period beginning on June 6, 1978, and ending on June 6, 1979; (E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (ii) group insurance that protects the employees of the bank holding company or any of its subsidiaries; or (F) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however*, That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C).".

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. CAMPBELL TO THE COMMITTEE AMENDMENT

Mr. CAMPBELL. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL to the committee amendment: On page 4, line 3, strike "June 6, 1978," and all that follows through the semicolon on line 6 and insert, in lieu thereof, the following: "the date of enactment of this Act;".

Mr. CAMPBELL. Mr. Chairman, my amendment would simply change the grandfather date in this bill, which permits the continuation of existing insurance activities by bank holding companies, from June 6, 1978, to the date of enactment.

The purpose of a grandfather date is to make certain that no one is subjected to the effects of restrictive legislation prior to a time when that legislation became law, or prior to a current date when there was reasonable notice that a party would be affected. This is a matter of simple fairness. Now, in the case of H.R. 2255, there have been years of struggle and innumerable versions of the bill. There are many opponents of the legislation, and these opponents may have reason to believe that they can either defeat or substantially amend the legislation in the Senate.

The present date is a relic of the 95th Congress. It happens to be the date after the subcommittee acted on the predecessor to H.R. 2255, but the 95th Congress ultimately failed to pass the bill. There are no fewer than 77 Members of this House who did not serve in the 95th Congress. There is no justification for burdening this bill with such an arbitrary grandfather date.

Adoption of the June 6, 1978 grandfather date would require a number of bank holding companies which have gone into the limited property and casualty insurance business since that time to divest these activities. Contrary to past practice in such circumstances—such as the 1970 amendments to the Bank Holding Company Act—no provision has been made for equitable tax treatment for the shareholders of the companies which would be required to divest their post-June 6, 1978, insurance activities, and thereby incur losses.

Similarly, and contrary to precedent, no protection is given to companies with applications pending on June 6, 1978. Also, the provision in the reported bill fails to take into consideration insurance activities which were "grandfathered" by the Congress in 1956, 1966, and 1970, and circumstances where there was never any occasion to have an application approved by the Board.

The substitute language embodied in my amendment resolves these problems. The date I have chosen, the date of enactment, is a current year date, reflecting my belief that this bill is a prospective measure and is not designed to be either retrospective or punitive. Thus no divestments will be required of ongoing activities, and applications pending would be allowed to proceed.

Another significant difference is that under the bill as reported, grandfathered companies would not be permitted to expand their activities beyond those underway on June 6, 1978. Even though the parent company and its subsidiaries might have expanded significantly since then, no insurance services could be offered from any new offices, and no new lines of insurance could be provided at any location, old or new. This is not a grandfather clause but a strangulation clause, and my amendment would make it possible for grandfathered companies to continue in the business in a normal fashion; that is, by offering insurance services at established new locations and by adapting the insurance provided to market demands.

In order to put the unfairness of the present grandfather date into perspective, it is helpful to review the precedents concerning grandfather dates in banking legislation.

The grandfather language in H.R. 2255 is without doubt more restrictive than similar grandfather language which has been placed regularly in banking laws enacted in recent years. The grandfather language in H.R. 2255 is overly restrictive on two counts: First, the grandfather date—June 6, 1978—is at least 2 years before enactment—assuming H.R. 2255 is enacted; and second, the language assures that even those companies which are grandfathered will atrophy by limiting them strictly to current activities and locations.

An examination of recent banking laws demonstrates the unprecedented restrictiveness of the grandfather clause in H.R. 2255. The most recent banking legislation which has been enacted, the Depository Institutions Deregulation and Monetary Control Act of 1980, contained two grandfather clauses, both of which used the date of the conference, March 5, 1980, as the grandfather date. These clauses involved foreign acquisitions of U.S. banks and the acquisition of trust companies by bank holding companies across State lines. Also, in both cases, the companies involved, rather than merely the specific activities involved, were grandfathered.

In 1978, two major pieces of legislation containing grandfather clauses were enacted. In the Financial Institutions Regulatory and Interest Rate Control Act, the date of enactment was used as the grandfather date for interlocking directorates. In the International Banking Act, nonbanking activities of foreign bank holding companies were grandfathered as of the date of Senate Committee markup. This markup was a mere 2 months before the date of enactment. Furthermore, the International Banking Act had been under consideration for several years and had passed the House twice. In this connection, it should be noted that no legislation containing the provisions of H.R. 2255 has, in fact, ever passed the House.

The International Banking Act would seem to be a direct precedent for H.R. 2255. That act, like H.R. 2255, deals with the nonbanking activities of banking institutions. Nevertheless, H.R. 2255 contains a much more restrictive date and a much more severe limitation on the scope of future activities by grandfathered companies. It would certainly seem anomalous for the Congress to give greater grandfather protection to foreign banking institutions than it does to U.S. banking institutions.

H.R. 2255 amends section 4 of the Bank Holding Company Act. The Bank Holding Company Act of 1956 used the date of enactment for the grandfather date for nonbanking activities made nonpermissible by section 4. When the act was amended in 1970, the date of enactment was again used—with respect to the 10-year grandfather privileges—as the grandfather date for nonbanking activities. And in both 1956 and 1970 statutes, latitude was given to the grandfathered companies to expand and adjust their activities to changing times.

From the Depository Institutions Deregulation and Monetary Control Act of 1980 to the McFadden Act of 1927—which grandfathered branches as of the date of enactment—there appears to be no precedent for a grandfather clause as restrictive as that in H.R. 2255. The purpose of a grandfather clause is to protect those who have acted in good faith reliance on present law. There has been no showing of public need which would justify the ex post facto application inherent in H.R. 2255.

Accordingly, it seems patently unfair to me to apply this bill to anyone as of a time prior to the date of enactment. I believe that even supporters of this bill will not want to expose it to attack on the grounds that it has ex post facto application. I strongly urge my colleagues, regardless of their positions on the bill as a whole, to support my amendment.

☐ 1500

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Ohio.

(At the request of Mr. STANTON and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. STANTON. Mr. Chairman, I want to compliment the gentleman in the well. I do not have faith that his amendment is going to pass, but I do have confidence that the other body will never let this legislation become law without the amendment of the gentleman in the well at the present time. He has articulated the fact so well that never in the 16 years that I have been in this House have we ever had a grandfather clause that has gone back 2 years from the time when Congress is enacting legislation. As the gentleman said, probably the most important banking legislation we have had in modern decades is the creation of the one bank holding company some 10 years ago. The grandfather date of that act was the date of enactment. The institutions that were involved and not grandfathered had 10 years to divest.

So the gentleman is absolutely right. From 10 years ago until this March with the enactment of H.R. 4986, which made a tremendous change in the membership of the Federal Reserve System, we have always had a very practical grandfather clause; so I compliment the gentleman on his amendment and strongly support it.

In addition to this, I would say and I will repeat once again, this legislation affects bank holding companies. I would not want the membership or members of the committee on either side of the aisle to come to the conclusion that in changing section 4(c)(8) of the Bank Holding Company Act in any way establishes a precedent in this House to change what I think is good legislation.

So I congratulate the gentleman and wish him well on the amendment.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for his observation and his support.

I would make the point once again that we are, in fact, plowing some new ground. To make a piece of legislation effective over 2 years ago is punitive and we are taking action against the banks and the stockholders of those banks who under current law have been approved in good faith and are in this business. I think that we should be well aware of what we are about to do.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to make it clear to the Members of the House that the date in this particular legislation has very good reason. The date is one that was arrived upon after action in 1978 by the subcommittee when all bank holding companies in this Nation were fully aware of this legislation and the date. Subsequently, when the legislation was on the floor, an attempt to change that date was defeated by a vote of 252 to 72. That was in October 1978.

Mr. Chairman, there are many spurious arguments being put forth to attack the June 6, 1978, grandfather date contained in this legislation.

The facts, however, are clear. All holding companies, all banks in this Nation have been on notice—often repeated notice—that the Congress was considering a prohibition against holding company property and casualty insurance operations. Any company that entered into this activity over the past 2 years did so with their eyes wide open and I am sure that their well-paid legal counsels apprised them fully of pending congressional action.

The first of this present series of bill—specifically prohibiting further bank encroachment in insurance—was introduced on March 10, 1978, well in advance of the June 6, 1978, grandfather date coined in this legislation.

The insurance prohibitions were reported from the Banking Committee on July 11, 1978, as part of the omnibus bank reform package. The committee agreed at that time on the June 6, 1978, grandfather date as proper and fair since it marked the date that its Financial Institutions Subcommittee had taken final well-publicized action on the holding company issue.

If this notice had not been sufficient—the House, itself, reinforced its intentions in October 1978 when it debated and reaffirmed the June 6, 1978, grandfather clause on insurance activities by a vote of 252 to 72. Ultimately that action was put over to the present Congress because of time constraints in the closing hours of the session.

To make certain there was no misunderstanding about our intentions to pursue the issue, we wrote Federal Reserve Board Chairman G. William Miller on November 30, 1978, advising him that the bill would be reintroduced and pursued in this Congress and urging that the Federal Reserve Board take this into consideration when considering new holding company applications.

Chairman Miller replied:

> However, in light of the possible legislation, the Board agrees that it would be appropriate to inform holding companies seeking to acquire or expand insurance activities that the next Congress may enact legislation that would require divestiture of insurance agency operations.

In addition, trade publications provided coverage of the debate over this issue. Thus, bank holding companies were on notice that June 6, 1978, was the grandfather date which would be used by sponsors of legislation in the 96th Congress. During subcommittee and full committee markup this issue was raised and all amendments seeking to change the date were rejected.

With respect to expansion of existing operations, this issue was debated on the floor in October 1978 as well. The House vote at that time overwhelmingly rejected the arguments of those who want to allow bank holding companies to expand ad infinitum their existing operations. A dynamic grandfathering would allow the Citicorps and Bank of Americas to reorganize their multistate, multifaceted operations at any time and increase their property and casualty business without adherence to the grandfather clause. This would make the grandfather date almost meaningless.

Proponents of the change in the grandfather date argue that unwinding of operations started after June 1978 would be unfair and difficult. First, it is not unfair—companies which started new operations after that date were on notice that such a change might be forthcoming. Second, unwinding would not be difficult. Usually bank holding companies have existing officers and employees licensed as insurance agents. They write insurance in addition to performing normal banking or company related activities. Thus, unwinding would mean that employees would no longer be writing insurance and would be utilized in other ways.

These amendments are not needed and should be rejected.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I certainly agree with the gentleman. This amendment should be defeated. As the gentleman said, bank holding companies knew about this legislation, and some have gotten into the insurance business since 1978 and if we do not defeat the amendment, the bank holding companies are going to be out there writing insurance and we are not going to help the small insurance agent, which this bill is designed for. It is absolutely necessary that this amendment be defeated.

Mr. Chairman, I appreciate the gentleman yielding.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I know this is an area for honest disagreement of opinion, but the date of June 6, 1978, as the gentleman from Rhode Island said, was fixed for reasonable purposes. That was the date on which the other banks were notified that if they made application to get in the insurance business, it probably would be denied. I think it would be unfair competition to allow the banks which got into the insurance business after that date to be grandfathered in.

Now, the banks that got in before that date were allowed to do so because of a regulation by the Federal Reserve Board, and they did so honestly.

I personally would prefer that all banks selling insurance not be permitted to do so; but this date, as I say, is the date on which bank holding companies were notified that legislation like this might be passed. I, therefore, oppose the amendment.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. Yes, of course, I yield.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

I would make the point that the date was chosen in a year that this legislation was debated here in the House and the thing that is disturbing is that no legislation passed and a new Congress came in and yet we are going to use an old date.

I do not believe the gentleman would take the position that any time we introduce or report legislation out of subcommittee that we put people on notice and say that is the date from now on, regardless whether it passes into law.

I cannot understand why we are doing it in this instance.

Mr. WYLIE. Well, I think it is fair to say that some of the banks tried to get under the tent after the June 6 date in 1978 and before we passed legislation prohibiting this kind of activity.

It is true that there was a lot greater activity after June 6, 1978, then there was before in this area; so I think this date is reasonable. As I say, I think the banks were on notice that we might pass a law effective as of that date and the ones that got in before that date did not have such notice.

Mr. HANLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, very briefly, the author of the amendment used the phrase "in good faith" and really, that is the key to the issue here because the Congress in good faith forewarned the bank holding corporations of this pending legislation.

The Federal Reserve Board did the exact same thing, but regardless of this good faith effort, the holding corporations saw fit to continue to try, and in the interim 2-year period, 274 attempted to come into the fold. That was certainly not a demonstration of good faith on the part of the bank holding corporations.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HANLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

I know that we are very anxious to get to the budget resolution, but let me just ask the gentleman a question. Is this bill essentially what the gentleman and I tried to put in that Financial Institutional Regulatory Act 2 years ago?

Mr. HANLEY. Exactly, with a few pluses, because we did effect a few compromises to offset some criticism that was contained in the original language; but essentially it is the same bill.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague's comment.

The CHAIRMAN. The question is on the amendment to the committee amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

The amendment to the committee amendment was rejected.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there other amendments?

AMENDMENT OFFERED BY MR. EVANS OF INDIANA

Mr. EVANS of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EVANS of Indiana: Add the following new section:

"SEC. 2. The amendment made by the first section of this Act shall not supersede existing State laws and shall cease to be effective with respect to any State on the date on which such State enacts a law which in substance contravenes the amendment made by the first section of this Act."

Mr. EVANS of Indiana. Mr. Chairman, several months ago, we passed legislation preempting State usury laws. Many of us voted for it, either because we believed it was needed or because we believed the overall bill containing the preemption was necessary. All of us who voted for it were able to do so with a clear conscience because it contained a provision allowing State legislatures to reinstate their own usury laws if they voted to do so.

Today, in H.R. 2255, we propose to move again into an area where States have handled regulation, insurance.

I believe that we should again provide for the States to assert themselves if they so desire. This amendment states that the law we pass today will not override existing State laws and will cease to be effective with respect to any State when and if the State passes a law contravening what we do today.

If this amendment is adopted, H.R. 2255 will only fill the breach were States have not yet taken responsibility for examining the insurance situation with regard to bank holding companies and have not yet made legislative decisions about how they want this activity regulated. The bill, with this amendment, would not override the decisions of elected officials at the State level. I urge you to vote to retain the States' traditional abilities to regulate the insurance industry.

☐ 1510

Mr. ST GERMAIN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. CHAPPELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 2255, to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries, had come to no resolution thereon.

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1981

Mr. GIAIMO. Mr. Speaker, I move to take from the Speaker's table the concurrent resolution (H. Con. Res. 307) setting forth the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980, with a Senate amendment thereto, recede from disagreement to the Senate amendment and concur therein with an amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment as follows:

Strike out all after the resolving clause, and insert:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that:

(a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1980, October 1, 1981, and October 1, 1982:

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1981: $613,200,000,000;
Fiscal year 1982: $697,200,000,000;
Fiscal year 1983: $780,600,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1981: —$3,400,000,000;
Fiscal year 1982: —$9,600,000,000;
Fiscal year 1983: —$33,500,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1981: $688,200,000,000;
Fiscal year 1982: $759,300,000,000;
Fiscal year 1983: $831,400,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1981: $613,100,000,000;
Fiscal year 1982: $687,200,000,000;
Fiscal year 1983: $753,400,000,000;

(4) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1981: +$100,000,000;
Fiscal year 1982: +$10,000,000,000;
Fiscal year 1983: +$27,200,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1981: $927,700,000,000;
Fiscal year 1982: $953,800,000,000;
Fiscal year 1983: $968,500,000,000; and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1981: $32,600,000,000;
Fiscal year 1982: $26,000,000,000;
Fiscal year 1933: $14,800,000,000.

(b) Based on allocations of the appropriate levels of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the preceding subsection of this resolution, the Congress hereby determines and declares pursuant to section 301(a) of the Congressional Budget Act of 1974 that, for the fiscal years beginning on October 1, 1980, October 1, 1981, and October 1, 1982, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):

Fiscal year 1981:

(A) New budget authority, $173,400,000,000;

(B) Outlays, $155,700,000,000.

Fiscal year 1982:

(A) New budget authority, $204,500,000,000;

(B) Outlays, $183,100,000,000.

Fiscal year 1983:

(A) New budget authority, $233,900,000,000;

(B) Outlays, $208,600,000,000.

(2) International Affairs (150):

Fiscal year 1981:

(A) New budget authority, $23,300,000,000;

(B) Outlays, $9,500,000,000.

Fiscal year 1982:

(A) New budget authority, $14,600,000,000;

(B) Outlays, $9,600,000,000.

Fiscal year 1983:

(A) New budget authority, $13,300,000,000;

(B) Outlays, $9,600,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1981:

(A) New budget authority, $6,400,000,000;

(B) Outlays, $6,100,000,000.

Fiscal year 1982:

(A) New budget authority, $6,900,000,000;

(B) Outlays, $6,800,000,000.

Fiscal year 1983:

(A) New budget authority, $7,100,000,000;

(B) Outlays, $7,000,000,000.

(4) Energy (270):

Fiscal year 1981:

(A) New budget authority, $3,800,000,000;

(B) Outlays, $6,800,000,000.

Fiscal year 1982:

(A) New budget authority, $6,200,000,000;

(B) Outlays, $8,300,000,000.

Fiscal year 1983:

(A) New budget authority, $8,600,000,000;

(B) Outlays, $8,900,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1981:

(A) New budget authority, $11,500,000,000;

(B) Outlays, $11,900,000,000.

Fiscal year 1982:

(A) New budget authority, $11,700,000,000;

(B) Outlays, $12,500,000,000.

Fiscal year 1983:

(A) New budget authority, $11,800,000,000;

(B) Outlays, $12,700,000,000.

(6) Agriculture (350):

Fiscal year 1981:

(A) New budget authority, $5,600,000,000;

(B) Outlays, $2,300,000,000.

Fiscal year 1982:

(A) New budget authority, $6,600,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1981:

(A) New budget authority, $5,400,000,000;

(B) Outlays, $500,000,000.

Fiscal year 1982:

(A) New budget authority, $6,300,000,000;

(B) Outlays, $3,100,000,000.

Fiscal year 1983:

(A) New budget authority, $6,600,000,000;

(B) Outlays, $3,200,000,000.

(8) Transportation (400):

Fiscal year 1981:

(A) New budget authority, $19,750,000,000;

(B) Outlays, $18,050,000,000.

Fiscal year 1982:

(A) New budget authority, $18,750,000,00;

(B) Outlays, $19,250,000,000.

Fiscal year 1983:

(A) New budget authority, $19,550,000,000;

(B) Outlays, $19,950,000,000.

(9) Community and Regional Development (450):

Fiscal year 1981:

(A) New budget authority, $8,800,000,000;

(B) Outlays, $9,200,000,000.

Fiscal year 1982:

(A) New budget authority, $8,500,000;

(B) Outlays, $8,800,000,000.

Fiscal year 1983:

(A) New budget authority, $8,700,000,000;

(B) Outlays, $8,800,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1981:

(A) New budget authority, $28,900,000,000;

(B) Outlays, $28,000,000,000.

Fiscal year 1982:

(A) New budget authority, $30,000,000,000;

(B) Outlays, $28,500,000,000.

Fiscal year 1983:

(A) New budget authority, $30,800,000,000;

(B) Outlays, $30,200,000,000.

(11) Health (550):

Fiscal year 1981:

(A) New budget authority, $70,700,000,000;

(B) Outlays, $61,700,000,000.

Fiscal year 1982:

(A) New budget authority, $82,000,000,000;

(B) Outlays, $70,600,000,000.

Fiscal year 1983:

(A) New budget authority, $92,500,000,000;

(B) Outlays, $78,400,000,000.

(12) Income Security (600):

Fiscal year 1981:

(A) New budget authority, $245,200,000,000;

(B) Outlays, $218,200,000,000.

Fiscal year 1982:

(A) New budget authority, $277,100,000,000;

(B) Outlays, $246,600,000,000.

Fiscal year 1983:

(A) New budget authority, $304,300,000,000;

(B) Outlays, $271,800,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1981:

(A) New budget authority, $21,850,000,000;

(B) Outlays, $21,250,000,000.

Fiscal year 1982:

(A) New budget authority, $23,050,000,000.

(B) Outlays, $22,650,000,000.

Fiscal year 1983:

(A) New budget authority, $24,550,000,000;

(B) Outlays, $24,150,000,000.

(14) Administration of Justice (750):

Fiscal year 1981:

(A) New budget authority, $4,300,000,000;

(B) Outlays, $4,600,000,000.

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,600,000,000.

Fiscal year 1983:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $4,800,000,000.

(15) General Government (800):

Fiscal year 1981:

(A) New budget authority, $4,600,000,000;

(B) Outlays, $4,300,000,000.

Fiscal year 1982:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $4,700,000,000.

Fiscal year 1983:

(A) New budget authority, $5,100,000,000;

(B) Outlays, $4,900,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1981:

(A) New budget authority, $7,200,000,000;

(B) Outlays, $7,500,000,000.

Fiscal year 1982:

(A) New budget authority, $7,300,000,000;

(B) Outlays, $7,300,000,000.

Fiscal year 1983:

(A) New budget authority, $7,500,000,000;

(B) Outlays, $7,400,000,000.

(17) Interest (900):

Fiscal year 1981:

(A) New budget authority, $72,200,000,000;

(B) Outlays, $72,200,000,000.

Fiscal year 1982:

(A) New budget authority, $74,000,000,000;

(B) Outlays, $74,000,000,000.

Fiscal year 1983:

(A) New budget authority, $77,700,000,000;

(B) Outlays, $77,700,000,000.

(18) Undistributed Offsetting Receipts (950):

Fiscal year 1981:

(A) New budget authority, −$24,700,000,000;

(B) Outlays, −$24,700,000,000.

Fiscal year 1982:

(A) New budget authority, −$27,500,000,000;

(B) Outlays, −$27,500,000,000.

Fiscal year 1983:

(A) New budget authority, −$29,800,000,000;

(B) Outlays, −$29,800,000,000.

REVISIONS TO THE SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1980

SEC. 2. Pursuant to section 304 of the Congressional Budget Act of 1974:

(a) Section 1 of S. Con. Res. 53 is revised as follows:

(1) The recommended level of Federal revenues is $528,900,000,000 and the amount by which the aggregate level of Federal revenues should be decreased or increased is $0.

(2) The appropriate level of total new budget authority is $653,700,000,000.

(3) The appropriate level of total budget outlays is $566,400,000,000.

(4) The amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $37,500,000,000.

(5) The appropriate level of the public debt is $895,100,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $16,100,000,000.

(b) Section 2 of S. Con. Res. 53 is revised as follows:

(1) National Defense (050):

(A) New budget authority, $143,700,000,000;

(B) Outlays, $134,000,000,000.

(2) International Affairs (150):

(A) New budget authority, $15,200,000,000;

(B) Outlays, $9,900,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $6,200,000,000;

(B) Outlays, $5,900,000,000.

(4) Energy (270):

(A) New budget authority, $37,900,000,000;

(B) Outlays, $6,500,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $12,200,000,000;

(B) Outlays, $12,900,000,000.

(6) Agriculture (350):

(A) New budget authority, $5,000,000,000;

(B) Outlays, $5,900,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $11,700,000,000;

(B) Outlays, $5,500,000,000.

(8) Transportation (400):

(A) New budget authority, $19,700,000,000;

(B) Outlays, $19,500,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,600,000,000;

(B) Outlays, $9,100,000,000.

(10) Education, Training, Employment and Social Services (500):

(A) New budget authority, $29,300,000,000;

(B) Outlays, $29,900,000,000.

(11) Health (550):

(A) New budget authority, $59,800,000,000;

(B) Outlays, $56,500,000,000.

(12) Income Security (600):

(A) New budget authority, $223,000,000,000;

(B) Outlays, $190,000,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,200,000,000;

(B) Outlays, $20,500,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,400,000,000.

(15) General Government (800):

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,400,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $8,300,000,000;

(B) Outlays, $8,300,000,000.

(17) Interest (900):

(A) New budget authority, $65,500,000,000;

(B) Outlays, $65,500,000,000.

(18) Undistributed Offsetting Receipts (950):

(A) New budget authority, −$22,300,000,000;

(B) Outlays, −$22,300,000,000.

RECONCILIATION

Pursuant to subsection 310 (c), (e), and (f) of the Congressional Budget Act of 1974, reconciliation measures shall be reported and considered as follows:

SEC. 3. The Committees on Appropriations shall reduce spending in enacted laws by $4,800,000,000 in budget authority and $2,600,000,000 in outlays for fiscal year 1980 and are instructed to report no later than ten days after Congress completes action on this resolution their recommendations for changes in new budget authority for fiscal year 1980 and budget authority initially provided for prior fiscal years contained in enacted laws, within the jurisdictions of those committees, sufficient to accomplish the reductions required by this section.

SEC. 4. The Senate Committee on Governmental Affairs and the House Committee on Government Operations shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $500,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981, budget authority initially provided for prior fiscal year 1981, years, and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

SEC. 5. The Committees on Armed Services shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $400,000,000 in budget authority and $400,000,00 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981, budget authority initially provided for prior fiscal years and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reductions required by this section.

SEC. 6. The Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $300,000,000 in budget authority and are instructed to report promptly the recommendations for changes in new budget authority for fiscal year 1981, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

SEC. 7. The Senate Committee on Labor and Human Resources and the House Committee on Education and Labor shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $500.000.000 in budget authority and $600,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reductions required by this section.

SEC. 8. The Senate Committee on Commerce, Science, and Transportation and the House Committee on Interstate and Foreign Commerce shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $300.000.000 in budget authority and $200.000.000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981 or budget authority initially provided for prior fiscal years, or authorizations therefor, and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reductions required by this section.

SEC. 9. The Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $2,000,000,000 in budget authority and $2,000,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981 or budget authority initially provided for prior fiscal years, or authorizations therefor, and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reductions required by this section.

SEC. 10. The Committees on Veterans' Affairs shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $200,000,000 in budget authority and $400,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981 or budget authority initially provided for prior fiscal years, or authorizations therefor, and new spending authority which is to become effective during fiscal year 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reductions required by this section.

SEC. 11. The Senate Committee on Finance and the House Committee on Ways and Means shall reduce spending for fiscal year 1981 in reported or enacted laws, bills, and resolutions by $2,700.000.000 in budget authority and $4,100.000.000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reductions required by this section.

SEC. 12. The Senate Select Committee on Small Business and the House Committee on Small Business shall reduce spending in fiscal year 1981 in reported or enacted laws, bills, and resolutions by $900.000.000 in budget authority and $700.000.000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1981 or budget authority initially provided for prior fiscal years, or authorizations therefor, and new spending authority which is to become effective during fiscal 1981 contained in reported or enacted laws, bills, and resolutions within the jurisdiction of those committees sufficient to accomplish the reductions required by this section.

SEC. 13. The Committees specified in sections 4 to 12 herein shall report the recommendations required by this resolution no later than June 20, 1980, or ten days after Congress completes action on this resolution, whichever later occurs.

SEC. 14. It is the sense of the Congress that the President should direct agencies not to increase the rate of obligation of fiscal year 1980 budget authority in advance of anticipated rescission actions.

It is the further sense of Congress that due to the extreme rates of inflation in the United States economy, the possible inflationary effects of Federal regulations and legislation shall be carefully monitored as part of this program of fiscal restraint. Inflationary effects should therefore be a prime consideration in developing both regulations and legislation. In order to coordinate the aggregate economic impact of regulations with Federal fiscal policy, it is the sense of Congress that the President should implement a "zero net inflation impact" policy for the Federal regulations promulgated in the remainder of fiscal years 1980 and 1981. This policy will require the President to keep an accounting for fiscal years 1980 and 1981 of all new regulations which have a significant, measurable cost to the economy. The aggregate net increase in costs or price effects of new regulations would have to be offset by modifications to existing regulations which reduce the costs or price effects by at least that amount in fiscal years 1980 and 1981, as well as subsequent fiscal years. The cost-saving modifications need not affect the same area of economic activity as the cost-inducing regulations. The President should institute an exemption procedure to assure the promulgation of regulations necessary to avert any imminent threat to health and safety. It is also the sense of Congress that the Director of the Congressional Budget Office should issue a periodic "inflation scorekeeping" report which shall contain an estimate of the positive or negative inflationary effects, wherever measurable, of legislation enacted to date in the current session of Congress. The report shall also indicate for each bill, promptly after it is reported by a committee of Congress, whether:

(1) it is judged to have no significant positive or negative impact on inflation;

(2) it is judged to have a positive or negative inflationary impact on the amount specified in terms of both dollar amounts and change in the Consumer Price Index;

(3) it is judged likely to have a significant positive or negative impact on inflation, but the amount cannot be determined immediately.

CREDIT BUDGET

SEC. 15. There is established a Congressional Federal Credit Budget for fiscal year 1981.

(a) The appropriate levels of total Federal credit activity for fiscal year 1981 are:

(1) New direct loan obligations $63,900,000,000;

(2) New primary loan guarantee commitments, $77,000,000,000.

(b) It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit in fiscal year 1981 the off-budget lending activity of the Federal Government to a level not to exceed $25,800,000.000; the on-budget lending activity to a level not to exceed $38,100,000,000; and new primary loan guarantee commitments to a level not to exceed $77,000,000,000.

LEGISLATION DEALING WITH CREDIT TO BE SUBJECT TO APPROPRIATION LIMITATIONS

SEC. 16. It shall not be in order in the House or Senate to consider any bill, resolution, or amendment authorizing new direct loans or new loan guarantees unless that bill, resolution, or amendment also provides that the authority to make or guarantee such loans shall be effective only to such extent or in such amounts as are contained in appropriation Acts. This section shall not apply to agricultural price support and related programs of the type in operation on January 1, 1980, which are funded through the Commodity Credit Corporation.

TAX REDUCTION

SEC. 17. (a) No bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100.000.000 shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget required to be reported under section 310 of the Congressional Budget Act of 1974, such action to be completed not later than August 28, 1980, and on any required reconciliation legislation.

(b) After Federal revenues for fiscal year 1981 have been reduced by enacted bills and resolutions totalling $100,000,000, no other bill or resolution which would reduce revenues in such fiscal year shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget, such action to be completed not later than August 28, 1980, and on any required reconciliation legislation.

MISCELLANEOUS PROVISIONS

SEC. 18. No bill or resolution providing new budget authority for fiscal year 1981 or providing new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 for such fiscal year in excess of the allocation made to or reported by a committee or subcommittee pursuant to section 302 of the Budget Act shall be enrolled until Congress has completed action on the second concurrent resolution on the budget for that fiscal year required to be reported under section 310 of the Budget Act, such action to be completed not later than August 28, 1980, and on any required reconciliation legislation.

SEC. 18A. Section 904(b) of the Congressional Budget Act of 1974 shall be deemed to apply to sections 16, 17, and 18 of this resolution.

HUMPHREY-HAWKINS GOALS

SEC. 19. Pursuant to subsection 301(e) of the Congressional Budget Act of 1974, the target date for the achievement of the employment goal provided for in section 4(b)(1) of the Employment Act of 1946 as amended by the Full Employment and Balanced Growth Act is 1985.

RESTRICTIONS

SEC. 20. Notwithstanding section 17 of this resolution, a resolution adopted under section 402 of the Crude Oil Windfall Profit Tax of 1980 (26 U.S.C. 1) which has the effect of reducing revenues shall be enrolled.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MOTION OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GIAIMO moves that the House recede from its disagreement to the amendment of the Senate and concur therein with an amendment as follows: in lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1980—

(1) the recommended level of Federal revenues is $613,800,000,000, and the amount by which the aggregate level of Federal revenues should be increased by bills and resolutions is to be reported by the appropriate Committees is $4,200,000,000;

(2) the appropriate level of total budget authority is $697,200,000,000;

(3) the appropriate level of total budget outlays is $613,600,000,000;

(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is $200,000,000;

(5) the appropriate level of the public debt is $935,100,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $31,500,000,000; and

(6) the appropriate level of total gross obligations for the principal amount of direct loans is $63,900,000,000 and the appropriate level of total commitments to guarantee loan principal is $79,600,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that for the fiscal year beginning on October 1, 1980, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $170,500,000,000;

(B) Outlays, $153,700,000,000.

(2) International Affairs (150):

(A) New budget authority, $23,600,000,000;

(B) Outlays, $9,500,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $6,600,000,000;

(B) Outlays, $6,100,000,000.

(4) Energy (270):

(A) New budget authority, $6,700,000,000;

(B) Outlays, $6,800,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $11,700,000,000;

(B) Outlays, $12,100,000,000.

(6) Agriculture (350):

(A) New budget authority, $5,500,000,000;

(B) Outlays, $2,300,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $5,100,000,000;

(B) Outlays, $000,000,000.

(8) Transportation (400):

(A) New budget authority, $22,100,000,000;

(B) Outlays, $18,750,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,800,000,000;

(B) Outlays, $9,200,000,000.

(10) Education, Training, Employment and Social Services (500):

(A) New budget authority, $31,700,000,000;

(B) Outlays, $29,500,000,000.

(11) Health (550):

(A) New budget authority, $71,200,000,000;

(B) Outlays, $61,700,000,000.

(12) Income Security (600):

(A) New budget authority, $249,500,000,000;

(B) Outlays, $219,550,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,700,000,000;

(B) Outlays, $21,200,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,600,000,000.

(15) General Government (800):

(A) New budget authority, $4,600,000,000;

(B) Outlays, $4.300,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $6,200,000,000;

(B) Outlays, $6.800,000,000.

(17) Interest (900):

(A) New budget authority, $72,200,000,000;

(B) Outlays, $72,200,000,000.

(18) Allowances (920):

(A) New budget authority, $000,000,000;

(B) Outlays, $000,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, −$24,700,000,000;

(B) Outlays, −$24,700,000,000.

RECONCILIATION

SEC. 3. Pursuant to section 301(b)(2) of the Budget Act:

(a)(1) the House Committee on Armed Services shall recommend changes in laws within its jurisdiction which provides spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(2) the House Committee on Education and Labor shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $850,000,000 in budget authority and $850,000,000 in outlays;

(3) the House Committee on Interstate and Foreign Commerce shall recommend (A) program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $100,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $300,000,000 in outlays;

(4) the House Committee on Post Office and Civil Service shall recommend (A) program reductions in laws within its jurisdiction to reduce spending by $500,000,000 in budget authority and $500,000,000 in outlays; and (B) changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(5) the House Committee on Public Works and Transportation shall recommend program reductions in laws or in reported bills or resolutions within its jurisdiction to reduce spending for fiscal year 1981 by $600,000,000 in budget authority and $750,000,000 in outlays;

(6) the House Committee on Small Business shall recommend program reductions in laws within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays;

(7) the House Committee on Veterans' Affairs shall recommend program reductions in laws within its jurisdiction or changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(8) the House Committee on Ways and Means shall recommend changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $700,000,000 in budget authority and $2,000,000,000 in outlays; and

(9) the House Committee on Ways and Means shall recommend changes in laws within its jurisdiction to increase revenues for fiscal year 1981 by $4,200,000,000.

(10) the Senate Committee on Appropriations shall limit appropriations for fiscal year 1981 subsidies to the U.S. Postal Service to a level not to exceed $1,140,000,000 in budget authority and $1,140,000,000 in outlays, in order to achieve savings of $500,000,000 in budget authority and $500,000,000 in outlays;

(11) the Senate Committee on Agriculture, Nutrition, and Forestry shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(12) the Senate Committee on Armed Services shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $400,000,000 in budget authority and $400,000,000 in outlays;

(13) the Senate Committee on Commerce, Science, and Transportation shall recommend program reductions in laws or in reported bills or resolutions within its jurisdiction or changes in laws or in reported bills or

resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority and $150,000,000 in outlays;

(14) the Senate Committee on Environment and Public Works shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c)(2)(A) of the Budget Act to reduce spending for fiscal year 1981 by $300,000,000 in budget authority;

(15) the Senate Committee on Finance shall recommend changes in laws or in reported bills or resolutions within its jurisdiction which provide spending authority described in section 401(c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $900,000,000 in budget authority and $2,200,000,000 in outlays;

(16) the Senate Committee on Finance shall recommend changes in laws within its jurisdiction to increase revenues for fiscal year 1981 by $4,200,000,000;

(17) the Senate Committee on Governmental Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in secton 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $500,000,000 in budget authority and $500,000,000 in outlays;

(18) the Senate Committee on Labor and Human Resources shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401 (c)(2)(C) of the Budget Act to reduce spending for fiscal year 1981 by $350,000,000 in budget authority and $450,000,000 in outlays;

(19) the Senate Committee on Small Business shall recommend changes in laws within its jurisdiction to reduce spending for fiscal year 1981 by $800,000,000 in budget authority and $600,000,000 in outlays; and

(20) the Senate Committee on Veterans' Affairs shall recommend changes in laws within its jurisdiction which provide spending authority described in section 401(c) (2)(C) of the Budget Act or equivalent savings legislation to reduce spending for fiscal year 1981 by $200,000,000 in budget authority and $400,000,000 in outlays;

(b)(1) not later than July 2, 1980, each committee specified in subsection (a)(1)-(9) and (16) shall submit its recommendations to the Committee on the Budget of its House;

(2) not later than June 25, 1980, each committee specified in subsection (a)(10)-(15) and (17)-(20) shall submit its recommendations to the Senate Committee on the Budget; and

(c) pursuant to subsection 310(c) of the Budget Act, the Committees on the Budget, after receiving recommendations submitted under subsections (a) and (b) of this section, shall report to their respective Houses a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision. The provisions of subsection 310(e) of the Budget Act shall apply to consideration in the Senate of any reconciliation bill or resolution.

SEC. 4. (a) The House sets forth the following budgetary levels for fiscal years 1982 through 1983—

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1982: $714,800,000,000;
Fiscal year 1983: $824,100,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased is as follows:

Fiscal year 1982: $200,000,000;
Fiscal year 1983: $000,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1982: $769,100,000,000;
Fiscal year 1983: $868,850,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1982: $688,000,000,000;
Fiscal year 1983: $784,600,000,000;

(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: $26,800,000,000;
Fiscal year 1983: $39,500,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1982: $948,000,000,000;
Fiscal year 1983: $948,200,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1982 and 1983 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):
Fiscal year 1982:
(A) New budget authority, $192,300,000,000;
(B) Outlays, $172,800,000,000.
Fiscal year 1983:
(A) New budget authority, $215,900,000,000;
(B) Outlays, $194,600,000,000.

(2) International Affairs (150):
Fiscal year 1982:
(A) New budget authority, $15,400,000,000;
(B) Outlays, $9,800,000,000.
Fiscal year 1983:
(A) New budget authority, $15,100,000,000;
(B) Outlays, $10,100,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1982:
(A) New budget authority, $6,900,000,000;
(B) Outlays, $6,700,000,000.
Fiscal year 1983:
(A) New budget authority, $7,000,000,000;
(B) Outlays, $6,900,000,000.

(4) Energy (270):
Fiscal year 1982:
(A) New budget authority, $8,500,000,000;
(B) Outlays, $10,400,000,000.
Fiscal year 1983:
(A) New budget authority, $10,000,000,000;
(B) Outlays, $11,500,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 1982:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $13,200,000,000.
Fiscal year 1983:
(A) New budget authority, $13,900,000,000;
(B) Outlays, $13,600,000,000.

(6) Agriculture (350):
Fiscal year 1982:
(A) New budget authority, $6,500,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1983.
(A) New budget authority, $4,500,000,000;
(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 1982:
(A) New budget authority, $5,500,000,000;
(B) Outlays, $2,300,000,000.
Fiscal year 1983:
(A) New budget authority, $5,700,000,000;
(B) Outlays, $2,300,000,000.

(8) Transportation (400):
Fiscal year 1982:
(A) New budget authority, $21,500,000,000;
(B) Outlays, $19,800,000,000.
Fiscal year 1983:
(A) New budget authority, $23,000,000,000;
(B) Outlays, $21,200,000,000.

(9) Community and Regional Development (450):
Fiscal year 1982:
(A) New budget authority, $8,800,000,000;
(B) Outlays, $8,900,000,000.
Fiscal year 1983:
(A) New budget authority, $9,100,000,000;
(B) Outlays, $9,000,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1982:
(A) New budget authority, $35,300,000,000;
(B) Outlays, $32,100,000,000.
Fiscal year 1983:
(A) New budget authority, $39,800,000,000;
(B) Outlays, $38,100,000,000.

(11) Health (500):
Fiscal year 1982:
(A) New budget authority, $82,800,000,000;
(B) Outlays, $70,600,000,000.
Fiscal year 1983:
(A) New budget authority, $118,350,000,000;
(B) Outlays, $103,700,000,000.

(12) Income Security (600):
Fiscal year 1982:
(A) New budget authority, $284,500,000,000;
(B) Outlays, $250,000,000,000.
Fiscal year 1983:
(A) New budget authority, $313,600,000,000;
(B) Outlays, $276,000,000,000.

(13) Veterans Benefits and Services (700):
Fiscal year 1982:
(A) New budget authority, $23,400,000,000;
(B) Outlays, $22,800,000,000.
Fiscal year 1983:
(A) New budget authority, $25,000,000,000;
(B) Outlays, $24,400,000,000.

(14) Administration of Justice (750):
Fiscal year 1982:
(A) New budget authority, $4,400,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1983:
(A) New budget authority, $4,500,000,000;
(B) Outlays, $4,700,000,000.

(15) General Government (800):
Fiscal year 1982:
(A) New budget authority, $5,000,000,000;
(B) Outlays, $4,700,000,000.
Fiscal year 1983:
(A) New budget authority, $4,900,000,000;
(B) Outlays, $4,800,000,000.

(16) General Purpose Fiscal Assistance (850):
Fiscal year 1982:
(A) New budget authority, $6,400,000,000;
(B) Outlays, $6,400,000,000.
Fiscal year 1983:
(A) New budget authority, $6,500,000,000;
(B) Outlays, $6,500,000,000.

(17) Interest (900):
Fiscal year 1982:
(A) New budget authority, $74,000,000,000;
(B) Outlays, $74,000,000,000.
Fiscal year 1983:
(A) New budget authority, $77,700,000,000;
(B) Outlays, $77,700,000,000.

(18) Allowances (920):
Fiscal year 1982:
(A) New budget authority, $2,000,000,000;
(B) Outlays, $2,000,000,000.
Fiscal year 1983:
(A) New budget authority, $4,100,000,000;
(B) Outlays, $4,100,000,000.

(19) Undistributed Offsetting Receipts (950):
Fiscal year 1982:
(A) New budget authority, −$27,500,000,000;
(B) Outlays, −$27,500,000,000.
Fiscal year 1983:
(A) New budget authority, −$29,800,000,000;
(B) Outlays, −$29,800,000,000.

SEC. 5. (a) The Senate sets forth the following budgetary levels for fiscal years 1982 through 1983—

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1982: $701,400,000,000;
Fiscal year 1983: $783,000,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1982: −$5,200,000,000;

Fiscal year 1983: −$27,500,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1982: $775,000,000,000;

Fiscal year 1983: $851,600,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1982: $695,600,000,000;

Fiscal year 1983: $765,500,000,000;

(4) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1982: +$5,800,000,000;

Fiscal year 1983: +$17,500,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1982: $965,600,000,000;

Fiscal year 1983: $991,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1982: $31,200,000,000;

Fiscal year 1983: $25,500,000,000;

(b) Based on allocations of the appropriate levels of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the preceding subsection of this resolution, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):

Fiscal year 1982:

(A) New budget authority, $204,600,000,000;

(B) Outlays, $183,200,000,000.

Fiscal year 1983:

(A) New budget authority, $234,000,000,000;

(B) Outlays, $208,700,000,000.

(2) International Affairs (150):

Fiscal year 1982:

(A) New budget authority, $15,400,000,000;

(B) Outlays, $9,800,000,000.

Fiscal year 1983:

(A) New budget authority, $15,100,000,000;

(B) Outlays, $10,100,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1982:

(A) New budget authority, $6,900,000,000;

(B) Outlays, $6,800,000,000.

Fiscal year 1983:

(A) New budget authority, $7,100,000,000;

(B) Outlays, $7,000,000,000.

(4) Energy (270):

Fiscal year 1982:

(A) New budget authority, $7,500,000,000;

(B) Outlays, $10,100,000,000.

Fiscal year 1983:

(A) New budget authority, $9,500,000,000;

(B) Outlays, $11,100,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1982:

(A) New budget authority, $12,400,000,000;

(B) Outlays, $12,900,000,000.

Fiscal year 1983:

(A) New budget authority, $12,700,000,000;

(B) Outlays, $13,200,000,000.

(6) Agriculture (350):

Fiscal year 1982:

(A) New budget authority, $6,600,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $5,200,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1982:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $2,700,000,000.

Fiscal year 1983:

(A) New budget authority, $6,300,000,000;

(B) Outlays, $2,900,000,000.

(8) Transportation (400):

Fiscal year 1982:

(A) New budget authority, $21,500,000,000;

(B) Outlays, $20,300,000,000.

Fiscal year 1983:

(A) New budget authority, $22,200,000,000;

(B) Outlays, $21,600,000,000.

(9) Community and Regional Development (450):

Fiscal year 1982:

(A) New budget authority, $8,500,000,000;

(B) Outlays, $8,800,000,000.

Fiscal year 1983:

(A) New budget authority, $8,700,000,000;

(B) Outlays, $8,800,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1982:

(A) New budget authority, $33,400,000,000;

(B) Outlays, $31,700,000,000.

Fiscal year 1983:

(A) New budget authority, $34,900,000,000;

(B) Outlays, $33,700,000,000.

(11) Health (550):

Fiscal year 1982:

(A) New budget authority, $82,800,000,000;

(B) Outlays, $70,600,000,000.

Fiscal year 1983:

(A) New budget authority, $94,300,000,000;

(B) Outlays, $79,600,000,000.

(12) Income Security (600):

Fiscal year 1982:

(A) New budget authority, $284,200,000,000;

(B) Outlays, $249,400,000,000.

Fiscal year 1983:

(A) New budget authority, $313,400,000,000;

(B) Outlays, $275,400,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1982:

(A) New budget authority, $23,200,000,000;

(B) Outlays, $22,700,000,000.

Fiscal year 1983:

(A) New budget authority, $24,800,000,000;

(B) Outlays, $24,200,000,000.

(14) Administration of Justice (750):

Fiscal year 1982:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1983:

(A) New budget authority, $4,600,000,000;

(B) Outlays, $4,700,000,000.

(15) General Government (800):

Fiscal year 1982:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $4,700,000,000.

Fiscal year 1983:

(A) New budget authority, $5,100,000,000;

(B) Outlays, $4,900,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1982:

(A) New budget authority, $6,400,000,000;

(B) Outlays, $6,400,000,000.

Fiscal year 1983:

(A) New budget authority, $6,500,000,000;

(B) Outlays, $6,500,000,000.

(17) Interest (900):

Fiscal year 1982:

(A) New budget authority, $74,000,000,000;

(B) Outlays, $74,000,000,000.

Fiscal year 1983:

(A) New budget authority, $77,700,000,000;

(B) Outlays, $77,700,000,000.

(18) Undistributed Offsetting Receipts (950):

Fiscal year 1982:

(A) New budget authority, −$27,500,000,000;

(B) Outlays, −$27,500,000,000.

Fiscal year 1983:

(A) New budget authority, −$29,800,000,000;

(B) Outlays, −$29,800,000,000.

SEC. 6. Sections 1 and 2 of Senate Concurrent Resolution 53 are revised to read as follows:

"SECTION 1. That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

"(1) the recommended level of Federal revenues is $525,700,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $000,000,000;

"(2) the appropriate level of total new budget authority is $658,850,000,000;

"(3) the appropriate level of total budget outlays is $572,650,000,000;

"(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $46,950,000,000;

"(5) the appropriate level of the public debt is $903,600,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $24,600,000,000; and

"(6) Notwithstanding any other figure in this section, for purposes of clause 2, rule XLIX of the rules of the House of Representatives, as made applicable to this section by House Resolution 642, 96th Congress, the appropriate level of the public debt, for the period beginning on the date of enactment into law through February 28, 1981, is $925,000,000,000, and the amount by which the statutory limit on such debt for such period should accordingly be increased is $46,000,000,000.

"SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979 the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

"(1) National Defense (050):

"(A) New budget authority, $143,700,000,000;

"(B) Outlays, $135,700,000,000.

"(2) International Affairs (150):

"(A) New budget authority, $15,200,000,000;

"(B) Outlays, $10,500,000,000.

"(3) General Science, Space, and Technology (250);

"(A) New budget authority, $6,200,000,000;

"(B) Outlays, $5,900,000,000.

"(4) Energy (270):

"(A) New budget authority, $38,400,000,000;

"(B) Outlays, $6,400,000,000.

"(5) Natural Resources and Environment (300):

"(A) New budget authority, $12,600,000,000;

"(B) Outlays, $13,400,000,000.

"(6) Agriculture (350):

"(A) New budget authority, $5,000,000,000;

"(B) Outlays, $5,900,000,000.

"(7) Commerce and Housing Credit (370):

"(A) New budget authority, $11,700,000,000;

"(B) Outlays, $6,100,000,000.

"(8) Transportation (400):

"(A) New budget authority, $20,500,000,000;

"(B) Outlays, $20,200,000,000.

"(9) Community and Regional Development (450):

"(A) New budget authority, $10,000,000,000;

"(B) Outlays, $9,800,000,000.

"(10) Education, Training, Employment and Social Services (500):

"(A) New budget authority, $29,600,000,000;

"(B) Outlays, $29,900,000,000.

"(11) Health (550):

"(A) New budget authority, $59,800,000,000;

"(B) Outlays, $56,500,000,000.

"(12) Income Security (600):

"(A) New budget authority, $224,800,000,000;

"(B) Outlays, $191,700,000,000.

"(13) Veterans Benefits and Services (700):

"(A) New budget authority, $21,200,000,000;

"(B) Outlays, $20,500,000,000.

"(14) Administration of Justice (750):

"(A) New budget authority, $4,300,000,000;

"(B) Outlays, $4,400,000,000.

"(15) General Government (800):

"(A) New budget authority, $4,500,000,000;

"(B) Outlays, $4,400,000,000.

"(16) General Purpose Fiscal Assistance (850):

"(A) New budget authority, $8,550,000,000;

"(B) Outlays, $8,550,000,000.

"(17) Interest (900):

"(A) New budget authority, $65,100,000,000;

"(B) Outlays, $65,100,000,000.

"(18) Allowances (920):

"(A) New budget authority, $000,000,000;

"(B) Outlays, $000,000,000.

"(19) Undistributed Offsetting Receipts (950):

"(A) New budget authority, —$22,300,000,000;

"(B) Outlays, —$22,300,000,000.".

RECONCILIATION

SEC. 7. Pursuant to section 310 of the Budget Act: (a) Not later than June 16, 1980, the House Committee on Appropriations shall report legislation reducing spending for fiscal year 1980 contained in laws or in reported bills or resolutions within its jurisdiction by $3,000,000,000 in budget authority and $1,000,000,000 in outlays; and

(b) Not later than ten days after Congress completes final action on this resolution, the Senate Committee on Appropriations shall report legislation reducing spending for fiscal year 1980 contained in laws within its jurisdiction by $3,000,000,000 in budget authority and $1,000,000,000 in outlays.

GENERAL PROVISIONS

SEC. 8. (a) No bill or resolution providing—

(1) new budget authority for fiscal year 1981, or

(2) new spending authority described in section 401(c)(2)(C) of the Budget Act first effective in fiscal year 1981—

which exceeds the appropriate allocation or subdivision made pursuant to section 302 of such Act shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget required to be reported under section 310 of such Act, and on any reconciliation legislation required by such resolution. Action on such resolution should be completed not later than August 28, 1980.

(b) Subsection (a) shall not apply to bills and resolutions for which a conference report has been filed in either House prior to final adoption by both Houses of this resolution.

SEC. 9. (a) No bill or resolution which would reduce Federal revenues in fiscal year 1981 by more than $100,000,000 shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget required to be reported under section 310 of the Budget Act, and on any reconciliation language required by such resolution. Action on such resolution should be completed not later than August 28, 1980.

(b) After Federal revenues for fiscal year 1981 have been reduced by enacted bills and resolutions totaling $100,000,000, no other bill or resolution which would reduce revenues in such fiscal year shall be enrolled until after Congress has completed action on the second concurrent resolution on the budget, and on any reconciliation legislation required by such resolution. Action on such resolution should be completed not later than August 28, 1980.

(c) Notwithstanding subsection (a) or (b) of this section, a resolution adopted under section 402 of the Crude Oil Windfall Profit Tax of 1980 (26 U.S.C. 1) which has the effect of reducing revenues shall be enrolled.

SEC. 10. There is established a Congressional Federal Credit Budget for fiscal year 1981.

(a) The appropriate levels of total Federal credit activity for fiscal year 1981 are:

(1) New direct loan obligations, $63,900,000,000;

(2) New primary loan guarantees, commitments, $79,600,000,000.

(b) It is the sense of the Congress that the President and the Congress, through the appropriations process, should limit in fiscal year 1981 the off-budget lending activity of the Federal Government to a level not to exceed $25,800,000,000; the on-budget lending activity to a level not to exceed $38,100,000,000; and new primary loan guarantee commitments to a level not to exceed $79,600,000,000.

SEC. 11. It is the sense of the Senate that due to the extreme rate of inflation in the U.S. economy, the possible inflationary effects of Federal regulations and legislation shall be carefully monitored as part of this program of fiscal restraint. Inflationary effects should therefore be a prime consideration in developing both regulations and legislation. In order to coordinate the aggregate economic impact of regulations with Federal fiscal policy, it is the sense of the Senate that the President should implement a "zero net inflation impact" policy for the Federal regulations promulgated in the remainder of fiscal year 1980 and fiscal year 1981. This policy will require the President to keep an accounting for fiscal years 1980 and 1981 of all new regulations which have a significant, measurable cost to the economy. The aggregate net increase in costs or price effects of new regulations would have to be offset by modifications to existing regulations which reduce the costs or price effects by at least that amount in fiscal years 1980 and 1981, as well as subsequent fiscal years. The cost-saving modifications need not affect the same area of economic activity as the cost-inducing regulations. The President should institute an exemption procedure to assure the promulgation of regulations necessary to avert any imminent threat to health and safety.

It is also the sense of the Senate that the Director of the Congressional Budget Office should issue a periodic "inflation scorekeeping" report which shall contain an estimate of the positive or negative inflationary effects, wherever measurable, of legislation enacted to date in the current session of Congress. The report shall also indicate for each bill, promptly after it is reported by a committee of Congress, whether:

(1) It is judged to have no significant positive or negative impact on inflation;

(2) It is judged to have a positive or negative inflationary impact on the amount specified in terms of both dollar amounts and change in the consumer price index; and

(3) It is judged likely to have a significant positive or negative impact on inflation, but the amount cannot be determined immediately.

SEC. 12. Congress calls upon the President to review current inflation measures used for indexing Federal programs, as well as other indexing alternatives, to report to Congress by November 30, 1980, those conclusions and recommendations resulting from this review, and to reflect those conclusions in the President's budget and legislative proposals for fiscal year 1982.

SEC. 13. It is the sense of the Congress that the President should direct agencies not to increase the rate of obligation of fiscal year 1980 budget authority in advance of anticipated rescission actions.

Mr. GIAIMO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentleman from Connecticut is recognized for 1 hour.

CALL OF THE HOUSE

Mr. SNYDER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 319]

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashley
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Dixon
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta

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Mitchell, N.Y.
Moakley
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Montgomery
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Moorhead, Pa.
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Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
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Paul
Pease
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Preyer
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Regula
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Sabo
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1530

The SPEAKER pro tempore. On this rollcall, 359 Members have recorded their presence by electronic device, a quorum.

Pursuant to the rule, further proceedings under the call are dispensed with.

FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1981

The gentleman from Connecticut (Mr. GIAIMO) is recognized for 1 hour.

Mr. GIAIMO. Mr. Speaker, for purposes of debate only I yield 30 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, what we are asking the Members to do in the motion I have offered is to agree to the budget resolution as it has been amended from the conference agreement which we voted down 2 weeks ago.

The basic difference which my amendment would make in what was before you 2 weeks ago is that we would take $800 million off of the defense function budget authority, leaving defense budget authority at $170.5 billion and $153.7 billion in defense outlays. We do not touch defense outlays. We merely affect budget authority and by a $800 million amount which still leaves us sufficient budget authority, in the area of $170.5 billion, to accomplish all of the things we feel have to be done in the area of defense.

We take that $800 million and we spread it throughout six nondefense areas as follows: $100 million in budget authority for additional funds for funding of high priority research and science programs which contribute to economic growth and productivity; $100 million additional in energy; $100 million in budget authority; and $100 million in outlays for transportation. The outlay is taken from the surplus of $500 million which we had in the conference report.

An additional $200 million is added to education and training, budget authority only.

$100 million in budget authority is added to health. $200 million in budget authority and outlays is added to income security, some additional money for the low income assistance fuel program.

Basically what we have done, Mr. Speaker, is, we have added $800 million to these six nondefense areas in budget authority from the $800 million that we reduced in defense, leaving, again, substantial moneys in defense well above what the House originally voted. It is $9 billion plus over what the House originally voted in defense budget authority. The $300 million we take from the surplus is added to transportation and income security for low-cost fuel assistance.

I urge adoption of this amendment. I believe it is reasonable. Of course people are always unhappy with the budget. It never satisfies all of their needs, but it does do substantial justice to all of our needs, defense and nondefense. We are running out of time. While this budget has been marked up and was reported out March 20, we still have not adopted this budget and we are well past the May 15 deadline and we have backed up 1980 supplementals waiting to come to this floor, overdue in fact in not coming to the floor and in addition we have 1981 appropriations which must begin to come to the floor if we are going to provide properly for the activities of the Federal Government. If we fail to adopt a budget resolution, we will have failed in our obligation to maintain a disciplinary strength and power over our spending.

Mr. Speaker, I urge that we compromise our differences and recognize this is the best vehicle we can get and to vote for this budget resolution.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, a balanced budget for 1981 is dead, dead, dead, thanks to runaway spending and oppressive taxation and thanks to the President's recession.

Not only is it out of balance, out of balance is only half the story. The deficit in 1981 could easily exceed $20 billion or more if this Congress refuses to restrain runaway spending and oppressive taxation.

I think it is time for the President and those who control this Congress to be honest and quit fooling the people about a balanced budget. This Congress for 25 consecutive years has failed miserably to control Government spending so the effort now is to pull a fast one because it is an election year—balance the budget on paper by raising taxes and by ignoring real economic conditions.

The problem is this: The administration has failed to develop an economic policy. When inflation went up to 18 percent, the President and those who control the Congress panicked. To get temporary relief from those high numbers they threw the country into a recession by asking the Federal Reserve to put idiotic restraints on private credit by taking up credit cards all across the country.

Mr. Speaker, this is not a supply side budget. There are no spending cuts. There are no tax cuts in this budget but we are being encouraged to vote for it in order to save the budget process.

Why save the budget process, Mr. Speaker? It has never produced a balanced budget. It has no integrity. It is changed any time you want it changed. This year's budget has been changed three times. They now say the deficit is going to be $50 billion instead of the $25 billion it was supposed to be.

The fact is that it is not the process that is going to produce the balanced budget in this country, it is the people who sit in this Congress.

Mr. Speaker, I urge my colleagues to vote against this budget. Send a clear signal to the people that if you want a new policy in this country, one that emphasizes economic growth, then you are going to have to change this Congress.

☐ 1540

Mr. LATTA. Mr. Speaker, I yield myself 16 minutes.

Mr. Speaker, let me say that I could not find too much to fault with what my chairman said about this conference report other than the fact that he was asking us to vote for it. Let me say to my friends on my left, I told you so. When this matter was before the House 2 weeks ago, before I said that unless we passed the figures for defense we had in that earlier conference report, it would go back to conference, and they would take money out of defense and string it out through all these other functions—to use the chairman's expression, through the social programs. That is exactly what they did. They cut out defense budget authority, which the Armed Forces really need in order to do planning for the future.

Let me say something about this new conference report and the conference itself. I was never advised of a conference meeting. None of the Members on our side were invited to a conference. We knew nothing about any meeting, and certainly the figures we have before us today were not the result of any bipartisan effort. Where and how they arrived at these figures is more than I can tell you, but contrary to what you have read, there was not any bipartisan support on our side because we did not even know what was happening. I was handed these figures by the chairman outside this Chamber last night, so let us get rid of the idea that this is some sort of a bipartisan effort. It is not. We were given no chance to make it one.

Let me say also that the conferees paid

absolutely—I might amend that by saying that the conferees who were involved in bringing forth this report—paid absolutely no attention to the instructions of the House of Representatives on the defense figures, because going back and checking the record, as the Members know, the House instructed the conferees to maintain the figure of $171.3 billion in budget authority and $153.7 billion in outlays. Now, the conferees did not pay any attention to those instructions. They might have accepted the outlay half of it, but as far as the defense budget authority goes—which is so essential to the planning in the Defense Department—they did not adhere to those figures.

Had I been in that conference—I would have made every possible effort to carry out the wishes and instructions of the House. I feel that was not done.

Let me say also that the chairman did not mention anything about the spending add-ons—the add-ons in this matter that is now before us dealing with 1980. I think the Members should know, because they are getting a lot of letters about the influx of Cubans into this country, and the people back home are wondering how much it is going to cost us—or, more accurately, cost them.

Let me tell the Members something about the add-ons in this resolution as far as the Cuban refugees are concerned. The Cuban refugees will cost, in budget authority for fiscal year 1980, $382 million. There is $382 million in budget authority and $316 million in outlays for Cuban refugees in this budget now before us. That was not before this Congress previously. There is $918 million in budget authority and $465 million in outlays for the Mount St. Helens assistance. There is $150 million in budget authority and $30 million in outlays for highway emergency assistance for disasters other than Mount St. Helens. Other disasters, including Miami, will cost $325 million in budget authority and $165 million in outlays; a subtotal of $1 billion 775 million in budget authority and $976 million in outlays for fiscal year 1980. That was not previously before the House in the conference committee report that was turned down 2 weeks ago.

In addition to that, they have Presidential disaster requests transmitted May 19 of $225 million in budget authority and $47 million in outlays. We come up with a grand total of about $2 billion in budget authority and $1 billion 23 million in outlays. Let me say that this is not small change—not small change at all. The American people are writing Members about the tremendous influx of the Cubans when our people are standing in the unemployment lines today, wanting jobs, and they are asking how can we afford a third of a billion dollars to take care of the Cuban situation when we have got so much unemployment in this country. I do not know how you can answer that, but you are going to have to answer your mail because it is going to be coming in.

Let me say in addition to that, I could not agree more with the Speaker of the House when it is reported in today's Washington Post that this is not a balanced budget. It is balanced on paper—there is not any question about it, but, on what statistics? The economic assumptions go back to March of this year, they are still using March 4 Congressional Budget Office forecasts. Let me read you something about this forecast. This forecast assumes a peak-to-trough decline in real GNP of 1.1 percent, and an average unemployment rate—get this—of 7.5 percent in fiscal year 1981.

Even at that time, CBO was more optimistic than three of the four commercial forecasts to which the House Budget Committee subscribes. Since then, everybody knows that we have entered a severe downturn in the economy of this country, and it is rapidly deteriorating. As a matter of fact, we have run the first budget resolution for fiscal year 1981, as agreed to by conference, through the econometric models of Data Resources, Inc., the Chase Econometrics, the Wharton Econometric Forecasters, and the Merrill-Lynch Economics. The results show that the adoption of this budget would result in a deficit for fiscal year 1981 of between $24 and $38 billion, and not the $200 million surplus that we find on paper in the proposition now before us.

Mr. DEVINE. Mr. Speaker, will the gentleman yield to me?

Mr. LATTA. I will be happy to yield.

Mr. DEVINE. Perhaps I misunderstood the gentleman, but as the ranking minority member on the Budget Committee and a conferee, did the gentleman say that he was not consulted, that the minority side did not even participate in this so-called conference agreement?

Mr. LATTA. We were not there. We were never invited or notified of any meetings.

Mr. DEVINE. You were not there, and the first you said—you read about it in the paper?

Mr. LATTA. No, first I was handed the figures last night by the chairman of the committee after they had been agreed upon.

Mr. DEVINE. That then was an agreement between the House——

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. GIAIMO. I would like to get this clear.

Mr. DEVINE. So would I.

Mr. GIAIMO. There can be—there can be no conference meetings.

Mr. DEVINE. That is what I thought.

Mr. GIAIMO. We have been in disagreement. We have been in disagreement until yesterday. I have been speaking informally, just myself, with the chairman of the Senate Budget Committee. We have been talking back and forth about numbers and changes that we thought would be acceptable to both sides. Until I had some sense of agreement with him and myself as to what our respective conferees would go for, there was no sense in having conference meetings and agreements. The moment that I had what was to me an acceptable offer yesterday, I consulted with my friend from Ohio and informed him thereof.

Mr. DEVINE. This was a one-man agreement on each side, and then you told the other fellows what you had agreed to.

Mr. GIAIMO. Remember, what we have here is an amendment in disagreement, and we have a proposal before us as to how, hopefully if we vote for it, we can resolve that disagreement.

Mr. DEVINE. Just so that the procedures are made clear.

Mr. GIAIMO. The Senate has not even appointed conferees as yet, nor have they acted on this matter.

Mr. LATTA. May I continue. I hope, if I run out of time, my chairman will give me some of his time. Let me say also, there is something we cannot overlook.

□ 1550

In this so-called conference agreement that we have before us now, the deficit for fiscal year 1980 is increased to $46,950 million. Let me repeat that. Fiscal year 1980, deficit increased to $46,950 million. At this time last year we were predicting a deficit of only $23 billion for fiscal year 1980.

Let me now say something about defense.

Mr. KEMP. Mr. Speaker, will the gentleman yield for one comment, because I would like to support the gentleman's statement?

Mr. LATTA. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, the gentleman from Connecticut responded to the comments of the gentleman from Ohio by suggesting that he had genuinely tried to work out a compromise and I believe he acted in an honorable way but I do not like the compromise.

I think the point needs to be made that the real disagreement we have is not necessarily over procedure; it is over policy. It is not over what the compromise was, as much as it is over what is happening to the economy. This is economic policy we are debating. The gentleman from Ohio has pointed out predictions by Chase Econometrics and DRI and Merrill Lynch. But I believe that in the second quarter of 1980, the real GNP will not drop by 0.2 or 0.1 or 0.3; it will drop by a full 8 percent or more. And that means there will be an unemployment figure of close to 9 or 10 percent. This is barbaric economics. And what we ought to be saying and what this Congress ought to be saying is that we are not going to go along with austerity is right around the corner economics business as usual, by voting for this budget. If you want to follow Herbert Hoover's economic policies, then go ahead and vote for this budget, but if you believe that this Nation needs to expand and produce its way out of inflation, then the gentleman from Ohio should be supported in his efforts to defeat this budget. We need to reverse his policy of raising taxes to balance the budget and throw people out of work. It will not work and the American people will hold us accountable, as they should, for a depression-like economic climate. I say vote "no" and let us get back to the idea that economic growth and full employment without inflation is our immediate and highest priority.

Mr. LATTA. I thank the gentleman for his comments.

Mr. Speaker, let me just say that the American people, according to two very recent polls, want to see substantially more done for American defense. The Singler Co. poll just released indicates that nearly 8 out of every 10 Americans, or 77.1 percent, said Congress should "spend whatever is necessary to make sure that national security objectives can be met." When given another series of choices, 72 percent said Congress "should raise real growth in defense spending to whatever total is necessary to meet U.S. military requirements." And given a wider choice of options, 66 percent said "defense spending should be at whatever level is required for security."

In this morning's edition, the Washington Post revealed the results of a Louis Harris survey, and without reading all of it, by 71 to 6 percent Americans want defense spending increased to keep pace with Soviet military expansion. I have not read anyplace where they want to take $800 million out of defense budget authority and string it along through a lot of other social welfare functions. I have not read or heard that anywhere. If you have, you have read something I have not read. The American people want us to do something significant about the defense of this country. You go back home and you talk to them. They are concerned, as I am, and to take $800 million out of budget authority, which means planning for the future—future planning—and spread it around into these other functions is extremely ridiculous.

What I propose we do is to vote down the previous question on the chairman's amendment so that we can produce a substitute which will put back that budget authority which is needed in defense. Let them have their social program increases they have requested; we will make that concession. I firmly believe that the defense of this country needs some upgrading and that we cannot wait another year to begin. We have to start planning now. You do not come up with the type of equipment that we need in defense overnight. It takes some planning. That is what budget authority is all about. You do not need any planning in these other functions where they put this money. They will spend it out just as fast as you give it to them. But you cannot do that in defense. It takes planning.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the ranking minority member on the Budget Committee for yielding.

Mr. Speaker, from what the ranking minority member of the Budget Committee has been saying, it appears to me that this budget resolution is a sham conceived and agreed upon by the Democrat majority and, therefore, the majority must assume the responsibility, the entire responsibility, for the guidelines for additional taxes, additional spending to be imposed on the not-so-unsuspecting people of America. The majority must assume the entire responsibility for the condition of America's lack of defense which the gentleman has mentioned today, and I will tell the Members that yesterday I briefly stopped by the Naval Museum and I saw more American warships under glass than you can see available in the oceans of the world today. I think that to continue to argue about how much funds we have to take from the military, from the defense, to give to welfare spending is simply an argument that will not be worth anything in a very short time because there will be nothing left to argue about if we are not able to survive, because we do not have the proper defense.

Mr. Speaker, this deal to take $800 million from long-term defense spending in order to meet liberal demands for further enlargement of domestic social programs was made by Democratic members of the conference committee without any consultation of Republicans appointed by both Houses to work out a compromise on this 1981 budget.

Since the Democratic majority has the votes to push through such a deal, this backroom strategy has been justified on that basis. But it proves nonetheless that the budget process is a sham and a disgrace under the liberal Democratic majority.

They are engaged in "buying votes" with taxpayer dollars for more Government handouts, while they prevent our military services from taking proper steps to counter the 3-to-1 Soviet advantage in production of new ships and other more sophisticated conventional weapons.

The $800 million that has been taken from long-term defense spending has been put into social welfare areas to guarantee further increases for food stamps and other such programs.

The liberal Democratic leadership is only interested in counting up big city votes and placating vested interests who are clamoring for more money from the Federal trough.

We have crises in our defense posture and in our economy, which are ignored by this swelling of domestic spending programs.

The Soviets are building military ships and submarines at top speed in order to have a 775-ship fleet by 1985, while our shipbuilding program is not even sufficient to replace vessels going out of service from our current 462-ship Navy.

After completing their shell game, this $613.6 billion budget deal cut by the Democrats destroys any hope of a balanced budget next year.

By the time the President and liberals in Congress have had a few more months to add some more plums to this Christmas tree for recipients of Federal largesse, it will have a deficit of at least $40 billion.

No effort has been made to cut spending in Federal social welfare programs, which are full of waste and abuse.

I have received hundreds of letters telling me of food stamp recipients who buy expensive steaks, custom-decorated bakery items, and other luxuries with food stamps.

But no effort has been allowed to force some needed reforms to eliminate such abuses and reduce costs in this $10 billion program.

This budget is proof enough that the current Federal budget process is a failure.

Congress must pass tough legislation limiting Federal spending to no more than 18 percent of the gross national product, which would require an immediate cut of $35 billion from overbloated Federal programs.

Congress must come up with a way to prevent these annual $100 billion increases in tax collections, which the liberals are imposing through this 1981 budget to finance ever-higher domestic social welfare programs.

These unconscionably higher taxes only take money out of our productive economy—out of the pockets of productive citizens—and add to inflation and unemployment.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding and I thank him for his statement.

Mr. Speaker, like the gentleman, I will continue to support the budget that was worked out in conference. This compromise actually changes comparatively little. As such, I cannot believe that it has a chance of passage, given the margin by which the previous budget was voted down. If it is simply a symbolic change to save the face of the gang of 5, perhaps the gang of 44 will not play that game. I do not know. We will have to see. But clearly there is not dramatic change here. The symbolism is something that I cannot agree with. Therefore, I am inclined to cast my vote in a symbolic way also in favor of the previous conference report, but not for the changes here proposed, and recommended without benefit of consultation with the minority. I also believe this budget is no longer consistent with economic changes battering the country since first we put this budget together, requiring crisis reconsideration of the extent of our available revenue to meet this budget's level of expenditure.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, the remarks that I have to make I would address principally to the Members on this side of the aisle. I am going to ask those people who voted against the conference report last week to support this resolution. I do not do so for any substantive reason. I cannot give you a good substantive reason for supporting this conference report. Despite the irrelevant remarks that you have just heard, the budget authority numbers in defense are $4 billion above the Holt amendment, which the majority of Republican Members voted for just a few weeks ago. There are more than $16 billion in real cuts on the domestic side. The defense budget in budget authority is $27 billion above last year's level, despite what you have heard from the previous speakers. I think that is too high. I think this resolution greatly underestimates the human misery which is going to be out there in the country because of what is happening in the economy. It is, frankly, a product which ought to be supported, much more on the minority side of the aisle than on our side of the aisle. But in my judgment, as you can hear by listening to the previous speakers, there are many Members of the minority who would not vote for a budget resolution if the Republican platform were sealed in it and framed in gold. And so we have a responsibility, as the majority party, to eventually decide, whether we like everything in the package or not, we have to decide to lay at rest one stage of the budget argument and move on to the next stage.

☐ 1600

To those of you who voted against the conference report last week, let me say that as the result of that action there has been a $1.6 billion change in the use of America's resources. We will have $800 million more available on the domestic side and $800 million less available on the defense side than was in the original conference report, so that action had some effect.

To those who preferred the original conference, let me simply say, you still have in the defense area $4 billion more than you wanted when you wanted to vote for the Holt amendment in the first place.

I would venture to say that if we speak with each other frankly, there are very few people in this House on either side of the aisle who really expected the conference to come back with a defense figure which exceeded that in the Holt-Regula amendment. As I said, it is $27 billion above the defense level of last year.

I support this resolution, not because I like it, but because it is necessary to begin our work on the appropriation measures which will deal in a real way with the real problems that people have in the country. As we near the fall, Members again will remember that it does get cold in December and because of increased energy prices we are going to have to provide more money for emergency fuel assistance for the elderly than we have in this resolution today. As it gets closer to the election, we will find more concern in this Congress and in the country for the plight of people who are unemployed. I think under those conditions we will be able to fashion a more realistic resolution, but this in my judgment is the best that we are going to get at this time.

I am reminded of an old story about Ben Riehle who used to represent the rural part of my home county in the State legislation. He appeared before a teachers' group one night during an election campaign. They were unhappy with Ben because he had not voted for everything they wanted.

He said, "Ladies and gentlemen, I remind you of one thing. I may not have voted for every dollar you ever wanted, but I voted for every dollar you ever got."

I think we have to make that distinction here today. We have to be practical. Given the fact that we are the majority party and we do sooner or later have to arrive at a resolution of this problem, whether we like that resolution or not, I would urge you to support the resolution.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, it is ironic that today, June 12, is Tax Freedom Day and on the very day of the so-called Tax Freedom Day the Democrats are bringing before this body the largest tax burden in the history of this Nation, a tax burden of historic significance, 22.3 percent of the gross national product, a $95 billion increase in the tax burden over last year's budget.

The American people have a right to know that this Democratic budget will inflict upon the American people not only the highest tax burden in our history, but increased spending over last year's budget of $66 billion, a decrease in the defense authority over what we previously had before us and an unbalanced budget.

Yes; all the rhetoric about a balanced budget and even the Speaker has admitted now that this is going to be an unbalanced budget. Yet we should remind ourselves and the American people that there was an alternative and that alternative was the Republican alternative, the Latta substitute, which was put before this body, a substitute which provided for restrained spending, $16 billion less in spending than we have before us, a substitute which provided for increased defense spending and a substitute that provided for a tax cut of $32 billion to ease the enormous tax burden inflicted on the American people.

So if you support this resolution we have before us today, you are supporting the highest tax burden in the history of our Nation. You are supporting runaway spending, $66 billion up over last year's budget, and you are supporting decreased defense authority over what we previously had before us.

If you can go back home and tell your constituents that you are in favor of the highest tax burden in the history of our Nation and in favor of this massive increase in spending, more power to you, brother. I certainly do not find myself in that position and I urge the defeat of this resolution before us today.

Mr. GIAIMO. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker this vote today is probably the severest test to date of the viability of the budget process. It also is a test of our ability to govern. This is our supreme chance to demonstrate to the American people that we are able to set aside those petty temptations to divisiveness which rend the fabric of society, to assert the self-control which a balanced budget bespeaks, and to reach a decision that will serve the country and make this system work.

Now, if this budget resolution goes down to defeat, two alternatives confront us. One would be that the pent up power behind this dam that the 1980 resolution has held in check will be so irresistible that it will burst the dam and the Congress will decide to let the budget process go and not try to enforce it at all. That would be a tragedy. It would reverse the public good we have already achieved in our demonstrated determination to balance and control the budget. The declining interest rate and the declining inflation rate are testimony to a growing public confidence in our commitment.

The other alternative would be to continue to enforce its strictures against emergency appropriations that exceed the budget. In so doing we would prevent truly needy people from receiving the assistance that the law provides for them, that we in the Congress have seen fit to provide in law for them. This includes the victims of the great natural disasters which have rocked the country, and the workers made jobless by imports.

Neither of those alternatives is good.

Now, anybody in Congress can find something in any budget with which to disagree. I have heard arguments here today that this budget does not allow enough additional growth for defense and I have heard other arguments that it allows too much for defense and not enough for domestic projects. Any of us can justify a vote against the budget to a narrow constituency on the theory that it did not give enough for their preferred projects or it gave too much for those of which they disapprove.

Maybe this is one of those occasions written of by John F. Kennedy 25 years ago in his book "Profiles in Courage," in which he said that often the most courageous act is an act of conciliation.

Let me just read a few passages, because they come to grips with the heart of the legislative process and what confronts us today. John F. Kennedy in this book 25 years ago:

> Going along means more than just good fellowship—it includes the use of compromise, the sense of things possible. We should not be too hasty in condemning all compromise as bad morals. For politics and legislation are not matters for inflexible principles or unattainable ideals. Politics, as John Morley has acutely observed, "is a field where action is one long second best, and where the choice constantly lies between two blunders."
>
> Henry Clay, who should have known, said compromise was the cement that held the Union together:
>
> All legislation . . . is founded upon the principle of mutual concession. . . . Let him who elevates himself above humanity, above its weaknesses, its infirmities, its wants, its necessities, say, if he pleases, "I never will compromise"; but let no one who is not above the frailties of our common nature disdain compromise.
>
> It is compromise that prevents each set of reformers from crushing the group on the extreme opposite end of the political spectrum. The legislator has a responsibility to conciliate those opposing forces in the larger clash of interests on the national level; and he alone knows that there are few if any issues where all the truth and all the right and all the angels are on one side.

☐ 1610

So we have a choice: To make the system work and to have a budget that at least for now is in balance, or to let it fail. This is a test, then, of our sincerity as well as of our capacity to conciliate and to decide.

Those of you who have clamored so vociferously for a balanced budget: If we let this train pull out of the station with us not aboard, I can give no guarantee that there will be another train.

To those of you who have said so strongly that you want a budget that recognizes the needs of the military, I say here is a budget that does. It provides the largest single dollar increase for any year since World War II for the military services.

For those of you who say you are concerned about recession, I remind you that this budget contains 1 million new jobs for American youth.

It cannot be all things to all people. It cannot increase the military and increase the civilian, reduce taxes and increase the surplus all at the same time. We cannot have all things we desire in one frame, but this is the best that your committee could do. It is our last chance, I think, to prove that we are sincere in wanting this budget process to work, and this system of ours to serve the public with a balanced budget, with enough, if not an overflowing plenty for every necessary function of our society.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I am pleased that the majority leader quoted so liberally from "Profiles in Courage." The thought strikes me that it takes a lot of courage to support this budget in the situation that the country finds itself in today.

I have been doing a lot of thinking about why we are in this dilemma, why it is that 3 months have passed since the time we were supposed to have adopted a concurrent budget resolution, and that we still have not done it, I think it points out the depth of the difference between the philosophy of the two parties in this Congress. I hope that the voters in November will understand this and will do something about it—go one way or another so that in the next Congress we can apply the philosophy the majority of the people favor, to resolve this situation and to save this budget process which we all feel is in danger.

The term "uncontrollable" is that word nobody uses but which everybody has in mind. There are so many of the expenditures of the Federal Government classified as uncontrollable. That is because for 25 years the majority of the Congress has been yielding to pressure groups to make certain expenditures uncontrollable—automatically available without appropriation.

The majority has not been a part of this. We have not desired to make most of these expenditures uncontrollable. In fact, one of the things we have pledged to do in the Republican legislative agenda is to study all of the agencies, all of the expenditures of Government, and to do what is necessary to restore control over the fiscal affairs of the Government to the Congress where the Constitution put it. Because of this real dichotomy and because of the inability of the 2-to-1 majority to settle this dichotomy, we find ourselves today, 3 months after we should have adopted a concurrent budget resolution, without one.

I do not know when we are going to have one. I do hope, however, that everybody understands that if we vote down the previous question, as we will be asked to do, that the gentleman from Ohio will offer an amendment, and that amendment will appeal to the desires of the American people. It will do the thing which the people have most on their minds today. It will provide the top dollar available for the defense of this country.

I think it is important that all of us be aware of the desires of our people and vote for the amendment which will be offered by the gentleman from Ohio.

The amount of $800 million is a lot of money and we need to restore it to the budget authority for the Department of Defense.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I hope no one changes their vote on this budget, because if they do not change their vote from May 29, it will go down in defeat by 242 to 141. This is essentially the same budget the House voted on just a few weeks ago and its fate should be the same.

I do not blame the majority leader for making a valiant effort, quoting John Kennedy and avoiding the substance of what is before us, because he is struggling to get something in the way of a budget through this Congress before the Carter economy completely collapses and the country is taken with it.

So we have before us a budget that essentially has been subjected to cosmetic changes, a slice here and an add-on there, that does not satisfy the need for increased national defense, that certainly cannot satisfy the liberals on the other side who want to increase social spending and, in fact, will have little beneficial impact on the worsening economy. In fact, this budget is almost irrelevant to the economic situation in which this country now finds itself.

We are pushing 8 percent unemployment, soon it will be 9 or 10 percent. How can it make my liberal colleagues happy to vote for a budget that ratifies an economic policy that does not seek to solve the problem from their viewpoint, or unemployment from our conservative viewpoint?

It is a situation that demands, we think massive tax cuts; yet this particular budget proposition before us ratifies about $95 billion or $100 billion in new taxes when what we need is tax cuts to stimulate growth in this country.

My colleagues have not heard much in the last few minutes about the good old balanced budget that we heard so much about last month because no one, not even the chairman of the Committee on the Budget, Mr. GIAIMO, God bless him, who has been through this horrible process—nobody really claims this budget is balanced. It is out of balance now as it was out of balance then. It will soon be out of balance $30 billion, $40 billion, or $50 billion in deficit, and in 10 weeks we will be hauled back into this Chamber to face the real music on a real budget.

What we are considering here today is irrelevant, and I suggest the longer we put off this decision the worse the economy is going to get. I think we ought to reject this budget. If the budget process means anything, we ought to act on the serious economic problems which exist today and not fool the American people who expect some responsibility from this Congress.

I strongly urge that we vote down this pending motion; that we refuse to ratify the failure of Carter economics, we refuse to ratify unemployment and inflation and high interest rates. That is what we are voting on today, and we ought to reject this budget and the Carter policies.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

I take this time to inquire of the distinguished chairman if it is correct that $300 million in budget authority and $100 million in outlays has been added to the revised third budget resolution for fiscal year 1980 to function 400?

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman.

Mr. GIAIMO. Yes; that is correct.

Mr. YOUNG of Florida. I would like to ask further whether this money is assumed to be used for disaster assistance, specifically for road and bridge work under the emergency relief program funded out of the highway trust fund?

Mr. GIAIMO. If the gentleman will yield further, it is my understanding that almost all of the $300 million is assumed by OMB to be needed for road and bridge emergency relief work.

Mr. YOUNG of Florida. The main section of the Sunshine Skyway Bridge over Tampa Bay, which spans the districts represented by the gentlemen from Florida, Congressmen GIBBONS, IRELAND, and YOUNG, was destroyed and is estimated to need $50 million worth of emergency repair. Does the budget resolution allow for this project?

Mr. GIAIMO. If the gentleman will yield further, the revised third budget resolution does not decide specific projects that would be repaired with the additional money.

The SPEAKER pro tempore. Time of the gentleman from Florida has expired.

Mr. GIAIMO. Mr. Speaker, I yield 30 seconds to the gentleman from Florida.

If the gentleman will continue to yield, I can say the revised budget resolution for fiscal year 1980 could accommodate this project, and the specific decision is up to the Appropriation Committee.

Mr. YOUNG of Florida. I thank the gentleman very much for his comments.

Mr. LATTA. Mr. Speaker, I yield 1

minute to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Speaker, I appreciate the gentleman allowing me the 1 minute. I certainly am no warmonger, for in my view, war is the worst possible way to settle anything.

☐ 1620

But, when you have to be ready, is when there is no other way left. How do you find out if you are ready? It seemed to me the best way to do that would be to ask the experts. I have listened to the Joint Chiefs of Staff as a member of the Investigation Subcommittee of the Committee on Armed Services. Without exception, every member of the Joint Chiefs of Staff, the experts in this country, including General Jones, the head of the Joint Chiefs of Staff, have separated themselves from the administration. The President says he wants less money for defense, but the experts in this country today, the Joint Chiefs of Staff, individually and collectively say that we need more money for defense. It just seems to me that the proper thing to do is to listen to the experts.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, this is really not a debate over defense, with all due respect to previous speakers. It is a debate over economic policy. And I say to my colleagues on both sides of the aisle, if you want to vote for a balanced budget, this is not it. Budget analysts at CBO now say that fiscal year 1981 revenues will be about $15 billion short of the conference committee's estimates, and that spending will overshoot them by another $15 billion.

Even the administration admits privately that all hope for a balanced budget in 1981 is now gone. Administration sources predict a deficit of $15 to $20 billion in fiscal year 1981. The distinguished Speaker of the House thinks the deficit will be larger, $30 to $40 billion. The Chamber of Commerce is even more pessimistic, predicting a huge $55 billion deficit. In fact, in a few short weeks, we may have gone from "the first balanced budget in 12 years" to one of the biggest deficits in history.

The balanced budget charade is over. Now even some of the budget conferees admit that the budget will be out of balance, because we have entered one of the worst recessions since World War II. Auto sales have dropped from an annual rate of 10.2 million units a year ago to 5 million in the last 30 days. Housing sales are at the lowest level in nearly 14 years, down from 730,000 a year ago to 364,000 today. Farm income is down in real terms by almost 50 percent in a year, from $36.5 billion in 1978 to $18.5 billion in December of 1979. Steel orders are off by 25 percent.

And hundreds of thousands of Americans have lost their jobs; 889,000 people were thrown out of work last month alone, the largest monthly increase in unemployment since the 1930's. The jobless rate will continue to rise; I expect to see 9 to 10 percent unemployment within a year. And those factory workers who are lucky enough to still have jobs have seen their real spendable earnings drop by more than 7 percent in just 1 year.

I urge you to vote "no" on this conference report because attempting to balance the budget with a $100 billion tax increase can only make the recession worse. By raising instead of lowering taxes, this budget guarantees still higher unemployment, still lower productivity, continued deficit spending, and continued inflation.

Remember that this is not a vote on defense. It is a vote on future economic policy. I am about as prodefense as you can get. But you cannot have a truly strong military posture in an economy that is weak and in a deep recession. What is needed is the economic strategy of cutting taxes and meaningful spending restraint to generate jobs and productivity. Only this, along with increased defense spending, can give the American people the kind of national—and personal—security they deserve.

Vote against this budget because in November, Americans will want to know only one thing—whose ineptitude caused the recession, the rising unemployment, and the double-digit inflation they will face. I say to my colleagues on this side of the aisle, what will you do in November if you vote for these economic policies today? How can you point a finger at the policies that caused the recession if you provide the margin of victory for this recession budget?

I urge you to join me, to call a charade a charade, and to reject this recipe for austerity, disaster, and despair. The budget is not so sacrosanct that we have to stand up here and say we cannot go back to committee and come out with a budget that is going to provide jobs, growth, and hope for the American people. I urge you to vote "no."

Mr. LATTA. Mr. Speaker, I yield 30 seconds to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. I thank the gentleman for yielding.

Mr. Speaker, I hesitate to say this, with this side of the aisle feeling so strongly about this terrible budget, but I am going to support the conference report because I think that it does the things that I have been fighting for the 4 years I have served on the Budget Committee. This budget slows the rate of growth of government; it changes our priorities to pay some attention to the needs of our national security. It provides for reconciliation for the first time so that we are finally imposing some real discipline over ourselves. I think that this is a beginning, and we can go from here.

The economy desperately needs tax reductions to offset the impact of inflation on consumers and to stimulate capital formation and investment. This budget is criticized by many because it does not allow for those tax reductions.

But I believe those critics are missing a major point. This budget begins the fiscal discipline that will make tax reductions possible. In more than 7 years in Congress, I have never seen this body even try to approach the degree of fiscal restraint projected by this budget.

The average annual growth rate of Federal spending during the decade of 1970 to 1980 was more than 11 percent, and this budget proposes a growth rate of less than 8 percent for fiscal 1981.

All of us recognize that this budget is not likely to be in balance, although the aggregate numbers in the resolution show a balance. The recession we are experiencing will probably cause revenues to fall below estimates and increase spending to help the unemployed.

But if we seriously attempt to adhere to the limits imposed on many Government functions by this budget, the 1981 deficit might be held to a practical minimum, and a tax reduction will be possible.

I would remind the House that we will very probably be considering tax-cutting legislation within the next few months to fight the recession, and this budget shows some discipline on spending.

The other major point I would make is that this budget gives a higher priority to defense than any budget I have seen during my years in Congress. We have a long way to go before we overcome the deterioration of our military strength that has occurred in the past decade, but this budget is the opportunity for a significant start.

Congress has spent many years giving high priority to everything except defense, and we now behold the serious problems of readiness in our military forces.

Defense claims 25 percent of this budget, up from 23 percent of the 1980 budget. Nobody in this House can seriously argue that defense should have a priority lower than 25 percent of the budget.

Certainly the defense increase squeezes down other activities in the budget, but our job here is to set priorities, and there can be no higher priority than our national security.

Finally, I reiterate that reconciliation is a reality under this budget and will be a valuable tool in controlling our appropriations.

Mr. LATTA. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I endorse the comments of the gentlewoman from Maryland.

I am going to support the budget conference report for the following reasons:

First, It contains a requirement for reconciliation for the first time in the history of the budget process. This feature is an absolutely essential discipline if the budget process is to be effective. Since I have been a member of the Budget Committee I have urged the members to include reconciliation. At last we have succeeded in getting this language included.

Second. The resolution requires that budget busting appropriations bills be held at the desk until a budget resolution is adopted. This enrollment process is also essential to fiscal discipline and is a feature the Republican Members have long sought to include in the budget.

Third. I think that it is absolutely essential that we preserve the budget process and the fiscal discipline that goes with this legislation. I would like to quote in part from a letter written to Senator Armstrong by Otto Eckstein, a highly respected economist. This letter appeared in the Congressional Record on June 11, 1980, page 14208 and I quote:

> What should the Congress do about budget balancing in this context? This is not at all a transparent or noncontroversial matter, but here is my recommendation.
>
> Because the present economic difficulties were partially created by the excessive increases of government spending of the last 15 years, it remains a matter of top priority to bring the budget under control. In practical terms, this can only be accomplished if there is a simple criterion to govern the budget totals, and that criterion must be some form of balance. I believe it is still sound to attempt to balance the actual budget on the economic assumptions of last January, when the government forecast the recession to be very mild. This attempt to balance the budget will provide the discipline that is needed that will force the President and the Congress to weigh priorities carefully and to limit the total burden on the taxpayer. I therefore strongly endorse the continued attempt to achieve a first budget resolution which shows a realistic budget balance on the January economic assumptions.
>
> But having set the basic expenditure gauges by this method, I would urge you to promptly proceed to the consideration of tax reductions. The already legislated tax increases for energy and social security, along with the inflation burden through "bracket-creep," are raising the total tax burden so dramatically this year and next that it would make any kind of economic recovery from the current sharp recession difficult and unlikely. Consumer purchasing power could not recover with the present legislated tax changes, and some relief will have to be granted to give the economy a chance. While a few months ago it may have been realistic to defer these tax cuts until mid or late 1981 in order to achieve that symbolically important year of actual budget balance, events have superseded that viewpoint, and we simply cannot wait that long for tax relief.
>
> Most important, the tax cuts to be enacted should not be aimed to just give a quick boost to purchasing power, though almost any tax cut will do some of that. The real goal should be to enact changes which will facilitate a better development process for the country for the 1980s. We need to boost productivity through stimulating capital formation, and tax incentives are the only practical means that we have available for that purpose. Thus, I recommend that at least half of the 1981 tax cut be devoted to corporate tax incentives in the form of depreciation reform and investment credits, with the other half of the tax reductions aimed at middle income workers, the group that has experienced the sharpest increases in the personal tax burden and which is now experiencing major disincentive effects.
>
> In your letter you inquire about the effects of the budget deficits on the financial system and other aspects of the economy. In general, budget deficits add to the strains in the financial markets, raise interest rates, and at least to a degree displace private outlays. In the long run, the federal government should be adding to capital formation, not subtracting from it.

Failure to pass this budget compromise will result in an unbalanced budget with higher spending levels.

Under this budget, spending would increase 7.2 percent over 1980, substantially below the inflation rate. New budget authority—which controls future spending—actually grows at a slower rate than does spending; under this budget, budget authority would grow by a modest 6 percent compared with the targeted 7.2 percent spending growth. Government would finally be setting an example—instead of adding to inflation by growing faster than inflation, Government will finally restrain inflation by growing slower.

Fourth. For the first time in several years we are starting to provide adequate funding for the Nation's defense. Failure to recognize this need will put our national security in serious jeopardy in the years ahead. This resolution increases our defense spending budget authority by 18.6 percent and outlays by 13.3 percent while holding the growth in nondefense programs to 2.2 percent in budget authority and 5.3 percent in outlays.

Nondefense expenditures excluding mandated increases in social security entitlements are in budget authority a minus 1 percent and in outlays an increase of only 1.5 percent.

It slows the growth of Federal spending for the first time in many years.

I recognize that there are valid reasons for being opposed to this resolution. The budget process has not been a smashing success, but it has produced order out of what was fiscal policymaking chaos; it has produced more knowledgeable debate over fiscal policy; and importantly, it now holds out the promise for realizing its full potential by invoking the reconciliation and enrollment provisions never before tried. There is considerable room for improvement in the budget process, and we have probably gone too long without taking a hard look at the process. But for all its defects, and on balance, the budget process is worth saving.

Fifth. Lastly, it is a balanced budget for the first time in 11 years and only the second since 1958.

If this Nation is to achieve a reduction in inflation, lowered unemployment levels, a reindustrialization of America, and lower interest rates it is absolutely essential that we have a balanced budget.

I want to warn my colleagues in the majority that I will oppose them and hold their feet to the fire all the way if the second and final resolution for fiscal 1981 shows any deficit. This commitment to a balanced budget must remain strong and firm for 1981 and the years thereafter. Otherwise, what we are doing today becomes a charade.

Mr. GIAIMO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Ottinger).

Mr. OTTINGER. Mr. Speaker, I rise in strongest opposition to this budget resolution and to the outrageous procedure that is blocking opponents of the resolution on this side of the aisle from having the opportunity to speak. It has not been long since the Members of the House rose in opposition to the so-called compromise worked out by the conference committee on the budget resolution. We made it clear at that time that we did not regard the agreement as a compromise between the House and the Senate. We made it clear that the agreement was simply capitulation by the House to a Senate position that fails to recognize economic reality.

"It is the best deal we can get," we were told at the time.

Now the conferees have returned to us with what they say is an improved compromise. But it is not. This proposal calls for outlays at levels almost identical to those in the first conference report. We rejected that one; we should reject this one.

There is greater pressure on us now, it is said. The first budget resolution is almost a month overdue, and the appropriations process is suffering as a result. But that pressure should not lead us to approve a budget resolution that is a fraud. It should lead us, rather, to recognize the severe damage the budget process has done to the public interest.

Even the White House has recognized the irrelevancy of any budget proposal that assumes a brief and mild downturn in the economy in the coming months. We are in a recession, one that is likely to be severe.

Yet the Budget Committee insists on perpetuating this fantasy of a mild slump that will allow us the luxury of a balanced budget.

If this resolution were merely irrelevant to our current economic plight, we could survive it. But it is a binding resolution, and we will have to live with and abide by its economic assumptions, as irresponsible as they may be.

While the conferees may choose to call this a revised conference report, it ignores the real needs of this Nation as surely as the original conference report did. It ignores veterans, the elderly, the young and the poor. It ignores the real need for new housing in this country, and the need to rebuild and modernize our industrial capacity. It ignores everything that will be crucial to our economic growth in the future.

What it provides for is a shrinking economy, a shriveling America.

Early in this process, I offered an amendment to this resolution, arguing that we were facing a recession, and that cutting jobs programs and antirecession aid was a prescription for disaster. Every day that has gone by since then has confirmed our worst predictions. The recession will be bad; without a proper Federal response, it will be awful. This resolution is a major step in exactly the wrong direction.

I oppose it, and urge my colleagues to join me in the effort to restore economic rationality to the Congress and the country.

I would also like to note that the AFL-CIO agrees with me that this resolution must be defeated and I would like to put their letter in the Record at this point:

American Federation of Labor
and Congress of Industrial
Organizations,
Washington, D.C., June 12, 1980.

Dear Representative: The AFL-CIO urges you to oppose the new conference agreement covering the First Budget Resolution for Fiscal 1981, which is scheduled to be considered on the House floor today.

The U.S. is in the midst of a very serious recession which the budget resolution ignores and, in fact, makes more severe by its built-in job losses and tax revenue foregone.

The insistence that there be a resolution declaring that the federal budget be balanced becomes more irrelevant each day as indicators report an economy badly out of balance. It has been clear to the AFL–CIO since the revised budget was introduced in March that this was the wrong move at the wrong time. It is little consolation that now economists, the media and others are reaching the same conclusion as to the counter-productive impact of this budget action.

At a time when more than 8 million Americans are jobless, it makes no economic sense to cripple programs for the unemployed and disadvantaged, nor does it help a failing economy to scuttle programs of construction, postal service, transportation, energy and anti-recession in the blind pursuit of a balance sheet.

Again, the AFL–CIO urges that the conference report be rejected and the Budget Committee be directed to fashion a resolution in keeping with the nation's economic realities.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

Mr. GIAIMO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I rise in support of this conference report. Compared to the agreement rejected 2 weeks ago, this is an improvement.

Two weeks ago I urged defeat of the conference report because of the severe imbalance between defense spending and domestic spending. In this agreement some of that imbalance has been rectified: There is a little reduction in budget authority for defense, a hopeful sign that restraint can still be brought to bear on defense spending in the years ahead. There are some additions to very high priority domestic needs such as transportation, low income energy assistance, basic scientific research, and energy.

Let me speak briefly about the transportation area, an area that has been of special concern to many. Although the level of outlays called for is quite low—$18.75 billion—it is essential to keep in mind that this is a first resolution, a target that can be adjusted. I am confident that should serious problems arise over the summer, accommodations can be made in the outlay level. Remember that the deteriorating state of the economy is likely to make the second resolution for fiscal 1981 look substantially different from this first resolution. I believe many adjustments will be made, including outlays for transportation.

More importantly, in the transportation area, the budget authority level we have protected in conference is substantial. In fact, compared to the original House and Senate passed levels, the Senate has come up to the House by $2.35 billion, while the House came down some $700 million. While there may be some problems on the outlay side, a budget authority level of $22.1 billion will allow for adequate levels in rail assistance, in aviation, in water transportation, and in mass transit. Most of the President's March budget request can be accommodated within this level. In fact, under this budget authority figure, real growth over 1980 in mass transit can be realized. We may all want more, but it is important to recognize that transportation has been very well protected in this second conference report.

Two other points also argue persuasively for the adoption of this conference report.

First, this is the best package we will ever get from a Senate. Rejecting this conference report will do nothing to achieve the goals you may have. It will simply result in a prolonged impasse which will make a mockery of Congress ability to handle its fiscal affairs.

Second, we have run out of time. Crucial legislation is being delayed. Urgent supplemental appropriations are stalled. It is time to move on.

This is not a perfect resolution, but it is worthy of your support.

Mr. GIAIMO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I rise in support of the conference committee's report on the fiscal 1981 budget resolution.

Today, we have before us a budget that for the first time in 12 years is in balance. This signifies that our Government is willing to live within its financial means and serves as a signal to all Americans that we are capable of putting our own house in order. I admire this commitment.

However, I do not admire the way we have balanced the budget in this conference report. The congressional budget should be a compromise between House and Senate views on national priorities and goals. This budget does not accurately reflect the priorities and goals of this House as approved on May 7, 1980. In fact, the House overwhelmingly rejected a substitute budget proposal—the Holt-Graham proposal—which had less in defense and more in domestic spending than the conference report we have before us today. I believe the House has been forced to sacrifice its equal standing with the Senate and in the process, has yielded too much for the sake of a balanced budget at the expense of those Americans least able to afford broad slashes in domestic spending.

Ironically, this budget—with its extremely narrow surplus—will in all likelihood prove inadequate for coping with a growing recession. We have allowed some of the biggest cuts in those very programs which could help mitigate the effects of a recession. In the last 2 months, the unemployment rate has increased 1.6 percentage points and I find this budget unrealistic in the face of this.

While the conference report would add $300 million in outlays for domestic programs, domestic spending has still been cut by about $4 billion overall. These cuts include: $1.2 billion in education and job programs; $750 million in transportation programs; $550 million in low-income energy assistance, food stamps, housing and other income security programs; $300 million in energy programs; 300 million in natural resources and environmental programs; and $200 million in community and regional development.

● Mr. BARNES. Mr. Speaker, I am voting for this so-called compromise budget resolution conference agreement very reluctantly. Earlier I had voted against the original House version of House Concurrent Resolution 307, and also the first conference report rejected 2 weeks ago, because they balanced the budget in a manner I regarded as unacceptable. They dealt harshly with important domestic programs and placed additional burdens on senior citizens, retired workers, and persons on fixed incomes.

I objected particularly to the reconciliation instructions incorporated into this budget resolution, which would force the legislative committees of the House and Senate to report out drastic changes in existing programs in a period of time perhaps so short as to preclude intelligent consideration. The reconciliation procedure, used at this time, undermines the basic integrity of the committee process which we rely on to make this institution function as a deliberative body.

One recommendation made by the House Budget Committee would put great pressure on the House Post Office and Civil Service Committee and the Senate Governmental Affairs Committee to report a bill making reductions in the frequency of the cost-of-living adjustments paid to retired Federal civilian and military personnel. The COLA is presently paid twice a year, and Federal retirees were promised in 1976, when the last change was made, that there would be no further tampering.

It was apparent that the Budget Committee's recommendation that the COLA be paid only once a year, instead of twice, could not be successfully challenged in the context of this budget resolution. The Senate also rejected an effort to restore the twice-a-year adjustment. So the COLA was not an issue in the conference. But I certainly expect that Members of the House will have an opportunity to deal with this issue separately if and when the Post Office Committee reports to us under its reconciliation instructions. The COLA cut should be rejected, and Members who have not already heard from many of their retired constituents formerly in Federal service should be ready for the mail and telephone calls which will surely come when the House debates this matter on its own merits.

This conference report, for all its faults, is slightly superior to the one we overwhelmingly rejected. It is worse than the resolution originally passed by the House. However, it has become obvious that Congress must act to pass a budget resolution—almost any budget resolution—so that we can dispose of this matter and get on with the process of considering the stalled supplemental appropriations bills for fiscal 1980 and the appropriations bills for fiscal 1981 which are ready for action. These must be enacted before October 1, so that we can avoid the fiasco of 1979 which saw much of the Federal Government, and many thousands of Federal employees, go without funds or paychecks at the beginning of the new fiscal year.

Mr. Speaker, it is unfortunate—and a strong indictment of the budget process as presently constructed—that we are, in effect, being forced to pass an unacceptable resolution for fiscal 1981 in order to get along with it the "third resolution" for fiscal 1980, which provides the supplemental funding the country vitally needs right now.

But I am afraid that if we reject this conference agreement, either the Senate might not agree to another conference or we would be forced to allow a waiver for the supplemental to be called up. Either result could lead to the collapse of the budget process. So I am voting "aye" even though I object strongly to much of the substance of what the gentleman from Connecticut (Mr. GIAIMO) has proposed. Once we get through this phase, once we "preserve the budget process," we can deal with the actual issues raised in the appropriations bills, rescission bills and reconciliation legislation to come.

I believe it is essential that this House have the opportunity to vote on the individual matters to be raised as a result of the reconciliation instructions. That legislation is unprecedented, and the committees will have to rush it to the floor in what might be unseemly haste. There should be no closed rule, no attempt to cut off debate. We must deal with reconciliation with some attention to detail, and at some length, if the budget process is to be taken seriously.●

● Mr. FRENZEL. Mr. Speaker, I voted for the original conference report on the first budget resolution. It was too expensive for my taste, but the conference did a good job on defense, and did better on holding down other spending than the House did. I thought that conference was the best we could do.

It was. The new conference report before us today is not much worse, but it is worse. I did my part to encourage cooperation and comity on the original report. The majority group rejected it, and now it is the duty of the majority to pass this one. I shall vote no.

This report is nearly a month late. Economic conditions have worsened and the assumptions look even worse at this time. The rest of the criticisms that applied to the budget last month still apply. It ought to be defeated.●

● Mr. WHITTEN. Mr. Speaker, while I have voted for the various bills attempting to set budget ceilings on Federal spending, and expect to vote for the pending resolution, I have serious misgivings about the soundness of the current effort, not so much on the amount but upon the priorities.

Budget busting has occured in those places where normal expenditures have been made "entitlements" by legislation. These remain virtually untouched, while the restrictions are on appropriations. The appropriations bills are not where the troubles lie, for they have been below the budget 36 out of the last 37 years.

Appropriation bills have been handled by committee members, with years of experience, after hearing thousands of witnesses, both from the Departments and from members of the public—all as it should be, since the House of Representatives is the people's branch of the Government.

Before us, the resolution provides a ceiling established for fiscal year 1980 by our colleagues, without the benefit of the hearing process and the great number of witnesses, and largely ignoring the "entitlements" where the problem is. Rather the squeeze is put on programs with controlled appropriations regularly below the total recommendations of the Office of Management and Budget. The delay in establishing ceilings for the remainder of fiscal year 1980 has already resulted in a loss in excess of a billion dollars, in funds rescinded by your Committee on Appropriations, because action was not taken within 45 days.

To meet our needs we have pending a bill providing for supplemental appropriations for fiscal year 1980—which has been held up for a month by failure to agree on a budget resolution.

We have been delayed in bringing the supplemental bill to the floor since May 9. It was never the intention of the Budget Act that it be used to prevent Congress from expressing its will on appropriations.

As pointed out by Mr. BOLLING, chairman of the Rules Committee, during debate on the Budget Act on December 4, 1973, on page 39338 of the CONGRESSIONAL RECORD, the guilding principles of budget control are:

> (1) the commitment to find a workable process . . .
>
> (2) budget reform must not become an instrument for preventing Congress from expressing its will on spending policy . . .
>
> (3) budget reform must not be used to concentrate the spending power in a few hands. . . . While it is necessary to establish new budget committees, they must not be given extraordinary power in the making of budget priorities.
>
> (4) the congressional budget must operate in tandem with and not override the well-established appropriations process. Through its power of appropriations, Congress is able to maintain control over spending . . .
>
> (5) the budget control procedure should deviate only the necessary minimum from the procedures used for the preparation and consideration of other legislation. Undue complexity could only mean the discrediting of any new reform drive. We must not load the Congressional budget process with needless and questionable details.

Mr. Speaker, I feel that the resolution before us is a production which violates many of those principles. I truly believe we should amend the Budget Act. I would like to bring to the Members attention the words of the Congressional Budget Act:

> The concurrent resolution shall set forth—
>
> * * * * *
>
> (2) an estimate of budget outlays and appropriate levels of new budget authority for each major functional category . . .

The Budget Act is meant to deal with "functional category" targets and not the detailed programs. So I must take exception with much of the publicity currently surrounding this budget resolution when it is cited that it provides too much for defense and not enough for domestic programs. It sets targets for functional categories, it does not provide specifically for funding for defense or specifically for domestic programs. The appropriations bills which will be considered immediately will provide the actual funding for these various programs. A good deal of the problem is that the conferees on the budget resolution have been entangled in details of the budget make up when in fact they are charged with the duty of setting only functional targets.

Mr. Speaker, I call attention to the fact that during the original drafting sessions which resulted in the final version of the Congressional Budget Act, the intention of the participants was to have the budget resolutions set overall totals for budget authority and outlays, the size of the deficit or surplus, the level for revenues, and the appropriate level of the public debt.

In fact the first budget resolution considered by the House in April 1975 covering the fiscal year 1976 budget, provided overall levels for only these areas of concern. No recommendations were made at all concerning the major functional categories. Perhaps we should consider returning to the format of that resolution. It was not the intention for the budget resolution to deal with the details of the budget process because the regular appropriation and authorization procedures were to continue to handle the details and provide regular program reviews.

Therefore, it is a fact that the Congress will determine the funding levels for specific items, activities and programs through appropriation measures and other acts regardless of the speeches, news releases or other debate concerning specific program funding levels contained in the budget resolution. It is the intent of the Congressional Budget Act to operate in this manner.

While I certainly support a balanced budget for fiscal year 1981, and I point out that bills from our Committee on Appropriations have been below the budget, 36 out of the last 37 years, may I say, however, I have some concern over the propositions for balancing the fiscal 1981 budget contained in this resolution.

A review of the targeting proposed in this resolution shows many places where I shall urge different priorities. Saturday or 6 day mail service is so very important to a great majority of the people of this Nation and we must see that this and other services to our people are maintained for it is the people who pay the bill. Already the Subcommittee on Treasury-Postal Service has reviewed this item and has recommended that funding be provided for this vital program for the full fiscal year. I intend to support this recommendation tomorrow, when I preside over the full Appropriations Committee. This is the proper reprioritization within the jurisdiction of the committee.

Mr. Speaker, there are many places where I differ with the basis on which the congressional budget document is being sold. However, I repeat—this instrument deals with functional targets. The Congress will determine the items, the programs, in other legislation as is provided in the Constitution—and I am sure we will make many changes while trying to stay within the overall limits.

Here we set targets. It will be the Congress in later action which decides final figures.

This budget resolution indicates that if all the assumptions contained therein come about there will be a $200 million surplus in fiscal year 1981. I point out this is a very fragile margin for a balanced budget especially in light of past performance. In light of the performance of the economy, the occurrence of Federal programs, wide fluctuations uncontrollable events effecting various federal programs, wide fluctuations occur in budget projections. Additional events may even occur in the remaining few months of fiscal year 1980 that will further change the budget picture. I feel safe to say that it will be extremely difficult if not impossible to maintain this narrow surplus projected for fiscal year 1981. I do not say this critically, because the committee under the most able leadership of the gentleman from Connecticut (Mr. GIAIMO) has done the best possible under the circumstances. It is a great step in the right direction.

Mr. Speaker, let me take some time to point out the need for amending the Congressional Budget Act in order to provide Congress with certain funding flexibility. The House Appropriations Committee reported a general supplemental appropriations bill on May 9 containing funds for many important programs such as disaster assistance, black lung benefits, trade adjustment assistance, medicaid and nearly $1 billion in rescission proposals, however, we have been prevented from bringing this measure to the floor because the fiscal year 1980 budget ceilings have not been revised.

Because of the delay in bringing this bill to the floor immediately the Congress has been prohibited from realizing the $1 billion in rescission savings included in the original bill. This situation caused the committee to reconvene and report out an adjusted supplemental rescission bill (H.R. 7542) which reaffirms the rescissions since the 45-day limitation on rescissions expired on June 4 and the executive branch has had to make these funds available for obligation. In addition the committee added continued funding for the food stamp program as provided by law and disaster relief—including the natural disaster of Mount St. Helens'. We have marked up and have been ready to hold full committee consideration of 8 of the 13 fiscal year 1981 bills but because of the delay in the adoption of the first budget resolution for fiscal year 1981, we have had to pull these measures off the schedule. Further delay in adopting the budget resolution can only disrupt the time congressional consideration of these appropriation measures and in the long run cost more money.

This whole phenomenon points up one of the serious flaws in the congressional budget process. Timely enactment of authorizing legislation and appropriations measures is essential for Congress to set national priorities and achieve necessary legislative budget control but during the last several years we have had to experience delays in the process due to upward adjustments in entitlement and other noncontrollable programs causing the existing budget ceilings to be breached. Since the beginning of this session of Congress, the aggregate ceilings for budget authority and outlays contained in the budget resolution for 1980 have precluded the Congress from providing even limited funds for any program to meet emergency and urgent requirements.

Under the budget resolution that was in place when the Congress reconvened in January, from a practical standpoint there was no room under the ceilings to provide any new spending for fiscal year 1980. This situation was brought about mainly because of the large increases in interest and inflation rates. As a matter of fact, it has been apparent since early last fall that the budget ceilings for budget authority and outlays for fiscal year 1980 would not be adequate to accommodate known requirements.

Because of this situation, the House Appropriations Committee has been obliged to report out three measures providing transfer authority for Selective Service and the Federal Trade Commission rather than regular appropriation bills. This forces the Congress to take funds from one program in order to provide funds for another program. Congress should not be placed in this inflexible position and operate the Federal Government in such a disorderly manner. The Committee on Appropriations has been glad to cooperate but the fact is that the Congressional Budget Act needs to be amended in order to provide for certain exceptions covering emergency matters such as disaster relief, and so forth. The Congress needs the flexibility to act on emergency funding measures when the situation dictates and not be hamstrung as we have been for the last 6 or 7 months. We have shared our concern about this matter with the Rules Committee which has jurisdiction in this area and would welcome an opportunity to help find a specific solution.●

● Mr. ROYBAL. Mr. Speaker, I voted against the fiscal year 1981 budget resolution when it first came to the floor, I voted against the initial conference report, and I must now vote against this revised conference report.

I cannot support a budget resolution which in effect cuts a variety of domestic programs to achieve an illusory and purely symbolic budgetary surplus and the largest annual increase in defense spending in almost 30 years. The list of domestic programs—programs I have long supported—which are being reduced or eliminated is nearly endless.

CETA jobs are being reduced at a time when we face a serious possibility not only of double-digit inflation, but of double-digit unemployment as well. The future for this country's youth is bleaker still. This conference report totally ignores the fact that unemployment among our Nation's youth is climbing and among minority youth the unemployment rate is approachng the 50-percent mark. When the cost of energy is climbing out of sight, the additional $200 million proposed in this revised conference report for low-income energy assistance is nowhere near the amount required when one considers the $600 million reduction of the original conference report.

At a time when the construction industry is collapsing and housing shortages are a serious problem in various parts of the country, this resolution proposes cuts in Federal housing programs. At a time when the American people will be forced to pay a 25-percent increase in the first-class mail rate, the resolution reduces the Postal Service appropriation by $500 million, thus almost assuring a reduction in postal services and probably the end of Saturday mail delivery. Equally contradictory is the fact that mass transit assistance is reduced by the resolution at a time when the only real and immediate solution to our energy problem is the greater use of mass transportation.

Finally, revenue sharing to the States, which frequently is passed along to local communities, is to be eliminated. This comes at a time when many State governments are being forced to cut back revenue collection because of proposition 13-type legislation and are therefore in need of Federal assistance more than ever before.

These reductions, Mr. Speaker, are totally unacceptable, particularly since they are more than offset by increases in the military budget. We are not at war, yet the year-to-year increase in this resolution is greater than any year-to-year increase during the Vietnam war. Only when funding was increased in fiscal year 1951 for the Korean war was the year-to-year increase greater than in the conference report we are being asked to approve today.

Mr. Speaker, the Constitution of our country clearly and concisively sets forth the objectives of a good government. These objectives are chiefly to establish justice, insure domestic tranquility, provide for the common defense, and promote the general welfare. The Budget Resolution, however, provides for the common defense at the expense of the general welfare. The suffering it may bring about is neither necessary nor just, and some commentators are already predicting domestic disturbances. Our constitutional objectives are not mutually exclusive. We can and must provide for all of them. The conference report we are considering today does not, and I therefore cannot support it.●

● Mr. DERWINSKI. Mr. Speaker, the budget resolution back before us today deserves little applause. But it does offer positive proof that the Congressional Budget Act once again has failed to achieve its highly touted goal of bringing order to the process of shaping the Federal budget. As usual, the big loser is the taxpaying public.

The latest compromise turns on the fiction that we are giving the country its first balanced budget in 12 years. It is a known fact of legislative life that we will be confronted by a large deficit.

As I pointed out in the earlier agonizing debate on the budget resolution, too many of the recommendations of our Budget Committee were made without regard for the consequences. The taxpayers want a budget that is balanced responsibly, a budget that will not impair or interfere with the performance of vital functions and services. The budget resolution we are being asked to approve falls considerably short of meeting those standards.

The Post Office and Civil Service Committee, for example, undoubtedly will have to make cuts which will result in the elimination of 6-day delivery of mail. Such a move clearly is not in the best interest of the U.S. Postal Service and its customers. It will not even result in any immediate offsetting savings.

To force the Postal Service to a 5-day delivery schedule will result in a loss of volume and revenue since customers who want Saturday delivery will turn to private delivery firms. To make up for the loss of revenue, the Postal Service would have only limited options—higher rates, a further reduction in service, or bigger postal subsidies. Let the taxpayers beware.

Aside from the financial implications, there are other problems involved in going to a 5-day delivery schedule. At this particular point, not even the top postal experts can anticipate all of the operational and personnel problems which must be considered and studied before such a move can be accomplished in an orderly fashion.

Under this resolution, the Post Office and Civil Service Committee also will have to consider limiting to once a year cost-of-living adjustments for civil service annuitants. If we are going to suddenly penalize our retirees, there should be some meaningful tradeoff. We should make it clear that the integrity of the civil service retirement system shall not be undercut by any forced merger with the social security fund. This is my objective.

The postal issue is but one of many subtle policy issues involved in the budget resolution. Notwithstanding that fact, we are under orders to report out legislation by July 2. The public will understand it for what it is—an unrealistic approach which will have little or no impact on inflation.●

Mr. GIAIMO. Mr. Speaker, I urge support of this budget resolution, and I move the previous question on the concurrent resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered

The vote was taken by electronic device, and there were—yeas 237, nays 161, not voting 35, as follows:

[Roll No. 320]

YEAS—237

Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Byron
Carr
Cavanaugh
Chappell
Chisholm
Coelho
Corman
Cotter
D'Amours
Danielson
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
English
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—161

Abdnor
Andrews, N. Dak.
Archer
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Broomfield
Broyhill
Buchanan
Burgener
Butler
Campbell
Carney
Carter
Cheney
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Frenzel
Gaydos
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
Madigan
Marks
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Porter
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shuster
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—35

Addabbo
Anderson, Ill.
Ashbrook
Bethune
Bonior
Brinkley
Brown, Ohio
Clausen
Clay
Conyers
Davis, S.C.
Dornan
Evans, Ga.
Fuqua
Garcia
Guarini
Holtzman
Ichord
Jenrette
Lederer
McKinney
Marlenee
Mathis
Moffett
Nedzi
Reuss
Richmond
Runnels
Russo
Santini
Shumway
Smith, Nebr.
Solarz
Thompson
Willams, Mont.

☐ 1640

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Shumway.
Mr. Nedzi with Mr. Bethune.
Mr. Reuss with Mr. Brown of Ohio.
Mr. Thompson with Mr. Clausen.
Mr. Richmond with Mr. Dornan.
Mr. Russo with Mr. McKinney.
Mr. Solarz with Mr. Marlenee.
Mrs. Smith of Nebraska with Mr. Williams of Montana.
Mr. Fuqua with Mr. Santini.
Mr. Garcia with Mr. Runnels.
Ms. Holtzman with Mr. Evans of Georgia.
Mr. Mathis with Mr. Jenrette.
Mr. Guarini with Mr. Ichord.
Mr. Bonior of Michigan with Mr. Ashbrook.
Mr. Conyers with Mr. Brinkley.
Mr. Davis of South Carolina with Mr. Clay.
Mr. Lederer with Mr. Moffett.

Mr. EARLY and Mr. FORD of Tennessee changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 205, nays 195, not voting 33, as follows:

[Roll No. 321]

YEAS—205

Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Chappell
Coelho
Conte
Corman
Cotter
D'Amours
Danielson
de la Garza
Derrick
Dicks
Dingell
Dodd
Donnelly
Dougherty

Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frost
Gephardt
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gramm
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Hefner
Heftel
Hightower
Holland
Holt
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kildee
Kogovsek
LaFalce
Leach, La.
Leath, Tex.
Lehman
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
McKay
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Ratchford
Regula
Roberts
Roe
Rose
Rosenthal
Rostenkowski
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Spellman
St Germain
Stack
Staggers
Steed
Stenholm
Stratton
Studds
Stump
Swift
Synar
Tauzin
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
White
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Young, Mo.
Zablocki
Zeferetti
Rodino
Roth
Rousselot
Roybal
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shuster
Smith, Iowa
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stark
Stewart
Stockman
Stokes
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.

NAYS—195

Abdnor
Anderson, Calif.
Andrews, N. Dak.
Applegate
Archer
AuCoin
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bingham
Bouquard
Broomfield
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derwinski
Devine
Dickinson
Dixon
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Fenwick
Findley
Fish
Ford, Tenn.
Forsythe
Frenzel
Garcia
Gaydos
Gilman
Gingrich
Goldwater
Goodling
Gradison
Grassley
Gray
Green
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hutchinson
Hyde
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Lee
Leland
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Madigan
Marks
Marriott
Martin
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Moorhead, Calif.
Murphy, Pa.
Musto
Myers, Ind.
Myers, Pa.
Nolan
O'Brien
Ottinger
Pashayan
Paul
Perkins
Petri
Porter
Pursell
Quayle
Railsback
Rangel
Rhodes
Rinaldo
Ritter
Robinson

NOT VOTING—33

Addabbo
Anderson, Ill.
Ashbrook
Bethune
Bonior
Brinkley
Brown, Ohio
Clausen
Clay
Conyers
Davis, S.C.
Fuqua
Guarini
Holtzman
Ichord
Jenrette
Lederer
McKinney
Marlenee
Mathis
Moffett
Moorhead, Pa.
Nedzi
Reuss
Richmond
Runnels
Russo
Santini
Shumway
Smith, Nebr.
Solarz
Thompson
Williams, Mont.

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Fuqua for, with Mr. Addabbo against.

Mr. Jenrette for, with Mr. Richmond against.

Mr. Reuss for, with Mr. Lederer against.

Mr. Nedzi for, with Mr. Russo against.

Mr. Guarini for, with Mr. Bonior of Michigan against.

Until further notice:

Mr. Thompson with Mr. Solarz.

Mr. Moorhead of Pennsylvania with Mrs. Smith of Nebraska.

Mr. Ichord with Mr. Marlenee.

Ms. Holtzman with Mr. Clausen.

Mr. Mathis with Mr. Brown of Ohio.

Mr. Brinkley with Mr. Ashbrook.

Mr. Clay with Mr. Moffett.

Mr. Conyers with Mr. Shumway.

Mr. Runnels with Mr. Bethune.

Mr. Santini with Mr. Williams of Montana.

Mr. Davis of South Carolina with Mr. McKinney.

Mr. TRAXLER and Mr. MAGUIRE changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1700

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the budget resolution just agreed to by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REQUEST TO PRINT TABLE SHOWING CROSSWALK TO HOUSE COMMITTEES, PURSUANT TO SECTION 302(a) OF CONGRESSIONAL BUDGET ACT

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent to print in the RECORD a table showing the crosswalk to House committees pursuant to section 302(a) of the Congressional Budget Act reflecting the agreements reached under the budget resolution that the House has just adopted.

I further ask unanimous consent that this table be considered as meeting the requirements of section 302(a) of the Budget Act. That section requires that the managers' statement accompanying a conference report on a budget resolution allocate the total new budget authority and outlays specified in the resolution among all House and Senate committees with jurisdiction over spending bills.

This action is necessary to formalize the budget resolution crosswalks since, technically speaking, the House did not adopt a conference report, but rather an amendment to the House-passed resolution. The allocations, however, are basically the same as contained in the statement of managers accompanying the conference report on House Concurrent Resolution 307 which has been superseded by the House's action today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. WEISS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON S. 2698, SMALL BUSINESS DEVELOPMENT ACT OF 1980

Mr. SMITH of Iowa submitted the following conference report and statement on the Senate bill (S. 2698) to provide authorization for the Small Business Administration, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–1087)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2698) to provide authorizations for the Small Business Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment, insert the following:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $76,000,000 in direct and immediate participation loans and $90,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $115,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $42,000,000 in direct purchase of debentures and preferred securities, and to make $228,000,000 in guarantees of debentures.

"(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,530,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $110,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2,000,000 shall be available for technical assistance, and of this amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small businesses and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

"(2) $23,100,000 shall be available for management assistance, of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,650,000 shall be used to develop an external small business data bank and small business index; and not less than $1,650,000 shall be used for research.

"(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,100,000 shall be used to pay for development of such indicative small business data base.

"(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(i) of this Act: *Provided, however*, That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(k) The following program levels are authorized for each of fiscal years 1982, 1983 and 1984:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $330,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans, and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans, and $99,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans, and $37,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $125,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchases of debentures and preferred securities and to make $251,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,780,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $121,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375,000,000, and an identical amount for each of fiscal years 1983 and 1984. Of such sum, $1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraph (1) through (6); $83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance, and of this amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $25,400,000 shall be available for management assistance of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index; and not less than $1,815,000 shall be used for research.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(l) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows: "For fiscal years 1981, 1982, 1983 and 1984 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1985 and every year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.".

INVESTMENT OF IDLE FUNDS

SEC. 111. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

SEC. 112. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

DEVELOPMENT COMPANY DEBENTURES

SEC. 113. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff;

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

SEC. 114. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided,* That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation:".

SURETY BOND GUARANTEE

SEC. 115. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 116. Section 15(c) of the Small Business Act is amended to read as follows:

"(c)(1) During fiscal years 1981, 1982, and 1983, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided,* That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

"(2) The Administration shall, not later than January 1, 1982, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.".

SEC. 117. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns";

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

"(2) concerns which are small business concerns, on the basis of a total set-aside;

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

"(4) concerns which are small business concerns, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

ASIAN PACIFIC AMERICANS

SEC. 118. (a) Section 2(e)(1)(C) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958", approved October 24, 1978 (Public Law 95-507).

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

DISASTER LOAN INTEREST RATES

SEC. 119(a) Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof

"; and" and by adding the following new paragraph:

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.";

(b) Section 7(c) of the Small Business Act is further amended by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1983";

(c) Section 18 of the Small Business Act is amended by—

(1) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(2) striking subsection (b) and inserting in lieu thereof the following;

"(b) As used in this Act—

"(1) "agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) "credit elsewhere" means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.";

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 120. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent: *Provided*, That the total amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary."; and

(2) inserting in the second sentence after "*Provided*, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further*, That".

BORROWING AUTHORITY FOR SMALL BUSINESS ADMINISTRATION REVOLVING FUNDS

SEC. 121. Section 4(c)(5) of the Small Business Act is amended to read as follows:

"(5)(A) The Administration is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under the revolving funds created by section 4(c)(1) of this Act and for authorized expenditures out of the funds. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Administration with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administration under this paragraph. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administration issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administration. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(B)(i) Moneys in the funds established in subsection (c)(1) not needed for current operations may be paid into miscellaneous receipts of the Treasury.

"(ii) The Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the average of loan disbursements outstanding throughout the year providing such disbursements are made from amounts appropriated after October 1, 1980 or are made from repayments of principal of loans made from appropriated funds. This interest shall be calculated solely on the amount of loan disbursements net of losses at the rate provided under subsection (c)(5)(A).

"(C) Except on those loan disbursements on which interest is paid under subsection (B)(ii), the Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest received by the Administration on financing functions performed under this Act and titles III and V of the Small Business Investment Act of 1958 providing the capital used to perform such functions originated from appropriated funds. Such payments shall be treated by the Department of the Treasury as interest income, not as retirement of indebtedness.

"(D) There are authorized to be appropriated, in any fiscal year, such sums as may be necessary for losses and interest subsidies incurred by the funds established by subsection (c)(1), but not previously reimbursed.".

ENERGY SHORTAGE LOANS

SEC. 122. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,".

PRODUCT DISASTER LOANS

SEC. 123. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined causes" and inserting in lieu thereof "other causes: *Provided*, That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder".

DUPLICATION OF DISASTER BENEFITS

SEC. 124. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: "(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1980".

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as "applicants") to assist in establishing small business development centers and to any such body for: small business oriented employment or natural resources development programs; studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: *Provided further*, That no recipient of funds under this section shall receive a grant which would exceed its pro-rata share of a $65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or $200,000, whichever is greater.

"(b)(1) During fiscal years 1981, 1982, and 1983, financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small businesses. A small business development center shall have—

"(A) a full-time staff, including a staff director to manage the program activities;

"(B) access to business analysts to counsel, assist, and inform small business clients;

"(C) access to technology transfer agents to provide state of art technology to small businesses through coupling with national and regional technology data sources;

"(D) access to information specialists to assist in providing information searches and referrals to small business;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a small business development center shall include, but shall not be limited to—

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations.

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

"(H) maintaining lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(4) In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as described in this subsection to small businesses on behalf of such small business development center.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

"(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS–17 of the General Schedule.

"(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

"(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(i)(1) Each small business development center may establish an advisory board.

"(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

"(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

"(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1983.

"(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.".

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) On or after October 1, 1980, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided*, That is fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further*, That no small business development center which was funded in fiscal year 1979 may be funded in excess of $300,000 in fiscal year 1980.".

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1984.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1980".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an industry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE IV——SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

"(2) The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

"(xii) concentration ratios; and

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.".

SEC. 402. Section 634d(1) of title 15, United States Code, is amended by striking the word "Schedule;" and inserting in lieu thereof "Schedule: *Provided, however*, That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS-15, step 10, of the General Schedule;".

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1982, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on

Small Business and the Committee on Small Business of the House of Representatives.

TITLE V—EMPLOYEE OWNERSHIP

SEC. 501. This title may be cited as the "Small Business Employee Ownership Act of 1980".

SEC. 502. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar employee organizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

SEC. 503. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

(2) to provide in section 505 of this Act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a) of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees, of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

SEC. 504. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

"(2) For purposes of this Act, the term 'qualified employee trust' means, with respect to a small business concern, a trust—

"(A) which forms part of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

"(i) which is maintained by such concern, and

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities (as defined in section 4975(e)(8) of such Code) which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

"(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administrator which is binding on the trust and on such small business concern and which provides that—

"(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities of such concern,

"(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loan was guaranteed,

"(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

"(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a nonforfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

"(3) Under regulations which may be prescribed by the Administrator, a trust may be treated as a qualified employee trust with respect to a small business concern if—

"(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

"(B) such concern maintains a plan—

"(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1954),

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

"(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

"(iv) which meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

"(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).".

SEC. 505. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administrator shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.".

SEC. 506. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following:

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the wilingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

Nothing in this section shall be construed as authorizing the Administrator to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriations Acts.

(b) Not later than April 1, 1981, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

SEC. 507. This Act shall take effect October 1, 1980.

And the House agrees to the same.

NEAL SMITH,
FERNAND J. ST GERMAIN,
RICHARD NOLAN,
RICHARD H. ICHORD,
BILLY EVANS,
DOUG BARNARD, JR.,
CLAUDE "BUDDY" LEACH,
TONY P. HALL,
Managers on the Part of the House.

GAYLORD NELSON,
SAM NUNN,
WALTER D. HUDDLESTON,
LOWELL WEICKER, JR.,
ORRIN G. HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2698) to provide authorizations for the Small Business Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The principle differences among the Senate bill, House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

LEGISLATIVE HISTORY

The conferees want to note the legislative history of this bill.

On May 8, 1979, the Senate Select Committee on Small Business ordered favorably reported S. 918, a bill to establish authorizations for the Small Business Administration, and for other purposes (See Senate Report 96–125).

The Senate considered and approved this legislation on May 16, 1979. The House of Representatives, having considered similar versions of this legislation (H.R. 90; H.R. 4011) agreed to the Senate bill, with an amendment in the nature of a substitute. Two conference committee meetings were held in June, 1979. However, because of substantial differences between House and Senate conferees on provisions in both bills relating exclusively to disaster reforms, conferees were unable to reach agreement on a conference report until December 13, 1979 (See House Report 96–507).

The House agreed to the conference report on December 19, 1979. The Senate did not consider the conference report until mid-January, 1980.

Objections were raised in the Senate on January 24, 1980 about the accounting treatment for interest payments to the Treasury for the Small Business Administration's disaster loan revolving fund as contained in the conference report, and the Senate rejected the conference report on a roll call vote of 32–48. The conference report not being agreed to, an amendment to the House amendment to the Senate bill, containing the exact text of the conference report minus the single interest payment to Treasury provision, was adopted by a roll-call vote of 80–0. This action returned the measure to the House.

On February 6, 1980, by a vote of 348–17, the House agreed to the Senate amendment with a further amendment relating to the funding mechanisms for the two Small Business Administration revolving funds, returning the bill to the Senate. That legislation (S. 918) has been pending in the Senate since that date.

Recognizing that reaching concurrence on S. 918 could have taken additional time, and in light of the May 15 deadline for reporting new spending legislation to the Senate as provided for by the Congressional Budget Act, the Senate Select Committee on Small Business reported an original bill (S. 2698) to the Senate on May 14, 1980. That bill removed all of the disaster-related provisions contained in the conference report on S. 918, and in the February 6 House-passed amendment.

The Senate considered, and passed, this legislation, with amendments, including an amendment relating to disasters, on May 28, 1980.

With action delayed on S. 918, and in light of the reporting deadline imposed by the Congressional Budget Act, the House Committee on Small Business reported a series of bills containing, in their sum, many of the exact provisions as were contained in the conference report on S. 918.

On June 3, 1980, the House of Representatives considered, and adopted, one of those bills (H.R. 7297). After agreeing to that bill, the House substituted the text of H.R. 7297 for the Senate-passed legislation.

With the exception of certain disaster provisions relating to the funding mechanisms for the Small Business Administration's revolving funds, all provisions in this legislation have been considered by both Houses on several occasions.

On May 1, 1979, the Senate adopted S. 388, the "Small Business Employee Ownership Act of 1979."

Title V of this bill is the result of negotiations between Chairman Henry Nowak of the House Subcommittee on Access to Equity Capital and Business Opportunities, and Senator Donald Stewart of the Senate Select Committee on Small Business. This version takes into account changes which were suggested by expert witnesses and administration witnesses who testified before the House Subcommittee at hearings on May 8 and 15, 1979. The Nowak Subcommittee drafted similar legislation and reached consensus with Congressman William Stanton and Senator Stewart on the language contained in the Senate-passed bill, and the conference substitute.

TITLE I

FISCAL YEAR 1981 SBA PROGRAM LEVELS

The *Senate bill* provides the following program levels for SBA for fiscal year 1981:

	Millions
7(a) Business	$4,300
Direct and immediate participation	300
Guaranteed	4,000
7(h) Handicapped	37
Direct and immediate participation	25
Guaranteed	12
7(i) EOL	166
Direct and immediate participation	76
Guaranteed	90
7(l) Solar and energy conservation	78
Direct and immediate participation	45
Guaranteed	33
Development companies	170
Direct and immediate participation	55
Guaranteed	115
Investment company assistance	270
Direct purchase of debentures and preferred securities	42
Guaranteed	228
Total BLIF	5,021
Direct and immediate participation	543
Guaranteed	4,478
Disaster:	
Physical	(1)
Nonphysical	110
Surety bond guarantees (SBA share of program levels)	2,530
Pollution control bond guarantees	250

[1] Open-ended.

For fiscal year 1981 there are authorized to be appropriated to SBA $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out those programs included in the business loan and investment revolving fund; $76,000,000 shall be available for carrying out the surety bond guarantees program; $4,000,000 shall be available for liquidating the lease guarantees program; and $242,000,000 shall be available for salaries and expenses of SBA.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision, but reduces the program level for pollution control contract guarantees to $110 million.

FISCAL YEAR 1981 SBA SALARY AND EXPENSE AUTHORIZATIONS

Of the total salary and expenses for fiscal year 1981, the *Senate bill* earmarks six specific functions with priorities being given within each function:

(1) $13,200,000 shall be available for procurement and technical assistance, of which amount not less than $2,000,000 shall be available for technical assistance, and of this amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system (PASS); and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business. Not more than $200,000 shall be available for a study to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, non-concentrated, healthy forest products industry.

(2) $23,100,000 shall be available for management assistance, including $880,000 to sustain the small business export development program, and to employ not less than 17 staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the SBA's regional offices being assigned one such specialist.

(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305, not less than $1,650,000 shall be used to develop an external small business data bank and small business index, and not less than $1,650,000 shall be used for research.

(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $11,000,000 of which shall be used to carry out those functions prescribed by section 7(j) of the Small Business Act, and $1,414,000 for section 7(j) program administration.

(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal SBA management data base, to the enhancement of the SBA's document tracking system, to the installation of terminals in SBA field offices, and of such amounts $1,100,000 shall be used for the development of a small business indicative data base.

(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

FISCAL YEAR 1982 PROGRAM LEVELS

The *Senate bill* provides the following program levels for SBA for fiscal year 1982:

	Millions
7(a) Business	$4,730
Direct and immediate participation	330
Guaranteed	4,400
7(h) Handicapped	42
Direct and immediate participation	28
Guaranteed	14
7(i) EOL	182
Direct and immediate participation	83
Guaranteed	99
7(l) Solar and energy conservation	82
Direct and immediate participation	45
Guaranteed	37
Development companies	186
Direct and immediate participation	61
Guaranteed	125
Investment company assistance	298
Direct purchase of debenture and preferred securities	47
Guaranteed	251
Total BLIF	5,520
Direct and immediate participation	594
Guaranteed	4,926
Disaster:	
Physical	(1)
Nonphysical	121
Surety bond guarantees (SBA share of program level)	2,780
Pollution control bond guarantees	300

[1] Open-ended.

For fiscal year 1982, there are authorized to be appropriated to SBA, $1,375,000,000. Of such sums, $1,022,000,000 shall be available for carrying out those programs included in the business loan and investment revolving fund; $83,000,000 shall be available for carrying out the surety bond guarantees program; $4,000,000 shall be available for liquidating the lease guarantee program; and $266,000,000 shall be available for salaries and expenses of SBA.

The *House amendment* contains no comparable provisions.

The *conference substitute* includes the Senate provision but reduces the program level for the pollution control contract guarantees program to $125 million. In addition, the *conference substitute* provides these authorizations and program levels for fiscal years 1983 and 1984.

FISCAL YEAR 1982 SBA SALARY AND EXPENSE AUTHORIZATION

Of the total salary and expenses for fiscal year 1982, the Senate bill earmarks five specific functions with priority being given within each function:

(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance and of this amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

(2) $25,400,000 shall be available for management assistance, of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index, and not less than $1,815,000 shall be used for research.

(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,100,000 of which shall be used to carry out those functions prescribed by section 7(j) of this Act and $1,555,000 for section 7(j) program administration.

(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

The *House amendment* contains no comparable provision.

The *conference substitute* contains the Senate provision, but extends the salary and expense authorizations to include fiscal years 1983 and 1984 at the levels established for fiscal year 1982.

AVAILABILITY OF UNEXPENDED FUNDS

The *Senate bill* provides that for fiscal years 1981 and 1982 there are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1983 and every fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically or generally authorized shall remain available until expended.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision, but extends the specific authorization through fiscal year 1984.

INVESTMENT OF IDLE FUNDS

The *Senate bill* repeals the last sentence of section 412 of the Small Business Investment Act of 1958, thus eliminating the authority of the Small Business Administration to invest temporarily idle funds in the surety bond guarantees revolving fund. There are no idle funds in this fund.

The *Senate bill* also amends section 405 of the Small Business Investment Act of 1958 by adding a new sentence specifically providing authority for the investment of temporarily idle funds in the pollution control bond guarantee revolving fund.

The *House amendment* contains an identical provision.

The *conference substitute* includes the House provision.

DEVELOPMENT COMPANY DEBENTURES

The *Senate bill* amends the Small Business Investment Act of 1958 by adding a new "section 503" development company loan program.

The new section provides for the formation of development companies that have: (1) full time professional staffs; (2) adequate accounting, legal, and business servicing capabilities; and (3) active boards of directors which meet on a regular basis and are actively involved in loan decisions and loan servicing. In addition to SBA's authority to make loans up to $500,000 to development companies for each small business being assisted by such companies, SBA would be authorized to guarantee debentures issued by eligible development companies. The amount of the debentures to be guaranteed may not exceed one-half of the project cost. The remaining one-half of the project cost would be required to be supplied from non-Federal Government sources.

SBA would still have to approve each individual loan of the development company. However, instead of making a direct loan for the approved amount, the development company would issue a debenture for one-half the amount of the deal. SBA would provide a 100-percent guarantee, and sell the debenture to private markets through the Federal Financing Bank.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

SBA should, as a condition of guaranteeing debentures under section 503, secure the right to repurchase any debenture in default until the date of repurchase.

SBA should not disapprove the guarantee of any debenture, or any loan made with the proceeds of a debenture issue, solely because the proceeds would be used in a project whose other sources of financing include, or are collateralized by, tax-exempt industrial revenue or development bonds.

REGULAR BUSINESSS LOAN REFORM

Under current law, the agency is charged with reviewing and approving de novo all credit and other threshold eligibility decisions prior to guaranteeing a loan already approved by a financing institution under the regular business loan guarantee program. In addition, the Federal Government must initiate any collection action in the event of a default.

SBA has undertaken, on its own initiative, a pilot bank certification program wherein banks are given increased responsibility and authority in making some of these credit and eligibility decisions. That pilot program has been underway for only a limited period of time, however.

The *Senate bill* amends section 5(b)(7) of the Small Business Act to extend the authority of the Small Business Administration in the area of loan making and administration. It authorizes the Administration to transfer limited loan processing functions from the Administration to qualified financial institutions.

The *House amendment* contains an identical provision.

The *conference substitute* includes the House provision.

The conferees have also restated the Administrator's authority to take any and all actions necessary for administering the direct and immediate participation loanmaking and servicing functions, but nothing shall be deemed to give the Administrator the authority to delegate or transfer his responsibility for administering the direct or immediate participation loan programs to other than Administration personnel (temporary disaster personnel are deemed to be Administration personnel).

SURETY BOND GUARANTEE

The *Senate bill* amends section 411(c) of the Small Business Investment Act of 1958 to clarify a drafting error in the surety bond guarantee program when the Congress approved H.R. 11318 (Public Law 95-507) in the 95th Congress.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

HANDICAPPED ASSISTANCE

The *Senate bill* extends the authority of non-profit organizations of handicapped individuals to participate in small business procurement set-asides, but restricts the participation to fiscal years 1981, 1982, and 1983, and limits participation to an aggregate of not more than $100 million per year. In addition, it requires SBA to monitor and evaluate the program and directs the SBA Administrator to require every Federal agency and department having procurement authority to take such actions as the Administrator deems appropriate if he and the Executive Director of the Committee for the Purchase From the Blind and Severely Handicapped find that the participation of such organizations of handicapped individuals has or may cause severe economic injury to for-profit small businesses. It further requires that, by January 1, 1982, SBA prepare and transmit to the Small Business Committees of both the Senate and the House a report on the impact on for-profit small businesses of contracts awarded to such organizations of handicapped.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

The conferees were disappointed, however, that the Small Business Administration was not given the cooperation of other Federal departments and agencies, particularly the Office of Federal Procurement Policy, in collecting the fullest possible information in order to be responsive to a previous congressionally mandated study. A new study is ordered, and the conferees fully expect all departments and agencies, including in particular the Office of Federal Procurement Policy, to cooperate fully with SBA in obtaining the necessary information.

PROCUREMENT SYSTEMS

The purpose of the labor surplus area set-aside program is to target procurements to firms doing business in high unemployment areas. The program applies largely to purchases by civilian agencies. Approximately $200 million in Government contracts are being channeled into labor surplus areas through this program.

Under existing law, the Congress integrated the small business and labor surplus area set-aside programs in Public Law 95-89, and established the following scale of priorities for contracting agencies to use in determining when and what kinds of set-asides should be made:

(1) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

(2) Concerns which are small business concerns on the basis of a total set-aside.

(3) Concerns which are small business concerns, on the basis of partial set-aside.

(4) Concerns which are located in labor surplus areas on the basis of a total set-aside.

Under conditions of the International Procurement Code, which was negotiated as part of the multilateral trade agreements, the United States would waive its "Buy American" protection for domestic suppliers for certain items purchased by the Federal Government.

U.S. negotiators were successful in having the small and minority business set-asides excluded from coverage under the Code. They were not successful in obtaining an exclusion for labor surplus area set-asides.

The Senate bill restructures sections 15 (d) and (e) of the Small Business Act to make it possible to satisfy current terms of the International Procurement Code (a waiver of labor surplus area set-asides for firms) without waiving the small business set-aside program for firms located in these areas. It establishes the first priority as a small business set-aside that is further restricted to labor surplus areas, and thus excludes the small business program from the Code.

The reference in the Senate bill to "set-aside programs" was to the programs established and defined by sections 15 (a) through (d) of the Small Business Act as limited by the Maybank Amendments contained in the Department of Defense Appropriations Acts. Nothing in the Senate bill enlarges the substance of the provisions of sections 15(a) through (d) of the Small Business Act. The Senate bill revises the priorities within the small business and labor surplus area set-aside program aimed at preserving the preference for small business contractors in labor surplus areas and removes the sunset provision in existing law.

The Senate bill further amends section 15(f) by providing authority for labor surplus area set-asides for all businesses. This is the authority that would be waived under the terms of the International Procurement Code.

The House amendment contains no comparable provision.

The *conference substitute* adopts the Senate provisions with respect to revising the priorities within the small busness and labor surplus area set-aside programs which are as follows:

(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of total set-aside;

(2) concerns which are small business concerns on the basis of a total set-aside;

(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

(4) concerns which are small business concerns, on the basis of a partial set-aside; and

(5) businesses which are not small business concerns and which will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.

The *conference substitute* also repeals the sunset provision of existing law.

Public Law 95-507 directs the President to report to the House and Senate Small Business and Armed Services Committees, on the labor surplus area procurement program on, or before, October 1, 1979. The conferees expect that this statutorily mandated, now past due, report will be completed and submitted.

Public Law 95-507 also requires that the Department of Defense (DOD) report quarterly on the number of dollar value of formally advertised awards and labor surplus area set-aside for that period. The Defense Department's failure to make these reports indicates the cavalier attitude taken by that Department in carrying out the labor surplus area provisions. The conferees direct that these reports be made current and continue into the future.

Restating the Conference Report accompaning Public Law 95-507, the conferees again express their concern with DOD's utilization of partial labor surplus area procurements. The conferees expect that all applicable laws and regulations regarding the use of labor surplus area set-asides be fully, completely and expeditiously complied with by the Department of Defense, as well as other agencies. The conferees further direct the Department of Defense, in the quarterly report already mandated, to include quarterly labor surplus area setaside goals by service (Army, Air Force, Navy, Defense Logistics Agency and the Department of Defense), the degrees to which compliance has been reached, and the reasons why goals have not been met.

ELIGIBILITY OF ASIAN PACIFIC AMERICANS

Public Law 95-507 amended certain SBA remedial business development programs for the benefit of "socially and economically disadvantaged" business persons. These programs include specialized management and technical assistance (sec. 7(j)) and procurement assistance (sec. 8) of the Small Business Act. Present law specifies that, subject to certain specified constraints, "socially disadvantaged" persons include "Black Americans, Hispanic Americans, Native Americans and other minorities." The Senate bill adds "Asian Pacific Americans" to that list.

The *House amendment* contains an identical provision.

The *conference substitute* includes the House provision.

SBA DISASTER LOAN INTEREST RATES

The *Senate bill* makes significant changes in the SBA disaster assistance program for disasters occurring on or after October 1, 1978, and prior to October 1, 1982.

Under existing law, the interest rates on loans to offset net losses on principal residences and personal property is 3 percent up to $55,000 and, under certain conditions, an additional amount at "cost of money" to the Government under a formula which currently equals 8¼ percent.

For businesses, under existing law, a credit elsewhere test is applied, regardless of whether the applicant is being processed by SBA or the Farmers Home Administration (FmHA). Businesses unable to obtain sufficient credit elsewhere may receive a loan at 5 percent interest to offset net losses. For these businesses, regardless of whether they are farm or non-farm type, the rates are identical at both SBA and the Farmers Home Administration.

The ability to obtain credit elsewhere is used only as a means for determining the interest rate to be applied on SBA loans to repair or replace property damaged or destroyed.

Under the *Senate bill*, if a business is able to obtain credit elsewhere, it may obtain Federal assistance, up to a maximum of $500,-

000 per disaster, at a rate of interest not to exceed a statutorily established formula for determining the cost of money to the U.S. Government, plus not more than one percent. After 3 years, and every 2 years thereafter, these loans are subject to review to determine if the borrower is able to obtain a private loan elsewhere at reasonable rates and on reasonable terms. If SBA determines during these reviews that the business is then able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request of SBA, apply for and accept such non-Federal loan in an amount sufficient to fully repay SBA for the balance outstanding.

Those borrowers who are eligible to apply for FmHA loans would be required to apply there first; however, if they are declined for or would be declined for an FmHA loan, a borrower may apply for and be eligible to receive an SBA loan, if they otherwise meet the tests of the SBA administered program.

SBA may waive the $500,000 loan limit to businesses if the applicant is a major source of employment in an area suffering a disaster.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision with an amendment making only technical changes to language, and extending the sunset date of the program changes one additional year.

The conferees want to make clear that the $500,000 limitation is not meant to be cumulative, nor is it meant to be applicable to any other form of assistance which an applicant may receive from other SBA programs, including non-physical disaster loans.

The *conference substitute* further amends section 7(b)(8) of the Small Business Act by clarifying that energy shortage loans may be made available to those small business concerns injured by a shortage of any energy source, including coal, unless the shortage is caused by a strike, boycott or embargo directly against such concern.

The *conference substitute* further amends section 7(b)(4) of the Small Business Act by clarifying the circumstances under which product disaster loans may be made available to small businesses unable to market their products. The conferees are expressly prohibiting a small business which intentionally adulterates its product in order to take advantage of this program from receiving a product disaster loan, as was expressly requested by the SBA Administrator.

The basic reason for the change in this program is to provide loan assistance to those small businesses whose product is made unfit for human consumption due to other than natural causes. For example, if a Federally imposed ban on saccharin is implemented, many small businesses, primarily including manufacturers and wholesalers, may suffer injury because they are unable to market products containing saccharin due to actions by the Federal Government. Such small businesses which are adversely affected by this type of action by the Government should be eligible to receive loan assistance in overcoming the adverse effects of this type of Federal action.

Finally, the *conference substitute* amends section 7(b) of the Small Business Act to provide that a state grant made on or prior to July 1, 1979, shall not be considered compensation for the purposes of applying the provisions of section 315(b) of the Disaster Relief Act of 1974. It is the intent of the conferees that the Small Business Administration shall use its authority to aid redevelopment of flood prone areas by transfer of disaster loan liens from properties condemned to new properties acquired with the proceeds of condemnation. Through the use of this lien transfer authority, State and Federal redevelopment initiatives will not place a burden on disaster victims in a redevelopment area while not allowing windfall profits. In addition, it is the intent of the Congress that any moneys issued by a redevelopment authority shall not be considered compensation under this provision.

FARMER ELIGIBILITY OF SBA

Under *existing law,* farmers are statutorily eligible for assistance from SBA for all forms of physical disaster assistance, including crop loss. In addition, under certain circumstances, farmers are also eligible for assistance from the Farmers Home Administration. However, there is no requirement that farmers first seek assistance from Farmers Home before going to SBA.

The *Senate bill* amends section 18 of the Small Business Act, relating to duplication of benefits, to clarify that an agricultural enterprise would not be eligible for SBA physical disaster loan assistance to repair or replace property other than a residence unless that enterprise was first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration at substantially similar interest rates.

The Small Business Act is also amended to clarify the definition of "agricultural enterprises" and "credit elsewhere".

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

The primary reason for this amendment is the accommodation of the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The conferees concur in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interst rates from FmHA as a non-agricultural business received from SBA.

There has been some discussion of administratively imposing a minimum loss test at SBA for agricultural producers. In the case of a disaster caused by drought, there is a variation from normal yield which would represent the amount by which yields presumably would be reduced in approximately one-half of the crop years. The conferees understand the Administration is attempting to determine a fair formula to take this natural occurrence into consideration in figuring net losses in those drought disaster cases. However, in disasters not related to drought involving crops, there is no normal reduction or increase from such non-drought causes; and since there is no arbitrary deduction from net loss in calculating the amount of loan eligibility for non-farm businesses, homeowners and other eligible applicants, SBA should not arbitrarily reduce the amount of loan eligibility for non-drought disasters for agricultural producers.

The underlying issue is one of equality and lack of discrimination and the conferees again state the basic premise that unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA.

SAVINGS CLAUSE

The Senate bill provides that nothing in the amendments made by this legislation to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) or section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) of the Small Business Act shall apply to any disaster which commenced on or before the effective date of this legislation.

The House amendment contains no comparable provision.

The conference substitute includes the Senate provision.

The conference substitute states that the amendments made by this section to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) and section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) do not, and shall not, apply to any disaster which commenced on or before the effective date of this Act. The word "commenced" has been used because of the inconsistent position the agency has taken in the past with the term "occurred" in determining whether particular localities are eligible for new benefits.

AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

The Senate bill amends section 324 of the Consolidated Farm and Rural Development Act to make emergency loans by the Farmers Home Administration available for the first time to farmers who can obtain credit-elsewhere. The Senate bill imposes a two-tier emergency loan interest rate structure for loans for the actual loss suffered in the disaster. If a farmer is not able to obtain sufficient credit-elsewhere, the interest rate would be not in excess of five percent, as is the case under current law. If a farmer is able to obtain sufficient credit-elsewhere, emergency loans would be not in excess of a rate equal to the cost-of-money to the Federal Government for comparable marketable obligations, plus an additional amount determined by the Secretary of Agriculture, but not to exceed one percent.

The Senate bill also provides the $500,000 ceiling on emergency loans, but makes it clear that this limitation is applicable to each disaster, and is not cumulative.

For FmHA emergency loans to a borrower who could obtain credit-elsewhere, the Senate bill provides that three years after the disaster loan was first approved, and every two years thereafter if necessary, if the Secretary determined that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower must obtain that non-Federal loan and repay the Secretary.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

The non-Federal sources to which this "graduation" requirement applies include, among others, production credit associations, Federal land banks, and similar financial institutions.

It is the intent of the conferees that the total amount of disaster loans made to borrowers who are able to obtain sufficient credit elsewhere not exceed the borrowers' actual loss, so that creditworthy borrowers would not be extended credit for restructuring of their farming operations.

It is further the intent that the existing Small Business Administration portfolio of farm loans should remain solely within the Small Business Administration and not be transferred to the Farmers Home Administration.

The provision of the *conference substitute* authorizing a departure from Farmers Home Administration's credit-elsewhere test is expected to result in a 25 percent increase in the workload of that agency based on experience during fiscal year 1979. This is expected to increase the program level by $400 million, increase administrative expenses by $4 million as well as require an additional 200 staff-years to make and service these loans. The conferees have been informed by the Administration that upon approval of the *conference substitute*, the Administration will increase the personnel ceiling for the Department of Agriculture and authorize it to hire the additional 200 permanent, full-time staff persons. The conferees fully expect the Administration to meet this commitment so that the amendemnts to the Consolidated Farm and Rural Development Act can be properly implemented.

BORROWING AUTHORITY FOR SMALL BUSINESS ADMINISTRATION REVOLVING FUNDS

Under *current law*, funding for the Small Business Administration's disaster loan and the business loan and investment revolving funds is provided by Congress through the appropriation of budget authority. SBA loans out the principal, and collects both principal and interest from borrowers. The agency, using its revolving funds, may loan these repayments to new borrowers.

In addition, under current law, SBA pays interest annually to the Treasury based on a statutory formula on outstanding cash disbursements from each of these funds.

The *Senate bill* amends the Small Business Act by shifting the funding mechanism from one of appropriated budget authority to authority for both funds to borrow from the Treasury in such amounts as are provided in advance in apropriations Acts. SBA is given new authority to make and issue notes to the Secretary of the Treasury for obtaining capital for the funds.

In addition, under the *Senate bill*, upon the enactment of the first apropriations bill providing borrowing authority for each of the funds, all unobligated amounts in the funds, and those received thereafter as repayments of principal, shall be transferred to the Treasury.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision with an amendment. While the *Senate bill* provided for funding for both of the SBA funds strictly from borrowing authority provided in advance in appropriations Acts, the conference substitute permits capital to be provided to the funds through either the appropriation of budget authority or by placing a limitation on the amount of notes SBA may sell to Treasury.

Furthermore, SBA shall pay over to Treasury interest received from borrowers based on a statutory formula, taking into account the outstanding cash disbursements of the funds net of defaults.

The SBA would not be prohibited by this bill from making new loans from repayments of principal from loans made with appropriated funds; however, moneys in either fund not needed for current operations may be paid over to Treasury, and credited to the Government as miscellaneous receipts.

In addition, SBA is required to pay interest to the Treasury on loan disbursements. On the loans outstanding on the date of enactment, or on those made with funds appropriated between the date of enactment and October 1, 1980, SBA will pay over to Treasury only that interest income it receives from borrowers from any of the financing functions of the agency. Such payments shall be treated by the Treasury as interest income, not as retirement of indebtedness.

On new loans made from the repayment of principal from loans made from appropriated funds, or originating from new budget authority appropriated to become effective on or after October 1, 1980, or on amounts received by either of the funds from the sale of notes to Treasury as authorized by this bill, SBA shall pay interest based on a statutory formula for determining cost-of-money to the Treasury, and calculated solely on the amount of outstanding loan disbursements net of losses.

There are also authorized to be appropriated to SBA, in any fiscal year, such sums as may be necessary for losses and interest subsidies incurred by the funds, but not previously reimbursed.

TITLE II

SMALL BUSINESS DEVELOPMENT CENTERS

The *Senate bill* establishes a legislative structure for small business development centers. It authorizes SBA to make grants to or enter into contracts or cooperative agreements with certain named entities to defray 50 percent of the cost of developing and operating a small business development center program, providing that no more than 50 percent of the non-Federal contributions can be in-kind contributions. The maximum grant to any center would be determined by a formula based on a pro-rata share (as determined by populaton) of $65 million, or $200,000, whichever amount is larger. The actual disbursed grant would be further limited by the amount appropriated in each fiscal year.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision. It is the intention of the conferees that SBA encourage all eligible entities in a State to coordinate their applications for assistance.

Furthermore, SBA is to make certain that all participating entities agree to cooperate and coordinate their activities within the area to be served before agreeing to accept a plan and naming new small business development centers.

In addition, SBA is directed to monitor the activities of all authorized centers receiving other Federal grant money to insure that the center conforms with the goals of the "Small Business Development Center Act of 1980." The center is not to divert its resources from the types of services it is to provide under this Act in order to manage other Federally funded programs, unless reimbursed by the appropriate Federal agency. If other non-SBA-sponsored programs are included in the center's operations, the costs associated with managing such programs should be allocated to the sponsoring Federal agency or department.

CONSISTENCY WITH AREA PLANS

The *Senate bill* prohibits financial assistance to any applicant if such assistance would be inconsistent with an area-wide plan adopted by a recognized agency of the State government and then approved by SBA.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

APPLICATION PROCEDURE

In the *Senate bill*, in order to participate in the small business development center program, an applicant must submit to SBA for approval a plan naming those entities authorized to participate, a budget, the area within the State to be served by each participant, the services to be rendered, the method for delivering such services, and any other assurance that SBA may, in its discretion, require.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

CAPABILITIES

The *Senate bill* provides that an SBDC must make its services available as close as possible to small businesses by providing extension services and utilizing satellite locations and State and Federal small business related programs whenever possible. Under certain circumstances, SBA may authorize an SBDC to serve out-of-state clients. In addition, the SBDC must have a full-time staff director to manage program activities and access to business analysts, other professional people and facilities.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provisions with an amendment which clarifies that the center shall have a full-time staff, including a staff director to manage program activities. In addition, the center is directed to have access to both part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises, and laboratories and adaptive engineering facilities.

TYPES OF SERVICES PROVIDED

The *Senate bill* requires that small business development centers must assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other matters. This type of problem solving is needed by smaller concerns in order to foster growth and expansion, innovation, increased productivity, management improvement and decreased industry concentration.

Services to be provided by an SBDC must include: one-on-one counselling; assisting in technology transfer; maintaining information pertaining to Federal, State, and local regulations and providing assistance to small concerns with regulatory compliance; conducting and coordinating research into technical and general small business problems; providing a library containing current information and data needed by local small businesses; maintaining a working relationship with the financial and investment communities and small business groups; conducting surveys for local small business groups to develop information pertaining to the local economy and the status of small business in that locality; and maintaining lists of local and regional private consultants and testing laboratories to which smaller businesses may be referred for assistance.

The *House bill* contains no comparable provision.

The *conference substitute* includes the Senate provision.

USE OF CONSULTANTS

The *Senate bill* specifically authorizes the small business development center to utilize and compensate consultants, engineers, and testing laboratories for services provided to small businesses on behalf of the small business development center.

In addition, the *Senate bill* provides that the assistance provided by small business development centers shall, to the extent practical and feasible, be provided by qualified small business vendors, including, but not limited to, private management consultants, private consulting engineers, and private testing laboratories.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision, with an amendment which revises both provisions in the Senate bill to provide that a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as described in this subsection to small businesses on behalf of such small business development center.

The conferees intend that one of the objectives of the small business center is to make the assistance to small businesses who use the center's services available in the most cost-effective, and efficient, manner. Where the use of private sector vendors is feasible, and compatible, with the operation of each particular small business development center, it is expected that these consultants will be incorporated into the center's program delivery. The conference substitute clearly provides authority for small business development centers to utilize and compensate these vendors.

However, the conferees do not intend that the center merely be only a conduit for channeling Federal, and leveraged, resources, through the SBDC to the private sector consultants.

When a small business developemnt center utilizes consultants, engineers or testing laboratories, however, confereees expect that such consulting entities will be qualified small businesses whose services are competitively priced.

COOPERATION OF FEDERALLY FUNDED LABORATORIES

Under the *Senate bill*, laboratories operated and funded by the Federal Government shall provide services and made their facilities available to SBDCs on a reimbursable cost basis by those SBDC utilizing such services and facilities.

The National Science Foundation sponsored innovation centers are authorized and directed to cooperate with small business development centers in their activities. The National Science Foundation is required to submit an annual report to Congress and SBA concerning the performance of these centers, with recommendations for their expansion and/or improvement.

The National Aeronautics and Space Administration sponsored industrial application centers are also authorized and directed to cooperate with small business development centers in their activities. The National Aeronautics and Space Administration is required to submit an annual report to Congress and SBA concerning the performance of these centers with recommendations for their expansion and/or improvement.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

SBA DEPUTY ASSOCIATE ADMINISTRATOR

The *Senate bill* provides that the SBA Administrator shall appoint a Deputy Associate Administrator for Management Assistance whose sole responsibility will be to administer the small business development center program. That person will be responsible for recommending the program budget, reviewing center budgets, selecting applicants to participate in the center program, implementing the SBDC program in accordance with policies established by this Act, maintaining a clearinghouse to disseminate information generated by the program, and conducting audits of grant recipients. A National Small Business Development Center Advisory Board shall counsel the Deputy Associate Administrator in carrying out the duties of that office.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

ADVISORY BOARDS

The *Senate bill* establishes a National Small Business Development Center Advisory Board. Nine members are to be appointed for staggered terms with at least six members from small businesses or associations representing small businesses, and no more than three members from the academic community. The Board shall elect officers, meet at least quarterly, and shall advise the Deputy Associate Administrator with regard to policies and management of the program.

Each individual small business development center may establish its own advisory board to counsel the small business development center director with regard to policies and management of the particular center.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

PROGRAM EVALUATION

The *Senate bill* requires SBA to evaluate the small business development center program and to measure, quantitatively and qualitatively, the impact of SBDCs on small businesses, including private consultants, and on the socio-economic base of the regions served. The evaluation should also include the extent to which multidisciplinary resources were utilized by the center. Centers and recipients of research grants are required to furnish SBA such information as may be necessary to complete the required evaluations. The completed evaluation is to be submitted to the Senate and House Small Business Committees by no later than January 31, 1983.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

It is the intention of the conferees that both the House and Senate Small Business Committees will have the opportunity to review the results of the SBA evaluation of this program. The Small Business Committee of the House of Representatives intends to hold hearings on those evaluations and develop legislation appropriate to the findings of the Committee. It is also the intent of the conferees that no more than eighteen States will participate in this program during 1981.

PROGRAM REPEAL

Under the *Senate bill*, the program is repealed on October 1, 1984.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

TITLE III

SMALL BUSINESS ECONOMIC POLICY

The *Senate bill* creates the "Small Business Economic Policy Act of 1980." Under that Act, Congress establishes as a national policy the coordination of all policies, programs, and activities of each and every Federal department, agency, and instrumentality in order to provide an economic climate conducive to the development, growth and expansion of small business. There are to be established both public and private sector incentives to assure that adequate capital and other resources are available at competitive prices to small businesses. The policy of the Federal Government is to reduce the concentration of economic resources and to promote measures that will expand competition.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

Conferees are of the opinion that the Small Business Economic Policy Act of 1980 is one of the most important small business legislative milestones acted upon by the U.S. Congress.

PRESIDENTIAL REPORT ON SMALL BUSINESS AND COMPETITION

Under the *Senate bill*, not later than January 20 of each year, the President shall submit to Congress a "Report on Small Business and Competition," focusing on economic issues affecting the small business sector, the efficiency of the Nation's markets, and the state of competition in the economy. Specifically, this report would examine the current role of small business in the economy; present a current and historical perspective of the economic variables influencing small business; identify economic trends affecting small business and the state of competition; examine the effects of and problems caused by, policies, programs and activities of the Federal Government on small business and competition and recommend legislative and administrative solutions to such problems; and recommend a program for carrying out the small business economic policy enunciated in this title.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

The conferees also agree that the report should examine the role of small business in the economy on an industry-by-industry basis. The conferees recognize the value of this information. If data on a particular industry is not available, every effort should be made to assimilate it. Also, the appendix to the report is expanded to include information, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 and all subcontracts exceeding the same amount which are awarded to small, minority-owned and female-owned businesses.

Nothing in this bill is intended to require additional paperwork or data collection from small business. This section is intended to increase executive branch and public awareness that a healthy small business community is vital to our national economy. It calls for the problems of small business to receive the highest policy priority, but in no way is it intended to increase the already monumental paperwork burden small business owners face.

TITLE IV

SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

The *Senate bill* assigns to the SBA Administrator the responsibility for establishing and maintaining an economic data base on small business and for annually publishing a report (which shall include a small business index) giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by such data. The Administrator is to also publish, on a regular basis, national (and to the extent possible regional) small business economic indices which shall include, but need not be limited to data on:

(a) employment, layoffs, and new hires;

(b) number of business establishments and the types of such establishments (such as sole proprietorships, corporations, and partnerships);

(c) number of business formations and failures;

(d) sales and new orders;

(e) back orders;

(f) investment in plant and equipment;

(g) changes in inventory and rate of inventory turnover;

(h) sources and amounts of capital investment, including debt, equity, and internally generated funds;

(i) debt to equity ratios;

(j) exports;

(k) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

(l) concentration ratios.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

It is the intention of the conferees that SBA make a more concerted effort to compile existing economic and research data on small businesses. The Departments of Labor, Commerce and perhaps others, as well as SBA, already collect a large amount of data which could be useful in gaining a greater understanding of the small business sector of the economy. In addition, SBA could make better use of studies done by educational institutions, State and local governments, business groups and others, to evaluate the small business sector. The conferees wish to stress that all data concerning small businesses collected by Federal agencies should be made readily available to SBA and thus it will not place any additional paperwork burden on individual small business concerns.

OFFICE OF ADVOCACY EMPLOYEES

Under the *Senate bill*, no more than ten employees employed by the Office of the Chief Counsel for Advocacy, may be paid at rates in excess of the maximum pay rate for GS-15, step 10 of the General Schedule. In addition, the position of the Chief Counsel for Advocacy is established at Executive Level IV.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

STUDY OF SMALL BUSINESS CREDIT NEEDS

The *Senate bill* directs the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to work with SBA and the Bureau of the Census in undertaking studies to determine the credit needs of small business and to what extent such needs are being met. The results of these studies are to be provided to Congress by January 1, 1982.

The three banking regulators are also required to provide recommendations regarding the feasibility of conducting periodic sample surveys, by region and nationwide, in order to monitor the number and dollar volume of commercial and industrial loans being extended by banks to smaller concerns.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

The purpose of this section is to accurately gauge, for the first time, whether small business credit needs are being met. If they are not, the Congress and the executive branch may need to respond by instituting appropriate private sector incentives to induce a sufficient flow of capital to this economic sector.

It is anticipated, however, that the responsible agencies, in order to minimize the costs, may conduct the required studies by the use of an appropriately designed sample to collect the necessary data. However, efforts to minimize costs should not adversely affect the quality and integrity of the studies. The conferees stress that in order to perform the study, Federal agencies are not to solicit any additional information from small business concerns.

TITLE V

SMALL BUSINESS EMPLOYEE OWNERSHIP

The *Senate bill* contains a title creating the "Small Business Employee Ownership Act of 1980."

The title states Congressional findings that employee ownership of business helps to preserve jobs, increase worker productivity and company profits, provides for the continuity of existing small businesses, creates new enterprises from corporate divestitures and provides a means for broadening participation in the capitalist system. Furthermore, the continued closing of small businesses and the continued decline in productivity present serious problems for the economy. Loan guarantees for employee ownership from the SBA could help to keep businesses viable and save communities from the loss of jobs and business activity.

Under the *Senate bill*, qualified employee trusts shall be eligible for SBA loan guarantees under section 7(a) regular business loan program. Specific guidelines for cases in which the trust is purchasing a majority of the stock of a small business concern are also included. Qualified employee trusts are defined as trusts which are part of small business concerns and which are either part of employee stock ownership plans (ESOPs) or are separate employee organizations with the legal authority of trusts. ESOP trusts are required to be maintained by a small business concern and to provide an opportunity for each participant to exercise voting rights for qualified employer securities with respect to corporate matters which by law or charter must be decided by a majority vote of outstanding common shares voted. The trustee must certify that the loan guarantee will be used only to purchase employer securities, that the small business concern will make such funds as are necessary available to the trust for the repayment of the loan, and that all participants in the trust will have a non-forfeitable right to the stock in the trust not later than the repayment date of the loan.

Non-ESOP trusts must be maintained by employee organizations representing at least 51% of the employees. These trusts must meet all other requirements specifically described in the legislation for ESOP trusts concerning voting rights, stock allocation, uses of the loan money, and repayment of the loan, and will be eligible for 7(a) loan guarantee assistance.

The *Senate bill* authorizes SBA to make loan guarantees to trusts in two separate cases: 1) trusts which are part of ongoing small business concerns which seek to finance company growth through the use of an employee ownership trust, and 2) trusts which seek to purchase at least 51% of the stock of a small business concern, or a concern which would be a small business once independently owned. In both cases, the SBA may issue regulations in addition to those requirements specified in the Act, including, in the first case, a requirement that the trust be issued a reasonable amount of voting stock.

The *Senate bill* also specifies a number of guidelines for the second case in which a trust seeks to purchase a small business concern. In these cases, the trust must submit a plan which would provide that 1) by the time the loan is repaid, at least 51% of the total stock of the concern will be owned by at least 51% of the employees; 2) there will be a periodic review of the role of employees in management; and 3) there will be adequate management expertise and continuity in the company. In these "buy-out" cases, SBA may issue regulations requiring that employees must also be allotted 51% of the voting, as well as total, stock of the concern.

The *Senate bill* further requires SBA to report periodically to Congress on the status of employee-owned firms, and on those applications it has approved or denied. The legislation also provides that guarantees under this subsection may be made directly to the seller of a business when selling under an installment sale contract, provided that in the case of a default the seller has the option of (1) paying SBA an amount equal to 90 percent of the total amount paid on the contract at the time of default and reassuming title to the business (SBA being relieved of all further obligations), or (2) assigning to SBA the option of assuming title to the business for an SBA lump-sum payment equal to 90 percent of the remaining payments due on the contract.

Finally, the *Senate bill* directs the Small Business Administration to conduct a study of the feasibility of extending the "guarantee-to-seller" concept to any purchaser of a small business concern. This study is to be completed by April 1, 1981.

The *House amendment* contains no comparable provision.

The *conference substitute* includes the Senate provision.

NEAL SMITH,
FERNAND J. ST GERMAIN,
RICHARD NOLAN,
RICHARD H. ICHORD,
BILLY EVANS,
DOUG BARNARD, Jr.,
CLAUDE "BUDDY" LEACH,
TONY P. HALL.
Managers on the Part of the House.

GAYLORD NELSON,
SAM NUNN,
WALTER D. HUDDLESTON,
LOWELL WEICKER, Jr.,
ORRIN G. HATCH.
Managers on the Part of the Senate.

INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

Mr. ST GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2255) to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2255, with Mr. CHAPPELL in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose earlier today, pending was an amendment offered by the gentleman from Indiana (Mr. EVANS).

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. EVANS. The language he is proposing was originally presented to the subcommittee as a means of clarifying the present applicability of the Bank Holding Company Act. Section 7 of that act states that the States may enact laws respecting bank holding companies operating within their boundaries. Such laws may prohibit bank holding companies entirely or they may restrict their operations. However, State law is subject to the overall restrictions contained in the Bank Holding Company Act. During subcommittee markup confusion existed about the impact of section 7 on the amendments that would be made by H.R. 2255. In other words, could a State enact a statute which was more restrictive than the Federal law. This confusion was clarified after the markup—States may enact statutes that are more restrictive but not more expansive than Federal law. This amendment is, therefore, not needed and a majority of the full banking committee agreed that the language was not needed.

The issue here is not the regulation of the business of insurance. Rather the issue is the regulation of bank holding companies. The bill before you concerns the nonbank activities of bank holding companies. For years we have recognized that it is in the public interest to provide a national standard for the operations of these financial institutions. The Bank Holding Company Act provides this overall framework for the regulation of these firms. Your committee is concerned that the reach of holding companies especially the money center firms like Citicorp and Bank of America is potentially so great that small businessmen, in this case independent insurance agents, are threatened within extinction if some limitations are not placed on their operations.

The bill prohibits such firms from engaging in the property and casualty insurance business except in six specific cases, cases carefully considered by the committee. To include in this bill a provision which has the potential of allowing such firms to bypass Federal standards and would be a disservice to thousands of small businessmen throughout this Nation.

In addition, this issue—the McCarran-Ferguson issue—was not raised until full committee markup. There is no reference to that act in the consideration of this provision during the 95th Congress. Subcommittee markup and the hearing record do not reveal that this was a major concern for anyone. In this regard, it is useful to point out that the House earlier this year went on record that McCarran-Ferguson does not preclude Federal legislation. On March 10, 1980, the House on a 332–17 vote approved H.R. 6152, the Product Liability Risk Retention Act of 1980. That bill was debated, in a part, in the context of the McCarran-Ferguson Act. Opponents to the bill argued that the bill violated the spirit and law of McCarran-Ferguson. By its vote the House said that the issue of adequate product liability insurance was so great that the bill should be passed. The issue raised by H.R. 2255 is serious as well. Small business—independent insurance agencies—cannot compete with the resources available to bank holding companies. We all have heard of the need of a "level playing field."

The banks use this shopworn phrase to argue for changes in various banking laws. Now the bank holding companies want to argue that the insurance agents are capable of playing the same game as the bank holding companies. Let me tell you, the field is not equal. This bill is needed and this amendment would simply force the independent agents to move to a different playing field—the 50 State legislatures. The amendment should be rejected.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this amendment, I believe, is very necessary. I urge my colleagues to support it.

Let me read the first phrase in the amendment. It says:

> The amendment made by the first section of this act shall not supersede existing State laws.

This has to do with State law versus Federal law.

It happens that I think most of what we do here in the House totally ignores State law in that we assume without much precedent nor authority from our Constitution and in defiance of State law.

Let me just refresh our memories about the ninth amendment:

> The powers not delegated to the U.S. by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people.

Therefore, I do not think we are introducing anything new or strange or different. We are just referring back to a basic document that we are supposed to be following.

Besides, I think that not only are States and local areas able to regulate and take care of their own businesses, I think that if they chose not to, we should honor this right. What is so terrible about a bank and a customer agreeing on a transaction without the Federal Government setting the guidelines? To me it seems very logical, if the States choose not to regulate them, the bank and the customer are permitted to make this decision voluntarily.

I realize that it is a rather strange thing to assume that a customer has the intelligence and the bank has the ability to provide a service without committing some sort of fraud, or that we should make the assumption they would do this only under threat of punishment.

I happen to believe that the system works rather well where the Federal Government does not regulate to such an extent, or if the regulations must exist, that they exist at a more local level. For this reason, I believe it is totally unnecessary to have a bill of this sort and if we can reserve the regulations to the State level. This amendment only is morally correct and economically wise. We do not have any justification under the Constitution to restrict voluntary trade in the sale of insurance. Where is the authority?

It says in the Constitution that you must have authority to do these kinds of things. I would like someone to tell me by what authority do you write legislation like this, to control the voluntary transaction between a customer and a bank?

□ 1710

Mr. WYLIE. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, this is banking legislation, it is not insurance legislation. To suggest that the McCarran-Ferguson Act is somehow modified or transgressed or amended by an amendment to the Bank Holding Company Act could just not be further from the truth.

This is a banking bill. Congress has regulated banking since at least 1864, and maybe before that.

We have not regulated insurance. We have left the regulation of insurance to the States, and that is where it should be left.

The result of the delegation of authority which would be called for by this amendment to the States, it seems to me, is likely to result in additional controversy and litigation as a result of the overlap of State and local law. This amendment is not needed. Already we have on the books the McCarran-Ferguson Act which leaves to the States the regulation of insurance, and this would only confuse the States rights control over insurance and should be defeated.

Mr. HANSEN. Mr. Chairman, I move to strike the last word and rise in support of the amendment.

The Committee on Banking, Finance and Urban Affairs has made a grave error.

As a longtime insurance agent, I am fully aware of the unfair competition in the industry by advantageously situated bank holding companies. It is important that this injustice be eliminated at the earliest possible time, but it can and should be done with legislation which will not be immediately subject to:

First, a charge that it violates conditions of the McCarran-Ferguson Act; and

Second, a fight to have it declared unconstitutional.

H.R. 2255, to curtail bank holding company insurance activities passed out of subcommittee only because of the States' rights provision. This States' rights provision was dropped by a vote of only 21 to 20 in full committee on the mistaken grounds that it is unnecessary and redundant in light of section 7 of the Bank Holding Company Act.

The proof of this lies in a letter—which has had fairly wide circulation—from the Chairman of the Federal Reserve Board of Governors to Subcommittee Chairman FERNAND ST GERMAIN. Among the many points made by that letter, it is well to note that the State's rights amendment is unnecessary and redundant only in respect of the lending limits concerns of the subcommittee; but it is not at all redundant with respect to maintaining primary regulation of insurance activities at the State level in line with the McCarran-Ferguson Act.

The Federal Reserve letter also makes clear that the State's rights amendment would have no effect on legal lending limits as determined by State law, nor would section 1(B) of the bill, and it further makes the most important point that the "public benefits" test of the Bank Holding Company Act would in any case continue to limit insurance activities of bank holding companies, as the Federal Reserve presently so determines and would continue to determine. The State's rights amendment would have no effect on that limitation.

If we are to maintain the substance of the McCarran-Ferguson Act, it requires adoption of the States' rights provision to H.R. 2255 to maintain the legislation as bank regulation rather than insurance regulation, which would be a substantial change in Federal legislative policy with respect to the insurance industry.

Without the States rights amendment there is an increased possibility that H.R. 2255 would be found unconstitutional. The bill prohibits insurance activities to bank holding companies of a certain size, but not to other lenders. This could be construed as arbitrary and capricious, the distinction having no ground in economic or legislative necessities. In fact, just last year a New Jersey law very similar to H.R. 2255 was found by a New Jersey court to be in violation of the 14th amendment to the U.S. Constitution precisely for this reason. Therefore, the States rights amendment is essential to any chance H.R. has of surviving a constitutional challenge.

The States rights amendment approach serves the legitimate public interests of the insurance industry—to assure that independent insurance agents have a fair crack at the market—but does the least possible damage to existing lines of Federal-State jurisdiction, and certainly does not contravene the Constitution. I strongly recommend the States' rights amendment as a practical approach to stopping unfair competition and yet preventing a Federal takeover of regulation of the insurance industry and hope it will be accepted.

Mr. STANTON. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Ohio.

Mr. STANTON. Mr. Chairman, I want to ask the gentleman in the well a couple of questions. The amendment before the House is an amendment by the gentleman from Indiana (Mr. Evans) is that not correct?

Mr. HANSEN. The gentleman is correct.

Mr. STANTON. Did I hear the gentleman in the well say that this would apply to States rights and refers to an amendment that was originally in the subcommittee consideration of this legislation?

Mr. HANSEN. That is correct.

In the subcommittee, if I might continue a moment, in the subcommittee it was adopted as a means to get this bill out of the subcommittee. It was the only way we could have gotten the bill out.

Mr. STANTON. This amendment would not be before us now, but it was deleted in full committee by a 21-to-20 vote, and some people were confused; is that correct?

The CHAIRMAN. The time of the gentleman from Idaho has expired.

(At the request of Mr. Stanton and by unanimous consent, Mr. Hansen was allowed to proceed for 3 additional minutes.)

Mr. HANSEN. I yield to the gentleman.

Mr. STANTON. This amendment would allow the individual States to solve this problem on their own; is that correct?

Mr. HANSEN. That is correct.

Mr. STANTON. It is my understanding that 23 States of the Union have so far taken advantage of their States rights and have so acted and so restricted credit related insurance; is that correct?

Mr. HANSEN. That is correct, and I think that this is true to the concept of the McCarren-Ferguson Act and States rights in handling these things at the State level.

Mr. STANTON. But on that further point, if this amendment passes, the other States have a right to decide this issue themselves, and 23 States of the Union already have; am I correct?

Mr. HANSEN. That is correct.

Mr. STANTON. I certainly want to compliment the gentleman from Indiana (Mr. Evans) because this seems to be a most reasonable amendment. As the gentleman says, there is a question of the constitutionality of this without this particular provision, and I compliment the gentleman for his remarks on this legislation.

Mr. HANSEN. I thank the gentleman from Ohio.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from New York.

Mr. HANLEY. I thank the gentleman for yielding.

The gentleman will recall that in the course of our deliberation in the subcommittee, and we did discuss this matter at length, ultimately the agreement was that the subcommittee would accept the amendment conditioned on the basis that it was, if it was not redundant, in final analysis, it was not redundant, that was the agreement in subcommittee. The analysis was very firm on the fact that it was, indeed, redundant.

We have a tendency to mix this matter up with the McCarran-Ferguson Act, and I must remind my colleagues that we are not dealing with insurance legislation, we are dealing with a bank bill.

□ 1720

So we are not treading on that turf at all, and we have covered that ground many, many times in the course of this legislation. But in fairness, and in a spirit of fair play, in the subcommittee we did give the gentleman's amendment, which is identical to the amendment offered by the gentleman from Indiana (Mr. Evans), every consideration, and, again, with the agreement that if it did prove redundant, then of course, we would knock it out in full committee. That is what occurred by virtue of this redundancy.

Mr. HANSEN. If I could reclaim my time, I would like to say that the Federal Reserve letter, which I know the gentleman has had access to, states that it is not at all redundant with respect to maintaining primary regulation of insurance activities at the State level, in line with the McCarran-Ferguson Act.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Hansen was allowed to proceed for 2 additional minutes.)

Mr. HANSEN. This was known to the full committee at the time of the change on a 21-to-20 vote. So I would state that in my opinion the gentleman is not correct in the fact that this is redundant.

Mr. PATTERSON. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. PATTERSON. I thank the gentleman for yielding.

The same letter from Volcker of the Federal Reserve Board goes on to say, and I quote:

> We know that the effect of section 2—

That is the amendment here that is on the floor—

> would be to enable States to act to permit insurance activities that would be prohibited under the bill.

Mr. HANSEN. This is correct, because, again commensurate with the idea that insurance should be regulated at the State level, this falls in line with that traditional concept, and I see no conflict here. In fact, I see a real problem of our moving under the guise of banking regulation into allowing the Federal Government to encroach into insurance regulation in the United States. I think this is a danger in this legislation as it is now written, even though I support the concept of the legislation.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding. I respect the gentleman for what he is trying to do, but I do feel honestly that he is headed off in a direction in which he does not need to head. The McCarran-Ferguson Act in pertinent part provides that no Federal law shall be construed to supersede any State law regulating the business of insurance unless the Federal law specifically relates to such business. The McCarran-Ferguson Act, as I say, exempts the insurance industry from these Federal antitrust laws to the extent that they are regulated by the States. Today we are modifying the Bank Holding Company Act.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Wylie, and by unanimous consent, Mr. Hansen was allowed to proceed for 1 additional minute.)

Mr. WYLIE. If the gentleman will yield further, today we are modifying the Bank Holding Company Act which regulates the business of bank holding companies, and we are simply saying that bank holding companies will not be allowed to sell or underwrite insurance because that is not business related to banking. It has nothing to do with the insurance industry, I submit to the gentleman.

Mr. HANSEN. That sounds good on the surface, and I agree with the concept of the gentleman, but that is not really what rings true in the legislation, because what we are really getting to is the question that I think the courts are going to have to end up resolving if this legislation is passed, specifically based on the New Jersey case of whether this is insurance regulation or bank regulation. I submit that this is going to be something that is not going to be resolved here if we pass this legislation, but will have to be resolved in the courts, and I hate to see that happen.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WYLIE. Mr. Chairman, I ask unanimous consent that the gentleman have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio.

Mr. PATTERSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that I may be permitted to speak out of order for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, if some Members are going to be cut off here and other Members are permitted to speak, if that is going to be the majority policy, to prevent some Members from speaking on matters of the House, then other Members do not have to have that right either.

Mr. WRIGHT. Mr. Chairman, I withdraw my unanimous consent request.

The CHAIRMAN. The Chair recognizes the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, in connection with this bill, I think it is important we complete our deliberations on it today. My reasoning for saying that is that as soon as we complete deliberations on this bill today, it is our purpose that we will rise and be in session tomorrow, and tomorrow we will consider three rules, the Housing and Community Development Act, the Department of Energy nuclear warheads authorization, the National Science Foundation authorization. Preceding the adoption of the rules, we will consider the NASA authorization under an open rule, with 1 hour. We hope to come in at 10 o'clock tomorrow and adjourn at 3 o'clock. Next Monday we would have some 10 bills under suspension of the rules but postpone votes that would occur until Tuesday. For those reasons I think it would be well that we complete our deliberations on this important legislation today.

Mr. HARKIN. Mr. Chairman, will the majority leader yield?

Mr. WRIGHT. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding. Will we be bringing up NASA the first thing tomorrow morning? Would that be possible to bring the NASA bill up first?

Mr. WRIGHT. Yes; it would be possible, and we will do the NASA bill first.

Mr. PATTERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I very reluctantly objected a couple of minutes ago to continuing the extension of time because I felt that the matter had been discussed so much on one side of the room that perhaps the other side needed to have a little bit of equal time. Let me say something very clearly now. This is not a States rights amendment. All that has been referred to is the first part of that amendment and very little to the latter part of that amendment.

The letter that was referred and quoted from from Mr. Volcker, who would be enforcing this, indicates that if the amendment that we are dealing with now is enacted, a State could enact legislation that might expand the amount and kind of insurance a bank holding company may provide—and that comes under banking. That is what the purpose of this bill is, to regulate bank holding companies.

We have laws where only Federal law governs, and we have laws where only State law governs, and perhaps we have too many areas where both Federal and State law govern, but it has long been a constitutional provision that where both Federal and State laws deal with the same subject, the Federal law generally preempts the State, and that State law may be enacted in both areas that are not inconsistent. That means that without this amendment what we have is a situation where the Federal law regulates bank holding companies who are not doing financial things but engaging in insurance business. The State law may then permit whatever the Federal law would permit, and the State may prohibit. Those are consistent and easily seen.

It also would allow a State to prohibit that which the Federal law permits. If this amendment is enacted, not only are all those things permissible, which are fine and constitutional under our laws today, but it would also permit the State law to permit what the Federal law that we are passing or dealing with today specifically prohibits. In other words, what we are going to do is enact a bank holding company law and then have every bank run to every State and say, now, let us get some relief for insurance company activities and let all the banks get involved in the kinds of activities, which will usually move State bank holding companies into the insurance business all over the land. Why should this not be? I think it is clear that banks are in the position of a fiduciary. They are supposed to hold other people's money, our money, in savings accounts and use that money to make loans. They are not supposed to use them to make a loan and then say, while you are here, how would you like some insurance? However, I am sorry to say that this bill does allow them to extend credit insurance up to $10,000, and it also exempts maybe too many smaller banks. But the fact is that this would prohibit the banks in major circumstances, large banks over $10,000.

□ 1730

I think practically this amendment if adopted would in effect delete and nullify the purpose of the bill itself.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I will be happy to yield to the gentleman.

Mr. VENTO. My point is the gentleman points out it does exempt many bank holding companies. In fact it exempts about two-thirds of the bank holding companies from this activity in numbers, certainly not in volume. Of course, it does not address itself to any other types of financial institutions. The only ones that are included are those that are classified as bank holding companies. All the other banks, all the other thrifts, all the other savings and loans in the gentleman's State and mine are not affected by this particular legislation.

Mr. PATTERSON. The smaller institutions?

Mr. VENTO. Yes.

If the gentleman will continue to yield, of course, the statement I made is correct, does the gentleman agree?

Mr. PATTERSON. If the gentleman says it is correct, I will believe him.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PATTERSON. Mr. Chairman, I ask unanimous consent to be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, I object.

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California (Mr. PATTERSON).

Mr. PATTERSON. I thank the gentleman for yielding.

Mr. Chairman, in addition to what Chairman VOLKMER has said, that this amendment is not only not necessary but would enable States to allow unpermissible activities in States, in addition to that I have asked the Congressional Research Service, the American Law Division, to provide me with a memorandum and in that, their conclusion—and I will submit the entire report for the RECORD, but in conclusion the legal department says it appears that under the McCarran-Ferguson Act, H.R. 2255 would specifically relate to the business of insurance and, therefore, but for section 7 of the Bank Holding Company Act of 1956, would preempt conflicting State laws. However, section 7 provides that the Bank Holding Company Act shall not be construed to prevent the States from regulating bank holding companies. They have that power. Chairman VOLKMER says they do and the Library of Congress says they do.

I thank the gentleman from New York for yielding to me.

Mr. PEYSER. Mr. Chairman, I rise in strong support of H.R. 2255 which amends the Bank Holding Company Act of 1956 to limit the property, casualty, and life insurance activities of bank holding companies and their subsidiaries. The legislation seeks to prevent the further intrusion of bank holding companies into the insurance business. I believe that this legislation is necessary to protect the consumer and to insure the preservation of the insurance industry, especially the small insurance agents who comprise the backbone of this industry.

Mr. Chairman, under the Bank Holding Company Act as interpreted by the Federal Reserve and the courts, bank holding companies may sell property and casualty insurance which is connected to a credit relationship. It is clear that the bank holding company's control of capital and credit gives it a definite advantage in influencing the purchase of insurance. In effect, consumers lose the freedom to choose where to buy insurance and insurance agents may be forced out of business by this unfair competition.

This bill specifically designates these insurance activities which are closely related to banking and, therefore, a permissible activity in which bank holding companies may engage. Under this bill, bank holding companies would be prohibited from selling property and casualty insurance except in certain limited circumstances which are set forth in the legislation. This provision is necessary to prevent unfair competition by bank holding companies and to protect the public interest.

The legislation also clarifies existing law with respect to the life insurance and disability insurance activities which are permissible for bank holding companies. Specifically, bank holding companies will be limited to selling credit life insurance, credit disability and mortgage redemption insurance, except in certain limited circumstances which are set forth in the legislation. Such provisions will prevent encroachment of bank holding companies into the life insurance and disability insurance business.

In sum, H.R. 2255 would restrict the sale of insurance by bank holding companies and thereby protect consumers from the improper use of credit related advantages and small business insurance agents from going out of business. At the same time the bill provides protection by allowing bank holding companies to continue those activities in which they were lawfully engaged on June 6, 1978.

Mr. Chairman, I urge the House to pass this important legislation.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did not plan to speak on this amendment because I felt it was self-explanatory. However, we have developed a very good debate. I feel that before we pass this legislation we should consider something.

Mr. Chairman, the underwriting and sale of property, and casualty insurance in this country amounts to about $90 billion a year. Someone could refute this figure, but this bill further restricts bank holding companies in the sale of credit related insurance. According to statistics I have only about one-half of 1 percent of all the insurance business in the country is going to be affected by this legislation. Therefore, Mr. Chairman, if we vote one way or another, as I said earlier in my remarks, I think we should vote in favor of the legislation because all of the insurance agents certainly want it and, as a matter of fact, they do not ask for very much. I think we should vote for it.

Mr. Chairman, this amendment is something else, though, because when you stop to think of it, we are all basically States rights people and when 23 States have acted positively on this legislation to accomplish fundamentally what this is, I see no reason why the 27 other States either cannot have the time or cannot otherwise work their will. I think this is an important consideration. This amendment was defeated in our Committee on Banking, Finance and Urban Affairs by only a 21-to-20 vote.

Mr. Chairman, let me say something else about this legislation. It does not apply to banks, per se, it does not apply to the savings and loans, it does not apply to the majority of financial institutions of our country. It applies to a small segment of the bank holding companies of our country. How many does it apply? According to the last statistics I saw from the Federal Reserve, there are 2,480 bank holding companies. Under the legislation we have before us, under the exemption of $50 million or less, 1,958 out of the 2,400 bank holding companies still will be permitted to sell insurance.

Now, Mr. Chairman, if this legislation is so important and this legislation is so good and this legislation is so important for the future of the insurance companies, why not include four out of five of the bank holding companies? Why not include all bank holding companies? It is inconceivable that we do not have a universal standard to apply to all sizes of bank holding companies. I know of no answer to that, Mr. Chairman.

On this particular amendment, I know the gentleman from Texas and the gentleman from Idaho: When they are right, they are right. I think in truth and in all honesty, when 23 States of the Union have acted, the others should have a chance to either act or not act without the involvement of the Federal Government.

Mr. Chairman, I know I have given a lot of statistics and I will yield to the chairman of our subcommittee to deny any of them.

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, I looked back a few months ago when we had a similar situation on usury and we preempted because certain States did not act; is that not right?

Mr. STANTON. The gentleman is correct.

Mr. ST GERMAIN. They came to us and asked us to please do it. I say, this is a similar situation.

Mr. STANTON. We ought to have an amendment to give a lead-in time for these States like you did in the usury law.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. EVANS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PAUL. Mr. Chairman, I demand a recorded vote.

As recorded vote was ordered.

The votes was taken by electronic device, and there were—ayes 43, noes 323, answered "present"—6, not voting 61, as follows:

[Roll No. 322]

AYES—43

Archer
Ashley
Badham
Bethune
Broyhill
Burton, John
Campbell
Clinger
Crane, Daniel
Evans, Ind.
Foley
Fowler
Giaimo
Glickman
Gradison
Gray
Hansen
Holland
Jeffries
Kelly
Kramer
LaFalce
Leach, Iowa
Lowry
McCloskey
McDonald
Martin
Murphy, Pa.
Myers, Ind.
Nelson
Pashayan
Paul
Pepper
Porter
Rangel
Rousselot
Rudd
Schulze
Stanton
Stark
Stockman
Stokes
Symms

NOES—323

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Coelho
Coleman
Collins, Tex.
Corcoran
Corman
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Gonzalez
Goodling
Gore
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Luken
Lundine
Lungren
McClory
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Musto
Myers, Pa.
Natcher
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard

Pursell
Rahall
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Smith, Iowa
Snowe
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

ANSWERED "PRESENT"—6

Cleveland
Evans, Del.
Hillis
Lujan
O'Brien
Quillen

NOT VOTING—61

Addabbo
Anderson, Ill.
Ashbrook
Bevill
Bingham
Boland
Bonior
Bonker
Bowen
Brinkley
Brooks
Brown, Ohio
Burton, Phillip
Clausen
Clay
Collins, Ill.
Conable
Conte
Conyers
Cotter
Crane, Philip
Davis, S.C.
Dicks
Dodd
Frenzel
Fuqua
Goldwater
Green
Holt
Holtzman
Ichord
Jenrette
Lederer
McEwen
McKinney
Marlenee
Mathis
Miller, Calif.
Moffett
Moorhead, Pa.
Murphy, N.Y.
Nedzi
Nichols
Quayle
Reuss
Richmond
Roberts
Runnels
Russo
Santini
Shumway
Skelton
Smith, Nebr.
Snyder
Solarz
Thomas
Thompson
Vander Jagt
Williams, Mont.
Wilson, C. H.
Zeferetti

☐ 1750

Messrs. ROBERT W. DANIEL, JR., VOLKMER, and CARTER changed their votes from "aye" to "no."

Mr. RANGEL and Mr. SYMMS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ASHLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this bill goes against all current congressional efforts to remove the shackles from business and let the marketplace work. It is truly protectionist legislation. As is the case with most protectionist legislation, it is sold on the basis of so-called unfair competition; the unfairness in this case is really the convenience and reduced cost to the consumer of obtaining the loan and insurance at one step and of making one monthly payment instead of two.

Mr. Chairman, the problems with this legislation, particularly its anticompetitive nature, are reflected in the number of close votes in the full Banking Committee. For example, by a vote of 21 to 20, the committee eliminated a provision in the bill which would have protected the rights of States to pass less restrictive legislation in this area. By the narrow vote of 19 to 24, the committee defeated a substitute offered by Mr. STANTON and myself which would have placed a moratorium on expanded bank holding company insurance activities while a comprehensive study was undertaken.

Furthermore, in order to obtain the necessary votes for passage, the bill has been cluttered up with exemptions which clearly undermine its purported intent, with the result that the bill really makes very little sense. The most egregious of these, in my opinion, is the exemption for bank holding companies of under $50 million in assets. Unbelievably, this exemption would exempt the small bank holding companies not only from H.R. 2255, but from the present act's "closely related" test with the result that they would then be able to engage in a full range of insurance agency activities except for life insurance. I would point out that this exemption would cover 60 percent of all bank holding companies.

It also should be noted that this bill does not cover the great majority of credit grantors who are competing with the independent agents. In addition to the exemption for 60 percent of all bank holding companies, the bill does not even address savings and loans, automobile dealers, the giant automobile company finance subsidiaries, and large independent finance companies like Beneficial and HFC. In fact, one study estimates that bank holding companies have less than 2 percent of the Nation's property and casualty insurance business. Is it any wonder that the bank holding companies who are covered feel discriminated against and point to a recent New Jersey case which held a similar New Jersey statute unconstitutional because it was discriminatory? This feeling of discrimination can only be intensified by the grandfather date in the bill—June 6, 1978, 2 years ago. This grandfather date, in my opinion, is most unfair and will result in severe dislocations in individual cases.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the last word.

I have a question regarding the precise scope of the pending bill that I would like to direct to the gentleman from New York (Mr. HANLEY). As I understand it, this legislation would amend subparagraph 4(c)(8) of the Bank Holding Company Act to restrict insurance activities of holding companies and their affiliates to certain specific areas. In the State of Maryland, it is possible for mutual savings banks to operate an insurance agency under an interpretation issued by the State banking department, and my question is whether they could be affected bv this legislation?

Mr. HANLEY. I assure the gentlewoman that this bill covers only the large bank holding companies. Further, it is not intended to apply directly or indirectly to any type of lending institution other than a bank holding company registered with and regulated by the Federal Reserve Board.

Mrs. SPELLMAN. Mr. Chairman, that is most reassuring, and I thank the gentleman from New York very much.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: On page 4, line 1, strike (D) and insert in lieu thereof the following:

"(D) when the activity is to be performed or shares of the company involved are to be owned directly or indirectly, by a bank holding company which, prior to September 11, 1979, was engaged in insurance agency activities, or which bank holding company, prior to that date, had applied to the Board for authority, and which may be granted by the Board, to engage in insurance agency activities.".

Mr. ST GERMAIN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. VENTO. Mr. Chairman, this amendment is intended or was intended to clarify the nature of the activity performed and to address itself to the date included in the bill, referred to as the grandfather date of June 10, 1978.

The House, on a previous amendment, did decide to retain that date, but this amendment would propose to change that date.

While the major concern with the date is permitting the Federal Reserve Board to approve bank holding company insurance activities, I have, however, another concern that I think can be cleared up between myself and the author of the legislation. I would ask the gentleman from New York (Mr. HANLEY), the author of the legislation, to respond to a question or two so that we might clarify this particular point.

The first question is: What is the intent? One of the problems that has arisen with regard to this legislation is that many of the insurance activities that bank holding companies participate in is not present in the law, but really only sanctioned. The legislation refers to a lawfully engaged activity, insurance activity. But much of the activity that is performed by bank holding companies is not specifically articulated in the law but merely has been sanctioned by the Congress, some of it even, indeed, approved by the Federal Reserve Board under the modification of the bank holding company in 1956.

☐ 1800

Is it not the intent of the amendment that all of that insurance activity that these bank holding companies performed would be sanctioned within the precepts of this policy that is anticipated in H.R. 2255?

I yield to the gentleman from New York.

Mr. HANLEY. It indeed applies to bank holding companies.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I would be happy to yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I have read the gentleman's amendment. Is it not the intent of the gentleman's amendment to grandfather in bank holding companies as companies? Is not the thrust of our bill to grandfather in bank holding companies on an activity-by-activity basis?

So would this not expand the concept of our bill beyond the purview which we had originally contemplated, in that it would allow a grandfathered bank holding company to go into new lines of insurance and, indeed, to open new branch offices?

I think the gentleman has reserved a point of order and I hope he presses his point of order, because I believe it does expand the bill beyond the original purpose which we intended.

Mr. HANLEY. Mr. Chairman, will the gentleman yield further?

Mr. VENTO. I am happy to yield.

Mr. HANLEY. That is not the intent to expand it. The intent is to reassert congressional authority over the Federal Reserve and the bank holding companies, and it is all we are doing.

Mr. VENTO. The attempt then is not to eliminate the insurance activities that they are currently engaged in today; is that correct?

Mr. HANLEY. In accord with the language of the bill, under the provisions of the grandfather clause as stated in the bill, going back to June of 1978.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman's articulation of that.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota to withdraw his amendment?

There was no objection.

The CHAIRMAN. Are there further amendments?

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take but just a minute. As we conclude the consideration of this measure, I want to pay my respects to the gentleman from Rhode Island (Mr. St Germain). Many of the Members will remember that in October 1978 along about 3 o'clock in the morning the Financial Regulatory Institution Act was presented to this body. One of the items that we thought would be a part of that was the measure we have before us today.

The gentleman from Texas, the Speaker, and the gentleman from Mississippi (Mr. Montgomery), objected strenuously because we thought it had not been an item that we understood would be a part of the overall package.

The gentleman from Rhode Island at that time told us that he just simply could not do it and all he could get agreement on was the matter that was before us at the time and asked for us not to object and we did not because we took him at his word that he would bring this back to us in time.

He has done it, a little slow, but the bill before us today is essentially, I think, just like the measure we had hoped we could get a year and a half ago. The gentleman has presented us what he said he would do through the gentleman and the committee on both sides and I simply want to thank the gentleman for it and commend him for it.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I rise in strong support of the legislation now before us, H.R. 2255. This important bill would limit the activities of bank holding companies in certain instances in the sale of certain types of insurance.

Since I own the San Jose, Calif., insurance agency which my father founded 60 years ago, I am keenly aware of the need to pass this legislation. Insurance agencies by and large are small businesses which pale in size to the vast resources available to bank holding companies and their subsidiaries. We simply do not have other lines of business to carry us through the hard times like banks do. And since insurance is our only business, we must be keenly competitive in delivering our services.

I feel strongly that the Federal Reserve Board has erred in the past 10 years by allowing bank holding companies from selling certain forms of insurance. The Fed's action to allow bank holding companies to enter our markets is not consistent with the spirit of the Bank Holding Act of 1956 where banks are generally restricted in owning nonbank companies. The purpose of the act was to prevent and reduce economic concentration. Yet, the Fed has allowed the expansion of bank holding companies into a nonbank area and in turn endangered an important group of small businesses in this country.

As my colleagues talk to their constituents about the need to preserve a vital small business community in this country, support of H.R. 2255 will demonstrate your firm commitment to this fine goal.

I should add my deep appreciation for the work of the chairman of the Financial Institutions Subcommittee, Mr. St Germain, Mr. Hanley, and the full Banking Committee.

In sum, I urge my colleagues to support small business and H.R. 2255.

Mr. STARK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full 5 minutes, but I would like to say to my colleagues on both sides of the aisle who are aware that some years ago I both ran a bank and a rather large insurance agency and was noted, I think, before I came to Congress for my interest in consumer affairs, cited often for running a bank that was known for helping minorities and helping institute some of the most far-reaching consumer reforms in the banking industry.

I would say to you unequivocally that this is bad legislation. It is doing nothing to protect the consumer. It may lock in those inefficient agents who sell part-time, who probably do more harm by not having adequate training to properly insure than it will to correct any evils that may be perpetrated on your constituents.

I would urge those of you who are concerned about protecting free competition in this country, who would encourage new businesses to start and create new jobs, for those of you who think that the consumers should get a chance to select from a variety of people offering a variety of services, to oppose this legislation because it is the worst kind of special interest protectionist legislation that protects only a few inefficient suppliers and it is the wrong kind of thing for us to be voting on at this point.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I thank the gentleman for yielding. I simply want to associate myself with the gentleman's remarks. This is bad legislation.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to the gentleman from Texas (Mr. Pickle) that I want to associate myself with his remarks and say that the gentleman from Rhode Island deserves every plaudit he has received; but with all due respect and in recognition of the work the gentleman from New York has done, I would say that in our subcommittee the gentleman from New York has been the lead horse on this bill. I would say that the passage of this bill would be a crowning achievement to a distinguished career in the House of Representatives.

I think we should all give him a round of applause for the work he has done on it.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I would be glad to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I just wanted to join in the gentleman's acolade to the gentleman from Rhode Island; but I did want to say one thing about this legislation. If I have to choose between the massive, gigantic powerful bank holding companies and my local insurance agent, I think I know how to choose.

I am supporting this legislation.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I naturally want to thank the gentleman from Ohio for his kind words and join him in paying tribute to the gentleman from New York, Mr. James Hanley. We are not here to bury the gentleman from New York (Mr. Hanley). We are here to praise him, because he is going to be around for another few months and have a continuing effect in this Congress.

I want to thank the ranking minority member for his yeoman work on this legislation as well.

Mr. HANLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will take but 20 seconds in response to the gentleman from California and the gentleman in the well.

I would like you to know that this legislation is supported by all consumer groups. It is supported by the National Federation of Independent Businessmen; so all of the consumer entities in America are on board with this legislation.

The CHAIRMAN. Are there other amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. CHAPPELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2255) to amend the Bank Holding Company Act of 1956 to limit the property and casualty and life insurance activities of bank holding companies and their subsidiaries, pursuant to House Resolution 665, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

☐ 1810

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. WYLIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 333, nays 25, answered "present" 8, not voting 67, as follows:

[Roll No. 323]

YEAS—333

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Smith, Iowa
Snowe
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Ullman
Van Deerlin
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—25

Ashley
AuCoin
Beilenson
Chisholm
Dellums
Dixon
Florio
Foley
Gradison
Gray
Hawkins
LaFalce
Lowry
Mazzoli
Mitchell, Md.
Paul
Pepper
Sabo
Scheuer
Stanton
Stark
Stockman
Stokes
Vento
Weiss

ANSWERED "PRESENT"—8

Cleveland
Evans, Del.
Hillis
Lujan
Mineta
O'Brien
Quillen
Winn

NOT VOTING—67

Addabbo
Anderson, Ill.
Ashbrook
Bevill
Bingham
Boland
Bonior
Bonker
Bowen
Brinkley
Brooks
Brown, Ohio
Burton, Phillip
Clausen
Clay
Conable
Conte
Conyers
Cotter
Crane, Philip
Davis, S.C.
Dicks
Dodd
Frenzel
Fuqua
Giaimo
Goldwater
Green
Holt
Holtzman
Ichord
Jenrette
Johnson, Calif.
Latta
Lederer
McEwen
McKinney
Marlenee
Mathis
Miller, Calif.
Moffett
Moorhead, Pa.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Quayle
Reuss
Richmond
Roberts
Runnels
Russo
Santini
Shumway
Skelton
Smith, Nebr.
Snyder
Solarz
Staggers
Thomas
Thompson
Vander Jagt
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wydler
Zeferetti

☐ 1820

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Ashbrook.

Mr. Richmond with Mr. Philip M. Crane.

Mr. Zeferetti with Mr. Green.

Mr. Thompson with Mr. Marlenee.

Mr. Staggers with Mr. Quayle.

Mr. Russo with Mr. Wydler.

Mr. Nichols with Mr. Williams of Ohio.

Mr. Fuqua with Mr. Vander Jagt.

Mr. Lederer with Mrs. Smith of Nebraska.

Mr. Murphy of New York with Mr. Clausen.

Mr. Boland with Mr. Conte.

Mr. Phillip Burton with Mr. Latta.

Mr. Brinkley with Mr. McEwen.

Mr. Dodd with Mr. Goldwater.

Mr. Johnson of California with Mr. Frenzel.

Mr. Nedzi with Mr. Conable.

Mr. Myers of Pennsylvania with Mr. Brown of Ohio.

Mr. Bevill with Mr. Shumway.

Mr. Conyers with Mr. Snyder.

Mr. Bonior of Michigan with Mr. Thomas.

Mr. Dicks with Mrs. Holt.

Mr. Cotter with Mr. Davis of South Carolina.

Mr. Reuss with Mr. Skelton.

Mr. Santini with Mr. Williams of Montana.

Mr. Solarz with Mr. Charles H. Wilson of California.

Mr. Giaimo with Mr. Runnels.

Ms. Holtzman with Mr. Jenrette.

Mr. Ichord with Mr. Mathis.

Mr. Miller of Califorina with Mr. Roberts.

Mr. Bonker with Mr. Bingham.

Mr. Moffett with Mr. Clay.

Mr. Brooks with Mr. Moorhead of Pennsylvania.

Mr. Bowen with Mr. McKinney.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Speaker, I was unable to be present on the floor of the House of Representatives for rollcall vote No. 263 when the House voted to approve the Journal of Wednesday, May 28, 1980. Had I been present, I would have voted "yea."

I also was unable to be present for rollcall vote No. 308 when the House agreed to the conference report on S. 562, to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended—clearing the measure for Senate action. Had I been present, I would have voted "yea."

STANDBY GASOLINE RATIONING PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–328)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

(For message, see proceedings of the Senate of today, June 12, 1980.)

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Standards of Official Conduct.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, D.C., June 11, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: A subpoena duces tecum issued by the United States District Court for the Eastern District of Pennsylvania naming Custodian of Records, House Ethics Committee, U.S. House of Representatives, was hand delivered on June 10, 1980, and received by Mark D. Cowan, an employee of the Committee on Standards of Official Conduct of the U.S. House of Representatives commanding the Custodian of Records to appear in the United States District Court for the Eastern District of Pennsylvania, 444 American Bank Building, 35 North Sixth Street, Reading, Pennsylvania, on June 11, 1980, at 10:00 a.m. to testify in the case of United States of America v. E. Wharton Shober, et al. (Cr. 78–312) and to bring:

Any House Ethics investigation about or involving Stephen B. Elko, Administrative Assistant to Daniel J. Flood, conducted between 1975 and 1977, regardless of state of completion and including any preliminary drafts of investigations.

The material subpoenaed constitutes the official records and papers of the Committee on Standards of Official Conduct, a duly constituted standing Committee of the U. S. House of Representatives, which has treated some of the subpenaed records as executive session materials.

The subpoena in question is forwarded herewith and the matter presented for such action as the House in its wisdom wishes to take.

Sincerely,

CHARLES E. BENNETT,
Chairman.

□ 1830

COMMUNICATION FROM THE SERGEANT AT ARMS

The SPEAKER pro tempore laid before the House the following communication from the Sergeant at Arms:

WASHINGTON, D.C.,
June 9, 1980.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On June 9, 1980 I was served with a subpoena duces tecum; said subpoena was issued by the United States District Court for the District of Columbia.

The subpoena commands me or my authorized representative to appear before a Grand Jury of said court, which is deliberating in secrecy pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure, and requests the production of certain House Records. Attached to the subpoena is a finding by the Court that the records are material and relevant to the Grand Jury investigation, pursuant to House Resolution 10, Ninety-Sixth Congress, which authorizes any officer of the House to produce copies of House records pursuant to a subpoena of a court upon a finding of materiality and relevancy. The subpoena is available in my office for inspection by any Member.

Sincerely,

BENJAMIN J. GUTHRIE,
Sergeant at Arms.

ELECTING THE NEXT PRESIDENT—BEYOND NOVEMBER 4

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, Dr. Alfred E. Eckes, Jr., executive director of the Republican Conference, has prepared a very scholarly paper relative to electing the next President beyond November 4. This paper explores briefly some of the unfamiliar procedures and problems that could emerge if the long 1980 Presidential campaign is not settled on November 4.

Briefly, it suggests that a prolonged deadlock could result, forcing political leaders and elected officials to utilize rusty procedures outlined in the Constitution or improvise a solution.

I am inserting the article in its entirety as follows:

ELECTING THE NEXT PRESIDENT—BEYOND NOV. 4

(By Alfred E. Eckes, Jr.)

HIGHLIGHTS

This paper explores briefly some of the unfamiliar procedures and problems that could emerge if the long 1980 presidential campaign is not settled on November 4. Briefly, it suggests that a prolonged deadlock could result, forcing political leaders and elected officials to utilize rusty procedures outlined in the Constitution or improvise a solution. It is conceivable that the next President could be chosen by the Electoral College, by the House of Representatives, by the Senate if the House deadlocks, or by special election. If the House seeks to resolve an electoral deadlock, the 97th House of Representatives is likely to make the decision, but either the 96th or 98th Congress could be involved.

INTRODUCTION

Imagine it is Wednesday, November 5, 1980. Americans have voted for President, but the results are inconclusive. Tabulations show that no candidate has received the necessary plurality of popular votes in states with a majority of electoral votes.

For the first time in over a century the nation's complicated election procedures have failed to produce a clear-cut winner in the November general elections. As a result, no presidential candidate apparently will have a majority when electors cast their ballots on December 15. Across the country editorial writers and commentators, perceiving the country faces a period of uncertain leadership, view with alarm the "greatest constitutional crisis since the much-disputed Hayes-Tilden election of 1876."

DECISION IN THE ELECTORAL COLLEGE

Even if no presidential candidate gains a majority of electoral votes on November 4, it would still be possible for the Electoral College to decide the outcome when the 538 electors meet in their respective states and the District of Columbia in mid-December.

Free Agents: Contrary to common opinion, electors are not required to vote for a particular presidential or vice-presidential candidate. The authors of the Constitution intended for electors to be free agents with considerable latitude to exercise individual discretion. Indeed, the Founding Fathers did not anticipate that poltiical parties would emerge to influence the choice and decisions of electors in the Electoral College balloting. Nonetheless, in five of the past six presidential elections an elector has broken faith with his own political party to vote for someone else. These acts of political infidelity have not determined the outcome of a presidential contest. For instance, in 1976 a Ford elector from the state of Washington cast his vote for Ronald Reagan, but the action had no lasting impact because Jimmy Carter had a majority of votes.

Persuading Electors: In a presidential contest involving three major candidates it is possible to envisage a situation in which supporters of some candidates seek to influence electoral votes. Essentially, there might be efforts to persuade a few individuals to break faith with home state voters and provide the margin of victory. There is some precedent for such bargaining in the 1876 election when Democrats reportedly tried to bribe a Republican elector to vote for the Democratic candidate—Governor Samuel Tilden of New York. But, the elector did not switch, and subsequently Rutherford B. Hayes of Ohio was declared the winner.

To discourage crossover voting in the Electoral College, a number of states have laws and party rules that seek to bind electors. Some even impose criminal sanctions. In *Ray v. Blair*, 343 U.S. 214 (1952), the Supreme Court upheld a rule of the Alabama Democratic Party requiring electors to take a pledge to support the party's nominee. There is another potential deterrent to large-scale crossover voting in the Electoral College. Members of the new Senate and House, who convene in joint session to count electoral votes, could challenge the ballots of faithless electors. In practice, these challenges have not succeeded.

Other Obstacles: There are several other reasons why it may be difficult for members of the Electoral College to resolve an impasse. First, because electors will meet in 51 separate locations at different times on December 15 to cast their ballots, it will be more difficult for party leaders to maintain party discipline and to negotiate effectively a political solution for a succession crisis. Second, in a presidential contest with several major contenders it is more likely than usual that controversy will remain after popular balloting about the final determination of some state's electors. Such a situation emerged in 1876 and led Congress to create a special 15-member Electoral Commission to determine the disputed electoral votes.

To resolve similar episodes in the future, Congress passed the Electoral Count Act in

1887, giving each state final authority to determine the legality of its choice of presidential electors. This did not settle all of the issues, however. A number of states still have no provisions for recounting votes cast in a general election involving presidential electors. And, in 10 states there are apparently no statutory grounds for challenging the results of contest involving presidential electors.

Legitimate Solution? Because many scholars and commentators consider the Electoral College an anachronism of the 18th century, the public might not consider as legitimate a brokered verdict in the Electoral College. Perhaps the charges of broken faith against electors who exercised individual discretion, and chose to vote against the wishes of people who selected them, would poison the atmosphere and compromise a new administration even before it took office.

CONGRESS COUNTS ELECTORAL VOTES

After the electors meet in their home states, the results are transmitted to Washington and counted in a joint session of the House and Senate. The 12th Amendment to the Constitution provides that the President of the Senate (currently Vice President Walter F. Mondale) shall open the electoral certificates in the presence of the Senate and House. Then the electoral votes shall be counted. Current law stipulates that the new Congress will count the votes. Because the 20th Amendment, ratified in 1933, says that the terms of President and Vice President shall end at noon on January 20, and because it also provides that the new Congress shall convene at noon on the third of January, Congress decided in 1934 that it would hereafter open and count electoral ballots on January 6.

After the President of the Senate reads the electoral certificate from each state, pursuant to the 1887 Electoral Count Act, he asks, for objections, if any. Not until 1969 were there objections. Then Sen. Edmund Muskie (D, Maine) and Rep. James O'Hara (D, Mich.) disputed the vote cast by a North Carolina elector. Although chosen as a Republican elector, this individual cast his vote for the candidates of former Alabama Gov. George Wallace's American Independent Party. Then, to consider the objection, the Senate withdrew and each house discussed the matter separately. Neither decided to sustain the objection. Thus, without a concurrent majority to reject the ballot, the faithless elector's vote was allowed to stand.

HOUSE ELECTS A PRESIDENT

If no candidate for President receives a majority of electoral votes (270), the Constitution (12th Amendment) provides that the House will immediately choose the President by ballot from among the three persons having the highest number of electoral votes. In this process Members vote by states, and each state has one vote.

A quorum consists of a member or members from two-thirds of the states (34). The vote of a majority of states (26) is necessary to elect the President. Because the District of Columbia does not have a voting representative in the House, its citizens would be effectively disfranchised at this stage, even though they had voted in November for presidential electors.

Past Precedents: Only twice has the House elected the next President after a deadlock in the Electoral College. The first time was in 1801 when Thomas Jefferson and Aaron Burr each received the same number of electoral votes. The House took 36 separate ballots to choose Jefferson. This episode emphasized a weakness in the Constitution—originally the person with the highest number of electoral votes became President while the individual with the second highest number became Vice President. To avoid a recurrence of this problem, when a single deadlock blocked selection of a President and Vice President, the 12th Amendment was ratified in 1804. It stipulated that electors would cast separate ballots for President and Vice President.

In 1825, none of the four presidential candidates received an electoral majority. Under terms of the 12th Amendment the House had to select among the top three candidates—Andrew Jackson, John Quincy Adams and William Crawford. Although Jackson had received the largest number of popular votes and the largest number of electoral votes, he lost in the House to Adams amidst charges of a corrupt bargain. Henry Clay, the candidate fourth in electoral votes, urged his followers to back Adams, and Clay subsequently accepted the post of Secretary of State in the Adams administration.

In both instances the old House of Representatives met to count electoral votes and select the new President. This occurred because before 1933 the terms of Congress and President began simultaneously on March 4. Thus, it was an accepted fact that a lame duck session of the old Congress should convene after citizens and electors balloted to count the ballots and resolve any disputes.

97th Congress May Decide: Since the 1930s, when the 20th Amendment was ratified and Congress provided for counting electoral ballots on January 6, it has been the custom for the new Congress to settle issues growing out of a disputed presidential election. The 97th Congress, which convenes in January 1981, would most likely have to resolve the succession issue promptly—only two weeks stand between the date set to count electoral votes (January 6) and the time when the new President is scheduled to take the oath of office (January 20).

Potential problems: A number of problems, some procedural and others political, are likely to emerge if the new House must quickly vote on presidential succession.

Much discussion would center on the specific rules that would govern House consideration of the issue. Rules employed in 1825 offer some precedent, but would need to be adapted to meet modern circumstances. Because of the limited time available, the House might wish to draft and adopt a set of rules after the November election. The 97th House would then adopt these rules, perhaps with modifications, and save some vital time.

Open or Closed Balloting? Several points might prove controversial. First, would the balloting be open or closed to the public? Rules used in 1825 provided for closing the doors of the Hall during balloting, except against Members of the Senate, stenographers and the officers of the House. Because the 20th Amendment does not specifically require secret balloting, it is reasonable to presume the public would clamor for open voting. Undoubtedly, the electronic media would ask to cover the proceedings.

Plurality or Majority Voting? Under rules used in 1801 and 1825, when a state delegation split three ways, for example 2–2–3, that state's ballot was marked "divided" and it was not counted. To continue this procedure would likely be to disenfranchise some states. It would also complicate the quest for a majority of 26 state votes (out of 50) needed to elect. Some Members might object to rules requiring a majority of an individual state's congressional delegation to determine its vote in the House for President when only a plurality of popular votes is required to select that state's choice of electors.

Handling Other Business: Another procedural issue would require prior resolution. Namely, once the House began to ballot for President, how would it dispose of other business and parliamentary disputes? The rules adopted for use in 1801 and 1825 allowed the House to vote for President without interruption until a Chief Executive was chosen. Incidental issues, it was agreed in Committee of the Whole, would be resolved by a vote of the states—not by per capita voting—and when without debate. (See 3 Hind's Precedents sec. 1892.)

Disputed Congressional Elections: Several other factors could complicate expeditious consideration. For one thing, the House would have to decide how disputed congressional elections would be resolved, if at all, before the House began to vote for President. This is a critical issue that the House did not face in 1801 and 1825, because at that time the lame-duck House settled electoral disputes. Obviously, because in some states a single member of the House would cast the state's presidential vote, how this issue is resolved could have a major bearing on selection of the next President. To rush for a quick judgment on disputed elections between January 3 and January 6 could prejudice due process. However, to ignore the vote of a single state, because its congressional contest was still unsettled, would effectively disenfranchise voters of that state and complicate the quest for a majority of 50 states needed to select the President in the House.

Binding Members: Both during the congressional elections and during the House proceedings, there may be efforts to oblige Members of Congress to vote for one or another presidential candidate. One such initiative is H. Res. 694, sponsored by Rep. Joel Pritchard (R-Wash.). This resolution would express the sense of the House that Members should choose as President the person receiving the greatest number of popular votes nationwide in the general election. There could be other initiatives in party caucuses or conferences to bind Democrats and Republicans.

Dangers of Deadlock: Despite the enormous pressures for a quick solution to the succession problem, it is by no means certain that the House could choose a President. One key factor in the outcome would be the degree of party unity that Democrats and Republicans manifest in support of their party's presidential nominee.

At the present time (96th Congress), Democrats hold a majority of state delegations (29 of 50), while Republicans control only 12. Nine state delegations are evenly divided between Republicans and Democrats. Many political analysts believe that congressional Republicans will gain a number of seats in the autumn elections. At this stage (mid-June) one can only speculate about the partisan composition of the 97th Congress. It would take only 16 strategically placed gains for Republicans to control a majority of state delegations in the next Congress. However, it might well be that neither party would have the necessary 26 state delegations.

If the latter situation emerged, some Members might come under enormous pressure from constituents, the media and their colleagues to break party ranks and vote for the candidate who stood first in popular votes or who carried an individual state or district.

There are several other ways the succession crisis might be settled:

96th Congress Decides: It is possible to envisage circumstances in which the 96th Congress would face a decision on presidential succession. For instance, the results of several congressional elections might be in dispute after the November general election. And, the resolution of these might determine how individual states would vote on succession. Or, the Democrats might lose control of a number of state delegations in the new Congress so that they—and perhaps the Republicans as well—lacked control of 26 states. In these circumstances, some House leaders might consider changing existing law—not the Constitution—so that the old 96th Congress could return for a lame-duck session to count electoral votes and then elect a new President.

To justify this procedure, supporters might emphasize that the new Congress would apparently be deadlocked, or might be unable to resolve questions about disputed elections by January 20 in order to reach a solution. Also, they might cite earlier precedents. In 1801 and 1825 the lame-duck House chose a President; in 1837 a lame-duck Senate selected a Vice President.

Problems with Approach: There are other factors that militate against consideration in the 96th Congress. For one thing, there are only three weeks between December 15, when electors vote, and January 3 when the new Congress convenes. In this span of time it is doubtful that Congress could count electoral votes and process any objections and then move to choose a President, unless it had made substantial preparations. The latter would include changing existing law and drawing up an acceptable set of rules to guide House selection of a President.

For another, it is possible that the media and public opinion would resist any attempt to rewrite election procedures in midstream. Opponents might recall a Senate report on the 20th Amendment that shows the authors of this amendment intended for the new House of Representatives to select the new President. They specifically rejected the 19th century view that a lame-duck Congress, composed of some officials defeated at the polls, should attempt to elect a President for the next four years. (See Senate Report No. 26, 72nd Cong., 1st Sess. (1932), pp. 4–5)

The Senate Decides: Noon on January 20, 1981, is another key milestone. At that hour the President-elect is scheduled to take the oath of office as President. But, if there is no President-elect, then the Vice President-elect takes the oath to serve as acting President. However, if no Vice President has been elected, the Presidential Succession Act would govern. In this case the Speaker of the House could become acting President.

Under provisions of the 20th Amendment the Vice President is authorized to act as President until a President shall have qualified if no Chief Executive has been chosen or qualified by January 20. In this situation the Vice President becomes only a formal President until the House makes a formal presidential selection. And, when the House does complete its action, the acting President once again becomes Vice President.

Senate Selects Veep: Elevating the Vice President to acting President assumes a Vice President has been elected. This may, or may not, be the case. In 1801, for example, the Electoral College was deadlocked over both offices. In 1825, however, John C. Calhoun of South Carolina won easy election as Vice President, while electors were deeply divided about the choice for President.

If the Senate must select a Vice President, it chooses from among the two individuals with the highest number of electoral votes. In Senate voting a quorum shall consist of two-thirds of the number of Senators (67), and a majority (51) shall be necessary.

Only once has the Senate selected a Vice President. In 1837 Richard M. Johnson who had received one vote less than a majority in the electoral college was chosen.

Procedure Less Cumbersome: The Senate procedure is less cumbersome than that prescribed for the House in selecting a President. The Senate selects from the top two candidates, while the House can consider as many as three. As a result, either the Democrats, who presently hold a 59–41 advantage, or the Republicans should have a majority in the new Senate. If the Democrats prevail, Vice President Walter Mondale would probably become acting President. If the Republicans gain 8 or 9 seats, the outcome would be quite different.

Presidential Succession Takes Effect: Suppose neither the House nor the Senate can elect an individual qualified to take the presidential oath on January 20. In this instance, the 20th Amendment to the Constitution would govern the succession issue. It provides in Section 3 for Congress to provide by law for these circumstances. Congress did this in 1947, deciding that the Speaker of the House and, if necessary, the President pro tempore of the Senate should act as President. If neither of these qualified, the line of succession would pass through the Cabinet, beginning with the Secretary of State. Presumably, the acting President could then invoke provisions of the 25th Amendment and nominate a Vice President to be confirmed by Congress. This procedure was followed when President Richard Nixon nominated Gerald R. Ford, and when Ford, in turn, selected Nelson A. Rockefeller.

A New Presidential Election? What happens if the House is unable to select a President and the Vice President begins to serve as Acting President? There are a number of options available. First, the House might continue to ballot, although this course might disrupt the consideration of other business and it might sustain uncertainty about future policies of the Executive Branch. Second, the House might suspend further balloting until after the 1982 congressional elections. Then, it could try again to select a President. Third, the Congress might direct members of the Electoral College to meet again in their home states, or perhaps in Washington, to resume voting. Fourth, Congress might authorize a new election to choose presidential electors, as unprecedented as this might be. Or finally, the House might simply permit the Acting President to serve out the four-year presidential term.

DEATH OF A PRESIDENTIAL CANDIDATE

The death of a presidential candidate between the party conventions in July and August and Inauguration Day on January 20 could also complicate the selection of a new President.

Candidate Dies Before December 15: If a presidential or vice-presidential nominee dies before December 15 when the Electoral College meets, the appropriate political party would need to invoke procedures, approved by its own convention, to select a replacement. Contrary to common knowledge, a presidential nominee is not elected in a formal sense after the public votes in November; election follows the balloting of presidential electors in December. To handle the situation, Republicans would convene a meeting of the National Committee, and the members from each state would cast the same number of votes as their states did in the National Convention. If a candidate died after the popular election, presumably both the Democrats and Republicans would urge their electors to support the party's replacement candidate. Nonetheless, it is quite likely that this circumstance would severely test party discipline. It might lead to a higher rate of crossover voting by electors than normal.

President-Elect Dies Before Inauguration: If the President-elect dies after the Electoral College votes in mid-December, the Vice President-elect would be sworn in as President, not as acting President. And, if both the President-elect and Vice President-elect should die before the inauguration, the Speaker of the new House would resign as Speaker and as a Member of the House and be sworn in as President. Since language in the 20th Amendment indicates he would "act accordingly until a President or Vice President shall have qualified," it is reasonable to think the acting President could nominate a Vice President, subject to the approval of Congress, and then step aside. There are ambiguities in the language that could present problems of interpretation.

Death of a Candidate When Congress Decides: If the Electoral College should deadlock, either in selecting a President or Vice President, and then one of the candidates under consideration by Congress for the appropriate post should die, Congress has authority under provisions of the 20th Amendment to provide a remedy. Until now Congress has not enacted legislation for this contingency, perhaps it is a remote possibility. Among the possible solutions would be legislation authorizing the substitution of a name or the reconvening of the Electoral College. Very likely, however, the House or Senate would simply select from among the remaining candidates. This might seem to disenfranchise supporters of a major party candidate, but in reality the situation could turn out differently. If a presidential candidate died at this stage in the selection process, his supporters in the House might simply block the selection of a President—through failure to achieve a majority for any candidate—and thus allow the Vice President-elect to become President. Or, the Senate might choose a Vice President who would then succeed to the presidency, if the Electoral College had failed to select a Vice President.

CONCLUSION

This paper represents a preliminary effort to identify some of the peculiar procedures and possible complications that could emerge after an inconclusive general election. What it shows, more than anything else, is the complexity of the electoral procedures and the variety of remedies available to settle an impasse over presidential succession.

The most likely remedy for an inconclusive distribution of the electoral vote is for the next House of Representatives to select the new President. But, as this paper shows, there are several other possible solutions.

BREACHES OF SECURITY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remark.)

Mr. RUDD. Mr. Speaker, according to news reports, Communist China's Vice Premier for Defense, Geng Biao, was recently given a personal tour of top secret North American Air Defense Command Headquarters at Colorado Springs, on orders from U.S. Defense Secretary Harold Brown.

The Communist Chinese official and his team of defense advisers, who were in the United States to get our Government's approval of a major arms sales agreement with their country, were also given high level tours and briefings aboard the Navy's frontline aircraft carrier, the U.S.S. *Ranger*, and at Fort Carson Army Base, where the Communist Chinese viewed military exercises involving air defense and combat infantry maneuvers.

Again, these visits were made much to the dismay of many of our own military officials on orders from the administration and Secretary Brown.

To add to the irony of the incident, while these Communist defense experts were being led through our important NORAD defense facilities in Colorado, American news reporters accompanying the visitors were denied entrance to the headquarters or permission to question the Chinese Communists about their visit.

Apparently, the secrets contained within the NORAD headquarters are too sensitive for American reporters to reveal to American citizens. But the administration does not feel they are too sensitive to supply to a Communist adversary and their associates in Peking.

Following the NORAD visit on May 31, during the visit of Vice Premier Deng aboard the U.S.S. *Ranger*, extensive discussions evidently took place between Navy pilots and the Chinese concerning our Navy aircraft, radar, and our overall military capabilities.

The Carter administration should surely recognize the folly of flaunting our defense technology in front of leading officials from a self-proclaimed opponent of most United States and free world policies and goals.

The Carter administration's rhetoric notwithstanding, it should be clear that the Chinese Communists are in no way real friends or allies of the United States or U.S. interests. Any common interest which they may share with us today in opposing Soviet aggression is likely to prove fleeting at best.

Our Nation's long-range objectives do not coincide with the People's Republic of China, whose policies are diametrically opposed to the principles of freedom on which our country is founded.

I cannot imagine that it would ever be in our long-term national interest to share with the Communist Chinese even the most superficial military information, much less guided tours and top-level briefings of our most sensitive air defense command or naval power in the Pacific.

The administration has made another very serious blunder in this matter, by adopting the view that the Communist Chinese are our friends, which they most definitely are not. The Communist Chinese are ideological foes of the United States, and the administration has seriously breached U.S. security by ordering these visits to our military installations.

I have asked Defense Secretary Harold Brown to provide full information and rationale concerning this questionable policy. I cannot imagine that there is any justification for this particular Chinese visit, and I have requested information concerning any further administration plans to open up our military installations to Communist Chinese officials.

At this point in the Record, I would like to include two articles outlining the activities of the recent Communist Chinese delegation during their visit to the United States:

[From the Los Angeles Times, June 2, 1980]

CHINESE VICE PREMIER TOURS TOP-SECRET U.S. AIR COMMAND

Colorado Springs, Colo.—China's vice premier for defense, Geng Biao, has toured the top-secret headquarters of the North American Air Defense Command.

Reporters were not allowed to accompany Geng on the tour Saturday and were not allowed to ask him questions later.

Geng's stop here came at the end of a 10-day U.S. tour that included discussion with Carter Administration officials in Washington on the sale of military equipment to China.

On Friday, he toured nearby Ft. Carson Army base and watched an exercise involving infantry, tanks, artillery, air defense and combat-engineering troops.

[From the Aviation Week & Space Technology, June 9, 1980]

CHINESE VISIT U.S. AIRCRAFT CARRIER

Aboard the USS Ranger.—Front-line U.S. Navy aircraft were examined and discussed in detail by top defense officials of the People's Republic of China last week, during a visit to this aircraft carrier as it steamed in the Pacific off the coast of Southern California.

The one-day visit to the Ranger included briefings on the ship and its functions, observation of aircraft launch and recovery operations on the Ranger's flight deck, close-up examination of the various types of aircraft on board in the ship's below-deck hangar, and a flyby involving many of the ship's aircraft.

The Ranger visit was one of the final events in a week-long U.S. tour by the Chinese delegation, which had visited other U.S. military facilities in preceding days. The delegation included Chinese vice premier Geng Biao; Liu Huaqing, vice chief of staff of the People's Liberation Army; Du Ping, director of weapons, PLA general staff; Ma Zhanmin, vice chief of staff of the Chinese Air Force; and Wang Nanshou, chief engineer of the Cheng Du Aircraft Co. (AW&ST May 26, p. 24).

Members of the delegation conducted extensive discussions with aircraft pilots and systems operators, asking penetrating questions on the characteristics and performance of many of those systems and taking copious notes on the responses they received.

"They had some very specific questions on the performance of the aircraft and its systems," said a Navy pilot who had answered Chinese questions on one of his squadron's Lockheed S–3A antisubmarine patrol aircraft. "It was obvious they had done some homework before they came and already knew quite a bit about the equipment."

Liu Huaqing, the vice chief of staff of the PLA, sat in the front seat of a Grumman F–14 fighter while asking his briefers about the range of the aircraft's radar and the performance of its Phoenix air-to-air missiles. Other delegates received similar briefings in the S–3 and the Grumman A–6 and LTV A–7 attack aircraft.

Several members of the delegation closely scrutinized the basket-like refueling receptacle on an A–6 equipped as a tanker to refuel other aircraft in flight. Others prodded Navy briefers for more information on weapons and antisubmarine search procedures.

"They were all very cordial," said one Navy pilot who had been briefing the Chinese and answering the questions. "But it was difficult to answer many of their questions—I kept looking at that red star on the front of their uniform caps."

The Chinese delegation was scheduled to stop in Hawaii the following day for a briefing on Pacific fleet operations before returning to China.

VIABILITY OF THE NAVY F/A18

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, today I am raising serious questions regarding the viability of an important new Navy aircraft, the F/A18. The time is long past for this aircraft, the F/A18, to have demonstrated its promise. It is the largest item, at $1.78 billion, in the recently passed defense authorization, yet very serious questions arise as to its viability.

After an extensive examination by myself and my staff, we have pulled together information that points up many problems, all of which are expected to result in cost overruns on the F/A18 of at least $11 billion, more than double the cost overruns on the entire Navy shipbuilding program for the decade of the 1970's.

Congress faces this situation without the benefit and without the direct oversight that the F/A18 program merits. The GAO was denied information, the appropriate committees have not been dealt with forthrightly by the Navy, and even the highest sources in the Defense Department have not been fully informed.

Certainly today, as we struggle to meet the budget challenge, there is no room for a program of this nature.

Either the F/A18 can cut the mustard regarding the Navy defense needs or it should be eliminated and replaced with a plane that can meet our defense needs.

I will be sending the following letter to my colleagues concerning this most serious issue with the hope of restoring competent congressional oversight of the F/A18.

The letter reads as follows:

Washington, D.C., *June 11, 1980.*

Hon. Melvin Price,
Chairman, House Armed Services Committee,
Washington, D.C.

Dear Mr. Chairman: We are writing to you because of our concern for a strong national defense. An integral factor in maintaining a strong defense is the adequacy of the equipment available to our forces. It is our responsibility to insure that the military has available modern and effective equipment. A modern military does require a significant investment of funds, but a strong national defense is not guaranteed by an uncritical large expenditure of federal funds. Obviously, any equipment that we procure must reflect the latest technological advances, as well as meet its specifications and cost limitations. If a program fails those criteria, it must be reassessed. Such a reassessment may result in a continued commitment to that project, modifications of the proposal or the development of alternatives. Regardless of the decision, we can expect an end product that is more effective and fiscally sound than if we allow a faulty, unmodified program to continue.

In the House-passed Department of Defense Authorization, $1.78 billion was authorized for the development of the F/A–18. Since consideration of this bill, we have become aware of the serious questions about the efficacy of the aircraft, which demands Congressional review. This information gathered through the February, 1980, GAO Report, "F/A–18 Naval Strike Fighters: Its Effectiveness Is Uncertain" and independent investigation includes:

Information that cost overruns on the program are approaching $11 billion;

That the F/A–18, intended as an aircraft carrier fighter, cannot at present land on a carrier;

That the plane does not have the range to fill U.S. Navy needs for fighter and attack missions;

That flight tests and evaluations are 40 percent behind schedule;

That the Defense Systems Acquisitions Review Committee (DSARC III), the final production decision which was due this spring, has been delayed for two years;

That a complete computer analysis (war gaming) in the last few weeks by the staff of the Chief of Naval Operations (CNO) has cast new doubts on the ability of the F/A-18 to meet many mission needs;

That the Office of Management and Budget (OMB) has recently commissioned a restudy of the F/A-18 program because of the cost explosion, as well as technical and scheduling problems.

This information raises enough questions to justify the immediate attention of all Members of Congress. Both GAO and OMB have raised concerns about the program. Top Navy and Defense officials are aware of problems. Yet thus far, the F/A-18 has eluded Congressional scrutiny.

It is our hope that your Committee will hold public hearings on the issue of the F/A-18. Before we commit more funds to this project, hard questions, such as the following, must be answered:

What are the cost overruns on the F/A-18? Is it true that the program cost growth in the last 15 months is about twice the total overruns for all Navy shipbuilding in the 10-year period from 1970-79?

Is the F/A-18 now prohibited from carrier landings because the landing gear collapses under the stress of such landings? What will redesign of the landing gear mean in time and cost?

How serious is the wing flutter problem during flight? Is it true that current aircraft are subject to a flight restriction of 400 knots and 3.5 g? What will redesign of a whole new wing mean in time and cost?

Was the acceleration specification reduced? Is it true that the plane is about 30 percent below even the reduced specifications?

Does the F/A-18 meet the specification range for fighter and attack missions? Does the minimal fighter range depend on non-use of the afterburner? Has this specification already been reduced and will it be reduced again?

Is the F/A-18 about 1,600 pounds overweight? Is the Navy trying to change the specifications for dry weight and take-off gross weight to match the current overweight levels?

Is it true that the F/A-18 is 40 percent behind the test schedule in flight hours?

Will the correction of major structural deficiencies ultimately mean total redesign of the aircraft?

In addition, we understand that on April 8, 1980, the F/A-18 Project Manager briefed the Chief of Naval Operations on the full scope and implications of problems with the F/A-18 program. A transcript of his report, as well as the complete results of the more recent war gaming by the CNO's staff, is essential for our consideration of this project.

As we stated earlier, hearings on this issue can only enhance our national defense. Congressional review can either reaffirm our commitment to the F/A-18; lead to needed modifications; or to the development of more effective alternatives.

We urge that the Committee hold public hearings into this matter as soon as possible.

Sincerely yours,

Bruce F. Vento,
Member of Congress.

RESOLUTION TO DIVIDE FIFTH CIRCUIT COURT

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, the Judicial Council of the U.S. Court of Appeals for the Fifth Circuit recently adopted a resolution requesting Congress to enact legislation dividing the presently existing fifth circuit into two completely autonomous judicial circuits. I rise today to introduce a bill that will carry out the intent of the resolution.

Under my bill, the fifth circuit would be composed of the States of Louisiana, Mississippi, and Texas, with headquarters in New Orleans, and a new 11th circuit would be formed that would include the States of Alabama, Florida, Georgia, and the territory of the Canal Zone, with headquarters in Atlanta.

At the present time, the fifth circuit has 26 judges. This is an unwieldy number of judges to have sitting on any bench if they are to make the necessary decisions they must make in a timely and efficient manner. The highest court in our land has only nine judges on its bench. A majority of the judges in the fifth circuit believe that this distribution of judges is a terrible waste of personnel, and I share their concern. With my bill, the fifth circuit would have 14 judges and the new 11th circuit would have 12. This would be a much more reasonable number of judges to deliberate the court's business.

As the fifth circuit now exists, it has posed many logistical problems for the bench and the bar of the region. For this reason, as well as others I have stated, the Judicial Council of the District Judges Association of the fifth circuit unanimously requested this division.

At this time I would like to submit this bill for introduction and respectfully request that the Council's resolution be made a part of the Record:

Resolution

Whereas the Judicial Council of the United States Court of Appeals for the Fifth Circuit on May 5, 1980 approved, by unanimous vote of twenty-four circuit judges in active service, a resolution petitioning the Congress of the United States to enact legislation dividing the presently existing Fifth Circuit into two completely autonomous judicial circuits, one to be composed of the States of Louisiana, Mississippi, and Texas, with headquarters in New Orleans, to be known as the Fifth Circuit; the other to be composed of the States of Alabama, Florida, and Georgia, with headquarters in Atlanta, to be known as the Eleventh Circuit; and

Whereas the District Judges Association of the Fifth Circuit consisting of one hundred and ten district judges in the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas strongly support and endorse the concept of dividing the presently existing Fifth Circuit as proposed by our Judicial Council for reasons well known to the bench and bar of our region of the nation for a number of years; and

Whereas, we find it in the public interest to urge the Congress to pass legislation to effectuate the division;

Be it resolved that we hereby approve the division of the presently existing Fifth Circuit as proposed by the Judicial Council of the United States Court of Appeals for the Fifth Circuit and we join with our circuit judges to request and petition the Congress of the United States to enact appropriate legislation for the accomplishment of such division as soon as practicable.

Be it further resolved that this Resolution be forwarded to the President, the Attorney General, the Chairmen of the House and Senate Judiciary Committees, and all members of the House and Senate from the States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

CONGRESSIONAL DISAPPROVAL OF FOUR EDUCATION DEPARTMENT REGULATIONS IGNORED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Petri) is recognized for 2 minutes.

Mr. PETRI. Mr. Speaker, the decision by Attorney General Civiletti and Education Secretary Hufstedler to ignore congressional disapproval of four Education Department regulations poses serious constitutional questions for the Congress and the people of this country. The question is not over these particular regulations, but over a basic conflict between the branches of government.

We need to make it clear, the legislative branch makes the laws. We need to make it clear, the executive branch carries out the laws. If, as in this case, the executive branch has strayed so far from the intent of the law to transform it into something new, then it is our responsibility to tell the executive branch that it is not fulfilling its duty to carry out laws made by Congress.

It is not within the power of department heads to change the laws of Congress. It is not within their purview to create new laws through regulations.

I have asked my distinguished colleague and chairman, Mr. Perkins, to hold a hearing to ask Mr. Civiletti and Secretary Hufstedler to explain their reasoning in this matter. If the administration does not reverse this policy, I believe that we should make new appropriations for the affected programs subject to a reversal of this policy, or take other suitable action.

This body, and our colleagues in the Senate, must challenge this usurpation of our responsibility. We owe it to the constitutional provision of separation of powers, and we owe it to the people of this country, who elected us to make the laws and to oversee their implementation.

ROLL CALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Michel) is recognized for 60 minutes.

Mr. MICHEL. Mr. Speaker, I want to take this opportunity to congratulate Sid Yudain on the 25th anniversary of his newspaper, Roll Call.

In many ways Capitol Hill is not really a geographic location, but a state of mind. Those of us in Congress come from all over the Nation. We live in different parts of the Washington area. Staff members come and go. There is little sense of permanency or continuity.

For 25 years Sid Yudain's Roll Call has been serving as a local newspaper for Capitol Hill and thereby contributing to whatever sense of community exists here. It might be said that Roll Call is one of this area's true neighborhood institutions, since its reports on the events and personalities of the Hill are read widely and looked forward to each week.

There are bigger newspapers than Roll Call but, as the popular song goes, "nobody does it better" when it comes to reporting the triumphs and tragedies, the arrivals and departures, the gossip and the history, of the Capitol Hill area.

● Mr. CONTE. Mr. Speaker, when all of us first arrived in Washington from our home districts around the country, there were many "hometown" touches that we sorely missed—the corner store, our friends, and most importantly, the local newspaper. Whether it was a weekly or a daily, that hometown paper carried the news that was important to us—the national and international news that directly affected our area, and the timely local news that presented the personal side of local happenings.

Although nothing could completely fill the void of the delivery of our local paper when we arrived in Washington, Sid Yudain's Roll Call was adopted by many of us as a foster local paper. Sid and his staff have made it their business to see that the Halls of Congress are reported from the inside out by focusing on the people—the Members, the leadership, and the staff—that have made this institution what it is, and have led us to adopt Washington as a second home.

Roll Call itself has changed over its 25 years, but has always held high its standards of decent and fair reporting. Those of you who know Sid Yudain know that he is a storyteller of the highest caliber. By keeping the inside track on the workings in and about the Capitol, he has provided us with a constant stream of stories that tell the little bit of history of which we are all a part.

Twenty-five years ago, Sid was an aggressive young man with an idea, which he espoused in his first issue of Roll Call. His aim was:

To create more interest in Hill activities;

To present a newspaper of such concentrated appeal that it will be read from cover to cover;

To inform neighbors and friends of illnesses, births, marriages, and various personal affairs of cohorts and colleagues;

To remain completely nonpartisan while reserving the right to kid the pants off both parties, always within the bounds of good taste; and,

To provide a service to the Congressmen and legislative employees of Capitol Hill.

Now, Sid—a wise, seasoned newsman with a keen eye and acerbic wit—is part of a tradition of public and community purpose.

My experience with Sid and his staff has centered around, but has by no means been limited to, that annual authorized slugfest between the right and left sides of the aisle, the Roll Call congressional baseball game. Without Sid's support and sponsorship, I would not have had the opportunity to coach and manage the Republican team, and all of us would have lost out years ago on one of the events that is a true exercise of friendly competition between traditional floor rivals.

Through the sponsorship of this event and the publication of his weekly paper, Sid Yudain has served our Nation in a way that very few can claim. He has shown us his successes as a reporter, a businessman, a humorist, an artist, and above all, a friend. He has gotten to know all of us, but has also acquainted us with each other.

I salute Roll Call, "The Newspaper of Capitol Hill," on its 25 years of service, and I hope that the next 25 will be equally as successful.●

● Mr. GOLDWATER. Mr. Speaker—

There once was a Sid from the Hill,
Who using paper and pen and sheer will
Kept track under the dome
Of we who call home,
The Congress, and he's doing it still.

Happy 25th anniversary, Roll Call.●

● Mr. ROE. Mr. Speaker, I take great pleasure today in joining my colleagues in a well deserved salute to Roll Call on its 25th anniversary.

Roll Call is indeed a most unique newspaper. It is perhaps the only weekly newspaper in America that is read on a daily basis by all members of the House and Senate as well as most congressional aides.

Mr. Speaker, Roll Call publisher Sid Yudain has done a marvelous job over the past quarter century seeing that lawmakers, staff members and other parties interested in the workings of Congress are kept well informed as to what is going on in the Capitol.

In addition to providing good inside news coverage, Roll Call also supplies another service that is not provided by any other publication. Its superb columns dealing with the personal side of life in Congress keeps us all up to date as to what is happening to our friends in other congressional offices. In a sense then, Roll Call is our own "family newspaper" and I am sure it is the "sense of Congress" that we all wish it many more years of success.●

● Mr. WINN. Mr. Speaker, I rise today to join with my colleagues in saluting our friends at Roll Call.

I have served in these hallowed halls for nearly 14 years. During that time period, I have found many occasions to peruse the most esteemed newspapers and magazines.

Yet, the one source of information I find most enjoyable, the one newspaper I notice being more avidly read by my colleagues in the cloakrooms, the one publication snapped up by my staffers, is Roll Call.

Why Roll Call, when it could be the New York Times, the Washington Post, the Los Angeles Times?

Perhaps it is because this enduring and endearing little newspaper of Capitol Hill provides us with just the right amount of "news," the right amount of humor, and the right blend of politics. It gives us a window on the world and a peek at our adventures and misadventures.

But its most important function may be that it reminds us all that we are human and can laugh at ourselves. For, as the British author, William Makepeace Thackery, once observed:

> People who do not know how to laugh, are always pompous and self-conceited.

I salute Roll Call and extend my best wishes to Sid Yudain and his staff for another 25 years of continued success.●

● Mr. GIAIMO. Mr. Speaker, today we observe the silver anniversary of our community newspaper Roll Call and pay tribute to its golden editor and publisher Sid Yudain.

Roll Call already was a sprightly, 3½ years old when I entered the Congress, and it has matured into an indispensable part of life on Capitol Hill. For 25 years, Roll Call has informed us, cheered us, and occasionally criticized us. Its success proves that even in this occasionally rarified atmosphere we like to hear about birthdays and weddings, comings and goings, and those daily occurrences that keep us from taking ourselves too seriously.

Roll Call has been—and always will be—synonymous with the versatile Sid Yudain, a fellow Connecticut Yankee. Sid knows his craft. He treats a hard news story or his "Sid Bits" column with equal dedication. He also recognizes that what the major media call "the Congress" actually consists of individuals no different than people in Peoria or New Haven. By mixing the right amount of news, comments, satire and humor, and "people articles," Sid has made Roll Call a weekly happening on the Hill.

I join with my colleagues in congratulating Sid and in paying tribute to Roll Call on its 25th anniversary. May the presses never stop.●

● Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to extend my congratulations to those responsible for the publication of Roll Call. Every week, this little newspaper provides Members of Congress and their staffs with up-to-date information on activities within Congress as well as humorous asides. It is truly indispensible.

Roll Call is now celebrating its 25th anniversary, and we all share in the feeling of pride and happiness that Sid Yudain and the entire staff at Roll Call must now be experiencing. Let us all hope that Roll Call maintains its lively pace and continues to provide us with news and with humor for many years to come.●

● Mr. RAHALL. Mr. Speaker, each Thursday I pick up my copy of Roll Call, and settle down for a brief period of reading and catch up on the lighter side of Capitol Hill.

Although I have not been in Congress for the 25 years Roll Call has served as "the newspaper of Capitol Hill," I have found it enjoying, and from time to time, have even found myself on one of its pages.

I commend Sid Yudain and his staff for the fine job they do, and wish them another 25 years of telling like it is on the Hill.

All too often we take life a little too seriously. Roll Call provides us with a relief from the day-to-day tensions. I know that I will look forward to reading it in the future, as I am sure do all my colleagues.●

● Mr. COLLINS of Texas. Mr. Speaker, I appreciate the gentleman from Illinois (Mr. MICHEL) yielding. I want to join in expressing appreciation to Sid Yudain for the 25 eventful years of Roll Call. This fine newspaper has consistently brought the stories which give the exciting background about the people who work on

Capitol Hill. It is news on personalities and reflects the Hill in action.

It has often been said that names make the news. Roll Call is names and people from cover to cover. Because Sid has brought us the interesting human experiences and headlines, we have learned in greater depth about all our neighbors. Sid, we appreciate the first 25 years and expect the next 25 to be even more exciting.●

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in saluting Roll Call, the newspaper of Capitol Hill, as it marks 25 years of distinguished service and achievement.

This weekly journal has helped to foster a close family-like relationship among the employers and employees of Capitol Hill. Roll Call informs the Capitol Hill community of births and deaths, new jobs and retirements, electoral successes and legislative accomplishments. Roll Call depicts the light and humorous aspects of the political and legislative decisionmaking as well as the social and intellectual flavor of the Hill. Sometimes, Roll Call is read with a degree of anxiety, for our least favorite remembrances are usually on page one, right next to our favorite stories.

Sid Yudain, the editor and publisher of Roll Call, deserves our thanks and congratulations for a job well done. Through Roll Call. Sid has shown us that we can and should take our work and responsibilities seriously without taking ourselves too seriously. He is firmly committed to the unification of the diverse congressional community through such popular events as the annual congressional baseball game. Sid has been able to maintain an excellent staff of reporters and columnists who have kept Capitol Hill's weekly paper in business for the past 25 years. He has helped to make Roll Call a vital part of our lives here in Washington.

I join in congratulating Mr. Yudain and his staff for their outstanding work and wish them continued success for the next 25 years.●

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to join in the special order this afternoon honoring the 25th anniversary of Sid Yudain's newspaper, Roll Call, the voice of Capitol Hill. As a longtime follower of Roll Call, my staff and I enjoy receiving the weekly issues, and especially, look forward every Thursday, to reading the column, "Sid Bits."

Roll Call provides an invaluable source of information, so important to Capitol Hill. Its interesting stories and thoughtful articles on activities provide a unique insight into the everyday operations of Capitol Hill, unlike any other publication around. Its small-town technique of bringing us closer together by reporting on the personal lives of Hill staffers and Congressmen is integral to the popularity of this publication.

Frankly, if the editor of this publication was not as modest as he is, or had the ego that characterizes many of the Nation's media personalities, his Roll Call would be challenging the Wall Street Journal for circulation. However, Sid is quite dedicated and subdued in all of his actions. Sid Yudain can truly be called a "legend in his own time." If I may quote from Thomas Gray's "Elegy Written in a County Churchyard":

> Full many a gem of purest ray serene
> The dark unfathomed caves of ocean bear:
> Full many a flower is born to blush unseen,
> And waste its sweetness on the desert air.

We all appreciate the fine work that has been provided by Roll Call over the past 25 years, and look forward to many more outstanding issues. Congratulations to Sid Yudain and the staff of reporters of Roll Call for a job well done.●

● Mr. McCLORY. Mr. Speaker, I am happy to rise today in honor of the 25th anniversary of Roll Call, rightly called the "Newspaper of Capitol Hill."

Roll Call serves an invaluable role on Capitol Hill. I would guess that at least 90 percent of the news which it prints can be found in no other place. And yet it is essential information for those who work on the Hill, since it is primarily news about the people who make Congress work.

Because of Roll Call there is an increased sense of community on the Hill. There is a sense of Congress as a continuing institution, with its own particular traditions and its longtime veterans who have seen so much change and yet seen so much remain the same.

But I would emphasize that Roll Call is not merely valuable as a source of information. It is also highly readable and shows the light side of life on the Hill.

For these reasons, I hope that Roll Call's first 25 years will only be a prelude to another quarter century and more of distinguished service to the Capitol Hill community.●

● Mr. LUJAN. Mr. Speaker, I join my colleagues in congratulating our good friend Sid Yudain and his intrepid staff of fearless journalists on having survived 25 years of meeting deadlines for their great Capitol Hill institution, the Roll Call.

All of us look forward to the newspaper that tells us more than we learn in the cloakrooms about what is going on in the Congress. It is delightful down-to-earth style of presenting its news in an honest and straightforward manner is always a welcome relief from the propaganda sheets we receive in our offices every day; and I have been pleased to note, over the past 10 years, a healthy growth in Roll Call's advertising lineage, indicating that more and more Capitol Hill businesses are recognizing the value of a newspaper which limits its "selling" to the advertising columns.

To Sid, his editors, columnists, his huge editorial and advertising staff and to his many contributors, I extend a hearty, "Congratulations, well done, and keep Roll Call rolling."●

● Mr. FUQUA. Mr. Speaker, next week will mark the silver anniversary of the newspaper Roll Call, a paper which we in the Congress consider to be our own.

In making the 25th year of its publication, we honor not only the newspaper and its service, but the individual who gave it birth, nurtured it through some of the most hectic days in the history of the institution which it serves, and in so doing has left an indelible mark on the Congress of the United States, its Member and staff.

It is interesting to note what it was like on Capitol Hill when the first issue of Roll Call made its appearance on June 16, 1955. Names like Joe Martin, Jack Kennedy, Sam Rayburn, Jerry Ford, Lyndon Johnson, John McCormick, Carl Albert, Tip O'Neill, Jim Wright, catch the eye when a list of the Members of Congress of that day are read.

Dwight Eisenhower was in the White House, which sent a car to pick up 175 copies of each week's Roll Call.

Sid Yudain came to Washington as press assistant to former Congressman Albert Morano of Connecticut and in that position pondered for some time the establishment of a congressional newspaper because he felt—

> Congress was a community that needed a newspaper very badly. It needed a cohesive force to bring people together, to inform them about what was going on.

In the beginning, Roll Call was not a full-time proposition. Distributed free on Capitol Hill, the eight-page weekly was written and edited in the office of Congressman Morano, but it was not long before time and events caused Yudain to devote full time to what was to become his life's work.

Perhaps much of Roll Call's success and value can be traced to the fact that people on the Hill consider it to be their own medium. It carries news particularly of interest to those serving on the Hill.

Many times have I and my staff been gladdened to read of the success of a former colleague or staff member, or to be saddened at the passing of a friend who formerly served in some capacity on the Hill.

Perhaps Roll Call received its highest acclaim when the late President Kennedy cited it for keeping the White House informed of "what is happening on the other end of Pennsylvania Avenue."

Sid's contribution to life on the Hill is more than just the publication of Roll Call, although that would be enough for any person of less restless spirit and innovative mind.

The thing which comes immediately to mind is the pleasure we have had through the years with the annual Roll Call congressional night baseball game. When I first came to Congress, it was played at D.C. Stadium prior to the game of the Washington Senators. It was one of the best evenings of the year.

Roll Call has been an integral part of the life of Capitol Hill since I have been privileged to serve in the Congress. My office subscribes and sends copies to my two district offices each week, an invaluable tool for my staff members back in the State to learn of the human side of our congressional life.

A new dimension came into Sid's carefree bachelor life in 1973 when he married Lael Bairstow, who was a member of a Senate staff at the time. They have two beautiful and beloved children, Raechel and Ray.

If there were never another issue of Roll Call, Sid's contribution to life on the Hill would be secure. Yet, in paying tribute to him and to the paper for the pleasure and information it has given us over the past quarter of a century, I say that not only do we "thank you" for what you have done, but more importantly for the promise of tomorrow.●

GENERAL LEAVE

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE MOUNT ST. HELENS NATIONAL MONUMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 5 minutes.

● Mr. SEBELIUS. Mr. Speaker, several weeks ago I introduced a bill (H.R. 7438) which proposes the establishment of the Mount St. Helens National Monument in the State of Washington.

For decades, conservationists have proposed that Mount St. Helens and its environs be afforded protection in its natural state, as a safeguard against the growing intrusions of human activity. Numerous proposals have been sporadically advanced for national monument status.

Everyone is aware of the cataclysmic event of Sunday morning, May 18, 1980, when this volcano erupted with great force. The physical impact of the blast, heat, mud flows, and ash fallout, and the speed with which it all occurred, are beyond anything which most, if not all, of us have ever experienced. The impact of this volcanic activity on human beings and settlements has ranged all the way from death, to severe damage and economic loss, to aggravation and discomfort, to interest and amusement.

For those who have suffered from this event, we can all only be deeply sorrowed. The devastation in proximity to the mountain undoubtedly must be seen to be believed. But if there is any positive side to this event, it is the awe with which we must hold nature's forces, and the opportunity it presents for research and scientific study, and for eventual public visitation.

President Carter, on his visit to the scene shortly after the major eruption, mentioned among other things that the area will probably rival the Grand Canyon in public interest.

Mr. Speaker, my purpose in introducing this bill is to assure that a proper amount of the affected landscape will be preserved as nature has left it, and so that her forces can continue to work unaffected by human intervention. My bill proposes that an as yet undetermined area will become a unit of our national park system—preserving the natural scene, permitting safe public visitation, and providing professional interpretation of what is going on there.

Assessments are still coming in as to the extent and character of the area affected. Much of the land affected is owned by the Federal Government as part of the Gifford Pinchot National Forest, but a considerable amount is also privately owned. There will, of course, be a strong interest and need, for safety, economic and other reasons, to rehabilitate much of the land and salvage certain natural resources adversely affected by the eruption, and to in various ways attempt to mitigate the damage. But there is also a very defensible need to preserve some of the land, as it is, to reflect nature's forces, including for example, some of the down timber. It should be entirely possible to work out acceptable land management boundaries so as to accommodate both of these major, if seemingly conflicting, interests.

Mr. Speaker, our national park system is a repository for the most outstanding and unique of our Nation's natural resources—in the sense of both the esthetics and scenery they represent and the opportunity to display the forceful as well as more subtle processes of nature unimpeded. The Grand Canyon represents erosion; Yosemite represents glaciation; Yellowstone represents hydrothermal activity; and many other park units represent the opportunity for plant and animal life and the natural ecosystems to perpetuate themselves as free as possible from the influence of human activity.

Mr. Speaker, I believe that Mount St. Helens would be a most fitting and appropriate component of our national park system, representing the theme of volcanism. I know there will be considerable discussion over this matter in the months ahead, and I sincerely hope that we will see this situation resolved in the very near future.●

NEED FOR LIMITS ON STAFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, I am today reintroducing my bill to limit the honoraria and other outside earnings of the staff of the House. This is basically a refinement of legislation I introduced earlier which evoked several questions from some of my colleagues.

First, this bill limits the aggregate amount of outside earned income a full-time House staff member can receive in a calendar year to 15 percent of his or her salary. This limitation will only apply to staff members whose salary is equal to or in excess of 50 percent of the maximum allowable salary. In other words, under current rules, only staffers receiving $25,056.25 or more in salary would be so restricted. Second, the legislation limits the total honoraria any staff member could receive from any individual or organization in a calendar year to $1,000. This limitation will apply to everyone, regardless of income level.

This bill requires employees of the House of Representatives to abide by the same limitations on outside earnings which apply to Members of Congress.

Those who have decided to mount a campaign against my bill seem eager to reopen the entire issue of limitations on the outside earnings of Members of Congress. That is not the issue. Since members of our staffs are not subject to electoral scrutiny, but do play a vital role in drafting legislation, standards for them should be at least as strict as those governing Members of Congress. That is what my bill is designed to insure, and I urge my colleagues to join me in cosponsoring it.●

TO AMEND THE MINERAL LEASING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

● Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation designed to clarify the intent of Congress concerning access by small business refineries to onshore royalty oil. The purpose of this bill is to assure that small business refineries have access to such onshore royalty oil.

Historically, the original intent of the O'Mahoney amendment to the Mineral Leasing Act of 1920 was to insure that small business refineries have adequate access to onshore royalty oil. A recent court action, however, has overlooked the intent of Congress and has resulted in a significant restriction to Federal onshore royalty oil by some small business refineries who have depended upon such oil in the past. The result of this suit has prompted the U.S. Geological Survey to promulgate regulations that provide access to onshore royalty oil to any refinery who can demonstrate eligibility. These regulations are particularly harmful to those small business refineries who have no access to their own supplies of oil. The legislation I offer today clearly sets two criteria which define the eligibility of a small business refinery. First, the refinery must not have their own source or supply of crude oil. Second, the refining capacity of the operation must be less than 50,000 barrels per day. The 50,000 barrels per day limitation was chosen because it is a common breakpoint used to distinguish small refineries from larger operations.

The issue with respect to offshore royalty oil has been made quite clear concerning the sale of such oil to small business refineries. It is only logical that the same clarity be given to onshore royalty oil so that the original intent of Congress may be followed. In addition, the bill I have proposed will create an element of consistency between onshore and offshore regulations with respect to royalty oil.

I urge my colleagues to join me in supporting this measure.

The bill follows:

H.R. 7574

A bill to amend the Act of February 25, 1920, commonly known as the Mineral Leasing Act, to authorize and direct the Secretary of Interior to grant preferences to small refineries in the sale of oil, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Refineries Relief Act of 1980".

Sec. 2. Section 36 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (30 U.S.C. 192) is amended—

By striking out "not having" in the first proviso and inserting in lieu thereof "1) which have a refining capacity of less than 50,000 barrels of oil per day, and 2) which do not have".

Sec. 3. This Act shall apply to sales of oil after the date of enactment of this Act.●

EDITORIALS IN SUPPORT OF THE URBAN JOBS AND ENTERPRISE ZONE ACT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York (Mr. Kemp) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, today my Democratic colleague from the South Bronx, Bob Garcia, and I introduced the Urban Jobs and Enterprise Zone Act. While we do not believe that any one bill alone will solve the problems of the inner city, we do see our bill as a first step toward restoring economic incentives for small businesses and private enterprise jobs in the poorest areas of the Nation.

And we are not alone in thinking this. So far the response to our proposal has been very gratifying. I would particularly like to share with you today four editorials from the Detroit News, the St. Louis Globe-Democrat, the Buffalo Courier-Express, and the Buffalo Evening News:

[From the St. Louis Globe-Democrat, May 27, 1980]

Sound Urban Jobs Program

The problem of finding work for millions of poor people living in cities has never been alleviated by the classic liberal response of constantly increasing welfare payments and federal aid to those unable to find work in urban areas.

Rep. Jack F. Kemp, R–N.Y., has provided a refreshing, hopeful alternative to the practice of simply inundating urban areas with money and make-work programs and expecting unemployment problems to be solved.

Kemp has proposed an Urban Jobs and Enterprise Zone Act that would create Enterprise Job Zones in urban areas where unemployment is high. A participating government would have to agree to meet criteria established by the Economic Development Administration of the Commerce Department for Special Impact Areas, and to reduce its effective property tax rate within the zone by 5 percent a year for four years.

Other tax incentives would be given to accomplish four goals within these zones:

(1) To encourage job creation in the inner city, particularly for the young, the bill reduces Social Security payroll taxes on employers and employees by 90 percent for workers under 21, 50 percent for employees 21 and older.

(2) To encourage small enterprise investment and job creation, the bill reduces the capital gains tax rate on investment by 50 percent.

(3) To encourage business expansion and to retain existing enterprises, the measure would reduce business tax rates 15 percent across-the-board for any business located in and employing at least half of its employees in one or more zones.

(4) To increase small business incentives, the bill (a) allows three-year, straight-line depreciation on the first $500,000 of assets purchased each year, (b) allows the use of cash rather than accrual accounting methods for firms with gross sales below $1 million, and (c) extends the loss carry-forward provision to 10 years.

Kemp's approach is sound because it recognizes that in order to bring business to urban areas, which often are not too attractive to owners and in many cases not a good risk financially, it will be ncessary to provide sufficient incentives to overcome these obstacles to investing in new enterprises in inner cities.

He has estimated the net cost of this new national urban jobs program would be about $1 billion a year but if it succeeded in creating millions of new jobs in depressed urban areas, it has the potential to more than pay for itself after a few years, which is something that a dole program never could do.

The liberal planners in Washington forget that real jobs are created by people who take risks with their hard-earned money and they have indicated they aren't interested in risking their funds under present conditions that prevail in most of the inner cities.

Many of the nation's economic ills can be traced directly to the roadblocks that government at all levels has placed in the path of free enterprise. The Kemp bill may offer a way to bring work to millions of poor Americans who now are trapped in substandard urban areas with little hope of finding a decent job.

Why not, for a change, consider a new approach, one that breaks with the old method that locks many of the urban poor into an unending poverty cycle?

[From the Detroit News, June 7, 1980]

New Ideas for the Cities

After funneling hundreds of billions of federal dollars into America's blighted urban areas, through public works programs and transfer payments of every imaginable variety, the condition of many targeted neighborhoods is today worse than ever.

This alone suggests that a new urban strategy is necessary—if the nation is really serious about reviving older cities and rescuing underprivileged children from a cycle of poverty and welfare that has trapped generations in a permanent underclass.

What do the liberals in Congress offer? More of the same. President Carter? Less of the same for now; more of the same as Election Day approaches.

These are not reasonable options in 1980. They won't solve the problem, but they will confirm the prejudices of those who believe the poor would rather collect welfare checks than work.

They are the prescriptions of a spiritually exhausted political Establishment, a reflexively liberal coalition that hasn't the courage or vision to govern a changing country.

Until recently, unfortunately, nobody else has given much thought to the problems of urban centers. Many moderates and conservatives, who lack an urban constituency, have found it convenient to ignore the problem or pretend it wasn't of central importance.

But the cities are crucial to the future of this country. Not only must their centers thrive as economic and cultural hubs, but their neighborhoods must be rebuilt. The public schools must "work" again, and housing for all classes, especially the taxpaying middle classes, must be encouraged.

To admit less is to ignore history and invite disaster. No democratic society can afford a rapidly growing class that is undereducated, unemployed, and increasingly isolated.

If federal largess hasn't worked, what will?

One proposal, offered by maverick conservative Jack Kemp, a Republican congressman from Buffalo, would declare all severely depressed urban areas "free-enterprise zones."

By offering dramatic federal tax breaks and regulation waivers, Rep. Kemp's bill would bring the private sector into distressed areas to provide jobs and, ultimately, a local tax base. To insure that the incentives work for the poor, participating firms would have to fill at least one-third of their payrolls with neighborhood residents.

Employer-paid Social Security taxes would be reduced by 50 percent for workers 21 and older, and by 90 percent for younger workers. (Federal subsidies would assure that workers qualify for their full Social Security pensions.) Capital-gains taxes would be cut in half for small-business investors. And existing businesses would be granted a flat 15-percent tax reduction and accelerated depreciation on new capital investment.

All existing social services would be left intact as a "safety net" but such programs could become less costly as residents switch from welfare rolls to private-sector payrolls. Because the targeted areas produce so little federal revenue now, the federal Treasury would lose little by lowering their tax rates.

And the special concessions would be abandoned after businesses reached a certain level of profitability.

Although a few details are still being worked out, the plan already has received tentative endorsements from some prominent black lawmakers and community leaders.

Requiring no new bureaucracy and no army of social workers, the Kemp plan is a good example of the kind of thinking that could and should replace outworn and, literally, counterproductive liberal dogma.

The proposal is given little chance of passage in an election year. But we can't think of a better domestic plank for the Republican Party platform, or a more attractive place to begin building a new political coalition for an effective federal government.

[From the Buffalo Courier-Express, May 3, 1980]

A Plan To Hire the Poor

Rep. Jack F. Kemp's proposed "Urban Jobs and Enterprise Zone Act," aimed at encouraging the hiring of the inner-city poor and jobless in private business, seems to be a sound concept, and certainly appears to be worthy of serious congressional consideration.

As envisaged by the Hamburg Republican, the measure would set up "private jobs and enterprise zones" in areas with high levels of poverty and unemployment. A variety of tax incentives would provide the encouragement to private enterprise to get involved. Such zones would be set up in areas that have an unemployment rate twice the national average, a 30 percent poverty rate, a minimum population of 4,000 and a continuous boundary. The economic incentives to business would take the following forms:

Reducing Social Security payroll taxes on both employer and employee in these zones; reducing the capital-gains tax rate on investment and cutting business tax rates in independent enterprises which employ 50 percent of more of their employes in one or more zones, and providing generous tax deductions for depreciation in small business within a zone.

Rep. Kemp believes that the loss of revenue to the federal government as a result of such tax cuts would be more than offset by increased taxes from a larger volume of business activity, just as he has argued that the government would not lose out, in the long run, from passage of his bill to cut federal taxes by 30 percent. His office concedes, however, that, putting the worst face on all its estimates, the program could result in a tax revenue loss of about $1-billion. Even that, the office claimed, is only about one-seventh of what is spent on the CETA program.

The congressman says his proposal "would help solve the high and tragic level of unemployment and expand the tax base in Buffalo, New York, the Northeast and other pockets of economic despair." It's an interesting idea, and certainly seems to be more realistic—more practical, anyway—than the traditional approach to unemployment: Providing tax-supported, make-work jobs in the public sector.

So we trust that Congress will give appropriate scrutiny to the Kemp plan of providing tax breaks to generate jobs, including, of course, the laying out of all the minute operational tax-revenue-loss-and-tradeoff details. It seems like an idea with much potential.

[From the Buffalo Evening News, May 25, 1980]

"URBAN ZONES" FOR URBAN GROWTH

When Rep. Jack Kemp recently recommended that Congress enact something called an "Urban Jobs and Enterprise Zone Act," the Hamburg Republican said this was neither a gimmick nor a cure-all for the economic and social ills of American cities.

But he also indicated that he hoped this enterprise-zone concept for economically distressed areas of these cities would "re-open the debate on urban poverty."

That is a hope we fervently share. And we agree with him that if "we clear away the federal underbrush surrounding our inner city, we recognize that the root cause of its decline is the lack of one element—economic growth."

Probably most people would agree, but the harder question is how to restore such growth. Recent approaches have focused on pouring money into central cities, and these efforts have scored some gains. But housing still deteriorates in many neighborhoods, and poverty is recycled through families. Unemployment rates, especially among the young, remain intolerably high.

What the Kemp plan would do is seek to restore economic growth through dramatic, visible and straightforward tax incentives for businesses to invest and operate in these zones and for people who live there to work in nearby, available jobs.

In simple terms under this concept, cities would apply to Washington to establish enterprise zones in local areas of substantial unemployment and social dependency. They would agree to reduce property taxes 5 percent annually for four years within the zone.

In return, the federal government would permit reduced Social Security taxes for workers employed in the zones, thus enlarging take-home pay. It would cut capital gains taxes on investments made there, as well as reducing taxes on what businesses earned when employing workers from the same or other enterprise zones.

Thus, it would pay businesses to operate in these zones and to hire people who live in them. And it would reward the workers in the zones.

This distinct departure from prevailing U.S. urban policy, a departure adapted from some British innovations, does of course raise questions that require review. Would a comprehensive cost analysis, for example, support the preliminary Kemp estimate of $1.4 billion? Would the property tax reduction required of cities apply only to new investment, or some wider category of property that might damage a city's tax base? How would local zoning laws be affected, if at all? If neither employee nor employer in the zones contributes much to Social Security, what impact would this have on the latter program's finances and work-related concepts? Would special sub-minimum wage levels for young entry-level workers—something Rep. Kemp didn't suggest—prove useful?

Our initial reaction, however, is that the Kemp approach is far more attractive, for example, than Sen. Edward Kennedy's newly proposed American Reindustrialization Corp., a semi-public agency that would dole out billions of additional tax dollars in federal grants, loans and subsidies.

At least the urban-zones concept would focus clear, uncomplicated tax incentives where the most severe problems of unemployment and business vacancies exist. Its costs would be relatively modest, its bureaucracy minimal. In striving to create new jobs and business in central cities, it would plainly link individual investment and effort to financial rewards.

At the very least, it is an idea of considerable promise.

Mr. Speaker, my colleague, the gentleman from New York City, Mr. GARCIA and I are here today from different parties, different areas of New York, and perhaps different philosophies because we agree that America's cities are in a crisis. Restoring economic growth and opportunity—restoring jobs—to our inner cities is a goal which transcends party divisions. As William Raspberry commented in a recent editorial about youth unemployment, "We're in this one together." BOB GARCIA and I believe we must seek solutions together, too.

It should not take an outburst of violence to demonstrate the problem. The numbers are proof enough. Unemployment in the inner city is over twice the national average, three times the national average for blacks and Hispanics, seven times the national average for minority teenagers. If the recession deepens, as many analysts predict, the poor will not only fall further behind but may become permanently locked into a helpless situation, with no hope, no opportunity.

What the cities need is economic growth, particularly small business growth. The MIT study on job creation showed that almost 100 percent of the net new jobs created in the Northeast were created by small business. Almost all of the new jobs created in our inner cities are created by small business. By providing economic incentives for entrepreneurial activity in the inner city we will rebuild the tax base, revitalize communities, and provide opportunities for all Americans to aspire to their highest potential. We need to invite the small businessmen and women back to the cities of our country, not only for to help businesses but to create the type of hope I think our Nation owes the inner city poor.●

TECHNOLOGY TRANSFER CONTINUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

● Mr. MILLER of Ohio. Mr. Speaker, Soviet actions of late have made it abundantly clear that the U.S.S.R. is willing and able to use military force wherever and whenever it serves its own interests. It is imperative that the United States not contribute directly or indirectly to boosting Soviet military capabilities. And yet that is just what this country does when it exports high technology to the Soviet Union. An article by Kevin Klose in the June 11, 1980, Washington Post includes the following paragraph:

> It is cheaper and quicker for Moscow to import these items (computer goods) and thus avoid attempting to divert its own secret military economy into providing advanced technology to the civilian sector. This is especially true since in most cases the defense establishment has achieved its breakthroughs only after concentrating enormous resources. Thus, the real value to the Soviets of importing computers cannot be measured in straight dollar terms.

Whether the Soviets immediately convert Western technology to military use, or simply use our advances so that they can channel more of their energies and resources into military research and development, the point remains that we are helping to dig the grave in which Moscow hopes to bury the free enterprise system. The need for strict technology transfer legislation, which I introduced and brought before the House last year, could not be more evident.

Following is the Washington Post article which raises many of the same arguments I have been making and serves again to illustrate the degree to which the Soviet Union has come to rely on the importation of our high technology:

U.S. TECHNOLOGICAL CURBS IMPOSE STRAIN ON SOVIETS

(By Kevin Klose)

MOSCOW, June 10.—When the Soviet Union sought American computers to help run its huge new Kama River truck factory 10 years ago, a budding spirit of detente carried the deal through despite misgivings that Kamaz trucks and engines would eventually bolster Soviet armed might.

Now, according to reliable reports, Kamaz trucks help supply Soviet troops in Afghanistan, and the diesel engines from the vast plant in remote Tartario power some Soviet armored vehicles, rated among the world's best.

In retaliation for the invasion of Afghanistan, President Carter at first ordered a flat embargo on all U.S. technology to the Soviet Union, including an advanced plant to make oil-drill bits and computer spare parts for the Kama factory. The move should have relatively quick impact on the complex truck assembly lines since the Soviets usually skimp on orders for spare parts.

Meanwhile, Carter has approved the sale of a $5 million offshore oil rig to the Soviets, justifying the sale on grounds the West must aid Soviet oil production to keep Moscow from becoming a net oil importer, which would drive world prices higher.

This ambiguity is one example of the relations that have grown during the last decade as Moscow moved to seek Western technology to modernize its economy. This "technology transfer" stands near the center of the debate on the future of East-West detente in the 1980s.

It is also a debate with great impact here among the managers of a troubled and stagnant economy and the politicians who must shape decisions for the Soviet Union in the 1980s.

In an economy as vast as the Soviet Union's, the actual amount of high technology imported in the past decade amounts to very little. For example, of the $600 million in the U.S. manufactured goods shipped to the Soviet Union last year, only about a third could be classified as high technology. The Soviets would have liked more, but the United States balked because of concerns about diversions of its highly prized computer expertise into Soviet military programs.

In February, the Communist Party newspaper Pravda said the Western sanctions would have little effect on the national economy since imports from the capitalist countries totaled only 1.5 percent of the country's gross national product. Pravda disregarded the fact that despite the relatively small amount of this trade, the Soviets have concentrated their purchases on computers and process controls that their own sluggish civilian economy cannot manufacture.

It is cheaper and quicker for Moscow to import these items and thus avoid attempting to divert its own secret military economy into providing advanced technology to the civilian sector. This is especially true since in most cases the defense establishment has achieved its breakthrough only after concentrating enormous resources. Thus, the real value to the Soviets of importing computers cannot be measured in straight dollar terms.

A Western study three years ago concluded that much of the Soviet Bloc's second and third generation computer technology probably was imported from the West. In 1979 alone, the United States exempted 600 items previously banned for export to the Soviets by the allied trade group known as CoCom as being of possible military importance to Moscow. Of these 600 about 300 deals were for computers and other technology.

The Carter administration has said it will pay much closer attention to the CoCom lists. Meanwhile, the U.S. ban on high-level electronics also embraces components used by virtually every other Western computer firm. This move, plus pledges by allies such as West German Chancellor Helmut Schmidt not to fill the U.S. gaps with West German products, may go far to plugging chronic seepage of the past when foreign firms rushed to fill orders the U.S. banned out of political or military reasons.

However, the Soviets are wasting no time taking steps of their own to blunt the impact of U.S. sanctions. Recent West European press reports indicate Soviet trade teams are offering lucrative new deals to French, West German and Italian firms, especially for computers and semiconductors. The Soviets reportedly are playing on Western European unemployment, the Europeans' desire to promote detente and the promise of long-term, follow-up contracts. Over the years, U.S. companies and their Western European affiliates have gained great experience in arranging deals through third parties and covering the records of complex transactions.

When Carter ordered the embargo last January, about 800 export deals of all kinds were frozen. Since then, the ban has been modified to apply only to items that could raise the technical level of Soviet production—such as the Kamaz computer system. Other sophisticated items, such as advanced pumps for so-called secondary oil and natural gas recovery, have been cleared for export, as well as some spare parts contracts already in the works at the time of the president's order.

Soviet oil and gas recovery technology is about 25 years behind America's. Despite strong sales pitches from French and West Germans in this field and the embargo effects, U.S. businessmen here believe they can do a brisk trade in this machinery. As one said, "The Soviets need the best and know it, and only the U.S. can give it to them."

Because of deep concern over possible falloff of Soviet oil production, the only likely exception to the ban may be the $144 million Dresser Industries drill bit manufacturing plant. Informed sources here say many of its major components were already en route when the embargo was ordered. They suggest the plant eventually will be built, in contrast to the seemingly permanent stop to a massive steel production facility sponsored in part by Armco Corp. which the Soviets hoped to have on line in the mid-1980s.

Moscow's need for these machines and components has never been greater. Economic expansion, sluggish throughout the 1970s, faces severe energy and manpower squeezes in this decade. The U.S. sanctions hit at the crucial time when the State Planning Committee is drawing up economic plans for 1981 through 1985.

"Our country moves in five-year segments," one knowledgeable Soviet source commented, "and the need to pin down contracts and reliable suppliers in the West is at hand."

Little is known of the shape of these discussions, which center in the upper reaches of the Council of Ministers headed by Premier Alexei Kosygin, 76, and the 300-member party Central Committee.

"Each special group is competing hard for its own programs," a Soviet source said. "The discussions are fierce, for in our system, once the decisions are made it is very hard to change them and no one wants to have his own program left out."

Some plant managers reportedly have said they expect the new plan to substantially enlarge the purchase and use of process control instruments from the West as one way of improving lagging productivity. But this is not certain, and it will not be before late summer that the first solid clues to the next five-year plan emerge. It is even unclear so far whether the plan will be presented at a party congress next spring, or perhaps, late this year. The Congress is likely to be the last of the Brezhnev era.

Technology has always been a jealously guarded commodity here. On one side stand suspicious civilian bureaucrats and party functionaries who, fearing challenge to their authority, deploy far-reaching arguments to defeat the technical revolution. Last year, for example, the minister of the key Soviet machine-tool industry complained in Izvestia, the government newspaper, that a 12-year old decree of the State Standards Committee ruled out the use of computers to help design complex new machine tools "because the type face used by computers does not conform to the state standard and the distance between printed lines differs from the standard by two or three millimeters."

On the other side stands the military, which commands economic resources to make some of the world's most formidable missiles, tanks, helicopters, ships and telecommunications equipment. But unlike Western defense complexes, the Soviets yield almost none of these hard-won scientific advances to civilian industries.

Innovation has languished in this secrecy-ridden atmosphere. The Soviet computer lag behind the United States has steadily widened to a solid decade or more today by most informed Western estimates.

While Soviets import mountains of Western technical literature, the impulse for control and secrecy means only top-secret institutes see it quickly and it may be years before it is circulated to interested design or theoretical bureau. Censorship delays, Soviet sources say, can cause wasteful parallel work on the same problem to proceed undiscovered for years. Photocopiers, essential for quick dissemination of complex designs or formulas, are under tight state control out of fear they could be used for political reasons. A 1977 survey of 300 design offices here show that in 250, technical drawings were being hand-copied in pen and ink.

However, most Western analysts consider the quality of Soviet theoretical work equal to or better than comparable U.S. and Western efforts in a number of areas. The hitch comes when the Soviets try to convert this knowledge into hardware.

Under the exaggerated secrecy imbedded in Soviet life, work which in the West would find quick industrial application frequently is never finished here. Elsewhere, the gap between research and end product seems to be widening as separate ministries go their own ways without coordinating research with others.

A senior Soviet economist in November reported with dismay that since 1960, the number of new kinds of industrial machines had declined from an average of 4,700 introduced in 1961 to 3,600 in 1978. "Moreover, the technical level of the new articles leaves something to be desired," wrote L. S. Glyazer in a major management journal.

"Of the 1976 models, only 20 percent were better than equipment already in production in the U.S.S.R. or elsewhere, while 60 percent were on a par with existing models." He did not bother to mention that the remaining 20 percent were substandard.

"We see more instances of dislocation between fundamental and applied science," he concluded. "It is urgently necessary to create a centralized organization to manage research activity." But ambitious plans announced in 1971 to computerize the entire Soviet production and research base through vast regional data centers have faded and no longer are mentioned anywhere in a serious way.

Meanwhile, as Soviet trade missions scramble and deal for new Western technology sources in the aftermath of the U.S. sanctions, the party and planners confront a new decade filled only with immense strain and challenge for the Soviets.

A Soviet source said of all this worry and anxiety: "There has never been more uncertainty at the high levels since the end of World War II."

1981 BUDGET RESOLUTION AND AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 20 minutes.

● Mr. GREEN. Mr. Speaker, the 1981 budget resolution (H. Con. Res. 307) is the first balanced budget resolution to be produced by the House Budget Committee since the congressional budget process was established in 1974. In his January message, the President submitted to Congress a budget calling for a deficit of $15.8 billion. However, in late February, after publication of January's inflation rate of 18.2 percent, it became clear that forceful action needed to be taken and the President revised his request and in

March asked for a balanced budget. The House Budget Committee went along with him and sent to the full House a resolution providing for $611.8 billion in outlays, $613.8 billion in revenues, and a $2 billion surplus.

In contrast to past years when the Members of the House were free to attempt to amend the budget resolution on the floor, the Rules Committee this year made only 11 amendments in order. Believing that Members of the House should have a greater opportunity to fine tune the resolution and because I disagreed with so many of the spending priorities contained in the resolution as it came from the Budget Committee, I voted in the minority against the rule restricting consideration to only the 11 amendments approved by the Rules Committee.

GIAIMO AMENDMENT FOR FOOD STAMPS

The first of these amendments was of a technical nature and actually adjusted the figures for the current fiscal year instead of 1981. The amendment, which raised 1980 outlays by $4.6 billion was necessary because the rate of inflation has been greater than we expected when the budget for this year was approved last fall. Also the amendment provided funds which were vital to the continuation of the food stamp program through the end of this fiscal year. The amendment was supported by the AFL–CIO, Common Cause, and others, and it was adopted by a comfortable margin.

REVENUE SHARING

Congressmen Conable and Wydler offered an amendment to restore $1.7 billion for the State portion of general revenue sharing. New York State is scheduled to receive approximately $250 million in general revenue-sharing funds this year and could expect a comparable amount in fiscal year 1981. Of this total, New York City receives up to $100 million in unrestricted and categorical aid. These funds are used for a wide variety of purposes including local assistance, education, health, cultural, transportation, and public safety programs.

This amendment would not have added to the budget since other grants to States and localities would have been reduced by a comparable amount. However, specifically exempted from these reductions were such programs as medicaid, AFDC, subsidized housing, CETA, urban mass transit, and title XX social services. The Conable-Wydler amendment was strongly supported by Governor Carey's office.

Representative Quillen proposed a substitute for the Conable-Wydler amendment which would also have restored the general revenue-sharing funds but at the expense principally of the foreign assistance program. I fully support the revenue-sharing program which helps my city and State so much, but I voted against the Quillen substitute because it would have reduced funds for a category of spending—foreign assistance—which was already scheduled for deep cuts.

After defeat of the Quillen substitute, the House returned to the Conable-Wydler amendment, which I supported, but which was, unfortunately, also rejected.

OBEY AMENDMENT FOR SOCIAL SERVICES

Representative Obey offered an amendment which I cosponsored to increase outlays by $1.2 billion and cut back other programs by $425 million for a net increase of $740 million. Revenues would have been raised by $800 million reflecting foreign oil tax credit reform; $500 million of the increase was to go for general revenue sharing. Localities in New York State could have expected to receive as much as $100 million from this fund with a sizable percentage going to New York City. Our amendment would also have provided additional sums for youth programs, EPA construction grants, elderly housing, mass transit, fuel assistance, the child health assurance program (CHAP), and elderly nutrition and social services. As the mayor's office noted:

> The compensatory decreases in outlays and increases in revenues would have little, if any, adverse effect upon the City and State (of New York).

The Obey amendment had a long list of organizational supporters which included the American Association of Retired Persons, Sierra Club, Americans for Democratic Action, National Women's Political Caucus, National Council on Aging, American Library Association, National Wildlife Federation, National Council of Senior Citizens, American Nurses Association, Association of American Medical Colleges, League of Women Voters, National Association of Social Workers, and others. I am a strong advocate of the programs which would have benefited from our amendment and was very disappointed when it was defeated by the narrowest vote of any budget amendment, 201 to 213.

MITCHELL TRANSFER AMENDMENT FOR HUMAN NEEDS

Prior to the final vote on the Obey amendment, Congressman Mitchell of Maryland proposed a substitute which would have decreased defense spending by $3.1 billion and energy programs by $200 million. Mr. Mitchell would have transferred this money plus the $2 billion surplus—provided in the resolution by the Budget Committee—to a variety of social programs.

This $5.4 billion would have gone to social security and welfare programs, education, training, employment, social services, anticrime programs, community development and other programs. I have already stated that I think cuts can be made in what the resolution provided for defense. Consequently, I was one of only two Republicans in the House to vote for the amendment and, with the great majority of Democrats and Republicans voting against it, the amendment was defeated 74 to 313.

SOLARZ AMENDMENT

Congressman Solarz also offered a substitute to the Obey amendment. His substitute would have increased expenditures by $5.3 billion for a variety of worthy programs. However, adoption of his substitute would have meant that the House would not have the opportunity to vote on the Obey amendment, which I believed was more reasonable and stood a much better chance of approval by the full House than the Solarz substitute—and, as it developed, the Obey amendment came very near to being approved. In addition, the Solarz substitute would have raised the $5.3 billion to pay for those programs by enactment of highly dubious "tax reforms."

First, I do not think that the House would have enacted the "reforms" called for by Mr. Solarz and, second, even if they were enacted, I am very doubtful that they would have generated as much revenue as Mr. Solarz hoped. Consequently, I joined with the majority of the House in rejecting (65 to 352) the Solarz substitute and we moved to a final vote on the Obey amendment.

OTTINGER AMENDMENT

This amendment would have restored all 14 cuts made by the Budget Committee and the President's March revision so that the budget would be identical to the administration's original January proposal—with certain technical adjustments. It would have achieved these spending increases and still maintained a balanced budget by increasing revenues $16.2 to $630 billion. As with the Solarz amendment, Mr. Ottinger would have raised this money through a series of "tax reforms," some of which, such as an increase in the Federal excise tax on cigarettes, I support. However, if I thought that the $5.3 billion in expected revenues in the Solarz amendment was unrealistic, I thought that the prospect of the House actually achieving $16.2 billion was out of the question. Given this belief, I could not vote for the amendment.

In addition, I had strong objections to one other specific feature of the Ottinger amendment. His proposal would have struck the "reconciliation language" from the budget resolution. This is a very important principle which I want to explain and discuss separately in just a moment but, for now, let me say that striking this language would have removed any chance we may have to achieve a balanced budget in the coming fiscal year. I was one of 336 Members of the House to vote against the amendment versus only 70 who supported it.

AMENDMENTS TO CUT SOCIAL SERVICES

Representatives Holt, Latta, and Rousselot all offered amendments which would have cut social service areas of the budget, such as CETA, child nutrition programs and food stamps. Such cuts are not acceptable to me and I voted against all three amendments—being one of only six Republicans to oppose the Latta package. The Holt amendment would have used the money cut from social services ($5.1 billion) to finance increases in defense. Mr. Latta would have decreased nondefense portions of the budget by $26.7 billion and provided a tax cut of $32 billion—the difference to be accounted for by increased productivity. Mr. Rousselot would have reduced nondefense spending by $19 billion and granted a tax cut of $30 billion.

The resolution as it came from the Budget Committee already contained $148 billion for defense, an increase in excess of $15 billion over the current fiscal year. This increase provides more than 9 percent real growth in procurement programs other than ships and more than 13 percent real growth in research and development. I have already discussed my concerns about the size and use of the defense budget. In addition, the first recommendation of the Budget Committee's Task Force on Inflation was that there should be no tax cut this year. A cut of the magnitude envisioned by Congressmen LATTA and ROUSSELOT would almost surely be inflationary and would serve to counter our actions in balancing the budget in the first place.

I was pleased that the House was not ready to make further cuts in social service programs and each of three amendments was defeated.

RECONCILIATION

Earlier I mentioned that the budget resolution included "reconciliation language." Normally, the first budget resolution—which is adopted in the spring—sets broad spending and revenue guidelines to the various committees of the Congress but is not binding. For example, the first budget resolution might suggest a level of spending for transportation, but it would still be up to the Public Works and Transportation Committee and the Appropriations Committee to decide the actual amount. In the fall the Congress adopted the second budget resolution, however, with spending and revenue limits which are binding. Any program excesses which had been approved would then have to be "reconciled" with the limits set by the second budget resolution. I have always favored this reconciliation provision of the second resolution.

However, this year many believe that a special need exists for moving quickly and effectively to balance the budget and, thus, there is reconciliation language in the first budget resolution—whereas normally it would be in only the second.

This language instructs eight committees of the Congress to approve legislation which will save $9.1 billion in 1981. Although in ordering the other committees to achieve these savings—or to reconcile their programs with the first budget resolution—the Budget Committee has made specific recommendations for cuts, it is still up to the eight committees to decide exactly how they want to accomplish the assignment given them by the resolution.

I believe that reconciliation is crucial to the budget process. A motion was made to strike the reconciliation language and I voted with the overwhelming majority of my colleagues (127 to 289) against the motion and for reconciliation. To have eliminated reconciliation would have meant that the committees would not be required to achieve the legislative savings called for in the budget resolution—but would only have had to consider them—and our chances for achieving a balanced budget in 1981 would have been greatly diminished.

Undoubtedly, Common Cause was the most active and effective organization lobbying in favor of reconciliation and I want to take this opportunity to compliment the members of that organization. Letters sent to all Representatives stated that "Common Cause strongly urges that you support this reconciliation directive," and "The motion * * * to strike the reconciliation provision is a key test for the future effectiveness of the budget process." I fully agree with Common Cause on this point and feel that retention by the House of the reconciliation language was a high point in governmental responsibility.

ADOPTION OF THE BUDGET BY THE HOUSE

After much debate and votes on the amendments I have just described, the budget was left substantially in the form in which it came to the full House from the committee. Although I disagree with many of the specific provisions of that resolution, I feel that I was able to articulate dissent by voting on the amendments discussed previously. Consequently, I voted for the budget resolution on final passage largely because I feared what would be the international and domestic reaction if the Congress rebuffed the President on so basic an issue and the resolution was adopted 225 to 193 on May 7.

CONFERENCE REPORT

After the May 7 vote, Members of the House and Senate Budget Committees met to resolve differences between the House and Senate versions of the resolution. The agreement they reached included $5.8 billion more for defense than was in the House resolution for which I voted May 7. The agreement also retained all spending cuts already in the House resolution and called for an additional $4.4 billion in cuts in transportation, low-income energy assistance, public service jobs, and education. I agreed with the President and Members of the House leadership—including Speaker O'NEILL and Minority Whip MICHEL—that this did not represent a reasonable balance between the two versions of the resolution and on May 29 I voted with a majority of the House—141 to 242—against the conference report on the budget. Earlier today the House voted to approve a new compromise, which I thought was an improvement over the version rejected May 29 but which still short changed vital social programs.

CONCLUSION

In summary, I would like to emphasize that I am not totally satisfied with the budget for the coming year, even in the form it took when passed by the House May 7. I think cuts could be made in defense, agricultural subsidies, water projects and elsewhere and I would like to see revenue sharing, health and education programs restored and starts made on some of the other social service programs I support, such as welfare reform and medicare and medicaid expansion. However, all of us can see the ravages of inflation, and providing a balanced budget will produce a beneficial psychological reaction at home and abroad. Thus, the much-discussed balanced budget is an important goal.

But I think it is important to end on a note of caution because it is only a goal and one which has not yet been finally realized. A somewhat greater downturn in the economy than is predicted could easily throw the budget out of balance. For example, a 1-percent increase in unemployment would result in an increase in expenditures of about $3.5 to $4 billion and a $14 to $15 billion loss in revenues, or enough to wipe out the budget resolution's $2 billion surplus and leave us with a $15.5 to $17 billion deficit. Clearly, if the recession worsens significantly, we will have no choice but to provide additional assistance and then our chances of being able to provide a balanced budget will be greatly diminished.●

PARTICIPATING IN "VIGIL 1980"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

● Mr. WOLFF. Mr. Speaker, I wish to say a few words today about my adopted prisoner of conscience, Roman Levin. Initially, I wish to commend my colleague from New Jersey, the Honorable ANDY MAGUIRE, for doing such a fine job in organizing "Vigil 1980," the yearly project which has done a great deal for the many within the Soviet Union who must suffer daily under the repressive yoke of a government which denies their basic rights. "Vigil 1980" will help insure that those brave human beings will not be forgotten.

Like so many other Soviet Jews, Roman Levin has been denied his wish to emigrate to Israel; the Soviet Government has cited an absurd technicality as the reason for their refusal to let Levin and his family leave the country. Roman's wife, Larisa, has a brother who was granted a first form security clearance by the Soviet Government. As a result, the Government claims that Roman, Larisa, and their two daughters, Tanya and Masha, are security risks. As we know, the Soviets have relied upon such fatuous reasoning before, and continue to do so as a part of their continuing policy of intimidation of their Jewish citizenry who have declared their dissatisfaction with life in the Soviet Union.

Many have come to this floor and have tried to analyze the Soviet policy of repression. Russian Jewry has suffered throughout history at the hand of cruel and sadistic Tsars and Commisars; until recently, however, the doors of emigration were ostensibly open to those Jews who could afford it. Current Soviet policy smacks of insecurity; undoubtedly, an open emigration policy would lead to massive floods of emigrees seeking to escape from a failing social system.

We have every reason to believe that irrational hatred is an additional motivation behind the systematic harassment of Jews, a frightening prospect indeed. Roman Levin and his family have chosen to identify themselves with their Jewish heritage, an act which is frowned upon by the authorities. Since their application to emigrate was denied in September of 1978, life has not been easy for the

Levins, judging by precedent, the hard times are far from over.

Larisa has not been able to find work in 4 years. Trained as an engineer, she has been forced to serve as a part time elevator operator; recently, she has not been able to find work at all. Roman has been fortunate, as he has been able to maintain a part time position teaching physics at the Mining Institute in Leningrad. Their permission to emigrate is not forthcoming, as Larisa's brother continues to work at his job, thus maintaining his security clearance. The obstacles seem formidable, and I will continue to press for their fair treatment, as I have in the past for Boris Pension, who has recently been granted his permission to emigrate. I sincerely hope that the Levins will also be granted permission to emigrate soon, as the basis of the refusal is flimsy indeed.●

FORTIETH ANNIVERSARY OF INVASION OF LITHUANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Pepper) is recognized for 10 minutes.

● Mr. PEPPER. Mr. Speaker, I would like to join in the commemoration of the 40th anniversary of the infamous Soviet invasion and enslavement of over 300,000 freedom-loving Lithuanian people, who were brutally forced to face certain death in Siberian concentration camps following the Soviet invasion on June 15, 1940.

Since the time this horrendous denial of human rights began, the brave people of the Baltic States, Latvia, Estonia, and Lithuania have persisted to struggle undaunted in an effort to resist repressive occupation by the Soviet Union in hope of regaining the spirit of independence. The continued presence of the Soviets in these countries has not diminished the deep yearning of the people for a free and humane society.

You know I have always been concerned with this deplorable denial of the human right of free political expression and all other violations of human rights. As we rededicate ourselves to the great principle of freedom for all peoples, I commend to my fellow Members of this body and all who read the Record a memorandum by the members of Estonian, Latvian, and Lithuanian resistance which was issued on August 23, 1979, on the occasion of the 40th anniversary of secret protocols between Nazi Germany and the Soviet Union, which resulted in the Soviet occupation of the Baltic States. The following memorandum details the coalition between Stalin and Hitler of the so-called Molitov-Ribbentrop Pact of August 23, 1940, the implementation of which meant the end of independence for Estonia, Latvia, and Lithuania, thereby encroaching on the sovereignty of these nations.

Mr. Speaker, I insert my remarks and this memorandum in the Record:

Dissidents in Soviet Union Urge Freeing of Three Baltic Republics

To: Government of the USSR; Government of the Federal Republic of Germany; Government of the German Democratic Republic; Governments of all countries which have signed the Atlantic Charter, and Secretary-General of the U.N., Mr. Kurt Waldheim.

Soviet juridical science interprets the term national sovereignty as a nation with all the rights, its political freedom, and a real possibility to fully and completely determine its own destiny, and, first of all, a capability for self-determination, including cessation and formation of an independent state. National sovereignty is characterized by political, territorial, cultural and linguistic independence, a state which has full sovereign rights in all indicated areas of public life, guaranteeing their fullest possible realization.

One can neither give nor abolish national sovereignty; it can only be violated or established.

In 1919 Lenin recognized the existence de facto of Estonia, Latvia and Lithuania, which had recently separated from the Russian Empire. In 1923 Soviet Russia concluded peace treaties with these countries which signified de jure recognition of the Baltic States on the part of Russia. In the name of the Soviet government Lenin gave up in perpetuity any sovereign rights to Estonia, Latvia and Lithuania. However, 19 years later Stalin and Hitler encroached on the sovereignty of these nations. August 23 of this year marks the 40th anniversary of the so-called Molotov-Ribbentrop Pact, the implementation of which meant the end of independence for Estonia, Latvia and Lithuania.

On August 23, 1939, a non-aggression treaty was concluded between the German Reich and the Soviet Union. A secret protocol on the division of Eastern Europe into so-called spheres of influence was attached to it. The objects of the confidential negotiations between the Peoples' Commissar for Foreign Affairs of the USSR, V. M. Molotov, and the Minister of Foreign Affairs of Germany, J. Ribbentrop, were Finland, Estonia, Latvia, Lithuania, Poland, Bessarabia and Northern Bukovina. The essence of the secret protocol was that the fate of Finland, Estonia and Latvia was to be entrusted to the USSR, while most of Lithuania to the German Reich.

On September 28, 1939, the USSR and Germany concluded the treaty on friendship and borders. This treaty amended the secret protocol of August 23, 1939, in that now Lithuania as well was to go to the USSR, with the exception of the area of the left bank of the Sesupe River which in case of "special measures" was to be occupied by the German army.

From June 15–17, 1940, on the order of the government of the USSR, the Red Army executed the "special measures" on the territory of Lithuania, Latvia and Estonia. Also annexed was that territory of Lithuania which, according to the agreement between Stalin and Hitler, the German army was to annex to Germany.

On January 10, 1941, the German ambassador in the USSR, Dr. von Schulenberg, on the one hand, and the chairman of the Council of the Peoples' Commissars of the USSR, V. M. Molotov, on the other, signed a new secret protocol in which the object of trade was the above-mentioned Lithuanian territory. The German government gave up to the USSR the territory to the West of the Sesupe River for a monetary compensation of 7.5 million dollars in gold or 31.5 million Reichsmarks.

The Molotov-Ribbentrop Pact became a conspiracy of two of the greatest tyrants in history—Stalin and Hitler—against the world and humanity, which began the Second World War. We consider August 23 as a day of infamy.

On August 14, 1941, the President of the USA, F. D. Roosevelt, and the Prime Minister of Great Britain, W. Churchill, signed the so-called Atlantic Charter which has six points. Point two of this Charter declared that the USA and England "do not consent to any territorial changes which are not in agreement with the freely expressed wishes of the nations involved." Point three: "They respect the right of all nations to choose for themselves that form of government under which they want to live, they strive to re-establish the sovereign rights and self-rule of those nations which were deprived of these by means of force." The USSR joined the Charter on September 24, 1941.

The declaration of the USSR said: "The Soviet Union in its foreign policy . . . will be guided by the principle of self-determination of nations . . . The Soviet Union defends the right of every nation to claim independence and territorial integrity of its country, the right to establish such a social system and to choose such a form of government which it considers expedient and necessary in order to secure the economic and cultural prosperity of the country."

One should recall that, according to international law, the realization of the right of nations for self-determination is impossible, if occupational forces are located on the territories of these nations. This is also emphasized in Lenin's Peace Decree, which says, that if a nation "is not granted the right by means of free elections, under conditions of complete withdrawal of foreign troops or influence of a foreign power, to decide the forms of national existence, without the slightest coercion, then the joining of its territory to another country is annexation, i.e. it is a capture and a taking over by force."

The consequences of the notorious Munich agreement of September 29, 1938, were liquidated by the very fact of Germany's defeat in World War Two. The government of the F. R. G., under pressure of Czechoslovak public opinion, recognized the Munich agreement as null and void from the moment of its signing.

However, the Molotov-Ribbentrop Pact apparently still has legal force. We consider that the silence of world public opinion on this matter encourages aggressors of the past, present and future.

We appeal:

To the government of the USSR with a request that it publish the full text of the Molotov-Ribbentrop Pact and all secret protocols that go with it. We remind that the Soviet government in the Peach Decree declared that it refused to resort to secret diplomacy. At the same time, we request that the Molotov-Ribbentrop Pact be declared null and void from the moment of its signing.

To the governments of the F.R.G. and G.D.R. with a request to publicly declare the Molotov-Ribbentrop Pact as null and void from the moment of its signing, and to assist the government of the USSR to liquidate the consequences of the above-mentioned Pact—by withdrawing foreign troops from the Baltic territories. In order to accomplish this, a commission for the liquidation of the consequences of the Molotov-Ribbentrop Pact should be created, made up of representatives of the USSR, F.R.G. and G.D.R.;

To the governments of the signatory countries to the Atlantic Charter with a request that they, from a position of moral responsibility, express their decisive condemnation of the Molotov-Ribbentrop Pact and its consequences. We remind that, according to international law, such actions are not considered internal affairs if, because of their essence and purpose, they present a threat to peace and security and do grave injustice to generally recognized international norms. The principle of self-determination of nations and peoples presupposes the legality of any forms and methods in the struggle against colonialism, an international crime. To this is bound the legality of international support for the struggle for liberation. Furthermore, according to the Declaration of the Principles of International Law, every state, by means of combined and independent actions, must promote the realization of the principle of equality and self-determiation of peoples;

To the Secretary-General of the U.N. with a reminder that this international organization is the legal successor to the League of Nations, of which Estonia, Latvia and Lithuania were also members before the "special measures" were taken. Therefore, the legal responsibility for the fate of these countries rests with you.

We request that the question of liquidating the consequences of the Molotov-Ribbentrop Pact be raised at the next session of the General Assembly of the U.N.

We remind that the principle of self-determination of nations was fixed in contemporary international law. This took place as a result of affirmation of the principle of self-determination of nations in such important international documents as the U.N. Charter (Art. 1, 13, 55, 76); the Declaration on Granting Independence to Colonial Countries and Peoples, adopted by the 25th General Assembly session on December 14, 1960; the Resolution of the General Assembly of December 20, 1965 which recognized the legality of the struggle of the colonial peoples; the International Convention on the Liquidation of all forms of racial discrimination, adopted at the 20th General Assembly session on December 21, 1965; the International Pacts on Rights of Man, adopted by the 21st General Assembly session on December 16, 1966; the Declaration on the Principles of International Law, adopted by the 25th jubilee General Assembly session on October 24, 1970. In these and other international legal acts of the U.N. the contemporary content of the principle of equality and self-determination of peoples reveals itself. It signifies:

The right of all peoples to manage their fate freely, i.e. under conditions of complete freedom to determine their domestic and foreign policy status without foreign interference and to realize according to their wishes their political, economic, social and cultural development;

The right of nations to dispose freely of their natural wealth and resources;

An obligation of all states to promote through combined and independent actions the implementation of the principle of quality and self-determination of peoples in accordance with the provisions of the U.N. Charter.

Equally and the right to manage one's fate are declared as a most important principle of international law in the Final Act of the all European Conference on Security and Cooperation in Europe.

And you, Mr. Secretary-General, are aware that the above-mentioned international documents, which are binding, are violated by certain countries which are members of the U.N. We request that at the next Assembly session of the U.N., the question of the situation of Latvia, Estonia and Lithuania be discussed, inasmuch as the peoples of these countries are deprived of the right and opportunity to manage their fates.

23 August 1979.

Romas Andrijauskas, Stase Andrijauskiene, Alfonsas Andriukaitis, Edmundas Bartuska, Vytautas Bogusis, Priest Vladas Bobinas, Romas Vitkiavicius, Jonas Volungevicius, Jonas Dambrauskas, Jonas Eisvidas, Angele Pauskuskiene, Kestutis Povilaitis.

Rimas Zukauskas, Ivars Zukovskis, Alfredas Zaideks, Juris Ziemelis, Leonas Laurinskas, Rimas Mazukna, Priest Mocius, Mart Niklus, Priest Napoleonas Narkunas, Sigitas Paulavicius, Kestutis Subacius, Enn Tarto, Antanas Terleckas.

Jadvyga Petkeviciene, Jonas Protusevicius, Sigitas Randis, Endel Ratas, Henrikas Sambore, Julius Sasnauskas, Leonora Sasnauskaite, Algis Statkevicius, Erik Udam, Petras Sidzikas, Arvidas Cedanavicius, Vladas Sakalys, Jonas Serksnas, Zigmas Sirvinskas, Mecislovas Juravicius, Priest Virgilijus Jaugelis.

The Baltic Republic—Lithuania, Estonia, Latvia—have been included in the composition of the USSR independent of the will of the peoples of these countries—in essence as a result of occupation by troops of the USSR.

Dedicated to the principle of equality and self-determination of nations, respecting the right of every nation to manage its fate independently, we consider that in the given historical situation, the question of the self-determination of Lithuania, Latvia and Estonia must be decided by means of a referendum, conducted in each one of these countries under conditions which provide for a free expression of the people.

We support the appeal of the representatives of Lithuania, Estonia and Latvia to examine the violation of the right of the peoples of these countries to self-determination and their rights to freely determine their own destiny.

23 August 1979.

Malva Landa,
Viktor Nekipelov,
Tatiana Velikanova,
Andrei Sakharov,
Arina Ginzburg.●

BALTIC STATES FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Annunzio) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, 40 years ago, on June 14 and 15, 1940, Estonia, Latvia, and Lithuania were invaded by the Red army, their independence and liberty were crushed, and their territory was incorporated into the Soviet Union. As happened most recently in Afghanistan, these invasions were in direct contravention of international understandings and treaties previously agreed to by the Communists in Moscow.

Last year, the Congress overwhelmingly passed a bill I cosponsored expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over U.S. citizens, and a copy of that legislation follows as well as excerpts from my testimony on this subject before the Subcommittee on International Organizations of the House Foreign Affairs Committee:

H. Con. Res. 200

Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens

Whereas the United States since its inception has been committed to the principle of self-determination; and

Whereas the United States as a member of the United Nations has pledged to uphold the provisions of the United Nations Charter and to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of people of those countries in Asia and Africa that are, or have been, under foreign political rule;

Whereas the United States, as a signatory to the Final Act of the Conference on Security and Cooperation in Europe, endorsed Principle VIII concerning equal rights and self-determination of peoples; and

Whereas in 1940 the Soviet Union unilaterally and forcibly annexed the Baltic States (Lithuania, Latvia, and Estonia), which were sovereign members of the League of Nations; and

Whereas in 1954 the House of Representatives Select Committee to Investigate Communist Aggression concluded that the Baltic States "were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics" and that "the continued military and political occupations of Lithuania, Latvia, and Estonia by the Union of Soviet Socialist Republics is a cause of the dangerous world tensions which now beset mankind and therefore constitute a serious threat to the peace"; and

Whereas the desire of the citizens of the Baltic States for national independence remains strong despite efforts by the Soviet Union to destroy the Baltic peoples as distinct cultural, geographical, ethnic, and political entities through dispersion and deportations to Siberia, replacing them with ethnic Russians; and

Whereas the peoples of the Baltic States are entitled to equal rights and self determination as set forth in Principle VIII of the Helsinki Final Act and should be allowed to hold free elections conducted under the auspices of the United Nations after the withdrawal of all Soviet military forces and political, administrative, and police personnel from the Baltic States; and

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States, and continues to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas in past years this policy has received strong support in the Congress; and

Whereas, in addition, the United States since its inception has been committed to the protection of its citizens, whether naturalized or native born; and

Whereas the Soviet Union recently promulgated a law designating as a Soviet citizen any person who was born in the Soviet Union, was naturalized as a Soviet citizen, or is the child of parents who were Soviet citizens at the time of the child's birth, irrespective of whether the child was born on Soviet territory; and

Whereas this law which went into effect on

July 1, 1979, states that a person who is a Soviet citizen is not recognized as having the citizenship of a foreign state, and thus specifically does not recognize United States citizenship in such cases; and

Whereas this law applies to millions of Americans, including those who, under United States law, are native-born citizens of the United States; and

Whereas this Soviet law intimidates many United States citizens who might otherwise travel to the Soviet Union or come under Soviet authority or control: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that the President, in order to assure true and genuine peace in the Baltic region and in Europe in general, should instruct the United States delegation to the 1980 Madrid meeting of the Conference on Security and Cooperation in Europe to seek full implementation of Principle VIII of the Helsinki Final Act concerning equal rights and self-determination of peoples.

(b) It is further the sense of the Congress that the President should, through such channels as the International Communication Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications.

(c) It is further the sense of the Congress that the President should use his good offices to make every effort to gain the support and cooperation of other nations for the realization of the independence of the Baltic States.

Sec. 2. (a) The Congress views with deep concern the action on the part of the Soviet Union making citizenship claims on millions of Americans who were born in the United States or duly naturalized.

(b) It is the sense of the Congress that the President should warn the Soviet Union against taking any action under this new Soviet citizenship law which would be detrimental to the interests of the United States and its individual citizens, and that the Secretary of State should inform United States citizens planning to visit the Soviet Union of the implications of this law.

Testimony of Congressman Frank Annunzio Before the Subcommittee on International Organizations, June, 26, 1979

Mr. Chairman, thank you for this opportunity to testify in favor of H. Con. Res. 147, the legislation I have cosponsored expressing the sense of the Congress with respect to the annexation of Estonia, Latvia, and Lithuania. Thirty-nine years ago this month, in June of 1940, the communists, of the Soviet Union overran these three nations, and a year later, deported many thousands of innocent people in boxcars from their homelands to other parts of communist-controlled areas, mainly Siberia, causing the deaths of large numbers of the victims.

We in the free world enjoy all the benefits of political and economic liberty, and because we ourselves are free, we have a compelling moral obligation to our brothers and sisters trapped behind the Iron Curtain. It seems to me that this obligation lies particularly heavily in our own country, for as a leader in the free world, the United States must help to keep the light of liberty burning brightly in order to remind those who look to the West for inspiration that they are not forgotten.

Mr. Chairman, the Soviet Union's "russification" policies, abuse of human liberty and dignity, and harassment and intimidation because of religious beliefs continue in the Baltic republics to this day. According to the American Latvian Association in the United States, Inc.

"The russification process in Soviet occupied Latvia is prominently evident in education: textbooks used in Latvian schools are mainly translations from the Russian. Higher education can be obtained only if a student is a member of communist youth organizations. Less than one half of teachers in rural areas have college degrees.

"Free expression in literature and art is discouraged. Unless writers, poets, artists, and musicians follow the approved political doctrine, their works are not published or performed openly. Deviations from the prescribed course of action are met with restrictions upon the authors' and artists' activities and personal lives.

"As a result of religious discrimination, membership in the Latvian Lutheran church has decreased from 1 million prior to Soviet occupation to 0.3 million during the late 1960's; only 50 of the 259 churches are still used for religious services. In many parishes, christening, confirmation, and wedding ceremonies have not been performed for years. The communists are applying pressure to discard even last rites and burial services. Despite all this, there is evidence that Latvian youth displays a deep religious conviction.

"Nationalism continues to be a most dangerous threat to the Soviet system. Lack of help from the Western nations has left the younger generation of nationalistic Latvians with only one alternative: to seek more power inside the communist system for more independence from the Soviet Union. Their immediate concern is to stop the influx of Russian workers that are brought into Latvia as a result of heavy industrialization. At the same time, educated Latvian youths are assigned positions elsewhere in the Soviet Union. This process will eventually lead to loss of national identity; Latvians will become a minority in their native country. The restlessness in the non-Russian parts of the Soviet empire forces the Soviet leaders to ruthlessly suppress even the slightest movement toward national independence. Nevertheless, the Latvians, Estonians, Lithuanians and other oppressed nations are looking for opportunities to rid themselves of the Soviet Russian domination.

"As a further step to eliminate persistent nationalistic loyalties, the Soviet leaders have begun a controversial consolidation of its national planning regions that may ultimately erode the identity of individual Soviet ethnic republics. Under this plan, Latvia, Estonia, and Lithuania, as well as the Byelorussian Republic would be combined with the adjoining Leningrad and Moscow regions into a new north-central planning region."

In the nation of Lithuania for a number of years now, many brave and dedicated people, at severe risk to their lives and well-being, have participated in the compilation of the "Chronicle of the Catholic Church in Lithuania." The Lithuanian Roman Catholic Priests' League of America states that "Denied access to printing facilities, the propagators of the Chronicle laboriously type it in carbon copies and pass it from hand to hand until a copy can be smuggled out to the free world." Many persons who were caught in connection with the dissemination of this publication are now spending long years in concentration camps and prisons. Excerpts from the January 6, 1979, edition of the "Chronicle of the Catholic Church in Lithuania (No. 36)" entitled, "Survey of the Situation of Lithuania's Catholics," as well as a portion entitled, "Lithuanian Catholic Demands to the Government" follow:

"A survey of the situation of the Lithuanian Catholics follows. The terror of the Stalin era was supplanted by the indirect but methodical destruction of the Lithuanian Catholic community in the post-Stalin period. The persecution was partly reduced during the last decade, but when the authorities saw that "religion in Lithuania was reviving," on July 28, 1976, the Presidium of the LSSR Supreme Soviet confirmed the rules for religious communities, 'totally disregarding the dogmas, the morality and the canon law of the Catholic Church, obligating believers and the clergy to act against their conscience, and contradicting the Universal Declaration on Human Rights as well as the Final Act of the Helsinki Conference.'

" 'The Catholic Church in Lithuania again faces difficult days. . . . Since the activity of bishops and the administrators of dioceses has been paralyzed, religious life in Lithuania is sustained by parishes led by determined priests.' The authorities try to remove such priests to other parishes, often by engaging the help of the bishops. 'Thanks to the courageous struggle of the priests, the enemies of faith have not achieved the desired results.' Faith is maintained mainly by older religious families. Although the young families have inherited the 'faith and tradition of their nation, they have a lesser understanding of religion and find it more difficult to educate their children.'

"Religious press in Lithuania is forbidden, and religious life is maintained by underground journals. "The underground press goes from hand to hand as the greatest treasure. . . . Thanks to it, the nation has been feeling alive again. New religious and national movements are arising under the influence of that press."

The broadcasts of Radio Vatican and Radio Liberty augment the impact of the underground press and "restrain the local atheists" who don't want to be publicized all over the world. The mass media are of "extraordinary significance" in the defense of the "persecuted Church." The main task now is to organize an inter-denominational Association of the believers of the world for the support and defense of these persecuted faithful. "There are many ways to restrain the persecutors: boycott of their goods, protests, diplomatic efforts, (special) religious services, demonstrations, fasting days, etc."

Mr. Chairman, it is imperative that we who are free strive to encourage the spirit of liberty in those states still held captive by the Soviets. The people of Estonia, Latvia, and Lithuania have not renounced their hopes for freedom and independence. Their will to struggle and fight for the liberty they cherish so highly continues as strong as ever and it remains the responsibility of those of us in the free world to champion the righteous cause of independence.

Mr. Speaker, the cause of freedom for which the Estonians, Latvians, and Lithuanians have so courageously fought these past decades must not be ignored. I am proud to join with Americans of Baltic descent in the 11th Congressional District, which I am honored to represent, in the city of Chicago, and all over this Nation, in commemorating Baltic States Freedom Day. The heroic sacrifices of the Baltic peoples should remind us all that we must continue to strive for a world in which all people can have the opportunity to live their lives as they themselves choose.●

NOTICE OF PUBLIC HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Rostenkowski) is recognized for 10 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker,

on Thursday, June 19, 1980, the Subcommittee on Select Revenue Measures of the Committee on Ways and Means will hold public hearings on various minor tax bills.

Due to the heavy workload of the Congress, this hearing has necessarily been scheduled with only a limited amount of time for public notice. As a result, I would like to insert at this point in the RECORD a copy of the press release announcing this hearing so that this information will be available to both the Members of the House as well as interested members of the public.

The press release follows:

THE HONORABLE DAN ROSTENKOWSKI, CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES, ANNOUNCES A PUBLIC HEARING ON MINOR TAX BILLS TO BE HELD ON JUNE 19, 1980

The Honorable Dan Rostenkowski (D., Ill.), Chairman, Subcommittee on Select Revenue Measures of the Committee on Ways and Means, today announced that the Subcommittee will conduct a public hearing on miscellaneous tax bills on Thursday, June 19, 1980. The hearing will be held in 1100 Longworth House Office Building, the Committee's main hearing room, beginning at 9:00 a.m.

A listing of the legislation on which testimony will be taken at this time appears on the reverse side of this announcement.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

The limited time available to the Subcommittee for this hearing requires that all persons and organizations having a common position designate one spokesman to represent them. Each witness must summarize his or her statement with the understanding that the detailed statement will be included in its entirety in the printed record of the hearing. The time allowed witnesses for the presentation of oral testimony will be strictly limited. If necessary, public witnesses will be grouped into panels to expedite the hearing process. Any individual or organization desiring to do so may file a written statement for inclusion in the printed record of the hearing instead of appearing in person, in accordance with the directions outlined below.

The cut-off date for requests to testify is noon, Tuesday, June 17, 1980. Requests to be heard, therefore, should be submitted by telephone to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, 1102 Longworth House Office Bldg., Washington, D.C. 20515, (202) 225-3625.

Requests to be Heard Must Contain the Following Information:

(1) The name, address, telephone number and capacity in which the witness will appear;

(2) A listing of clients (or the firm or association represented) at whose request or in whose employ the witness is appearing;

(3) Which bill or bills will be discussed; whether in support or opposition, and

(4) A summary of testimony to be presented.

Notification to those scheduled to appear will be made by telephone promptly after the filing deadline. If a witness cannot appear on the day scheduled, he may wish either to substitute another spokesman in his place or to file a written statement for the record of the hearing instead of appearing in person. In any event, if a change in the scheduled witness or cancellation is necessary, please advise the Committee office immediately.

Witnesses should submit 50 copies of their prepared statements to the Committee office, 1102 Longworth House Office Bldg., at least 24 hours in advance of the hearing. An additional supply may be furnished on the date of appearance for distribution to the press and public.

Written statement in lieu of personal appearance

Instead of appearing in person, written testimony may be submitted for the consideration of the Subcommittee and inclusion in the printed record of the hearing. For this purpose, five copies of the statement should be submitted by the close of business on Thursday, July 3, 1980. If those filing for the record want copies of their statements distributed at the hearing to the members of the Subcommittee, press and public, additional copies for this purpose should be delivered to 1102 Longworth House Office Building before the hearing begins.

BILLS TO BE ADDRESSED AT PUBLIC HEARING, JUNE 19, 1980 BEFORE THE SUBCOMMITTEE ON SELECT REVENUE MEASURES

H.R. 4175 (Mr. Duncan of Tennessee, Mr. Conable, Mr. Bevill, Mr. Lott, Mr. Brinkley, and Mr. Frost) To amend the Internal Revenue Code of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations.

Identical with: H.R. 5902 (Mr. Satterfield) and H.R. 5964 (Mr. Quillen).

H.R. 4511 (Mr. Mineta, Mr. Dougherty, Mr. Ertel, Mr. LaFalce, Mr. Lagomarsino, Mr. Gilman, Mr. Martin, Mr. Matsui, Mr. Patterson, Mr. Thompson, Mr. Heftel, Mr. Goldwater, Mrs. Spellman and Mr. Fisher) To amend the Internal Revenue Code of 1954 to provide that the taxable income of a homeowners association shall be subject to the same graduated rates of tax as a corporation.

Similar to: H.R. 6855 (Mr. Bafalis) To amend the Internal Revenue Code of 1954 to tax certain homeowners associations as corporations.

H.R. 4544 (Mr. Beard of Tennessee) To amend the Internal Revenue Code of 1954 relating to estate taxes to provide that the election to use the alternate valuation date may be made on a return that is filed late.

H.R. 4640 (Mr. Pickle and Mr. Archer) To amend the Internal Revenue Code of 1954 to exempt holdings in independent local newspapers from taxes on excess business holdings of private foundations.

H.R. 5512 (Mr. Pickle and Mr. Archer) To amend section 4941(d)(2) of the Internal Revenue Code of 1954 with respect to private foundations.

H.R. 5847 (Mr. Gibbons, Mr. Young of Florida, Mr. Bafalis and Mr. Ireland) Relating to the application of section 103(b) of the Internal Revenue Code of 1954 to certain bonds for harbor improvements.

H.R. 7220 (Mr. Brown of Ohio) To amend the Internal Revenue Code of 1954 to extend for two years the period during which governing instruments may be amended to meet the requirements for a gift of a split interest to charity.

H.R. 7553 (Mr. Rostenkowski) To amend the Internal Revenue Code of 1954 to exempt from tax interest received on portfolio debt investments in the United States of nonresident aliens and foreign corporations.●

SPIRIT OF HELSINKI VIGIL, 1980: ALLA AND EMANUEL SMELIANSKY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, every day brings reports of new injustices in the Soviet Union—and failure to resolve previous acts of repression. Alla and Emanuel Smeliansky have waited for a decade—10 years—to leave the Soviet Union. They have been refused permission to emigrate longer than almost any others on record. No matter that détente has come and gone, that the Helsinki accords have been signed and broken, that last year's record emigration is an episode of the past: these have not affected the Smeliansky's plight. They have waited through it all—in vain.

Their story is depressingly familiar. Emanuel Smeliansky is a 44-year-old metallurgical engineer. His wife, Alla, was a guide with Intourist, the Soviet tourism agency. As soon as Emanuel applied for exist visas to Israel for themselves and their son, he lost his job. Alla was shortly fired from her position with Intourist—and has not found work since. Emanuel, despite his highly skilled background, is now employed as a janitor.

The Smelianskys have never been told by anyone why they were not permitted to leave. Their positions of seniority in their former jobs afforded them no protection after they applied to emigrate. Their mail has been routinely opened and censored. Their taxes have been arbitrarily increased.

Four years ago, in an open letter to the West, Emanuel Smeliansky pleaded:

> The list of violations by the Soviet government [against us] could be lengthened, and we would ask you to bear in mind that our case is by no means exceptional. Please ask the Soviet government to keep their promises and to grant, to us and our friends suffering similarly, permission to emigrate.

The Soviet Union signed a series of binding obligations in Helsinki in 1975 which guaranteed freedom of emigration for its citizens. Those obligations have been consistently and maliciously broken. The Smelianskys are only one of thousands of individuals and families who have been cruelly denied their freedom, intimidated and harassed by the government, and condemned to a stateless existence within their own country.

Through the strength of our commitment, we can help bring this ordeal to an end. This spirit of Helsinki vigil is but one additional measure of our determination to assist the Smelianskys and all the others who seek to simply exercise this most basic of human rights—the right to leave.●

AMENDMENT TO H.R. 6721—AIRPORT AND AIRWAY TRUST FUND EXTENSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, the Committee on Ways and Means has approved a committee amendment regarding extension of the airport and airway trust fund and the aviation-related excise taxes transferred to the trust fund. The committee amendment is to be offered as a separate title II to H.R. 6721, the Airport and Airway Improvement Act of 1980, as reported by the Committee on Science and Technology (H. Rept. No. 96-

887, part 1) and the Committee on Public Works and Transportation (H. Rept. No. 96–887, part 2).

The Committee on Ways and Means is requesting a closed rule on its amendment to H.R. 6721. In addition, the committee is requesting to be heard before the Committee on Rules concurrently with the other committees involved in this legislation.

For the information of the Members, the Committee on Ways and Means has printed an explanation of its amendment (WMCP: 96–62), which is available from the committee office. The committee explanation includes a detailed explanation of the provisions of the amendment as well as estimates of budget effects for fiscal years 1980–85.

Mr. Speaker, I insert in the RECORD at this point a summary of the committee amendment and the text of the committee amendment, the Airport and Airway Revenue Act of 1980:

SUMMARY OF WAYS AND MEANS COMMITTEE AMENDMENT

On May 28, 1980, the Committee on Ways and Means approved a committee amendment to extend the Airport and Airway Trust Fund and aviation excise taxes The committee amendment is to be offered as a separate title to H.R. 6721, the Airport and Airway Improvement Act of 1980, as reported by the Committee on Public Works and Transportation and the Committee on Science and Technology.

H.R. 6721, as reported, provides a 5-year extension of program authorizations from the trust fund, or through fiscal year 1985. The Ways and Means Committee amendment extends the trust fund through fiscal year 1985, and generally extends the aviation excise taxes which are dedicated to the trust fund through September 30, 1985, with some modifications to the present taxes.

The committee amendment extends the 8-percent air passenger ticket tax through September 30, 1982, and reduces the rate of this tax to 5-percent on October 1, 1982. The present 5-percent air freight waybill tax and the present $3 international departure tax are extended through September 30, 1985. In addition, the committee amendment repeals the aircraft registration and use tax for noncommercial (general aviation) aircraft, effective July 1, 1980; at the same time, the tax on fuel used by noncommercial aircraft is increased from 7 cents per gallon to 8½ cents per gallon (through September 30, 1985). The aircraft registration and use tax is retained for commercial aircraft, through September 30, 1985.

Further, the committee amendment modifies three aspects of the tax on air passengers. The amendment will remove the present 225-mile zone rule with respect to air travel between the United States and this zone and within this zone in Canada and Mexico, subject to when the Secretary of the Treasury reaches a satisfactory agreement with Canada and/or Mexico regarding the tax treatment of such air travel with that country. Also, the present 6-hour layover rule for determining whether a flight is an international flight for purposes of the $3 international departure tax is changed to a 12-hour rule. In addition, the committee amendment includes the provisions of H.R. 4725 as previously reported by the committee (H. Rept. 96–1046). H.R. 4725 removes the present requirement that airline tickets show amounts paid and the ticket tax for each segment of a trip where the ticket shows amounts paid by segments. The requirement to show the total of the air fare and the ticket tax for the total trip is retained.

Finally, the committee amendment extends the Airport and Airway Trust Fund through September 30, 1985, and approves the trust fund expenditure purposes as contained in H.R. 6721, as reported by the Committee on Public Works and Transportation, except that the cost of ground access outside of an airport is not to be an eligible expenditure function from the trust fund.

TEXT OF WAYS AND MEANS COMMITTEE AMENDMENT

TITLE II—AIRPORT AND AIRWAY REVENUE ACT OF 1980

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Airport and Airway Revenue Act of 1980".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

(a) EXTENSION.—Paragraph (5) of section 4041(c) (relating to termination of tax on fuel for noncommercial aviation) is amended by striking out "July 1, 1980" and inserting in lieu thereof "September 30, 1985".

(b) INCREASE IN TAX.—

(1) Paragraph (1) of section 4041(c) (relating to imposition of tax on fuel for noncommercial aviation) is amended by striking out "7 cents" and inserting in lieu thereof "8½ cents".

(2) Paragraph (3) of section 4041(c) (relating to rate of tax on gasoline for noncommerical aviation) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is—

"(A) 4½ cents a gallon for the period ending September 30, 1984, and

"(B) 7 cents a gallon for the period after September 30, 1984."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1980.

SEC. 203. TRANSPORTATION BY AIR.

(a) EXTENSION.—

(1) TRANSPORTATION OF PERSONS.—Subsection (e) of section 4261 (relating to reduction, etc., of rates) is amended to read as follows:

"(e) REDUCTION, ETC., OF RATES.—

"(1) TICKET TAX.—Effective with respect to transportation beginning after September 30, 1982, the rate of the taxes imposed by subsections (a) and (b) shall be 5 percent.

"(2) USE OF INTERNATIONAL TRAVEL FACILITIES.—Effective with respect to transportation beginning after September 30, 1985, the tax imposed by subsection (c) shall not apply."

(2) TRANSPORTATION OF PROPERTY.—Subsection (d) of section 4271 (relating to termination of tax on transportation of property) is amended by striking out "June 30, 1980" and inserting in lieu thereof "September 30, 1985".

(b) LONGER LAYOVER PERMITTED TO QUALIFY AS UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—Paragraph (3) of section 4262(c) (defining uninterrupted international air transportation) is amended by striking out "6 hours" each place it appears and inserting in lieu thereof "12 hours".

(c) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—Section 4262 (defining taxable transportation) is amended by adding at the end thereof the following new subsection:

"(e) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—

"(1) IN GENERAL.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) effective with respect to transportation beginning after the date specified in such notice, the term '225-mile zone' shall not include any portion of the country with respect to which such determination is made.

"(2) TERMINATION OF WAIVER.—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that a qualified agreement is no longer in effect with such country—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

"(3) QUALIFIED AGREEMENT.—For purposes of this subsection, the term 'qualified agreement' means an agreement between the United States and Canada or Mexico (as the case may be)—

"(A) setting forth which transportation of persons by air between the United States and such country shall be subject to tax by which country, and

"(B) providing that the tax imposed by such country on transportation described in subparagraph (A) will be at an appropriate level of taxation."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transportation beginning after June 30, 1980.

SEC. 204. TAX ON USE OF CIVIL AIRCRAFT.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (e) of section 4491 (relating to termination) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1985".

(2) TRANSITIONAL RULE.—For the period beginning July 1, 1985, and ending on September 30, 1985—

(A) subsection (a) of section 4491 of the Internal Revenue Code of 1954 shall be applied by substituting "$6.25" for "$25", "½ cent" for "2 cents", and "⅞ cent" for "3½ cents", and

(B) such section 4491 shall be applied by treating such period as a year.

(b) TAX ONLY TO APPLY TO COMMERCIAL AVIATION.—

(1) Paragraph (2) of section 4492(c) (defining use) is amended to read as follows:

"(2) TAXABLE USE.—The term 'taxable use' means any use in the navigable airspace of the United States in a business of transporting persons or property for compensation or hire by air. Such term does not include any use in a business described in the preceding sentence which is properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282."

(2) Subsections (a) and (c) of section 4491 and section 4493(a)(1) are each amended by striking out "use" each place it appears and inserting in lieu thereof "taxable use".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1980.

SEC. 205. EXTENSION OF AIRPORT and AIRWAY TRUST FUND.

(a) IN GENERAL.—

(1) Subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 is amended by striking out "July 1, 1980" each place it appears and inserting in lieu thereof "October 1, 1985".

(2) Subsection (f) of such section 208 is amended by striking out "October 1, 1980" each place it appears and inserting in lieu thereof "October 1, 1985".

(b) PURPOSES FOR WHICH TRUST FUND AVAILABLE.—Paragraph (1) of section 208(f) of the Airport and Airway Revenue Act of 1970 is amended—

(1) by amending subparagraph (A) by inserting before the semicolon at the end thereof the following: ", or incurred under the provisions of the Airport and Airway Improvement Act of 1980 (as such provisions were contained in such legislation as reported by the House Committee on Public Works and Transportation)", and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, none of the amounts in the Trust Fund shall be available for making expenditures to develop, construct, reconstruct, or improve a ground access system off airport property."

SEC. 206. MANNER IN WHICH TAX ON TRANSPORTATION BY AIR IS REQUIRED TO BE SHOWN ON AIRLINE TICKETS

(a) GENERAL RULE.—Subsection (a) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended to read as follows:

"(a) TICKETS.—In the case of transportation by air all of which is taxable transportation (as defined in section 4262), the ticket for such transportation shall show the total of—

"(1) the amount paid for such transportation, and

"(2) the taxes imposed by subsections (a) and (b) of section 4261."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act.

Finally, Mr. Speaker, I would like to point out that the Committee on Ways and Means has reported H.R. 7477, which provides for a 3-month extension of the present law aviation excise taxes going into the airport and airway trust fund, on July 1, 1980, to September 30, 1980. This bill will provide additional time for the Congress to consider the provisions of H.R. 6721 in an orderly manner. Without this extension, the present aviation taxes would either expire or be reduced on July 1, 1980. It is the intention of the Committee on Ways and Means to have H.R. 7477 considered on the Suspension Calendar as soon as possible, so that there may be certainty as to the applicable aviation excise tax rates for the 3-month period.●

DISREGARD OF CONGRESSIONAL VETO BY EXECUTIVE BRANCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 10 minutes.

Mr. LEVITAS. Mr. Speaker, I was very much concerned and disturbed the other day when I read in the Washington Post an article, the headline of which says, "Executive Branch Decrees Its Disregard of Congressional Veto."

Mr. Speaker, the gist of this article is to the effect that the administration, acting through Attorney General Civiletti who is the head of the Justice Department, and the Secretary of Education, Shirley Hufstedler, have announced publicly their decision and intent not to obey the law.

☐ 1840

Now, the background of this is very simple. Congress passed a law which President Carter signed, saying that when regulations are promulgated by the Department of Education, they come before Congress for review. If Congress, by adopting a concurrent resolution of both Houses, vetoes those regulations, those regulations become null and void and cannot go into effect. The gist and thrust of the decisions and actions announced by the Justice Department and the Department of Education are to say they will not follow the law.

The law is very clear. The law is very simple. The law is very explicit. It says that where both Houses of the Congress have adopted a congressional veto, the regulations become null and void.

Now I want to make it very clear, I know President Carter and I have great respect for him; and I know him to be a law-abiding citizen. Unlike other Presidents in recent history, I think that President Carter would not deliberately violate the law, and I reject any interpretation or insinuation that the actions taken and announced by the Justice Department in this matter, or the Department of Education, amount to a deliberate violation of the law. Indeed, I think it is a situation of inadvertence, of error, and a failure to focus upon something that is very fundamental.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to my colleague from California.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding. This subject of congressional veto I know is a subject in which the gentleman from Georgia has worked long and hard—I would say longer and harder than anybody in the annals of the Congress of the United States. I am certain there is no one who has a more intimate knowledge of all of the nuances of congressional veto.

I would like to ask one question. The gentleman said that under the bill to which he is referring, the Congress did pass a concurrent resolution—the two Houses of the Congress, I am going to assume—vetoing the regulations. Will the gentleman tell me, did the President thereafter sign the concurrent resolution?

Mr. LEVITAS. The gentleman from California, for whom I have the greatest respect as a legislator and as a lawyer, I am sure knows that the President does not sign concurrent resolutions. The legislation under which the concurrent resolution was adopted was legislation, however, which was signed by the President of the United States.

Mr. DANIELSON. I understand, and I appreciate the candid answer. I have in mind, as I am sure the gentleman knows, the provision of the Constitution which requires that when a piece of legislation needs the concurrence of both Houses, then it must be presented to the President for his approval or disapproval. I do not know, and I do not presume to state that I know, what the constitutional effect of this is. I hope sincerely that the matter can be brought through our judicial system and up to the Supreme Court so that we can resolve this thing once and for all.

Mr. LEVITAS. I thank the gentleman for his contribution. I share that desire. The fact of the matter is that every court which so far has considered the issue of validity of congressional veto has in fact upheld it. Perhaps the most meaningful statement on the subject was a concurring opinion by Mr. Justice White in the famous case of Buckley versus Valeo, which I know the gentleman is familiar with.

In this particular instance I might point out that the Justice Department itself, by opinions issued by prior Attorney Generals, has stated that in the exercise of a congressional veto, in many instances the adoption of a concurrent resolution is not required for presentment under the presentment clause. But, what is in the Constitution without a doubt and without challenge is the requirement that the President of the United States faithfully execute the laws of the United States; and the President cannot pick and choose those laws he wants to implement and those that he does not want to implement.

It is not for the executive branch to decide what laws will be enforced and those which will not. There is a very important case that illustrates that, Kendall versus United States, decided by the Supreme Court in 1838. In that instance, the President of the United States directed his Postmaster General not to pay a certain sum required to be paid by Congress to a contractor with the Post Office, and in issuing the writ of mandamus the Court said:

> To contend, that the obligation imposed on the President to see the laws faithfully executed, implies a power to forbid their execution, is a novel construction of the Constitution, and entirely inadmissible.

No, the President of the United States does not have the power or the right or the prerogative not to enforce the laws. That is for the courts to decide, and not the President. I do hope we get a Supreme Court decision on this matter. The legislation recently passed involving the Federal Trade Commission, I think, will very likely lead to that conclusion. But, for the administration to say they will not faithfully execute the laws, will not enforce the laws, the terms of which are absolutely explicit, signed by the President, is unacceptable.

Therefore, Mr. Speaker, as the appropriations bills begin to work through the House in the next few weeks, I intend to offer to each appropriations bill an amendment which simply says that no funds appropriated by this bill may be expended to implement or to carry out any regulation which has been vetoed by the Congress of the United States pursuant to a law of the United States. For that reason, I think the Congress must exert its constitutional prerogative to see that the laws of the United States are not violated by anybody, including this administration.

Mr. BAUMAN. Mr. Speaker will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Maryland

Mr. BAUMAN. Mr. Speaker, I certainly concur with everything the gentleman has said. I just wanted to inform him that there are now discussions going on in the powers that be in the Rules Committee to bring out closed rules on all appropriations bills to prevent such amendments or any such amendments dealing with amounts in appropriation bills. The gentleman from Georgia might like to lend his voice to mine in opposition to such dictatorial tactics.

Mr. LEVITAS. I would say to the gentleman from Maryland that anything as important as appropriating $613 billion that we have just covered in our budget resolution would be a gross violation, not of the prereogatives of this House, but of the rights of the American people. We need to have open rules, and certainly on something as fundamental as protecting the constitutional prerogatives of one of the three branches of Government not to have a rule which will permit that matter to be carried forward, I think would do violence to our system.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I am glad that the gentleman from Maryland made a contribution here, because this is a terribly important subject. Again, I want to point out that I do not pretend to know whether these congressional vetoes are constitutional, but clearly they are a subject of great moment and of great topical significance, because they are on the minds of everyone today. I sincerely hope that a good test case move up through our judicial system to the Supreme Court as soon as possible, because the lack of a definitive answer to this problem is an increasingly serious source of irritation.

I can only surmise—I do not know—I can only surmise that the administration, the President and the Attorney General, must have issued the order to which the gentleman from Georgia alluded, namely, to disregard this veto, on the theory that this is not a law, a valid law; and therefore they are not failing to enforce the law. I thank the gentleman.

Mr. LEVITAS. I thank the gentleman. The President signed the law. He should enforce it.

A TAX CREDIT FOR FUEL-EFFICIENT CARS: A PLUS FOR THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, I am introducing legislation today to allow individuals a tax credit of up to $1,000 or 10 percent of the cost of a new American-made automobile when the purchased car's fuel efficiency exceeds the fleet averages mandated under the Motor Vehicle Information and Cost Savings Act. The credits would be refundable, would be allowed only in instances where the new car replaces a less fuel efficient car, and would only be applicable between today and the end of 1987. In the case of businesses, the bill would enhance presently allowed investment tax credits when vehicles purchased meet the same criteria.

The intent of this bill is twofold. First, it would reduce consumption of costly imported oil in the transportation sector where we have our largest amount of discretionary fuel use. Second, it would provide a significant stimulus to the sagging American auto industry.

We have a statute on the books which sets minimum fleet averages for fuel efficiency to be achieved by vehicles manufactured in the United States. But having those cars produced but not purchased does none of us much good. And that is just what appears to be happening. As auto prices have risen, more and more people have decided it is more economical to repair their old cars than to buy new, more fuel efficient ones. The result is that old, inefficient cars are staying on the road longer than they normally would. There clearly needs to be an added incentive for people to buy the more efficient cars which are coming on line. Hopefully, the sizable tax credit which I am proposing would do just that.

While this bill would be of obvious benefit to the auto industry, it also sends the industry a clear message: they stand to benefit if they focus on producing fuel efficient cars. It is a sad state of affairs when that fact has not been self-evident to the industry. And I think it is very unfortunate that the industry has preferred to focus its efforts on blocking imports of fuel-efficient imported cars instead of enhancing its own competitiveness.

But we in the Congress must resist the temptation of protectionism and instead provide positive alternatives. By showing the auto industry in no uncertain terms the advantages of building fuel-efficient cars, this legislation offers just such an alternative.

This legislation by itself is no panacea. But it does offer a carrot to be coupled with the sticks that are already on the books in the form of fuel efficiency standards and gas-guzzler taxes. In addition, we need to move ahead with legislation to set post-1985 fuel efficiency standards considerably above the standards that are set in present statute. And I think we need to be encouraging auto manfacturers to be creative in terms of developing vehicles that operate on nonpetroleum based fuels. That could readily be achieved by providing credits in calculating fleet averages for vehicles that operate on such fuels. And, basic to all of this, we need to make sure that the ratings developed by EPA are as meaningful as possible. There has been considerable concern from consumers about vehicles being rated at levels considerably above those which they actually achieve, and the lack of confidence in those ratings must be addressed if any of these initiatives are going to realize their full potential.

I would stress that the idea of a tax credit for purchasing energy efficient cars is not a radical one. After all, we already allow tax credits for other expenses aimed at reducing energy consumption. It only makes sense to allow them in the case of automobiles where the potential for fuel savings is so great. I urge my colleagues to seriously consider this proposal, and I would, of course, welcome cosponsors.●

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NO DEMOCRACY IN LEGISLATIVE PROCESS ON BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 60 minutes.

Mr. WEISS. Mr. Speaker, I do not intend to take anywhere near the amount of time I requested, because I know that the hour is much later than any of us anticipated we would be here today, and I know that Members, as well as the staff, have other things that have been scheduled earlier.

Mr. Speaker, in consideration of House Concurrent Resolution 307, the budget resolution, earlier this afternoon, we witnessed, in my opinion, the greatest violation of the spirit of democracy which must be present in the legislative process certainly in the course of my 3½ years in this Chamber. Although the distinguished chairman of the Budget Committee, who controls the time, had 13 minutes, approximately, remaining when he yielded back all of his time and called for the previous question, he refused to recognize either myself or the gentleman from California (Mr. HAWKINS) or the gentleman from New York (Mr. OTTINGER) or anyone else who, on the majority side, the Democratic side, opposed the adoption of the budget resolution.

It was not for not knowing that in fact we wanted time, because each of us had specifically requested the opportunity to present our opposition. So that, in fact, the only Members who were heard, who were recognized on the part of the majority, were those who supported the position of the gentleman from Connecticut in favor of adoption of House Concurrent Resolution 307 as it appeared before us this afternoon.

Mr. Speaker, I think that, aside from the merits of the budget resolution itself, this bodes ill for the democratic process—it is democratic with a small "d"—it bodes ill for the Democratic Party, the majority party in this Chamber. It certainly undermines whatever possibility there is of unifying our party if in fact people are going to be muzzled and not given the right of expression on a particular issue.

Now, I happen to think that the specific budget resolution that was adopted was a terrible, terrible mistake. It totally ignores the economic facts of life in this Nation, and if they have changed since the budget resolution was first promulgated and proposed by both the President and the Budget Committee in March, the economy of this Nation is going to hell in a handbasket as rapidly as one can look at it, it gets worse and worse, and the economic assumptions which were valid 2½ months ago or 3 months ago are no longer valid. We are now at an unemployment level of 7 to 8 percent. They estimate that the level for 1981 would be somewhere around 7.4 percent or 7.5 percent. For every 1-percent increase in unemployment, the budget deficit increases by something around $27 or $28 billion. The pretense that this budget is in balance is indeed nothing more than a pretense. I must say, Mr. Speaker, that when, in a month or so the new estimates in the middle of July are given out by the Congressional Budget Office and by the administration as to the economic projections for the coming year, I think that this House is going to find itself in the ridiculous position of having to shunt aside all of the phony assumptions upon which the budget resolution which we adopted today was based. The people of this country are not looking for nor are they interested in a budget process which sums out well at the bottom of the page when you have used mythical figures. What they are looking for is a budget that meets the needs of this Nation, and this budget does not. It does great violence in the area of providing jobs, it does great violence in the area of providing public transportation, it does great violence in the area of the elderly and in the area of the needs of the senior citizens and young people. In just about every area of domestic need, this budget does not meet our needs.

Mr. Speaker, I had a prepared statement that I was going to give, had I been given the opportunity in the course of the budget resolution debate. At this time I will simply ask that that be entered as part of my statement in the RECORD, together with a couple of tables which I prepared in my office, attached to that statement, and, finally, a statement which was distributed today by the Council for a Livable World, dated June 12, 1980, which points out the military and defense aspect of this budget and how they have risen in the course of the past 2 years by 33 percent in budget authority and 31 percent in outlays.

Mr. Speaker, I know this is a story which is to be continued and will be continued. Indeed, we have not, as of this moment, continued the final adoption of the budget resolution that was before us today, and I am sure that many Members will continue to be heard, as well as the American people.

The statements and tables referred to are as follows:

Mr. WEISS. Mr. Speaker, I rise in opposition to the new conference agreement on the first concurrent resolution on the budget (H. Con. Res. 307).

Under the new agreement $800 million in budget authority and $300 million in outlays are added for domestic programs while $800 million is cut in budget authority for defense spending. The $300 million in outlays, which represents funds that would actually be spent in FY 1981, would be distributed to the low-income energy assistance program ($200 million) and highway and mass transit funding ($100 million). The $800 million in budget authority—money that will not necessarily be used in FY 1981—to increase domestic program spending is neatly divided into eighths and spread out among programs in education, science research, energy conservation and community health. Taken individually, then, the increases to each of these spending areas is in the range of $100-$200 million—an extremely modest increase given the total dollars we are concerned with.

In sum, when compared to the old agreement on the budget, which the House rejected overwhelmingly on May 29th, the new agreement represents only minor revisions.

We can see another measure of this new agreement by comparing it to the original House-passed version of H. Con. Res. 307 and the Holt-Gramm substitute, an extremely fiscally-conservative package that the House rejected by a large margin during the original debate.

The new agreement is much closer to Holt-Gramm than to the House-passed version of H. Con. Res. 307. For example, the new agreement provides national defense with $170.5 billion of Budget Authority (BA), and $153.7 billion in Outlays (O), compared to $160.8 the original House-passed version. That is billion in BA and $149.0 billion in O in clearly a wide disparity—over $5 billion in Outlays.

On the other hand, in Holt-Gramm, defense spending was projected at $166.6 billion in BA and $153.0 in Outlays. Thus we see that the disparity between Holt-Gramm and the new agreement in terms of outlays is only $0.7 billion. The overall difference between Holt-Gramm and the new agreement is minimal.

Other comparisons along this line demonstrate that the new agreement does not come close to a parallel of the original version that passed the House. But the new agreement is very close to Holt-Gramm—and of course, we know that Holt-Gramm was overwhelmingly rejected, by this body.

The new agreement, Mr. Speaker, is a pathetic attempt to address growing concern about national economic conditions. Economists are predicting a worsening of the current recession with unemployment rising to 9% in the near future. Already in the short period of time since the House first considered H. Con. Res. 307 in early May unemployment has risen from 7% to 7.8%.

It is apparent that the "compromise" which was reached on H. Con. Res. 307 is inadequate and fails to provide the support that the nation will need economically. We need the municipal aid which comes from a strong general revenue sharing and countercyclical program. We need the public job support provided by title VI of CETA. We need the vital reform of the welfare demonstration project. These are all programs which are simply underfunded, or unfunded, by the new conference agreement. I urge my colleagues to join me in opposing this measure and pressing for a budget which meets the real economic and social needs of our people.

TABLE I.—BUDGET COMPARISON

[In billions]

Function	Holt-Gramm	Conference (rev.)
050—National defense:		
Budget authority	$166.6	$170.5
Outlays	153.0	153.7
150—International affairs:		
Budget authority	23.2	23.6
Outlays	9.0	9.5
250—General science, space, and technology:		
Budget authority	6.7	6.6
Outlays	6.3	6.1
270—Energy:		
Budget authority	7.4	6.7
Outlays	7.0	6.8
300—Natural resources and environment:		
Budget authority	11.8	11.7
Outlays	12.2	12.1
350—Agriculture:		
Budget authority	5.4	5.5
Outlays	2.3	2.3
370—Commerce and housing credit:		
Budget authority	5.1	5.1
Outlays	.1	0
400—Transportation:		
Budget authority	22.8	22.1
Outlays	19.5	18.75
450—Community and regional development:		
Budget authority	9.0	8.8
Outlays	9.4	9.2
500—Education, training, employment, and social services:		
Budget authority	31.3	31.7
Outlays	29.0	29.5
550—Health:		
Budget authority	$71.3	$71.2
Outlays	61.6	61.7
600—Income security:		
Budget authority	251.5	249.5
Outlays	219.5	219.55
700—Veterans benefits:		
Budget authority	21.7	21.7
Outlays	21.2	21.2
750—Administration of justice:		
Budget authority	4.2	4.2
Outlays	4.6	4.6
800—General government:		
Budget authority	4.7	4.6
Outlays	4.6	4.3
850—General purpose fiscal assistance:		
Budget authority	6.2	6.2
Outlays	6.8	6.8
900—Interest:		
Budget authority	72.2	72.2
Outlays	72.2	72.2
920—Allowances:		
Budget authority	−1.7	0
Outlays	−1.7	0
950—Undistributed offsetting receipts:		
Budget authority	−24.6	−24.7
Outlays	−24.6	−24.7
Total:		
Budget authority	694.8	697.2
Outlays	611.8	613.6
Revenues	613.8	613.8
Surplus	2.0	.2

TABLE I.—BUDGET COMPARISON—Continued

[In billions]

Function	Original House	Conference (rev.)
050—National defense:		
Budget authority	$160.8	$170.5
Outlays	147.9	153.7
150—International affairs:		
Budget authority	24.0	23.6
Outlays	9.6	9.5
250—General science, space, and technology:		
Budget authority	6.7	6.6
Outlays	6.3	6.1
270—Energy:		
Budget authority	7.5	6.7
Outlays	7.1	6.8
300—Natural resources and environment:		
Budget authority	12.0	11.7
Outlays	12.4	12.1
350—Agriculture:		
Budget authority	5.4	5.5
Outlays	2.3	2.3
370—Commerce and housing credit:		
Budget authority	5.1	5.1
Outlays	−.1	0
400—Transportation:		
Budget authority	22.8	22.1
Outlays	19.5	18.75
450—Community and regional development:		
Budget authority	9.0	8.8
Outlays	9.4	9.2
500—Education, training, employment, and social services:		
Budget authority	33.3	31.7
Outlays	30.7	29.5
550—Health:		
Budget authority	$71.5	$71.2
Outlays	61.8	61.7
600—Income security:		
Budget authority	252.1	249.5
Outlays	220.1	219.55
700—Veterans benefits and services:		
Budget authority	21.7	21.7
Outlays	21.2	21.2
750—Administration of justice:		
Budget authority	4.2	4.2
Outlays	4.6	4.6
800—General government:		
Budget authority	4.7	4.6
Outlays	4.6	4.3
850—General purpose fiscal assistance:		
Budget authority	6.2	6.2
Outlays	6.8	6.8
900—Interest:		
Budget authority	72.2	72.2
Outlays	72.2	72.2
920—Allowances:		
Budget authority	0	0
Outlays	0	0
950—Undistributed Offsetting receipts:		
Budget authority	−24.6	−24.7
Outlays	−24.6	−24.7
Total:		
Budget authority	694.8	697.2
Outlays	611.8	613.6
Revenues	613.8	613.8
Surplus	2.0	.2

THE SECOND BUDGET CONFERENCE AGREEMENT: A NEW FAILED TRY, JUNE 12, 1980

House and Senate conferees, in their second try for a Budget Conference agreement, have merely tinkered with the numbers soundly rejected by the House 141-242. House conferees have once again caved in to the Senate, making a marginal decrease in the tremendous increase slated for military spending. This new conference agreement should be defeated.

An analysis of the new agreement on National Defense, Function 050, follows:

I. The conference agreement still provides a huge and largely unjustified increase in the 050 National Defense function of the budget. The extent of the increase can be seen by looking at the rise in military spending from FY 1980 to FY 1981, or, as a better measurement, the rise from FY 1979—the last actual rather than estimated yearly figure—to FY 1981 (The FY 1980 estimated figures have been changing all year, starting with the Administration's January estimate of $141.6 billion in BA and $130.4 billion in O and now ending up much higher in this conference agreement).

[In billions of dollars]

	Budget authority	Outlays
FY 1979 actual	$127.8	$117.7
FY 1980 conference agreement	143.7	135.7
FY 1981 conference agreement	170.5	153.7

One-year increase (FY 1980 to FY 1981): $26.8, 19 percent; $18, 13 percent.

Two-year increase (FY 1979 to FY 1981): $42.7, 33 percent; $36, 31 percent.

II. The House conferees again caved in to the Senate conferees, particularly in the National Defense function. In fact, while the full House overwhelmingly rejected the military spending increases proposed in the Holt amendment (defeated 164-246 May 1, 1980), the House conferees once again accepted even higher 050 figures than proposed by Holt:

[In billions of dollars]

	Budget authority	Outlays
FY 1981 (House figures)	$160.8	$147.9
FY 1981 (Holt amendment figures that were rejected)	166.6	153.0
FY 1981 (Senate figures)	173.4	155.7
FY 1981 (New conference agreement figures)	170.5	153.7
Increase from House figures	+9.7	+5.8
Increase from Holt amendment figures that were rejected	+3.9	+0.7
Decrease from Senate figures	−2.9	−2.0

(N.B. The house cave in on Budget Authority figures was particularly striking).

III. The conferees went well beyond both House and Senate outlay figures for National Defense in FY 1980.

[In billions of dollars]

	Budget authority	Outlays
FY 1980 (House figures)	$142.5	$134.2
FY 1980 (Senate figures)	143.7	134.0
FY 1980 (Conference agreement figures)	143.7	135.7

IV. The projections in the conference agreement for FY 1982 and FY 1983 indicate that the military budget will continue to go shooting upwards. The Senate and House could not agree on a single set of projected figures, so they included in the conference agreement two sets of estimates:

[In billions of dollars]

	Budget authority	Outlays
FY 1981 (conference agreement figures)	$170.5	$153.7
FY 1982 (House budget projection)	193.2	173.5
FY 1982 (Senate budget projection)	204.6	183.2
FY 1983 (House budget projection)	216.9	195.5
FY 1983 (Senate budget projection)	234.0	208.7

V. Basic arguments against this huge increase accepted by the conferees:

A. The figures vastly exceed the President's budget, which already had provided the military with too great an increase compared to that given to domestic programs.

B. The figures greatly exceed those accepted by the House and even exceed the figures overwhelmingly rejected in the Holt amendment vote.

C. The conference agreement is a bad example of throwing money at a problem.

D. The large military increases are obtained only by making substantial cutbacks in domestic programs. At a time of deepening recession, cutting back jobs programs or unemployment compensation damages national economic security.

E. Most of the military increase—as amply demonstrated by the Defense Authorization Bill that came out of the House Armed Services Committee—will be used to buy gold-plated weapons systems rather than to tackle the truly pressing military problems such as readiness, spare parts, training, maintenance, personnel retention, etc.

DANIELSON QUESTIONNAIRE RESULTS SUPPORT FEDERAL FUNDING OF CONGRESSIONAL ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, I recently sent a questionnaire throughout my congressional district, and have now tabulated the results. Some of the highlights include strong support for returning to a military draft, including the drafting of women, overwhelming support for a nationwide primary election to choose Presidential candidates, and disapproval of the way the President has handled the crises in Iran and Afghanistan. I should note that most of the questionnaires were returned to me in the first few weeks of April, prior to the attempted rescue of the hostages in Iran.

In addition, those responding to the questionnaire slightly favored wage and price controls, opposed changing the term of office of the President to a single 6-year term, and strongly supported Federal funding of congressional campaigns and the outlawing of private contributions to candidates.

In respect to the draft, 68 percent of my constituents who replied to the questionnaire favored a resumption, 26 percent were opposed, and 6 percent undecided. There were 54 percent favoring the drafting of women if a draft should become necessary, with 40 percent opposed, and 6 percent undecided.

By a margin of more than 4 to 1, 67 percent supported a single, nationwide Presidential primary election, 18 percent were opposed, and 6 percent were undecided. Only 43 percent favored the 6-year Presidential term with no reelection, 52 percent opposed that idea, and 5 percent were undecided.

I also queried my district as to what factors the people felt contribute most to inflation. Federal Government spending stood out as the factor chosen by the most people, with oil import costs running a strong second. The other five choices selected by my constituents were somewhat farther down the line, bunched closely together, in the following order: State and local government spending, easy credit buying, union wage increases, interest rates, and business profits.

The full results of the questionnaire, and the questions asked, as as follows:

CONGRESSMAN GEORGE E. DANIELSON

	In percent		
	Favor or approve	Oppose or disapprove	No opinion
1. Do you approve or disapprove of the way President Carter is handling the crisis in Iran?	20	74	6
2. Do you approve or disapprove of the way President Carter is handling the crisis in Afghanistan?	28	59	13
3. Would you favor or oppose having the Government bring back wage and price controls?	50	41	9
4. It has been suggested that presidential candidates be chosen by the voters in a nationwide primary election instead of by political party conventions as at present. Would you favor or oppose this?	76	18	6
5. Would you favor changing the term of office of the President of the United States to one 6-yr term with no reelection?	43	52	5
6. It has been suggested that the Federal Government provide a fixed amount of money for the election campaigns of candidates for Congress and that all private contributions from other sources be prohibited. Do you favor or oppose that idea?	58	35	7
7. As you may know, there is no longer a military draft and those who serve in the Armed Forces are volunteers. Recently, however, the Armed Forces have had trouble in getting enough volunteers to meet manpower needs. Do you think we should return to the draft at this time or not?	68	26	6
8. If a draft becomes necessary, should young women be required to participate as well as young men?	54	40	6

9. Of every tax dollar that goes to the Federal Government in Washington, D.C., how many cents of each dollar would you say are wasted? 48

10. Of every tax dollar that goes to the State government in Sacramento, how many cents of each dollar would you say are wasted? 41

11. Of every tax dollar that goes to local county and city government, how many cents of each dollar would you say are wasted? 35

12. Which 3 factors do you feel contribute the most to inflation?

Federal Government spending	1st	Union wage increases	5th
Oil import costs	2d	Interest rates	6th
State and local government spending	3d	Business profits	7th
Easy credit buying	4th		

A TRIBUTE TO SONNY McDONOUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 5 minutes.

● Mr. MOAKLEY. Mr. Speaker, I have just returned from the funeral of a dear friend of mine in Boston—Governor's Councilor Patrick J. McDonough. Sonny McDonough spent the better part of four decades in a life of service to his constituents.

A first-generation American, Sonny grew up in South Boston and became the embodiment of all that South Boston has traditionally meant—neighborliness, family, and an ongoing sense of community. From those roots, Sonny McDonough reached the heights of power in the Commonweath, as a member of the Governor's executive council.

The eulogy delivered this morning by Massachusetts Senate President William Bulger is especially fitting, I think, to the legacy Sonny McDonough leaves to all public servants both within the Commonwealth and throughout the land:

SONNY MCDONOUGH

When the melancholy news of the death of Sonny McDonough reached me, two words came immediately to mind. Those two words catch the unique nature of this extraordinary man. The words are "sui generis." These words are part of the vocabulary of a lawyer and Latin scholars recognize them as signifying in the vernacular "one of a kind."

Sui generis—one of a kind indeed, cast from his own heroic mold, there is no other like him in our midst. From very modest circumstances, he made his way in the public service and in the commercial life of the community, supported and spurred by great personal gifts of intelligence, industry, courage and perseverance. In our Legislature he served for six years representing a district that forms a part of my senatorial district. He was close to his constituents, his neighbors and friends. He fought for their interests with zeal and euthusiasm. He was indeed their champion in supporting measures designed to benefit the distressed and disadvantaged.

He advanced to the Executive Council where his thirty-three years of service are without equal or parallel. His influence was widespread, ranging far beyond the Council Chamber and, election after election, the voters returned Sonny to the Council because he was their faithful mediator when he was needed. He was cherished as a true friend. Every person who came in contact with Sonny, through the years, has his own story to tell of him. His comments on public issues and public figures, if committed to print, would give us another Bartlett; some issuing from his gift of hearty humor, some from his caustic wit, some from his outrage, some from his sense of compassion. With perhaps possibly an exception, Governor after Governor with whom he served, without regard to party, found that Sonny was not fossilized by political polarity. They found in him a person of independent thought, sharp conviction and uncontrolled action. He was, in every sense, his own man—sui generis indeed.

When I visited him at the hospital during his final illness, and at a time when he fully appreciated the seriousness of his physical problems, there was never a word of complaint, never a flicker of self-pity. That was simply not his style. The conversation would turn to politics. And then—inevitably—to his family . . . to his pride in them and his happiness in them: His wife, Helen; their four sons—Patrick, James, Richard and Paul; their daughter, Patricia Ann and other members of the family. It was not all sad—it was a joyous thing—as he spoke of his gratitude at being so blessed.

As we have been reminded so movingly by Father Campbell, the encouraging and joyful significance of resurrection consoles the loss that is the companion of death. The solemn and meaningful pieties of the dirges do yield to the Alleluia of resurrection. By our prayerful remembrance we speed Sonny to triumphant welcome in heaven, the saintly peace of eternity, the ultimate victory in the campaign of life, the reward of the good life, the good fight.

Sonny—we salute you.

Ave atque vale; Hail and farewell.

Requiescas in pace, May you rest in peace.

IF GOVERNMENT HAD TO DANCE TO OSHA'S TUNE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MCKAY) is recognized for 5 minutes.

● Mr. McKAY. Mr. Speaker, the Federal Government in recent decades has promulgated volume after volume of regulations designed to correct health and safety problems in the private sector.

Unfortunately, many of these same problems, occurring in workplaces administered by the Federal Government, have been overlooked in these same voluminous Government reports, investigations and regulations.

Quite a few of the most dangerous of the Federal workplaces understandably are on defense installations. Last year Chairman JAMES HANLEY and the Subcommittee on Investigations of the Committee on Post Office and Civil Service held important, ground-breaking hearings on this question and focused in particular upon the use of toxic solvents and other chemicals at Utah's Hill Air Force Base.

An article which points up the extent of this nationwide problem appeared in the June 9, 1980, issue of U.S. News & World Report. I commend the article to the attention of my colleagues.

IF GOVERNMENT HAD TO DANCE TO OSHA's TUNE

The federal government, which for years has been badgering business and industry over safety violations, has glossed over its own history of job-related injuries and deaths.

While the safety record has been improving in many private firms, statistics show that more federal employes than ever are being injured on the job.

Problems are cropping up in federal workplaces ranging from quiet Washington offices to bustling military bases. There seems to be little that the Occupational Safety and Health Administration—the agency charged with curbing job hazards—can do about them.

Says Pete Lunie, a former OSHA official: "The Department of Labor really has little leverage to enforce the law in government agencies. While I was there, it was my impression that federal-worker safety was not a high enough priority."

From 1969 through 1979, the number of accident, injury, illness and death cases reported yearly by federal workers rose from 122,994 to 208,375, an increase of 70 percent. Adds OSHA Director Eula Bingham: "From 1973 to 1977, the number of on-the-job fatalities in the federal work force increased 10 percent, while the size of the work force grew by only 4 percent."

Nowhere are problems worse than at the nation's defense installations. In a report issued last year, General Accounting Office investigators found hundreds of serious hazards involving toxic, cancer-causing chemicals, unrestrained machinery and haphazard equipment handling at eight military bases.

Among some of the recent problems:

Employes in the paint-spray area at the Red River Army Depot in Texarkana, Tex., were found to have lead concentrations in their urine four times higher than what OSHA considers normal.

Lead dust was discovered on surfaces used for eating and drinking at Kelly Air Force Base in San Antonio.

Electrical lines were lying in about an inch of water at the Norfolk Naval Shipyard in Virginia.

Workers' complaints. The problem of careless use of toxic chemicals was found to be widespread. Neil Breeden, president of an American Federation of Government Employes chapter, says that at Hill Air Force Base in Ogden, Utah, "workers pass out frequently, walk around in stupors induced by chemical fumes and suffer severe health impairments."

Lethal chemicals like trichloroethane, ethylene, toluene and chloroform are used there and at other Air Force bases by civilian workers to remove dirt and paint from warplanes.

At Tinker Air Force Base in Oklahoma, local AFGE leader Paul Ketcherside says: "Base officials spent thousands of dollars for ducts to remove the fumes from work areas. But they never put blowers in to make them work."

In addition, workers there complain that hoses used to spray on paint removers sometimes break, showering workers with acid.

Defense officials, responding to congressional inquiries this year, say it would cost more than 900 million dollars to correct serious safety problems at all defense installations.

Says a GAO investigator: "The Defense Department has one of the best-written safety programs in government. The problem is it is not being enforced. Safety and health both cost money."

The offices at the seat of government in Washington provide other instances of job hazards. At the Department of Labor, employes have long complained about air-pollution problems within the building, which is located over an underground freeway.

Employes at the Equal Employment Opportunity Commission headquarters won an $18,000 court settlement to compensate for damages they suffered from carbon-monoxide fumes trapped in their poorly ventilated offices.

Some 28 Small Business Administration employes work in one cramped office, a records room that they share with 14 microfilm-processing machines and camera equipment.

After complaining that they are regularly exposed to the known cancer-causing substance PCB, 43 General Services Administration electricians are undergoing medical tests at Johns Hopkins Medical Center.

Also on the increase are instances of mental illness among federal workers. Douglas LaBier, a Washington psychiatrist who has studied mental-health problems in bureaucrats, sees "a set of conditions in government work that brings out the worst in people."

There are more psychiatrists per person in Washington, D.C., than in any other U.S. city, and the bureaucratic case load is increasing, especially in the wake of government reorganizations. Says LaBier: "Some of the people who were downgraded identified so strongly with their former positions that they committed suicide."

Outside the nation's capital, examples of health and safety problems also are widespread:

A New Jersey postal worker was crushed to death last year when a mail-processing machine went out of control. The machine was equipped with an automatic cutoff switch, but it had been disconnected to speed up mail handling. The episode was one of 36,510 job-related injuries to touch the Postal Service's 645,000 employes in 1979—making it one of the most hazardous of agencies.

A 1978 inspection of the Philadelphia Mint found that workers are not adequately protected from coin-stamping-machine noise that exceeds federal workplace-noise limits. Also discovered: Open holes in the floor and exposed electrical panel boxes.

Such federal agencies as the Tennessee Valley Authority and the Department of Commerce wink at truck-weight violations by haulers under federal contracts, according to a 1979 report by the General Accounting Office to Congress. Critics say overloaded trucks accelerate highway damages and endanger lives.

Federal marshals are still using three converted offices as a temporary cellblock for prisoners awaiting trial in a Manhattan federal courthouse. OSHA inspectors condemned the ramshackle facility three years ago.

Says George Kelley, a retired deputy marshal and official of the deputies' union: "The federal government makes everybody else march to the tune they play, but they don't want to march to it themselves."

More evidence of the government's shortcomings in safety showed up in a 1976 study in which congressional investigators applied OSHA standards to 30 federal facilities, including offices, hospitals and warehouse-type buildings. They found 14,000 violations.

Aside from the human suffering involved, the alarming federal safety record is of major interest to taxpayers, who must foot the bill for compensation covering injury, illness and death. The price tag for federal workers' compensation climbed from 97 million dollars in 1969 to 693 million in 1979. Payments are expected to approach 1 billion dollars this year.

Critics point to several reasons for the government's safety problems. For one thing, it has only been in the last year that all federal workers have been brought under OSHA's umbrella. Before that, many agencies were spared the scrutiny that federal safety inspectors have brought to private firms for nearly 10 years.

When federal workers do complain and want to bring in OSHA inspectors, they often are blocked by agency officials who fear intrusion from outsiders. What's more, observers charge that the General Services Administration, the federal landlord, often balks at correcting job hazards.

Says a former OSHA official: "There are only so many dollars for repairs and plenty of red tape for GSA, so much of the time GSA would just hope the problem would go away."

At GSA, however, officials complain about lack of funds. Three years ago, the cost of the backlog of needed health and safety corrections facing GSA totaled 180 million dollars. Its budget for that year, though, was only 17 million dollars.

Presidential directive. In February, President Carter took one step to turn around the government's safety record by signing an executive order bringing federal agencies closer to the OSHA standards applied to private employers.

Beginning this summer, OSHA will start making unannounced inspections of government facilities. Inspections are to be required within 24 hours of reports of serious hazards and within 72 hours of notices on potentially dangerous conditions. In addition, disputes between the Department of Labor and other agencies can be appealed all the way to the White House.

But critics wonder if the new action is enough. Says John Albertson, who is a safety specialist for the American Federation of Government Employes and held a similar post in the Labor Department for 30 years: "We've had many executive orders over the years, and none of them gave OSHA any clout for getting to the agencies.●

A TOAST TO THE FLAG

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, apropos to Flag Day, I am reminded of a most appropriate poem written some years ago by a truly great American, the late John Jay Daly, noted newspaper man, poet, and author.

He was serving as editor of the New Britain, Conn., Herald in 1917, when he wrote "A Toast to the Flag." It was printed in the newspaper, then reprinted in newspapers, textbooks, and other publications around the country.

The four-stanza poem subsequently was recited on the floor of Congress and in thousands of school rooms as part of annual observances of Flag Day. The Sojourners, a patriotic service group, used it to open every meeting. In 1954, it brought Mr. Daly an award from the Freedoms Foundation at Valley Forge.

Mr. Daley died November 16, 1976, leaving a beautiful family plus many, many noteworthy legacies. For the benefit of my colleagues, I quote "A Toast to the Flag."

A TOAST TO THE FLAG

Here's to the red of it—
There's not a thread of it,
No, nor a shred of it
From foot to head,
But heroes bled for it,
Faced steel and lead for it,
Precious blood shed for it,
Bathing it Red!
Here's to the white of it—
Thrilled by the sight of it,
Who knows the right of it
But feels the might of it
Through day and night?
Womanhood's care for it
Made manhood dare for it,
Purity's prayer for it
Keeps it so White!
Here's to the blue of it—
Beauteous view of it,
Heavenly hue of it,
Star-spangled dew of it
Constant and true;
Diadems gleam for it
States stand supreme for it,
Liberty's beam for it
Brightens the Blue!
Here's to the whole of it—
Stars, stripes and pole of it,
Body and soul of it,
O, and the roll of it,
Sun shining through;
Hearts in accord for it,
Swear by the sword for it,
Thanking the Lord for it,
Red, White and Blue!

—John Jay Daly.●

DON'T BLAME POSTAL FAILURES ON POSTMASTER GENERAL

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, I would like to bring to the attention of my colleagues an article by James E. Roper that appeared on May 11 in the Syracuse Herald-American. The article provides an insightful look into the workings of today's Postal Service and will greatly enlighten its critics.

The article follows:

[From the Syracuse Herald-American, May 11, 1980]

DON'T BLAME POSTAL FAILURES ON THE POSTMASTER GENERAL

(By James E. Roper)

WASHINGTON.—If you use the mails regularly, you probably have been enraged at times by poor delivery service.

—Blame it on the machines that sort the mail.

—Blame it on failures of men and women—managers and workers alike—in some of the big city post offices that handle a huge share of the nation's postal traffic.

—Blame it on traffic jams, everchanging airline schedules and a thousand little human errors that are harder to conquer than snow, rain, heat or gloom of night.

But go easy in assigning blame to William F. Bolger, who was appointed postmaster general two years ago. Bolger, who is only the second career employee ever to hold this position, wins praise from Congress and some big mail users for struggling to improve the mail service.

100 BILLION

His task is awesome. This year, the Postal Service's 663,000 employees will handle 100 billion pieces of mail. That's 100,000,000,000 a year; nearly 300 million a day.

A letter can be mailed at any of 275,000 points in the United States, and the Postal Service is pledged to deliver it to any of 50 million addresses.

To sort the mail, the Postal Service relies increasingly on machines, notably a great snorting, whirring, clanking apparatus known functionally as a letter sorting machine, or LSM. It reminds you of Charlie Chaplin's contraptions in "Modern Times."

At a typical installation, 12 men or women operators sit in a row at typewriter-like keyboards. At each position, a pneumatic device, amid much hissing and blowing, picks up a letter and places it on an endless belt which passes in front of the operator. Outgoing letters jerk past the operator at the rate of one a second, pausing part of the allotted second while the operator reads the zip code and punches three of the digits on the keyboard.

PEOPLE MAKE MISTAKES

The letters continue into the maw of the machine, which grinds away inside a housing 10 feet tall and 78 feet long. The letters emerge distributed among 277 bins, generally sorted out according to zip code. A postal worker lifts the letters from a bin, gives them a quick riffle to check the zip number, and tosses them into a sack headed for the appropriate destination.

Sounds great. Except that people make mistakes. Keyboard operators are proud when they punch 98 percent or so of the zip numbers correctly. But that still means 1 out of every 50 or so letters—unless the error is caught by the riffle—can go to the wrong destination. An occasional letter also falls out of the machinery and remains undetected for as long as a day.

NOT LIKE GOOD OLD DAYS

Bolger enthusiastic about the LSMs and other machines, concedes that they aren't as accurate as the previous methods of sorting and resorting each piece of mail by hand as it travels through various postal facilities.

"Mechanization is never going to be as good as rehandling the mail as we used to," Bolger says.

He points out, however, that since Congress converted the old Post Office Department to the current Postal Service in 1972 and told it to operate as if it were a private business, the service has eliminated 75,000 jobs while handling an extra 14 billion pieces of mail annually. The service did this primarily through mechanization, Bolger says.

"You're going to have to give up something," Bolger says.

QUANTITY VS. QUALITY

"We pay our people in wages and fringes about 20 or 21 cents a minute, so we must save all the minutes we can to keep our costs down, and sometimes we have to sacrifice quality of service in order to be able to provide the quantity of service at a price that people are willing to pay. It gets down to that."

Without mechanization, he adds, the postage rate for letters already would be more than 25 cents instead of the current 15 cents or the 20-cent rate he has requested to go into effect early next year.

Mechanization of the handling of parcel post has done little for the Postal Service however, and has become a managerial headache, with the private United Parcel Service grabbing most of the market. The Postal Service also has had troubles with its personnel although Bolger thinks this is improving.

A decade ago, the Post Office came to be perceived as an employer of last resort, taking in many persons unaccustomed to the rigors of fast-paced, disciplined work. Bolger says the service has an affirmative action program to hire women, blacks and Hispanics, but he does not set specific goals, and he asserts that only the best available people are to be hired.●

FOURTH INTERPARLIAMENTARY CONFERENCE ON EUROPEAN COOPERATION AND SECURITY

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. CLEVELAND. Mr. Speaker, last month, along with our colleague from Georgia Representative ELLIOTT LEVITAS I had an opportunity to attend a very important interparliamentary conference in Brussels. This special conference of the Interparliamentary Union was convened for the purpose of reviewing implementation of the 1975 Helsinki Final Act concerning security and cooperation in Europe and to recommend future action. Signatory countries of the Helsinki Final Act were represented by their parliamentarians in Brussels where, working by consensus, a final resolution—a communique on the views of the parliamentarians—was adopted. The debate and dialogue that occurred during the week long meeting and the final resolution should provide very useful guidance to all the governments that will participate in the formal intergovernmental review meeting scheduled for Madrid this fall.

The U.S. Congress can be pleased with the outcome of the conference even though we may not be entirely satisfied with certain wordings in the final resolution. We can be particularly pleased with the several references to the importance of human rights and fundamental freedoms. The Brussels conference was more forceful on these matters than the previous interparliamentary meeting 2 years ago in Vienna.

Also, while not referring to Afghanistan by name, there are several indirect references to the Soviet invasion and its negative impact on European cooperation and security. For instance, the concluding document reaffirms the "global" nature of detente and the fact that actions in one part of the world affect relations in the rest.

Altogether, the results of the Brussels meeting serve to point out the seriousness with which Europeans view the Helsinki process. The positions taken and the final resolution adopted by the parliamentarians should provide useful stepstones for the further consideration of implementation when the governmental representatives meet in Madrid this fall.

At this point, I should like to draw the attention of my colleagues to the thoughtful and firm statement of Representative LEVITAS who spoke on behalf of the United States during the opening debate of the conference in Brussels. Representative LEVITAS made very direct criticism of the Soviet invasion and occupation of Afghanistan as having "a chilling effect on the rest of the world." He added that the "message of this outrage, committed in callous disregard for the principles of international law and the Helsinki Final Act, cannot be lost on the nations of the world and Europe in particular."

Representative LEVITAS also spoke forcefully concerning the harassment, imprisonment, or exile of Soviet Helsinki monitors, oppressed for attempting to exercise rights guaranteed them by the Helsinki Final Act.

It was my impression that in at least these two areas, his remarks had great effect in reminding the Europeans, and particularly the Russians, of continued American concern both for the situation in Afghanistan and for the maltreatment of citizens of the Soviet Union. Representative LEVITAS performed the extremely important task of conveying American views on these matters to the other, European parliamentarians assembled in Brussels.

I should like to include at this point in the RECORD the complete statement of Representative ELLIOTT LEVITAS and the final resolution of the Fourth Inter-Parliamentary Conference on European Cooperation and Security.

STATEMENT BY REPRESENTATIVE ELLIOTT LEVITAS, U.S. GROUP, FOURTH INTER-PARLIAMENTARY CONFERENCE ON EUROPEAN COOPERATION AND SECURITY, BRUSSELS, BELGIUM, MAY 12, 1980

Mr. President, I would first like to express my gratitude and that of the American delegation to our Belgian hosts for the warm reception and gracious hospitality they have extended to us.

Having attended several meetings of the Inter-parliamentary Union, I have come to value the IPU as a forum for serious consideration of pressing world problems. The IPU has additionally served, in my view, to add momentum toward positive resolution of some of these problems. For an American Congressman, such as myself, the IPU provides a rare opportunity for productive interaction with colleagues from different cultural, national and ideological perspectives.

The Helsinki Conference on Security and Cooperation in Europe raised the hopes of the peoples of Europe, Canada and the United States. In many instances, those aspirations have already been realized. Welcomed developments such as increased emigration rates, the resolution of many family reunification cases and other improvements in the humanitarian field give testament to the continuing value of the CSCE process.

Despite the laudable accomplishments of Helsinki, I hope that the distinguished parliamentarians gathered here today will not take offense if some of my words appear critical or even blunt.

I intend to criticize, intending to criticize constructively, ultimately promote an honest and productive exchange on the promises made nearly five years ago in Helsinki.

Criticism is absolutely necessary because the Helsinki goal of a more secure, peaceful and cooperative Europe and a world is in jeopardy. Sometimes in our efforts for decorum, politeness and consensus, we have not spoken frankly on essential issues, and that is dangerous because it can lead to misunderstanding and miscalculation.

The brutal aggression by the Soviet Union in Afghanistan—the suppression of a small, deeply religious Islamic neighboring state, the occupation of the once sovereign country—has had a chilling effect on the rest of the world. The message of this outrage, committed in callous disregard for the principles of international law and the Helsinki Final Act, cannot be lost on the nations of the world and Europe in particular.

The Soviet invasion and occupation has seriously damaged the prospects for productive talks on security matters in Madrid. The willingness to use force to violate the territorial sovereignty of a neighboring state in total disregard of world opinion has ominous meaning.

My country has been criticized for building up its military capabilities by the same country which has forcibly violated the territorial integrity of Afghanistan. Let there be no mistake about the real military threat to Europe. In 1979, the Soviet military effort was 50 percent larger than that of the United States. Moreover, and directly related to the security question in Europe, the U.S.S.R. has modernized both its intermediate range and tactical nuclear forces. The MIRV and mobile SS 20 ballistic missile and the backfire bomber are the most disturbing components of this ambitious program. Soviet ground and tactical air forces in Eastern Europe are excessively large and much too offensively orientated to serve primarily as a counterbalance to NATO capabilities. President Brezhnev's proposal of last October to withdraw 20,000 troops and 1,000 tanks from Eastern Europe—however welcome—does not fundamentally change that conclusion. Nevertheless, this unilateral step by the Soviets hopefully signals—after five years of deadlock in Vienna—a serious intention to negotiate a reasonable agreement on mutual and balanced force reductions which would lead to genuine parity in conventional forces in Central Europe. The first and urgent step in this direction, however, is for the Soviet Union to provide honest and accurate data on Warsaw Pact forces in the area.

Mr. President, it is truly fitting that the IVth Inter-Parliamentary Conference on European Cooperation and Security is opening here today on May 12th. Exactly four years ago today, in Moscow, a small band of courageous men and women—rightly convinced that respect for human rights is a precondition for the establishment of a genuine detente—founded the Public Group to Promote the Observance of the Helsinki Accords in the USSR. The Moscow Group was joined shortly thereafter by similar Helsinki Monitoring Groups in four other republics. To date, the groups have issued over 550 reports documenting the state of Helsinki compliance—or lack thereof—in the Soviet Union.

Unfortunately, the Helsinki Monitors in the Soviet Union have been harassed and arrested and imprisoned or exiled. For attempting to exercise rights guaranteed them in Principle VII of the Helsinki Final Act—specifically "the right to know and act upon one's rights"—36 members of the Soviet Helsinki Monitoring Groups have been imprisoned and are this very day while we meet here languishing in prisons, labor camps, or Siberian exile.

Some of their names are familiar throughout the world: Orlov, Shcharansky, Petkus, Rudenko. The others, less well known, are equally deserving of our attention.

Tragically, the Helsinki Monitors are not the only victims of repression. In other signatory countries, too, individuals such as the Charter '77 activists are in prison for attempting to exercise their basic human rights. The Nobel Peace Prize winning organization, Amnesty International, reports that more than 400 human rights activists were imprisoned in the U.S.S.R. in the four years since the signing of the Final Act. Another 157 activists are known to have been arrested in the period not covered in the Amnesty report since June of 1979. And, as we are all too aware, the father of the Soviet human rights movement, himself a Nobel laureate, Andrei Sakharov, remains in forced exile in the closed city of Gorky.

The words of the Nobel Committee of the Norwegian Parliament in awarding its Peace Prize to Sakharov are particularly relevant today. They said: "In a convincing fashion, Sakharov has emphasized that the individual rights of man can serve as the only sure foundation for a genuine and long lasting system of international cooperation . . . Sakharov's love of truth and strong belief in the inviolability of the human being, his fight against violence and brutality, his courageous defense of the freedom of the spirit, his unselfishness and strong humanitarian convictions have turned him into the spokesman for the conscience of mankind, which the world sorely needs today." Those words were written in 1975 and yet, the world has an even more compelling reason to hear the conscience of mankind today.

Now I realize that my comments here today may be taken as highlighting the negative. That is not so. They simply address reality. The fact that we are meeting to follow up on discussions held in Vienna two years ago, and to discuss implementation of the Final Act, adds impetus to the process initiated in Helsinki five years ago. But, my colleagues, if we are to meet and discuss the solemn commitments and high ideals of Helsinki, we cannot—and the United States will not—simply ignore what has and is being done by governments to undermine them.

The prospects for strengthening security, lessening tensions, expanding cooperation, and increasing understanding among the CSCE signatory nations will be enhanced only when each signatory truly recognizes, in the words of the final resolution of the Third Inter-Parliamentary Conference, that "respect for human rights and fundamental freedoms . . . constitutes one of the bases for a profound improvement of . . . mutual relations."

Those who seek peace, my colleagues, must seek it bravely not blindly. In our dealings, we must remove our blinders so that we can courageously travel the road to peace for which the Helsinki Final Act charted a course. Thank you.

FOURTH INTER-PARLIAMENTARY CONFERENCE ON EUROPEAN CO-OPERATION AND SECURITY, BRUSSELS—MAY 12–18, 1980.

PREAMBLE

The IVth Inter-Parliamentary Conference on European Co-operation and Security,

Reaffirming the principles and recommendations of the Concluding Resolutions adopted by the first three Inter-Parliamentary Conferences on European Co-operation and Security,[*]

Expressing its preoccupation at the dangerous escalation of tension in the world, at the intensification of rivalries, at the multiplication of pending problems, at the massive accumulations of weapons as well as at the recourse to military intervention and interference, which is detrimental to the interests of all nations, and noting the negative impact of the situation on relations in Europe.

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[*] The words "Europe" and "European" as used in this text imply, where appropriate, the inclusion of Canada and the United States of America as participating countries.

Deeply worried by the deterioration of the international situation caused by actions contrary to the principles of the United Nations Charter and the Helsinki Final Act,

Conscious of the serious breach of these principles and of the spirit of détente and confidence between States and peoples committed by those guilty of these actions,

Convinced that the policy of détente is deep-rooted, that there is no reasonable alternative to it in a situation marked by the accumulation, on a world scale, of enormous stockpiles of armaments and that it is essential therefore that it remain the primary objective of international relations,

Emphasizing that on account of the close connection between peace and security in Europe and in the world, the elimination of the great harm done to détente and the strengthening of détente and security in Europe cannot be separated from restoration of confidence in international relations,

Convinced that respect for human rights and fundamental freedoms by all States constitutes one of the bases for a profound improvement in their mutual relations and for international co-operation at all levels,

Recalling that, as is stated in the Final Act, security in Europe is closely linked with security in the Mediterranean and that the Concluding Document of the Belgrade Meeting specifically defers discussion of questions relating to security in the Mediterranean until the Madrid Meeting,

Stressing the particular significance of the Madrid Meeting and the need for it to be held on the appointed dates and to give new impetus to the implementation of the principles and commitments contained in the Final Act, and to the strengthening of security, co-operation and détente in Europe,

Convinced that the achievement of substantial progress in the practical implementation of the recommendations of the Final Act is consonant with the vital interests of all European States, while contributing to the reduction of tension in international life,

Emphasizing the responsibilities of the peoples, Parliaments and Governments of the countries participating in the CSCE to make every effort in order to prevent the present state of tension in international life from worsening inter-European relations and slowing down or halting the process of building security and of developing co-operation in Europe,

1. Recalls that the global and indivisible nature of détente must be the objective of the States participating in the CSCE, and reaffirms the imperative need for the observance by all States of the principles of the Helsinki Final Act in all places and under all circumstances for the deepening of détente and for its extension to all regions of the world;

2. Condemns as unacceptable and contrary the Helsinki Final Act the use or threat of force in international relations and intervention or interference in the internal affairs of sovereign States, and calls for the settlement of all disputes exclusively by means of negotiations;

3. Urges those States guilty of armed intervention against other sovereign States and violations of human rights to end them without delay;

4. Affirms that the cessation of these violations and the effective respect, by all States, of all the principles set out in the Helsinki Final Act are necessary for the restoration of confidence and for the strengthening of détente in Europe;

5. Calls on the Parliaments and Governments of the States participating in the CSCE to respect fully and without exception or restriction all the commitments assumed in the Helsinki Final Act, including the commitment to conduct their relations with all other States in the spirit of the principles contained in that document;

6. Stresses the need for quick implementation of UN resolutions calling for the withdrawal of foreign troops and the return of refugees to their homes and properties in cases where they have been victims of foreign invasion and military intervention in contravention of the provisions of the Final Act of Helsinki;

7. Calls on the Parliaments and Governments of the participating States to make all possible efforts for the careful preparation of the Madrid Meeting in order to promote a thorough review of the implementation of the Final Act by all its signatories, in accordance with the spirit and purposes of the Conference, and in order to envisage new steps aimed at strengthening security and co-operation in Europe;

8. Declares itself for the continuation of the CSCE process through appropriate organized forms at all levels;

9. Invites the National Groups of the participating States to make the necessary provisions with a view to implementing the recommendations contained in these resolutions.

QUESTIONS RELATING TO SECURITY IN EUROPE, IN PARTICULAR DETENTE AND DISARMAMENT

The Conference,

1. Reaffirms solemnly the absolute validity of the ten principles of the Helsinki Final Act listed below which constitute for the States participating in the CSCE a code of conduct and a basis for democratizing their mutual relations and their relations with all other States:

I. Sovereign equality, respect for the rights inherent in sovereignty;

II. Refraining from the threat or use of force;

III. Inviolability of frontiers;

IV. Territorial integrity of States;

V. Peaceful settlement of disputes;

VI. Non-intervention in internal affairs;

VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief;

VIII. Equal rights and self-determination of peoples;

IX. Co-operation among States;

X. Fulfillment in good faith of obligations under international law;

2. Calls upon the Parliaments of the participating States to find a way—in accordance with the practices and procedures of each country—of embodying in their legislation the ten principles set forth in the Final Act;

3. Calls on the governmental meeting in Madrid to continue the efforts to establish a system for the peaceful settlement of disputes, with provision being made for the possibility of convening a further meeting of experts on this question after Madrid;

4. Calls upon the governmental Conference on Security and Co-operation in Europe meeting in Madrid this year to agree upon the mandate for a conference which should deal with the military aspects of security and with disarmament. Since such a conference is an integral part of the CSCE process, the mandate should aim at agreement on confidence-building measures which will be militarily significant in accordance with the criteria, modalities and levels to be defined in the mandate of the Conference. These measures should contribute to the creation of conditions for a process of limitation and reduction of armaments. Such a conference should furthermore study a programme on disarmament in Europe.

5. Recalls that the participating States recognized in the Helsinki Final Act that the experience acquired in the implementation of the measures designed to strengthen confidence among them could lead to developing and enlarging confidence-building measures, and

Calls on the participating States to restore mutual confidence through the elaboration of measures with genuine military significance.

These could include inter alia:

Considerably reducing the threshold of notification and the ceilings for manoeuvres;

Reducing the threshold of notification of major troop movements and of all major military manoeuvres;

Refraining from carrying out multinational manoeuvres in certain zones according to agreed criteria;

Initating regulations on the international transfer of conventional weapons;

Seeking the definition of a valid method to assess the degree of balance of military forces and installations in Europe with a view to the progressive reduction of their level;

Expanding the provisions of the Helsinki Final Act to include wider and more binding measures enforcable in defined geographical areas;

6. Calls upon the Parliaments and Governments of the participating States, in accordance with their respective competences, to take effective steps towards halting the arms race, to facilitate the adoption of concrete measures for military disengagement in Europe, and to intensify their efforts at the regional level with a view to progressing towards disarmament under international control;

7. Calls on Parliaments and Governments to support the adoption of new measures to make effective the observance and implementation of the principle of refraining from the threat or use of force;

8. Calls on Parliaments and Governments to contribute to an increase in mutual confidence so as to promote security and stability in the Mediterranean area, with which security in Europe is linked;

9. Reaffirms the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among the participating States, as among all States;

10. Recalls the right of the individual to know his rights and duties in the field of human rights and fundamental freedoms, and to act accordingly and urges Parliaments and Governments to work out, wherever this has not yet been done, appropriate measures so as to ensure for citizens of their countries a greater knowledge of their rights and duties in this field.

11. Recommends that the States participating in the CSCE take practical measures to give effect to their commitment to strive jointly or separately, inter alia in conjunction with the United Nations, to promote the effective and universal respect for human rights and fundamental freedoms;

12. Reminds all Governments of participating States of the necessity to respect the rights of national minorities;

13. Calls on the Parliaments and Governments of the participating States to co-operate, in accordance with international law, in combating the taking of hostages and all other acts of terrorism, and in ensuring the personal safety of representatives or nationals of other States.

CO-OPERATION IN THE FIELD OF ECONOMICS, SCIENCE, TECHNOLOGY AND ENVIRONMENT PROBLEMS

The IVth Inter-Parliamentary Conference on European Co-operation and Security,

Taking into consideration the significant importance, for strengthening peace and security in Europe and in the entire world, of continued efforts to broaden and deepen the co-operation of States in the fields of economy, science, technology and the environment on a bilateral and multilateral basis, and bearing in mind the forthcoming Madrid meeting,

Concerned at the present economic difficulties in Europe and in the world, and their impact on people's welfare, peace and security.

1. Calls upon Parliaments and Governments:

(a) To implement fully the provisions of the Helsinki Final Act on the basis of principles of inter-State relations set forth in that document;

(b) To develop consultation and co-operation between States in order to contribute to settling the economic problems facing them at present, especially in the areas of energy and raw materials, financing, technology, and distribution of and trade in industrial and agricultural products;

(c) To intensify their efforts with a view to ensuring, on a mutually advantageous basis, economic co-operation, dynamic development of trade and diversification of its structure;

(d) To promote business-like co-operation between the European Economic Community and the Council for Mutual Economic Assistance, as well as between these organizations and other States;

(e) To use more fully all opportunities for the development of co-operation with a view to ensuring resources for projects of European importance;

(f) To take into consideration the needs of developing countries of Europe and to participate actively and constructively in the dialogue with the developing countries in other regions with a view to the establishment of a new international economic order, and to the achievement of real progress in the negotiations on these matters;

(g) To promote further expansion of industrial co-operation among the competent organizations, enterprises and companies of respective countries, in particular, through creation of favourable domestic conditions for such co-operation and through active application of the existing modalities and creation of new ones;

(h) To intensify industrial co-operation through diversification, investigation of new forms, wider mutual information and new outlets to third markets;

(i) To take necessary measures for more complete utilization of the possibilities for further improvement of scientific and technological co-operation, including exchanges of scientific and technological information, as well as holding, on a bilateral and multilateral basis, meetings of scientists and specialists;

(j) To increase their efforts to accelerate the process of reduction and progressive elimination of all kinds of obstacles and, taking account of the national interests of the respective countries, not to create any new obstacles to economic co-operation;

(k) To make further efforts, in the field of business contacts and facilities, to ensure wider participation of small and medium-sized firms in trade and industrial co-operation, the further reduction of obstacles to business travel and all necessary improvements of telecommunications and postal services;

(l) To intensify the efforts aimed at improving business contacts, disseminating on a more regular and timely basis economic and commercial information, and broadening the possibilities for market studies and analysis;

(m) To ensure, in particular, that statistical information permits comparability, is as specific as possible, is supplemented by corresponding data in absolute terms, is available as quickly as possible and that a nomenclature is used which ensures continuity in the monitoring of changes;

(n) To devote special attention to the completion of regulations regarding the status of migrant workers in the countries concerned, in order to ensure adequate living conditions and improve their vocational training, the education of their children and their cultural life;

2. Welcomes the results of the Inter-Parliamentary Symposium on Environment in Europe held in Geneva from 22 to 24 October 1979 and the High-Level Meeting on the Protection of the Environment held within the framework of the ECE in Geneva from 13 to 16 November 1979;

3. Calls upon the participating States to ratify the Convention on Long-Range Transboundary Air Pollution adopted at the High-Level Meeting on the Protection of the Environment in Geneva from 13 to 16 November 1979 and to continue to combat the dumping of toxic substances and pollutants in water;

4. Calls upon Parliaments and Governments:

(a) To contribute actively to the efforts made within the framework of the UN Economic Commission for Europe to prepare meetings of European States, the United States of America and Canada on questions of co-operation in the fields of energy and transport;

(b) To declare the importance of an extensive exchange of information and views between participating States on general energy problems, including energy resources; and national objectives and policies in these areas, thus providing a basis for closer international cooperation on energy matters;

5. Welcomes the initiative to explore the possibility of convening in 1981 an Inter-Parliamentary Conference on energy, and to hold within its framework a round table discussion of energy problems among European States;

6. Calls upon Parliaments and Governments to develop broad and mutually advantageous relations of economic, technical and scientific co-operation with the Mediterranean countries that did not sign the Final Act, as well as with the Mediterranean countries that did not participate in the CSCE, on the basis of the ten principles enshrined in that document.

CO-OPERATION IN HUMANITARIAN AND OTHER FIELDS

The IVth Inter-Parliamentary Conference on European Co-operation and Security,

1. Emphasizes that contacts between people, mutual information, cultural exchanges and links in the fields of education and science constitute a fundamental aspect of the development of friendly relations and confidence between peoples that the signatory States have defined as their objective;

2. Expresses the conviction that the present political situation, the risks which it entails and the current state of public opinion require more than ever significant progress on human contacts and the development of relations between people;

3. Reaffirms the value of, and the need for, the full implementation of the provisions of the Helsinki Final Act concerning co-operation in humanitarian and other fields;

4. Urges the Parliaments and Governments of the States participating in the CSCE:

A. Contacts between people

1. To facilitate travel and movement to other States by individuals and groups and, to that end, to eliminate gradually the administrative and financial obstacles as regards the issuing of passports and visas; to seek possibilities for further territorial expansion of tourist trips;

2. To continue to lower progressively the fees charged in connection with applications and official travel documents, including passports, so as to ensure that they are at a moderate level and to recommend the consideration, within the context of the CSCE and, if possible, at Madrid, of the establishment of a reference figure to be determined by common agreement;

3. To reduce to a reasonably short period the time spent on processing requests for purposes of family visits, reunification of families and bi-national marriages; to handle urgent cases with priority; to undertake to reduce the number of refusals, for which the reasons should be stated and which should not prevent those concerned from renewing their requests. Such persons, as well as the members of their family, shall continue to enjoy the same rights as regards employment, housing, citizenship, access to social and economic services, and shall be submitted to the same obligations;

4. To further develop meetings between young people and to encourage, in particular, the holding of a meeting of administrators of national youth organizations with a view to establishing a programme of international youth meetings for the years to come;

5. To further facilitate contacts, meetings, exchange of and freer access to information among those holding different religious faiths, among institutions and organizations and their representatives in the field of their activities, in accordance with all the possibilities provided for in the Helsinki Final Act;

B. Information

1. To facilitate further, in the spirit of the Helsinki Final Act, the dissemination of information on a reciprocal basis and access to information and to promote access by the general public to a greater number of sales outlets;

2. To develop information more particularly through exchanges and increased co-operation of the media—newspapers, magazines, films, radio and television;

3. To further simplify existing requirements for all foreign journalists to enter and leave, as well as to stay and travel within, a participating State, with the documentation necessary for their work;

4. To further facilitate, in all aspects, the work of foreign journalists including, inter alia, personal access to as many official and unofficial sources as possible;

5. To encourage efforts towards further dissemination of the Final Act to the widest possible public and to ensure the constant accessibility of this document to their citizens;

C. Culture

1. To intensify cultural exchanges, especially in the field of translation of works and their dissemination, as well as by encouraging direct and regular contact between book publishers and distributors;

2. To recognize the specific contribution of authors on both the national and international level, while seeking to constantly improve their individual and collective lot;

3. To promote actively access to authors' works, notably:

(a) By facilitating on a basis of reciprocity the freer movement of authors themselves and their works; and

(b) By participating in the formulation of international instruments aimed at harmonizing existing laws and strengthening international laws concerning authors' rights;

4. To develop and facilitate exchanges and personal contacts between artists, people carrying out cultural or scientific activities, members of academies, scientists, teachers, researchers, students and trainees, either on an individual basis or on the occasion of meetings such as, for example, the Scientific Forum in Hamburg;

5. To give their peoples a broader and more complete mutual knowledge of their achievements in the different cultural fields, particularly by promoting, by means of specific arrangements, the opening and smooth work-

ing on their territory of reading rooms or cultural centres for the other participating States;

6. To take full advantage, through unilateral, bilateral and multilateral initiatives and agreements between States or educational organizations and institutions, of the objectives defined in the Final Act in the areas of education and science, especially concerning:

Access to educational, cultural and scientific institutions;

Exchange of information about study and course opportunities for foreigners;

Granting of scholarships;

Setting up of exchange programmes, colloquia, seminars and joint projects;

Comparison between study programmes and recognition of the equivalence of university degrees;

Exchange of scientific information and documentation;

7. To encourage the teaching and study of less widely-spread or studied languages, as well as the holding of seminars on the translation, publication and dissemination of books, especially those produced in these languages;

8. To ensure that the cultural identity of persons belonging to national minorities or ethnic groups is maintained in countries where such minorities or groups exist.

FOLLOW-UP TO THE CONFERENCE

The Conference,

Welcoming the constructive approach of all delegations meeting in Brussels,

Considers that maximum publicity should be given in all the participating countries to these concluding Resolutions, thus making a significant contribution to the progagation of the spirit of Helsinki;

Wishing national Parliaments to contribute to détente and the strengthening of security in Europe,

1. Recommends that National Groups convey these Concluding Resolutions to their Parliaments and Governments, so that they may be taken into account in the world of the CSCE meeting in Madrid in 1980;

2. Calls on National Groups to continue reporting, in accordance with established practice, on progress in implementing the Helsinki Final Act, the Concluding Document of the Belgrade conference, the Concluding Resolutions on the Ist, IInd, and IIIrd Inter-Parliamentary Conference on European Co-operation and Security, and also the present Concluding Resolutions;

3. Recommends the National Groups of the European countries, Canada and the United States of America to continue the practice of meetings on the occasion of the annual meetings of the Inter-Parliamentary Union and to promote broad parliamentary contacts;

4. Reminds National Groups of the Vienna recommendations on bilateral contacts and urges them to continue to strengthen or create bilateral sections and to develop bilateral contacts, with particular regard to the implementation of the provisions of the Helsinki Final Act; requests National Groups to communicate the results of this work to the Union's Secretariat which will transmit this information to the other National Groups of Europe, Canada and the United States of America;

5. Recommend that a further Inter-Parliamentary Conference on European Co-operation and Security be organized by the Inter-Parliamentary Union, on dates and in a place to be decided by consensus by the European National Groups and those of Canada and the United States of America.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLAUSEN (at the request of Mr. RHODES), from 4 p.m. today, June 12 through June 13, on account of official business.

Mr. SHUMWAY (at the request of Mr. RHODES), for June 13, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CARNEY) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 60 minutes, today.

Mr. COLLINS of Texas, for 15 minutes, today.

Mr. SEBELIUS, for 5 minutes, today.

Mr. TAUKE, for 5 minutes, today.

Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. KEMP, for 30 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. PETRI, for 2 minutes, today.

Mr. GREEN, for 20 minutes, today.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. WOLFF, for 5 minutes, today.

Mr. PEPPER, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 10 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Mr. LEVITAS, for 10 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. MCKAY, for 5 minutes, today.

Mr. WEISS for 60 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CLEVELAND, and to include therein extraneous material notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,572.

(The following Members (at the request of Mr. CARNEY) and to include extraneous matter:)

Mr. FORSYTHE.

Mr. WYDLER.

Mr. GREEN in two instances.

Mr. COLLINS of Texas.

Mr. SYMMS.

Mr. COURTER.

Mr. DERWINSKI in three instances.

Mr. YOUNG of Alaska.

Mr. LUJAN.

Mr. PHILIP M. CRANE.

Mr. GOODLING.

Mr. CONABLE.

Mr. DOUGHERTY.

Mr. RITTER.

Mr. ROTH.

Mr. LENT in three instances.

Mr. QUAYLE.

(The following Members (at the request of Mr. WEISS) and to include extraneous matters:)

Mr. NOLAN.

Mr. REUSS.

Mr. STOKES in two instances.

Mr. LELAND.

Mrs. SCHROEDER.

Mr. SHELBY.

Mr. JOHN L. BURTON.

Mr. CONYERS.

Mr. UDALL in two instances.

Mr. DIXON.

Mr. SOLARZ.

Mr. GUARINI.

Ms. FERRARO.

Mr. HAMILTON.

Mr. BONKER.

Mr. HARRIS in two instances.

Mr. MAGUIRE.

Mr. WOLFF in two instances.

Mr. MOORHEAD of Pennsylvania.

Mr. MINISH.

Mr. FISHER.

Mr. LAFALCE.

Mr. LONG of Louisiana.

Mr. DONNELLY.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 89. Concurrent resolution expressing the sense of the Congress with respect to the overthrow on April 12, 1980, of the Government of the Republic of Liberia; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6842. An act to protect the confidentiality of shippers' export declarations, and to standardize export data submission and disclosure requirements.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 56 minutes p.m.), the House adjourned until Friday, June 13, 1980, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4599. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to add a new section to authorize the use of funds available to the Department of Defense for foreign cryptologic support; to the Committee on Armed Services.

4600. A letter from the Assistant Secretary of the Army (Installation, Logistics and Financial Management), transmitting notice that a study has been conducted of the custodial service function at Watervliet Arsenal, Watervliet, N.Y., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4601. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during April 1980 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

4602. A letter from the Director, Defense Security Assistance Agency, transmitting a report estimating the number of officers and employees of the U.S. Government and U.S. civilian contract personnel in foreign countries as of December 31, 1979, for assignment in implementing sales and commercial exports under the Arms Export Control Act, pursuant to section 36(a)(7) of the act; to the Committee on Foreign Affairs.

4603. A letter from the Chairman, Federal Election Commission, transmitting proposed forms to implement various requirements of the Federal Election Campaign Act of 1971, as amended, pursuant to section 311(d) of the act; to the Committee on House Administration.

4604. A letter from the Secretary of Commerce, transmitting the annual report of the Economic Development Administration for fiscal year 1979, pursuant to the Public Works and Economic Development Act of 1965, as amended; to the Committee on Public Works and Transportation.

4605. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the Kaneohe Bay urban water resources study, Oahu, Hawaii, pursuant to section 106 of the River and Harbor Act of 1970; to the Committee on Public Works and Transportation.

4606. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the St. Louis metropolitan area, Missouri and Illinois, partial response to various congressional resolutions, including those adopted in October 1972 by the Senate and House Committees on Public Works; to the Committee on Public Works and Transportation.

4607. A letter from the Federal Cochairman, Pacific Northwest Regional Commission, transmitting the 1979 annual report of the Commission, pursuant to section 510 of the Public Works and Economic Development Act of 1965; to the Committee on Public Works and Transportation.

4608. A letter from the Secretary of Commerce, transmitting the annual report of the Foreign-Trade Zones Board for fiscal year 1978, together with reports covering the same year on the operations of Foreign-Trade Zones Nos. 1, 2, 3, 5, 7, 8, 9, 12, 14, 15, 17, 18, 21, 22, 23, 25, 26, and 36 and subzones 3A and 9A, pursuant to section 16 of the Foreign-Trade Zones Act of 1934, as amended; to the Committee on Ways and Means.

4609. A letter from the Comptroller General of the United States, transmitting a report on issues identified in recently published major weapon system reports (PSAD–80–43, June 12, 1980); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee of conference. Conference report on S. 2698 (Rept. No. 96–1087). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5341. A bill to provide for the wilderness designation of certain lands within the Ocala National Forest, the Osceola National Forest, and the Apalachicola National Forest, and for other purposes; with amendments, and referred to the Committee on Agriculture for a period ending not later than June 30, 1980 for consideration of such provisions in the bill and amendments as fall within that committee's jurisdiction under clause 1(a), rule X (Rept. No .96–1088, pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL (for himself, Mr. PREYER, Mr. LUKEN, Mr. SATTERFIELD, Mr. RINALDO, and Mr. DEVINE):

H.R. 7554. A bill to amend the Securities Act of 1933 and the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CONABLE (for himself and Mr. ARCHER):

H.R. 7555. A bill to amend title II of the Social Security Act to prevent payment, in certain cases, of disability insurance benefits for a physical or mental condition arising from an individual's commission of a crime or the individual's incarceration in a penal institution, to exclude from the definition of "full time student" any individual incarcerated in a penal institution following a felony conviction and to deem convicted felons to have refused rehabilitation services under certain circumstances; to the Committee on Ways and Means.

By Mr. CONABLE (for himself and Mr. ROSTENKOWSKI):

H.R. 7556. A bill to amend the Internal Revenue Code of 1954 to adjust the excise tax on tires, and for other purposes; to the Committee on Ways and Means.

By Mr. DE LA GARZA (by request):

H.R. 7557. A bill to provide grants to States for the purpose of assisting the colleges eligible to receive funds under the act of August 30, 1890, including Tuskegee Institute, in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for food and agricultural research; to the Committee on Agriculture.

By Mr. FAUNTROY:

H.R. 7558. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable formula for determining the amount of the annual Federal payment to the District of Columbia; to the Committee on the District of Columbia.

By Mr. FISHER:

H.R. 7559. A bill to amend the Internal Revenue Code of 1954 to improve the collection of Federal income taxes imposed on dividend and interest income; to the Committee on Ways and Means.

By Mr. GLICKMAN:

H.R. 7560. A bill to amend the Internal Revenue Code of 1954 to allow a refundable income tax credit for the purchase of certain fuel-efficient automobiles, and for other purposes; to the Committee on Ways and Means.

By Mr. GRASSLEY (by request):

H.R. 7561. A bill to amend the Internal Revenue Code of 1954 to eliminate the age requirement for eligibility for the one-time exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

By Mr. GUARINI (for himself and Mr. DUNCAN of Tennessee):

H.R. 7562. A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid into a reserve for service liability losses and expenses of design professionals, to provide a deduction for certain amounts paid to captive insurers, and for other purposes; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. GARCIA, Mrs. FENWICK, Mr. EDGAR, Mr. NOWAK, Mr. STOCKMAN, and Mr. MICHEL):

H.R. 7563. A bill to amend the Internal Revenue Code of 1954 to provide certain tax incentives for individuals and businesses in depressed areas; to the Committee on Ways and Means.

By Mr. MARRIOTT:

H.R. 7564. A bill to clarify the intent of Congress in connection with certain school grant indemnity land statutes and the Taylor Grazing Act; to the Committee on Interior and Insular Affairs.

By Mr. MICA:

H.R. 7565. A bill to amend title 28, United States Code, to remove the Canal Zone and the States of Alabama, Florida, and Georgia from the fifth judicial circuit, to create an additional judicial circuit to be composed of the Canal Zone and the States of Alabama, Florida, and Georgia, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI (for himself and Mr. CORMAN):

H.R. 7566. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of expenses in attending foreign conventions; to the Committee on Ways and Means.

By Mr. SYNAR:

H.R. 7567. A bill conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma; jointly, to the Committees on Interior and Insular Affairs and the Judiciary.

By Mr. TAUKE (for himself, Mr. BEDELL, Mr. BEILENSON, Mr. COLLINS of Texas, Mr. DERWINSKI, Mr. FORSYTHE, Mr. MAZZOLI, Mr. THOMAS, Mr. WHITTAKER, and Mr. VENTO):

H.R. 7568. A bill to amend the Federal Election Campaign Act of 1971 to limit the aggregate volume of honorariums which may be accepted in any calendar year by certain employees of the House of Representatives from any particular individual or organization, and to impose certain limits with respect to the outside earned income permissible for certain of such employees; to the Committee on House Administration.

By Mr. TRAXLER:

H.R. 7569. A bill to amend the Trade Act of 1974 in order to broaden eligibility for adjustment assistance to workers; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 7570. A bill to provide that per capita payments to Indians may be made by tribal governments, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WALKER (for himself and Mr. FORSYTHE):

H.R. 7571. A bill to authorize grants to States in order to provide assistance to low-income households in meeting their increased costs of residential heating; jointly, to the Committees on Banking, Finance, and Urban Affairs and Interstate and Foreign Commerce.

By Mr. WAXMAN:

H.R. 7572. A bill to amend the Communications Act of 1934 to provide that the broadcasting of appearances by actors in motion pictures or theatrical productions shall not be subject to the requirements of section 315 of such act; to the Committee on Interstate and Foreign Commerce.

Mr. YOUNG of Alaska:

H.R. 7573. A bill to provide an extension of the timeframe for nomination of a selection pool under the Cook Inlet land exchange; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. Lagomarsino, Mr. Lujan, Mr. Sebelius, Mr. Seiberling, and Mr. Symms):

H.R. 7574. A bill to amend the act of February 25, 1920, commonly known as the Mineral Leasing Act, to authorize and direct the Secretary of Interior to grant preferences to small refineries in the sale of oil, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WOLFF (for himself, Mr. Addabbo, Mr. Zeferetti, Mr. Biaggi, Mr. LaFalce, and Ms. Ferraro):

H.J. Res. 568. Joint resolution to authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week"; to the Committee on Post Office and Civil Service.

By Mr. DAVIS of Michigan:

H. Res. 706. Resolution expressing the sense of the House of Representatives that there should be no expansion of the Federal income tax withholding on interest and dividends; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CARR presented a bill (H.R. 7575) for the relief of Jacqueline Bui Duy Trinh, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3258: Mr. Benjamin and Mr. McEwen.

H.R. 3524: Mr. Pickle.

H.R. 3567: Mr. Mineta.

H.R. 4576: Mr. McEwen, Mr. Ginn, Mr. Forsythe, Mrs. Boggs, Mr. Clay, Mr. Hillis, Mr. Myers of Indiana, Mr. Hinson, Mr. Gonzalez, Mr. Burgener, Mr. Sebelius, Mr. Roberts, Mr. Seiberling, Mr. Wolpe, Mr. Skelton, Mr. Hubbard, Mr. Montgomery, Mr. Carr, Mr. Duncan of Tennessee, Mr. O'Brien, Mr. Edwards of Oklahoma, Mr. Lundine, Mr. Vander Jagt, Mr. Findley, Mr. Daniel B. Crane, and Mr. Tauke.

H.R. 4767: Ms. Ferraro, Mr. Goldwater, Mr. Bafalis, Mr. Carter, Mr. Conyers, Mr. Neal, Mr. Daschle, Mr. Solarz, Mr. Patten, Mr. Jenkins, Mr. Lloyd, Mr. Phillip Burton, Mr. Porter, Mr. Lagomarsino, Mrs. Chisholm, Mr. Jones of Tennessee, Mr. Murphy of Illinois, Mr. Findley, Mrs. Collins of Illinois, and Mr. Vander Jagt.

H.R. 5211: Mr. Royer, and Mr. McCloskey.

H.R. 5225: Mr. Moorhead of California, Mr. Hammerschmidt, Mr. Moore, and Mr. Sawyer.

H.R. 5610: Mr. Ginn.

H.R. 5877: Mr. Rousselot, Mr. Archer, Mr. Whitehurst, Mr. Symms, Mr. Mathis, Mr. Mitchell of Maryland, Mr. Kindness, Mr. Fazio, Mr. Roe, Mr. Long of Maryland, Mr. Panetta, Mr. Chappell, Mr. Kildee, Mr. Edwards of Oklahoma, Mr. Barnard, Mr. Williams of Ohio, Mr. Goodling, Mr. Hansen, Mr. Kramer, Mr. Pashayan, Mr. Evans of Georgia, Mr. Hinson, Mr. Fish, Mr. Paul, Mr. Grassley, Mr. McDonald, Mr. Grisham, Mr. Badham, Mr. Lott, Mr. Robinson, Mr. Dannemeyer, Mr. Michel, Mr. Hyde, Mr. Guyer, Mr. Bereuter, Mr. John L. Burton, Mr. Stockman, Mr. Stangeland, Mr. Flippo, Mr. Royer, Mr. Hefner, Mr. Bonior of Michigan, Mr. Hagedorn, Mr. Jeffries, Mr. Wyatt, Mr. Montgomery, Mr. Volkmer, Mr. Clausen, Mr. Lagomarsino, and Mr. Marriott.

H.R. 6171: Mr. Blanchard, Mr. Marks, and Mr. Wolpe.

H.R. 6637: Mr. Quillen.

H.R. 7211: Mr. Gonzalez, Mr. Mattox, Mr. Huckaby, Mr. Collins of Texas, Mr. Emery, Mr. Thomas, Mr. Charles Wilson of Texas, Mr. Mollohan, Mr. Wyatt, and Mr. Roberts.

H.R. 7287: Mr. Weaver, Mr. Levitas, Mr. Whitehurst, Mr. Coelho, Mr. Glickman, Mr. Findley, Mr. Porter, Mr. Hance, Mr. Downey, Mr. Moffett, Mr. Atkinson, Mr. Nichols, Mr. Rahall, Mr. Hughes, Mr. Fazio, Mr. Simon, Mr. Carter, Mr. Edgar, Mrs. Spellman, Mr. Buchanan, Mr. Mollohan, Mr. Lowry, Mrs. Schroeder, Mr. Lehman, Mr. Hanley, Mr. Huckaby, Mr. Won Pat, Mr. John L. Burton, Mr. Mottl, and Mr. Udall.

H.R. 7382: Mr. Conable.

H.R. 7503: Mr. Mathis.

H.R. 7520: Mr. Ford of Tennessee and Mr. Evans of Georgia.

H.R. 7545: Mr. Brodhead, Mr. Blanchard, Mr. Broomfield, Mr. Pursell, Mr. Bonior of Michigan, Mr. Albosta, Mr. Stockman, Mr. Wolpe, Mr. Sawyer, Mr. Kildee, Mr. Traxler, Mr. Vander Jagt, and Mr. Ford of Michigan.

H.J. Res. 302: Mr. Evans of Indiana.

H.J. Res. 470: Mr. Loeffler.

H.J. Res. 504: Mr. Spence.

H. Con. Res. 354: Mr. Hutto, Mr. Hall of Texas, Mrs. Spellman, Mr. Whitehurst, Mr. Howard, Mr. Forsythe, Mr. Hubbard, Mr. Murtha, Mr. Young of Florida, Mr. Hightower, Mr. Evans of Georgia, and Mr. Burgener.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6418

By Mr. LEVITAS:

—At the end of the bill, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

Sec. 37. (a) Notwithstanding any other provision of law, simultaneously with prescribing any rule under subtitle IV of title 49, United States Code, relating to motor carriers of property (other than a rule relating to rates), the Interstate Commerce Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives, and simultaneously with prescribing any rule relating to motor carriers of property, the Secretary of Transportation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b), the rule shall not become effective, if—

(1) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule prescribed by the ———— dealing with the matter of ————, which rule was transmitted to Congress on ————.", the first blank space therein being filled with the Interstate Commerce Commission or the Secretary of Transportation, as appropriate, and the other blank spaces therein being appropriately filled; or

(2) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule described in subsection (a) is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a).

(c) Congressional inaction on, or rejection of, a resolution of disapproval under this section shall not be deemed an expression of approval of the rule involved.

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

(e) For purposes of this section, the term "rule" has the same meaning such term has in section 551(4) of title 5, United States Code.

H.R. 6711

By Mr. MILLER of California:

—Page 45, beginning on line 1, strike out all of title II through line 18 on page 96, redesignate title III as title II.

Page 16, line 18, strike out "section 302" and insert in lieu thereof "section 202".

Page 17, strike out line 13 and everything that follows through line 19.

Page 36, lines 15 and 18, strike out "section 301" and insert in lieu thereof "section 201".

Page 96, strike out line 21 and everything that follows through line 15 on page 98 and insert in lieu thereof the following:

Sec. 201. There are authorized to be appropriated such sums as may be necessary to carry out part A of title IV of the Comprehensive Employment and Training Act for fiscal year 1981 and each of the four succeeding fiscal years.

Page 98, line 17, redesignate section 302 as section 202. and on line 22 strike out "and section 220 of this Act".

Page 99, line 9, redesignate section 303 as section 203, and beginning on line 11 strike out "section 301(a)(1) of this Act" and insert in lieu thereof "section 201 of this Act for fiscal year 1981".

—Page 45, line 14, strike out "and area vocational schools".

Page 55, beginning on line 21, strike out all of subsection (f) through line 13 on page 57.

Page 57, strike out lines 18 through 24 and insert in lieu thereof the following:

(1) such school provides secondary education, as determined by the State educational agency, to youth in grades seven through twelve; and

Page 71, beginning on line 19, strike out section 216 through line 11 on page 75 and redesignate the succeeding sections and conform cross-references thereto accordingly.

Page 79, beginning on line 23, strike out subsection (c) through line 6 on page 80.

Page 86, beginning on line 20, strike out "the requirement that not less than 25 percent of each grant shall be used for programs of vocational education in designated schools, and".

Page 91, line 15, strike out "In any case" and everything that follows through line 19.

Page 93, line 22, strike out "(A)" and on page 94, strike out line 3 through 5.

Page 96, strike out lines 13, 14, and 15, and redesignate the succeeding paragraph accordingly.

—Page 47, after line 14, insert the following new section:

PROHIBITION OF USE OF FUNDS FOR MATCHING

SEC. 204. No funds provided under this title shall be used to provide the non-Federal share of the cost of any programs described in sections 111(a) or (b) of the Vocational Educational Act of 1963.

—Page 56, line 21, insert "212(a)," immediately after "sections".

—Page 58, line 1, strike out "(A)"; on line 4 strike out "; or" and insert in lieu thereof a period; and strike out line 5 and everything that follows through line 9.

—Page 58, line 10, strike out "(1)", and on page 59 strike out lines 1 through 3.

—Page 58, line 15, strike out "Notwithstanding the preceding sentence," and everything that follows through "basic skills achievement." on line 19.

—Page 58, line 15, strike out "Notwithstanding the preceding sentence," and everything that follows through line 23.

—Page 60, line 3, insert "reducing disciplinary exclusions" immediately after "student attendance,".

—Page 60, line 25, strike out "ten" and insert in lieu thereof "seven".

—Page 61, line 9, strike out "graduation and youth aged" and everything that follows through line 12 and insert in lieu thereof "graduation; and".

—Page 61, line 9, insert "unemployed" immediately before "youth".

—Page 63, line 15, strike out "the need of the designated school" and insert in lieu thereof "those designated schools having the greatest need for assistance under this part".

—Page 66, line 11, insert "(1)" immediately before "During"; on lines 15 and 22, redesignate paragraphs (1) and (2) as subparagraphs (A) and (B); on lines 16, 19, and 20, redesignate clauses (A), (B), and (C), as clauses (i), (ii), and (iii), respectively; and after line 23 insert the following new paragraph:

(2) During any fiscal year for which appropriations are made for purposes of this title, a local educational agency shall use not less than one-half of the funds received by it under this part for that year for programs and services for students in grades seven through nine.

Page 86, line 20, insert "(A)" immediately before "the requirement", and on line 22, strike out "and" and insert in lieu thereof "(B) the requirement that not less than one-half of the funds available to any local educational agency under such part shall be used for programs and services for students in grades seven through nine, and (C)".

—Page 62, after line 17 insert the following new paragraph:

(4) Any local educational agency shall use not less than one-half of the funds it receives under this subsection for planning and inservice training in schools serving students in grades seven through nine.

—Page 68, line 25, insert immediately before "a basic skills" the following: "(A) an individualized plan that includes (i) an assessment of basic and employment skills and support service needs, career goals, and work experience needs; and (ii) programs and work placement to be provided to meet those needs; and (B)".

—Page 69, line 12, insert immediately after the period the following new sentence: "Such evaluation shall separately identify, by race, sex, national origin, or handicapping condition, the progress of each such designated school in meeting such short-term and long-term goals.".

—Page 71, after line 12, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly);

(8) special programs to address the problems of and to retain students who would otherwise be suspended or expelled from school;

—Page 79, beginning on line 15, strike out ", a junior or community college degree or trade or graduate school certification of completion".

—Page 87, line 21, insert "and members of school site councils" immediately after "State agencies".

—Page 88, line 6, insert "and members of school site councils" immediately after "State agencies".

—Page 88, line 11, insert "and school site councils" immediately after "State agencies".

—Page 88, line 4, insert "(1)" immediately before "Each"; on lines 6, 8, and 10, redesignate clauses 1, 2, and 3 as clauses (A), (B), and (C), respectively; and after line 16 insert the following new paragraph:

(2) Not later than 120 days after enactment of this Act, the Secretary shall, in order to assist State educational agencies in carrying out the provisions of paragraph (1), initiate a program of technical assistance and information dissemination.

—Page 92, at the end of line 3 insert the following new sentence: "Such data and reporting system shall be organized in a manner to permit evaluation by race, sex, national origin, or handicapping condition, of the attainment of the purposes of this title and of part A, title IV of the Comprehensive Employment and Training Act.".

H.R. 7542

By Mr. CLINGER:

—Page 59, line 22, strike out "$12,500,000," and insert in lieu thereof "$21,300,000,".

By Mr. FITHIAN:

—Page 4, line 19, strike out "$100,000,000" and insert in lieu thereof "$142,860,000".

Page 4, line 25, strike out "$80,000,000" and insert in lieu thereof "$122,860,000".

Page 72, after line 10, insert the following:

SEC. 4. Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, [$100,000,000.00] of this total appropriated for the purchase of furniture is hereby rescinded. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within thirty days following the date of the enactment of this Act as to the allocation made.

EXTENSIONS OF REMARKS

AIRLINE SAFETY IN THE 1980'S

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. JOHN L. BURTON. Mr. Speaker, the Subcommittee on Government Activities and Transportation of the Committee on Government Operations, which I chair, recently completed an 18-month investigation of the Federal Aviation Administration's certification of airline aircraft. Our report includes a number of recommendations for improving aircraft certification, which is an integral element of aviation safety.

Several of our recommendations recently received the strong endorsement of Capt. John J. O'Donnell, president of the Air Line Pilots Association. In his speech to the Eastern Regional Safety Congress of the National Safety Council, Capt. O'Donnell also cautioned that we should not become complacent about airline safety. He pointed out that the airline accident rate actually went up last year and that forecasted growth in aviation will place new strains on our national aviation system.

Capt. O'Donnell also described the deep concern airline pilots throughout the world have about the efforts of some aircraft manufacturers to sell new airliners with only two crewmembers in the cockpit. He sees this move as a deviation from the current standard in the airline industry of having three crewmembers in the cockpit and firmly believes it will be bad for aviation safety.

In his speech, Capt. O'Donnell explicitly states some manufacturers and airlines are reducing the size of the cockpit crew to save money. I hope they will not do so. My subcommittee's investigations have uncovered instance after instance where manufacturers and airlines have cut safety corners to save money. One would think they had learned their lesson by now, but apparently they have not.

Capt. O'Donnell's remarks to the National Safety Council provide a timely, informed and insightful look at aviation in the coming decade, and I submit them to the RECORD for the benefit of my colleagues:

STATEMENT OF CAPT. JOHN J. O'DONNELL

Good morning ladies and gentlemen: The subject selected for this morning's session "Airline Safety in the Decade of the 80's, Fact or Fiction" is certainly timely—when one looks at a number of new technology aircraft being designed and built at Boeing, McDonnell Douglas, Lockheed and Airbus Industrie. In thinking ahead about aviation safety, it is not enough to look just at the decade of the 80's; we have to consider the 90's as well.

Decisions of the manufacturers, airline companies and the certifying government agencies today and during the next four years will determine the quality and level of safety our industry will enjoy or endure during the next two decades and well into the next century.

The millions of citizens who need this nation's air transportation system enjoy an unbelievable level of safety. It is not by chance or luck that a trip in a U.S. local, regional or trunk airline today is safer than going to the corner drug store for your Sunday morning newspaper.

During the past three decades we have had those who have not committed themselves to the highest level of safety when confronted with deficits in the profit and loss statements.

Looking back over the decade of the 60's and 70's we can all be proud of the safety record of the scheduled airlines, but as we start turning the pages into the 80's some disturbing trends are underway that can, in the minds of the airline pilots throughout the entire world, have a long-term adverse consequence on the safety record we are so proud of today. We should not let the current recession and the recent declines in airline traffic obscure the fact that virtually all forecasters expect all facets of aviation to grow substantially in the coming decade.

Look at the statistical forecasts. The number of airline passengers last year was about 300 million. It is expected to increase by two-thirds to 500 million in 1990. Revenue passenger miles last year were 258 billion; the estimate for 1985 is 362 billion. By the end of the decade, the number of business jets is expected to increase from 2,500 to 6,000 and the total number of aircraft in the U.S. is to rise by 50 percent to over 300,000 by 1990. By all measures, that spells substantial growth. At the same time that volume of airspace is getting smaller, we will be asked to fit increasing numbers of high performance jet aircraft into it.

Already, we have an advance look at what the future will bring. For several years, aircraft arrivals have strictly been limited at four large airports—O'Hare, Kennedy, LaGuardia, and Washington National. Even with rationing to prevent over-capacity, many aircraft still must fly racetrack patterns in the sky awaiting an arrival clearance or hold on the ramp for takeoff clearance. In both instances, thousands of gallons of fuel are wasted. At a price of almost $1 per gallon, that is an expenditure our industry can ill afford.

Recently the Secretary of Transportation and the FAA Administrator reported to the Congress that our national airspace system may no longer be able to meet all the demands of potential users. When that happens it will then be necessary to ration or allocate the limited airspace available. As the Administrator pointed out, it will not be easy to do so fairly.

Important safety questions arise when we consider whether to limit our national airspace system instead of expanding and improving it. It is clear there is an increased risk of an accident in a system that is at or near its maximum capacity.

Airline pilots who are not completely confident about the reliability of the present air traffic control system wonder what it will be like in the future. A near mid-air collision last fall between two airliners at 29,000 feet over North Carolina focused public attention on the reliability of the ATC system. That near-miss occurred shortly after a computer failure. The FAA reported that the reliability of its ATC computers was improving but the agency's data still show repeated computer failures.

The current system allows over 100 near mid-air collisions to occur each month. Two weeks ago two 727's almost collided on crossing runways at O'Hare. In this age of rapidly advancing technology, technological and human failures are increasing at an unacceptable rate.

We see all too often the ostrich decision on the probable cause as "Pilot Error." Too often this determination is an escape mechanism for system or design error or avoidable human error.

Today, twenty-four years after the mid-air collision over the Grand Canyon which caused the Congress to form the Federal Aviation Agency, the threat and risk of a mid-air collision is still with us and perhaps the threat is increasing.

On the basis of growth in aviation, restraints on the national airspace system and a rising accident rate, one cannot be confident that aviation safety will continue in the 1980's as it was in the 1970's.

Even if the accident rate continues to drop, it is probable that the death toll in a single airline accident will climb. The reason is obvious that aircraft now have more seats and are operating at higher load factors than in the past.

While airline accidents are extremely rare, they can be stunning in their magnitude and their effect on the public. More people died in automobile accidents over the Memorial Day weekend last year than the 273 who were killed in the DC-10 crash at O'Hare. But it was the airplane crash on the Friday of that holiday weekend that held the public's attention for many months afterward.

The uncertainty about the future of aviation safety raises the vital question of what actions we should take to reduce this uncertainty and to strive for the highest level of safety possible.

Airline pilots the world over are deeply concerned over the aggressive efforts on the part of Boeing Aircraft and McDonnell Douglas trying to persuade airline companies throughout the world to purchase the next generation of aircraft with a cockpit designed without a flight engineer on board.

It is interesting to note that all of the wide bodied aircraft—the Boeing 747, McDonnell Douglas DC-10, Lockheed L1011 and Airbus Industrie A300—have fully integrated crews of three in the cockpit. This has been the industry standard for several decades. Today over three-quarters of the 2,600 aircraft in the U.S. airline fleet have a fully integrated three-man crew.

A paradoxical question is why the third crew member should be needed if airline aircraft are becoming more reliable, as they certainly are. The answer is that the great reliability of equipment in airline aviation today means that human error will increase

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

as the primary factor in the majority of airline accidents. The National Transportation Safety Board reports that about 60 percent of all aviation accidents today involve human error. This certainly will increase, but at what rate?

I believe an important step in reducing accidents caused by human error would be to extend the philosophy of redundant and fail-safe systems from such items as engines, hydraulics, avionics, and fire extinguishers to the humans in the system. For example, it is normal today to have three or even four separate hydraulic systems where two or even one would suffice.

In aviation the laws of probability clearly support the thesis that redundancy provides a higher margin of safety. In the future, that margin will make the difference between the high level of safety we enjoy today or an increase in the rate of catastrophic accidents. The third crew member will provide the redundancy, the extra margin of safety future aircraft will need to fly safely through the increasingly crowded and complex environment of the coming decades.

Fortunately, pilot incapacitation is rare, but you may be aware of three incidents last year when captains of wide-bodied aircraft collapsed and died in flight. In each instance, the other two crew members were able to take over and land the aircraft uneventfully. What would happen if there were only two in the cockpit and one collapsed during landing or some other critical phase of flight?

Now I am not so naive to think the three-member crew will provide absolute safety. Mr. Murphy's infamous law—if something can go wrong, it will—still applies regardless of the efforts we all make to improve aviation safety.

I am sure many of you are aware of the multitude of statistics dealing with crew complement and accidents. After studying them all, we can only conclude there is no provable relationship between crew size and accident rate. That is because the number of accidents is very, very small relative to the number of departures or flight hours.

In addition, statistics cannot measure the intangibles such as the accidents that were prevented by the presence of the third crew member in the cockpit. This is known only to the airline pilots who have lived through the incidents.

Airline pilots reject the manufacturers' claim that advances in automation and use of new technology will enable two pilots to fly in the increasingly busy skies as safely as we do today. We disagree because it is obvious the prime justification for this claim is economics and not safety. Boeing is offering its two new models, the 757 and 767, with two or three crew members in the cockpit, depending on the customer airline's choice. Boeing is supposedly doing so to compete with the Airbus A310 which offers the same option. These are, sadly, economic or marketing decisions taken at the expense of safety, notwithstanding what Boeing or McDonnell Douglas profess otherwise.

We will continue to press for a fully-integrated crew in the cockpits of all future airliners because we believe it will make a contribution to aviation safety in the decades ahead.

But the crew of three is not the only thing needed to enhance aviation safety in the 1980's. There are several significant improvements the FAA needs to make in carrying out its congressional mandate to ensure the highest level of safety.

These include:

1. More spending on needed facilities and equipment such as navigational aids and grooved runways. The current uncommitted surplus of more than $3 billion in the aviation trust fund is an unbelievable violation of the public trust.

2. Greater effort on research and development. This has not been given the priority it requires.

3. Development of an effective collision avoidance system.

4. Higher quality regulation: for example, regulations pertaining to crew training, flight time and duty time limitations, and aircraft certification are long overdue for revision to reflect recent advances in technology and changes in the operating environment.

It is shocking that more than 250 airports with scheduled airline service lack control towers and almost 200 do not have even a single instrument landing system to provide precision guidance to aircraft in bad weather.

Legislation now pending in Congress offers the prospect of significant improvement. The Senate has already passed, and the House is due to act next month, on a bill to extend the Airport and Airway Development Act for another five years. For the first time both versions of the bill call on the FAA to maximize the use of safety facilities such as precision approach systems and radar coverage in terminal areas. The bills also make runway grooving or friction treatment a condition for receiving an airport certificate from the FAA.

The House and Senate bills also provide significantly more funds for facilities and equipment such as navigational aids and control towers than the FAA requested in its Fiscal 1981 budget. The safety needs are clear, and the money is available in the trust fund. Lives will be lost in the decades ahead because of lethargy in the Congress if these funds are allowed to be diverted.

The current emphasis in Congress on balancing the budget means our chances of getting the necessary funding for facilities and equipment are not as good as they should be. ALPA and others in aviation strongly protested the recent action of the Senate in cutting $350 million from the FAA's budget, a budget which is the very minimum necessary to carry out the agency's responsibilities to ensure the highest level of safety.

The same comments about funding apply to the research and development programs. The agency has tough technical tasks ahead in many areas, such as developing nontoxic materials for aircraft cabin interiors, but it does not move with a sense of mission.

A good example is the Microwave Landing System, or MLS, which has been developed to provide better guidance to aircraft landing in bad weather. MLS would also increase the capacity of our air traffic control system by permitting more aircraft to be handled in the same period of time.

I would like to talk at more length about another R and D problem. That is the failure over many years to develop an effective collision avoidance system (CAS).

The ASRS study found there was an average of almost 100 near-misses a month over a 29-month period. Similarly, the FAA's own records of "system errors," in which two aircraft under ground control come closer together than they should, have shown a steady increase over the years. Thus, the threat of a mid-air collision is real and will continue to grow as aircraft traffic increases.

The Administration's preferred solution is to combine the collision avoidance function with the next-generation air traffic control system. A major difficulty with this approach is that the system will not be fully available until well into the 1990's.

An alternative that ALPA believes needs to be fully explored involves a system that makes use of the radar beacon already installed in all large aircraft and many smaller ones. If proven to be practical, this system could be available much sooner and at less cost than the FAA's. The beacon system has another advantage the pilots believe is very important. It is in the aircraft and provides information to the pilot completely independent of the ground. Thus, the pilot does not depend on the controller or the ground to give him the information needed to avoid a mid-air collision. Fortunately, the FAA has contracted with NASA for additional testing of the beacon collision avoidance system.

The final problem area I would like to touch upon this morning involved the quality of regulations and the need to improve them.

A basic recommendation that we and others in aviation have been making for years is that the FAA's responsibility under the Federal Aviation Act to promote commercial aviation should be ended because it conflicts with the agency's mandate to ensure the highest level of safety.

Earlier this month, the House Government Operations Committee made that recommendation again as a result of its 18-month study of the FAA's aircraft certification and maintenance programs. Two weeks ago, an editorial in the Washington Post strongly endorsed the Committee's recommendation.

I would like to quote the end of that editorial because it is very relevant to everything I am saying today. "As originally conceived, the FAA was to be an agency that single-mindedly pursued safety. That is what it ought to be. But somewhere along the way, it picked up extraneous aviation responsibilities. . . . These are the assignments that should go somewhere else. Then the agency could devote all of its attention to making aviation as safe as possible, a job that is going to get even tougher as our current airliners age and the number of planes in the air increases."

The House Committee also made 23 other recommendations for improvements, including that the FAA open its aircraft certification process so other qualified parties could participate. Certification today is a closed process; only the FAA and the manufacturer participate, and they do so behind closed doors. The result is that defects in certification come to light only after an aircraft has entered service. ALPA has been urging for years that allowing qualified persons with special expertise to participate in certification would strengthen the process and result in safer aircraft being certificated.

A blue ribbon panel of the National Academy of Sciences is also studying the FAA's certification and air-worthiness procedures. The Secretary of Transportation asked the Academy to appoint such a panel after the DC-10 disaster at Chicago raised grave questions in the public's mind about the FAA's performance. The panel's report is due in July.

We eagerly await it because the members are highly qualified and very experienced. I hope the Secretary of Transportation will act quickly to analyze the panel's recommendations and to implement appropriate recommendations.

Finally, I could not end my discussion of aviation safety in the 1980's without mentioning a federal agency with safety in its name—The National Transportation Safety Board. The NTSB has the responsibility of determining the probable cause in all aviation related accidents. ALPA has been a party to many NTSB investigations, and, I believe, has helped make a contribution to that effort.

Therefore, I am distressed to say we are concerned about the decline of quality in recent Board investigations. In too many instances, the investigations have not been thorough and complete. One result is that pilots too often have been blamed for accidents that in our judgment are erroneous. In some instances, the Board was unable to find some other cause so it cited the flight crew as the primary cause. In others, it has not gone beyond the fact that a pilot made a mistake to determine why he did so.

ALPA recently petitioned the NTSB for reconsideration of its findings in two airline accidents. In the National Airlines accident at Pensacola, Florida, we believe the Board overlooked the importance of the type of altimeter in the aircraft. Misreading of that type of altimeter has been a factor in several other airline accidents and should have been considered by the Board. In the North Central Airlines accident at Kalamazoo, Michigan, we believe that the aircraft was not flyable with one engine inoperative and that the Board's findings were based on an incomplete investigation.

We are also preparing several other petitions for reconsideration. We hope that the Board will give serious attention to our requests for review. We also hope that Chairman King, in whose fairness and competence we have great faith, will take steps to upgrade the Board's accident investigation capabilities. We are concerned over what is obviously poor quality performance in some of the NTSB's recent investigations and determinations.

I have discussed a number of problems in aviation safety that will be with us in the decades ahead that threaten the outstanding record the airlines have painfully established over the years. It will take major effort and cooperation by all of us in aviation—government, manufacturers, airlines, pilots, controllers, and others—if we are to surmount these problems and move closer to the level of safety to which the public is entitled.

Thank you.●

YEAREND SPENDING CONTROL ACT, H.R. 7287

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. HARRIS. Mr. Speaker, as chairman of the House Civil Service Subcommittee on Human Resources, I have been conducting a major investigation into yearend spending abuses. The subcommittee's probe has revealed that funds appropriated for specific programs are not being rationally obligated to achieve the congressionally intended objective. Rather, the funds are being pushed out in the final weeks of the fiscal year on questionable contracts and grants.

GAO investigations, done at my request, document the fact that funds are being diverted from the purposes laid out by Congress, causing billions of dollars to be wasted on unnecessary projects and purchases during the last months of the fiscal year. Federal agencies operate under a "use it or lose it" policy which reflects a fear that their budget will be cut the following year unless all funds are expended. Former Treasury Secretary Blumenthal testified that yearend spending amounts to agencies "literally pushing money out the door with a wheelbarrow."

Agencies rush to obligate funds at the end of the fiscal year, usually without a clear or desirable reason for doing so. This practice costs the taxpayer millions, perhaps billions, of dollars. I believe it is our responsibility to institute controls which eliminate this waste, which is why I introduced the Yearend Spending Control Act, H.R. 7287. I am pleased that 30 Members have cosponsored this legislation. The list of cosponsors include:

COSPONSORS OF H.R. 7287

Congressman WEAVER.
Congressman LEVITAS.
Congressman WHITEHURST.
Congressman COELHO.
Congressman GLICKMAN.
Congressman FINDLEY.
Congressman PORTER.
Congressman HANCE.
Congressman DOWNEY.
Congressman MOFFETT.
Congressman ATKINSON.
Congressman NICHOLS.
Congressman RAHALL.
Congressman HUGHES.
Congressman FAZIO.
Congressman SIMON.
Congressman TIM LEE CARTER.
Congressman EDGAR.
Congresswoman SPELLMAN.
Congressman BUCHANAN.
Congressman MOLLOHAN.
Congressman LOWRY.
Congresswoman SCHROEDER.
Congressman LEHMAN.
Congressman HANLEY.
Congressman HUCKABY.
Congressman WON PAT.
Congressman JOHN L. BURTON.
Congressman MOTTL.
Congressman UDALL.●

A SALUTE TO CLEVELAND'S "MR. PERSONALITY"—HARRY MAMOLEN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. STOKES. Mr. Speaker, I think that every community and city across the country has one resident who could be categorized as "Mr. Personality." Well, in Cleveland, that person is Mr. Harry Mamolen. He is, by every indication, one of the most well known and best loved citizens in the Cleveland metropolitan area.

I have known Harry Mamolen for many years. I have had the pleasure of dining at the Pewter Mug Restaurant at which he serves as the maitre d'. I have always been welcomed with the gleaming smile and warm words of Mr. Mamolen upon my arrival at the Pewter Mug.

Mr. Mamolen is the friend of many Clevelanders as well as people across the country. He has greeted politicians, everyday citizens, and stars alike. But, in my estimation, he is Cleveland's greatest star. He attracts people like a magnet because of his unique personality and his vivid career stories.

Harry Mamolen is an institution in Cleveland. This spunky man has recently celebrated his 80th birthday. I am sure he could still be going strong another 80 years from now.

So, Mr. Speaker, at this time, I insert an article about Harry Mamolen which appeared in the May 23, 1980, issue of the Cleveland Jewish News. I ask my colleagues to join me in saluting Cleveland's "Mr. Personality"—Mr. Harry Mamolen.

FROM DOWNTOWN TO SUBURBIA WITH HARRY MAMOLEN

(By Vivian Witt)

You can wish popular restaurateur Harry Mamolen a happy 80th birthday this month, but he'll turn you down if you invite him for a drink at his post as maitre d' at the Pewter Mug in Beachwood. "That's one of my rules—I don't drink with the customers," he confided.

Besides, he'll be too busy keeping things humming until he closes the place at 2:30 a.m., five days a week. "I'm the 'highest-priced busboy' in town," he says happily, "and I love every minute of it. I'll never retire."

And he never really has retired throughout a colorful career of seven decades as newsboy, candy vendor, ticket broker, restaurant owner and manager—with a little youthful "bet running," and bartending thrown in!

The peppy, gregarious Mamolen is known as "Harry" to a large, affectionate following, many of them fourth and even fifth generations of families he served during his earlier years going way back to 1912 when he hustled the News and the Leader newspapers on Public Square.

One of his present employers at the Pewter Mug, Bob Wilson, is the grandson of a man he delivered newspapers to in the Leader Building at E. 6th & Superior—a unique, 74-year-old structure that once housed 14 bustling floors of offices of the great firms of yesteryear.

"They printed the Leader and the News where the Colonnade Cafeteria is located today."

He reminisced, "I had orders to put different editions of the newspapers on George Humphrey's desk every half-hour—the papers came out then every hour or so. I used to run up and down 14 flights of steps like they were nothing."

Mamolen has a special fondness for the southwest corner of the Public Square, where Stouffer's Inn on the Square now stands. That's where he had his own "corner" as a kid, hawking newspapers that he bought two for a penny and sold for one cent each, and that's where he landed as manager of the Kon-Tiki restaurant at the Sheraton-Cleveland after "retiring" from 35 years as owner of the renowned Mamolen restaurants in the Belmont Hotel just across the street from the Old Arena at E. 38th & Euclid.

Mamolen recalls that one of his newspaper customers on that corner, in front of the Forest City House (forerunner of the Sheraton) was George Marshall, founder of the drug chain. Marshall gave him a bit of information that may explain Mamolen's passion for horseback riding.

"Mr. Marshall was a student of surnames, and told me that the Mamolens from southern Russia once rode with Genghis Khan. Guess it was always in the books for me to have a horse," Mamolen laughed, and he always has.

He rides his white-faced sorrel quarterhorse, "Coco" three times a week through Metropolitan Parks—winter and summer—and one of the Mamolen trademarks is his western-style tie.

Mamolen was born to Russian immigrant parents in Tarentum, Pa., 21 miles from Pittsburgh "where there were the usual five Jewish families in a small town." His father died when he was very young, and he acquired a stepfather.

The whole family moved to Cleveland, and Mamolen recalls walking to E. 55th & Euclid—the busiest corner he had ever seen. "I was so naive as a kid that it was two weeks before I found out it wasn't 'downtown!'"

He attended Outhwaite School and was in the first graduating class of Kennard School in 1916.

An enterprising lad, Mamolen sold papers during the day, but also had a job at night selling crackerjacks, ice cream and "bonbons" at the Star Theater, a burlesque house ("y'know, vaudeville—that kind of burlesque") across the street from what is now the doomed Hippodrome Theater.

Nearby, at E. 6th & Euclid was the original Kornman's saloon, owned by a non-Jew ("not Weinberger's place—they acquired it later—bought the name") where Mamolen, raised in an Orthodox Jewish home, had his first taste of trefe meat under the impression it was turkey. "Vay is mir when I realized what it was!"

He has his first drink of hard liquor with the late, great Clevelander Dan Hanna, in 1916 when Woodrow Wilson ran for president against Charles Evans Hughes. "It was an even election at one point—and the newspaper headlines announced the wrong man. Hanna was celebrating Hughes' election prematurely."

Mamolen remembers he used to sell newspapers at Otto Moser's, a 19th century landmark bar on E. 4th St. between Euclid and Prospect Avenues. When he worked there during the '70's, slicing corned beef in the window, he'd look out on the scene and remember "good dreams" of a bygone era when he sold bonbons at the spectacular Euclid Avenue Opera House (where now there's a Burger King!). The main entrance was on E. 4th's predecessor, Sheriff St.

In his youth, Mamolen was also a "bet runner," getting 5 percent commission from the bookie at E. 6th & Superior.

Were there ever "gang wars" in Cleveland, we asked? "You bet," he replied. He remembers the "wild and wooly" era of the 20's and 30's when "at E. 55th & Woodland, everyone either went to the electric chair or became a millionaire."

"Listen," he confided, "I saved many a guy from murder by using my noodle. I had a good memory for faces, and I recognized a man sitting with a friend of mine. My friend told me he was going to ride home with this guy and I warned him, 'Don't—they're out to get him and you could get it, too.' Well, my friend took my advice and would you believe—the next morning they found that other guy's body in a ditch!"

Mamolen worked at a number of speakeasies and recalled that the late comedian W. C. Fields bought drinks from him at the Upside-Down Club at E. 55th & Lexington. "He used to love herring and fished them right out of the barrel and wiped his hands on his clothes. Boy, did he smell!"

Mamolen also sold newspapers in the area that later became Playhouse Square and naturally gravitated to the entertainment world, developing a ticket brokerage business there. One of his friends was John F. Royal of NBC fame, then manager of the Hippodrome that presented two shows a day of seven vaudeville acts on the Keith circuit.

"I never had to wait in line," Mamolen recollects, sadly noting, "Vaudeville went out in '35."

Mamolen's major career took off when he opened his renowned Mexican room and Pioneer room restaurants in the Belmont Hotel opposite the Arena. It became a mecca for sports personalities and the newspaper crowd, as well as Clevelanders out on the town for an evening of fun.

He named a room for Winsor French, the Press newspaper columnist who helped launch him. "During the '40's other places sold drinks for 15 cents. I sold mine for 25 cents—it kept the bums out."

Mamolen claims, "I'm the only individual to have my own 'money' printed up—and utilized," explaining that he printed up $5,000 worth of "Mamolen money" which was passed out to Arena stockholders and honored for drinks and food at his place.

Some famous folks still have some unspent—tucked under the glass of their executive desks—a piece of Cleveland's past.

He recalls the great entertainers at the Arena who congregated at his place. "Sonia Henie, the ice star, opened the Arena in the first of the ice shows. She was a 'captive' held by her mother and her manager—their meal ticket. Actually, I remember her as real mean.

"Gene Autry appeared there, too. He used to hurry out to avoid the crowds. Guess he didn't like the youngsters waiting for autographs."

"Jimmy Backus used to hang out at my place . . . Elliot Ness . . . Bing Crosby was a customer . . . and Jimmy Durante, too."

Mamolen recalls Bill Veeck as a "great hustler" and super-showman who outdid Arena owner Al Sutphin in putting on spreads to woo the local newspapermen.

"I closed the doors of my place the night rock 'n roll promoter Alan 'Moondog' Freed presented a show that caused a riot at the Arena."

Mamolen closed the doors of his place for good in 1968—sold it to another restaurateur. It later became a strip tease joint.

"All 'my folks' were going out east." But Mamolen managed to follow them, and combines all of his know-how and diplomatic skills in catering to his beloved customers at the Pewter Mug.

Mamolen's first wife, Anne, died in 1962. Their daughter, Shirley MacDonald lives on the West Coast. He was married again in 1968 at the late Rabbi David Genuth's home (he's a member of Beth El Synagogue) and his wife, Mary Jane, brought 12 children to the marriage. Between them, they have 30 grandchildren—"all beautiful."

A hotel dweller for most of his life, Mamolen bought a small home in Maple Heights just a year ago, where the couple lives. He's a circus buff—and collects Steuben glass.

There's almost a "leprechaun" quality to this slight, wiry octogenarian who revealed that his nickname was "Little Verenikal."

"But you just call me Harry. Mr. Mamolen was my father."●

THE OBJECTIVES OF THE PLO: GENOCIDE AGAINST ISRAEL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. KEMP. Mr. Speaker, over the course of the past year, the Palestine Liberation Organization (PLO) has made considerable gains in achieving acceptance in Western Europe, and to a considerable degree, within the Carter administration as well. Indeed, the President's former Ambassador to the United Nations would have to be counted as something of a devotee of the PLO. That the PLO is nothing more than a wholly owned subsidiary of the KGB appears to matter little for their use of terrorism has won the acquiescence of many who would not otherwise have been persuaded of their arguments.

Despite the ability of the PLO to gain acceptance through terrorism, it is pertinent for Americans to have an understanding of the political program of the PLO, particularly as it affects Israel. In the June 2 issue of a Beirut periodical, Al Liwa, the political program of the PLO approved by the Fatah Congress was published. In no uncertain terms, the PLO expresses its intent to "liquidate the Zionist entity (Israel) politically, economically, militarily, culturally, and ideologically * * *." The PLO's murderous campaign of terrorism leaves little room for doubt about its definition of "liquidate."

I have selected some of the most pertinent excerpts from the PLO's program that unmask its aims. A reading of this document should provide a persuasive prima facie case against taking the PLO seriously as a participant in the Middle East peace process. The excerpts follow:

EXCERPTS FROM THE POLITICAL PROGRAM WHICH WAS APPROVED BY FATAH'S CONGRESS AND PUBLISHED BY "AL-LIWA" BEIRUT, JUNE 2

Since the launching of Ratah, "International imperialism, led by the USA, which is strategically allied to international zionism taking its base in Palestine, has been trying to destroy our armed revolution". These attempts took the form of direct military strikes at one time, and "the form of conspiracies and liquidative schemes" at another. Among the conspiracies during the past 10 years were the war in Jordan in 1971 and the war in Lebanon "which we are still fighting in self defence."

In the present stage, the program said, "the imperialist offensive against the region has intensified" by presenting a variety of "settlement schemes". Fatah Congress, said the statement, "believes that resisting these schemes is the duty of all Arab liberation forces".

Fatah and its aims. "Fatah is an independent national revolutionary movement, whose aim is to liberate Palestine completely and to liquidate the zionist entity politically, economically, militarily, culturally and ideologically. It also aims at establishing a Palestinian democratic state on all the Palestinian soil, where all citizens will have equal rights without discrimination on the basis of race or creed, and whose capital will be Jerusalem.

"The battle for liberating Palestine is part of the Nationalist (Pan-Arab) struggle and, therefore, it is the duty of the entire Arab Nation to support this battle with all its moral and material means."

"The only way to achieve our aim is through the armed popular revolution. The armed revolution of the Palestinian Arab people is a decisive factor in the battle of liberation and the liquidation of the zionist presence. This struggle will not stop until the zionist entity is liquidated and Palestine is liberated. In our struggle, we rely on the Palestinian people as the basis and vanguard, and on the Arab Nation as a partner in the battle of destiny.

Our relations with the Arab countries aim at developing the positive aspects in the positions of these countries in a manner that would not affect the security, continuity and escalation of the armed struggle. We do not interfere in the internal affairs of those countries, and we will not allow anyone to interfere in our affairs or obstruct the Palestinian people's struggle to liberate its homeland."●

LITHUANIAN INDEPENDENCE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. FORSYTHE. Mr. Speaker, I would like to take this opportunity to note that Sunday, June 15, will be the 40th anniversary of the takeover of the independent state of Lithuania, and that, even after 40 years of armed occupation, the Lithuanian people throughout the world are still struggling to regain the right of self-determination for their homeland.

It is a tenet of international law that every people should have the right of political self-determination in the international arena, but every year an increasing number of countries, like Lithuania, are denied that right of self-determination by the growing sphere of Soviet oppression.

In this year, when we have seen another nation, Afghanistan, swallowed in a manner much like that in which Lithuania was devoured 40 years ago, it is time that all of us join the cry of the Lithuanian people and call on the free world to demand that the illegality of the Molotov-Ribbentrop Treaty be recognized, and that the Lithuanian people be allowed to vote on a referendum to decide the future of their own state.●

FATHER DRINAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. PICKLE. Mr. Speaker, while the Lord may have need for Father DRINAN somewhere else, the Republic will sorely miss his presence as a Member of Congress. Congressman DRINAN has provided an unusual combination of compassion and concern for the welfare of our citizens coupled with a professional lawyer-like ability to tackle the problems the criminal code encompasses. This concern for humanity shows through whether he has been working as chairman of the Subcommittee on Criminal Justice, Civil and Constitutional Rights, as a member of the Subcommittee on Environment, Energy and Natural Resources, Manpower and Housing, or as a member on the Select Committee on Aging working on the problems of retirement, income, and employment, health and long-term care.

Interestingly, while our political philosophy differs in many areas, we spanned the political spectrum to unite in defending the very basis of a democratic government. We joined forces to fight against the Presidential impoundment of appropriated funds in 1972 and 1973, when President Richard Nixon tried to defy the Congress. In this battle I came to appreciate the fact that Father DRINAN is a tough fighter and a strong ally.

Father DRINAN before he was a Member of Congress taught in the Law School at the University of Texas, in Austin, my home district. I recall that one of his students told me the story about how the class of Texans were wondering what a Catholic priest could tell them about family law. However, he won them over with his opening statement, "The family that drinks together, stays together". And this illustrates another facet of this personality—a wonderful sense of humor that has helped us all through some difficult times. Before he left the University of Texas he had given so many speeches and was so popular in the community I was beginning to worry that he might decide to run for Congress from the 10th Congressional District of Texas. Except for the Confederate Air Force Museum, and the Shiner Brewing Co. of Shiner, Tex., Father DRINAN does have a certain constituency in Texas. These organizations have generally forgiven the father because of his opposition to their concerns on the House floor. I would not recommend the father take a ride on one of the CAF planes, or top off the ride to enjoy a cool Shiner beer. Since the father did not really lay a glove on them, all is forgiven.

We all remember his untiring work on the Judiciary Committee during the impeachment inquiry. During those dark days Congressman DRINAN's questions helped illuminate that darkness.

Recently he has again spanned the political spectrum to fight against Russian oppression on the issue of political dissidents. Father DRINAN's compassion and devotion to the cause of human rights again shines through. Father DRINAN's name is a watchword for liberty and freedom and a strong democratic government. He will be missed by his fellow members and his constituents in the Fourth Congressional District in Massachusetts as well as that broader constituency of the world. Good luck.

Father DRINAN, we respect you, and wish you all good wishes. You have served your Nation well, and we, your colleagues, say "Thank you."●

IN HONOR OF REPRESENTATIVE ROBERT F. DRINAN'S DEPARTURE FROM THE U.S. HOUSE OF REPRESENTATIVES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. MITCHELL of Maryland. Mr. Speaker, it is indeed an honor to join my colleagues in a tribute to an esteemed Member of this House. Congressman ROBERT F. DRINAN, whose dedication to human services goes beyond the Halls of Congress, will not be a candidate for reelection in November. He will be missed.

Representative DRINAN has gained the respect and admiration of each House Member with whom he has served. He will be well remembered as a spokesman for and coauthor of major civil rights legislation, including the 1975 strengthening amendments to the Voting Rights Act, as well as the Drinan-Edwards amendments to the Fair Housing Act which is currently being considered by this House.

Father Drinan stands first among those Members of Congress who were elected on an anti-Vietnam war platform. This adamant stand is indicative of his true commitment to human rights and the need for a peaceful world.

Congressman DRINAN's distinguished career in Congress has been highlighted by such positions as: Former chairman of the House Judiciary Committee's Criminal Justice and Civil and Constitutional Rights Subcommittees; member, House Government Operations Committee; and the Select Committee on Aging. His work on these committees has been aided and complemented by his membership in such organizations as the Environmental Study Conference and the Members of Congress for Peace Through Law.

Father DRINAN is a member of both the District of Columbia and Massachusetts Bar Associations. The Congressman has authored many significant publications, to include "Religion, The Courts and Public Policy" in 1963 and "Democracy, Dissent and Disorder" in 1969.

Congressman ROBERT DRINAN will certainly be missed among his congressional colleagues. But he leaves the symbols of his hard work and dedication to human rights to make all of us continue to push a little harder.●

COMMUNICATIONS REFORM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. UDALL. Mr. Speaker, on June 10 the Wall Street Journal ran an editorial on communications reform which I hope was seen by all Members. The Subcommittee on Communications, chaired by my good friend from California (Mr. VAN DEERLIN) has been working on a general reform of the communications industry for several years. It has been a long and difficult process, but the subcommittee has reached a point where it is marking up a bill that would open up much of the industry to competition. The bill would achieve this by separating A.T. & T.'s regulated activities from those the subcommittee feels should be open to free competition. It would allow A.T. & T.'s competitors to use Bell's core system, but would also establish a new system of access fees. I hope that the subcommittee, and the full Committee on Interstate and Foreign Commerce, can complete action on this legislation so that the House can address the issue during the summer. I personally am most concerned that independent rural phone networks continue to get a square deal, and I hope and expect that we will see some real competition on communications. But I think it's important that the issue be settled in the near future.

The editorial from the Wall Street Journal follows:

[From the Wall Street Journal, June 10, 1980]

TYING UP MA BELL

One of the most sensible legislative efforts in the history of deregulation is being sidetracked by some phony ideas about competition.

Earlier this year the House Communications Subcommittee approved a sweeping revision of the nation's telecommunciations laws. The bill, sponsored by Representative Lionel Van Deerlin of California, would leave basic local and long-distance phone service in the hands of the regulated Bell System and its affiliates. But the bill would take two steps to open up competition and reduce regulation at the technological forefront of telecommunications—the sale and manufacturing of phones, switching systems and other terminal equipment; the provision of high-volume private-line services; and the marriage of telephone and computer in a new industry known as "data communications" or "telematics."

In the first place, the Van Deerlin bill would make it easier for competing equipment manufacturers and private-line carriers to hook into the Bell network. Though the Federal Communications Commission has been encouraging competitive entry into these markets in recent years, the new firms (such as MCI) complain that the Bell System has put up technical obstacles restricting access to local phone networks. AT&T, in turn, complains that competitors have been gaining access without paying their fair share of the Bell System's overhead—particularly its regulatory responsibility to subsidize near-universal local phone service. The Van Deerlin bill would try to clear up both problems—by requiring AT&T to supply technical information about locking into its core network, and by setting up a mechanism for more equitable access fees.

The Van Deerlin bill would also overturn one of the most clumsy and obstructive decisions in the history of American antitrust law—a 1956 Department of Justice consent decree that forbids AT&T from entering unregulated markets such as data processing, even though it no longer makes any commercial or technical sense to distinguish between data processing and telecommunications. The FCC issued a ruling in April that tries to get around the consent decree, but in the absence of new legislation the legality of its ruling is questionable. Mr. Van Deerlin's bill would directly permit AT&T to follow the dictates of modern technology, and enter the new markets through an unregulated subsidiary.

Or at least it would have in the original form approved by the Communications Subcommittee. In recent months, however, the subcommittee has been mulling a series of technical amendments that, under the guise of protecting competition, would tie one of the principal competitors' hands behind its back.

On Wednesday the subcommittee will vote on an amendment requiring the new AT&T subsidiary to set up its own research and manufacturing facilities, and preventing it from drawing on the expertise of Bell Labs and Western Electric. Also, to give competitors a "head start," the subcommittee is thinking of barring AT&T from data processing and unregulated private lines for another several years. It's argued that AT&T, with its $100-odd billion in assets and its regulatory monopoly, will overwhelm its competitors unless it is somehow handicapped.

Nonsense. In a market of great technological change and uncertainty, it is hard to imagine AT&T easily vanquishing the likes of IBM, Xerox, Exxon, ITT, Hitachi and Siemens, as well as all the feisty intrepreneurs that are entering the telematics industry. But even if AT&T's size and research capabilities do give the company special financial and technical resources, it would be foolish to deny its unregulated subsidiary and, more to the point, its customers the opportunity to benefit from these competitive advantages.

At a time of concern over lagging productivity, R&D performance and international competitiveness, American policymakers are trying to keep one of our country's great technological resources from competing as effectively as it can. Japanese and European manufacturers are thanking their lucky stars.●

REV. M. L. PRICE CELEBRATES 50TH ANNIVERSARY IN BAPTIST MINISTRY

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LELAND. Mr. Speaker, this Sunday Rev. M. L. Price, pastor of the Greater Zion Baptist Church in Houston, will celebrate the 50th anniversary of the beginning of his ministry in the Baptist Church and I wish to congratulate him and extend my sincere appreciation to this great man of God.

The Reverend Mr. Price has been a true soldier and servant of his Lord; ever faithful to the causes of justice and peace among people of good will.

Mr. Speaker, the Reverend Mr. Price has been pastor at the Greater Zion Baptist Church for 42 years and has served as president of the General Baptist Convention of Texas for the last 15 years and as first vice president of the National Baptist Convention. He is a member of the board of regents of Texas Southern University, my alma mater, in Houston, and is a member of the board of trustees of Bishop College. He also is on the board of trustees of St. Elizabeth's Hospital and for 21 years Mr. Price has been a Bible instructor for the National Training Union and Congress.

Our community in Houston has been blessed by his presence and our State and Nation are far better off because this good and faithful man has stood as a stalwart witness to the truths of the Gospel of the Lord.

Mr. Speaker, I have known Pastor Price for many years and have observed him as he ministered to his flock with a devotion that is seldom equaled. I wish for him many more years in the service to which he was called and to which he has been such a good and faithful servant.●

NEW U.S. REFUGEE POLICY NEEDED BADLY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. BONKER. Mr. Speaker, recently Congress enacted a major reform in our refugee laws. One of the primary purposes of this new act was to eliminate the ad hoc, and often chaotic procedures associated with U.S. refugee policies.

The Cuban crisis represents the first trial of U.S. refugee policies since this new law came into force. Thus far, the results have been unsatisfactory; there is little perceptible change from the problems of the past. Either the new law is not being employed properly, or it has failed to provide effective guidelines for developing a viable refugee policy.

An article which I drafted for a Washington State Teamsters magazine seeks to address some of these concerns and calls for the administration to immediately develop a refugee policy which is workable, consistent, and fair. This article is reproduced below:

NEW U.S. REFUGEE POLICY NEEDED BADLY

These days people tend to shudder when they hear the saying inscribed on the base of the Statue of Liberty "Give me your tired, your poor, your huddled masses yearning to be free." That may have been a meaningful gesture in the past, but in today's volatile world it is taking on new dimensions. Americans rightly are asking whether President Carter's recent pledge to receive Cuban refugees with "an open heart and open arms" is as realistic as it is humanitarian.

We are facing a refugee crisis without an effective policy. The United States is being overwhelmed with demands to open the door to political and economic refugees. Castro's decision to export over 40,000 Cubans to our shores in a few short days, including many of their derelicts, with over 250,000 more waiting to join ranks, poses some immediate policy and logistical problems for the U.S. Government. We have not developed a policy which upholds America's long history of providing sanctuary for humanitarian purposes while keeping the refugee inflow to manageable and realistic proportions.

The Cuban exodus comes in the wake of the Cambodian crisis which is bringing over 30,000 more refugees into the United States. But this problem is not limited to these two areas. In testimony before a Foreign Affairs Subcommittee which I chair, the U.S. refugee coordinator placed the number of refugees worldwide at more than 14 million. By far, this is the largest movement of people since World War II. The United States has responded by quadrupling its intake of refugees from 59,900 in fiscal year 1978 to a projected level of 234,200 refugees for fiscal year 1980 (which ends this coming October). This does not include more than a million Mexicans crossing our borders each year illegally in search of employment opportunities, and the recent influx of Cubans.

The burdens these rates are placing on Federal, State, and local governments is staggering. Authoritative estimates indicate that at least $1.6 billion will be spent in connection with refugee assistance during this fiscal year. This figure could exceed $2.5 billion for fiscal year 1981. Meanwhile, State and local governments are desperate for funds due to delays in reimbursement from agencies in Washington, D.C., responsible for administering refugee programs.

There is also a problem with the distribution of refugees coming into our country. As the following table shows, the great majority of the refugees admitted into the United States during fiscal year 1980, are from Indochina.

REFUGEE ADMISSIONS, FISCAL YEAR 1980

[Total number of admissions fiscal year 1980]

Area of origin	Amount
Asia:	169,200
Indochinese	168,000
Other	1,200
Soviet Union	33,000
Eastern Europe	5,000
Middle East	2,500
Latin America:	20,500
Cubans	19,500
Other	1,000
Africa	1,500
Subtotal	231,700
Asylum status adjustments	2,500
Total	234,200

Source: U.S. Department of State.

One could reasonably question why the United States is only admitting 1,500 Africans in comparison with 169,200 Indochinese. Why should the United States be admitting so many Cubans, when we are deporting Mexicans and Haitians?

Another major problem is the way U.S. refugee programs are administered. The Immigration and Naturalization Service is a poorly administered agency trying to cope with the impossible. There is nothing more distressing than trying to help a family be reunited (and not succeeding) while I see tens of thousands as aliens—some legal, some illegal—all over the Nation's Capital.

In April 1980 Congress enacted a new law designed to reform U.S. refugee procedures. The law makes it more difficult to grant blanket approval for admissions into the U.S. for refugees from various countries, and also sets quotas on the total number of refugees which can be admitted in any single year. This law must be implemented immediately if the United States is to gain any control over the awesome problems we are faced with. The quotas should be administered equitably within the statutory limits.

Much more must be done to insure that other nations uphold their share of the refugee burden. So far the progress made in this area has been unsatisfactory. For example, Latin American countries are committed to accept only 4,000 of the total Cuban refugee population.

Another step which should be taken immediately is to reform the Immigration Service so that refugee programs can be efficiently and fairly administered.

To help alleviate the problem of illegal aliens (now numbering between 8 and 10 million), I have introduced legislation which offers a simple and equitable solution to controlling the influx of job seekers. The bill provides for the Department of Health and Human Resources to issue social security cards which are "counterfeit-proof." The new cards would confirm a person's legal entry into the United States. An employer would then simply be required to check an applicant's social security card before a person could be hired.

Hopefully, the Statue of Liberty will always stand as a symbol of America's determination to provide a haven to the homeless and relief to those searching for freedom. But for this symbol to have practical meaning in a world confronted with a refugee crisis of unprecedented magnitude, the United States badly needs an effective policy which provides order and insures a rational basis for decisionmaking. America is not a sponge that can absorb limitless numbers of people from abroad.

We need a policy which upholds the best of our humanitarian traditions, while limiting inflows to levels we all can realistically support.●

MORE SUPPORT FOR H.R. 4717

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. HARRIS. Mr. Speaker, I am pleased to add the support of my colleague, Congressman MIKE LOWRY, to my bill, H.R. 4717, which would halt yearend spending and wasteful Federal contracting. Since H.R. 4717 has been reported out of both the Post Office and Civil Service Committee and the Government Operations Committee. I am unable to add Congressman LOWRY as an official cosponsor. But I would certainly like to add his support to the 63 cosponsors already on H.R. 4717.

I think it is time for the Government to be a smart manager by enforcing its avowed policy of cost-effective contracting and by establishing firm controls over yearend spending sprees. I believe it is our responsibility to institute controls which eliminate this waste. I urge the other Members of this body to join with me in bringing to a halt this waste of taxpayer's money by supporting my bill, H.R. 4717.●

CARTER ADMINISTRATION PURSUES POLICIES WHICH INCREASE POVERTY, HUNGER, AND THE CHANGES OF WAR

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. NOLAN. Mr. Speaker, today, I submitted testimony to the platform committee of the Democratic National Party. In view of the gravity of the subject discussed, I wish to share my testimony with my colleagues.

The statement follows:

STATEMENT BY HON. RICHARD NOLAN

On April 27, 1980, the Presidential Commission on World Hunger released its final report to the nation, over two years after Congress had passed a resolution calling upon the President to establish such a commission. I introduced the resolution in the House of Representatives and I served as a member of the Commission.

The Commission report acknowledged what previous students of hunger have been saying for generations: poverty is the cause of hunger. The major world hunger problem, the Commission stated, is long-term, chronic under-nutrition caused not by the lack of capacity to produce adequate food but by "political, social and economic" factors which keep millions of people so poor that they cannot afford to buy the food to maintain even a minimally adequate diet. The world's physical resources are adequate to eliminate hunger, the Commission found, but too many governments have been unwilling to make the political choices necessary to eliminate poverty and hunger by redistributing income and assets more equitably.

The Commission report concluded that "lasting solutions to world hunger can only result from rapid, equitable and self-reliant economic growth." The Commission recognized that previous development strategies based on the assumption that benefits would "trickle-down" to the poor did not work but instead "intensified the original inequity in the concentration of income and assets."

The Commission also warned that the Current U.S. policy of encouraging the arms race and flooding developing nations with military hardware is endangering the security of our country and the peace of the world because our neglect of the developing needs of millions of poor and hungry people is fueling revolutionary sentiments around the globe. Continuing to "equate national security with the strength of strategic military forces," the Commission stated, is "a simplistic illusion." Instead of expanding military expenditures, the Commission expressed its conviction that "a major worldwide effort to conquer hunger and poverty * * * holds the key to both global and national security."

Although I agree with many of the findings of the Hunger Commission, several other Commissioners and I have registered strong disagreement with many of its recommendations which we find to be weak, vague or insignificant. The Commission's recommendation on trade, for example, calls for little more than freer trade, a policy which, historically, has tended to perpetuate the inequitable distribution of income and the concentrated ownership of resources in developing nations. The report also omits any discussion of the debate regarding the obstacles to self-reliant development raised by many existing development assistance programs. A mounting body of evidence indicates, for example, that food aid often does not reach the poor and the short-term feeding programs have actually worsened hunger in poor nations.

The weaknesses in the Commission's report dilute its recommendations. I believe the report would have been stronger if the Commission had emphasized self-reliant development more consistently in its report and recommendations. I believe trade reforms should not undermine self-reliant development or give ruling elites a wider opportunity to siphon off foreign exchange earnings into their own coffers but should benefit hungry people. In addition, development assistance should be targeted selectively to developing nations committed to self-reliant development and to meeting basic human needs and rights. Recommendations by the Commission which fail to meet these standards should be rejected.

In any discussion of world hunger, a central concern should be the economic well-being of agricultural producers. In the United States, a government policy of maintaining low commodity prices is undermining the ability of many farmers to continue producing. Farmers in the United States are in the midst of the worst financial crisis since the depression of the 1930s, and the impact will be worldwide. The United States is a major exporter of grain and its low grain prices dominate the trade, setting world market prices and reducing the income of farmers around the world. The Commission has recommended that developing nations increase their production of grains and foodstuffs as part of a program of self-reliant development, but attaining the goal will be difficult as long as the low prices of United States grain exports continue to undermine price incentives for farmers in developing nations to increase their production.

I, therefore, call your attention to one of the Commission's most important recommendations that:

"United States farm policy be directed toward enhancing farm structure whereby producers operating small- and medium-size economically productive farms will be assured an equitable return on their labor and investment comparable to returns to other sectors of the economy."

I urge you to study the Commission report and the minority views submitted by several Commissioners before proceeding to draft the Democratic Party Platform for 1980. I encourage you to go beyond the report and to recognize that the call for self-reliant development in developing nations also applies in the United States. We are experiencing an economic depression in agriculture which will drive more farmers off the land. High levels of unemployment, inflation and interest are drastically reducing individual purchasing power and increasing the pressure for more welfare and food stamp benefits. At the same time, wealth in the United States continues to be concentrated in the hands of fewer and larger financial institutions and business enterprises. The divestiture of popular ownership which we are witnessing will undermine the Republic if it is not brought to a halt and reversed. Clearly, we must be willing to accept a program of self-reliant development at home before urging developing nations to adopt such a policy.

In closing, I am sorry to say that President Carter, by his actions, has served notice that he rejects the Commission's report. When the President accepted the Commission's preliminary report on December 10, 1979, he said he was "excited and pleased" by the Commission's findings and he gave assurances that all members of his administration would participate in implementing the recommendations.

Barely a day had passed, however, before the President reversed himself and announced a multi-billion dollar increase in military spending, in direct contradiction to the Commission report. Sabrerattling in the White House has created enough hysteria that military spending now has top priority in Washington and commitments are being made for a one trillion dollar military buildup over the next five years.

History has shown us that giving the world more guns postpones economic development and worsens conditions of hunger. President Carter, despite the fact that his own Commission on World Hunger recommended that "the United States make the elimination of hunger the primary focus of its relations with the developing world," has chosen to continue giving the world guns. He will bear the consequences of that decision, as we all will. A world which continues to spend, collectively, $400 billion annually on weapons of destruction while millions of people go hungry or starve to death will be swept by revolutionary turmoil and fascist reaction which will rock the foundations of the existing order, perhaps resulting in nuclear holocaust.

As members of the Democratic Party we have to ask ourselves which course of action is more crucial: defending a President leading us on a course of strife and destruction or taking a stand for peace and for basic human needs and rights? I choose the latter course and, if we are to have any future, I hope you will too.●

EFFORT TO INCREASE EXPORTS

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. REUSS. Mr. Speaker, a letter from the chairman of the board and chief executive officer of Allis-Chalmers, David C. Scott, describes a very interesting Government-private industry team effort to increase exports—a type of effort which could well be duplicated by many other companies seeking to increase exports and thus produce jobs and help the balance of payments.

This particular effort involves the attempt by three American corporations to make bids for work connected with the mammoth Yacyreta hydroelectric project in the Parana River between Argentina and Paraguay. The letter from Mr. Scott follows:

ALLIS-CHALMERS,
Milwaukee, Wis., May 9, 1980.

Hon. HENRY S. REUSS,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR HENRY: In view of your responsibilities in the foreign trade area and your interest in the promotion of United States exports, I would like to bring to your attention a recent case of extraordinary cooperation between agencies of the U.S. Government and American industry in attempting to obtain business for U.S. companies in a major foreign project.

I believe it important for you to be aware of this case since it demonstrates clearly how well the public and private sectors can work together in expanding American exports, and represents a type of government activity which deserves the support of the Congress.

By way of background, the project involved in this case is the mammoth Yacyreta Hydroelectric Project on the Parana River in South America. The river, at one point, is the boundary between Argentina and Paraguay and these two countries have agreed to join in building a dam and a hydroelectric station which will develop 2700 megawatts of power. It is estimated that the project, when completed, will cost approximately $6 billion.

There are three American corporations who are expected to bid on major elements of this project. Allis-Chalmers will bid on 20 hydro-turbines worth approximately $400 million; Westinghouse will bid on 20 generators worth more than $200 million; Morrison-Knudsen will bid on portions of the construction work worth $1.5 billion. The Export-Import Bank of the United States has extended a preliminary commitment to finance up to $830 million of American products and services if U.S. corporations are successful in winning contracts. It is expected that decisions on contract awards will be made by the end of calendar year 1980.

In addition to the United States companies, bids are expected from companies located in Canada, Japan, Austria, Italy, Germany, Spain, Sweden, France and Russia. It is known that competition will be keen and in view of the magnitude of the project, foreign companies are receiving the full support of their respective governments in an effort to win contracts.

With the above in mind, the United States Government was requested in January, 1980 to take steps to demonstrate its support of U.S. industry participation in the Yacyreta Project which could result in more than $800 million in export sales and more than 18 million manhours of work for American labor.

In response to this request, a government team, consisting of Deputy Secretary of Commerce Luther Hodges, Mr. Donald Stingel, Director of the Export-Import Bank of the U.S., and Mr. Albert Zucca, Acting Deputy Assistant Secretary of State for Economic and Business Affairs, was organized and directed to visit Argentina and Paraguay for the purpose of calling on key officials of those two governments and of the Yacyreta Project to express the interest and support of the U.S. Government for American participation in the Project.

In order to present a unified posture in this endeavor, senior officials of the three interested American corporations were invited to accompany the government team on the visit. Accordingly, Mr. Douglas W. Danforth, Vice Chairman of Westinghouse Corporation, Mr. Joseph F. McKee, Senior International Vice President of Morrison-Knudsen Company and I joined the team and made the visit to Argentina and Paraguay.

During the period March 9-11, the Government-Industry team visited first Argentina and then Paraguay. In each of these countries, the delegation met with key officials of the government and of the Yacyreta Project administration and expressed the strong support of the U.S. Government for American participation in the Yacyreta Project and for expanded trade and investment between the respective countries.

The delegation was cordially and attentively received in both countries and made a most favorable impression. Its positive impact can only be beneficial to American interests. Deputy Secretary Hodges and the other government members of the team were outstanding representatives of the United States and did a convincing job in expressing the government's case.

While the visit cannot assure that U.S. corporations will be successful in winning contracts in the Yacyreta project, this special effort by the United States Government to support American interests as described above was welcomed by industry and regarded as a practical, realistic and effective way for the government to work with the private sector in expanding exports. In short, this is the type of teamwork we in industry hope to see more of in the future, and we encourage you to give it your full support.

Sincerely,

DAVE.●

MR. JOHN TAXPAYER

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. SYMMS. Mr. Speaker, who is Mr. John Taxpayer and how much will he pay in taxes to the Federal Government this year?

Mr. John Taxpayer earns $20,000 a year, the estimated median income of a full-time, year-round worker and is the sole support of his wife and two children.

Mr. Taxpayer will pay an estimated $5,451 in total taxes to the Federal Government this year. Of this total, Federal income taxes will claim $2,114; social security taxes, $1,226; and indirect taxes, $2,111.

After collecting billions in revenues from the earnings of Mr. John Taxpayer and many others, Washington will spend $39.8 billion more than it takes in before 1980 ends. So in addition to his $5,451 Federal tax bill, Mr. Taxpayer will inherit a $428 share of the deficit.

However, even after Mr. Taxpayer has given the United States 27 percent of his paycheck for 1980, he is not finished paying his taxes yet. State and city income, property, and sales taxes have yet to take their share.

I would say that we, in Congress, need to start evaluating the needs and burdens that Mr. Taxpayer has been enduring. And, instead of continuing our policy of tax and spend, we cut spending and give the productive wage earner a tax break.●

THE ADMINISTRATION'S BLUNDERING APPROACH TO NONPROLIFERATION—BAD BUSINESS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. WYDLER. Mr. Speaker, I have frequently criticized the counterproductive nuclear nonproliferation policy of the Carter administration. In pursuit of the worthy goal of preventing proliferation of nuclear weapons, the United States in recent years has implemented a confused and ambiguous policy which has reduced our ability to exert nuclear technology for peaceful purposes. My position has been substantiated by a report published by Westinghouse Corp. which shows a startling decline in the U.S. share of the nuclear export market which has been accompanied by a corresponding decline in U.S. influence over worldwide nuclear policy.

Between 1953, when the atoms for peace program began, and 1975, U.S. vendors received about 71 percent of the awards for nuclear powerplants. In the last 5 years, however, the U.S. share of world nuclear exports has dropped below 50 percent. This downward trend has accelerated since the beginning of the Carter administration. The Westinghouse report gives several reasons for the decrease, including the ambiguous U.S. nonproliferation policy, delays in U.S. export licensing, the uncertainty of U.S. uranium enrichment services, and the more accommodating nuclear export policies of foreign countries.

This decrease of U.S. nuclear market power has hurt our country, both economically and politically. First, the report notes that the export of one nuclear powerplant can reduce our trade deficit by more than $500 million during its construction period of 6 to 7 years, and by $500 million more during its operating life. One nuclear plant export award can also result in as many as 60,000 man-years of employment for U.S. workers during its construction and operation.

Second, from the standpoint of the administration's professed nonproliferation policy, the nuclear export restrictions have been counterproductive. Other countries have decided to vigorously advance nuclear energy programs, and will, of course buy from exporters that offer the best overall package. The competitive position of U.S. vendors is weakened by the decisions of the U.S. Government to defer indefinitely the domestic reprocessing of plutonium and to retain veto power over foreign reprocessing of U.S. supplied fuel. The Westinghouse report shows that nations which have not followed these policies, such as Germany, France, and the U.S.S.R., have cut drastically into the U.S. market share.

There are a number of actions which the report recommends that the United States take to regain dominance over the nuclear export market and world nuclear developments. These suggestions make eminent sense and I strongly advise that my colleagues read this publication. It's entitled, "The United States and the Nuclear Export Market" and was published by Westinghouse Corp. in April 1980.●

GREEN LAUDS CHINESE-AMERICAN POEM

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. GREEN. Mr. Speaker, Chinese immigrants and their children have made a significant contribution toward making this Nation the greatest in the modern world. These new Americans, like all other early immigrants constituted a part of the pioneers of the "Home of the Brave." Furthermore, an important determinant of the future social stability of America will be the degree of mutual willingness among various ethnic groups to learn from one another.

Prof. Dennis Lou, a foreign affairs specialist on the SUNY faculty at Oneonta, wrote a poem entitled "Chung Ch'iao Feng" or "Ode to the Chinese Pioneers of the 'Home of the Brave'" in honor of the courageous and hardworking Chinese immigrants to America for the occasion of the United States Bicentennial. His vision of a future America in which both majority and minority live together in harmony with mutual respect and consideration inspired not only this piece but also a large part of his life.

Professor Lou recently sent me a copy of his poem, and I wanted to share it with my colleagues and submit it to be reprinted at this time:

ODE TO THE CHINESE PIONEERS OF "THE HOME OF THE BRAVE"

(1)

Sailing across the forbidding oceans,
We landed on this strange land of Red Indians.
Moving from West to East, and from South to North,
From sunrise to sunset, we relentlessly toiled.
We built railroads, we worked in the mines,
We cleared the forests with our bare hands.
In good faith, we honored the rules of our time.
With respect we observed the laws of this new land.
We lived by the rites of personal conduct
Of our great dynasties of Chou and Shang!

(2)

Treading over many a mountain pass,

Wandering through the wilderness of many a prairie,
Against gusty winds, snow, and torrential rains,
We were truly pioneers of "The Home of the Brave!"
Determined to establish ourselves,
We strove to fulfill our dreams,
Upholding the principles of justice,
Defending the value of thrift and diligence,
Transmitting our ancient wisdom and virtues to this New Nation,
We were proud to be the filial heirs of Tang and Han.●

TESTIMONY PRESENTED

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. HAMILTON. Mr. Speaker, I want to share with my colleagues testimony I presented on June 10 to Congressman VANIK's Subcommittee on Trade discussing most-favored-nation status for Romania and Hungary and our policy toward the countries of Eastern Europe in general. My testimony follows:

STATEMENT OF HON. LEE H. HAMILTON

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee on Trade to discuss our policy toward the countries of Eastern Europe and specifically to assess the progress in our relations with Romania and Hungary. For several years now your committee has served as a focal point for discussion of critical economic issues in our evolving relations with the states of Eastern Europe. Mr. Chairman, your leadership in this area, as well as in many others, will be missed in the next Congress but you can be confident that you have established a fine example of the thorough and fair manner in which these issues should be treated.

I am testifying today in support of the extension of the waiver authority to Romania and Hungary under Section 402 of the Trade Act. I hope that my colleagues in Congress will give these matters careful consideration and then take positive action. Positive action will help further our national interests at a time when we are in a tense and confrontational phase in our relations with the Soviet Union as a result of the Soviet invasion of Afghanistan.

Mr. Chairman, by supporting a continuation of MFN status for Romania and Hungary, I support a general policy toward Eastern Europe which seeks to expand American economic and commercial relations with the countries of Eastern Europe. I also support our policy since it seeks to increase our political, economic, social, cultural and scientific contacts with the governments and peoples of Eastern Europe. I agree with the judgment made by the State Department that has led them to conclude that "we are not holding the Eastern European countries accountable for Soviet unilateral action in Afghanistan."

I believe that we are pursuing a correct course in our relations with the countries of Eastern Europe by continuing to treat each country individually and to trade with some on favorable terms. The sanctions we have initiated against the Soviet Union because of their invasion of Afghanistan have not been extended to the Soviets' Warsaw Pact allies. By stating, as we have, that we will continue our normal relations with Eastern Europe as long as there is no transshipment or reselling of embargoed items to the Soviets should show we place importance and respect on our relations with the countries of Eastern Europe.

Despite a favorable U.S. trade balance with Eastern Europe last year of $1 billion and some increased trade potential, we must be careful not to raise false expectations nor to exaggerate the political and economic impact of more trade. In some respects, the Soviet Union and the countries of Eastern Europe are natural trading partners. So, even though many analysts predict a certain leveling-off and weakening of the economic ties, particularly in energy—gas, oil, and electricity—between the Soviet Union and Eastern Europe, those predictions need to be judged in a relative sense because the West cannot entertain any energy-supplying relationship and the economic and political link to the Soviet Union, for many, will be strong.

It can also be stated that Romania and Hungary now do more business with the West than with the Soviet Union, perhaps explaining the somewhat more independent domestic and foreign policy postures of these two countries.

Although faced with slow growth rates, inflation, consumer goods shortages and heavy debt burdens, the East European countries plan to rely heavily on the West.

They have a large stake in their economic relations with the West:

Eastern Europe's annual dealings with the West exceed $35 billion;

Eastern Europe obtains about one-third of its imports from the West;

Western banks and government export credit institutions have extended over $50 billion in credits to Eastern Europe, to purchase Western industrial equipment and technology and service their debts;

Romania has joined the IMF;

Eastern Europeans look to Western know-how to solve productivity problems;

Eastern Europeans believe that they will need significant imports to Western technology and expertise in order to increase productivity and access to Western money markets.

OUR RELATIONS WITH ROMANIA

Over the past sixteen years, Romania has followed policies which diverge significantly from Soviet policies. The differences have been important:

Romania has maintained diplomatic relations with Israel since the 1967 War;

Romania denounced the 1968 Warsaw Pact invasion of Czechoslovakia;

Romania doesn't participate in Warsaw Pact maneuvers nor does it permit them on Romanian soil;

Romania opposed increases in Warsaw Pact spending last year;

President Ceausescu played an important role in facilitating and supporting President Sadat's peace initiative and has pursued close ties with China.

It is important that we encourage and support Romania when its policies diverge from Moscow's policies and coincide with or complement our policies.

Romania has been characterized recently as "downright stubborn" with the Soviets on Afghanistan. The Romanians have only scantily covered events in Afghanistan. They sent no message of support and congratulation to the new leader of Afghanistan. They did not support the Soviet position in the U.N. debate nor did they participate in the U.N. vote condemning the Soviet action, thereby showing some tacit approval of the vote. In two New Year's speeches, President Ceausescu stated that nations should not interfere in the internal affairs of others. Romania has continued political contacts with the U.S. and the West, resisting pressures from Moscow to cancel or postpone some exchanges. Finally, Romania did not participate in the meeting of European communist parties in Paris in April, thereby snubbing the meeting's sponsorship by the Soviet Union.

These and other past expressions of Romania's independent foreign policy are well known. The U.S. should support such independence and thereby embolden others.

Our trade relationship with Romania has also been positive:

U.S.-Romanian trade approached the $1 billion level in 1979 and may surpass that level in 1980 with an MFN renewal. The U.S. may become Romania's second most important Western trading partner, and overall the fourth most important trading partner;

The balance of trade was in our favor by about $100 million. U.S. exports to Romania increased by 50 percent to approximately $500 million and U.S. imports from Romania increased 25 percent to approximately $400 million;

One of the most significant indicators is that since MFN status in 1975 bilateral U.S.-Romanian trade has jumped almost 150 percent.

It seems clear to me that if Romania's attempts to minimize its economic and political links to the Soviet Union are to succeed it will need very positive incentives and support from the United States, Western Europe, and China.

It is my opinion that the more we press onward with the positive aspects to our relations with Romania the less we will have to pressure on those aspects of our relations which can cause strain and tension, including human rights considerations and emigration problems.

The emigration and human rights picture in Romania is about the same as last year with some positive and some troublesome aspects. The levels of emigration from Romania to Israel, the United States, and the Federal Republic of Germany are consistent, showing a slight increase depending on the time period chosen. For example, when examining the Romanian immigration level to the United States for the time periods July 1978 to May 1979 and July 1979 to May 1980 we see that the level increased from 1,531 to 2,137. Comparing the same time periods for Romanian Jewish immigration to Israel we also see an increase from 768 to 1,002. Other witnesses will undoubtedly provide more details on the specific numbers, trends, and destinations. I think it is now clearly understood by the Romanian government that the United States Congress, in renewing its MFN status, expects consistently high levels of emigration to continue. The Romanian government knows that we will monitor emigration levels and policies closely.

General emigration policies and procedures of the Romanian government need improvement. Reports from our Department of State indicate that the only officially accepted justification for emigration is still family reunification and the rights of Romanian citizens are restricted in choosing their destination and timing of departure. There are reports that bureaucratic delays, economic retaliation, and social pressures continue to plague those Romanians applying for permanent departure passports.

Mr. Chairman, I would say that the picture on emigration and human rights is mixed. On balance, I recommend that we continue to work from a positive strategy by renewing MFN status for Romania and by specifying the types of progress and improvements we would like to see.

OUR RELATIONS WITH HUNGARY

Mr. Chairman, relations between the United States and Hungary appear to be satisfactory and improving. A new, positive trend was set in our relations in 1978 when the Holy Crown of Saint Stephen was returned to Hungary and MFN status was extended to Hungary.

Since the extension of MFN status to Hungary trade has increased between the United States and Hungary to a level of about $200 million in 1979;

Hungary continues to follow a very liberal travel policy which allows literally millions of Hungarians to travel abroad and millions of foreigners to visit Hungary;

The Hungarian government continues to be forthcoming and industrious in resolving human rights and family reunification problems;

There are press reports now that Hungary is quite fearful that this recent progress in relations with the United States may be reversed because of the deterioration in U.S.-Soviet relations. The importance of detente and U.S. relations to Hungary can be read into their statements on Afghanistan which have avoided direct comment on the Soviets in Afghanistan and focused mainly on the importance of preserving detente and avoiding a return to the Cold War.

In the eyes of Hungarians, rising East-West tensions also threaten economic progress. Press commentaries indicate that the Hungarians have been working hard on their economic reforms which include austerity for consumers, decentralizing the economy, encouraging the proliferation of small private enterprises, price reform by reducing government subsidies, and adjustments in foreign exchange. Hungarian trade with the U.S. and joint ventures have complemented the positive direction of these economic reforms.

Mr. Chairman, I feel that there are sufficient positive developments in Hungary and in U.S.-Hungarian relations to warrant an extension of MFN status.

CONCLUSION

As you know, Mr. Chairman, I recommended last year that your committee give serious consideration to multi-year MFN for Romania and Hungary. I support the very strong economic arguments for moving to multi-year arrangements. I am encouraged that trade continues to improve, joint ventures are getting underway and we have significant political dialogues with these states. For this development to occur, however, some in Congress will want to satisfy themselves that there has been significant and steady improvement in many other areas, including emigration and human rights. I hope that the next Congress will focus on the multi-year extension issue and give it high priority.

In conclusion, let me say that the extension of most-favored-nation status to Romania and Hungary should be viewed as an important way of keeping our relations with those countries moving in positive directions. It seems to me essential that we pursue such a positive course if we are ever to replace the military stand-off in central Europe with greater trade, communication, contact and cooperation.

One positive development which I think should be underlined is that it now seems that many countries of Eastern Europe, including Romania and Hungary, accept more easily today the fact that human rights is a legitimate subject of bilateral discussions. It is my judgment that a facility to communicate and stimulate responsiveness is a first major step toward actually resolving some of these human rights and emigration issues. The initial granting of MFN status opened that door of communication, and in my view, extending MFN status will keep that communication alive and moving in the right directions.

Mr. Chairman, it certainly seems to be in our national interest to encourage some of the types of progress we have seen in Romania and Hungary in the rest of Eastern Europe by improving and broadening our relations with specific countries when and where we feel it is appropriate to do so.

Therefore, I urge this subcommittee to act favorably on the President's recommendation to extend the waiver provisions of section 402 of the Trade Act for Hungary and Romania.●

FREEDOM FOR SOVIET JEWS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. UDALL. Mr. Speaker, I would like once again to bring to the attention of the Members the plight of the Paritsky family, Jewish "refuseniks" living in Karkov in the Soviet Union.

Alexander Paritsky, his wife Polina, and their two daughters, have been trying to obtain exit visas for the past 3 years. The Soviet Government claims Alexander Paritsky is privy to state secrets and they have just informed him that his visa review will not take place until 1981.

Since they have applied for visas, the Paritskys' life has never been the same. Alexander was fired from his job at the Science Institute in Kharkov in 1977 and then sacked from his job as an electrician in a tractor factory. After being unemployed for 3 months, Paritsky found work as a laborer. However, he believes he could be dismissed at any time. His wife Polina, formerly an engineer is also out of work. They are afraid that the authorities might threaten them with parasitism.

Undeniably the most persecuted and harassed of Kharkov's refusenik community is the Paritsky family. They continue to be the target for abuse by every branch of the media. Apart from five separate occasions when Paritsky has been openly attacked in the local newspaper as a "spy, traitor, a hooligan," and his wife called a prostitute, the family was humiliated at a special meeting at their daughter's school.

The attack on the Paritskys' and particularly their 13-year-old daughter Dorina, began after she recited a poem she wrote at school. Dorina was tormented and ostracized for writing this poem:

My Homeland to Me, I—To My Homeland

(Composition by Dorina Pritskaya)

I have two Homelands: One is where my people live and where I hope to live some day. The other Homeland—is the stepmother, the one where I live now because I have to. Although I was born here, the country where my people live now and where my forefathers lived in the past is more dear to me.

Because I live in the Soviet Union and because, I go to school here, I will tell about it.

My Homeland—to me.

It has given me a lot: high school education, the musical school, films for children and other things.

Yet, the same Homeland has given me other things too: the refusal to let us go to my real Homeland, it has almost deprived us of any income, it does not let my father to work in his profession that he loves so much, it is preventing me from learning the language and the culture of my people, it spreads lies about our family in the newspapers and throws mud at us.

I remember the gatherings, the interesting trips to the country, but I also remember other things—the swearing and scandals at school, the insults and fights.

I also try to do something for my Homeland. I take part in school activities: collect scrap-metal and old paper, work in summer and on holiday that have been proclaimed special working days and, of course, I do what every student's duty is—I study well.

Life had two sides—the pink one and the black one. I do not want to describe everything only from the pink side.

The persecution of the Paritskys and many other Soviet Jews has been going on for far too long a time. I urge my colleagues to help in any way they can to stop these attacks.●

CHIEF ISAAC, FAR FROM A TYPICAL LOBBYIST

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. YOUNG of Alaska. Mr. Speaker, the North Slope of Alaska contains some 26 trillion cubic feet of natural gas. This domestic source of energy is desperately needed by our friends and neighbors in the lower 48 States. Constructing the transportation system, however, will be one of the greatest technological challenges that will face our great Nation during this decade.

We are also faced with another significant challenge of equal magnitude. This is the challenge of constructing this natural gas pipeline without negatively impacting traditional communities in Alaska. Every effort must be made to insure that the negative socioeconomic impacts of the Alaska natural gas transportation system are minimized. Last week, Chief Andrew Isaac, a traditional chief and a much revered spokesman from the upper Tanana region in interior Alaska made a presentation before the Executive Policy Board (EPB) during which he emphasized the need to be aware of the impacts associated with the construction of the ANGTS. The EPB is an interagency group whose task is to advise the Federal inspector during the planning and construction of the ANGTS. Chief Isaac made it quite clear to the EPB how important it is to remain sensitive to the people in interior Alaska.

The Washington Star conducted an exclusive interview with Chief Isaac after his presentation at the EPB meeting. I would like to share the contents of the article with my colleagues:

CHIEF ISAAC, FAR FROM A TYPICAL LOBBYIST

(By Boris Weintraub)

It was, above all, a matter of contrasts.

On the one hand, there was the mammoth size of the project itself, the building of the Alaska Natural Gas Transportation System, to stretch from Prudhoe Bay on Alaska's northern coast, through the largest and coldest state and into Canada, where it will split in two, part of it going down to northern California, the rest cutting across Montana, the Dakotas, Minnesota and Iowa before terminating just west of Chicago.

So big is this project that its estimated cost right now is $23 billion. So big is it that John T. Rhett, the federal inspector—about whom, more later—could say only half-jokingly that just the pipeline to carry 2.4 billion feet of natural gas daily for 4,790 miles would "cost around $15-$16 billion, floating around, you know, a billion here, a billion there, heh-heh."

On the other hand, there was traditional Chief Andrew Isaac, 82, of the village of Dot Lake, Alaska, with a population of less than 100 people.

On the one hand, there was the power and majesty of the federal government, as exemplified in the elegant carved wood, three chandeliers and the 30-foot ceilings of Room 3000-A of the Post Office Building at 12th Street and Pennsylvania Avenue, where the monthly meeting of the Executive Policy Board of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System was being held this week.

On the other hand, there was the plain-spoken simplicity of Chief Isaac, appearing on behalf of the 13,000 natives of the Upper Tanana portion of the Doyon Region, through which the pipeline will be built.

On the one hand, there were the suits and ties of the lawyers and governmental people and representatives of the energy corporations which will put up most of the money for this, the largest privately financed construction project in history, people who were perfectly at home with references to "critical hires" and "permitting interfaces" and "coming on board."

On the other hand, there was Chief Isaac, resplendent in feathers and beads and fringe and sensible work shoes, with a simple message in clear, if broken, English: "My young people need a job."

He had come all the way for the second time to Washington—a lengthy journey that involved a 120-mile drive to Fairbanks, a plane hop to Anchorage and a change of planes, then on to Seattle and then here—to plead for those jobs because Alaska has changed, and his young people will not be able to make their living as he did, as a guide, as a hunter of moose, as a fisherman.

"I appreciate to stand before you folks today," said the old man with skin the texture of worn leather. "Today, the population of Alaska going up pretty fast. I hope you remind to give a chance to the native people because this pipeline going right through their villages, sometimes right past their doors or their yards."

It was a brief presentation. When he was through, Brig. Gen. Hugh Robinson of the Army Corps of Engineers, chairman of the Executive Policy Board, the inter-agency group set up to advise the Federal Inspector, an official charged by Congress with expediting the system's construction with minimal cost overruns, thanked Isaac before going on quickly to other matters.

Outside the hearing room, though, the chief offered a more detailed explanation of his mission.

The problem, he said, is that the growth in Alaska's population is so great that the traditional means of making a living are disappearing for the natives who have always survived somehow in this area where it gets down to 74 below in January and February.

"Now, so many people, all moose gone," he said. "I don't take a moose for seven years. All game is gone. And now they make us get a license to hunt and fish.

"Nowadays, so many people, you got no chance to hunt. Too many boats on river, all the hunting and fishing places gone. I made a living trapping and guiding, but now you can't catch anything. So we got a lot of poor people."

When the Alaska oil pipeline was built a few years ago, Chief Isaac said, his people knew nothing about it and all the jobs were quickly sewed up by whites. This time, he said, he does not intend for that to happen.

No, he admitted, most of his people had no training in construction work. But then, he said, he had had none either before he started working on the construction of the Alaskan Highway in the 1940s, the project which, ironically, made it possible for so many people from Canada and the Lower 48 to get to Alaska.

"I join a union," he said of those days. "They show me how to use shovel and pick. I learn to operate a loader. I drive a truck. The companies, they want my young people to go for training, but you got to have money for that, so only a few go.

"I got an adopted son; he is 18 now, and in February, they going to drill for pipeline, so they hire him, and they say he does good job. But I don't know how long it is going to last."

Inside Room 3000-A, the meeting continued. Elegant men in three-piece suits displayed carefully drawn budget charts. The deputy Federal Inspector and the Labor Department's representative clashed over the nature of MBE/EEO regulations and whether the OFCCP would approve, and the necessity for publishing the EIS in the Federal Register, though Peter Cook, the deputy, promised that natives within commuting distance of a construction site would get preference.

Outside, Chief Isaac returned to his simple theme.

"I was born in woods, not even a tent," he said. "I don't know how my mother saved me. But I was able to make a living by trapping. My young people, they can't do that any more. They need a job."●

THE DUDES AND DAMES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DIXON. Mr. Speaker, I would like to share with my colleagues an American success story involving a small group of men and women who sidestepped racial prejudice to build a legacy in their own time.

In the early sixties, racial tension was prevalent in all areas of society including the consonant art of square dancing. During that time, a handful of black men and women were pursuing an interest in the American folk dance but were rejected from organized groups because of their color.

Refusing to let this barrier dampen their enthusiasm, these spirited individuals formed their own club known as the Dudes and Dames. After 14 years of teaching and encouraging this activity among black people, the Dudes and Dames has become an institution in the world of square dancing.

Recently the troupe made a premier appearance in Washington, D.C., and their story was featured in the Washington Post. In recognition of their achievements and endeavors, I am pleased to insert the following article into the RECORD:

L.A.'S DO-SI-DOING DUDES AND DAMES

(By Hollie I. West)

Most people don't associate blacks with square dancing and hoedowns. But that hasn't stopped the Dudes and Dames of Los Angeles from do-si-doing, promenading and sashaying every chance they get.

This all-black, square- and round-dance club has overcome the insults of whites and sneers of fellow blacks to become a nationally recognized group. Starting in 1966, with a handful of participants, the club now has 76 members, aged 12 to 80, who get a steady workout in Los Angeles, the square-dance capital of the world.

The group has performed for California Gov. Jerry Brown and appeared on Los Angeles TV and boasts a couple of much-sought-after callers. And tonight at 7 the club makes its first Washington appearance, at Howard University's Blackburn Student Center.

Right now the Dudes and Dames are viewed as an American success story. But things weren't always so rosy.

Dollie Lee, an original member, recalls; "In the early days we'd go to open dances, sometimes join a square, and the whites would walk out. Usually someone else would step into their places."

(Square-dance etiquette, a stringent code that requires men to wear long-sleeved shirts and prohibits the wearing of blue jeans, also forbids dancers to walk out of squares.)

The pressure of being turned away from dances or having dancers walk out of squares got to them. They began setting up their own squares—until Chuck Jones, originator of the Road Runner cartoon character, called them on it.

"Chuck really encouraged us," said Lee, a retired beautician. "He was a caller and used to tell us he didn't want to see us in squares together."

Another caller who encouraged them was Joe Lewis. Lee remembered a dance he called in the 1950s in Fullerton, Calif.

"After the tip (a two- or three-call segment followed by a rest period), people grabbed their hats and coats and rushed to the exits," she said, unable to suppress a throaty laugh. "Well, Joe Lewis took the mike and said, 'Ladies and gentlemen, we've got other Americans dancing with us tonight. Let's all get together and see what a good time we can have.' "

Andy Rawlinson, one of the group's callers, said he used to smile when people walked out of squares.

"If you let it get to your head, then it's your problem," he said. "When people walk out of a square, that's it for the night for them."

Rawlinson, a tractor-trailer driver in the Los Angeles-San Diego area by day, has become a highly successful caller.

"In 1968, I decided to learn square dancing," he said. "I was dating a woman who square-danced. And she used to always try to get me to go with her. I said, 'No, I've heard that music. I don't like it.' I associated it with racial discrimination, prejudice and down-home ways."

"So one night I went to the Dudes and Dames Club to wait for her so we could go out later and do the twist. You know, I found myself sitting there listening to the music, patting my feet. I liked it! So I started taking lessons. And later I became fascinated with the caller, the guy who orchestrated all the goings-on."

Rawlinson taught himself how to call by listening to singing callers on records.

He's never taken a class in calling. Nevertheless, he's cut records and called at national square-dance conventions, and he works at least four nights a week as a caller—mostly in California, but occasionally in Oregon, Washington, Nevada, Montana and Oklahoma.

In 1976, he took a group of young white square dancers from Oakland on a tour of Romania. As a result, he was invited the next year to the Soviet Union and Poland.

The Dudes and Dames are performing against the backdrop of a square-dance boom that's hit the nation in the last decade. Jimmy and Rosalynn Carter are members of a club in Dawson, Ga. In 1977, 6 million people were involved in club square dancing, and the District has 162 such clubs. Some 36,000 persons attended the National Square Dance convention in 1976.

There are other black square-dance clubs in Chicago and Detroit. And blacks are members of predominantly white clubs across the country. Contrary to belief, say the Dudes and Dames, blacks have been square dancing for years. No one's been noticing.

Frank and Carrie Jones (he's the club's current president) say they started square dancing because it was cheap entertainment.

In the early 1950s, the Los Angeles City Parks and Recreation Department sponsored square-dance classes for 50 cents a lesson.

"We had young children," Carrie Jones recalled, "and not much money. This meant we could go out and square dance and socialize for 50 cents a night. And I think the idea of costumes helped bring the ladies in. Some of our neighbors thought we were crazy."

The Joneses are also acclaimed round dancers (fox trot, tango, chacha, waltz, samba). Actually, they prefer it to square dancing.

The Dudes and Dames, a smorgasbord of retirees and working people—teachers and truck drivers, doctors and locksmiths—are appearing at Howard in a program called "Western Strokes for Eastern Folks," sponsored by Phoenix Inc., a group of black women interested in presenting unknown aspects of Afro-American culture.

The program will feature western food and an exhibition of cowboy memorabilia belonging to William Stepp, a black former Wyoming rancher, who'll also be present.

Said Carrie Jones: "We want blacks in Washington, D.C., to know they can square dance. We want to make square dancing the national folk dance."●

MIAMI—WHERE WILL THE FIRE BE NEXT TIME

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. STOKES. Mr. Speaker, in recent days, the eruption has been the topic of conversation in Congress, throughout the Nation and in the headlines of the media. I am not talking about the eruption of Mount Saint Helens in Washington State. Rather, I am referring to the eruption of dispair and disillusionment by the black residents of Liberty City in Miami.

The people who have the power to change these circumstances which led to the riot, seemingly have been surprised by the situation. They cling to the belief that blacks have made tremendous progress and such an outburst was not warranted.

My reaction is that these persons are either blind to the turmoil and inequities in the black community or just do not care what happens. It is evident by the action of the Federal Government that the poor, the unemployed, the disadvantaged, minorities, and the downtrodden have all but been forgotten by this Nation. You may call it racism or you may call it discrimination.

Regardless of the terminology you use, the point is that we have regressed to a record low point in our commitment to make this a land of opportunity for the poor. Unemployment among blacks and especially among black youth is at record levels. Health care and human needs programs are being cut back and in some cases phased out totally. We are still deliberating on a balanced budget—one which will be balanced on the backs of the people who can least afford it.

The long hot summer of 1967 and the conditions that brought it on are fuming once again. Miami was not unique. The same thing could happen in Washington, D.C., Cleveland, New York, or any other major urban area. History should tell us that band-aid approach we took toward giving token funds and assistance after the 1967 riots and diminishing human need program funds subsequently will not work.

I seriously question the sincerity of the Government's actions in the 1960's. Now is the time to correct that situation. What is needed now is not the usual liberal lipservice. What is needed is a real commitment to social and economic justice for the poor and minorities in this country. This does not mean just a token effort by the political powerbrokers in this Nation.

Recently, I had the pleasure of talking with the religious editor of the Cleveland Plain Dealer, Mr. Darrell Holland.

In the June 7, 1980, Cleveland Plain Dealer, Mr. Holland wrote a very perceptive article on the Miami riot comparing it somewhat with the eruption of Mount Saint Helens in Washington State. The interesting point that he makes is that scientists could not control the eruption in Washington State but we could have taken preventive measures to avoid the eruption in Miami.

It is one of the best articles I have seen on this issue to date. He suggests in the article that Miami may be a warning and not the only eruption we have this summer. I shudder to think where the fire next time will be.

Mr. Holland's article also provides some valuable insight on what we should have been doing and what is needed for the future to insure that all Americans regardless of race, social, or political status enjoy those inalienable rights we so proudly boast about.

Therefore, Mr. Speaker, at this time I enter in the CONGRESSIONAL RECORD, the article by Mr. Darrell Holland:

MIAMI MAY BE JUST THE FIRST ERUPTION, SOME WARN

(By Darrell Holland)

America may be in danger of some of its urban centers exploding—like a volcano.

It is only a coincidence that at the very time a live volcano began acting up in the United States, a social eruption occurred in Miami's black community.

In the case of Mt. St. Helens in Washington, the fury of nature was so cataclysmic that scientists could not control nor predict what would take place.

But in the case of, the violence in Miami, where blacks believed they were victimized by unjust social, economic and legal systems, society could have taken preventive measures.

Warnings that the United States might be in for a summer of racial tensions have come from a few religious leaders, who have cited the Miami uprising and the attack on the civil rights leader, Vernon Jordan, as signs of trouble ahead.

Some view these troubles as the start of a repeat of the summer of 1967, when urban rebellions demanded equality for the nation's black citizens.

Some of these fears were expressed last week in a letter to President Carter from the Rev. Donald G. Jacobs, executive director of the Greater Cleveland Interchurch Council, and the Rev. Joan B. Campbell of Cleveland, assistant general secretary of the National Council of Churches in New York City.

The Miami riots and the attack on Jordan have heightened tensions throughout the country, they told Carter.

"In Cleveland our people are frightened because of plant closings, impossibly high mortgage rates, inadequate education and worsening unemployment," the letter said.

"Our people are disturbed because government programs which provide a lifeline in times of crisis are being dramatically cut back."

Jacobs and Campbell, the leading ecumenical church leaders in Cleveland, asked Carter to provide the moral leadership necessary to guide America in what they called these troubled times.

"The black people of this nation whose confidence in your leadership placed you in this high office now call on you to be a witness for racial equality, full employment and the programs which help those in need," they wrote Carter.

Another warning came from an independent Catholic magazine, Commonweal, published in New York City. "Suddenly Miami has shocked us back to that period in the second half of the '60s when late spring was regularly marked by warnings about long, hot summers," said Commonweal.

Those urban rebellions demanding justice ceased partially because American society demonstrated that it had the spiritual and material capacities for change and renewal. Violence in the streets appeared to be unnecessary to effect some social change.

Commonweal warned that it is the absence of such a commitment today that makes Miami so terrible a portent. Like the eruption of Mt. St. Helens, it said, Miami is likely to be viewed by politicians and most Americans as a tragic event demanding emergency measures for the moment but finally beyond human power to prevent or affect.

The underlying reality and causes of such events as the Miami rebellions are the social inequalities that continue to exist between blacks and whites. These likely will continue to be substantially ignored.

Commonweal noted that some economists, including one writing recently in the Wall Street Journal, have suggested that what the nation's economy needs is a three- to four-year dose of 8% to 9% unemployment.

"What this and like arguments amount to is that America must simply learn to live with a permanent underclass, just as we must live with our volcanos," the magazine said.

"For a natural unemployment rate of that size can be translated into a much higher one among blacks and other minorities. It can be translated into corresponding degrees of demoralization and desperation . . ., into family breakdown, a condition which becomes the seedbed for further personal and social disorganization. . . . And finally it can and will be translated into anger, resentment and destruction."

Commonweal's editors noted that this is the first generation in America in which black citizens are not subject to institutional public humiliations.

"At the same time," the editorial added, "the liberal agenda of unmet needs is by now virtually exhausted."

The odds are not good, as the magazine suggested, that the nation's political leaders and the ordinary citizens who elect these leaders will have the courage to offer anything but resigned neglect to the Americans who are still the victims of social and economic prejudice.

A decade of social peace likely will be shattered as surely as Mt. St. Helens shattered the scenic beauty of its snow-topped crown.

Nothing, indeed, could be done to stop such a volcanic eruption in nature.

But with a strong commitment to economic and social justice and equality, the urban volcanoes could be stopped before they get out of hand and destroy the surrounding landscape.

Will they?•

JUNE 15 BRINGS PAINFUL MEMORIES

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

• Ms. FERRARO. Mr. Speaker, this Sunday, June 15, is Father's Day in our country. It is the day on which we will honor our fathers and grandfathers, and take time to remember all they have given us.

Unfortunately, that day will have a different meaning for the people of Lithuania, Latvia, and Estonia. On June 15, 40 years ago, the forcible incorporation of these three countries into the Soviet Union was begun. The following year, hundreds of thousands of Baltic nationals were banished to labor camps in Siberia. For the descendants of these brave and freedom loving people, June 15 brings only painful memories of loss and separation.

The past 40 years of oppression have not destroyed the desire for freedom among the Baltic people. Despite Soviet attempts to deprive them of their sovereignty, their nationality, and their cultural and religious identity, the struggle for freedom continues. Although the Soviet Union may take away their property, close their churches, and try to eradicate their language, Lithuanians, Latvians, and Estonians cling to their ideals; ideals which cannot be eliminated.

In view of its failure over the past 40 years to oppress the spirit of the Balkan people, it is ironic that the Soviet Union persists in its attempts to subjugate other nations. Specifically, the refusal of the Afgan rebels to bow before the threat of Soviet military force is indicative of the failure of Soviet efforts to oppress a freedom-loving people.

The Soviet Union has not, nor will it ever, be successful in extinguishing the hope for freedom of the Balkan people. It is equally unlikely that it will ever be able to totally dominate the people of Afghanistan. History has shown repeatedly that the denial of self-determination is a foolhardy effort.

On Sunday, let us honor our fathers; but, let us also remember the brave people of Lithuania, Latvia, Estonia, and Afghanistan and their continuing struggle for freedom. On this day, let us reaffirm our support of the right of self-determination for all countries, and renew our commitment to the Helsinki accords of 1975.•

MORE INFORMATION ON SHORT-TIME COMPENSATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

• Mrs. SCHROEDER. Mr. Speaker, set out below is additional background information on H.R. 7529, the Short-Time Compensation Act of 1980, which I introduced Monday, June 9.

Members will be interested to know that short-time compensation has been the subject of a number of recent national media stories: Business Week, October 29, 1979; National Journal, February 9, 1980; Los Angeles Times, May 1, 1980; Wall Street Journal, May 21, 1980; CBS Evening News, June 6, 1980; and MacNeil/Lehrer Report, June 6, 1980.

The information follows:

HAS SHORT-TIME COMPENSATION BEEN TRIED ANYWHERE?

Yes. California and most Western European countries.

The California plan: In 1978, California became the first state in the nation to adopt a program for shared work unemployment compensation. Sen. William Green, Chairman of the Industrial Relations Committee, introduced legislation which was enacted within one month of passage of Proposition 13, the measure to drastically reduce property taxes.

The California plan was based on a system West Germany has used for decades. Compensated worksharing is also commonly used to soften the impact of recession by other European countries.

The California program was adopted for a one-year trial, and was extended last year by the State Legislature, since the program was operating well and to the satisfaction of California's employers, employees, and unions. The California experience shows that use of short-time compensation could work in other states.

The California program provides:

(1) partial benefits for up to 20 weeks to workers whose companies put them on short-time in order to avoid a lay off. Under the plan, benefits represent a proportional amount of the regular U.I. benefit payment. For example, a worker unemployed for one day a week, who is entitled to receive $100 if unemployed for a full week, would receive $20 as a partial benefit. Since U.I. benefits are tax-free, and the worker saves on job-related costs such as transportation and lunch, most workers on worksharing in California end up with about 90 percent of their take home pay.

(2) To participate, the firm and workers must all be eligible under the regular California U.I. eligibility requirements.

(3) The employer must:

(a) agree, in writing to participate;

(b) declare that a reduction is necessary to avoid a lay off;

(c) submit and have approved a plan to reduce normal work hours by at least 10 percent of its workforce. In practice, most firms have gone to a four day work week; and

(d) obtain the consent of the union, if the employees are represented by a union.

(3) Workers who receive short-time compensation benefits can still receive regular U.I. benefits if they are later laid off, but can receive no more in combined STC and

regular U.I. benefits than they would have been entitled under regular U.I.

(4) Employers with a history of heavy use of layoffs, who are already paying the maximum tax under the regular U.I. program, have to pay a penalty tax in order to participate. A number of firms have chosen to use short-time compensation, in spite of the extra cost.

The German plan: Germany has used compensation for short-time work since the 1920's. During the 1975 recession, there was a rapid rise in the use of short-time compensation. In 1975, more than 770,000 workers from some 12,500 firms received partial unemployment compensation benefits. German officials report that the program kept the country's unemployment rate at 4.7 percent in that year—about 1 percentage point below what it would otherwise have been.

The German U.I. system is financed by a 3 percent payroll tax, divided equally between employers and employees. Replacement rate of short-time compensation to earnings range from 60 percent to 68 percent of net income lost during reduced work time and the duration of benefits is for a maximum of 2 years. To go on short-time, a German company must show that one-third of its workers would be laid off for at least 10 percent of their normal work time for unavoidable reasons.

UNION CONTRACTS FOR REDUCED WORK HOURS—WITHOUT U.I. COMPENSATION

A number of unions acting from historical principles of solidarity do negotiate collective bargaining agreements calling for a reduction in hours or a sharing of work among employees before layoffs are permitted. Worksharing is also seen as a plus by some non-union employers.

Collective bargaining provisions calling for, or permitting, various kinds of worksharing are not concentrated in any industry or group of industries, but rather are spread broadly across a wide variety of manufacturing and non-manufacturing industries.

While some contracts call for mandatory division of available work, generally the use of worksharing is permissive rather than mandatory. About one-third of the major contracts surveyed by the Bureau of Labor Statistics contain permissive clauses allowing some reduction in hours, often up to one day a week, in place of layoffs. However, in only a few industries is worksharing systematically practiced. Where there is a union, the subject of worksharing or layoff is a mandatory subject for collective bargaining. Since the 1975-76 recession, a new section-heading for worksharing in lieu of layoff has been added to the index of Arbitration Decisions, indicating increased use of this technique.

Division of work clauses predominate in the apparel industry where this technique has been utilized historically to handle the variation in workloads which seem to be a necessary part of this industry's operation. Sharing of the available work became a major union objective from the start of organizing efforts in an attempt to replace the seemingly haphazard way employers were utilizing their workforce and to reinforce the philosophical goals that stressed the mutuality of interest among the diverse immigrant elements of the union.

Worksharing is still practiced in the garment industries. It appears that there are no hard and fast rules enforcing this clause. Procedures are generally worked out at the local level by the local union representative and the particular employer. In some cases, worksharing takes the form of a shorter workweek for all employees. In other cases, where the reduction in workload is more serious, worksharing can take the form of alternate weeks of employment for the regular employees in the shop. Moreover, in particularly difficult circumstances, layoffs do occur.

In the telephone industry, reduction in hour clauses are almost universal in the Bell Telephone System agreements with the Communication Workers of America.

In the steel industry, contracts with the Steelworkers provide local options to reduce work to 32 hours a week.

Other unions that historically have utilized forms of worksharing include many construction industry unions, Graphic Arts, and Teamsters.

In 1974, the American Newspaper Guild signed an agreement with the Washington Star for a four day week with a 20% reduction in salary as an alternative to layoffs. Guild members approved the proposal by a vote of 347 to 44. Although the four day week meant somewhat higher labor costs for the Star because of continued fringe benefits for all employees, they anticipated offsetting gains through greater efficiency and superior quality of work.

Where worksharing is used consistently—both by union and non-union shops—an effort is usually made to key the unemployment work schedules into local unemployment compensation requirements. Thus, to avoid waiting period requirements and maximum weekly pay limitations, employees might be scheduled to work alternate weeks, being eligible to collect U.I. for their down time.

However, scheduling to fit U.I. laws is not always possible. Even where possible, it is often so restricting as to be unreasonable. Thus presently, most worksharing, if done at all, is done at the expense of the workers, whose partial unemployment is totally uncompensated. If the employer had opted for a layoff of the equivalent amount of total unemployment, on the other hand, it would have been compensated. Perhaps this explains the diminished use of worksharing since the institution of U.I.

The preference for laoyoff to worksharing, inherent in the present U.I. structure, raises a serious question: should federal monies be spent to encourage a program which may have an adverse effect on minorities and women who have only recently been hired, in response to the strong national policy to eliminate discrimination and to encourage affirmative action. Collective bargaining agreements usually require that when layoffs do occur, the last hired be the first fired. Thus, to the extent that the structure of the U.I. laws encourage layoffs (in which minorities and women might be fired in disproportionate numbers); and discourage worksharing (which would retain their job connection and allow them additional time to gain the advantages of seniority) that structure impedes the national effort to remedy discrimination.

As a matter of national policy, the expenditure of federal monies should at least be neutral. It should not encourage employers to take actions which would have an adverse affect on minorities and women when the barriers to more favorable alternatives can easily be removed simply by extending U.I. coverage to the kind of unemployment caused by worksharing to avoid layoff—short-time compensation.

WHAT CRITICISMS HAVE BEEN RAISED AGAINST SHORT-TIME COMPENSATION?

1. Workers' pay losses would be substantial if STC is used.

Use of STC does require a partial reduction in income of workers who participate, however use of STC instead of full-time layoffs would have a favorable effect on the employees, as well as the local economy, since workers on STC would have more spendable income than they would under full-time layoffs.

For example, the average employee receives weekly gross wages of $260, with fringe benefits that amount to be estimated $65.00.

If layoffs were to occur, this worker would be entitled to the following combinations of wages and U.I. benefits under the 4 options listed below:

WAGES AND UNEMPLOYMENT INSURANCE BENEFITS

Retained full time, not laid off—wages (plus fringe benefits)	$260
Laid off full time—unemployment insurance benefits (no fringe benefits)	105
STC for 1 day/wages for 4 days-wage (plus fringe benefits)	208
U.I. benefits	21
Total (wages and unemployment insurance)	229
STC for 2 days/wages for 3 days—wages (plus fringe benefits)	158
Unemployment Insurance benefits	42
Total (wages and Unemployment Insurance)	210

Emloyees on STC will come closer to maintaining their normal incomes, especially since they will have reduced work-related expenses and U.I. benefits which are non-taxable.

Moreover, their increased purchasing power will sustain local business and help the state's economic recovery. At the same time, use of STC could result in savings on welfare costs and greater tax revenues for the states, while softening the burden on the individual workers who would have been laid off totally otherwise.

2. Short-time compensation will lead to speed-ups.

The legislation requires employers to certify that STC is indeed in lieu of an equivalent reduction of hours by means of full-time layoffs.

However, in a period of recession, speed-ups are very unlikely to be implemented by an employer, since there are risks and costs resulting from building up inventory without adequate demand for products. While there is always the possibility that employers can speed up production, workers have developed a number of formal and informal ways to prevent undue work demands by employers. Furthermore, there is no evidence to indicate that the existence of STC would make it easier for employers to speed up work.

3. Short-time compensation will subsidize certain employers.

It is unlikely that employers would find it profitable to cut back hours of production in the absence of lowered demand. The profit motive would encourage them to produce to the maximum for the maximum amount of sales.

Making a profit from the use of STC is unlikely because of the added costs of using STC. The administrative costs and expense of fringe benefits, which would be retained for employees on STC, reduce the possibility that marginal firms would be subsidized by using STC.

Moreover, employers with negative reserve accounts will be required to pay a surtax or make full reimbursement to the Trust Fund at the end of the year.

4. Short-time compensation encourages firms to cut back employment and thereby induces partial unemployment.

Since STC would be counted against an employer's experience rating, there would be no economic advantage to employers to use STC in lieu of full-time layoffs.

STC is basically a preventative measure—to reduce full-time layoffs. If, in fact, firms go to reduce work time using STC earlier than they would resort to full-time layoffs, it is also likely that employers will return workers to full-time work schedules faster than would be the case with full-time layoffs. Since workers are attached to their jobs, readily available for full-time work, firms would be able to resume regular hours without extensive reshuffling or training of workers.

5. Decisions about reduced hours as an alternative to layoffs should be left to collective bargaining.

The proposed legislation leaves intact the union's right to negotiate STC, since it requires that the employer's application for inclusion in the STC program be signed by the union's appropriate business agent.

Although an impressive number of union contracts contain provisions for reduced hours, instead of layoffs, workers cannot be compensated for partial unemployment until the U.I. law is changed.

6. Workers in nonunionized firms should not be forced into STC.

The argument is made by some individuals that workers who are unorganized would not be able to make a voluntary decision on STC.

The proposed legislation contains a provision that permits employees who do not choose to go into STC to quit and go onto regular U.I.

This provision should encourage employers to discuss with employees the options of STC or layoffs before a decision is made. Moreover, many unorganized employers are particularly concerned with employee attitudes in order to forestall moves to unionize.

Since non-union shops can make layoffs in any manner they choose, they can terminate at will, and have free rein on work scheduling, STC does not give the employer any additional authority or power over its work force. It merely provides that some previously uncompensatable unemployment may be compensated.

7. STC will not interfere with seniority systems.

Seniority rights remain intact even where STC is used. Not only seniority rights, however, but the job connections continue with STC. Recent hires thus have an opportunity to accumulate seniority and work into the system. This will help strengthen, rather than undercut, seniority.

In fact, many union contracts which require layoffs by inverse seniority (last in first out), also provide for or permit some form of reduced week of work to avoid layoffs. However, under present U.I. rules, that kind of unemployment is not covered by unemployment compensation. The proposed legislation for STC would make those management-union options real. Moreover, the union and management by agreement can always change the contract to permit work sharing. The proposed legislation required the concurrence of the bargaining agent in the decision to go to STC as an alternative to layoff.

Work sharing is now an alternative to layoffs. The proposed legislation does not create the alternative. All the proposed legislation does is provide a mechanism for compensating short time when management and the union, for whatever reasons, agree to such scheduling in order to avoid layoffs. If layoffs should become necessary, they would have to comply with the seniority requirements in the contract.

While the proposed legislation is targeted toward maintaining the job connection and benefits for the last hired and first fired (often disproportionately minorities and women), it also can protect older workers, who in a selective layoff may be among the first to go. Under STC, while all workers lose some time from work, and some money, no worker must suffer the terrible trauma of not having a job.

In California many senior union workers seem willing to share part of the burden of only partially compensated unemployment with more recent hires. About 14 percent of all firms on STC were unionized and 18 percent of participating workers were union members, which correlates to the percentage of unionization in the State of California.

8. Workers in nonunion shops would not lose their fringes.

In California and Canada, where fringes were not mandated there is no evidence that workers on STC were deprived of their benefits.

As an added protection the proposed legislation specifically requires that health benefits be retained for workers on STC and that pensions be calculated on the basis of the normal workweek for the period that the worker is on STC.

9. Firms using STC would not be required to provide proof of the necessity for reducing worktime.

While a "show cause" clause would provide an extra layer of protection for the employee, it would be difficult to implement and to make reliable assessment of a firm's necessity to cut back worktime. Moreover, no such requirement exists for use of regular U.I. for layoffs.

It seems unlikely in a recessionary period that the incentive would exist for cutting production before it was necessary. Furthermore, STC might cost a firm more than regular layoffs with U.I. because of the need to maintain fringe benefits for workers on STC.●

NICARAGUA

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LUJAN. Mr. Speaker, because of the current interest in providing moneys to Nicaragua, I would like to share with my colleagues a letter which I received from a friend of mine who has been in Nicaragua lately.

The letter reads as follows:

JUNE 6, 1980.

Congressman MANUEL LUJAN, Jr.,
U.S. House of Representatives.

DEAR MANUEL: Very soon now I will have completed a respectable period of service in my assignment and will subsequently return * * *. I have enjoyed my work and have also learned a great deal about matters of interest to all of us. At the moment I think that the situation in Nicaragua merits your attention. I would also recommend that you share this information with * * *.

I have twice visited with * * * friends in the interior of Nicaragua and have seen it like it is. It doesn't look good for the U.S. of A. But the counterrevolution, already in the air, will probably change things to our liking. In the meantime it would be lunacy to let a cent of the $75 Million come into the hands of the guys in the saddle. They would only throw a big party to celebrate the stupidity of Jimmy Carter.

Tomas Borge and the super structure of the government are, for the most part, avowed communists with strong commitments to Havana and Moscow. But they're having one hell of a time keeping the country in check. Those who fought the hardest to overthrow Somoza are discontented. They claim that they sacrificed only to form a ladder others used to climb into high paying positions while the warriors merely landed minor positions and starving wages.

All of Somoza's land holdings were confiscated but reserved "to the State". The State means the elite group who now live more lushly than Somoza's highest officers did. Borge recently spent over $3 Million Cordovas to build a bridge of security to his residence to avoid having to leave or enter via the route where anxious assassins want to zero-in as he passes.

To win the support of the campesinos Borge and company are encouraging squatters to invade private property and settle. There is supposedly a new law that prohibits those invasions but the government is doing nothing to stop them. In effect the government wants to win the support of the campesinos by letting them take over private lands and industries, so long as they don't touch any of Somoza's former holdings. These are the private fiefdom for the guys in power.

The cattle growers, the large coffee planters, and other persons in private enterprise are dragging their feet. They hesitate to invest any capital in the production process for fear someone will step in at the moment when the cattle are ready for the slaughter house and the coffee ready for the "beneficios." The state of affairs is so gloomy that it is preferable to let houses go into disrepair and dilapidation because to fix them up and make 'em look very presentable would only tempt the "Compas" to take over the premises.

Recently a new breed of counter revolutionaries, called "milpas," has sprung up. These fellows are the tough guerrilla fighters that are now disillusioned with the government. Slowly, meticulously, and undetected they hold clandestine meetings to plan the overthrow of Borge and the Communist Junta. They are believed to support either Eden Pastora (who had a falling out with Borge) or Alfonso Robelo, who is openly campaigning in the countryside against the communist regime. As many as 50,000 people have gathered to hear him. At least four times that number would go to his rallies if they didn't fear for their property or their lives.

The damnedest thing I've seen is the priests. Twice I've been to mass and observed the same routine. The commentators who walk to the podium apparently couldn't care less about reading passages from the scriptures. They take a prepared text that sows hatred toward the "whites," the rich, and the burgesses. "Burgess" is a dirty word and it applies to anyone who doesn't live in a hut with a straw roof, a mud floor, and unplastered walls. The priest follows up with his sermon in which he applauds the revolution and asks the congregation to bless with prayer the ruling Junta.

Thousands upon thousands of automobiles lie wasted in junk yards. They were beautiful cars and pickups when the revolution triumphed just ten months ago. The "Compas" took their pick and simply rode the hell out of them, never bothering to check the oil, the air, or to drive with care. The same is true of the elegant houses they moved into. Many of them look like grease monkeys and hippies had a million parties. Carpets, walls, and fixtures are a mess. One wonders who the revolution was really against when destruction continues way beyond the triumph over the old witch.

These are the same guys who will be getting the $75 million from the American taxpayer. That amount will be used to strengthen the hand of Tomas Borge over the opposition who will surely topple him over unless we intervene with dollar support. Already they are planting pretexts to start a fight with Honduras by provoking incidents and claiming that the other fellows started it. With $75 million they can build up enough strength to invade Honduras.

My advice to you would be to keep postponing the appropriation of the AID money until the counterrevolution is over and then see who comes out of it the winner. If it is Robelo or another non-communist you know what to do. Jimmy Carter gave the country to those fellows on a silver platter. It would be a mistake for Congress to consolidate their power through a huge donation at the time when the people want to get rid of them. None of the opposition want to see the loan come through.

I don't know to what extent the President keeps Congress informed of events in the different trouble spots in the world. Nor do I know how really well informed his sources are about Nicaragua. The reason I wonder is because apparently Carter continues to push for this AID despite the probability that it will only make a bigger ass out of him and the country he governs.

Manuel, I think I'll close for now. Do give my regards to those you run into that are mutual friends. I look forward to returning * * * in mid July. I still have my job * * *. I'm no longer interested in working * * * in Latin America. Not while Carter is president. There is no longer any great respect for American Officials because we're seen as appeasers and losers. Even in Nicaragua, should the donation come through, it would be considered the first payment of a series. Subsequent requests would be made with veiled threats that if they were not approved the country would turn to Russia.

If Ronald Reagan wins, and I'm convinced he will, I'll ask you to recommend me for a position with USAID.●

FAIR HOUSING AMENDMENTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. CONYERS. Mr. Speaker, during debate on amendments to the Fair Housing Act of 1968, which the House passed earlier today, there was considerable discussion of the so-called substantial equivalency provision of the bill. This provision, which is quite similar to a provision in the law as it now exists, requires the Department of Housing and Urban Development to refer housing discrimination complaints to State or local government for review and disposition when the State or locality has housing discrimination laws which are substantially equivalent to the Federal law. The bill provides a certification process for determining substantial equivalency.

Under present law, 22 State agencies and 1 locality are recognized as substantially equivalent, and several others are in the process of becoming so recognized. This valuable provision of the law and of H.R. 5200 provides a healthy blend of Federal and State or local authority and responsibility. It facilitates local resolution of local housing discrimination complaints, but provides minimum Federal standards and enforcement authority when no equivalent State or local machinery exists.

I wish to place in the RECORD a HUD memorandum listing the States and localities which have been found to have substantially equivalent fair housing enforcement mechanisms under present law:

U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT,
February 26, 1980.

Memorandum to: Weldon H. Latham, General Deputy Assistant Secretary, Fair Housing and Equal Opportunity, ED.

From: Steven J. Sacks, Federal, State, and Local Programs Division.

Subject: Substantial equivalency status—State and local agencies.

The following 15 State Agencies and one locality are recognized by HUD as Substantially Equivalent and have executed a Memorandum of Understanding with the Office of Fair Housing and Equal Opportunity: Alaska, Colorado, Connecticut, Maine, Massachusetts, Michigan, Nebraska, Nevada, New Hampshire, New Mexico, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin and the District of Columbia.

The following 7 State Agencies are recognized as equivalent but have not executed a Memorandum of Understanding: Indiana, Kansas, Kentucky, Minnesota, New Jersey, New York, and Oregon.

Two State Agencies, Delaware and South Dakota were added as Substantially Equivalent. Proposal of both of these agencies has been published in the Federal Register and we are now preparing to finalize this status by amending 24 CFR 115.11.

Three States, California, Iowa and Maryland and ten (10) localities have been published as proposed recipients of Substantial Equivalency Recognition.

The localities are: Charleston, W.Va; Fort Wayne, Ind.; Montgomery County, Md.; Omaha, Nebr.; Philadelphia, Pa.; Phoenix, Ariz.; Prince Georges County, Md.; Seattle, Wash.; Sioux Falls, S. Dak.; and Tacoma, Wash.●

DOES THE CARTER ADMINISTRATION HAVE AN EFFECTIVE ANTI-INFLATION POLICY?

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. MAGUIRE. Mr. Speaker, today I insert into the RECORD a series of documents which tell a disturbing story about the administration's unwillingness to take a hard line with violators of its own wage and price standards.

On March 14, 1980, the President reaffirmed his commitment to the voluntary guidelines which he had put in place in November 1978. On March 28, the President publicly rebuked Mobil Oil for violating the price guidelines. Yet, as the President spoke, a decision was being made at the Defense Department to award a major contract to Mobil Oil, even as the President was placing Mobil, with much publicity, on the list of companies which had violated the standards and would therefore be subject to being barred from receiving Government procurement contracts. Despite the fanfare, Mobil, while being specifically selected out and cited as being in significant and serious violation, received a $154 million contract to sell jet fuel to the Pentagon, effectively making a charade of the price standards.

The public announcement of the contract award to Mobil came 4 days later, and on April 2 the Wall Street Journal published an article titled, "Mobil Oil Wins $154.2 Million Contract From U.S. Despite New Rebuke From Carter." A statement by Deputy Assistant Defense Secretary George Marienthal explained that regardless of the listing of Mobil as a noncomplier, the sale was consummated for national security reasons. Investigation by my staff indicates, however, that Mobil won the sale on the basis of competitive bid, which suggests that other suppliers were in fact available and that national security was therefore not at issue.

The relevant portion of the Wall Street Journal article follows:

MOBIL OIL WINS $154.2 MILLION CONTRACT FROM UNITED STATES DESPITE NEW REBUKE BY CARTER

WASHINGTON.—Mobil Oil Corp. got a new rebuke from President Carter and a new $154.2 million contract from the Defense Department.

The jet fuel contract, issued by the Defense Logistics Agency, was announced only a few hours after the President renewed his criticism of the Mobil Corp. subsidiary for what he said were violations of the government's voluntary price guidelines. Yesterday's criticism, before a meeting of construction union members, was essentially a replay of the tongue-lashing the President gave Mobil Friday.

At that time, the Council on Wage and Price Stability said it was adding Mobil's name to a list of concerns that may be barred from getting government contracts of $5 million or more.

A Pentagon spokesman said the contract was actually awarded Friday, even though it was only announced yesterday. Moreover, a spokesman for the price council explained that, under the agency's regulations, Mobil won't be formally listed as a noncomplier until today. It would have been premature, for the government to withhold the contract, the spokeman said.

Another reason Mobil got the contract, one Pentagon official said, was that the type of jet fuel involved is scarce. "The Department of Defense is in the business of national security," said George Marienthal, a deputy assistant defense secretary. "We needed the fuel, so we proceeded." He added that it's possible Mobil will continue to get fuel-supply contracts if the fuel is scarce. The price rules would permit the contract in such a situation.

Mr. Speaker, on April 3, I wrote to Alfred Kahn, the Special Assistant to the President on Inflation. In view of the Mobil case, I was particularly concerned about the status of the compliance tool; that is, denial of contracts to violators.

As you will recall, Mr. Speaker, the U.S. Court of Appeals for the District Court of Columbia Circuit sustained use of procurement for compliance in its decision of American Federation of Labor and Congress of Industrial Unions against Alfred E. Kahn, Council on Wage and Stability, et al. I asked Mr. Kahn about the administration's willingness to use this tool, which it had fought for and which was upheld by the courts, hoping that the Mobil decision was somehow an aberration. I inquired about the peculiar timing of the incident, about information-exchange among agencies involved in the decision, and about the national security justification which Mr. Marienthal offered.

The text of my letter to Mr. Kahn follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 3, 1980.

Hon. ALFRED E. KAHN,
Special Assistant to the President on Inflation, Council on Wage and Price Stability, Washington, D.C.

DEAR MR. KAHN: The Administration has depended upon a voluntary program to restrain inflation since November 1, 1978. At that time, President Carter issued Executive Order 12092 which outlined voluntary wage and price standards for non-inflationary behavior for the entire economy. The President ordered your office to monitor compliance with these standards and to publish the names of noncomplying companies. An essential component of the program was outlined in a letter issued by the Office of Federal Procurement Policy which provided that if the standards were not respected by a contractor whose agreement with the Federal government exceeds $5 million, the company may be ruled ineligible for future government business.

Because of the voluntary basis of the program, the procurement element was clearly a key. That's why it was so important that the United States Court of Appeals for the District Court of Columbia Circuit sustained the program in its decision in the case of the *American Federation of Labor and Congress of Industrial Unions* v. *Alfred E. Kahn, Council on Wage and Price Stability, et al.* Without the procurement element of the voluntary program, the Administration would have been left without any kind of compulsion to achieve compliance by industry.

Based upon a recent action by the Defense Logistics Agency, it now appears that this modest vehicle for compelling price compliance no longer compels the Administration's interest. On March 28, 1980, this agency awarded Mobil Oil a $154.2 million contract for the purchase of jet fuel. This award took place on the very day that the President cited Mobil for non-compliance with his anti-inflation program.

What is so striking about the announcement of this contract is that the military procurement process is especially suited to the compliance feature of the voluntary program. This was recognized by the Court which said:

Yet it is important to consider the procurment compliance program in its real world setting. Much Government procurement takes place through the processes of negotiation rather than formal advertisement and competitive bidding. Military procurement, which is the largest component of Government purchasing, is conducted almost exclusively through negotiated arrangements. In the context of a negotiated contract, the procurement program announced by Executive Order 12092 will likely have the direct and immediate effect of holding down Government's procurement costs. *AFL-CIO* v. *Kahn*, 79-1654 (D.C. Cir., June 22, 1979 at 16).

Despite the fact that the military procurement process can be used effectively to inspire compliance, Mobil was not denied the contract. Had the program performed as the President ordered, Mobil would not have received the funds, the Administration would have sent a powerful message to other firms considering non-compliance, and the American public would have been assured that the Administration was resolute in its stand against inflation.

The timing of the contract is a matter of concern. The President's announcement coincided with the award of the contract. Yet, the Defense Department waited until Tuesday, April 2, to publicly disclose the award. This suggests, on a prima facie basis, that the Defense Department understood that it was dealing with a price standard violator. It was no secret that Mobil was in probable non-compliance with the standards.

As early as December 14, 1979, the Council on Wage and Price Stability notified Mobil that it was in probable non-compliance with the price standards. The Department of Energy, in announcements on November 6, 1979, and again on December 11, 1979, alleged that the company hâd overcharged consumers by a total $774 million. Surely, the Office of Federal Procurement Policy was aware that Mobil was in probable non-compliance with the pricing standards. Apparently, the Defense Department knew, but a spoksman for the Pentagon said that the contract was awarded on Friday before Mobil was listed as a non-complier on April 2.

Mobil won its contract to supply JP4 jet fuel (85 million gallons) and JP5 jet fuel (98.7 million gallons) on a *competitive bid*. Thus, George Marienthal, a deputy assistant defense secretary was incorrect in responding to an inquiry from the *Wall Street Journal* by citing national security as the reason for awarding Mobil the contract. There were alternative suppliers upon whom the Defense Department could have relied. Had the price rules been adhered to, Mobil would not have gotten the contract; one of its competitors in the bidding process would have been granted the sale.

I urge the Council on Wage and Price Stability to examine the circumstances under which the Mobil sale took place. For such flagrant violations of the price standards to occur bodes ill for the future of the Administration's anti-inflation program. It calls into question the purpose of the vigorous defense of the compliance tool which the Department of Justice undertook to preserve the power to deny contracts to companies which violated the standards. Most importantly, it will once again prompt the American people to question the government's belief in the need to fight inflation. For our efforts to succeed, we need the support and the cooperation of all.

If possible, I would appreciate hearing from you regarding the questions I have raised abut this contract prior to the resumption of the oversight hearings currently being conducted for your agency by the House Banking Subcommittee on Economic Stabilization, scheduled to resume on April 15, 1980.

Sincerely,

ANDREW MAGUIRE.

Mr. Speaker, because the House Banking Committee planned oversight hearings on the Council on Wage and Price Stability and specifically on the President's request to sharply expand the price and pay monitoring activities of COWPS and to triple its staff, I requested a reply from Mr. Kahn before April 15, the date for resumption of the hearings.

On May 16, I received his reply. Disregarding the lateness of the reply, two points should be made about the substance of the letter.

First, Mr. Kahn does not address any of the questions which I specifically asked regarding the manner in which the decision to make the award to Mobil was made.

Second, the administration admits that there was a problem and that it plans to correct it. Mr. Kahn states:

> To ensure that contracts are not in the future awarded to noncompliers without compelling justification, the President has since asked the heads of all Executive departments and agencies to take personal responsibility for approving requests to waive the contract bar, to consult me before granting any waiver, and to grant waivers only for the most essential national security reasons—and, even then, only when no alternative sources are available.

His letter follows:

THE WHITE HOUSE,
Washington, May 16, 1980.

Hon. ANDREW MAGUIRE,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MAGUIRE: I am deeply embarrassed by my failure to respond sooner to your letter of April 3 about the Defense Department's contract with Mobil Oil Company. It first came across my desk on May 14! This exonerates me of a possible charge of inconsiderationess, but only by convicting me of bad management. I find this intolerable and will make another effort to see to it that henceforth I see letters like these when they arrive.

As you know, we have, since receiving your letter, secured a commitment from Mobil to return $30 million to its customers during our second program year. We did so not by threatening to cut off government contracts, but through the force of public persuasion. I am absolutely convinced we could not have done better by invoking the contract sanction, and we would in some important ways have done worse.

As you point out, however, it is important that we retain the possibility of refusing to enter into substantial contracts with noncomplying companies; it is a threat that we have used productively. And I have to agree that the timing and nature of the Defense Department's contract with Mobil seemed inconsistent with the principle, even though the Department apparently did technically satisfy the Office of Federal Procurement Policy's rules. To ensure that contracts are not in the future awarded to non-compliers without compelling justification, the President has since asked the heads of all Executive departments and agencies to take personal responsibility for approving requests to waive the contract bar, to consult me before granting any waiver, and to grant waivers only for the most essential national security reasons—and, even then, only when no alternative sources are available.

I hope this seems to you an improvement.

With warm regards,

Sincerely,

ALFRED E. KAHN,
Advisor to the President on Inflation.

Mr. Speaker, perhaps my letter was responsible for that change in policy and heart by the administration. If so, it may have done some good. It worries me, however, that Mr. Kahn laid out a process for exempting noncompliers rather than affirmatively stating the intention of the administration to actively use the tools at its disposal to enforce compliance.

But this is not the end of the story. On June 7, 1980, the Washington Post carried an article by Art Pine which shows that the administration in March actually rejected harsh penalties for Mobil's violations. The article demonstrates two points which I would like to underscore.

First, given the debate which ensued once R. Robert Russell, Director of COWPS, circulated a memorandum urging stiff sanctions for Mobil—together with the fact that the Department of Energy had twice in late 1979, cited Mobil for three-quarters of a billion dollars in overcharges to consumers—it is apparent that anyone in the administration who cared to look had fair notice that Mobil would be cited for serious violations.

It is incredible, therefore, that the Department of Defense now claims, rightly or wrongly, that it didn't know it was preparing to award a substantial contract to a price violator. This was either a sin of omission or commission on the part of the administration; either it was an oversight or it was a deliberate act. In either case, the result is the same: an incomprehensible violation of the administration's own policy about how to handle violators.

Second, the willingness of the administration to back away from stiff penalties in this case and in general calls into question its consistency and its sincerity in fighting a war against inflation which all Americans hope it will win.

The Post article follows:

STIFFER MOBIL PENALTIES URGED

(By Art Pine)

One of President Carter's key anti-inflation officials suggested last March that the administration impose sanctions against Mobil Oil Corp. that would have gone far beyond previously announced penalties for alleged guidelines violators.

R. Robert Russell, director of the Council on Wage and Price Stability, suggested a wide range of possible penalties from reimposing oil-price controls on Mobil to denying the company import licenses and prohibiting it from selling entitlements.

Russell also proposed that the administration begin cutting off federal contracts for all firms that violate the guidelines, not just those which do more than $5 million worth of business with the government, as Carter announced.

Russell's recommendations came to light in an internal memo to top policymakers made public yesterday by Sen. Bob Dole (R-Kan.). The wage-price council confirmed the memo was genuine, but declined to comment on its contents.

Had Russell's proposals been adopted, they would have marked a major stiffening of the administration's previous enforcement policy, which was to limit any sanctions to denial of federal contracts, and only for very large firms.

As it turned out, the administration negotiated a settlement with the oil company in which Mobil agreed to reduce its prices temporarily to "pay back" a portion of the $45 million the White House said the company had overcharged.

A separate memo, this one by Terrence O' Rourke, energy aide to White House inflation advisor Afred E. Kahn, also urged the administration to organize a consumer boycott against Mobil, to bar the firm from importing oil and to stop export credits.

O'Rourke's proposals also were rejected by presidential policymakers. The dispute involving Mobil stemmed in part from arguments over how to calculate the firm's profits, and wasn't regarded as a very strong case.

Even after the flap with Mobil, the administration hasn't invoked sanctions formally against any firm. Most have complied with the guidelines anyway, however, in part for fear of adverse publicity.

Russell urged the stepped-up enforcement action in part to provide a visible show that the administration was ready to stand behind its guidelines effort. The White House had been under attack then for vacillating on the issue.

Carter has approved an agreement with the AFL-CIO not to invoke formal sanctions in any case involving violation of the council's wage guidelines. The administration's Price Advisory Committee has called the pact unfair.

Dole had cited the Russell and O'Rourke memos as evidence that the administration was overstepping its bounds in the guidelines program. A Dole proposal to prohibit Carter from using sanctions came within a few votes of passing the Senate.

The Senate voted on Monday to deny Carter's request for enough money to triple the staff of the wage price council and also agreed to repeal the president's authority to impose credit controls as of mid-1981.

The memos came to light as, separately, Carter met at the White House with representatives of the nation's major food-processing firms to urge them to continue holding down their price increases even though food prices may rise.

The session, organized by Kahn and White House consumer affairs adviser Esther Peterson, didn't result in any promises by the industry. However, spokesmen said later that price competition probably would help keep increases moderate.

Carter lambasted the processors last year after White House economists charged that food packagers were adding on more than their fair share to already rising farm prices. Since then, farm prices have declined.

Russell's memo to the cabinet-level Economic Policy Group included these proposals:

"Prohibiting an oil company that violates the standards from selling entitlements or earning entitlement credits.

"Reimposing mandatory price controls on crude oil and/or petroleum products of an oil company that violates the standards.

"Prohibiting the phased decontrol of crude production by an oil company violator.

"Reallocating relatively-low-cost crude oil and/or petroleum products from violators of the standards to those that comply.

"Denying import licenses for, or imposing stiffer fees on, oil imports by oil companies that violate the standards."

Russell also suggested that, the administration consider denying federal grants or benefits to violators. He said the council already had compiled a list of such programs from various cabinet departments.

The government's energy entitlements program is a plan intended to equalize crude oil costs among refiners. It involves requiring refiners with access to low-cost domestic crude to make payments to those which must rely heavily on imports.

Mr. Speaker, if the administration wants us to believe that it has a firm and tough anti-inflation policy, why is it so resistant to back it up? The use of the compliance tool with the denial of procurement contracts is one of the key instruments on which the administration can rely to put some teeth into its program. I believe the record in this case is dismal and I hope it is one which the administration will strive to improve.●

PRESIDENT CARTER, STOP SIDING WITH THE ARAB WORLD, RETURN TO THE ROLE OF MEDIATOR IN THE MIDDLE EAST

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LENT. Mr. Speaker, it was with deep concern and a great sense of dismay that I read Secretary of State Edmund Muskie's denunciation of Israel's West Bank settlements policy. His remarks, coming immediately after Egypt and Israel had agreed to a new round of high-level Middle East peace talks in Washington late in June, can only hinder, rather than help those negotiations.

Muskie's attack on Israel offers tragic confirmation that the U.S. vote against Israel in the U.N. Security Council last March reflects the real Carter administration policy toward Israel no matter how many times the President claims it was a mistake.

Secretary of State Muskie, obviously speaking at the direction of the President, is continuing the anti-Israel policy of his predecessor. We all remember, Mr. Speaker, how then Secretary of State Cyrus Vance affirmed in testimony before the Congress that the anti-Israel U.N. resolution reflected U.S. policy after the President claimed the U.S. vote for the resolution was an error.

I find it sadly ironic that in his remarks condemning Israel's "unilateral" settlements program, Secretary of State Muskie called on both Israel and Egypt to create a political climate that will give negotiations a maximum opportunity to succeed. His own denunciation of Israel creates the worst possible political climate for successful negotiations.

Mr. Speaker, last year, I called to the attention of my colleagues a most thoughtful and perceptive article by Mr. Theodore R. Mann, chairman of the Conference of Presidents of Major American Jewish Organizations. In that article, Mr. Mann demolished the phony issue the Carter administration is trying to create: That Israel's West Bank settlements are an obstacle to peace in the Middle East. As Mr. Mann so rightfully informs us the real obstacle to peace in the Middle East is—as it has been for three decades—Arab refusal to accept Israel's rightful place in the Middle East. Except for Egypt's acceptance of that status, Israel's neighboring Arab States have stubbornly refused to recognize Israel's right to existence.

Until the Carter administration suddenly raised its objections, the Israeli/West Bank settlements had not been an issue. In fact, under the Camp David agreement, the settlements were accepted, as Israel and Egypt agreed to give the Arabs and the Israelis in the West Bank area a 5-year period of living together under an autonomy agreement to be worked out. That agreement still has not been achieved. And if the Carter administration continues to side with the Arabs it may never be.

I call upon the President to end his abuse of the strongest and most dependable ally the United States has in the Middle East. To continue this anti-Israel policy can only weaken Israel and increase the danger to U.S. interests in the Middle East. One-sided negotiations, in which the United States lines up with the Arab world against Israel will promote discord rather than peace.

I call upon the President to return to the atmosphere of Camp David where he so brilliantly assisted Egypt and Israel in reaching agreement. He achieved that success, Mr. Speaker, by serving as a mediator—not as an advocate for the Arab world. Let Mr. Carter return to the role of a mediator, and assist in building a secure peace in the Middle East.●

TRIBUTE TO DORCHESTER

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DONNELLY. Mr. Speaker, it is with great pride that I share an excellent essay in commemoration of the recent June 1 celebration of Dorchester Day, 1980 in the 11th District of Massachusetts with my esteemed colleagues. Theresa Glavin of Dorchester has composed this worthy tribute to our beloved hometown.

The essay follows:

DORCHESTER IN THE EIGHTIES

Dorchester is home to more than one-fourth of the population of Boston. It consists of thirty-six different and diverse communities, each have a unique character. In these reside Irish, Polish, Spanish, Portuguese, Haitian, Lithuanian, Black and many other kinds of people.

Dorchester has many cultural opportunities, such as the Dorchester Community Players, a small but growing group of theatre lovers who perform two plays a year in various locations. This group has been a part of "Summerthing." The Cultural Resource Center is another place where volunteers use their artistic abilities as a means of community development. Through this center adults, as well as high school students, are improving their neighborhood's spirit and physical appearance. The Strand Theatre, located on Columbia Road in the heart of Upham's Corner, is a sensational place. This theatre was originally built in 1918 as a movie palace and vaudeville house. Having hosted such performers as Milton Berle, Fred Allen, and Ray Bolger, it is known as "Dorchester's own Million Dollar Movie Palace." However, the theatre was closed in 1968 because the moviegoing era had given way to television. According to architectural historian, Douglass Tucci, the theatre is of architectural significance because it is the first movie palace built in Boston from the ground up. It was designed by Funk and Wilcox, who used a classical Roman truimphal arch technique. Now this theatre has been renovated by the City of Boston. The Strand now provides performances for the elderly, children's films and entertainment festivals, classic film series, and live theatre and entertainment events. Since the Strand has been reopened, it has given Dorchester a new look into the Theatre.

Located on the Columbia Peninsula next to the University of Massachusetts Harbor Campus, the John F. Kennedy Library opened in October, 1979. This library houses the Presidential papers and mementos of the late President John F. Kennedy. On the lower floor the museum and visitor facilities provide interesting information not only to the young but to the old as well. The remaining floor space of the eight-story structure is used for archives and research facilities.

In addition, Dorchester has the University of Massachusetts Harbor Campus. This university offers a wide range of cultural events, such as art exhibits, jazz on the lawn, and other things. The Theatre Arts Department performs two major productions per year, all open to the public. U. Mass also started the "Spring Art Festival," which has become an annual event. This festival presents art work, crafts, mime, and jazz. Also the art exhibitions in the Harbor Gallery at U. Mass feature the works of students and faculty of Dorchester.

Another interesting place where people can employ their artistic abilities is the Cultural Resource Center on 84 Nightingale Street. Through projects, such as mural painting, participation in craft forms, fund raising for community organizations, adults and students are improving their neighborhood's spirit and physical appearance. Also these people are developing their own talents and finding artistic expression.

One other group of people whom I would like to mention is the New Neponset Players. Under the direction of Jack Morris, this group presents two beautiful cabaret shows per year, complete with cocktails, dinner, and dessert. Their fall show is a formal dinner affair at St. Ann's Hall in Neponset. Presented five times in the parish hall, their spring show has an additional performance on July Fourth. Although the Players call St. Ann's home and enjoy a cooperative relationship with the parish, they are not a parish organization. Currently there are approximately seventy-six players who spend five months each year rehearsing songs and dances. The New Neponset Players give Dorchester something really to be proud about.

Another element of pride in Dorchester is the Boston Globe complex. This building prepares the Boston Globe every day. Informing the public of Dorchester and greater New England, the Boston Globe plays a very important part in the lives of people. Therefore, I'm proud to have this building in my home community.

Since Dorchester has now reached its three hundred fiftieth anniversary, I would like to describe how Dorchester Day began. The Dorchester Historical Society, which began in 1891, is an organization made up of members throughout Dorchester. Its purpose is to study and preserve the physical, personal, and social history and culture of Dorchester. Back in 1904 the president of this society, William H. Whitmore, began the first celebration of Dorchester Day. This day was instituted to recall former residents of Dorchester. On June 25, 1904, the first Dorchester Day was celebrated with parades, bands, and loud music. Now in the year 1980 Dorchester is three hundred fifty years old because it was first established in 1630.

The true glory of Dorchester's history, besides its people, is in its "firsts." Dorchester was the first town to support a public school taxation and the site of the first town meeting. Also she was the first to have a water mill and a powder mill in America and even the site of the world's first supermarket.

This year, 1980, we celebrate the 350th birthday of Dorchester. There are many celebrations going on during this year, but there are some which I favor most. First of all, one of the most treasured events is the arrival of the tall ships on May 30, 1980. On this day colossal, beautiful ships from all around the world will enter Boston Harbor. Not only Dorchesterites, but also other New Englanders, will come to see these huge, gorgeous ships sail into the Harbor. Another celebration which will be fantastic is "Dorchester Day, 1980." On June 1, 1980, we shall be celebrating the seventy-sixth Dorchester Day.

From this report you can clearly see that I am extremely proud to be from Dorchester. The people, the facilities, the history, and the pride of Dorchester are the things that I cherish most. Dorchester is a one in a million place!●

TRIBUTE TO REPRESENTATIVE ROBERT F. DRINAN, S.J.

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. DELLUMS. Mr. Speaker, for the past 10 years this House has been blessed, literally and figuratively, by the presence of BOB DRINAN. Some, thinking that Massachusetts is still the most revolting State in the Union, have referred to him as Sam Adams with a roman collar. Others have claimed that his constitutents pray to him as "Our Father Who Art in Congress * * *."

Regardless of how others perceive him, I know what Bob Drinan has stood for—and what he has struggled for over the years, in and out of Congress. Even before his election to this House in 1970 I was aware of his efforts in the areas of social and racial justice, peace and human rights.

His record in the Congress during the past decade speaks for itself. He has been more than just another legislator with a liberal voting record. He has helped to make history as well as legislate it. He has been an outspoken advocate of human freedom everywhere, whether it be the Jewish dissidents in the Soviet Union, political activists in Argentina, an activist archbishop in El Salvador, or antiwar protesters here in the United States.

He has been a staunch defender of first amendment freedom throughout his service on the House Judiciary Committee. It was he who led the struggle to rid us of that infamous institutional slander against the first amendment—the House Un-American Activities Committee, and its successor, the House Internal Security Committee.

It was Bob Drinan who introduced the first resolution of impeachment against Richard Nixon in the wake of Watergate—months before such a notion became consensus thinking among the Members of this House. And it was Bob Drinan who was in the vanguard of the struggle for amnesty on behalf of Vietnam-era service personnel who had resisted the immoral and insane adventurism in Indochina.

For the past 10 years in Congress Bob Drinan's career has been the living embodiment of his belief that, here on Earth, God's work must truly be our own. He leaves us at the end of this term, not because his work has been rejected by his constituents, but as a consequence of an edict from Rome.

This House—this Member—bids him adieu—with affection and respect for his spirit, his integrity, his dedication, his wit—and his deep and abiding concern for human freedom everywhere. Vay con Dios, mi compadre.●

AIR DEFENSE: CAUSE FOR CONCERN

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. HOPKINS. Mr. Speaker, during one recent week America's computerized air defense warning system twice sounded alarms signaling an attack on this country by Soviet missiles.

We soon learned that those warnings were unnecessary, the result of technical malfunctions somewhere deep in the complicated computer network known as Wimex. But in my view, Mr. Speaker, those warnings were indeed necessary. We have been warned none too soon about a dangerously weak link in America's national defense chain.

In this era of intercontinental warfare, mere minutes mean today what months did a generation ago. Margins for error, or delay, are agonizingly slim. Accordingly, the Pentagon's comforting assurances to Congress after a similar incident last November no longer seem so comforting.

Mr. Speaker, in an effort to resolve the many questions surrounding these disturbing incidents, I have made a formal request that the Armed Services Subcommittee on Investigations hold hearings to review the causes of the recent breakdowns and the steps necessary to correct the problem. I was pleased to note that Senator Tower has made a parallel request in the other chamber.

In conclusion, I would advise my colleagues that after a lengthy consultation with the Pentagon official directly responsible for our air defense warning system, I can say without reservation that there remain more questions than answers about this critically important link in our Nation's strategic defenses.

At this point, I request leave to insert a recent editorial on this subject which expands upon the many reasons for concern in this House following last week's malfunctions.

[From the Washington Star, June 11, 1980]

Two Nuclear Alerts

Some months ago it was reported that the worldwide computer system designed to warn the president of an enemy attack or other emergencies was prone to break down in times of crisis. That is much like saying that an airplane designed for safe travel tends to break down in times of flight, although in the case of a defense warning system the consequences are potentially far more serious.

The Defense Department has acknowledged some problems, but it has taken the view that, with modifications, they could be solved. It is difficult to be comforted by such assurances when, twice in one week, computer malfunctions led to "false signals" that the U.S. was under attack by Soviet missiles.

The first alarm, on June 3, was enough for U.S. duty officers to order strategic bomber crews to their aircraft and move silo-based missiles closer to launch. Last Friday—while the computer was being monitored to spot a possible repetition—a similar malfunction occurred. (In November, "war game" information on computer tape was mistakenly switched out, triggering an alert that lasted six minutes. Had it continued another minute, it was reported, President Carter and Defense Secretary Harold Brown would have been notified.)

As it turned out, the recent alerts were quickly ended. A Pentagon spokesman likened the malfunction to a burglar alarm—intended to alert U.S. forces to "check the doors and windows." In that way, he said, the breakdown proved mostly that a serious accident *could not happen.* When the system's sensors—satellites and radar—showed no Soviet attack, the low-level alerts were cancelled; only "middle-level" officers were involved. Assistant Defense Secretary Thomas B. Ross said later that the U.S. "wasn't remotely close to World War III."

Probably not, but the signals issued by a computer in the North American Air Defense Command (NORAD) cannot be ignored. They were a rather scary reminder of the reliance we place on silicon chips and transistors that make up the system.

How reliable is the system? No one can be sure. America's network of warning sensors, command centers and telecommunications—the so-called Wimex—is complex and sophisticated. A Pentagon spokesman said it performed brilliantly in spotting and correcting the false alarms.

But the network, consisting of 35 Honeywell 6000-series computers at military bases or underground vaults at 27 sites, has been widely criticized for its alleged fragility. Last March, it was reported that an engineer who helped test it warned the White House that the president should not rely on Wimex to warn him of a Soviet attack.

It has yet to be determined what caused the computer at the NORAD command center in Colorado to malfunction. It may, as a Pentagon spokesman said, be as simple as a maintenance problem or a bad transistor. But if it issued warnings of two attacks that didn't happen, which is bad enough, how would it perform in the event of the real thing?

Pretty well, the Pentagon believes, pointing out that the malfunctioning NORAD computer was but one redundant part of a larger system that did its job. But when things don't work—whether they are helicopters in the Iranian desert or circuits in the Colorado mountains—the signals are real enough.

Indeed, such incidents concern nothing less than U.S. preparedness and, accordingly, may bespeak a real emergency. Like the attack that didn't happen, the malfunctions are warnings as loud and clear as burglar alarms. They suggest that it is indeed time to check the doors and windows—and secure them.●

PERSONAL EXPLANATION

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DAVIS of Michigan. Mr. Speaker, on Thursday, June 5, when the House was voting to override the President's veto of the oil import fee, I was away on official House business. Had I been here I would have voted "aye" in favor of overriding the veto. This proposal was one which I have opposed from the start and which I voted against originally. I am pleased that the House and Senate voted strongly to override this veto.●

TRIBUTE TO HON. ROBERT F. DRINAN

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. HALL of Texas. Mr. Speaker, our colleagues from Massachusetts are to be commended for reserving a special order to recognize the contributions that Robert Drinan has made to the Congress and Nation.

It was with utmost sadness and genuine regret when I first learned of the Papal ban that, in effect, would remove Father Drinan from this body. I know how much he loves the Congress and the give and take of the legislative process.

Yes, Bob Drinan accepted the decision of his Pontiff with the same courage and gentlemanly demeanor that has characterized his service in the House.

He will be sorely missed by all of us, including those of us who often find ourselves disagreeing with him. But putting aside philosophical differences, I have gained tremendous respect for Bob Drinan's abilities as a lawmaker.

It has been my privilege to serve with him as a member of the Criminal Justice Subcommittee, where he presides as our chairman. This chairmanship has been characterized by a sense of fair play, stimulating debate and forthrightness. He has tackled one of the most complex and difficult pieces of legislation to ever come before this House; namely, the revision of the Criminal Code. His leadership and analytical mind has guided the subcommittee over some rough roads as, even now, we mark up the Criminal Code.

Of course, Bob Drinan was the first Roman Catholic priest to be elected to the House of Representatives, and as such he has carried the title of "Father" and "Congressman." This is in keeping with the tradition of the Jesuit Order, of which he is a member. For the past 400 years, members of the Jesuits have distinguished them selves as legal scholars, philosophers, writers, scientists, musicians, and even famous explorers.

When St. Ingatius Loyola founded the Jesuit Order, or the Society of Jesus, I think he must have had in mind people like Bob Drinan as his protegees. For instance, at age 36, Bob Drinan became dean of the prestigious Boston College Law School, a post he held for 14 years before coming to the House of Representatives.

In a few short months, Bob Drinan will leave this body, but the impact of his service here will be felt for many years to come. His career as teacher, attorney, and Member of Congress, will continue to be used in the best interest of his State and Nation. As in the past, we will find him in the forefront of those issues which he so strongly identifies with. He is no shrinking violet, and I look forward to hearing from him again and again after this current phase of his brilliant career terminates.

I am going to miss Bob Drinan.●

DISABILITY BENEFITS FOR PRISONERS?

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. CONABLE. Mr. Speaker, I am today introducing for myself and Mr. Archer of Texas, legislation which would correct problems which have arisen with respect to payment of social security benefits to prisoners.

Our social security system is widely perceived as a form of national social insurance, combining principles of both social adequacy and individual equity. Under the latter concept, benefits are based on contributions, and workers who are insured under social security understandably and legitimately feel they have an earned right to those benefits.

To deny benefits to anyone who has worked under the system long enough to become entitled to benefits runs counter to that earned-right concept and thus tends to undermine the individual equity aspect, or the insurance character, of the social security system.

There also is a constitutional consideration here, article 1, section 9 states that: "No bill of attainder or ex post facto law shall be passed."

An ex post facto law is a statute which first, imposes a punishment for an act that was not punishable when committed; second, alters, to a defendant's disadvantage, punishment that was prescribed at the time of the act; and third, takes away from the substantial protection afforded a defendant by the then existing law. It also may be considered as a civil or criminal law enacted with a retrospective effect.

Nevertheless, a strong argument can be made that those who commit crimes against the State should not enjoy its largesse. Social security is a State-operated system, and the law-abiding taxpayers who support it have an equally legitimate and understandable belief that the system should not pay benefits to criminals who are being supported in prisons which those taxpayers also support.

In an effort to correct most of the problems associated with payments of social security benefits to prisoners, especially payments to such notorious inmates as David Berkowitz, the convicted "Son of Sam" killer, we have introduced legislation which would:

First, amend the definition of disability for social security purposes so that convicted felons could not be awarded disability benefits on the basis of anything which happened to them during the commission of the crime for which they were imprisoned or anything having to do with their incarceration. It is our understanding that many, if not most, of the prisoners now drawing benefits are doing so by claiming to be disabled because of their inability to cope with prison life, or because they were injured during the commission of a crime. The bill addresses these situations squarely.

Second, stop payment in the future of so-called students benefits, which go to beneficiaries' children between the ages of 18 and 22 who are attending school full time. It would do so by amending the definition of a full-time student to exclude convicted felons serving sentence.

Third, have the effect of stopping benefits to those, such as David Berkowitz, who are awarded disability benefits because of conditions which may not stem from their conviction and imprisonment. This would be accomplished through an addition to an existing provision of law which cuts benefits to those who refuse, without good cause, to accept rehabilitation services under the social security program. The bill would declare such rehabilitation services to be generally inappropriate to convicted felons in most instances, and would deem such felons to have refused this rehabilitation, except in cases where a judge decided that the interests of society and the prisoner would be better served if rehabilitation were provided under direction of social security.

I believe the net effect of this legislation would be to correct abuses without violating either the constitution or the individual equity concept underlying the social security system. I hope it will be considered promptly.●

SPECIAL ORDER FOR ROBERT DRINAN

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. CARR. Mr. Speaker, when Robert F. Drinan leaves the U.S. House of Representatives at the conclusion of the current session, we will lose not only an extraordinarily dedicated, capable, and hard-working colleague—we will also lose a perspective on the work of the Congress.

I cannot speak to the Vatican's decision to restrict priests from holding public office with respect to other countries, but I know that our own country thrives on a diversity of opinions and points of view. We are a pluralistic society in which a wealth of different perspectives can be incorporated, and one of the strengths of the U.S. Congress is that it mirrors that diversity. When an entire category of Americans is excluded from serving in the Congress, we as a body are regrettably diminished.

My own very personal regret at losing BOB DRINAN is thus compounded by the prospect that we may never again be enriched by the unique perspective that future BOB DRINANS might have offered our country.●

MESSAGE TO LEONID BREZHNEV: FREE THE REMAINING "LENINGRAD TRIAL" PRISONERS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LENT. Mr. Speaker, I wish to call to the attention of my colleagues the fact that June 15, 1980, marks a most important anniversary in the long, sad history of the Soviet persecution of its Jewish citizens. On June 15, 1970, 10 years ago, the Soviet regime seized and threw into prison more than a dozen Soviet Jews from the Leningrad area. They were accused of plotting to take over a small Aeroflot plane at the Leningrad Airport and pilot it to Sweden and freedom.

All but three of the group have since been freed from prison. One of those released was my fourth district prisoner of conscience, Hillel Butman, who was given a personal pardon by Soviet President Leonid Brezhnev on April 20, 1979. Hillel, reunited with his wife and two daughters in Israel, is now enjoying the freedom of which he dreamed for so many years.

Unhappily, Mr. Speaker, this is not the case with three of the Leningrad prisoners who are still serving their sentences more than 1 year later. Iosif Mendelevich, Aleksei Murzhenko, and Yuri Federov have endured enough persecution. There is absolutely no valid reason why they should be denied the freedom given the others in the group.

Therefore, Mr. Speaker, I have dispatched a telegram to Leonid Brezhnev, demanding that he grant these three Leningrad prisoners the same personal pardon he has given the others in the group. I urge my colleagues to make the same demand. The more public attention we direct to the unfair treatment of these Soviet Jews, the sooner they will be released. I insert the text of my telegram to Brezhnev in the CONGRESSIONAL RECORD at this time.

[Telegram]

LEONID BREZHNEV,
President, Secretary-General, The Kremlin, Moscow, RSFSR, U.S.S.R.:

Upon the 10th anniversary of the Leningrad arrests on June 14-15, 1980, I urge your immediate action in the name of human rights to free the three who remain imprisoned: Iosif Mendelevich, Aleksei Murzhenko, and Yuri Federov. On behalf of millions of people the world over who are outraged by the continued incarceration of these brave men, I say our struggle to secure their freedom will not cease. We will not rest until these three breathe the sweet fresh air of freedom where they can exercise their basic human rights. Now is the time to act. Free Mendelevich, Murzhenko and Federov now!

NORMAN F. LENT,
Member of Congress.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for some votes on Tuesday, April 29. Had I been present, I would have voted as follows:

Rollcall No. 198, "yes";
Rollcall No. 199, "yes"; and
Rollcall No. 200, "no."●

COMMEMORATION OF THE SOVIET OCCUPATION OF LITHUANIA

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DOUGHERTY. Mr. Speaker, on June 15, Lithuanian Americans will join with Lithuanians throughout the world in sad commemoration of the forcible military occupation of Lithuania by the Soviet Union in 1940. This illegal annexation of Lithuania, along with Estonia and Latvia, was the result of secret protocols between Nazi Germany and the U.S.S.R. in 1939 and is part of a brutal pattern of Soviet aggression and domination of small, independent nations like Lithuania.

The Lithuanian people have never accepted Soviet rule and their struggle for freedom is carried forward today by a growing resistance movement in the Baltic States and by Lithuanians who live in the free world. The Lithuanians-American Community of the U.S.A., Inc., whose executive vice president for public affairs, Mr. Stanley A. Gecys, resides in my district, has prepared a statement on the chilling pattern of Soviet expansionism which I would like to share with my colleagues:

LITHUANIA THEN, AFGHANISTAN NOW—A PATTERN OF SOVIET EXPANSIONISM

Soviet expansionism has had its seasons—the 1940 illegal annexation of the Baltic States of Estonia, Latvia and Lithuania, the 1956 brutal crushing of the Hungarian revolution, the 1968 ironic destruction of the Czechoslovakian attempt at freedom, and now in Afghanistan, Russian tanks roll once more across the borders of a sovereign nation. There is a chilling pattern to all this and it had its start with Lithuania.

Lithuania is an age-old nation with over seven centuries of nationhood. Its language is one of the oldest living languages today. From the Middle Ages, as the kingdom of Lithuania, it rose to become a major power of Eastern Europe in the 15th century. Even though it endured over a century of severe Czarist Russia's oppression in the 17th and 18th centuries, it reemerged once more as a free and independent nation in 1918. Until June of 1940 Lithuania enjoyed soaring resurgence in every aspect of its national life, educationally, culturally, economically and politically.

And then, Soviet Russia, after signing the now infamous treaty of non-aggression with Nazi Germany/Molotov-Ribbentrop Pact of 1939/, which the two super powers agreed to divide between themselves the countries of Estonia, Latvia, Lithuania, Finland and Poland, the Soviets invaded Lithuania despite existing treaties and assurances to the Lithuanian government to the contrary. One month later, in July, 1940 after mock elections, Soviet Russia claimed—and still claims—that Lithuania voluntarily voted and asked to be incorporated into the Soviet Union.

By the end of World War II, Lithuania had lost about one-third of its population through forcible deportations, assassinations and national genocide of its people. Even through Lithuanian partisans, alone and unsupported by any of the promised help from the West, fought against the Russian oppressor for a whole decade more, the conflict of armed resistance had to come to an end. However, the will of the Lithuanian people to be free never ran dry and resistance to political repression, religious persecution, cultural genocide and the denial of basic human rights continues in Lithuania against their communist occupiers to this very day.

And so, in 1980, once again we see the same pattern of Soviet Russia's expansionism in Afghanistan.

In the past we have condemned Soviet Russia's transgressions, calling them morally, ethically and politically wrong, but in no instance have we ever taken firmer measures to right those wrongs. In every instance Soviet Russia, after a temporary fallout of censure, was permitted to keep the spoils of its wrongdoing. There is a tremendous backlog of Soviet Russia's wrongdoing to be righted, and an immense range of decisive actions to be taken by the Free World to prevent further Soviet Russian expansionism.

Hopefully this time, at last, we have come to realize that Soviet Russian world domination no longer sounds like an extremist notion even to the most liberal among us. Let's hope that we have the moral fiber to talk when we can and to act when we must, while we are still in a position to do so.●

ROBERT F. DRINAN

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FISHER. Mr. Speaker, it has been an honor to serve in the House with our distinguished colleague, ROBERT F. DRINAN of Massachusetts. Father DRINAN, over his years in the Congress, has been a strong and, when required, a passionate voice for the national conscience. With his retirement at the end of this session, that voice in the Chamber of the House will be sorely missed. But, I am sure, it will not be silenced. Wherever he may be and whatever role his beloved church and order may call upon him to fill, Father DRINAN will continue to speak for the best in our national tradition and for our hopes for the future.

On a more personal note, BOB DRINAN and I have had many pleasant and humorous exchanges, he as a distinguished member of the clergy of his church and I as longtime lay head of the Unitarian Universalist denomination. I have claimed to have irrefutable statistics to show that in his congressional district Unitarian Universalists supported him in greater proportion than members of any other denomination. I have said further that if he had any indication of backsliding on their part, I would personally take the matter in hand. Sometimes he would playfully refer to me as the pope of the Unitarian Church, knowing full well this would discomfort me a bit and leave me with no ready reply.

Father DRINAN's contribution in legislation pertaining to civil and political rights, protection for the poor and handicapped, and many other fields is secure. Just today, for example, the House passed the far-reaching Fair Housing Act Amendments of 1980, for which Congressman DRINAN, with his colleague on the Judiciary Committee, DON EDWARDS, was the leading sponsor. The beneficial effects of this measure will be long lasting.

I am honored to add my salute to Father DRINAN.●

TRUTH-IN-TESTING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. GOODLING. Mr. Speaker, the Elementary, Secondary, and Vocational Education Subcommittee and the Subcommittee on Postsecondary Education have under consideration a bill, H.R. 4949, which would put the Federal Government in the business of regulating standardized tests and which would require the disclosure of all test questions and answers following each examination. As I have tried to point out in past CONGRESSIONAL RECORD remarks and during subcommittee hearings, the proposal we are considering has enormous potential consequences. Therefore, I have been urging the subcommittee not to rush through hearings and declare itself honestly prepared to mark up this legislation. I am afraid that this bill might be pushed out of the committee and brought to the House floor for immediate action even though there is no crisis in testing. There is no need to circumvent honest deliberation and careful analysis of the full ramifications of this proposal.

New York State has recently enacted legislation on testing which is almost identical to H.R. 4949. Therefore, I find it not only unwise but irresponsible to push for hasty Federal action without first carefully exploring the existing facts and answering some of the more pressing questions. The proponents of this legislation have so far failed to demonstrate how this legislation would improve the quality of education in our Nation and how it would benefit the already disadvantaged individuals it purports to help. In fact, as I have stated in the past, I fear that an unintended consequence of such legislation would result in greater disparity between affluent and nonaffluent test takers.

I would like to share with my colleagues some new data which I requested from the Educational Testing Service regarding some characteristics of the people who were requesting disclosure information on standardized tests under the New York State testing statute which has been in effect since January 1980.

As I have stated, the current testing proposal—H.R. 4949—before our education subcommittee is based on the New York statute. When that legislation was being discussed in New York, the distinguished psychologist, Kenneth B. Clark, described the legislation "as misleading and confusing to the public" and was quoted in the New York Times as saying, "It will not benefit minority and poor students. It could, in fact, be detrimental to already disadvantaged individuals." The facts confirm Dr. Clark's original assessment.

If one examines three characteristics of the people who took advantage of the disclosure provision in the New York law—namely score level, race, and income—a clear pattern becomes evident. For example, according to the Educational Testing Service, more than 35,000 students took the SAT in New York in March 1980. To date, only 6 percent of the eligible students requested copies of the test.

The data show that the average scores on the examinations are higher for those who received disclosure packets than those who did not order them. In terms of race, it is again clear that blacks and Hispanics did not avail themselves to the opportunity to receive the disclosure materials. In fact, only 12 black students out of 1,512 who took the test in New York and who identified themselves as black, have been sent disclosure materials.

So far, students from families with above-average incomes are ordering the disclosure materials more than those from families with low incomes, according to the Educational Testing Service. In a forthcoming statement in the RECORD, I plan to provide the full details of this data on disclosure.

One conclusion is inescapable: On the basis of scores, race, and income, it is clear that disclosure is being utilized in a way that is benefiting primarily those who are supposedly already advantaged. Clearly we should not enact Federal policy in this area until there is more experience with State laws such as the one in New York. One benefit of our Federal system is that the States can serve as "laboratories for the Nation". Let's make sure we know the full ramifications of the New York experiment before we involve the entire Nation.●

OUR HOSTAGES IN IRAN

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. MINISH. Mr. Speaker, we all know the bitter truth that Sunday, June 15, will be the 225th day of captivity for our citizens held hostage in Tehran. I believe that our national anger and anguish over the outrage in Iran will help us better to appreciate another sad milestone this coming Sunday: the 40th anniversary of the Soviet occupation of Lithuania, Estonia, and Latvia.

In 1940, Stalin seized the Baltic States as his share of a vicious deal he had made with Hitler. Forty years later these innocent nations are still occupied by Soviet forces. The basic rights of free speech and religion continue to be denied. Stalin is dead, but Stalinist repression lives on in the Baltic States.

It is very hard for us in America to appreciate what political repression of every detail of daily life really means because we can take so much for granted about our individual rights and conduct. What our hostage crisis in Iran can teach us, however, is what the captive nations have endured these 40 years. They are hostages in their own homes, kept from their rights, their religion, and their national identities by brute force.

Mr. Speaker, let us all hope and pray that our hostages in Iran will soon regain their freedom, and also that the hostages in the Baltic States will once more have their freedom, which has been denied them so long.●

HUNGER IN EAST AFRICA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. SOLARZ. Mr. Speaker, I would like to once again bring to the attention of my colleagues the serious hunger and malnutrition in East Africa resulting from the disastrous drought. The Karamaja Province of Uganda, Somalia, which houses a million refugees from the war with Ethiopia, and parts of Tanzania have been the hardest hit. We need to ship more food to these needy areas as well as develop more efficient means of distribution. Recently, even the Washington Post has emphasized the desperate plight of these starving and homeless peoples. I, therefore, ask, Mr. Speaker, that the Post's moving editorial describing this tragedy in Africa be reprinted here today:

[From the Washington Post, June 10, 1980]

FAMINE IN AFRICA

After India, the Sahel and Cambodia, the pictures are familiar: Skeletal bodies, hopeless stares, children fighting for scraps of food or too weak to raise an arm. The impulse is to turn away in pain. Or to wonder why a world so well equipped with aircraft cannot divert some of it to get food that is available to people who are daily dying for lack of it.

This time the setting is East Africa. The Karamoja province of Uganda, Somalia—which houses a million refugees from the endless war with Ethiopia—and parts of Tanzania are the hardest hit. Scattered regions of Kenya and neighboring countries reaching all the way to South Africa also show evidence of unusually bad hunger and malnutrition. The immediate cause of the suffering is drought. But the effects of bad weather have been compounded by harmful government policies in Kenya and elsewhere; in Uganda, where conditions are the worst, the parallels to Cambodia are too obvious to miss.

The fighting before and after Idi Amin's departure prevented the normal planting. The following year, faced with hunger, many people were forced to eat the seeds that should have been saved for planting. Now the central government has ceased to work at all. Even the bare essentials of a food distribution system—trucks, people to drive them, fuel to run them—cannot be found. Those who know their way around are reluctant to enter Karamoja because of marauding bands of heavily armed bandits who have overrun it.

Unlike Cambodia, there was a plan to prevent starvation in Uganda. The United Nations Development Program arranged a swap in which Kenya would send 8,000 tons of corn across the border into neighboring Karamoja, and in turn would receive the same amount of Canadian wheat from U.N. supplies. The wheat arrived, but by then Kenya's supplies had disappeared, and the corn was never sent. Since then, the UNDP's chief representative in the area—former American Ambassador Melissa Wells—has had to resort to sending cables to her headquarters demanding to know whether the organization "was just supposed to let these people die." Mrs. Wells' extraordinary personal efforts have elicited a response, but now the only hope is that relief efforts can diminish—rather than prevent—widespread death.

The underlying sources of recurrent hunger and famine in Africa will be hard to deal with. Africa has the highest rate of population growth in the world and, because so much of the population is under 15, it will require herculean efforts to slow it. But the magnitude of the larger long-term problem should not be used as an excuse for turning away from the immediate pain and suffering of the famine's victims.

There are two more crucial months before the local harvest. The amount of grain that is needed is small by absolute standards, but still enormous compared with what has been made available and the means to distribute it. A few transport helicopters, for example, would cost much more than trucks but could make short work of delivery problems. Is it possible that neither the United Nations nor the United States can find the means to do this?●

JUNE 21, 1980: A SAD ANNIVERSARY FOR IDA NUDEL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LENT. Mr. Speaker, many of my colleagues have joined me in efforts on behalf of my Fourth Congressional District's Prisoner of Conscience, Ida Nudel. To them, and to every Member with an interest in the cause of human rights, I call attention to an important anniversary in the life of this courageous woman. On June 21, 1978, two years ago, Ida Nudel was sentenced to serve a term of 4 years in exile in Siberia.

I know many of you are familiar with her crime. She was convicted of "malicious hooliganism" for displaying from the balcony of her apartment a banner reading "KGB Grant Me My Visa." Actually, as she said of her sentencing, the real reason for her exile to the bleak wastelands of Siberia lay in the previous 7 years of her life—years Ida calls, "The most beautiful years of my life." In those 7 years Ida Nudel—who herself repeatedly had been refused permission to emigrate to Israel—devoted her time to the assistance of the other prisoners of Zion—Soviet Jews denied their request to emigrate to Israel and imprisoned for their efforts. One of those prisoners, David Chernoglaz, said, after his release: "A person who has not been in prison cannot envisage what Ida Nudel meant to the prisoners. * * * there is no person in this world who has done more for Jewish prisoners."

Now, for the past 2 years, Ida Nudel has been one of those prisoners. For 2 years she has endured the most primitive living conditions, the harsh weather of Siberia, and cruel persecution, mistreatment, and even physical abuse. But Ida Nudel's indomitable spirit, her will to endure these tribulations, and her determination to win her freedom in Israel remain unchanged.

Recently, after being brutally maligned in the Soviet-controlled press in Siberia, Ida told her sister: "I'll hang on. I won't break. They won't break me. I will not be silent and I will not budge from my position."

Those words reflect the great courage and unbending determination which has marked the life of this remarkable woman. Ida Nudel will continue to fight on for her freedom no matter what happens.

But, Mr. Speaker, Ida Nudel deserves and needs all of the assistance and support that we in this Chamber can provide. In calling to your attention the upcoming second anniversary of her sentence into exile, I urge you to join me in a renewed demand to Leonid Brezhnev to free Ida Nudel. The Soviet Union is violating the human rights provisions of the Helsinki accords by keeping Ida Nudel separated from her sister in Israel. Let us do everything in our power to make the Soviet leaders live up to the human rights agreement as they pledged to do in 1975. It is time they freed Ida Nudel.●

ANNIVERSARY OF THE BALTIC STATES GENOCIDE DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DERWINSKI. Mr. Speaker, in light of Soviet aggression and expansionism in Afghanistan and the possible direct participation of the Soviets in the partition of Iran, I believe it is especially important for us to look back on the history of the Soviet's political and strategic intentions. Forty years ago on June 14, 1940, the Soviet Union began to execute its policy of expansionism in the Baltic States of Estonia, Latvia, and Lithuania, and today these small nations remain under the iron-fisted control of Soviet totalitarianism.

This forcible occupation and incorporation of the Baltic States into the U.S.S.R., and the subsequent deportation of hundreds of thousands of Lithuanians, Latvians, and Estonians to Siberian concentration camps remains a constant reminder of the true attitude of the Soviet Union toward basic human rights.

Before the conquest of these three nations, there was a short yet progressive period of free government in these lands. After World War I, Latvia, Lithuania, and Estonia all declared their independence and enjoyed democratic governments until 1939. With the advent of the Second World War, Estonia, Latvia, and Lithuania lost their freedom when they were, in accord with a Nazi-Soviet pact, allocated to the U.S.S.R.

Tens of thousands of the Baltic peoples were killed and over 1 million were deported to slave labor camps. Many others were removed from their homelands because of their resistance to the subjugation or because of their political and religious views. As the Estonians, Latvians, and Lithuanians were deported, they were replaced by peoples from other areas of the Soviet empire. This exchange of populations has substantially altered the ethnic composition of the Baltic nations. In this way, the Russian rulers hoped to destroy the national identity of the Baltic peoples.

However, throughout the free world, the peoples of Estonian, Latvian, and Lithuanian origin have maintained their traditional civic, cultural, and church organizations and bravely continued their efforts on behalf of their enslaved compatriots held captive within the U.S.S.R.

The Soviet Union has blatantly ignored the human rights provisions of its own constitution; the provisions of human rights in the United Nations Charter; and most recently, it has ignored the implementation of the provisions of the final act of the Helsinki accords and the Belgrade Conference.

As a nation, we stand for freedom and the right to self-determination. I believe that this is a universal principle and not one that should be applied selectively. As this is not the case for those held captive of communism, it is important for us to bring global attention to their plight.

In past Congresses, we have recorded our denunciation of the Soviet annexation of the Baltic areas in the passage of resolutions expressing the sense of the House of Representatives in nonrecognition of the Soviet Union's forcible annexation of the Baltic nations. In this Congress, House Concurrent Resolution 200, was overwhelmingly adopted by both the House and the Senate.

Therefore, it is necessary for the policy of the United States to continue to be that of nonrecognition of the Soviet Union's forcible annexations; and further to demand the release of political prisoners of Estonian, Latvian, and Lithuanian nationalities from the Soviet incarceration; and return the right of self-determination and territorial integrity to the Baltic nations.

As we draw attention to this tragic anniversary, we must recognize that it is the duty of the United States to support the cause of freedom for the Baltic peoples. Only with the end of the political repression, religious persecution, and cultural genocide in these nations, the legitimate aspirations of the Baltic peoples will be fulfilled. The perseverance of the Baltic peoples to independence and the right to again reside in their historic lands will ultimately triumph over communism.●

KEEP THE TWICE-A-YEAR COLA

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. FISHER. Mr. Speaker, I have introduced a resolution to express the sense of the Congress that the law providing two cost-of-living increases a year for Federal and military retirees should not be changed. As my resolution states, the retirees have earned the right to a stable and secure system of retirement income. I urge my colleagues to support this resolution and to vote to keep the twice-a-year COLA.

The text of the resolution follows:

HOUSE CONCURRENT RESOLUTION 361

Whereas both the Civil Service Retirement and Disability System and the system of retired pay for military personnel were established by the Congress to provide pensions and continuing income for retired personnel and to make the Federal Government an attractive, fair, and just employer for high quality employees;

Whereas the Civil Service Retirement and Disability System and the system of retired pay for military personnel provide benefits for over 3 million annuitants and retirees;

Whereas the Congress has established a policy of maintaining the purchasing power of retirees by increasing the payments to retirees twice a year by the amount that the consumer price index has increased in each six-month period;

Whereas the consumer price index has been increasing at a double digit rate for many months;

Whereas the twice yearly cost-of-living adjustments were instituted by the Congress as recently as 1976 to replace the earlier adjustment mechanism, which included an additional one percent adjustment; and

Whereas Federal retirees have earned the right to a stable and secure system of retirement income: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the provisions of law requiring cost-of-living adjustments for Federal civil service and military retirees twice every year should not be changed.●

TAX LIBERATION DAY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. PHILIP M. CRANE. Mr. Speaker, June 12 is a great day of celebration. The House should join in the commemoration. June 12 is the approximate day when the average American taxpayer is finished working for government this year and can finally begin contributing to his own well-being.

Forty-five percent of the income of the average American family will be spent by Federal, State, and local governments this year—a total of over $7,900. This figure reflects the total cost of all levels of government and encompasses the taxes withheld, the taxes paid, the taxes hidden, the taxes postponed, and the most insidious form of taxation, inflation. Government has spent every penny earned by the average family up to June 12.

Last year we observed Tax Liberation Day on June 6, the anniversary of California's proposition 13. In a single year, Tax Liberation Day has moved back almost 1 week. At this rate, we will commemorate Tax Liberation Day and Christmas concurrently by the year 2008. By 2010, total government spending will consume the entire national income.

I bring this up not to air the traditional conservative complaint of excessive government, but to propose a liberal remedy. I have a proposal that could help us achieve a balanced budget without a constitutional amendment. I call it truth in advertising.

The Government is not now practicing truth in advertising. There is unprecedented disingenuousness in dispersing and camouflaging the real tax burden; not the least of which is deficit spending, devalued currency, and, as a consequence, inflation. I propose that the Government set a noble example for the hundreds of thousands of corporations it regulates by practicing its own form of truth in advertising, or more appropriately, truth in taxation. Truth in taxation is a five-step program:

No. 1, let us calculate every year the Tax Liberation Day * * * the day the average American stops working for government and starts working for himself.

In 1980, current studies indicate that State and local governments will spend $359 billion and that the Federal Government will spend $585 billion. The sum total of all Government spending, $944 billion, accounts for 45 percent of the projected 1980 national income of $2.091 trillion. That means that the first 45 percent of this year, or 163 days, was devoted to paying for Government spending. From this point forward, the taxpayer will be working for himself. The average taxpayer earning a median income of $17,000 will cough up something on the order of $7,900.

No. 2, Tax Liberation Day should be designated a national holiday. Since Americans have worked nonstop for Government up to that day, it is only fitting that Government give them a day of rest.

No. 3, the Congress should also make that day the deadline for filing tax returns instead of April 15. This year it will be June 12. Next year, given current trends, it might be June 30.

No. 4, we advertise that truth; we advertise that date. This would not only be instructive to the taxpayer and to Government officials, it would also get other taxpayers interested in learning the true dimensions of their tax burden.

No. 5, every new spending program introduced should require not only an inflationary-impact statement projecting its cost, but also an estimate of how long the measure would delay the time the IRS could collect the money to pay for the program. For example, let us say a legislator wanted to pass an expensive new program for health insurance. Nowadays he inspires us by saying, "Let us not be stingy, we will all be taken care of." But with truth in taxation, he might also add, "Oh, yes, this means you will have to work an additional 2 weeks for the Government."

This program is embodied in my Tax Liberation Day bill, H.R. 4338, which I invite each of my colleagues to cosponsor and support. Some may object to H.R. 4338 because we already celebrate independence next month. I would just like to point out that if present spending trends continue, the 1980, June 12 celebration will fall on July 4, 1984.

Nobel Laureate Milton Friedman, writing a few years ago when Government spending consumed less of the national income, explained the economic underpinnings of this initiative:

> Right now total Government spending—State, Federal, and local—amounts to 40 percent of the national income. That means that out of every dollar anybody makes or gets, 40 cents is being spent for him by the bureaucrats whom he has, through his voting behavior, put into office. There is upward pressure on that percentage. The screws will be put on. The real problem for the future is to stop that growth in Government spending.

Dr. Friedman's message of warning about the upward pressure on Government spending rings ominously true when we realize that the 1980 increase in spending was enough to drive Tax Liberation Day back 6 days. Imagine the percentage leap in Government spending as a fraction of national income next year when we account for President Carter's $100 billion tax increase in the 1981 budget. Dr. Friedman's address, though written several years ago, seemed to speak directly to one aspect of the 1981 budget:

> I would far rather have total federal spending at $200 billion with a deficit of $100 billion than a balanced budget at $500 billion. The thing we must keep our eye on is what the government spends. That's the measure of the amount of the resources of the nation that people cannot individually and separately decide about.

The 1981 budget is temporarily balanced as well over $600 billion. The outlook is even more dismal than Dr. Friedman supposed in his statement.

For about 150 years after the birth of our Republic, Government spending was held in check relatively well. During that prosperous period prior to the 1920's, total Government spending hovered around 10 percent of the national income. The public would not tolerate a larger Government. They believed that Government should be limited. Their leaders reflected this sentiment. President Cleveland maintained, for instance, that while the people should support their Government, the Government should not support the people. President Wilson stated that the history of liberty was the history of restraints on Government power.

Tax Liberation Day, a progressive remedy in the spirit of President Wilson's remark, will restore a measure of the people's control over Government spending. In very simple terms, this device will communicate to the citizen whether Government is taking more or less of his income. If the filing deadline for his tax return is earlier or later than the previous year, he knows immediately whether Government is taking more or less of his income; he will know immediately whether Government is growing or shrinking. Tax Liberation Day, both the holiday and the tax return deadline, would make the taxpayer painfully aware of the cost of Government.

Our ancestors declared their independence because they felt a distant Government did not tax us reasonably. Yet the American taxpayer still feels that a distant Government does not tax reasonably. On July 4, we once declared independence from taxation without representation. On June 12, I ask you to declare our independence from taxation with misrepresentation.

June 12 is now Tax Liberation Day. At this rate, by 1984, it will be July 4. It is time to set the alarm clock at the IRS. I say June 12 is late enough to wake up the American people. We cannot afford to wait any longer.●

CONGRESSMAN ROBERT F. DRINAN

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. BRADEMAS. Mr. Speaker, for 10 years the House of Representatives has had the good fortune of having among its Members the gentleman from Massachusetts, Hon. ROBERT F. DRINAN.

For 10 years I personally have been honored to know ROBERT DRINAN, to have had the benefit of his wisdom and the privilege of knowing him as a man of faith, conscience, and courage.

It is indeed, a mark of that faith, conscience, and courage that in departing this House, BOB DRINAN is adhering to the obligations he assumed 27 years ago when he was ordained a Roman Catholic priest as a member of the Society of Jesus.

After 14 years as dean of the Boston College Law School, this dedicated man recognized the great moral issue of the time—the Vietnam war—and won election to this body to contest that war.

Since assuming his seat in the House, Father DRINAN has lived up to his ideals. He established himself as, in his own words, a "moral architect," a role not always appreciated at the moment, but one that will have an enduring effect on those of us who have served with him.

Mr. Speaker, during the decade of the 1970's, a period that may well be described as one of cynicism, BOB DRINAN has never wavered in his convictions.

He was the first Member of this body to introduce a bill of impeachment against Richard Nixon.

He has been a strong and outspoken advocate of civil liberties and social services.

He has worked diligently in behalf of the hungry people of the world.

He has fought against human rights violations everywhere, most particularly in Latin America and the Soviet Union.

He has sought to end the arms race.

ROBERT DRINAN has devoted his life to justice for all human beings, whatever their creed or color.

As he departs this House next year, BOB DRINAN will do so with the respect and affection of his colleagues. For he has faithfully pursued his belief that to the agonies of mankind, we must respond with the commitment to make justice and freedom, decency and dignity, prevail.●

A RATIONAL PROGRAM FOR MORE ENERGY-EFFICIENT BUILDINGS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, included in the Housing and Community Development Act of 1980, expected to be on the floor next week, is an extension for up to 2 years of the time period within which final energy performance standards for new buildings must be promulgated.

I should like to call my colleagues' attention to the recommendations of the National Institute of Building Sciences concerning those standards, their promulgation, and their implementation nationwide. The Institute was created in 1974 by the Congress to be an authoritative national source for all scientific and technical matters relating to codes, standards, and other regulations of building construction.

In the Energy Conservation and Production Act of 1976, which mandated building energy performance standards, the Institute was given the role of consultant to developing and implementing the standards and to receive the views of the many public and private elements that make up the building community.

The Institute's extensive study of the proposed standards published in November of 1979 led it to conclude in a report to the Department of Energy in April 1980, the issuance of the standards should be deferred until their technical and structural deficiencies could be corrected.

The Institute did not take issue with the concept of developing standards for improving the energy efficiency of new buildings which it fully supports, but rather with their current contents, recommending that they be revised and carried out in the context of a total program aimed at voluntary acceptance and national support.

The summary of the Institute's report follows:

SUMMARY

The National Institute of Building Sciences (NIBS) supports the development of energy performance standards for new buildings as defined in the Energy Conservation and Production Act of 1976 (Public Law 94-385) and commends the Department of Housing and Urban Development and subsequently the Department of Energy, for their efforts to carry out the difficult task of developing such performance standards within the severe time and resource constraints imposed. However, it is the considered view of the Institute that the proposed standards will not achieve their stated goals and may, in fact, detract from the progress that has been and is being made in improving the energy efficiency of new buildings through existing state and local regulation and building community initiatives.

RECOMMENDATIONS

Based upon its review of the Notice of Proposed Rulemaking (NOPR) and supporting documentation, and broad-based input from the building community concerning the proposed standards, the Institute makes the following recommendations regarding the future development of the energy performance standards for new buildings.

Defer issuing the standards

Promulgation of BEPS should be deferred until the technical and structural deficiencies in the proposed standards have been corrected and the manner in which they will be implemented has been determined, even though this will require a delay well beyond the present legislatively mandated promulgation date of August 14, 1980.

Develop revised standards

To assure that BEPS and the accompanying implementation strategy will receive national acceptance and support when completed, further planning and work on the total program should be carried out in full consultation with the building community as called for in Public Law 94-385. The total program should be implemented with all deliberate speed and have as its objectives:

Correcting the current technical and structural deficiencies in BEPS.

Developing a BEPS implementation strategy and program that will minimize administrative costs and disruption of the normal building regulatory process at the State and local levels.

Further, during the course of developing the revised standards and implementation strategy and program, particular attention should be given to:

Allowing alternate paths for satisfying the requirements of the standards—e.g., subsystem and component performance standards, and prescriptive standards and/or manuals of accepted practice, that most building community participants are accustomed to and currently better equipped to work with.

Reassessing the concept of weighting factors to determine whether they are of direct significance to building performance, and if it is found that they are not, eliminating them and then assuring that the standards do not otherwise artificially bias the selection of fuels or the selection of heating and cooling equipment.

Promulgate on a voluntary basis

At the time of publication of the final standards, the Administration should recommend to Congress that consideration of sanctions be deferred until the building community has had sufficient time to respond to the final standards on a voluntary basis and until the necessity of applying the standards as mandatory requirements has been reassessed.

Parallel supporting efforts

In order to sustain the continued development and application of energy conservation standards and to facilitate the introduction of energy performance standards, incentives and other assistance should be provided for the following purposes:

To enable States that have adopted building energy standards to update and strengthen those standards and to provide for their universal acceptance and enforcement;

To encourage states that do not have energy conservation standards to adopt such standards immediately;

To encourage states that have adopted standards for only certain types of buildings to expand their coverage to all new construction; and

To enable appropriate institutions to initiate educational and training programs in the application of performance standards for building code officials, design professionals, builders and other members of the building community.

CONCLUSIONS

The foregoing recommendations are based on the following conclusions:

1. Neither the Design Energy Budgets (DEB's) nor the Standard Evaluation Technique (SET), as presently constituted, satisfy the basic requirements for a viable performance standard.

2. The proposed weighting factors will, in some instances, produce economic, environmental, and energy impacts that may be inconsistent with national goals and undermine the statutory requirement that the Building Energy Performance Standards (BEPS) encourage the use of non-depletable resources.

3. The original estimate of the potential energy savings of BEPS reported to the Congress at the time of enactment of Public Law 94-385 is no longer valid. Current DOE estimates of potential energy savings are significantly lower than the original projections. Also, the limited cost data available suggests that the public and private costs of implementing the proposed standards, which have not been adequately addressed in the DOE estimates, will be significant and will adversely affect the anticipated benefits of the standards.

4. The BEPS will have significant economic, financial and legal impacts on key private and public sectors of the economy and specific geographic regions. These impacts have not been assessed in the detail necessary to either determine their true magnitude or to identify ways to mitigate their adverse effects.

5. The proposed standards have been developed without taking full advantage of the technical resources of the building community.

6. The current statutory mandate that state and local governments adopt and implement BEPS within one year after promulgation is unreasonable and impossible to achieve.

In developing this response to the NOPR, the Institute sought the widest possible building community participation. Advice was provided by the Institute's 205-member BEPS Advisory Panel. The Institute also conducted two conferences, attended by over 120 representatives of the building community, at which the issues raised by the NOPR were identified and positions on the proposed standards were discussed. In addition, the Institute reviewed over 1,000 pages of testimony, research, and analyses provided to it by the building community.

Notwithstanding these efforts to develop and then consider as many points of view as possible, the Institute does not represent that either its recommendations reflect all positions taken by others on the proposed standards or all of the comments on those standards that have been or could be made. Accordingly, this presentation should not be construed as superseding the response to the NOPR of any other group. In summary, although there are strong divergent views on some issues, NIBS is confident that its assessment and recommendations fairly reflect the prevailing views of the diverse constituencies that make up the building community.

Mr. Speaker, the Institute has suggested revised standards, along with implementing regulations, be reproposed no later than June 1981, followed by a comment period and publication of final standards and implementing regulations in December 1981. The Institute further recommends a 2-year voluntary compliance period through December 1983, with a deferral of the question of the statutory sanctions until that time when the extent of voluntary adoption by States and political subdivisions is known.

In that regard, the Institute recommends that beginning immediately, NIBS and the implementing agency should institute a program of incentives and assistance to enable States to implement, upgrade, and enforce standards and move toward the performance approach, so that by December 1983 standards in force will be equivalent to, or are or can readily be made synonymous with, BEPS. Also, there should be a program of assistance to appropriate institutions to provide needed education and training in the application and enforcement of standards—particularly, performance standards.

Finally, the Institute recommends that, as the statute contemplated, the Institute have a hands on position throughout the entire course of bringing building energy performance standards into the mainstream of the Nation's building regulatory process.●

ROBERT F. DRINAN

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. HANLEY. Mr. Speaker, I regret that pressing business kept me from participating in this Chamber on June 11, when my fellow Members paid special tribute to our retiring colleague, Father ROBERT F. DRINAN. I would like to take a moment today to add my voice to this greatly deserved honor.

The sixth President of the United States, John Quincy Adams, once said, "Always vote for a principle and your vote is never lost." In his 10 years in this House, ROBERT DRINAN's vote never has been lost. His unyielding dedication to principle, combined with his judicial brilliance and unending concern for the Nation and the world's underprivileged, has made him a champion of civil rights, constitutional rights, and human rights.

Father DRINAN never has shied away from controversy. His actions have been dictated not by temporal elections, but by his enduring moral convictions. In the past decade, he has been an outspoken leader in this Chamber on the major issues of the day—the Vietnam war, the impeachment of Richard Nixon, human rights around the globe, the treatment and resettlement of refugees, and the reshaping of our Nation's Criminal Code.

It is hard to express in words what the Congress will lose with the retirement of ROBERT DRINAN. Certainly, it will lose a man of extraordinary forthrightness, honesty, energy, diligence, perseverance, and morality. But, also, it will lose a spirit which motivates action to do what is right, and not just what is popular. It will lose a loud and clear voice, never wavering in its pursuit of justice for all. And, it will lose a moral conscience.

The Congress will miss Father DRINAN dearly, but, fortunately for the Nation, there is little doubt that we have not heard the last from him. We can be certain that he will carry on his mission outside this body, and that his accomplishments will continue to pile up.

It has been a privilege to know and work with BOB DRINAN, and I wish him all of God's blessings in his future endeavors.●

FOREIGN AID AS PREVENTIVE MEDICINE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LAFALCE. Mr. Speaker, an article by Philip Geyelin appeared in this morning's Washington Post, entitled, "Heading Into Trouble With the Third World." It sums up our present approach to foreign aid quite well, by quoting from Cyrus Vance's farewell speech as Secretary of State in which he termed the U.S. approach to foreign aid "disgraceful."

As the article illustrates, we are increasingly seeking military solutions instead of peaceful and diplomatic ones to international problems. Foreign aid is, as the author says, both preventive medicine and a way of hedging bets. Results from such medicine may not be as dramatic in the early stages as a more superficial cure, but they are of a more permanent nature. Many of us may not see direct results from our efforts toward foreign aid during our term in Congress. Yet, if we do not act now to employ such preventive medicine, the sickness will spread and, because of our inertia, may well become impossible to cure. The article follows:

HEADING INTO TROUBLE WITH THE THIRD WORLD

In his farewell address at Harvard the other day, former secretary of state Cyrus Vance used uncharacteristically sharp words ("dangerous . . . naive . . . foolish") to deplore the "new nostalgia" for military solutions as a substitute for diplomacy.

Without mentioning names, he took unmistakable issue with the administration he served and resigned from on a matter of principle—and took a calculated whack at the Kissingerian "grand design" approach to foreign policy as well. And that's what caught the attention, understandably.

But the fact remains that the issue he spoke of most passionately—his most "heartfelt concern," according to associates—was not the failure to ratify SALT II, or the overemphasis on arms spending, or the "perverted hubris that overestimates our power." Vance's sharpest words were reserved for the state of the American foreign aid effort in recent years.

"American aid programs . . . make the most difference in supporting our Third World diplomacy and in addressing now the causes of later crises. Yet they are under constant assault in the Congress and elsewhere.

"The result is—I can think of no other word—disgraceful."

That statement attracted no notice at all. And that, alas, is also understandable. The American public, Congress and the executive branch all seem to be about equally turned off by the idea of providing economic development assistance to the dangerously destitute and politically turbulent nations of the so-called Third World.

Long gone is the spirit of the Marshall Plan or the days of Harry Truman's Point Four or the time when a secretary of defense, Robert McNamara, could devote a major address to a global challenge as far removed from the traditional preoccupations of the Pentagon as economic development. Yet McNamara spoke eloquently nearly 20 years ago of the problems of poverty and hunger and overpopulation as the root cause of the sort of economic deprivation and consequent social unrest that offers easy targets of opportunity for communist expansion and leads us, ultimately, into confrontation with the Soviets.

It was never such a large leap for McNamara from the Defense Department to the presidency of the World Bank. He saw it the way Vance sees it—as the difference between the operating table and preventive medicine.

But Congress, it is all too evident, does not believe in preventive medicine. As Vance also noted bitterly: "We are far in arrears in meeting the pledges we have made to the multilateral development banks, and likely to slip still farther."

All the while, Congress strains to spend more money to build rapid deployment forces for instant intervention in Third World internal upheavals on behalf of governments that have their own "Vietnam complexes" and no great yearning to be saved from themselves by force of American arms.

This is not to knock military preparedness or the prudent application of American force when diplomacy and deterrence fail. It is merely to commend Cy Vance's sober balancing of risks and needs—military, economic, diplomatic.

It is undeniably "disgraceful," as Vance noted, that the United States now ranks 13th among the world's 17 largest industrial nations in the percentage of gross national product it devotes to development assistance—and is about to be knocked down another notch by Japan.

It is no more defensible that American foreign aid, as Vance also pointed out, has been reduced by 25 percent over the last 20 years, even as the number of needy new nations—and potential trouble spots—has rapidly grown. Economic development now accounts for only about 1.5 percent of the entire federal budget.

True, there is waste in these efforts. There is also corruption; we are talking about nations newly formed. But there is also more than enough evidence that economic development can be made to work; that it offers diplomatic leverage for the short haul, if your interests are pragmatic and immediate; and that doing nothing to ease the Third World's economic misery is a certain prescription for trouble even if doing something is no guarantee of tranquility.

What economic development aid won't do, of course, is measurably improve the welfare of mankind within the term of an incumbent member of the House, or of a president, or even a senator. And because it is preventive medicine, you can't even prove beyond doubt that what you set out to prevent was ever going to happen. It is not rewarding, in that sense.

And yet there is a certain nuttiness in spending greatly increased sums of money so that sophisticated new weapons now on drawing boards will be ready 10 years from now to deal with crises and conflicts directly related to social and political unrest that relatively inexpensive economic development programs, launched today, might do much to alleviate.

Foreign aid is a way of hedging bets, I suppose, and only really worth doing if you think it matters what sort of world awaits your children—and theirs.●

"PEACE": A POEM BY PIA O'CONNOR

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. QUAYLE. Mr. Speaker, I want to share with my colleagues in the House an excellent poem written by Pia O'Connor, a 14-year-old student from St. Peter's Lutheran School in Columbus, Ind. Pia speaks of peace which is the concern of all of us, but especially of young people like her growing up in an uncertain world. I include Pia's work with the hope that it can serve as an inspiration to me and my fellow lawmakers as we strive together to achieve the ultimate goal of world peace:

PEACE

Peace, where is it?
Peace, why isn't it here?
Peace, who could achieve it?
Peace, what does it mean?
I don't know where it is.
I don't know why it's not here.
I don't know who could find it.
I don't know what it means.

You can't discover it.
You can't invent it.
You can't buy it.
You can't explain it.
It could be here.
It should be here.
It would be here.
But some won't let it.

—PIA O'CONNOR.●

ITALIAN AMERICANS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. WOLFF. Mr. Speaker, the history of the United States is marked by a single phenomenon which has made our country unique among all the nations of the world and has resulted in our greatness as a free democratic society. I refer to the inexorable influx of immigrants from all parts of the globe which truly made our Nation a "melting pot" of cultures, histories, skills, ideas, religions, and most importantly: people. Today I would like the Congress to recognize the contributions made to American society by a single ethnic group which has never been sufficiently lauded: the Italian Americans.

The vital role of Italian Americans in the historical growth and development of the United States began centuries before 1776 with the discovery of America by Columbus and the naming of the great land masses of the Western Hemisphere after the renowned Italian explorer Amerigo Vespucci. Among the first settlers of North America were Venetian silk artisans who made their new home at Jamestown, Va., in the 1620's. However, the strongest emphasis must be placed on the massive migration to our shores from southern Italy and Sicily in the late 19th and early 20th centuries. It was this phenomenal grassroots show of faith in the American way of life that created the bulk of the Italian American community in the United States. These bold immigrants left their ancestral homes and built better lives for their children, and for all Americans, with their hopes, dreams, and of course, their sweat. Though often the victims of ethnic discrimination, the Italian Americans have applied themselves fully through hard work and diligent study. They overcame a serious language barrier and have proven themselves as patriotic citizens of the United States of America, both on the domestic front and on the field of battle in two world wars, as well as in Korea and Vietnam. Mr. Speaker, the people of the United States owe much to the Italian Americans, as we do to all ethnic groups that call our Nation home, for we are truly the product of a cultural blending process. The beauty of American society lies in its diversity of heritages, which allows its people to maintain their own traditional identity and still be Americans.

We should recognize the national and cultural heritages of all the peoples of the United States. Today, as a member of the Cellini Lodge of the Order of the Sons of Italy in America, of New Hyde Park, Long Island, and as a grateful American, I ask the Congress to recognize the heritage of the millions of Italian Americans. In this regard, I am introducing a resolution to establish October 12 to October 19, 1980, as "Italian American Heritage Week." The dates were selected because the traditional Columbus Day holiday will be celebrated on Monday, October 13 this year, and has a special meaning to the Italian American community, as well as all Americans. I request the support of the entire Congress in establishing this week in a modicum of recognition of the contributions the Italian Americans have made to this great Nation of ours. My colleagues Mr. ADDABBO, Mr. BIAGGI, Ms. FERRARO, Mr. LAFALCE, and Mr. ZEFERETTI have joined me in sponsoring this legislation and I invite all other Members to cosponsor this resolution.●

DEFENSE AND FOREIGN POLICY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. DERWINSKI. Mr. Speaker, the Carter administration's foreign policy has been less than a success. Unfortunately, when tied to military defense decisions, the total picture is worse. This point was made recently by the distinguished Senator from New York, DANIEL PATRICK MOYNIHAN, during a commencement address this past Sunday, which he delivered to the graduates of Chicago's John Marshall Law School.

Chicago Tribune's Bob Wiedrich, in his column of June 11, expanded on the theme expressed by Senator MOYNIHAN, and I would like to insert his column at this point for the attention of the Members:

ONLY THE STRONG CAN STAY FREE

(By Bob Wiedrich)

Sometimes, I fear that Jimmy Carter lives in a never-never land inhabited only by folks with the best of intentions.

That might be great if the President's sole responsibility was teaching Sunday school in rural Georgia. But it isn't. He is the chief executive of the richest and most productive nation in the world.

But he is so occupied with making it more socially equitable that someday Carter might find the idyllic society he is attempting to fashion destroyed—along with its freedoms—by totalitarian forces that don't share his lofty dreams.

Such dire thoughts come to mind as I watch President Carter's late-awakening concern for defense spending that envisions only a token 5 per cent increase for fiscal 1981 after inflation has been reckoned with.

Is Carter requesting the added funds because of a legitimate concern about America's declining defense posture? Or is he responding to election-year pressure that soon will be forgotten if he is reelected?

That question should worry a lot of Americans as they witness broadening Soviet political and military aggressiveness around the world.

They should ask themselves if they can afford to risk their country's future and their personal liberty for another four years with a President who appears incapable of grasping the harsh realities of international leadership.

It would be nice to subscribe to Carter's obvious belief that the meek shall inherit the earth and that the basic goodness of mankind will overcome tyranny with love.

But history teaches otherwise. Those who have refused to defend themselves always have become the first targets of aggression.

And that is the state of unpreparedness to which Carter almost had reduced the United States during his first term as he has relentlessly pursued his campaign promise to curtail defense spending.

He killed the B-1 bomber. He stopped development of the neutron bomb, a weapon our West European allies said they needed to discourage a Soviet tank war. He slowed development of the Trident submarine.

Since then, President Carter has somewhat turned around. While still calling for more domestic social spending, he has thrown a token bone toward the Defense Department.

But is it enough? And are his intentions for real? Or is Carter merely attempting to appease the critics in his own party who think Carter is determined to reduce the national defense to the posture of a panty waist?

Sen. Daniel Patrick Moynihan (D., N.Y.) last weekend indicated he thinks as much during a commencement address at John Marshall Law School.

Warning that the struggle between democracy and totalitarianism is the most important foreign policy issue facing the United States today, Moynihan called for a stronger defense establishment. Then he added:

"For the first time in the history of the republic, we are facing an adversary who is expanding and who does so with a military advantage over us.

"This must be the central concern of American foreign policy in the next generation. A dispiriting thought to be sure, but, to be blunt, those who find it unbearable are perhaps not equipped for the work."

Amen. Clearly, President Carter has neither the conviction nor the philosophical approach for the task facing the United States as the Soviet bear unsheaths its claws.

Until Afghanistan, Carter still was dedicated to playing with wooden soldiers.

However, once the Soviets started threatening Middle East oil, Carter changed his tune. He drew a line of supposed American interest in the Persian Gulf, acting as though his ballpoint pen alone would deter the Russians.

Obviously, it didn't. Their troops remain in Afghanistan today.

And the reason they remain there is that the men of the Kremlin know the United States is becoming militarily weak because of a President who is unable to strike a realistic balance between the need for domestic programs and a strong America.

Within days after Carter adopted a more chesty Middle East stance last January, his own defense secretary, Harold Brown, told a Senate committee he could offer no guarantees that the United States was capable of winning a battle for the Persian Gulf region.

A few weeks later, Brown ordered the creation of a Rapid Deployment Force to start operating last March 1. But even then, defense officials admitted it probably would take several years before such a force could be expected to have impact in such remote areas as the Persian Gulf.

Clearly, the Soviets have gotten the jump on us. And clearly, we have a President who either cannot recognize that fact or may be recognizing it too late.

His Sunday school approach to his responsibilities—however commendable under other circumstances—has intruded. He has wasted three years of his stewardship, precious time that someday might cost Americans their freedom if not soon regained.

There is a direct relationship between strength and peace. Moynihan grasps that. So do many Americans. Unfortunately, so do the Soviets. However, that reality has yet to penetrate the rose-colored walls of Jimmy Carter's never-never land.●

VOLUNTEERISM APPLAUDED

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. ROTH. Mr. Speaker, Aid Association for Lutherans (AAL), Appleton, Wis., and Volunteer: The National Center for Citizen Involvement, Washington, D.C., are to be commended for their joint efforts to focus attention on those elements in society which are expected to significantly affect volunteers and the volunteer movement in this country for the next 10 years.

Both organizations are extremely interested in volunteers because of the various programs they foster. AAL, a fraternal benefit society, has more than 5,300 local branches throughout the Nation. Members of those branches—the 1.2 million people who are covered by AAL life or health insurance or annuities—often help others through projects in the communities where the branches are located. Volunteer, a primary resource for and strong advocate of volunteerism, carries out similar efforts through a growing network of more than 300 voluntary action centers (VAC's), which often are the focal point for community volunteering.

In April 1980, the first National Forum on Volunteerism was held at AAL's home office in Appleton. Leaders from all over the country got together to discuss what will happen to volunteerism in the decade of the 1980's.

Significant white papers had been drafted and shared with forum participants before the session to allow for advance preparation.

I am convinced that the results of this forum will have broad implications for volunteer groups of all types.

A report is being prepared now which will be shared with opinion leaders in the Congress, the executive branch, State legislatures, volunteer organizations, business, industry, labor and political groups, academic circles, and others.

My intent for sharing this information with my colleagues now is to alert them to this most important report which they can expect to hear more about later this year.●

CARL PERKINS HONORED

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. LONG of Louisiana. Mr. Speaker, tomorrow the chairman of the House Education and Labor Committee, CARL PERKINS, will be honored in a ceremony celebrating the 15th anniversary of VISTA—Volunteers in Service to America. He will receive a special award from Board Chairman R. Sargent Shriver for a long and distinguished career in the fight against poverty and illiteracy in this country.

The awards ceremony is the culmination of a bipartisan, privately funded 6-month salute which was organized to focus attention on VISTA goals of self-help and citizen participation. The ceremony also kicks off a "National Conference on Poverty in the 1980's" to be held June 13–15 in Washington on hunger and nutrition, education, health care, economic development, and other issues vital to low-income Americans.

I am pleased to be a member of the VISTA Anniversary Committee, and also to have served on a panel of the National Selection Committee which was set up to select honorees in 15 categories. I am particularly pleased that CARL was singled out for one of two special awards for exceptional leadership which will be presented tomorrow evening. I believe it is a well-deserved tribute to a man who has been an unsung hero for the cause of the poor in Congress. At this point, I insert in the RECORD the full text of the recommendation which was submitted to the VISTA awards selection panel:

AWARDS NOMINATION

During his 32 years as a Member of the U.S. House of Representatives, Carl D. Perkins has served a constituency far broader than his own. His Eastern Kentucky mountain district has strengthened the nation by providing an effective spokesman and tireless worker for the poor, the old and disabled, the educationally deprived, the hungry, and those whom the economic system has left behind.

He was born and brought up among the poor. Although a long career of honorable public service has brought him many honors and gained him wide recognition in the world, Carl has shunned the trendy sophistication of the hour. He holds fast the simple beliefs and direct action of his heritage.

Carl Perkins was an early advocate of Federal aid to education, a position spurred by his firsthand knowledge that the children of the poor were triply handicapped by inadequate schools, poor nutrition, and limited career opportunities. After years of stalemate in a hostile Congress, Carl at last prevailed by seeing his landmark Elementary and Secondary Education Act signed into law in 1965. He had sponsored the Vocational Education Act of 1963 which expanded and unified prior Federal programs in that field. And five years later, he steered to passage the 1968 amendments which authorized Federal support for vocational education on a scale never before thought possible. His long-fought-for Adult Basic Education Act became law in 1964.

Carl was an early and enthusiastic supporter of President Lyndon Johnson's "War on Poverty" and a key sponsor of the Economic Opportunity Act of 1964. During the early years of Office of Economic Opportunity efforts to stimulate jobs, training, health care, and organization of the underprivileged of society, Carl was the agency's champion in the House. Some of the more conservative interests of the House and of the country felt threatened by OEO's success, and the agency was threatened with extinction when it came up for reauthorization in 1967. Carl worked endless hours during the first months of his chairmanship of the Education and Labor Committee and glued together a successful coalition that astounded OEO's friends as well as its enemies.

When the Nixon Administration came to power in 1969 with the announced intention of dismantling the anti-poverty program, it was the silhouette of Carl Perkins that appeared on the battlements to rally the troops and wave the banner of the poor against the attack.

Carl's advocacy and strong leadership in enacting student aid legislation made it possible for thousands of poor young people to attend college and move on to successful, contributing careers in American life.

He is recognized throughout the nation for his work in support of child nutrition and school feeding programs to the immense benefit of poor children.

He has been a strong force for area development legislation which he views as a tool to provide jobs, decent public facilities, and an end to the isolation that weighs so heavily upon poor people.

Because he had seen hundreds of coal miners in his native Appalachia sicken and die with pulmonary diseases induced by coal dust in the work place, Carl wrote and literally hammered to passage the Black Lung Benefits Provisions of the Coal Mine Health and Safety Act of 1969. He thereby brought recompense to thousands of American miners and their families for whom industrial disability would have meant the end of income and the rapid descent into poverty and want.

There is no way to write a "short" catalog of the accomplishments of Carl D. Perkins. But there is every reason for recognizing by the VISTA award, the title bestowed upon him in the hearts of thousands of Americans: The Number One Public Servant of the Poor.●

CONGRESSMAN ROBERT DRINAN

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. OBERSTAR. Mr. Speaker, there will be time enough in the 97th

Congress for all of us to consider what the departure of Bob Drinan has meant to us as individuals and to this House as an institution. Today, I would rather reflect not upon that future loss but upon the enduring contributions of Bob Drinan during the past 10 years.

The House and the Nation have been enriched by his extraordinary intellect, integrity, commitment, and determination.

He acted in the best interests of the Nation, and never forgot the interests of the people of the Fourth District of Massachusetts. Bob Drinan has been a courageous fighter and articulate spokesman, often for controversial issues, in this House. Yet, Bob Drinan is the last Member of this House who would seek out controversy to gain transitory glory and fame. He brought to public service the benefits of a detachment that places little value on the immediate and the superficial.

His is a unique perspective. While he served most commendably and ably in the "city of man", his vision was of the "city of God." If torn between them, he never allowed the conflict to impede his responsibilities to his constituents, this Nation or this House. The manner in which he announced his decision to leave this House only affirms the constancy of the vision of Robert Drinan. While his position as a priest will cause us to lose Bob Drinan this year, it is from his deeply felt devotion to his vocation that Bob Drinan has drawn the insight, fervor, and compassion that has made him so deeply admired in this body.

I have been pleased by the much-deserved attention that our colleague has received throughout our country. On a recent trip home to Minnesota, I saw a most eloquent tribute to Bob Drinan by one of his fellow Jesuits. I would like to share with my colleagues a letter by Rev. Richard M. Rice, S.J., which appeared in the Minneapolis Tribune on May 24, 1980:

The Order to Drinan

I quickly learned that I was in for more of your bias as I read the article on the Rev. Robert Drinan (May 5). The article was filled with inaccuracies that show again your ignorance of the Catholic Church and the ignorance of the Associated Press. The one-sided emphasis on Drinan's concerns I can excuse as you amplified his years in Congress in your May 6 article.

I have the most trouble with the point of view of your headline, "Catholic Church orders Drinan out of politics." That is certainly muddled thinking. The Catholic Church and the pope or general of the Jesuits are not exactly synonymous, and "orders Drinan out of politics" is simply not the case. Rather, he was ordered out of elective office.

I would have thought you would have more desire to present the whole truth and to uplift the human spirit. From my viewpoint, I thrill that a brother Jesuit would choose to submit to his superiors and remain a priest, so clearly his basic identity, when forced to choose between that and political office. Drinan came to public attention for his integrity in the Nixon era, and he bows out with the same integrity. He deserves better from you and so do we all.—The Rev. Richard M. Rice, S.J., Edina.●

DO SCIENTISTS HAVE A RESPONSIBILITY TO PROTECT THE HUMAN RIGHTS OF COLLEAGUES?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. BROWN of California. Mr. Speaker, recently, in response to the arrest of physicist Andrei Sakharov, by Soviet authorities, the Committee on Science and Technology reported House Joint Resolution 534. That resolution would define national policies with regard to scientific and technical exchange with the Soviet Union. While condemning the arrest and exile of Academician Sakharov, the committee recognizes that violations of scientists' human rights and academic freedoms have occurred many times in the Soviet Union and other nations such as Argentina.

Scientists have, I believe, been slow to recognize their responsibility for taking concerted action to protect colleagues as well as intellectual freedoms, but some organizations, such as the American Physical Society, have come to recognize the importance of professional efforts to champion the human rights of scientists and scholars. Since the Congress will be considering legislative proposals dealing with this issue, I commend for my colleagues an excellent article which appeared in the January 1980 issue of Technology Review. The article summarizes well the growth of human rights concerns among the American scientific community. I note particularly that the examples given illustrate the importance of actions by both scientists and political leaders to protect the human rights of scientists and scholars.

From time to time over the next several weeks, I will include here other articles which I hope will help us in formulating the proper long-term role of human rights in national science and technology policy.

A slightly edited version of the article, for length reasons, follows:

Science and Human Rights

(By Earl Callen, Bernard R. Cooper, and John Parmentola)

Science and human rights—in fact science and activism of any sort—seem unlikely partners. How can we explain the preponderance of scientists among Soviet human rights activists—numbers too great to be explained by coincidence? Is it due to the example of the great Sakharov? Or is it something peculiarly Russian? Scientists are supposed to be thing-oriented, introverted, lost in gedanken experiments in their ivy-covered monasteries. Human rights is supposed to be the domain of the other culture, the humanists.

This article attempts to show that the role of the scientists as freedom fighter is not as alien as it seems. We shall describe the evolution of a commitment in the American science community—widely shared and growing, albeit of a lesser intensity than that of the beleaguered Soviet reformist comrades. In particular, we shall describe the evolution of social consciousness in the American physics community and in its professional organization, the American Physical Society.

To the scientist, the search for understanding is a flight of the spirit. To fly free one must be free. Long before President Carter made human rights fashionable, and long before other professional societies had begun to discuss the propriety of social action, natural scientists and their societies were forming human rights committees and were petitioning, protesting, and boycotting.

THE OLD ORDER: SCIENCE, NOT SCIENTISTS

Individual oppressed scientists, especially in the Soviet Union, have led the evolution of social consciousness in the scientific community. For years Andrei Sakharov spurred us on. In 1975, charges by Yuri Orlov that international scientists, and especially the American National Academy of Sciences, could do much more, helped force that once-reticent body into a more aggressive stance. For scientists have not always been involved in human rights. Forty years ago during the Nazi regime, when many persecuted scientists were well-known and often personal friends and colleagues as well, the American scientific community took no stand. Those were problems of scientists, not science. The scientific ethic of the time was that, whatever his or her political and social beliefs, the proper scientist remained silent. We possessed neutral skills and knowledge independent of values, we served science and society best by providing objective expertise without ideological trappings. It was a misrepresentation to use platforms gained by professional eminence to espouse causes into which our special but limited skills gave us no insight.

This was the prevailing view, but of course not all scientists subscribed to it. A notable exception was Albert Einstein, who took a political stand long before he himself became a victim of Nazi persecution. Einstein never hesitated to take positions on pacifism, Zionism, racism, and Human welfare.

What was deemed proper for the individual scientist was even more appropriate for professional associations. For example, the constitution of the American Physical Society states that, "The object of the society shall be the advancement and diffusion of the knowledge of physics." From the founding of the A.P.S. in 1899 until the past decade, "physics, not physicists" was the shibboleth of the society, as if physics was something that existed in and of itself, rather than as a human activity. This view was a barrier to every human rights initiative. The A.P.S. published technical journals such as *The Physical Review,* organized scientific meetings for the dissemination of research results, elected largely honorific officers, and did little more.

Perceptions of science as a human activity have percolated slowly and far from completely into the consciousnesses of working scientists. Because of the rapid progress of science, "generations" can be defined in terms of 10 or 15 years. These generations also represent differences in the development of social attitudes. The evolution to a heightened social conscience among scientists began with Hiroshima, grew with the civil rights movement, and was strengthened during opposition to the war in Vietnam. However, the continuing groping for the appropriate degree of social commitment is complicated by the fact that these events of the past 35 years have had different effects on different generations.

But it was the war in Vietnam that finally routed "objectivity." For a decade, young scientists observed their elders in supposedly objective, value-free work—developing laser-guided bombs, electronic fences, infrared missile-guidance systems, magnetic mines, and computerized warfare. Attempts to discuss context—"why" as well as "how"—were rejected as inappropriate for a society chartered to advance and diffuse the knowledge of physics (not to consider its social milieu).

Today, in marked contrast, members regularly discuss social issues at A.P.S. meetings. For example, there have been discussions of the war in Vietnam, the antiballistic missile, supersonic transport, arms control and disarmament, energy, pollution, nuclear reactor safety, nuclear proliferation, appropriate technology, classification of scientific secrets, "whistleblowers," privacy, employment guidelines, the job crisis, and the status of women and minorities. The A.P.S., not without controversy, has resolved to hold its national meetings only in states that have ratified the Equal Rights Amendment.

BACK IN THE U.S.S.R.

Over the years presidents of American scientific societies have written increasingly strong letters on behalf of the Russian refusniks and dissidents. Academician Keldysh sometimes responded. His successor as president of the Soviet Academy of Sciences, A. P. Alexandrov, has over the years sent only one terse response to many remonstrances. This does not imply that Alexandrov is less sympathetic than Keldysh was, or that our letters are less useful. Even when the Russians respond to American pressure, they take great pains to conceal it. It is a thoroughly unscientific but serious game we scientists are playing.

The 1973 International Conference on Magnetism held in Moscow taught American scientists much more than magnetism. Witnessing fellow scientists barred from an open, unclassified, international meeting—by Soviet soldiers with rifles—raised the consciousness of many Americans, and American scientists have aided Soviet refusniks continually ever since.

Refusniks are not only fired from their jobs; they are often barred from research institutes, colleges, and libraries and are generally shunned by the Soviet scientific community. To help relieve their isolation, the A.P.S. has mailed them gift subscriptions of scientific journals. But the journals and ordinary letters reach the addresses only intermittently.

STATE OF SIEGE

So far we have discussed only the Soviet Union, where there is a continuing number of cases and problems. Several other countries also have severe human rights problems, but the number of cases involving scientists is smaller. The plight of Roger Posados in the Philippines is one example. Posados, a theoretical physicist, returned to the Philippines in 1970 after receiving his Ph.D. from the University of Pittsburgh. He is one of only ten physics Ph.D.'s in his country. As assistant professor and chairman of the physics department at the University of the Philippines, Posados organized a group calling for increased funds for science and for educational reform. In 1971, he was branded "subversive" and went into hiding. In January 1976, Posados, his wife (also a physicist), and their four-year-old son were apprehended and Posados was beaten.

Mrs. Posados was released after five months. The struggle to get Roger Posados released was much longer. Letters to President Ferdinand Marcos and pressure by U.S. officials helped to finally get Posados released from prison in September, 1978. He has now been allowed to return to his job.

Eastern Europe is a problem area. Because of a supposed attempt to visit Vienna while attending a conference in Warsaw, young Romanian scientist Constantin Pomponiu was denied governmental validation of his doctoral degree. Influential members of Congress intervened, using the Jackson-Vanik "most-favored nation" amendment as leverage. Pomponiu was allowed to leave Romania in October, 1978.

In Czechoslovakia repression has intensified over the past two years. Physicist Vladimir Lastuvka, in prison since January, 1977, is charged with "intent to sign" Charter 77, a grass-roots petition affirming the Helsinki Accords.

The human rights problems under the many dictatorships in South America are well-documented. Argentina, Brazil, and Chile are of particular concern to scientists because of the large scientific communities in those countries. But perhaps we should use the past tense—in Chile and Argentina scientific communities hardly exist anymore. Politically active Chilean scientists who supported former President Allende fled that country with the coup. Those who remained have suffered. At the University of Chile, the University of Concepcion, Austral University, and the private Technical University of Santa Maria, about 30 per cent of the faculty have been "purged." Of the 22 physics faculty members at the University of Santiago at the time of the coup, 2 remain; of the 34 chemists, 11 remain; of the original 45 professors in the natural sciences, 7 remain.

In Argentina the situation is even worse. The military government under President General Jorge Rafael Videla looks aside while parapolice and vigilante groups, often in uniform and carrying official identification, openly kidnap and murder citizens. Under the "state of siege," in effect since the junta seized power in March, 1976, the crackdown on leftists has broadened into an attack on all independent intellectual activity. "Intellectual subversion" has been defined as a form of terrorism. Freud and Marx have been branded "ideological criminals" and psychiatrists, psychologists, and mental health workers have been all but wiped out. The entire 140-person staff of the Assistance Centers for Children with Learning Problems was fired.

A half-million persons have fled the country since the coup. About 40 per cent of the Argentine Physical Society—some 120 physicists, including the former president of the society and almost the entire governing council—have either been fired from their jobs or have fled the country. Military officers run the universities. Many people have simply disappeared; others have been tortured. Many have been murdered in prison. There are secret prison camps at military bases. Few who enter these prisons are seen again.

Ernesto Silve, professor of chemistry at the National University of Rio Cuarto, Cordoba, was arrested and tortured. Officials explained that Dr. Silve committed suicide in his prison cell.

Eduardo Pasquini, a physicist at the National University of Rosario, disappeared with his wife, a psychologist, on June 10, 1976. Neither has been seen since.

Maximo Pedro Victoria, a physicist at the Atomic Energy Commission in Buenos Aires, was gagged and blindfolded and taken from his laboratory at gun point a week after the coup. On a navy boat at the pier, he was beaten with guns and sticks, and thrown in an isolation cell. On one occasion Victoria and 50 other political prisoners were beaten for one entire day. They were then made to sign statements that their wounds were self-inflicted. Ultimately, seven months after their arrest and still uncharged, Victoria and seven other A.E.C. scientists were released.

Antonio Misetich, a physicist formerly of M.I.T., was arrested by police on the night of April 19, 1976, and imprisoned without charges. Initially his detention was acknowledged by the Argentine Embassy and by the Argentine A.E.C. Later, the government of Argentina claimed that the original acknowledgement was an error, and that Misetich is not and never has been in custody. Misetich has not been seen since his arrest. Numerous letters have been sent to President Jorge Videla about Misetich and others, but no answers have been received. Delegations of physicists have twice visited the Argentine Embassy in Washington. The American ambassador to Argentina and the U.S. State Department have tried to help, with no results.

The Argentine Assembly for Human Rights has documented more than 4,500 such disappearances since the coup. The United States Embassy in Buenos Aires, under President Carter, has been as forceful as its limited leverage allows. (This was not the case under the previous administration.) The Catholic Bishops of Argentina have been helpful, but the United States business community in Latin America, which could be an effective force, has not been.

ARE SCIENTISTS SPECIAL?

We have presented a brief history of how scientists have recognized, individually and through their professional societies, the tie between the protection of human rights and the progress of science. But attitudes don't change overnight, and social awareness among scientists is continually evolving. One question we have had to grapple with is "Why are we making a special fuss about scientists?" Is it because of an arrogant assumption that scientists are more important than others?

We hope that the honest answer to this disturbing question is that we act in aid of scientists because we are scientists. They are our people. We know them and we know the mechanisms by which we can help them, the institutions and the pressure points. We can marshal our own worldwide community on their behalf. We hope the shoe makers are doing something for the shoe makers, and we support organizations of broader scope, such as Amnesty International. Meanwhile we do what we can.

Even within and beyond groups there are delicate distinctions. For example, compare our relations with the Russian refusniks and with the dissidents. The dissidents want to change the Soviet Union. The refusniks simply want to leave it. The American professional societies have decided they cannot reform Soviet society. Thus, there was considerable soul searching when Yuri Orlov was arrested for publicizing violations of the Helsinki Accords.

To the reader, these Kafkaesque distinctions may sound pretentious and trivial when human life hangs in the balance. Things could be worse. The American Association for the Advancement of Science has a Clearinghouse on Science and Human Rights. Thirty-three scientific societies belong to the clearinghouse, but of these, only a handful—the chemists, mathematicians, physcists, psychiatrists, and psychologists—have become actively involved in human rights. It is easy to become discouraged that not enough is being done, but the professional societies of political scientists, sociologists, and medical doctors are still debating about whether human rights is an appropriate professional concern.

The scientific societies that have become active in human rights have done so only because there is a consensus—and some activists—among their membership. When the Soviets sentenced Yuri Orlov and Anatoly Shcharansky last spring, 2,400 American scientists reacted, including 13 Nobel laureates, 113 members of the National Academy of Sciences, 18 past or present directors of major scientific laboratories, and 20 past or present presidents of national scientific organizations. The 2,400 scientists signed pledges to "withhold all personal cooperation with the Soviet Union," to oppose the expansion of exchange programs, to boycott international conferences in the U.S.S.R., and to work against technology transfer and the granting of most-favored-nation trade status to the Soviet Union. The action was even more remarkable because it was spontaneous. The organizer, Scientists for Orlov and Shcharansky (S.O.S.), is an informal (and so far, unfunded) group of mostly West Coast scientists, friends of Orlov, who decided to protest his imprisonment and try to help him. Perhaps because the boycott is so clearly a grass-roots effort, the Soviet response has been huge and high-level. Valentin Zorin, one of the top Russian political commentators, inveighed against the boycott in a broadcast beamed at the United States from Moscow. A page-long article was published in *Pravda* and signed by two vice presidents and the chief scientific secretary of the Soviet Academy of Sciences. And we have learned that members of the Soviet Academy have discussed the consequences of the boycott for Soviet science. The Russians know that they benefit from the influx of ideas from American science, and they are worried. But are they worried enough to release Yuri Orlov from prison?

Activism is spreading among Western scientists. The Dutch have always been very active in human rights and lately the French scientific community has grown more militant. In Germany, at a nuclear physics symposium in May, and in spite of the protestations of the Soviet delegation, 50 scientists signed a statement asking for Orlov's release from prison.

While unofficial groups in Britain, notably those associated with physicist and human rights author John Ziman, have an outstanding record on human rights, some of the United Kingdom scientific establishment has dug in its heels. In his 1977 presidential address to the British Association for the Advancement of Science, Sir Andrew Huxley argued that "The persecutions of the present day are not directed against scientific doctrines or against scientific enquiry as such; they are directed against individual citizens who have had the courage to speak up against oppressive features of the regimes under which they live * * * The appropriate reaction therefore comes from us not as scientists, but as citizens * * * If a scientific body publicly takes a step whose justification is political and not scientific, it will lose the right to claim that it is acting purely in the defense of science."

To many of us in the United States, the separation between "science" and "scientist" seems less clearcut than it does to Sir Andrew Huxley. We see the growing human rights involvement of the American scientific community as an integral part of its broadening definition of what constitutes "science." The continuing evolution of the commitment of American scientists to human rights does involve a conflict. On one hand, there is a yearning for purity and detachment, but on the other hand, there is a growing recognition that science is as complex and "dirty" as any other human endeavor.

We quote from the address of the outgoing 1977 A.P.S. president, George Pake: "Part of our heritage in the United States is a deep concern for human rights. This concern is a legitimate province for the American Physical Society when physicists or scientists anywhere have their basic human rights abridged, because the fundamental purpose of A.P.S. as a scholarly society is thus inhibited. * * * That purpose is stated in the A.P.S. constitution to be the advancement and diffusion of the knowledge of physics. If the governments of nations interfere on political grounds with the ability of physicists to engage in research or with their freedom to publish or travel in diffusing knowledge of physics, there is interference in achieving our purpose."

We are pleased that a community dedicated to the advancement and diffusion of the knowledge of science finds within the penumbra of its mission the advancement and diffusion of human rights. We are proud to be a part of that community.●

MOUNT ST. HELENS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. BONKER. Mr. Speaker, in my recent trip to Washington State to investigate the devastating effects of the eruption of Mount St. Helens, I discovered that one of the most pressing and difficult problems to deal with was the psychological effects of the tons of ash, the threats of flooding, the uncertainty about what the mountain will do next.

Mr. Jim Mitchell, the mayor of Morton, Wash., a small town at the foot of the mountain, has written one of the best descriptions of this psychological damage. I commend it to the attention of my colleagues.

The article follows:

MOUNT ST. HELENS

(By Jim Mitchell)

In my opinion, psychological damages are among the worst results of the Mt. St. Helens eruption. As usual, American people were drawn together in a time of emergency, doing whatever necessary to overcome the immediate problems. However, after two weeks, people in the shadow of the mountain are still battling the effects of the eruption. But, with a noticeable change in attitude. Depression has become very apparent in all walks of life as the long range problems become more and more a reality.

It is a general comprehension that ash fall-out, may be, for an undetermined length of time, a way of life. It becomes a matter of coping and living with understanding the problem or moving out of the area. Many people will leave. Primarily, because of future eruptions, fears of health problems, namely possible long term lung damage from unavoidable inhalation of the fine ash particles, working conditions in the woods in the foreseeable future, and finally, loss of jobs in areas that will be closed and unworkable for an undetermined period of time.

Through sheer will and determination, our towns and homes will be cleaned and the eruption effects will not be visible. However, consider the farmers, loggers and others that depend on wood work for their livelihood. Logging this summer in the ash fall-out areas will be nearly disastrous for both men and equipment. Anything mechanical will suffer damage. It doesn't take much imagination to visualize the breathing difficulties involved in yarding and hauling of logs or the combination of exhaust and find wood particles mixing with the ever present ash in chain saw operation. The life expectancy of chain saws will be very short as filters are not designed to exclude ash particles, and chains will be dulled immediately unless a very expensive diamond point type is used.

Hopefully, in the not too distant future, the eruption of Mt. St. Helens will be history. The Spirit Lake area will most likely become a state park with monuments to honor the lives lost, viewed by tens of thousands visitors. Local people will not forget May 18, 1980 or the days and weeks that followed. Most of us will remember the bonds of working relationships, cemented by common need and the will to survive.●

GREEN NOTES CABRINI CENTENNIAL

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. GREEN. Mr. Speaker, Saint Francis Xavier Cabrini founded the Institute of the Missionary Sisters of the Sacred Heart in 1880 to perpetuate her work in caring for the immigrant, the poor, and the sick. She came to the United States from Italy in 1889 to continue addressing the needs of others in health care, education, and pastoral ministries.

The Cabrini tapestry of kindness and compassion which began in service to Italian immigrants has, through the years of service, expanded to include in its vision all people in need of care and education. The presence of the Cabrini Sisters in the field of teaching has done much to mold the shape of Christian education in America as they continue to bring life to Mother Cabrini's belief in teaching as kindness and kindness as teaching.

Her work, adapting itself to changing times, continues to flourish in full vigor. Mother Cabrini High School and Cabrini Medical Center in New York are just two local examples. As in 1892, the first concern of the Sisters and everyone else at Cabrini Medical Center is to serve the city's people with love and respect.

This year marks the 100th anniversary of the institute, founded on November 14, 1980. Because America is justly proud of its great citizens and seeks occasions to remember and honor them, I wanted to share this important celebration with my colleagues.●

GO WITH GOD, FATHER DRINAN

HON. DAN FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 11, 1980

● Mr. FUQUA. Mr. Speaker, seldom are we privileged with the opportunity to serve our country side by side with such an able colleague as Fr. Robert F. Drinan, a man who has given so much of his life to working for others.

As a priest and as a Congressman, Father Drinan has been an inspiration to all.

There are too few words to express the deep appreciation we feel for having had the pleasure to serve with him.

Go with God, Father Drinan, as you always have.●

PROFESSIONAL ENGINEERS SET AGENDA FOR ACTION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. RITTER. Mr. Speaker, last week I was privileged to have accompanied spokesmen for the National Society of Professional Engineers to the Republican National Committee platform hearings in New York. As a member of NSPE, and as one of the few engineers in Congress, I have been deeply impressed at the intelligent and forward-looking approach to meeting America's challenges offered by NSPE. The testimony is an excellent capsule summary of NSPE's efforts to improve and encourage American technology and innovation, as a vital part of the solution to our national economic, energy and environmental problems.

I believe my colleagues will be interested in hearing what NSPE had to say, and I would like to have the testimony of NSPE's president, Sammie F. Lee, reproduced for that purpose.

The text of Mr. Lee's testimony follows:

My name is Sammie F. Lee and I am the president of the National Society of Professional Engineers. I come to you today on behalf of engineers from all disciplines and in cooperation with several of our liaison societies within the engineering community. I speak on behalf of NSPE's 80,000 members and am pleased to submit to you separate statements from our colleagues in the other societies.

We would like to comment today on the need to improve American technology and the innovation process, particularly as they relate to inflation, energy, the environment, and other national problems. We choose this approach because technology is essential in solving many of our problems and we are deeply concerned over America's weakened ability to initiate technological change, which is the essence of the innovation process. In our testimony we will summarize the problem and recommend platform language that will commit the party to seeking appropriate solutions.

Technology might be thought of as a partnership involving four principal members: the university, industry, government, and the public. The university provides the partners with research and trained manpower. Industry employs the manpower, contributes to the research, and, using the marketplace as catalyst, provides society with material goods. The government provides policy on the overall application of technology, and the public, until recently a silent partner, comments quite vigorously on the outcome.

The innovation process depends on each playing a proper role, and success is a function of harmony among the members. Our current dilemma concerns growing tensions in the partnership. The cause of this is complex, and the symptoms reach into every technological endeavor. But the consequences are quite clear. Unless corrected, our ability to innovate and produce goods will decline and leave in its wake a deteriorating nation.

The scope of these proceedings does not allow a complete analysis of the problem, so let me simply characterize some of the tensions I alluded to. Our universities suffer from inadequate financing for research and technical facilities. They blame increasing restrictions on government grants, decreasing industrial support, and inadequate operating budgets. Industry, faced with the myopia of inflation, can no longer focus on the long-term benefits of research and instead looks to short-term gains. It feels increasingly restricted by regulations that dampen initiative. The public meanwhile is demanding more say in technology as it relates to social policy and it is frustrated over a perceived lack of impact.

The tensions go on and on and in each case the partners seem confident in their own ability but increasingly skeptical of the others. The government's role in all of this is more difficult to pin down. In a comprehensive study on the role of government in the innovation process conducted at MIT, the authors looked to other industrialized nations for comparisons with what they found in the United States. With particular reference to nations that now surpass ours according to several important measures of industrial success, they found highly coordinated government policies that support and stimulate the innovative process. In stark contrast, they found that our government provides "no major, across-the-board support for civilian technology." Rather, there is a patchwork of individually conceived and often conflicting policies that generate conflict, not coordination. The failure to stimulate technology through coordinated policies is, we contend, weakening our ability to innovate more than any other single factor.

But what are the consequences of this, and how do they relate to the other national problems that the pollsters tell us are most on the voters' minds?

PRODUCTIVITY

Consider inflation. Two causes of inflation are a push-pull economy where too much money chases too few goods and the occurrence of some catastrophic event like a dramatic rise in oil prices. Today we suffer from both. Under the first cause, a logical solution would involve producing more goods. But our rate of productivity growth is declining. Where we once led the industrialized world with a plus 3 percent growth rate, we now trail our competitors, and we are actually approaching a negative figure. The causes are no mystery: diminished research and development, lack of investment capital, regulation that restrains initiative, conflicting taxation—many of the same causes that plague our innovation process.

The relationship here is no coincidence, and the implications are grave. Increasing productivity means producing more goods with less effort, and innovation is responsible for it. To solve inflation we must raise productivity which first requires that we cure our innovation ills. By untying the knot of conflicting government policies that retard innovation we will take a major step toward solving inflation.

The nation's engineers urge the party to target improved productivity as a national priority and to reflect this in a separate plank in the party platform. Consequently, we urge the following platform language:

Growth in productivity is essential in solving inflation, improving our standard of living, and increasing our competitive edge in the international marketplace. Improving productivity is a national priority of the highest order.

ENERGY

Inflation's second cause and the nation's other leading problem is the cost of energy, and again the most promising solutions involve innovation. The course we should be taking is clear. While we remove all barriers to domestic oil production and convert to better utilization of our abundant coal supplies we should pursue every other feasible energy source. That would include natural gas, nuclear, geothermal, hydro, solar, and others. There is no shortage of options, only barriers to pursuing them.

Take the example of nuclear, both fission and fusion. The engineering community is confident that fission can provide a reasonably safe energy source. Whether it will draw on dwindling uranium supplies or achieve self-sufficiency will depend on a decision concerning reprocessing and the breeder reactor. But the barrier here is government indecision. While other leading industrialized nations pursue this technology, the United States stalls over an inability to set clear policy. We support the Clinch River breeder reactor. More importantly, we urge the development of clear policy leading to unequivocal decisions. Government uncertainty and cumbersome policy are the biggest barriers in solving our energy crisis.

We also urge the development of the necessary technology and the streamlining of regulations to permit exploitation of our vast coal resources.

On the fusion side of nuclear energy, we support proposals to begin the engineering phase of work on a fusion demonstration plant. But despite encouraging evidence of the engineering feasibility, economic pressures make it impossible to free the needed capital to trigger the innovation process. We are the best equipped nation in the world to tap this promising energy source, and we are prevented from doing so by our inability to form the capital.

An essential companion to the development of new energy sources is conservation. That, too, if properly understood, involves innovation. More efficient designs in everything from consumer goods to production systems will enable us to do more with less energy. But again, we must innovate to achieve this goal.

Consequently, the engineering profession urges the following platform language:

All economically feasible domestic energy options should be developed and coupled with a vigorous long-term national effort on energy conservation. Environmental constraints on energy development must be balanced with the nation's need for adequate energy supplies.

ENVIRONMENT

Working to provide a cleaner environment illustrates the dynamics of our technology partnership both as it is and as it can be. The public is demanding a cleaner environment. The government must set and enforce standards. Industry must innovate to remove pollutants and to provide cleaner methods of production. Everyone agrees on the goal. However, determining the best strategy for achieving it has generated considerable tension. The controversy centers on the issue of regulation.

Experience is a good teacher, and we have learned that environmental regulation works best when it works with, rather than against, market incentives. For example, several years ago the government set out to regulate automobile emissions and fuel economy. Today our cars are operating well in advance of legislated economy standards because competitive forces joined in to stimulate major innovations. Emission standards were not stimulated by the marketplace, and they encouraged cumbersome retrofits to old technologies rather than significant innovations. The previously mentioned MIT study dealt with the subject of regulation and innovation and concluded that "actions which complement normal competitive pressures for change on an industry often appear to be more effective in promoting innovation than those that do not relate to market forces." We concur with that observation, and we call for a "systems" approach to environmental regulation.

A systems approach would do more than look for market forces. It would analyze the complete process to be regulated, and any attempt at change would complement the workings of the process rather than destroy it.

With this concept in mind, we urge the following platform language:

To achieve the nation's clean air and water goals an effective systems approach to environmental regulation should be taken which balance developmental needs with environmental concerns.

Water is a finite resource which is growing more precious each day. Like energy, with which it is closely interrelated, availability of adequate water supplies is critical to the economic and social well being of our nation. Development of adequate water for all uses requires clear and supportive national policy. There must be dependable funding support for water resource development with the federal government assuming the financial burden for development where the benefits are national or regional in scope. Local interests should share in the cost when they are the direct beneficiary. A long range national water plan must be developed and followed if we are to avoid the "water crisis" of the year 2000. Technology and the application of engineering skills will again be the answer to producing useable water and keeping it clean.

To accomplish this, engineers urge the following platform language:

Aggressive development of our national water resources using both federal and local funding is essential. To coordinate this effort, an effective national water policy body is necessary to oversee the planning and execution of water resource development.

The issues that we have raised are not isolated events. It is clear from our perspective that lagging technology and faltering innovation will erode our ability to provide goods and services regardless of the particulars under discussion. To see the importance of this in the rapidly changing world we now face, we need only to consider the challenges ahead. In transportation we must launch bold new systems while we maintain our current ones. In national security, where our shipbuilding technology has left us terribly vulnerable, we must innovate or pay serious consequences. In the barely publicized area of critical materials, we are growing more dependent on foreign sources for cobalt, chromium, manganese, and other substances that are on the verge of being the bases of new, more perilous cartels than the one we face in oil.

But engineers are problem solvers, and we would not leave you on a pessimistic note. We have tremendous confidence in our ability to innovate. The nation's eagerness to do this is reflected in the overwhelming number of young people who are entering engineering schools and the number of jobs that await them. Unfortunately, we must burden even this good sign with caution, but it reflects on the overall problem. The quality of engineering education is strained with a litany of problems that includes declining math skills in secondary education; declining numbers of graduate students and faculty members who are lured away from higher education by higher salaries in the private sector; and the rapid obsolesence and high cost of laboratory equipment, just to mention a few. But these, too, are correctable with the proper stimulants and clear national policy guidance.

So in our recommendation to the party platform we are making one straightforward request: liberate the innovation process. The four partners in technology and innovation, including the government, are all quite capable of performing their own tasks. We have full confidence in each of them. We simply require clearly defined government policy that will stimulate and support innovation and the application of new technologies.

In our recommendations we are commenting only on areas where we have expertise, leaving other essentials in innovation such as capital formation and tax reform to the experts in those areas.

In summary, we ask the party to recognize technology and innovation as the fundamental elements in solving many of our national problems. To do this, we urge the adoption of a separate platform plank that should begin in the following manner.

TECHNOLOGY AND INNOVATION

Technological innovation is essential in solving many of our national problems. It is the government's responsibility to remove unnecessary barriers in the innovation process and to support the development of technology through policies that stimulate and coordinate the proper use of our resources.

Furthermore, we suggest that the Technology and Innovation plank include the following elements:

1. Greater emphasis on applied engineering research to solve specific problems by:

(a) Stimulating joint industry-university engineering research through tax incentives and a "seed money" approach to federal grant money.

(b) Relaxing antitrust provisions as they apply to joint engineering research ventures.

(c) Assigning a broader scope of mission to our national research laboratories.

(d) Developing guidelines for the overall coordination of government support to technology through federal funding and procurement policies.

2. A systems approach to regulation that would include:

(a) Greater emphasis on the cost-benefit and risk comparison considerations of proposed regulation.

(b) Encouraging innovative compliance technology through greater attention to competitive market forces.

(c) Providing adequate lead time to avoid ineffective retrofits when regulation requires significant alterations to the infrastructure of a process.

3. Patent law reforms that would:

(a) Provide greater incentives to those who are working on innovations under federal contracts.

(b) Give greater patent protection to improve the less than 50 percent chance a patent now has of surviving a court challenge.

4. Manpower policies to assure adequate supply, quality, and utilization of engineers.

Mr. Chairman, ladies and gentlemen, on behalf of the engineering profession I thank you for this opportunity to comment.●

MODERN HEROICS

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. SHELBY. Mr. Speaker, it is a rare opportunity to know a modern-day hero, but I happen to have that pleasure. Bill Cate, a longtime friend and former classmate of mine from the University of Alabama who resides in Birmingham, Ala., recently put to rest the notion that we are a people who choose not to get involved when confronted with a crime taking place.

One afternoon in April 1980, Bill Cate came upon a middle-aged woman lying in the middle of a Birmingham street. Aware she was no derelict and sensing some sort of trouble, Bill stopped and went to her aid. He found a woman crying—shaken and in pain after having been jumped, beaten, and robbed by two men. She was pointing up the street in the direction her assailants had fled but Bill could see no one fitting her description of the two muggers. Determined to avenge this foul deed, Bill jumped in his truck and searched the immediate vicinity to no avail. Returning to the woman's side he suddenly glimpsed the two assailants dashing across a vacant lot. Again, Bill got behind the wheel of his truck and the chase was on. Keeping his eye on the two men and on the lookout for police assistance, Bill was able to flag down a patrol car and direct the police to the barbershop into which the men had ducked. The assailants were apprehended—thanks to Bill's perseverance.

Bill Cate is a credit to his community of Birmingham, Ala., and to the firm of Merril Lynch, Pierce, Fenner & Smith, where he serves as vice president of the Birmingham office. His voluntary action on that April day should serve as a reminder to us all never to look the other way. You never know when you might be the victim lying in the middle of the street in dire need of another citizen's help.●

HOUSE OF REPRESENTATIVES—*Friday, June 13, 1980*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, with all the complexities and challenges of daily living and the anxieties and perplexities the people face, we open our hearts to Your word of power and strength. Speak to us as You have spoken in ages past and grant us the awareness of Your providence. To those who are ill grant healing, to those who feel alone and forgotten give the faith that You are ever with them, to refugees and hostages who are separated from family and friends may Your spirit give assurance and comfort, encouraging people always with Your promise of hope. Bless us all and grant us Your peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendment of the Senate to a concurrent resolution of the House of the following title:

H. Con. Res. 307. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983 and revising the congressional budget for the U.S. Government for the fiscal year 1980.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate No. 18 to the bill of the House titled:

H.R. 3979. An act to repeal and amend certain laws regulating trade between Indians and certain Federal employees.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to rule XLIX, as a result of the adoption by the House and Senate of House Concurrent Resolution 307, the Chair announces that House Joint Resolution 569, to provide for a temporary increase in the public debt limit, and House Joint Resolution 570, to provide for a temporary increase in the public debt limit, have been engrossed and are deemed to have been passed by the House.

The Clerk will notify the Senate of the action of the House.

REPORT FROM NICARAGUA

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, on Tuesday the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from North Carolina (Mr. NEAL), the gentleman from Texas (Mr. HANCE), and I returned from a trip to Nicaragua where we talked at the request of President Carter with leaders in the Government, the church, the press, and the business community. The following three unanimous conclusions we want to report to the House:

First, we find that the direction of the new Government in Nicaragua is still to be determined. Most of the leaders are young and groping for direction and while there are Marxist elements present, there also are strong democratic elements which emphatically have not given up in their effort to create a free society in Nicaragua.

Our second conclusion was that we clearly have done the right thing in approving financial loans to Nicaragua. Every element of Nicaraguan society—including spokesmen for the church, the press, businessmen, and the political parties which oppose the Sandinistas—told us that the $75 million loan from the United States is the single most important contribution which anyone can make toward the establishment of political liberty in Nicaragua and toward improving relations between Nicaragua and the United States.

Finally, we would like to report the conclusion that most people in Nicaragua do not want to be dependent upon Cuba. They do want to live in a free society, and we are convinced that—in spite of unfortunate incidents in the history of the bilateral relations between our two countries—there still exists an underlying friendship for the United States.

H.R. 3434, SOCIAL SERVICES AND CHILD WELFARE ACT, TITLE XX FUNDS

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FORD of Tennessee. Mr. Speaker, a calamity of major proportions is facing millions of citizens represented by the Members of this Congress. We can no longer sit idly by and let critical human needs go unmet.

H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979, increases the statutory ceiling on Federal funds for title XX social service programs. Now that consensus has been reached by both the House and the Senate on the second budget resolution of 1980, action can be taken on H.R. 3434. It is essential that we act quickly when the conference report on this legislation is introduced next Tuesday.

Unless both the House and the Senate act by July 1, vital social service programs under title XX will have to operate at a 1972 ceiling level of $2.5 billion. To operate at such a low ceiling means a 37-percent reduction in vital title XX services in Tennessee alone for the year. For instance in my district, we are talking of a loss of $4 million, down from $10 million to $6 million.

In addition, and very importantly, employees of programs having to operate on a level of $2.5 billion will receive no cost of living increases and, in many situations, will be faced without a job entirely, as many programs are being elminated and shut down.

This Congress has a responsibility toward the underprivileged citizens of this land who are affected by these programs. As times become more financially and economically difficult, more people will need these types of social services. Unless we act by July 1, we will see a decrease in the number of services to be offered, while there will be an increase in the number of people needing these services.

This extremely important legislation now faces obstacles in Congress that may cause hardship and social disorder. We would be extremely irresponsible if we allowed this to happen.

NO DEMOCRACY IN LEGISLATIVE PROCESS ON BUDGET RESOLUTION

(Mr. WEISS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WEISS. Mr. Speaker, yesterday, during consideration of the budget resolution, this House witnessed such a rude violation of the accepted norms of legislative debate as to make a mockery of the claim that this is a deliberative body.

Even though respected senior and not so senior Members of the majority, opposed to the resolution sought time to express their position; even though there was so much time available that he yielded back, unused, more than a third of the time allotted to the majority, the distinguished chairman of the Budget Committee, in a display of arrogance, perhaps unparalleled in the history of this body, absolutely refused to provide debate time to any Member of the majority who opposed adoption of the budget resolution.

Mr. Speaker, for the respect and future credibility of this institution, I urge you to use your good offices to insure that

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☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

such a situation is never again allowed to occur.

Muzzling dissenting voices is not in the tradition of this great Nation or its "House of the people," the U.S. House of Representatives.

OUR GREAT DEPENDENCE ON OPEC OIL

(Mr. LOWRY asked and was given permission to address the House for 1 minute and to revise an extend his remarks.)

Mr. LOWRY. Mr. Speaker, there is not a Member of this House who does not realize that as long as OPEC can raise oil prices, it is going to raise oil prices. There are 25 million barrels a day of oil exported by OPEC and we take almost one-third of those.

If we are going to straighten out our economy, we must stop the $90 billion capital outflow from the United States we are now paying for import oil. We must return to an energy policy controlled by this country not hostage to OPEC oil ministers. We can do that if we have the courage to cut the import quotas on oil now in effect.

I am calling for Members of this House to join with me, and 30 already have, to urge the President to impose his congressionally approved authority and immediately lower the import quotas on oil in this country. Let us make it very clear to OPEC that we are determined to control our own economy.

STOP OPEC FROM BLEEDING THE COUNTRY DRY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, I join with the gentleman from Washington in his statement which is so sound and so logical, that what our country must do is to stop depending upon OPEC oil which is bleeding our country dry.

We have increased our oil imports from $3 billion 6 years ago to $90 billion this year. All Congress has done to face this crisis is to pass laws that put heavy taxes on oil companies in the United States.

I want to give you an example of one called the windfall profit tax I heard from Mr. McEachern in Longview, Tex. I wish you could see this report, 10½-feet long.

Do you know how much he received as his oil royalty? He got $14.86; but do you know what the Government received? It was $35,393 in taxes.

The answer to energy is to quit taxing American oil, so there will be capital for oil development. Let's reduce our imports of OPEC oil.

When the so-called windfall profit tax was passed by the House on March 13 of this year, few Members envisioned the possible effects this one act would have on the small royalty owner. I have in my hand a prime example of the redtape and financial nightmare this irrational legislation has created. Mr. C. B. McEachern, of Longview, Tex., owns a small royalty interest in oil leases operated by Marathon Oil Co. In April he received his first royalty check to be paid after the passage of the windfall profit tax. This is what he received in the mail.

This is a 10½-foot printout which itemizes the production quantity and value, taxes and net share of Mr. McEachern's interests. This statement has grown three to four times in size just since the windfall profit tax was put into effect. And do you know what the astronomical amount of this 127-inch check was? $14.76.

The grand total windfall profit tax paid on this amount of oil production was $35,393.30. To calculate the small royalty owners' checks since this tax, Marathon had to hire seven new accountants and five new tax specialists. They have not even been able to total the costs of additional computer time and personnel required by this latest regulation of the oil industry.

Mr. McEachern is only one of the thousands of small American royalty owners who are bearing a large portion of this tax. Members of Congress should see the windfall tax in perspective. This little royalty owner gets less than $15 while the U.S. tax is $35,393. America has more government than we need, more regulations than we want, and more taxes than we can afford to pay.

□ 1010

LEAA—A STUDY MISGUIDED

(Mr. ARCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, the Law Enforcement Assistance Administration recently conducted a survey in Houston which has professional pollsters scratching their heads in wonderment—and irate taxpayers up in arms about the waste of their tax dollars.

The survey concluded that people usually buy homes because of their location—not mainly to avoid the threat of crime. Any real estate agent could have told them that for free.

What LEAA could have looked at—but did not—was a definition of specific areas of the city which people avoided because of some fear of crime. They could have conducted a study that would come to grips with in-depth attitudes toward crime. They chose not to.

As a result, survey professionals question both the purpose and validity of the study that was conducted.

GOVERNMENT MUST REDUCE SPENDING AND REGULATIONS TO BALANCE THE BUDGET

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, yesterday we passed the budget resolution. I believe it barely pleased anybody at all.

Tragically, this was done by raising spending a tremendous amount and also raising taxes by a horrible amount. I would like to point out that in 1980 dollars, if we would just look at the period of history of 1945 to 1948, we would find something very interesting. In 1980 dollars in 1945 the budget was $601 billion. What did we do in the next 4 years? We reduced the expenditures by 75 percent. In 1980 dollars that went from $601 billion down to $156 billion.

In 1980 dollars the deficit went from $303 billion to a surplus of $62 billion.

Now, if we had suggested that today everybody would panic and say we would cause chaos, but look what it did to the work force. It took the work force up 6.8 million jobs. We had an unemployment rate which was in today's term, miraculously low at 3.8 percent.

I suggest the solution to our current economic dilemma is to reduce vigorously all spending and all regulations to usher in a period of economic prosperity for everyone.

OFFICE OF GENERAL COUNSEL AT FEDERAL ELECTION COMMISSION IN SHAMBLES

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, the Federal Election Commission leaves a great deal to be desired. I am probably the only Member of either body who has personally met with, visited at length with, each of the six Commissioners. All five of those gentleman and the distinguished lady Commissioner are very well qualified and conscientious people, but the Office of the General Counsel is an ineffectual and frustrating waste of the taxpayers money. The Office of the General Counsel at the FEC would not comprehend gross criminal violations of campaign law even if those violations took place in OGC presence.

I believe the prior General Counsel may have disgraced the FEC with politically motivated, blatant abuse of trust. He swept under the moldy rug of "cover-up" the worst violations of FEC law in the history of the Commission.

Now the current General Counsel is allowing a Member of the other body to retain for over a year $1,150 in illegal corporate campaign moneys with $150 of that obviously in violation of the $1,000 maximum contribution limitation. The General Counsel, Mr. Charles

Steele has admitted the facts of this to me personally. So has the involved Senator.

Unless something is done about this Office of General Counsel at the FEC, I will have to bring this matter before the House next Tuesday during the Treasury and Postal appropriation bill debate. Maybe a few amendments would be in order to withhold the salary of an attorney not inclined to pursue vigorously an even-handed justice.

NATIONAL DEFENSE COMPENSATION ACT

(Mr. TRIBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, the press reported recently that Secretary of Defense Harold Brown has ordered his deputies in the Pentagon to exploit our Nation's rising unemployment in military recruiting efforts.

This can only leave Americans shaking their heads. The administration apparently proposes to use its bankrupt economic policy to offset its equally bankrupt military compensation policy. The administration refuses to pay our military personnel adequately, relying instead on human hardship to provide the requisite manpower.

It is also bad military policy. It does not address the problem of the exodus of skilled and experienced personnel from the military, our most pressing national security problem. It can only result in wild swings in recruitment and retention. Coherent force planning will suffer greatly.

The solution lies not in exploitation. Rather, we must provide the incentives to attract and retain a sufficient number of quality personnel. Along with Mr. BENNETT, I have introduced the National Defense Compensation Act, which will grant the pay increases necessary to insure that our manpower needs are met. I urge my colleagues to join us in this effort.

PROVIDING FOR CONSIDERATION OF H.R. 6413, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1981

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 672 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 672

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6413) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 672 is an open rule providing for the consideration of H.R. 6413, a bill to authorize appropriations to the National Aeronautics and Space Administration in fiscal year 1981 for research and development, construction of facilities, research and program management, and for other purposes.

The resolution provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology and permits the offering of any germane amendment when the bill is read for amendment under the 5-minute rule.

H.R. 6413 authorizes appropriations of $5.62 billion to NASA for fiscal year 1981. This authorization is $104.5 million higher than the President's amended budget request for fiscal year 1981 and is 13 percent above the current fiscal year 1980 appropriations of $4.97 billion. I should note to my colleagues that a supplemental authorization of $300 million for fiscal year 1980 has also been recommended by the Committee on Science and Technology and will be considered in separate legislation.

As in fiscal year 1980, the major item funded by the NASA authorization is the Space Shuttle program. The Committee on Science and Technology has recommended a total authorization of $1.878 billion to support the Shuttle design, development, test and evaluation activities, changes/system upgrading activities and production activities for a four-orbiter fleet. As in previous NASA authorizations, the committee continues to retain the option for a fifth orbiter in the Shuttle fleet, and recommends, as part of the total authorization for the Shuttle program, $5 million for the procurement of long lead materials such as titanium.

Mr. Speaker, our Nation's space program continues to be a vital element in the development of advanced technology to the benefit of our Nation's defense capabilities as well as to the benefit of the private sector. I would urge my colleagues to adopt House Resolution 672 so that the House may proceed to the consideration of the important programs contained in H.R. 6413.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not require any time, and yield back the balance of my time.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to announce that after adoption of the resolution the House will take up the bill. Following the bill, the House will take up the conference report on H.R. 3434. Then the House will take up the three rules on the three bills and will cluster the rollcalls on those rules.

The vote was taken by electronic device and there were—yeas 307, nays 0, not voting 126, as follows:

[Roll No. 324]

YEAS—307

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bouquard
Breaux
Broomfield
Brown, Calif.
Broyhill
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Chisholm
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower

Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McDonald
McHugh
Madigan
Maguire
Marks
Marriott
Martin
Matsui
Mavroules
Mica
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Smith, Iowa
Snowe
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Traxler
Tauke
Tauzin
Taylor
Thompson
Trible
Walgren
Udall
Ullman
Vanik
Volkmer
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NOT VOTING—126

Ambro
Anderson, Ill.
Ashbrook
Ashley
Beard, R.I.
Bedell
Beilenson
Bevill
Biaggi
Bingham
Boland
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Ohio
Buchanan
Burgener
Carney
Cavanaugh
Chappell
Cheney
Clausen
Clay
Conable
Conyers
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Devine
Dicks
Dingell
Dodd
Donnelly
Eckhardt
Edgar
Edwards, Okla.
Evans, Del.
Ferraro
Florio
Ford, Mich.
Frenzel
Garcia
Gingrich
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harsha
Heckler
Holland
Holtzman
Howard
Huckaby
Ichord
Ireland
Jeffords
Jenrette
Kemp
Kindness
Latta
Leach, La.
Leland
Lewis
Lundine
McCloskey
McEwen
McKay
McKinney
Markey
Marlenee
Mathis
Mattox
Mazzoli
Michel
Mikulski
Miller, Calif.
Moffett
Murphy, N.Y.
Murtha
Myers, Pa.
Nedzi
Nichols
Nowak
Perkins
Quayle
Quillen
Rangel
Reuss
Richmond
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Shumway
Skelton
Smith, Nebr.
Snyder
St Germain
Staggers
Stark
Stump
Swift
Symms
Thomas
Van Deerlin
Vander Jagt
Vento
Wampler
Waxman
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Young, Alaska
Young, Mo.
Zeferetti

□ 1030

The Clerk announced the following pairs:

Mr. Brademas with Mr. Clausen.

Mr. Eckhardt with Mr. Edwards of Oklahoma.

Mr. Zeferetti with Mr. Young of Alaska.

Mr. Wolff with Mr. Ashbrook.

Mr. Ambro with Mr. Brown of Ohio.

Mr. Staggers with Mr. Anderson of Illinois.

Mr. Reuss with Mr. Buchanan.

Mr. Nichols with Mr. Cheney.

Mr. Florio with Mr. Davis of Michigan.

Mr. Nedzi with Mr. Burgener.

Mr. Murphy of New York with Mr. Evans of Delaware.

Mr. Ichord with Mr. Carney.

Ms. Ferraro with Mr. Gingrich.

Mr. Vento with Mr. Harsha.

Mr. Murtha with Mr. Conable.

Ms. Mikulski with Mr. Hagedorn.

Mr. Waxman with Mr. Kemp.

Mr. Van Deerlin with Mr. Philip M. Crane.

Mr. Mattox with Mr. Goldwater.

Mr. Swift with Mr. Jeffords.

Mr. Charles H. Wilson of California with Mr. Devine.

Mr. Young of Missouri with Mr. Kindness.

Mr. Cotter with Mrs. Heckler.

Mr. Wirth with Mr. Latta.

Mr. Dingell with Mr. McCloskey.

Mr. Chappell with Mr. Williams of Montana.

Mr. Ashley with Mr. Lewis.

Mr. Biaggi with Mr. Michel.

Mr. Bonior of Michigan with Mr. Wampler.

Mr. Dodd with Mr. McEwen.

Mr. Cavanaugh with Mr. Williams of Ohio.

Mr. Brooks with Mr. Vander Jagt.

Mr. Bedell with Mr. Thomas.

Mr. Clay with Mr. Symms.

Mr. Bowen with Mr. Snyder.

Mr. Davis of South Carolina with Mr. McKinney.

Mr. Richmond with Mrs. Smith of Nebraska.

Ms. Holtzman with Mr. Rousselot.

Mr. Jenrette with Mr. Quillen.

Mr. Rodino with Mr. Shumway.

Mr. Holland with Mr. Quayle.

Mr. Rostenkowski with Mr. Myers of Pennsylvania.

Mr. Ford of Michigan with Mr. Runnels.

Mr. Brodhead with Mr. Nowak.

Mr. Rangel with Mr. Stark.

Mr. Stump with Mr. Frenzel.

Mr. Hanley with Mr. Garcia.

Mr. Leach of Louisiana with Mr. Hall of Ohio.

Mr. Conyers with Mr. Markey.

Mr. Perkins with Mr. Santini.

Mr. Mathis with Mr. Mazzoli.

Mr. Skelton with Mr. Rudd.

Mr. Russo with Mr. St Germain.

Mr. Howard with Mr. Royer.

Mr. McKay with Mr. Huckaby.

Mr. Moffett with Mr. Lundine.

Mr. Dicks with Mr. Miller of California.

Mr. Boland with Mr. Edgar.

Mr. Bonker with Mr. Bingham.

Mr. Donnelly with Mr. Bevill.

Mr. Beilenson with Mr. Beard of Rhode Island.

Mr. Ireland with Mr. Leland.

Mr. Brinkley with Mr. Marlenee.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR THE COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE SUPPLEMENTAL REPORT ON H.R. 6627, DEPARTMENT OF ENERGY CIVILIAN PROGRAMS 1981 AUTHORIZATION ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be permitted to file a supplemental report on the bill, H.R. 6627, the Department of Energy fiscal year 1981 authorization bill for civilian activities.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 6413.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1981

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6413) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6413, with Mr. FORD of Tennessee in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

☐ 1040

Mr. Chairman, I rise in strong support for the bill H.R. 6413 which would authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1981. I would like to point out to the Members of the House that the NASA budget is probably the only agency budget which is lower than it was 15 years ago. While the 1981 budget which is proposed by the bill before us today is approaching the dollar level of the 1966 budget, the buying power of the NASA 1981 budget is only one-third of the buying power of the 1966 budget.

This bill was reported by the Committee on Science and Technology on April 16, 1980, by unanimous vote. The committee recommended changes to nine budget line items, one language amendment of a technical nature to assure compliance with rule 21, clause 5 of the rules of the House, and adopted 10 committee views.

For the benefit of the Committee, I will summarize the bill and the actions taken.

The original NASA fiscal year 1981 budget request was for $5.74 billion or 8.9 percent more than the 1980 budget if we include the supplemental request. The administration's revised fiscal year 1981 budget request proposed reductions of $219 million from the original request resulting in a total budget request of $5.52 billion or 4.7 percent more than the 1980 budget. The actions recommended by the Committee on Science and Technology result in a budget authorization of $5.62 billion which is 6.7 percent more than the 1980 budget. We all know that 6.7 percent is significantly less than the double digit inflation; therefore, this budget represents a decrease in purchasing power.

The committee considered both the revised budget request by the administration and the guidelines from the House Budget Committee. The administration proposed net reductions of $219 million with $204 million in function 250 and $15 million in function 400. The House Budget Committee guidelines proposed a reduction of $200 million in budget authority for NSF, DOE high energy physics, and NASA non-Space Shuttle related activities in function 250 and no reduction in function 400 for aeronautical R. & D. NASA non-Shuttle-related activities comprise approximately 60 percent of the non-Shuttle portion of function 250. The committee therefore assessed NASA's share of the Budget Committee $200 million reduction as being $120 million.

The total net dollar change by the committee to the NASA original request is a $114.5 million reduction. Although the committee action is $104.5 million above the President's revised budget, the action of the committee is in line with the recommendations of the House Budget Committee in the original House passed budget resolution.

The total net dollar change by the committee to the NASA original request is a $114.5 million reduction which is comprised of $78.2 million in increases and $192.7 million in decreases.

The administration proposed reductions totaling $249 million. The committee adopted administration proposed reductions totaling $173.2 million and recommended further reductions amounting to $19.5 million. The administration's revised budget proposed a budget increase of $30 million in one area. The committee approved this $30 million increase and recommended further increases totalling $48.2 million.

The recommendations of the committee are summarized as follows:

A. SPACE SHUTTLE

$5.0 million increase for long lead materials for the 5th Space Shuttle Orbiter.

B. SPACE FLIGHT OPERATIONS

$12.0 million increase to initiate development of a Solar Electric Propulsion System.

$10.0 million reduction to defer Inertial Upper Stage (3-stage configuration) for one year.

$3.0 million increase in Advanced Programs for definition studies of a Power Extension Package and a 25kw Power Module.

$17.0 million reduction for Spacelab.

$28.0 million reduction for Space Transportation System Operations to defer procurement of external tanks and solid rocket boosters.

C. PHYSICS AND ASTRONOMY

$43.0 million reduction to defer launch of the Solar Polar Mission for 2 years.

$25.0 million reduction for Shuttle/Spacelab Payload Development experiments.

D. SPACE APPLICATIONS

$30.0 million increase for cost overruns on Landsat D. (Proposed by the Administration.)

$9.7 million decrease in Resource Observation programs.

$18 million reduction in Environmental Observation Program activities.

$2.7 million increase for Materials Processing in Space experiments.

E. AERONAUTICAL RESEARCH AND TECHNOLOGY

$15.0 million reduction in Systems Technology Programs.

$20.5 million increase in Systems Technology Programs.

F. SPACE RESEARCH AND TECHNOLOGY

$5.0 million increase for Research and Technology Base activities for advanced chemical propulsion and large space structures technology.

G. TRACKING AND DATA ACQUISITION

$8.5 million reduction in Systems Implementation activities.

H. CONSTRUCTION OF FACILITIES

$1.5 million reduction to defer Jet Propulsion Laboratory modifications to various buildings for energy conservation.

$3.0 million reduction to defer decommissioning of Plum Brook Station reactor facility.

I. RESEARCH AND PROGRAM MANAGEMENT

$14.0 million reduction which will delay the filling of vacancies as they occur and will reduce installation support activities.

Mr. Chairman, in addition to the full committee hearings in January 1980, the Subcommittee on Space Science and Applications held 3 days of hearings in October 1979, and 16 days of hearings in February and March 1980 to review the fiscal year 1979 to fiscal year 1980 budget performance, the fiscal year 1980 supplemental budget request, and the fiscal year 1981 authorization request. Testimony was taken from representatives of NASA, the U.S. Air Force, the European Space Agency, the National Oceanic and Atmospheric Administration, the Department of Navy, the Department of Agriculture, and the industrial and scientific community on NASA related programs. The aeronautics programs of NASA have been considered separately by the Subcommittee on Transportation, Aviation, and Communications and will be discussed in more detail by the gentleman from Iowa (Mr. HARKIN).

Mr. Chairman, NASA had no new starts in fiscal year 1980. The budget before us includes funding for three new programs, the Gamma Ray Observatory—a space science program, NASA's share of a tri-agency (NASA, NOAA, DOD) National Oceanic Satellite System, and a solar electric propulsion system which will use the Sun's energy for the transfer of payloads from low Earth orbit to higher orbits and interplanetary travel. This budget will support:

Initial test flights of the Space Shuttle, culminating a decade-long, highly sophisticated design, development, and test program;

A Shuttle Orbiter production schedule that will meet critical civil and defense launch requirements;

Continued emphasis on a broadly based space science program, featuring:

A new mission, the Gamma Ray Observatory, GRO, that will provide a major increase in our knowledge of the high energy universe, improving our knowledge of the positions of gamma ray sources like black holes by 50 to 100 times;

Development effort on the space telescope program;

Development effort on the restructured 1984 Galileo mission, to capitalize on the superb performances of Voyagers I and II at Jupiter;

Continued work on the U.S. spacecraft for the U.S./Europe International Solar Polar dual spacecraft mission but with launch delayed until 1985.

Important emphasis on space applications, including:

Focus of the Landsat effort to support the President's recent decision on implementing a fully operational satellite-based land remote sensing system under Department of Commerce leadership;

Continued development of Landsat D the next generation land remote sensing satellite;

Initiation of the National Oceanic Satellite System, NOSS, a triagency program that will demonstrate operational global sea surface observation capabilities from space. NOSS will bring space remote sensing capabilities to the oceans, complementing similar atmospheric and land capabilities;

Expanded communications satellite research and development studies and advanced technology for experimental wideband satellite communications; and, Continuation of our support to the Department of Agriculture in the AgRISTARS effort to improve early warning and crop inventory forecasting;

Advanced work on more efficient and effective aircraft.

Continued application of NASA expertise to national energy problems.

Finally, the proposed budget for fiscal year 1981 will support:

The critical in-house scientific, technical, and administrative staffs and facilities necessary to assure successful national programs in aeronautics and space.

Recent press reports indicate that the Soviet Union, which does not often talk about the cost of its space program, says it has reached the point where it is receiving a sizable return from its space investment with an economic return of up to $1 billion annually from its weather satellite program. These same reports indicate that Soviet satellites are also being used for mineral and oil exploration, agricultural and forest planning and for locating prime fishing areas. In addition to unmanned satellites, the Soviets are beginning to use manned Salyut space stations for a variety of space observation tasks. It is also important to note that the Soviet Union has entered the commercial launch market, by offering to orbit a maritime satellite for the European Space Agency. I would also point out that in calendar year 1979 the Soviet Union conducted a total of 87 launches while the United States conducted 9 NASA launches and 7 defense launches for a total of 16 launches.

I submit this is ample evidence that we cannot rest on our laurels but must reaffirm our Nation's resolve to maintain our leadership in space technology.

In the aeronautics program, the committee is recommending a total of $295.8 million for fiscal year 1981. This amount is about 4 percent less than the $308 million actually appropriated for this year.

Included in this category are a host of aeronautical research projects that will eventually return many times their initial investment. One need only look at the annual balance of payments to prove this. In 1978, for example, U.S. companies sold over $6 billion in civil aircraft to foreign customers. This was the largest single, favorable contribution, among manufactured goods, to our balance of payments. This success can be credited, in large part, to past Federal expenditures on aeronautical research. So I think the lesson is clear. If we want to continue to enjoy the benefits of leadership in this area, we must continually develop better technology.

Mr. Chairman, this legislation is assessed to have no adverse longrun inflationary effects on prices and cost in the operation of the national economy. NASA expenditures are labor intensive, with approximately 85 percent of spending directly for jobs and the remainder for materials. NASA employs about 23,000 civil servants and supports about 117,000 contractor employees. Assuming a multiplier effect of 2.5, the total, shortrun employment effect on the U.S. economy is about 350,000 jobs. This represents less than one-half of 1 percent of the total civilian labor force in the United States—far too small to have a significant national effect, although there could be small industrial and regional employment and price changes influenced by NASA expenditures.

The most significant economic effects of NASA spending are the long-run productivity advances from new technologies developed for the space and aeronautics programs. Many direct advances in communications satellites, improved aircraft (including more energy efficient aircraft), remote sensing satellites, and other innovations have both improved the productive capacity of industry and stimulated the development and growth of many new businesses. Indirectly, through the development and dissemination of advanced technologies to U.S. firms, the spinoffs from the space and aeronautics programs have been applied in virtually every sector of the economy.

Although it is difficult to assess the results of the various macroeconomic studies of the effects of NASA spending on GNP, it is clear from analyses done by the Midwest Research Institute, Chase Econometrics, Inc., and others, that NASA high technology expenditures have returned more to the economy in substantial and long-lasting productivity gains than has been spent. Since these gains are through spinoff commercial advances, there are "extra" returns above and beyond the primary goal of NASA programs: the successful completion of the various R. & D. mission assignments. Therefore, any gains which show positive returns to GNP in the long-run indicate a noninflationary, significant return to the citizens of the United States.

In developing the bill before us today, I want to recognize the dedicated efforts of the members of the Committee on Science and Technology and in particular the members of the Subcommittee on Space Science and Applications. Each member of the Subcommittee on both sides of the aisle has made a significant contribution. As always, we can depend on the gentleman from Kansas (Mr. WINN), the ranking minority member of the subcommittee, for his knowledge and personal insight into the complex programs. His diligent effort continues to be of immeasurable help in establishing a sound bill and strong NASA program.

Again, I would like to commend all members of the committee who have so diligently worked on bringing this bill to the floor.

At the appropriate time, I plan to offer a technical amendment to insert on page 1, line 3, immediately following "hereby authorized" the words "to be appropriated" which were in the bill as submitted for introduction but were omitted during printing of the bill.

I urge adoption of the bill as recommended by your committee.

I would now like to discuss the three new starts in more detail.

GAMMA RAY OBSERVATORY

The Gamma Ray Observatory (GRO) can provide the answers to some of the basic questions of astrophysics: How are the elements built? Why do stars explode? How does common matter collapse to form neutron stars and black holes? Are there large amounts of antimatter in the Universe? Gamma-Ray Astronomy and GRO are at the very heart of modern astronomy. The emission of gamma rays at individual, unique energies from radiative material made in exploding stars will tell astronomers how such common elements as the iron in our blood is made. Gamma-ray pulses from spinning neutron stars will show how these strange energy generators are powered, and the study of the pervasive background of gamma rays outside our own galaxy will provide stringent limits on the existence of antimatter in the universe. Gamma rays are the highest energy emissions in the universe. The instrumentation to observe them is very unique.

Small satellite instruments launched by NASA and by the European Space Agency have shown the great promise of gamma-ray astronomy; but they were too small to realize the full scientific potential of gamma-ray astronomy. The GRO overcomes the limitations of these prior observations. The GRO is a comprehensive, scientifically and technically sound mission. Gamma rays cover over 1 million volts of energy range. No single instrument can span this broad range. NASA has identified five instruments which, when taken together, can cover this range. The five instruments will address an impressive range of fundamental questions about the universe. The technology of GRO instrumentation will find additional application in medicine, mineral exploration and metallurgy.

GRO has been reviewed by the National Academy of Sciences, by NASA internally, and by other groups of scientists. All have endorsed it highly. It is the only new space science mission in the administration's fiscal year 1981 budget. It will answer scientific questions which cannot be addressed by any other means. I urge that it be included in the fiscal year 1981 authorization legislation.

NATIONAL OCEANIC SATELLITE SYSTEM

Of all the areas of our research and development, remote sensing of the world's oceans is the clearest candidate for a number of new endeavors. Based on earlier work with Seasat, Numbus, and GOES satellites we are now encouraged that satellite observations of the oceans can play an important role in both the operational mode and as a research tool.

NASA, NOAA and the DOD are now proposing the initiation of the National Oceanic Satellite System (NOSS) in the fiscal year 1981 budget. NOSS is proposed as a limited operational demonstration to show the feasibility of providing from space in near real time and under varying weather conditions, continuous observation of ocean surface winds, sea state, surface water, temperature-wave height, and other geophysical measurements. NOSS will be jointly funded and managed by the three agencies. There will be joint responsibility between NASA and the DOD for development and prototype costs and joint responsibility between the DOD and NOAA for operational costs and management. We are requesting $5.8 million in fiscal year 1981 for NASA's share of development and prototype costs. The NOAA is requesting $4.2 million and the DOD, $11.7 million.

The need for NOSS is clear. Both the DOD and NOAA require timely, accurate oceanic information on a global scale. The DOD needs NOSS data for the selection of operating areas, ship routing, strategic submarine operations, logistics resupply, and tactical ship routing. NOAA needs this information to support such diverse activities as: management and conservation of marine resources; the prediction of weather; the protection of life and property; the preservation, conservation and development of the Nation's coastal resources; and the provision of maps, charts, surveys and specialized data for safe navigation.

NOSS data will be especially important to NOAA weather forecasting models. And, due to its coverage and timeliness, such data will improve the efficiency, safety and cost of ship operations, transportation, offshore and gas exploration and drilling platform operations, marine construction, commercial fishing pollution monitoring, ice monitoring, and marine search and rescue. Through an operational demonstration, NOSS will play a vital role in providing information to NASA's continuing R. & D. efforts in oceanography.

SOLAR ELECTRIC PROPULSION SYSTEM (SEPS)

I would now like to discuss the action to provide funding for starting development of the solar electric propulsion system.

This Nation has accomplished wonders in exploring a good part of our solar system. We have touched the Moon, handled the very soil of Mars, and felt the heat and wind of Venus. We have eyed the twin giants, Jupiter and Saturn, from swiftly moving spacecraft. But, we are quickly approaching the limit of what we can do with the conventional space propulsion systems which have been the mainstay of the space program to date. Both the Galileo mission to orbit Jupiter and prove its atmosphere and the International Solar Polar Mission have been forced to split into two separate launches in order to accommodate them on today's Space Shuttle and inertial upper stage.

Future solar system exploration missions will be, almost by definition, more demanding—so demanding that even high performance hydrogen fueled chemical stages will be unable to perform them. We are on the verge of losing the option to combine a flyby of Halley's and a rendezvous with a second, older comet on a single mission. Beyond them are other opportunities—asteroids, solar probes, orbit of Saturn—opportunities which will again be missed unless the solar electric propulsion system is available.

What we are advocating is making available a tool. It is most important that, in our sincere efforts to handle today's economic maladies, we do not undercut the future ability to continue to pry open the secrets of our universe. I believe we must discipline ourselves to continue to develop those most basic science tools. And that is what SEPS is.

Let me offer an added dimension to the solar electric propulsion system. SEPS is not only an essential tool for deep space exploration, its unique attributes can also be applied to Earth missions, opening possibilities which we are just beginning to fathom.

SEPS provides very high propulsive performance. It can provide propulsive thrust for literally years. Its propulsive forces are inherently gentle. Each of these attributes has a place in enhancing near Earth orbital missions. With high propulsive performance, we have a craft which can observe and identify space hazards, move them to nonhazardous locations, and perform other tasks which require extensive maneuvering. With years of propulsive thrust, we can defy gravity, in a sense, and map zones of solar wind/Earth magnetic field interactions—important to several phenomena here on Earth—fly "in formation" with other spacecraft, or modify orbits for other particular applications. Low thrust propulsion permits us to transfer from a low orbit assembly location to geostationary orbit very large, fragile structures such as a direct communications platform—a concept which I believe will have profound effect on our society before the turn of the century.

These applications, civil and military, are a bonus available with the solar electric propulsion system. For science and applications, I urge support for this capability.

Mr. Chairman, we need to revitalize and stimulate our long-range planning in the area of space transportation utilization to insure our technological leadership and our readiness in the coming years to undertake necessary orbital operations.

More specifically, advanced programs planning should have enough scope and depth to prepare for those future actions and concepts which NASA, the DOD and perhaps our European allies will have to develop to meet major space needs likely to emerge over the next 10 years. At present, this scope and depth is missing. Protracted failure to augment our insufficiency in this area could place the Nation in a situation where technology would not be ready for us to respond to the new needs with deliberation, efficiency, and effectiveness. Unless we are willing to live with this position of importance, the only other choice would then have to be to launch a high-priority crash program at some future time, with its attendant disadvantages of cost, risk, social disruption, and so forth.

What are some of these emerging needs?

First, there is the continuing need to establish U.S. preeminence in space for reasons of national morale, political prestige, advancement of U.S. science and technology, and educational motivation and stimulation. The development of new space systems goals with capabilities beyond the basic Space Shuttle is a necessary consequence of this need for continued vitality in space, particularly in the light of a seemingly healthy and dynamic Soviet space station program.

Second, studies have indicated that user needs in the early 1980's call for more on-orbit time and more on-board power than the Shuttle can provide. This applies particularly to such areas as space processing, space technology, and life sciences, as well as free-flyer capability. As a consequence, economies of scale will force a growing number of individual satellite functions to aggregate on common space platforms, with payload size and mass tending to increase during the next two decades. This requires increased emphasis on the construction of large structures in orbit, powered by new orbital power augmentation systems.

It also puts a premium on the ability to service these systems adequately in orbit. The construction and continuing maintenance of such large systems will require extremely complex manipulative, analytical and interpretive skills which—in all practicality—can probably only be provided by manned support of the space platforms and facilities. But the capability for continuous manned orbital operations is not yet at hand in this country, and neither are the vehicles and techniques for space construction, operation, and servicing in either low Earth or geostationary orbit. This capability calls for an extension of the Shuttle capabilities, for the development of permanent manned facilities, and for a manned sortie mission capability.

In past months, NASA has selected definition and preliminary design studies, but the lack of advanced programs funds now and in the foreseeable future is causing both a reduction in the desired scope and depth of these modest concept studies, and a continuing deferral of necessary efforts and "new starts" of developments clearly required in the long run. The former impact increasingly deprives the Nation of a comprehensive long-range plan in space and weakens our ability to select optimum systems from the spectrum of possible technological solutions to future needs. The latter impact is causing a rising "bow wave" of deferred concept developments piling up with each passing year, threatening to make it increasingly unlikely that a logical, economically acceptable sequential evolution of advanced Shuttle capabilities can be maintained.

In order to avoid further weakening of the Nation's ability to develop the Space Transportation System to its full potential and to utilize the resources of space with greatest possible benefit, remedial action must be taken soon. Increased advanced programs funding will be essential toward this goal. In particular, adequate funds clearly need to be provided to revive NASA's long-range studies activity and to prevent further deferrals of advanced programs "new starts."

I would like to briefly review the accomplishments of the past year.

The closing year of the seventies was a triumphant one in U.S. space exploration, yielding historic and breath-taking closeup views of distant planets, moons and rings.

The excitement of 1979's planetary discoveries was interrupted briefly, in midyear by a returning hulk-Skylab. And even that went well, the Earth-orbiting experimental space station completing its atmospheric reentry and breakup without damage or injury.

The agency also had a perfect launch record in 1979, the second year in a row and the fourth in its 21-year history. The nine NASA launches for the year covered the gamut from high energy astrophysics, communications and cosmic ray particles to data on aerosols and ozone in the Earth's atmosphere.

Other NASA highlights in 1979 included continuing work, with some problems, on Space Shuttle development; a United States/China agreement on cooperation in science and technology; expanded applications of space technology; continuing work on safer more efficient aircraft.

This was the year of the planets in space exploration. The first high-resolution pictures of Jupiter and five of its satellites were received from Voyagers 1 and 2 in March and July using two onboard, slow scan TV cameras. Pioneers 10 and 11 had taken pictures of the planet in 1973 and 1974, but not of the same quality.

Several weeks after the second Voyager flew by Jupiter, Pioneer 11 sped under the rings of Saturn, taking pictures of the planet and it's Mercury-sized moon, Titan. These were the first closeup pictures even taken of Saturn, the most distant planet yet reached in the exploration of the solar system.

While Pioneer 11 was making its epic visit to Saturn, Pioneer 10 continued its journey out of the solar system, having passed the orbit of Uranus in July. The two Pioneers, like the two Voyagers, eventually will pass out of the solar system into interstellar space.

Pioneer Venus, launched in 1978, continued its successful mission. Probes were dispatched from the spacecraft as it approached the planet and measured the atmosphere as they plunged to the surface. In December last year, the orbiter was successfully inserted into orbit. As data returned to Earth over the next few months, more was learned about the planet than had ever been known before.

It was found that the surface of Venus is unlike any other planet in the solar system. It has huge mountains, great plateaus, deep rifts and circular features that appear to be impact craters made early in its history.

In astronomy, the High Energy Astronomy Observatory continued to return fascinating new results from Earth orbit and a third spacecraft, HEAO-3, was placed in orbit in September.

Space Shuttle orbiter Columbia, the external tank, and all components of the solid rocket boosters were delivered to the Kennedy Space Center, Fla., this year in preparation for the historic launch of the spacecraft in 1981.

Progress in processing the Columbia has shown steady improvement since mid-1979. Main engine testing and installation and integrity of the thermal protection system have been the pacing items in preparing the Columbia for its first test flight.

Over 75,000 seconds have been accumulated on the Space Shuttle main engine, which includes over 5,500 seconds on the MPTA. NASA has now accumulated over 65,000 seconds on single engine test stands. Including in this total are more than 41,000 seconds at rated power level or higher, and over 1,000 seconds at full power level—109 percent RPL. The month of March we accumulated 7,655 seconds of test time including 5,646 seconds at RPL or higher. This is the highest accumulation of test time in a single month since the test program started.

The main propulsion tests (MPT) involve three main engines mounted on an orbiter aft fuselage and coupled to an external tank to test the entire propulsion system. Six tests have been conducted.

A very significant milestone accomplished in December was the highly successful full duration test of 555 seconds. In February and March, two additional 550 second tests were successfully conducted. NASA has now accumulated over 5,500 seconds of MPTA test time.

Extensive laboratory testing coupled with wind tunnel and aircraft flight testing has been conducted during 1979 to better understand the structural integrity of the thermal tile. Tiles are now being installed and tested at a rate that, if sustained, should allow completion of the thermal protection system this summer.

The development, demonstration and transfer of space research and technology to meet specific national and world needs continues as the goal of the NASA Office of Space and Terrestrial Applications.

In the field of communications, the Communications Technology Satellite and Applications Technology Satellite-6, NASA's powerful experimental communications satellite, were retired. NASA continues communication research and development with a carefully mapped four-part program: Advanced research and development, public service communications, advanced applications of satellite communications techniques and technical consultation and support.

Results from remote sensing experiments were most encouraging in 1979.

NASA, through an agreement with the National Oceanic and Atmospheric Administration, provides research and development support for a series of weather satellites.

In June, NASA launched NOAA-A which is providing improved meteorological data. NASA continues to participate with the National Oceanic and Atmospheric research program involving more than 140 nations.

The most significant gains in land observations were in the field of agriculture. It was demonstrated that remotely sensed data can be used for the direct separation of spring wheat and barley and for the separation of corn and soybeans.

A major portion of resource observations this past year has been devoted to insuring continuity of remotely-sensed data for researchers and operational users. Maintaining a flow of data from orbiting satellites is of immediate importance and Landsat-2 and Landsat-3 both continue to perform at near nominal levels despite some systems problems.

Requests for Landsat data over the past year reveal increasing worldwide interest in applying the technology to environmental and resources management problems.

Among U.S. users the largest demand is for agricultural studies, especially during the growing season where repetitive coverage in 9-day cycles and rapid data delivery are essential to success.

The year began with the signing of the United States-China agreement on cooperation in science and technology, signed by President Carter and Chinese Premier Deng Xiaoping on January 31, 1979. This agreement formalized the NASA/Chinese understanding reached in December 1978 for China to purchase from U.S. industry, under suitable conditions, a U.S. satellite broadcasting and communications system, including the associated ground receiving and distribution equipment and a ground station capable of receiving Earth resources data from the NASA Landsat remote-sensing satellites.

NASA is currently working on a Landsat ground station memorandum of understanding with the Chinese Academy of Sciences. The Chinese Communication Satellite Corp. is drafting final technical requirements for the satellite system, in preparation for the beginning of intensive talks with potential U.S. suppliers.

I am including in the Record an explanation of the committee actions and the committee views which were included in the report accompanying the bill:

COMMITTEE ACTIONS

RESEARCH AND DEVELOPMENT

Space Shuttle

NASA requested $1,873,000,000 for the Space Shuttle program in fiscal year 1981. The funds will support the Shuttle design, development, test and evaluation activities, changes/system upgrading activities, and production activities for a four orbiter fleet. The Committee continues to believe that there is a requirement for a five orbiter fleet to accomplish critical civil and defense missions, to provide flexibility for exploration of the orbiter capabilities and to provide a backup for any unforeseen loss of an orbiter vehicle. The traffic model for the early years is filled and as a result additional expendable launch vehicles are being required. Therefore, to maintain an option for the fifth space shuttle orbiter, the Committee recommends the addition of $5,000,000 for the procurement of long lead materials such as titanium resulting in a total recommended authorization for the Space Shuttle program of $1,878,000,000 in fiscal year 1981.

Space flight operations

In January 1980, NASA requested $809,500,000 for Space Flight Operations programs in fiscal year 1981. The NASA FY 1981 Budget Amendment proposed reductions of $42,000,000 as follows: $10,000,000 reduction in Space Transportation System Operations Capability Development activities; $2,000,000 reduction in Advanced Programs; $2,000,000 reduction for Spacelab; and $28,000,000 reduction for

Space Transportation System Operations activities resulting in a revised request of $767,500,000. The Committee disagrees in part and recommends a total authorization of $769,500,000 for Space Flight Operations programs in fiscal year 1981 which reflects a net reduction of $40,000,000 from the original request.

Space Transportation System Operations Capability Development.—The NASA revised fiscal year 1981 request for Space Transportation Systems Operations Capability Development activities is $79,000,000. The budget amendment will reduce planned funding for the Inertial Upper Stage (IUS) from $39,000,000 to $29,000,000. This reduction is consistent with the deferral of the International Solar Polar Mission launch from 1983 to 1985. The first mission requiring a three-stage IUS will now be the Galileo Mission in 1984. The amended budget will support a revised development schedule consistent with the Galileo launch date. The revised schedule, however, will delay much of the NASA unique development activity until after the two-stage IUS development by the Department of Defense is completed, resulting in some loss of efficiency in the overall development effort.

The Committee has, for some time, supported the development of a low thrust high specific impulse propulsion system. The Committee has included $12,000,000 to begin the development of the Solar Electric Propulsion System, SEPS, to complement the capabilities of the space shuttle and the inertial upper stage. The solar electric propulsion system will substantially broaden the performance capabilities of current day chemical propulsion systems and should alleviate many of the schedule and performance problems associated with launch window constraints.

The Committee feels that this capability will enhance the integrity of the entire space program for applications such as orbital station keeping, orbital transfer, orbital debris cleanup and planetary transportation. However, the initiation of the SEPS development should not be viewed as a commitment to the Halley/Temple II comet mission. The Committee included $12,000,000 for initiation of the solar electric propulsion system resulting in a total recommended authorization of $91,000,000 for Space Transportation System Operations Capability Development in fiscal year 1981.

Advanced Programs.—The NASA revised fiscal year 1981 budget request for Advanced Programs is $8,800,000. The amended budget provides for definition activity on the highest priority potential near term space transportation system initiatives, but drastically reduces study effort on future systems, particularly those associated with operations in geosynchronous orbit. Reductions would delay effort on such areas as orbital transfer vehicle, advanced propulsion concepts, and geostationary platforms. This request reflects a significant decrease from $13,000,000 in fiscal year 1980. The Committee continues to view with concern NASA's lack of emphasis on this activity which is vital to long range planning for future space opportunities. The Committee disagrees with the proposed reduction and recommends an additional increase of $3,000,000 for advanced program studies in fiscal year 1981 and directs that these additional funds be used to support enhanced Phase B definition studies and technical development for the power extension package and the 25kw power module. The Committee notes that the solar electric propulsion system, the power extension package, and the 25kw power module use certain common technologies such as solar array and power processing technology and directs that conceptual studies and systems design should take advantage of this commonality in order to achieve program economies. The total recommended authorization for Advanced Programs is $13,800,000 in fiscal year 1981.

Spacelab.—The NASA revised fiscal year 1981 budget request for Spacelab is $149,700,000. The amended budget will support development and delivery of the major Spacelab elements, but delivery of the Spacelab simulator will be delayed with resultant delay in crew training activities. Processing of Spacelab hardware, once it arrives from Europe will also be delayed. The Committee also notes that approximately 65 percent of the contract price for procurement of the second Spacelab is included in the fiscal year 1981 budget request. Although fully committed to procurement of the second Spacelab, the Committee recommends an additional reduction of $15,000,000 resulting in a total authorization of $134,700,000 for Spacelab in fiscal year 1981.

Space Transportation System Operations.—The NASA revised fiscal year 1981 budget request for Space Transportation Systems Operations is $346,500,000. The budget amendment reflects deferral of procurement of hardware and of supporting activities consistent with delay of the International Solar Mission and other planned flight schedule adjustments. The Committee recommends adoption of the revised budget request.

Physics and astronomy program

NASA requested $438,700,000 for Physics and Astronomy programs in fiscal year 1981. The Administration budget amendment reduced this request to $346,600,000. The Committee reduced the original request by $68,000,000 and recommends an authorization of $370,700,000 for Physics and Astronomy in fiscal year 1981, in accordance with the following actions.

International solar polar mission (ISPM) development.—NASA requested $82,600,000 for ISPM development in fiscal year 1981, and subsequently amended the request to $39,600,000. The Committee agrees with the $43,000,000 reduction for ISPM development activities which will result in approximately a two year delay in the launch schedule.

Shuttle/Spacelab payload development and mission management.—NASA requested $72,100,000 for Shuttle/Spacelab payload development and mission management in fiscal year 1981, and amended the request to $29,100,000. Agreeing in part with the amendment, the Committee reduced the original request by $25,000,000 and recommends $47,100,000 for these activities with direction that NASA assure continued effort in major facilities and equipment development and principal investigator instruments development.

Research and Analysis.—NASA requested $42,800,000 for research and analysis in fiscal year 1981 and amended the request to $36,700,000. The Committee disagrees with the amendment and recommends $42,800,000 for research and analysis to assure effective support of flight projects.

Planetary exploration program

NASA requested $179,600,000 for Planetary Exploration in fiscal year 1981. Within this line item the Administration budget amendment reduced Mission Operations and Data Analysis by $4,300,000. The Committee disagrees with the proposed amendment and recommends $179,600,000 for planetary exploration in order to ensure continued collection and analysis of valuable scientific data from planetary spacecraft.

Life sciences program

NASA requested $49,700,000 for Life Sciences in fiscal year 1981. Within this line item the Administration budget amendment proposed reductions in Life Sciences flight experiments by $6,500,000 and Supporting Research and Technology activities by $4,100,000. The Committee disagrees with the proposed amendment and recommends $49,700,000 for Life Science in recognition of the importance of the United States resuming vital experimentation on the effects of spaceflight on humans.

Space applications

NASA originally requested $381,700,000 for Space Applications programs in fiscal year 1981. The fiscal year 1981 NASA Budget Amendment proposed a revised budget request of $356,700,000 with a number of increases and decreases as follows: Resource Observation Program—a $30,000,000 increase for Landsat D, a deletion of $16,000,000 for the Operation Land Observing System, and a reduction of $6,000,000 for Resource Observations Applied Research and Data Analysis; Environmental Observations—a reduction of $6,500,000 for Environmental Observations Applied Research and Data Analysis, a reduction of $6,500,000 for Environmental Observations Shuttle/Spacelab Payload Development, a reduction of $1,500,000 for the Operational Satellite Improvement Program, a reduction of $12,000,000 for the Earth Radiation Budget Experiment, and a reduction of $1,500,000 for the Halogen Occultation Experiment; and a reduction of $5,000,000 for Technology Transfer activities. The Committee recommends a total authorization of $386,700,000 for Space Applications programs in fiscal year 1981.

Resource Observation.—The NASA revised fiscal year 1981 budget request includes $170,300,000 for Resource Observation programs which reflects an increase of $8,000,000 over the original request of $162,300,000. The Committee recommends a total authorization of $182,600,000 for Resource Observation programs in fiscal year 1981.

Landsat D: The revised budget request includes $94,300,000 for Landsat D which reflects an increase of $30,000,000 over the original budget request. The $30,000,000 increase stems largely from projected increases in the cost of development of the Thematic Mapper at Hughes Aircraft Company and from projected increases in both the space and ground systems being developed by the General Electric Company. The Committee notes that total cost estimates for the Thematic Mapper instrument have more than tripled since initiation of the project and that total cost estimates for the space and ground systems are increasing. Continuing schedule delays of Landsat D threaten the President's commitment to provide data continuity to the user community. In approving this increase the Committee directs NASA to consider the negotiation of a total fixed price to completion for the thematic mapper development and to develop a plan for launch of Landsat D at an early date with the multispectral scanner only. This pln should address launch schedule, program costs, impact on ongoing programs such as AgRISTARS, and impact on the President's commitment to an operational Landsat system and should be presented to the Committee by June 15, 1980. However, launch of the Landsat D with the multispectral scanner only should not be viewed as lessening the importance of completing the thematic mapper development for launch at a later date. The Committee recommends approval of the increase of $30,000,000 for Landsat D for a total recommended authorization of $94,300,000 in fiscal year 1981.

Operational Land Observing System: The fiscal year 1981 budget amendment would delete $16,000,000 for an Operational Land Observing System. Deletion of these activities will defer planned improvements to the reliability of the existing and planned ground systems to the level required for an operational system. It will also defer procurement of long lead items for a follow-on Landsat type spacecraft and increase the risk of losing continuity of coverage during the last half of the decade. The Committee recommends authorization of $9,300,000 in fiscal year 1981 for Operational Land Observing System activities for improvements to the reliability of existing and planned ground systems, definition studies of an operatonal system including private sector involvement, and advanced sensor development activities.

Resource Observations Applied Research and Data Analysis: The NASA revised fiscal year 1981 budget request includes $12,800,000 for Resource Observations Applied Research and Data Analysis activities. The budget amendment would have major impacts on programs to develop and test remote sensing and information extraction techniques in both water and land resource management and would eliminate fundamental research related to understanding the effect of atmospheric conditions on remote sensing observations. The Committee recommends a total authorization of $15,800,000 in fiscal year 1981 for Resource Observations Applied Research and Data Analysis.

Environmental Observations.—The NASA fiscal year 1981 revised request for Environmental Observation programs is $109,600,000 which reflects a $28,000,000 reduction from the original request. The Committee recommends a total authorization of $119,600,000 for Environmental Observation Programs in fiscal year 1981 reflecting a $18,000,000 reduction in the original request.

Environmental Observations Applied Research & Data Analysis: The budget amendment reduction of $6,500,000 would delay development of observing systems and models planned to aid to predicting global weather and climate patterns and severe storms; reduce activities in observing, modeling and predicting tropospheric and stratospheric air quality; and defer activities designed to study ocean processing. The Committee recommends a total authorization of $54,900,000 for Environmental Observations Applied Research and Data Analysis recognizing the importance of the efforts to development observing systems and models to aid in predicting and forecasting weather and climate patterns and severe storms.

Environmental Observations Shuttle/Spacelab Payload Development: The NASA fiscal year 1981 revised budget request includes $1,700,000 for Environmental Observations Shuttle/Spacelab Payload Development. This budget change recognizes a new program direction in the atmospheric cloud physics lab activities which has occurred since the budget submission and which included termination of hardware development. In addition, development of such payloads as the microwave limb sounder and the high resolution doppler interferometer will be delayed by one year. The Committee recommends an authorization of $6,700,000 in these activities in FY 1981.

Operational Satellite Improvement Program: The NASA fiscal year 1981 revised budget request includes $9,200,000 for the Operational Satellite Improvement Program. The reduction of $1,500,000 will require a delay in demonstration activities for the visible and infrared spin scan radiometer atmospheric sounder related to severe storm prediction. It will also be necessary to delay activities to develop new or improved user terminals for operational data. The Committee recommends adoption of the revised fiscal year 1981 budget request.

Earth Radiation Budget Experiment: The NASA fiscal year 1981 revised budget request includes $17,000,000 for the Earth Radiation Budget Experiment. The impact of the budget amendment is a slip of approximately one year in the availability of the spacecraft and instruments to measure temporal and spatial variations in the radiation balance over the globe. The Committee recommends adoption of the revised budget request which reflects a $12,000,000 reduction from the original request.

Halogen Occultation Experiment: The NASA fiscal year 1981 revised budget request includes $4,500,000 for the Halogen Occultation Experiment (HALOE). The budget amendment slips HALOE development activities by approximately one year and, therefore, delays the measurement of Global Stratospheric concentration profiles of key chemical species involved in ozone destruction. The Committee recommends adoption of the revised budget request which reflects a $1,500,000 reduction from the original request.

Technology Transfer.—The NASA fiscal year 1981 revised budget request includes $7,500,000 for Technology Transfer activities which reflects a $5,000,000 reduction from the original request. The budget amendment would terminate or lower funding for several application systems verification and transfer activities and defer initiation of new activities. Regional remote sensing applications projects underway or planned with 30 states would be reduced with stretchouts on some of the remaining 18 projects. User outreach and communications tasks would be reduced and some university grants cancelled. The Committee recognizes the importance of technology transfer activities and recommends approval of $12,500,000 for Technology Transfer activities in fiscal year 1981.

Materials Processing in Space.—NASA requested $22,200,000 in fiscal year 1981 for Materials Processing in Space Activities. Within this sub-line item, OMB reduced NASA's request by $2,900,000, funds which would have been used to support development of an analytical float zone experiment to study the effect of convection flows on crystal growth. The Committee recognizes the potential large positive contribution to the Nation's economy from the manufacture in space of new, innovative, and better products. Floating zone crystal growth is the most promising method for producing large, highly perfect and uniformly doped semiconductor crystals. Therefore, the Committee recommends the addition of $2,700,000 resulting in a total recommended authorization of $24,900,000 for Materials Processing in Space programs.

Technology utilization

The original NASA fiscal year 1981 budget request included $13,100,000 for Technology Utilization whereas the revised budget request includes $12,100,000. The budget amendment would force a delay in new and attractive opportunities for biomedical applications. The Committee recommends a total authorization of $13,100,000 for Technology Utilization activities in fiscal year 1981 recognizing the important contribution of the technology utilization program to innovation.

Aeronautical research and technology

NASA initially requested $290,300,000 for Aeronautical Research and Technology. This amount represented a 5.8-percent decrease, in actual dollars, from the current plan for fiscal year 1980. A revised request for $275,300,000 was submitted subsequently. This amount represents a further decrease, to 10.7 percent. The Committee understands that the first decrease is largely explained by the tail-off of certain elements in the Aircraft Energy Efficiency (ACEE) Program. The second decrease was caused by a need to balance the Federal budget.

The Committee strongly supports the need for a balanced budget and endorses the fact that NASA must take its share of the cuts. Tail-off of the ACEE Program, however, should be viewed as an opportunity to undertake certain new high priority research efforts, not as a means to further trim the budget.

Last year the Committee requested a White Paper on future program options. Several very worthwhile new thrusts were identified. Yet few were included in the fiscal year 1981 request. The Committee considers this regrettable given the twin concerns about national security and foreign competition in civil aircraft.

Therefore, the Committee increases the requested amount by $20,500,000 for six high priority augmentations: Variable Cycle Engine High Temperature Validation ($4.5 million), High Performance Flight Experiments ($5.5 million), High Speed Structures ($4 million), Alternate Fuels Utilization ($4 million), Alternate Alloy Studies ($1 million), and General Aviation Propeller ($1.5 million). The total authorization for Aeronautical and Research and Technology is $295,800,000 which is still 4 percent less than the fiscal year 1980 amount.

Space research and technology

The NASA original fiscal year 1981 budget request included $115,200,000 for Space Research and Technology. The NASA fiscal year 1981 Budget Amendment proposed reductions of $5,000,000 as follows: a $3,100,000 reduction in Research and Technology Base Activities and a $1,900,000 reduction in Systems Technology Programs. The Committee recommends a total authorization of $120,200,000 for Space Research and Technology programs in fiscal year 1981.

Research and Technology Base.—The NASA fiscal year 1981 revised budget request includes $100,300,000 for Research and Technology Base activities. Research and technology activities in disciplines relevant to assuring future capabilities in space such as materials, information systems, power and propulsion will be reduced about three percent from the planned level, and in terms of real effort will be about ten percent below the FY 1980 level. At the request of the Committee, NASA is currently developing a plan to sustain a national chemical propulsion capability including an assessment of what portion of the existing industrial base that will be maintained by their plan. The Committee added $3,000,000 to enhance advanced chemical propulsion technology activities and to accelerate expander cycle dual-thrust engine technology. The Committee also added $2,000,000 for enhancement of space platform and large space structures advanced technology activities. The Committee recommends a total authorization of $108,400,000 for Research and Technology Base programs in fiscal year 1981.

Systems Technology Programs.—The NASA fiscal year 1981 revised budget requests includes $7,800,000 for Systems Technology programs which reflects a reduction of $900,000 in Information Systems Technology and a reduction of $1,000,000 in Spacecraft Systems Technology. NASA's in-house 30/20 gigahertz and narrow band antenna design activities which support experimental communication satellite technology would be delayed. Launch of the Long-Duration Exposure Facility would be delayed by a minimum of one year with some resultant difficulties related to program management continuity due to loss of project and experiment personnel who are needed to complete final checkout, operations, data analysis, and integration. The Committee recommends adoption of the original budget request of $9,700,000 for Space Technology programs in fiscal year 1981.

Tracking and data acquisition

NASA's originial request included $359,000,000 for Tracking and Data Acquisition programs in fiscal year 1981. The NASA fiscal year 1981 revised request includes a reduction of $1,500,000 in Operations and a reduction of $8,500,000 in Systems Implementation activities. The Committee recommends the pending budget request of $271,500,000 for Operations and adopts the $8,500,000 reduction in funds for Systems Implementation activities resulting in a total recommended authorization of $350,500,000 for Tracking and Data Acquisition programs in fiscal year 1981. The Committee disagrees with the $1,500,000 reduction from operations in order to reduce the risk of interrupting in-orbit spacecraft support and agrees with the $8,500,000 reduction from Systems Implementation which delays the replacement of elements of existing computer facilities.

CONSTRUCTION OF FACILITIES

NASA requested $12,000,000 for Construction of Facilities projects in fiscal year 1981. The Committee deferred a request of $1,500,000 for modifications to various buildings for energy conservation at the Jet Propulsion Laboratory and a request of $3,000,000 to initiate decommissioning of a nuclear reactor facility at Plum Brook Station, Lewis Research Center, resulting in a total recommended authorization of $115,500,000 for Construction of Facilities projects in fiscal year 1981.

RESEARCH AND PROGRAM MANAGEMENT

NASA's original budget request included $1,047,154,000 for Research and Program Management in fiscal year 1981. The Administration's budget amendment proposed a reduction of $14,000,000 which will delay the filling of civil service vacancies and will reduce installation support activities. The Committee recommends adoption of the revised budget request resulting in a total authorization of $1,033,154,000 for Research and Program Management in fiscal year 1981.

LANGUAGE AMENDMENT

Section 1(d).

The committee amended this section to conform with rule 21, clause 5 of the Rules of the House of Representatives.

COMMITTEE VIEWS

FUTURE SPACE PROGRAMS

At the beginning of a new decade, the Committee considers it an appropriate time to review space policies and goals and our national planning for the space program. If the Nation is to realize the full potential of space science and technology, this review should aim at bringing about a long term approach to planning our space activities.

In 1974, NASA undertook a planning study, "Outlook for Space," to examine the civilian role of the U.S. space program until the year 2000. The report, "A Forecast of Space Technology 1980–2000" was an important element of that study and noted that ". . . we are entering a new space era wherein space activities and space science and technology are key elements in the survival, the dignity, and the aspirations of the human race." This Administration has made several recent partial efforts to unify space policy and give direction to the new space era, including PD-37 of June, 1978; the White House Fact Sheet on U.S. Civil Space Policy of October, 1978; and the President's November, 1979 statement on land remote sensing activities. Although these statements all address important issues in space policy, the Committee believes that they are insufficient and inadequate to provide a long-term perspective for a coherent space program.

The Committee notes two important characteristics of our future space activities which will require improved planning and coordination. The first is the increasing internationalization of space activities. The expense and technical complexity of many future space ventures will require that joint programs he conducted, and the emergence of new space capabilities abroad will make such cooperation feasible.

The second is the increasing diversity of applications of space technology, as reflected in a multidisciplinary approach to such activities as remote sensing which provide services to a more and more varied user community. This evolution of space applications calls for the development of integrated programs to serve user needs and to aggregate the user community and will require sustantial interagency cooperation, possibly including new institutional arrangements. The Committee believes that NASA and the Administration need to take cognizance of these two trends in developing and implementing an enhanced long-range planning capability.

NASA should consider these issues in more depth during the NASA New Directions Symposium planned for June 1980.

EXPENDABLE LAUNCH VEHICLE

The Committee supports NASA's decision to extend Delta launch vehicle operations for backup and alternative launch capability during the period of transition to Space Shuttle Operations. NASA has not established similar provisions for user payloads which require performance in excess of the planned upgraded Delta vehicle and which can be accommodated by the Atlas Centaur launch vehicle. The Atlas Centaur production will begin phasing-out early in 1980.

The Committee recommends that NASA review the needs of potential domestic and international Space Shuttle users, assess the impact of extending Atlas Centaur launch capability and Centaur upper stage capability and asssess the need for revisions to existing launch vehicles reimbursement policy. NASA should give particular consideration to effects on user commitments to Space Shuttle, and to the overall impact on national launch vehicle capability and national economies. NASA should report these findings to the Committee by August 1, 1980.

PLANETARY EXPLORATION

Planetary exploration continues to be a vital component of the national space program. Substantial new scientific knowledge is being acquired of the chemical composition, geology and atmospheres of our neighboring planets which is providing insight into the origin and evolution of the solar system.

Following Voyager 2 encounter with Saturn in 1981 there is more than a 50 month gap in planetary imaging data until the Voyager 2 encounter with Uranus in early 1986. The Galileo is the only planetary program currently under development which due to the delay in Space Shuttle launch will not encounter Jupiter until mid 1986.

Although NASA's Planetary Exploration Program is currently funded at an adequate level to support ongoing programs, the Committee is concerned that further delays in planetary new starts will have detrimental effects on future national capabilities. NASA should provide additional efforts in new start definitions for fiscal year 1982 which ensure the continued vigor of the planetary exploration program. Particular consideration should be given to planetary options including definition of a cometary mission and a Venus Orbiting Imaging Radar (VOIR) mission.

CIVIL REMOTE SENSING SYSTEMS

The Committee commends the Office of Science and Technology Policy for their leadership in evolving the recent policy decisions related to civil remote sensing systems and applauds the designation of a lead agency to manage all civil operational satellite activities. The commitment to evolve an operational Landsat system, to further private sector opportunities in civil land remote sensing activities, to continue the policy of providing Landsat data to foreign users and promoting development of complementary and cooperative nationally operated satellite systems are necessary and important aspects of this policy.

The Committee acknowledges the interagency programs including the National Oceanic Satellite System (NOSS) and AgRISTARS which reflects a continuing trend toward interagency cooperation as well as shared funding which should result in a more effective transition from experimental research and development systems to operational systems.

However, the Committee is concerned that our nation is not making maximum utilization of remote sensing technology for assisting developing countries. Increased emphasis is needed to assure that the competing remote sensing systems which are being developed by several nations are also complementary in that they provide information in data formats that can be used by all nations.

SPACE COMMUNICATIONS RESEARCH AND DEVELOPMENT

The Committee notes with satisfaction the recent re-entry of NASA into space communications research and development. The importance of extending existing frequency and orbit utilization is highlighted by the recently completed World Administrative Radio Conference. The Committee urges that NASA, in consultation with other appropriate agencies and departments, give careful attention to the development of a comprehensive strategy for the future international meetings in telecommunications which are to follow the WARC.

The Committee observes that a recent report of the National Academy of Science[1] pointed out a need for multi-beam, large antenna satellites, to be used in conjunction with low-grain inexpensive earth stations, in meeting public service needs in such areas as education, health care, and emergency services. The report concluded that "the technology to meet such needs is often not provided by the private sector because of the technical and cost risks involved." The Committee directs NASA to ensure, in appropriate actions with NTIA and other agencies, and with the private sector, that the needs of the public service sector are given sufficient consideration in its satellite communications research and development.

TECHNOLOGY UTILIZATION

The Committee supports continued and aggressive action by the NASA Technology Utilization program to demonstrate secondary applications of aeronautical and space technology through cooperative efforts with other agencies. These efforts should be further encouraged at Federal, State and local levels to ensure that the full potential of technology applications are assessed and incorporated for the broadest benefits to the public and private sectors.

The proven success of applications projects expressed in terms of social benefit and cost benefit analyses provides the recognition that expanding these activities will provide still further dividends from the technology developed on NASA programs. NASA should, therefore consider new and innovative approaches to broadcasting contact with public and private user needs. In this regard, the participation of Industrial Application Centers and State Technology Application Centers in application projects and cooperative programs should be reviewed and fully assessed by NASA.

The Committee is encouraged with successes during the past year of the Technology Utilization applications teams, particularly those of the bio-medical team. NASA has used this approach to address national problems with the appropriate NASA technology which might have application. However, recent White House policy papers have enunciated particular problems faced by small and minority businesses. In light of this new White House policy, the Committee suggests that the agency consider application team approaches to identifying NASA technologies which could address the needs of innovative small and minority firms located in rural, economically depressed regions and assist these firms in commercializing space technology.

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[1] Committee on Satellite Communications—*Federal Research and Development for Satellite Communications, 1977.*

Patent disclosures represent an important mechanism for transferring technology. Although NASA policy gives emphasis to licensing the agency's patents to small businesses and minority enterprises in economically depressed, low-income areas, very little is being done to actively promote licensing of NASA patients by this segment of private industry. Further, the agency has recorded a relatively poor performance in commercializing the patents it holds, even though the NASA licensing policy is more flexible than that of most other federal agencies. Consequently, the Committee recommends NASA develop new approaches for increasing the commercialization of the patents which the agency holds, particularly in the above cited areas of the economy.

NASA should provide to the Committee by December 15, 1980, a report on the progress of implementing these recommendations.

PILOT FATIGUE AND CIRCADIAN DESYNCHRONOSIS RESEARCH

The Committee feels that NASA should place added emphasis on its efforts to determine what research is needed on the effects of pilot fatigue and circadian desynchronosis (jet lag) on aviation safety. Three recent air carrier accidents (with a total of 218 fatalities) may have been caused by a deterioration in pilot performance associated with these phenomena. NASA should examine existing knowledge and develop a research program plan aimed at providing a scientific basis for preventing future accidents of this type. The Administrator should report his findings and research plan to the Committee by September 30, 1980.

REIMBURSABLE ACTIVITIES

The Committee supports NASA's technology work for other agencies when such work has a high degree of commonality with their aeronautics and space activities. An example is development of advanced automotive propulsion systems for the Department of Energy.

To manage these efforts and to perform certain supporting research activities, NASA dedicates a substantial number of in-house civil service employees which in Fiscal Year 1981 is projected to reach 480 personnel. The funds to pay the salaries and benefits of these employees come from the benefitting agency although the personnel slots do not. NASA is still bound by the overall ceiling as established by the Office of Management and Budget.

This policy has adverse effects in that it requires that reimbursable work be done at the expense of other aeronautics and space research, and limits the amount of help that NASA can give to outside agencies.

Recognizing this, the Committee urges the Administrator of NASA to increase his future requests for personnel authorizations for this purpose. In addition, he should prepare advocacy packages jointly with the benefitting agencies to support these requests.

REPROGRAMMING AUTHORITY

During the past year several questions arose with regard to the interpretation of NASA's reprogramming authority including restructuring of the Galileo program, procurement of the manned maneuvering unit, procurement of a replacement aircraft, and upgrading of the Delta launch vehicle.

The Committee requests that NASA reassess existing agency policy with regard to reprogramming authority and submit revised policy guidelines as to what type of actions require reprogramming. This policy should address the need for written legal opinions by the General Counsel on all reprogramming actions and clarification of when new procurements and program restructuring constitute a reprogramming action.

Funds included in the Shuttle request under Changes/Systems Upgrading should not be used for other than Space Shuttle related activities. NASA should provide the Committee with a list of the Shuttle equipment which it feels could be procured under this authorization as well as Shuttle equipment which would require reprogramming action. NASA should keep the Committee informed on a quarterly basis with regard to the status of these Changes/Systems Upgrading funds.

FULLY AND CURRENTLY INFORMED

It has been the continuing position of the Committee that NASA should keep the Congress fully and currently informed as to the impact on the institutional base of major management and technical actions required to fulfill program goals and objectives as outlined in the Space Act of 1958, as amended, and as detailed in annual authorizations. It is the view of the Committee that NASA should review its current practices and procedures to assure that the full intent of this prior guidance is being accomplished.

TABLE I.– FISCAL YEAR 1981 NASA AUTHORIZATION BILL RECOMMENDATIONS OF THE COMMITTEE ON SCIENCE AND TECHNOLOGY

[In thousands of dollars]

Line item	Fiscal year 1980 estimate	Pending fiscal year 1981 NASA request	Revised fiscal year 1981 NASA request	Subcommittee action
1(a)(1) Space Shuttle	[1] $1, 886, 000	$1, 873, 000	$1, 873, 000	$1, 878, 000
1(a)(2) Space flight operations	446, 600	809, 500	767, 500	769, 500
1(a)(3) Expendable launch vehicles	70, 700	55, 700	55, 700	55, 700
1(a)(4) Physics and astronomy	337, 100	438, 700	346, 600	370, 700
1(a)(5) Planetary exploration	219, 900	179, 600	175, 300	179, 600
1(a)(6) Life sciences	43, 800	49, 700	39, 100	49, 700
1(a)(7) Space applications	331, 800	381, 700	356, 700	386, 700
1(a)(8) Technology utilization	12, 100	13, 100	12, 100	13, 100
1(a)(9) Aeronautical research and technology	308, 300	290, 300	275, 300	295, 800
1(a)(10) Space research and technology	115, 800	115, 200	110, 200	120, 200
1(a)(11) Energy technology application	3, 000	4, 000	4, 000	4, 000
1(a)(12) Tracking and data acquisition	332, 400	359, 000	349, 000	350, 500
Subtotal Research and development	4, 017, 500	4, 569, 500	4, 364, 500	4, 473, 500
Subtotal Construction of facilities	156, 100	120, 000	120, 000	115, 500
Subtotal Research and program management	[2] 1, 006, 186	1, 047, 154	1, 033, 154	1, 033, 154
Total	5, 269, 786	5, 736, 654	5517, 654	5, 622, 154

[1] Includes Space Shuttle supplemental.

[2] Includes October 1979 pay raise.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I will be happy to yield to the gentleman from Kansas (Mr. GLICKMAN), a member of the committee.

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this legislation and commend the chairman for his good work.

Mr. Chairman, I rise in support of H.R. 6413, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1981.

One of the main beneficiaries of the NASA budget and program is general aviation.

General aviation encompasses most civil flight activities except the passenger-carrying services supplied by the scheduled air carriers. The importance of these services and the flexibility provided by general aviation aircraft has grown steadily in past years and is now a major factor in air commerce. A large fleet of diverse types of aircraft, covering the spectrum from small single-engine sport airplanes to multiengine business jets, are used in a multitude of tasks.

Currently there are approximately 200,000 general aviation airplanes ranging in performance from less than 100 miles per hour to transonic speeds. These aircraft fly over 40 million hours per year, which is five to six times the total for commercial transports. The use of the small airplane for business and as a means of transportation has grown to the extent that it now touches nearly every segment of the U.S. economy.

While commercial air transportation is available between about 500 U.S. airports, the personal and business airplane provides the only air service to approximately 19,000 communities. Nearly one-third of all intercity air passengers are being carried in general aviation airplanes between over 12,000 airports.

About 75 to 80 percent of general aviation operations are devoted to business and commercial purposes. This includes the special use of the airplane for fertilizing and protecting crops and forests, the patrol of power and pipelines, environmental surveys, traffic enforcement, medical transportation, and an increasing role in mail carrying.

As general aviation continues to grow at a rate unequalled by any other transportation mode, it happens during a period of increasing energy consciousness and concerns about our congested skies and airports and emphasizes the need for continuing improvements in general aviation safety, energy efficiency, environmental impact, and utility. NASA's general aviation programs are addressing these objectives on a multidisciplinary basis, including aerodynamics, propulsion, avionics, and structures.

In the area of safety, NASA has been conducting a highly successful crashworthiness program that focuses on analytical methods and design techniques for load-absorbing protective structure, seats and restraint systems for future general aviation aircraft. By using optimized, nonlinear structural analysis, future general aviation aircraft designers will be able to predict structural impact dynamics characteristics and, thereby, optimize structural design for maximum safety in the event of an aircraft crash.

Safety research in aerodynamics continues on aircraft stall/spin phenomena. A comprehensive technique for experimental investigation of all aspects of the stall/spin problem has been developed involving both scale model tests and full-scale flight tests. The stall/spin program has been highly productive and responsive to the general aviation airframe manufacturers' requirements.

Energy efficiency research continues in both aerodynamics and propulsion. In aerodynamics, low-drag natural laminar flow airfoils are being developed for low and medium-speed ranges. Overall aircraft drag reduction design techniques are being pursued analytically and experimentally, and certain unconventional aircraft configurations are being studied for their potential for improving both performance and safety.

Research in propulsion emphasizes increasing the thermodynamic efficiencies of internal combustion and gas turbine engines. Both spark ignition and diesel engine configurations are being studied, and component research is underway that will lead to more efficient and affordable small gas turbine engines. For future general aviation aircraft, there should be available low-cost, lightweight diesel engines providing fuel savings of 20 to 30 percent over current engines and small gas turbine engines providing lower maintenance, higher reliability, and a multifuel capability.

In the area of environmental impact reduction, the primary emphasis is continued research on low-noise propellers. Current work indicates that new propeller designs and propeller/nacelle integration concepts should provide noise reductions up to 5 db over current propeller/nacelle configurations. Work is also continuing on exhaust emission reduction for both internal combustion and gas turbine engines.

For improving the utility, or usefulness, of general aviation aircraft, avionics and human factors and agricultural aerial the applications are among the areas of emphasis. In avionics and human factors, the primary objective is to provide basic information for the design of reliable, low-cost integrated avionics systems. Such systems will assist the pilot in all phases of flight—navigation, guidance, stability and control, and overall flight management—and ultimately could be amendable to integration with the global positioning satellite system.

For agricultural aerial applications, the primary effort is to improve aerial application dispersal and distribution systems. This involves research to determine interactions of the aircraft wake with a variety of dispersal materials and research to modify aircraft wake characteristics to improve dispersal swath control.

I also wish to express my support for space research generally. For far too long, we have neglected our successes of the 1960's in the exploration of space frontiers, and I hope that we will soon open our eyes and recognize that space research will open new horizons for this and all future generations. The frontiers of the future lie in the spinoffs associated with space research and development, and we cannot afford to destroy our abilities to explore and develop these technologies.

Mr. Chairman, I urge adoption of the fiscal year 1981 NASA authorization bill.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield to the gentleman from New Jersey (Mr. ROE.).

□ 1050

Mr. ROE. Mr. Chairman, I rise in support of H.R. 6413, the NASA authorization for fiscal year 1981. I am fortunate to be not only the ranking majority member on the Committee on Science and Technology but also the chairman of the Subcommittee on Economic Development within the Committee on Public Works and Transportation. These positions afford me the opportunity to view our Nation's space program from two very different perspectives.

I support NASA's budget request because of their continuous record of achieving their mission goals while significantly contributing to the economic well-being of the Nation. The mission successes are famous, while often the extraordinary economic benefits from NASA's expenditures on high technology R. & D. are overlooked. These economic benefits result from many diverse areas.

Each year NASA supports about 350,000 direct and indirect jobs in the Nation. Although most of these are in the aerospace industry and its major suppliers, many supportive and local service jobs are also created.

In the longer term, space technology has led to the development of new products and processes for industry. These have raised the quality of life and increased productive capacity. Increases in productivity stimulate higher wages and profits without being inflationary. Estimates of the return on NASA spending in the form of productivity increases in the Nation have ranged from 3 to 1 up to 14 to 1. Although this is a wide range, any return greater than 1 to 1 presents an important contribution to the Nation, particularly when, as in NASA's case, these benefits are in addition to the successful primary mission assignment.

Beyond these benefits, there are economic advantages stemming from NASA's aeronautics research program. Since the 1920's NACA and now NASA has contributed sizably to establishing and maintaining the U.S. world dominance in the aircraft industry. Improvements in aircraft design, engines, avionics, structural materials, and so forth, have created jobs, made both the manufacturing of aircraft and air transport industry more efficient, and helped in the conservation of energy and other scarce resources.

Furthermore, the U.S. exports of aircraft and equipment has been one of the very few industrial sectors which still contribute to the balance of trade on the positive side.

Finally, and perhaps the most important component of the economic impacts of NASA technology and its transfer, are the benefits we cannot measure in dollars. Over 20 years ago, for example, NASA demonstrated the capability to transmit data back and forth between Earth and space. It is now, a generation later, that private industry is beginning to realize that the industry is mature enough so that investment in space hardware designed for the consumer market may be potentially very profitable.

This is particularly true in the communications industry where direct broadcast television satellites and business service satellites are not only technologically possible, but will be common consumer products very soon. It is possible that 20 years from now the experiments which are being designed for the Space Shuttle will yield very profitable business opportunities that we cannot even imagine at present.

These manufacturing and private sector opportunities have very profound employment, income distributional, and institutional significance for the economy. Although we are unable to put a numerical value on the changes which will be generated from new technologies, we can be assured that these new opportunities will be very beneficial in keeping the U.S. economy growing, improving, and maintaining its position as a keen competitor in the world marketplace.

Again, I am pleased to support this bill and I take this opportunity to congratulate the chairman of the committee, the gentleman from Florida, Mr. FUQUA, and also the ranking minority member of the Space Subcommittee, Mr. WINN, from Kansas, for their leadership in reviewing this bill and coming forth with a responsible piece of legislation.

I urge my colleagues to support the bill, H.R. 6413.

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Alabama, and I want to say that the gentleman is the ranking majority member on the subcommittee and conducted many of the hearings that were held. I want to say now that I appreciate very much the fine work and cooperation that the gentleman has given in bringing this bill to the floor.

Mr. FLIPPO. I thank the chairman for his remarks, and I want to commend the chairman for his great leadership in putting together an outstanding piece of legislation.

Mr. Chairman, I rise in support of the National Aeronautics and Space Administration Authorization Act of 1981, H.R. 6413.

The Members of this body are painfully aware of the difficult issues this Nation must address in meeting our domestic needs and in insuring our position of world leadership. The problems which confront us now require our mutual dedication and commitment to solutions. Near-term focus is clearly needed and indeed vital to the well-being of our people and the preservation of our Nation. Development of strategies for the long term, however, must also be vigorously pursued as we accommodate the total needs of the Nation.

To a great extent the issues which challenge us today result from processes which have been under way for many years. Energy supplies and the dependency on foreign sources for fuel and minerals, national productivity and employment, the devaluation of currency and the insidious affects of inflation are all gnawing at the foundation of our societal structure. How ominous these problems are, I believe we have the necessary will and the means for meeting these demands.

The resolve and the vision to look beyond immediate conditions have been our Nation's strength in the past and will serve us well in the future. While addressing the near term, we have also demonstrated capability for providing for the future. An outstanding example of this national capability is manifested in the support which is given to our space program. The space program has added significantly to the scientific and technological base of the Nation and has provided new products and services, unanticipated not many years ago, which provide societal benefits to all peoples of the world and has provided technological stimulation to productivity which has added substantially to our national economy.

The NASA fiscal year 1981 authorization bill provides for the programs in aeronautics and space research and development which will continue to challenge the human resources of this Nation to meet our future needs. As we look to the new era in space opened to us with the advent of the Space Shuttle, new and challenging opportunities will undoubtedly emerge. We must not falter in providing strong support for the necessary research and analysis, and the advanced programs which will be the vital linkage for the future.

The Space Shuttle is the cornerstone of our future space efforts and deserves our continued support as we approach the first launch which is being planned within a year from now. As we venture into the Space Shuttle era the new and exciting opportunities offered by this new space transportation system will enable NASA to pursue major new thrusts in space technology. However, the development leadtimes for many of the new technologies such as large space structured systems, advanced propulsion systems and power systems are at least 5 to 10 years. I believe that the augmentation of vital systems and technology provided in H.R. 6413 will greatly enhance our national capabilities and allow NASA to take optimum advantage of the Space Shuttle early operational missions.

LARGE SPACE STRUCTURES

It is important to proceed with large space systems technology because it will result in readiness not only for the construction of large systems in low Earth orbit but also directly applicable for operational Earth observation and communication satellites at geosynchronous orbit.

Large space systems in low Earth orbit provide a new technique for most cost-effective Earth observation and scientific missions and eventually to important operational programs. We can expect these systems to grow in size and application to eventually include activities such as space manufacturing, space servicing, and space operations. The programs will profit from the economy of scale in providing spacecraft services for multiple payloads. Proper use of large space systems will permit the sharing of spacecraft services such as onboard space power, data processing, attitude control and stabilization and thermal management. This expanded spacecraft capability will generate major economies of cost and of payload function and will contribute to more affordable future space operations as an extension of our industrial complex.

CHEMICAL PROPULSION SYSTEMS

Another important area is space chemical propulsion. This country is in serious danger of losing a national resource in the form of an industrial base in liquid rocket propulsion. This industry has been eroding for a number of years due to a lack of new programs in the field, and unless steps are taken to reverse this trend, the industry will lose the high technology skills needed to undertake new programs when they do occur. The Nation's space program was founded on liquid rocket propulsion and a talented Government/industry team made it possible. Future opportunities and new space initiatives will require both significant advances in propulsion technology and an industry to help achieve those advances as well as to develop new flight systems. If this industrial capability is allowed to die through inaction, a valuable resource would be lost to this country. Not only would the rebuilding of this industry when needed be extremely costly, but new innovative ideas for advanced propulsion systems would stagnate without competition. In addition, the Nation's world leadership and preeminence in space could be abdicated for the next generation of space opportunities. We cannot let this happen.

Since NASA has the leadership role in the liquid rocket propulsion field, additional funding for the NASA technology program in chemical propulsion would help continue needed advances in the field and would provide the opportunity for added industry participation.

SPACE POWER SYSTEMS

Space power systems as well must be developed to meet the needs of the future. Beginning in the early 1980's the Space Shuttle and Spacelab will provide a significant new applicability for conducting beneficial activities in space. Initially, the Shuttle and Spacelab are capable of a 7-day mission which will provide direct manned involvement in the space activity and a capability to return to Earth and reuse a variety of instruments for scientific and applications missions.

NASA must now intensify the studies and initiate the development of the space system which operating with the Space Shuttle and Spacelab can provide the next significant level of capability for conducting activities in space. Fundamental elements in this next level of capability are the power extension systems which can provide the increased resources and mission duration required of the Nation's space transportation system in the mid-1980's.

The initial power system would operate as a fixed component of the Space Shuttle. This power system, which generates 10 to 15 kilowatts of solar power, would extend the mission duration of the Shuttle to approximately 20 days. Since this power system would be launched and returned to Earth with the Shuttle, the extended duration mission is available in any orbit where the Shuttle can operate. This system greatly enhances the use of Spacelab and increases the Shuttle cost effectiveness.

A more comprehensive capability would be provided by a new free-flying power system. This power system, which would be placed in orbit by the Space Shuttle, and provide 25 kilowatts of power from solar energy, would be used to augment Shuttle/Spacelab mission, as well as support other payloads left in orbit. It would serve as an orbital space facility providing electrical power, heat rejection, attitude control, communications, and data handling for a variety of payloads. In the free-flying mode, it would free the Shuttle from extended orbital stay time and significantly reduce payload cost per day on orbit.

The power system's ability to support payloads, both in the Shuttle/Spacelab and the free-flying mode, provides the essential element for advancement in all scientific and applications disciplines to fully exploit the space transportation system investments.

SOLAR ELECTRIC PROPULSION SYSTEM

Another important addition to the Nation's ability to operate in space will be the development of a solar electric propulsion system. Over the past few years, NASA has demonstrated the readiness of an advanced form of space propulsion which uses electrical energy supplied by the Sun rather than chemical energy provided in conventional rocket fuels. For many missions and space operations electric propulsion offers performance on an order of magnitude better than conventional space propulsion, with resulting high fuel efficiency, and can operate for literally years.

These attributes translate into the ability to perform an entirely new range of space exploratory mission, heretofore beyond our reach: intensified investigation of the outer planets of our solar system; close-in study of the Sun; and, perhaps most important, detailed reconnaissance of comets and asteroids which our scientists say hold key clues to the origin and evolution of our solar system and this Earth.

Earth orbital operations will also be greatly enhanced with the SEPA ability to transport very large as well as small payloads to geostationary orbits far more efficiently than is possible today. These new capabilities can also provide long term stabilization of spacecraft as well as accomplish orbital cleanup missions.

NASA has incorporated this new form of propulsion in a concept known as the solar electric propulsion system, or SEPS. SEPS will complement chemical propulsion systems in augmenting the space transportation system for deep space and some Earth missions. SEPA has already been proposed for several science missions of great merit. While approval of any single mission must wait, the development leadtime for SEPS requires that it be initiated prior to the start on a science payload.

In order to continue the U.S. preeminence in space, we must start development of this important augmentation to the Nation's space transportation system.

Mr. Chairman, NASA's ability to maintain increased capabilities in space is vital to our Nation's interest. H.R. 6413 provides the necessary funding to insure a national space program.

Mr. NELSON. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am very happy to yield to the gentleman from Florida, my colleague, and also a member of the subcommittee, who has done a yeoman's job on the Budget Committee in trying to preserve science activities and research and development programs and particularly that relating to NASA.

Mr. NELSON. I thank my chairman for his remarks, and I rise in strong support of this legislation. I want to take this opportunity to thank the chairman of the Committee on Science and Technology for the finely tuned approach that he took in a time of fiscal austerity while still protecting the future of this country in the drawing of this NASA authorization bill. I commend the chairman for it.

Mr. Chairman, I rise in support of the bill, H.R. 6413, which would authorize funds for NASA in fiscal year 1981.

I want to commend the chairman of the committee, my colleague from Florida, for the great deal of patience and leadership which he exhibited during our many days of hearings on this bill. Mr. Chairman, I also have the pleasure to serve on the Budget Committee and, as a result, have been afforded a perspective which allows me to fully support this bill. At this time I would like to share this perspective.

NASA employs about 22,500 civil servants and supports about 120,000 contractor employees. NASA expenditures are labor intensive with approximately 85 percent of spending directly for jobs and the remainder for materials.

The accomplishments of previous NASA programs, such as the Pioneer program and the Voyager program, have been triumphs by any measurement. But it is important to remember that they were launched from 3 to 8 years after a minimum of 5 years of prelaunch planning, design, development, and testing. The questions we must ask ourselves are: "What accomplishments will we have to report a dozen years from now?" "Are we doing the planning and the development now that will be required to continue the exploration process?" "Or are we unwillingly creating an exploratory hiatus, a dam in the stream of knowledge, from space which nourishes our earthly science and technology?"

The attempt to answer those questions leads to the matter of concerns for the future of a viable, constructive space program. That concern, in this spring of 1980 stems from two sources—on the one hand, the need to reduce Federal spending across the board in order to help bring inflation under control—and on the other hand, repeated delays in the development of the space transportation system on which the whole space effort and important aspects of national defense for this decade depend.

Certainly, few reasonable men can deny the necessity to put America's fiscal house in order—nor can they deny that to do so requires a controlled reduction of the present inflation rate—nor can they deny that a reduction in Federal spending and a balanced Federal budget are necessary as a step in coming to grips with inflation.

I fully agree with and support, as a member of the Budget Committee, the efforts along those lines. However, I do regret attempts to severely reduce the funding of programs which by their own nature are anti-inflationary.

The space program falls into that category. A most effective warrior against inflation is the increased productivity which produces more and better goods—brings down prices—creates jobs—and improves our balance of payments in foreign trade. Increased productivity comes directly from the introduction of high technology into the production and management process, and the space program is the cutting edge of high technology.

The most significant economic effects of NASA spending are the long-run productivity advances from the new technologies developed for the space and aeronautics programs. Many direct advances in communications satellites, improved aircraft (including more energy-efficient aircraft), remote sensing satellites, and other innovations have both improved the productive capacity of industry and have stimulated the development and the growth of many new businesses. Indirectly, through the development and the dissemination of advanced technologies to U.S. firms, the spinoffs from the space and aeronautics programs have been applied in virtually every sector of the economy.

In view of such beneficial effects on the national economy, I feel that funding reductions in high technology areas such as the space program should be held at an absolute minimum—and I believe that many of my colleagues in the Congress share that feeling.

As you know, in March, the President submitted to the Congress an amended and balanced budget which closely paralleled our House Budget Committee product and necessarily included reduced funding for almost every Federal agency except, appropriately, the Department of Defense.

NASA's share of the overall funding reduction was $220 million—not a crippling cut, but a serious one. Evidence of the vital national importance of the Space Shuttle is the fact that full funding for that program was retained.

Although we are primarily concerned with the scientific and the peaceful, technological, and practical uses of space which will be expanded by the Shuttle, its military uses are essential to our national security.

The military aspects of the Shuttle have been part of the Shuttle program from the beginning. The Secretary of Defense testified earlier this year that the Shuttle program "is extremely important to the Department of Defense."

Secretary Brown stated:

> By the mid-1980's we will be nearly totally dependent on the Shuttle for supporting our national security space missions.
>
> Space systems are increasingly more important for support of our military forces in areas such as communications, navigation, early warning, surveillance, and weather forecasting. Over the next 5 years, our dependence on the Shuttle to support our space systems will become critical.

Given then, the "critical" importance of the Shuttle, both militarily and scientifically, and given the anti-inflationary productivity increases accruing from the space program in general, there is reason to hope that funding cuts in NASA programs can be kept at an absolute minimum.

There appears to be a hopeful trend in that direction. On April 16, our Science and Technology Committee followed the recommendations of its subcommittees and voted unanimously to fund the NASA fiscal year 1981 budget at a figure of $104.5 million above the administration's amended budget. At the same time, the committee voted 30 to 1 in favor of the fiscal year 1980 supplemental of $300 million for the Shuttle. The funding approved by the committee was exactly in line with a proposal made by the House Budget Committee. The Budget Committee had kept NASA's cuts to a minimum for the productivity reasons stated, while extracting $22 billion in other Government programs.

NASA's most immediate goal, here and now, is to complete development and testing of the Space Shuttle and to begin operational flights. I have been disappointed at the delays and the slippage in the development schedule, even though such problems can be anticipated in advanced R. & D. programs of this magnitude.

I am now optimistic that there will be few further delays. The main engine problems, which were the pacing items, have been solved and testing is 90 percent complete. The thermal protection system which has given so much trouble is now giving less trouble. According to NASA, they anticipate completion of the tile installation in August and a first orbital test flight in March of 1981. Depending on results from the test flights, we should see actual operations with significant payloads beginning in September 1982.

I am personally looking forward with great anticipation to the day that regularly scheduled Shuttle operations begin in what I hope will be an atmosphere of fiscal order and good health, because on that day the doors to a new era of technology will truly be flung open.

Although I am certainly no prophet, it is possible to extrapolate from current state of the art to what can logically develop in the years ahead.

Here are some highlights I believe we can reasonably expect:

First. The Space Shuttle, with enhanced capability and with its inevitable follow-on, fully reuseable systems, will lead to the construction of increasingly large and complex facilities in space. It will become more efficient to leave people in space for longer periods to work.

Second. One of the first really large facilities in space could well be a prototype satellite power station to prove the concept of beaming electrical power to distribution grids on Earth. If that concept is proven, an increasing share of our electrical power requirements could come from the inexhaustible and nonpolluting energy of the Sun.

Third. The revolution in communications brought about by satellite technology will continue and accelerate, such as orbiting "switchboards in the sky" for personal communication.

Fourth. Improved Earth sensing and meteorological satellites combined with ground-based sensors, computers, and communications systems could well be combined into a national and then a global information network to monitor and manage all the resources of our planet.

Fifth. Initial experiments indicate very strongly that the processing of materials in space in the absence of gravity, with its attendant effects of convection and sedimentation, can lead to dramatic innovations in the fields of metallurgy, medicine, composite materials, glass for use in optics and lasers, crystal growth, and others.

Sixth. Continuing exploration of the deep universe with the space telescope and follow-up facilities observing in all wave-lengths of the electromagnetic spectrum will bring us ever closer to answers to the age-old questions of life, matter, and energy. One such discovery could be the nature of the energy which powers quasars, the most energetic objects ever observed.

What can we conclude from these extrapolations?

We can conclude in a most positive way that an innovative, imaginatively planned, adequately funded, aggressively pursued program to exploit the unique environment of space will start to solve some of the technological and economic problems which plague our Nation—and it will bring us back into the full sunlight of world leadership where we belong.

It is a fact that high technology activity like the space program adds to the Nation's productive capacity and results in productivity gains to a far greater extent than many other Federal programs. If we are to have an approach balanced between our current and our future needs—if we want to establish the basis for a fully employed labor force in the future, we can ill afford to further reduce current outlays for space and other high technology activity. The social costs of inadequate support for space are not just the immediate loss of jobs occupied by scientists, engineers, and skilled technicians, but the potential loss to the Nation's productive capacity and its ability to accommodate growth and a sufficient employment base in the future.

Mr. Chairman, I strongly support this bill and urge my colleagues to vote for this high technology agency.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am very happy to yield to the gentlewoman from Tennessee, also a member of the subcommittee and a very valued member of our Committee on Science and Technology.

Mrs. BOUQUARD. I thank the gentleman for yielding, and I wish to thank him for his very fine work and leadership on our committee.

Mr. Chairman, I rise in support of H.R. 6413 which would authorize funds for NASA in fiscal year 1981, and I want to commend the distinguished chairman of the committee my colleague, the Honorable Don Fuqua from Florida, for bringing a strong bill to the floor.

Mr. Chairman, as you are well aware, NASA is a mission-oriented Federal agency. The success or failure of NASA's activities is not measured principally by its positive or negative impacts on the economy, but rather by the degree of success in achieving its various mission goals such as exploring the Moon, the planets, and the far reaches of space developing the ability to make useful observations of the Earth from satellites, building a national capability for transporting men and materials to and from space, and advancing both military and civilian aeronautics technology. Nevertheless, with an annual expenditure of $5 billion, there are both short-term employment and income impacts and important long-term effects on the productive capacity of the Nation stemming from the technical advance stimulated by space and aeronautics R. & D.

I would like to take a moment, Mr. Chairman, to familiarize my colleagues with some important work NASA is doing in the field of Energy Research and Development both independently and in cooperation with the Department of Energy. I have the privilege to serve as ranking majority member on the Energy Research and Production Subcommittee as well as the Space Science and Applications Subcommittee and it has afforded me the opportunity to view NASA's work on energy matters with an excellent perspective.

Let me say at the outset that NASA is making important contributions to many of the Nation's energy problems. Interest at NASA centers in energy programs remains at a high level, and innovative ideas with the potential to contribute to these programs are continually surfacing.

NASA FUNDED PROGRAMS

In fiscal year 1981, the emphasis in NASA-funded solar energy activities will be on evaluating small dispersed solar system applications and bioenergy. Work also will be undertaken on ocean thermal energy conservation (OTEC), solar-augmental desalination systems, and solar rankine applications.

Small dispersed solar systems are stand-alone systems that would use solar energy to provide thermal, mechanical, and electric power in remote locations. The multiphased study program initiated in late fiscal year 1979 involved several tasks: First, identification of candidate sites in the United States, Central and South America; second, the selection of domestically supplied hardware that could meet site requirements; and, third, the preparation of initial plans for project implementation. These tasks were completed in December 1979, and reports are in final review. NASA is now moving into a second phase that will see completed the detail implementation plans delineating the technical and programmatic requirements of selected specific sites. Utilizing these site requirements, NASA will begin a new task, the investigation of the feasibility of integrated, modular concepts. As we move into fiscal year 1981, sufficient information should exist to refine site requirements with respect to utilizing modular concepts and then proceed into preliminary design of modular systems.

Market surveys to date indicate that there is potentially a large market for such systems and that a definite benefit could accrue to the solar industry from the wide-scale deployment of systems that have been "systems engineered and designed" with respect to cost, performance, and operations. The market surveys and site-matching activities will be accomplished in fiscal year 1981. These studies and plans will be reviewed with potential user agencies; for example, DOE, AID, for project implementation on a reimbursable basis.

BIOENERGY

Work will also be continued in fiscal year 1981 to explore the potential of bioenergy as a promising source of nonfossil energy supply and to define the role NASA could play in developing this national resource. The approach NASA is using is to work with DOE, industry, and other experts in the bioenergy area to identify key technical problems inhibiting the implementation of a major bioenergy-based energy program.

After this step, NASA will identify areas where innovative NASA technology and management can be productively applied to aid in the solution of these problems. The Jet Propulsion Laboratory (JPL) is coordinating this work and has the responsibility for the following multidisciplinary tasks: First, investigating the potential to improve biomass feedstock production; second, developing one or more innovative and highly efficient systems for conversion of biomass feedstocks to gaseous and liquid fuels; third, developing design concepts for optimum regional bioenergy systems or hybrid systems (solar thermal, fuel cell, et cetera) and fourth, defining practical applications of bioenergy systems to meet NASA needs. Accomplishments of these tasks in fiscal year 1981 would allow NASA to determine the appropriate effort in support of the bioenergy area.

ADVANCED COAL CONVERSION TECHNOLOGY

In addition to the activities just discussed, NASA will continue to examine its ability to make a contribution in developing coal preparation and conversion technologies. Recently, NASA expanded this work to include the Marshall Space Flight Center (MSFC) as well as JPL. MSFC's experience in large, complex systems technology and hardware development, including the integration of a wide-range of interacting system elements, could be helpful to Federal agencies involved in the development and demonstration of coal gasification and liquefaction processes.

MSFC efforts will be directed primarily toward understanding current technology developments in coal conversion and on how to adapt existing analytical tools to the special needs of gasification projects. MSFC's capability to support coal conversion projects has been recognized by the Tennessee Valley Authority (TVA), and MSFC has initiated support for the definition phase of TVA's recently announced medium-Btu coal gasification project. MSFC will also provide technical assistance in defining system requirements, managing multiple-plant, conceptual designs awarded by TVA, and supporting component technology development for the project. I am particularly pleased about the evolving relationship with TVA and the recognition of MSFC's capabilities to support TVA's innovative programs.

UTILITY SYSTEMS

The problems facing the utilities in integrating new power generation and storage technologies and others such as user load control into their existing system will be complex and highly interactive. The application of advanced communications and control technologies of the kind pioneered by NASA for space flight, using a systems integration approach, could be a key to the effective resolution of many of these problems.

Other NASA-funded, energy-related efforts deal with: First, advanced coal gasification technology; second, space utilization systems; and third, Stirling engine development.

REIMBURSED PROGRAMS

In the time remaining, Mr. Chairman, I would like to spend a few minutes describing some of the progress that has been made in projects sponsored by DOE and other agencies. As I know you are aware, NASA participation in energy research, development, and demonstration encompasses a wide range of activities that capitalize on unique NASA capabilities developed for our aeronautics and space programs. In fiscal year 1980, NASA will receive over $250 million of reimbursable funds from other agencies; up from the $214 million transferred to them in fiscal year 1979.

As you know, NASA supports the DOE in several program areas; that is, solar heating and cooling, wind energy, solar cell—photovoltaic conversion systems, and high-temperature thermal conversion systems. I would like to update the committee on recent developments and expectations for the coming year in these programs.

SOLAR HEATING AND COOLING

NASA has just completed the fourth year of their activity in the solar heating and cooling program. They have made significant progress toward the goal of developing, testing, and demonstrating equipment that will stimulate the formation of a solar industry. Of the original responsibilities assigned to NASA in 1975, the initial development effort is essentially complete.

Final hardware will be installed in operational test sites during 1980. NASA is now entering a new phase of the development effort, engineering field testing. This is perhaps the final step in the commercialization process in which NASA will be involved. Of the 117 commercial demonstration sites assigned to NASA by DOE, 76 are operating and the others will be completed during fiscal year 1981. This effort has been expanded to include test and evaluation of over 150 commercially available solar collectors.

A new area of NASA involvement is the technical management of the Federal building solar heating and cooling demonstration program. This program, with its planned funding of $100 million, is expected to result in several hundred major Federal solar installations and provide valuable hands-on experience to the participating Federal agencies.

WIND ENERGY

Significant progress was made during fiscal year 1979 toward demonstrating the feasibility and cost effectiveness of large wind turbines. In May, the fourth and final 200 kw experimental wind turbine is scheduled to become operational on Oahu, Hawaii. The 2–MWe, MOD–1 wind turbine at Howard's Knob, near Boone, N.C., has been successfully operated from the Blue Ridge Electric Cooperatives' dispatch control center in Lenoir, N.C., 25 miles from the machine, and is scheduled to be turned over to the local utility this March.

A site has been selected in the Columbia River Gorge near Goldendale, Wash., for installing the next generation, MOD–2 wind turbines. The first of three wind turbines should be placed in operation by the Bonneville Power Co. late in fiscal year 1980. The other two machines will be installed by March 1981. The design of the 2.5 MWe, MOD–2 includes new technology designed and developed under the direction of the Lewis Research Center. Analyses of the MOD–2 design indicate that it should provide power for less than 4 cents per kWh when produced in moderate numbers.

Two companies, General Electric and Boeing Engineering and Construction Co., have been selected to develop and build advanced, multimegawatt wind turbines. Both designs will be capable of producing electric power for less than 3 cents per kWh when produced in quantities of 100 or more. Later this year, a contractor will be selected for an advanced, medium-size machine (200–500 kWe) that in special applications will have a goal of producing power for less than 6 cents per kWh. This turbine should also be operating by late 1983. These two advanced machines are the lasting generation of wind turbines that NASA is presently committed to develop.

An agreement has been reached with the Water and Power Resources Service (formerly the Bureau of Reclamation) of the Department of Interior (DOI) to construct a multimegawatt wind turbine at Medicine Bow, Wyo. Under the NASA/DOI agreement, NASA will manage the project and concurrently train a DOI team that would be responsible for erection of any additional wind machines at this site. As many as 50 turbines may be constructed if initial results are favorable. The Hamilton Standard Co. of Windsor Locks, Conn., has been selected to build the first machine. This wind turbine is scheduled to be operational in late fiscal year 1981.

SOLAR CELLS

At present, NASA perceives no technical obstacles in reaching the 1986, $0.70 Wp (1980 dollars) photovoltaic module price goal set in the program. However, NASA photovoltaic systems applications experience has taught NASA that the balance of the photovoltaic system for example, equipment involved in mounting the modules and connecting them to a distribution network) is a major cost factor. These balance-of-system costs are being given added attention. Also, the load devices (appliances) have turned out to be a major source of problems encountered, as opposed to the solar cell modules. As a result, NASA has increased our emphasis on overall systems engineering.

A highlight in this area occurred on November 20, 1979, when a 360-Wp photovoltaically powered, high-volume air quality monitor/sampler was dedicated at Liberty State Park, N.J. This project was a joint endeavor of DOE, the NASA Lewis Research Center and the New Jersey Department of Environmental Protection. The use of a photovoltaic power system makes it possible to site this type of sampler wherever a remote polluting source is predicted, thus providing baseline particulate data away from commercial power and human activity.

The Jet Propulsion Laboratory (JPL) has also been assigned lead center responsibility by DOE for the Federal photovoltaic utilization program (FPUP). This program, established under title V of the National Energy Conservation Policy Act (Public Law 95-619), authorized $98 million for fiscal years 1979 through 1981. Under the act, the DOE is working cooperatively with other Federal agencies to implement a photovoltaic energy commercialization program for the accelerated procurement and installation of photovoltaic power systems at Federal facilities.

JPL has assumed this lead center responsibility during cycle III of the 5-cycle program. Cycles I and II were devoted to small (less than 1 kW) remote applications. Cycle III can include installations larger than 1 kW per system. Agencies have been selected by DOE to participate in cycle III and approximately $5 million will be disbursed in this cycle.

Other areas of funded effort are: First, high-temperature thermal conversion; second, automobile R. & D.; third, fuel cells; and fourth, space utilization systems.

Mr. Chairman, I am not going to take any more of your time but I want to say in closing that I continue to believe that NASA capabilities can be useful in the years ahead as we develop new technologies to meet this important challenge. I urge your support for this very important bill. Thank you, Mr. Chairman.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am very happy to yield to the gentleman from Oklahoma, likewise a member of the subcommittee and a very loyal member of the Committee on Science and Technology.

Mr. WATKINS. I thank the gentleman for yielding, and I would like to express my thanks to the chairman of the committee, the gentleman from Florida (Mr. FUQUA), for the outstanding job he has done in bringing this legislation before this body.

Mr. Chairman, I rise in support of the National Aeronautics and Space Administration Authorization Act of 1981, H.R. 6413. The programs of the National Aeronautics and Space Administration have made unprecedented contributions to mankind's scientific understanding of Earth and surrounding space, contributed substantially to the technology base of the Nation and provided new products and services for direct benefit on Earth. The authorization for fiscal year 1981 provided in H.R. 6413 will allow NASA to continue to pursue new and challenging programs in order to fully exploit the potentials of space.

The action of the Committee on Science and Technology is the result of balancing program priorities with the commitment of the members of the committee to achieve a balanced national budget. I believe the bill as reported by the committee accomplishes these objectives and preserves the health of our civil space program. I look with confidence to further expansion of our Nation's technological base and the spinoffs of technology for social benefits and contribution to the national economy.

At a time when this Nation is facing unprecedented inflation and losses in productivity, we can ill afford to ignore opportunities to benefit American taxpayers and to help improve productivity. The problem of U.S. productivity has been addressed by a major executive branch domestic policy review, which led to the President's recent innovation initiative, and by numerous conferences, symposia, workshops and congressional hearings, prompting several innovation-related legislative proposals.

NASA's technology utilization program has proven to be one of the most successful in U.S. Government programs for infusing results of Federal research and development into private and public sectors, and benefiting the economy at large. Long recognized as a leader in Federal technology transfer efforts, NASA's technology utilization program has brought the United States improved health care in the form of heart pacemakers, prosthetic aids, medical telemetry, and many others, and has brought improvements in public safety in the form of a fireman's breathing apparatus and portable fire-fighting pumps.

A recent example of technology utilization contributions is seen in the field of medicine, where an automatic implantable defibrillator (AID) is being developed. NASA's Goddard Space Flight Center is applying such space-derived technology as space-age microcircuits, reliability, and quality assurance techniques; low-power space systems; solid state digital memory systems; and digital circuitry. Scientists and engineers from Baltimore's Sinai Hospital, Johns Hopkins Applied Physics Lab and Medical Institution, and MEDRAD, Inc., are contributing in the effort to make the AID a reality as well as a useful medical device. The device was conceived by a cardiologist, Dr. Mirowski, who recognized that even though 400,000 Americans annually survive a first heart attack, approximately 50,000 of this group die within the first year from ventricular fibrillation. Fibrillation can be corrected by an electric shock (defribrillation), if it is available. Unfortunately, most of those who die from a recurrent heart attack are away from a means of defribrillation. With an implanted device such as AID to automatically sense the onset of fribrillation and provide the required electric shock, many of these patients may be saved.

Hundreds of examples of the direct use of aerospace technology to provide new products and new or improved processes have been shown to more than pay for the program in the form of economic benefit. This preeminently successful effort of NASA's technology utilization program deserves the strongest support at this time of our strongest economic need.

In addition to this secondary transfer of technology, the application of remote sensing of the Earth from orbit has contributed substantially to managing and developing the resources of the world. Over the past 20 years, this Nation has become increasingly aware of the need to use its resources wisely. The need for reliable information is a common thread in all efforts toward balanced use of natural resources required to insure our future, and the technological base provided by NASA programs has given us the tools to get information we need to wisely manage our resources and environment.

Since the launch of the first NASA Earth resource technology satellite in 1972, data from NASA's experimental Landsat satellites have been used to provide resource and environmental status information in every State in the Nation. The applications of NASA Landsat data to inventories of crops, forests, water resources, and geological resources suggest potential uses that are already showing large payoffs both here in the United States and abroad. The significance of the successful NASA Landsat program is underscored by the recently announced administration decision to develop an operational land remote sensing system to serve the many U.S. Federal, State, and private users of this data. Over a dozen States have, or are building, the capability to use Landsat data operationally, and more than half the States are evaluating that possibility.

Technology has been the key to this country's growth and NASA's applications program has been highly responsive to U.S. needs for new technology, both in developing it—such as the NASA Landsat satellites—and in getting the technology into use through NASA's remote sensing technology transfer program. NASA has worked directly not only with other Federal agencies, but with State governments and their representative organizations such as the National Council of State Legislatures and the National Governors Association. NASA's remote sensing technology transfer program is particularly valuable to the American public because it is a major avenue through which the States receive direct benefits from Federal research and development. Without continued strong support for NASA's Landsat program, and the technology transfer program in particular, we run the risk of not having objective information for intelligently making resource decisions as well as losing the already eroding technological edge that has made this Nation a world leader. The use of NASA's experimental Earth resource satellites may yet prove to be one of the most significant accomplishments of the U.S. space program, and support for continued access to that technology through NASA's

R. & D. and technology transfer program is vital to realizing that promise.

Mr. Chairman, the investments we make in space have and will continue to have major beneficial effects on Earth. H.R. 6413 deserves our full support.

Mr. FUQUA. Mr. Chairman, let me also say that the gentleman from Oklahoma has certainly been a leader in trying to further the NASA program dealing with technology utilization in getting new technology developed through our space program out into the marketplace where the people in business can utilize it. It is one of the finest programs in the whole galaxy of things that NASA is involved in. The gentleman from Oklahoma has stayed behind them, encouraged them to do a better job, and I trust they are doing a better job; but they have a long way to go, and I am sure the gentleman from Oklahoma (Mr. WATKINS) is going to continue his diligence.

Mr. WATKINS. I thank the chairman.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to my friend, the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I want to rise in support of the NASA authorization bill and to congratulate the gentleman from Florida (Mr. FUQUA) for his work on this legislation and for the work of the committee.

Mr. Chairman, I very strongly support the inclusion of the solar polar program in this legislation. I hope that we will be able to keep that program going because it is so vital for this country. Research in this area will be valuable in the future solution of our every problem.

I think the work that the gentleman has done in building up our space program and the research and development that we have has been a great contribution to our country. I want to congratulate the gentleman again.

Mr. FUQUA. I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation that we bring before the House today is a good piece of legislation which is consistent with the fiscally conservative mood of Congress. As a result of extensive hearings and reviews, the committee has managed to trim approximately $115 million from the fiscal year 1981 budget. These reductions are certainly not desirable from the scientific community's perspective, however, everyone must do some "belt-tightening." This action is also difficult from the committee's perspective.

For some time, the Science and Technology Committee has emphasized the long-term significance that high technology programs have on a healthy, growing economy. As a consequence, we have encouraged the maintenance of a positive real growth for NASA programs. Unfortunately, this has been difficult to do in a fiscally conservative environment. Last year, the fiscal year 1980 authorization reduced the manpower ceiling by approximately 700 people. In addition, there were no new starts for scientific missions. This year, the fiscal year 1981 authorization imposes no further reductions in manpower ceilings and there are three new starts, the gamma ray observatory, the national oceanic satellite system, and solar electric propulsion system.

When the committee reviewed the NASA budget, in an attempt to trim it, we used a criterion which would maintain a healthy balance in the various scientific disciplines. The committee agreed with the administration that these three new starts should be retained. The gamma ray observatory will substantially strengthen the scientific integrity of the physics and astronomy program. The national oceanic satellite system is equally as important in the space applications program. This program will provide the capability to monitor the oceans of the world and provide valuable information to the Navy, commercial shipping and fishing and weather forecasting. In light of the extensive monitoring capability which is available of the world's land masses, it is only logical to develop a similar capability for the ocean in addition, this program is being instituted as a cooperative effort between NASA, the Department of Defense, and the National Oceanic and Atmospheric Administration.

The budget which is represented by this legislation is approximately 7 percent above the fiscal year 1980 budget, including the supplemental authorization request. If the supplemental is excluded, the budget growth is approximately 13 percent. When considering the inflation rate of 18 percent, this does not comply with the committee's desire to maintain a real positive growth, but it is the only responsible action that we can take.

A very important element of this budget is the Space Shuttle program. This line item represents approximately 42 percent of the total research and development budget. Because of the critical nature of this program, the administration exempted it from any budget cuts, as did the House Budget Committee. I am in agreement with this attitude. In fact, the Shuttle line item has been increased by $5 million to provide for procurement of titanium for the fifth orbiter. Even if the fifth orbiter is not procured, the titanium can be resold with no loss to the Government.

In closing let me reiterate that this budget is totally consistent with the House budget resolution. The committee has very judiciously trimmed it to minimize the cost growth. I would also like to reemphasize the importance that this type of expenditure has on a healthy economy. It is very easy to view these technical programs as expensive "boondoggles" that only represent a drain on an ever-weakening economy. If you feel this way, I would only remind you that a major element of this Nation's exports lies in the field of high technology. Our aircraft industry, which dominates the world market, was spawned from basic Government research conducted by the National Advisory Committee on Aeronautics which is the predecessor of NASA. Today, we routinely communicate with any place in the world by satellite communications. Hurricanes and severe weather is continuously monitored, and the world's resources are inventoried by satellite observations. All of this has been made possible by Government-sponsored research in NASA.

It is correct that it takes a long time to bring these technological achievements to fruition; as much as 10 to 15 years from conception of an idea to practical application. But this does not make them any less important. Let us not be "pennywise and pound foolish." Vote in favor of H.R. 6413.

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Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. WINN. I would be glad to yield to the ranking minority member of the full committee, the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I rise in support of H.R. 6413, the NASA fiscal year 1981 authorization. This is a good piece of fiscally responsible legislation and I encourage my colleagues to join me in its support.

In my opinion, this legislation is extremely important because it contributes to the quality of the technological enterprise of this Nation. As Americans look around at the world, it becomes clear that technology is playing an ever increasing role in our everyday lives. In fact, we are in the midst of a technological revolution. Every element of our life is touched more and more by technological innovation. These changes many times go unnoticed, and consequently we forget where the change originated.

I want to remind my colleagues that a primary source of these changes is Government-sponsored research and development such as that found in this legislation, the fiscal year 1981 authorization for NASA. This type of activity represents the embryo stages of a multitude of technological solutions to real problems. Today, we can talk with nearly anyone in the world by satellite communication. This did not just happen, it originated from the basic and applied research which is sponsored by NASA. The same is true of our weather forecasting capability. Since the development of weather satellites, there has not been one hurricane that has hit our coastal cities by surprise. These storms are routinely detected days ahead of time providing for adequate preparation and evacuation.

Today, we are facing some very serious problems: Inflation, energy, foreign policy. However, we should not fall into the trap of becoming so consumed with the immediate problems that we disregard the impacts of long-range problems on our future. Most research and development has its largest impact 10 to 15 years after that research is conducted. But just because the impact is slow in coming does not make it any less important; short-term crises should not be allowed to overshadow this important contribution to our Nation.

I urge my colleagues to vote in favor of H.R. 6413, the fiscal year 1981 authorization for the National Aeronautics and Space Administration.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. WINN. I am happy to yield to the distinguished gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 6413, NASA authorizations. The committee has done an excellent job and deserves our support. I would like to call particular attention to the fact that the bill authorizes procurement of long-lead materials for a fifth orbiter for the Space Shuttle fleet. We are all aware of the delays which have occurred in this program, but they are no more than the normal delays when you are dealing with a new technology, as this program does. The Shuttle will save money in the long run, because it can be flown again and again. And it will give us an unprecedented and unique capability among all nations for easy and almost unlimited access to near-space, which is vital both to our national security and to improving the quality of life on Earth. The spinoffs from Shuttle missions will be rich and varied, from discovery and utilization of new energy and mineral resources to better navigation, communication, and weather protection. The applications for biological and industrial research are limited only by the number of missions we fly, and this addition to our fleet will expand those very real benefits. The existing fleet is almost fully subscribed already. This system will revolutionize space technology the way the model T revolutionized the world in the first part of this century.

I also support the committee in its stress on the need for new initiatives in technology utilization, patent commercialization planetary exploration, remote sensing technology to assist developing nations, and consideration of public service sector needs such as education, health care, and emergency services in its satellite communications research and development programs.

This is a responsible bill, which allows us to keep this program intact and to look to the future where the solution to so many of our problems can be attained. I urge an "aye" vote.

Mr. WINN. Mr. Chairman, I thank the gentleman from California.

Mr. Chairman, I reserve the balance of my time.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. HARKIN), the chairman of the Subcommittee on Transportation, Aviation, and Communication.

Mr. HARKIN. Mr. Chairman, the Subcommittee on Transportation, Aviation, and Communications conducted numerous field inspections and held extensive hearings here in Washington on the aeronautical part of the fiscal year 1981 NASA authorization. Testimony was taken by a variety of witnesses both inside and outside of NASA.

Members of the subcommittee worked long and hard in carefully reviewing the NASA aeronautical program and the 1981 budget request. We found that although the dollar amount for aeronautical R. & D. is small, about $295 million this year, the payoff is very large. This is true because NASA emphasizes the high-risk, long-term research and technology that industry is financially unable or unwilling to undertake. Such efforts provide the foundation for future aircraft and engines which return many times their initial investment to our economy.

Late on I understand there will be an amendment offered to completely take away all of the money that we have in this bill for the SCR program, the supersonic cruise research program.

Again, I would emphasize just one point to remember during the debate, that this amount of money is laying the foundation for further technological development which could have very high payoffs for this country in the future.

Because of this, the Committee on Science and Technology has repeatedly urged the administration and the Congress to increase the resources devoted to aeronautical R. & D. We have often pointed to the many long-term benefits of investment in this area, which are reflected in billions of dollars in sales of U.S. aircraft here and abroad, and in millions of jobs for Americans.

The fiscal year 1981 program in aeronautics represents a continuation of NASA's efforts to advance technology across the board. Specifically, NASA is working in virtually all areas of aircraft technology, including materials, structures, propulsion, aerodynamics, and avionics. Of special note this year is a substantial amount for developing the technology needed for a new generation of fuel-efficient subsonic aircraft. This program, the so-called ACEE program, which was carefully worked out with the close involvement of industry, holds great promise for our continued worldwide leadership in aviation.

One example of this is the projected fuel savings from just one element of ACEE, the engine components improvement program. This program is concerned with finding evolutionary changes and improvements in today's jet engines. For example, NASA has developed new seals that permit more efficient operation, thereby saving fuel. This and other such advances are projected to save almost 9 billion gallons of jet fuel over the next 25 years.

When the other pieces of this ACEE program are thrown in, the total fuel savings by the year 2000 will amount to an incredible $45 billion. Now, that is a pretty good return on our 10 year, $500 million investment in this program.

NASA also conducts research in virtually every category of flight vehicle. In addition to conventional transport aircraft, the program also includes rotorcraft, general aviation aircraft, V/STOL and high performance aircraft. These efforts allow NASA to assist all segments of our important aviation industry.

The NASA aeronautics program, I would also point out in following the ranking minority member of our full committee, is also in keeping with the budgetary constraints this year. This aeronautics program of $295 million this next fiscal year is 4 percent less in actual dollars than the fiscal year 1980 program; so when we take inflation into account, it would probably be somewhere in the neighborhood of 18 to 20 percent less than the previous year.

So I want to thank all members of the Subcommittee on Transportation, Aviation, and Communication, for their diligent work on this bill.

I especially want to commend the ranking minority member, the gentleman from California (Mr. GOLDWATER) for his leadership and his assistance.

The subcommittee has worked very hard in a truly nonpartisan manner to advance aeronautical development in this country.

Mr. Chairman, I urge adoption of the fiscal year 1981 NASA authorization bill and the aeronautics portion thereof.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Massachusetts.

Mr. WINN. Mr. Chairman, I yield such time as he may desire to the gentleman from California (Mr. DORNAN).

Mr. MAVROULES. Mr. Chairman, I rise in support of H.R. 6413, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1981 and would like to specifically comment on the merits of one of its provisions dealing with the rotorcraft helicopter.

Mr. Chairman, one of the most rapidly emerging segments of the aerospace industry is the application of the unique capabilities of the helicopter to the worldwide civil aircraft market. The applications include resource exploration and development, forest management, agriculture, construction, public service and passenger transport.

While the preeminence of the U.S. helicopter industry was taken for granted from the time of the introduction of the helicopter in World War II until the mid-1970's, it is no longer assured. And, Mr. Chairman, as in many other areas, the United States is now challenged by strong civil competition from our friends in the free world industry. An equally serious challenge to our military rotorcraft predominance is also becoming apparent as a result of recent developments in the Middle East.

In recognition of the growing importance of the need for increased attention to the state of technology in the United States helicopter industry, Mr. Chairman, the Congress added $5 million to the NASA 1980 budget to launch the long-range program in advanced rotorcraft technology. This program was developed by NASA with the advice of the civil helicopter operators, the airframe and engine manufacturers, the Department of Defense, and the Federal Aviation Administration.

This plan envisioned a broad research and technology effort in aerodynamics, structures, flight control and avionics, propulsion, and vehicle configurations which focused on the critical technology to enable the United States to retain world leadership in rotorcraft technology. The 10-year plan was coordinated with the research and technology activities of the U.S. Army and would be carried out in conjunction with the Army laboratories located at the NASA research centers at Ames, Langley, Lewis and Dryden.

In accordance with the congressional action, Mr. Chairman, NASA has applied the initial funding to the new program to begin the research in the critical areas of modeling of rotor and airframe aerodynamics, acoustics, airframe dynamic response prediction, and all-weather operations. NASA has also submitted a request for fiscal year 1981 funds to sustain the rotorcraft program augmentation begun in fiscal year 1980 in aerodynamics, acoustics, vibration reduction and all-weather operations.

Last year, Mr. Chairman, the need for increased effort using NASA's unique facilities and expertise was judged worthy of support on the basis of the growing civil rotorcraft market in the free world. This year brings the added justification and urgency for a strong research and technology effort in support of our military readiness and to contribute to the technology base leading to advanced rotorcraft designs for future military applications.

Mr. Chairman, I urge adoption of the fiscal year 1981 NASA authorization bill and ask my colleagues to join me in passing this legislative measure.

Mr. DORNAN. Mr. Chairman, I rise in support of H.R. 6413, authorizing appropriations for NASA in fiscal year 1981.

I am standing in this morning for the ranking minority member of this committee, a distinguished member of our California delegation (Mr. GOLDWATER), who has done such journeyman work on the committee. He has a prior committee-related obligation out of the city. You recall, we did not expect to be in session today. I would like to briefly discuss on the aeronautical portion of the bill some of the sentiments of Mr. GOLDWATER and myself.

Aeronautics is a small but a very important part of NASA budget.

Important because aircraft are this country's No. 2 export item—second only to agriculture.

Positive balance of trade from aircraft will exceed $13 billion this year—about half from civil aircraft.

Aeronautics is important because it supplies 600,000 jobs for Americans.

These exports, positive balance of trade, and jobs will be lost if we lose our technical superiority.

NASA research has built that superiority—more is required to maintain it against stiff foreign competition.

The foreign conglomerate which makes the A-300 Airbus is now the No. 2 manufacturer of wide-bodied aircraft—ahead of McDonnell Douglas and Lockheed.

Large market for commuter aircraft—these new aircraft may come from Europe, Brazil, and Canada.

NASA research has already done much and will do more to cut our dependence on foreign oil. New technology aircraft will be one-third more fuel efficient than earlier jets.

Our TAC subcommittee and S. & T. Committee have taken all this into account in our hearings, field trips, and our markup.

We have been fiscally responsible. For aeronautics, we're requesting $12.5 million less than fiscal year 1980. This is a 4 percent cut, not counting inflation.

In our bill, we emphasized several important areas needed to maintain our country's position in aeronautical R. & D., to maintain a positive balance of payments, to maintain jobs at home.

I would like to talk about three areas where our committee feels that OMB's knife slashed unwisely, and which we restored in our bill.

We added $4 million for studies into the types of fuels which are most likely to be available for aircraft in the future. The fuels currently used by our jet aircraft meets a number of very tight specifications to insure safety and long engine life. If these tight specifications could be relaxed somewhat, it would result in both less costly fuel and an increased yield of jet fuel per barrel of crude oil. On the other hand, synthetic jet fuel made from such sources as coal, oil, shale, tar, sands, and so forth is likely to have looser specifications by nature. We feel that NASA should get started now to determine what changes to aircraft and engines will be required to burn the fuels which are likely to be most plentiful in the future. This work would apply to both retrofit of current aircraft and engines, and design of new aircraft and engines.

The subcommittee also added $1 million to investigate conservation of scarce aerospace metals. There are certain metals, such as cobalt and chromium, which are now absolutely essential in the construction of modern aircraft and engines. Unfortunately, our chief suppliers of these metals are somewhat unstable—the U.S.S.R. and several marginally reliable African countries. At present, we have no acceptable backsups. Therefore, we feel it is essential that NASA begin immediately to look at alternatives—such as conservation of what we have, and alternative materials to do the same job.

We have also recommended a $1.5 million increase in general aviation propeller technology. Mr. Chairman, in the month of March, general aviation manufacturers laid off or furloughed 8,500 production workers throughout the United States. High fuel costs and a shortage of aviation gasoline have done much to hurt this important industry. One of the main purposes of the GA propeller technology program is to increase fuel efficiency—to help alleviate current and future fuel problems. Other major objectives are decreased noise—to benefit airport neighbors—and increased safety. I think this is an important program because it helps conserve fuel, and it helps keep our U.S. aircraft competitive in the export market. Traditionally, U.S. general aviation manufacturers have sold one-third of their production abroad.

Mr. Chairman, I would just like to close by saying the bipartisan cooperation and spirit of camaraderie of this subcommittee I think is an example of what we all look to as the best experience we get serving in the U.S. House of Representatives. I would ask all Members to please support this very careful, well-budgeted House bill, H.R. 6413.

Mr. WINN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, I take this time in order to ask the chairman of the committee or any other member of the Committee on Science and Technology about a program that I have been receiving some inquiries. I would just like to know something about the status of this program. I am talking about the Space Telescope Institute, which I understand is a new project that is being contemplated by NASA. I just wonder if the chairman would indicate what the status of that particular project is and whether or not it is contained in this budget authorization.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the Chairman.

Mr. FUQUA. I would say to the gentleman there are no funds to establish the Institute, but there are some requests for proposals going out some time later this fall for proposals to be submitted for the Institute. Then I assume at some appropriate point thereafter there will be some decision made on the appropriate site selection.

Mr. CORCORAN. This would not then be one of the new programs that is in this authorization bill?

Mr. FUQUA. It is a part of an ongoing program of the Space Telescope.

Mr. CORCORAN. So the program, to that extent, would be financed in this authorization bill, and as a result there would be authority for NASA to have a request for applications to establish this particular Institute?

Mr. FUQUA. This bill only contains funds for the proposal and the evaluation, and not the institution of the laboratory.

Mr. CORCORAN. But there is a formal procedure under way right now, as I understand it, whereby applicants can submit proposals?

Mr. FUQUA. There will be a formal procedure. That request for proposal should be going out in September of this year.

Mr. CORCORAN. I would like to establish exactly when that request-for-proposal procedure will begin. Is it going to be in the current fiscal year or will it be in the 1981 fiscal year?

Mr. FUQUA. It is part of an ongoing program and primarily will be funded in the 1982 fiscal year?

Mr. CORCORAN. And it will start in September of which year?

Mr. FUQUA. That is the time when request for proposals is anticipated to go out, sometime in that timeframe.

Mr. CORCORAN. Is that September of 1980 or September of 1981?

Mr. FUQUA. That would be September of 1980.

Mr. CORCORAN. I thank the gentleman and yield back the balance of my time.

Mr. WINN. Mr. Chairman, I have no further requests for time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development," for the following programs:

(1) Space Shuttle, $1,873,000,000;

(2) Space flight operations, $809,500,000;

(3) Expendable launch vehicles, $55,700,000;

(4) Physics and astronomy, $438,700,000;

(5) Planetary exploration, $179,600,000;

(6) Life sciences, $49,700,000;

(7) Space applications, $381,700,000;

(8) Technology utilization, $13,100,000;

(9) Aeronautical research and technology, $290,300,000;

(10) Space research and technology, $115,200,000;

(11) Energy technology, $4,000,000; and

(12) Tracking and data acquisition, $359,000,000.

(b) For "Construction and facilities," including land acquisition, as follows:

(1) Construction of man-vehicle systems research facility, Ames Research Center, $7,480,000;

(2) Modification of steam ejector system and thermal protection laboratory, Ames Research Center, $2,300,000;

(3) Modification of the unitary plan wind tunnel, Ames Research Center, $3,400,000;

(4) Modifications to various buildings for energy conservation, Jet Propulsion Laboratory, $1,500,000;

(5) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $2,000,000;

(6) Rehabilitation of high temperature hot water system, zone 2, industrial area, John F. Kennedy Space Center, $760,000;

(7) Modifications for avionics integration research laboratory, Langley Research Center, $5,756,000;

(8) Modifications to aircraft landing dynamics facility, Langley Research Center, $15,000,000;

(9) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;

(10) Decommissioning of Plum Brook Station reactor facility, Lewis Research Center, $3,000,000;

(11) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;

(12) Rehabilitation of electrical switchgear, engine research buildings, Lewis Research Center, $1,700,000;

(13) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(14) Rehabilitation of chilled water system, Michoud Assembly Facility, $782,000;

(15) Various locations as follows:

(A) Modification of twenty-six-meter antenna, DSS–44, Canberra, Australia, $1,200,000;

(B) Replacement of azimuth radial bearing, DSS–14, Goldstone, California, $950,000;

(16) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects, various locations, $2,000,000;

(17) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(18) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(19) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(20) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(21) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management," $1,047,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (20) inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (21) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

TECHNICAL AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Technical amendment offered by Mr. FUQUA: Insert on page 2, line 1, immediately following "hereby authorized" the following: "to be appropriated."

Mr. FUQUA. Mr. Chairman, as I mentioned in my comments, this is a technical amendment offered to correct an error which occurred in the printing of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk proceeded to read the first committee amendment.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, considered en bloc, and printed in the RECORD, except subsection 1(a), paragraph (9).

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, the committee amendments reflect action the subcommittee and full committee have taken regarding the dollar changes as they relate to what I discussed during my remarks in my explanation of the bill.

I do not think there is anything that has to be further explained either by myself or the gentleman from Kansas.

I ask adoption of the committee amendments.

The committee amendments are as follows:

Committee amendments: Amend subsection 1(a) by changing the dollar amounts in the designated paragraphs as follows:

Page 2, line 6:

(1) "Space Shuttle," strike "$1,873,000,000" and insert "$1,878,000,000";

Page 2, line 8:

(2) "Space flight operations", strike "$809,500,000" and insert "$769,500,000";

Page 2, line 11:

(4) "Physics and astronomy," strike "$438,700,000" and insert "$370,700,000";

Page 2, line 15:

(7) "Space applications," strike "$381,700,000" and insert "$386,700,000";

Page 2, line 20:

(10) "Space research and technology", strike "$115,200,000" and insert "$120,200,000"; and

Page 2, line 23:

(12) "Tracking and data acquisition," strike "$359,000,000" and insert "$350,500,000".

Page 3, line 1, amend subsection 1(b), "Construction of facilities", by deleting paragraphs 4 and 10 and renumbering the other paragraphs accordingly. Other conforming amendments include: In section 2 "paragraphs (1) through (20)" should read "paragraphs (1) through (18)" and in section 3, "pursuant to paragraph (21)" should read "pursuant to (19)."

Page 5, line 6, amend subsection 1(c), "Research and program management", by striking out "$1,047,154,000" and inserting "$1,033,154,000".

In section 1(d) on page 5, line 6, insert after the word "appropriations" the following "hereby authorized".

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 19: strike "$290,300,000" and insert "$295,800,000".

AMENDMENT OFFERED BY MR. WEISS TO THE COMMITTEE AMENDMENT

Mr. WEISS. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS to the committee amendment: Page 2, line 19, strike out "$295,800,000" and insert in lieu thereof "$272,300,000".

Mr. WEISS. Mr. Chairman, this is not the first time that this particular subject matter has been raised by me in this Chamber, but perhaps this year, because of the very prolonged, very serious debate that has just occurred over the budget resolution for fiscal year 1981, we can really look at this proposal more objectively in the context of overall national needs and priorities.

What my amendment seeks to do is to eliminate $23.5 million for research and development for the supersonic transport or so-called advanced supersonic transport. I would like to give just a little bit of a background on this proposal and on this particular item. Some of you will remember that this House, and indeed, the entire Congress, in 1971 after some 10 years of involvement in a development program for a civilian supersonic transport plane and the expenditure of something in excess of a billion dollars, decided to terminate the program as not being economically or technologically viable. The Congress then also appropriated some $95 million for so-called burial funds for the program so it could be phased out. But almost from the very moment that Congress acted, sneaking through the back door without any knowledge on the part of most of the American people and, indeed, most of the Members of the Congress of the United States, moneys began appearing or being appropriated and utilized for renewed research and development in this very area. So in fiscal 1973 $11.7 million was used for that purpose; in 1974, $10 million; in 1975, $9 million; and so on, to fiscal 1979, $15.9 million; fiscal 1980, $14.7 million; and this year for the first time we are over the $20 million mark, $23.5 million. If you think that that is a lot of money, you "ain't seen nothing yet," because in prior reports of the committee, and currently in a report put out by the Office of Technology Assessment this year, entitled "Impact of Advanced Air Transport Technology," they tell you that the validation and technology aspects which have to follow research and development will cost around $1.9 billion—$1.9 billion. So here we are by dribbles getting ourselves ready for the expenditure of vast amounts of moneys, and for what? It seems to me that if the aerospace industry really thinks that the supersonic transport, the civilian transport plane, is all that viable, they ought to go out and do the research and development. They ought to do the technological research and validation, and they ought to tool up and start manufacturing. But no, no they will not. The report says, if we keep to past practice, the burden of financing such research will fall in large measure on the Public Treasury.

I should tell you that even the $1.9 billion that we spoke about is chicken feed because they will tell you that is no assurance even if all this work is done and and it proves out that the private sector will take it on. Let me read to you from page 10 of the OTA report:

Significant improvements may be achieved with further work, but even if these technological advances are validated—

That is at the cost of $1.9 billion—

there can be no guarantee that the aerospace industry would act on them. The cost of applying this technology to the design and development of a suitable aircraft could run to $2 billion in 1979 dollars.

(At the request of Mr. Lloyd, and by unanimous consent, Mr. Weiss was allowed to proceed for 3 additional minutes.)

Mr. WEISS. Mr. Chairman, the OTA report then continues:

> Tooling up and starting production could require at least an additional $5 billion to $7 billion, sums believed to be far beyond the resources of any one company.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. WEISS. Let me conclude, and then I will be very pleased to yield to my distinguished friend and colleague.

It seems to me that, given the history of the supersonic transport planes that the European countries have had—most recently I just read that the Texas flights have been canceled now—there is apparently no economic viability to the planes. This report tells you there is great uncertainty as to the fuel costs which are just skyrocketing, and the utilization of fuel is much greater for the supersonic transport than for the subsonics.

I think that this is a classic case of technology gimmickry going crazy, asking the American taxpayer to pick up the tab. I tell you, in the context of what we have been discussing and debating for the last couple of months in relation to the Federal budget it is sheer irresponsibility to go along.

Let me make one further point. I cited the $23.5 million that are in this bill. NASA only requested $15.5 million. The committee thrust an additional $8 million upon them. I wish some of the other programs that we are interested in had such sympathetic consideration.

Mr. LLOYD. Mr Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. LLOYD. I thank my colleague for yielding. I have, as the gentleman knows, the greatest admiration and respect for him, but in this case I feel the gentleman is wrong. The gentleman does not understand the requirements for development. As a matter of fact, if it had not been for the development capabilities of this country for NASA and others, we would not be in the position of leadership in world aviation. It is clearly imperative that we continue this kind of research and development forward.

The gentleman now indicates that the current SST, which is the Concorde owned by the French and the British, is, of course, wasteful of fuel, and the gentleman is correct about this. There is no argument about the fact that the state of the art as far as engine development is concerned has long since passed. But I would remind the gentleman that the Concorde, the SST currently flying, while it is not economically sound, has proved a great many things as far as aviation and the development of supersonic flying is concerned.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Lloyd, and by unanimous consent, Mr. Weiss was allowed to proceed for 3 additional minutes.)

Mr. LLOYD. If the gentleman will continue to yield, I would ask the gentleman this. For instance, the gentleman has a fear of a supersonic airframe. For whatever reasons they may be, that is up to the gentleman himself if he wishes to explain. But I would ask the gentleman this: What does the gentleman think it would cost just to develop an engine for this phantom specific airplane he is alluding to?

□ 1130

Mr. WEISS. On the first point that the gentleman raises, in spite of the gentleman's assurances, this Office of Technology Assessment reports in its "study findings in brief"—and they go into greater detail in the body of the report—tells us:

> In sum, the study of advanced high-speed aircraft has found: The long-term prospects for supersonic transports are significant and real.
>
> The uncertainties are also significant and real. Specifically: fuel price and availability, noise, and market size.

Mr. Chairman, I was addressing myself to the fuel issue raised by the gentleman. I wanted to include the entire part of the quotation so I was not leaving anything out.

With regard to the development of the engine it again seems to me that if the private sector, if private enterprise really thinks this is viable, then good luck to them, let them go forward.

What they want, however, and what has been repeated time after time in this country of late, is for the Government to take all the risks, to make all the expenditures and then the private sector comes along and says, "Man, that is a good idea; we will manufacture and sell that."

Even then they often have to come back and say, "We misestimated; give us more money."

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from California.

Mr. LLOYD. Mr. Chairman, I would remind the gentleman that the development of any major aeronautical situation today, just the development of an engine that the gentleman speaks of, just the development of that, is going to be in the neighborhood of $1.5 billion if we develop any new engine such as, say, the engine that came out of the 101 engine which is a CFM–56, in cooperation with the French installed in the A–300 for instance.

Mr. Chairman, on that engine alone, that too was a multimillion dollar development, over $1 billion easily.

Mr. Chairman, you may not have a single company which can take that kind of a risk. As a matter of fact, the French Government and the British Government cooperated on the SST. Whatever were their reasons they knew they were facing a problem in economics. In addition to that, it was an important function for them to get into the aviation market and they were willing to pay that price. Indeed they have gotten in with the A–300. That is what I think is going to happen if we are not careful. If we stop our development, you may rest assured that the Russians, the French, the British, whoever is, is going to do exactly that.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Weiss was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, in conclusion and in summary, I simply want to reemphasize the fact that the Congress of the United States, hearing all the same arguments we have gone through today, in 1971 decided enough is enough is enough, and after the expenditure of $1 billion said, "Cut it. Let us spend the $95 million to close it out."

But here we are, Mr. Chairman, back again, ready to proceed with even a far vaster amount of expenditures and it seems to me that is not the proper way to conduct the public's business, especially in this time of fiscal austerity when everyone talks about balancing the budget and cutting back on spending. Obviously that seems to apply only to the domestic social programs, it has nothing to do with gimmickry and the technological entitlements that people think are needed by the aerospace industry.

Mr. LLOYD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this issue is one which we have discussed before with the gentleman from New York, is once again with us and once again all the arguments which have been used in the past are still valid.

We absolutely have to have research and development. Eventually we may get into an SST. That has to be determined by not only this body, the other body, the people of the United States have to decide whether or not they wish to go coast to coast in 2½ hours or if that kind of time saving has a real import to them. If it is important to them, they will go forward and do it, no matter what this body says. If it is a major step forward in our socioeconomic applications of time then indeed that will be done, whether or not it is today or done in the future.

Mr. Chairman, what this is all about is that there has to be an ever ongoing research and development. Research and development should occur in the areas of structural materials. Right now we have run into the problem of a temperature rise when you get around 2.2 or 2.4 mach in airframes. We run into a temperature rise and our construction techniques in the United States do not accommodate that. As a matter of fact the Russians clearly are ahead of us in the use of titanium to address that kind of a problem.

Mr. Chairman, in addition to that we need new composites, whatever those may be. Someone was talking about the fact that we lacked in certain basic elements in our engines, and that is true. We are dependent upon the Russians, we are dependent upon nations which are unstable. In the areas of ceramics we can accommodate very, very high temperatures, and we will eventually have a breakthrough—just as we had a breakthrough on the problems of noise in aircraft engines.

Ten years ago we were all crying about the engines that were installed, say, in the 727's, the DC–9's, a very high-pitched, high-sound engine. Today with the high bypass engine where we are up around I think it is 4½- maybe 6-to-1 bypass ratios, we have significantly increased the performance and capability of the engine or the fuel used and, incredible as it may seem, we have doubled the amount of power available to us. For instance, in the DC–10, the L10–11, et cetera, and we have significantly reduced the sounds down to where it is an acceptable limit which we were not even sure we could reach 10 years ago. The same kinds of breakthrough will occur.

Mr. Chairman, to put this kind of limitation, today, on this kind of development, this situation, the supersonic capabilities—as a matter of fact we should be looking at hypersonic airframes because it will help us in many of the areas of our daily living, not only national defense, not only transportation, but in the areas of attenuating sound. We had not the faintest idea what we can do, for instance, beating sound against sound. Who knows, perhaps that is the solution to many problems including trucks on the highway, cars on the highway, whatever it may be.

Mr. Chairman, the point I make here is, let us not be foolish and say, "Well, because we have an emotional involvement in it, we ought not to be involved in the development of a supersonic transport or a supersonic airframe of any kind."

Mr. Chairman, I am not advocating that we impact sound-wise the areas of New York or San Francisco, or Los Angeles or any part of the country, but I do advocate that we go forward with the basic research and development which is so critically necessary to maintain our position as a leader in the world of aeronautics.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. LLOYD. Mr. Chairman, I do yield to my friend and colleague from Iowa.

Mr. HARKIN. Mr. Chairman, I thank my colleague for yielding.

I want to associate myself with the gentleman's remarks. The gentleman has made a most eloquent statement. I concur in the gentleman's remarks.

Again, Mr. Chairman, I am sure the gentleman would agree that the old supersonic transport which this Congress killed 10 years ago used a very old outdated technology coming from the early sixties, in the midsixties, that technology.

Mr. LLOYD. The gentleman is correct.

Mr. HARKIN. We are looking at new things, new technological developments we are working on right now that will make those engines economically viable, fuel efficient, quiet, will transport a lot of people over long distances at very rapid rates of speed. New technology, not the old stuff.

Mr. LLOYD. Mr. Chairman, I could not agree more with my chairman.

I yield back the balance of my time.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, we may have a yearly ritual taking place here. I believe that every year, men and women of vision who serve in this House, will be allocating some funds for research and development to push the frontiers of flight and space and * * * for all of the reasons stated eloquently on both sides of the aisle today. We simply must maintain America's lead in the fields of aviation and aerospace.

Mr. Chairman, "time is money" and in rereading my remarks of last year on this very same amendment and the remarks of the distinguished gentleman from New York I feel a sense of dejavu. It has all been said.

I notice the gentleman from New York (Mr. Weiss) reading from the booklet published by the Office of Technology Assessment, "selectively" read that is—and there is nothing wrong with that; we all do that—but if the gentleman had continued reading the section he selected on page 11, the gentleman would have discovered to his surprise that those billions of dollars he is talking about would be put up by private industry, not by the taxpayers through our Federal Treasury.

☐ 1140

Following the paragraph where the gentleman stopped reading, that is the first line of the next paragraph, says:

> Accordingly, it appears appropriate to carry out a generic R. & D. program to preserve the supersonic option.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding to me. The gentleman, in reading the last part of the paragraph that I read, should note that does not say that there is a commitment by the private sector. It simply says:

> The financial risk could be reduced by the formation of a domestic consortium of two or more aerospace companies . . .

Is that not right? But, there is a statement earlier on which says, if past history is any precedent, the Government is going to pick up the tab. Right?

Mr. DORNAN. The Government has picked up the tab for the last, say, three or four generations in every area of high technology, and we can even go back to the discovery of this continent by Christopher Columbus. Without the largesse of King Ferdinand and Queen Isabella—for all their other disgraceful faults—they did put up some jewels or Christopher Columbus could not have launched a subsidized trip.

We could not have reached the Moon without Government help. We will not explore or populate the stars without some moneys from the Federal Treasury; and research and development in this area, as in agriculture, keeps that dangerous balance of payments somewhere within the ballpark.

I think the experience with the consortium that put together the Concorde, for all its economic shortcomings, was a magnificent pioneering achievement and led the way for that same consortium to now be, as I pointed out in my earlier remarks, the No. 2 seller of widebodied aircraft in this country.

I am sure the gentleman flies home to his district on Eastern Airline aircraft that are built by that very same consortium, the Airbus. The gentleman smiles in recognition of that fact.

Mr. WEISS. The gentleman does not know what I am smiling about. He has not ridden that shuttle.

The gentleman, in the course of his statement, referred to "generic R. & D." I just thought it might be important to read the footnote as to what is meant by "generic." It says in this report that generic R. & D.—research and development—"is that process of verifying and validating technologies leading to a state of "technology readiness." That is the $1.9 billion we are talking about, right?

Mr. DORNAN. Right.

Mr. WEISS. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, let me close—and I have never had an opportunity to do this in 4 years—by reading from my own remarks of last year. I did not have my Wheaties this morning, so I do not think I could state this any better.

I point out, quoting one of the gentleman's earlier remarks:

> Mr. Dornan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.
>
> I would not impinge upon the remaining time of the debate if I were not aware of the growing number of our Members who now follow the floor debate by using our office televisions. They have succumbed to the unavoidable and logical dictum. "Time is money." To save mankind's most precious commodity—time—they utilize a modern communicative tool.
>
> I intend to, as we say, "work one of the doors" on this issue to plead for a large vote against this shortsighted amendment and thereby save us time next year and the year after and the year after because I believe that we should continue to fund each year research and development on this inevitable advance in transportation and aviation.
>
> Mr. Chairman, I am curious as to how many Members of this body have flown supersonic to date. I know the distinguished chairman of the Subcommittee on Transportation, Aviation and Communication, the gentleman from Iowa (Mr. Harkin), has in his naval career. I know the gentleman from California (Mr. Lloyd) has in his distinguished military career. I know that many of the distinguished gentlemen on this side of the aisle have. The gentleman from California (Mr. Badham) has just in the last week.
>
> I first flew supersonic in the Air Force 24½ years ago. I have also flown across the Atlantic on the British Airways commercial Concorde SST as has the gentleman from California (Mr. Goldwater). I flew the SST last year at the instigation of the distinguished prior chairman of the Committee on Science and Technology, the unique and visionary, gentleman from Texas, the unforgettable Olin Teague. He said he thought it was necessary that as many Members as possible should avail themselves of the oppor-

tunity to feel the future, particularly if we would pay for it ourselves, as I did.

That supersonic flight for me in January of 1978 was an amazing experience. Mach 2 for over 3½ hours of sustained flight only 75 years after the magnificient achievement of the Wright brothers at Kitty Hawk.

Mr. Chairman, anybody voting against U.S. SST research is simply holding back the future. I have no fear that I will ever be contradicted in this prophecy * * * simply this. That 30 years from now, not a half dozen Members or 5 dozen but fully 95 percent of the Members of this House will have flown on a commercial supersonic transport. And why should not that sleek transport be "Made in the USA."

I think it would be a tragedy if the airliners we fly on supersonically in the future are built by European consortiums because of a lack of vision in this body.

I think every Member of this House should be aware that this year we are going to pass $8.2 billion in sales of commercial aircraft made in our country.

For the first time business aircraft are going to break the $2 billion sales market barrier. Next year will see business and private aircraft sales go past $2.5 billion mark. We will see civilian commercial aircraft sales go past $10 billion in 1980. A remarkable achievement. Anyone who follows commercial aviation worldwide knows that the Airbus, both the 300 model and the 310 model made in Europe have had tremendous sales success including purchase by our own Eastern Airlines. They have sold dozens of models, and of course we wish them well, but in this very competitive market, which is second only to food in balancing our import imbalance we should always lead not follow. In facing up to our ghastly balance of payments problem we simply cannot give away our great lead in any area of aerospace. The money that our committee has allocated under the excellent leadership of our chairman in this area of research for high-speed flight has been carefully massaged so that "No beast is going to be unleashed" from any Pandora's box. This mischievous amendment is trying to hold back the future, and I would ask of my colleagues an overwhelming rejection of it so that it will not be back to haunt us next year or the following year or the next year by the same type of short-sighted Member who rose in this House at the turn of the century to call two bicycle manufacturers from Dayton, Ohio, "fools" when those indomitable brothers named Wright launched civilization on one of its most exciting adventures. I was at Kill Devil Hill, Kitty Hawk, N.C., this last December 17 for the 75th anniversary of powered flight. We celebrated that beautifully clear day when two young Americans, Wilbur 36, and Orville, 31, dazzled the world. Heavier-than-air powered flight—a dream of centuries come true—here in the U.S.A. Why now should we throttle back and give the lead in precious time-saving power to our competitors. Let us grab that torch of progress and with careful and precise research build the cleanest, quietest, safest, and yes, the fastest commercial plane possible to close our century as we began it—leading the way. I yield back the balance of my time.

Mr. AMBRO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to say anything in defense of Christopher Columbus because the invocation of that would better be done by other members of my ethnic group; nor do I want to read to the Members my flights of rhetorical fancy which are in the RECORD in opposition to this amendment last time.

My friend from New York is both persistent and passionate with respect to this, but it would seem to me that some of the more cerebral types that support this amendment should recognize the relationship between the economic problems we are involved in today—which a couple of months ago used to be inflation, and now which is recession—but in any event, those economic problems must be aware of the fact that technological improvement is the fountainhead of progress in these industrial systems. There is a good link between what we do here in terms of research and development and technological problems, increasing productivity and diminishing inflation, and providing the kind of foundation stones that have proved this overall economy to be one of the most viable in the world; and not only the utilization of funds for, let us say direct programs such as food stamps, but the utilization of funds for these kind of indirect programs which serve a tremendous purpose in the future.

Now, I am not going to get into the ripple effects of NASA and all of the wonderful things that they have done, nor am I going to say to the gentleman that, indeed, this Congress was correct in not joining with the French and the British in that consortium to produce what Col. Frank Borman of Eastern Airlines called, that turkey, which is the SST. We have decided to move in a completely new direction in improving on the kinds of things that made and make the present SST a turkey.

The last time, I think the gentleman mentioned as well the fact that SST's penetrate the ozone layer, and thereby deplete the ozone layer because of emissions of oxides of nitrogen. Well, time and tide and scientific data seem to counteract those kinds of analyses. We do not know precisely what supersonic transports do because the latest data is, regarding the emissions of oxides of nitrogen in certain areas these actually enhance the ozone layer. But, would it not be nice if we could restore the hegemony of the United States in the aerospace area by providing a safe, secure, fuel-efficient, economical supersonic transport, and not permit either the Russians or a consortium of our friends and allies to overtake us?

I think the gentleman does have a point, however, in raising the question of private sector contributions with respect to its relationship with public sector moneys. I think that is a valid area of debate, and I think that we can engage in that debate as we move in the direction of enhancing the kinds of programs that we have to develop this SST. It may be $1.9 billion in the future; it may be a little more, but we are not that far along the road that we cannot in some way integrate the cooperation of the private sector with public sector funds. It is necessary, however, to know that the impetus of most of the beneficial R. & D. in the United States is done as the result of the innovative actions of both this Congress utilizing public moneys.

It seems to me that to interdict that flow of R. & D. by an amendment such as this would be highly disruptive. I would suggest that we vote against the amendment of my friend from New York, but keep in mind that there is indeed an area of dialog that we should engage in with respect to private sector relationships.

□ 1150

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, again, as so many before me have said, we engage in our yearly debate on this program. I would like to clear up a couple of comments that we made by the proponent of this amendment.

First of all, we are not building an SST. The $23.5 million that is in this bill does not build an SST. This is a supersonic cruise research program. The two parts of the program have to deal with developing engines, the other part with testing materials, the concepts and designs. So let us forget about it as being an SST part of the budget. This has to do with basic research into supersonic cruise.

Second, the gentleman talked about Congress killing the SST some years ago here because it was it was economically or technologically unfeasible. I think, again looking backward, probably one of the best things we did at that time—I was not here at that time—was to not go forward with that SST, as the gentleman from New York (Mr. AMBRO) said, because it did use outdated and old technology. I think that we have proceeded on exactly the right track since that period of time.

Now, the proponent of this amendment says that we have been sneaking in every year with more and more money for this program. We have not been sneaking. There have been open and public hearings every year on this since Congress decided to kill the old SST program. We have had debates on this floor in the last few years then about this program. There has been no sneaking around or coming in the back door whatsoever. But what we have done since that time is to look ahead, to plan for the future as to what we may need in aircraft development in the future. And that is why we have continually put into this program year after year small amounts of money to keep the supersonic transport option alive. That is exactly what we are doing this year.

Now, the proponent of the amendment talked about uncertainties. He talked about the fuel uncertainties. He said that supersonic cruise transports, advanced supersonic transports, would use more fuel and that we are in a fuel-tight situation in the world. That may be true right now. But again, we are not building it right now. We are thinking ahead 10, 15, 20 years down the line. Sure, we may be in a petroleum-tight situation right now, but I believe that within 10 or 15 years we are going to solve our energy problem, we are going to have new fuel, liquid methane, hydrogen, synthetic fuels, we will be able to shift some of our use away from petroleum fuels to solar, and to other forms of energy, so that we will have those petroleum-based energies to use for transportation.

I might point out that the OTA report, not in the abbreviated version, but in the big report, pointed out that even with a large fleet, assuming a large fleet of 400 advanced supersonic transports, the increase in world petroleum use would be between three-tenths of 1 percent and six-tenths of 1 percent. So even looking at the present world situation of oil, three-tenths of 1 percent to six-tenths of 1 percent is not all that big of a pulling away from what we are presently using our petroleum for.

But again I repeat, we are looking ahead when we will have more available energy supplies in the future.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I did not mean to interrupt the gentleman if he was in the middle of a statement, but I want to commend the gentleman for his leadership on the subcommittee on this subject matter of advanced aeronautical research. As the gentleman has pointed out, we are not building an SST. We are doing advanced work so that if we can develop an environmentally sound and economical and cost-effective means of transportation, at least the United States will be in the forefront of that development.

Mr. HARKIN. That is right.

Mr. FUQUA. As has already been pointed out by other speakers, other than agriculture, probably aviation has contributed as much as anything else to our role as it relates to our balance of payments. This is a field that this Nation must not let go by. We are not building an SST. I opposed the one in 1971 and I have not regretted it a day. I think it was the right decision at that point. But at some point we may want to do that, and at least we will have the basic technology to proceed if we find out that it is in our economic and development interest.

Mr. HARKIN. I thank my chairman for his very poignant remarks.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman's yielding.

Mr. Chairman, just to make sure the record is clear, the gentleman recollects that it was not I, but I was quoting from the Office of Technology Assessment study as to the uncertainties of fuel availability and costs. And so it is not only my concern, it is their concern as well.

Mr. HARKIN. I understand. And the OTA looked at that and they said that if in fact we do not make progress in solving our fuel picture, that that is going to remain as a cloud over a possible development of an AST. I agree with that. But I believe we are making advances in getting new fuel.

Mr. WEISS. The second point that I would like to inquire of the gentleman, the gentleman will remember that it was not until 1977 that there was any kind of public discussion or debate on the floor of this House about this advanced supersonic program, and at that time the program included, besides research and development, a full-scale marketing study of the feasibility of civilian supersonic transport. The gentleman will recall that. So that, indeed from 1972 to 1977, there was no public discussion. By that time some $40 million or $50 million had been spent on it.

Mr. HARKIN. I said that from that period of time on there were always open and public hearings on the record held by this committee and this subcommittee thereof. I was not here at the time, but I was here in 1975 and 1976, and at that time I was on the subcommittee and we had open public hearings on the record on this very subject. There was nothing secret or sneaky about it. There just was not any opposition on the floor to it when it came up.

Mr. WEISS. It came as a great surprise to the American people, I am sure, to find that in fact we are back with the SST.

Mr. HARKIN. Again, I would point out that we are not building the SST, so it would not come as any great surprise to the American people to know that we are proceeding ahead on technological research and development for advanced supersonic cruise.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. LLOYD. I thank my chairman for yielding. I think my chairman has made a very, very fine presentation here today. I think that what he says is absolutely right, and I would like to ask my chairman a question.

Since the gentleman from New York here is really critical, would the chairman agree to hold some hearings so that he could have his "additional hearings"? Although we have had them in the past, would the chairman agree to that?

Mr. HARKIN. I am always delighted to have some hearings. Of course, we have time constraints right now, and everything, but any time we have hearings the gentleman from New York certainly is most welcome to attend our hearings on the programs, certainly.

Mr. LLOYD. I thank the chairman.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New York.

Mr. WEISS. I know that currently under the gentleman's auspices that hearings were in fact held, and really it is not I who should be at those, but I think that perhaps it would be helpful if members of the public who have questions and who are critics of the program would be invited to come and testify.

Mr. HARKIN. That would be fine. As a matter of fact, it was because of the persistence or insistence of the gentleman from New York in the past that this gentleman on the subcommittee asked the OTA for a study.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has again expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 4 additional minutes.)

Mr. HARKIN. Mr. Chairman, I just want to finish out my remarks.

The gentleman is talking about all of these problems that we have including the noise problem. Again, we are working on that with the engine. We have done fantastic things with reducing noise already in the present subsonic engines.

The gentleman talks about the uncertainties of the marketplace. Again, we have to look to the future. We are looking at places like Australia, Brazil, Japan, Europe in the future, more and more people traveling. The OTA, for example, in the report said there is a potential for a quadrupling of air travel over the next 30 years, a demand for 2,200 to 3,300 advanced long-range aircraft, representing sales by manufacturers of over $150 billion in 1979 dollars. And they say assuming an economically viable environmentally acceptable AST could be developed in this period, its greater productivity could command sales of about 400 aircraft worth over $50 billion in 1979 dollars.

☐ 1200

The gentleman has also said that this is all Government. Why is not industry doing it?

I would point out that industry is doing research in this area. It is about a 50–50 split between how much money the Government is putting in and how much industry is putting in.

Again, ever since 1915 when the old National Advisory Committee on Aeronautics was established, we have been putting taxpayers' money into R. & D. in aeronautics. I believe it has paid off handsomely for this country in our sales abroad of aircraft and jobs for the American people.

Time and time again I have agreed with my colleague, the gentleman from New York, on supporting what I considered to be needed social programs in this country; but I would tell the gentleman, looking ahead 10 and 15 years from now there is not going to be any money for those social programs unless our people have jobs and this is one way to provide those kinds of jobs. Fifty billion dollars of additional money coming into this country means jobs for our people. It means revenue for our Government. It means that we can meet the social needs of this country in the future.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. Yes.

Mr. WEISS. Mr. Chairman, is the gentleman assuring us that $1.9 billion of technological readiness and validation is going to be shared 50–50 by the Government and the private sector?

Mr. HARKIN. Again, we do not know how much of that is going to be required in the future for technological development. We are talking about the foundations of pulling this program together and not building one right now.

So again, for those reasons of thinking ahead, looking ahead to what it is going to mean to this country 10, 15, 20 years from now, I ask that the amendment of the gentleman from New York be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEISS) to the committee amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WEISS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 325]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Broomfield
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dingell
Dixon
Dornan
Duncan, Oreg.
Dougherty
Downey
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hubbard
Hughes
Hutchinson
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Smith, Iowa
Snowe
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

☐ 1210

The CHAIRMAN. Three hundred and eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. WEISS) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 90, noes 225, not voting 118, as follows:

[Roll No. 326]

AYES—90

Addabbo
Albosta
Anderson, Ill.
Atkinson
Baldus
Barnes
Bennett
Blanchard
Broyhill
Burton, John
Burton, Phillip
Cavanaugh
Chisholm
Collins, Ill.
Collins, Tex.
D'Amours
Daschle
Deckard
Dellums
Dixon
Drinan
Edgar
English
Erdahl
Evans, Ind.
Fazio
Fisher
Fithian
Ford, Tenn.
Fowler
Garcia
Grassley
Gray
Green
Hawkins
Heckler
Heftel
Hughes
Jacobs
Jenkins
Kastenmeier
Kildee
Kogovsek
Kostmayer
Leland
McCloskey
McDonald
McHugh
Maguire
Markey
Matsui
Mikulski
Mineta
Minish
Mitchell, Md.
Natcher
Oberstar
Obey
Ottinger
Panetta
Patterson
Paul
Pease
Porter
Pursell
Rahall
Rinaldo
Rosenthal
Roybal
Seiberling
Shannon
Simon
Snowe
Solarz
Spellman
Stack
Stenholm
Stewart
Stockman
Stokes
Studds
Synar
Thompson
Udall
Walgren
Waxman
Weaver
Weiss
Wolpe
Wylie

NOES—225

Abdnor
Akaka
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
AuCoin
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bereuter
Bethune
Boggs
Bolling
Boner
Bouquard
Breaux
Broomfield
Brown, Calif.
Buchanan
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cleveland
Clinger
Coelho
Coleman
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
de la Garza
Derrick
Derwinski
Dickinson
Dingell
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fish
Flippo
Foley
Forsythe
Fountain
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Hubbard
Hutchinson
Hutto
Hyde
Ireland
Jeffries
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kramer
LaFalce
Lagomarsino
Leath, Tex.
Lederer
Lee
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
Madigan
Marks
Marriott
Martin
Mavroules
Mazzoli
Mica
Miller, Ohio
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Neal
Nelson
O'Brien
Oakar
Pashayan
Patten
Pepper
Petri
Peyser
Preyer
Price
Pritchard
Railsback
Ratchford
Regula
Rhodes
Ritter
Roberts
Robinson
Roe
Rose
Roth
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Smith, Iowa
Solomon
Spence
Stangeland
Stanton
Steed
Stratton
Tauke
Tauzin
Taylor
Traxler
Trible
Ullman
Vanik
Volkmer
Walker
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wyatt
Yates
Yatron
Young, Fla.
Zablocki

NOT VOTING—118

Ashbrook
Ashley
Aspin
Bedell
Beilenson
Bevill
Biaggi
Bingham
Boland
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Ohio
Burgener
Chappell
Cheney
Clausen
Clay
Conable
Conyers
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Devine
Dicks
Dodd
Donnelly
Early
Eckhardt
Edwards, Calif.
Edwards, Okla.
Evans, Del.
Ferraro
Florio
Ford, Mich.
Frenzel
Gingrich
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harsha
Holland
Holt
Holtzman
Howard
Huckaby
Ichord
Jeffords
Jenrette
Kemp
Kindness
Latta
Leach, Iowa
Leach, La.
Lehman
Lewis
Lundine
McDade
McEwen
McKay
McKinney
Marlenee
Mathis
Mattox
Michel
Miller, Calif.

Moffett
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Nolan
Nowak
Perkins
Pickle
Quayle
Quillen
Rangel
Reuss
Richmond
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Shumway
Skelton
Smith, Nebr.
Snyder
St Germain
Staggers
Stark
Stump
Swift
Symms
Thomas
Van Deerlin
Vander Jagt
Vento
Wampler
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Leach of Louisiana against.

Mr. Moffett for, with Mr. Nichols against.

Mr. Rangel for, with Mr. Chappell against.

So the amendment to the committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PAUL: Page 11, after line 5, add the following new section:

SEC. 7. (a) Section 305 of the National Aeronautics and Space Act of 1958 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting immediately after subsection (h) the following new subsection:

"(i) In any case where—

"(1) an invention to which subsection (a) would otherwise apply is made by any person in the course of planning, developing, manufacturing, fabricating, modifying, or testing any equipment, material, or facility which is designed or intended for use outside the earth's atmosphere, and

"(2) the functions of the Administration, under its contract with such person with respect to the equipment, material, or facility described in paragraph (1), are limited to the provision (on behalf of such person) of the space vehicle or vehicles and related services which are necessary to transport such equipment, material, or facility (alone or together with other items) into orbit or beyond and to maintain it at the proper location in space, such invention shall be the exclusive property of such person; and if it is patentable a patent therefor may be issued to such person (subject to subsection (c)) notwithstanding any of the provisions of this section which authorize or would otherwise provide for the issuance of patents to the Administrator or the United States.".

(b)(1) Section 305(a) of the National Aeronautics and Space Act of 1958 is amended by striking out "unless the Administrator waives" in the matter following clause (2) and inserting in lieu thereof "unless such invention is one to which subsection (i) applies or the Administrator waives".

(2) The first sentence of section 305(c) of such Act is amended by inserting before the period at the end thereof the following: "(including a complete description of the functions of the Administration under the contract in any case in which it is alleged that subsection (i) applies)".

(3) Section 305(d) of such Act is amended by striking out all that precedes "notice thereof" in the second sentence and inserting in lieu thereof the following:

"(d)(1) Upon any application as to which any such statement has been transmitted to the Administrator, the Commissioner may, if the invention is patentable, issue a patent to the applicant except as provided in paragraph (2).

"(2) If the invention is not one to which subsection (i) applies and the Administrator, within ninety days after receipt of the application and statement from the applicant, files with the Commissioner a request that the patent be issued to him on behalf of the United States, the Commissioner shall transmit".

(4) Section 305(e) of such Act is amended by striking out "subsection (d)" in the third and fourth sentences and inserting in lieu thereof in each instance "subsection (d)(2)".

(5) Section 305 (f) of such Act is amended by adding at the end thereof the following new sentence: "The Administrator shall be conclusively deemed to have waived the rights of the United States in conformity with this subsection, without qualification and without any reservation of license, in the case of any invention to which subsection (i) applies.".

(c) The amendments made by this section shall apply with respect to inventions made and patents issued on or after the date of the enactment of this Act; and upon request of any person who prior to such date made an invention a patent for which has been issued to the Administrator of the National Aeronautics and Space Administration on behalf of the United States, and to which section 305(i) of the National Aeronautics and Space Act of 1958 would have applied if it had been in effect at the time the invention was made, the Administrator shall take such steps as may be necessary or appropriate to transfer the patent to such person effective as of the date of such request.

Mr. PAUL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PAUL. Mr. Chairman, earlier in the general debate the gentleman from Oklahoma and the committee chairman mentioned one of the good features about the NASA agency. They indicated that they have had a good record of technological transfer and utilization of the information obtained through NASA. I believe sincerely that my amendment would enhance this reputation and characteristic of NASA. Under present law, the National Aeronautics and Space Act of 1958, provides that—

> Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administration determines that—(2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the government of the sort referred to in clause (1), [such as "the use of Government facilities, equipment, materials, allocated funds, information proprietary to the government, or services of Government employees during working hours], such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention. . . .

This provision of the law creates a problem for the Space Shuttle program and any other program of NASA in which the only service provided by the Government is the transportation of persons or materials into space. The broad language of the law, referring to any contract, any invention, any work, means that a person who contracts with NASA simply for transportation of his experiment into space has a very good chance of losing all rights to any invention or patent that might result from such an experiment. I do not believe that this was the intent of the framers of the 1958 act, and this threat of economic loss will certainly deter companies and individuals from hiring NASA to provide transportation into space.

The language in the present law was put there to protect the interests of the Government, but it was done so over 20 years ago when the present program in which NASA hopes to sell transportation—and thereby help pay for the cost of building and operating the Space Shuttle—was still far in the future.

This amendment to the law simply makes it clear that any person who makes an invention in connection with the production or modification of materials, equipment, or facilities which (under contract with NASA) are to be transported into orbit or into space shall retain all patent rights to such invention if NASA's functions with respect to such materials, equipment or facilities are limited (under the contract) to the furnishing of such transportation. I believe that it is a noncontroversial amendment, and should be adopted.

However, I realize this proposal at the present time lacks sufficient support, but I ask that this subject be seriously considered in future legislation.

☐ 1230

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in opposition to this amendment. The gentleman from Texas brings up a very interesting point that has been discussed and probably will be the subject of future discussions within the Committee on Science and Technology. The committee has already reported a patent policy bill which deals with the overall Federal patent policy. The bill of the gentleman from Texas (Mr. PAUL), H.R. 5893, has been referred to the Committee on Science and Technology as well as to the Committee on the Judiciary. It deals with a certain specific area of patents relating to NASA.

Mr. Chairman, I do not think at this time that we should deal with NASA patent policy on a piecemeal basis. It should be dealt with on an overall basis as we have a uniform patent policy.

Now the NASA agency and several other Federal agencies dealing in research and development and demonstration, have authority to assign certain patent rights at the discretion of the administrator or the head of that particular agency. I am not sure in certain cases that NASA needs this specific authority as contained in the gentleman's amendment.

Mr. Chairman, recently in some joint endeavor agreements between NASA and certain private concerns, they have made certain agreements and flexibility does exist, with the Administrator, to make these certain changes that protect the patent rights of individuals on launches that may be paid for by private funds.

Mr. Chairman, I reluctantly oppose this amendment. The gentleman from Texas (Mr. PAUL) addresses a very serious situation and it will be under discussion and has been a topic of discussion in our committee in the past and I would urge at this time that the amendment not be agreed to.

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. Mr. Chairman, I am happy to yield to the gentleman from Texas.

Mr. PAUL. I understand the more inclusive legislation regarding patent rights is under discussion and has been for approximately a year. Does the gentleman have any idea when that legislation may be available?

Mr. FUQUA. I am happy to report to the gentleman the bill has been reported out of the Committee on Science and Technology. It is now awaiting action within the Committee on the Judiciary, which has joint jurisdiction on that matter.

Mr. PAUL. Mr. Chairman, I thank the gentleman.

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Chairman, I have the privilege of serving as a member of the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary. Quite a number of patent relevant bills were the subject of discussion in a caucus of that committee in concert with representatives on monopolies and commercial law just yesterday and it is expected that within the next few weeks there will be some movement addressing general patent policy and it seems to me, if my recollection is correct as to those events of yesterday, that areas relevant to Federal procurement will certainly be a subject dealt with in this consideration.

Mr. FUQUA. Mr. Chairman, I might point out to the gentleman from North Carolina that as a result the Innovation and Productivity Commission in its report has recommended certain patent policy reviews and I am sure that review is likewise under consideration by the Committee on the Judiciary.

Mr. GUDGER. Mr. Chairman, the gentleman is correct and I want to congratulate the gentleman on presenting this bill to this body. I do feel the gentleman is correct, that we should not move now, dealing with patent policy, on this amendment, but should defer it and let it be taken up at appropriate times by the relevant committees and particularly the Committee on the Judiciary.

Mr. FUQUA. I appreciate the gentleman's enlightenment and I ask that the amendment be not agreed to.

Mr. AMBRO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to cover ground already covered. I want to make but one point with respect to this which has to do with the laudible objections that the author of the amendment sets forth. We all know that a patent policy, a tax policy, a policy having to do with research and development do indeed have impact on industrial innovation which does indeed have an effect on the macroeconomic scheme. However, it seems to me, Mr. Chairman, that the laudible objective attempted by the gentleman from Texas (Mr. PAUL) must indeed be tempered with a closer review of his amendment.

Mr. Chairman, the first portion of the gentleman's amendment does indeed remove, for the most part, restrictions on patent policies by NASA but in section 2 it sets up a variety of constraints which, according to NASA's people, might in fact represent a more restrictive kind of structure than already exists in terms of their negotiating authority.

Mr. Chairman, I think this question of patent policy requires a long and deliberative look vis-a-vis this specific amendment. I would say in sum I agree with the previous speakers that we have made a start in doing something about, in some sense, onerous patent policy of the United States as it relates to innovation and I think, with the assurances of the Judiciary Committee and with the objections of NASA officials, that with respect to this amendment at this time, in this bill, we should indeed, while commending its author for his intent, vote it down.

Mr. WINN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my colleague, Mr. PAUL. Not because his concerns are without merit, but because we are in a period of transition. NASA is addressing this issue as well as is our committee and until we determine the full impact of such an amendment, I would discourage its adoption.

It should be pointed out that recently NASA has entered into a joint endeavor with private enterprise which fully protects the patent rights of the user. In addition, NASA offers a program called get-away specials which allows the user to fly any type of experiment, provided it is safe, without any regard for ownership of patent rights.

The amendment is a reasonable concern but it is premature. I oppose the amendment.

The CHAIRMAN. The question is on the amendemnt offered by the gentleman from Texas (Mr. PAUL).

The amendment was rejected.

The CHAIRMAN. Pursuant to the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. FORD of Tennessee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6413) to authorize appropriations to the National Aeronautics and Space Administartion for research and development, construction of facilities, and research and program management, and for other purposes, pursuant to House Resolution 672, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

☐ 1240

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DORNAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 29, not voting 119, as follows:

[Roll No. 327]

YEAS—285

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Corman
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dingell
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson

Hollenbeck
Hopkins
Horton
Hutchinson
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lee
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
Madigan
Markey
Marks
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead,
  Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Nelson
Nolan
O'Brien
Oberstar
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Peyser
Preyer
Price
Pritchard
Pursell
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Roth
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shuster
Simon
Smith, Iowa
Snowe
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Walker
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—29

Andrews, N.C.
Burton, John
Crane, Daniel
Dellums
Edgar
Evans, Ind.
Gephardt
Hubbard
Hughes
Jacobs
Jones, Okla.
McDonald
Maguire
Miller, Ohio
Mitchell, Md.
Moore
Neal
Obey
Ottinger
Petri
Porter
Rosenthal
Roybal
Sensenbrenner
Stark
Studds
Volkmer
Weaver
Weiss

NOT VOTING—119

Ashbrook
Ashley
Aspin
Bedell
Bevill
Biaggi
Bingham
Boland
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Chappell
Cheney
Clausen
Clay
Collins, Ill.
Conable
Conyers
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Devine
Dicks
Dodd
Donnelly
Early
Eckhardt
Edwards, Okla.
Evans, Del.
Ferraro
Florio
Ford, Mich.
Frenzel
Gingrich
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harsha
Holland
Holt
Holtzman
Howard
Huckaby
Ichord
Jeffords
Jenrette
Jones, N.C.
Kemp
Kindness
Latta
Leach, La.
Leath, Tex.
Lehman
Lewis
Lundine
McDade
McEwen
McKay
McKinney
Marlenee
Mathis
Mattox
Michel
Miller, Calif.
Moffett
Murphy, N.Y.
Myers, Pa.
Nedzi
Nichols
Nowak
Oakar
Perkins
Pickle
Quayle
Quillen
Rahall
Railsback
Rangel
Reuss
Richmond
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Shumway
Skelton
Smith, Nebr.
Snyder
St Germain
Staggers
Stump
Swift
Symms
Thomas
Van Deerlin
Vander Jagt
Wampler
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wydler
Young, Alaska
Young, Mo.
Zeferetti

□ 1250

The Clerk announced the following pairs:

On this vote:

Mr. Leach of Louisiana for, with Mr. Brodhead against.

Until further notice:

Mr. Russo with Mr. Ashbrook.
Mr. Staggers with Mr. Snyder.
Mr. Rostenkowski with Mr. Thomas.
Mr. Zeferetti with Mr. Young of Alaska.
Mr. McKay with Mr. Michel.
Mr. Reuss with Mr. Kindness.
Mr. Van Deerlin with Mr. Quayle.
Mr. Wolff with Mr. Railsback.
Mr. Hanley with Mr. Shumway.
Mr. Murphy of New York with Mr. Gingrich.
Mr. Nichols with Mr. Hagedorn.
Mr. Eckhardt with Mr. Lewis.
Mr. Moffett with Mr. Goldwater.
Mr. Nowak with Mr. McEwen.
Mr. Young of Missouri with Mr. Cheney.
Mr. Leath of Texas with Mr. Conable.
Mr. Dodd with Mr. Davis of Michigan.
Mr. Jenrette with Mr. Frenzel.
Ms. Holtzman with Mr. Royer.
Mr. Ichord with Mrs. Smith of Nebraska.
Mr. Lundine with Mr. Bob Wilson.
Mrs. Collins of Illinois with Mr. Wydler.
Mr. Boland with Mr. Symms.
Mr. Mattox with Mr. Quillen.
Mr. Biaggi with Mr. Rousselot.
Mr. Miller of California with Mr. Rudd.
Mr. Charles H. Wilson of California with Mr. Latta.
Mr. Brooks with Mr. Harsha.
Mr. Myers of Pennsylvania with Mrs. Holt.
Mr. Lehman with Mr. Kemp.
Mr. Nedzi with Mr. McKinney.
Mr. Perkins with Mr. Philip M. Crane.
Mr. Conyers with Mr. Brown of Ohio.
Mr. Bowen with Mr. Clausen.
Mr. Ashley with Mr. Broyhill.
Mr. Early with Mr. Devine.
Mr. Rodino with Mr. Wampler.
Mr. Richmond with Mr. Vander Jagt.
Mr. Cotter with Mr. Jeffords.
Mr. Dicks with Mr. Marlenee.
Ms. Ferraro with Mr. Evans of Delaware.
Mr. Clay with Mr. McDade.
Mr. Florio with Mr. Burgener.
Mr. Davis of South Carolina with Mr. Bingham.
Mr. Ford of Michigan with Mr. Bonker.
Mr. Bevill with Mr. Holland.
Mr. Hall of Ohio with Mr. Pickle.
Mr. Aspin with Mr. Brinkley.
Mr. Jones of North Carolina with Mr. Huckaby.
Mr. Howard with Mr. Rahall.
Mr. Santini with Mr. Runnels.
Mr. Williams of Montana with Mr. Mathis.
Mr. Wirth with Mr. Swift.
Mr. Rangel with Mr. Skelton.
Mr. St Germain with Mr. Stump.
Ms. Oakar with Mr. Williams of Ohio.
Mr. Chappell with Mr. Donnelly.
Mr. Bonior of Michigan with Mr. Bedell.

Mr. PORTER changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2240) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,873,000,000;

(2) Space flight operations, $779,500,000;

(3) Expendable launch vehicles, $55,700,000;

(4) Physics and astronomy, $352,700,000;

(5) Planetary exploration, $179,600,000;

(6) Life sciences, $43,200,000;

(7) Space applications, $372,400,000;

(8) Technology utilization, $12,100,000;

(9) Aeronautical research and technology, $285,300,000;

(10) Space research and technology, $110,200,000;

(11) Energy technology, $4,000,000; and

(12) Tracking and data acquisition, $349,000,000.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of man-vehicle systems research facility, Ames Research Center, $7,480,000;

(2) Modification of steam ejector system and thermal protection laboratory, Ames Research Center, $2,300,000;

(3) Modification of the unitary plan wind tunnel, Ames Research Center, $3,400,000;

(4) Modifications to various buildings for energy conservation, Jet Propulsion Laboratory, $1,500,000;

(5) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $2,000,000;

(6) Rehabilitation of high temperature hot water system, zone 2, industrial area, John F. Kennedy Space Center, $760,000;

(7) Modifications for avionics integration research laboratory, Langley Research Center, $5,756,000;

(8) Modifications to aircraft landing dynamics facility, Langley Research Center, $15,000,000;

(9) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;

(10) Decommissioning of Plum Brook Station reactor facility, Lewis Research Center, $3,000,000;

(11) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;

(12) Rehabilitation of electrical switchgear, engine research building, Lewis Research Center, $1,700,000;

(13) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(14) Rehabilitation of chilled water system, Michoud Assembly Facility, $782,000;

(15) Modification of 26-meter antenna, DSS–44, Canberra, Australia, $1,200,000;

(16) Replacement of azimuth radial bearing DSS–14, Goldstone, California, $950,000;

(17) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects various locations, $2,000,000;

(18) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(19) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(20) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(21) Minor construction of new facilities and additions to existing facilities at various locations not in excess of $250,000 per project, $4,000,000; and

(22) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management", $1,033,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representaties and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

Sec. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (21), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 per centum, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

Sec. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (22) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Sec. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Fuqua moves to strike out all after the enacting clause of the Senate bill, S. 2240, and to insert in lieu thereof the provisions of the bill, H.R. 6413, as passed by the House. as follows:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development," for the following programs:

(1) Space Shuttle, $1,878,000,000;

(2) Space flight operations, $769,500,000;

(3) Expendable launch vehicles, $55,700,000;

(4) Physics and astronomy, $370,700,000;

(5) Planetary exploration, $179,600,000;

(6) Life sciences, $49,700,000;

(7) Space applications, $386,700,000;

(8) Technology utilization, $13,100,000;

(9) Aeronautical research and technology, $295,800,000;

(10) Space research and technology, $120,200,000;

(11) Energy technology, $4,000,000; and

(12) Tracking and data acquisition, $350,500,000.

(b) For "Construction of facilities," including land acquisition, as follows:

(1) Construction of man-vehicle systems research facility, Ames Research Center, $7,480,000;

(2) Modification of steam ejector system and thermal protection laboratory, Ames Research Center, $2,300,000;

(3) Modification of the unitary plan wind tunnel, Ames Research Center, $3,400,000;

(4) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory. $2,000,000;

(5) Rehabilitation of high temperature hot water system, zone 2, industrial area, John F. Kennedy Space Center, $760,000;

(6) Modifications for avionics integration research laboratory, Langley Research Center, $5,756,000;

(7) Modifications to aircraft landing dynamics facility, Langley Research Center, $15,000,000;

(8) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;

(9) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;

(10) Rehabilitation of electrical switchgear, engine research building, Lewis Research Centers, $1,700,000;

(11) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(12) Rehabilitation of chilled water system, Michoud Assembly Facility, $783,000;

(13) Various locations as follows:

(A) Modifications of twenty-six-meter antenna, DSS-44, Canberra, Australia, $1,200,000;

(B) Replacement of azimuth radial bearing, DSS-14, Goldstone, California, $950,000;

(14) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects, various locations, $2,000,000;

(15) Space Shuttle payload facility; Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(16) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(17) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(18) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(19) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management," $1,033,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of the grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 1 (a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (18), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (19) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6413) was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of the Treasury, the Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Maryland has been informed that the Appropriations Committee—and I have not had a chance to read the bill myself—has deleted certain restrictions on the activities of the Internal Revenue Service that were passed by the House regarding tax-exempt schools and private educational institutions. Is that correct?

Mr. WHITTEN. If the gentleman will yield, I am advised that that was done.

Mr. BAUMAN. It was deleted from the bill?

Mr. WHITTEN. That is right.

Mr. BAUMAN. This leads me to my second question, and that is that there has been some discussion about an attempt to limit what would be proper amendments to the appropriation bills that will be brought before us. I know no decision has been made yet about that. The Rules Committee has not even considered any of these bills. While I understand the need for waivers in many instances because of the legislation that may be in these bills, I want to ask the chairman whether he would support permitting all germane and proper amendments to the Treasury and Postal Service bill so that the issues that I just raised about the IRS might be addressed at an appropriate point.

Mr. WHITTEN. May I say that there is no purpose in my mind at all, as chairman of the committee, to restrict the offering of proper amendments. Not knowing what might be offered, there might be a question of germaneness and other legislative questions, and whether the committee would support it or not is another question, but insofar as procedures are concerned I have no desire to restrict proper amendments.

Mr. BAUMAN. I am pleased to hear that. I only raise this question at this time because I do not want in any way to cause problems for the Appropriations Committee; but I did want to state that if it is going to be the policy—and I realize the gentleman from Mississippi has no control over this, only as to express his wishes to the Rules Committee—to prevent proper amendments to appropriation bills, then objections will be launched at almost every point in retaliation for that kind of restrictive policy. I have no evidence that that will happen, but I use this first occasion to raise the issue.

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Mr. WHITTEN. I understand why the gentleman raised the question. It has never been my desire nor my purpose or action to try to limit amendments on any bill that I present.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection

Mr. MILLER of Ohio reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I assume that the chairman of the Appropriations Committee would have a similar attitude toward proper amendments to all these reported appropriation bills.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, I do.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. MILLER of Ohio reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 3434, ADOPTION ASSISTANCE, CHILD WELFARE, AND SOCIAL SERVICES

Mr. CORMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 23, 1980.)

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on H.R. 3434 provides a slightly lower amount of funds for title XX social services than the House had passed. However, it will provide some certainty to the States as to the amount of funding for the period between fiscal 1981 and 1985, and some modest increases are provided during this period.

The most important provisions of this bill are those that will improve efforts to monitor the status of children in foster homes, and those that will facilitate where appropriate, the moving of children from foster homes to permanent adoptive homes.

This bill is probably the most important child welfare bill we have enacted in a great many of years. Mr. Speaker, I would like to insert in the RECORD at this point a summary of the provisions of the conference agreement on H.R. 3434:

TITLE XX SOCIAL SERVICES

The ceiling on Federal Title XX Social Services funds would be $2.7 billion in FY 1980; $2.9 billion in FY 1981; $3.0 billion in FY 1982; $3.1 billion in FY 1983; $3.2 billion in FY 1984; and $3.3 billion for FY 1985 and thereafter. In FY 1980, unused funds could be reallocated.

Of the total amount of Title XX funds available under the statutory ceiling, $200 million would be available for child care in fiscal 1980 and 1981 with no State matching requirement. For fiscal years 1982 and thereafter, up to 8 percent of a State's Title XX allotment would be available with no matching requirement if used for child care services as provided under present law for the $200 million earmarked for child care services.

A separate $16.1 million Title XX entitlement would be established for Puerto Rico, ($15 million), Guam ($0.5 million), the Northern Marianas ($0.1 million), and the Virgin Islands ($0.5 million), effective October 1, 1979.

For fiscal years 1980 and 1981 Title XX training funds would be limited to the highest of: (1) 4 percent of the State's allotment under the Title XX funding ceiling; (2) the actual amount of Federal matching for amounts spent by the State for training in fiscal year 1979; or, (3) the amount payable to the State with respect to State appropriations made prior to October 1, 1979 for fiscal year 1980, except that the additional amount under option (3) would be limited to $6 million distributed among affected States.

For fiscal 1982 and thereafter, there would be no specific ceiling, but States would be reimbursed only for those expenditures included in an HEW approved State training plan.

In fiscal 1980 and 1981 States could accept restricted private matching funds for Title XX training.

The current temporary authority for States to use Title XX funds for grants for hiring welfare recipients as child day care workers and the WIN tax credit for AFDC child care workers would be made permanent.

The current temporary authority for States to use Title XX funds for certain detoxification services provided to alcoholics and drug addicts would be made permanent.

Effective October 1, 1979, Title XX funds could be used for emergency shelter, for not in excess of 30 days in any 6 month period, as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.

States would have the option of using a multi-year Title XX program, period and a local government fiscal year for their Title XX program period, effective for program periods beginning after enactment.

TITLE IV–B CHILD WELFARE SERVICES

Current law authorizes up to $266 million a year, subject to appropriations, for IV–B child welfare services matching funds to be allocated among the States on the basis of the child population and per capita income of each State. Annual appropriations have never exceeded $56.5 million. Appropriated funds can be used for foster care maintenance payments and a wide variety of child welfare services.

With the objective of improving State foster care and child welfare services programs, the agreement would make the following changes in the current IV–B law, the most important of which would establish certain conditions upon the States for receipt of additional Federal IV–B funds.

In order to qualify for any Federal IV–B funds above its share of the currently available $56.5 million, a State could not reduce State IV–B child welfare services expenditures below the 1979 levels. Further, a State would be prohibited from using any new IV–B funds for foster care maintenance, adoption assistance or for child care that is needed only for employment.

In any year in which Federal IV–B appropriations exceed $141 million, a State could not receive any IV–B funds in excess of its share of $141 million unless it had implemented the following procedures and protections:

Conducted an inventory of children who have been in foster care for over 6 months.

Implemented a statewide information system on children in foster care.

Implemented a case review system for each child in foster care, which included a 6 month review and 18 month dispositional hearing for each child. The case review system must be designed to achieve placement in the least restrictive setting and in close proximity to home, and to provide procedural safeguards for children, parents and foster care providers.

Implemented a services program designed to assist children, where possible, to return to their homes.

Further, when Federal IV-B appropriations have equaled the authorized maximum of $266 million for two consecutive years, a State would have its IV-B funds reduced, beginning with the succeeding fiscal year, to its share of $56.5 million unless and until it had implemented the protections and procedures described above and, in addition, implemented a service program of preplacement preventive services designed to prevent the need for removing a child from his or her home.

The definition of child welfare services would be modified to place emphasis on preventive and reunification services.

The Federal matching rate for IV-B funds would be changed to 75 percent. (Current Federal matching rates range from 33⅓ percent to 66⅔ percent). A State would be allowed to use State foster care expenditures to meet the 25 percent matching requirement.

Federal IV-B funds appropriated for fiscal 1980 would remain available through fiscal 1981; and, beginning in fiscal 1981 for expenditures to be made in fiscal 1982, IV-B funds would be shifted to an "advance funding basis."

IV-B funds could be provided directly to an Indian tribal organization.

AFDC FOSTER CARE

The present IV-A AFDC Foster Care program would be shifted to a new Title IV-E. Foster care assistance would continue to be a required program as under current law. States could shift AFDC Foster Care from IV-A to the new Title IV-E program as of October 1, 1980 and would be required to have made the transition by October 1, 1982. Authority for Federal IV-E AFDC Foster care matching funds would be permanent.

There would be a ceiling on Federal IV-E (or IV-A until October 1, 1982) AFDC Foster Care matching funds for four years beginning with fiscal 1981.

States would have the following options in the determination of this ceiling:

1. The State's fiscal 1978 Federal Foster Care funds increased by 33⅓ percent for fiscal 1981, and increased by 10 percent per year thereafter.

2. The State's share of $100 million relative to its population under 18.

3. Or, a State whose AFDC foster care caseload in fiscal year 1978 was below the 1978 national average AFDC foster care caseload (based on the percentage of children under 18 in AFDC foster care in the State and nationwide) could receive an amount for 1981, and for each year thereafter (1982-1984) that its foster care caseload remained below the 1978 national average caseload, determined as follows: for each year, the amount of Federal AFDC foster care matching funds the State received in 1978 would be increased (1) by the same percentage its AFDC foster care caseload had increased since 1978 (not to exceed 10 percent per year from 1978 to the year in question) and (2) further increased by 33⅓ percent for fiscal year 1981 and by 10 percent per year thereafter. This option would not be available to a State once its foster care caseload equals or exceeds the 1978 national average caseload.

Under all options, a State's base would include the cost of certain foster care provided by related persons and certain disputed claims.

The ceiling on Federal foster care funds would not be effective for fiscal year 1981 if IV-B child welfare services appropriations are less than $163.5 million, for fiscal year 1982 if IV-B appropriations are less than $220 million, and for fiscal years 1983 and 1984 if IV-B appropriations are less than $266 million. Further, beginning with fiscal year 1981 for expenditures in fiscal year 1982, IV-B appropriations must be provided on an advance funding basis.

Federal foster care matching funds made available to a State under the ceiling which are not used for foster care maintenance could be used for IV-B child welfare services at 75 percent Federal matching rate under the following conditions:

A State that selected the ceiling option No. 3 described above could not transfer IV-E foster care funds to IV-B child welfare services.

A State could not transfer from IV-E to IV-B more than an amount which, together with the IV-B funds it receives, exceeds its share of $141 million under the IV-B allocation formula, unless and until it had implemented the foster care procedures and protections, except preplacement prevention services, required by the conference agreement in order for a State to receive additional IV-B child welfare services funds. After Federal IV-B appropriations have equaled the authorized maximum of $266 million for two consecutive years, a State could not transfer funds from IV-E to IV-B unless and until it had implemented all the foster care procedures and protections required for receipt of additional IV-B child welfare services funds, including a program of preplacement preventive services.

In any year there is no ceiling on Federal IV-E foster care funds because of inadequate IV-B appropriations, a State that opted for a ceiling in order to be able to transfer funds from IV-E to IV-B could not transfer more than an amount which, together with the IV-B funds it receives, exceeds the amount of IV-B funds it would have received if the IV-B appropriations for such year had been sufficient to require a ceiling on foster care funds in all States. Further, the State could not transfer from IV-E to IV-B more than an amount which, together with the IV-B funds it receives, exceeds its share of $141 million under the IV-B allocation formula, unless and until it had implemented the foster care procedures and protections required in order for a State to receive additional IV-B child welfare service funds, except preplacement preventive services. When for any two fiscal years the amount of funds transferred from IV-E to IV-B plus direct IV-B funds has equaled the State's share of $266 million (under the IV-B allocation formula), the State could no longer transfer funds from IV-E to IV-B unless and until it had implemented all the foster care procedures and protections required for receipt of additional IV-B child welfare services funds, including a program of preplacement preventive services.

Federal matching under the new IV-E program would be based on the Medicaid matching formula. Federal matching funds would be available for "foster care maintenance payments" to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to the child's home for visits. In the case of institutional care, matchable costs would also include the reasonable costs of administration and operation of the institution as are required to provide the items listed above.

Under the conference agreement, there will be the following new State plan requirements for title IV-E:

The State IV-B agency must administer or supervise the new IV-E foster care program.

There must be a written case plan for each IV-E foster care child with a 6 month review.

By October 1, 1983, a State must provide preventive and reunification services for each IV-E foster care child.

By October 1, 1982, a State must establish goals as to the maximum number of children in foster care for over 24 months.

Hearing procedures under the new IV-E program would be the same as current IV-A law.

Information on children in foster care and receiving adoption assistance could be made available for certain authorized audits.

States would be required to arrange for a "periodic and independently conducted audit" of foster care and IV-B.

HEW could reduce Federal matching for non-compliance with State IV-E plan requirements.

Federal foster care matching funds would be available for children in public institutions that accommodate no more than 25 children, effective upon enactment.

Effective October 1, 1983, the present judicial determination requirement for involuntarily placed AFDC foster children would be modified to require a finding that reasonable efforts have been made to prevent the need for the child's removal from his home or, where applicable, to make it possible for the child to return to his or her home.

In those States that have implemented the protections and procedures required for receipt of additional IV-B child welfare services funds, including a program of preplacement preventive services, Federal foster care matching funds would be available until September 30, 1983 for children who have been voluntarily removed from their home (without a judicial determination), if such removal is pursuant to a voluntary placement agreement.

The voluntary placement agreement must be revokable on the part of the parent unless the child welfare agency objects and obtains a judicial determination that the return of the child to the home would be contrary to the child's best interests. There would have to be a judicial determination of a voluntary placement within six months to the effect that such placement is in the best interests of the child.

The Secretary of HEW would be required to report annually to the Congress on the number of children placed under this provision.

Federal foster care matching funds would be available for certain voluntarily placed children for whom a judicial determination was subsequently made. Federal matching under the new Title IV-E would be allowed for a child who was voluntarily removed from the home and for whom there had been, at some time prior to October 1, 1978, a judicial determination that continuation in the home would have been contrary to the welfare of the child. Federal matching funds would become available from the date that a case plan was prepared and a case review was made regarding the child.

Federal matching would be authorized under Title IV-A until such time as a State had an approved plan under the new Title IV-E for certain children voluntarily placed prior to October 1, 1979. Federal matching would be provided for AFDC foster care costs in the case of a child removed from the home on a voluntary basis where, prior to October 1, 1978, there was a judicial determination that continuation in the home would have been contrary to the welfare of such child. The date of the voluntary removal would be deemed to be the date on which the court proceedings were initiated.

ADOPTION ASSISTANCE

States would be required to establish no later than October 1, 1982 an adoption assistance program under the new title IV-E.

Federal matching for adoption assistance would be based on the Medicaid matching formula and would be available for a child with "special needs" who was eligible for SSI, AFDC or AFDC foster care.

The amount of any Federally matched adoption assistance payments would be determined through agreement between the parents and the State agency, but could not exceed the State foster care payment. Children receiving Federally matched adoption assistance payments would be eligible for Medicaid.

Federal matched adoption assistance could continue until the child reached 18, or until 21 in the case of a child with a mental or physical handicap. The payments would stop if the State determines the parents are no longer supporting the child or are no longer legally responsible for supporting the child.

Effective October 1, 1983, States would be required to continue to comply with adoption assistance agreements regardless of whether the adoptive parents are or remain residents of the State. Between now and October 1, 1983, HEW would be directed to develop interstate compacts with respect to adoption assistance agreements.

OTHER PROVISIONS

HEW would be authorized to provide technical assistance to States, and to conduct a study of the new IV-E program with a report to Congress due October 1, 1983.

Federal matching funds for child support enforcement services provided to non-AFDC families would be made permanent.

States would be required to disallow AFDC earnings disregards in the case of any earned income that is not reported on a timely basis.

States would be allowed, under certain specified conditions, to prorate the shelter and utilities portion of an AFDC benefit to take into account the income of a relative living in the household who is not legally responsible for the child or children.

Effective October 1, 1979, the services program for disabled and blind children receiving SSI would be extended to September 30, 1982.

Beginning with fiscal 1980, the period within which States must file claims for matching funds under AFDC, SSI, Medicaid, Title XX, and other Social Security Act programs would be limited to two years.

States that enforce and collect child support within the State on their own behalf would receive the 15 percent incentive payment now available in the case of interstate collections or the collection of a political subdivision on behalf of its own state.

The 5 percent penalty for failure to have an effective child support enforcement program in current law would not be imposed on any State before October 1, 1980.

HEW and State medicaid agencies would be required to exchange certain information pertaining to the suspension of health care providers.

AFDC and SSI recipients who become eligible for higher VA pensions would be allowed to continue to receive AFDC and SSI, rather than the higher VA pension, thus allowing them to continue to be eligible for Medicaid benefits. There would be no transfer of funds between the VA and HEW; and, individuals who have already lost eligibility for SSI or AFDC because of the higher VA pension would be considered, for Medicaid purposes, to have remained eligible for SSI and AFDC for the months between their transfer to VA benefits and implementation of this amendment.

The $78 million funding level and 75 percent matching rate provided in fiscal 1979 for AFDC and assistance programs for the aged, blind and disabled in Puerto Rico, Guam and the Virgin Islands would be made permanent, effective October 1, 1979. The current limitation is $26 million and matching rate is 50 percent.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I have several questions I wish to propound at this time.

Are funds under H.R. 3434 to be made available to HHS for the purposes of promoting the model adoption law among State legislatures?

Mr. CORMAN. No. The Child Abuse Prevention and Adoption Reform Act of 1978 required the Secretary of HHS to appoint an independent expert panel to recommend a model State adoption law. Those recommendations have been published in the Federal Register. After public comment, the Secretary is required to issue a final model State adoption act. It is left entirely to the States to decide whether they wish to enact all or any portion of the model law. There is nothing in the Child Abuse Act and nothing in H.R. 3434 which would require them to enact such a law.

Mr. FROST. Could the Secretary of HHS withhold funds allocated under this bill from any State which refuses to enact the model adoption law?

Mr. CORMAN. No. It is not the purpose of this legislation, nor any law, to force the States to enact the model adoption law.

Mr. FROST. Has there ever been any discussion or intention of linking H.R. 3434 with the model adoption law?

Mr. CORMAN. There is no intention on the part of Congress to link H.R. 3434 to the model adoption law. Similarly, HHS assures me that they have never interpreted H.R. 3434 to be linked in any way to the model adoption law.

Mr. FROST. Is there anything in this legislation that could be construed as supporting the open records concept in adoption proceedings, anything remotely resembling that provision in the model adoption act?

Mr. CORMAN. No. There is not. I understand that the model adoption law recommendations provide that birth records will be opened to the adopted individual who has attained majority if he or she so requests. This recommendation runs counter to the laws of many States.

H.R. 3434 contains a provision which permits the disclosure of names and addresses of persons assisted under the new title IV-E to authorized audit agencies for purposes of audits, but the provision specifically permits a State to prevent such disclosure entirely in the case of adoptions.

Mr. CORMAN. Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 3434. This is a piece of legislation for which we have been waiting for several months. It could not be brought up until after final action on the budget resolutions.

This is a well-thought-out bill, which embodies a number of very important reforms in the area of child welfare. Let me list briefly some of these changes:

H.R. 3434 redirects the existing Federal emphasis on placing children, from troubled or abusing families; into foster care; toward efforts to work with those families so that the children can remain at home or can be returned home as quickly as possible.

The bill provides assistance for adoption of children—particularly children with handicaps or other problems which make them difficult to place—when these children cannot be returned to their biological parents.

The bill requires States to upgrade their foster care protections and procedures so that they will know for sure how many children are in foster care, where they are and who they are, and so that active efforts will be made continuously to get these children back to their families or into some other permanent family setting as soon as possible.

The bill provides permanent funding levels for the title XX social services program so that States will know definitely how much they can expect from the Federal Government.

I might add that quite a few States and localities are pressing us to resolve this situation because their funding situation has become quite urgent in the absence of this continuation of the title XX spending.

In addition to all these things the bill does, let me remind Members of one thing the bill does not do: it does not create any new entitlements. As you may recall, we had an amendment on the House floor when this legislation was before us last summer which deleted the proposed new entitlement. So this measure is based on a continuation of the existing authorization and appropriations procedures.

In conclusion, I would like to say that a lot of work has gone into this bill. It represents a cost-effective effort to address the needs of families and children in a way that strives to recognize the importance of family ties as a fundamental element in our society.

• Mr. CONABLE. Mr. Speaker, I rise in support of the conference report on H.R. 3434.

A great many of the programs under the jurisdiction of the Ways and Means Committee affect families, and we are making a conscious effort to be aware of the impact of our decisions on different aspects of family life. H.R. 3434 is a prime example of legislation with a strong and direct family impact.

In these days when one of the political litmus tests is whether or not a candidate is profamily, there is a great deal of concern about what the proper and appropriate role of the Government is with regard to the family unit. There is a fear, too often justified by reality, that the fabric of family life is weakening and that many functions in our society that were once filled by families are now being usurped by Government institutions and programs.

I submit that H.R. 3434 swims against this tide. It is a profamily effort through and through.

In my State of New York at present, there are over 40,000 children who have been removed from their families and placed in foster care homes or institutions. Frankly, I can think of very few ways the Government can intervene in family life that can be more devastating to the family unit than by removing children from their parents. It is hard to imagine a more bewildering or traumatic experience for a child or a more anguishing event for a parent.

I am not making light of the circumstances surrounding the removal of a child from its parents by public authorities. Usually this is done because there has been well-documented proof that physical or extreme emotional abuse has been inflicted on the child or that the child is being neglected to such an extent that his health and safety or even his life are threatened. Sometimes, the parent or parents are being institutionalized and no responsible relatives are available to care for the child. Sometimes, the child himself is the problem and the parents are unable to cope with or control his behavior. In short, these are generally very difficult, troubled situations to begin with.

Nevertheless, the hearings our committee held here in Washington and in the field have convinced us that the existing Federal subsidy for foster care makes removal of the child too often the remedy of first resort, rather than the solution that is employed when all else fails. We are also concerned that in many States, the foster care system itself is really a nonsystem. There is no systematic planning for the individual children—how long they should stay in foster care, what will happen to them after a month, after 6 months, after a year, or even after 10 years. Often, States cannot even say for sure how many children are in foster care or where they are. The natural parents too often do not fully understand why their children are being removed, and even worse, they do not know what they must do in order to get their children back again.

It is with this emotion-laden and controversial area that H.R. 3434 deals. The purpose of this legislation is twofold. First, to prevent the need for extensive foster care by providing services that help troubled or abusing families to deal with their problems and to provide a nuturing environment for their children, or at the very least, a safe place to live. Second, the bill aims to provide a permanent family setting for the children involved in these situations. Every effort is to be made to prevent the child from being removed from the family in the first place. Failing that, a specific plan is to be made aimed at reuniting the child with his or her family as soon as possible. Failing that, the bill supports efforts to find adoptive homes for children who cannot return to their biological parents.

The bill attempts to accomplish these goals by redirecting existing Federal programs. The currently open ended entitlement to Federal matching funds for State foster care maintenance expenditures is capped at a level equal to what States spent in fiscal 1978 adjusted for inflation. In effect, this prevents their foster care caseloads from rising. The States are then permitted to redirect the funds away from maintaining children in foster care, often indefinitely, into the various kinds of services needed to prevent more foster care placements, to reunite families that have already been broken up, or to place children in adoptive homes.

This cap on foster care maintenance is triggered when Federal appropriations for the existing program of child welfare services reach $163.5 million in fiscal 1981 and $220 million in fiscal 1982. The additional funds so appropriated are available to States only if they implement protections and procedures designed to safeguard families' rights and to preserve or reunite family units wherever possible.

I believe that this bill is the best the Federal Government can do. It is not appropriate for us to go any further. This legislation makes funds available to the States, and conditions the funds on State action to implement services that protect and preserve families.

We know from past recessions, that the incidence of child abuse generally increases when family finances are strained and fathers are out of work. It is our hope, therefore, to get this redirected program into place and operating promptly so that during the current economic downturn the rates of foster care placements and child abuse can be held to a minimum.

This is an ambitious undertaking. The services that prevent foster care or permit reunification of families after periods of foster care are slow and uncertain. "Cures" in this realm are seldom dramatic or complete. Many families hover at the margin for years and need repeated support and help to manage responsibly. Therefore, we do not expect instant success stories in next month's newspapers as a result of this legislation.

Frankly, we should be well satisfied if the current overreliance on long-term-care placements can be turned around, and if Federal funds can be diverted into protective and preventive services instead.

Therefore, I urge you to join me in voting for this legislation to recognize and strengthen the ability of families to provide for their children's welfare.●

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I would like to congratulate both House and Senate conferences for trying to improve title XX programs.

I would hope that in the history and development of title XX programing and as a member of the Labor-HEW Appropriations Subcommittee we can some day arrive at a more conciliatory mediation process to improve or lessen the gap between the two authorization and appropriations committees terms of processes.

I do not know what the art of the possible legislative process is in the future, but with budget balancing and the discussions on title XX programs, it looks like we are in a very severe situation this year in actual real dollars going into the program. So it would be my hope that under the great leadership on both sides of the aisle, that in our future negotiations, we could strengthen and improve the program in a realistic and constructive manner.

□ 1310

Mr. CORMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman for yielding.

I simply wanted to add my own word of approval and support for what the committee has done. Children certainly are a bipartisan matter and these kinds of programs are absolutely essential for the future of our children.

I might add that I continue to hope that the bill which the House passed earlier this year, the child health assurance program which came from the Committee on Interstate and Foreign Commerce, and on which I was one of the key sponsors, will receive approval in the other body so we can put that together with this bill and have an approach to children that is coordinated and overall provides what we need.

I thank the gentleman from California very much for his leadership on this bill and agree with the conference report.

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

● Mr. ROUSSELOT. Mr. Speaker, I rise in strong support of the conference report on H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980.

This conference report represents the culmination of more than 4 years of bipartisan effort to reform and redirect the Federal involvement in child welfare services, foster care, and adoption.

This is a long and complex bill. But without oversimplifying too much, I believe I can say that it embodies two basic themes which are far too seldom brought together: first, it attempts to restructure existing Federal programs to encourage the strengthening of family ties; and second, it is a cost-effective measure with modest budgetary impact.

Let me say a few things about the family-oriented aspects of this legislation. Under current law, the Federal Government matches State expenditures for maintaining children in foster care homes. Many States have only rudimentary systems for keeping track of children once they enter foster care, and very few States make a case-by-case plan for each foster child. The result is that far too many children spend literally years and years going from one foster home to the next. This bill requires States to adopt new protections against unnecessary or prolonged foster care. It requires them to establish services aimed at preventing the removal of a child from the home. It requires States to make every effort to reunite the child with the natural family. It requires that to the fullest extent possible, if a child must be placed in foster care, the foster home be as close to the natural home as possible, and that the foster home be the least restrictive setting possible. It requires that each child's care be reviewed every 6 months. Recognizing that in some cases it will never be possible for the child to return home, the bill encourages States to provide for adoption of such children into families and provides adoption assistance for children with problems that make them difficult to place in adoption.

Along with these various reforms in the foster care area, the bill comprises a prudent fiscal package. The title XX program, which provides a wide range of social services, is reduced from the $2.9 billion level in fiscal 1979 to $2.7 billion for this year, and $2.9 in fiscal 1981. In light of the current high inflation rates, this represents a cutback to the service levels of the early 1970's. Such cuts probably would not have been agreed upon but for the budget process which forced conferees to keep the bottom line as low as possible. The existing open ended Federal matching program for State foster care maintenance expenses is capped—conditional upon the provision of appropriations for the revised child welfare services. Under this cap, States which elect to spend less on foster care maintenance can transfer unused funds to service programs which by and large are aimed at preventing foster care placements, reuniting children with their families or placing the children in the adoptive families.

Under the existing title XX program, States are reimbursed on an open ended 75–25 basis for training. This bill limits such training to an amount equal to no more than 4 percent of the State's title XX allotment. The bill also includes reforms in the welfare area which involve cost savings. Under present law, a State may not presume that the income of any nonlegally responsible relative—a stepfather, for example—is available to a child for purposes of AFDC. Under the conference report, a State will be permitted to prorate the shelter and utilities portion of the AFDC benefit in the case of a child who is living with a relative who is not himself an AFDC recipient so as to take account of that relative's presumed contribution to those shelter costs.

When this bill was reported by the Committee on Ways and Means, it contained an entitlement provision relating to child welfare services under title IV–B of the Social Security Act. That entitlement provision was deleted by an amendment agreed to here in the House and is no longer part of the bill. Let me repeat: this bill does not create any new entitlements. Title IV–B child welfare services continue to be subject to the authorization/appropriations process. The authorization level remains at the $266 million level set in fiscal 1975.

I would like to point out, however, that the bill contains an advance funding provision for title IV–B which accomplishes in a more appropriate manner the results sought in the entitlement provision, namely, assurances to the States that if they undertake a long-term commitment to implement the protections, and the preventive, reunification and adoptive services required under this bill, they will be backstopped by a continuity of Federal funding. Frankly, the States have been burned already with regard to fiscal 1980 funding for title XX. This program operated at a $2.9 billion level last year, is being dropped to a $2.7 billion level this year under this conference report, but runs the risk of ending up with only $2.5 billion in actual appropriations.

This leaves the States holding the bag in terms of program commitments they made in good faith last October for services desperately needed by low-income families. They are understandably wary of acting on promises of future Federal funding and are not going to commit their own resources and energies to improving their foster care and family programs until they see the Federal funds. In the conference report, therefore, we have provided for 1 year's advance funding for title IV–B. That way at the beginning of a fiscal year, a State will know how much Federal funding it can expect not only for the upcoming year but also for the succeeding fiscal year as well.

Earlier this spring, the Subcommittee on Public Assistance held hearings in Los Angeles on the subject of child abuse. We were convinced from the testimony we received that there is, indeed, a very real problem in the child abuse area, something we already knew from shocking newspaper accounts of the physical and emotional harm inflicted on children by their parents. What was encouraging, however, was the 2 days' testimony we received from people involved in a number of local programs which work directly with troubled and abusing families. We learned that many of these situations are not hopeless. It is not always necessary to remove a child from his or her parents.

We also learned that these programs are no panacea. Their results are seldom dramatic or quick. People who abuse their children to the extent that the government has to intervene are usually people with pretty severe problems themselves, and progress is slow and often tedious. Only a long-term commitment will help some of these parents provide a wholesome or even safe home for their children. I am convinced that H.R. 3434 will prevent family breakup in many instances and provide a stable family environment for many children. In times of high unemployment and economic downturn, the incidence of child abuse usually increases. This conference report is, therefore, especially timely right now.

I wholeheartedly support this conference report. It restructures existing Federal programs to work for families instead of against them. It achieves some significant savings in the welfare area. I encourage you to join me in voting for this report.●

● Mr. CORRADA. Mr. Speaker, I rise in support of the conference report on H.R. 3434, the Social Services and Child Welfare Amendments of 1979.

Mr. Speaker, this bill is one of extreme importance to my constituents for it contains a continuation of the increase to $72 million in AFDC payments to Puerto Rico which was authorized for fiscal year 1979 under the Revenue Act of 1978 and for a set-aside of $15 million under title XX.

In combination, severe poverty and high unemployment have generated extensive public assistance needs in Puerto Rico. While our needs are big and resources very limited, we have not been fortunate in receiving appropriate treatment under various sections of the Social Security Act. Under the income maintenance provisions of the act, Puerto Rico had a ceiling of $24 million with a 50–50 matching until last year Congress redressed this inequity by increasing the ceiling to $72 million and providing a matching formula of 75 percent Federal, 25 percent Puerto Rico. H.R. 3434 would extend this to fiscal year 1980 and subsequently, until such time as the ceiling is revised again. Puerto Rico is also completely excluded from participating in title XVI, SSI.

These ceilings and restrictions have created serious inequities in the benefits received by the U.S. citizens residing in Puerto Rico and other offshore territories. For example, although per capita income in Puerto Rico is less than 40 percent of the U.S. level and 60 percent of all families have incomes below the Federal poverty level, only about 13 percent of the population receives cash assistance due to funding limitations.

The Federal share of the AFDC grant is disproportionately low, $4.73 versus a U.S. average of $39, and the higher matching rates have been a burden to Puerto Rico given our limited fiscal capacity.

Except for fiscal year 1979, these ceilings have remained static since 1972, and if we take into consideration the high rate of inflation, we find that the real value of Federal payments have been reduced to less than 60 percent of the 1972 level.

If this legislation is enacted, we estimate that monthly payments per recipient would be increased to an average of $30 per month—still a very low sum if we consider the fact that cost of living in Puerto Rico is about 12 percent higher than in Washington, D.C., and if we further consider that these public assistance payments are not supplemental to the SSI, which, unfortunately, Congress has not yet extended to Puerto Rico. I urge you to maintain AFDC payments for fiscal year 1980 at the level authorized by Congress in fiscal year 1979. In the meantime, I will go ahead with other efforts to convince the administration to support the extension of SSI to Puerto Rico and the territories as soon as possible.

Mr. Speaker, I urge my colleagues to support this legislation, parts of which are crucial to my constituents, particularly the most needy and helpless.●

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CORMAN. Mr. Speaker, I move the

previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 4(e) of rule XI, the Chair announces that he will postpone further proceedings today on each resolution or on the previous question thereon on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all debate has been concluded on each resolution, and after each question to be determined by "nonrecord" vote has been disposed of, the Chair will then put the question on each resolution or on the previous question thereon on which further proceedings were postponed.

As the Chair announced this morning, the business before the House at this time will be three resolutions to be presented from the Rules Committee. This announcement made by the Chair pertains to the action on those three resolutions.

PROVIDING FOR CONSIDERATION OF H.R. 7262, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 678 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 678

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7262) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation and related programs, and for other purposes, all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule by titles instead of by sections, and each title shall be considered as having been read. It shall be in order to consider the following amendments recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill, and all points of order against said amendments for failure to comply with the provisions of clause 5, rule XXI are hereby waived: on page 46, line 18 through page 47, line 8; on page 76, lines 5 through 7; on page 78, lines 5 through 11; and on page 81, lines 3 through 8. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. Bauman), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 678 is the rule providing for the consideration of the bill H.R. 7262, the Housing and Community Development Act of 1980. It is an open rule, and it provides for 2 hours of general debate. There are also waivers of points of order under clause 5 of rule XXI, which prohibits appropriations in an authorization bill. The waivers apply both to the bill itself and to several specified committee amendments.

This kind of legislation, Mr. Speaker, dealing with such things as subsidized housing, mortgage payments, and interest rates, is virtually impossible to draft without involving matters that are technically regarded as appropriations. As a result, the waivers of points of order are necessary to allow those provisions to be considered by the House.

The rule also provides that the bill will be read for amendment by titles instead of by sections, and each title will be considered as having been read.

Mr. Speaker, the Housing and Community Development Act of 1980 is the major authorizing legislation for HUD—the Department of Housing and Urban Development—for fiscal year 1981. It contains both authorizations for and amendments to a number of important programs, including urban development action grants, community development block grants, section 8 rental housing assistance, FHA mortgage insurance, and rural housing assistance.

In addition, Mr. Speaker, there are initiatives in this bill to help the home building industry, which is desperately in need of such help. The legislation will expand the section 235 homeownership assistance program, which provides low interest mortgages for people to buy homes who would not otherwise be able to do so. It also updates the standby Brooke-Cranston mortgage subsidy program, and contains a new multifamily housing initiative, which is aimed at producing roughly 40,000 new rental housing units for middle- and low-income tenants.

Finally, it is worthwhile to note, Mr. Speaker, that the bill addresses energy improvements wherever possible. For instance, eligible activities under the community development block grant program are expanded to include design features and improvements that promote energy efficiency related to public works, utilities and neighborhood facilities. And, there is a requirement that, where it is cost effective, solar energy systems should be installed in new and substantially rehabilitated public housing projects.

This is very important legislation, Mr. Speaker, and I urge the adoption of this rule in order that the bill might be considered.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of H.R. 7262, the Housing and Community Development Act. The bill will be open to amendments, and will be considered by titles. Specified amendments recommended by the Committee on Banking, Finance and Urban Affairs are made in order.

Points of order are waived against the bill and also the specified committee amendments for violation of the rule prohibiting appropriations in a legislative bill. In both cases, the waiver is necessary because the bill and amendments could technically allow previously appropriated funds to be used for a modified purpose.

This is sufficient to constitute a technical violation of clause 5, rule XXI, and therefore, the waiver is included.

Mr. Speaker, while there is nothing extraordinary about this rule, the bill is notable because of the large number of dollars authorized. The Congressional Budget Office estimates that this bill authorizes a total of $40.49 billion in fiscal year 1981. While the actual outlays will be spread out over a long period of time, this is still a large number of dollars, and the programs in this bill should be reviewed carefully.

While I will not attempt to go into all the numerous programs of this bill, there is one section in the minority views which caught my eye. On page 219 of the committee report, there is a reference to the new 203 multifamily program, which would be available for families with incomes of up to 150 percent of the median. According to this information the taxpayers, under this bill, may be helping to provide an apartment for someone earning as much as $42,000, using todays figures in the Washington, D.C. area. That figure would be an estimated $48,000 by the time these new subsidized projects would be available for occupancy in 1982.

No wonder taxpayers around the country think Congress is spending money like water. When they see programs like this, what other conclusion can they reach?

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Green).

□ 1320

Mr. GREEN. I thank the gentleman for yielding time to me. As has been pointed out, this is an open rule and not controversial, and, therefore, I should like to use this time to address the underlying problems relating to one aspect of the bill, and that is the part dealing with subsidized housing programs.

Since the 1968 and 1974 housing legislation, there has been a major increase in Federal housing subsidy commitments. I should note that this increase has taken the form, as has been traditional in the Federal housing subsidies programs, of long-term contracts, extending up to 40 years, and these contracts are full-faith-and-credit obligations of the United States. They create the very large budget authority in the bill that the gentleman from Maryland alluded to in his remarks. These are costs, costs which are not going to be outlays next year but costs which are going to be burdening the appropriations bills for decades to come, and these outlays cumulate year by year as we authorize further contract authority.

We also have to look at the rising costs per year of these programs in terms of the families that they are serving. Currently, in the largest of the HUD programs, the section 8 program, it is costing us in the new construction and the unit rehabilitation programs $6,000 per unit per year to house but a single family or elderly person. In the existing housing program we achieve that for half the cost, $3,000 per unit per year. At this juncture I should note that the Republican Research Committee's Urban Task Force, which I chair, raised this issue in a report last year on the section 8 program and noted our ability to save money for the taxpayer by greater use of the existing housing programs.

A recent report in the other body's Banking Committee suggests that within a few years our annual housing subsidy outlays will exceed those for the aid to families with dependent children programs or those for food stamps. It should be noted that all qualifying persons can get AFDC or food stamps, while the housing subsidy programs do not serve all who qualify and apply, and in fact in a rather random way serve only a small percentage of those eligible.

This bill takes a small step to start addressing the cost problem. It seeks to separate the subsidy for low-income families from the subsidy to the housing industry to tide it over Government-induced hard times. It tries to deal with the low-income families and save money therein by shifting emphasis in the section 8 program to the less expensive existing housing programs. With the funds thus saved, the bill seeks to create two new thin subsidy programs, the rental housing initiative program alluded to by the gentleman from Maryland, and also a new version of the 235 program at higher interest rates that has also previously been alluded to. This is an effort to use thin subsidy programs as a stimulus to the housing industry, rather than the deep subsidies which at least, heretofore, have been necessary in order to have housing programs that would reach the lowest income families. But in taking this first step to try to deal with this cost issue, no one should pretend that this bill has the final answers to the problem. One of my major purposes in rising here today is to urge my colleagues to be alert to the fact that this is something that we are going to have to take a close look at during the years immediately ahead.

I would like to make one final observation about the nature of the housing problem in the United States. At least in urban areas, it is my opinion that the nature of the housing problem is very different from what it was in 1937 when this country enacted its first housing subsidy program. At that time we had large percentages of our housing stock consisting of substandard units, and they were not only substandard at that time but they had been built to below the standards that this society considered acceptable for its housing. At least in urban areas that is not the problem today, and I think it is clear that in urban areas housing which is substandard today is not housing that was built to less than satisfactory standards but housing that was built to satisfactory standards that is only becoming substandard as it slides toward abandonment. I think it is pretty clear from every study that has been made on this subject, the HUD study in 1974, the Harvard-MIT study of 1974, the Lowrey study of rental housing in New York City for the New York City Rand Institute, Professor Sternlieb's study of housing abandonment in Newark, just to name a few——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BAUMAN. Mr. Speaker, realizing that it is Friday afternoon, I yield the gentleman 2 additional minutes.

Mr. GREEN. I thank the gentleman.

Every one of these studies has shown that this problem is an income maintenance problem rather than a housing problem per se, and that the real problem is that many families in this country simply do not have the income necessary to pay for rent or housing expenses that which is necessary to keep up the housing stock. I think we are going to have to consider the change in the nature of the housing problem in urban areas if we are ever going to come up with a housing program that meets the needs of all those in need, while at the same time achieving maximum bang for the Federal buck.

Mr. BAUMAN. Mr. Speaker, I yield back the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JOHNSON of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 4, rule XI, and the Chair's prior announcement, further proceedings on this resolution will be postponed.

Mr. JOHNSON of Colorado. Mr. Speaker, I withdraw my point of order of no quorum.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7542, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Report No. 96–1089) on the resolution (H. Res. 707) waiving certain points of order against the bill (H.R. 7542) making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes, and amendments thereto, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 7265, DOE NUCLEAR WARHEADS AUTHORIZATIONS

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 687 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 687

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7265) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1981, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against section 207 of the bill for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

☐ 1330

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the distinguished gentleman from Maryland (Mr. BAUMAN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 687 provides for the consideration of H.R. 7265 to authorize appropriations for the Department of Energy for National Security programs for fiscal year 1981. This is an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Armed Services. The rule waives points of order against section 207 of the bill for failure to comply with the provisions of clause 5 of rule 21 which prohibits appropriations in a legislative bill. Section 207 provides for the use of available funds from previous DOE defense activity construction project appropriations for the design of "needed" defense activity construction projects. The bill will be read by titles instead of by sections for amendment under the 5-minute rule. Upon completion of the consideration of the bill, one motion to recommit is in order.

H.R. 7265 authorizes $3.498 billion for operating expenses, construction projects, and capital equipment for the Department of Energy national security and national defense programs. This amount is $157.7 million less than the administration's request. The bill increases the requested authorization for operating expenses by $30 million to $2.806 billion and decreases the requested authorization for plant and capital equipment by $187.7 million to $692.5 million.

Mr. Speaker, H.R. 7265 was unanimously approved by the Committee on Armed Services by a vote of 38 "yeas" and no "nays." I urge my colleagues to adopt House Resolution 687 so that we may proceed to the consideration of this important legislation.

Mr. BAUMAN. Mr. Speaker, the gentleman from South Carolina has adequately described the rule. I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JOHNSON of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 4, rule XI, and the Chair's previous announcement, further proceedings on this question will be postponed, and the point of order of no quorum is withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 7115, NATIONAL SCIENCE FOUNDATION AUTHORIZATION, FISCAL YEAR 1981

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 685 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 685

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7115) to authorize appropriations for activities of the National Science Foundation for fiscal year 1981, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resloution 685 provides for the consideration of H.R. 7115, the National Science Foundation Authorization Act for fiscal year 1981. The rule provides 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on Science and Technology. It is a simple open rule, allowing any germane amendment to be offered under the 5-minute rule. The resolution also provides a single motion to recommit.

Mr. Speaker, the prime mission of the National Science Foundation is the support of basic research in the physical, biological, and social sciences. H.R. 7115 authorizes $1.25 billion for research grants, foundation studies, and other expenses during fiscal year 1981. Reflecting our Nation's commitment to scientific development, the bill recommends increases for all program areas other than the ocean margin drilling project, upon which a further study is requested. The legislation mandates the development of a national policy on women and minorities in science, and will help all of us to understand the aims of foundation research by requiring that grant reports bear a statement of purpose written in layman's English.

Mr. Speaker, I urge my colleagues to begin consideration of this important bill by adopting House Resolution 685.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 685 is an open rule providing for 1 hour of general debate. The rule makes in order consideration of H.R. 7115 which authorizes appropriations to the National Science Foundation.

The bill authorizes $1.125 billion for the National Science Foundation for fiscal year 1981. This is $22.28 million less than the President's original budget request but unfortunately it is $51.7 million more than the President's revised request.

One interesting provision of the bill is that section which attempts to address some of the confusion surrounding the purpose and significance of National Science Foundation grants and research projects. The bill would require the titles of grants to contain a brief phrase indicating the purpose of the research being undertaken. I am pleased to see that the committee has recognized the public concern over seemingly meaningless research projects and I only hope that there will, in addition, be closer oversight regarding the kinds of projects which are funded by the taxpayer's money.

I believe that several amendments to the bill are anticipated and I am pleased that we have an open rule allowing these amendments to be considered.

I have no requests for time, Mr. Speaker, and yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield for purposes of debate only such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I would not normally impose on the Rules Committee's time to inject any remarks about the substance of the National Science Foundation's budget. However, we are faced with some unusual circumstances this year which may indicate the need for a few remarks at this time.

I want first to commend my colleagues on the Rules Committee for their prompt action on this important budgetary legislation. In a period when our Nation faces critical needs in strengthening our technological base, it is important to provide a firm planning basis as expeditiously as possible for our science and technology investments. The Rules Committee has facilitated this process.

I want also to express appreciation to my Rules Committee colleagues for the obvious importance they attached to the adequacy of our science and technology investments. In our discussions at the hearing concerning this rule they clearly showed a strong understanding of the significances of this area. Most importantly, I think they also recognized the importance of the serious analysis of programs which went into this authorization bill in both subcommittee and full Science and Technology Committee deliberations. The unanimous committee expression of congressional intent on the importance of key programs in science education, innovation and productivity, minority participation in our Nation's science manpower resource pool, and other important programs was, I think, a model of the effective working of the budget authorization process as provided in the rules of the House.

Unfortunately, we may be faced, I fear, with a situation where appropriation bills are moved to the floor in advance of the authorizations. I understand the time constraints imposed on the leadership by the confusing administration budget revisions this spring. However, I do not think that we should in any way signify acceptance of this as sound practice. I am sure Chairman BOLAND and my colleagues on the appropriation subcommittee dealing with NSF share my feelings that the overall budget figures reflected in their appropriation's bill could be better understood, and more enthusiastically supported, if the House had been able to reflect on, discuss, and codify important congressional programmatic direction indicating priorities for spending those funds. The appropriateness of the total figure will certainly be difficult to judge in the absence of a picture of congressional intent on the component programs.

I have the highest regard for the work of my appropriations colleagues in balancing the total sums allocated among agencies to achieve overall Federal budgetary goals. I only wish that the unusual schedule with which we are faced had not precluded my committee's being more effective in providing support for their actions. I do want to assure my colleagues that even if the appropriations vote on a total figure for the NSF fiscal year 1981 authorization does proceed the authorization, they will be given the opportunity to discuss and debate substantive program emphasis via the authorization bill. The Science and Technology Committee will bring a set of carefully thought out and thoroughly analyzed recommendations of this kind to the floor, and we will welcome the chance to discuss program priorities with the House membership as a whole as we debate the fiscal year 1981 NSF authorization bill, H.R. 7115.

□ 1340

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JOHNSON of California. Mr. Speaker, I objected to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 4 of rule XI and the Chair's prior announcement, further proceedings on this question will be postponed.

The point of order of no quorum is withdrawn.

PERSONAL EXPLANATION

Mr. ANNUNZIO. Mr. Speaker, on rollcall No. 317 which was taken on passage of H.R. 4048 yesterday, awards of prejudgment interest in antitrust litigation, I voted "aye" and verified my vote. However, I am recorded as not voting. Apparently, the electronic equipment malfunctioned, and I ask unanimous consent that my statement appear in the RECORD immediately following the rollcall.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all resolutions.

Pursuant to clause 4 of rule XI, the Chair will now put the question on each resolution on which further proceedings were postponed, in the order in which that resolution was considered.

Votes will be taken in the following order: House Resolution 678, de novo; House Resolution 687, de novo; and House Resolution 685, de novo.

The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all additional resolutions after the first such vote is taken.

PROVIDING FOR CONSIDERATION OF H.R. 7262, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 678.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. JOHNSON of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 1, not voting 137, as follows:

[Roll No. 328]

YEAS—295

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Gaydos
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lee
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead Calif.
Moorhead, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NAYS—1

McDonald

NOT VOTING—137

Andrews, N.C.
Ashbrook
Ashley
Aspin
Bedell
Bevill
Biaggi
Bingham
Boland
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Chappell
Cheney
Clausen
Clay
Conable
Conyers
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Dellums
Devine
Dicks
Dingell
Dodd
Donnelly
Duncan, Oreg.
Early
Eckhardt
Edwards, Okla.
Erlenborn
Evans, Del.
Ferraro
Flippo
Florio
Ford, Mich.
Frenzel
Gingrich
Glickman
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harkin
Holland
Hollenbeck
Holt
Holtzman
Howard
Huckaby
Hutchinson
Ichord
Jeffords
Jenrette
Jones, N.C.
Kastenmeier
Kemp
Kindness
Latta
Leach, La.
Leath, Tex.
Lehman
Lewis
Lundine
McDade
McEwen
McKay
McKinney
Marlenee
Mathis
Mattox
Mavroules
Michel
Miller, Calif.
Moffett
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nedzi
Nichols
Nowak
Perkins
Pickle
Quayle
Quillen
Rahall
Railsback
Rangel
Reuss
Rhodes
Richmond
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
St Germain
Staggers
Steed
Stump
Swift
Symms
Thomas
Van Deerlin
Vander Jagt
Volkmer
Wampler
Watkins
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1350

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 4(e)(3) of rule XI, the Chair announces he will reduce to a minimum of 5 minutes the period of time in which a vote by electronic device may be taken on all of the additional resolutions on which the Chair has postponed further proceedings.

PROVIDING FOR CONSIDERATION OF H.R. 7265, DOE NUCLEAR WARHEADS AUTHORIZATIONS

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 687.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 292, noes 3, not voting 138, as follows:

[Roll No. 329]

AYES—292

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Lederer
Lee
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McDonald
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N..Y
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Walker
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NOES—3

Burton, John
Collins, Tex.
Weiss

NOT VOTING—138

Andrews, N.C.
Ashbrook
Ashley
Aspin
Bedell
Bevill
Biaggi
Bingham
Boland
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Chappell
Cheney
Clausen
Clay
Cleveland
Coleman
Conable
Conyers
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Devine
Dicks
Dingell
Dodd
Donnelly
Early
Eckhardt
Edwards, Okla.
Erlenborn
Evans, Del.
Ferraro
Flippo
Florio
Ford, Mich.
Frenzel
Gingrich
Glickman
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harkin
Holland
Hollenbeck
Holt
Holtzman
Howard
Huckaby
Hutchinson
Ichord
Jeffords
Jenrette
Jones, N.C.
Kastenmeier
Kemp
Kindness
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lehman
Lewis
Lundine
McDade
McEwen
McKay
McKinney
Marlenee
Mathis
Mattox
Mavroules
Michel
Miller, Calif.
Moffett
Mottl
Murphy, Ill.
Murphy, N.Y.
Mruphy, Pa.
Myers, Pa.
Nedzi
Nichols
Nowak
Perkins
Pickle
Quayle
Quillen
Rahall
Railsback
Rangel
Reuss
Rhodes
Richmond
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
St Germain
Staggers
Steed
Stump
Swift
Symms
Thomas
Van Deerlin
Vander Jagt
Volkmer
Wampler
Watkins
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wydler
Young, Alaska
Young, Mo.
Zeferetti

☐ 1400

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 7115, NATIONAL SCIENCE FOUNDATION AUTHORIZATION FISCAL YEAR 1981

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 685.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MILLER of Ohio. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 290, noes 3, not voting 140, as follows:

[Roll No. 330]

AYES—290

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Blanchard
Boggs
Bolling
Boner
Bouquard
Brademas
Breaux
Broomfield
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clinger
Coelho
Collins, Ill.
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dixon
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Foley
Ford, Tenn.
Forsythe
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hopkins
Horton
Hubbard
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Lederer
Lee
Leland
Lent
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Murtha
Musto
Myers, Ind.
Natcher
Neal
Nelson
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Porter
Preyer
Price
Pritchard
Pursell
Ratchford
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Roth
Roybal
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Solarz
Solomon
Spellman
Spence
Stack
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vanik
Vento
Walgren
Walker
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Winn
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Zablocki

NOES—3

Collins, Tex.
Hinson
McDonald

NOT VOTING—140

Addabbo
Andrews, N.C.
Ashbrook
Ashley
Aspin
Bedell
Bevill
Biaggi
Bingham
Boland
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Burgener
Chappell
Cheney

Clausen
Clay
Cleveland
Coleman
Conable
Conyers
Cotter
Crane, Philip
Davis, Mich.
Davis, S.C.
Devine
Dicks
Dingell
Dodd
Donnelly
Early
Eckhardt
Edwards, Okla.
Erlenborn
Evans, Del.
Ferraro
Flippo
Florio
Ford, Mich.
Frenzel
Gingrich
Glickman
Goldwater
Hagedorn
Hall, Ohio
Hanley
Harkin
Holland
Hollenbeck
Holt
Holtzman
Howard
Huckaby
Hughes
Hutchinson
Ichord
Jeffords
Jenrette
Jones, N.C.
Kastenmeier
Kemp
Kindness
Latta
Leach, La.
Leath, Tex.
Lehman
Lewis
Livingston
Lundine
McDade
McEwen
McKay
McKinney
Marlenee
Mathis
Mattox
Mavroules
Michel
Miller, Calif.
Moffett
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Pa.
Nedzi
Nichols
Nowak
Perkins
Pickle
Quayle
Quillen
Rahall
Railsback
Rangel
Reuss
Rhodes
Richmond
Rodino
Rostenkowski
Rousselot
Royer
Rudd
Runnels
Russo
Santini
Shumway
Skelton
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
St Germain
Staggers
Stump
Swift
Symms
Thomas
Van Deerlin
Vander Jagt
Volkmer
Wampler
Watkins
Waxman
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wydler
Young, Alaska
Young, Mo.
Zeferetti

□ 1410

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF HOUSE REPORT NO. 96-1035

Mr. WRIGHT. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 360) providing for the printing of additional copies of House Report No. 96-1035, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 360

Resolved by the House of Representatives (the Senate concurring), That, in addition to the usual number of copies there shall be printed one thousand five hundred copies of House Report Numbered 96-1035, of which seven hundred and fifty shall be distributed to the House of Representatives document room and seven hundred and fifty shall be distributed to the House Committee on Interstate and Foreign Commerce.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise to address the House for the purpose of determining the schedule for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. Mr. Speaker, I yield to the distinguished majority leader and ask him if he might enlighten us as to what the schedule would be for next week.

Mr. WRIGHT. I thank the distinguished acting minority leader for yielding. I am glad to respond.

There will be no votes on Monday. We will come in at noon on Monday and call the Consent Calendar, then we will consider 10 bills on suspension.

They are:

H.R. 5338, Campeche oil claims;

H.R. 6864, Deepwater Port Act authorization;

H.R. 7018, Federal insecticide, fungicide, and rodenticide extension (FIFRA);

H.R. 2510, review of disability retirement determination;

H.R. 7474, OTEC authorizations;

H.R. 7477, IRC amendments for airway trust fund;

H.R. 7171, miscellaneous changes in tax laws;

H.R. 4155, IRC amendments for student loan defaulters;

H.R. 4968, IRC amendments for real estate investments; and

H.R. 6883, IRC amendments for installment sales.

We will also take general debate on the Housing and Community Development Act, for which a rule has already been granted. Perhaps also general debate on the National Science Foundation Authorization Act. But we will be postponing any votes until Tuesday.

On Tuesday we will have the recorded votes on the suspensions that were debated on Monday, and the Private Calendar. Thereafter we begin the annual process of appropriation bills.

On Tuesday we hope to take the urgent supplemental appropriations, and follow that by consideration of the Youth Act of 1980. Then we will take up the Foreign Service Act of 1980, which has an open rule with 2 hours of general debate, and then we will take the intelligence authorizations with a 1-hour open rule.

On Wednesday we begin with the Treasury-Postal appropriation bill, and follow that by completing consideration of the Housing and Community Development Act. Assuming time remains, we would then take up the Department of Energy authorizations of defense programs and the National Science Foundation authorization to complete consideration of that legislation.

On Thursday we would have the State-Justice appropriations and, assuming time remains, we would take up the Motor Carrier Act of 1980, subject to the granting of a rule. That bill, of course, is otherwise known as the Truck Deregulation Act.

On Friday we would consider the Agriculture appropriations, and we will adjourn by 3 p.m. on Friday but on other days adjournment times will be announced.

□ 1420

We are entering that period of the year in which the appropriations bills must be considered, and so I think it appropriate for Members to expect that we will have sessions every Friday and that we may have to stay late on other days.

Mr. SHUSTER. I would ask the majority leader, is my understanding correct that it is his plan that we will have no votes for the next 3 Mondays?

Mr. WRIGHT. If the gentleman will yield, the plan, I would like to announce today, encompasses only the following Monday, Monday next. I would hope that we would be able to follow that procedure on other Mondays, but I am not in a position just yet to make that a firm commitment.

Mr. SHUSTER. I thank the gentleman.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

I would like to ask the majority leader, I notice item No. 3 on suspensions for Monday is the Federal insecticide, fungicide and rodenticide extension. It is my understanding that that measure has already passed the House and is now in conference with the other body. Does this particular measure go beyond the period for which the bill already passed is in conference, and does this bill contain the legislative veto provision that was in the bill previously passed by the House?

Mr. WRIGHT. Will the gentleman yield?

Mr. SHUSTER. I will be happy to yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

I will just have to say that I do not know the answer to those questions. The committee asked for the scheduling of this bill on this calendar. I do not know whether it differs from the bill earlier passed or whether it includes the provision to which the gentleman makes reference.

Mr. SHUSTER. I understand that the distinguished gentleman is indicating that it does not include the legislative veto.

Mr. WRIGHT. The House having adopted the legislative veto on each occasion on which it has had the opportunity to do so, I should think that the gentleman from Georgia (Mr. LEVITAS) would have a rather strong power of persuasion on a bill that would require a two-thirds majority.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I just want to ask the majority leader, he has announced for consideration next week three of the major appropriations bills, and, as he indicated, we will be facing many of these bills in the next several weeks. There has been some informal discussion here and there about the possibility of the Committee on Rules imposing on the House rules governing appropriation bills which will restrict in some way the offering of amendments that normally would be germane or in order. This would be a very serious departure from past practice. While I know the majority leader cannot speak for a majority of the Committee on Rules, obviously, this would be a major policy decision by the majority leadership, and I wonder if he can make any comment on this rumor that I have heard.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I will be happy to yield to the majority leader.

Mr. WRIGHT. I thank the gentleman for yielding.

The only indication I have had of that is the indication I have just this moment received from the gentleman from Maryland. I have not heard of anything of that nature.

Mr. BAUMAN. If the gentleman from Pennsylvania will yield further, that is very comforting because I know the majority leader makes these decisions along with others, and if he does not know about them, that may be a good sign.

Mr. WRIGHT. If the gentleman from Pennsylvania will yield further, I would suggest the gentleman from Maryland (Mr. BAUMAN) is a member of that august body known as the Committee on Rules, and the gentleman from Texas is not. The gentleman from Texas will make inquiry with respect to the question asked of him by the gentleman from Maryland.

Mr. BAUMAN. As they say in Latin America, mucho gusto, señor.

Mr. SHUSTER. I thank the majority leader.

ADJOURNMENT TO MONDAY, JUNE 16, 1980

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NIGHT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE A REPORT ON H.R. 7474, OCEAN THERMAL ENERGY CONVERSION RESEARCH AND DEVELOPMENT ACT

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a report on the bill, H.R. 7474, the Ocean Thermal Energy Conversion Research and Development Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONGRESSMAN COELHO INTERVIEWED BY BRITISH EPILEPSY ASSOCIATION

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, it is with a deep sense of personal admiration and friendship that I submit this article about our colleague, TONY COELHO. An inspiration to people all over the world, he is a man who commands our respect and enriches the institution by virtue of his example in dealing with a misunderstood disability. The following article appeared in the Epilepsy News, a publication of the British Epilepsy Association:

THE MAN ON CAPITOL HILL

Capitol Hill is the hub of Washington's political scene. On it, and around it, are the White House, the Lincoln Memorial, the Jefferson Memorial, and the offices of the men and women who are currently shaping American policy at home and abroad. Like most centres of government it is very impressive.

The weather was sharp, cold and clear as I walked up the Hill and, in contrast, the centrally heated building seemed oppressively hot. There was nothing oppressive, however, about the warmth of the welcome I was given by the representative for the 15th Congressional District in California.

CHARM AND SINCERITY

Tony Coelho is the sort of man it is a pleasure to meet. He has great vitality, a natural charm and sincerity, and it is obvious from the moment he greets you that he really sees you and recognises you as a fellow human being.

Thinking about the interview afterwards I realised that we had talked about many other things beside epilepsy—and that says a lot about the man. He was prepared to help in any way he could. He knew that I wanted to talk about the way epilepsy had affected his career, but because it is not something that he allows to dominate his lifestyle forgets about it when anything of interest catches his attention in a conversation.

One of the things that impressed me most about this man was the fact that he is a 'whole' person, and in the short time I was with him he gave the attention of that whole person to me. It was significant that, although he was 'on duty' and had many calls on his time, he made no attempt to conclude the interview but left it to me to draw it to a close.

Representative Coelho is Portuguese and is, understandably, particularly interested in the welfare of ethnic groups. He is also the spokesman for all matters connected with epilepsy because he can speak about it at first hand.

POLITICAL EXPLOITATION

His epilepsy first showed itself around 1960, but was not finally diagnosed until 1965. He was at that time studying for the priesthood and, because of the policy of the Church, he was forced to terminate his studies. After a period of 'drifting' he went to work in the office of a U.S. Senator and while he was there he talked freely about his epilepsy. When he decided to stand for election himself, his condition was quite widely known. He tells the story of the campaign that led to his election with wry humour.

An opponent made allusion to his epilepsy in a public address, saying that he thought people should know that Tony Coelho was a sick man who might well die before the conclusion of his first term because he had epilepsy! In fact, the statement worked in Coelho's favour because many people became very angry that a man should exploit another's disability in this way, and it lost votes for the opponent. Now that he is in the House he gets many letters from people with epilepsy and their families asking for his help, which he is pleased to give.

I asked him if the attitude of others toward him had changed since he began publicly to speak about his epilepsy.

He said that whenever he rose in the House of Representatives to testify, there was the usual buzz and hum of conversation while he made his introductory remarks, but when he said he was raising the issue because he was aware of its implications for people with epilepsy, because he had epilepsy himself, there was immediate response. At that point all attention was focused on him and he was able to hold the House on any point he wished to raise.

Always, after such testimony, there were members of the House on both sides who approached him applauding his courage in speaking out and saying they had been moved by his testimony and were prepared to accept it. Many others have told him that their child, or wife, has epilepsy and have offered to help in any way they can.

THE NOT-SO-GOOD TIMES

Although Tony's life now reads like a success story, it has not always been so. When I asked him whether there was a time in his life which, in retrospect, he knew showed the wrong outlook, he immediately agreed that there was.

His experience was similar to that reported by so many people. He remembers that he felt exactly the same person after the diagnosis as he had before it. The actual diagnosis made no difference to him, but it was the 'institutions' that made him appear different.

For one thing, he lost his insurance, for another he lost his driving license and gradually it was borne in on him that in the eyes of the world he was, in fact, a different person.

Therefore, he says: 'I began to think of myself as different and epilepsy became the dominant factor in my life.'

At that time, without the benefit of any professional counselling or enlightened help he became very depressed and negative. He felt as if everything he had was finished, that he had to make a fresh start, but he didn't know where to go or how to set about it.

He told a very moving story about going to a particular park in Los Angeles where there's a small hill looking over a children's playground. With nothing to do all day, he felt drawn to this particular spot day after day.

He used to watch the children playing on the miniature merry-go-round and identify with them because he knew that they were starting their lives and somehow he was starting his, too, but without any clear indication of which way to go. He never hears fairground music or a barrel organ without remembering those days.

Looking back on the bad times he says that they have given him an insight into the feelings and needs of other people, and they also forced him to re-evaluate everything that until then he had taken for granted.

HOPE

When things were at their blackest, some friends who had been at the seminary with him introduced Tony to Bob Hope. Hope became interested in Tony's situation and offered him a job that meant living with the family.

"I was thrilled, of course," Coelho recalls, "but I honestly thought I was working for Bob in a job that had become vacant. It was years later that I realized that the whole thing had been set up as a therapy for me—and it worked." A clear example of how one man's insight and compassion can help another over a very difficult time.

"NO TIME FOR SEIZURES"

Talking about medication, Tony said that before his seizures were brought under control, he was on massive doses of anti-epileptic drugs. It was not until he came under the care of his present medical advisers that he was taken off all the drugs and put on to a very small dose of one drug. It is this which provides him with almost total control now.

"It seems ridiculous that the medication which is meant to prevent seizures can, in fact, cause them, but that's the way it was with me," says Tony.

He still takes the medication and when he gets tired he recognizes the symptoms.

"I'm lucky, because I do get that warning. I just tell myself I don't have time to have a seizure, and I sit and wait until it passes."

In common with many people who have epilepsy, he has experienced two very different types of reaction from those he loves. One of the reasons that he is so determined to help the ethnic groups is that he is aware of the fiercely independent nature of so many of them, and the degree of superstition that still surrounds any sort of abnormality in a child or individual within the family.

Because of their great love for him, his parents' reaction was one of over-protection and a desire to contain the problem within the family. When he met his future wife he kept quiet about his epilepsy for the first six months and then, when he realized that he wanted their relationship to be a permanent one, he keyed himself up to tell her about it. Her reaction was totally unexpected.

She laughed, and said, "So what?"

He was so surprised that it was only several weeks later that he was able to talk to her about it and ask why she had reacted in that way.

"It's so unimportant," she replied, "and it makes absolutely no difference."

A CHAMPION IN THE HOUSE

The first thing I noticed about this man was his warmth, and the second was his humour. These qualities are immediately obvious. It is only in talking with him that one becomes aware of a rare combination of sensitivity and determination. Tony Coelho is sensitive to the problems of others and determined to use his own positive approach to life in order to help them.

People with epilepsy in America have a champion in the House of Representatives. As I left Capitol Hill, I found myself wondering whether there may be a Tony Coelho in the House of Commons—or the House of Lords. Almost certainly there is.

Would he might make his voice heard on behalf of the 300,000 people in this country who lack a champion!

NEIGHBORHOOD SCHOOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 15 minutes.

Mr. COLLINS of Texas. Mr. Speaker, today I rise in behalf of neighborhood schools, which is a basic concern of everybody in America. As far as education goes, busing is the most pressing issue that we have. You all know the specifics. Back in 1954 the Supreme Court ruled that every youngster in America was entitled to go to the school nearest his home, which is known as the neighborhood school concept. After that sound and logical rule some sociologists advised the judges, and the situation was changed from neighborhoods to crosstown busing in one area of our country and then in another, to where now youngsters throughout America, these small children, are getting up and getting on a bus and being driven 45 minutes across town. To a distant school.

There are many obvious disadvantages to it. One of them is that children are tired when they get to school. Also, if they get sick early in the morning, they cannot leave until the bus leaves late that afternoon. If they want to participate in plays or if they want to be on the athletic team, they cannot stay after school; they have to get on that crowded bus and go home. If a child is just 2 minutes late when he gets out to catch that bus and the bus is gone, he cannot go to school that day.

The worst thing wrong about it, is it is forced. It is forced school busing. There is nothing voluntary about it. It is a coercive system. As a result of forced tensions, education in America has taken a tremendous drop. The best way to measure student achievement is by tests which are taken every year by high school seniors. Back in 1964 when they started this school busing, the student achievement test grades totaled 973. Last year when they took them, they were 894. In other words, SAT's have dropped from 973 to 894, which proves conclusively that the high school senior today knows much less than he did 15 years ago. The only thing that basically has changed in schools during that time has been occurring in busing. We have better schools, much better buildings than we ever had. The teachers are paid, even in terms of inflation, much higher salaries than they were ever paid. We have fewer children in school, so we are having smaller classes. Yet you add them all together and the education has dropped 10 percent for achievement.

I want to tell you one other interesting thing, and that is what has happened to the cost of educating a child in America. Many times in Congress we think we can solve everything just by throwing money at it. Just throw money, throw money, throw money. You cannot buy quality education with money.

☐ 1430

I checked our school system in Dallas, which is one of the finest big city schools, I think, in America. We have a great school system. We follow the same principle they do everywhere else in the country. We try to spend money.

I looked back there to see how much we actually spent per pupil. In the 1964 to 1965 year the average cost was $361 a pupil. It goes up, and I especially noted 1974 when we started getting more of these sociology education experiments coming into our town, it really started traveling fast. Costs are up now to where in 1979 the average cost per pupil was $1,746. It had gone from $361 to $1,746. This means in that short period the cost of education had increased five times over. It cost five times as much to educate a child in school. What is happening? The SAT proves they are learning less.

Well, there is just one obvious conclusion and that is forced school busing is the worst disaster to education that ever happened. This is not only in my hometown but to every hometown in America that has had to put up with it. Let us hope that when the new administration, when Reagan is elected next November, that with a new administration we are going to have commonsense in the White House and we can once and for all end this forced school busing in America.

Mr. Speaker, forced busing away from neighborhood schools has had a tremendous impact on educational costs for schooling. In a period when the Nation witnessed the plummet of SAT scores from 973 in 1964 to 894 in 1978, per pupil costs for education rose dramatically. The major change during these years was the practice of mandatory court-ordered busing.

While inflation has contributed to higher educational costs, it is by no means the sole culprit. For example, I took the total spent per pupil in the Dallas public schools, and calculated what per pupil costs with inflation would be. Witness the disproportionate growth in actual spending—over and above what can be attributed to inflation:

Per pupil cost of education in Dallas public schools [1]

School year	Actual total spent per pupil	Per pupil cost with adjustment for inflation
1964–65	$361	$356
1966	409	368
1967	422	379
1968	482	397
1969	520	421
1970	589	444
1971	684	459
1972	791	475
1973	880	516
1974	946	579
1975	991	620
1976	1,229	650
1977	1,405	694
1978	1,601	756
1978–79	1,746	856

[1] Based on yearly inflation rates, using 1964 as base year.

This chart shows a 500-percent increase in actual per pupil costs in a period where cost increases adjusted for inflation were a staggering 245 percent. Note also that the big jump in per pupil costs took place in 1975–76, the year that the current busing order in Dallas took place.

Last year in Dallas, actual costs per pupil were $1,746, whereas per pupil costs just 14 years ago were $361. Why continue to aggravate the burdensome school taxes with costly and clearly counterproductive forced busing? Face up to the facts. Costs of education have increased from $361 to $1,746. Yet, the achievement and total learning has dropped from 973 to a combined SAT grade of 894.

Forced school busing is a sociological experiment that has proven to have negative results despite expensive implementation.

GROUP HOUSING FOR HANDICAPPED IN RURAL AREAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 5 minutes.

● Mr. GRASSLEY. Mr. Speaker, I am introducing today legislation which will encourage the construction of group homes for the handicapped in rural areas.

Inflation has severely reduced the number of housing units under section 202 from 33,000 units in 1976 to a little over 18,000 units reserved for construction in fiscal year 1981. This reduction of units has critically impacted handicapped housing in rural areas—particularly the smaller group home projects.

Section 202(c)(3) of the Housing Act of 1959 requires payment of Davis-Bacon wages for all projects constructed under the direct loan program regardless of size. However, the Housing and Community Development Act of 1974, which implemented the section 8 housing assistance payments program—and which provides subsidy for the section 202 project residents—excludes from Davis-Bacon applicability section 8 projects of less than nine units.

My bill will eliminate Davis-Bacon requirements for 202 projects of eight or less units so that it will conform with the section 8 provisions. The burdensome paperwork requirements and sometimes excessive wage rates of Davis-Bacon have resulted in very few applications being submitted for 202 funding for small projects. It is hoped that this legislation will provide the incentive for contractors and developers to provide this much needed housing for the handicapped.●

SMALL BUSINESSES THREATENED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, it is expected that in a few days a rule will be granted on H.R. 6418—the proposed trucking deregulation legislation—providing for consideration by the House of that proposed legislation.

Section 8 of H.R. 6418 should be stricken from that bill. First, it is completely foreign, irrelevant, and not germane to any regulatory activities of the Interstate Commerce Commission. It is a threat to the very existence of small business firms throughout this country.

Section 8 appears under the title "Food Transportation." Its provisions were inserted in S. 2245, the companion bill to H.R. 6418, during a markup session before the Senate Commerce Committee. While hearings were held on the other provisions of S. 2245, none were held on what now appears as section 8. Its provisions were introduced in the Senate as S. 1787 and was slipped into S. 2245 during a markup session and without any hearings. Now, we have it before us as section 8 in H.R. 6418. Likewise, it is before us without any hearings on the provisions in section 8.

Now, what do the provisions of section 8 do? They repeal, or otherwise make inapplicable, provisions of the antitrust laws, including those of the Robinson-Patman Act, which currently make it unlawful for sellers to discriminate in price in the sale of goods unless the cost differences incurred by the seller in the transaction are cost justified and if the effect on competition and on small businesses may be to injure competition.

One of the things the provisions of section 8 would permit would be to allow sellers to load trucks owned and operated by big buyers at the sellers loading platforms and charge such big buyers lower prices for the merchandise so loaded, if the buyers represent that they plan to haul that merchandise for longer distances, than smaller buyers located at other nearer destinations. Such smaller buyers would be charged higher prices even if their trucks should be loaded by the same seller at the same docks in the same amounts of identical merchandise. It is clear that such differences and discriminations in price as thus would be practiced by a seller could not be justified on the basis of any differences in costs sustained by the seller in the transactions. The discriminations in price would be practiced irrespective of effect on small businesses who would be paying the higher prices at the sellers docks.

Thus, for us to repeal provisions of the antitrust laws, including provisions of the Robinson-Patman Act, would be for us to turn the clock back almost half a century. We, who are so careful to protect individuals from discriminatory practices are now called upon to repeal laws so as to permit big business firms to discriminate against small business and in favor of big buyers.

Mr. Speaker, if we were to approve this legislation without striking section 8 therefrom, we would be signaling, through our votes, that we care not for the protection of more than 10 million small business firms in this country. I know you have before you some arguments by those who propose that we approve the provisions of section 8 of this proposed legislation, and that it will not have any adverse effect on provisions of the Robinson-Patman Act.

Mr. Speaker, those who make that argument are without any basis in fact for it. Let us not forget that during the 84th Congress, the House Small Business Committee ad hoc subcommittee on the Robinson-Patman Act held a series of hearings over which I was honored to preside as chairman and with respect to which there was submited House Report No. 1738 and at pages 111 to 114 thereof is a recital of what the record of those hearings show would be the effect on small business if the Robinson-Patman Act should be so interpreted as to permit of a practice such as would be provided for by the provisions of section 8 of this bill.

A number of us, as leaders and members of the House Small Business Committee who have worked hard and long to help protect small business firms from injurious, damaging and unlawful discriminatory practices, have expressed our concern and concerns of the small business community about the proposals set forth in section 8 of H.R. 6418—see statement in the CONGRESSIONAL RECORD entitled "Concerns of Small Business," April 29, 1980, pages 9327–9328. The latter part of that statement contains a letter to President Carter drawing his attention to these concerns of small business.

Likewise, the Federal Trade Commission officials have presented testimony on various occasions regarding what would be the expected adverse effects on small business if discriminatory pricing should be allowed through the use of so-called back haul truck loading at sellers docks at discriminatory prices. I am sure that Members of the House of Representatives have recently been advised by the Federal Trade Commission officials of their opposition to provisions of section 8 of H.R. 6418. What they have had to say is not only in conflict with, but absolute contradictory to, arguments which have been made by some staff members in the Department of Transportation and the Department of Energy. Perhaps those staff members have been unduly influenced by some of the same special interests who have persuaded the introduction into the Congress of the provisions of the proposed legislation which now appear in section 8 of H.R. 6418.

For example, an article appearing in the Washington Post on Monday, June 9, 1980, at page A7, which details just how this proposed legislation came to be introduced in the Congress. There it is stated that the large food chains with help from resourceful Senator RUSSELL B. LONG, wanted to change the laws so that the big chains could get discounts. The article then goes on to recite the following:

> The proposal originally was offered as an amendment to an energy bill but got nowhere. Then, Long told a reporter, he decided to sponsor it. In the process, he met last September with 14 grocery industry representatives, including 10 based or doing business in Louisiana.
>
> One member of the delegation was a vice president of Winn-Dixie Stores, the fifth-largest grocery chain. After the meeting, the firm's political action committee, four of its top officers and two of the officer's wives contributed $9,000 to Long's reelection campaign. Was there a connection? "None whatsoever," Long said.
>
> With Long's backing, the Senate Commerce and Transportation Committee approved the amendment without objection or a hearing.

Who has been behind this move to have this legislation enacted? It is the Food Marketing Institute, commonly referred to the FMI. What is the FMI? According to a public statement made by an official of that organization just a few days ago, it—

First, is an international, nonprofit trade association representing more than 1,000 food retailers;

Second, one-third of its members are single store operators;

Third, another 40 percent operate 10 stores or less;

Fourth, most large chains are members of FMI; and

Fifth, stores operated by its combined membership numbered about 24,000 and did approximately $90 billion in sales in 1978, representing more than 50 percent of all food store sales in the United States.

MEMBERS RESPOND QUICKLY TO OLYMPIC MEDAL BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I am extremely gratified at the response of Members of the House in cosponsoring H.R. 7482, which would provide congressionally authorized medals for the members of the U.S. Olympic team who will not be able to participate in Moscow this summer. Although the bill was introduced less than 10 days ago, it has already been sponsored by 101 Members on a bipartisan basis.

It is my understanding that if the legislation is approved the medals will be presented to the 650 American Olympic athletes at a joint session of Congress on July 30.

Members will recall that the Subcommittee on Consumer Affairs, which I am privileged to chair, has a requirement that before any medal legislation can be considered it must be cosponsored by 218 Members. I am hopeful that we can achieve that figure by the end of next week so that hearings can be held quickly, and the bill brought to the floor before the end of this month.

In that regard, I urge Members of the House, regardless of their personal feelings about the Olympic boycott, to cosponsor the legislation. This legislation is the least that the Congress can do to recognize our Olympic team, which according to all indications, would have been one of the strongest in our country's history.

If you wish to cosponsor the legislation, contact the Consumer Affairs Subcommittee on extension 5-9181.●

NOTICE OF PUBLIC HEARING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, on Thursday, June 26, 1980, the Subcommittee on Select Revenue Measures of the Committee on Ways and Means will hold public hearings on various minor tax bills.

Due to the heavy workload of the Congress, this hearing has necessarily been scheduled with only a limited amount of time for public notice. As a result, I would like to insert at this point in the RECORD a copy of the press release announcing this hearing so that this information will be available to both the Members of the House as well as interested members of the public.

The press release follows:

THE HONORABLE DAN ROSTENKOWSKI, CHAIRMAN, SUBCOMMITTEE ON SELECT REVENUE MEASURES, ANNOUNCES A PUBLIC HEARING ON MINOR TAX BILLS TO BE HELD ON JUNE 26, 1980

The Honorable DAN ROSTENKOWSKI, (D., Ill.), Chairman, Subcommittee on Select Revenue Measures of the Committee on Ways and Means, today announced that the Subcommittee will conduct a public hearing on miscellaneous tax bills on Thursday, June 26, 1980. The hearing will be held in 1100 Longworth House Office Building, the Committee's main hearing room, beginning at 9:00 a.m.

A listing of the legislation on which testimony will be taken at this time appears on the reverse side of this announcement.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

The limited time available to the Subcommittee for this hearing requires that all persons and organizations having a common position designate one spokesman to represent them. Each witness must summarize his or her statement with the understanding that the detailed statement will be included in its entirety in the printed record of the hearing. The time allowed witnesses for the presentation of oral testimony will be strictly limited. If necessary, public witnesses will be grouped into panels to expedite the hearing process. Any individual or organization desiring to do so may file a written statement for inclusion in the printed record of the hearing instead of appearing in person, in accordance with the directions outlined below.

The cut-off date for requests to testify is the close of business on Monday, June 23, 1980. Requests to be heard, therefore, should be submitted by telephone to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, 1102 Longworth House Office Bldg., Washington, D.C. 20515, (202) 225-3625.

Requests to be Heard Must Contain the Following Information:

(1) The name, address, telephone number and capacity in which the witness will appear;

(2) A listing of clients (or the firm or association represented) at whose request or in whose employ the witness is appearing;

(3) Which bill or bills will be discussed; whether in support or opposition, and

(4) A summary of testimony to be presented.

Notification to those scheduled to appear will be made by telephone promptly after the filing deadline. If a witness cannot appear on the day scheduled, he may wish either to substitute another spokesman in his place or to file a written statement for the record of the hearing instead of appearing in person. In any event, if a change in the scheduled witness or cancellation is necessary, please advise the Committee office immediately.

Witnesses should submit 50 copies of their prepared statements to the Committee Office, 1102 Longworth House Office Bldg., at least 24 hours in advance of the hearing. An additional supply may be furnished on the date of appearance for distribution to the press and public.

Written statement in lieu of personal appearance

Instead of appearing in person, written testimony may be submitted for the consideration of the Subcommittee and inclusion in the printed record of the hearing. For this purpose, five copies of the statement should be submitted by the close of business on Thursday, July 3, 1980. If those filing for the record want copies of their statements distributed at the hearing to the members of the Subcommittee, press and public, additional copies for this purpose should be delivered to 1102 Longworth House Office Building before the hearing begins.

BILLS TO BE ADDRESSED AT PUBLIC HEARING, JUNE 26, 1980 BEFORE THE SUBCOMMITTEE ON SELECT REVENUE MEASURES

H.R. 4498 (Mr. Weaver) To change certain requirements applicable to purchasers of timber from national forests, and for other purposes.

Similar to: H.R. 5798 (Mr. Gudger, Mr. Bafalis, Mr. Barnard, Mr. Bevill, Mr. Chappell, Mr. Preyer, Mr. Jones of North Carolina, and Mr. Andrews of North Carolina) To amend the Internal Revenue Code of 1954 to provide a tax credit for qualified forestry expenditures that improve the productivity of privately-owned lands, and for other purposes.

H.R. 5719 (Mr. Lederer) To amend the Internal Revenue Code of 1954 to clarify the tax exemption of proceeds from certain bingo games.

H.R. 6935 (Mr. Minish, Mr. Guarini, Mrs. Fenwick, Mr. Thompson, Mr. Courter, Mr. Hughes, Mr. Patten, Mr. Rinaldo, Mr. Forsythe, Mr. Howard, Mr. Roe, Mr. Maguire, Mr. Florio, Mr. Hollenbeck and Mr. Rodino) To exempt from Federal income tax certain subsistence allowances received by State police officers before January 1, 1978.

Similar to: H.R. 6953 (Mr. Hughes and Mr. Roe) To amend Public Law 95-427 to permit certain State police officers to file a claim for credit or refund of Federal income tax with respect to certain subsistence allowances, without regard to whether the allowance was included in gross income.

Identical with: H.R. 7149 (Mr. Roe)

H.R. 7263 (Mr. Conable, Mr. Gibbons, Mr. Duncan of Tennessee, Mr. Archer, Mr. Corman, Mr. Frenzel, Mr. Pickle, Mr. Jones of Oklahoma, Mr. Moore, Mr. Gradison, and Mr. Fowler) To amend the Internal Revenue Code of 1954 with respect to the treatment of retirement and similar plans maintained for nonresident aliens.

H.R. 7276 (Mr. Lederer) To amend the Internal Revenue Code of 1954 to allow the investment tax credit for certain rehabilitated buildings leased to tax-exempt organizations or to governmental units.

H.R. 7318 (Mr. Dingell and Mr. Jacobs) To amend section 170 of the Internal Revenue Code of 1954 to revise and make permanent the provisions for allowing a deduction for contributions for conservation purposes.

(Note: Supersedes H.R. 4611 (Mr. Dingell and Mr. Jacobs)—Hearings held by Subcommittee on November 9, 1979.)

H.R. 7392 (Mr. Gephardt) Relating to the treatment of certain expenses includible in the income of the recipient.

H.R. 7487 (Mr. Guarini, Mr. Rostenkowski, Mr. Florio, and Mr. Madigan) To amend the Internal Revenue Code of 1954 to impose a manufacturers excise tax on the sale of light gauge steel drums.

H.R. 7520 (Mr. Ullman, Mr. Gore, Mr. Pickle, Mr. Jones of Oklahoma, Mr. Jenkins, Mr. Lederer, Mr. Fowler, Mr. Duncan of Tennessee, Mr. Frenzel, Mr. Martin and Mr. Moore) To amend the Internal Revenue Code of 1954 with respect to the treatment of mutual or cooperative electric and telephone companies.●

VIETNAM VETS WILL NOT GO AWAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, one of the most tragic events in recent American history has been the Vietnam war. This tragic and undeclared war resulted in the loss of thousands of lives, caused untold suffering to millions, and cost billions of dollars. The Vietnam war, because of its effect on our Nation, is something most Americans would like to forget. But we cannot and should not forget the lessons that it has taught us. Most of all, we cannot forget the courageous Americans who fought in this unpopular war. The Vietnam veterans, unlike veterans from previous wars, did not return to a hero's welcome. Instead, they were ignored or viewed with resentment. In addition, as a result of their experiences in Vietnam, many suffered hardships, both physically and mentally in trying to fit back into the mainstream of American society.

These Vietnam veterans are not asking for a handout, but only for a fair shake, to be treated like other veterans from previous wars. We, in the Congress, owe it to them to give them a fair shake. But these Vietnam veterans are not just sitting back, waiting for Congress to act. They are organizing, lobbying, helping other veterans deal with their problems, among these being high unemployment, drug and alcohol abuse, an unresponsive Veterans' Administration, and possible contamination by the defoliant agent orange.

These groups, through almost impossible odds, are just starting to make themselves heard. One such group is the Vietnam Veterans of America, headed by Robert Muller. This courageous man worked his way through law school while in a wheelchair, the result of being wounded in Vietnam. This group, and others like it, deserve our attention and respect. The Vietnam veteran will not go away. Therefore, it is for these reasons, and for the information of the other members of Congress, that I am inserting an article from the June 5, 1980, edition of the Washington Post entitled "The Viet Vets Will Not Go Away" by Philip Geyelin. It tells of the many hardships that Vietnam veterans are overcoming in their return back to the mainstream of American society. Following is the text of the article:

THE VIET VETS WILL NOT GO AWAY

(By Philip Geyelin)

BUFFALO, N.Y.—"People tend to look on us as a burden. I say, forget it! Look on us as a resource. Look on us as survivors. Look on us as those who have learned at a terrible price the wisdom and the lessons that our experience has given us. We've got the strength. We've got the knowledge. We've got the caring. Let's go out and get it, folks."

The banquet room of the downtown hotel burst into a standing ovation for the intense figure hunched in a wheelchair at the head table: Robert Muller, whose spinal cord was severed by a bullet while he was working his way up a Vietnamese hillside in April 1969. Now age 34, with a law degree, Bobby Muller is head of Vietnam Veterans of America, an embryonic organization with modest corporate and foundation funding, a small staff and big plans for a nationwide membership campaign.

Some say it won't work, that Muller is too driven, and that anyway Vietnam veterans aren't joiners—that they joined up once and that once was enough. And they could be right about that.

But the scene here during Buffalo's second annual Vietnam Veterans Week says something of consequence, nevertheless, about a significant slice of the Vietnam generation. It confirms that after a decade (more or less) of withdrawal and alienation, hundreds of thousands of those who went to Vietnam, or were in uniform and subject to service there, are checking back into American society.

Not all 9 million of them—and not all in the same way. But judging from scores of interviews here and around the country, there are more than enough common denominators of emotion and opinion to suggest the evolution of an important influence on public policy having to do with military manpower, with the use of American force in the conduct of foreign policy, with war and peace.

Of those who were in the armed forces during the Vietnam years, roughly 6 million did not go to Vietnam; of the 2.7 million who did, only about 1.6 million did any fighting. So there were wide variations in the Vietnam experiences and, accordingly there is no one "Vietnam veteran" view. Some veterans, perhaps permanently radicalized, will march on Washington or teach-in on campuses to stop reinstitution of the draft. Some have emerged as pacifists—up to the point of attack on U.S. territory.

Others see themselves pretty much the way they did when they went off to war—as warriors and patriots.

Whatever the case, increasing numbers of Vietnam veterans have come to accept the watchdog role laid claim to by Muller: "Nobody is in a better position to address the question of how to meet military manpower needs or to commit U.S. soldiers anywhere in the world than those who responded when there was a call the last time and have paid the price since then."

This developing sense of pride and purpose has something to do with a growing public understanding of the war and those who were caught up in it. (A recent poll found 60 percent of Americans believing that the Vietnam veterans have gotten a raw deal.) But mostly it has to do with the veterans' own discovery of themselves and of each other—of a brotherhood of "Nam."

You see it in dozens of local self-help organizations, manned by veterans, to deal with the problems of the disadvantaged and the disaffected: jobs, drug and alcohol abuse, psychological stress, the stigma of "bad paper" discharges, family breakups, deficient education benefits, an overblown and unresponsive Veterans Administration all too reminiscent of their military experience and, perhaps most threatening, the latent, still undetermined hazards to health from contamination by the defoliant Agent Orange.

You see it in the U.S. Congress, where a 19-member Vietnam veterans caucus struggles to improve Vietnam veterans' benefits against the retrograde influence of too many of their elders. You see some measure of it in the co-sponsorship by all 100 U.S. senators of a resolution that would set aside two acres on the Mall for a Vietnam War Memorial.

But nowhere is it better illustrated now than in American communities. Is Buffalo "special?" In its civic pride and fierce ethnic diversity, perhaps. But in terms of Vietnam veterans making their presence felt, it is by no means unique.

All of which leads me to question the quick conclusion reached by some Washington authorities—heartened by the public response to the hostage crisis in Iran and the Soviet plunge into Afghanistan—that the "Vietnam Syndrome" has been laid to rest. What the Buffalo scene tells me is that, in an age of one-issue policies, Vietnam veterans (and their next of kin) are going to constitute an increasingly influential political force.●

ACTOR-CANDIDATES AND SECTION 315: A REFORM OF THE EQUAL TIME RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, I have introduced legislation, H.R. 7572, to amend section 315 of the Communications Act of 1934, the "equal time" rule, to permit actors who wish to seek public office to be able to participate in the political process—something which section 315 effectively prohibits at present.

Under section 315, any use of the broadcast media by any candidate for public office obligates each station to provide equal time to all other candidates for that office. In most instances. the law works clearly and fairly. But for actors, it does not. Should they become political candidates, all their appearances as entertainers on television and radio, under section 315, are deemed "uses" of the media entitling their opponents to equal time.

For actors, this poses a unique hardship. No television station will broadcast reruns of a series in which an actor—now a candidate—has appeared, because of the equal time obligation. Such programs are pulled off the air, depriving the actor/candidate—and all others in the show—of all income from its broadcast. Actors in this situation are faced with the unfair choice of being deprived of their livelihood or abandoning a potential candidacy.

This has happened several times in recent years. In 1972, the FCC told Pat Paulsen, a television comedian, that he could not make any entertainment appearances free of the equal time rule while seeking the Republican Presidential nomination. Paulsen's contention that this ruling deprived him of his livelihood was dismissed in court.

In 1976, the FCC told Ronald Reagan that any broadcast of his old westerns on television would entitle President Ford to "equal time" to support his incumbency—and none of Reagan's movies have been shown on television during his candidacies.

Earlier this year, George Takei, who played Mr. Sulu on "Star Trek," contemplated a campaign for the State legislature in California. But the nightly reruns of the series would have enabled his opponent to claim equal time. Faced by the threat of broadcasters to pull the series off the air, and the desire of Takei's fellow actors to keep the program on the air to protect their income, he withdrew his candidacy.

In 1975, I was opposed by an actor, Jerry Fogel, who had appeared in the "Mothers-in-Law." Even though I renounced any claim to equal time because of the broadcast reruns, a Los Angeles station told Mr. Fogel the comedy series would be removed from the air. He was forced to abandon his campaign.

As these cases demonstrate, actors are unfairly punished by section 315. They are the only people forced to give up their profession to run for public office. Why should nonpolitical performers in character roles be considered second-class citizens?

The purpose of section 315 is to insure that all candidates have equal access to a precious political commodity, television broadcast exposure. But would the broadcast of Ronald Reagan's old movies, or episodes of "Star Trek," upset this careful balance of political expression? Of course not.

It is the political use of the media—people appearing as candidates—that requires the responsible treatment of section 315. Entertainment programing should not be affected at all by its restrictions.

Therefore, I have introduced H.R. 7572, which provides an exemption under section 315 for any appearances by an actor portraying a fictional character. Under this bill, the FCC is to define the term "fictional character" and develop rules to implement this exemption promptly after enactment.

There is no reason why actors should sacrifice their professional careers to pursue public office. And there is no reason why an actor's entertainment appearances should trigger a serious political response by his or her electoral opponent. There should be separate treatment, under section 315, of entertainment and political uses of the media in order to protect the interests of all who need access to it.

Mr. Speaker, I very much hope this amendment to section 315 can receive the full attention by the Subcommittee on Communications should any legislation in this area be considered.

The text of my bill follows:

H.R. 7572

A bill to amend the Communications Act of 1934 to provide that the broadcasting of appearances by actors in motion pictures or theatrical productions shall not be subject to the requirements of section 315 of such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after the third sentence thereof the following new sentences: "Any appearance by a legally qualified candidate in any motion picture film, video tape, or theatrical production which is created or produced primarily for use as public entertainment, and which is broadcast by any broadcasting station, shall not be deemed to be a use of such broadcasting station within the meaning of this subsection if such appearance relates exclusively to the portrayal of a fictional character. For purposes of the preceding sentence, the term 'fictional character' shall have the meaning given it by the Commission. The Commission shall prescribe rules for such purpose as soon as practicable after the effective date of this sentence.".

Sec. 2. The fourth sentence of section 315 (a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by striking out "foregoing sentence" and inserting in lieu thereof "third sentence of this subsection".●

THE 40TH ANNIVERSARY OF THE TAKEOVER OF LITHUANIA BY THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, on Sunday, June 15, 1980, the military occupation and forceable incorporation of Lithuania into the Soviet Union in 1940, will be commemorated. The individual and collective sacrifices for self-determination that have been the hallmarks of Lithuania's struggle for freedom from oppression and tyranny, as a captive nation, should be recognized and revered by all. As a nation that considers the virtues of "life, liberty, and the pursuit of happiness" supreme, we Americans of all ethnic backgrounds should join the Lithuanian-Americans in reaffirming our commitment to Lithuania's struggle for freedom and independence throughout the world.

In the wake of the ruthless and unwarranted aggression by the recent Soviet invasion and devastation of Afghanistan, Lithuanian Americans recognize perhaps more acutely than others this renewed threat of Soviet expansion for what it is. They hold out their hearts in sympathy and compassion for the proud and indomitable spirit of the Afghan people. It must be realized, however, that free peoples everywhere are threatened by the intolerable Soviet action in Afghanistan. The current situation in Afghanistan should serve as a potent reminder that the fight to sustain freedom and independence is a continuing struggle.

America has been fortunate enough to have achieved the status of a pluralistic society. While assimilation has been the American way, so has reverence for the past and the land from which our forefathers came seeking religious freedom, individual liberty, and human dignity. Let us, therefore, take this opportunity to join our Lithuanian American brothers and sisters in commemorating the 40-year anniversary of the tragic Soviet takeover of their beautiful homeland.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Wolff (at the request of Mr. Wright), for today, on account of personal business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Chappell (at the request of Mr. Bennett), on acount of official business in district.

Mr. Davis of Michigan (at the request of Mr. Rhodes), for today, on account of official business.

Mrs. Holt (at the request of Mr. Rhodes), for today after 12 noon, on account of attending a funeral.

Mr. Williams of Ohio (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was grantd to:

(The following Members (at the request of Mr. Corcoran) to revise and extend their remarks and include extraneous material:)

Mr. Collins of Texas, for 15 minutes, today.

Mr. Grassley, for 5 minutes, today.

(The following Members (at the request of Mr. Lowry) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rostenkowski, for 10 minutes, today.

Mr. Daschle, for 5 minutes, today.

Mr. Waxman, for 5 minutes, today.

Mr. Alexander, for 60 minutes each, on June 16, 17, and 18, 1980.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Corcoran) and to include extraneous matter:)

Mr. Dornan in two instances.
Mr. Lewis.
Mr. Rhodes.
Mr. Archer.
Mr. Winn.
Mr. Schulze.
Mr. Lagomarsino in two instances.
Mr. Hollenbeck.
Mrs. Fenwick.
Mr. Bethune.
Mr. Derwinski in two instances.
Mr. Goodling in two instances.
Mr. Broomfield.
Mr. Clinger.

(The following Members (at the request of Mr. Lowry) and to include extraneous matter:)

Mr. Hall of Ohio.
Mr. Benjamin.
Mr. Corrada.
Mr. Fary.
Mr. Drinan.
Mr. Solarz in two instances.
Mr. Cavanaugh.
Mr. Scheuer.
Mr. Waxman.
Mr. McDonald in two instances.
Mr. Fisher.
Mr. Ottinger in two instances.
Mr. Simon.
Mr. Harris.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 36 minutes p.m.) the House adjourned until Monday, June 16. 1980, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4610. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of the Army's intention to omit the clause authorizing the Comptroller General to examine certain records which would otherwise be required to be included in a contract with the Korea National Housing Corporation for leasing of dependent housing, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

4611. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army Reserve and the Marine Corps Reserve, pursuant to 10 U.S.C. 2233a (1); to the Committee on Armed Services.

4612. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the base operations support and housing services function at Fort Gordon, Ga., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4613. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice that a study has been conducted of the aircraft fueling services function at Fort Hood, Tex., and that a decision has been made that performance under contract is the most cost-effective method of accomplishing it, pursuant to section 806 of Public Law 96–107; to the Committee on Armed Services.

4614. A letter from the Acting Inspector General, Department of Health and Human Services, transmitting the quarterly report of his office for the period ended March 31, 1980, pursuant to section 204(b) of Public Law 94–505; to the Committee on Government Operations.

4615. A letter from the Executive Director, Pennsylvania Avenue Development Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1979, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4616. A letter from the Director, Federal Emergency Management Agency, transmitting notice of proposed revisions in 22 existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4617. A letter from the Chairwoman, Merit Systems Protection Board, transmitting a report on the Board's activities under the Government in the Sunshine Act during calendar year 1979, pursuant to 5 U.S.C. 552b (j); to the Committee on Government Operations.

4618. A letter from the Comptroller General of the United States, transmitting a report on changes in the revenue sharing formula that would eliminate inequities and improve targeting (GGD–80–69, June 10, 1980); to the Committee on Government Operations.

4619. A letter from the Secretary of Health and Human Services, transmitting notice of her Department's opinion that provisions of the Ethics In Government Act of 1978 supersede the financial disclosure requirements of the Toxic Substances Control Act, and of their decision no longer to submit the financial disclosures report required by June 1 annually under section 26(e) of the Toxic Substances Control Act; to the Committee on Interstate and Foreign Commerce.

4620. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the annual report covering calendar year 1979 on progress in the prevention and control of air pollution, pursuant to sections 313, 202, and 306(e) of the Clean Air Act, as amended, together with a report on major emitting facilities, pursuant to section 127(b) of Public Law 95–95; to the Committee on Interstate and Foreign Commerce.

4621. A letter from the Acting Assistant Secretary of the Interior, transmitting financial exhibits of the Colorado River storage project and participating projects for fiscal year 1979, pursuant to section 6 of the act of April 11, 1956; to the Committee on Interior and Insular Affairs.

4622. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on the North Branch Potomac River Basin mine drainage study, in response to resolutions of the Senate and House Committees on Public Works adopted May 13, 1971, and July 29, 1971, respectively; to the Committee on Public Works and Transportation.

4623. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Susquehanna River Basin mine drainage, Pennsylvania, New York, and Maryland, in response to resolutions of the House and Senate Committees on Public Works adopted May 10, 1962, and April 14, 1964, respectively; to the Committee on Public Works and Transportation.

4624. A letter from the Administrator of General Services, transmitting a prospectus proposing continued occupancy under a succeeding lease of space located at 1730 K Street NW., Washington, D.C., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4625. A letter from the Administrator of General Services, transmitting an amended prospectus proposing alterations at the U.S. Post Office and Courthouse, New Haven, Conn., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4626. A letter from the Comptroller General of the United States, transmitting a report on how the petroleum refining industry approaches energy conservation (EMD–80–55, June 13, 1980); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

JOINT RESOLUTIONS ON DEBT LIMIT PASSED UNDER RULE XLIX

Under clause 1 of rule XLIX and House Resolution 642, joint resolutions of the following titles were engrossed and deemed passed:

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit.

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. Supplemental report on H.R. 6627 (Rept. No. 96–967, pt. 4). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution 707. Resolution waiving certain points of order against H.R. 7542. A bill making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes (Rept. No. 96–1089). Referred to the House Calendar.

Mr. STEED: Committee on Appropriations. H.R. 7583. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1090). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 7584. A bill making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes (Rept. No. 96–1091). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 7474. A bill providing for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems, and for other purposes; with amendment (Rept. No. 96–1092). Refered to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EVANS of Georgia (for himself Mr. Barnard, Mr. Bedell, Mr. Brooks, Mr. Fish, Mr. Mazzoli, Mr. Smith of Iowa, and Mr. Wolff):

H.R. 7576. A bill to simplify trade procedures regarding sales of U.S. products abroad, and for other purposes; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. GILMAN:

H.R. 7577. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished; to the Committee on Interstate and Foreign Commerce.

By Mr. GRASSLEY:

H.R. 7578. A bill to amend section 202 of the Housing Act of 1959; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVITAS (for himself, Mr. Johnson of California, and Mr. Abdnor):

H.R. 7579. A bill to amend the Public Buildings Act of 1959, relating to the acquisition of public buildings by exchange, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SIMON (for himself and Mr. Panetta):

H.R. 7580. A bill to provide for per capita grants to reimburse elementary schools and institutions of higher education for part of the costs of providing foreign language instruction; to the Committee on Education and Labor.

By Mr. STEED:

H.R. 7583. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. SMITH of Iowa:

H.R. 7584. A bill making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

By Mr. GILMAN:

H.J. Res. 571. Joint resolution relating to a rationing contingency plan; to the Committee on Interstate and Foreign Commerce.

By Mr. PAUL:

H.J. Res. 572. Joint resolution congratulating the men and women of the U.S. space programs and of the industries, businesses, and educational institutions supporting them who have developed a new field of technology to promote and preserve the free enterprise system, the acquisition of knowledge, and freedom; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Con. Res. 364. Concurrent resolution expressing the sense of Congress with respect to the withholding of income tax on interest and dividend payments; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

493. By the SPEAKER: Memorial of the

House of Representatives of the State of Oklahoma, relative to Cuban refugees; to the Committee on the Judiciary.

494. Also, memorial of the Legislature of the State of California, relative to wine; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 7581. A bill for the relief of Kenny Ray Stroup, U.S. Marine Corps; to the Committee on the Judiciary.

By Mr. BEARD of Rhode Island:

H.R. 7582. A bill for the relief of William J. Games; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1916: Mr. Patten.

H.R. 2342: Mr. Fish.

H.R. 3057: Mr. Duncan of Oregon.

H.R. 3655: Mr. Mottl.

H.R. 5610: Mr. Addabbo, Mr. Hopkins, Mr. Leach of Louisiana, Mr. Moorhead of California, Mr. Sensenbrenner, Mr. Traxler, and Mr. Weaver.

H.R. 6012: Mr. Taylor and Mr. Garcia.

H.R. 6050: Mr. Murphy of New York and Mr. Neal.

H.R. 6296: Mr. Beilenson, Mr. Carter, Mr. Conyers, Mr. Daschle, Mr. Downey, Mr. Kastenmeier, Mr. Oberstar, Mr. Patten, Mr. Ritter, Mr. Simon, Mr. Weiss, and Mr. Wolpe.

H.R. 6308: Mr. Abdnor, Mr. Buchanan, Mr. Marks, Mr. Marriott, and Mr. Stack.

H.R. 6377: Mr. Murphy of New York, Mr. Deckard, and Mr. Leland.

H.R. 6625: Mr. Bailey, Mr. Montgomery, Mr. Leath of Texas, Mr. Traxler, Mr. Nolan, Mr. Brodhead, Mr. Railsback, and Mr. Fuqua.

H.R. 6990: Mr. Madigan.

H.R. 7039: Mr. Edwards of Alabama, Mrs. Boggs, Mr. Stack, Mr. Charles Wilson of Texas, Mr. Biaggi, Mr. D'Amours, and Mr. Bonker.

H.R. 7337: Mr. Quillen.

H.R. 7474: Mr. Walker, Mr. Carney, Mr. Evans of the Virgin Islands, Mrs. Byron, and Mr. Won Pat.

H.R. 7480: Mr. Edwards of Alabama, Mr. Forsythe, Mr. Montgomery, Mr. Murphy of Pennsylvania, Mr. Fuqua, Mr. Wyatt, Mr. Ginn, and Mr. Hubbard.

H.R. 7482: Mr. Addabbo, Mr. Akaka, Mr. Archer, Mr. Bafalis, Mr. Bailey, Mr. Barnard, Mr. Bedell, Mr. Bennett, Mr. Bethune, Mr. Bevill, Mr. Blanchard, Mr. Boland, Mr. Bolling, Mr. Bonior of Michigan, Mr. Brodhead, Mr. Burlison, Mr. Carney, Mr. Carter, Mr. Cheney, Mr. Coelho, Mr. Collins of Texas, Mr. Conte, Mr. Corman, Mr. D'Amours, Mr. Dougherty, Mr. Drinan, Mr. Duncan of Tennessee, Mr. Erlenborn, Mr. Evans of Virgin Islands, Mr. Fary, Mr. Fascell, Mr. Findley, Mr. Fish, Mr. Foley, Mr. Ford of Michigan, Mr. Gaydos, Mr. Giaimo, Mr. Gudger, Mr. Hall of Texas, Mr. Hanley, Mr. Hollenbeck, Mr. Hyde, Mr. Jeffords, Mr. Jenrette, Mr. Jones of Oklahoma, Mr. Lagomarsino, Mr. Lederer, Mr. Lott, Mr. Maguire, Mr. Mattox, Mr. McClory, Mr. McCloskey, Mr. McKay, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Mollohan, Mr. Murphy of Pennsylvania, Mr. Murphy of Illinois, Mr. Murtha, Mr. Nolan, Mr. Oberstar, Mr. Panetta, Mr. Pashayan, Mr. Patterson, Mr. Peyser, Mr. Price, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Ratchford, Mr. Richmond, Mr. Ritter, Mr. Rodino, Mr. Roybal, Mr. Scheuer, Mr. Seiberling, Mr. Sensenbrenner, Mr. Simon, Mr. Smith of Iowa, Mr. Spence, Mr. St Germain, Mr. Stack, Mr. Staggers, Mr. Stanton, Mr. Stark, Mr. Symms, Mr. Tauzin, Mr. Taylor, Mr. Volkmer, Mr. Walgren, Mr. Whitehurst, Mr. Williams of Ohio, Mr. Winn, Mr. Wolpe, Mr. Yatron. Mr. Young of Missouri. Mr. Zeferetti, and Mr. Gibbons.

H.J. Res. 564: Mr. Abdnor, Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Anderson of California, Mr. Annunzio, Mr. Anthony, Mr. Archer, Mr. Ashbrook, Mr. Atkinson, Mr. Badham, Mr. Bafalis, Mr. Bailey, Mr. Baldus, Mr. Bauman, Mr. Benjamin, Mr. Bereuter, Mr. Bethune, Mr. Biaggi, Mr. Bingham, Mr. Blanchard, Mr. Boland, Mr. Bonior of Michigan, Mr. Bowen, Mr. Breaux, Mr. Brodhead, Mr. Broomfield, Mr. Brown of Ohio, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. John L. Burton, Mr. Butler, Mr. Campbell, Mr. Carter, Mr. Cavanaugh, Mr. Cheney, Mrs. Chisholm, Mr. Clausen, Mr. Cleveland, Mr. Clinger, Mr. Coelho, Mr. Coleman, Mr. Collins of Texas, Mr. Conable, Mr. Conte, Mr. Corcoran, Mr. Corrada, Mr. Coughlin, Mr. Courter, Mr. Daniel B. Crane, Mr. D'Amours, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Davis of South Carolina, Mr. Davis of Michigan, Mr. Deckard, Mr. Dellums, Mr. Derwinski, Mr. Dickinson, Mr. Dougherty, Mr. Downey, Mr. Duncan of Tennessee, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Erdahl, Mr. Ertel, Mr. Evans of Georgia, Mr. Evans of Delaware, Mr. Fascell, Mr. Fazio, Mrs. Fenwick, Ms. Ferraro, Mr. Findley, Mr. Fish, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Forsythe, Mr. Fountain, Mr. Frenzel, Mr. Fuqua, Mr. Garcia, Mr. Gephardt, Mr. Giaimo, Mr. Gilman, Mr. Gingrich, Mr. Goldwater, Mr. Goodling, Mr. Gramm, Mr. Grassley, Mr. Green, Mr. Grisham, Mr. Guarini, Mr. Guyer, Mr. Hagedorn, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hance, Mr. Hanley, Mr. Hansen, Mr. Harris, Mrs. Heckler, Mr. Hefner, Mr. Hillis, Mr. Hollenbeck, Mrs. Holt, Ms. Holtzman, Mr. Hopkins, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Hughes, Mr. Hyde, Mr. Ichord, Mr. Jeffords, Mr. Jeffries, Mr. Jones of Oklahoma, Mr. Kazen, Mr. Kelly, Mr. Kemp, Mr. Kindness, Mr. Kogovsek, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Louisiana, Mr. Leach of Iowa, Mr. Leath of Texas, Mr. Lederer, Mr. Lee, Mr. Lent, Mr. Lewis, Mr. Livingston, Mr. Lloyd, Mr. Loeffler, Mr. Lott, Mr. Lowry, Mr. Lujan, Mr. McCloskey, Mr. McHugh, Mr. Maguire, Mr. Markey, Mr. Marks, Mr. Marriott, Mr. Martin, Mr. Matsui, Mr. Mattox, Mr. Mazzoli, Mr. Mica, Mr. Michel, Mr. Miller of Ohio, Mr. Mineta, Mr. Minish, Mr. Mitchell of New York, Mr. Montgomery, Mr. Moore, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murtha, Mr. Myers of Indiana, Mr. Musto, Mr. Natcher, Mr. Nelson, Mr. Nolan, Mr. Oberstar, Mr. Ottinger, Mr. Paul, Mr. Pepper, Mr. Perkins, Mr. Petri, Mr. Pickle, Mr. Porter, Mr. Pritchard, Mr. Pursell, Mr. Regula, Mr. Rhodes, Mr. Rinaldo, Mr. Ritter, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Roth, Mr. Rousselot, Mr. Royer, Mr. Rudd, Mr. Russo, Mr. Santini, Mr. Sawyer, Mr. Shuster, Mrs. Snowe, Mr. Solomon, Mr. Stangeland, Mr. Stanton, Mr. Stockman, Mr. Swift, Mr. Symms, Mr. Synar, Mr. Tauke, Mr. Trible, Mr. Walker, Mr. Waxman, Mr. Weiss, Mr. Whitehurst, Mr. Winn, Mr. Wydler, Mr. Wylie, Mr. Young of Florida, Mr. Young of Alaska, Mr. Zeferetti, Mr. Dornan, Mr. Corman, Mr. Philip M. Crane, Mr. McEwen, Mr. Moorhead of California, Mr. Peyser, Mr. Lungren, Mr. Shannon, Mr. Stratton, Mr. Zablocki, Mr. Sharp, Mr. Panetta, and Mr. Gore.

H. Con. Res. 344: Mr. Wampler, Mr. Weaver, Mr. Dickinson, Mr. Oberstar, Mr. Stenholm, Mr. LaFalce, Mr. Fithian, Mr. Mottl, Mr. Stanton, Mr. Lowry, Mr. Chappell, Mr. Johnson of California, Mr. Roth, Mrs. Bouquard, Mr. Moorhead of California, Mr. Marriott, and Mr. Young of Florida.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

336. By the SPEAKER: Petition of North Atlantic Assembly, Brussels, Belgium, relative to Afghanistan and related issue; to the Committee on Foreign Affairs.

367. Also, petition of the Board of Supervisors, County of Los Angeles, Los Angeles, Calif., relative to rescinding its resolution on boycotting French products; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7262

By Mr. GRASSLEY:

—Page 93, after line 22, insert the following:

CONFORMING AMENDMENT TO THE SECTION 202 HOUSING PROGRAM FOR THE ELDERLY AND HANDICAPPED

Sec. 328. Section 202(c)(3) of the Housing Act of 1959 is amended by inserting the following before the period at the end thereof: "; except that this section shall not apply to projects which are assisted under section 8 of the United States Housing Act of 1937, have eight or fewer units, and are exempted from the provisions of the Davis-Bacon Act by section 12 of the United States Housing Act of 1937".

H.R. 7542

By Mrs. CHISHOLM:

—On page 42, after line 20 insert the following:

ADDITIONAL APPROPRIATIONS

For an additional amount to the "Supplemental Security Income Program," $30,000,000; and for an additional amount (in addition to any other amount appropriated for such grants) for "Grants to States for Social and Child Welfare Services" under this act; $264,750,000.

By Mr. FUQUA:

—On page 32, line 14, strike out ", terminating the International Solar Polar Mission." and insert in lieu thereof the following: "from non-Space Shuttle related Research and Development.".

By Mr. PRITCHARD:

—Page 23, line 6, strike out "$180,000,000" and insert in lieu thereof "$122,000,000"

Page 101, after line 19, add the following:

Sec. 304. No funds appropriated or made available by this Act shall be used for the construction, alteration, repair, or improvement of the Tennessee-Tombigbee waterway project.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Bill Digest Section, American Law Division of the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of April 23, 1980 (page 8874). Cumulative listing may be found in the Digest of Public General Bills and Resolutions.

H.R. 7041. April 15, 1980. Banking, Finance and Urban Affairs. Determines the time at which payments of premium charges are to be made by financial institutions or other mortgages in connection with the mortgage and loan insurance programs established under specified titles of the National Housing Act.

H.R. 7042. April 15, 1980. Ways and Means;

Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to provide payment for dental services under part B of the Medicare program.

H.R. 7043. April 15, 1980. Ways and Means. Amends the Internal Revenue Code to provide for repayment of the oil import fee in the case of exempt uses of gasoline.

H.R. 7044. April 15, 1980. Government Operations. Requires the Director of the Office of Management and Budget to assure that no more than 25 percent of any Federal agency's total budget authority may be obligated in the last quarter of that fiscal year.

H.R. 7045. April 15, 1980. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to provide spouses' and widows' benefits for certain divorced persons.

H.R. 7046. April 15, 1980. Ways and Means. Amends the Internal Revenue Code to allow employers, employees, and self-employed individuals an income tax credit equal to a portion of the amount of social security taxes paid by such individuals.

H.R. 7047. April 15, 1980. Ways and Means. Amends the Tariff Schedules of the United States to provide for the temporary duty-free entry of power-driven flat knitting machines.

H.R. 7048. April 15, 1980. Banking, Finance and Urban Affairs. Amends the mortgage amount, sales price, and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority.

H.R. 7049. April 15, 1980. Ways and Means. Amends the Internal Revenue Code to allow small businesses an income tax credit for cash contributions to a business expansion reserve designed to finance purchase of depreciable equipment, business research or experimentation, or employee wage increases.

H.R. 7050. April 15, 1980. Interstate and Foreign Commerce. Amends the Clean Air Act to revise the definition of "modification" of a source or facility for purposes of provisions concerning both the prevention of significant deterioration of air quality and the plan requirement for nonattainment areas.

H.R. 7051. April 15, 1980. Banking, Finance and Urban Affairs. Amends the Gold Reserve Act of 1934 to authorize the Secretary of Treasury to provide its personnel who are performing international affairs functions with allowances for their dependents travel expenses to and from U.S. schools.

Authorizes appropriations for fiscal years 1981 and 1982 for the Department's international affairs function and for specified payments under an agreement with the Asian Development Bank.

H.R. 7052. April 15, 1980. Government Operations; Interstate and Foreign Commerce. Sets forth notice, collection, and disclosure requirements with respect to information practices in the insurance business.

H.R. 7053. April 15, 1980. Judiciary. Authorizes the U.S. Customs Service to refund the duty paid on a specified magnetometer entered by the Texas Historical Commission.

H.R. 7054. April 15, 1980. Ways and Means. Amends the Tariff Schedules of the United States to increase the duty on plastic netting.

H.R. 7055. April 15, 1980. Government Operations; Intelligence. Amends the Freedom of Information Act to add as an exemption from the disclosure requirements matters obtained under an express promise of confidentiality by the Central Intelligence Agency from a secret intelligence source or a foreign intelligence service.

H.R. 7056. April 15, 1980. Government Operations; Intelligence. Amends the Freedom of Information Act to add as an exemption from the disclosure requirements certain types of intelligence information upon certification by the Director of Central Intelligence or the Director of the Federal Bureau of Investigation.

H.R. 7057. April 15, 1980. Veterans' Affairs. Increases the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons. Precludes tutorial assistance to eligible veterans by immediate family members. Terminates the authority for the veterans' representatives program. Allows certain veterans with active duty service prior to January 1, 1977, to participate in the Post-Vietnam Era veterans educational assistance program. Provides for distribution of unused contributions to such program fund upon the death of the participant.

H.R. 7058. April 15, 1980. Judiciary. Amends the Immigration and Nationality Act concerning duration of stay and course changes for alien graduates of foreign medical schools pursuing courses of medical study or training in the United States.

H.R. 7059. April 15, 1980. Banking, Finance and Urban Affairs. Extends and amends the Home Mortgage Disclosure Act of 1975 with respect to disclosure of mortgage, home improvement, and small business loans made and purchased by certain depository institutions.

H.R. 7060. April 15, 1980. Banking, Finance and Urban Affairs. Extends and amends the Home Mortgage Disclosure Act of 1975 with respect to disclosure of mortgage and home improvement loans made and purchased by certain depository institutions.

H.R. 7061. April 15, 1980. Ways and Means. Amends the Internal Revenue Code to allow a refundable income tax credit for certain interest charges paid or incurred on agricultural operating loans.

H.R. 7062. April 15, 1980. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to authorize appropriations for fiscal years 1981 and 1982.

Authorizes the Secretary of Transportation to abate emergency situations involving hazardous railroad conditions.

H.R. 7063. April 15, 1980. Ways and Means. Amends the Tariff Act of 1930 to increase the value of imported goods eligible for informal entry. Subjects such goods to specified reporting requirements.

H.R. 7064. April 15, 1980. Interior and Insular Affairs. Establishes the Western Arctic Management Area in the State of Alaska.

H.R. 7065. April 16, 1980. Post Office and Civil Service. Requires the Postmaster General, at the request of a State, to comply with a State statute and withhold State disability fund contributions from the pay of postal employees.

H.R. 7066. April 16, 1980. Public Works and Transportation. Sets forth the conditions which permit the Secretary of Transportation to limit obligations for Federal-aid highways and highway safety construction during certain fiscal years.

H.R. 7067. April 16, 1980. Banking, Finance and Urban Affairs. Amends the Housing Act of 1949 to extend and increase authorizations of appropriations.

H.R. 7068. April 16, 1980. Armed Services; Merchant Marine and Fisheries; Interstate and Foreign Commerce. Amends existing Federal law with respect to the entitlement and computation of retired pay of members of the uniformed services.

H.R. 7069. April 16, 1980. Ways and Means. Directs the Secretary of Commerce to establish the trigger price for each steel mill product based on the costs of producing such products in Japan and the European Economic Community. Requires the Secretary to initiate an antidumping duty investigation if imports from such countries are priced below the applicable trigger price.

H.R. 7070. April 16, 1980. Ways and Means; Interstate and Foreign Commerce. Amends title XIX (medicaid) of the Social Security Act to revise the Medicaid matching funds formula.

H.R. 7071. April 16, 1980. House Administration. Requires any person who reports a contribution, expenditure, cost, or other amount to the Federal Election Commission to report to the Commission any offset, refund, or notice of reporting error relating to such contribution, expenditure, cost, or amount.

H.R. 7072. April 16, 1980. Government Operations. Increases the maximum rates for per diem and actual subsistence expenses and mileage allowances of Federal employees on official travel.

H.R. 7073. April 16, 1980. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to provide that specified actions by a credit card issuer which is subject to the authority of the Federal Trade Commission shall be considered an unfair or deceptive act or practice in or affecting commerce.

H.R. 7074. April 16, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from gross income compensation received by members of the Armed Forces and Federal employees while held hostage in a foreign country.

H.R. 7075. April 16, 1980. Public Works and Transportation. Provides for the reconstruction and rehabilitation of the Woodrow Wilson Memorial Bridge.

H.R. 7076. April 16, 1980. Interstate and Foreign Commerce. Amends the Department of Energy Organization Act to establish a limitation of time for issuing remedial orders under such Act, and for commencing certain enforcement actions under other energy laws.

H.R. 7077. April 16, 1980. Government Operations; Ways and Means. Amends the State and Local Fiscal Assistance Act of 1972 to authorize appropriations for revenue sharing under such Act.

Amends the Internal Revenue Code to allow individual taxpayers an income tax credit for the payment of State and local taxes. Repeals the current income tax deduction for such taxes.

H.R. 7078. April 16, 1980. Science and Technology; Interior and Insular Affairs. Provides for an accelerated program of light water nuclear reactor safety research and development, to be carried out by the Department of Energy and to be coordinated with the reactor research program of the Nuclear Regulatory Commission.

H.R. 7079. April 16, 1980. Agriculture. Reepals the Soil and Water Conservation Act of 1977.

H.R. 7080. April 16, 1980. Banking, Finance and Urban Affairs. Amends specified banking statutes to provide for: (1) out-of-state acquisitions by holding companies of banks and savings and loan associations in emergencies; (2) loans and reserve requirement suspensions if severe economic conditions exist; (3) conversion of mutual savings and loan associations in receivership into Federal stock savings and loan associations; and (4) assistance to credit unions in danger of insolvency.

H.R. 7081. April 16, 1980. Ways and Means. Amends the Internal Revenue Code to treat as deductible State or local real property taxes or State or local charges for waste treatment services necessitated by requirements of the Federal Water Pollution Control Act.

H.R. 7082. April 16, 1980. Government Operations. Requires the President to reduce the amount of energy consumed by the Government.

H.R. 7083. April 16, 1980. Armed Services. Authorizes the provision of medical and dental care to surviving spouses of members and certain former members of the uniformed services who are not remarried.

H.R. 7084. April 17, 1980. Judiciary. Requires the Director of the Administrative Office of the U.S. Courts to establish in each judicial district a pretrial services agency.

H.R. 7085. April 17, 1980. Foreign Affairs; Post Office and Civil Service; Ways and Means. Amends title 5 of the United States Code to: (1) provide a savings fund in the Department of the Treasury into which salaries of Federal employees held hostage may be paid; (2) authorize reimbursement of such employees and their families for certain expenses incurred during the period of hostile detention; and (3) entitle spouses of such employees to education and training expenses.

Amends the Internal Revenue Code to provide tax exclusions and tax return filing deferments for such employees.

H.R. 7086. April 17, 1980. Post Office and Civil Service. Authorizes the President to submit to Congress an alternative plan for civil service pay comparability adjustments only in a year in which general wage and salary guidelines are in effect.

H.R. 7087. April 17, 1980. Ways and Means. Amends the Tariff Schedules of the United States to impose duties on nitrogenous fertilizer and fertilizer materials from Communist countries.

H.R. 7088. April 17, 1980. Ways and Means. Amends the Trade Act of 1974 to impose additional import fees on injury-causing articles (those imports which entitle affected workers, firms, and communities to adjustment assistance) to be used for reimbursing the Federal Government for the costs of providing such adjustment assistance benefits.

H.R. 7089. April 17, 1980. Interstate and Foreign Commerce. Establishes an office in the National Institutes of Health to assist in the development of drugs for diseases and conditions of low incidence.

H.R. 7090. April 17, 1980. Public Works and Transportation. Amends existing Federal law with respect to the apportionment formula for the Federal-aid primary highway system.

H.R. 7091. April 17, 1980. Public Works and Transportation. Amends existing Federal law with respect to the transfer of funds apportioned for resurfacing, restoring, and rehabilitating Interstate System lanes for use on the Federal-aid primary highway system.

H.R. 7092. April 17, 1980. Public Works and Transportation. Directs the Secretary of Transportation to study the feasibility of adding high-occupancy vehicle lanes to certain freeways in southern California.

H.R. 7093. April 17, 1980. Ways and Means. Amends the Internal Revenue Code, with respect to the gift tax, to: (1) increase the annual gift tax exclusion; and (2) declare that certain transfers for consumption shall not be treated as a transfer of property by gift for tax purposes.

H.R. 7094. April 17, 1980. Public Works and Transportation. Provides for the authorization of appropriations for Federal-aid highway programs.

H.R. 7095. April 17, 1980. Ways and Means. Permits products of U.S. origin to be reimported into the United States under informal customs' entry procedures.

H.R. 7096. April 17, 1980. Education and Labor. Amends the Older Americans Act of 1965 to authorize that handicapped or disabled individuals under age 60, yet living at senior citizens centers, may participate in congregate nutrition services offered at the center.

H.R. 7097. April 17, 1980. Judiciary. Provides for the posthumous appointment of a named individual to Foreign Service officer class 4 retroactive to January 1, 1970. Directs the Secretary of the Treasury to pay to the widow of such individual the amount certified by the Secretary of State.

H.R. 7098. April 21, 1980. Science and Technology. Authorizes appropriations to the National Oceanic and Atmospheric Administration and the National Climate Program Office for fiscal year 1981. Authorizes the establishment of a civilian Earth remote sensing system.

H.R. 7099. April 21, 1980. Science and Technology. Authorizes appropriations for environmental research, development, and demonstrations for fiscal year 1981 to the Environmental Protection Agency (EPA).

Directs the Administrator of the EPA to study the use of peer review in research planning and to develop procedures to assure that EPA research programs produce data of verifiable accuracy.

Authorizes the Administrator to award an annual prize for an environmentally-related research contribution.

Directs the principal EPA research official to commission annual critical reviews of literature relevant to EPA's mission.

Directs the Scientific Advisory Board to provide such scientific advice as the Congress requests.

H.R. 7100. April 21, 1980. Banking, Finance and Urban Affairs. Amends the National Housing Act to increase the maximum dollar limits of principal obligations on which the Secretary of Housing and Urban Development may insure home mortgages.

H.R. 7101. April 21, 1980. Ways and Means. Amends the Internal Revenue Code to qualify training films and tapes produced primarily for sale, rent, or license to industrial and commercial organizations for the investment tax credit.

H.R. 7102. April 22, 1980. Veterans' Affairs. Sets forth measures to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Veterans' Administration's Department of Medicine and Surgery. Sets forth salary schedules for dentists, physicians, and nurses.

Establishes the Veterans' Administration Health Professional Scholarship Program.

H.R. 7103. April 22, 1980. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Hazardous Materials Transportation Act to authorize appropriations to carry out the provisions of such Act for fiscal years 1981, 1982, and 1983.

Authorizes the Secretary of Transportation to enter into a contract with a private entity for the use of a supplemental reporting system and data center to provide specified individuals with information concerning the transportation of hazardous materials.

Amends the Independent Safety Board Act of 1974 to authorize appropriations for the purposes of such Act for fiscal years 1981, 1982, and 1983. Includes aviation incidents within the scope of investigation of transportation accidents by the National Transportation Safety Board.

H.R. 7104. April 22, 1980. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to authorize appropriations and to authorize the Secretary of Transportation to abate emergency situations involving hazardous railroad conditions.

Prohibits any railroad from discharging or discriminating against any railroad employee who becomes involved in any enforcement action against such railroad.

Directs the Secretary to develop a methodology to determine railroad safety inspection schedules and to report to Congress thereon.

H.R. 7105. April 22, 1980. Banking, Finance and Urban Affairs; Interior and Insular Affairs. Establishes the National Hostel System Study Commission to develop a plan for a national hostel system to encourage the development of hostels by State and local governmental agencies and private, nonprofit groups.

H.R. 7106. April 22, 1980. Ways and Means. Amends the Internal Revenue Code to increase the business deduction for service awards given to employees.

H.R. 7107. April 22, 1980. Ways and Means. Repeals title I (Windfall Profit Tax on Domestic Crude Oil) of the Crude Oil Windfall Profit Tax of 1980.

H.R. 7108. April 22, 1980. Ways and Means. Amends the Internal Revenue Code to allow homeowners a nonrefundable income tax credit for expenses paid or incurred to make alterations to their residences in order to make such residences more suitable for handicapped family members.

H.R. 7109. April 22, 1980. Small Business. Permits the termination and modification of certain fixed-price procurement contracts between the United States and small business concerns because of increases in the price of rare and precious metals.

H.R. 7110. April 22, 1980. Interstate and Foreign Commerce. Sets forth the national rail transportation policy. Provides for the economic regulation of railroads.

H.R. 7111. April 22, 1980. Education and Labor. Amends the National Foundation on the Arts and the Humanities Act of 1965 and the Museum Services Act to extend the authorization of appropriations through fiscal year 1985.

H.R. 7112. April 22, 1980. Government Operations. Amends the State and Local Fiscal Assistance Act to delete provisions for State assistance. Revises provisions for allocating funds to local governmental units, Indian tribes, and Alaskan native villages.

H.R. 7113. April 22, 1980. Science and Technology. Authorizes appropriations for the National Bureau of Standards for fiscal year 1981.

H.R. 7114. April 22, 1980. Science and Technology; Interior and Insular Affairs. Amends the Earthquake Hazards Reduction Act of 1977 to designate the Federal Emergency Management Agency as the agency with the primary responsibility to conduct and coordinate the National Earthquake Hazards Reduction Program and to authorize appropriations for fiscal year 1981.

Amends the Federal Fire Prevention and Control Act of 1974 to authorize appropriations for fiscal year 1981.

Requires the Director of the Federal Emergency Management Agency to develop a multihazard research planning and mitigation prototype program.

H.R. 7115. April 22, 1980. Science and Technology. Authorizes appropriations for the National Science Foundation for fiscal year 1981. Establishes spending ceilings and floors for specified programs. Requires the Foundation to prepare and submit to Congress specified reports.

H.R. 7116. April 22, 1980. Agriculture. Directs the Secretary of Agriculture to provide financial assistance to bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial operations in breeding, raising, fattening, or marketing livestock.

H.R. 7117. April 22, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest earned on industrial development bonds substantially all of the proceeds of which are used to provide financing for railroad rehabilitation.

H.R. 7118. April 22, 1980. Judiciary; Interstate and Foreign Commerce. Amends the Immigration and Nationality Act with respect to the admission of certain aliens for graduate medical education or training programs.

H.R. 7119. April 22, 1980. Interior and Insular Affairs. Amends the authorization for the Closed Basin Division of the San Luis Valley project in the State of Colorado.

H.R. 7120. April 22, 1980. Small Business. Extends the term of Small Business Administration loans.

H.R. 7121. April 22, 1989. Agriculture; Appropriations. Amends the Agricultural Act of 1949 to establish price supports for the 1980 and 1981 crops of soybeans.

H.R. 7122. April 22, 1980. Judiciary. Establishes a commission to hear, determine, and pay claims against the United States for money damages for the injuries to individuals who contracted the Guillain-Barre Syndrome after receiving immunization under the national swine flu immunization program.

H.R. 7123. April 22, 1980. Veterans' Affairs. Authorizes the Administrator of Veterans' Affairs to deduct the amount of any overpayment of veterans' benefits from any future payment to the person concerned. Requires that interest be charged on the repayment of overpayments of veterans' benefits which are not repaid within a reasonable time.

H.R. 7124. April 22, 1980. Agriculture. Amends the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to defer principal and interest and forego foreclosure on loans in certain circumstances.

H.R. 7125. April 22, 1980. Judiciary. Amends the Immigration and Nationality Act to permit certain tourist and business visitors to enter the United States for up to 90 days without a visa.

H.R. 7126. April 22, 1980. Interstate and Foreign Commerce. Amends the Toxic Substances Control Act to extend the authorization of appropriations contained in such Act.

Directors the Administrator of the Environmental Protection Agency to: (1) study the adequacy of compensation to mitigate damages from hazardous chemical substances; and (2) monitor emissions at facilities used to incinerate polychlorinated biphenyls ("PCBs").

H.R. 7127. April 22, 1980. Ways and Means. Amends the Internal Revenue Code to exempt a certain portion of royalty owner oil production from the windfall profit tax.

H.R. 7128. April 22, 1980. Judiciary; Interstate and Foreign Commerce. Sets forth the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

H.R. 7129. April 22, 1980. Ways and Means. Amends the Tariff Schedules of the United States to prohibit the importation into the United States of any motor vehicle or motor vehicle chassis, body, or part produced in the Soviet Union.

H.R. 7130. April 22, 1980. Public Works and Transportation. Designates the building known as the United States Court House and Federal Building in Syracuse, New York, as the James M. Hanley Federal Building.

H.R. 7131. April 22, 1980. Judiciary. Amends the Clayton Act with respect to unfair trade practices in the commerce of any franchise or distribution right.

H.R. 7132. April 22, 1980. Judiciary. Declares a certain individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7133. April 22, 1980. Merchant Marine and Fisheries. Permits a named vessel to be inspected, licensed, and operated as a passenger-carrying vessel.

H.R. 7134. April 22, 1980. Judiciary. Declares four individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7135. April 23, 1980. Ways and Means. Amends the Internal Revenue Code to require an annual cost-of-living adjustment, based on the Consumer Price Index, to the individual income tax rates and the personal exemption.

H.R. 7136. April 23, 1980. Banking, Finance and Urban Affairs; Interstate and Foreign Commerce. Establishes programs of financial and other assistance to States and units of local government for energy conservation and renewable resources activities.

H.R. 7137. April 23, 1980. Foreign Affairs; Interior and Insular Affairs; Merchant Marine and Fisheries; Ways and Means. Disclaims extraterritorial sovereignty by the United States over deep seabeds.

Requires exploration of or commercial recovery from deep seabeds to be licensed in accordance with this Act. Directs the Secretary of Commerce to administer this Act, and to enforce civil and criminal penalties established herein.

Sets forth the effects of subsequent international agreements upon such licenses.

Imposes a tax on the removal of hard mineral resources from the deep seabed.

Establishes a Deep Seabed Revenue Sharing Trust Fund in the United States Treasury.

H.R. 7138. April 23, 1980. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to require broadcasting networks and licensees which broadcast certain information relating to the kidnaping or taking hostage of American citizens to submit reports to the Federal Communications Commission verifying the accuracy, balance, and fairness of such broadcasts.

H.R. 7139. April 23, 1980. Ways and Means. Amends the Tariff Schedules of the United States to temporarily permit the duty-free entry of wrapper tobacco.

H.R. 7140. April 23, 1980. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to extend to June 1, 1980, the period during which the Pension Benefit Guaranty Corporation may pay benefits under terminated multiemployer plans under circumstances provided for in such Act.

H.R. 7141. April 23, 1980. Agriculture. Requires the Secretary of Agriculture to make financial assistance available to States for the development of subterminal facility plans. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary to make and insure loans to States which have experienced serious storage and transportation problems in order to construct or improve subterminal facilities.

H.R. 7142. April 23, 1980. Agriculture. Requires loans and purchases of the 1979 crop of soybeans to be made by the Secretary of Agriculture without regard to compliance with the reduction of acreage requirements of the Food and Agriculture Act of 1977 and the set-aside requirements of the Agriculture Act of 1949.

H.R. 7143. April 23, 1980. Veterans' Affairs. Reduces from ten years to five years the period during which a service connected disability must have been in effect immediately preceding a veteran's death in order for the veteran's survivors to be eligible for dependency and indemnity compensation.

H.R. 7144. April 23, 1980. Government Operations. Limits the annual Government expenditures for the care of a former President.

H.R. 7145. April 23, 1980. Ways and Means. Amends the Tariff Schedules of the United States to continue the reduced duty on levulose.

H.R. 7146. April 23, 1980. Interior and Insular Affairs. Establishes a program for the leasing of Federal lands to certain non-Federal governmental units for use as shooting ranges.

H.R. 7147. April 23, 1980. Interior and Insular Affairs. Provides that certain lands of the United States shall be held in trust for certain communities of the Mdewakanton Sioux Indians in the State of Minnesota.

H.R. 7148. April 23, 1980. Judiciary. Amends the Gun Control Act of 1968 to revise provisions relating to the licensing of manufacturers, dealers, and importers of firearms and ammunition and prohibited activities concerning firearms. Adds new provisions relating to the control of handguns.

Repeals title VII (Unlawful Possession or Receipt of Firearms) of the Omnibus Crime Control and Safe Streets Act of 1968.

H.R. 7149. April 23, 1980. Ways and Means. Extends the income tax exclusion for subsistence allowances paid to State police officers.

H.R. 7150. April 23, 1980. Interior and Insular Affairs. Designates the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility."

H.R. 7151. April 23, 1980. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a named individual in full satisfaction of a claim against the United States arising out of permanent personal injuries and medical expenses sustained as the result of treatment by a physician at a Veteran's Administration hospital.

H.R. 7152. April 24, 1980. Intelligence; Armed Services. Authorizes appropriations for fiscal year 1981 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System.

Authorizes the use of Department of Defense funds to pay expenses of arrangements with foreign countries for cryptologic support.

Authorizes the payment of certain allowances and gratuities to or on behalf of civilian and military personnel engaged in intelligence activities.

H.R. 7153. April 24, 1980. Education and Labor. Amends the National Foundation on the Arts and the Humanities Act of 1965 and the Museum Services Act to extend the authorizations of appropriations contained in such Acts. Amends the Arts and Artifacts Indemnity Act to make certain changes in the coverage provisions of such Act.

H.R. 7154. April 24, 1980. Foreign Affairs. Vests specified portions of the blocked Iranian assets in the United States if the hostages in Iran are not returned to the United States, to be used for paying U.S. claims against Iran. Provides for the distribution of any remaining amounts to less developed countries.

H.R. 7155. April 24, 1980. Interior and Insular Affairs. Designates the Overmountain Victory Trail as a national historic trail.

H.R. 7156. April 24, 1980. Interior and Insular Affairs. Designates certain public lands in the State of Michigan as wilderness.

H.R. 7157. April 24, 1980. Veterans' Affairs. Waives the one year limitation on claims for compensation from the Veterans' Administration for disabilities and diseases incurred in or aggravated by military service in the case of claims by veterans who served in Southeast Asia during the Vietnam era for compensation for disabilities resulting from exposure to phenoxy herbicides.

H.R. 7158. April 24, 1980. Appropriations. Rescinds, pursuant to the Impoundment Control Act of 1974, specified levels of budget authority contained in the message of the President of April 16, 1980 (H. Doc. 96-299).

H.R. 7159. April 24, 1980. Armed Services. Revises the standard for awarding the Gold Star Lapel Button.

H.R. 7160. April 24, 1980. Post Office and Civil Service. Provides for the issuance of a commemorative postage stamp honoring George Mason.

H.R. 7161. April 24, 1980. Banking, Finance and Urban Affairs. Establishes a national legal rate of interest applicable to judgments, loans, and other extensions of credit.

H.R. 7162. April 24, 1980. Rules; Government Operations. Amends the Congressional Budget Act of 1974 to limit the amount by which total budget outlays for a fiscal year may exceed such outlays for a preceding fiscal year.

Prohibits requiring State or local governments to perform additional functions without compensation for necessary costs incurred in connection with such functions.

Amends the Budget and Accounting Act, 1921, to require the Budget to be prepared in compliance with this Act.

H.R. 7163. April 24, 1980. Interstate and Foreign Commerce. Amends the Powerplant and Industrial Fuel Use Act of 1978 with respect to the regulation of coal production.

H.R. 7164. April 24, 1980. Interstate and

Foreign Commerce. Requires a rail carrier having market dominance to demonstrate that its proposed rates do not exceed a reasonable maximum. Prohibits the Interstate Commerce Commission from allowing a rail carrier to impose subsidy burdens on certain shippers in order to achieve adequate overall revenue levels.

H.R. 7165. April 24, 1980. Judiciary. Requires that a civil or criminal case to be tried in Federal district court or bankruptcy court shall be reassigned to another appropriate judicial officer if all parties on one side of such case file an application requesting reassignment.

H.R. 7166. April 24, 1980. Public Works and Transportation. Establishes the eligibility of aviation fuel storage facilities for airport development grants.

H.R. 7167. April 24, 1980. Ways and Means. Amends the Tariff Schedules of the United States to impose duties on valuable wastes which cannot be feasibly segregated and/or exported after the manufacturing process of articles that entered the United States free of duty under bond.

H.R. 7168. April 24, 1980. Foreign Affairs. Repeals the International Emergency Economic Powers Act.

H.R. 7169. April 24, 1980. Interstate and Foreign Commerce. Amends the Uniform Time Act of 1966 to provide that the period of observance of daylight saving time each year shall begin on the last Sunday in March, rather than the last Sunday in April, and shall end on the last Sunday in November, rather than the last Sunday in October.

H.R. 7170. April 24, 1980. Ways and Means. Amends the Internal Revenue Code to allow estates required to file estate tax returns before July 13, 1978, to elect the valuation of certain farm, etc., real property within 90 days after the later of: (1) the date of the enactment of this Act; or (2) the earliest date on which all necessary relevant regulations become final.

H.R. 7171. April 24, 1980. Ways and Means. Amends the Internal Revenue Code to: (1) provide that the tax exclusion for Federal grants for tuition shall not be denied to a grant recipient merely because such recipient is required to perform future service as a Federal employee; (2) grant tax-exempt status to annuity contracts purchased by the Uniformed Services University of the Health Sciences; (3) permit railroads to use an alternate method of depreciation; (4) provide special tax treatment for Conrail stock and net operating loss carryovers available to railroads in Conrail proceedings; and (5) allow a tax credit against the excise tax on certain distilled spirits, beer, and wine.

H.R. 7172. April 24, 1980. Ways and Means. Amends the Internal Revenue Code, with respect to the manufacturer's excise tax on sporting goods, to exclude from the definition of "artificial bait" any substance which contains 85 percent or more by weight of plant or animal material which can be ingested by fish.

H.R. 7173. April 24, 1980. Ways and Means. Amends the Tariff Schedules of the United States to extend the duty-free entry of specified silk yarns.

H.R. 7174. April 24, 1980. Judiciary. Directs the classification of a named individual as the natural-born son of a named citizen of the United States for purposes of the Immigration and Nationality Act.

H.R. 7175. April 24, 1980. Judiciary. Directs the Secretary of Defense to pay a specified sum to a named newspaper in full satisfaction of a claim against the United States based upon unreimbursed printing services provided by the claimant to the United States Army.

H.R. 7176. April 28, 1980. Ways and Means. Amends the Internal Revenue Code to allow State legislators an income tax deduction for travel expenses away from home.

H.R. 7177. April 28, 1980. Armed Services. Authorizes the Secretary of the Army to convey to the city of Wabasha, Minnesota, certain real property in exchange for other property in such city.

H.R. 7178. April 28, 1980. Science and Technology. Amends the Presidential Science and Technology Advisory Organization Act of 1976 and the National Science Foundation Act of 1950 to provide additional information to the Congress for the purpose of providing a basis for implementing multiyear research and development authorizations.

H.R. 7179. April 28, 1980. Ways and Means. Amends the Internal Revenue Code to exempt royalty owners of oil and gas interests from the windfall profit tax to the extent of ten barrels of production per day.

H.R. 7180. April 29, 1980. Foreign Affairs. Provides for payments to the U.S. citizens held hostage in Iran by Iran or from the blocked Iranian assets.

H.R. 7181. April 29, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act and the Internal Revenue Code to make it clear that service performed by a U.S. citizen outside the United States on a vessel owned by a foreign subsidiary of a domestic corporation constitutes covered employment for social security purposes if such service is performed under a coverage agreement entered into with such corporation as authorized by such Code. Permits FICA contributions to be withheld from the remuneration paid for such service.

H.R. 7182. April 29, 1980. Ways and Means. Amends the Internal Revenue Code to allow homeowners a limited income tax credit for home heating oil costs. Provides that such credit shall be funded from receipts from the oil import fee imposed by the President.

H.R. 7183. April 29, 1980—Agriculture. Provides the Commodity Futures Trading Commission with standby authority to set margin requirements on the trading in commodities.

H.R. 7184. April 29, 1980. Ways and Means. Amends the Tariff Schedules of the United States to exempt specified metal wastes, resulting from the processing of articles that entered the United States free of duty under bond, from provisions requiring such wastes to be exported or destroyed within the bond period if: (1) such wastes cannot be feasibly segregated or exported after processing; and (2) the appropriate duties are paid on such wastes.

H.R. 7185. April 29, 1980. Banking, Finance and Urban Affairs. Establishes a national legal rate of interest applicable to judgments, loans, and other extensions of credit.

H.R. 7186. April 29, 1980. Veterans' Affairs Authorizes the Secretary of Labor to provide legal representation for veterans claiming to be entitled to veterans' reemployment benefits.

H.R. 7187. April 29, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to increase to $750 in all cases the amount of the lump sum death payment.

H.R. 7188. April 29, 1980. Public Works and Transportation. Amends the Federal Water Pollution Control Act with respect to reimbursement for certain publicly owned sewage collection systems.

H.R. 7189. April 29, 1980. Interstate and Foreign Commerce. Amends the Safe Drinking Water Act to replace specified references to "exemptions" with references to "interim variances."

Permits State-prescribed public water system schedules to require compliance with less stringent contaminant levels or treatment techniques during a period of interim variance. Mandates that such schedules require final compliance with each contaminant level and treatment technique requirement for which such interim variance was granted by a specified date.

Permits a State with primary enforcement responsibility to determine that the best technology, treatment techniques, or other means need not be constructed and in place before a variance may be granted.

H.R. 7190. April 29, 1980. Science and Technology. Provides for an accelerated program of light water nuclear reactor safety research and development, such program to be carried out by the Department of Energy.

H.R. 7191. April 29, 1980. Merchant Marine and Fisheries. Designates Sailor's Snug Harbor, located in the city of New York, as the Snug Harbor National Wildlife Refuge.

H.R. 7192. April 29, 1980. Interior and Insular Affairs. Amends the Surface Mining Control and Reclamation Act of 1977 to provide certain discretion in the imposition of civil penalties.

H.R. 7193. April 29, 1980. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for the cost of purchasing and installing residential fire detectors.

H.R. 7194. April 29, 1980. Armed Services. Makes permanent the special pay provisions for military personnel reenlistment and enlistment bonuses.

H.R. 7195. April 29, 1980. Interior and Insular Affairs. Authorizes the exchange of certain land held in trust by the United States for the Navajo Tribe of Indians.

H.R. 7196. April 29, 1980. Education and Labor; Ways and Means. Amends the Black Lung Benefits Act to provide that miners who are disabled due to red lung disease arising out of employment in iron mines shall be entitled to benefits under such Act.

H.R. 7197. April 29, 1980. Agriculture; Small Business. Prohibits specified activities by meatpackers respecting: (1) retail ownership; (2) annual slaughter; (3) price discrimination among purchasers in a particular marketing area; (4) below-cost sales; and (5) future livestock transactions.

H.R. 7198. April 29, 1980. Ways and Means. Amends title IV (Aid to families with dependent children) of the Social Security Act to substitute block grants for open-ended Federal matching funds. Gives the States a fiscal incentive to reduce error, waste, and fraud in the AFDC program. Provides fiscal relief to the States so as to reduce overall State welfare spending and increase basic benefits for the needy. Encourages the States to require work as a condition of eligibility for AFDC payments. Establishes a demonstration project to provide a pilot test of the States' ability to design and implement their own welfare programs.

H.R. 7199. April 29, 1980. Foreign Affairs; Intelligence. Amends the Foreign Assistance Act of 1961 to revise the circumstances under which the expenditure of funds by the Central Intelligence Agency for certain activities is prohibited.

Amends the Central Intelligence Agency Act of 1949 to exempt certain information in intelligence files from provisions of law requiring publication or disclosure.

Amends the National Security Act of 1947 to establish criminal offenses and penalties for the unauthorized disclosure of classified intelligence information.

H.R. 7200. April 29, 1980. Interior and Insular Affairs. Provides for the United States to withdraw certain public domain lands from the Department of the Interior for the purpose of holding them in trust for the Leech Lake Band of Chippewa Indians.

H.R. 7201. April 29, 1980. Ways and Means. Amends the Internal Revenue Code to change the taxable year of individual taxpayers from a calendar year to a year ending on June 30.

H.R. 7202. April 29, 1980. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to reduce the term of office for members of the Board of Governors of the Federal Reserve System. Specifies areas of which a minimum number of members of the Board shall be representative.

H.R. 7203. April 29, 1980. Interstate and Foreign Commerce. Amends the Public

Health Service Act to revise and extend the programs for the National Health Service Corps. Revises and extends specified programs of assistance for the education of health professions personnel.

H.R. 7204. April 29, 1980. Interstate and Foreign Commerce; Judiciary. Amends the Health Professions Educational Assistance Act of 1976 and the Immigration and Nationality Act regarding alien graduates of foreign medical schools to: (1) eliminate certain entry requirements; (2) revise duration of stay and course change provinces; and (3) extend the waiver authority regarding such aliens.

H.R. 7205. April 29, 1980. Judiciary. Grants the consent of the United States to the Caddo Lake compact between the States of Louisiana and Texas.

H.R. 7206. April 29, 1980. Judiciary. Grants the consent of the United States to the Red River Compact among the States of Arkansas,, Louisiana, Oklahoma, and Texas.

H.R. 7207. April 29, 1980. Ways and Means. Amends the Internal Revenue Code to eliminate the phased reduction of the rate of the percentage depletion allowance for independent oil and gas producers and royalty owners and to retain the 22 percent rate for taxable years ending after 1980.

H.R. 7208. April 29, 1980. Judiciary. Authorizes the payment of fees and other expenses to prevailing parties in administrative adjudications and civil actions brought by or against the United States in certain circumstances.

H.R. 7209. April 29, 1980. Interior and Insular Affairs. Amends existing Federal law to permit any revenues or other assets acquired by any means by the Lowell Historic Preservation Commission to be used for any authorized functions of such Commission.

H.R. 7210. April 29, 1980. Ways and Means. Amends the Internal Revenue Code to exempt independent producer oil and royalty owner oil from the windfall profit tax.

H.R. 7211. April 29, 1980. Ways and Means. Amends the Internal Revenue Code to exempt a certain portion of royalty owner oil production from the windfall profit tax.

H.R. 7212. April 29, 1980. Interior and Insular Affairs. Ratifies a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company.

H.R. 7213. April 29, 1980. Ways and Means. Amends the Tariff Schedules of the United States to temporarily reduce the duty on specified wool fabrics.

H.R. 7214. April 29, 1980. Judiciary. Authorizes and directs the settlement and adjustment of the claims of three newspaper companies for advertising furnished to the Department of the Navy.

H.R. 7215. April 29, 1980. Judiciary. Specifies that the injuries incurred by a named individual shall be considered to have been suffered or aggravated in the line of duty in the active military service, for purposes of compensation for service-connected disability. Directs the Administrator of Veterans' Affairs to pay to such individual the appropriate compensation.

H.R. 7216. April 29, 1980. Judiciary. Directs the Secretary of State to pay an annuity to a named individual upon the satisfaction of specified conditions.

H.R. 7217. April 30, 1980. Interior and Insular Affairs. Establishes the Kalaupapa National Historical Preserve in the State of Hawaii.

Establishes the Kalaupapa National Historical Preserve Advisory Commission.

Revises the boundaries of the Haleakala National Park, and the Hawaii Volcanoes National Park, Hawaii.

Eliminates the addition of certain lands on the island of Hawaii to the Hawaii National Park.

Prohibits the charging of any fee for entrance or admission to any unit of the national park system in the State of Hawaii.

H.R. 7218. April 30, 1980. Interior and Insular Affairs. Establishes the Martin Luther King, Junior, National Historic Site in Atlanta, Georgia.

Authorizes the Secretary of the Interior to establish the Martin Luther King, Junior, Preservation District.

Establishes the Martin Luther King, Junior, Advisory Commission to advise the Secretary with respect to the formulation and execution of plans for the national historic site and the preservation district.

H.R. 7219. April 30, 1980. Foreign Affairs. Authorizes appropriations for the payment of U.S. contributions to the International Natural Rubber Agreement's buffer stock account.

H.R. 7220. April 30, 1980. Ways and Means. Amends the Internal Revenue Code, with respect to allowable deductions from a decedent's gross estate of transfers for public, charitable, and religious uses, to extend the period during which governing instruments may be amended to meet the requirements for a gift of a split interest to charity.

H.R. 7221. April 30, 1980. Interior and Insular Affairs. Designates certain lands in the State of Virginia as wilderness. Limits the designation of such lands as class I for purposes of the Clean Air Act. Permits continued oil and gas exploration, development, and leasing in such areas.

H.R. 7222. April 30, 1980. Public Works and Transportation. Directs the Secretary of Transportation to designate an additional section of highway connecting I–10 and I–65 near Mobile-Pritchard, Alabama, as part of the Interstate Highway System.

H.R. 7223. April 30, 1980. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to require Federal savings and loan associations to offer a 30 year standard mortgage if a renegotiable rate mortgage is offered.

H.R. 7224. April 30, 1980. Government Operations; House Administration; Post Office and Civil Service; Judiciary. Directs the Administrator of General Services to submit to Congress a prospectus for establishing a central presidential library to replace new presidential archival depositories.

Increases the annual allowance to which the spouse of a former President is entitled.

Sets forth the official expenses which the Administrator may provide to former Presidents.

Revises the length of time during which the United States Secret Service is authorized to protect a former President, a former Vice President, and the spouse, widow, widower, or child of a former President.

H.R. 7225. April 30, 1980. Post Office and Civil Service. Provides for door delivery of mail to the physically handicapped.

H.R. 7226. April 30, 1980. Agriculture: Interior and Insular Affairs; Public Works and Transportation. Directs the Water Resources Council to act as the coordinating body for a program of water resources assistance to the States.

H.R. 7227. April 30, 1980. Interior and Insular Affairs. Establishes a Commission on Federal Laws to study the application of the laws of the United States to Guam, the Virgin Islands, and American Samoa.

H.R. 7228. April 30, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from gross income interest on industrial development bonds which are sold to finance facilities for the production of alcohol for use in the production of gasohol or other fuel.

H.R. 7229. April 30, 1980. Ways and Means. Amends the Internal Revenue Code to exempt independent producers and royalty owners from the windfall profit tax.

H.R. 7230. May 1, 1980. Foreign Affairs; Judiciary. Directs the Secretary of Commerce to encourage the formation of export trading companies. Permits State and local governments to participate in such companies. Amends the Webb-Pomerene Act to except such companies from antitrust restrictions. Directs the President to appoint a task force to study the effect of this Act on domestic competition and the U.S. trade deficit.

H.R. 7231. May 1, 1980. Agriculture. Increases the fiscal year 1980 authorization of appropriations for the food stamp program.

H.R. 7232. May 1, 1980. Merchant Marine and Fisheries. Amends the Black Bass Act as it applies to fishing in the Great Lakes.

H.R. 7233. May 1, 1980. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to extend the authorization of appropriations relating to mobile trade fairs.

H.R. 7234. May 1, 1980. Ways and Means. Amends the Tariff Schedules of the United States to reduce gradually the duties on specified alkaloids.

H.R. 7235. May 1, 1980. Interstate and Foreign Commerce. Revises the economic regulation of the railroad freight industry. Directs the Interstate Commerce Commission to place maximum reliance on competitive market forces in carrying out its duties with respect to railroads.

Amends the Railroads Revitalization and Regulatory Reform Act of 1976 to authorize the Secretary of Transportation to provide financial assistance to any class I railroad (except Conrail) to pay any share of the costs of restructuring its facilities.

H.R. 7236. May 1, 1980. Ways and Means. Amends the Trade Expansion Act of 1962 to require the specific authorization of Congress before the President may impose import fees on petroleum and petroleum products.

H.R. 7237. May 1, 1980. Post Office and Civil Service; Judiciary. Reduces the compensation and other emoluments of the Secretary of State to the amount of such compensation and emoluments in effect on January 1, 1977.

H.R. 7238. May 1, 1980. Education and Labor. Authorizes appropriations for fiscal year 1981 for the Youth Employment Demonstration Programs (title IV, part A) of the Comprehensive Employment and Training Act.

H.R. 7239. May 1, 1980. Interior and Insular Affairs. Authorizes the Secretary of the Interior to provide for the protection, use, and enjoyment of the esthetic, educational, and interpretive values inherent in the Federal lands and water at Shasta Dam, Central Valley project, California.

H.R. 7240. May 1, 1980. Ways and Means. Amends the Internal Revenue Code to provide tax incentives for businesses in economically depressed areas.

H.R. 7241. May 1, 1980. Merchant Marine and Fisheries; Foreign Affairs; Ways and Means. Imposes an additional duty on the importation into the United States of any fish, wildlife, or plant product. Establishes the International Conservation Grant Panel to award grants to assist foreign nations in developing comprehensive wildlife conservation projects. Establishes the International Wildlife Fund in the U.S. Treasury to be used to carry out this Act.

H.R. 7242. May 1, 1980. Interior and Insular Affairs. Amends the Mineral Lands Leasing Act of 1920 and the Mineral Leasing Act for Acquired Lands to expand the application of such Acts to include gilsonite and all vein-type solid hydrocarbons.

H.R. 7243. May 1, 1980. Ways and Means. Amends the Internal Revenue Code to exempt from the excise taxes on self-dealing by a private foundation certain scholarships awarded to the lineal descendants (or spouses of lineal descendants) of a foundation manager.

H.R. 7244. May 1, 1980. Banking, Finance and Urban Affairs. Amends the Bretton

Woods Agreements Act to authorize a consent to an increase in the U.S. quota in the International Monetary Fund. Sets forth U.S. policy with regard to the formulation of economic adjustment programs to deal with other countries' balance of payments difficulties. Directs the Secretary of the Treasury and the U.S. Executive Director of the fund to study and report on the adequacy of Fund resources.

Expresses the sense of Congress that Taiwan shall be granted appropriate membership in the Fund.

H.R. 7245. May 1, 1980. Public Works and Transportation. Amends the Federal Water Pollution Control Act to restrict the jurisdiction of the United States over the discharge of dredged or fill material to discharges into waters which are navigable.

H.R. 7246. May 1, 1980. Ways and Means. Amends the Internal Revenue Code to replace the one-time $100,000 tax exclusion of gain from the sale or exchange of a principal residence by taxpayers aged 55 with an unlimited tax exclusion of the gain from a sale or exchange of any residence owned or used by a taxpayer as his principal residence. Repeals provisions which permit a deferral of the tax on gain from the sale or exchange of a principal residence.

H.R. 7247. May 1, 1980. Armed Services. Waives the applicability of specified provisions of Federal law to contracts for the construction or manufacture of naval vessels or military aircraft with respect to which final payment is made before October 1, 1981.

H.R. 7248. May 1, 1980. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 and other related housing acts to make those provisions dealing with mobile homes applicable to manufactured housing.

H.R. 7249. May 1, 1980. Interior and Insular Affairs. Provides for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in Dockets 236 A, B, and E before the Indian Claims Commission and the United States Court of Claims.

H.R. 7250. May 1, 1980. Small Business. Amends the Small Business Act to provide for management and technical assistance to small business concerns.

Establishes a National Small Business Development Center Advisory Board.

H.R. 7251. May 1, 1980. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 with respect to the formulas under which entitlements of urbanized areas for construction and operating assistance under such Act are determined.

H.R. 7252. May 1, 1980. Armed Services; Interstate and Foreign Commerce. Authorizes appropriations for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves for fiscal year 1981. Modifies provisions concerning and acquisition and disposal of petroleum products from such petroleum reserves.

H.R. 7253. May 1, 1980. Interior and Insular Affairs. Amends existing Federal law to provide for the appointment of a Commissioner of Water and Power Resources.

H.R. 7254. May 1, 1980. Interstate and Foreign Commerce; Judiciary. Prohibits the drugging or numbing of racehorses and certain related activities. Grants the Administrator of the Drug Enforcement Administration investigatory and other powers with respect to such offenses.

Amends the Federal criminal code to include such offenses in the existing prohibition against interstate and foreign commerce in aid to racketeering enterprises.

H.R. 7255. May 1, 1980. Agriculture; Interior and Insular Affairs. Prohibits the Secretaries of Agriculture and the Interior from selling unprocessed timber from lands which will be exported, used as a substitute for other unprocessed timber which will be exported, or obtained by persons who export such timber.

Permits the Secretary of Agriculture to exempt from such prohibition specific quantities of grades and species of unprocessed timber after consultation with the Secretary of the Interior and public hearings.

H.R. 7256. May 1, 1980. Judiciary. Authorizes the granting of a visa and admission to the United States of a named individual for permanent residence.

H.R. 7257. May 1, 1980. Judiciary. Increases the authorization for the Council on Wage and Price Stability. Extends the duration of the Council.

H.R. 7258. May 5, 1980. Government Operations. Requires the Director of the Office of Management and Budget: (1) to direct each Federal agency to include specified information on its information collection forms; (2) to establish guidelines providing for the modification of such requirements for small businesses; and (3) to develop and maintain a Federal Business Requirements Locator System.

Directs the head of each agency to submit to the Director each year an analysis of the agency's information collection activities. Requires the Director to publish such analysis for public comment.

H.R. 7259. May 5, 1980. Small Business. Provides a means whereby employees can purchase their companies. Makes firms owned wholly or partly by their employees eligible for all forms of assistance from the Small Business Administration.

H.R. 7260. May 5, 1980. Interior and Insular Affairs. Authorizes the Secretary of Agriculture to sell or exchange certain small parcels of public lands. Authorizes the Secretary of the Interior to issue patents to certain numbered school sections in place.

H.R. 7261. May 5, 1980. Judiciary. Amends the Immigration and Nationality Act to make alien crewmen, serving on board a fishing vessel having its home port or operating base in the United States, nonimmigrant aliens while they are temporarily in Guam, the Northern Mariana Islands, or American Samoa.

H.R. 7262. May 6, 1980. Banking, Finance and Urban Affairs. Amends and extends certain existing Federal laws relating to housing, community and neighborhood development, and preservation and related programs.

H.R. 7263. May 6, 1980. Ways and Means. Amends the Internal Revenue Code to provide for the deductibility of employer contributions to a deferred compensation plan of employees who are nonresident aliens.

H.R. 7264. May 6, 1980. Agriculture. Provides a long-term producer storage program for wheat and feed grains.

H.R. 7265. May 6, 1980. Armed Services. Authorizes appropriations for the Department of Energy for national security programs for fiscal year 1981.

H.R. 7266. May 6, 1980. Armed Services. Authorizes the Secretary of each military department to establish a noncontributory program of educational assistance for persons enlisting in the Armed Forces after September 30, 1980.

Directs the Secretary of Defense to prescribe regulations for such programs and to report to Congress on such programs.

Requires the Department of Defense to bear the costs of any such program.

H.R. 7267. May 6, 1980. Interior and Insular Affairs. Declares certain lands to be held in trust for the Siletz Indians of Oregon and establishes a reservation for the Confederated Tribes of Siletz Indians of Oregon.

H.R. 7268. May 6, 1980. Agriculture. Increases the levels of price support loans provided under the producer storage program for the 1979, 1980, and 1981 crops of wheat and feed grains.

H.R. 7269. May 6, 1980. Judiciary. Repeals the Logan Act, which prohibits private correspondence with foreign governments with intent to influence such governments' conduct in relation to disputes with the United States.

H.R. 7270. May 6, 1980. Interstate and Foreign Commerce; Science and Technology. Establishes a program of research, development, education, and voluntary standard setting with respect to the development and utilization of excellence in design.

H.R. 7271. May 6, 1980. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act with respect to the limitation on the rate of pay which may be established by the Mayor of the District of Columbia for the City Administrator.

H.R. 7272. May 6, 1980. Foreign Affairs; Ways and Means. Amends the War Claims Act of 1948 to provide detention benefits for the hostages held in Iran. Excludes such benefits and any income earned while a hostage from gross income for tax purposes.

H.R. 7273. May 6, 1980. Judiciary. Amends the Immigration and Nationality Act regarding: (1) entry for nonacademic study; (2) the status of children; (3) deportation; (4) foreign medical personnel; (5) re-entry permits; (6) re-classification and status adjustment; (7) resident alien reporting requirements; (8) naturalization procedures; (9) automatic citizenship of adopted children; and (10) naturalization court fees.

H.R. 7274. May 6, 1980. Veterans' Affairs. Designates the building known as the Veterans' Administration hospital in Topeka, Kans., as the "Harry W. Colmery Veterans' Administration Hospital."

H.R. 7275. May 6, 1980. Judiciary. Prohibits the imposition of discriminatory State taxes with respect to natural gas.

H.R. 7276. May 6, 1980. Ways and Means. Amends the Internal Revenue Code to allow the investment tax credit for certain rehabilitated buildings leased to tax-exempt organizations or to governmental units.

H.R. 7277. May 6, 1980. Education and Labor. Amends the National School Lunch Act and the Child Nutrition Act of 1966 to revise Federal payments for paid lunches, income eligibility standards, and eligibility for the special milk program. Restricts the eligibility of certain service institutions to operate the summer food services program for children. Extends the authorization for the special supplemental food program. State administrative expense funds, the nutrition education and training program, and the reserve provisions of food service equipment assistance.

H.R. 7278. May 6, 1980. Interior and Insular Affairs. Provides financial assistance to the Accokeek Foundation in the operation of the National Colonial Farm in the State of Maryland.

H.R. 7279. May 6, 1980. Interior and Insular Affairs. Amends the Act providing for the establishment of the Cuyahoga Valley National Recreational Area, in the State of Ohio, with respect to the leasing of certain lands within such recreational area.

H.R. 7280. May 6, 1980. Interior and Insular Affairs. Consents to the Goose Lake Basin compact between the States of California and Oregon.

H.R. 7281. May 7, 1980. House Administration. Amends the Federal Election Campaign Act of 1971 to authorize appropriations for fiscal year 1981.

H.R. 7282. May 7, 1980. Interior and Insular Affairs; Interstate and Foreign Commerce; Science and Technology. Establishes a Federal Oil and Gas Development Corporation to provide for the exploration for, and the extraction of, oil and gas located on and under Federal land.

H.R. 7283. May 7, 1980. Education and

Labor. Revises the method of determining the cost-of-living adjustment in the civil service compensation payable on account of the disability or death of a Federal employee.

H.R. 7284. May 7, 1980. Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to deny entitlement to hospital insurance benefits under part A of such title in the case of certain disabled individuals currently entitled to health benefits under the civilian health and medical program of the uniformed service (CHAMPUS).

H.R. 7285. May 7, 1980. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to limit the antibiotic drugs which may be used in subtherapeutic doses in animal feed.

H.R. 7286. May 7, 1980. Interstate and Foreign Commerce. Amends the Clean Air Act and the Clear Air Act Amendments of 1977 to extend specified deadlines applicable to stationary sources (relating to State implementation plans, Federal enforcement, and noncompliance penalties).

H.R. 7287. May 7, 1980. Government Operations. Establishes controls on year-end expenditure practices of Federal agencies.

H.R. 7288. May 7, 1980. Small Business. Amends the Small Business Act with respect to procurement opportunities for small business concerns.

H.R. 7289. May 7, 1980. Small Business. Amends the Small Business Investment Act of 1958 to authorize the Small Business Administration to guarantee debentures issued by certain State or local development companies.

H.R. 7290. May 7, 1980. Ways and Means. Amends the Internal Revenue Code to provide for the establishment of a reserve account for the addition of tax deductible expenses of surface mining land reclamation incurred during the taxable year.

H.R. 7291. May 7, 1980. Judiciary; Ways and Means. Requires appropriate State authorities to give full faith and credit to a valid child custody determination by a State court.

Amends the Social Security Act to allow the Parental Locator Service to include information for the enforcement of child custody determinations or parental kidnapping provisions.

Prohibits the intentional restraint of a child in violation of a valid State custody determination.

H.R. 7292. May 7, 1980. Banking, Finance and Urban Affairs. Amends the Council on Wage and Price Stability Act to increase the authorizations of appropriations for fiscal years 1980 and 1981.

Extends the authority of the Council through fiscal year 1981.

Requires the Director of the Council to initiate the formation within its administrative structure of a productivity section to advise the public and private sectors of the economy relative to their actions and report on the impact of productivity on consumers, workers, business, economic growth, and inflation.

H.R. 7293. May 7, 1980. Ways and Means. Amends the Internal Revenue Code to allow employers an income tax credit for hiring displaced homemakers.

H.R. 7294. May 7, 1980. Armed Services. Increases from 50,000 to 100,000 the number of members of the Selected Reserve who may be ordered to active duty other than during a war or national emergency.

H.R. 7295. May 7, 1980. Armed Services. Authorizes the Secretary concerned to determine the period of time to be allowed between the time a reservist is ordered to active duty and the time the reservist enters upon active duty.

H.R. 7296. May 7, 1980. Judiciary. Amends the Alien Enemies Act to include within the definition of a predatory act against the United States: (1) the seizure of a diplomatic mission; or (2) the seizure of such premises together with the taking of diplomatic hostages.

H.R. 7297. May 7, 1980. Small Business. Amends the Small Business Investment Act of 1958 to provide for the investment of temporarily unneeded funds. Modifies the authority of the Small Business Administration regarding financing. Establishes the eligibility of Asian Pacific Americans to participate in specified programs of the Small Business Act.

H.R. 7298. May 7, 1980. Small Business; Post Office and Civil Service. Provides for up to ten staff personnel for the office of the Chief Counsel for Advocacy of the Small Business Administration.

H.R. 7299. May 7, 1980. Interstate and Foreign Commerce. Revises the Federal programs of assistance for the provision of mental health services.

H.R. 7300. May 7, 1980. Ways and Means. Amends the Internal Revenue Code to exempt from the windfall profit tax: (1) independent producer oil; and (2) royalty interests attributable to ownership of the property from which such oil is produced.

H.R. 7301. May 7, 1980. Armed Services. Authorizes certain construction at military installations for fiscal year 1981 and the transfer of specified lands.

H.R. 7302. May 7, 1980. House Administration. Transfers from the Smithsonian Institution to the Superintendent of Documents the function of distributing Government publications to certain foreign governments.

H.R. 7303. May 7, 1980. Armed Services. Authorizes the Secretary of each military department to establish a noncontributory program of educational assistance for persons enlisting in the Armed Forces after September 30, 1980.

Directs the Secretary of Defense to prescribe regulations for such programs and to report to Congress on such programs.

Requires the Department of Defense to bear the cost of any such program.

Raises the limit on the amount of educational assistance provided for enlisted members of the Selected Ready Reserve.

H.R. 7304. May 7, 1980. Judiciary. Declares two individuals to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7305. May 8, 1980. Foreign Affairs. Authorizes additional appropriations for the Department of State, the Board for International Broadcasting, United Nations peacekeeping forces, and the Inter-American Foundation.

Revises passport provisions concerning fees and validity.

Provides for the appointment of a U.S. representative to the Vienna U.N. office.

Exempts private sector representatives to international telecommunication conferences from specified criminal code provisions concerning conflicts of interest.

Revises administrative provisions concerning the International Communication Agency.

H.R. 7306. May 8, 1980. Interior and Insular Affairs. Provides for the disposal of certain Federal lands in the State of Nevada. Provides for the acquisition of certain other lands in the Lake Tahoe Basin.

H.R. 7307. May 8, 1980. Judiciary. Prohibits any Federal court (excluding the Supreme Court) from issuing injunctive relief in any case arising out of Federal, State, or local law that prohibits, limits, or regulates abortion or the provision of public assistance for the performance of abortions.

H.R. 7308. May 8, 1980. Interstate and Foreign Commerce. Requires electric utilities to comply with certain minimum standards concerning: (1) retail rates for the sale of electric energy; and (2) certain other utility practices.

H.R. 7309. May 8, 1980. Public Works and Transportation. Designates the Federal building in Portland, Oregon, the "Edith Green Federal Building."

H.R. 7310. May 8, 1980. Foreign Affairs; Judiciary; Banking, Finance and Urban Affairs; Ways and Means. Seeks to promote export training companies. Permits banking organizations to invest in such companies. Authorizes the Export-Import Bank to provide loans and guarantees to such companies. Permits State and local governments to participate in such companies. Amends the Webb-Pomerene Act to exempt such companies from antitrust restrictions. Amends the Internal Revenue Code of 1954 to make such companies eligible for treatment as domestic international sales corporations (DISC) and Subchapter S corporations.

H.R. 7311. May 8, 1980. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to provide that not less than one very high frequency (VHF) commercial television broadcasting station be located in each State.

H.R. 7312. May 8, 1980. Ways and Means. Amends title XVI (Supplemental security income program) of the Social Security Act to provide for the payment of past due SSI benefits to the ineligible spouse of a deceased beneficiary, or to a representative payee of a deceased beneficiary where such payee had furnished the beneficiary with the necessaries of life during the period for which such benefits were payable.

H.R. 7313. May 8, 1980. Ways and Means. Extends from five to ten years (until November 30, 1982) the period during which certain individuals becoming eligible for public pensions may qualify for an exemption from the pension offset provisions of title II (Old Age, Survivors and Disability Insurance) of the Social Security Act.

H.R. 7314. May 8, 1980. Ways and Means. Amends the Internal Revenue Code to provide that up to $100,000 of the investment tax credit shall be refundable.

H.R. 7315. May 8, 1980. Banking, Finance and Urban Affairs; Education and Labor. Requires business concerns which undertake changes of operations to give notice to the Secretary of Labor, and to affected labor organizations, employees, and local governments. Requires business concerns to provide assistance to employees who suffer an employment loss caused by changes of operations. Authorizes the Secretary of Labor to provide assistance to such business concerns, and to such affected employees and local governments.

H.R. 7316. May 8, 1980. House Administration. Amends the Federal Election Campaign Act of 1971 to impose certain limitations on the value of honorariums which may be accepted by a Member, or by a committee, of the House of Representatives.

H.R. 7317. May 8, 1980. Interior and Insular Affairs. Promotes the settlement of family farmers in Federal irrigation projects. Provides for acreage equivalency between class 1 lands and lands of lesser productive capability.

H.R. 7318. May 8, 1980. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the contribution of an interest in real property to a tax-exempt organization for conservation purposes.

H.R. 7319. May 8, 1980. Ways and Means. Amends the Internal Revenue Code to provide for the tax exemption of interest on bonds issued by volunteer firefighting departments.

H.R. 7320. May 8, 1980. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to authorize to be appropriated to the United States Railway Association such sums as are necessary for purposes of covering its administrative expenses. Directs that such sums are to remain available until expended.

H.R. 7321. May 8, 1980. Interstate and Foreign Commerce. Establishes the National Tourism Policy Council as an independent entity within the executive branch to be the principal coordinating body for policies, programs, and issues relating to tourism, recreation, or national heritage conservation involving Federal departments, agencies, or other entities.

Establishes a United States Tourism Planning and Implementing Board as an independent entity within the executive branch to develop a comprehensive marketing and implementation plan to stimulate and promote tourism to the United States by residents of foreign countries.

H.R. 7322. May 8, 1980. House Administration. Authorizes the construction of a memorial to Cardinal Aloysis Stepinac in the District of Columbia.

H.R. 7323. May 8, 1980. Ways and Means. Amends the Tariff Schedules of the United States to establish a minimum rate of duty on specified tobacco and tobacco products.

H.R. 7324. May 8, 1980. Armed Services. Declares a certain individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7325. May 9, 1980. Appropriations. Makes supplemental appropriations and rescinds certain budget authority for fiscal year 1980.

H.R. 7326. May 9, 1980. Banking, Finance and Urban Affairs. Amends the Council on Wage and Price Stability Act to increase the authorizations of appropriations for fiscal years 1980 and 1981.

Extends the authority of the Council through fiscal year 1981.

Requires the Director of the Council to initiate the formation within its administrative structure of a productivity section to advise the public and private sectors of the economy relative to their actions and report on the impact of productivity on consumers, workers, business, economic growth, and inflation.

H.R. 7327. May 9, 1980. Banking, Finance and Urban Affairs. Amends the mortgage amount, sales price, and interest rate limitations under the Government National Mortgage Association emergency home purchase assistance authority.

H.R. 7328. May 9, 1980. Interstate and Foreign Commerce. Amends title XIX (Medicaid) of the Social Security Act to provide for comprehensive assessments and community-based services under Medicaid.

H.R. 7329. May 9, 1980. Banking, Finance and Urban Affairs. Authorizes and requests the President to present, on behalf of the Congress, a medal to each of the amateur athletes selected to be a member of the 1980 U.S. Olympic team to the 1980 Olympic games. Authorizes the striking of duplicate medals for public sale.

H.R. 7330. May 13, 1980. Interior and Insular Affairs. Authorizes appropriations for certain insular areas of the United States. Transfers specified Federal property and lands to certain insular areas. Provides Federal financial assistance in various forms to such areas.

H.R. 7331. May 13, 1980. Foreign Affairs. Amends the Arms Export Control Act to authorize the President to prescribe regulations for protecting arms information from the risk of indiscriminate export.

H.R. 7332. May 13, 1980. Ways and Means. Amends the Internal Revenue Code to allow individual taxpayers a refundable income tax credit for the purchase of new automobiles manufactured by companies which have increased average automobile fuel economy ratings by a specified percentage since 1974.

H.R. 7333. May 13, 1980. Armed Services. Requires that the U.S. share of petroleum produced from certain naval petroleum reserves be sold only in exchange for crude oil to be deposited in the strategic petroleum reserve.

H.R. 7334. May 13, 1980. Interstate and Foreign Commerce. Amends the Controlled Substances Act to authorize the use of heroin for terminally ill cancer patients.

H.R. 7335. May 13, 1980. Judiciary; Education and Labor. Prohibits any Federal employee or officer or any person engaged in interstate commerce from: (1) requiring employees or employee applicants to take a polygraph test in connection with such individual's employment; (2) denying employment or disciplining an employee for refusing to take such a test; or (3) using the results of such test in connection with such individual's employment. Exempts specified Federal employees from such provisions. Sets forth civil and criminal penalties for violations of such provisions.

H.R. 7336. May 13, 1980. Interstate and Foreign Commerce; Interior and Insular Affairs; Science and Technology. Amends the Energy Policy and Conservation Act to provide for adequate supplies of helium for future energy efficiency and conservation purposes.

H.R. 7337. May 13, 1980. Post Office and Civil Service. Prohibits the Postal Service from decreasing the frequency of mail delivery service below the frequency in effect for the calendar week beginning April 7, 1980.

H.R. 7338. May 13, 1980. Foreign Affairs. Provides for the payment, out of the proceeds of gold belonging to the Government of Czechoslovakia, of certified awards of nationals of the United States against the Government of Czechoslovakia. Provides for the release of such proceeds to Czechoslovakia after all such awards are paid.

H.R. 7339. May 14, 1980. Banking, Finance and Urban Affairs. Amends the Truth in Lending Act to prohibit application of any change in an open end credit plan to any credit extended prior to the effective date of the change.

H.R. 7340. May 14, 1980. Banking. Finance and Urban Affairs. Amends the Truth in Lending Act with respect to cash discounts.

H.R. 7341. May 14, 1980. Interstate and Foreign Commerce. Expedites the conversion by certain existing electric powerplants from the use of oil to coal or another alternate fuel. Conserves oil and natural gas used by other powerplants. Assists the ratepayers of the electric utilities involved in reducing the costs of conversion and insuring that petroleum and natural gas costs are reasonable.

H.R. 7342. May 14, 1980. Rules. Amends the Congressional Budget Act of 1974 to establish procedures for: (1) Setting targets and ceilings in the congressional budget process; and (2) loans and loan guarantees under Federal credit programs.

H.R. 7343. May 14, 1980. Small Business; Judiciary; Ways and Means; Government Operations. Increases Federal expenditures for the conduct of research and development by small businesses. Amends patent procedures concerning inventions developed by nonprofit organizations and small businesses under federally supported programs. Provides tax incentives affecting small business and including accelerated depreciation, investment tax credit for used equipment, deferral of capital gains from investment in small business, and a corporate income tax rate reduction. Awards attorneys' fees where a small business prevails in a suit with the Government. Provides for Federal regulatory flexibility with respect to small business. Requires the evaluation of elimination of all Government programs.

H.R. 7344. May 14, 1980. Small Business; Judiciary. Amends the Small Business Investment Act to direct the Office of Advocacy within the Small Business Administration to assist the Attorney General, Federal agencies, and the Chairman of the Administrative Conference to facilitate relief afforded to small businesses under such Act.

Authorizes the payment of fees and other expenses to prevailing parties in administrative adjudications and civil actions brought by or against the United States in certain circumstances.

H.R. 7345. May 14, 1980. Judiciary. Confers United States citizenship posthumously upon Ihor Daschko.

H.R. 7346. May 14, 1980. Post Office and Civil Service. Prevents the next following annual adjustment in the rate of pay for Members of Congress.

H.R. 7347. May 14, 1980. Judiciary; Interstate and Foreign Commerce. Prohibits the installation or use of two-way mirrors in public places. Allows individuals to cancel purchases made as the result of residential solicitation.

Amends the Communications Act of 1934 to prohibit unsolicited commercial telephone calls upon appropriate notification by a telephone subscriber.

H.R. 7348. May 14, 1980. Ways and Means. Amends the Internal Revenue Code to exempt from the windfall profit tax any domestic crude oil owned through a royalty interest.

H.R. 7349. May 14, 1980. Government Operations. Limits the total annual Government expenditures for the care and feeding of a former President to an amount not in excess of ten times the poverty level income for one urban family of four.

H.R. 7350. May 14, 1980. Judiciary; Interstate and Foreign Commerce. Repeals the Dispute Resolution Act (Public Law 96–190).

H.R. 7351. May 14, 1980. Judiciary. Requires the dismissal of any officer or employee of the Federal Bureau of Investigation who represents himself in the performance of duties to be an officer or employee of the Bureau of the Census.

H.R. 7352. May 14, 1980. Armed Services. Revises the special pay provisions for certain health professionals in the uniformed services.

H.R. 7353. May 14, 1980. Ways and Means. Amends the Internal Revenue Code to provide a tax deduction for amounts paid into and individual housing account.

H.R. 7354. May 14, 1980. Ways and Means. Amends the Internal Revenue Code with respect to the tax treatment of certain income of tax-exempt mutual or cooperative telephone or electric companies.

H.R. 7355. May 14, 1980. Veterans' Affairs. Eliminates the provision of outpatient dental treatment for service-connected noncompensable dental conditions which are unrelated to service trauma or prisoner of war status.

H.R. 7356. May 14, 1980. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that foods intended for human consumption be labeled to show the amount of sodium and potassium they contain.

H.R. 7357. May 14, 1980. Ways and Means. Revises the State trigger provisions of the Federal-State extended unemployment compensation program.

H.R. 7358. May 14, 1980. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs; Public Works and Transportation. Amends the Powerplant and Industrial Fuel Use Act of 1978 to provide financial and technical assistance to States, local governments, and regional agencies to promote the establishment of consolidated programs to mitigate certain social and economic impacts caused by major energy developments.

H.R. 7359. May 14, 1980. Interior and Insular Affairs; Merchant Marine and Fisheries. Amends the Federal Land Policy and Management Act of 1976 to establish the Snake

River Birds of Prey National Conservation Area in the State of Idaho.

H.R. 7360. May 14, 1980. Interior and Insular Affairs. Designates certain National Forest System lands in the State of Texas as components of the National Wilderness Preservation System.

H.R. 7361. May 14, 1980. Judiciary. Amends the Federal criminal code to specify prohibited activities with respect to the administration or use of a polygraph examination on behalf of an employer engaged in business affecting interstate commerce.

H.R. 7362. May 14, 1980. Ways and Means. Establishes the Public Debt Retirement Trust Fund in the Treasury of the United States. Appropriates to such Trust Fund amounts equivalent to the crude oil windfall profit tax and the oil import fees imposed by the President under Proclamation 4744 on April 2, 1980. Requires the transfer of such amounts at least monthly from the general fund of the Treasury to the Trust Fund.

Limits the use of such Trust Fund amounts to the payment, purchase before maturity, or redemption of any obligations included in the public debt. Requires cancellation and retirement of all obligations so paid for, purchased, or redeemed.

H.R. 7363. May 14, 1980. Judiciary. Authorizes the classification of a certain individual as a child for purposes of the Immigration and National Act.

H.R. 7364. May 15, 1980. Banking, Finance and Urban Affairs; Foreign Affairs; Judiciary; Ways and Means. Seeks to promote export trading companies. Permits banking organizations to invest in such companies. Authorizes the Export-Import Bank to provide loans and guarantees to such companies. Amends the Webb-Pomerene Act to exempt such companies from antitrust restrictions. Amends the Internal Revenue Code to make such companies eligible for treatment as domestic international sales corporations (DISC) and Subchapter S corporations.

H.R. 7365. May 15, 1980. Ways and Means. Prohibits the importation into the United States of the products of any foreign country during any period in which certain export controls are in effect with respect to that country.

H.R. 7366. May 15, 1980. Judiciary. Directs the Secretary of the Treasury to conduct a study to determine the capacity of handgun bullets to penetrate bulletproof vests and the risk posed to law enforcement officers by the availability of handgun bullets.

H.R. 7367. May 15, 1980. Ways and Means. Amends the Internal Revenue Code with respect to the treatment of certain travel expenses of individuals on temporary work assignments.

H.R. 7368. May 15, 1980. Foreign Affairs. Provides for making payments to certain citizens and nationals of the United States held hostage in Iran.

H.R. 7369. May 15, 1980. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit for land conservation expenditures.

H.R. 7370. May 15, 1980. Post Office and Civil Service. Makes Inauguration Day a legal public holiday.

H.R. 7371. May 15, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that the combined earnings of a married couple, which are attributable to the period of their marriage, shall be shared equally between them for purposes of determining the eligibility for and amount of OASDI benefits to which each spouse is or may become separately entitled.

H.R. 7372. May 15, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to require that upon the death of an individual the surviving spouse shall inherit all of the wages and self-employment income credited to such individual during their marriage.

H.R. 7373. May 15, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to enable an insured individual's spouse, who has attained the age of 50 and is not entitled to any other monthly benefits, to obtain a transition benefit upon death of the insured individual.

H.R. 7374. May 15, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide a married couple, at the time either or both of them becomes entitled to benefits, or upon their divorce, the option of splitting equally their combined earnings which are attributable to the period of their marriage, for purposes of determining the eligibility for an amount of OASDI benefits to which each spouse is, or may become, separately entitled.

H.R. 7375. May 15, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to grant benefits to a divorced woman who had been married for only five years. Maintains, for other marriages, the current requirement that the marriage must have lasted ten years.

H.R. 7376. May 15, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to require that upon the death of an individual who has been married for the preceding five years, the surviving spouse or surviving divorced spouse shall inherit all of the wages and self-employment income credited to such individual during their marriage.

H.R. 7377. May 15, 1980. Ways and Means. Amends the Internal Revenue Code to allow a limited, refundable income tax credit for household expenses to any taxpayer who maintains a household in which a dependent aged 65 or over resides.

H.R. 7378. May 15, 1980. Ways and Means. Amends the Internal Revenue Code to provide for nonrecognition of gain on the sale of the principal residence of the taxpayer where the taxpayer's cost of purchasing the new residence is not more than $100,000 less than the taxpayer's adjusted sales price of the old residence. Extends the rollover period to 60 months.

H.R. 7379. May 15, 1980. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to document the vessel Kailua as a vessel owned by citizens of the United States with the privilege of engaging in coastwise trade.

H.R. 7380. May 19, 1980. Interior and Insular Affairs. Establishes the Big Sur Coast Area in the State of California.

H.R. 7381. May 19, 1980. Ways and Means. Amends the Internal Revenue Code to allow a deduction for cash and other personal property contributions to a savings account created or organized exclusively for the purpose of paying the educational expenses of the taxpayer or the taxpayer's child.

Allows a deduction for cash and other personal property contributions to a savings account created or organized for the benefit of the taxpayer (for the taxpayer and spouse if married) for the exclusive purpose of purchasing the first dwelling purchased by such individual as a principal residence.

H.R. 7382. May 19, 1980. Ways and Means. Amends the Internal Revenue Code with respect to certain dividends received by life insurance companies.

H.R. 7383. May 19, 1980. Public Works and Transportation. Provides for reconstruction and rehabilitation of the Woodrow Wilson Bridge in the States of Maryland and Virginia.

H.R. 7384. May 19, 1980. Judiciary. Amends current law creating a Federal cause of action for the violation of a person's civil rights under color of State law to specify the circumstances under which a State or local government may be held liable. Sets forth additional procedural rules with respect to such actions.

H.R. 7385. May 19, 1980. Interior and Insular Affairs. Authorizes the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines.

H.R. 7386. May 19, 1980. Interior and Insular Affairs; Merchant Marine and Fisheries. Amends the Federal Land Policy and Management Act of 1976 to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho.

H.R. 7387. May 19, 1980. Interior and Insular Affairs. Eliminates the assessment of certain fees assessed by the Secretary of the Interior in connection with the probate of estates of Indiana.

H.R. 7388. May 20, 1980. Ways and Means. Amends the Internal Revenue Code with respect to the definition of a cooperative housing corporation.

H.R. 7389. May 20, 1980. Banking, Finance and Urban Affairs. Amends the U.S. Housing Act of 1937 to provide more housing alternatives for lower income persons.

H.R. 7390. May 20, 1980. Ways and Means. Provides that revenue ruling 80–60 shall not require a change in the taxpayer's method of accounting for taxable years beginning before 1980.

H.R. 7391. May 20, 1980. Ways and Means. Amends the Internal Revenue Code to: (1) allow an estate tax credit for the donation of artistic properties to Federal museums or art galleries for public exhibition; (2) allow an income tax credit for the donation of artistic properties donated to tax-exempt charitable or educational organizations; (3) allow a longer presumption period against hobby loss treatment for artists; and (4) restore capital gains treatment of the gain realized from the sale of inherited artwork.

H.R. 7392. May 20, 1980. Ways and Means. Amends the Internal Revenue Code with respect to the treatment of certain expenses includible in the income of the recipient.

H.R. 7393. May 20, 1980. Post Office and Civil Service. Creates the Office of the Special Counsel as an independent establishment in the executive branch.

H.R. 7394. May 20, 1980. Veterans' Affairs. Revises the veteran's vocational rehabilitation program. Provides a ten percent increase in the rates of educational assistance under the GI bill. Makes certain revisions in the educational assistance programs for veterans and eligible survivors and dependents. Revises and expands veterans' employment and training programs. Provides certain cost saving administrative procedures.

H.R. 7395. May 20, 1980. Merchant Marine and Fisheries. Authorizes appropriations for certain maritime programs of the Department of Commerce for fiscal year 1980.

H.R. 7396. May 20, 1980. Ways and Means. Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act to provide that the widow's or widower's insurance benefits to which a disabled individual becomes entitled before attaining age 60 shall not be less than the amount (71½ percent of the deceased spouse's primary insurance amount) to which they would have been reduced if the first month of such entitlement had been the month in which such individual attained that age.

H.R. 7397. May 20, 1980. Interstate and Foreign Commerce. Amends the Securities Act of 1933 to increase the small offering exemption from $2,000,000 to $5,000,000

H.R. 7398. May 20, 1980. Judiciary. Amends the Immigration and Nationality Act to provide for labor certification on an area-wide, rather than on a countrywide, basis for admittance of temporary agricultural laborers.

H.R. 7399. May 20, 1980. Judiciary. Amends the Immigration and Nationality Act with respect to the admission of aliens for temporary agricultural employment.

H.R. 7400. May 20, 1980. Foreign Affairs; Intelligence; Judiciary. Amends the Foreign Assistance Act of 1961 to revise the circumstances under which the expenditure of funds by the Central Intelligence Agency for certain activities is prohibited.

Amends the Central Intelligence Agency Act of 1949 to exempt certain information in intelligence files from provisions of law requiring publication or disclosure.

Amends the National Security Act of 1947 to establish criminal offenses and penalties for the unauthorized disclosure of classified intelligence information.

H.R. 7401. May 20, 1980. Education and Labor. Amends the National Labor Relations Act to give employers and performers in the performing arts specified rights given to employers and employees in similarly situated industries.

H.R. 7402. May 20, 1980. Education and Labor. Amends the National Labor Relations Act to give employers and performers in the performing arts specified rights given to employers and employees in the construction industry.

H.R. 7403. May 20, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from gross income certain amounts received in connection with retirement as compensation for unused vacation and sick leave.

H.R. 7404. May 20, 1980. Science and Technology: Interior and Insular Affairs; Ways and Means. Amends the Solar Heating and Cooling Demonstration Act of 1974 with respect to: (1) the administration of Federal energy-related activities; and (2) geothermal energy development and energy conservation.

H.R. 7405. May 20, 1980. Interior and Insular Affairs. Amends the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to grant to oil shale leaseholders additional leases for lands outside the oil shale lease lands for any purpose, other than the actual mining of oil shale, connected with operations pursuant to such oil shale leases.

H.R. 7406. May 20, 1980. Judiciary. Authorizes the granting of a visa and admission to the United States for permanent residence to a named individual.

H.R. 7407. May 20, 1980. Judiciary. Authorizes the granting of a visa and admission to the United States for permanent residence to a named individual.

H.R. 7408. May 20, 1980. Judiciary. Declares a certain individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7409. May 21, 1980. Ways and Means. Amends the Internal Revenue Code to exclude from gross income of individual taxpayers up to $1,000 of interest income earned on deposits in certain financial institutions.

H.R. 7410. May 21, 1980. Banking, Finance and Urban Affairs. Amends the National Housing Act to raise the limit on the principal amount of a mortgage which may be insured under such Act with respect to single-family residences in high cost areas.

H.R. 7411. May 21, 1980. Interior and Insular Affairs. Authorizes the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts. Authorizes the Secretary to administer such church as a national historic site.

H.R. 7412. May 21, 1980. Science and Technology. Establishes a Space Industrialization Corporation to promote, encourage, and assist in the development of new products, processes, services, and industries using the properties of the space environment, and in the use of pace technology.

H.R. 7413. May 21, 1980. Interstate and Foreign Commerce. Requests the President to exercise the authority provided under the Emergency Petroleum Allocation Act of 1973 to exclusively import crude oil, residual fuel oil, and petroleum products into the United States.

H.R. 7414. May 21, 1980. Public Works and Transportation. Designates the building known as the Federal Building and U.S. Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building."

H.R. 7415. May 21, 1980. Interstate and Foreign Commerce. Provides emergency relief to individuals injured as a result of the disposal of toxic or hazardous substances.

H.R. 7416. May 21, 1980. House Administration. Provides funds for the operation and maintenance of the Vietnam Veterans Peace and Brotherhood Chapel near Eagles Nest, New Mexico.

H.R. 7417. May 21, 1980. Judiciary. Amends the Miller Act to require that judgments granted in actions by subcontractors based on payment bonds furnished by Federal contractors include interest. Permits the award of attorney's fees in such actions. Allows such an action to be brought by a subcontractor who has not been paid in full within 30 days of the due date of a progress payment.

H.R. 7418. May 21, 1980. Science and Technology. Establishes a research, development, and demonstration program for the disposal of radioactive waste.

H.R. 7419. May 21, 1980. Banking, Finance and Urban Affairs. Amends the Federal Reserve Act to impose reserve requirements on money market mutual funds.

H.R. 7420. May 21, 1980. Interstate and Foreign Commerce; Banking, Finance and Urban Affairs. Provides for an accelerated program of assistance to small or medium-sized municipalities engaged in, or planning for, publicly owned district heating systems.

H.R. 7421. May 21, 1980. Ways and Means. Prevents the retroactive assessment of certain deficiencies in the case of employees of the Panama Canal Zone Government or of the Panama Canal Company.

H.R. 7422. May 21, 1980. Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to authorize Medicare payments for certain inpatient hospital services furnished by a hospital operated by the Veterans' Administration.

H.R. 7423. May 21, 1980. Education and Labor. Amends title VII of the Civil Rights Act of 1964 to include discrimination because of an individual's handicapping condition as an unlawful employment practice.

H.R. 7424. May 21, 1980. Ways and Means. Amends the Internal Revenue Code to provide a credit against income tax for up to $750 of the cost of purchasing a new highway vehicle.

H.R. 7425. May 21, 1980. Education and Labor. Amends the Indochina Refugee Assistance Act of 1976 to provide for assistance to educational agencies for services provided to Cuban and Haitian refugee children.

H.R. 7426. May 21, 1980. Judiciary. Declares a certain individual to have been lawfully admitted to the United States for temporary residence, under the Immigration and Nationality Act.

H.R. 7427. May 21, 1980. Judiciary. Declares a certain individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7428. May 22, 1980. Ways and Means. Extends the temporary increase of the public debt limit.

H.R. 7429. May 22, 1980. Ways and Means. Amends the Internal Revenue Code to allow an income tax credit to manufacturers for certain payroll costs paid or incurred during the first three years of the employment of an employee.

H.R. 7430. May 22, 1980. Agriculture; Foreign Affairs. Terminates all price support programs for tobacco beginning with the 1981 crop of tobacco.

H.R. 7431. May 22, 1980. Public Works and Transportation. Directs the Administrator of the Environmental Protection Agency to: (1) make grants to the Upper Occoquan Sewage Authority to reimburse such Authority for a portion of the costs incurred by such Authority in constructing its advanced waste water treatment plant in the Occoquan Reservoir watershed area in Fairfax County, Virginia; and (2) pay 25 percent of the costs of operating and maintaining such plant.

H.R. 7432. May 22, 1980. Agriculture. Directs the Secretary of Agriculture to release the conditions requiring that a parcel of land conveyed to the State of New York be used for public purposes. Conveys U.S. mineral interests in the parcel to the State of New York.

H.R. 7433. May 22, 1980. Judiciary. Provides for the payment of losses incurred as a result of the boycott by the United States of the 1980 summer Olympic games.

H.R. 7434. May 22, 1980. Interior and Insular Affairs. Provides for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts.

H.R. 7435. May 22, 1980. Armed Services. Removes the requirement that an individual have two academic years remaining at an educational institution to be eligible for advance training in a Senior Reserve Officers' Training Corps program at such institution.

H.R. 7436. May 22, 1980. Foreign Affairs; Banking, Finance and Urban Affairs; Judiciary; Ways and Means. Seeks to promote export trading companies. Permits banking organizations to invest in such companies. Authorizes the Export-Import Bank to provide loans and guarantees to such companies. Permits State and local governments to participate in such companies. Amends the Webb-Pomerene Act to exempt such companies from antitrust restrictions. Amends the Internal Revenue Code of 1934 to make such companies eligible for treatment as domestic international sales corporations (DISC) and Subchapter S corporations.

H.R. 7437. May 22, 1980. Government Operations. Requires the Federal Government and persons carrying on federally assisted programs, projects, and activities to pay interest to business concerns for overdue sales and lease agreement payments.

H.R. 7438. May 22, 1980. Interior and Insular Affairs. Establishes the Mount St. Helens National Monument in the State of Washington.

H.R. 7439. May 22, 1980. Ways and Means. Amends the Internal Revenue Code to exempt from application of the crude oil windfall profit tax an economic interest in crude oil acquired after January 21, 1980, by an otherwise tax-exempt institution of higher learning.

H.R. 7440. May 22, 1980. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to permit the Secretary of Education to waive specified requirements of such Act in the case of any local educational agency which is participating in an experimental State program designed to consolidate State categorical educational programs, in order to reduce the amount of time expended by State educational personnel for the administration of such programs. Increases local options in the use of educational funds.

H.R. 7441. May 22, 1980. Armed Services. Increases the pay and allowances, and certain special and incentive pays, of members of the uniformed services.

H.R. 7442. May 22, 1980. Judiciary. Declares a certain individual to have been lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 7443. May 22, 1980. Judiciary. Authorizes the classification of two individuals as children for purposes of the Immigration and Nationality Act.

H.R. 7444. May 22, 1980. Agriculture. Amends the Federal reclamation laws to permit contracts with irrigation districts to be amended to allow persons within a district to receive deliveries of project water upon the payment of sums which vary with the amount of water delivered. Makes a portion of such funds available to the Secretary of Agriculture to carry out certain conservation and loan programs in States to which such laws apply.

H.R. 7445. May 22, 1980. Education and Labor; Ways and Means; Judiciary; Agriculture; Armed Services. Limits the authority of the Federal Government to control State and local educational institutions with respect to prayer in public schools, parental involvement in the classroom, and the employment conditions of teachers.

Amends the Internal Revenue Code to provide various tax incentives for the care and education of family members.

Requires federally-funded abortion or venereal disease treatment centers to notify the parents of unmarried minors receiving treatment. Grants tax-exempt status to organizations providing care for abused children or spouses and for children who run away from home.

Places restrictions on the Legal Services Corporation in providing legal assistance.

H.R. 7446. May 28, 1980. Interstate and Foreign Commerce. Amends the Social Security Act to increase the personal needs allowance for institutionalized recipients to $30 per individual and $60 per couple.

H.R. 7447. May 28, 1980. Post Office and Civil Service. Amends existing Federal law with respect to age limits for appointment and mandatory retirement of law enforcement officers engaged in detention activities.

H.R. 7448. May 28, 1980. Judiciary. Allows nonprofit educational institutions to pay fees for certain performances without the actions of the institutions constituting infringements of copyright.

H.R. 7449. May 28, 1980. Science and Technology. Authorizes appropriations to the Department of Energy for civilian research and development programs for fiscal year 1981.

H.R. 7450. May 28, 1980. Public Works and Transportation. Designates the U.S. Court House and the U.S. Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building."

H.J. Res. 532. April 16, 1980. Foreign Affairs. Directs the President to urge the development of an International Code of Business Conduct. Expresses the sense of Congress that the President should negotiate agreements establishing standards of ethical and equitable conduct of international business and mechanisms to resolve problems.

H.J. Res. 533. April 17, 1980. Post Office and Civil Service. Authorizes the President to redesignate the week of May 11, 1980, as "National Small Business Survival Week" rather than "National Small Business Week."

H.J. Res. 534. April 22, 1980. Foreign Affairs; Science and Technology. Condemns the internal exile of Andrei Sakharov. Sets forth the policies of the United States with respect to scientific and technical exchanges with the Soviet Union.

H.J. Res. 535. April 23, 1980. Post Office and Civil Service. Designates the period between Lincoln's Birthday and Washington's Birthday as "National Patriotism Week."

H.J. Res. 536. April 24, 1980. Post Office and Civil Service. Designates May 15, 1980, as "National Nursing Home Residents Day."

H.J. Res. 537. April 28, 1980. Judiciary. Constitutional Amendment—Establishes a Court of the States, consisting of one judge from each State selected in accordance with State law and having jurisdiction to hear all cases arising under this or the tenth amendment of the Constitution, upon appeal from the Supreme Court.

H.J. Res. 538. April 29, 1980. Judiciary. Constitutional Amendment—Establishes a a single six-year term of office for the President, the Vice President, and Members of the Senate.

H.J. Res. 539. April 29, 1980. Post Office and Civil Service. Authorizes the President to issue a proclamation honoring Max, a guide dog for the blind.

H.J. Res. 540. April 29, 1980. Post Office and Civil Service. Directs the Postmaster General to issue a special postage stamp, in the year 1980, honoring the church of Jesus Christ of Latter Day Saints. Declares that such stamp shall display the face of Joseph Smith, founder of the Mormon Church.

H.J. Res. 541. May 1, 1980. Transfers for the "Federal Trade Commission, Salaries and Expenses" $7,600,000 from funds previously appropriated for fiscal year 1980 for the "Department of State, International Organizations and Conferences, Contributions to International Organizations." Makes such authority available until May 31, 1980.

H.J. Res. 542. May 6, 1980. Post Office and Civil Service. Designates January 25, 1981, as "Sons and Daughters Day."

H.J. Res. 543. May 7, 1980. Judiciary. Constitutional Amendment—Gives all persons the right to be free from discrimination on the basis of race, color, creed, national ancestry, sex, age, or physical handicap.

H.J. Res. 544. May 7, 1980. Foreign Affairs. Authorizes the President to impose on the Iranian Government a $50,000,000 fine, payable from blocked Iranian assets, for each day that United States citizens held hostage or otherwise illegally detained in Iran continue to be held hostage or so detained beyond a date designated by the President.

H.J. Res. 545. May 8, 1980. Appropriations. Appropriates additional funds for the food stamp program for fiscal year 1980.

H.J. Res. 546. May 8, 1980. Post Office and Civil Service. Designates May 10, 1980, as "Lucretia Mott Day."

H.J. Res. 547. May 13, 1980. Post Office and Civil Service. Designates the week of October 20 through October 25, 1980, as "National Water Resources Week."

H.J. Res. 548. May 13, 1980. Ways and Means. Disapproves the President's imposition of import fees on petroleum and petroleum products pursuant to the Trade Expansion Act of 1962.

H.J. Res. 549. May 14, 1980. Judiciary. Constitutional Amendment—Provides for the election of the President and Vice President.

H.J. Res. 550. May 14, 1980. Post Office and Civil Service. Authorizes and requests the President to designate June 1 through June 7, 1980, as "National Management Week."

H.J. Res. 551. May 14, 1980. Post Office and Civil Service; Merchant Marine and Fisheries. Authorizes and requests the President to designate the seven-day period beginning October 5, 1980, as "National Port Week."

H.J. Res. 552. May 14, 1980. Post Office and Civil Service. Designates the square dance as the national folk dance of the United States.

H.J. Res. 553. May 21, 1980. Post Office and Civil Service. Authorizes and requests the President to designate May 24, 1980, as "Railroad Passenger Services Day."

H.J. Res. 554. May 28, 1980. Appropriations. Appropriates a specified amount for fiscal year 1980 for salaries and expenses of the Federal Trade Commission.

H.J. Res. 555. May 28, 1980. Post Office and Civil Service. Authorizes the President to issue a proclamation designating the week beginning on July 4, 1981, as "National Unity Week."

H.J. Res. 556. May 28, 1980. Armed Services. Authorizes the President to present, on behalf of the Congress, medals designated "The Conscience of the Nation Award" to the families of the eight Americans who died in the course of the hostage rescue mission in Iran.

H. Con. Res. 317. April 23, 1980. Ways and Means. Expresses the sense of Congress with respect to the taxation of social security benefits.

H. Con. Res. 318. April 24, 1980. Education and Labor. Disapproves the final regulations submitted to the Congress on April 3, 1980, pertaining to the Education Appeal Board authorized under the General Education Provisions Act, on the grounds of inconsistency with such Act.

Returns such regulations to the Commissioner of Education to be modified or otherwise disposed of as provided under such Act.

H. Con. Res. 319. April 24, 1980. Education and Labor. Disapproves the final regulations submitted to the Congress on April 3, 1980, pertaining to the arts in education program authorized under the Elementary and Secondary Education Act of 1965, on the grounds of inconsistency with such Act.

Returns such regulations to the Commissioner of Education to be modified or otherwise disposed of as provided under the General Education Provisions Act.

H. Con. Res. 320. April 28, 1980. Post Office and Civil Service. Expresses the condolences of the Congress over the death of members and officials of the United States Amateur Athletic Union boxing team in a plane crash in Warsaw, Poland.

H. Con. Res. 321. April 29, 1980. Foreign Affairs. Expresses congressional condolences to the families and friends of the eight Americans who died in Iran during an attempt to rescue the American hostages.

H. Con. Res. 322. April 29, 1980. Foreign Affairs. Declares that any nation receiving U.S. foreign assistance who will not support sanctions against Iran will have that aid rescinded.

H. Con. Res. 323. April 30, 1980. Armed Services; Foreign Affairs. Extends the commendation of the Congress to the military personnel who took part in the attempt to rescue the hostages in Iran and recommends that the President consider awarding appropriate military decorations to such personnel. Extends congressional condolences to the families of the men who died during the attempted rescue.

Recommends that Iranian assets frozen in the United States be made available to certain American claimants for damages against Iran.

H. Con. Res. 324. April 30, 1980. Post Office and Civil Service. Expresses congressional tribute to and condolences for, the late Governor of Puerto Rico, Don Luis Munoz Marin.

H. Con. Res. 325. April 30, 1980. Post Office and Civil Service. Expresses the sense of the Congress that the Postmaster General should distribute existing postal material relating to the 1980 summer Olympic games, provided that the word "boycott" is superimposed on such material.

H. Con. Res. 326. April 30, 1980. Interior and Insular Affairs; Armed Services. Requires that certain information be provided before Congress approves any request for withdrawal or use of public lands for deployment of the MX missile system.

H. Con. Res. 327. May 1, 1980. Foreign Affairs. Disapproves the proposed transfer by West Germany to other European countries of ribbon bridges manufactured from U.S. technical data packages.

H. Con. Res. 328. May 1, 1980. Foreign Affairs. Calls for a special International Criminal Court to try persons accused of acts of international terrorism which are proscribed by international conventions.

H. Con. Res. 329. May 7, 1980. Foreign Affairs. Expresses the sense of Congress, with regard to Kampuchea (Cambodia), concerning: (1) humanitarian assistance; (2) an international conference to end the fighting; (3) withdrawal of foreign forces; (4) a new government acceptable to the people; and (5) United Nations action to protect human rights.

H. Con. Res. 330. May 7, 1980. Permits the National Park Service to sponsor a series of National Symphony Orchestra concerts on the Capitol Grounds during 1980.

H. Con. Res. 331. May 7, 1980. Foreign Affairs. Directs specified congressional leaders to designate delegates to participate in an interparliamentary meeting with delegates from the Iranian Parliament.

H. Con. Res. 332. May 7, 1980. Education and Labor. Disapproves the final regulations submitted to the Congress on April 24, 1980, pertaining to the law-related education program authorized under specified provisions of the Elementary and Secondary Education Act of 1965, on the grounds of inconsistency with such Act.

Returns such regulations to the Commissioner of Education to be modified or otherwise disposed of as provided under the General Education Provisions Act.

H. Con. Res. 333. May 7, 1980. Post Office and Civil Service. Expresses congressional tribute to the members of the Armed Forces who participated in the mission to rescue the Americans held hostage in Iran. Urges the President to dedicate May 17, 1980, Armed Forces Day, to such military personnel.

H. Con. Res. 334. May 8, 1980. Foreign Affairs. Calls upon the President to encourage Sri Lanka to withdraw its troops from the Tamil areas and permit self-determination for the Tamils.

H. Con. Res. 335. May 13, 1980. Banking, Finance and Urban Affairs. Expresses the sense of Congress that anti-inflation guidelines prescribed under the Council on Wage and Price Stability Act, which are applicable to refiners and retailers of oil and natural gas, should also be made applicable to producers of oil and natural gas.

H. Con. Res. 336. May 14, 1980. Education and Labor. Disapproves certain regulations submitted to the Congress on April 3, 1980, with respect to the Education Division general administration regulations authorized under the General Education Provisions Act and the statutes that authorize the programs covered by such regulations.

H. Con. Res. 337. May 14, 1980. Education and Labor. Disapproves the final regulations submitted to the Congress on April 3, 1980, pertaining to the adult education State-administered program authorized under the Adult Education Act, on the grounds of their inconsistency with such Act.

Returns such regulations to the Commissioner of Education to be modified or otherwise disposed of as provided under the General Education Provisions Act.

H. Con. Res. 338. May 14, 1980. Education and Labor; Ways and Means. Recognizes the congressional obligation to insure an adequate standard of living for the elderly.

H. Con. Res. 339. May 15, 1980. Foreign Affairs. Expresses the sense of the Congress that the executive and legislative branches of the Federal government should strive to enable the Cuban refugees to be ambassadors for freedom for the benefit of the Western Hemisphere.

H. Con. Res. 340. May 20, 1980. Makes corrections in the enrollment of H.R. 2313.

H. Con. Res. 341. May 20, 1980. Foreign Affairs. Honors Raoul Wallenberg. Requests that the Department of State take all possible action to obtain information concerning his present status and secure his release.

H. Con. Res. 342. May 21, 1980. Provides for an adjournment of the House of Representatives from May 22 to May 28, 1980, and a recess of the Senate from May 23 to May 28, 1980.

H. Con. Res. 343. May 21, 1980. Foreign Affairs. Urges the President to take certain actions with respect to the flight of Cuban natives from Cuba.

H. Con. Res. 344. May 21, 1980. Expresses the opposition of Congress to the imposition of any withholding tax on interest-bearing bank accounts and on dividend income.

H. Con. Res. 345. May 22, 1980. Makes corrections in the enrollment of S. 2253.

H. Con. Res. 346. May 22, 1980. Post Office and Civil Service. Calls on the President to proclaim the week of July 21 through July 27, 1980, as "Afghanistan Relief Week," to focus the attention and concern of the American people and the world community on the need to assist the Afghan refugees in their struggle for survival.

H. Res. 635. April 15, 1980. Banking and Urban Affairs. Expresses the sense of the Senate that the Board of Governors of the Federal Reserve System should immediately take steps to reduce interest rates.

H. Res. 636. April 15, 1980. Foreign Affairs. Supports the President's actions towards Iran to secure the release of the hostages. Expresses the sense of the House of Representatives that it is necessary to obtain international cooperation in imposing sanctions on Iran.

H. Res. 637. April 16, 1980. Sets forth the rule for the consideration of S. 2012.

H. Res. 638. April 16, 1980. Foreign Affairs. Calls upon the President to take action to aid East Timor and encourage Indonesia to allow free emigration and self-determination for the East Timorese.

H. Res. 639. April 16, 1980. Banking, Finance and Urban Affairs. Expresses the sense of the Senate that the Board of Governors of the Federal Reserve System should immediately take steps to reduce interest rates.

H. Res. 640. April 17, 1980. Foreign Affairs. Expresses the sense of the House of Representatives that the Soviet Union should permit Veniamin Bogomolny and Jews to emigrate from the Soviet Union.

H. Res. 641. April 17, 1980. Foreign Affairs. Extends the thanks and support of Congress and the American people to Ambassador Asencio. Expresses hope for his release as a hostage in Colombia.

H. Res. 642. April 21, 1980. Sets forth the rule for the consideration of H. Con. Res. 307.

H. Res. 643. April 21, 1980. Sets forth the rule for the consideration of H.J. Res. 521.

H. Res. 644. April 22, 1980. Foreign Affairs. Expresses the sense of the House of Representatives that the President should: (1) request the Soviet Union to exchange scientific data regarding the outbreak of pulmonary anthrax as provided for by the convention prohibiting bacteriological and toxin weapons; or (2) take appropriate international procedures or lodge a complaint with the United Nations, if the Soviet Union fails to make available such data.

H. Res. 645. April 22, 1980. Foreign Affairs. Extends the thanks and support of Congress and the American people to Ambassador Asencio. Expresses hope for his release as a hostage in Colombia.

H. Res. 646. April 24, 1980. Banking, Finance and Urban Affairs. Expresses the sense of the House of Representatives that the Federal Reserve Board should encourage lower interest rates and expand the money supply to facilitate prompt economic recovery.

H. Res. 647. April 28, 1980. Sets forth the rule for the consideration of H.R. 4046.

H. Res. 648. April 28, 1980. Sets forth the rule for the consideration of H.R. 4048.

H. Res. 649. April 29, 1980. Makes corrections to the amendments made in order by H. Res. 642.

H. Res. 650. April 29, 1980. Rules. Amends the Rules of the House of Representatives to add a new rule limiting Members to six terms of Office beginning in 1981.

H. Res. 651. May 1, 1980. Sets forth the rule for the consideration of S. 1300.

H. Res. 652. May 1, 1980. Post Office and Civil Service. Extends the commendation of the Congress to Diego Asencio, the Ambassador to Colombia, and his family, for their patriotic demeanor during the time the Ambassador was held hostage in Colombia.

H. Res. 653. May 1, 1980. Foreign Affairs. Extends the appreciation of the Congress and the people of the United States to the President and people of Colombia.

H. Res. 654. May 1, 1980. Ways and Means. Opposes the President's action imposing an import fee on crude oil.

H. Res. 655. May 6, 1980. Interstate and Foreign Commerce. Disapproves the proposed rule under the Natural Gas Policy Act of 1978 relating to incremental pricing of natural gas.

H. Res. 656. May 6, 1980. Sets forth the rule for the consideration of H.R. 5200.

H. Res. 657. May 6, 1980. Sets forth the rule for the consideration of H.R. 6672.

H. Res. 658. May 6, 1980. Education and Labor. Expresses the sense of Congress that financial assistance should not be made available to students from countries with which the United States has severed diplomatic relations.

H. Res. 659. May 7, 1980. Rules. Creates a Select Committee on International Terrorism to conduct a study and investigation of the desirability and effectiveness of measures being taken by the United States and foreign countries in attempting to alleviate the threat of terrorism.

H. Res. 660. May 8, 1980. Declares that a named Representative be censured with a public reading of this resolution by the Speaker of the House.

H. Res. 661. May 8, 1980. Sets forth the rule for the consideration of H.R. 6974.

H. Res. 662. May 8, 1980. Sets forth the rule for the consideration of H.R. 6942.

H. Res. 663. May 8, 1980. Sets forth the rule for the consideration of H.J. 545.

H. Res. 664. May 13, 1980. Sets forth the rule for the consideration of H.R. 2313.

H. Res. 665. May 13, 1980. Sets forth the rule for the consideration of H.R. 2255.

H. Res. 666. May 13, 1980. Sets forth the rule for the consideration of H.R. 3904.

H. Res. 667. May 13, 1980. Ways and Means. Expresses the sense of the House of Representatives that the oil import fee should cease to apply unless legislation is enacted which provides for a specified reduction in income taxes for 1981.

H. Res. 668. May 14, 1980. Elects a named Member of the House of Representatives to the Committee on Rules.

H. Res. 669. May 15, 1980. Elects a named Member of the House of Representatives to the Committee on Education and Labor.

H. Res. 670. May 15, 1980. Sets forth the rule for the consideration of H.R. 6412.

H. Res. 671. May 15, 1980. Sets forth the rule for the consideration of H.R. 6846.

H. Res. 672. May 15, 1980. Sets forth the rule for the consideration of H.R. 6413.

H. Res. 673. May 20, 1980. Waives certain points of order against the conference report of H.R. 3236.

H. Res. 674. May 20, 1980. Sets forth the rule for the consideration of H.R. 6515.

H. Res. 675. May 20, 1980. Sets forth the rule for the consideration of H.R. 6674.

H. Res. 676. May 20, 1980. Sets forth the rule for the consideration of H.R. 6075.

H. Res. 677. May 21, 1980. House Administration; Appropriations. Requires a study of congressional employment levels.

H. Res. 678. May 22, 1980. Sets forth the rule for the consideration of H.R. 7262.

H. Res. 679. May 22, 1980. Sets forth the rule for the consideration of H.R. 6154.

H. Res. 680. May 22, 1980. Elects a named Representative as Speaker pro tempore during the absence of the Speaker.

H. Res. 681. May 22, 1980. Rules. Amends the Rules of the House of Representatives to limit the number of subcommittees of standing committees of the House. Limits the number of subcommittees on which a Member may serve.

H. Res. 682. May 28, 1980. Sets forth the rule for the consideration of H.R. 7428.

SENATE—*Friday, June 13, 1980*

(Legislative day of Thursday, June 12, 1980)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. JIM SASSER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, send us to our tasks this day encompassed by Thy loving kindness and tender mercies, that we may work in Thy strength and not our own. Grant to our waiting spirits the gifts of self-mastery and self-control. Make us sensitive to the needs of the people of this land as we are responsive to the worldwide call for justice. May we be careful to hear and evaluate the judgments of our colleagues. Keep us aware of our national priorities, obedient to the directions of conscience and heedful of the promptings of Thy spirit. In all our ways may we acknowledge Thy rulership and persevere for the fulfillment of Thy kingdom.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 13, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time, and I will be glad to yield it to the acting Republican leader if he likes.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. TOWER. Mr. President, I thank the distinguished majority leader. I have no need for my time and will yield the remainder of my time to Senator COHEN if he wants to use it.

I withhold the yielding of my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business and Senators may speak therein, the period not to extend beyond 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 867 and 868.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, these have been cleared with the minority, and there is no objection.

NATIONAL FORENSIC LEAGUE ANNIVERSARY

The Senate proceeded to consider the resolution (S. Res. 414) to commend the National Forensic League on its golden anniversary tournament. The resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas June 1980 will mark the fiftieth anniversary of the National Forensic League;

Whereas the league has over five hundred thousand members including several Senators and Representatives; and

Whereas the golden anniversary tournament of the league to be held in Huntsville, Alabama, during the week of June 15, 1980, will be attended by about twelve hundred debate champions and their coaches representing forty-seven States: Now, therefore, be it

Resolved, That the Senate commends the National Forensic League on its golden anniversary.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ATHLETIC BOOSTERS WEEK

The joint resolution (H.J. Res. 442) designating the week beginning June 22, 1980, as "National Athletic Boosters Week," was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 866, Senate Joint Resolution 177, be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. TOWER. This has been cleared on the minority side and there is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. If there is no further morning business, morning business is closed.

Mr. TOWER. Mr. President, I yield the remainder of my time to the distinguished senior Senator from Maine.

RECOGNITION OF SENATOR COHEN

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

S. 2829—MAINE INDIAN CLAIMS SETTLEMENT ACT OF 1980

Mr. COHEN. Mr. President, I am introducing today legislation which is designed to resolve the uncertainties which have been visited on the people and the State of Maine by land claims raised by three Maine Indian tribes, the Passamaquoddy, the Penobscot, and the Houlton Band of Maliseets.

The settlement which is being proposed has a long history. It began in 1790, when the newly formed Congress of the United States enacted a series of statutes known collectively as the Trade and Intercourse Act. These statutes regulated a wide spectrum of activities between the aboriginal inhabitants of America and its non-Indian settlers. Salient among the provisions of the Trade and Intercourse Act was the nonintercourse statute, which prohibited land transactions between the Indian tribes and the States or individual citizens without the approval of the Federal Government.

Although the nonintercourse statute was reenacted several times in the years immediately following and became the cornerstone of Federal Indian policy in the West, it was rarely applied to any Indian tribe within the boundaries of the original 13 States. On the contrary, Massachusetts, of which Maine was a part until 1820, and the remaining original States continued to effect treaties and contracts with the Indian tribes which involved transfers of large parcels of land to those States. In so doing, the agents of the States were, of course, acting on the assumption that the nonintercourse statute did not apply to them. Indeed, in this assumption they were supported by the Federal Government which not only failed to take cognizance of the land transfers but also adopted the position that the nonintercourse statute did not apply to Indian tribes within the Eastern States.

Massachusetts and its successor in interest, Maine, then, entered into several agreements with Maine's Indian tribes which concerned the transfer of as much as 12.5 million acres, or 60 percent, of the State of Maine.

It bears emphasis that both the Indian tribes and the States of Massachusetts and Maine entered into these agreements in good faith and they have been considered legally binding on all original and subsequent parties ever since. Moreover, most of the land which was transferred in this manner has passed into the possession of private parties who purchased it in good faith. At present, more than 350,000 people live in the disputed area.

In the last 10 years, legal questions have arisen which have cast doubt on the assumption that the nonintercourse statute does not apply to Maine and a cloud has been placed over title to land within the claims area. In 1975, the Federal District Court of the District of Maine held, despite arguments of the Departments of the Interior and Justice to the contrary, that the nonintercourse statute did apply to the Passamaquoddy tribe and that the statute created a trust relationship beween the tribe and Federal Government. Later in that same year, the court's determination was upheld by the First Circuit Court of Appeals.

With the court's decision, the Federal Government assumed a trustee relationship with the Maine Indians, and the Justice Department undertook to press the case on their behalf. The enormity of problems such a suit would cause was immediately recognized and were well summarized in a Justice Department memorandum which described the case as being "potentially the most complex litigation ever brought in the Federal courts with social and economic impacts without precedent and incredible litigation costs to all parties."

In light of this realization, the parties recognized the desirability of reaching a negotiated settlement of the claim. Negotiations were initiated when President Carter personally chose William Gunter, formerly a justice on the Georgia Supreme Court, to consult with parties and recommend a settlement. Judge Gunter's proposal, however, failed to gain the support of all the parties and was not adopted. Several subsequent settlement proposals have met the same fate and yet the negotiating process has continued.

The legislation which I am now presenting, then, is the result of long and intense exchanges between parties. It consists of two pieces of legislation, one to be enacted by the Maine State Legislature and the other by Congress. The Maine Legislature passed the bill which was presented to it in April. Today Senator Mitchell and I are introducing the Federal portion of the agreement. Before discussing the elements of the Federal legislation, however, I would like to speak briefly to the Maine bill.

The Maine Legislature envisions the acquisition of 300,000 acres of Maine land, 5,000 acres of which will be given to the Maliseets, whose claim is not considered to be strong. The remaining 295,000 acres are to be evenly divided between the Penobscots and the Passamaquoddys.

The State of Maine will continue to exercise broad civil and criminal jurisdiction over the land, although the Indian tribes will be empowered to pass hunting and fishing ordinances which will bind Indians and non-Indians alike. Land which falls within the "Indian territory" described in the Maine bill cannot be levied against for the payment of debts or court judgments. A Tribal-State Commission consisting of Indian and non-Indian members which will oversee the operation of the settlement is also established in the Maine bill. Finally, and of great importance, the State legislation only becomes law on the enactment of the Federal bill.

The Federal portion of the settlement, in its turn, would extinguish the Maine tribes' aboriginal title to any part of the State of Maine and would also extinguish any claims for damages for acts of trespass which have occurred over the last 180 years. In compensation for this extinguishment, the Federal Government would provide a $27 million trust fund for the benefit of the Penobscots and Passamaquoddys and would authorize the expenditure of an additional $54.5 million for the acquisition of the 300,000 acres of land which I mentioned earlier.

The purpose of this legislation is far reaching and its elements are likely to inspire legitimate inquiry and discussion. The Senate Select Committee on Indian Affairs will hold hearings on the bill on June 25 and 26, and will receive detailed testimony on all relevant aspects of it. These hearings, it is hoped, will establish a record on all aspects of the measure for the consideration of the full Senate.

In considering this legislation, it must be kept in mind that it represents the product of negotiations to which the tribes, the landowners, and the State of Maine have agreed. In this respect, it is the culmination of a process which this administration has approved as the proper route for the resolution of the claim.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maine Indian Claims Settlement Act of 1980".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Sec. 2. (a) Congress hereby finds and declares that:

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the grounds that the lands in question were originally transferred in violation of law, including the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments of versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation and the Maliseet Tribe, that once may have held aboriginal title to lands within the State of Maine long ago have lost their aboriginal holdings and have ceased to exist.

(3) The Penobscot Nation, as represented as of the time of passage of this Act by the Penobscot Nation's Governor and Council, is the successor in interest to the aboriginal entity generally known as the Penobscot Nation, which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this Act by the Joint Tribal Council of the Passamaquoddy Tribe, is the successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe, which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this Act by the Houlton Band Council, is the successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe, which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This Act represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians with a fair and just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The parties to these claims, acting through their duly authorized representatives, whose authority is hereby recognized and acknowledged, have executed a Settlement Agreement dated , 1980,

which requires implementing legislation by Congress.

(9) The State of Maine, with the agreement of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians and their members, and the State of Maine.

(10) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective Tribe, Nation or Band, and repeatedly denied that it had jurisdiction over or responsibility for the said Tribe, Nation, and Band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) It is the purpose of this Act—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe and the Penobscot Nation; and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(a) "Houlton Band of Maliseet Indians" means the Maliseet Tribe of Indians as constituted on March 4, 1789, and all its predecessors and successors in interest, which, as of the date of passage of this Act, are represented, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians.

(b) "Land or other natural resources" means any real property or other natural resources, or any interest in or right involving any real property or other natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(c) "Land Acquisition Fund" means the Maine Indian Claims Land Acquisition Fund established under section 5(c) of this Act.

(d) "Laws of the State" means the Constitution, and all statutes, regulations and common laws of the State of Maine and its political subdivisions, and all subsequent amendments thereto or judicial interpretations thereof.

(e) "Maine Implementing Act" means the "Act to Implement the Maine Indian Claims Settlement" enacted by the State of Maine in chapter   of the Private and Special Laws of 1979.

(f) "Passamaquoddy Indian Reservation" means those lands as defined in the Maine Implementing Act.

(g) "Passamaquoddy Territory" means those lands as defined in the Maine Implementing Act.

(h) "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe, as constituted on March 4, 1789, and all its predecessors and successors in interest, which as of the date of passage of this Act, are represented by the Joint Tribal Council of the Passamaquoddy Tribe, with separate Councils at the Indian Township and Pleasant Point Reservations.

(i) "Penobscot Indian Reservation" means those lands as defined in the Maine Implementing Act.

(j) "Penobscot Indian Territory" means those lands defined in the Maine Implementing Act.

(k) "Penobscot Nation" means the Penobscot Indian Nation as constituted on March 4, 1789, and all its predecessors and successors in interest, which as of the date of passage of this Act are represented by the Penobscot Nation Governor and Council.

(l) "Secretary" means the Secretary of the Interior.

(m) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under section 5(a) of this Act.

(n) "Transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or other natural resources.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF INDIAN TITLE AND CLAIMS OF THE PASSAMAQUODDY TRIBE, THE PENOBSCOT NATION, THE HOULTON BAND OF MALISEET INDIANS, AND ANY OTHER INDIANS, INDIAN NATION, OR TRIBE OR BAND OF INDIANS WITHIN THE STATE OF MAINE

SEC. 4. (a) (1) Any transfer of land or other natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or other natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, § 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

(2) Any transfer of land or other natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian nation, or tribe or band of Indians including but without limitation any transfer pursuant to any treaty, compact or statute of any State, shall be deemed to have been made in accordance with the laws of the State, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

(3) Any transfer of land or other natural resources located anywhere within the State of Maine, from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact or statute of any State, shall be deemed to have been made in accordance with the laws of the State, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer.

(b) To the extent that any transfer of land or other natural resources described in section 4(a) may involve land or other natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, subsection 4(a) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or other natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or other natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the tranfer.

ESTABLISHMENT OF FUNDS

SEC. 5. (a) The Secretary of the Treasury shall establish an account in the Treasury of the United States to be known as the Maine Indian Claims Settlement Fund and shall transfer $27,000,000 from the general funds of the Treasury into such account following the appropriation authorized by section 13 of this Act.

(b) (1) One-half of the principal of the Settlement Fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the Settlement Fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the Settlement Fund shall be invested and administered by the Secretary in accordance with terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary. The Secretary shall accept reasonable terms for investment and administration proposed by the Passamaquoddy Tribe or the Penobscot Nation within thirty days of the date on which he receives the proposed terms, and, until such terms have been agreed upon, shall fix the terms for the administration of the Settlement Fund. The Passamaquoddy Tribe or the Penobscot Nation may obtain judicial review in the United States District Court for the District of Maine of any refusal by the Secretary to accept reasonable terms put forth by the respective Tribe or Nation, or of any failure of the Secretary to administer such funds in accordance with such terms.

(2) Under no circumstances shall any part of the principal of the Settlement Fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either Tribe or Nation, *Provided, however*, That nothing herein shall prevent reasonable investment of the principal of said Fund by the Secretary.

(3) The Secretary, on a quarterly basis, shall make available to the Passamaquoddy Tribe and the Penobscot Nation, without liability to or on the part of the United States, and without any deductions, any income derived from that portion of the Settlement Fund allocated to the respective Tribe or Nation, the use of which shall be free from regulation by the Secretary, *Provided, however*, That the Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from $1,000,000 of their portion of the Settlement Fund for the benefit of their respective members who are over the age of 60.

(c) The Secretary of the Treasury shall establish an account in the Treasury of the United States to be known as the Maine Indian Claims Land Acquisition Fund and shall transfer $54,500,000 from the general funds of the Treasury into such account following the appropriation authorized by section 13 of this Act.

(d) The principal of the Land Acquisition

Fund shall be held in trust by the Secretary as follows:

(1) $900,000 shall be held for the benefit of the Houlton Band of Maliseet Indians to be used to purchase 5,000 acres of Maine woodland;

(2) one-half of the balance of the principal of the Land Acquisition Fund shall be held by the Secretary for the benefit of the Passamaquoddy Tribe; and

(3) the other half of the balance of the principal of the Land Acquisition Fund shall be held for the benefit of the Penobscot Nation.

The Secretary shall expend, with the consent of the affected Tribe, Nation or Band, the principal and any income accruing to this Land Acquisition Fund for the purpose of acquiring land for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. If the Houlton Band of Maliseet Indians should cease to exist, any lands acquired for the Maliseet Tribe pursuant to section 5 shall be divided equally and held in trust, one-half for the benefit of the Passamaquoddy Tribe and one-half for the benefit of the Penobscot Nation.

(e)(1) The provisions of section 177 of title 25 of the United States Code shall not be applicable to (i) the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine, and (ii) any land or other natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsection (e)(2), such land or other natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary.

(2) Any transfer of land or other natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory, except takings for public uses consistent with the Maine Implementing Act or the laws of the United States, or transfers of individual Indian assignments from one member of the Passamaquoddv Tribe or Penobscot Nation to another member of the same Tribe or Nation shall be void *ab initio* and without any validity in law or equity unless made by or with the consent of the respective Tribe or Nation and with the approval of the Secretary: *Provided, however,* That the Secretary and the respective Tribe or Nation shall have authority to approve only transfers of timber and other natural resources; leases of land for a term not to exceed fifty years; exchanges of land; and transfers of land or other natural resources the proceeds of which are reinvested in land within two years of the date of the receipt of such proceeds.

(f) Land acquired and held by the Secretary for the benefit of the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary. The Secretary shall accept reasonable terms for management and administration proposed by the Passamaquoddy Tribe or the Penobscot Nation within thirty days of the date on which he receives the proposed terms, and until such terms have been agreed upon shall fix the terms for management and administration of said lands. The Passmaquoddy Tribe or the Penobscot Nation may obtain judicial review in the United States District Court for the District of Maine of any refusal of the Secretary to accept reasonable terms put forth by the respective tribe or nation, or of any failure of the Secretary to administer such lands in accordance with such terms.

(g) In the event of a taking of land or any interest in land owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians for public uses pursuant to the laws of the State or the laws of the United States, the Secretary shall reinvest the money received in other lands for the respective tribe, nation or band within two years of the date on which the money is received. Any lands so acquired shall be approved by the affected tribe, nation, or band, and shall be subject to the terms of this Act and the Maine Implementing Act.

APPLICATION OF STATE LAWS

Sec. 6. (a) Except as otherwise provided in subsections (b), (d), and (e) of this section, all Indians, Indian nations, tribes, and bands of Indians in the State of Maine, other than the Passamaquoddy Tribe and the Penobscot Nation and their members, and all lands or other natural resources owned by or held in trust by the United States, or by any other person or entity for any such Indian, Indian nation or tribe or band of Indians, shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and to the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein.

(b) The Passamaquoddy Tribe, the Penobscot Nation, their members, and the land owned or held for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, and their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act. The Maine Implementing Act is hereby approved, ratified and confirmed, and the provisions of the Maine Implementing Act which hereafter become effective, including any subsequent amendments pursuant to subsection (d), are incorporated by reference as fully as if set forth herein. The Maine Implementing Act shall not be subject to the provisions of section 1919 of title 25 of the United States Code.

(c) Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes, or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts: *Provided, however,* That the Passamaquoddy Tribe, the Penobscot Nation, and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act. In the event that either the Passamaquoddy Tribe or the Penobscot Nation fails to pay any money judgment entered against it within ninety days after entry of final judgment, the Secretary shall pay any such money judgment from that portion of the income of the Settlement Fund held for the respective Tribe or Nation. Any person asserting a money judgment against either the Passamaquoddy Tribe or the Penobscot Nation may sue the Secretary in the United States District Court for the District of Maine for any such amount due.

(d) Congress hereby consents to any amendment to the Maine Implementing Act with respect to either the Passamaquoddy Nation or Penobscot Nation provided that such amendment is made with the agreement of such Tribe or Nation.

(e) The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(f) The United States, every State, every territory or possession of the United States, and every Indian nation and tribe and band of Indians shall give full faith and credit to the judicial proceedings of the Passamaquoddy Tribe and the Penobscot Nation. The Passamaquoddy Tribe and the Penobscot Nation shall give full faith and credit to the judicial proceedings of each other and to the judicial proceedings of the United States, every state, every territory or possession of the United States, and every recognized Indian nation and tribe and band of Indians.

(g) Except as provided in this Act, the laws of the United States which relate or accord special status or rights to Indians, Indian nations, tribes, and bands of Indians, Indian lands, Indian reservations, Indian country, Indian territory, or lands held in trust for Indians, shall not apply within the State of Maine: *Provided, however,* That the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all the financial benefits which the United States provides to Indians, Indian nations and tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations, or tribes or bands of Indians and for the purposes of determining eligibility for such financial benefits, the respective Tribe, Nation, and Band shall be deemed to be federally recognized Indian tribes: *And provided further,* That the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be considered federally recognized Indian tribes for the purpose of Federal taxation and any lands owned by or held in trust for the respective Tribe, Nation, or Band shall be considered Federal Indian reservations for purposes of Federal taxation.

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

Sec. 7. (a) The Passamaquoddv Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to 25 U.S.C. § 1901. Before the respective Tribe or Nation may assume such jurisdiction over Indian child custody proceedings, the respective Tribe or Nation shall present to the Secretary for approval a petition in the manner prescribed by 25 U.S.C. § 1918(a)–(c).

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with 25 U.S.C. § 1918 (b) and (c).

(c) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation shall be deemed to be "reservations" within 25 U.S.C. § 1903(10) and the Passamaquoddy Tribe and the Penobscot Nation shall be deemed to be "Indian tribes" within 25 U.S.C. § 1903(8).

(e) Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over the Indian child custody proceedings of that Tribe or Nation.

EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE, PENOBSCOT NATION, AND HOULTON BAND OF MALISEET INDIANS

Sec. 8. (a) No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians pursuant to the terms of this Act shall be considered by any agency or department of the United States in determining or computing the State of Maine's eligibility for participation in any financial aid program of the United States.

(b) The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act or any other law of the State of Maine shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States.

(c) The availability of funds or distribution of funds pursuant to section 5 of this Act may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be entitled.

DEFERRAL OF CAPITAL GAINS

SEC. 9. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer by private owners of land purchased by the Secretary with moneys from the Land Acquisition Fund shall be deemed to be an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954, as amended.

TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE OF MAINE

SEC. 10. All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of the effective date of this Act shall be transferred to the Secretary to be held in trust for the respective Tribe or Nation and shall be added to the principal of the Settlement Fund allocated to that Tribe or Nation. The delivery of said State funds to the Secretary shall be accepted in full discharge of any claim of the respective Tribe or Nation, its predecessors and successors in interest, and its members, against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective Tribe and Nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives arising from the administration or management of said State funds.

OTHER CLAIMS DISCHARGED BY THIS ACT

SEC. 11. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of, any Indian, Indian nation, or tribe or band of Indians or the United States as trustee therefor, including those actions presently pending in the United States District Court for the District of Maine captioned *United States of America* v. *State of Maine* (Civil Action Nos. 1966–ND and 1969–ND).

LIMITATION OF ACTIONS

SEC. 12. Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, nor to grant implied consent to any Indian, Indian nation or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

AUTHORIZATION

SEC. 13. There is hereby authorized to be appropriated $81,500,000 for transfer to the Funds established by section 5 of this Act.

INSEPARABILITY

SEC. 14. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

Mr. COHEN. Mr. President, at this time I yield to the junior Senator from Maine for any comments that he might wish to make on this matter.

Mr. MITCHELL. Mr. President, I join Senator COHEN today to introduce legislation to implement a settlement of the Indian land claims in Maine.

The legislation we are introducing is the product of an extensive review by officials at the Federal and State levels over several years, and more immediately, intensive negotiations between representatives of the Passamaquoddy and Penobscot Tribes, the attorney general of Maine, and major landholders in Maine. The legislation is a companion measure with, and references extensively, legislation which was approved by the Maine Legislature and signed by our Governor earlier this year.

The legislation is a compromise, agreed to after careful consideration by the State, the landowners and the tribes. None of those parties obtained everything they sought, but all are convinced that it is a fair compromise and urge its enactment.

I approach this legislation with a fresh perspective as the new Senator from Maine, but I am familiar with the issues involved from my experience as the U.S. attorney from Maine. In that capacity I served as attorney of record for the Federal Government on this case.

The land claims which this legislation will resolve are based on the Indian Nonintercourse Act enacted in the First Congress and rewritten in subsequent Congresses. Court decisions in the last decade suggest for the first time that the Nonintercourse Act applies to early land transactions in Maine between Indian tribes and the State of Maine and the Commonwealth of Massachusetts, of which Maine was a part until 1820. Such an application of the Nonintercourse Act would invalidate land treaties and sales which took place early in the 19th century, and undermine title to millions of acres of land in Maine.

Litigation relating to claims in Maine has not progressed beyond the early stages. But it is already clear that the issues involved will not be easily resolved in court, and there is substantial risk that title to those millions of acres in Maine will be clouded during a prolonged court battle, the outcome of which cannot be predicted with certainty by anyone.

It is clear to me from my experience with this issue as U.S. attorney, and from the concerns expressed by State officials and individual citizens, that settlement of these claims is in the best interest of Maine and the country.

I was not involved in the development of the compromise embodied in the legislation before us, but I know that the State of Maine, the landowners in Maine and the Indian tribes were all represented ably and vigorously, and I am confident that the proposal before us represents their best and honest judgment regarding the resolution of this difficult matter.

The legislation Senator COHEN and I introduce today extinguishes all claims to land in Maine based on aboriginal title and abolishes actions for damages related to those claims. In exchange, the legislation provides for two funds established by the Federal Government for the benefit of Maine Indians. The first fund, in the amount of $27 million, would provide annual benefits to the tribes and the second fund, in the amount of $54.5 million, would be available to purchase up to 300,000 acres of forest land for the tribes.

The legislation also ratifies a carefully developed and comprehensive structure for the sharing of criminal and civil jurisdiction between the State and the tribes, which will, in large measure, return to the State authority which has been successfully challenged in recent related litigation.

As Senator COHEN noted earlier, hearings before the Select Committee on Indian Affairs have been scheduled for June 25 and 26. I look forward to those hearings. They will, I believe, confirm that the proposal before us is necessary. They will provide a basis for the Select Committee to review the legislation, make any necessary changes or improvements, and present the Senate with a carefully crafted final bill which we can adopt with confidence.

I commend Senator COHEN for the leadership he is displaying on this matter and look forward to working with him in the coming weeks.

Mr. COHEN. Mr. President, I yield back any remaining time that I may have.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2337, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2337) to extend for 3 additional fiscal years the authorization of the Legal Services Corporation.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COAL EXPORTS FROM THE PORT OF BALTIMORE

Mr. ROBERT C. BYRD. Mr. President, Consolidation Coal Co. announced on

June 11 that it was considering purchasing a large coal-handling terminal and railroad spur at the Port of Baltimore. The facility has the capacity to load 10 million tons of coal per year onto ore freighters for shipments to other countries. Full use of the facility would double coal exports from Baltimore.

The Consol plan is good news for West Virginia miners, as the bulk of the coal to be shipped to the new facility would be from West Virginia, particularly from mines in Monongalia and Preston Counties, and in the northern panhandle. Steam coal would be the chief product shipped. Most coal currently exported from the United States is metallurgical coal used in steelmaking. Expansion of steam coal exports is growing as countries switch to coal as a substitute for oil.

The World Coal Study, released in May by the Massachusetts Institute of Technology, predicted that the United States would increase exports of steam coal as oil prices continued to climb. Consol's action furnishes a "real-life" example of the validity of this conclusion.

Finally, Consol's interest in acquiring the large coal terminal is in part an outgrowth of its talks with coal delegations from France and Spain earlier this year. I met with each of those delegations, and urged them to increase imports of U.S. coal. The Consol terminal acquisition plan appears to be a giant step in that direction.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to speak for 3 minutes out of order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OUTLOOK FOR PEACE IN THE MIDDLE EAST

Mr. ROBERT C. BYRD. Mr. President, on June 9, Secretary of State Edmund S. Muskie spoke before the Washington Press Club. On that occasion he spoke about the outlook for peace in the Middle East. He made a very timely and important speech, in my judgment. I find myself in agreement with his speech. I think it is important to include the speech in the RECORD so that my colleagues and others might peruse it.

There are also included the questions and answers during the question and answer period which followed the address. I ask unanimous consent that the speech and the questions and answers be printed in the RECORD.

I also ask unanimous consent, following the inclusion of Mr. Muskie's speech and the questions and answers that followed thereafter, to have printed in the RECORD the full transcript of a television interview with Prime Minister Begin on the morning of June 10, which was subsequent to the delivery of the speech by Mr. Muskie before the Washington Press Club.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE EDMUND S. MUSKIE

I want to speak today about the outlook for peace in the Middle East.

For thirty years, peace in the Middle East was only a prayer—rejected four times by those who chose war; rejected again in recent weeks by deliberate and brutal acts of violence on the West Bank. I find revolting both the recent attack on Israeli citizens in Hebron and the maiming of two West Bank mayors last week. Again and again, alternating explosions of inhumanity remind us of the agonizing difficulties which frustrate that prayer, which surely must be shared by all those who are so bitterly divided there.

It is against that background that we must evaluate the Camp David process, which has brought us closer to a settlement than at any time in the past. No aspect of our foreign policy has commanded more hard work, more patient effort.

We must not let it fail. Why?

First, because endless conflict destroys precious lives. It squanders resources—resources that could be used to improve life for all people in the Middle East. A comprehensive peace could put the vast wealth of the Middle East to work building—not destroying. It could open borders and close the refugee camps where thousands live in desperation.

Peace is a cherished dream and a vital interest for Israel. Through three decades, the United States has been unshakably committed to Israel's security. We played a proud role in the creation of the State of Israel. We have backed that commitment with generous investments in Israel's security and prosperity. President Carter alone has requested from the Congress more than $10 billion in aid to Israel.

Today, he stands where six American Presidents have stood before him: on the rock of support for a strong, secure Israel. The experience of four wars has proved that Israel's security can best be assured by a just and lasting peace between Israel and all her neighbors.

Peace is equally important for the Arab states and for our relations with them. For reasons of geography, history and global interdependence, we have vital common interests with the Arab nations. The moderate Arab states are a key to stability in the region. Their stability and independence are extremely important to us. Many of them look to us to buttress their security.

A just and genuine peace is also essential to the Palestinian people. Their legitimate interests can be realized only through an end to conflict—not through war or violence. A process that resolves the Palestinian problem in all of its aspects can give the Palestinian people a secure future of purpose and dignity.

And peace is important for reasons that far transcend the region. Continued strife in the Middle East could erupt, by accident or by escalation, into wider conflict—conflict that could be disastrous. The Arab-Israeli wars of 1967 and 1973 brought us dangerously close to such a point.

This whole broad region of the globe—the Middle East and Southwest Asia—is a strategic crossroads at which the interests of many nations are vitally engaged. The future of the United States—and of our key friends and allies around the globe—is now bound up with its fate.

With turmoil in Iran and Soviet aggression in Afghanistan, the strategic concerns of the United States and its allies in that region are more seriously threatened than ever before. If hostile forces should gain control of the Persian Gulf region, or if it should lapse into anarchy, the entire world economy would be undermined—and the world strategic balance would be dangerously altered.

Let me emphasize that in this new strategic situation, it is not only the vital interests of the United States, its European allies and Japan that are at stake. So are the future security and well-being of Israel and the Arab states. If a credible deterrent balance in the area cannot be maintained, the independence of all states in the area will be at risk.

Achieving a Middle East peace would make a vital contribution to the ability of the United States to help provide security and stability in the entire region. Soviet ability to enlarge its influence—and to deflect attention from its invasion of Afghanistan—would be reduced. All our friends in the region would benefit; and the entire world would be more likely to remain secure—and at peace.

For all these reasons, President Carter has given peace in the Middle East a major share of his time and concern. And for all these reasons, I count it high among my priorities as Secretary of State.

In the long history of the Middle East conflict, we have heard a recurring complaint: that progress is stalled; that peace efforts have run aground.

So frequent have been the headlines and forecasts of failure that it is easy to forget the historic steps we have taken.

Those who doubt that progress, however, need only contrast where we are in 1980 with where we were in 1977.

In 1977 U.N. Security Council Resolution 242—with its formula of peace for the return of occupied territory—stood as a foundation to build upon. Three limited interim agreements had been signed.

Then in 1977, following President Carter's efforts to breathe new life into the peace process, came a truly historic breakthrough. President Sadat made his momentous trip to Jerusalem. Prime Minister Begin responded with high statesmanship. Negotiations began. And in September 1978, President Carter invited the two leaders to meet at Camp David.

At Camp David, the parties designed a framework for a comprehensive peace. They agreed to begin with a treaty of peace between Egypt and Israel. They agreed next—as a further step toward comprehensive peace in the Middle East—to launch serious negotiations: negotiations aimed at providing full autonomy for the Palestinian inhabitants of the West Bank and Gaza. There would be a withdrawal and redeployment of Israeli forces to specified locations while assuring Israel's security. And they established final objectives: resolution of the Palestinian problem in all its aspects and, ultimately, peace treaties between Israel and each of its other neighbors—Jordan, Syria and Lebanon.

That is the vision of Camp David. How far have we come toward realizing it?

The treaty between Israel and Egypt was signed a year ago last March—an event of truly historic importance. In recent months, we have been working toward the next objective of the Camp David accords. With the United States as full partner, the two parties to Camp David have been engaged in negotiations—the first negotiations in thirty years in which the concerns of the Palestinian people, along with the security of Israel, are at the top of the agenda. The goal of the first stage of these negotiations is full autonomy for the people in the West Bank and Gaza, under a freely-elected self-governing authority which will serve for a transitional period of not more than five years.

The Camp David accords recognize that nations and peoples do not easily abandon hostile attitudes built up over more than a generation. Trust and understanding cannot be dictated. They can only come through patient effort; through face-to-face meetings; through time and experience.

The current negotiations are not, therefore, designed to define the permanent status of the West Bank and Gaza; nor are they meant to address the eventual status of Jerusalem.

The final status of the West Bank and Gaza is reserved for the second stage of negotiation—to begin as soon as possible, but not later than three years after the Self-governing Authority is inaugurated. Those negotiations would include elected Palestinian representatives from the West Bank and Gaza.

The issues at stake in the current negotiations are critical to the future shape of life in these territories—and they are highly complicated. It should come as no surprise, therefore, that the negotiations have been slow and frustrating; punctuated by pauses and disappointments.

A year ago, President Sadat and Prime Minister Begin, in a joint letter to President Carter, set the end of May as a goal for completing the negotiations. That goal was not met; the agreement we all hope to achieve has not yet been attained.

Of course this is a disappointment. But it is no cause for despair. And it is no cause to abandon a process which has achieved so much.

We remain firmly committed, therefore, to the Camp David process.

The parties have come face-to-face with the central issues. Real progress has been made—and the progress possible in the future justifies persistence. Serious negotiations must continue.

And so today, on behalf of the President, I call upon Israel and Egypt to resume the negotiations as soon as possible. The issues both sides want resolved can only be resolved through active negotiations. And with the resumption of negotiations, I also call on each side to do its utmost to create a political climate that will give the negotiations a maximum opportunity to succeed. They cannot succeed if either side persists with unilateral actions that prejudice the final status of the territories; nor can they succeed if one side is insensitive to the concerns of the other.

We believe, furthermore, that the talks must continue to be solidly based on Resolution 242 and the Camp David Framework. It would be a mistake to change either of those essential building blocks. Indeed, the United States will not allow that to happen.

We do not object to new initiatives that would further the Camp David process. But we will strongly oppose any efforts that would derail that process.

We take this position for two reasons: First, to alter drastically or to abandon the process would threaten the progress we have already made. And second, it would mean abandoning the most realistic hope yet for real peace.

Consider these concrete achievements of the process—achievements surely worth preserving:

Peace now exists between Israel and her most powerful Arab neighbor. The danger of war in the Middle East has been reduced. Every Israeli is more secure; every Egyptian has new hope for a better life; every American can take confidence that the dangers to our country and our world have been diminished.

Peace between Egypt and Israel, moreover, has borne visible fruit. Israel has turned over to Egypt, on or ahead of schedule, much of the Egyptian territory it occupied in 1967—including the major portion of the Sinai and rich oil fields. Egypt and Israel have exchanged Ambassadors and begun to normalize relations.

This peace agreement has created a center of stability in a region of turmoil. Extending that center of stability—to include the West Bank and Gaza through the Camp David process—will have even greater benefits.

The two parties remain committed, despite the obstacles, to practical negotiations for a broader peace—ultimately encompassing all the parties in the region.

Finally, the Camp David process has established the power of negotiations to settle issues once thought to be intractable. Today more people than ever before, in the Middle East and elsewhere, believe that peaceful negotiations can resolve the conflict. In itself, this change of attitude is historic, and a basis for further progress.

These accomplishments are significant, but fragile. To abandon the current process would be to risk losing these gains. It would also undermine the prospect of further progress toward a wider peace. For the current negotiations, however slow and difficult, hold out real hope of success for the future.

The negotiators have begun to discuss critical issues: issues which constitute a hard agenda—but the right agenda.

Let me describe those issues briefly:

First, and most critical, is security. Israel must be secure. But to be durable, any agreement must also enable the people in the West Bank and Gaza to help provide for their security. The Israeli defense force must be able to protect Israel from external attack, whether by conventional armed forces or by terrorist groups. At the same time, the "strong local police force" under the Self-governing Authority—called for at Camp David—must be able to assume its fair share of the burden for internal security and public order.

The second key issue is land. The agreement must assure the sanctity of private property in the West Bank and Gaza. It must also guarantee that the way public land is used during the transition period will not prejudice future negotiations on the final status of these territories.

Third is water—which truly represents life. In the American West, where water is scarce, conflicts over water rights have raged for years between individuals, localities and even between states. So we can appreciate the situation in Israel, the West Bank and Gaza, where scarce water must be shared. This is a strong incentive for cooperation between Israel and the Self-governing Authority.

A fourth major issue involves the powers of the Self-governing Authority. Having agreed at Camp David that there should be a Self-governing Authority for a five-year transitional period, the negotiators have worked to define its powers. One important principle has already been agreed: That most matters touching the daily lives of the Palestinians of the West Bank and Gaza will be under Palestinian control when the Self-governing Authority is established. Now the negotiators are grappling with the final details of how to implement this principle.

Finally, there is the issue of how elections for the Self-governing Authority will be conducted. Here, agreement is nearly complete. But one major issue remains: The question of participation in the election by Arabs who live in the part of Jerusalem captured by Israeli forces in 1967.

These five issues constitute a formidable agenda. But if peace is to result, these are the issues that must be settled—within the framework of a secure Israel and recognition of the legitimate rights of the Palestinian people, including their right to participate in the determination of their own future.

To launch some alternative process will not make these issues go away. Another road will only bring us back, after dangerous delay, to these same central questions. The Camp David process is confronting those questions; it should continue.

Let me make several final points about the negotiations themselves.

First: Working within the framework of the Camp David accord and U.N. Resolution 242, the United States is determined that an agreement will be reached as soon as possible. It is incumbent upon Israel and Egypt to continue this process without interruption.

Second: If negotiations are to succeed, no party should take steps on its own that prejudge the outcome. Thus, for Israel unilaterally to place settlements in the West Bank and Gaza while negotiations are in progress runs counter to the very purpose of the negotiations—to achieve an agreement all parties can support

Third: We support future negotiations on the final status of Jerusalem. We also support the view that the city should remain undivided, with free access to the holy places for people of all faiths

Fourth: If negotiations are to succeed, all participants must accept the same objectives. Those objectives are expressed in Resolution 242 and in the Camp David accord. Palestinians are urged to join the peace talks. We will, however, stand by a commitment we first made five years ago: We will not recognize or negotiate with the Palestine liberation organization—unless the PLO accepts Resolution 242 and the right of Israel to exist.

Fifth: The current negotiations, as I have said, are designed to establish transitional arrangements for a five-year period. The final status of the West Bank and Gaza will be taken up in future negotiations. The United States, therefore, will oppose any effort to use the current talks to lay the foundation for an independent Palestinian state or to tie the hands of future negotiations in some other way.

One final point about these negotiations—the most important point of all. The negotiations look toward a certain kind of future for Israelis and Palestinians—a future of peace and mutual cooperation. An alternative version of the future was laid before us all last week. Two elected Palestinian officials were maimed by acts of violence as cowardly as they were reprehensible—and that violence followed the savage murder from ambush of several Jewish religious students a month ago. Now is the time for Israelis and Palestinians alike to choose which future they prefer—for they will surely either harvest the promise of peace together, or reap a whirlwind of destruction.

It may be tempting, given the slow and frustrating pace of complicated negotiations, to lose patience; to reject what does not yield instant success as an utter failure; to advocate uncertain new departures instead of relying on patient diplomacy.

But we must not lose patience; we must hold to our course.

To those who oppose the process because they oppose peace itself, I say: Let us put history at long last on the side of peace. The disputes have been moved from the battlefield to the bargaining table.

And to those who oppose the Camp David process out of frustration or skepticism, I say: Let us persist. Let us not undermine the most hopeful avenue yet found toward peace. Remember that this process had already altered the course of history. Having come so far, let us not turn aside from what we have begun.

QUESTIONS AND ANSWERS FOLLOWING THE SPEECH GIVEN BY THE HONORABLE EDMUND S. MUSKIE

Ms. TONI HOUSE. I am Toni House, President of the Washington Press Club. Before we get started, a bit of housekeeping: I realize there are a tremendous number of people here today who want to hear the Secretary's speech.

The Secretary will take questions and answers, but I would appreciate it if people would stand up and identify themselves and their organizations before they pose their questions. That would be very helpful for us.

Thank you.

We have all been through it—the Master or Mistress of Ceremonies who announces that he or she is about to introduce the speaker who needs no introduction, and then spends the next ten minutes introducing the speaker.

This weekend, as I read my way through several tons of clippings on Edmund Sixtus Muskie, it occurred to me that, especially given this audience, that was about the situation I was about to face; so I am going to do us all a favor, I am going to say that here is a man that we have all written so much about and thought so much about in recent weeks that it would be an abuse of your patience to say more. And then I am going to introduce him.

Ladies and gentlemen, the Secretary of State, Edmund Muskie. (Applause.)

Secretary of State MUSKIE. I am not sure who is going to be more bored by the speech, you or I. (Laughter.)

But I would like to say this about it at the beginning, in anticipating questions that I will be asked, that I am sure if the Backgrounder this morning is any indication whether this signals any shift in direction with respect to the policies that I am going to be discussing, that I thought I might answer that question at the outset and save a lot of time later.

And I got my answer—I think this is The New Yorker—it's a cartoon, the title of which is this: "We've got to give the appearance of changing direction without giving the appearance of changing principles in a way that won't be dismissed as being cosmetic." (Laughter.)

I am beginning to have reservations about Backgrounder, and yet I haven't quite got the courage yet to eliminate them altogether. But whether or not I eliminate them explicitly, they seem to lose their value.

For instance, week before last, we were discussing Korea in a Backgrounder and we were challenged, in order to demonstrate that we hadn't abandoned our objective of democratizing Korea, political development, and so on, and the answer came out in one story the next day, somewhat in these words: "A highly placed State Department official who cannot be identified, said that moving toward democracy in Korea was like jumping into the cold Atlantic off the Maine Coast."

So when is backgrounder not a backgrounder? (Laughter)

But I want to speak today about the outlook for peace in the Middle East.

(Sound amplification problems)

Secretary MUSKIE: Now can I be heard? I came into this job with the assurance I would be "the foreign policy spokesman" and I can't be heard, even at The Washington Press Club. (Laughter.)

That reminds me of another story, but I can't use up anymore of my time here on telling stories.

(Text of written speech followed.)

Q. Mr. Secretary, when you talk, in your fifth point, on page 15, "The United States will oppose any effort to use the current talks to lay the foundation for an independent Palestinian state or to tie the hands of future negotiations in some other way," This raised a question among some of us as to whether your statement represents any kind of retreat from the President's statement that the United States opposes the establishment of a Palestinian State.

A. I don't believe it does.

Q. Mr. Secretary, President Carter told us in the interview a week ago Saturday that if the Resolution would be offered in the United Nations Security Council arising from the so-called "European initiative," that he would not hesitate to describe the exercise a veto over it.

It appears now that that initiative is going ahead and that in order to stop a veto, what is more likely is that it will be introduced in the U.N. General Assembly, which of course, would be veto proof.

What do you do then?

A. Well first of all, let me make clear that it is not yet finally determined what shape, if any, a European initiative would take. If that shape were what we initially feared it might be, an initiative that might have the effect of altering Resolution 242, or that in some other fashion might undermine the Camp David process, we would still oppose it and resist it. We have made that clear. Our European friends have assured us that they have no desire to frustrate our efforts, that it's to their interest to be constructive and positive; and they think it would be useful to play a role, if European nations could play a role in advancing the objectives of the Camp David process.

Given that expression of intent for the purpose of the statement in this speech was to indicate that if that kind of a formula were somehow devised, we certainly would not want to appear to be wholly negative on it. It is my feeling that it would be very difficult to frame an initiative, especially one that ended up in the United Nations, that would not have the effect of undermining Camp David. But to say that we won't look at it, or we won't examine it, or that we won't evaluate it in the context of what the allies are trying to do, I think, would be negative in terms of Alliance relations. You all understand the problems we have on the question of consultation with each other, and so we seek to promote consultations.

We have made very clear our concern that no initiative should have the effects that I have described. They understand that, and they have not yet, as far as I know, finally decided on what, if any, shape they may take.

Q. Are you consulting on the substance of that resolution they are offering?

A. No, we are not consulting with them on the substance. Such consultation could, in and of itself, undermine the Camp David process.

Q. Mr. Secretary, one of the reasons that the Europeans feel that it is necessary for them to go forward with their own initiative is the fact that the Palestinians object to language in 242 which refers to them only as "refugees" and does not give them any political rights of their own. As a result, the Europeans at Venice are expected to issue a statement calling for self-determination for the Palestinians.

Is it conceivable to you that the United States could endorse an amendment or any kind of addition to 242 which would change the status of the Palestinians from "refugees" and thereby provide an avenue, perhaps, for them to join the peace talks?

A. I think to do that would have the effect of diverting us from the road we have been traveling to another road. And you would again have to come up with the same kinds of issues as to which the parties are now toe-to-toe.

It is not comfortable to be toe-to-toe with these two parties on issues as tough as these. And to create a diversion which would tempt them to step back from this confrontation is simply, I think, to risk dangerous delay.

We all understand, of course, that at some point we are going to reach a very difficult problem, and that is, how to bring in other parties including the Palestinians and the other countries in the area into the process. Our hope is that out of the negotiations, the results might be such as to encourage that sort of thing.

Q. Mr. Secretary over here, please?

There are published reports today that the United States had sent new messages to President Sadat.

Is that true? And have you made new proposals to get the talks going again?

A. Well, there has been a continuous process of discussion and consultation between us and Israel and Egypt. That process has not yet reached a definitive stage, and I don't think it's helpful to discuss any particular feature of it until we get a result.

Q. We're not expecting you to negotiate in public; what I would like to know, though, is, has the United States advanced any new ideas, new proposals, without your necessarily outlining them?

A. Well, we have presented alternatives for dealing with the particular question that was responsible for the most recent pause; and you know what that is, the introduction of legislation in the Knesset dealing with Jerusalem.

We have not exhausted all possibilities and we are still pursuing them. But to focus on any one of these, publicly, I think would be counterproductive.

Q. Mr. Secretary, on another subject, regarding the Cuban refugees, two questions, if I may: (One) why hasn't the United States done more to project this into the international public forum, in effect to capitalize on the disaster that Castro has with these people leaving?

And secondly, what do you see of the political consequences to the Carter campaign of having all these people come in and vie for the jobs at a time of economic recession?

A. With respect to the first, we have gone prior to the time I come on the scene—and since—to other countries. Argentina and Australia are actively interested in taking some of these Cuban refugees. We have filed a strong protest note through our Interests Section, in Havana, against the sending of convicted felons to our country—that violates international law—and we will pursue that protest.

If Mr. Castro does not respond, as the law requires that he do, we will pursue that through the UN and OAS, and of course, through the San Jose Conference. We undertook to develop an international initiative to deal with a problem which Mr. Castro has rejected, so it is a problem that we have to continually press.

I think the question of felons, the question of those who have been guilty of crimes after they arrived in this country, in connection with the riots and so on—there are those who will be subjected to exclusionary proceedings taken by us, under the provisions of law. With respect to the status of a great number of them, of course, we are faced with a situation which does not fit any precedent. They are not, technically speaking, refugees in the sense that we usually consider refugees; they are not necessarily political asylees; nor are they normal immigrants. So the question of establishing their classification, and then implementing a resettlement program is the challenge that confronts us.

This may possibly be taken care of under existing law or we may have to consider new legislation. Americans ought to understand that a lot of these people came here to join families; and I think 40,000–50,000 have been resettled on that basis. Others have come here seeking what people have come to America seeking for years, going back to the days when my father came to this country—for the opportunities of freedom the country provides. It is an international problem, and I think that Americans rightly ask that there be an international response.

Q. Mr. Secretary, two principal figures of the autonomy negotiations in Israel have resigned, one, Foreign Minister Dayan resigned over objections to Prime Minister Begin's policies and attitudes. Have you received assurances from Israel that now they are willing to move the negotiations toward achieving full autonomy?

Secretary Muskie. Well, when we receive responses to our current initiatives, I'll be able to answer your question.

Q. Mr. Secretary, with respect to the economic summit contemplated this month, will you talk briefly on what the Administration hopes to accomplish there?

Secretary Muskie. In the economic area, we will deal with the ongoing subjects of energy, inflation, growth, response to Third World problems generated by the energy crisis, inflation, and the like. I suspect that the new aspect of this summit will be the fact that political questions for the first time will be discussed, and that agenda is in the process of preparation.

Mrs. Kelly. Sir, I'm Virginia Kelly, of the Long Beach, California, Independent & Press Telegram. My mother was an immigrant from Hungary, and so I am not inimical to immigrants, but I wonder, considering the very large number of Mexicans who are coming in illegally, and many others who are coming in legally, do you foresee the time when there should be some limitation upon the entrance of immigrants into the United States.

I know we have certain quotas now, but these, evidently, are not being abided by. Have you any thoughts on those subjects?

Secretary Muskie. You have properly made the point that we do have laws that limit immigration at the present time, but those are very difficult to enforce and apply along a border the length of that between us and Mexico, and along the Atlantic Coast—even Canada, although we have no problem there of illegal migration.

At this point, I think the problem really falls in my Department in the sense that what is required here is a dialogue between us and the Government of Mexico on that particular source of migration to this country. It is natural that when there are the disparities in the standards of living and oppotunities that existed cross that border, that people respond to them, and seek to move where things are better. If they can cross a border, as they can, with relative impugnity, they do so. I mean, it is of the essence of the human spirit to pursue its aspirations, and that's what has been happening there.

Mexico, fortunately, is entering into a newer, and hopefully, more prosperous national life in the development of resources that will be of interest to Mexico and to the U.S.; and I think the human problem may well be resolved in the context of that change—in the relative economies of our country and the opportunities available to people.

Q. Mr. Secretary, with respect to the accounts of widespread starvation in certain parts of Africa, could you assess that situation for us, and say whether there is anything further that the United States may be able to do, especially given our large current grain surpluses?

Secretary Muskie. You get into the question there of foreign assistance programs generally, really, and food is part of it, PL 480. I must say I feel very deeply that we are not doing what we should be doing to deal with human problems around the world that give us an opportunity to demonstrate the American approach to those kinds of conditions, as contrasted with others.

The Russians see these kinds of situations as doors of opportunity to exploit, and have done so in countries closer to them, and they continue to do so. We seem to be reluctant, in appropriations, to generate an adequate American response to those doors of opportunity. There are several in our back yard in the Caribbean—Nicaragua, El Salvador, Jamaica, and others. All of these are situations of that kind. You don't have to go to Africa to see it. Yet, we seem to be very reluctant. It is very difficult to get favorable votes for foreign aid, as it is called. I dislike the description, "foreign aid."

I think what is involved here are opportunities to extend our influence and to expand it in a benign and beneficent way around the world in order to influence people to turn in the direction of political development in their own countries and in terms of building their own countries in the direction that would promote peace, democratic institutions, and so on. We seem to be very reluctant, and I understand that that reluctance comes out of a period in our national life when foreign aid and its benefits were oversold.

When you make investments of this kind, you don't always get a pay-off. The other side sometimes wins. You can't buy friends in that literal sense, but you can influence situations.

Nicaragua is a recent, I think, very dramatic demonstration of the opportunity that exists. I think that we are beginning to make headway there, but we might still lose it because the Communists through Cuba are also very aggressive in that country.

This is the kind of thing—we find it relatively easy to vote enormous sums for defense, and undoubtedly we have to build up our defense effort at the present time—but we overlook these relatively smaller investments that we could be making all around the world to move people in the direction in which really they want to move, but for which we have given them so little reason to follow.

Q. Mr. Secretary, Jim Anderson, UPI.

You haven't said specifically what you are going to do, what the United States is going to do, to remove the outside irritants in the autonomy talks that caused the Egyptians to walk out in the first few weeks.

Secretary Muskie. I think I have said all I need to say to get my message over to the parties.

Q. Are you making specific proposals to the Israelis, for example, to remove the Jerusalem legislation?

Secretary Muskie. We have tried all sorts of approaches to deal with that issue. I don't know that I would characterize them as precisely as your question does. I don't know that characterizing them in that way would, necessarily, be more productive of results than the less blunt ways in which we try to present the issues.

You are not going to eliminate that problem by wiping it out. You have got to go around it, for the present, It is not on the agenda, for the present. Its scheduling is anticipated by the Camp David Accords, and it is in that sense that we ought to handle it.

I mean, the issues before the negotiators are the five I have described. The final status—and I said that several times in my prepared remarks—the final status of the West Bank and Gaza would be decided later on.

Q. Mr. Secretary, do you think that Senator Kennedy should withdraw as a candidate?

No. 2, do you think the President can win in November, if the hostages are still held in Iran?

Secretary. If I can succeed in my job, I think probably he can win. (Laughter.)

Q. How about Senator Kennedy?

Secretary Muskie. That is a political question that I'm told that Secretaries of State ought not answer. (Laughter.)

Q. Mr. Secretary, I have a question: In relation to the Iranian situation, can we fairly assume from your comments—perhaps that is a big term—"hints" that you made yesterday, that you are opposed to any prosecution of former Attorney General Ramsey Clark for his trip to Iran in defiance of the Presidential ban?

Secretary Muskie. I don't remember saying anything like that.

Q. Yesterday, I believe you did indicate that the point of the ban was to prevent people from going over, but not to punish them for doing so.

Secretary Muskie. Whether or not there is a basis for proceeding judicially against Mr. Clark is within the jurisdiction of the Department of Justice, not the Department of State. I think the Attorney General would rightfully resent any intrusion upon him on my part. You know, I came in to protect the turf of the Department of State, and now you want me to invade somebody else's. (Laughter.)

Q. Mr. Secretary, Bill Eaton, of the Los Angeles Times.

Where would these negotiations be? Would you like to have them resume negotiations in Washington or somewhere else?

Secretary Muskie. I don't think it would be helpful to speculate about that here.

Q. Mr. Secretary, can I clarify something that is still—I think, in your answer to Bernie Kalb's question, you said that you don't believe that the paragraph on page 15 changes current policy. If I'm correct, the President, on the issue of a Palestinian state has said that the United States opposes one. It has been rather a categorical assertion, without reference to time.

In this speech, you say the United States opposes one for the five-year transition period, during the current stage of negotiations. In effect, are you not saying that the United States is going to reserve its options after that?

Secretary Muskie. Nothing in this speech is intended to change that policy.

You know, if I were to write a speech—and this speech has been quite some time in preparation—that would negate everybody's interpretation of every word in it, you would have the Sears, Roebuck catalog by the time I came here, and the speech is dull enough, as it is. (Laughter.)

Q. Mr. Secretary, Sara Glasser, of Knight-Ridder Newspapers. In this comment, you also support the view that the City of Jerusalem should remain undivided.

Would you mind translating that? Does that mean that we do support the Israelis who control that city, or do we have (inaudible)?

Secretary Muskie. This is not the place to negotiate the meaning of that phrase.

Q. Mr. Secretary, Jerry Udwin of Westinghouse Broadcasting. Regarding Iran, in a non-specific sense, which I presume is the only way you can talk about it, what can you tell us that is going on in the way of efforts now to free the hostages, and where do you think it will end?

Secretary Muskie. I think I answered that question yesterday, but it is a question I have answered about every day since I've been here. What we are trying to do is pursue every diplomatic channel open to us—and even non-diplomatic channels of communication—so that we can identify or probe the possibility of generating the comprehension in Iran that it is against Iran's best interests to continue holding the hostages.

I happen to believe that is the case. And increasingly there is evidence that many Iranians are coming to that conclusion also.

I think it is only when both sides see it in their interest, not only in terms of the problems generated by the continued holding of the hostages, but in terms of normalization of relations between Iran and the rest of the world that will finally promote a release.

I think it is helpful, you know, to recall the case of the Americans who were taken hostage off the Korean Coast years ago. It was eleven months at that time before quiet diplomacy finally achieved the release of those hostages.

By contrast, there was the Mayaguez incident in which we rescued the hostages but lost more lives of servicemen in the process. Now, those don't necessarily form a hard and fast basis for judging how to handle this one.

There are other complicating factors in the Iranian situation. Number one, there has obviously been a struggle for power and control. Number two, they have been in the process of creating the structure of government. They now have a new parliament. Whether or not it constitutes a government in our understanding of what governments are but once a government is in place, it will then be accountable to its people, not only for the hostages, but for the welfare of its people, and the welfare of its people depends upon the economy of the country; and the economy of the country surely depends upon economic relations with countries outside Iran.

So, we have countries who are trading with Iran, who want to expand their trade with Iran, going to Iran, explaining to them that the holding of the hostages is inhibiting the expansion and broadening of their trade relations with Iran.

When the Iranian Government begins to get this kind of message from more and more countries with whom they ought to have normal and natural economic relations a message is going to begin to emerge.

They are also interested, I would suspect—and will become increasingly interested—in exactly the terms upon which normalization would be restored to their relations, not only with us (maybe not so much with us as with other countries). So, those considerations, increasingly, are going to become involved in the whole question of holding hostages.

These are the kinds of things that you can't discuss publicly. You can't really get these kinds of messages through, but I know there are constantly people, in governments and out of governments, who are undertaking to play a constructive role in these respects.

Q. Would you put Ramsey Clark among the non-diplomatic channels playing a constructive role in—legalities aside—in the freeing of the hostages.

Secretary MUSKIE. These people can play a more constructive role if they fully understand the nature of the character of the policies and the efforts being made by the government.

I heard one of the ten say the other day that it was his impression that there was no dialogue going on between our government and Iran. He apparently had the impression we were sitting on our hands here. It's conceivable that if Americans or anybody else who is not aware of the nature of the character of the exchanges that are going on, the proposals that are being sent up as trial balloons and so on—if they are not aware of it, that they might barge into a situation of that kind with a proposal that happened to be in conflict with a very promising one that was already in line.

Q. Is that happening?

Secretary MUSKIE. Is it happening?

Q. Is it happening.

Secretary MUSKIE. Proposals being floated? All the time, yes.

Q. Has it happened that there are proposals that were then contradicted by those who——

Secretary MUSKIE. No, no. I say that there is that risk, that people come in from the outside, totally from the outside, without knowing the nature of the discussions that are going on. This kind of diplomacy really can't be conducted before the television tube, you see.

Q. Mr. Secretary, on the question of Korea, referring to the blood bath in Kwangju, South Korea, last week, a senior State Department official was quoted as saying, "This is not a human rights issue. It is a question of the national interest of the United States in achieving and maintaining stability in Northeast Asia."

This gave rise to the belief among South Koreans that the United States acquiesced, or even colluded, with the new leaders of the junta group led by Chun Doo Hwan in his carrying out of the massacre in Kwangju.

Mr. Secretary, could you tell us since when has the desire of any people, particularly of the pro-American South Koreans, for freedom and democracy become inimical to the American national interests?

My second question is, what happened to President Carter's human rights policy?

Secretary MUSKIE. First of all, the premise upon which your two questions are based is false. We ran down that statement—there was no basis for it; it was a phony, floated in Kwangju during the policy and in an attempt to distort the role of the United States in that whole situation. There is no basis to the alleged statement of a "highly-placed State Department person."

We have been pressing the government, and continue to press the Government of Korea to move toward political development, democratic institutions, and we have applied the pressure—and it is not as easy to do it, given the threats of the North, as it would be if the threat weren't there, because stability is important in South Korea, if instability is not to attract an attack from the North. But consistent with that, we have been pressing hard and we will continue to press the human rights objectives of President Carter.

Q. Are you planning to send an investigation team to South Korea to investigate how many actual casualties in Kwangju, how many people are dead and how many people are badly wounded?

Secretary MUSKIE. No, that particular thought had not occurred to us.

Q. No?

A. I don't think it would be appropriate for the United States to go into the internal affairs of another country with investigating teams.

The point is that we are undertaking to bring pressure upon the government there to democratize its institutions and will continue to do so.

Now, as we develop ideas for doing so, we will continue to press them. I'm not sure that that particular one would be constructive.

Thank you all very much.

(Applause)

INTERVIEW WITH PRIME MINISTER MENACHEM BEGIN

DAVID HARTMAN. Yesterday Egypt and Israel agreed to some new steps to get their peace efforts moving again. The key issue, of course, is autonomy, or self-rule, for over a million Palestinian Arabs who live in the Israeli-occupied territories known as the West Bank and Gaza Strip. Recently, violence on the West Bank has increased sharply.

Menachem Begin, Israel's Prime Minister and Defense Minister, now, is with us this morning, live by satellite from Israel, to talk about the autonomy talks, as well as the other problems that he is facing at the moment. He is in Jerusalem with Bill Seamans of ABC News.

Good morning and welcome back, Mr. Prime Minister.

Prime Minister MENACHEM BEGIN. Good morning, my friend, Mr. Hartman. How are you today?

HARTMAN. Very well, thank you. And I know you're well. I read Time magazine and I know you're healthy.

Prime Minister BEGIN. Absolutely.

HARTMAN. First off . . .

Prime Minister BEGIN. Couldn't be better.

HARTMAN. Good.

Yesterday there was a speech, as you know, here in the United States, following a statement that you made last week supporting the establishment of 10 new settlements on the West Bank.

And yesterday our Secretary of State Muskie, in his first foreign policy speech regarding the Mideast, criticized that policy. He said—and I'm quoting him—that for Israel to unilaterally place settlements on the West Bank and Gaza area while negotiations progress runs counter to the very purpose of the very negotiations. Unquote.

How do you respond, Mr. Prime Minister, to Mr. Muskie's comment?

Prime Minister BEGIN. I will do it willingly, Mr. Hartman. I listened to the speech made by your Secre . . .

[Technical difficulties.]

Prime Minister BEGIN. . . . was a positive and constructive speech. However, two remarks I have to make.

First, the Secretary of State appealed to both Egypt and Israel to renew the talks concerning the autonomy for the Arab inhabitants in Judea, Samaria, and the Gaza district, which you call the West Bank. And that appeal was . . .

HARTMAN. Mr. Prime Minister, excuse me. Pardon me for interrupting, sir. Your very first response to my question, your first sentence, we did not hear. Would you repeat that for me?

Prime Minister BEGIN. You didn't hear it?

HARTMAN. No, sir. And I want to make sure that we heard your first comment, when I asked you to respond to Mr. Muskie's comment of yesterday regarding what I called the West Bank Policy. Would you start your answer over, please?

Prime Minister BEGIN. Surely, with pleasure. I will do so.

So I yesterday listened on our television to the speech made by the Secretary of State in . . .

[Technical difficulties.]

Prime Minister BEGIN. . . . to both Egypt and Israel to renew the talks concerning the autonomy for the Arab inhabitants in Judea, Samaria, and the Gaza district. But he probably didn't pay attention to the fact that it is Egypt that suspended those talks, twice, even after President Sadat, my dear friend, promised President Carter to renew them. Israel agreed with Egypt on the 12th May that three delegations—the Americans, the Egyptians, and the Israelis—will meet in Giza near Cairo and continue the talks.

So that is the so-called and famous evenhandedness. Although Egypt is responsible for suspension of the talks, the appeal was made, evenhandedly, to both Israel and Egypt.

The second remark is about settlements. May I tell you, Mr. Hartman, that I expected my friend Mr. Muskie, before making that routine statement about the settlements in the land of Israel, which foreigners call Palestine, at least he would have given me a hearing. And assure the Secretary of State that if he had invited me to come to Washington, especially for this talk on settlements, I would have postponed anything and rushed to Washington. But he didn't give me any hearing. And therefore he made that statement.

Well, I would like to say that we cannot accept it. I already said to the President of the United States our settlements are legal, perfectly legal. We have an inalienable right to settle in the land and live in the land, everywhere. And secondly, it is an integral part of national security.

The Secretary of State, Mr. Muskie, is also not only a friend of Israel, as I know from my own experience, he is my personal friend. He visited me at my home several years ago.

My colleagues and I had with him a talk which lasted more than two hours. Then I saw him many times in the Senate. And I would like you to know that our fathers were neighbors. Mr. Muskie Senior and my father lived in two towns, the distance between which is only some 120 miles. But then, Senior Muskie had the good luck, before the First World War, to go to America, where the Secretary of State was born.

HARTMAN. Mr. Prime Minister . . .

Prime Minister **BEGIN.** My father did not—my father did not have that luck, and he was drowned in a river by the Germans.

HARTMAN. Mr. Prime Minister . . .

Prime Minister **BEGIN.** But I return to Mr. Muskie. And again I say, we are friends. But he should understand that I am now Prime Minister of Israel and bear a very heavy responsibility for the lives and the security and the future of our people, of our children and grandchildren. And we are not going to give up our national security.

And therefore, the settlements being a defense line against the terrorists who come to kill our men, women and children, we are not going to give them up.

HARTMAN. Would you accept . . .

Prime Minister **BEGIN.** Because our security is involved.

HARTMAN. Would you accept an invitation from President Carter right now, if he were to offer one, to come to the United States immediately to discuss the West bank policy?

Prime Minister **BEGIN.** Anytime. If the President extends to me an invitation, I will always accept it. But only let us take into consideration that I don't travel on Shabbat. Any other day, I am prepared to come to Washington.

BILL SEAMANS. Mr. Begin, to make the record absolutely clear, as of this morning, in the light of Mr. Muskie's statement, do you intend to go ahead with the 10 settlements that you announced the other day? And will those settlements be the last settlements on the West Bank?

Prime Minister **BEGIN.** Yes, sir. We are not going to take that very wrong advice to make a so-called freeze of settlements. It concerns our lives. It is our perfect right. We are not foreigners to this land. We came back to the land of our forefathers. But it is inseparable from our national security. And therefore . . .

SEAMANS. So you are going ahead with the settlements.

Prime Minister **BEGIN.** Yes. Yes. And only—I want to answer your second question.

Yes, these are the last settlements we are going to do. The others are already constructed. And we are going, of course, to strengthen the population there. But with those 10 settlements, the construction of settlements is finished.

SEAMONS. Now, this is a very significant statement you've just made, Mr. Begin.

Prime Minister **BEGIN.** It is. I think so.

SEAMANS. Do you mean the last this year, or the last, period?

Prime Minister **BEGIN.** No, the last. The last. Mr. Seamans, I never misled anybody. The last settlements. And then we shall strengthen the population in the existing settlements. But we shall not construct an 11th settlement. Not this year, but this is the end of our settlement policy.

SEAMANS. But you will expand or enlarge the present ones.

Prime Minister **BEGIN.** Surely.

HARTMAN. Mr. Prime Minister . . .

Prime Minister **BEGIN.** President Carter said that is acceptable to him, enlarging the population.

HARTMAN. Mr. Prime Minister, Israel expelled three West Bank Arab mayors. Do you see any circumstances under which they will be allowed to return to the West Bank area?

Prime Minister **BEGIN.** Those three mayors incited to violence and bloodshed. You should know that. But now this issue is sub judice in our country. There was a petition by the families to the Supreme Court, sitting as the High Court of Justice. They were given 45 days. Since there are some two weeks already passed. So probably after a month, the hearing on the merits will take place in the High Court of Justice. Whatever the Supreme Court decides, of course, the government will carry out. Now, nobody can interfere. It is a matter before the court. And we must wait until the court gives its judgment.

SEAMANS. There was another very important point in Mr. Muskie's speech. He said, "We support future negotiations on the final status of Jerusalem."

Now, I've heard you say many times, Mr. Begin, in your speeches that Jerusalem is non-negotiable. How would you answer Mr. Muskie . . .

Prime Minister **BEGIN.** I never used the word non-negotiable, Mr. Seamans.

HARTMAN. In 30 seconds. Go ahead, sir.

Prime Minister **BEGIN.** That word never came—that word never came out of my mouth. What I said is that Jerusalem is indivisible, the capital of Israel. And this is our position, and we are not going to change it.

HARTMAN. Mr. Prime Minister, for those of our stations across the country who can stay with us, we'd like to continue our discussion with you after . . .

Prime Minister **BEGIN.** Thank you.

HARTMAN. . . . after two minutes of commercials.

HARTMAN. We are now continuing our discussion with Prime Minister Menachem Begin of Israel, live by satellite from Jerusalem. And Bill Seamans of ABC News is joining us.

Mr. Begin, you are now being charged, in different places in the world, and indeed at home as well, with both supporting the Jewish extremists on the West Bank and also supporting the West Bank settlements; and that in so doing, you are contributing toward the increased violence and the climate for violence on the West Bank in that area.

How do you respond to that?

Prime Minister **BEGIN.** Mr. Hartman, you promised me at the beginning that you will put to me questions which I may not like. Now you've kept your promise.

Mr. Hartman, I am charged with many things. But I will give you the following example: Last year, when I came to Washington to sign the peace treaty, your Vice President came to receive me at Andrews Air Base, and he said to me, just like this, "On behalf of President Carter, we greet you as a hero, a hero of peace."

And now, some newspapers or media call me an obstacle to peace.

Tell me, can a man of 67 years change in 14 months? Just 14 months ago, I was to you a hero of peace; and now I am an obstacle to peace, and even contribute to what you called the events in the West Bank, in Judea, Samaria, and the Gaza district? It just doesn't stand to reason, Mr. Hartman.

And then I will tell you the story. After the assassination attempts on the mayors in Shrem (?), Ramallah, and El Bira, I made in the morning a spontaneous statement to the effect, "These are horrible crimes. I instructed to immediately start a total investigation. If we have at least prima facie proofs, then we shall apprehend the perpetrators of those crimes and we shall bring them to court, to justice, to book.

Tell me, did it ever happen, for the last 32 years, since the Arabs assassinated thousands of Jews, killed men, women and children, that one Arab ruler ever said a word of condemnation of those crimes and promised to bring the culprits to court? This is the first time that such condemnation was heard by a Jewish Prime Minister concerning the attempts on Arab mayors.

I don't know who perpetrated those crimes. Perhaps Jews, perhaps Arabs. We don't know yet. We don't have the proofs. But the day before yesterday, the man in charge of security told me that since the State of Israel was created 32 years ago, there has never been such an intensive investigation.

What I can promise you is that when we apprehend the culprits and have those proofs, we shall bring them to a court of justice.

And now tell me that a settlement policy, et cetera, is a so-called provocation. I regret very much this expression. You know, when I was a young student, I used to be beaten up by anti-Semites. One day I asked one of them, who was my friend, even—because before the exams, he needed my advice—"Why do you beat us?"

And he said, "Because you provoke us."

So I asked him, "By what do we provoke you?"

And he said, "By your very presence."

I wouldn't like to hear from a free man like Mr. Hartman, a citizen of the great United States, that the very presence of Jews in a certain part of the land of Israel is a provocation. And therefore . . .

HARTMAN. Mr. Prime Minister, excuse me. I—those are not my . . .

Prime Minister **BEGIN.** . . there are pressures between Jews and Arabs. It's not true.

HARTMAN. Mr. Prime Minister, those are not my—those are not my opinions. Those are the opinions of your critics.

Thank you.

Mr. ROBERT C. BYRD. In the television interview with Mr. Begin, the reader will find that the Prime Minister said that 10 new settlements built on the West Bank will be the last that Israel will build. This, of course, does not meet the objections that our Government has or that I have, or that I am sure a good many others of my colleagues have, to new settlements, but it is a significant development.

On another front, Mr. Begin also denied that he had ever said that the Jerusalem issue was "non-negotiable." He repeated that Jerusalem is "indivisible" and "the capital of Israel."

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WORK, FOR THE NIGHT IS COMING

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators will come to the floor and begin debating the pending matter. Each golden minute that is lost is studded with 60 diamond seconds. It is early in the morning, a good time to get a lot of work done before the heat of the day is upon us.

Today is Friday the 13th and that is a good omen. I would hope that we would complete action on the bill today by 4 o'clock, if at all possible, so that Senators can enjoy some of the sunshine that is beating against the doors, which I can see from where I stand.

Mr. TOWER. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. I share his desire to see us get moving this morning. I would like for the appropriate parties on this side of the aisle to arrive.

The distinguished majority leader's admonition reminds me of a gospel song we used to sing when I was a boy, "Work, for the Night Is Coming."

Mr. ROBERT C. BYRD. The distinguished acting Republican leader harkens back to a pleasant memory for many of us [singing], "Work, for the night is coming."

Mr. TOWER. I will resist the temptation to join in on that because I am afraid it would empty the Chamber.

Mr. ROBERT C. BYRD. I just wanted the distinguished Senator from Texas to know that we sing the same songs in West Virginia.

Mr. President, I will put in a quorum call. If Senators who are involved in the debate do not arrive on the floor within 5 minutes, I think I will put in a call for a live quorum, which will bring all Senators to the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980

The Senate continued with the consideration of the bill (S. 2337).

AMENDMENT NO. 1890

(Purpose: To provide for a two-year demonstration program)

Mr. HELMS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair. I send a very slight modification of the amendment to the desk. It changes one word.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his amendment.

The amendment was modified.

The amendment, as modified, is as follows:

On page 2, after line 15, insert the following new section:

SEC. 3. Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding at the end thereof the following new subsection:

"(1) (1) (A) Notwithstanding any other provision of this Act, the Corporation may provide financial assistance during fiscal years 1981 and 1982 for providing legal assistance within one State in accordance with the provisions of subsections (B) and (C) in order to demonstrate the effectiveness of private attorney participation.

"(B) With respect to any county with a population of one hundred and fifty thousand residents or less, not less than 65 per centum of the total amount of funds made available for such county in any fiscal year shall be used for legal assistance (including administrative support services) that is provided by the private bar with open participation rights by members of the bar.

"(C) With respect to any county with a population of more than one hundred and fifty thousand residents, not less than 15 per centum of the total amount of funds made available for such county in any fiscal year shall be used for legal assistance (including administrative support services) that is provided by the private bar with open participation rights for members of the bar.

"(2) The Corporation may permit a lesser percentage of the funds made available than that required by paragraph (1) this subsection to be used for legal assistance provided by the private bar in a particular county, but only if the refusal or inability of the private bar to provide such assistance is clearly demonstrated.

"(3) The percentage requirements set forth in paragraph (1) of this subsection shall not apply with respect to funds made available by the Corporation to provide specialized services to native American populations or migrant farm workers.".

Mr. HELMS. Mr. President, I thank the Chair. If there were sufficient Senators present, I say to the distinguished majority leader, I would ask for the yeas and nays.

Mr. ROBERT C. BYRD. There may be. Would the Senator like to try?

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I am ready to vote.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the Senator from North Carolina for being on the floor and modifying his amendment and being ready to vote. I urge other Senators likewise to come to the floor and be prepared for the rollcall vote. I think this is an excellent way to get the day started.

I congratulate the Senator from North Carolina. He is at his post here and has his boxing gloves on—are they 14 ounce gloves?

Mr. HELMS. Mr. President, I say to the distinguished majority leader that there is a bare possibility that, with the modification of the amendment, the managers of the bill may accept it; in which case, I shall ask that the yeas and nays be vitiated.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Mike Francis of my staff be granted privilege of the floor during consideration of the currently pending legislation and votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON. Mr. President, has the modification to the amendment been offered?

Mr. HELMS. Yes. The amendment has been modified.

Mr. NELSON. So that for purpose of the experimental project proposed in the amendment by the Senator, the word has been changed from "shall" to "may," leaving it to the discretion then of the Legal Services Corporation to decide when, where, or under what circumstances this experiment, or some modification of it, may be tried; is that correct?

Mr. HELMS. The able Senator is correct.

I modified the amendment, but not for the purpose of the Corporation laying it aside as if it never happened.

I say to my friend from Wisconsin that this Senator feels we ought not lock ourselves into one single delivery system. We ought to consider what the Bar Association of the State of Wisconsin has recommended. My own Bar Association of North Carolina is looking at the proposal, and I believe other bar associations are as well.

I modified the amendment with the understanding that the Legal Services Corporation is not to view this amendment as a cosmetic amendment. It is a very real, meaningful amendment that should be given serious consideration.

Mr. NELSON. Yes. This is not a pro forma exercise, because the committee believed that there were alternative ways. The committee directed that a delivery systems study be conducted. That is, the committee recognized that there were a variety of ways which could be used to deliver services, and that in some circumstances the private attorney option was the best—that is what some of us believed, including myself. In certain circumstances the Legal Services fulltime lawyers concept was the best, and there may be other options that have not occurred to us.

In 1977 on the authorization bill, the committee designed an amendment that directed the study precisely addressing the issues raised by the Senator from North Carolina. I will read that to the Senator to assure him that we were serious in addressing the kind of options that the Senator has brought here to the floor.

The section is 1007(g), the Legal Services Corporation Act, as amended, in 1977.

Section 1007(g) reads as follows, and this was adopted in 1977, I know the Senator supported it at that time:

"(g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and sup-

> plemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

That covers the whole waterfront.

This study has just been completed. My staff has had a cursory look at the draft which we have here. It is not yet in final form.

So I am not prepared to comment on the study except to say that I understand from my staff that the study concludes that both the judicare method and staff attorney method worked well in various kinds of circumstances.

The study did not find that one delivery method was superior in all circumstances.

So the amendment offered by the Senator is in conformance with the objective the Congress had in mind in requiring that a delivery systems study be conducted.

I say to the Senator from North Carolina that judicare started in the State of Wisconsin. It was designed by our bar association. Phil Haberman, a personal friend of mine of long standing, was for many years the executive secretary of the Wisconsin State Bar Association. Several people designed the concept, and it is my understanding that he was the leader in it. We were the first State to put into effect the concept of judicare, of allowing the client to select an attorney from any place in the county.

At this time, of the 72 counties in Wisconsin, 32 counties are covered by judicare. The judicare program is the second largest grantee in Wisconsin. It is also the largest judicare program in the United States. So the Senator from North Carolina is assured that I am aware of the judicare delivery model.

The mix is working very well in the State of Wisconsin, and I have a bias in favor of the mix and the concepts that are being advocated here on the floor.

Representatives of the bar of Wisconsin came to my office and discussed the precise proposal that the Senator from North Carolina is offering at this time. I told them I would not offer the amendment, and I will say it to the Senator from North Carolina because I want the record to be clear on it.

First, in committee we agreed to a simple extension of the law. During the last 15 years, as the Senator knows, all kinds of refinements and changes have been made in the applicable law. We did not conclude in the committee that there was no imaginable improvement that could be made, but there was not a significant change that needed to be made at the time. So we agreed upon a simple extension of the authorization.

Informally, the Senator from New York (Mr. JAVITS), the Senator from Utah (Mr. HATCH), and I agreed that we, ourselves, would not be proposing amendments on the floor. Senator Hatch said that would not bar him, of course, from voting for any proposal, and of course it would not. But we at least agreed that we would not be offering any amendments ourselves.

Therefore, I told the Wisconsin Bar Association that, under any circumstance, I could not offer the amendment because we had a gentlemen's understanding that we would not come to the floor with amendments. If we had amendments, we would have offered them in the committee and settled the issue there, but we decided that it was best to have a simple extension.

I made a second point with the representatives of the bar. I told them that I liked the concept of a mix of delivery models, that we had directed that a study be made, that the study was just out, and that I had not even seen it.

I said to them that if their proposal was to make the system nationwide at once, that, to me, would be a very serious problem; but, unfortunately, the issue was not brought before us at the time of our oversight and authorization hearings. That was not their fault. They had not designed the program yet. It had not occurred to them—or they were in the process of designing it. When the American Bar Association came before the committee, the ABA did not propose that any such amendment be made to the Legal Services Corporation Act.

I assure the Senator from North Carolina that it was not an issue that was brought before the committee and considered and rejected. We did not consider it at all, because no proposal like this was made during the course of the committee's deliberations.

I would have been delighted, if the proposal had been offered, to have had hearings, so that we could have had testimony from the Bar Association, from the Legal Services Corporation, from the Senator from North Carolina, and from anyone else on this matter.

I assure the Senator that this is a thoughtful concept and may very well be a workable concept. Without hearings and listening to all the viewpoints, I am not prepared to make a judgment myself. But I will go to the conference serious about this matter. I expect that if the conferees agree, the Legal Services Corporation will address this question seriously and see whether or not and under what circumstances they could create a pilot project that would deliver services along some model—this or an improved one, if they have a better idea.

I further assure the Senator from North Carolina that there is no doubt—if I happen to be here; if not there is no doubt that our committee, which is interested in Legal Services, will conduct further hearings on this matter in the future, if Legal Services do not do it. I do not expect a pro forma exercise by Legal Services—to sit down some morning and say, "It says 'may' in here, and we move that we do nothing about it." I do not expect that.

This is a serious proposal by the Senator from North Carolina. It must and shall receive serious consideration by them, and we will have hearings on it at an appropriate time. I am sure that the Legal Services Corporation is serious about listening to the intent of Congress. Each of the heads of the Corporation has been a person of great integrity and high quality and sensitivity as to what Congress wants. So I assure the Senator that this is not just a pro forma exercise.

Mr. HELMS. I thank the Senator.

May I direct a couple of questions to the Senator from Wisconsin?

Mr. NELSON. May I interrupt?

The majority leader was trying to expedite the business, and he said we could have had a rollcall over by now. [Laughter.]

Do not ask me for any more comments.

Mr. HELMS. I thank the Senator. I am very much interested in his explanation and am assured by his comments. In my view, he did not answer too much, as the saying goes.

I ask the Senator this: He said this study was requested in 1977. Is that correct?

Mr. NELSON. Yes.

Mr. HELMS. And it was delivered to him just recently?

Mr. NELSON. Yes.

Mr. HELMS. And it was supposed to have been delivered in 2 years?

Mr. NELSON. Two years after the first meeting of the Legal Services Corporation Board.

Mr. HELMS. First meeting.

Mr. NELSON. The problem was that the President did not appoint the new members of the Board. There was a long lapse of time. So they lost about a year, and they did not have a Board to act. They acted expeditiously once the President completed the appointment of the members of the Board.

Mr. HELMS. May I have a copy of that report? I would appreciate it. I do not mean at this moment, but so that we may study it in my office.

Mr. NELSON. The staff advises me that when the final report is prepared, it will be sent to every Member of Congress.

I am advised by the staff that the board of the corporation already has approved the report, and it is anticipated that it will be printed and available in July.

Mr. HELMS. Of what year?

Mr. NELSON. This year—printed.

Mr. HELMS. I thank the Senator.

Mr. NELSON. Is the Senator prepared to vote?

Mr. HELMS. I ask the Senator to forbear just a moment.

Mr. President, in the light of the explanation and the comments by the distinguished Senator from Wisconsin, who is the able manager of this bill, I see no purpose for a rollcall vote, and I ask unanimous consent that the order for the yeas and nays be vitiated.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. STAFFORD. Mr. President, I have examined the amendment of the distinguished Senator from North Carolina (Mr. HELMS); and, as I understand it, the amendment changes the word "shall" on line 5 of page 1 of the amendment to "may." Am I correct?

Mr. HELMS. That is correct.

Mr. STAFFORD. Otherwise, the amendment stands as printed.

Mr. HELMS. That is correct.

Mr. STAFFORD. For the minority, I have examined the amendment and the original legislation which is before the Senate.

Assuming that the colloquy between the Senator from North Carolina and the manager of the bill, Senator NELSON, was an acceptance on the part of the majority, I accept the amendment on behalf of the minority.

Mr. HELMS. I thank the Senator.

Mr. President, I am prepared to vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment, as modified, by the Senator from North Carolina.

The amendment (No. 1890), as modified, was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 1136

(Purpose: To reduce the amount of funding authorized for 1981)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposed an unprinted amendment numbered 1136:
>
> On page 2, line 13, strike the number "$321,300,000" and insert in lieu thereof the number "$300,000,000".

Mr. HELMS. Mr. President, this amendment speaks for itself. It would hold spending for this agency to the current spending level instead of adding $21,300,000 for the next fiscal year. I think if we are asking everyone else in Government to tighten his belt it is reasonable to suggest that the Legal Services Corporation do likewise.

Before I proceed to take further of the Senate's time, I wonder if the manager of the bill will consider accepting this amendment?

Mr. NELSON. Mr. President, let me say this, that this would be an amendment that we would not accept, but also I will not move to table it. But I think we need to have a rollcall on it.

Mr. HELMS. Very well.

Mr. NELSON. Is the Senator prepared to present his case?

Mr. HELMS. Not quite yet.

Mr. NELSON. Why does the Senator not state his case? And I will not move to table. I will not. I cannot speak for the Senator from Vermont.

Mr. STAFFORD. I can say I will not move to table either.

Mr. NELSON. But we will ask for the yeas and nays.

Mr. STAFFORD. If the Senator wants a rollcall vote I agree on that.

Mr. HELMS. Why do we not ask for the yeas and nays at this time?

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. MITCHELL). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. President, as I say this simply holds the Legal Services Corporation to its present spending level.

Otherwise, the spending authorization for this agency would increase by $21,300,000. I reiterate that we are asking everyone else to tighten his belt. The Legal Services Corporation certainly should be required to do so.

Mr. President, the record of this Corporation and specifically its representatives around the country contain many horror stories of harassment and intimidation, far apart and beyond the intent of the legal services system. I would like to cite several additional examples.

Northeast Ohio Legal Services has eschewed direct service to the poor for the purpose of concentrating its efforts on an antitrust suit against a large steel company. I quote from an article by John C. Boland in the June 2, 1980, edition of Barron's:

> No formal board meeting has been held, apparently, since December (by Ohio Legal Services), a span in which indigent would-be clients have been turned away while Legal Services attorneys press what's known in the trade as "impact litigation." Since unemployment has been targeted as a priority issue in the Mahoning Valley, the reasoning goes, what better way to attack the underlying social problems of the indigent than by suing to prevent U.S. Steel from closing its plants—or, that failing, to require it to sell the mills to a worker-community group that would seek federal backing?

It turns out that the sponsors of Northeast Ohio Legal Services include radical activists such as Staughton Lynd, who predicted in connection with Nixon's wage-price freeze that it created "an atmosphere in which general strikes can be talked about for the first time in a generation."

In 1979, the Neighborhood Legal Services office in Pittsburgh forced a Pittsburgh jail to transport an inmate to a hospital for an abortion.

A mother 6½ months pregnant was represented by a legal services grantee in Akron in her attempt to obtain an abortion against the wishes of the child's father.

Michigan Legal Services filed an amicus brief on behalf of a Governor's item veto of a provision barring State funds for nontherapeutic abortions.

In Preterm Inc. against Dukakis, Greater Boston Legal Services challenged a Massachusetts law limiting expenditure of State funds to abortions necessary to prevent the death of the mother.

In G. against Edwards, the New Orleans Legal Assistance Corp., obtained a court injunction against enforcement of a Louisiana statute prohibiting use of public funds for abortion except to prevent the death of the mother.

And in Zbaraz against Quern, the Legal Assistance Foundation of Chicago won an injunction against enforcement of an Illinois law preventing State medical payments for abortions other than those performed to save the life of the mother.

In the meantime, the Government-funded Clearinghouse Review has continued to publish "how to" articles on aboration litigation. For example, the National Center for Youth Law published an article analyzing Bellotti against Baird, a case dealing with the question of whether a minor can receive an abortion without parental consent.

The article stated that:

> It is important that legal services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements, either through legislative advocacy or through litigation.

Adding that:

> The National Center for Youth Law would be happy to assist with such efforts.

Similarly, radical activist Sylvia Law, an article entitled "Reproductive Freedom Issues in Legal Services Practices," states:

> The problems of ensuring poor women the right to reproductive choice are overwhelming. . . . Work in this area can also provide legal services lawyers opportunities to form alliances with others, help develop community organization, and strengthen the political base for dealing with issues that critically affect the lives of their clients.

As the New Republic noted in its February 3, 1979, issue, legal services was—

> Intended to help the poor when they unavoidably get caught up in the complex legal machinery of modern society—in divorces, disputes with landlords, tussels with the welfare bureaucracy, etc. But too often legal aid lawyers use poor people as guinea pigs in an attempt to impose through the courts some fanciful middle-class view of social justice.

The New Republic went on to decry a suit by the Government-funded California Rural Legal Assistance against the University of California in opposition to the university's development of labor-saving farm machinery. Commenting on the allegation that this labor-saving machinery would result in agricultural unemployment, the New Republic noted:

> To oppose research aimed at increasing productivity is simply insane . . . A life spent stooping to pick fruit under the California sun is not so rewarding that we should rush into court to reserve places in the fields for the children of this generation of farm workers.

Self-proclaimed concern for workers has also led Legal Services Corporation funding recipients to help organize farm workers' unions in California, Florida, the Midwest, and New Jersey, according to Charles Fields, assistant director of national affairs for the American Farm Bureau Federation.

This is not even the tip of the iceberg. Other federally funded Legal Services activities include:

Litigation in order to return major portions of the States of Maine and Massachusetts to the Indians;

A lobbying campaign for the graduated income tax in Massachusetts;

Litigation to compel payment of SSI benefits to alcoholics;

Litigation to place South Boston High School into receivership;

An amicus brief in the Bakke case;

Litigation to compel the Government to finance a minor's nontherapeutic sterilization;

Litigation to define "black English" as a foreign language;

Litigation to challenge a State's right to interview its welfare recipients in order to reduce fraud;

Litigation to compel the New York City Transit Authority to hire former heroin addicts; and

Litigation to establish the principle that a mother's lesbianism is not sufficient grounds for changing a custody decree.

Mr. President, it seems to me that the Legal Services Corporation has more than enough money to perform its statutory function, plus a lot of other functions not envisioned by its statute.

As little as 5 years ago, the Corporation was funded at $90,000,000 and had as its goal the provision of two lawyers for every 10,000 poor people in America. Now, we are being asked to approve a budget of over $321,000,000, and the Corporation is talking about providing four lawyers for every 10,000 poor people in America at a projected cost of $875,000,000 a year.

Now, Mr. President, we had better call a halt to the grandiose plans of the Legal Services Corporation. It is already too expansive in its abuses of the intent of Congress. To increase its spending level when the rest of the American people are living under such tight circumstances because of inflation is unconscionable. I urge the adoption of the amendment.

Mr. President, I ask unanimous consent that the September 24, 1977, article from the New Republic entitled "The Rich Get Rich, and the Poor Get Lawyers" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE RICH GET RICH, AND THE POOR GET LAWYERS

The Office of Legal Services, a federal program of civil legal assistance to the poor, originated as part of the Office of Economic Opportunity during the heyday of the Great Society. Modest in both scope and costs—$1.3 million in 1965, the program's first year—it initially drew little attention, partly because it was overshadowed by more ambitious and expensive features of the war on poverty, and probably even more because of the uncontroversial nature of guaranteeing "equal access for the poor" to the judicial process. As unexceptionable as it appeared at first, the OLS soon became a source of acrimonious debate, mostly because of conservative dismay at the involvement of poverty lawyers on government salaries in liberal causes—busing, draft resistance, abortion, to name a few. With President Nixon's support, Congress in 1974 placed the program in the care of an independent government corporation, a popular technique in recent years for funnelling tax money to worthy causes while keeping them immune from so-called and allegedly insidious "political pressures." (Other examples include Amtrak and the Corporation for Public Broadcasting.) At the same time, Congress took the opportunity to write in new restrictions forbidding legal services lawyers from handling cases related to school desegregation, the Selective Service, or non-therapeutic abortions, and from encouraging or participating in boycotts, strikes, and picketing. The new law also included regulations intended to discourage legal services attorneys from lobbying on legislative matters. Since then the Legal Services Corporation has retreated into relative obscurity, even as its annual budget has grown to $205 million.

The program is not completely without controversy. Cases financed by the LSC include the suit by the Passamaquoddy and Penobscot Indian tribes to reclaim two-thirds of the state of Maine. Legal services lawyers also have lobbied against utility rate increases in Kentucky and for a graduated income tax in Massachusetts. Criticism of such ventures, however, has been limited to occasional and somewhat perfunctory sallies from the conservative press. Perhaps it's just as well, because such examples, while questionable, raise only secondary issues that obscure more fundamental questions about the logic behind massive government legal assistance, the wisdom of encouraging expanded use of lawyers, the identity of the actual beneficiaries of the program—and, of course, the central issue of its value to the poor.

If, as Hemingway suggested, the rich differ from the rest of us in having more money, the poor are distinguished by their lack of it. The legal services program, however, rests on the narrower premise that what really separates the poor from the upper and middle classes is that they can't afford as much legal advice. The LSC's supporters see that as a cause for alarm, since they regard legal counsel, like food, shelter, and medical care, as a basic right, the lack of which makes life practically intolerable. The nation's lawyers are especially sympathetic to this point of view. In the mind of the lawyer, there is hardly any problem that cannot be solved by isolating the interested parties, determining the narrow interest of each, and letting them fight it out in court. People who can't afford to indulge this pasttime *ipso facto* must be worse off as a result. To this way of thinking, merely having the courts and lawyers available as a last resort is not enough; full citizenship requires active and frequent participation in the legal process. The LSC now provides two lawyers for every 10,000 poor people and aims at doubling that number in the years ahead. It notes that among the population as a whole, there is an average of 14 lawyers per 10,000 people. (Japan, megacorporations and all, supports *one* lawyer per 10,000 people.) Four legal services lawyers for every 10,000 poor people is considered to be an "absolute minimum" level of assistance, and adequate only if private lawyers also devote more time to *pro bono* cases. One estimate is that providing enough lawyers to guarantee "minimum access" to the poor will cost something like $875 million.

Lawyers naturally always have been the loudest supporters of Legal Services. Part of the reason for that may be simply that they, like anyone else, tend to magnify the importance of what they do. Living with the law and litigation every day, they doubtless find it nearly inconceivable that anyone could go for months, even years, without consulting an attorney, much less actually becoming involved in a legal dispute. But the other explanations of their unqualified enthusiasm are more suspect. In the first place, LSC-funded programs offer jobs that otherwise wouldn't exist, making the program something of a Humphrey-Hawkins bill for the legal community. Lawyers need such a bill. Law school enrollments have risen 85 percent since 1968. The Labor Department's Bureau of Labor Statistics estimates that 100,000 lawyers—one out of six—will be unable to find legal jobs in 1985.

While siphoning off some of the overflow from the nation's law schools, the legal services program presents no competitive threat to private attorneys.

The point of legal services, after all, is to offer legal counsel to those who wouldn't otherwise purchase it; thus, it doesn't take away clients from other lawyers. The LSC expands the job market for lawyers by furnishing a steady flow of federal money, making its lawyers dependent not on demand from clients but on simple bureaucratic momentum.

Lawyers profit from legal services in other ways. If a poor woman sues her landlord, thanks to the advice of a legal services lawyer, someone has to defend the landlord. The beauty of creating a demand for lawyers by offering them "free" is that for every poverty lawyer who starts or threatens litigation on behalf of a client, at least one more lawyer (and possibly more) will be needed to represent the other side. Even if the legal services lawyer prefers to settle the matter without going to court, the defendant—landlord, businessman, manufacturer, local government or whatever—well may require legal advice about the respective obligations and rights. Indeed it is implicit in the philosophy behind legal services that once one side of a dispute has engaged an attorney, the other side is *entitled* to legal help.

More subtle attractions in the legal services program no doubt weigh heavily with lawyers. The program's cosmetic properties gloss over not only the urgent and concrete needs of the poor, but also the legal community's unattractive blemishes. A federal program providing legal assistance to the lower classes relieves other lawyers of the duty to provide *pro bono* services to those who can't afford steep legal fees. The financial sacrifice, formerly borne by well-to-do attorneys moved by idealism or public opinion, shifts to a taxpaying public afflicted by too many other burdens to notice. Thomas Ehrlich, president of the LSC, hopes to persuade lawyers to devote more time to *pro bono* cases. But why should a private attorney perform a public service for nothing when legal services lawyers can make a living at it?

Government legal service for the poor also helps to gloss over the monopolistic practices of the legal profession, which keep lawyers' prices high. The Supreme Court has taken the first steps toward ending the practices by striking down bar rules prohibiting advertising and establishing minimum fee schedules. The ABA intends to give up as little ground as possible. So far it has conceded only a slight relaxation of its regulations, while discouraging full exercise of this new freedom with the ever-present threat of censure and disbarment. Certainly there is no advantage to most lawyers in abolishing such restrictions. Advertising and price flexibility would promote competition, which would drive down fees.

Eliminating these laws and regulations would make it much cheaper and easier for the poor (not to mention the middle class) to obtain legal counsel when they need it. State-financed legal services, on the other hand, represent an attempt to bring the poor into the legal process without undercutting the protected position of the legal community.

The legal services program may be the most extreme example of the paternalism of the American welfare state: denying the poor what they explicitly lack—money—in favor of the goods and services the government thinks they should have, in the amount and proportion it deems appropriate. There is much validity in the libertarian argument that this approach denies the poor both the freedom to decide their own needs and the responsibility, essential to individual independence and self-reliance, to accept the consequences of such decisions. The alternative approach of a negative income tax, as economists generally agree, is a much more efficient method of helping the indigent. Moreover, it channels benefits directly to the poor, encourages their self-reliance, enhances rather than circumscribes their freedom, and needs only a relatively small agency to administer it. It is a fallacy to suppose that poverty programs are aimed principally at helping the poor. They are not. It is no accident, for instance, that Senator Robert Dole, a generally orthodox Republican, annually finds himself allied with George McGovern in trying to preserve and expand the federal food stamp program. Most of the program's most vocal supporters are not diehard liberals but moderates and conservatives from farm states, which profit by the government's subsidy of food purchases. The nation's farmers benefit as much from food stamps as the poor.

Providing federal subsidies to legal services programs—in other words, giving money to lawyers instead of to the poor—is a particularly striking example of this phenomenon. Nothing could be more certain than that, given money in the form of a guaranteed income, most poor people would spend it on almost anything but legal counsel. Pressing needs like food, clothing, housing and transportation would take priority over the services of an attorney, and most likely more frivolous wants would come first as well. Most people see lawyers as a last resort, not a basic necessity. The legal profession, feeling unappreciated, would like to change that perception, and one way to do so is to overrule the obvious preferences of the poor, arranging things so they have nothing to lose by consulting lawyers and nothing to gain by avoiding them.

Of course the pure rationalist argument against government distribution of goods and services rather than money is too facile. Society has an arguable interest in seeing to it that certain basic needs are met—nutrition and health care, for example—whether or not people would choose to purchase them in the market. And defects in the market system—especially in the quality of information available to consumers—make it especially unlikely that poor people always will be able to act rationally in their own self-interest.

Legal services advocates believe that the ministrations of an attorney represent exactly this kind of basic need which poor people will not realize they suffer from, and which therefore should be provided to them for free to make sure they get it. No doubt there are many occasions when poor people truly get screwed by merchants, landlords and others because they don't know enough to hire an attorney. But there must be just as many other circumstances when the availability of a "free" lawyer will turn another ordinary piece of social friction into a legal dispute. Government legal services for the poor, just like increasing popularity of prepaid legal insurance for the middle class, inevitably will reduce the areas of social life where people are free to interact without the formalities of legal procedures, and without the assistance of lawyers. Few trends are more depressing than the increasingly litigious character of American society and government. Our growing inclination to handle every dispute through our lawyers brings to mind Judge Learned Hand's remark that he feared only death and illness as much as a lawsuit. No less an authority than Thomas Ehrlich, head of Legal Services Corporation, has lamented, "More and more legal pollution is clogging the everyday affairs of all of us. Thickening layers of legalism seem to surround our lives." Ehrlich sees the cause in "too much law." But the blame for too much law can be laid on too many lawyers and their dogmatic reliance on the adversary process as a solution to all social problems.

Lawyers create law; this is another conceptual problem with large-scale government legal services. Legal services lawyers, by and large, do not see their role merely as one of supplying a minor necessary service to the occasional poor person (like, say, a public service dentist). The philosophy of legal services is that bringing poor people into the legal system will lead to a wholescale betterment of their lot—that the adversary system can be a major implement of social change. This is what conservatives object to most about government legal services. Why should their tax dollars be financing efforts to change government policy in ways they may not approve of? But there are other objections that liberals ought to take more to heart. For the government to make social policy by hiring lawyers to file lawsuits is inefficient and undemocratic. The elaborate adversary proceedings of the legal process are no substitute for debate in an elected forum. The very idea that having masses of lawyers available to them can transform the lives of poor people is an example of the sterility of most current thinking about social welfare. Lawyers, psychologists and social welfare bureaucrats of every sort are provided in abundance, while money and jobs are withheld.

None of this is to say that poor people derive no good at all from the legal services program. No doubt there are many who have received valuable and important legal counsel and representation when there was no other answer to a problem. But there are better ways to ensure that the poor have ways of settling their disputes and protecting their rights, such as eliminating the numerous restrictions that prevent competition among lawyers. An even more substantial and far-reaching answer is to avoid reforms that encourage litigation and to nurture those that help people to avoid it, like no-fault insurance, arbitration, and mediation. Changes like these would reduce the need for legal counsel, making all our lives a bit simpler and considerably cheaper.

Mr. HELMS. I thank the Chair.

Mr. STAFFORD. Mr. President, I think the amendment offered by the distinguished Senator from North Carolina (Mr. HELMS) has some attractiveness. But let us take a look at what it might do if that amendment is adopted by the Senate.

Pursuant to congressional direction and funding, the Legal Services Corporation has now completed a 5-year effort to insure a level of legal assistance to low income persons in every county in America. More than 1.6 million clients were provided civil legal assistance pursuant to this effort in 1979 by more than 300 local legal services programs governed by private attorneys and residents of the communities.

The costs for the administration of the Legal Services Corporation has been limited to less than 2 percent of the funds appropriated by Congress which, I think, is an unusually good record. It is unlikely that there is another program in the Federal Government that allocates 98 percent of its appropriated funds for the direct provision of service at the local level.

Inflation tragically hurts the poor. It not only increases the number of persons in need of legal assistance, but it creates additional legal problems—such as foreclosures, evictions and unemployment for those most in need. It is absolutely essential in these times of crisis that low-income persons are guaranteed some minimal level of legal assistance. All evidence indicates that the termination of the Legal Services Corporation will terminate the civil legal assistance to the poor.

Legal assistance is now available to more than 30 million low income persons determined by the 1970 census to have an income at or below the official poverty line.

The private bar cannot possibly meet the needs of the poor for legal assistance. Despite the efforts and encouragement of the American Bar Association, State and local bar associations and the Legal Services Corporation, only a very small percentage of the legal services to the poor are available through the pro bono services of the private bar. State and local funding has also been a very minimal source of funds for legal services. There is no alternative to federally funded civil legal assistance for this country's poor.

The President's budget recommendation—which is the amount in the bill of $321.3 million—reflects the tremendous need for legal assistance to the poor. As we are forced to cut housing, food stamps, and other benefits, we must protect the rights of the poor to receive the remaining benefits. Legal Services make this possible.

I would point out to my distinguished friend from North Carolina that if we adopt his amendment, the additional $21.5 million will be thereby unavailable for achieving the goal of Legal Services Corporation to provide two legal service attorneys for each 10,000 poor people in this country, and that principally the rural areas, such as the rural parts of his State and of my State, which is the most rural State in the country, in the opinion of many, would be those which would be deprived of legal services for the poor.

For those reasons, the Senator from Vermont is unable to support this particular amendment.

I think I can say that in the course of hearings in the subcommittee, on which, frankly, I did not serve, Senator HATCH supported the $321.3 million figure as a compromise which could be supported by the members of the committee.

I yield the floor.

Mr. HELMS. Mr. President, I am ready to vote.

Mr. NELSON. Mr. President, does the Senator from North Carolina have the floor?

Mr. HELMS. I yield the floor.

Mr. NELSON. Mr. President, I am opposed to the reduction from $321,300,000 as is authorized in S. 2337 to the figure of $300 million as proposed by the Senator from North Carolina.

First, let me say the Legal Services Corporation requested $353 million. The President recommended $321,300,000. The budget resolution assumes that the President's request will be adopted, and so the resolution assumes $321,300,000. So it is within the contemplated limit of the budget resolution.

The same is so on the House side. The authorization in the House bill is $321,300,000, because they also adopted the President's figure. The President's figure is an increase which compensates for only a 7 percent inflation rate. The actual inflation rate was over 12 percent last year.

At that inflation rate, just to stay even, to purchase and pay for exactly the same amount of services as the Corporation is now providing, the dollar figure would have to be $335 million, not $321,300,000.

Therefore, there is, in effect, a $14 million cut in this Legal Services Corporation budget.

The plan all along has been to achieve a minimum access plan for the poor, which is defined as two lawyers per 10,000 poor people. We just achieved that level of minimum access this year; or it will be achieved at the current rate this year, 1980.

Therefore, under the proposed Helms amendment we will now begin immediately to cut back on the basic minimum access endorsed and supported by both Houses of Congress and the President of the United States, we would begin cutting back that minimum access in the very year that we have achieved it.

I think a real dollar cut, in effect, of about $14 million is a signficant figure. It meets the spirit and intent of the Congress in cutting back. In fact, most programs in the total budget figure are nowhere near as limited in their percent increase as this one.

Let me quote again from an article written by Mr. James J. Kilpatrick in the Washington Star of Tuesday, June 10, 1980. And let me preface my remarks by saying that everybody who knows Mr. Kilpatrick recognizes him as an able, honest, honorable, thoughtful, conservative with a conscience.

He writes how he originally opposed the Legal Services Corporation. As he puts it:

> The corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation.
>
> These days the Legal Services Corporation keeps a low profile. That was not the image projected by its predecessor outfit, the legal services arm of the now defunct Office of Economic Opportunity.

In the next to the last paragraph he gets to the question of the funding of Legal Services.

These are the words of Mr. Kilpatrick:

> The pending Senate bill would authorize $321.3 million for the corporation in fiscal '81. It is obviously a substantial sum, but it is a seriously needed sum. In the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.
>
> We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying. The preamble to the Constitution pledges a national purpose "to establish justice." Let us get on with the job.

He states the case far more eloquently in behalf of the poor than I can.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in support of the amendment which has been offered by the distinguished Senator from North Carolina.

I might say to my friend from Wisconsin, I am going to quote the Senator's words back to him on a number of other cases in his eulogies to the temperament, the courageousness, the intelligence, the dedication, and the honor of James J. Kilpatrick. We will remind the Senator of that on a number of other issues upon which Mr. Kilpatrick writes.

Because I agree with the Senator that he is all of those things, and a perceptive writer. I am glad to see that the Senator recognizes it. I think he will live to rue the day he said that. But I will be back with that.

Mr. NELSON. Will the Senator yield for a brief comment?

Mr. McCLURE. I yield.

Mr. NELSON. I have a very, very high respect for Mr. Kilpatrick. I read his every column and I watch him on TV. I think he is a wonderful human being; he is very thoughtful.

I would say—and the Senator may quote this back to me, too—that Mr. Kilpatrick and I agree about 80 percent of the time. That is a higher percentage than most of us agree with our wives, including me. But let me say we agree 80 percent of the time; the other 20 percent of the time, Mr. Kilpatrick is wrong. But that is a whale of a record for him to have, in any event.

Mr. McCLURE. I would say if Mr. James J. Kilpatrick were voting in the Senate of the United States, while you might agree 80 percent of the time, your votes would be 80 percent different. And I think that may be the essential distinction.

I regard some of the liberals who write for various publications as being honorable, honest, perceptive, intelligent human beings, too; I just disagree with their conclusions most of the time. Were they in this body and voting instead of writing, our voting records would be 80 to 90 percent opposite, even though I might find them to be intelligent, delightful human beings.

James J. Kilpatrick is not only a delightful human being and an honest, honorable, perceptive columnist, but also a man with whom I agree and, if he were in the Senate of the United States, one with whom I would vote most of the time.

Mr. STAFFORD. Will the Senator yield for a very brief moment?

Mr. McCLURE. I yield.

Mr. STAFFORD. Since the record has now shown agreement with wives, I would like the record to show that the Senator from Vermont and his wife usually agree about 90 percent of the time.

Mr. McCLURE. Well, that indicates that you are much more compatible than most. My wife and I do not always agree —maybe a great deal of the time—and I think the Senator is very fortunate indeed to find that degree of domestic felicity that has been elucidated here this morning.

Mr. STAFFORD. Will the Senator yield further?

Mr. McCLURE. I yield.

Mr. STAFFORD. I should say, my wife told me to say what I have just said.

[Laughter.]

Mr. McCLURE. And that if the Senator had not said it, he would not dare go home.

That is not true, of course.

Mr. President, I am concerned about the fundamental fact that is being demonstrated here today, the assumption that every program of Government, good or bad, must be expanded at least partially to offset the effects of inflation.

The only people in this country who are not indexed against inflation in some degree or another are those who pay the taxes. The recipients of money from Government find the amounts that they receive ever increasing in dollar amounts, even though they may not keep up with inflation. But those who pay the taxes so that those people may receive find their taxes to go up and up and up ever more rapidly than their income. You may say this is only a 7 percent increase, only 7 percent of the inflation, but how about the working men and women who pay that 7 percent increase who find their real income going down?

It is not 7 percent higher than it was last year. It is lower than it was last year. So the incipient idea throughout all the budget struggles is that every program of Government must be increased because there is inflation. And that is why there is inflation. It is because we cannot control the appetite to spend.

I am not against legal service for the poor. The Senator, I am sure, knows that. I have been opposed to the excesses that have, in the past, wracked this program, many of which have been corrected. Perhaps what we are looking at now, in the excesses that are still displayed, are minimal compared to the larger program. They are certainly less obvious now than they were in the past. But they have not been eliminated.

Yes, the poor need services, and some of the services that they need are legal services. But how about the taxpayer who is trying to find a way to avoid paying ever higher taxes, confronted by the IRS claiming he has not paid enough? Who pays his legal bills? If he has a struggle with the IRS, he pays his own legal bills, he pays his own accountant, as well as the taxes to pay somebody else's legal bills.

There has to be somebody somewhere, sometime, concerned about the burden upon the taxpayers of this country. We cannot have a budgetary program that simply says, "All of these Federal programs must be insulated against the effects of inflation." We cannot see justification after justification brought in here on programs that see inflationary adjustments ever upward without recognizing that the root cause of inflation lies in the twin evils of an excessive spending policy by the Congress of the United States and an accommodative monetary policy that funds that spending by printing more money.

You cannot have it two ways. There is no way that you are going to get control of the Federal budget without some discipline on every item in the budget that can be disciplined, and this is one that can be disciplined and ought to be disciplined without cutting into the very fundamental requirements, the laudable and the useful goals of this program.

The Senator from North Carolina, it seems to me, has performed a useful service to this country and to the Senate by pointing out that if we will just hold the line on this program—not destroy it, not emasculate it, not deprive the poor of legal services but just hold the line against the growth of the dollar size in the budget—we would not then be seeing the exercise that we saw in this body yesterday of a "balanced budget" which, if there were any application of the truth in packaging law, would have 63 Members of the Senate going to jail for violation by "packaging" the balanced budget as a balanced budget when, as a matter of fact, everyone in this body knows that budget is not balanced.

Any honest observer of the budgetary reality knows that when we say to the American public that that budget was balanced, we are not telling the truth. If truth in labeling or truth in packaging applied to the legislative enactments, there are a number of criminals in this body. But it does not apply.

We carefully exempt ourselves from onerous provisions of law that might be embarrassing to us. We are not covered by truth in labeling or truth in packaging. So we get by with saying that that bloated budget that was passed here just yesterday is in balance. And even the fact that it is not in balance is covered up. But worse than that, if it comes close to balance it does so at the expense of $100 billion of increased revenue of the Federal Government to come that close to balance, a $100 billion increase in revenues made up, everyone knows, primarily from three resources:

One, the creep in taxation as people try to keep up with inflation, their wages or salaries rising and their getting pushed into a higher bracket of income tax, paying a higher percentage of their income in taxes to the Federal Government. That is about one-third or a little less than one-third of the total amount that will be raised next year in increased revenues to the Federal Government.

And then there is the so-called windfall profit tax that will increase the cost to the consumer of the energy, another conscious policy of the Congress of the United States to drive energy prices up so that people will consume less.

And the third major element in that $100 billion of increased revenue is the massive social security tax increase which will go into effect—guess when? Next January, after the election. Mr. President, you will not feel the bite of that one until after the people who voted for it are safely back in office.

Those are the three major items in the $100 billion increase. There are a lot of other small billions here and billions there and hundreds of millions here and hundreds of millions there to make up the $100 billion increase in spending so that we can say to the public of this country, "We balanced your budget. We have been responsible."

There has been nothing responsible about that exercise. It has been one of the most callous political activities I have seen in years, a balanced budget on the backs of the taxpayers of this country by increasing the burden of taxation at a time when the public and the economy cry out for a reduction in that burden.

If we are unwilling to confront that one fact, program by program, authorization by authorization, appropriation by appropriation, we will never either balance the budget or reduce the burden of taxation.

The Senator from North Carolina is exactly correct in the effort he is making here.

Mr. MATHIAS. Will the Senator yield?

Mr. McCLURE. I yield.

Mr. MATHIAS. Mr. President, I thank the Senator for yielding. I rise for the limited purpose of joining the James Jackson Kilpatrick Fan Club which has been instituted this morning by the Senator from Wisconsin. I agree that Jack Kilpatrick is a columnist of courage and competence. He is a remarkable human being.

Mr. McCLURE. If the Senator will yield, is he going to make a claim that he and Mr. Kilpatrick are in agreement 80 percent of the time?

Mr. MATHIAS. I was not going to try to codify it. I think one of the things that makes James Kilpatrick a great columnist is that he can state a case whether you agree with it or not. That is an important thing. Some columnists are so emotional about what they write and the point of view that they adopt that they are really obscure. You cannot understand what they are getting at.

Jack Kilpatrick can write it so that you can understand the issue even though you may disagree with him.

I think he is remarkable because he can express a great sense of outrage at some public crime or public tragedy, but he is also human in being able to forgive the human foibles of people who may stray a little from the narrow path.

I am glad that the Senator from Wisconsin has taken this occasion to pay tribute to James Jackson Kilpatrick, and I want to be a member of that club.

Mr. NELSON. Will the Senator yield for just a second?

Mr. McCLURE. I am happy to yield.

Mr. NELSON. I wish to say I do not reject anything—in fact, I agree with everything Senator Mathias said. I did not initiate the club this morning. I have been an admirer of James Kilpatrick for years and years and have agreed with him on many important questions, particularly on the constitutional rights and individual rights question, on which he speaks so eloquently.

I did not want Mr. Kilpatrick to read this and think that, at this late date, I became an admirer of Mr. Kilpatrick. I have been an admirer of his for years.

Mr. MATHIAS. Let me say that I shall then join the club nunc pro tunc.

Mr. McCLURE. Mr. President, there are two different clubs that I think might be mentioned here. One is the James J. Kilpatrick Fan Club, which includes a host of admirers of those who, from a different distance and a different perspective, admire him. Then there is the James J. Kilpatrick Voting Club that votes the way James J. Kilpatrick would vote. Those two clubs may have overlapping membership, but the membership is not synonymous. I think that is the essential distinction I would make.

While we may quote him now, this morning, on program—I ordinarily would vote with him, but in this instance, I cannot agree with him. I admire and respect him, but this time I think he is wrong. Most of the time, I not only think he is right, but I vote the way he says, the way he talks, as distinguished from my friend from Maryland and my friend from Wisconsin.

Mr. MATHIAS. If the Senator will yield, I think that in this troublous time in which this country finds itself, it is more important to look for those things upon which we can agree and those things that unite us than those things upon which we may, from time to time, disagree.

Mr. McCLURE. I do not disagree with my friend from Maryland, and I am constantly seeking the areas in which we do agree. I hope to find increasing numbers of such occasions.

Again, Mr. President, on the question of whether or not the Legal Services Administration is doing the job that might be required, I said earlier that I think that the major excesses with which they have been charged in the past have retreated from our consciousness. I think that, indeed, the program, in its administration and its focus, has improved—which is not to say that it is without fault or that it cannot be improved further, so the amendments that some of us have offered and will continue to offer are dedicated not to the destruction of the program but to its improvement. That is a statement that I hope is at least as acceptable to the sponsors of the legislation as is the expression on James J. Kilpatrick, for whom I want again to express my admiration.

But there are those who disagree with both Mr. Kilpatrick and the junior Senator from Idaho, who point out the waste in the program and the burden of taxation in the sense that the program ought to be totally eliminated. While I do not agree with that point of view, I, nevertheless, think it is a valid point of view that ought at least to be expressed.

Very recently, Mr. President, a reporter who has been an observer of the scene for quite a little while has published a book delineating his horror at what he has found to be the waste in the Federal programs. I refer to the book, "Fat City," by Donald Lambro. The subtitle of the book, "Fat City," is "How Washington Wastes Your Taxes."

Mr. HELMS. Will the able Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. HELMS. Mr. President, I left the floor for a moment. I wanted to make a telephone call to see if my friend, Jack Kilpatrick, had expired during the night. This debate, including so many well-deserved words of praise for Jack, led me to wonder if memorial services were being conducted on the floor. But I am assured his pulse is still strong and that his spirit is as vigorous as ever.

I shall tell Jack about the nice things my fellow Senators said about him when I travel to Raleigh with him tomorrow. Jack will be speaking in Raleigh and I am going to introduce him. He will be pleased that his friends, MAC MATHIAS, and GAYLOR NELSON praised him on the floor.

I do not know whether Jack has a fan club. He deserves one, and I would like to be a charter member, no matter what the dues may be.

However, I wonder if the Senator from Maryland has read the James Jackson Kilpatrick column of this morning in the Baltimore Sun.

Mr. MATHIAS. No, Mr. President, I have not had an opportunity. I have been working for my constituents from dawn this morning, and I have not had a chance even to pick up a newspaper yet. I look forward to that opportunity.

Mr. HELMS. Mr. President, in his column today, Mr. Kilpatrick describes what he calls a fiasco in Baltimore known as the White House Conference on Families. He wrote, at one point in his column:

> And whaddya know? The Baltimore Conference wound up with resolutions calling for ratification of the Equal Rights Amendment, elimination of discrimination against homosexuals, national health insurance and abortion on demand. Another resolution demanded a guaranteed annual income for poor families, at a minimum of $13,000 a year for a family of four. All told, 57 resolutions were adopted. Most of them were whooped and hollered to approval by overwhelming votes.

Mr. MATHIAS. Mr. President, I am glad, yes, I am very happy to hear that Mr. Kilpatrick has called attention to that conference. I felt that President Carter missed a great opportunity on that occasion. President Carter addressed the conference in Baltimore and he talked about the effect of laws that disrupt families. But the one thing that President Carter did not call attention to was the disruptive effect of the tax laws on families. I had occasion to tell the President immediately after his speech that he had just gone right to the edge, but had then drawn back from endorsing the Mathias bill to repeal the marriage tax.

I wish the President had gone a little further and done that one useful thing, which I am certain James Jackson Kilpatrick would have endorsed, and it would have given him something good to write about on that conference.

Mr. HELMS. If the Senator will yield, let me read the concluding paragraph of James Jackson Kilpatrick's column of this morning in the Baltimore Sun. He says:

> It may be a mistake—I am uncertain—to dignify these nonevents by writing about them.

Mr. MATHIAS. Will the Senator yield for a very parochial matter?

Mr. HELMS. Yes, Mr. President, but I wanted to ask the Senator if he agrees with this column. Is this column in the 20 percent category which has been mentioned today, or the 80 percent?

Mr. MATHIAS. Mr. President, the Senator keeps referring to the Baltimore Sun. I want to tell him it is the Bal'mer Sun.

Mr. HELMS. Please forgive me. I have not quite mastered Bal'merese.

Mr. McCLURE. There is no "t" in it.

Mr. HELMS. The Senator will remember, before I was interrupted, I was reading what Mr. Kilpatrick says:

> It may be a mistake—I am uncertain—to dignify these non-events by writing about them. But to ignore them would be to condone a false impression that the Conferences on Families truly are representative bodies. They are not. They represent a shrill minority of social activists who have little but contempt for the values most of us associate with "family." They are running the three summer shows. Let us hear the applause: Clap. Clap. Clap.

I find myself in thorough agreement with that.

As for Jack Kilpatrick's recent column concerning the Legal Services Corporation, it seems to me that some years ago, he made the mistake of endorsing this organization and then, later, came back with an intellectually honest mea culpa. He said, "I'm sorry, I was wrong."

That is one of the many virtues of Jack Kilpatrick: When he is wrong, he admits it. He does not have a closed mind. And I think that after he reads the record and learns the details of how the Legal Services Corporation is operating across this country, he may well change his mind again.

Mr. President, back to the amendment. All we are asking is to hold the spending of this organization next year to what it is this year. Do not increase it, do not cut it. That is a fair proposition, and I hope the Senate will approve the amendment.

I thank the Senator for yielding.

Mr. McCLURE. Mr. President, I thank the Senator from North Carolina for the addition, and if we can change the focus for a moment, away from the James J. Kilpatrick Fan Club and the James J. Kilpatrick Voting Club back to the Legal Services issue, I was talking a moment ago about a book that had been written by a Donald Lambro, entitled "Fat City, How Washington Wastes Your Taxes."

I think it might be helpful to Members of the Senate, who may not be familiar with the background of Mr. Lambro and his credentials, to repeat them.

He is a Washington correspondent for United Press International, has covered Congress, national politics, and the Federal bureaucracy for more than a decade. He was journalism graduate of Boston University, he began his career with the Boston Herald-Traveler, later joining UPI in Hartford, Conn., where he covered the State Legislature.

Since 1977 Mr. Lambro has been permanently assigned to uncover waste and mismanagement in the Federal Government. His highly acclaimed exposés have ranged over the entire bureaucracy. The Washington Post has described him as "a one-man search-and-destroy mission against Government waste." An earlier book, "The Federal Rathole," won rave reviews in 1975.

In addition, his articles have appeared in hundreds of newspapers and numerous magazines and journals, including Reader's Digest, Parade, the Washingtonian, Policy Review, and Inquiry.

Mr. President, I recite that background only because he is not a novice. He is not unknown to the scene. He is not a newcomer to critical review of Federal spending. Therefore, we should listen with a little bit more than passing interest to what he has said.

At the outset, while I do not agree with his entire conclusion, I, nevertheless, think what he says is worth remarking.

In that book "Fat City," he has listed a number of programs which he believes are wasteful, demonstrably wasteful of taxpayers' funds. He goes through paragraph by paragraph illustrating where, indeed, the money has been wasted and how it could be saved.

On page 332 of the book, and for the next several pages after that, he analyzes program 82, Legal Services Corporation, $300 million.

Mr. President, I ask unanimous consent that the excerpt from the book "Fat City" be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

FAT CITY

> Those who support this program—a great proportion of whom, not surprisingly, are attorneys—believe that no one can survive in this world without lawyers. The fact that most people go through their entire lives without ever needing legal assistance of any kind leaves such people incredulous. They equate legal services with such things as food, shelter, and health care, the essentials of life which the government quite properly provides for the poor. The need for legal services, however, is another matter altogether, one which has never been shown to be necessary.
>
> The very premise of this program is wrong. Those who support its existence never bother to question whether the poor would prefer to forego this and perhaps other federally-funded services in favor of increased income to spend on what they themselves deem necessities. This is why legal services is government paternalism at its worst. If the poor were given more money, instead of this service, they would no doubt go out and spend it on things they need more, clothing, transportation, rent, fuel, or education—needs that have nothing to do with the legal profession.
>
> This agency does nothing to either improve the grim day-to-day lives of the truly poor, or perhaps more to the point, help them to rise out of their circumstances. Indeed, it assumes the poor will always remain in their disadvantaged state in order to provide em-

ployment for a corps of government-paid attorneys who are ready to litigate at the drop of a tort.

In truth, legal services is nothing more than an employment program for lawyers. Writer Stephen Chapman, in an excellent analysis of the program in the New Republic, called it "a Humphrey-Hawkins bill for the legal community." With the nation's law schools churning out thousands of lawyers each year, this program is expected in the coming years to absorb the growing excess of would-be barristers. The Labor Department estimates that by 1985 at least 100,000 lawyers will be unable to find employment in their chosen profession.

Thus, there is, as Chapman points out, a brilliant deviousness behind the entire concept of legal services:

"While siphoning off some of the overflow from the nation's law schools, the legal services program presents no competitive threat to private attorneys. The point of legal services, after all, is to offer legal counsel to those who wouldn't otherwise purchase it; thus, it doesn't take away clients from other lawyers. The LSC expands the job market for lawyers by furnishing a steady flow of federal money, making its lawyers dependent not on demand from clients but on simple bureaucratic momentum.

"Lawyers profit from legal services in other ways. If a poor woman sues her landlord, thanks to the advice of a legal services lawyer, someone has to defend the landlord. The beauty of creating a demand for lawyers by offering them "free" is that for every poverty lawyer who starts or threatens litigation on behalf of a client, at least one more lawyer (and possibly more) will be needed to represent the other side. Even if the legal services lawyer prefers to settle the matter without going to court, the defendant—landlord, businessman, manufacturer, local government or whatever—well may require legal advice about the respective obligations and rights."

As a federally-subsidized job-placement program for the nation's growing force of attorneys, Legal Services started small but is becoming immense. In 1965 the Office of Legal Services was created within the antipoverty program's Office of Economic Opportunity and budgeted at a mere $1.3 million a year. But when Congress turned it into an independent corporation in 1974, Legal Services quickly set about to realize its goal of providing two poverty lawyers for every 10,000 poor people. By 1975 LSC's yearly budget had grown to $90 million, leaped to $157.4 million by 1978, and then zoomed to $261 million in 1979. By fiscal 1980 LSC was asking Congress for a budget of $337.5 million, a massive $67 million increase over the previous year. Congress, however, approved a flat $300 million budget which still represented a $39 million hike over 1979. Its growth is a classic example of a federal program begun by Congress with a budget no one could argue with and then sharply increased over a period of years after the program has all but been forgotten.

Legal Services has reached their goal of two lawyers per 10,000 poor people, but of course it isn't satisfied. Now it wants to double that, insisting that four legal services attorneys per 10,000 poor people is the "absolute minimum" needed. To finance that minimum would cost an estimated $875 million a year.

Meanwhile, an examination of what is being spent on this massive and costly program strongly suggests that taxpayers aren't getting much for their money.

Over the past four years about 80 percent of all cases handled by this agency have involved four major types of problems: family-domestic problems, 35 percent; administrative proceedings, 15 percent; consumer complaints, 15 percent; and housing, 15 percent. The remaining 20 percent of the cases falls into the "other" category—which can include a variety of problems.

But an analysis of the underlying figures indicates LSC isn't really reaching that many people.

In 1978 LSC estimated it handled 1.4 million cases for the poor which they numbered anywhere from 30 million to a high of 60 million. If the lowered povery figure is used, that means LSC lawyers reached only 4 percent of the nation's poor. If the higher poverty figure is used (a number that most people would find preposterous) poverty lawyers reached only 2 percent of the nation's poor. Whatever poverty population figure is used, an extremely small number of poor people are actually being touched by this program.

Far more revealing, however, are the agency's own statistics on what actually makes up these 1.4 million "cases." While one may think the bulk of the work of this agency involves a lawyer actually representing poor clients before a court or administrative proceeding of some type, only 20.7 percent of all cases in 1978 involved an appearance in court. More than 30 percent of all cases involved "advice only," while 9.3 percent of all cases involved "referral to another attorney or program." Another 4.8 percent of the cases involved "referral to nonlegal agency." Almost 4 percent of the cases were "handled solely by telephone." And 17 percent involved a "negotiated settlement out of court."

Thus, we can see that Legal Services not only reaches a relatively few number of poor people, but that one-half of those reached get little more than advice. But advice, particularly from lawyers, doesn't come cheap. Nearly 70 percent of LSC's budget is consumed by salaries which can range from a low average of $15,000 up to a high of $35,000 or more a year for Legal Services lawyers.

Meanwhile there is also reason to question the value of the other 50 percent of the cases actually involving legal representation and advocacy as well as other LSC activities being funded by tax dollars. For LSC is deeply involved in a lot more than just providing legal services to the poor. A great deal of their support from the taxpayer has been paying for legal suits against state and municipal governments for a wide range of social and political goals which have nothing to do with improving the lives of the poor. In fact, Legal Services attorneys have been in the vanguard of "social activist" battles, lobbying in behalf of legislation, working to overturn laws, encouraging rent strikes, boycotts, and aiding partisan political organizations and other political and social causes.

In the legal journal, Clearinghouse Review, which is supported by LSC funds, two lawyers who worked for an agency funded by Legal Services told how tax dollars can be used for these types of activities and how they expected further Legal Services funding to support their goals of redistributing wealth in the United States through political and social reform. Authors Alan Rader and Dorothy Lang provided this advice to LSC-financed lobbyists:

"To lobby local government effectively, we will have to learn, for a beginning, the demographics of local politicians' districts, their campaign contributors, their voting records, their staff assistants, the social service facilities and agencies within their districts, and labor, church, and civic groups within their districts."

In a column discussing this article, Phyllis Schlafly wrote:

"These Legal Services lawyers frankly admit that they are working 'toward long-range institutional change,' that their goals 'are explicitly distributive,' and that they are developing 'broad legislative and administrative advocacy strategies.' "

But Schlafly asks:

"Is it legal for taxpayer-financed lawyers to lobby for or against specific legislation or referendums? The Legal Services Corporation Act specifically prohibits 'advocating, or opposing any ballot measures, initiatives or referendums.' "

However, the two lawyer-authors advise their colleagues that a loophole in the LSC's law says an attorney "may provide legal advice and representation as an attorney to an eligible client with respect to such client's legal rights."

"So," Schlafly wrote, "under the subterfuge of providing 'advice and representation' to a 'client,' Legal Services Corporation uses our tax dollars for lobbying, media manipulation and politicking for or against ballot measures."

In an editorial on Feb. 3, 1979, the New Republic correctly observed that Legal Services was "intended to help the poor when they unavoidably get caught up in the complex legal machinery of modern society—in divorces, disputes with landlords, tussles with the welfare bureaucracy, etc. But too often legal aid lawyers use poor people as guinea pigs in an attempt to impose through the courts some fanciful middle-class view of social justice."

As an example of the kinds of suits LSC is funding, The New Republic was particularly distressed over one lawsuit in California against the state university "to stop research aimed at improving agricultural productivity."

The suit by the LSC-funded California Rural Legal Assistance against the University of California was sparked by the university's development of labor-saving farm machinery which, LSC lawyers argued, contributed to agricultural unemployment and the demise of the small family farm.

But as the magazine viewed it:

"To oppose research aimed at increasing productivity is simply insane . . . A life spent stooping to pick fruit under the California sun is not so rewarding that we should rush into court to reserve places in the fields for the children of this generation of farm workers."

Surely the more sensible approach would be to provide job training for displaced farmworkers so that they could pursue more rewarding and perhaps less back-breaking employment. The New Republic editorial concluded, "This lawsuit is another example of the misuse of government legal services."

This example, unfortunately, is not an isolated aberration on the part of Legal Services. They also financed the lawsuit by the Passamaquoddy and Penobscot Indian tribes to reclaim two-thirds of the state of Maine, an action that is still being litigated and which will cost the state's citizens millions of dollars. LSC lawyers have also lobbied aggressively against utility rate increases, pushed for income tax reforms, and as we pointed out in Chapter IV, have involved themselves in cases concerning hiring policies, welfare reform, food stamp regulations, student rights, and school discipline problems. Furthermore, Charles Fields, assistant director of national affairs for the American Farm Bureau Federation, has charged that Legal Services lawyers have even helped to organize farm workers' unions in California, Florida, the Midwest, and New Jersey.

Much of this social and political advocacy is performed by various institutes, law centers, nonprofit research organizations, and other public interest groups who receive millions of dollars each year in research funding from LSC.

All of this has led groups like the Farm Bureau to call for abolishing the entire program and replacing it with a system in which the poor would receive vouchers they could use to pay for private lawyers whenever needed.

In his New Republic article, Stephen Chapman observed:

"The legal services program may be the most extreme example of the paternalism of the American welfare state: denying the poor what they explicitly lack—money—in favor of the goods and services the government thinks they should have, in the amount and proportion it deems appropriate. There is much validity in the libertarian argument that this approach denies the poor both the freedom to decide their own needs and the responsibility, essential to individual independence and self-reliance, to accept the consequences of such decisions."

Chapman goes on to point out that Legal Services lawyers "do not see their role merely as one of supplying a minor necessary service to the occasional poor person." Instead, they see within Legal Services.

". . . that the adversary system can be a major implement of social changes. This is what conservatives object to most about government legal services. Why should their tax dollars be financing efforts to change government policy in ways they may not approve of? But there are other objections that liberals ought to take more to heart. For the government to make social policy by hiring lawyers to file lawsuits is inefficient and undemocratic. The elaborate adversary proceedings of the legal process are no substitute for debate in an elected forum. The very idea that having masses of lawyers available to them can transform the lives of poor people is an example of the sterility of most current thinking about social welfare. Lawyers, psychologists, and social welfare bureaucrats of every sort are provided in abundance, while money and jobs are withheld."

For Chapman, there are better ways to ensure that the poor have ways of settling their disputes and protecting their rights, such as "eliminating the numerous restrictions that prevent competition among lawyers"—which would result in lower fees and, thus, more affordable services. "An even more substantial and far-reaching answer is to avoid reforms that encourage litigation and to nurture those that help people avoid it, like no-fault insurance, arbitration, and mediation." Expanded access to small claims courts would also help the poor, as well as the general population, deal more efficiently with housing, consumer, and similar types of complaints without the need of an attorney.

This program has grown obscenely within recent years. Much of its growth had been channeled into social and political activism and lawsuits Congress never envisioned, reforms that have not measurably impacted upon the real life struggles of the poor, reforms which should be made in our legislatures, not in our courts by federally-paid lawyers.

LSC didn't get the full $337.5 million it wanted in fiscal 1980. But it is a safe bet that in future years this agency will want more and will get more of our money. Indeed, when former LSC president Thomas Ehrlich was asked about the likelihood that Legal Services would eventually be representing criminal defendants, he said, "Five to 10 years down the road we ought to address the problem."

Legal Services is a program that has been rife with abuse, becoming in recent years a tax-supported agency that has financed legislative lobbying and social and political advocacy. It has become a costly vehicle for political and social crusaders while taxpayers—including the poor—are left to foot the bill.

As we have seen, a relatively tiny number of poor people are touched by this program, for all the millions of dollars that it has spent. It should be abandoned.

Mr. McCLURE. Mr. President, I will quote from that for just a moment.

I refer to a quotation included within his book which quotes from another article in New Republic by Stephen Chapman, who said among other things that "lawyers profit from legal services in other ways."

Not just in salaries they receive directly. The quotation continues:

> If a poor woman sues her landlord, thanks to the advice of a legal services lawyer, someone has to defend the landlord. The beauty of creating a demand for lawyers by offering them "free" is that for every poverty lawyer who starts or threatens litigation on a client, at least one more lawyer (and possibly more) will be needed to represent the other side. Even if the legal services lawyer prefers to settle the matter without going to court, the defendant—landlord, businessman, manufacturer, local government or whatever—well may require legal advice about the respective obligations and rights.

That is a quotation from Mr. Lambro's book, quoting from an article in New Republic by Stephen Chapman.

It goes on on the same page of that book to say what I think is the essential tracing of the growth of the program:

> In 1965 the Office of Legal Services was created within the antipoverty program's Office of Economic Opportunity and budgeted at a mere $1.3 million a year. But when Congress turned it into an independent corporation in 1974, Legal Services quickly set about to realize its goal of providing two poverty lawyers for every 10,000 poor people. By 1975 LSC's yearly budget had grown to $90 million, leaped to $157.4 million by 1978, and then zoomed to $261 million in 1979. By fiscal 1980 LSC was asking Congress for a budget of $337.5 million, a massive $67 million increase over the previous year. Congress, however, approved a flat $300 million budget which still represented a $39 million hike over 1979. Its growth is a classic example of a federal program begun by Congress with a budget no one could argue with and then sharply increased over a period of years after the program has all but been forgotten.
>
> Legal Services has reached their goal of two lawyers per 10,000 poor people, but of course it isn't satisfied. Now it wants to double that, insisting that four legal services attorneys per 10,000 poor people is the "absolute minimum" needed. To finance that minimum would cost an estimated $875 million a year.

Mr. President I think the Senator from North Carolina is exactly right. I do not think it will cripple or emasculate the program. It might even redirect the efforts of legal services into the legitimate channels which we all support and lead them to remove themselves from the few remaining areas in which we find their activities both unsupportable and, in some instances, in my opinion, illegal.

For that reason, I hope Members of the Senate will join in accepting the amendment of the Senator from North Carolina.

To those who really and truly want a balanced budget, who really and truly are concerned about the burden upon the taxpayers of this country, the burden of taxation, who are really and truly concerned about regenerating the economy so that we can get away from the rising joblessness in this country and do something about the rate of inflation, high interest rates, without doing it at the price of higher unemployment rates, we will take this one small step toward fiscal responsibility by adopting the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Idaho for his generous comments.

Mr. President, I ask unanimous consent that the column by Mr. Kilpatrick be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE FIRST SUMMER FIASCO

The first of the summer's little fiascoes wound up in Baltimore last weekend, precisely according to plan: Fiasco No. 2 will follow in Minneapolis next Thursday, Fiasco No. 3 in Los Angeles in July. When the charades are complete, $3,000,000 in tax funds will have gurgled down the drain.

These gaudy exercises are known as the White House Conferences on Families. They follow in the glorious pattern laid down at Houston in November, 1977, when a gaggle of man-eating females brought off the International Women's Year. The IWY wound up with a laundry list of liberal resolutions, all of which could have been predicted months in advance.

And whaddya know? The Baltimore Conference wound up with resolutions calling for ratification of the Equal Rights Amendment, elimination of discrimination against homosexuals, national health insurance and abortion on demand. Another resolution demanded a guaranteed annual income for poor families, at a minimum of $13,000 a year for a family of four. All told, 57 resolutions were adopted. Most of them were whooped and hollered to approval by overwhelming votes.

The Baltimore Conference had been stacked, packed and rigged to produce these prepared affirmations. Fiasco No. 2 and Fiasco No. 3 will follow the identical scripts. By mischance, a corporal's guard of conservatives had slipped through the liberals' defense and taken seats as the Baltimore conclave began. They were swiftly identified by the Washington *Post* as "arch-conservatives," and were routed horse, foot and dragoons. (In the columns of the *Post* no liberal is ever "arch." Only conservatives are "arch.")

Do the resolutions of Baltimore accurately reflect the views and wishes of typical American families? The notion is balderdash. Some of the resolutions, to be sure, were innocuous—cotton candy resolutions, spun of good intentions. The substantive resolutions were a distillation of every liberal nostrum ever concocted for a relief of real or imaginary social ills.

Most of the delegates to the three summer conferences were named at state conferences. Here and there, as in Virginia and Oklahoma, conservatives stole an early march on the liberals and managed to infiltrate the state delegations. Perceiving this effrontery, the manipulators and stage managers marshaled a second line of defense. They lined up a cohort of delegates who would not be elected, but rather would be appointed.

The tactic assured the promoters that whatever might go awry in a few state conferences, the regional fiascoes would stick to the prepackaged agenda. A National Advisory Committee, on which liberals outnumbered conservatives by 10 or 20 to one, kept an indulgent eye upon the state proceedings. A professional staff saw to the genteel strangulation of dissent.

The Wisconsin state Conference on Families, held at Madison in mid-March, provided a model. The sponsors thoughtfully scheduled the voting sessions on a Monday and Tuesday, thus eliminating 90 percent of those families whose breadwinners have to go to work in the morning. Professional "facilitators" shaped the various workshops according to a desired "consensus." Disagreement was relentlessly suppressed.

To judge from eyewitness accounts, the Wisconsin affair had Orweillian overtones. One feature was a "Kiddy Kaucus," at which children staged an impressive recitative. A leader asked, "Who are you?" The children chanted in reply, "I am the greatest!" And Where are you? "In the universe!" Where are you going? "To bend history!" Any child over 12 was permitted to participate fully in the conference, and had voting rights on the floor.

It may be a mistake—I am uncertain—to dignify these non-events by writing about them. But to ignore them would be to condone a false impression that the Conference on Families truly are representative bodies. They are not. They represent a shrill minority of social activists who have little but contempt for the values most of us associate with "family." They are running the three summer shows. Let us hear the applause: Clap. Clap. Clap.

Mr. HELMS. Mr. President, I am ready to vote.

Mr. NELSON. Mr. President, if I may take a minute to comment, the committee is opposed to this cut. We did consider the whole issue very carefully in the committee and concluded that this level recommended by the President was, we thought, as tight a budget as we could design, and at the same time assure legal services to the poor, pursuant to the objective which Congress has reaffirmed its support of several times—two lawyers for every 10,000 poor people.

I point out that Senator Hatch, who has credentials as fiscal conservative, supported the figure in committee after we had given it careful analysis. So it is not just some inflationary figure that a group of big spenders had agreed upon. We all agreed cn this figure in the committee. I think there may have been two members of the committee who opposed the bill. Otherwise, we all agreed upon this figure.

Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Hawaii (Mr. Matsunaga), the Senator from Illinois (Mr. Stevenson), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "nay."

Mr. TOWER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Iowa (Mr. Jepsen), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from Wyoming (Mr. Simpson), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) would vote "yea."

The PRESIDING OFFICER (Mr. Ford). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 29, nays 41, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—29

Bentsen
Boren
Byrd, Harry F., Jr.
Cohen
Dole
Domenici
Ford
Garn
Goldwater
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Lugar
McClure
Melcher
Mitchell
Morgan
Proxmire
Randolph
Roth
Schweiker
Stennis
Thurmond
Tower
Warner
Young
Zorinsky

NAYS—41

Baucus
Bayh
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Cochran
Cranston
Danforth
Durenberger
Durkin
Exon
Glenn
Hart
Hatch
Hatfield
Heinz
Hollings
Jackson
Javits
Levin
Mathias
McGovern
Metzenbaum
Moynihan
Nelson
Nunn
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Stafford
Stone
Wallop
Williams

NOT VOTING—30

Armstrong
Baker
Bellmon
Cannon
Church
Culver
DeConcini
Eagleton
Gravel
Inouye
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Long
Magnuson
Matsunaga
Packwood
Pell
Percy
Pressler
Simpson
Stevens
Stevenson
Stewart
Talmadge
Tsongas
Weicker

So Mr. Helms' amendment (UP No. 1136) was rejected.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, does the Senator from New Hampshire wish to speak?

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

UP AMENDMENT NO. 1137

(Purpose: To prohibit grants by the Corporation to provide legal assistance relating to abortion)

Mr. HUMPHREY. Mr. President, I send to the desk an amendment on behalf of myself, Senators Garn, Helms, and Schweiker.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. Humphrey) on behalf of himself and others proposes an unprinted amendment numbered 1137.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 15, insert the following:

Sec. 3. Section 1007(b)(8) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)(8)) is amended to read as follows:

"(8) to provide legal assistance with respect to any proceeding or litigation which relates to abortion;".

Mr. HUMPHREY. Mr. President, just before the last vote Senator Helms and Senator Mathias engaged in a good-natured dialog, engaged in some humorous banter. But we turn now to a much more serious topic and a much more serious aspect of this legislation, the aspect involving the issue of abortion.

In my view there is no more serious issue before us in modern times than the issue of abortion. I realize there are many opinions about it.

Mr. NELSON. Mr. President, there is so much undertone of talking that the Senate is not in order.

The PRESIDING OFFICER. The Senator makes a good point. The Senate will come to order. The Senator from New Hampshire is entitled to be heard. The Chair will ask Senators and aides to refrain from conversation.

The Senator may proceed.

Mr. HUMPHREY. I thank the Senator from Wisconsin.

There are divided opinions on this issue, Mr. President, but I think most Americans will agree that dollars extracted from the taxpayers should not be used, first of all, to fund abortions. We generally agree on that in Congress, but going beyond that I think most Americans would agree that tax dollars should not be used to lobby or through litigation to try to change American values or to bring about things that Congress itself is not willing to enact or change.

Yet we see that all the time through the agency of many Federal divisions and subdivisions. We see tax dollars being used to try to overturn existing values even though in many cases, as is the case with the Legal Services Corporation statute, there is language which was at least intended to proscribe that kind of activity.

However, we find in this case of the Legal Services Corporation that those who are charged with the responsibility for that program have interpreted the statute very, very narrowly, so narrowly that, in fact, they can be fairly accused, I think, of using the backdoor approach to get around the proscription that Congress originally intended.

Mr. President, my amendment would both clarify and strengthen the language relating to abortion in the Legal Services Corporation Act as it now stands. The current language reads as follows:

> No funds made available by the Corporation under this chapter, either by grant or contract, may be used to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individuals or institution to perform an abortion or assist in the performance of an abortion or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

Mr. President, my amendment would replace this language with a flat prohibition that Corporation funds could not be used "to provide legal assistance with respect to any proceeding or litigation which relates to abortion."

This change is necessary primarily because the Legal Services Corporation insists upon interpreting the original language very narrowly so that Legal Services lawyers' inclinations to defend the so-called right to abortion are hardly impeded. True, Legal Services lawyers cannot work to compel recalcitrant practitioners and facilities to perform abortions when such counters their morals or the moral rules of the House. Still, Legal Services Corporation lawyers feel free to bring cases against all levels of Government to force funding for abortion. In Stopczynski against Governor of Michigan, Michigan Legal Services represented amici. This case allowed Michigan to fund nontherapeutic abortions even though the appropriations bill did not provide funds for them. This case was cited in the February 1980 issue of Clearing House Review. In this same issue, there is a report of a similar case. In Planned Parenthood Affiliates of Ohio against Rhodes, the Ohio State Legal Services Association assisted in a case that brought a temporary injunction against Ohio restrictions on medicaid abortion reimbursements.

Legal Services lawyers work other angles as well. In Doe against Jennings, Neighborhood Legal Services of Pittsburgh won a motion to compel a Pennsylvania jail to transport an inmate to a local hospital for an abortion. Staff attorneys at the National Center for Youth Law are currently representing plaintiffs in two cases challenging the imposition of parental notification requirements upon minors who are seeking public funding for abortions.

Abigail English, an LSC staff attorney in San Francisco has commented that:

> It is important that legal services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements, either through legislative advocacy or through litigation.

That bears focusing on a little further, Mr. President. Here we have a person who is an LSC staff attorney, receiving her salary, certainly at least in part, from Federal tax dollars, stating that it is important that Legal Services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements either through legislative advocacy or through litigation. She may regard that as burdensome, but I do not, and I do not think most American parents would regard it as a burdensome requirement, that before their daughter was to receive an abortion that they be notified. It is an outrageous situation.

Mr. President, I ask unanimous consent to have printed several pages from the Clearing House Review of February 1980 which more fully describes the views of Abigail English, San Francisco attorney of the Legal Services Corporation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BELLOTTI v. BAIRD: A MINOR'S RIGHT TO CONSENT TO ABORTION

On July 2, 1979, the United States Supreme Court issued its second opinion in *Bellotti* v. *Baird*, 99 S. Ct. 3035 (1979), a case involving the scope of minors' rights to consent to abortions independently of their parents. The case is one of considerable significance, not only with regard to minors' rights to consent to abortions and to control their own reproductive capacity, but also with respect to the broader issues of parental prerogatives, children's autonomy and the respective roles of parents and children in making critical decisions affecting the children's lives.

The Court's recent opinion in *Bellotti* invalidates on constitutional privacy grounds a Massachusetts statute, initially passed in 1974, which required parental consent for an abortion performed on a female under 18 years of age, or which in the alternative required that if parental consent could not be obtained, the surgery could be authorized by a superior court for good cause shown. Mass. Gen. Laws Ann. ch. 112, § 12S (West). In 1975 the United States District Court in Massachusetts invalidated section 12S as unduly burdensome on the privacy rights of pregnant minors. *Baird* v. *Bellotti*, 393 F. Supp. 847 (D. Mass. 1975) (three-judge court). The following year the United States Supreme Court decided both the appeal in *Bellotti* and another case which concerned the privacy rights of minors in the context of parental consent requirements for abortion. In *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52, 96 S.Ct. 2831 (1976), the Court held that the state cannot authorize an absolute parental veto over the decision of a minor to terminate her pregnancy, thus invalidating a Missouri statute which, without exception, required parental consent for all abortions performed upon minors. In *Bellotti*, however, the Court refrained from holding section 12S of the Massachusetts statute unconstitutional and instead concluded that the district court should have abstained from rendering a constitutional ruling and should have certified the statute to the Supreme Judicial Court of Massachusetts for an authorizative interpretation. *Bellotti* v. *Baird*. 428 U.S. 132, 96 S.Ct. 2857 (1976). In so ruling, the Court suggested that the statute might well be susceptible of an interpretation which would cure its apparent constitutional defects:

> "The picture thus painted by the respective appellants is of a statute that prefers parental consultation and consent, but that permits a mature minor capable of giving informed consent to obtain, without undue burden, an order permitting the abortion without parental consultation, and, further, permits even a minor incapable of giving informed consent to obtain an order without parental consultation where there is a showing that the abortion would be in her best interests. The statute, as thus read, would be fundamentally different from a statute that creates a 'parental veto.' 428 U.S. at 146, 96 S.Ct. at 2865."

Following the issuance of an opinion construing section 12S by the Supreme Judicial Court of Massachusetts, *Baird v. Attorney General*, 371 Mass. 741, 360 N.E.2d 288 (1977), the district court once again invalidated the statute as constitutionally infirm. *Baird v. Bellotti*, 450 F.Supp. 977 (D. Mass. 1978) (three-judge court). The constitutional defects which the court identified were that: (1) the statute required parental notice in every case regardless of the maturity or best interests of the minor, (2) the statute permitted the judge to veto the decision of a minor to obtain an abortion even if she had been found capable of giving informed consent, and (3) the statute suffered from formal overbreadth in failing explicitly to inform parents that they must consider only the best interests of the minor in granting or withholding consent. The state appealed, the district court's decision. The United States Supreme Court noted probable jurisdiction and, in July of 1979, finally reached the merits of the case.

The Court divided sharply and there was, in fact, no majority opinion. Eight justices agreed that the Massachusetts statute was constitutionally invalid, but they split 4-4 over the reasons leading to the result. Justice Powell wrote the opinion of the Court, in which he was joined by the Chief Justice and Justices Stewart and Rehnquist, stating that section 12S was unduly burdensome on the privacy rights of minors in that it required notice to be given to parents in every case, regardless of the maturity of the minor and regardless of whether it would be in her best interests for her parents to know of her pregnancy and her decision to obtain an abortion. Justice Stevens wrote a concurring opinion, in which he was joined by Justices Brennan, Marshall, and Blackmun, stating that the Court need not reach the issue of whether parental consultation or notification could be required in every case since the Massachusetts statute was otherwise defective in providing for an absolute third-party (*i.e.*, court) veto of the minor's abortion decision. Justice White dissented.

In analyzing the issues, Justice Powell made clear that the constitutional rights of minors are not and cannot be equated with the corresponding rights of adults. The reasons for this are threefold: (1) the "peculiar vulnerability" of children; (2) their inability to make critical decisions in an informed, mature manner; and (3) the importance of the parental role in childrearing. 99 S. Ct. at 3043.[1]

The attitude of a number of the justices toward encouraging parental involvement in important decisions is clearly favorable. There are at least three members of the

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[1] Each of these factors provides a basis for the Court to avoid recognition of a particular constitutional right which children's advocates may be seeking to establish for their clients, and the Court is showing an increasing tendency to romanticize the parental role to an extent which could significantly limit the expansion of minors' constitutional rights in the future. See. *e.g.*, Parham v. J.R., 99 S. Ct. 2493 (1979), in which the Court affirmed parents' virtually unlimited authority to commit their children to state mental hospitals on the basis of a presumption that parents generally act for the best interests of their children.

Court who, with respect to minors' decisions concerning their reproductive capacity, would support a requirement of parental notification or even parental consent. Justice White dissented in the recent *Bellotti* case. Justice Stevens, while he concurred in the result in *Bellotti*, has elsewhere suggested that he is supportive of parental consultation on these issues; Justice Stevens also dissented in *Danforth, supra*. And Justice Rehnquist stated that, while he had joined the opinion of the Court in *Bellotti* in order to provide guidance to judges around the country with respect to this difficult issue, he would be in favor of overruling *Danforth* and permitting the imposition of parental consent requirements on the abortion decision.

Nevertheless, the Court did conclude in *Bellotti* that the Massachusetts statute was deficient in two salient respects:

"First, it permits judicial authorization for an abortion to be withheld from a minor who is found by the superior court to be mature and fully competent to make this decision independently. Second, it requires parental consultation or notification in every instance, without affording the pregnant minor an opportunity to receive an independent judicial determination that she is mature enough to consent or that an abortion would be in her best interests. 99 S. Ct. at 305."

Accordingly, the judgment of the district court was affirmed and enforcement of the statute was enjoined.

The result in *Bellotti* can be greeted with a small sigh of relief by those advocates for children who are committed to improving, or at last maintaining, the independent access of teenagers to medical care, particularly in sensitive areas such as pregnancy and abortion. The *Bellotti* opinion, however, contains language in dicta which is of considerable cause for concern. Justice Powell explained in the opinion of the Court that it was only because of the unusual nature of the abortion decision—its grave and indelible consequences and the fact that the decision cannot be postponed—that the Court was willing to scrutinize the parental consent requirement as carefully as it did. Because of the unusual factors characterizing the abortion issue, "If the state decides to require a pregnant minor to obtain one or both parents' consent to an abortion, it must also provide an alternative procedure whereby authorization for the abortion can be obtained." *Id.* at 3048. In other words, the minor must be entitled to go to court to demonstrate that: either she is mature enough to make the decision on her own, in which case she must be permitted to do so; or, even if she is not mature enough to make the decision independently, the abortion would be in her best interests. The procedure must be anonymous and it must be fast. While it may appear fortunate in theory that the Court was willing to impose these limitations on attempts by the state to make a minor's access to an abortion entirely dependent upon the concurrence of her parents, in reality a procedure such as the one outlined by the Court would be of little benefit to many minors. Initiation of a court proceeding at a time of psychological crisis in order to avoid a confrontation with possibly hostile parents would be, for many teenagers, as awesome an obstacle to an abortion as the parental consent requirement itself. The Court's failure to recognize the potentially burdensome nature of a required court proceeding illustrates a dramatic lack of appreciation by the justices of the realities of a pregnant teenage girl's life.

In view of the considerable controversy currently surrounding the issue of minors' access to medical care, and particularly abortions, it is important that legal services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements, either through legislative advocacy or through litigation. The National Center for Youth Law would be happy to assist with such efforts.[2]

Mr. HUMPHREY. I began my remarks, Mr. President, by stating that it is necessary to, I find it necessary to, offer this amendment because Legal Services Corporation, like so many slippery Federal agencies, has found a way around the intent of Congress.

I ask unanimous consent to have printed an exchange of correspondence between the Legal Services Corporation and Representative ROMANO MAZZOLI relating to their interpretation of the restrictions on the Legal Services Corporation with regard to the matter of abortion as it now stands.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

LEGAL SERVICES CORPORATION,
Washington, D.C., March 14, 1979.

Hon. ROMANO MAZZOLI,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MAZZOLI: This will respond to your letter of March 12, 1979, in which you request information regarding the Legal Services Corporation's enforcement of Section 1007(b)(8) of the Legal Services Corporation Act. As you know, that provision prevents the use of funds provided by the Corporation to provide legal assistance with respect to proceedings seeking to procure a nontherapeutic abortion, or to compel individuals or institutions to perform any abortion contrary to their religious beliefs or moral convictions. The Corporation takes seriously its obligation to ensure compliance with this requirement. We regularly monitor each of the programs that we fund to determine whether their activities comply with the Act, and investigate thoroughly allegations that Corporation funds are being used for prohibited purposes. We have received only one such complaint with respect to the prohibition in Section 1007(b)(8); our investigation of that complaint established that the Act had not been violated.

Against this background, I provide the following information in response to the questions posed in your letter:

1. The Corporation believes that the language of Section 1007(b)(8) is sufficiently clear that an implementing regulation is not necessary. I enclose for your information copies of opinion letters written by our General Counsel's office interpreting that language in various contexts. Four main points are reflected in these materials:

a. The prohibition is absolute with respect to actions seeking to compel individuals or institutions to perform or assist in the performance of abortions, when to do so would violate religious beliefs or moral convictions;

b. the prohibition is also absolute with respect to suits seeking to procure nontherapeutic abortions. Corporation funds may not, therefore, be used for litigation seeking an order that a nontherapeutic abortion be performed or otherwise attempting to invalidate a policy prohibiting such abortions;

c. the legislative history of the Act is clear that, in permitting litigation to procure therapeutic abortions when issues of moral or religious belief are not involved, Congress was referring to those abortions necessary to treat serious existing illnesses or injuries. The term "therapeutic abortion" was not limited to procedures necessary to save the life of the mother, but does not include every abortion that a physician agrees to perform;

d. the Act does not prohibit all litigation that may be characterized as related to abortion. Corporation-funded programs may, for example, provide legal assistance in proceedings to protect an existing right to public funding for nontherapeutic abortions, where the relief sought does not include procurement of such abortions.

2. As observed above, we do not believe that our grantees have had difficulty observing the line between permissible litigation and activities prohibited by Section 1007(b)(8). We do not, therefore, maintain a list of abortion-related litigation engaged in by Corporation grantees. We have received information that programs in Maryland and Hawaii represented eligible clients who wished to intervene as defendants in lawsuits seeking to invalidate state policies of providing Medicaid payments for abortion. We also have been informed that a grantee in New Jersey represented eligible clients seeking to procure therapeutic abortions in an action captioned E. M. v. Byrne. None of these activities violated Section 1007(b)(8).

3. Many programs that receive grants from the Corporation also receive funds from other sources. Section 1010 of the Act, 42 U.S.C. Section 2996i, requires that such funds "be accounted for and reported as receipts and disbursements separate and distinct from Federal funds. . . ." Funds received from private sources may not be expended for purposes prohibited under the Act; funds from other public sources may be expended for any purpose approved by the funding organization.

4. There are several methods by which the Corporation monitors the use of its funds by grantees. As observed above, the Corporation visits each program to review its activities and ensure that the requirements of the Act are followed. Each program also is required to account separately for funds received from the Corporation and other sources, to to provide for an annual audit by an independent firm, and to submit that audit to the Corporation. Of course, the Corporation performs a thorough investigation whenever we have reason to believe that Corporation funds are being used for prohibited purposes.

We are confident that these efforts enable us to ensure that our funds are spent in accordance with the Act. We are, moreover, instituting a system of case service reports pursuant to which programs will report to the Corporation regularly regarding the types of matters in which they are involved. We believe that this system will enable us to more efficiently discharge our congressional mandate to enforce the Act.

My staff and I will be pleased to discuss these matters with you at the oversight hearings. If you require further information on the subject, please do not hesitate to call.

Cordially,

THOMAS EHRLICH,
President.

LEGAL SERVICES CORPORATION,
Washington, D.C., April 11, 1979.

Hon. ROMANO L. MAZZOLI,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MAZZOLI: My colleagues and I are grateful for your interest in the provision of civil legal assistance to the poor, and for your active participation on the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice. Tom Ehrlich especially wanted me to convey our appreciation for the opportunity we had to review the work of the Corporation with you at the hearing several weeks ago.

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[2] Staff attorneys at the National Center for Youth Law are currently representing plaintiffs in two companion cases challenging imposition, via the California Budget Acts of 1978 and 1979, of parental notification requirements upon minors who are seeking public funding for abortions. CDRR v. Myers, No. 24069 (Cal. Cup. Ct.); CDRR v. Cory, No. 24053 (Cal. Sup. Ct.).

Your questions and concerns on the issue of legal services activity in abortion cases were most thoughtful, and I want to take this opportunity to respond more fully to them. The attached statement has been submitted for the hearing record in response to your question about our interpretation of the legality, under the Legal Services Corporation Act, of local program activities defending existing government policies permitting non-therapeutic abortions.

You also expressed concern about an article published in the Clearinghouse Review. The Clearinghouse Review is a periodical published by the National Clearinghouse for Legal Services, a division of the Legal Services Corporation. In addition to reporting on recent developments in areas of interest to legal services attorneys, the Review publishes articles by legal scholars and practitioners regarding general issues of poverty law. Such articles are screened only to determine whether they address matters of interest to the legal services community; the Corporation does not attempt to insure that the author's personal views are in all respects consistent with Corporation policy. Accordingly, each issue of the Review contains the following disclaimer:

"The opinions expressed herein are those of the authors and should not be construed as representing the opinions or policy of the Legal Services Corporation or any agency of the United States Government."

The November 1978 issue of the *Review* contained an article by Sylvia Law, a professor at New York University Law School, titled *Reproductive Freedom Issues in Legal Services Practice*. The article explored a number of legal issues relating to the availability of contraception, abortion, and sterilization services, and sterilization abuse. The article mentioned only briefly the Legal Services Corporation Act's prohibition on certain types of abortion-related litigation, but stated: "(A) t the present time, there are few situations in which even a colorable argument could be made for a legal entitlement to a purely 'non-therapeutic' abortion. The primary issues involve the right to therapeutic abortions; the Legal Services Corporation Act does not prohibit legal services lawyers from engaging in such work." 12 Clearinghouse Rev. at 389.

This statement, of course, does nothing more than paraphrase the provisions of the Act. The article does not attempt to define further the situations in which Corporation grantees may engage in abortion-related litigation. It may well be that some of the actions described in the article—such as suits to invalidate a hospital's policy prohibiting non-therapeutic abortions—would not be permissible under the Act. Because of the disclaimer quoted above, which appeared on the page immediately preceeding the article, and the lack of analysis of the Act's restrictions, there does not appear to be a substantial likelihood that legal services attorneys would be misled.

I hope this further explanation helps to clarify the matter. We welcome you to our oversight committee and look forward to working closely with you in the months ahead. Please do not hesitate to contact me if you would like further information on this issue or others of concern to you.

Cordially,

ALICE DANIEL,
Acting President.

LEGAL SERVICES CORPORATION

Mr. Mazzoli asked whether the Corporation interprets Section 1007(b) (8) of the Act to permit any action by legal services programs to defend an existing policy permitting non-therapeutic abortion?

Section 1007(b) (8) of the Legal Services Corporation Act prohibits the use of Corporation funds "to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion . . ." Neither this language nor its legislative history, however, supports a conclusion that the Act prohibits all litigation by legal services programs that may be characterized as related to abortion, and the Corporation has had to make case by case determinations on close questions. As reflected in recent correspondence between the Corporation and a member of this subcommittee, on one occasion the Act was interpreted to permit a program to represent eligible clients who wished to intervene on the side of the state in defense of an existing state policy of providing Medicaid payments for abortion. No affirmative relief was sought. The case did not seek an order that a non-therapeutic abortion be performed, nor did it attempt to invalidate a policy prohibiting such abortions. Therefore, the Corporation concluded that the case could not fairly be characterized as coming within the prohibition against proceedings "to procure a non-therapeutic abortion . . ."

It does not follow from this analysis that the Act would permit all litigation that could be characterized as the defense of an existing policy permitting non-therapeutic abortions. The critical question under the Act is whether a particular action may be described as one "to procure" a non-therapeutic abortion. Although some generalizations are possible, such as the observation that the Act does not prohibit all litigation related to abortion, the inquiry is necessarily a factual one. If the performance of a non-therapeutic abortion is part or a direct consequence of the relief sought in an action, no funds provided by the Corporation may be used to provide legal assistance in that action.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 1, 1979.

MR. DAN BRADLEY,
Legal Services Corporation,
Washington, D.C.

DEAR MR. BRADLEY: This past Spring when the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice conducted General Oversight hearings, I inquired into the practices of the Legal Services Corporation with regard to restrictions covering abortion-related litigation, (Section 1007(b) (8), Legal Services Corporation Act). At that time, Legal Services' former President, Mr. Thomas Ehrlich, provided an explanation of the Corporation's implementation of this law.

As part of the Reauthorization hearings, I would like to receive an up-dated evaluation of the Corporation's activities with regard to abortion-related cases.

I am especially interested to know if any changes in policy or daily practice have been adopted in the last six months.

Your prompt attention is requested.

Sincerely,

ROMANO L. MAZZOLI,
Member of Congress.

LEGAL SERVICES CORPORATION,
Washington, D.C., October 3, 1979.

Hon. ROMANO L. MAZZOLI,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MAZZOLI: Thank you for your letter of October 1, 1979, regarding the Legal Services Corporation's policies and practices with respect to abortion-related cases.

The abortion issue is a very sensitive one to many people, and I know of your special concern in this area. One of my first responsibilities upon being appointed President of the Corporation was to review all the provisions of the Legal Services Corporation Act, with particular attention given to our compliance with the many restrictions it imposes on local programs. Our General Counsel's Office provided me with background material and information on the legislative history of Section 1007(b) (8), and I carefully reviewed all correspondence on our policies and practices on abortion cases. As a result of that review, I concur with Mr. Ehrlich's explanation of the Corporation's implementation of Section 1007(b) (8) as indicated in his letters to you of March 14 and April 11. I have enclosed, for your information, my recent letter to Congressman Lungren indicating the Corporation's policy and practice in this most sensitive area of the law.

I am sorry that you were not able to attend our reauthorization hearing before the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice last week. In our testimony presented to the Committee, representatives of the American Bar Association and the National Clients Council and I outlined the concerns we have with several of the restrictions in the Legal Services Corporation Act, including the current restriction on certain abortion cases. We emphasized how crucially important it is to understand these restrictions, including Section 1007(b) (8), in the context of the Corporation's mandate to ensure equal access to our system of justice for the nation's poor. As you know, access to our system of justice—to our court system specifically designed to peacefully and properly settle disputes and arbitrate differences—requires the assistance of an attorney.

To deny legal assistance in a specific legal matter to those otherwise unable to afford an attorney is to effectively deny access to our system of justice and to preclude court settlement of a particular dispute or difference for a class of persons. Unfortunately, the denial of legal representation is the realistic equivalent, for many, of eliminating the judicial system as the arbiter of last resort for their disputes.

We hope you will understand this principle in the context of legal services representation in abortion matters. The courts, Congress, and state legislatures have all made important decisions concerning abortions. It is crucial that all persons have the opportunity to settle any differences or disputes about these laws and decisions in the courts. Legal services representation of low-income persons simply allows equal access to the courts for this purpose.

Enclosed for your review is a copy of my written testimony submitted to the Committee on September 21. I would welcome an opportunity to discuss it with you personally at your convenience.

Sincerely,

DAN J. BRADLEY,
President.

Mr. HUMPHREY. This exchange of correspondence shows very clearly and without any doubt that the Legal Services Corporation very narrowly interprets the abortion language as it is now in the act, and intends to continue very narrowly interpreting it. In other words, it intends to continue to use the backdoor approach to advance the so-called right to therapeutic abortion, and intends to continue meddling in this issue, which is one in which most Americans have a great interest, and about which they have strong feelings.

Mr. HELMS. Will the Senator yield?

Mr. HUMPHREY. I am happy to yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, as a cosponsor of the amendment, I want to commend the distinguished Senator from New Hampshire. It is a matter in which he is intensely interested, and so am I.

I hope the Senate will approve this amendment.

Has the Senator asked for the yeas and nays?

Mr. HUMPHREY. Mr. President, I have not yet, but I will at this point.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, will the Senator yield further?

Mr. HUMPHREY. I yield.

Mr. HELMS. Mr. President, I hope that there will be an up-or-down vote on this amendment.

Mr. President, I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I would like to address a few more examples of the use of the Legal Services Corporation with respect to this issue of abortion.

In Preterm Inc. against Dukakis, Greater Boston Legal Services challenged a Massachusetts law limiting expenditure of State funds to abortions necessary to prevent the death of the mother.

In other words, the elected legislators of Massachusetts had enacted a statute which limited the expenditure of State funds for abortion to those cases where the abortion was necessary to prevent the death of a mother.

But that was not good enough for the Greater Boston Legal Services. They challenged, using Federal money, using dollars extracted from taxpayers, challenged that law seeking to overturn it, seeking ultimately, apparently to widen the authority to expend State funds to abortions beyond those necessary to prevent the death of a mother.

This is not anything that the Legal Services Corporation should be involved in. This is not legitimate use of taxpayer moneys. This is the use of taxpayer dollars to promote a certain idea.

Many people have the impression when they hear about the Legal Services Corporation, that it is a band of do-gooder lawyers who are helping out these little old ladies who are having problems with their tenants. Such is not the case. For the most part, the most significant work of the Legal Services Corporation involves attempts to overturn existing mores, existing values long held by American society.

It is social activism, Mr. President. It is attempts to reengineer society, often contrary to the wishes and the values of the American people. And whatever you can say about that kind of social activism, I think most Americans would agree it ought not to be funded with their tax dollars.

In G. against Edwards, the New Orleans Legal Assistance Corporation obtained a court injunction against enforcement of a Louisiana statute prohibiting use of public funds for abortion except to prevent the death of the mother.

Again, exactly the same kind of situation we saw in the Greater Boston Legal Services.

In Zbaraz against Quern, the Legal Assistance Foundation of Chicago won an injunction against enforcement of an Illinois law preventing State medical payments for abortions in Illinois for other than those performed to save the life of the mother.

It is very clear from the kind of cases the Legal Services has been involved in, it is very clear from the statements of the officers of the Legal Services Corporation, that they very narrowly interpret the language in the statute as it now exists as it relates to abortion and they are going to continue to interpret that narrowly and operate just as widely as they can.

It is clear from these things, Mr. President, that we have to tighten the language again to see if we cannot find a new way of preventing these activists and those who would reengineer society to their own standards from using taxpayer dollars contrary to the best interests of society.

Mr. President, I reserve the remainder of my time.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, unless there is another Member who wishes to address this question, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

UP AMENDMENT NO. 1138

(Purpose: To further restrict the use of Corporation funds for legal assistance relating to abortions)

Mr. JAVITS. Mr. President, I send to the desk an amendment to the Humphrey amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1138.

Mr. JAVITS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of Humphrey UP–1137, insert:

SEC. 3. Section 1007(b)(8) of the Legal Services Corporation Act (42 U.S.C. 2996f, (b)(8)) is amended to read as follows:

"(8) to provide legal assistance with respect to any proceeding or litigation which relates to an abortion, the performance of which is prohibited by provisions of law enacted by Congress, including provisions prohibited the use of Federal funds for the performance of such an abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;".

Mr. JAVITS. Mr. President, copies of this amendment are available. What it seeks to do is to prevent the Legal Services Corporation or any subsidiary legal services grantees, of which there are 321, from acting to give any legal service which seeks to invalidate any law enacted by Congress on the subject of abortion. It includes any prohibition by Congress of the use of Federal funds for the performance of an abortion or to compel any individual or institution to perform an abortion or assisting the performance of an abortion or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

The substitute amendment—that, in effect, is what it is—which I have submitted replaces the flat prohibition contained in the Humphrey amendment which prohibits the Legal Services Corporation "to provide legal assistance with respect to any proceeding or litigation which relates to abortion."

The difference is this: There is no argument here about the Hyde amendment or the provision of title XIX of the social security law respecting the fact that medicaid shall aid only where assistance is medically necessary, as it would be in an abortion or any other case. All we are trying to do now is to make it clear that any representation undertaken by the Legal Services Corporation may seek to compel action that would be a violation of Federal law with respect to abortion.

By the way, the cases we have, which Legal Services may handle, are directly described; and I ask unanimous consent that a memorandum prepared by the Legal Services Corporation, describing that role, be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LEGAL SERVICES REPRESENTATION IN ABORTION LITIGATION

The number of cases in which Legal Services programs are involved in abortion litigation is extremely limited, approximately ten (10) in the entire country. All of the cases concern not the fundamental question of right to abortion, but the issue of who must pay for medically necessary abortions for low-income women. The cases have had a high degree of visibility due to national controversy over abortion itself, yet if the medical procedure excluded from payment was anything else, e.g., corneal transplants, tonsillectomies, etc., the dry nature of the Medicaid statute would have relegated such cases to the obscurity of law journal coverage at best.

It is a fair generalization that low-income clients represented by Legal Services lawyers have not challenged the Hyde amendment directly. Rather, most of the litigation has involved challenges to state statutes, regulations, budget provisions, and practices, both on constitutional grounds and on the ground that these state provisions and practices are out of compliance with Title XIX, the federal Medicaid statute. A short description of the major abortion cases involving Legal Services representation will bear this out.

In the Zbarez case, which is presently awaiting a decision by the U.S. Supreme Court, plaintiffs challenged the right of the state of Illinois to refuse payment for medically necessary abortions for Medicaid eligible women. The suit alleged that the state was out of compliance with the Title XIX definition of "medically necessary" and also challenged the constitutionality of the state statute. The plaintiffs in the case are two physicians, an indigent pregnant woman and the state's Welfare Rights Organization. Attorneys from the ACLU, Northwestern Law School, and the Legal Assistance Foundation of Chicago are all cooperating counsel on the suit. The Legal Services lawyers represent only the indigent woman and Welfare Rights; the physicians are represented by the ACLU.

Zbarez did not challenge the constitutionality of the Hyde Amendment, that issue being the subject of a separate suit, McRae v. Secretary of HEW, which is being litigated by the ACLU and other private, non-Legal Services attorneys. In fact, when the 7th Circuit thrust that issue into the Zbarez case, the Legal Services attorneys wrote a brief to the U.S. Supreme Court asking that the constitutionality of the Hyde Amendment not be decided in Zbarez.

Similarly, in California, Committee to Defend Reproductive Rights v. Myers and its companion case, CDRR v. Cory, challenge limitations in the state budget which preclude funding for abortions. The bases for challenge include both California equal protection law and the statutory requirements of California's Medical program. Plaintiffs in this suit include poor women represented by San Francisco Neighborhood Legal Assistance Foundation and the National Center for Youth Law. The case is about to be scheduled for oral argument before the California Supreme Court.

In Massachusetts, a Legal Services attorney represented low-income clients in the lawsuit Preterm v. King which was a challenge to a state budget rider and a state welfare department regulation which prohibited all state funding of abortion. Again, the major issue was a statutory challenge involving the interpretation of Title XIX. The case has been remanded to the District Court which is awaiting the Supreme Court decision in McRae before issuing a final order.

More recently, Legal Servces attorneys in Oregon sought an order on behalf of low-income women in Oregon requiring that state to provide payment for all medically necessary abortions for which federal financial participation is available under Title XIX. The case, Doe v. Hegstrom, resulted from the fact that HEW (now HHS), in an effort to comply with the District Court's ruling in McRae, determined that federal reimbursement would be made available to the states for all medically necessary abortions.

At issue in each of these cases is the integrity of the Medicaid system itself. The question becomes whether, as Congress originally intended, poor persons will be able to obtain the same medically necessary surgical procedures as those persons who can afford private medical care. Regrettably, the actions of states have forced the question of what is "medically necessary" to be litigated in the highly controversial context of abortion. Clients would have a higher likelihood of success in proving the necessity of payment for all medically necessary procedures in a situation where the states had excluded non-emergency appendectomies (or almost any other surgical procedure) from their reimbursement scheme.

However, Legal Services attorneys and their clients believe that it is absolutely critical to maintain a comprehensive Medicaid program for the poor. The exclusion of abortion from government funding could open the door to limiting payment for many other types of medical procedures, where the state officials want to substitute their judgment for that of physicians in determining what is medically necessary for a particularly group of patients. Therefore, the ability of Legal Services attorneys to represent poor women in the abortion funding context is a vital link in carrying out their overriding responsibility of protecting the legal rights of their low-income clients to receive adequate and decent healthcare.

Mr. JAVITS. What it leaves, Mr. President, is a situation in which a State, by State law, seeks to prohibit their medicaid program from paying for an abortion, notwithstanding the fact that even under the Hyde amendment, an abortion is permitted to save the life of the mother or in the case of rape or incest. There are such litigations, and there should be such litigations, because medicaid is the subject of a contract between the State and the Federal Government in which certain medical services are to be given to the poor. Those services may not be denied at the will of the State, according to that contract.

However, there are some States which seek to deny them, thus further restricting the capability of poor women from getting the same kind of medical attention which people who do not have to look to medicaid would get readily in this country, in any State, and that is unfair. Indeed, that has been the big debate here.

However, the Humphrey amendment would go even one step further than denying Federal funds for the purpose. It would even deny the right to test whether or not a State is imposing further restrictions by denying funds even for such an abortion as the law, as enacted by Congress—and that is what I say in the substitute—permits. That seems to me to be further discrimination against the poor, and it is not fair.

Therefore, I believe that although it is not a major element in the work of the Legal Services Corporation, it certainly should not be prohibited from giving what is its responsibility, as we assign it, of basic representation to a woman to whom a State, rather than the Nation, denies this opportunity. Let us remember that this, today, under existing law, relates to saving the life of this poor woman or dealing with the problems of rape and incest. It seems to me that that is elementary. It is only human decency and humanitarianism of the most basic kind. She certainly should be entitled to a lawyer, to see if that right, which she has under Federal law, to be treated in medicaid, should or should not be denied to her.

This does not say that she actually will get it or that the courts, in the litigation, would rule with her. That depends on the facts and the law. But, certainly, we should allow her to have representation to test out whether the State is going beyond the Federal law.

I wish to add one further point which is important: It will be recalled that the so-called Hyde amendment has the specificity of saving the life of the mother, or rape and incest; and the amendment as submitted by Senator HUMPHREY did not make those exceptions. It just prohibited legal representation altogether. I believe that, inasmuch as that is now the Federal law and policy, that law should be obeyed. My amendment did not use the language of the Hyde amendment but instead refers generically to laws enacted by Congress, because this is a 2-year bill; and whatever change there may be should be incorporated by reference in this act.

Second, my substitute amendment, in my judgment—because I always have been very faithful to this concept—does something which is not in the Humphrey amendment at all, and that is that it protects individuals or institutions who have moral convictions or religious beliefs, so that the Legal Services Corporation may not try, by way of representation in such litigation, to compel any such individual or institution to act in a way which is contrary to its religious belief or moral conviction, even if the State law may permit any such compulsion as interpreted by the courts.

So I believe that the amendment I have submitted fully covers the situation of what is the law of the United States, as enacted by Congress, and that the Legal Services Corporation will not be permitted to challenge.

Finally, Mr. President, the substitute, as I have submitted it, tracks exactly what is in the law today.

Section 1007(a) of the law respecting the Legal Services Corporation prohibits the corporation or any of its recipients from rendering legal services which seeks to procure a nontherapeutic abortion.

By my substitute we in effect strike the word "nontherapeutic" and insert "whatever the law enacted by Congress prohibits," which means any abortion other than to save the life of the mother or required by rape or incest.

Therefore, we modernize the provision which is already in the Legal Services law by the adoption of this substitute and indeed strengthen the prohibition as it is now contained in the Legal Services Act.

I say to Senator HUMPHREY that he has called our attention, and to which I respond, to something that should be done; that is, the Legal Services Corporation provision should conform to the law enacted by Congress and that is why I did what I did, whatever its implications, which will tighten the situation, and I am obliged to him as one of the managers of the bill for doing so. But I do not believe that we should prevent a poor women from having the benefit of a lawyer, which is the whole purpose of the Legal Services Corporation, in a situation where a State is trying to take away from her a right which she has under Federal law. That is what the Legal Services Corporation is about.

Mr. HUMPHREY. Mr. President, it seems to me the real issue here is the issue of abortion itself and should dollars taken from taxpayers be used to promote one point of view or another with respect to that issue.

The difficulty is that Legal Services Corporation has been using taxpayer dollars to promote particular points of view. In most cases, if not all, that point of view is contrary, I think, to the point of view held by most Americans.

In offering my amendment I sought to make it clear that Legal Services was not to expend taxpayer dollars in any litigation relating to abortion.

My amendment has now been modified or in any case there is an amendment offered to modify mine which no doubt is offered with the best of intent but I fear, nevertheless, will still leave plenty of latitude which will allow the Legal Services Corporation to go on doing pretty much as it has been. Therefore, I oppose the Javits amendment to my own amendment and urge my colleagues to vote against it.

The issue as I see it, I say again, is the issue of abortion itself, the taking of innocent human life, a question of whether taxpayer dollars should be employed in arguing in one way or another, in litigating in one way or another to permit unborn, innocent human life to be taken.

I am ready to vote if others do not wish to speak.

Mr. JAVITS. Mr. President, I will be ready for a vote, also, in a minute.

Mr. President, there have been bruising battles in the Chamber for years over the question of whether the use of any funds whatever should be permitted for any kind of abortion for any reason whatever, and all of those battles ultimately have been compromised.

What I have done is to incorporate by my substitute here the compromise, and the flat prohibition has been defeated time and again.

Therefore, it seems to me that if we are going to be honest with ourselves where we have given any right to a person who is not in a position to assert it because of poverty, and have given a Legal Services Corporation in order to enable that person to assert that right, basic good faith requires that we should allow that to happen. That does not mean that the courts will rule with that person. It simply means that that person will have the same right as anyone else who could afford it. And this particular person cannot afford it.

I deeply believe that it is most discriminatory to deny that right just because a person is poor.

The only right involved here is the right to have a lawyer to contest the case. It seems to me that is an elementary right. We incorporate fully everything that Congress has enacted. I deeply feel it is elementary justice to afford this amount of opportunity to a person who is too poor to have her own lawyer.

I am ready to vote.

Mr. HUMPHREY. Mr. President, I wish to conclude. Briefly, no one is contesting the right of anyone anywhere to an attorney under any circumstances. The question is, Who is paying that attorney? From where do those dollars come? In the case of Legal Services, in large measure they come from taxpayers, many of whom oppose abortion.

Mr. JAVITS. Mr. President, I just point out that a State might adopt some other law which would say that no one can have an appendectomy or a tonsillectomy or perhaps some other rare kind of an operation or treatment, and if we accept this proposition the precedent we would establish would apply to other arbitrary restrictions on medically necessary procedures. In such a case, the Humphrey amendment would not allow the Legal Services Corporation to try to give that person representation because that person is poor and cannot get it any other way. It certainly seems to me to be straining at our imagination for this flat prohibition which for years we have rejected.

It is a fact that in medicaid a poor person is insured for an abortion based upon a danger endangering her life or where the fetus is the result of incest or rape, and I am seeking to preserve the legal representation which would give that person a chance to have it. Nothing more, Mr. President. That is the sole intent which I have.

Mr. HUMPHREY. Mr. President, I know the Senator from New York well enough to know that he does not mean to imply that there is no difference between an unborn human being and an appendix. We are not talking about appendixes. We are talking about human life, and that is the central issue.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Missouri (Mr. Eagleton) would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Simpson), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 34, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—38

Baucus
Bayh
Bentsen
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cochran
Cohen
Cranston
Culver
Exon
Glenn
Hart
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Jackson
Javits
Kassebaum
Levin
Mathias
Matsunaga
Metzenbaum
Moynihan
Nelson
Pryor
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Thurmond
Wallop
Warner
Williams

NAYS—34

Biden
Boren
Boschwitz
Bradley
Byrd, Harry F., Jr.
Chiles
Danforth
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Lugar
McClure
Melcher
Mitchell
Morgan
Nunn
Proxmire
Randolph
Roth
Sasser
Schweiker
Stennis
Stone
Tower
Young
Zorinsky

NOT VOTING—28

Armstrong
Baker
Bellmon
Cannon
Church
DeConcini
Eagleton
Gravel
Inouye
Jepsen
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McGovern
Packwood
Pell
Percy
Pressler
Schmitt
Simpson
Stevens
Stewart
Talmadge
Tsongas
Weicker

So Mr. Javits' amendment (UP No. 1138) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr.

Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), and the Senator from Massachusetts (Mr. Tsongas) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Missouri (Mr. Eagleton) would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Simpson), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 34, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—38

Baucus
Bayh
Bentsen
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cochran
Cohen
Cranston
Culver
Exon
Glenn
Hart
Hatfield
Hayakawa
Heinz
Hollings
Huddleston
Jackson
Javits
Kassebaum
Levin
Mathias
Matsunaga
Metzenbaum
Moynihan
Nelson
Pryor
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Thurmond
Wallop
Warner
Williams

NAYS—34

Biden
Boren
Boschwitz
Bradley
Byrd,
  Harry F., Jr.
Chiles
Danforth
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Lugar
McClure
Melcher
Mitchell
Morgan
Nunn
Proxmire
Randolph
Roth
Sasser
Schweiker
Stennis
Stone
Tower
Young
Zorinsky

NOT VOTING—28

Armstrong
Baker
Bellmon
Cannon
Church
DeConcini
Eagleton
Gravel
Inouye
Jepsen
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McGovern
Packwood
Pell
Percy
Pressler
Schmitt
Simpson
Stevens
Stewart
Talmadge
Tsongas
Weicker

So the motion to lay on the table the motion to reconsider was agreed to.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to inquire as to the possibility of getting a time agreement on the bill, hoping that it may be possible to complete action, say, by 4 o'clock this afternoon. I have discussed this matter with the distinguished acting Republican leader (Mr. Tower), and he has been working to see if such an agreement can be secured.

I yield to Mr. Tower at this time.

Mr. TOWER. Mr. President, it appears that we have a total of about six amendments on this side. Everybody so far has agreed to 30 minutes, evenly divided, on these amendments. We anticipate that some of them will not take over 10 minutes, because I think they have been accepted, or there seems to be agreement on them. So, at the outside, that will give us 3 hours of time on amendments, with some of that probably being yielded back.

That appears to be the situation on this side. I do not know whether the distinguished majority leader has any on his side.

Mr. ROBERT C. BYRD. I do not know of any amendments on this side at all. I know of none on this side of the aisle. So if the distinguished acting Republican leader would be willing to agree, I would propose that there be a time agreement on the bill as follows: That there be a time limitation of 30 minutes on each of the amendments—and perhaps the Senator could name the sponsors.

Mr. TOWER. Those would be an amendment by the Senator from California (Mr. Hayakawa), an amendment by the Senator from New Hampshire (Mr. Humphrey), an amendment by the Senator from South Carolina (Mr. Thurmond), an amendment by the Senator from New York (Mr. Javits), and two amendments by the Senator from North Carolina (Mr. Helms).

I beg the majority leader's pardon. Senator Javits does not have an amendment.

Mr. ROBERT C. BYRD. That will be 30 minutes on each of the enumerated amendments—not to exceed 30 minutes. Hopefully, the time can be yielded back on some of them.

Mr. TOWER. We fully expect that will be the case.

Mr. ROBERT C. BYRD. Can we also include in that that the rollcall vote on passage occur no later than 4 o'clock?

Mr. TOWER. I would prefer to see the time left open, because some might be foreclosed in the utilization of this time if we made that agreement. Why could we not simply limit the time with the probability that the vote will occur by 4?

Let me substitute for Senator Javits the Senator from Idaho (Mr. McClure) so that will still be 6.

Mr. JAVITS. Mr. President, I think that, under the circumstances, not knowing what these amendments are and with the listing closed, I should like to be put down for one, which I do not expect to use, but just as a protection.

Mr. ROBERT. C. BYRD. All right.

Mr. JAVITS. Then could we have a provision for the amendments to the amendments?

Mr. ROBERT C. BYRD. Yes, what would the Senator suggest?

Mr. JAVITS. Ten minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on each of the amendments that have been enumerated by Mr. Tower be limited to not to exceed 30 minutes, to be equally divided in accordance with the usual form, and that there be a time limit on any amendment to an amendment, debatable motion, or point of order if such is submitted to the Senate, or appeal of not to exceed 10 minutes, the time to be equally divided in accordance with the usual form; and that no additional amendments be in order.

Mr. TOWER. How about 30 minutes on the bill, Mr. President?

Mr. ROBERT C. BYRD. And 30 minutes on the bill, to be equally divided between Mr. Nelson and Mr. Javits.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting minority leader on the other side of the aisle (Mr. Tower) for his efforts and I thank all Senators.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize the Senator from California and then will the Senator yield to me?

The PRESIDING OFFICER. The Chair states that there is an amendment pending at the desk. That is the amendment of the Senator from New Hampshire, as amended by that of the Senator from New York, on which the yeas and nays have been ordered.

Mr. JAVITS. Mr. President, will the Chair mind restating that situation?

The PRESIDING OFFICER. The Chair indicates that he has been advised that the pending amendment at the desk is the amendment of the Senator from New Hampshire as amended by the amendment of the Senator from New York, upon which the yeas and nays have been ordered.

Mr. JAVITS. Mr. President, this will duplicate the votes we have already taken. Senator Humphrey is not present. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that suggestion?

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. Mr. President, will Senator Nelson yield me 2 minutes off the bill?

Mr. NELSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have an announcement I should like Senators to hear.

ANNOUNCEMENT OF ADJOURNMENT OF CONGRESS ON SATURDAY, OCTOBER 4, 1980

Mr. ROBERT C. BYRD. Mr. President, this morning the Democratic whip, Senator Cranston and I met with Speaker

O'NEILL and Members of the House leadership.

One of the items on our agenda is one which is of interest, I am sure, to all Members of the Senate. It concerns adjournment.

The joint leadership has been aiming, since early this year, to adjourn sine die on or about October 1.

This morning, we reached a joint decision to adjourn on Saturday, October 4. That adjournment may or may not be sine die. In other words: If Congress has finished its work by October 4—and I certainly hope that it will have done so—we will adjourn sine die.

If the Congress has not completed its work, we will still adjourn on October 4 but we will have to return later in the fall.

It is certainly possible for Congress to work its way, in an orderly, thorough and efficient fashion, through the legislation which remains to be done this year.

A fiscal year 1980 appropriations supplemental must be enacted. The House will act on that measure on Tuesday of next week, and we will take it up as soon as the Senate Appropriations Committee has reported and is ready for floor action, after clearances, of course, with the managers on both sides.

Thirteen regular appropriations bills must be passed. The House will begin sending those bills to us next week, and our Appropriations Subcommittees on this side have already conducted hearings on most of the bills and will be prepared to enter into markup expeditiously.

A debt limit extension must be passed. We will be receiving a concurrent resolution from the House on that matter today or tomorrow.

Some 42 expiring authorizations remain to be acted upon by the Senate—as well as conference reports on many other expiring authorizations.

A second concurrent budget resolution must be adopted by August 28.

Two major energy conference reports will receive priority treatment in both Houses. I refer, of course, to the "Synfuels" legislation and the Energy Mobilization Board legislation. We hope to send both of these measures to the President before the July recess.

Both Houses will consider cost-saving legislation which will be reported pursuant to reconciliation instructions contained in the first budget resolution, adopted yesterday.

I would hope to be able to proceed with the oil back-out bill before the July recess.

Upon return from the July recess, I expect the Senate will take up the Alaska lands bill—which has already passed the House.

So, much remains to be done before October 4. I trust we will complete our work by that time. But, I thought that my colleagues would want to be put on notice that we would come back in the fall if we do not complete our work by October 4.

I thank the distinguished Senator from Wisconsin for yielding.

Several Senators addressed the Chair.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980

The Senate continued with the consideration of the bill (S. 2337).

The PRESIDING OFFICER (Mr. BRADLEY). Who yields time?

Mr. JAVITS. I will yield 2 minutes, or whatever the Senator wishes.

Mr. HELMS. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the Humphrey amendment, as amended by the Javits amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment (UP No. 1137), as amended.

The amendment (UP No. 1137), as amended, was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1139

(Purpose: To provide an investigation by the General Accounting Office of whether funds appropriated under the Legal Services Act have been expended in violation of Federal law)

Mr. HAYAKAWA. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

> The Senator from California (Mr. HAYAKAWA), for himself, Mr. TOWER, Mr. HARRY F. BYRD, JR., and Mr. GARN, proposes an unprinted amendment numbered 1139.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 2, strike lines 14 and 15, and insert in lieu thereof the following: "1981, of which such sums as shall be necessary shall be made available for an investigation by the General Accounting Office of whether any funds authorized to be appropriated under the provisions of this Act have been expended in violation of law. Notwithstanding any provision of this Act to the contrary, the General Accounting Office shall have access to all records and documents which it shall deem necessary for proper execution and completion of its investigation."

Mr. HAYAKAWA. Mr. President, my amendment would cut 1 year from the Legal Services Corporation authorization and would commission the General Accounting Office to conduct a comprehensive study of the extent of fraud, abuse, and unlawful conduct which appears to be occurring within the program.

This would allow us to plan the Legal Services Corporation's future in 1982 and beyond with the benefit of an impartial assessment of its performance to date.

Currently, the Senate has no comprehensive survey of the Corporation's effectiveness or the legality of the ways in which it has used its money. In fact, it does not even have enough information to insert an authorization figure for 1982.

In 1977, the Senate was promised oversight hearings as a condition of passage of a 3-year authorization bill. Those oversight hearings never occurred. Three years later, the Senate still has no definitive answer to the question of whether charges of pervasive illegality are true.

The charges emanated from sources as diverse as the "New Republic" on the left and the "Conservative Caucus" on the right.

My amendment would establish deadlines and conditions for this long overdue definitive assessment of the performance of the Corporation and its recipients. And it would put that assessment in the hands of Congress in time for us to consider it before we authorize the Legal Services Corporation for 1982 and beyond.

This is an unusual—maybe unprecedented—procedure. I propose it only because of the extent and gravity of the charges which have been leveled against the Corporation and the organizations which it funds.

For example, section 1007(b)(4) of the Legal Services Act states:

> No funds made available by the Corporation under this subchapter either by grant or contract, may be used for (any) political activit(y) . . .

Yet, the Contra Costa Legal Services Foundation (in California) boasts about its "tradition of strong community involvement and aggressive participation in local political, social, and economic battles on behalf of its client communities."

Massachusetts Law Reform Institute spearheaded a lobbying campaign for the graduated income tax in Massachusetts.

And an article in Legal Services-funded Clearing House Review states:

> A community group's main consideration, for example, might be to back a sympathetic political faction or public agency over an unsympathetic one.

Section 1007 of the Legal Services Act prohibits lobbying by recipients—and this is outright lobbying that they are not only describing, but boasting about—except in certain instances which were intended to be narrowly defined, the lobbying was prohibited. The same subsection also prohibits funding recipients from actively working on behalf of ballot initiatives.

Yet, as Barron's Shirley Scheibla pointed out, Massachusetts Law Reform Institute, which is funded by the Federal Government, spearheaded the drive to enact a ballot proposal providing for a graduated income tax in that State.

In May 1977, the National Consumer Law Center advertised in the Clearinghouse Review that it "has traditionally devoted a significant amount of its resources to legislative activity at the State and Federal level"—this is lobbying pure and simple, explicitly forbidden by the statute—adding that "the willingness of Legal Services attorneys to contact (and have others contact) Members of Congress can be crucial."

The Luzerne County Legal Services Association advertised in Clearinghouse Review for a "law reform specialist."

An article in Clearinghouse Review written by a lawyer with the National Center for Youth Law stated:

> (I)t is important that legal services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements, either through legislative advocacy or through litigation.

Section 1007(b) of the Legal Services Act provides:

> No funds made available by the Corporation under this subchapter, either by grant or contract, may be used to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public.

Yet Barron's reports that Northeast Ohio Legal Services, acting essentially as a federally funded law firm, has decided to give up, temporarily, the direct representation of poor people in favor of activist antitrust litigation against United States Steel. Notes Barron's:

> No formal board meeting has been held, apparently, since December (by Ohio Legal Services), a span in which indigent would-be clients have been turned away while Legal Services attorneys press what's known in the trade as "impact litigation."

Section 1007(b) prohibits legal services recipients from engaging in litigation "which seeks to procure a nontherapeutic abortion." I personally believe that a woman with money should have a right to procure an abortion; and that a poor woman should have the same right, with Federal funding if necessary. But I also believe that, once Congress has spoken on the question of whether a Federal entity should be able to litigate in an area, it is the responsibility of the funding recipient to obey the law.

Recipients of Legal Services funds have engaged in a wide variety of litigation overturning State statutes limiting abortions, attempting to procure third trimester abortions seeking to compel State institutions to transport inmates to medical facilities elsewhere for the purpose of allowing them to have abortions. In other words, the Legal Services Corporation deliberately goes out of its way to frustrate the legislative intent of the individual States.

Clearinghouse Review has actively encouraged such litigation, as some of my earlier examples suggest.

Mr. President, in view of the wide number of instances of alleged abuse by the Corporation and its recipients, I am convinced that the Senate owes it to the people of the United States who elected us to commission an impartial arbiter to investigate allegations of illegality.

Further, it is my opinion that the Senate should defer acting on the Corporation's 1982 budget until the results of that study are produced. My office has been in informal contact with the General Accounting Office, which assures us that it would be possible to produce tentative conclusions prior to reauthorization date next spring.

I therefore urge my colleagues to support my amendment. The amendment is cosponsored by Senator TOWER, Senator HARRY F. BYRD, JR., and Senator GARN.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. Mr. President, Senator TOWER wishes to speak on the amendment.

Mr. NELSON. Mr. President, to economize on the time, I am prepared to make some remarks now; and in the meantime, the staff can notify Senator TOWER, so that he can come to the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I wish to respond to some specific points made by the distinguished Senator from California.

In his remarks, the junior Senator from California stated that oversight hearings were promised in 1977, if I understood him correctly, but that such hearings were not held.

I assure the Senator from California that the oversight hearings promised in 1977 were held. The issue about oversight was raised on the floor by the Senator from Utah (Mr. HATCH), and I immediately agreed that we would have oversight hearings at his convenience, so that he could present witnesses and so forth. We filed notice of hearings in the RECORD—I do not have the date before me—2 weeks before the hearings were held.

Mr. HAYAKAWA. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield.

Mr. HAYAKAWA. Were those hearings held within the year, as mandated?

Mr. NELSON. No. I do not think it was mandated. It was a colloquy on the floor, and I said that whenever Senator HATCH would like to have the hearings, we would accommodate him. He is a member of the committee. When he was prepared to bring his witnesses, and so forth, I scheduled a hearing. So we scheduled them at the request of the Senator from Utah and offered on the floor to accommodate him in terms of time.

The first hearing was held on April 25, 1979; and 2 weeks prior to the hearing, we published notice in the hearing record. That hearing record is 159 pages long.

We held oversight hearings again on February 5, 1980. That hearing record is 324 pages long.

Whatever Senator HATCH recommended, we accepted. It always has been our policy—my policy, at least, as chairman of this subcommittee—that if any Senator has a recommendation for a witness, we will accept that witness.

The point is that oversight hearings were held and many of the allegations that are made here on the floor were not brought to the committee's attention at all.

On the question of a GAO study, I assure the Senator from California that I share his interest in being sure that the Legal Services Corporations and grantees comply with the law. We decide the law. There is no agency or arm of the Federal Government that has the right to defy what the law is, and if the law is being violated the situation should be rectified.

At least, if it is done intentionally, they should be fired. It is as simple as that. In fact, the Legal Services Corporation has done exactly that in some cases—in one case, not too recently.

There have been GAO reports since the last reauthorization in 1977. The Committee on Labor and Human Resources requested that a staff evaluation be done of the responses of the Legal Services Corporation to the recommendations made by the U.S. General Accounting Office in three separate reports. The three GAO reports were issued in 1978 and 1979. So there have been three GAO studies completed since 1977.

At the request of the committee the staff then prepared a staff evaluation of the responses made by the Legal Services Corporation to the GAO studies. The staff evaluation report is dated May 1980. The studies made by the GAO pretty much address the issues raised by the Senator from California.

One GAO report was dated 1978 and entitled "Expanding Budget Requests for Civil Legal Needs of The Poor—Is More Control for Effective Services Required?" This GAO report addresses the question of control of the grantees or the 321 recipients. The report is dated April 26, 1978.

Then there was also a GAO report issued on October 19, 1979, about 6 months ago.

That report entitled "Quality Civil Legal Services For The Poor And Near Poor Are Possible Through Improved Productivity," addressed the productivity question.

Then there was a third report issued on November 6, 1978, "Free Legal Services For The Poor—Increased Coordination, Community Legal Education, Outreach Needed."

So there have been three GAO reports, the most recent one was issued 6 months ago and then, of course, the staff evaluation of the Legal Services Corporation's response to the GAO recommendations, which we will be happy to get to the Senator's office.

I might say to the distinguished Senator from California that there is a complaint procedure of which I think many Members may not be aware. These are complaint procedures available under the Legal Services Corporation which I submit for the RECORD. I ask unanimous consent to have this information printed in the RECORD.

There being no objection, the complaint procedure was ordered to be printed in the RECORD, as follows:

COMPLAINT PROCEDURES UNDER THE LEGAL SERVICES CORPORATION

There are three different ways in which complaints about the activities of legal serv-

> ices projects can be made: to the board of a local legal services project, to the State advisory council, and to the Legal Services Corporation itself.
>
> ### LOCAL BOARDS
>
> Any complaints can and should be made to the board of a local legal services project. The membership of these boards must be at least 60 percent private attorneys.
>
> ### STATE ADVISORY COUNCIL
>
> Any complaints can and should be made to the State advisory board which is appointed by the Governor. A majority of the council membership must be members of the State bar. Section 1004(f) of the LSC Act requires this council to notify the Corporation of any apparent violation of the Act or regulations.
>
> ### LEGAL SERVICES CORPORATION
>
> Any complaints can and should be made to the Corporation itself. Every complaint made is investigated by the Corporation to determine whether a violation has, in fact, occurred. If a violation has occurred, appropriate remedial and disciplinary actions are taken. The Corporation also formally replies to any complaints which are filed.

Mr. NELSON. Mr. President, this complaint procedures report starts out saying:

> There are three different ways in which complaints about the activities of Legal Services projects can be made: To the board of a local Legal Services project, to the State Advisory Council, and to the Legal Services Corporation itself.

There is a fourth method and that is what was announced in the Chamber in 1977. That method is to bring before the authorizing committee, which is the subcommittee I chair, witnesses, documents, any information of failure to comply with the law, acts of illegality or incompetence or productivity questions, whatever it may be. We have always been open to these suggestions. It was 3 years from the time we made the commitment to have oversight hearings and we held them in compliance with the commitment. We gave notice in the CONGRESSIONAL RECORD 2 weeks in advance of each hearing. It was open to everyone in this body or any outsider to come and appear and present whatever views they had.

And so it seems to me, to be frank about it, that the way these matters are handled is to have a hearing. We brought in the Legal Services Corporation's president and he presented what the Legal Services Corporation was doing. He laid out the case. He responded to questions, and then it was open for anyone to put anything in the record that would refute it, contradict it in any way or elaborate on it. And we did as a committee all we could do. We, of course, cannot require Members of the Senate to recommend witnesses to us. We can only say, as we said in 1977 and as I have said every time I ever had the floor, we are open to all suggestions of witnesses that any Member may have—I repeat it again—to hear any complaints. My own view, having been involved with this legal services for the poor for 15 years now, is that there were lots of complaints particularly in the beginning, and many of the things the lawyers for Legal Services Corporation did that were objected to and politically controversial were perfectly legal under the law; some of them were not. Over the years we narrowed and constricted the Legal Services' recipients and lawyers and confined them each time trying to target more perfectly the objective that I think Congress had in mind, and that is to resolve legal problems that individual poor people have.

Everyone recognizes that a poor person as well as a rich person should be able to have a lawyer to bring a case to assist him in promoting his own rights, and no one quarrels about that. In the legislative process, we narrowed that down. They may not appear before a legislative committee just on any legislation. They have to be invited to appear by a legislator.

So, I think we have addressed this very well. That is not to say that there are not still abuses. There are currently 321 recipients with several hundred lawyers. There are bound to be some abuses and violations, intentional or unintentional. This is not a perfect world, but I think we have come a long way.

I have never felt that Congress intended to authorize an organization to resolve broad social questions. The Legal Services Corporation, when it was permitted and authorized under the law, participated in integration cases. I was one of those who opposed this participation. I said that those are problems on which there are plenty of legal outlets available to get these cases to court including not only the Attorney General of the United States but also the ACLU, the NAACP, and we wanted them to be addressing individual problems of the poor. The Congress later prevented Legal Services attorneys from being involved in desegregation cases.

As to lobbying activities, there were broad lobbying activities in some areas. In California, several years ago, they had set up an office as I recall it—I hope my memory is not faulty on this—to lobby the legislature. It was permitted under the law to lobby them in general on important social questions. That, in my judgment, and I think in the judgment of Congress, was not the intent.

So we narrowed down the lobbying activities that a lawyer may perform in behalf of a real, live client who had a problem. So that if, for example, the welfare rules and regulations of a county or a city discriminated against a client the Legal Services Corporation could go then to the county board and make the case that the provision in the ordinance discriminated against Mr. or Mrs. Doe.

Mr. HAYAKAWA. Mr. President, I wish to point out that the three recent studies, two in 1978 and one in 1979, do not address at all the issues of which we speak, that is, such things as lobbying and such things as subverting, let us say, State laws or trying to get around them. In any case, the fact is that there was no oversight until the program was ready for reauthorization. While there was no need to reauthorize, there was no oversight.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. HAYAKAWA. The implication of that is that somehow or another this chairman delayed oversight until there was need for authorization. I want the record to be clear. I told Senator HATCH of Utah in 1977 I would hold oversight hearings at his convenience. We did not wait. We held them at his convenience. He waited.

I yield whatever time he needs to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, how much time is remaining to the proponents of the amendment?

The PRESIDING OFFICER. Four and one-half minutes.

Mr. TOWER. I shall be brief. Mr. President, I am pleased to cosponsor with my good friend from California (Mr. HAYAKAWA) this amendment to eliminate the second year funding for the Legal Services program, and to call for a GAO study of the program itself.

Earlier this year, I outlined a number of areas in the Federal budget where, in my view, substantial cost savings could be made, thus reducing Federal spending with little or no significant impact on the welfare of American citizens. Among my suggestions was the elimination of the Legal Services program. In this Senator's view, there have been far too many instances where Legal Services attorneys have failed to address the more urgent, albeit routine legal needs of impoverished Americans, and have elected instead to undertake the more flamboyant social cause-oriented class action cases.

For example, the Northeast Ohio Legal Services Office has neglected direct service to the poor, choosing instead to concentrate their efforts on an antitrust suit against a large steel company. I quote from an article by John C. Boland in the June 2, 1980, edition of Barron's:

> No formal board meeting has been held, apparently, since December (by Ohio Legal Services), a span in which indigent would-be clients have been turned away while Legal Services attorneys press what's known in the trade as "impact litigation." Since unemployment has been targeted as a priority issue in the Mahoning Valley, the reasoning goes, what better way to attack the underlying social problems of the indigent than by suing to prevent United States Steel from closing its plants—or, that failing, to require it to sell the mills to a worker-community group that would seek Federal backing?

It turns out that the sponsors of the Northeast Ohio Legal Services include radical activists such as Staughton Lynd, who predicted in connection with President Nixon's wage-price freeze "an atmosphere in which general strikes can be talked about for the first time in a generation."

As the New Republic noted in its February 3, 1979 issue, Legal Services was—

> Intended to help the poor when they unavoidably get caught up in the complex legal machinery of modern society—in divorces, disputes with landlords, tussles with the welfare bureaucracy, etc. But too often Legal Aid lawyers use poor people as guinea pigs in an attempt to impose through the courts some fanciful middle-class view of social justice.

The New Republic went on to decry a suit by the Government-funded California rural legal assistance against the University of California in opposition to the university's development of labor-saving farm machinery. Commenting on the allegation that this labor-saving machinery would result in agricultural unemployment, the New Republic noted:

> To oppose research aimed at increasing productivity is simply insane . . . A life spent stooping to pick fruit under the California sun is not so rewarding that we should rush into Court to reserve places in the fields for the children of this generation of farm workers.

Self-proclaimed concern for workers has also led Legal Services Corporation funding recipients to help organize farm workers' unions in California, Florida, the Midwest, and New Jersey, according to Charles Fields, assistant director of National Affairs of the American Farm Bureau Federation.

And this is barely the tip of the iceberg. Other questionable activities include:

Litigation in order to return major portions of the States of Maine and Massachusetts to the Indians;

A lobbying campaign for the graduated income tax in Massachusetts;

Litigation to compel the Government to define "black English" as a foreign language; and

Litigation to challenge a State's right to interview its welfare recipients in order to reduce fraud.

Mr. President, it seems to me that the Legal Services Corporation has more than enough money to perform its statutory functions, plus a lot of other functions not envisioned by the law.

Just 5 years ago, the Corporation was funded at $90,000,000 and had as it goal the provision of two lawyers for every 10,000 poor people in America. Now, we are being asked to approve a budget of over $321,000,000 and the Corporation is talking about providing four lawyers for every 10,000 poor people at a projected cost of $875,000,000 per year.

It seems to me that before we commit what may be endless amounts of tax dollars to a potential rathole, it would behoove us to make a very thorough examination of this program. It is the duty and responsibility of this Congress to exercise oversight in this area, and make sure that these Federal dollars are being used to help poor citizens get meaningful legal assistance, and not just to subsidize young headline-happy lawyers.

Mr. President, as I mentioned before, I would readily support the total abolition of the Legal Services program, but I am realistic enough to recognize that such a move would be defeated here today. What we are proposing, however, is a reasonable and just method of determining whether or not Federal moneys are being wisely spent, and whether the legislative mandate of legal service to the poor is being met. I hope my colleagues will support the amendment offered by my colleague from California and myself.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, just one word. In the bill it proposed a 3-year extension. Senator Hatch wanted a 2-year extension. Senator Javits and I and the rest of the committee went along with Senator Hatch for a 2-year extension.

If there is no more debate, I move to table the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. NELSON. I yield back the remainder of my time.

Mr. HAYAKAWA. I yield back my time.

The PRESIDING OFFICER. All time is yielded back, and the question is on agreeing to the motion to table.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table Mr. Hayakawa's amendment (UP No. 1139).

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), the Senator from Massachusetts (Mr. Tsongas), and the Senator from Hawaii (Mr. (Inouye) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

Mr. TOWER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Simpson), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber desiring to vote who has not done so?

The result was announced—yeas 47, nays 24, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—47

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
Danforth
Domenici
Durenberger
Durkin
Exon
Glenn
Hart
Hatch
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stevenson
Stone
Wallop
Williams

NAYS—24

Boren
Boschwitz
Byrd,
Harry F., Jr.
Cochran
Dole
Ford
Garn
Hatfield
Hayakawa
Helms
Humphrey
Kassebaum
Lugar
McClure
Morgan
Proxmire
Pryor
Roth
Schweiker
Thurmond
Tower
Warner
Young
Zorinsky

NOT VOTING—29

Armstrong
Baker
Bellmon
Church
Cohen
DeConcini
Eagleton
Goldwater
Gravel
Inouye
Jepsen
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McGovern
Packwood
Pell
Percy
Pressler
Schmitt
Simpson
Stevens
Stewart
Talmadge
Tsongas
Weicker

So the motion to lay on the table the amendment of the Senator from California was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME AGREEMENT ON ROLLCALL VOTES THIS AFTERNOON

Mr. ROBERT C. BYRD. Mr. President, I have discussed with the distinguished acting minority leader (Mr. Tower) the possibility of cutting the time on rollcall votes this afternoon. I believe we are in agreement—and he is here to speak for himself—that time on all rollcall votes for the remainder of the afternoon, with the exception of the next rollcall vote—in other words, the first one now—will be cut to 10 minutes, with the warning bells to sound after the first 2½ minutes. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, reserving the right to object, I wonder if on final passage there could be a 15-minute rollcall because that will be the final rollcall with none to follow.

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. If the Senator from Idaho will yield, the reason I suggested that the next rollcall be 15 minutes was to allow adequate time for everybody to get the word.

Mr. McCLURE. But I thought there was no reason to extend the 10-minute time limit to the final vote.

Mr. ROBERT C. BYRD. Mr. President, has the request been granted?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on final passage be 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I urge our respective cloakrooms to get the word out so that Senators can be here. There are Senators who have to catch flights out of the city. Each time the vote goes beyond the time allotted, it is impinging upon the time of Senators who are trying to leave town. I urge the cloakrooms to get the word out to Senators to be here for the rollcall votes.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) and the distinguished Senator from New Hampshire (Mr. HUMPHREY) each have amendments which we have gone through thoroughly and which, so far as I am concerned, we will accept.

Mr. STAFFORD. Mr. President, the same is true so far as the minority is concerned.

Mr. NELSON. Mr. President, we are prepared to discuss them very briefly and accept the amendments. Then I believe there are two or three others with 30 minute time limitations. I do not know what they are. As far as I am concerned, I will be happy to yield right now.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. Does the Senator from Vermont yield?

Mr. STAFFORD. Mr. President, I am happy to yield to the Senator such time as he may desire.

Mr. THURMOND. Mr. President, I rise today to express my deep concern that some legal services projects are engaging in practices which are expressly prohibited by the Legal Services Corporation Act and/or are condemned by the Code of Professional Responsibility of the American Bar Association.

To understand fully my concern, it is necessary for me to provide a brief background as to the limitations Congress placed on the nature of legal services which could be provided by the Legal Services Corporation. Congress intended for the Corporation to provide three basic types of legal assistance. These three broad categories include the following: First, direct legal advice and representation in individual cases and class actions; second, informing the poor concerning legal rights, remedies and responsibilities; and third, legal advice as to economic development programs and other economic opportunity assistance.

In order to insure that the Corporation would provide legal advice and assistance only in these three areas, the act expressly limits the scope of legal services which can be provided to eligible clients. By enacting these specific limitations, Congress was responding to complaints which had been made against the legal services programs established under the Office of Economic Opportunity and the Community Services Administration. These legal services programs were the predecessors of the Legal Services Corporation. The two principal complaints were, first, that the programs were expending too much of their limited resources in the role of being advocates for the poor to remedy social conditions, rather than representing eligible clients in individual legal matters. Secondly, it was argued that the programs used tax dollars to engage in political activities. Therefore, the following categories of cases and legal activities are prohibited under the act:

(1) criminal proceedings.

(2) habeus corpus actions or other civil actions to challenge the validity of the criminal conviction.

(3) any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system.

(4) any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion or assist in the performance of an abortion, or provide facilities for the performance of an abortion contrary to the religious beliefs or moral convictions of such individual or institution.

(5) any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States.

(6) legal assistance to any unemancipated person of less than eighteen years of age, except (A) with the written request of one of such person's parents or guardians, (B) upon the request of a court of competent jurisdiction, (C) in child abuse cases, custody proceedings, persons in need of supervision proceedings, or cases involving the initiation, continuation, or conditions of institutionalization, or (D) where necessary for the protection of such person for the purpose of securing, or preventing the loss of benefits or securing, or preventing the loss or imposition of services under law in cases not involving the child's parent or guardian as a defendant or respondent.

Moreover, the act contains numerous provisions which restrict the political activity of the Corporation and its attorneys. Briefly stated, all political activity is prohibited except for certain lobbying efforts where such form of representation is necessary to protect the interests of an individual client. The act specifically provides that lobbying is prohibited, except that personnel of the Corporation may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee or a member thereof, or in connection with legislation or appropriations directly affecting the Corporation.

Also, the act states that lobbying is permitted only where "representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible)." Therefore, it is clear that Congress intended to prohibit lobbying where it is employed as a means for bringing about broad social change.

Additionally, Mr. President, I am very much disturbed over the practices of some legal services programs in their efforts to educate the community as to legal rights, remedies and responsibilities. I must stress that I favor informing the public about our legal system. How else can the legal machinery function in the manner it is intended to operate in enabling all persons to obtain equal justice under the law?

I recognize that it is the duty of the legal profession to deliver the services of its members to those persons who need them. However, this process of informing persons of their legal rights must be done in an ethical and dignified manner. This precept was pronounced in an opinion issued by the American Bar Association. Despite these ethical considerations, there is evidence that some legal services programs are carrying out their community legal education programs in a way which brings shame and disgrace to the legal profession.

This disreputable conduct appears to be in violation of provisions set out in the Code of Professional Responsibility which prohibit lawyers from breeding litigation. Yet, these unethical practices continue despite a provision in the act which states that "the Corporation shall insure that activities are carried out in a manner consistent with attorneys' professional responsibilities."

Mr. President, there is no express authorization in the act which grants free reign to legal services projects and their attorneys to conduct community legal service projects in an unethical manner. The integrity of the legal process is at issue here. The Corporation and the individual legal services projects point to the various general provisions in the act to justify their "anything goes" approach to education outreach. For example, one such clause is found in section 3996f(a)(3) of the act which states that the Corporation shall "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas."

Mr. President, I contend that Legal Services' interpretation of this clause is far broader than Congress intended. Again, I assert that something must be done to insure that legal services projects carry out their community legal education programs in a manner consistent with professional legal ethics.

I turn now from a general discussion of abuses and irregularities to a specific examination of questionable practices by some legal services projects.

Mr. President, my concerns about the abuses and excesses of the programs operated under the auspices of the Legal Services Corporation are based not only on general information regarding activities of staff attorneys and other employees in local legal aid programs around the Nation, but also on specific, flagrant, highly questionable, and probably illegal activities in South Carolina.

Last summer, I received a letter from the Orangeburg County, S.C., director of social services and food stamp office in which the director was writing "to seek relief from another agency in town funded by the Federal Government." The director was referring to a grantee of the Legal Services Corporation known as Palmetto Legal Services, which is headquartered in Columbia and has a branch office in Orangeburg.

The director of the food stamp office went on to state that:

> Through a campaign of slander, innuendo, false information and other such tactics, they (Legal Services) are disrupting the Food Stamp Program in this county to the extent that daily I am having staff threaten to quit because of the verbal abuse and general harassment showered upon them from this group.
>
> Since the implementation of the new Food Stamp Law on January 1, our caseload has increased from about 3,800 families to more than 5,300. Coupled with this increase is the fact that staffing has not kept pace with this growth, in fact, we have received no increase to this date. The workload is going out of sight. To add to this is the campaign of Palmetto Legal Services.

The Director included with his letter samples of the information distributed by the local legal aid office to clients and potential clients in Orangeburg County. Among the information was an illustrated leaflet entitled "You Don't Have To Take That Mess From The Food Stamp Office," and further capitioned "Palmetto Food Stamp Service Can Help You Fight Back!" This flyer contained the following assertions—and I would like to read this into the RECORD so that Senators will be aware of the kind of outrageous, deliberately agitative propaganda prepared and disseminated through taxpayer funds.

> Some very powerful people in this country are trying to stop the food stamp program. They do not care if the hardworking people don't have enough to eat. They do not care if our children don't have enough milk and juice to drink. All these rich people want is to take more money from us so they can use it for themselves.
>
> Last year, thousands of people were cut off of food stamps by the United States Congress. Food Stamp Supervisors have scared many people away from food stamps by threatening to put them in jail for trying to get stamps. Many caseworkers act very nasty to people so that the people will get angry and stop getting food stamps.
>
> But we should not let them cheat us so easily. Food stamps belong to us by right! We paid for them long ago by our hard work and our tax money. And with the price of food and everything else rising so high, how are we going to pay our bill without any help?
>
> Do you feel that you are being cheated by the Food Stamp Office?
>
> Do you think that you should be getting food stamps, but the folks at the Food Stamp Office tell you that you can't get any?
>
> Do you think that you should be getting more food stamps?
>
> Have you been mistreated by a guard or a caseworker at the Food Stamp Office?
>
> Well, you don't have to take that mess! You should fight for your rights at the Food Stamp Office! Palmetto Food Stamp Service will help you fight!

As if that were not enough to stir up the local community, the so-called "Palmetto Food Stamp Service" took it upon itself to "investigate" the Orangeburg County Food Stamp Office and prepare and distribute a "report" on that office entitled, "If You Have Another Baby * * *." This report concluded, among other things, that "the Orangeburg County Food Stamp Office mistreats people and cheats them out of food stamps that they are supposed to be getting. This is the conclusion of the Palmetto Legal Services of Orangeburg after 1 month of observation and negotiation."

Mr. President, I would like to know where in the law governing the Legal Services Corporation Congress authorized this "independent Corporation" to investigate and lambast other Federal agencies for not running their programs in a manner to suit Legal Services? I thought Congress intended for this Corporation to furnish professional legal services to specific, identifiable, individual citizens who requested assistance on noncriminal legal problems and who, because of their indigent situation, were unable to hire an attorney to help them. It may have been the case, Mr. President, that this particular food stamp office had some deficiencies in its operations at that time.

If that were true, then of course the deficiencies should have been corrected. In fact, I took the matter up with the food stamp program authorities at the U.S. Department of Agriculture as soon as the matter came to my attention and requested a thorough review to insure that the food stamp guidelines were being adhered to at the Orangeburg office.

Finally, however, Mr. President, I felt then, and I feel now, that the local legal aid office had grossly overstepped its charter in conducting this so-called investigation of another Federal agency. In fact, it appeared that Palmetto Legal Services was deliberately trying to provoke unrest and trouble in the community. It looked very much as if they were on a crusade to change society to suit their own notions, rather then properly doing their job of representing indigent clients with specific legal problems. Furthermore, it appeared that these methods amounted to solicitation of clients in violation of the ABA Code of Professional Responsibility.

In an effort to clarify the legality and appropriateness of these particular activities, I sent all the information I had received to the national headquarters of the Legal Services Corporation and requested an investigation to insure that Federal funding was being utilized in an appropriate and legal manner.

Mr. President, frankly, the reply which I received from Legal Services disappointed me. While Legal Services admitted that "the language used in some of the materials was inappropriate" and took steps to see that distribution of the highly inflammatory leaflet was halted, the Corporation "found no violation of the Legal Services Corporation Act . . . or Regulations . . . or any noncompliance with policy directives of the Corporation in the promulgation of these materials." The reply from Legal Services further stated their view that "it is entirely appropriate for legal services programs to engage in outreach efforts as part of their community education endeavors."

Now, Mr. President, I take strong exception to the manner in which the Legal Service Corporation twists the law which governs their activities to suit their own interpretation of what their mission should be. As I stated earlier, I have been unable to find any provisions in the law which authorizes these kind of so-called outreach or community education activities. Does outreach mean conducting an investigation of another Federal agency, publishing and distributing a "report", along with inflammatory inaccurate leaflets of this kind? I do not think that is what Congress intended; I think the taxpayers who find these kind of activities would be outraged if they knew of them; and I believe Congress ought to do everything possible to see that these kind of abuses are stopped now.

Mr. President, as if these incidents by the Orangeburg Legal Aid Office were not enough, recently I received another letter from the director of the local social services-food stamp office, again complaining of undue harassment and agitative activities by the local legal services office. I have also received a copy of a letter sent out by the Orangeburg office of Palmetto Legal Services, dated April 15, 1980. I will ask that the full text of this communication be printed in the RECORD later, but I would like to quote from it in part at this point. It is my understanding that this letter was sent to some 600 persons whom this office had in the past assisted with food stamp benefits. It was apparently mailed in order to inform those persons that the food stamp program might run out of money on June 1. Since Congress recently enacted the necessary legislation to give the program another $2.5 billion, Senators are familiar with the scenario. According to this local legal aid office:

> The problem is that the United States Congress did not vote enough money for the food stamp program this year. The Congress was busy giving out money for a lot of unimportant things, but they did not care what happened to the food stamp program. That's because most of the people in Congress are rich, and they don't care about the common people on the bottom who have to depend on food stamps to live.

The letter went on to outline specific actions which food stamp recipients could take to protect themselves, including writing a letter to the Governor asking him to declare "a state of emergency in South Carolina" so that the State could receive emergency money for interim food supplies. In conclusion, the letter stated as follows:

> Remember, food stamps are not a gift. We have paid for them many times over with the hard work that we have done for many years. We are not in need because we are lazy. We are in need because the rich people and the bosses have not paid us fairly for the hard work that we have done. We are in need because the hospitals charge us too much for medical care, when medical care should be free to everyone who needs it. We are in need because the government does not give us enough money to live on when we get too old or too sick to work for these rich people.
>
> Do not be ashamed to demand your rights. You have worked hard, and you have the right to eat.
>
> If you need any more information, you can contact . . . Palmetto Legal Services.

Mr. President, here is an instance where a local legal aid office, after being warned against such activities and after having been notified to cease and desist from them, simply ignored the law, regulations, and compliance instructions of its national office and did much the same again. Obviously, there are entirely too many persons connected with this agency who care nothing for operating within the bounds of the law according to the intent of Congress.

They are apparently on a crusade of their own to eliminate social injustices as they perceive them. Well, Mr. President, I commend their concern and enthusiasm, but I vigorously disagree with these kinds of tactics. Call it abuse of discretion, lobbying, solicitation of clients—whatever the case may be—I think these activities are highly questionable and inappropriate expenditures of the taxpayers' money and ought to be immediately halted.

I do wish to add, in all fairness to this particular grantee, however, that it is my understanding that Palmetto Legal Services recently acquired a new director, Ms. M. Butler Ferguson, who says she had no knowledge of this April 15 letter that was sent out on Legal Services stationery and specifically disapproved of its approach.

She further indicated to my office that she was concerned about the ill will that existed between the Orangeburg legal aid office and the local food stamp office and was endeavoring to improve their working relationship. Ms. Ferguson's efforts appear to be a step in the right direction, Mr. President, and I sincerely hope that these kinds of activities will not recur. Based on past experience, however, I think it would behoove the Senate to take further legislative steps to discourage such a recurrence.

Mr. President, I ask unanimous consent that various letters and leaflets to which I earlier referred be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

South Carolina
Department of Social Services,
Orangeburg County, August 30, 1980
Senator Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: Once again I find myself writing to you for help and guidance as well as providing you with some valuable feed-back on the operations of another Federal program.

On this occasion, I am writing in the capacity of County Director for the Department of Social Services for Orangeburg County. As Director, I am writing to you to seek relief from another agency in town funded by the Federal Government. That agency is known as Palmetto Legal Services.

Through a campaign of slander, innuendo, false information and other such tactics, they are disrupting the Food Stamp Program in this county to the extent that daily I am having staff threaten to quit because of the verbal abuse and general harassment showered upon them from this group.

Since the implementation of the new Food Stamp laws on January 1, our caseload has increased from about 3,800 families to more than 5,300. Coupled with this increase is the fact that staffing has not kept pace with this growth, in fact, we have received no increase to this date. The workload is going out of sight. To add to this is the campaign of Palmetto Legal.

I would welcome an investigation by your staff or any other group that could lay these outrageous claims to rest and to cause this group to cease and desist from their unfounded campaign against the Orangeburg County Department of Social Services.

I am including a copy of all the materials they have distributed throughout this county to date in their campaign of creating distrust and unrest within this community.

Any relief that you can bring in this matter will be welcomed. (If a remedy can be found to this situation, I am sure that you, as Senior Member of the South Carolina Delegation, will be able to find it.)

As always, I thank you for your concern for the citizens of this State and on my behalf in particular.

Sincerely,
Chester J. Tomson, Jr.,
County Director.

Palmetto Food Stamp Service Can Help You Fight Back

Some very powerful people in this country are trying to stop the food stamp program. They do not care if the hard-working people don't have enough to eat. They do not care if our children don't have enough milk and juice to drink. All these rich people want is to take more money from us so they can use it for themselves.

Last year, thousands of people were cut off of food stamps by the United States Congress. Food Stamp Supervisors have scared many people away from food stamps by threatening to put them in jail for trying to get stamps. Many caseworkers act very nasty to people so that the people will get angry and stop getting food stamps.

But we should not let them cheat us so easily. Food stamps belong to us by right! We paid for them long ago by our hard work and our tax money. And with the price of food and everything else rising so high, how are we going to pay our bills without any help?

Do you feel that you are being cheated by the Food Stamp Office?

Do you think that you should be getting food stamps, but the folks at the Food Stamp Office tell you that you can't get any?

Do you think that you should be getting more food stamps?

Have you been mistreated by a guard or a caseworker at the Food Stamp Office?

Well, you don't have to take that mess! You should fight for your rights at the food stamp office! Palmetto Food Stamp Service will help you fight!

Palmetto Food Stamp Service will be open to serve you beginning Monday, June 18, at 338 Russell Street SE in Orangeburg. Palmetto Food Stamp Service is a unit of Palmetto Legal Services of Columbia.

New Legal Service: Persons To Receive Help in Food Stamp Checkup

(By Mary Green Brown)

Palmetto Legal Service is not afraid to take on the Public Service Commission, utility companies, block grant proposals and other "big boys," its director, John Delgado, said Monday in an address to the Orangeburg Kiwanis Club.

Palmetto Legal Service has opened an office in Orangeburg to provide legal service in the civil area to indigent persons who cannot afford to pay.

Delgado, of Columbia, said following the meeting that he was aware that a brochure circulated to publicize the agency has attracted attention in the community, and he said he stands behind the brochure.

It was designed to attract the attention of the persons needing the service and was not designed to appeal to the general public, he added.

The brochure, which has been distributed widely to persons who might need help in getting food stamps and others, says that many food stamp supervisors and caseworkers attempt to scare people away from food stamps.

Powerful people are trying to stop the food stamp program, and last year Congress cut off thousands of people from food stamps, the brochure says.

"But we should not let them cheat us so easily. Food stamps belong to us by right! We paid for them long ago by our hard work and our tax money. And with the price of food and everything else rising so high, how are we going to pay our bills without any help?" the brochure states.

Delgado said the need for the program in Orangeburg County is evidenced by the fact that 53 cases dealing with food stamps alone were opened during the first 13 days of operation.

The program provides a service described in other literature as a "food stamp checkup" which is designed to determine if the client is entitled to the amount of food stamps and to determine if a person not receiving stamps is eligible.

One of four legal service programs in the state, Palmetto Legal Service is funded through the National Legal Service Corporation. The Orangeburg office is now handling only Orangeburg County food stamp cases but will eventually include other types of legal work for Calhoun, Allendale, Barnwell and Bamberg counties as well as Orangeburg. Naomi Mims will head the local office.

The program takes only clients without financial resources, and any applicants for the service must meet income guidelines before being accepted into the program.

"The legal needs of the poor can be best served by quality aggressive litigation," he said.

The four types of work which Palmetto Legal Service provides include domestic, benefits, housing and consumer. The program is prohibited from taking personal injury cases which are fee-generating unless two attorneys sign statements that they cannot take the case, Delgado said.

Legal Services Corporation,
Washington, D.C., September 25, 1979.
Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: I am acknowledging receipt of your September 11, 1979 correspondence and enclosures concerning activities of the Orangeburg office of the Palmetto Legal Services program.

Our Atlanta Regional Office, which has responsibility for monitoring the activities of legal services programs in South Carolina, has reviewed the materials you forwarded, as well as the circumstances surrounding their distribution. Their review found no violation of the Legal Services Corporation Act (Pub. L. 95–222) or Regulations, 45 C.F.R., Parts 1600 et seq. or any non-compliance with policy directives of the Corporation in the promulgation of these materials.

It is entirely appropriate for legal services programs to engage in outreach efforts, as part of their community education endeavors. In fact, the Corporation has been criticized by the General Accounting Office in its Report No. HRD–78–164 (November 6, 1978) for devoting too few resources to community education efforts. As a result, programs have been encouraged to initiate and maintain outreach activities as part of their preventive law and community education efforts.

However, our Atlanta Regional Director, Michael H. Terry, has conveyed to Palmetto Legal Services his office's concern that the language used in some of the materials was inappropriate. When these concerns were relayed to the program, its staff ceased further distribution of the leaflet with the offensive language. Mr. Terry has also asked that the program be more circumspect in its public relations and community education initiatives in the future.

I do appreciate your bringing this matter to our attention. If you have further questions concerning this matter, please let me know.

Sincerely,

DAN J. BRADLEY.

PALMETTO LEGAL SERVICES,
Columbia, S.C., April 15, 1980.

Dear Friend, This is an urgent message for all people who get food stamps!

There is a great danger that the food stamp program will run out of money on June 1st!

The problem is that the United States Congress did not vote enough money for the food stamp program this year. The Congress was busy giving out money for a lot of unimportant things, but they did not care what happened to the food stamp program. That's because most of the people in Congress are rich, and they don't care about the common people on the bottom who have to depend on food stamps to live.

Congress can save the food stamp program if they vote more money by May 15th. Many community leaders and organizations are up in Washington now, trying to put pressure on the Congress to give the food stamp program more money. But if these leaders and organizations are not successful in their fight, then there will be no new money for the food stamp program until the first of October.

What does this mean for people who get food stamps?

If the county food stamp offices go broke on June 1st, they could cut down the amount of food stamps that everybody gets. In other words, they could take away 10 percent, 25 percent, or even half of everybody's food stamps for the months of June, July, August, and September. If the food stamp office doesn't do this, they could leave some people alone but cut some people off of food stamps completely.

Right now, there is no telling what the food stamp office will do. The only thing that is certain is that if Congress doesn't give money, then some people will not be getting as many food stamps as they are getting now.

You should take this very seriously!

What can people do?

We are urging people to take the following steps:

(1) Do not plan on getting food stamps this summer.

You might get them, or you might not. But it is better to have and not need than to need and not have.

(2) Save some of the food stamps that you get in May.

You might have to make them last for more than a month. Do not use all of your stamps until you are sure that you will be getting some more after the first of June.

(3) Ask your minister and church leaders to set up an emergency food center in your church.

Churches can collect food in the community and pass it out to people who need it. The Church should be more than a house of worship. It should be a refuge for God's children who are in need. This is the way that the church used to be in the time of our mothers and fathers. Ask your church to do God's work, instead of only saying God's words.

(4) Share with your neighbors.

This is another way that we used to make it over bad times. It's a habit that we've gotten out of. Not too many years ago, when times were rough for everybody, we shared our food with our friends and neighbors so that nobody went in need. The bad times are coming back, and this is a good time to get back into those old habits of sharing and helping in our community.

(5) Write a letter to the Governor.

If the Governor wants to, he can help in this time of crisis. You can address the letter to: Governor Richard Riley, Governor's Mansion, Columbia, South Carolina. You can use your own words, but you should tell the Governor something like this:

"Dear Governor: I get food stamps. If the food stamps are cut off, my family will not have much to eat. I am asking you to call for a *state of emergency* in South Carolina. If you do this, you will be able to get emergency money to feed my family and other people until the food stamp program gets more money again in October."

Remember, food stamps are not a gift. We have paid for them many times over with the hard work that we have done for many years. We are not in need because we are lazy. We are in need because the rich people and the bosses have not paid us fairly for the hard work that we have done. We are in need because the hospitals charge us too much for medical care, when medical care should be free to everyone who needs it. We are in need because the government does not give us enough money to live on when we get too old or too sick to work for these rich people.

Do not be ashamed to demand your rights. You have worked hard, and you have the right to eat.

If you need any more information, you can contact: Barbara Jackson, Lorgian Graham, Emity White, Shirley Henry or Jesse Taylor; at Palmetto Legal Services, Post Office Box 1646, Orangeburg, South Carolina 29115 (on the courthouse square) 533-0116.

Sincerely,

JESSE TAYLOR,
Community Education,
Palmetto Legal Services.

FOOD STAMP FUNDING IN COUNTY ALREADY GONE

(By Mary Nichols)

About 7,900 food stamp recipients, Department of Social Services employees and local citizen action groups in Orangeburg County are awaiting the decision Congress is making on providing supplementary funds to the food stamp program.

Money for the federal food stamp program, appropriated to DSS offices all over the country, has already been spent, with a little under half of this fiscal year (Oct. 1 to Sept. 30) to go. If Congress fails by May 15 to appropriate funds to extend the program through October, June allotments to recipients may be curtailed and more cutbacks could be expected.

Thursday night, the Senate worked to complete its debate on the 1981 budget. This budget package includes the approval to raise the 1980 spending ceiling that was breached in March and which is preventing approval of new federal spending that would extend funds for the food stamp program.

The U.S. Department of Agriculture has warned that unless Congress approves additional money for food stamps, those benefits will be cut off to the program's 21 million recipients across the nation on June 1.

"Under current appropriations, there is only enough money to provide food stamps through May," said Chester J. Tomson Jr., director of the Orangeburg DSS office.

"They're (Congress is) running out of time," he said. "If they don't make the May 15 deadline, there will be some curtailed benefits for the month of June."

Approximately $817,802 in food stamps was spent locally during March for food. A cut or a postponement in the payment of funds would not only hurt those needing financial assistance, but local merchants and farmers as well, Tomson says.

Tomson believes that the extension will come through eventually. If this does not happen, then one of several alternative plans could be used, he said.

A 30 percent cut in allotments in June with "refunds" to stamp recipients made in July is a possibility, he said. A commodity program could be set up for USDA food stores to be made available to those who needed them.

Or there might not be any stamps at all in June.

"June will be the crunch month," Tomson said. "At this point we just don't know what will happen. There will have to be something else set up—the emergency fund provided by the county would not meet the need, it wouldn't be a drop in the bucket.

"And the county or state should not be expected to pick up the program," he said.

Tomson doesn't see an end to the program in sight.

"It's not likely that they will do away with the program entirely as rumored," he said, smiling. "This is an election year. We're reasonably certain that the appropriations will go through.

"The program has an impact on too many in our society," Tomson said in a more serious tone. "It impacts the farmers, the merchants too. No doubt there will be modifications eventually, but I don't expect I will ever see the day the program is cut entirely.

"It's not too hard to talk to the farmer or the grocery store owner about food stamps," he said. "The turnover rate for the money in the state and county is four times. Forty to $45 million is generated, not to mention the impact of the four percent sales tax on that alone.

"It has an impact on Orangeburg County," he said.

The first criticism anyone ever had about food stamps was that there were always a few who might abuse the program, but Tomson said that 99 percent of the recipients were legitimate.

"The only thing that we can do here is operate according to federal guidelines," he said "Very few of our critics want to * * * If federal money is cut off, there is not anything Orangebury County DSS can do about it, Tomson said.

Individual DSS offices are totally at the mercy of federal guidelines, Tomson said—everybody throughout the nation will experience the same difficulties.

"Right now, it's hanging in the air," he said.

The Orangeburg office of the Palmetto Legal Services—a federally funded organization organized to provide indigent persons with needed legal services—sent out a letter last month that said, "There is a great danger that the food stamp program will run out of money on June 1."

In a letter sent on April 15, suggestions were given about the cause of the food-stamp money crunch and what people could do.

"The problem is that the United States Congress did not vote enough money for the food stamp program this year," the letter said. "The Congress was busy giving out money for a lot of unimportant things, but they did not care what happened to the food-stamp program.

"That's because most of the people in Congress are rich, and they don't care about the common people on the bottom who have to depend on food stamps to live," the letter said.

Palmetto Legal Service told local persons to save May food stamps, to ask for an emergency relief center in churches, to share food with neighbors and to write letters to the governor.

"Remember, food stamps are not a gift," the letter said. "We have paid for them many times over with the hard work we have done for many years.

"We are not in need because we are lazy. We are in need because the rich people and the bosses have not paid us fairly for the hard work we have done . . . We are in need because the government does not give us enough money to live when we get too old or sick to work for these rich people."

Tomson said the reason for the shortage is an increased demand for food stamps, unforeseen when the budget for the year was written.

UP AMENDMENT NO. 1140

(Purpose: To reduce the funding allocation of recipients if an employee of the recipient violates certain lobbying or outreach prohibitions)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes an unprinted amendment numbered 1140.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2, after line 15, insert the following:

Sec. 3. Section 1010 of the Legal Services Corporation Act (42 U.S.C. 29961), is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act, if the Corporation finds that any employee of a recipient has engaged in—

"(1) lobbying activities in violation of the provisions of this Act, or

"(2) outreach community education, or client solicitation activities in violation of this Act, the Code of Professional Responsibility, or the Canons of Ethics, then the funding for such recipient for the fiscal year immediately following the fiscal year for which the Corporation makes a finding under this subsection and pursuant to the procedures described in Section 1011 of the Act shall be reduced by an amount determined by the Corporation, considering the nature and severity of the violation, or the Corporation shall take appropriate disciplinary action, or both.".

Mr. THURMOND. Mr. President, this amendment is a very simple amendment. It simply does this: It directs the Legal Services Corporation to reduce funding or discipline an employee, or both, if the employee engages in illegal lobbying, outreach community education activities outside of the scope of the act, or client solicitation activities in violation of the ABA code of professional responsibility.

It is a very simple amendment. I believe the managers of the bill agree to the amendment, so I will not take further time.

Mr. STAFFORD. Mr. President, speaking for the minority on this side, we have examined the amendment of the Senator from South Carolina and, for the minority, we are prepared to accept the amendment.

Mr. NELSON. Mr. President, the position of the majority is the same. I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1141

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. Humphrey) proposes an unprinted amendment numbered 1141:

On page 2, after line 15, insert the following:

Sec. 3. Section 1006(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)) is amended by adding at the end thereof the following new sentence: "The Corporation shall, in providing financial assistance under clause (1)(A) of this subsection, encourage recipients to develop, with appropriate bar associations, programs designed to provide voluntary legal services by private attorneys to eligible clients, and give special consideration to recipients which provide such voluntary services.

Mr. HUMPHERY. Mr. President, my amendment is a very simple one. It would give the Legal Services Corporation specific authority to support pro bono legal services projects. Under my amendment, the Corporation could fund nonprofit referral projects that are affiliated with local bar associations and that are designed to promote the use of the voluntary services of private attorneys. The idea is to help the bar associations to do their part to help needy citizens in their communities.

The amendment does not alter the Corporation's authority to fund other types of projects. The amendment does not require the Corporation to fund pro bono projects. It just requires the Legal Services Corporation to give special attention to pro bono proposals.

In New Hampshire there is a highly successful statewide pro bono project. This project has received a special demonstration project grant from the LSC, reviewable every 6 months, over the last couple of years. The experiment was and is a resounding success, and yet continued Legal Services Corporation support for it is ever in doubt, it being a marginal project in their view, a project of a kind not specifically sanctioned by law. My amendment would change this, and afford the opportunity to other States and other bar associations to try New Hampshire's method.

New Hampshire's pro bono law project won an award last year from the American Bar Association as did the New Hampshire Bar Association that supports this project. Over 60 percent of the New Hampshire Bar, 750 attorneys, participate. In 1979, the project handled 450 clients a month, 6,000 cases a year. Many of these cases were handled directly by the small project staff, consisting of one attorney and five paralegal and other assistants.

Approximately 1,100 cases were referred to private lawyers, and this is in a small State of fewer than 900,000 people. In addition, the project conducts annual training seminars. Each year, lawyers newly admitted to the New Hampshire bar receive a packet of materials describing the program and its benefits.The project staff has been highly successful in getting help from private attorneys in given geographic areas, even when the lawyers are not formally committed to help this project.

At a cost to the taxpayer of only $11 or so a case, New Hampshire's pro bono services represent perhaps the most economical approach to providing legal assistance to the disadvantaged.

Also, the project inspires civil spiritedness. The volunteer lawyers, taking time from private practice, are more interested in the individual welfare of their "pro bono" clients, and are less intent upon pushing an ideology or using their position for other improper ends.

My amendment would promote a reasonable alternative for providing legal services to the truly needy. I urge my colleges to join me in supporting it.

Mr. President, I ask unanimous consent that two articles which appeared in the New Hampshire Law Weekly, of August 1, 1979, one entitled "Bar Wins Awards for Excellence * * *" and the other entitled "And Pro Bono System" be printed at this point in the Record.

There being no objection, the articles were order to be printed in the Record, as follows:

Bar Wins Awards for Excellence

The NH Bar Association has become the first state bar of its size to win the American Bar Association's rare and coveted Award of Merit for Overall Excellence.

The award recognizes the 1,640-member NH Bar for a wide range of programs that are unique to a state bar of fewer than 2,000 members—the smallest of the ABA's four categories.

The Overall Excellence Award and Single Project Excellence Award for the NH Pro Bono Referral System (see below) are the second and third ABA Awards of Merit to be won by the NH Bar Association.

The Bar won its first Award of Merit—for New Hampshire Law Weekly—in 1976.

NH Bar President Jack B. Middleton of Manchester and his predecessor, former NH Bar President Ernest L. Bell III of Keene, will receive that award at the ABA's annual meeting in Dallas Aug. 10.

ABA President-elect Leonard S. Janofsky of Los Angeles will make the presentation, which recognizes "outstanding service to the general public and the legal profession."

Following are excerpts from the NH Bar's entry form, on which the award is based:

New Hampshire lawyers believe they have a unique bar, far more active and committed than similar-sized state bars.

The facts appear to corroborate their conviction. Whether measured in members involved in programs, funds raised, hours volunteered or simply breadth of activity, the NH Bar Association stands out.

CAPSULE HISTORY

Founded July 2, 1873. Managed by volunteer leadership and part-time secretary-treasurers from 1926 to 1968. Unified in 1969, when full-time office set up. In the ensuing decade, bar membership has more than doubled—from 800 to 1,640—self-imposed dues more than tripled—from $50 to $175—and the budget-dollar per member has increased nearly fivefold.

MEMBERSHIP PARTICIPATION

1978 continuing legal education registrations: 38 percent of active in-state members. Attorney course-hours devoted to Bar-sponsored continuing legal education in 1978: 154,100.

1978–1979 committee and board roster: 36 percent of active in-state members. Attorney-hours devoted to NH Bar committee and board work in 1978–79: 10,828.

1979 Pro Bono Referral project plan: 60 percent of active in-state bar. Unbilled hours contributed to cases referred under Pro Bono project, 1978: 9,600.

Average attendance at Board of Governors' monthly (five-hour) meetings: 86 percent.

Average participation in Bar election balloting: 60 percent of eligible voters.

Average registration at annual Mid-Winter Meeting: 30 percent of active in-state membership.

Average response to recent Bar-conducted polls: 82 percent.

Committee positions filled by members responding to assignment questionnaires: 100 percent.

FULL TIME CONTINUING LEGAL EDUCATION

New Hampshire in 1976 was the first under-2000-member bar to hire a full time continuing legal education director.

In the year just ended, NH Bar CLE:

Offered over 100 hours of continuing legal education, 85 hours "live."

Produced 10 practice handbooks totalling more than 2,000 pages of original material.

Upgraded the annual Practical Skills course to a 2½-day program covering 5 topics.

Supplemented and extensively revised the 700-page Practice & Procedure Handbook (published continuously by the Bar since 1969).

Launched a formal video program which has been used to:

Incorporate videotaped demonstrative teaching techniques within a live seminar;

Offer repeat showings of NH CLE seminars in more remote locations of the state; and

Make available to local associations and the general membership video programs from other CLE entities.

Began a formal publications program by publishing a catalog listing 16 NH CLE practice handbooks produced during previous 18 months.

NEW HAMPSHIRE LAW WEEKLY

We are doubly proud of Law Weekly, our five-year-old newsletter, 1976 recipient of an ABA Single Project Excellence Award of Merit, because:

It is one of the few news-and-decisions bar weeklies in the nation, one of the fewest of its quality and content and certainly one of the fewest to be published by a bar of our size.

Three-fifths of its cost is funded by advertising, professional announcements and lay subscriptions. Publication costs the NH Bar only $18,000 per year, or less than $11 per year per lawyer—an economy most weeklies of any sort would like to emulate.

Law Weekly's 8-page high quality format means many non-news bar communications such as Continuing Legal Education brochures can be carried in the publication as inserts, of unauthorized practice and, where necessary or desirable, recommends and supports prosecution.

Municipal Law Education: Bar section an initiator and continuing participant in consortum conducting regular, regionalized educational programs for lay city and town officials.

OTHER ACTIVITIES

Because its viability depends on regular and objective review of programs, resources and organizational structures, the Bar carries out long range planning, budget and audit and constitution and bylaw activities with the same sense of purpose and broad participation that characterizes its more "popular" undertakings.

Thanks to a cooperative and equally activist bench, a very high percentage of bar-active members (see above and note that 55 percent of all New Hampshire attorneys are also ABA members) and a functionally strong regional federation (New England Bar Association), the NH Bar rarely finds itself, despite its small size, operating in a vacuum on any matter or issue.

The Bar's premier effort at a long range planning conference, one year ago, is a case in point. The 40 participants had been drawn from such a wide spectrum of the bench and bar that conference planners feared discussions would flounder, especially over the issues with which only "bar leaders," so-called, might be expected to be conversant. The fear was unfounded. Discussion was spirited and revealed an extraordinarily high level of both preparation and prior knowledge. The Bar benefitted not only from the expected concensus-taking and priority-setting, but also from the discovery of new directions and new resources.

AND PRO BONO SYSTEM

The NH Bar Association has won the ABA's Award of Merit for Single Project Excellence for its NH Pro Bono Referral System, in which low income people are referred to NH Bar members who serve them without fee.

NH Bar President Jack B. Middleton of Manchester and his predecessor, former Bar President Ernest L. Bell 3d of Keene, will accept the award at the ABA's annual meeting Aug. 10 in Dallas.

Following is the entry form on which the award is based.

The NH Pro Bono Referral System is the NH Bar Association's innovative answer to one of the most pressing and urgent problems of the day: insuring that low income people receive the legal representation to which, in a system based on the rule of law and equality before the law, they are justly entitled.

By centralizing all pro bono referrals in a single, central office, accessible by a statewide toll-free telephone line, the System attains a triple efficiency:

It directs all low income clients to a single, widely publicized and, therefore, familiar source of legal aid. Help is literally a telephone call away.

Because would-be low income clients are interviewed by specially trained paralegals supervised by a staff attorney:

Callers who have general legal questions or problems which can be resolved through brief legal services are assisted directly by the staff.

Many callers actually have non-legal problems, and are referred to social service or other appropriate agencies. Thus, hundreds of calls that might go unnecessarily to private law offices are deflected to people specially trained to deal with them. As a result, both clients and attorneys are better served.

It organizes all New Hampshire attorneys who provide pro bono services in one referral system, thereby insuring that:

All available pro bono attorney services are used and

The burden of providing pro bono services is spread evenly over all participating attorneys.

We judge the program to be an unqualified success, based in part on these indicators:

Nearly 60 percent of the private-practice bar in the state (700 out of 1,200) has agreed to date to participate, promising to accept up to three Pro Bono cases annually.

The cost per client to the System is just $11, based on current Legal Services Corporation funding of about $82,000 and a volume of 5,400 clients per year.

A base has been firmly established for the NH Bar Association's overall solution to the legal services delivery problem in the state: The System is the nucleus of a Comprehensive Statewide Referral Service organized to coordinate and execute all types of referrals from fee-generating to pro bono, eventually encompassing reduced-fee matters, specialty or special-need cases and even referral services to other entities, including courts, legal aid agencies and public-interest bodies.

The System serves a state of 9,304 square miles and a population of more than 871,000. An estimated 100,000 New Hampshire people are poor. Of these, almost 30,000 are 60 years old or older. Some of these are French, Spanish and Polish speaking so the System has French, Spanish and Polish staff.

NH Legal Assistance, also founded by the Legal Services Corporation, reports it cannot effectively serve many people in outlying rural areas, and, further, must limit its services to providing basic needs such as housing, food and medical care. Through use of volunteer attorneys throughout New Hampshire, the System is able to reach and assist clients who would otherwise be without representation.

Between 1976 and 1977 the NH Bar Association's Citizens' Rights Committee studied how to maximize the role of private attorneys in serving low income people. The committee considered encouraging private attorneys to devote a minimum amount of time to pro bono representation.

In the spring of 1977, the Citizens' Rights Committee survey of the Bar showed strong support for this idea. It also revealed that attorneys preferred a comprehensive system to refer low income clients to private attorneys.

The Committee thought that New Hampshire presented a unique opportunity for a statewide referral system because of its relatively small and integrated state bar association.

The Citizens' Rights Committee also believed a formal system was needed to encourage and, in fact, ensure that private attorneys fulfill their obligation under Canon 2 of the Code of Professional Responsibility to provide free legal services to people who need but cannot afford them.

Consequently, the Citizens' Rights Committee, with the approval of the Bar Association Board of Governors, decided to apply for a Legal Services Corporation grant to set up the NH Pro Bono Referral System.

Operation of the NH Pro Bono Referral System began early in 1978 under a $71,200 grant from the Legal Services Corporation's Delivery Systems Study. . . .

During the first year of operation, the project was administered by a 12-member Governing Policy Board. The Board was appointed by the Citizens' Rights Committee with approval of the Association's Board of Governors.

A 15-member Governing Policy Board, consisting of attorneys and representatives of low-income groups, overseas the project now.

Nine members of the Policy Board are attorneys representing various groups in the state's legal community. For example, to help bridge the gap between the services provided by legal services and those provided by the private bar, NH Legal Assistance has appointed its director to the Policy Board. Four judges representing the Probate Court, District Courts, Superior Court and the state Supreme Court also serve. An attorney is appointed by Franklin Pierce Law Center, the state's only law school, and three attorneys are appointed by the Bar Association's Board of Governors.

Community and consumer interests are represented by the remaining six members, five of whom have been selected by client organizations.

The System is staffed by an attorney/director, three paralegals, clerical staff and volunteer students. Because the project serves the entire state, each paralegal is assigned a specific geographic area in order to develop a close working relationship with the legal and social service resources in that area.

Client outreach efforts have included several press releases, a brochure distributed to social service agencies, meetings with the NH Social Welfare Council's Statewide Information and Referral Service, presentations before community agencies and other groups, and discussions with state departments such as Welfare, Labor, Insurance and Employment Security.

Most clients contact the Pro Bono Referral System after being referred to it by another legal or social service agency: 40% of clients are referred by other legal services programs, 25% by social service and government agencies and 15% by courts. Only 5% learn about the System through general publicity.

Although five to ten clients come into the central office each week, most clients contact the System by telephone or mail or on our statewide, toll-free telephone line.

The System has developed efficient methods to overcome most limitations of telephone interview. For example, when a client cannot read or explain a relevant document and time is of the essence, the staff will contact the clerk of court or a local service agency for details.

At the "intake" interview, a paralegal determines the nature of the problem and financial eligibility for pro bono services and records all relevant information on "intake sheets." After reviewing the cases with the attorney/director, the paralegal refers financially ineligible people and people with non-legal problems to social service agencies and other appropriate sources of help. Eligible clients with problems which can be resolved quickly by the staff are helped at the central office, under the supervision of the attorney/director. Eligible clients with legal problems requiring more extensive work are referred to a volunteer attorney located in or near the client's city or town.

The System tries to provide as good as possible a "match" between client and attorney. The System, for example, tries to refer to attorneys the types of cases they have indicated they would prefer to handle.

In every instance, before making a referral, the paralegal contacts the attorney by telephone to explain the case to be referred and determine whether any conflict of interest exists. If the attorney accepts the referral, both attorney and the client receive a written confirmation of that fact.

A file is opened on every case referred to a volunteer attorney. Each file contains intake information, copies of all correspondence from the System to client and attorney and copies of any relevant documents and periodic case reports submitted by the attorney. The paralegal who interviewed and referred the client to the attorney maintains the case file. The paralegal is also available to both client and attorney should any questions or problems develop while the case is pending.

When the attorney finishes a case, he or she submits final disposition information to the System. This information includes a summary of the services rendered, case outcome, time record, an itemized list of necessary out-of-pocket expenses.

The System reimburses volunteer attorneys for out-of-pocket expenses of as much as $25 per case. Expenses of more than $25 also may be reimbursed, but only with the attorney/director's approval. "Out-of-pocket" expenses include travel, long distance telephone calls and nonwaivable service and court filing fees.

Since the System began full operation on Feb. 1, 1978, the number of clients served has increased dramatically from only a dozen to more than 450 clients per month. In 1978, 38 percent of all client intakes concerned divorce cases; 27 percent, other family problems; 14 percent, consumer problems and 5 percent, guardianship proceedings and wills. The remaining 16 percent included landlord-and-tenant, tort, unemployment, social security, land ownership and other problems.

During 1978, only about 30 percent of all clients were referred to an attorney. Between Feb. 1, 1978, when the Service began, and Dec. 31, 1978, 962 persons or about 88 people per month were referred to private attorneys. Many clients had more than one legal problem.

In 1979, while the number of clients has increased, the number of cases referred to attorneys has remained constant, resulting in a referral rate of slightly more than 20 percent. Thus, while the project receives more than 450 requests for assistance each month, usually less than 100 individuals are referred to attorneys. . . .

Because the Service is designed to supplement services provided by other legal assistance programs, it gives priority to those types of cases not handled by other agencies.

The "intake" paralegal spends approximately one hour on each case. Much of this time is used to explain to the client the nature of his or her problem. If no legal problem is presented, the paralegal may suggest what the client may do to resolve the immediate problem or what other more appropriate services are available.

If the client has a legal problem requiring an attorney, the paralegal prepares the client to see the attorney. He or she may ask the client to gather more information. He or she may outline what decisions the client will have to make or what services the client may expect from the attorney. In each case, the paralegal encourages the client to contact him or her if any questions or problems develop during representation.

The private attorney submits periodic reports to the System on each case. The attorney returns an "Initial Disposition" form after his or her first interview with the client. If the client fails to contact the attorney within a month after the referral, the attorney still returns the "Initial Disposition" form. The form thus notifies the System whether or not the client has contacted the attorney or if a second referral is necessary. At case closure, the attorney submits final case disposition information which includes a summary of services rendered and case outcome.

The System usually has at least one volunteer law student available to provide private attorneys with research aid. When a case requires, co-counsel may be assigned or a more experienced private or legal services attorney may be asked to provide consultation.

The NH Superior Court assisted the System by voting to waive court filing and service fees for clients represented by System attorneys. Thus, attorneys may bring actions in behalf of their clients quickly, without having to collect costs from clients or filing motions to waive costs and fees.

The System has recruited a remarkable 700 of the 1,200 New Hampshire lawyers in private practice to take referrals.

The System began recruiting attorneys in December, 1977, when the state Supreme Court's recently retired chief justice, Frank R. Kenison, wrote to all members of the Bar asking them to participate. By Dec. 30, 1977, 261 attorneys had agreed to accept as many as three pro bono cases per year.

The chief justice's letter was followed by personal telephone calls by attorney members of the System's Governing Policy Board, members of the Bar's Citizens' Rights Committee and other attorneys.

Since spring, 1978, three more letters have been mailed and more calls were made by members of the System's Governing Policy Board and the Bar's Board of Governors.

The attorney/director of the Pro Bono Referral System also made appearances at local bar meetings.

As a result of all these efforts, almost 60% of the available attorneys in private practice have volunteered their services to the System.

The System's training programs and materials have also sparked the interest of many young lawyers. A one-day training session based on our Poverty Law Handbook (see below) was well attended.

Those few attorneys who have withdrawn from the System have done so because of relocation out-of-state, retirement or unforeseen illness. Attorneys seem satisfied with the System. One factor which may have contributed to its high lawyer retention rate is Bar affiliation and continued Bar support. Many New Hampshire attorneys have seen the System as an effective way for lawyers to share equally their burden of providing pro bono representation.

The System has prepared an 800-page Poverty Law Handbook, which has been distributed to System attorneys free of charge. (It is available to non-System attorneys for $15). The Handbook outlines public benefits available to low-income persons and contains forms, checklists and other useful information about public benefits, domestic relations, Employment Security, consumer protection, administration of small estates, Social Security, bankruptcy and nursing homes. The handbook is the first publication of its kind of New Hampshire. It is widely used, not only by private lawyers, but also by legal services attorneys and law students in clinical programs.

Almost 105 attorneys from across the state attended a free one-day training seminar in September, 1978.

The Pro Bono Referral System plans both to update the Handbook and hold seminars annually.

The System has worked closely with the NIH Bar Association's Elderly Legal Services Development Program (which is funded by the Federal Administration on Aging) to helped the program establish a reduced-fee referral system for elderly who do not qualify for Pro Bono representation. The Elderly Legal Services Development program, on the other hand, provides important consultative services to System staff and attorneys working on elderly cases.

The Pro Bono Referral System and the Elderly Legal Services Program share the use and cost of a statewide WATS telephone system. Each program also cooperates with the other in screening clients and directing them to appropriate sources of aid.

The system has been working with NH Bar Association to develop a comprehensive information and referral service which would handle, not only pro bono cases, but renduced-fee and fee-for-service cases as well. The system would be a major part of this service.

To make both clients and social services organizations more aware of the legal resources available to the low-income New Hampshire people, the System is developing a Legal Services Directory. The Directory will assist all service providers, including courts and attorneys, direct persons to the most appropriate sources of legal aid.

Mr. HUMPHREY. Mr. President, I

believe my amendment will be accepted on both sides of the aisle.

Mr. President, if there is no further discussion, I will yield back the remainder of my time.

Mr. NELSON. Mr. President, speaking as the manager on this side, we are agreeable to the amendment. It is a very good amendment. As a matter of fact, the Legal Services Corporation is of the opinion that the pro bono program currently operating in New Hampshire is a very good one.

I commend the State of New Hampshire for their work in this field and the Senator from New Hampshire for offering this amendment.

Mr. President, I yield back the remainder of my time.

Mr. STAFFORD. Mr. President, for the minority, we are prepared to accept the amendment of the Senator from New Hampshire.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I suggest the absence of a quorum and ask that the time be equally charged to both sides.

The PRESIDING OFFICER. To each side on the bill?

Mr. NELSON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

UP AMENDMENT NO. 1142

(Purpose: To prohibit Legal Services Corporation attorneys from engaging in environmental lawsuits)

Mr. McCLURE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1142.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> S. 2337 is hereby amended by adding at the end thereof the following:
>
> SEC. 3. "Subsection (b) of section 1007 of the Legal Services Act is amended by adding at the end thereof the following new paragraph:
>
> "(11) to provide legal assistance with respect to any proceeding or litigation intended to restrain or prohibit any construction or activity solely on the grounds that such construction or activity may be in violation of the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act, or any other law or regulation the purpose of which is to control environmental conditions, unless such proceeding or litigation is entered representing an eligible client having a direct financial interest therein in an amount not less than $500."

Mr. McCLURE. Mr. President, the amendment I have at the desk at this time is intended to prohibit Legal Services attorneys from instituting broad public interest-type lawsuits on environmental matters. In my judgment, such activities go far beyond the legitimate scope or purpose of the Legal Services Corporation Act.

I am not offended by the idea that a poor individual needs to have equal access to the Nation's legal system. I certainly agree, for example, that a couple who find their marital situation intolerable should not be prevented from seeking a divorce solely on the grounds that they cannot afford to see a lawyer. That is a fairly straightforward, simple proposition, and that, as I understand it is the reason we authorize and appropriate tax dollars to the Legal Services Corporation. But let me say, Mr. President, that I believe when the activities of legal aid attorneys go beyond representing poor, individual clients, they go too far. It is simply not justified; there is no legitimate purpose in expending public money to allow legal aid attorneys to pursue their own interests and concerns, but I am afraid that is what has been happening—a least in my own State.

A newspaper article brought to my attention a situation in Northern Idaho wherein a legal aid attorney in Coeur d'Alene instituted litigation aimed at stopping further development of Interstate 90. The issue, according to the attorney, is the bald eagle habitat which would allegedly be destroyed by the freeway construction.

That may be a perfectly legitimate concern. I am not passing judgment on the merits or demerits of the question of highway construction versus wildlife habitat. What I am saying is that legal aid should not be litigating the question on its own. That is not the proper function of legal aid programs.

I can foresee a situation in which a poor individual may legitimately need to invoke the protection of one of the environmental laws to assert a legal right or interest. My amendment provides for such a situation. It also sets a minimal dollar amount to avoid spurious suits, or suits in which there is not a genuine controversy.

Mr. President, the committee report states:

> The purpose of the Legal Services Corporation is to furnish financial support for programs providing certain legal assistance to persons otherwise unable to afford such legal assistance.

I submit that the type of lawsuit I described which occurred in my State is beyond that statement of purpose. If legal aid lawyers are going to persist in this sort of activity, we have no choice but to specifically prevent them from doing so by law. Accordingly, I urge the adoption of my amendment.

In urging so, Mr. President, I point out that I tried to delienate carefully, by the provision at the end of the amendment:

> unless such proceeding or litigation is entered representing an eligible client having a direct financial interest therein in an amount not less than $500.

Mr. President, I ask unanimous consent that Senator RANDOLPH of West Virginia be added as cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I wonder if the Senator will yield for a question.

Mr. McCLURE. Of course, I am happy to yield.

Mr. NELSON. The issue was raised here by the Senator from Vermont of what effect this might have on a class action suit.

Mr. McCLURE. A class action suit in which there are individual clients to be represented. If there is, as a matter of fact, an individual client who is a qualified client, then I think the suit could be entered.

Mr. NELSON. Without the $500 limitation?

Mr. McCLURE. I think there would have to be that interest involved.

Mr. STAFFORD. If the Senator will yield——

Mr. McCLURE. Insofar as these specific statutes are concerned, not class-action suits generally.

Mr. STAFFORD. If the Senator will yield further for a question——

Mr. McCLURE. I am happy to yield.

Mr. STAFFORD. What would be the effect, I ask the author of the amendment, if the word, "an" were stricken and the amendment were changed to read, "is entered representing clients having a direct financial interest therein in an amount of not less than $500"?

Mr. McCLURE. That would certainly broaden the opportunity for a class-action suit involved here.

I can perceive that a client who is affected—whose property is affected—is directly involved because of the location of a highway. He ought to be able to get legal aid even though he is poor and certainly ought not to be barred. But he has a direct interest in that as distinguished from the right that any citizen would have to bring a suit without a direct financial concern.

I am a little bit afraid that if we aggregate that, so that any number of clients could aggregate $500, we have almost nullified the financial limitation.

This, I submit, does not go to broad class-action suits, it goes only to these specific statutes, this kind of litigation.

Mr. STAFFORD. The Senator from Vermont must confess to being taken a little bit by surprise by this amendment. It might be well if we could have a short quorum call.

Mr. McCLURE. I am very happy to have the managers take a little longer to look at it if they would like.

Mr. NELSON. Before we do that, there is another aspect.

First, let me say that I discussed briefly the concept with the distinguished Senator from Idaho a little bit ago. I understand what he seeks to achieve, and I did say to him in our discussion that I thought it would be a difficult amendment to draft.

Mr. McCLURE. And I think the Senator will agree that I responded by saying, "Yes, indeed, it is."

Mr. NELSON. Yes, the Senator did.

Mr. President, I am looking at this broad, sweeping provision at the end, where it mentions:

> * * * may be in violation of the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act, or any other law or regulation the purpose of which is to control environmental conditions.

I am nervous about this language, because I have no notion how broad a sweep that is. When we say any other law or regulation the purpose of which is to control environmental conditions, I am nervous about it because I have no notion what the sweep of that may be.

Mr. McCLURE. I understand the concern expressed by the Senator from Wisconsin. My only response can be that we have a number of laws on the books of the type that are specified in the amendment that deal with the questions of the impact of human activities upon the environment. Those, generally speaking, do not have a specific constituency in terms of impact upon an individual. They are community or area impacts in terms of the application of broad public policies.

It is not my intention to go beyond that kind of action, but it would be my perception that, while people ought to have the access to courts for those kinds of suits, they are not the kinds of concerns nor suits that ought to be financed under legal services.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to my colleague from West Virginia.

Mr. RANDOLPH. Mr. President, I did request the opportunity to cosponsor the amendment by the able Senator from Idaho. In doing so, it was not something that I just felt at the moment I should do, but rather was well considered. This subject matter has been brought to my attention in West Virginia.

I know the careful attention of the Senator from Idaho to the drafting of the amendment. I am not saying that there could not be changes in it, but the thrust of the amendment is sound. It is good to have as a part of this legislation, a continuing program of legal services with safeguards as are embodied in this amendment. That is the reason for joining the Senator from Idaho in this amendment.

Mr. McCLURE. I thank the Senator from West Virginia. I think it is safe to say that there is no Senator in this body who, for a longer period of time or with more consistency and dedication, has been involved in attempts to protect the environment.

I think it is, coming from the Senator from West Virginia, particularly noteworthy with respect to the limitations not being held as an undue infringement upon the Nation's dedication to protecting the environment.

Mr. NELSON. Mr. President, I simply must repeat to the Senator from Idaho that I am very wary about the sweep of this language, because I know there are, out there someplace, all kinds of circumstances in which some poor person may, by some rule or regulation or some activity aimed at controlling environmental conditions—whatever that precisely means—who may be subjected to a nuisance that you cannot put a dollar value on or some damage of which they will be able to complain.

It seems to me that the language in the Senator's amendment is so broad that we cannot guess what the consequence may be. I know the Senator would not, either. I know what he is getting at. But I am afraid this language may go far beyond the problem the Senator from Idaho is attempting to cure.

I am not comfortable with it.

Mr. STAFFORD. Mr. President, I think I regret it, but I share the feelings of the distinguished manager of the bill.

The Senator from Vermont, of course, is impressed with the fact that the chairman of the Environment and Public Works Committee has supported this legislation. But it goes rather heavily into environmental issues, and I do not really understand exactly how far the impact of this amendment would be felt at this time.

We never had any hearings on language like this in the committee.

If it is possible, the Senator from Vermont could support this on some other occasion. But to do it this afternoon, without an opportunity to study it, I feel most uneasy, as does the Senator from Wisconsin.

Mr. McCLURE. Mr. President, I have to confess that I did discuss this matter earlier with the Senator from Wisconsin. Both he and I confessed at that time, and do so again now, that it is difficult to draft this legislation without making it overbroad.

But I think each one of us in our own experience can point to instances in which the desire to protect the environment, a subjective test, has been brought or furthered by Legal Services attorneys when that really is not the proper activity of the Legal Services Corporation.

If we are going to preserve the support for Legal Services Corporation, I think we have to carefully define and limit its activities.

I do not foresee the dangers that the Senator from Vermont and the Senator from Wisconsin indicate, although admittedly, it might be overbroad.

I am not saying everyone here is exact in what it should be. I am open to suggestion, if the language can be improved.

But when I hear the Senator from Wisconsin say he agrees with the thrust, but he is not sure where the thrust is going, and the Senator from Vermont says he does not agree with what I am trying to do, but is not sure whether I might not do more than I try, maybe, as a matter of fact, we ought to err on the side of protecting the corporation and the legal process until we find evidence of abuse and then refine it by correction away from that, rather than turning down the opportunity to correct a nonabuse, a nonproblem, on the basis there might be some unknown problem to arise in the future.

I hope the managers of the bill might except it, and if, as a matter of fact, we can come up with better language, maybe something solved in the conference with respect to a refinement of the language, rather than abandonment of the principle——

Mr. NELSON. May I say that the Senator from Idaho stated my concern very well. My concern is that I do not know what the amendment does. If I knew exactly what it did, I would be prepared to make a judgment that would not make me nervous.

I have been around a long time—some people say it is too long—and the Senator has been around, too.

I have many times looked at a proposition where there was a piece of legislation, or an argument before a committee, and did not perceive any problem whatsoever. Once the law was put into place, there were tremendous numbers of problems which, out of my lack of knowledge about every aspect of the whole world, I did not anticipate, nor did anybody else in either House of the Congress.

We have done that a number of times. That is what bothers me.

Mr. McCLURE. I would not normally invite the sponsors of a bill to accept an amendment I have offered with the expectation it might be dropped in conference. But I would suggest we might in this instance accept the amendment, and between now and the time of conference on this legislation determine whether or not there is such a problem, and if a refinement of the language can meet the fears of the Senator from Wisconsin and the uncertainties of the Senator from Vermont, that a modification of the language might well meet those concerns and, at the same time, preserve the principle.

If, on the other hand, we get to the conference and the Senator is still as dubious about it and still as concerned as he has expressed today, then drop the amendment at that time, rather than opposing it at this time.

I appeal to the managers on that basis, which is a little different than the Senator from Idaho would ordinarily do, which I do not ordinarily like to see us adopt actions which we confess we might readily and too casually abandon in conference.

I am happy to yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I think all of us who have been in this body shorter or longer periods of time realize that the process is not always as precise as we would like it on matters in which we feel that a purpose is very desirable to attain.

The suggestion made by my colleague from Idaho in this regard, as just stated, would be my view.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Would the Senator ask unanimous consent that the time for the quorum call be taken out of the time allotted to both sides?

Mr. McCLURE. Mr. President, how much time remains on this amendment?

The PRESIDING OFFICER. The Senator from Idaho has 5 minutes and 2 seconds. The Senator from Wisconsin has 7 minutes and 6 seconds.

Mr. NELSON. Mr. President, I ask unanimous consent that the time be taken out of the time on the bill, equally divided.

The PRESIDING OFFICER. The time on the bill, equally divided.

Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent to modify my amendment as follows: On line 8, strike the words "other law or." On line 9, strike all following the word "regulation" and add in lieu there of "pursuant thereto." On line 11, strike the word "financial"; and following the word "interest," the remainder of the sentence on lines 11 and 12.

Mr. RANDOLPH. Mr. President, will the Senator from Idaho yield?

Mr. McCLURE. I yield.

Mr. RANDOLPH. Mr. President, I believe that the language now proposed, which modifies the original amendment, is a proposal worthy of impartial consideration. It preserves the purpose of requiring a financial interest; yet, remove a certain reluctance that Senators NELSON and STAFFORD understandably have. With the availability of a conference on the matter and the agreement of the Senator from Idaho to modify in this manner to achieve the continuance of the purpose should not be forgotten.

I fully agree with the preciseness of this approach since it seeks to limit the scope of the amendment to one carefully drawn limitations.

Mr. McCLURE. I thank the Senator from West Virginia.

Mr. President, has the amendment been modified?

The PRESIDING OFFICER. Is there objection to the request to modify the amendment? The Chair hears none, and the modification is agreed to.

The amendment, as modified, is as follows:

S. 2337 is hereby amended by adding at the end thereof the following:

SEC. 3. "Subsection (b) of section 1007 of the Legal Services Act is amended by adding at the end thereof the following new paragraph:

"(11) to provide legal assistance with respect to any proceeding or litigation intended to restrain or prohibit any construction or activity solely on the grounds that such construction or activity may be in violation of the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act, or any regulation pursuant thereto unless such proceeding or litigation is entered representing an eligible client having a direct interest."

Mr. McCLURE. Mr. President, I wish to add to that my understanding that the term now would be that an eligible client must have a direct interest, and that direct interest is more precise and definite than the interest of a member of the public generally. It would have to be directly related to their interests, their living conditions, such as the elimination of the apartment in which they live, the erection of a smokescreen next door—something of that nature.

Mr. STAFFORD. Mr. President, for the minority, we are now prepared to accept the amendment as modified by the distinguished Senator from Idaho. His interpretation of the words "direct interest" is shared by the Senator from Vermont.

I assume that the construction of a waste dump would fit into that direct interest category.

Mr. McCLURE. I agree with the Senator.

Mr. NELSON. Mr. President, I know what the Senator from Idaho seeks to achieve in terms of broad environmental actions being initiated, of which the primary purpose is not to represent the problem of a client. I understand that. I am prepared to accept the amendment, from my viewpoint, as modified.

I say to the Senator, as I said to him earlier, that if the language of the amendment needs to be modified further, I surely will discuss it with the Senator.

If some compelling reason comes up for not taking this—something I have not heard of—I hope the Senator will not feel that I am bound.

Mr. McCLURE. I understand. That is in the nature of the offer I made to the Senator earlier.

Mr. RANDOLPH. I say this not as a pleasantry, but Senator STAFFORD and I know of those years the three of us served on the Committee on Environment and Public Works. Very often, Senator STAFFORD and I were standing against the Senator from Idaho or he was standing against us.

But I always complimented the Senator from Idaho, and I do it again today, for the thoroughness with which he approached the consideration of this issue of financial interest. I feel that in this instance his amendment is basically sound, and that is why I joined him on this amendment to require a showing of interest before representation can be undertaken under this act.

Mr. McCLURE. I thank the Senator from West Virginia, and I thank the floor managers of the bill.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. NELSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I understand that the Senator from North Carolina (Mr. HELMS) is on his way to the Chamber to propose an amendment. If nobody else desires the floor at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator suggest that the time be equally divided?

Mr. NELSON. I ask that the time be taken from the bill, equally divided.

Mr. STAFFORD. I concur in that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1143

(Purpose: To prohibit the influencing of Members of Congress and members of the State legislature)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1143.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 15, insert the following:

SEC. 3. Subsection (e) of section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) is amended by adding at the end thereof the following new paragraph:

"(3)(A) No recipient of any funds authorized under the provisions of this Act shall use such funds directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, or a member of a State or local legislature, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, or by a State or local legislature, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation. The provisions of this paragraph shall not prevent officers or employees of the Corporation or of other recipients of funds under the provisions of this Act from communicating to Members of Congress on the request of any Member or, through the proper official channels, make requests to Congress for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

"(B)(i) After notice and hearing by the superior officer having the power of removing any officer or employee who violates this paragraph or attempts to violate this paragraph, any such officer or employee shall be removed from office or employment.

"(ii) Whoever violates this paragraph or attempts to violate this paragraph shall be fined not more than $500 or imprisoned not more than one year, or both.".

Mr. HELMS. Mr. President, this amendment is one that should be eagerly accepted by the managers of the bill with the approval of all Senators.

It will extend the antilobbying provisions currently applicable to all Federal agencies to all funding recipients under the Legal Services Act. Those provisions are contained in 18 U.S.C. 1913, which states, in short, that agencies may not pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device intended to influence legislation.

Mr. President, the pending amendment would also extend this principle to lobbying activities before State legislatures, as section 1007(a) now does in a much more limited fashion.

Currently section 1006(c) of the act prohibits lobbying by the Corporation itself, but it says nothing whatsoever about funding recipients. Section 1007 (a) requires that the Corporation prevent lobbying by funding recipients, but it contains an exception where "representation is necessary to the provision of legal service and representation."

In other words, if a funding recipient can find a client who agrees to its lobbying efforts, it is free to lobby.

This exception makes the lobbying prohibition absolutely meaningless and it is time for this Senate to face up to that proposition.

As Shirley Scheibla pointed out in Barron's, the Massachusetts Law Reform Institute, a funding recipient, campaigned for the passage of a graduated income tax in that State, notwithstanding the provisions of section 1007 prohibiting the use of funds for lobbying and State initiatives.

In May 1977, the National Consumer Law Center advertised that it—

> Has traditionally devoted a significant amount of its resources to legislative activity at the State and Federal level, although its resources and willingness to be of assistance may not be generally known.

It went on to say that:

> The willingness of Legal Services attorneys to contact (and have others contact) Members of Congress can be crucial.

Mr. President, this amounts to an open concession of violations of the spirit of the law, and this Senate should put an end to it.

The Luzerne County Legal Services Association advertised in Clearinghouse Review for a "law reform specialist." Similarly, the Contra Costa Legal Services Foundation bragged about its "tradition of strong community involvement and aggressive participation in local political, social, and economic battles on behalf of its client communities.

What does all this mean, Mr. President? It means at the very least that lawyers on the Federal payroll are deliberately violating the law and bragging about it.

I wonder if this Senate really intends to let this activity continue.

A piece in Clearinghouse Review by an attorney with the National Center for Youth Law stated:

> (I)t is important the legal services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements, either through legislative advocacy or through litigation.

Another confession. In other words, these lawyers on the Federal payroll are saying, "We do not care what the law says. We are going to do as we please."

That is what they are doing, Mr. President. And that is what is wrong with the Legal Services Corporation. This is part of the reason so many of us in this Chamber have been sounding the tocsin.

But that same attorney wrote:

> The National Center for Youth Law would be happy to assist with such efforts.

A Review article entitled "An Advocacy Guide to the Community Development Block Grant Program" advises:

> A community group's main consideration, for example, might be to back a sympathetic political faction or public agency over an unsympathetic one.

All of these activities seem to me to be the kind of lobbying which presumably the Senate intended to prohibit. Certainly, it should be prohibited, and this amendment would make it clear beyond any reasonable doubt that such activity is in fact prohibited.

There are other examples of abuse. Let me go a little closer to my own home.

The Legal Services Corporation of North Carolina (LSNC) recently organized and led a protest against legislation that I offered to try to make sense out of the runaway food stamp program.

There was a story in a fine newspaper in my State, the Oxford Public Ledger on Monday, May 5, 1980, which describes this situation in detail.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVIVAL WEEK OBSERVANCE PLANNED BY HUNGER COALITION

(By Joann Thompson)

Vowing "We will march and march until somebody somewhere gives us an answer," Mrs. Mary P. Jones, president of the Granville County Hunger Coalition, announced Thursday that the coalition was spearheading a drive in Granville County to join in a national Survival Week observance.

The group will join other organizations planning to march in Atlanta on Sunday. They are protesting cuts in programs which aid food stamp recipients and others and are trying to influence passage of Senate Bill 1309, federal legislation required to continue the food stamp program.

"Poor people in this country are being attacked," Mrs. Jones said Thursday. "They have two enemies. They are inflation and our elected officials—the President and the Congress."

Mrs. Jones and four others, three representatives of the North Central Legal Assistance Program and William M. "Buck" Peace, spoke to a group of about 15 residents at a press conference Thursday morning at the Richard H. Thornton Library.

"As of June 1, the Food Stamp Program will be bankrupt," said Ross M. "Mac" Travis, a paralegal working with the North Central Legal Assistance Program, which has been asked by the Granville County Coalition to give legal advice and assistance.

"Unless Congress acts to put more money in the program by May 15, people will not get their food stamps on June 1."

Travis attacked Sen. Jesse Helms, who has proposed an amendment to S. B. 1309 which would deduct the price of free or reduced-price lunches from the amount of food stamps allotted to a family.

"This is a terrible thing," Travis said.

Cuts in health programs were discussed by Michael B. Sosna, managing attorney for the North Central Legal Assistance Program. In a release issued during the press conference, the following information formed the basis of his discussion: "Poor people are facing cuts of more than $900 million in health services available to them during fiscal year 1981. The most severe of these is almost $400 million for the Child Health Assurance Program (CHAP) which would have provided medical care to poor children whose fathers live at home and additional health services to children on Medicaid. This program will die unless at least one month's funding for 1981 (provided by the President and the House but not by the Senate) is included in the budget.

"Additionally, $100 million for Medicaid-Medicare expansion, which would have provided comprehensive clinic services for Medicaid patients, has been cut. These two large cuts directly reduce health services for the poor. Over $300 million of the $400 million in other health cuts proposed by the President are in programs which serve the poor. These cuts would reduce money for: community health centers, maternal and infant care, lung clinics, family planning and the National Health Service Corps, which pays doctors and nurses to work in low-income communities."

Sosna said that such cuts would affect such health services in the Granville County area as the Oxford Women's Clinic, the county mental health clinic and Health Co., a medical facility at Soul City.

"These cuts will especially hit this community, which has been designated a medically-underserved community," Sosna said.

Federal budget cuts in housing, the rural water and sewage program, Community Development block grants, the energy assistance program and the rural home ownership assistance program were discussed by Willie S. Darby, staff attorney for the North Central Legal Assistance Program.

"These are cuts in programs, cuts in people, cuts in state matching money and cuts in civil rights," Darby said.

The civil rights aspect was brought up by Darby, who noted that if contractors and other firms no longer received federal funds, then they would no longer be forced to comply with the Civil Rights Act.

The cuts would "hurt stores, hurt farmers, processing plants and distributors," noted Peace, who said the economy of Granville County would be affected by the cuts. He called attention to the "ripple effect" of the turnover of food stamp funds within the community.

"Our children are the backbone of America, and if cuts are made we will have some weak children," Peace said. "We won World War II basically because we had relatively well-fed and healthy young people."

"We will march because we don't want to go hungry," Mrs. Jones said. "Survival Week is our last chance to come together and speak loud and clear."

She said that state coordinators from the following agencies were helping plan the march in Atlanta: Alabama Coalition Against Hunger, Florida Coalition Against Hunger, Georgia Citizens Coalition on

Hunger, Kentucky Hunger Coalition, Mississippi Hunger Coalition, North Carolina Hunger Coalition, Office of Manpower & Economic Development (Louisiana), South Carolina Committee Against Hunger and the Tennessee Hunger Coalition.

Some of the participating agencies which are working on the march include: American Civil Liberties Union, American Federation of County and Municipal Employees, American Federation of Labor-Congress of Industrial Organizations, Episcopal Diocese of Atlanta, National Clients Council, National Conference of Black Mayors and Southern Christian Leadership Conference. A total of 45 such agencies were listed on a Committee for Survival list given to the press, including the North Carolina Legal Services Program and the North Carolina Senior Citizens Federation.

Mrs. Jones said Survival Week began on Thursday with press conferences across the state. Religious activities were planned for Friday and the weekend. Today was scheduled to be Letter Day, when participants were encouraged to write their congressmen and other elected officials. Tuesday is to be Youth Day; Wednesday, Neighborhood and Other Local Community Group Activities Day; Thursday, Labor Day; Friday, State Day of Fasting, and Sunday, Mother's Day, was scheduled for the march in Atlanta.

The coalition will hold a planning meeting at 7:30 p.m. today at the community center on Orange Street. Final plans will be made for the trip to Atlanta. Travis estimated that about 50 from this area, not limited to Granville County, would make the trip to Atlanta.

The text of the coalition press release is as follows:

"As of June 1, the Food Stamp Program is bankrupt. Unless Congress acts to put more money in the program by May 15, people will not get their food stamps on June 1. In addition, conservative Congressmen have tied the issue of June food stamps to the issue of whether or not the Food Stamp Program will be cut between $500 million (the amount proposed by the House and the President) and $1.5 billion (the amount proposed by the Senate) for the next year. These cuts would put food stamps beyond the reach of many people who are being seriously hurt by inflation.

"The recommended cuts include: (1) cancelling the July increase in food stamps for this year and every year from now on and postponing, for six months, the increases in food stamp deductions which were scheduled for July; (2) closing the doors of the program to people recently made poor by inflation by re-defining "poverty" to make them ineligible; (3) subtracting part of the value of free lunches each poor child eats at school from his family's food stamp allotment.

"With all the talk about the Food Stamp Program shutting down in June for lack of funds, it's important to have some facts on the people who will be affected. How many people get food stamps? As of Jan. of 1980, 20.8 million people were receiving food stamps. How many food stamps do they get? The average food stamp benefit is $1 per person per day, or about 33 cents per meal for each person. The maximum benefit that a person without any income at all can get is still only $2 per day. How much income do these people have? The majority of food stamp households have incomes of about $300 per month. By law, a family of four cannot get food stamps if their monthly income is greater than $596 (after allowable deductions.) Recent USDA studies have shown that while the Consumer Price Index (the 'cost of living') has gone up by 23 percent over the past two and a half years, the average gross income of food stamp recipients has only gone up 7 percent. Do food stamp recipients have jobs? All but a fraction are either working or unable to work:

"The sum of 11.5 percent work full-time; 35.1 percent are responsible for children under six or a disabled adult; 32.4 percent are themselves disabled; 13.7 percent are able bodied and not working. These people must register for work. Any who refuse to register, or who turn down an offer of work, are disqualified from the Program; 6 percent (approximately) are elderly.

"What is the race, and age makeup of food stamp households? 48.7 percent of recipients are white; 29.2 percent are black; 9.4 percent are hispanic; 8 percent are Native American; .4 percent are Pacific Islanders; .5 percent are of other non-white categories; 11 percent are 'unknown'; 54 percent of food stamp recipients are under 18; 6 percent (or more) are over 64; 30 percent are between 18 and 34.

"In short, about three-fifths are either very young or very old.

"What about using food stamps? What are the shopping habits of food stamp recipients? Recent USDA studies have shown that food stamp recipients are much 'sharper shoppers' than are other people in the overall population. Food stamp recipients spend less on bakery products, and more on flour and other cereals. Their expenditures for steak and other beef and veal products are lower, while higher percentages are spent on low-cost pork and poultry products. Also, contrary to the most popular myth, food stamp recipients spend less than other Americans on snack foods, such as nuts, chips and pretzels.

"What happens to the economy of North Carolina if there's no food stamp program? Food stamps are food for everybody, not just for the people who are eligible to receive them. This is a well-documented fact, but one often ignored when food stamps and food stamp cut-backs are discussed. At this time, when we are threatened with a complete shut-down of the program on June 1, it might be helpful to look at the benefit of the Food Stamp Program to the whole economy.

"In setting up the Food Stamp Program, Congress recognized that the benefits of the program are felt throughout the economy. Today, the Food Stamp Program still benefits the economy, and in these days of extraordinary food price inflation, the federal dollars that roll into local communities from the program are needed more than ever. Food stamps often have been called "grassroots revenue sharing." Because eligibility for stamps is tied to income, benefits from the program flow directly into those communities with high unemployment, low income and large numbers of poor people.

"What is the economic impact of the program? During the month of Jan., 1980, 577,034 low-income people participated in the food stamp program in North Carolina. They received $19,715,586 worth of food stamps. Due to rapidly rising inflation and high unemployment, the number of people participating and thus the amount of food stamps they receive is increasing. However, using the January figures (the most recent available), what would be the economic impact of a month without food stamps? 1) The first, foremost and most direct impact will be on the 577,034 poor people who will lose their food-buying power. 2) It will mean a drop in retail food sales of $6,900,250. This figure assumes that participants will substitute some of their resources, or shift money from other places in their budgets to cover the loss of food stamps. 3) Due to the "multiplier" or "ripple" effect of the food stamp program, it would mean an overall economic impact of $71,364,733. 4) The impact on food products will be a loss of farm income of $2,760,100. Food stamps help everybody; some of us are helped directly as recipients, some of us are helped indirectly as members of a local economy. The crisis in the Food Stamp Program belongs to all of us.

"Sen. Jesse Helms has proposed a reduction in a family's food stamp allotment which simply says that the price of school lunch must be deducted from families with students participating in the free or reduced-price meals programs at schools. Food stamp budgets are based on the "thrifty plan" which nutritionists will tell you is insufficient for adequate nutritional needs. With this thought clearly in mind Congress intended for school lunch and breakfast to supplement food stamps.

"Moreover, the economic impact alone warrants the defeat of this amendment. In Granville County the figure of dollars lost per month is $181,182. All people of Granville County should consider the many beneficial aspects of the Food Stamp Program and should write or call their elected officials urging support for Senate Bill 1309 without amendments. This bill appropriates additional monies for this fiscal year for the Food Stamp Program.

"Additionally, we urge everyone to oppose cutting the budget on the backs of the elderly, children and the poor."

Mr. HELMS. I thank the Chair.

Let us look at the record.

In 1978, the Legal Services of North Carolina also engaged in vehement public criticism of my distinguished colleague, Senator MORGAN. And what had Senator MORGAN done?

Senator MORGAN had made an effort 2 years ago to defeat legislation that would have given the U.S. Attorney General authority to initiate suits in Federal court on behalf of institutionalized persons.

Senators will remember that legislation. It was opposed by many Senators as a substantial violation of States' rights. It is nothing less than an invitation to members of the Federal judiciary to assume control over the operation of facilities and agencies of State governments.

Senator MORGAN was right in his position that this should not be allowed. Senator MORGAN is a former attorney general of my State. He understands the implications of Federal officials and judges dictating to State agencies.

LSNC Executive Director Denny Ray urged Senator MORGAN to support this bill and even reported his lobbying effort with Senator MORGAN in the LSNC newsletter, Perspectives.

Perspectives is a bimonthly publication of Legal Services of North Carolina, Inc., a private, nonprofit organization funded by the Legal Services Corporation.

Mr. President, I ask unanimous consent that the article published in Perspectives about Senator MORGAN be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORGAN ASKED TO STOP BLOCKING BILL

In a recent letter to U.S. Sen. Robert Morgan, LSNC Executive Director Denny Ray urged North Carolina's junior senator to stop his efforts to block action on Senate bill 1393, which was passed overwhelmingly by the House.

If approved by the Senate, this bill would give the U.S. Attorney General authority to initiate suits in federal court to protect the constitutional rights of persons in mental health, juvenile and penal institutions.

Morgan and others who oppose the bill contend that it is an encroachment on the rights of states to take care of their own

> prison systems and mental health institutions without interference by the federal government.
>
> Opponents also argue that inmates already have ample opportunities to enforce their rights in court. Denny says this is not so and urged Sen. Morgan to do "everything possible to permit the full Senate to act on the bill before it adjourns later this month."

Mr. HELMS. Mr. President, I mentioned earlier the article published in the Oxford Public Ledger newspaper on Monday, May 5, 1980, which has already been placed in the RECORD.

Let me read just a few sentences from the article. It says:

> Vowing "we will march and march until somebody somewhere gives us an answer," Mrs. Mary P. Jones, president of the Granville County Hunger Coalition announced Thursday that the coalition was spearheading a drive in Granville County to join in a national Survival Week Observance.
>
> They are protesting cuts in programs which aid food stamp recipients and others and are trying to influence passage of Senate Bill 1309, federal legislation required to continue the food stamp program.

That is a total misrepresentation of S. 1309. Many Senators, Mr. President, have tried in vain to create an awareness that in many instances the food stamp program is corrupt and wasteful.

It is badly administered. It is "supervised"—and I must put quotes around the word—by people who ignore statutes let alone recommendations for reform. Yet the Legal Services Corporation, using their thousands of personnel, attacks anybody who tries to make food stamps available only to the truly needy and the truly deserving.

Mr. Ross Travis, who is connected with the Legal Services Corporation was quoted by the Oxford Public Ledger as follows:

> Travis attacked Sen. Jesse Helms, who has proposed an amendment to S.B. 1309 which would deduct the price of free or reduced-price lunches from the amount of food stamps allotted to a family.
>
> "This is a terrible thing," Travis said.

Well, let us see how terrible it was. The proposal simply provided that the working taxpayers of this country not be required to finance meals twice. I had discovered that duplicated payments were costing the taxpayers $629 million a year.

As a result, I offered legislation in the Agriculture Committee to eliminate this duplication. The committee almost unanimously agreed to it, thus, saving $629 million.

Then what happened? The Federal bureaucrats ran from that hearing room, they ran back to their offices and got on their little Government WATS lines and called Legal Services attorneys around the country and said, "Boy, put the heat on."

The next morning telegrams had flooded in. I got a bale of them. Other Senators got a bale of them.

The Agriculture Committee, feeling the heat generated by these pressure groups, backed down and cut the savings from $629 million to $300 million.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. HELMS. Mr. President, I ask unanimous consent that I may have an additional minute on the bill.

Mr. NELSON. The Senator may have some time from me.

Mr. HELMS. I thank the manager of the bill and I thank the Chair.

Mr. President, the Senate must say to Legal Services attorneys and employees, "You cannot lobby, you cannot engage in politics, you must abide by the law."

Mr. President, I do urge Senators to approve the amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, with deep regret, I must rise in behalf of the committee in opposition to the amendment offered by the distinguished Senator from North Carolina.

Legislative representation by Legal Services employees has been carefully reviewed by Congress on several occasions. Section 1007(a)(5) of the Legal Services Corporation Act was originally drafted and then improved in 1977 to prohibit such representation except in those narrow and specifically defined circumstances where such representation is necessary and proper. No legislative activity by Legal Services employees is allowed unless such activity is conducted:

First, on behalf of a financially eligible client of the Legal Services program; or

Second, in response to a request by a member of a legislative body; or

Third, on behalf of a measure directly affecting the program itself.

Congress has not allowed Legal Services programs to engage in legislative representation inappropriately—to engage for example in wide ranging social activism conducted on the whim of a Legal Services attorney. Further there is no evidence to indicate that Legal Services programs have abused congressional direction in this sensitive area. Rather oversight has been extensive, and all allegations of violations of the strict provisions have been carefully investigated by the proper authorities.

It is very important that Legal Services programs continue to have the authority to provide representation in legislative bodies. The elimination of this authority, or further restrictions on it, would deny low-income persons a crucial remedy for the redress of their grievances—in some instances the only remedy available and appropriate to deal with a particular legal problem.

Denial of representation before legislative bodies would once again impose a second class system of justice upon the poor—as it would foreclose them from utilizing the very system that was established to accomplish needed changes in our laws.

While legislative representation by Legal Services programs is a crucially important activity, it does not utilize a large proportion of program resources—less than 1 percent of attorney time is devoted to it. Nevertheless, not only are there instances when such representation is vital to the interests of a low income client, but such representation is often more economical than repeated litigation in our busy courts. A simple change in the law may preclude further litigation and create more feasible mechanisms for the resolution of future disputes.

The Code of Professional Responsibility, applicable to all attorneys including those working in Legal Services programs, requires attorneys to represent the best interests of their clients. Further restrictions on legislative representation of legal services clients would not only deny poor people necessary and legitimate legal representation available to all others, but it would also place Legal Services attorneys in conflict with the Canons of Ethics and the Code of Professional Responsibility.

Mr. President, I yield the floor.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. It seems to me that the law is pretty carefully designed to prevent and to guard against improper lobbying or political activity.

I ask unanimous consent that the language of the statute, section 1007(a)(5) be printed in the RECORD, as it spells out very clearly the limitations of lobbying.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LANGUAGE OF STATUTE

> "(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—
>
> "(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or
>
> "(B) a governmental agency, legislative body, a committee, or a member thereof—
>
> "(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or
>
> "(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.

Mr. NELSON. Basically, the recipient lawyer must have a client with an interest. That is what legal representation is all about.

Mr. President, I recognize that with an operation of this size, and as many lawyers as are involved in 321 recipient agencies around the United States, that there are going to be violations of the law—some unintentional, some out of ignorance, and I suppose some intentional.

The Senator from North Carolina made the point that, as he said, they do not care what the law is. Well, changing the law, then, is not the answer to the problem—if, indeed, there is a problem—

if the allegation is that some of them do not care what the law is. The answer to the problem is to enforce the law, not to change it because some people are not complying with it now.

On that point, I want to submit for the Record a letter written by the Legal Services Corporation to the Honorable Carlos J. Moorhead of the U.S. House of Representatives on April 1, 1980, in which the president of the Corporation, Mr. Bradley, addresses the question of implementing further rules and regulations and procedures in order to be certain that the law is complied with. That is what I am sure the Senator from North Carolina is interested in.

These regulations are spelled out on three pages of single-spaced print, seven provisions, to make it clear to all of the recipient agencies, all 321 around the country, how the law, which I think is quite clear, shall be followed by the various recipient agencies. I think we need to give this implementation by regulation an opportunity to work.

There may be violations, but, as chairman of the committee, I doubt whether they are very widespread since not many have been called to my attention.

In any event, I ask unanimous consent to have printed in the Record this letter which describes the additional rules and regulations which the Corporation intends to implement to further clarify the current law with regard to legislative representation.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Legal Services Corporation,
Washington, D.C., April 1, 1980.

Hon. Carlos J. Moorhead,
Rayburn House Office Building,
Washington, D.C.

Dear Congressman Moorhead: Thank you very much for the opportunity to discuss your concerns about the activities of our programs in undertaking legislative representation. We recognize the need to better ensure full compliance with the letter and spirit of the Legal Services Corporation Act ("Act") and your amendment to our Appropriations Act.

We have carefully reviewed our current regulations and past efforts to enforce the restrictions on legislative representation. In direct response to your concerns, we are prepared to take the following additional steps immediately:

1. We will issue an instruction to all employees of legal services programs providing specific information about the restrictions on legislative representation in the Act and our Appropriations Acts. We will also amplify our current training and orientation efforts to ensure that the instruction is fully understood and implemented.

2. We will propose that our Board of Directors adopt a regulation to require that all programs establish systems and procedures for ensuring that their legislative representation activities are conducted in compliance with the Congressionally imposed restrictions at all times. These systems and procedures will require that, prior to undertaking any legislative representation on behalf of an eligible client, the employee will secure documentation (such as a retainer) specifically authorizing such representation. If the representation is upon request of a member or committee of the legislature, the legal services program will be required to retain documentation of such requests.

If the representation is undertaken because of possible legislation directly affecting the activities under the Act of the legal services program, the Executive Director (or project director of the program) must authorize in writing program staff to initiate or proceed with such representation.

3. We will propose that our Board of Directors adopt a regulation to require all programs to report to LSC on a regular basis all legislative representation activities.

4. We will propose that our Board of Directors adopt a regulation that will prohibit a program from supporting a full time legislative office unless such office is specifically approved by the governing body of the program.

5. We will improve our monitoring efforts in this area by instructing our regional offices to specifically and carefully monitor the requirements established above.

6. We will establish an additional monitoring effort specifically directed to your concerns. We will institute a quality control review process that will selectively review the legislative representation activities of a sample of programs each year as well as those programs against which a serious complaint has been made.

7. We will develop a complaint procedure so that when we receive a Congressional complaint concerning an alleged violation of the provisions governing legislative representation, we will investigate the complaint immediately and report the findings and appropriate sanctions to the Subcommittee within 60 days.

While I firmly believe that the steps outlined above will assure full compliance by legal services personnel with the relevant Congressional restrictions on legislative representation, I would greatly appreciate the opportunity to discuss further these steps with you at your earliest convenience so that any differences or misunderstandings can be clarified prior to House action on our reauthorization legislation.

Sincerely,

Dan J. Bradley.

Mr. NELSON. Mr. President, I think the language of the proposal by the Senator from North Carolina is too broad and would place too great a limitation on legislative representation. And though I respect the objective he seeks to achieve, I think it is better achieved by being sure that all of the intent of the law, which is spelled out pretty clearly, is fully implemented and followed to the letter and the spirit by all 321 legal services recipients.

As I was saying when the Senator was out of the Chamber, the President of the Legal Services Corporation wrote a letter on precisely the problem the Senator was addressing, dated April 1, 1980, to Congressman Moorhead. I will read from it:

> We have carefully reviewed our current regulations and past efforts to enforce the restrictions on legislative representation. In direct response to your concerns, we are prepared to take the following additional steps immediately:

I have not, as chairman of the committee, had this letter called to my attention. Copies were sent to Congressman Kastenmeier, Congressman Railsback, Ms. Fogarty, and Mr. Mooney, but they apparently were not sent to this side. I wish I had known it earlier and I could have supplied it to the Senator.

In reading through the two pages here of seven provisions, it is pretty clear to me that they have drafted, on paper at least, a very tight procedure to be sure that the current law is being complied with.

I understand from the argument made on the floor by the Senator from North Carolina that there are people who do not care what the law is. I do not know whether that is true or not, but that is the Senator's judgment. But the answer to that is to make them comply with the law and those who do not to be properly disciplined or dismissed.

So I regret to say, though I agree with the objective that they must comply with the law, I am afraid that the language is so broad here that it would deprive a client of legitimate representation on problems involving his or her personal life if we accepted the amendment.

With all due respect and regrets, I must move to table the amendment.

Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. Levin). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Alabama (Mr. Stewart), the Senator from Georgia (Mr. Talmadge), the Senator from Massachusetts (Mr. Tsongas), the Senator from New Jersey (Mr. Williams), and the Senator from Hawaii (Mr. Inouye) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. Pell) is absent because of illness in the family.

Mr. TOWER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Iowa (Mr. Jepsen), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Simpson), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) would vote "nay."

The PRESIDING OFFICER (Mr. Levin). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 36, nays 33, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—36

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cochran
Cranston
Culver
Durkin
Ford
Glenn
Hart
Heinz
Hollings
Huddleston
Jackson
Javits
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson

NAYS—33

Boren
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cohen
Danforth
Durenberger
Exon
Garn
Hatch
Hatfield
Hayakawa
Heflin
Helms
Humphrey
Kassebaum
Lugar
McClure
Morgan
Nunn
Randolph
Roth
Sasser
Schweiker
Stennis
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—31

Armstrong
Baker
Bellmon
Church
DeConcini
Dole
Domenici
Eagleton
Goldwater
Gravel
Inouye
Jepsen
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McGovern
Packwood
Pell
Percy
Pressler
Schmitt
Simpson
Stevens
Stewart
Talmadge
Tsongas
Weicker
Williams

So the motion to lay on the table the amendment of Mr. HELMS (UP No. 1143) was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I am not aware of any other amendments, so I think we are prepared to go to third reading. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, in 1965, the Office of Legal Services was created within the Office of Economic Opportunity with a budget of $1.3 million. By 1975, that figure had escalated to $90 million, climbing to $157.4 million in 1978, $261 million in 1979, and a proposed $321.3 million in the Senate bill for 1981. The 1981 figure is 3½ times the amount authorized 6 years earlier.

This, despite the fact that the Legal Services Corporation has already reached its goal of two lawyers for every 10,000 poor people.

Now, alarmingly, the LSC has changed its goal to four lawyers for every 10,000 poor people. To attain this goal, the LSC would require at least $875 million a year.

Presumably, these additional funds would go to the same sort of radical activist litigation and lobbying efforts that the Legal Services Corporation currently finances. These abuses were well known at the time of the 1977 Legal Services Amendments.

In an article for Barron's, Shirley Scheibla had pointed out that Massachusetts Law Reform Institute, an LSC funding recipient, had spearheaded a lobbying campaign for the graduated income tax in Massachusetts.

Pine Tree Legal Assistance, Inc., had litigated to return two-thirds of the State of Maine to the Passamaquoddy and Penobscot Indians.

The federally funded Western Center on Law and Poverty of Los Angeles and San Fernando Valley Neighborhood Legal Services of Pacoima, Calif., had sued to compel payment of supplemental social security benefits to alcoholics.

The legal action support project of the Bureau of Social Science Research, Inc., had studied food stamp recipients in order to lay the groundwork for a suit by Alaska Legal Services to require the Federal Government to actively encourage people to draw food stamps.

The LSC-funded Center for Law and Education had participated in a suit which led to a Federal district court placing South Boston High School in receivership in order to accomplish integration.

And the Legal Services Corporation had filed a friend-of-the-court brief on the side of the university in the Bakke case.

Far from using these abuses to curb the Legal Services Corporation, however, the 95th Congress expanded the LSC's charter to cover a number of the practices which funding recipients had, until then, engaged in illegally.

Following the passage of the 1977 amendments, activities of Legal Services recipients became even more brazen.

In 1979, the Neighborhood Legal Services office in Pittsburgh forced a Pittsburgh jail to transport an inmate to a hospital for an abortion, notwithstanding specific language in the Corporation's charter which states:

> No funds made available by the Corporation . . . may be used . . . to provide legal assistance with respect to any proceeding which seeks to procure a nontherapeutic abortion.

The Research Institute on Legal Assistance, in December 1979, used the federally funded Clearinghouse Review to solicit membership of Legal Services programs in a new coalition called "Citizens for Tax Justice." That coalition, represents the NAACP, the National Consumer Federation of America, the National Council of Senior Citizens, Texas ACORN, the AFL–CIO, and AFS–CME. The contact point for groups interested in the coalition was the "National Social Science and Law" project.

In June 1977, Michael Shepard of Utah Legal Services litigated on behalf of a minor woman challenging HEW's policy of refusing to pay for nontherapeutic sterilization of women under 21 years of age. The court dismissed the case, finding there was no "suspect classification" capable of sustaining a constitutional objection to the policy.

In Priebe against Wyman, a Legal Services grantee in Akron represented a mother seeking to abort her 6½-month pregnancy against the wishes of the child's father.

In June 1979, an article appeared in the New York Times outlining a suit by Michigan Legal Services to compel the Federal Government to define "black English" as a separate language and to therefore provide mandatory remedial language training to all blacks.

In 1979, Michigan Legal Services filed an amicus brief on behalf of a Governor's item veto of a provision barring State funds for nontherapeutic abortions.

In the meantime, lobbying by Legal Services recipients has become more brazen, notwithstanding the fact that 18 USC 1913 specifically prohibits any letter or communication advocating the passage or defeat of a legislative proposal which is financed with Federal funds. In May 1977, the National Consumer Law Center advertised that it "has traditionally devoted a significant amount of its resources to legislative activity at the State and Federal level, although its resources and willingness to be of assistance may not be generally known."

Acknowledging that the Corporation was prohibited from lobbying by the Legal Services Act, it ignored the provisions of the Criminal Code which also prohibited recipients from lobbying, stating:

> The willingness of Legal Services attorneys to contact (and have others contact) members of Congress can be crucial.

Similarly, the Luzerne County Legal Services Association advertised in Clearinghouse Review for a "law reform specialist" and the Contra Costa Legal Services Foundation bragged about its "tradition of strong community involvement and aggressive participation in local political, social and economic battles on behalf of its client communities."

Having participated in the legislative process, however, there seems to be no inclination by Legal Services attorneys to accept the result of that process. In Preterm Inc. against Dukakis, Greater Boston Legal Services challenged a Massachusetts law limiting expenditure of State funds to abortions necessary to prevent the death of the mother. In G. against Edwards, the New Orleans Legal Assistance Corporation obtained a court injunction against enforcement of a Louisiana statute prohibiting use of public funds for abortion except to prevent the death of the mother. In Zbaraz against Quern, the Legal Assistance Foundation of Chicago won an injunction against enforcement of an Illinois law preventing State medical payments for abortions other than those performed to save the life of the mother.

The State and federally funded California rural legal assistance program filed a suit on behalf of 19 farmworkers challenging the entire system of publicly sponsored agricultural research seeking to produce more efficient farming equipment, claiming it was displacing migrant farmworkers.

Massachusetts Law Reform Institute, the same group which lobbied for the graduated State income tax, brought suit to challenge State interviews of 15,000 welfare recipients in order to reduce fraud.

The veterans education project advertised in Clearinghouse Review of the availability of material to help veterans thrown out of the Army because of homosexuality to upgrade their discharges.

The Council for Public Interest Law is "working to encourage more agencies to establish public participation funding programs for public interest law centers" notwithstanding that Congress has failed to authorize intervenor funding programs for these agencies and establishment without congressional authorization is unlawful under Green County Planning Board against Federal Power Commission.

In Beazer against New York City Transit Authority, the Legal Action Center of New York, Inc., successfully sued the New York City Transit Authority for failure to employ former heroin addicts, claiming that such a failure was discriminatory toward blacks and Hispanics. In addition to obtaining a judgment, attorneys in that case received $375,000 in attorneys' fees from the transit authority.

In In re Evans, the Montana Legal Services Association obtained a judgment that a preoperation was disabled for purposes of receiving SSI and disability benefits because he or she was "unable to engage in substantial gainful activity due to the severe emotional trauma she has experienced."

In Stevenson against Stevenson, the Legal Aid Society of Louisville successfully sued to establish the principle that a mother's lesbianism is not sufficient grounds for changing the custody of a child.

On Cape Cod, the Native American Rights Fund sued for the return of a large sector in the State of Massachusetts to the Indians.

And in the District of Columbia, the migrant legal action program went to court to challenge the Secretary of Labor's failure to promulgate OSHA regulations for farm labor.

Almost all of the activities outlined above are directly federally funded by grants from the Legal Services Corporation. But the Clearinghouse Review, which is published and funded by the Corporation, also performs a very controversial function as a bulletin board for radical activism. Recent articles include:

A piece by an attorney with the National Center for Youth Law analyzing the "abortion-without-parents'-consent" decision in Bellotti against Baird, and stating that:

> It is important that legal services attorneys devote considerable energy to opposing the imposition of burdensome parental consent and notification requirements, either through legislative advocacy or through litigation.

It adds:

> The National Center for Youth Law would be happy to assist with such efforts.

"An advocacy guide to the community development block grant program," intended to advise Legal Services lawyers in obtaining Government funds. States the article:

> A community group's main consideration, for example, might be to back a sympathetic political faction or public agency over an unsympathetic one.

An outline of the status of intervenor funding legislation on the Senate agenda.

An article on "Police Brutality" by the Research Institute on Legal Assistance. According to this article:

> Legal services lawyers and others continue to litigate these difficult cases and contribute to an evolving body of law regarding them. As part of this effort to combat police abuse, several publications have been developed to assist both lawyers and clients.

It proceeds to cite a publication by the radical National Lawyers Guild.

An article by feminist Sylvia Law on "Reproductive Freedom Issues in Legal Services Practice." She concludes:

> The problems of ensuring poor women the right to reproductive choice are overwhelming. . . . Work in this area can also provide legal services lawyers opportunities to form alliances with others, help develop community organization, and strengthen the political base for dealing with issues that critically affect the lives of their clients.

Mr. HATCH. Mr. President, frankly speaking, I have never been a great fan of the Legal Services program so I find myself in the somewhat unfortunate position of supporting the compromise version of S. 2337 which emerged from the Senate Labor and Human Resources Committee. My lack of enthusiasm for this particular method of delivering Legal Services to the poor is fueled by continuing complaints brought by citizens across the country who charge that Legal Services workers are more interested in social activism and building individual reputations than in helping poor people with the routine legal problems that worsen the quality of their lives if neglected. I believe there are in fact continuing abuses in the program and a greater accountability to Congress by the Corporation may well be necessary to protect all of the public interests involved.

Mr. President, as evidence of what appears to be an abuse of the system, I ask unanimous consent that a Barron's magazine article dated June 2, 1980, entitled, "Unholy Alliance" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNHOLY ALLIANCE: CHURCH GROUPS, LEGAL SERVICES CORP. LAUNCH ATTACK ON U.S. STEEL

(By John C. Boland)

YOUNGSTOWN, OHIO.—It wasn't the first blow to this gritty industrial town, when U.S. Steel Corp. disclosed last November that it would shutter two key plants employing 3,500 persons. Youngstown Sheet & Tube's nearby Campbell works had gone on mothballs two years earlier. The Brier Hill mill followed this past December. Weakened by decades of under-investment, the steel industry in the Mahoning River Valley has been in decline for years. What's different this time is the legal battle that has arisen, which could yield a landmark antitrust ruling. If it does, it will be largely the handiwork of a mild-spoken socialist activist named Staughton Lynd, who has been operating in town for four years, the last two as a lawyer in a federally funded project providing legal aid to the poor.

That project, Northeast Ohio Legal Services, occupies a sparely furnished suite on the eighth floor of the Metropolitan Tower in downtown Youngstown. A couple of blocks west, Republican Congressman Lyle Williams, who claims credit for the suit against Steel, keeps a storefront office bedecked with pictures of himself and small-business men. And not far up the plaza, the city fathers recently dedicated a bronze sculpture of steelworkers tending an open-hearth furnace. The art commemorates a way of life that—in Youngstown, at least—may soon be as dead as ashes.

Against that dreary backdrop, the Legal Services project has been running an aggressive drive. High on its agenda: backing assorted plans for community-based ownership of the steel mills. Critics say the Steel suit and others skirt or overstep the limits that Congress laid out when it created the national Legal Services Corp. as a successor to a War on Poverty agency in 1974. The program's defenders say it's wrong to take too narrow a view of who's poor enough to be a client, or how the poor are best served. If the publicly paid lawyers' activist bent—marked by a dyed-in-the-wool socialist's courtroom assault on an industrial corporation—has opened deep rifts in the project's board of directors and alienated many local attorneys, it has found support elsewhere.

The past few years have brought a small-scale pilgrimage of capitalism's critics to Youngstown, including Gar Alperovitz, Richard J. Barnet, Ramsey Clark, Marcus G. Raskin and Melvin L. Wulf. The history of their varied roles in this city, and Staughton Lynd's, provides a vignette of opportunities recognized and seized. It highlights how regional economic distress can enable the left, soft-peddling ideology, to cash in on existing government programs to transform theory into practice.

A COSTLY TRIP

Meet Staughton Lynd. Quaker, pacifist, one-time assistant professor of history at Yale. In the mid-'Sixties, Lynd was a fixture at antiwar rallies staged by the Students for a Democratic Society, as well as an editor of the radical Liberation magazine. During the Christmas break in 1965, Lynd and Tom Hayden kicked off a trend, accompanying Communist Party member Herbert Aptheker on a "fact-finding" trip to Hanoi. That cost Lynd any chance of tenure at Yale, and he became a lawyer. In September 1978, he joined the staff of Northeast Ohio Legal Services.

Meet Gar Alperovitz, Co-director of the National Center for Economic Alternatives, egalitarian and Marxist, author of "Socialism as a Pluralist Commonwealth." Championed by Alan Cranston, Edward Kennedy, Ralph Nader and others several years ago for a spot on the President's Council of Economic Advisers.

Meet Richard J. Barnet and Marcus G. Raskin, Co-founders of the Institute for Policy Studies, the Washington "think tank" dedicated to "research, education, and social invention"—with the help of a clutch of SDS alumni. Staunch critics of U.S. "imperialism" and the transnational corporation, drum-beaters for a revived economic nationalism.

If such odd fellows won a warm welcome from the clergy, city fathers, unions and others, it isn't because Youngstown is a hotbed of radicalism. Rather it's because the visitors have toned down the doctrinal pitch. Pragmatism is the watchword. If loan guarantees from Washington could keep the steel mills open, Gar Alperovitz seemed to know his way around such business. With massive unemployment the apparent alternative, it was hard to see the percentage in pressing ideological issues.

That seems to have been the attitude, as well, among directors, of Northeast Ohio Legal Services, who are charged with setting priorities for the staff lawyers and ensuring that their work complies with the enabling acts. Many directors remain largely in the dark concerning legal actions launched by the staff attorneys, including the controversial litigation against U.S. Steel. No formal board meeting has been held, apparently, since December, a span in which indigent would-be clients have been turned away while Legal Services attorneys press what's known in the trade as "impact litigation." Since unemployment has been targeted as a priority issue in the Mahoning Valley, the reasoning goes, what better way to attack the underlying social problems of the indigent than by suing to prevent U.S. Steel from closing its plants—or, that failing, to require it to sell the mills to a worker-community group that would seek federal backing?

It's an idea that unites ideologues and furnace stokers. That became all the more true when U.S. Steel, never slow to seek federal protection, announced that it wouldn't sell any closed mills to a tax-subsidized competitor. In Youngstown, steel companies are implausible champions of laissez-faire.

Big Steel's declaration inspired the antitrust suit, which backers say could be a benchmark case. Both parts of the litigation—to prevent the closings and to force a sale—were rejected by a federal judge in Cleveland this spring but are on appeal. While the antitrust issue is new—a product, says another attorney, of "Staughton Lynd's fertile mind"—the notion that a community-based corporation could operate a Youngstown steel mill is on its second time around. It was that idea which brought Richard Barnet, Marc Raskin and Gar Alperovitz onto the scene nearly three years. It was that idea which may well have brought Staughton Lynd and Northeast Ohio Legal Services together. Or perhaps it was Lynd's disaffection from an old labor-oriented law firm. In any case, the Legal Services office hasn't been the same since.

When Staughton Lynd moved to Youngstown in 1976, after winning his J.D. degree from the University of Chicago, the strains of an exhausted industry already were apparent. So was Lynd's interest in the New Left's developing a programmatic appeal to labor. After failing to win tenure at Yale in the wake of his antiwar efforts (he was chairman of the SDS' first peace march on Washington), Lynd had gravitated to the Chicago-Gary area, where he struck up alliances with dissident steelworkers. Those contacts produced a series of articles in *Liberation, Radical America* and *Ramparts*, and in 1973 a book co-edited with his wife, Alice, *Rank and File—Personal Histories by Working-class Organizers* (Beacon Press).

About that time, in another *Rampart* essay, Lynd wrote hopefully that President Nixon's 90-day wage-price freeze and subsequent controls had given "the Left an opportunity it has not had since the end of World War II"—and forecast "an atmosphere in which general strikes can be talked about for the first time in a generation." The essay set out a series of practical issues around which a coalition might be forged: jobs or income for the unemployed, no wage controls on incomes under $10,500, prohibitive taxation to block the export of job-producing capital.

It was a prescient article, and no one could accuse Lynd of having been unfaithful to that vision. Indeed, it's just such points that have drawn New Left and organized labor close through organizations such as the Progressive Alliance and ad hoc committees attacking big oil and big business.

Lynd's first job in Youngstown, a bumpy stint with the law firm Green, Schiavoni, Murphy, Haines & Sgambati, ended short of two years after the firm's union clients, became incensed at Lynd's support of dissidents. A few months later, in September 1978, Lynd signed on with Northeast Ohio Legal Services. It wasn't long before the federally funded office was lending a hand to a local coalition seeking to buy and reopen Youngstown Sheet & Tube Co.'s mill at Campbell, Ohio. For Lynd, that support meant a practical, issues-oriented teaming up with an old acquaintance, Gar Alperovitz. In 1973, Lynd and Alperovitz had put together a small book entitled *Strategy and Program—Two Essays Toward a New American Socialism* (Beacon Press). In it, they struck agreement on the necessity of stripping economic power from corporations and moving toward a "post-industrial" cooperative society.

LITTLE ALARM

Noting the authoritarian bent on existing socialist states, Alperovitz suggested: ". . . As true (and voluntary) agreement with the principles of the new vision of equality develops, centralized decision-making to achieve it can, in fact, become more a matter of rational coordination and administration than of bureaucratic compulsion." Of course, it would take a while for the state to wither. In the meantime, Alperovitz declared: "Over a specified period—say, 25 years—it might be possible to achieve complete equality, perhaps through raising minimum income levels by, say, 3 percent per annum—and progressively lowering the ceiling on incomes through taxation and other means by another 1 percent per annum."

If that sort of old time religion alarmed anyone in Youngstown, it was only to the extent that the alarmed parties circulated a few copies of Alperovitz' pronouncements to leaders of the church-labor coalition that had brought him aboard. By and large, the reaction was pragmatic: whatever Alperovitz' broader agenda, he wasn't proposing a socialist dictatorship in the Mahoning Valley of Ohio; he was just offering practical solutions to local problems.

But why Gar Alperovitz? Despite respectable academic credentials (doctorate in economics from King's College, Cambridge) and lavish financial grease for his Washington-based National Center for Econmic Alternatives (from the Stern Fund, the John Hay Whitney Foundation, etc.), Alperovitz had won only a narrow prominence; his name certainly wasn't a household word in Youngstown, Ohio.

He had another connection, however, as a fellow at a Washington-based think tank, the Institute for Policy Studies, which has become a meeting ground for leftist activists and intellectuals. Founded in 1963 by a pair of dropouts from Camelot, Richard Barnet and Marc Raskin, IPS these days churns out books and papers on the "myth of a new Soviet threat," the "CIA's behavior control program," "the crimes and abuses of U.S. intelligence agencies," "the aims of a U.S. first [nuclear] strike," along with broadsides against domestic and transnational corporations alike.

A particular focus of the critique of the corporation has been the international movement of capital, with its impact on domestic jobs. It's an issue spelled out not only by Lynd and Alperovitz in the early 'Seventies but also by Barnet in a 1974 text, Global Reach—The Power of the Multinational Corporations. And in a city such as Youngstown, an old steel town where the migration of money has been largely outward, the analysis of disloyal capital and its effects on communities finds sympathetic listeners.

Youngstown's Episcopal Bishop, John H. Burt, had met Barnet through the Urban Bishops Coalition of the Episcopal Church and found him "a very fine person who seemed eager to sit with people" and explain the reasons for the ebb and flow of wealth. When Bishop Burt and Roman Catholic Bishop James W. Malone began putting together a new coalition on steel, it was Barnet who was invited up from Washington to provide the intellectual insight. After a series of meetings in which Raskin became active, including one in Washington, Barnet introduced Alperovitz.

As ideological public relations campaigns go, it wasn't bad work. To religious, labor and other community leaders faced with local economic decline, a lecture on the economic necessity of free capital flow wouldn't have played well. A devil theory—that the greed of faceless and rootless multinational corporations was bringing Youngstown to grief—went over fine.

"We came to understand that we shouldn't accept at face value the handouts on why the Campbell works had to close—steel prices, Japan and so forth," Bishop Burt recalls. "[Barnet] helped us with that. . . . The understanding came that within the past 30 years, there has been a new development in the economic system of the world, where companies that got their start based in a particular locality, run by people who took a certain pride in their ability to produce some product and who were related to the community [have given way] to conglomerates . . . that make decisions without regard to the effects on local communities. . . . A corporation that is unchecked in taking the dollars produced by a Youngstown steelworker and invests elsewhere, where workers serve it at scandalously low wages, has to be called to account."

The Bishop's administrative aide, the Rev. Charles W. Rawlings, likewise was an admirer of Barnet. The latter's views, it seemed to Rawlings, who did much of the coalition's spadework, were "in the pragmatic tradition of the American middle." When some of Alperovitz' frankly socialist writings were distributed, Bishop Burt took it as an attempt to discredit Alperovitz and the broader effort to reopen the Campbell works. "Gar is an economic radical," Bishop Burt says. "[But] this sloganeering over scare words has no good in it. People who have unpopular ideas refine those ideas as they grow."

Father Edward Stanton, who represented Bishop Malone and became staff director of the new Ecumenical Coalition of the Mahoning Valley, also received some of Alperovitz' writings. "To be perfectly honest, I never read them," he recalls. "The thing on Gar basically accused him of socialism, and I think Gar does lean toward socialism. So what?"

In any case, the coalition's search for "alternatives" quickly settled on Alperovitz' brand. By the time Mayor Philip Richley and the city government were drawn in the tack had been set: the coalition would seek some form of federally backed, community-worker ownership of the Campbell works.

TWO CONTRACTS FROM HUD

Alperovitz, it turned out, was willing to have his National Center for Economic Alternatives carry out the economic feasibility study. To that end, it received a $345,000 contract in December 1977 from the U.S. Department of Housing & Urban Development to see whether the Campbell works would ever become viable. Later, when the merger between LTV Corp. and Lykes Corp. (Youngstown Sheet & Tube's parent) threw all the market estimates out of kilter, Alperovitz' center got a second, $124,000 contract in January 1979 to update the study.

Staughton Lynd had been working as a volunteer on the project from its early days. And Robert M. Clyde Jr., executive director of Northeast Ohio Legal Services, attended most of the meetings as a friendly observer. When Lynd made the jump to the public payroll, he brought the cause with him. Since the Ecumenical Coalition included unemployed steelworkers, along with others who could be considered qualified clients, Clyde was able to justify his office's growing role in the proposal's paperwork. When the coalition put together a rapid-fire (and unsuccessful) request in late 1978-early 1979 for a $17-million Urban Development Action Grant from HUD Lynd and Clyde did the legal work.

Ultimately, the Commerce Department's Economic Development Administration, which was asked to pony up several hundred million dollars in loan guarantees as the centerpiece for a $500-million-plus package, including grants and private financing, turned thumbdown on the proposal as economically unsound.

That took Alperovitz and his Institute for Policy Studies associates off the immediate stage. But Staughton Lynd remained. And he was going, according to a few alienated Legal Services board members and other Youngstown lawyers, pretty much his own way. That included a rather broad interpretation of the admittedly loose rules under which the nation's 300-plus Legal Services agencies operate. For a man with ideas of his own, Legal Services was made to order.

Seemingly there's a good deal of leeway on what constitutes a needy client. In Youngstown, it can include a female police dispatcher making just under $8,000, wildcat strikers of the Teamsters averaging just over $28,000, and steelworkers both employed and unemployed. Whether any of those clients was what Congress had in mind when it set about providing legal asistance for the "poor" is at least debatable.

The woman police dispatcher says that the issue of her ability to pay for legal help wasn't raised in the fall of 1978, when she took a sex discrimination complaint against a nearby small-town police department to Staughton Lynd at Northeast Ohio Legal Services. "It was just he would take the case if he thought the merits were worthy," she says. Lynd did, sued the town's civil service commission and promptly won a judgment. The woman got a job as a patrolman.

That case ruffled a few feathers on the local bar, but not on Northeast Ohio's board, most of whose members apparently weren't aware of it. But around the middle of last year, Lynd took up a cause that riled a number of board members, Mahoning County Bar members and a federal judge alike. Indeed, it led Eugene Green, head of the law firm that had brought Lynd to Youngstown three years earlier, to sue Northeast Ohio Legal Services, along with a group of union dissidents, for $1.5 million on behalf of the Teamsters. The suit charged that NOLS had conspired with dissidents to violate a collective bargaining agreement.

In early June 1979, car haulers working out of Anchor Motor Freight Co.'s Lordstown terminal near here staged a wildcat strike in a dispute with the Teamsters hierarchy over representation. It was a hot time for the trucking industry in general; that same week independents were clogging the nation's highways to demand relief from high fuel prices. At Lordstown, virtually all 700 members of Local 377 walked out—after consultations with Lynd, according to the union suit. In any case, when Anchor, a subsidiary of Leaseway Transportation Corp., went to federal court for a back-to-work order, Lynd showed up as attorney for the wildcatters.

Representing the Teamsters, Green Schiavoni argued that NOLS had no business in the case, and Federal Judge William K. Thomas agreed, ordering Lynd and NOLS to drop out. (The Judge later said he had made a mistake, that the issue should have been decided within the Legal Service Corp. hierarchy; the Teamsters have followed up on that, and the union's complaint against NOLS is under review by the regional office in Arlington, Va.)

If the rationale by which truckers whose average pay topped $28,000 a year qualify as needy clients isn't clear, statements attributed to Staughton Lynd and NOLS' director, Robert Clyde, cast little light. (Neither consented to be interviewed for this article.) Last September, Lynd was quoted as telling the National Law Journal: "There's no question that the worker who's being messed over by his company and poorly represented by his union is under-represented, and it's part of the spirit of legal aid to reach out to such person." On July 22, 1979, the Youngstown Vindicator quoted Clyde as remarking: ". . . It's not as simplistic as saying we provide legal services to the poorest of the poor."

That didn't cut much ice with some NOLS board members, or with some Bar Association officers, but it was fetching logic to two New York attorneys of note, who rushed to NOLS' defense. Ramsey Clark, former U.S. Attorney General, sometime counsel to Iran, and (like Lynd) peace missionary to wartime Hanoi, saw the Teamsters' suit as an attack on Legal Services lawyers' right to "act effectively without being threatened or intimidated by lawsuits." Also coming on board was Melvin L. Wulf, Clark's partner in the New York firm Clark Wulf Levine & Peratis. Wulf is former legal director of the American Civil Liberties Union and a longtime Lynd acquaintance. The Teamsters apparently are dropping their damages suit against NOLS but pressing the administrative complaint.

Whatever Lynd's and Clyde's views, the statutory responsibility of Legal Services, as defined in the 1974 Act, is to support "high-quality legal assistance to those who would be otherwise unable to afford legal counsel." Normally, says Dan J. Bradley, the Legal Services Corp.'s national president, prospective clients are asked to complete a form detailing their financial status. Whether that was done by the dissidents in Local 377, either before or after they went on strike, Lynd and Clyde aren't saying. But Lynd's ties to disaffected drivers go back a ways; he has been an unpaid adviser to the Teamsters for a Democratic Union, a rump group also named in the union's damage suit. As for the wildcatters' ability to pay. One of them says the group offered to reimburse Lynd for his services. "He wouldn't accept no money or anything. He said he was paid by the government."

Last December, Lynd and Northeast Ohio Legal Services took on their biggest fish yet—U.S. Steel Corp. In a suit filed four days before Christmas, 83 plaintiffs charged that Steel had breached a contract when it decided to close two old plants at Youngstown.

Mounting the offensive were Congressman Lyle Williams (he was dismissed for lack of standing on March 6), five Steelworkers locals, a United Auto Workers local, the Tristate Conference on the Impact of Steel (an expanded version of the Ecumenical Coalition) and 75 individuals (including unemployed steelworkers).

Although the court papers list a half-dozen other attorneys, those carrying the ball have been James B. Callen and Staughton Lynd, of NOLS. Once again, Lynd got some help from his friends. When the case came to trial in Cleveland this past March Ramsey Clark was at the plaintiffs' table pro bono.

But Lynd handled most of the witnesses and argument. "He performed brilliantly," recalls Charles Rawlings, of the Tristate Conference.

At first, it looked as though the issue would be simple: Had U.S. Steel violated an earlier agreement not to close the Youngstown works if the union made certain concessions to boost profitability? The company argued that the plant superintendent who made the promises had no authority to do so, and therefore no enforceable agreement existed.

Meanwhile, the idea of company ownership was being revived. But where Lykes Corp. had greeted the prospect of unloading its old Campbell mill with some enthusiasm, Steel's Chairman David M. Roderick threw cold water on the scheme. The company would be unwilling to sell, he declared in January, to any group that would become a tax-subsidized competitor. Shortly before the trial began, the plaintiffs added an allegation that the refusal violated the antitrust laws. Steel hopes, so the argument goes, to monopolize a certain part of the product and geographical market.

Federal Judge Thomas D. Lambros ruled within days that Steel could close the plants and, less than a month later, declined to decide the antitrust case, in effect throwing it out without prejudice. The complaint had lacked "ripeness," he declared, because the steelworkers' plan to buy the mills was too "hypothetical." Both issues have been bucked up to the Sixth Circuit U.S. Court of Appeals in Cincinnati, which will give the cases an expedited hearing. Meanwhile, the community-worker coalition has formed Community Steel Inc., which is seeking $50 million in EDA loan guarantees and a $5 million grant to acquire the plants, which date back to the turn of the century. EDA says a preliminary proposal is being "reviewed."

WHAT'S THE TAB?

Lynd, Clyde and Callen, of NOLS, apparently are the only salaried attorneys for the plaintiffs' appeal. Both Ramsey Clark and another private attorney, James A. Denny of Youngstown, who represents the Steelworkers locals, are pro bono. Thus, although the plaintiffs include six union locals, a church-labor-community coalition group, along with individuals, the financial brunt of the case is being borne by the taxpayer. Just how much of a burden that is Legal Services director Robert Clyde isn't saying. The legal talent, even when it's of Staughton Lynd's caliber, surely isn't lavishly paid; average salary for a staff lawyer nationally is about $16,000, according to a Legal Services Corp. background report in April. A director of a multi-office program, such as Clyde, typically knocks down a little over $28,000. In all, Northeast Ohio Legal Services received $323,642 in federal money last year. Clyde declined to provide information on how much of his nine-lawyer office's time has gone into the assault on Big Steel.

The legal attack hasn't been limited to the suits against the company. NOLS is representing the Tristate Conference in an action aimed at blocking the company's plan to build a massive new mill on Lake Erie, at Conneaut, Ohio. Defendants are the U.S. Army Corps of Engineers, which carried out the environmental impact study that cleared the project, and the Ohio environmental protection office. Other plaintiffs include assorted environmental groups.

Nor has Lynd let it go at that. As far back as the LTV-Lykes merger, which put a monkeywrench in plans for reviving the Campbell works, Lynd has been in touch with the Ohio attorney general's antitrust lawyers. Came the U.S. Steel refusal to sell, the contact was renewed. "I think they came to us, but I'm not sure of that," says one assistant attorney general. "We had it under inter-office review." On April 7, the State of Ohio filed substantially the same antitrust complaint as NOLS had against Steel. There's been no move to consolidate the cases.

If the Teamsters set-to rankled some members of NOLS' board, the Steel litigation set them boiling. The board's chairman turned in his resignation at an executive meeting last December, about the time the initial suit was filed. Since there hasn't been a full-dress meeting in the interim, the board, made up of lawyers and clients, has been thrashing about without active direction for six months. Interviews with half a dozen members turned up one other resignation and a declaration by another lawyer that he would not "be on the board much longer."

"A TWO-MAN SHOW"

Comments that attorney: "They're getting involved in litigation they shouldn't, when we have indigent people who aren't getting services. Lynd has Clyde impressed with a certain type of activism. The board of directors to a certain extent are figureheads. They don't know what's going on. It's being run like a one-man show—or a two-man show: Clyde and Lynd."

The complaint that Clyde's office has neglected the run-of-the-mill cases for which Legal Services nominally exists is echoed by members of the county bar. Remarks one prominent Youngstown lawyer: "I get sick and tired of having that organization send people over to me to do their work free because they don't have time to do it. I've had people on Social Security, and Legal Services say we can't give you an appointment for two and a half months."

But for a socialist looking for a prototype, the distraction of the U.S. Steel case are understandable. Besides providing a model for federally supported, worker ownership, it offers a chance to establish a legal precedent of stunning implications: that a company's refusal to assist in the creation of a subsidized competitor could be a monopolistic practice. For Staughton Lynd, who argued a decade ago that the Movement must forge a closer alliance with labor's rank and file, it would be a dream come true.

Mr. HATCH. Mr. President, at the time I stand here today, I can recall the lonely feeling I had 3 years ago when I tried to convince my colleagues that added restrictions on LSC attorney activities were needed. I succeeded in part, at that time, to insure a proper legal framework for the continuation of the program. It is my judgment this year, that the best I could do in committee was to substitute a 2-year extension of the Corporation as opposed to the 3-year authorization called for in the original introduction of S. 2337 by Senator NELSON and others, as well as to agree upon authorized appropriations of $321.3 million for fiscal year 1981 even though the Corporation was seeking in excess of $350 million. I would hope that this more limited reauthorization period will provide the Labor and Human Resources Committee with a real opportunity to air taxpayer complaints or to perhaps rethink the concepts of this delivery system so that reasonable modifications can be made in the future to protect poor people and the general public.

I am pledged to continue in that effort.

In summary, Mr. President, I support this compromise as a reasonable commitment for the extension of this program, especially when one considers the difficult budgetary times all of our poor and middle-income people face today. However, should participants in this program continue to engage in questionable and unauthorized activities, I will personally fight any continuation thereof.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. HART. Mr. President, I was necessarily absent yesterday during the Senate's consideration of the amendment offered by Senator HELMS to S. 2337, to prohibit the use of and Legal Services Corporation funds for litigation involving food stamps. Had I been present I would have voted "yea" on the motion to table that amendment. I note the amendment was tabled by a vote of 63 to 23.

● Mr. RIEGLE. Mr. President, today we are considering S. 2337 to amend the Legal Services Corporation Act to provide for a 2-year reauthorization. I strongly support this important bill and am a cosponsor. A bipartisan consensus of the Labor and Human Resources Committee are also cosponsoring this bill.

The Legal Services Corporation, created by Congress in 1974 to administer this national program to provide free legal assistance to low-income persons in civil matters, has become an important guarantor of legal representation for needy Americans.

Today's reauthorization bill simply extends this key program without substantive changes. Our foresight when we created this program has proven to be sound. We sought to create a nonpartisan body to administer free legal care for low-income individuals. As each local legal service agency is governed by its own Board of Directors, subject to the general restrictions of section 1006 of the 1974 act, each locality can develop the legal service program most responsive to the individual needs of its own community. This is a key feature of the program.

It is also important to note also that this program has been achieving its goals of providing cost-efficient, quality legal care to low-income Americans. A recent GAO study gave the program good marks, commenting only on a need to develop a more automated system of legal service operations.

The American Bar Association, along with an impressive number of other organizations committed to quality legal services for low-income persons, have endorsed this program. Most importantly, local legal service agencies have received the praise of many local officials who are firsthand witnesses of this program's effectiveness.

I urge my colleagues in the Senate to join in reauthorizing this essential program for another 2 years.●

● Mr. METZENBAUM. Mr. President, I rise to express in the strongest terms my support for reauthorization of the Legal Services Corporation.

When the Corporation was created in 1974 the Federal Government made a commitment to deliver America's promise that all citizens may exercise the constitutional right to full and equal access to our legal system. This was not a new or a radical concept. The Federal Government had been providing public funds for legal services since the mid-1960's through the Office of Legal Services in the Office of Economic Opportunity. Creating the Corporation was simply a reaffirmation of an existing commitment to the Nation's poor.

Last year, the Corporation helped over 1.6 million low-income Americans seek redress of their grievances. I believe that this was keeping with the Corporation's mandate to provide high quality legal assistance to those otherwise unable to afford adequate legal counsel.

I also believe that we should be proud of this achievement. In this country we place a high value on our legal system serving no one except justice. To deny access to this system in any way to millions of poor people would make a mockery of that principle. It perpetuates a system that doles out justice on the basis of ability to pay.

It is my understanding that a number of amendments will be offered that are aimed at crippling or restricting the effectiveness of the Corporation. I want to state at the outset that I will oppose these amendments. The amendments will deal with very controversial subjects like abortion and busing—issues this body has debated on numerous occasions.

But the real issue—and the issue we must not allow to become obscured—is the right of every person in this country regardless of income to equal access to justice under our laws. If we truly believe in equal access, then we cannot in good faith deny to the poor representation in all areas of legal controversy. And I do not believe that we serve the true interests of our legal system by declaring this or that controversial issue beyond the role of litigation on behalf of the poor.

Mr. President, this Nation's highest priority must be "Justice for All." "The American Dream," wrote the last Justice William O. Douglas, "teaches that if one reaches high enough and persists, there is a forum where justice is dispensed. I would let the courts serve that ancient need."

That Mr. President, is the real issue before us. And that is the principle upon which I urge my colleagues to cast their votes.●

● Mr. DOLE. Mr. President, local legal aid societies have existed in the United States for over 100 years. Primarily the local bar association or local governments formed them to offer legal services to those persons who were unable to afford a lawyer. Through the years, as the number of our Nation's poor increased and as their legal problems became more complex, it became clear that local legal aid societies simply were not able to adequately meet the demand.

THE LEGAL SERVICES CORPORATION ACT OF 1974

Mr. President, the Legal Services Corporation Act of 1974 was signed into law on July 25, 1974. This act created the Legal Services Corporation as a private, nonprofit organization to assume responsibility for administering the legal services program. The purpose of the Legal Services Corporation is to furnish financial support for programs providing certain legal assistance to persons otherwise unable to afford such legal assistance.

The Corporation does not directly represent clients, rather it provides funds to local programs to support them in providing legal services. At the beginning of fiscal year 1980, there were 321 legal services programs throughout the 50 States, the Virgin Islands, the District of Columbia, Puerto Rico and Micronesia.

The Senator from Kansas notes that local programs are currently staffed by approximately 5,000 full-time attorneys and 2,500 paralegal assistants. Since none of the programs have sufficient resources to meet the needs of all those persons who want legal assistance, the Legal Services Corporation Act and the Corporation's regulations require each program to establish priorities for service, based on an assessment of their particular client needs and available resources in the local community.

CRIMINAL JUSTICE

Mr. President, the legislation before us reauthorizes the Legal Services Corporation for 2 additional fiscal years. The proposed funding level is $321,300,000 for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.

Although the Senator from Kansas is well aware of the size of the task that the Legal Services Corporation faces, it is important to recognize that the Legal Services Corporation is primarily involved in one aspect of the criminal justice system, unlike the Law Enforcement Assistance Administration that dealt with policemen, jails, compiled information on the career criminal, provided funds for the renovation of jails, and provided funds for a case disposition information network and management grants to State courts. There are many more programs that the Law Enforcement Assistance Administration offered, but the Senator from Kansas hopes that this brief list gives an indication of the broad spectrum of programs that LEAA covered.

The Senator from Kansas is concerned that an agency that deals with only one aspect of the criminal justice system is the recipient of more Federal dollars than the Law Enforcement Assistance Administration which effected the entire criminal justice system.

PROGRAMS OF THE LEGAL SERVICES CORPORATION

In fiscal year 1980, the Corporation will complete its 5-year effort to expand legal services programs to every area of the country. When the Corporation began providing legal assistance, most of the programs were concentrated in urban areas; there were large parts of the Nation—in the South, the Southwest, and particularly the Midwest—where there were no publicly supported legal services available for the poor.

Mr. President, when the authorization that is presently before us expires, this will no longer be the case. Geographic coverage will exist everywhere, even in rural areas and the regions of the country that previously lacked access to legal services.

Mr. President, there are approximately 30.5 million poor persons in our Nation who under the Corporation's standards are eligible to receive valuable legal counsel from the Legal Services Corporation. In light of the fact that law and lawyers are at the very foundation of our Nation, it is the Senator from Kansas' strong belief that both the poor and the rich should have access to legal counsel.

The Legal Services Corporation has provided essential high quality legal representation for the poor, at a level of cost-effectiveness that can be matched by few other programs. The legal services program has proven to be one of the most successful programs to emerge from the war on poverty and it has demonstrated that the Nation's judicial system can work to the benefit of all segments of our society. I urge my colleagues to join me in supporting this very important piece of legislation. And I ask that an article by the syndicated conservative columnist, James J. Kilpatrick, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, June 10, 1980]

Of Justice for All

If there is one concept that our nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, "Equal Justice Under Law." Year by year we creep a little closer toward that distant goal.

That cheerful observation is prompted by a report from the Legal Services Corporation, marking its first five years of operation. The corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation.

These days the Legal Services Corporation keeps a low profile. That was not the image projected by its predecessor outfit, the legal services arm of the now defunct Office of Economic Opportunity. Many "poverty lawyers" identified with the OEO program were hot-eyed social activists, little interested in the humdrum legal problems of the poor. Conservatives in both House and Senate had good reason to oppose the expenditure of tax funds on fireband causes.

As a consequence, the bill to transfer the legal services program from OEO to a new corporation ran into a filibuster in the Senate and a bitter floor fight in the House. In order to avoid a presidential veto, sponsors accepted a host of restrictive amendments intended to dispel these lingering apprehensions.

Lawyers attached to the corporation are positively forbidden to engage in public demonstrations, picketing, boycotts, strikes, lobbying, partisan politics, voter registration drives and the like. The act prohibited the establishment of "backup centers" that were seen by many of us as mere seedbeds for hothouse revolution.

By a margin of only seven votes in the House, the legal services bill survived a motion to recommit. The corporation wobbled into existence on rubbery legs. Now, six years later, it stands on its own two feet. Pending bills to extend the program's life for two years (in the Senate verson) or three years (in the House) may set off brief thunder on the floor, but no typhoons are in sight.

As one of those who hollered the loudest six years ago, perhaps I may be permitted a round of applause today. Here and there abuses continue. A sneaking suspicion will not go away that the corporation has neatly evaded the law's prohibition against backup centers by creating backup centers and calling them something else, e.g., the National Clearinghouse on Legal Services.

Let it go. As it moves into its sixth year, the corporation is funding 335 independent programs staffed by more than 5,000 attorneys and 2,500 paralegals. In 1979 local offices dealt with more than a million legal problems of the poor. What kind of problems? Child custody. Food stamps. Eviction. Disputed bills. Contested eligibility for welfare benefits. None of this is the stuff from which landmarks are made, but it is the very heart and soul of a legal services program.

The corporation's clients are 57 per cent white, 30 per cent black, 10 per cent Hispanic. Only a fifth of them are employed; most are living on welfare or Social Security. More than a third of the legal problems involve family matters. Another 13 per cent concern landlord-tenant relationships. Half the cases are settled within a month. The corporation proudly notes that only 2 per cent of its budget goes to administration; 95 per cent of last year's $270 million appropriation went directly to legal services.

The pending Senate bill would authorize $321.3 million for the corporation in fiscal '81. It is obviously a substantial sum, but it is a seriously needed sum. In the nature of things, poor families can accept the realities of being poor, they are not going to have the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the mill-wheels of the law.

We never will achieve the ideal of truly equal justice. Outside the antiseptic realms of mathematics, literal equality does not exist and ought not to exist. But at law, we must keep trying. The preamble to the Constitution pledges a national purpose "to establish justice." Let us get on with the job.●

● Mr. BAYH. Mr. President, I rise today in support of S. 2337 and against any effort to amend the bill to restrict the kinds of cases the Legal Services Corporation may take on beyond the restrictions which have already been placed upon that program by its previous authorizing legislation under which it is now operating. This legislation makes legal representation available to the indigent when there is no other recourse open to them. I believe that the purpose of this bill represents one of the principal tenants of our Republic—equal justice for all citizens.

It is not often that I find myself quoting my good friends, James J. Kilpatrick, but today must be an exception. In an inspiring column of Mr. Kilpatrick's which appeared in yesterday's Washington Star and which has already been placed in the Record, James J. Kilpatrick, who by his admission "hollered loudest 6 years ago" about the formation of the Legal Services Corporation says of it now, "in the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law." Mr. Kilpatrick, in this column, indicates that the Legal Services Corporation is performing an important function, "we never will achieve the ideal truly equal justice * * * but at law, we must keep trying. The preamble to the Constitution pledges a national purpose 'to establish justice.' Let us get on with the job."

As the chairman of the Subcommittee on the Constitution, I must commend the Legal Services Corporation for the job they have been doing in protecting the legal rights of those who cannot afford private legal representation. They perform vital legal functions for these families, functions that, contrary to the impression which may have been left by some of my colleagues today, seldom make for newspaper headlines or landmark cases. Mr. Kilpatrick quotes the statistics about those cases: "More than a third of the legal problems involve family matters. Another 13 percent concern landlord-tenant relationships.

Half the cases are settled within a month."

Our Constitution guarantees that our citizens will have equal protection under the law. We have come to understand that that guarantee is meaningless to those who cannot afford legal representation unless there exists a Legal Services Corporation to provide that representation. Equal protection under the law is what our society is all about. It is one of the principal reasons why the United States was founded, why we fought a revolution. It was unconscionable to our forefathers that they were being denied their rights as Englishmen under English law. It is, therefore, no accident that the Constitution contains as one of the purposes of our Nation the establishment of justice.

I have voted against any restrictive amendments to this measure, any amendments which would say, in effect, that it is all right to represent one person but not another or all right to take on one type of case for the poor but not another. The job of an attorney is to represent his or her client to the best of his or her ability. The job of a legal services program is to provide the same kind of representation to those who cannot afford the funds to hire their own attorney. Although it may be attractive to some, I do not believe it is consistent with the tenets of equal justice to base our willingness to afford representation not on the merits of a person's claim but on the relative popularity of their cause. The Constitution does not call for equal protection for some, for whichever groups are in favor at the moment. It calls for equal protection for all. We should not be putting these kinds of restrictions on the Legal Services Corporation whether or not it receives Government funding. To do so is to distort and perhaps to destroy the entire purpose of the program and the meaning of "equal justice" as we have come to know it.

We developed this program to make real to thousands of people the words, "equal protection under the law." These amendments, whatever one may feel about the merit of the highly emotional issues behind them, are destructive to our system of justice. Access to justice cannot be restricted through congressional mandate in such a fashion in our society without our democracy and quality of life being severely affected.

I also think in this time of concern over governmental waste it is important to point out, as Mr. Kilpatrick did, that the Legal Services Corporation notes with pride that only 2 percent of its budget goes to administration. Ninety-five percent of last year's appropriation went directly to legal services. Not only does the program serve an important function, it would appear it also provides that function efficiently.

If we really believe in the spirit of our Constitution, in our system of government, in our system of law, then passage of this legislation unamended, unencumbered by such restrictions is vital. I commend my colleagues from Wisconsin and New York for their superlative leadership in this effort and I am proud to associate myself with their position on this issue.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO VITIATE ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, that will be the last rollcall vote today.

I ask unanimous consent that the order for the recess until tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL MONDAY, JUNE 16, 1980, AT 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I would like to ask the staffs if any Senators have left.

I understand a Senator wants a rollcall vote on final passage and he was not aware that the voice vote was occurring.

Mr. President, I ask the cloakrooms contact all Senators to see if we can get the Senators back who were here. If we can get them back, I would then ask that the voice vote be vitiated. But I would hesitate very much to ask that be vitiated if we are going to lose any Senator on either side who left because I said there would be no more rollcall votes today.

So I suggest our respective cloakrooms immediately contact Senators' offices and, in the meantime, I will suggest the absence of a quorum so we can see who is here.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be a period for the transaction of routine morning business, not to extend beyond 5 more minutes, and that Senators be allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. HEFLIN at this point in connection with the introduction of legislation, and Mr. COCHRAN's comments thereon, are printed under Statements on Introduced Bills and Joint Resolutions.)

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1980

Mr. ROBERT C. BYRD. Mr. President, I hope this will not become a practice here, but Senators should pay attention. That is one of the problems here when we get into a rollcall vote—we all start talking. Frankly, I did not know that the final vote had occurred. Someone said, "What do we do now?" I said, "Let's have the final vote," and it already had occurred.

We all become involved in the noise, but we cannot always recall Senators. In this instance, I think we have been able to do it.

Mr. President, I ask unanimous consent that the voice vote on final passage be vitiated and that the Senate proceed immediately with whatever vote the Senate wants to have on final passage.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object—and I hope I will not have to object—I do not see the manager of the bill here, for one.

For another, I should like to know from each side whether they have located the Members who voted on the last preceding vote. We are shooting in the dark here. Senator NELSON and I managed this bill. We had not the remotest notion that anyone wanted a rollcall vote. The thing was not done quickly. It was done in a very normal way, and the Chair just put the question.

So may we know from the respective leaders whether our people are here? We do not want to be prejudiced by the fact that people have left.

Mr. ROBERT C. BYRD. Mr. President, if there is one man in this Chamber who does not want to be prejudiced, it is the one who is speaking.

I do not know whether the Senator is aware of it or not, but I asked the respective cloakrooms to check and see if all Senators were here, and we received no negative response on our side.

Mr. TOWER. We all appear to be here, on this side.

May I say that there was a great deal of confusion in the Chamber, and Members desiring the rollcall vote were in the Chamber but did not hear the order for the voice vote on final passage.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action taken by the Senate in tabling the motion to reconsider the vote by voice, by which the bill was passed, and the action of the Senate in passing the bill viva voce be reconsidered; that the bill be returned to third reading; and that the Senate now proceed to vote on the bill ab initio.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. With the understanding that no motion to reconsider be entered today; that such a motion to reconsider on Monday, if exercised, be exercised only by a Senator who was here when I announced that there would be no more rollcall votes today, and who, on the basis of that announcement, left the Chamber and has not returned.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, reserving the right to object, if somebody missed it, what would happen? They were here at the last vote and they left and they did not get the word. Are they covered in some way?

Mr. ROBERT C. BYRD. That is the only Senator who is covered.

Mr. TOWER. They would be permitted to move to reconsider. The question of reconsideration will be held open until Monday.

Mr. JAVITS. Meanwhile, they have missed a rollcall vote.

Mr. ROBERT C. BYRD. Otherwise, any Senator who was absent today could ask for reconsideration. I am tying it to any Senator who, unfortunately, may have left the Chamber on the basis of my representation that there would be no more rollcall votes.

Mr. JAVITS. Take a Senator like me, who has voted, and I cannot be here Monday. Why should I be penalized?

Mr. ROBERT C. BYRD. We will leave it open until Tuesday for reconsideration, under the same conditions I have stated.

Mr. JAVITS. Right.

Mr. DURKIN. Mr. President, reserving the right to object, I think we should check with Senator PROXMIRE, who has maintained a record for continuous votes.

Mr. ROBERT C. BYRD. He is here. He is always first in my recollection when it comes to rollcall votes.

Mr. METZENBAUM. Mr. President, reserving the right to object, do I correctly understand that the only matter that will be in order after the request of the leader is agreed to will be final passage and that no further amendments will be in order?

Mr. ROBERT C. BYRD. That is correct.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, just to make it clear, if this order is entered, the only Senator who can move to reconsider on Tuesday—it is not in accordance with the standing rules, but this is an exigency—will be a Senator who was shown to have been here on the last rollcall today, prior to the one that is about to take place, and, because of my representations that there would be no more rollcall votes, missed this rollcall vote. That Senator can move to reconsider on Tuesday. Otherwise, it will be considered as having been reconsidered and the motion laid on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Arizona (Mr. DECONCINI), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. STEWART), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Rhode Island (Mr. PELL) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. TOWER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona, (Mr. GOLDWATER), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Alaska (Mr. STEVENS), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "nay."

The PRESIDING OFFICER (Mr. EXON). Is there any other Senator wishing to vote?

The result was announced—yeas 55, nays 14, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—55

Baucus
Bayh
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Exon
Ford
Glenn
Hart
Hatch
Hatfield
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Kassebaum
Levin
Lugar
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nelson
Nunn
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stevenson
Stone
Tsongas
Wallop
Warner
Zorinsky

NAYS—14

Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Garn
Hayakawa
Helms
Humphrey
McClure
Morgan
Proxmire
Schweiker
Stennis
Thurmond
Tower

NOT VOTING—31

Armstrong
Baker
Bellmon
Church
DeConcini
Dole
Domenici
Eagleton
Goldwater
Gravel
Inouye
Jepsen
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
McGovern
Packwood
Pell
Percy
Pressler
Schmitt
Simpson
Stevens
Stewart
Talmadge
Weicker
Williams
Young

So the bill (S. 2337), as amended, was passed, as follows:

S. 2337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Legal Services Corporation Act Amendments of 1980".

SEC. 2. Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by inserting immediately after the second sentence the following: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation $321,300,000 for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.".

SEC. 3. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings.

(b) The Congress further finds that because of the greater resources and expertise of the Federal Government, the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of section 3 through 8 of this Act—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs, against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

SEC. 4. (a) Subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a) An agency that conducts an adjudication subject to section 554 of this title shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the agency finds that the position of the agency as a party to the proceedings was substantially justified or that special circumstances make an award unjust. The agency may reduce the amount to be awarded, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the agency under this section shall be made a part of the record and shall include written findings and conclusions and the reason or basis therefor.

"(b)(1) For the purposes of this section—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the agency involved; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means a 'person' as defined in section 551 of this title, but excludes any individual whose net worth exceeded $1,000,000 at the time the adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adjudication was initiated, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'adjudication subject to section 554 of this title' does not include adjudication for the purposes of establishing or fixing a rate or for the purposes of granting or renewing a license.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

"(c)(1) Each agency shall by rule establish procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the agency adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28.

"(2) A party dissatisfied with the fee determination by the agency may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination of the agency only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d) Fees and other expenses awarded under this section shall be paid by the particular agency over which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(e) The Office of the Chairman of the Administrative Conference of the United States shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Conference with such information as is necessary for the Chairman to comply with the requirements of this subsection.".

(b) The table of sections of subchapter I of chapter 5, title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(c) Effective three years after the date of enactment of this Act, section 504 of title 5, United States Code, as added by subsection (a) of this section, is repealed, except that the provisions of that section shall continue to apply through final disposition of any adjudication commenced before the date of repeal.

Sec. 1 (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including fees and other expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the Government shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by him in the litigation.

"(b) In addition to the costs which may be awarded pursuant to subsection (a) and unless otherwise specifically prohibited, a court may award reasonable attorney fees to the prevailing party in any civil action brought by or against the United States or any agency or official of the United States acting in his official capacity, and the United States shall be liable to the same extent that a private party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

"(c)(1) Any judgment against the United States or any agency or official of the United States acting in his official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to the compensation, if any, awarded in the judgment.

"(2) Any judgment against the United States or any agency or official of the United States acting in his official capacity for fees and other expenses pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title unless the basis for the award is a finding that the United States acted in bad faith, in which case the award shall be paid by the agency found to have acted in bad faith and shall be in addition to the compensation, if any, awarded in the judgment.

"(d)(1) In addition to the costs which may be awarded pursuant to subsection (a) and except as otherwise specifically provided by statute, a court shall award fees and other expenses to any party other than the United States which prevails in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which provides evidence of such party's eligibility for the award and the amount sought, including an itemized statement from attorneys and experts stating the actual time expended in representing such party and the rate at which fees were computed.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert shall be compensated at a rate in excess of the highest rate of compensation for experts paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee;

"(B) 'party' means any individual whose net worth is less than $1,000,000 at the time the civil action was filed, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth was less than $5,000,000 at the time the civil action was filed, except that a cooperative association as defined in the Agricultural Marketing Act (42 U.S.C. 1141j(a)) may be a party regardless of the amount of its net worth; and

"(C) 'United States' includes any agency, and any official of the United States acting in his official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an agency adjudication conducted pursuant to section 554 of title 5, the court shall include in that award, the fees and other expenses for services performed during the administrative proceedings unless the court finds that during such proceedings the position of the United States was substantially justified, or that special circumstances make an award unjust.

"(4) Fees and other expenses awarded under this subsection shall be paid by the particular agency which the party prevails from any sums appropriated to such agency, except that no sums may be appropriated to any such agency specifically for the purpose of paying fees and other expenses awarded under this section.

"(5) The Director of the Administrative Office of the United States Courts shall include in its annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective three years after the date of enactment of this Act, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

Sec. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 1988 of title 42, United States Code, is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

Sec. 7. Nothing in section 2412(d) of title 28, United States Code, as added by section 5(a) of this Act, alters, modifies, repeals, invalidates, or supersedes any other provision of State or Federal law which authorizes an award of such fees and other expenses to any party, other than the United States, who prevails in any civil action brought by or against the United States.

SEC. 8. (a) Except as provided in subsection (b), sections 3 through 8 of this Act, and the amendments made by sections 3 through 8 of this Act, shall apply to any adjudication or civil action which is pending on the date of enactment of this Act, or which is commenced on or after the date of enactment of this Act.

(b) Sections 3 through 8 of this Act, and the amendments made by sections 3 through 8 of this Act, shall apply to any civil action arising under the internal revenue laws of the United States which is pending on the date which is six months after the date of enactment of this Act or which is commenced on or after such date.

SEC. 9. Subsection (h) of section 1007 of the Legal Services Corporation Act is amended by adding at the end thereof the following new paragraph:

"The Legal Services Corporation shall make available, without charge, a subscription to any publication prepared by the Corporation or by a recipient if the publication is prepared and made available for distribution with appropriated funds to any Senator or Member of the House of Representatives, at the request of that Senator or Representative.".

SEC. 10. Notwithstanding any other provision of law, any award of attorneys fees which is received by recipients of the Legal Services Corporation shall be transferred into the general fund of the United States Treasury as miscellaneous receipts.

SEC. 11. Section 1007(b)(8) of the Legal Services Corporation Act (42 U.S.C. 299f(b)(8)) is amended to read as follows:

"(8) to provide legal assistance with respect to any proceeding or litigation which relates to an abortion, the performance of which is prohibited by provisions of law enacted by Congress, including provisions prohibiting the use of Federal funds for the performance of such an abortion, or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution:".

SEC. 12. Section 1010 of the Legal Services Corporation Act (42 U.S.C. 2996i), is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act, if the Corporation finds that any employee of a recipient has engaged in—

"(1) lobbying activities in violation of the provisions of this Act, or

"(2) outreach community education, or client solicitation activities in violation of this Act, the Code of Professional Responsibility, or the Canons of Ethics, then the funding for such recipient for the fiscal year immediately following the fiscal year for which the Corporation makes a finding under this subsection and pursuant to the procedures described in section 1011 of this Act shall be reduced by an amount determined by the Corporation, considering the nature and severity of the violation, or the Corporation shall take appropriate disciplinary action, or both.".

SEC. 13. Section 1006(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)) is amended by adding at the end thereof the following new sentence: "The Corporation shall, in providing financial assistance under clause (1)(A) of this subsection, encourage recipients to develop, with appropriate bar associations, programs designed to provide voluntary legal services by private attorneys to eligible clients, and give special consideration to recipients which provide such voluntary services.".

SEC. 14. Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding at the end thereof the following new subsection:

"(i)(1)(A) Notwithstanding any other provision of this Act, the Corporation may provide financial assistance during fiscal years 1981 and 1982 for providing legal assistance within one State in accordance with provisions of subsections (B) and (C) in order to demonstrate the effectiveness of private attorney participation.

"(B) With respect to any county with a population of one hundred and fifty thousand residents or less, not less than 65 per centum of the total amount of funds made available for such county in any fiscal year shall be used for legal assistance (including administrative support services) that is provided by the private bar with open participation rights by members of the bar.

"(C) With respect to any county with a population of more than one hundred and fifty thousand residents, not less than 15 per centum of the total amount of funds made available for such county in any fiscal year shall be used for legal assistance (including Administrative support services) that is provided by the private bar with open participation rights for members of the bar.

"(2) The Corporation may permit a lesser percentage of the funds made available than that required by paragraph (1) of this subsection to be used for legal assistance provided by the private bar in a particular county, but only if the refusal or inability of the private bar to provide such assistance is clearly demonstrated.

"(3) The percentage requirements set forth in paragraph (1) of this subsection shall not apply with respect to funds made available by the Corporation to provide specialized services to native American populations or migrant farm workers.

SEC. 15. Subsection (b) of section 1007 of the Legal Services Corporation Act is amended by adding at the end thereof the following new paragraph:

"(11) to provide legal assistance with respect to any proceeding or litigation intended to restrain or prohibit any construction or activity solely on the grounds that such construction or activity may be in violation of the National Environmental Policy Act, the Endangered Species Act, the Clean Air Act, or any regulation pursuant thereto unless such proceeding or litigation is entered representing an eligible client having a direct interest.".

The title was amended so as to read:

A bill to extend for two additional fiscal years the authorization of the Legal Services Corporation.

Mr. PROXMIRE. Mr. President, with great regret I voted against the Legal Services bill. I say with great regret because I think my colleague (Mr. NELSON) did a superb job on it. It passed overwhelmingly. I normally would have voted for it and with enthusiasm. However, Mr. President, a new title was added to that bill, title 2. That title had been adopted by the Senate by an overwhelming vote, 94 to 3, but I was one of the three who voted against it.

That new title provides for the Federal Government to pick up the bill for attorney fees and the fees of expert witnesses of private citizens prevailing against the Government in certain cases.

That provision was opposed by the Office of Management and Budget. The reason they opposed it is because they say it would be a substantial drain on the Treasury. The estimated cost, estimated by the Office of Management and Budget, is $153 million in the first year and over $230 million by the third year.

Mr. President, we simply have to say "no" to these new programs, even some that are very good. For that reason, I did vote "No."

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 1 hour and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

LONG-TERM HOME CARE ACT OF 1980

Mr. BRADLEY. Mr. President, with the distinguished Senator from Oregon (Mr. PACKWOOD) and our cosponsoring colleagues, Senators NELSON, WILLIAMS, HEINZ, MATSUNAGA, COHEN, COCHRAN, and JAVITS, I am pleased to introduce this bill (S. 2809) to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term home care services for the elderly and disabled. This amendment, title XXI, proposes to reduce the gaps and improve the coverage in noninstitutional, long-term care and remedy the present problems of fragmentation and lack of coordination of care because of various programs in titles II, XVI, XVIII (medicare), XIX (medicaid), and XX.

It is most important to note that this legislation authorizes a 3-year demonstration to assess the impact of this program in 10 States in representative areas of the country with reports to the Congress of the United States of both an evaluation of certain aspects by the Comptroller General of the United States and a budgetary impact analysis by the Office of Management and Budget before implementation of this title on a national basis. This approach is taken with the dual purpose to continue the careful discussion and development of programs to serve the need of Americans and at the same time to exercise proper caution for considerations of efficacy and cost. I think that this is the way to proceed.

Title XXI would provide for persons 65 years and older as well as those disabled an organized system of noninstitutional long-term care to assist them in remaining functionally independent in their own communities and homes as long as possible. The services provided would include home health care, homemaker home health aide services, adult day care and limited respite care. This bill also proposes a modest tax credit of $100 each taxable year to encourage as a policy the caring for the dependent elderly and disabled in the family if the person is otherwise eligible for care under this title.

To insure appropriate access to these services prescreening assessment teams

(PAT) would make determinations of functional disability for entry into and continuation of this care as an alternative to the person being institutionalized. This would be conducted in a manner to include the participation and maintain the relationship of their personal physician.

The demonstrations would analyze the impact of different copayment requirements on care, access and utilization. All copayment would be on a sliding scale according to income to afford equity. Each person would be required to pay a portion of the cost of each visit until they have met their maximal personal limit. Various demonstrations would also look at administration and management alternatives that would be at State option: combinations of State and local government agencies with institutions and organizations in the private sector under contract or other payment arrangements.

Control of cost would include the joint development of a fee schedule by the Secretary of Health and Human Services and the appropriate State agency as determined by the Governor. The fees would reflect urban and rural differentials and the schedules would be submitted to each unit of general purpose local government to allow providers in such areas 30 days for comment.

In summary, Mr. President, title XXI proposes to test the shift in emphasis from acute care, primarily provided in hospitals and other institutions, for this population of elderly and disabled to the less costly and more personal environment of the home and family. In so doing, it streamlines the administration of the uncoordinated programs in other titles and eliminates coverage gaps for this very important group of Americans that remain undeserved.

THE 40TH ANNIVERSARY OF THE SOVIET INVASION OF LITHUANIA

Mr. BRADLEY. Mr. President, Lithuanians, and all Americans who cherish freedom, will appreciate the meaning of June 15, 1940. On that day, the Independent Democratic Republic of Lithuania suffered an invasion by the Red army. Less than 2 months later it was forcibly incorporated into the U.S.S.R. This tragic turn of events put an end to the one brief period since 1795 that Lithuania was free of Russian tyranny.

Ignoring its 1920 pledge to "recognize without any reserve the sovereignty and independence of the State of Lithuania" and to "voluntarily and forever renounce all sovereign rights possessed by Russia over the Lithuanian people and territory," the Soviet Government instituted a deliberate policy to change the character of the free republic they had overrun. Hundreds of thousands of Lithuanians were deported from their homeland, and Russians soon replaced them in Lithuanian cities, farms, and factories.

Lithuanians have lost their independence, but they will not surrender their aspirations to govern their own lives and futures. Lithuanians together with their Baltic neighbors, the Latvians and Estonians, have maintained their linguistic and cultural ties, and their spirit of independence continues to grow. In view of the recent Soviet invasion of Afghanistan, it is especially important this year to salute the resiliency of the nationalist spirit among Lithuanians.

A HUMAN TRAGEDY ABOUT TO UNFOLD IN THE SOVIET UNION

Mr. BRADLEY. Mr. President, a human tragedy is about to unfold in the Soviet Union, and conscience dictates that we raise our voices at once in the urgent case of Raphael Adzhiashvili and Mamed Abassov.

Adzhiashvili and Abassov were part of a group of 54 Soviets recently convicted for "economic crimes" against the Soviet State. The year-long trial in the Ukrainian city of Donetsk was the culmination of a 5-year investigation. While 50 of the defendants received prison sentences ranging from 10 to 15 years, 4 defendants were sentenced to death. Although the death sentences of two were commuted to 15-year prison terms, the Supreme Soviet has just confirmed the death sentences of Adzhiashvili and Abassov. They are expected to be executed in the very near future.

What are the charges against these two men? Apparently they and their codefendants were involved in a bit of private enterprise which deeply offended the Soviet State—they took some surplus yarn from a factory and manufactured and then sold women's clothing. Adzhiashvili, Abassov, and the others acknowledged these activities, and while I cannot condone the theft of yarn, if that is what they did, I can understand their wanting to skirt the oppressive rigors of the Soviet economy which cannot adequately clothe its population.

It remains a mystery why the trial judge imposed the death sentence on four defendants despite the fact that the prosecutor demanded merely prison terms. Further, it remains a mystery why Adzhiashvili and Abassov have been singled out and refused clemency while the two others condemned to death have had their sentences commuted.

Raphael Adzhiashvili is 48 years old, a Jew from Tbilisi with a wife, three children, and a mother. Nothing more is known about Mamed Abassov than that he is a Moslem Azerbaidzhani from Baku and also has a family.

Adzhiashvili and Abassov have pleaded for mercy—for a long prison term instead of death—but their cries have gone unheeded by Soviet authorities. The Soviet Government severed the telephone line of Adzhiashvili's wife after she spoke with Westerners on May 30, 1980. Clearly the Soviets do not want the news to spread of their inhumanity in this episode. I call on the Soviet Government to spare the lives of Abzhiashvili and Abassov and to refrain from carrying out an unjust and cruel sentence.

JAPAN EXPLORES FOR OIL

Mr. HATCH. Mr. President, all of us in this Chamber are aware of the dependence Western economies have developed for Middle Eastern oil. It has been said many times that a cut-off in the supply of this oil would bring the industrialized nations of the world to a grinding halt.

Here in the United States we would be severely damaged if the sources of our imported oil were suddenly closed off. At the same time, Western Europe and Japan would be dealt a much more severe blow. Recent actions by Saudi Arabia and other OPEC nations has raised the price of oil once again. This impact will be felt on a worldwide basis.

In Japan, the latest oil increase is said to cost in the neighborhood of $1.1 billion per year. This in turn will project out to an increase of 0.3 percent in Japan's wholesale prices, which translates into a consumer price increase of about 0.1 percent. These are facts that we here in the United States can understand because we have also seen the impact that higher energy costs can have on inflation and how prices have soared in this country.

What pleases me is that the Japanese are now trying to do something about their dependence on foreign oil. They have launched an effort to drill exploratory wells in the potentially oil-rich continental shelf between Japan and South Korea. This area has been examined by the U.N. Economic Commission for Asia and the Far East and listed as a possible oil deposit area. While all of this may only be speculation, only the long term will bear out the hopes of oil discovery, it is encouraging to see Japan actively seeking to reduce its own dependence on foreign oil.

INDIAN OCEAN POLICY NEEDS REVIEW

Mr. HATCH. Mr. President, the geographical location of the Soviet Union has mandated that it become a major land power with respect to military strength. It is also a fact that the Soviets have long yearned to make it clear that they have every intention of obtaining that long sought after port.

The news that the Soviets had concluded a large military agreement with the Government in India raises the question of security in the Indian Ocean once again. The "purchase" of about $1.6 billion worth of military supplies and equipment will bring India to the front as the major military power in the area. It also raises the logical question of the quid-pro-quo the Soviets have obtained in return for the favorable terms of the military package.

Closely related to this event was the call by the "puppet" government in Kabul for talks between Afghanistan and other Southwest Asian nations, particularly Pakistan and Iran, to settle any disputes they might have, and as a corollary, to discuss the deescalation of military activity in the Indian Ocean. This sounds like the beginning of a campaign to not only legitimize the Afghan Government, but also a way to place pressure on the United States to leave the vital areas of the Indian Ocean and the Persian Gulf to the ministrations of the nations along the littoral. They seem to downplay the new agreement struck between Moscow and New Delhi.

At the same time talks between the United States and Great Britain are now getting under way on the proposed expansion of the base on Diego Garcia. For those who are not familiar with this small atoll, it is strategically located in the middle of the Indian Ocean. At the current time the U.S. maintains a small base there, in conjunction with the British, to serve as a way station for ships traveling in the area. With the need for a rapidly deployable force on the part of the West, the United States has proposed beefing up this area by adding several thousand men and lengthening the current runway to accommodate B-52 bombers.

To say that this is a controversial proposal is an understatement of the fact. In the May 30, 1980, edition of the London "Daily Telegraph" David Adamson reports:

> The issue is perhaps the hottest potato thrown at the British government by the Americans since the overthrow of the shah and the Soviet invasion of Afghanistan tore apart the status quo in Southwest Asia.

Clearly the British are nervous about this whole matter. They are the lessors of the atoll and therefore they have the final say about what goes on there. That may be what is factual, but it is far from what is actually occuring. The United States is the major user of the base, with the British only having a small contingent to serve as a liaison between the two services.

We must be resolute in our action on this matter. It is evident that the Soviets realize they may have gotten the upperhand with the military deal with India, thus they now urge the moslem nations of the regions to call for a slowdown of military activity in the Indian Ocean, hence the Persian Gulf. The pincer movement of the Soviets toward the Western supply of oil is once again on the move.

If the failure in the attempt to rescue the hostages in Iran demonstrated one thing, it was the need for a more stable and permanent base for U.S. operations in the area. Diego Garcia can provide that type of base. During this session of the Senate there have been many hearings on the need for a force that can be deployed in a rapid manner.

What the United States is proposing to Britain will accomplish this goal. With the expenditure of about $200 million the United States would be able to improve the living quarters, roads, hard standing for aircraft and fuel and water storage, as well as lengthen the runway. We could also construct a new pier. This would assist in our program to preposition equipment able to strike quickly at any aggressor in the region. It would also serve as a protection for the 9.5 million barrels of oil that are produced in Saudi Arabia each day.

Mr. President, it is no coincidence that Soviet and Afghan pleas for stability have come at the time they have. The Soviets will use this call as a tool in extracting the United States from a very strategic position. To leave now would be to give the Soviets total control over the sealanes of the area, and thus place the Western oil supply in the direct line of a Soviet attempt to disrupt such a supply.

SHIPPERS EXPORT DECLARATION CONFIDENTIALITY

Mr. HATCH. Mr. President, Wednesday the Senate acted on S. 2419, a bill recommended by the Governmental Affairs Committee to permanently exempt shippers export declarations from public disclosure. I have serious reservations about the wisdom of such a blanket exemption and I am disappointed that the history surrounding my amendment to the Export Administration Act reauthorization, S. 737, seemed to be overlooked.

During Senate debate on the Export Administration bill, I offered an amendment which would have opened up all export records, except those normally protected from disclosure under the existing provisions of the Freedom of Information Act, to the public. A modified version of this amendment was adopted to that bill which called for complete disclosure of export records, including shippers export declarations, after June 30, 1980. The measure just enacted, S. 2419, totally subverts the purpose of this previous legislative action, agreed to in the Senate just last summer.

I share the concern my colleagues have for fairness in American competition for world trade. I understand their view that government should not be party to advancing the position of one company over another. However, I firmly believe that the public has a right to know who is doing business with nations other than American allies. The United States has suffered such embarrassment as having American technology fortify the invasion of Afghanistan and North Vietnamese aggression against our own soldiers. At the very least, Mr. President, there should be accountability for goods exported to controlled nations.

Now that this measure has been passed and U.S. policy regarding disclosure of export records has changed from one of reasonable public availability to one of complete secrecy, I can only hope that the committees in the House and Senate which have oversight jurisdiction of the Export Administration and U.S. trade policy will not neglect this element of our national interest. Accountability is absolutely essential to the overall effectiveness of our policy and national security.

THE COALCON PROCESS

Mr. HATCH. Mr. President, for over 35 years, Mr. Isaac Stewart has been involved in the effort to commercialize a synthetic fuel process that would make use of Utah coal resources to produce refinery grade petroleum, pipeline quality gas, and "char" suitable for burning in industrial boilers and powerplants.

Recently, as a result of a personal request by Utah Governor Scott Matheson, Mr. Stewart and his colleagues from Union Carbide Corp. presented details of the process to the Governor and the Utah Energy Conservation and Development Council. I understand that the presentation resulted in the group's endorsement of the "Coalcon" process as an alternative energy option for which Utah's vast coal reserves are particularly well suited and which has the potential of significantly contributing to the Nation's energy budget in an environmentally and economically sound manner.

It is my impression, Mr. President, that the leadership and dedication of "Ike" Stewart has acted as a catalyst in bringing together the expertise of Union Carbide with Utah energy policymakers at this critical time of our society's energy needs. Mr. Stewart has shown great perseverance in his promotion of the development of Utah's energy resources.

I am very pleased that Governor Matheson and the energy council have so actively sought to examine the full scope of the various energy options which will certainly deeply involve the citizens of our fine State. I am doubly pleased that they have perceived the particular merits of the Coalcon process as an alternative which can greatly enhance the efficiency of our coal utilization. I am personally committed to the idea that in most cases, efficient resource utilization equates, conceptually, with economically sound environmental preservation—the only kind of environmental preservation which will work, in the long run.

I would like to take this opportunity to express my own enthusiasm about what the Coalcon process portends and ask unanimous consent that the articles from the Deseret News and the Salt Lake Tribune regarding the events I have described, be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Deseret News, May 7, 1980]

UTAH COAL POTENTIAL HIGH, BUT MORE STUDY ADVISED

(By George Ferguson)

Utah's coal appears to have a high potential as a basic raw material for chemicals but a thorough study from feasibility to prototype plant to commercial plant should be undertaken.

Three officials from Union Carbide—a company which has two industrial gas facilities in the Salt Lake City area—created this picture for the members of the Energy Conservation and Development Council Tuesday at the Capitol.

Isaac M. Stewart, legal consultant with offices in Midway (Wasatch County) and Indian Wells, Calif., pointed out that Union Carbide's interest on the Utah coal scene was generated by a letter to him from Gov. Scott M. Matheson.

Matheson had been made aware by Dr. George R. Hill, former director of the U.S. Office of Coal Research, and vice chairman of the Utah Energy Conservation and Development Council, that the Union Carbide "Coalcon" process should be directly applicable to Utah's "non-caking" bituminous coals.

Many years ago, Stewart and another Union Carbide official, George Felback, visited central Utah coal resources and found the coal to contain a high yield of petroleum-supplement liquid, petrochemicals and char for electric power generation.

The Union Carbide Coalcon process was found to be non-suitable for use with "caking" coals in Illinois, and the project was discontinued.

Referring to a letter dated Jan. 17, 1980, from William S. Sneath, Stewart noted that Hill's assessment of the Utah coal appeared to be technically correct. Senath said: "It appears the Coalcon process would be far more applicable to western, non-caking coal than the Illinois-Indiana caking variety."

Sneath said the Union-Carbide people believe the Coalcon process—which converts coal into liquid fuels, synthetic natural gas and char—is competitive, but has been demonstrated only on a very small scale.

Sneath advised: "Before we would consider advising anyone to go to a full commercial size plant, we would strongly recommend going to an intermediate pilot plant to demonstrate the economic and technical feasibility.".

Sneath said Union Carbide does not intend to pursue the commercialization of this process on its own. He said the company would be willing to work with others such as the Department of Energy, Utah, or other governmental agencies toward a demonstration program and provide the technical assistance necessary to move toward commercialization.

Tuesday's meeting followed that line of endeavor as William F. Silvia, senior vice-president, Linde Division, Union Carbide, and M. L. Kasbohn, director of research and development, demonstrated the high liquefaction potential of Utah coal, but also the need for an intensive study.

It was pointed out that the lead time for such a study could be in excess of 15 years. Silvia noted the feasibility study could require 12 to 18 months; the prototype plant and the commercial plant five to seven years each. The officials agreed, however, that under a stepped-up program commercialization could be reached in about eight years.

Cost was another source of concern to members of the council—and it still is. The Union Carbide officials would not pinpoint an approximate cost of the project because there are too many extenuating circumstances—not the least, the time required.

However, Silvia said it cost the company $435 million in 1977 to design a commercial plant that processed 17,000 tons per day. "I suspect that plant would cost at least 30 percent more to build today," he said.

While Union Carbide would accept none of the financial risk, Kasbohn said the company would be contributing expertise from a process that has cost more than $1 billion to develop.

The council was generally very receptive to the Union Carbide presentation, and left the meeting seemingly assured that it now has one more "energy alternative" to consider for Utah, along with the development of tar sands, oil shale, nuclear, etc.

The council adopted a favorable reaction resolution toward the Coalcon process. However, in the case of tar sands, the council requested $500,000 from the legislature to begin a pilot plant study. The council was not ready to go that far—at this point—with coal liquefaction.

The Utah Energy Office, directed by Jack Lyman, will include the potential into its growing list of Utah energy alternatives. The council seemed convinced that this Coalcon liquefaction process carries with it a high potential in the Utah coal and energy pictures.

Hill pointed out: "It looks like an attractive process to maximize the value of Utah coal."

In other action, the council voted to retain Sen. Moroni L. Jensen, D., Salt Lake, as its chairman and Hill as its vice chairman. Dr. Val Finlayson resigned as chairman of the Solar Advisory Committee because of other pressures, and was replaced by Dr. Robert Boehm.

Other activity involved an energy law center, dual fuel association demonstration and a briefing, by Lyman, on the recent visit of Charles W. Duncan, Secretary of Energy.

[From the Salt Lake Tribune, May 7, 1980]

PLAN TO LIQUEFY COAL IN UTAH IGNITES ENTHUSIASM FROM ENERGY COUNCIL

(By Robert S. Halliday)

Presentation of a coal liquefaction process was enthusiastically received Tuesday by the Utah Energy Conservation and Development Council as a possible means of further utilizing Utah's coal resources.

At the request of Gov. Scott M. Matheson, three officials of Union Carbide Corp., 25th largest corporation in the nation, came to Salt Lake City to describe the firm's Coalcon process, which converts coal into liquid fuels, synthetic natural gas and char.

In his request to the company, Gov. Matheson said several coal-fired power plants are to be built in Utah the next few years (Utah Power & Light Co. units and Intermountain Power Project) and could be a market for the char residue of the Coalcon process. Mixed up to 20 percent with regular coal, char can be used as a fuel without boiler modification it was pointed out.

Producing char for these plants through the Coalcon process would also mean a parallel production of up to 40,000 barrels of petroleum substitute daily, the governor suggested.

In a written response, William S. Sneath, board chairman of Union Carbide Corp., said his firm does not intend to pursue commercialization of the process on its own but "would be willing to work with Utah and/or other government agencies to provide the technical assistance necessary to move toward commercialization."

PROCESS DESCRIBED

William F. Silvia, senior vice president, M. L. Kasbohn, director of research and development, and Isaac Stewart, consultant, met with Gov. Matheson for a half hour Tuesday and then described the Coalcon process to the energy council.

The process yields about one barrel of oil per ton of coal. Two-thirds of the gases produced are used in the process and one-third are available for export as synthetic natural gas, Mr. Kasbohn explained.

He said cost of a company designed commercial plant (17,000 tons per day of coal) was set at about $435 million in 1977 dollars, "meaning it would cost about 30 percent more now."

Mr. Silvia said the process has been proven only on a small scale and steps to commercialize it would include first, a feasibility study (12–18 months), a prototype plant to process 500 to 1,000 tons of coal daily (5 to 7 years) and then a commercial plant processing 17,000 tons daily (5 to 7 years). The steps could overlap, he noted.

OFFICIALS ENTHUSIASTIC

Several energy council members were enthusiastic about the process, including Dr. Georze Hill, council vice chairman, who is a leading national authority on coal processes.

"It looks attractive to maximize the value of Utah coal," Dr. Hill said. He suggested the Utah Energy Office look into the mechanics of acquiring funds for a feasibility study on the process in Utah.

The council also passed a resolution calling for a study on the full mix of potential energy options and set the desirable ranges of each, so the proportion of one energy source in Utah will not pre-empt application of other, possibly more desirable, sources.

DEBARMENT FROM GOVERNMENT CONTRACTS

Mr. HATCH. Mr. President, I recently read with great interest and some anguish I might add, a Los Angeles Times article which reported that the Carter administration is considering a policy of Federal contract debarment for labor law violators. The Times staff writer William J. Eaton indicates that the President might accomplish this ban by Executive order. I personally hope that the President will realize the inadvisability of such a perilous course and will scuttle any proposal to impose potent, unreasonable, and unnecessary penalties upon business in our society.

The discussion of debarment from Government contracts issue is reminiscent of the Senate's unwillingness in 1978 to enact the so-called Labor Reform Act which contained a debarment penalty. At that time many of our colleagues focused on the lack of wisdom underscoring this clearly punitive provision. It was not justifiable then and it is certainly not justifiable now. The true facts show that of over 200,000 unfair labor practice cases filed against employers annually, less than 25 cases annually require proceedings in contempt. That translates to about one-tenth of 1 percent of all cases, hardly a significant figure. Such facts do not support a claim of rampant employer lawlessness. The National Labor Relations Board itself has acknowledged that its current broad powers have enabled it to devise extraordinary measures to deal with repeat offenders.

Furthermore, Federal contract debarment would actually hurt the employees themselves by putting employers out of business with the inevitable loss of thousands of jobs for employees, especially at a time when jobs are at a premium. Such punitive action by the Federal Government damages everyone in society because such action would impose additional costs in the form of higher prices or inferior products and ultimately would reduce competition in bidding for Government contracts. Federal contract debarment is a punitive and unreasonable penalty which hardly is justified by the extremely few isolated cases which demand contempt proceedings. In other words, as a result of verv few companies, notably six, about which big labor has recently complained, the whole world of labor law has to be turned upside down and be made punitive.

Moreover, the idea of the President amending the National Labor Relations law by way of Executive order—tantamount to legislating indirectly what the Senate refused to do directly, is an undesirable approach in my view. It not only usurps the prerogatives of the Congress but also declares an open season for enacting other onerous labor law provisions upon Federal contractors such as "quickie elections," make-whole remedies, double or triple back-pay awards, and so forth. In other words: If it starts by this method of Executive fiat, where will it end?

In summary, Mr. President, debarment is a potent and unreasonable penalty which hardly fits the crime. I hope the President will heed that message and chart a course away from these troubled waters.

I ask unanimous consent that the Los Angeles Times article referred to in my remarks be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 6, 1980]

CARTER MAY BAN FEDERAL CONTRACTS FROM LABOR LAW VIOLATIONS

(By William J. Eaton)

WASHINGTON.—Carter Administration officials are preparing an executive order to ban companies that violate labor laws from receiving federal government contracts, The Times learned Monday.

President Carter has not yet taken a position on the controversial proposal, long sought by the AFL–CIO, but Stuart E. Eizenstat, one of his top domestic aides, has been active in the planning.

J. P. Stevens & Co., the big textile firm that now has large military contracts, would be a likely target of any such executive order, Administration sources said.

Stevens was described as the "most notorious recidivist" in labor law violations in a 1977 opinion by Judge Wilfred Feinberg of the 2nd Circuit Court of Appeals.

But the ban under consideration, which Carter also recommended to Congress as part of his labor law revision that died in a Senate filibuster in 1978, also would affect other companies with records of bad-faith bargaining or antiunion intimidation.

While some Administration officials warned that there were many legal obstacles to overcome before an order could be ready for Carter's signature, Labor Secretary Ray Marshall recently expressed confidence that such a regulation would be put into effect soon.

A decision is expected within three or four weeks—possibly before the major presidential primary elections June 3 in California, Ohio, New Jersey, West Virginia and other states where organized labor will play a role in the outcome.

Word of the proposed ban came after disclosure last week that the Carter-Mondale Reelection Committee has accepted a $1,000 contribution from the Stevens company, a gift that was bitterly denounced by some union leaders whose support Carter has been seeking.

Robert Strauss, head of the Carter campaign committee, said the contribution from Stevens was accepted, but the President's labor record was the only "real issue." That record has been excellent from labor's viewpoint, Strauss added.

If Carter signs such an order, it would help establish his claim that he has the best labor record of any recent Democratic President.

The AFL–CIO has tried and failed many times to get friendly corporate chief executives to approve such a policy.

The Carter Administration plans to rely on a legal precedent established in a recent United Rubber Workers challenge to the contract department penalty for violation of White House wage-price guidelines.

The URW argued successfully in federal district court that Carter went beyond his powers in denying contracts to firms that violated the voluntary standards.

A U.S. appeals court, however, found that the President was within his rights to bar guideline violators from federal contracts because the government had an interest in keeping prices down for the goods it purchased.

The Supreme Court refused to review that decision, and it gave broader authority for the executive branch to interpret the phrase "responsible bidder" in making contract awards.

Marshall and his allies within the Administration contended that a firm with repeated violations of labor laws on its record would not have good labor-management relations, high productivity, or lower costs for the government.

The proposed ban has been discussed since January among Labor Department and Justice Department staff lawyers in hopes of getting Justice Department backing for the proposed executive order.

If those two agencies agree, the proposal will be forwarded to the White House for review and a recommendation to Carter, officials said.

Any such order certainly would be challenged in the courts, the officials added, so Justice Department support would be essential before Carter could go ahead with some confidence that the rule would be upheld.

DEBARMENT OF FEDERAL CONTRACTORS IN VIOLATION OF THE NATIONAL LABOR RELATIONS ACT

Mr. THURMOND. Mr. President, I wish to express my strong opposition to a proposed Executive order currently being considered at the White House and in the executive branch, which would authorize the debarment of Federal contractors found to be in violation of the National Labor Relations Act.

The debarment of Federal contractors as a means of enforcing Federal labor laws was one of the principal issues debated by Congress during the consideration of the Labor Reform Act of 1977, which, as my colleagues know, failed to pass the Senate. At that time, I opposed this provision for several reasons, foremost of which was the adverse impact the debarment would have on the economy and, in particular, employees of debarred firms.

I am still deeply troubled by the prospect of the loss of jobs, especially in the textile industry which is so important to the economy of the South, if this proposed Executive order is implemented. It appears that one textile manufacturer in particular, J. P. Stevens and Company, Inc., is a target of this action by the executive branch for its alleged violations of the National Labor Relations Act. Mr. President, I wish to cite some economic data, which will serve to illustrate the devastating effect this Executive order would have on the economy of my home State, if it were implemented in such a way as to deny Federal contracts to firms such as J. P. Stevens.

For the fiscal year ending in October 1979, J. P. Stevens billed the Federal Government, either directly or indirectly, $65 million for contract goods produced. About 70 percent of these Government billings were produced in South Carolina. Since the Stevens plant in Whitmire, S.C., is engaged in the manufacture of fabrics used by the Armed Forces, the enforcement of this Executive order would probably cause the closing of the plant and the loss of 850 jobs. Other Stevens plants in South Carolina which supply the military with specialized fabrics and which would also be affected are the plants in Piedmont, Wallace, and Great Falls. It goes without saying that the debarment sanction would bring severe economic hardship to the people of these areas.

Furthermore, I question the constitutional propriety of this attempt to do by Executive order that which Congress has failed to adopt after thorough debate. As a matter of constitutional law set forth in article 1, section 1 of the U.S. Constitution, all legislative powers of the Federal Government are vested in the Congress. The President has no general power to enact legislation. It is true that the President may promulgate Executive orders to carry out laws enacted by Congress. However, such action by the Chief Executive must be premised on the legal basis that the President is taking steps implicitly authorized by Congress. There can be no clearer indication that Congress has refused to grant either express or implicit authority to debar Federal contractors than the defeat of the Labor Reform Act.

I think it is outrageous that the Executive is considering preempting the legislative function of Congress in violation of a well-settled principle of constitutional law.

Mr. President, it appears that the issues presented by this proposed Executive order are analogous to those presented in the *Youngstown Sheet and Tube Company* v. *Sawyer* case, 343 U.S. 579 (1952), which set forth a very important constitutional law principle under the separation of powers doctrine. The Supreme Court of the United States, ruling on whether President Truman had the authority to issue an Executive order directing the Secretary of Commerce to seize the Nation's steel mills, stated that the exercise of Executive power "must stem either from an act of Congress or from the Constitution itself." It should be recalled that President Truman attempted to seize the steel mills after Congress, during consideration of amendments to the National Labor Relations Act in 1947, had expressly rejected a proposal by then-Representative JAVITS that would have authorized governmental seizures in cases of national emergency. In holding that the President has unlawfully attempted to exercise legislative power where none had been lawfully delegated by Congress, Justice Black, writing for the Court, stated that the Congress can "make laws regulating the relationships between employers and employees * * *," but that the Constitution "does not subject this lawmaking power of Congress to presidential * * * control."

Finally, Mr. President, I am not persuaded that this proposal is a sound one as a matter of Federal labor law. During the debate over the Labor Reform Act of 1977, the distinguished labor lawyer from South Carolina, Robert T. Thompson, testifying on behalf of the U.S. Chamber of Commerce, argued that there are three aspects of the debarment proposal which make it totally repugnant:

> First, it unfairly changes the entire thrust of the National Labor Relations Act from a remedial statute to a punitive one.

Throughout its entire 42-year history, the Act has been interpreted as a remedial rather than a punitive statute.

Second, it quashes any semblance of due process because it fails to provide for any appeal from the Board's determination that an employer is in willful violation of the Act. It therefore constitutes a blatant denial of due process and fundamental fairness.

Third, the debarment sanction would penalize the very employees whom it is supposedly designed to protect. Many firms depend for their existence upon government contracts. If such a firm is prohibited from receiving government contracts, it may indeed be unable to survive. Consequently, the firm's employees, rather than benefiting from this provision, would be deprived of their livelihood.

Furthermore, the contract debarment proposal punishes the public by imposing additional costs in the form of either higher prices or inferior products and services, or both. Since Federal regulations require that contracts be awarded to the lowest qualified bidder, higher public costs are inherent in the proposed provision which would deny Federal agencies the ability to make contracts with an employer who can offer the best product or service at the least possible cost.

Even if the impact of contract debarment were to be confined to the employer and not affect his employees or the public, it represents overkill. It has the potential for putting many employers completely out of business.

Mr. President, during the course of the debate over the Labor Reform Act, I was convinced that the foregoing arguments were valid. Today I still hold this view.

Therefore, because any proposed Executive order of this nature would be without sound legal basis, and because it would cost many workers their jobs at a time when the economy is already slipping into a recession, I urge that this proposal be immediately rejected.

Mr. President, I ask unanimous consent that a copy of the letter I sent to President Carter expressing my protest over this matter, a newspaper article which was published in the State newspaper of Columbia, S.C., and a memorandum discussing contracts between the Federal Government and J. P. Stevens & Co. Inc., be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *May 28, 1980.*

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I wish to express my strong opposition to a proposed Executive Order currently being considered at the White House and in the Executive Branch, which would authorize the debarment of Federal contractors found to be in violation of the National Labor Relations Act.

The debarment of Federal contractors as a means of enforcing Federal labor laws was one of the principal issues debated by Congress during the consideration of the Labor Reform Act of 1978, which, as you know, failed to pass the Senate. At that time, I opposed this provision because of the adverse impact it would have had on the economy and, in particular, employees of debarred firms.

I am still deeply troubled by the prospect of the loss of jobs, especially in the textile industry which is so important to the economy of the South, if this proposed Executive Order is implemented.

Moreover, I question the Constitutional propriety of this attempt to do by executive order that which Congress has failed to adopt after thorough debate. As a matter of Constitutional law set forth in Article 1, Section 1 of the United States Constitution, all legislative powers of the Federal government are vested in the Congress. The President has no general power to enact legislation. It is true that the President may promulgate executive orders to carry out the laws enacted by Congress. However, such action by the Chief Executive must be premised on the legal basis that the President is taking steps implicitly authorized by Congress. There can be no clearer indication that Congress has refused to grant either express or implicit authority to debar Federal contractors than the defeat of the Labor Reform Act.

Because any proposed executive order of this nature would be without sound legal basis, and because it would cost many workers their jobs at a time when the economy is already slipping into a recession, I urge that this proposal be immediately rejected.

Respectfully,

STROM THURMOND.

[From the South Carolina State, May 21, 1980]

FINAL BLOW READIED FOR STEVENS

(By Victor Riesel)

NEW YORK.—The White House is just about ready to give the coup de grace to the embattled big textile manufacturer J. P. Stevens Co. which, for years, has resisted organizing campaigns and a global boycott by the clothing and textile workers' union.

For months, the Administration's domestic affairs chief, Stu Eizenstat, has been marshaling Labor Secretary Ray Marshall and the Justice Department in devising a Presidential directive which would ban J. P. Stevens from handling scores of millions of dollars worth of federal contracts.

This has been confirmed by the White House, by high Labor and Justice Department officials assigned to "putting Stevens in its place" and by executives of the Amalgamated Clothing and Textile Workers Union (ACTWU) and the Stevens corporation. Both are headquartered here.

Such outlawing of J. P. Stevens, the nation's second largest textile producer—and other companies—by special Presidential fiat would be the most significant labor victory in the 15 years ACTWU has been attempting to unionize the firm's 34,000 mill employees.

No other Administration would touch such a strategem. The late George Meany couldn't wrest it even from the late Lyndon Johnson—and there were mighty few concessions the old growler couldn't squeeze from "Lyndon." Some may recall that Johnson picked up Meany on the late President's first drive to the White House—seeking encouragement, advice and consent.

This operation, if it can be worked into an enforceable directive by Eizenstat, the Justice Department, national labor chiefs and their attorneys, is simple. It would prevent corporations, when judged in violation of labor laws, from doing business with the government. J. P. Stevens has long been charged with such violations. The thrust would be much like the punishment which clobbers companies found guilty of noncompliance with directives of the Equal Employment commission, the Office of Federal Contract Compliance Programs and the Council on Wage and Price Stability.

Textile union co-chiefs Murray Finley and Jack Sheinkman and AFL–CIO President Lane Kirkland have been pressuring the White House for speedy action. Ray Marshall tells them he's moving as swiftly as he can. The target date is early next month. Eizenstat's problem has been coordinating with the Justice Department.

But there's another problem—J. P. Stevens' expertise and highly engineered fabric production capability are intensely needed by the U.S. Defense Department and the space program.

There are only three firms which can provide instant production of worsted (wool) cloth for military uniforms which the government has been buying only "hand to mouth," according to industry sources. This highly engineered cloth is essential to cold weather action as in the Afghanistan area or in desert conflict as in the Middle East. This wool fabric "breathes." It can be woven thick or thin. All defense services need it. Man-made (petrochemical) fiber fabrics aren't dependable. Without J. P. Stevens, America would be in short supply—unless the Defense Department goes abroad in a dubious search for skillfully woven cloth.

And J. P. Stevens Co. is practically the sole producer of a specially woven fabric which is used to cover the nose cone of space missiles. There is something called "nylon rip-stop." This fabric "won't rip more than four inches in any direction." It's used in space shots. And in special parachutes which during night combat waft slowly down, bright red flare dangling, to illuminate enemy forces below.

Stevens also makes special bullet proof vests, cloth for Arctic and Antarctic uniforms and tents, fire fighting equipment and material with "undersea application."

Industry experts say that the nation's defense would be weakened and response speed in an emergency would be slowed without Stevens' production. Also, they contend that such contracts shouldn't be involved in unionizing campaigns or collective bargaining.

Critics of the proposed directive urge that the Stevens-ACTWU conflict be decided by the NLRB, the courts and in constant negotiations between the two sophisticated labor-management executives.

But the union says the principle and not the play's the thing. And that some of the critical items Stevens produces for the Defense Department could be exempt from a President's directive. The union chiefs say that the NLRB anti-Stevens decisions have been ignored, and they want the White House to move swiftly.

J. P. Stevens responds with an invitation to ACTWU to agree to a company-wide secret ballot vote for or against unionization.

There are centrists in all this who believe there could be an agreement across a "main table" quietly worked out somewhere—especially in this moment of tense global crisis. Remember, until recently the textile industry was considered second only to steel in "defense operations." Though this isn't true today, textile mills and plants producing military uniforms still are high on the priority list.

The union chiefs feel the White House is "attuned to us" and so are the labor laws, and they will continue to push for the directive. If it comes, ACTWU officials say that it will prove that Jimmy Carter has a pro-union record second to no other President.

DATA REGARDING CONTRACTS BETWEEN THE FEDERAL GOVERNMENT AND J. P. STEVENS AND COMPANY, INC.

For the fiscal year ended October, 1979, J. P. Stevens billed to the government, either directly or indirectly, $65,000,000. This amounted to approximately 3.5% of the Company's total billings of $1,833,076,000. About 70% of '79's government billings were produced in South Carolina.

To get a true picture of our activities in support of the military, however, we must look into some of the specific areas we are involved in. For example, our Whitmire Plant is capable of vertically producing greige goods made of high count pima cotton yarn used in cold weather applications, such as field jacket linings and hoods, and outer shells for parkas and fliers' jackets. This same technology is also used in making linings for sleeping bags which are woven tightly enough to keep the insulating materials from penetrating the lining, yet permit the release of body moisture through the fabric to the outside to avoid trapping and freezing of these vapors inside the bag.

The principles involved here apply not only to clothing fabrics used in cold weather, but to fabrics used in hot weather and desert clothing, and in critically needed tents of various kinds.

There is a definite and delicate relationship between air permeability, wind resistance, moisture vapor transfer, water repellence and a host of strength and weight requirements, that has been considered when engineering fabrics for functional use. The blending of these needed ingredients into a given fabric most often requires the use of fine cotton yarn capability found in our Whitmire Plant. During the Vietnam Conflict, Whitmire received an "E" award for its response to the needs of the government, particularly for the manufacture of a fabric used in making a highly technical explosive device used extensively during that conflict. Approximately 50% of the Whitmire Plant is devoted to military fabrics today, and in all likelihood the entire plant would shut down if this business were discontinued. As the only major employer in the area, the loss of 850 jobs would result in severe hardships for its people, and a serious dislocation of labor in that part of South Carolina.

We are one of the largest suppliers of nylon parachute fabrics in the country today. Though the use of personnel parachutes in the future is unpredictable, experience has shown that cargo parachutes, especially for re-supply operations are essential in time of conflict. The capability of responding to this need could be seriously disrupted if Stevens were to discontinue production.

Stevens has long been the leader in developing flame retardant fabrics for the government, having worked with fabric finishers and fiber producers in both research and production activities. These fabrics are used by the military in aircrewmen's and combat vehicle crewmen's uniforms where protection against either flash or fuel fire cannot be compromised and where comfort under operational conditions is important.

The primary fiber used in this type of fabric is produced by DuPont, and is called Nomex. J. P. Stevens is currently the largest supplier of Nomex fabrics in the country today. Our fiber-glass fabrics replace asbestos for many applications, most notably on Navy ships as insulation. Asbestos firefighters' suits will be replaced by synthetic fabrics pioneered by J. P. Stevens. We are currently working on fabrics to be used in water and air pollution control, and soil erosion.

The Company has a continuing program with Kevlar fabrics used in the manufacture of bullet-proof vests and flame retardant fabrics. The recent publicity given to this type of vest is evidence of how important our participation is in producing Kevlar fabrics. Stevens is also heavily involved in fabrics for missile nose cones, airplane parts and other defense-related items requiring highly sophisticated technology and production capabilities.

Stevens also produces the more basic items essential to clothing our military. The Company is a producer of the basic "fatigue" fabric today. It is currently being produced at our Estes Plant in Piedmont, South Carolina.

Stevens Piedmont Plant, also at Piedmont, South Carolina is currently producing nylon and cotton blended fabrics used in field jackets and chemical protective suits. Stevens has been one of the largest producers of nylon and cotton blended fabrics used in basic combat uniforms for the past 20 years.

The Company's Delta No. 3 finishing plant at Wallace, South Carolina, unquestionably has been the mainstay of fabric finishers for the government for many years. Any interruption of production would result in a severe and immediate loss to the government and a blow to the economic welfare of this finishing plant and its employees.

Stevens is supplying dress shirting fabrics to the military. Our Republic No. 2 and No. 3 plants at Great Falls, South Carolina are making colored yarn shirts for both the Army and the Air Force.

In 1951 there were 54 producer-bidders on worsted uniform items. Today, there are only two major producers of worsted cloth left in the United States. In 1979 J.P. Stevens produced worsted and polyester/worsted blends for the military. When compared to the government's usage of well over 70,000,000 square yards annually during World War II and 50,000,000 square yards per year during the Korean War, even a small percentage of those needs would be impossible to fill in an emergency. We are currently producing yarn and/or fabric in our plants in Milledgeville, Dublin and Tifton, Georgia.

When one reflects on J.P. Stevens activities as related to supplying our military, it is quite apparent that this relationship is long-standing. It has been a policy of this Company to make every attempt within its capability to supply the military with its needs, especially in difficult times.

The Company's relationship with the Defense Personnel Support Center in Philadelphia has been excellent over the years and a spirit of mutual cooperation and understanding exists. Stevens has always made available to the government its research and development capabilities. The cost to the government through the use of our production facilities in conducting research is only a small fraction of what it would cost to run their own sample facilities or solicit a contract to conduct the work.

The important points in all of this is that those who are attempting to exclude Stevens as a supplier to the government, if successful, would not harm the Stevens Company. Harm could come to the jobs of Stevens employees in one or more plants and, of course, the net result of such exclusion could deny the defense department from obtaining much-needed supplies from one of the few remaining responsible and capable U.S. textile fabric sources.

FORTIETH ANNIVERSARY OF THE SOVIET OCCUPATION OF LITHUANIA

Mr. THURMOND. Mr. President, I wish to remind the Senate of an event that occurred 40 years ago—the subjugation of a free and independent people to communism, Soviet style.

Sunday, June 15, 1980, marks the 40th anniversary of the military invasion and occupation of Lithuania and the subsequent forcible incorporation of Lithuania into the Soviet sphere. At that time, in 1940, a Communist-orchestrated election resulted in the establishment of Lithuania as a Soviet state and the beginning of a mass deportation of over 300,000 freedom-loving Lithuanians to Siberian labor camps.

During their 40 years of subjugation, Lithuanians have experienced the same hardships and deprivation of rights imposed on other Baltic and East European countries included in the Soviet bloc. Industry and labor have been exploited, and religious leaders persecuted. In a continuing effort to indoctrinate the people, authorities from Moscow threaten the cultural, religious, and linguistic heritage of the Lithuanian people. Defiance of the totalitarian rule invariably means imprisonment and ostracism.

The atheist Soviet authorities obviously realized when they occupied Lithuania that nationalism is often closely linked to deeply held religious beliefs. For this reason, the Soviets have pursued the elimination of religion to undermine national resistance to Moscow's rule. This policy has also resulted in blatant abuses of the Lithuanian Constitution, which guarantees "freedom of conscience" and equality of all citizens before the law. In reality, however, those who openly practice their religion are treated as second-class citizens and are denied educational opportunities and responsible positions in business and government.

Despite the harassment and innumerable obstacles, nowhere in the Soviet Union today are resistance and dissent so well organized. Lithuanian spirit has manifestly survived the best efforts of Moscow. Demonstrations and petitions protesting religious persecution, as well as the publication of underground journals detailing discrimination and human rights violations, provide clear opposition to Soviet rule. Moscow has tried, unsuccessfully, to portray dissenters as landowners and members of the exploiter professions, when, in fact, many vocal resistance leaders spring from the working classes, representing the sentiments of a significant portion of the people.

Today, it is appropriate that we recognize again the indomitable spirit of the Lithuanian people. During their brief history of independence, from 1918 to 1940, the Lithuanians espoused the same desires which led to and are embodied in our own Declaration of Independence. One can only wonder when the hopes of these liberty-seeking people will be fulfilled.

Mr. President, on the occasion of the 40th anniversary of their subjugation, Americans should again express admiration for the courageous Lithuanians and pledge unanimous support for their continuing effort to obtain freedom from foreign oppression.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit; and

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit.

HOUSE JOINT RESOLUTION ORDERED HELD AT DESK

The following joint resolution was read by title and ordered held at the desk pending further action, by unanimous consent:

H.J. Res. 569. Joint resolution to provide for a temporary increase in the public debt limit.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by its title and referred as indicated:

H.J. Res. 570. Joint resolution to provide for a temporary increase in the public debt limit; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4011. A communication from the President of the United States, proposing supplemental appropriations for the fiscal year 1980 in the amount of $264,750,000 and an amendment to the request for appropriations for the fiscal year 1981 in the amount of $537,150,000 for the Department of Health and Human Service; to the Committee on Appropriations.

EC-4012. A communication from the United States Trade Representatives, transmitting, pursuant to law, the final instruments and texts of the multilateral agreements negotiated under section 102 of the Trade Act of 1974 (19 U.S.C. 2112) during the Tokyo Round of the Multilateral Trade Negotiations; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2476. A bill to provide that the shipping vessel Kailua have the right to engage in coastwide trade (Rept. No. 96-801).

By Mr. HOLLINGS, from the Committee on the Budget, without amendment:

S. Res. 450. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2727.

S. Res. 451. Resolution waiving section 402(a) of the Congressional Budget Act with respect to S. 1639.

S. Res. 452. Resolution waiving section 402(a) of the Congressional Budget Act with respect to S. 2724.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN, from the Committee on Armed Services:

Charles William Snodgrass, of the District of Columbia, to be an Assistant Secretary of the Air Force.

(The above nomination from the Committee on Armed Services was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN (for himself and Mr. Mitchell):

S. 2829. A bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. HEFLIN (for himself, Mr. DeConcini, Mr. Kennedy, Mr. Bentsen, Mr. Long, Mr. Talmadge, Mr. Stennis, Mr. Chiles, Mr. Stone, Mr. Nunn, Mr. Stewart, Mr. Tower, Mr. Johnston, Mr. Thurmond, and Mr. Cochran):

S. 2830. A bill to amend title 28 of the United States Code to divide the existing United States Court of Appeals for the Fifth Circuit into two autonomous circuits, one to be composed of the States of Louisiana, Mississippi and Texas with headquarters in New Orleans, Louisiana, to be known as the Fifth Circuit, and the other to be composed of the States of Alabama, Florida and Georgia with headquarters in Atlanta, Georgia, to be known as the Eleventh Circuit, and for other purposes; ordered to be held at the desk, by unanimous consent, pending further disposition.

By Mr. BAYH (for himself, Mr. Biden, Mr. Culver, Mr. DeConcini, Mr. Morgan, and Mr. Pryor):

S. 2831. A bill to amend the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure with respect to examination of prospective jurors; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN (for himself and Mr. Mitchell):

S. 2829. A bill to provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes; to the Select Committee on Indian Affairs.

(The remarks of Mr. Cohen when he introduced the bill appear earlier in today's proceedings.)

By Mr. HEFLIN (for himself, Mr. DeConcini, Mr. Kennedy, Mr. Bentsen, Mr. Long, Mr. Talmadge, Mr. Stennis, Mr. Chiles, Mr. Stone, Mr. Nunn, Mr. Stewart, Mr. Tower, Mr. Johnston, Mr. Thurmond, and Mr. Cochran):

S. 2830. A bill to amend title 28 of the United States Code to divide the existing U.S. Court of Appeals for the Fifth Circuit into two autonomous circuits, one to be composed of the States of Louisiana, Mississippi, and Texas with headquarters in New Orleans, La., to be known as the Fifth Circuit, and the other to be composed of the States of Alabama, Florida, and Georgia with headquarters in Atlanta, Ga., to be known as the Eleventh Circuit, and for other purposes; ordered to be held at the desk, by unanimous consent, pending further disposition.

APPELLATE COURT REORGANIZATION ACT OF 1980

Mr. HEFLIN. Mr. President, our forefathers developed a Constitution possessing qualities of flexibility and permanence. Although the judicial system must by necessity pursue a more calculating course of reflection than other branches of government, changes in society's demands upon a court which threaten the effectiveness of that court, will also form a proper justification for reexamination of that system.

Presently, the fifth circuit faces the largest caseload ever confronted by a Federal appellate circuit. Last year, the fifth circuit handled approximately 3,850 appeals. The ninth circuit, the second busiest appellate court, handled almost 800 fewer cases. Although the demands upon the fifth circuit have yet to impinge upon the quality of its work, increased caseload will inevitably erode the expertise and quality of justice which the court can provide.

The division of the fifth circuit into two separate circuits will provide the most tenable and immediate means of addressing the problems created by the increasing responsibility placed upon the fifth circuit. This legislation which I will introduce today would produce two separate circuits. One, the new fifth circuit would be composed of Louisiana, Mississippi, and Texas. The second, designated the 11th circuit, would consist of Florida, Georgia, and Alabama.

Of primary impact would be the promotion of judicial efficiency, thus freeing a judge to give additional focus to issues brought before him or her. At the present, judges of the fifth circuit spend an inordinate amount of time reviewing the 10,000 pages of opinions promulgated by the circuit. Past work habits indicate that the additional 35 district court judgeships recently authorized by Congress will create 40 new appeals per judge annually, a projected increase of 30.8 percent in number of appeals filed.

In addition to hearing the appeals, each circuit judge must review every petition for a rehearing en banc. The increase in judges from 15 to 26 will invariably produce new intracircuit disagreements which will force addition en banc rehearings. The fifth circuit now has the largest en banc caseload ever pending before a Federal court. A division of the fifth circuit would drastically reduce a judge's judicial demands.

In addition to judicial efficiency, the creation of two separate circuits would foster fiscal economy. Geographically, the fifth circuit extends from El Paso, Tex., to Miami, Fla. The division would minimize both travel time and expense for parties as well as the judicial personnel. With 26 judges and three allotted clerks, duplication in reviewing opinions and preparing and circulating documents creates needless waste.

In a recent rehearing en banc, the circulation of a document among all 24 judges—only 25 of the positions have been filled and one judge was absent—took almost 4 hours. It took several days to go through this rehearing and at the end, the decision resulted in a 12 to 12 split. A division of the fifth circuit could considerably reduce this duplication.

Congress must not allow a judicial system to be consumed by its own growth. To assure that actions brought before the fifth circuit will be determined within a framework which promotes justice equal to that of the remaining circuits, this legislation calling for the division of the fifth circuit into two separate circuits should be enacted. I am pleased that Senators from each State within the fifth circuit have joined me in cosponsoring this legislation.

In addition to this bipartisan support of Senators from the affected jurisdictions, this vital legislation is supported by the distinguished chairman and ranking minority member of the Senate Judiciary Committee, Chairman Kennedy and Senator Thurmond. I would like to thank Chairman Kennedy and Senator Thurmond for their support and assistance in developing and processing this crucial legislation.

Mr. President, the genesis of this legislation is based upon a petition presented to the Senate by a unanimous fifth circuit bench. I will request that this petition be made part of the Record. We cannot neglect a cracking pillar in this country's judicial portico. Sure and swift measures must be taken to remedy this.

Mr. President, I ask unanimous consent that the petition, which is signed by each member of the U.S. Circuit Court of Appeals for the Fifth Circuit, be printed in the Record.

There being no objection, the petition was ordered to be printed in the Record, as follows:

PETITION TO THE CONGRESS

The undersigned judges in regular active service of the United States Court of Appeals for the Fifth Circuit respectfully petition the Congress of the United States to enact legislation dividing the presently existing Fifth Circuit into two completely autonomous circuits, one to be composed of the states of Louisiana, Mississippi and Texas with headquarters in New Orleans, Louisiana, to be known as the Fifth Circuit, and the other to be composed of the states of Alabama, Florida and Georgia with headquarters in Atlanta, Georgia, to be known as the Eleventh Circuit;

By separate documents we will, at an appropriate time provide to the Congress a summary of the problems that occasion this petition and of the justification for the proposed legislation.

This 5th day of May, 1980.

Respectfully submitted,
(Signed by 24 Judges.)

Mr. HEFLIN. Mr. President, I have a statement by Senator DeConcini, the chairman of the Subcommittee on Improvements in Judicial Machinery. He is unable to be here today, but he is a cosponsor of this bill. I ask unanimous consent that his statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR DECONCINI

I am pleased to co-sponsor a bill to divide the existing United States Court of Appeals for the Fifth Circuit into a new fifth circuit comprised of Louisiana, Mississippi, and Texas, and a new Eleventh circuit made up of Alabama, the Canal Zone, Florida and Georgia. This division is long overdue and its accomplishment will mark one of the most significant actions of judicial reform in the 96th Congress.

As Chairman of the Subcommittee on Improvements in Judicial Machinery, I have struggled for nearly four years with the problem of how to ease the burdens of our courts, and particularly, the United States Court of Appeals for the Fifth and Ninth Circuits. The Senate previously adopted legislation to divide the Fifth Circuit into a more workable size when it passed S. 11, the Omnibus Judgeship Act, in the 95th Congress. The House, however, objected to the split, and eventually the Senate receded. The issues that concerned the House in 1978 have been resolved and it is my opinion that they will now endorse this legislation to divide the Fifth Circuit.

The support for division of the circuit is impressive. On the 5th of May, 1980, all 24 judges in active service on the Fifth Circuit of Appeals, signed a petition requesting Congress to divide the Fifth Circuit in the manner provided for by this bill. Since that time bar associations from all over the South have endorsed the split, as have the Fifth Circuit District Court Judges Association, former Attorney General Griffin Bell, former Chief Judge John Brown and others. Indicative of the widespread support for the bill is the following excerpt from a letter sent by Judge Frank Johnson of the Fifth Circuit Court of Appeals to the Judiciary Committee:

". . . it is my understanding that Chief Justice Burger and Fifth Circuit Justice Lewis Powell each support the proposed division. I am further informed that all the members of the ABA Board of Governors located within the Fifth Circuit (five of them) support the proposed division, as do ABA President Janofsky and President-elect Reece Smith. Attorney General Civiletti has advised, through former Attorney General Griffin Bell, that he supports the division of the Circuit as proposed. I am also informed that the officials of the Legal Defense Fund will not oppose the proposed three/three division. This is the same position as I understand it that is taken by the ACLU (Laughlin McDonald and Neil Bradley) and the NAACP (Clarence Mitchell). I am further informed that the Lawyers' Committee for Civil Rights (William Robinson, Executive Director, and Albert Jenner) will not oppose the proposed split.

"At our recent Fifth Circuit Judicial Conference, the attorneys and delegates from the six states making up the Fifth Circuit passed separate resolutions endorsing the division of the Fifth Circuit into two autonomous circuits in accordance with the resolution and petition adopted by the Fifth Circuit Council on May 5, 1980. A resolution endorsing the division of the Fifth Circuit was also passed by the United States Magistrates from the six states. A unanimous resolution was also passed by the delegates to the Fifth Circuit Judicial Conference. Copies of each of those resolutions are enclosed."

I know of no opposition to this bill. It is especially impressive that all twelve senators from the Fifth Circuit are co-sponsors of the bill as are Senators Kennedy and Thurmond, the chairman and ranking minority member, respectively, of the Judiciary Committee. I want to pay particular tribute to my colleagues on the Judiciary Committee, Senators Helflin and Cochran, for their initiative on and support of this legislation. They have been untiring in their support and efforts to improve judicial administration since coming to the Committee and I want to express my gratitude to them for their ongoing support of measures in this area. I would also like to commend the judges of the Fifth Circuit for their efforts and cooperation in resolving the difficult problems facing their circuit and urge that other circuits that have similar problems look at the Fifth Circuit efforts as an outstanding example of judicial initiative and creativity in solving their problems.

Mr. HEFLIN. Mr. President, a few weeks ago, Judge Frank Johnson of the fifth circuit, chairman of the Committee of the fifth circuit, came to the Senate along with Judge Joe Hatchett, of Florida, who is a black member of the court. They have, as I understand it, discussed this with parties, including the parties interested in civil rights groups.

Therefore, I believe there is now realization that this legislation should pass.

Mr. President, I ask unanimous consent that the bill that I introduce be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I yield to Senator Cochran.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Alabama for yielding to me, and also for the initiative that he has shown in bringing this legislation to the Senate.

In response to the petition from all 24 of the judges who serve in active service on the Fifth Circuit Court of Appeals, we began working together in an effort to develop this legislation, which has been an ambition and a goal of many of the attorneys and litigants of the court of appeals in the fifth circuit area for many years.

I am pleased to join as a sponsor of this measure, together with other Members of the Senate from the area which is served by the Court of Appeals for the Fifth Circuit.

The chief judge of the fifth circuit, J. P. Coleman, of Ackerman, Miss., has written to me about this important legislation, and I shall insert the letter from Judge Coleman in the Record at the conclusion of my remarks. Judge Coleman has taken great interest in this legislative proposal which will enhance the administration of justice and the quality of justice in the six States involved.

The basic problem is that the size of the court, its docket, and its jurisdiction has grown so large that the quality of justice could be impaired. The court has authorized 26 judges—2 vacancies—and in addition, there are 10 senior judges active in the court—this makes it the largest appellate court in the history of the Republic. Geographically the six States extend from Miami, Fla., to El Paso, Tex.—totaling a population of 40 million persons. In 1979 the number of cases filed numbered 4,113—the projection for 1982 is 5,380. The court writes about 2,000 opinions per year which the 125 district judges in the court must read if there is to be uniformity in the law.

The division of the court proposed in this legislation will reduce the tremendous burden on the judges of preserving the law of the circuit. It will reduce the costs to the taxpayers from shortened lines of communication and transportation and elimination of duplication of effort on the en banc function. Most importantly, a more manageable circuit will benefit the litigants in the fifth circuit and thereby all of the citizens in those States.

This proposal has a long history:

First. In 1964 a special committee of the Judicial Conference recommend a split in the fifth circuit.

Second. In the 92d Congress (1971) the Congress created, at the suggestion of the Judicial Conference, the Commission on Revision of the Federal Court Appellate system. The Commission recommended splitting the fifth circuit, but with three alternatives, a 3-to-3 State split, and a 4-to-2 State split with Mississippi being the swing State.

Third. In the 93d Congress (1974) a judiciary subcommittee proposed a reorganization into two divisions rather than two separate circuits—the proposed divisions would split the States 4 to 2.

Fourth. In the 94th Congress (1975) the committee reported out a bill to have a 4-to-2 State split in the fifth circuit. The Louisiana Bar Association opposed the bill and suggested a 3-to-3 split, if a split was deemed necessary. The bill was not considered on the Senate floor.

Fifth. In March 1977—95th Congress—Chief Judge Brown testified that the 14 active judges had voted 10 to 3 to support a 4-to-2 split and sought 12 additional judges. The committee adopted a 4-to-2 split proposal—alternative No. 2—as part of the omnibus judgeship bill—May 1977. The House did not adopt any such provision and so it was dropped in conference. The conferees did adopt a rule permitting any circuit with more than 15 judges to prescribe rules for en banc hearings by less than the full court of appeals.

This time the proposal has been altered in an effort to solve all of the problems raised in the past.

First, this is the first time the fifth circuit judges have been unanimous in their support of the specific proposal.

Second, Mississippi will be included in the circuit with Louisiana and Texas rather than earlier proposals to have Mississippi included with Alabama, Georgia, and Florida.

Mr. President, I ask unanimous consent that a letter addressed to me from the Honorable James P. Coleman, Chief Judge of the Fifth Circuit, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
FIFTH JUDICIAL CIRCUIT,
Ackerman, Miss., May 26, 1980.

Hon. THAD COCHRAN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR COCHRAN: I am indeed grateful to you for your good letter of May 16, enclosing a copy of the letter sent out by Senator DeConcini, Senator Heflin, and yourself.

I feel very hopeful, now, that possibly this longstanding serious problem in the Fifth Circuit may be nearing a totally adequate, highly satisfactory solution in the interest of justice for the people of these six states.

I take pleasure in informing you that at the recently held Judicial Conference of the Fifth Circuit, in Dallas, the lawyer delegates from each of the six states, in their respective meetings, unanimously endorsed the division of the Circuit as petitioned by the Circuit Judges in active service. The Magistrates, as I am advised, in their meetings did the same.

The final step was that the entire Judicial Conference, composed of Circuit Judges, District Judges, Magistrates, Bankruptcy Judges, and lawyers unanimously adopted a similar resolution, introduced by Circuit Judge James C. Hill, of Atlanta.

All of this material has been placed, of course, in the hands of our Chairman, the Honorable Frank M. Johnson, Jr., who will no doubt be in further touch with you. May I add, most sincerely, that I deeply appreciate the many courtesies shown Judges Johnson, Gee, Vance, Garza, and Hatchett when they went to Washington, by direction of the Court, to acquaint as many Congressional leaders as they could of this situation.

With best wishes, I am
Sincerely yours,
JAMES P. COLEMAN,
Chief Judge.

Mr. STENNIS. Mr. President, I strongly support and am pleased to be a cosponsor of the bill which is being introduced today to divide the existing Fifth Circuit Court of Appeals into two separate circuits, one composed of the States of Louisiana, Mississippi, and Texas, with headquarters in New Orleans, to be known as the fifth circuit, and the other composed of the States of Alabama, Florida, and Georgia, with headquarters in Atlanta, to be known as the eleventh circuit.

In my opinion, the time is long overdue for a division of the large and unwieldly fifth circuit, and all 24 judges in regular active service of the existing court have signed a petition requesting the Congress to enact legislation dividing this circuit.

The overriding and compelling reason for the proposed division is that it will result in savings for and will promote the convenience of litigants, attorneys, and citizens within the circuit. There will be an obvious savings of unnecessary expense resulting from a smaller geographical area and reduced transportation requirements. The distances which counsel now have to travel for the purpose of presenting oral arguments will be substantially reduced in many cases.

Geographically, the existing fifth circuit is composed of six States and covers a vast area. It extends from El Paso, Tex., to Miami, Fla., and it is estimated that the total population in this area will reach 40 million in the current 1980 census.

The existing Fifth Circuit Court of Appeals is presently authorized 26 active judges, the number having been increased from 15 by action taken by the Congress in 1978. In addition, there are 10 senior judges who are active in the work of the court. This makes the fifth circuit the largest appellate court in the entire history of this Nation.

While the increase in the number of authorized judges from 15 to 26 in 1978 was fully justified by the tremendous increase in the amount and nature of the litigation filed with the court, the size of the court itself now creates problems, which in the opinion of many of the existing judges, makes it unduly burdensome and impairs the effective administration of justice within the circuit. A court of this size is unnecessarily cumbersome, time consuming, and productive of difficulties both the the judges and members of the bar. The time and efforts of the judges are now stretched to the utmost, and there is a danger that their efficiency will be impaired.

I would be remiss, Mr. President, if I did not take this occasion to make a few remarks about my good friend J. P. Coleman, who is the chief judge of the existing fifth circuit and who will become chief judge of the new fifth circuit if the circuit is divided as is proposed by this bill. Judge Coleman's service on the fifth circuit has marked him as a jurist and legal scholar of rare distinction. His opinions would do justice to any court in the land, and in saying this, I do not exclude the U.S. Supreme Court.

The petition which came from the judges of the fifth circuit requesting the proposed division of the court is largely due to the energy and fine stewardship of Judge Coleman.

Judge Coleman is a native of Ackerman, Miss. He had a long and illustrious career of public service before being appointed to the circuit court. He served as State District Attorney, State Circuit Judge, Justice of the Mississippi Supreme Court, State Attorney General, and Governor of Mississippi. After his term as Governor, he represented Choctaw County in the Mississippi Legislature. His service in each of these offices was marked by great distinction.

There are few men who have had careers of public service which parallel or exceed that of Judge Coleman in distinction and variety. I am pleased to have this opportunity to make these remarks about him.

To return to the proposed division of the fifth circuit, Mr. President, if the Congress acts favorably on this proposal, the existing fifth circuit will be divided into two smaller circuits, each consisting of three States. However, even after the division, the cases filed with each of the new circuits will be as great as those filed with any other circuit in the country other than the ninth. From every standpoint, the division of the fifth circuit as is proposed is fully justified and in fact is overdue. I hope that it will be approved by the Congress and am glad to cosponsor this bill.

By Mr. BAYH (for himself, Mr. Biden, Mr. Culver, Mr. DeConcini, Mr. Morgan, and Mr. Pryor):

S. 2831. A bill to amend the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure with respect to examination of prospective jurors; to the Committee on the Judiciary.

JURY SELECTION IMPROVEMENT ACT

● Mr. BAYH. Mr. President, today I, together with five of my colleagues, introduce a bill which would amend the rules of civil and criminal procedure to require time for attorneys in Federal court to question prospective jurors, subject to reasonable limitation by the court. The present rule, reflecting sound reasoning, allows attorneys to conduct examination of jurors at the discretion of the court. In practice, however, fewer and fewer district court judges permit voir dire counsel for the parties, and the courts themselves do all the questioning.

The practice of voir dire by court violates sound policy and constitutional principles. The sixth amendment provides a right to trial by jury, as opposed to trial by court. Certainly, the concept behind this article is that one is entitled to a jury of one's peers, bringing to their judgment the perspective of the common man who sees the world as the parties themselves may. A system which as now exists in many of our Federal courts, in which the judge in 15 minutes or half an hour completes the process of routine and summary questions and presumptory challenge, does not satisfy this principle. The sixth amendment also mandates the effective assistance of counsel. Counsel under the prevalent system is relegated to the role of onlooker, not participant in the important process of determining juror impartiality.

Our State courts recognize the importance of jury selection, and as many attorneys have commented, to encounter the Federal trial court practice is a shock. The State system works. With discretionary authority in the court to restrain questioning, possibility of abuse is curtailed and efficiency is not impaired.

Although I do not generally approve of congressional tinkering with court procedure, I believe that in this case it is only by legislation that the rule will be changed. The legislation is a narrowly drawn proposal. The sole rationale for allowing the present practice to continue is that it saves a little time. In most cases, however, it takes very little additional time to allow counsel to participate, and Congress should not allow justice to be determined on a cost accounting basis.

Mr. President, I ask unanimous consent that the text of this bill, the Jury Selection Improvement Act, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Rule 24 (a) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(a) Examination.—The court shall permit the defendant, or his attorney, and the attorney for the Government to conduct the examination of prospective jurors, and may, in addition to such examination, conduct its own examination. The court may impose such reasonable limitations as it deems proper with respect to the examination of prospective jurors by the defendant or his attorney and the attorney for the Government.".

(b) Rule 47 (a) of the Federal Rules of Civil Procedure is amended to read as follows:

"(a) Examination of Jurors.—The court shall permit the parties or their attorneys to conduct the examination of prospective jurors, and may, in addition to such examination, conduct its own examination. The court may impose such reasonable limitations as it deems proper with respect to the examination of prospective jurors by the parties or their attorneys.●

● Mr. CULVER. Mr. President, I am pleased to join with my distinguished colleague, the Senator from Indiana (Mr. Bayh), to cosponsor legislation which will amend the rules of Federal criminal and civil procedure to require time be made for attorneys to conduct voir dire examinations of prospective jurors.

Under current Federal practice, judges are given discretion in allowing attorneys to quiz prospective jurors to detect traces of bias which may reduce the chances for an appropriate and just decision. In recent years, however, Federal judges have taken it upon themselves to conduct the examinations in the interests of expediency and in reducing court delay.

The bill introduced today would reverse this trend by guaranteeing attorneys on either side of the case a time for challenging jurors they find inappropriate. In addition the court is given discretionary authority to restrain questioning—this should eliminate any possibility of abuse or impairment of efficiency.

Mr. President, in my home State of Iowa, Federal judges almost unanimously make time available for attorney to conduct voir dire before the trial is commenced. This has proven to be a valuable method to guarantee sixth amendment rights to jury trials and to effective assistance of counsel, without causing undue delay.

Mr. President, it is time that the Congress take action on this important issue in the administration of justice in this country. I am pleased to be added as a cosponsor and urge my colleagues to take swift action to see it enacted this year.●

ADDITIONAL COSPONSORS

S. 2681

At the request of Mr. Dole, the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 2681, a bill to amend the State and Local Fiscal Assistance Act of 1972 to provide a 5-year extension of the general revenue sharing program and to provide that each State make an annual election to receive its State government allocation or the equivalent amount in specific categorical grant programs, but not both.

S. 2695

At the request of Mr. Bumpers, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 2695, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on production of coal.

S. 2748

At the request of Mr. Bayh, the Senator from Florida (Mr. Stone), and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of S. 2748, a bill to simplify trade procedures regarding sales of U.S. products abroad, and for other purposes.

SENATE JOINT RESOLUTION 156

At the request of Mr. Burdick, the Senator from Wyoming (Mr. Wallop), and the Senator from Arizona (Mr. DeConcini) were added as cosponsors of Senate Joint Resolution 156, a joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

AMENDMENTS SUBMITTED FOR PRINTING

NATIONAL SCIENCE FOUNDATION AUTHORIZATIONS AND WOMEN IN SCIENCE—S. 568

AMENDMENT NO. 1891

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to S. 568, a bill to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in science, professional, and technical careers.

WOMEN IN SCIENCE

Mr. HATCH. Mr. President, since the Labor and Human Resources Committee reported S. 568, the National Science Foundation authorization and women in science bill, I have grown increasingly concerned that this approach to involving more women in science and, indeed, advancing U.S. science and technology as a whole, may not prove as effective as we would hope.

I expressed reservations about the funding mechanism for the women in science provisions of the bill in additional views I filed for the committee's report and I have since had an opportunity to even more carefully review the entire package we are offering to women struggling to earn their way in the extremely competitive scientific community. This further consideration not only confirmed my earlier reservations, but brought to mind other ways to improve this legislation.

Mr. President, one of the main criticisms of Federal grants programs is that it takes almost as much money to administer as there is to award eligible recipients. I am today introducing an amendment in the nature of a substitute which will provide greater funding to women themselves. The substitute eliminates provisions requiring the expenditure of funds on the symbolic trappings of Federal emphasis. These amenities will only draw funds from those who could almost benefit from a fellowship, a research grant, or a visiting woman scientist.

The bill, S. 568, calls for $23 million for women in science for fiscal year 1981 and $27 million for fiscal year 1982. My substitute does not decrease this amount. Instead, it directs all of the $23 million and $27 million for fiscal year 1981 and 1982 respectively, into research opportunities for women, visiting women scientists, internships, workshops and field trips for elementary and secondary school girls, undergraduate, graduate and post-graduate fellowships, traineeships, research participation projects, visiting women professorships and continuing education assistance.

It is my hope that the Senate will pass my substitute. It is time Federal emphasis programs actually assisted those for whom they were intended. Our country sorely needs the expertise of professional scientists, technicians and engineers and I agree there is ability and potential in girls and women we must tap. However, I sincerely believe this substitute will do a better job of using the allocated Federal resources to the most productive purposes.

Mr. President, I ask unanimous consent that my amendment in the nature of a substitute be printed in the RECORD as well as a comparison summary of both S. 568 and my proposed substitute.

There being no objection, the amendment and table were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1891

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "National Science Foundation Authorization and Women in Science Act."

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101 (a) There are authorized to be appropriated to the National Science Foundation $1,074,000,000 for the fiscal year 1981 and $1,235,500,000 for the fiscal year 1982.

(b) Funds authorized for the fiscal year 1981 will be available for the following categories:

(1) Mathematical and Physical Sciences, $245,470,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $225,720,000.

(3) United States Antarctic Program, $59,720,000.

(4) Ocean Drilling Programs, $25,720,000.

(5) Biological, Behavioral, and Social Sciences, $173,720,000.

(6) Science Education Programs, $87,000,000.

(7)(A) Engineering, $58,720,000.

(B) Applied Sciences, $69,720,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs $28,720,000.

(9) Cross-Directorate Programs, $34,470,000.

(10) Program Development and Management, $60,000,000.

(c) Funds authorized for the fiscal year 1982 will be available for the following categories:

(1) Mathematical and Physical Sciences, $268,000,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $246,000,000.

(3) United States Antarctic Program, $66,000,000.

(4) Ocean Drilling Programs, $28,500,000.

(5) Biological Behavioral, and Social Sciences, $190,000,000.

(6) Science Education Programs, $121,000,000.

(7)(A) Engineering, $65,000,000.

(B) Applied Sciences, $97,000,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $31,000,000.

(9) Cross-Directorate Programs, $54,000,000.

(10) Program Development and Management, $66,000,000.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in sections 101 and 104 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SPECIAL EMPHASIS PROGRAMS

SEC. 103. (a) Of the total amount authorized under sections 101(b)(6) and 101(c)(6)—

(1) $1,000,000 is authorized for a program of education in appropriate technology;

(2) $2,250,000 is authorized for the program Minorities and the Handicapped in Science.

(b)(1) Of the total amount authorized under sections 101(b)(1), 101(b)(2), and 101(b)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000 or less.

(2) Of the total amount authorized under sections 101(c)(1), 101(c)(2), and 101(c)(5) for equipment and instrumentation, not less than 10 per centum shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

OFFICIAL EXPENSES

SEC. 104. From appropriations made under this Act, not more than $5,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY

SEC. 105. Besides the sums authorized by section 101 not more than $5,500,000 for fiscal year 1981 and such sums as may be necessary for fiscal year 1982 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFER AUTHORITY

SEC. 106. (a) Funds may be transferred among the categories listed in section 101(b) or 101(c), so long as the net funds transferred to or from any category do not exceed 10 per centum of the amounts authorized for that category in section 101.

(b) The Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amounts authorized for that category in section 101. Such a proposal must be transmitted in writing to the Speaker of the House, the President of the Senate, and the Senate Committee on Labor and Human Resources and the House Authorization Committee on Science and Technology. The proposed transfer may be made only when—

(1) thirty calendar days have passed after submission of the written proposal, or

(2) the chairmen of the House Committee on Science and Technology and the Senate Committee on Labor and Human Resources have both written the Director to the effect that the committees have no objection to the proposed transfer.

AMENDMENTS TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950

SEC. 107. (a) Section 4(c) of the National Science Foundation Act of 1950 is amended by inserting after the first sentence the following new sentence: "In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women and who represent minority groups."

(b)(1) Section 15(c) of the National Science Foundation Act of 1950 is repealed.

TITLE II—WOMEN IN SCIENCE

SHORT TITLE

SEC. 201. This title may be cited as the "Women in Science and Technology Equal Opportunity Act".

PART A—STATEMENT OF FINDINGS, PURPOSE AND POLICY

STATEMENT OF FINDINGS

SEC. 211. The Congress finds that—

(1) it is in the national interest to promote the full use of human resources in science and technology and to insure the full development and use of the talents of men and women with scientific and technical skills:

(2) the preeminent position of the Nation in science and technology depends upon the development of the full potential of the talents of men and women with scientific and technological skills, and the full employment of such men and women produces job opportunities in technical and support occupations and exerts a multiplier effect on the gross national product;

(3) the full use of the scientific and technical human resources of the Nation is required to meet the demand for such resources over the long term;

(4) skills in science and mathematics are essential for entry and achievement in a wide range of professional and technical fields;

(5) literacy in science and mathematics contributes importantly to the ability of the individual to function in a wide range of activities;

(6) although men and women have equal potential for excellence and advancement in scientific and technical fields—

(a) about 10 per centum of scientists and engineers engaged in research are women:

(b) the unemployment rates of women scientists are twice as high as rates for men in every field of science;

(c) women scientists generally earn less than men in every field, at every degree level, at every level of experience and in every employment setting;

DEFINITIONS

SEC. 212. For the purposes of this Act—

(1) the term "Federal agency" means an agency as defined in section 551(1) of title 5, United States Code;

(2) the term "State" means each of the several States and the District of Columbia;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "Director" means the Director of the Foundation;

(5) the term "science" includes engineering.

PART B—EDUCATION

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

SEC. 221. (a) The Foundation is authorized to support, by way of grant or contract, programs in science and mathematics in elementary and secondary schools.

(b) Programs supported under this section shall emphasize the acquisition of knowledge, skills, and information by female students, and may include—

(1) inservice training of teachers, counselors, administrators, and other appropriate educational personnel to improve the quality and relevance of education in science and mathematics and to increase student awareness of career opportunities requiring scientific and technical skills;

(2) the engagement of visiting women scientists and technicians, field trips or other techniques to encourage students to continue in and complete courses in science and mathematics and to consider careers in scientific and technical fields;

(3) student science training programs, research participation projects, and internships; and

(4) workshops for students and their parents and guardians to increase awareness and understanding of the importance of skills in science and mathematics and of the extent to which scientific and technical skills are required for entry into careers.

(c) The Foundation shall coordinate activities to carry out this section with complementary activities of appropriate public agencies and private entities.

(d) Elementary and secondary school programs included under this section shall not be implemented by the Foundation or any of its grantees or contractors in any school system without the prior written consent of the local education agency as defined in Section 801(f) Public Law 89-10.

HIGHER EDUCATION PROGRAMS

SEC. 222. (a) The Foundation is authorized to support, by way of grant or contract, activities designed to (1) increase the participation of women in courses of study leading to degrees in scientific and technical fields, (2) encourage women to consider and prepare for careers in science and technology, (3) provide traineeship and fellowship opportunities for women in science and technology, or (4) provide continuing education and retraining opportunities in scientific and technical fields for women whose careers have been interrupted.

(b) Activities supported under this section shall include—

(1) the awarding of undergraduate, graduate and postgraduate fellowships, and career development grants, directly to individuals and to institutions for award to individuals, (Graduate and post-graduate awards shall be made without regard to when the individual received an undergraduate or graduate degree);

(2) research participation, traineeships, and internship programs;

(c) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

(d) Individual recipients of fellowships, grants, and traineeships under this section shall be paid such stipends as the Director may prescribe.

CONTINUING EDUCATION PROGRAM

SEC. 223. (a) The Foundation is authorized to support, by way of grant or contract, activities in continuing education in science and engineering which provide opportunities for women who (1) are in the work force or (2) who are not in the work force because their careers have been interrupted to acquire new knowledge, techniques, and skills in scientific and technical fields.

(b) Activities supported under this section shall include—

(1) the award of full-time and part-time fellowship to enable individuals eligible under subsection (a) to pursue study and research, continuing education, and career development in scientific and technical fields, without regard to when the individual receive a degree; and

(2) other activities, including pilot programs and regional efforts, to further the purposes of this section.

(c) Individual recipients of fellowships under this section shall be paid such stipends as the Director may prescribe.

(d) The Foundation shall coordinate activities under this section with complementary activities of appropriate public agencies and private entities.

PART C—PUBLIC UNDERSTANDING

VISITING WOMEN SCIENTISTS PROGRAM

SEC. 231. (a) The Director is authorized to establish a visiting women scientists program.

(b) Each year, the Director is authorized to name not fewer than thirty women to be visiting women scientists. Visiting women scientists named under this subsection shall visit secondary schools and institutions of higher education in all regions of the country in order to—

(1) encourage girls and women to acquire skills in mathematics nad science;

(2) encourage girls and women to consider careers in science and engineering and to prepare themselves appropriately for such careers; and

(3) conduct lectures, seminars, informal discussions, and workshops concerning various aspects of scientific and technical careers for women.

(c) Each visiting woman scientists who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, she is engaged in the actual performance of her duties under this section. A visiting woman scientist who is an officer or employee of the United States Government shall serve without additional compensation. Each visiting scientist shall be reimbursed for travel, subsistence, and other necessary expenses incurred by her in the performance of her duties.

MUSEUM PROGRAMS

SEC. 232. The Foundation is authorized to support, by way of grant or contract, activities of museums and science centers which demonstrate potential to interest and involve women. Activities supported under this section shall encourage the study and development of skills in mathematics and science, emphasize opportunities for careers in scientific and technical fields, and stress the importance of equal opportunity for women in science and technology.

PART D—OPPORTUNITY IMPROVEMENT AND REPORTING PROGRAMS

Subpart 1—Opportunity Programs

NATIONAL RESEARCH OPPORTUNITY GRANTS

SEC. 241. (a) Each year, the Director is authorized to make grants, to be known as the National Research Opportunity Grants, to women scientists who (1) have received their doctorate within five years prior to the date of the award or (2) have received their doctorate, have had their careers interrupted, and are re-entering the work force within five years after such interruption. Grants under this section shall be made on the basis of merit through an annual competition.

(b) Each grant made under this section shall be used by the recipient to conduct scientific research in a field chosen by the recipient. Grants made under this section may include funds for the acquisition or maintenance of equipment and the renovation of facilities for research purposes.

(c) Each grant made under this section shall be made for a period of three-years and may be renewed once for an additional three-year period.

(d) The minimum annual amount of any grant under this section shall be $10,000 and the maximum annual amount of any such grant shall be $75,000. In determining the amount of each grant, the Director shall consider the field in which the research is to be carried out pursuant to the grant and the costs of carrying out research in such field. A grant under this section shall be paid directly to the scientist conducting the research.

(e) The Director may provide not in excess of $5,000 per year to each academic institution, research center, or research organization in which research conducted pursuant to any grant made under this section is carried out. Such funds shall be used for the purposes of defraying the administrative costs of such institution, center, or organization related to such research.

(f) A recipient of any grant under this section may conduct research pursuant to the grant at any academic institution, research center, or research organization approved by the Director.

VISITING PROFESSORSHIPS FOR WOMEN IN SCIENCE

SEC. 242. (a) The Foundation is authorized to make grants to individuals or academic institutions for full-time or part-time visiting professorships for women in science.

Such professorships may be held by individuals from the industrial, public, or academic sectors.

(b) A visiting professor shall serve at an institution which assures the Director that—

(1) the visiting professor will have appropriate research and teaching opportunities to serve as a source of advice and counsel for women considering careers in science and technology; and

(2) the institution will establish or expand activities to increase the participation and advancement of women scientists and engineers in the activities of the institution, including research and teaching activities.

(c) (1) Each visiting professor shall serve in an institution in which the establishment of a visiting professorship is expected to increase the participation and advancement of women scientists and engineers in its research and teaching activities.

(2) Each visiting professorship shall be for a period of at least one year and not more than two years.

DEMONSTRATION PROJECTS

SEC. 243. The Foundation is authorized, after consultation with appropriate public agencies and private entities, to support, by way of grant or contract, activities of individuals, public agencies, and private entities designed to encourage the employment and advancement of women in science, engineering, and technology through—

(1) the establishment and implementation of cooperative research and education arrangements among business concerns, academic institutions, and other appropriate entities;

(2) the development of work-study, preservice, or inservice programs leading to permanent employment or advancement;

(3) the development of programs to assist scientists and engineers to obtain new skills in order to change fields, advance, or otherwise adapt to changing needs in science and technology;

(4) the development of programs to permit scientists and engineers to exchange positions or rotate between positions within and among public agencies and private entities;

(5) the establishment of new research opportunities for students, scientists, and engineers;

(6) the improvement of employment policies and conditions; and

(7) other appropriate activities.

Subpart 2—Agency Responsibility

DEFINITIONS

SEC. 245. (a) For purposes of this part—

(1) the term "Federal financial assistance" means any grant, loan, or contract other than a contract of insurance or guaranty;

(2) the term "national laboratory" means any Government directed research and development laboratory, as well as any research and development laboratory funded at least in part by the Federal Government, except as provided in paragraph (3) of this subsection; and

(3) the term "federally funded research and development center" means any organization which performs research and development exclusively or substantially financed by the Federal Government and which is administered by an industrial firm, university, college, or other nonprofit institution.

(b) The Director of the Office of Science and Technology Policy, in consultation with the Director of the National Science Foundation, the Director of the Office of Personnel Management and Budget, and appropriate public and private entities, shall establish the criteria for defining the term "scientific and technical positions" for the purposes of this part.

DATA COLLECTION

SEC. 246. (a) By September 30 of each year, the Chairman of the Equal Employment Opportunity Commission shall prepare and transmit to the Foundation a report concerning the employment status of women in scientific and technical fields. To the maximum extent possible, the Chairman shall collect such information through existing appropriate data collection mechanisms and reporting procedures.

(b) The report required by subsection (a) shall include but not be limited to—

(1) for all employers with fifteen or more employees who employ individuals from scientific and technical fields and for each Federal agency that conducts or supports research and development in science and technology, a compilation, comparison, and evaluation, by sex, race, ethnic group, and discipline, of—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions, by level or other similar category;

(B) the average salary of individuals employed in such scientific and technical positions, by level or other similar category;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving on each Federal peer review and advisory panel dealing with scientific research and development activities; and

(E) the number of individuals serving as principal investigators in Federal agency, national laboratory, or federally funded research and development center supported or conducted scientific research and development projects; and

(2) for each Federal agency, national laboratory, or federally funded research and development center, a description and evaluation of the activities of such agency, laboratory, or center to—

(A) prevent discrimination against women in science and technology;

(B) increase opportunities for the employment, training, and advancement of women in science;

(C) increase the participation of women scientists in federally funded research;

(D) encourage the participation of minority women in scientific and technical careers; and

(E) encourage the participation of handicapped women in scientific and technical careers.

BIENNIAL REPORT

SEC. 247 (a) The Director shall biennially prepare a report concerning the participation and status of women in science and technology in Federal, State, and local governments, the private sector, and academic institutions. By January 30, 1982 and biennially thereafter, the Director shall simultaneously transmit the report to the Congress, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Personnel Management and the Secretary of Education.

(b) The report required by subsection (a) shall contain—

(1) an accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of women and men in scientific and technical positions including—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions by appropriate level or similar category;

(B) the average salary of individuals in such scientific and technical positions;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(E) the unemployment rate of individuals seeking scientific and technical positions; and

(2) such other data as the Director determines appropriate.

(c) In preparing the report required by subsection (a), the Director shall use the report prepared by the Chairman of the Equal Employment Opportunity Commission pursuant to section 246 and may collect, compile, and analyze such other data and information as may be necessary.

AUTHORITY

SEC. 251. (a) Except as otherwise provided in this act the Foundation shall, in carrying out its functions under this Act, have the same powers and authority the Foundation has under the National Science Foundation Act of 1950 to carry out its functions under the Act.

(b) Except as otherwise provided in this Act, the Director shall, in carrying out the functions of the Director under this Act, have the same powers and authority the Director has under the National Science Foundation Act of 1950 to carry out the functions of the Director under that Act.

APPLICATIONS REQUIRED

SEC. 252. No grant may be made nor any contract entered into under this Act unless an application is submitted to the Director at such time and in such manner and containing or accompanied by such information as the Director may require.

SEVERABILITY

SEC. 253. If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected.

AVAILABILITY OF APPROPRIATIONS

SEC. 254. (a) Of the sums authorized for the National Science Foundation under section 101(a), $23,000,000 in fiscal year 1981, and $27,000,000 in fiscal year 1982 shall be available for carrying out the provisions of this title.

(b) For the purposes of carrying out Part B of this title, there is authorized $15,500,000 of the funds available under Section 101 (b) (6) for Fiscal Year 1981 and $9,000,000 of the funds available under Section 101(c) (6).

(c) For the purposes of carrying out Pact C and Part D of this title, there is authorized $15,500,000 of the funds available under Section 101(b), excepting 101(b) (6) and 101(b) (10), and $18,000,000 of the funds available under Section 101(c), excepting 101(c) (6) and 101(c) (10).

COMPARISON OF S. 568, NSF/WOMEN IN SCIENCE AUTHORIZATION AND THE SUBSTITUTE TO BE OFFERED BY SENATOR HATCH

S. 568	HATCH SUBSTITUTE
Title I—NSF Authorization	Title I—NSF Authorization
$1.074 billion for FY '81	no change
$1.235 billion for FY '82	
funding for research directorates reflects proportional cuts to accommodate separate women in science program of Title II	amount authorized for women in science program has been spread out among the research directorates with 1/3 of the total for women in science allocated to the Science Education directorate
Title II—Women in Science	Title II—Women in Science
$23 million for FY '81	no change
$27 million for FY '82	
authorizes emphasis programs for girls and women at the elementary, secondary, graduate and post-graduate levels as well as continuing education	authorizes education programs for all levels included in S. 568 and additionally includes the undergraduate level
creates a Center for Women in Science to coordinate activities for women in science	no provision
establishes a visiting women scientists program	no change
authorizes use of print and broadcast media to promote public awareness	no provision
authorizes the development of books and instructional materials	no provision
authorizes museum projects to educate the public on the accomplishments of women in science	no change
authorizes community outreach programs to stimulate the interest of girls and women in the fields of science and technology	no provision
authorizes research to be conducted on the topic of women in science	no provision
mandates the availability of materials developed and data collected under these provisions to be disseminated	no provision
authorizes research grants for women who received PhD's less than five years before the NSF award or who have their PhD's but whose careers were interrupted	no change
authorizes visiting professorships for women	no change
authorizes cooperative research with private sector entities, in-service projects, exchange programs, and other demonstration programs	no change
mandates the federal government to include recruitment of women scientists in its personnel training	no provision
mandates data collection by EEOC on employment of women in science and technology	no change
mandates biennial report from NSF on status of women in science	no change except for distribution of the report
establishes advisory Committee on Women in Science	no provision
appropriations call for not less than 15 percent to be spent in higher education programs, not less than 15 percent to be spent for research grants and not less than 5 percent for visiting professorships	appropriations call specifically for 1/3 of $23 million ($27 million in FY '82) to be spent on all Science Education programs under Title II, and the entire remaining amount on research for women and other authorized activities

INTERNATIONAL HEALTH ACT OF 1979—S. 1424

AMENDMENT NO. 1892

(Ordered to be printed and referred to the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Labor and Human Resources, jointly.)

Mr. RIEGLE (for Mr. KENNEDY) (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. PELL, and Mr. METZENBAUM) submitted an amendment intended to be proposed by them to S. 1424, a bill to amend the Foreign Assistance Act and the Public Health Service Act to provide for the advancement of international cooperation and assistance in health, and for other purposes.

INTERNATIONAL HEALTH COOPERATION ACT OF 1980

Mr. RIEGLE. Mr. President, at the request of Senator KENNEDY, for himself and others, I am submitting an amendment to S. 1424, and I ask unanimous consent that a statement by Senator KENNEDY, together with the text of the amendment, be printed in the RECORD.

There being no objection, the statement and amendment were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KENNEDY

On behalf of myself, Senator Javits, Senator Williams, Senator Pell, and Senator Metzenbaum, I wish to propose an amendment to the International Health Act of 1979 (S. 1424).

During the seventeen years that I have served in the United States Senate no issue has been more compelling than the need to improve the health of the world's people. It is difficult for many of us to imagine, let alone understand, the deplorable health conditions in many parts of the world. I have seen these conditions first hand, and I have felt personally the sense of frustration and helplessness of those who suffer most. I have seen the refugee camps in Bangladesh and the Middle East. I have seen lifetimes of hunger packed into the lives of children too young to understand their condition. I have seen their parents age before their time, hollow eyes peering out of bodies racked with disease.

Dramatic events and headlines capture our attention. However, the interest of the world can be focused on a given event but briefly, and then the spotlight moves to other events and episodes. We can all recall with a sense of outrage those episodes in recent months of famine and contagion which have caught our attention momentarily. But the real tragedy in health is a daily one. It goes largely unreported as it extracts its inexorable toll of human suffering. During the past year:

Three hundred million people suffered from filariasis. In Africa, one person in ten is affected by some form of this disease.

There are 72 million cases of measles each year in the world and one million children die of the disease each year.

Malaria affects 200 million people. In tropical Africa *every* child over one year old will have this disease, and one million children will die of it each year.

Eight million children will be stricken with whooping cough this year, and 300 thousand of them will die.

There are 800 thousand cases of tetanus each year. Six hundred thousand people, most of them children, die of the disease annually.

Over one and one-half million people still contract polio each year, and 200 thousand children will die.

This list could go on and on. The human afflictions in the developing world place an unbearable burden on the efforts of these nations to provide their citizens with a better life. Tragically many of the diseases most prevalent are preventable or curable. Our failures are not those of knowledge, but of resources. Behind the cold statistics are the faces of millions of people suffering from symptoms we could alleviate, dying from diseases we could treat, developing diseases we could prevent entirely.

I have long felt that there is a clear role for leadership on the part of the United States to address these problems. I have been proud to have had the opportunity to work with my colleagues in the Senate on numerous issues related to foreign assistance and international health. Similarly, I have valued the opportunity to work with international agencies such as the World Health Organization to identify those areas where the U.S. international health role needed to be amplified or extended. The U.S. has made major contributions to the health of the peoples of the world in the past, and it is our responsibility to reaffirm this commitment and redouble our efforts. The human imperative demands we cross both geographic and political boundaries to forge cooperative endeavors to improve the health of the peoples of the world.

To accomplish this, I believe there are some basic principles which must underlie the United States effort.

First, we must make a commitment now to share our vast human and intellectual resources in the health professions with the developing world. We must create a body of professionals—an International Health Service Corps—willing to serve abroad for a period of time providing both direct care for populations who have no access to health services, as well as assistance in organizing and expanding local systems for delivering care.

We must increase our support to U.S. institutions to provide for the training of expanded numbers of individuals willing to work in the area of international health both here and abroad.

We must provide resources to allow U.S. health science research and training institutions to enter into cooperative relationships with similar institutions in the developing countries to mount research and training programs that directly address the highest priority health needs of those developing nations.

We must provide for quick response, short-term relief to areas in the world that may experience mandmade or natural disasters which temporarily destroy the local health system.

We must strengthen and better coordinate the present international health activities of the various U.S. agencies presently involved with international heatlh.

I believe that the International Health Cooperation Act of 1980, which Senators Javits, Williams, Pell, and Metzenbaum, and I are submitting today, addresses all of these needs. It will provide a firm and stable base from which we can continue to expand our present endeavors in international health. Specifically, this bill will accomplish the following objectives:

1. The bill will establish a clear statutory basis for the Department of Health and Human Services" involvement in international health activities. Although the Department is presently heavily involved in a variety of international health endeavors, the majority of these have been implemented to disparate and uncoordinated legislative authorities. The bill will, for the first time, provide a concise statement of the Department's responsibilities in the international health field.

2. Within the Department there will be established the position of Deputy Assistant Secretary for International Health. This individual, appointed by the Secretary, and reporting to the Assistant Secretary for Health, will carry the major responsibilities for coordination of all the Department's efforts in international health and administration of major program areas. Such a position presently exists within the HHS organizational structure but has no statutory basis or programmatic authority.

3. There will be created an expanded program under the auspices of the Fogarty International Center and the Center itself will be created in statute. The Director of the Center will report to the Deputy Assistant Secretary for International Health. Two new manpower training and research programs will be created. One program will provide support for U.S. institutions to expand their training in those fields specifically related to international health such as community medicine, primary care medicine, epidemiology, health care organization, etc. Support in this program will be given to assist individuals in securing short term international field experiences in the health area and the opportunity for longer term work and research experiences abroad.

A second program to be initiated by the revised Fogarty International Center will support collaborative training and research between U.S. universities and counterpart universities in developing countries. Emphasis will be on identification of, and research into, the most pressing health care problems of the partner developing country.

4. There will be created an International Health Service Corps, which will provide for the assignment of U.S. health care and health care organization specialists to developing countries. This program, to be coordinated with AID/Peace Corps efforts, will provide direct patient care services, as well as assistance, to the host developing country in further strengthening and organizing its own system of health care.

5. The bill will also establish a United States Medical Emergency Mission. This effort, to be organized and managed by a private entity under contract with the Department of Health and Human Services, will provide for the establishment of a volunteer cadre of U.S. health professionals willing to accept assignments on a short-term basis to areas of the world needing emergency health services because of natural or manmade disasters.

6. Finally, the bill creates an intergovernmental coordinating committee for international health, which will be made up of representatives of the major federal agencies having involvement in the international health area. This committee will serve to review the full range of U.S. international health activities, to promote better coordination between the U.S. agencies involved, and to provide regular reports to the Congress.

I realize that this bill is but a small step towards the eventual guaranteeing of health care as a right to all in the world. It is tragic to know that this present human suffering will not be easily or immediately relieved. But there is hope as well. The results we can achieve will exceed our expectations. The rewards will far surpass the cost of the effort. We owe it to ourselves and to our neighbors of this globe to renew our commitment to this goal and to redouble our efforts.

AMENDMENT No. 1892

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the "International Health Cooperation Act of 1980".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the promotion of world health is an important humanitarian concern and an integral part of United States international policy;

(2) the improvement of the health of the populations of developing countries will contribute to the economic and social development of such countries;

(3) research, training, and application of appropriate levels of medical technology can be important factors in improving health abroad;

(4) the United States has the resources, both human and technical, to provide such research, training, and medical technology to developing countries;

(5) the efforts of developing nations to strengthen their internal health care systems and institutions should be supported by the United States;

(6) the international health programs of the United States should include participation by universities, private voluntary organizations, and private industry;

(7) the international health programs of the United States should be coordinated through multinational efforts; and

(8) present United States international health efforts are insufficient both in their scope and coordination.

(b) It is the purpose of this Act to assist developing and other nations to strengthen their health care systems and institutions by making available additional health care resources, encouraging multinational health-related activities, and improving coordination among the United States international health programs.

AUTHORITY OF THE SECRETARY

SEC. 3. The Secretary of Health and Human Services (hereafter referred to as the "Secretary"), in carrying out the responsibilities of the Department of Health and Human Services (hereafter referred to as the "Department") in the area of international health, shall—

(a) support health sciences training programs in the United States and abroad;

(b) participate in cooperative endeavors in biomedical and health services research, including participation with multinational organizations;

(c) make grants or enter into contracts to support international health research;

(d) identify, train, and assign such personnel as may be necessary to carry out research, training, and direct care delivery programs;

(e) conduct necessary and appropriate investigations to assess the needs for disease control programs in other countries; and

(f) provide resources to support emergency assistance in the case of natural or mandate disasters adversely affecting the health of individuals.

OFFICE OF INTERNATIONAL HEALTH

SEC. 4. (a) There is established within the Department an Office for International Health (hereafter referred to as the "Office"), which shall be directed by a Deputy Assistant Secretary for International Health, who shall be appointed by the Secretary.

(b) The Office for International Health shall be under the supervision of the Assistant Secretary for Health, and the Secretary shall provide the Office for International Health with such full-time professional and clerical staff and with the services of such consultants as may be necessary for the Office to carry out its duties and functions.

(c) The Secretary, through such Deputy Assistant Secretary and in cooperation with other Federal health agencies, shall—

(1) promote and coordinate international health activities within the Department;

(2) be responsible within the Department for overall international health policy and planning, establishment of long-range international health goals and program assessments;

(3) serve as the representative of the Department of Health and Human Services to the International Governmental Coordinating Group for International Health:

(4) serve as the Department's contact with the World Health Organization, UNICEF, and other private international health organizations and groups; and

(5) supervise the functions of the Fogarty International Health Center and the International Health Service Corps.

(d) The Deputy Assistant Secretary may make grants and enter into contracts for the purpose of carrying out this section.

(e) There are authorized to be appropriated to carry out the purposes of this section, $5,000,000 for the fiscal year beginning October 1, 1981, $5,000,000 for the fiscal year beginning October 1, 1982, $5,000,000 for the fiscal year beginning October 1, 1983, provided that not less than 75 per centum of the amounts appropriated under this section shall be allocated by the Deputy Assistant Secretary for expenditure by agencies of the Department other than the Office.

ESTABLISHMENT OF THE FOGARTY INTERNATIONAL HEALTH CENTER

SEC. 5. (a) There is established within the Department the Fogarty International Health Center (hereafter in this section referred to as the "Center"). The Center shall—

(1) undertake programs to facilitate the international exchange of biomedical and health-related information;

(2) establish programs of fellowships and scholarships in the medical and health related fields; and

(3) develop methods and procedures to assist in the planning and assessment of international health activities within the Department.

(b)(1) The Center shall make grants and enter into contracts with educational institutions for the purpose of providing citizens of the United States and other nations, who have received training in medical and health-related fields, with graduate and postgraduate training related to problems of international health. Such training shall take place in the United States, and shall be in one or more of the following fields:

(A) community medicine;

(B) primary care medicine;

(C) tropical medicine;

(D) parasitology and other basic biomedical tropical disease research;

(E) epidemiology and health information systems; and

(F) public health, environmental health, health planning, health care organization and management, and health policy.

(2) Such training may, as determined by the Secretary, include short-term field experience, long-term intensive academic and field experience, or initial work experience with international organizations or academic institutions.

(c) The Center shall establish international health research and training centers for the purpose of establishing linkages with research and training activities being carried out by or within other nations. Each such center shall be based in the United States, shall establish an agreement with one or more research or educational institutions in a developing country, and in conjunction with such institution or institutions shall develop a program of applied research and training relating to the health problems of highest priority of such country. Each agreement shall provide for—

(1) research and training activities, including field research and training, directed towards strengthening the capability of the host country to solve its principal health needs, with special emphasis on needs in the area of primary health care, human reproduction, public health, and tropical diseases; and

(2) developmental assistance designed to strengthen the national health research and training systems of the host country.

(d)(1) In coordination with the international health research training centers established pursuant to subsection (c), the Center shall establish a program to encourage private industry involved in multinational activities to focus resources and activities on the health problems of people in the developing world. Such program shall include—

(A) a study of the health impact of multinational corporations, and the future impact such corporations might have;

(B) recommendations regarding the planning, development, and evaluation of model health programs provided by multinational corporations for employees, their families, and the local community;

(C) recommendations relating to the role of pharmaceutical companies in conducting research and developing products designed to control or eliminate the major causes of mortality or morbidity in the world, including methods of family planning; and

(D) establishment of programs, including conferences and seminars, to educate and involve corporate executives in international health problems.

(2) Within two years after the date of enactment of this Act, the Secretary shall report to Congress on the study and recommendations required by this subsection.

(e) There are authorized to be appropriated to carry out the purposes of this section $10,000,000 for the fiscal year beginning October 1, 1981, $10,000,000 for the fiscal year beginning October 1, 1982, and $15,000,000 for the fiscal year beginning October 1, 1983.

ESTABLISHMENT OF INTERNATIONAL HEALTH SERVICE CORPS

SEC. 6. (a) There is established within the Department an International Health Service Corps (hereafter referred to as the "Corps") under the supervision of the Deputy Assistant Secretary for International Health. The Corps shall—

(1) provide health care services to developing countries with severe health personnel shortages; and

(2) assist such countries in the organization and development of health care delivery and educational systems responsive to the health care needs of such countries.

(b) The Corps shall be composed of—

(1) practitioners in the health professions of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, and in other appropriate health professions; and

(2) individuals whose principal expertise is in the planning, organization, management, delivery of health services, or health personnel development and training, provided that such individuals compose not more than 25 per cent of the Corps.

Members of the Corps shall be assigned tours of duty of up to 3 years, provided that the first such tour of duty shall be no less than 12 continuous months.

(c) The selection of sites for members of the Corps shall be coordinated with the Agency for International Development and the Peace Corps, and first priority shall be given to sites at which Peace Corps members are already active and effective.

(d) Corps members shall be organized into health service teams and each team shall participate in a training program prior to beginning work at an assigned site. The training of each team shall focus on the indigenous health care problems of the country to which the team will be assigned, and shall include instruction in such country's customs and languages. The Secretary may make grants to and enter into contracts with appropriate government or private entities for the provision of such training.

(e) The Secretary may permit up to 10 percent of the individuals providing and being reimbursed for obligated service (under section 331 of the Public Health Service Act) pursuant to the National Health Service Corps Scholarship program (established under Subpart IV, Part c, Title VII of the Public Health Service Act) to volunteer for service in the Corps in any given year if the Secretary determines that the domestic health needs of the United States would be otherwise adequately met.

(f) There are authorized to be appropriated to carry out the purposes of this section, $5,000,000 for the fiscal year beginning October 1, 1981, $7,000,000 for the fiscal year beginning October 1, 1982, and $9,000,000 for the fiscal year beginning October 1, 1983.

UNITED STATES MEDICAL EMERGENCY MISSION

SEC. 7 (a) The Secretary is authorized to contract with a private voluntary organization for the purpose of establishing a mobile medical disaster relief service to be known as the United States Medical Emergency Mission. Such service shall be made available to any country experiencing a medical emergency upon the request of the country, and shall consist of such epidemiological survey assistance and medical care as may be needed as the consequence of a natural, manmade, or civil disaster. Such service shall be available within 48 hours following a request and may be continued in the requesting country for up to 3 months.

(b) In order to enter into a contract to establish an international medical emergency relief service pursuant to this section, the sponsoring organization shall assure the Secretary that it has sought a high degree of multinational participation among the health care volunteers composing the Corps and broad based funding from both United States and international sources.

(c) The President of the United States may, upon request of the sponsoring organization described in subsection (b), provide such emergency air transport, bulk medical supplies, and food as necessary.

(d) There are authorized to be appropriated to carry out the purposes of this section, $1,000,000 for the fiscal year beginning October 1, 1981, $2,000,000 for the fiscal year beginning October 1, 1982, and $2,000,000 for the fiscal year beginning October 1, 1983. The Secretary is authorized to request additional appropriations as necessary to support ongoing major medical disaster relief projects.

INTERGOVERNMENTAL COORDINATING COMMITTEE FOR INTERNATIONAL HEALTH

SEC. 8. (a) There is established an Intergovernmental Coordinating Committee for International Health, to be composed of the Deputy Assistant Secretary for International Health, the Administrator of the Agency for International Development, the Director of ACTION, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of the Treasury, or their designees, and a representative of private voluntary organizations active in international health matters. The chairman of the Committee shall be selected by the members of the Committee.

(b) The committee established pursuant to subsection (a) shall review and promote coordination of the international health activities of the various agencies of the U.S. Government.

(c) The committee established pursuant to subsection (a) shall annually submit to the Senate Committee on Labor and Human Resources and the House Committee on Interstate and Foreign Commerce, by no later than February 1 of each year, a report summarizing its activities for the prior year.

Amend the title so as to read:

"To establish programs in international health, and for other purposes."

NOTICE OF HEARINGS

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Judiciary Subcommittee on Antitrust, Monopoly and Business Rights will hold a hearing on why gasoline prices remain high despite excess supply on Wednesday, June 18. The hearing will begin at 9:30 a.m. in room 5110 of the Dirksen Senate Office Building.●

ADDITIONAL STATEMENTS

MENDELEVICH, FIODOROV, AND MURZHENKO—THE REMAINING LENINGRAD THREE

● Mr. JACKSON. Mr. President, just 10 years ago, on June 15, 1970, 12 citizens of Leningrad who felt they could no longer live without freedom united in planning to "borrow" a parked plane for a flight to freedom in the West. Before they could act on their plans, all were arrested.

Ten of the group were Jews whose emigration applications had been ignored or refused. Two were Slavs—Yuri Fiodorov and Alexii Murzhenko—who had little expectation of ever being allowed to emigrate.

Today, 10 years later, these two, along with Yosef Mendelevich, are still imprisoned—now in the severe regime camp No. 36 at Perm in the Urals.

The other nine members of this Leningrad group have been released and, under one arrangement or another, have been allowed to leave the Soviet Union. One of the group, Sylva Zalmanson, was released in 1974. Eduard Kuznetsov and the professional pilot Mark Dymshitz were included with Pastor Georgi Vins, Alexander Ginzburg and Valentyn Moroz in the prisoner exchange of April 1979. Sylva's brother Israel was released at the end of his prison term in 1978, and Wolf Zalmanson, Hillel Butman, Anatoly Altman, Lieb Khnokh and Boris Penson were freed and let out of the Soviet Union last spring. There was no explanation why Mendelevich, Fiodorov and Murzhenko were not freed at the same time.

Of the three, the observing Jew Mendelevich may suffer the most. His religious convictions and attempts to practice them expose him to special persecution. Because of such simple things as refusing to work on the Sabbath, wearing the yarmulka and trying to grow a beard, he has been beaten, put in isolation, strung up and forceably shaved. His visitors are turned away; his letters are withheld; he is allowed no books.

Mendelevich is known to be in bad health, suffering from rheumatic fever and from high blood pressure. He has been refused a special cereal diet which would make it possible for him to eat more; as it is, because of his religious observance he is subsisting on less than 1,200 calories a day. In a letter he wrote after the three's recent harrowing trip to the Perm Camp, Yuri Fiodorov reports that Mendelevich was refused hospital treatment by the commandant who ruled: "people who try to steal airplanes don't deserve hospital treatment."

Under Soviet law, the penalty for even a completed hijacking—unless it is aggravated by loss of life, serious injury or damage to state property—is 3 to 10 years. These three men—who only planned to hijack—have served that maximum. In all justice, they should be released and allowed to emigrate to the freedom which they sought at such a price.●

AMENDMENTS TO TITLE III OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

● Mr. DOLE. Mr. President, the Senator from Kansas rises in support of S. 1717 as amended by the Senate Judiciary Committee. The bill deals with two areas of the interception of wire and oral communications for law enforcement purposes that have previously been procedurally ambiguous: the need for court approval for the use of surreptitious or covert entries to effect an interception under title III and the need for authority to conduct emergency interceptions without prior court approval in life-threatening situations.

COURT APPROVAL FOR SURREPTITIOUS ENTRIES

Under title III and as recently substantiated by the Supreme Court in Dalin against United States, court authorization for the use of surreptitious entry, when the interception of oral communications has been authorized, is not constitutionally mandated. The court's rationale is based partly on the interpretation that authorization for surreptitious entry is implicit in an order authorizing the interception of oral communication. However, the Court did stress that the "preferable approach" would be to make explicit to the authorizing court the need to use some form of surreptitious entry when it would be required to accomplish the interception.

It is this Senator's general consensus that the power of a Government agent to enter a home or office surreptitiously, inherently lends itself to dangerous abuse and thus merits this type of judicial involvement. At the same time, a set procedure of judicial authorization would be a sound policy for all Federal law enforcement agencies to follow on their own behalf. Until recently the authority of Federal agents to enter target premises without specific court authorization had neither been challenged nor questioned.

During the past few years, however, Federal appellate courts dealing with this issue have handed down conflicting decisions. For the moment, *Dalin* against *United States* has settled the confusion in the courts as to whether specific court authorization for surreptitious entries under title III is required under the fourth amendment. It is important to note that the court decision stressed the point that a set policy of court notification and authorization was preferable.

The Senator from Kansas believes that S. 1717 sets up that "preferable approach" and strikes a reasonable balance between legitimate law enforcement needs to make covert entries under title III and the necessity to protect individual privacy rights from unnecessary encroachments.

EMERGENCY INTERCEPTIONS

S. 1717 further amends title III by extending the set of communications which can be intercepted prior to obtaining a court order to those situations which involve life-endangering predicaments. Currently under title III only those situations which involve conspiratorial activities which either threaten national security or are characteristic of organized crime are afforded this exception. It is this Senator's view that immediate threats of death or serious bodily injury are justification enough to proceed with the interception of oral communications prior to court authorization. S. 1717 resolves this problem.

CONCLUSION

S. 1717 clearly strives to enhance the effectiveness of our Federal law enforcement system while at the same time protects the individual privacy rights of our citizens. It is deserving of our support.●

EDITORIALS ABOUT STANFORD DAILY

● Mr. BAYH. Mr. President, very shortly the Senate Judiciary Committee will be considering S. 1790, a bill to protect innocent citizens from unannounced search and seizure by law enforcement authorities. The legislation was drafted in response to the Stanford Daily decision of 2 years ago, a case in which a college newsroom was searched for photographs taken during a campus demonstration. The district and appeals courts held that where a third party is not a suspect in the criminal offense under investigation, the reasonableness clause of the fourth amendment requires that law enforcement agents use the least intrusive means of obtaining evidence that is practicable. The Supreme Court disagreed, and the decision caught many people by surprise. The assumption had been that police officers were obligated to seek documentary materials in the possession of nonsuspects by consent or subpena before appearing at the door with a search warrant. The Nation's press reacted with dismay, alarmed by the ramifications of the ruling not only for those engaged in first amendment activities, but for everybody, whether doctors, lawyers or ordinary citizens.

The press' outspoken alarm with Stanford Daily has continued. Mr. President, I ask to have printed in the Record several editorials appearing in the past few months in leading newspapers regarding the dangers posed to our traditional rights of privacy by Stanford Daily, and the need for legislative protections.

The articles follow:

[From the Washington Post, Apr. 17, 1980]

Police Searches: There Are Limits

Almost two years ago, the Supreme Court ruled that the possessions of an innocent person can be legally searched in the pursuit of evidence that someone else has committed a crime. It was, and is, a terrible decision because it reduces the privacy of every citizen with little compensating gain for law enforcement. But a bill to repair some of the damage has finally begun to work its way through the House of Representatives.

The bill, to be considered today by the House Judiciary Committee, would prevent federal agents from conducting searches of innocent third parties for documentary evidence unless there was reason to believe the material would be destroyed or someone would be killed or seriously injured if the search were not conducted. Prosecutors and police could still obtain the documents they wanted, but they would have to use a subpena instead of a search warrant to get them. Another provision in the bill would put identical limits on state and federal officers when the person to be searched was using the documents in any form of public communication, such as writing a newspaper article or a book or preparing a broadcast.

The difference between a subpoena and a search warrant may not sound like much, but it is the difference between being asked for something and having it taken away by physical force. As far as a newspaper, or an individual, is concerned, it is also the difference between possibly exposing to the eyes of police the particular documents in question and exposing dozens or hundreds of others as the officers rifle through files or diaries or heaps of other possessions.

There seems to have been a consenus on Capitol Hill for some time that the news media need the kind of protection from searches of their files that this bill would provide. But there has been disagreement on extending the same protections to other organizations and individuals.

While we have a particular interest in the news media part of this legislation, we believe the broader provision is no less important. No one has yet made a convincing case for giving the police power to search for instead of ask for the materials they want except in those special situations specified in this bill. In no other situations should persons not suspected of having committed crimes be subjected to the humiliation and disruption of a police search solely because they are thought to have something in their possession that will implicate someone else in criminal conduct.

[From the Des Moines Register, May 28, 1980]

Q. AND A.

Know what a third-party search is?

Sounds vaguely familiar. Elucidate.

It's the search by police of innocent persons. The first party is the person doing the searching. The second party is the person suspected of crime. The third party is the person being searched because police believe he may possess evidence of the second party's guilt.

So what?

So plenty. The U.S. Supreme Court has legalized third-party searches. The court said in 1978 that it was OK for California police to go through the offices of the Stanford Daily newspaper searching for photographs of a demonstration. The paper hadn't done anything illegal. Its photographers merely had taken pictures. But police got a warrant that entitled them to rummage through the paper's files looking for evidence.

M-m-m-m.

The court's ruling isn't limited to the press. It opens the way to searches of any innocent third party who has records—doctors, lawyers, hospitals, banks, insurance companies. Say that you talked to your doctor or lawyer in confidence and he put the information in his records; the information could be revealed to police if they believe evidence of another patient's or client's crimes might be turned up by searching through the records.

Are police actually doing this?

They are known to have searched a law office, psychiatric clinic and a television station since the Stanford ruling.

So, what can be done?

Congress has authority to curb police searches. The House Judiciary Committee has approved a bill. It would apply to all third-party searches by federal law-enforcement agencies. It would apply as well to searches by state and local police when the search is a journalism organization.

But what if the third party, while innocent, has evidence of someone else's guilt?

The House bill would enable police to get the evidence by subpoena.

What's the difference between getting it by search warrant and getting it by subpoena?

A search warrant authorizes a surprise search, which can be through all of an organization's records. A subpoena calls for disclosure of certain named documents. There's an opportunity to appear at a hearing on the need for a subpoena, but there's no chance to contest a search warrant.

But what if there's reason to believe a third party would destroy evidence or someone's life would be in danger by going the subpoena route?

The House bill would authorize issuing search warrants in such cases.

What's happening in the Senate?

The Senate Judiciary Committee is expected to consider soon a bill to curb only the third-party searches of journalism organizations.

And in the Justice Department?

It favors this limited approach.

What's wrong with that?

The records of newspapers and broadcasters aren't the only ones in need of protection. Every citizen is in danger of having private, confidential information disclosed through third-party searches. That's why the American Medical Association, American Psychiatric Association, National Association of Social Workers, American Newspaper Publishers Association, Common Cause and American Civil Liberties Union support the broader House bill.

And you?

Count us in.

[From the Boston Globe, Apr. 15, 1980]

PROTECTING PRESS AND PRIVACY

In the nearly two years since the Supreme Court issued its ill-considered opinion in the Stanford Daily case, the fears of its critics that it would open the door to searches of the premises of innocent "third parties" have been proven warranted. Attorneys' offices, doctors' offices, a methadone clinic, a church have all been searched without notice by police looking for records to aid one or another criminal investigation.

This week the House Judiciary Committee will consider legislation to limit the impact of the Stanford Daily decision by restricting the power of law enforcement authorities to conduct unannounced third-party searches.

The original case involved the college newspaper at Stanford University and thus had particular meaning for the press. Police entered the paper's offices in an effort to find photographs of an earlier campus demonstration. There was no suggestion that either the paper or any of its employees were involved in criminal activity.

Yet, its premises were violated, and the Supreme Court, in a 5-to-3 decision, upheld the police action. The chilling effect that the decision has on the press is obvious. Knowing that photographs, notes, taped conversations are all vulnerable to unannounced seizure, sources may well decline to cooperate with reporters.

Yet, the impact of the decision was not restricted to the press. The decision validated a wide range of third-party searches. As Justice John Paul Stevens noted in a dissenting opinion: "Countless law abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing inevstigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious."

The legislation coming before the House Judiciary Committee would bar unannounced searches for and seizure of materials possessed by journalists, authors and the media unless there is probable cause to believe the person possessing the material has committed or is committing a crime or unless there is reason to believe immediate seizure is necessary to prevent death or serious bodily injury. The press protections cover federal, state and local searches.

In addition, the pending House legislation would prevent unannounced federal searches for other documentary material possessed by third parties unless there is probable cause to believe the party is dead or severe bodily harm is imminent or unless there is reason to believe the material will otherwise be destroyed. This section of the legislation could serve as a model for states drafting their own prohibitions against third-party searches that do not involve the press.

In all instances, of course, law enforcement officials would still be free to obtain a subpoena for material, a subpoena that is specific in its request for materials, that the possessor of the material can contest in court and that, if granted, the court can ultimately enforce.

It is a reasonable approach, one that should be embraced in both the House and in the Senate, where a weaker, press-only bill is now being considered. Without forceful legislative action, the freedom of the press and the privacy of every American is jeopardized.

[From the New York Times, Apr. 22, 1980]

PROPER SEARCHES—AND AL CAPONE'S SISTER

Two years have passed since the Supreme Court ruled it was all right under the Constitution for the police to search the offices and homes of innocent persons for evidence of crime. That decision involved a newspaper, but it has deeply troubled doctors, lawyers and nonprofessionals. They feel, reasonably, that the police should not be looking through possessions and papers without demonstrating some suspicion of wrongdoing by their owner.

If, as the saying goes, they have done no wrong, why the concern? Because ordinarily the police simply have no business looking through files and pictures, medical and legal records in that manner. That kind of search can shatter both professional privacy and the privacy of other, equally innocent parties who have confided in someone.

The correctness of the Court ruling is still much debated, but the more pressing question is what to do about it. The Court conceded that state legislatures and Congress remained free to impose greater restraints on searches, requiring, for instance, the serving of subpoenas rather than the execution of search warrants. That method, often used effectively even against targets of criminal investigations, affords an orderly chance to contest the authorities in court. Several state courts and legislatures have provided such limitations and now Congress is moving.

Approaches vary, but all share the principle that a search is permitted when there is reasonable fear that evidence will be destroyed. The House Judiciary Committee has just approved a broad protection for the press and other innocent parties against Federal searches and, for the press, against searches by the state and local police as well. The Carter Administration supports safeguards only for the press, in a bill pending before the Senate Judiciary Committee.

We continue to favor the broader protection. The threat to liberty is wider than the decision that spawned the concerns. The Justice Department frets over what is called the "Al Capone's sister" problem—what happens when a gangster, seeking to frustrate investigators, stashes incriminating material with innocent relatives or friends. We think Federal agents are ingenious enough to show the need for a search warrant when that problem in fact arises.

The legislative proposals need tightening in one critical area. They allow searches of news personnel when they are suspected of crime, which by itself is not objectionable. But one of those crimes is possession of classified information. For a Government that freely stamps everything secret, or at least confidential, this could reach anything from documents about a military cost overrun to the Pentagon Papers. That is the backdoor to censorship and it should be slammed shut.

LEAHY MEETS CIVIL LIBERTIES ISSUE HEAD-ON

[From the Free Press, May 8, 1980]

The Senate Judiciary Committee has postponed consideration of legislation designed to protect citizens against unreasonable searches, but Sen. Patrick J. Leahy, D-Vt., a member of the committee, has said he supports the measure.

Wednesday the committee had been scheduled to take up a bill, recommended by a subcommittee, which would have restricted the issuance of search warrants against members of the news media. A major issue is whether the bill should be broadened to offer similar protection to all innocent parties, including doctors, lawyers, clergy and others who could be targets of police raids similar to the one conducted at a Stanford University student newspaper.

Leahy, a former state's attorney, has been strongly critical of the 1978 U.S. Supreme

Court decision in the Stanford case, but has not endorsed the specifics of any of the numerous bills introduced in the Senate and the House in an attempt to deal with the issue.

In a conversation with the Free Press, Leahy said he would support not only legislation to protect the news media against such searches but also favors broader proposals to protect other innocent citizens.

The administration is backing legislation based on the First Amendment protection of a free press, to require law enforcement agencies to use subpoena powers rather than search warrants to obtain materials from writers, photographers and others who work for publications. But it would go no further. Many journalists, however, are uncomfortable about being singled out for such protection and argue that the Fourth Amendment concept of protection for all citizens against unreasonable search and seizures should be incorporated into any legislation.

If the First Amendment, by itself, could not protect the Stanford student newspaper against police who wanted to rummage through its files without a subpoena, then what reason does a doctor, a lawyer, a priest or any other individual have to feel that the Fourth Amendment, by itself, will protect him against a police-state raid which may be totally unnecessary and the result of lazy investigators trying to avoid doing their own work?

Leahy put it aptly: "Cases like the Stanford case encourage the worst in law enforcement; they don't help the best."

The Senator, as a former prosecutor, deserves commendation for his willingness to buck the Justice Department and the federal prosecutorial establishment on this important civil liberties issue.

[From the Louisville Courier Journal, June 8, 1980]

SEARCH PROTECTIONS NOT JUST FOR THE PRESS

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

That is the Fourth Amendment to the United States Constitution. Its phrasing is almost poetic, its meaning clear.

Historically, it has been interpreted to mean that the home or office of an innocent person could not be searched under the authority of a warrant. Such "innocent third parties" would include people who might have observed a crime or might have information about a criminal but were not, themselves. suspected of criminal activity,

Officers of the law could enter third-party premises to search for "contraband"—but not for "mere evidence."

This interpretation of the Fourth Amendment was dealt a crippling blow by the U.S. Supreme Court in 1967 in its *Warden* v. *Hayden* decision. In that case, the police pursued a suspected robber into a house and found, during the search that followed, a bloody shirt in the washing machine. The shirt was evidence, not contraband and thus the stage was set for the Stanford Daily case.

In a decision handed down in 1978, the Supreme Court upheld the right of the police to enter the offices of The Stanford Daily using a search warrant. The newspaper had taken photographs of a riot and the police wanted to see the unpublished pictures in hope of identifying some of the participants. This time "hot pursuit" was not an issue. Normal procedure would have been to subpoena the information desired. Instead, the police got a search warrant that permitted them to rummage through the newspaper's offices.

In an effort to restrict this dangerous expansion of police power sanctioned by the *Warden* v. *Hayden* and *Stanford Daily* rulings, a Senate bill has been proposed by, among others, Birch Bayh of Indiana. It would forbid searches of the premises of "innocent third parties" except under unusual circumstances. An exception would be granted if the police or FBI could convince a judge that important evidence would be destroyed. If a subpoena, rather than a warrant, was employed.

Strong opposition to the Senate Bill has come from the Department of Justice, which contends that it would hamper the efficiency of police investigations. A spokesman for the department said that, if the bill were passed, "the Mafia would be dancing in the streets." However, the Justice Department supports the legislation if it covers only the offices of the press.

That just isn't right. The Fourth Amendment was written to cover all citizens, as it clearly states. As we have argued many times before, the press should not be set up as a separate, privileged class endowed with special rights denied to others. Our right to collect and disseminate the news, guaranteed by the First Amendment, is quite enough.

In fact, we resent the Justice Department's efforts to placate the press while bludgeoning the constitutional rights of all non-journalists.

Law enforcement is easy in a police state. Our forefathers understood that from bitter personal experience under King George III. That's why the Bill of Rights has been part of the supreme law of the land since 1791. And as we approach the third century of its protection of our rights, the Senate would perform a monumental service by clearly redefining the intention of the Fourth Amendment. We all have the right of security which is its sweeping pledge and our birthright.●

ON BECOMING RABBI EMERITUS

● Mr. MATHIAS. Mr. President, several months ago I had the privilege of paying tribute to a citizen of the world—Rabbi Jacob A. Agus. In many ways Rabbi Agus represents the ideals of our Nation. Throughout his marvelous career he has labored to expose the sources of prejudice and to overcome them. He has emphasized not the divisions which separate men and women of different creeds and races, but rather the universal, rational core of humanity.

Rabbi Agus was honored with the title of Rabbi Emeritus at Temple Beth El in Baltimore on June 1, 1980 where he has served for 32 years. An article that appeared in the Baltimore Jewish Times gave an excellent outline of the man and his career that led to his receiving the title of Rabbi Emeritus.

I ask that this article by Barbara Pash entitled "On Becoming Rabbi Emeritus" and published in the Baltimore Jewish Times on May 30, 1980 be printed in the RECORD.

The article follows:

ON BECOMING RABBI EMERITUS

(By Barbara Pash)

The mid-1930's were a grim time for Jews. Fascism seemed the wave of the future. A chorus of anti-Semitism was reaching a crescendo in Europe and was being picked up in America. The United States was still in the grip of a deep depression. Young American Jews were almost desperate to assimilate. Some thought that Judaism might disappear in a single generation. The times were harsh and the mood was dismal.

It was in this atmosphere that Jacob Agus was ordained in Yeshiva University and assumed his first pulpit. Despite the well-meaning advice of various mentors to find a different career, he persisted.

Now, on the eve of becoming Rabbi Emeritus of Beth El, Rabbi Agus, a silver-haired gentleman of the old school who rises from behind the desk in his den to greet you and whose sharp mind shines through his dark eyes, surveyed his career, commenting, "This is the change most prominent in my mind—from despair and hopelessness to great self-confidence."

Rabbi Agus is in the unique position (with what amount of energy and toil can only be imagined) of being senior rabbi to a major congregation and a scholar of international repute. His efforts include 12 years spent editing all articles in the *Encyclopedia Britannica*—"it reaches the largest audience"—dealing with Judaism and Jewish history. He has published eight books in the English language, one of which was translated into Spanish and French (to be used by the Chief Rabbi of France to enlighten a study group of Sorbonne professors about Judaism). He has himself written a book in the Hebrew language about the Kabalah—"the subject was too complex to write about in English."

Rabbi Agus assumed his first pulpit in 1934. In 1948 he became the first permanent rabbi at Beth El, then a congregation of 90 members and now with over 1,100 family memberships. Between his ascension to the pulpit and today, he watched the United States go to war against Hitler's Germany. As Hitler's barbarism was revealed he saw a growing revulsion against anti-Semitism. And then with the establishment of the state of Israel, he saw a new pride and optimism course through world Jewry.

Rabbi Agus has experienced other changes—within American Judaism and within the Conservative movement. "When I began," he noted, "there was still a tide of secularism, the belief that the Jewish people was basically a national grouping and we would build a future on that basis. In the 1930's, the spiritual part of religion appeared a hopeless cause because synagogues were just beginning to make an impact on American Jewish life."

Now, the religious character of the Jewish community is commonly accepted. The Americanization of the Jewish community, he added, "made loyalty to the 'old country' obsolete and left room for Jewish loyalty in the sphere of religion."

During his tenure at Beth El, Conservative Judaism grew from what he called "a potential movement", barely more than a group of Yeshiva University alumni, to a fully independent movement claiming the largest number of American Jews.

One of the two major aspects of Conservative Jewry has remained: its pro-Zionism. Forty or so years ago, Rabbi Agus explained, "the Reform movement was not committed to Zionism, and the Orthodox were divided pro-Zionist and independent." From the start, the Conservative movement emphasized the spiritual national character of the Jewish people.

The second major aspect of the movement, the critical study of Judaism in light of its historical development, is constantly evolving. "As issues arose, they could be seen from new perspectives, and each issue is examined in its historical perspective," Rabbi Agus said. People tend to forget the fervor with which some of these issues were debated in rabbinic and lay circles, issues such as men and women being seated together in a synagogue, or driving to shul for Sabbath services. For example, in 1950 when he was chairman of the Rabbinical Assembly's subcommittee on the Sabbath and the ruling was made that worshippers were permitted to drive to services, it caused an "uproar", he recalled.

Now, of course, the important issue facing Conservative Judaism is the ordination of women as rabbis. Rabbi Agus is "for it", but "when the time is right, when the rabbi can be accepted by her congregation." Gradually, "we are moving to that position," he said, remembering that when he came to Baltimore, girls didn't have Bat Mitzvahs. "We didn't have that generation of women (who had the interest and training to become rabbis) in my day."

Another concern of Conservative Judaism (Rabbi Agus does not want to label it an "issue", calling it instead "our chief concern") is the maintenance of the Jewish family and how best to reach those who are falling away from Judaism, such as the singles or the divorced.

To answer this concern, Rabbi Agus finds the Conservative movement developing an "appreciation of the need for non-rational anchorages in life." The psychological importance of ritual, the introduction of Chavurot within synagogues—what some might interpret as shifts in the spectrum to the right—Rabbi Agus views as centering around the dissolution of the family. He does not see either Judaism in general or the Conservative movement in particular shifting to the right.

"Whenever people look at Jewish life as sociologists, with what the eye can see, they are wrong," he commented. "Jewish life is essentially an area of inner orientation," in terms of size he said, "Orthodoxy grew through immigrants who came here after World War II, but insofar as American Jewry is concerned, the Conservative movement is still the largest."

Rabbi Agus belongs to a generation of Baltimore rabbinic giants. Their names were known throughout the city and state as leaders in various causes. "Each was different in the source of his strength and influence," Rabbi Agus remarked. For himself, he holds to the one sentence he was asked to provide for Who's Who as the summation of his philosophy: "To recognize the sources of prejudice and overcome it."

He has labored, he said, "on the intellectual front"; through his publications and through dialogues with Christian clergy. "As a child, I was aware of anti-Semitism as a popular delusion that limited the happiness of the Jewish people. The clarification of Jewish history and thought, and their contribution to the non-Jewish world" has been his special endeavor.

Years ago, Christian thinkers did not consider anti-Semitism their problem. Even in the early 1960's when Rabbi Agus organized a week-long institute for 50 Baltimore clergymen to explain, among other topics, the Gospel of Matthew from the Jewish point of view, it was an unusual interfaith event. He found them "not ignorant of Judaism, but one-sided in their outlook." In the 1950's and 60's, the interfaith issue was supplanted in the public's mind to a certain extent by the issue of civil rights, although Rabbi Agus worked in that area as well, serving on the Board of Regents of Morgan State University in order "to establish bonds with Black leaders."

It may not be possible for rabbis today to have the community-wide impact Rabbi Agus' generation of rabbis had. "What happened in Baltimore was that there was rapid change within a few years. In a half dozen congregations, one generation of rabbis reached retirement about the same time."

"Since then, there has been a gradual slippage of authority in American Judaism as a whole in all three branches. New issues have emerged, such as the state of Israel and how to establish a Conservative branch there. Rabbis need the backing of their congregation to pursue civil rights and ecumenical issues," he said. In the meantime, "powerful organizations that specialize in promoting the interests of Israel and ecumenism" have arisen which tend to supplant an individual rabbi's efforts.

And, while synagogues have become central to Jewish life over the past 30 years, he added, "many people have not acquired respect for the opinions of modern rabbis."

In the Baltimore Jewish community, Rabbi Agus proudly noted the development of adult Jewish education facilities, attributing their growth to Dr. Louis Kaplan, former head of the Baltimore Hebrew College and the Baltimore Board of Jewish Education. He is equally proud of the existence of many good congregations in Baltimore. But he disclaims credit for his own congregation's growth, saying it was due to the "devotion of our lay leaders and the power of our ideas."

"If I have claim to any kind of fame," he mused, "it is interpreting the essence of Judaism to both gentiles and Jews. I don't measure my work by any immediate effect but by its long term effect."

Rabbi Agus will continue his scholarship. Currently, he is preparing a volume of his essays for publication. He is concerned now with the emergence of a "new kind of anti-Semitism, Moslem in nature and centered around the state of Israel." He belongs to a trialogue (Jews, Christians and Moslems) group sponsored by the Kennedy Institute. A member of the group recently travelled to Afghanistan, Iraq, Iran and other Moslem countries, reporting back on the virulent anti-Semitism that flourishes there. "One of the elements of fear in my mind," Rabbi Agus remarked, "is this fantastic mythology being built around Israel. On the other hand, Israel is a source of hope and faith and delight."

Rabbi Agus also has commitments to teach, at St. Mary's Ecumenical Institute in Baltimore and for three months in spring 1981 at the University of Judaism in Los Angeles. He will also participate in the activities of the Center for Interfaith Activities of the University of Southern California. This, too, is a change from when he entered the rabbinate. "Then", he said, "it was inconceivable for a rabbi to teach. Today, there are hundreds of places where Jewish life and thought are taught."

"I don't feel I've said my last words," Rabbi Agus replied with a smile when asked to sum up his career. "My work as a rabbi will simply enter into a different phase."

Mrs. Miriam Agus, a graduate of Boston Hebrew Teacher's College, has helped her husband throughout his career, and has worked as a teacher at Beth El and an active participant in Sisterhood. They have four children. Dr. Zalman Agus, their oldest, heads the department of nephrology at the university of Pennsylvania Medical School. Mrs. Larry (Edna) Povich lives in Washington, D.C. Also living in Washington, D.C. are their son Robert, a graduate of Yale Law School, a consultant in community development and an organizer of Fabrangen, and their daughter, Debra, Mrs. Robert Kleinman, a Cornell Law School graduate who works in government. The Agus' have six grandchildren.

Beth El will honor Rabbi Agus with a weekend of events. At the Saturday May 31 Sabbath service, Rabbi Mark Loeb of Beth El will speak about his career and accomplishments and Cantor Saul Hamerman will sing a special selection of songs. On Sunday June 1, a testimonial dinner in honor of Rabbi Agus' completion of 30 years as Senior Rabbi and his election to Rabbi Emeritus will be held. Dr. Robert Gordis, professor of Bible at the Jewish Theological Seminary, will be guest speaker.●

PRODUCTIVITY AND COMPETITIVENESS

● Mr. RIBICOFF. Mr. President, today on behalf of the Democratic Senators who participated in the Harvard Conference on Competitiveness, Senators BENTSEN, MOYNIHAN, BRADLEY, and myself, I submit a statement and platform plank to the Democratic Platform Committee in Washington, D.C.

The conference, held under the auspices of the New York Stock Exchange, Harvard University, and the Senate Finance Subcommittee on Trade, brought together an eminent group of business, academic, political, and labor leaders. We concluded that action must be taken now to reverse the slippage in America's international competitive position.

This is not a partisan matter but is important for the entire Nation. It is my hope the Republican Members of the Senate who participated in the Harvard conference will make a presentation on this most important issue to the Republican Platform Committee.

It is my hope further that both Presidential candidates will bring the basic issue of productivity and competitiveness to the American electorate and that after the election the President and Congress will undertake the necessary policy and legislative steps to bring America back to the forefront in the world marketplace.

The presentation and plank follow and I ask that it be inserted in the RECORD.

The statement follows:

STATEMENT BY SENATOR ABRAHAM RIBICOFF BEFORE THE DEMOCRATIC PLATFORM COMMITTEE

The Democratic Party platform should address and vow to solve the problem of America's declining productivity. In world markets, American products are being undersold. We should make it clear in our platform that the Democratic Party will provide the leadership to reverse this trend and restore America's competitive position in world affairs.

Senator Bentsen, Senator Moynihan, Senator Bradley and I have worked to give the productivity issue the national attention it deserves. Senator Kennedy raised the issue in his campaign. The Democratic Party is obliged to insist that the productivity issue be in the forefront of this year's Presidential campaign.

Our economy is losing its competitive edge. During the past decade, the U.S. has had the lowest annual rate of productivity increase of all industrialized nations. Last year, we moved from several years of virtual no-growth productivity to a net decline.

In 1978, for the first time we suffered a trade deficit in manufactured goods. Trade deficits seem to be a permanent fixture in the American economy. Meanwhile the dollar has declined in value.

Although we still have the largest economy in the world, and the highest standard of living, we are slipping all too rapidly. Our weakened competitive position is reflected in many vital economic indicators. They do not reflect a very bright picture:

Our trade position has fallen considerably and manufactured goods have been persistently on the downturn.

Our share of global exports has steadily been reduced and is now one-third of what it was just two decades ago.

The dollar has slid in value against our major trading partners but this has not reversed our declining trade and adverse balance of payments.

Real output per worker and per capita have been growing more slowly than in other major nations. This productivity growth rate has been at a virtual standstill since 1973 and is the lowest of all industrialized countries. It has recently been less than one-fifth that of Japan, West Germany and France.

Our capital stock is not modernizing rapidly enough. Key American industries such as television, steel and automobiles have not kept pace with foreign manufacturers.

Our savings, investment and capital formation rates are all much too low. Japan's personal saving rate is 20 percent. Contrast that with ours, which is 4 percent. Accordingly, Japanese growth rates may well be two to three times our own over the next several years.

Our regulatory system has become overly burdensome and needlessly slows economic efficiency and productivity.

We are still faced with the fact of our dependence on foreigners for half our oil supplies.

The technology gap between the U.S. and other nations is narrowing and the proportion of American GNP going to research and development is declining. While our productive facilities age, we are not making the institutional investment in organization and skills to keep pace with other countries' export promotion.

These declining trends affect the core of our social fabric. When American companies become less competitive, their income and our national tax base decline. This creates a spiral effect, for as the government raises taxes to meet its expenses, the private sector finds investment in America less attractive. If present trends continue in the 1980's America standard of living will decline and internal divisiveness will sharpen as various economic groups compete for declining resources.

Our competitive stagnation threatens both our economic health and our national security. It is crucial for the U.S. to remain competitive in world markets. All Americans have a stake in turning the competitive situation around. The next Democratic Administration must devote itself to this task.

We therefore propose the following plank on Productivity and Competitiveness.

ECONOMIC PRODUCTIVITY AND COMPETITIVENESS

The Democratic Party has a long tradition of innovation, foresight and flexibility in creating policies to solve the nation's most urgent economic needs. We now stand at another watershed in our economic history which demands out party's full attention, creative powers, resources and skills.

Increasing our competitiveness in world markets is needed to provide new jobs in expanding industries, to offset inflationary pressures, and to remain a strong and secure nation in a period of international instability. In an era when international economic power is as important as military power, a strong U.S. economy is essential to the security of the Western world. It is a central requirement for American leadership of the Western alliance.

A majority of Americans want action and will respond to the candidate and the Party which shows it understands this problem and intends to do something about it.

Being competitive and productive is a basic characteristic of U.S. economic history. We pride ourselves on being a growing, innovative nation making better products and offering improved services for tomorrow. The question is whether we are willing again to look to tomorrow, to save and invest, and renew our technologies in a world of constant change.

An America ready to accept the challenge of staying competitive is on the road to recovery.

We call upon the Democratic Party to address the issue of U.S. competitiveness. It must be at the top of our national agenda. We must present avenues to recovery. We must stimulate a national debate on the options.

Specifically,

1. A more competitive United States economy must be a national goal accorded high priority both in the 1980 elections and for the rest of this decade. Without a productive economy our concept of what the United States is and should be will be substantially diminished. The American people must resolve to work together and compete effectively in international markets.

2. Twenty million Americans are expected to enter the work force during the next ten years. A healthy economy and creation of additional employment depends upon concerted efforts and incentives to increase productivity in our economy.

3. Tax reforms providing encouragement to capital formation, innovation, and new production in the United States are essential both to control inflation and to encourage growth. Capital formation will require increased savings and investment and accelerated depreciation within a tax reform package.

4. Research and Development are essential for future technology. R & D efforts must be directed more to long-term progress and less to short-term gains. Research and development should be recognized as investment in tomorrows' jobs and next year's products and services.

5. International trade must be a major, not marginal focus of domestic and foreign policy. The United States will need to reduce imported energy and expand exports aggressively to offset potentially substantial current account deficits in the 1980's.

6. There is a significant difference between effective U.S. anti-trust laws at home to protect domestic competition, and the ability of the United States as a nation to win markets abroad. In international competition U.S. first should be allowed to combine forces as other nations do to make possible our most attractive production and sales efforts.

7. Regulation should not be allowed to stifle our competitiveness. Regulations must balance protective benefits against potentially adverse effects on competitiveness. Necessary regulations should be achieved at minimum cost and at reduced burden to industry.

8. Assessment of these and other recommendations should be part of a fundamental recognition that business, labor, and government, and in fact all Americans need a concerted strategy to remain competitive.

9. We need an assertive export policy to offset the flow of dollars caused by oil imports. In turn, we must vow to proceed responsibly and constructively but aggressively in our search for new oil in the U.S. and for alternative sources of energy.

CONCLUDING COMMENTS

These trends are too serious to be dealt with on a piecemeal basis. This past April, the New York Stock Exchange, Harvard University and the Senate Finance Subcommittee on Trade, sponsored a conference of eminent business, academic, political and labor leaders to consider the question: Can the U.S. remain competitive? The answer which emerged from our deliberations was that the challenge will require our best efforts throughout the 1980's, but we can do it.

Only government can make certain strategic decisions, but to make these decisions wisely requires drawing on the competence which only businessmen and labor bring. We must find ways to make investment in America attractive and to give labor the motivation to welcome innovation. We have no choice but to find new ways to increase the capacity of government and business and of management and labor to work together to deal with common problems.

The Democratic Party must grasp this opportunity for leadership now. The party must address the problem of U.S. competitiveness in a coherent way. A good starting point is to face the issue directly in the platform.

I am pleased that Senator Bentsen, the distinguished Chairman of the Joint Economic Committee and Senators Moynihan and Bradley, members of the Senate Finance Committee—and all of those who participated in the Harvard Conference on Competitiveness, are joining me in offering a plank to the Democratic platform on this urgent question.●

"LITHUANIAN DAYS" FESTIVAL IN BALTIMORE

● Mr. MATHIAS. Mr. President, on Sunday, June 8, I had the honor to participate in the "Lithuanian Days" festival in Baltimore. It was an occasion for the approximately 3,500 Lithuanian-Americans in the Baltimore area to take pride in their rich heritage. But it was more than a celebration of tradition. It marked a week's prelude to a solemn date for the more than 1 million Lithuanian-Americans and other Lithuanians throughout the free world.

On June 15, 1940, the sovereign State of Lithuania was deprived of all freedom when it was occupied by the Red army and incorporated into the Soviet Union. Since 1251, Lithuania had been a sovereign nation, but in less than a year, between August 23, 1939 and June 15, 1940, the Soviet Union in collusion with Nazi Germany succeeded in depriving Lithuania and other Baltic States of their independence.

June 15 should be a day of reflection for all Americans because it commemorates the death of freedom in Lithuania and this deprivation of liberty continues. Although the crisis in Afghanistan consumes our attention today, Soviet aggression in Lithuania 40 years earlier is no less significant.●

AMENDMENT OF THE TRADE ACT OF 1974

● Mr. MOYNIHAN. Mr. President, on May 15 I introduced legislation, S. 2721, which amends the Trade Act of 1974, stipulating that most-favored-nation trading status not be extended to those nations which have expropriated properties of American citizens without just compensation. A number of nations have yet to reach agreement with the United States on the settlement of outstanding debts from expropriations of American properties; until settlement is reached, favorable trading terms ought to be withheld. It is my hope that the International Trade Subcommittee of the Finance Committee will have the opportunity, in the course of hearings on the granting of most-favored-nation treatment, to study the record of nations against which U.S. citizens have claims.

In particular, I shall raise the issue of the outstanding debt owed by the Government of Czechoslovakia, and, at the appropriate time, further amend S. 2721 to resolve this issue should a settlement of the debt not be reached by diplomatic means. Appended to this statement is the text of this amendment regarding the Czechoslovak debt, which is similar to legislation already introduced in the House by Representative WOLFF.

This legislation will bring to an end, if enacted, 30 years of fruitless negotiation and litigation over the oustanding debt owed by Czechoslovakia to U.S. citizens. These claims, officially adjudicated in 1958 by the U.S. Foreign Claims Settlement Commission, totaled $113.64 million of which $8.5 million has so far been awarded to over 2,600 claim holders. More than 60 percent of these claim holders are my constituents, many of whom are now quite elderly or have in fact passed away never having been compensated for the losses they suffered as a result of Czechoslovak expropriation of land and other property after the Second World War.

In recognition of the fact that most concerned would prefer that the outstanding Czechoslovak debt be settled on the basis of bilateral negotiations, this legislation instructs the executive branch to negotiate a voluntary lump-sum settlement agreement which would provide for payment in full of all certified awards against Czechoslovakia. A period of 60 days after enactment of the legislation is provided to negotiate such a settlement and to present to the Congress an initialed agreement. Given a willingness on the part of the Czechoslovak Government to settle, it would seem that the issues and positions are sufficiently well known by both parties after 30 years of negotiation to obtain an agreement within this period of time.

If, within 60 days, agreement has not been reached, this legislation will authorize the sale of 18.4 tons of Czechoslovak gold which the United States now controls either directly or indirectly as a member of the Tripartite Commission for the Restitution of Monetary Gold established under the Paris Reparations Agreement of 1946. The proceeds from the sale of the gold will be invested in secure, high yielding investments and the interest on this principal used to settle the $105 million outstanding debt. Once the debt has been fully settled consistent with the 1958 claims award, which may take 5 or more years depending on market and financial variables, the balance of the proceeds derived from the sale of the gold shall be turned over to the Government of Czechoslovakia.

My decision to support this legislative remedy, should the diplomatic route fail, is a sober recognition of the fact that in the more than 30 years since the seizure of properties the Government of Czechoslovakia has not shown an earnest interest in compensating U.S. citizens and appears no closer today to offering an acceptable proposal. To be fair, our State Department did reach an agreement with the Czechoslovak Government in 1974 which would have resulted in the payment of $20.5 million to settle the $105 million expropriation debt and subsequently allowed the release of the 18.4 tons of gold and all other blocked assets to Czechoslovakia. Yet the Congress found this wholly unacceptable and included a section in the Trade Act of 1974 which prohibited the granting of most-favored-nation trading status to Czechoslovakia until that government paid at least the principal amount it owes U.S. citizens ($64 million). I quote from the **committee report (Report No. 93–1298)**:

> One-sided agreements of this nature are especially dangerous to the United States and its citizens at this particular time in history when nations in various parts of the world are threatening to expropriate or nationalize U.S. properties worth billions of dollars, while other nations have already taken valuable U.S. holdings without the payment of just compensation. The United States simply cannot afford to proclaim in the face of this trend that expropriations of U.S. properties will quickly be forgotten if the taking nation ultimately offers a relative pittance in return.

Six years have elapsed since the Congress rejected that agreement, yet no progress whatsoever has been made toward its renegotiation. In the meantime, the value of the gold has risen from approximately $20 million to well more than the size of the debt owed U.S. citizens. It is past the time when our citizens were compensated for their losses.

Finally, there appear to be two matters of international law which must be addressed in this case. Having served as U.S. Ambassador to the United Nations, I come to the question of international legal obligations, and the rule of law generally, with a strong belief that these matters are the very essence of modern world order. It is a distinction of great significance that the United States and her Western allies regard international obligations seriously, a distinction which separates with clarity the democracies from the many totalitarian and authoritarian regimes which now dominate our international fora.

The less difficult of the two questions has to do with the U.S. obligation to Czechoslovakia arising out of the Paris Reparation Agreement of 1946. In this regard, there is no doubt that the United States recognized the claim of Czechoslovakia to the gold. The relevant point to be considered, however, is the right of the United States to block the return of the gold and to use it to satisfy the claims of U.S. citizens whose properties were illegally seized without compensation. Here there exists a rather large and unambiguous body of law which provides the right to seize American assets of a foreign country when that country has initiated an illegal action against U.S. citizens. Such, in fact, was the case when the United States seized and subsequently liquidated steel mill equipment belonging to Czechoslovakia and in 1958 autorized the use of these proceeds as payment for outstanding claims against Czechoslovakia. Such is precisely what the President has proposed to do with certain Iranian assets in this country in light of that nation's illegal actions against U.S. citizens.

The second obligation involved here relates to the U.S. participation in the Tripartite Commission. Paragraph six of the executive agreement establishing the Commission states that "decisions of the Commission shall be by unanimous agreement of its members—United States, Great Britain, France." Thus it has been construed that the United States must obtain the consent of Great Britain and France before investing the gold. It can be reasonably demonstrated that the mandate for unanimous consent extended only so far as the original determination of awards by the Tripartite Commission and not to every subsequent action each of its members would take in the course of the execution of the agreement. President Truman, for instance, neither requested nor received the consent of the British and French when he made his decision to block the return of the gold and to link its return to the settlement of the expropriation debt. While I certainly welcome the support of our European allies in this matter, particularly Great Britain which now has possession of approximately half of the 18.4 tons, I do not believe we are legally obligated to obtain their assent.

It is my hope that the Government of Czechoslovakia will negotiate an acceptable settlement. This legislation provides and encourages such a diplomatic solution. It will not, however, tolerate the prolongation of this sad episode.

I submit the text of the proposed legislation.

The text follows:

PROPOSED LEGISLATION TO AMEND THE TRADE ACT OF 1974 TO PROVIDE A PROCEDURE WHEREBY CZECHOSLOVAKIA WOULD QUALIFY FOR FURTHER CONSIDERATION OF ELIGIBILITY FOR A COMMERCIAL AGREEMENT AND MOST-FAVORED NATION TREATMENT OF ITS PRODUCTS BY DISCHARGING ITS LONG-STANDING INDEBTEDNESS TO UNITED STATES CITIZENS

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled,

That Title IV of the Trade Act of 1974 (Title 19 U.S.C. § 2431, et seq.), entitled "Trade Relations With Countries Not Currently Receiving Non-Discriminatory Treatment," is amended by adding the following new section after Section 408 thereof entitled "Payment By Czechoslovakia Of Amounts Owed United States Citizens and Nationals:"

"Sec. 408(a). Procedure Whereby Czechoslovakia Would Qualify For Further Consideration Of Eligibility For A Commercial Agreement And Most-Favored Nation Treatment By Discharging Its Indebtedness To United States Citizens.

"(a) Findings—The Congress finds that—

"(1) approximately thirty years have passed since the communist government of Czechoslovakia expropriated and nationalized, without any provision for just compensation, properties belonging to citizens of the United States, and Czechoslovakia has enjoyed the use and economic benefit of those properties over that entire period;

"(2) during approximately the same period of time, the United States has controlled, directly or indirectly, more than eighteen metric tons of gold belonging to the government of Czechoslovakia, and said gold has increased in value over the years so that presently it is worth far in excess of the amount owed by Czechoslovakia to citizens of the United States for the uncompensated nationalization and expropriation of their properties as aforesaid:

"(3) approximately six years have also elapsed since Congress enacted Section 408 of the Trade Act of 1974 (19 U.S.C. 2438), which blocked the release of said gold and directed that an agreement be negotiated with Czechoslovakia for the settlement and discharge of its expropriation indebtedness and that said agreement be submitted to Congress for approval, but no such agreement has been negotiated or submitted to the Congress since that time;

"(4) in the meantime, a large number of United States citizens whose properties were expropriated and who held certified awards against Czechoslovakia issued by the Foreign Claims Settlement Commission of the United States have died; additional uncompensated award-holders are elderly and in need of just relief without further delay; and certified awards of a small number of businesses remain unsatisfied; and

"(5) Czechoslovakia's failure to pay and discharge its long-standing indebtedness to citizens of the United States has made it impossible for the President and the Congress even to consider making Czechoslovakia eligible for nondiscriminatory treatment of its products (most-favored nation treatment), or for possible negotiation and execution of a commercial agreement under the provisions of Section 405 of this title, and this condition will continue indefinitely unless provision is made for the discharge of that indebtedness.

"(b) Purposes—The purposes of this section, therefore are—

"(1) to establish a procedure whereby Czechoslovakia would qualify for further consideration under this title of its eligibility for negotiation and execution of a commercial agreement and for nondiscriminatory treatment (most-favored nation treatment) of its products by making provision for the payment and discharge of its long-standing indebtedness to citizens of the United States;

"(2) to provide one further opportunity to Czechoslovakia to negotiate a voluntary lump sum settlement agreement which would satisfactorily discharge said indebtedness.

"(3) in the event no such agreement is forthcoming without further delay, to provide for payment and discharge of Czechoslovakia's indebtedness through (i) liquidation of all gold belonging to the government of Czechoslovakia which is physically located within the territorial boundaries of the United States; (ii) investment of the liquidated proceeds of such gold in safe, sound, maximum interest-bearing or income-producing accounts, deposits or securities; and (iii) utilization of the interest and income earned on such investments to pay, in installments, all amounts owed by Czechoslovakia to citizens of the United States as aforesaid; and

"(4) to direct that (i) immediately upon liquidation of said gold and initial investment of the proceeds thereof, Czechoslovakia shall qualify for further consideration under this title of its eligibility for negotiation and execution of a commercial agreement and for nondiscriminatory treatment (most-favored nation treatment) of its products, and (ii) after Czechoslovakia's indebtedness has been paid in full, the balance of all such liquidated proceeds of said gold be released and returned to the government of Czechoslovakia.

"(c) Liquidation Of Czechoslovakia's Gold; Investment Of Liquidated Proceeds; Payment Of United States Citizen Awards.

"(1) If, within sixty (60) days after the enactment of this section, a written, initialed settlement agreement between the United States and Czechoslovakia, which provides for payment in full without further delay of all certified awards issued in favor of United States citizens against the government of Czechoslovakia by the Foreign Claims Settlement Commission under title IV of the International Claims Settlement Act of 1949, as amended (22 U.S.C. § 1642, et seq.), is not submitted to the Congress for its approval, the Secretary of the Treasury is directed and shall be authorized and empowered to take and exercise full possession, title and control over any and all gold belonging to Czechoslovakia under the Agreement on Reparation of January 14, 1946 or otherwise, which is physically located within the territorial boundaries of the United States, and to sell and liquidate such gold in the manner provided by subsection (2) of this section.

"(2) The Secretary of the Treasury shall sell and liquidate all gold obtained under subsection (1) of this section in such manner that it will produce the best available price or prices at the earliest possible date or dates, bearing in mind the importance of creating the largest possible investment fund under subsection (3) of this section without substantial delay. The Secretary shall sell such gold in such quantity or quantities as he may determine, here in the United States or abroad, in such manner and at such rates and upon such terms and conditions as will be most advantageous to said investment fund.

"(3) The Secretary of the Treasury shall immediately invest and reinvest as necessary the proceeds of all gold liquidated under subsection (2) of this section in accounts, investments or securities, here in the United States or abroad, which are safe, proper investments or depositories for fiduciary, trust or public funds and which will produce maximum available interest or income for full payment of the awards of United States citizens under the provisions of subsection (4) of this section at the earliest possible date. The Secretary may in his discretion invest such proceeds in maximum interest-bearing securities of the United States, including bonds, notes, certificates of indebtedness or Treasury bills, and other obligations for the repayment of money, or for interest thereon, made, issued or guaranteed by the United States.

"(4) The Secretary of the Treasury shall cover into the Czechoslovakian Claims Fund in the Treasury of the United States created under Title IV of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1642a(b)), all interest and other income earned on the investment and reinvestment of the proceeds of the liquidated gold under subsection (3) of this section as and when such interest or income is received by or credited to the Secretary, and not less than semiannually after the first interest or other income is covered into the Fund, the Secretary shall periodically distribute and pay the entire balance on hand in the Fund at the time of each such payment to citizens of the United States who hold certified awards against Czechoslovakia under Title IV of the International Claims Settlement Act of 1949, as amended, and each such payment and distribution shall be made in accordance with the provisions of Section 413 (a)(2) of Title IV of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1642l(a)(2)). Payments shall continue to be made out of the Fund to the certified award-holders until all such awards, together with legal interest at the rate of six per cent per annum on the principal amount of each such award from August 8, 1958 through the date of enactment of this section, are paid in full. If a certified award-holder is deceased or under legal disability, such payments shall be made in the manner provided by Section 413(d) of Title IV of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1642l(d)).

"(d) Consideration of Czechoslovakia's Eligibility For Commercial Agreement And Most-Favored Nation Treatment; Release Of Liquidated Proceeds To Czechoslovakia—

"(1) Immediately upon liquidation of Czechoslovakia's gold and initial investment of the proceeds thereof, under subsections (c) (2) and (3) of this section, the Secretary of the Treasury shall submit a report to the President and the Congress indicating that Czechoslovakia is qualified for further consideration under other provisions of this title, of its eligibility for negotiation and execution of a commercial agreement and nondiscriminatory treatment (most-favored nation treatment) of its products.

"(2) After all certified awards of citizens of the United States have been paid in full in the manner provided by subsection (c)(4) of this section and the Secretary of the Treasury has thereafter deducted from the Czechoslovakian Claims Fund the expenses incurred by the Treasury Department in the administration of this section, which shall not exceed the maximum deduction specified by Section 402(e) of Title IV of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1642a(e)), all investment and reinvestment proceeds derived by the Secretary of the Treasury from the liquidation of the gold under this section, together with any balance remaining in the Czechoslovakian Claims Fund, shall be released, paid and delivered to the government of Czechoslovakia.

"(e) Agreement on Reparation of January 14, 1946—This section shall operate to clarify and supplement the Agreement on Reparation of January 14, 1946 and the arrangements thereafter made for the creation of the Tripartite Commission for the Restitution of Monetary Gold solely to the extent necessary to enable the United States, thirty-four years after said agreement and arrangements were made, to liquidate gold belonging to Czechoslovakia thereunder for the purposes of this section; to discharge Czechoslovakia's long-standing expropriation debt to citizens of the United States; to remove the barrier presently existing to Czechoslovakia's further consideration of eligibility for negotiation and execution of a commercial agreement with the United States and for nondis- treatment) of its products; and to enable the criminatory treatment (most-favored nation treatment) of its products; and to enable the United States to restore to Czechoslovakia the liquidated proceeds of said gold after that nation's debt has been paid as provided in this section.

"(f) Claims Against The United States—No judicial relief or remedy shall be available to any person asserting a claim against the United States or any officer or agent thereof with respect to any action taken under this section, and nothing in this section shall be construed to create any liability of the United States in favor of the government of Czechoslovakia, or any agency or instrumentality thereof or any person who is an assignee or successor in interest thereof, or any other liability of any kind against the United States.

"(g) Repeal Of Section 408—Section 408 of Title IV of the Trade Act of 1974 is repealed as of the date of enactment of this section, and upon such repeal, this section shall become Section 408 of said Act." ●

THE CUBAN REFUGEES

● Mr. DANFORTH. Mr. President, as I said in a statement yesterday about the Cuban refugees, I believe we have a duty as Americans to welcome the Cuban refugees and show them that we value and respect them as human beings. In that regard, I am proud to report that a group of my constituents in St. Louis is taking the lead in welcoming Cuban refugees to their community and aiding with their resettlement. I ask that a St. Louis Post-Dispatch newspaper article, detailing their efforts, be printed in the RECORD.

The article follows:

COALITION WILL RESETTLE CUBAN REFUGEES IN AREA

(By LaVerne Burton)

Cuban refugees may be resettled in the St. Louis area within a week.

Residents who are concerned about the plight of the refugees are taking steps to aid those presently in resettlement camps and to convince the government that "there are people who care what happens to these people."

As many as 45 Hispanic residents and representatives from 13 area organizations met at the Latin American International Club, 3336 Watson Road, Wednesday night to organize a coalition to help the refugees.

In a 1½-hour meeting, residents voted to help support a 68-year-old Cuban woman, who has suffered a stroke, her husband and 36-year-old son. A 20-year-old woman, who will also be sponsored by the group, will come to St. Louis from Fort Chaffee, Ark., with the family.

The group decided to send letters to their congressmen and President Jimmy Carter expressing the need for government support for the refugees.

The Rev. Norman Schnegelberger of the Lutheran Family and Children Service said it would be relatively easy to resettle refugees here temporarily because of the group's decision to sponsor them. The next step will be to notify authorities at Fort Chaffee that the refugees have sponsors.

The Cubans would be transported here by airplane, paid by the government, Schnegelberger said. They would remain here until their status is determined.

"The Carter administration has not made a decision about the Cubans," Schnegelberger said. "It is possible that we could get refugees here only temporarily. The president's final decision may be that we won't keep them. The American government should hear from people that we want these people."

Larry Carp, legal coordinator for Incorporation of Mexican Americans in Government Employment (IMAGE), says the fate of the Cubans should not be entirely up to Hispanic people.

"Efforts should be made to get other groups besides Hispanic people to support the Cubans. It should not be assumed that the only people concerned are Hispanics."

"I don't think the American people expect the Hispanics to carry the weight of resettling these people," Anna Peterson, executive director of the International Institute said. "Hispanic people are expected to work with resettlement agencies to help settle the people."

Ten resettlement agencies have been set up in the United States to help find homes for refugees. About 107,000 refugees have arrived in the United Sates since the sealift began April 21. Relatives of Cuban refugees may contact the agencies if they want to sponsor their relatives. The agencies will seek homes for refugees, who do not have American relatives, by way of Catholic parishes.

"I'm going to push the church organization to help," Monsignor John A. Shocklee of the St. Louis Archdiocese's Commission on Human Rights said. "We will back up the Spanish community in whatever you want to do. But you take the lead that's the way it ought to be."

The group will collect clothing, food, and furniture for the refugees, to arrive next week. Members of the coalition will house the refugees and donations will be collected to help support them.

The group will meet again June 11 to make long-range plans to sponsor other Cuban refugees.

"This is only the beginning," Schnegelberger said. "We hope to be instrumental in resettling other Cuban families in the St. Louis area." ●

AN OUTSIDER COMES IN

● Mr. BUMPERS. Mr. President, the current, June 16, edition of Sports Illustrated contains an article about last Saturday's Belmont Stakes and the surprise winner—Temperence Hill. Even after winning the $178,600 Arkansas Derby purse, the experts made Temperenct Hill a 53-to-1 long shot in the Belmont, thereby assuring not only the racing reputation but also the fortunes of his proud owner, John Ed Anthony of Fordyce, Ark. Mr. President, I ask that the text of the article be made a part of the RECORD.

The article follows:

BELMONT STAKES

Up to this point the 58,090 spectators on hand for Saturday's 112th running of the Belmont Stakes had acted like normal racing fans, their cheering swelling, becoming a great roar as the three leaders swept through the final turn and into the top of the muddy stretch. But with less than a hundred yards to go, a preternatural hush fell over Belmont Park, as everyone suddenly realized which horse was going to win. It wouldn't be Genuine Risk, the Kentucky Derby-winning filly who was the sentimental favorite—and the 5–1 third betting choice. Nor would it be Rockhill Native, who despite a lack of success in Triple Crown races at least had a familiar name. No, the winner would be Temperence Hill, a colt so unsung that even those lucky few who bet on him were presumably left speechless. No wonder. They stood to collect a $108.80 payoff for each $2 wager, the second highest price in the history of the race.

Temperence Hill hadn't competed in—much less won—either the Derby or the Preakness. In fact, he had finished a woeful fifth against a decidely non-Triple Crown field two weeks before. But there are good reasons why Temperence Hill won the Belmont and will continue to win big races. For one thing, breeding. His sire is Stop the Music, who earned $448,922 before being sent to stand at Greentree Stud in 1976. Temperence Hill is no fluke, the Belmont odds notwithstanding.

On Feb. 26 of this year, Temperence Hill won for the first time in his life, at Oaklawn Park in Hot Springs, Ark. The date is important because 11 days previous, nominations closed for the Kentucky Derby, and Temperence Hill wasn't one of the 293 horses nominated to run at Churchill Downs. "He was a lousy maiden," says his 38-year-old trainer, Joe Cantey, "but a horse that we thought had real ability. He was stubborn, always wanting to do things his own way, and he still is. In each of his 2-year-old starts, I thought he'd run better than he did. He finished fourth, sixth and seventh, so there was no way I could nominate him for the Derby, Preakness or Belmont. But in that race at Oaklawn, I got the feeling that he might be something special."

After that Temperence Hill went on to win the $178,600 Arkansas Derby and to finish second to Colonel Moran in the $57,000 Withers at Belmont. Then on May 26 Cantey sent him to Keystone Race Track near Philadelphia to run in the Pennsylvania Derby. Temperence Hill, the favorite that day, came in fifth. "I couldn't understand why he ran so bad," Cantey says. "He just didn't want to run."

Cantey entered Temperence Hill in a turf race at Belmont on May 31 "to find out where I could go with the horse." Temperence Hill ran well against older horses and finished third after a very rough trip. "In a way it proved that the race at Keystone was a fluke," says Cantey. "The race on the grass was encouraging enough to make me give him a chance in the Belmont. I know he likes going the distance." On Saturday, Temperence Hill didn't seem to mind the slop, either. Canty had him fitted with mud calks for better traction, and that may have been an important decision. He was the only Belmont horse to wear them.

To get Temperence Hill into the race Loblolly Stable owner John Ed Anthony, a 40-year-old lumberman from Fordyce, Ark., had to come up with a $20,000 supplemental entry fee. It was, of course, worth every penny—especially for a guy who's trying to put his hometown on the map. "Most people know Fordyce only because Bear Bryant was born near there," says Anthony. "But I love Arkansas and all the things about Fordyce. The name Loblolly comes from the predominant pine tree in that area. I name all my horses for things or places in or around Fordyce. I had a horse called Cox's Ridge [a very good horse—trained by Cantey—who won 11 stakes and nearly $700,000] that was named after a ridge near Fordyce. Temperence Hill is named for a spot not far from Fordyce where a church is located. To get there, you have to pass Cox's Ridge. I know that Temperence Hill is spelled wrong, that it should be Temperance Hill. I wasn't sure how to spell temperance, and so when I was sending in the name, I hollered to my secretary and asked her how to spell it. She said 'with an e.' " The confusion is still evident. The official Belmont program misspelled—or didn't, if you go by Webster's instead of the foal certificate—the colt's name.

Anthony, who paid $80,000 for Temperence Hill as a yearling, says, "I started to get good feelings about the Belmont at the quarter pole. He never should have been 53–1. He's far better than those odds."

This year's Belmont was supposed to be a rematch between Codex and Genuine Risk after their controversial bump, brush or graze in the stretch in the Preakness three weeks before. Like most rematches of this nature, it never caught fire. Codex, who had run poorly in his only previous appearance on an off-track, stalked the early leaders and fizzled to a seventh-place finsh, beaten by nearly 10 lengths by Temperence Hill and nearly eight by Genuine Risk. Codex had gone off as the 8–5 favorite, and Rumbo, another California colt, who was the second favorite (9–5), finished fifth.

The most memorable thing about this year's Triple Crown isn't that the winners were three different horses for the first time in five years, but the remarkable valor of Genuine Risk. Not only was she the only 3-year-old to run in all three races, but she also ran her heart out in every one.

Her loss in the Belmont—like her defeat in the Preakness—was perhaps more a matter of ill fortune than a lack of talent or guts. In the stretch Saturday, Risk's jockey, Jacinto Vasquez, sensed that, though he was in front, he wouldn't win. He and Risk had endured 1⅜ miles of traffic snarls, and when he asked her to dig in for one final run, she did not respond. "It just wasn't there," Vasquez would say. "When you draw the rail at Belmont Park, you can get in trouble. Risk got the rail and she got trouble." Nonetheless, she held on well into the last furlong before Temperence Hill, with Eddie Maple going to the whip more than 25 times, pulled past her, and won in a poky 2:29⅘.

Nevertheless, Genuine Risk will be remembered as the star of this Triple Crown series. She is somehow both flashy and demure, a filly of ice and iron in a velvet glove. Even for the most robust of the colts, the Triple Crown races are immensely tough, what with all the shipping and training and running. Risk handled all these matters perfectly. And as LeRoy Jolley, her trainer, said after the Belmont, "She ran a super, super race." Risk will rest now and probably be readied for the Alabama Stakes in August at Saratoga, a race for 3-year-old fillies. Will she meet the boys again? Perhaps. Perhaps not. Genuine Risk really doesn't need to do anything more to prove that she was, overall, better than this year's Triple Crown colts.●

THE MESSAGE FROM RUSSIA ON CHEMICAL WARFARE

● Mr. DOLE. Mr. President, a recent bestseller, on both sides of the Atlantic, examines the probabilities for the conduct of a present-day war in Europe between the Soviet Union and the NATO allies. Entitled "The Third World War, August 1985," and written by Gen. Sir John Hackett and other top-ranking NATO generals and advisers. It takes a hard look at present military and strategic trends and projected outcomes if they continue. Presented personally to the U.S. Chief of State by the British Prime Minister, this book serves as a warning all the more effective for its nonsensational approach. Instead it documents to the smallest detail in a strict adherence to facts rather than fiction.

One of the most alarming prospects this prophetic work brings to public attention is the speculative account of the use of chemical weapons and nerve gas by the Soviet Union. The massive use of chemical weapons by Russia in the invasion of Afghanistan is a dire warning to the Western World that we have not yet fully understood. The ramifications should be obvious: in a future conflict it will be turned upon us.

TERRIFYING SCENE FROM A POSSIBLE FUTURE

The narrative in the "Third World War" is based on present capabilities of the Soviet Union and in light of recent events, extremely likely scenarios. I would like to quote the passage that describes the initial use of these dreaded weapons in a NATO war:

> Chemical agents were used in the attack from the start, but only on some sectors of the front. They were not used against the two US corps, perhaps because the U.S. Army in Europe possessed integral and effective chemical offensive weapons of its own. U.S. policy had consistently been that U.S. troops would retaliate in kind if attacked with chemical agents but would not use them otherwise. The Soviet commanders seemed to have taken this threat seriously and did not use chemicals against any formation where our units were concentrated.
>
> In the North sector none of the national corps possessed a chemical offensive capability. This position had persisted in the 1980s despite the growing strength of the argument that possession of a retaliatory capability would be a relatively unsophisticated and economic means of discouraging recourse by the Soviet Union to chemical weapons, whose use by them would further add to the Warsaw Pact's non-nuclear superiority. There was now widespread use by the enemy of chemicals to support attacks against the North, principally launched in BM-21 rockets. These equipments operated in battalion groups of eighteen which, when fired in unison, were able to land 720 rockets on a square kilometre within fifteen seconds. The warm weather was ideal for the use of non-persistent agents such as HCN. This has a hazard duration of only a few minutes at 10° C in moderate wind conditions with rain, or at 15° C in sunny conditions with a light breeze. Soldiers not wearing respirators within the target area died within a few minutes of inhaling the vapour. The agent evaporated so quickly that Soviet assault troops would be able to move through the target area with only minor precautions. Despite peacetime training, Allied casualties in forward areas as the offensive opened were considerable.
>
> At the same time, major airfields were attacked with chemical agents (usually mustard, or G- or V-type nerve gases) delivered by missiles, each one of which could put down sufficient of a persistent agent to cause severe disruption over the whole airfield complex. Ground crew were forced to wear full personal protective equipment to carry out maintenance and aircraft refueling and rearming. This severely handicapped their performance and increased aircraft turn-around times significantly.
>
> Major logistic installations and communication points, where large numbers of the civilians operating them had no protective equipment, received similar treatment. Physical removal of persistent agents was virtually impossible while further missile attacks maintained a high level of lethal contamination. Such attacks upon airfields and logistic installations caused more prolonged disruption than sustained high-explosive bombardment.
>
> Even a minute quantity of a highly toxic agent such as HCN, either inhaled or absorbed through the skin, was capable of causing death within a few minutes unless prompt medical attention was available. Medical services soon overloaded with battle casualties were severely taxed to cope with casualties caused by chemicals as well.
>
> Constant precautions and the wearing of appropriate personal protective equipment had been available to I British Corps since the middle 1970s and had been rushed into service by other European NATO countries just in time to prove its value. Without it, very heavy casualties would have resulted from chemical agents delivered against forward troops not only by rocket launcher and FROG missiles but also by conventional artillery and from spray tanks mounted on ground-attack aircraft.

WEAPONS OF TERROR

Mr. President, the death and devastation visited upon us in this fictional—but all too possible passage, is something we must become alarmed at now, in the present, when we still have scope for action. We must decide how best to counter the Soviet threat of chemical and biological weapons. It is obvious in Afghanistan that the Russians are trained to use these weapons of terror and have developed massive amounts of equipment both to deliver them on target and to enable the Russians themselves to operate in a chemical warfare environment.

Again, I urge the President and his State Department to vigorously pursue the investigation of the biological weapon accident that occurred at Sverdlovsk last year and to press our demands for more information from the Soviets. It seems evident that the Soviet Union will not feel bound by international treaties on this subject. Yet, we cannot afford to relax the pressure on this apparent violation of the Geneva Protocol banning the production, let alone the use, of biological weapons.

Most public attention has been focused on the potential for nuclear warfare, and the SALT treaties we hoped would lessen that risk. Yet, chemical/biological weapons are as horrible and even more contemptible than nuclear weapons. A great propaganda campaign by the Soviet bloc helped defeat the deployment of the neutron bomb, which would have killed by radiation. Nerve gas and mass epidemics from germ weapons are as dangerous to contemplate.

The United States must wake up to the danger and prepare to guard against it. We must seek to prevent the production and proliferation of chemical/biological weapons, while at the same time preparing to deal with their probable use against our soldiers in the field and our public at home. Devising a credible deterrence should be a major priority of this and future administrations.●

SENATOR RIEGLE HONORS LITHUANIAN PEOPLES

● Mr. RIEGLE. Mr. President, as this country moves to the close of its 204th year of independence, it is important that we recognize the struggle for selfdetermination of the courageous Lithuanian people. During this week 40 years ago, the totalitarian forces of the U.S.S.R. rolled mercilessly into Lithuanian and began the deportation of 300,000 Lithuanian patriots to the death trap of Siberian labor camps. Forty years before the ruthless Russian occupation of Afghanistan, the brave Lithuanians began their battle to liberate their homeland. Their valiant struggle for freedom continues to this day.

For centuries the Lithuanian people worked, traded, and prospered free from the interference of the czarist regime. After WWI Lenin recognized the territorial existence of the Baltic State of Lithuania, and in 1923 Lenin guaranteed Lithuania's sovereign rights by concluding a peace treaty with the free people of this region. After a mere 22 years of noninterference, Stalin shamelessly violated Lithuania's territorial rights on June 15, 1940. The subsequent deportation and eventual slaughter of 300,000 proud Lithuanians ranks as one of the great holocausts of the war-torn 20th century.

Although faced with insurmountable odds and imminent annihilation, the Lithuanians have fought for 40 years against the destruction and "Russification" of their ethnic and linguistic heritage. The Lithuanians have also succeeded in maintaining their rich ties to Catholicism as almost 80 percent of the population remain Christian believers, although the Russian regime has attempted to disband and expropriate church property. Fighting for their basic freedoms of speech and religion has toughened the Lithuanian resolve to withstand and eventually overcome their Russian oppressors.

In their long crusade for independence the Lithuanians have gained considerable strength and determination from the Lithuanian Americans in this country. Mr. President, at this time, I would like to commend the resilience, compassion and valor of the Lithuanian-American communities who refuse to accept injustice and who vigorously stand up for basic human rights. The untiring and selfless efforts of our Lithuanian Americans to preserve the unalienable rights of free speech and religious freedom guard not only the rights of their Lithuanian brothers and sisters, but the rights of all those who love the blessings of freedom.

As we begin our 205th year of independence, let us rededicate ourselves to protecting and extending individual rights and freedoms all over the world. Recognizing and remembering the Lithuanian's 40-year struggle for independence, is a vital symbol of the continuing struggle for human liberty.●

FEDERAL FIREARMS REFORM ACT

● Mr. DURKIN. Mr. President, for too long gun owners in this country have been unjustly harassed. I am cosponsoring S. 1862, the Federal Firearms Reform Act, introduced by Senator McClure, to end this violation of the constitutional rights of law abiding American gun owners and sportsmen.

This important bill is a necessary step to end the abuses of the Bureau of Alcohol, Tobacco, and Firearms (BATF), against sportsmen, firearms collectors, and small businesses in New Hampshire and throughout the Nation. Equally important, this legislation strengthens the true intent of the Gun Control Act of 1968 by directing penalties at criminals not at upstanding citizens. It mandates prison sentences for anyone convicted of using a firearm in the commission of certain crimes. It is high time that the court system in this country gets tough and penalizes violators rather than victims.

Briefly, this bill corrects a series of inequities in the Gun Control Act. It allows for the occasional sale or exchange of firearms between collectors and sportsmen by clearly distinguishing individuals who are engaged in the business of dealing in firearms and ammunitions for their livelihood, from private citizens who from time to time, buy, sell, or exchange firearms. Gun collecting is a hobby, not a business, and it does not make sense having the Federal Government regulate hobbies.

By the same token, this bill eliminates the legal distinction of licensed ammunitions dealers and nullifies any regulation regarding the retail sale of black powder for sporting purposes in quantities of up to 50 pounds. This will exempt from costly recordkeeping most of the bait and tackle shops, general stores, and small businesses across the country who sell small amounts of ammunition for the convenience of their customers, but who do not sell firearms. Each year over 7½ million bullets are sold in the United States. The federally required recordkeeping for these sales creates mountains of costly and time consuming paperwork without a shred of evidence that this inflationary exercise helps to solve crimes. S. 1862 will end this unnecessary and wasteful paperwork.

This bill also safeguards the right to buy a gun. Qualified individuals may purchase firearms in any State, in compliance with State laws, as long as the appropriate identification and recordkeeping requirements are met. It also prohibits local or State laws from interfering with the otherwise legal transportation of firearms providing that the firearms are unloaded and not readily accessible. This measure is particularly important to sport hunters.

Another important aspect of this legislation is that it will curtail the BATF's practice of arbitrary invasion and arrest. It prohibits BATF from seizing any firearms from an individual other than those directly involved in an alleged violation, and it requires the return of seized firearms by the BATF if the individual involved is acquitted, charges are dropped, or if ordered by the court.

This provision is essential in light of the BATF's disturbing track record. In 1975 for instance, BATF agents raided the shop of an innocent New Hampshire disabled veteran, charging him with the unlawful possession of a machine gun. Although this individual won his case against this reckless raid by Federal agents, he lost his license and his business in the process.

The new Director of BATF testified before a Senate Committee that this was the kind of case which should result in a Federal Government apology. The legislation I am cosponsoring will provide an avenue for that apology. It gives judges the discretionary authority to award attorneys fees in cases that are without foundation or brought in bad faith.

Mr. President, I cosponsored Senator McClure's bill and I have opposed and will continue to oppose any legislation which calls for Federal gun control or gun registration because I am committed to protecting and promoting the rights of our Nation's gun owners.

Last Congress I cosponsored a crucial amendment which stopped the Bureau of Alcohol, Tobacco, and Firearms (BATF) from implementing its proposed firearms regulations. My amendment cut BATF's operating budget by $3.8 million, preventing the Bureau from setting up a computerized gun tracking system. Last year I successfully fought to exempt black and smokeless power from the tagging requirements of the Omnibus Antiterrorism Act. This was yet another attempt by the Federal Government to intrude on the lives of sportsmen—it must be stopped.

As a member of the Appropriations Committee I fought not only to restore, but to increase, the funding for the National Board for the Promotion of Rifle Practice. The administration's ill-advised proposal to totally eliminate these important funds would have meant cutbacks in competitions, trophies, and supplies for gun organizations in New Hampshire and across the country.

Additionally, I have introduced three important amendments to the Alaska lands bill which will open up almost half a million acres of Alaska's wilderness to sport hunting. These amendments, endorsed by the National Rifle Association, won the approval of the Senate Energy Committee. They give America's sportsmen access to some of the best trophy sheep and moose hunting regions anywhere in the country.

I believe that the McClure bill, along with my legislative initiatives, offer a reasonable and positive approach to remedy the abuses of the BATF. It provides definition direction to the BATF to focus their enforcement efforts on true criminals, not law-abiding citizens. I urge my Senate colleagues to join me in pushing for prompt passage of this important legislation.●

LITHUANIAN STRUGGLE

● Mr. DOLE. Mr. President, the oppressed people of Lithuania will have suffered under Soviet domination for 40 years on June 15. The Soviet Union's military takeover of this peaceful nation in 1940 erased Lithuanian self-determination.

SOVIET UNION VIOLATES TREATIES

The hope for freedom of Lithuania, which is distinct from Russia in both language and culture, was embodied in Woodrow Wilson's 14-point plan at the Treaty of Versailles. Although its independence was brutally challenged by the Bolshevik regime, Lithuania fought successfully and drove back the U.S.S.R. in 1920, Russia signed treaties recognizing all the Baltic States as sovereign nations. Nevertheless, the Soviet Union rushed into the once independent Baltic States in 1940 and demanded unlimited occupation rights, forcibly incorporating Lithuania into the Soviet Union.

Despite the resistance of a bitter Lithuanian people, the U.S.S.R. usurped independent rights and placed Lithuania under direct control of Moscow.

LITHUANIAN PEOPLE REMAIN DETERMINED

In these past 40 years, Lithuanian Sovereignty has been undermined by Soviet presence. Even so, the Lithuanian people have remained steadfast in their fight for liberty. They have never surrendered in spirit to their Soviet oppressors. In the face of Soviet domination, they continue to maintain a strong hope that one day they will again see independence. Their courage and determination are admired by all the world.

On this Sunday, I urge my colleagues to remember and support the thriving Lithuanian community in America, which continues to dream of freedom for its motherland of Lithuania.●

The PRESIDING OFFICER. The Senator from Wisconsin.

SENATOR GEORGE McGOVERN OFFERS SUGGESTIONS FOR IMPROVING READINESS AND COMBAT CAPABILITY OF U.S. ARMED FORCES

Mr. PROXMIRE. Mr. President, of all the budget items considered each year by the Congress, perhaps no line item elicits less interest, in most cases, than operation and maintenance. The operation and maintenance account has no support from the well organized and influential defense industry lobbyists. It has little or no recognition in the general public. It is not as glamorous as a new fighter or the XM-1 tank.

There are no personnel issues involved which can be dramatized. peration and maintenance has become the forgotten stepchild of the military budget. Forgotten, that is, by all but a few.

The Senator from South Dakota (Mr. McGovern), it is important to note, is one of the few who has understood the problem. He has pointed out the problems that flow from the misallocation of defense dollars that starves our readiness posture.

Mr. President, Senator McGovern has illuminated the readiness problems in a well reasoned and compelling article published in the New York Times on June 10, 1980. This article carries with it not only the weight of logic and good sense but the overriding urgency to pay more attention to readiness as the prime indicator of the efficiency and effectiveness of the U.S. defense machine. I ask unanimous consent that the McGovern article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

On the Military Budget

(By George McGovern)

Washington.—The failure of the United States rescue mission in Iran highlighted shortcomings in the country's military operational capabilities. Yet the recent military-budget debate in the Congress has shed little light on the underlying reasons why spending over $1 trillion on defense since the end of World War II has left us with helicopters that break down, fighter aircraft grounded for lack of spare parts, and experienced military technicians leaving for more rewarding jobs in civilian industry.

The military-readiness problem is real. The commander of the Atlantic Fleet Naval Air Force, Vice Admiral George Kinnear II, admits that 47 percent of his first-line F–14 fighters are not certified to fly peacetime missions because they are awaiting repairs.

In a recent visit to Ellsworth Air Force Base in South Dakota, one of the most important Strategic Air Command bases in the country, I saw crumbling taxiways, poor housing, obsolete service vehicles, and uninsulated hangers so cold in winter that the mechanics must repair America's most advanced strategic weapons with numbed hands.

There is a growing consensus that readiness problems exist not because we spend too little on defense but because we don't spend the existing huge budget wisely. Instead of stressing a lean and ready defense structure, the defense budget overemphasizes procurement of highly complicated new weapon systems. For example, in 1983, the Air Force will spend twice as much as it did in 1975 to purchase new tactical aircraft, but the operating account for repairing the planes in 1983 will be the same in inflation-adjusted dollars as it was in 1975. Why haven't we spent enough to maintain our existing hardware or to retain qualified military personnel? Is it because, as Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, and Senator John Culver have suggested, there is no constituency for military readiness? These basic questions must be addressed or else we will spend the $1 trillion budgeted for defense for the next five years and end up where we are now.

The readiness dilemma is caused largely by the politicizing of the military budget that has occurred since the end of the Vietnam War. The military budget has evolved into a barometer of our post-Vietnam intentions in the world. Higher and higher military spending is proposed not to carry out specific missions or to buy particular weapons but rather to send diplomatic signals to friends and adversaries that we intend to remain an assertive global power: If 3 percent real growth isn't sufficient to prove this point, then 5 percent must be!

Treating the military budget as a symbol of our foreign policy causes two distortions.

First, it divorces spending decisions from realistic military planning. Voting to buy another aircraft carrier or a World War II battleship is a satisfying way to send a signal, but no new capability is added if there are not enough spare parts and mechanics to keep it running. Conversely, the type of spending that improves readiness in the short run—overhauls, training, spare parts—is considered too "mundane" to exert any influence on foreign policy. Who wants to "send a signal to the Russians" by buying more spare parts? Budget symbolism thus ignores the axiom that more dollars do not automatically buy more defense.

The second danger is that symbolic budgeting leads to inflated expectations of the capacity of military force to shape decisions and influence conflicts in the world. Once the military budget is viewed as the barometer of our world standing, then every frustration we face—whether Iran, the Organization of Petroleum Exporting Countries, Afghanistan, allied solidarity—is erroneously traced back to military causation. As a result, the military budget is expected to deter not just a finite set of hostile military threats but also a broad range of political and economic decisions by other countries as well.

Our political power in the world is changing and our frustrations are growing, but not because of insufficient military power. Political events have political and economic causes as well as military ones. Many of the political upheavals and tensions of our time stem from the breakup of colonialism and the emergence of scores of new nations since World War II. These new nations are seeking their own place in the world—not subordination to the superpowers. Yet these forces are ignored in the rush to buy new weapons to influence perceptions even as we leave the old weapons sitting dead in their hangars.

By using the military budget as the primary instrument for sending diplomatic signals, we end up with the worst of both worlds. an inoperable military force and an unrealistic view of the ability of military power to deter political events. Our readiness problems, therefore, are the logical outcome of the way we have been approaching the budget.

I offer two recommendations to solve the readiness problem.

First and most obviously, the readiness-budget accounts should be increased. Weapons maintenance and military pay must receive a greater share of the defense assets to extract the greatest potential from the existing force structure even if this means foregoing the latest Star Wars gadgetry. The second change is most difficult: We must discard our faulty conception of the military budget as a barometer of intentions and return to a more finite concept of military deterrence as the military's primary mission. This requires foregoing the empty symbolic debate on abstract budget increases and turning instead to utilizing the military budget to strengthen actual military capabilities while we look to a more realistic mix of military, diplomatic and economic policies to secure our vital interests in the world.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. TOWER. Mr. President, as a member of the Armed Services Committee, I would be remiss if I did not inform the Senator from Wisconsin who, of course, not having been a member of the Armed Services Committee, would not be privy to the hearings there, that we have shown greater concern this year for operation and maintenance. We have been certain not to let program growth spill over into preemption of funds for operation and maintenance. In fact, we increased the calculation of fuel cost over that suggested by the administration.

We have also increased the budget based on a more realistic calculation of what the inflation factor would be, to the extent that we would provide more money for operation and maintenance.

We would like to even expand the defense budget further to make sure that such contingencies as the stationing of the force in the Indian Ocean would not come out of the hide of other operation and maintenance requirements.

I can assure the Senator from Wisconsin that the Armed Services Committee is not only cognizant of the problem, but enormously concerned. We are aware of the cannibalization of aircraft and other equipment that has been going on to keep some equipment functioning, and we have increased our spare parts budget substantially in this year's military authorization bill so that the parts will be available to perform the necessary maintenance.

We have further moved on the retention problem to make sure that we have the experienced personnel available to perform the proper maintenance chores.

I did want to make that point today. I did not want the statement of the Senator from Wisconsin to be that the Armed Services Committee is ignoring a vital area of operation and maintenance.

Mr. PROXMIRE. I thank my friend from Texas. I think that is a helpful statement on his part. I notice that he started out by implying that it has been a stepchild in the past. I think that is true. The Armed Services Committee this year has shown a good deal more time and attention. It is about time.

As he has implied, we have had a tendency to take money out of operation and maintenance when we needed money for some other more glamorous and exciting purpose.

Mr. TOWER. In the past I think that has been true. I think it has not been called to the attention of the Senate to the extent that it should be. Unfortunately, because of the failure of those who devise the Federal budget, who have improperly estimated what the effect of the inflationary factor would be, we have suffered in the past year in operation and maintenance funds because inflation and higher costs were more than anticipated.

We have performed a vital function this year in reviewing very carefully the inflation factors the administration sent to us, which were somewhat too optimistic. We tried to make allowance for that in funding.

So we do have the inflationary factor, hopefully, built into this year's authorization bill.

Mr. PROXMIRE. Mr. President, I have a couple of other items for the RECORD, but I will yield the floor to the Senator from New York, who has been patiently waiting.

Mr. MOYNIHAN. Mr. President, I do have to remain in the Chamber. I do not wish to interrupt the Senator.

Mr. PROXMIRE. Mr. President, I appreciate the patience of the Senator.

EXIMBANK PRENOTIFICATION OF FINANCING OF THE SALE OF WIDE-BODIED AIRCRAFT TO BRITISH CALEDONIAN AIRWAYS

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $77,200,000 and financial guarantee of $38,600,000 to support the sale of aircraft to British Caledonian Airways Ltd. Section 2(b)(3)(i) of the act requires the bank to notify the Congress of each proposed loan or financial guarantee or combination thereof in an amount of $100,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case Eximbank proposes to extend a direct credit and a financial guarantee with total value of $115,800,000 to facilitate the purchase by British Caledonian of four new McDonnell-Douglas DC-10-30 jet aircraft and related spare parts having a total U.S. export value of $192,900,000. The Bank's direct credit will cover 40 percent of the cost of U.S. goods and services to be exported, and the financial guarantee will cover an additional 20 percent. The loan will bear interest at the rate of 8.375 percent per annum and be repayable in 20 equal semiannual installments beginning not later than April 20, 1981.

Mr. President, I ask unanimous consent that the letter from Eximbank and attachments pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 5, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(1) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to the United Kingdom:

A. Description of Transaction:

1. Purpose.—Eximbank is prepared to extend a direct credit of $77,200,000 and to issue a financial guarantee of a loan to be provided by either the Private Export Funding Corporation or another commercial lender in the amount of $38,600,000 (Guaranteed Commercial Loan) to British Caledonian Airways Limited. The purpose of this Eximbank financing is to facilitate the purchase in the United States by British Caledonian of four new McDonnell Douglas DC-10-30 jet aircraft and related spare parts. The engines for the aircraft are manufactured by General Electric Company. The total U.S. export value for this transaction is estimated to be $192,900,000.

2. Identity of the Parties.—British Caledonian, based in the United Kingdom, is a private company and the principal subsidiary of Caledonian Airways Ltd., a diversified company with hotel and tour operations interests. British Caledonian currently maintains a 28-plane commercial fleet comprised of eight Boeing 707s, sixteen BAC-111s and four DC-10s. The airline, incorporated in 1970, has, in a relatively short period, become an established international carrier with routes to West Africa, North and South America as well as with domestic and Continental service.

3. Nature and Use of Goods and Services.—The principal goods to be exported from the U.S. are four wide-bodied commercial jet aircraft to be used by British Caledonian on both its existing and expanded routes. The airframe components will be manufactured by McDonnell Douglas Corporation of Long Beach, California. The engines for the aircraft will be manufactured by General Electric Company's jet aircraft engine division in Cincinnati, Ohio. In addition, other U.S. firms will furnish spare parts.

B. Explanation of Eximbank Financing:

1. Reasons.—The Eximbank credit and financial guarantee totalling $115,800,000 will facilitate the export of $192,900,000 of U.S. goods and services. Sales, profits and employment for U.S. aircraft manufacturers and their subcontractors are heavily dependent upon exports. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. In order to maintain the existing market share for U.S. commercial jet aircraft over the next several years, Eximbank must strive to meet both borrowers' needs and foreign competition, in particular that from the European consortium, Airbus Industrie.

McDonnell Douglas estimates that the export of these aircraft will provide 5,308 man/years of work for McDonnell Douglas and its sub-suppliers. Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

British Caledonian has an aging fleet which it has undertaken to replace and expand. The four U.S. aircraft the subject of this letter will be utilized on existing routes and on new routes to the Far East for which the airline has made application.

The A-300 jet aircraft manufactured by Airbus Industrie provided stiff competition for the sale of these aircraft. British Caledonian has already ordered three Airbus A-310s and has options on several more. The financial plan being offered by Eximbank not only reflects the severity of the competition facing U.S. aircraft manufacturers, but also appears to have been a decisive factor in winning the sale for the U.S. suppliers.

2. The Financing Plan.—The financing plan for the total U.S. procurement supported by Eximbank is as follows:

	Percent of U.S. costs	Amount
Cash payment	15	$28,900,000
Commercial loan	25	48,200,000
Guaranteed commercial loan	20	38,600,000
Eximbank credit	40	77,200,000
Total	100	192,900,000

(a) Eximbank Charges.—The Eximbank credit will bear interest at the rate of 8.375 percent per annum, payable semiannually. Although Eximbank has recently increased the interest rate charged on aircraft loans, Eximbank is honoring its offer on this case made in a preliminary commitment of February 11, 1980. The offer reflects what was perceived necessary to meet foreign government-supported competition at that time.

Eximbank will charge commitment fees of ½ of 1 percent per annum on the undisbursed portion of the Eximbank credit and portion of the Guaranteed Commercial Loan. A guarantee fee of ¾ of 1 percent will be charged on the amount of the Guaranteed Commercial Loan which is disbursed and outstanding. The Eximbank financing will be secured by mortgages and restrictive covenants.

(b) Repayment Terms.—Aggregate disbursements under the Eximbank credit, the unguaranteed commercial financing and the Guaranteed Commercial Loan will be repayable in 20 equal semiannual installments beginning 6 months after the mid-delivery point of the aircraft but not later than April 20, 1981. The unguaranteed commercial financing and the Guaranteed Commercial Loan will be repaid from the earlier maturities and the Eximbank credit will be repaid from the later maturities.

C. Additional Information.—Attached is certain additional information on Eximbank activity in and economic data on the country involved in this transaction.

Sincerely,

THIBAUT DE SAINT PHALLE.

Attachments (2).

ATTACHMENT I

Eximbank exposure in the United Kingdom

[As of April 30, 1980, in millions of dollars]

Direct loans	$510.9
CFF loans	------
Financial Guarantees	129.0
Bank Guarantees & Other Insurance	18.5
Insurance:	
Medium-term	5.5
Short-term	91.1
Total for the United Kingdom	755.0

DEFAULTS AND RESCHEDULING

Loan No. 4097 rescheduled 11/3/77 in the amount of $1,619,998.84. This loan was paid in full January 17, 1979. No other defaults to date.

ATTACHMENT II

Area and population:	
Area (square kilometers)	244,000
Population (mid-1978)	55,900,000
Population (mid-1979)	55,800,000
Population density (square kilometers)	229
GDP per capita (1979)	$5,464

SOURCES AND APPLICATION OF NATIONAL PRODUCT

	Percent
Uses (1978):	
Consumption	53.8
Government	23.2
Capital formation	20.7
Stocks	1.0
Exports	33.9
Imports	−32.6
Total	100.0
Sources (1978):	
Agriculture, forestry and fishing	2.6
Mining and quarrying	3.2
Manufacturing	28.7
Construction	6.0
Transportation and communication	8.2
Services	51.3
Total	100.0

	1976	1977	1978	1979	1980 (E)
GDP data:					
Billions of dollars (nominal)	$221	$246	$308	$342	$305
Rate of change (real) (percent)	3.6	1.4	3.3	1.0	−3.0
Fiscal and monetary data:					
Government deficit (billions of dollars)	$12.3	$7.8	$16.1	$17.4	NA
Deficit as percent of GNP	5.5	3.2	5.2	4.5	NA
Increase in money supply (M3) (percent)	11.2	9.8	14.9	7–11	9–11
Savings ratio (percent)	14.6	13.9	15.2	15.7	17.0
Price data (percent increase over preceding year):					
CPI	16.5	15.9	8.3	17.5	18.5
WPI	17.3	19.8	9.1	12.2	18.0
Labor data (percent increase over preceding year):					
Wages (weekly rates)	16.5	10.3	14.6	NA	NA
Unemployment	5.3	5.7	5.7	5.3	7.1
External debt:					
Outstanding public debt (billions)	$14.2	$18.0	$15.8	[1] $14.8	NA
Debt/GDP (percent)	6.4	7.3	5.1	4.3	NA
Debt service ratio (public Debt only)[2] (percent)	7.3	4.8	2.9	4.9	NA
Balance of payments data (billions of dollars):					
Exports	$45.9	$56.1	$70.2	$86.3	$111.5
Imports	−52.4	−59.2	−67.3	−93.3	−119.8
Trade balance	−6.5	−3.1	−2.9	−7.0	−8.3
Invisibles balance	4.5	3.8	4.2	1.9	1.7
Current account balance	−2.0	.7	1.4	−5.2	−6.6
Capital account	−4.6	12.2	−3.0	NA	NA
Overall balance	−6.6	12.9	−2.2	NA	NA
Reserve data (billions of dollars):					
Foreign exchange (excluding gold)	3.4	20.1	16.0	19.9	------
Gold (average London price)	2.6	3.3	4.4	12.1	------

[1] September.

[2] For 1976 and 1977 includes only capital repayment.

Sources: IMF, IFS and OECD Survey, OECD.

Mr. PROXMIRE. Mr. President, I call this to the attention of the Senate partly because it is my duty as chairman of the Banking Committee, but also as I am very concerned about the fact that we are subsidizing the sale of jet aircraft, for which there is very little competition in the world, at the rate of 8⅜ percent, far less than the market rate, at a time when farmers in Texas, New York, Nebraska, and elsewhere cannot get credit except at higher levels, and when we have a limited supply of credit available.

I think we should be far more careful than we have been about the activities of the Export-Import Bank.

EXIMBANK PRENOTIFICATION OF FINANCING OF NUCLEAR POWERPLANT IN GREECE

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $4,500,750 to assist in financing the export of preconstruction services by a U.S. firm to Greece for Greece's proposed first nuclear powerplant. Section 2(b)(3)(iii) of the act requires the Bank to notify the Congress of each proposed loan or financial guarantee or combination thereof for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to provide a direct credit of $4,500,750 to finance the export of technical preconstruction consulting engineering services to be performed for the Public Power Corporation of Greece by a U.S. firm, Ebasco Services, Inc., of New York City. Ebasco will study environmental safety and economic aspects of siting a nuclear powerplant in Greece. The Government of Greece has not made a final decision to construct a nuclear plant.

The Bank's direct credit, which will be unconditionally guaranteed by the National Bank of Greece, will cover 85 percent of the total cost of United States services to be supplied. The credit will bear interest at the rate of 8 percent per annum and be repaid in 10 equal semiannual installments beginning November 15, 1982.

Mr. President, I ask unanimous consent that the letter from Eximbank and accompanying information pertaining to this transaction be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 5, 1980.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Capitol,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, the Export-Import Bank of the United States (Eximbank) hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Greece:

A. DESCRIPTION OF TRANSACTION

1. Background and purpose

The Public Power Corporation (PPC) of Athens, Greece has requested and Eximbank is prepared to provide a direct credit of $4,500,750 to assist in financing technical pre-construction consulting engineering services by a U.S. firm required for Greece's proposed first nuclear power plant. Repayment of all indebtedness related to such credit will be unconditionally guaranteed by the National Bank of Greece.

PPC has selected Ebasco Services, Inc. (Ebasco), New York, New York, to provide the services. Ebasco's bid was selected over competition from the bid of a French engineering firm supported by Compagnie Francaise d'Assurance pour le Commerce Exterieur (COFACE), France's export credit agency, and the bid of a joint venture between British and Swiss engineering firms, the British portion of which was supported by the Export Credits Guarantee Department (ECGD), the United Kingdom's export credit agency.

2. Identity of the borrower

PPC, established in 1950 with Marshall Plan funds, is wholly owned by the Greek Government and produces and supplies about 98.5 percent of the electric power used in Greece, including the various islands. Eximbank approved a $5 million loan for PPC in 1964 which was repaid in full in FY 1976 according to schedule.

3. Identity of the guarantor

National Bank of Greece, established in 1841, is the largest commercial bank in Greece with total assets of U.S. dollar equivalent $8.8 billion supported by equity of U.S. dollar equivalent $303 million as of December 31, 1978.

4. Nature and use of services

Ebasco will conduct a study for PPC involving environmental safety and economic aspects of siting a nuclear power plant in Greece. The tasks include: a broad survey of the area of southern Greece and adjacent islands to identify five potential sites; extensive field investigations to rank potential sites; preparation of site suitability, environmental and safety report on a preferred site (employing U.S. Nuclear Regulatory Commission guidelines and regulations); evaluation of all models of commercially available nuclear plants; identification of potential turnkey contractors and major lending institutions; evaluation of potential Greek suppliers of material, equipment and services; preparation of tender documents; general study of fuel cycle from yellowcake procurement to ultimate waste disposal; preparation of organizational chart to show new positions and lines of responsibility required for a nuclear project; and engaging a law firm to assist in the formulation and analyses of various legal issues to be addressed in the licensing process.

5. Executive branch approval

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. The Bureau of Oceans and International and Scientific Affairs of the Department of State advised that the Executive Branch has no objection to Eximbank's proceeding with the transaction.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $4,500,750 will facilitate the export of $5,295,000 of U.S. services. The availability of Eximbank financing has been a major factor in winning the contract for the U.S. supplier. Although the U.S. Embassy in Athens advises that the Government of Greece has not yet made a final decision to go forward with the nuclear plant and this study does not commit the PPC to such course of action, if the Greeks decide to go forward with the nuclear power plant construction, the opportunities for U.S. follow-up work will be enhanced due to the groundwork services performed by Ebasco.

2. Financing plan

The total cost of U.S. services to be purchased by PPC is $5,295,000, which will be financed as follows:

	Amount	Percent of U.S. cost
Cash	$794,250	15
Eximbank credit	4,500,750	85
Total	5,295,000	100

(a) Eximbank charges

Disbursements under the Eximbank credit will bear interest at the rate of 8.0% per annum, payable semiannually. This rate is comparable to that offered by the British, with alternative official government-supported rates of 7.25% per annum for a dollar denominated loan and 7.75% per annum for a sterling denominated loan. The French did not reveal to Eximbank their government-supported rate for their proposed financing.

A commitment fee of 0.5% per annum will be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment terms

The credit will be repaid in 10 equal semiannual installments beginning November 15, 1982; or, if the project goes forward and U.S. manufacturers are awarded major components of the nuclear power plant construction project, PPC may elect to add this credit to the construction project portion of any Eximbank credit approved for such project, with the combined amounts of the credits repayable on the same terms and conditions authorized for the construction project credit.

Attached is certain additional information on Eximbank activity in and economic data on Greece.

Sincerely,

THIBAUT DE SAINT PHALLE,
Director.

EXIMBANK EXPOSURE IN GREECE AS OF APR. 30, 1980

	Outstanding	Undisbursed
Direct loans	$25,593,967.25	$1,708,415.00
CFF loans		
Financial guarantees		
Bank guarantees and other	3,115,772.40	1,067,766.97
Insurance:		
Medium term	9,782,528.57	11,111,510.17
Short term	8,329,278.83	
Total	46,821,547.05	13,887,692.14
Total exposure	60,709,239.19	

DEFAULTS AND RESCHEDULING

There has been only one default under Eximbank credits in Greece in the past ten years. In the one case involving the Hellenic Bottling Co., a private borrower, $460,000.00 of $789,098.34 of disbursements were rescheduled in December of 1973 and were fully repaid in December of 1979, the last rescheduled installment date.

ECONOMIC DATA: GREECE

[Area: 131,900 square kilometers. Population: 9.3 million (mid-1978). Population density: 70 persons per square kilometer (1978). Sources and application of national product (1978). Growth rate: 0.2 percent (1973–78)]

	Percent
Sources:	
Agriculture	16.7
Industry	30.0
Construction	8.7
Services	44.7
GDP (factor cost)	100.0
Application:	
Consumption	64.2
Government	15.7
Capital formation	22.8
Stocks	3.8
Exports less imports	−6.5
GNP (market prices)	100.0

	1976	1977	1978	1979
GNP data:				
Billions of dollars (nominal)	$23.2	$27.0	$32.2	$39.3
Growth rate (real) (percent)	6.4	3.8	5.9	3.2
Per capita			3,470	
Fiscal and monetary data:				
Government deficit (including investment) (billions)	$1.0	$1.2	$1.4	$1.5
Deficit as percent of GNP	4.3	4.4	4.3	3.8
Increase in money supply (MI) (percent)	24.1	16.9	22.4	21.9
Price data (percent):				
Consumer price increases	13.3	12.2	11.5	24.8
Wholesale price increases	14.0	13.7	10.3	26.9
Labor data (percent):				
Wage increases (hourly)	28.6	20.9	23.6	[2] 18.0
Unemployment	2.3	2.1	2.2	3.0
Productivity increases (manuf.)	6.3	−1.2	3.9	[2] 2.0
Balance of payments data (billions):				
Exports, f.o.b	$2.2	$2.5	$3.0	[2] $3.8
Imports, c.i.f	−5.6	−6.4	−7.3	[2] −9.8
Trade balance	−3.3	−3.9	−4.3	[2] −6.0
Current account balance	−1.1	−1.3	−1.2	[2] −2.3
Capital account flows	1.1	1.3	1.1	[2] 1.8
Overall balance	0	(3)	−.1	[2] −.5
External debt data:				
Outstanding public debt (billions)	$2.3	$2.6	$3.1	[2] $4.0
Outstanding private debt (billions)	$2.1	$2.5	$2.7	[2] $2.7
Debt service ratio (overall) (percent)	14	13	12	[2] 11
Reserve data (billions):				
Foreign exchange	$0.8	$0.9	$1.0	[4] $1.0
Gold (at market prices)	.5	.6	.7	[4] 1.5
Net Foreign assets of banking systems	−.4	−.8	−1.3	[5] −1.4
Cover for months of imports	2.8	2.8	3.1	3.3

[1] October.
[2] Estimate.
[3] Negligible.
[4] November.
[5] August.

BRANDEIS UNIVERSITY AND THE STUDY OF GENOCIDE

Mr. PROXMIRE. Mr. President, for 31 years the Senate has failed to act on the Genocide Convention, but memories of the holocaust have not faded. Sunday's New York Times contained an article announcing a new center for research into the causes of the holocaust. Marvin Bernstein, president of the university, said in establishing the center:

> What's needed now and in the future is an attempt to account for what happened, to explain why, and to give some insight into future events if possible.

Mr. President, the establishment of this center is testimony that the horrors of genocide are deserving of both continued study and continued action. The Brandeis center will explore the historical roots of the holocaust, beginning in about 1800. But the center's director feels that the events of the time of the holocaust itself have been well documented. Instead, the center will attempt to explain why such events occurred.

Dr. Laszlo Tauber, the surgeon who donated funds to establish the center says, "We cannot bring them back, but I would like to see people educated to the realization that it can happen anywhere, anytime, again.

The Brandeis center has included all 20 million victims of Hitler's genocide in its study, both Jews and non-Jews. Likewise, the Senate, in acting on the convention, can embrace the entire world community and join in condemning genocide. The Brandeis center reminds us of the continuing threat of genocide and the urgency of the positive action. Let us respond by ratifying the convention now.

Mr. President, I ask unanimous consent that the article from the New York Times be printed in full in the RECORD.

There being no objections, the article was ordered to be printed in the RECORD, as follows:

BRANDEIS TO SET INSTITUTE UP ON CAUSES OF HOLOCAUST

(By Michael Knight)

WALTHAM, MASS.—Brandeis University will establish a research institute to study the causes of the Holocaust, the 15-year period in which more than 6 million Jews were killed in Europe, university officials announced today.

By autumn the 32-year-old Jewish-sponsored but nonsectarian university expects to have a dozen junior and senior researchers at work planning conferences, lectures and articles on the period and the approximately 150 years of events leading up to it.

"As important as they are, we no longer need any more collections of memoirs by surviors, pictures of concentration camps and research into the mechanics of Hitler's 'final solution' for the Jews," said Marver H. Bernstein, president of the university. "What's needed now and in the future is an attempt to account for what happened, to explain why, and to give some insight into future events if possible."

Mr. Bernstein said the institute would be financed by an $800,000 grant from Dr. Laszlo Tauber, a surgeon in the Washington, D.C., area and survivor of a forced-labor camp in Hungary. It will be the only institute of its kind in this counry, Mr. Bernstein said, and the only one outside of Israel, where the Hebrew University in Jerusalem has a similar study group called "The Hand of God."

Unlike that research institute, which concentrates on the Holocaust years from 1930 to 1945, the Brandeis institute intends to look at the broader range of Western European history from about the time of Napoleon's emancipation of the French Jews in the first decade of the 1800's.

Prof. Bernard Wasserstein, formerly senior lecturer in modern history at Sheffield University in England, has been appointed director of the institute, which will be named after Dr. Tauber.

IT CAN HAPPEN AGAIN

"We cannot bring them back," Dr. Tauber said of the estimated 20 million civilians, Jewish and non-Jewish, who died in Nazi labor and concentration camps. "But I would like to see people educated to the realization that it can happen anywhere, any time, again."

The establishment of the institute comes at a time of increasing interest in the Holocaust among scholars, particularly in the last five years.

"It seems to me that this is just the right time," Mr. Bernstein said. "We have put sufficient time between ourselves and the events of the period, and yet it is still fresh and there are still survivors with personal memories available to researchers."

The institute was conceived by Dr. Abram Sachar, who founded the university in 1948 and is now its chancellor.

"I dreamed of a program," Dr. Sachar said, "which could bring the most distinguished people in the field here just for research into what was the most decisive event in 2,000 years of Jewish history since the destruction of the temple in Jerusalem as a dispersal of our people all over the world."

"We are a people that never sleeps," he added, "and we don't let others sleep, either."

Dr. Sachar described his plans to Dr. Tauber, whom he had helped immigrate to this country in 1946 along with 125 students and 12 university professors. "He said, 'This is for me, this is how I want to remember my family' and do something for the country," Dr. Sachar recalled. "I take him to be the symbol of the grateful refugee in this country."

Dr. Tauber, a surgeon at Jefferson Memorial Hospital in Alexandria, Va., said the grant would come from his real estate holdings, which he estimated at $300 million, amassed since Dr. Sachar got him an appointment to the faculty of the University of South Dakota just after the end of World War II.

ORDER FOR CONSIDERATION OF S. 2727 ON MONDAY, JUNE 16, 1980

Mr. ROBERT C. BYRD. Mr. President, while the distinguished acting minority leader is on the floor for a moment, I ask unanimous consent that on Monday after the two leaders or their designees have been recognized in accordance with the standing order, the Senate proceed to the consideration of Calendar Order No. 788, S. 2727, the Department of State authorization bill.

Mr. TOWER. Mr. President, it is my understanding that that has been cleared on this side and there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 3434 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services program, to strengthen and improve the program of Federal support for foster care or needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 23, 1980.)

Mr. TOWER. Mr. President, the conference report has been cleared for consideration on this side.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. LONG be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. LONG

The conference agreement on H.R. 3434 makes a number of important improvements in those programs which provide for the welfare of needy and dependent children and in the general social services program.

Through the Aid to Families with Dependent Children program and the child welfare services program, the Federal government has over the years provided substantial assistance to States in caring for those children who must be removed from their home and placed in foster care. H.R. 3434 will continue that assistance but will restructure the way it is provided so as to encourage greater efforts to assure that foster care placements are ordinarily viewed and used as a means towards more permanent placement either by returning children to their own homes or by placing them for adoption. To this end the bill establishes a new program of adoption assistance for hard-to-place children who might otherwise remain in foster care indefinitely. It also places some limits on the previously open-ended funding of foster care but allows States to broaden the use of these funds for services designed to prevent the need for long-term foster care. H.R. 3434 also revises the funding level for the title XX social services program to compensate for some of the impact of inflation on the ability of that program to meet the demands placed on it. Under the conference agreement, the funding level will be $2.7 billion for the current fiscal year and $2.9 billion for fiscal year 1981. After that it will increase by $100 million each year until it reaches a level of $3.3 billion in and after 1985. The conference agreement also makes several other significant changes in the title XX program.

Also included in the conference agreement on H.R. 3434 are permanent extensions of provisions which have been extended several times on a temporary basis including Federal matching for the costs of child support enforcement services for non-welfare families and certain tax and services provisions designed to encourage the employment of welfare recipients in child care jobs. Several other provisions are also included in the bill which will improve the operations of welfare programs and, in some cases, result in important savings to the Federal government and the States.

A more detailed description of the provisions of the conference agreement on H.R. 3434 is attached.

SUMMARY OF MAJOR PROVISIONS CONFERENCE AGREEMENT ON H.R. 3434 ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980

ADOPTION ASSISTANCE AND FOSTER CARE

The conference agreement involves a major restructuring of Social Security Act programs for the care of children who must be removed from their own homes. In particular, the incentive structure of present law is modified to lessen the emphasis on foster care placement and to encourage greater efforts to find permanent homes for children either by making it possible for them to return to their own families or by placing them in adoptive homes.

Subsidized adoptions—H.R. 3434 provides for a new subsidized adoption program with Federal matching. Under the adoption subsidy program, a State would be responsible for determining which children in the State in foster care would be eligible for adoption assistance because of special needs which have discouraged their adoption. The State would have to find that any such child would have been receiving AFDC but for the child's removal from the home of his relatives; that the child cannot be returned to that home; and that, after making a reasonable effort consistent with the child's needs, the child has not been adopted without the offering of financial assistance. The requirement of a search for a nonsubsidized adoptive family would not apply when such a search would be against the best interests of the child, for example, where the child has already established significant emotional ties as a foster child of the potential adoptive parents. Even in such cases, however, the State would have to determine that it could not reasonably expect to place the child in the absence of adoption assistance because of some specific factor or condition which makes the child hard to place.

In the case of any child meeting these requirements, the State would be able to offer adoption assistance to parents who adopt the child. The amount of the adoption assistance would be agreed upon between the parents and the agency, could not exceed the foster care maintenance payments that would be paid if the child were in a foster family home, and could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances. Adoption assistance payments would be paid until the child reached 18, or until 21 in the case of a child with a mental or physical handicap. Federally matched adoption assistance payments would stop if the State determines the parents are no longer supporting the child or are no longer legally responsible for supporting the child.

Effective October 1, 1983, States would be required to continue to comply with adoption assistance agreements regardless of whether the adoptive parents are or remain residents of the State. Between enactment and Ocober 1, 1983, HHS would be directed to develop interstate compacts with respect to adoption assistance agreements.

Children receiving adoption assistance payments would be considered to be receiving AFDC and therefore would be categorically eligible for Medicaid.

Where children are placed for adoption with assistance being provided under the new adoption proceedings would be eligible for funding as child welfare services under title IV–B.

HHS would be authorized to provide technical assistance to States, and to conduct a study of the new IV–E program with a report to Congress. The report would be due October 1, 1983.

Foster care grants.—Under present law open-ended Federal matching is provided for foster care payments under aid to families with dependent children if a child (1) meets State AFDC eligibility requirements and (2) is removed from his home as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child.

Under the conference agreement, there would be a ceiling on Federal foster care matching funds for four years beginning with fiscal 1981.

States would have the following options in the determination of this ceiling:

1. The State's fiscal year 1978 Federal fos-

ter care funds increased by 33⅓ percent for fiscal year 1981, and increased by 10 percent per year thereafter.

2. The State's share of $100 million relative to its population under 18.

3. Or, a State whose AFDC foster care caseload in fiscal year 1978 was below the 1978 national average AFDC foster care caseload (based on the percentage of children under 18 in AFDC care in the State and nationwide) could receive an amount for 1981, and for each year thereafter (1982–1984) that its foster care caseload remained below the 1978 national average caseload, determined as follows: for each year, the amount of Federal AFDC foster care matching funds the State received in 1978 would be increased (1) by the same percentage its AFDC foster care caseload had increased since 1978 (not to exceed 10 percent per year from 1978 to the year in question) and (2) further increased by 33⅓ percent for fiscal year 1981 and by 10 percent per year thereafter. This option would not be available to a State once its foster care caseload equals or exceeds the 1978 national average caseload.

Under all options, a State's base would include the cost of certain foster care provided by related persons and certain disputed claims.

The ceiling on Federal foster care funds would not be effective for fiscal year 1981 if IV–B child welfare services appropriations are less than $163.5 million, for fiscal year 1982 if IV–B appropriations are less than $220 million, and for fiscal years 1983 and 1984 if IV–B appropriations are less than $266 million. Further, beginning with fiscal year 1981 for expenditures in fiscal year 1982, IV–B appropriations must be provided on an advance funding basis.

Federal foster care matching funds made available to a State under the ceiling which are not used for foster care maintenance could be used for IV–B child welfare services at the 75 percent Federal matching rate under the following conditions:

A State that selected the ceiling option No. 3 described above could not transfer IV–E foster care funds to IV–B child welfare services.

A State could not transfer from IV–E to IV–B more than an amount which, together with the IV–B funds it receives, exceeds its share of $141 million under the IV–B allocation formula, unless and until it had implemented the foster care procedures and protections, except preplacement preventive services, required by section 103 of this bill in order for a State to receive additional IV–B child welfare services funds. After Federal IV–B appropriations have equaled the authorized maximum of $266 million for two consecutive years, a State could not transfer funds from IV–E to IV–B unless and until it had implemented all the foster care procedures and protections required for receipt of additional IV–B child welfare services funds, including a program of preplacement preventive services.

In any year there is no ceiling on Federal IV–E foster care funds because of inadequate IV–B appropriations, a State that opted for a ceiling in order to be able to transfer funds from IV–E to IV–B could not transfer more than an amount which, together with the IV–B funds it receives, exceeds the amount of IV–B funds it would have received if the IV–B appropriations for such year had been sufficient to require a ceiling on foster care funds in all States. Further, the State could not transfer from IV–E to IV–B more than an amount which, together with the IV–B funds it receives, exceeds its share of $141 million under the IV–B allocation formula, unless and until it had implemented the foster care procedures and protections required in order for a State to receive additional IV–B child welfare service funds, except preplacement preventive services. When for any two fiscal years the amount of funds transfered from IV–E to IV–B plus direct IV–B funds has equaled the State's share of $266 million (under the IV–B allocation formula), the State could no longer transfer funds from IV–E to IV–B unless and until it had implemented all the foster care procedures and protections required for receipt of additional IV–B child welfare services funds, including a program of preplacement preventive services.

At the present time Federal funding of foster care maintenance payments for children is available for children placed in foster care homes and also for children placed in a "nonprofit private child care institution." H.R. 3434 would broaden the provision to allow for Federal funding of foster care maintenance payments for children in public as well as private facilities, but only if the public institution serves no more than 25 resident children. Federal foster care matching would not be permitted for care in a facility operating primarly for the detention of children who are determined to be delinquent.

H.R. 3434 incorporates, and requires renewed emphasis on, the provision of present law limiting Federal funding for foster care in institutions to those items which are comparable to what would be provided in a foster family home such as food, clothing, shelter, personal needs and the costs of providing those items and of supervising the children.

H.R. 3434 adds requirements that States establish goals as to the maximum number of children who will remain in foster care after being in such care for more than 24 months and that efforts must be made in each case to prevent the removal of a child from his home or to make it possible for the child to be returned to his own home.

Current law requires the development of a case plan for each AFDC foster care child, and a "periodic review of the necessity for the child's being in a foster family home or child care institution." H.R. 3434 specifies that the case plan must be a written document which includes a description of the child's placement and its appropriateness; a plan, if necessary, for compliance with judicial determination requirements; and a plan of services which will be provided in order to improve family conditions and facilitate returning the child to his home, or which will facilitate other permanent placement of a child, or which will serve the needs of a child while in foster placement. In addition, it requires a case review at least every six months by a court of competent jurisdiction or an administrative review. H.R. 3434 further provides that in order for the State to have an approved State plan under Title IV–E after October 1, 1983, the State plan must provide that in each case:

Reasonable efforts will be made prior to the placement of the child in foster care to prevent or eliminate the need for removal of the child from his home; and

Reasonable efforts will be made to make it possible for the child to return to his home.

Under present law, Federal AFDC matching funds are not available for children placed in foster care without a judicial determination. H.R. 3434 provides that, in those States that have implemented the protections and procedures required by section 103 for receipt of additional IV–B child welfare services funds, including a program of preplacement preventive services, Federal foster care matching funds would be available until September 30, 1983 for children who have been voluntarily removed from their home (without a judicial determination), if such removal is pursuant to a voluntary placement agreement. The voluntary placement agreement must be revokable on the part of the parent unless the child welfare agency objects and obtains a judicial determination that the return of the child to the home would be contrary to the child's best interests. There would have to be a judicial determination of a voluntary placement within six months to the effect that placement is in the best interests of the child. The Secretary of HHS would be required to report annually to the Congress on the number of children placed under this provision.

Child welfare service grants.—The child welfare services program under title IV–B of the Social Security Act provides a Federal contribution to the costs of State programs to protect and promote the welfare of children including the provision of services to enable children to remain in their own homes, action to remove children from unsuitable homes and place them in foster care homes or institutions, and measures to place children in adoptive homes. Within the overall Federal funding available, the Federal matching share ranges from 33⅓ to 66⅔ percent depending on State per capita income. (Because of the relatively small amount of overall Federal funding which has been available, however, the effective Federal matching has been much smaller, about 7 percent nationally.) Under H.R. 3434, the Federal matching rate would be set at a flat 75 percent. Federal grants for child welfare services above the present $56.5 million funding level could not be used for foster care maintenance payments, adoption assistance, or child care that is needed only for employment.

H.R. 3434 also adds a new section to the child welfare services part of the law specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. The bill provides that, in any year in which child welfare services appropriations exceed $141 million, a State could not receive any IV–B funds in excess of its share of $141 million unless it had implemented the following procedures and protections:

Conducted an inventory of children who have been in foster care for over 6 months;

Implemented a statewide information system on children in foster care;

Implemented a case review system for each child in foster care, which includes a 6 month review and 18 month dispositional hearing for each child. The case review system must be designed to achieve placement in the least restrictive setting and in close proximity to home, and to provide procedural safeguards for children, parents and foster care providers; and

Implemented a services program designed to assist children, where possible, to return to their homes.

Further, when Federal title IV–B appropriations have equalled the authorized maximum of $266 million for two consecutive years, a State would have its IV–B funds reduced, beginning with the succeeding fiscal year, to the share of $56 million it received in fiscal year 1979, unless and until it had implemented the protections and procedures described above and, in addition, implemented a service program of preplacement preventive services designed to prevent the need for removing a child from his or her home.

The bill defines "child welfare services" to public social services which are directed toward the accomplishment of the following purposes: (a) preventing or remedying or assisting in the solution of problems which may result in, the neglect, abuse, exploitation or delinquency of children; (b) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (c) preventing the unnecessary separation of children from their families by identifying problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (d) restoring to their families children who have been removed, by the provision of services to the child and family; (e) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (f) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

H.R. 3434 provides that to be eligible to receive its share of increased appropriations under Title IV-B, a State could not reduce its spending level for child welfare services under Title IV-B, below its 1979 level.

H.R. 3434 also modifies the child welfare services program so that it will operate on a "forward funding" basis. Under this provision, amounts appropriated for the program after the enactment of this legislation would become available for expenditure in the fiscal year following the fiscal year to which the appropriation act applies. This would give States advance knowledge of the amount of funding available.

An additional element of the bill would authorize the Secretary of Health and Human Services (to the extent he determines appropriate) to deal directly with recognized Indian Government entities in making child welfare services grants under title IV-B.

SOCIAL SERVICES

H.R. 3434 includes a number of amendments affecting the social services program under title XX of the Social Security Act.

Ceiling on Federal funding.—Under present law, there is a permanent ceiling on Federal matching for State social services programs of $2.5 billion annually. H.R. 3434 indexes this ceiling. Under the indexing provision, the ceiling will rise to $2.7 billion in fiscal year 1980 and $2.9 billion in fiscal 1981. Thereafter, the provision will result in annual increments of $100 million until reaching a level of $3.3 billion in fiscal year 1985. After reaching the $3.3 billion level, the indexing provision would cease to operate unless extended by subsequent legislation.

Special allocation for child care services.—Under H.R. 3434 $200 million of the funds provided to the States in fiscal years 1980 and 1981 would be available for child care services, with no State matching requirement. After 1982, 8 percent of a State's title XX allocation could be used for child care services with no State matching.

Ceiling on training funds.—Under present law, funding for social services training is available to the States on an open-ended entitlement basis, with the Federal Government paying 75 percent of all State expenditures. H.R. 3434 provides that for fiscal years 1980 and 1981, notwithstanding any other provision of law, Federal matching funds for training would be limited to the highest of:

four percent of the State's allotment for that fiscal year under the title XX funding ceiling,

the actual amount of Federal matching for amounts spent by the State for training in fiscal year 1979, or

the amount payable to the State with respect to State appropriations made prior to October 1, 1979 for fiscal year 1980, except that the additional amount would be limited to $6 million distributed among affected States.

For fiscal 1982 and thereafter, there would be no specific ceiling, but States would be reimbursed only for those expenditures included in an HHS approved State training plan.

Use of private funds for training.—Under present law, donated private funds used for title XX services must be donated to the State without restrictions (1) as to use, other than restrictions as to the type of donor who is not a sponsor or operator of a program to provide these services, and (2) as to the geographic area in which the services are to be provided. H.R. 3434 would permit the acceptance by the State of restricted private matching funds for training purposes in fiscal years 1980 and 1981. The Department of Health and Human Services would be required to monitor the States' use of these funds, and there would be a prohibition on their use for training in proprietary facilities.

Multiyear planning.—H.R. 3434 includes a provision under which, beginning in fiscal year 1980, States would be permitted to use either a one, two, or three year title XX program period, instead of the annual plan required under present law. If the State elected a program period of longer than one year, the State agency would have to publish an make generally available such information concerning the program, at such times as the Secretary may by regulation require.

Choice of fiscal year.—Present law allows the State to use the beginning of the fiscal year of either the Federal Government or the State government as the beginning of the State's title XX planning year. The bill amends this provision to allow a State the alternative of choosing the fiscal year used by its local subdivisions.

Emergency shelter for adults.—Present law allows funds to be used to pay for up to 30 days of emergency shelter provided as a protective service to a child. Beginning in fiscal year 1980, H.R. 3434 provides that funds could be used for emergency of physical or mental injury, neglect, maltreatment or exploitation. As is now provided under regulation for services for children, the shelter could be provided for no more than 30 days in any 6-month period.

Entitlement for Puerto Rico, Guam, and the Virgin Islands.—Under present law these jurisdictions receive an allotment for social services from the amount that the States certify, at the beginning of the program year, they will not need from their title XX formula allotments for that year. There is a ceiling on the amount that can be made available in any year of $15 million for Puerto Rico, and $500,000 each for Guam and the Virgin Islands. H.R. 3434 provides that, beginning in fiscal year 1980, a separate title XX entitlement amount would be established, as follows: Puerto Rico, $15 million; Guam and the Virgin Islands, $500,000; and the Northern Marianas, $100,000.

PERMANENT EXTENSION OF CERTAIN EXPIRED PROVISIONS

Child support enforcement services for nonwelfare families.—The child support enforcement program requires States to make available services to both welfare and nonwelfare families to assist in establishing the paternity of children and in securing support from absent parents. The original legislation enacted in 1975 provided for 75 percent Federal matching of the costs incurred by the States in providing these services. In the case of welfare families, the Federal matching provision was enacted in 1975 on a permanent basis while the matching for services to nonwelfare families was provided only through June 30, 1976. Because of the success of the child support program in keeping families off welfare, Congress subsequently extended the provision for Federal matching for services to nonwelfare families through fiscal year 1977 and fiscal year 1978. Earlier in this Congress, this provision was further extended to March 31, 1980. H.R. 3434 establishes this authority on a permanent basis retroactively to April 1, 1980.

Provisions relating to authority to hire welfare recipients as child care workers.—H.R. 3434 would restore the authority of the states to use social services funds under title XX to pay the costs of employing welfare recipients in child care jobs. This authority was available in fiscal years 1977, 1978, 1979, and through March 31, 1980. The bill would make this authority permanent, retroactive to April 1, 1980. It would also make certain changes to conform and better coordinate it with the provisions under which employers obtain a tax credit for hiring welfare recipients. Specifically, the amendment would:

1. extend the authority to use title XX funds to reimburse the costs of hiring welfare recipients in child care jobs;

2. incorporate this authority as a permanent part of the basic title XX statute;

3. increase the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000—the same level of wages that is eligible for the new welfare recipient tax credit;

4. make the payment and credit available for part-time as well as full-time employment in child care jobs; and

5. provide a special 100-percent credit with respect to unreimbursed wages paid to workers whose wages are reimbursed in whole or in part by funds made available under section 2007 (grants to hire welfare recipients as child care workers) of the Social Security Act. If the taxpayer elects to compute the credit using this rate, the credit with respect to any employee is limited to the least of: (1) $6,000 minus the reimbursement with respect to this employee under section 2007, (2) $3,000 (for the first year of employment) or $1,500 (for the second year of employment), or (3) 50 percent (for the first year of employment) or 25 percent (for the second year of employment) of the sum of unreimbursed wages and the reimbursement under section 2007.

Services to alcoholics and drug addicts.—H.R. 3434 reinstates and makes permanent, retroactive to April 1, 1980, temporary provision of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. These temporary provisions expired March 31, 1980. Title XX funds ordinarily may only be used to provide health services if the services are an integral, but subordinate, part of a social service. The law provides also that funds may not be used for services to persons in medical institutions. The amendment would make permanent those expired provisions of law which permitted consideration of the entire rehabilitative process in determining whether medical services provided to addicts and alcoholics are an integral but subordinate part of a social service. Also made permanent would be provisions allowing funding for up to 7 days of detoxification services provided to alcoholics and drug addicts in medical institutions, and provisions applying the privacy protections of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

OTHER SOCIAL SECURITY ACT PROVISIONS

Incentive to report earnings.—When a State learns that an AFDC recipient had unreported earned income in prior months, it must under present law give him the benefit of all the earned income disregards provided by law in calculating the amount of the overpayment. Thus if a recipient is negligent in reporting his earnings even over a long period of time, there is no penalty involved. H.R. 3434 would provide an incentive to report income by specifying that there would be no disregard of any earned income which the recipient has not reported to the State agency.

Prorated shelter allowance when AFDC household includes ineligible relatives.—An AFDC household may include one or more members who are not actually considered a part of the AFDC eligibility group. For example, an uncle living with the family could be excluded from the AFDC computations since he is not legally responsible for the support of the other members of the household. In such a case, his needs would not be counted in determining the size of the grant and his income would not be used to reduce the amount payable. AFDC studies have shown that a substantial proportion of all AFDC households include such ineligible relatives. H.R. 3434 would permit States, in computing the shelter cost component of the AFDC grant, to assume in effect that such an ineligible relative in the AFDC household bears his proportionate share of the shelter expenses. This would be computed as follows: instead of applying the shelter allowance applicable to the actual AFDC eligibility group the State would use the larger shelter allowance that would apply to a group including the AFDC unit and the ineligible relatives. That larger allowance, however, would be reduced on a pro rata basis in accordance with the ratio of the number of AFDC eligibles to the total number of AFDC eligibles plus ineligible relatives. For example, if the household included 4 AFDC eligibles plus two ineligible relatives and the shelter allowance for a 6-person family was $60, the amount actually payable for shelter would be $40 (four-sixths of the full allowance). The provision would apply only if the overall household income exceeded the State's AFDC standard of need for a household of that size.

Services for disabled children.—H.R. 3434 provides for the extension for an additional 3 years of the special referral and services program for disabled children who are receiving SSI benefits. The program was enacted in 1976 and provided up to $30 million in Federal funds to be allocated annually to the States on the basis of the proportion of children under age 7 in the State. Without extending legislation, the program will have expired as of September 30, 1979.

This program requires the referral by the Social Security Administration of a disabled child under age 16 to a State agency which is responsible for counseling disabled children and their families, and for establishing an individual service plan for each child. Children are to be referred to appropriate services, and agencies are required to monitor the program to assure adherence to service plans.

Public assistance expenditures in Puerto Rico, Guam, and the Virgin Islands.—Under existing law there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind and disabled in the jurisdictions of Puerto Rico, Guam, and the Virgin Islands. The annual permanent ceiling is $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. These limits have been in effect since 1972. In addition, these jurisdictions are limited to 50 percent Federal matching, whereas the States may receive from 50 to 83 percent Federal matching, depending on State per capita income.

For one year (fiscal year 1979), the overall ceiling was tripled to $78 million and the matching rate was increased to 75 percent by an amendment to the Revenue Act of 1978 (Public Law 95-600). This provision expired September 30, 1979, and the ceiling reverted to $26 million and the matching rate to 50 percent.

H.R. 3434 provides for a permanent extension of the provisions which were included in Public Law 95-600 on a temporary 1-year basis.

Limitation on period for state filing of claims under the Social Security Act.—Current law does not set a time limit on State submission of claims under the welfare, Medicaid and social services programs in the Social Security Act. H.R. 3434 provides that no payment may be made to a State with respect to any expenditure under the AFDC, Medicaid, social services, and other Social Security Act programs unless the Secretary receives a claim for Federal reimbursement from the State within a two-year period after expenditure, except, court-ordered retroactive payments, audit exceptions, adjustments to prior year costs, or where the Secretary determines there is good cause to waive the limit. The provision would be effective starting with fiscal year 1980 expenditures, except that there would be no time limit on the payment of claims which have been filed prior to enactment and that claims for expenditures prior to fiscal year 1980 must be filed by December 31, 1980.

Incentives for States to Collect Child Support Obligations.—Under present law a 15 percent incentive payment financed entirely from the Federal share of collections is paid to States that enforce and collect support on behalf of other States, or to a political subdivision within a State that enforces or collects child support on behalf of its own State. H.R. 3434 retains provisions of present law and, in addition, allows States which enforce and collect child support within the State on their own behalf to receive the 15 percent incentive payment.

Postponement of imposition of certain penalties relating to child support requirements.—Under present law, if a State is found by an annual audit not to have an effective child support enforcement program which meets the requirements of title IV-D, the State's AFDC reimbursement is reduced by 5 percent. H.R. 3434 provides that the 5 percent penalty for failure to have an effective child support enforcement program in current law would not be imposed on any State before October 1, 1980.

Exchange of information on terminated or suspended providers under Medicare and Medicaid programs.—Under present law, the Secretary of Health and Human Services is required to suspend from the Medicare program any practitioner convicted of a criminal offense related to involvement in the program, and any institutional provider in which a managing employee has been so convicted, and to notify the State Medicaid agency to suspend the physician or provider from the Medicaid program. Present law also allows the Secretary to exclude from the Medicare program individual practitioners or providers that knowingly or willfully make or cause to be made any false statements in an application for payment, or submit excessive bills, or furnish services in excess of needs. Federal matching payments may not be made under medicaid to any such suspended practitioner or provider.

H.R. 3434 requires the Secretary to notify the State Medicaid agency when individual practitioners or providers are suspended or terminated under the Medicare program for making false statements, submitting excessive bills, or furnishing services in excess of needs (but not necessarily convicted of a criminal offense.) The bill also requires the State Medicaid agency to promptly notify the Secretary whenever a provider of services or an individual practitioner is terminated, suspended or otherwise sanctioned or prohibited from participating under the Medicaid program.

Continuation of Medicaid eligibility for certain recipients of VA pensions.—Under P.L. 95-588, the Veterans' and Survivors' Pension Improvement Act of 1978, benefits were increased for recipients of non-service connected VA pensions, and pensioners were given the option to continue receiving their pensions under the pension system as in effect before enactment of the law, or to elect to be covered under the new law. Many pensioners are also eligible for and receive AFDC or SSI benefits. In all States except Arizona, a person who is an AFDC recipient is automatically eligible for Medicaid. In all but 15 States, eligibility for SSI also makes one categorically eligible for Medicaid. In the other 15 States a more restrictive standard is in use, but persons may be eligible if they spend their excess income on medical care. Specific statutory language in SSI law requires, as a condition of eligibility, that any beneficiary apply for any other Federal benefits— such as higher VA pension benefits under the new pension law—to which he is entitled. Longstanding policy in the AFDC program has a similar result. Both AFDC and SSI count VA benefits as income in determining eligibility.

H.R. 3434 allows those AFDC and SSI recipients who were receiving VA pensions as of December 1978, and who became eligible for the higher VA pension benefits under P.L. 95-588, and thereby became ineligible for Medicaid in those States which provide Medicaid eligibility for AFDC and SSI recipients only on a categorcal basis, to disaffirm any entitlement to the higher VA pensions in order to continue eligibility for SSI, AFDC, and Medicaid. (Medicaid eligibility would be restored retroactive to January 1979.)

● Mr. DOLE. Mr. President, I am very pleased that we are able at last to bring the conference report on H.R. 3434, the Adoption Assistance and Child Welfare Act, to the floor of the Senate. The social programs affected by the bill are extremely important to the successful incorporation of all our citizens into the mainstream of American life, and this measure makes needed improvements in those programs.

I am sure every Senator has received urgent requests for action on the conference report in recent weeks due to the loss of Federal dollars faced by State and local agencies trying to carry on title XX social services programs as well as the program for referral and services for disabled children receiving supplemental security income. Although the $2.7 billion figure the conferees had to settle on for the title XX ceiling is not as high as we had hoped it could be, it is still an improvement over the $2.5 billion ceiling the States are living with at the moment, and the increase in funds will provide some financial relief to allow the programs to continue.

The provisions in the measure dealing with child welfare and foster care will provide incentives to the States to find ways of helping troubled families which are more appropriate than automatically removing children from their homes and putting them in foster care. By providing improved title IV-B child welfare services, adoption subsidies for lower income families, and limited Federal matching for foster care maintenance, we should succeed in reversing the tendency to use foster care indiscriminately.

The conference agreement contains a rather complicated formula for capping foster care funds, but it is designed to meet the objections of those who fear the new IV-B services encouraged by the bill may not become a reality in light of the fact that funds for this program still must be appropriated. It is our hope and our expectation that these provisions will bring about more satisfactory, permanent solutions for families with problems and, at the same time, provide taxpayers a much better return on their dollars.

The Senate bill made other improvements in the aid to families with dependent children program as well as in the child support, SSI and medicaid programs, and the conferees were successful in retaining a number of those provisions. These changes will make the programs more responsible and responsive to the needs of recipients while helping to limit the tax dollars spent to those who are truly in need.

Of particular interest to me is a provision which extends for 3 years a program for the referral of disabled children receiving SSI to appropriate counseling, medical, rehabilitative and social services. Through this program many children who would otherwise be destined to lead the lives of depending will have the opportunity to overcome their handicaps and become fully functional, independent adults.

This measure is important to the wellbeing of children, families, and others who need assistance, and while I do not support every provision in it. I believe it is deserving of support on the whole. Therefore, I urge my colleagues to adopt the conference report.●

Mr. MOYNIHAN. Mr. President, approval by the House and Senate of the conference report on H.R. 3434, the Adoption Assistance and Child Welfare Act of 1980, is the culmination of 3 years of effort to reform and improve the Federal Government's handling of foster care, child welfare services and social services, and to initiate a new program of Federal assistance for persons adopting hard-to-place children.

There is an important sense in which this is the first significant piece of social welfare legislation to pass the Congress since the inauguration of President Carter. To be sure, numerous adjustments and alterations to various provisions of the Social Security Act have been enacted during that period. Still, this bill is reasonably described as the first significant set of new social policies to have followed the prescribed legislative course to completion: A major Presidential initiative, followed by full-scale hearings in the House Ways and Means Committee and extensive hearings that I was privileged to chair in the Senate Subcommittee on Public Assistance, followed by careful committee markup sessions, followed by extensive debate and amendment on the floor of both Chambers, followed by a particularly careful and serious conference.

The result is a fine piece of legislation. It creates a new title—IV-E—of the Social Security Act, in which there is a new program of Federal adoption assistance and a significantly reformed program of federally assisted foster care for children eligible for aid to families with dependent children.

The effect of those changes, combined with major reforms in the title IV-B program of child welfare services, is to reorder the priorities and incentives embodied in the Social Security Act with respect to the care of needy children: Henceforth, Federal policy seeks to keep children in their own homes whenever possible, to restore them to their homes and parents as soon as possible, to facilitate the adoption of children who have no parents or whose parents are incapable of caring for them, and to use foster care only as a temporary expedient until a more satisfactory and permanent arrangement can be made.

This is reform legislation of the best and most honorable kind. It speaks to the condition of needy children who depend on public policies and governmental actions for their well-being. It says, quite simply, that children need parents, and that it is the policy of the Federal Government to do what it can to assist them to stay with their parents, to return to their parents or, if necessary, to be adopted by new parents. Conversely, it is the policy of the Federal Government not to place children in that sometimes-unavoidable but fundamentally unsatisfactory status known as foster care save when absolutely necessary, and not to encourage the retention of children who must be placed in foster care in that status any longer than absolutely necessary.

The legislation contains a number of other important provisions as well. Among them, it regularizes the funding of the major Federal social services program, authorized under title XX of the Social Security Act, for years to come and allows that funding to increase so as to mitigate the effects of inflation on the costs of the services that are provided.

It creates a new social services funding entitlement for the territories, and makes permanent the increased level of Federal support for public assistance in the territories that was first provided in fiscal 1979.

It regularizes the procedures and timetables under which the States file with the Department of Health and Human Services their claims for Federal matching under the several titles of the Social Security Act and makes clear that these are entitlement programs, under which all valid claims must be honored by the Federal Government so long as they are filed within the time periods specified in the Social Security Act itself.

This brief listing does not begin to exhaust the useful provisions of H.R. 3434 and does not begin to do justice to the significance of the legislation.

Many people have labored for a long period of time to bring this about. Within the Senate, the greatest credit is due to the distinguished majority whip, the senior Senator from California, Mr. Cranston, who has been as tireless in his efforts as he has been compassionate in his social policy instincts, and his superb staff, especially Susanee Martinez and Jon Steinberg; to the distinguished chairman of the Committee on Finance and the unsurpassed staff of that committee, especially Michael Stern and Joe Humphreys; and to the distinguished ranking minority member of the Committee on Finance, the senior Senator from Kansas, Mr. Dole, and the minority staff, especially Linda McMahon.

Special recognition is also due to the distinguished chairman of the House Subcommittee on Public Assistance and Unemployment Compensation, my dear friend Congressman James Corman, and to his splendid assistants, particularly Dr. Kenneth Bowler and Allen Jensen.

Within the executive branch, this legislation has been a particular interest of Vice President Mondale, who has been ably assisted by his staff and by the White House domestic policy staff, particularly Bert Carp. Within the Department of Health and Human Services, nee Health, Education and Welfare, I would make special mention of former Assistant Secretary Richard Warden, Assistant Secretary William Welsh, Assistant Secretary Cesar Perales, and Ms. Margie Siegel.

I would also like to extend my personal thanks to New York State's Commissioner of Social Services, Barbara Blum, who has been steadfast, supportive and immensely helpful to me personally, as has her capable assistant Anne Shkuda, and to New York City's former Human Resources Administrator, Dr. Blance Bernstein, who continues to understand these matters better than anybody.

Mr. President, my first official act as chairman of the Senate Subcommittee on Public Assistance was to chair the hearings on the bill that—after considerable evolution—emerged the bill we are now enacting into law. I take considerable satisfaction from the successful completion of the process, and wish to register my lasting gratitude to all concerned.

Mr. President, I yield now to the distinguished majority whip, without whose unfailing efforts and devotion to this cause, the legislation could never have come to pass.

Mr. CRANSTON. Mr. President, I am very strongly in support of H.R. 3434, which the distinguished Senator from New York is about to bring up. I want to thank him for his tremendous work on this very important legislation.

Mr. President, I am extremely pleased to urge adoption of the conference report on H.R. 3434, the proposed "Adoption Assistance and Child Welfare Act of 1980." As my colleagues well know, I have been deeply involved in efforts to develop this legislation over the past several Congresses. I introduced legislation in this area in the 93d, 94th, 95th, and 96th Congresses. During the last Congress, we were successful in enacting the Adoption Reform Act—title II of Public Law 95-266—which established the foundation for implementation of the adoption assistance program contained in H.R. 3434. Final passage of this measure will complete the legislative process on the initiatives I began 7 years ago in the 93d Congress.

It is a great personal pleasure to see this legislation nearing enactment. There are many, many individuals and organizations who have contributed much to the development of this legislation, and I know that final passage today in the Senate will be greeted with much celebration by those supporters who have held steadfast over the years to our goal of helping free the thousands of children now caught in the foster care limbo.

The basic provisions of H.R. 3434 have been passed by both the Senate and the House three times in various measures. Unfortunately, time pressures and other priorities have prevented completion of action on these measures. Indeed, although the conferees completed their work on the conference agreement on H.R. 3434 in early March, the congressional budget process has forced delay of consideration of the conference report until today. With the approval of the Senate of the conference report, we will be taking a long-awaited giant step forward in our policies regarding children in foster care. For too long, the Federal Government has supported a system which has facilitated the breakup of families, rather than keeping them together, and which has kept abused and neglected children in foster care, rather than help finding them, where appropriate, permanent loving adoptive homes. With enactment of H.R. 3434, we will have begun to reverse those policies.

EXCELLENT WORK OF CONFEREES

Mr. President, before I describe some of the highlights of this legislation, I want to pay special tribute to members of the conference committee whose hard work and dedication to the interests of children has led to the development of a measure which draws upon the strengths of both the House and Senate legislation. In many areas, the House and Senate passed almost identical provisions; in others, critical differences had to be resolved. I would say that in almost every instance the conferees selected options which offered the most protection to the children the legislation is designed to assist. It is not often that a bill emerges from conference which is "better" than either measure passed by the respective bodies; in this case, the conferees appear to have accomplished that laudable goal.

In particular, I want to express my deep appreciation to the chairman of the Senate Finance Committee, the Senator from Louisiana (Mr. LONG), and the chairman of the Public Assistance Subcommittee of the Finance Committee, the Senator from New York (Mr. MOYNIHAN), for their steadfast support for this legislation. I would simply say that we would not be here today but for the extraordinary efforts of the Senators from New York and Louisiana, and the children who will benefit from this legislation owe a great measure of gratitude to these Senators. I am most grateful for the very wonderful and gracious words of praise for my efforts by the floor manager of this legislation. His words of praise are made all the more meaningful for me because of his enormous knowledge about, and commitment and contribution to this very important bill.

I also want to make special note of the contributions made to the development of this legislation and the conference report by my good friends and colleagues from California, Congressman JAMES CORMAN and Congressman GEORGE MILLER. Congressman MILLER has been a national leader of efforts toward the reform of the foster care system in this country and has authored and worked hard for enactment of this legislation for many years. Congressman CORMAN, as chairman of the House Committee on Ways and Means' Subcommittee on Public Assistance, has also supported and contributed much to this measure. The distinguished Congressman from Michigan (Mr. BRODHEAD), who also serves on the Public Assistance Subcommittee in the House, has also been dedicated to enactment of these measures and has diligently worked on and for this legislation over the years.

Finally, I would be remiss if I did not make special note of the support we have consistently had from the Vice President of the United States. In July of 1977, he announced administration support for the initiatives which are being considered today, and without his continuing interest and encouragement it is doubtful we would have accomplished completion of this effort.

LEGISLATIVE HISTORY AND NEED FOR REFORM

Mr. President, over the years, I have made many speeches before this body describing the urgent need for this legislation and have recited the statistics which tell the tale of the hundreds of thousands of children who have become lost in our foster care system. As chairman of the Child and Human Development Subcommittee of the Committee on Labor and Human Resources, I have chaired many hours of hearings and heard witnesses from all over the United States describe the tragedy and pathos inherent in our existing system. I have also heard from some truly remarkable and wonderful people who have sought to adopt children with special needs despite the most incredible obstacles created by our present laws and policies.

I will not take the time of my colleagues today to recite once again the need for this legislation and the problems we seek to address. I would, however, like to incorporate herein as legislative history my remarks before the Senate on previous consideration of this legislation and its predecessors. Those statements appear in the CONGRESSIONAL RECORDS of July 26, 1977, beginning on page 24861; October 9, 1978, beginning on page 34711; August 3, 1979, beginning on page 22679; and October 29, 1979, beginning on page 29938. They will provide guidance to those who will implement this legislation as to our concerns and goals.

Mr. President, I would like now to briefly outline for my colleagues some of the highlights of the conference report. There are three major areas covered in this legislation—reform of the existing foster care maintenance program, now operated under title IV–A of the Social Security Act; establishment of a new adoption assistance program; and a restructuring of the existing child welfare services program authorized by title IV–B of the Social Security Act.

NEW TITLE IV–E

Mr. President, the conference agreement adopted the Senate provision which would establish a new part E of title IV of the Social Security Act—transferring the existing foster care maintenance program from title IV–A to the new title IV–E and creating in the new title an adoption assistance program for children with special needs. The conference committee strengthened the Senate provision by making both programs required, rather than optional. States under the conference agreement could begin shifting AFDC foster care from the IV–A program as of October 1, 1980, and would be required to have made the transition by October 1, 1982.

AUDIT AND EVALUATION PROVISIONS

The conference agreement also contains the Senate provision which would require States to arrange for "periodic and independently conducted audits" of federally-assisted foster care, adoption assistance, and title IV–B child welfare service programs at least once every 3 years and require that the State agency responsible for the program periodically evaluate the program, including the adequacy of the amounts paid for foster care and adoption assistance.

Mr. President, I think that these are extremely important provisions which should help establish adequate monitoring and control over these programs, particularly the foster care maintenance program. I am pleased that the conference committee agreed to include them in the conference agreement.

ESTABLISHMENT OF GOALS TO REDUCE LONG-TERM FOSTER CARE

Mr. President, the Senate amendment contained provisions, initiated by my good friend from New York (Mr. MOYNIHAN), which would require States participating in the foster care program to establish, by State law, specific goals as to the maximum number of children who will be in foster care in excess of 24 months. The conference committee agreed to accept these provisions which are aimed at encouraging States to focus upon the problem of long-term foster care and to develop their own timetables for reducing unnecessary long-term care. I think these provisions can play an important part in our overall efforts to reduce unnecessary long term foster care, and I am delighted they were included in the conference agreement.

CASE PLAN AND CASE REVIEW SYSTEM

Mr. President, some of the most important aspects of this legislation relate to provisions strengthening the supervision and case planning for children in foster care. Current law contains a very generalized requirement that a case plan be developed for each child in foster care and that there be a periodic review of the necessity for the child's being in foster care. One of the most serious and well-documented problems with our existing foster care system is the tendency for a child to become lost in the foster care system, with no efforts made to return the child home or to free the child for adoption if a return home is not feasible.

Both the House and Senate bills contained provisions for a written case plan to be developed for each child in foster care; they required such case plans to contain a description of the child's placement and a plan of services designed either to improve family conditions to facilitate the return of the child to his or her home or facilitate other permanent placement of a child, as well as address the needs of the child while in foster care.

The conference agreement provides that there be a case review of each child's status at least every 6 months, rather than periodically as required under present law.

Mr. President, this case review system contains some of the most critical provisions of this legislation. These provisions require that each State establish a procedure for assuring that each child in foster care has a plan designed to achieve placement in the least restrictive, most family-like setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child; and that the status of each child in foster care is reviewed at least every 6 months in order to determine the continuing necessity for and appropriateness of the child's foster care placement, the agency's compliance with the case plan for the child, the extent of progress which has been made toward alleviating or mitigating the problems which necessitated placement in foster care, and a likely date by which the child may be returned to the home or freed for adoption.

The case review system also must provide procedures to assure that each child in foster care has a dispositional hearing no later than 18 months after the original placement to determine the future status of the child.

These specific requirements focused upon adequate planning and review of the placement of individual children are aimed at eliminating the all-too-common practice of agencies placing children in foster care and then forgetting about them.

Finally, the case review system must provide for establishing procedural safeguards with respect to parental rights, changes in a child's foster care placement, and any determination affecting visitation privileges of parents. These provisions mean that the State must provide adequate procedural mechanisms in each of these areas; States may not shift children from placement to placement or terminate visitation rights of parents without adequate notice and opportunity to be heard by those affected by these decisions.

PREVENTIVE AND REUNIFICATION SERVICES

Mr. President, current law requires that a child in foster care receive proper care and services designed to improve the conditions in the home from which he was removed or otherwise to make possible his being placed in the home of a relative. These very generalized provisions have had little specific impact upon a State's responsibility to provide services designed to prevent a child's removal from his or her home, or to help alleviate the problem which caused the child's removal in the first place. Accordingly, some courts have specifically held that social services agencies had no affirmative duty to provide preventive services to a distressed family before the removal of a child. The Senate amendment provided specific requirements that States must include in their title IV-E program plan provisions to assure that in each case reasonable efforts be made prior to the placement of a child in foster care to prevent or eliminate the need for removal of a child from his home and that reasonable efforts be made to make it possible for a child to return to his room.

The Senate amendment also required that a judicial finding be made in the case of each child that reasonable efforts have been made to prevent the need for the child's removal from his home, or, where applicable, to make it possible for the child to return to his or her home. The conference agreement includes these important provisions from the Senate amendment.

Mr. President, these sections are aimed at making it clear that States must make reasonable efforts to prevent the removal of children from their homes. In the past, foster care has often been the first option selected when a family is in trouble; the new provisions will require States to examine alternatives and provide, wherever feasible, home-based services that will help keep families together, or help reunite families. Of course, State child protective agencies will continue to have authority to remove immediately children from dangerous situations, but where removal can be prevented through the provision of home-based services, these agencies will be required to provide such services before removing the child and turning to foster care. These provisions, I believe, are among the most important aspects of this legislation. Far too many children and families have been broken apart when they could have been preserved with a little effort. Foster care ought to be a last resort rather than the first.

LIMITATIONS ON FOSTER CARE

Mr. President, one of the provisions which caused considerable controversy when this legislation was developed was the Senate provision which would have placed a ceiling on title IV-E foster care maintenance funds provided to each State. The Senate bill, however, provided that any funds which the State did not need for title IV-E foster care could be retained by the State and used for child welfare services under title IV-B. This foster care ceiling was aimed at encouraging States to reduce unnecessary foster care. There was concern, however, that without adequate funds for services to prevent or reduce foster care placements, States would not be able to reduce their foster care maintenance costs and would not have sufficient Federal funds to operate their foster care programs.

The conference committee reached an ingenious compromise which tied the operation of the ceiling to the appropriation of certain funding levels for child welfare services program under title IV-B. Under the compromise agreement, the foster care ceiling will not become effective unless the appropriation of title IV-B funds exceed $163.5 million for fiscal year 1981; $220 million for fiscal year 1982, and $266 million for fiscal year 1983. The conference agreement provides that States would have the option of a Federal allotment for title IV-E foster care for fiscal year 1981 of its 1978 Federal funding level plus 33⅓ percent. This allotment would be increased by 10 percent for fiscal years 1982, 1983, and 1984. States with AFDC foster care caseloads in fiscal year 1978 below the national average could receive an additional amount, not to exceed 10 percent, equal to their increase in foster care caseload over the 1978 national caseload average. The conference agreement also provided States with the option of receiving their State's share of $100 million based on population, and contains the Senate provision allowing a State to reallott unused IV-E funds for child welfare services under title IV-B. The conference agreement further provides that a State may voluntarily choose to have a foster care ceiling.

Mr. President, these provisions should provide an incentive for States to eliminate unnecessary foster care. They reverse the fiscal incentives under existing law which do nothing to discourage the long-term foster care of children. I believe that the conference agreement provides a reasonable solution to the concern that adequate funds be made available for child welfare services before a ceiling on foster care maintenance is imposed, and I very much hope that the fiscal incentive provided to States to reduce their unnecessary foster care will be successful.

No limitations on Federal funding for the adoption assistance program under title IV-E were contained in the Senate amendment, nor do any such provision appear in the conference agreement since the congressional intent is to encourage adoptive placements of children, where appropriate.

VOLUNTARY FOSTER CARE

Mr. President, one of the major differences between the Senate- and House-passed bills was the treatment of children who had been voluntarily placed in foster care by their parents, rather than through a court order. The House bill removed the requirement that only children who had been placed in foster care as a result of a judicial determination could receive federally matched foster care payments. The Senate amendment made no change in existing law which requires a judicial determination that removal from the home is necessary for a child's welfare before Federal payments can begin.

Mr. President, I expressed my view at the time the Senate legislation was introduced and upon its passage, that the best solution lay somewhere between total elimination of judicial review and continuation of existing law. I suggested that a possible compromise would be allowing voluntary placements for a limited period of time—such as 6 months—followed by judicial review. That solution would allow for short-term emergency placements but provide the child with the protection of a court review if the placement became prolonged. I am very pleased that the conference committee adopted just this compromise. Under the conference agreement, States would be reimbursed for the foster care payments for otherwise eligible children who had been voluntarily placed in foster care provided that there is a judicial determination within 6 months of the child's placement that continuation in foster care is in the child's best interest.

In all cases under the conference agreement, voluntary placements must be made pursuant to a voluntary placement agreement which is revokable on the part of the parent unless the child welfare agency objects to the return of the child and obtains a judicial determination that such return would be contrary to the child's best interest. These provisions relating to voluntary placements would be available only in States that have implemented the protections and procedures required under section 102 of the conference report for additional child welfare service funds under title IV-B, including a program of preplacement preventive services. The conference agreement provides that the Secretary of HHS would be required to report annually to the Congress on the number of children placed under this provision and the authorization of Federal reimbursement for these voluntary placements, unless renewed, would expire on September 30, 1983.

Mr. President, I believe that the conference agreement represents a reasonable compromise that will safeguard against voluntarily placed children becoming lost in the foster care system without any judicial protection or review, assure a parent's right to revoke a voluntary placement at any time unless a contrary judicial determination is rendered, and provide flexibility so that where voluntary foster care is necessary and appropriate, it can be provided without unnecessary delay and stigmatization.

ADOPTION ASSISTANCE PROVISIONS

Mr. President, as I stated at the outset, I am particularly pleased with the provisions of the conference agreement relating to adoption assistance. I have been advocating legislation in this area for many years, and it gives me a great sense of accomplishment to see these provisions enacted into law. Testimony presented in congressional hearings, particularly those held by the Child and Human Development Subcommittee, over the past several years has documented the fact that existing Federal policies and statutory limitations have resulted in the Federal Government spending millions of dollars each year to keep children in foster care rather than using those dollars for the provision of services to assist parents in caring for their children in their own homes or for freeing and placing for adoption those children who had no hope of being reunited with their birth families.

The conference agreement effectively turns this situation around, and with its adoption assistance provisions, eliminates the disincentives in existing law which have posed barriers to helping children in need of permanent adoptive homes.

These provisions will, for the first time, make possible the use of medicaid and foster care funds—no greater than the funds that previously would have been expended to support children in foster care—to help adoptive families of special needs children meet the needs of these children.

Mr. President, I would like to highlight some of the most important aspects of the new adoption assistance program.

ESTABLISHMENT OF ADOPTION ASSISTANCE PROGRAM

The conference agreement provides that States would be required to establish the adoption assistance program outlined in the conference agreement no later than October 1, 1982. The Senate amendment would have made the establishment of an adoption assistance program an option for the States for a 5-year period; the House bill mandated establishment of such a program no later than September 1, 1980. Although I believe that States would have exercised their option to establish an adoption assistance program, particularly since almost every State has now developed some type of program in this area. I am pleased that the conferees accepted the House provision since it assures that children in every State will have the benefits of this program.

The conference agreement also includes a provision derived from the Senate bill for HHS to conduct a study on the effectiveness of the new title IV-E program and report to the Congress by October 1, 1983. This report will provide Congress with data on how the program is working and whether any modifications are needed.

ELIGIBILITY FOR ADOPTION ASSISTANCE

Mr. President, the Senate amendment authorized Federal matching for adoption assistance payments made to parents who adopted a child with special needs who, prior to adoption, was eligible for SSI or AFDC foster care where the State had determined that there was a specific factor or condition which made it reasonable to conclude that the child could not be placed for adoption without providing adoption assistance and that a reasonable but unsuccessful effort had been made to place the child without providing assistance, except where such efforts would be contrary to the child's welfare, such as where an emotional attachment to a foster family had been established. The latter provision is particularly important to assure that where a child has lived with a foster family and developed emotional attachments, the State would not be required to search for a family to adopt the child without assistance; continuity of the existing relationship should take precedence in such situations. This important provision in the Senate amendment was retained in the conference agreement.

The House bill provided in addition to the categories in the Senate amendment, for eligibility for adoption assistance for children in the general AFDC program and for children in AFDC foster care as a result of a voluntary placement agreement. I was pleased that the conference agreement included all of the categories set forth in both bills, thereby covering as many children as possible who would benefit from this program.

AMOUNT AND DURATION OF ADOPTION ASSISTANCE

Mr. President, both the Senate and House versions provided that adoption assistance payments be made pursuant to an adoption assistance agreement which would be a written statement and binding on all of the parties and which specifies the amount of payments and the services and assistance to be provided. The House bill, but not the Senate amendment, provided that the agreement would remain in effect regardless of whether the adoptive parents are or remain residents of the State.

Mr. President, this was a particularly troublesome provision for me since several of the witnesses who testified before my subcommittee described the problems that the territorial limitations upon adoption assistance agreements posed for their families. In some cases, adoptive families were forced to turn down employment opportunities in other States because a change of residence would terminate the adoption assistance agreement. Since these special needs children, had they remained in foster care, would have remained the responsibility of a State until majority, it seemed reasonable that commitments to provide assistance to adoptive families ought to continue as long as circumstances necessitated assistance.

At the same time, I recognize that problems could arise with respect to supervision by a State agency where a family had moved 3,000 miles away. The conferees, balancing these issues, reached an agreement that on October 1, 1983, States would be required to continue to comply with adoption assistance agreements regardless of whether the adoptive parents are or remain residents of the State. Between enactment and October 1, 1983, HHS would be directed to take all possible steps to encourage and assist States in developing interstate compacts to provide adequate protection for adoption assistance agreements when the child and his or her adoptive parents move to another State. I believe this is a reasonable compromise.

Mr. President, one of the activities which is currently being carried out under the Adoption Reform Act, about which I spoke earlier, is an HHS grant to the American Public Welfare Association to revise the existing "Interstate Compact on the Placement of Children." In addition, title VII of the draft of the proposed "Model State Adoption Act" being developed pursuant to section 203 of the Adoption Reform Act—the text of which proposal was published in the Federal Register of February 15 for the purpose of soliciting public comment—includes provisions dealing with adoption assistance agreements where adoptive families change State residences. I expect that the ongoing work in both these areas should simplify the work of HHS in connection with carrying out these provisions of the conference agreement.

Mr. President, the conference agreement also includes the provisions of both bills which provide that the amount of payments would be determined through agreement between the parents and the agency, taking into consideration the economic or other circumstances of the adopting parents and the needs of the child being adopted and could be adjusted periodically depending on changes in circumstances. These provisions also require adoptive parents to keep the State or local agency involved and informed of any change in circumstances which would make them ineligible for assistance or necessitate a change in the amount of such payments.

Adoption assistance could continue until the child reached age 18, or until age 21 in the case of a child with a mental or physical handicap. Assistance would cease if the State determined that the child was no longer receiving any support from the adoptive parents or if the adoptive parents were no longer legally responsible for support of the child. The conference agreement also contains the provision contained in both versions that in no case may the amount of adoption assistance payment exceed the amount which the State would have paid for foster care maintenance payments for the child during the same period.

MEDICAID ASSISTANCE

Mr. President, one of the most important provisions of this legislation deals with the availability of medicaid assistance to special needs children who are adopted. In many cases, adoptive families have been unable to take into their homes children with special medical needs because the medicaid assistance, which was available during foster care, terminates under existing law upon adoption and private medical insurance policies often exclude from coverage pre-existing medical conditions of adopted children. The unavailability of any financial assistance to help offset the extraordinary medical expenses which may be incurred by a physically handicapped child has been one of the most significant barriers to adoption of these children with special needs. The conference agreement contains this provision which was included in both the Senate and House bills.

AMENDMENT TO TITLE IV-B

Mr. President, title IV-B of the Social Security Act authorizes the appropriation of up to $266 million annually for distribution to the States for child welfare services. Annual appropriations for this program, however, have never exceeded $56.5 million, and most of these funds have gone into foster care maintenance payments, rather than into services designed to keep families together and prevent unnecessary foster care. Both the Senate and the House versions restructured title IV-B with the goal of using these funds in efforts to reduce unnecessary foster care. The conference agreement merges provisions of both bills to provide that in any year in which Federal IV-B appropriations exceed $141 million, a State could not receive any title IV-B funds in excess of its share of $141 million unless it has done the following:

First, conducted an inventory of children who have been in foster care for over 6 months;

Second, implemented a statewide information system to track the whereabouts and status of children in foster care;

Third, implemented a case review system for each child in foster care; and

Fourth, implemented a services program designed to assist children, where possible, to return to their homes.

The conference agreement further provides that when title IV-B appropriations have equaled $266 million for 2 consecutive years, a State would have its share reduced to the share of $56.5 million it received in fiscal year 1979, unless it had implemented the protections and procedures described above and, in addition, had implemented a service program of preplacement preventive services designed to overcome the circumstances which necessitated removing a child from his or her home. The conference agreement also prohibited States from using for foster care maintenance payments, for adoption assistance payments, or for child care that is needed only for employment, any of its title IV-B funds in excess of its share of the $56.5 million currently appropriated. This provision is designed to assure that States utilize title IV-B funds for child welfare services for prevention and reunification of families, and not, as is the case under present law, for foster care maintenance.

Mr. President, the conference agreement also contains the provision derived from the Senate bill which allows title IV-B funds to be advance funded. This provision is designed to help provide States with adequate information on anticipated funding levels so that they can make necessary plans. Of course, this advance-funding provision does not preclude subsequent appropriation of additional funds for the title IV-B program within the total amount authorized. It was not our intent, by providing this advance-funding option, to limit the availability of funds for the IV-B program but rather, when possible, to provide advance funding to assist States in their planning process.

INDIAN CHILD WELFARE SERVICES

Mr. President, the conference agreement contains provisions, which I sponsored, to provide specific authorization for the Secretary of HHS to make payments from funds appropriated for title IV-B child welfare services directly to an Indian tribal organization in a State from that State's title IV-B allotment. Because of jurisdictional and other problems, Indian communities are sometimes left out of social service programs which are funded through State agencies. This provision will help assure that title IV-B child welfare funds are directly available to Indian organizations.

The conference agreement contains other provisions recognizing Indian tribal courts, along with other courts of competent jurisdiction. Mr. President, these provisions are designed to complement provisions in the Indian Child Welfare Act, 25 U.S.C. 1901, passed by the 95th Congress. I want to make it clear that nothing in H.R. 3434 is intended to supersede or alter any of the provisions of the Indian Child Welfare Act. The specific provisions of the Indian Child Welfare Act affecting foster care placements of Indian children, such as the provisions of 25 U.S.C. 1931(b), relating to licensing of foster or adoptive homes or institutions by Indian organizations, and 25 U.S.C. 1915(d), relating to preferences in the placement of Indian children in foster homes, would not be altered by any provisions in H.R. 3434.

Thus, foster family homes licensed and approved by Indian tribes pursuant to 25 U.S.C. 1391(B) would be eligible to receive foster care maintenance payments for children otherwise eligible under title IV-E. Since the Indian Child Welfare Act, 25 U.S.C. 1911(d), requires every State to give full faith and credit to tribal adoption decrees, such adoptions would also be recognized under the adoption assistance program created by this legislation.

OTHER PROVISIONS OF H.R. 3434

Mr. President, there are a number of provisions in H.R. 3434 which do not relate to the foster care and adoption assistance reforms. I do want to make special note of section 201, relating to the ceiling on the title XX program and the inclusion in section 310 provisions I authored to continue medicaid eligibility for certain recipients of VA pensions.

It is extremely unfortunate that the ceiling on title XX—which was at $2.9 billion for fiscal year 1979—was reduced to $2.7 billion for fiscal year 1980. The conferees did agree to set increased levels—$2.9 billion for fiscal 1981, $3.0 billion for fiscal 1982, $3.1 billion for fiscal 1983, $3.2 billion for fiscal 1984, and $3.3 billion for fiscal 1985 and thereafter.

Title XX provides for vital services for many Americans in need, and, although I am not pleased to see a $200 million cutback in this area for fiscal year 1980, the conference agreement does provide essential increases for title XX over the next 5 years, and I recognize the budgetary problems faced by the conferees which forced them to reach this compromise. Without this legislation, the fiscal year 1980 ceiling would fall back to $2.5 billion, and the earmarking of $200 million for child care programs would have been eliminated. The conference agreement contains important Senate provisions relating to the title XX training program.

Section 310 would correct an inequity that would otherwise have resulted in termination of medicaid benefits for certain recipients of VA pensions. I very much appreciate the efforts of the Senate conferees in sustaining, and the House conferees in accepting the essence of this important amendment, which I described at length previously when it was agreed to on the floor.

CONCLUSION

Mr. President, in recent history the involvement of the Federal Government in foster care has been one of providing enormous financial assistance to States—almost $250 million annually—to maintain children in the system, with miniscule concomitant assistance directed toward enabling children to return to their families or to be adopted when the prospect for such return is unlikely. Enactment of the conference report on H.R. 3434 will turn around that situation. Henceforth 1980 will be known as the year in which the Federal Government stopped the unwitting practice of providing fiscal incentives to States to put children in foster care and keep them there. Our efforts from now on will be to reduce the foster care load by supporting programs that promise to restore children to their families, that prevent unnecessary foster care, or that promise the opportunity for adoption.

Mr. President, as chairman of the Senate Subcommittee on Child and Human Development which has as one of its major goals the improvement of Federal policies, programs, and goals affecting children, I feel a great sense of reward and satisfaction on this day. Approval of the conference report culminates an effort in which I became involved during the 93d Congress, which grew and was improved upon by the hard work and insights of countless numbers of concerned individuals, and which, as I said earlier, is a measure that emerged from conference in a way that provides more help for children than either the House or Senate versions from which it was derived. It promises to better the lives of many thousands of children in the years to come, and it is for this reason that I take such great pleasure in having been a part of its development.

Mr. President, before concluding, I want to express my personal appreciation to the members of the White House staff, Bert Carp and Gail Harrison, for their support for this legislation over the past several years. I am also most indebted, as is my staff, to Michael Stern and Joe Humphreys of the Finance Committee staff and Checker Finn of Senator Moynihan's staff for their exceptionally able assistance and contributions to our efforts on behalf of this legislation over the past 3 years. Without their deep commitment and tireless efforts then and today, we would never have been able to complete action on this important legislation.

Finally, and by no means least, I also want to express my deep appreciation to the staff members who have assisted me directly on this legislation—Fran Butler, Susanne Martinez, Mary Lopatto, and Jon Steinberg, as well as the many individuals and organizations which have supported our efforts to advance the welfare of children throughout this Nation. I want particularly to note the great dedication that Fran Butler has had to this effort which she and I began together in 1973.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE HELD AT DESK—HOUSE JOINT RESOLUTION 569

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives on House Joint Resolution 569 be held at the desk pending further disposition.

Mr. TOWER. Mr. President, it has been cleared on this side. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR HOUSE CONCURRENT RESOLUTION 360 TO BE HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as House Concurrent Resolution 360 is received in the Chamber, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISPLAY OF CODE OF ETHICS FOR GOVERNMENT SERVICE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5997.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A bill (H.R. 5997) to provide for the display of the code of ethics for Government service.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, H.R. 5997 is a bill which would provide for distribution of a code of ethics for Government service.

UP AMENDMENT NO. 1144

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Chiles, I send an amendment to the desk which includes the Code in the text of the bill and would clarify that the Government will incur no cost in the preparation and the printing of the Code.

Mr. TOWER. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. This is in the nature of a technical amendment?

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for Mr. Chiles, proposes an unprinted amendment numbered 1144:

On page 2, strike lines 11–14 and insert the following:

"The Code of Ethics for Government Service shall read as follows—

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

VIII. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Your agency ethics official and the Office of Government-Ethics are available to answer questions on conflicts of interest; and

On page 2, line 19, after the period insert the following new sentence: "There shall be no costs imposed on the Federal government for the printing, framing or other preparation of the Code of Ethics for Government Service under this Act."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 5997) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended for 1 hour and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I wish to state to the acting minority leader that there will be no further business today whatsoever, except statements by Senators or perhaps the introduction of bills and resolutions. I have a statement that I shall make later on the United States Senate. That statement will consume probably 30 minutes or more. I do not want to inconvenience the acting minority leader. I assume that it will probably be 5:30 before I complete my remarks. I assure him on the record that there will be no business transacted in the event he wishes to go to the office or leave the floor. I want the record to show that.

Mr. TOWER. I thank the distinguished Senator from West Virginia. Although I would very much like to hear his remarks, I must be about the people's business. If I could have some assurance that the Senator from West Virginia will not regale us with "Work, For the Night Is Coming," I shall certainly accede to what he has suggested.

Mr. ROBERT C. BYRD. Mr. President, I will not engage in singing "Work, For the Night Is Coming." I might recall "Almost Persuaded," or "Amazing Grace." But I assure the distinguished Senator that I shall not have anything to say or to sing with respect to the song which he had admonished me not to touch upon.

Mr. TOWER. I thank the majority leader.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

FLAG DAY, 1980

Mr. RANDOLPH. Mr. President, we will celebrate and observe Flag Day on June 14; that date is tomorrow for the year 1980.

The Senate will not be in session, but I hope that many Members of the House and Senate will have the opportunity to participate in programs on this memorable occasion. It is both historic and significant.

In my home State of West Virginia, in the highland country of Hampshire County and Hardy County nearby there will be a unique observance, but it will be one that has been going on for 47 or 48 years at Capon Springs and Farms. This is a lovely resort in a sylvan setting.

I just talked to a friend of mine a few minutes ago. He is recently returned from a visit there with his family. He said, "Where could I sit on the porch with my family, as I did in the evening, and see on the edge of the woodland one doe, two does, three does, four does go marching by?"

It is a place where the family is important—it is family style in the way the food is on the table. There are no radios there. There are no television sets. But there is a golf course, tennis courts, swimming pool, and fishing nearby.

As it happens every morning at sunrise there will be a flag raising. And at sunset the flag will be lowered. And it will be an event in which all of those who are guests, some in the main hotel area, and some in the surrounding cottages. will share,

Those families, those guests, many of will be a unique observance, but it will be participating.

I know how happy they are to do this. It is an instructional, inspirational exercise. Proprietor Ted Austin has a certificate presented to the children who take part. They carry back after the vacation or visit of 1 or 2 days, or maybe a week, to their homes the memory of is a ceremony not just on the 14th of this ceremony.

It has been my privilege to have flags that have been flown over the U.S. Capitol used through the years for this daily program.

The founder of this resort was Lew Austin, almost a half century ago. And now other members of his family carry on—led by Ted, his son. I feel that West Virginia—I say this in the presence of the majority leader, my colleague—is unique in many ways. Often we point not to our mountains of coal or our steel mills or our factories but we point to a lovely land, a beautiful area of this country. There are shining rivers, fertile valleys, and vast forests.

This resort needs no advertising. They do not advertise. You will never see an ad about Capon Springs and Farms. The people come and tell others about it and they come again.

I am recounting this this evening—I could have done it many times on the floor, but I wanted to do it on the eve of Flag Day—because tomorrow morning at sunrise the flag will be raised there. It is a ceremony not just on the 14th of June, it is something that is done each day.

I would not want to overstate the case when I say that there is a real importance about the symbolism of the flag. It is the strength of the flag. It is a unifying force. And I hope that people will not just raise flags in front of their houses or places of business, but will do so tomorrow with a feeling that they are raising the spirits once again of the American people. There should be a realization that we have not only a flag, but behind the flag is the family and the business unit and an America which is vibrant and vital and strong.

I remember visiting Norway, and all over that vast countryside I saw these beautiful flagpoles, painted flagpoles, kept colorfully adorned, flags atop them, the Norwegian banner waving. And as I left Norway, I thought: Here is a country that has maintained its history and heritage and unity not as a nation eager for conflict—that is not its record—but a nation of people and families and a government responsive to that which is good.

Mr. ROBERT C. BYRD. Hats off; the flag is passing by.

Mr. RANDOLPH. I hear my colleague saying "Hats off." I say to the majority leader (Mr. ROBERT C. BYRD) that I remember that as perhaps the first poem I was taught:

> Hats off!
> Along the street there comes
> A blare of bugles, a ruffle of drums,
> A flash of color beneath the sky;
> Hats off!
> The flag is passing by!

The able majority leader has suggested that I read in full "The Flag Goes By," a very famous poem. It was written by Henry Holcomb Bennett, whose lifespan was from 1863 to 1924.

Mr. President, I will take just this moment to read it.

> Hats off!
> Along the street there comes
> A blare of bugles, a ruffle of drums,
> A flash of color beneath the sky:
> Hats off!
> The flag is passing by!
> Blue and crimson and white it shines,
> Over the steel-tipped, ordered lines.
> Hats off!
> The colors before us fly;
> But more than the flag is passing by;
>
> Sea-fights and land-fights, grim and great,
> Fought to make and to save the State:
> Weary marches and sinking ships;
> Cheers of victory on dying lips;
>
> Days of plenty and years of peace;
> March of a strong land's swift increase;
> Equal justice, right and law,
> Stately honor and reverend awe;
>
> Sign of a nation, great and strong
> Toward her people from foreign wrong:
> Pride and glory and honor,—all
> Live in the colors to stand or fall.
>
> Hats off!
> Along the street there comes
> A blare of bugles, a ruffle of drums;
> And loyal hearts are beating high:
> Hats off!
> The flag is passing by!

Loyal hearts are needed now, as before, and will be needed in the future.

Mr. ROBERT C. BYRD. Mr. President, I want to thank, if I may, my distinguished senior colleague for having recited this poem by Henry H. Bennett, "The Flag Goes By."

The spirit of America that is embodied in that poem is the spirit which many of us who lived in the 1920's and in the 1930's can very well remember.

It was a time in our national life when patriotism was a virtue that touched every home.

In the little community where I lived in southern West Virginia, a coal mining community, there were people of many nationalities in that community, and some of my closest schoolmates were Hungarians and Italians.

I knew a little lad by the name of Manuel—it seems to me it was Manchini, but I am not sure—his name was Manuel. His parents were from Italy. I think of another named Dominick Martina, whose parents were Italian immigrants, and then I think of Andy Choka. Andy Choka, I believe, was Czechoslovakian, but I am not now sure. Andy went off to the war, World War II, and was killed. He was in my senior class in high school. He graduated with me in 1934—46 years ago.

There was Andrew Sloboda and Johnny Sloboda.

These were people of other nationalities. Their parents had come from European countries. There were people from Spain and England and Scotland. Mr. C. R. Stahl, I believe, was from Scotland. He was the general manager of the coal mining operation.

So this was a community of many nationalities and they were extremely patriotic people.

I can remember that poem. Back in those days—it seems to me as I look back—the flag meant more to the people than it means today, and that may be an exaggerated feeling on my part.

I often see young people, and elderly people, who still show reverence to the flag today. But back in those years, that poem seemed to arouse a feeling of pride and gratitude, reverence and awe—on the Fourth of July, on Flag Day, on Labor Day—on those occasions when there were parades and the flag was passing by.

I am glad my colleague has this afternoon recited this poem, that the people of other generations may see that the same patriotic pride is alive in the hearts of our countrymen in this age.

I have been somewhat disconcerted and confounded and concerned to hear in recent days people who have said that, because the Congress has passed legislation calling for the registration of young men, we may be creating a generation of "felons," that the jails will not be large enough or numerous enough to hold these "felons" who will be created by virtue of military registration legislation.

I have wondered in sadness at this theory that is being expressed. I heard it on television last night expressed by someone, and I felt saddened by it—the suggestion that young people of our country today would rather become felons than go to the local post offices and fill out a form stating their name, their age, their address, their telephone number.

My, what a little thing to do for the privilege of living in the United States of America.

I have been in many countries and I have never found one that I would want to exchange for the United States of America. I have been in the Soviet Union. I have been in the People's Republic of China.

I simply cannot understand this philosophy that seems to encourage the youth of our country to rebel against the law. This is a law-abiding country. I prefer to believe that the great majority of our young people are law-abiding young people; that they will want to abide by the law; that by going to the post office and supplying the information that is required, they will want to indicate their pride that this is a country in which they can enjoy the freedoms that are denied to so many people around the world.

I know a young man who came to this country from Iran, the old Biblical country of Persia. He came here a good many years ago. At some point, he had to learn the English language. He left his own land and own family and his friends, his fireside, his native tongue, and came to a strange land. He came to this country and he worked his way through college. He received his bachelor of arts degree. But he was not satisfied. He went on. He received his master's degree. He was not satisfied. He went on. He received his doctorate—not in political science—but in nuclear physics. But he was not satisfied.

A few weeks after he had received his doctorate, he became an American citizen. He did not go back to Iran. They are not going in that direction. They are coming in this direction.

I was in Turkey a few years ago and went into a barbershop. Through an interpreter, all the barber wanted to talk to me about was how he could come to America, how he could get to America.

I knew an old gentleman down in Raleigh County, W. Va., who passed away a couple of years ago. His name was Nick Rahall. He was the grandfather of Representative RAHALL, who today represents that district in West Virginia.

I can recall that when I was a boy, Representative RAHALL's grandfather traveled down through my community and other communities—Stotesbury, McAlpin, Tams, Helen, Amigo—walking from Beckley, carrying on his back a sack; and in that sack were laces and linens from Lebanon.

This old gentleman came to this country from Lebanon, and he was what we called a "pack peddler." He went up and down the roads, peddling laces and linens, sleeping out in the barns or wherever he could find a place at night. He died recently at the age of 92. Before he died, he owned a radio station in Beckley, a ladies' wearing apparel shop, a hotel in Beckley, a television station in St. Petersburg, Fla., radio stations in Pennsylvania and other States.

Here was the epitome of the American dream fulfilled, a man who had come to this country, who had left his native land, who loved this country, who gave his sons and daughters, and paid his taxes and helped to build this country.

Well, I have told the story of Nick Rahall, and I have told the story of Mohammad Fatemi. Why do I tell the story of Mohammad Fatemi? He is the Iranian who came to this country, worked his way through college, received his doctorate in nuclear physics, and became an American citizen. I tell the story of Mohammad not so much because he is the father of three of my grandsons—he married my older daughter. I am exceedingly proud of him, exceedingly proud of this young man. I never meet him that he does not carry a smile. I have never seen him angry. There is not anything he cannot do. He is a wonderful example of a man and a wonderful example of an American.

He typifies what can be done—what can be done—in this country and under this system, if one only has the ambition and the drive and the will to work, to achieve one's goal. So this is the country we are talking about.

Incidentally, he is one of the Iranians in this country who does not agree with what is going on in Iran—does not agree with what is going on.

Mr. President, it saddens my heart that we have those who say that the young people of this country will rebel; that they will not go down to the post office and fill out a simple form, putting down their name, their address, their age, and telephone number. What a little thing to do for all the privileges that are ours, for all the rights that are ours—ours not even for the asking; the opportunities that are ours, that have been handed to us by those who in the past have given of their lives and their fortunes and their sacred honor, that we might enjoy the blessings of this great United States of America.

No, Mr. President, I prefer to believe that the youth of this country is still as red blooded, still as patriotic, still as law abiding as those of us of an older generation. I hope they will listen to the voices of those who believe in them and who believe that they, too, cherish the freedoms that are represented in the red, the white, and the blue of the flag when it goes passing by.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. I do not want my colleague from West Virginia to stop, because the eloquence and the meaning of his words are very valuable. They will be a part of the RECORD, for all to read. Those who are in this Chamber will remember his words, as I will.

When you were speaking of Representative RAHALL, a young man from West Virginia, now in the House of Representatives, and telling of his family, I was thinking of the hometown in which I live, Elkins, W. Va., to which another pack peddler came long ago. His nationality was different; his name was Goldberg. He had a pack on his shoulders.

Recently I was speaking with his grandson, Marshall "Biggie" Goldberg—all-American football player, University of Pittsburgh, successful now in business in Chicago. He had come back, as he often does, to West Virginia. His is a story that is repeated many, many times. Here we do have two outstanding instances in West Virginia of these granddads with packs on their backs, and from their earlier labors and beliefs and faith came generations of leaders.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I like your emphasis on this generation. You do not believe it is going to falter, and I do not believe it will falter, in the discharge of the duty to register—a program to assess the strengths we have in young men 19 and 20.

This final thought: I read and reread the words of George Washington in his farewell address—never spoken, but written—in which our first Commander in Chief, our first President, wrote these words:

> Citizens, by birth or choice of a common country, that country has a right to concentrate your affection.

The meaning of the word "affection" is used as it was in those days to define a commitment to the country, a belief in the country, and a faith in the country.

Flag Day is a time to renew that "affection."

Hopefully what we have discussed here may encourage our youth to understand the contributions they shall make in the years ahead.

I thank my colleague.

Mr. ROBERT C. BYRD. I thank my colleague. I do not wish to keep my friend from New York waiting longer than a minute.

Mr. President, I have a grandson who is 15 years old. He is 6 feet 3 inches tall, weighs 250 pounds, 15 years of age, a beautiful example of manhood.

I do not have the slightest thought that he or any of the other three grandsons will ever resent having to go down to the post office to fill out that form. They will not rebel at this law.

May I say to my friend from New York, we have a little community in West Virginia, in the northern panhandle, named Weirton. It is a steel town, a steel manufacturing community, and in that community I have heard that there are 56, 58, or 60 different nationalities.

Let me say to the Senator there are probably 40 or 50 million people in this country whose parents are from other countries. There are millions, millions of Americans whose parents came from Italy, Greece, Turkey, Germany, France, Scotland, England, Ireland, Wales, Norway, Sweden, Finland, Russia, Poland, Hungary, Czechoslovakia, Latvia, the Middle East, and other countries of the world.

They will not run this country down and they will not sit still and hear others run this country down.

Sometimes, I think that those of us who were born here are the people most likely to take this country and its blessings for granted.

So I salute again my friend, my senior colleague, Senator RANDOLPH, for having spoken on this subject today—tomorrow being Flag Day—and I appreciate the fact that he has read into the RECORD the poem that I think all Senators will want to read again.

I thank my friend, Mr. MOYNIHAN, for his patience in waiting, and I shall now take my seat and yield the floor to him.

The PRESIDING OFFICER (Mr. TSONGAS). The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish to thank the majority leader for the opportunity to hear an extraordinarily moving address, faithful to his career and his principles.

I learned with some trepidation that his son-in-law is a nuclear physicist and that is an advantage over the rest of us of which we only now are apprised. But it is nothing, if not the majority leader, to hold strength in reserve for unanticipated occasions.

NUCLEAR FUEL TO INDIA

Mr. MOYNIHAN. Mr. President, I will take this brief opportunity, if I may, to speak to a related question and call the attention of the Senate to an article of unusual cogency and relevancy which appeared in the Washington Post of this morning, Friday, June 13, by the Honorable McGeorge Bundy, entitled "Ship the Fuel to India." I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHIP THE FUEL TO INDIA

The debate over shipments of nuclear fuel to India is one with good guys on both sides, which is refreshing in itself. This is not a contest between the children of light and the children of darkness; the central question is simply whether the general purpose of encouraging nuclear restraint in the world will be served better by shipping the fuel or not. With all respect for the excellent intentions of those who are against the shipments, I submit that they are wrong on the merits. Failure to allow these shipments will predictably serve all the forces already working against nuclear restraint in India—it will be a self-inflicted wound for the general cause of nonproliferation.

To understand this reality, it is necessary only to consider this matter as it looks to Indians. To them, the starting point is the 1963 Agreement for Cooperation between our two countries. That agreement, in their view, can be changed only with the consent of both sides, and it is not superseded by our Nuclear Nonproliferation Act of 1978. Moreover, they have lawyers to defend this view, just as the Nuclear Regulatory Commission and many in Congress have lawyers for the opposite position. That is not surprising, because the intersection between international agreements and national statutes is a natural habitat for legal dispute. On the naked merits, there is room for both legal and political sympathy with each side.

But what will decide the effects of this affair in India is what Indians think. And what they will think, if shipments are ended, is that the United States has broken its word as part of a process of pressure to which no self-respecting nation can submit—and Indians have at least an average amount of self-respect. They will then declare that our action has ended the 1963 agreement. This position will be unchallengeable in India and widely supported abroad. The Indian government will then feel free, as it does not today, to make any use it likes of the ton and a half of plutonium it can get from the fuel we have already supplied. This freedom might or might not be used to make weapons, but the end of all external restraint on the use of the Tarapur plutonium is the inescapable political consequence of any American decision to end shipments.

The Tarapur plutonium would be enough to make at least a hundred fission weapons of uncertain but utterly non-trivial yield. It can also be reprocessed as an alternative source of reactor fuel, thus setting an example to the world that we could hardly cheer. I find it hard to see how opening the door to such results would be good for the general cause of nonproliferation.

Nor should we suppose that the stiff position taken by India on this question is a matter of bluff, or the result of some special pride in Indira Gandhi. The Indian stand has been essentially the same under both Morarji Desai and Gandhi, for the excellent reason that any other position would be regarded as outrageous by Indian public opinion. (That countries with free elections often respond to such public sentiment will surely not surprise inhabitants of Washington.)

And the Indians are not bluffing, because there is no longer any American monopoly on the kind of nuclear fuel Tarapur consumes. The likeliest alternate supplier is the Soviet Union; would such a switch be a gain for the good cause?

For reasons unknown to me, the administration has spoken softly on this matter, but its position is correct, and it is not the result of any shallow desertion of nonproliferation in deference to geopolitical crisis. It is the cause of nonproliferation itself that should persuade us not to kill the 1963 agreement.

That agreement is not perfect: it bears the birthmarks of the excessive enthusiasm for nuclear sales abroad that was prevalent in the administration of that time—nostra culpra. But it is vastly better than nothing, and India has respected it; the Indian explosion did not come from Tarapur.

If we end the shipments, the agreement too will end. We should avoid that result, even at the price of some understandable disappointment over the difficulty of exporting virtue by statute.

Mr. MOYNIHAN. I thank the Chair. I think that the President will agree that the argument speaks for itself. It is addressed to a decision the United States must make, and in which this Senate must participate—a decision whether or not to grant two shipments of nuclear fuel to India for the Tarapur reactor outside of Bombay, which requires us to consider whether this is conformable to the Nuclear Nonproliferation Act of 1978.

Mr. President, Mr. Bundy's argument comes with special authority as he was the national security adviser to the President when the Tarapur Agreement, as we refer to it, of 1963 was reached. With this arrangement, the United States undertook, principally through the General Electric Co., to build these reactors and to provide 30 years of fuel to them. This is a contract which the Government of India regards as no less than a formal undertaking between the two countries.

Mr. Bundy notes that the agreement was not perfect, and that it bore the birthmarks of excessive enthusiasm for nuclear sales abroad prevalent in his administration, and, at a much lesser level as Assistant Secretary of Labor, in my administration also.

On the other hand, the agreements have been kept. It so happened that I was the U.S. Ambassador to India at the time, in 1974, that the Indians exploded a nuclear device in the Rajasthan Desert. This was an event that came not as a surprise to the American Government, so much as a profound disappointment which we did not then and have not now attempted to conceal.

On the other hand, it was not one which to my knowledge involved the Tarapur reactor or the diversion in any way of elements from that reactor.

I wish to make three points that follow from the article by Mr. Bundy, which suggest not so much the desirability of the course which the President has proposed which is, namely, to ship the fuel, but rather the limitations on American options in this regard. These are limitations which go to the whole question of our nonproliferation policy and which to my mind frankly raise the question of whether it can effectively be applied to a nation such as India, a nation of that size and of that technological condition.

I have several times made the point, in an attempt to dispel a very common illusion, that India is not an underdeveloped country. It is simply a poor country. It has the third largest work force of scientists and technologists in the world. It is far more advanced in this respect, for example, than the People's Republic of China. To expect it to live under prohibitions and constraints which smaller and less-developed and less-needful countries might accept it to expect that which I think will not happen.

In particular, it will not happen in the aftermath of the OPEC price increases which, as I had occasion to observe in a commencement address at Stanford University in 1975, had as their inevitable consequence the spread of nuclear power and, hence, the potential of plutonium throughout the world.

Nuclear power did not become economic until the price of oil suddenly quadrupled, quintupled, and then rose tenfold in price all over the world. Nations which would never in this century have contemplated the expenditure of resources to produce nuclear fuel were driven to it, and a generation in which we might have hoped to establish a regime of restraints in these matters was lost to us. It was lost to us by those acts, and certainly it was lost to India in a way that was even more compelling because the capacity to proceed was present and in place on the ground.

The degree to which that exigency now exists may be measured by the fact that India has recently concluded an agreement with the Soviet Union to export half a million tons of rice in return for crude oil. There are not enormous food pressures in India at this time, but neither is there any great affluence of food. They are selling food to the Russians in return for crude oil, but they can go just so long before the alternative of nuclear power is an overwhelming necessity.

I would make, Mr. President, three points on the limitations on our actions, which lead me to think the President has made the right decision: In the first place, to make the shipments now would in no way increase the weapons capacity of the Indian Government. The shipments will simply be added to an existing stockpile. Much more importantly, the Indians have the complete option either to recycle the spent fuel at Tarapur into new fuel through the plutonium cycle or to take the plutonium and turn it into weapons manufacture.

They have made it clear that if we cease to make the agreed-upon deliveries, they will consider that their part of the contract to give the United States the first opinion to withdraw that spent fuel would be canceled. They would have that option, and they would feel altogether within their rights to exercise it.

One can say without any hesitation what the response of the Government of India would be. They have made that point clear.

A second point would be that should she decide to take the spent fuel and turn it into a fresh supply, we would have begun what, in the language of nuclear engineering, is called thermal recycling. This is something which we have been extremely hesitant to see happen. We have been extremely apprehensive that this would begin around the world; to wit, the decision to take the spent fuel rods, recycle them and produce plutonium, and through that cycle produce more fuel. It is what we have feared would happen. It has not begun. It would commence in India.

Finally, and again inexorably in the nature of those relations, should the United States decide not to provide this fuel it is clear that the Soviets would do so. The Soviets now have this capacity which they did not have in 1963 and, what is more important, they are prepared to do so at a lower cost such that the Indians would in fact be getting their fuel cheaper than they would now do. This is hardly a disincentive.

With respect to the legal arguments, clearly they are to be made both ways. I would wish to have the majority leader as my attorney on whichever side I was on, and especially now that I know more about his son-in-law, Dr. Fatemi.

In sum, Mr. President, we are acting in a situation where our options are very limited. I would like to make two larger points: The first is that the U.S. Government and this administration have got to be much more careful than, it seems to me, they have been in the way they respond to the new period of world politics which commenced with this decade and the Soviet invasion of Afghanistan. This is the administration which, after all, made a great deal, more than any others of a point of its concern with democratic values and its picking and choosing among other nations. It has been applauded and supported in this. But it is a profound irony that in response to the Soviet invasion of Afghanistan, it appears that the United States is moving steadily into a military alliance with the world's most populous totalitarian power, the People's Republic of China.

Within months the National Security Adviser was in Peking talking about parallel military arrangements; and these matters proceed. We are aligning and associating ourselves, in military terms, with the most populous totalitarian power and, if I might say, because of the degree of state control in large areas, the most totalitarian power.

It seems to me that there is no state of its size in which state control is as absolute as it is in China.

If you wished to see evil in a political arrangement, that evil is concentrated in the People's Republic of China even more certainly than in the Soviet Union. I do not insist upon the definition, I simply point to it.

Simultaneously, we are allowing the world's most populous democratic society to move into a yet closer military alliance with the Soviet Union. This makes for what, in experiments conducted in college laboratories on white mice, is known as conduct of dissidence.

If, in the name of defending democratic values, we line up with the most totalitarian power and let the largest democratic power line up with the second most totalitarian power, then things get a little confused. But this is exactly what this administration is doing out of a seeming incapacity to think in strategic terms and to think in terms of what will be said of the 20th century as against what will be reported in the weekend press.

As for the Indians, they have created their own difficulties. At the time that they exploded the device in the Rajasthan Desert, I had occasion to call upon the Government of India as a representative of our Government. I said to them that it was too late to speak of the test and, perhaps, to no great point to do so; but, on the other hand, they would do well to hear what we would advise them before they did again what they had done. We would have advised them at the time, until the bomb went off, that they were unquestioned masters of South Asia. No nation in this generation, in this century, or in centuries conceivably to come, can challenge the overwhelming authority of the Republic of India. Their neighbors are completely dependent upon them for trade, for security, and for their own independence.

But having let that nuclear genie out of the bottle in that subcontinent where the image comes from, they could not put it back. Because nuclear weapons are the great equalizers of this generation. They are to our times and our nations what the flintlock, the matchlock, the rifle, the smooth bore gun, was to feudalism and the difference between peasant and knight. The knight in his armor was overwhelmingly the superior of the peasant with his halberd, but not the peasant with his gun; and I said that day, that that was the end of feudalism and the end of the whole social system.

I said the day would come when mighty India would look up and find a mogul general in command in Islamabad who would report to them that he had four nuclear weapons and that he proposed to use them on New Delhi, on Bombay, on Madras, and Calcutta, unless Punjab and Kasmir were returned to the Islamic nation. If the Indians chose not to comply, the bombs would be dropped and they would all meet in heaven the next day. Suddenly Pakistan and India would be equals. That is precisely what is happening.

The Indian Government is counting not the years, but the months, until Pakistan has a weapon of its own. Suddenly stability becomes profound instability; and this will be experienced all over the world. It will be our experience because these weapons equalize as no other phenomenon has done since the introduction of gunpower; the introduction of gunpower overthrew the dominance of the man and the horse, the mahout, the caballero, the chevalier, and what you will. There is no way to change that.

There is no way to change this. But it is perhaps not an appropriate time to call attention to it.

Even so, and to conclude, it seems to me that the President and his advisers have made the right decision; and, as much as I completely sympathize with the concerns of the senior Senator from Ohio in this matter, I would like to offer my thought that the balance of reluctant prudence comes down where McGeorge Bundy came down today. I would like to say, without attributing any personal views to him, that it is my understanding that this judgment is shared in the administration by Ambassador Gerald C. Smith, and that this is a fact which ought to command the attention and respect, as I know it does, of all Members of this body.

I thank the Chair for the courtesy in providing me this time and I thank the majority leader.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Massachusetts, thanks the Senator from New York for his history lesson.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SIR JOHN WILSON IN PRAISE OF DR. MAUMENEE AND THE WILMER INSTITUTE

Mr. MATHIAS. Mr. President, on April 30 a wonderful event took place at the new convention center in Baltimore. It was a dinner in honor of one of Baltimore's truly outstanding citizens, Dr. A. Edward Maumenee, and attended by civic leaders from all over the State, including Baltimore's Mayor William Donald Schaefer.

Dr. Maumenee is professor of ophthalmology and director of the Wilmer Institute of the Johns Hopkins Hospital and the dinner, in addition to honoring him for his tremendous contributions in the fight against blindness, also marked the inauguration of the new center, including a department of international ophthalmology, at the Wilmer Institute.

The highlight of this celebration was the speech given by Sir John Wilson, president of the International Agency for the Prevention of Blindness, who is himself blind.

John La Farge, the 19th century American artist, once observed that:

> The prophet of despair gains a shouting audience. But one who speaks from hope will be heard long after the noise dies down.

That night in Baltimore, Sir John Wilson spoke from hope and for those of us who were fortunate enough to be there it was an inspiring evening and one that will echo in our memories.

Sir John's talk was so extraordinary and so moving that I have had a tape of it transcribed in order to put it in the Congressional Record where it will receive the wide circulation it most surely deserves. I commend it to my colleagues' attention.

In particular, as we struggle over increasingly heavy problems with increasingly heavy hearts, I commend these words from Sir John's talk:

> The story of this great institution seems to me to be such a characteristic American story—the impatient, forward thrust of technology in your research. . . . (T) his is such a new world ideal, such an American ideal, that eventually there need be no physical fact beyond the comprehension of an informed intellect, the faith that science is for healing, that communication is for understanding.
>
> And, particularly at this rather disenchanting time, don't falter in that ideal here in America. We need the confidence, the integrity, the optimism of your country because it is part of the hope of the world.

As we go about our business in this great deliberative body, it is important for us to remind ourselves that we are "part of the hope of the world" and to make decisions with that in mind.

I ask unanimous consent that the full text of Sir John Wilson's talk at the banquet in honor of A. Edward Maumenee and the Wilmer Institute be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Sir John Wilson

Mr. Mayor, that is a most moving thing. May I say that it quite squares off that Boston Tea Party. Ed, you and I a long time ago agreed that there's no evidence that flattery does anybody any harm unless you inhale. I'd like to say how much I appreciated the way in which my old friend Bill Connor whistled the meeting to a start. It must be a remnant of a very misspent youth.

The last time that Jean and I had the pleasure of being at a public occasion with Ed Maumenee—he was the occasion and we were the public—was mid-April in Westminster Abbey. Spring sunshine—we do occasionally get it in London—was warming through the great east window. The State trumpeters, poised heraldically like the candelabra, were going through that extraordinary inflation routine which they always do before sounding the royal salute. And down the central aisle there came a great procession of scientists and academics, wearing the plumage and regalia of the world's universities and, appropriately, toward the head of that procession, representing opthalmologists of America and the world, walked Dr. Maumenee.

It was a great and memorable occasion and the bells of London were ringing and, as that robed and hooded procession went past in that ceremonial fragrance of incense and mothballs (I only hope that mothball meant the same thing in American as it does in English) anyway I asked Jean what was the color of the John Hopkins gown which Ed was wearing so proudly. And she said she hadn't noticed, she only saw his smile And, you know, that is one of the attributes I'd like to honor about Ed Maumenee, the very rare ability, and it's a very American characteristic, in the middle of the pomp and protocol of a great occasion, to represent with pride the integrity of a great academic tradition, and yet to do it with casualness and with an extraordinary outreach of warm contact.

A couple of months ago, we spent a week together, Ed and I, in a place in West Africa with the extraordinary and improbable name of Ouagadougo. It was a depressing, impoverished city; a grubby hotel, oven temperature, zero humidity, which, as Ed said over breakfast one morning, must be why his shower had neither a curtain nor a water outlet.

But it was a very important occasion, a meeting of the World Health Committee which reviews the World Health Organization's global program for the prevention of blindness—a program to which Ed Maumenee has made a unique contribution. We are meeting there so that we could go to a village where, in the past three years, not a single child has gone blind. Now that may sound pretty ordinary here at Wilmer, here in Baltimore, but we were in West Africa's country of the blind, where from immemorial times the lives of whole communities have been darkened by the menace of river blindness. By contrast, in the other villages which haven't yet been covered by the Oncho Cerciasis control program, 20 percent of the children are already on their way to blindness.

The night before we went there, to that village, we had supper together in a convent built on the desert sand and we talked about how years earlier Ed, against a good deal of professional skepticism, had persuaded the World Bank to finance this program which is now bringing sight and hope to untold multitudes in West Africa. I talked about those villages and a blind farmer I knew there who taught me how to plant grain along a straight of bamboo and a woman, who Jean knows, whom a hemp root helps to find her way to the well. And Ed said such a characteristic thing. He said, "How I wish Rennie and the kids could be here to go with us to that village tomorrow." And, you know, that's another thing I would honor about Ed Maumenee—his power to conceive a global strategy which will affect the lives of millions of people and yet to see it not in terms of an abstract manipulated statistical mass, but in terms of real people—that stricken family of the blind in that village, his own family, here in Baltimore.

Some years earlier, Ed and Arnold and others in this room went to Jerusalem, a convention which first conceived the possibility of a global strategy for the prevention of blindness. I remember—and I'm sure you do Ed—a very long night in King David Hotel over a duty-free bottle of Scotch. Ed and I worked on a document which declared that if we could mobilize the priority, the resources, the political will, and the multi-disciplinary vision, then we certainly now had the technology capable, by the end perhaps of this century, of controlling the major causes of blindness throughout the developing world.

In the intervening years, at many conferences which Ed has influenced, which he has dominated intellectually and, in the best sense, politically, that aspiration has come to reality. The prevention of blindness is now a global priority of the world Health Organization. Intergovernmental programs are in operation in Africa, Asia, the Middle East and Latin America. National programs are in operation or preparation in 45 countries which together cover three-fifths of the population of the developing world. And, if you'll allow a commercial for my country's flagging exports, may I say that just showed what a good man could do on a bottle of Scotch.

Early the next morning, Ed and I shared a taxi to the airport. Whether it was the inspiration of that conference or the incomparable freshness of the Israeli Dawn, I was thinking Song of Solomon—"the time of the singing of birds has come and the voice of the turtle is heard in the land." And Ed said, yes, they had just that same sort of environmental problem in Mobile, Alabama, where he came from. But there it was the buzzards. Apparently they fly high overhead and have the most unpredictable habits. And that was another thing which Ed taught me. In many a hassle we've had with defeatist scientists and bureaucrats, he's convinced me that those buzzards really can never win.

Now, in my judgment, Donald, you didn't invite me here to abuse Ed Maumenee and the Wilmer Institute and, even if you had, I wouldn't have made a very good job of it because Ed is one of our favorite humans. But Elizabeth Barrett Browning said or, if she didn't she should have, that "Good Men turn from praise." And so let me, Ed, shift the emphasis from you as an individual to the great institution which you've served with such distinction, with such loyalty and with such love—Wilmer, this unique center of excellence in visual research and ophthalmic training, which with its new initiative, this new center, this new research and international center, is reaching out to a breathtaking opportunity: the aim literally to control the major causes of the world's blindness.

You know blind people often are astonished how casually seeing people accept the miracle of light. Often, in the past few years with the World Health Organization, we have tried in our publicity to capture the elemental meaning of sight—the creation story of that first pulse of light in primordial darkness.

And then the parallel miracle of perception of light, the first glimmer of a light-sensing mollusk to the full blaze and color of human being, bringing understanding.

skill, grace, beauty, power, mastery. We've never managed quite to express that.

But a few weeks ago I was in a hospital. A young boy had been practically blind from childhood. After I was there just at the point of the operation which restored his sight, he literally staggered at the first shock of light and he reached out his fingers to grasp a handful of it. From the earliest times, philosophers and scientists have speculated about sight and doctors have sought to preserve it. I wonder if you remember, Ed, when we had that meeting in Baghdad and we went to the ancient Chaldean temple? Carved on the wall of that temple was a 3,000-year-old enactment: "a dotcor who operates on the eyes of a nobleman, if he saves the sight, shall be rewarded with a great sum of gold but, if he destroys a good eye, then the surgeon's hands shall be cut off." I must say that must be a very powerful way of maintaining motivation and standards in the affirmative profession. But it's only in very recent years that opthalmology has achieved mastery. And that advance is forever associated with the name of Wilmer.

The story of this great institution seems to me to be such a characteristic American story—the impatient, forward thrust of technology in your research. Dr. Chen and I were talking about that over lunch earlier today, and how this is such a new world ideal, such an American ideal, that eventually there need be no physical fact beyond the comprehension of an informed intellect, the faith that science is for healing, that communication is for understanding. And, particularly at this rather disenchanting time, don't falter in that ideal here in America. We need the confidence, the integrity, the optimism of your country because it is part of the hope of the world.

Research is forever and that is something in these days of perishable values and perishable institutions. When Arnall Patz penetrated the secrets of retrolental fibroplasia, when Dr. Friedenwald worked on glaucoma, when Al Sommer demonstrates the biochemistry of xerophthalmia, when Carl Kupfer and his researchers, and René Maumenee unravel the strands of hereditary eye disease, when that happen, the potential of every surgeon forever is enhanced and every family is more secure. If you wish for immortality, then don't build yourself a marble pyramid, build instead a research center, or endow a research chair, preferably at Wilmer.

Mr. MATHIAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES SENATE

Mr. ROBERT C. BYRD. Mr. President, I apologize to the Chair and to other Senators who may be kept waiting at this late hour. I have been speaking now for a period of several weeks on the subject of the United States Senate. During this week I have not had an opportunity to continue with my series of statements—eleven, thus far—because of the night sessions and the long days with rollcall votes.

So, it is at this hour of 5:30 p.m. on Friday the 13th that I make the twelfth speech on the United States Senate.

The duties of a United States Senator are very demanding, from multiple committee and subcommittee assignments, legislative planning, and constituent services. We cannot do everything by ourselves. Senators have their own office staffs to assist them, and committees also employ professional staffs to assure the efficient operation of committee business. But there is another body of Senate employees who are less known by those outside this chamber, but whose services are vital to the legislative process.

Some of these people are seated before us today on the dais below the presiding officer. These are the journal clerk, the legislative clerk, and the parliamentarian. Also here beside me is a reporter of debate taking down my words as I speak for publication tomorrow in the daily CONGRESSIONAL RECORD.

While each of these staff members performs a very different task, each is under the supervision of the Secretary of the Senate, and it is about the Secretary of the Senate and his myriad of responsibilities that I wish to speak today.

The Secretary of the Senate is one of the Senate's five elected officers, the others being the Sergeant at Arms—about whom I spoke last week and the week previous thereto—chaplain, and majority and minority secretaries. The Secretary holds a most demanding position, for he is not only in charge of hiring and supervising the various clerks and reporters in this chamber, but he also oversees our Senate document room, where recent bills, resolutions, and other documents are stored for distribution; he oversees the Senate stationery room, which supplies our offices with necessary equipment; he oversees the Senate library, curator, and historian's offices, and even the Senate disbursing office, which provides us with our pay checks. The Senate places much trust in its Secretary. He is charged with such diverse functions as supervising the education of our pages, registering all lobbyists, and seeing to the transfer of our historically valuable documents to the National Archives once their legislative function is no longer pending. The Secretary compiles a semiannual report on the salaries, expenses, and other financial transactions of the Senate to make sure this important information is quickly and fully available to the public. Under the Federal Election Campaign Act, the Secretary is an ex-officio member of the Federal Election Commission. All candidates for the Senate must file financial reports through his office detailing their political contributions, their political expenditures, and sources of income. The Secretary also serves as executive secretary to the Commission on Art and Antiquities, which oversees preservation of the Senate's collection of paintings, furniture, and other artifacts.

The Senate would have a most difficult time operating without a Secretary, and the post goes back to the very first days of Congressional history—indeed, to the days before the establishment of the Congress of the United States.

The Senate inherited the position of Secretary from the Continental Congress, which served as our national legislature from 1774 until 1789—from before the Declaration of Independence until the Constitution was adopted. There was no President, nor any Executive Branch of Government during those years, so the equivalent of today's Cabinet secretaries reported to the Congress. First among the secretaries, ranking just behind the Members of Congress, was the Secretary of the Congress. This post was filled by one man during the entire history of the Continental Congress: Charles Thomson of Philadelphia, an Irish immigrant, businessman, politician, and classical scholar—a truly remarkable man.

Thomson sat to the right of the President of the Congress where he oversaw the keeping of the Journal and its printing and distribution, took the roll, made special reports to Congress, and even occasionally served on its committees. He also kept the Seal of the Congress and placed it upon all official documents (it was Thomson who designed the Great Seal of the United States). Thomson received all public and secret documents of the Congress.

Remember, we are not talking now about our bicameral Congress under the Constitution. We are talking about the Congress that existed before the Constitution was ratified. It was a unicameral body.

Thomson filed, transmitted, and protected these documents as the Congress moved from city to city, first to evade the British armies and then to find the most hospitable environment for its work.

With the ratification in 1789 of our current Constitution, Americans replaced the government under the Articles of Confederation with a new three-part Federal system. The functions of the old unicameral Congress became divided into an Executive Branch, a Judicial Branch, and a two-house Legislative Branch.

Each house of the new Congress established a post similar to that which Thomson held: the Clerk of the House of Representatives, and the Secretary of the Senate. On April 8, 1789, two days after the United States Senate formally convened—because of bad weather and poor road conditions, it took over a month to establish a quorum—the Senate elected its first Secretary, Samuel Allyne Otis of Massachusetts.

The new Secretary was responsible for keeping the Senate's legislative journal, as the Constitution required in Article 1, Section 5. At each session, he took the minutes in his own hand (this was in the days before shorthand was perfected, so we have no verbatim accounts of those early proceedings). The Secretary's rough journal was then read to the Senate for corrections before the clerks copied it into a "smooth journal" which Otis would deliver to the printers.

The Secretary also became the Senate's business manager. Otis purchased the ink, quills, parchment, and other supplies that the new Senators required. He handled the disbursement of salaries and travel allowances to the Senate and its staff at a time when Senators received $6.00 for each day they were present in the chamber. Six dollars for each day they were present in the chamber! After the Senate completed work on a piece of legislation, the Secretary personally would carry the bill to the House. He was further entrusted with receiving and transmitting all Presidential messages and vetoes.

I recently read a very interesting book entitled "Journal of William Maclay, United States Senator from Pennsylvania, 1789–1791."

This is a book that was edited by Edgar S. Maclay and published in 1890. Senator Maclay's notes are one of the very few sources of information as to the events that occurred in the Senate during that First Congress. He wrote these notes, apparently, without intention or knowledge that they would ever be printed or made public, so his perceptions of his colleagues and of the officers of the Senate were extremely candid. They reflected Maclay's own very personal opinions and were quite acid in many instances and were not at all complimentary in several instances. He must have been an extremely honest, upstanding man of sterling integrity.

As I have read the book, it seemed to me that Maclay was an individual whose integrity and honesty were beyond reproach. He seemed to have great confidence in his own ability—and he was a man of no mean ability. He had faith in himself and, apparently, had a very high estimation of himself—but not a high estimation of most others. He mistrusted the motives of his colleagues, as I shall demonstrate in future dissertations.

From time to time, he commented on Otis, the Secretary of the Senate, among others, of course. In later days, I repeat, I shall have more to say about Senator Maclay's reflections on his own colleague, Senator Morris from Pennsylvania, and other colleagues. But today, as I discuss the office of the Secretary of the Senate, I wish to quote from Maclay's Journal a few sentences—here and there—which bear upon Maclay's perceptions concerning Otis, the then Secretary of the Senate.

Maclay would comment from time to time with respect to Otis's inaccuracy in writing the minutes of the Journal. For example, from page 2 of Maclay's Journal, I quote. The date was April 25, 1789, a Saturday.

> Attended the House. Ceremonies, endless ceremonies, the whole business of the day. I did not embark warmly this day. Otis, our Secretary, makes a most miserable hand at it. The grossest mistakes made on our minutes, and it cost us an hour or two to rectify them. I was up as often I believe as was necessary, and certainly threw so much light on two subjects that the debate ended on each.

On page 22, Mr. Maclay wrote as follows:

> Attended a joint committee on the papers of the old Congress. Made progress in the business. Agreed to meet at half-past ten on Monday and report. Senate formed. The Secretary, as usual, had made some mistakes, which were rectified.

On page 25, I find these words. The date was May 9:

> Senate formed. It took a long time to correct the minutes. Otis keeps them miserably.

On page 135, under the date of August 26, 1789:

> Attended the Senate. The minutes were lengthy, but I was surprised to find no notice taken of my presenting the draft of Lancaster, the letter and my nomination of the other places in Pennsylvania, although I had put in writing the whole matter and given it to the Secretary. When he had read about half-way of his minutes, I rose and called on him to know why he had not inserted them. He said he was not come to them, but seemed much confused. He, however, got the letter and handed it to the Vice-President and it was read.

On page 143 of Maclay's Journal, he wrote again on August 29, 1789, about Otis:

> I know what a wretch Otis is. I therefore called on him to see how he had made up the minutes of yesterday on the three sets of yeas and nays. All was right. I thought this necessary.

Continuing on pages 143 and 144 under date of August 31:

> After what had passed with Otis, notwithstanding I before knew him to be a villain, I scarce could suspect him of practicing anything now. When [in reading the minutes] he came to the motion, however, he read it, "That the pay of the Senators should be five dollars and that the pay of the Representatives should be six." I heard him with astonishment, but there was no time to be lost. I moved the necessary alteration and had it inserted. Izard attempted to support the Secretary. I stayed awhile, but found myself too sick to attend. I came out of a window and found Otis in the corner room. I called on him to explain this business. He hummed, hawed; said his memory was bad. I put him in mind of my having called on him Saturday, and that it then stood right. I made him, however, copy it on a piece of paper. He said it was so in the other book; went to fetch it, but did not return.

Mr. PRYOR. Mr. President, I wonder if the majority leader would be so kind as to yield to me for just a moment.

Mr. ROBERT C. BYRD. Yes, I am glad to yield to the able Senator from Arkansas.

Mr. PRYOR. Mr. President, I was, a moment ago, sitting in my office and I was listening to the majority leader's remarks. I was, once again, struck with the insight which this man has about the history of this great institution, the United States Senate. I think on six or seven, or maybe even 10 occasions, Mr. President, the majority leader has taken to the floor and has enunciated—articulated, I guess I should say—some of the most profound historical moments in the history of this great body and has truly brought to our attention and brought to life some of those aspects of our history that certainly have made this institution and this body and even this United States Congress the greatest of all legislative bodies of all times.

Mr. President, I want to say as one Member of the United States Senate how very much I appreciate what the majority leader has done, the time and energies and efforts he has expanded in order to tell us about this institution, to tell us about the past, because we know and, certainly, the majority leader knows probably better than any of us that it is history that gives us, in this great system of democracy of ours, a true sense of purpose.

It was Robert E. Lee—the majority leader does evidently recall the great statement by Robert E. Lee, when he said, "It is history that teaches us to hope."

It is time that we know more of the history of this country and this institution because it is a time when we need hope, I think more so now, than ever before in our whole Nation's past, present, and possibly even the future.

So I say, Mr. President, that I hope a proper time will come, I do not know when that time is, I do not know the procedure for how to even do this, but I hope the proper time will come and the proper moment will arrive when we as individuals might, through rules, or through the proper committee, maybe it is the Committee on Rules, I do not even know, when we might propose that this body bind what we might at that time call the Robert C. Byrd lectures, that he has been delivering for the past several months, and have those lectures appropriately bound, certainly appropriately distributed, not only to the Members of the Senate, but to our staffs, and certainly to the incoming Members of the Senate, so that they will understand and know and have a true feeling for what this institution truly is, what it has been, and Mr. President, what it can and must become in the future.

I would like to be a part of such an endeavor. I think the majority leader is certainly too modest to propose something like that on his own. But I think that the Robert C. Byrd lectures ought to go to every college political science professor, every history professor, and maybe every civics teacher in the ninth grades throughout this land, so they, too, will have the benefit, so they can impart the knowledge and wisdom that might be encompassed in what I think should be called the Robert C. Byrd lectures.

I conclude, Mr. President, by saying that I was listening to this in my office, signing the mail, a few moments ago. I thought that if I would not be imposing on the majority leader's time, I would come over and say how much this one Senator appreciates what he has done in order to help enlighten us as an institution and as Members of the United States Senate.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I am very grateful for the encouraging words that have been spoken by the very distinguished Senator from Arkansas (Mr. PRYOR).

I hope that what I am attempting to do will prove to be a service to the Senate and, particularly, to those Senators who will be serving in the years to come, among whom will be Senator PRYOR as I know that he has a great future in this body.

I appreciate very much his overly kind and generous remarks.

Mr. President, Otis, in the opinion of Maclay, was the creature of Adams.

Adams was our country's first Vice President and, of course, the first Presiding Officer over the United States Senate—John Adams, whose picture was just placed in the majority leader's office one day this week.

The readers of the Record will note from the comments of Maclay that he felt very much that Otis was the instrument and creature of the Vice President.

On page 64 of his journal, Maclay wrote as follows in this regard, under date of June 4, 1789:

> The minutes are totally under the direction of our Vice-President, or rather Otis is his creature.

On page 181, under the date of January 19, 1790, Maclay wrote as follows concerning Otis:

> And now we will see what a figure Otis will make of the minutes in the morning. I do not want to be captious, but I must not let them draw this into precedent.

On January 20, Maclay wrote:

> I am not disappointed in Otis. Every word respecting the bill was suppressed. In Journals read this morning the entry stood, "Ordered that Mr. King, Mr. Strong, etc., be a committee to report a bill to regulate processes, etc." It would have been considered as manifesting a spirit of contention if I had attacked the minutes, and I let it pass, but if they endeavor to make any use of it I will then be at liberty to act and make the most of circumstances.

On page 207 in his diary, under date of March 5, 1790, Senator Maclay wrote as follows:

> This day gave a fresh instance of the rascality of Otis. The committee on Bailey's bill reported yesterday, and said not one word more, nor was another word said in the Senate, but Otis had on the minutes ordered that the report be accepted. I did not immediately observe it, but I called on him about it. His excuse was Mr. Adams had ordered him to do so.

Maclay referred to what he considered as the untruthfulness of Otis on pages 380, 381, and 382 of his journal. Under date of January 27, 1791, Senator Maclay wrote:

> I have hitherto attended only to the part acted by some persons whose conduct, from appearance, is not very consistent. I called on Otis for the papers. He said Butler got them and had given them to one of the Representatives. A minute after I saw them in the hands of Mr. Dalton. But Otis is really so stupid that I know not whether he lied or blundered.

Under date of January 29, 1791, which was a Saturday, Maclay wrote as follows:

> Called twice this day at the office of our Secretary to get the French papers. Otis says Carrol took them away, but there is no believing a word he says.

That referred to Senator Carroll.

On page 382, under date of January 31, 1791, which was a Monday:

> I called on Friday; I called twice on Saturday. Otis lied basely about the papers, and I have never got my eyes on them.

As I say, Senator Maclay wrote in a profoundly frank and perhaps jaundiced way, and he saw persons and motives through his own eyes—motives and foibles that might not have been so interpreted in the eyes of others.

We will never know. Maclay's journal is very interesting, and from time to time I will quote from it with respect to his acrid opinions of his colleagues, which in many instances reflected a somewhat subterranean viewpoint that excites the admiration of those of us who read, however much we realize that he wrote not expecting his diary to be published.

When George Washington arrived in New York to be inaugurated as the Nation's first President, it was Samuel Otis who held the Bible on a crimson cushion for the ceremony. Samuel Otis served as Secretary for the first 25 years of this body's history and never missed a single day that the Senate was in session. I wonder what Senator Maclay would have said of Otis' attendance record. Known for his courtly manners and scrupulous devotion to duty, Otis held his post even after control of the chamber passed from the Federalists to the Jeffersonians. To show the respect that the Members of the Senate had for their Secretary, Mr. Otis, when he died in 1814, the Senate went into mourning for a month, with each Member wearing a black crepe around his arm in memory of Otis' long and effective service.

Before the Senate had the opportunity to elect a successor to Otis, the British, in August 1814, launched an assault on Washington. Realizing that the Capitol would be put to the invading army's torch, Lewis Machen, a young clerk in the Secretary's office, took matters into his own hands. Commandeering a farmer's wagon, he hastily loaded the valuable records of the Senate's first 25 years. With great difficulty, he removed them to the countryside just in time to escape the fire that consumed much of the Capitol and most of the House's old records.

Our current Secretary, Mr. Kimmitt, is required to be as shrewd in his oversight of the stationery operation as was his mid-nineteenth century predecessor, Asbury Dickins. In 1845, Dickins wrote to an American manufacturer of penknives that "your penknives afford evidence of great improvement in the branch of American industry. I think, however, you will admit that they do not quite equal the best work of English cutlers. I will give a preference to the manufacturers of our own country whenever I can properly do so. In providing penknives for Senators it will not do to incur any avoidable risk as to the tempers and quality of the blades." Mr. Dickins, as Secretary, was also the man to whom the Senate turned to provide maps of Texas and Oregon when the Senate debated adding those new territories in 1845.

In 1837, shortly after Dickins took the oath as Secretary, he took a major part in one of the most dramatic moments in the Senate's entire history. Three years earlier, on March 28, 1834, the Senate had taken the extraordinary step of passing a resolution of censure against President Andrew Jackson charging him with "assuming authority and power not conferred by the Constitution and laws, but in derogation of both." This occurred at the instigation of Henry Clay as a result of Jackson's refusal to provide the Senate with documents related to his withdrawal of government funds from the Second Bank of the United States. By 1837, Jackson's allies in the Senate, principally Senator Thomas Hart Benton, succeeded in getting the Senate to adopt a resolution expunging the earlier censure. In an emotion-charged Senate ceremony, Secretary Dickins produced the 1834 Senate Journal and with the galleries packed to capacity, drew heavy black lines around the original censure resolution. He then wrote across its face "Expunged by order of the Senate this sixteenth day of January 1837." Following the ceremony, Senators supporting Jackson withdrew to an adjacent room for refreshments to celebrate their victory. One observer noted that "several Senators showed by their actions that they were not members of the then newly organized Congressional Temperance Society."

Although several otherwise authoritative histories of the Senate claim that the page from the Senate Journal was stolen by a souvenir hunter, I am happy to report that it reposes under the careful protection of the National Archives along with 15,000 cubic feet of our oldest and most priceless documents. At a later point, I plan to have more to say about these treasures at the National Archives.

The Secretary of the Senate is also authorized to preside over the Senate in the absence of the Vice President and pending the election of a President Pro Tempore. Such an event last occurred in 1947 at the opening of the 80th Congress when the Secretary, Leslie Biffle, performed the duties of the chair for two days. Mr. Biffle served in the days when the Secretary was considered a "legislative mechanic"—called in to help the passage of legislation through the chamber. One of his regular practices was to invite various senators to lunch in his office just before the start of the day's session. A Senator who particularly enjoyed those reports was Harry S. Truman of Missouri, and on the day Truman became President in 1945, the first phone call he placed from the White House was to Leslie Biffle asking him to arrange a luncheon the next day with his former senatorial colleagues. The relationship between the new President and Mr. Biffle had deep roots. Biffle, who had come to Capitol Hill in 1909 as legislative aide and later worked as superintendent of the Senate Folding Room, was elected Secretary for the Democratic majority in 1933. He rapidly won the respect of senators from both parties for his knowledge of Senate operations and his courteous manner. He was particularly helpful to freshmen senators, including Harry Truman in 1935. In 1945, upon the death of Secretary of the Senate Edwin Halsey, the Senate unanimously elected Biffle to that post. Known as the "sage of Capitol Hill," Biffle was an able administrator and a walking encyclopedia of Senate information.

In 1948, when the Republicans controlled the Senate and Mr. Biffle served as Secretary to the Democratic Policy Committee, President Truman asked him to conduct an informal and highly unusual presidential preference poll. My colleagues will recall that opinion sampling, as of 1948, had not reached the level of sophistication that its supporters claim for it today. Mr. Gallup earned international and everlasting fame shortly before the 1948 presidential election by predicting the victory of Governor Thomas E. Dewey. In any event, what became the "Biffle Poll" made no claim to sophistication. Dressed in a droopy straw hat and overalls, Mr. Biffle set out in an old chicken truck to sample grassroots sentiment for the President's candidacy that year. Occasionally buying chickens and eggs, the usually dapper Mr. Biffle talked to farmers in West Virginia, northern Ohio, Indiana and Illinois. As a result of his tour, Mr. Biffle was one of the very few in Washington to correctly predict Mr. Truman's subsequent victory. In 1949, when the Democrats regained control of the Senate, Mr. Biffle returned to the Secretary's office, remaining in that post until his retirement in 1952.

In addition to Mr. Biffle, a procession of talented and dedicated men have held this office. Two were former Senators—Charles Cutts and Walter Lowrie—four were members of the House of Representatives. James M. Baker had been Assistant Senate Librarian before becoming Secretary. Edwin A. Halsey (who served for the entire New Deal era), Carl A. Loeffler, and J. Mark Trice all started as Senate pages. Felton "Skeeter" Johnson arrived on Capitol Hill as a Senator's stenographer.

I would be remiss if I did not pause to note the services of two former Secretaries whose devotion and length of service to this institution were nothing short of remarkable. One was a Democrat and the other a Republican.

Col. Edwin Halsey, Secretary of the Senate for 12 years, from 1933 until his death in office in January 1945, witnessed Franklin Roosevelt's New Deal unfold in this Chamber. However, his 12-year period as the Senate's Secretary was only a small part of his 48 years of service to the Senate in other capacities.

Colonel Halsey was born in Tye River, Va., in 1881, and first came to Washington with his uncle, Senator John Daniel of Virginia, to become a Senate page when he was 16. In May 1898, not long after he arrived, he and the other pages were on hand to see the Senate as a whole rise and cheer when word came that Admiral Dewey had bottled up and defeated the Spanish fleet at Manila.

Later, in his various positions with the Senate, Colonel Halsey heard Woodrow Wilson deliver his epochal 1917 address calling for a declaration of war against Germany, and, again, in December 1941, when Franklin Roosevelt came to the Hill to make the same grim request.

From his appointment as a page, Colonel Halsey advanced step by step until he became Secretary of the Senate. A colonel by virtue of appointment to the staffs of two Virginia Governors, Colonel Halsey was a devoted Democrat, but his talents and efficiency were recognized by members of both parties. Along the way to the Secretary's post, he served as sergeant at arms of the Democratic National Committee, and as aide to the Democratic Senatorial Campaign Committee.

When Colonel Halsey died suddenly on January 29, 1945, the Senate adjourned in his honor. For many of the younger Senators swept into office with the Roosevelt landslide, he was the only Secretary they had thus far known, and many felt they had lost an extraordinary friend.

Carl Loeffler served as Secretary for only 2 years, 1947–49, but he assisted the Senate in a variety of responsible positions for 59 years, and he is certainly worthy of our thoughts at this point.

Carl Loeffler was born on a Sunday on Church Street here in Washington on January 12, 1873. His first home was in the shadow of the White House. By the time of his death on January 30, 1968, at the ripe old age of ninety-five; Carl Loeffler had achieved the status of being an institution within an institution.

Though his formal education came from public schools and later Columbian University, now George Washington University, his political education began when he was still a small child while his father, Major Charles Loeffler, served as one of President Grant's personal aides in the White House. Major Loeffler was later aide to President McKinley. Little Carl ate his dinner around a table buzzing with discussion of national politics and the White House.

His own personal, first-hand look at the political process came when he was just sixteen. In 1889, he was selected to be a Senate page by the powerful Republican Senator from Pennsylvania, Matthew Quay. While the Carl Loeffler who greeted Senators in the chamber in the 1940's was a courtly and dignified figure, his first days in the chamber were quite rowdy. Once he and some other rambunctious pages brought their bows and arrows into the chamber. They affixed gum to one end of the arrows and long paper streamers to the other, and took as their target the glass panels that used to be in the ceiling above us. The arrows struck their mark and remained there trailing streamers until ladders could be brought in by workmen who removed the offending decorations.

I suggest our present day pages, boys and girls, not bring arrows and bows and bubble gum into the Chamber.

Carl Loeffler grew up with his Nation During his first years in the Senate, he witnessed the bitter debate over the Force Bill governing election laws in 1890, the stormy Spanish-American War, and the annexation of Hawaii. He was here when President McKinley was assassinated and Theodore Roosevelt assumed the Presidency.

In 1913, Carl Loeffler was elected acting assistant doorkeeper of the Senate, and in 1919, he became assistant doorkeeper. This was a period, in the wake of the First World War, that produced vastly increased legislative activity in the Senate. They were years which required great stamina, and Mr. Loeffler maintained his own by bicycling—a sport in which he won several medals.

In 1928, Mr. Loeffler became assistant Sergeant at Arms and a year later he became majority secretary for the Republicans. With the Democratic majority in 1933, he became secretary for the minority. His other positions in the Senate included the secretaryship to the Republican Committee on Committees and the Republican Steering Committee.

Though Mr. Loeffler was an ardent Republican, he had devoted friends on both sides of the aisle. He went out of his way to help the uninitiated of both parties at the beginning of each Congress. During his 59 years of service to this institution, he came to know over half of all the United States Senators there had even been up to that time.

In 1947, Carl Loeffler was elected Secretary of the Senate, the position which capped his long career on the Hill. When the Republicans lost control of the Senate in 1949, Mr. Loeffler retired, taking with him the tributes and affection of those whom he had served so long and so well.

Our most recent Secretaries have been Emery Frazier, Frank Valeo and J. Stanley Kimmitt. Frank Valeo was chief of the Foreign Affairs Division of the old Legislative Reference Service before coming to the Senate as a consultant to the Foreign Relations Committee and then Secretary for the Democratic Majority. J. Stanley Kimmitt spent his earlier years in the United States Army from which he retired as a colonel in 1966 having won the Silver Star, Legion of Merit, Bronze Star, and a host of other important decorations. In 1966, Stan Kimmitt became administrative assistant to Senator Mike Mansfield, the Majority Leader. Like six of his predecessors as Secretary, he then served as his party's secretary in the Senate before his election as Secretary of the Senate in January 1977.

In recent years, the operations of the Senate have been modernized with a goal of ever-increasing efficiency. Staff positions that were traditionally filled by political patronage are now professional posts held by specialists in their various fields. Computers, microfilm, and other products of modern technology have been introduced to speed procedures in nearly every department, from the disbursing office to the newly renovated stationery store, and even the publication of our annual legislative and executive journals. The Senate Library, which since 1871 has collected significant books and documents for the Senate's use, now operates a bank of computer terminals providing Senate offices with up-to-the-minute information on pending legislation and bibliographical materials for our research projects. The Curator's and Historian's offices are using computers to prepare catalogs of art and antiquities in the Senate's possession and of the locations of the papers of former senators as a research tool for scholars and others interested in the history of the Senate.

Although technically the Secretary of

the Senate serves under the President Pro Tempore, as a practical matter, since he is elected by a majority of the members, he responds in great measure to the Senate through the Majority leadership, often in consultation with the Minority Leader on matters of common concern to all senators.

Today, as throughout the Senate's history, the Secretary provides services to all members regardless of their party affiliation. Back in 1852, when Whig Senator Willie Mangum of North Carolina retired from the Senate, he wrote (with tongue in cheek) to Secretary Asbury Dickins, "I go off this evening not half prepared . . . I have not taken my things out of my drawer in the Senate Chamber, . . . there may be many treasonable things in it, . . . and although you are a Democrat I hardly think you would take pleasure in seeing the neck of an old friend stretched." I am sure we all share the same confidence in our current Secretary, Stan Kimmitt, and his staff.

May I say about Mr. Kimmitt, he is a very dedicated officer of the Senate. I have, in my experience, found him to be extraordinarily efficient and courteous, and he is highly respected and admired by all of my colleagues on both sides of the aisle—and I foremost among them.

Mr. President, I have in my possession, prepared by the Senate Historical Office, biographical sketches of the 22 men who have served as Secretary of the Senate. I do not wish to impose further this evening on the Presiding Officer and on other Senators and officers of the Senate, so I ask unanimous consent to have printed in the RECORD the list of names of the 22 Secretaries of the Senate, the dates of their service, and some interesting footnotes with respect to several of them, which I would enjoy reading to the Senate, but which I think, in the interest of time, can be placed in the RECORD.

I am confident that Senators who read the RECORD will find these footnotes and these biographies concerning these people who have served so eminently, to be interesting and informative. I ask unanimous consent that this material be printed now at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARIES OF THE SENATE

SERVICE

1. Samuel Allyne Otis,[1] April 8, 1789 to April 22, 1814.
2. Charles Cutts, October 12, 1814 to December 12, 1825.
3. Walter Lowrie, December 12, 1825 to December 5, 1836.
4. Asbury Dickins, December 13, 1836 to July 15, 1861.
5. John W. Forney, July 15, 1861 to June 4, 1868.
6. George C. Gorham, June 6, 1868 to March 24, 1879.
7. John C. Burch, March 24, 1879 to July 28, 1881.

Francis E. Shober[2] (Acting Secretary) October 25, 1881 to December 18, 1883.

8. Anson G. McCook, December 18, 1883 to August 7, 1893.
9. William Ruffin Cox, August 7, 1893 to January 31, 1900.
10. Charles G. Bennett, February 1, 1900 to March 13, 1913.
11. James M. Baker, March 13, 1913 to May 19, 1919.
12. George A. Sanderson, May 19, 1919 to April 24, 1925.
13. Edwin Pope Thayer, December 7, 1925 to March 9, 1933.
14. Edwin A. Halsey, March 9, 1933 to January 29, 1945.

Leslie Biffle[3] (Acting Secretary), January 29, 1945 to February 8, 1945.

15. Leslie Biffle, February 8, 1945 to January 4, 1947.
16. Carl A. Loeffler, January 4, 1947 to January 3, 1949.
17. Leslie Biffle,[4] January 3, 1949 to January 3, 1953.
18. J. Mark Trice, January 3, 1953 to January 5, 1955.
19. Felton M. Johnston, January 5, 1955 to December 30, 1965.
20. Emery L. Frazier,[5] January 1, 1966 to September 30, 1966.
21. Francis R. Valeo, October 1, 1966 to March 31, 1977.
22. J. Stanley Kimmitt,[6] April 1, 1977 to Present.

FOOTNOTES

[1] Otis was elected Secretary on April 8, 1789, and began immediately to function officially in the office without having taken any oath. But the instance is unique, and explained by the fact that at the time there was no oath to administer. The "Act to regulate the Time and Manner of administering certain Oaths" was not signed into law until June 1, 1789 (1 Stat. 23).

This law prescribed that the Secretary of the Senate take the same oath supporting the Constitution as Senators, Representatives, and Officers of the Congress, and also take an oath of office. Otis took both oaths on June 3, 1789 (Senate Journal, Volume 1, page 31).

[2] Shober was elected Acting Secretary during a special session of the Senate in October 1881. He no doubt would have been relieved of his duties the following December when the 47th Congress convened, but for a quirk of fate, the party lines of that Congress were equally split, 37 Democrats to 37 Republicans. The Senate could not settle on a Secretary, and so Shober continued in office for two more years until the 48th Congress, dominated by Republicans, elected a new Secretary.

[3] Biffle was first elected Acting Secretary after Halsey's death, and then—about a week later—was chosen Secretary by a subsequent resolution of the Senate.

[4] Biffle is the only man to be elected Secretary of the Senate for two non-consecutive terms.

[5] Frazier was elected on August 20, 1965, by resolution of the Senate which specified that his term commence on January 1, 1966, and terminate on September 30, 1966 (S. Res. 140, 89th Congress, 1st sess.). In order that there be no break in the continuity of the occupancy of the office, Frazier was sworn in on October 22, 1965 (the day before Congress adjourned), even though his period of service was not to start until January 1, 1966 (Senate Journal 174, page 955). If this step had not been taken, Frazier could not have begun to function officially until Congress reconvened on January 10, 1966. The termination date of September 30, 1966, was specified in the resolution at Mr. Frazier's insistence because of his desire to retire as soon after his 70th birthday (September 24, 1966) as practicable.

[6] Valeo was elected on August 20, 1965, by resolution of the Senate which specified that his term commence on October 1, 1966 (S. Res. 140, 89th Congress, 1st sess.). He was sworn in on September 30, 1966.

The elections of Frazier, Valeo, and Kimmitt are three instances where the election of the Secretary did not mark the end of the incumbent's term of service; that is, Johnston continued in office for over four months after Frazier's election, Valeo's election took place before Frazier even began his service, and Valeo served three months after Kimmitt's election.

BIOGRAPHICAL SKETCHES OF THE TWENTY-TWO SECRETARIES OF THE UNITED STATES SENATE

(Prepared by the Senate Historical Office)

Samuel Allyne Otis was born in Barnstable, Massachusetts on November 24, 1740. The grandson of prominent jurists, he was also the brother of James Otis, leader in the colonial revolt against the Stamp Act. Otis attended Harvard College where he received his A.B. in 1759, and A.M. in 1762. Later he studied law while working as a Boston merchant.

In 1776, Otis was elected to the Massachusetts house of representatives, eventually rising to speaker in 1784. During those same years he served as a member of the state's constitutional convention and the Board of War, and as collector of clothing for the Continental Army. In 1787, he was one of the commissioners who negotiated with the leaders of Shays' Rebellion. That year he also became a member of the Continental Congress.

When the United States Senate first convened in 1789, Vice President-elect John Adams recommended Otis for the position of Secretary. He held that post for the next twenty-five years, never absent a single day that the Senate was in session. An "urbane Federalist," Otis was known for his courtly manners and scrupulous devotion to duty. Even after control of the chamber passed from the Federalists to the Jeffersonians, Otis remained in his post. When he died, on April 22, 1814, the Senate went into mourning for a month, with each member wearing a black crepe around his left arm in memory of Otis' long and effective service.

Major events during the Secretary's term of office:

First Meeting of the Senate in New York, 1789.
Ratification of the "Bill of Rights," 1789.
Senate moves to Philadelphia, 1790.
Undeclared War with France, 1798.
Alien and Sedition Laws, 1798.
Senate moves to Washington, D.C., 1800.
Rise of the Jeffersonian (Democratic) Party, 1800.
Louisiana Purchase, 1803.
Embargo Against European Trade, 1807–1809.
War of 1812.

Charles Cutts was born in Portsmouth, New Hampshire on January 31, 1769, the son of a shipbuilder. He graduated from Harvard in 1789, and studied law under Judge Timothy Pickering before being admitted to the bar. In 1803, he was elected to the New Hampshire house of representatives where he served as speaker from 1807 to 1810.

The resignation of Nahum Parker from the United States Senate in 1810 brought Cutts' appointment to fill the vacancy. He was reappointed by the Governor in 1813, and served until the state legislature had elected his successor later that year. On Oct. 12, 1814, he was elected Secretary of the Senate, and held the post until he was defeated for reelection in 1825. Upon his retirement he moved to Fairfax County, Virginia where he died on January 25, 1846.

Major events During the Secretary's Term of Office:

British troops burn the Capitol, 1814.
Battle of New Orleans, 1815.
Seminole War, 1817–1818.
Acquisition of Florida, 1819.
Missouri Compromise Debate, 1820.
Monroe Doctrine, 1823.
Collapse of the Federalist Party, and "Era of Good Feelings," 1817–1824.

Walter Lowrie was born in Edinburgh, Scotland on December 10, 1784, and immigrated to the United States at the age of seven. His family settled on a farm in Butler County, Pennsylvania. A devotedly religious youth. Lowrie studied first for the ministry, but in 1807, began to teach school in Butler. During the next several years he worked as a shopkeeper, member of the board of commissioners, and justice of the peace.

In 1811, he launched his political career with his election to the Pennsylvania house of representatives. The following year he moved to the state senate, where he served until 1819, when he was elected to the United States Senate as a Democrat. His maiden speech in the Senate denounced the extension of slavery into Missouri and the western territories. As a Senator, he was known for his staunch support of temperance and for founding the Congressional prayer meeting. Not standing for reelection from Pennsylvania, he was instead elected Secretary of the Senate in 1825, and held the post until 1836.

Lowrie devoted his remaining life to religious pursuits. As corresponding secretary, he energetically directed the Board of Foreign Missions of the Presbyterian Church until his death on December 14, 1868, in New York City.

Major events During the Secretary's Term of Office:

"Tariff of Abominations," 1828.
Webster-Hayne Debate, 1830.
South Carolina Nullification Movement, 1832–1833.
Andrew Jackson's veto of the Second Bank of the United States, 1832.

Asbury Dickins was born in North Carolina on July 29, 1780. He spent his early years in Philadelphia, where he founded a newspaper, *Port Folio*, in 1801. Later, he traveled for several years in Europe.

From 1816 to 1825, Dickins served as a clerk of the Treasury Department, under Secretary William Crawford. He was also chief clerk of the State Department, from 1829 to 1831, under Secretary Martin Van Buren, and occasionally served as acting secretary.

Dickins was elected Secretary of the Senate in 1836, and held the post until the Civil War. When he retired in 1861, at the age of eighty, he was voted an additional year's salary of $3,000 in recognition of his tenure "as an old and faithful servant of the Senate." He died in Washington on October 23, 1861.

Major events during the secretary's term of office:

Panic of 1837.
Henry Clay's "American System," 1841.
Annexation of Texas, 1845.
Settlement of Oregon Boundary, 1846.
War with Mexico, 1846–1848.
California Gold Rush, 1849.
Compromise of 1850.
Kansas-Nebraska Act, 1854.
Creation of the Republican Party, 1854.
Attack on Charles Sumner in Senate Chamber, 1856.
Dred Scott Decision.
Lincoln-Douglas Senate race, 1858.
Dedication of new Senate Chamber, 1859.
John Brown's Raid, 1859.
Secession of the Southern States, 1860–1861.

John Wien Forney was born in Lancaster, Pennsylvania on September 30, 1817. When his father died, Forney left school at the age of thirteen to work to support his family. He became an apprentice in the printing office of the *Lancaster Journal*, and by the time he was twenty-two had become editor and owner of the paper. As a Democrat, Forney supported James Buchanan, and won appointment as surveyor of the port of Philadelphia in 1845. He moved to Philadelphia where he became editor of the *Pennsylvanian*.

During the 1850's, Forney shifted his attention to national politics and became editor and partner in the Washington *Daily Union*. In 1851, he was elected clerk of the House of Representatives and presided over that body during the long struggle to elect a Speaker in 1855 and 1856. He ran unsuccessfully as a Democratic candidate for the Senate in 1857, and shortly afterwards broke with the Buchanan administration over its handling of the Kansas territory issue.

Forney's newspapers, the Philadelphia *Press* and later the Washington *Sunday Morning Chronicle*, switched allegiance to the new Republican Party. When the Republicans gained control of the Senate, Forney served as Secretary of the Senate from 1861 until 1868.

Always a strong supporter of Abraham Lincoln, Forney joined the Radical Republicans in attacking Lincoln's successor, Andrew Johnson. During the Grant administration he returned to Philadelphia as collector of the port. In latter years he rejoined the Democratic Party and resumed an active career as a journalist, biographer, and lecturer, before his death, on December 9, 1881.

Major events during the Secretary's term of office:

Civil War, 1861–1865.
Homestead Act, 1862.
Emancipation Proclamation, 1863.
Wade-Davis Bill, 1864.
Lincoln's assassination, 1865.
Ratification of Thirteenth Amendment, abolishing slavery, 1865.
Civil Rights bills, 1866.
Ratification of Fourteenth Amendment, 1866.
Reconstruction Acts, 1867.
Impeachment and Senate Trial of President Andrew Johnson, 1868.

George Congdon Gorham was born in Greenport, New York on July 5, 1832. He was educated in New London, Connecticut before joining the "Forty-Niners" in migrating to California. In Marysville, California he became law clerk to Stephen J. Field.

Gorham turned to a newspaper career in 1859, as assistant editor of the Sacramento *Daily Standard*, and then as editor of the San Francisco *Daily Nation*, which supported Democrat Stephen Douglas' presidential campaign in 1860. The following year he served as editor of the Marysville *Democrat*, an "unconditional Union" paper. In 1862, he played an active role in the formation of the Union Party which fused Republicans and Union Democrats. For the next four years, Gorham served as clerk of the United States Circuit Court in San Francisco.

In 1867, he was the unsuccessful Republican candidate for Governor of California. Traveling to Washington to represent California on the Republican National Committee, Gorham was elected Secretary of the Senate in 1868, and held the post until 1879. He remained in Washington as Editor-in-Chief of the *National Republican*, from 1880 to 1884, and died in the city in 1909.

Major events during the Secretary's Term of Office:

First Transcontinental Railroad, 1869.
Formation of the Knights of Labor, 1869.
Credit Mobilier Scandal, 1872.
Panic of 1873.
National Railroad Strike, 1877.
Presidential Electoral Commission, 1877.
End of Reconstruction, 1877.

John C. Burch was born in Georgia in 1827, and educated at Yale College. He returned to Georgia to study law before moving to Chattanooga, Tennessee where he became active in Democratic politics.

In 1855, Burch was elected to the Tennessee house of representatives, and in 1857, to the state senate, eventually serving as speaker of the senate. When the Civil War broke out, he joined the Confederate Army and was appointed to the staff of General Gideon Pillow. At the end of the war, Colonel Burch settled in Nashville to practice law and edit the Nashville *Old Union and American*. In 1869, he was appointed Comptroller of Tennessee.

When the Democrats regained control of the Senate in 1879, for the first time since the war, Burch was elected Secretary. As Secretary of the Senate he was known as a man of "accomplished manners" who efficiently discharged his duties. Highly regarded by members of both political parties, he won Republican admiration for his fierce editorial opposition to the Ku Klux Klan in Tennessee. Burch died in office on June 28, 1881.

Major events during the Secretary's Term of Office:

Organization of the Standard Oil Trust, 1879.
Frank W. Woolworth opens first "five and ten," 1879.
Formation of the Federation of Organized Trades and Labor Unions, later reorganized as the American Federation of Labor, 1881.
Publication of Helen Hunt Jackson's *Century of Dishonor*, 1881.

Francis Edwin Shober was born in Salem, North Carolina on March 12, 1831. He attended the Moravian School at Bethlehem, Pennsylvania, and graduated from the University of North Carolina at Chapel Hill in 1851. After studying law he entered practice in Salisbury, North Carolina in 1854.

A Democrat, he was elected to the state house of commons in 1862, and to the state senate in 1865. He won election to the United States House of Representatives in 1869, and served for two terms. Returning to North Carolina he was a delegate to the state's constitutional convention in 1875, a county judge of Rowan County.

Appointed Chief Clerk of the United States Senate in 1877, he succeeded John C. Burch as Secretary of the Senate upon Burch's death in 1881. Shober held the post until 1883, when he returned to North Carolina. In later years he again served in the North Carolina state senate, resumed his practice of law, and died in Salisbury on May 29, 1896.

Major events during the Secretary's Term of Office:

Assassination of President Garfield, 1881.
650,000 immigrants enter United States, nineteenth century peak, 1882.
Congress excludes Chinese immigration for ten years, 1882.
Pendleton Act for civil service reform, 1883.
Brooklyn Bridge completed, 1883.

Anson George McCook was born in Steubenville, Ohio on October 10, 1835. At the age of fifteen he left school to work as a drugstore clerk in Pittsburgh. He returned to Lisbon, Ohio to teach school, but was swept up in the gold rush to California. In 1854, he traveled overland to the west coast where he worked for five years as a miner and businessman. Then he returned to Ohio to study law.

During the Civil War, Anson McCook, his father, and his four brothers won fame as the "Fighting McCooks." He fought from Bull Run to Appomattox and was brevetted brigadier general of Volunteers in 1865. He engaged in law practice in Ohio and was United States Assessor of Internal Revenue before moving to New York City in 1873. There he founded the *Law Journal* and became president of the New York Law Publishing Company.

McCook was elected as a Republican to the United States House of Representatives in 1877, and served three terms. After failing in his bid for renomination, he was elected Secretary of the Senate in 1883, and retained the post until 1893. Later he became city chamberlain of New York under the administration of Mayor William Strong. He died in New York on December 30, 1917.

Major events during the Secretary's Term of Office:

Haymarket Riot, 1886.

Interstate Commerce Act, 1887.

First Pan-American Congress, 1889.

Sherman Anti-Trust Act, 1890.

Battle of "Wounded Knee," 1890.

Homestead Strike, 1892.

Creation of the Populist Party, 1892.

William Ruffin Cox was born in Halifax County, North Carolina on March 11, 1832. After the death of his father, an exporter and state Senator, Cox moved with his mother to Nashville, Tennessee. He graduated from Franklin College in 1851, and the Lebanon College Law School in 1853, and remained in Tennessee as a lawyer for the next five years. In 1857, he married and settled on a plantation in Edgecombe County, North Carolina.

An ardent secessionist, Cox became a major of the 2nd North Carolina Regiment during the Civil War. He was severely wounded at Chancellorsville, rose to brigadier general, and led the last organized Confederate attack at Appomattox. After the war, Cox moved to Raleigh where he entered politics. He was elected solicitor of the Raleigh district, served as chairman of the state Democratic committee, and became a district judge.

In 1880, Cox won election to the United States House of Representatives, and served for three terms. His outspoken support of civil service reform caused his defeat for renomination. In 1893, he was elected Secretary of the Senate. A man of "striking physical appearance, cultured and courtly," he carried out his responsibilities "with acceptance and distinction." He retired from the post in 1900, and returned to his plantation, serving as president of the State Agricultural Society, and as a founder of the North Carolina Journal of Education, before his death on December 26, 1919.

Major events During the Secretary's Term of Office:

Panic of 1893.

Coxey's Army March on Washington, 1894.

Pullman Strike of 1894.

Annexation of Hawaii, 1898.

Spanish-American War, 1898.

"Open Door" Policy, 1900.

Charles Goodwin Bennett was born in Brooklyn, New York on December 11, 1863. The son of a newspaper publisher, he attended public schools and graduated from the New York Law School in 1882. As a lawyer he became active in local affairs and was elected president of the People's Bridge Association to agitate for the construction of the Williamsburg Bridge.

In 1892, at the age of twenty-eight, he ran for Congress, but was defeated. Two years later he won a seat in the United States House of Representatives, and served as a Republican until his defeat in 1898. He was elected Secretary of the Senate in 1900, and held that post until the Democrats became the majority party in the Senate in 1913. He returned to his business activities in Brooklyn where he died on May 25, 1914.

Major events During the Secretary's Term of Office:

Philippine Insurrection, 1901–1902.

President McKinley's assassination, 1901.

Coal Strike, 1902.

Newlands Act for western land irrigation, 1902.

Panama Canal Treaty, 1903.

Roosevelt Corollary to Monroe Doctrine, 1904.

Northern Securities Anti-Trust Case, 1904.

Hepburn Act for railroad regulation, 1906.

Pure Food and Drug Act, 1906.

Panic of 1907.

Payne-Aldrich Tariff, 1909.

Ballinger-Pinchot Controversy, 1910.

Creation of the Progressive Party, 1912.

Seventeenth Amendment for popular election of Senators, 1913.

James Marion Baker was born on August 18, 1861, in Lowndesville, South Carolina. Educated at Wofford College in his home state, he studied law in New York City. After a career in business, he was appointed Assistant Librarian of the Senate in 1893. While in the Senate Library he compiled numerous government publications and served as Democratic Caucus representative.

In 1913, Baker was elected Secretary of the Senate, a post he held until control of the chamber passed to the Republicans in 1919. For the remainder of Woodrow Wilson's administration, Baker served as deputy commissioner of Internal Revenue. He then went into private law practice in Washington until 1933, when President Franklin D. Roosevelt appointed him Minister to Siam. Four years later Baker resigned that post because of ill health, and died in Lowndesville on November 21, 1940.

Major events during the Secretary's term of office:

Federal Reserve Act, 1913.

Federal Trade Commission created, 1914.

Clayton Anti-Trust Act, 1914.

Keating-Owen bill forbidding child labor, 1915.

Adamson Act for eight-hour day, 1916.

Mexican Intervention, 1916.

World War I, 1917–1918.

George Andrew Sanderson was born in Hamilton, Ohio on February 22, 1850. He graduated from the United States Naval Academy in 1871, but resigned his commission in 1873, to enter the British merchant marine. During this service he commanded an English liner.

In 1892, Sanderson turned his skills in civil engineering to railroad transportation and worked at the Union Stock Yard in Chicago. He then went to Mexico in 1902, as president of the Sonora Construction Company, engaged in railroad construction. In 1919, Sanderson was elected Secretary of the Senate. He died in office on April 24, 1925.

Major events during the Secretary's term of office:

Senate defeats Versailles Treaty and proposal for United States membership in League of Nations, 1919.

Red Scare, 1919.

Volstead Act for Prohibition, 1919–1933.

Nineteenth Amendment for Women's Suffrage, 1920.

First radio broadcast of election returns, 1920.

Washington Conference for limitation of armaments, 1921.

Sacco-Vanzetti Case, 1921–1927.

Teapot Dome investigation, 1924.

Edwin Pope Thayer was born in Greenfield, Indiana on December 15, 1864. He attended DePauw University where he received his A.B. in 1886, and M.A. in 1889. He spent twenty-six years in mercantile pursuits and another ten years in the irrigated land and mining business. During the Spanish-American War he was a lieutenant colonel of the Indiana Volunteers.

As a businessman, Thayer was active in Republican politics. For twelve years, he was chief assistant to the Sergeant-at-Arms of the Republican National Committee, and served as Sergeant-at-Arms for the 1920 and 1924 party conventions.

Thayer became Secretary of the Senate in 1925, upon the death of George Sanderson. While in that post he discovered in the Secretary's office safe the original copy of the Monroe Doctrine, which he deposited in the Library of Congress. In 1933, Thayer retired to Indiana and died in Indianapolis on February 1, 1943.

Major events during the Secretary's Term of Office:

Scopes "Monkey Trial" on teaching evolution, 1925.

Lindbergh's flight across the Atlantic, 1927.

Wall Street Crash, 1929.

Smoot-Hawley Tariff, 1930.

Reconstruction Finance Corporation, 1932.

Edwin Alexander Halsey was born at Tye River, Virginia on September 4, 1881. The son of a lawyer, he attended the Virginia Polytechnic Institute. In 1897, he went to the Senate as a page for his uncle, Virginia Senator John W. Daniel.

Halsey remained in the Senate for the rest of his life. He served for sixteen years as page in the Senate press gallery. When the Democrats organized the Senate in 1913, he became assistant secretary to the majority. During the 1920's, he served as secretary to the minority, and in various capacities for the Democratic Party. From 1928 to 1940, he was sergeant-at-arms for Democratic national conventions, and secretary and treasurer of the party campaign committee. His 1910 appointment as colonel on the staff of Virginia Governor William H. Mann earned him the title of "Colonel" by which he was generally known.

In 1933, Halsey was elected Secretary of the Senate and served for the twelve years of the New Deal. Widely regarded as "one of the most popular figures on Capitol Hill," Halsey's death in office on January 20, 1945, caused the Senate to suspend legislative business that day in his memory.

Major events during the Secretary's Term of Office:

New Deal's "First Hundred Days," National Recovery Act, Agriculture Adjustment Act, Civilian Conservation Corps, Tennessee Valley Authority, Pecora Stock Market Investigation, 1933.

Securities and Exchange Commission, 1934.

Nye Munitions Investigations, 1934.

Social Security Act, Wagner Labor Act, Formation of the Congress of Industrial Organizations, Assassination of Huey Long, Works Progress Administration, 1935.

Supreme Court Packing controversy, 1937.

Neutrality Acts, 1935–1937.

Pearl Harbor Attack, 1941.

World War II, 1941–1945.

Leslie L. Biffle was born on October 9, 1889, in Boydsville, Arkansas. The son of a storekeeper and town sheriff, Biffle attended local schools and the Keys Business Institute in Little Rock, before going to Washington in 1909, as secretary to Representative Brice Macon.

Three years later he became secretary to Arkansas Senator James P. Clarke. When Clarke died in 1916, Biffle became superintendent of the Senate folding room. He served in the Army during World War I, and returned to the Senate as assistant secretary of the Democratic minority, and as secretary of the majority after 1933.

When Colonel Edwin Halsey died in 1945, Biffle was unanimously elected Secretary of the Senate. Called the "sage of Capitol Hill," he was an able administrator and "an encyclopedia of the national legislature." The first phone call that former Senator Harry Truman placed from the White House, after becoming President, was to Biffle, his long-time confidant and advisor. He was the first Secretary of the Senate to have a direct line between his office and the White House.

After the Republicans gained control of the 80th Congress, Biffle became secretary of the Senate Democratic Policy Committee. He returned to the Secretary of the Senate's office when the Democrats regained the leadership in 1949. As Secretary, Biffle also assumed the duties of secretary-treasurer of the Democratic Senatorial Campaign Committee. Biffle retired from the Senate in 1952, and remained in Washington as a business consultant until his death on April 6, 1966.

Major events During the Secretary's Term of Office:

Atomic bombs dropped on Japan, 1945.
Atomic Energy Act, 1946.
Nuremberg Trials, 1946.
Point Four foreign aid program, 1949.
Formation of NATO, 1949.
Kefauver Investigation, first televised Senate hearings, 1950.
Korean War, 1950–1953.
Dismissal of General MacArthur, 1951.

Carl A. Loeffler was born on January 12, 1873, in Washington, D.C., where his father, an Army major, was stationed. He grew up in his mother's home town of Lock Haven, Pennsylvania, and attended Spencerian Business College and Columbian University. In 1889, Pennsylvania Senator Matthew Quay appointed him a Senate page.

Loeffler remained with the Senate for fifty-nine years. He was in charge of the Capitol's first telephone, and served as assistant Doorkeeper from 1913, assistant Sergeant-at-Arms from 1928, secretary of the majority from 1929, and secretary for the minority from 1933. He was also secretary to the Republican Committee on Committees and the Republican Steering Committee.

In 1947, Loeffler was elected Secretary of the Senate. He retired two years later, when the Republicans lost control of the Senate. He lived in Washington until his death on January 30, 1968.

Major events during the Secretary's term of office:

Taft-Hartley Act to curb labor union practices, 1947.
Bipartisan Foreign Policy, 1947.
Truman Doctrine, 1947.
Marshall Plan, 1947.
Berlin Airlift, 1948.

J. Mark Trice was born on October 22, 1902, in Washington, D.C. He attended the Emerson Institute and graduated from the Georgetown School of Law in 1928.

From 1916 until 1919, Trice served as a Senate page. He became secretary to the Sergeant-at-Arms in 1919, and held that post until 1929, when he left the Senate to practice law. In 1932, he was appointed Deputy Sergeant-at-Arms. Serving fourteen years in that post, he became Secretary for the Republican Majority in 1946, and then two years later Secretary for the Minority.

When the Republicans again became the majority in 1953, Trice was elected Secretary of the Senate. In 1955, he became Secretary for the Minority once more, until his retirement in 1973. In 1976, Trice served as a member of the Commission on the Operation of the Senate which recommended major adminstrative reforms of the Senate.

Major events during the Secretary's term of office:

McCarthy Communist Investigations, 1953–1954.

Censure of Senator McCarthy, 1954.

Brown v. *Board of Education of Topeka*, 1954.

Felton McLellan Johnston was born on March 10, 1909, in Tallulah, Louisiana. He grew up in Clarksdale, Mississippi, and graduated from the University of Mississippi in 1929. That year he became a stenographer for Mississippi's Senator Pat Harrison.

From 1933 to 1941, Johnston served as assistant clerk and clerk of the Senate Committee on Finance. He went to the State Department as its congressional liaison in 1942, for two years until he enlisted in the United States Army. In 1945, he returned to the State Department as special assistant to Under Secretary of State Dean Acheson. He remained in the position until his election as Secretary for the Democratic Majority in the Senate, and then as Secretary of the Minority.

"Skeeter" Johnston was elected Secretary of the Senate in 1955, and held that post until his retirement in 1965. He died in his Washington home on April 20, 1973.

Major events during the Secretary's term of office:

Formation of SEATO, 1955.
AFL–CIO merger, 1955.
Civil Rights Act, 1957.
United States Space Program launched, 1958.
Bay of Pigs Invasion, 1961.
Cuban Missile Crisis, 1962.
Baker v. *Carr* legislative reapportionment decision, 1962.
Assassination of President Kennedy, 1963.
"War on Poverty," 1964.
Civil Rights Acts, 1964–1965.
Gulf of Tonkin Resolution, 1964.
Viet Nam War, 1964–1975.
Medicare Health Plan bill, 1965.

Emery L. Frazier was born in Railey Station, Kentucky on September 24, 1896. As a student at the University of Kentucky, he enlisted in the United States Army to serve in the first World War, before graduating in 1920. Admitted to the Kentucky bar in 1921, he practiced law at Whitesburg.

The following year, Frazier was elected to the Kentucky house of representatives, and then successively as city clerk, city attorney, and mayor of Whitesburg. He was reading clerk of the Kentucky house before Senator Alben Barkley brought him to Washington as legislative clerk of the United States Senate in 1933. He held that post for fifteen years, and then became chief clerk of the Senate from 1948 until 1965. In these roles he supervised such functions as legislative procedure, bookkeeping, the Senate library, keeper of stationery, and clerk of enrolled bills.

From 1936 to 1964, Frazier was chief reading clerk for Democratic National Conventions, responsible for polling the delegates. In 1966, he was elected Secretary of the Senate and served for six months. Frazier died in Louisville, Kentucky on April 24, 1973.

Francis R. Valeo was born in Brooklyn, New York on January 30, 1916. He received his A.B. and M.A. degrees in political science from New York University. In 1942, he came to Washington as a research specialist on the Far East for the Legislative Reference Service of the Library of Congress. During the second World War his service in the United States Army included a tour of duty in the China theatre.

In 1946, Valeo became chief of the Foreign Affairs Division of the Legislative Reference Service, and later senior specialist on international relations. He served on the staff of the Senate Foreign Relations Committee from 1952 until 1958, and as Congressional advisor to the United States Delegation to the United Nations in 1958.

Valeo joined the staff of Senate Majority Whip Mike Mansfield in 1959, and became assistant to Mansfield as Majority Leader from 1961 until 1963. That year he became Secretary of the Majority, and in 1966, was elected Secretary of the Senate, holding the post until 1977. Together with Ernest S. Griffith, Valeo wrote *Congress: Its Contemporary Role.*

Major events During the Secretary's Term of Office:

Assassination of Martin Luther King, Jr., and Robert F. Kennedy, 1968.

Withdrawal of Supreme Court nominee Abe Fortas, 1968.

Senate defeats of Supreme Court nominees Clement Haynesworth and G. Harrold Carswell, 1969–1970.

Manned landing on the moon, 1969.

United States excursion into Cambodia, Kent State Shootings, 1970.

"Pentagon Papers" publication, 1971.

United States Rapprochement with China, 1972.

Oil Embargo and Energy Crisis, 1973.

Ervin Committee investigation of Watergate, 1973.

Resignation of President Nixon, 1974.

Congressional Budget Act, 1974.

American Revolution Bicentennial, 1976.

Joseph Stanley Kimmitt was born in Lewistown, Montana on April 5, 1918. In 1941, he entered the United States Army through the draft, serving in Europe and the Far East. During his Army career, Kimmitt received training at the Command and General Staff College, and the Naval War College. He also received a B.S. degree from Utah State University in 1957, and pursued graduate studies at the George Washington University.

Kimmitt was awarded the Silver Star, Legion of Merit, Bronze Star, and four Oak Leaf Clusters, the Order of Mennelik II from Ethiopia for valor, and numerous campaign medals. He retired from the Army in 1966, having achieved the rank of colonel.

In 1966, Kimmitt became administrative assistant to Senator Mike Mansfield, the Majority Leader. Later that year, he was elected Secretary for the Majority. He held that post until his election as Secretary of the Senate in 1977.

Major events During the Secretary's Term of Office:

Panama Canal Treaty, 1978
Camp David Peace Accord, 1979
Iranian Revolution, 1979
Windfall Oil Profits Tax, 1980

BIOGRAPHY OF JOSEPH STANLEY KIMMITT

Local address: 6004 Copely Lane, McLean, Virginia 22101.

Legal address: Great Falls, Montana.

Age: 62 (April 5, 1918, Lewistown, Montana).

Marital status: Married to Eunice L. Wegener; 7 children: Major Robert M. (USA)—West Point '69; Kathleen A.; Capt. Joseph H. (Jay) (USA)—West Point '72; Thomas P.—U. Va. Medical School '76; Lieutenant Mark T. (USMA)—West Point '76; Mary P.—Duke U. '76, Judy J.—VPI '77.

Education: 1940–41, University of Montana, Missoula; Phi Sigma Kappa; 1948–60, Utah State University, Logan, B.S. Degree in Political Science; 1964–66, George Washington University, Washington, D.C., Graduate Studies; 1977, Honorary Doctor of Laws, Montana College of Mineral Science and Technology.

Military: 1941–66, U.S. Army, inducted as private; retired as Colonel.

Service in Europe; Korea—Silver Star, Legion of Merit, Bronze Star-V with 3 oak leaf clusters, Order of Mennelik II from Ethiopia for valor.

1955–58, 1959–60, 1964–65, Liaison Officer to U.S. Senate from the Office of the Secretary of the Army.

Professional: April 1977—Secretary, United States Senate. October 1966–April 1977—Secretary for the Majority, United States Senate February–October 1966, Administrative Assistant to the Majority Leader, U.S. Senate.

Member of St. John's Catholic Church, McLean, Virginia; Elks; Knights of Columbus.

The PRESIDING OFFICER. The Chair might state for the record that, like the Senator from Arkansas (Mr. PRYOR) the Chair was listening in his office to the dissertation of the distinguished majority leader, and I wish to join in his suggestion that the Robert C. Byrd lectures be published for the widest dissemination.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer. If the Senator will allow me, in the event a

Senate document is ever prepared, I hope it will not bear the title "Robert C. Byrd Lectures." I would be just as happy if it were "Byrd's General Journal," as I am looking at Maclay's Journal at this point.

I say that facetiously. I appreciate the compliments of the Senator from Hawaii (Mr. MATSUNAGA). They touch me very deeply.

It is my desire and my plan to continue to speak on the subject of the United States Senate for a good many weeks in the future. I do so looking forward to the 200th anniversary of the Senate in April of 1989. I hope I will be here to participate in those ceremonies, which I expect will be conducted, and certainly should be conducted, in commemoration of the 200th anniversary of this, the most unique legislative body in the world, and the only one of its kind. But if I cannot be here someone will be carrying on in my stead, and I hope these statements I have made will be illuminating and, hopefully, will constitute one of the most thorough pieces of work with respect to the Senate that has been gathered together in one place. In that regard I feel it will be appreciated by other Senators in another day.

LEGISLATIVE PROGRAM FOR THE WEEK OF JUNE 16, 1980

Mr. ROBERT C. BYRD. Mr. President, during the rest of the week it is the intention of the leadership to consider the following measures, and others, but not necessarily in the order listed: Calendar 783, S. 2714, International Security and Development Assistance; Calendar Order No. 752, S. 2422, International Development Association; Calendar Order No. 852, S. 2271, International Monetary Fund.

I recall to my colleagues the order that was entered earlier this week to the effect that the conference report on S. 2698, the Small Business Administration, will be taken up under a 2-hour time limitation, on Tuesday.

THE SENATE WORKLOAD

Mr. ROBERT C. BYRD. Mr. President, the Senate will be meeting early and late as we go forward during the remainder of the session. As I stated earlier today, it will be the intention of the leadership to adjourn the Senate on Saturday, October 4. Whether that adjournment is sine die or not sine die remains to be seen. If the Senate can complete its work by October 4, the Senate will adjourn sine die. If the Senate is unable to complete its work by Saturday, October 4, the Senate will adjourn over until after the election, at which time it will return to complete its work.

Now, in the meantime, the Senate will have 56 days, not counting Saturdays, in which to complete its work. In view of the very heavy workload that is before the Senate, it will be necessary for the Senate to meet on Saturdays. So I wish to alert all Senators that beginning next Saturday the Senate will very likely be in session on Saturdays. I hope Senators will not be asking whether or not there will be rollcall votes on Saturdays. The Senate would not be coming in on Saturdays if it were not expected to work and have rollcall votes.

Between the first of next week and October 4 there are 9 Saturdays, including October 4, and I would fully anticipate being in session on most of those Saturdays, the reason being that we yet have almost 50 expiring authorizations; 13 major appropriation bills; at least 1 supplemental appropriation bill; the second concurrent budget resolution; the extension of the debt limit; two major energy conference reports; a major energy bill yet to be passed by both Houses; namely, the coal conversion bill; the Alaska lands bill; several other candidates such as the Criminal Code, the fair housing bill, and one or more bills out of the Finance Committee.

Any reading of this workload should be sufficient to persuade every Senator of the necessity for the statement that I have made calling for early sessions, late sessions, Saturday sessions, rollcall votes daily, and may I say that we cannot, beyond a slight degree, delay votes on Mondays and Fridays or Saturdays.

We have much work to be done, and I am confident that the fine cooperation that Senators have customarily accorded to the leadership will continue to be given.

I personally hope that the Senate can complete its work and adjourn sine die by October 4. But it will require a lot of cooperation, many unanimous-consent agreements, and steady, hard work on the part of all Senators.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at 11:30 a.m. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed to the consideration of Calendar No. 788, S. 2727, the Department of State authorization bill.

I would anticipate rollcall votes on that measure, and I would expect the Senate to complete action on that measure that day.

RECESS UNTIL 11:30 A.M., MONDAY, JUNE 16, 1980

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11:30 a.m. on Monday next.

The motion was agreed to; and, at 6:32 p.m., the Senate recessed until Monday, June 16, 1980, at 11:30 a.m.

NOMINATIONS

Executive nominations received by Senate June 13, 1980:

DEPARTMENT OF STATE

William Bodde, Jr., of Maryland, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga and to Tuvalu, and as Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Kiribati.

John J. Crowley, Jr., of West Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Hume Alexander Horan, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Peter Adams Sutherland, of New Hampshire, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain.

DEPARTMENT OF EDUCATION

James Bert Thomas, Jr., of Virginia, to be Inspector General, Department of Education (new position).

IN THE COAST GUARD

The following temporary officers of the U.S. Coast Guard for promotion to chief warrant officer, W-4:

Philip Ellis
Colon P. Butler
Russell W. Badger
Philibert B. Akau

The following permanent chief warrant officers, W-3 of the U.S. Coast Guard to be permanent chief warrant officer, W-4:

Robert J. Hughes
Arthur R. Chavonelle III
Joseph Greco, Jr.

The following temporary officers of the U.S. Coast Guard for promotion to permanent chief warrant officer, W-3:

Charles A. Brinson
Robert P. Simpson
Carlo E. Porazzi
Edwin W. Brown
Danny K. Daniel
Alfred D. Ensley II

The following permanent chief warrant officers, W-2 of the U.S. Coast Guard to be permanent chief warrant officer, W-3:

Thomas J. Hickey
Bernard A. Kincaid
Leonard J. Antoszewski
Noel E. Crowley
John R. Friedel
Robert W. Stolpa
James R. Millar
David A. Phillips
James R. Knaup
Donald E. Bush
Leslie Brown
John C. Medeiros, Jr.
Edgardo G. Amponin
Everette M. Harbeson
Wayne R. Thompson
James H. Moore, Jr.
Paul F. Connors
John D. Gray
John Tietjen
Joseph I. Picotte
Dudley W. Coffey
Richard A. Shannon
John W. Judge
Walter E. Barnes
Benedict L. Romzek
David E. Peverly
Ronald S. Condron
Jerry E. Gieseke
Kerney C. Patrick, Jr.
Ralph L. Bradley, Jr.
Thomas J. Reed
Lawrence E. Laflam
Wallace C. Kennedy, Jr.
Ferderico H. Aromin
Kenneth S. Womack
Jerry W. Lecato
Larry N. Monroe
Milton V. Lovett
Thomas I. Stewart
Melvin L. Bouboulis
John A. Oberlander
Norberto O. Encarnacion
Dennis P. Covill
Wayne L. Thompson
William P. Feddema
William J. Knowles
Benjamin F. Davis
Daniel E. Moulson
Richard J. Highstreet
Donald F. Thurston
Miles K. McIntyre
Sheridan L. Oswald
Frederick J. Ewing
Douglas R. Kesler
Ralph T. Wurz, Jr.
Carl B. Cheney
Jon S. Vonkessel
Paul E. Turmelle
Robert A. Richards
James A. Frank
Jay B. Myer
Larry E. Gray
Allyn P. Gossage
Robert D. Lemay
Charles E. Richey
Steve Jackson
Donald A. Nelson
Ottis C. Leonard
Bruce D. Davis
Johnny T. Taylor

The following temporary officers of the U.S. Coast Guard for promotion to permanent chief warrant officer, W–3:

John W. Massey
Donald A. Perillo
Donald J. Dokken
Gary L. Perry
Frank H. Legate

The following permanent chief warrant officers, W–2 to be permanent chief warrant officers, W–3:

Howard F. Wirt
Richard E. Dentremont
Milton H. Meekins
Walter D. Moulton
Charlie C. Brogdon
Chris M. Percival
Fred F. Dombek, Jr.
John W. Littleton, Jr.
David K. Winchester
Ronald M. Bowen
Thomas J. Jozwiak
William W. Arrington
Robert C. Jacobson
Junius S. Clemmons
William J. Gural
Robert S. Tekesky
Kenneth R. Land
Richard A. Eppley
Elson C. Brittle
Jesse O. Rowe
Gerald D. Kerns
Carl W. Feil
James P. Contratto
David E. Clark
Robert L. Sturgis
William R. Garinger
Angel M. Lopez
Gordon L. Pierce
Dale R. Wilkins
Jose G. Jimenez
Charles E. Isgett
Carl D. Maddy
Lonnie L. Hyatt
Richard E. Rainville
Larry H. Oliszewski
Ronald E. Curtis
Kent W. Kramer
Ronnie L. Kunz
Dennis C. Dougherty
Henry L. Riebel
William E. Richardson
Edward F. Nuzman
Nick V. Swanson
Marion C. Parker
Librado Torres
William Heelan
Michael J. Monroe
Terry O. Gallaher
Harry R. Bishop

The following temporary officers of the U.S. Coast Guard for promotion to permanent chief warrant officer, W–2:

Louis R. Skorupa
Martin L. Phillips
James W. Dunlap
Richard M. Piccioni
Lee Reneau
Ronald E. Johnson, Sr.
Tom A. Beck
Scott D. Bair
Joseph Ewalt

The following warrant officers, W–1 of the U.S. Coast Guard to be permanent chief warrant officer, W–2:

Douglas R. Peterson
Otto F. Havens
Alton Carney
Thomas P. Ryan
Kenneth D. Charney
Glen F. Azevedo
Frederick L. Egner
Roy W. Jamison
Pearcy L. Johnson
Raymond E. Johnson
John J. Labrier
Jerry W. Shelton
David C. Nelsen
George T. Ruebling
Marc H. Johnson
Robert E. Dorman
Robert L. Hood, Jr.
Austin C. Beach
George J. Weiss
Gary N. Ross
Robert F. Rogers
David M. Watring
Charles B. Carlson
Jack R. Cornett
Thomas L. Schenk
John H. Smith
John E. Stephens
Edward L. Buell
Gerald V. Schambeau, Jr.
Jerry P. Simpson
John E. Hill, Jr.
Carl R. Olson
Harland W. Weatherly
Dedator H. Austin, Jr.
Roy W. Patton
Harry W. Darling
Ronald W. Taylor
Ronnie E. Gimnich
Alan E. Gustin
Frederick W. Burner
John A. Howatt, Jr.
Thomas R. Hoskins
William J. Geoghagan
Edward M. Hill
Cecil D. Miller
Stephen J. Allen
Paul D. Poeltl
Terry W. Martin
Ronald Kier
Charles A. Billadeau
Johnny A. Florio
Keith W. Darby
William W. Ribbing
Carl W. Allen
Gary W. Devalk
James H. Bowden
Maxie K. Wheeler
Hector F. Rodriquez
Thomas R. Lindsey
Charles R. Waggoner
Raymond J. Cox
Lenton T. Parks III
Stephen B. Hohman
Richard T. Rohweder
William J. Ham, Jr.
David F. Gerdes
Gerald G. Craddock
Wendell R. Thorne
Jeffers B. Page
Joseph M. Kalista III
Michael J. Scaonlon
Richard D. Bowman
Jay A. Smith
Timothy T. Toyne
David P. Wendell
Frank E. Rate
Joseph W. Evans, Jr.
Orlando A. Casane, Jr.
Robert D. Hall
Marion R. Smith
Jack E. Cash
Brian J. Whitaker
John E. Pistel
Donald C. Ebey
Roger D. Greenwell
Alfred P. Chadwick
Michael D. Corbett
Charlie W. Bozeman
Stephen P. Marvin
David W. Carr
Robert A. Vanderzyl
Robert R. Wilson, Jr.
Wolfgang R. Huse
Ronald J. Schmitz
David R. Comer, Jr.
Grant D. Leslie
Domenick M. Tufariello
Wilson G. Hamilton, Jr
James W. Johnson
Garland M. Lewis
Benjamin C. Sobotka
Dennis M. Igo
James M. Williams
Lee T. Cearley
Larry C. Jones
William G. Humphreys, Jr.
Larry C. Parker
Nathaniel Warren
Gerald E. Johnson
Allen H. Cox
David E. Otten
Joel R. Otterson
Michael R. Rebmann
Guilford L. Knowlton
Roger D. Henke
Raymond J. Wiechec
George A. Quinn, Jr.
Terry L. Jarvis
Gene L. Kelley
Charles D. Cole
Edward C. Morgan
Carl E. Eckard, Jr.
Bruce E. Dash
Joseph J. Dobriko, Jr.
William D. Henry
Randell K. Anderson
Edward A. Sabo
Robert L. Havner
Bernard J. Opferman, Jr.
Peter M. Sikora
William S. Anderson
William E. Ambrose, Jr.
Dennis M. George
Harvey H. Kammerer
Alton H. McKey, Jr.
Gerald L. Bonner
Eusobio B. Mawanay
Austin R. Keeth, Jr.
Stephen L. Hughett
Irving M. Davenport
Thomas O. McConnell
Stephen C. Tepner
Ward F. Kriedler
Peter F. Case
Ernesto A. Andalis
James R. Teal
Alan A. Nickerson
Julian B. Philpot
Edward J. Recely
John M. Huard
James R. King
Arthur J. Remington
John J. Pirchio
Randall C. Caudell
Anthony P. Glesner
Donald R. McCasland
Roger D. Johnson
Daniel B. Mainord
Randolph D. Seward
Shelton Caulder
Ollow E. Canup
William E. Roesink
Ronald A. Finch

The following retired permanent chief warrant officer, W–2 recalled to active duty for promotion to permanent chief warrant officer, W–3:

Ellis A. Gray, Jr.

The following licensed officer of the U.S. Merchant Marine to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant (junior grade):

Richard S. Randall

The following-named Reserve officer of the U.S. Coast Guard to be a permanent commissioned officer in the grade of lieutenant (junior grade):

Terrance J. McHugh

In the Marine Corps

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of colonel under the provisions of title 10, United States Code, section 5902:

Ray A. Alberigi
James R. Arnett
George W. Atteberry
Walter E. Baumann
Emile A. Bernard
Austin L. Beveridge
William M. Bishop
Gerald G. Bosworth
James P. Casey
Alan B. Cassalia
Clayton E. Cavender
Stanley N. Collins, Jr.
Joseph W. Constantir-
Jerome G. Cooper
Donald V. Courtney
Marvin L. Dery
William L. Dickens
Michael C. Drury
Loran C. Eldred
Robert V. Evans
Walter J. Gallo
Patrick J. Garvey
James C. Hammond
Russell L. Hanthorn
Wesley G. Hinkle
Peter H. Hofinga
Edwin K. Holles
Harry C. Holmberg
Robert R. Jespersen
Graham H. Kreicker
George T. Kupper
Mark G. Lipscomb, Jr.
James D. Lott
Lawrence P. Magilligan
Robert A. Marchese
Floyd F. Marshall, Jr.
Charles S. McLeran
George E. Moore
Richard H. Muller
John M. Norton
Reid H. Olson
George R. Omrod
Darrell K. Pastrell
Robert R. Perry
William E. Pope
Paul N. Prichard
William A. Rasmussen
Robert S. Reeves
Francis P. Reidy
Harold C. Roberson
Dennis N. Roth
Richard H. Sargent
Walter J. Savage, Jr.
Raymond A. Sears
Charles A. Skelton
Elbert G. Smith
Daniel K. Sooy
George T. Stevens III
Larry P. Stevens
Russell H. Stolfi
Charles P. Swedish, Jr.
Bruce C. Taylor
Clovis S. Vaughn
Joseph W. Vowell
Robert H. Wakefield
Richard J. Walters
Harry R. Warfield
Thomas W. White
Stanley C. Wiggins

EXTENSIONS OF REMARKS

HUNT FOR A SCAPEGOAT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. McDONALD. Mr. Speaker, most of the media in recent weeks has dealt with Mr. Bunker Hunt and the downward spiral in the price of silver in a very superficial and inaccurate manner. One of the few balanced stories written appeared in Barron's for March 31, 1980. I commend it to the attention of my colleagues in order to balance out the record. The story follows:

HUNT FOR A SCAPEGOAT

(By Richard A. Donnelly)

They punched a hole in Nelson Bunker Hunt's balloon last week. As it plunged to earth, so did his reputation as the Daddy Warbucks of commodities. He's been caught, and by people who had been waiting for him for years—waiting for the day when the market, that abstraction of forces, would affirm the ancient axiom that no one man can control it for long.

Hunt, whose oil-based fortune expanded in the past decade to include sugar, real estate and pizza parlors, has a penchant for speculation. It's showed up in his race horses; it surfaced in soybean futures a few years ago, when he and most of his family were found to have exceeded the position limits set for speculators. Pure excess of enthusiasm. He's been in silver off and on for many years. In the past 12 months or so, along with some Arab sidekicks, he probably can claim the credit for never-before-seen highs in the white metal. These, in turn, drove the prices of photographic film, dental fillings, silverware and jewelry completely out of sight. Not to mention, in a somewhat less visible area, the cost of doing business in electronics and electrical semiconductors.

Only two months ago, silver reached a high of $49 an ounce, up from early December's $19, which, in turn, was three times the year ago's $6 an ounce. Hunt, who along with his brother Herbert had been acquiring silver since 1973, clearly was in the driver's seat. With his many thousands of contracts, his already substantial physical holdings and his expressed desire to take even more off the market, he was a powerful presence. Last Tuesday night, a strange thing happened: he received a margin call that he couldn't meet.

It wasn't the first one, and it was for only $100 million, and it came from Bache, of which he's been 5.6% owner since December and a favored customer long before that. But that telephone call signalled the end of a hair-raising era in the life of silver and in commodities in general. The dust has not yet cleared, but the ramifications at the end of the week were many.

The silver market completely retraced a bull move that began a year ago; that, in turn, may signal the emergence of deflation—or, at least, disinflation—across-the-board. On Thursday, speculative money seemed to run for cover in nearly all commodities.

The stock market suffered a sharp selloff as it became clear that Bache was in trouble. A number of other brokerage firms also were affected. Rumor had it that two large commodities funds had been forced to liquidate.

The languishing bond market suddenly looked attractive to investors again.

In Washington, two regulatory agencies—the Securities & Exchange Commission and the Commodity Futures Trading Commission—quickly got into the act: the SEC suspended trading in Bache securities, the CFTC said everything was all right, that there was no need to shut down the silver market (as Bache, improbably, had suggested). A Senate committee voted to hold hearings.

Nelson Bunker Hunt is not precisely a colorful man: he is an overweight, down-to-earth Texan whose taste in clothing would not excite the envy glands of the likes of John White. Hunt neither smokes nor drinks alcohol, but does, somehow, manage to get foot stuck in mouth on occasion, as when he allowed that Chinese and Jews are different from the rest of us. He is a political conservative, a theological fundamentalist. He was drawn to commodities speculation early enough to begin snapping up silver when it changed hands below $4 an ounce.

He also took delivery of it, much to the annoyance of the establishment crowd in silver, who were used to an occasional emergency when a user might need to take away some of the refined metal that had been stored away in one of the exchange-designated bank vaults. Somehow, it was always replaced, and gentlemen pitted against gentlemen bet their money on a future price for metal to be delivered in a distant month. He who was wrong paid up, and the winner pocketed the difference. Neither party seriously thought of delivering, or accepting, the metal itself.

JARECKI'S WARNING

Hunt upset that tidy universe back in 1973-74, when he stood for delivery of 43 million ounces. Irritated sellers had to bid up prices to get the physical bullion; metals dealers were put to work to replenish the stores. Amused sophisticates, such as Dr. Henry Jarecki, Yale-educated psychiatrist who had turned from his practice to bullion dealing, warned that Hunt some day would have to sell. And when he did, he would bring prices down on top of him.

That was several years ago, but Hunt doggedly continued to buy silver. Jarecki probably dresses better than Hunt, is an amusing raconteur who can handle himself on the *Today* show. He has continental roots, an affiliation with the London based Mocatta-Goldsmidt, and may have been the first to introduce computerized arbitraging. The usual adjective, whenever his name is mentioned: brilliant.

Late last year, the story goes, Nelson Bunker Hunt, self-styled country boy, nearly took Henry Jarecki to the cleaners. In the end, and for a motive he dearly prizes, namely, profits, Hunt let Jarecki off the hook by agreeing to buy $400 million worth of silver coins, thus allowing Mocatta to meet its cash needs. Hunt obtained more of the physical silver he so prizes, Jarecki was able to reduce his open short position on the Comex (thereby easing the pressure of margin calls, which came daily as the price skyrocketed).

A bullion dealer prefers to go to bed at night perfectly hedged: whatever physical inventory he's got is covered by a short sale in the futures market. If the price (and, hence, the value of his real holdings) suddenly drops, he can recoup the loss via profits on his short sale. If prices rise, they compensate for the loss in his short position on the boards. It's widely thought that Mocatta wasn't fully hedged as silver's price soared. But even if it had been, it was daily getting margin calls to maintain its short position.

Such margin calls are met by bank loans—a virtual risk-free transaction, fully collateralized, for the dealer is merely protecting his inventory. However, the daily calls began to strain both the resources and patience of several major lending institutions. Never confirmed, but never denied, holders of short positions on the Commodity Exchange of New York were told that loan money for margin was going to be as scarce as silver bears.

In January, the board of governors of New York's Comex reached a momentous decision: for the first time in its history, it imposed limits on the number of contracts an individual trader could hold. Prices had soared in a matter of weeks to $35 an ounce, spurred in part by rumors of a possible squeeze, as Hunt, along with some Arab friends, owning fistfuls of contracts, and, with huge profits, were going to take delivery. But the effective date of the new limit was Feb. 18, and silver continued to climb.

THE FINAL BLOW

By mid-January, silver had reached $47 an ounce and the buying pressure continued. On Jan. 21, with silver near $49 an ounce, the board of governors of the Comex decreed liquidation only of existing contracts (meaning that no new players could enter the market) and raised margins by $20,000 a contract. For holders of more than 250 lots, this meant a deposit of $60,000 per contract.

The combination of impending position limits (which meant disclosing clients), the freeze on new business and the prohibitive and costly margins finally did in the market.

On Jan. 23, the nearby silver contract, on which there are no limits, plunged a record-shattering $10 an ounce. The board of governors of the Comex had succeeded in breaking the back of the bull move in silver. Except for two brief rallies, it began its descent to the low 30s, where, it was widely thought, it would be supported by the Hunt family and the Arabs.

But the lack of new buyers, persistent profit-taking that began to feed on itself, sent prices lower each day. The holders of long positions watched as their paper profits began to vanish and brokers began to call for additional margin. With money getting tight and interest rates soaring, raising new margin deposits in a declining market was distasteful. Some speculators opted to take advantage of high interest rates in a relatively safe haven, such as T-bills or Eurodollars.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The Hunts had been under almost daily margin pressure ever since silver began its precipitous fall. At first, they met the calls by putting up cash, but a week before the massive liquidations, they had taken to turning over some of that beloved silver bullion.

Last Tuesday afternoon, executives at Bache telephoned W. Herbert Hunt in Dallas and once again asked for more margin. On this occasion—for the "first time in the 7½-8 years that we've been doing business with them," says a Bache officer—the Hunts refused. "They just said they weren't going to meet the call. We confirmed that again on Wednesday and advised them that we had no choice but to proceed with the orderly liquidation of their assets." That began, apparently, just before noon on Wednesday.

Earlier, Bache had gone through the Treasury bills which the Hunts had used as collateral in their first purchases. Bache officers said they were unable to reach Herbert's brother Bunker, who was in Paris.

Even after Wednesday's sales, Bache had met its calls with the Comex clearing house by putting up its own money. That state of affairs apparently won't be formally reversed until this morning's settlements, when it receives the proceeds from Friday's sales.

While the forced liquidation of the Hunt holdings on Thursday panicked commodity and stock markets alike, Friday's selling was taken in stride. Elliot Smith, Bache vice president for commodities, described Friday's sales by the firm as even heavier than Thursday's. The dumping apparently included bullion on European markets. By the time the Comex closed at 2:15 p.m. Friday, the brokerage house had reportedly liquidated the last of its futures contracts held for the Hunts.

Hunt, it is widely speculated, ran out of company but never faltered in his conviction that silver would go to $300 an ounce in 10 years. However, like many another billionaire, he may be perennially cash-poor. Surely, he didn't have $100 million when Bache urgently needed it on Wednesday. All told, it's thought that Hunt's margin calls may have amounted to some $900 million.

On Friday, reports circulated that Hunt had liquidated many of the securities he owns to meet his margin calls. He and his brokers also were busy selling other commodities in which he'd taken a flyer—sugar, copper and cotton. It looked like a total rout. Another report, if true, would be especially ironic: it's said that on Thursday, Hunt sold 1.5 million ounces of the silver he holds to a large bullion merchant to realize some cash. Did Mocatta Metals, which had to sell to him on the run up, buy from him at the bottom? And for the same reason? Hard to say, since neither Hunt nor Dr. Jarecki could be reached on Friday. Whoever bought was a canny shopper, for 1.5 million ounces of silver was worth $60 million a month ago; at Thursday's price of around $11 an ounce, its value was $16.5 million.

But, to paraphrase Mark Twain, it would be premature to mourn for Nelson Bunker Hunt. It would also be foolhardy, since he could still be ahead in the silver game.

USUALLY A BUYER

Granted, Hunt took a beating as silver crashed, but it is impossible to know how much he actually lost, what remains merely a paper loss (on the silver contracts he still holds, but at a lower price) and what he took in the way of profits on the run up. However, his original investments in silver still look good. His first major acquisition of bullion occurred in late 1973, when he bought an estimated 20 million ounces in a range between $2.80 and $3.10 an ounce.

Early in 1974, Hunt then acquired around 23 million ounces as the price edged up toward $6. That worked out to a total investment of around $200 million. He's been playing the market ever since, sometimes selling, usually buying. At the peak earlier this year, the value of his silver holdings was estimated at close to $3 billion.

Another difficulty in evaluating Hunt's silver position today is that he's got a business partnership in Bermuda with some Saudis. It's called International Metal Investment Ltd., and besides Hunt and his brother Herbert, it lists as principals Ali Bin Moussalam and sheik Al-Amoudi, said to be a member of the Saudi Royal family. The latter's name popped up last week in connection with an attempt by Hunt and his friends to raise more than $3 billion via a silver-backed bond. The group claimed that it held between them more than 200 million ounces of silver. The announcement of the launching of such a fund was the first clear hint that Hunt had a cash problem.

The longer-term implications of the rout in silver are yet to be weighed and measured. But a favorite sport among speculators—follow the leader—may have been thoroughly discredited. Computerized trading systems, which take their cues from watching averages over a period of time, could be hurting, owing to the Thursday's sudden massive selloff.

ContiCommodity's two funds—McLean Futures Fund I ($5 million pool started in December 1978) and II ($10 million, launched last summer)—haven't been doing well of late. It's not clear whether the silver debacle is to blame, but word last week was that both would have to be liquidated. At the end of last month, each $1,000 unit in McLean I was down to $370-$380. The value of McLean II's $1,000 units had dropped to around $320. If the unit price falls below $250 (that won't be known until this week), they'll be forced into liquidation.

HE'S NOT GOING BROKE

It should be stressed that the man who was largely responsible for the incredible surge in silver prices isn't at all strapped for financial resources, although he may be a trifle slow in rounding up scads of ready cash. Besides owning silver bullion stashed away in places as diverse, culturally speaking, as New Jersey and Switzerland, Hunt is an oil billionaire first and foremost, and no one in the oil business is going broke these days.

What are the lessons in all of this? Cliches came crashing down on Friday: what goes up must come down; no one man is bigger than a market; prices finally must reflect supply/demand fundamentals. One lesson seems clear: never put influential members of the Comex board in a cash bind, or they'll work hard to change the rules against you.

Hunt apparently has learned that lesson well. On Friday, he issued a statement blaming his troubles on over-regulation—by rule changes involving trading limits, and by the imposition of "unreasonable and unrealistic margin requirements." An illiquid market developed, he said, from "this manipulation." When that is coupled with "recent federal restraints on the availability of proper financing, the result has been not only inability to get into or out of the market, but difficulty in meeting cash requirements on schedule."

Hunt went on to say that he viewed the current state of affairs as temporary, and intended to resolve "all areas of concern."

On Friday, the nearby April contract closed at $12 an ounce, up from Thursday's $10.80. Sources said major industrial consumers were heavy buyers.●

H.R. 7548

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. JONES of Tennessee. Mr. Speaker, on June 11, 1980, Representative Ed Madigan and I introduced a bill to amend the Farm Credit Act of 1971. As I stated then, the new bill, H.R. 7548, differs in some respects from H.R. 4782, which I introduced by request last year.

H.R. 7548 is intended to improve the operations of the Farm Credit System and strengthen the lending programs under the act. Furthermore, I believe it will have broad support from major farm groups and agricultural credit interests.

Following is a summary of the major provisions of H.R. 7548, with the changes from H.R. 4782 in italics:

H.R. 7548

(1) With respect to the eligibility of cooperatives for loans from banks for cooperatives, reduce—from 80 percent (70 percent in the case of rural utility cooperatives) to 60 percent—the minimum voting control of a cooperative that must be held by farmers, aquatic producers or harvesters, or eligible cooperatives in order for the cooperative to be eligible for loans;

(2) Authorize Federal land banks to make loans in excess of 85 percent—*but not in excess of 100 percent*—of the appraised value of the real estate security if the loan is guaranteed by Federal or other governmental agencies;

(3) Authorize Federal land banks and production credit associations to make loans to finance basic processing and marketing directly related to an applicant's farm, ranch, or aquatic operation and those of other eligible farmers, ranchers, or producers or harvesters of aquatic products (*such a loan could be made only if the applicant's operation supplied at least 20 percent of the amount of the commodity to be processed or marketed*);

(4) Authorize the banks for cooperatives to finance transactions for the exportation of agricultural or aquatic products by American cooperatives that are borrowers from the banks, and provide other financial services to enable their member cooperatives to participate effectively in foreign markets for agricultural and aquatic products (*the Farm Credit Administration, prior to issuing regulations implementing the new export financing authority, would be required to consult with the Federal Reserve Board and the Comptroller of the Currency to ensure that the powers extended to banks for cooperatives are equivalent to, but not greater than, those of commercial lenders and their affiliated entities*, and report annually *to Congress any unresolved differences on the matter of "equivalency" of such powers*);

(5) With respect to the production and harvesting of aquatic products—

(a) authorize Federal land banks to make real estate mortgage loans to producers or harvesters of aquatic products;

(b) authorize Farm Credit System institutions to provide to borrowers, members, and applicants financial-related services appropriate to their aquatic operations;

(c) authorize Federal intermediate credit banks to discount aquatic loans of lending institutions outside the Farm Credit System; and

(d) clarify that cooperatives engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives.

(6) Rewrite existing provisions of the Act relating to the availability of credit to other financing institutions (OFIs) such as commercial banks and agricultural credit corporations from the Federal intermediate credit banks. The new provision would

(a) permit OFIs to discount loans for persons and purposes eligible for financing by production credit associations, e.g., aquatic rural housing, and farm related business loans and marketing and processing activities in addition to loans for bona fide farmers and ranchers presently eligible for discount with the FICBs;

(b) assure that the FICB discount privilege is reasonably available to eligible banks and agricultural credit corporations that

(i) are significantly involved in lending for agricultural or aquatic purposes,

(ii) have a continuing need for supplementary sources of funds, for agricultural and aquatic loan requirements,

(iii) have limited access to national or regional capital markets, and

(iv) do not use FICB funds to expand financing for parties and purposes ineligible for discount with FICB.

For purposes of these criteria an FICB may (on a case-by-case basis, and subject to review by the Farm Credit Administration) determine that an applicant for discount privilege will be considered as one with its subsidiaries and affiliates.

(7) Authorize the district Farm Credit Boards to extend to 10 years (from the present 7 years) the maximum term for nonaquatic loans from production credit associations.

(8) Require district Farm Credit Boards to adopt policies respecting programs for providing sound and constructive credit and related services to young, beginning and small farmers through coordinated programs of production credit associations and Federal land bank associations. Results of such programs would be included in the Farm Credit Administration's annual report to Congress.

(9) Authorize Farm Credit System institutions to extend credit and other services to persons in the Virgin Islands of the United States;

(10) Authorize Farm Credit System institutions to invest or participate in loans with other System institutions, and Federal land banks to sell interests in loans to, and participate in loans with, lending institutions outside the System;

(11) Authorize production credit associations to issue participation certificates to lending institutions outside the Farm Credit System;

(12) Authorize any Farm Credit System institution to enter into general loss-sharing agreements with other System institutions;

(13) Authorize Federal intermediate credit banks and banks for cooperatives to transfer more than 25 percent of net annual earnings to reserve or allocate surplus accounts (under existing law, there is a 25 percent upper limit on such transfers of earnings);

(14) Authorize Federal land banks and Federal land bank associations to pay patronage refunds;

(15) Authorize Federal land bank associations to pay dividends to stock and participation certificate holders on the same basis as dividends may be paid by the Federal land banks;

(16) Authorize Federal land bank associations to contribute to the capital of Federal land banks, and authorize the banks to issue equities to evidence such contributions to capital;

(17) Provide that provisions of State laws that impose, with respect to a credit transaction, duties or requirements similar to those which have been or are imposed by the Federal truth-in-lending statute, will not be applicable to credit transactions primarily for agricultural purposes by (i) Farm Credit System institutions *and (ii) certain livestock credit corporations organized in conjunction with agricultural cooperatives and eligible to discount with the Federal intermediate credit banks; and*

(18) Clarify the authority of Farm Credit System institutions to set interest rates without limitation by State law *and extend a similar exemption to certain livestock credit corporations organized in conjunction with agricultural cooperatives and eligible to discount with Federal intermediate credit banks.*

(19) Specifically authorize Farm Credit System institutions to sell to their members, on an optional basis, credit or term life and credit disability insurance appropriate to protect the loan commitment, and other insurance necessary to protect the member's farm or aquatic unit, but limited to hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers. Whenever the insurance is required as a condition for a loan, System institutions would be required to give notice that the insurance need not be purchased from the institutions, but could be obtained elsewhere. To provide insurance services, system institutions would be required to have the capacity to provide effective service, and would be prohibited from discriminating against any agent, broker, or insurer, or any person who obtains insurance from a nonaffiliated agent, broker, or insurer. The insurance program of any institutions would have to be designed to assure that it will generate sufficient revenue to cover all costs, and will not have an adverse effect on the bank's or association's credit or other operations. Any institution that is offering, on the date of enactment of the bill, insurance coverages not authorized by the bill could continue to sell the coverages for one year after the date of enactment and service policies of such coverage until their expiration;

(20) Authorize Farm Credit System banks to organize corporations to perform functions (other than the extension of credit *or the provision of insurance services for borrowers*) that the banks are authorized to perform under the Farm Credit Act of 1971. The corporations would be supervised by the Farm Credit Administration. *Except as to their franchise, these federally chartered corporations would not be tax exempt.*

(21) Make several changes in the law relating to the management and operation of the Farm Credit Administration, including provisions—

(a) authorizing the Federal Farm Credit Board to set the salaries of the Governor and Deputy Governors of the Farm Credit Administration, except that the salaries could not exceed the maximum rate of pay in the executive schedule, and to fix allowances for travel, relocation, and subsistence of the Governor and for candidates for appointment to that office;

(b) authorizing the Governor to establish job position qualification requirements, a classification system, and salaries (not to exceed the basic rate of pay for level V of the executive schedule) for Farm Credit Administration executive-type employees below the Deputy Governor level and to set allowances for travel, relocation, and subsistence expenses of Farm Credit Administration employees and for travel and subsistence in connection with preemployment interviews;

(c) authorizing the transfer of annual and sick leave for employees transferring from Farm Credit System institutions to the Farm Credit Administration;

(d) authorizing the Farm Credit Administration to establish a retirement annuity program to supplement the civil service annuity of its employees whose careers include prior service with banks or associations of the Farm Credit System so as to achieve the same level of benefit as would have been received if their prior service were creditable for purposes of the Civil Service Retirement Program, all costs to be considered administrative expenses of the Farm Credit Administration;

(e) increasing the daily rate of compensation for members of the Federal Farm Credit Board from $100 per day to daily equivalent to the GS-18 rate;

(f) authorizing the Farm Credit Administration to acquire and dispose of property without regard to laws concerning acquisition and disposition of property by the government; and

(g) removing the present requirement that the Farm Credit Administration be headquartered within the District of Columbia.

(22) With respect to any election of a Farm Credit district director, provide that the list of nominees for the position may consist of the two candidates receiving the highest number of nomination votes, rather than (as under existing law) the three candidates receiving the highest number of nomination votes; and

(23) Authorize presidents of Farm Credit System banks to designate persons to represent them on interbank finance committees.●

ROLL CALL'S 25TH ANNIVERSARY

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. CORRADA. Mr. Speaker, I would like to take this opportunity to express my deepest appreciation to all the members and staff of Roll Call for the valuable service they have rendered the Hill community during the past 25 years.

Throughout these years, Sid Yudain and company have accomplished one of the most useful and important tasks of our society with great responsibility giving us and staff members the opportunity to be informed on what is going on on Capitol Hill.

Such an excellent service and valuable information have been helpful to us in our jobs.

So it is with great pleasure, as the sole representative of the people of Puerto Rico, that I thank and urge Roll Call to continue in the same manner and with the same enthusiasm the great job they have been performing during the past 25 years.●

CEDAR BEACH

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. HUGHES. Mr. Speaker, I have the privilege of not only representing the island community of Ocean City, N.J., but also of making my home there.

It is a lovely area and quite rich in tradition and local lore. Not long ago, the south end of the island was designated as Cedar Beach by proclamation of Chester J. Wimberg, the mayor of Ocean City.

Cedar Beach has a long and interesting history. Originally settled by people from nearby Cumberland County at the turn of the century who were looking for a respite from the hot inland summers, Cedar Beach was named for the large groves of cedar trees that grew on the beach.

In fact, the original settlers of Cedar Beach were so taken with the area that they tended to make life difficult for people from areas other than Cumberland County to live there.

Charlie Boice, an energetic and dedicated resident of Cedar Beach, worked with the neighborhood association to give it back its historical identity.

The name Cedar Beach was the original name associated with this area before greater development took place on the island. It recalls a more simple time when the sand dunes were covered by cedar trees instead of houses.

I would like to take this opportunity to salute Charlie Boice and the residents of Cedar Beach and congratulate them for their persistence in working for the special recognition their community deserves.●

INTERNATIONAL ASSOCIATION OF LIONS CLUBS

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. FLIPPO. Mr. Speaker, I am very proud to inform my colleagues that Mr. William C. Chandler, a distinguished citizen of Montgomery, Ala., will assume the presidency of the International Association of Lions Clubs on July 1, 1980.

There is no need to remind my colleagues of the tremendous contributions that the Lions Clubs have made throughout the years in their work with the handicapped. The Lions have long been in the forefront of the worldwide effort to help improve the quality of life of individuals suffering with speech, hearing, and vision disabilities.

The installation of Bill Chandler as president of this important and prestigious worldwide organization is recognition of a lifetime of dedication to the Lions Clubs International and his fellow man.

Mr. Speaker, I know my colleagues join me in offering our congratulations and best wishes to this outstanding American as he assumes the presidency of this important organization. I am pleased to offer at this point an article from the recent edition of the Alabama News Magazine in salute of Mr. William C. (Bill) Chandler.

The article follows:

BILL CHANDLER, THE PRIDE OF ALABAMA'S LIONS

The Lions of Montgomery and Alabama will really have something to roar about come July 1. That's when one of their own, William C. (Bill) Chandler, moves up as president of Lions International, the worldwide organization that represents 1,283,000 Lions Club members in 151 countries. Chandler's installation as the world's number one Lion was made certain three years ago when he was elected third vice president of Lions International.

"It's going to be a great challenge and a great opportunity . . . and no doubt quite a learning experience," said Chandler, the general executive director of the Montgomery YMCA. "I'll probably travel in 50 or more countries during my year as president. Of course my purpose will be to build up Lionism around the world. But I must say that I am also keenly aware that I am an American. As president of Lions International I am prohibited from commenting on partisan politics, but not so with critical issues," he said.

As president Chandler will serve as the chief executive officer of an association with 450 paid employees and a $25 million budget. During his presidency he will likely meet with the heads of state of dozens of nations, "not because of who I am, but because of the office I represent," said Chandler. He already has a date with West Germany's chancellor Helmudt Schmidt and the president of Mexico.

Bill Chandler is a 54-year-old native of Augusta, Georgia and a graduate of both Rice University and the University of Georgia. He came to his present position with the Montgomery YMCA in 1948 and was quickly told "to join the Lions Club." Since then he has become one of the most-honored Lions in the world and a very prominent Montgomerian. The Montgomery Lions Club, of which he is a member, today ranks as the 10th largest in the world. Among the projects annually conducted by the Montgomery club is the Blue-Gray Football Game.

Chandler is married and the father of three children. He will be the third Alabamian to serve as the head of Lions International. Birmingham attorney Roderick Beddow, now deceased, served in 1933-34 and former State Senator Aubrey Green of York was president in 1963-64. There are 7,000 Lions in Alabama today.●

ROLL CALL'S 25TH ANNIVERSARY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 12, 1980

● Mr. RHODES. Mr. Speaker, this month marks the silver anniversary of one of Washington's oldest and most beloved institutions, Roll Call, Congress own hometown newspaper. For the past 25 years, Sid Yudain, the founder, owner, editor, and publisher of Roll Call has amused, delighted, and educated Members of the Hill with his informative articles with a light touch.

The influence of this weekly eight-page tabloid is great. At a time when a great many forces work to divide the Members of Congress, Roll Call is perhaps the best and most visible illustration that ultimately we are all part of a single community—that institution known to all as the Congress of the United States.

We wear many labels that tend to separate us from one another—be it conservative versus liberal, Republican versus Democrat, senior versus freshman. Sid reports so eloquently and heartwarmingly each week about the entire Hill family: Proving that Senators, Congressmen, staff, pages, interns, elevator operators, and janitors are all an integral part of Capitol Hill life. Indeed, under the skilled orchestration of conductor Sid, Roll Call initiates friendly, intelligent cooperation at all levels of Congress. Its benefits reach out to all Hill workers.

This was Sid's intention from the start. At the time of its humble conception, June 6, 1955, he set forth the basic premise of the infant paper. In the first edition he stated: "Our aim is to create more interest in Hill activities, to present a newspaper of such concentrated appeal that it will be read from cover to cover, to inform neighbors and friends of illnesses, births, marriages, and various personal affairs of their cohorts, colleagues—without, of course, getting too personal—to remain completely nonpartisan while reserving the right to kid the pants off both parties, always within the bounds of good taste, to provide a service to the Congressman and legislative employees of Capitol Hill" * * * and Sid has done just that—unfailing in his efforts to present political facts and satire with universal appeal.

At the time of Roll Call's beginning, Sid was already a veteran to Hill life. Hailing from Connecticut, he first went to work as a special assistant for his Congressman, Albert P. Morano. This experience gave him the insider's touch that is perhaps the greatest single reason for the success of Roll Call.

Life on the Hill was quite a bit different in those days. Perhaps because I have been on the Hill only 2 years longer than Roll Call, I feel a particular closeness being able to parallel my political timing closely to that of Sid.

In those days the Rayburn Building was a parking lot; any staff member attempting to dine at the current location of the Longworth cafeteria found himself in a garden; the rotunda restaurant was a warehouse; Watergate was a quaint Pennsylvania Dutch eating establishment, and with the Hill employees numbering only about 20 percent of what they do now, it seemed like everybody knew just about everybody else.

Congressional offices had only two rooms—one for the Congressman and one for the three or four person staff. In those days lack of office space never seemed to be a problem.

That was how it was when that first issue of Roll Call saw the light of day. The first part-time office of the budding paper was in a tiny corner of Albert Morano's office, at least for the first 1½ years or so. Even Roll Call itself has made some changes. Back in those days it was free, but even so, rumor has it that Sid had to sneak copies of the Roll Call into the Senate when a former official denied entry into the Senate Office Building.

But, as the paper gained popularity and acceptance, things began to change. First, Albert Morano pointed out that it was coming down to a choice: his Connecticut constituents or Roll Call. The constituents won and, after a brief stay in a back room of the Capitol, Sid moved the paper to the basement of his friend, and later colleague on Roll Call, Ed Essertier.

Before President Eisenhower's term in the White House was over, he had established the still continued precedent of sending over a White House limo each week to pick up his customary 175 copies. Roll Call was, in a short while, a welcome addition to the Hill and before the labor union insisted Sid levy a charge on the paper, its circulation hit 10,000. It has been an institution of Congress ever since.

By combining highly professional standards with relevant humor, Sid filled a void in congressional literature. In his 20th anniversary edition he said:

> From the very beginning, we judged that Congress did not need a heavy, pedantic newspaper to add to the piles of boring reading material Congressional people must face each day. We vowed to keep it light and breezy, serious when should be, and irreverent when justifiable.

As a result, each Thursday afternoon every congressional office on the Hill awaits with bated breath for the arrival of the current week's Roll Call. In addition to objective, unbiased political articles, readers are treated to such delights as "Sid Bits", "Around the Hill", trivia, and chuckles that serve to promote the unity of Congress and its support systems.

It will not be until September that the world becomes subject to Sid's 25th anniversary edition—an issue I'm sure will not soon be forgotten. But, in the meantime, Sid's friends and loyal followers refuse to let his day of reckoning go by unnoticed.

I have the honor of serving as co-chairman of Roll Call's 25th anniversary salute in honor of Sid and his great little paper. The gala, which is being hailed as "an event without peer" will take place next Thursday, June 19, at the Shoreham Hotel. Several hundred of Roll Call's old faithfuls will be in attendance as well as a dozen or more fans from this honorable body and the world at large who plan a roast for Sid. Among the speakers will be political satirist Mark Russell, author Larry King, Assistant Secretary of Education Liz Carpenter, "Ear" columnist Diana McLellan, WJLA critic-at-large John Corcoran, and family delegate to the roast, Bernie Yudain. The congressional bipartisan cast is scheduled to include Speaker TIP O'NEILL, Majority Leader ROBERT BYRD, Minority Whip BOB MICHEL, Senator SAM HAYAKAWA, and Representatives MO UDALL and SIL CONTE. Vocal entertainment will be provided by songstress Deidee Lane and Irish tenor Sean Wilson. The Shieks of Dixie will also be on hand.

In conclusion, I wish to join with all of Capitol Hill in extending to Sid and Roll Call a very "Happy 25th Birthday."●

ANNIVERSARY OF THE ILLEGAL SOVIET TAKEOVER OF BALTIC STATES

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. CLINGER. Mr. Speaker, on June 15, 1940, Soviet armies marched across the independent nation of Lithuania, and headed for the states of Latvia and Estonia.

Forty years have passed since then; most Western nations have granted former colonies independence. But the Baltic States remain under the iron grip of the last colonial empire of the modern world—the Soviet Union.

Despite 40 years of cultural, religious, educational, and political repression, the Baltic peoples have not been assimilated into Soviets. Peaceful resistance to Russian occupation continues to this day—but it is not always peacefully suppressed by the occupying forces.

The recent invasion of Afghanistan does not indicate a fundamental shift in Soviet policy. The policy remains the same: continual conquest of neighboring peoples. We must support the Afghan and the Baltic peoples as they struggle against the Soviet occupiers.

Let us hope and pray for the Lithuanians, Latvians, and Estonians, who have been subjected to four decades of Russian occupation.●

SWEDES ARE STUNNED BY CRISIS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. McDONALD. Mr. Speaker, for decades now the country of Sweden has been held up by American liberals and socialists as an example of how big government and socialism with a smiling face can bring peace and prosperity to a nation. Well it appears that socialism has finally reached its limits, even in tolerant Sweden, and the country is either going to have to reduce its socialism or start the downhill slide that socialism always brings. As in England, this was recently brought home to the Swedes as a result of its trade union strike activity. I commend this news item from the London Daily Telegraph of May 12, 1980, to the edification of my colleagues:

SWEDES ARE STUNNED BY CRISIS

(By John Richards)

Underground trains at a standstill, nurseries closed and teachers on strike, hospital patients unable to get surgery, and bread counters bare—the crude and cruel impact of total industrial warfare have left the Swedes in the street astonished and not a little ashamed.

What price collectivism, the creed of the last generation or more, when working mothers are isolated at home with their children and the elderly have to walk or queue for scarce buses and taxis?

Before last night's settlement, this was the impact on the individual when the "Swedish model" broke down with 700,000 private-sector workers locked out and 125,000 others—including vital workers in the public services—on retaliation strikes.

One Swede told me: "We thought it was impossible for this to happen in Sweden. Now we fear that our reputation overseas will suffer as well."

ALARM AT THE DAMAGE

Even those who believed that a confrontation was inevitable when the centralised national negotiations between the Swedish Employers' Federation and the blue-collar Swedish TUC were in recent years being consistently put under pressure to reduce "real" wage levels instead of distributing the product from growth, are now alarmed at the damaging effects of the breakdown.

In a country where 95 percent of the workforce are union members 55 percent of wage earners and 71 percent of salaried employees are now estimated to be regretting the confrontation.

Traditional collectivism and solidarity have led the workers out on to the streets. Now they bitterly regret being there.

The housewives are uneasy, the businessmen toil towards distant airports in Norway and Denmark with a bemused and worried look on the their faces, and the younger generation pause from their hedonism to wonder how the elders got themselves into such a mess in the first place.

More of this kind of trauma it is suggested, could shock the Swedes away from their previous commitment to organisations and into a greater feeling of personal involvement in what goes on around them.

Such a change, even marginal, could have important political implications for Mr. Thorbjorn Falldin's non-socialist coalition Government in the major battle against economic decline which lies immediately ahead irrespective of the outcome of the present wage negotiations.

Mr. Falldin will be reaching for a Thatcher-style axe later this year drastically to trim Sweden's current 55,000 million-kroner (£5,800 million) budget deficit. He will need public support for what, in Swedish terms, could be "draconian measures."

MUST APPLY BRAKES

One senior official said: "We must put the brakes on and re-orientate our policies.

"We have reached a certain level in the welfare state. Maybe we should leave it there for now, or ask for some extra contributions from the citizens for such things as hospital services and medication charges.

"But how do you raise direct taxes in a country which is already as heavily taxed as Sweden? And if you do, what then happens to inflation? But we must do more, or we will become a Danish or a United Kingdom case."

Sweden is still a rich, perhaps over-rich country, and its citizens have come to expect a high standard of living as of right. But steps may also have to be taken to curb the growth of private consumption, consumer credit, and nonproductive investment.

This is where the appeal to greater personal responsibility could be vital. The Swedes could be presented with a stark message: "You have to learn to pay your own way."

Some of Mr. Falldin's supporters wish with hindsight that he had moved earlier—in the halcyon days when the coalition had an 11-vote majority after the 1976 election rather than its present single vote over the Social Democrats.

His apologists use the old phrase about "taking time to turn the liner around."

Nevertheless any new measures on the budget will be allied to a sympathetic industrial policy similar to that shown when the steel, ship building, textiles, and woodpulp industries ran into dire structural problems in the 1976–78 period.

An Industry Department official said: "The present Government is neither interventionist nor strictly hands-off. It wants to rely as much as possible on market forces, to rely on companies making the plans, and then providing the climate that will encourage investment."●

TAX ON INTEREST ON SAVINGS ACCOUNTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. DERWINSKI. Mr. Speaker, President Carter's proposal to withhold Federal income tax on the interest on savings accounts, in an attempt to increase Federal revenues, has received much opposition. It is being antisaver, anticonsumer, and antifree enterprise.

An editorial, appearing in the June 4 edition of the Suburbanite Economist Newspapers, serving Cook County, Ill., makes several very pertinent and valid criticisms of the administration's proposal.

The editorial, which I recommend that the Members read, follows:

DO NOT EXTEND TAX WITHHOLDING TO INTEREST, SAVINGS

The Carter administration wants to squeeze another $3.4 billion out of taxpayers by having banks, savings and loans and corporations withhold 15 percent of the interest paid on savings accounts and dividends. The Internal Revenue Service believes $3.4 billion in income tax is now going uncollected because the IRS fails to catch up with all the people who fail to report interest and dividend payments on their tax returns.

Extending the tax-withholding concept to interest and dividends is being offered to Congress as a way to avoid $3.4 billion in spending cuts that might otherwise be necessary to balance the 1981 budget. Thus it reflects the philosophy that if balancing the budget requires sacrifice, it is better to inflict the pain on those who pay into the federal treasury than on those taking money out.

The withholding proposal has come up periodically in Congress for 30 years, and was most recently voted down in 1976. The arguments raised against it then are as valid as now. Banking institutions and corporations are saddled with enough accounting and paperwork demanded by the government without taking on this tax-collecting chore.

Moreover, many senior citizens rely heavily on interest or dividend income for their support and are in low income brackets where they wind up owing little or no tax at the end of the year. The 15 percent withholding would amount to their making an interest free loan to the government until their money is refunded after the filing of their annual return.

But zeroing in on interest and dividends as a tax target is a mistake, above all, as economic policy. Congress has just taken note of the need to stimulate savings and investment as a strategy against inflation. It voted in March to increase from $100 to $200 the amount of interest and dividend income that can be excluded from taxes, and it can be argued that the exclusion should be even higher or that interest and dividends should be exempt from taxes altogether.

As it is, a passbook savings account paying relatively low interest is hardly a paying proposition when savings are subjected to both the loss from inflation and a tax on the interest. The National Savings and Loan League estimates that an immediate effect of withholding tax from savings interest would be a shift of $4 billion out of savings accounts into investments not covered by withholding.

Where dividends are concerned, many economists have long argued that it is unfair and unsound to tax corporate earnings twice—once when the corporation pays taxes on its profits and again when shareholders pay personal income tax on the same profits received as dividends.

Congress should put this withholding scheme on the shelf and give some attention to the structural deficiencies of a tax system that creates disincentives for savings and investment. If the IRS isn't collecting all the taxes it should, that's something for the IRS to worry about.●

DENIAL OF DEMOCRACY IN THE HOUSE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. OTTINGER. Mr. Speaker, the chairman of the Budget Committee, the gentleman from Connecticut (Mr. GIAIMO), made a mockery of the democratic process yesterday by denying any time at all to majority side opponents of the conference report on the budget, even though he had time available; indeed, he turned back more than one-third of the time allotted to him under the House rules.

Fair debate of all sides of an issue is essential to the democratic process and to the effective working of this body. Highhanded refusal to permit dissenting views to be expressed is a flagrant abuse of the authority given the chairman to control the time on a conference report.

I asked the majority whip, the gentleman from Indiana (Mr. BRADEMAS), to assist in this matter and he flatly refused saying, "Of course we would not yield time—we want to pass this resolution." This kind of authoritarianism is simply incredible.

Mr. Speaker, I request you prevail upon all committee chairmen, and particularly the gentlemen involved in yesterday's proceeding, to assure that in handling conference reports they adhere to the established procedures, essential to fairness and representative character of our proceedings, to divide the time under their control equitably among those who hold various points of view on the legislation.

If the denial of democracy that took place yesterday is repeated, I shall have to move for a change in the rules to require that majority time be divided.

NEED FOR ELIMINATING RECORD VOTES ON GOING INTO COMMITTEE

Mr. Speaker, yesterday the Subcommittee on Energy Development and Applications had before it at 10 a.m. the Secretary of Energy, Charles Duncan, for important hearings on the Administration's commitment to conservation and solar energy. We were interrupted at 10:30 by the call for a record vote on going into Committee. As a result, the Secretary's valuable time was wasted while 11 Members in attendance had to vote on this meaningless matter, and because the Secretary had a previous commitment at noon, several committee members were not afforded time to question the Secretary. This is simply outrageous. It illustrates the need for the Rules Committee to act to exclude record votes on going into Committee.

I have circulated a "Dear Colleague" letter requesting Members to join in petitioning the Speaker and the chairman of the Rules Committee to make this provision, and I hope that many more will join in eliminating these time-consuming, disrupting, and meaningless record votes, as well as giving the Speaker authority to delay votes on approval of the Journal until the end of legislative business.●

SOVIET OCCUPATION OF THE BALTIC STATES

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. WINN. Mr. Speaker, Sunday, June 15, marks the 40th anniversary of the military occupation and forcible incorporation of Lithuania into the Soviet Union.

Throughout modern history we have been reminded of the tyranny of Russification in Lithuania. We have witnessed the terror of Soviet extermination practices and the grim exile of hundreds of thousands of innocent Lithuanians to Siberian labor camps.

Despite four decades of Soviet suppression the people of Lithuania have persevered in their struggle for freedom and self-determination. Entrapped by a savage and ruthless Communist regime, the Lithuanians have continued to fight for the most important human values in life, including the freedoms of speech and worship.

I wish to express my admiration to all Lithuanians and their decendents for their courage in the face of such tragedies. Let us hope and pray that the Lithuanian people's struggle for freedom and independence may one day culminate in enjoying the well-earned blessing of human liberty.●

JAMES C. CLEVELAND BUILDING

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. RHODES. Mr. Speaker, I am today proud to be sponsoring a bill to designate the U.S. post office and courthouse building in Concord, N.H., for Congressman JAMES C. CLEVELAND, who will shortly end his distinguished career after having served nine terms in the Congress.

JIM CLEVELAND is not only one of the finest public servants to have ever represented New Hampshire, but his leadership and guidance have been a model for the Nation as well.

JIM CLEVELAND has gained the respect and admiration of his constituents for his diligent work in their behalf. During World War II, the Korean war, and for 19 years in Congress, JIM has tirelessly endeavored to serve his country.

It has been a great honor and pleasure for me to have had the opportunity to know and serve with JIM during his years on the Hill. His retirement serves to remind us both of his outstanding career as a Member of the House and of the loss this Congress will suffer through his departure.

It is in this regard that I hope the House will soon act to extend this honor to the gentleman from New Hampshire, our friend, JIM CLEVELAND.

The text of the bill follows:

H.R. —

A bill to designate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse building located at 55 Pleasant Street, Concord, New Hampshire, shall hereafter be known and designated as the "James C. Cleveland Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be held and considered to be a reference to the "James C. Cleveland Building."●

LITHUANIAN CAPTIVITY

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. BENJAMIN. Mr. Speaker, on June 15, the Lithuanian-Americans will join with Lithuanians throughout the free world in observing a solemn and tragic moment in their history—the military occupation and forcible incorporation of Lithuania into the Soviet Union and the subsequent deportation of 300,000 freedom-loving Lithuanians to Siberian labor camps.

The history of Lithuania is one of great progress and heartbreaking setbacks, but its people have never lost sight of their goal of freedom and self-determination. The people of Lithuania retain strong ties to their cultural past. They are endowed with courage admired by the United States and all of the free international community.

Our Government has never accepted the validity of the Soviet annexation of Lithuania. The recognition accorded to an independent Lithuania in 1919 has never been invalidated. As members of a free nation who prize self-determination, we must continue to deny this Soviet affront to human dignity.

We have already pledged our deep support for the struggle of the Lithuanian people with the unanimous passage of House Concurrent Resolution 200, which expresses the denial of Soviet claims of citizenship of the Lithuanian people and the people of all the Baltic States. Our actions must continue to inspire those who have remained faithful to the blessed ideals of freedom we so richly enjoy in our nation today.

In remembering this act of Soviet aggression in 1940, I honor the freedom-loving people of Lithuania and her many sons and daughters in the United States. May they remain faithful to their quest of ridding the will destroying grip of the brutal suppression cast upon them. May they be granted the knowledge that their years of independence will not be forgotten. May they know that the thievery of freedom will cease and that one day tyrannical oppression will only be a dark part of their past.●

GOLDEN ANNIVERSARY OF THE WESTERN LOS ANGELES REGIONAL CHAMBER OF COMMERCE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. DORNAN. Mr. Speaker, I would like to call to the attention of my esteemed colleagues the golden anniversary of the Western Los Angeles Regional Chamber of Commerce, a distinguished service organization which, since its inception in 1930, has grown to achieve recognition as one of the largest and most effective chambers of commerce in southern California.

The organization was founded originally by a small number of businessmen and businesswomen as the Westwood Village Business and Professional Men's Association. The group immediately addressed itself to improving the effectiveness and efficiency of the Westwood Village business community by combating problems such as overcrowding, poor telephone service, and poor mail service.

In continuing its dedicated service to the community over the years, the Western Los Angeles Regional Chamber of Commerce has worked hard not only to aid the progress of business growth in West Los Angeles, but also to contribute toward the betterment of the entire area through its valuable community presentations and programs.

In 1969, with the assistance of Dori Pye, the chamber arranged the first of what would soon become the highly successful semi-annual Westwood Sidewalk Art and Craft Show, the largest outdoor event of its kind in the United States. Although the organization gained much recognition and acclaim for the success of the event, their greatest gain was Dori who, following the art show, was hired to manage the chamber. With her instrumental help, the chamber undertook a major campaign to increase its effectiveness by increasing its membership.

This endeavor to increase membership was so successful that the chamber incorporated many more members, first from the area immediately surrounding Westwood Village, and later from the Westwood area. During this process the group also underwent a number of name changes: from

Westwood Village Chamber of Commerce to Westwood Chamber of Commerce, to the Greater Westwood Chamber of Commerce. And this period also saw the inevitable expansion of the organization's offices from their meager beginnings over a hamburger stand to their present location in a Wilshire highrise. Shortly thereafter, the chamber was approached by the West Los Angeles Chamber of Commerce with the suggestion that the two organizations merge, which they did, mandating yet another name change. Their present membership of 800 makes it the second largest business association in Los Angeles. Dori is now their president and I think her record convincingly proves that there is no one finer for the job.

Working closely with Dori is the chamber's 50th chief volunteer officer and the first chairman of the board, John Carmack. Under his direction the chamber has continued to expand, not only in membership, but in service, dedication, and worthiness. Through the combined efforts of Dori, John, and the other members of the executive committee, many valuable and important programs have been initiated and developed to help the members of our community.

Within the organization, a program was initiated to help bring top chamber leaders closer to new members through the participation of the executive committee in the orientation process. At the suggestion of the chamber, Westwood Village merchants and property owners joined together to purchase highly durable cement litter containers, and voluntarily funded a sidewalk cleaning program. The chamber ran a highly successful series of seminars by the socioeconomic committee and the Small Business Council, and started a business newspaper featuring articles by top business leaders.

The chambers' activities, however, often reach beyond the scope of business in serving the community. They work for all citizens through their housing supply task force, formed to develop innovative concepts for low- and moderate-income housing on the West Side. Offering their help to our youth, the chamber presents the annual job ops program, now in its seventh year, to allow high school students the opportunity to explore possible career goals with area business and professional leaders. And to honor the outstanding architectural achievements in the area, the organization presented, for the 10th year, its Annual Beautification Awards ceremony.

The Western Los Angeles Regional Chamber of Commerce has been recognized for its efforts by the National Chamber of Commerce which has accredited it on two occasions. The citizens of the West Side and I deeply appreciate all their hard work. I invite my colleagues to join me in congratulating this fine organization on the occasion of their 50th year of dedicated service to our community.●

THE PRISONERS OF THE LENINGRAD TRIALS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. SOLARZ. Mr. Speaker, I would like to take this opportunity to restate my strong support for the three remaining prisoners of the Leningrad trials—Iosif Mendelevich, Aleksei Murzhenko, and Yuri Federov. This Sunday, June 15, will mark the 10th anniversary of the arrest of these courageous men.

Ten years ago, as I am sure many of my colleagues are aware, these three men were among the members of a group who attempted to escape from the Soviet Union by hijacking an airliner to fly over the border to freedom in Sweden. So desperate was their desire for freedom that they were willing to undertake even this very risky endeavor. They have paid a very high price for their search for liberty, and their failure has resulted in 10 years of imprisonment.

Much has been said about the squalor of prison life in the Soviet Union and the almost absolute disregard for the most basic human rights of the prisoners. Little enough comfort is ever given, and even the most simple things required to meet human needs—such as food, or clothing, or medication—can be arbitrarily withheld. These three prisoners—Mendelevich, Murzhenko, and Federov—have served their sentences in some of the most severe and restrictive Soviet prison camps. They have suffered deprivation and ill health and they have been cut off from their families and the world. Through all of this these brave men have not lost sight of their convictions and have not given up hope that they will one day leave the suffering behind and cross over to a life of liberty.

We must not let ourselves forget tne sacrifices of Iosif Mendelevich, Aleksei Murzhenko, and Yuri Federov. As if their own plight were not bad enough, late last year Yuri Federov's wife and daughter were taken to KGB headquarters in Kiev for a lengthy and unexplained interrogation. They were allowed to return to their home, but must now live with the memory and fear of that incident in addition to their worries about Yuri—their husband and father.

The Soviet Union must not be allowed to continue this harassment of its citizens and the denial of their human rights. The Soviet Government must not be allowed to forget the international conventions they have signed, including the Helsinki agreement which recognized the right to free emigration. Had this right to emigrate been respected, there would have been no need for Iosif Mendelevich, Aleksei Murzhenko, and Yuri Federov to have acted as they did 10 years ago. Had they been granted the right of free emigration, they might have spent the past 10 years in peace and freedom instead of fear and suffering. The others who acted with them a decade ago have all been released. Why must these three continue to pay for something to which they should have been entitled?●

ARGENTINA AND PRESIDENT CARTER'S GRAIN EMBARGO

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. LAGOMARSINO. Mr. Speaker, the recent decision by the Argentine Olympic Committee to boycott the Moscow games is in sharp contrast to that country's refusal to support President Carter's grain embargo against the Soviet Union. Considering the administration's antagonism to the Argentine Government, it is not surprising that they did not go along with the grain embargo.

One of the military officials—Gen. Omar Graffigna—of Argentina was asked whether there was some inconsistency in that country's foreign policy in its relations with the Soviet Union. He responded:

> These are two positions on two different issues. One position concerns the cereal grain boycott, in which our country adopted a completely correct and politically wise policy, because we do not like anybody to pressure us or for someone from outside to make decisions without consulting us. The other position is also correct, and it was adopted without any sort of pressure. Sometimes it is necessary to act in accordance with the development of events, since there is no rigid pattern in decisionmaking.

I believe the Argentine position on these two issues is a logical result of their own perceived self-interest combined with a sense of national pride, demonstrating their independence and self-reliance.●

TRUTH-IN-TESTING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. GOODLING. Mr. Speaker, as I reported in yesterday's RECORD (page 14596, I am providing for the benefit of my colleagues a copy of the data I requested from the Educational Testing Service. This data reveals the characteristics of the test takers who requested disclosure information on standardized tests under New York

State's so-called truth-in-testing law. As I noted in yesterday's statement, the data show that the purported benefits of the legislation may be unintentionally accruing to those who need it least. The law actually appears to be aggravating the already disadvantaged position of those for whom this legislation was designed to help. It is clear from this data that much closer scrutiny of the results of truth-in-testing law in New York State must occur before Congress decides to consider Federal involvement in the area of regulating college admissions testing. The disclosure data follows:

Educational Testing Service,
Washington, D.C., June 11, 1980.

Hon. William Goodling,
Subcommittee on Elementary, Secondary, and Vocational Education, Rayburn House Office Building, Washington, D.C.

Dear Congressman Goodling: I am writing in response to your request for information about candidates who have requested testbooks and/or answer sheets as a result of the New York testing law which went into effect January 1, 1980. We have preliminary data of the sort you request for some of the testing programs; one might think of them as "early returns" since we will continue to receive orders for disclosure information.

Every program is treating the disclosure requirement differently. As a result it is difficult to generalize about disclosure.

(1) The Scholastic Aptitude Test (SAT) disclosure information (a package including testbooks with answers and the answer sheet) is available to students taking the test in New York state only.

(2) The Graduate Record Examination (GRE) is available both to students tested outside as well as inside New York state and to the public at large. They may order the disclosure materials in three ways, either testbooks with answers, testbooks with answer sheets, or answer sheets only.

(3) The Graduate Management Admission Test (GMAT) is available to students tested outside as well as inside New York state. They may order disclosure packets (testbooks, answers and answer sheet) from the national administrations.

(4) The Law School Admission Test (LSAT) disclosure policy is similar to the GMAT. Students may order full disclosure packets from the national administrations.

(5) The Test of English as a Foreign Language (TOEFL) is available to students world wide. They are able to order disclosure packets for the February, 1980 administration.

Since January 1, 1980, about 206,000 students have taken ETS administered tests and were eligible to order disclosure information. Of that number only 18,576 or 9 percent have chosen to do so as of June 4, 1980. The percentage ranged from about 2.5 percent in the GRE program to about 17.2 percent in the Law School program.

We can break down the information by score level, race and income for those orders processed as of last week. For example, more than 35,000 students took the SAT in New York in March, 1980. To date, 2130 orders have been received and 1787 have been filled. Thus, only 6 percent of the eligible students requested copies of the test.

The SAT yields three scores: Verbal, Math, and Test of Standard Written English (TSWE). On all three, the average scores are higher for those who received disclosure packets than those who did not order them. To illustrate, I list below the SAT averages from the March 22, 1980, administration.

AVERAGE SCORES—NEW YORK

	Test takers[1]	Students sent disclosure materials[2]
Test:		
Verbal	439	502
Math	485	564
TSWE	42	48

[1] March 1980.

[2] As of June 9, 1980.

Note.—The students receiving disclosure materials are included in the total population; thus, the averages for the total group are higher than they would be otherwise. These averages are a conservative representation of the differences between the groups.

Of the approximately 31,500 who identified themselves by race in New York, 21,691 were white. Of that number, only 1272 (5.9 percent) have had packets mailed to them. Only 12 (0.8 percent) Black students out of 1517 who took the test in New York and identified themselves as Black, have been sent the disclosure materials, as have 2 Mexican American, and 6 Puerto Rican students. 54 Orientals out of 538 so identified (10 percent) have received the materials.

So far students from families with above average incomes are ordering the disclosure materials more than those from families with low incomes. Of the 1088 SAT candidates who reported family income and who were mailed disclosure packets, 292 (26.8 percent) reported incomes over $50,000; 56 percent had incomes over $30,000; 14 percent had incomes below $18,000 and only 3 percent had incomes below $9,000. Compared to the group receiving. disclosure packets, the total population taking the SAT in New York in March had a smaller proportion, 30 percent below $18,000. The attached chart shows those receiving disclosure materials as a proportion of various income groups in the total population.

In the GRE program, a total of 1129 (2.7 percent) have requested disclosure information: 697 test questions and answers only; 426 tests and answer sheets; 6 answer sheets only. In January, 41,418 took the GRE administration for which the test is disclosed. Some of the 1129 may not have taken the test, since the GRE disclosure packets without answer sheets are available to anyone.

The GRE aptitude test yields three scores: Verbal, Quantitative, and Analytical. Since many students requesting disclosure materials took the test in administrations other than January or have not yet taken it, we have score data on 435 students who requested the materials. The average scores of those who have received thus far the disclosure materials are higher than those of the population taking the GRE in January, 1980. The averages are listed below:

AVERAGE SCORES—JANUARY 1980

	Test takers[1]	Students sent disclosure materials[2]
Test:		
Verbal	492	519
Quantitative	520	564
Analytical	517	542

[1] The students receiving disclosure information are included in the total population.

[2] As of June 9, 1980.

We have racial/ethnic data on 331 students who have received the GRE disclosure materials. Of these, 260 are White, 20 Oriental, 15 Black, 5 Mexican American, 3 Puerto Rican, and 4 Hispanic, with 20 listing "other". While we have no directly comparable breakdown of test-takers by ethnic group for the 1980 national administrations, data from 1978-79 suggest that to date Orientals may be over-represented in the population requesting disclosure materials and Blacks possibly under-represented.

Of those GRE test-takers reporting income, 46.5 percent of those receiving disclosure materials have incomes exceeding $15,000 with 19 percent exceeding $25,000; 15.2 percent reported incomes less than $6,500. These percentages are roughly comparable to those for all GRE test-takers in 1978-79.

About 90,000 students registered for the GMAT in January and March; only about 9300 (about 10 percent) have requested disclosure materials.

The Graduate Management examination yields one score. We have data for approximately 7700 students from the January and March administrations. The average scores for two groups receiving disclosure materials are similar to those in the national administrations.

AVERAGE SCORES

Administration	National Population	Students receiving disclosure materials
January, 1980	469	469
March, 1980	453	447

[1] Students receiving disclosure materials are included in the total population.

The large majority of GMAT students requesting disclosure materials are White, as one would expect since Whites comprise the majority of the test-taking population. Approximately 5,500 students provided information as to their ethnic groups: 4,347 are White; 275 are Black, 43 Mexican American/Chicano, 334 Oriental and 28 Puerto Rican. While there are no directly comparable breakdowns for the 1980 national administrations, a look at the racial composition of the 1977-78 administrations suggests that Blacks may be under-represented in the group receiving disclosure materials and Orientals over-represented compared to earlier national populations.

Data for other programs are still being compiled. We will learn much more, I'm sure, as we monitor and analyze the requests for disclosure materials received over the next few months.

While we are in the process of analyzing information by geographical region, I was unable to assemble it across programs in a systematic manner for presentation today. We will try to incorporate geographical information available in further analyses.

Sincerely,

Alice J. Irby,
Vice President.●

DR. V. D. GOODALL—AN OUTSTANDING "COUNTRY DOCTOR"

HON. MARVIN LEATH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. LEATH of Texas. Mr. Speaker, I rise today to pay tribute to an outstanding Texan, Dr. V. D. Goodall of Clifton, Tex. The occasion for this tribute is Dr. Goodall's receipt of the

University of Texas Ashbel Smith Distinguished Alumnus Award.

While Dr. Goodall has long been active in national, State, and regional endeavors on behalf of his profession, his greatest contribution is that he has led the effort to bring city medicine to the rural community he has served so long and well.

Mr. Speaker, one of man's highest satisfactions must be in knowing that his life and career have made his community better than he found it. Dr. Goodall can be certain he has done so for the Clifton, Tex., community.

An article in the June 8 edition of the Waco Tribune Herald is most enlightening, and I commend it to my colleagues.

The article follows:

CLIFTON "COUNTRY DOCTOR" AT HOME IN RURAL SETTING

(By Cyndy Slovak)

CLIFTON.—Still a "country boy" and a "country doctor" at heart, Dr. Van Doren Goodall of Clifton wouldn't want to be a doctor in any other town or city in the world.

"I was reared in the Valley Mills area, but the most outstanding thing which made me realize I wanted to remain in Clifton was my work in New York City. I worked for the Brooklyn Children's Aid Society, and there I learned that I wanted to live and work in a smaller town, where people have time to care," Goodall said.

Goodall recently was named the recipient of the Ashbel Smith Distinguished Alumni Award, which is awarded to doctors for their service to the medical profession and to mankind. The University of Texas Medical Branch in Galveston gives the award every year, and bestowed it on three physicians this year.

Goodall did his premedical work at Baylor University before transferring to UTMB. He graduated from UTMB in 1933 and set up his practice in Clifton, a town of 2,700 people, in 1934.

Goodall now is medical director of the Goodall-Witcher Hospital, which he helped found, and is active in community and health organizations on the local and state level.

Describing his work as "bringing city medicine to a rural community," the UTMB graduate said a doctor must not only give a patient good medical treatment, but must also give the person "attentiveness, love and care, not just a good snow job."

While in New York City, Goodall said he realized that most city doctors do not have the time to give to their patients. They must drive or ride the subway to work for an hour, he said, and to check in a patient at a hospital, they must take off from work.

In Clifton, the situation is much better, he said. "It takes me only five minutes to get to work, and about one minute to get to the hospital," Goodall said. "That gives me more time to spend with each patient, and make them feel I care."

For this reason, Goodall said the medical clinic and hospital has consultants from Waco to Meridian to Walnut Springs. "Our town could not support over three doctors, but right now we have 13," he said. "We are sort of geared to service. When I can walk to the hospital in just a minute, that's called efficiency. And that's what it's all about."

Goodall, described as one of his fellow doctors as "gregarious," said that Clifton's medical system is an exception when it comes to rural communities.

"Most communities are not large enough to support a hospital, but must share a 'regional' hospital," he said.

But the situation is changing throughout the United States, Goodall said. The medical system is expanding, and he feels that soon Texas will have a very comprehensive system.

"I think ultimately we'll have super-large hospitals, such as the one in Galveston, which will also serve as a teaching hospital. And then we'll have regional hospitals like those in Waco. Finally, there will be regional ones, like Clifton's, which will serve the rural area."

The type of rural medicine also will change, Goodall said.

"I think rural areas will become connected in some way with a doctor or paramedic personnel," he said. President Carter's rural health laws point in this direction, Goodall said, and he thinks it is a good system.

The people in the rural areas need as much attention as those in the city, Goodall said. And the only way to do such a thing is to "bring city medicine to the country."●

FLAG DAY—SATURDAY, JUNE 14

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. FARY. Mr. Speaker, Flag Day, Saturday, June 14, is a day of national commemoration which in recent years has often been overlooked by our citizens. Throughout the communities of our Nation, in house after house, there is no flag being displayed.

Our citizens must not forget the meaning behind Old Glory. The flag symbolizes our heritage and beliefs; she symbolizes a Nation dedicated to independence, freedom, and justice. Originally the banner of an infant republic, she is a symbol of over 200 years of growth and liberty for our country. Her stripes symbolize the Thirteen Original Colonies and our forefathers who forged a Nation from that confederation. Because of our forefathers' foresight, wisdom, and perseverance, a great Nation has emerged—a Nation of 50 diverse States, each represented on the flag, and of over 200 million people.

In honor of Flag Day, I would like to quote President Wilson, who on Flag Day in 1917, only a few days after the United States entered World War I, spoke eloquently on the meaning of our flag:

> This flag, which we honor and under which we serve, is the emblem of our unity, our power, our thought and purpose as a nation. It has no other character than that which we give it from generation to generation. The choices are ours. It floats in majestic silence above the hosts that execute those choices, whether in peace or in war. And yet, though silent, it speaks to us—speaks to us of the past, of the men and women who went before us, and of the records they wrote upon it.
>
> We celebrate the day of its birth; and from its birth until now it has witnessed a great history, has floated high the symbol of great events, of a great plan of life worked out by a great people . . .
>
> Woe be to the man or group of men that seeks to stand in our way in this day of high resolution when every principle we hold dearest is to be vindicated and made secure for the salvation of the nation. We are ready to plead at the bar of history, and our flag shall wear a new luster. Once more we shall make good with our lives and fortunes the great faith to which we were both, and a new glory shall shine in the face of our people.

This Saturday, I urge all the citizens of the United States to proudly fly their flags and to reflect on the meaning and heritage behind our Stars and Stripes.●

THE PALO VERDE IRRIGATION DISTRICT DIVERSION DAM, CALIFORNIA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. LEWIS. Mr. Speaker, today I am introducing legislation which will enable the inhabitants of the lower Colorado River Valley to take the initiative in working to meet that region's growing demand for electricity. This bill enables the Palo Verde Irrigation District to construct a facility at the district's diversion dam on the lower Colorado River for the purpose of generating hydroelectric power. No Federal funds are required.

The Palo Verde Irrigation District has been investigating the possibility of developing hydroelectric potential at the existing dam site for quite some time. They have conducted several preliminary engineering studies which indicate that the project is feasible despite a very low head at the dam. The only obstacle to further development is the fact that under present law, the Federal Government has the exclusive right to develop electrical power at the dam site. Therefore, this simple legislation is needed to grant the Palo Verde Irrigation District the legal right to develop a hydroelectric facility. Officials at the Water and Power Resource Service concede that the irrigation district could put a facility on line perhaps 3 or 4 years earlier than the Federal Government could, and they do not object to enabling legislation which gives the irrigation district the legal right to expedite its own development plans.

We hear continually about our Nation's energy crisis and the need for a comprehensive national energy plan. Indeed, the risks inherent to our dependence on imported oil, risks to national security, economic stability, and foreign policy underscore the fact that the energy problem is of national consequence. However, there is a danger in viewing our energy problems from only a national perspective because in doing so, we become accustomed to looking to the Federal Government for national solutions. Thus, we tend to underestimate the importance of regional responses which are aimed at satisfying specific regions demands for energy.

Mr. Speaker, this legislation is simply not controversial. Both the local community and the appropriate Federal agencies have voiced their support for this bill. Furthermore, my colleagues can support this legislation with the knowledge that it does not require Federal funding. I urge the Congress to lend its support to the Palo Verde Irrigation District's efforts to secure a stable source of clean, renewable energy to meet that region's growing demand for electricity.●

FIFTY YEARS A DAILY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay special tribute to what many feel is an endangered species—the locally owned and operated daily newspaper. In Paris, Tenn. on June 2, the local newspaper the Paris Post-Intelligencer celebrated its 50th year of operation. In that time, it has remained a family-owned paper headed first by Mr. W. Percy Williams who converted the then weekly paper in 1930 to a daily.

Since then, his son Bryant Williams has headed the organization and now Bryant's son, Bill, has assumed responsibility for much of its day-to-day operation. The point in bringing all this matter to the attention of my colleagues is that the Paris Post-Intelligencer has remained a newspaper that is close to the community it serves.

Its leadership under the Williams family has kept it an integral part of the community. They recognize their responsibility as molders of public opinion and the responsibility to bring the best in news reporting to the Paris-Henry County area. I have already commended them for this milestone of 50 years and want to take this opportunity to include in the RECORD their editorial on attaining this important and significant achievement:

[The Paris Post-Intelligencer, June 2, 1980]

FIFTY YEARS A DAILY

A date that will always remain important in the history of this newpaper is Monday, June 2.

It was on that date in 1930 that The Paris Post-Intelligencer published its first issue as a daily newspaper after having published continuously as a weekly since 1866.

And now on this Monday, June 2, 1980, exactly 50 years have passed. In many ways it does not seem possible that it has been a half a century since that first daily P-I hit the streets and newstands of Paris, was delivered to a scattering of homes by carrier boys and delivered through the mails.

We have seen many changes take place in our community and in our methods of publishing a newspaper. We do not plan to bore you with details in this brief message; we just want to say thanks.

We take no credit for what success we have achieved. That all belongs to our readers and our advertisers and friends who have given this newspaper their support during its 50 years as a daily—and during its overall existence of nearly 115 years.

And with our thanks goes our pledges that we shall make the best effort we can to bring to you a newspaper that you will be proud to call your hometown daily, dedicated to promoting the things that are wholesome and good for the growth and development of Paris and Henry County.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present on Monday, March 31. Had I been present, I would have voted as follows: Rollcall No. 167, "yes"; rollcall No. 169, "yes"; rollcall No. 171, "yes."●

PRISONERS OF CONSCIENCE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. HOLLENBECK. Mr. Speaker, the 10th anniversary of imprisonment for Iosif Mendelevich, Yuri Federov, and Aleksei Murzhenko will be marked this Sunday, June 15.

In conjunction with the National Conference on Soviet Jewry, I have drafted the following letter to Chairman Brezhnev asking for the release of these three prisoners of conscience:

LEONID BREZHNEV,
Chairman, Presidium of the Supreme Soviet,
The Kremlin, Moscow, U.S.S.R.

DEAR MR. CHAIRMAN: We are writing to express our deep concern for the well-being of Iosif Mendelevich, Aleksei Murzhenko, and Yuri Federov—the three men who still remain in prison from the so-called Leningrad group. We ask for the early release of these three men, on the tenth anniversary of their arrest, on the grounds of justice as well as humanitarian concerns.

In the past year you have released and pardoned seven Soviet prisoners who were being held on charges arising from the same incident that led to the convictions of Mendelevich, Murzhenko, and Federov.

Iosif Mendelevich, an orthodox Jew, refuses to eat any non-kosher foods. His daily diet is inadequate, and his health is rapidly deteriorating. Also, Federov and Murzhenko are suffering from a variety of illnesses including chronic bronchitis and tuberculosis.

We urge you to re-examine the cases of these three men and grant them an early release. Such an act would signal the nations of the world that the Soviet Union has reaffirmed her commitment to the Helsinki Final Act.

Respectfully yours.

Mr. Speaker, next week, I will be circulating a "Dear Colleague" to request that Members join me in cosigning this communication to Chairman Brezhnev. If we want to win the release of these three courageous individuals, it is vital that we express our sentiments to the Soviet Union. Needless to say, I know that I can count on the support of the majority of my colleagues in this distinguished Chamber.●

COMMEMORATION OF SOVIET OCCUPATION IN LITHUANIA

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. MOAKLEY. Mr. Speaker, on June 15, Lithuanian-Americans will join with Lithuanians throughout the world in commemorating the military occupation and forcible incorporation of Lithuania into the Soviet Union in 1940.

This act of brutality must never be forgotten by the Members of this body for it serves as a reminder of those times 200 years before when Americans struggled for their own independence. We must join with all freedom-seeking Lithuanians in working for their right to reestablish popular sovereignty and autonomy which have been deprived for so long.

We cannot forget Balys Gajaushas and Viktoras Pethus, who have been tried and imprisoned for participating in the Lithuanian Helsinki monitoring group. These brave men and the others who have been jailed for their calls for freedom have clearly demonstrated the popular support throughout Lithuania against Soviet continuing oppression.

Mr. Speaker, we in the Congress cannot do enough to assist the people of the Lithuanian nation, who have been unjustly victimized for 40 years, in their efforts for independence, freedom of thought, conscience, and religion.●

SOVEREIGN STATES OF LITHUANIA, LATVIA, AND ESTONIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. BROOMFIELD. Mr. Speaker, the recent invasion of Afghanistan and the brutal treatment of the people of that nation is only the latest example of an imperialistic foreign policy that the Soviet Union has followed from its beginning.

This June 15, Lithuanian-Americans and ethnic Americans of the other Baltic nations of Estonia and Latvia will sadly commemorate earlier victims of this Soviet policy.

Forty years ago, the Soviet Union marched into the sovereign nations of

Lithuania, Latvia, and Estonia and forcibly incorporated them. The following year, hundreds of thousands of Baltic nationals were assassinated or exiled to labor camps in Siberia.

While the Soviet Union for these past 40 years has maintained its tyrannical hold over these nations and has tried to deprive them of their sense of nationality, their culture, and their religion, they have failed. The dream of once again being free in their own sovereign nation continues to thrive in the hearts of these people.

Mr. Speaker, our Nation has never recognized these Baltic States as part of the Soviet Union, and it is important that we continue this policy.

It must always be clear that we find the continued occupation of Lithuania, Latvia, and Estonia unacceptable, and that we join the people of these Baltic nations and their American relatives in the hope that these nations will once again take their place among the community of nations as sovereign and independent states.●

CHINESE MUSHROOMS ARE FLOODING OUR MARKETS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. SCHULZE. Mr. Speaker, I would like to express my outrage at the U.S. Trade Representative's Office and their total lack of commitment to upholding the intentions of this Congress.

Specifically, I refer to the growing problem of imported canned mushrooms from the People's Republic of China.

These imports have been flooding our markets since MFN was granted to the PRC despite Congress intent that these imports would not adversely affect our domestic industries.

Mr. Speaker, the Ways and Means Committee recognized that China has the potential to inundate our markets and wrote specific language in its committee report to protect against the destruction of import-sensitive industries.

Now, the U.S. Trade Representative's Office, charged with the responsibility for carrying out this legislation, has chosen to ignore this problem and worse still, unwittingly indicated during a recent trade hearing that only a slight increase in mushroom imports had occurred.

Mr. Speaker, I would not call a 783-percent increase slight—but instead would call it a tidal wave. Quite simply, the trade figures clearly indicate that as the duty rate on canned mushrooms dropped, the Chinese recognized the accessibility of our markets and rapidly increased the amount of their imports from 11,000 pounds in January 1980, before MFN, to over 1.2 million pounds in April, after MFN.

If the experience of Chinese mushroom imports in the EEC market is any guide, we can expect the volume of their imports to drastically and dangerously increase in the next few years. In 1972, China's share of total imports into the EEC was less than 1 percent. Five years later, it had reached 50.7 percent and is expected to soon climb to 70 percent.

Mr. Speaker, The Chinese have the ability and the desire to totally destroy what is left of our domestic industry, and if the Office of the U.S. Trade Representative is unwilling or unable to meet its obligations, then there are those of us in Congress who will continue to do whatever we can to reverse this tragic lack of concern on the part of the administration for American jobs and American business.

We must not and will not allow ourselves to be buried by an avalanche of Chinese mushrooms.

LEVEL OF CHINESE MUSHROOM IMPORTS—SOURCE ITC

Month	Amount	Percentage	Total imports (millions)
December 1979	57,000	0.97	5.9
January 1980	11,000	.17	6.7
February 1980	114,000	1.3	8.8
March 1980	955,000	9.5	10.0
April 1980	1,200,000	10.1	12.4

●

PERSONAL EXPLANATION

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. BETHUNE. Mr. Speaker, although I was present for the debate on the conference report to the first budget resolution on Thursday, June 12, and did, in fact, speak against the legislation, I was unable to vote on final passage because I was attending my daughter's high school graduation. Since my constituents have a right to know my position on the bill, I would like to state for the RECORD that I would have voted "no" on passage of House Concurrent Resolution 307 had I been able to be present.●

OUR NATION'S FOREIGN POLICY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. ARCHER. Mr. Speaker, I would like to share with my colleagues some very thoughtful observations on our Nation's foreign policy by one of my constituents, the distinguished Rabbi Herbert A. Yoskowitz.

MAY 7, 1980.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: One of the most difficult aspects of understanding history is to determine just how and when large numbers of people change their minds. As a novice student of history, I find it very difficult to pinpoint the exact time when there is a sudden shift of mass emotion or when there is a new enthusiasm that sweeps through an entire country. It is equally difficult to ascertain the un-anticipated collapse of some popular credence.

When I was a college student in the late 1950s and early 1960s, there was a feeling of great hope for our country and a vision that was shared with many people in our population. This optimism was felt not merely by those who read in our daily newspapers that optimism was being felt in Washington, but was somehow the passive and inarticulate expression of the majority of society. Alas, from the time of the assassination of one of your predecessors in office to our present day, we have witnessed an enormous change that is taking place in America—especially in our self-confidence. In experiencing this change and in studying about it, I have come a lot closer towards understanding the mentality that was responsible for the Munich Agreement of 1938. Hindsight helps to make the motives of the men of Munich comprehensible. Men like Chamberlain and Daladier responded to the mood of that period, a mood that can be characterized as "peace at any price." For many people of that era, in fact for most people of the West, war was unthinkable and when one says that war is unthinkable, one quite literally means that one is unwilling to think about it. The alternate to peace has been foreclosed. Many people realize the errors of such judgment. One of them is Henry Kissinger, who in his recent book, *White House Years* (1979), writes that "the root dilemma of our time is that if the quest for peace turns into the sole objective of policy, the fear of war becomes a weapon of the most ruthless; it produces moral disarmament" (p. 70). Today, so many of our fellow countrymen seem to have illusions about the present and about the future. Chamberlain had such illusions; Daladier had none. The latter knew that World War II would eventually have to be fought, but he also knew that as long as the inarticulate mass of the French people was unprepared to accept the idea, the undertaking of preparation for battle was impossible. One year later he saw that he had to take the plunge, but his people were still unready. Fortunately, the British, unlike the French, had time to wake up to the psychological necessities of warfare and could experience a profound moral shift. When the British found themselves standing alone, that was when World War II really began.

In the early summer of 1940, our country moved from apathy to belligerence. In most of the years since the end of World War II, our country has moved in a reverse path. That reverse path has been the course of our country now for quite a while. It was apparent as early as the Geneva Conference of 1956. It was certainly apparent during the Suez Crisis and during the Crisis in Hungary.

Our relationship to the Soviet Union has very much been guided by a policy called containment; a policy which was first published in essay form in *Foreign Affairs* in 1947 by George Kennan. "Containment" treated power and diplomacy as two distinct elements or phases of policy. It aimed at an ultimate negotiation but did not contain a guide concerning the content of those negotiations. In *White House Years,* Henry Kissinger extensively argues why containment could not work (Chapter 3). Suffice it to say that the Soviet Union does not want to be contained, something which you admitted publicly several months ago. The Soviet Union wants to expand its areas. If only we had paid attention to what was publicized in America and abroad from leaders of the Communist World, we would better know that the Soviet aim has always been consistent. One of your predecessors in office, Richard Nixon, expressed great surprise when Khrushchev told him quite coldly, "your grandchildren will live under Communism" (*The Real War,* 1980, p. 48). If one was to read the *Moscow Diary* (1980) of Veljko Mićunović, one would learn just how the Soviets operate. At one point in his diary, Mićunović, the Yugoslavia Ambassador to the Soviet Union, writes that the Soviets consider any real improvement in Yugoslav relations with them reflected "only to the extent that there is a worsening of our relations with the West" (*Moscow Diary,* p. 8), Mićunović emphasizes that the Soviet Union seems to have an in-exhaustable desire for land. He writes, "The Russians, it seems, will never have enough territory or space, even though Russia is at least twice as big in area as the largest States in the world such as China and the United States" (ibid. p. 17). He shares with us the Soviet scare techniques that are applied to diplomats. He cites one such instance in the following way:

> At night they showed distinguished foreign guests in the Kremlin, on a strictly confidential basis, films of Soviet hydrogen bombs exploding, and the next day they conduct negotiations with the same guests about mutual cooperation and the preservation of peace (p. 93).

Please note, Mr. President that Mićunović adds "A tougher Soviet policy toward the West results in a tougher policy at home, in the Soviet Union, and in Eastern Europe" (p. 87). It should be no surprise to us that some of what is occurring in the world right now has been stated very emphatically by leading representatives of the Communist World.

The Soviets showed the direction in which they are always heading in the memoirs of Khrushchev. Khrushchev cites the point in time when the Soviet Union decided to expand its tentacle into the Near-East. It occurred in 1956 when our country did not support our allies, England and France. Our lack of support was admitted to be a great error by another of your predecessors, President Dwight Eisenhower. (Nixon *op. cit* p. 70). This marked the time, wrote Khrushchev, that the Soviet Union decided it could act upon American weakness and move into the Near-East. "Before that time, the Soviet Union—and Imperial Russia before it—had always treated the Near-East as belonging to England and France (*Khrushchev Remembers,* 1970, p. 431) It took us so long to see that the Soviet Union was not going to view the world with the same eyes nor with the same sensitivity as we do, that as much as we want peace with them, they, the Soviets, do not really want peace with us. Even their view of individuals is sometimes so different from ours. Anthony Eden, when he was involved in the Suez Crisis, wrote that Nasser is a "megalomaniacal dictator." He described Nasser as following Hitler's "pattern even to concentration camps and the propagation of *Mein Kampf* among his officers. He has understood and used the Goebbels pattern of propaganda in all its lying ruthlessness" (*Full Circle* 1965, p. 480-481). In contrast, Khrushchev views Nasser as a "self-contained and intelligent" man who always had "a smile twinkling at the corners of his mouth." Krushchev adds, "If you want to know my personal impression, "I liked him very much." (Khrushchev. *Op, Cit.,* p. 438).

We intervened in Suez in a way we should not have. We did not intervene in Hungary when we should have. Thus, 1956 was a disastrous year for us in having made errors in judgment, errors which still haunt us even today.

Another error in judgment, Mr. President, occurred when we signed the Helsinki Agreement five years ago. I remember reading an article written in 1952 in which one writer stated that it would be "the height of folly (if) . . . the West would publicly ratify the Sovietization of East Europe without receiving any concession other than a promise of non-intervention in the spheres of Western Influence—a promise that would not be kept . . . Such a world settlement would be a swindle for the Western Powers" (Raymond Aron. "Can We Negotiate A Settlement Now? *Commentary.* 13, June 1952, p. 515-520). Yet, even with that warning in mind, we signed an agreement which legitimized countries in the Soviet Sphere due to the force of the Soviet military and political might.

Mr. President, it is commendable that you are warning our fellow countrymen and our allies not to legitimize those countries which come under the Soviet sphere due to the Soviet military arm. You are also trying to head off a circumstance whereby the Soviet Union would attain control of the oil fields in the Middle-East and thus have a strong argument to our allies in Europe why they should become subservient to the Soviet Union, too. All this is commendable. Looking at the lessons of history I would like to make a few additional recommendations.

We made an error in 1944 when we pressed Poland to accept Soviet demands; we allowed Poland to fall under the Soviet sphere. We made a similar error in the 1970s when we forced what was South Vietnam to accept North Vietnam's demands. Let us not duplicate that error. Let us not pressure our allies to do that which can compromise their security. In the Middle-East, for example, let us not pressure Israel to make concessions to her neighbors—concessions that might endanger her existence. Let us stand for direct negotiation; not indirect negotiation.

We should tell the truth to the American people. At a time when the American resistance to even registration for the draft is very strong, one is led to wonder whether the American people are any longer prepared to hear the truth. We should be concerned about the intestinal strength of our nation and whether or not that strength has been so far undermined that recovery may take a very long time. In any case, let us run the risk of telling the truth to our people. Let us tell our people that as you stated when you first attained the office of President of the United States, that we Americans stand for something. Though most of the world is not free, and though what we can do about it is problematic, we shall never cease to do that which preserves that part of the world which is free, and we will never accept the views of those who think that the future of democracy is short. We should state, as our duty, the obligation to defend, and, where feasible, to advance democratic principles to the world at large. We must restore our leadership in the American foreign policy, based on ideology, and bolstered by our military and economic strength.

This leads me to another suggestion. We need to have an American Armament Program at a level that even current proposals do not remotely approach. We cannot rely upon those people who conquered Tibet for our safety in the world and for the safety of our allies. We must not underestimate our power—the real power and the potential power—for the power of the United States rests upon us.

With the situation facing us in Afghanistan, we are in a moment of great peril. We, as well as you, have been frustrated by the lack of power. Now we may be tempted to wield power that we no longer have, and so another suggestion from this student of history, is that all of us need to hold on to our own tempers. We need to apply common sense. We need to apply the counsel of restraint in foreign affairs at a time when our anger may mitigate our ability to think in a common sense fashion. Mr. President, you have held back very well from unleashing our armed forces in such a way as to imperil our security. We must make attempts to strengthen ourselves as we hold on to our own temper. But if we do not so strengthen ourselves, then even the holding on to our own temper will not be of much help.

Allow me to make one last suggestion. Until now we have practiced a policy of containment. There are several writers, some of whom are our friends and some of whom are not, who are urging us to reconsider the viability of the policy of containment. (We are urged not even to use terms which originated in the Soviet Union. For example, the "cold war" has come into currency in the United States and the West. Actually, the only term which should be used to describe our policy is not cold war, but, containment.) Let us take this policy of containment, and let us re-evaluate its correctness. I think it is time for us to think about working towards the establishment of a more democratic Russia. Such a policy has been recently advocated by Alexandr Solzhenitsyn (*Foreign Affairs,* 58 Spring 1980, p. 79 834) and by Richard Pipes (*Commentary,* 69, April 1980, p. 31-39). I think their advice is worth considering. After all, aren't we engaged in trying to restore an ideological balance in our world? There has not been a growth in the number of democratic countries in our world since the advent of communism in 1917. Solzhenitsyn's *The Gulag Archipelago* published between 1974 and 1978, showed us in a new way just how horrible has been the experience of Soviet Russia under Socialist totalitarianism. Recently we have learned that the kind of book written by Micunovic (*Moscow Diary*) may not be available to us in the West; a new Yugoslav version of the official Secrets Acts is said to be in preparation to prevent other top men from sharing inside information of the communist world (*The Economist,* April 26, 1980, p. 81). Even with this knowledge in hand, there are some people who might say that we cannot apply moral criteria to politics. However I feel that we must. We came closest to effecting a great world when President Woodrow Wilson had a vision which he shared with the American people. Because that vision was not fulfilled, many people in our country have dismissed it. His vision though, which involved the establishment of human rights throughout the world, is one which you presented in somewhat similar form when you began your Presidency. We must defend human rights, prudently if possible, but at the risk if need be, of imprudence.

Mr. President, I have shared with you the world as I see it, especially since the culmination of World War II. I have shared with you certain conclusions of mine that resulted from a study of our recent period of history. There were also some suggestions included from a close study of this period. I submit them to you with all humility, and with the hope that you will consider them, and that you might deem my suggestions of sufficient worth to respond to them.

Mr. President, I join you with my prayers for our country in the decade and decades that lie ahead. I join with you in prayers for our allies who are now free and who with our support and with their courage, will remain free. I pray, too, that we may be able to increase the presence of democracy on this planet earth.

Sincerely yours,
Rabbi HERBERT A. YOSKOWITZ.●

THE CABRINI SISTERS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. SCHEUER. Mr. Speaker, I rise to celebrate the centenary of the Institute of the Missionary Sisters of the Sacred Heart of Jesus, familiarly known as the Cabrini Sisters.

Named for Saint Frances Xavier Cabrini, the institute continues the work of its namesake. Mother Cabrini High School and Cabrini Medical Center in New York City are only two examples of the good work of the institute.

Born in Italy in 1850 and having come to the United States in 1889, the nun displayed vision, compassion, hope, and courage in her efforts on behalf of immigrants, orphans, the sick, and destitute. In 1946 she became the first U.S. citizen to be canonized by the Roman Catholic Church. In 1950, Pope Pius XII recognized her unselfish pioneering work and named her the patron saint of immigrants.

Saint Frances Xavier Cabrini died in 1917. She left us a legacy of which we can be proud and from which we can learn a great deal.

I congratulate the institute on this anniversary and wish it many more years of continued success.●

H.R. 6418

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mrs. FENWICK. Mr. Speaker, in the past few days many people have called my office with questions concerning my effort to amend H.R. 6418, the Motor Carrier Act of 1980, to exempt all food products from Interstate Commerce Commission regulation. Here, then, are a few of the most commonly asked questions and their answers:

1. What exactly would your amendment do?

My amendment would add a new section to Paragraph 10526 of the Interstate Commerce Act—"Miscellaneous motor carrier transportation exemptions." Products already exempt under this section include ordinary livestock, a variety of unprocessed food items, i.e. fresh vegetables and plucked chickens, and shellfish. Vehicles already exempt under this section include newspaper delivery trucks, farm vehicles, school buses, and taxicabs. My amendment would exempt any "food and other edible product (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption." It does not include pet food or any other grocery items not intended for human consumption.

2. Would the Fenwick amendment benefit consumers?

Yes. The amendment would increase competition in the trucking industry—always a healthy sign for consumers. But even more the amendment would specifically cut certain costs of transporting the items to be deregulated. My amendment would help balance traffic flows and thus save fuel costs. For instance, today a trucker carrying tomatoes from Maryland to New Jersey for processing into soup cannot then pick up a load of soup. With passage of my amendment he/she could.

In the 1950's, as additional agricultural commodities became exempt by court order, truck rates on these products fell by 19 to 33 percent. A similar drop could be expected with passage of my amendment. Service, by the way, does not suffer. A recent survey of poultry shippers rated unregulated carrier service better than regulated service 95 percent of the time. Support from such groups as Common Cause, Congress Watch, and Consumers Union, as well as almost every agricultural group, shows widespread consumer support for my amendment.

Inflation is the greatest enemy of those citizens who are on fixed-incomes but there are many thousands more who are merely trying to keep their heads above water. Food is the largest item in a family's budget and anything we could do to help out would be most welcome. Transportation accounts for 5.2 cents out of every food dollar spent. If this amendment succeeds we would be able to save consumers anywhere from 13 cents to $1.30 on every $50 purchase of groceries. It is a simple first step in the fight against inflation.

3. Didn't the Senate take action on a similar proposal when they considered their version of trucking deregulation?

Yes, the Senate Commerce Committee adopted a virtually identical amendment to S. 2245. An effort to delete this amendment was defeated on the Senate floor by a vote of 39 to 47. Thus, approval of my amendment would concur with the action already taken by the Senate.

4. Wouldn't small towns suffer if the Fenwick amendment is adopted and all food products are exempted?

No. The bulk of small community service is currently provided by non-regulated motor carriers. Furthermore, unprocessed foods are presently exempt from ICC regulation. What small town is bereft of fresh fruits and vegetables? A Department of Transportation study released last November characterized the service to small towns in Nevada, Kentucky, and New Mexico as "adequate" largely because of the service provided by unregulated intrastate private carriers. The service provided by regulated carriers, the same study revealed, was "infrequent, slow, and often at rates which were perceived as high." I think the evidence is abundant and clear that deregulating all food products would not adversely affect small communities.

5. I've heard some independent owner-operators complain that adoption of the Fenwick amendment would eliminate the 13 percent fuel surcharge mandated by the ICC. Is this true and how will your amendment aid these small businessmen of the trucking industry?

When hauling items exempted under my amendment the benefits of the fuel surcharge would be lost. But the loss would be more than made up for by the ability of the independents to compete in previously regulated commodities. The fuel surcharge is a 13 percent passthrough from the shipper to the independent based on the ICC-set tariff. Independents, after passage of my amendment, would be able to haul all food products without "trip-leasing" to a regulated carrier. A trip-lease involves paying the owner of ICC authority—in this case the regulated carrier—anywhere from 25 percent to 40 percent of the tariff for the right to haul regulated goods under the aegis of the authority. Some carriers do not own a single truck but prosper by using independents exclusively. After passage of my amendment the independents could carry any food items without paying a regulated carrier what is, in effect, monopoly rent. Because the regulated carrier would not be skimming 25 to 40 percent off the shipper's payment for services, the independent would, in my opinion and the opinion of experts in the field, benefit financially with passage of my amendment.

6. What about the charge that chaos already exists in the exempt trucking industry?

Not true. A recent study done by the University of Pennsylvania for the Department of Transportation found that the intrastate trucking industry in New Jersey—which is unregulated—was stable and highly competitive. Rates in this market were, on average, 15 percent lower than rates for similar transportation in the regulated interstate market. The study also found, again, that unregulated service was equal to or better than service provided by regulated carriers and is more profitable for the unregulated carrier. A majority of shippers and carriers prefer the lack of regulation within New Jersey.

7. Won't expansion of the agricultural exemption result in decreased safety?

No. Safety provisions for the motor carrier industry are under the purview of the Department of Transportation and are unaffected by the status of ICC regulation or lack of regulation. The exempt industry currently has the same safety standards as the regulated industry and this will continue with the passage of H.R. 6418. In addition, H.R. 6418 includes minimum insurance coverage for operators as part of the fit, willing and able requirement. This section of the bill is administered by the Secretary of Transportation and provides for financial responsibility of $1-million for carriers—whether regulated or exempt—engaged in interstate commerce. I might also point out that an individual with a rather large investment in trucking equipment is more likely to preserve his equipment in safe condition than a trucking firm which owns a number of trucks and the driver does not possess pride of ownership.●

IMPROVING COMPLIANCE WITH THE TAX CODE WITH RESPECT TO INTEREST AND DIVIDEND INCOME

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. FISHER. Mr. Speaker, a time for trying to balance the budget and a time for relieving individuals of heavy tax burdens is no time for honest taxpayers to subsidize tax fraud by individuals who underreport their interest and dividend income. Nevertheless, this is exactly what is happening at the present time. Today I have introduced legislation, H.R. 7559, which should go a substantial way toward correcting this problem.

Earlier this year the administration proposed a system of withholding 15 percent of dividend and interest income. In his testimony before the Ways and Means Committee, Secretary of the Treasury Miller pointed out that the IRS has determined that there is substantial noncompliance with respect to the reporting by taxpayers of dividend and interest income. The IRS has in recent years been able to cross check up to 80 percent of the 1099 forms—on which interest and dividend income is reported—supplied to the IRS by financial institutions and corporations against the tax returns filed by taxpayers. The IRS has estimated that 8 million of the total of 10 million mismatches represent some degree of underpayment of taxes already owed. In terms of real dollars, this is quite a bit of money. The Treasury has estimated that a withholding mechanism of 15 percent would increase revenues by $1 billion in fiscal year 1981, $2.2 billion in fiscal year 1982, and $2.5 billion in fiscal year 1983. It is important to keep in mind that this increased revenue would not result from an increased tax liability. Rather, it would result from greater compliance with an already existing tax liability. Furthermore, many of these taxpayers who earn this interest and dividend income are at a marginal rate greater than 15 percent and, therefore, it is reasonable to assume that the actual amount of unpaid taxes on interest and dividend income is substantially higher than the Treasury's estimates of what can be brought in through a withholding system.

There is, then, a problem of noncompliance. However, from what has happened thus far in the Ways and Means Committee, it is clear that withholding is probably an inappropriate and unrealistic way of dealing with it.

Although there was never a bill introduced which set out all of the details of the withholding proposal, enough was said about it to indicate that it set forth a classic dilemma of tax policy—the tradeoff between simplicity and equity. Most of those individuals who testified on the issue agreed that a system which withheld 15 percent of interest and dividend income without any exceptions would have been reasonably easy to administer, especially in light of the fact that the banks already report income and dividend information to the IRS. However, it also became clear during the testimony that such an across-the-board withholding system would work hardships on some of those individuals who could least afford it. For example, some retirees who depend on social security, which is nontaxable, and dividend and interest income, which could be relatively small, would be subject to withholding even though they did not have any tax liability. Although this withheld money would eventually be returned to these individuals in the form of tax refunds, their cash-flow situation, which is already in many cases precarious, could be made untenable.

The Treasury proposed a number of ways to deal with inequities such as this one. Unfortunately, I believe that these solutions would make the withholding system unacceptably cumbersome and costly. One of the proposals designed to deal with overwithholding on retirees would have called for the filing of an exemption certificate in the case of—

> married couples, filing jointly, at least one of whom is age 65 and for whom, in both the prior and current year, interest and dividend income does not exceed $15,000 and whose tax liability does not exceed 10 percent of interest and dividend income.

Although individuals in the IRS may be comfortable working with this formula, I can easily picture millions of people making an extra trip to various tax preparers to have their exemption certificates filled out. Once this was done, the financial institutions and corporations which would receive these certificates would then have to go through substantial expenses in coordinating them with the withholding system.

This is just one example of the complexities which would have to be added to the withholding system if it were to be made more equitable. It is true that we have a withholding system on salaries, and this is manageable. However, whereas few individuals have more than two jobs, many people have more than two financial accounts which would be subject to withholding. What I sense with respect to withholding on interest and dividend income is a system which stands a substantial risk of falling of its own weight.

I also believe that withholding is an unrealistic way of dealing with nonpayment of taxes on interest and dividend income because it is clear to me that there are neither the votes in the Ways and Means Committee nor in the House in general to pass this proposal. Some of the objections to this proposal are valid while others are self-serving or border on being demogogic. However, together they present an insurmountable barrier to passage.

So what, then, should we do? Should we acquiesce in the tax fraud which currently exists and the spirit of which could spread to other aspects of the tax code? Or should we engage in a battle for withholding which cannot and probably should not be won? Or should we look for some middle ground, which tries to achieve greater compliance and which avoids some of the problems which the withholding mechanism would encounter? I have chosen to pursue this constructive alternative in this middle ground, and it is the subject of the legislation which I have introduced today.

When I talk with people about this whole issue, one of the first things that they say is "Why do we need withholding? Doesn't the IRS already get that information from the banks?" The answer is, yes, it does. But the IRS states that it does not have the resources to follow up on the tax fraud which it strongly suspects is occurring. Furthermore, it claims that a complete followthrough—letters, phone calls, visits, litigation—would frequently exceed the amount of revenue which can be collected in individual cases.

It would seem reasonable, then, to give the IRS greater resources to do the job. Secretary Miller in his oral testimony before the Ways and Means Committee indicated that the Treasury has estimated that sending out letters to individuals suspected of underpayment would achieve a positive response in about 50 percent of the cases. Clearly this would not solve the problem completely. However, I believe that it could result in a significant increase in compliance at a relatively modest cost. It is difficult to calculate the exact cost to the IRS of notifying individuals of noncompliance and following up on it. However, it is hard to imagine any way in which the costs would not be substantially exceeded by additional revenue collected. At a 50-percent response rate to the letters alone, the Treasury could still realize hundreds of millions of dollars in extra revenue in fiscal year 1981 and over a billion dollars in both fiscal years 1982 and 1983. Furthermore, if those individuals who underpay their taxes on dividend and interest income in 1 year are notified that the IRS is aware of this underpayment, then the percentage of voluntary compliance in the next year is likely to be greater.

What, then, would my proposal do?

It would require that "to the maximum extent practicable" the IRS match up by July 15 tax returns with the 1099 forms which it receives from financial institutions and corporations. If as a result of this match up the IRS determines that there is unreported interest and dividend income, then the IRS must send a letter to the taxpayer in question within 60 days. This notice would state that the IRS has determined that there is an underpayment of tax on interest and dividend income. It would indicate the amount of the underpayment, and would state that if the underpayment is not paid within 45 days, there will be an addition to the tax equal to 100 percent of the underpayment. However, if the taxpayer believes that the IRS determination is erroneous, then he may contest the IRS determination by supplying the IRS with information substantiating adequate payment of taxes on interest and dividend income.

If the IRS has received 1099 forms from financial institutions and corporations, but has not received a tax return from the people designated in the 1099 forms, then the following procedure would apply. The IRS would send out a letter within 60 days after July 15. This letter would indicate that the IRS has determined that there is an underpayment of taxes on interest and dividend income by the individual. The amount of the underpayment would be determined by multiplying the amount of unreported income by 14 percent, which is the lowest marginal rate. The notice would state that if this amount is not paid within 45 days, then there will be an addition to tax equal to 100 percent of the underpayment. However, if appropriate, the individual could file a certificate with the IRS which would be supplied in the notice of underpayment and which would indicate that the person was not required to file a tax return for that year, and therefore, was not liable for any tax on the interest and dividend income. Of course, if this individual fraudulently filed this certificate, then he would be subject to the already existing penalties for tax fraud. The IRS would not be required to send these notices of underpayment to officially tax-exempt organizations.

But with respect to those individuals who have filed tax returns and those individuals who have not filed, the IRS is required to take appropriate steps to follow up in those cases where individuals have not responded within the 45-day period.

Finally, section 2 of this bill sets forth a statement of congressional intent that the IRS be given adequate funding for the implementation of this legislation. I believe that it would be helpful to have this policy on the record during the deliberations on the authorization and appropriation bills governing the IRS. During these deliberations, the Congress may also wish to provide additional funding to the IRS so it can better follow up on inconsistencies between tax returns and other types of income reported on 1099 forms. For the Congress to recognize the problem with respect to interest and dividend income, to take steps toward a solution, and yet not to fund those steps would be for Congress to acquiesce in tax fraud. The integrity of the tax system will not allow this. Millions of honest taxpayers in this country will not condone this. Furthermore, our budgetary situation will not permit this. That is why I urge my colleagues to give serious consideration and then to support the legislation which I have introduced.●

ROLL CALL

HON. TOM LOEFFLER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. LOEFFLER. Mr. Speaker, all the news that is news on Capitol Hill is always found in Roll Call. It is a wonderful source of information on people, politics, and upbeat events and places on the Hill. I know we rely on it in my office, and I suspect it is required reading in just about every office on the Hill.

I would like to take the opportunity both to congratulate Sid Yudain on his 25th anniversary, and say thanks for the tremendous job he does with Roll Call in gathering the news, and dispensing it in such a great journalistic package. Roll Call is as much a part of Capitol Hill as sage brush is to west Texas.●

THE HARM THAT FOREIGN AID DOES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. LAGOMARSINO. Mr. Speaker, I have long questioned the utility of foreign aid and suggested that international trade and private foreign investment are often more useful and more successful in advancing both the development of Third World nations and the foreign policy interests of the United States.

I would like to call to the attention of my colleagues an article which appeared in the June 9 edition of the Wall Street Journal, entitled "The Harm That Foreign Aid Does." I believe this commentary presents sound, logical arguments on why foreign aid cannot accomplish the goals for which it is intended.

The article follows:

THE HARM THAT FOREIGN AID DOES

(By P. T. Bauer)

The Third World and foreign aid are inseparable. Without foreign aid there is no Third World. The latter is in effect the collection of countries whose governments, with the odd exception, demand and receive foreign aid.

What else is there in common between, say, India and Botswana, Singapore and, Ecuador, Malaysia and Honduras? It is not stagnation: many Third World countries have progressed much more rapidly in recent decades than the U.S. and Britain. Nor is it poverty; many Third World societies, especially in South East Asia and Latin America, are richer than large groups in the West. Nor is it a sense of brotherhood, as is evident from hostility or even conflict between aid recipients, such as India and Pakistan, Morocco and Algeria, Ethiopia and Somalia and many others.

Although small relative to the national income of the donors, aid is often substantial in relation to their payments deficits or budget deficits. Thus in 1978 U.S. foreign economic aid of $6.5 billion was almost one half of the current account deficit and one-seventh of the federal deficit, when the weakness of the dollar, the world's principal reserve currency, was a major international concern.

And large-scale expansion of aid is persistently called for. Witness the recent Brandt report, perhaps the high water mark to date of the demand for massive official wealth transfers to the Third World, now renamed the South. This report, commissioned by UN Secretary-General Kurt Waldheim, was signed by five former West European Prime Ministers (Brandt, Heath, Mendes-France, Palme and Frei) and other celebrities, including Katherine Graham, publisher of the Washington Post, and S.S. Ramphal, Secretary-General of the British Commonwealth.

MAJOR ANOMALIES

The case for aid is widely taken for granted. This has permitted major anomalies. Much Western aid has gone to oil-rich OPEC countries. It has also often been granted to both sides in a war (India and Pakistan, Ethiopia and Somalia, Tanzania and Uganda, Algeria and Morocco). Large scale aid still goes to governments whose policies directly impoverish their subjects as for instance by forcible collectivization of farming, expulsion of the most productive groups, suppression of private trade and industry and restriction of the inflow of capital.

Foreign aid cannot contribute significantly to its proclaimed purposes. It is indeed likely to obstruct them. The most durable argument for aid has been that it is indispensable for reasonable Third World progress. Yet many countries in South East Asia, Africa and Latin America progressed rapidly long before official aid. This particular argument patronizes Third World people by saying that they crave for material progess but, unlike the West, cannot achieve it without external doles.

Foreign aid cannot promote appreciably the growth of the national income. Countries where government or business can use funds productively can borrow abroad. The maximum contribution of foreign aid to growth cannot therefore exceed the avoided cost of borrowing. As percentage of the national income of large Third World countries this maximum contribution is at best minute, a fraction of one per cent, far too small to register in the statistics.

Any tiny, marginal benefit from the reduction of the cost of investible funds is likely to be much more than offset by the adverse repercussions of official aid. These adverse effects are brought about by amounts of aid, which, while small in relation to the national income, are nevertheless large compared to government revenues or foreign exchange earnings in the recipient countries. These are the relevant magnitudes because aid is concentrated on governments.

Official aid increases the money, patronage and power of the recipient governments, and thereby their grip over the rest of society. It thus promotes the disastrous politicization of life in the Third World and intensifies the struggle for power. This increases conflict, especially in the multi-racial societies of most Third World countries. This sequence diverts energy and attention from productive activity to the political arena, because people's livelihoods or even their economic and physical survival comes to depend on political and administrative decisions.

Official aid often inhibits the international economic position of the recipients by driving up the rate of exchange, helping to maintain overvalued exchange rates or to increase the money supply. It tends also to encourage imprudent financial policies, because external payments difficulties are an effective ground for appeal for aid. Aid reinforces the widely prevalent idea that Third World betterment depends on outside factors. Aid also biases development policy towards unsuitable external models, witness official airlines in countries whose citizens normally do not travel and rarely use these airlines.

Relief of poverty is a much canvassed objective of aid, and one with obvious moral overtones. But official aid does not go to poor people, to the skeletal figures of aid propaganda. It goes to their rulers whose spending policies are determined by their own personal and political interests, among which the position of the poorest has very low priority. To support rulers on the basis of the poverty of their subjects is more likely to encourage policies of impoverishment than to deter them. If a government persecutes and even expels the most productive groups such as ethnic minorities, as for instance Chinese in Vietnam and Indonesia or Asians in East Africa, on the criterion of poverty, it should receive more aid because incomes have been reduced.

Aid is often advocated as providing employment by promoting exports. This is like saying that it benefits a shopkeeper to be burgled if the burglar spends part of the loot in the shop. Aid-financed exports are bought with taxpayers' money. Taxpayers therefore have less to spend at home. Direct domestic employment subsidies would be cheaper, more effective and would make the process clearer.

It is often said that official Western aid is indispensable to prevent the Third World from drifting into the Soviet orbit. A large and growing volume of Western official aid is channelled through the international agencies. In the allocation of aid these agencies are not permitted to take into account the political, interests of the donors. Moreover, the Soviet bloc is represented in these international agencies and can therefore influence the allocation of multilateral aid, even though its financial contribution to aid is small. But Western political interests are largely ignored also in bilateral aid as this is given regardless both of the conduct of the recipients and of their political significance. Many recipients insult and thwart the Western donors as best they can.

Aid is often envisaged as an instrument of global redistribution. But foreign aid differs radically from domestic redistribution, whatever the case for the latter. Foreign aid goes from government to government, and is not adjusted to the personal circumstances of taxpayers and recipients. Many taxpayers in donor countries are far poorer than many people in recipient countries, where aid benefits largely the relatively well off.

Again, redistributive taxation postulates basic similarity of conditions and therefore of requirements, within its area of operation. But globally these requirements differ widely. This is obvious of physical requirements dictated by climate. But it applies also to political and social considerations. Should Americans be taxed for the benefits of governments whose policies directly reduce incomes in their countries, or whose citizens refuse to kill animals, as in India, or to let women take paid work, as in many Moslem countries?

Because international income differences reflect qualities, mores, institutions and political arrangements, any reduction in income differences is temporary so that redistribution would have to be continued indefinitely. The policy also implies transfers from more productive to less productive people and thereby reduces the overall productivity of resources.

MARSHALL PLAN ANALOGY

Finally, massive wealth transfers to the Third World are often advocated on the ground that like the Marshall aid of the late 1940s, this would transform the recipients for the benefit both of the West and of the Third World. This analogy fails completely. In postwar Europe the task was reconstruction not development. Peoples faculties, institutions and political arrangements were appropriate to sustained prosperity, as was evident from pre-war experience. This is why Marshall aid could be terminated in four years and Western Germany could become an exporter of capital soon after the end of Marshall aid. Contrast this with the suggestions of indefinite continuation of wealth transfers to the Third World, and with the difficulties of many aid recipients to service even very soft loans granted under earlier aid agreements.

Ideally, official aid should be terminated. This is impossible at present in face of the vested interests and the momentum of existing commitments. But the operation of aid could be much improved and its worst anomalies avoided. This could be done primarily by allocating it to, say, governments pursuing liberal domestic and foreign economic policies. Such a change is, however, improbable in the prevailing climate of aid, and in the face of the interests and priorities of those who administer it.●

SALUTE TO CLARENCE MITCHELL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 10, 1980

● Mr. DRINAN. Mr. Speaker, I would like to join in congratulating my good and dear friend, Mr. Clarence Mitchell on his being honored by the award of the Presidential Medal of Freedom.

Long before I came to the Congress in 1971, I knew and admired the work of Clarence Mitchell. During my 10 years in the Congress, Mr. Mitchell has testified before me in the House Judiciary Committee and has always demonstrated his wisdom, his courage, and his determination.

The victories for civil rights, brought about in large part by the efforts of Clarence Mitchell, would constitute a long and splendid list.

The Presidential Medal of Freedom, which has been awarded to Clarence Mitchell, was richly deserved.

I salute Clarence Mitchell and relate to his brother, our beloved colleague Congressman PARREN MITCHELL, how much we stand in awe of these two brothers who have been the conscience of the civil rights community in greater Washington and across the Nation for many, many years.●

COMMEMORATION OF THE 40TH ANNIVERSARY OF THE OCCUPATION OF LITHUANIA BY THE SOVIET UNION

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. HUGHES. Mr. Speaker, this Sunday, Lithuanians throughout the free world will commemorate the 40th anniversary of the forcible occupation and incorporation of Lithuania into the Soviet Union and the genocidal policies advocated by the Soviets toward the people of the Balkan States. These four decades of Soviet occupation in Lithuania have resulted in the unrelenting oppression of their fundamental human rights inherent in all people.

The deportation of thousands of Lithuanians to concentration and death camps, the forcible seizure of all private property by the Soviets, and the suspension of religious, cultural, and political rights are the unfortunate consequences of terrorism and aggression common to the Soviet Government. Even today, the Soviets continue this policy of oppression by inflicting hardships of undue proportions against many Lithuanians who conscientiously struggle to obtain their rightful liberty.

I would like to take this opportunity to recognize and commend the efforts of the Lithuanian people in their struggle for both freedom and the right to self-determination and advocate the continued support of any and all people deprived of the basic human rights common to all men.●

INTRODUCTION OF FOREIGN LANGUAGE ASSISTANCE ACT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. SIMON. Mr. Speaker, the President's Commission on Foreign Languages and International Studies, on which four of us in the 96th Congress served, completed its report in November 1979. The Commission devoted 1 year to an evaluation of the state of foreign language and international studies in the United States and its impact on the Nation's internal and external strength. That report was timely. As we look back 6 months, to November, we can appreciate how much world events since that time have influenced the life of every

American. As we enter the 1980's, it is obvious to all that the United States is entering a new period in history for which we are poorly prepared. We are poorly prepared to understand people whose languages, values, and cultures are different from ours—people who have the power to control essential resources and influence the geopolitical forces which will shape the world of tomorrow.

I hope all of us in Congress recognize that an essential part of our national education policy, henceforth, must be the commitment to support the foreign language instruction necessary to create and maintain the capability to effectively communicate with the nations of the world, in their languages as well as ours. The first steps in this direction were taken a generation ago, when, in the National Defense Education Act, the importance of foreign language competence to our national security was recognized. But we have failed to maintain the commitments made in that legislation.

One of the principal recommendations of the President's Commission was that the Department of Education provide incentive funding to schools and postsecondary institutions for foreign language teaching. The bill I am introducing today, together with Representative PANETTA, the Foreign Language Assistance Act, approaches all levels of our education system.

It will provide for elementary schools which teach foreign languages in an intensive program. Foreign language instruction is most effective when students spend a large amount of each schoolday learning in that language—so that students study not just the foreign language as a language, but learn about history and geography, or even science and mathematics, in that language. On Monday of this week I visited the Four Corners Elementary School in Silver Spring, Md. The principal, teachers, and students there are demonstrating that the Montgomery County curriculum can be taught in French and that fundamental new insights and understanding results from the new perspective that knowledge of two languages brings. One of the things young children do best, and most naturally, is learn languages. We now have demonstrations across the country that demonstrates the possibilities of learning through a different language. And this learning helps understanding of English.

For postsecondary institutions, this bill will provide support for students in courses which meet a minimum of 5 days a week, with extra incentives for study beyond the second year and in the less commonly taught languages. The bill will also provide a financial incentive for colleges and universities to institute language requirements for all students—either for entrance or graduation.

At the high school and community college level we require that the Department of Education study and report what is the most effective approach to encourage quality foreign language instruction.

Mr. Speaker, I am pleased that my colleague from California, Mr. PANETTA, who served with me on the President's Commission, is joining with me as a cosponsor of this bill. This legislation is just one component of the many we need to put in place so that our schools and universities will be able to produce graduates who can represent our foreign policy interests overseas, improve the international competitiveness of our business community, and provide the public understanding necessary for informed and considered judgments by the electorate.

As I have said, the Foreign Language Assistance Act represents just a beginning. In enacting this legislation, Congress will be beginning a process in which we will find support from parents, local school district boards, State boards of education and the university community. We must encourage contributions from private foundations and enlist the service of individuals who are native speakers of foreign languages in our country so that every student in every school and college will have the opportunity to master one or more foreign languages. I believe we can and must welcome the challenge to know, understand, and communicate with other people in a world of growing global interdependence.●

MASAYOSHI OHIRA

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. GONZALEZ. Mr. Speaker, I am saddened to learn of the unexpected death of Masayoshi Ohira, Prime Minister of Japan.

I doubt that anyone outside of those who witnessed it could understand the profound changes that Japan experienced in the lifetime of Prime Minister Ohira. These changes have embraced the movement from autocratic rule to a genuine democracy; from feudal economic structure to a modern industrial state; and from a martial society to one profoundly committed to peace. None of this could have been easy. Doubtless very little of it would have been possible without the diligence, foresight, and great courage of persons like the late Prime Minister.

The government of Prime Minister Ohira was one that understood the role of Japan in the world, and it was also one that worked to cooperate with the United States. The interests of great powers do not always coincide, but happily for both sides Prime Minister Ohira believed in accommodation whenever this was possible.

I regret the loss of the late Prime Minister. His death will be felt not only in Japan, but throughout the world.●

LITHUANIAN CAPTIVITY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. HALL of Ohio. Mr. Speaker, June 15 marks the 40th anniversary of the unwarranted and unjust Soviet occupation of the sovereign homeland of the Lithuanian people. On this day in 1940 Soviet forces invaded and annexed the independent Republic of Lithuania. From that day on the Lithuanian people have been subjected to constant political repression, religious persecution, as well as determined attempts on the part of the Soviets to destroy the rich cultural flavor and strong ethnic background of the Lithuanian race.

I can only express my deepest admiration for the Lithuanian people and the courage and determination they have shown during their long years of captivity. Thousands of brave Lithuanians have given their lives in resistance to Soviet aggression while many more have suffered imprisonment, deportation, and separation from both family and friends. At the same time the Soviet Union has openly violated the provisions for human rights of the United Nations Charter and similar insurances given in their own constitution.

As we approach our celebration of 204 years of independence from foreign domination, we as Americans, should pledge to continue our fight for the freedom and sovereignty of all nations whether it be a Lithuania or an Afghanistan. Let us also reaffirm our commitment to achieving an end of needless aggression and to insure that all people of whatever race, creed, or color shall enjoy the fruits of freedom.●

CONGRESS FAILS TO BALANCE THE FISCAL YEAR 1981 BUDGET

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 13, 1980

● Mr. HARRIS. Mr. Speaker, I did not vote for the revised conference report on the fiscal year 1981 budget resolution. While I strongly support a balanced budget—and I voted for passage of the balanced budget resolution approved by this House on April 29—this revised conference report reflects changes insisted upon by the Senate and is simply not in balance in terms of numbers or in terms of priorities.

Passage of this revised conference report—like the conference report the House soundly defeated on May 29 by a vote of 141 to 242—destroys the prospects of a balanced budget this year. The House-passed budget resolution approved on April 29 had very good prospects of providing the first balanced budget in over a decade. It had a healthy $2 billion surplus and made many tough, but realistic funding cuts.

Quite the contrary, the balanced budget promise of this conference report is phony. Not only does it reduce the surplus to $200 million, it makes massive program reductions that stand little chance of enactment during the authorization/appropriations process.

In addition to jeopardizing the chance for a real balanced budget, this revised conference report remains seriously imbalanced in terms of budget priorities. The House-Senate conferees have merely tinkered with the numbers and priorities of the earlier conference report that the House overwhelmingly rejected. As I pointed out during the debate on the earlier conference report, programs vitally important to northern Virginia and to our Nation have been dramatically slashed.

In education, the conference report proposed a $286 million reduction in the Federal impact aid program. This reduction would mean a loss of $10.2 million for northern Virginia—a loss which would seriously jeopardize the ability of our school systems to provide quality education for our children.

Federal employees are treated unfairly, and would be limited to a 6.2-percent pay adjustment—an amount sorely less than what is needed to keep Federal wages comparable to salaries in business and industry. Federal workers deserve to be treated fairly with other sectors of the economy and I will continue to push for a pay increase comparable to wage and salary movement in the private sector.

Military and civil service retirees are also unfairly penalized by the conference report on the budget resolution because of the elimination of one of the two cost-of-living adjustments for retirement benefits. Federal workers have earned their retirement benefits. Federal workers have earned their retirement annuity by contributing 7 percent of their salary to the civil service retirement fund during the course of their employment, and they are entitled to their two cost-of-living adjustments annually. Military personnel have been assured of a secure retirement based on a benefit package that includes the twice a year COLA. These adjustments are needed to protect retirees against inflation, and they need this protection now more than ever.

Energy costs in fiscal year 1981 will continue to soar out of control, continuing the cruel hardships faced by families and senior citizens. And yet the conferees cut $600 million from the low-income fuel assistance program, sharply reducing this desperately needed source of aid.

In mass transit, the conferees made a $1 billion reduction below the House approved level of outlays. This comes at a time of increasing demand for mass transit throughout the country to reduce our Nation's dependence on foreign energy sources. Because the conferees failed to indicate where this $1 billion would come from, I am deeply concerned that this cut might mean the loss of vital mass transportation for northern Virginia, where we are just beginning to make progress in improving public transit facilities.

Compensation, benefits, and allowances for military personnel are seriously shortchanged by the conference report. The defense budget's heavy emphasis on military research and development and long leadtime procurement would not permit adequate funding necessary to maintain highly trained, experienced military personnel. Just last week the House approved a defense authorization bill more than $6 billion above the administration's request for research, development, and procurement. Within the constraints of this budget resolution, this would leave little additional funding with which to upgrade the compensation, benefits, and allowances for our military men and women. This should be the No. 1 defense priority. Adm. Thomas Hayward, Chief of Naval Operations, has been quoted as saying he would sacrifice half his shipbuilding budget this year for better pay and benefits for enlisted personnel. If we are serious about increasing military preparedness, we have got to face today's biggest problem in the military—retention of experienced, highly trained personnel. Increases in our defense budget must be targeted to this critical area.

For the Postal Service, the conference report includes a $500 million cut in appropriations which would force the elimination of Saturday mail delivery. How can we ask the American people to swallow another 5-cent increase in the cost of a first-class stamp as they watch mail service cut back? And the curtailment of service coupled with the postage rate increase will fuel double-digit inflation. Beyond this, the elimination of Saturday mail deliveries will make it impossible to protect rural post offices and will be extremely hard on those Americans who are dependent on the timely delivery of social security and disability checks.

Programs that people depend upon for their jobs, for their housing, for their families, are slashed. The concept of budget priorities has been lost in the mad dash to cut for appearance's sake. We can—and must—balance the budget. But let us balance the burden as well.

The goal of holding the line on Federal spending and eliminating the budget deficit can be met without jeopardizing the education of our children, discriminating against Federal and military employees and retirees, postponing the development of mass transit, and endangering our national energy policy.

This Congress should dedicate itself to balancing the budget—but we have tended to ignore the work that must be done to eliminate billions of dollars of waste of the taxpayer's money through Federal contracting and yearend spending sprees.

I have been leading a major investigation into the rapid growth of costly Federal contracting and unnecessary yearend spending, and have documented the fact that millions, perhaps billions, of dollars are being wasted on questionable purchases at the end of the fiscal year. I feel strongly that this wasteful expenditure of tax dollars at the end of the fiscal year should be cut before we jeopardize crucial Federal programs.

I believe it is time for the Government to become a smart manager. We have got to institute controls and cut out this waste. The conference report on the budget resolution fails to adequately address waste in the Federal budget, and instead targets the easily identifiable and politically vulnerable programs.

I cannot support this charade of a balanced budget. It is not balanced in terms of dollars, and it is not balanced in terms of priorities for our Nation.

The deficit can—and must—be eliminated realistically, but not through a sleight of hand which will not fool the American people. I supported the House budget resolution because it made reasonable cuts in spending and provided a healthy $2 billion surplus to allow for unanticipated changes in the economy.

The conference committee threw our efforts to the wind, increased spending, abandoned carefully crafted priorities, and produced a document unacceptable to those who seriously want a budget that is balanced and fair.●

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